

HARVARD LAW RECORD

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OCTOBER 19, 1979

TWENTY-FIVE CENTS

Wright Urges Activism for Equality

By Michael Smith



Photo by Laura Taylor

Judge J. Skelly Wright

Judge J. Skelly Wright called for continued judicial activism in the area of equal rights and a retrenchment of judicial activism in other areas in a lecture delivered at the Law School on Tuesday.

Speaking to a crowded Ames courtroom, Wright delivered the fourth Francis Biddle Memorial Lecture, "Judicial Review and the Equal Protection Clause." The crowd responded enthusiastically, giving Wright a standing ovation at the completion of the lecture. Dean Albert M. Sacks noted that the Law School was "greatly indebted" to Judge Wright for the lecture.

Wright, currently Chief Judge of the Court of Appeals for the District of Columbia, began his service as a federal judge thirty years ago as a federal district court judge in Louisiana. He was appointed to the Circuit Court in 1962. In addition, he served on the faculty of the Loyola School of Law and has lectured widely.

Biddle Lecture Origins

The Biddle Lecture was established by the family of Francis Biddle and the Law School. Biddle, throughout a long governmental career, took the concept of government by the people seriously and participated in advancing many social causes. He served as Chairman of the National Labor Relations Board, Solicitor General, and Attorney General, in addition to many other posts.

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Younger Returns to Cornell, Denounces HLS in Turnabout

By Stuart Berman

Irving Younger, who strongly praised HLS and its students as a popular visiting professor last year, has been singing a somewhat different tune since his return to Cornell Law School this fall.

After proclaiming last fall that "Harvard students are as smart as human beings can be" and that "the lower half (of an HLS class) would be in the top half anywhere else," Younger recently told a Cornell audience that "students here are as good as the best students at Harvard," according to reports of the speech.

He did, however, reaffirm his earlier contention that Harvard students are "more relaxed and happy" than Cornell's. "I enjoyed going to class . . . everybody had a good time."

Younger, who taught Evidence and Trial Practice here last year, returned to Ithaca, where he is Samuel S. Leibowitz Professor of Trial Techniques, amid controversy surrounding the appointments process.

Cookie Cutters

The former trial attorney, prosecutor and judge voiced other

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Irving Younger: Students Uptight, Profs Scary

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criticisms of HLS in his talk at Cornell.

Grade inflation is "much worse" at Harvard than Cornell, Younger remarked, asserting that any student who can "write anything the least bit smart" receives an A+ while no one receives less than a C. This is a product of students getting "extremely tight about exams, more so than at Cornell," he said.

Discussing his former faculty colleagues, Younger termed them "terrifyingly bright," with a skill for "manipulating language that is scary." The Harvard faculty lacks variety, he claimed, with an unwritten "party line" resulting in "cookies being produced by the same cookie cutter."

But Younger praised the Law School's policy of using third-year students to teach small first-year Legal Methods classes, saying the system "should be used elsewhere."

And, he said, since the Law School has "no limitations of money whatsoever," it can offer innovative programs, especially in clinical fieldwork, that no other school can match.

Just Like Yonkers

But Harvard's massive size is not always advantageous, Younger added. He said many books in the world's largest law library are impossible to locate, and that the library's usefulness in general is decreased by poor organization. Cornell's smaller library is "functionally larger," Younger argued.

Younger directed his final shots at Cambridge, calling it a "grimy, industrial" town with no other attractions besides Harvard.

Living here, he concluded, "was like living in Yonkers, New York."



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Gay Issues Committee: Boycott Navy

By Richard B. Bernstein

The Harvard Law School Committee on Gay Legal Issues has called upon all HLS students to boycott the U.S. Navy's Office of General Counsel when it interviews HLS students here on Monday, October 22. The Committee has charged that the Navy discriminates against homosexual military personnel and "arbitrarily and capriciously" denies security clearances to civilian personnel who are homosexuals.

The Committee also charges that the HLS Placement Office has violated its non-discrimination guidelines, which forbid discrimination "in any form based upon . . . sexual orientation," by allowing the Navy to use Placement Office facilities to schedule and conduct interviews.

The positions with the Office of General Counsel are civilian positions, and are thus not subject to the Navy's refusal to accept homosexuals as military personnel.

However, security clearances are needed to function in certain sensitive positions, and, according to Steven M. Sayers, 2L, "homosexuality per se has been an explicit reason for denying security clearances at any level in the past to civilian employees of the Department of Defense."

Jose Gomez, 2L, told the RECORD that he had brought the Navy's policy to the attention of Assistant Dean Stephen M. Bernardi as early as the first week of September. He and Sayers met with Bernardi several times after that, as well as sending a letter to Bernardi setting forth their views in detail. According to this letter, which has been released to the RECORD, the Navy's current regulations permit discharge of naval personnel for "unsuitability . . . for further military service because of . . . homosexual or other aberrant sexual tendencies." The Department of Defense's proposed regulations would, if adopted, impose a blanket ban on homosexuals in military service.

Dean Sacks Admonishes 3Ls For Abusing Flyout Privileges

By Dan Hershman

"Attention 3Ls: Win an all-expenses-paid vacation to sunny California. Apply at Placement Office." While this particular announcement has not been made at HLS, apparently trips are being given away to a few students who seek recreation, not employment, when they accept flyouts from firms interviewing at HLS.

On Oct. 3, Dean Albert M. Sacks issued a memorandum to 3Ls, expressing concern about the situation. "My purpose was to provoke thought, to make students think about what they might be doing," he said. "Several students have thanked me for raising this issue." Many 3Ls, he found, return to school with a permanent offer from a summer employer. Although the students have already decided to accept, they postpone notifying the firm "in order to interview a selected number of employers (from carefully chosen cities, often on the West Coast) not for the purpose of pursuing employment prospects with that employer," Sacks wrote, "but with the sole intention of obtaining an expense-paid trip to the employer's city."

Some students may obtain a flyout from one firm in order to see another firm in the same city which does not pay travel costs, according to the memorandum.

Sacks asked students "to consider carefully, before accepting

invitations to travel, their responsibility . . . in terms of your own professional and ethical standards, . . . your responsibility to those of your classmates, some of whom do not have offers of permanent employment, who are genuinely seeking employment with particular employers and whose chances to pursue those opportunities are diminished by students who interview those employers for reasons unrelated to employment; and . . . you should consider your responsibility to the employers you interview."

Sacks first became aware of these apparent abuses, he said, when several students — between five and ten — brought the matter to his attention this fall. No firms have ever complained of or mentioned this matter to the administration, he added.

Any policy against student abuses of flyouts would be unlikely and very difficult to enforce, according to Sacks, and enforcement is not his major concern.

"Dean Sacks is right," said Doug Cox, 3L. It is unfair for students without any interest in employers to deprive their sincerely interested classmates of an opportunity to visit, he said. More importantly, the practice is very unethical, Cox added. "If it gets out of hand, firms might cut out flyouts altogether and everyone could get hurt."

Collier, Shannon Recalled

Comparing the proposed boycott to last year's boycott of Collier, Shannon, Rill, Edwards & Scott, Gomez and Sayers observed that the Washington, D.C. firm's client was guilty of discrimination, while "the Navy *directly* discriminates."

Gomez and Sayers suggested to Bernardi that the Placement Office not make its services available to the Navy, or at least that the Navy give written assurances that they would no longer discriminate against homosexuals. The Navy's response was to offer verbal assurances that they would not discriminate, but, Sayers observed, "There's nothing behind the assurance except the person who's making it."

Gomez explained the Committee's view of the Navy's visit to HLS: "By amending the Placement Office non-discrimination policy, it appears that HLS was merely paying lip service to the concerns of the

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WLA Criticizes Female Admissions;

By Rusty Russell

To Director of Admissions Molly Geraghty, "the whole thing in recent years has been a festival of straight lines."

But to Melissa Allain, 2L, chairperson of the Women's Law Association, "it's not going fast enough."

What they're both talking about is the growth in the number of women at Harvard Law School. And if not a conflict, the WLA and the HLS administration are hot in the middle of, in Allain's words, "a difference in outlook" regarding the Law School's biggest minority.

Right now, women comprise about 28.5 percent of the total student body, a figure that Geraghty says is "certainly not atypical."

But, to Allain and other members of WLA, the administration has "a long way to go to the goal point — equal representation of the sexes."

Indictment

She and two other WLA members have outlined a number of the group's complaints; including:

— Failure to increase the size of the applicant pool by attracting women from smaller and lesser-known schools.

— Fear of a growing complacency on the part of the administration to rest on its record of doubling the number of women in the entering class in the past seven years:

— Concern that the admissions office is trying to justify a laissez-faire attitude by pointing out that the ratio between those who apply and those who are admitted is roughly the same for both sexes.

— Belief that Harvard should meet obligations engendered by its prestige by leading the way in women's recruitment, rather than staying smug and average.

— Frustration with the scanty statistical information concerning women applicants that has been released by the admissions office.

— Dismay that only two women sit on the tenured faculty, representing about 3.5 percent of its number.

"What we're trying to do is say that women have equal access to the law, and show them that."

Ambitious Recruiting

Admissions Director Geraghty admits that this last figure "is low," but she counters with the observation that Harvard's program for recruiting female applicants is "the most ambitious in the country."

As evidence of that effort, Geraghty pointed out that every woman admitted to the Law School is contacted by the WLA and receives a "special letter" from Dean Sacks. She added that the Women's Law Journal and Women's Directory are "enormously important" in attracting female applicants.

Both the admissions director and WLA member Camille Acevedo, 2L, acknowledge that the relative scarcity of role models may partly explain why in 1979, for example, only 32 percent of all applicants were women.

"I think that one of the problems for women applying to law school is that they don't know any women lawyers; also, the Socratic method — a lot of women don't like being that aggressive," Acevedo said.

But, she concluded, "It seems a responsibility of law schools — since women are new to the law — to conduct some sort of media program to let women know that law is a field for them."

Geraghty apparently agrees: "What we're trying to do is say that women have equal access to the law, and show them that."

Fading Tokenism

In dispute is not that goal, but the perception of the problem.

According to Geraghty, "the whole issue of whether you're a woman or a man has become a very trivial one. The age of tokenism is fading."

Consequently, Geraghty is confident that "over the long haul, we'll see that 30 percent go up — but I won't say anything miraculous will happen when we hit 52 percent."

But, she acknowledged, HLS does not maintain specific goals for admitting women.

Over the long haul, the Law School's record is not discouraging. Women were admitted for the first time in 1950 — 13 of them. Their applications — 33 — had accounted for 3 percent of the total. Upwards of 2 percent of the Class of 1953 was female. In 1955 and 1960, the ratios were roughly the same (although by 1960, female applications topped 3 percent).

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Asks Equal Representation of Sexes

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By the late '60s, things started to change. In 1968, women accounted for 7 percent of the applications and 8 percent of the first-year class. Four years later, the figures were 16 percent and 15 percent. By 1975, one-fourth of all applicants were female, some 12 percent of whom comprised 21 percent of the first-year class.

The percentages continue to rise — Geraghty's "festival of straight lines."

In 1977, 28 percent of the applications were filed by women, and 27.4 percent of the seats in the incoming class were filled by women; in 1978, the figures were 32 percent and 28.5 percent respectively; in 1979, 32 percent and 30 percent.

"Unspoken Quota?"

The Women's Law Association, though not displeased with these results, contends that the data are difficult to analyze without knowing something more basic — whether, in the words of WLA member Penny Marshall, 2L, there is still "an unspoken quota system." The essence of that "system" is a "quota" that is exclusive rather than inclusive.

What this means, according to WLA Coordinating Committee member Nancy Wieggers, 2L, is that the pool of female applicants may be more qualified than their male counterparts. Wieggers said that studies comparing men and women entering liberal arts colleges and graduate schools have led to the same conclusion. To find out for

sure, WLA wants to see LSAT scores and grade-point averages for both applicant pools. So far, it hasn't been able to get them.

Another way to gauge Harvard's performance is to compare it with the competition. Yale, it turns out, is the competition, and by Yale's standards, HLS is not doing badly — or well. As at Harvard, 30 percent of the first-year class in New Haven is female.

But, according to Geraghty, NYU is now at 42 percent, and in Boston, women account for more than half the class at Northeastern University, 39 percent at Boston College, and 34 percent at Boston

University.

The admissions policy at HLS, like justice itself, is blind, sex-blind at least.

Whether Harvard will assume a leadership role in turning out lawyers who are women will depend on how strongly WLA presses its concerns.

Allain stresses that her organization is not critical of the administration's past performance. Rather it is worried about what it perceives as an incipient lack of commitment: "We want to see the numbers increase by jumps, not by just three or four."

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Differential Impact Deserves More Than Judicial Restraint

(Continued from Page 1)

The theme of Wright's speech was that equal protection is not an appropriate field in which to pursue the currently used policy of judicial restraint. He characterized judicial intervention in the area of equality as "more legitimate" than in other areas.

Wright indicated that there were several areas of the law which would be particularly appropriate for a retreat from judicial activism. He especially stressed the area of review of administrative agency action. Not only did he call for the revival of the delegation doctrine in administrative law, but he criticized the American Bar Association for its resolution calling for the abolition of the presumption of legality for governmental departmental and agency actions. He characterized this as a typical delaying move by entrenched special interest groups to prevent implementation of legislation at the administrative level.

His reasons for the special treatment of equality are several. The first is that "the Equal Protection Clause has only a limited utility as a tool for imposing judicial reviews on the legislative process, state or federal. . . . The Equal Protection Clause is therefore the

least dangerous of the constitutional precepts embodied in the Fourteenth Amendment."

The second reason is that "the ideal of equal treatment at the hands of government is the most difficult to maintain; it does indeed require constant vigilance."

According to Wright, judicial implementation of the Equal Protection Clause is particularly appropriate. "Courts are, almost by definition, committed to the idea of equal treatment. . . . To decide whether official action accords equal treatment is a task especially congenial to the judicial temperament."

A fourth reason for such special treatment is based on the tensions between the views of the Equal Protection Clause as being "a rarefied, color-blind 'neutral principle'" or a direction to be "ac-

(Continued on Page 7)

Cryptic Law

If only all case book editors were so solicitous, and candid:

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(Answer on Page 14)

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Prof's Shooting Gives Class Lesson

By Steve Friedland

It was only an educational exercise, but it seemed eerily realistic. The day was Wednesday, October 10, and Peter Murray's evidence class was struggling to overcome both the early morning hour and the dreary Boston weather. Then it happened. At approximately 8:50 A.M., a bearded individual ran into the room, planted himself squarely in the aisle near the rear wall, raised a revolver, and fired several blasts in the direction of Professor Murray.

The sound was startling; everyone froze. Murray crumpled onto the floor face down in front. The assailant fled. The class caught its breath as Murray slowly pulled himself off the floor. He then looked down at the seating chart and, playing the role of prosecutor, called on a witness for questioning.

Astute Witness

Unfortunately for Murray, the student-witness did better than expected. She noticed that the assailant was of medium height, wore a beard, and yelled something while he was in the room. She also heard three shots (a fourth shot was fired but did not sound), and placed the time interval at under ten seconds. However she, and most of the other students, missed some potentially important details — the assailant had a sweater wrapped around his waist, carried a bandage in his left hand, and wore a black T shirt with writing on it. Many of the student "eyewitnesses," as a result of positioning, shock or other reasons, did not seem to recall much of the incident.

Murray later said that the purpose of such an exercise was to "demonstrate the fallibility of people's perceptions of startling events." Although he had never done this kind of stunt before, Murray commented that the idea resulted from his "having heard of it being done somewhere, although not at HLS."

Professor Murray acknowledged

giving some thought to the potential dangers prior to the "shooting;" "I was worried that some student might have a weapon himself, or might jump the assailant. I also made tests to see if the sound would be too loud for students' ears. It was loud, but the impact wouldn't have been the same otherwise."

One student in the class commented that she thought Murray was really hurt. However, once armed with the knowledge that it was only a stunt, the student added that it was refreshing to see a Harvard professor in a supine position. Another student commented in the class discussion following the event that he was especially surprised since he had just played pinball with the student-assailant the night before.

As to the educational value of the exercise, one student felt that the event was not necessary to get the professor's point across and that the educational value was minimal. Murray, on the other hand, felt that it was a success, although he added that "it would've been more effective if I had passed out questionnaires to each student afterwards."

Teaching and Practicing

Professor Murray is currently in the second year of a two year appointment as an Ezra Ripley Thayer fellow, a position which en-

courages writing and research as well as teaching. A graduate of HLS, Murray founded his own Portland, Maine firm in 1973 — Murray, Plum and Murray (other Murray is no relation) — after working as a partner for a large firm in the same city. In 1973 he was also appointed co-reporter (along with late HLS Story Professor Richard Field), of the Maine Supreme Court Advisory Committee on the Rules of Evidence.

Murray says that he really enjoys teaching, but that his trial practice is still very important to him. "I want to be involved in teaching, but I love practice, too. I'm eager to get back into it."

Professor Murray reflected on some of the differences he found between teaching and regular practice: "Everyone is here at the same point in their lives, at least professionally. It is different in practice, where there is more continuity and more varying degrees of relationships with different kinds of people. Commencement was a very sad day for me last year. That was it; one episode was over."

Murray still prefers Maine, and he is often drawn back on weekends by two children and a sailboat which he built while in law school. However, during the week he can be found teaching — and on occasion acting — at HLS.



Boycott Urged

(Continued from Page 3)

Law School community. This is the first test of that clause, and the Law School is bending over backward to accommodate the Navy."

Sayers added, "It's about time that someone took a stand. Gays in this country have been the unknown victims of countless acts of discrimination simply because of their well-grounded fears of being known. When faced with this blatant situation the time has come to not back down."



HARVARD LAW RECORD

SPORTS QUIZ

1. What player holds the record for the most appearances in a World Series? How many did he appear in?
2. Who holds the World Series record for the most runs batted in for one game? How many runs did he drive in?
3. What is the record for home runs by one player during a World Series? What player holds the record?
4. What pitcher holds the record for the most strikeouts in one World Series game?
5. Since major league baseball began expansion in 1960, which has been the only expansion team to win a World Series?

(Answers on Page 14)

Judges Must Effectuate the 14th Amendment

(Continued from Page 5)

tively' examining the social and economic effects of legislation to ensure harmony with the goals of the Equal Protection Clause." It is Wright's view that the former is a kind of restraint that should be rejected.

Wright emphasized the disproportionate impact problem in the area of equal protection. "The Supreme Court tends to take its 'neutral principles' seriously — as in *Bakke*. In my view, the approach is fundamentally wrong. Equal justice does not mean that what is good for the goose is good for the gander."

According to Wright, the constitution does not prohibit racial or ethnic legislation. "For my part, I see nothing 'suspect' about such affirmative attempts to equalize opportunities. . . . So long as past discrimination continues to disadvantage the members of the victimized class, it will be right — and constitutional — to attempt to compensate for those adverse effects." In Wright's opinion, affirmative action hiring quotas are no more offensive to the Equal Protection Clause than is the progressive income tax or the food stamp program.

Another problem Wright sees is the direction of the Supreme Court in holding that the Equal Protection Clause reaches only purposeful discrimination. "Like one of our recent presidents, I am fearful, first, that 'it won't work' and, second, 'it is wrong.'"

Wright concluded, "We are not born equal. And, even if we were, we would not long remain so. Judges cannot make us equal. But they can assure that those who wield official power will not deliberately exploit or inadvertently exaggerate those inequalities. For some, only the Judicial Branch offers a shield. Let us not deny them our help in the service of a blind goddess who cannot see their special plight."



Peripatetic Prof Milton Katz: Who Says He's Retired?

By Patti McClary and Steve Friedland

At 71, Milton Katz, Henry L. Stimpson Professor of Law Emeritus, remains one of the most active of HLS professors. Because University policy precludes those over age 70 from teaching first year students and further limits them to no more than one upper level one semester course in each of two years, Katz no longer teaches regularly at HLS. Instead, he has channelled his energies elsewhere.

He is currently teaching Torts and First Amendment theory at Suffolk Law School — where he holds the rank of Distinguished Professor — and is also serving as the 34th President of the American Academy of the Arts and Sciences, one of the "Great Learned Societies" in America, which was founded in 1780 by John Hancock, John Adams, and Samuel Adams. "The Academy," says Katz, "emphasizes the interaction of people with a life of mind orientation."

Katz is probably best known at Harvard for creating and directing the International Legal Studies Program, of which he is still director. Although over the past ten years he has gradually devolved his responsibilities to his colleagues, he affirms, "the program is very important . . . it is in very good hands."

Katz's renown and accomplishments are not restricted to his work at HLS, but can be described accurately as global in scope. He has held high-ranking positions in the New Deal Administration, has been Chief of the Marshall Plan in Europe, and has served as Associate Director (Vice-President) of the Ford Foundation.

Thrives on Teaching

Katz, however, seems to thrive on the intellectual challenge of teaching. He regards teaching as "an exchange between teacher and students in the effort by each person in the group to go forward in a continual process of professional growth. . . . It's a living process of exchange which happens to revolve around a particular subject matter." Looking back on his fifteen years of teaching torts, he added, "No two classes ever taught are the same. . . . Every year there are different people so in that sense, there is constant change."

In his view, HLS as a whole is also in a process of change. Expressing faith in the institution's ability to withstand what he described as "a readjustment reflecting the strains and stresses of American life over just ten to fifteen years," Katz asserted with confidence that HLS "will come out as strong as ever" and remain "the greatest institution of its kind, certainly in the Western Hemisphere."

Having taught a course of his own creation, "First Amendment Doctrine and Theory," last year, Katz is eligible to teach only one more course at HLS. He commented "I might teach at HLS next year, but I have not committed myself as of yet."

Reflecting on his career, Katz seemed very contented: "I've been a very lucky fellow; I've had a lot of fun. I hope to continue to have a lot of fun." And, he most assuredly will.



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Police Violence At Seabrook

By William August

Editor's Note: William August, 3L, and twenty other law students and attorneys from the Boston area were at Seabrook to advise prisoners of their rights and to record testimony concerning possible police misconduct during the recent attempted occupation.

Prior to the Oct. 6 events at Seabrook Station, some observers feared that because New Hampshire authorities had no clear duty to invest adequately in a peaceful defense of the nuclear power plant, even a non-violent occupation attempt might be met with police violence (see RECORD, Letters to the Editor, Oct. 5). The occupation attempt was non-violent and, indeed, the police did respond with considerable violence. However, nothing so benign as insufficient investment in peaceful defense caused the violent response. The police on the site clearly had the capability to respond without violence to the non-violent action. The numerous instances of police violence were utterly gratuitous, growing out of simple aggression and out of a breakdown in police accountability sanctioned by state officials.

Throughout the course of the occupation attempt, the would-be occupiers showed a tenacious commitment to the principles of non-violent civil disobedience, and the police were never threatened with physical harm. Before each advance on the site's perimeter fence, would-be occupiers got within earshot of the police and shouted, over and over again, that they were non-violent. Even in the face of numerous police provocations, the protestors never raised a hand against the police.

Police Rout Occupiers

The police strength was vastly superior to that of the Direct Action Coalition, and by all accounts, the protestors never stood a chance of occupying the site. The police

routed the occupiers at every turn. A few sections of the fence came down, but the openings were swiftly resecured by a surfeit of police.

Though neither the police nor the plant were ever in real danger, the police responded with excessive violence. One group of Harvard undergraduates sat and sang while police visited them with liberal clubbings and the chemical irritant, Mace. Hours before the Coalition began moving toward the plant, a guard clubbed and broke the fingers of a demonstrator who, with three others, had approached the fence to submit peacefully to arrest. Local hospitals admitted at least a dozen demonstrators. Three were suffering from head injuries, others from groin and stomach injuries, fractures, and in one case, a broken vertebra. The police went so far as to disrupt the medical treatment of injured demonstrators. Medics have testified to the Coalition's Legal Support Committee that troopers yanked them away while treating demonstrators' maced eyes.

Press Attacked

Clearly identified members of the press were physically attacked as well. A Boston *Globe* reporter informed New Hampshire Attorney General Thomas Rath, at a press conference, that a fellow *Globe* reporter, although decked with cameras and bright yellow press tags, was singled out and maced. A CBS newsman stated that he and two cameramen were maced after clearly showing their press tags to troopers.

Many of the police exercised appropriate restraint. Some even tried to prevent the use of excessive force by checking the clubs of fellow troopers. Not so laudable were the New Hampshire state authorities who did not require such restraint from the police force as a whole.

It would be difficult not to reach

the grim conclusion that state officials were partially responsible for the mistreatment of protestors and members of the press. At his Saturday press conferences, Attorney General Rath, who was in frequent contact with Governor Hugh Gallen, was repeatedly asked why so many troopers had removed or taped over their badges and name tags. Rath answered that the police were justified in removing badges, for badges could be grabbed by protestors in close clashes, thus making the policemen vulnerable to injury. This was a curious response in light of the following then-available facts. Some of the policemen who removed badges or name tags persisted in wearing equally graspable non-identifiable medallions. Taped over name tags could be just as easily grabbed as untaped tags. And there was no evidence that any of the protestors used such a tactic. The attorney general's rationalization demeaned the principle of police accountability and his failure to rectify the situation was a not-so-subtle signal to his forces that they could act with relative impunity.

Endangering Us All

Although some would argue that the demonstrators knew they were violating the law and "had it coming," the law on permissible police force shows that the use of excessive force by the police is illegal. It is true that the tactics of the Direct Action Coalition departed from the tradition of civil disobedience in that the occupation attempt entailed damaging the plant's perimeter fence. For such damage to private property, the Seabrook demonstrators must be prepared to pay the appropriate penalties — penalties established under the rule of law rather than under police discretion. The use of excessive force by the police does violence to the rule of law, and can kindle enmities which endanger us all.

MOVIE REVIEW

'... And Justice for All' Out of Order

By Michael Smith

Start with a suicidal judge, add a rapist and a girlfriend, toss in a handful of assorted small-time criminals and pour the mixture over a "concerned" lawyer. It sounds contrived — and is.

The movie, "... And Justice for All," a Columbia Pictures release, is directed by Norman Jewison and produced by Jewison and Patrick Palmer. Its drawing card is Al Pacino.

Pacino is Arthur Kirkland, a young criminal defense attorney working in Baltimore. He is dedicated to the pursuit of truth and justice and through his cases the film unfolds. Pacino takes his clients' causes to heart and fights bitterly for their rights.

But the scheme has snags, several of them. Things seem to go wrong all around Pacino. He is saddled with a partner who goes berserk in the halls of the courthouse. The suicidal judge (Jack Warden) seems to see Pacino as a surrogate son and exposes him to some rather hair-raising moments as he gets Pacino to accompany him on a helicopter flight that turns into a near disaster.

Pacino's clients end up poorly as well. One is picked up for a traffic violation, is sentenced under a mistake for five years, goes crazy, and gets killed. Another commits



Al Pacino and John Forsythe on trial in "... And Justice For All."

suicide when he is sentenced to prison rather than getting probation.

The most prominent of Pacino's clients is an important and powerful local judge (John Forsythe) who is accused of a brutal rape. Pacino and Forsythe are bitter enemies, but Forsythe convinces Pacino to handle his defense.

The last snag is the love interest, an attorney on the local bar association's ethics committee, played by Christine Lahti. Pacino meets her while testifying before the committee about the problems of several fellow attorneys. To make a short story even shorter, he picks her up at the water fountain immediately afterward and proceeds to bed her occasionally throughout the movie. At the same time, her ethics committee is investigating Pacino.

The purpose of the movie appears to be that of portraying the cracks in the American criminal justice system against the dedication of the few attorneys who care. But it fails because the parody the movie creates is too gross, too overdone. There are too many deaths, too many who do not care, too many who are crazy and too many who have forgotten the goals of truth and justice. It is no more a realistic

presentation of the problems of our courts than "Blazing Saddles" was an accurate rendition of the American West. The movie ends in a courtroom scene that even Perry Mason would have rejected as stupid, unprofessional and ineffective as a legal tactic.

Pacino plays his role with all the intensity one emotion can offer. He is always worried and harried — in bed, in court, and in committee hearings. Still, to give him full credit, he plays that facial expression for all it is worth.

There are bright moments in the movie which make it worth some consideration. Forsythe is very good as the degenerate judge and possibly this will mark the beginning of a new start for his career. Warden plays the suicidal judge with all the gusto he can. Finally, Lee Strasberg is Pacino's grandfather, the man who put Pacino through law school.

If you decide to attend this movie, go forewarned. It is a parody of a problem that could have been better treated with a more gentle hand and it fails to give credit to the large number of people involved in criminal justice who do care and who do try to bring justice to all.

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The Fall Seisin

Classes are becoming more dull and difficult here at HLS, and those assignments skipped in September have not yet been tackled. Suits and their owners are beginning to look crumpled and worn from endless visits to the Holiday Inn. First-year students are weary from late nights spent on Legal Methods memoranda, and professors are increasingly uninspired and uninspiring as class attendance decreases. Yet despite the pressures, the worries, and the encircled eyes which one associates with mid-semester at HLS, one can hardly deny that Cambridge is a beautiful, and perhaps unequaled, place to spend October.

The sky has been blue this week — that deep azure shade that one associates with dunking for apples, jumping in piles of burnished leaves, and eating candy corn color by color. The weather has been cool enough to force a run on summer-stored sweaters and jackets at Crimson Cleaners, and has caused HLS to abound with rosy cheeks and sparkling eyes. But, for the most part, mittens and scarves are still packed alongside thermal underwear in basement trunks.

No matter how many rejections one has received from San Francisco, or how many times one has answered "unprepared" in Corporations, such concerns dissipate with a walk outdoors. There is no better cure for Income Tax-itis than two scoops of peanut butter Belgium Fudge and a slow walk down Brattle Street. The Fogg art exhibits contrast nicely with Criminal Law cases. And, in Cambridge in October, the Security Acts just "sink in" after roller skating along the Charles for an hour or two. Even the best West Coast flyout pales when compared to a Saturday morning visit to Haymarket to pick out Halloween pumpkins for decorating dorm rooms and apartments. And multiple waits for twenty minute ordeals are counter-balanced by hours spent sipping Red Tides and sniffing broiling scallops while waiting to eat at Legal Seafood.

So take a pause from signing computer cards, or sorting out debits and credits, or worrying about missed clerkship opportunities. December 15 and exams are still two long months off, and the crisp autumn beckons. Jump in one of the piles of leaves around, take a bus up to Vermont or a bike ride to Mystic Lake, linger several hours over the sci-fi section in Reading International, or spend your Coop rebate check on a North End feast. Better move fast, though, before a snowy November sets in. You have nothing to lose but your doldrums.



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Fenno

The air was cold, but the sky was a bright blue and the sun was shining over Harvard. Fenno noticed several law school couples, boyfriends and girlfriends as well as husbands and wives, strolling hand in hand through Cambridge.

"The law school couple is a relatively new phenomenon," noted Fenno with his usual scientific detachment. "Ten years ago it was rare, but with the belated advent of women at Harvard Law, it has become quite a common occurrence."

A 2L couple walked toward Fenno. He exchanged greetings with them.

"I won't ask you two where you are interviewing," said Fenno, well-aware that law students were weary of this make-conversation device, which owes its popularity to the fact that in law school you can't very well ask people what their majors are.

"Cleveland and Philadelphia" the couple answered anyway. "We're debating between the two."

"Last summer we were in separate cities," said the male half of the couple, "but this year we want to make sure we are together."

"You see," explained the female half of the couple, "we only met last February, but we applied for jobs before then, so we didn't end up in the same city."

"Where did you meet?" asked Fenno.

"In the library," replied the woman, "during Ames. You see, we both needed the same volume of the Federal Reporter."

Fenno smirked. This sounded like something out of a John Jay Osborn novel.

The woman continued: "And now he has the volume number tattooed on his chest."

Fenno shuddered.

"But, you know," she went on, "there are some problems in being a law school couple."

"Like what?" asked Fenno.

"Well . . . like competition, for example," she replied. "But we've resolved that one: I love him even though my grades are better."

Generous of you, thought Fenno.

Still thinking of generosity, Fenno asked: "Who pays when you two go out?"

"We split," said the woman. "After all, we both made the same amount of money over the summer, so it *logically* follows that we pay fifty-fifty. Of course, if *he* were making more money, *he* would pay."

"And if *you* were making more money?" asked Fenno.

"We'd split," she replied.

Fenno and the male half of the couple exchanged glances. The woman's grades might have been better, thought Fenno, but her logic wasn't.



Letters to the Editor of the RECORD

Review Member Responds

To the Editor:

In last week's editorial, "Reviewing the Review," the RECORD criticised the selection procedures of the *Harvard Law Review* and suggested changes. This response is that of an individual member of the *Review* who does not profess to speak for the organization as a whole.

Suggesting that the *Review* "should examine [its] present methods of selection" is like telling Woody Allen to give some thought to his inadequacies. The selection procedures have been repeatedly examined, explored, compared with those of other reviews, discussed, debated, and finally flogged to death. Three considerations stood foremost in these debates. The procedures must be as humane as possible; they must not be unacceptable to the faculty and administration; they must provide the *Review* with the needed quantity and quality of members.

The RECORD's suggestion that the writing competition be held in the first year has been considered and rejected on all three counts. The comp is bound to be a grueling experience for anyone who takes it seriously, regardless of when it is held. Unfortunately, it cannot be significantly shortened without depriving entrants of a fair opportunity to display their abilities. While the comp presents 2L's with a hardship, it would present 1L's with a hard choice: to give up the opportunity to write for the *Review* or to risk getting inferior grades as a result of a significant time commitment to the comp. It is hard to see how this would, in the words of the RECORD, "reduce significantly first year grade pressure." If the comp were held in the first year, I believe fewer would enter, and of those, fewer would give their best effort. In any event, it is virtually certain that a plan to take 1L's from their studies for a week and a half would be vetoed by the powers that be.

The suggestion that grades no longer be used as a method of qualifying for the *Review* has more merit. Among those who "make" the *Review* on grades are many who would have made it on the writing comp. But there are also some who would not have succeeded on the writing comp because they are not as good at writing as they are at taking exams, and others who simply would not have made the effort. Some might suggest that these people do not belong on the *Review*. The attitude that has prevailed, however, is that the *Review* benefits greatly from having members whose gifts are not necessarily those of a fine writer, and also those whose priorities are such that in the

absence of an express invitation to join the *Review* they would have focused their energies on other activities.

The RECORD suggests, on the one hand, that *Review* membership lends too much importance to grades, and on the other, that grades lend too much importance to *Review* membership. I do not ridicule the argument — it is paradoxical but perhaps not unsound. My quarrel is with the remedy suggested. It is naive to suggest that employers, and therefore students, would take a more balanced view of the importance of grades if they were not a basis for *Review* membership. Grades will remain the primary criterion by which job applicants are hired until they are abolished altogether. There is nothing the *Review* (or the placement office) can do to alter this reality.

I see nothing to be gained from trying to downgrade the importance of *Review* membership. If other law school activities do not get the recognition they deserve, The RECORD need not look beyond its own doors to lay the blame. One reads little in its pages of HLS organizations other than the Forum and the Drama Society. Where are your reporters when a nervous 1L with no experience in advocacy confronts a prison board in an attempt to prevent an inmate's unjust confinement in solitary? The story of what goes on at PLAP, as well as Harvard Defenders, HGAP, and other HLS organizations deserves to be told. One reading the RECORD would not be aware the law school has a half dozen journals other than the *Review*, all of which contain material of the highest quality (and many of whose members receive employment offers as attractive as those thought to be bestowed only upon *Re-*

The RECORD's policy on letters is simple. We read all of them. We print most of them, subject only to editorial discretion. We encourage letters on any subject, and especially on subjects which have appeared in the RECORD. Write today and speak your mind to the students, alumni and faculty of the Law School.

view members, including prestigious clerkships). Why not give these journals more than passing mention in the ruminations of Fenno?

The RECORD is widely read by HLS alums in law offices and judicial chambers. Its influence could go much farther in changing attitudes toward "alternative" HLS activities than any change in *Review* membership procedures.

Kaye A. Thomas 3L
Cambridge, Massachusetts

A Lack of Salt

To the Editor:

I enclose a report you might find to be of interest on a talk by Irving Younger comparing Harvard Law School with his current abode. Mr. Younger's reference to Harvard's "unlimited money" was serendipitously driven home to me by your own report in this year's first RECORD on the "perks" that constitute the law firms' apparently ultimate weapon in the campaign to co-opt with lucre. Time was when the RECORD might have been expected to toss a grain of editorial-page salt on those broad law-firm tails but now it seems that even The Griz is spared a dollop of levity or further inquiry into the particulars of his service as Solicitor-General save to boast of its longevity.

Incidentally, the ever-delighted cartoonist Charlie Sherwood is none other than Raymond S. Andrews, Jr. '68, who, I believe, practices law in Hartford, Conn.

And, in reply to but one of Mr. Younger's bits of bother, I state that as one born in the city of Yonkers, N.Y., whatever it is or isn't, it hasn't the faintest similarity to Cambridge. Which leads me to conclude Mr. Younger spent too much time trying futilely to locate books in the library.

Richard B. Hoffman '70 (71)
New York, New York

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Placement Office: Let The 1Ls In

By Dave Quinto

The current Law School policy concerning 1Ls and the Placement Office is wrong-headed and inconsistent. Placement Office assistance to 1Ls stops with its release just before Thanksgiving of the names of firms that hired Harvard 1Ls the previous summer (as reported by returning students at Fall registration) and the firms that write to the Placement Office stating that they seek to hire 1Ls.

Placement Office rules include a "requirement that employers using the Placement Office may not organize on their own interview schedules in the Cambridge area for first year students before March 1." This policy reflects a "view that it is too soon for beginning students to start focusing sharply on career planning, with the resulting diversion from academic work during the critical early months of law school."

Assistant Dean Steven Bernardi explains that "the Dean and members of the faculty feel that the first year is an anxious time and that laying on an interview program for first year students that comes anywhere close to the program for second and third year students would create a terrible, terrible condition."

Placement Committee members state that "first year students should not spend the first part of their year dressed in three-piece suits," that 1Ls should "relax, broaden themselves, and enjoy their last chance to do something not related to the law," and that 1Ls should "travel, wait on tables, play tennis, or work in construction."

Although it is not school policy to discourage 1Ls from taking summer law-related jobs, the Law School does not recognize the tremendous value of first-year summer jobs.

Many students not only need the lucre to defray the cost of an increasingly expensive education, but also hunger for the first taste of

their life's work. Never before have classes had an application outside the classroom. Second year courses are approached with greater appetite because of the exhilarating first sample of law work. Alternatively, some students are given an early opportunity to discover that they do not like the life of a practicing attorney.

First-year students are free to sample life in cities where they are not likely to work following their second year. Later, they can make permanent job decisions after having worked for several firms in several regions of the country.

"Many students hunger for the first taste of their life's work."

Law Firms Want 1Ls

Many law firms want to hire first year students. Robert Rawson of Jones, Day, Reavis & Pogue in Cleveland states that his firm has two HLS attorneys who started as 1Ls. "We've been impressed by the quality of the work done by 1Ls, although they're obviously not as capably prepared to deal with tax or complicated securities problems," Rawson adds.

Donald Kempf of Chicago's Kirkland & Ellis adds that hiring 1Ls serves as a "valuable recruiting tool. From our perspective, we have the option of seeing people who might not otherwise work here. It's an earlier chance to get a relationship established," he says. "First-year students are an integral part of our summer program — it's good to have a mix," states Michael Madda of Baker & McKenzie in Chicago.

Although the Law School does not want first-year students to become "anxious" about finding summer employment, until March 1 firms are officially allowed to talk

to 1Ls only during Thanksgiving, Christmas, and January breaks, and only in their offices, not in Cambridge. According to Assistant Director of Placement June Thompson, only a "small, small" number of firms come to Cambridge after March 1. The Placement Office does not schedule any interviews for those firms and does not allow them to interview in Harvard-owned buildings.

Nevertheless, "the fact that first year students are getting jobs indicates that this seems to be a rational way to go," states Bernardi.

Jobs By Christmas

Does the current system prevent anxiety, academic diversion, and sharp career planning? Twenty percent of first year students obtain jobs by Christmas, according to Douglas Phelps, administrator for public service placement and career development. Those students spend long hours writing letters to firms in October and going from interviewer to interviewer, resume in hand, day in and day out for two months seeking jobs. Sometimes they face the disappointment of learning that the firm they've waited half an hour to see doesn't plan to hire 1Ls; other firms send rejection letters weeks later or never answer at all. Not all the job seekers are successful by Christmas time; many others are anxious.

Inequities result. Students are limited to seeking jobs in their hometowns or wherever they go on their breaks. Consequently many students are foreclosed from lucrative or exciting jobs. Small firms located at great remove, such as San Juan's O'Neill & Borges, don't return for spring interviewing and are deprived of the opportunity to hire 1Ls. Students who live by the rules are at a competitive disadvantage with students from other schools and firms which live by the

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Busy Year Ahead For Law School Council

By Mary Tarduno

Curriculum changes, grading reform, and student involvement in the faculty appointments process top the agenda of this year's Law School Council, reported Vice President Rex Van Middlesworth.

In addition, noted Council President Mary Lu Bilek, the Council hopes generally to illuminate the opportunities for student participation in decision-making at HLS by making the process more visible and by conducting open meetings on a variety of topics.

From the offices at LW 139a, the fifteen members of the Council (5 from each class) provide formal and informal student input concerning decisions facing HLS. For example, one Council member sits on each of the standing committees at the Law School. The Council also appoints noncouncil members to sit on various HLS committees such as the Placement Committee and the Library Committee.

This year, the Council has established its own committee on faculty appointments, which will propose to the faculty a method for guaranteeing student input to the appointments process. Van Middlesworth stressed the significant level of student concern for this issue, as measured by the "groundswell" of support for the Council's efforts in this area last year.

Similarly, student input will be critical to the work of the Committee on Long Range Educational Planning and Development, said Van Middlesworth. Chaired by Prof. Frank Michelman, this HLS committee will develop a comprehensive long-range plan for the Law School's future.

More Input

The Law School Council has appointed two students to this committee and will appoint a third, a 1L, next month. To secure the views of the student body at large,

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When You Need to Know Something

By Steve Friedland

Hypothetical: Muddled Student doesn't know what to do. He wants to find out about the joint degree program as well as about the Law School parking facilities. In addition, he wants to put a notice in the *HLS Adviser*. How does he secure the necessary information?

The not so widely known answer is to talk to Linda Beyer, the HLS Coordinator of Publications and Written Communications. Beyer, who has been at the Law School for eight years and at her present job for almost two years, would most likely point out that the back of the HLS Catalog contains the information required to answer the first two questions, as will several bulletin boards that will soon be placed near the mailboxes.

"Muddled" would not have far to go concerning the notice problem, either, for Beyer is in charge of assembling and distributing the *Ad-*

viser. In addition, Beyer has supervised the revision and distribution of such publications as "The HLS Catalog," the handbook for entering students, "The Fact Sheet," and other registration materials.

Beyer stated that she also collects competitive bids on behalf of various law school publications, such as law journals. "I help cut costs on some publications by connecting the organization with a less expensive printer than the one previously used."

Physical Layout Causes Problems

Beyer recognizes that there are problems with the communication system at the Law School. She attributes most of the problems to the physical layout: "There's no one central gathering place where people can bump into each other. Langdell, for the most part, is still the central area. But I now see the

school as having a number of central locations — for the 2Ls and 3Ls it is probably Pound Hall, and I think the 1Ls look at Langdell as their center because most of their classes take place there . . . How to get the word out to students is a problem."

Sign Panels, Pamphlets

Although Beyer thinks that "students are not terribly aware who does what at the Law School," and that in many instances the faculty and administration are equally uninformed concerning communications needs, she does feel that steps are being taken to improve matters. These include publication of "The Fact Sheet," contained within "The Fact Book," which tells the student how to get along at HLS; a new handbook planned for future entering students; and the September 6 issue

(Continued on Next Page)

Sports Answers

1. Yogi Berra of the New York Yankees appeared in 14 World Series, his first in 1946 and his last in 1963.
2. Second baseman Bobby Richardson of the New York Yankees knocked in 6 runs in one game during the 1960 World Series.
3. Yankee right fielder Reggie Jackson socked 5 homers during the 1977 World Series against the Los Angeles Dodgers.
4. Bob Gibson fanned 17 Detroit Tigers in the opening game of the 1968 Series between the Tigers and the St. Louis Cardinals.
5. The New York Mets are the only post-1960 expansion team ever to win a World Series. The Amazing Mets took the title in 1969.

Solution to "Cryptic Law"

Five law lords gave "speeches" which restated each others' views at great length in a stunning display of prolixity. . . . We have had to read this case. There is no reason why you should. Comment on *The Heron*, II, 3 All E.R. 686 (House of Lords, 1967) in J. Dawson and W. Harvey, *Contracts: Cases and Comment* 70-71 (1977).

Council Makes Presence Felt in Appointments, Long Range Plans

(Continued from Page 13)

the Council will also ask interested students to work on the subcommittees considering grade and curriculum reform; it will also sponsor an open meeting, which Bilek hopes "will help the committee decide what problems it really needs to address."

In the past the Council has "quietly" influenced decision-making at the Law School, but this year it hopes to be more visible, said Bilek. In addition to the open meeting on educational planning, the Council will sponsor discussions of other topics of student concern, such as the operation of the placement office. To better inform its constituency, the Council also plans to distribute a monthly newsletter.

Thus, the broad goals of the Council are twofold, Bilek explained. First, the Council wants

to convince students that it is not impossible to get things done at HLS. Second, the Council wants to work with the faculty and administration on the problems facing the Law School, offering "creative suggestions" and "constructive solutions." To combat an image of being an organization which only complains, the Council plans not to criticize unless it can do so constructively, she said.

The procedure for student input to decision-making at HLS works better than reputed, Bilek asserted. However, the Council cannot fulfill its responsibility to represent the students unless it knows which issues most concern them, and students will not have maximum impact unless they understand that process and become involved in it.



Linda Beyer Can Provide The Info

(Continued from Previous Page) of the *Adviser*, which contained a special insert concerning the health services.

Moreover, Beyer hopes that by October 19, three 'self-help' informational panels, laminated and under plexiglass, will be placed near the mailboxes. These panels

will contain: an academic calendar; a listing of official HLS organizations that were in existence in June 1979, including one to three lines of description; and an administrative directory which will contain information concerning admissions, counseling, faculty advisors, joint degrees, financial aid and loans, parking, placement and more.

terested in learning more about the communications system at the Law School, or those with suggestions, to stop by her office at LW122 or call her at 495-3694. In addition,

"People are accustomed to having a steady flow of communication. We need creative thought to make it happen."

Prior to the creation of Beyer's position, there was no designated individual at HLS whose job was to solve communications problems. "Instead," she says, "from time to time, suggestions by individuals would be implemented." Yet she is quick to add that "there has been a long-time concern about communications" at HLS: The handbook for entering students has been distributed for at least 15 years, and the official student bulletin boards have been in existence for many years. In the past, course and administrative notices were traditionally posted on either blackboards or the official bulletin boards located in the corridor of Langdell North, Langdell South and opposite the Distribution Center.

Much to Accomplish

According to Beyer, there is still much to accomplish. "There must be improvement on a level I can only begin to address; the important question is what are the real needs of those affected? In these times, people are accustomed to having a steady flow of communi-

cation. We need creative thought to make it happen." Beyer feels that an idea which holds promise is a series of formalized meetings to exchange ideas, problems and concerns. One such meeting took place last spring between the new officers of the student law journals.

Beyer invites any students in-

she has 50 copies of "The Fact Sheet" for any upperclassperson who might desire a copy. She also has many copies of a pamphlet prepared by Mollie Light, a spouse of a student, concerning the needs of job-searching students' spouses.

In short, Beyer hopes that everyone gets the message, and that muddled students at HLS will soon exist only in hypotheticals.

The Student Bar Association Law School Division will sponsor its annual division conference tomorrow at the Law School. A panel discussion on the *Progressive* case will be featured at the 10:00 morning session and workshop/meetings will take place in the afternoon.

Give 1Ls a Crack at Jobs: They Seek Them Anyway

(Continued from Page 12)

rules are at a competitive disadvantage with firms which interview 1Ls during the Fall, either outside of hours or in slots left empty by upperclassmen.

Kirkland & Ellis would "wind up with more people who would become permanent associates" if it could interview all interested 1Ls during the Fall, Kempf says. They would have a broader range of 1Ls to talk with and could invite students they were interested in to visit over Christmas, he adds. Other firms seek only uniformity of treatment. "Jones, Day can live with anything so long as everybody has the same rules," Rawson states.

Present System Rewards Violations

It is time that the Law School recognized that summer jobs are a valuable educational supplement for law students, that first-year students worry about grades in the Fall and put on three-piece suits to seek employment, and that the current system rewards both stu-

dents and firms for violating the rules.

What should be done? Obviously the overworked and overwrought Placement Office random interview assignment system would collapse with the burden of scheduling any additional interviews. On the other hand, the Placement Office could ask the employers who receive its National Association for Law Placement (NALP) forms whether they wish to talk to 1Ls.

That information could be made available to the 1Ls, who could be allowed to contact the firms on their own to schedule their own interviews, and the firms could be allowed to spend a third day in Cambridge in order to interview 1Ls. Students would not be diverted from class to sneak interviews with firms that have no real interest in them, fewer rejections would be received, firms in out-of-the-way locations would not be excluded, the Placement Office would not be in any greater disarray, and everybody would be living by the same rules.

But that would be too easy.

Offer and "Exceptance"

By Walter Schindler and Jorie Roberts

One of the hidden unexplored problems of HLS is that a small but significant number of students return from their summer jobs without offers for permanent employment. Possible embarrassment and other understandable factors have hindered full disclosure and discussion of this troublesome phenomenon. Consequently, in order to reduce students' frustrations and disappointments from a lack of an offer, we propose that the Placement Office take certain steps.

The Placement Office should conduct a confidential survey of employers and students to determine the precise causes of the problem. More specifically, the Placement Office should try to determine whether faulty work product, inadequate exposure resulting from a short clerkship, bad interpersonal rapport, or another cause underscores a student's failure to be asked back. In addition, the Placement Office might ask employers how much importance they attach to a student's failure to receive an offer. A recent article in the *American Lawyer* suggested a student's lack of an offer does not significantly affect his further employment efforts. Yet the "offer" question invariably arises, and interviewers seem to feel that explanation of rejection is worth a large portion of the already brief interview. Finally, the Placement Office might try to ascertain which firms "over-hire," planning from the beginning to reject a certain number.

After the survey results are in,

the Placement Office could publish a short guide to such potential pitfalls of summer employment as splitting a summer or volunteering for a few major projects under one lawyer. The guide could also suggest steps students might take when they do not receive summer job offers, such as how to request an explanation from the firm, as well as present suggestions for dealing with the "offer" question in interviews.

A Psychic Brawl

Probably most failures to receive an offer stem from either miscommunication about the scope of work assignments or personality mismatch. Although nothing can be done to prevent a collision of aggressive disjointed personalities, lust- ing for a psychic brawl, potential miscommunication may be prevented to a significant degree if students are made aware of the typical scenarios of past catastrophes and the need to clarify the nature of work assignments with exacting precision.

To the extent that the problem is related to poor writing skills, no survey need be conducted to prove the obvious: namely, Harvard must provide greater curricular opportunity for supervised legal writing in the second year of law school. The Legal Methods program provides basic legal literacy in the first year, but something more is needed to assure that legal writing skills are raised to the level of excellence employers expect from

HLS students.

An effectively supervised writing program could also help to correct what is perhaps a contributing cause of the non-offer problem: some students grow accustomed to the lack of meaningful feedback about the quality of their work. It is not surprising that students nurtured by a system that delays evaluation until the end of a term should drift to the end of a summer without suspecting, and thus possibly preventing, their imminent rejection.

In addition, more and more students are splitting their summer employment between two, or even three, law firms. While working at more than one place clearly permits a student to compare two types of practices, cities, firm sizes, and atmospheres, it does restrict the number of projects a student can complete for any one firm. Under such conditions, a student does not have the luxury of making too many mistakes, regardless of their educational impact, and may sacrifice an offer if he or she has a personality conflict with even one lawyer in the firm. In contrast, longer summer clerkships with a firm afford the student an opportunity to weather weak briefs, personality clashes, or misunderstood instructions through subsequent quality work product and improved working relationships.

No matter how well prepared for the dangers, even the most adept student may fall victim to the ill-chosen firm for a variety of reasons, many of them inherent in human nature. Law offices, like most other places, will continue to be shaded by the Tree of Knowledge of Good and Evil. But precisely because the inherent dangers are so formidable, HLS should strive to assure that no unnecessary obstacles darken the paths of those whose promise of success is so great, yet so fragile.

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