

HARVARD LAW RECORD

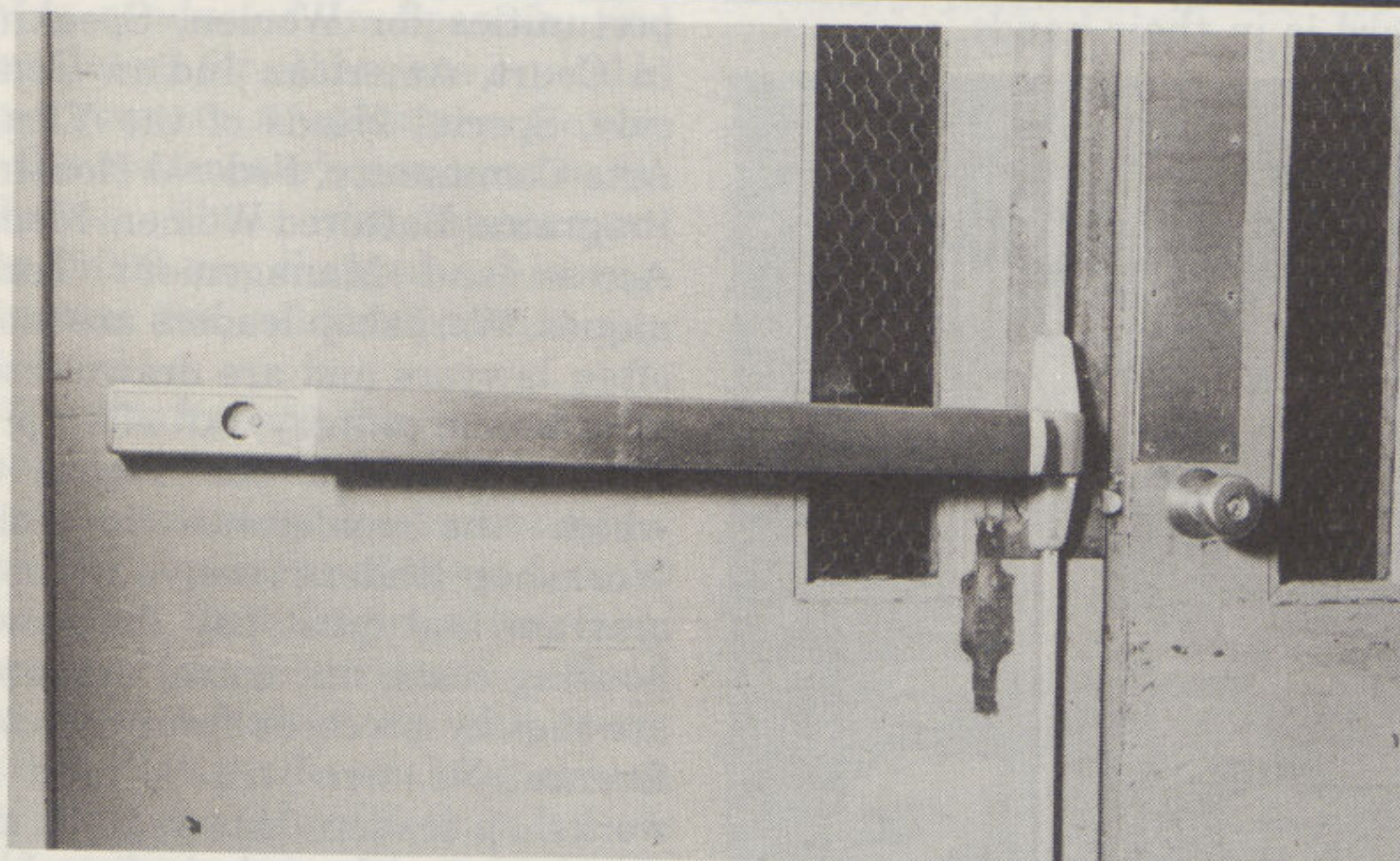
America's Oldest Law School Newspaper

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MARCH 6, 1981

TWENTY-FIVE CENTS



New crash bar on Story Hall door.

J.M.

HLS Dorm Security Maybe Next Week

As all dorm residents know, the Grad Center hall doors have been rekeyed and doors leading to the outside are sporting new hardware — which doesn't work yet. The *RECORD* sent a reporter, Carl Oppedahl, to find out what the story was — and as well as the history behind why it takes so long to get new doorlocks at HLS.

By Carl Oppedahl

Would you believe that HLS has been having problems with door locks in the Graduate Center dorms for at least 16 months?

The Graduate Center dorms were designed by Walter Gro-

pius and the Architects Collaborative, and built in 1950. While the building is in the "functional" style of the famous Bauhaus in Germany, the door locks installed with the building were less than functional. The locks on the exterior doors were suitable only for securing the buildings when they were unoccupied: by turning a latch, someone leaving the building could inadvertently leave the doors unlocked. Thus the only doors capable of keeping the buildings secure were the stairwell doors.

Unfortunately, residents of the dorms tend to prop the stairwell doors open. As Ken Hodder, 1L

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Helm Voted Review President

By Dan Hershman

Mark Helm, 2L, was voted president of the *Harvard Law Review* at its annual election meeting last Saturday in Harkness Commons. The North Hollywood, California native outdistanced 10 other candidates during the marathon evaluation and voting process.

Helm sees the *Review* presidency as an "opportunity to do something I thought I had to give up": a return to publishing, writing and editing "in a big way," with an "academic side." A government major while a Harvard undergraduate, he was an editor at *The Harvard Crimson*, and then spent a year as Boston Mayor Kevin White's speechwriter. As a 1L, Helm was a recipient of the Sears Prize for his academic average.

Helm takes over the *Review* from Stuart Singer, 3L, in the midst of controversy and comment about its new affirmative action plan. "I supported affirmative action," Helm said. "We shouldn't stay away from big issues. Some [*Review* members] think we made a mistake, but it's a matter of policy now." The *Review*'s new plan is not a quota system, Helm pointed out, noting that the *Review* might be suffering from a failure of effective public relations. He plans to address *Review* morale in the coming year, "but I don't think it's going downhill."

As *Review* president, Helm hopes

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Women & the Law to Meet in Boston

By Marisa Manley

Boston will be the site of the 12th National Conference on Women and the Law from April 3-5. The conference seeks to promote the equality of women by examining in depth women's current status in America's political, economic and legal institutions. The conference proceedings — workshops, speakers, caucuses, films, music and dance — will take place at the Park Plaza Hotel in downtown Boston. The conference's theme this year is the special problems of Women of Color, Battered Women and Lesbians. These groups were chosen as a focus because few forums offer the opportunity to address their problems, and the concerns they present are of special importance to feminism. A conference on Women and the Law was felt by its sponsors to be an especially appropriate place for this focus.

The conference has met each year since its inception in a different city. Each year the conference is hosted by a law school and sponsored and organized by law students and legal workers. In 1969, 50 persons attended the first conference, last year 2300 attended in San Francisco, and this year between three and four thousand persons drawn from all across the country are expected to attend.

Boston College is the sponsor for this year's event, but each of the seven area law schools has contributed to its realization. Each law school has made a gift of \$2500; several, including Harvard, have made additional loans and contributed services.

Run by Students

The conference was initiated and continues to be run by students. With increasing size, administration of the conference has grown slightly more formal. But even though the conference has been incorporated and has a national steering committee of lawyers, law students and legal workers which approves the annual conference budget and

makes recommendations about fundraising, members serve for only a year, and the committee meets only three times prior to the annual conference. The students in the city in which the conference is held have all responsibility and ultimate control of policy, programming, publicity and finance. Everything required in planning, staging and "cleaning up" afterward is in their hands.



J.M.

Carole Fern, Carol Augenblick and Sharon Oxborough, 1Ls, push T-shirts for the conference in the Hark.

The conference sponsors see its goals as threefold. It provides support for all persons interested in issues of women's equality by creating a forum in which these interests can be expressed and explored. The conference is an information resource: it builds the awareness of persons throughout the country about activity relating to women's equality and opens lines of communication. The conference also provides law students and legal workers opportunities to

increase their advocacy and organizational skills.

No Male Workshop Leaders

This year the conference will present its participants with a choice of 160 workshops. Among the topics to be addressed are: Labor Law, Police Brutality, Lesbian Mother Custody, Equal Credit Opportunities for Women, Speaking In Court, American Indian Genocide, Special Needs of the Visual Arts Community, Federal Housing Programs, Battered Women, Media Access and Management Techniques. Workshop leaders are most often lawyers and are drawn from all over the country, but often predominantly from the region in which the conference is held. Workshop leaders receive no honorarium and must pay their own housing costs, but travel expenses are met by proceeds from the conference. No men will be used as workshop leaders this year. A decision was made early in the planning stages that a man would be asked to teach only if a similarly qualified woman could not be found. So far that has not been a problem. Men are welcome to participate in the conference, and have done so in the past, both as attendees and as volunteer workers.

Rather than focusing exclusively on "big name" attractions as speakers and workshop leaders, the conference sponsors seek to involve as many persons as possible by asking different persons to lead workshops each year, and by asking persons to nominate themselves by expressing interest. In selecting workshop leaders and a steering committee, sponsors seek geo-

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Women & Law

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graphic, ethnic and racial diversity as well as adequate representation of older persons and lesbians.

The conference has, throughout its history, provided childcare for attendees. This year efforts to make the conference accessible to a broader range of persons have increased. Workshops will be signed for the deaf; several workshops are being conducted in Spanish, and translators for others are available upon request. Another new feature is the conference's progressive fee schedule. Those with incomes under \$5000 are charged a \$10 registration fee, while students pay \$30.

The conference this year has a budget of \$165,000, all of which must be raised by its student sponsors. Sixty percent of these monies will come from registration fees, the remainder from donations from law schools, law firms and foundations. Various fundraising events including the sale of T-shirts which will continue in and around the Hark for the next week or so help bring in dollars.

Pre-registration continues through March 7, and registration at the door is also permitted. Conference sponsors are still looking for extra beds and floors to accommodate those who cannot afford the Park Plaza. For further information about the conference, contact Sharon Oxborough (498-7261), a first-year student who has been Harvard's representative on the conference planning committee.

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Judge Finds for Quinto in Copyright Suit

By Dan Hershman

The U.S. District Court for the District of Columbia has granted *pro se* plaintiff David Quinto, a senior editor of the RECORD currently studying in Hong Kong, summary judgment in his copyright infringement suit against the *Legal Times of Washington* and its former managing and executive editor, David Beckwith. *Quinto v. Legal Times of Washington, Inc.*, no. 80-1005. (See RECORD, Nov. 7, 1980, "Off the RECORD: A Pro Se Plaintiff's Arduous Haul.") Judge Thomas A. Flannery dismissed, for lack of personal jurisdiction, the action against co-publishers Stephen A. and Lynn S. Glasser, holding that the District of Columbia long-arm statute did not reach them as individuals residing in New Jersey.

Published Verbatim

On Sept. 21, 1979, the RECORD published Quinto's 17 paragraph account of perquisites HLS students had received as summer law clerks for private firms ("HLS Clerks Get Offers They (Sigh) Can't Refuse"). Quinto's article was published verbatim in the Oct. 15 issue of *Legal Times*, with the exception of two paragraphs deleted "apparently so that the article would fit on the page," the court stated. *Legal Times* never received specific permission from the RECORD or Quinto to reprint his particular article, but Beckwith claimed in affidavits that in late 1978 or early 1979 then editor Tammy Jacobs, '80, gave *Legal Times* "general permission" to republish materials originally published in the RECORD." Beckwith also stated that on Sept. 20, 1979 he and Jacobs's successor, Jorie Roberts, '80, exchanged by telephone "mutual promises of future cooperation" between the two publications.

Despite Beckwith's "good faith" assumption of a prior right to re-

publish Quinto's article without further permission, he claimed to have attempted to reach Roberts on four occasions, once allegedly leaving a recorded message on the RECORD's answering machine. Beckwith received no response. The court pointed out that Beckwith, a member of the D.C. and Texas bars, did not receive specific permission to reprint Quinto's article, made no attempt to ascertain whether the RECORD actually owned the copyright, and did not contend that "*Legal Times* had ever reprinted any articles from the RECORD other than Quinto's during the period Beckwith claims he had permission to do so." Finally, Beckwith "undisputed[ly]" made no attempt to contact Quinto.

Contribution to Collective Work

Whether the publication or its authors hold copyrights in specific submissions turns on whether the articles are works for hire or contributions to a collective work. The court noted *Picture Music, Inc. v. Bourne, Inc.*, 314 F. Supp. 640, 649-52 (S.D.N.Y. 1970), *aff'd* 457 F.2d 1213 (2d Cir.), cert. denied, 409 U.S. 997 (1972), where key factors bearing on the distinction were enumerated. They include: "whether the author was paid for his work; whether he created the work of his own volition; whether the author was a party to an express contract for hire, especially one restricting his freedom to engage in other writing activities for hire; whether the author maintained regular working hours, and whether the creative work occurred at the employer's place of business." The court held that since Quinto "received no compensation," conceived of the article entirely on his own; "was not a party to any express contract for hire," but could write for pay for whomever he chose; had no regular working hours and didn't utilize the RECORD's offices for his ar-

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Contempt of Courtship:

Gretchen Rule

Contempt of Courtship proves, once again, that there is more than just legal talent hidden in and about the hallowed halls of HLS. Focusing on the search for a mean-

School/world. Buck explains to Nick and Dave that it's only lust that counts. Buck, Nick and Dave go to a disco to prove it. Nick meets Michelle. Dave meets Margaret who

Sounds pretty standard for a romantic musical comedy, you say? Well, basically it is. And most of it is fairly predictable, especially if you've spent much time at the Law School. But that shouldn't deter you from seeing it — *Contempt of Courtship* is a high quality production as far as amateur theatrics go, and is well worth the price of admission.

Rough-cut Gem

Of course, as is true with most of these productions, there are rough spots. Many of the songs were written with such a range and with such a complicated structure that even a professional singer would have trouble with them. This tends to detract somewhat from the fine singing voices that most of the cast possess. Many of the lyrics are forgettable, too, although there were a few gems. The music itself is surprisingly good, especially considering the short time in which the non-professional musicians had to learn the pieces (the overture hadn't even been completely written on Tuesday night).

Another distracting feature of the production is the frequency with which the scenes changed. Each act had eight scenes, tending to make the show choppy. Besides making you realize that the show is very long, the frequent breaks make it difficult for the main characters (i.e. Nick, Colleen, Dave, and Margaret) to develop their characters fully. In past shows that were take-offs on commercial productions the main characters only needed to conjure up an image and let the audience fill in the details. Here, since the script is not directly based on another show, the characters should have been given more of a chance to present their personalities. But they do quite well with what time they are allowed.

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Photos by John Morris

The four leading couples.

ingful relationship, the show provides an amusing insight into life and love at the Law School.

The main characters in the show are Nick (Ken Hodder, 1L), Kathy (Chris Benitez, 3L), Dave (Brian Ochs, 2L), Margaret (Sonya Winner, 2L), Colleen (Nancy Allen), Buck Ripley (Greg Martin, 2L), Irving de Wormme (Bruce Grossberg, 2L) and Michelle (Natalie Marron, 1L).

Nick is searching for romance. Dave and Margaret have found romance. Dave and Margaret's romance ends abruptly when Margaret interviews with the largest corporate law firms in New York and Dave takes a job with the ACLU. Nick is wild about Kathy. So is every other male in the Law

went to the disco with her roommate Colleen to forget about Dave. (Sparks fly — no reconciliation.) (Are you following this?) Nick and Michelle have a fling. Nick becomes bored with Michelle's personality and reading material (*Family Circle*?!). Irving gets a crush on Colleen. Colleen wants to write. Colleen also wants Nick. Nick likes Colleen, but only as a friend. Michelle meets Irving. Michelle dumps Nick. Michelle and Irving totter off to live happily ever after in the stacks. Dave and Margaret get back together. Nick tells Kathy his true feelings for her. Kathy likes Nick, but only as a friend. Colleen consoles Nick. Nick doesn't get it. Nick finally understands when Colleen spells it out for him. End of show.

The Search for Love Goes On

(Continued from Previous Page)

The funniest parts of the show are provided by the truly superficial stereotypes who don't have a lot of character to develop and who can concentrate on really being typical. Buck Ripley is extremely believable as the resident stud, and Hugo confirms all of our worst fears about jocks. Kathy is played as the poor badgered beauty with such ease that you suspect that Benitez has played the part before (perhaps not on stage?). Michelle, as the love-me-for-my-body-not-for-my-brains member of the *Law Review* comes close to being a bit overdone, but the part is carried off nonetheless. The four stars for this



Finale of disco number.

performance, however, go to Irving de Wormme, the biggest horn-book toting, footnote-shepardizing nerd this side of New Haven. His overblown enthusiasm for the law puts even David Rosenberg to shame.

As in past years a spot is reserved in the show for a special appearance by a professor. Mary Upton also appears, but as a regular.

Contempt of Courtship is a must for anyone who has ever been frustrated by the social scene at the Law School (e.g. everyone). Go to relax and have fun, and you won't be disappointed. ☺



Sonya Winner sings her solo in "Too Tired to Boogie".

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Hark Coop Outfits HLS Troops

By Thomas Isenberg

In the heart of the Harkness Commons lies the Harvard Law Coop. The canteen to the campers among us. The commissary to the Bolsheviks in our midst. The general store to those of us from the Midwest. The 5&10 for the New Yorkers.

Where else could one find *Democracy and Distrust* next to pantyhose displays? Tribe's *Treatise* nestled up to Listerine bottles and Yogurt bars? Or Areeda's *Antitrust* piled among a dozen varieties of cookies?

The Law Coop, a subsidiary of the larger Harvard Coop located in Harvard Square, stocks almost everything the law student could desire. For over 11 years, it has provided members of the Law School community with a convenient place to purchase their textbooks, stationery supplies, school rings, newspapers and Playboys, sodas and candies, and drug supplies and sundries. It is run as a separate profit center and does its own ordering, but does funnel its receipts to the main office.

David LeBlanc, the manager of the Law Coop, takes great pride in the service the store provides to the community. Manager for two years, LeBlanc was delighted to leave the larger store three years ago where, he claims, there was "too much pressure, too many bosses." He presides over the outfit's two other full-time employees, Paul Carden and Skip Davis. All three get along well and much prefer the quiet, relatively unhurried atmosphere of the Law Coop to that of the main store where each has spent some time working. Carden finds the law students "much nicer to do business with" than the customers he encountered in the main store.

All three men have made many friends among the students and seem to enjoy their work and the relationships they have built. In fact, Carden, who goes to school in the morning at U. Mass. Boston and hopes to work with computers when he graduates in two years,

describes his employment as "a really great deal." Davis, who opens the store daily at 8:30 a.m., considers his job quite pleasant, stating, "It really beats working."

LeBlanc has just begun work toward a degree in accounting and is well-versed in the performance of his store. He estimates that the

the main store, that the Law Coop will serve as the exclusive outlet for law texts next year. Such a move, it is projected, would save the students much trouble as well as the aggravation of the long lines that mark the start of each semester at the main store.

It is possible that renovations on



Photo by John Morris

Hark Coop staffers Skip Davis, Paul Carden and David LeBlanc.

Law Coop takes in about \$900 on an average day. Over 1000 people pass through each day, most buying soda and other food, with the usual purchase being a little under a dollar. During the past academic year, the store grossed about \$180,000 and earned roughly \$34,000 in profits. Its percentage increases in sales and profits were the best of any of the Coop's satellite stores. LeBlanc has set this year's revenue goal at \$200,000 and believes the store is about seven percent ahead of schedule. The record for a single day's intake was the first day of business this school year — Sept. 2, 1980 — when, in part due to massive textbook sales, the store took in over \$9000.

Despite its small interior, the store carries an amazing amount of merchandise. However, LeBlanc welcomes any suggestions for new and needed items. He mentioned that it is possible, according to discussions currently being held at

the Hark will force the store to close in the spring, but the work, if it takes place, may occur over the summer when the store is normally closed. Incidentally, at the end of each school year, the three workers must empty the entire store as the merchandise is transferred to other outlets. Then, come fall, the men must re-stock the entire store — top to bottom!

Over all, the men are extremely pleased with the Law School clientele. They emphasize that they do not set the prices, regarded by many students as being too high. Pricing policies are set at the main store. Carden and Davis, the men on the front line registers, claim they know many people's Coop numbers by heart and can match numbers to faces, and vice versa. Such dedication is a fitting testament to the important role played by the store and these gentlemen in the Law School community.



Nuclear Power: A Dying Industry?

By Gretchen Rule

On Wednesday, Feb. 25 a small group gathered to hear Eric Van Loon, HLS '71, now with the Union of Concerned Scientists, address the issue of nuclear power under the Reagan administration. Although the billing was somewhat misleading since Van Loon did not focus on the Reagan administration's plans for nuclear power, he did identify issues that raise questions in some minds as to whether nuclear power should become the standard by which progress is measured.

Lost Faith

Van Loon began his presentation by pointing out that no nuclear-related items were on the list of programs to be slashed from the federal budget. This plus the appointment of a pro-nuclear advocate to be Secretary of Energy, he claimed, provoked a spectrum of response from the nuclear industry "ranging from optimistic to euphoric." He then went on to assert, however, that "the nuclear industry is a dying industry. It's survived this long because of government subsidies, but Wall Street has lost faith in it, and business in general has lost faith. It seems to be a case where 'all the king's horses and all the king's men' can't put it back together."

The remainder of Van Loon's discussion focused on data in support of his "dying industry" theory without much reference to the Reagan administration's reactions or policies. Occasional rhetorical questions as to whether the industry could (or should) be saved in the coming years comprised the extent of his political discussion.

Van Loon broke his presentation down into four points which he claimed supported his theory and were beyond the control of the administration. These were: the number of nuclear plants ordered has sharply declined; nuclear power is largely irrelevant to the energy crisis; nuclear power is the most

expensive energy source currently in use; and nuclear power is the most dangerous energy source currently in use.

No New Plants

The first point was made by reference to historical figures which show that in 1973 a record 40 nuclear power plants had been ordered, a "high-water mark" in the development of the industry. In 1978, however, only two plants were ordered, and both were deferred by the purchasing company. In 1979 and 1980 no new plants were ordered, and none are expected to be ordered in 1981 or 1982, according to Van Loon. Enthusiasm for developing nuclear power plants has therefore declined markedly since Project Independence, a Nixon-era program which called for the construction and operation of 1000 nuclear plants by the year 2000.

Van Loon stated that of the plants that have been purchased, 70 are currently in operation and 90 are in various stages of construction. "But the plants that are operating supply less than two percent of the total energy consumed, compared with three to four percent supplied by wood, wind, and solar," Van Loon averred. "So even if the number of operating plants doubled they would still only supply three to four percent of the country's energy consumption. And there is a real question as to how many of the 90 plants [that are under construction] will be completed and put into operation."

Won't Solve Oil Shortage

Further support for the proposition that nuclear power is irrelevant to the energy crisis comes from examining the data on end use of nuclear power, claimed Van Loon. Assuming that the term "energy crisis" is synonymous with "oil shortage," no increase in nuclear power will do much to alleviate the energy crisis. Van Loon asserted that less than eight per-

cent of the oil consumed in the U.S. goes to generating electricity. Also, he claimed that the amount of electricity generated by oil dropped 20 percent last year, with the slack being taken up by coal. "And it isn't true that 'every little bit counts,'" Van Loon contended, "or that in order to have national growth we must have increased energy consumption. From 1973 to 1978 the GNP increased 12 percent measured in constant dollars while our energy consumption decreased 6 percent." Van Loon also said that the current electrical generating capacity is 36 percent above peak demand. "Since we have a huge excess capacity, and since nuclear power is only used to generate electricity, there's a real question as to whether we need more nuclear power," he stated.

Most Expensive Energy Source

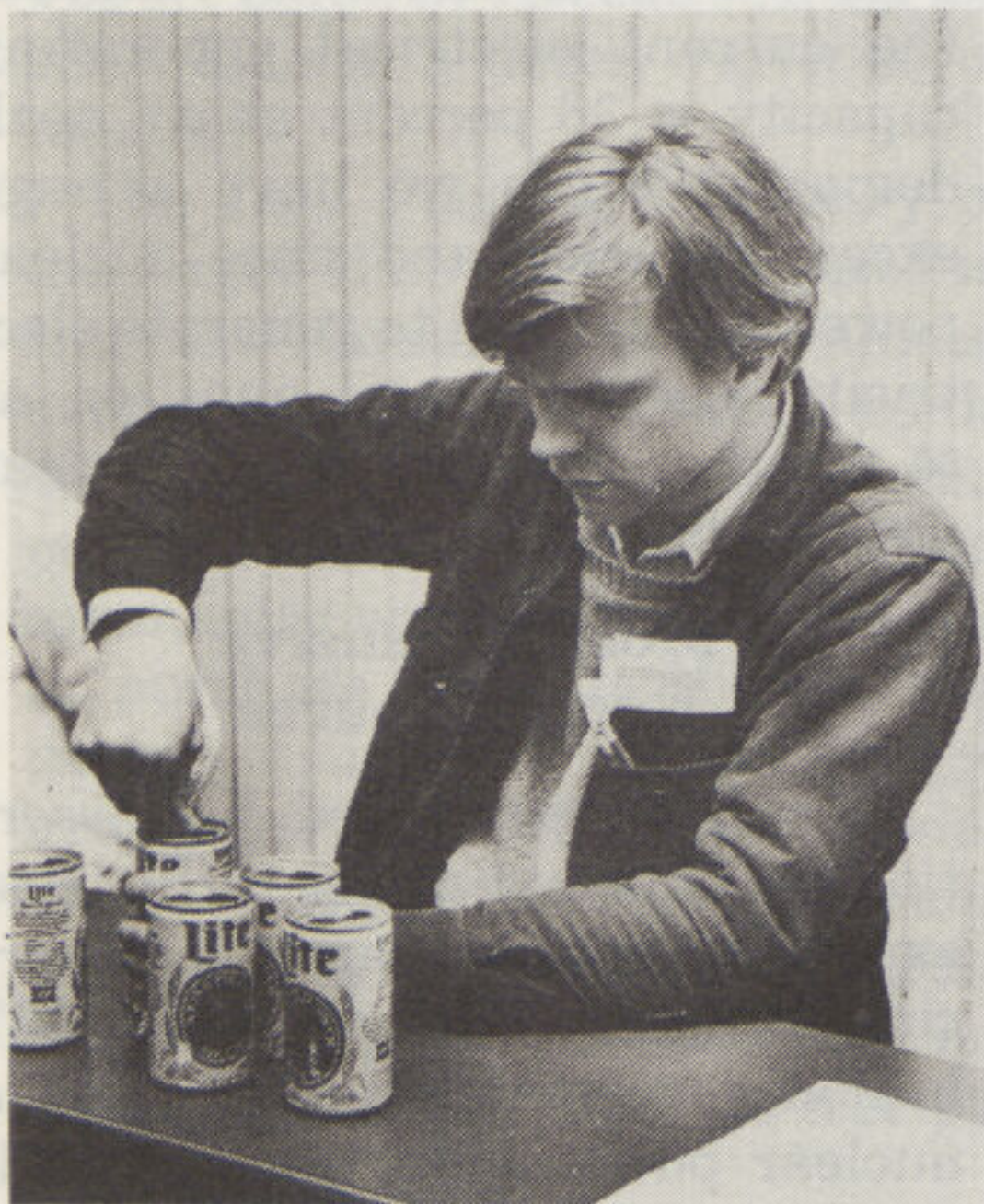
Van Loon supported his assertion that nuclear power is the most expensive energy source by referring to figures that showed a \$37 billion government subsidy to the nuclear power industry, and adding that the figure does not include the benefits of the Price-Anderson Act limits on liability in the event of an accident. "The cost to the utilities is lower," he admitted, "but it actually is more expensive than any other form of energy."

The last point, that nuclear power is the most dangerous source of energy, seems hardly open to doubt to some after the Three Mile Island accident. "What happened at Three Mile Island was treated as an impossibility until it happened," Van Loon claimed. Even conceding that the probabilities of a similar occurrence are very small and that those of a worse accident are almost nil, the problem of nuclear waste remains. "A block of plutonium one foot square would, if evenly distributed, kill everyone on earth," Van Loon stated. "Plutonium remains lethal for more than 240,000 years, and we don't have a satisfactory way to store it."

Knowing When You've Had Too Many

By John Morris

Beer at the Law School is nothing new, but this time there was an objective test of just how drunk these law students were. No need for boasting competitions — for this was a demonstration of the infamous Breathalyzer. Twenty-five people showed up for the test sponsored by the Harvard Government Attorney's Project (HGAP) so that they could sample the beer and test their resistance by blowing into the machine.



Photos by John Morris

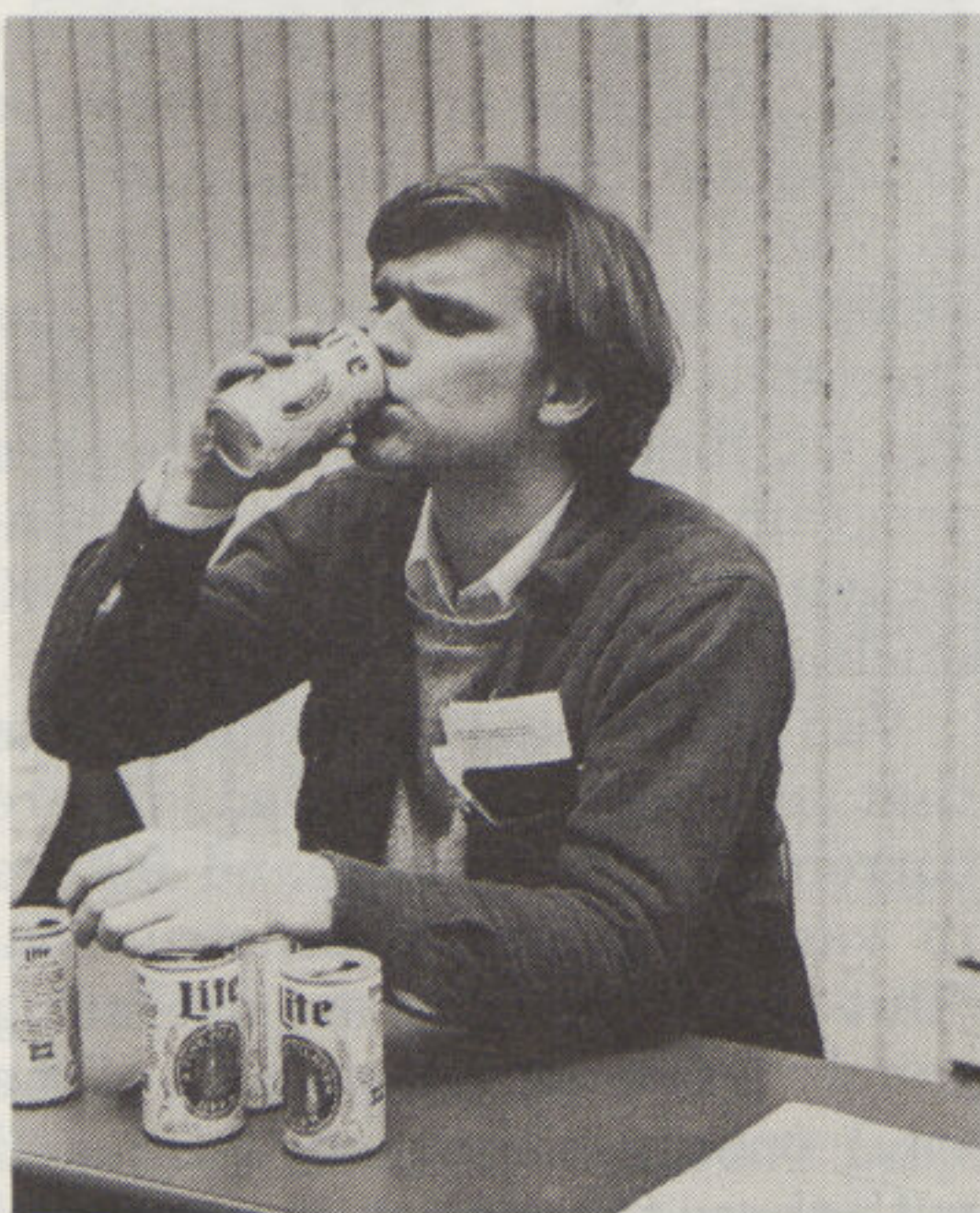
Gerry Murphy of the Massachusetts State Police Traffic Section measured the breath samples and gave out certificates of each breather's blood alcohol level. By statute, the presumptive level of intoxication in Massachusetts is 0.10%, although one can be convicted for driving while under the influence with a lower level if other evidence is offered.

Chemical Reaction

An average 150 lb. male will find that one beer or 1½ oz. of liquor will boost his blood alcohol level about 0.015%, so six or seven beers are ordinarily required to pass the 0.10 mark. It takes about an hour for the blood alcohol level to peak, and about another hour for the effect to wear off. Neither coffee nor exercise nor hyper-ventilation affect the level, Murphy said, although if one has eaten recently, the food will slow down the ab-

sorption rate, slowing and moderating the alcohol's effect.

The Breathalyzer (a trademark and brand name) measures the blood alcohol level by measuring the alcohol which is released into the lungs from the blood and is then exhaled. (There is a fixed ratio between the level in the exhaled breath and the level in the blood.) The test can be thrown off if the person has just had a drink, for it takes from 15 to 17 minutes for the alcohol in the mouth to be dissipated, and so, by law, the test must be administered 20 minutes after arrest.



The testing machine itself is a small box which is used in police stations. Portable models are used in some states so the test can be administered without having to bring the driver into the station. The breath sample is passed through a solution of potassium dichromate and sulfuric acid. In the process, the alcohol reacts with the dichromate, changing the color of the solution. The instrument then measures the difference in transparency between the solution in the test vial and that in a sealed control vial. The difference is read off on a scale of blood alcohol level.

Hitting the Bell

A number of people at the demonstration tried to make it over the magic 10 (0.10%), but only a few did. "It's like trying to hit the bell,"

said Will Hunter, 1L, (see photos), comparing it to the carnival hammer strength test. The highest reading of the evening? An anonymous non-law student who topped out at 0.15% and looked it. He couldn't recall how many beers he'd had, but his friends said he had started several hours before the meeting.

Several other participants who fell short of 0.10% but who were above 0.05% remarked that, while they weren't really drunk, they didn't think they should drive in that condition. In Canada and Sweden, it would be wise not to, for the legal limit in those countries is



0.05%. The Canadian standard, in fact, was recently lowered from 0.08%, and Murphy thinks the standard should be lowered here, too. At 0.10%, he says, there is no doubt the driver is intoxicated.

Murphy, who gives the demonstrations in schools and to community groups, says he enjoys most testing the machine on judges. They are forever hearing defendants with high "scores" plead, "But your honor, I only had a couple of beers." After the demonstration, Murphy is sure the judges do not believe that was possible. "And they don't like to be lied to," he says with a smile.

The measurements are consistent enough that Murphy claims to be able to predict people's levels
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Prof. Cox Looks Back on Watergate Days

By Rob Woolmington

Prof. Archibald Cox led a standing-room crowd in the Root Room Tuesday night on an excursion through collective memory. Mixing anecdote with analysis, Cox looked back on the unfurling of the Watergate affair.

The former special prosecutor, whose dismissal from the post in October 1973 is enshrined in political myth as the Saturday Night Massacre, said that one of the "enduring consequences" of Watergate

HGAP Beers

(Continued from Previous Page)

within 0.01% in the demonstrations, where he knows how much



they've had to drink and what they've eaten. He says police on the beat have a pretty good idea of the level, too, when they stop someone. "You know when the guy is a .30," he says, "He has liquid legs." The highest level he has ever measured is 0.32%. A level of 0.45 to 0.50 usually causes death, although occasionally people survive much higher levels.

How did our man, 160 lb. Will Hunter, do? He tested out at a mere 0.065% after his four Lite's — almost exactly what Murphy's formula would predict. ☞

was its demonstration that the government could "work itself clean . . . Except for the pardon, substantial justice was done. It came out about right."

Cox characterized President Ford's pardon of Richard Nixon as a "bad error . . . It said, in a most dramatic, important instance, that we are not going to adhere to the principle of equal justice."

Another enduring consequence of the affair, Cox remarked, was the placing on "much firmer ground" of the proposition that the executive branch is subject to laws interpreted by an independent judiciary. Cox said that Nixon thought of himself as being like Louis XIV or James I, and that it was very difficult, as special prosecutor, for Cox to decide how to go about securing the White House tapes. Cox said he was unsure what would happen if Nixon did not comply, and at one point had speculated with his staff about what would happen if federal marshalls approached the White House, as they had done a decade before at Ole Miss, to carry out a court order. Would the Marines, in their fancy dress uniforms, resist? Cox guessed the scene in such a case would simulate Gilbert & Sullivan, or a Latin American revolution.

Cox said that, as special prosecutor, he imagined Nixon might, in a tussle over the tapes, have spoken to the nation, saying in effect "that that Harvard professor is a mosquito," and flatly refusing to turn over tapes. Cox worried that he might expose the weakness of the judiciary in a confrontation between the two branches.

"Agonized" Over Compromise

He also "agonized" about the possibility of a compromise with the White House about access to the tapes, but never was forced to decide how far he would go "because Nixon never offered a compromise that an honest man in my position would accept." Cox, of course, was fired for his scruples, and missed participating in the final showdown.

In his talk Tuesday night, the former special prosecutor said that "the most disturbing" aspect of the affair was the flood of letters he received later from "young men and women" expressing their disillusion with government. He saw concrete benefits flowing from the scandal in the legislation governing campaign contributions and disclosure, though Cox, national chairman of Common Cause, said that he did not believe the work in that field was yet concluded.

In answer to questions, Cox engaged in that national pastime of the seventies: Watergate speculation. Why didn't Nixon destroy the tapes? Cox said, "I almost know that he was given categorical advice that he would win the tapes case." Also, Nixon could not hope to keep secret the destruction of such a large number of tapes in the possession of the Secret Service. Cox said he often wonders if, or in what manner, the secret of the tapes would have emerged if Alexander Butterfield hadn't spilled the beans in committee testimony. Cox did know, from his first days on the job, that at least one tape existed, and might well have discovered others in due course.

Why was the break-in staged at Democratic National Headquarters? Cox guesses that Howard Hunt and Gordon Liddy had been "programmed" for so long by the CIA to operate in such manner, they did so as a matter of course at their new job.

Did all the details of Watergate come out? Cox said, on the whole, that he believed so, though he said he had some questions he would have liked to ask the Director of Central Intelligence.

What was Nixon's worst offense? Cox said simply, "he lied to everyone in the country."

Others besides Archibald Cox, though, could better answer questions about what is contained in the Watergate tapes. He has never heard them but, he said, "I'm thinking of going down to the National Archives some day and standing in line." ☞

Reagan's Machismo

Only six weeks ago, just after the release of the American hostages, we noted the important lesson to be learned from that incident: that the United States and the Soviet Union should not treat the Third World countries as mere empty spaces on the geopolitical chessboard. The lesson has not been learned, though, if the actions of the Reagan Administration with respect to El Salvador are any measure.

Regardless of what the Soviets are doing in Latin America, the recent moves to involve the U.S. in El Salvador make the Salvadorans look like pawns in an effort by Reagan and Secretary of State Haig to demonstrate their machismo. It is clear that they have been waiting for a pretext to show off the new American "resolve," and the unfortunate Salvadorans have happened along at the wrong moment.

Not only does the new policy undermine the trust of the Third World in general, but it bodes ill for Reagan's campaign promise that he would not lead America into war. We've heard this before. Let's hope that Reagan's actions do not put America into a position where the only means of saving face is to commit ever greater resources to an explosive situation.

Holy Moses!

Can it be true? The *Harvard Law Review* has many distinctions to its credit, but few could be so unique as having provoked *The Wall Street Journal* and *The New York Times* to print editorials which agree.

That was in fact the effect of the *Review's* affirmative action policy adopted on Feb. 4, and then again (only differently) on the 14th. The *Journal* addressed the issue only briefly, concluding that the Law School was failing to teach its students to spot a bad argument. And this week, the *Times* came out against the plan because it would undermine the standards of the *Review* and likely brand the minorities and women as token appointments. With authority like this, what can our scholars say?

While we are on the subject, we should note that this week's *Newsweek* also carries an article about the *Review's* decision, although it expresses no opinion. (*Newsweek* doesn't explicitly editorialize.) We were disappointed to find that it made no mention of the fact that much of the information on which it was based was gleaned in a phone conversation with the RECORD. While we would like to have had the credit, we must be content to know that others know where to turn when they need to get the news straight.

HARVARD LAW RECORD

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Fenno

Fenno cursed under his breath as he twisted his ankle in a hole in the sidewalk. Righting himself, he turned around and fell over a wooden barrier into an enormous hole full of gray mud and metal wires. He squirmed out of the icky mess just before a forklift grabbed him.

No, Fenno was not having a nightmare brought on by too many years of Harkburgers and HLS registration days. Nor had he put in too long a night with the SBR (he stayed away from that — "Too many 1Ls.") Fenno was simply trying to get from Harvard Yard to the Coop — "these days an almost impossible task," he mused.

"The Square used to be ugly," he thought, "but at least the only things you had to worry about were man-eating taxis and flashers in front of the Coop." Fenno had always liked the flashers — just last year, they'd bought a radio and begun doing a little disco routine after 9 p.m. every night.

Fenno had put up with the constant changes of storefront tenancy over the years, as well as the remodeling at Elsie's ("Still smells the same, though," he thought as he wrinkled his nose.) He didn't miss Goods too much, already having stocked up on wrap-around sunglasses for Winter Term Antitrust. He'd also been getting more than a little bit tired of \$10 orange socks with holes cut in them and disco diapers with flashing lights.

Most of the changes had been bearable, but Fenno had really become attached to the old Harvard Square subway station during his 20 years at HLS. He'd had his favorite phone booth, found the best dirty corner, and had treated himself to a moldy doughnut from the newsstand every Wednesday morning before Con Law for years ("Fortification").

The other day Fenno, after crawling around a large crane, dodging a cherry picker (I kid you not), and dashing to the relative safety of the Baybanks money machine alcove, noticed that even the old subway kiosk was gone. "Not a trace," he moaned. "Why does everything keep changing? Things aren't supposed to change. Harvard certainly never intends to change. Just ask Derek Bok. And I never change." He began to hum the old Mary Martin tune about never growing old (or was that up?), and was beginning to work himself into quite a frenzy.

Then he looked up, and saw a sign that indicated that the subway kiosk was to return in 1983. Fenno, though still upset, began to breathe a little easier. "I guess I can take it for a couple of years," he told himself. "After all, I've been here for 20 years and I'm not planning to go anywhere." Fenno marked the date on his "Decade-At-A-Glance" pocket calendar, put on his hard-hat, and dashed for the Store 24.



HARVARD LAW RECORD

Letters to the Editor of the RECORD

Pass-Fail

To the Editor:

We would like to commend THE RECORD for its continued coverage of the Michelman Committee's consideration of the pass/fail grading system and Big MAC's efforts in presenting its specific proposal for pass/fail grading to the Michelman Committee. We believe, however, there were some ambiguous and therefore misleading statements in THE RECORD's article of February 27, 1981, entitled "Pass/Fail May Survive the First Hurdle."

We think it unfortunate that the article chose to focus on unsupported speculation about what the Michelman Committee and the faculty might do, rather than addressing the merits of the issue. The article attempts to convert expression of our beliefs about certain faculty attitudes into predictions about future Michelman Committee and faculty action on pass/fail grading, ignoring the obvious and complicated interrelationships between the pass/fail grading issue and many other topics under the Michelman Committee's consideration. Given the many items on the Michelman Committee's agenda (including the related issues of feedback, class size, the use of student graders and semesterization of the first year), we honestly cannot predict what the ultimate outcome of the grading issue will be.

In addition to ignoring these other factors which might influence the Michelman Committee's decision, the article also failed to specify precisely what pass/fail plan it expected to "survive the first hurdle." We have presented a pass/fail grading proposal to the Michelman Committee together with a petition indicating students' support for that proposal. This is only one of the grading proposals the Michelman Committee is considering. We are optimistic that the Michelman Committee will include a recommendation for pass/fail grading in its report, but we cannot know what form that recommendation will take.

Conclusions about what the Michelman Committee might do are premature at this point, and may do a disservice to that Committee's consideration of the issue. Reasoned discussion in a public forum of the important issues being considered by the Michelman Committee is, however, essential to student participation in these considerations. For this reason we hope THE RECORD will continue its informative articles.

Jeremy Paul, 3L, Co-Chair, and
Nancy Wieggers, 3L, Member
Michelman Committee Student
Advisory Committee

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.

SPORTS QUIZ

NOTE: This week's Sports Quiz deals with famous athletes who were nicknamed "Whitey".

1. Currently manager and general manager of the St. Louis Cardinals, this man led the Kansas City Royals to two divisional titles only to lose the pennant to the Yankees. Who is this famous Whitey?
2. Born in Finland, this man has starred for years as a center for the Los Angeles Kings. Who is this famous Whitey?
3. Perhaps the greatest clutch pitcher in the history of the New York Yankees, this man has most recently served as commissioner of a national professional slo-pitch softball league. Who is this famous Whitey?
4. Although a crew cut made his light hair less distinctive, this man's service as captain and star defenseman for the Chicago Black Hawks during the 1960's and early 1970's drew considerable attention. Who is this famous Whitey?
5. This man played for the New York Giants (baseball, that is) and served as manager for a short time during the 1970's for the Chicago Cubs. Who is this famous Whitey?

(Answers on Page 16)

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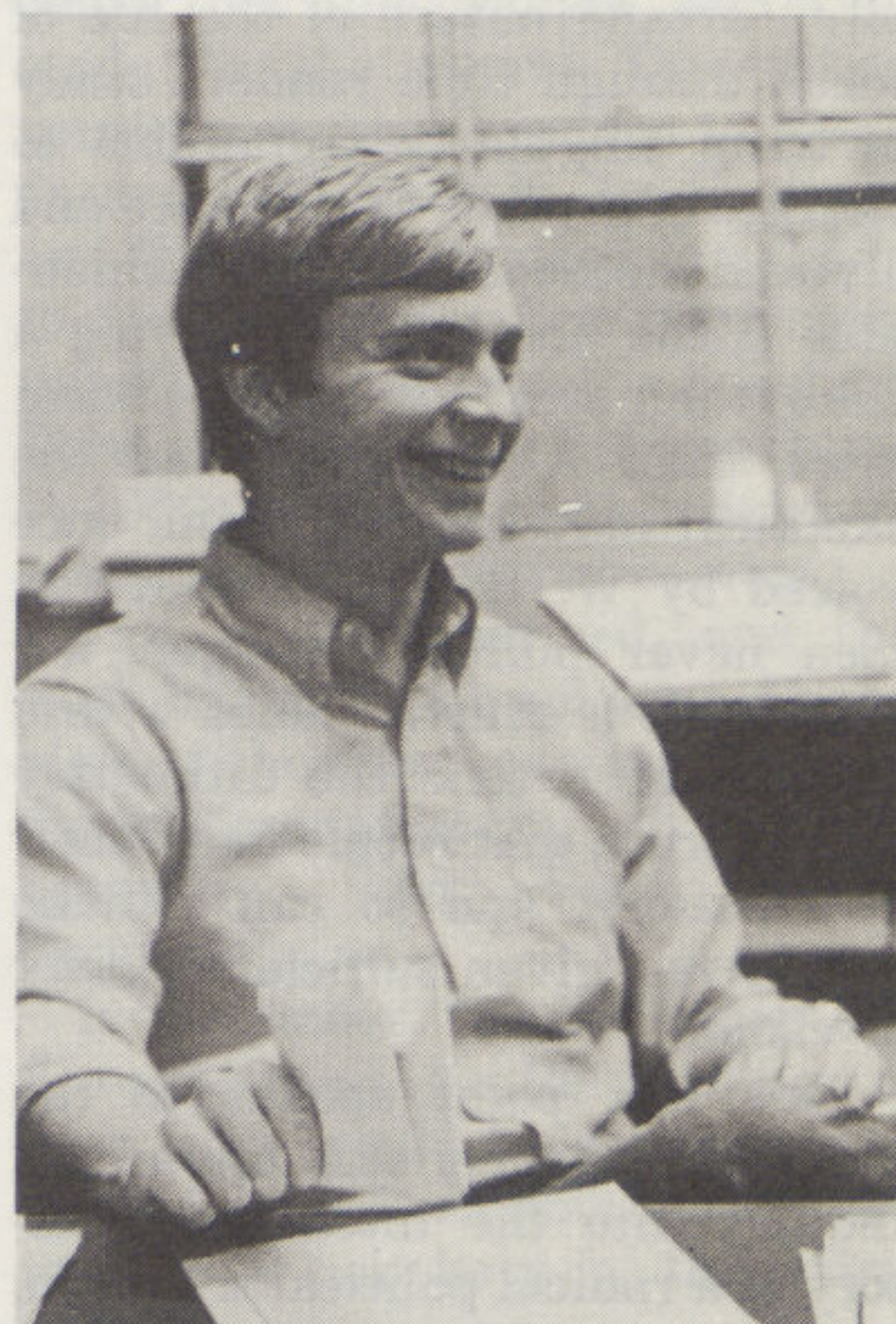
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Helm Voted Review President

(Continued from Page 1)

to lead his colleagues in doing "what we do well: put[ting] out a magazine." By today he expected to have appointed a treasurer, a managing editor and two executive editors



E.M.

Mark Helm, 2L

to assist him for a year of hard work. But during the summer he plans to take a brief respite from his *Review* duties — to marry Cathy Hodgman, 1L. The couple met as undergraduates.

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Fire in the Minds of Men

Fritz Byers

Fire in the Minds of Men: Origins of the Revolutionary Faith by James H. Billington, Basic Books, 677 pp., \$25.

Intellectual historiography is shaky business. The ethereal and often arcane nature of the life of ideas through time renders study of them singularly vulnerable to charges of artifice, contrivance and stylized methodology. The fashionable cliché about "ideas having a life of their own" masks a good deal more than it explains. And the skeptical materialist's claim, once voiced by W. H. Auden that "an idea never pulled a trigger, nor even built a church" holds within its simplified tone the ultimately radical truth that people make their own history, and so can remake their lives, given sufficient clarity of vision.

This last point speaks to the heightened danger that attends an inquiry into the intellectual history of a radical political tradition, at least in the West, where the left has, for much of the relevant time, been within the sway of some variant of historical dialectical materialism. So the barriers and threats were stacked high against James Billington when in the late 1960's he undertook to study the European revolutionary tradition from the French Revolution of 1789 to the Bolshevik Revolution of 1917. While teaching intellectual history to graduate students, Billington became intrigued by the curious alchemy of radical rhetoric, the oxymoronic mixing of traditions that informed the language of the student left.

Impressive Credentials

Billington brings impressive credentials to the inquiry. His study of Russian cultural and intellectual history, "The Icon and the Axe," is the classic in the field, and over the years he has shown himself eminently capable of walking the tightrope between fatuous ide-

alism and some crude brand of determinism. In "Fire in the Minds of Men," Billington brings to the study a full bag of talents, an astonishing breadth of knowledge, and a warm humanism that saves this book from the airy impersonalism that is the fate of much intellectual historiography. In all, the result is a powerful, provocative tale, full of lofty intellectual combat and equally full of human drama.

Indeed, the book is a rich mosaic of personalities, some of them familiar, others obscure, but all of them rendered with surety of tone and sympathy of vision. We are allowed to visit during this long journey with the "giants" of the Revolutionary tradition in Europe — Saint-Simon, Blanqui, and of course Marx and Lenin — and also with bewitching lost souls with names like Goodwyn Barmby. (Barmby, an authentic English visionary, is responsible for popularizing the word "Communism" in his part of the world. He spent his formidable energies trying to establish utopian communities on virtually all the islands surrounding Great Britain.)

Remarkable People

This close attention to the lives and passions of the remarkable people whose lives constitute the real history of the ideas under study makes Billington's book magnetic and, finally, inspiring. It is also frequently sobering. Billington is deeply skeptical about much of this tradition, and he rests this view on the inescapable truth that most of the movements that constitute the European revolutionary tradition have failed appallingly in their attempts to create, within their movements, even small models of egalitarian democracy. Proudhon, for instance, was an atrocious anti-Semite and a violent sexist. And Stephan Radchenko, the St. Petersburg pre-Bolshevik revolutionary, emerges as more or less a pimp

for his circle of tyrannical democrats.

A Larger Message

However, these blots on the picture do not obscure the larger message of Billington's book, which I take to be that the Revolutionary tradition in Europe is full of crucial lessons about the nature and destiny of humankind. One of those lessons is highly unorthodox both as a description of what happened and as a prescription for how we might proceed these days. Billington argues that European radicalism until Marx was largely built on a romantic form of nationalism. Of course, nationalism has within it the dangerous seeds of prejudice and genocide, as we apparently need to be reminded, poised as we are on the threshold of another imperialist folly. But Billington delivers the nationalistic tradition of the 19th century to us as something to celebrate.

The nationalistic tradition is all the more beguiling for its deep romantic bent. Billington uses "romantic" in its original sense — the strange and ennobling view of human life as a blend of spirits, myths, mysticism and the corporeal. Thus, the romantic nationalists of the early nineteenth century, especially the Polish revolutionaries of the 1830's leave to us a cultural legacy of vast proportion. Opera, poetry, folk music, scholarship and humor all contributed to the radical culture the Poles forged as an enclave against the domination of the repressive regime.

It is in this part of the book that Billington's insistence on the role of ideas, or more broadly put, culture, in revolutionary movements finally emerges as convincing. Songs, even opera songs, can kindle revolutionary passions, provided that they come from the heart of the movement and are rooted in the experience of the people whose

(Continued on Next Page)

BOOK REVIEW

(Continued from Previous Page)

loyalty and courage is needed if revolutions are to be made.

This heartening portion of the story is too often lost under the force of later developments, most notably the "movement" of the center of revolutionary ideology to Germany where the Marxist Social Democratic Party reigned. Much of the latter half of the century, as Billington sees it, was dominated by a more materialistic perspective, focused on the thorny problem of the meaning of "revolutionary action." Thus, terrorism developed near the center of many of the European vanguard parties, and though the answers offered by terrorists to the problems facing European radicals were almost always useless, Billington shows that, even in failure, terrorism completely changed the nature of the questions being asked. The final result of this change in focus was the loss of much of the romantic tone of the tradition, and with it, much of its rich human appeal.

As I have implied, Billington's inquiry grew out of his experience in the 1960's with radical student movements, and his book, for all its scholarship and historical tone, is delivered to us at a time when our collective sense of alternatives to bureaucratic state capitalism seems limited to a laissez-faire fantasy out of Bonanza-land. We can learn from Billington at least some things to keep in mind when thinking about other ways of arranging our lives. The breadth and beauty of the visions of the European revolutionary thinkers contrasts sadly with our current knowledge of their almost universal practical failure to achieve even traces of egalitarian socialist democracy. Those failures emerge from Billington's book as the product of the obsessions of the late nineteenth century and the consequent betrayal of the earlier promises that are perhaps the only way to recruit a mass movement — that life itself will be richer, more various, more full of moments of poetry and grace, when lived in a posture of resistance to the dominant culture. ❧

MARCH 6, 1981

HLS Dorm Security

(Continued from Page 1)

Dorm Council representative from Story Hall put it, "the residents of my floor are more disturbed by the inconvenience than concerned with security." Apparently, in fall of 1979 some residents took more destructive measures in the name of convenience, permanently damaging some stairwell door locks.

Jammed Locks

In October of 1979, then Assistant Dean Stephen B. Young posted a memo to residents of the Graduate Dormitories regarding corridor and stairwell doors. In the memo, he described that locks were being "jammed so that the doors were left unlocked at all times." He observed that there had been "a number of thefts in recent weeks," and suggested that "If the cost of the lock repairs [were] prorated to each student on a floor, more care [would] be taken with these doors."

Later that month, this reporter sent Young a memo suggesting that "security could, in principle, be assured either by locking the stairwell doors or by locking the exterior doors." The memo advocated that new hardware be installed on the exterior doors, so that they could swing shut and lock consistently.

Young asked Ralph Gates to arrange with the Buildings and Grounds (B & G) Department for purchase and installation of the hardware. The work was scheduled for completion in the summer of 1980, and Young said the cost was estimated at \$1800.

When B & G does work for the Law School, funds are transferred on the books of the University from the Law School to B & G. B & G bills for parts and labor, and adds on some 100% to the bill for overhead. Bill Jewer, of B & G's key shop, described a typical work order thus: "They [the schools] call us, we buy it and set it up." Gates was a Law School employee responsible for maintenance of the Law School; much like any contractor, B & G did work at the Law School in response to work orders

issued by Gates.

In spring of 1980, Young resigned his position as Assistant Dean; the new position of Dean of Students was created, to be filled by Mary Upton. Gates retired and was replaced by George Cook.

Dean Upton placed a notice in the Adviser in the fall telling students that the changes would be made to the doors. The notice pointed out that visitors to those dorms, like visitors to Hastings and Wyeth, would need to be able to use the outdoor Centrex phones to call to be let into the building. Thus, students living in those dorms in 1980-81 would want to consider subscribing to Centrex service.

Fall of 1980 arrived, and the work had not yet been done. Upton blamed the delay on slow delivery by the manufacturer of the lock hardware, the Von Duprin Company.

In December, the Dormitory Office announced that the Grad Center door locks would be changed over the holidays. Residents were asked to pick up new keys for the doors.

Maybe "This Week"

The stairwell door locks were changed to match the new keys, and in early January new hardware was put on one of each pair of exterior doors. The hardware consists of a "crash bar" and mortise locks; pushing on the bar unlocks the door as an exit, and it relocks upon closing. Such hardware has been successfully installed at the Design School Building, Gund Hall.

The second half of the work, however, was not done: the remaining crash bars, which can be opened with a key from the outside, have not been installed. Jewer said "we have the locks." He intends to send them to the B & G personnel for installation "this week."

Cook attributed the long delay in finishing the work to a shortage of B & G personnel. "They have only three key people, and they're busy with emergencies most of the time." ❧

Eating Out in Harvard Square

Thomas Isenberg

Law students must eat, much like everybody else. One gets tired of eating at the Hark day in and day out, if one even eats there at all. Home cooking's good for those off-campus, but a chore and usually a bore. Where does one turn? I, for one, turn to Harvard Square, minutes from the Law School, and home of more restaurants, diners, slop kitchens, ice cream parlors and confectionaries than anyone could desire. Some prefer the fancy eateries, but I prefer to save those for interview outings. When in the Square, it's fast, cheap, low-down and dirty, yet good eating, that I look for. Here is what I found.

BUDDY'S SIRLOIN PIT is a long, cluttered cafeteria-atmosphere burger joint, a cross between a Horn and Hardart and Roy Rogers. As Buddy wanders around among the off-beat characters that frequent the premises, the chefs busily grill delicious, juicy hamburgers, chopped steaks, and sirloins. My favorite is the Chopped Special. For \$2.50, you get a thick piece of chopped steak, baked potato soaked in butter or sour cream, a large salad smothered in your choice of dressing, and Texas toast (a long thin strip of butter-

drenched roll, much like garlic bread without the garlic). A Coke or Molson completes the meal. For the non-burger lovers, at the back of the store sits the Cardell's counter where cafeteria-style dishes, much like the Hark's though less expensive, are served. Buddy's is conveniently located on Brattle Street near Reading International and Sage's Market.

The best pizza I've tasted in Harvard Square, in Cambridge or in Boston for that matter, is at PINOCCHIO'S PIZZA on Winthrop Street, off Boylston Ave., across from the Galeria Mall. Steaming hot from the oven, this pizza is delicious — cheesy, rich in tomato sauce, and backed by a tasty, thin crust. Extra-cheese is my favorite, but the store offers the toppings of your choice. Also, submarines and a below-par Sicilian pizza sold by-the-slice are offered. The premises are small and can get mighty crowded on a Saturday night, but the seating is tight and intimate, and the soda machine boasts Mountain Dew (the only soda for pizza) among other leading brands.

Pinocchio's used to be literally the only pizza shop in the Square, but two competitors, one strong,

the other weak have moved in. Pizzeria Uno, on Boylston St., is weak, with its over-priced, greasy, undersized "deep dish" pie. Pizzeria Regina serves pretty good, nice moist pizzas, slightly over-spiced, and a good assortment of submarines (try the eggplant parmesan sub). Regina's seating is better than Pinocchio's but one does have the added hassles of a waitress and a longer wait. Also, Regina is decidedly more expensive than Pinocchio's. If you are the type of person who demands variety, try Pinocchio's, then Regina's, and *then* become a Pinocchio's regular. However, when faced with the task of taking the folks out for some pizza, I would probably have to go with Regina's (which, by the way, is located on Holyoke Street next to Hasty Pudding).

If it's sandwiches you're after, then there is no place better, quicker, or cheaper than ELSIE'S, on Mount Auburn Street at the corner of Holyoke. A casual atmosphere, counter seating, and sawdust on the floor characterize this nosherie. The "TD" — Turkey Deluxe — cannot be beat: a bulkie bun, a heap of turkey meat, lettuce and crisp bacon, but ask for mayonnaise instead of Elsie's own "Russian Dressing," the latter being a concoction whose origins I have not been able to discern to this day, so I avoid it. Next is the roast beef sandwich, your normal R.B. heavy helping (but again substitute mayo for the dressing). Also good is the famous Elsie Double-Burger. Finally, the pastrami sandwich (ask for hand-cut) and brisket are both top-notch delights. One other advantage of Elsie's over the other dives mentioned here is that it boasts an entire case of delicious cakes, cookies and pastries, including the best Hermit cookies in Boston (although the packaged ones in the Hark are pretty good) and my all-time favorite, Half-Moon cookies (vanilla and chocolate icing covering a soft cake-like cookie). 🍪



Photo by John Morris

Phil Markell serves up the food that has made Elsie's famous.

Quinto Wins Suit Over Legal Times

(Continued from Page 3)

ticle; "[it] would be difficult to envision a case where it is more clear than it is here that the article was a contribution to a collective work and not a work for hire."

The RECORD's only rights in the article are "in the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series. 17 U.S.C. § 201(c)." Only an express transfer to the RECORD from Quinto would have given the RECORD the rights originally vested in the author.

Besides discounting *Legal Times's* contention that the RECORD owned the copyright because the article was a work for hire, the court also rejected its claim of RECORD ownership based on Quinto's alleged assignment and ratification to the RECORD. Quinto had acquired from the RECORD a document assigning to him any rights it might have had in his article, which he then attempted to file with the Copyright Office. The Office, viewing Quinto's article as a contribution to a collective work, returned the assignment. "[T]he assignment from the RECORD to Quinto had no legal effect because the RECORD at no time owned the copyright to Quinto's article and thus it had no rights to assign," the court stated.

Legal Times's defenses of fair use and First Amendment reprint rights were denied by the court, as was its claim that Quinto did not own a copyright in his compilation of quotations.

Honest Belief Not Enough

The most significant defense raised by *Legal Times* was that it was misled by the RECORD's blanket copyright notice and acted in good faith. Under 17 U.S.C. § 406(a), the burden is on the defendants. The court, in assuming Beckwith's honest belief that he had reprint permission, stated: "[I]f honesty in fact were the only element of the 406(a) good faith requirement,

anyone could infringe a contribution to a collective work if he could show an honest belief — however unreasonable that belief might be — that he had permission to republish from the newspaper or magazine in which the article appeared."

The court went on to explore the meaning of "good faith": "Given that both § 406(a) and the Copyright Act as a whole emphasize protecting the copyright holder, such a reading would defeat the purpose of the statute. Therefore, the court concludes that good faith in the context of this case entails not only honesty in fact, but reasonableness as well. Other bodies of law take the same approach. The Uniform Commercial Code defines good faith in the case of a merchant as honesty in fact and the observance of reasonable commercial standards, U.C.C. § 2-103(b), and commentators have noted that good faith and reasonableness are the basic principles running throughout the code." (Citations omitted.)

No Reasonable Reliance

The court added, "On the facts of this case, Beckwith, a member of the bar acting on behalf of a legal newspaper, could not reasonably rely upon the vague oral permission given him to reprint any article from the HARVARD LAW RECORD as constituting permission to republish the Quinto article, particularly since the permission was given by a previous editor at least nine months before the Quinto article was ever written. Nor was it reasonable for him to rely upon 'mutual promises of future cooperation' made during the September 20, 1979 telephone conversation with the RECORD's editor-in-chief as constituting permission. Finally, the lack of an answer to the telephone message Beckwith left with the automatic answering device did not create reasonable grounds for believing he had permission to reprint the article."

"[T]he statute requires the defendant to have been misled by the

blanket copyright notice in the name of the Harvard Law School Record Corporation. It is difficult to imagine how the notice could have been so misleading that Beckwith did not even have a duty to inquire who owned the copyright in the article, since the article clearly bore Quinto's name. In fact, it might be argued that ambiguity as to who owned the copyright — which arose because of the blanket notice — increased Beckwith's duty to inquire about ownership, particularly since the *Legal Times* had never before reprinted an article from the HARVARD LAW RECORD. At a minimum Beckwith had a duty to inquire whether the RECORD owned the copyright to Quinto's article in order to claim he was misled and acted in good faith."

The court held that "[r]equiring ... a party who obtains a vague, oral permission to reprint articles from a student newspaper [to] inquire as to who owns the copyright in the article it wishes to reprint in order to successfully assert a § 406(a) defense is consistent with well-established copyright principles."

Finding no genuine issue as to any material fact, the court awarded Quinto summary judgment. It also held that under 17 U.S.C. § 504, Quinto is entitled to statutory damages and, under § 505, attorney's fees as well for *pro se* plaintiff Quinto. As of March 3, Judge Flannery had yet to set these amounts.

E. Fulton Brylawski, attorney for *Legal Times* and Beckwith declined comment pending final disposition of the case. ☛

Cartoonists

Do your talents run to cartooning? If so, the RECORD could use you. We are looking for cartoonists who would like to contribute on either a regular or an intermittent basis.

If you're interested, drop by 23 Everett St. for one of our production meetings, the Tuesday preceding each issue, or leave a note in our mailbox there.

Future Lawyers Spend Time ON Court

By Benne Hutson

In Indiana, "Hoosier Hysteria" has arrived. Elsewhere, the talk is about "March Madness." It is that time of year when college and high school fans are obsessed with championship basketball tournaments. Harvard Law School is no different: on March 16, five intramural leagues will begin playoff competition to determine who is Number 1.

Enthusiastic Play

The playoffs will cap over three months of enthusiastic and competitive play. According to Brian Lanser, 3L and basketball commissioner, "This year's program has been quite successful. Participation is up slightly over last year and no major problems have marred the season."

The program is divided into four leagues for men and one for women. Classification in the men's leagues is based upon ability, with "A" League containing the most talented players. In fact, many players in "A" League played at the college level, including Mike Campbell, 1L (Northwestern) and Brandon Boyd, 3L (Pomona College).

"'A' League is really competitive this year," Lanser says, "with everyone interested in all the games as a very tight race has developed." Currently, Ken Hyatt's team is atop the standings with a 6-1 record. Lanser's squad is in second, two games back. All five teams in this hotly contested league will make the playoffs.

Urban Blight leads "B" League with a record of 7-1. "C" League

has a log jam at the top with three teams — Get the Short Kid, Dratel and the Michelman Committee — sporting perfect 6-0 records with Am Civ a half game back at 5-0. "D" League is led by Dismal Scientists at 6-0 with Sleepers right behind at 5-0. In the Women's League, Karen Daniel's team, attempting to become perennial champions, are alone at the top with a 7-0 record.

Women: A Success Story

Participation in the Women's League has been a major success story. Lanser states, "Overall, there are approximately the same number of teams in the entire program this year as last year. However, the Women's League has nearly twice as many teams this season as compared to last."

Enthusiasm and team pride are quite high among the women. Ruth Heller, 2L, comments, "We may not have won many games this year but last week's exciting double overtime game convinced us that the Basketball Busters with coach Don Tringali is the team to watch for next year."

Last year violence and unsportsmanlike conduct were a serious problem, resulting in some major injuries. Happily, Lanser says that this season "there have not been many major problems in this regard. There have been a few little flare-ups but no big incidents at all." Referees were instructed at the beginning of the year to take firm actions to minimize rough play. Furthermore, all players were warned that unsportsmanlike conduct could result in a reprimand

ranging from suspension for any number of games to expulsion from school, depending upon the severity of the offense.

Twenty-three students have taken on refereeing duties this year. Sheldon Nussbaum, 2L, who has officiated a number of games, commented, "It can be a real hassle at times. The pay of \$4 a game often seems to be worth less than the minimum wage."

"Vaguely Competent" Play

Overall, those taking part in this year's program are quite pleased with its operation. Dan Zubkoff, 2L and member of a "D" League team bearing his name, comments, "It's well organized. The teams are enthusiastic. The level of play is vaguely competent and it's just a lot of fun."

"B" League competitor Bill Jenkins, 2L, says "Spectator interest seems to be way up this year. We have played six games and there has yet to be an empty seat in the house."

Howard Zeprun, 1L and "A" League player, states "I have really been impressed with the number of quality players here. It really is quite astounding."

Playoffs begin on Monday, March 16 and will run until the second week following spring break. Schedules will be posted soon with all games being held at Hemenway Gym.

Basketball is just one of four intramural sports organized and funded by Dorm Council. Dorm Council also selects the program's director each year as well as handling any major institutional problems. Lanser, in addition to his basketball post, is also serving as director of the entire program this year.

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SPORTS QUIZ

1. Dorrel Norman Evert "Whitey" Herzog.
2. Juha "Whitey" Wilding.
3. Edward Charles "Whitey" Ford.
4. Pat "Whitey" Stapleton.
5. Carroll Walter "Whitey" Lockman.