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HARVARD LAW RECORD

VOL. 51 NO. 9

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DEC 1970

DECEMBER 3, 1970

TWENTY CENTS

IRS Classifies "Charitable Law"

Guidelines for determining the charitable classification of "public interest law firms" have been handed down by the Internal Revenue Service, which also concluded that regulations defining "charitable" should be amended to clarify the treatment of such organizations.

Pending such clarification, rulings on applications for exemption for public interest firms will be issued based on the new guidelines.

The guidelines are the result of a month-long study by the IRS, which had announced its concern with the lack of standards and controls in this area on October 9, 1970. Public interest law firms will now be issued rulings that they are charitable if they engage in litigation that can reasonably be said to represent a broad public interest rather than a private one.

In developing the guidelines, the

IRS distinguished between those organizations which provide legal representation to the poor or which defend human and civil rights guaranteed by law and those firms which provide legal assistance in some specific area of public concern, such as protection of the environment, or more broadly upon any subject of "public interest". The former programs have long been recognized as charitable activities, exempt under Section 501 (c)(3) of the Internal Revenue Code.

Commissioner Randolph W. Thrower stated that the new guidelines are not inflexible and that organizations would be given an opportunity to demonstrate that, under the facts and circumstances of their particular program, adherence to the guidelines is not required in certain respects in order to ensure that the operations are exclusively charitable.

New York Firms Lift "Going Rate" To \$16,000 Base

The "going rate" is slowly but steadily going up to \$16,000.

That's the upshot of a spot RECORD survey of 32 major New York law firms. The figures below were supplied by informants at several "downtown" firms, but the upward trend has previously been heralded by the *New York Law Journal* and the *Wall Street Journal*.

The current boost has been characterized by closed lips. When Cravath broke the \$15,000 barrier two years ago, other firms complained that their starting associates demanded the same rate. Until now, therefore, the "going

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Women's Lib Panel Excoriates Forum Audience

By Lisa Friedman

A close-to-capacity crowd of pigs, chicks and other barnyard critters filled Lowell Lecture Hall on November 18 to be—in the words of moderator Antonia Chayes—"provoked, annoyed, stimulated and irritated"



Charles Soberman

Dr. Horner speaks before . . .

by the Harvard Law School Forum's Panel on Women's Liberation. They were.

Although the evening began ominously with the unliberated introduction of Mrs. Chayes—an accomplished lawyer, dean, college trustee, professor, social planner, and laborer for women's rights—as "the wife of a professor at the law school," it was otherwise undeniably ladies' day.

Mrs. Chayes' promise of a panel of "considerable diversity" was dutifully fulfilled in the persons of Dr. Matina Horner, an assistant professor of psychology at Harvard; Diane Garrity, an editor of the *Atlantic Monthly*; and Betty Friedan, author of *The Feminine Mystique* and founder of NOW (The National Organi-

zation of Women). These three women, both in personality and philosophy, represented a broad—although not exhaustive—range of approaches to the problem of being a woman in America.

(Continued on Page 8)



Charles Soberman

. . . Friedan, Chayes, Garrity.

HLS Geographic and Ethnic Profile

By Carol Plumb
and John York

The geographic and ethnic profiles of Harvard Law School for this year make for some interesting reading.

Some factors are calculated down to the last decimal point and fill fat record books in the Office of Admissions and in the Registrar's Office. Other components seem carefully *untabulated*.

Where do Harvard Law students come from? The geographical distribution of the 1,769 students presently enrolled

used as a real factor in the admission procedure, but somehow the figures on students' home states are very much in accord with the national population distribution figures. The big states send more students."

The Law School does not follow the Brandeisian mandate of encouraging graduates to return to their geographical roots just as it does not concomitantly admit people from far-flung places just so they will have roots to which they can return. "We don't care where people go after they grad-

ship, whereas those migrating in the opposite direction tend to remain permanently in California." If the Class of 1970 can be used as an example, one sees from *Fig. 1* that students tend to abandon Illinois and Ohio (among others) in significant numbers. New York also loses talent passing through the Law School. On the other hand, Washington, D.C., and Massachusetts register big gains.

Each entering class represents 170 to 180 undergraduate schools, a number which is expanding over the years.

The intensified effort by the Law School to recruit students from disadvantaged backgrounds has resulted in a greater number of minority-group members here. There are about 50 blacks in the entering class plus 39 black 2Ls and 32 black 3Ls, based upon Dean Simpson's rough estimates. He estimated that Chicano students now number eight 1Ls, two 2Ls, and one 3L. The number of "other Latins, primarily Cuban and Puerto Rican" is estimated by Simpson to be "two or three in each class, while there are "about four" Asian-Americans in each year's group.

There is one American Indian in the third-year class and two in the present 2L class. Two students of Indian ancestry were admitted with the 1L class; however, one isn't at the Law School this year because he is enrolled in the joint JD-MBA program and elected to spend his first year at Harvard in the Business School.

Fig. 1: Where They Came From and Where They Went:
The Class of 1970 (Entering in 1967)

State of:	Origin (544T)		Destination (381T)	
	%	N	%	N
California	9.7%	53	9.7%	37
Washington, D.C.	1.0%	6	8.4%	32
Georgia	.7%	4	1.1%	4
Illinois	4.2%	23	2.4%	9
Massachusetts	5.3%	29	14.5%	55
Minnesota	2.0%	11	.8%	3
New York	21.2%	115	17.8%	68
Ohio	5.3%	29	1.3%	5
Pennsylvania	3.1%	17	1.8%	7
Texas	2.6%	14	1.6%	6
Washington	1.0%	6	.5%	2
Foreign	1.3%	7	N/A	
	57.4%	314T	59.9%	228T

Figures for origin are from the Admissions Office; those for destination from the Placement Office. Since the Class of 1970 had a high attrition rate after entering in 1967, absolute numbers are not comparable and percentages should be contrasted with caution.

shows that New Yorkers are twice as numerous as students from any other state, with a commanding lead of 883. Second place California sent 492 students heading East. Four hundred and nine are domiciled in Massachusetts. Illinois, New Jersey, Pennsylvania and Ohio, in that order, are the next most populous states among the student body.

"The Admissions Committee does seek diversity—the more diversity the better as long as factors used to judge diversity make sense," states Russell A. Simpson, director of admissions. "Geographical distribution is not

uate," Simpson said, "but we would be worried if everyone—coming from disparate backgrounds—all began to end up in the same locale pursuing the same kind of practice. That would demonstrate a fault in the School's educational process."

Some geographical trends can be ascertained. Simpson feels that very few Southerners tend to return to the South after graduating. He sees a great deal of swapping between California and New York. "But those coming from California who go to New York often do so for a temporary position such as a judicial clerk-

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Spotlights East, West, Black, White

Fig. II shows the ethnicity statistics resulting from a survey required pursuant to the Civil Rights Act of 1964 and undertaken by the Registrar's Office. Responses to this survey were incomplete; its total does not correspond to the enrollment of 1,769 Law School students issued by the Harvard University News Office. Nevertheless, the Fig. I statistics correspond closely with Dean Simpson's informal estimates. Thus, there are approximately 150 members of the four aforementioned minority groups at the Law School.

While Fig. II does not show breakdown by religion, it is known that a high percentage of students attending the Law School are Jewish. Another student population figure which does not correlate with nationwide averages is that of sex. Only nine per cent of the Law School students are women, whereas 51 per cent of the total U. S. population is female.

However, according to Simpson, women only apply at the nine per cent rate so that proportionately more women than men ap-

licants are admitted. In the past women withdrew before registration at a rate lower than did men, but beginning in 1967, females began to withdraw at a considerably higher rate than the males.

from which 87 withdrew before consideration. From the remaining 3,162 applications considered, 2,315 were rejected (a 27 per cent "admit rate"). Of the 847 admitted, 303 withdrew after ad-

Fig. II: Ethnicity of Full-Time Harvard Law Students

	American Indian	Black	Oriental	Spanish Surnamed American	All Other Students	Total All Students
First-Year Class	0	45	1	10	450	506
Second-Year and Higher Classes	3	65	6	17	1069	1160
Total All Classes	3	110	7	27	1519	1666

Discrepancies between these numbers and those given in the accompanying story are due to incomplete return of the registration questionnaires from which the statistics in this chart are taken.

These figures may not, however, be statistically significant based on the small numbers of women involved.

An example of what "withdrawal rate" is generally all about can be seen in admission statistics for the Class of 1970 as a whole. For its places in 1967 3,249 applications were received,

mission (a 36 per cent "withdraw rate"), leaving 544 to register at the Law School.

Discovering the numbers of so-called ethnic Americans in the student body is impossible because this data is not recorded and the American penchant for anglicizing makes counting ethnic surnames unreliable.

Placement Office Issues Interview Violation Statement

[The following is a statement by Dean Russell A. Simpson concerning the disposition of a complaint that Placement Office policy was allegedly violated by an interviewing law firm.]

The Placement Office received a complaint in mid-October that a law firm had failed to honor the Law School's request that interviewers using the Placement Office not inquire about first year grades when interviewing for second year summer employment. The complaint was accepted by the Placement Subcommittee on Discipline which consists of an alumni member of the Committee on Placement, a student member and the Administrative Counsel to the Committee. After the law firm had been given an opportunity to reply, the matter was considered by the full Committee on Placement at a meeting held on

November 18, 1970.

The law firm's reply admitted that one of their interviewers had inquired about first year grades when he interviewed second year clerkship candidates. The reply stated that the failure to honor the Law School's request about first year grades was inadvertent. It explained that the interviewer was a last-minute substitute who was not briefed by the firm about the Law School's placement policies and did not read a copy of the memorandum on first year grades which was provided to him by the Placement Office prior to the interviewing sessions. The interviewer emphasized that after the policy was brought to his attention, he thereafter followed the School's policy and asked for no further first year grades. Both the firm and the interviewer promised every effort to comply with the

School's policy in the future.

After considering the firm's reply, the Committee on Placement agreed that a deliberate violation of the School's request was not shown and voted no further action beyond this report.

The Committee's Subcommittee on Discipline has received a second complaint alleging failure to honor the School's policy on first year grades. This complaint involves another law firm and is currently being investigated.

Russell A. Simpson
Assistant Dean and
Administrative Counsel to
the Committee on Placement

[Dean Simpson added in an interview that students complaining about interviewer violations should not be afraid to file formal charges if they think their case has grounds.]

Learned Hand Club Defeats Marshall, Triumphs in Moot Court Ames Finals

Learned Hand Club, winner of last year's Ames Competition, again argued its way to victory this year defeating the Marshall Club A Team in the moot court finals Nov. 24 in the Ames Courtroom.

Richard C. Brautigam and Susan A. Cahoon of Learned Hand represented the petitioner in the oral argument of *James Best v. Ronald L. Davis*, on writ of *certiorari* to the United States Court of Appeals for the Ames Circuit. Marshall Club oralists, Lawrence R. Samuels and John T. Rose II argued for the respondents in the securities case.

The three-judge panel, United States Supreme Court Justice Byron R. White, the Hon. Wade H. McCree of the United States Court of Appeals for the Sixth Circuit and the Hon. Milton Pollock of the United States District Court for the Southern District of New York, deadlocked on the

choice of a best speaker and declined to name one.

Chosen by the finalists, *Best v. Davis* was based on a leading securities case, *Ellis v. Carter*, 291 F.2d 270. *Ellis* holds that a buyer has a private right of action under Rule 10(b)(5) of the 1934 Securities Exchange Act, an antifraud provision, and rejects any *scienter* requirement for such an action.

Competition Wilts Respondent, Audience

When the argument began shortly after 8 p.m. every seat in the courtroom was occupied but the scene hardly resembled last year's mob when a marijuana issue and United States Supreme Court Justice Thurgood Marshall lured a standing room only crowd to an evening highlighted by the

Justice's lively ripostes. Apparently the securities question was less alluring and the audience noticeably decreased after each individual speaker's presentation.

At least half of the original spectators had departed when the last oralist, Samuels began. Ten minutes into his argument the attorney for the respondent suddenly lurched sideways. Caught by teammates before he collapsed to the floor, Samuels was helped to an anteroom where he rested during a brief recess. In spite of his fainting spell, Samuels returned and finished his oral. Members of the Board of Student Advisers, organizers of the annual competition, reported that the orator recovered fully.

Assisting on the brief for Learned Hand were John Koeltl, Kenneth F. Seminatore, Gregory W. Byrne and Jared B. Sammel. Peter T. DeKoszmovsky, Stephen B. Presser, David Leng and John T. Rose II were on the brief for respondent Marshall.

South's Black Lawyers Scarce

Black students comprise less than one percent of the total enrollment of all integrated law schools in the South, according to a survey recently completed by the Law Students Civil Rights Research Council in Atlanta.

Neil McBride, director of the Council's southern office, says that these statistics are significant "because they show that, in an era when society is seeking avenues of peaceful change, the chief avenue for that kind of change, the law, remains one of the most segregated professions in America."

The survey discloses, for instance, that there will not be a single black graduate from the University of Georgia Law School this year and there will only be one next year. Georgia, with a black population of over 1,100,000, has about 30 black attorneys, few

of whom are in actual private practice.

Current enrollment in law schools indicates that black representation in the legal profession will not change appreciably in the near future. Not one black law student will graduate at the end of this school year in South Carolina, Alabama and West Virginia. Four law schools in the South do not have a single Negro enrolled in their classes.

McBride says that the major obstacle to increased black enrollment is not inadequate recruiting of black students into law schools but inadequate availability of scholarship assistance.

"We expect that our program will produce so many qualified law school applicants who need assistance," he says, "that the amount of aid available will ultimately be increased."

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Law School Hosts Eminent Blacks

Five distinguished black judges and lawyers have agreed to visit the Law School this year as part of a continuing effort to increase



Hon. George W. Crockett, Jr.

contact between law students and outstanding black professionals.

Judge George W. Crockett, Jr., will begin the program here on Monday, December 7.

Established as the George Lewis Ruffin Visiting Law Profes-

sional Program — named for Harvard's first black graduate — the program will allow each participant to spend a few days at the Law School, during which time they will meet with students and be available to talk to smaller groups and individuals. In addition, the visitors will meet with faculty members and discuss problems likely to be faced by students as they enter the profession.

In announcing the program, Dean Derek C. Bok indicated his hope that the program would become a major step in the School's effort to provide Harvard students, black and white, with an opportunity to discuss the law and their problems with black lawyers who have achieved distinction in the legal profession.

Judge Crockett, 1934 graduate of the University of Michigan Law School, is currently Judge of Recorder's Court in Detroit, Michigan. He has also served as senior

attorney for the U. S. Department of Labor, hearing commissioner for the U. S. Fair Employment Practice Committee and as associate general counsel for the International UAW-CIO. For 15 years, Judge Crockett was with the firm of Goodman, Crockett, Eden, Robb and Philo in Detroit, Michigan, leaving the firm for the bench in 1966.

Other visitors to come include the Honorable Constance Baker Motley, judge, United States District Court for the Southern District of New York; K. Leroy Irvis, majority leader, Pennsylvania House of Representatives; Clifford Alexander, partner, Arnold and Porter, Washington, D.C.; and Samuel Jackson, assistant secretary, Department of Housing and Urban Development.

Individual students and group representatives wishing to schedule any of the visitors are urged to contact Sol Watson, 3L, by telephoning 625-8598.

BLACK REPRESENTATION IN SOUTH'S LEGAL PROFESSION

State	Total Population	Black Population	Number of Lawyers	Black Lawyers	Number of Law Students	Black Law Students
Alabama	3,266,740	980,271	2,712	24	776	8
Arkansas	1,786,272	388,787	1,789	10	400	13
Florida	4,951,560	880,186	7,801	60	2,514	31
Georgia	3,943,116	1,122,596	4,824	30	1,125	26
Kentucky	3,038,156	215,949	3,353	22	855	21
Louisiana	3,257,022	1,039,207	4,217	27	1,603	14
Mississippi	2,178,141	915,743	2,201	23	402	25
North Carolina	4,556,155	1,116,021	3,637	70	1,247	15
South Carolina	2,382,594	829,291	1,896	11	648	4
Tennessee	3,567,089	586,876	4,251	35	976	18
Virginia	3,966,949	816,258	4,758	103	1,538	30
West Virginia	1,860,421	89,378	1,809	8	256	3

The above population figures are based on the U.S. Census of 1960. The number of black lawyers is based on the "Report of Black Lawyers and Judges in the United States 1960-1970," prepared for the National Bar Association by Edward B. Toles. The number of law students is based upon a survey conducted by the southern office of the Law Students Civil Rights Research Council. These figures, gathered as background for the Council's black recruiting program, do not include the enrollment of two predominantly black schools, North Carolina Central University, Durham, N.C. (130), and Southern University, Baton Rouge, La. (56), which are a major source of black attorneys in the South.

Students Challenge Professors on Corporate Role

To A. James Casner and Louis Loss:

[The following is a response to the aforementioned professors which was signed by over 25 Harvard Law students.]

I am responding to your "Open Letter" printed in the Harvard Law RECORD on Nov. 13 and want to first express my dismay at the sincerity of your attempt. If you want to elicit thoughtful and meaningful comment from law students at Harvard concerning their opinions on this important subject, you have, unquestionably, denied the greater body of the school from doing so. Many students, including nearly all of the first-year class, do not know why this committee was chosen, do not have enough relevant facts at their disposal to make a meaningful contribution, and do not know for what purposes this report is to be used.

Furthermore, the importance of the relationship between Harvard University and the community, the larger society, and the business world in the 1970's clearly requires more than one week's thought by concerned individuals at the law school. I am appalled by the casualness of your approach to our student body. Consequently, I urge you to present a much more thorough presentation of your questions accompanied with a reasonably adequate period of time to respond.

I would also like to discuss briefly

the first question you posed. I do not have enough information to state to what extent the University should be willing to accept a reduction in income or capital growth in order to achieve social purposes, for I do not know how large or what the University portfolio includes nor what social purposes Harvard has been pressed to consider.

I do believe that one of the central purposes of the University should be to use its resources, talents, and energies to substantially improve the lot of the poor, to redress the grievances of minority groups, and to eliminate impediments to the full enjoyment of the benefits of an urban civilization by all. The report by the Wilson Committee made public in January of 1968 supported this conception of the role of Harvard in bringing to bear its forces for social change. I feel that, because Harvard is well-established and self-sufficient, it cannot sit idly by and abdicate the responsibility of assisting others less well-off, or be morally uninterested in its investment practices. My strong beliefs about the social and moral choices Harvard should make are necessitated by the strife, personal isolation, and hardships experienced by almost all in our country today.

For example, the residents of the Riverside Neighborhood in Cambridge have repeatedly spoken out against the "exploitation of their

community that within 15 years has lost half its family population," and that "the neighborhood will disappear entirely in five years unless the policy of Harvard University changes." Back in April of 1969, the graduate School of Design, (GSD), viewing the housing problems created by Harvard in Cambridge, partly due to indifference and partly due to design, advocated that Harvard should immediately commit its resources to the development of 3000 housing units, at least half of which should be devoted to low-income families and elderly of Cambridge. I support this proposal by GSD, and feel that it is imperative for Harvard to face up to the housing crises that it has partly helped to create.

I would like to add that it is not a necessary consequence if Harvard involves itself in social programs that it would risk a reduction in alumni giving; I would hope that alumni, who, generally are very comfortable in our society, would enthusiastically support a moral and social change in the role of the University.

Finally, I think it is imperative that the entire student body receive additional facts on this matter, following the suggestions made above, and a reasonable and adequate period of time to respond.

This letter was signed by over 25 law students.

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RSVP to THE INN

Financial Aid: a Money Tree?

By Carol Plumb
and John York

According to Mrs. Marion W. Ruiz, financial aids secretary, about 600 future lawyers here are receiving the Law School's combination financial aid package of one-half loan and one-half scholarship. "This figure does not include non-Law School aid, though," she added.

Between 33 and 40 per cent of our students are on Harvard aid," explained Director of Admissions Russell A. Simpson. "Close to 50 per cent have independent financial means and receive no aid at all."

However, it is not possible to ascertain whether the Law School is inhabited by the well-heeled (including in that category its scholarship recipients when compared to the U. S. population as a whole), because no figures are tabulated on students' income backgrounds. Since all aid is given on an individual basis, it is not felt necessary to keep statistics.

"Poor students from poor families comprise the largest single group of aid recipients," Mrs. Ruiz said. The poorest of these, according to Simpson, have families with incomes at the poverty level. The minority recruiting program has increased the economic diversity of the Law School.

"Statistics show that minorities tend to be depressed financially," Simpson stated. Mrs. Ruiz agrees that the recruiting programs have helped alleviate disinclination of the poor to apply to any part of a University long associated with all forms of elitism in the public mind.

Although the sole criterion for a Law School scholarship is need, one need not come from a family of paupers to get aid here. Criteria other than income which affect eligibility for aid include age of parents, whether both parents are living, whether both

parents are working, whether the aid applicant has other siblings being put through college by parents, and whether the applicant considers himself emancipated from his parents.

Each applicant's need is determined by a reconciliation of the student's own estimated expenses, his resources and a standard law school budget. "Everyone has different needs, but we must decide whether some budgets include a few more luxuries than we can stand," explains Mrs. Ruiz.

"Prior academic performance plays no part in the amount of our aid, and a student here does not have to maintain a certain average to keep his scholarship," she said.

Financial Aid Office Considers Pure Loan Student Assistance

This year there have been 67 denials for financial-aid packages because it was felt that the applicants had sufficient means.

"Additional loans," as another form of monetary assistance is called, are granted on an emergency basis during the year when for some valid reason students find their resources outdistanced by their bills. The Financial Aid Office is the final arbiter of what constitutes necessity in such cases. This year the Office has not yet begun to tabulate the number of these loans.

In addition to the loan funds administered by the Law School, a number of students are certified each year for state loans. In 1969 there were 189 students receiving financial aid and 477 receiving the "additional loans." When the numbers receiving state loans are added to these figures, Mrs. Ruiz estimates that a total of approximately 1,000 students received some form of help with their educational expenses during that year.

The dollar amounts made available by the Law School for finan-

cial aid for the Class of 1970 are illustrative of cash outlays by the school. A total of 207 scholarships and grants worth an aggregate of \$207,882 were given along with 92 loans in the total amount of \$82,000 during the life of that class.

"Until several years after World War II, financial aid at the Law School was miniscule," Simpson said. Mrs. Ruiz feels that students here are fortunate to have the ample aid now offered.

The Law School is currently experimenting with a plan different than the current half-grant, half-loan program. "First-year students with a high parental income relative to educational debt-loads have gotten 25 per cent scholarship and 75 per cent loan," said Simpson. "Then we have taken the other 25 per cent of the scholarship made available to give a third-year student with low parental income relative to a high debt load a 75 per cent scholarship and only a 25 per cent loan.

"There has been talk at some law schools about converting to a pure loan system — funds would go farther that way," Simpson continued. "The move would have to be made by all schools, since if one made the move alone, it would operate at a competitive disadvantage."

Once out in practice, it is reasoned, a large number of graduates will garner high salaries with which to repay the loans. "Many students don't know the value of money," Simpson went on. "They see a debt of \$12,000 and are scared to death. They will probably make that much in one year — though they of course can't pay off such a loan in one year. But they don't look at loans in these terms.

"Furthermore, there could be special interest features, extensions and forgiveness provisions for those who entered work in the public service," Simpson concluded.

Forum Features Women's Rights

(Continued from Page 1)

Dr. Horner, poised and professorial, delivered a lecture-like commentary outlining the factors which make bright women fail in an otherwise achievement-oriented society, a topic on which she has conducted considerable research and written several papers.

She explained a woman's dilemma: "In our society, femininity and individual achievement are seen as mutually desirable but incompatible. Sex is connected with certain character traits and educational attainments. Competence and decision making, for example, are seen as inconsistent with femininity."

Motivation, Dr. Horner explained, is aroused in part by the value of the consequences which follow a given action. A very prevalent belief among women tested by Dr. Horner was that the effects of defying the conventions of "feminine" behavior are personal anxiety, frustration, and confusion.

"Women's achievement is inhibited by the negative consequences they think will follow success," Dr. Horner observed. In one test, asked to describe Ann, "a medical student at the top of her class," a number of women pictured her as a pimply-faced ghoul, chock-full of neuroses and psychoses.

Up to 75% of the women tested by Dr. Horner exhibited what she aptly calls a "fear of success." This fear is often expressed in a belief that unusual excellence in women was accompanied by guilt, anxiety, and/or personal and social destruction. A reluctance to divulge achievements and a purposeful disguising of true ability, or a tendency to switch to less innovative, more traditional careers during college also result from such fear.

Only 10-15 per cent of men tested exhibited this same fear of success and in most of these cases it was attributable to a be-

lief that success necessarily bred an undesirable lack of social conscience.

Dr. Horner noted that women who were academically motivated in high school often exhibit a high degree of fear of success in college. "At the college level, parents who formerly rewarded academics begin to put pressure on their daughters to get married. They have no objection to education which makes a woman a better companion, but they do object to a career-oriented curriculum. The price these young women pay is anger, bitterness, and confusion. The price to society is a loss of valuable human resources."

As a first step toward a solution of this problem, Dr. Horner suggests a re-examination of attitudes. "We haven't come very far, however," she noted soberly. "Even Aristotle said women never suffer baldness because they never use their heads."

Success Provokes Feminine Guilt

Diane Garrity continued this train of thought by explaining how the media has shaped society's attitudes toward women and especially women's attitudes toward themselves. An ex-model who belies the traditional image of the women's liberationist, she illustrated how advertising creates "an emotional and moral climate" which is destructive to a woman's personality.

"The media teaches us to fight each other and not trust each other. Because it often describes woman only in physical terms, it creates an arena of combat centered on 'getting the male.' The arena is made the more bitter because it is so small."

"Or," she suggested, "the media portrays a woman as a hysterical creature or a shadowy background figure. She is always a woman first, not a person. There is a tendency of the media, for ex-

ample, to portray the Premier of Israel as 'bouncy grandmother Golda.'"

Miss Garrity also noted that good reporting of Women's Liberation activities has been lost in the media circuit, causing many women to become distrustful of the Movement.

"The end result of the media's portrayal of women has been the development of an emotional and sexual language of fear, distrust, and violence in which men are being strangled too," she remarked in summary.

As a solution, Miss Garrity suggested that women protest inaccurate descriptions of their sex by advertisers and the press.

"Housewives aren't buying the media image any more. Children's books are beginning to show girls thinking and doing. NOW and other organizations are getting advertisers to withdraw ads that claim 'A woman's system is like a kitchen sink,' and dessert commercials which cry out 'NOW he has something to come home to!'"

Miss Garrity also noted that contemporary women have much to learn from their prewar predecessors in the media. "After World War II, the heroine became hysterical, fainted, and was ashamed to be a woman. On the other hand, Pauline [*Perils of Pauline*] was fantastic. She had a helluva good time fighting for good and justice!"

Betty Friedan expressed similar fears that the Women's Rights Movement would be co-opted by the media, but by a different strategy. "By spring it will be all over, like ecology. Women's Liberation is the next thing to go, but only if women are much stupider than I think we are."

With a husky voice and expressive gestures, Miss Friedan outlined the relationship of Women's Liberation to the socio-political problems of the United States as a whole.

"The oppressive and exploitative relationships between men

(Continued on Page 13)

2L Combines Music with Law

By Michelle Scott

While most second-year students feel like cracking under their heavy schedule of "recommended" and elective courses, one of their number manages to combine the regular Law School curriculum with full-time pursuit of a Ph.D. in musicology.

In the second year of his unique "joint" program, Samuel B. Bruskin admits, "Sleepwise, this hasn't been a very good year. But although the two subjects are very different, they work out very well together."

Even though Bruskin feels "quite sure" he'll make his living practicing law, he plans to combine his law courses and studies at the Graduate School of Arts and Sciences until his 1972 graduation. While he hopes to pass his general examinations in musicology and begin his dissertation next fall, his Ph.D. program could take two years to complete after Law School on the regular three-to five-year schedule.

"I still approach music from the fun standpoint," said Bruskin, whose viola, "Bettelheim," has attended almost as many Law School classes as the average student. "One of the reasons I don't want to play professionally is that it would take the fun out of it."

Bruskin's "fun" this year entails preparing a musical bibliography on Philip van Wilder, Henry VIII's court musician; participating in two seminars on 18th and 19th century music; studying Wagner's *Ring* and writing a paper on Berlioz' *The Trojans*.

Although the GSAS music department frowns on extensive performing, Sam also played several chamber music concerts last year. This fall he belongs to the Harvard-Radcliffe Orchestra and joins friends for week-end string quartets.

Music has interested Bruskin since he began violin lessons in grade school. But, by the time he started Williams College, he had decided to abandon career plans. At Williams however, he met vio-

linist conductor Julius Hegyi who distracted him from his intention to "get away from music." With his plans nevertheless geared to studying law, Sam earned a bachelor of arts degree with a double major in music and English. He played regularly with the Albany Symphony Orchestra.



Charles Soberman

Bruskin and "Bettelheim"

After specializing in Wordsworth, Bruskin was even tempted to pursue graduate studies in English, but eventually chose the law and music combination. He has discovered that "music has more relevance to Law School than English."

Methodology and research in music and law both take on the character of a "treasure-hunt." After four weeks studying 45 works attributed to van Wilder, John Moore — Bruskin's musicology professor — determined that 44 were spurious. Next semester study of Stravinsky's *Rite of Spring* will require varied research such as determining who

was in the debut audience to evaluate the political implications of the work.

Copyright law offers a particularly relevant field for Sam's unusual talents. For his *Development of Law and Legal Institutions* course last year, he wrote a paper on the problems of copyright in new music. According to Sam, a bill currently pending in Congress poses a particular threat to composers of electronic music whose works will be unprotected.

"Unfortunately most people who write in law reviews on copyright and new music don't know anything about electronic music," Sam laments.

Initially Bruskin feared that law firms would consider his music program evidence of lack of interest in the legal profession.

"At first I thought it would be to my disadvantage, but it seems people have reacted much more favorably than I'd expected," Sam noted. "Most firm interviewers seem to want to talk about music. Several said they like finding something different on a résumé to talk about during an interview. One interviewer took one look at my résumé and got very excited. He told me he was on the board of the Metropolitan Opera. I'm amazed at the number of lawyers who are involved with music."

To increase law students' opportunities to enjoy music, Bruskin this fall suggested holding chamber music concerts at the School. "The Law School has the best hall on campus for chamber music concerts," Bruskin related. "The multi-purpose room in the Pound Building is almost perfect for chamber music. Everyone was very excited about the concerts, that is until it came to money."

In spite of the financial difficulties, Bruskin still hopes some program may be presented this year. "A lot of students play instruments," he said, "and I hear that Louis Loss is a very good violinist . . ."

Scholarships, Alone?

Discovering whether the student body here is weighted toward the middle and upper classes is impossible since the Law School's policy is to avoid keeping statistics on personal and family incomes of even financial-aid recipients.

Harvard College does keep such statistics, and may sometimes be embarrassed by them. In 1968 the December 18 *Harvard Crimson* revealed that undergraduate median family income was \$17,500 (the national median was then \$7,400) while average family income stood at \$28,000. (Radcliffe families tend to be even richer.) The article said that while 50 per cent of the College's students were on financial aid, 40 per cent of this "poorest half" had family incomes above \$10,000.

To be sure, parents are often more reluctant to underwrite graduate rather than college education for their offspring, especially when other of their children are simultaneously enmeshed in expensive schooling. But does this factor justify the self-proclaimed "emancipated" student here on aid who hails from a premier suburban address and tools about in an "illegal" (for aid recipients) car? The truly needy student gets the same one-half scholarship, one-half loan package though he may likewise — in addition to being poorer — have aged or infirm parents and siblings wanting a college education (who may, by contrast, have long ago had to quit school to support self or family).

If the Law School compiled socioeconomic statistics for its aid recipients, would they reveal the same unrepresentative student population composition which appeared at the College in 1968? One can only hazard a guess. The high cost of attending the Law School frightens many of the poor into just not applying in the first place. The half-loan program may fail to entice disadvantaged students already in debt for their college education. Even if admitted, poorer students may choose not to attend in greater numbers than do their better-off counterparts (the *Crimson* article reported this to be true at the College in 1968).

The Law School's minority recruiting program and its experiment with 75 per cent scholarship and 25 per cent loan aid may be steps in the right direction. Or they may lead to a Law School inhabited by only the rich and the poor, with the un-aided, middle-class students going elsewhere. To judge the effects of such steps in both the area of financial aid and the related one of admissions, a starting point must first be known. The Law School would be wise to compile economic data about its scholarship students.

HARVARD LAW RECORD

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Published Thursdays ten times each semester by The Harvard Law School Record Corporation, 23 Everett St., Cambridge, Mass. 02138. Telephone 495-4418. Subscription price: \$3.00 semester, \$6 year mailed; students, \$3.00 year distributed at the Law School. Individual copies: 20 cents at the Law School, 35 cents mailed. Second class postage paid at Boston, Mass.

Fenno

"So what did you have to be thankful for last Thursday, Fenno?" chirped my first-year friend as he plowed through the chapter on seals in Fuller & Braucher.

"Well, I'm not taking a course with Archie this year so maybe I'll graduate," I gobbled.

"There was the Hark's lobster dinner special," Bunky piped in, "and the Knicks bounced the Bucks twice."

"Tell that to Red Auerbach!" I remonstrated.

"What about Ernie Brown?" nodded Waldo the Wonk. "He's still away from the Law School and most of the 2Ls don't know what they should be thankful for. Come to think of it, when I look at these 2Ls, neither does Ernie!"

"Charlie at the staff dining room is happy. He doesn't have to hang around at the Hark any more as a manager. And the Hark's doing better too," muttered the Weasel, as he tried his slap shot on Waldo's noggin.

"Ow!" shouted Waldo. "Frank at Hemenway ought to be thankful that you guys can't get on the squash courts or else you'd be firing Craig-Simplex serves at his head."

"Yeah, Phil Areeda and Herwitz and Weinreb ought to be thankful. If they couldn't reserve courts early, we'd kill them if they had to play winners," I declaimed as I imagined Bator on a court with Hashim Khan, even with the latter eligible for Social Security.

"What do you guys know about seals?" my first year pal interrupted.

"They're irrelevant but every year they turn up on someone's Contracts exam," Bunky explained.

"Seals of the sea-going variety will be irrelevant if someone doesn't start yelling about the Hickel-Interior massacre," Waldo intoned.

"Oh, you mean the government agencies that come up here to interview after their funds have been cut. Lindsay's scout showed up about a day before they fired 500 guys. A joke a minute," I cackled.

"You know who has the most to be thankful for?" intruded the Mexican.

"I'll never guess," snapped me.

"Dean Bok. He had one more day of Law School tranquillity. But he's still one of the Big 69 names. He may fall yet."

Letters to the Editor of the RECORD

Undisclosed Grades Hamper Jobhunters

To the Editor:

The faculty has now decreed that interviewing lawyers not even hint to job applicants that disclosure of grades is desirable. This edict may annoy or amuse the interviewer. The persons seriously prejudiced, however, are the students—at least those with respectable marks—who are deluded into thinking that failure to reveal their grades will not impair their chance of being hired.

To understand why grades are deemed important by a prospective employer, a student should put himself on the other side of the interviewing table, as he may well be in a few years.

The interviewer's problem is to guess which applicants will turn out to be the best lawyers. What factors should be controlling, if he does not consider grades? We all know that personality, character, ability to get along with others, diligence and other things beside intellectual prowess go into the making of good lawyers. But try to judge them in a short interview! Most applicants make good impressions. At their interviews, at least, they are very pleasant, and all of them are bright enough to talk with some intelligence or they wouldn't be in a good law school. So except for the most or the least superficially attractive—and an interview is not a beauty contest, for men and for women—the personal impression affords little basis for sensible choice. In the absence of grades, that would relegate the interviewer to other less relevant factors. What extracurricular activities—football, dramatics, school paper—did a student engage in? What college did he attend, Ivy League or Podunk? Or even worse, if possible, does anyone in the firm—or a client—know his family, or is he wealthy enough so that he might be expected to bring in business?

Since the interviewer knows that the law is basically an intellectual profession, he will turn to college and even high school grades. He is not forbidden to ask about them, and they are of greater significance than the matters referred to above. It doesn't make much sense to give weight to college but not to law school scholastic records. The former more than the latter are

likely to reflect good memory rather than the ability to think and express oneself clearly which marks the good lawyer. Law school grades, though subject to all their well known deficiencies—and the interviewers know these as well as the students—are better guides to ability as a lawyer than any of the above criteria, and this is true of first year grades as well as second year.

So what will the interviewer do about the student whose marks he is not told? He will obviously give preference, assuming other factors are anywhere near equal, to the persons with good law school marks. He will do this with full awareness of what Harvard marks mean and of the caliber of the Harvard student body. In the absence of law school marks, he will turn to the college record. If his firm sees many students willing to disclose good law school grades, at Harvard or elsewhere, and it undoubtedly will, only the ungraded law student with an *exceptional* college record will have much chance.

This does not mean that other ungraded students may not obtain jobs somewhere, perhaps in the many offices where *any* graduate of a good law school is deemed good enough, or where there is not much competition, or where *his* family knows a partner or client. But to pretend that they are not handicapped in the competition is absurd. The faculty knows better, and so should the students, as I'm sure most of them do.

This long letter is not meant to express the formal policy of any law office, including my own. But I venture to suggest that it represents the attitude of even the lawyers most sympathetic to the problems confronting law school faculties and students.

Robert L. Stern '32

Students Occupy HLS Eggsell

To the Editor:

In your October 29 issue, Mark Green '70 criticizes a letter I wrote which poked a little fun at the Harvard Law School student survey of law firms made during the Fall of 1969. Mr. Green's criticism would have been easier to take if he had pointed out

he was one of the drafters of the survey in question (see lead story October 30, 1969, *Harvard Law Record*). Mr. Green thinks I should be told: "our system of justice often serves injustice, that law firms contribute by selling their wares to the highest bidders—that law schools happily accept their role as training ground for elite professionals, and that, as a result, the Law serves only the rich segment of our society." Mr. Green's view of the law as practiced in our country is as accurate as the view of the world an unhatched chick has through its eggshell. While it may be very comfortable inside the egg, or inside law school, it is not necessarily unrelentingly bleak, frigid and justiceless out in the world.

My clients run the gamut of rich and powerful corporations, to bankrupts, to indigent criminals with appeals, to laboring men with small claims. In fact, I now have a calf-automobile collision case for damages of \$124.00 which would warm the heart of Professor Fuller were it only in contract rather than tort. The law as I observe its function in Central Illinois treats with reasonable dignity all the persons who come forth to seek the remedies it affords. The ideal of justice, as it exists in this imperfect world, is reasonably well served by the bench, by the Bar which is made up of various-sized firms and by sole practitioners, and not least, by the citizens from every walk of life who constitute our juries.

Merely to be poor is no guarantee of moral perfection any more than being rich guarantees you are in equal measure corrupt. Humanity being as it is, one's moral righteousness bears no direct relationship to his economic situation.

Those light years ago when I shared the glory and suffering of studenthood at Harvard Law School several of my teachers pointed out a test for the soundness of one's argument which is as simple as reducing it to writing. "It won't write" was a shorthand term I learned for logically defective legal reasoning. In my letter I tried to point out that a questionnaire which assumes the same provocative posture toward students as that which Mr. Green and other students assumed in quizzing law firms makes evident the basic unfairness of what Green *et al* tried to do.

It is not the ridicule of Fick '65 which is the problem, rather it is the stony faced, mirthless posture embodied by my brother, Mark Green '70.

John E. Fick '65

U.N. Effectiveness Probed

By James P. Chandler

LEGAL EFFECTS OF UNITED NATIONS RESOLUTIONS. By Jorge Castañeda. Translated by Alba Amora. Columbia University Press. New York and London. 1969. Pp. 243. \$10.00.

The United Nations recently celebrated its 25th anniversary amidst criticism that its prestige and influence are diminishing. It may now be an important time to consider the legal effect of U.N. resolutions.

For a specific example, one may ask questions about the recent U.N. resolution asking Egypt and Israel to extend their cease-fire and to begin talks through Dr. Jarring. Was this resolution a mere recommendation or was it binding upon the parties?

Beyond providing a framework in which the query can be answered, Jorge Castañeda's book should boost sagging U.N. stock by increasing general understanding of the juridical effect of the organization's resolutions.

The book is one of the first—if not the first—to study “nonrecommendatory” as opposed to “recommendatory” United Nations resolutions. “However,” as Castañeda says in his introduction, “the juridical effects of resolutions and, in general, their legal scope, are not the criteria adopted for their classification. They constitute, rather, the conclusions of the present research. . . .”

Castañeda is particularly well qualified to write on this subject. A former Professor of International Law at National University of Mexico, he is now a member of the United Nations' International Law Commission and Chief Director in the Mexican Ministry of Foreign Affairs in Mexico City. The book is well written, obviously a product of excellent scholarship in translation.

In constructing the philosophical framework for his analysis, the author recognizes that the practices of the U.N. and the reaction of states to the U.N. are “relevant factors in evaluating the juridical significance of resolutions.” Indeed his extensive footnotes and studied discussions of State responses in chapters three through seven enable the reader to progress with the author as he reasons to his conclusions concerning the legal status of various resolutions. While the problem of a norm's juridical validity is different from the problem of a norm's efficacy,

in international law a norm's validity cannot really be considered independent of whether or not it is observed.

It is sometimes argued that the U.N. has no real power in international affairs and that all the U.N. can do is “state the wishes of its membership.” Professor Castañeda urges that in at least six situation-categories the U.N. can do more.

“The clearest and most important case of binding United Nations resolutions,” he says, “is that of the decisions adopted by the Security Council. According to Article 25 of the Charter, the members agree to ‘accept and carry out’ these decisions.”

On certain matters relating to the “maintenance of peace,” the General Assembly has similar authority, but its source comes not from the U.N. Charter but as a customary law developed from the practice of the organization.

The author points to other examples of nonrecommendatory resolutions, of which resolutions governing the internal operations of the U.N. comprise one category. Examples of such resolutions include those requesting members to contribute to the expenses of the organization, resolutions regulating admission, suspension and expulsion of members, and the very important resolutions establishing rules of procedure for the various organs of the U.N. These internal resolutions also include actions to appoint the Secretary General of the U.N. and the interpretation of the U.N. Charter.

There is also a class of external non-recommendatory resolutions which include those resolutions which constitute pronouncements concerning the status of certain facts or legal situations. Since these resolutions represent the “formal stand of the United Nations,” members cannot legally oppose them. An example of this type are the resolutions which “established that ‘the territories under the administration of Portugal listed hereunder (Cabo Verde, Angola, Mozambique, etc.) are non-self-governing territories within the meaning of Chapter XI of the Charter.’”

Another category of external resolutions, which the author calls a “multilateral executive agreement,” is one not “generally accepted in the theory and practice of an international organization.” He cites as an example of this type the General Assembly reso-

lution of February 12, 1946 to provide for “the transfer of certain functions, activities and assets of the League of Nations.”

The U.N. may also adopt nonrecommendatory resolutions which rest upon some external legal foundation such as a treaty. An example of this type is the Assembly resolution concerning the disposition of the Italian Colonies adopted pursuant to a provision of the Italian Peace Treaty which provided that in the event of non-agreement the parties would abide by the recommendations of the U.N.

The final chapter of the book discusses the declaratory resolution. This resolution contains statements of customary and general principles of law. Its purpose however is not to create law, but to recognize, clarify and verify the existence of certain legal norms. An example of this category is the “Draft Declaration of the Rights and Duties of States.”

While the book is apparently intended for lawyers, scholars and statesmen, the style is sufficiently direct to benefit the general reader as well. The approach to the subject is that of appraisal and analysis with inductive logic as the dominant reasoning method. On analysis the author succeeds, but there is no apparent attempt either at the end of the chapters or even at the end of the book to synthesize the results of the extensive analysis. This lack of synthesis is probably the book's most pervasive weakness.

However, it is difficult to judge how well the book succeeds because the task of norm definition and legitimation as well as the task of evaluating and analyzing the juridical effectiveness of legal acts is so extraordinarily complex.

For a resolution to be more than a recommendation, logic seems to require that it create some sort of obligation in its addressees. Kelsen urges, as Castañeda states in his book, that, “In order to establish a legal obligation, a sanction must be attached to the contrary behavior.”

The author recognizes that in some cases sanctions for noncompliance with nonrecommendatory resolutions are not much different from sanctions for non-compliance with recommendatory ones, a fact which seems to weaken the distinction.

Mr. Chandler, an Instructor of Law at Boston University, is a candidate for the L.L.M. at Harvard Law School. Those interested in writing on books of note should contact Book Review Editor Chandler at Room 23 of the International Legal Studies building or by telephoning 262-3289.

Easy Rider Orphan School Tops B Teams

By Jim Schuyler

Football Intramurals . . . The "B" league championship was decided on Sunday when the Easy Rider Orphan School defeated the Turkeys, 5 touchdowns to 2. Winning quarterback Ronnie Yee was pleased with his team's undefeated record (his basketball team last year went 0-10) but was concerned about injuries (his best end pulled a hamstring muscle and Yee himself was hurt) which may cause him to alter his lineup. The Easy Riders have one more game to go in regular season play this week. Star of the game was Fred Fudacz who caught two touchdown passes and intercepted one for another TD and ran back a kick for a score. Yee called him "the best defensive back in any league." The Turkeys' two touchdowns were scored on two pass plays to Kip Sullivan and Clark McFadden. Darrell Berglund di-

rected the attack for the runners.

The Backbenchers ("A" league) and The Crimson Swine ("C" league) have already



Charles Soberman

Players scramble for errant football.

clinched their divisional titles. In the playoffs, which will take place this week, the "B" champs will face Dick Spoor's "C" winners, with the victor challenging the "A" squad. The Swine are a rugged team, with a strong backfield, while the Easy Riders are light but fast. The "B" champs do not have the weight, but QB Yee can get the ball off quickly and can run. Rich Lyon's backbenchers are strong in size and speed, and would definitely be favored in the finals.

Basketball . . . The overextended football season has pushed the indoor intramurals activity further into the winter. Basketball may be held off until after Christmas, although the Commissioner expects to organize teams soon. There should be a notice in this column next week, after the meeting of the dorm council, on the particulars of organization and schedules.

Forum Features Women's Rights

(Continued from Page 8)

and women are contributing to the terrible political torment of the country as a whole, to the violence that is erupting in this nation. This is the reality that is affecting and souring all our lives."

Her remarks, less volatile and more exhortatory than in the past, centered on one theme: "It is the essence of the liberation of women that we spell our own names as people, that we keep our eyes on the real goal — to be full and complete individuals."

At the same time, she warned of the dangers of delay and apathy. "We are in a danger of sexual isolationism, of not making the revolution happen, of not seizing the moment. The revolution *can* be aborted, it *can* fail."

Miss Friedan similarly urged women to avoid tokenism as a solution to a more serious underlying problem. "Tokenism tends to detract the focus from the basic need — to restructure society and sex roles."

She also criticized token liberation activities which detracted from this central goal of the Movement.

"No one I know of has ever burned a bra," she stated emphatically. "Are there any bra burners in the audience?" To the surprise of many, at least one grizzled male hand shot up.

To avoid the criticism often levelled at the Women's Liberation Movement — that it pits women against men — Miss Friedan condemned "pseudo-radicalism."

"Separatism is sick; it does not confront realities. Enmity between the sexes is a danger point in the revolution. It leads women to wallow in hostility and manipulation rather than transcending it with political action and the restructuring of society."

As if to demonstrate that women, at least, could be non-discriminatory, her closing remarks were addressed to the males in the audience.

"Men will support the Movement in terms of their own liberation. The other half of Women's Liberation is men who are wearing their hair long, who don't have big muscles, and don't kill children with napalm. They can be sensitive, tender, and compassionate. They can even cry."

"Man must learn to write his own name as man. By liberating women to be full people, we liberate men to be full people."

Firms Lift Rate

(Continued from Page 1)

rate" has been whatever any particular firm wanted it to be. Until now.

Starting salaries surveyed:

Berlack, Israels — \$15,000 plus cost of living bonus; raises in January.

Breed, Abbott — \$15,000.

Cadwalader — \$15,000.

Money, Money Everywhere...

Cahill, Gordon — \$16,000, retroactive to Oct. 1.

Chadbourne — \$15,000, liberal merit increases for first year associates.

Cleary, Gottlieb — \$15,000 plus 10% Christmas bonus.

Coudert — \$15,000.

Cravath — \$16,000 as of Oct. 1.

Davis, Polk — \$16,000 as of Oct. 1.

Debevoise — \$16,000 as of Nov. 1, plus small Christmas bonus.

Dewey, Ballantine — \$15,000.

Donovan, Leisure — \$15,000 but commitment to \$16,000 announced.

Correction

The list of law firm salaries printed in the Oct. 29 RECORD included rates prevailing in the listed cities *last* year. Those salaries were *not* current.

Fish & Neave — \$16,000 as of Sept. 1.

Javits, Trubin — \$15,000 plus merit increases after six months.

Kaye, Scholer — \$15,000.

Kelley, Drye — \$16,000, retroactive to Oct. 1.

Kramer, Lowenstein — \$16,000 as of Nov. 1.

Marshall, Bratter — \$15,000.

Milbank, Tweed — \$16,000 retroactive to Oct. 1.

Paul, Weiss — \$16,000 upon reporting to work since March; bonus.

Proskauer — \$16,000 announced as of Jan. 1.

Rosenman — \$15,000 plus Christmas bonus.

Royall, Koegel — \$16,000 as of Oct. 1.

Shea, Gallop — \$15,000 plus Christmas bonus.

Simpson, Thacher — \$16,000 as of Nov. 1.

Strasser, Spiegelberg — \$16,000 as of Nov. 1; small bonus.

Strook, Strook — \$15,000 plus Christmas bonus.

Sullivan & Cromwell — \$16,000 as of June 1; bonus.

Webster, Sheffield — \$16,000 as of Oct. 1.

Weil, Gottschall — \$16,000 starting Feb. 1; bonus.

Willkie, Farr — \$16,000 retroactive to Oct. 1; bonus.

Winthrop, Stimson — \$15,000.

White & Case — \$15,000 but reportedly always pays retroactive to earliest date of change.

Can't Win

By Richard Hoffman

Mr. Robert L. Stern of the Chicago bar (whom many of our readers will no doubt recognize as the co-author of the authoritative *Stern and Gressman, Supreme Court Practice*) has made the most persuasive argument in favor of grades as a useful tool in legal placement. And since Mr. Stern is a former Acting Solicitor General and a veteran of many oral arguments before the Supreme Court, no less could be expected. Undoubtedly many readers find his letter (p. 11) convincing.

Yet he is wrong. He is wrong because he is unwilling to allow any of the humanizing influences which have spread among this generation to pierce the protective coating of his legal world. Two years ago, amid the rumbles of the grade-reform movement led by the present third-year class, goals were somewhat simply and naïvely identified as improving "the quality of life" at the Law School.

Recently, Professor Reich of the Yale Law faculty named this feeling of youth as "Consciousness III," going on to define his scenario: "Older people

The Backbencher

are inclined to think of work, of injustice and war, and of the bitter frustrations of life as the human condition. Their capacity for outrage is consequently dulled. But for many of the young who have glimpsed the vision of something better, the prospect of a dreary job or a miserable death in war is utterly intolerable." (*The New Yorker*, Sept. 26, 1970, p. 92).

Granted, the significance of grading and legal firms seems slight considered in such a broad framework. But grades (or the unavailability of them) bother the practitioners: they bothered so august an attorney as Mr. Stern to the extent of two-single-spaced columns.

The firm recruiters remain the prisoners of outdated stages of consciousness. Although Mr. Stern admits that students make good impressions at interviews, he will not press further and consider why the interview now fails to satisfy him. Instead he holds out the terrors of gradeless hiring: college status, college extracurricular activities, family connections, wealth, grades at college and high school.

Fortunately, Mr. Stern, to his credit, did not raise the argument that only

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grades forestall discrimination based on race, religion or any other obnoxious differential. As a colleague of mine wrote in these pages almost two years ago: "Come now, gentlemen, does an interviewer become anti-black or anti-Semitic because he has no record of a man's grades? Such recruiters should be banned from the campus anyway; that would certainly be a good way of eliminating that fear." (R. Berenbeim, "An Argument for Pass-Fail," RECORD, Feb. 18, 1969 at 16.)

What Mr. Stern fails to realize is that the placement interview as it now exists fails completely to help the interviewer "guess which applicants will turn out to be the best lawyers." Naturally, he laments the loss of grades as a selection tool; in the barren interviewing scene, there are no other criteria.

A (usually) well-dressed student strides into the cubicle "all of them are bright enough to talk with some intelligence" and the interviewer asks them if they have any questions about the firm. Perhaps he delivers a spiel which could have been read on the revealing bulletin board notice before the interview. "We'll let you know by the end of this week; nicethavemet ya, good-bye."

Two years ago, the grade-reform movement stopped short of demanding revolution. Firms were asked to look at written work and to consider honest interest in meaningful activities. But the firms weren't asked — perhaps for fear that it was idiotic even to ask, indeed it may still be — to try to engage in meaningful dialogue with the student who might be joining their ranks for most of his working years.

But why should the firms be spared this demand? A few enlightened college admissions officers endeavor to determine whether an applicant has any character or personality at all by probing hard during the half-hour confrontation. Committees meeting to award such prizes as Rhodes scholarships (which, incidentally, elicit more awe in the colonies, viz., the U.S., than in Britain, but that's another story) try to get to the heart of it all during penetrating interviews.

If the firms, deprived of grades, turn to the extraneous criteria Mr. Stern suggests they may, it will only be due to their own unwillingness to pierce their own corporate veils. An inter-

viewer whose only prepared question is "Do you have any questions about the firm?" deserves to learn nothing about an applicant, as opposed to the recruiter, on the other hand, who takes time to prepare perceptive inquiries designed to enlighten him as to the applicant's character and thought processes.

Perversely perhaps, some interviewers conduct interviews along these lines. However, these sessions occur after a grade-oriented outfit learns that the applicant's marks are below the firm's cut-off point. Pressure removed, the interview proceeds naturally, often resulting in the recruiter's seeing a side of the student he might otherwise have missed.

Audience Yawns Through Ames Final

Mr. Stern recognizes that all the things that "go into the making of good lawyers," things such as "personality, character, ability to get along with others, diligence and other things beside intellectual prowess," are worthy of consideration. But just because interviews are short, can he cease to search for these qualities?

We expect much more these days of the legal profession. It was so simple in the old days when no one asked embarrassing questions of the legal establishment and everyone knew his place. But now law reviews, even here, choose their membership partly by criteria other than grades. A few wise souls scorn law review membership. The Harvard Law Review has more clout around this Law School than half a dozen of Wall Street's finest combined but the Gannett House Gang had to compromise with the twentieth century, however slightly.

"Learn to think continentally," Alexander Hamilton once said; the legal profession must learn to think on ever wider planes if its eminence is not to be exposed as resting on narrowness, servility, reaction and falsehood. Is it too much to ask the profession for a small helping of humanity?

Those present last week at the Ames Final Arguments deserve congratulations. The oralists, several of whom

had a rocky time of it, merit even greater kudos. They were merely the actors in the Law School's best effort this year to turn off future members of the bar. For the second time in three years auditors were treated to an incredibly tedious securities regulation case. (I wasn't on the premises last fall, but I'm told that the "thoroughly modern" marijuana case last year rarely succeeded in escaping procedural backwaters.) Worse yet, it appeared from the distinguished court's questioning that the Board birdbrains who wrote the case had weighted it rather heavily toward petitioner. I realize that petitioners have not fared well in the overall Ames Final statistics, but it was a heck of a trick to play on a team which undoubtedly assumed many burdens to appear in the final round. If the Board comes up with another such case in the quarterfinals, it ought to apply for a patent to compete with sleeping pills.

* * *

Note to those who attempt to open about half the front doors of Law School buildings: apparently the conspiracy is growing stronger. They know we're trying to get in the buildings. So Buildings & Grounds now opens one of the two halves of a doorway in a Pound Building entrance. And you tear your arm out of its socket trying to open the one that's locked. Warning: I may bring an acetylene torch if someone doesn't unlock the door at the base of the stairway from outside next to the South locker room in Langdell. It's the most direct way to the locker room. Yet it's never open from the outside. I pity Pusey's successor: he'll have to be a locksmith to get into his office.

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Byse Named Bussey Professor

Clark Byse, an authority on administrative law and contracts who is actively concerned with issues of civil rights and academic freedom, has been appointed the Bussey Professor of Law in Harvard University.

He joined the faculty of the Harvard Law School in 1958, after 12 years on the faculty of the University of Pennsylvania. Earlier, he taught at the University of Iowa.

Professor Byse, a native of Oshkosh, Wis., now 58, received the B.E. degree (1935) from Oshkosh State Teachers College (now State University), the LL.B. (1938) from the University of Wisconsin, and the LL.M. (1939) and J.S.D. (1952) from Columbia.

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