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25 CENTS

Priority System Opposed by 2Ls

By George M. Borkowski

On Oct. 7, the HLS Legal Education Committee was presented with a petition signed in May by nearly 400 members of the Class of 1987. The petition objected to the Committee's decision last spring to alter the priorities assigned to students choosing basic courses.

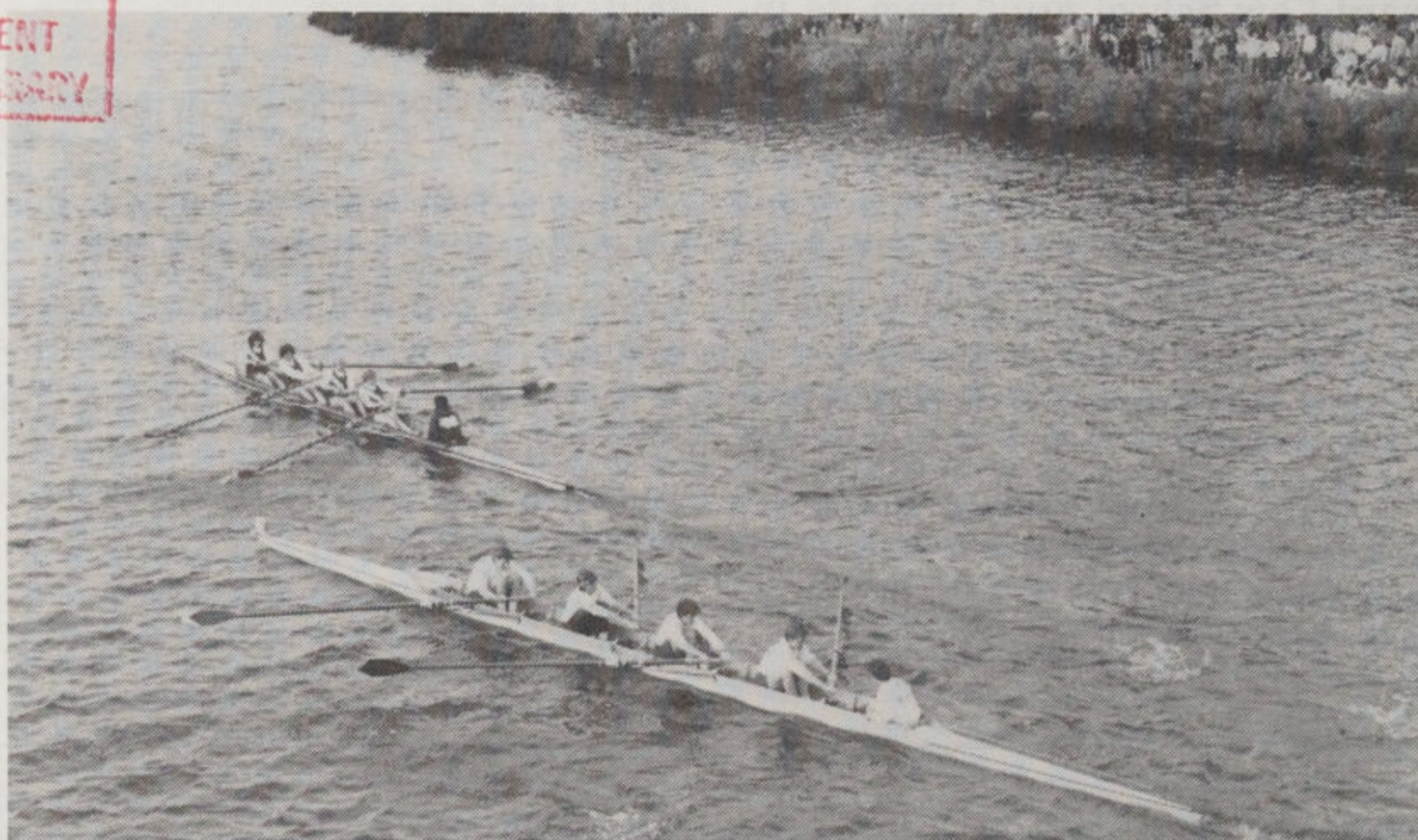
Specifically, the petition objected to the Committee's decision "to give the Class of '86 priority [over the Class of '87] in admission to basic courses this year and to give the Class of '88 priority over [the Class of '87] in admission to basic courses next year."

Previously, 3Ls had always been given priority over 2Ls in course registration. The rationale behind the change was to encourage 2Ls to take the basic courses — Accounting, Constitutional Law, Corporations, and Taxation — in their second year.

Yet, a letter attached to the petition complained that the manner in which the switch in priorities was implemented resulted in the Class of 1987 not having "the same choice among professors for basic courses to which all other students have been entitled. Instead, we [will] always have a low priority in selecting basic courses."

Equal Priority Proposed

The letter, signed by the organizers of the petition drive — Bern Johnson, Dennis Kelleher, and James Goldston, 2Ls — proposes



Adele-Marie Hendrix

Rowers from across the nation competed in the annual "Head of the Charles Regatta" on Sunday, October 10. The world famous event drew over 60,000 spectators.

HLS Professor Emeritus Dies

John Philip Dawson, Charles Fairchild professor of law emeritus at HLS, died Saturday, Oct. 19. Dawson was 83.

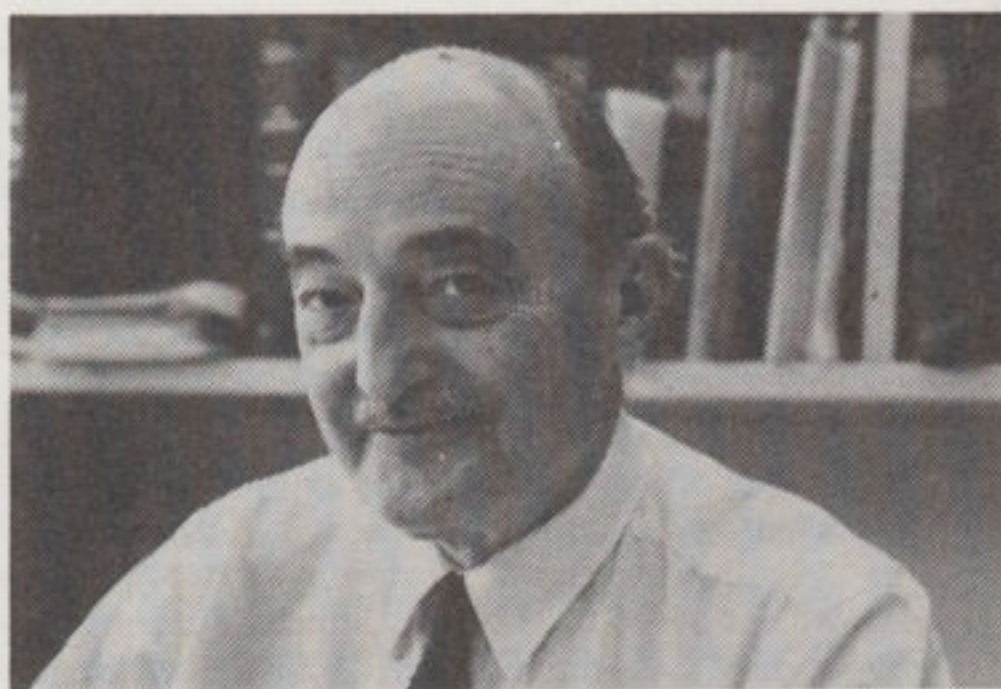
Dawson received both a bachelor's degree and a law degree from the University of Michigan before obtaining a doctor of philosophy degree from Oxford in 1930.

Dawson joined the HLS faculty in 1957, and taught courses in contracts, restitution, consumer credit, comparative law and legal

history. He co-authored, with William Burnett Harvey and Stanley D. Henderson, *Cases and Comment on Contracts*, which entered its fourth edition in 1982. Among his other books were works on unjust enrichment and contract remedies.

After retirement from HLS, Dawson was visiting professor at the Boston University School of Law from 1973 to 1981 and the University of Chicago School of Law in 1981. While at the Boston University School of Law, he spent a year as Storrs lecturer at Yale Law School.

Former HLS Dean Erwin Griswold was quoted in *The Boston Globe*, Oct. 22, as stating that "Jack Dawson was a great and productive scholar and an extraordinarily stimulating teacher."



HLS Yearbook

(Continued on Page 14)

Bevins Ends Lengthy Service to HLS

By Joe Brandolino

This past summer, HLS witnessed the retirement of its own "Thirty Million Dollar Man." In June, Wesley Bevins, '48, ended a lengthy career of fruitful service to the HLS community.

Bevins was director of the Harvard Law School Fund from its inception in 1950 until 1982. Since 1982, Bevins has continued his service to HLS as an assistant to Dean James Vorenberg and consultant to Bevins' successor, Warren Hance. Bevins has also spearheaded special fund-raising projects for HLS.

The Harvard Law School Fund was created in 1950. It was an offshoot of a fund-raising drive organized in 1949, which helped to construct the HLS Graduate Center dorms and Harkness Commons.

When that original revenue-raising drive was completed in 1950, the School realized that it needed a continuing source of funds, especially in the area of student financial aid. In response to this continuing need, then Dean Erwin Griswold created the Harvard Law School Fund, and appointed Bevins as its first director.

Surpassed Expectations

Directed by Bevins and staffed by a nucleus of enthusiastic alumni who have conducted annual fund-raising, the Fund has surpassed the expectations of its creators. The Fund produced \$4 million last year. To date, it has generated over \$48 million. The annual income of the fund combined with the School's endowment income now covers one-

third of the School's core expenses.

In the past, the Fund has contributed substantial sums to the operational expenses of HLS. Income from the Fund has been crucial in financing financial aid programs, the library, clinical legal programs, and a myriad of other programs from which HLS students benefit.

Additionally, Dean Vorenberg pointed out that Bevins' efforts have made it possible for HLS to offer many other special programs to its students.

Recently, Bevins has also been instrumental in such special projects as the renovation of Austin Hall and the conversion of Baker House into the Alumni Center.

"Thirty Million Dollar Man"

During Bevins' tenure as director, the Fund raised over \$30 million. Bevins' overwhelming success as leader of the Fund prompted Dean Vorenberg to refer to Bevins as the "Thirty Million Dollar Man" at Bevins' retirement party in June. Needless to say, Dean Vorenberg noted that Bevins is "enormously respected" by all those who have worked with him.

HLS will sorely miss the expertise and leadership which Bevins has provided since 1950. However, the Law School's loss is the institution of sailing's gain. In his retirement, Bevins is reportedly pursuing excellence in sailing with the same enthusiasm that has characterized his service to HLS. In any event, HLS continues to benefit from the machinery of Alumni fund-raising which his talents built.



Student Groups Get HLS Grants

By Julia Loewy

Funding is available to student organizations at HLS through the Law School Services Fund, a program sponsored by the Law Student Division of the ABA.

Any student group may apply for a grant from the Law School Services Fund, although groups with projects of value to minority groups or the community are especially encouraged to apply. According to Law Student Division Representative Daniel Zariski, 2L, last year grants were given to the Volunteer Income Tax Assistance program and the Black Law Student's Association at HLS. Grants range from \$100 to \$2,000.

Applicants for grants are required to provide a budget, guarantee matching funds, and explain the use to which the money will be put. Grant recipients will also be asked to provide interim and final reports on the progress of their respective projects.

Since less than 35% of HLS students are members of the Law Stu-

dent Division of the ABA, there is an additional requirement that the group show its support for the Law Student Division. This requirement is less restrictive for organizations which establish themselves as cognizable minority groups, use grant monies to address a problem of minority groups and bolster their relationship with the Law Student Division of the ABA.

The deadline for application for grants from the Law School Services Fund is November 15. Further information and applications may be obtained from Daniel Zariski, 2L, or Student Bar Association President, Jimmy Morales, 2L.



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Dershowitz Defends Israeli Radical

By David Snouffer

HLS Professor Alan Dershowitz is trying to reverse two recent State Department rulings that he says are designed to limit the free speech of two men because they hold unpopular views.

The State Department's decision this month to strip ultranationalist Israeli Rabbi Meir Kahane of his U.S. citizenship and its refusal last week to allow Nehdi Terzi, the Palestine Liberation Organization's delegate to the United Nations, to make a planned visit to HLS next Thursday are intended to "limit the range of debate on the Middle East," Dershowitz said last week.

Terzi planned to meet Dershowitz at Harvard on Oct. 31 in a debate sponsored by the HLS Forum.

The Terzi-Dershowitz meeting could provide a "unique opportunity for a debate among people who don't normally talk," said Forum President Karl Fickenschner, 3L.

Forum leaders and Dershowitz sent letters to the State Department last week and asked the government to let Terzi come to HLS for the debate.

Fickenschner said Forum officials had not expected State Department opposition when they invited Terzi last spring. Next Thursday is the only date Dershowitz and Terzi can get together at HLS until at least 1986, he added.

Dershowitz, along with Kahane's personal lawyer, Manhattan attorney Barry Slotnick, and lawyers from the American Civil Liberties Union, filed suit Oct. 11 in U.S. District Court in New York City in an effort to restore Kahane's citizenship, or at least allow him to speak in the United States.

State Department officials told the outspoken Kahane, a New York native who immigrated to Israel in the early 1970s, that he had jeopardized his citizenship in July 1984, when he was elected to Israel's parliament, the Knesset. Department spokesman Alan Romberg first announced that the government was reviewing Kahane's citizenship less than a month after the election.

But Dershowitz said the State Department really acted because of Kahane's "obnoxious political views," not because he is in the Israeli parliament.

"The purpose of [stripping Kahane's citizenship] is preventing his coming into this country to speak," Dershowitz said, "and that for me turns into a civil liberties issue." Kahane came to Cambridge Tuesday as part of a tour of major U.S. cities. He was barred from a meeting of local and national Jewish leaders at the Charles Hotel, where speakers denounced Kahane.

Kahane, a founder of the rightist Jewish Defense League and leader of Israel's Kach party, advocates the

expulsion of all 1.6 million Arabs from Israel, the West Bank and the Gaza strip. He has called such an expulsion "vital" for a "proper Jewish state."

Since he went to Israel, Kahane has been arrested more than 20 times for inciting violence against Arabs.

Limited Immunity

An Israeli elections board tried to bar Kahane's party from the 1984 elections, saying the organization was racist and threatened Israel's democracy and public order. After Kahane was elected, the Knesset voted to limit his parliamentary immunity and freedom of movement, an unprecedented restriction on an Israeli MP.

"I disagree with [Kahane] in every fundamental way," Dershowitz said, but he said Americans should be allowed to "hear and reject" the ideas of both Kahane and Terzi.

"I just don't think it's the place of the government to decide what the public should hear," Dershowitz said. "I don't like what [U.S. Attorney General Edwin] Meese says almost as much as what Mr. Kahane says, but nobody would want to shut him up."

To bolster their case for Kahane, Dershowitz and his colleagues are researching how the State Department has treated other Americans who have held posts in foreign governments, including Queen Noor of Jordan, the late Princess Grace of Monaco and Grenada's current ambassador to the United Nations. Americans usually have to agree to renounce their citizenship in order to lose it, Dershowitz said.

The court should make some sort of ruling in the case soon, he added.

Dershowitz expressed less optimism about his prospects for helping Terzi, however, because the PLO official is a foreign national who is in the United States with the government's permission.

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"BETTER BUYS AT BRINE'S"

Frequent Flyer Plans: Use or Abuse?

By David A. Price

During recruitment season, HLS students must often exercise their ethical standards in deciding whether to accept an expense-paid fly-out from a firm in which they have only slight interest. Along with the attraction of free travel to a distant city, students have more recently begun to take into account the value of bonuses they will receive from "frequent flyer" programs.

Many airlines offer bonuses to travelers based on the number of miles they have flown with the airline. The traveler receives the bonus even if someone else, such as a corporation or a law firm, pays the airfare. Hotel chains and car rental agencies also provide bonuses to members of the airline plans.

Trip to Europe

One 3L accumulated enough bonus miles last fall during interview season to be named one of the top fifty flyers among all of the airline's customers. The student had 35,000 bonus miles from fly-outs to the west coast and New York. He also took trips for his firm during the summer.

After taking more fly-outs this fall, he expects to have enough bonus miles for a free trip to Europe for two.

Another 3L accumulated enough bonus miles over the past five years to receive a free trip to Hawaii.

More dramatic is the story of a 3L who has accumulated enough miles since his 1L year to receive

a free round-the-world trip. He explained that the award permits him to visit as many cities as he wishes along the way. He plans to take the trip after graduation. Before accumulating miles for his around-the-world trip, he had already flown to Europe with a free round trip ticket using earlier bonus miles.

The student added, however, that he considered it unethical to take a fly-out "just to rack up miles." He argued that one should accept a fly-out from a firm "only if there is a reasonable possibility you would want to work there."

The Placement Office gives much the same advice. The recruitment information distributed this fall urged students to "consider your responsibility to those of your classmates . . . who are genuinely seeking employment with particular employers and whose chances to pursue those opportunities are diminished by students who interview these employers for reasons unrelated to employment."

Few students are likely to qualify for the most lucrative awards. The American Airlines program requires 60,000 miles for a participant to receive two round-trip tickets to Europe; the Eastern Airlines program requires 110,000. For two round-trip tickets to the Bahamas, one must have 50,000 miles on American Airlines, 70,000 on Eastern, or 75,000 on United.

Al Becker, a spokesman for American Airlines, said some companies had argued that the benefits of a frequent flyer program should go to the company paying for the travel instead of to the individual traveler. Becker rejected that view, saying, "We have the prerogative in a free enterprise system to design the plan as we want. Our program was designed to benefit individuals."

When told about law students who planned to finance their vacation globe-trotting with flyout mileage, Becker had a crisp reply: "Bizarre."



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Past And Future Of NASA Addressed

By Risé J. Peters

Dr. Sally Ride, speaking before the Harvard Law School Forum Thursday, Oct. 17, gave a brief history of NASA's space shuttle program and her experience therein prefatory to a showing of "home movies" from her second shuttle flight. Ride, 34, is both the youngest U.S. astronaut and the first woman to go into space in the U.S. space program.

Ride was recruited by NASA in 1977, as a member of the first group of new astronauts to join the program since the 1960s. In the early 1970s, following the success of the Mercury, Gemini, and Apollo flights, NASA was forced to choose between work on a long-term space station and on a reusable space vehicle. The technically more difficult space shuttle was chosen.

In 1977, when the shuttle became an imminent reality, NASA selected 35 astronauts to pilot and staff shuttle missions. Fifteen pilots were chosen, all male; twenty scientists, six of whom were women, also entered the training program. Ride, as a physicist interested in X-ray astronomy and the interaction of X-rays with the interstellar medium, was selected at this time.

The first four shuttle flights, beginning in April 1981, were test flights, involving only a launch, two days in orbit, and runway landing. The fifth flight was the first during which satellites were released and experiments performed. Ride first went into space aboard the shuttle



Adele-Marie Hendrix

Dr. Sally Ride, NASA Astronaut.

Challenger, in June 1983.

Ride's second flight aboard the shuttle was piloted by Commander Bob Crippen and staffed by five U.S. astronauts, including pilot John McBride and three scientists, a Canadian astronaut, and an oceanographer. It was only the second flight to return to its takeoff point, Kennedy Space Center in Florida, rather than land at Edwards Air Force Base in California.

Ride's "home movies", composed of images selected from among the 2,000 feet of film footage and 1,000 still photos taken by the astronauts, focussed on her second flight. The movie included pictures of satellites released from the shuttle and experiments performed, as well as a great deal of evidence that astro-

nauts, like everyone else, are subject to the urge to "ham it up" before the camera.

After the movie, Ride answered questions from the audience. She dismissed the effect of publicity surrounding her role as NASA's "first woman in space" on her performance of her job by pointing out that NASA shielded her from the demands of the press during her preflight training period. NASA allowed only one press conference, held jointly by all the astronauts before the flight, and prohibited all other interviews.

Regarding the future course of space exploration, Ride said that she thinks a joint U.S.-Soviet venture to Mars may occur in the next decade. She said that a U.S. space station may be built in the early to mid-1990s. NASA has congressional funding to "conceive and design" such a station, which would be a permanent space laboratory, solar powered, staffed by rotating crews of eight to ten people and serviced by the space shuttle.

Asked what her favorite parts of her job were, she replied, "The time I spend in space. The fifty-one weeks out of the year spent on the ground are worth it for the fifty-second week. And the best part of space flight is the launch."

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Fame And Glory Await Legal Writers

By John Brandolino

Fall at HLS brings with it visions of completing the written work requirement for hundreds of law students. What Harvard students might not know is that there may be a way to spice up the undertaking of this mandatory thorn-in-the-side.

Each year, numerous organizations across the country sponsor writing competitions. Most competitions are open exclusively to law students — and benefits include monetary awards, publication in certain journals, or even winning

all expense paid trips.

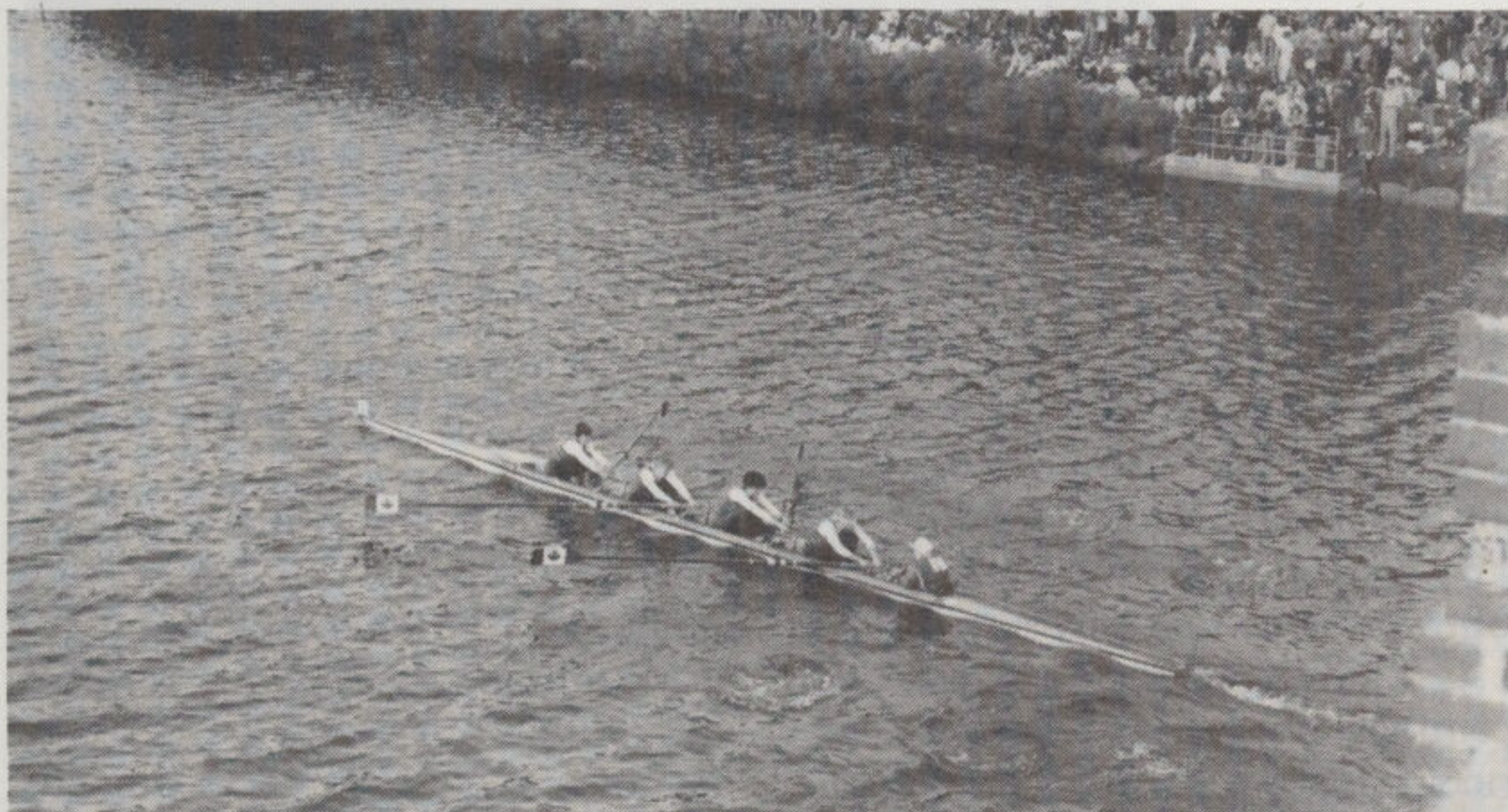
The American Society of Composers, Authors, and Publishers (ASCAP) will present a \$500 and \$300 prize to winning papers at each participating law school. School winners will then be able to compete for thousands of dollars if selected on a national level.

An all expense paid trip to San Diego plus \$1,000 is available from the Catholic Health Association to the author of a paper on health care legal issues. The list includes 13 more such competitions.

"I'm not sure if many Harvard

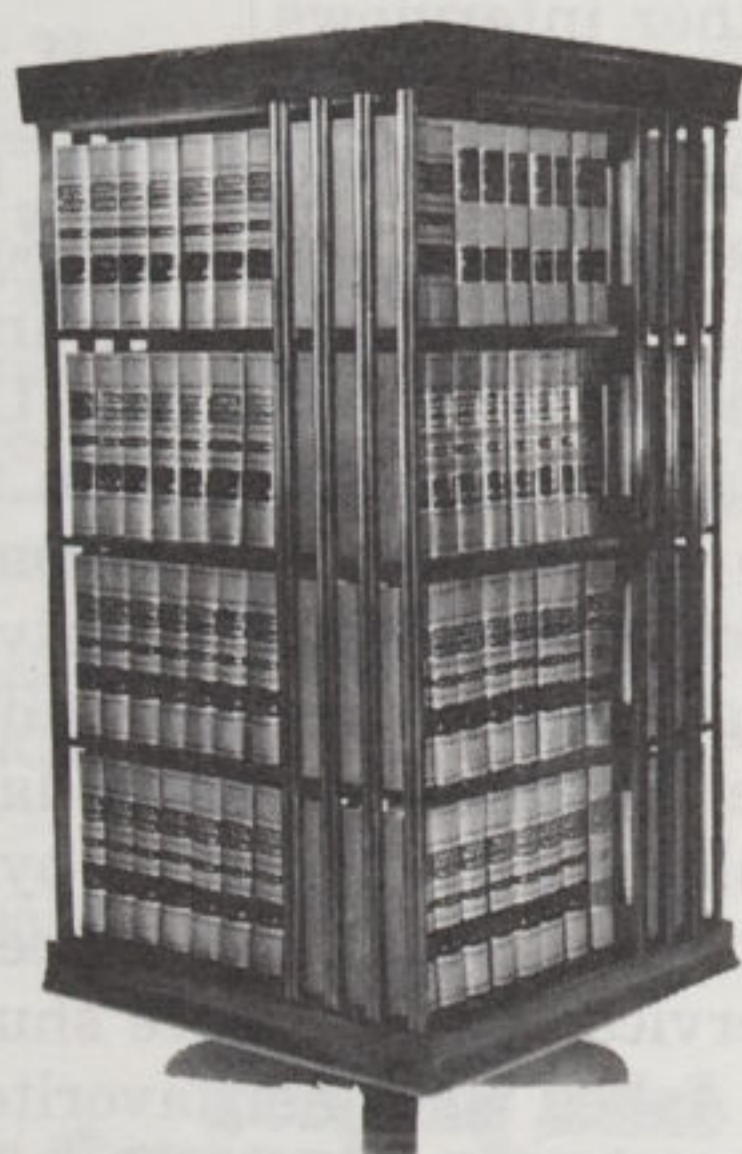
students are aware of these competitions," reveals Becky Ewing of the Registrar's office. "In the last two months less than ten students have approached me for information." Notices of these competitions are received by the Registrar's office, entered into a binder, and are available for inspection at the Registrar's reception area.

Many more competitions are open to HLS students. The American College of Tax Counsel will give financial awards to the top three submitted papers on tax law, with the grand prize being \$500. All winners will be considered for publication in the group's journal. The Center for Computer Law will turn over \$250 to a chosen author who writes on issues that deal with computer, telecommunications, or information law. The winning essay will be published in the Computer Law Journal. The American College of Law and Medicine plans to award \$1,000 to a law student's paper whose topic touches any aspect of legal medicine. The CPR legal program is giving \$2,000 and \$1,000 to the top two student papers dealing with issues in the field of alternative dispute resolution, dispute prevention, or litigation management.



Adele-Marie Hendrix

Fans from all over lined the banks of the Charles River to cheer on their favorite rowers in the "Head of the Charles Regatta."



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Public Interest Fellowship Fund Drive Begins

On Monday, Oct 21, the Harvard Fellowship in Public Interest Law ("FIPIL") began its 1985 pledge campaign. FIPIL asks each graduating 3L to pledge one percent of his or her first year's earnings. Begun in 1981, FIPIL has grown from having 120 pledges in its first year to 230 pledges among the Class of 1985. With 230 pledges, FIPIL was able to fund four fellowships running from September 1985 through August 1986. FIPIL officers hope that the response of the Class of 1986 will equal or surpass the response of the Class of 1985.

FIPIL has funded, among others, fellows monitoring the implementation of the New Jersey domestic violence law, gathering and disseminating information about foreign policy issues of concern to Black Americans, working on housing and tenant issues in El Paso, Texas, and serving as the sole staff attorney

for the ACLU of Mississippi. Fellows for 1985-86 are performing child advocacy work in Baltimore, researching racial bias in jury selection methods in the South, studying legal issues for the International Lawyers' Committee on Human Rights, and performing assorted legal duties for the AIDS Legal Defense Fund. FIPIL President Audrey Selden, 3L, notes that pledging "provides legal services to many groups that would otherwise have to do without any legal representation. Not only does FIPIL demonstrate concern among Harvard students for public interest law, but it also shows our support for our classmates who seek to begin public interest careers."

One Percent

Pledges are set at one percent so that each 3L, upon graduation, will

make the same proportionate contribution. Payments are made on a quarterly basis, with the first payment due on Nov. 30, 1986. Because FIPIL is a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code, each pledge is deductible. Furthermore, only about one percent of contributions goes to administrative expenses.

To allow those who pledge to participate actively in the fellow selection process, contributors elect (and may run for) a Board of Directors that selects the fellows. Contributors receive summaries of all applications for review and comment. Finally, any 3L is eligible to apply for a fellowship.

More detailed information about FIPIL was distributed to 3L Hark boxes on Monday, Oct. 21. Volunteers are calling all 3Ls this week and again during the week of November 11.

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1% Really Is A Solution

The current pledge campaign of the Harvard Fellowship in Public Interest Law (FIPIL) is a realistic opportunity for graduating third year law students to answer the undeniable need for better legal representation of the nation's poor and disadvantaged.

No matter where one places oneself on the political spectrum, a convincing reason exists to contribute to the campaign. Persons who are "liberally-minded" probably already identify with the goals of FIPIL. FIPIL is an especially effective means to provide human services. Recipients of FIPIL fellowships in the past have worked to eradicate domestic violence, employment discrimination, apartheid and racial bias, among other social evils. FIPIL presents an opportunity to support public interest law even if the pledger finds that he cannot take a public interest position himself.

For persons who place themselves in the "conservative" school of thought, FIPIL is a means of addressing these problems without governmental involvement. FIPIL fellows are not ideologues who try to advance their own political agenda. Instead, the fellows are engaged in the same type of representation carried out by private law firms, only with different, less financially secure clients. If a conservative really believes that social ills should be addressed through private charity, FIPIL presents the best opportunity to provide a charitable solution. Also, pledgers are given the opportunity to exert some influence over how the fellowship funds will be spent. FIPIL actively encourages pledgers to review all of the applications for fellowships and offer any comments on them. FIPIL is not some underground radical group. Their actions and decisions are quite public and the FIPIL fellows address problems that are of universal concern.

Pledging to FIPIL truly is a practical and reasonable act. This group only asks for one percent of a person's salary, a salary that will be more than sufficient to provide for plenty of disposable income. FIPIL asks for the contribution for *only a single year*. No pledger will be tied into a long term contribution. The contribution is also completely tax deductible. This deduction will come right off the top of the pledger's income, out of the income in the pledger's highest marginal tax bracket.

Finally, contributing to FIPIL evidences the pledger's interest in assisting other Harvard law students. The fellowship recipients will not be strangers, but instead will be people that the pledger will have lived with and worked with for three years. Please contribute to FIPIL. Take this opportunity to demonstrate the integrity and thoughtfulness of a unified and enlightened student body.

HARVARD LAW RECORD

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Fenno

Fenno woke at 6:00 A.M., gathered his belongings, and went down to the banks of the Charles River. He wanted to guarantee himself a prime viewing spot for the Regatta. When he got there, he laid out his blanket, set up his Hibachi, made sure his binoculars and camera were in focus and opened up his first Meister Brau from the case he brought with him. With these preparations, Fenno was sure this would be the best Regatta ever.

As the sun climbed higher in the sky, more people, mostly wearing Ray-Ban and Vuarnet sunglasses, began to gather on the banks of the Charles. At some point, two vans pulled up near Fenno. Several men got out and began unloading tables, chairs, several large grills, lots of food and beverages, and all the other trappings necessary to throw a truly festive fete.

A man wearing a cricket sweater and a straw boater appeared to be organizing the set-up. Fenno offered the man one of his Meister Braus. "No thank you," he snorted. "I would never drink such an inferior beverage."

More people arrived, greeted the man in the boater, and then placed their beach chairs in the quickly disappearing open space near Fenno. One young woman, so excited to be at her first Regatta, tripped over Fenno's blanket and knocked his beer into his lap before setting her chair down directly in front of Fenno.

Fenno reached over and tapped her shoulder. "Excuse me, please. Would you. . ."

She turned. "Oh, hi! I'm Sally Smith from Smith College. Who are you?"

"I'm Fenno. Look, you're blocking my view. Could you move, please? I want to see the race."

"Oh, who cares about *that*? Tell me about yourself."

Fenno sighed. "No, really. I would like to see the race." Sally scowled at Fenno, picked up her chair and stomped away.

The man in the boater approached Fenno. "I don't want to seem the least bit rude, but would it be possible for you to relocate? You're putting quite a damper on our party."

As he choked on the smoke from the man's grills, Fenno replied, "I'm sorry, sir, I just can't do that. This is the best view on the River, and I want to watch the race."

"Well," the man said as he walked away, "you're obviously not into the spirit of the event."

"Hey, Pal, you wanna make some room?" Fenno looked up to see two guys wearing Dartmouth Football jerseys with their girlfriends by their sides. Fenno looked around and said, "What do you mean? There is no room."

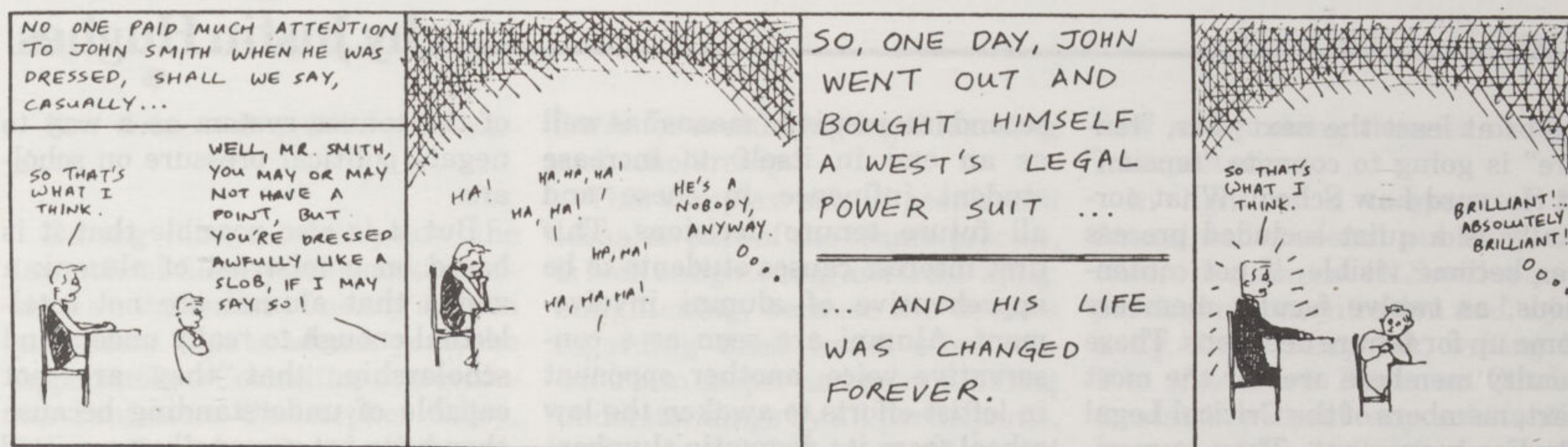
"That's right," one answered, "so you'll just have to move, I guess."

Fenno saw some excellent footage of the Regatta that night on the 11 o'clock news.



"The In-Law"

by Jinku Lee



Letters to the Editor of the Record

HLS: Obstacle Course

To the Editor:

I read your interesting and perceptive account of life for second and third-year law students (see the RECORD, Vol. 81, No. 2) — except for a few key sentences the address tab obliterated.

You say that you recognize that the problem is not new, but you don't really seem to accept that fact. Almost all graduate programs are tedious because they are only barriers which must be hurdled in order to enter the world beyond. Undergraduate education is entirely different; it is an end to be sought, not an obstacle to be cleared. My years at Harvard College were some of the best of my life; my years at the Law School were among the worst. But all that changes once you start to work.

One good way out is precisely what you propose to do: writing commentary on Ameri-

can life and the world of law. I will read it all attentively.

Gerald Gillerman, '52
Boston, MA

WLA Knocks Fenno

To the Editor:

Fenno used to be funny.

In response to September 20's unusually sophomoric and (dare we say it?) offensive Fenno column, we are dutifully registering our protest. The unfavorable characterization of HLS women and homophobic view of Radcliffe women are bad enough, but why is interest in employment discrimination law peculiar or ridiculous?

Fenno's social life might get better if he overcame his own stereotype — that of a straight, white HLS male who finds anyone different from himself frightening.

The Women's Law Association
Board of Directors

Lifestyle Disclosure Urged

To the Editor:

After exhaustive research, I have located a recent amendment to Murphy's Law, undoubtedly reflecting the expanding requirements of disclosure laws. It applies to those who counsel you not to go to the big cities, not to join a big law firm, not to become affluent and thereby influential while enjoying the good life, — in short, not to fulfill your own ambitions or to gratify and reward your parents by your successes and the promise of your progeny. On the contrary, you are told to fight, bleed and die (poor) for the indigent and under-privileged.

The above Law mandates that each such advisor preface his remarks by a full disclosure of his assets and net worth, his salaries and gross earnings for each of the past

ten years, and perhaps, a glimpse of his current life-style.

John W. Munro, '29
Fayetteville, NY

Library Far From Quiet

To the Editor:

It is entirely likely that I will never make a significant contribution to legal scholarship. I would, however, like to offer a suggestion which if heeded would improve my chances. Others, too, might benefit.

The suggestion is that talking among students be voluntarily curtailed or forbidden by rule in the Reading Room of Langdell.

Perhaps I require silence to a greater degree than any other student, but if this be so I believe the library is where I should have it. Concentration is difficult enough in Langdell with the extremes of temperature, a battery of copiers, and often animated discussions among the librarian/security guards. Study becomes impossible when fellow students decide to hash out interview strategies or recount classroom triumphs all around. I am continually amazed that students so perceptive of world events and popular fashion can be so insensitive in regard to a classmate seated right next to them.

I full well realize that this is the sort of letter which can earn contempt and ridicule for the writer. Repeatedly asking people to be quiet does the same in a more personal way. Those who know me, however, can attest that I talk too much myself. But all who like to talk should also have a quiet place to read and think. It enhances the quality of the eventual discourse.

Since this, like most of my ideas, is destined for limited acceptance, I'll just study somewhere else. It is unfortunate, though, when any student must forego the use of such an incomparable resource because others cannot forego chit-chat easily available elsewhere.

John David Dyche, 2L

Letters Policy

All letters submitted to the RECORD are read by the RECORD's staff. Many of them appear on our pages, subject only to editorial discretion. We encourage letters on any subject, particularly those subjects which have been covered in the RECORD. Short letters are more likely to be printed. In no event will we print individual letters longer than 700 words.

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

Alumni, Students, and the Tenure Season

by Justin Hughes

For at least the next year, "tenure" is going to connote "tension" at Harvard Law School. What normally is a quiet secluded process has become visible, if not contentious, as twelve faculty members come up for tenure decisions. These faculty members are, for the most part, members of the Critical Legal Studies movement. They numerically represent the bulk of critical legal thinkers at HLS. Indeed, this tenure season, the CLS people are sitting in a row like ducks at target practice. The understandable fear among their supporters is that not all of them will survive. The main risk is that the tenure process could become a showdown or at least a trial of Critical Legal Studies.

Another risk is that politics will obscure a real question in the tenure process: who should have a voice in these decisions?

The national media has focused on these scholars and not always through friendly lenses. These sometimes distorted stories have increasingly alarmed HLS alumni and they, in turn, have undoubtedly brought pressure to bear on the administration. An unkind letter here, a donation withheld there, an alumnus who skips his class reunion and lets the people in Baker House know it is because he does not identify with the HLS of today — this is real pressure. It ultimately may mean diminished financial support, and it does not take a historical materialist to know that this can ultimately translate into weaker scholarship and a more impoverished *academe*.

In an ideal world, all students (and all alumni) would be interested in the upcoming tenure decisions. But the truth is that not all or even a majority of students are actively concerned with the present tenure process. Those that are concerned generally have two "liberal" interests. The first is a direct end: to help these young critical legal scholars win tenure at Harvard. The

second interest is a "means" as well as an end in itself: to increase student influence in these and all future tenure decisions. This first interest causes students to be apprehensive of alumni involvement. Alumni are seen as a conservative voice, another opponent in leftist efforts to awaken the law school from its dogmatic slumber.

The arguments students can make to oppose alumni involvement in tenure decisions are more predictable than they are persuasive. One argument is that students have a direct stake that warrants their involvement — their legal education — while alumni do not have the same direct interest. On this reasoning, alumni are part of the HLS "community" only metaphorically, while students and faculty have to live together on a day-to-day basis.

*"This tenure season
CLS faculty are
sitting in a row like
ducks at target practice"*

Perhaps foreclosing alumni involvement in the tenure process also strengthens the student voice in tenure decisions. Student influence, according to this reasoning, would only be diluted by the addition of a powerful alumni voice to tenure affairs.

I think this reasoning is wrong. In the long run, student influence in tenure decisions would be well served by increased alumni influence. Opposing alumni involvement today for some immediate objective sacrifices the long term goal of student involvement.

Perhaps no one on the faculty will say it, but many professors regard alumni involvement in tenure decisions as genuine interference. This argument appeals to powerful images: the fragile independence of the academy, and the whole origin

of the tenure system as a way to negate political pressure on scholars.

But it is also possible that it is based on a mistrust of alumni: a vision that alumni are not intellectual enough to really understand scholarship, that they are not capable of understanding because they have not personally committed themselves to the almost priestly ideal of academic life.

This is the same attitude that may motivate faculty distrust of student involvement. After all, most students are just the lawyers, not the academics, of tomorrow. A faculty which does not identify practicing lawyers as its peers would naturally fail to identify with the students who are bound to become practicing lawyers. From this perspective, students and alumni really fit in the same category: they are the necessary financial basis for the scholarly enterprise.

The point is simple. Overcoming the obstacles to greater student involvement in the tenure process may require overcoming many of the attitudes some professors have about non-faculty in general.

In future tenure decisions, alumni and students might find themselves as allies opposed to a faculty preference. For example, alumni might be more sympathetic to student claims that a tenure candidate cannot teach. Alumni seem to sympathize with suffering through such lecturers in a way professors seem not to. Whether this is because professors know the terror of being on the other side of the podium or because they emphasize scholarship more, this still remains an example of how the sympathies of alumni and students might converge.

Of course there is an obvious side to saying student involvement has a long-term tie to alumni involvement. Students become alumni and so the interests of 2Ls in 1985

(Continued on Page 13)

Images and Ideals in the Tenure Process

by Ben Gibson

Ben Gibson is a third-year student.

During the next two years, the law school faculty will make decisions on the tenure of nearly a dozen professors. This academic year, the Appointments Committee may evaluate Professors Christopher Edley, Susan Estrich, David Kennedy, Martha Minow, Daniel Tarullo, and Zipporah Wiseman. The committee takes final action and makes a recommendation to the faculty. Tenure is granted by the Board of Overseers and President Bok on the basis of a recommendation by two-thirds of the tenured law faculty.

The normal, historically established practice at HLS is that professors who serve in junior faculty status are in fact awarded tenure. This comes as no surprise, given the exceptionally high standards which the law school employs in its initial hiring determinations.

What is historically unusual about this year is that so many tenure decisions are scheduled to be made in a relatively short period. This is the natural result of the planned expansion of the faculty that took place several years ago, but it may leave some professors feeling swamped by the unusually large number of decisions to be made. This may increase psychological pressures to deny someone tenure, but that pressure must be recognized as an illegitimate force in the tenure process. The only legitimate process is one where each individual is entitled to a full and fair consideration on his or her merits.

No one disputes — at least not publicly — that a diverse number of groups and individuals have legitimate interests in the tenure process. The law school community is composed of many parts (including students and alumni) which by no means agree upon issues such as appropriate methods of legal interpretation, the nature and functions of legal education, and stan-

dards for evaluating legal teaching and scholarship.

This complex mix of people and ideas, as part of the tenure process, is both enlightening and frustrating: enlightening, because the debates regarding these issues often contribute to deeper and more fulfilling understandings by all participants, and frustrating, because the need to compromise often leads to the sense that an ideal decision was denied.

Although many groups and individuals have roles in the tenure process, the people with the most at stake are the professors being considered for tenure. The professors in question give their energy, enthusiasm, and hard work to countless classes, articles and reviews, supervisions of third year papers,

"Innovation, often marked by controversy, explains much about Harvard's unique place in legal education"

public speeches and debates, and work on law school committees and in the local community. While there are some disagreements regarding the desired nature of legal theory and interpretation (as there always have been at intellectually vibrant law schools), we are well served by proceeding with mutual respect and tolerance of difference.

In a period in which legal scholarship is more obviously diversified and multi-disciplinary than in recent times, problems of evaluation multiply. It is inevitable that people with little or no economic training will be called upon to evaluate the application of complex economic theory to tort law, or that people with little grounding in philosophy or social theory will be asked to evaluate legal analyses involving

new and probing theories of legal interpretation.

In light of a tempest of ill-formulated national publicity, the tenure decisions at HLS will require particular concentration and objectivity. David Margolick, writing for *The New York Times* on October 6, states without any substantiation that "the institution's circuits threaten to become overloaded, and the Harvard University President, Derek Bok, stands poised to intervene." (p. E7) Margolick's article, "The Split at Harvard Law Goes Down to Its Foundation," stands as a prominent example of the emerging HLS hatchet job genre.

Margolick, who attended Stanford Law School in the mid-70s, is a veteran of the "let's lament the woes of American legal education" school. In "The Trouble with America's Law Schools" (*New York Times Magazine*, May 22, 1983), he contrasted the contentiousness at Harvard with an approving description of Stanford faculty members who "coexist in this intellectual climate as effortlessly as the palms, eucalyptus and live oak trees that dot the campus." There is no doubt that students and teachers at Harvard engage in invigorating debates — that's because there are things in the law worth disagreeing about. The first year class, which is bursting at the seams in an affirmation of what Harvard has to offer, perhaps prefers the occasional uncertainty of lively debate to a bland and uninforming tropical garden consensus.

The introduction of novel concepts and methods at Harvard Law School is certainly nothing new. Innovation, though often marked by controversy, explains much about the unique place that Harvard holds in American legal education. A prominent historian of the law school relays the account of the reception which greeted Langdell's introduc-

(Continued on Page 13)

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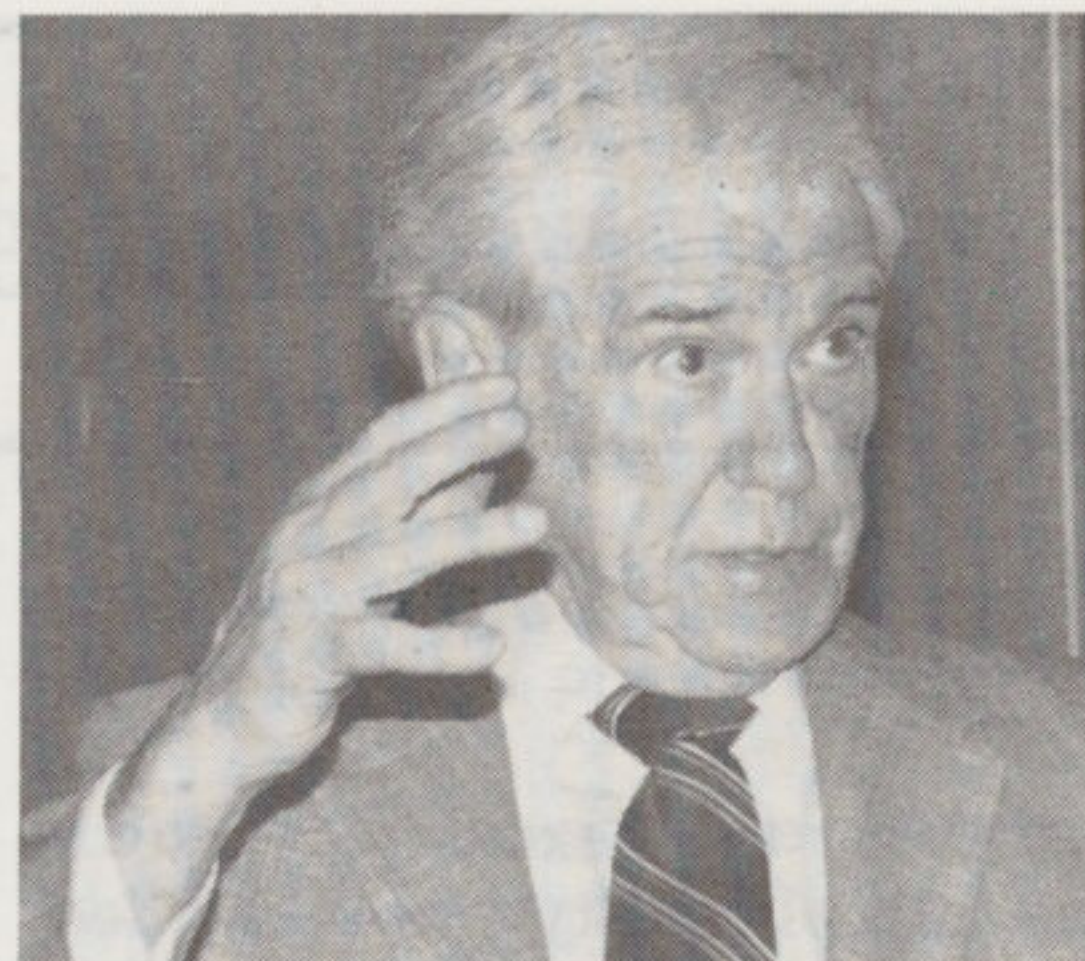
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Joseph Gourneau

Douglas Fraser, former President of the United Auto Workers, spoke on the future of the labor movement at the HLS Forum on Oct. 10. In the lecture, Fraser stated his belief that the labor strike will not be "the weapon of the future." Instead, Fraser believes that labor must intensify political action. He feels unions will also need to emphasize job enrichment, drug/alcohol counseling and legal services.

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Alumni Voices in Tenure Process

(Continued from Page 10)

become the interests of alumni in 1987. The problem with such a conclusion is that interests do not remain static. If our positions or issues were completely objective beasts, they might be more permanent, but a 2L concerned about quality of teaching in 1985 may, by 1987, be most concerned with HLS's general reputation in the legal community. Still, if the present generation of

students stand by their interests, future students will have a sympathetic ear in alumni who remember their own commitment to student involvement.

The increased attention on student and faculty involvement in tenure decisions is one of the few positive results of the attention on tenure. It is a positive aspect of the debate because it raises questions over the process, not the people.

Perhaps some of those individuals *should* be denied tenure. In the past, tenure has come as a matter of course from an assistant professorship. Yet some of us do not accept the argument that initial screening of teaching candidates is so effective that *anyone* on a tenure track should get tenure. The screening cannot begin to calibrate teaching ability; it can only guess at future scholarship which may have become a reality by the time of a tenure decision.

This last point suggests that the *whole* process of tenure warrants renewed scrutiny. That conclusion could also be one of the positive aspects of the present tensions.

Perceptions in HLS Tenuring

(Continued from Page 11)

tion of the case method of analysis in the fall of 1870.

"Langdell was experimenting in darkness absolute save for his own mental illumination. He had no prestige, no assistants, no precedents, the slenderest of apparatus, and for the most part an uncompromising *corpus vile*. He was the David facing a complacent Goliath of unshaken legal tradition, reinforced by social and literary prejudice. His attempts met with the open hostility, if not of other instructors, certainly of the bulk of students. His first lectures were followed by impromptu indignation meetings. — 'What do we care whether Myers agrees with the case or what Fessenden thinks of the dissenting opinion? What we want to know is: What's the law?' " C. Warren, *2 History of the Harvard Law School* 372-73 (1980) (quoting Samuel F. Batchelder). As a new generation of ideas and interpretations make their way into the legal academy, it would be unfortunate indeed if Harvard Law School chose to narrow its focus.



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Petitioners Propose Equal Priority System

(Continued from Page 1)

that the Committee instead assign "all students equal priority in selecting basic courses for the 1986-87 academic year." The letter states that this would "give members of the Class of 1987 a more equitable opportunity to select professors for basic courses, and implement the desired change in registration procedures."

"We just want some equity in dealing with our class," Kelleher said. "We're trying to bring home the point that this is a serious inequity," he continued.

Kelleher charged that the "transition is unfair on its face. It seems the decision was taken without any serious consideration of its effects on our class."

Committee Concern

According to Vice Dean David Smith, the Legal Education Committee is "very concerned" with the questions raised by the petition. "We want to make sure that if there is really a problem, we solve it," he said. "We want to be sure the Class of 1987 is able to take second year basic courses."

Smith indicated that the Committee, of which he is a member, is now "in the process of figuring out the facts."

He noted that enrollment figures of the Class of 1987 in second year basic courses are being studied "to see how many 2Ls are enrolled in Constitutional Law, Tax, and Corporations to see if we should add additional basic courses next fall."

Smith indicated that at this point there is a good possibility that a fifth section of Constitutional Law would be added in the fall. "It seems to us that changing the present system is not a necessary step, if we can solve the problems by adding additional courses," Smith said. "If we can't solve it that way, we will look at other approaches," he went on.

While Smith refused to say what chance the petition's proposal of equal priority in 1986-87 had of

being accepted, Assistant Dean for Academic Administration Stephen Bernardi, also a Committee member, said chances of that occurring were "doubtful."

"It's been my assumption that [the Law School] never guaranteed anyone a space in a particular section," Bernardi said. "We have always had droves of students turned down" for sections taught by popular professors. Bernardi said all that is necessary is that "there are sufficient openings in courses in all subject areas."

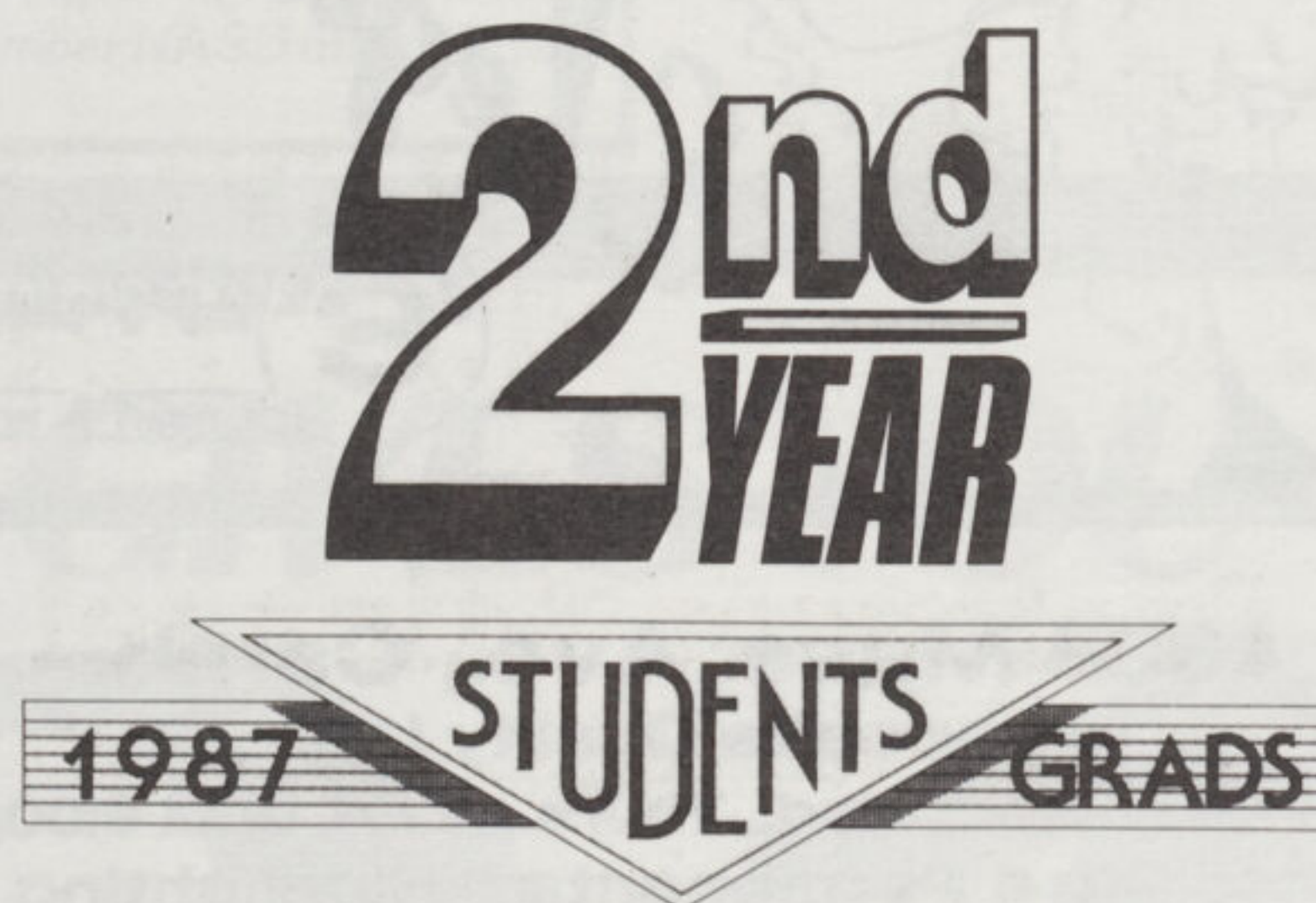
Smith indicated that a meeting on this topic will be held in early November, as soon as Registrar Sue Robinson returns from vacation. Smith emphasized that the registrar will have a prominent role in the decision, especially in interpreting

the enrollment figures "to see what demand [on courses] the 2L class and the 1L class will make next year." Smith said Robinson was "skilled at making such projections."

Kelleher, however, accused Robinson of possessing "a notion that having one class bear the burden of the transition is fine. It is my understanding that she is steadfast against our proposal."

The decision, in which he said Robinson had major influence, "places the burden on one class alone, thereby antagonizing one class alone instead of spreading it equitably over three classes."

"This fails to take the best interests of all the students into account," Kelleher concluded.



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A Great Moment at HLS

According to statistics released by June Thompson of the Placement Office, several HLS students interviewed with more than 60 firms during recruitment season last fall. The record for recent years appears to be held by an unidentified member of the Class of 1981 who participated in 96 interviews during his or her 3L year.

At the other end of the scale, approximately 33 percent of 3Ls and 8 percent of 2Ls chose not to have any interviews last fall. In the past several years, the majority of 3Ls have had fewer than 10 interviews. The number of 2L interviews last fall averaged slightly over 20 per student, up from approximately 17 or 18 in earlier years. ❖

Letters (Continued)

Boycott Coverage Criticized

To the Editor:

I haven't the faintest idea who G.K.K. is, but it was a well thought out editorial that appeared in your issue of September 27, 1985, (Vol. 81, No 2 at page 8) on "Boycott the Boycotts."

I happen to be a Senior Partner in our law firm and I bitterly resent the article which appeared on page 2 and 14 of the same issue entitled "Students Call Boycott of 'Union-Busting' Firms."

The person that wrote that article is guilty of shoddy and inaccurate reporting and does a disservice to the professions of journalism and the law.

The authority for the attack on the firms named is one McDonald who, though he is never identified, is given the status of an oracle. The reliance upon the reporter's unidentified sources without contacting all those whose names are pilloried in the article,

is just plain irresponsible news gathering.

I just dislike seeing the RECORD reach the level of the article about which I complain.

Several of my partners are graduates of the law school and we were taught to get our facts straight and I assure you that the article about which I complain has given us cause for concern.

Tracey H. Ferguson, '34
Syracuse, NY

The McDonald referred to in the article is Charles McDonald, assistant director in the AFL-CIO's Department of Organization and Field Services in Washington. His full name and title were edited out of the article by mistake. — Ed.

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High Fashion Comes In Style To HLS

On Oct. 5, HLS witnessed the first-ever fashion show held on campus. The show, sponsored by the Committee for Sports and Entertainment Law (CSEL) and the Student Entertainment Society, was held in the Ropes Grey Room in Pound Hall. The fashions were provided by Saks Fifth Avenue of Boston. The event drew about 500 well-dressed people.

The show featured several kinds of clothing. Included were contemporary clothes for women, updated classics for business wear, designer sportswear, evening wear and furs for both men and women.

Although most of the modelling was done by professional models, eight graduate and undergraduate students also had the opportunity



David Rabinowitz/Adele Hendrix

to walk down the runway. Included in those students was HLS' Susan Janicki, 2L.

According to CSEL boardmember Sebastian Hoppe, 2L, the show was held for two reasons. First, CSEL wanted to show that it was a viable group capable of sponsoring successful events. Second, CSEL wanted to provide an event that was unique as well as entertaining. CSEL's next major event will be to host a lecture by Peter Ueberroth, the current baseball commissioner, on the relationship between law and the current problems with drugs in professional sports.

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David Rabinowitz/Adele Hendrix

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