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25 CENTS

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Faculty Votes To Award Estrich And Minow Tenure

By Brian D. Rance

The HLS faculty voted on Feb. 11 to grant tenure to Assistant Professors Susan R. Estrich and Martha Minow, sources indicated to the RECORD.

Because any tenure vote by the faculty must be ratified both by Harvard President Derek Bok and by Harvard's Joint Committee on Appointments, HLS administrators and nearly 30 faculty members contacted refused to comment on the vote except to say that, if and when the Joint Committee acts on any tenure decision, a public announcement will be made.

The next meeting of the Joint Committee is scheduled for March 17, according to Assistant HLS Dean Stephen M. Bernardi. Bernardi noted that appointments ratified at that meeting would typically become effective in July.

Although many faculty and administrators refused to confirm the widespread belief that the faculty voted to grant Estrich and Minow tenure, two faculty members, who asked not to be identified, have confirmed that such a vote did occur.

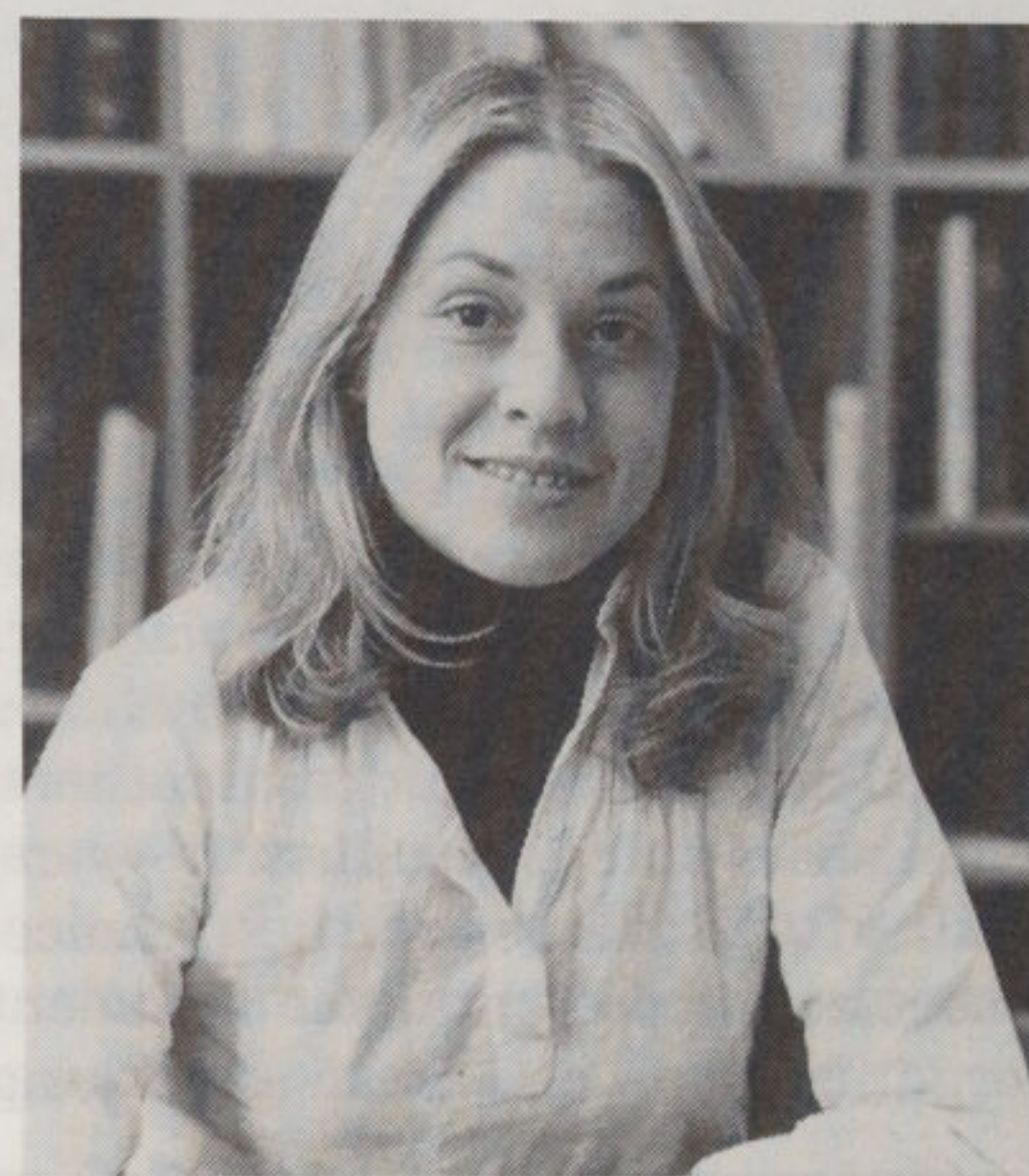
Responding to questions put to them by the RECORD, both Dean James Vorenberg and Professor Alvin C. Warren, who chairs the HLS Appointments Committee, said that it is the law school's policy not to comment on tenure matters until the Joint Committee makes its final decision. Dean Vorenberg, when asked specifically whether the faculty voted to tenure Estrich or Minow, refused to confirm or deny any faculty vote.

(Continued on Page 15)



HLS Yearbook

Ass't Prof. Martha Minow



HLS Yearbook

Ass't Prof. Susan Estrich

Students Warned Against Forgery

By David Snouffer and
Vincent Chang

The HLS Financial Aid Office (FAO) last week warned students not to sign their parents' names on financial aid applications, even with parental consent. Financial aid officials have referred three cases of alleged forgery to the HLS Administrative Board in 1986, Professor Frank Sander, who chairs the Board, said last week. FAO Director Renda Johnson was not available for comment this week.

The FAO distributed a notice to students' message boxes last week, stating that "to sign financial aid forms for another party is not permitted by the federal government or the Financial Aid Office."

Government officials who administer financial aid programs want to be sure parents read the forms they are supposed to sign so that parents can verify that the in-

formation students supply — such as their parents' own income — is accurate, Sander said. "The goal of having the parents sign is to have the parents see the form," he said.

But some students criticized the FAO notice as untimely, noting that many financial aid forms were due on Feb. 15 — only three days after the distribution of the notice. Under such circumstances, students may have had little time to return forms to their parents, students said.

Some students contended that the Feb. 12 notice symbolized the general insensitivity of HLS financial aid policy which may leave little time for students to get their parents' signatures. One student, whose signature forgery case was heard by the Ad Board, did not receive her Guaranteed Student Loan (GSL) means test form until Sept. "Why couldn't they have given me this form in the Spring?" she asked. She

(Continued on Page 16)

Visiting Committee To Arrive On Campus

By David Snouffer

A group of up to 31 visitors invited by the Harvard College Board of Overseers will descend on HLS to meet with students and faculty and sit in on classes for three days next weekend.

"We're not investigating anything," said Samuel C. Butler, '54, who chairs the Harvard Overseers' Committee to Visit the Law School.

Butler, a partner in the New York law firm of Cravath, Swaine & Moore, said the group hopes to gain "an outside overview to see what the problems are at the Law School, what it's doing right and what it's doing wrong." He said he did not know how many committee members would be able to visit this year.

The committee, which includes practicing lawyers, judges, teachers, publishers and government lawyers, will attend classes of their choice, meet with representatives of student organizations and field a working

meeting with HLS Dean James Vorenberg on Thursday, Feb. 27. The next day, they will talk with representatives of various academic and professional development programs around HLS and will have lunch with a randomly selected group of students from the three J.D. classes and the graduate programs.

The visit will conclude on March 1 with a second meeting with Vorenberg and lunch with faculty members.

Although the committee visits HLS annually, members prepare a formal written report only once every three years. This year, Butler, a member of the Board of Overseers, said he will informally present the group's impressions to the Board and to Harvard President Derek Bok at the Board's meeting in March.

Butler, who is making his third trip to HLS with the committee, said Vorenberg and other HLS ad-

ministrators have held "very informative, very frank discussions" with the group in years past.

Recent national publicity about faculty divisions and other problems at HLS has not surprised many committee members, Butler said, because they had already become acquainted with problems at HLS during previous visits. "We will be talking about the same subjects" again this year, he added.

Butler has sent committee members copies of several recent press accounts about HLS.

Details of the group's agenda, topics to be discussed at meetings and the committee's final report are confidential.

✽

**Next Record:
March 7**

Alumni Fund Receipts Up

At the halfway point (12/31/85), the 36th Harvard Law School Annual Fund receipts are \$3,177,468.00, 37% above last year's December close. Fund Director Cab Easton commented that these mid-year results are "a dramatic confirmation of alumni commitment and loyalty to the school, as well as a tribute to the efforts of more than 1000 volunteer Alumni Fund workers."

Director Easton also announced that there were 674 additional donors to the Fund this year (an 11% increase), compared to the same period in the previous year.

"Gratifying as the results are," explained Easton, "a great deal remains to be done in the closing months of the campaign if the Fund is to reach its ambitious and much needed goal of \$4,500,000 by June 30, 1986."

✽

Changes Improve Nights At Pub

By James Hoffman

Although Dean of Students Mary Upton has proposed major changes for the HLS Backbench Pub, several law students have been working hard to make the Pub a better and more exciting place to go for a few beers and a little socializing.

Hillary Richard, 1L, and George Hawkins, 2L, are both bartenders at the Pub and after a fall semester of few promotions and small crowds, they have taken matters into their own hands to improve the Pub's business.

The two bartenders have started a weekly newsletter for the Pub called "The Bar Review," which lists the movies and other special events that are planned in the Pub for the upcoming week. Mondays are "Cult Movies Night with Hillary," while Tuesdays are Comedy Night and Thursdays are "Cheers" and "Hill Street Blues" night. Various other events, such as the Sociedad Interamericana's Noche Latina Latin,

the La Alianza Special Movie Series, and the Anarchist Film Festival have also recently been held in the Backbench Pub and Publicized through "The Bar Review."

Also, the newsletter invites any law school organizations and groups that want to have special parties in the Pub to contact Hawkins or Pub Manager Tony Miranda.

Hawkins said that he thought of the idea of doing a newsletter for the Pub last semester because he was not pleased with the way the Pub was being promoted. He said that not enough students were coming into the Backbench and business was declining. Hawkins attributed the slow business to the fact that the Pub's managers didn't "catch the 1Ls early enough to get them into the habit of going to the Pub" and that "early in the semester some students didn't even know a bar was there."

Richard said that both she and Hawkins are "committed to making
(Continued on Page 13)

Mayor Koch Discusses Juvenile Crime

By Hillary Richard

New York City Mayor Edward I. Koch initiated the HLS Forum's annual Rappaport lecture series on Feb. 12 in Austin Hall's Ames Courtroom with a discussion on juvenile crime followed by a lively question-and-answer session.

The series of lectures on urban affairs is named after its sponsor, Jerome Rappaport, '49, who founded the HLS Forum. A well known real estate developer in Boston, Rappaport is responsible for the rebuilding of Boston's West End, as well as the construction of the Charles River Park Development complex.

Stronger Deterrence

Koch advocated stronger deterrence measures, such as harsher criminal penalties and better identification techniques, to crack down on juvenile crime. Though he spoke specifically about New York City, he said the problems he discussed affected all urban areas, as well as suburban jurisdictions.

Koch rejected the common premise that a predilection to juvenile crime is based, in any way at all, on poverty. To the contrary, he said, the "vast majority of citizens who are poor... do not steal, assault, and do not destroy. They reject, as I do, this elitist and insulting explanation of the cause of crime."

While Koch did not offer any alternative theories behind the formation of a criminal character, he suggested that many juvenile offenders become perpetual criminals. "Disruptive juveniles grow into delinquent adolescents, and delinquent adolescents grow into criminal adults," he said, and added that a realization of that progression "should be the basis of our juvenile criminal justice planning."

Koch justified his call for a stronger punishment-oriented juvenile crime policy with an analysis of why punishment deters crime. Punishment "works because most people prefer pleasant consequences to the unpleasant," Koch said, and



Hillary Richard

New York Mayor Ed Koch

jail "is not broadly perceived as a pleasant experience."

He also commented that "appropriate behavior" could be taught if deviations were more clearly and more consistently punished. Koch then outlined a number of proposals that he said he believes would help solve the problem of juvenile crime.

First, to help the police, probation departments, and other law enforcement agencies to identify a juvenile's real name or real age, Koch proposes fingerprinting all juveniles 13 or older charged with any felony.

To illustrate the problem as it now exists, Koch offered the following statistic: "Almost one-half of all juveniles arrested in 1985 were charged with class D and class E felonies, which are robbery, sodomy, sexual abuse, possession of weapons. All are not fingerprintable. How can we expect a young person to respect a system where he's interviewed by a probation officer who recognizes him from the last time, or the last three times, or the last 10 times, but cannot figure out what his real name is and doesn't have the capacity to do anything about it?"

Next, Koch advocated requiring appropriate authorities to maintain the results of any juvenile delinquency adjudication of any fingerprinted person, as well as including any juvenile conviction record for any class A, B, or C felonies or any two felonies on a person's adult rec-

ord. He also proposed giving agencies internal to the criminal justice system access to these records.

Currently, according to Koch, probation officers cannot even look back at their own records, "let alone comprehensive records organized in accessible fashion."

End Secret Proceedings

Koch also called for an end to secret proceedings for cases of juvenile delinquency. He requested that they be opened to both the press and the public in order to reveal "inadequate family court procedures and dispositions," while "exposing the juvenile delinquent to public accountability for his action."

Finally, Koch proposed the expansion of the categories of "designated felonies," those for which a juvenile can be prosecuted. Koch would include, among others, "residential burglaries and all attempts to commit designated felonies." In addition, Koch would "restrict the family court judge's unfettered discretion."

"What do people want out of life?" queried Koch, at the close of his prepared speech: "To be secure in their homes and on the street." Koch believes that his proposals on juvenile crime would bring New York closer to this ideal and make the juvenile justice system emphasize the protection of citizens.

(Continued on Page 11)

Shavell Organizes Law And Economics Seminar

By Brian D. Rance

This spring, HLS will host a series of twelve law and economics seminars. Organized by Professor Steven Shavell, the seminars are designed "to present research under way by respected scholars to an audience of faculty and students interested in commenting upon it," according to Shavell.

Planned seminar papers range over a wide area of interests, including "Cigarette Advertising" by John Calfee of the Federal Trade Commission, a paper on the protection of intellectual property by William Landes of the University of Chicago, "The Law and Economics of Medical Malpractice" by Patricia Donzon of the Wharton School and "The Politics of Takeover Regulation" by Roberto Romano of Yale Law School.

A similar seminar was held in the fall semester. Shavell stated that, "the seminar worked out well last semester. Faculty attendance was good. Talks were, on the whole, interesting. I believe that the students agreed."

Reasons For Success

Shavell cited several reasons for this success. Aside from the generally high quality of the papers presented, Shavell said he believes that the "seminar drew an audience with a wide variety of interests because the topics were so varied." For instance, John Langbein of the University of Chicago presented a paper entitled "The German Advantage in Civil Procedure."

Shavell added that the "seminar presented students with an opportunity to talk as equals with the faculty about legal issues. Also, students had a chance to hear in-

terchange between legal academics. It's very different to hear faculty members think on the spot rather than lecture."

Finally, Shavell pointed to a substantial increase in interest in law and economics among students at HLS.

Second- and third-year students are enrolled in the seminar for credit. Students are required to write a research paper in conjunction with their attendance at the seminar to receive credit. A few student papers have been and will be presented to the entire seminar audience.

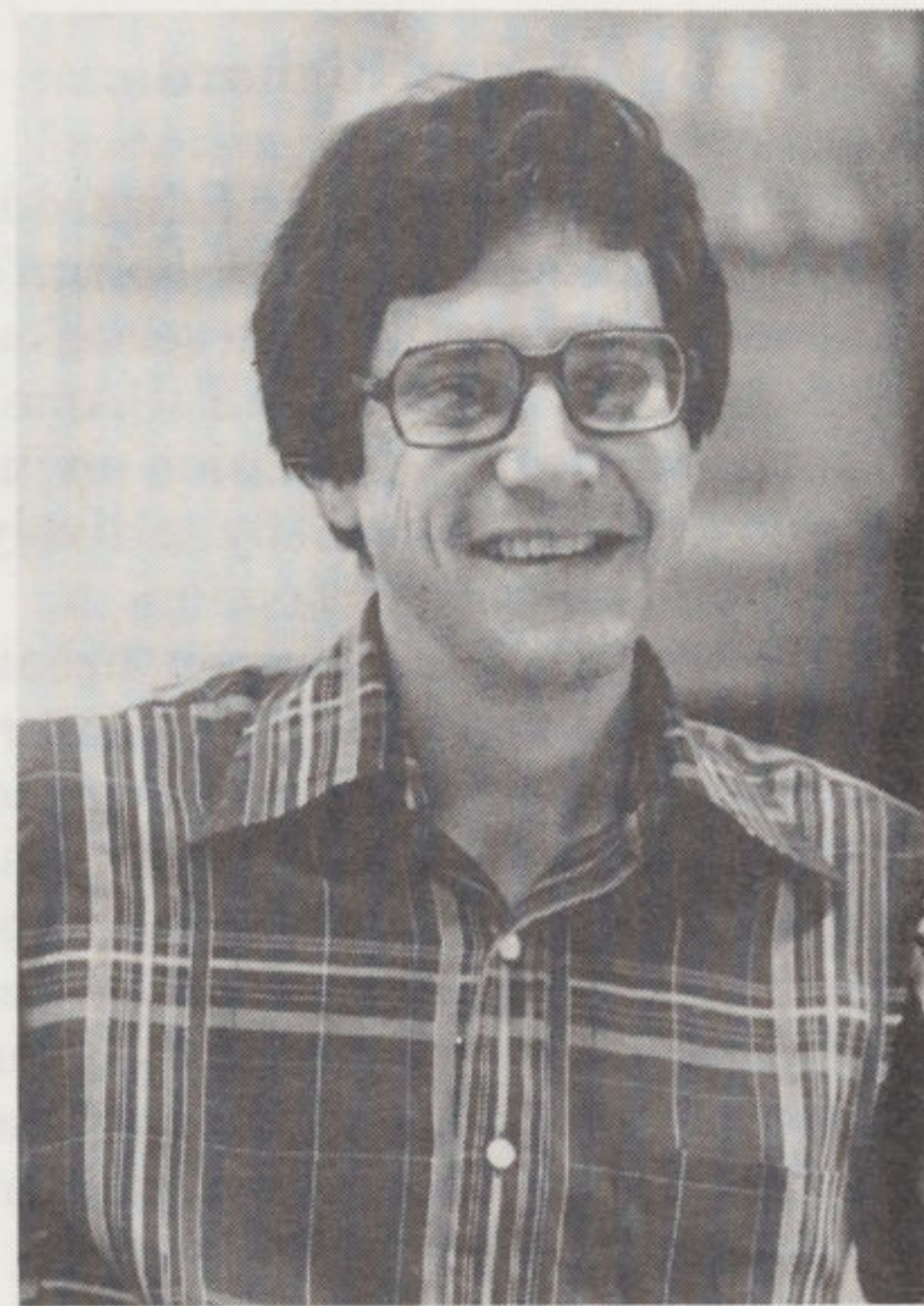
Origins of Seminar

The origins of this seminar can be traced to a law and economics seminar offered to faculty several years ago by Shavell and Professor Douglas Ginsburg. When Shavell arrived at HLS, he was "surprised to find no seminars that presented legal work before it had been published."

The previous law and economics seminar had "to be cancelled because of lack of interest on the part of the faculty," according to Shavell.

Shavell said that he hopes that the success of this year's seminar in law and economics will inspire others to present similar seminars.

"Although established at other universities, there is not a single other regularly scheduled seminar at the law school which presents research in progress on legal topics, he said, "One of my goals is to change the way faculty members think about research seminars. Perhaps this seminar will acculturate them." Professors Richard Fallon and Laurence Tribe periodically hold faculty seminars on matters of general interest. Shavell added that HLS



HLS Yearbook

Professor Steven Shavell

is "behind other law schools, such as Yale, Chicago, and Stanford," which already "have both law and economics seminars and other seminars that discuss unpublished research."

Shavell proposed last spring to Dean James Vorenberg that HLS offer the seminar. The John M. Olin Foundation then offered money to Harvard to fund the Program in Law and Economics.

Funds for the seminar are drawn from the Program in Law and Economics which is coordinated by Shavell and Professors Victor Brudney, Phillip Areeda, Louis Kaplow and Lucien Bebchuk. Shavell declined to comment on the cost of running the seminar; however, he noted that although travel and hotel expenses are reimbursed, speakers are seldom given honoraria.

To publicize the seminars, Shavell sends each member of the faculty, three to four days before each seminar, both a memorandum describing the talk and a short excerpt from the paper to be presented.

Shavell said that he is "gratified with the response by the faculty" to the seminar. When asked whether many of the faculty who identify themselves as members of the Critical Legal Studies movement attend the seminar, Shavell responded, "no."

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New Hark Head Crafting Culinary Diversions

By Lisa Rodensky

The cafeteria in Harkness Commons is about to move into the food world of the 80's. Under the new management of Nick Iula, who succeeded Robert O'Neill as the director of food services at the Law School, the cafeteria may be changing its culinary tune.

If students have not noticed radical menu changes yet, it is only because Iula took over O'Neill's position a mere two weeks ago, after spending three years as a part of the Club Corporation of America, for which he managed exclusive clubs through out the United States. His last position was as general manager of the Dutch Inn in Narragansett, Rhode Island.

Fashionable Food

Above all else, Iula wants to make the cafeteria a respectable eating establishment and redeem it from its current rank as "just that place to go that's close." Iula wants to make the cafeteria attractive not only for its convenience, but also for its quality.

Describing the menu currently offered as "a menu not unlike the one that might have been served during the '50s," Iula plans to begin offering more "fashionable" food — food for the '80s.

Though there may be nothing new in manicotti and fried fish — examples of the usual fare served during the pre-Iula administration — there is certainly something dif-



Sal Casente

New Hark Manager Nick Iula

ferent about creole eggplant, sweet potato pie, boneless chicken stuffed with pate and flambe mandarin oranges. These are just a few of the items served during the "special nights" orchestrated by Iula. The menus offered must have generated new interest in the cafeteria since the number of students served on the two special nights was nearly twice the average.

What is the key to such success? Iula attributes most of the new interest in the cafeteria to the sheer quality of the meals served during these special dinners. As Iula points out, "When we say a cake is made with Grand Marnier, we mean it." And although such items do present a bit of a strain on the cafeteria's budget, Iula is counting on growing new interest in dining at Harkness Commons to remedy potential financial snags.

Iula said that he also hopes to attract non-HLS students to the cafeteria once word gets out that the food served is of high standards. The more often students patronize the cafeteria, the more possibilities there will be for expanding what is currently a less than creative dinner menu on most evenings.

Other changes Iula plans to make are subtler. He noted that changes in the overall atmosphere of the cafeteria will enhance the cafeteria "eating experience." For example, students no longer eat from paper dinner plates and now use flatware rather than plastic utensils. Iula has also ordered coffee mugs to replace the usual styrofoam cups. Moreover, Iula, having recently attended an R.A. meeting, acknowledged many of the students' complaints, such as the repetition of the weekly menus, the often excessively slow lines to check out, and the shortages of popular items. Iula hopes to remedy those complaints during his tenure here.

A graduate of Johnson & Wales College and himself a chef, Iula knows food. He is more than informed on what is *au courant* in the sophisticated world of American eating. He noted, for example, that "creative American cuisine" has replaced the now passe "nouvelle cuisine" as the type of food currently in vogue.

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Judge Calls For Lawyers Role in S. Africa

By Maurice S. Kane

After attending a major South African trial last summer, U.S. Circuit Judge Nathaniel Jones told members of an HLS seminar class last week that the 16 defendants on trial were charged with "everything our Constitution protects." Nonetheless, Jones defended the role of progressive jurists in the South African legal system.

Jones, who sits on the U.S. Court of Appeals for the Sixth Circuit, observed the trial of 16 members of the opposition, multiracial United Democratic Front at the request of the Lawyers' Committee for Civil Rights under Law, a U.S. organization that monitors domestic and international human rights issues. Formed in 1983, the UDF — a coalition of 600 trade union, religious, community and political groups — represents approximately 2 million South Africans.

"These persons were accused of being terrorists," said Jones, a former assistant U.S. Attorney in Cleveland and the NAACP's general counsel for 10 years. He told HLS Lecturer Judge Leon Higginbotham's Race and the American Legal Process class on Feb. 14 that the charges made the defendants sound like "sinister, sneaky people running down dark alleys, bombing power stations [and] strangling people."

"I discovered to my amazement that they were charged with going to meetings, holding rallies, singing, complaining and griping about the system, calling for change, everything our Constitution protects but which is in contravention of the laws of South Africa," Jones recalled.

On the morning of his departure for South Africa, Jones learned that one of the lawyers for the UDF defendants had been "assassinated in her front yard, . . . shot and butchered by four persons."

South African officials took extensive security measures for the trial, Jones said. On his way to the courthouse, he said, he noticed heavily armed, uniformed men leading dogs, shoulder-to-shoulder

from the city limits to the special courtroom.

Exception, Not the Rule

Jones, who met the presiding trial judge three years earlier, said that the South African judge was "an anomaly." Jones considered the judge a fair, "sensitive" man, but an "aberration" compared to the typical South African judge. This particular judge brought "insight and understanding" into the courtroom. He selected two blacks as his "assessors," or fact-finders. "There is no jury in South Africa," Jones said, yet "[b]ecause the assessors have the same power as a jury [in the U.S.] this appointment was breaking ground."

Debate About Participation in Unjust Systems

Professor Randall Kennedy, who sat in the audience as Judge Jones spoke, insisted several times that the South African judge was the "humane face of oppression" and that to be truly sensitive, he "should resign, get off the bench."

Higginbotham agreed with Jones but disagreed with Kennedy's call for judges and lawyers to withdraw from the South African legal system. Higginbotham said, "there used to be thousands of people denied their rights — there are now wives who can join their husbands, there are families that have a chance to be together." He added that "some restrictions now on employers have been brought about through lawyers' willingness to get involved."

Higginbotham also said, "You may be concerned about people who starve and may be saved — by a lawyer who gets involved. No lawyer is going to make revolution in a Durban court, but the question is whether a lawyer can make a difference."

Jones agreed that lawyers can make a difference. "At this time," said Jones, "12 of the 16 defendants have been discharged — and I attribute this to good lawyering. And

it was a good thing that the lawyers had the judge who presided. When you have sixteen people whose lives may have been 'snuffed out,' that involvement is important."

Legal System Unreliable

The "violence, intrusion, and bestiality inflicted on people by the authorities and their surrogates," said Jones, are consistent with "apartheid as a vicious system of life enforced by a network of laws that gives the police and military absolute power over people's destiny." According to Jones, this power is made manifest through the pass laws for black South Africans, the banning orders, and the Internal Security Act, among other mechanisms.

"The legal system," said Jones, "cannot be relied upon as presently constituted, it cannot be expected to protect the rights of black people. Because the Republic of South Africa has a parliamentary system, the laws are created by those who vote — and blacks can't vote." Jones suggested that lawyers can be effective "if they help people to understand and identify how the legal system is used to repress."

Identifying repression is essential in South Africa for, Jones said, the courts are not independent but instead reflect the thinking of the controlling Afrikaner Nationalist Party.

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"BETTER BUYS AT BRINE'S"

Cambridge School Volunteers Help Students

By David A. Price

The Cambridge School Volunteers, a program in its twentieth year, allows Harvard University students to work as tutors and teacher's aides in Cambridge public schools. During the 1984-85 academic year, the program placed over 350 volunteers in the schools.

According to Alan Brickman, director of the program, volunteers can work in a diverse range of settings. Tutors work one-on-one with students, helping them prepare for exams and reviewing their homework, whereas aides work in the classroom.

Brickman stated that the program tries to place volunteers according to their personal interests, "Happy volunteers are effective volunteers," he said, adding that many return year after year.

The time commitment is flexible, he explained. Some volunteers work as little as an hour and a half a week.

Many Schools

Volunteers can work at one of Cambridge's elementary schools or at the Cambridge Ringe & Latin high school.

The school system also includes some "alternative" schools, such as one with open classrooms, one emphasizing computers, one relying on "back to basics" ideas, and one in which students operate small businesses. Although many of the schools are located near HLS, Brickman said that he hoped vol-

unteers would choose a school according to their interests rather than geography.

No teaching experience is necessary to be a successful volunteer, Brickman said. "Harvard students have spent enough time in school to know how it works," he said. However, the program does provide some training.

According to Brickman, volunteers can start at any time during the semester. "There's always a waiting list at the tutoring center," he said.

The program interviews each volunteer to match him or her with an assignment. Interviews are conducted by program assistants Cathy Isbell and Phyllis Kornfeld.

Brickman said that some Harvard students hold a distorted view of Cambridge as an affluent, homog-

enous area. Brickman called this "the myth of Cambridge." He argued that Cambridge public school students "run the gamut" from members of nationally prominent families to residents of housing projects.

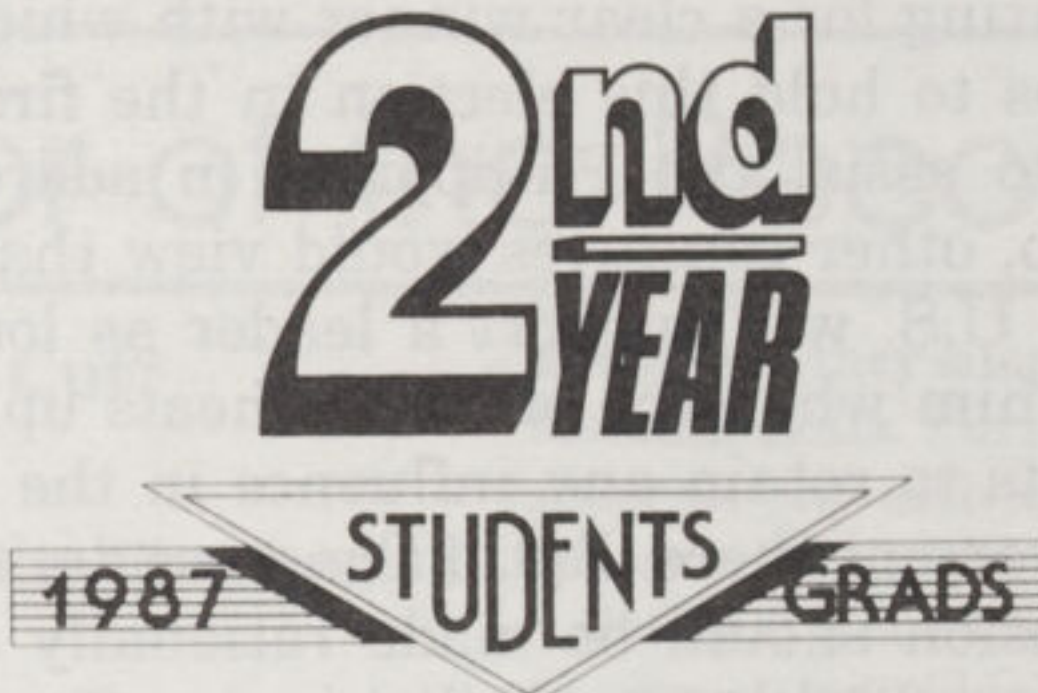
Cambridge students represent 70 nationalities and 40 native languages. Numerous Haitian, Greek, Japanese, and Hispanic students attend Cambridge schools, Brickman said. Some volunteers work with these students in special English classes.

In addition, some volunteers are placed in the Youth Enrichment Program, which was formed by Hispanic parents to assist "hard core" students who are at risk of dropping out.

Correction

The headline that appears above an article about Professor Arthur R. Miller on the front page of the February 7, 1986 edition of the RECORD is inaccurate. As the article below correctly states, Professor Miller offered legal advice to a member of the plaintiffs' management committee in the Bhopal action. He did not argue the case itself. The RECORD apologizes for this error.

FEBRUARY 21, 1986



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We Cannot Simply Walk Away Now

Recently, two Congressmen voiced their opinion concerning what they believe should be the United States' policy regarding the current volatile political situation in the Philippines. In their view, the United States should immediately suspend all aid to the Philippines, bring home most non-military personnel and begin planning now to close the two American military bases in the country. These actions would do nothing to change the course of affairs for the better.

If anyone had any doubt as to the corruption prevalent in the Marcos administration, that doubt could be laid to rest after hearing of Marcos' recent behavior during the special election of Feb. 7. In fact, on Feb. 19, the U.S. Senate voted 85-9 to pass a non-binding resolution stating that Marcos holds his position without the democratic support of the people. Of course the U.S. desires that the Philippino people enjoy the benefits and safeguards of the democratic process. However, it should try to achieve that goal with the least amount of violence and harm to the Philipinos while still protecting its trustworthiness, respectability and strength abroad.

The Congressmen's course of action would defeat all of these goals. If Marcos no longer has to worry about appeasing the U.S. in order to retain our financial support, our influence there will be minimized. Marcos would find himself a "free" man while the Philippine people suffered from the cut-backs in programs supported by our aid. This would do nothing but cause our already soiled image there to become further tarnished. The additional economic strife would also cause the atmosphere there to become more tense, possibly leading to further violence.

The U.S. cannot simply walk away from this situation, shrugging its shoulders and waiting for a clear winner with which to join forces. The U.S. asked Marcos to hold this election in the first place, and now it must be willing to assist the Philippines in addressing the problems created by it. Also, other countries would view that behavior as opportunistic, as if the U.S. will support a leader as long as he is popular, but will abandon him when the situation heats up.

If the U.S. wants to retain any influence in the Philippines, it must continue its involvement there. But if Congress decides to withdraw U.S. presence, the decision should be made rationally and the withdrawal should be gradual and with as stabilizing an effect as possible.

G.K.K.

HARVARD LAW RECORD

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Fenno

Fenno was upset. He had heard through the trusty HLS grapevine that the law school was going to replace the green carpeting in Pound and Griswold Halls with powder blue rugs. Having always been partial to colors that reminded him of the great outdoors, Fenno opposed the switch. (Actually, Fenno had seen the great outdoors once: on a three-day weekend excursion to New Hampshire. His experience had lasted only half an hour, however, since someone inside his cabin had just tapped a keg. Fenno remained in that cabin for the entire weekend.) Hoping other students would agree, Fenno decided to make his opinion known.

Pulling out his trusty typewriter, Fenno dusted off the keys. He had not had reason to use the machine since he pounded out his personal statement for his HLS application many years ago. That was composed in a drunken stupor and had taken only twenty minutes. Being stone-cold sober now, Fenno knew his task would take longer.

Fenno began his missive:

Dear Dean Vorenberg:

I am a tad perturbed. Rumors abound that Pound and Griswold Halls will soon be sporting powder blue carpeting. I must confess that I prefer the old green color. Is there any way the Administration could possibly reconsider its decision? Perhaps you might want to ask the students their opinion. Thank you very much for your time.

Fenno posted copies of his letter in the Hark, to gauge if others agreed with his opinion.

The next morning at 9:30, as Fenno was in bed sleeping through yet another Corporate Finance class, his phone rang. With a superhuman effort, he lifted the receiver. It was the HLS Administration. (Fenno marveled at how this diverse group somehow managed to always speak with one voice.)

"You can't hide from us, Fenno!" it shrieked. "We know you wrote that letter hanging in the Hark! We demand you take it down immediately!"

Fenno rubbed the sleep out of his eyes. "Huh? Why?" he croaked.

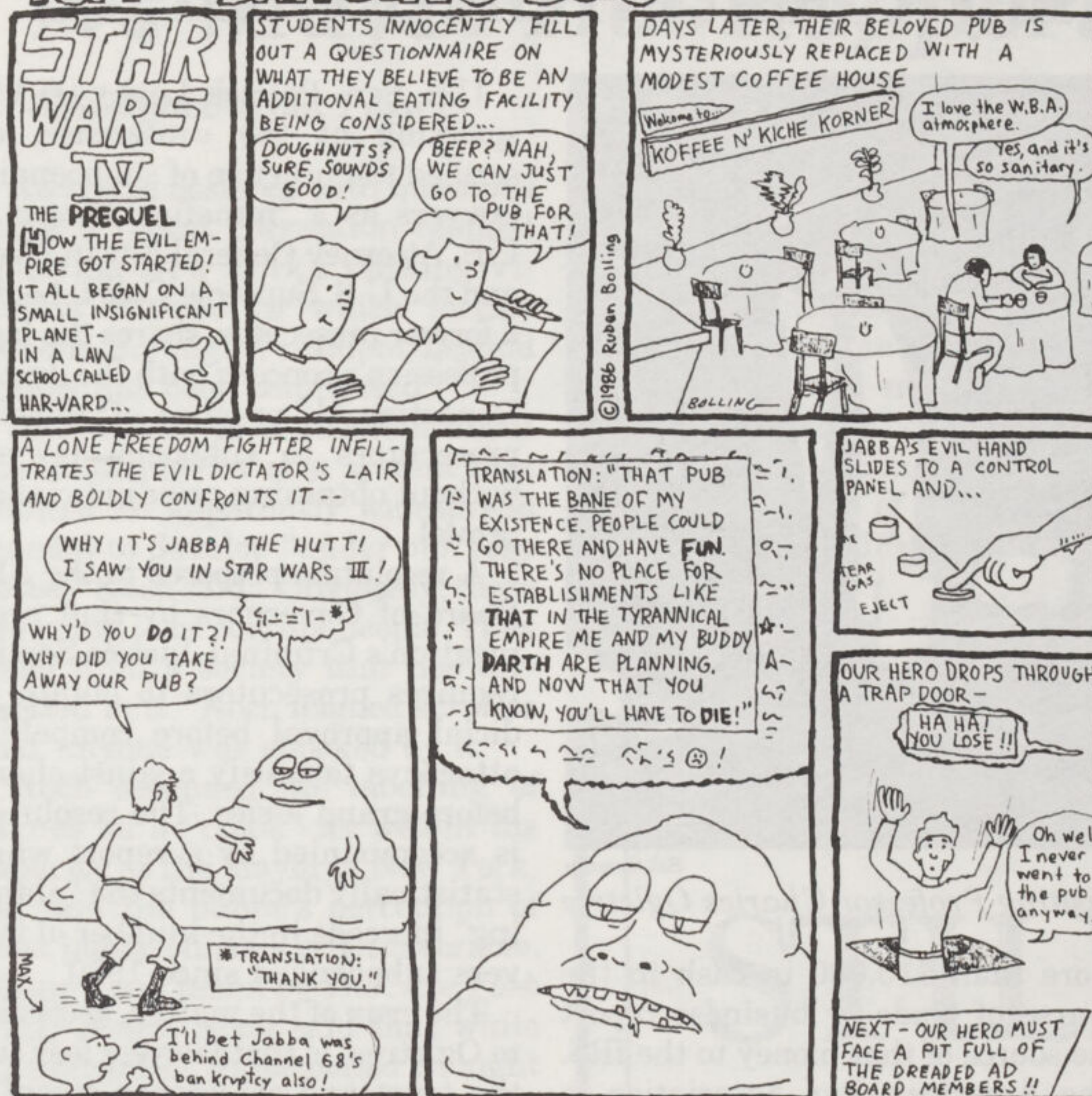
"Because students are not allowed to have opinions here if these opinions differ from those of the RIGHT AND GOOD ADMINISTRATION! What do you think, the First Amendment applies to a private institution?!" it bellowed.

"But I just don't agree with you, that's all," Fenno said.

"WHAT?!!!" the Administration screamed. "That is blasphemous! If you don't remove your letter, we will sue you!!!"

Fenno hung up the phone and rolled over in bed. He would have to start drinking at the Pub early tonight.

TOM the DANCING BUG BY RUBEN BOLLING



Great Moments in the Law

A Kansas law reads in part: "Nothing in this section shall be construed as in any way preventing any political chauffeur to run an automobilious bandwagon at any rate he sees fit provided that not less than ten nor more than twenty ropes be allowed at all times to trail behind this vehicle when in motion, in order to permit those who have been so fortunate as to escape with their political lives an opportunity to be dragged to death; and provided further, that whenever a mangled and bleeding political corpse implores for mercy, the driver of the vehicle shall, in accordance with the provisions of the bill, "Throw out the lifeline."

Letters to the Editor of the Record

Wanted: One Flag

To the Editor:

As I walked by Leslie College [after the space shuttle disaster] I noticed their flag at half-mast in memory and respect of the space shuttle astronauts. Harvard Law School can render no such silent tribute because Harvard Law School does not fly the American flag.

Last summer I wrote Dean Vorenberg expressing my belief that the flag should be flown on the flagpole at Harkness Commons. Stephen Bernardi, Assistant Dean for Academic Administration, responded favorably to the suggestion. He added, however, that, "Since 'flag duty' has not been a part of the staff's routine we will have to wait and see how successful we are in raising the flag on a regular basis."

Though I appreciate the dire consequences which might attend a disruption of "the staff's routine," I believe that raising the flag is considerably less strenuous and more important than mopping the bathroom floor. The American flag should fly every day at Harvard Law School and it should be displayed in accordance with the established rules of etiquette. I hope students who share this belief will make their feelings known to the Dean as often as necessary.

John David Dyche, 2L

The First Cut?

To the Editor:

Closing the pub would be like plunging a stiletto in my heart.

Joe Rzeppa, 2L

How Far Have We Come?

To the Editor:

This letter is to express my support for the Backbench Pub and to oppose any plans to close it down.

The Backbench Pub serves a very useful purpose at the Harvard Law School. It is one of the few places where law students can go to relax, and socialize with each other outside of a classroom context. To turn the pub into a coffee shop would simply increase the perception of the law school as a place where students should spend 100% of their time working. I.e., Harvard students need coffee to stay awake studying, not a couple of beers to relax.

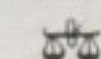
The problems of the pub have been blown out of proportion. There are almost never any underage drinkers in the pub, especially this year, and I think most faculty meetings are more "rowdy and NFLish" than an average night at the pub.

The people who want to close the pub down probably aren't reacting to any real problems

at the pub; they simply are applying the old Massachusetts Puritan ethic which is to suppress any activity that they personally oppose.

Surely at a law school where we are taught to respect individual rights, we have come farther than this.

James F. Hoffman, 2L
David E. Sorkin, 1L
Wayne Anderson, 1L



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.

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.

Attack On Attorney-Client Privilege Charged

By Eric Sullivan

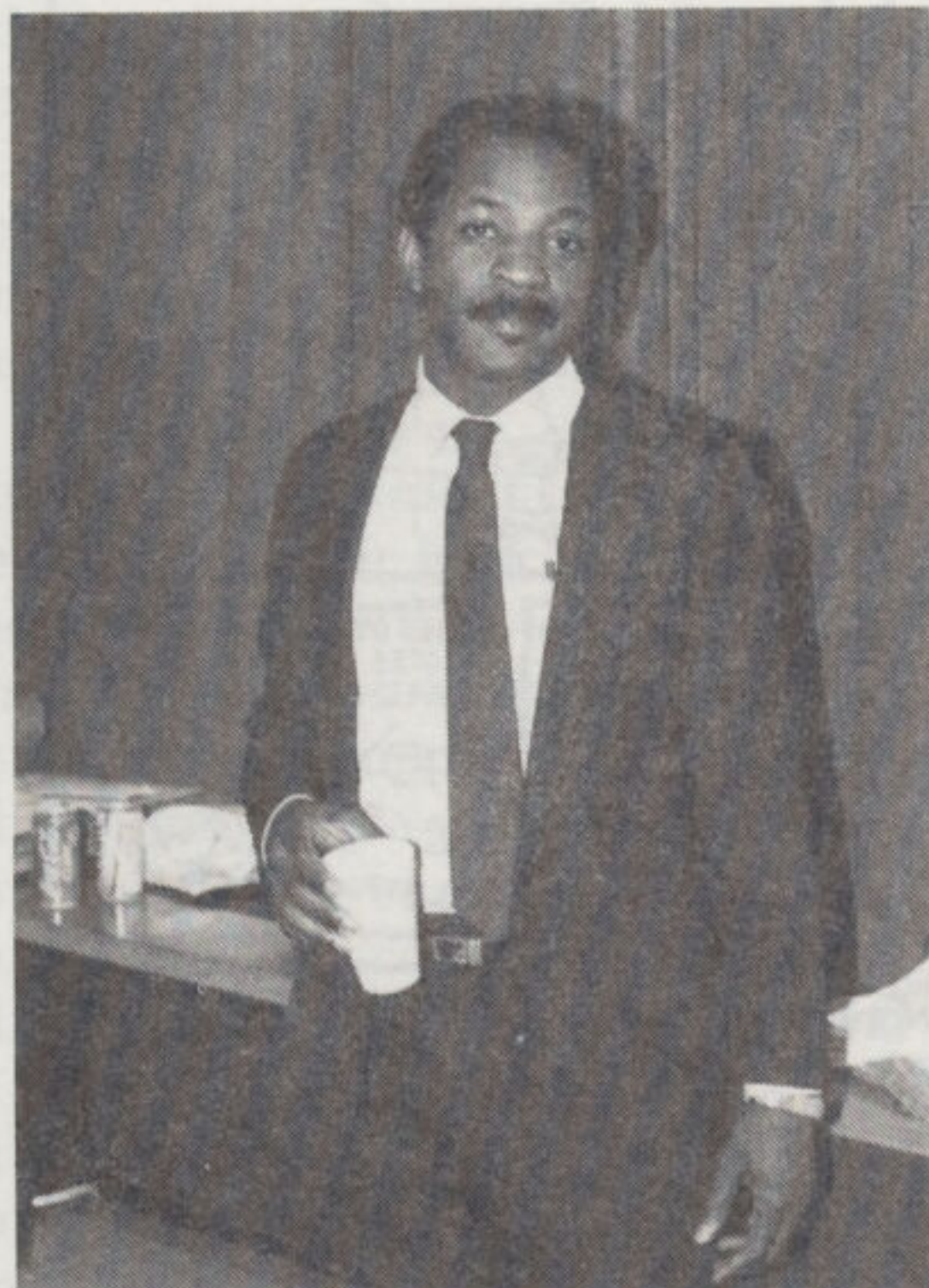
HLS hosted the Conference on Defending the Right to Counsel on Feb. 1. The conference, sponsored by a diverse group of legal organizations that include the National Association of Criminal Defense Lawyers, the American Civil Liberties Union, and the Massachusetts Bar Association, focused on recent threats to the attorney-client privilege.

According to HLS visiting Professor Charles Ogletree, a member of the conference's planning committee, the conference was attended by more than 200 lawyers representing a wide variety of legal practices and political views. Lawyers from all over the country descended on HLS to discuss Justice Department activities that threaten to undermine the attorney-client relationship.

Ogletree believes that the threat stems from the Reagan Administration's attempt to "go after" lawyers involved in illegal activities. In its attempt to crack down on dishonest lawyers, particularly those involved with organized crime, the Justice Department has ignored all "reasonable boundaries," Ogletree said last week. "Its net is wide, and the legal community as a whole is outraged."

In their invitation to participants, conference planners described several recent threats to the sanctity of the attorney-client privilege, among them, the May 30, 1985, sentencing to prison of Boston attorney Barry Wilson for refusing to testify against a former client before a federal grand jury and the ransacking of a San Diego law office in 1983 by federal agents. HLS Professor Alan Dershowitz, in an article that year, described the incident as part of what he believes is an "Orwellian turn" in the war on crime. According to the conference's invitation, these incidents represent the "tip of the iceberg."

Lawyers are particularly upset by Section 60501 of the Deficit Reduction Act of 1984. The Act requires that any person receiving



Sal Casente

Visiting Professor Charles Ogletree

more than \$10,000 in cash in the course of trade or business report the source of that money to the IRS. The American Bar Association is strongly opposed to the application of Section 60501 to lawyers.

On behalf of the ABA, E.E. Edwards spoke before the U.S. House Ways & Means Committee on May 16, 1985. Edwards told lawmakers that forcing lawyers to divulge the identity of clients who paid cash fees in excess of \$10,000 "seriously erodes the confidentiality of attorney-client relationships." The requirement, he believes, unfairly violates clients' privacy rights by focusing government attention on a client who prefers to pay in cash.

Controversy has also been generated by subpoenas issued to lawyers, calling them to testify against clients before grand juries. According to a report by the Criminal Justice Section of the ABA, this practice has increased substantially since 1980.

A report by the Association of the Bar of the City of New York states that many legal observers believe the Justice Department has been "targetting lawyers" as a matter of philosophy and practice." Ogletree said prosecutors sometimes use subpoenas as weapons against lawyers who are their political or professional rivals.

U.S. Sen. Patrick Leahy (D-Vt.), speaking at the conference, described the practice of subpoenaing lawyers as a "minefield" sown by U.S. Attorney General Edwin Meese and the U.S. Supreme Court. Leahy, a former prosecutor, shares the legal profession's concern with the Justice Department's practice of allowing prosecutors to subpoena lawyers without obtaining prior judicial approval.

A resolution proposed to the ABA Board of Governors by that organization's Criminal Justice Section requires prosecutors to obtain judicial approval before compelling attorneys to testify against clients before grand juries. The resolution is accompanied by a report which statistically documents the "alarming" increase in the number of lawyers subpoenaed since 1980.

The crux of the matter, according to Ogletree, is that lawyers fear that the trust and confidence essential to the attorney-client relationship is being threatened. He argues that if a client is to be represented effectively he must be able to confide in his lawyer. If the client fears that the lawyer will be subpoenaed to testify against him in court, he may refuse to provide the attorney with sensitive information which is essential to the case. The quality of the lawyer's work will consequently suffer, and the client's right to counsel will have been impaired.

Ogletree believes that the problem will be difficult to eliminate because it stems from the "deeper philosophy" of Meese and of the Reagan Administration. The conference was filled with references to what speakers called Meese's notorious lack of respect for the rights of the accused.

Leahy said that as a member of the Senate Judiciary Committee he was extremely concerned with the "bleakness of the landscape for the criminal defense bar at a time when Mr. Meese sets the tone for the Administration."

Several possible methods of restricting the issuance of subpoenas were discussed at the conference.

(Continued on Page 15)

NY Mayor Has Rapport With Forum

(Continued from Page 3)

Koch was besieged with questions about a recent corruption scandal involving New York's Parking Violation Bureau in which former Queens Borough President Donald Manes has been implicated.

In response to a question about the inadequacies of a system that allowed an apparently widespread scandal to develop "under our very noses," Koch said: "Obviously, there are going to be corrupt people. They come from a society that has corruption in it." Koch feigned surprise that anyone was shocked by it.

Koch defended his labelling of Manes as a "crook" as within his capacity as the mayor of New York. He said the public's perception of most public officials is not favorable. Citing a poll taken by *The New York Daily News*, Koch said that while 42 percent of those polled thought most public officials were corrupt, 79 percent thought of him as honest, and two-thirds thought he was doing a good job.

When a first-year student asked Koch why he omitted race from his description of criminals, Koch said he does not "believe that race or economics are relevant to criminality." He compared the current crime rate to that of the Great Depression and said there were more poor people but fewer criminals in the 1930s. Therefore, he concluded, crime is not linked to poverty.

Help For Homeless

Defending the New York program to help the homeless, Koch said the city provides for "the largest number of homeless people of any city in the country, although New York may not have the most homeless people of any city. The city provides three meals a day, bedding, medical care and a recreation room to the homeless," Koch said. "One-third never leave the building, and nobody is ever turned away," he added.

The real problem, according to Koch, is the federal government.

As long as federal officials will not allow New York to use money designated to the city's homeless for permanent shelters, the city will continue to spend exorbitant sums on hotel rooms for the homeless. The issue of permanent housing for the homeless will not be satisfactorily addressed, Koch said, "until the federal government gets back into the business of building low-income housing. It's as simple as that."

Asked about the views of New York Governor Mario Cuomo and Vice President George Bush, Koch commented parenthetically that he doubts that Bush "will ever be President." Koch also revealed his two favorite Chinese restaurants: Peking Duck, at 22 Mott Street, and Sun Lok Kee, at 13 Mott Street. His advice on ordering, "Eat what the Mayor eats."

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Pub Dispenses Movies, Good Cheer

(Continued from Page 2)

the Pub a better and more popular place to be," and intend to continue printing newsletters, writing on blackboards and putting up signs to promote the Pub. "We want it to be busy on the nights we work," she said.

Hawkins said that so far, the response to the newsletter, movies and special events has been very good. He said for example that during SIA's Noche Latina "business was excellent and the Pub sold 16 cases of beer in one evening." He also said that he would estimate business has increased by about 500% on Tuesday nights when he bartends because of the promotions.

Richard estimated that at least three times as many people come to the Pub on Monday night for "Cult Movie Night with Hillary" than did before the newsletter and movies started.

Optimistic About Future

Both Hawkins and Richard were optimistic about the Pub's future and said that they thought there was a good chance Upton would not close it down.

"I spoke with Dean Upton about the future of the Pub. She said that

she had no clear end objective, and was currently analyzing her alternatives about the future of the Pub," Hawkins said. However, he believes that she does have some prejudices against the Pub, and characterized the questionnaires Upton sent around about a possible coffee house instead of the Pub as a "misleading and sloppy way to do a poll."

Hawkins said that the Dormitory and Student Affairs Council (DSAC), which runs the Pub, has had its problems, and sometimes the Pub was not well managed, but he also feels that it is important for the Pub to remain open and to be student-run.

Hawkins feels that Upton's concerns for the management of the Pub could be met by better organization and a tighter management structure. "It needs to be more explicit as to who has what duties and obligations toward the Pub, so that everyone knows who is responsible for what," he said.

Problems Corrected

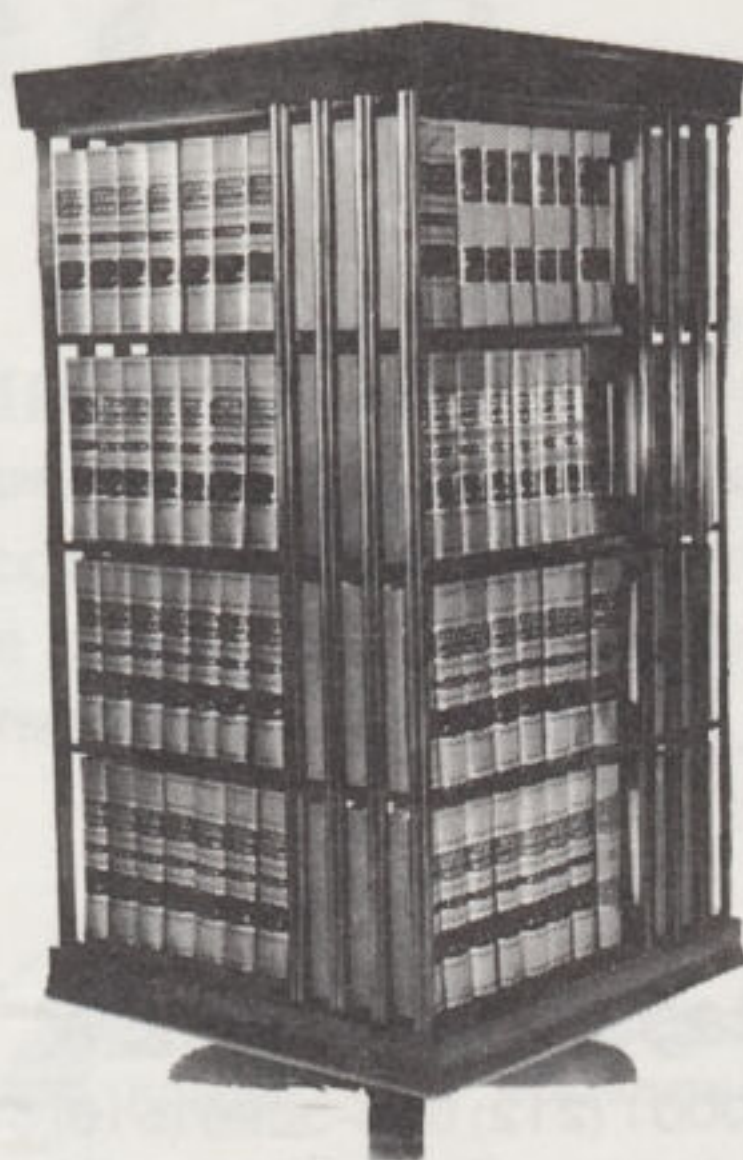
However, Hawkins believes that many of the Pub's problems from last year have been corrected.

"I hope that the Pub can become a place where lots of different people from the different 1L sections and

2L and 3L classes can come together in one place to meet and socialize," Hawkins said. He added that it is very important to have a place like the Pub on campus, and pointed to SIA's Noche Latina at the Pub as being a prime example of this. "There were a lot of people there I haven't seen in the Pub before and they all seemed to be having a good time."

Hawkins also said that ideas for the future in the Pub may include serving snacks and possibly live entertainment in the pool room next to the Pub. Hawkins feels that bands from the Boston area could come and play in the room, and that there would be plenty of room to dance. "Out of a student body of 11,600 people, we ought to be able to get enough people to come to the Pub to make one concert feasible," Hawkins said.

Bruce McCall, 3L, president of DSAC, the organization which runs the Pub, said that Richard and Hawkins have been doing a very good job with the Pub and that business is definitely up.



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Minow, Estrich To Continue At HLS

(Continued from Page 1)

When contacted by the RECORD, Estrich said that "although I would like to be able to talk, I just can't. You'll have to ask Jim Vorenberg about this."

Minow, in comments relayed to the RECORD by her secretary, said that she could not answer any questions concerning tenure decisions by the faculty.

Currently, Martha Field and Elizabeth Bartholet hold tenured positions at HLS. Last month, HLS recently announced the appointment of Professor Mary Ann Glendon of Boston College Law School as a tenured professor. If the Joint Committee approves the tenure of Estrich and Minow, HLS will have five tenured women faculty members.

Rumors also abound that there are as many as six other assistant professors at HLS whose appointment as tenured faculty will be considered over the coming year. The other candidates for tenure are said to be Assistant Professors Christopher F.

Edley, Jr., Richard H. Fallon, Jr., Louis Kaplow, David W. Kennedy, Daniel J. Meltzer, and Daniel K. Tarullo.

Recent history at HLS shows that few candidates considered for tenure fail to receive it and that the Joint Committee on Appointments nearly always approves a decision by the faculty to grant tenure.

Estrich graduated from HLS in 1977. Elected as the first woman president of the *Law Review*, Estrich later clerked for Judge J. Skelly Wright of the U.S. Court of Appeals for the Second Circuit and for Justice John Paul Stevens of the U.S. Supreme Court. She joined the faculty in 1981.

Estrich teaches courses in criminal law and labor law, as well as several other subjects. She also has been an active participant in national Democratic Party politics. Born in Lynn, Massachusetts, Estrich earned her B.A. at Wellesley College.

Minow, a native of Illinois, earned an A.B. degree at the University of Michigan, a master's degree in ed-

ucation at Harvard, and in 1979 a Juris Doctor at Yale Law School. After clerking for Judge David Bazelon of the U.S. Court of Appeals for the District of Columbia Circuit, she worked for Justice Thurgood Marshall of the U.S. Supreme Court. Like Estrich, Minow joined the HLS faculty in 1981. Her legal interests include family law and law and education.

Sources would not say whether either Estrich's or Minow's candidacy met with any opposition from members of the faculty. Discussions of a candidate's qualifications at faculty meetings are deemed completely confidential.

Subpoenas Of Counsel Decried

(Continued from Page 10)

Leahy expressed hope that the Senate and the House will play a role through some type of legislative solution. State legislatures might also adopt laws similar to the proposed ABA resolution prohibiting a prosecutor from subpoenaing a lawyer unless judicial review has occurred.

The Massachusetts Supreme Judicial Court has proposed that Massachusetts adopt legislation of this sort. In light of extremely high conviction rates, Ogletree hopes that prosecutorial discretion will ease the problem somewhat as prosecutors realize they do not need to subpoena lawyers in order to get convictions.

Besides allowing lawyers to share information about the Justice Department's attack on the attorney-client privilege, the conference took specific action aimed at solving the problem. The first step in what Ogletree expects to be an "uphill battle" was a decision to meet again in April to form a national organization whose purpose will be to monitor cases involving threats to the attorney-client privilege.

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Financial Aid Form Signatures At Issue

(Continued from Page 1)

added that HLS failed to provide her and many other students with financial aid package estimates until last fall. "It was difficult to come back to school with no idea of what kind of aid I would be receiving. . . It really made me angry that the financial aid office had time to sit around and compare signatures when they couldn't evaluate my initial aid package until mid-October after I had filed my forms in February," the student said.

Besides the delays associated with the financial aid process, the student also said that the forms HLS requires are largely superfluous. Although the FAO said that federal officials require the GSL means test, the student said that schools such as Boston University, Boston College, and Brandeis University "do not require a GSL means test if you fill out a GAPS FAS and submit copies of parental tax returns."

Despite student criticisms, financial aid officials are referring the rising number of forgeries they are uncovering to the Ad Board because they believe federal audits are possible. In an internal memorandum to Renda Johnson, Dean of Students Mary Upton expressed her concern that "the GSL Program is scheduled for a federal audit in

the near future." Consequently, Upton's memo said that "it is now routine for my staff to verify the income information submitted on the Need Test Form." So far this year, three students have been sent to the Ad Board because of alleged signature forgeries — up from only one last year. In addition, financial aid officials have redoubled their efforts to detect forgeries as they routinely compare parents' signatures given on forms to those on other aid documents their children have submitted or on copies of the parents' tax returns, which financial aid applicants often have to supply.

Signing someone else's name is "not good practice," even on a form letter, Sander said, but it is especially inappropriate when the person whose signature is forged on a document was supposed to certify its truth. At minimum, students should submit their parents' power of attorney, which might legally enable students to sign their parents' names to the aid form. Sander, however, warned that federal authorities might not accept powers of attorney on the forms and told persons signing under power of attorney that they should disclose the use of such a legal device on the forms.

Two of the three students referred to the Board this year admitted that

they signed their parents' names but said they only did so with their parents' permission, "to save time," Sander said. One student said she has a "trusting relationship" with her parents and therefore "didn't think there would be a problem." She emphasized that "all information on the forms was correct," but warned other students not to assume that such correctness would be enough to absolve an aid applicant.

Indeed, the Ad Board has generally taken some kind of action against those students whom it found were guilty of forgery. The board has generally given a confidential warning to students who had permission from their parents to forge their names. "We're really telling [students] this is not a good thing to do," Sander said. "We're trying to do some preventive lawyering."

One student the board is investigating, however, has denied forgery. "That [case] we're going to look at more carefully," Sander said.

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