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25 CENTS

HLS Participates In Moot Court Competitions

By Michael Reilly

HLS students were active recently in regional eliminations in both the American Bar Association National Appellate Advocacy Competition and the Jessup International Moot Court Competition. For the first time in recent memory, HLS will be sending a team to the finals of the ABA competition to be held this August at the ABA National Convention in New York City. The two-man squad of Justin Hughes, 3L, and Tom Rozinski, 2L/Ph.D., bested teams from Boston University and Yale University law schools at the New England regional competition last month.

In the crucial elimination rounds, the HLS advocates triumphed over the first of Yale's two teams and the B.U. team, while narrowly losing to the second Yale team. The men of Cambridge soon wreaked their revenge on the Elis by downing Yale's second team in the semi-final round, but in the final match of the day, Hughes and Rozinski fell to Yale #1 by a close margin. Due to their overall fine performance however, the Harvard duo will accompany Yale #1 as representatives of New England to the national finals this summer. Although ABA tournament officials allow schools to send two teams, Hughes and Rozinski represented HLS alone.

Hughes has been active in debate and parliamentary argument since his college days. In the final argument against Yale #1, he confronted his old friend and rival Sam Marcossion, who argued the same issue as Hughes for the New Haven

school. So evenly-matched were the pair that the three judges could not decide on a winner of the issue — one ruled for Hughes by one point, another for Marcossion by one point, and the third scored them as tied. Besides meeting old debate friends, a highlight of the competition was its location — Bridgeport, Connecticut, Hughes said wryly. He and Rozinski, whose expenses were paid by HLS, stayed in a hotel across from the largest indoor parking garage in all New England.

Despite such attractions, the HLS competitors were able to concentrate on arguing the difficult hypothetical case presented — *First Baltic Church v. City of Greenville*. Hughes explained the case as one involving the First Amendment's establishment and free exercise clauses, together with a major standing/justiciability problem. The facts

resemble those of the many "creche cases" currently being litigated. First Baltic, an Eastern Orthodox parish, celebrates Easter later in the year than Western churches with a re-enactment of the crucifixion. To accommodate crowds at the re-enactment, the church applies for and receives a permit to use the town park as a site for the services. The other churches are thrown into a furor. In the ensuing turmoil, a new city council is elected and votes five to four to retract the permit.

The church brings the suit alleging that Greenville is denying its First Amendment rights to use a public forum for the free exercise of religion and speech. Also relying on the Constitution, the city retorts that performance of the crucifixion scene on public property amounts to establishment of a government-

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HLS Marathoners



Risé Peters/Adele Hendrix

HLS students who ran the Boston Marathon: (Left to right) Nina Pillard, 2L; Romano Subiotto, LL.M.; Fiona Branton, 1L §2; Brian Boyle, 3L; Randall White, 3L; Steve Grygiel, 3L. Runners not pictured include: John Gallo, 3L; Doug Hagerman, 3L; Tom Kellenberg, 3L; Peter Menell, 3L; Thomas Perez, 2L; Dave Taylor, 3L; Jeff Toobin, 3L; Claire Sylvia, 2L and David Johnst, 2L. Dan Schelesinger, 3L, placed 9th and won \$6000.

U.S. And Nicaragua Have Their Day In Court

By Susan Povich

If the United States had submitted to the World Court's jurisdiction in Nicaragua's action against the United States, Professor John Norton Moore would have made an exciting and challenging opponent for Nicaragua's counsel, HLS Professor Abram Chayes '49. These two renowned legal scholars did finally get their day in court, although the courtroom was in Langdell North Middle rather than in the Hague.

Both the merits and ramifications of the case were debated by Moore, professor at the University of Virginia Law School and special counsel to the State Department, and Chayes, former legal advisor to the State Department. Moore gave a detailed factual analysis of Nicaragua's "continuous and ever strengthening" alignment with the Soviet bloc and the resulting alleged Cuban/Nicaraguan-sponsored attacks launched from Nicaragua into neighboring states in Central America. Moore called Nicaragua a "sanctuary for radical terrorist attacks" and noted the alleged presence of terrorists from Colombia's M19, Argentina, Uruguay, Italy's Red Brigades, the Palestine Liberation Organization, the Irish Republican Army and numerous East German and Soviet advisors.

Citing U.S. Congressional Reports, intelligence documents, reports of the Kissinger Commission and articles appearing in *La Prensa*, the leading opposition newspaper of Nicaragua, Moore asserted that there had been an unprecedented military buildup in Nicaragua. Therefore, he said, the United States is justified in using force to respond to apparently illegal, aggressive attacks by Nicaragua on El Sal-

vador, Costa Rica, Honduras, and Guatemala. Although Moore relied primarily on U.S. assessments of the extent of Soviet aid to Nicaragua and Nicaraguan aid to the Farabundo Marti National Liberation Front (FMLN) in El Salvador to judge the damage inflicted on the Salvadoran government forces by the FMLN, the military wing of the Salvadoran rebel movement, he also cited FMLN statistics, which the Salvadoran government denies.

Due to the pending state of the case in the World Court, Chayes' discussion of the facts of the case was limited. He concentrated instead on the role of the World Court in adjudicating international legal and politically charged issues. Chayes did not detail the case that he presented at the Hague. He chose instead to elaborate on the jurisdictional and admissibility arguments which underlay the United States' refusal to take part in the hearing on the merits of the case.

Moore emphasized the Nicaraguan violation of the United Nations' and Organization of American States' charters, which prohibit aggressive attacks in international relations, and provide the right to respond with proportional force to such attacks. Viewing state-sponsored terrorism as the most fundamental threat to the world order, Moore cited the Rio Treaty, which incorporates Article 51 of the UN Charter and gives the United States the right of collective self-defense when any American state is the object of international aggression.

Moore contended that this defensive response "has never and is not now state terrorism or otherwise illegal. To make such a charge is to undermine the most important distinction in the UN and OAS Chart-

ers, that between aggression and defense."

Chayes drew a different fundamental distinction, that between aiding a preexisting indigenous insurgent movement, and recruiting, funding, training, and directly controlling a destabilizing insurgent movement. According to Nicaragua, which repeatedly denies launching secret attacks against its neighbors, the U.S. action is aggressive and illegal.

Chayes contended that if the World Court had not exercised its jurisdiction, the Court would have legitimized the U.S. right to use force as a tool of international diplomacy. The United States has already asserted this right by refusing to take part in the proceeding before the World Court and, according to Chayes, by evoking an image of Hobbesian international relations. He closed his discussion by speculating that the decision in this case will be the starting point of all future analyses of the use of force in the international arena.

Moore didn't believe that this decision would have so great an influence on future state action. He cited what he considered to be numerous procedural flaws, including the dismissal, *ex parte*, of El Salvador's petition for intervention. Moore described the exercise of jurisdiction by the World Court as "legalism run wild" and as a severe blow to international respect for the Court.

Chayes, on the other hand, argued that "the World Court, not Harvard Law School, should be the forum for the resolution of these issues." Arguing that every Court decision is inherently political, he drew distinctions between the policy oriented U.S. Supreme Court opinions and the formalistic, conceptual World Court decisions. He noted that even the U.S. judge on the World Court voted against the United States on the admissibility issue.

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CR/CL Speakers Cite 1st Amendment Retreat

By Mike Sturm

The Harvard Civil Rights/Civil Liberties Law Review presented a panel discussion last week in honor of the 20th anniversary of the CR/CL. The panelist who included Norman Dorsen, HLS Visiting Professor Charles Ogletree, Barry Lynn, Barbara Arnwine, and the moderator, HLS Professor Frank Michelman, addressed the subject of "Civil Rights/Civil Liberties: The Challenge for the Future."

Lynn, a lobbyist and legislative counsel for the American Civil Liberties Union, began the discussion with an analysis of the status of the First Amendment in Congress. Lynn said Congress tends not to think in terms of First Amendment problems unless someone else raises the issue. This is particularly true when First Amendment values conflict with other national goals, such as health, safety, protection of children, clean government and national security.

Lynn argued that because the courts are becoming less receptive to the protection of individual rights, organizations concerned with ensuring First Amendment freedoms will have to focus their efforts on avoiding approval of restrictive legislation. Lynn concluded that "the specifics underlying the majestic generalities are being forgotten" and that the instinct to suppress "bad" ideas now seems to be winning out over the more desirable remedy of generating counterspeech.

Present Civil Rights Litigation

Arnwine, a member of the Lawyer's Committee for Civil Rights Under Law and an experienced litigator, followed with an evaluation of the present state of civil rights litigation. She said the most difficult problems in civil rights litigation are issues of causation and the formulation of appropriate remedies. In her opinion, the challenge for new scholars and practitioners is the use of underutilized federal laws such as the Fair Housing Act and the Thirteenth and Fourteenth

Amendments, as well as state Constitutions, to produce new gains.

Ogletree, a CR/CL alumnus, began his discussion by describing how far HLS has progressed in the 20 years since CR/CL was founded. Nonetheless, he argued that in recent years a "hasty retreat from the protection of individuals on the basis of rights," has occurred. He called prosecutions against civil rights workers trying to register voters during the past few years an example of the "chilling reality" of the present situation. Ogletree concluded that it is imperative that students who understand the importance of civil rights not be dissuaded from involvement by the illusion of success.

Dorsen, president of the ACLU and a professor of law at NYU, was the final speaker. He began by noting that the ACLU had recently won a rare victory in the Judiciary Committee when the Committee met and there was no quorum. He also repeated the ACLU's standing offer to purchase the Civil Rights

Division of the Justice Department in fulfillment of President Reagan's desire to turn over government operations to the private sector.

On a more serious note, Dorsen discussed the trends in society away from enforcement of individual rights and toward the goals of the fundamentalist religions. Discussing a "worst case," Dorsen spoke of the Supreme Court overruling *Roe, Mapp*, and *Miranda*, a movement by the religious right to force women out of the office and back to the home, an increase of police brutality and a renaissance of McCarthyism over the issue of terrorism.

Dorsen stated, however, that "we should not be without hope." He said that at HLS in the 1950s, it was impossible to believe that the right to abortion would be protected by the Constitution less than two decades later. Indeed, a period of expansion of personal rights might follow upon the present conservatism, he said. "The great danger is apathy," he added.

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Year In Review

Popular Press Focuses On HLS Strife

By Bruce Kelly

Not since the days of the *Paper Chase* movie and TV series has HLS attracted as much attention in the popular press as it did this past year.

Controversy over the Critical Legal Studies (CLS) movement and the effects of the CLS dispute on the reputation of and education provided by the law school has kept HLS in the spotlight.

Building on a 1984 *New Yorker* article by Calvin Trillin, interest in the CLS "feud" was heightened by three incidents: the spring 1984 decision to postpone for two years a decision on tenure for Professor Claire Dalton, a CLS adherent; conservative Professor Paul Bator's announcement in the fall of 1985 that he was leaving HLS for the University of Chicago Law School; and a mid-December letter by Dean James Vorenberg addressing alumni concerns that faculty strife threatened the school.

Each incident provoked a new wave of press coverage. Typically, the articles characterized the issue as a "feud," and emphasized both personal and philosophical conflicts. For example, *TIME* magazine (Nov. 18, 1985) reported that some CLS adherents "flaunt a confrontational 60's style of incivility and antic provocation in relationships with their colleagues."

The focus of the articles was frequently on Professor Duncan Kennedy, described in a *Washington Post* commentary (March 9, 1986) as "the [CLS] movement's unofficial spokesman and cheerleader." Articles cited Kennedy's proposals to admit students by lottery and to pay janitors as much as professors.

A piece by Louis Menard in *The New Republic* (March 17, 1986), characterized CLS as "radicalism for yuppies," and said Kennedy "advises young lawyers to resist oppression by refusing to laugh at the senior partners' jokes." Even a generally flattering report in the *Boston Phoenix* (Feb 18, 1986) repeated "the oftheard joke" that

Kennedy "believes the revolution will come when he ties up the xerox machine at Cravath, Swaine & Moore."

Kennedy refused comment for a recent *Boston Globe Sunday Magazine* article (April 27, 1986), in which he was quoted as saying, "I think I'll pass." That article had to be satisfied with past Kennedy quotes. Articles have contrasted Kennedy with Professor Robert Clark, described by *TIME* as "a leading opponent of the crits."

The CLS movement was linked in some articles with the Legal Realist approach of the 1920's and '30's as attacking the view of law as an objective "science." With the notable exception of a commentary by Paul M. Barrett, 2L, in the *Washington Post*, most reports failed to mention the post-World War II reaction to the Legal Realists by the Legal Process school, omitting part of the historical context of the CLS approach.

Although a few articles discussed

the effects of CLS on teaching, most emphasized the negative consequences of the controversy on attracting and retaining faculty. The "faculty feud" was portrayed as hurting efforts to attract experienced professors (evidenced by no "lateral" appointments since 1981), producing a dead-lock in tenure decisions (evidenced by the Dalton decision), and driving away conservative faculty (evidenced by Bator's departure and a *Harvard Crimson* article suggesting that five others were contemplating leaving HLS).

As discussed in a related "Year in Review" article, the spring of this year saw several lateral appointments and favorable tenure decisions on "leftist" professors. It is unclear whether these developments indicate that the press reports reached overly dramatic conclusions about an appointments deadlock or whether the publicity over the CLS dispute may have encouraged faculty moderation.

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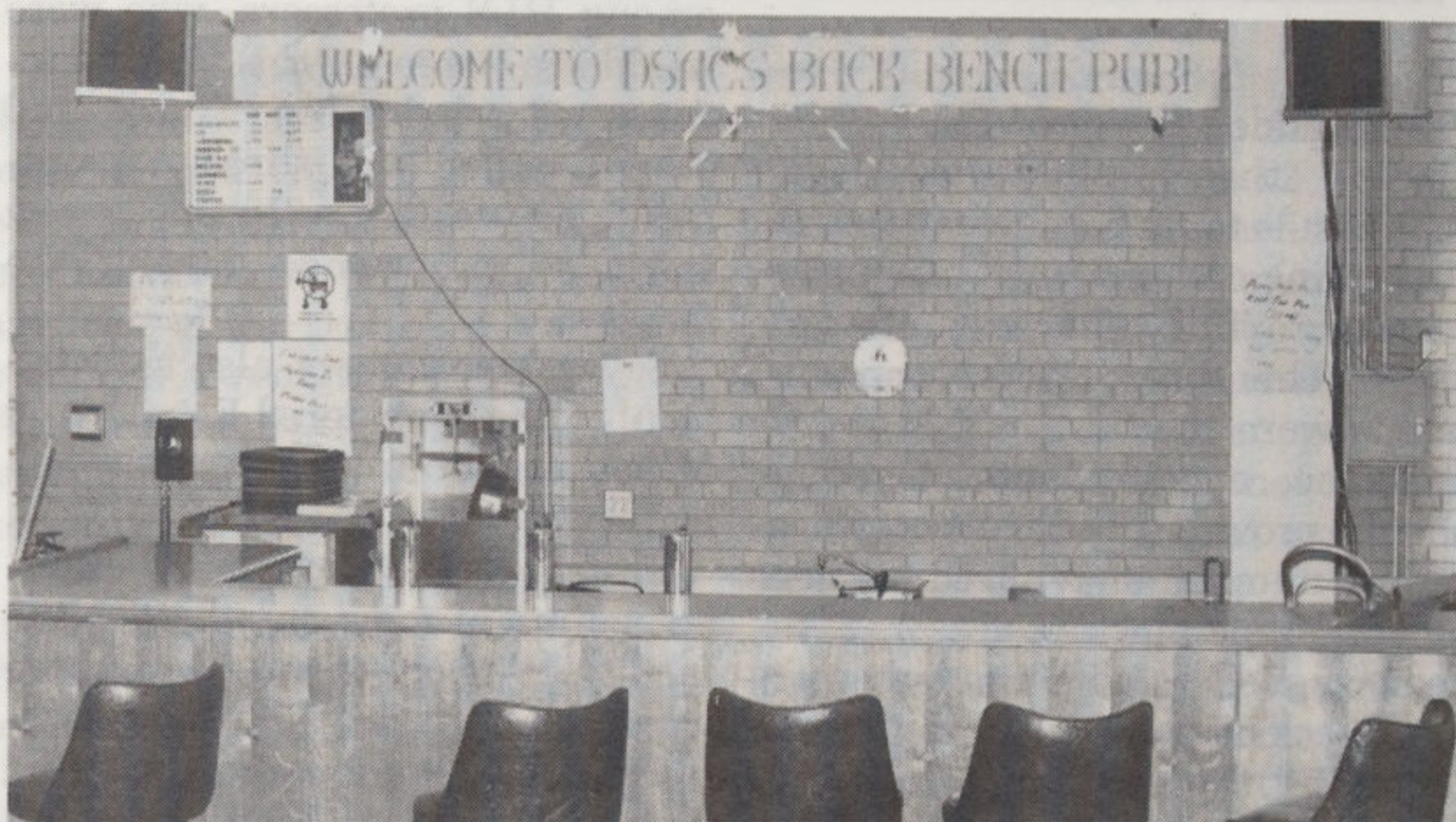
Year In Review Back Bench Pub Survives Challenges

By David Rabinowitz

For much of this past school year, the Back Bench Pub was the focus of considerable, and often heated, controversy. After a conflict surrounding the decision of the Pub's management to serve Coors beer last fall, the debate shifted to the question of the Pub's very existence — whether it should remain in its present student-managed form and serve alcohol, or instead be converted into an independently-operated coffee shop. In February, the prospect of losing the only place of its kind on campus where students can meet and relax spurred a student petition that thwarted apparent Administration desires to eliminate the Back Bench. More recent efforts by the current Pub management have helped to attract more business and ensure the Pub's continued success.

The Coors Debate

The first controversy developed last September when the Pub's management decided to carry Coors beer, which had just become available in Massachusetts. That decision was met by an immediate outcry from students who vehemently opposed the sale of Coors because of the company's alleged positions on civil rights, women's rights, workers rights, and environmental issues. As a result, the Pub's management and the DSAC Executive Board, which oversees the Pub, informally



Adele-Marie Hendrix

The Back Bench Pub survived, despite numerous threats to its existence.

decided to stop selling Coors. But that decision, too, quickly encountered strong opposition.

The issue came to a head last September 30, when DSAC formally considered whether the Pub should serve Coors. The debate, as reported in the Oct. 4, 1985 RECORD (Vol. 81, No. 3, p.1), became charged, with those opposing the sale stressing the moral issues involved and those favoring Coors emphasizing the economic factors and equating a decision not to sell the beer with "totalitarianism." The close vote — 16 to 15 with 2 abstentions — came out in favor of selling Coors in the Pub.

The End of the Pub?

The first hint of the possible eradication of the Back Bench was reported in the Oct. 18, 1985 RECORD (Vol. 81, No. 4, p. 1). On October 9, Dean of Students Mary Upton organized a "working group" to discuss potential uses and existing problems at the Pub. At the meeting, Upton reportedly stated "Maybe we can turn [the Pub] into an ice cream parlor." Although that statement was discounted by others who had heard it as "tongue-in-cheek," Upton did say at that time that the Pub's going dry was "a possibility." She also stated that she would prefer that the Pub no longer serve alcohol.

The controversy blossomed fully last January, when Harvard Student Agencies circulated a questionnaire to some students requesting input about a proposed new coffee shop. The questionnaire stated that the coffee shop would be located "in the old Pub or in ILS" and would operate between 9 P.M. and 2 A.M., and asked students how often they went to the Pub each week. Rather than complement the operation of the Pub, as suggested as a possibility at the October 9th meeting, a coffee shop open at those hours would have directly conflicted with the Back Bench. If the coffee shop were situated in the Swaine Room, the site of the Back Bench Pub, one of the two operations would have to yield.

In an interview reported in the Feb. 14, 1986 RECORD (Vol. 82, No. 2, p. 1), Upton said that the proposed coffee shop would *replace* the Back Bench. Calling the Pub "the bane of my existence" and "too rowdy and NFL-ish," Upton told the RECORD that she had already solicited bids from outside concessionaires to operate the coffee shop.

During the five days after the RECORD reported on the Pub's fate, nearly 800 HLS students signed a petition to support the Pub's continued existence as the Back Bench.

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HLS Makes Four New Additions To Its Faculty

By David Snouffer

HLS added four professors — including three established legal scholars — to its permanent faculty this spring and promoted two junior faculty to full tenured professorships. The three lateral appointments were the first in five years, and the appointments together should provide the faculty with a record number of tenured women and full-time black professors next year, as well as with the only tenured black on the faculty since 1983.

Joining the faculty as full professors are: Boston College Law Professor Mary Ann Glendon, a family law expert, Stanford Law Professor Thomas Jackson, who specializes in bankruptcy law, commercial law and contracts, and University of Oregon Law Professor Derrick Bell, an expert on constitutional law and minority issues. Glendon and Jackson both were visiting professors at HLS within the past dozen years, and Bell, the first tenured Black on the faculty since Professor Clyde Ferguson died in 1983, was a professor at HLS for more than a decade until the University of Oregon named him as dean of its law school in 1980.

The HLS faculty and a Harvard University-wide appointments committee also voted to offer a tenure-track assistant professorship to David Wilkins '80, a Washington, D.C. attorney. With two other black assistant professors already on the faculty and two black visiting professors scheduled to teach at HLS next year, the school will have six black teachers next year.

The number of tenured women professors will rise from two to five. In addition to appointing Glendon, the faculty voted to promote Assistant Professors Susan Estrich '77 and Martha Minow to full professorships.

A number of professors, including Robert Clark '72, who chairs the faculty's Committee on Lateral Appointments, had attributed the five-year absence of lateral appoint-

ments to ideological differences among HLS professors, who were unable to agree on the same standards of scholarship. Clark and others hailed the three appointments as possibly reflecting a new spirit of compromise among the faculty.

Several professors also said the faculty had considered Estrich and Minow for tenure without ideological acrimony.

Professors have expressed different points of view on whether the faculty's Appointments Committee is on schedule with its tenure deliberations. One 2L who supported granting tenure to Visiting Professor Zipporah Wiseman said the committee failed last month to agree on whether to recommend her for promotion and sent her name to the faculty for a vote this week. HLS administrators declined to comment.

While new professors have joined the faculty, others have left, at least for a time. Professor Paul Bator (LL.B., '56), who held the Law School's Bruce Bromley chair, de-

parted in December for the University of Chicago Law School, where he said he wanted to "take advantage of new opportunities and meet new challenges in teaching, scholarship and practice." Bator had repeatedly criticized faculty infighting.

Meanwhile, Professor Charles Fried, the school's Carter Professor on General Jurisprudence, and former Professor Douglas Ginsburg remain in Washington, where they each have held posts in the Justice Department since last fall. Fried is solicitor general, and Ginsburg is assistant attorney general in charge of the Antitrust Division.

In addition, Professor Roberto Unger (LL.M., '70; S.J.D., '76) spent the past two years in Brazil but plans to return this summer. And Professor Emeritus Clark Byse stopped teaching at HLS this year, in accordance with the school's mandatory retirement policy, and took his talents to the University of Iowa in the fall and to Boston College in the spring. ❧

2Ls Get Basic Course Priority

By Walter H. Sargent

Beginning with the 1986-87 academic year, second-year HLS students will receive preference over third-year students in admission to sections in the "second-year basics" (Accounting, Constitutional Law, Corporations, and Taxation) and Evidence.

The change is being made to discourage students from delaying their enrollment in those courses in order to assure themselves of admission to sections taught by the more popular professors. Such student practices have, according to a memorandum distributed to all HLS students by three administrators last December, effectively limited students' "opportunity to do advanced work in various fields."

The change in the priority system, which was announced before the preregistration process for the 1985-86 academic year, has drawn pro-

tests from members of the class of 1987, which has been given lower priority for enrolling in the five courses in both its second and third years. A petition attacking the handling of the transition was signed by 395 members of the class of 1987 and presented last May to Vice Dean David Smith (LL.B. '61) and the HLS Committee on Legal Education.

In November, Smith and Assistant Dean Stephen Bernardi (LL.B. '55) considered possible revisions of the planned procedures. The memorandum from the Dean's office in December affirmed the procedures announced earlier in the year, concluding, among other things, that the existence of a 1L section of Corporations last spring and two sections of Professor Tribe's popular Constitutional Law this year substantially reduced a hardship that could not be entirely avoided. ❧

LSAC Supports Harvard Divestment

By Susan Povich

For the Law School Anti-Apartheid Committee (LSAC), the 1985-86 school year began with some unfinished business from the previous spring. Last May, the HLS Administrative Board had issued warnings to 10 students who had participated on April 24 in a sit-in at 17 Quincy Street, the offices of the Harvard Corporation.

Over the summer, HLS Dean of Students Mary Upton sent another warning letter to 119 law students who, in what they called an act of solidarity with the 10 students and a show of support for peaceful forms of political protest, signed a petition in which they said they also participated in the events of April 24. The second letter advised these 119 students that "such behavior is clearly an unacceptable form of protest since it interferes with the University's discharge of its necessary activities."

The Board then began a probe into law student involvement in a protest on May 1 against the visit to Harvard of Abe S. Hoppenstein, Consul General of South Africa in New York. The Ad Board eventually focused its investigation on four students who took part in what became an emotionally charged rally that effectively blocked Hoppenstein's exit from Lowell House, after he gave a speech there to the Harvard Conservative Club.

After meeting informally with several students who had participated in the rally, the Board reprimanded two students, Michael Anderson and Jennifer Granholm, 2Ls. The Board later rescinded Granholm's reprimand because it learned of her participation in the rally only after she came forward and testified for Anderson at his informal hearing.

The two other students, Doug Hagerman, 3L, and Jamie Raskin, 2L, were exonerated due to lack of evidence that they violated University standards of conduct.

Even as the Ad Board looked into the events of last spring, LSAC was organizing a boycott of law firms who planned to interview on campus in October and who represented agencies of the South African government. Covington & Burling, a Washington, D.C., firm, was the only firm targeted by the group that actually interviewed on campus.

Covington & Burling dropped its controversial client, South African Airways, soon after the boycott, but partner Ed Dunkleberger stressed that the decision was unrelated to the boycott.

With the Ad Board proceedings behind it, and armed with what members considered an apparent victory over Covington & Burling, LSAC sponsored a series of daily marches to Massachusetts Hall to show law students' opposition to Harvard's investment policy. Upton frequently observed the rallies.

In March, the first anti-apartheid rally of the spring, attended by approximately 60 students, featured [Congressional candidates] George Bachrach and Mel King, and Pro-

fessor Duncan Kennedy.

After spring break, the Anarchist Film Festival on April 12 hosted "Resistance Rock," a benefit which raised over \$1,000 for the Congress of South African Trade Unions. Speakers Mel King, Chris Nteta and Ed Childs voiced their support for the South African labor movement, as well as the general political struggle in South Africa.

This spring's most prominent display of anti-apartheid sentiment was the shantytown erected in Harvard Yard on April 15 by 150 to 200 undergraduate and graduate students. Law students participated in all aspects of the project, from driving trucks that contained materials to acting as "legal observers" in case of any clashes with the University authorities. Harvard police also stood by as students put up the shanties.

Since the erection of the shanties LSAC has sponsored numerous marches and Law Student sleep-overs.

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written by HLS graduates '84

Sanctuary Movement Works To Aid Refugees

By Julia Loewy

The Refugee Assistance Project (RAP) was inspired last year when a local ordinance declared Cambridge a sanctuary for undocumented political asylees. Laura Distelheim, 3L, formed the group last fall as a result of her experience providing legal services to Salvadoran citizens seeking asylum and to South East Asian refugees through the Trial Advocacy Civil Program.

In discussing the plight of persons seeking asylum, Distelheim, who worked with refugees for three years before coming to HLS, described her personal experience working on the case of a former chemical engineering student from El Salvador. He had compiled a report on human rights which included many tapes and photographs of torture and shootings, including those of university students.

The report was later found and the student was thrown out of school, tortured, and finally forced underground. Having been discovered, he was chased through the streets, and was able to save himself only by crashing his vehicle into a wall, so that he was believed to be dead.

After his escape he was able to recreate much of his report. In spite of his remarkable experience, this refugee did not file for political asylum. Most such applications are rejected, and the most an applicant can do is buy time. Since the INS did not know of his presence in the

country, he felt the wisest course was to take the chance that he would not be discovered.

According to Distelheim, although such persons seeking asylum fit the definition of political refugees under the Refugee Act of 1980, the U.S. government, which supports the regimes in the refugees' native countries, says they are not persecuted and so are not entitled to political refugee status.

Knowing the critical plight of Salvadoran refugees, and recognizing the concerns over Cambridge becoming a sanctuary, Distelheim saw a need for interaction between the undocumented refugees, townspeople, and HLS students.

The group established a hot line to answer questions and tackle refugees' problems. The students would research legal questions, refer housing and other problems to legal services and other attorneys, and answer general questions about what sanctuary meant.

In addition to primarily Salvadoran refugees seeking sanctuary in Cambridge, there are a large number of South East Asian refugees legitimately present in the Boston area who face discrimination, violence from other groups, and problems with housing and employment.

Cooperative Efforts

Working with the Refugee Committee of the Phillips Brooks House from Harvard, students went to Chelsea and Somerville on Satur-

days to work with South East Asian families, helping them adapt to American life by teaching them how to use the bus lines, shop, and find jobs. Some students, mainly from Harvard University, taught English as a Second Language courses.

RAP has worked closely with the Refugee Committee throughout the year. The Committee, which was established seven years ago, helped RAP get in contact with refugee groups. Distelheim said she liked to think of the Refugee Committee and RAP as "one big group."

RAP also worked with the Cambridge Sanctuary Education Committee, and did research on Cambodian refugees in detention camps in Thailand for Refugees International, a group which lobbies on behalf of refugees.

Distelheim stressed that American treatment of refugees "is such a crucial issue today." The way we handle the situation, she said, "will be a big factor in shaping the future." She had little hope that the government will ever offer legal assistance, leaving it up to private groups such as RAP.

Distelheim said "it is a tremendous privilege to work with refugees. They have lost their families, countries, and homes. The great majority of refugees who arrive in the U.S. have been physically and mentally tortured. As just one example, many of the women have been raped multiple times. It is amazing how they get up in the morning and go on, when their whole world had turned over."

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Law School Council, DSAC Reform Intramurals

By Marla Becker

The Law School Council (LSC) and DSAC are planning major changes for both intra-University athletics and intramural sports next year. The two groups will work together to coordinate events and expand the intramural program in an effort to involve more law students in the athletics program.

According to Jay Ward, 2L, president of the LSC, law school tournaments will be run in tennis, squash, volleyball and basketball. The best teams from the law school will play the best teams from the Harvard Business School.

Ward said that competition would probably be limited to the Business School and other graduate divisions at Harvard because of problems with insurance that arise when HLS teams travel to other schools. The Business School was chosen, Ward noted, because "it's a school of comparable size, close to the law school, and there is an unspoken rivalry between us."

Ward noted that he will actively seek to play other schools next year in basketball, because "we're going to trash the other graduate divisions [at Harvard] very soon. We've got such a pool of good players here; plus, we're being coached by a former NBA player [Len Elmore, 2L], so there's no doubt that we'll beat other teams."

Ward contacted the Women's Law Association to see if there was enough interest for a women's basketball league, but said that it was too late in the semester to start a separate league. He hopes that a women's league will be set up in the Fall '86 semester.

Volleyball tryouts for the law school's intra-University team were held in early April. Dale Stackhouse, 2L, Mike Adele, 1L, and Ward will serve as captains of the team. Ward said that the team hopes to establish a co-ed match and a men's match against the Business School.

LSC is planning to work with DSAC in running an intramural football program with other grad-

uate departments at Harvard as well as other schools. Ward emphasized that "the tournaments are open to anyone registered at HLS. We also want to get more faculty involved next semester."

Integrating Intramurals

For next semester, Ward said that he was "especially interested in making [the tournaments] less of an all-male affair, but the problem we face is the fact that there just isn't a large population of women here at the law school, and tournaments represent a big time commitment." It is also harder to organize sports that many women are involved in, Ward noted, such as cross-country running. He added that coed and women's volleyball and basketball teams represented two steps in the right direction.

DSAC is working on its own program to revamp law school intramurals as well, according to DSAC Vice President Bea Krain, 2L, who is supervising the intramural program. The most important change DSAC decided to make this year was to select four commissioners of intramurals who will run the program next year, instead of the current total of two commissioners.

Responding to advertisements placed in the Adviser last month, applicants submitted proposals for intramural programs and were interviewed by a DSAC committee. The committee then selected Joel Waltzer, 1L, as commissioner of volleyball intramurals, Mark Blocker, 1L, as softball commissioner, David Karp, 1L, as basketball commis-

sioner and Mike Abney, 2L, as commissioner of football.

Scheduled for next fall will be programs in football and volleyball; basketball will be played during the end of the fall and beginning of the spring semester. Softball will then take place in the spring. Krain said that the intramural program will be open to anyone registered at the law school.

According to Krain, who also is serving on the LSC Committee on Athletics (known as the Athletics "Student Issue Action Group"), there will be no conflicts between DSAC's intramural program and the Council's intra-University athletics program. The LSC will be working in conjunction with DSAC on several programs, she noted.

Both Ward and Krain are working on the LSC's Athletics Committee to try to improve athletic facilities at the law school, especially in Hemenway Gymnasium. The committee is made up of LSC members, DSAC representative Krain, and interested students. It is co-chaired by 1L Section 1 representative Neil Quinter and 1L Section 4 representative Ted Johnson. According to Johnson, the committee was formed in response to many complaints the LSC received about facilities at Hemenway and about this year's intramural program.

In response to the committee's
(Continued on Page 20)

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Keep In Touch

Harvard Law School is an exciting place to go to school. People here are usually aware of what is going on around them and involved in trying to change their environment in a way that they consider to be for the better. While I have attended HLS, students have striven to change a wide variety of the law school's policies, including how classes should be conducted, encouraging the hiring of women and minority faculty, providing extensive clinical programs and divesting from corporations conducting business in South Africa. Some of the students' efforts have reaped substantial results; others have not been so successful. The most important issue to notice is not how successful their efforts were, but the fact that the efforts were made at all.

In a few short weeks, HLS graduates another group of students, who will begin their lives "out in the real world." With many of these graduates, life at HLS will be the farthest thing from their minds. All of the issues that occupied their time and attention while they attended HLS will decrease in importance and no longer concern them to any great degree.

This phenomenon does not have to happen and should not happen. HLS will continue to be an important influence on the rest of its graduates' lives. People will continue to identify them with the school, connections made while attending HLS will prove to be valuable and doors will continue to open for them because of their degree from the institution. Therefore, HLS should continue to receive the attention, even if somewhat limited, of its graduates.

Alumni from HLS exercise a considerable amount of influence over the conduct of affairs here at the school. Dean Vorenberg was evidently concerned enough about alumni opinion to write a letter to the alumni addressing their concerns. The Office of Alumni Affairs occupies a considerable amount of space in Baker House. Alumni comprise many committees that oversee the direction of the school.

The best way to remain active as an alumnus is to become a member of the Alumni Association. Through the Association, alumni receive news about the school, have an opportunity to join committees conducting a wide variety of business and have an ability to influence HLS policy as an organized group. Not only that, alumni in the Association can continue to receive the RECORD at no additional charge.

If the goals that students have worked for over the past years have honestly held importance, then graduation should not diminish the efforts to achieve them. So, graduates-to-be, stay in touch. HLS wants to hear from you.

G.K.K.

HARVARD LAW RECORD

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Fenno

As Fenno furiously filled in a notebook, a 3L friend arrived a few minutes late and took the empty seat next to him. "Fenno?!" the astounded 3L exclaimed. "I can't believe you're in class. What's up? Writing a letter? I'm so glad — now I don't have to listen to this drivel. Let's do the crossword puzzle."

Fenno glared at him and answered with a stern "Shhhhh... I'm trying to take notes."

After class, the puzzled 3L asked Fenno for an explanation. "It's quite simple — I'm changing," Fenno said. "You're looking at a new Fenno. For way too long now, I've neglected my responsibilities. I've missed too many classes and assignments. No more of this academic slumming. No more outlines, either. From now on, I'm doing all my work, attending classes and even finishing my third-year paper. Believe it or not, I'm going to graduate this June."

His friend couldn't speak — the shock was too much. He followed behind as Fenno rushed to the Hark. Finally the 3L spoke up. "Fenno, can't wait to get to the Back Bench, huh? I know, all this studying wears you down. Let's get a beer."

A solemn, tight-lipped grin swept over Fenno's face as he slowly shook his head. "I'm sorry," Fenno said, "but I no longer drink beer — or any other alcoholic beverage for that matter. Beer is terrible for you. It rots your liver, fattens your belly with senseless calories, and, worst of all, destroys precious brain cells. And besides, the Back Bench Pub is just too 'rowdy and NFL-ish' for me. Too bad they didn't turn it into a coffee shop."

Fenno's friend stood frozen, his mouth agape. "You can't be serious, Fenno," the 3L said. "You giving up beer is like a Critical Legal Studies professor making sense — it'll never happen." "Well first of all, it has," Fenno replied. "And second, I resent that pejoration of a brilliant academic movement. Now if you'll excuse me, I don't want to miss the Women's Law Association debate."

"What a relief," the 3L exclaimed. "At least you still want to rile up the feminists."

"To the contrary," Fenno answered. "I'm ashamed of my past. I'm going to apologize to them. Now I see that all laws, entertainment, literature, and countless other things are sexist and perpetuate the oppression of women. And because a woman can never *really* consent to having sex, I'm going celibate. Besides, we all know that sex spreads diseases."

The 3L shook Fenno awake. "What's the matter with you, Fenno, are you diseased or something? Not only did you just sleep through two classes, but you also missed your third-year paper deadline. You can't graduate — again." Fenno realized that he had had a nightmare. With a scream and a "Let's Party!" Fenno tripped over his pile of Playboys, dove for his case of Meister Brau, then sat back and laughed.

HARVARD LAW RECORD



Great Moments in the Law

A twenty-five-year-old meat salesman from Plymouth, MA was arrested and charged with driving while under the influence of alcohol after consuming nearly all of a five-pound rum cake purchased at a local bakery. Lawyer and client contend it was the cake and not the three beers he had drunk that caused him to flunk a Breathalyzer test administered shortly after his arrest on March 8. The lawyer contends that three beers should not have caused his client to obtain a .13 blood-alcohol reading on the Breathalyzer test.

The lawyer said that if his client loses the case, he will pursue civil damages. He believes a civil suit might force bakeries to either put alcohol-content warning labels on boxes of cakes or pastries made with alcohol or warn customers of the dangers associated with the consumption of such delicacies.

The Boston Globe,
April 19, 1986

Letters to the Editor of the Record

Rambo Racism Decried

To the Editor:

The Asian American Law Students Association deeply regrets the decision by the Society for Law and Public Policy to show the movie "Rambo" at the Pub. We find the movie offensive because it perpetuates a long history of anti-Asian stereotypes, both in popular media and in society at large. The stereotype of Asians as people who regard human life as cheap is only the most blatant example of anti-Asian stereotyping in the movie. Moreover, we find the movie to be particularly inappropriate and insensitive given the current wave of anti-Asian violence directed particularly at Southeast Asian immigrants.

Movies such as "Rambo" are not merely irrelevant fun. They can be quite literally matters of life and death for Asian Americans. Ironically, evidence of this potentially

fatal impact is now being played out in a Cambridge courtroom, where a white man is being tried for the slaying of a Cambodian refugee. Likewise, last week in Revere a man was sentenced for racially motivated harassment of a Southeast Asian family. The dramatic evidence at trial was a photograph of the man swinging a baseball bat at one of his victims. These are some of the consequences of the hatred upon which a movie like "Rambo" depends for its popularity.

Racism takes the form of both the deliberate, recognizable, conscious race hatred and the unconscious, invidious, race-patterned thinking. We do not attempt to categorize the type of racism exhibited by the makers and exhibitors of "Rambo." We do, however, condemn racism in whatever form it may take.

Peggy Kuo, 1L
Asian American Law
Students Association

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.

Understanding Soviet Responses



Martha Stewart

The Chayes' at Sissela Bok's 1985 lectures.

Early this year, Abram and Antonia Handler Chayes visited the Soviet Union to meet with Soviet arm control experts, academicians, and many of Gorbachev's experts on the United States. What follows is an excerpt from the Chayes' trip report, recounting Soviet reactions to President Reagan's Strategic Defense Initiative (SDI).

Mrs. Chayes was Undersecretary of the Air Force during the Carter Administration, while Mr. Chayes served as Legal Adviser to the U.S. State Department under President Kennedy. The RECORD is pleased to present these insights into Soviet perspectives on what is one of the critical international issues of the day.

The Strategic Defense Initiative (SDI) remains the central feature on the strategic landscape for all the Soviets we met — negotiators, scientists, academicians and senior and junior staff at the leading policy institutes. It was the number one item on our agenda in every interview, and discussions of this subject accounted for by far the major share of our working days.

At the same time, these discussions most clearly evinced an atmosphere of searching and sensible realism. The contrast to our last visit to Moscow, in March 1984, was striking. The tone then was strident and heavy-handed. At the time we

commented frequently that such vehemence was counterproductive: one of the strongest pro-SDI arguments for the U.S. public was that if the Soviets were so adamantly opposed, it must be good for us. This time the tone was subtler and more nuanced, searching for ways out of a dilemma posed by the diametrically opposite views that have been taken by the two countries and invested with so much political capital by the two leaders. As one member of the Institute on the USA and Canada said, "Too many speeches have been made on both sides."

It is clear, however, that there is no change in the fundamental opposition of the Soviets to the SDI program. They uniformly asserted (or took it as given) that the idea

**On Reagan's
proposal to
share SDI
technology,
one Soviet said,
"Let him start by
sending me a PC."**

is technically infeasible and militarily unsound. Moreover, there was no "give" on the issue of "linkage," i.e., that progress on offensive limitations or reductions is dependent on stringent defensive constraints. This is put forward not only as a political position, but as an inherent attribute of the strategic situation. One member of the Institute on World Politics described the connection as "organic."

We pushed hard to make people articulate the basis of their objections to SDI. Was it more the economic problem of resource availability or worries about technological pressure? They were perfectly willing to acknowledge that both were important. A specialist in space policy said matter-of-factly that the

Soviets were well behind in the relevant technologies, particularly sensors, information processing and micro-electronics. He also seemed to take the technological spin-off argument seriously, citing the Apollo program as an example.

This expert asserted (as did others) that the Soviets would not and should not mimic a U.S. SDI program. "The first capability of an SDI system," he said, "would be against an enemy SDI system." After all, there would be many fewer targets than in a missile attack, and their orbits would be perfectly known. "But," he said, "why should we put up an expensive space-based SDI system to achieve this capability, when we could build it on the ground at a cost that would be three orders of magnitude cheaper?" Another specialist said the Soviets estimated they could build an anti-SDI system at one-tenth the \$1-2 trillion it would cost us to build the SDI.

But all the people we talked to stressed the military and doctrinal consequences of defensive programs more than the economic or technological. Some of this was a familiar tune. One arms control negotiator charged that through SDI the United States was trying to regain strategic superiority "in the next millenium." But there was a more subtle complaint that the program had already begun to unsettle assumptions and expectations that provide the basis for strategic planning on both sides. The resulting uncertainties are what seems to worry them most.

One of the handful of Soviet experts on military policy said that over 15 or 20 years both sides had come to understand something about the strategic relationship between them and how to manage it. That was now threatened. Very soon, perhaps even now, planners in both U.S. and Soviet military establishments would have to begin working on the assumption that some sort of defensive systems

To The Strategic Defense Initiative

Off the Record

By Antonia Handler Chayes and Abram Chayes

would be in place. He pointed to Weinberger's letter to the President arguing against further commitment to SALT II on the ground that the United States could not accept continued constraints on offensive weapons in the face of a potential Soviet defensive deployment. Decisions on new weapons would have to be made long before the technical uncertainties about SDI were resolved, and certainly before any new agreements on defensive systems could emerge from the arms control process.

What would be the likely Soviet response to SDI? Or the new problems in offensive-defensive arms control efforts? When we visited one expert in his office, he drew a possible "timetable" on a blackboard, assuming that Soviet responses, if any, would lag substantially behind the United States actions. The first "phase transition" would come with the achievement, or perhaps even the perception of a "weak shield" on the U.S. side. At that point, he said, the Soviets might shift to a launch warning doctrine. If the United States achieved a more effective shield, the next Soviet response would be to increase offensive weapons and improve their penetration capabilities.

The net was that the offensive would always be cheaper at the margin, and so economics would favor the offensive. If it turned out somehow that the cost ratio was reversed and the time lag between the two sides persisted, "then we would have to construct some kind of doomsday machine," he said.

On the possibilities for an arms control agreement dealing with mixed offensive and defensive systems, Soviets were equally bleak. The difficulties with establishing agreement of equivalent systems and "counting rules" were very great in an offensive-only agreements like the SALT Treaties. With the introduction of a defensive component, they would become unmanageable. For example, defensive

systems would have to be compared on the dimensions of accuracy and firepower. Thus, if one side's system were half as accurate as the other's, it would need four times the firepower to make up the deficit. Or any difference in the two systems could be offset by allowing the side with the weaker defense to have more offensive weapons.

But it would not be possible to reach agreement on these system differences and the necessary compensating arrangements. "If we could develop the mutual trust and confidence necessary for that, we would be able to disarm," one said. As to technology sharing, it was

Some Soviets said
they understand
the President's
deep feeling
about the
immorality of
nuclear weapons.

uniformly regarded as a joke. There were a number of references to a TV interview in Geneva in which George Will asked one of our hosts, Raolt Sagde'ev, "Don't you trust the pledged word of the President of the United States?" "Let him start by sending me an IBM PC," replied one person we interviewed.

The realism of the current Soviet mood was evidenced by the almost unanimous acknowledgement that there was no chance of getting Reagan to give up SDI. Among the people we talked to, some said they understood President Reagan's deep feeling about the immorality of nuclear weapons, but Soviet views on the "weaponization" of space are equally strongly held. Everyone recognized that both sides were

deeply dug in and that neither could afford a public retreat. The consequence was, on the one hand, a strong desire to search for a formula that would permit real negotiations to go forward, and on the other hand, a rather somber and pessimistic evaluation of the possibility of finding it.

Most of the discussions revolved around the notion of a reaffirmation of the ABM treaty, which prohibits the testing of space-based ABM systems or components of such systems. Some Soviets have toyed with the idea of reinforcing the treaty through amendment negotiations, but they seem to have dismissed it. As one said, "You couldn't just make that one change without opening the whole Treaty up to amendment." We were told that the Soviet Ministry of Foreign Affairs had doubts even about the idea of "reaffirmation" because of the implication that without it the Treaty was somehow ineffective.

On the other hand, there was a nervous concern about what would be reaffirmed. We asked everyone about the Soviet view on the meaning of the "basic research," which is exempted from the ABM Treaty prohibitions. In general, the position was that the Treaty permits "basic" or "fundamental" research, but not dedicated programs. The Soviets, like us, recognize that there are problems drawing such distinctions and at least one expert said the Soviets would be prepared to accept the legality of "laboratory" research, measured by the "under-roof" criterion, suggested by published accounts of Harold Brown's statement in treaty negotiating records.

Others were not so sure and argued that the Reagan administration was distorting Brown's position so as to authorize development that in the Soviet view is prohibited by the Treaty. To them, the United States was saying that there would be no race in space if the Soviets joined with us in SDI. But that was

(Continued on Page 18)

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Carnegie Foundation Gives Negotiation Grant

By David Snouffer

The New York-based Carnegie Foundation announced a \$262,000 two-year grant to the HLS Negotiation Project last month, the second in two years to support research and teaching on improving the U.S.-Soviet relationship.

Negotiation Project Associate Director Scott Brown, who is in charge of the U.S.-Soviet project, said staff members will use much of the money on efforts to help U.S. journalists better understand negotiating processes and the relationship between the two countries by preparing a handbook and holding training sessions for news reporters and producers.

Although the media can have a "significant impact" on arms talks and other contacts between the United States and the Soviet Union, Brown said, journalists have trouble understanding discussions unless they can sympathize with pressures negotiators face. "We hope to make the media sensitive to their influence on various subtle issues, which we feel will allow them to cover negotiations in a more accurate way and a more constructive way."

In the seminars, journalists will enact a negotiating scenario, much as students do in courses taught by Professor Roger Fisher (LL.B., '48), who directs the Harvard Negotiation project, Brown said.

Negotiation Process

Many reporters do not realize that the "process" of negotiations — such as how often the two sides meet and how they work together — can be more important to relations between them than substantive issues the media tends to focus on, such as the number, type and placement of weapons, Brown said. "The political relationship is much more important to American security than the numbers of weapons," he added. "If we set up regular contacts and a methodological approach to the process, then we will establish a relationship that will allow us to deal with problems as they arise."

Brown said reporters should become more aware of how they influence events, as well as just describing them. For example, when young Iranian militants seized control of the U.S. embassy in Iran in 1979, he said, the media had a "potential to prolong the crisis by giving exposure to the students who were holding the hostages." U.S. reporters gave the militants "significant leverage" for a "political voice," he added.

Similarly, Brown said media coverage of U.S.-Soviet relations can

"change messages delivered by both sides and change the process, if not the substance," of negotiations between the two countries.

"There will inevitably be a conflict between quiet diplomacy and the interests of the media, but if journalists understand how to approach negotiations constructively, as they would be approached through the eyes of a negotiator," he said, "then we think their coverage will be more constructive and insightful, even if it's still more public than governments may like." ❦

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Pub Controversy

(Continued from Page 5)

On Feb. 20, five students presented HLS Dean James Vorenberg and Vice Dean David Smith with the petition. That same day, Upton stated in the *HLS Advisor* that she *never* had proposed having a coffee shop replace the Back Bench in the first place. Regardless, the students' voices were heard, and on March 10, the coffee shop opened in the basement of ILS — *not* in the Swaine Room [see March 7, 1986 *RECORD* (Vol. 82, No. 4, p. 2)].

More recently, several students have worked to improve the quality of activities at the Pub and to promote the Back Bench among the HLS community. As reported the February 21, 1986 *Record*, two student bartenders, Hillary Richard, IL, and George Hawkins, 2L, who with Anthony Miranda, 2L, were recently elected by DSAC to manage the Pub next year, began to circulate a weekly newsletter listing movies and other special events planned each week at the Pub. Because of the promotions, said Hawkins, business has been up about 500% on Tuesday nights, when he tends bar.

The Pub's Future

Despite the controversy, or perhaps in part because of it, the Pub has survived quite well. When asked about the effects of the debate surrounding the Pub, Richard said, "I wouldn't have wanted to incite it needlessly, but it was good because it brought the Pub to people's attention. It was cheap advertising." Richard said that the student response had only positive effects. "Everyone was surprised at the depth of support for the Pub. It was overwhelming. It crossed political boundaries, created a lot of excitement, and helped our promotional activities."

The Back Bench Pub now seems certain to continue to serve the HLS student body as a unique place of refuge, relaxation, and socializing. Next year, the new managers plan to continue the theme movie nights and to throw more parties. ☛

The staff of the RECORD wishes to congratulate the outgoing heads of the organizations below for their performance during the 1985-1986 academic year, and to wish them success in future ventures.

Alianza	Gene Baca, Alejandro Jimenez, Debi Ramos	Harvard Journal of Law and Public Policy	Karl Saur
American Indian Law Students Assoc.	Mark van Norman, Gloria Valencia-Webber, Danita Yocum	Harvard Law Couples Assoc.	Dave & Sharon Bassett, Art & Patti Aaron
Asian American Law Students Assoc.	John Nakahata	Harvard Law and Technology Soc.	Walter McCabe
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Board of Students Advisors	Yolanda Townsend, Carolyn Cox	Harvard Law Review	Carol Steiker
Civil Rights Action Comm.	Cecil House, Odeana Neal	International Law Journal	John Barquin
Civil Right-Civil Liberties L. Rev.	Robin Jacobsohn	International Law Society	Beth Golden
Comm. on Gay and Lesbian Legal Issues	Chris Wieber	Jewish Law Students Assoc.	Dan Gordon, Sharon Vinick
Committee on Sports and Entertainment Law	Victor Rivera, Sebastian Hoppe	Journal on Legislation	Paul Bland
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Forum	Karl Fickenscher	Sociedad Inter-Americana	Adriana Ospina-Lara
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		Students for Public Interest Law	Deborah Goldberg, Sarah Walzer
		Volunteers in Tax Assistance	Sandy Thomas
		Women's Law Assoc.	Tracy Thorleitson
		Women's Law Journal	Ruth Borenstein
		Yearbook	Terry Miller

The Board of Directors of the Harvard Law Record Corporation sends a joyful congratulations to the Class of 1986 and salutes the following graduating members of the RECORD staff & board:

Norman Bay
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John Brandolino
George Golder

Justin Hughes
Maurice S. Kane
Gregory K. Klima
Jean Kolling
Brian D. Rance

Russell Marsh
Terry Miller
David Price
David Rabinowitz

Sorry Fenno. Maybe next year!

Analyzing SDI

(Continued from Page 13)

tantamount to an invitation to violate the Treaty jointly in the service of some new concept of strategic stability.

The Soviets know that the U.S. planned program is already out of the laboratory. Whether deliberately or not, Soviet experts do not seem to make the distinction between components and subcomponents which has been used to justify SDI in reports to Congress. Perhaps the Soviets don't fully grasp the distinction. This was illustrated in the charge, made publicly by General Starodubov just after we left Moscow, that the U.S. underground X-ray laser test was an ABM test in violation of the Treaty.

"Reaffirming the Treaty," as far as they are concerned, means reaffirming the traditional reading of Article 5, which they all stoutly maintained was the correct one. But, the problems of treaty interpretation seemed to reinforce their feeling of frustration in their effort to bridge the gap between their side and ours.

Disappointed with the limited results to date in arms control, many American commentators look elsewhere for ways to reduce tension between the superpowers. Some would pursue arms control only if there was the prospect of significant reductions; others would put our energies into improving the underlying political ties. Our view is that arms control is and should be a major vehicle for improving the political relationship, especially because it continues to be perceived by the Soviets as the centerpiece of solid relations between our countries. And even if we only improve the *process* of dialog, we will strengthen a relationship in which arms can be controlled.



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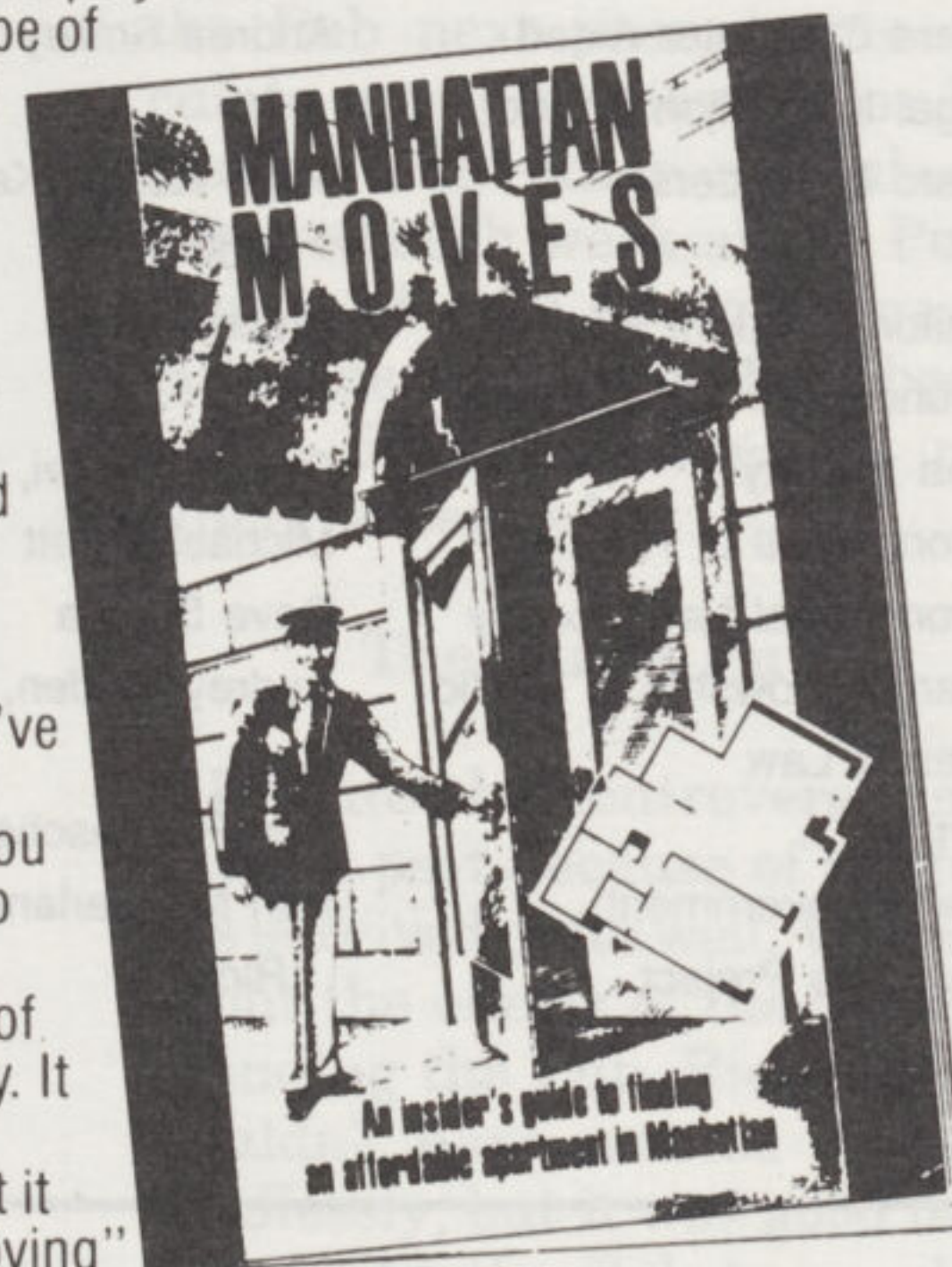
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Student Advocates Head For New York City

(Continued from Page 1)

sanctioned religion. In addition to this constitutional dilemma is a standing/justiciability problem as only the church's pastor is pursuing the appeal — the elders having decided to accept the lower court's finding for the city. Hughes said this is a touchy issue: "Should a secular court determine church hierarchy?"

During the competition, a team must be prepared to argue either side of the case. Hughes said that personally, "I would like to argue the [pastor's] side. . . . I start waxing eloquent about his First Amendment rights."

Although the team did not have to write briefs for the regionals, Hughes and Rozinski will have to present a brief for the finals. They have received assistance from Professor Laurence Tribe and Assistant Professor Kathleen Sullivan in devising strategies. While the Harvard duo has not decided for which side to write the brief, they are continuing to monitor relevant Supreme Court and appellate court decisions which may shape their approach. Whatever side they choose, they will have the opportunity to argue in front of some of America's leading practitioners. Supreme Court Justice Sandra Day O'Connor is rumored to be one of the judges in



Adele-Marie Hendrix

Tom Rozinski, 3L (left), and Justin Hughes, 3L, will be representing Harvard in the national championships of the ABA's Moot Court.

the competition's culmination in the Big Apple.

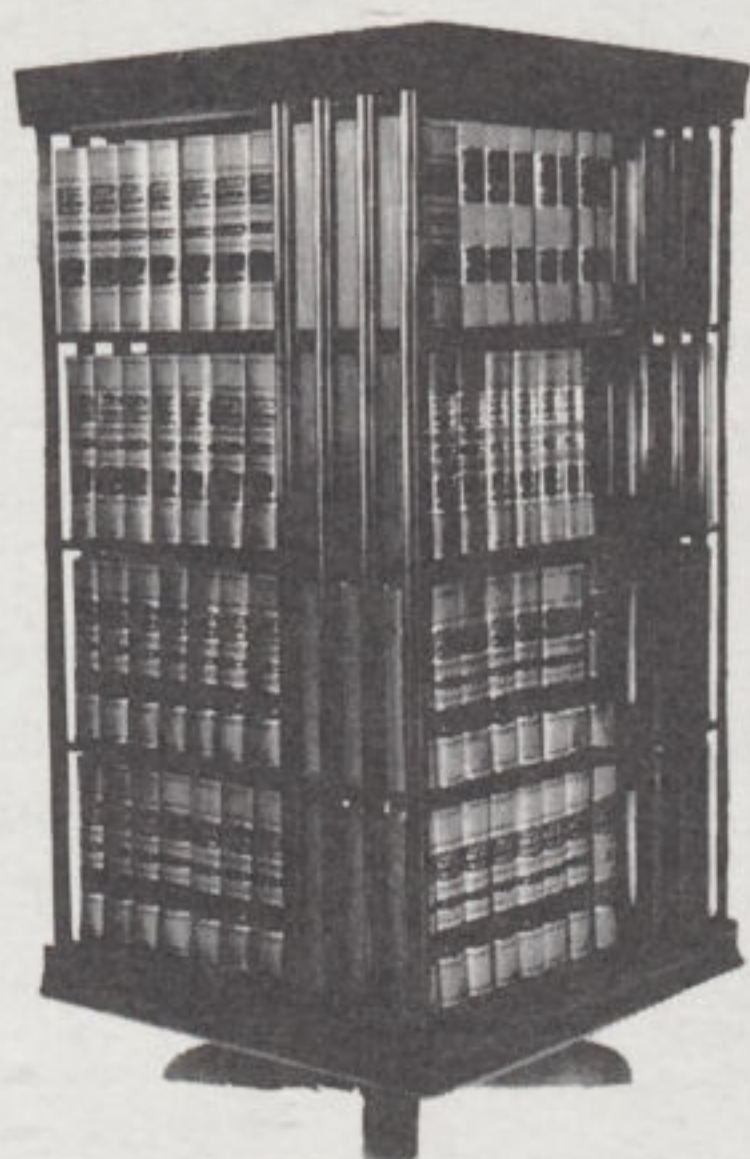
Hughes was also part of an HLS team sent to the regional competition of the Jessup International Moot Court held at Tufts University last month. The team consisted of Hughes, Michael Levitin, 3L/MA, Louis Vlahos, 2L, and John Stevenson, 2L. The HLS group placed third in the regional competition.

When asked about the quartet's performance, Hughes said, "It was all my fault. I lost the second round," while fellow oralist Levitin responded that he had "no comment for the press." The International Law Society aided the HLS Jessup

team in researching the case for preparation of the oral arguments and the lengthy brief.

The case, *Kingdom of Avon v. Republic of Misra*, was modelled on the efforts of Greece to regain possession of the Elgin Marbles from Great Britain. A major problem with the competition, Hughes said, was that many of the judges of its regional round were unfamiliar with public international law and orchestrated the oral argument like that of a U.S. appellate court, instead of an international tribunal like the International Court of Justice.

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Committee Tries To Improve Athletics

(Continued from Page 9)

requests, the University, which leases the Hemenway facilities to the law school, agreed to make some minor improvements in the weight room. Co-chair Quinter said that he will be contacting Scott Anderson, who oversees Hemenway Gym, about fixing the fan and the bench-press in the weight room. The committee is currently trying to get the University to improve the basketball court at Hemenway by replacing wood backboards with glass and replacing the currently uneven rims to make them the proper height of 10 feet.

The other primary concern of the committee was to find ways to work in conjunction with DSAC to dispel the myths that intramurals are exclusively serving men who currently live in the dorms and do not really serve the rest of the law school community.

Plans to spark student interest in the program include the committee's proposal for a bulletin board in the pub which would display team standings and game schedules as well as a proposal for newsletters to students about how the tournaments are progressing, Johnson said.

Successful Program

This year's program was headed by commissioners Jeff Orridge, 3L, and Don Pasulka, 3L. Pasulka commented that this year's bas-

ketball program was very successful, as more than 300 people participated on 35 teams. One problem Pasulka noted was that there were not enough women to establish a separate league, and the women's team had to become defunct.

Next season, Waltzer expects to advertise for team captains and work with them to put teams together. The post-season tournament winners will receive volleyball championship t-shirts, if the budget allows.

Waltzer also explained that the commissioners will be ploughing their commissioner salaries (about \$100-\$200 per commissioner) back into the program in order to pay for championship t-shirts and better equipment. "There is a lot more involved in running intramurals than people think," Waltzer explained, citing the need to find people to referee, keeping track of equipment, financing, and scheduling details that need to be worked out.

Basketball commissioner Dave Karp, 1L, plans on retaining the 9 to 10 game schedule used this year. "The only changes I can foresee now are maybe adding extra-league tournaments — either a one day three on three or a one day team tournament could be a lot of fun."

Karp explained that "the biggest improvements needed in the basketball intramural program are in the facilities themselves, not in the administration," which he characterized as "fairly straightforward."

Karp hopes to have games played

at the undergraduate facilities later on in the playoffs, as "the Hemenway gym is a dump. The floor is too small to meet regulation size, the gym is too cramped, and the floor is old — it just doesn't have the right bounce to it."

The LSC's basketball program is separate from DSAC's intramural teams, Karp explained, as the LSC is sponsoring a law school "all star team" to play other graduate divisions, while DSAC's intramural program will be contained totally within the law school.

Karp said that the future agenda of the commissioners includes a proposal to coordinate the law school's intramural programs with those of the undergraduate division.

Next year's softball program will also be run much like it was this year, according to baseball commissioner Mark Blocker, 1L.

In addition to the serious A league, less serious B league and coed league, Blocker would also like to set up a women's league next semester. He plans to run a tournament at the end of next season as well.

Mike Abney, 2L, will run the intramural football program next fall. Waltzer explained that the money will be used to buy flags so that the program can be changed from the current two-hand touch game to flag football.

Waltzer and the other commissioners repeatedly stressed their enthusiasm for the intramural program plans. "The problem this year was that there just wasn't enough manpower," Waltzer said. "With the committee to work with next year, we're really psyched for a great intramural program." Waltzer also stressed that anyone who wants to participate with the committee in running intramurals should contact one of the commissioners.

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