



# Harvard Law Record

America's Oldest Law School Newspaper

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25 CENTS

## Where Is The 1985-86 Yearbook?

By Marla Becker

Despite rumors to the contrary, the 1985-86 yearbook will be published sometime this year, according to Dean of Students Mary D. Upton. The yearbook was originally scheduled to come out early last fall, but ran into production delays lasting several months.

The Law School Council, particularly through 2L member Ted Johnson and 3L member and former LSC president Jay Ward, is investigating the cause of the delay in the production of the yearbook. The Council sent a memo to all HLS

students on Friday, April 17th, on what it called the "1985-86 yearbook controversy."

### Upton's Investigators

Ward told the RECORD that he went to Dean Upton with the problem; Upton replied that she'd have her investigators look into it. Ward acknowledged that he had heard allegations that the funding for the yearbook was not available and that the money was gone.

Dean Upton explained that "there was a representative of the school in Florida who . . . was investigating

and has spoken with [1985-86 Yearbook Editor in Chief] Teresa A. Miller," HLS '86. Upton would not identify who that representative was.

### Unsolved Mystery

The actual date of publication of the '85-86 book is still a mystery and depends on who is making the predictions. According to Miller, the yearbook should be out this June; Upton predicted it would be out by the end of the summer. But Terry

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## Profs Debate 1L Program

By Ben Lenhart

Three HLS professors recently offered their critiques of first year legal education at the law school. Morton Horowitz, Frank Michelman and Duncan Kennedy addressed a standing-room-only crowd at the event entitled "A Symposium on First Year Legal Education" sponsored by HLS Guild.

Kennedy spoke first and bemoaned the lack of policy and political discussion in first year

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Sal Casente

Sean Reilly, 2L, makes bid for position as Louisiana state representative. Article on page 3.

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# HLS Republicans Organize To Stem Liberal Tide

By David Snouffer

Organizers of the new HLS Republican Club publicly launched their group last week with a pep talk and meeting, where the group's newly elected president, 1L Joe Anderson, promised an end to what he called the "one-party system" at HLS.

About 25 persons turned out for the event April 16 in Pound Hall and heard Massachusetts Republican leader Joe Malone predict that the state G.O.P. soon would be "a far cry from the laughing stock it was just eight months ago." Malone, recently appointed executive director of the Massachusetts State Republican Party, predicted that Republican businessman and party chairman Ray Shamie would usher in "a new spirit of being a fiesty party in the state."

The "arrogance of power" shown by Democrats who control the Bay State's government has created a "giant opening for us to take advantage of," said Malone.

To assist its own fundraising, the group has formed an advisory board which includes HLS professors Phillip Areeda '54 and Robert Clark '72, Harvard College professor Harvey Mansfield, and Glenn Loury of the Kennedy School, who was recently named undersecretary of education. Former Attorney General Elliot Richardson '44 ('47) also will serve on the board, Anderson said.

The group's fundraising brochure states that many law schools across the country "have become hotbeds of liberal/leftist dissent and critique."

The brochure says "the majority" of HLS students "are moderate to conservative" but that student groups, "ranging from the Committee on Gay and Lesbian [Legal] Issues to the Anarchist Film Festival, represent only the liberal side of the spectrum."

Unlike Democrats at HLS, Republican students "have not had an organized voice" in recent years, the brochure says. However, Russell George, 2L, president of the HLS

chapter of the Ripon Society, a nationwide progressive Republican association, said his group has provided an organization for Republicans at HLS since 1962.

Republicans had only 33 of the 160 seats in the Massachusetts House of Representatives, eight of the 40 state Senate seats and no state-wide offices, so Malone said Republicans can rightly blame Democrats for the problems of the state government. "The Democrats have held power in this state for at least 20 years," he said.

"I'm not so naive as to think [a Republican resurgence] is going to happen overnight," Malone conceded. "It's going to take a lot of hard work."

Although Anderson said Dean of Students Mary Upton has given the group some "seed money," the fundraising brochure indicates that the club must raise more to be a "serious

political organization" and asks for contributions of \$50 to \$500.

Elected with Anderson to lead the organization were four vice presidents: Paul Cellupica, 2L, and ILs Charlie Danaher, Saied Kashani and Pam Tabari.

Anderson said the Republican Club can serve as an "umbrella" for people of various views. "We're not all [extremely] conservative, or all to the left of [Sen.] Lowell Weicker" (R-Conn.), he said.

Anderson said he anticipated a "ruckus from the left" when the Republicans bring controversial speakers to HLS. The group needs to recruit ushers and attract "large" sympathetic audiences to counter this problem, he added. No such problems were in evidence, however, when New Hampshire Gov. John Sununu spoke last Tuesday, advocating use of the Seabrook Nuclear Power Plant in that state. ❦

## Miller Leads Constitutional Fete

By Greg Herbert

Five HLS students and Professor Arthur R. Miller joined Boston Symphony violinist Amnon Levy and the Boston Bar Association Orchestra and Chorale on April 21 to help celebrate the bicentennial of the U.S. Constitution in a special concert of American music in Faneuil Hall.

Miller narrated Aaron Copland's *Lincoln Portrait*. One of Copland's best known works, *Lincoln Portrait* mixes popular Civil War Era tunes with battle-like brass to create a musical setting for Lincoln's famous words. "I love music," Miller commented, "and it beats the hell out of writing footnotes."

The 55-member orchestra features Ed Chansky, 3L, and Joe Kohanski, 2L, on trombone; Chris Patusky, 2L, on trumpet, and Pam Tabari, 1L, and Kevin Reed, 1L, on violin.

Levy, internationally renowned violinist and member of the Boston Symphony since 1964, performed Samuel Barber's *Violin Concerto*.

The Boston Bar Association Orchestra began in 1985 at the firm of Homas, Hamilton, Dahmen & Marshall. Thirty of the orchestra's members are from the legal community, including law students, paralegals, legal secretaries and a court reporter.

❦

### Correction

In the April 17, 1987, issue of the RECORD (LSC Proposes Student Funding Board, page 2 of Vol. 84, No. 8), it was incorrectly stated that each HLS student pays an annual student activities fee of \$175; it was also incorrectly stated that discretionary funding is done on an ad-hoc basis by the Dean of Students' office. According to Dean of Students Mary D. Upton, funding of student activities comes from general tuition funds and she has no "discretionary fund."

The RECORD regrets the error.

# 2L Heads South To Pursue Political Career

By Jeff Gershowitz

HLS has been the training ground for a number of leading politicians, and Sean Reilly, 2L, hopes to add his name to that list of HLS alumni who went on to elected office. Reilly will run this fall for a position as a Louisiana state representative.

Reilly, 26, and a Harvard College graduate, is vying for the District 68 seat being vacated by his father, Kevin, who has represented the district for sixteen years. When the senior Reilly chose to run for State Treasurer, Sean stepped in to bid for the legislative post.

While Reilly admits that growing up in a political household instilled him with political ambition, he said he did not decide to run for office until his father announced his plans this Christmas.

"I like campaigning at this level," Reilly said. "I think I'll be a good state representative. Where it goes from there, who knows?"

Reilly described himself as a conservative Democrat running in an urban, middle to upper middle class conservative district in southern Baton Rouge. According to Reilly, the district has 23,000 voters, 15,000 of whom are Democrats, which "suits me" — although he also noted that it "makes my job difficult, because a lot of those Democrats are used to voting Republican."

Reilly's campaign emphasizes a "clean, fresh approach," stressing themes of "integrity" and "approaches to problem solving based more on reasoning things out than cutting deals."

"Louisiana has really gotten a bad rap lately. The state reputation is

suffering, mainly because the politics are perceived as inept and corrupt. Some of that is deserved and some is not."

He pointed to fiscal sanity, education, and the environment as the three major issues of his campaign. He said he pictures the district, which includes portions of Louisiana State University, as being in a position to capitalize on its higher education connection as an "economic catalyst."

"When I first came to Cambridge in 1980, unemployment was 15 percent, and it was 'Taxachusetts.' Why was there a change? Harvard and MIT were a lure for entrepreneurs. I'm an advocate for making LSU a leading research institution. That's a big issue for me."

On a personal level, Reilly sees his family's involvement in politics as having a number of disadvantages in addition to the natural benefits.

"Political legacy is really a double-edged sword. It's difficult to establish my own identity. People confuse me with my father. My father has got a 95 percent name recognition, while Sean Reilly will have about two percent. That's the biggest challenge — introducing the district to Sean Reilly, not Kevin Reilly."

He also noted that the age issue is a recurring problem for him among older voters. "I have to convince them I'm a serious, credible candidate," says Reilly. "They remember me as a nine-year old riding around on a bicycle."

The Harvard factor has not affected Reilly's bid. His father went to Harvard and the district is well

educated, Reilly said, so he is "not going to apologize" for his educational background. He said he considers his legal background a great asset, giving him a "broader grasp of the issues," and pointed particularly to pending tort liability reform as an issue for which legal background is a great aid.

"In this race, if the field shapes up as I think it will, with a conservative Republican against a conservative Democrat, the choice will be who they think will be the better advocate. In that sense, law school training is vital."

According to Reilly, the only hurdle that must be overcome is the fact that he has been in Cambridge — and away from his district — since 1980.

"That's not an obstacle once I let them know I know what's going on."

A general primary open to candidates of all parties will take place in November. Currently, Reilly is the only Democrat in the race, while two Republicans have announced.

Reilly just spent two weeks in Louisiana organizing his campaign, but his major effort will commence after Memorial Day. Thus far, he has spent most of his time getting supporters to commit to his campaign in order to discourage other Democrats from entering the race.

The Administrative Board of the law school has approved a hardship program that will let Reilly spend his third-year fall semester at LSU. Win or lose, he will then return to HLS for the winter and spring terms. After that, Reilly will go back to Louisiana: either to practice law or to attend his first session of the legislature in May.

## Correction

In the April 17, 1987, issue of the RECORD ("Obscure Speaker Series Draws Capacity Crowds," page 4 of Vol. 84, No. 8), Oladele Akinla was incorrectly identified as Oadeke Akinla, and Howard Yourow was incorrectly identified as Howard Youron. The RECORD regrets the error.

## Somerville Bar Review

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## Book Review

# Guide For Adventurers And Armchair Travellers

by Risé J. Peters

An Explorer's Handbook: An Unconventional Guide for Travelers to Remote Regions, by Christina Dodwell. Published in 1986 by Facts on File Publications, New York. Paperback, 192 pp., \$8.95.

Going to Wall Street this summer? Or are you headed for a real jungle experience, complete with lions, tigers, and bears?

Christina Dodwell has written a guidebook for those among us who dream of time spent far from the bright lights and the big city.

Dodwell's interest in survival techniques began when, during a more conventional holiday, she was stranded in the bush in West Africa. Bush turned into semi-desert. The distances between villages — and village markets — grew greater. After a week riding through the desert with no food and insufficient water she found a village where the

villagers, on short rations themselves, shared with her their maize, peanuts and yogurt. Her difficulties led her to decide to learn to live off the land.

Dodwell's experience — a three-year solo horseback trip through Africa, and travels in Papua New Guinea, Central America, and South-East Asia — is impressive, and it shines through in her writing.

The table of contents of *An Explorer's Handbook* makes the content look almost mundane, listing chapters on "Methods of Transport," "Building an Open Fire," and "Campsite Housekeeping" alongside more unusual headings such as "Looking After Traveling Animals," "Tested Exits from Tight Corners," and "Unusual Edibles."

On closer inspection, however, it becomes clear that any impression of normalacy is mistaken. In her

discussion of transportation, for example, Dodwell gives a comparative evaluation of foot travel, paddling canoes and rafts and travelling with pack animals including yaks, dogs, camels and elephants. Her information is detailed enough to be useful (she tells the reader, for example, how to control an elephant and how to load a pack-camel) and general enough to include almost anything the reader is ever likely to push, pull, paddle or ride.

A significant part of the text deals with food: finding it, preparing it, cooking it, eating it. The recipes included provide a wide range of alternatives and substitutes for the reader who finds herself a long way from the nearest supermarket, and include units of measurement (such as "mugsful") and cooking methods that do not require a suburban kitchen complete with Cuisinart. The ordinary is sometimes juxtaposed with the outrageous; for example, Dodwell gives recipes for marinade, recommending red wine marinade for red meats, vinegar or cider marinades for white meat — but her meats include elephant, kangaroo, lion, snake and eel.

Dodwell's book is not simply a wilderness survival manual; she also includes advice on dealing with civilization. This ranges from pre-departure preparation (she counsels, for example, purchase of an airline Miscellaneous Charges Order, which can be used as proof that the traveler intends and is capable of moving on) to a section on what one should do if confronted by bandits or arrested as a spy.

If you are planning a trip, or only wishing you were, pick up a copy of this book. Take it with you on your travels.

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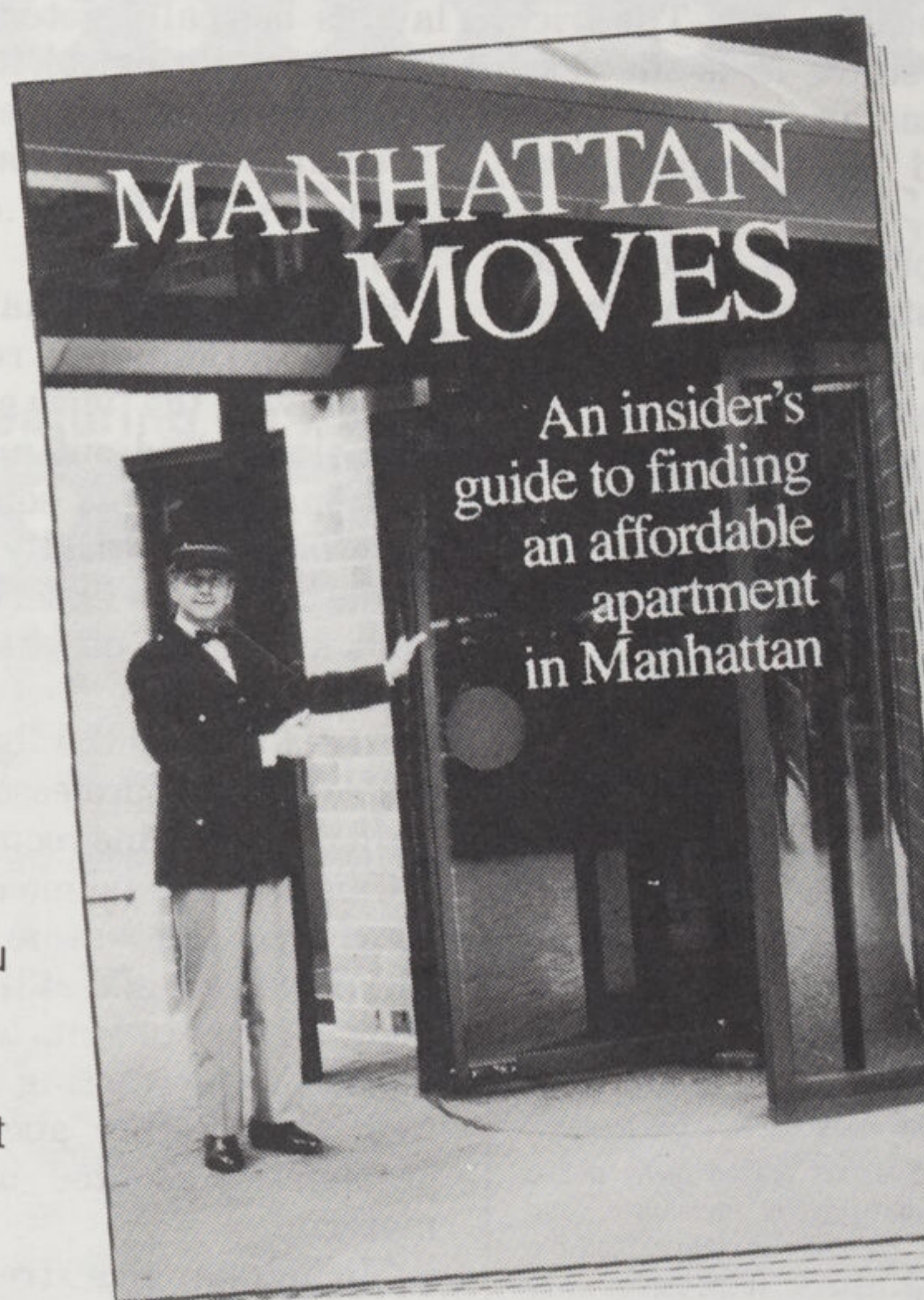
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# "Authoritarians" and "Mushy-Liberals" Teaching

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classes. Kennedy stated that in reality almost every case is decided on political, moral or policy grounds, but that most first year teachers try to hide or ignore this in their classrooms. As a result most students get a misconceived image of law as fairly formal, inherently logical and deterministic, whereas Kennedy would have the students see it as indeterminate, lacking logic and highly political.

Kennedy also talked of a psychological trick used to further indoctrinate the students. The trick, as Kennedy states it, is that each 1L section has an "authoritarian" teacher and a "mushy-liberal" teacher.

The authoritarian teacher terrorizes the students with his traditional, hard-line, Socratic style and teaches mostly doctrine with little or no policy discussion.

The mushy-liberal is easy on the

students, lets class discussion roam freely, and has a moderate amount of "quasi 'new deal' Warren court" policy discussion.

The result of this juxtaposition is that the students, partly out of raw fear of the authoritarian teacher and partly out of frustration with the confusing policy discussion and seeming lack of black-letter law in the mushy-liberal class, begin to revere as more realistic the image of law presented by the authoritarian class.

Kennedy said this only serves to strengthen the students' view of the law as basically determined, fair, and internally logical. Kennedy said the students' only hope is "to unite in small workers' groups and see themselves in a truly oppositional light."

Professor Michelman next addressed the audience, representing, as he saw it, the "view of moderacy." Michelman laid out numerous educational reforms, some of which have already partially come about through the 1L experimental sections and many of which still need much work.

One of these is the "bridge period" where all the professors come together in the same room for a period of time and try and meld the distinct 1L courses into some kind of cohesive whole while at the same time allowing the students to witness the professors interacting and arguing with one another about the legal problems presented by the day's material.

Michelman also stressed that he would like to see reform in the teaching balance between private and public law. He said he thinks there is far too much emphasis on traditional, private two party disputes and too little teaching time being spent on such areas as government and administrative disputes and multi-party complex litigation.

Finally, Michelman said he wants more emphasis placed on ideological and professional concerns. "People should be made to become more aware of the ideas, controversies, critical approaches and problems

of professional responsibility surrounding law and society." These changes are, according to Michelman, part of "the moderate view" to legal educational reform.

Professor Horowitz was the last speaker and started off by noting that the reason experimental sections haven't achieved all that they were intended to was due to grades. "Grades as they are now constrict change" said Horowitz. Horowitz recommended that the present large 1L sections (140 students) should be disaggregated into much smaller sections and should approach the legal materials in numerous 2 to 3 week projects. Each project could interweave material from all the presently distinct 1L courses and students would receive grades at the end of each project.

Horowitz admits such a massive change would require lots of work but said he believes this is the direction things are headed and thinks HLS will see an experimental section similar to this format in just a few years.

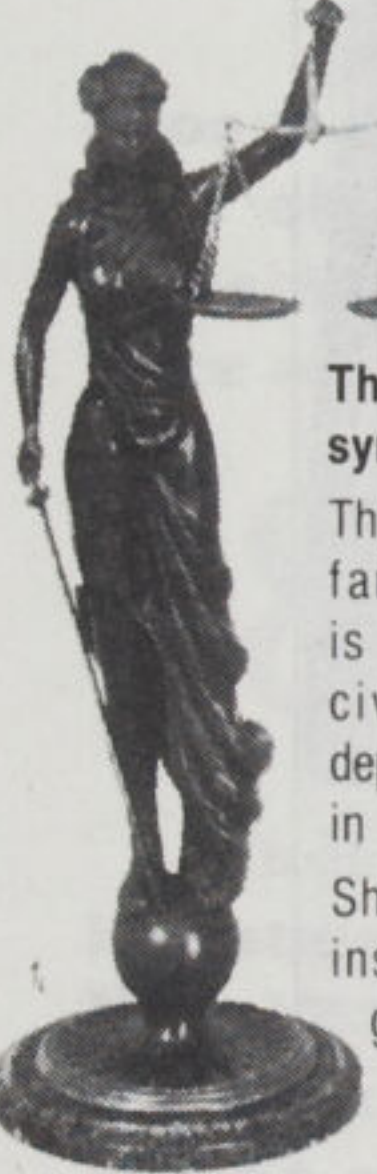
Horowitz echoed Michelman's desire for having more emphasis placed on public law disputes, stating that the way things are taught now students emerge from HLS with a very unhealthy "anti-regulatory and anti-government mood."

Finally Horowitz issued a very timely and incisive caution on the problem of legal formalism and blurred ethics at HLS. Citing the ongoing Wall Street scandals, he said it is very easy to lose sight of one's sense of right and wrong and simply see everything in terms of varying degrees of legal grey. "Clear moral vision is lost with learning to do legal argument" said Horowitz. What might have once seemed clearly wrong now becomes a question of just a different "legal interpretation of this or that rule."

A raucous question and answer session followed with Kennedy declaring the experimental sections to be "total failures" because the teachers are "a homogenous bunch of boring New Deal liberals with a

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# Publications Center Will Finish '85 - '86 Yearbook

(Continued from Page 1)

Poovey, production consultant in the Yearbook Customer Services department at Hunter Publishing Company, where the yearbook is being printed, said, "there's just no way we can predict when the book will be finished. We only received about half the materials so far. It's not anywhere near being complete. We probably won't even work on it until the middle of June. You're looking at a completion date of — it would be reasonable that we could have the book out by October."

Arnie Lohmann, Sales Representative for Hunter Publishing Co., explained that he has "other obligations to schools that have met their deadlines. We will not touch the '85-86 yearbook until after we take care of all our shipments for those schools who have met their deadlines. This is the first book in which I've been the sales rep that this has ever happened; no book has ever come out this late."

According to the original deadline, the materials were to go to the printers a few weeks after graduation in June of 1986. "We couldn't get all of the work finished by the deadline," Miller explained. "After graduation, the only people working on the book were 3Ls; when it came time to get the main volume out, the energy was just not there." Miller said that she did not leave Boston until August because she was spending every day during the summer developing prints in the darkroom: "If I had any other place to be except in an attic in the summer in Boston making no money, I would have been there instead, but the Yearbook was the first priority for the summer."

## Pocket Part Success

The 1986 Pocket Part, a prelude to the Main Volume, was published during the Spring of 1986. According to Miller, the Pocket Part was published "to indicate to people that there was a massive change in the quality and format of the Yearbook from years past. We were coming

off a very bad reputation from the year before because the past books were so dismal; we took it from a smaller format to a larger one and completely reformulated the graphics."

Last year's copy editor, Lori Nuckolls '86, added, "the pocket part was a marketing idea; it commemorated Harvard's 350th anniversary and was used to generate sales revenue." The Pocket Part has been completely paid for; costs ran about \$7,000-\$8,000, Nuckolls said, al-

though it contained no advertising. Nuckolls explained that "Dean Upton's concern was that the book should be more focused on the school than on generating a lot of ads. She was concerned that people were making money off the Yearbook, but it's supposed to be a nonprofit corporation."

Upton responded, "first of all, I have never talked to Lori Nuckolls about the HLS yearbook. . . . It is

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# For Responsible Teachers

## Fenno

How much should we worry that professors at HLS are not fulfilling their responsibilities to the school? I suspect that the recently distributed "Quality of Life" surveys will reveal that outside activity by faculty members represents one of the biggest and most legitimate of students' concerns.

Dean Vorenberg's guidelines restrict professors to a maximum of twenty percent of their time for "moonlighting" on behalf of clients. This ratio presumably strikes a balance between such hands-on, cutting edge experience (which at the same time is a necessarily time-consuming private effort not directly enhancing the education of that professor's students) and traditional teaching.

We cannot know for sure how much of the faculty's professional energies is diverted to outside work, but this uncertainty is precisely the problem. In order to monitor a professor, a student must rely on occasional anecdotes in the popular press and war stories in the classroom. Because the Dean's restrictions are intended to be enforced only when problems are brought to his attention, the fact that such information is cursory and incomplete means that the guidelines will be ineffective.

But even the information about outside activities which sporadically comes to our attention reveals that a problem exists. For example, the casual newspaper reader may have noticed that two HLS professors are advising Pennzoil in its battle with Texaco — one has even signed his client's correspondence. Another professor plans to help run a presidential campaign while carrying a full course load next year. Still another appeared on television (at least) four times last week, speaking about different subjects on each occasion.

Undoubtedly, these recent instances are matched by many others that go unmentioned in the popular press and are therefore virtually undetectable by HLS students. We can only infer excessive outside activity from its effects: sporadic office hours, an unwillingness to spend time with students, and sub-par preparation by over-extended professors. Clearly students lose when the choice is between client and classroom.

At minimum, HLS should affirmatively investigate whether professors routinely disregard the school's own guidelines for outside activities. If this indeed is the case, then additional requirements, such as a reporting system for notifying the administration of the extent (but not the nature) of these involvements, should be considered. We must ensure that students, and not a variety of clients, will be the focus of the faculty's attention.

— J.H.G.

Fenno felt ineffably sad. Tonight was the night of the DSAC Spring Formal, but he couldn't go. His evil twin roommates, Adolf and Muammar, were making him stay home and clean the beer and puke stains off the floor.

Suddenly, Fenno saw a puff of smoke. A balding, middle-aged man appeared, dressed in a tutu and carrying a magic wand. "I am the good Quality of Life Fairy Godmother," he announced. "My purpose is to make HLS a warm and liveable place for all concerned. I administer the course lottery. I fix the library copying machines when they are jammed. I supervise the grading process, to ensure that grades are not random and are apportioned according to merit. I publish the *HLS Yearbook*. Oh, and I clean out the bathrooms and kitchens in the Grad Center dorms."

"You're not doing a very good job," Fenno noted.

"Unfortunately, I was bitten by the African tse-tse fly, and now I have incurable sleeping sickness. But I can get you to the Spring Formal you desire."

He waved his magic wand. Instantly, Fenno was transported to the Spring Formal. It was everything Fenno had imagined it would be. The women were all dressed in ballroom gowns, and the men all wore black tie. "Bongo Bob" Clark and his band, the Insider Traders, were playing up a storm. Counter-Hegemonic Front members were dancing peaceably with members of the Republican Club. Joe Rzeppa was bobbing for apples in the punch bowl. Duncan Kennedy acted as chaperon, randomly assigning ugly men dances with the prettiest women.

Over on the side, Abe Chayes and Hal Scott were arguing about what song the band should play next. Chayes wanted them to play the Nicaraguan National Anthem, while Scott preferred "Money Makes the World Go Round."

In the corner, Fenno spied his Cinderella — the Dean of Students. He asked her to dance. She accepted. As the night passed, they twirled and dipped under the revolving disco globe. They did all the dances — even the Frug.

"You're my dreamboat," Fenno whispered in her ear.

Then, the clock struck midnight, and Fenno turned into a pumpkin. The Quality of Life Fairy Godmother had screwed up again.

"Hmmm . . ." the Dean of Students speculated. "Just the right size for a midnight snack!"

As she prepared to eat him, Fenno screamed, and woke up. It had all been a dream! He had fallen asleep in Tax class again.

But . . . why did his clothes smell like pumpkin pie?

## HARVARD LAW RECORD

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BY: RUBEN BOLLING

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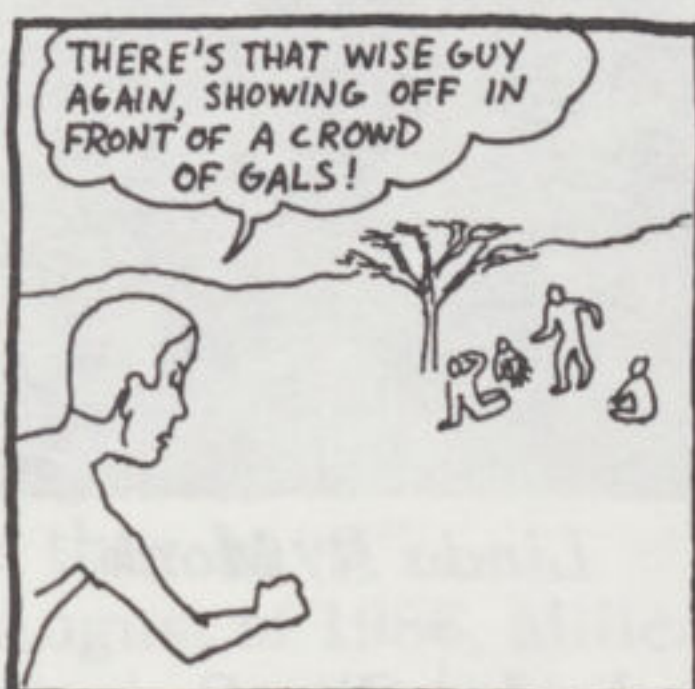
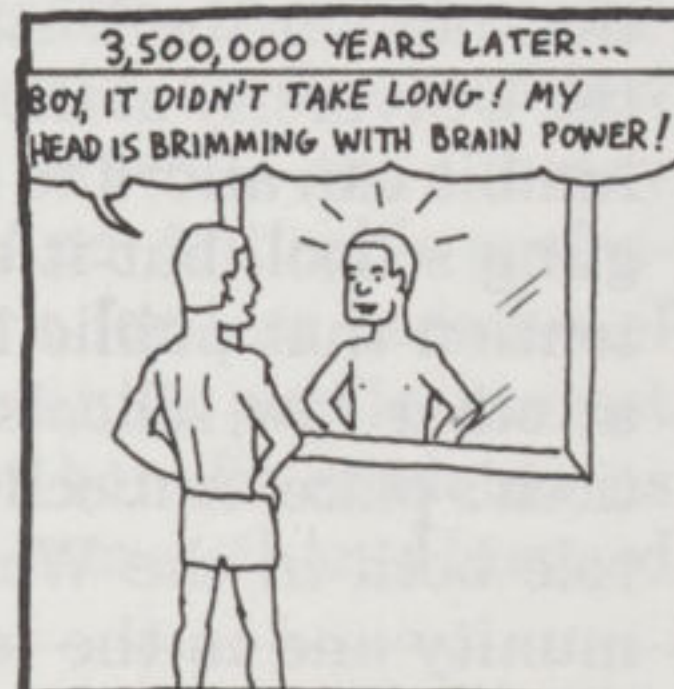
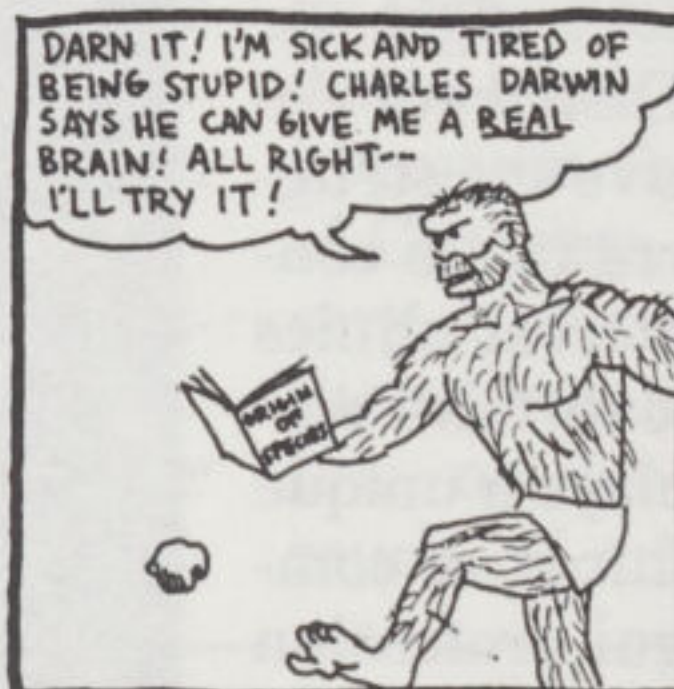
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## Letters to the Editor of the Record

### Laugh, And The World Laughs With You ...

#### To the Editor:

A regrettable thing that tends to happen to people at HLS is a loss of the sense of humor. The Law School, and lawyers generally, would benefit from not being quite so stuffy and self-important. 3L Dennis M. Kelleher, in the March 6 RECORD, having been offended by a "how many women does it take to screw in a lightbulb" joke (told by a woman), now proposes a general rule that there should be no jokes among people or, by extension, jokes which involve characters who believe that there are such differences.

One would hope that HLS students are sufficiently sensitive and bright to avoid offensiveness without the necessity of such a Draconian rule. As a Jew I was particularly interested in Kelleher's concern about "anti-Jewish arbitrageur jokes." Well, it is true that a disproportionate number of the current crop of Wall Street crooks seem to be Jews. This is a valid issue for concern and discussion in a free society. Maybe it is statistical chance. Maybe it suggests that Jews on Wall Street are more likely than others to be crooks. Maybe it suggests that Jews are more likely to be targeted by jealous competitors. I don't know what it means. But it is a valid thing to talk about. And

humor has always been an effective way to deal with touchy issues. Let's don't rid the world of jokes which reflect thought and concern about the putative or suspected differences among the groups in our diverse culture. Rather let's try to get to the point where we can all take a joke, including jokes about people of our race or gender or ethnic origin screwing in light bulbs.

And just for the RECORD, although I once did it in a canoe, I've never screwed in a light bulb.

Alan W. Heldman '60 ('61)  
Birmingham, AL

#### Full Details?

#### To the Editor:

Is the enclosed ad simply the latest legal tongue-in-cheek from the bards of Ames? Or is this company serious?

The continuing notices in your publication raise many questions. For example, is this a career alternative for those put off by \$65,000 per year starting salaries at an office when the same results can be achieved at home (or even a quiet corner of the neighborhood pub)? How can Cravath and the mighty titans of the legal world compete with a program offering "guaranteed earnings" of the magnitude cited?

Have any law school dropouts pursued this program? Has the dropout rate increased

since you began advertising for this company?

Is there a minimum LSAT score for this program? Is there a maximum (such as 250)?

I await "FREE DETAILS" in your response.

Alan N. Schlaifer '68  
Washington, D.C.

Editor's Note: The ad in question is on page 16 of the current issue.

(Continued on Page 16)

### 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 not 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.

# Beleaguered Antioch Law School Sets

*Linda R. Monk '83 is a Washington D.C. writer specializing in constitutional issues. Her latest project is "A Civil Liberties History of the Constitution," and she has developed a public education program on the Bicentennial of the Constitution entitled "The Living Constitution."*

The only law school in the nation dedicated solely to training public interest lawyers is on the verge of closing for good, and with it will go some of the best ideals of the legal profession. According to the American Bar Association (ABA), Antioch Law School's program of legal education deserves to have its accreditation revoked, but one must wonder how Harvard would withstand similar scrutiny.

Located in the nation's capital, Antioch Law School made a name for itself and fostered considerable community goodwill by essentially acting as the city's public interest law firm. It represented indigent clients in landmark litigation on a broad range of issues. Antioch was founded both to provide legal services for poor people and to give poor people and other under-represented classes the opportunity to become lawyers themselves. Antioch was a grand experiment, and though it suffered from many administrative problems, in large measure it worked.

But the school's parent university in Ohio ended its financial support, and Antioch went from a shoestring budget to no budget at all. Then the ABA threatened to revoke Antioch's accreditation. Determined not to see the school fail, community activists urged the D.C. City Council to take over the school and operate it as an independent city agency.

Another version of the Council's bill passed, but due to the byzantine politics between the City Council, the Mayor, Congress, and not least of all the ABA, Antioch's future remains uncertain.

Many in Washington, chief

among them the *Washington Post*, argue that the city cannot afford to support its own public interest law school. Perhaps the *Post* is right that neither the District budget nor the University of the District of Columbia can afford to save the struggling school, but it errs in its contention that public interest clinics at other law schools can take Antioch's place. Antioch plays a unique role both in the Washington community and in the legal profession at large.

Other law schools provide public interest services; Antioch provides public interest lawyers. The *Post* is wrong when it says that "students so minded could choose to pursue careers in public interest and poverty law with degrees from other institutions." The fact is they don't.

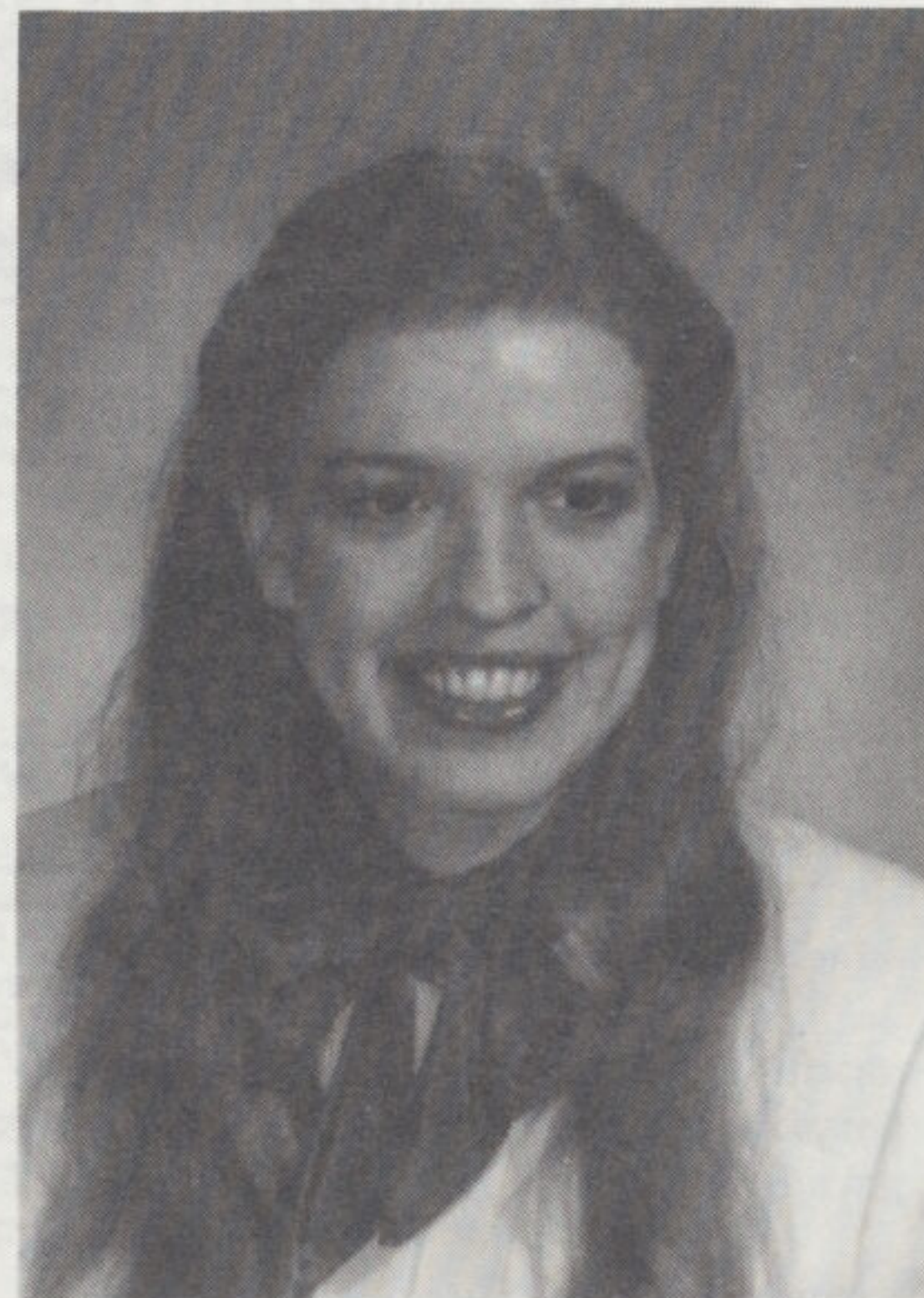
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*"The real culprit in Antioch's crisis is the American Bar Association and its shortsighted view of legal education."*

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Many students entering HLS profess a desire for public interest careers, and Harvard has a fine legal aid clinic. Yet a recent study indicates that a mere 3 percent of the class of 1981 took public interest jobs. Antioch is the only law school in the nation where public interest law is the primary purpose, not relegated to the fringes of a curriculum fueled by corporate law flyouts. It's no miracle, then, that nearly all of Antioch's graduates take public interest jobs.

By their fruits you shall know them, the Gospel says, and Harvard must be judged by its fruits. Despite its vast resources of money and talent, Harvard's annual yield of public interest lawyers is paltry. Antioch, on the other hand, brings forth abundance out of its poverty. Would



Linda R. Monk

the Cambridge City Council try to save Harvard Law School?

There's a lesson here for Harvard. The ABA will never question the quality of legal education in an Ivy League shrine, but Harvard cannot escape responsibility for its output. It's not enough to blame the low number of Harvard graduates in public interest careers on decreased student interest; after all, the job of an educational institution is to shape student interest. Results count, we're told as good lawyers, and Harvard's results just aren't good enough. Harvard should look to Antioch for its example.

Antioch fosters connections between future lawyers and the victims of injustice, whereas most law schools operate on the premise that law school is one thing and life is something else. This attitude is typified by a comment from HLS professor Charles Fried at an open meeting of the Committee on Legal Education on May 9, 1983. Mr. Fried, who is now the Solicitor General of the U.S., stated that while "it is a racist world, the notion that this is a racist faculty is rubbish." But as a black student responded, "how can you say there is

# Off the Record

## Example For Prosperous Institutions

by Linda R. Monk

rascism in the world and in the same breath exclude the Harvard faculty?"

If the legal profession is ever to be more than a servant class for the wealthy, it needs more schools like Antioch. The real culprit in Antioch's crisis, then, is the American Bar Association and its short-sighted view of legal education.

Both of the ABA's reasons for challenging Antioch's accreditation

— size of the school's library and heft of its faculty salaries — reflect politics of the profession more than a genuine concern for the quality of legal education. Antioch's students have access to the best law library in the world — the Library of Congress. And Antioch's professors, who work for less because of their commitment to public interest law, no doubt benefit students as much, if not more, than Harvard

professors who, for their weighty salaries and stellar reputations, spend little time with students outside large lecture halls.

Maybe the District of Columbia government cannot afford Antioch Law School, but the legal profession can't afford to do without it. For the profession's sake, one can only hope that some kind of phoenix rises out of Antioch's ashes.

✽

### The 1985-86 Yearbook: Being Held For Ransom?

(Continued from Page 7)

entirely up to the Harvard Law School yearbook how many pages of ads they have."

In August of 1986, Miller moved to Miami to start her new job teaching at the University of Miami Law School. She took the materials for the Yearbook with her. "By then," she said, "the editorial decisions were made, the blueprints were done, but the hardest stuff was left for last, like matching the student organization photos with the names of all the members." Miller said she worked alone on the Yearbook from late June through the end of the summer.

According to Miller, Dean Upton suggested to her early in the fall semester that Miller come back up to Boston to collect the rest of the materials for the Yearbook. Miller made the trip to Boston (Upton confirmed that the trip was paid for by HLS), and said that "I thought I could finish the '85-86 yearbook with the help of the '86-87 staff. But once I started teaching at Miami, the Yearbook was not the first priority any more; I worked on it only on the weekends."

#### Who Writes the Checks?

During this time Miller was in contact with Hunter. She negotiated the contract to publish the Yearbook

with Hunter; as she explained it, "the contract had my name on it, as being ultimately responsible with HLS for paying the account up." When the original deadline passed and the balance was past due, Miller informed Hunter that she still intended to produce the book.

As of now, Miller stated, Hunter has not been paid anything for publishing the Main Volume, but Dean Upton has access to the Yearbook's bank account, which Miller estimated to contain about \$17,000. "As Editor, I have check-writing privileges," she stated. "But just last week I transferred the funds of that account over to Dean Upton." Current Editor-in-Chief of the '86-87 yearbook, 2L Robert Gerber, added that he has been giving Dean Upton all of the bank statements for the '85-86 yearbook account that come to his office.

Gerber said that he is concerned that there won't be enough funding left from the money the '85-86 staff was able to raise to complete the '85-86 yearbook, and that Dean

Upton and the Administration may have to make up the difference.

When asked if HLS would foot the bill for any potential deficit, Upton responded, "of course we would."

Gerber noted that the '86-87 staff managed to raise 100% of its \$50,000 budget through solicitations of donations from law firms, parents, and local advertisers, as well as student book sales. While student sales account for over half the budget, Gerber said, his staff has solicited \$7000-\$8000 from law firms, \$4500-\$5000 from local advertisers, and \$3000-\$4000 from parent donations.

#### Not Illegal or Criminal

In comparing the figures for Gerber's staff with the balance left in the '85-86 account, Upton said that it "looks to me, judging from the budget for the '86-87 yearbook, that the \$17,000 we have is probably

(Continued on Page 12)

#### SUPPORT THE HARVARD LAW CHILDCARE CENTER'S SCHOLARSHIP DRIVE

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# Upton Confirms: No Misappropriation of Funds

(Continued from Page 11)

about right."

She added that there was "no evidence whatsoever" that any money was misappropriated from the account. "I want to stress," she added, "that I don't think Teri did anything illegal or criminal."

During a two-week period in December, Miller worked in Miami with '85-86 Business Manager Gregory J. Anton, HLS '86, and managed to submit 20 pages to the publisher. By late December, however, Miller stated that "communication between myself and the law school wasn't great. People were filling in words for me; there was a general lack of information."

"I wrote a letter to Dean Upton in January," Miller said, "in which I indicated to her that the book would be finished by the end of January. I indicated to her that we had gotten all 200 pages into the printer. I sent her a letter that said, 'it's in.' Then I got pages sent back to me, which Hunter had first sent to the '86-87 yearbook staff, which were incomplete and needed more work. As a result, [Dean Upton] was misled as to the time that she could expect the yearbook to be finished."

Upton responded, "I do have the letter, but I'm not going to show it to [the RECORD]. Let's say that it led me to believe that the material was at the printer. It did say that the bulk of the material is at the printer."

Asked why she told Upton that the book would be published in January, Miller replied, "the deadline seemed realistic to us then because we had just met a deadline for 20 pages."

She added that "I knew that she needed this thing done; I wanted to get it out of my life."

Dean Upton was asked why it took until March for her to realize that in fact the materials were not completed. She replied, "I didn't immediately pick up the phone and call the printer and say, 'is it true, what Teri Miller told me?' I figured that by mid-March a book would be coming, and that's when I started

trying to get in touch with Teri again. At that point I found out that there was nothing at the printer — nothing since January was at the printer."

By March of this year, Upton decided that it would be better for someone in Cambridge to finish the project than for Miller to keep coordinating from Miami. Upton said, "she wasn't wild about giving it up because it's her baby and I don't blame her."

"I asked Dean Upton if I could finish it," Miller said, "but I could understand her position not to let me finish it. She had told other people, in reliance on my earlier estimates, that the Yearbook would be out in January; she was getting a lot of heat from the Administration, so she decided just to get the book out. Now it's much better that it's off my back."

Upton emphasized that she was not going to control the content of the Yearbook: "the final book," she said, "will be Teri's. We're not making *any* plans to change what she has done."

Miller's failure to complete the Yearbook is particularly anomalous in light of the fact that she was the recipient of the "Graphic Arts Award of Excellence," presented by the Printing Industries of America when she was the Editor-in-Chief of Duke University's undergraduate yearbook in 1981-82.

The materials for the completion of the '85-86 yearbook have been moved from Miami/North Carolina to Cambridge for final editing. As recently as last week, Hunter Publishing Co. production consultant Terry Poovey said that all the proofs and blueprints were turned over to Upton, where, with the help of Sales Representative Arnie Lohmann and Debbie Gallagher from the HLS Publications Center, the book will be completed.

Although Miller claimed to have submitted over 150 pages of completed work to the printer, Poovey said that Hunter had received "only about half the work for the yearbook, and then she just stopped submitting. That's why it's taken

so long for the book to come out." He said that Miller's first submission of 98 pages was postmarked August 14, 1986; the next submission of 21 pages was on January 9, 1987; and the final submission from Miller of two pages was received on April 9, totaling 121 pages of submitted work.

The delay in the publishing of the '85-86 yearbook has had an adverse impact upon the 1986-87 yearbook, according to both Teri Miller and Robert Gerber. Miller sympathized that it is "hard for Bob to try to amass advertising and get the book on the road when the previous book hasn't come out yet. They [the 1986-87 staff] have done a fantastic job; they're meeting all their deadlines; Gerber's a *great* editor." Gerber told the RECORD that "local advertising dropped tremendously. We were adversely impacted by about four to five thousand dollars; that's about ten percent of our budget."

## Explanations

Miller characterized her book as "a really ambitious project. In one year we tried to reformat the entire book — those new format changes were carried through by the '86-87 staff — and we built a darkroom in the summer of 1985 for not only the yearbook but the RECORD too. We spent a summer on the darkroom project, but it was not ready at the beginning of the '85-86 year, so that put us behind in terms of processing photos. We should have put out the main volume first and the pocket part later instead of the way we did it. We should have had more 2Ls on staff; it was 3L heavy so that after graduation we didn't have a staff to work on it as intensely as was needed. We put way too much energy into the pocket part." She recognized that "Dean Upton is annoyed. It's not all sweetness and light."

Dean Upton responded by saying, "well, how would you feel if you talked to ten or fifteen creditors a

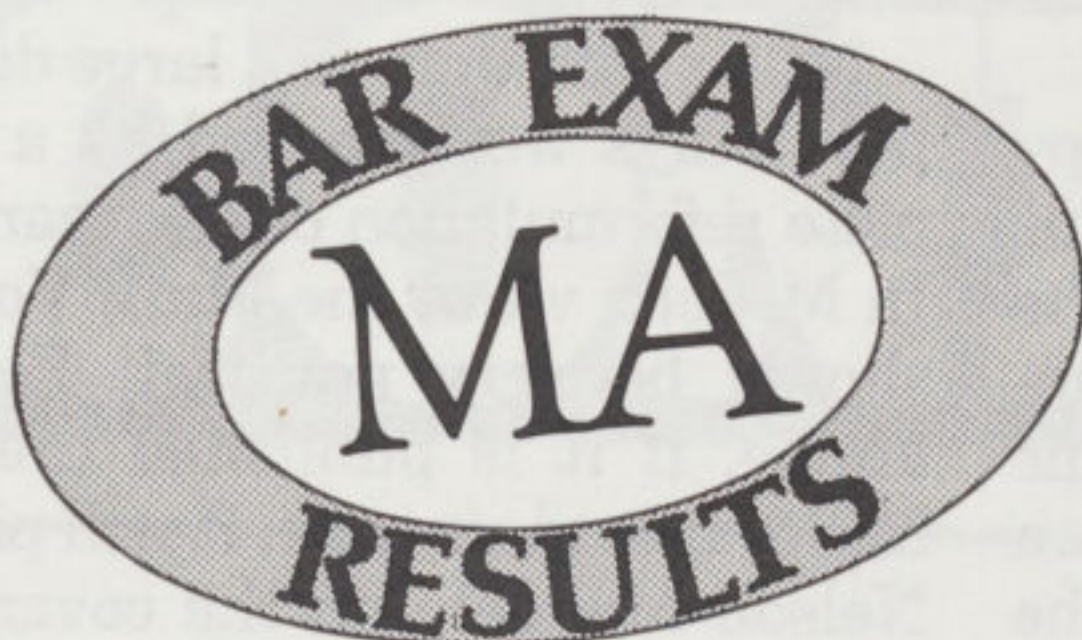
(Continued on Page 14)

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# Mandela Pictured On '85 - '86 Yearbook Cover

(Continued from Page 12)

week about the Yearbook? Really, I'm very fond of Teri, and I'm very sorry this happened, but there has been a fair amount of administrative to-do over this, from advertisers and parents and students about where their yearbook is."

Although Sales Representative Arnie Lohmann was reticent about explaining what he thought were the reasons for the delays of the '85-86 book, he did say that that his "intent is to pick up the pieces. The people who graduated last year should have gotten the publication by now." When probed about the causes for the delay, he added that "I have no indications that there were funding problems — none whatsoever. A mutually agreeable contract was negotiated between Hunter and the HLS Yearbook Inc."

## Bitter and Disappointed

As for Miller's involvement with the yearbook, he said, "she has to be bitter and disappointed. I don't know whether you'll get the whole story." Although he said that "I hold the ace, I've got all the files, all the

figures myself," he refused to disclose anything until after he had met with Dean Upton and she had agreed to release financial and other material about the '85-86 yearbook. He did say that the delay had nothing to do with the publishing company. "We can only work with what we receive," he explained.

In the opinion of last year's copy editor, Lori Nuckolls, the problems with the yearbook stem from the fact that "there wasn't enough support to allow the staff to devote time and resources to the book. Dean Upton refused to help fund the book."

Upton responded, "she's full of shit. The policy is that the yearbook, for years and years, has been a separate student organization. . . . There's never been any history for funding the book and nobody's ever asked. We do buy for the law school 125 copies which we pay the yearbook for. In addition, the yearbook gets a free office, and free heat and free water — they don't have to pay any overhead."

Asked why the '85-86 yearbook was delayed, Gerber said it was because the '85-86 staff "scheduled for fall delivery which means that a great majority of the work could be put off until the summer; and then when it came time for graduation, nobody was around to do that work. The other part of the problem was that Teri gave everyone else involved the wrong signals about how the production of the book was coming along — we were assured it was completed at one point only to find out three months later that it wasn't."

As far as he knew, "no misappropriation of funds was turned up; I am unaware of any misappropriation of any money. [The delay in publishing the '85-86 yearbook] is *not* a matter of money; the money was there — the money in their account in September was enough to cover production costs."

Now that Dean Upton is controlling the funds for the yearbook, Gerber said he fully expects the Yearbook to be published nine to ten weeks after the publishing

company receives all the proofed pages. "We've given no refunds so far [to people who paid in advance for an '85-86 book] because the book will be printed," he added.

## Mandela To Adorn Cover

Miller said that, to a large degree, the delays were caused by a complete reformulation of the yearbook. In Miller's view, the Main Volume should be very political. For example, if it is published the way Miller intends it to be, it will picture Nelson Mandela on the cover.

Sales Representative Arnie Lohmann agreed with Miller that the '85-86 book is a striking departure from previous yearbooks: "there are major differences in graphics for this book; the printing and trim size [size of pages] are larger than previous books."

## Salaries Taken

Miller commented on the budget for the '85-86 yearbook by saying that "in past years, more of the budget was going to salary; but this year the ratio of product to salary doubled; we spent much more towards the printing of the book. So

(Continued on Page 16)

# Education

(Continued from Page 6)

spice of Warren Court thrown in, who sit around patting each other on the back."

Horowitz answered, in response to a question on the lack of "conservative" professors in the experimental sections that no "conservative" professors wanted to participate in such sections.

Michelman agreed with a dissenting student that this year the experimental sections did in fact contain a fair amount of robust and heated debate and stated that the professors in the experimental sections were in disagreement on many fundamental issues.

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# LSC Investigates Last Year's Yearbook

(Continued from Page 14)

the actual cost of the book to students much more closely approximated the cost to the student."

Dean Upton explained that the salary editors receive is "a function partly of the amount of revenue they receive from [various] sources. If they don't get that, they don't make their salary." When asked if one of the reasons for the '85-86 yearbook delay could have to do with lack of funding, she responded, "well, Teri took her whole salary." According to Miller, she contracted to be paid \$8,000 but wound up getting paid \$7500 because the staff had agreed to reduce salaries.

## Communication Problem

According to Jay Ward, the LSC is not sure what it will do about

investigating the delay further; he said, "the Council should lead on this issue; I don't want to follow rumors about the loss of the yearbook."

Upton was surprised to hear from the RECORD that Ward was planning an LSC investigation. "He didn't tell me he was investigating for the Council. You know, in the last RECORD, Ward said there was a problem with the Administration because it didn't communicate with the students. I think this is a good example of the opposite side of that claim. If Jay was launching an official investigation, why didn't he tell me that when he called me, instead of making it sound like 'I was walking by your office and wanted to know what's going on.' I don't think that's fair. Jay Ward would love it if he could find something out on me, I don't know why. It would have been

nice if he were up front with me about why he had come in here."

✽

## Letters

(Continued from Page 9)

### Cheers To New Deli

#### To the Editor:

I was delighted to read in the February 27, 1987 edition that Professor Alan Der-showitz and others planned to open "an authentic Jewish delicatessen in Harvard Square".

It brought to mind an incident which occurred a few months after I entered law school in 1948. I went to a local supermarket and after wandering around for several minutes, I asked the manager where I could get lox. He directed me to the far corner of the market, and upon arrival I found myself in the hardware department. I did not have locks and bagel in mind!

Louis E. Seltzer '51  
Philadelphia, PA

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