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25 CENTS

Attack Stops Contra's Speech

By Rick Genow

The Harvard Law School Republicans (HLSR) co-hosted an ill-fated speaking engagement with Nicaraguan *contra* leader Dr. Adolfo Calero Portocarrero October 2. Calero, who was to speak on "The Struggle for Freedom in Central America: A Nicaraguan Perspective," endured public protest, a bomb threat and last minute scheduling changes, only to be violently attacked by a member of the audience before commencing his address. An unharmed Calero was swiftly ushered away from the scene, bringing the event to an immediate and premature end.

The event was plagued by controversy from its inception. The problems began when it became apparent that of 350 available tickets only 50 were sold to the general law school public, the rest having been reserved for various conservative groups. The limited number of tickets remaining for the general student body sold in half an hour on September 29.

The restriction of ticket sales was promptly condemned by students in a petition to Dean James Vorenberg '51 and by a press release issued by 36 HLS students. The students voiced concern over the "audience

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Pauline Scalvino

Tufts senior Joshua Laub is led away by Harvard Security after attacking Dr. Adolfo Calero.

3Ls Charged With Collaborating

By Andy Schapiro

Two students who collaborated on a take-home examination were not graduated with their class last May after the Administrative Board denied them credit for the course involved.

Cases of outright cheating are extremely rare, Board Chairman David Herwitz said. This episode was not treated as an instance of cheating, but was, he claimed, "no more than a misadventure."

The misadventure in question came to the attention of the Ad Board after an instructor noticed that two exams shared "a similarity

of analysis of a particular type in a portion of an answer," recalled Herwitz.

When called before the board, the students admitted that they had collaborated to some extent on the test, but according to Herwitz, the two did not go so far as to write a joint exam. There was, however, "sharing of thought about the issues in advance of writing the answers," he added.

Take-home examinations commonly bear a warning against working with others, but in this instance there was no such instruc-

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Bomb Threat Forces Speech To Move

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stacking" of the Calero speech, which they believed would result in "ideological screening of the event in order to ensure the appearance of a 'friendly' reception for the *contra* representative."

Safety vs. Access

HLSR defended their actions by appealing to the need to provide for Calero's safety. President Joe Anderson, 2L, asserted that "no controversial conservative speaker has spoken at Harvard without being run out on a rail. Our concerns are real."

In an October 1 memorandum Vorenberg responded to the petition with a promise to form a commission composed of Professor Alan Dershowitz, Dean of Students Sarah Wald, Assistant Dean David Smith and several students "to seek to develop written guidelines on issues relating to security and free speech at student-sponsored events."

The afternoon of the speech began

with the Harvard Law Students Against the *contras*, a loose coalition of students protesting Calero's appearance, organizing outside Austin Hall where Calero was to speak. These protestors, carrying signs and shouting "Financial aid yes, *contra* aid no," were initially refused entrance by the Harvard University Police Department (HUPD). After brief shoving matches, heated words and inflamed tempers, the protestors were eventually let in so that they could protest silently during the speech.

Before the room had filled, however, Assistant Dean of International and Comparative Legal Studies Frederick E. Snyder announced that the speech would be moved to Langdell North Middle due to "audio-visual difficulties." He later admitted that the last-minute change had actually been the result of a bomb threat.

The audience was then herded through the law school tunnels to Langdell, where a large group of protestors had amassed on the west side of the building. The protestors,

including ticketless law students, members of the Spartacus Youth League, and the Committee on Central America, chanted "USA, CIA out of Nicaragua" while banging on the windows in an effort to disrupt the speech.

The event, which by this point, was almost an hour late, got under way with Snyder, in a brief address, making some remarks regarding freedom of speech and the necessity of a forum for every viewpoint. Snyder warned that if Calero's constitutionally protected right of free speech was interfered with, the event would have to end. He then handed the microphone over to Anderson in order to introduce Calero.

Anderson commented on the difficulty of attracting conservative speakers to HLS and praised Calero for his willingness to appear in such a hostile environment. He assured any skeptics that, "Yes, there are Republicans at HLS." Anderson then yielded the podium to the speaker to the disparate din of applause, endorsements of the *contra* cause - "Viva los Contros," and a combination of jeers and hisses.

At that point, a member of the audience, later identified as Joshua Laub, a senior at Tufts University, bolted from his seat, ran to the floor, leaped onto a desk and lunged over the podium at Calero. Laub was subdued by HUPD officers and event security. He was dragged down into the tunnels screaming "Death to the *contras*! We will beat them down!" and claimed to be from a Marxist group known as the International Committee for Anti-Racism (INCAR).

Calero was immediately escorted from the scene by his bodyguards, while a visibly shaken Snyder returned to the podium to announce "That's it. Adolfo Calero has left," and that the event was over.

The student outcry was immediate, from both Calero's supporters and opponents who had come to hear the *contra* leader speak. Both Calero and the HLSR sponsors wanted the

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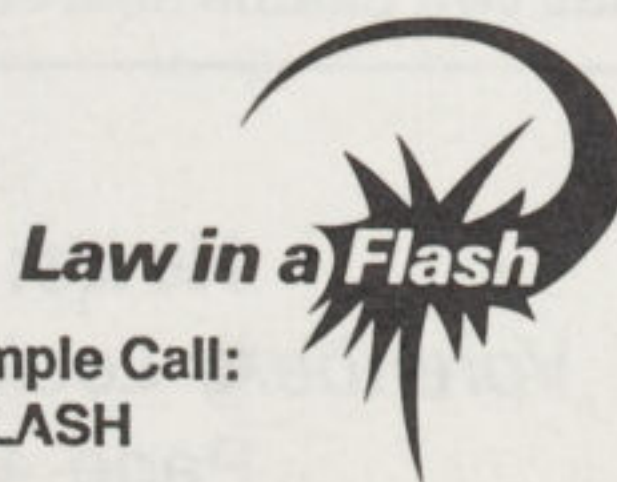
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South Africans Debate Merits Of Divestment

By Chris Crain

Sanctions and foreign divestment have not only failed to ignite real political or economic change in South Africa, but are providing a windfall for the white South Africans who take over abandoned companies, the leader of a coalition of South African businesses told a law school audience October 5.

"A great number of people are getting very, very rich off U.S. disinvestment," said John Montgomery, executive director of the South Africa Foundation. "It has created 100 new millionaires in South Africa with no political effects." Montgomery told the Austin East crowd of about 75 people that U.S. corporations disinvesting under pressure from home are selling off their businesses at "bargain basement prices" to white South Africans.

Neo Mnuzana, permanent observer to the United Nations for the African National Congress (ANC), agreed with Montgomery that divestment and sanctions have had little effect, but argued that this was only evidence of the need for stronger, more structured efforts. "Our house of sanctions is very sloppy," Mnuzana said. "That the house is sloppy is not an argument against sanctions, but against the way we constructed the edifice."

The two South Africans were participating, along with Georgetown professor Herbert Howe, in a discussion sponsored by the Harvard International Law Society.

Mis-disinvestment?

Mnuzana disagreed with the contention expressed in a report issued last week by the Reagan administration that sanctions have failed and should be abandoned as a means for coercing the dismantling of apartheid. "Nobody ever told you if you mounted disinvestment and sanctions on the fourth of October in 1987, that by the fourth of October in 1988, apartheid will have collapsed," he said.

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Kevin Reed

Neo Mnuzana of the ANC addresses an HLS audience.

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Future Of Apartheid Called Into Doubt

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Mnuzana said anti-apartheid groups had erred in failing to provide a "model for disinvestment." This error, he asserted, allowed corporations like IBM and General Motors to restructure as "a public relations exercise to decrease the pressure being put on them."

While the discussion, which was entitled "South Africa: Evolution or Revolution?" remained largely amicable, Mnuzana expressed mistrust of Montgomery and the South African businessmen he represents, when it was suggested that there is a heightened concern about the effect of sanctions on the future of black workers. "If, in 39 years of apartheid, whites have shown no concern for blacks, what are we supposed to think? Our suspicion is that they are concerned because the fire is warming under their seat. It's pure self-interest," Mnuzana said.

Montgomery responded sharply, saying "of course we're concerned about the future. It's almost insulting to think we wouldn't want to leave for our children a country that is just and democratic." Montgomery described the interchange both as a "sad statement" on the high level of distrust between the races and as evidence that the requisite "period of consultation and negotiation has still not been accomplished."

The Roots of Violence

In response to a question from a white South African about ANC-sponsored violence, Mnuzana said "violence in South Africa was not invented by blacks. Whites are not aware of it because they were not the victims. They are surprised when they begin to see the violence coming from blacks." Mnuzana emphasized that the ANC "studiously avoided violence" for 50 years, until the Sharpsville massacre of 1960, after which "blacks decided to take violence back where it came from, which is only politeness."

Mnuzana said those who claim

the ANC should renounce violence are in effect claiming that "so long as you are oppressed, you are not allowed to use violence. Violence is only for those who oppress."

Montgomery had said earlier that many white South Africans recognize the desperation which has driven blacks to militant positions. What was lacking, he said, was a

"vision of the future clear enough to provide patience. If evolution is to succeed, the basic prerequisite is a bonafide negotiation period, and that will not happen until the South African government engages in enough change to be taken seriously."

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Dean's Prognosis Positive

By Jeffrey Gershowitz

HLS Dean James Vorenberg '51, in a memorandum dated July 30, notified the HLS faculty and staff that he has been diagnosed as suffering from a mild case of Parkinson's disease, a degenerative nervous disorder, but that the illness will not keep him from his responsibilities.

"I'm still leading life the way I have previously in every respect," said Vorenberg. "I'm optimistic about being able to continue to do so. I really do feel fine."

According to Vorenberg, the illness was first discovered while he was consulting his physician about the back trouble he has experienced over the past two years. The doctor, he said, described his case as mild with relation to "both the present impact, which is really very slightly noticeable, and the prospects, which are that it will not be a serious problem for many years."

Parkinson's disease is associated with later life and is sometimes characterized by muscular tremors and rigidity, slowness of movement, peculiarity of movement and posture and general weakness.

Tennis Still Fierce

"I do not have any intention of resigning because of Parkinson's," Vorenberg stated. "The doctors with whom I have consulted have told me there is no reason I should do so."

Professor Charles Nesson '63 agreed that Parkinson's has had

little effect on Vorenberg. "I've played tennis with Jim for years and he still beats me," said Nesson, adding, "I haven't noticed any change in his tennis. His reflexes are very good."

Vorenberg distributed the memo because "people were asking me questions and were very concerned, and I thought it would be reassuring." The memo was sent only to faculty and staff because Vorenberg said he believed others "would have less interest in the state of my health."

The memorandum stated, in its entirety:

"Over the past months some of you have expressed concern about my health. I hope it will be reassuring if I give a brief report.

"For almost two years I have had back trouble. It now appears that for about the same period I have also had a mild form of Parkinson's disease. My doctors tell me that there is no reason to limit work or other activities and I definitely do not intend to do so.

"Of course, I would rather not have Parkinson's (or back trouble), but I feel fine and share my doctors' optimism about the future. (There is a medication with the winning name of 'L-Dopa' that is available if it is necessary, which it is not now.)

"I am told that one in every hundred people over 50 years old has Parkinson's. I would at least feel I was doing something useful if I filled the Law School's quota."

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Reader's Forum

Republicans' Strategy Prevents True Open Forum

Freedom of speech was dealt two blows by the visit last week of Adolfo Calero, head of the *contras*. One attack was unexpected, unplanned, and involved a non-Harvard student; the other attack on free speech was well-thought out, planned weeks ahead of time, and executed by an official Harvard organization.

As Calero was about to speak, a Tufts University senior — acting on his own and unaffiliated with anyone from Harvard — rushed the stage, coming to within a couple of feet of Calero before being subdued. Following this attack, the speech was cancelled, preventing the pro-*contra* audience from hearing Calero, and the anti-*contra* audience from conducting a silent memorial and protest to *contra* policies.

The Tufts University senior who rushed the stage now faces charges of assault and battery and disturbing a public assembly. The issue is now out of our hands.

More distressing, however, was an organized, conscious and concerted effort by the Harvard Republicans to infringe upon the free speech rights of the majority of HLS students.

The meeting with Calero was listed in the September 24th *Advisor* as open to all HLS students, and advertised to the media as a public forum. However, instead of a public forum, in which any Harvard Law Student could participate, the Republicans decided to stack the deck by giving 300 of the 350 tickets to Republican activists — people they could count on to express a uniform, predetermined, positive attitude to the *contras*.

In order to attend the speech, HLS students needed to purchase one of the few remaining tickets put on sale, and have a Harvard Law School ID and a matching photo ID for admission. No Democrat from the College could attend, yet Republican activists from the College were invited. No Democrat from another school or from the community could

attend, yet Republican ideologues from "both U Mass campuses, the Massachusetts Institute of Technology, Bradford, Merrimack, Brandeis, Boston College, Tufts and Wellesley" (*Crimson*, 10/3/87) were not only welcomed, but given free tickets.

To make matters worse, even the 15% of the tickets that went on sale to HLS students were sold in a manner to insure that people who did not march in lockstep with the Republican ideology would have little possibility of getting seats. Tickets were to be sold on Tuesday, three days prior to the event. Yet even after repeated questioning, Republican club members refused to let non-Republicans know what time the tickets would be sold. The president of the HLS Republicans said tickets would go on sale at 8:00 or 8:30 a.m.; people who arrived at that time would have found no one to sell them tickets. Other Republican Club members said the tickets would be sold at noon; students arriving at noon would have found that the tickets had already been sold out.

One conservative Republican was so incensed with the unfairness of the Ames Courtroom packing plan that he gave his ticket to this writer, indicating that he would not attend an event that was being conducted in such a blatantly biased manner.

During the three days prior to the event, many non-Republican HLS students tried to buy tickets to attend Calero's speech, but were repeatedly told that no tickets were available. Yet as late as a day before the speech, Republicans were still trying to find conservatives to whom to give tickets. As late as Thursday afternoon, one of the people organizing the event for the Republicans said that they still had "50 to 60" tickets left. Yet in spite of the fact that scores of HLS students wanted to get tickets, no Democrat, no independent, no one not hand-picked by the Republicans could purchase a ticket. Tickets were only available to those who had the "correct" Republican attitude towards the *contras*.

No one objects to the Republicans holding a closed meeting. What is intolerable is to organize a public forum, pretend to the press that the audience is representative of the Law School, and then to ideologically screen people before allowing them admission to the event. Tuition dollars and school resources should not be used to support such a flagrant insult to the spirit of free speech and open debate.

What is even more galling is that, after the event was unfortunately terminated, some Republicans in the audience had the nerve to accuse those who were holding a silent, non-disruptive protest of being against free speech. Progressive people on this campus have never been afraid of public forums, nor have they discriminated against HLS

students on political grounds. When Sergio Ramirez, vice-president of Nicaragua, spoke at HLS last year, the event was open to any HLS student who bought tickets. There was no ideological screening; no students were given special consideration because of their politics. The Block Bork Teach-In held on 9/29/87 was open to any student who wished to attend; in fact, students who supported Bork were welcomed by the organizers to participate and challenge the majority of students with their questions. It is only the right-wing on this campus that seems afraid of open and free debate, cravenly hiding behind biased procedures, and pusillanimously penning the unsigned, untraceable hit pieces attacking "liberals" that have been appearing this week on HLS bulletin boards.

Republicans may attempt to argue that they needed to screen the audience for security reasons — the fact that a Tufts University senior was able to disrupt the event is proof of that. Of course, this 'argument' is somewhat disingenuous. If the forum had been open to HLS students, and only HLS students, the disruption would never have occurred. As the Republicans, as the Dean, and as everyone else on campus knows, no law student had any intention of disrupting Calero's speech. Asking difficult questions, yes. Standing in silent protest, yes. But disruption, no. Rather, Republicans themselves must take the blame from non-HLS students at the event. Republican organizers, not the protesters, spread hundreds of tickets throughout the community — including Tufts University — in the hope of packing the speech to give a false impression to the media.

As the HLS administration recognizes, it is high time to establish guidelines guaranteeing that no Law School organization can again violate the precepts of free speech and open debate. Even a thug like Calero — responsible for the deaths of thousands of innocent civilians and about to go on trial under RICO for conspiracy to commit murder and cocaine smuggling — has a right to speak at Harvard. The majority of students at Harvard have nothing but disgust for paid mercenaries like Calero. Yet we allow him to speak because of our overriding belief in the importance of the First Amendment.

We hope that the same faith and trust in the First Amendment is shown in the future by the HLS Republicans.

Michael Linfield
October 6, 1987

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October 23

Administration Fails To Protect Free Speech

On Friday, October 2, 1987, yet another nail was driven into the coffin of free speech at Harvard University. That afternoon Adolfo Calero, a leader of the Nicaraguan resistance, was driven off the Harvard campus before he could even begin, much less finish, his scheduled address. Anticipating at least some trouble, we attempted to arrange for extensive security, in addition to reserving seats close to the podium for sympathetic spectators (or at least for people who would not throw eggs or paint). Furthermore, although under no compulsion to do so and despite our serious security concerns, we chose to sell publicly at least sixty tickets to law students.

At the hour the speech was scheduled to begin, a bomb threat was made, and the police were forced to move the speech — and some 350 would-be spectators — from Ames Courtroom to Langdell North Middle. Outside, a protest raged, led by the Spartacus Youth League; inside, the student protest was organized by 2L Michael Linfield, who worked this summer for the communist government of Nicaragua. After Dr. Calero had been introduced and was waiting for the applause — and the boos — to die down, a Tufts senior named Joshua Laub charged down from the audience, jumped over a table in front of the podium, vaulted onto the stage, and lunged at Dr. Calero. He got close enough to knock down the microphones just in front of Dr. Calero, but was subdued by Harvard police and carried out of the room, screaming "Kill the *contras*! We will murder you!"

Dr. Calero was adamant about continuing with the program, but Assistant Dean Snyder inexplicably and without consultation with either Dr. Calero or the Harvard Law School Republicans cancelled the program. Laub is a member of the International Committee Against Racism (INCAR), a Marxist student group that has physically attacked conservative speakers in the past. Laub is free today on fifteen dollars bail.

We wish to emphasize several disturbing aspects of the Calero affair. The first is Harvard's inability — or unwillingness — to provide adequate security to ensure that those with an unpopular (i.e. conservative) message may speak. It is inconceivable that the administration did not foresee (sic) such a problem, given the Left's disgraceful history of assaulting or shouting down campus speakers such as Caspar Weinberger, Jorge Rosales, and Wilson Goode.

Second, despite Harvard's singularly unsuccessful track record in protecting these individuals' right of free speech, the Dean of Students gutted or watered down virtually every security precaution we had requested. For example, she demanded that we allow protesters to sit immediately in front of Dr. Calero. Even worse, she refused to allow

any search of spectators' bags, until overruled by the Harvard police. Fortunately, a most cursory search finally was allowed, during which another protester was caught trying to smuggle eggs and paint into the auditorium. Under the circumstances, Dr. Calero was fortunate to escape from Harvard unharmed.

In marked contrast with its indifference towards our all-too-real security worries, the administration demonstrated effusive sympathy for the "rights of protesters" at the speech. Before Dr. Calero's speech, Dean Wald informed us that we could take no action whatsoever to prevent protesters from standing with their backs towards Dr. Calero or waving cardboard signs at him, regardless of how distracting such actions became to others in the audience. As she explained to us, "we have to balance the rights of the speaker and the rights of others to protest." But are the First Amendment scales so warped as to prefer this so-called "right to protest" over the right of Dr. Calero to communicate with his audience without significant interference? No one would deny the protesters the right to bring Sandinistas to Harvard to speak out against Dr. Calero, or the right to say anything they wanted outside the auditorium, or the right to ask Dr. Calero any questions they wanted after his speech, or even the right to stand silently and wave their banners at the back of the auditorium, so as not to disturb others in the audience. But someone in the audience untutored in the peculiar logic of the Harvard administration who had taken the time and paid the admission to see Dr. Calero might have difficulty understanding why no one could do anything to remove a protester intent on standing up and waving a sign one seat in front of him. We suspect that had the law school Republicans asserted such a right en masse before the speech of Sandinista leader Sergio Ramirez last year, it would have been summarily, unequivocally, and quite properly denied.

Several members of the Harvard community must bear significant responsibility for creating an environment that encourages

disgraceful behavior like Mr. Laub's. First and foremost is the university administration, which has signalled its tacit approval of such actions by repeatedly refusing to impose significant punishment on Harvard students who have disrupted conservative speakers in the past. Nor have many law school students or faculty, most of whom profess unqualified support for a civil libertarian agenda, gone out of their way to express support for the rights of conservative speakers to speak, be heard, and be free from physical attack. Indeed Randall Kennedy, an assistant professor at the law school, last year publicly applauded people who shout down controversial speakers and expressed doubts about condemning those who assault them. Equally distinguished was the performance of some twenty law students, who last Friday moved their protest from the schoolhouse to the jailhouse, forming a picket line and chanting "Free Josh; jail Calero!"

We wish to apologize to those members of our audience Friday who came to hear Dr. Calero speak. We want to make clear, however, that neither the Harvard Law School Republicans nor Dr. Calero was responsible for the cancellation of the speech. Assistant Dean Snyder unilaterally cancelled the speech, despite Dr. Calero's insistence that he again attempt to speak. Assistant Dean Snyder then proceeded to tell the audience that it was Dr. Calero who was unwilling to continue, an untruth repeated by Dean Vorenberg in his press release the following Monday. Dean Wald's only response was to scold Dr. Calero and HLSR President Joe Anderson for their insensitivity to the protesters. Such behavior is egregious, and beyond the pale of comprehension.

To date, the university's only solution to this intolerable and ongoing problem has been to appoint an ad hoc committee comprised of Dean Vorenberg, Dean Wald and Professor Dershowitz. We aren't going to hold our breath.

HLS Republicans
October 6, 1987



Whites Realize Apartheid Is Hell

(Continued from Page 4)

Proof of the government's sincerity would be provided by the release of Nelson Mandela and other political prisoners, rescinding the ban on opposition political groups, and the removal of all discriminatory legislation from the books, Montgomery suggested.

Mnuzana said the struggle over apartheid will be difficult to control because neither side has a "preponderance of might" over the other, enhancing the possibility of protracted violence. He denied the allegation that blacks are not unified in their anti-apartheid battle, say-

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Freedom of Speech?

Freedom of speech. It is among the freedoms whose limits we, as students, have tested on campuses across the country. The university has been a focal point of free speech as the center of rallies, protests, pickets, and demonstrations. It is a freedom few will say we do not value highly.

And yet, this freedom was severely constrained on our own campus just a week ago. What Adolfo Calero had to say last Friday we will never know. He was not given the chance to utter a sound before he was assaulted. The narrowmindedness and indeed the very ignorance that this physical attack represents is despicable. No matter what ideological notion was supported by each member of Calero's audience, each stood to gain from listening to what he had to say. After all, doesn't taking a political or ideological stand involve being fully apprised of both sides? A fully informed, fully researched opinion is not only more believable, but more respectable.

The student was not a member of the HLS community. Indeed, the law students present to protest Calero did so peacefully — with signs. This represents freedom of speech at its finest — vehemently different views present in the same room. It is a form of protest to be admired and respected as intellectually mature. Neither side for a moment believes that the other is right, indeed both know that the other is morally wrong, but the benefit of complete knowledge and free speech is fully appreciated.

But should the fact that the protestor was not an HLS student make a difference? Do we want organizations to limit their activities to the HLS community? Does this very act not detract from the diversity of ideas that such events are designed to encourage? Indeed, the overly careful, and seemingly preferential distribution of tickets for the Calero event, in the end proved futile as an effort to keep "violent" protestors out.

If HLS is going to become known as an unsafe podium for speakers, the diversity of what we hear will be severely constrained. This very real fact need be weighed against the diversity of the audience the speaker addresses. Perhaps, since in the end it is the HLS community which will suffer from a lack of speakers willing to risk their lives to speak in Austin or Langdell, we may have to limit ourselves to audiences which are comprised solely of the HLS community. Perhaps we will have to settle for this limited diversity. But then let it be the whole HLS community and not portions of it selected by the group sponsoring the event. This is not to say that HLS students are necessarily more respectable than those members of the outside community who choose to attend our events. It is to say, however, that if something like this should happen again, and we are to develop such a reputation, we have no one to blame but ourselves.

T.M.F.

HARVARD LAW RECORD

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Fenno

RIING! RIING! RIING!

The dull throbbing sound penetrated and echoed through the soused cells of Fenno's brain. He raised himself from the kitchen floor, where he had sat down the previous evening to examine the groovy little tracings on the linoleum.

"Ungh," Fenno muttered. "Now where did I put that phone?"

Fenno had not used his telephone since that Wellesley sophomore had bounced it off his head following a fruitless post-Lincoln's Inn escapade.

RIING! RIING!

Reaching behind his Duncan Kennedy Property-Torts-Contracts outline, Fenno grabbed the receiver.

"Hello."

"Mr. Fenno, this is your President speaking," the voice rattled over the line.

"Uh, well, hello, uh, how's it going Mr. Nixon?" responded the stunned Fenno. "Is Betty out of the clinic yet? I've been following her treatment and I must say that I can empathize with her problems, I..."

"Weeeell, Fenno buddy, it's obvious that you've been studying too hard recently and have lost touch with what's going on. This is Ronny Reagan. I'm President now, and I'd like to nominate you to be the next Supreme Court Justice. Will you accept?"

Fenno's head was reeling. Could it be that the Gipper, Bonzo's keeper, ex-hubby of Jane Wyman, was now President of the entire Nation? Could it be that *he*, Fenno, was being asked to sit on the high Court? Before Fenno could sort out the answers, the voice wheezed on. . . .

"Your background is perfect for the job — you've spent many years in academia at a prestigious institution like Harvard, and your complete absence of opinion on any Constitutional issue is something that I can really appreciate. Since that whiny plagiarizer nixed Bob, we've been searching for someone behind whom the American public will rally. Someone with Ollie North potential. That someone is you. We need a man of your caliber to help protect those things that made America great."

Fenno reflected on the weighty decision poised before him. He stood up and cracked open a Meister Brau. The cool brew slaked his unquenchable thirst. He thought of the staid figures that had glared down at him during countless classes over the years. Holmes, Frankfurter, Brandeis, Cardozo, Fenno. Maybe someday he too would be pictured in black robes, looking down on sleeping 3L's. "There I'd be, brew in hand..."

Suddenly, Fenno was gripped with fear.

"Listen Ronny, I have one question. Do you serve Meister Brau in the chambers?"

Silence hissed over the line.

"Sorry Ron, I have my reputation to consider." He hung up and went to Studley's.



HARVARD LAW RECORD

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GO JOE!

LAST WEEK'S MERCIFUL DISRUPTION OF ADOLFO CALERO - THE CONTRA LEADER PERSONALLY RESPONSIBLE FOR THE TORTURE AND GRISLY DEATH OF HUNDREDS OF NICARAGUAN CIVILIANS - RAISED SOME QUESTIONS ON CAMPUS...



CAN'T EVEN SPEAK AT HLS (OR ANYWHERE ELSE)

FRIAR TOMAS ZAVALA KILLED BY CONTRAS

INESITO SOLANO, 4 YRS OLD KILLED BY CONTRAS

LIZETTE MIRANDA, 4 YRS OLD KILLED BY CONTRAS

BENJAMIN LINDER KILLED BY CONTRAS APRIL 28, 1987

SUCH AS, JUST WHO SHOULD BE ALLOWED TO SPEAK AT HLS?

AND, WHAT HAPPENS WHEN OUR MORALS BECOME SIMPLY RULE-FOLLOWING, SO THAT PROCEDURAL "FAIRNESS" TAKES PRECEDENCE OVER SUBSTANTIVE JUSTICE?

YOU WANT TO BRING WHOM?!

HE'S GOT FIRST AMENDMENT RIGHTS, TOO!



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ADOLF HITLER

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HARVARD ID REQUIRED

"WHY I KILL JEWS"

FRIDAY - 2 P.M. - AUSTIN HALL

REFRESHMENTS PROVIDED



WHY WOULD THEY BRING HITLER?!

APPARENTLY THEY WERE JUST FOLLOWING ORDERS.

DID YOU PROTEST?

WHY? HE HAD A RIGHT TO SPEAK, DIDN'T HE?

NEXT WEEK: POL POT ON FREEDOM OF SPEECH (HLS REFUSED)



THE DEBATE HAS BEEN REDUCED TO NAMECALLING - OFTEN CORRECT - ON BOTH SIDES...

SOCIALIST!

FASCIST!

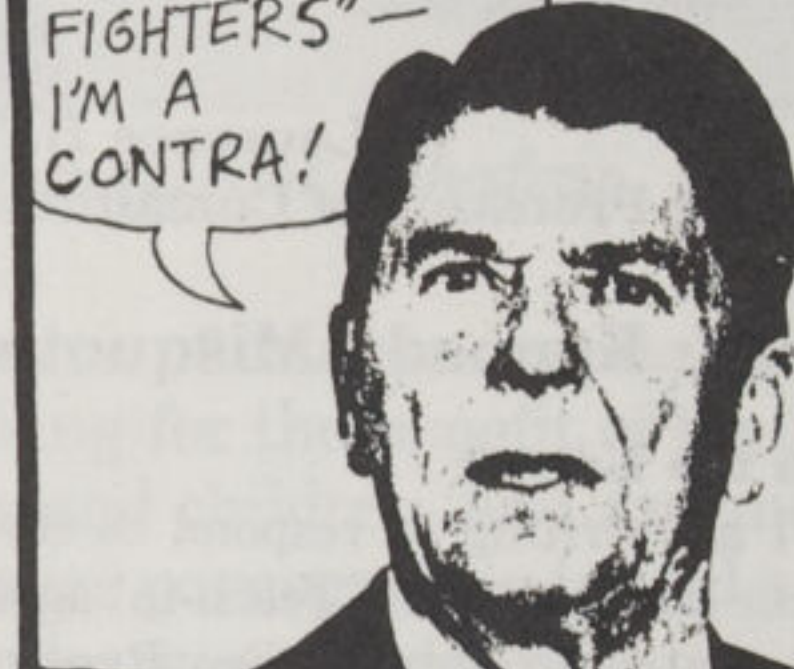
THANK YOU!

CONTRACEPTION NOT CONTRA AID



... A LEVEL OF ACCURACY RARELY FOUND THESE DAYS.

WELL, I CALL THEM "FREEDOM FIGHTERS" - I'M A CONTRA!



CLASSICS Illustrated

FEATURING TALES OF WHINY EGOTISM

One Hell by Scot Thorough



CAMBRIDGE 1975: DAY ONE: Harvard Law School: EVERYBODY I MET WAS A GENIUS...

I CLIMBED MT. EVEREST ALONE IN A BIKINI AND DECIDED TO GO TO LAW SCHOOL...

I WON THE NOBEL PRIZE IN MEDICINE, I THOUGHT ABOUT LAW SCHOOL...

I USED TO BE PRESIDENT OF BROWN



...AND THERE WAS SO MUCH ASSIGNED READING TO DO

WHAT'S THIS ABOUT RATIONALLY AUTONOMOUS UTILITY MAXIMIZERS? HMMM... QUARE CLAUSUM FREGIT?!

ASSUMPSIT...

RES IPSA LOQUITUR?



CONTRACTS WITH PERINI WAS THE WORST VELL, MR. THOROUGH, YOU VILL ANSWER THE QUESTION, UND YOU VILL ANSWER IT NOW!!

UN... I PASS, SIR...

SCHVINEHUND! VE HAFF VAYS OFF MAKING YOU TALK!

YES SIR, I MEAN JA...



I WAS STUDYING ALL THE TIME...

RULE 26(b)(3)...

ZZZZZZ



I THINK MY MARRIAGE HAD SOME PROBLEMS...

HOW'S YOUR HUSBAND?

HUSBAND? WHAT HUSBAND? I HAVEN'T TALKED TO HIM FOR 6 MONTHS!

L & P X H?



YOU SEE, I HAD TO BE THE BEST: 1ST ACADEMICALLY, LAW REVIEW EDITOR, CLERK FOR THE SUPREME COURT... I WANTED IT ALL!!!



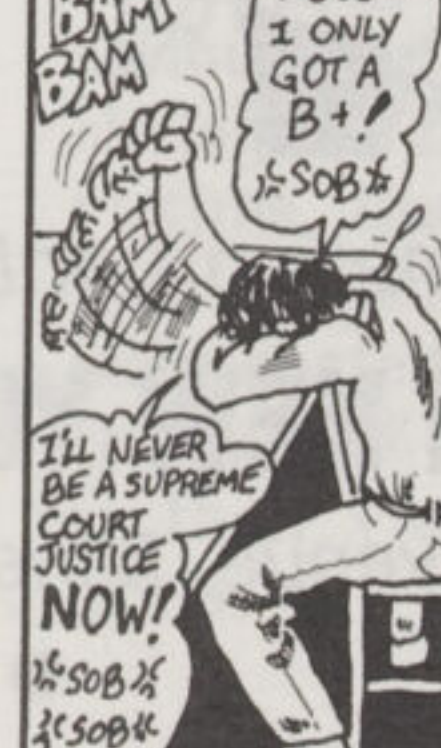
THEN EXAMS CAME AND BLEW MY DREAMS OUTTA THE WATER...

DAM DAM DAM

I ONLY GOT A B+!

I'LL NEVER BE A SUPREME COURT JUSTICE NOW!

SOB SOB SOB



WELL, AT ANYRATE, I SURVIVED MY FIRST YEAR - AND NOW I'M PRESUMED INNOCENT (AND FILTHY RICH!)

NEXT CLASSICS ILLUSTRATED: FEDERAL RULES OF CIVIL PROCEDURE. DON'T MISS IT!



Letters to the Editor of the Record

Tribe's Dismay

To the Editor:

I was dismayed to see an article in the October 2 RECORD stating "Professor Laurence Tribe '66 cancelled his classes to testify before the Senate Judiciary Committee." This is incorrect. I did reschedule a class — for only the second time in over 17 years — in early September for a speaking engagement to which I have been committed for several years. And I announced that, if called to testify on a teaching day, I would reluctantly reschedule one class for that purpose. I ended up being asked to testify on September 22, a Tuesday, which did not conflict with my Wed-Thu-Fri teaching schedule. Your statement that I "cancelled . . . classes" in order to testify leaves your readers with a very different impression.

Laurence H. Tribe '66
Tyler Professor of Constitutional Law

Kennedy Misquoted

To the Editor:

I am writing to respond to the story by Troy Morgan on the "Teach-in" against Judge Bork's confirmation. (See RECORD, Oct. 2, 1987). Mr. Morgan writes that I "attacked Bork's ethics." That is inaccurate. At the

Teach-in, I explained why I object to Judge Bork's politics and judicial philosophy and oppose his confirmation. I said nothing about his "ethics" or the quality of his character. Later in the story, Mr. Morgan associates me with "Bork Busters." I did not refer to myself as a "Bork Buster" and I disassociate myself from the term for it trivializes the values implicated by the political struggle over Judge Bork's confirmation.

Randall Kennedy
Assistant Professor of Law

Tickets Unfair

To the Editor:

(The RECORD received a copy of this letter, originally addressed to Dean James Vorenberg.)

As students of Harvard Law School, we the undersigned would like to express to you our shock and anger at the management of the Harvard visit of Adolfo Calero, leader of the *Contras*, by the Harvard Law School Republicans.

As you may be aware, the Calero speech October 2nd, at 4 p.m. in the Ames Courtroom has been billed here and to the media as a law school event. However, we understand that a majority of tickets were set aside prior to availability to HLS students

in general for members of university Republican organizations and unspecified "guests." This fact was not indicated in any of the HLS Republicans' publicity flyers for the event. Beyond this "hand-picked" audience, only a limited number of tickets were available to other HLS students. These were sold out in the space of half an hour on September 29, the only day they were made available. A line of waiting HLS students were turned away.

We strongly object to the use of a university facility for an event which seems to have been orchestrated to restrict access to avoid large-scale attendance by HLS students who may disagree with U.S. Government policy on Nicaragua. Deceptive publicity and removal of a large block of tickets from access by non-Republican HLS students strongly suggests prior ideological screening in order to ensure the appearance of a "friendly" reception for the *Contra* representative. This violates basic standards of fairness and openness we hope our university stands for.

It bears mention that none of these problems occurred last year during the visit of Sergio Ramirez, Vice-President of Nicaragua. His speech was open to public attendance.

We understand the university has no written policy dealing with the denial of full

(Continued on Page 16)



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Off the Record Trying To Conquer Sexism Through Casebooks

by Lynn Hecht Schafran

Lynn Hecht Schafran is an attorney and directs the National Judicial Education Program to Promote Equality for Women and Men in the Courts, a project of the NOW Legal Defense and Education Fund in cooperation with the National Association for Women Judges. She is Special Counsel to the New York City Commission on the Status of Women, immediate past chair of the Committee on Sex and Law of the Association of the Bar of the City of New York, and a member of the new American Bar Association Commission on Women in the Profession.

For the last six years I have been Director of the National Judicial Education Program to Promote Equality for Women and Men in the Courts (NJEP), a program designed to help judges understand how gender bias in all its permutations — stereotyped thinking about the nature and roles of women and men, society's perception of the relative worth of women and men and what is perceived as women's and men's work, and myths and misconceptions about the social and economic realities of women's and men's lives — affects judicial decision making and courtroom interaction. During these years one of the comments I have heard most frequently is that NJEP's concerns will be taken care of by time. That once the older men now on the bench retire, the next generation of judges, and certainly the judges of the future now in law school, will not share the gender based biases of judges on the bench today. This may be an accurate forecast in a few respects, but a study of the seven leading criminal justice casebooks to be released early next year makes it depressingly clear that unless law schools act now to integrate a consideration of gender bias into every relevant course, the National Judicial Education Program will have to remain in business indefinitely.

What will time cure? Most of to-

day's judges had few women colleagues in law school or practice. Given the influx of women into the legal profession, the assumption of many of these judges that "lawyer" or "judge" is synonymous with "white male" will fade. With it will go the repeated questioning of women attorneys as to whether they are attorneys when any man with a tie is assumed to be one, the overly familiar forms of address, the sexist remarks thought to be jokes or pleasantries and the overtly hostile courtroom comments such as "I will tell you what, little girl, you lose" and "I don't think that ladies should be lawyers" for which judges in New York and Chicago were recently disciplined. Of course, whether these behaviors will cease completely becomes questionable when one knows that two years ago the Harvard Law Women's Association had to advise the faculty, in a pamphlet about how to create a non-sexist classroom environment, "Don't Tell Sexist Jokes, Stories, Poems or Parables."

Changing lifestyles and greater flexibility in women's and men's roles can be expected to influence judges' views about matters such as custody. The next generation of judges is less likely to denounce a custodial mother who wishes to move with her child for a major job opportunity as a "careerist," as happened in 1983 in Louisiana, or to write that he would never award custody of a boy to a househusband because with such a role model the child would be "socially crippled when he is an adult," as happened last year in Iowa.

But it is naive to assume that more women practicing law and more men changing diapers are all that is needed to eliminate gender bias from the courts. Judges today ask women victims of rape and domestic violence what they did to provoke their attackers, give two years of rehabilitative alimony and a lecture about employment to divorcing women who have invested



Lynne Hecht Schafran

thirty years of human capital in homemaking for the benefit of their husbands and children, and assume that because pornography is sold at newsstands women do not mind having it forced on them in the workplace. These kinds of gender bias will not evaporate merely because of changing sex roles.

At a 1987 National Judicial College sentencing institute the hypotheticals included one in which a woman raped by a stranger sustained no physical injury. Several judges in one discussion group opined that the appropriate sentence for the rapist was probation because he was married, a hard worker, this was his first offense and, principally, because the victim "was not hurt." A woman judge in the group tried to explain to these judges that their belief that the woman was not hurt had been discredited as far back as the sixties, when women's rights advocates began to reform the country's rape laws to reflect the seriousness of the long term psychological harm suffered by rape victims. But these judges insisted that it wasn't as if the victim had been beaten or stabbed, making it the type of "serious" assault which in their view warranted incarceration.

(Continued on Page 14)

Who Is Responsible For Halting Calero Speech?

(Continued from Page 2)

speech to continue, said Anderson. It was the administration who cancelled the speech unnecessarily, he insisted, claiming that "we were vetoed."

Vorenberg, who was present at the event, later released a statement to the contrary, saying that he regretted that "Adolfo Calero and the sponsors of the speech found it necessary to terminate the address," adding that "particularly at a university, we all have a great interest in freedom of speech."

Charlie Danaher, 2L, who organized the event for HLSR, later accused the administration of "lying" with regard to whose decision it was to abort the speech. Although administration officials insisted that Calero had left immediately, he was still in Austin Hall forty minutes later.

Danaher said the organization lost nearly \$2000 in security for the speech. He indicated that the lack of clear written guidelines by the administration made it impossible to provide adequate security. This sentiment was echoed by those protesting the event. James Vigil, 2L, who helped organize the Harvard Students against *contras*, noted that "the lack of full information on how the event was to be run added to the problems."

Wald and Vorenberg insisted that there was adequate preparation, since "law school officials have been meeting all week and working with police and students on both sides of the issue to ensure that it would

be possible for the speech to be given and for peaceful protest to take place."

Danaher stated that the administration overemphasized the rights of protestors, thereby sacrificing security considerations. "As a student organization, we didn't have to sell one ticket to the general public. Next time, we won't," Danaher added.

Vigil stated that Laub's actions were not supported by the protestors. "There was every intention to let Calero speak and hear his views," he said.

"I think it's people out of the law school who create the problems," noted John Bush, 2L, who helped

organize the lecture. One law student from England commented that "I just didn't think this sort of thing happened in the States."

Laub, who did not have a ticket, posed as a reporter for *The Harvard Crimson* in order to gain admission to the high security event. He was later charged with three criminal violations, including assault and battery on a police officer, disturbing the peace, and disrupting a public assembly. He was released on \$15 bail and was arraigned on Monday. Snyder assured reporters that if the assailant had been a law student, the administration would have taken disciplinary action.

☛

King Named Minority Counsellor

By Julia A. Loewy

Among the many new faces at HLS this fall is that of Jay King. Appointed as counselor to minority students, King has counseled students at other academic institutions, including the University of Massachusetts at Amherst and Tufts University. In addition to working at HLS, King is a clinical instructor and supervisor at Harvard Medical School and maintains a private practice in Cambridge. King said he "cherishes the variety" that working in different settings provides.

According to King, his job is primarily designed to allow students who wish to see a minority counsellor to do so, and it is his specialty in "cross-cultural treatment" which brings him to this new position.

Minorities Plus

In his counselling positions at other schools, more than 50% of the people who have seen King have done so for reasons other than minority counselling, King said, adding that he would like students to know that he is "not here strictly for minority people."

King has done clinical work and research on relationships of married

and unmarried couples and will meet with couples and families, as well as with individuals. He is planning to announce in the near future the formation of a group on relationships which will meet for approximately 15 weeks.

In addition, King privately runs groups for adult children of alcoholics and is willing to run such a group at HLS if there is an interest. He has also worked with substance abuse problems. King said he is "not sure how much demand there is in that area, but understand[s] there is some."

☛

Avoid Revolt?

(Continued from Page 7)

ing that "if we seem divided, except where we are manipulated by the enemy, it is only on a superficial level. . . . Blacks in South Africa are more united than ever, and in the foreseeable future, we will be in a position to give apartheid an equal fight. And if we are equal, then we can expect anarchy."

☛

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Note: As of September 1, 1986, New York, New Jersey, Massachusetts, Maine, New Hampshire, Connecticut and Vermont have decided to require the MPRE for Bar Candidates. (Rhode Island has not yet adopted the MPRE.)

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Professors Must Eliminate Rape Bias

(Continued from Page 11)

In "Sex Bias in the Teaching of Criminal Law," the forthcoming study of how the seven most commonly used criminal law casebooks deal with gender related topics such as rape, domestic violence, the "reasonable man" standard for self-defense and prostitution, the origins of current stereotyped notions about rape law are glaringly apparent. Five of the seven casebooks mention marital rape, but four give it half a page or less. Only one cites a case. The overall focus is strictly on defense. All seven casebooks cover the mistake of fact defense to rape with an average of 4.7 pages, and the mistake of fact defense to statutory rape, with an average of 5.3 pages. No casebook discusses what rape is, the history of its treatment as a crime of sex rather than violence, the presumption in the Lord Hale jury charge, until recently standard throughout the country, that women tempt men and then cry rape, or the long term psychological consequences for the victim.

Law school education about rape for judges on the bench today was defense oriented and made worse by authoritative commentary that trivialized rape victims' claims, such as Wigmore's assertion that every woman charging sexual assault should undergo psychiatric examination to be certain she is not fantasizing. How little we have progressed is evident from the comment made by a criminal law professor at a discussion of the study at a law teachers' meeting. "The impression that I had from reading the casebook through [was that] the crime of rape came across as not being a crime at all but just a mechanism for illustrating how defenses worked."

Professor Nancy Erickson of Ohio State University Law School, principal investigator for this study, reports that while it was underway criminal law teachers frequently asked whether they would be considered sexist if they did not cover rape. Some teachers reported that women students have accused them

of sex bias because they don't cover the topic. Others who have tried teaching it reported being criticized by women students because of the way they teach it, and because the men students do not view rape as a serious crime but instead crack jokes about the victim. Harvard criminal law professor Philip Heymann told *American Lawyer* last year that although he and others at Harvard now teach rape based on materials and teaching strategies developed by Harvard law professor Susan Estrich, the author of *Real Rape*, he had "shied away from the subject for years because he thought he'd end up with 'the women in the class furious with me or with the men and women at each others' throats.'"

The controversy is worth it. Those criminal law professors who teach rape from a different perspective than that in the casebooks are helping to change the views of the future judiciary. A University of Kentucky Law School professor, for example, asks each woman student to tell the class what precautions she takes to avoid rape. The women describe such strategies as not arriving at the campus too early, not staying too late, not being in campus buildings alone and not going to malls at off hours. The men students are amazed to learn how women's daily lives are circumscribed by the fear of rape. (One woman student staggered everyone when she said that she is not afraid of anything — she carries a loaded gun.)

But we cannot leave the teaching of rape or any other aspect of law in which gender bias may be a factor to the vagaries of chance, hoping they will be taught by teachers attuned to the bias factor who will develop their own materials to supplement the casebooks. Many teachers don't understand these issues or make these efforts. Moreover, it is unfair to put the burden of integrating these issues into the curriculum on individual law professors. Some professors, particularly women, who have tried to discuss gender bias in their courses have been criticized by men stu-

dents and faculty colleagues. Some women students who have raised the issue have been rebuffed by professors and ridiculed by peers.

Casebooks are seen by most students as authoritative. They validate the subjects they include and the point of view they express about those subjects. Marginalizing, trivializing or omitting gender related topics or addressing them without reference to the viewpoint of the woman victimized or implicated sends a distinct message to students about what is important in the law and how to think about the issues. The lead taken by professors who are trying to eliminate gender bias from the courts by using supplemental materials in the law schools deserves applause, support and emulation. But the critical next step, full integration of the issue into casebooks so that it is understood by everyone in legal education as central to achieving equal justice under law, remains to be taken.



3Ls Charged

(Continued from Page 1)

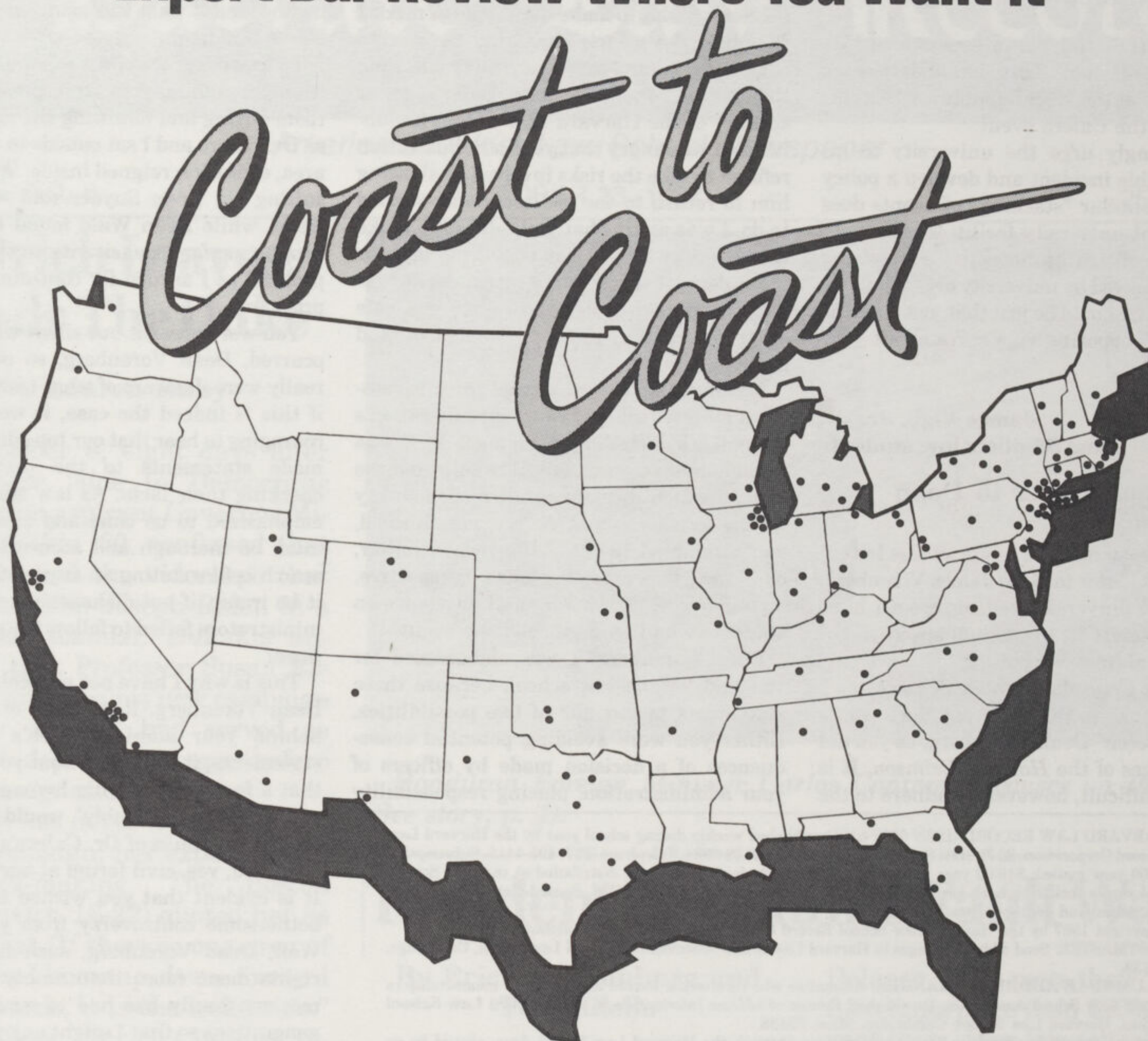
tion, Herwitz said. "At least a little uncertainty" about the gravity of the act therefore existed, he asserted.

The Ad Board voted to give each student an official warning and to withhold credit for the exam. Since both offenders were 3Ls, the warning has little practical consequence. The denial of credit for the course, however, left both individuals short of the total necessary for graduation. Each student is expected to receive a degree in November, on the basis of work completed over the summer.

Herwitz summarized the affair as "very low level, non-fraudulent in virtually every sense. . . . But it was a misstep," he concluded, "and one that cost."



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Letters to the Editor (Continued)

(Continued from Page 10)

access of HLS students to events based on political affiliation. This denial is the *de facto* result of the HLS Republicans' actions regarding the Calero event.

We strongly urge the university to investigate this incident and develop a policy to ensure similar "stacking" of events does not recur at university facilities and to set standards of truthfulness in advertising events sponsored by university organizations. Open forums should be just that, not a means to suppress opposing views. We await your response.

James Vigil, Jr., 2L
and 35 other law students

Open Letter to Dean

To the Editor:

(The RECORD received a copy of this letter.)

An Open Letter to Dean James Vorenberg:
"... in a university setting, we all have a great interest in freedom of speech."

— Dean James Vorenberg

Harvard Crimson, October 3, 1987

It is so easy to throw around such words as "free speech" Dean Vorenberg, as you did on the pages of the *Harvard Crimson*. It is far more difficult, however, to adhere to the

true meaning of these words; to take the necessary risks, to make the sacrifices needed to uphold the principles behind the words.

I was certainly angry last Friday following the assault on Dr. Adolfo Calero, guest speaker of the Harvard Law School Republicans. I was angry that your administration refused to take the risks involved in allowing him to return to the podium, as he wished to do. I was angry that you refused to make the necessary sacrifices in popularity in order to implement the security measures our organization had designed to ensure a safe environment for speaker, audience, and protestors alike.

My anger, however, turned to embarrassment after learning of your administration's statements, including those made by Deans Wald and Snyder immediately following the attack, which disclaimed all responsibility for the decision to halt the program. Instead, you attempted to place the responsibility, or blame, depending on one's perspective, on our guest, Dr. Calero, and on your own students who had organized the event.

Dean Vorenberg, I was embarrassed for you and for the law school, because these statements meant one of two possibilities. Either you were avoiding potential consequences of a decision made by officers of your administration, placing responsibility

on the most convenient targets, or you truly had no idea of what was going on in Langdell North Middle during and after the assault.

To consider the latter possibility, four deans, including you, were present in that room during and following the assault. Yet, as Dr. Calero and I sat outside in the holding area, confusion reigned inside. Without consulting us, Dean Snyder told everyone to leave, while Dean Wald found time to harangue me for insensitivity to the "right to protest" as I argued for continuation of the program.

You were present but silent while all this occurred, Dean Vorenberg, so perhaps you really were unaware of what transpired. But if this is indeed the case, it would be discouraging to hear that our top administrators made statements to the press without checking their facts. As law students, it is emphasized to us time and again that we must be thorough and accurate in our research before stating an argument. Wouldn't it be ironic, if not disheartening, if our administrators failed to follow the same guidelines?

This is why I have put my feelings to pen, Dean Vorenberg. Regardless of the reason behind your administration's misleading statements, it is evident that you perceived that a few words paying homage to "rights of speech and assembly" would be the last nail in the coffin of Dr. Calero's right to an open and, yes, civil forum at our law school. It is evident that you wished to remove a bothersome controversy from your agenda. Well, Dean Vorenberg, such fundamental rights mean more than empty rhetoric to me; my family has had to struggle across generations so that I might enjoy these freedoms which you seem to find so trivial and unworthy of risk and sacrifice.

You may be unable to withstand the pressure involved in protecting views which might be unpopular, but my colleagues and I in HLS Republicans are indeed willing to sacrifice further time and effort to realize Dr. Calero's right to speak here and our community's right to hear him. This is why we are eager that he return to campus, and why he is eager to make the journey.

Dean Vorenberg, Alexis de Toqueville once despaired, "I know no country in which, speaking generally, there is less independence of mind and true freedom of discussion than in America." Would such despair remain justifiable today? Were de Toqueville to have witnessed your acquiescence in the abuse of the rights of speaker and audience last Friday, doubtless his despair would quickly turn to agony.

Joseph A. Anderson
President, HLS Republicans

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