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Estrich Leaves; Leads The Duke

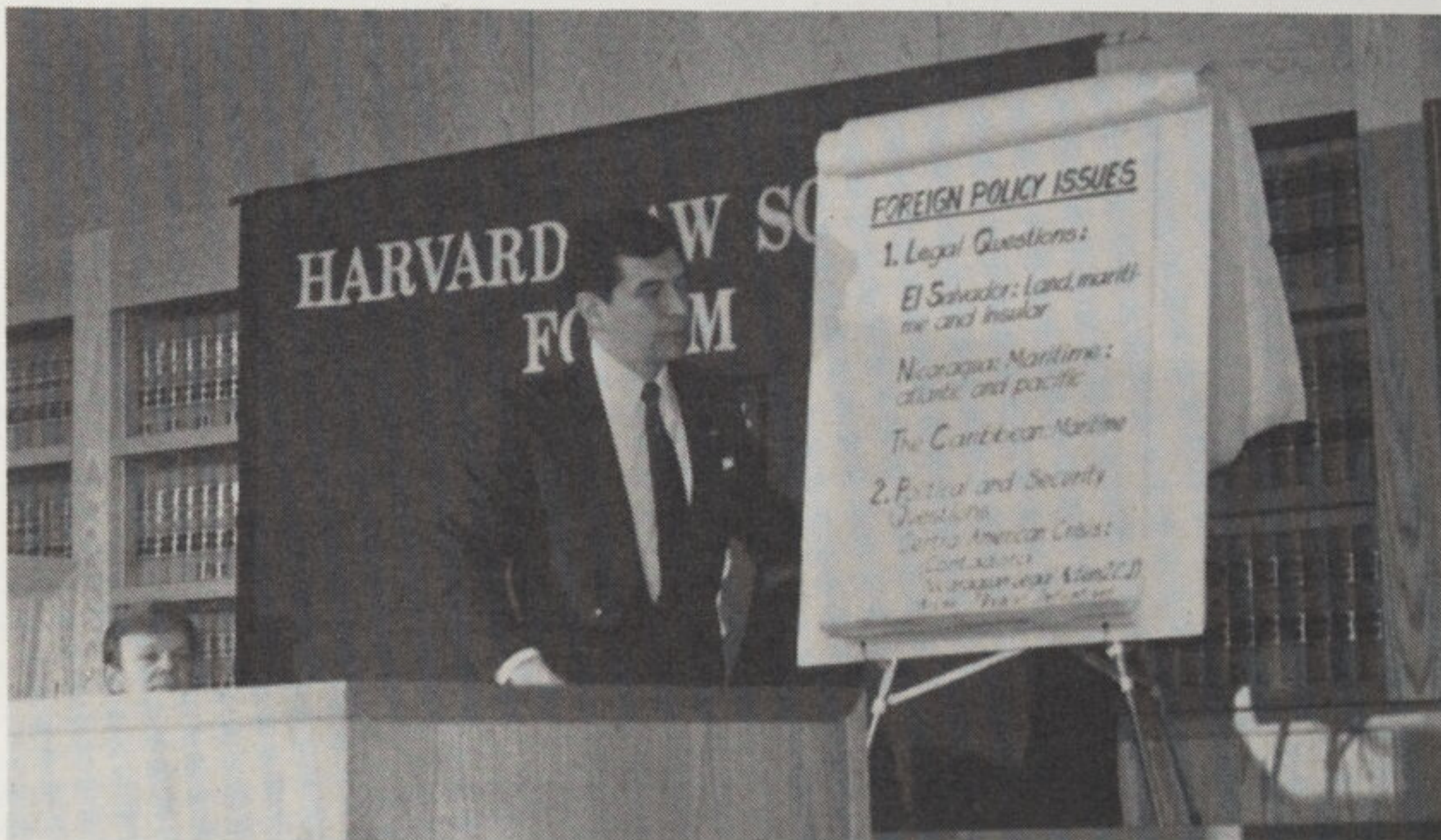
By Lauren Ruby

On October 8, eight days after John Sasso, aide to Democratic Presidential aspirant Governor Michael Dukakis '60, confessed that he had leaked the videotape that implicated Sen. Joseph Biden in a plagiarism scandal, Dukakis announced that Professor Susan Estrich '77 would be his new campaign manager. Estrich had served as Dukakis' deputy manager before Sasso's resignation.

Estrich has never managed a national campaign; her expertise lies in policy-making. The *Boston Phoenix* (Oct. 16-22) quoted her as saying that "If there is one area of campaigns I know up, down, forward or backwards, it is the issue side." Nevertheless, Estrich's intense involvement in Democratic politics throughout the eighties and her reputation — as an aide who is sharp, tough, and upstanding — made her a likely candidate to assume the post of campaign manager. Despite attempts to contact her both at HLS and Dukakis campaign headquarters, Estrich could not be reached for comment.

In 1980 Estrich served as deputy national issues director for Sen. Edward M. Kennedy's presidential campaign and in 1984 she was ap-

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Kevin Reed

Honduran Foreign Minister Carlos Contreras focuses on the issues. (See story, p. 4).

Resident Assistants Fault Wages

By Erick Hachenburg and
Tom Bilello

"That's a disgrace. It is scandalous. It is cheap and reprehensible," were the words Paul Alpern, 3L, used in a memo to the administration dated September 28, 1987 to describe the compensation paid to dormitory Resident Assistants at HLS. Resident Assistants are paid \$1600 per year and are guaranteed a room in the dorms.

Compensation became an issue last April when Andrew Delaney, 3L, researched the salaries received by resident assistants at other law schools and reported the results to the administration. According to

Delaney, HLS pays their Resident Assistants more than \$2000 less per year than other law schools pay for equivalent positions.

The research done by Delaney inspired HLS Resident Assistants to confront the administration on this issue. The administration responded by promising a raise for the 1987-88 school year. This did not quell anger for long, however, because the promised raise of \$100 did not even offset the increased price of the dormitory rooms.

"I didn't take this job for the money," said Shawn Hays 3L, a Resident Assistant, "but I think our

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Space Demands Place Gym Sale On Agenda

By David Snouffer

As a new committee of faculty, students and administrators embarks on a study of HLS's facilities needs for coming years, law school administrators say they hope to buy Hemenway Gym from Harvard's Athletic Department. The demands of space, they say, may induce HLS to conduct a major capital fundraising campaign, the first since 1967.

HLS administrators have eyed the gym for some time, Paul Upson, assistant dean for finance and operations said last week. But the possibility of buying it "seems to be getting a little closer to reality" now that the Athletic Department is considering a new racket sport facility across the Charles and may need money to pay for it, Upson said.

Harvard Athletic Director Jack Reardon last Monday confirmed that his department is "looking at the feasibility" of erecting a new facility with indoor squash and tennis courts, possibly near Harvard's stadium. A sale of Hemenway to HLS "would not be impossible," Reardon said. "We are always looking at different possibilities of things we might or might not do."

If Hemenway does become available, HLS "would certainly pick it up in a minute," Frank Lamentea, the school's director of building operations, said last week. HLS "probably" will buy the gym "eventually" from Harvard's Faculty of Arts and Sciences, which owns all the Athletic Department's facilities, he said.

"I would very much like to see a sports and health facility where the law school was able to plan and schedule" without having to accommodate users from outside the school, HLS Dean James Vorenberg '51 commented last week.

The Harvard College varsity squash team now uses the facility, and in recent years law students have accounted for only about a third of the gym's use, Upson said. Aerobics and other exercise classes can be held only in the facility's

gymnasium, Bill Sarraile, 2L, a Law School Council member, said last week, and such activities often are eclipsed by basketball play during winter months. If HLS controlled the facility and restricted it to law students, faculty and staff, the gym could better accommodate women, he added.

Tight Fit

Athletic facilities are only one of various space needs that a newly-formed panel of faculty, students and administrators plan to explore this year, according to the group's chairman, Associate Dean Andrew Kaufman '54. With space at HLS already "extraordinarily tight," the group hopes to predict the school's future need for classroom, office and dormitory space, he said.

Because space needs will be driven by changes in the school's academic program, Vorenberg said Kaufman's committee will coordinate its work with new and ongoing studies of the school's legal education, clinical programs, financial aid and library. Already an increasing number of small first year and trial advocacy classes have created new demand for smaller classrooms, Vorenberg said, and other changes in the future similarly should produce new facility demands.

"The most important thing is to decide what the needs and programs of the school will be 10 or 15 or 20 years from now," Vorenberg said. In a memorandum he sent faculty members last week, Vorenberg said

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Gandhi Delivers Jodidi Lectures

By Troy Morgan and
Erick Hachenburg

In front of a crowded Memorial Hall on the night of October 18, Indian Prime Minister Rajiv Gandhi presented his thoughts on democracy in India as the speaker for the annual Jodidi lecture.

The first statement that Gandhi made was that "lack of literacy does not come in the way of genuine democracy." He stated that "no matter how poor or deprived, [the people] are articulate" in their demands for effective government and improvements in schooling. Gandhi contended that in spite of India's high illiteracy rate, the people have attained an acute political awareness and fought for and won the freedom essential to democracy.

As a sign of the vitality of India's democracy, Gandhi pointed to India's "free press, the largest in the world," which he characterized as being "unfettered" and "aggressive." He stated that in the last election 241 of the 380 million registered voters actually cast ballots, and 5,390 candidates competed, an average of ten candidates per con-

stituency. When asked if he thought that his party was "in touch with the masses," Gandhi replied that the Congress [I] Party ("I" is for "Indira") won over 80% of the seats in Congress. "We do represent the people," he said.

Gandhi asserted that "only democracy" could effectively govern the many interest groups seeking representation in his country. "Imagine a Europe under one government," he suggested, alluding to the border problems, language barriers, castes, and religious tensions of India. A growing GNP and greater self-sufficiency in food stuffs in recent years are evidence that democracy is healthful for the economy, he said.

When faced with the proposition that the strength of a democracy can best be measured by the strength of the opposition, Gandhi said that the questioner was "absolutely right." He complained that the Indian opposition was so "fragmented and small . . . they don't think they'll come into power" and do not have a plan of what to do

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Law School Scullers Place 31st In Regatta

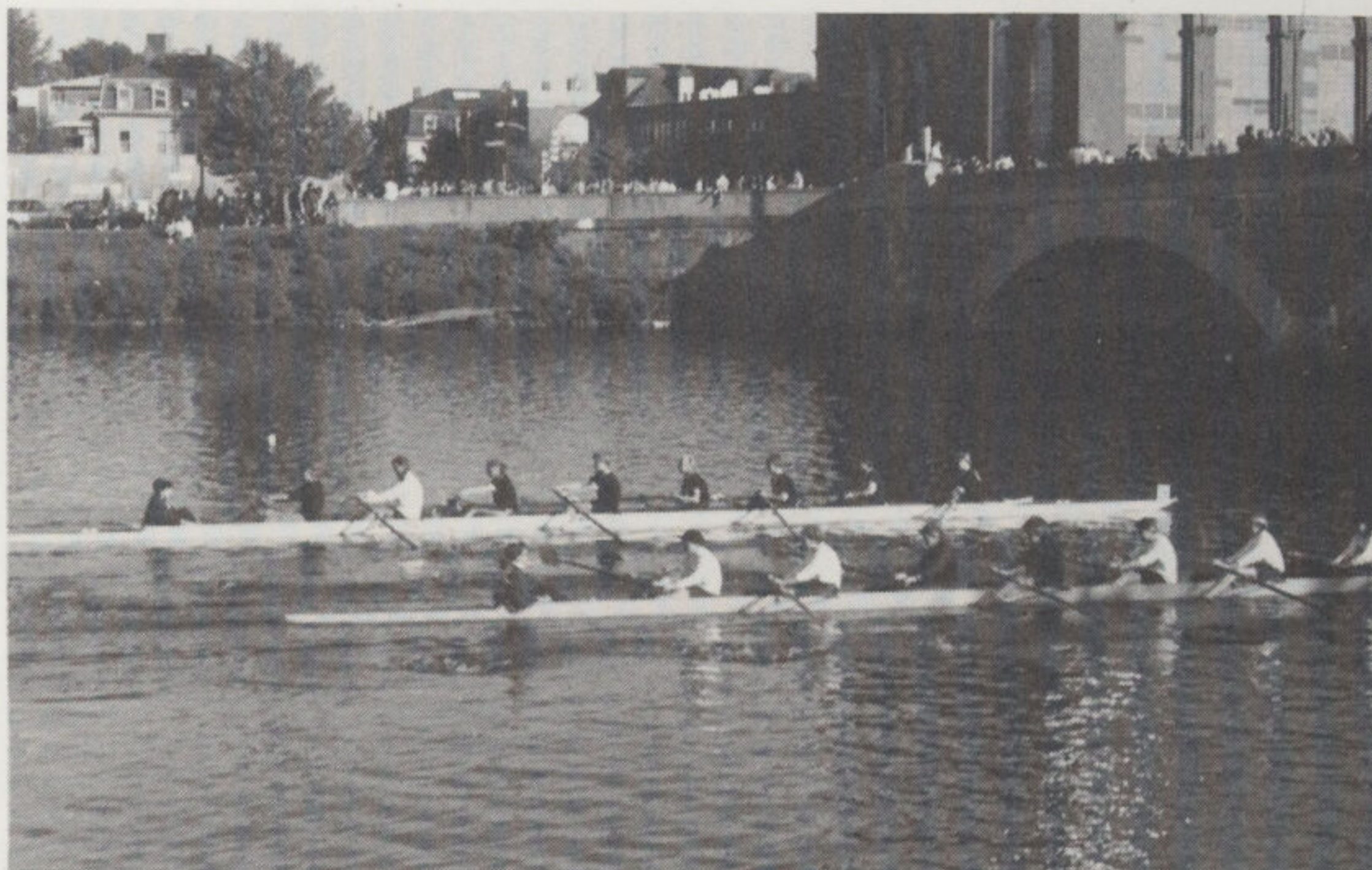
Spurred on by memories of last year's ignominious 40th place finish, the Harvard Law School crew bested several opponents in the 1987 Head of the Charles Regatta, held October 18. The eight-oared law school shell passed one crew and sprinted to nip another at the finish in placing 31st out of the 39 entries in the Men's Club Eight division.

In what had originally been labelled a "rebuilding year" by coordinator Harry Olivar, the HLS shell contained four second and four first-year students. From bow to stern, the eight consisted of Neil Folger, Rob Benun, Steve Bonorris, Charles Gerlach, John Zutt, Chip Hance, Olivar, John Brinitzer, and Coxswain Liz Kopelman.

Termed "a diverse group" by Benun, the rowers had competed previously for Harvard, Yale, Berkeley, Amherst, MIT, Oxford, and Cambridge. Benun noted that this wide range of experience made things tough for the crew, especially since the crew had no coach to help Kopelman critique the rowing. "It's tough to blend different backgrounds and styles of rowing without anyone telling you what you're doing," Benun said.

The crew started training in mid-September, with an entry in the Head of the Charles their primary goal. In preparation for the largest single-day regatta in the world, the rowers worked out a demanding three to four times a week. Bonorris nursed strained ligaments in his back throughout, Zutt had to reschedule a trip to Canada, and Benun occasionally sacrificed his afternoon tax class.

The Charles regatta chooses its participants by lottery, and the law school was lucky enough to draw two entries — in the Championship and Club Eights. The Championship division consists primarily of college varsities and national teams: the Club of smaller colleges and rowing clubs. Having finished last in the Championship race in 1986, a full three minutes behind the Canadian Olympic crew, Olivar, Bonorris, and



Sal Casente

Sixteen scullers skim across the Charles.

Kopelman decided to offer that entry to the Harvard Business School lightweight boat.

The Race Is On

Entered in the Club Eight race, the third of the regatta's fifteen events, the law school boat began the three-mile course at 9:40 a.m. to the cheers of several early-rising classmates. Sporting maroon T-shirts proclaiming, "*Roe, Roe, Roe your boat*" and brandishing the Business School's oars with dollar-sign blades, the crew had a smooth warm-up on the way to the Charles River Basin.

Kopelman said she was pleased with the start of the race. In the Head of the Charles, as in all "head" races, boats are started at ten-second intervals, and compete against each other indirectly by racing the clock. Nevertheless, it is important for a crew to start as close as possible to the crew immediately ahead of it, in hopes of passing that boat early in the race and building morale. The law school boat, starting in 36th position, began within two boat lengths of Worcester Polytechnic Institute's boat 35.

However, after the first twenty strokes the rowing got a little shaky. Kopelman was concerned that the crew "did not settle down enough." Brinitzer concurred. "We were too

high — out of control. I was in serious pain after the first minute or so." Bonorris agreed and said, "If rowing is symphony, then we were a little out of tune."

The shakiness showed, as WPI pulled away, and Narragansett Boat Club of Rhode Island passed the HLS boat within the first mile. Just before the mile mark, things got especially hectic, as a crew from Brandeis University stopped dead, blocking the middle arch of the Western Avenue bridge. According to Kopelman, "They were all over the place; it was not at all clear what their agenda was." Kopelman and several other coxswains made "tentative contingency plans to go elsewhere," but the Brandeis crew, which eventually finished last in the event, moved to let the HLS boat pass. "That was easily the most water flying around that I've ever seen in a crew race," Bonorris said.

Among crews, the Head of the Charles is known as a "coxswain's race," because a keenly negotiated course may save many seconds over three miles. With a mile and a half gone, Kopelman, who had coxed the Cambridge Women's Blue Boat through much narrower waters, began to use her experience to outwit opposing coxswains. She called on starboard side to help her hit

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Honduran Official Assesses Central America

Carlos Lopez Contreras, the Minister of Foreign Affairs of Honduras, spoke at the Ames Courtroom October 7 as part of the HLS Forum speaker series. Contreras, who has written a book on peace negotiations and has received various honors and awards from countries including Colombia, El Salvador and the Republic of China, discussed Central American affairs before an audience of about sixty people.

Contreras' speech, entitled the "Central American Crisis," emphasized the global importance of that region's unrest. He likened Central America to the Persian Gulf in that both are global "hot spots" politically. Both areas are also geographically significant since each produces oil, and the Panama Canal is important for shipping purposes.

The next portion of Contreras' speech dealt with foreign policy. He characterized the Arias Plan for peace in Central America as "insufficient," "superficial" and "partial," claiming that it deals only with domestic problems. Contreras elaborated on his ideas for the "harmonious merging" of Arias' proposal with Honduran proposals regarding international security problems, particularly problems posed by Soviet and United States military involvement in the region.

Contreras described the current situation in Central America as one filled with terrorism, civil wars, and armed opposition. The militarism required to deal with this situation, he explained, leads to what he deemed the usual results of war economies: extreme poverty, unemployment and capital flight to other countries.

Contreras also discussed the recent Guatemalan Accord, with which he claimed his government is in compliance. This plan, he stated, calls for "reciprocal and simultaneous obligations" of the member nations, and bases compliance on "good faith and political will." He described his support for this plan, which calls for cease-fires and the installation of democratic forum of government, as having the aim of ending the need for "irregular

forces" (such as the *contras*) and the state of emergency.

Some members of the audience asked questions indicating that they hold views which conflict with those of Contreras. Contreras responded to criticism by claiming that Honduras is "making great strides" in ending repression. He denied that there are any *contra* military bases

in Honduras, maintaining that, while there are *contras* present in Honduras, the Honduran government impedes rather than supports them. Contreras, in response to a question concerning the recent death of two medical students, stated that they were "terrorists" who had been caught "red-handed."

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Kunstler Cites Framers' Flaws

By Jeff Gershowitz

Famed trial attorney William Kunstler spoke on "The Life & Death of the American Constitution" on October 6 as the guest of the American Indian Law Students Association. Kunstler, noted for his defense of unpopular causes, centered his speech on the failure of the Constitution to protect all citizens and on the vital role of the "itinerant lawyer" in guaranteeing civil liberties, highlighting two cases involving Native Americans, Leonard Peltier and Marine Sgt. Clayton Lonetree.

The topic was initially planned to cover the "rise and fall" of the Constitution, said Kunstler, but he decided to change the name "since it never rose, it was not far to fall." He emphasized that the Constitution was written by "the gents" and did not include numerous groups, such as American Indians, women, blacks and the poor.

Whither the Framers?

"To believe all the claptrap about the Constitution being put forward by Chief Justice Burger and the rest is really idiotic," said Kunstler. "It reflects the framers' intent and desires and nothing more. It's a myth, a mythology."

Kunstler pointed out that in this bicentennial year of the Constitution, the Supreme Court allows preventive detention, which he claimed would be "totally unpalatable" to the framers of the Eighth Amendment; anonymous juries; the

"ending of the exclusionary rule by the good faith exception;" the virtual destruction of the *Miranda* rule; and breaches of the right to counsel.

"I can't visualize James Madison agreeing to an anonymous witness or an anonymous jury. In other words, the British won the Revolution. We're back to King George III," said Kunstler.

Kunstler explained his role in the system as "try[ing] to hold down the excesses until there is a better day." He traced the history of the "transient lawyer," who "has writ, will travel," back to Andrew Hamilton in the case of John Peter Zenger and through the cases of Sacco and Vanzetti, the civil rights movement and the uprising at Wounded Knee.

"The itinerant lawyer is very important in enforcing the Constitution," he explained, noting that "the transient lawyer has been greatly responsible for keeping these excesses down. Without enforcement, the Constitution is nothing."

Politics in Court

The cases of Peltier and Lonetree highlighted this, said Kunstler. Peltier is an Indian activist indicted for the alleged murder of two FBI agents. Kunstler, who defended Peltier, insisted that the "only crucial evidence against him was false" and criticized the system that nevertheless found Peltier guilty.

He noted that Peltier was "supported by virtually every religious

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HARVARD LAW RECORD

World Of Law Panels Discuss Legal Futures

By Andrew Pollis

Although the Placement Office tries to discourage 1Ls from worrying about summer jobs early in the school year, Career Counselor Dr. Mark Byers acknowledges that 1Ls "hardly arrive before they have to make some critical decisions." First-year students do have a few months before interviewing swings into full gear, but Byers said it is not too early to explore the available options. With this in mind, Byers has organized this year's "Introduction to the World of Law" panel discussion series.

The "World of Law" series presents five individual panel discussions, each providing information about careers in a different legal field. Byers explained that "the thrust is to try to give 1Ls an overview of the major areas of practice prior to their interview season." The five sessions — one each on public interest law, big firms, international law, small firms and criminal law — provide students with an opportunity to hear directly from panelists about practice in these fields.

In addition to prepared presentations from the panelists, each session ends with a question and answer period in order to address students' individual concerns. The panels are moderated by various HLS professors.

How the "World" Began

The series has its roots in both the Placement Office and the office of Vice Dean David Smith. Smith explained that, as Assistant Dean in charge of International Legal Studies in the early 1980's, he found that many first year students showed an early interest in international law but that "there was virtually nothing that went on in the first year that reinforced those interests." What began as an introduction to international law developed the following year into the current program as Smith became Vice Dean and "saw the problem in broader perspective." Versions of the program had also appeared in



Pauline Scalvino

Large-firm practitioners kick off series.

the Placement Office, so the offices then joined forces. Ultimately the Placement Office assumed most of the responsibility.

Joan Noel, Administrative Assistant to the Vice Dean, has worked on the series in previous years. She explained that "it really made more sense to have [the Placement Office] take over — they're constantly in touch with alumni." Byers now runs the program with Director of Public Interest Ron Fox, who recruits panelists for the public interest and criminal law sessions. Smith described his current role as "very tangential," but he does meet occasionally with Byers to reevaluate the program's goals.

Byers cautioned that the aim of the series "is not to be encyclopedic." According to Byers, specialized areas, such as computer or entertainment law, will hopefully be covered by other kinds of panels and student groups. Indeed, one of Byers' goals for the year is "better coordination between ourselves and student organizations."

Beyond Big-firm Law

One aim of the series, according to Smith, is to put some perspective on what he perceives to be the tra-

ditional HLS path into corporate law and big-firm practice, and instead to introduce students to "parts of the profession that in some ways get ignored by the first-year curriculum." Smith said he believes that big-firm recruitment at HLS "tends to obscure the fact that there are many, many other ways."

Public interest law was thus the topic of the first session held October 6. Byers explained that having the public interest session "at the outset made it clear that people did things other than model private practice."

Dean of Students Sarah Wald, the only scheduled panelist from HLS, is one of those who opted for the public interest alternative. As former Assistant Attorney General and Assistant Secretary of Consumer Affairs for Massachusetts, Wald "found public interest [work] very enjoyable and professionally satisfying and enriching." Wald added that "my main message is how much I enjoyed being in the public sector."

The "World of Law" is the fall counterpart to the spring information series entitled "Is There Life After Law School?", which focuses less on areas of practice than on personal lifestyle issues relating to a career in law.



Group Formed To Prevent Speech Disruptions

By Rick Genow

In response to the cancelled speech by *contra* leader Adolfo Calero, Dean James Vorenberg '51 has formed a "working group" with a mandate to establish written guidelines on issues relating to security and free speech at student-sponsored events. The committee, initially proposed as a result of the HLS Republicans' controversial restriction of ticket sales to the Calero event, consists of faculty, administration and students.

Professor Albert Sacks '48 will chair the group, which is composed of Professors Clark Byse, Alan Dershowitz, and Richard Parker '70. In addition, Dean of Students Sarah Wald and Vice Dean David Smith will represent the administration.

The remaining three spots were reserved for students. Vorenberg chose the HLS Forum and the Law School Council (LSC) to select the individual representatives based on their experience in orchestrating such events. Howard Ellin, 3L, was chosen by the Forum as its delegate, and Pat Wood, 2L, president of the LSC, will represent that organi-

zation. Vorenberg empowered the LSC to select the third student committee member from the general law school community. After soliciting applications through a notice in last week's *Adviser*, this process resulted in Mark Simonoff, 3L, who is also active in the HLS Civil Liberties Union, being picked to fill the final chair.

Speaker Security

Vorenberg indicated that the group will be open to the HLS community in order to assure that it provides for the security of speakers and the free speech rights of "all involved." Vorenberg suggested that, among other things, the group will address questions dealing with restricted access, security measures, identification procedures, permissible forms of protest, limits on participation by non-Harvard affiliated organizations in sponsoring and running events and a procedure for determining event cancellations.

In an effort to articulate the problems that this new committee will face, the HLS Civil Liberties Union hosted an open forum on Oc-

tober 7 to discuss the incident at the Calero event. Over 30 students, as well as Dean of Students Sarah Wald, attended the forum to present their views and describe their reactions to Calero's aborted speech. According to Simonoff, who moderated the forum for the CLU, "The purpose of the event [was] to have the various parties talk, let their goals be known and to present a clearer understanding of what happened and what the administration's policies will be in the future."

Ticket Procedure Debated

Both Simonoff and James Vigil, 3L, who spoke on behalf of the protestors, condemned the Republican Club's restriction of ticket sales and the actions of Joshua Laub, the Tufts University senior who lunged at Calero.

Jack Sharman, 2L, a representative of the Republicans, admitted that the ticket distribution system was flawed and stated that in the future such events will be by invitation only. He defended the re-

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HLS RAs Discuss Undercompensation

(Continued from Page 1)

compensation is so low that the Resident Assistants are discouraged from doing the best job they can." Hays also pointed out that a further drawback is that compared to other students, Resident Assistants have to come to Cambridge one week earlier for training and stay one week later for 1L exams. The resulting shortened summer costs some Resident Assistants from \$1500 to \$2500 in missed pay.

"Most people are shocked when I tell them I don't even make enough money to pay for my room," Hays continued. "If you want to be an RA, you have to expect to take a financial hit."

The Resident Assistants' attempts to inform the administration of their dissatisfaction and to apply pressure

for an increase in compensation are beginning to take effect. Dean of Students Sarah Wald said she is approaching this problem carefully. "The RA's provide a very valuable service," Wald said. "It's been a long time since anyone took a look at their duties versus their pay." At a meeting with the Resident Assistants, Wald suggested a comparative study which would expose disparities between Resident Assistant compensation at HLS and at other similar institutions.

One aspect on which the Resident Assistants and the administration agree is the difficulty in measuring the value of the Resident Assistants' services. The responsibilities of Resident Assistants help create a pleasant atmosphere on the floor. Some of their routine tasks include opening doors for people locked out

of their rooms and submitting work requests for room repairs.

The more demanding work involves getting to know the people on the floor and making sure that they get along with one another. This may include planning social events or talking with a student who is unsure about what to expect from HLS. "The biggest sacrifice I make as an RA is my privacy," Hays said.

Resident Assistants are not usually required to be in their rooms any specified amount of time, but when they are around they are expected to answer calls for assistance. "When I'm in my room, I am on call whenever someone needs me," Larri Broomfield, 3L, another Resident Assistant, added.



Estrich Hits The Dukakis Campaign Trail

(Continued from Page 1)

pointed senior policy advisor to the Mondale/Ferraro ticket. She has served as special assistant to Edward Kennedy, as executive director of the Democratic National Platform Committee, and as co-chair of the Democratic Commission that revised delegate selection proceedings for the '88 campaign.

On October 9 the *Boston Globe* reported that Estrich had told friends that her commitment to HLS would make it "very difficult" for her to accept the campaign manager post and that she was currently attempting to engineer an arrangement with HLS so that she could politick on a full-time basis. Estrich's appointment follows fast on the heels of an HLS controversy over the fact that her Advanced Criminal Law course was dropped from the spring schedule.

At present Estrich teaches two

courses at HLS: Sex Discrimination and Election Law. As reported in the *RECORD* (Oct 2), she decided that she would not teach in the spring so that she could devote all of her efforts to the Dukakis campaign beginning in January. Despite Estrich's previous statement that her "hopes of being able to juggle a campaign and teaching [at the same time] just couldn't work out" (*RECORD*, Oct. 2), she accepted the full-time position with Dukakis one week later. She now holds two full-time jobs, and students in her classes have expressed concern that they will receive short shrift.

Robert Meyer, 3L, a student in Estrich's Sex Discrimination class, is not worried, however. "Teaching at HLS five hours a week is not a full-time job. She's teaching on her lunch break, basically. I don't even think *going* to HLS is a full-time job," he said. Jon Filipek, 3L, agreed. "I don't hold it against her.

Given the opportunity, I would do the same thing in a flash."

If Estrich resumes teaching next fall, her workload will be heavier than ever, as the presidential race will then be running at full tilt. When asked what would happen to Estrich's tenure status if she did not return to HLS in the fall of 1988, Dean James Vorenberg '51 commented that it is university policy that "a professor who is away from her post for more than two solid years should resign."

When asked what would happen to Estrich, who had taken one year's leave of absence 1986-87 and returned to teach this fall semester and is now planning to take the spring and subsequent fall semester off, Vorenberg replied that there was no set university policy. "If [the leaves of absence] skip a year, you have to take all of the different factors into consideration," he said.

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Working Group Addresses Speaker Security

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stricted access by citing the need for safety, claiming that "if the vice president of Nicaragua comes to HLS, he's in his mother's arms, but a controversial conservative speaker cannot come here and not fear for his physical safety." Sharman asserted that conservatives such as Jean Kirkpatrick, Alexander Haig, Caspar Weinberger and Henry Kissinger will no longer speak at Harvard due to the hostile environment, which Sharman claimed was detrimental to everyone.

Sharman said that liberals are not being entirely honest when they express their abhorrence of violent protest. He suggested that they are like the "southern gentlemen of the 1950's who would never dream of laying a hand on a black but were damn glad the Klan was around to do their dirty work."

Wilson MacLeod, 3L, the final speaker, insisted that the liberal and conservative viewpoints do not

express the opinions of more radical members of the student body. He requested that radicals must also be represented and declared that "Calero has nothing to do with free speech and exchange of views. He was winning political support for mercenary murderers and it is the moral duty of people who oppose murder to do something about it." MacLeod went on to say that he would do "everything in his power" to prevent such people from speaking.

An unidentified but clearly outraged 1L responded by demanding to know whether MacLeod thought he is "morally superior? And if not, who are you to tell me who I can and who I can't hear?" Sharman stated that he has little confidence in the ability of the new committee to solve the problems. He added, however, that "I'd be very glad to be proven wrong."

☛

Somerville Bar Review

Real Law Students Don't Use
SMH, Barbri, or Pieper. . . .
They're using

sbr

Wednesdays at various locations

Health Care's Duty Of Care

At this time two years ago a torts professor provided his class with the hypothetical of the baby in the puddle. What duty did a passerby owe to this child lying face-down in the puddle? And if the passerby chose to help, what would happen were the baby to die anyway? Where would the liability be placed? Horrified, the students discussed among themselves the perverseness of being punished for being a good samaritan. At this time last week a woman walking alone in Cambridge demonstrated just how far we might want to, indeed need to, enforce a duty of care for the encouragement of responsibility for our fellow man.

Her name is Annie. At ninety years old, she is a great-grandmother many times over. Annie lives alone in her Cambridge apartment. Like many older Americans, Annie needs to see a doctor. Last week, Annie went to Holyoke Center to see her doctor. She left to find her way home and she got lost. Walking around Holden Street, Annie was looking for a street off Massachusetts Avenue past Porter Square. Frustrated and frightened, she had no idea of where she was. Like many older persons, Annie suffers from an acute lack of memory. It is something to be expected from a person her age. Yet, her doctor, someone who should be aware of her mental state, allowed her to find her way home alone. More importantly, by allowing her to find her own way home, he is allowing her to continue to live alone. By accepting the responsibility for her physical care, he has, in effect, picked Annie up out of the puddle. By allowing her to continue to lead her solitary life in her debilitated mental state, he has dropped her back in the puddle, face down.

Without her last name, Holyoke said, they could not explain the circumstances surrounding Annie or her wanderings. Besides, they said, they were not in the business of locking people up. But, it was not that for which an explanation was sought. It is that a certain level of compassion and human decency is sought.

And it is not only the fault of her doctor, but also the fault of all of us who have passed Annie on the street — who have seen her vacant eyes in search of a memory she once had. On an intellectual level each of us appreciates the fact that there are people less fortunate than we are. We know that every day people starve to death, countless children are abused, women are battered, and people wander the streets in search of shelter. Even one trip to Harvard Square shows us this. Which of us has not seen the woman sitting outside the bank with her family, victims of fire, begging. And yet how many of us are too hardened to stop and look.

This is not meant to be a lesson in preaching. I would hope though that at the very least someone is saddened by this. I was. And perhaps the best advice I received was to be sad about this, to be sad about it every day. I am. And so too should you.

T.M.F.

HARVARD LAW RECORD

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Fenno

"With God as my witness I shall never be hungry again!"

Fenno looked over the luxurious spread of Dixie delicacies; he was at the inaugural meeting of HLS' latest student organization — the Southern Union. Heaps of chitlins, hog jowls, broiled rabbit and smoked 'gator spilled off the table and into the plates of rednecks and belles. The brushing of chiffon and taffeta against the floor diverted Fenno's attention from the feast.

"Why, Fenno-deah, I had no inkling that y'all had ties to the Confederacy. My name is Mary Lou Ashley, and besides bein' hostess to this grand event, I am president of our little ole club. But please, just call me Miss Mary."

"Ungh," stammered Fenno, who had been blindsided from a bellowing student who resembled an escapee from a Georgia chain gang.

"Heeey good buddy! Ah'm glad to see Miss Mary's been treatin' y'all right well. My name's Billy-Bob Hoaker and I'm chairman of our Yankee re-education committee. I didn't know you were from the South — where 'xactly do y'all come from?"

After regaining his composure, Fenno intoned, "I have been a longtime supporter of the Crimson, as you probably know."

"The Crimson Tide!" the hostess squealed. "You don't say! Why deah, we must talk. Ah'm from Birmingham myself. Maybe our great-grandpappies fought togethuh against those Northern agressors."

"You know, Fenno, we really should be closer. Perhaps y'all would like to come out to the country with Billy-Bob and me this weekend. He has a big red pickup with a rifle rack. When he takes me out there and lets me blow "Dixie" on his horn, why, I jus' go limp all over." Fenno could see the tears in her eyes. "Ah believe I feel faint. Could you get me a julep, Fenno-deah? My silver cup is on the mantle," she whispered.

"I could use something too," Fenno replied, eyeing a truckload of cold Lone Star long necks.

HEEEEEEEEEEE-YAHHHHHHHH!

The Rebel yell sent Fenno reeling. Billy-Bob led a charge of Southern men against the Yankee intruders — Prof. Dersh and the rest of Vorenberg's free speech committee.

"Youse have a restricted access policy here and your event is derefore cancelled," squeaked a dweeb 2L Brooklynite. "Close it up, boys," he ordered as Harvard's Finest swept in.

As at Gettysburg, the South fell to superior forces. Sources say the victory was not complete, however, as a figure was seen scamp-ering to Somerville with an armful of Lone Stars and Bourbon.



HLS, inc.

THIS WEEK:
TRAINING FOR "REAL LIFE"?

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I'M BOB STUDENTE, PROVINCE GOVERNOR, AND I'VE GOT A GREAT DEAL FOR YOU TODAY! I'D LIKE YOU TO JOIN THE AMERICAN BAR ASSOCIATION'S **LAW STUDENT DIVISION**, KNOWN AS THE **ABA-LSD**.

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ABA-LSD FLOW CHART PROVINCE ONE

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    graph TD
      PG[PROVINCE GOVERNOR] --> RP[REGIONAL PRESIDENT]
      PG --> LG[LIEUTENANT GOVERNOR]
      PG --> PS[PROVINCE SECRETARY]
      PG --> PT[PROVINCE TREASURER]
      LG --> VLG[VICE LIEUTENANT GOVERNOR]
      LG --> RVP[REGIONAL VICE PRESIDENT]
      LG --> RL[REGIONAL LIAISON: SOCIAL]
      LG --> AV[ASS. VICE LIET.]
      VLG --> S[SCRIBE]
      RVP --> SRL[SUB-REGIONAL VICE LIEUTENANT]
      RL --> CG[CHAPTER GOVERNOR]
    
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ALL OF THIS STRUCTURE IS TO BETTER SERVE OUR MEMBERS - OR RATHER, MEMBER.

MEMBER*

*ELBRIDGE ZWEEN IS THE ONLY ABA-LSD MEMBER IN PROVINCE ONE WITHOUT A TITLE.

THE GOAL OF EACH STUDENT CHAPTER IS TO DRAFT **RESOLUTIONS**, FOR DISCUSSION AT REGIONAL, LOCAL, PROVINCE AND NATIONAL **LSD** MEETINGS.

I RESOLVE THAT "LAWYERS ARE GOOD PEOPLE."

I DISAGREE!

I SECOND THE RESOLUTION

YOU'RE BOTH FORGETTING ROBERT'S RULES OF PARLIAMENTARY PROCEDURE!

VICE LT. GOVERNOR

REGIONAL SOCIAL CHAIR

ASSISTANT VICE LT. PARLIAMENTARIAN

THE RESOLUTIONS ARE NON-BINDING, OF COURSE. IT'S THE **PROCESS** THAT COUNTS.

RESOLVED:
Some unspecified percentage of attorneys, usually members of the ABA, are more or less often decent men and women except when they are not.

Harvard LSD
Bob Studente
Province Governor
Province One
American Bar Association
Law Student Division

LEST YOU THINK WE'RE A BUNCH OF FUDDY-DUDDYS, THE **LSD** ALSO HAS A SOCIAL CONSCIENCE. THIS YEAR, 46 OF OUR OFFICERS TOOK TIME OFF FROM THEIR BUSY CORPORATE INTERVIEW SCHEDULES TO COMPETE IN OUR "JOG FOR THE JUNIOR LEAGUE" - TO RAISE MONEY FOR UNDER-PRIVILEGED JUNIOR LEAGUES IN THE CAMBRIDGE AREA.

I THOUGHT I WON THE PEARLS!

NO, I DID!

ASSISTANT CHAPTER PRESIDENT

REGIONAL SUB-TREAS

SO TRY **LSD**!! IT'S GREAT TRAINING FOR THE **ABA** AND THE ORGANIZED BAR, WHICH ARE LARGELY BASED ON FALSE HIERARCHY, PROCESS OVER RESULTS, AND TAKEN GESTURES OF PUBLIC SPIRITEDNESS!

PROVINCE GOVERNOR

WE HOPE YOU'LL JOIN US!

STUDY GROUP

by KA

I JUST CAN'T SEEM TO BE ABLE TO GET TO SLEEP... IT MUST BE ALL THAT COFFEE I DRANK TODAY...

MAYBE I'LL WATCH SOME BOOB TUBE...

HEY YOU!! YOU WATCHING TV AT 3 A.M.!!! CAN'T SLEEP?!!

ME?

DO YOU HAVE ANXIETIES? TENSIONS? WORRIES? ARE YOU A NERVOUS WRECK? ARE YOU READY FOR THE ULTIMATE SEDATIVE?!

YEAH! THAT'S FOR ME!

WELL, TRY THE FEDERAL RULES OF CIVIL PROCEDURE!! IN AN ALL-NEW 1987 EDITION!!

WAITAMINIT! I GOT A COPY OF THAT!

IF YOU'RE FEELING ANXIOUS AND RESTLESS AND CAN'T GET TO SLEEP, TRY ON RULE 30(b)(4) FOR SIZE...

...AND FASTER THAN YOU CAN GET A PRELIMINARY INJUNCTION SLAPPED ON, YOU'LL BE COPPING 'Z's' IN DREAMLAND!!

WHERE IS THAT BOOK? I HAVEN'T LOOKED AT IT IN WEEKS!!!

AHHA! HERE IT IS!!!

CLATTER!

CLUNK!

BUT WAIT!! THERE'S MORE!! IF YOU ACT RIGHT NOW, WE'LL SEND YOU THE NEW EDITION OF THE UNIFORM COMMERCIAL CODE... FREE OF CHARGE!!

HMMM...

FLIP FLIP FLIP

ZZZZZZ

FEDERAL RULES OF CIVIL PROCEDURE 1987

Letters to the Editor of the Record

The Wrong Impression

To the Editor:

Letters in the *Crimson* and the *RECORD* have raised questions about the adequacy of precautions for Adolfo Calero's appearance at the Law School on October 2. This may have left an impression that Law School and University officials did not take seriously the need for security for this event. Accordingly, it may be helpful for me review briefly some of the steps directed toward making it possible for Mr. Calero to deliver his address at the Law School. These included the following:

—21 University police officers and five guards were in or just outside the room where the speech was to be given.

—Law School officials had met several times prior to the day of the speech with the police, HLS Republicans and with those who wished to protest Dr. Calero's views, to plan for various contingencies.

—The event had been shifted to a more secure room prior to the day of the speech and was shifted a second time a few minutes before the time scheduled, because of a bomb threat.

—The building in which the speech was to be held had been sealed off and secured by the police several hours prior to the event.

—Arrangements had been made for the searching and checking of bags and for showing Law School and other student identification before anyone could attend the event.

I believe the precautions that were taken were reasonable. As with any event involving as many people with such strongly held views, it is possible that some of the decisions made and precautions taken before or during the event could have been improved upon. The steps we took did not prevent the frightening lunge at the speaker, although the deployment of the police did prevent a Tufts college undergraduate from reaching or harming Mr. Calero. Maybe more police officers deployed differently would have discouraged or prevented Mr. Laub's lunge, but I doubt it. Obviously Law School and University officials will draw on this experience the next time they face a similar situation.

The principal reason I have appointed a working group to develop guidelines to deal with such situations is to seek a set of ground rules that everyone in the Law School can rely on before and during a highly charged situation like this one. I am determined that Harvard Law School be a place where the right to hear and be heard will not be in doubt.

James Vorenberg
Dean

Anderson Incorrect

To the Editor:

I am concerned with what I believe to be an incorrect statement in Joseph Anderson's essay in Reader's Forum in the October 9, 1987 *RECORD* regarding my actions leading to my announcement of the termination of the appearance of Adolfo Calero at Harvard Law School on Friday, October 2.

As the *RECORD* reports, a bomb threat required the orderly removal of the event from Ames Courtroom to Langdell North Middle. There, before Dr. Calero was about to speak, a member of the audience rushed the podium, apparently in an effort to attack the speaker. This person was soon subdued by police and taken from the room. Dr. Calero and Mr. Anderson, who had both been with me on the podium, were also removed from the room.

During my effort to resume the proceedings, I was informed by a member of the police contingent present at the event that Dr. Calero had left the building and that the speech would not be given. I was not provided access to the Langdell stacks passageway through which the speaker and Mr. Anderson had been escorted, in order to verify the information personally. I had no reason to cancel the event at this time "unilaterally," as Mr. Anderson suggests. Indeed, I was prepared to go forward again, now that order had been restored. But I also had no reason to doubt the accuracy of the information I had that Dr. Calero had left and was not returning. In view of the earlier bomb threat and the assault, the report to me of the speaker's departure was a credible one.

When I made the announcement that Dr. Calero had left and that the event was over, I sincerely believed that he had indeed departed the premises, that he was not to return, and that I had no alternative but to call the event to a close.

Frederick E. Snyder
Assistant Dean for International and
Comparative Legal Studies

Union Busters

To the Editor:

(A copy of this letter, addressed to Nina Eisenstein, Recruitment Coordinator for Akin, Gump, was received by the *RECORD*.)

Based on the information available in our Employer Directory, I had scheduled an interview with Akin, Gump, Strauss, Hauer & Feld for October 20, 1987. I was particularly

impressed with your firm's reputation for excellence and obvious commitment to pro-bono work. Unfortunately, at the time the interview was scheduled, I was not aware that Akin, Gump was being boycotted by students at Harvard Law School because of the firm's union-busting tactics. For that reason, I must respectfully decline to pursue the possibility of employment with your firm.

As I am sure you are aware, several hundred Harvard Law School students pledged not to interview with your firm. Those of us who signed the pledge come from a wide variety of political backgrounds. Many are not "pro-union," nor do most of us plan to work in union-side labor firms. However, we all believe in the fundamental premise of the National Labor Relations Act: that all workers have the right to organize and bargain collectively. The basic premise of American labor-management relations are violated when Akin, Gump uses the bankruptcy laws to break a union at Continental Airlines, helps set up dummy corporations to undercut existing collective bargaining agreements at Eastern Airlines, and files harassment suits to destroy the union at Northwest Airlines.

I am sorry that a prestigious firm such as Akin, Gump is now associated with the worst union-busting law firms in the nation. I would hope that your firm soon joins the vast majority of management-side law firms that understand the importance of a working partnership between management and unions, and who use their legal skills to ensure that the rights of all — workers and management alike — are respected.

I look forward to the time when Akin, Gump is no longer among the handful of firms being boycotted by students at Harvard Law School. Until that time, however, I will have to decline any invitation to interview with your firm.

Michael Linfield, 2L

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Off the Record

Senate Legitimate In Scrutinizing Bork

by Alan Cranston

Senator Alan Cranston (D-Cal.) is currently Majority Whip in the United States Senate.

The Senate's deliberations over the highly controversial nomination by President Reagan of Robert H. Bork to be an Associate Justice of the United States Supreme Court has stimulated a renewed interest in understanding the role and responsibilities of the United States Senate in the confirmation process of judicial nominees. Almost two years ago — long before the Bork nomination — Senator Mathias of Maryland and I undertook an extensive joint research project into this subject. Both of us consulted widely with a broad range of scholars representing the full spectrum of legal philosophy. We summarized our results in separate speeches on the Senate floor on July 21 and 22, 1986.

Senator Mathias, a Republican, and I, a Democrat, reached remarkably similar conclusions about the role the Constitution bestows upon the Senate in the judicial confirmation process. Senator Mathias said, and I concurred, that: "Among all the responsibilities of a U.S. Senator, none is more important than the duty to participate in the process of appointing judges and justices to serve on the U.S. Courts from the trial bench to the Supreme Court of the United States. . . . [A] Senate that automatically consents to a President's nominations abdicates its constitutional responsibility. Its members fail to measure up to the demands embodied in their oath of office." During the debate on the Bork nomination, some of Judge Bork's supporters have argued that it is inappropriate for members of the Senate to review President Reagan's nominee beyond assuring themselves that the President's choice is legally competent and of good moral character.

Based upon my research and examination of the constitutional responsibilities of the Senate in the

confirmation process relating to the judicial branch of government, I strongly disagree. I believe that the framers of the Constitution clearly recognized the great importance of the selection of individuals to serve on our highest court and deliberately refused to entrust the selection to any one individual or any branch of government. Instead, they decided that this should be a matter of shared power and shared responsibility. The Constitution gives the President the power to nominate an individual to serve on the Supreme Court. It also gives the Senate the responsibility to review and evaluate that nomination independently.

Alexander Hamilton in *The Federalist Papers* confirmed that the decision by the founding fathers to divide the appointment responsibility between the President and the Senate was a deliberate one and that it was intended to have a salutary effect on the quality of appointments. Granting the President the entire power of appointment, Hamilton argued, would "enable him much more efficiently to establish a dangerous empire over that body [the Senate] than a mere power of nomination subject to their control." Hamilton feared that a President with exclusive appointment power might select judges to please particular Senators whose votes the President wanted to influence on other issues. He also believed that a President would choose his nominees with greater care if he is faced with the possibility of a Senate rejection. But that is an effective check on presidential power only if the President has reason to believe that the Senate is prepared to exercise its power of rejection.

The framers gave the Senate the obligation and the power to make its own independent judgment of whether confirmation of a judicial nomination would be in the best interest of the nation. "By these

provisions," Senator Le Baron Bradford Colt (R., R.I.), himself a former federal trial and appellate judge, said on the Senate floor in 1916, "the framers of the Constitution believed they would secure judges of high character, free from partisanship and from every form of corrupting influence, and who would devote their lives to an impartial administration of law."

As Walter Dellinger, Professor of Law at Duke University, recounted: "The original Virginia plan, introduced at the convention on May 29, 1787 provided that all judges would be appointed by the national legislature. By June 19, the convention had decided that the whole legislature was too numerous for the appointment of judges, and lodged that power in the Senate acting alone. *Attempts to confer the power on the President to the exclusion of the Senate were solidly defeated.* George Mason stated that he 'considered the appointment by the executive a dangerous prerogative. It might even give him an influence over the judiciary department itself.' *Only near the end of the convention was it agreed to give the President any role in the selection of judges; even then the President's power to nominate was carefully balanced by requiring the concurrence of the Senate.* That final language was not seen to dislodge the Senate from a critical role in the process. Gouverneur Morris paraphrased the final provision as one leaving to the Senate the power 'to appoint judges nominated to them by the President.'" (Emphasis added.)

The Senate's "advice and consent" function in confirming judges is different from its function in confirming administration nominees who serve at the President's pleasure and who can be removed by the next administration. Most scholars and most Senators agree that the Senate should apply far stricter

(Continued on Next Page)

Non-*"Legal"* Qualifications Valid Topics

(Continued from Page 11)

standards to lifetime judicial appointments.

Then-Republican Senate Whip Robert Griffin (R., Mich.), made the distinction well during debate on the Haynsworth nomination in 1969: "Traditionally, the Senate has applied a different test with respect to nominees to the Supreme Court than . . . to those nominated by Presidents to serve in the Cabinet or in the Executive Branch . . . particularly with respect to nominations for the Supreme Court, however, I do not believe . . . that the Senate is limited to accepting every nomination merely because it can't be proved that the nominee has beaten his wife, or has done this or that. I think the responsibility of the Senate is much higher than that. Under the Constitution, the President is vested with only half of the appointing power. He nominates and the Senate confirms. Accordingly, the Senate's advise and consent responsibility is at least equal to the President's responsibility in nominating. If the judiciary is to be an independent branch . . ., it is essential that its members owe no greater indebtedness for an appointment to one particular branch of our government."

Throughout our history, the Senate has blocked judicial nominees who were deemed qualified in the narrow sense, but whose confirmation would have been unwise in the broader context. Indeed, the Senate has refused to confirm nearly 20 percent of presidential Supreme Court nominations. Senators have given a variety of reasons for refusing to confirm. These include negative judgments on the nominee's ability, temperament, political record, or philosophy. As early in our nation's history as George Washington's second term, a Supreme Court nomination, Associate Justice John Rutledge to be Chief Justice, was rejected by the Senate. The Senate rejected James Madi-

son's nomination of Alexander Wolcott to be Associate Justice, when a majority of Senators decided he lacked the requisite legal qualifications for service on the high court. For a variety of reasons, five of President Tyler's high court nominees were not confirmed. And Presidents Fillmore and Grant lost three nominations each. In 1930, a Republican Senate rejected President Hoover's nomination of Judge John Parker to the Supreme Court because his discredited racial and economic views were not sufficiently sensitive to the temper of the times.

For nearly 40 years, from 1931-1969, all Supreme Court nominations of four consecutive Presidents were confirmed. But the Senate's responsibility had not changed during that time. A review of the list of nominees during this period indicates each of the Presidents had submitted nominees who were both well-qualified and not likely to create a one-sided Supreme Court. This period of Senate-Presidential agreement ended with the forced withdrawal of President Lyndon Johnson's nomination of Abe Fortas to be Chief Justice.

Although the Constitution gives the Senate an important role in Supreme Court appointments, it spells out no standards for weighing the qualifications of a potential Justice. For example, unlike the constitutionally prescribed standard for service in the House, the Senate, or the Presidency, no minimum age is specified. And, though no President has ever nominated a non-lawyer, a judicial nominee does not even need to be a lawyer.

The Constitution leaves each Senator free to develop his or her own criteria. Historically, however, several tests have evolved. At a bare minimum, the nominee should possess at least these qualifications: intellectual excellence, superior legal ability, and personal integrity. No nominee who does not possess at least these qualifications should even be submitted for the Senate's

consideration. To be confirmed, however, a nominee should possess more. Judicial temperament has been deemed to be a key requirement. By that, I mean not simply the personal demeanor which the dignity of the courtroom requires. Rather, judicial temperament, in the broad sense, means the capacity to perform the essential functions of a judge: to be fair, impartial, and balanced in approaching judicial questions.

Finally, the overwhelming weight of reasoned opinion through the years has been that a nominee's judicial philosophy or ideology is an appropriate criterion for Senate approval or disapproval. Felix Frankfurter, while still a Harvard Law professor, thought it odd that any nominee would expect or even desire immunity from public inspection of his views. "Surely," he said, "the men who wield the power of life and death over political decisions of legislatures should be subjected to the most vigorous scrutiny before being given that power."

However, excessive ideological zeal or biased prejudgment of issues should disqualify a nominee. The agenda of an ideological extremist — whether of the extreme right or of the extreme left — creates a doctrinal conflict of interest fully as inappropriate as financial conflict of interest. To be locked into an extreme and inflexible ideology fundamentally conflicts with the judicial responsibility to be fair and just, to be open-minded and free of prejudice, and to be able to decide cases solely on the evidence and arguments before the court and on applicable law. A nominee committed to a rigid ideology lacks the impartiality that is the essence of judicial temperament.

A nominee's philosophy becomes even more relevant to confirmation when an administration uses its appointive power for ideological purposes. By all accounts, Judge

(Continued on Next Page)

Off the Record

For Senate's Advise And Consent Inquiry

(Continued from Page 12)

Bork was selected by this Administration on the basis of his commitment to a certain judicial ideology. It is naive to think otherwise and deceptive to pretend otherwise.

There is little doubt that the Bork nomination was part of a determined effort by this Administration to achieve by a court appointment an extremist social, political, and economic agenda it has failed to ad-

vance through the legislative process. The Administration thus sought to end-run the legislative process and then cried "Politics!" when the Senate fulfilled its constitutional responsibilities to evaluate independently the Administration's nomination.

The careful scrutiny and extensive deliberations which the Senate undertook in examining the Bork nomination is both historically and constitutionally in keeping with the

intent of the founding fathers in creating a shared responsibility in selecting individuals to hold lifetime appointments in the judicial branch of our government. Those who have deplored the Senate's active role in fulfilling its constitutional responsibilities in the confirmation process relating to Judge Bork have failed to do their homework.



Glasser Expounds On Meaning Of "Liberty"

By Andrew Pollis

Although he has been with the American Civil Liberties Union for twenty years — and has served as its Executive Director for the last ten — Ira Glasser calls himself a conservative.

Glasser, in an October 13 speech sponsored by the Harvard Civil Liberties Union, told an Ames Courtroom audience that the true conservatives are not Reagan and his followers, whose rhetoric refers to the restoration of "traditional values." The Moral Majority and other groups claiming to have the original intent of the Constitution behind them are misreading history for their own ends, Glasser insisted. He argued that they are ignoring the idea of liberty built into the Constitution.

Glasser contends that democracy and liberty are "two fundamental ideas, both radical," upon which this country was founded. The "majority rule" democracy idea, Glasser explained, "is firmly established and entrenched in American culture, so firmly entrenched that we don't realize how unusual it was and even is today." He observed that American children, whether they are electing eraser-clappers in the first grade classroom or deciding what game to play at recess, respect the one-person-one-vote system. This fundamental cultural characteristic

of Americans is quite remarkable, Glasser asserted, considering how hard it is even today "for that idea . . . to gain that sort of legitimacy" in other regions of the world "so that elections will stick."

Liberty Less Understood

Liberty, the second fundamental, is "less understood," Glasser said, "and has not taken root so well, even here." The problem, as Glasser sees it, is that the two ideas — liberty and majority rule — pull in opposite directions, since "liberty is nothing more . . . than a set of legal limits on what majority rule can do." He sees liberty as a protection for the minority for whom the Bill of Rights was implemented. The negative wording in the Bill of Rights, uncommon to most statutes, sets out legal limits which cannot be exceeded "even if ninety percent of the Congress wants it," Glasser argued.

Since the forum for testing this struggle between democracy and liberty is the court system, Glasser argued, the issue was never raised in the first 130 or so years after the Bill of Rights was ratified. The courts only move "when somebody complains," he explained, and even though "the rights of people that could not command majority rule . . . were mercilessly violated," these people, for a variety of reasons,

"couldn't get into court. No one had the key to start the engine."

The Progressive Era

The founding in the Progressive Era of such organizations as the ACLU and the NAACP for the first time gave the socially disenfranchised minority the representation they needed, Glasser said. Almost none of the rights we take for granted today existed before that time, and he pointed out that before the ACLU came along, the Supreme Court had not struck down a single statute on first amendment grounds.

Glasser's view of the early ACLU was that the organization "took it upon itself to represent people whose Bill of Rights had been violated." One of the first big cases the ACLU took challenged a Tennessee law forbidding the teaching of evolution in the classroom, the infamous 1925 Scopes monkey trial. The ACLU ran an advertisement in a newspaper looking for a teacher to challenge the law, and Scopes responded.

In the 1930's organizations like the ACLU began to develop resources, but the process was a slow one. "By the '40's and '50's, case law started to grow," Glasser explained, and "in the '60's the whole thing exploded." Glasser stated that it was then that the real Bill of

(Continued on Page 15)

Itinerant Lawyer Speaks On Rights Abuses

(Continued from Page 4)

leader in the world," from the Archbishop of Canterbury to the Rev. Jesse Jackson. In addition, ten percent of the U.S. House of Representatives, many of whom filed amicus briefs in the Supreme Court, supported Peltier. The Court, however, denied certiorari in what Kunstler called "a political decision in which the Constitution becomes totally meaningless."

The Lonetree case involved charges of espionage by a Marine in the U.S. embassy in Moscow. According to Kunstler, "the trial was constituted in such a way that the judge, who violated every oath of office, . . . allowed the prosecution to bring in, for the first time in American history, an anonymous witness."

Kunstler also pointed to the court's allowance of a composition book used by Lonetree in school ten years earlier, when Lonetree was 15, as evidence of bias and impropriety. "If he murdered someone ten years ago, they couldn't have

brought that in," said Kunstler. He also noted that the court prevented the defense from bringing in certain witnesses and allowing the prosecution to make false statements in its closing arguments.

"This is a situation where the Constitution means nothing," concluded Kunstler.

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Memorial Hall Hosts Indian P.M.

(Continued from Page 2)

when they come into power. He stated that he would like to see an opposition that will suggest policies and not just discuss the policies of the ruling party.

Ratna Kapur, L.L.M., commented that Gandhi did not mention that the strongest potential opposition is from within his own party, which if split might create a viable two-party system in India. According to Kapur, V.P. Singh, former minister of finance and defense who fell into disfavor and was forced to resign after investigating the "Bofors" arms deal, is building strong support. In addition, Kapur noted that opposition parties have recently

been voted into state legislatures, perhaps reflecting a disenchantment with Gandhi's administration.

Although the Indian democracy is buttressed by a free press, as well as a judiciary and state legislatures that "balance the power" of the executive, Gandhi has yet to entrust the choice of leadership of that executive to the party's democratic processes, Kapur said. One of Gandhi's campaign promises was that he would allow "internal elections" — elections within the Congress [I] Party. He has since confirmed that intention with the assurance that he will hold internal elections by the end of this year, according to Kapur.

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Hemenway Proposals Part Of Long Term Plan

(Continued from Page 2)

study committees will investigate such proposals as enlarging the faculty, offering more small classes and clinical courses and promoting interdisciplinary research and teaching. HLS does not need a new library building, he added.

Planners can consider a number of options for enlarging HLS facilities that were suggested by an architect who studied the school's campus last year, Vorenberg said, including the possibility of enlarging the International Legal Studies building into the parking lot next to Pound Hall.

HLS last conducted a major long-range study of its curriculum in 1980, Vorenberg said, but this year's effort is broader. Only when administrators know what the school's needs are can they decide whether to undertake a capital campaign,

he said, and he hopes to have a "fairly good picture" of future requirements by next summer.

The last capital drive enabled the school to build Griswold and Pound Halls. Another campaign after World War II produced funding for the Graduate Center dormitories and Harkness Commons.

Looking Ahead

Vorenberg and Kaufman expressed optimism that faculty disputes over appointments and other matters would not prevent successful long-range planning. "I think we all have a common goal, the good of the school," Vorenberg said.

HLS would have to find someone to help buy Hemenway before the school could acquire it, Upson said. He estimated that the building might cost as much as \$1 million.

In addition, if HLS took over the facility, it would have to pay all its operational expenses, rather than the one-third share it now pays the Athletic Department. Two years ago, the most recent period for which Upson had figures, HLS paid \$44,000 of the \$134,000 total cost to operate the gym for a year. The school recently spent \$10,000 to add universal weight equipment, exercise bikes and rowing machines to the gym, Upson added.

Reardon declined to name a price for the facility, saying one "would have to be negotiated."

HLS might let law students use Hemenway for no charge, Upson said, or the school might levy an annual fee much like the charge the Athletic Department requires to use its facilities. That fee will rise by \$2.50 to \$60 next year.

☛

ACLU Head Criticizes Reagan, Bork

(Continued from Page 13)

Rights "began to be protected." He explained that every individual and every group that takes a case to court on these grounds is really asking the same question: "Does the Bill of Rights apply to me?" Glasser described the legal change during the '60's and '70's as one in which "a body of law arises for the first time that changes the face of America."

Reagan's False Conservatism

Those who call themselves conservatives today, according to Glasser, are thus not really interested in restoring traditional values; "what they really mean," he proposed, "is the kind of society where they controlled and dominated." Glasser credited the Reagan administration in particular with attempts to roll back the Voting Rights Act, to "crusade against women's rights" and to chip away at the right to privacy. He said that "it had not happened in the Nixon administration," despite Nixon's personal ambitions and character flaws.

Glasser was confident, however, that this "systematic ideological attempt to turn that path back" has failed. The nomination of Robert Bork to the Supreme Court was a failure, he asserted, not so much on the ideological grounds argued by Senators Edward Kennedy on the left and Orrin Hatch on the right, but rather on the basis of Bork's belief "in giving much more weight to the majority idea than to the liberty idea." Glasser said that Bork's view is too extreme because it "would revise the balance" between these two fundamental values.

After his speech, Glasser, who is not himself a lawyer, fielded a number of questions from the audience on such issues as the Bill of Rights as it applies to foreigners, PLO sympathizers and victims of age discrimination. He admitted that the ACLU showed too little direct support during the McCarthy

era for those who had been black-listed. He also stated that the ACLU's future, in an era when the Supreme Court will likely remain conservative for some time, lie in the relatively unexplored area of public education. He demonstrated

the political power of education by citing white southern senators' recent compromises on a number of civil rights issues in response to growing demands from their increasingly informed black constituents.

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HLS Crew Strokes Its Way To Finish

(Continued from Page 3)

the turn at the Weekes footbridge, and then turned her attention to Tufts University, which had come creeping up behind HLS.

As the crew approached the Harvard boathouses and the Anderson bridge, Tufts made a push to overtake the law school. Kopelman said she sensed that the Tufts coxswain was intimidated by the narrowness of the arches, and thus called for a "burst" to keep HLS slightly ahead. "There was just no way we were going to let them by before the bridge," she said.

This, however, only postponed Tufts' charge and shortly after the two-mile mark Tufts had moved out and HLS was rowing in "the worst of their water," which Bonorris termed "roiling." As the HLS boat floundered a bit, a Harvard Alumni crew closed in behind.

Having been passed by three crews, the HLS boat was presented with a chance to strike back in the

final half mile. A crew from Indiana University, which had started forty-five seconds in front of HLS, was now only a little over a length ahead. Explained Kopelman, "Indiana really fell apart after the last bridge . . . I really thought we could get these guys." In what she termed "the greatest moments of the race," Kopelman beat Indiana to the inside of the final turn and called for a sprint to overtake them. Said Benun of the final sprint, "I think Liz did a really good job; she was going wild with it."

Though Bonorris philosophized that the final burst was just "the horse seeing the barn," Brinitzer said he felt Indiana pushed HLS to a strong finish. Kopelman agreed. "Though obviously very tired, they really wanted that boat. It was a great effort in the last minute of a 17-minute race, which I found inspiring," she said.

HLS finished three feet and forty-six seconds ahead of Indiana, good enough for thirty-first place. Ger-

lach was pleased with the result. "I looked at the bottom of the results sheet, and couldn't believe we weren't there," she said. Having originally rated the race "a six" on a scale of one to ten, Kopelman reconsidered a few hours after the finish. "For a club that goes out a few times a week in the afternoon, I think we did amazingly well," she said.



Correction

In Vol. 85, No. 2 of the RECORD, S.P.I.L. was incorrectly identified as associated with the phonathon for public interest. A.P.I.A. was the group involved. We regret the error.

Next RECORD:

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