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25 CENTS

Dalton Retains Standing To Sue

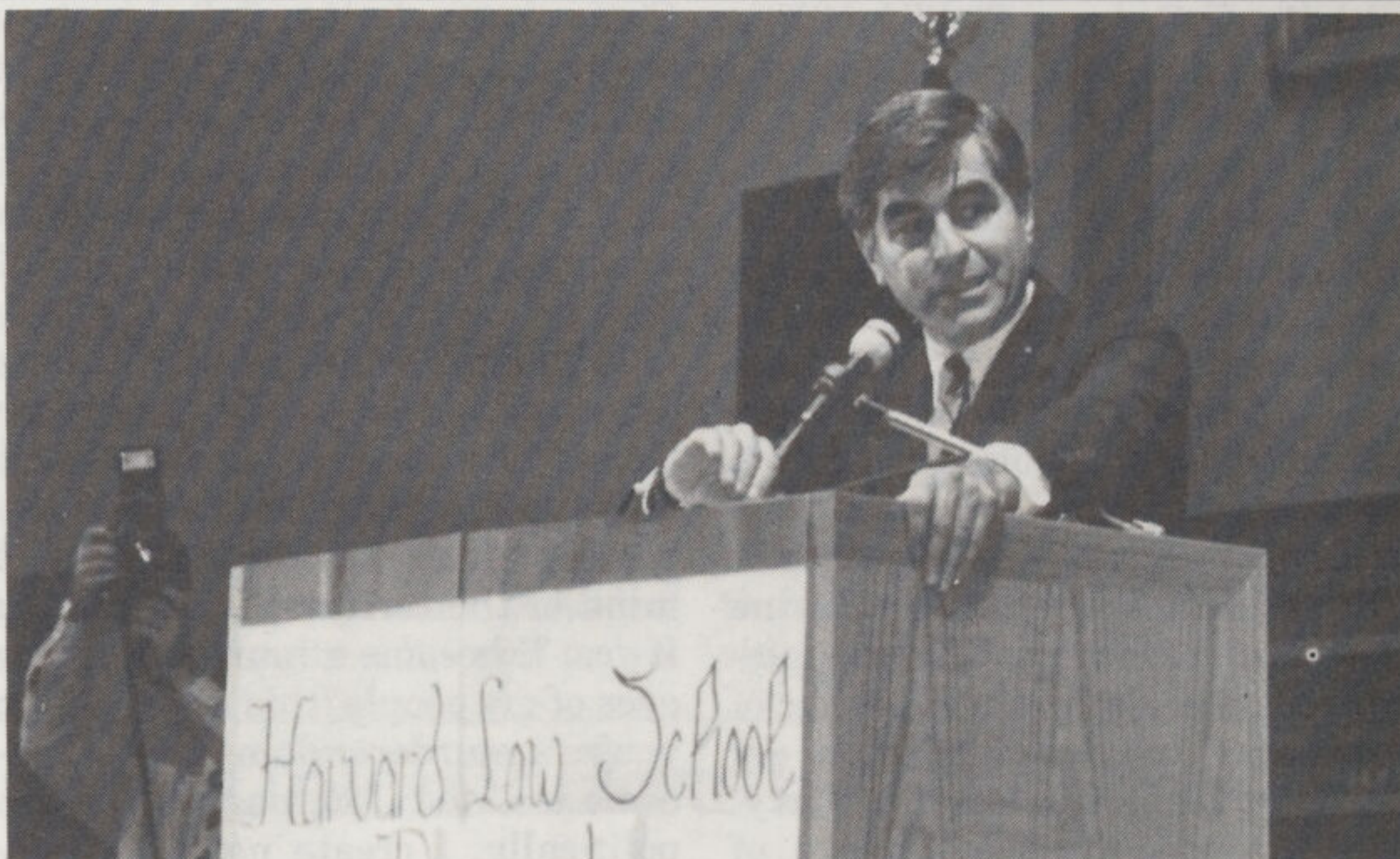
By David Snouffer

Assistant Professor Clare Dalton, LL.M. '73, last week acted to preserve her right to sue Harvard for gender discrimination if Harvard President Derek Bok '54 does not promote her to a tenured position. Dalton said she filed a complaint with state and federal equal employment agencies last Friday so that a federal statute of limitations would not prevent her from taking future legal action on her discrimination claim.

Last May Dalton narrowly failed to garner the support of two-thirds of HLS's full professors needed to recommend her for promotion to Bok and to Harvard's two Governing Boards. Bok began a review of Dalton's tenure bid after 21 HLS faculty members asked him to investigate how the faculty had handled her case last spring.

In his first special review of an appointments vote by the HLS faculty, Bok last spring overruled a decision to offer a full professorship to University of Wisconsin Professor David Trubek, who was a visiting professor at HLS in 1986-87. Bok decided not to appoint Trubek after he discussed Trubek's scholarship with five academics from other universities.

(Continued on Page 14)



Patricia Lee

Presidential aspirant Governor Michael Dukakis addresses a packed Forum crowd. (See story, p. 4.)

LSC Seeks Secure Environs

By Earll Pott

In a letter addressed this week to Harvard President Derek Bok, the Law School Council (LSC) launched a major campaign to step up campus security north of Harvard Yard. The letter, which was co-signed by several graduate and undergraduate student councils, calls for the repair of more than two dozen existing lights and the installment of six blue emergency phones. In addition, the student representatives requested that Bok meet with them November 19 to discuss current and future security proposals.

The Council's latest proposal follows on the heels of a law school initiative last spring which resulted in additional lighting and phones along the corridor between Gannett House and Pound Hall. According to council member Bill Sarraille, 2L, the light fixtures installed last spring do not adequately ensure the safety of dorm residents or students exiting the campus onto Oxford Street. Sarraille worked closely with LSC member Lauren Resnick, 1L, to identify trouble spots and initiate the new proposal.

Some council members also raised

(Continued on Page 7)

Inside the RECORD:
News:
Pro-Union Pickets
Page 3

Feature:
Ooh-Ooh That Smell!
Page 5

Off the Record:
Lawyer-Citizens
Page 10

Experts Debate Optimal Responses To Terrorism

By Troy A. Morgan

The Harvard Law School Veterans Association (HLSVA) symposium on international terrorism, held October 29 in the Ames Courtroom, began on an ironic note when the moderator, Professor Abram Chayes '49, who served as a captain with the U. S. Army Field Artillery in Europe during World War II, stated that "more attention has been paid to international terrorism than it is really worth."

Professor Roger Fisher, a First Lieutenant in the U. S. Army Air Force during World War II, nevertheless proceeded with a discussion of the role of negotiation versus confrontation as a means of thwarting terrorism. Lieutenant Colonel Jim Terry, U. S. Marine Corps, who served as infantry platoon commander in the Republic of Vietnam, countered Fisher by praising the latter option. Terry, who attended Mercer College of Law, was appointed Military Judge Advocate, serving as legal advisor to the Commander-in-Chief of the U. S. Forces in the Pacific and as the scribe for the Iran Hostage Negotiating Team.

It soon became apparent that neither speaker was as polarized in his theoretical outlook as one might have anticipated. Terry, for example, occupied a moderate position, stressing that these were his "personal views," representing "neither the State Department nor the Marine Corps." Because of the diversity of opinion among veterans, the HLSVA is itself prohibited by charter "from espousing any one political, social or intellectual belief."

The Terrorist Mind

Fisher asserted that it is wrong to assume that the cause of "every terrorist should lose," but that we must be "concerned with the means" employed. To illustrate his point, Fisher sketched a theory of what goes on in a terrorist's head when deciding whether or not to kill a U. S. national. If yes: "I am a soldier

in a good cause (hero). This is the only way we have to get what we want. We will publicize our grievance. We will put pressure on the U.S. We may get results. I may get killed (risk)." If no: "Injustice continues. I look like a wimp. Our grievances get ignored. No one will do anything. It is safer for me." Fisher argued that the threat to the safety of a terrorist does not deter him, since "soldiers take chances." He recalled that the motto of his WWII Air Force squadron when flying over Greenland was, "When seagulls walk, we fly."

To get the terrorist to see things "the way we would like him to see things," Fisher explained, we must "change his image from a hero to a wimp." Thus the desired state of mind of the terrorist is as follows: If yes: "I become a murderer in the eyes of my people (this is not a war; you're a murderer doing that). I become isolated. I damage the cause politically. I create negative publicity. There is no chance of results. They'll get me later (just look at those Nazis now)." If no: "I may become a political leader. I am responsible. We are being listened to. Something has already happened that we like. We won't get everything. I am reasonably safe."

Terrorist States

Terry addressed the problem of state-sponsored terrorism, citing nations such as Libya, with a militarized citizenry that can act "secretly, covertly, as irregular military personnel." He recalled the April 4, 1985 bombing of La Belle Discotec in West Berlin, where American allies intercepted cables that linked the tragedy directly to Quaddafi.

Terry described the subsequent U.S. retaliatory bombing of Quaddafi's headquarters as a "last resort," necessitated by Libya's denial of responsibility. He stated that since that incident, "We have never heard less from Quaddafi. We have more support from our European allies; and the rest of the world believes we are now willing to re-

spond" to covert state-sponsored terrorism. Terry responded to Fisher by noting that a terrorist state's tactic of deniability "precludes effective dialogue before we can start."

Terry said that it would be wonderful if we could settle all disputes peacefully, "but unfortunately, the world is not quite that simple." He pointed out that when someone like Quaddafi, who has problems with at least three of the tribes in Libya, engages in "actions externally designed to shore up power at home," he has no interest in negotiating. Terry added that when these states believe "nonviolent means won't work," they may "act at the expense of their public policy," and their denial of responsibility for covert actions "underscores their rejection of a peaceful approach."

Whither Force?

Fisher countered with the view that giving belligerent status to mere terrorists "legitimizes" their operations. If the terrorist state denies responsibility, he maintained, it must be afraid of publicity, "so let's embarrass them. If we can prove it," as in the La Belle Discotec bombing, then for Fisher, an effective political tactic would be to publicize the proof and challenge the terrorist government to explain its behavior to the international community.

Terry said that force should be used only as a "last resort," when "other means are exhausted." There additionally must be a state sponsor, a real threat, retaliatory forces with a size and make-up proportional to clearly defined military objectives, and the consent of our allies.

Terry repeatedly insisted that he did not come to discuss "why we shouldn't negotiate, but why we should maintain all options within our quiver of responses." He criticized former President Jimmy Carter's handling of the Iran hostage crisis, because of Carter's early declaration that he would use no force. This approach, he maintained,

(Continued on Page 7)

Stahl Evaluates Reporting's Impact On Politics

By Lauren Ruby

"I'm really here to find out what you know about Douglas Ginsburg," Lesley Stahl confessed as she took the microphone before the HLS Forum on November 2. Stahl, National Affairs Correspondent for CBS News and moderator of "Face the Nation," has covered Watergate, the Geneva summit, the assassination attempt on President Reagan and former Justice William Douglas' jogging habits. She spoke about journalism as it is influenced by public opinion.

"Reporting flows from public opinion, [as does] the way our officials are," Stahl said. Stahl attributed Reagan's popularity in large part to his television image. Stahl described a piece she did for CBS which consisted of shots of Reagan performing charitable acts — for example, cutting the ribbon across a new nursing home facility — while Stahl's voice-over commented on how the pictures showed no sign of his "cuts" in the domestic budget.

That night, one of the President's aides called to compliment her on the piece, which he felt had helped the President's image. "Come on, didn't you hear what I was saying?" Stahl asked him. "Later, I realized that when the pictures are that strong and that positive, the public doesn't hear you."

"The press focused on the subjects and policies that Ronald Reagan wanted to deal with. Reagan got good press because we didn't have sources on him," Stahl asserted. Stahl explained that Reagan's aides established a Hollywood set wherever he spoke. "[Before a press conference] they guess about 90% of the questions, and Reagan is almost never surprised. It's not obvious when he doesn't want to answer a question. He will start to answer you, but somewhere in the second or third sentence he will be talking about something else and you're not quite sure how it happened."

Stahl contended, however, that Reagan's "teflon has now peeled. It looks like the Ayatollah has brought

down two American Presidents." She further asserted that "in the Reagan White House, there have been people who have outright lied. I didn't encounter that in the Carter administration."

Several people in the audience criticized network news reporting. "There's a sense that we've lost something," Stahl admitted when asked why evening news coverage seems so shallow. "With the cut-backs, we lost depth. In the last few years, there's been a softening of the news." Stahl noted that the networks no longer use many "talking heads," a reference to the practice of newscasters explaining and commenting upon the news. "Some people think that we should be more analytical . . . I tend to agree . . . [but] my sense is we've hardened up quite a bit and we've

doing much more serious journalism now."

Another listener asked Stahl whether she thought there was any relationship between good ratings and good news. "No," Stahl replied, "but there is a relationship between what the public wants and what we give them. . . . Changes have to start with the American people; that's democracy. I just hope it works in the future."

A native of Swampscott, Massachusetts, Lesley Stahl began her television career on Channel 5, Boston's ABC affiliate. She joined CBS in 1972, was named a correspondent in 1974, co-anchored "CBS Morning News" in 1978-1979, and was appointed White House Correspondent in 1979. She has been the moderator of "Face the Nation" since September, 1983.

Pro-Union Pickets Hit The Streets

By Tom Bilello

Sixteen supporters of the Harvard Labor Law Project (HLLP) picketed outside the Charles Hotel on October 28 to protest the alleged union-busting work of Fulbright & Jaworski, a Houston-based law firm whose representatives were at the hotel to interview HLS students. Allegations of Fulbright & Jaworski's anti-union activities include dressing attorneys up as workers to infiltrate and undermine an organizing effort, a tactic characterized as "unethical" by HLLP member Russ Hollander, 3L.

The protesters, dressed in pin-striped suits and toting placards bearing the slogan "The Masquerade Is Over," marched for about three hours while the firm conducted its interviews. Hollander said the picket was not intended to interfere with the interviews; he claimed it was an attempt to educate those students contemplating employment with Fulbright & Jaworski. "It's just that Fulbright & Jaworski has a reputation for being a Democratic firm," he said. "We want students to know the truth."

According to HLLP member Mike Dzialo, 3L, the picket was also intended to "let the law firms who practice 'union-busting' tactics know that [the students] know, and to affect the firms' ability to recruit."

The protest was part of an action against eight law firms designated by the HLLP as anti-union. The picket coincided with the written pledge of about 250 law students not to interview at any of these boycotted firms. "We see ourselves as a source of information," said HLLP member Joe Kohanski, 3L. "Judging from the support, I'd say we're getting our message across," he concluded.

Hollander described the boycotted firms as "crossing the boundary between normal law practice and management consulting." He stated that these firms advise their clients on how to get around their legal obligation to bargain collectively with their employees by taking advantage of loopholes in the law. "This is as unethical as an attorney who advises his client to murder when the client is assured immunity

(Continued on Page 16)

Dukakis Focuses Campaign On Economic Policies

By Jeffrey Gershowitz

Despite the fact that most had not heard about his appearance until the morning of the event, a crowd of students packed both Ames Courtroom and Austin North to capacity to hear Democratic presidential candidate Governor Michael S. Dukakis '61 of Massachusetts speak on October 28. Dukakis' speech, entitled "America's Economic Future," was sponsored by the HLS Democrats. Dukakis highlighted his discussion with a call for increased federal tax enforcement, which he argued ought to serve as a major tool in fighting the record federal budget deficits.

Dukakis described increased tax enforcement as "a fair and very effective tool in the fight for fiscal responsibility. We may have to raise taxes. But before we impose new taxes, let's go after those who aren't paying."

"We aren't collecting \$10 billion in taxes owed. Tax compliance in the U.S. has now dropped to 81 percent," Dukakis explained. "That's not legal, its dumb fiscal policy and it's just not fair to the vast majority of Americans who pay their taxes in full and on time," he stated.

Big Bucks

"I believe there are big, big bucks out there," said Dukakis. He claimed that increasing IRS collection power could raise \$35 billion in unpaid taxes. According to the governor, audit coverage is now less than half of what it was in the mid-1970's, and a California Institute of Technology study reported that a return to that audit level would increase revenue by \$47 billion annually.

In addition, Dukakis pointed to numerous problems in IRS service, and called for the IRS to "treat taxpayers as valued customers" in order to encourage voluntary compliance with tax laws. Dukakis noted that in Massachusetts, state tax refunds are mailed within nine days of receipt of the taxpayer's return.

The spectre of last week's stock

market decline and the omnipresent budget deficit framed Dukakis' speech. The governor declared that "Black Monday," October 19, was the day "our national alarm clock went off," presenting the nation with the option "to get up and go to work or roll over and go back to bed." According to Dukakis, the record drop in stock prices was "not simply a correction in the stock market — it was an earthquake."

"You can live on a credit card only so long. Then the bill collector comes knocking on your door," explained Dukakis. According to the governor, this situation presents a challenge for leadership to make hard choices and restore the economy to health. Calling Ronald Reagan's economic policy a "fairy tale," Dukakis warned of the dangers of doing nothing but pointing fingers and of abandoning societal values in making the tough decisions necessary to correct the economic situation.

Cuts and Spending

Dukakis noted that economic leadership must "send a message to Wall Street, Main Street and the world" that "the U.S. is finally taking charge of its economic future."

Dukakis also addressed the more traditional issues of budget cuts and federal spending. "We're not going to get major cuts out of the domestic budget. It has been savaged over the last seven years. The days of the blank-check defense budget are over. Of course we need a strong national defense . . . but we can't divorce our national security from our economic security," he said.

Attacking what he termed "automatic pilot" budget cutting tools such as the Gramm-Rudman Act, Dukakis stated that "to say that we're going to cut across the board . . . just seems to me to be a terrible misallocation of resources." Analogizing the nation to the home, he explained that in tough times people do not "cut ten percent off food, ten percent off vacation. If things get tight the vacation goes — that's Star Wars."

Dukakis strongly opposed the Strategic Defense Initiative, also known as "Star Wars" weapons system, and stressed that the resources used in the military could be shifted to many other uses. He noted that the Massachusetts Bay Transit Authority purchased new subway cars built in other nations because comparable equipment was not produced in the U.S. He stated, "the same people who make your missiles can make your transit cars."

In response to one question about his strengths in running for the presidency, Dukakis stated, "I don't think any Republican is going to hang a 'tax and spend' label on Mike Dukakis. In fact, I think I can hang a 'borrow and spend' label on them."

Dukakis knocked Vice President George Bush's call for reduced capital gains tax rates: "We've had seven years of 'voodoo economics' and we have a proposal to cut capital gains. It makes no sense to me."

Dukakis, a former president of the HLS Democrats, recounted some of his experiences while at HLS and praised the contributions to his campaign of HLS Professors Susan Estrich '77 and Christopher Edley, Jr. '78.

Last Minute

The last-minute nature of the Dukakis speech added to what was already a hectic week for the HLS Democrats. Senator Paul Simon of Illinois, another Democratic presidential candidate, had been scheduled to speak at HLS on October 23, but was forced to stay in Washington to vote against the nomination of Robert Bork to the Supreme Court. The speech went on, nevertheless, as Simon spoke to the assembled group by telephone.

The Democrats did not find out about Dukakis' decision to visit until the day before the speech, and spent the evening before the talk stuffing students' Hark boxes and plastering the campus with posters announcing the event.



Hark! Pub Odor Peeves Patrons

By Rick Genow

For the past three weeks the Harkness Commons has been besieged by a foul aroma which has permeated the entire building. The source of the stench, which emanates from the Backbench Pub, the social center of HLS, has been the subject of considerable speculation by the HLS community and has been blamed for the dearth of 1L beer consumption on campus.

Among the rumors currently circulating are tales of large decrepit rodents decomposing behind the bar; other students postulated that old DAKA food service inventories have escaped the deep freeze or that Jimmy Hoffa's body has finally been located. Still others have speculated that Chernobyl's radioactive core has successfully melted through the planet, only to surface in the Hark.

In the alternative, Dormitory Student Affairs Council (DSAC) President Scott "Rockstar" Jacobs, 3L, insists that the offensive stink is the natural byproduct of rotting brew which has seeped into the floor due to faulty equipment. In order to propagate this official explanation, Jacobs has issued a formal statement indicating that DSAC and the administration are working to correct the situation.

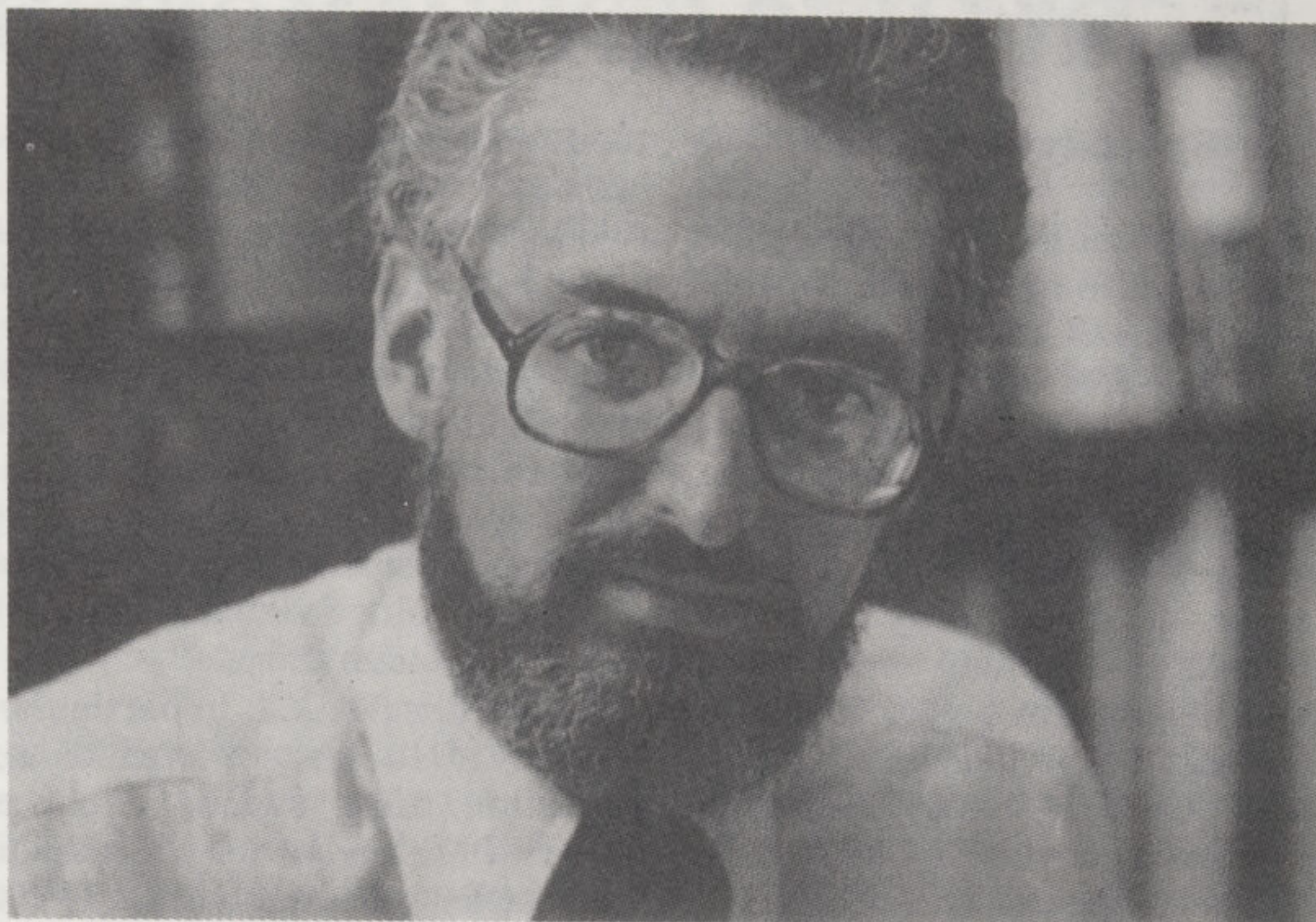
The combined wisdom and imagination of these two organizations culminated in a massive effort consisting of two custodians and a mop under the experienced leadership of DSAC Treasurer Raul Carrillo, 3L.

The campaign proved unsuccessful, however, with the sickening smell holding its ground. Open windows, disinfectant and perhaps a cold seemed to be the only conventional defenses against the wretched invader. It appears, therefore, that only time or the ever-elusive Hark renovations will weaken the repugnant presence.

Student activists have not been idle, however, rising to the occasion

(Continued on Page 12)

NOVEMBER 6, 1987

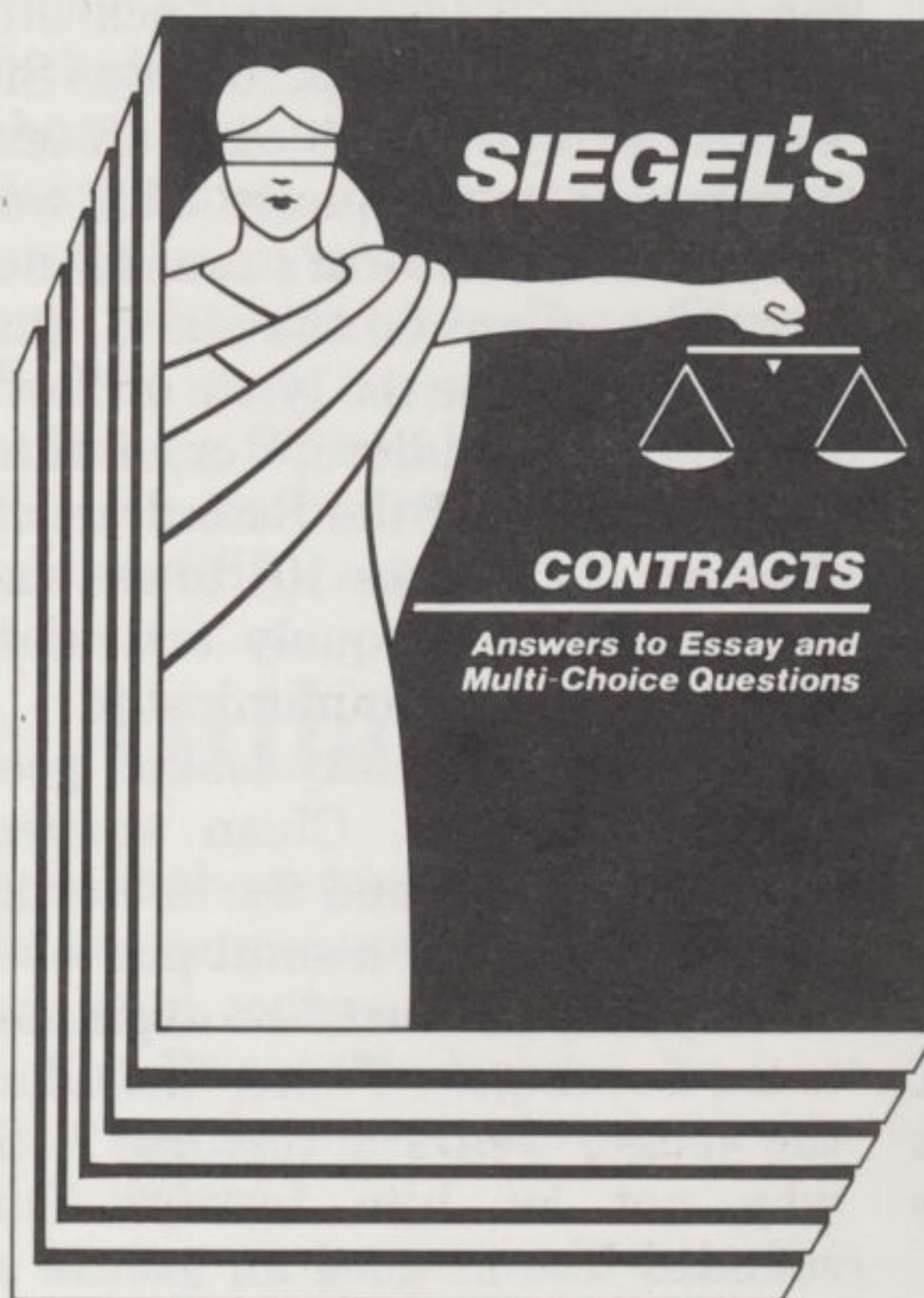


Harvard Law School Yearbook

Judge Douglas Ginsburg, HLS Professor 1975-85, is President Reagan's new nominee to the U.S. Supreme Court.

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7 Out Of 12 Jurors Surveyed Prefer Jello

By Andy Schapiro

No earthquake this, but interesting news from California nonetheless: Jello Biafra has won. The jury deadlocked and the judge dismissed the case against him. Biafra, lead singer for those lovable Dead Kennedys and a former candidate for mayor of San Francisco, faced charges of distributing harmful materials to a minor, which could have brought him a year in prison and a \$2000 fine had he been convicted. It was a happy, although not entirely conclusive ending to a story as strange as the U.S.A.

Feature Investigation

Our tale begins in a Southern California shopping center in the San Fernando Valley, the Northridge Fashion Mall, presumably similar to the cluster of consumer Disneylands near my house in Illinois which thrive on the business of gum-chewing, Benetton-sweat-ered, Mercedes-borrowing pre-pubescent in search of More Things. Doubtless these malls contain lots of hazards which could be harmful to minors — Orange Julius, or Chock Full o' Nuts, for example.

But the product purchased at this mall which got Jello Biafra into so much trouble was a record album. More precisely, it was a poster which came with the Dead Kennedys' 1985 album, *Frankenchrist*. The poster was a reproduction of a work by Swedish artist H.R. Giger, entitled *Landscape No. XX: Where Are We Going?* It depicts ten penises entering ten vaginas. To my art history 112 instructor, who talked only about symmetry or light, it probably would have said something about symmetry. Tammy Scharwath, the fourteen-year-old whose mother initiated the complaint against Biafra, just thought "it was gross," according to the *Los Angeles Times*.

But to Michael Guarino, the deputy city attorney who prosecuted the case, the poster was a repulsive representation of "ten rotting pe-

nises entering ten rotting vaginal canals."

What about Jello? What was he hoping to achieve by including the poster? "When I first saw H.R. Giger's work, I was very impressed, emotionally affected, and even uplifted by it," he wrote in these pages last April. "I had not seen any visual art that had affected me this deeply since viewing the work of Hieronymous Bosch."

Landscape No. XX, in particular, "portrayed to me a vortex of exploitation, that vicious circle of greed where one of us will exploit another for gain and wind up looking over our shoulder lest someone do the same thing to us in return. I realized that many of these themes ran like a thread through the songs slated to be on the *Frankenchrist* album, which we were in the process of recording at the time. I felt that we should include this piece of artwork as a kind of crowning statement of what the record was trying to say," Biafra added.

His interpretation may seem a bit obscure, but it is no more puzzling than many other aspects of this case. Most troubling is a reference in one magazine to the confiscation of Biafra's Rolodex. The composer of "Nazi Punks Fuck Off" using a Rolodex? As peculiar as Sid Vicious carrying a Filofax. Of less importance, but equally odd, was the decision of Biafra's counsel not to put his client on the stand. One need only peruse the lyrics of "Let's Lynch the Landlord," or, failing that, Biafra's Off the Record article (Vol. 84, No. 8, page 10), to see that the man is a uniquely articulate and intelligent communicator.

And Jello certainly looked good during the trial. Clean shaven, dressed in a suit and tie, he hardly looked the part of a smut purveyor ("everybody in court," he explained to the *Los Angeles Times*, "including the judge, wears a costume"). So why not let him testify? This sounded like as good an excuse as any to phone his attorney.

The firm of Garcia and Schnayerson is located in a place called Hayward, California. I telephoned

at about 4 p.m., Pacific time, but a secretary informed me that Biafra's lawyer, Philip Schnayerson, had gone to Marin County and would not be back until the next day.

California, I thought. He's probably hot-tubbing. For the third time in as many days I was seized with powerful Stanford Regret. The secretary told me to call back.

"I'm sure he'll be interested in talking to you — he's just a real neat guy." Fair enough.

I eventually did get in touch with him, and it turned out that his secretary had not lied: Schnayerson is indeed a real neat guy. A former public defender ("in Berkeley, during the riot years"), Schnayerson didn't sound silly explaining his decision to take the case with statements like, "the law has given me a lot, and I wanted to give something back." It turned out that Jello was eager to testify.

After the judge's ruling that the poster must be evaluated in conjunction with the album, however, Schnayerson was confident enough of getting a hung jury that he decided not to take any risks.

"Jello has an impish quality," he said. "Jello would have had to explain virtually every statement he's made over a three year period. It would have made the jury focus on whether they liked or disliked Jello, and we didn't know what they would do with that." Furthermore, the Impish One's philosophy was "clearly there for the jury to see" in the album's lyrics, which are "well thought out, and express ideas that I think really represent what Jello stands for. He is against racism, sexism, fascism, exploitation."

None of these arguments impressed Guarino, however. During the trial, he had become the second person involved with the case to use the g-word, describing the poster as "devoted to sexuality of the *gross-est* kind. If this isn't harmful matter," he said, waving the poster at the jurors, "then nothing is harmful matter." Whereas the defense presented a series of expert witnesses

(Continued on Page 15)

HARVARD LAW RECORD

Terrorism Affects Politics, The Media

(Continued from Page 2)

"precluded opportunities to negotiate from a position of strength."

Terry explained that although it would have been in Khomeni's best interest to listen to "reasonable voices in Iran" and negotiate, it soon became apparent that Khomeni was "marching to a very different drummer." After the 1979 election of Ronald Reagan, Terry asserted, "Iran reassessed our potential to use force and was more willing to negotiate." Because there was "no flexibility in the Carter Administration, negotiation was rendered meaningless" by the avowed policy of using no force.

Fisher nonetheless suggested that the United States "demilitarize its response." He said that terrorism should be handled by the police and the Criminal Justice Department rather than by the military, so that the terrorists come to see themselves as participants in a crime and not as soldiers in a war. "Israelis use violence successfully with terrorism, but that hasn't reduced terrorism against them," Fisher added. Similarly, every time the United States uses force against Iran, "Iran just escalates on its side," he said.

After the debate, Terry suggested that there was something to be said for declaring "war" on terrorism and bringing it into the arena of international law where such issues as "the rights of belligerents" become involved.

Fisher claimed that "terrorists want to be important," and that "media hype promotes terrorism." He asserted that the press should "focus publicity on the victims and not on the acts of the perpetrators." Whenever he approached media representatives to suggest that they leave terrorism off the television and bury it "in small type on page thirty-one," Fisher said that they invoked the First Amendment right to free speech.

Fisher explained that "the First Amendment only *allows* you to be stupid; it doesn't *require* you to be stupid." Terry observed that "for the past five years a program at the

National War College has been addressing this problem and that they have secured some "promises from the media already."

Fisher asserted that there ought to be a legitimate forum for negotiation where would-be terrorists

could bring their grievances and expect them to be considered and dealt with in an "even-handed" manner. He concluded that the use of force must be "not just a last resort, but it must be useful at the time we do it."

Group Examines Campus Safety

(Continued from Page 1)

questions concerning the competence of the paid security officers responsible for patrolling the campus at night. Sarraile claimed that security officers have not consistently held to their patrol assignments and have taken unauthorized and extended breaks. Building Operations Director Frank Lamentea maintains that he is unaware of any instances when guards have breached their patrol duties, but urged that students report such instances to him immediately. HLS, which just created a new guard position last spring, hires security guards from University Guard Service. The Council is presently researching ways to enhance the number and quality of the security personnel.

The LSC's security campaign also includes a plan for an expanded shuttle bus network to serve students living in Somerville, which would begin in January. Lamentea and Administrative Dean Simone Reagor have approved the plan providing for two buses which will run for six hours in the evenings and cost fifty cents per ride. If stu-

dents show interest in the new service, the school may provide even more shuttles to upper Massachusetts Avenue and north Cambridge in the near future.

The LSC has also consulted with Kevin Cloherty, 2L, of Phi Alpha Delta, a legal fraternity. Cloherty has proposed that HLS establish a student escort service. Alternatively, Sarraile has suggested that the law school could hire students to assist in patrolling the campus at night. Both suggestions will likely be heard at the first security committee meeting on November 6.

Apart from some thefts from dorm rooms at the beginning of the semester, there have been no reported criminal incidents on campus this year. Momentum behind enhanced security measures began to build last year after a woman was sexually assaulted outside of Perkins Hall.

Dean of Students Sarah Wald pointed out that HLS has already taken significant steps to ensure student safety and that education concerning available facilities and safe conduct may provide the best protection against unfortunate incidents in the future.

Attila Seeks Your Ding Letters

Save those rejection letters, folks, for the second annual RECORD Atilla the Hun contest.

The RECORD is looking for your best and funniest and rudest rejection letters.

Hiring partners, don't miss this golden opportunity to try out your Don Rickles wit on some job-seeking, money-hungry Harvard law student.

All entries should be placed in the RECORD box in the Hark.

Prizes will be awarded for the funniest and most imaginative rejection letter.

Excerpts from the best letters may be printed in future issues. Names and law firms may be withheld upon request . . . but no one can escape the wrath of Attila the Hun.

An Official Apology

An apology to our off-campus subscribers. A topic not usually offered as an editorial, but this is the forum to which I feel it is best suited in this particular instance. It will reach those affected by what has been happening here at the RECORD and will do so through the medium which has been sadly missing from your mail these last few weeks. You see, the RECORD has been publishing and it is my point with this editorial to remove from my staff any blame which you might be contemplating placing on us. It is easy to imagine the many things that might go wrong with a student publication and might lead to inconsistent production and mailing. None of these things has happened, however. Indeed, the editorial staff of Volume 85 has been dedicated, giving up from four to forty hours a week of its time to the production of this newspaper, the very reading of which is our only real reward. So we have been denied our reward for our labors just as much as you have been denied the delivery of your newspaper.

It is not the fault of the students, but rather the fault of funding. In short, it is the fault of the Alumni Association's new treasurer, Donald Mitchell. Although you as alumni have paid your dues and have specifically earmarked a certain portion of them to go to the RECORD, he has through a series of excuses not delivered the funding to us. Mr. Mitchell should not at this point be surprised to see this editorial in print. He has been aware of my frustration. Indeed, my business manager and I have spoken with him several times about our monetary situation.

In the beginning, in an effort to work with Mr. Mitchell, we listened to his pleas that he was new to the position and as such had many things to investigate. He told us that he did not have the money as yet to give us, but that it would be forthcoming shortly. Hard to believe, we thought, that HLS Alumni Association had no money, but we could empathize with someone taking over a new position; after all we were new too. Mr. Mitchell's primary concern was to renegotiate our printing contract for us, because he felt we were paying too much for it.

Five weeks later, we had printed five issues of the RECORD, all on account with our printer, and we still had no money. In addition, three issues of the RECORD lay on the floor of our mailing house in Worcester because we had no money to pay for their delivery. As soon as we were apprised of the situation by our mailing house, we informed Mr. Mitchell — or more accurately Mr. Mitchell's office since he was out of town again. It seems that Mr. Mitchell is often on the road, whether it be in his capacity as treasurer of the HLS Alumni Association or in his professional position as a management consultant, I do not know, but it

(Continued on Page 12)

HARVARD LAW RECORD

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Fenno

"Trick or treat! Trick or treat!"

Fenno peered out from his apartment, and jumped to the door.

"AAAARGH!!!"

Three Somerville youths screamed, blanched and ran from Fenno's doorway.

"Hmm. Now I can't figure that out. All these kids keep runnin' away — Well, if they don't want these fine flip-tops, I'll just keep them for my own collection."

"Oops — it's getting late. I've got to get down to the Hark Party before all the free brew runs dry." Fenno paused to make his first decision of the day — "Now what should I go as?"

Fenno thought back over his great costumes of years past . . . the time he went as Professor Vagts (and escorted home a Parisienne LL.M), or when he impersonated the editor of the Law Review (and persuaded a grovelling 1L to buy him a case of Jack Daniels), and his all time favorite: when he glued bottle caps on his coat and resembled a shaken can of Meister Brau.

Time was slipping by quickly — "Damn, I'll just make last call if I leave now." Aborting any attempt at further decision-making, Fenno bolted out the door.

The Hark was dark, throbbing and reeking. Between the effects of smell and taste, Fenno began to feel right at home. On his way to the keg, he spotted his favorite mutt — Spuds McKenzie.

"Hey Spuds," he cried, recognizing a kindred spirit. "Great costume, but wrong brand, bud," he said, disillusioned that it was just some red-headed 2L instead of the real thing. He continued on his quest for Meister Brau.

Before he could take another step, however, he was blocked by a large, globular woman cramming candies and munchies down her gullet. "My, she must have gotten her \$3 worth in Cheetos," Fenno thought to himself. She turned from the table, toward Fenno, and opened her mouth . . .

"Ohmigosh! Weren't you in *Dawn of the Dead*? See, on the screen!" Fenno exclaimed, pointing to the wall.

Suddenly the lights went on and Fenno was in the center. "Oohs" and "aahs" came from the surrounding crowd.

"And the winner of this year's best overall costume is Fenno!"

The crowd cheered and the shocked Fenno stepped forward to receive his prize — a gift certificate for one night's free drinking at Studley's.

On his way home, Fenno mused how this had been his most productive day ever. "It's a shame that Halloween comes only once a year."

☺

**HLS,
inc.**
"NOW &
THEN AT
LINCOLN'S
INN"

LINCOLN'S INN HAS BEEN GETTING A BAD RAP LATELY. PEOPLE SAY IT IS HLS' FRATERNITY, A BUNCH OF WHITE MALES BENT ON PRESERVING PRIVILEGE.* BUT LINCOLN'S INN, IN THEIR FALL RECRUITING DRIVE, SAYS IT AIN'T SO -

* THAT MANTLE HAS FALLEN ON
THE HIS REPUBLICLOWS.

I JOINED LINCOLN'S
INN TO DRINK BEER...

... MEET CHICKS!

THE BIG
ΔKE
BEER PARTY

THEN

IT IS TRUE, LINCOLN'S
INN IS MORE

I JOINED LINCOLN'S INN
TO CONSUME BEVERAGES
BREWED FROM MALT
AND HOPS... TO ATR

...TO ATROPHY
MY SOCIAL
CONSCIENCE..

... TO MEET
FEMALES
OF THE
OPPOSITE
SEX!

THE BIG
ΔKE
BEER RE!

NOW

SOPHISTICATED...

© DISORD
COPYRIGH
LAW.

Geek
Week

HI I'M HI, I'M HI, I'M KEN!

AND I'M
BARRIE!

HI, I'M BILL!

I'M KEN!

I'M STEVE!

AND I'M
SALLY

THEN!

AND **DIVERSE** THAN EVER BEFORE...

THAN EVER

NOW

AND THEY'RE TRYING TO DISPEL
THE MYTH THAT THEY ARE JUST
A SOCIAL CLUB:

WELL, IT'S THAT, BUT IT'S A LOT MORE - IT'S A PLACE TO HANG OUT AND PARTY, PLAY PING-PONG AND POOL, WATCH MONDAY NIGHT FOOTBALL WITH THE GUYS. IT'S GOT A BAD REP AS JUST A SOCIAL ORGANIZATION. GRAB A BREWSKI - IT'S GREAT TO BE A LINCOLN'S INNARD!

THEY'VE EVEN STOPPED BUSING IN
WELLESLEY WOMEN. X X X X X

FORGET THAT, MAN! WE'RE
LIBERATED NOW! WE MAKE
THE GIRLS PAY FOR THEIR OWN
BUS FARE! BUT CHECK OUT
THESE COOL ENGRAVED
INVITATIONS WE'RE
GIVING OUT -

BUT HEY
TIMES ARE
CHANGIN'.

1957

STUDY GROUP

by KA

BOY! IT'S ALMOST 1 IN THE MORNING,
AND I STILL HAVE 40 PAGES OF CONTRACTS
TO FINISH **AND** MY LEGAL METHODS BRIEF!

WHY DON'T YOU KNOCK OFF AND SLEEP IN TOMORROW,
NO ONE WILL MISS YOU! AFTER ALL YOU **REALLY** DON'T
WANT TO BECOME A SNIVELLING, COMPULSIVE
NEUROTIC, ANAL RETENTIVE, OVER ACHIEVING,
MYOPIC, BOOKWORM DRUDGE WITH PARANOIAS
AND EGOTISTICAL DELUSIONS OF GRANDEUR THE SIZE
OF THE STATE OF TEXAS, **DO YOU?** WHY DON'T
YOU GO DRINK SOME BEERS AND WATCH RERUNS
OF DRAGNET?

**DON'T
LISTEN
TO
HIM!**

OH NO! ANYTHING BUT B < P.L... PLEASE!

HE'S DANGEROUS! YOU WANT TO DO WELL, DON'T YOU? YOU WANT TO SUCCEED?! YOU'VE GOT TO REMEMBER B < P.L.; IF B IS THE BURDEN OF STUDYING 24 HRS. OF THE DAY, AND BECOMES LESS THAN THE PROBABILITY OF LOSS OF LAW REVIEW AND HIGH-PAYING PRESTIGIOUS SUMMER JOBS, YOU'RE GUILTY OF NEGLIGENT STUDYING!! YOU'VE GOT TO RATIONALLY MAXIMIZE YOUR UTILITY! AFTER ALL, ALL THE OTHER 1L'S GOT THEIR RESUMES OUT WEEKS AGO AND HAVE MILLIONS OF JOB OFFERS POURING IN... GET WITH IT, PAL!!

WHO..

WHY DON'T YOU SHUT UP AND
GO PEDDLE YOUR PHONY
BALONEY, PSEUDO SCIENTIFIC
EQUATIONS TO SOME OTHER
LAW STUDENT, YOU RUNNING
DOG LACKET UTILITARIAN
STOOGES OF THE CORPORATE
HIERARCHY AND LEAVE THE
POOR KID ALONE TO SNARF
SOME BREWSKIS AND GET
SOME LAFFS?!!

ME?! YOU SHOULD STOP SPOUTING OFF YOUR VAGUE, MUSHY, INDETERMINATE, ILLOGICAL, BAD BOY, COUNTER-PRODUCTIVE, INEFFICIENT, POLITICIZED, SUBVERSIVE NONSENSE!!!

COLD
HEARTED
FASCIST
CREEP!

SUBVERSIVE
COMMIE
WIMPA

WHEW!! I KNEW LAW SCHOOL WOULD BE TOUGH, BUT NO ONE EVER SAID ANYTHING ABOUT HALLUCINATIONS!!!

To Prevent Revolution, Lawyers Must Improve

The following is an abridged version of an address delivered by Justice William J. Brennan, Jr. '31 at the commencement ceremonies of the Ohio State University Law School in May, 1987.

I'm going to suggest to you entrants to the law that the most important problem you face is not yours alone. It's a problem that confronts lawyers and judges alike and, indeed, every member of our society. For we live in a time when the law and the legal system are under increasingly heavy attack by disaffected groups in our society. It is an attack that takes two forms.

First, the law and the legal system as they exist today are challenged as basically inequitable to all those who have been unable to participate fully in the economic and political life of the nation. With rising vehemence, the disaffected point, among other examples, to indefensible inequities in our criminal law and procedure, in our tax and welfare systems, and still other systems. They demand change now: all deliberate speed will not suffice.

The second challenge to law and the legal order is even more fundamental, and has even more ominous portent. It brings under attack the rule of law itself. Law is regarded as an obstacle to, rather than an instrument of, the creation of a just and generous society.

How are we to meet these challenges? It is easy and traditional to extol the virtues of the rule of law and to describe the horrors that would attend an anarchistic society. But we cannot content ourselves with an answer which relies on such abstractions. A philosophical disquisition on the virtues of the rule of law cannot justify inequities in our present legal system. Our first task, therefore, is to demonstrate that we recognize these inequities and are confronting them with a promise of solution. Only if we succeed in this task will it be

appropriate to glorify the rule of law.

It has been a truism since de Tocqueville wrote so discerningly of American society in the Nineteenth Century that lawyers occupy a strategic role in the ordering of our society. This is not merely because the law trains one in habits of analysis which can be applied fruitfully throughout the range of social problems, or that tradition has inclined to the law individuals disposed to follow a career in politics or public service — though these are doubtless important factors. Equally significant is the fact that governmental action which in other societies is exclusively the purview of administrators or legislators is, in America, subject also to judicial or quasi-judicial scrutiny. We have been a legalistic society from the beginning. Lawyers were conspicuous in the vanguard of the revolutionary movement and in the drafting of the Constitution, and ever since our society has framed urgent social, economic and political questions in legal terms, placing great problems of social order in the hands of lawyers for their definition, and in the hands of judges for their ultimate resolution.

What affirmative, responsible and progressive actions can the legal profession take to meet current problems and avert future crises? Today the focus has shifted from the abuses of concentrated economic power and the vagaries of cycles of boom and bust. Society's overriding concern today is still with providing freedom and equality of rights and opportunities, in a realistic and not merely formal sense, to all the people of this nation: justice, equal and practical, to the poor, to the members of minority groups, to the criminally accused, to the displaced persons of the technological revolution, to alienated youth, to the urban masses, to the unrepresented consumers — to all, in short, who do

not partake of the abundance of American life.

Involvement of lawyers in that quest is a moral imperative, for it seems to me unquestionable that the lawyer in America is uniquely situated to play a creative role in American social progress. Indeed, I would make bold to suggest that the success with which he responds to the challenges of what, if an era of crises, is also a new era of promise in the life of our nation, may prove decisive in determining the outcome of this struggle.

Lawyers have only taken the first tentative steps toward meeting their professional responsibilities. The burgeoning for a while of legal aid, neighborhood legal services, and public defender activities was an encouraging beginning. Lawyers were starting to recognize that the assurance of equal rights and opportunities to all would require new techniques and involve new areas of law. We were beginning to understand that many current problems will not yield to the traditional methods of solution through counseling, negotiation, or judicial or administrative proceedings. Doubtless radical changes in our concepts and methods of the practice of the law would be required. And these changes would in turn require radical changes in our concepts and methods of the teaching of the law. We must look to our law schools to produce the young lawyers who will be ready to undertake the very different and weighty responsibilities our society thrusts upon them. We must not, however, reach the complacent conclusion that the task of remedying the inequities in our law and legal system is the responsibility only of the young members of the Bar. The idea that the public sector should be serviced by young lawyers while older, more experienced lawyers concern themselves only with more lucrative private practice is a pernicious one. The

Off the Record

Legal Institutions To Redress Nation's Inequity

by William J. Brennan, Jr.

talents and experience of the older practitioner are sorely needed in the public sector. These tasks cannot be foisted solely on you lawyers just out of law school.

The mechanism by which society makes choices and accommodates conflicting social interests has always been preeminently the law, embracing by that amorphous term not simply the courts but more broadly all the ways in which man structures the relationships that constitute society. Thus, every lawyer, no matter how well-established, and regardless of his specialty, can and must contribute to the elimination of inequities now under such vehement attack by the disaffected. Let us have no illusions that the task is an easy one. The social and legal problems of the disadvantaged and outcast groups and individuals are novel and complex for the practicing Bar, not least because they involve precisely those in our society who traditionally have not been the clients of the legal profession as such. Moreover, our profession's contribution must not be limited to strictly professional activities. Each of us is morally obligated to do even more. The role to be played by the lawyer as citizen is at least equally important. As members of the establishment, particularly the legal establishment, our every action has an impact on the public's assessment and acceptance of the law and the legal system. If the credibility and integrity of our legal system are impugned by the actions and omissions of lawyer-citizens, there will be no general respect for the law. Can we in honesty say that the profession is yet redeeming its past mistakes? Can we deny that too many of us still perpetuate and compound prior errors? Surely lawyers must be the last to condemn the disaffected for wanting no part of our legal system if we of the law act in ways which repel, not instill, faith in it.

The widespread cynicism among the disaffected that progress cannot be achieved under law also has roots in the not unfounded conviction that present legislation and court decisions fall short of effecting meaningful change in the life patterns of the expected beneficiaries. Those who dwell in urban tenements and rural shacks, as well as their sympathizers, seeing no tangible results, ask what good are laws and court decisions. It is at this point that faith in progress under law disappears, and apostles of violence and revolution begin to make headway. Thus, we, too, must recognize that past legislation and decisions have hardly begun to eliminate the legal inequities in our society. We must redouble our own efforts not merely by giving effect to those laws already on the books but by leading the effort for new legislation to achieve real equality. Certainly, we as lawyers know the difference between formal and real equality, and therefore we must lead the fight to close the gap between the two. Legislation to date has had little more than formal value because quite frankly it has cost us, the establishment, almost nothing. Real equality will cost us something. The lesson the legal world must learn from the events of the past several decades is that constant pressure must be applied to overcome the problems that confront our society. Lawyers before any other group must continue to point out how the system is really working — how it really affects real people. They must constantly demonstrate to courts and legislatures alike the tragic results of legal nonintervention. They must show up how legal doctrines no longer bear any relation to reality, whether in landlord/tenant, holder-in-due course law, or what not. In sum, lawyers must bring real morality into the legal consciousness. Moral arguments backed by the hard facts about discrimi-

nation and deprivation are still the most potent force in the world, in the courtroom, in the legislatures, in the cities. There are still large segments of our population who would keep the country's problems out of sight. The result is that disaffected groups feel they must escalate their protests in order to be heard. Then some use these very protests as a smoke screen to hide the underlying problems. But we cannot focus public attention on the lawlessness in the streets, and not on its causes — poverty and prejudice.

If this vicious circle is to be ended — if this society is to be recalled to its moral senses — if this society is to grow up and not blow up — lawyers must shoulder a far greater burden of responsibility than our profession has been willing to accept in the past. Never was there a set of problems for which truly competent, able lawyers were more needed. The complexity of the problems we face requires far more sharply honed talents than ever before. Rarely has the challenge to the legal profession been greater.

Certainly the challenge posed by the rising tide of disaffection with our law and legal system can be met. But lecturing the disaffected or merely reacting to them will not suffice. We must truly seek to lead. The only way to demonstrate that the rule of law is consonant with a just and equitable society is to adopt the legal process to create such a society. That process will not fail us if we try. But let us delay no longer. Let us begin. ✽

Next RECORD:

November 13, 1987

Paper's Funding Problems Cause Delivery Delay

(Continued from Page 8)

is never easy to reach him. A full four days later, Mr. Mitchell claimed not to have been aware of the situation until the previous morning. Whether it was a problem with his secretarial staff or his memory I am not sure as he had been fully aware of our lack of funds since the beginning of the semester. One meeting between our printer and Mr. Mitchell was cancelled by our printer. I am unaware of any attempts made by Mr. Mitchell to reschedule this negotiation until after our most recent meeting.

As a result of my insistence and indeed perhaps impertinence, we were given a check to cover the as yet unmailed copies of the paper plus two issues and to cover some of the day to day running costs of the newspaper. We were told that the business manager would have to pick up checks to cover the costs of mailing on a semimonthly basis. This paternalistic attitude is insulting to say the least, but it does not stop with just the funding for the mailing of the newspaper.

Mr. Mitchell continued to refuse to pay the printer because he wanted to renegotiate the contract. The bill we have is not a small sum, having reached five figures. My concern, which I expressed to Mr. Mitchell, about the ethics with which he was handling the situation was quickly rebuffed with his notion that in the real world contracts for six figures were renegotiated in this manner on a daily basis. Maybe this is the way things work in Mr. Mitchell's world. But, what has to be understood is that it is my name that appears on the top of this masthead, not his, and it is my name that is being tainted with his choice of what I can at best describe as unethical and underhanded conduct. Maybe Mr. Mitchell feels his experience in the business world far surpasses mine and as such he may correctly and appropriately treat me paternalistically. I beg to differ since it is my reputation, the reputation of my staff, and the reputation of the RECORD which he drags through the mud.

I warned Mr. Mitchell at our last meeting that I would not blame our printers if they suddenly stopped printing. It didn't take a crystal ball, nor did it take years of business experience for me to accurately predict the events of last week. Upon receiving the galleys for Volume 85, Number 6, I also received a note from our printer informing me he would not run the presses without, at the very least, payment for last year's outstanding bill. The RECORD had an outstanding bill with the printer from the previous year for an issue which ran us over budget. As the last issue of the year, the editorial decision was made to run a longer issue than usual because we had a large amount of copy which would not keep over the summer. Mr. Mitchell was aware of this. This may perhaps be deemed an unprofessional decision on the part of Volume 84's editorial board, but whatever the professional verdict, had we had the funding for this year's RECORD, we could have paid last year's bill and made an editorial decision to perhaps cut this year's issue by one.

Instead, I received the printer's note late Wednesday afternoon. I called Mr. Mitchell immediately only to be told that he was out of town, again. It was suggested by his secretary that I might call the printer and try to negotiate an extension with him since Mr. Mitchell had scheduled a meeting with the printer for this past Tuesday. Understandably, the printer would not accept this. He understood our position as being caught in the middle, but said he had to put his foot down sometime. Another call to Mr. Mitchell's secretary informed me that there was no way to get in contact with Mr. Mitchell. Instead, I put an emergency call into the Alumni Association. After spending a good fifteen minutes on the phone and periodically being told that there was no one that could help me at Baker House, I was put in contact with Victor Koivumaki who had been the first person I asked for when I called. Mr. Koivumaki was the person who signed our check

for our mailing costs. A meeting with Mr. Koivumaki produced a check for last year's bill and issue Number 6 was printed on schedule Wednesday night.

At the meeting between Mr. Mitchell and our printer this past Tuesday, Mr. Mitchell paid for the bills outstanding over thirty days. This translates into approximately three of the now seven issues we have printed by my calculations. While this may be a start and a move in the right direction, it's a bit late. The damage has already been done — both to our reputation as student journalists and to the RECORD's reputation as a dependable newspaper.

I would like to put in print my apologies to all of you who have been inconvenienced by this. I did not want to have an aggressive and volatile relationship with the Alumni Association and indeed I do not. I do not blame the Alumni Association as a whole for what has transpired but rather just its treasurer, Donald Mitchell. I was told by Mr. Koivumaki not to expend my energy worrying about the newspaper's finances, that I should just print the paper. The very real problem is that the finances are coming between printing the paper and not printing the paper. This is a problem. This is a worry. This is unfair — unfair to us and to you. And now you know what it is all about.

T.M.F.

Pub Stench!

(Continued from Page 5)

with the always-novel concept of a petition, this time targeted at a temporary pub-closing.

Pub-Co-Manager Holly House, 3L, said that she feels that the petition, which has so far generated sparse support, is too extreme a response to damage already done. A more practical course of action would be vigorous pub patronizing: "If people drank more, they wouldn't notice the odor," she said.

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Tenure Struggles Prompt Some To Seek Change

(Continued from Page 1)

Bok has not publicly disclosed his reasons for vetoing Trubek's appointment, nor has he explained his decision to the HLS faculty. Bok plans to discuss his decision on Trubek with the faculty after he decides whether to promote Dalton, HLS Dean James Vorenberg '51 said this week. But Vorenberg declined to discuss Bok's reviews of the Dalton and Trubek cases and referred questions about the president's actions to Bok himself. Bok declined comment last week.

Council Takes Stand

Law School Council members this week began soliciting student signatures to a letter calling on Bok to consider "seriously" students' views on any professors he evaluates and to spell out a "clear-cut policy" on when he will undertake special reviews of appointments decisions and what standards he will use.

When students are not informed about the processes and standards Bok uses in reviews, "decisions inevitably appear arbitrary," the Council's letter states, adding that "because tenure decisions dramatically affect our experiences as students, we fear they are being even further removed from our input than when professors' decisions are allowed to stand."

Typically, before the faculty votes on tenure cases, the Appointments Committee, made up of six faculty members, reads student evaluations of tenure candidates' teaching and randomly interviews "a dozen or more" students from the candidates' classes, Vorenberg said. Both supporters and critics of Dalton have said faculty members discussed her teaching only briefly when they debated whether to promote her last spring. But teaching was a "real factor" in how a few professors voted, Professor Robert Clark '72, a Dalton opponent, has said.

Bok announced last summer that as the first phase of his review of Dalton's case, Professors Detlev Vagts '51 and Paul Weiler, LL.M.

'65, would try to interview 15 professors from other schools who had commented to the faculty last spring on a torts book Dalton will publish. Bok said in August that he would decide what further steps, if any, he would take in his review when Vagts and Weiler have completed the first phase. Vagts said last week that he and Weiler hope to finish their work by Thanksgiving.

The Council's letter, which was approved by the group last month, expresses students' "frustration over being cut out of the process," Ted Johnson, 3L, a Council vice president, said this week. "The whole process is shrouded."

Johnson said Council members differ on what role students should play. Some, including Johnson, have expressed the belief that student representatives should attend faculty deliberations and vote with the faculty on appointments. Others, however, believe students do not belong in tenure debates, he said.

But all council members agree that students' views of teaching should affect tenure decisions and that Bok should offer students more information about his actions, Johnson said. The faculty should add more minorities and women to its ranks, he added, and should not try to limit the number of new members who sympathize with the Critical Legal Studies movement, a school of leftist academics who challenge more traditional approaches to the law. Both Dalton and Trubek are CLS adherents.

Vorenberg met with Council members last spring to discuss the tenure process, Council President Pat Wood, 2L, said this week. Vorenberg told the group the matter was too "touchy" to talk about in detail at the time, but he offered to do so this year, and Wood said he expects Council members to meet with the dean again later this fall. Vorenberg declined to comment.

Title VII Tangle

Dalton's lawyer, Boston attorney Nancy Gertner, filed the charges of gender discrimination with the U.S.

Equal Employment Opportunity Commission and the Massachusetts Commission Against Discrimination. Gertner, a former visiting professor at HLS, was unavailable for comment early this week.

The complaint, based on Title VII of the Civil Rights Act of 1964, had to be filed within six months of the faculty meeting last May at which professors voted to deny Dalton tenure, Dalton said, or a federal statute of limitations would have precluded her from suing Harvard under Title VII in the future. Dalton said she also remains able to bring charges under Massachusetts law for ideological discrimination.

"The fact that I've taken this step is purely to preserve my rights," Dalton said. "I'm more than willing to wait for the outcome of President Bok's review to see what further steps, if any, I need to take."

Dalton said she had not sought to have her complaint disclosed publicly but that staff members of *The Harvard Crimson* "figured out" that the statute of limitations was about to expire and contacted her. She took issue with a report in the *Crimson* last summer that she had decided to sue Harvard if Bok rejects her tenure bid.

"I'm certainly not going to foreclose the possibility of suing later," she said, repeating that she has not "made a final decision" to sue.

If the two civil rights agencies process Dalton's complaint, they will decide whether to take her charges to court. Dalton declined to release the text of her complaint but said it was "very short and succinct."

The charges Dalton has filed "represent no change in the situation," Harvard Vice President and General Counsel Daniel Steiner '58 said this week, since Dalton is waiting for Bok's decision before deciding whether to pursue any charges.

Jello Breaks The Mold In Pornography Case

(Continued from Page 6)

to testify that the Giger poster is a meaningful creation and that Biafra has a heart of gold, the prosecution limited its case to proving the defendant's willful and knowing involvement in distributing the poster to minors. Guarino apparently wanted the jury to do its own Giger counting. That the poster was harmful, he told them, was obvious, and would be apparent to "your good common sense." At least so he thought as the trial began.

For Schnayerson, the case was "one of the most exciting things I've ever done as a lawyer. When you're in law school," he pointed out, "you start out with *Palsgraf* and go through all that shit, and you never really get an opportunity to stand up in front of a jury and talk about what you really believe." Don't remind me. He also said that he has no hard feelings toward Guarino. "I like the man. The man is very bright. The fact that there were even five people who voted guilty is testament to his ability as a lawyer."

I had a chance to judge for myself when Guarino returned my call. Aside from the fact that he called me "pal," I liked him a lot, and it was hard not to feel bad for the man. The case was going beautifully, he said, until the judge accepted the defense's "sham arguments suggesting joinder where there wasn't any," and instructed the jury to consider the poster in conjunction with the album and its lyrics. By doing so, he contended, the judge "unintentionally gave them the case on a silver platter."

The poster was not essential to the thematic unity of the album, Guarino insisted at trial, claiming that the issue for Biafra hadn't been how best to express his view of society. It was, "Will some kid who has to choose between us and the Beastie Boys buy our album because of the inclusion of this poster? They were using it as a sales gimmick," Guarino said. "And that fact seemed so clear to everyone, until, at the

end of the trial, the judge gave this instruction."

I asked Guarino if I could pose a question slightly off the subject. "Sure, pal," he answered. What kind of music do you listen to?

Guarino paused and then said — no kidding — "I like Patti Smith. I really enjoyed the *Easter* album. I thought it had a nice tension between sexuality and mysticism."

Guarino offered one more comment about the case. "I'm still convinced in my own mind that although not many things fall into the category of harmful, as defined by the statute, this particular poster clearly does."

Guarino does not rule out the possibility of further prosecutions, although he says that none are currently planned.

So what can we learn from the Biafra trial? Ladies and gentlemen, Larry Tribe: "I'm really not familiar with the case. I've been busy with other things." Ever listen to the Dead Kennedys? "I'm sure I have. But I've never attended one of their concerts." Odd. I could have sworn that was Tribe in the ninth row at the Orpheum in '83, but never mind.

Richard Parker suggested that the best person to consult for the case's First Amendment ramifications was Professor Alan Dershowitz. "Dershowitz knows as much as anyone about obscenity," Parker said. Right.

The Dersh, it turned out, *had* followed the case. "It shows that juries often have more sense than prosecutors do," he remarked. "This was a silly case to bring from the start. I would have preferred outright vindication, but at least this sends a message to prosecutors that juries aren't just going to roll over and play dead when they bring ridiculous cases to court."

The hung jury certainly had not "played dead." It did, at one point, play Dead Kennedys, however. Late in the deliberations, in what the *Los Angeles Times* described as "a last hope effort to resolve the deadlock," the jury sent word that it wanted to hear *Frankenchrist*. "They really didn't listen to the

whole thing," twenty-three-year-old jury forewoman Jane Yuen later recalled. "One woman said she couldn't take it."

The deadlock was thus assured. After the judge dismissed the case, Biafra autographed albums and posters for the seven members of the jury who had voted to acquit. Biafra's life isn't yet back to abnormal, though.

The trial was the Dead Kennedys' Yoko. As it took up more and more of Biafra's attention, the band split up. And his record label, Alternative Tentacles, folded under the strain as well. Biafra is now touring the country raising money to pay his legal costs.

Biafra's attorney said that struggle is nothing new to the singer. "He's always pushing the edge, and people like him have a really tough road. But he'll make it. We should just be glad that there are people like Jello around."

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**Ding
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Washington Firm Greeted By Picketers

(Continued from Page 3)

vis à vis a loophole," Hollander added.

Mark Blocker, 3L, signed the petition but did not attend the demonstration. He stated that "there's so many good firms that there's no need to interview with the ones who conduct themselves beyond the bounds of ethics."

Effects Debated

Frank G. Jones, one of the attorneys interviewing students for Fulbright & Jaworski, said that despite a high number of "no-shows," he felt the protest had little effect on the interviews. He disclaimed any knowledge of his partners infiltrating bargaining units or posing as employees.

"I assume the boycott has some effect, but it's hard to say how much," said Director of Placement June Thompson. "It doesn't affect



Pauline Scalvino

Harvard law students picket Fulbright & Jaworski as a "union busting" firm.

the overall interviewing patterns of our students," she noted.

Five of the other boycotted firms recruiting this season revealed that the number of students they have interviewed is down. One firm, Bond, Schoeneck & King, decided to cancel its recruiting trip. "Several

people signed up, then cancelled because of the boycott," said Robert Kopp, a representative for Bond, Schoeneck. "Only one person was left, so we cancelled."

This is the fifth year that HLLP has boycotted anti-union firms, but the first year it has picketed them.

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