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TWENTY-FIVE CENTS

Boston Racism Blasted By Law Deans, BALSAs

By Richard B. Bernstein

In a joint press conference held Monday, Nov. 19, Dean Albert Sacks and the deans of five other Boston-area law schools, together with Combined Boston Black-American Law Students Association (BALSAs), deplored racial violence in the Boston area and called upon the Boston community to oppose such violence and the prejudices that give rise to it.

"We urge private citizens and community leaders alike to take every available opportunity to condemn the actions of a violent and abusive few whose treatment of persons on the basis of skin color threatens the security and well being of us all, whether white or black, Hispanic or Asian," the deans' statement said.

Combined Boston BALSAs also issued a statement addressed to the Boston community, urging the black community "to begin to utilize our collective resources to combat racial violence," warning that black students "can no longer remain isolated on our respective campuses;" calling upon the legal community to live up to "your responsibility to condemn racial violence in the streets (and) to eradicate racism as it so clearly manifests itself in the judicial system;" and reminding the

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3Ls Attack U.S. Army for Employing Chaplains

By Michael Smith

Two Harvard Law School third year students filed suit in Federal District Court in Brooklyn last month, claiming that the United States Army chaplain program violated the Establishment Clause of the First Amendment to United States Constitution and seeking a change in the program's operation.

Allan M. Wieder and Joel Katcoff, both residents of New York, filed the suit as individuals. The defendants are the Department of Defense, the Department of the

Army and Clifford Alexander, Jr. Secretary of the Army.

Wieder and Katcoff indicated that they felt that the Army chaplain program violates the three tests used by the Supreme Court in Establishment Clause cases: government actions cannot promote religion, government programs cannot have a primary effect to promote religion, and there cannot be excessive entanglement between the government and religious groups.

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HLS Confronts Bomb Threat at Langdell Hall

By Dan Hershman

A bomb threat to Langdell Hall on Tuesday morning forced the evacuation of hundreds of students and staff, cut short two classes, and disrupted library studies. This was the first such threat received in several years, and Dean Albert M. Sacks stated that it might have been made by a disgruntled ex-employee.

At approximately 10:35 Langdell receptionist Marion Pierce received a telephone call from a male with "an American voice" who stated that a bomb would go off at 11 a.m. He said nothing more and hung up before Pierce could respond.

Though startled by the call, Pierce quickly contacted Assistant Dean Russell Simpson's office, Dean Sacks, and Librarian Morris Cohen. Simpson, who was reached at a meeting at University Hall, promptly went to the Harvard Police, advising them to conduct a general evacuation of Langdell.

Simpson then "trotted over" to Langdell's reception area, where he met Sacks and several police officers. Separating, Simpson went to Langdell North Middle where, walking into Prof. Robert Clark's crowded Corporations class at 10:53, he said, "Bob, there's been a bomb threat to the building. We don't think it's serious, but we want everyone to evacuate." Simpson also warned Prof. David

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Bar Exam Review Sessions on Sale

By David N. Johnson

It is said that "you have to spend money to make money." Perhaps the last major expenditure a law student makes on his education is the cost of a bar review course. And perhaps the last major decision a law student makes concerning his education is whether to enroll in a bar review course at all, and if so, which one.

Alphabet Soup

Representatives of three major bar review courses regularly confront law students in the Harkness Commons: BAR/BRI, BRC, and SMH. BAR/BRI is the result of a merger between "Bay Area Review" of San Francisco and the "Bar Review Institute" of Chicago. BRC is headed by Michael Josephson, and is known as "Marino-Josephson/BRC" in New York. SMH is named after its proprietors — Smith, McLaughlin and Hart — and is headquartered in Boston.

None of the three courses has programs for all American jurisdictions which administer bar exams. BAR/BRI offers broadest coverage, with programs for thirty states and the district of Columbia. BRC has full programs for twelve states, with written materials and a testing program, but no lectures, in two others. SMH covers twelve states also — most of them in the Northeast — plus the District of Columbia.

Land of the Giants

BAR/BRI, BRC, and SMH are the giants in their field, with only a few single-state bar review courses surviving the onslaught of the multistate bar exam.

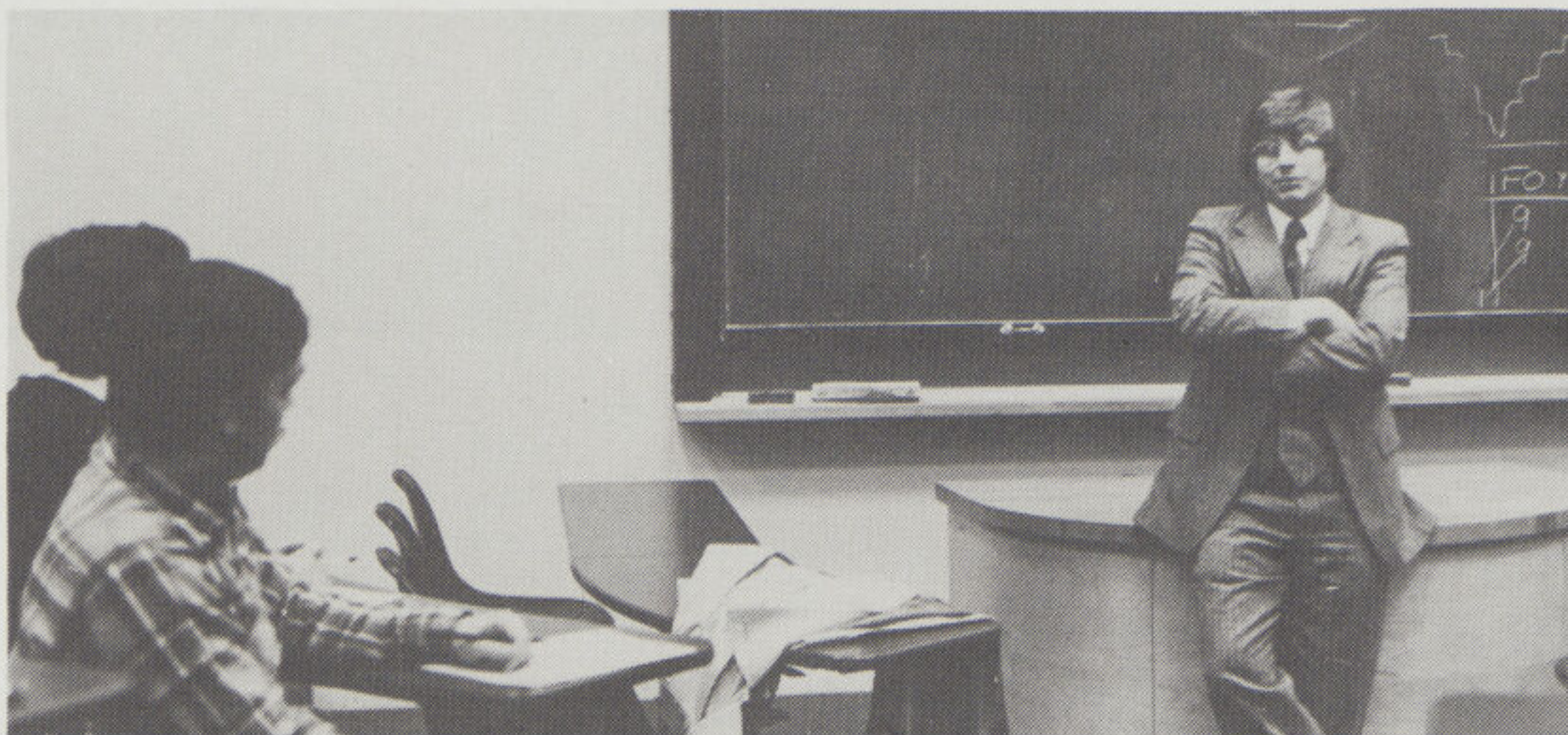


Photo by David N. Johnson

Michael Josephson, founder of BRC, lectures hopeful bar applicants.

The multistate bar exam (MBE) is a standardized, multiple-choice examination which was first administered as part of a state bar examination in February of 1972. Prior to that time, each state's test was completely different from those given in other states, and most of the exams consisted of essay questions. Because of the cumbersomeness of grading essay questions and the increasing numbers of bar exam takers, the MBE was created for use in conjunction with a diminished number of essay questions. Last year, forty-three states used the MBE to test knowledge on contracts, evidence, torts, real property, criminal law, and constitutional law.

The increased acceptance of the MBE has been paralleled by the national consolidation of bar review courses. For instance, the Marino-Josephson/BRC course combines Joseph Marino's New York bar review experience with a multistate program developed by Michael Josephson. Thanks to the economy of scale created by the MBE, "you either grow or you perish," says Walter H. McLaughlin, Jr., the "M" in SMH. John Audick, Eastern Regional Di-

rector of BRC, adds that the three giants have pretty well cornered the outstanding bar review lecturers in the country, putting a further strain on any local operation which wants adequately to teach multistate subjects.

Victims of Choice

Having a choice between bar review courses is a dubious blessing, since it places one squarely in the crossfire of competing claims. These claims and counterclaims became especially strident in Harkness as the November 30 early enrollment discount deadline approached.

Common to all three courses is an assumption that they are not really "review" courses at all. Since they assume that all of the material is new to the students, they claim to lay out in their law summaries every point of law which might be tested on the bar exam. They all provide two types of written material, one for initial study from scratch and a shorter version for last-minute review.

The BRC course touts its "Josephson Issue Graphs," and its programmed learning system (PLS) which costs \$50 extra but which Josephson feels stems short-term memory loss most effectively. A prime selling point of the Marino-Josephson/BRC course in New York is the extensive experience of Joseph Marino, who conducted a New York bar review

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3Ls Challenge Military Chaplaincy

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Both plaintiffs stressed the fact that they are not opposed to the Army having a program of chaplains, but they are opposed to the program as it currently operates. The chaplain program takes chaplains from the three major faiths. Chaplains in the program must be endorsed by approved groups from their faiths. The government provides all funding for the program, in addition to administering it.

The plaintiffs would prefer a program that would be privately funded and controlled. That type of program, in their opinion, would still allow servicemen their "free exercise" rights without involving Establishment Clause problems.

An important part of the suit is the fact that Wieder and Katcoff are suing as individual taxpayers. This is by choice on their part to "highlight that it is a taxpayer suit," and "not to have extraneous political positions" entering into the case.

The government's answer is due



Photo by David N. Johnson

3Ls Allan M. Wieder and Joel Katcoff, who have sued the Army.

in late January, but Wieder and Katcoff expect to hear something from it before then. Along with the complaint, the 3Ls filed 123 multi-party interrogatories and the deadline for the return of those is early January.

Both plaintiffs expect major action in the case before the end of the semester, either in the form of receiving a 12(b)(6) motion from the government or having the case heard upon a stipulation of the

facts. Wieder indicated that the latter possibility was not unreasonable since most of the facts are contained in the Army's own regulations.

Work was started on the case last spring when Wieder and Katcoff did some preliminary research. This summer was used to file Freedom of Information Act requests. The complaint was drafted this fall.

If the government files a 12(b)(6) motion the case could extend beyond the end of spring semester. Both Wieder and Katcoff plan to be working for law firms in New York, and they indicated that both the firms would be willing to allow the plaintiffs to proceed with the case on their own time.

Bomb Scare Clears Langdell; Officials, Police Seek Suspect

(Continued from Page 1)

Shapiro's 1L Civil Procedure class in Langdell North.

Sacks found no class meeting in Langdell South. The police went through the halls warning faculty and staff, and the library staff advised those present of the threat. "I think no one stayed," Simpson said. "There was some scurrying about by students at their lockers; I tried to shoo them away."

The police apparently arrived promptly, and at least six police vehicles were present at 11:15. Finely printed signs with white lettering on red background posted on Langdell doors by the police stated: "Warning. The University has been notified that someone claims there is a bomb or incendiary device in this building. All persons entering and occupying these premises are warned that they do so at

their own risk."

Simpson believes that everyone was out of the building by 11 and stated that the administration would sit down in the very near future to form evacuation procedures. Many students stood outside the building but eventually moved to the warmth of Harkness Commons, where the Daka food service appeared to be doing a brisk snack business during the wait.

Sacks said that there was no time to search for the alleged bomb before 11, but that a quick search was conducted later in "obvious places" — the public rooms, lavatories, lobby and library, places "where a person could move most easily and not be noticed." Least likely places — offices — were not searched. By approximately 11:20, the building was reopened but classes did not resume.

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No Law School Connection

Thus far, there has been no official Law School connection with the case. Wieder noted that they had mentioned the case to several professors, but had not discussed the merits with any of them. They are planning to circulate copies of the complaint among the constitutional law professors and talk to them about the merits of the case at some future time.

Additionally, Wieder and Katcoff are getting third-year paper credit for the brief they will be writing for the case. The credit was granted after work on the suit was started; the suit was not motivated by the written work requirement.

Should Cameras Be in Courtrooms?

By Mary Tarduno

Cameras in the courtroom will be a topic of discussion in Massachusetts as the state begins a one year experiment on their use early next year. Recommended by a committee of lawyers and journalists and adopted by the Supreme Judicial Court, the experiment will lift the general rule prohibiting cameras, except when filming for educational purposes, in Massachusetts courtrooms.

Broad camera coverage of public trials will be permitted, with newsmen having much the same access to courtrooms as newspaper journalists have now, according to John Burke, administrative assistant to the Supreme Judicial Court. Certain guidelines, yet to be established, will regulate the use of cameras.

Debate over the use of cameras in the courtroom raises issues including physical intrusion on the courtroom setting, psychological effects on trial participants, the public's need to know, and defendants' rights. As with other issues in law, one can find myriad opinions at HLS on the use of cameras in the courtroom.

"It is essential to get cameras in as many courtrooms as possible, from the Supreme Court of the United States to the lowest municipal courts," said Prof. Alan M. Dershowitz. While not fond of flashbulbs and disruptive accoutrements, Dershowitz said that

every proceeding of every court should be videotaped.

Dershowitz, asserting that judges are more insulated and protected than members of any other branch of government, said the dangers of insulation pose a greater threat to defendants' rights than the use of cameras in courtrooms.

"The strongest opposition to cameras in the courtroom has frequently come from those judges least sensitive to the rights of defendants and most protective of judicial prerogatives," Dershowitz said, citing Chief Justice Warren Burger's opposition to the use of cameras as proof of his point.

"It is very important for the public to know what kind of people they are putting in robes," Dershowitz said, and Prof. Arthur R. Miller agrees.

Enlightening the Masses

Noting the dependence of the public on television rather than newspapers for knowledge, Miller said the cameras will spread awareness of the trial process among people who never have been in a courtroom nor have seen a trial. Television provides a visual dimension that print media lack, he added.

What is still in question is whether the media "has the resources or will commit the resources to do an intelligent job" of coverage, Miller said. "The only

way the broadcast industry can react effectively is to follow the newsprint wing," using journalists trained in the law or outside commentators "whose job would be to make sense out of the trial and to communicate it effectively to the public."

Miller expressed the fear that, once the media realizes that trial coverage is not entertainment, it will place it into the category of "public affairs," a subject historically not covered extensively. He suggested that the growth of cable television, by providing more channels, will make more extensive coverage possible.

Physical intrusion and psychological effects on trial participants are not significant problems in the use of cameras, Miller commented. From observing audiences on his television show, he has observed that, while somewhat nervous initially, people generally react normally in front of cameras.

Media Events

Expressing a somewhat different view is Prof. Lloyd L. Weinreb. He said that while he had never been in a courtroom with cameras, he felt it unlikely that cameras would not effect trial participants. "My *a priori* instinct is to say if the presence of cameras has any effect on a trial — if it tends to make it a media event — then the benefits are not worth the price."

Weinreb also believes that the public has "a pretty good idea of what a trial is like" from seeing fictionalized trials on television series. He cited the danger that

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Profs Consider Effect on Legal System

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people will watch televised trials with the same attitude they watch "Perry Mason". "And that is not a reforming attitude," he added.

"It is hard to believe that the public's need to know, which is strong, is a need to know instantaneously," Weinreb commented. Newspaper accounts are sufficient, he said.

Strongly against the filming of criminal trials is Anthony Lewis, HLS lecturer and *New York Times* columnist. "There is value in filming appellate arguments, especially in courts of last resort, as a matter of history and education," Lewis explained. "Films of criminal trials are of a different character, largely motivated by sensationalism and likely to destroy the [trial process]," he added.

Perhaps best acquainted with the use of cameras in the courtroom is Prof. Charles R. Nesson. Nesson is currently working on a television special on a day of argument in a New York appellate courtroom, and he filmed a trial in Seattle which became the subject of the television special "Anatomy of a Murder: The Shooting of Big Man," broadcast this past summer.

Like Miller, Nesson agreed that a need exists for more people to see how the trial process works but expressed doubts as to the broadcast media's ability to cover the process

properly. While minimizing the effects of camera coverage on lawyers and witnesses, Nesson said he is concerned over effects on jurors.

"[I] would require that, on day to day news, no juror's face be shown," Nesson said. In sensational trials, pressures on jurors would be especially great, he added.

The judicial system needs anonymous jurors, selected from the public randomly and receding back into the public after trial, Nesson explained, and for jurors to become personalities in the trial would run counter to this policy.

Not the First

Although the camera experiment will be a first in Massachusetts, Florida conducted a similar one-year experiment which ended in 1978. According to HLS alumnus Justice Alan Sundberg ('55) of the Florida Supreme Court, the experiment succeeded.

Since many of the concerns in the

state over the experiment centered on the psychological impacts of the presence of cameras in the courtroom on trial participants, the Supreme Court conducted a survey of participants in trials before it in which cameras had been used.

Although the survey was not conclusive or very scientifically analyzed, Sundberg said, "What we did discover was that the [psychological] issues were not of any significant impact on trial participants." In the survey, he explained, the court asked jurors how electronic and print coverage affected their answers to questions such as, "Were you concerned about threats to your life?" Little difference in response was found, he said.

Whether Massachusetts courts will find such a reaction remains to be seen. As one aide to the court said, "You'll see a big splash in the papers" when the experiment starts.

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Reviewers to Bar-Conscious 3Ls:

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course for many years before combining with Josephson.

Joseph Mims, HLS '79, who was a student representative of BRC last year and who took the Marino-Josephson course prior to taking (and passing) the New York bar exam, lauds Marino's lecture style, but questions his approach to selecting lecture topics.

"Marino predicts what will be on the test, and admits that he leaves some [testable material] out [of his lectures]," says Mims. According to Mims, last summer's New York exam required knowledge of insurance law, but Marino's lectures had touched upon only the "co-insurance clause" aspect of that subject, and then only as part of an eclectic "problem integration" session, rather than in a separate lecture.

"They keep telling you to 'trust us, trust us,' concerning what you will need to know," says Mims, "so that I think that any course which makes a point of lecturing on every [testable] subject has a definite advantage, since at least then you will know something about any question on the test."

John Audick, Eastern Regional Director of BRC, responded to Mims's comments by pointing out that insurance law was canvassed in detail in the assigned written materials. "The lectures aren't designed to regurgitate the written materials," says Audick. "They highlight them." Audick states that with as many as 30,000 legal facts potentially appearing on the New York exam, all of which are covered in the written materials, Marino's policy is to lecture on the concepts more difficult to understand.

SMH's lecture format is similar to that of BRC. It employs an ongoing "intensive review" consisting of past MBE questions and past essay questions. Lectures which merely reiterate the written materials are downplayed.

The BAR/BRI approach to lectures is slightly different, according to Gene Goldberg, BAR/BRI's New England Area Administrative

Director. "Our materials don't prepare you for the bar exam — they prepare you for the lectures," he says. "Our *lecturers* prepare you for the exam." Goldberg explains that the lecturers attempt to relate the bare statements of law in the written materials to the context in which the student is likely to encounter them on a bar exam. They therefore reiterate the written materials while imparting exam-taking insights.

Many accusations and rebuttals are made by the competing courses, more than can be dealt with here.

BAR/BRI and BRC both point for comparison's sake to the fact that BAR/BRI materials are published by the same people who put out *Gilbert Law Summaries*, while BRC materials are written by the folks who put together the *Sum and Substance* hornbook series. The most reliable means of evaluating the study materials of the respective courses is to examine the samples made available in Harkness by the courses' representatives.

Cost is Factor

Another important criterion in course selection is cost, which varies widely from course to course and jurisdiction to jurisdiction. For example, tuition for BAR/BRI's Nebraska program is listed at \$175, while the BAR/BRI program for Delaware costs \$525 plus a \$50 refundable book deposit.

BRC and SMH representatives suggest that the unusually high Delaware fee results from a lack of competition there for BAR/BRI's course — though the same lack of competition exists in Nebraska and many other states. BAR/BRI Regional Director Steve Levine claims that the high Delaware cost results from the small number of enrollees (only 106 people took the Delaware bar exam in 1978), the relative difficulty of the Delaware exam and its unusually broad scope, and the use of only live lecturers instead of videotapes. Also, the low Delaware pass rate causes many BAR/BRI enrollees to repeat the course at

about half the normal fee, says Levine. He offers to open the Delaware BAR/BRI account books and tax records to substantiate his claim that the Delaware program makes a very small profit.

Another allegation of BAR/BRI price-fixing may soon be argued in court. A class action is currently pending in a federal court in Chicago, asserting antitrust violations by BAR/BRI in setting the costs of its California, Illinois, and New York programs. The plaintiffs, who are purchasers of BAR/BRI courses since January, 1973, assert that BAR/BRI's practices forced competitors from Illinois, and that BAR/BRI divided the California and New York markets through a tacit agreement not to compete.

Three classes have been certified in the action, entitled *Bonnie Phemister et al. v. Harcourt, Brace, Jovanovich, Inc.*, 77 C 39, N. D. Ill., Jan. 8, 1977. The plaintiffs have not yet prayed for any specific amount of damages, but presumably damages would consist of portions of the purchase prices of the relevant BAR/BRI programs, which would then be trebled under the antitrust laws.

Gene Goldberg of BAR/BRI claims that the Chicago suit "has no basis in fact," and that BAR/BRI's competitors have used the existence of the suit to divert attention from substantive comparisons of the competing courses.

Schedule Coordination

Some bar review programs will begin before June 5, 1980, the date of the Harvard Law School Commencement. So that those enrolled in these programs need not surrender either a part of the programs or participation in Commencement, each course has made special arrangements for at least some states.

In addition to its early-bird multistate lectures in the Spring, BAR/BRI offers videotape lecture make-ups upon arrival in the relevant jurisdiction. BRC will make

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"Be Prepared — But For a Price"

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available locally videotapes from all relevant jurisdictions, as well as access to such tapes upon arrival in the jurisdiction. SMH is also giving an early MBE course, consisting of live lectures at Boston University (BU) from February through early April. These lectures will be preserved on tape for later showings at

Bomb Scare of Langdell Hall Cancels Classes

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Sacks said that the last threat was made to the Law School too long ago to remember — maybe five or six years back. He said there has never been an explosion or any device discovered. Simpson recalled a threat to Pound Hall in the early '70's, and Pierce stated that several threats were made around the University during the Vietnam era.

"You never know what might cause something like this," Sacks said, but he speculated that the threat may have been made by a disgruntled lower level ex-worker: "There was unhappiness expressed by a former employee." Simpson said he had no ideas of who could be responsible, but noted that "in an institution of the Law School's size, there are going to be disgruntled employees, students, and rejected applicants."

Pierce, back at her desk by 11:30, said she was a bit shaken by the incident, though not as much as when she received a threat years ago that a bomb was under her desk. Sacks said, "I don't want to generalize from a single incident, but obviously this type of disruption is exceedingly unfortunate. What can you say? Everyone involved in it is upset for the time."

Update: Another threat was made Wednesday that a bomb would explode at noon, but none did. There was a half-hour delay in some Langdell activities. Police have no clues. ☛

various nearby locations. Local law lectures in the relevant jurisdictions, except New Hampshire, will also be preserved on tape, but none of SMH's local law lectures begin before June 5 anyway.

Furthermore, each of the courses offers the complete programs for certain major jurisdictions locally — BAR/BRI during the mornings at Pound Hall, BRC mornings or afternoons at BU, and SMH at times and locations yet to be determined.

Predictably, representatives of all the courses warn against taking a bar exam without having taken a bar review course. Michael Josephson points out that most law schools do not teach the details of local law tested on bar exams. He asserts further that "the goal is not only passing, but also making the process humane." Anxiety is likely to result from uncertainty as to whether one's own study program is adequate to the task, he feels.

All the courses stress techniques of bar examsmanship which they

claim can be learned only from those with extensive prior bar review experience.

However a Harvard Law School student prepares for the bar exam, he can take heart from a theory of Walter McLaughlin's of SMH. According to McLaughlin, since the MBE is a standardized multiple-choice test evaluating skills of legal analysis, it is a first cousin of the Law School Admission Test (LSAT). Since most Harvard students are here because they did well on the LSAT, McLaughlin reasons, they should do well on the MBE as well.

Backing up McLaughlin's theory is a ranking of law schools based on Connecticut MBE results, with HLS graduates scoring highest among all law schools represented.

But McLaughlin also warns against complacency. If HLS students have an obstacle to overcome, he says, it is overconfidence, since even the best students have to work hard to be adequately prepared for a bar examination. ☛

Student Meeting Presents Ideas on Shareholder Responsibility

By Jorie Roberts

On Monday, November 19, Ken Propp, 1L, the Law School's student representative on the Harvard University Advisory Committee on Shareholder Responsibility, held a meeting to gauge "various views of members of the HLS community on shareholder responsibility."

The 30-odd persons who attended Propp's meeting expressed views on various issues connected with Harvard's shareholdings, but "the debate focused on South Africa." Other issues were also discussed, however, such as the desirability of Harvard's holdings in corporations which support nuclear energy and in banks which don't invest in urban areas by denying mortgages to inner-city residents.

Propp plans to present the views

of the HLS community to the 12-member Advisory Committee, for which he was chosen by the Law School Council early this academic year. Approximately 15 students applied for the position, according to Propp. The Advisory Committee has four student members, three of whom rotate among the University's various graduate schools. HLS Prof. Detlev Vagts chairs the Advisory Committee.

Since the HLS meeting, the Advisory Committee has met once — on Thursday, November 29 — to hear several black South Africans give their first hand observations on South Africa and the role of United States corporations there.

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Justice Bird Voices Doubts, Optimism

By Jorie Roberts
and Richard B. Bernstein

Focusing on the opportunities and challenges confronted by women in today's world, Chief Justice Rose Elizabeth Bird of the California Supreme Court addressed a lunch-time audience of over 100 persons at the Women in Public Service Conference held at the Law School on Saturday, Dec. 1.

Bird began by starting the theme of her address: "Throughout the country, women are being presented with career opportunities in both the public and private sectors which simply were not available to them a few short years ago. These gains have not been easily achieved. It is clear that further advances are certainly not going to be made any easier given this present period of social and economic uncertainty."

Bird briefly sketched the history of the movement in the United States to win recognition for individual rights for minorities. "Today," she reflected, "the tremendous energy that propelled these achievements seems to be on the wane. The energies of five, ten, fifteen years ago have now become diffused."

Bird located the causes of this loss of momentum in the growing problems of economic scarcity and uncertain values, noting that "[o]ur society is characterized by impermanence and uncertainty, by mobility and alienation, by a curious blend of unrest and complacency. . . . This is due in large part to our nation's shifting fortunes in a global economy over which we can no longer claim mastery."

"History has shown us," she con-

tinued, "that when economic uncertainty gives birth to fear and fear gives rise to anger, people tend to focus that anger on those who are not like them. In America, that means the poor and the minorities of various races and religions and national origins. And in many cases, it also means women."

Bird pointed out that as the old order is coming under pressure from the third world nations, so the old constitutional order gave way to landmark civil liberties and civil rights decisions and so, too, the old social order is in the process of giving way to a recognition of the

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WLA Program Explores Roles of Women in Law

On December 1, 1979, the Women's Law Association and the Harvard Government Attorneys Project sponsored a "Women in Public Service" conference in order to "provide information on career planning and on legislative issues," according to 2L Melissa Allain, the WLA coordinator.

In addition to Chief Justice Rose Bird's Speech, the conference sponsored nine panels with women from various branches of government discussing such topics as "Political Office: Getting Elected" and "Making It To Top Positions: Four Views." Those attending the panel discussions included "a good number of people — perhaps half — already in the working world," said Allain.

The wide-ranging participation resulted from WLA's and HGAP's efforts to advertise the conference in local newspapers and at other law schools, as well as at various organizations and government offices. "We wanted to provide a forum for women who are already working to meet and compare notes," Allain explained.

Allain and Ron Baugh, 2L, the HGAP member charged with organizing the conference, felt that the conference was "very successful," as evidenced by the fact that "every panel had at least 20 persons" and by the lunch lecture being "filled to capacity." However, Allain wishes that more men had participated: "We wanted to encourage men to come, too, but I'm not sure we made that clear. Most of the information given was useful to men as well as to women, such as how to run for political office."

But, Allain continues, the primary focus of the conference was on women in the public sector, since "there are not too many women role models here at HLS."

J.R.

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Justice Bird Gives Women Career Ideas

(Continued from Previous Page)
rights of women. These efforts of women to achieve equal rights, she said, "are often viewed as threatening."

"We have a very real choice confronting us," Bird concluded. "We can give in to the fears of uncertainty, join in the search for scapegoats, vent our anger against the easiest targets we can find, and perhaps destroy our system of ordered liberty in the process. Or we can understand the reasons for our uncertainties, accept the challenges which this shrinking world presents, and strive once again to achieve a society where respect for our differences will assure us our rights as individuals and our unity as a nation." She urged her audience to share their talents "with a society that needs them more than ever."



Next RECORD, Jan. 11

SPORTS QUIZ

NOTE: This week's sports quiz deals with arenas or stadiums which used to be the homes for a professional sports team but no longer are.

1. This used to be the home of the Detroit Pistons before the team moved to the Pontiac Silverdome. What is it?
2. Three Rivers Stadium is now the home of the Pittsburgh Pirates and Pittsburgh Steelers but it wasn't always. What edifice used to house these sports teams?
3. The Astrodome is now home to the Houston Astros. What was the team's home stadium when it first entered the National League?
4. The New York Giants recently moved their home headquarters to Giants Stadium in East Rutherford, New Jersey. Where did the team move from?
5. Before the Los Angeles Kings moved into Jack Kent Cooke's Fabulous Forum, the team had to play half a season in another rink in the California city. What was the name of that original arena?

(Answers on Page 16)

DECEMBER 7, 1979



Photo by David N. Johnson

Dean Albert M. Sacks is propositioned by a hairy woman with multi-colored tresses in an over-crowded Langdell North Middle during Wednesday's "Erie Day." (The "woman" is really Prof. Arthur R. Miller, the civil procedure star of the annual ritual.)

Law School Deans, Balsa Denounce Racism in Boston

(Continued from Page 1)

white community that "(t)he responsibility rests not only with the few individuals who actively perpetrate the racial crimes but, more importantly, with the many who silently condone or passively accept this reprehensible conduct. If there is to be positive change, it must come from you."

In an interview with the RECORD, Michael Tyler, a third-year student in the four-year Harvard J.D./M.P.A. program, chairman of Combined Boston Balsa, and Lori Cooper, 2L, representing the Harvard Balsa chapter, discussed the origins and purpose of the deans' press conference.

"We recognized the depth of the problem in general in Boston," Tyler said. "We went to the deans

to express our concern with the rising pattern of racial violence and racism in this city. And we too have been victims of racial violence. Many people have a tendency to feel that Cambridge is an isolated paradise. There have been a large number of racial incidents in Cambridge, in the environs of the Law School, in fact," he continued, citing "racial slurs, overt physical attacks, refusal of service at restaurants in the Square, and so forth."

(Continued on Page 13)

Cryptic Law

In which Justice Jackson articulates a feeling common to law students:

Fvm Kwlefj empjwdadu piij lx fw fvaj: Fve
Kwzzajjawd zljf qm jlfpadmi qmkpljm wo
afj pkkzlzlpfmi mrxmeamdkm ad jwghadu p
xewqgmz tafv tvakv af vpi dmhme qmowem
qmmd kwdoewdfmi! . . . A uahm lx. Dwt A
empganm tvpf Zpey Ftpad zmpdf tvmd vm
jpai, "Fvm zwem nwl mrxgpad af, fvm zwem
A iwd'f ldimejfpdi af."

(Solution on Page 16)

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The Seventies In Retrospect

The December 11, 1969 RECORD, our last issue of the 1960s, included stories on student protests against a major New York firm's representation of clients with interests in South Africa, on 1L exam reform, and on public interest activities of law firms. These concerns are still vitally important to HLS students a decade later.

Although certain issues and problems have persisted over the past ten years, the '70s have been a period of significant change at HLS. During 1969-70, Albert Sacks was elected Dane Professor of Law; a year later, Sacks succeeded Derek Bok as Dean when Bok became President of the University. Tuition was \$1,750, as compared with today's \$4,375. And women made up about 11% of the student body; now they comprise almost 30%.

While such major alterations in the structure of HLS make one reflect on its continuing evolution as an institution, they are consistent with the normal course of HLS's development over ten years. Other changes at HLS, however, should give rise to more profound consideration.

In 1969, 200 HLS students participated in the Vietnam Moratorium demonstrations in Washington, D.C.; few HLS students attended this year's Seabrook demonstration. HLS students overwhelmingly supported the University's strike in the aftermath of Kent State, leading professors to offer exams on the honor system, to be taken either at the Law School or at the students' homes. Last month only 30 students attended the Law School meeting on shareholder responsibility, and last May Law School participation in the boycott of classes in response to Harvard's holdings in companies doing business in South Africa was under 30%.

The 1970s have been a time when HLS students withdrew from concern with and involvement in political matters. True, some of this inactivity can be explained as a consequence of the end of the American involvement in Vietnam, or of the disillusionment flowing from Watergate, but current global problems rival, or may surpass, these issues in their long-term impact on the conditions of millions of people.

For better or worse, HLS students are present or future leaders in politics, legal affairs, business, education, equal rights, and foreign policy. Unfortunately, they seem to have subordinated their interest in major issues to more immediate, personal objectives in the 1970s. While we do not suggest that student activism be undertaken for its own sake, we think that students at HLS should seek to rekindle some of their enthusiasm for criticizing, and trying to change, the worse aspects of the status quo on various levels — law school, national, and international — and thereby prepare themselves for their responsibilities in what we jokingly call "the real world."

HARVARD LAW RECORD

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Fenno

When Fenno retrieved from his box the notice ordering him to "Dress for Success," he half-expected to find it signed by Arthur Miller, Mr. Law Suits himself. It wasn't, of course, but that didn't keep him from indulging in a favorite fantasy.

Miller is lecturing in his typically flamboyant style, when suddenly a door bursts open and in rides Annie Oakley on horseback. She gallops to the front of the room, deftly grabs Miller's pocket handkerchief between her teeth, and gallops off.

But it turns out that what all thought was a hanky was really the lining of his pocket turned inside-out. Galloping Annie rips the pocket to shreds; the suit follows; and there stands Miller: the high priest of procedure defrocked, the prelate of privacy with his privates nearly exposed.

Fenno cherished the image for a moment, then moved to another pet fantasy: Some years in the future, Larry Tribe is asked to make changes in the Marshall Islands' Constitution because of a small oversight in the original draft (he forgot the executive branch). In a radical political conversion he adds provisions making caucasians the rulers (it's called the "White Supremacy Clause"), natives their inferiors (the "Subordinate Clause"), and himself President for Life.

Upon taking office he immediately constructs a Presidential Palace (built entirely out of mortar and unsold copies of *American Constitutional Law*). He spends his days on the beach, sunning himself and planning a triumphal return to Harvard. But alas, within six months he is overthrown because, unbeknownst to him, Marshall Islanders despise snug-fitting turtlenecks. In the revolution, Larry vanishes and becomes one of the "tan lost Tribes."

Enraptured, Fenno fantasized on: It's a lecture by David Westfall (whose sense of humor reminded Fenno of an aging Michael O'Donoghue). In his Missouri deadpan, he tells the class he is about to do an imitation of A.J. Casner . . . with 12-inch spikes driven into his eyes. He begins to talk about fees simple, then suddenly clutches at his eyes, collapses, and rolls on the floor, mimicking pain.

Fenno's smile vanished as the sickness of his fantasy struck him. He glanced at his watch and calculated. Uh-oh, he thought, back only nine weeks and I'm already showing signs of repressed hostility. Dr. Oesterheld would want to know about this.

He hurried towards Health Services.



Letters to the Editor of the RECORD

HLS Affirmative Action

To the Editor:

We write to address the problem of the attitude of the HLS faculty and the Appointments Committee, in particular, with respect to the recruitment and hiring of black and other minority professors. We think that it is important to challenge the Appointments Committee on its stance towards Affirmative Action, realizing, of course, that this aspect of the appointments issue has much in common with some of the more general criticisms that HLS students have been raising for years. The lack of student input and the yawning chasm between student and Appointments Committee ideas as to what constitute "qualifications" have been thorny issues, hotly debated, for a long time.

Because of the insupportable secrecy and arrogance of the appointments process, it is difficult for us to even begin to criticize it. The fact that we know so little is, itself, an indictment of how the process works.

This is what we know:

1. There are only two blacks on the HLS faculty.
2. The Appointments Committee has no stated policy or procedures for minority recruitment beyond the assertion that "HLS is an Equal Opportunity Employer", an assertion that is required by law and which says nothing about the actual commitment of the University. Reportedly, the Appointments Committee expends "extra energy," on assessment of minority candidates . . .
3. The Appointments Committee has not even undertaken the evaluation proceedings which would be attendant on offering a position to Professor Charles Lawrence. Lawrence is an eminently qualified, tenured professor from the University of San Francisco who has been teaching two courses here this Fall.

These facts, standing alone, are powerful indicia of the stance and practice of the Appointments Committee with respect to Affirmative Action.

We will be escalating our investigation of how the appointments process works within the next few weeks. A more full statement of our position on the HLS faculty's responsibilities with respect to Affirmative Action and the criteria used for appointments decisions will be forthcoming.

We invite all concerned individuals and organizations to join with us in our investigations and protests.

Earl Richardson, 3L
President,

Black Law Students' Association

Clarifications by Younger

To the Editor:

A colleague at Cornell to whom I remarked that none of the friends I thought I

had made at HLS last year talked to me any more replied, "Maybe this is why," and produced a copy of your issue of October 19. I see his point. Stuart Berman's piece is headlined "Younger . . . Denounces HLS in Turnabout," and it's not hard to imagine an indignant reader stopping there. I read on. Several weeks ago, I spoke to a group of Cornell law students about Cornell and Harvard; the *Cornell Daily Sun* published a brief report of my remarks; and Berman's article seems to be a rewrite of that report. It makes nine points.

First, that last year I spoke in superlatives about HLS students but told the Cornell audience that "students here are as good as the best students at Harvard." So I did, almost. What I said was more nearly, "The best at Cornell are as good as the best at Harvard. At Harvard, though, top-notch academic ability extends lower down the class." Second, that I said HLS students are a relaxed and happy bunch. Correct. Third, that I reported grade inflation to be worse at HLS than at Cornell. Nothing to emend. Fourth, that I said HLS faculty people are "terrifyingly bright." I did; they are. Fifth, that I said that HLS faculty lacks variety. Right. You seem to think so too, judging by your editorial of October 26 ("A Representative Faculty"). Sixth, that I praised HLS' use of third-year students to teach first-year students. I did. Seventh, that I said HLS has unmatched clinical programs. Correct. Eighth, that I said the HLS library has deficiencies as well as strengths. Admitted. If you're interested in details, Acting Librarian Robert Berring has a letter from me setting them forth, and you're welcome to look at it. Ninth, that I spoke harshly of Cambridge, excluding Harvard. I did.

Now, I'll grant you that the third, fifth, and eighth points are critical. But you'll grant me that the first, second, fourth, sixth, and seventh points are pleasant and that the ninth point has nothing to do with HLS.

If you really think it all adds up to "Denounces," HLS needs a course in vituperation.

Irving Younger
Professor
Cornell Law School

Comments on Seabrook

To the Editor:

William August's VIEWPOINT (10/19/79) on Seabrook touches me on a number of sensitive, conflicting propositions: my daughter was a guest of the State for several days when she participated in an earlier Seabrook episode; I'm assisting my son in litigation following the use of excessive force on him in the making of a purported "citizen's arrest" by security guards in a quite different context but one raising similar issues; the family has owned property in Seabrook

for 50 years and is a taxpayer in the areas that would (be) (have been) served by the facility, had it been completed. I've also been somewhat involved in the nuclear reactor issue generally, as a lawyer for a nuclear reactor research, development and production company, pre-retirement.

Finally, and fatally for my credibility, I'm a member of a much older generation — one that has a residual incapacity to grasp fully all the rights of those who band together to engage in "civil disobedience." Does this overriding right apply to any cause selected by the leaders? Is there any threshold requirement of a balancing of the rights of others which may be infringed? Is there any provision for compensation to be made to others when ultimately it is determined judicially that, on balance, the "disobedience" at issue was inappropriate or itself involved excesses? If held responsible, are they responsible?

I'm a late-comer to the subject; is it possible that the civil disobedience of the 60's directed at a clear constitutional-legislative right being wrongfully denied, has now been put up for grabs, available for causes without further inquiry?

Is anyone allowed the full rights and privileges of all involved in the selected cause, without inquiry into their level of comprehension of the issues on other than an emotional basis or a generalized bias against the status quo?

I'm not qualified to resolve the fundamental issue in the Seabrook continuing drama. Are the members of the invading force better qualified to be dispositive? I do defer to the argument that they will have to live with the consequences of having nuclear reactors, whereas I, in all likelihood, will not. In that respect I believe their considered opinions are entitled to more weight — and in discussions within my own family I support their right to resolve that issue in the light of their own judgment. I will do everything I can to protect them when they act to affect the issue by their personal participation, whether or not I agree with the actions they take. What really concerns me is that the risks they run are not the risks they have accepted, especially when they gather together for a direct challenge to others, whose rights — correctly or not in the final judgment — are given police protection. Police are all too aware of the potential for irresponsible, uncontrollable, action on the part of individuals sharing a common, highly emotional "cause". There is a gray area where the police in effect, have to make a judgment involving their own lives and safety, as well as the protection of the rights assigned to them by the state. Challenging them in that gray area may be considered essential by the invasive force, but it is a high risk undertaking. This is the risk

(Continued on Next Page)

Letters to the Editor of the RECORD

(Continued from Preceding Page)

that concerns me when I think of my sons and daughter. I can only hope that they are balancing the cost-benefit equation with great care.

William August's VIEWPOINT is calmly, thoughtfully presented in a highly professional manner. I would like to recruit him to help me in my son's litigation (though he — my son — already is the beneficiary of the ACLU assistance, in one aspect of his cause). His line of argument, based on his premises concerning the facts, parallels closely those made by my son's counsel (who included a former head of the Justice Dept. Civil Rights Division). What we don't have before us is the position of counsel representing the interests whose rights were being infringed — arguably. We then encounter the argument that this is a case of human rights versus property rights, thereby demolishing the moral and ethical positions of the defenders of property rights.

To the diminishing survivors of my generation there is a certain nostalgia infusing the fading concept of Law and Order — notwithstanding all the crimes of omission and commission that have tarnished the concept while nourishing the prospects for dissidents of all persuasions. What were the police at Seabrook supposed to do as the non-violent demonstrators advanced on the site's perimeter fence? Were the members of the group asserting their non-violent intentions, exercising some rights personal to them? Had they made provision for payment of any "appropriate penalties" that might subsequently be imposed on them? The cost to the State, the shareholders in the utilities (strike that as being unnecessarily provocative), the consumers (at least those who disagreed with either the cause or the program) must be well beyond the ability of the demonstrators to pay — assuming they had some form of identity subject to the processes of the law. Are these types of costs charged off to the overriding public interest in encouraging destruction of property for worthy causes? And along with this emerging principle should there be a custom invented that prevents any effort at protecting such property other than non-violent, peaceful means of persuasion — such as giving up?

I originally intended to send this letter over my signature, simply asking that it not be published. I'm now sending it unsigned — it may be considered so provocative that my home will be the subject of a non-violent demonstration. Ridiculous thought . . . isn't it?

**A Concerned Parent
Perplexed Alumnus and
Over the Hill Octogenarian**

Petition Puffery

To the Editor:

It was interesting to read in the Boston *Globe* of the petition calling for Boston University President John Silber's resignation; the petition was entirely the work of "eminent" professors from Boston-area colleges and universities. Included among the elite crowd (and singled out for publicity by petition-organizer and Nobel-laureate Luria from MIT) were three of our own HLS profs, Messrs. Kennedy, Nesson, and Tribe. I think the petition is condescending, grandstanding and probably counter-productive to the stated goal of the signatories.

The logic of the Luria-Kennedy-Nesson-Tribe petition seems to be: 1) We are eminent professors who don't teach at places like Boston University, 2) We don't like John Silber and 3) Therefore, he should resign. Having attended Boston University and being quite familiar with the riotous situation surrounding Silber, I am offended by the implication that the elite professors outside of B.U. should be listened to in regard to B.U.'s internal problems. I wonder how Professors Kennedy, Nesson, and Tribe would react to a similar request from John Silber, or better yet, from some junior faculty members at Boston University.

I suspect that the petitioners have as little factual information about the B.U. situation as they have business meddling in the concerns across the Charles. That the place is in a mess, and has been for several years, is beyond question; but this does not warrant puffery like this petition. And having been there, I can guarantee that the biggest effect the petition will have is the impact on people who believe Silber is the victim of a "Cambridge conspiracy" and has been since he arrived at Boston University. The attention of Professors Kennedy, Nesson, and Tribe is more properly and more effectively devoted to matters that are their business.

**Ken Menges, 1L
(B.U. '79)**

Protects Preppiness

To the Editor:

Recently while sitting in my club, my waiter, Peters, brought to my attention the article written by your person Fenno. I found it most interesting, and so decided to forswear, momentarily, the hereditary precept, that one's name might appear in a pub-

lication only upon the occasion of birth, marriage, or death.

I am most appreciative of your effort to understand the position and responsibilities of those of us whom you portray as, if I might sink into the vernacular, "preppie." With your permission, I would like to assist you by suggesting one or two points on which your readership may be insufficiently informed.

As you are doubtless aware, the "preppie" fulfills vital social functions. Examples that leap to the mind, and which might interest you, are the significant contributions we have made in sustaining table manners, in allowing the graceful decline of rich and powerful families, and in giving substance to the concept of the "gentlemen's C." This last is of course of special interest to your readership, in that it allows the upwardly mobile, the greedy and grasping, to secure their compensatory B median.

Aware as we are of our obligations in regard to these functions, we have for years, and, indeed, for generations, striven to meet the highest standards. These efforts cause us to accept burdens that are, on occasion, financial. The club fees, the J. Press bills, the old age care for one's horses, are in themselves significant. One might not, however, appreciate the attention directed towards timing as well as quantity of expenditures. One must reconcile one's obligation to live beyond one's resources and upon credit with the excessive resources of one who finds oneself the beneficiary of one's grandfather's providence. It is society's perception of this tension which has set us apart, which has forced us to rely upon ourselves, and which makes us what we are, a discreet and insular minority.

I am confident that you share my regret concerning the confusion produced by those who seek by effort to become what nature has not made them. I refer, of course, to those who attempt to operate Mercedes cars under month-to-month leases, who devote conscious effort to co-ordinating the hue of pipe and elbow patches, or who suffer inclement weather without the benefit of appropriate footwear. Perhaps it is sufficient consolation to these unfortunates that they know that their acquisition of money in this generation will enable their remote progeny to approach more successfully the ideal.

**Q. Thornton Smythe, III
Harvard Law School Class of 1980**

The RECORD's policy on letters is simple. We read all of them. We print most of them, subject only to editorial discretion. We encourage letters on any subject, and especially on subjects which have appeared in the RECORD. Write today and speak your mind to the students, alumni and faculty of the Law School.

Deans, BALSAs in Antiracism Drive

(Continued from Page 9)

Cooper added, "It affects all of us. Just because you're studying to be a lawyer, just because you're a law student — even at Harvard, of all places — you're not any less immune from racial incidents."

"It was disheartening that the educational community had been so silent on racial violence," Tyler said. "Other groups had spoken out — the clergy, for example — but the educational leaders of Boston hadn't taken a stand. This was inexcusable: Boston is a center of education, an educational Mecca. It was therefore necessary for the educational community to address this problem."

Boston's image has been badly damaged by these incidents, according to Tyler and Cooper. "Many students are reluctant to come to Boston because of the racial climate," Tyler commented; "this certainly includes black students." This, they said, was the reason that Combined Boston BALSA approached the deans. "Most students at the schools would not take part in such violence, and are probably horrified at it, but there's got to be a concerted effort where there can be an impact."

"We have established an ongoing working relationship with the deans," Cooper said. "We hope this will spark other educational leaders to take whatever steps they can. Dean Sacks in particular has been very helpful."

Serious Pattern

"This pattern of violence is very serious," Dean Sacks commented.

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"It creates a sense of insecurity in students, and others at the University, and in other neighborhoods in the city and the metropolitan area. And this insecurity is demoralizing. That's what led the students to ask the deans to meet with them to discuss the problem, and what led the deans to agree that this should be handled in a fairly serious way that would capture the public, and would bring home to those who will listen that this is potentially a destabilizing situation."

"It works both ways," Sacks added. "We were listening to black students describe racial incidents directed against them and other blacks, but we all agree that there are incidents the other way. One kind of incident tends to create — to feed upon — the other."

Cooper agreed, saying, "I don't know of specific incidents in Cambridge, but in the high schools violence did occur on both sides. It's not only a threat to black people when racial tensions get as high as they are in Boston. They've gotten so bad that no one is immune. It can go both ways, and that's why everyone has to get involved."

Dissipating Tensions

In an effort to continue working at making tensions dissipate, Tyler and Cooper will meet with Dean Sacks later this week to discuss possible programs the Law School would sponsor next spring on the various issues raised by the general problems of racism and racial violence in Boston. Sacks discussed possible programs of special interest to lawyers, law students, and law teachers, including a possible program dealing with law enforcement, specifically addressing the problem of police behavior and how to provide appropriate sanctions for examples of racial incidents involving police officers.

Beyond that, Sacks contemplated programs open to and dealing with problems faced by the University as a whole — "whether we can broaden our efforts so that it's not just the Law School." He also stressed the importance of meet-

ings and discussions such as those sponsored by BALSA — "bringing things out in the open."

Tyler mentioned possible programs discussing racism in historical perspective as one part of such a general educational effort to take place in the spring semester at all six Boston-area law schools. He added, "Combined Boston BALSA has worked and will continue to work with community organizations to improve race relations and to continue combatting the level of racial violence here."

Not an Island

When asked whether the general community might object to being instructed in the appropriate attitudes on racial matters, Tyler responded, "This is a case of all segments of the Boston community being encouraged to take a stand on this issue. It's incumbent on the educational community to join in. Students are a major part of the Boston community. We're not isolated. These institutions do provide leadership in other areas, and this is an area they should not shrink from. We're not simply concerned with speaking only to the outside community. The issue is here as well."

The other deans who signed the statement and attended the press conference were: Richard Huber, Boston College Law School; Richard E. Speidel, Boston University School of Law; Thomas Fischer, New England School of Law; Michael Meltsner, Northeastern University School of Law; and David Sargent, Suffolk University Law School. ❦

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Painless Alternative to First Year of HLS:

By Laura Taylor

2Ls and 3Ls may have noticed four unfamiliar faces in their classes this fall. The four — Jim Murray, Jose Alvarez, Mark Daniell and Milt Yasunaga — completed B.A.'s in Jurisprudence at Oxford, and have been admitted to the Law School with 2L status.

They are enrolled in two first-year classes, Civil Procedure and Criminal Law. Yasunaga, Alvarez and Daniell take their classes with Section 3, and Murray is a half-timer in Section 1. They receive reduced upper-level credits for the courses, and are also required to fulfill the first-year Legal Methods requirement.

Murray, who hails from Montana, spent three years at Oxford, completing both the B.A. in Jurisprudence and a B.C.L. degree, which is comparable to the HLS L.L.M.

A Rhodes fellow, he studied at Wadham College, which he describes as the "most liberal and progressive" of Oxford's colleges. Wadham, according to Murray, was the first college to enroll women, and also the first to abolish the dinner gown requirement.

First Time Abroad

Murray, who did his undergraduate degree at the University of Montana, had never been to Europe before going to Oxford. In the course of the three years, he travelled "sporadically," visiting Russia, "but not Scotland," and went to the Continent "a couple of times."

He did not use the Rhodes as an opportunity for extensive European travel because he is "against the attitude of going to Oxford and not working hard." Some people, according to Murray, "take it as a vacation." Murray, on the other hand, enjoyed his academic Oxford experience, and was very "appreciative of the chance to go there."

Murray says that he enjoyed Oxford's one-to-one tutorial system of

teaching, which, he asserts, is still alive and well, despite "nasty" rumors to the contrary. Nevertheless, he is "glad to be back to a different system."

Murray, who does not intend to practice corporate law when he leaves HLS, is "surprised at the obsession with corporate law" here. He found that "one refreshing thing about Oxford was that the law study there was "not professionally oriented." Classes at Oxford, according to Murray, are more theoretical than those at HLS.

Murray's family owns a ranch in Montana, and he plans to live in Montana "someday," but is looking toward a position with a firm in New York for the immediate post-HLS future.

Chance to Travel

Milton Yasunaga, who is originally from Hawaii, received his B.A. in Economics from Harvard in 1977 before going to Oxford for two years on a Rhodes fellowship.

The opportunity for European travel, says Yasunaga, was his "main reason" for choosing two years of Oxford study before an American legal education. He saw the Rhodes as "mainly a chance to see a part of the world [he] wouldn't have gotten to see for a number of years."

During his time at Oxford, he traveled "a lot in England" and on the Continent, and especially enjoyed trips to Greece and Italy.

Yasunaga chose Magdalen College for his two year stint at Oxford because he had "heard that it is physically the nicest college." He says he wanted to "get away and see something different" — the "traditional Oxford."

Yasunaga, who was on the Harvard wrestling team for four years, works out with the team in his spare time, now that he is at HLS. He is not involved in any Law School extracurricular activities because, he says, he doesn't "want to do any more law outside of classes."

Refreshing Break

He finds Cambridge a "real good place to go to school," and though it "might have been depressing to go straight through" from the College to the Law School, the two years in England made for a refreshing break from Cambridge. He says, however, that it's "nice to be back in a big city with lots of stuff going on."

Yasunaga will be married this month, and plans to return to Hawaii once his two years at HLS are up. He says he misses the Hawaiian weather, swimming, and surfing. Laughing, he maintains that he is "looking forward to getting home and enjoying myself."

Jose Alvarez, Harvard '77, went to Oxford on a Rotary fellowship, and also studied at Magdalen. Magdalen, according to Alvarez, is the "head of the Tory machine at Oxford," but has "a little more diversity" socially than some of the other colleges. Alvarez also found Magdalen the "most beautiful of the Oxford colleges."

Alvarez chose to take a degree in Jurisprudence at Oxford because, he says, he "knew [he] would do public or private international law eventually." In addition to the required first-year courses at Oxford (Contracts, Torts, Property and Jurisprudence,) he "took all the international electives [he] could get."

He also studied Criminology and Penology, and was able to visit the Oxford prison, which he describes as a "big dungeon."

Library Time

The greatest difference that Alvarez perceives between HLS study and study at Oxford is in time spent in the library. At Oxford, according to Alvarez, there are no casebooks, and consequently, law students have to look up each case and take notes. These cases are not excerpted, and can run from 40 to 50 pages in length.

(Continued on Next Page)

Earn a B.A. at Oxford While Touring Europe

(Continued from Previous Page)

England has nothing comparable to a West's system of case reporting, and so, Alvarez found, he had to "plunge through all of the judgments" to find a decision in a case. He found that there was "much more work at Oxford," but he does not feel that he was taught more, just that the English system is "inefficient."

Alvarez, whose family moved to the United States from Cuba in 1962, had worked in Sweden for a summer as a guest columnist for a Swedish newspaper, and had traveled extensively in Scandinavia before going to Oxford.

Between terms at Oxford, he toured the chateaux in the Loire Valley, and went to Israel after the Sadat visit, a trip he found "very interesting."

Alvarez is not sure where he wants to work after finishing his HLS education, but is at this point leaning toward a U.S. government job, or a job in a New York law firm. He notes that he "would like to work in a Brussels office" at some stage in his career.

Undergraduate Tutor

Alvarez spends much of his free time in Cambridge fulfilling his duties as a non-resident pre-law tutor in Leverett House, one of the undergraduate houses. He enjoys "hobnobbing with the undergraduates," and is also a movie buff (he "sees everything"), and an amateur photographer ("very amateur").

Mark Daniell received his B.A. from Amherst College in 1977, where he "majored in track and field and water polo." On an "independent year" off from Amherst, he studied at the Institute of Political Studies and the Sorbonne in Paris, and received a C.E.P. degree and a Diplôme from the Sorbonne.

He did his Oxford studies at University College, and was funded by a Marshall scholarship. He notes that he went to England "to be at Oxford," and "didn't care" what he studied.

Daniell says that the "best thing that happened to me at Oxford" was getting into the *Daily Mail's* gossip column for "allegedly having an affair with a certain Lady X." He maintains that "it wasn't true." He also says that he was "harassed" out of his dorm for parietal rule violations, and notes that he "thinks they were so surprised because it involved women."

Daniell did a great deal of traveling during his two years in England, visiting "over 20 countries," including Russia, Poland, and Morocco. "Always sort of a Europhile," he had travelled extensively in Europe before receiving the Marshall scholarship.



Photo by Laura Taylor

Now 2Ls Mark Daniell, Jose Alvarez, Milt Yasunaga and Jim Murray.

He spends his time at HLS "working, relaxing and hanging out," and plans to return to Europe next summer "to practice law and French." His future plans include "finding a job."

Paul Tosetti spent one year at HLS before going to Oxford on a Rotary fellowship, and consequently, was not granted HLS credit for his Oxford degree (HLS allows students to pass out of first year courses, but not second or third year credits.)

Tosetti says that the five-year arrangement "might have been negative," but that it is "best" for him, since he is working on the *Law Review*, and he does not feel that he is "ready to be a 3L," or "practice law next fall." He prefers "three years of American legal

study."

Tosetti, Harvard '76, found that his most rewarding Oxford experience was the opportunity to do a moot court before Lord Denning, the Master of the Rolls, and the head of the English Court of Appeals.

Tosetti found his Oxford experience a good opportunity for travel. He visited the Continent "tons of times," and made it to "almost every European country," 23 by his count.

He feels that he will probably go into private practice in the U.S. when he finishes law school; working for an American firm in Europe, he says, puts one "out of

the mainstream."

A proctor in Straus Hall, a freshman dorm, Tosetti finds his contacts with undergraduates a "very pleasant break" from law school.

His Oxford study, says Tosetti, was "fun"; HLS, by contrast, is "a pain."

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Circular Justice

By Jorie Roberts

With its production of Bertolt Brecht's *Caucasian Chalk Circle*, the HLS Drama Society ventured for the first time into the realm of serious drama. And by most standards, the Drama Society's efforts were highly successful.

The play, which ran on Nov. 15, 16, and 17, had two sell-outs as students, faculty, parents, and area residents gathered to watch the servant girl Grusha, tenderly portrayed by Brooke Stark, rescue and raise the governor's son Michael in the midst of civil war in the Russian Caucasus.

In the final scene, the fate of young Michael, played by Warren Young in a stellar first venture into the theatrical realm, is determined by unpredictable Judge Azdak, who orders Michael to stand in a chalk circle while Grusha and his real mother, aptly played by Bethany Tanner, each tug an arm. Grusha quickly lets go to avoid harming the child and thus is

awarded custody of Michael by Azdak in one of his more "rational" decisions.

The only HLS students acting in the play — 3L Corbett Gordon and 2L Dan Hershman — were excellent as they switched costumes and characters from role to role. Gordon, in particular, was effective as an intoxicated musician recounting bawdy limericks at a death-bed wedding party, while Hershman was hysterical in his performance as a drunken monk conducting the marriage ceremony between the supposedly dying Jussup and Grusha, then in search of a father for Michael.

The main problem with *Caucasian Chalk Circle* was that, because many actors played several characters, one had to refer frequently to one's program to keep the story's antagonisms and love affairs straight.

The *Caucasian Chalk Circle* was directed by 2L Thomas Seoh and

produced by 3L David Fleischer, both HLSDS veterans. And Madeline Yusna's set design was extreme in both its simplicity and its effectiveness — as a wooden frame and a muslin drape were rearranged to create a variety of settings — from the interior of a peasant home to a village under attack to a farcical courtroom.

The *Caucasian Chalk Circle* — with its climax of justice reached through unorthodox means — was a welcome complement to the Drama Society's usual HLS-based productions.



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Solution to "Cryptic Law"

The Court's reasoning adds up to this: The Commission must be sustained because of its accumulated experience in solving a problem with which it had never before been confronted! . . . I give up. Now I realize what Mark Twain meant when he said, "The more you explain it, the more I don't understand it." *SEC v. Chenery Corp., II*, 333 U.S. 194 (Jackson, J. dissenting).

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