

Lang REF
C. 3

HARVARD LAW RECORD

America's Oldest Law School Newspaper

VOL. 76, NO. 6

MARCH 18, 1983

MAR 22 1983
ACQUISITIONS DEPARTMENT
HARVARD LAW SCHOOL LIBRARY 25 CENTS

Tuition to Cost \$1000 More Next Year

By Jim Chudy

Tuition at HLS will increase 14 1/2% from \$6900 to \$7900 for the upcoming 1983-84 fiscal year. Tuition will provide over 60% of the total Law School income.

Dean James Vorenberg announced the increase as part of a

budget memo distributed to faculty, students and staff on Monday. Tuition, endowment income and use of unrestricted annual giving make up about 90% of income, and teaching, buildings, administration and the library will account for over 80% of expenses.

The tuition increase, \$50 less than

last year's, is primarily the result of steadily rising expenses without concomitant rises in other sources of income. Because tuition is one of the only income sources under the Law School's control, it bears the burden of increases in spending, Vorenberg explained.

Law students bear a much higher percentage of the Law School's expenses than students bear at other divisions of Harvard University. The Medical School, for example, receives about 50% of its funding from the government, and the business students bear a lower burden because of lucrative professional programs and heavy corporate contributions. The Divinity School, on the other hand, has proportionately

Mixed Reactions Mark Response to Forum

By Steve Cowan

"It was tragic," said Kathy Patrick, 1L. "There's an incredible gulf between the students and faculty. ... They just don't understand." Although many participants shared the perception that there was a failure of communication at last week's student-faculty forum, not all were surprised or upset. "I thought the forum was great," said Ben Schatz, 1L. "I was disappointed by the faculty's responses, but I didn't expect much from them anyway. One thing that did impress me," added Schatz, "was their ability to evade questions."

This view was pervasive among many of those present. Some also found the forum's discourse uniquely revealing. Prof. David Kennedy commented, "I was pleased to hear the faculty and administration defend themselves in the way they did, but I was sorry that the faculty's diversity of views had to be sacrificed to demonstrate that."

Third World Coalition repre-

sentative Cecil McNab, 3L, agreed with much of this analysis. "We were very, very pleased with the turnout and the board support," said

(Continued on Page 14)

(Continued on Page 12)



Erich Merrill

With a flourish of trumpet, students present "no-hassle pass" petition. See story on p. 3.

WLA Hosts Women Lawyers' Lunches

By Chai Feldblum

For five consecutive weeks, posters around Harvard Law School announced a series of alumnae lunches sponsored by the Women's Law Association. The lunches featured women lawyers practicing private-sector law in Boston and were promoted as an opportunity to meet with recent graduates who would share their experiences and insights. The last of the five scheduled lunches took place this past Friday.

Laura Carroll, '79, set the tone for the luncheon by describing her litigation work with Goodwin, Proctor & Hoar. Carroll emphasized that she enjoys working as a specialized litigation counsel for major companies because it offers her the

discussion. Carroll deplored the fact that many of the new women associates joining her firm seemed to be either too proper and "uptight," or too informal and "giddy." In response, Marjorie Heins, '78, who recently left Palmer, Dodge for the Civil Liberties Union of Massachusetts, commented that women were in a bind no matter how they acted. "Men have the option of having a lot more acceptable personalities," said Heins. In contrast, a woman cannot be too aggressive, even if that is in character for her, nor too quiet and demure. In either case, a woman will be faulted for not striking what the firm's partners and associates see as the "proper balance" for a woman.

Rekha Pacher, '79, of Gaston, Snow, expressed the opinion that

institutions. Carroll commented that it was in situations like these that a law firm's policies could make the difference. If women knew "up front" what would result from the time they took off for pregnancy, explained Carroll, they could better assess, in each case, its effects on their efforts to be known as "good lawyers."

The topic of pregnancy was one that came up frequently during the wide-ranging discussion. Roberta Watson, '74, a lawyer specializing in pensions and divorces with Mintz, Levin, noted that after the birth of her child other lawyers tended to allow their perception of her as a mother to affect their perception of her as a lawyer. The fact that her daughter was "sometimes left at home with Daddy, and therefore obviously neglected," said Watson, made many of her colleagues uncomfortable in dealing with her as a lawyer.

Reaching Out

A second recurring theme in the discussion was the need for women to seek each other out within the law firm. Watson noted that women tend to be better at solitary pursuits than at teamwork. However, in order to survive and succeed at a law firm, cautioned Watson, women need to join together to share information. "Men tend to talk to each other about office politics, and women tend to talk to other women," said Watson. While there are sometimes "leaks across the sex lines," it is critical that women have an internal network that provides them with up-to-date information, support, and feedback.

According to K. C. Woodward, 1L, one of the organizers of the luncheon series, Friday's luncheon discussion was representative of the five lunches that have been held. The topic that most frequently recurred at the lunches, said Woodward, was pregnancy. "Whenever it was brought up it seemed to strike a chord in the lawyers and they would run with it," said Woodward. The

(Continued on Page 16)



Erich Merrill

Boston lawyers discuss private practice with HLS students.

opportunity to remain in the midst of ongoing litigation, rather than being trapped in a company's general legal work. A major factor in succeeding in litigation, Carroll noted, was the ability to present an issue in understandable, human terms to a jury. "We spend our time in law school learning how to translate life into law," said Carroll. "As lawyers, we spend our time trying to translate the law back into life."

The ramifications of being a woman in corporate law practice was a major theme throughout the

to solve the problems faced by women in law firms, women need to "focus first on being good lawyers and getting people to respect them for their work." Heins commented that a firm's conception of a "good lawyer" as someone who works 16 hours a day may present difficulties for a woman lawyer who is considering, for example, whether to have a child.

To Pacher's comment that this reflected the "human dilemma of being a woman," Heins replied that it would be better seen as reflecting the sexism still pervasive in many

Petition Hassles Faculty on Pass Rule

By Susan Smith

In a small ceremony outside the Harkness on Monday, the Ad Hoc Committee for the No-Hassle Pass presented a support petition to 1Ls in Section I, signed by 240 1Ls in the other three sections. This petition specifically supports the right of students in Section I to pass in their Civil Procedure class, which is taught by Prof. Arthur Miller.

Later Monday afternoon, the committee presented the signatures to the Legal Education Committee in what Prof. Duncan Kennedy labeled a "significant event." The students who presented the signatures, Joy Kruse and Matt Kramer, 2Ls, originally intended simply to make a one-minute statement to the committee. Instead, the two were questioned by the committee for half an hour.

Disgruntled Students

The petition project was initiated in February by students in Section I who were "disgruntled with the way Miller has the class set up," according to Paul DiDonato, 1L. Miller's policy allows students who are unprepared for class either to call his secretary before class or to leave a note with him at the beginning of class.

Uncomfortable with the "atmosphere of intimidation and tension-filled situation," six to eight students developed the idea of circulating a petition within the section,

explained DiDonato. This petition recognizes, "every law student has the right not to speak on demand . . . we will support any student who chooses to exercise this right by passing in class."

However, only 34 students have signed this petition. This fact, asserted DiDonato, "indicates in part that Miller has not only intimidated a great many people in Section I but has also suckered them into believing his system is the best system and the only system."

Asking for Help

When the students in Section I approached Prof. David Kennedy for help, he asked Kruse, Kramer and Raun Rasmussen, 2L, to help him consider the problem. These three 2Ls decided to form the ad hoc committee, and set about obtaining supporting signatures from two groups: 1Ls in other sections, and 2Ls and 3Ls. A final count of signatures from 2Ls and 3Ls is not yet available.

Last May a similar but smaller effort within Miller's Civil Procedure section was launched by Kruse, who submitted her completed petition to the Legal Education Committee in support of a no-hassle pass resolution advocated by Profs. Duncan Kennedy and Richard Parker. The resolution has not yet gone to the full faculty for a vote.

"Both the dean and the chairman of the Legal Education Committee have expressed some doubt as to whether students really care about the no-hassle pass," noted Duncan Kennedy. "This petition shows that's an ostrich position."

Duncan Kennedy observed that the resolution has been before the

Legal Education Committee since the middle of last year. "It would be an administrative abuse for the committee to fail to present this issue to the full faculty for a vote. I suspect a good number of faculty members would raise the issue directly in a faculty meeting if the committee once again failed to perform responsibly."

Kruse asserted that, although this petition movement grew out of dissatisfaction with Miller's teaching style, "it really is a much broader issue. I know there are other professors at the Law School who make it difficult on students. It's not just forcing someone to speak, it's the humiliation that goes along with it."

"The big issue is related to an equalization — a lessening of the power situation between the teacher and the students. These are people wanting to take responsibility and control over what their education here is like."

No Choice

The Section I students considered other options and dismissed them, said DiDonato. Although the petition idea had solid support from the start, the idea of meeting with Miller was discussed and dismissed. "The feeling was that the students have a basic right to pass if we feel like it. We are adults. It's a basic assertion of intellectual maturity. Hence, there was no reason to go to him as a group and ask for permission to pass."

The students have sent Miller a copy of the Section I petition but he has not commented on it in class, reported DiDonato.

Appearing disturbed over the sit-
(Continued on Page 15)

**Koby
Antupit**
PHOTOGRAPHERS

Creative Portraits
Resume & Publicity
Photographs
Instant Color Passports

Harvard Square
8 Boylston St., Cambridge
547-7552

Published ten times each semester by the Harvard Law School Record Corporation, 23 Everett St., Cambridge, Mass. 02138-9984. Telephone (617) 495-4418. Subscription price: \$8.00 year mailed; \$10.00 year mailed outside U.S.; students \$4.00 year distributed at the Law School. Individual copies including back issues: 25 cents at the Law School, 75 cents mailed. Second class postage paid at Boston, Mass.

Copyright 1983 by the Harvard Law School Record Corporation and by the contributors. The opinions expressed in the Harvard Law Record are those solely of the students comprising the Board of Directors of the Harvard Law School Record Corporation.

POSTMASTER: Send address changes to Harvard Law Record (ISSN 0017-8101), 23 Everett St., Cambridge, Mass. 02138-9984.

ALUMNI ADDRESS CHANGES: Alumni who receive the Record as a result of membership in the Harvard Law School Association should mail change-of-address information to the Harvard Law School Association, Harvard Law School, Cambridge, Mass. 02138.

Each alumnus receiving a Record subscription through the Harvard Law School Assn. should be on notice that \$4.80 of his H.L.S.A. annual dues are used to purchase the Record subscription he receives. Dues paid at any time during the H.L.S.A. fiscal year that began in April 1982 and ends in March 1983 will purchase a subscription that begins in September 1982 and expires in May 1983, and so on in following years.

"Un-Law" Journal Continues

By Andrea Hartman

Dicta, the literary journal put together by HLS students who believe that the Law School community can benefit from a primarily non-legal publication, will publish its second issue next month.

Last year the first issue of *Dicta* was published. The origins of the journal trace back to the Activities Fair of the fall '81 semester. A group of 1Ls, most of whom lived on the third and fourth floors of Story Hall, were dissatisfied with the range of activities available.

Said Susan Blanc, 2L, one of this year's editors-in-chief, "We gradually realized that almost every single activity had to do with law." Many 1Ls, she added, were unaccustomed to confining themselves to activities which related to school. Thus, the idea for the "un-law journal" arose, and a dedicated group of 1Ls turned it into a reality.

Last year's journal was funded primarily by HLS, which gave the group \$1,000 to get started. John J. Osborn, author of *The Paper Chase*, heard about the project and



Mike Lyon

Dicta editors Steve Rogers and Susan Blanc, 2Ls

donated funds as well as parts of the manuscript of *The Paper Chase* which were not included in the movie or the book. The remainder of the literary contributions came from HLS students.

According to Blanc and Steve Rogers, 2L, this year's other editor-in-chief, about 500 copies of *Dicta* were sold last year. The journal did not quite break even.

All-HLS Cast

This year, the poetry and fiction pieces are all written by HLS students and staff. The journal also includes caricatures of faculty members drawn by Mike Echevarria, 3L. In general, said Rogers, this year's journal contains more of both humorous and serious fiction than last year's journal but, unlike last year's, includes no non-fiction contributions.

According to Rogers, *Dicta* accepted about one-half of the pieces submitted to it. "I think we got more good stuff than we can use this year," he said. Added Blanc, "So many people here are very, very creative people . . . dying for an outlet to get something published."

Profit Motive

Blanc and Rogers hope that *Dicta* will become profitable and that more than one issue a year will be published. "I would like to see it as sort of a general magazine that comes out about three to four times a year," stated Rogers.

Blanc also said that *Dicta* might eventually expand to other law schools. "In the future, we've thought about the possibility of selling it at other law schools and soliciting contributions from other law schools."

The editors believe that this year's journal should help *Dicta* establish a reputation that will allow it to expand in the future. Commenting on the second edition, Rogers said, "We think it's great, even better than last year's. . . . This issue is going to be wonderful."



HARVARD LAW RECORD

Hazard Discusses Dangers of New ABA Ethics Rules

By Mike Isbell

Two rules of ethics adopted last month by the House of Delegates of the American Bar Association, purportedly to protect client confidentiality, are not in the public interest, according to Geoffrey Hazard, visiting professor.

Hazard, who was reporter for the Commission on the Evaluation of Professional Standards for the ABA, said Rules 1.6 and 1.13 fail to go far enough in permitting lawyers to disclose wrongdoing by their clients.

The commission, known as the Kutak Commission in honor of its former chairman the late Robert J. Kutak, proposed that the ABA allow an attorney to "blow the whistle"

on an organization he or she has represented once the attorney has learned of the wrongdoing and has withdrawn as counsel.

"We recommended that a lawyer be able to disclose to protect against a fraud or to rectify a fraud in which his services had been used," Hazard said. "The House of Delegates struck that language out."

"The amended rule passed by the House of Delegates says the lawyer should withdraw and should withdraw any work product but should say only that he is doing so for 'ethical reasons.'"

Rule 1.6 as adopted permits a lawyer to reveal confidential information if the lawyer reasonably believes disclosure is necessary (1) to

(Continued on Page 13)

A Reaction to the TWC-Faculty Forum

Duncan Kennedy

My first reaction was fear. I strolled in a little late, started to sit down in the back and was told politely but firmly that I was supposed to be sitting in a sort of defendant's box rammed into a corner against a wall. I complied, put myself as far to the back as I could, and hoped that everyone would remember that I SUPPORTED THE BOYCOTT! if I had to make a run for it.

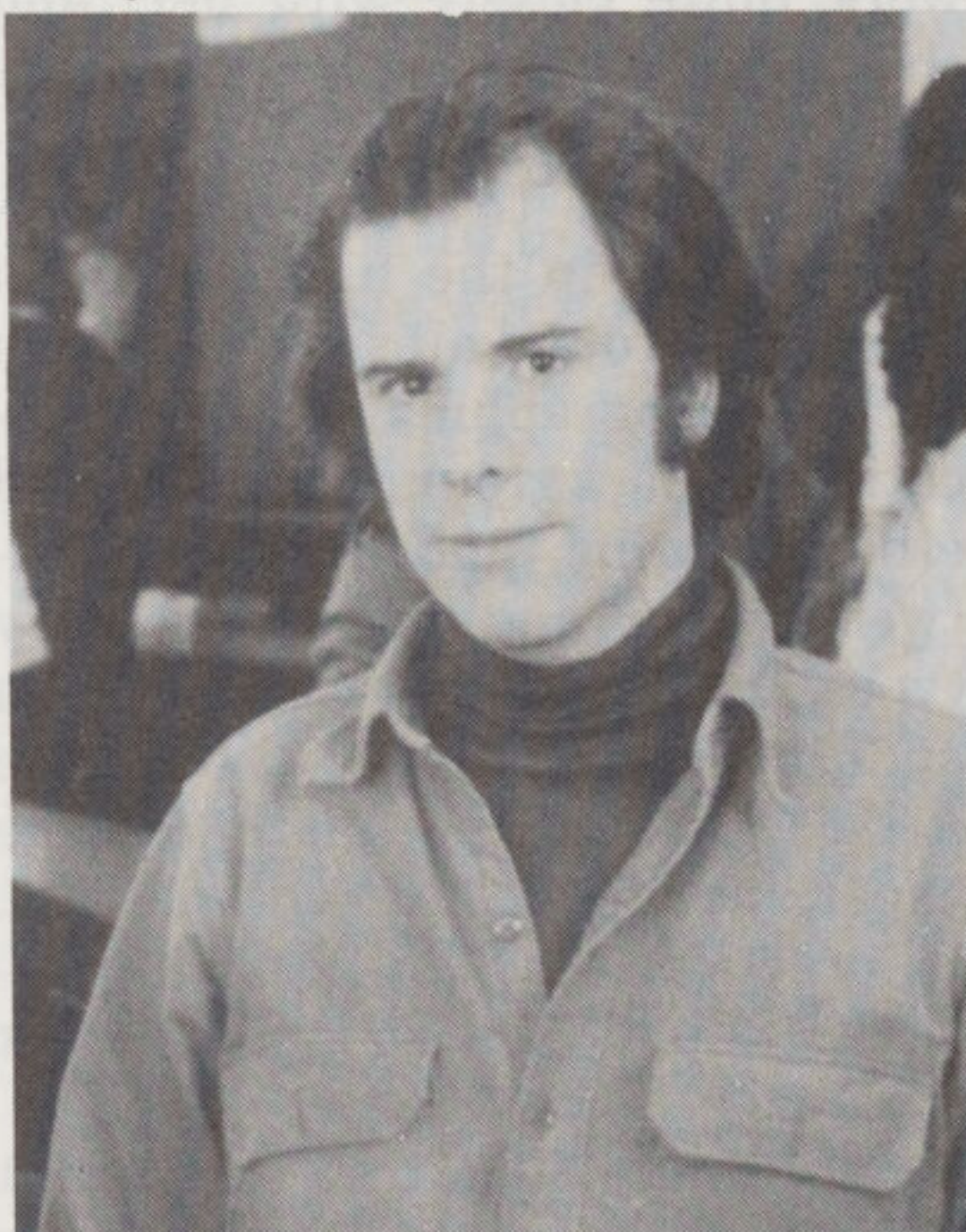
The *politics* of the initial presentations was partly stuff I agree with — demands for radical internal school reform — and partly what sounded to me like tired tough guy rhetoric I just don't believe any more. George Bisharat seemed to say that hiring more third world law teachers will save us from an otherwise inevitable increase in class and racial conflict escalating toward violence against our smug status quo. I think the system is a lot more stable than that, and I think the justification for affirmative action has to be something other than fear that non-existent third world struggles in the U.S. will burn us down if we don't do it.

But the tone of the whole thing was what was hard to take. The moderator was superb, but in spite of her efforts the atmosphere was incredibly *hostile* — you got the feeling that the audience was going to hiss and jeer you if you said something they didn't like, so it seemed like a bad idea to talk. You got the feeling that cliques would mechanically applaud some kinds of slogans, trying to sort of bully the rest of the student audience into going along. There was a lot of ugliness in the anger. For example, I think it's valid for an American black to say to an American Jew, "Look, how can you, from a people that underwent the Holocaust and still undergo American anti-Semitism, how can you be against us in our struggle, which after all is a struggle against human slavery and racism? You are betraying your heritage!" But Cecelie Counts made

this point, if that's what she was saying, in a way I would find offensive if I were Jewish.

The whole thing seemed to be set up as a public shaming. That made me feel, initially, closer to my colleagues than I have in a while.

I thought maybe I'd get up and say some of this, since I was gradually getting over my initial fear (it helped to notice that only a small fraction of the crowd was acting nasty). But then I found I didn't



John Morris

Prof. Duncan Kennedy

want to say anything that might sound like a defense of my colleagues or of the Law School administration. The students were just doing back at us what we do to them every day. We intimidate them, hassle them, make fun of them and scare the shit out of them. We humiliate them and we make them feel like non-people.

A lot of the tone of the meeting, I think, came from some students' fear that they couldn't handle the faculty without playing dirty, that student solidarity would dissolve unless they manipulated it, that the faculty would win if given a chance at real dialogue. I think the way we (faculty) run the school is sick and ugly and nasty enough so that we really do deserve to get collectively shat on from time to time, even if there's some macho preening

and some whining in the doing of it.

And as for the administration, if I were a member of the faculty majority that supports the school's affirmative action policy, the school's curricular policy and the system of school governance, I would have been just plain humiliated at the way my agents defended it. I think our policy on faculty hiring is a prime instance of institutional (*not* individual) racism, but I thought the Dean and the Chairman of the Appointments Committee would be able to do better than a kind of word salad that made the school look even worse than it is. No one speaking for the administration seemed to have either the ability or the necessary empathy to actually address the meeting — they came across as gray, proceduralist, evasive, manipulative university bureaucrats circa 1969.

Still, I thought that all in all it was a very positive event. The faculty needs to get a whiff of the anger boiling under the tightly sealed cover of the Socratic classroom. The students need to understand just how weak the faculty's defense of its practices really is. Maybe I'm wrong to have the sense that the organizers blew an important chance to involve masses of students in rebellious politics. If I'm right, maybe they'll repair the damage by finding other vehicles for student activism.

Above all, it was important that we all see just how many of us there are who would like to do something to really change this place. Whatever got said or didn't get said, that should be a source of energy for the future. There is not just one, there are many school struggles, and another good thing about the meeting was that that came through. By the time the refreshment period was over, I was whispering to myself "Power to the people!" and wondering how many students would sign a no-hassle pass petition.

☪

Evidence Suggests RA Selection Bias

By Michael E. Malamut

This year's Resident Advisor selection process has begun. But some students think there is evidence suggesting institutional biases against minorities and Jewish students in past selections. There are approximately 12 RAs chosen each year who are responsible for aiding and advising students who live in the dorms, with respect to both scholastic and social problems.

The RA selection process begins in January with the filing of applications in the Dean of Students Office. The names of the applicants are then circulated to current RAs and Dorm Council representatives for their comments. These evaluations, any separate recommendations the applicants may have submitted, and the applicants' essays are then considered. Based on these, the applicants are rated numerically. Past experience in positions similar to that of the RA is counted highly, and participation in Law School activities is taken into account.

The applicants who rank highest in this first round are then asked back for an interview. This year, 38 students applied for the nine available slots (three present 2L

RAs will be returning next year). Of the 38 applicants, 19 were selected to meet with Dean of Students Mary Upton for a private interview. Upton confirmed that this year's figures were similar to those of the recent past.

In the second round of the selection process, several factors are weighed. Among them are the amount of thought students have given to the job, their ideas about problems in the dorms and how to solve them, their involvement in the life of the Law School, their rapport with Upton (the RAs must work quite closely with her) and the desire for diversity among the RAs.

Thus, while there is no affirmative action in the first round, in the second round all sorts of factors such as geographic diversity, educational background, racial and ethnic origins, and a balance between jocks and more sedentary types are considered by Upton. In addition, there must be at least one RA each year who has had some experience with disabled students. In practice, very few RAs are selected who did not do similar work in college.

However, evidence indicates that there may be some systemic bias

in the RA selection process that tends to reinforce an image of the white Protestant as the "proper RA." There have been very few racial minorities represented among the RAs. While this year there is one Native American, and last year there was one black, these groups are quite underrepresented with respect to their percentages within the Law School population as a whole. However, this may be attributed to the fact that far fewer members of such minority groups have applied for RA positions than one would expect given their overall representation at the school.

Another source of contention has been the fact that for the past four years there have not been any Jewish RAs and the year before that there was only one. Twenty percent of the student body has identified itself as Jewish by enrolling in the Harvard Jewish Law Students Association, and about one-third of HLS students are estimated to be Jewish. Among this year's applicants for RA positions, fully a quarter are members of HJLSA. David Mirchin, 3L and former president of HJLSA, believes that the lack of Jewish representation on the RA staff is indicative of a general insensitivity to Jewish issues on campus, and pointed out that graduation next year is set for Shavuot, one of Judaism's most holy days. He feels that some of the values of the majority are not shared by minorities and that this may account for their underrepresentation in positions such as RA.

After a meeting with Mirchin and Yadin Kaufmann, 2L, current HJLSA president, who indicated which of the applicants were members of the organization, Upton said that she would be more sensitive to the issue on the second, more subjective round of selections this year now that it has been brought to her attention. She said that she looks forward to the RA application process every year since she meets with many exciting persons truly interested in the Law School, while she deals with student problems much of the rest of the time. ❦

New Development Director to Enhance Alumni Relations

Warren S. (Skip) Hance has been selected as the Law School's new director of development and alumni relations.

Hance received his B.A. in history from Dartmouth in 1955 and his M.A. in American history from Columbia in 1965. Between these periods of study, he joined the family-owned and -run general contracting firm of Allen Brothers, Inc. of Fair Haven, N.J. His responsibilities there included project management, real estate sales, office management and general executive functions.

Upon completion of his studies at Columbia, Hance was recruited by the Buffalo Seminar in Buffalo, N.Y., where he served as a history

teacher and chairman of the history department.

In 1967, Hance accepted the position of chairman of the history department of Miss Porter's School in Farmington, Conn. In 1969 he was appointed assistant headmaster, and from 1975 on he served as headmaster.

Hance comes to the Alumni Association with a strong record of financial management and fund raising. Besides his responsibilities at Miss Porter's, which included development and the alumnae office, he was closely involved in the planning and direction of that school's major capital-funds campaign. ❦

Back Bench: The First Year in Retrospect

By Ernie Cicconi

A little more than one year after it opened for business, HLS's on-campus alternative to Georgie's is alive and doing relatively well. The Back Bench pub, although operating at a loss this school year, continues to draw thirsty, fun-starved law students at a steady pace into the previously unattractive pit of the Hark.

The Back Bench, which made its debut in January, 1982, is run by the Dormitory and Student Affairs Council (DSAC). Arnold Lehman, 3L, former DSAC treasurer, stated that the pub finished "several hundred dollars" in the red for fiscal year 1982. The loss can be attributed to the fall semester since the pub broke even in operating costs during its premier semester.

Deborah Winter, 2L, who is currently the treasurer of DSAC, explained that the nature of the semester system may have caused the decline in business. Lehman agreed that the Back Bench may have done better in the spring semester because of "greater attendance by 1Ls [who by that time] are more relaxed about their work." Winter says it is too early to make any meaningful comparisons to last year's money figures.

Toward Self-Sufficiency

As for the current semester, Winter stated that with a few more promotions the pub may well break even. She commented that the profits from the game room more than make up for any loss from the weeknight operation of the pub and the popular but unprofitable TGIFs.

Bud Gilbert, 3L, who served as comptroller for the pub during last year's spring semester, maintains that "it should be no problem for the Back Bench to be self-sufficient." Since DSAC has agreed to supply the capital for the necessary physical accoutrements, the pub need only take in enough money to pay for inventory and bartenders' salaries. The pub's management, Gilbert says, has "tried to keep markup

as low as possible" and to provide the Back Bench "more as a student service than as anything else."

Lehman notes that DSAC has thus far invested about \$6000 in the pub. Most of the money has gone toward the purchase of a wide-screen T.V. and video cassette recorder, a new bar and bar stools, and a popcorn machine. According to Dave Moser, 3L, who has been manager of the pub since its inception, the wide-screen T.V. is responsible for bringing in the largest crowds and "getting the popcorn machine was a major boon." Moser estimated that Back Bench customers drink approximately 10 cases of soda, 15 to 20 cases of bottled beer, and 10 to 15 half-kegs of draft beer per week.

A Place To Go

On the negative side, Moser noted with obvious displeasure that the Back Bench recently had to raise its prices due to increased "handling costs" which the pub's suppliers have passed on since the enactment of the bottle bill. Gilbert remarked that the pub's financial success still depends on the large Thursday night crowds. The movie nights do not bring in much added revenue because money is made on the sale of draft beer and "people don't drink when they're watching movies."

Moser emphasized that the pub was established "not to maximize profits, but to provide students with a place to go that's close and that they could think of as their own." Moser considers that the Back Bench has been "basically successful in that regard."

Clay Creps, 1L, vice-president of DSAC, explained that the benefit of special pub events such as free movies is that they "give students somewhere to go where they don't have to spend a lot of money." "Success," Creps observed, "means people enjoying themselves at the pub" and being able to "relax in a friendly atmosphere and unwind with a beer or a soda at the end of the day."

According to Creps, the Back Bench is now in a "transition period"

in which DSAC is on the lookout for a new manager to continue the fine work done by Moser, as well as for "new ideas and more participation by students." Creps added that if anyone comes forward with a "marginally good idea," DSAC would be "ready and willing to allocate funds [for implementing it] if it's in the best interest of the pub." Winter stressed that students should "feel free to contact anyone on DSAC or anyone working on any of the various pub committees to give suggestions."

The Harkness Committee is currently considering the feasibility of various long-term expenditures for the pub area. The Pub Management Committee is busying itself with proposals for better day-to-day operations at the Back Bench. The Pub Promotions Committee, chaired by Creps, is seeking to answer the question that Creps phrases as, "What can we do that's fun at the pub?"

Coming Attractions

Upcoming events at the Back Bench may include a talent show, possibly with faculty participation, and the annual trivia contest. Meanwhile, movie nights should continue to be favorites of HLS students and, of course, the Back-hanals are always welcome to buoy their spirits or drown their sorrows at the ultralocal watering hole. After all, noted Gilbert, as far as he knows the Back Bench pub is still "charging less than anywhere else in town."



**Professional Dry Cleaning
and Shirt Laundry**

at

Rite-Way

DRY CLEANERS, INC.

547-8008

4 Hudson St., Cambridge
(off 1672 Mass. Ave.)

Bob Kaplan, 3L, Wins Class Action

By Lee Christie

While ordinary life grinds on at the Law School, Bob Kaplan, 3L, of Harvard's Legal Aid Bureau, has briefed and argued an appeal before the First Circuit in a class action suit against the Social Security Administration. Kaplan won a favorable decision, handed down by the First Circuit on March 9.

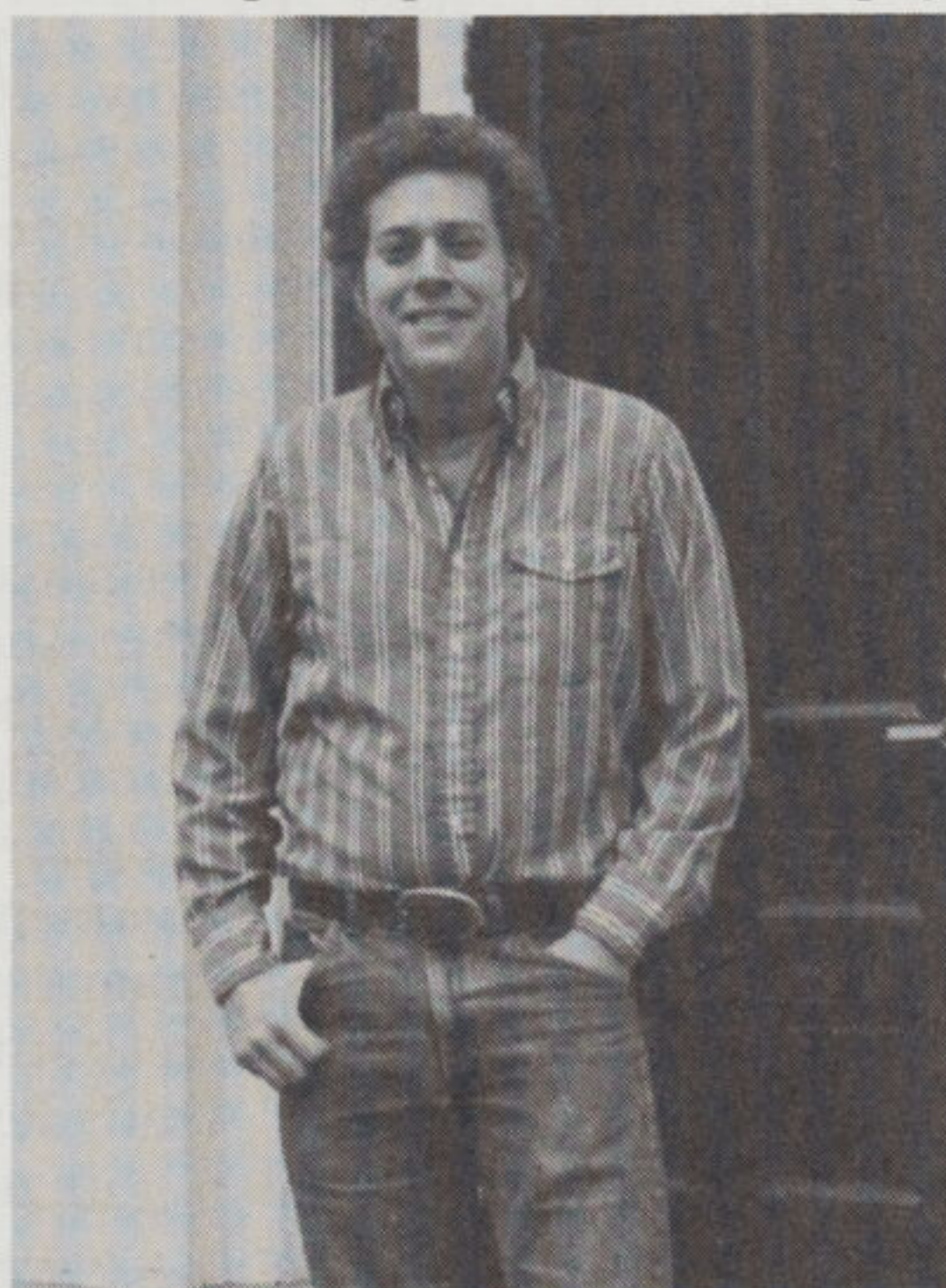
The case, *Crosby v. SSA*, was initiated two years ago by the bureau's Robert Morton, who graduated from HLS last June. The plaintiff class consists of Massachusetts residents whose initial applications for disability benefits under the Social Security Act were denied, and who have requested a full rehearing before an administrative law judge (ALJ). The claimants alleged that lengthy delays (an *average* in Massachusetts of 199 days) between the hearing request and the ALJ's ultimate decision violated not only the Social Security Act itself but also the Administrative Procedure Act (APA) and the due process clause of the Constitution. Morton handled the case through the final judgment in the district court. Kaplan has had sole responsibility for the post-judgment motions at the district court level, and for defending against the government's appeal in the First Circuit.

A Reasonable Time

The district court held that 180 days was the maximum permissible delay between an applicant's request for ALJ review and the ALJ's final decision. District Judge Tauro based his decision on non-constitutional grounds, citing language in the Social Security Act and in the APA commanding the Secretary of Health and Human Services to provide "reasonable . . . opportunity for a hearing," and to conclude disputed claims "within a reasonable time."

More importantly, the court also ordered SSA to pay interim benefits to any applicant who had waited 180 days from the date of his hearing request and had not yet received

a decision from an ALJ. If the ALJ ultimately were to rule that the person was not disabled, then the government would have the right to try to recoup all monthly benefits paid in the interim. There was no argument about recoupment. There also was no argument about the several months' worth of back benefits that would be payable, in a lump sum, to any disabled person who appealed to an ALJ and won, since these "retroactive benefits" are provided for by statute. The additional remedy for which Morton, and later Kaplan, pressed was the pay-



Ruben Perlmutter

The Legal Aid Bureau's Bob Kaplan, 3L

ment of interim monthly benefits pending decision by the ALJ, in cases where delays exceeded six months. Judge Tauro grounded the interim benefits remedy in the court's "inherent equitable powers."

After judgment in the district court, Kaplan had to steer his clients' case through a maze of motions aimed at narrowing the court's order. Ultimately, the government moved to stay implementation of the interim benefits remedy pending an appeal on the merits to the First Circuit. Kaplan, in still more briefs and argument before Judge Tauro, fought the stay and won.

Not to be denied, the government petitioned the First Circuit to enter a stay of its own pending review of the case on the merits. The appellate

court ordered the parties to brief and argue both issues at once: 1) whether the interim payments should be stayed pending decision of the appeal, and 2) whether the district court's general reasoning, and the remedies it ordered, were legally proper.

Stay Denied

On March 9, a panel of appellate judges, which included part-time HLS Prof. Stephen Breyer, announced its decision. The court denied the stay without rendering a decision on the merits of the government's appeal. Kaplan points out that the Second Circuit, in *Day v. Schweiker*, had already decided the issue of interim benefits in favor of a similar class, and that the U.S. Supreme Court had declined to order a stay of payments pending its disposition of the government's petition for certiorari. "The government is likely to win cert. in *Day*," Kaplan says, "because the Second and Seventh Circuits seem to be in conflict as to whether such a remedy is permissible." But even though it will probably have to decide the legality of the interim remedy, the Court nevertheless refused to block current implementation of it. "This is the most explicit ground for the First Circuit's decision not to give the government a stay in our case," says Kaplan. The Supreme Court may have tipped its hand in denying the stay, and, at least for now, the checks are in the mail.

BRINE'S SPORTING GOODS

Sports equipment and apparel
for the entire family

SPRING IS HERE

- Baseball • Jogging • Soccer
- Lacrosse • Rugby • Tennis
- Exercise equipment

Expert Fitting On All Shoes

Adidas, Nike, Puma, Asahi
Patrick, Brooks, & Etonic

39 Brattle St., Harvard Sq.

"BETTER BUYS AT
BRINE'S"

Decision in First Circuit Appeal

Kaplan was able to argue his case under a rule of court that admits third-year students to civil practice under a "supervising attorney" who signs pleadings, motions and briefs. Kaplan estimates that he has spent over 200 hours on the case, and that his predecessor Morton spent more. Robin Roger, 2L, will inherit Kaplan's position, and will ask the court for \$35,000-40,000 in attorney's fees under the 1980 Equal Access to Justice Act. A fee award would go toward enriching the bureau's litigation fund.

Friendly Adversaries

Kaplan says his work on the case was "incredibly gratifying. Bureau work in general is extraordinarily satisfying, since we bring legal services to some very poor people. And thousands of dollars are now being paid to a statewide class of poor, disabled persons." The class is potentially very large, since each year

in Massachusetts 7,000 disability applicants request ALJ hearings.

Kaplan, who spent last summer with a public interest firm in San Francisco, is receiving credit for his bureau efforts as part of Prof. Elizabeth Bartholet's course in public interest litigation. After graduation Kaplan will clerk for District Judge Robert Carter of the Southern District of New York.

Is beating the federal government in court heady business? Kaplan describes his relationship with opposing counsel Patti Saris, HLS '76, as "adversarial but congenial — almost supportive." Kaplan found it exhilarating to have high-powered federal lawyers on the other side of the courtroom. Says Kaplan, "We compensate for our lack of experience by spending as much time on

a case as it requires. Often when we have money cases the amount of money is very small, and in non-money cases the litigants' resources are very limited on both sides. So, for the amount they are expecting to be paid, the opposing lawyers really cannot afford to spend more than a few hours on a case on which our side might spend 50."

And the work is not yet finished. Under the terms of the court's order, Massachusetts disability applicants will receive notice of their rights under the order, and will be instructed to contact the bureau if they have problems. According to Kaplan, the bureau is "taking enforcement of the order very seriously, and planning to play a large role in monitoring the government's compliance." ☛

SFF Sets Record-Breaking Goal for Upcoming Phon-a-thon

By Jack Robinson

Last summer, 23 HLS students working at public interest organizations were supported by their classmates through Student Funded Fellowships (SFF). Most of the money was raised during the spring, when HLS students were asked to donate one percent of their summer earnings. This year, during the period of March 20-25, SFF will attempt to break last year's record of contributions (over \$20,000) when again it holds its "SFF Phon-a-thon." The phon-a-thon will be held from 6-10 P.M. nightly and will be conducted by 120 volunteers.

Chai Feldblum, 1L, a member of the SFF Board of Directors, explained how the phon-a-thon will work. She said that "each law student will be called by a volunteer and asked to pledge one day of [his or her] summer earnings or an amount of \$25." Most volunteers will work at a phone bank set up in and around the BSA office in Langdell Hall, with some calls being made from cooperating professors' offices. According to Feldblum,

about four or five faculty members contributed to SFF last year.

The primary reason SFF does so well in getting contributions is, according to Feldblum, "that a lot of people like to see public interest work done but don't care to do it themselves." She continued, "Contributions to SFF allow students to fund those of their classmates who are interested in public interest work."

This year, SFF will provide fellows with up to \$200 weekly for 10 weeks of work with a tax-exempt public interest or legal services organization. Feldblum said that many students, mostly 1Ls, are looking for funding for public interest work this summer. According to Feldblum, "We hope to accommodate as many people as possible." ☛

Sports Answers

1. Dallas Green
2. Hugh Green
3. Dick Green
4. David Green
5. Rick Green

THE REVOLVING BOOKCASE CO.

ADDS STATUS AND BEAUTY TO YOUR HOME OR OFFICE



It "Turns" for quick & easy research

THE HOLMES

(three shelf)
22" x 22" x 48" high
144" Total shelfspace

THE MARSHALL

(four shelf)
28" x 28" x 61" high
272" Total shelfspace

NOW AVAILABLE
STAND-UP LIBRARY DESK



Dimensions:
48" Wide, 29 1/2" deep
Front 41" high
Back 44 1/2" high
Mat'l: Solid Hardwood

All items are available in
Walnut or Mahogany finish

Send for FREE brochure:

THE LAZY LAWYER CO., DEPT. HLR

203 MYRTLE STREET, P.O. DRAWER 638

FOLEY, ALABAMA 36536

For Speedier Service Call: 205-943-1800

Understanding the Faculty

It is clear after last week's student-faculty forum that one of the obstacles to change here is that students misunderstand faculty politics. The most important thing to see is that there is no monolithic entity, The Faculty.

The misperception of a unified faculty was reinforced by the confrontational format of the forum and by the silence of many members of the faculty there, including, in particular, those on "the left." Some students expected the left to rise up and join students in the attack and took their silence for support of the status quo. What has to be understood is that the forum was only a small element in the larger picture of policy-making at the Law School. Because there is no consensus within the faculty, some of the most committed reformers save their words for occasions when they are most needed. Statements of support for students in public meetings might serve merely to dissipate the weight of the reformers' views in other forums (such as faculty meetings), deafening potentially receptive ears to their arguments in circumstances where their views have a greater chance of influencing decisions.

Students should not misread the silence of other faculty members either. Some professors *are* contemptuous of students and are unbending in their views, but the most die-hard of these did not attend. The real battle is not for the votes or the sympathy of this oldest of the old guard but rather for the people in the middle of the road. Most of the faculty members are mainstream Democrats and consider themselves liberals. They may never understand the hostility felt at the forum, but they are vulnerable to criticisms; it is possible to appeal to their values and ideals.

Students must seize this opportunity, first of all by talking — among sense be used. Avoid providing any unnecessary pretexts for discrediting your views. Some tips: (1) Don't assume people won't subscribe to your abstract goals. (2) Know the attitudes of the people to whom you are talking so you can gear your pitch. (3) Don't voice vague expressions of unhappiness. Be specific. Explain why minority issues *are* "legal" and how they *are* left out of the curriculum. Explain how the Socratic method intimidates, and so on. (4) Get your facts right. You won't be taken seriously unless you know what the current policies are — in detail.

The chance is here. It is ours to take. So go talk to someone about the issues raised at the forum.



HARVARD LAW RECORD

EDITOR IN CHIEF Brad Hudson
 MANAGING EDITOR Louis J. Hoffman
 NEWS EDITOR Andrea Hartman
 BUSINESS MANAGER Keith Ward
 PRODUCTION EDITOR Susan Smith
 SENIOR EDITORS Jim Chudy, Adam Eisgrau, Mark Pogue
 EDITORS EMERITI Erich Merrill, John Morris
 SPORTS EDITOR Mark Graham
 BOOK REVIEW EDITOR Peter Lebold Cohen
 EDITORIAL STAFF: Ken Bresler, Lee Christie, Ernie Cicconi, Steve Cowan, Fenno, Dave Horn, Mike Isbell, Michael Malamut, Mike Medina, Charlie Mitchell, Karen Moghtader, Jack Robinson, Jorge Seall-Sasiain, Michael Seigel, Charles Thensted
 PHOTO EDITOR Sandra Yamate
 PHOTOGRAPHY STAFF: Peter Lebold Cohen, Adam Eisgrau, Mike Lyon, Erich Merrill, Michael Malamut, John Morris, Ruben Perlmutter, Robert Peterson, Lon Povich

Fenno

It was a rare day at HLS: Fenno went to class. He sat by a new backbencher, who looked like a refugee from a toga party.

"Are you a student here?" Fenno asked.

"Just sitting in," the stranger replied. "I'm investigating a phenomenon at Harvard Law School called the Socratic method."

"So you're on the Visiting Committee?"

"No. I'm Socrates, as in the Socratic method."

Suddenly, a strident voice interrupted the dialogue: "You, in the back row, with the tapestry tailoring, state the next case."

"Say 'pass,'" Fenno urged in a whisper.

"Before we begin with the case," Socrates answered the professor, "I think a little self-examination would be helpful. After all, as a great philosopher has said, the unexamined life is not worth living."

"This is law school, not life!" retorted the professor.

"But you do say you use the Socratic method here, don't you?"

"That is correct."

"Then you must be true to its principles. The real Socratic method begins with self-knowledge as the foundation of inquiry. The teacher then asks questions to draw out the answers inside the student's mind. The assumption is that the student *already* knows the answers; the teacher merely demonstrates that fact. Questions are meant to *help* the students realize this, not to tyrannize them."

"Who do you think you are," sneered the professor, "Socrates?"

"Precisely. See, you *do* know the answers for yourself, as do the students in this class. Don't you know the meaning of the word 'educate'?"

"I don't think . . .," the professor sputtered.

"Of course you think," Socrates assured him. "Come now, I suspect you don't know much Greek, but Latin is the lawyer's language. 'Educate' is derived from the Latin *ex*, out, and *dūcere*, to draw or lead. So to educate means literally 'to draw out.'

"Now obviously a teacher cannot 'draw out' what is not already present in the student's mind. This is the major premise of the Socratic method as I taught it, and after all I'm the one who invented it! The students already know the answers: treat them that way. Otherwise, name this method of teaching after some other philosopher, not me — Machiavelli, perhaps. That even has a better ring to it: the Machiavellian method."

With that, Socrates left the classroom. Fenno hurried after him. "You mean you never taught your students the way the Socratic method is taught here?" asked Fenno.

"Are you kidding?" Socrates said incredulously. "In Athens the students would never have let me get away with that kind of hierarchical paternalism. Remember, despite all its faults, Athens was a *democracy*."



Letters to the Editor of the Record

Sexism?

To the Editor:

Last night I sat down to do some reading in *Introduction to Advocacy*, the book on moot court competitions put out by the Board of Student Advisers. My Ames oral argument is coming up in a week, and I thought I might pick up some helpful hints from the articles on oral advocacy in the appendix of the book. Instead I discovered that:

Fifth, a good memory helps. Some people are born with a flypaper mind in which everything sticks. It is a distinct advantage to a lawyer to have one, just as it is a distinct advantage to a woman to be born beautiful. But women can be beautified — and memories can be trained.

Frederick Bernays Wiener, "Oral Advocacy" in *Introduction to Advocacy*, 3rd ed. p. 179.

I am disappointed at the irresponsibility and insensitivity displayed by the BSA in including this garbage in a book that purports to "aid the law student in understanding the various elements of appellate advocacy in his first moot court competition." Preface, 2nd ed. Sexist remarks like this obviously serve no one's understanding of anything, and are highly offensive to any of the many women participating in moot court competitions, or to any of the many women who are appearing daily in appellate courts.

I would ask the BSA to give serious consideration to deleting this paragraph in any future editions of the book.

Linda P. Falcao, 1L

The Envelope, Please . . .

To the Editor:

The Harvard Law School Elitist Cinema Society, arbiters of HLS cinematic taste since 1979, takes great pride in announcing the Fifth Annual HLS-ECS Awards for cinematic achievement in 1982:

Best Film: *Gandhi*

Best Director: Wolfgang Petersen, *Das Boot*
Best Cinematography: Nestor Almendros, *Sophie's Choice*

Best Actor: Ben Kingsley, *Gandhi*

Best Actress: Meryl Streep, *Sophie's Choice*

Best Supporting Actor: John Lithgow, *The World According to Garp*

Best Supporting Actress: Glenn Close, *The World According to Garp*

Best Original Screenplay: Barry Levinson, *Diner*

Best Adapted Screenplay: Steve Tesich, *The World According to Garp*

Best Original Score: John Williams, *E.T.*

Best Adapted Score: No Award

Richard Hyde, '78

Michael G. Psareas, '79

Juergen O. Skoppek, '79

Richard B. Bernstein, '80

John H. Eickemeyer, '80

David N. Johnson, '80

Kaye A. Thomas, '80

Lawrence B. Friedman, '82

New York, N.Y.

H₂O Course Demanded

To the Editor:

We need your support to get a water law course at Harvard.

We are pumping America dry. That water that isn't wasted by over-consumption is threatened by contamination: run-off from industry, toxic wastes, land disposal and landfills.

Water problems aren't limited to the Southwest. Along the coasts of North Carolina, Louisiana, Florida, Texas and California, seawater contaminates the water supply. The falling water table in Florida and Arizona has formed serious sinkholes. New York and New Jersey have had water shortages, and parts of Long Island's water supply are contaminated. The Ogallala Aquifer, three times larger than New York state, is being exhausted; that aquifer supplies water for irrigation in the High Plains including Nebraska, Colorado, Kansas, Oklahoma, New Mexico and Texas. Texans are discussing stealing — they call it "importing" — water from Alaska, Arkansas, even Canada. Waste is still being dumped in the ocean.

As conflicts over water scarcity, allocation and quality increase, the courts will decide

who gets water (agriculture, homes, industries), when, why and even how. These decisions will affect community and industrial development as well as resource allocation between the states.

Last year, a water law course was taught at 43 law schools. A visiting professor taught water law at Harvard. The course was not offered this year. There are 105 qualified teachers in the nation for water law. Associate Dean Liebman told us that water law is a "top priority" of his for the curriculum. But we still need to indicate our interest to him, to the faculty and to administrators. (Lance Liebman and Clare Dalton are the professors on the water law subcommittee.)

Those involved in industrial and community development, real estate law and environmental law, as well as those who will be general community workers and politicians, need to learn about the water problems in our communities. We need this course.

We only ask that Harvard continue teaching water law as it has done in the past. We will be circulating petitions in classes and the Hark next week in order to determine student interest and support. If you're interested or have ideas, please let us know.

Amy Johnson, 1L

Paula K. Smith, 1L

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.

Letters must be typed and received by 4:00 P.M. the Tuesday before each issue. We prefer letters of no more than 700 words.

Sports Quiz

Note: In honor of St. Patrick's Day, this week's sports quiz asks you to identify athletes whose last names denote the predominant color of the holiday.

1. An average major league pitcher, this man won only 20 games in his eight-year career from 1960 to 1967, yet managed a team to a world championship in 1980. Name this man.
2. In 1981 this rookie linebacker, though often overshadowed by fellow rookie Lawrence Taylor, had 38 more tackles than Taylor and helped his team win the NFC Central Division championship. Name this athlete.
3. This second baseman began his major league career with the Kansas City Ath-

letics in 1963 and remained with the organization long enough to play on the Athletics' championship teams of the early 1970s. Name this former player.

4. A native of Nicaragua, this outfielder, obtained by the Cardinals from the Milwaukee organization in 1980 in a deal which also involved Rollie Fingers and Ted Simmons, may well displace George Hendrick in the Cardinals' outfield in 1983. Name this player.
5. This NHL defenseman was obtained by the Montreal Canadiens in a controversial deal in which the Canadiens' fine defenseman Rod Langway was sent to Washington. Name this player.

(Answers on Page 9)

Budget Balanced at Students' Expense

(Continued from Page 1)

lower tuitions. "If the market for lawyers was poorer and the financial position of lawyers was worse, then we would not be able to charge the tuition that we do," said Russell Simpson, assistant dean for finance and general administration.

Tuition at HLS runs about \$1000 less than tuition at comparable law schools. For example, required fees at HLS for 1983-84 will be about \$8300. University of Chicago will charge over \$9500 in required fees and Stanford will charge over \$9200.

Endowment Income

The endowment provides almost 20% of HLS income. Now valued at about \$75 million dollars, HLS's share of the Harvard University endowment is managed entirely by the University. HLS is guaranteed a 4% rate of return on its share of the endowment each year through a program called the "Income Stabilization Reserve," established by the University to insulate endowment income for each division from market fluctuations. The University drew upon these reserves to muster the 4% return guaranteed for HLS this year.

Money from unrestricted annual giving accounts for about 10% of the school's income. Annual giving amounts to about \$4 million, roughly half contributed in capital goods which are credited to HLS's share of the endowment and half in cash. Of this, \$1,792,000 or 80% will be used for current operating expenses and the other 20%, about \$400,000, will be used by HLS to increase its endowment. 1981-82 was the first year in which all of the cash contributions had been used for current operating expenses.

HLS Expenses

Faculty Instruction and Support accounts for the largest portion of expenses. Faculty salaries will increase by an average of about 8% in the upcoming year. Vorenberg said that "to attract new young

professors and hold people, it is important to do what we can to keep faculty salaries up. We can't be competitive [with private practice] but we can assure people will lead reasonable, full lives."

He pointed to some faculty members who have trouble meeting schooling and housing costs and added, "it is important that HLS not put pressure on faculty to turn outside the Law School for income." Vorenberg said that the money budgeted for clinical programs will increase about 10-12% to about \$540,000.

Seventeen percent of expenses are for physical plant. This increase exceeds the rate of inflation because of energy costs and the maintenance costs of old buildings.

Cambridge Gas and Electric's contract to provide steam for the University expired on June 30, 1982, and the University has been paying market prices while the contract is being renegotiated. The previous long-term contract pro-

vided steam at a price well below market, and Cambridge Gas and Electric seems to be seeking to recoup some of the profits lost during that time. Steam costs amount to about \$600,000 annually.

Both Vorenberg and Simpson stressed that the energy conservation program at HLS has been successful, but savings have been partially offset by increasing unit costs for energy. The new steam contract may increase total energy costs.

The HLS library consumes about 15% of total expenses. The library faces both increased costs of acquisitions, especially of foreign publications, and the need to preserve some of the old documents. In order to retain standing as an international research center, Vorenberg explained, the library must keep current on international sources. Many of the publications which used to be sent to HLS free now must be purchased. This is es-

(Continued on Page 13)

CORE INCOME AND EXPENSES

(In Thousands of Dollars)

CORE INCOME

	1980-81	1981-82	Est. 1982-83	Projected 1983-84
Tuition	8,883	10,282	12,308	13,984
Endowment	3,274	3,525	3,740	3,982
Use of Annual Giving	1,300	1,825	1,825	1,792
Dormitory & Building Income	907	1,027	1,113	1,213
Application Fees	247	311	256	290
Copying & Teaching Materials	233	224	231	227
Publications	100	119	108	119
Restricted Gifts	105	105	88	85
All Other Income, Transfers And Adjustments	799	786	370	481
Total Core Income	\$15,848	\$18,204	\$20,039	\$22,173

CORE EXPENSES

Administrative Departments	2,390	2,652	2,891	3,102
Int'l Administrative & Research	114	128	133	117
Student Organizations	596	759	855	851
Alumni & Fund Office	730	822	947	1,087
Faculty Instruction & Support	5,574	6,925	7,829	8,581
Library	1,940	2,203	2,623	2,982
Financial Aid	1,672	1,762	1,427	1,589
Buildings & Facilities	2,583	2,785	3,211	3,672
Teaching Materials & Distribution	169	200	184	195
Total Core Expenses	\$15,768	\$18,236	\$20,100	\$22,176
Unrestricted Surplus (Deficit)	80	(32)	(61)	(3)

HLS Prof. Assails Ethics Rules Changes

(Continued from Page 4)

prevent the client from committing a criminal act that is likely to result in imminent death or substantial bodily harm; or (2) to establish a claim of defense on behalf of the lawyer in a legal controversy between the lawyer and his or her client.

Hazard said that, in practice, there may be little difference between the proposed rules and those which were finally adopted. Disclosure of fraud would surely abort

most transactions, but simple withdrawal would not. "Suppose, for example, that the person from whom it is withdrawn doesn't grasp the significance of the lawyer's action and then goes ahead with another lawyer and completes the deal."

Hazard said the ironic part of the controversy is that, in his view, the amended rules will fail to serve the purpose of client confidentiality.

"[Those who opposed the proposed rules] were saying confidences ought to be sacrosanct. That is just non-

sense. There is no way you can protect confidences when a lawyer withdraws for ethical reasons.

"Lawyers are finally waking up to the fact that it is not just for stealing out of your client's account that you can get sued. A company which is involved in fraudulent practices can pretty well count on getting sued. Accountants learned that long ago and law firms are learning it now.

"So what happened [at the Delegates' convention] was actually worse than what was printed in the newspapers. [The Kutak Commission] was already narrowing the rule of disclosure. The amendment narrowed the rule even more in utter disdain of a notion of public interest and with a lot of wishful thinking about what it will do for confidentiality. I don't think that lawyers will sit by and take the chance they will be sued for fraud."

Dean Announces Balanced Budget, Tuition Increase

(Continued from Page 12)

pecially true of foreign government publications, which are now in vogue as revenue sources for the governments that print them.

The financial aid portion of the budget, about 7% of spending, continues the new aid policy implemented last year. The important change from previous years was that the amount students were required to take as a loan was increased to about half of the total student budget, or about \$5750 last year. That policy was necessary, said Simpson, in order to ensure that the "right amount" would be available for student grants.

The policy also provided for the possibility that Guaranteed Student Loans would be unavailable this year, and that the Law School would be forced to subsidize interest pay-

ments for need-based loans. However, the GSL program was not discontinued, and there was a surplus of \$80,000 in the financial aid budget. That surplus will be used partially for increases in grants and interest subsidies and partially for a contingency fund to offset possible miscalculation by the planners. Simpson emphasized that the new program was only one year old, and that the contingency fund was necessary to avoid shortfalls.

The funds available for the Low Income Protection Plan, the interest subsidies HLS provides to graduates who take lower income legal jobs, was increased to \$400,000. Vorenberg emphasized the importance of the plan, and said that the size of the fund was important because it is "hard to see what we need to meet our moral commitment." ❧

Most Proposals Adopted

Although Hazard was disappointed in the defeat of the proposed rules on disclosure of wrongdoing, he said he was pleased that the Delegates adopted the bulk of the commission's proposals.

According to Hazard, the new rules should increase protection for clients. Hazard said the rules also clarified the different facets of practicing law and dealt with problems of ethical governance inside a law firm.

"Generally, we abandoned a lot of pieties normally included in ethical provisions," Hazard said. "Whereas past ethics codes dealt primarily with appearances of impropriety, the new rules emphasize what actually happens in the day-to-day practice of law," Hazard said.

The rules are not legally binding but Hazard said he expects them to be adopted more or less intact by most states. However, he expects and hopes that many of the states and most courts will reject the adopted rules concerning disclosure in favor of those proposed by the commission.

Wanted:
Autographs
of Presidents and Famous People.
Old Stocks & Bonds
Political Pins, Ribbons,
Banners.
High prices paid
PAUL J. LONGO, BOX 490-HL,
SOUTH ORLEANS, MASSACHUSETTS
02662
(617) 255-5482

HEADQUARTERS FOR
RACQUET SPORTS

- SQUASH
- TENNIS
- PLATFORM TENNIS
- RACQUETBALL



Tennis and Squash shop

67 Mt. Auburn St.
Harvard Square Cambridge
864-8800

EST. 1924

Largest selection of squash
apparel and rackets in this area.

Students, Faculty Discuss Forum,

(Continued from Page 1)

McNab. "But we were sorry there wasn't time to probe more deeply. We sacrificed depth for a more universal presentation of student discontent."

A number of professors also voiced concern over the superficial coverage that the issues raised generally received. "I thought it was extremely frustrating," said Prof. Charles Donahue. "It was set up so that students would ask predictably hostile questions and the faculty would behave like the president at a press conference trying to set the record straight."

Prof. Frank Sander also criticized the meeting's organization. "I had an intense sense of frustration with the [forum's] format," he said, because it called for public statements not individual dialogue. In spite of their criticisms, both Donahue and Sander felt that the meeting was useful. Sander said that it "did bring home to one that there are a lot of

people with deep unhappiness around here. . . ."

Supportive Enterprise

Other participants echoed Patrick's dismay. "I was saddened," said Prof. Clark Byse. But demonstrating the diversity of perspectives represented, Byse attributed his disappointment not to the faculty but to the students. "These students just don't realize that most of them will never again be members of any enterprise as supportive as this one."

Byse disagreed with assertions that the faculty did not listen or understand. "[It's] not a case of not listening, but one of not agreeing," said Byse. He said that while few of the students' complaints were new to him and he did not agree with many of them, he felt it was important that they be aired.

Prof. Charles Nesson demonstrated that some faculty members

not only listened, understood, and to some extent agreed with the students, but were also willing to learn from them.

"I thought it was a very impressive meeting," said Nesson. "There was a lot of emotion in the room. People were communicating real feeling and real criticisms. . . . It brought home to me more clearly than I had seen it before that we've changed the make-up of our student body over the last 10 or 15 years — and in that sense we've engaged in affirmative action, but we haven't done a lot in other ways. . . . In our admissions program we recognize that there are many more talents to being a lawyer than scoring high on LSAT tests and yet we haven't been able to adjust our program adequately in a way to respond to our new and broader student body. . . . It seems like a real criticism and a real challenge."

Little Democracy

Some of those in attendance criticized both sides. Prof. Richard Parker stressed the diversity of perspectives represented on the faculty. "Much of what the faculty said did not represent my views in either tone or substance." However, he faulted students as well. "I agreed in spirit with much of what the students said, but there was too much sloganeering." He did not find the flaws in either side inexplicable, though. "This political institution has had so little experience with democracy," he observed, "that you can't expect the first effort to go very well."

Parker felt that as a result of a lack of information the students were unable to make a sufficiently precise attack on the administration, and that the faculty's evasive answers were designed to perpetuate the students' ignorance.

Virtually all of those interviewed felt that the forum demonstrated the need for some sort of continued discourse (with the exception of Prof. Phil Areeda who labelled questions about future forums "abstract" and "hypothetical" and asked "Who can

Harvard Tailors and Clothiers

R.M. Rock, Master Tailor

Tim Johnston, Concessionaire

Save Money!

Beat down the high cost of classy business attire. Build your summer or permanent job wardrobe now, with custom-tailored clothing from Harvard Tailors and Clothiers. Call 489-1609 through March 20 for an appointment or information.

March 14-20 only

GUARANTEE

Your money back if not completely satisfied

Special Student Prices*

MEN

2-piece suit	\$215.
3-piece suit	\$265.
2-piece tuxedo	\$245.
sport coat	\$160.
slacks	\$68.
shirt	\$24.
top coat	\$245.

WOMEN

2-piece suit	\$215.
vest	\$66.
blazer	\$160.
skirt	\$68.
slacks	\$68.
silk blouse	\$66.

* Allow 15% import duty

A student concession at the Harvard Business School

Express Varying Perspectives

answer hypotheticals?"). Many of those who were present at last week's forum would oppose an identical format for future meetings, but maintain that they support an open exchange of views.

to alter the format significantly because they fear that too much structure could lead to too much control, and might stifle the spontaneity that characterized last week's meeting.

feels that progress on the issues can only be achieved through sustained political action. They feel, in fact, that there is some danger that this will be perceived as the denouement, and that future meetings may be used to drain the vigor from student discontent.

Although the specifics of further action by the TWC are not concrete, two of their greatest concerns are to stimulate greater involvement by students and sympathetic faculty members. Additionally, the TWC proposals include appointing students to committees that will parallel the work of their faculty counterparts. The hope is that these committees eventually will be integrated into the current administrative system. The TWC also intends to continue pressing the present Office for Contract Compliance complaint, perhaps to offer another course similar to "Racism and American Law," and to work toward opening the doors of more committee meetings so that students may speak to the specific issues that concern them.



John Morris

Students and faculty discuss issues following last week's forum.

McNab reiterated the TWC's request that a forum such as this be institutionalized so that at least one would take place every year. The TWC would be reluctant, however,

McNab stressed the point that although the forum was useful as a demonstration of the breadth of student discontent and the administration's indifference, the TWC

John Morris assisted with this article.

Students Express Discontent, Demand No-Hassle Pass

(Continued from Page 3)

uation, Miller termed the matter an "unfortunate piece of paranoia. . . . I understand from people who have talked with me that there is said to be a fear that if you report unprepared that I will then wreak vengeance upon you. I defy anyone to produce any piece of evidence this is true. I am depressed that these thoughts are circulating. It impugns my integrity."

Miller states that his policy is no different from that of several other professors, and asserts that he is being "scape-goated."

Pointing out that no student has passed in his Civil Procedure class

this year, Miller wondered, "Why don't they presume me innocent until proven guilty? This is an unfortunate hostility, a debate over issues having nothing to do with education."

"I am here to teach. I have always believed that it's a collaborative venture. Students learn more from each other in class than they learn from me. They have a responsibility to contribute to each other. I would have hoped the students would understand how oral a profession this is that they are getting into."

"They should look to themselves. What kind of psychosis are they generating for themselves?"

Great Moments in the Law

Lonely Hearts

Raymond Plank, chairman and chief executive of Apache Corp., an oil and gas company, agrees. "It's lonely being a CEO," he says. "One of the nice things is being able to talk to other CEOs."

— response to suggestion by William Baxter, chief of the Justice Department's antitrust division, that chief executive officers be prohibited from speaking with one another unless the conversation is taped, *The Wall Street Journal*, Feb. 25, 1983, p. 29.

Female Graduates Discuss Practice

(Continued from Page 2)

major question seemed to be when it was best to become pregnant. The overwhelming response from the lawyers, said Woodward, was "in law school." Barring that option, the consensus was "not right after one begins working," but also "not too close to the time one hopes to be evaluated for partner."

The emphasis of the series on

women involved in corporate law was a deliberate one, according to organizers Woodward and Louise Epstein, 1L. Since Epstein and Woodward felt WLA programs tended to emphasize non-corporate law options, they requested the opportunity to organize a luncheon series that would draw primarily on HLS alumnae practicing in the private sector. The WLA sent letters

to 69 alumnae in the Boston area, asking if they would be interested in talking with current HLS students. According to Epstein, the response was "extremely enthusiastic." One half of the lawyers responded positively, and five luncheon panels were scheduled from February 7 to March 11.

Woodward feels that the lunch series "delivered what it promised to deliver." However, she noted her disappointment that only 10-20 students attended each session. According to Woodward, students seemed either to strongly oppose hearing about corporate law or to want to avoid thinking about any outside work until the last possible moment.

Barriers Remain

A number of the lawyers who attended the lunches commented that they would not have come to a lunch of this sort while they were HLS students because they had not believed that women would face any "special problems" in law firms. Their experiences, however, have shown them that women still face certain barriers in law firms, and that current students could benefit from the insights gained by women in law practice. Woodward expressed the hope that a similar lunch series next year would serve to expose more women to these insights.

Munch-Time

New Cafe at Harvard Bio Labs

16 Divinity Ave., Rm. 154

Hours: 8:30 a.m.-2:00 p.m.

GREAT PRICES

Salad Bar

Lunch

Sandwiches

Breakfast

Pastries

Snacks

Best eating place within 2 minute walk from law school.
Operated by the **Savenor's**: Joe, Linda & Marc.

Story ideas? If there is something you think the *RECORD* should cover, contact Andrea Hartman, 2L.

Next RECORDS: April 1, April 15, April 22

Address changes for Alumni subscribers (all subscribers with computer-printed address labels) should be sent directly to the Harvard Law School Association, Cambridge, MA 02138. Prompt notification will save the *RECORD* the postage which is charged for returning incorrectly addressed issues. Thank you.

SECOND CLASS POSTAGE
PAID AT BOSTON, MA

RETURN ADDRESS:
HARVARD LAW RECORD
(ISSN 0017-8101)
HARVARD LAW SCHOOL
CAMBRIDGE, MA 02138-9984

東宝

**ORIENTAL
TOURS & TRAVEL**

Low cost airfares
JAPAN FAR EAST

anywhere in the world



China Tour
Specialists

Harvard Square
57 JOHN F. KENNEDY ST.
CAMBRIDGE, MASS. 02138
491-5000