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Review Ponders Selection Schemes

By Louis J. Hoffman

A recently reestablished committee of the *Harvard Law Review* will soon present to the membership several new plans for choosing editors. The *Review* membership will discuss the committee's recommendations at its meeting late this month and will vote on the alternatives in February. Any new plan is likely to be used to select next year's editors.

The committee, called the Selection Procedures Committee, has been considering changes in the *Review*'s membership criteria and in the timing of the writing competition. According to David Hayes, 3L, who chairs the committee, alternative selection methods under consideration include the use of the writing competition alone, the use of grades alone, the use of a weighted average of the two, and the use of a voluntary system. Currently, the *Review* chooses half of the editors on the basis of grades and the other half through the writing competition. The committee will not reexamine the *Review*'s affirmative action plan.

Hayes said that his committee will propose that the first round of the writing competition be moved from the second-year fall semester to the first weekend in April of the first year. Under the committee's plan, the second round would take place some time during the summer after the first year.

Problems, Problems

The *Review* reconstituted the committee at its meeting last October to propose ways to alleviate

many of the problems of the current selection system, as well as to respond to faculty and student criticism. Several proposals of the predecessor committee were rejected by the membership last spring.

Hayes explained that many members believe that the timing of the writing competition creates an unwarranted difference in status between editors selected by the two

methods, harms production by reducing the staff for the first two months of the school year, and generally results in less complete training for editors joining after the writing competition. These problems arise because the current system requires grades editors and writing competition editors to begin work at different times.

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Prof. Ferguson Dead At 59

A memorial service for Prof. C. Clyde Ferguson will be held at 2:00 P.M. on Thursday, Jan. 19 at Memorial Church.

Ferguson died of a heart attack on Dec. 21, 1983. He was 59.

A professor at the Law School since 1977, Ferguson most recently taught International Human Rights, Civil Procedure, and

Law and the New International Economic Order. He also served as a visiting professor at HLS from 1975 to 1977.

Dean James Vorenberg, a classmate of Ferguson's at the Law School, said of him: "Clyde Ferguson's contributions to the University, the country and the international community were enormous. His clarity of vision and his compassion made him a powerful fighter for human rights and an outstanding teacher."

'Founding Father'

Ferguson's contributions to the law included being a "founding father" of the concept of affirmative action and serving as a principal draftsman of the 1967 UNESCO Statement on Race. In addition, he negotiated the "Protocol on Relief to Nigerian Civilian Victims of Civil War" between Nigeria and Biafra, for which he was decorated by several international organizations.



John Chapin

Prof. C. Clyde Ferguson

(Continued on Page 8)

1L Markets Men For All Seasons

By Lee Christie

Move over, Tom Selleck. The beefcake craze has arrived at HLS.

Bar Review — *The Men of Harvard Law School* is a picture pin-up calendar that's just the thing for anyone who dreams of brawny barristers-to-be. For \$6.50 at the Coop (or at the bookstore of your favorite area women's college) you get a

a Soviet emigré, see the RECORD, Sept. 16, 1983.)

Bagerdjian started working on the calendar in early fall, but as a newcomer to the campus, he found he lacked credibility in the eyes of 2Ls and 3Ls who were potential models. "At first no one wanted to do it," he says.

Then Bagerdjian began soliciting "nominations" from students at area

the calendar did not take the initial discussions very seriously. Even after the photographs had all been shot around the beginning of November, Daugherty says, "I don't think any of us really believed there would be a calendar."

Meanwhile, Bagerdjian was throwing parties to which he invited all the "nominators" he had met, urging them to "bring their friends."



Peter Lebold Cohen

Cover-boy 2L Jim Klenkar's eyes are blue; Bagerdjian's calendar is not.

perfectly useful calendar *plus* innocuous black-and-white photos of more than a dozen handsome young men who soon will have "Esq." after their name.

The entrepreneurial mastermind behind *Bar Review* is Haig Bagerdjian, 1L, who worked on a similar project during his undergraduate days at USC. (For more background on the devil-may-care Bagerdjian,

women's colleges — Wellesley, Wheaton, Smith, Mt. Holyoke, Pine Manor, Lesley, etc. — and greeted would-be models with the flattering news that they had been "recommended" by Ms. so-and-so from such-and-such college. Also, Bagerdjian admits, "I used the project for myself, in order to meet girls."

Dave "February" Daugherty, 2L, says most of the men who posed for

The parties provided an opportunity to review the picture proofs of the men who had been photographed, giving Bagerdjian direct feedback from his target market as to which models merited full-size photos, each of the twelve best to receive a month of his very own. The parties were also fun, admits Bagerdjian, although "sometimes the girls got drunk."

Behind Schedule

The finished calendar hit the newsstands on Dec. 7, more than two weeks behind schedule, but still came as something of a surprise to the models. "All of a sudden [Bagerdjian] had it all ready to go, and all of us had to sign this amazing waiver form," says Daugherty.

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Firm's Swimsuit Award Raises Eyebrows

By Lee Christie

Different reporters have been told apparently conflicting stories regarding an alleged incident of sexism at King & Spalding, one of Atlanta's premier law firms.

The Dec. 20 *Wall Street Journal* reported that women summer associates at King & Spalding were humiliated by a "bathing-suit competition" allegedly held during a firm outing last summer.

As a lead-in to a larger treatment of sex discrimination in big law firms, the *Journal* reported on page one that several King & Spalding lawyers, who initially wanted to stage a "wet T-shirt contest" during the outing, opted for the less racy bathing-suit event only after "cooler heads prevailed."

The signed article by James B. Stewart (HLS '76, former executive editor of *The American Lawyer*, and author of *The Partners*) also reported (and the RECORD has confirmed) that the Harvard 3L who was awarded first prize has accepted an offer to join King & Spalding as an associate after she graduates.

But the *Journal's* account of the outing was "inaccurate and misleading," according to the Harvard 3L herself, who requested that her name not be used in this article. She said that the "best bathing-suit" award was presented following a "lighthearted" dinner at a country lodge. The dinner, in turn, was the culmination of a weekend of river-rafting.

The bathing-suit award, according to the student who won it, was only one of several humorous awards, such as "most spectacular fall from a raft." The student stated flatly that "no 'contest' of any type was held, or even mentioned, at any time during the weekend."

The *Journal* cited "unnamed participants" in the event who said they felt "humiliated" but raised no objections because they were concerned about getting permanent job offers from the firm. Stewart did not speak to the Harvard 3L, who says she never returned Stewart's phone call: "My roommate took

the message. I had no idea what it might be about."

For his part, Stewart says he did speak to a number of people who were present at the outing, and also gave King & Spalding the opportunity to comment before the piece ran. "What I gleaned from talking to people who were there is that they certainly *were* observed in bathing-suits and they *were* compared to one another by King & Spalding lawyers," Stewart said.

Summer associates from Penn and Northwestern were upset by the bathing-suit "episode" and complained to their respective schools about it, according to the *Journal* article. Northwestern Law School asked King & Spalding "to reassure students that the firm wouldn't discriminate on the basis of sex," the *Journal* reported.

On Placement Agenda

Verna Bigger, 2L, a member of the Law School Placement Committee, discussed the bathing-suit incident with Placement Director June Thompson after another student directed Bigger's attention to the news story and suggested that the Placement Committee ought to address the matter. Thompson, who noted that King & Spalding has already filed the same non-discrimination pledge the Placement Office requires of *every* employer, said she expects the matter to appear on the agenda of a Placement Committee

meeting to be held later this month. The issue of sexism at King & Spalding is especially sensitive in light of the sex discrimination suit filed against the firm in 1979 by Elizabeth Hishon, a former King & Spalding associate, in which Hishon alleges that she was denied equal consideration for partnership in the firm because she is a woman.

Although the firm has since named two women partners, the lawsuit, as well as the broader issues it raises, are far from settled. Stewart's piece makes much of the so-called "Southern men's club" atmosphere at King & Spalding, and also makes the broader allegation that "collegiality," as much as competence, can be a prime partnership criterion, not just at King & Spalding but at other "old-boy" firms in the South and elsewhere.

King & Spalding has defended against Hishon's claim partly on the ground that the decision whether to become someone's professional partner is fundamentally different from other decisions respecting an "employer-employee" relationship. Thus, King & Spalding has argued, the process of law firm partnership decisions, as distinct from the hiring of associates, should lie entirely beyond the reach of laws that bar sex-based discrimination in "employment." The U.S. Supreme Court is expected to rule on this question later this year.

Munch-Time

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Faculty Praises Legal Profession Program

Faculty members listened to a report on the progress of the school's program on the legal profession during the final faculty meeting of the fall semester. One professor responded to the report by challenging the program's political orientation.

Explaining a memorandum distributed to faculty members, Prof. Philip Heymann, who heads the program, said that it has three major aims.

First, the program examines the process by which college graduates

are turned into lawyers. This objective, according to Heymann, involves explaining to students the function of an independent legal profession in society at large and examining the wide range of opportunities available to lawyers. Heymann said the program forces professors to examine the effect of what they teach on the legal profession.

The second objective of the program is to assess important legal relationships and their implications

for social reform. This includes a look at the costs of having lawyers participate in various situations as opposed to the social costs of not involving them.

Heymann said the third aim of the program is to foster a balanced discussion of the place of law in our culture.

Prof. Charles Fried said the program's success reflected favorably on the degree of support and flexibility demonstrated by the faculty involved.

The program's use of faculty/student research products in its courses is one of its most valuable aspects, said Kent Markus, president of the Law School Council.

Prof. Duncan Kennedy agreed that the program was successful but said he opposed the allocation of so large an amount of time and faculty resources to a politically non-neutral, "centrist" program. Kennedy said there should be parallel programs with leftist and rightist slants.

Heymann said that he invited professors from all political persuasions to involve themselves in the program.

In the only other related business at the meeting, the faculty agreed to establish a working group to consider the possibility of creating a faculty journal.

[R.P./M.I.]

1L Named Rhodes Scholar

By Louis J. Hoffman

A first-year law student, John Vlahoplus, is one of the 32 American recipients of the prestigious Rhodes scholarship. Beginning next fall, Vlahoplus, now the first member of the class of 1988, will spend two years in England, studying Philosophy, Politics, and Economics at Oxford.

Vlahoplus is a native of Columbia, South Carolina and a graduate of Washington & Lee University in Lexington, Va. The scholarship's extracurricular criterion was satisfied by his four-year membership on the fencing team.

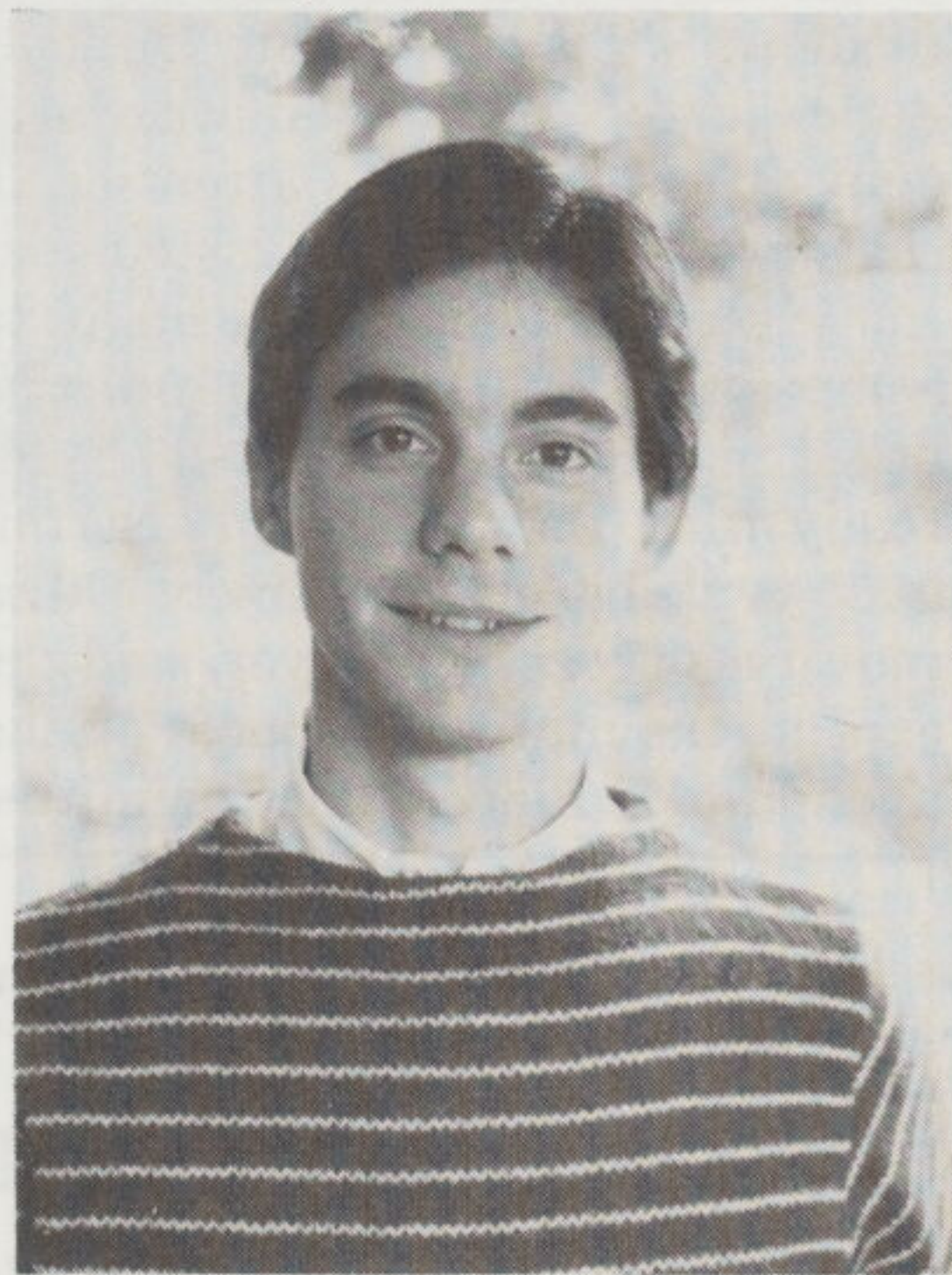
While many law students have participated in the Rhodes program, it is unusual for the scholarship to be won by a current HLS student.

Vlahoplus says that he applied this year simply because he lost when he tried for the Rhodes last year. "I met several others who had applied once before," he stated, although he admitted that it is unusual to interrupt a law school education to begin the scholarship program.

Although Vlahoplus was an economics major, he wanted to read law at Oxford. He eventually decided not to do the law program because of the likelihood that he would have had to retake several of the core courses. Apparently, it is not clear that Oxford will recognize HLS credits.

Vlahoplus hopes to study international trade policy. "Oxford will

allow me to continue studying economics, this time from a different perspective," he said. "I hope to examine the Common Market and the way it operates; it's a good example of an innovative system of international trade." Vlahoplus may also travel to the Soviet Union on a two-week study tour.



Peter Lebold Cohen

John Vlahoplus: not engaged.

The award was the culmination of a long and complicated application process for the busy 1L. Vlahoplus was required to spend nearly a week in December doing state, then regional, interviews. Of his week-long absence, Vlahoplus commented, "My friends thought I was dead, engaged to be married, or just at the library."

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Faculty Discusses Teaching Schedule

By Louis J. Hoffman

The Law School faculty discussed a grab bag of issues regarding the school's teaching program at a sparsely attended meeting last Wednesday. Although no votes were taken, many faculty members expressed concerns about the allocation of teaching resources between the first year and the subsequent two.

Associate Dean Frank Michelman reported that, next year, every first-year student will participate in at least one small-section course, with no more than 45 students. The school is committed to the idea even though it increases the number of teachers required in each semester from nine to between 15 and 18 and even though it requires adjusting the order or timing of the traditional 1L program in some sections, he said.

Associate Dean Lance Liebman stated that the administration was concerned with the developing problem of too-tight space in the winter term next year. Many professors find winter-term teaching incompatible with first-year courses in either semester. Further, next year more professors will have first-year teaching assignments because of the small sections, Liebman said. He added that the Appointments Committee was exploring the pos-

sibility of hiring additional visiting professors, but that because of the only gradual expansion of the size of the faculty, the problem may become more serious in the future.

A group of professors expressed doubts about the concentration of

additional teaching resources in the first year. Although Liebman and Prof. Henry Steiner stated that first-year students generally support the small-section format, Profs. Chris-

(Continued on Page 14)

Byte-ing Off More Than We Can Chew

It's 1984, and there's gonna be some changes made.

Much to the chagrin of those of us to whom "white-out" seemed a radical invention, computerization has arrived at the RECORD.

Staff members who felt kinship with the clanking, antique typewriters inherited from the Nader era can no longer look to the RECORD offices as a haven free from "display-writer terminals" and the like, for two of the purring beasts now crouch (and growl, some say) right here in our very midst.

Maybe by the end of the school year most of us will have gotten used to the damned things, but for the time being, this business of sending the printers a "floppy disk" instead of the customary tangle of marked-up copy seems downright revolutionary, and a little sad. Fenno, who lost his "cursor" while looking for his "filename," is

threatening to "fix" all of the new equipment — with a hammer. If Fenno can be restrained, this new stuff may save us some time and money, in the long run.

In step with the dawning of a new age, the RECORD has also elected a new masthead crew, who face the unenviable task of getting the bugs worked out before the next issue is due. Luckily, the Editor in Chief-elect is sort of a hi-tech kind of guy: congratulations and best wishes to Mike Isbell, 2L. Backing him up as Managing Editors will be Burlette Carter, 2L, and Miguel Rodriguez, 1L.

Seasoned veteran Mike Malamut, 2L, moves into the News Editor slot, while Ernie Cicconi, 3L, stays on as Sports Editor. Risé Peters, 1L, is the new Photo Editor, while Steve Cowan, 2L, steps into the Business Manager position just in time to start writing checks to computer repairmen.

Cowan will do double-duty as one of the newspaper's Senior Editors, serving alongside 3Ls Lee Christie, Adam Eisgrau, and Meg Pickering.

A reluctant Fenno has agreed to stay on, too, on the condition that we promise never to replace him with a machine.

— L.C.



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This graphic from our new computer manual acquaints staffers with technical jargon.

Sports Answers

1. Super Bowl VII, 1973; Jake Scott
2. Super Bowl XIII, 1979; John Stallworth
3. Super Bowl V, 1971; Earl Morrall
4. Super Bowl I, 1967; Elijah Pitts
5. Super Bowl VI, 1972; Garo Yepremian

Law School To Fund Public Interest Work

By Burlette Carter

A pilot loan program is now in place to offer financial assistance to students who assume full-time, low-paying, law-related summer jobs. The program, which allows a student to borrow up to \$2,500 to supplement minimal compensation for summer work, also contains a "forgiveness provision" by which a student who assumes a similar low-income job after graduation could have up to the entire amount of the loan forgiven.

First- and second-year students who desire to engage in work covered by the program and who can demonstrate a need for assistance are eligible. The language adopted by the faculty in its Nov. 30 vote defines qualifying employment as "full-time, law related work, compensation for which fails to cover reasonable summer living expenses." According to an announcement issued by Dean James Vorenberg, the needs test for applicants is more flexible than that used for financial aid during the year.

All students who have received financial aid awards from the school or students who have borrowed in excess of \$1,000 in the 1983-84 year to meet a standard budget are automatically eligible for the program. Students who do not qualify under the preceding criteria may be certified on the basis of a brief statement of their financial circumstances, provided on a one page form.

Interest Free

All loans issued will be interest free until six months after graduation, at which time interest will begin to accrue at the current rate for guaranteed student loans. However, the dean's announcement also stated that repayment of the loans "will be forgiven at a rate of 1/3 of the loan for each of the first three years after graduation if the student's income during that period falls within the income limits of the Low Income Protection Plan."

Although several other groups and individuals had made similar

proposals in years past, this particular proposal originated in the Law School Council. Council President Kent Markus, 3L says he got the idea of an assistance program in the spring of 1983 after coming across an old letter which Prof. Abram Chayes had written to the Michelman Committee. (The Michelman Committee was a special committee set up to investigate ways in which legal education at Harvard could be improved. Its final report was issued in May 1982.)

Discussing the earlier Chayes proposal, LSC members hit upon the idea of a program to ease the financial burdens of those who voluntarily chose to pursue public interest jobs during the summer. The LSC saw the program as one which could allow students to consider various public interest career options, an opportunity which might otherwise be unavailable as a practical matter because of the financial burdens such low-paying jobs would impose. Markus stressed that the program was intended to supplement available aid such as Student Funded Fellowships and work study and, in some cases, provide aid to students not accepted for such other assistance.

Summer Strategy

Originally, the LSC presented its proposal as a grant program in one of its regular meetings with Vorenberg. In a discussion of the costs of a grant program, the idea of a loan forgiveness program was brought up. Meetings with other administrators and faculty members followed.

By the summer, it was established that some sort of program was desired, but the particulars of the program were yet to be sorted out. Vorenberg assigned the proposal to the Financial Aid Committee, chaired by Professor Vern Countryman, and the committee began work on the proposal during the summer.

Returning in the fall, Markus and other students became concerned that the proposal was beginning to

take a shape different from that initially conceived by the LSC. Markus brought the proposal to the attention of the Public Interest Placement Advisory Committee.

Subsequently, the Financial Aid Committee issued a draft proposal which was strictly a loan program with no forgiveness provision. Markus and Advisory Committee member Bob Jones, 3L, decided to draft an alternative proposal to that produced by the Financial Aid Committee, including a forgiveness provision along with other minor changes. Markus and Jones circulated a draft of the alternative proposal to members of the Advisory Committee and the LSC as well as other interested individuals, soliciting comments on the plan. After receiving such comments, they re-drafted the proposal and submitted it to the Financial Aid Committee on behalf of both the LSC and the Advisory Committee. They also asked that they be allowed to attend the next Financial Aid Committee meeting where the proposal would be discussed.

The day before that Financial Aid Committee meeting, Markus, Jones and Alex Feldvebel, chairperson of the Advisory Committee, met with Vice Dean David Smith and Assistant Dean Russell Simpson. The group went through the alternative proposal and the Financial Aid Committee's proposal item by item, discussing the differences in approach. Commenting on that meeting, Jones said that it became clear

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Loan Program To Augment Low-Pay Jobs

that the two groups were more in agreement than either had previously thought.

However, the big issue of loan forgiveness was clearly one item which separated the drafters on the two proposals. That difference in opinion became even more clear at the Financial Aid Committee meeting the next day. One issue raised by committee members was whether the Financial Aid Committee had jurisdiction to consider a loan forgiveness provision. Says Jones, "When we left that meeting, we were pretty pessimistic about the chances of the Financial Aid Committee reporting favorably on a loan forgiveness provision. Yet we thought the provision crucial because students would be less likely to pursue a public interest summer alternative if it only meant more debts."

Having faced opposition from a majority of the Financial Aid Committee, Markus, Jones and Feld-

vebel decided to make efforts to convince others of the worth of a forgiveness provision. In a meeting with Dean Vorenberg, Vice Dean David Smith and Assistant Dean Russell Simpson just before Thanksgiving holidays, they sought the dean's open support of loan forgiveness. They also sought to have the proposal moved out of the Financial Aid Committee if loan forgiveness was indeed not within that committee's jurisdiction.

According to Jones and Markus, Vorenberg instead agreed to make it clear to the committee that they could indeed include a loan forgiveness provision if they thought it worthwhile. However, the dean made no commitment then to speak in favor of a loan forgiveness provision. He did, however, allow the students to submit a written statement of support of such a provision at the next faculty meeting, the first Wednesday after Thanksgiving vacation.

program without the forgiveness provision. However, after the report, Vorenberg stated not only his support for the proposal as reported, but also his support for a forgiveness provision. The dean's support embraced the same particulars put forth by the students in their alternative. The dean's statement was followed by an endorsement by Chayes.

Almost no discussion of the forgiveness issue followed. Instead, the "debate" focused on whether the Law School could or should define what kinds of jobs were in the public interest by restricting qualifying employment to work with non-profit or governmental organizations. An amendment by Prof. David Rosenberg was adopted, the result of which was to broaden the definition of the kinds of jobs which could qualify a student for assistance under the program.

Regarding the broader definition of qualifying employment, Markus said that as long as work for non-profit public interest organizations was included in the definition he was not bothered by the fact that other jobs might also qualify. In fact, Markus said that he was "relieved" that the definition was the subject of debate and not the forgiveness provision. Similarly, Jones said he was relieved at the turn of events. "We [Markus, Jones and Feldvebel] were sitting across the room from each other so we couldn't say anything during the meeting. But we were surprised and happy."

Student Support Essential

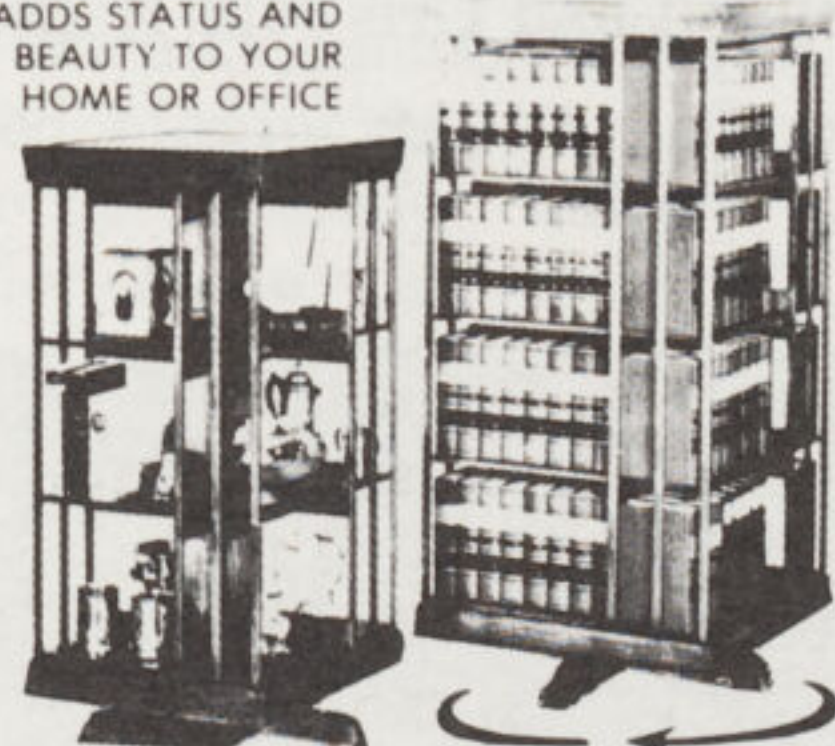
Following faculty adoption of the plan, Chayes addressed the faculty saying that the proposal would never have been adopted without the help of students.

But Markus and Jones insisted that the faculty deserved a great deal of credit. Markus called Professors Heymann and Chayes "strong supporters throughout," and he also praised Vice Dean David Smith who he said was a "mediator

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Only Two Days

Upon returning to classes, students had only two days to lobby faculty members for the provision. Although the Financial Aid Committee clearly had jurisdiction to report such a provision, it declined in the end to do so. In the two days preceding the faculty meeting students not previously actively involved joined Markus, Jones and Feldvebel in an effort to gather support for loan forgiveness. Students made personal visits to faculty members. Faculty members who supported the provision urged their colleagues to do so as well. Student Funded Fellowships issued a letter of support for the provision and ABLE issued a statement urging faculty members to support forgiveness. The LSC also issued a statement urging support.

But the big showdown over forgiveness which students expected to occur at that faculty meeting didn't occur at all. What did occur was, as Jones put it, "a very pleasant surprise." The Financial Aid Committee did indeed report the loan

Clarity, Compassion Mark Years of Service

(Continued from Page 1)

Ferguson served as United States Representative on the Economic and Social Council of the United Nations from 1973 to 1975. Before that, he

American Society of International Law from 1978 to 1980.

Born Nov. 4, 1924 in Wilmington, North Carolina, Ferguson served in the U.S. Army from 1942 to 1946, earning the Bronze Star. He re-

ceived a bachelor of arts degree cum laude with high distinction from Ohio State University in 1948 and graduated cum laude from Harvard Law School in 1951. While at the Law School, he served as president of the Harvard Legal Aid Bureau.

Special Exhibit

Ferguson is survived by his mother, Georgeva Ferguson of Baltimore, Maryland; two sisters — Velma Ferguson, currently in Korea, and Vernice Ferguson of Washington, D.C.; three daughters — Clair Ferguson of Colorado Springs, Colorado, Eve Ferguson of Washington, D.C., and Hope Ferguson of Brooklyn, New York.

A special commemorative exhibition of Ferguson's career is currently on display at the Law School. The exhibition is contained in five display cases in Langdell: One is behind the reception area on the main floor. The other four are located at the entrances to the second- and third-floor bridges between Langdell and Griswold Halls.



Courtesy of Harvard Law Library Art Collection

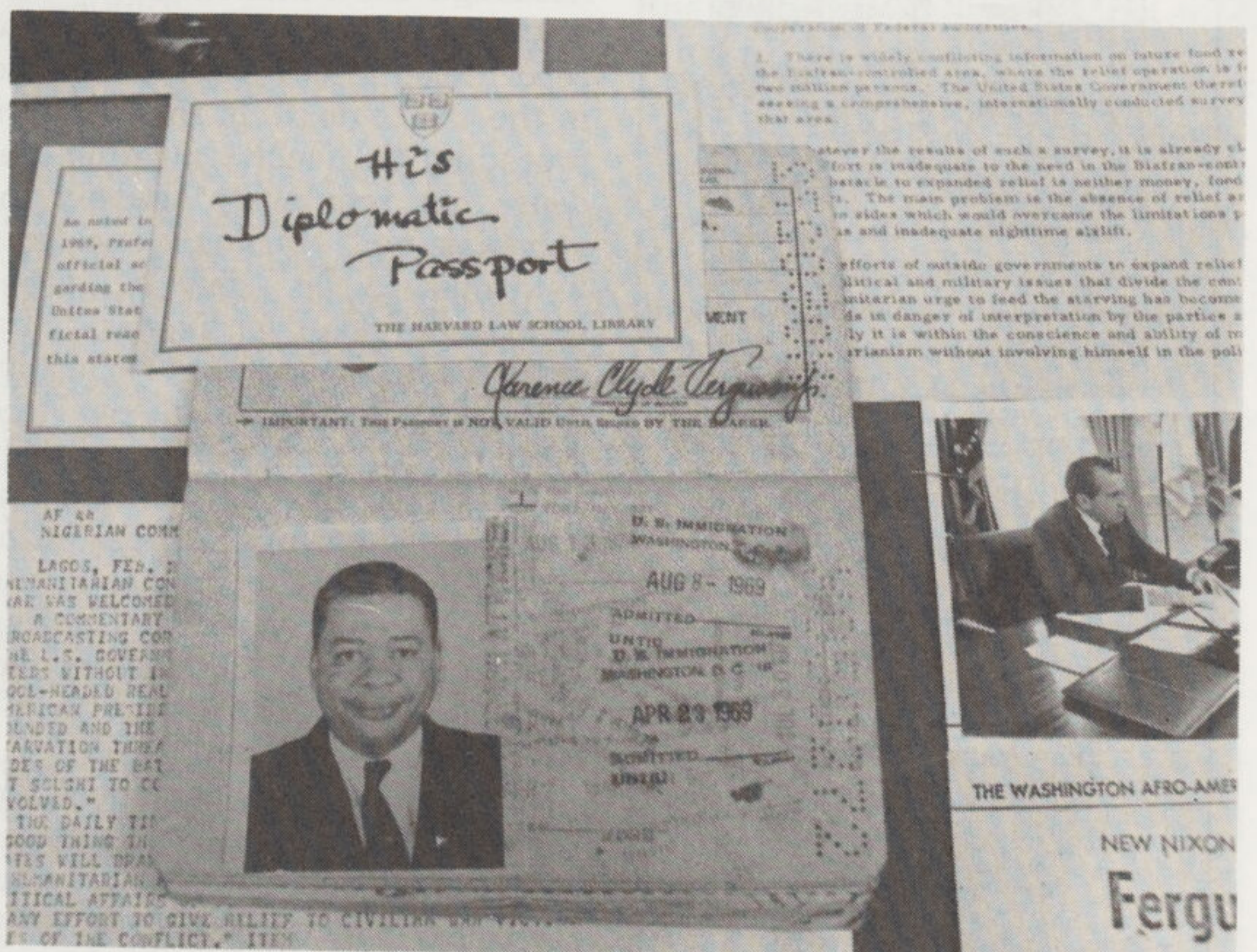
No stranger to the White House, . . .

was Deputy Assistant Secretary of State for African Affairs (1972-73), United States Ambassador to Uganda (1970-72), Ambassador at Large (1969-70) and Special Coordinator for relief to the civilian victims of the Nigerian Civil War (1969).

Former Howard Dean

Ferguson's contributions to legal education were not limited to those he made at Harvard. He also served as Dean of Howard Law School, was a member of the Rutgers Law School Faculty, and lectured at several other institutions.

Ferguson was a member of the Massachusetts, New Jersey and New York Bars and practiced in Massachusetts and New York where he served as an Assistant United States Attorney and in other official positions. He presided over the



Courtesy of Harvard Law Library Art Collection

Ferguson served the nation in many diplomatic posts

Earlier Writing Comp Contemplated

(Continued from Page 1)

Various students and faculty members have criticized the current writing competition for interrupting classes; conflicting with the Trial Advocacy Workshop, an intensive three-week course in trial practice conducted by the clinical program; interfering with the production of other student journals; and disrupting students' plans for second-year activities.

Criticism of the selection method has also been widespread. The faculty Ad Hoc Committee on Law Review Selection has considered alternative plans. According to chairman Prof. Richard Stewart, the committee advocates a version of the weighted selection system, with an option to join the *Review* by writing a publishable note. Stewart said that the change in the date of the writing competition would provide an easy way to implement his committee's plan.

Individual students and professors have proposed alternatives ranging from a volunteer journal to an entirely grades-based system. Some faculty members have advocated eliminating the editorial control of students. Others have questioned the wisdom of restricting the training the *Review* provides to a small subset of students who arguably need it the least.

Stewart said that the faculty committee's proposal was designed to accommodate a range of faculty

views on the issue. Some faculty members, including some who have participated in grading the writing competition, have been concerned that the competition may not select the most qualified students. Others are concerned that the somewhat arbitrary "certification" by the school puts unnecessary pressure and anxiety on first-year students.

The New Deal

Hayes stated that the Selection Procedures Committee chose to suggest holding the first round of the writing competition during the first weekend after Spring Break to prevent conflicts of any sort. It would take place entirely over a weekend, conflicting with no classes. It would begin several weeks after the Ames moot court competition ends. It would end more than six weeks before final exams begin. It would conflict with no Jewish holidays.

The committee is considering three alternatives for the timing of the second round, Hayes said. Two of these contemplate beginning the second round shortly after the last final exam. Editors would begin *Review* work in August. These two options differ in the length of the round; one would last a week, while the other would continue for three weeks. The third alternative would delay the start of the second round until just before classes resumed in September. Editors would begin just

after classes start. Under all three plans, candidates probably would not be required to be in Cambridge to participate in the competition.

Although both grades editors and writing competition editors would join the staff at the same time, grades editors might be required to participate in the writing competition anyway. The Review's committee has not decided whether to support or oppose that requirement, assuming that the selection plan includes some editors chosen solely on the basis of their grades. Stewart stated that the faculty committee favored requiring students who had already qualified on grades to participate in the writing competition anyway. "The effort will require them to show enough interest in being a *Review* member," he noted.

Further, the *Review* might structure the selection process to prevent individual editors from knowing by which criterion they were selected. The Selection Procedures Committee has not determined its position on this question as well.

What Do You Think?

Hayes added that the committee is actively seeking opinions from students and faculty members about the relative merits of the various options. The *Review* has yet to decide whether or not to conduct a systematic survey of student opinion.

the HILLEL DELI

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Clyde Ferguson, 1924–1983

Fenno

The appearance on Law School bulletin boards of the dean's first, cryptic notice of Prof. Clyde Ferguson's death crowded exam-anxieties out of our minds and knocked them down a notch, closer to where they belong.

Ferguson, who was 59, died at the age when a diplomat and scholar is at the height of his influence. Ferguson's commitment to human rights and a just international order made him a source of pride for the law faculty and, for all who talk of compassion, a fit model of *applied* compassion.

Ferguson's sudden death means more than just a personal loss for those who knew him; it presents the Law School with the challenge of maintaining its reputation as a center of excellence in international legal scholarship. Ferguson's death, following the death in 1980 of Richard Baxter (former judge at the International Court of Justice), the departure in 1981 of Louis Sohn (author of the Law of the Sea treaty), and the decision by Roger Fisher to specialize in negotiation techniques, have all left important gaps for the Law School to fill. Perhaps more than any other current faculty member, Ferguson symbolized experience and authority in public international law.

There is, of course, another, more important sense in which Ferguson was a symbol — at the time of his death, Ferguson was the only black holding tenure in an historically lily-white faculty. His contributions to the idea of affirmative action, and to social justice generally, extended well beyond Harvard during Ferguson's life; we hope the force of his example, especially here at the Law School, will continue after his death.

A 3L who had Ferguson for Civil Procedure said he was "rare among people of political passion because, along with the passion, he had more. The man had great intellectual integrity, and had very little patience with anyone who didn't." All who benefited from Clyde Ferguson's teaching, as well as those who admired his life and work, are saddened by his death. We will miss him.

HARVARD LAW RECORD

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"Happy New Year," Fenno's mother said. "Time to get up."

"What time is it?" Fenno mumbled, opening one eye and looking pained.

"I'll give you a hint. The next meal is dinner."

"I'll have just coffee, thank you."

"What did you say?"

"Just coffee. And aspirin for my head."

"Room service ended yesterday, buster. I knew you wouldn't get around to making New Year's resolutions, so I made some for you. One resolution is no more meals in bed. Your mattress looks like the crumb tray of a toaster. Now get out of there and strip the sheets."

"Aw, Mom, I need my rest. I go to Harvard Law School, you know."

"I know. I also know you get enough rest sleeping through most of your classes. Are you finally going to graduate this year?"

"That's a tough question," said Fenno. "Let me sleep on it."

"How are you going to get anywhere in life if you never get out of bed? 'Sleeping your way to the top' is only a figurative expression. Classes start in a few days and I've resolved for you that you get to school early, raring to go."

"Nice try, son, but I called the law school — unlike last year — and found out when the semester really begins. No extra vacation for you. Start packing."

"How can I pack with a raging hangover?"

"If I bring you coffee this one last time will you get out of bed afterwards?"

"Yes. Bring aspirin too."

"Will you strip the sheets?"

"Yes. Can I have my coffee now?"

"Will you pack all by yourself?"

"Yes. Two sugars please."

"Will you get back to school early?"

"Yes. Don't forget the cream."

"Will you go to class?"

"Yes. Please bring me coffee," Fenno said, clutching his forehead.

He felt like Esau, on the brink of starvation, selling his birthright to Jacob for a pottage of lentils.

"At least she didn't make me promise to pay attention in class," Fenno thought. He closed his eyes — and fell into a hellish nightmare: he was a 1L again.

His Contracts professor was beating him with a Black's Law Dictionary in front of the class. "You're too stupid to be a paralegal!" the professor was yelling. "You'll never be able to apply anything I teach!"

Fenno bolted upright in bed. "My G-d! Did I really promise to go to class?"

A thought seeped through Fenno's agitated brain: "Contracts made under duress are void." He lay back down with relief and awaited his coffee. "Esau," he murmured, "ya shoulda gone ta law school."



Letters to the Editor of the Record

Caught With Our Pants Down

To the Editor:

The December 2 issue of the RECORD, which arrived here yesterday, has on page 13 a letter from a "Cal LePygian, '69" relating to Prof. Tribe's fee application.

According to the HLS *Alumni Directory*, no one by that name has graduated from HLS. A clue to the true origin of the letter lies in a definition of "callipygian," "having shapely buttocks." editors is "gudgeon," which means "a person easily duped . . ."

**Carl Oppedahl, '81
New York, New York**

Every year we receive a few of these letters, but it looks like this one got past us. We do have hope, though, that gullibility is not a permanent condition of RECORD editors — Mr. Oppedahl is a former editor of the RECORD — Eds.

Aiding Subversion

To the Editor:

I am a graduate of the Class of 1952 of the Law School.

I receive the RECORD. I do not know whether it is intentional, but the effect on me of receiving the RECORD this year is to confirm a resolve not to contribute to the education of the students of the Law School by any further contributions to the Harvard Law School Alumni Fund. I suspect that

resolve will remain until such time as the scholastic and political complexion of the student body changes. The Nov. 4, 1983 edition is particularly illustrative and also instructive as to the reasons for my resolve.

It is too much to absorb stories of a professor bitching about receiving attorney's fees of \$322,441.00 in a *pro bono publico* case, claiming that his services are worth \$275.00 per hour, plus a 50% "multiplier"; students protesting the rescue of Americans in Grenada; condemnation of the President of the United States by a Georgia state senator; a head-line blaring of American "hypocrisy"; law school professors questioning the "legality, morality, advisability" of the Grenada rescue; more condemnation from professors on the basis of international law; an academic exercise supportive not of victims of crime but of the accused by third-year law students; and similar tripe.

It is possible that the RECORD coverage is distorted with respect to student activities and attitudes. I hope so. However, I have no similar means of forming a judgment on that aspect, and, since I work fairly hard for my income, I resent contributing to the subsidization of legal education for persons with attitudes which are not only antithetical to mine, but subversive of the principles and future of my country.

Incidentally, you might ask Professor Tribe whether he thinks legal charges of \$275.00 per hour have an effect in causing the socialization of the practice of law in the United States. It would be a delicious irony if Tribe's attempt to gouge the public with the evident implication that lawyers should be charging the likes of \$275.00 per hour resulted in the nationalization of the profession at just about the time you folks are hitting your stride in earning power.

**Quentin L. Kopp, '52
San Francisco, Calif.**

Here's The Facts

To the Editor:

This letter is in response to those who were left confused by the denouncement of Reagan's invasion of Grenada. One can glean from their letters that part of their confused analysis results from either confusion about or ignorance of some basic facts.

First, the Cubans did not depose and assassinate the Socialist Prime Minister of Grenada. The American media, as well as the Pentagon, report that Prime Minister Maurice Bishop was assassinated by fellow Grenadians. It is also common knowledge that Cuba, on several occasions, has criticized Bernard Coard and General Hudson Austin (both Grenadians) for the assassination. Moreover, Cuba broke diplomatic relations

with Grenada in response to Bishop's murder. Some reports even suggested that the Reagan administration, troubled over the close personal relationship between Cuba's Castro and Grenada's Bishop, was the real instigator of the murder. They also point to the 1981 U.S. Caribbean military maneuver (Operation Ocean Venture), which was the prototype of the actual Grenadian invasion, and the Secretary of State's refusal to meet with Bishop during his peace-seeking visit to Washington this past June.

Second, it is also factually incorrect to suggest that Grenada was a Soviet-Cuban colony being readied to militarily export Socialism. Secret Grenadian documents, which were captured by American troops, show that the Cubans planned to station 27 permanent and 23 temporary military advisors in Grenada. The other 740-odd Cubans on the island at the time of the invasion were construction workers building an airstrip which the British contractor asserts could not possibly be used as a military installation. The captured documents also indicate that the small arms, artillery and equipment were insufficient to arm an invading army, even in the Caribbean. According to D.T. Matthews of the Center for Defense Information, Grenada's weapons cache could only equip two infantry battalions of 2,000 soldiers and a citizen militia of 4,000.

Third, the events in Grenada should not be confused with the Iranian situation. At no point did Iran even suggest that Americans were safe there. However, one of General Austin's first acts (after Bishop's death) was to assure the Dean of St. George's Medical School, as well as the U.S. government, that the medical students were safe from Grenada's turmoil.

Fourth, most reports, even those from the "rescued" medical students, state that the Grenadian people were quite happy with their Socialist government. Grenadians did not request the invasion and most fought against it.

The confused, to whom I write, not only failed to grasp most of these facts, but the facts they were able to grasp, they were unable to analyze. They each chose, in some way, to argue that America's invasion made good sense because it was consistent with their perception of America as the protector of Democracy and Human Rights.

Yet, is America really the protector of Democracy? Did it protect Democracy in Chile in 1973, when that nation's military assassinated their democratically elected President? The military not only murdered President Allende, a Socialist, but they also slaughtered hundreds of civilians (some American) and held hostage thousands more in a stadium. Yet, America did not invade to protect the previously existing Democracy, but instead

(Continued on Page 12)

Letters Policy

The RECORD's policy on letters is simple. We read all of them. We do not usually acknowledge receipt of them. We print many of them, subject only to editorial discretion. We encourage letters on any subject, and particularly concerning subjects that have been covered in the RECORD. Short letters are more likely to be printed. In no event will we print individual letters longer than 700 words.

Letters should be typed and must be received by 4:00 P.M. on the Tuesday before the issue. Letters should be addressed to the RECORD rather than to third parties. In no event will the RECORD publish letters by writers who have not identified themselves to the RECORD. Organizations should identify the specific individual(s) responsible for approving the letter.

Letters to the Editor of the Record

(Continued from Page 11)

aided and abetted the military's *coup d'etat*. Did America protect Democracy in Chile or something else?

Two confused writers even tried to analogize Grenada to Nazi Germany just before America's invasion during World War II. But no evidence suggests that Grenada even considered committing the atrocities which the Nazis conspicuously mastered and in which America temporarily acquiesced.

And what is America protecting in South Africa, where 80% of the population is prohibited from voting or even holding political meetings?

Does rational analysis suggest that the invasion of Grenada was an example of America's historic "protection" of Human Rights? What about the Human Rights of the people of Poland, the Philippines, Afghanistan, South Africa and El Salvador? In most of these nations, America has not intervened (even economically) to stop Human Rights violations or to restore Democracy.

What these examples really show (particularly Chile and South Africa) is America's lack of commitment to Democracy and Human Rights. The Grenadian invasion and most other post-World War II U.S. intervention shows an American commitment to promote a "macho" image of the President and/or to protect the capitalist interests of multinational corporations.

Surely, the American people have more humane concerns.

Donald Christopher Tyler, 3L

New Fan

To the Editor:

It is truly said that we are properly judged not only by the friends, but also by the enemies, we have made.

Secretary Weinberger has never inspired any particular enthusiasm in me for anything he has said or done to date. However, judging from those of his enemies who appeared at the Nov. 17, 1983, Harvard Law School Forum to heckle him, as reported in the Dec. 2 RECORD, I am becoming his enthusiastic supporter.

Whatever happened to the philosophical spirit of John Stuart Mill on campus, and to the honored maxim, "Freedom for the thought we hate?" We all might learn something from listening to such thought, for none of us is omniscient. Students least of all. Not to speak of common courtesy, which is an important thread in the fabric of a free society and which is becoming an ever more endangered species these days.

I hope no Harvard Law students were among the hecklers.

Stanley M. Cahn, '55
Chicago, Ill.

Is HLS Relevant?

To the Editor:

For years, I have assumed, or at least hoped, that the aberrations of students, so thoroughly documented in the RECORD, were oddities, the sort of thing journalists tend to write about in an otherwise dull environment.

But, the pompous telegram sent by the Law School faculty about our Grenada policy gives me pause. Perhaps, what I regarded as aberrations are the "mainstream" at the Law School. If so, is the Law School really relevant to American society?

Douglas F. Stevenson, '49
Chicago, Ill.

Get Over It

To the Editor:

If Mr. Berdeja contemplates filing a complaint (Peter Lebold Cohen's, "Student does Time in Langdell. . .", RECORD, Dec. 9, 1983, page 6), I suggest, from all that appears in Mr. Cohen's article, the proper defendant is God and not Harvard Law School.

With all due respect to the inconvenience and discomfort he suffered, I would hope that Mr. Berdeja, for his own peace of mind, develops a slightly more philosophical attitude toward such happenings. Life will be more bearable.

Robert S. Zollner, '51
Andover, Mass.

Working Profs

To the Editor:

While I think it impossible to quibble with the first Principle Relating to Outside Activities published in your Oct. 28 issue, I must take issue with the first part of the third.

The objectionable portion of Dean Vorenberg's third "working principle" is that faculty members should not be partners of law firms nor be held out as "of counsel." The obvious corollary is that they not have offices outside of the Law School. Although, the principle is cast in only hortatory fashion, it implies that HLS professors cannot serve two masters — if one of them is a law firm.

In Brazil, where I now reside, the finest professors are usually those who are first the most capable practitioners. Indeed, such professors tend to teach at night precisely because they are engaged in active practice during the day. Here, legal education can be characterized as a rigidly doctrinaire af-

fair. Were it not for their engagement in private practice, most professors would deprive their students of what small contact with the "real world" of the law they receive in law school.

In the States, we are blessed — or cursed, depending on one's point of view — with a system, albeit rough, of precedent. Our law courses are thus tied to caselaw, and the contact with actual circumstances that this brings. Nevertheless, I am not sure we would wish effectively to exclude from faculty positions practitioners who are partners or "of counsel" to law firms. Most students will, after all, become the very practitioners Dean Vorenberg's principles, if made into rule, would exclude. Why he would wish to restrict students' exposure to partner-professors, I do not understand. It seems as much a mystery as why he does not also exclude judges, associates, corporate in-house counsel, legal-services attorneys, public presidents, Supreme Court justices, secretaries of the Air Force, White House counsel, and the myriad other positions in which lawyers may be found — unless they are all banned under the rule of having offices outside HLS.

In short, everything that need be said, is set forth in the first principle and the last sentence of the third. The rest is absurdly specific, and smacks of a bill of attainder. Any good partner could tell the Dean that.

Kevin L. Mundie, '80
Rio de Janeiro, Brazil

The Real Fergy

To the Editor:

The sudden and premature death of Prof. C. Clyde Ferguson left me with a very hollow feeling. During the last year and a half he had continuously touched me with his pain and suffering. And he never knew it.

In the upcoming weeks the need for more tenured minority professors will become more evident as those, black and white, who feel the void left by the death of the only black tenured professor step up efforts (and legitimately so) to procure minority appointments beyond mere tokenism.

But in the political struggle for fair representation, I pray and I plead that it not be forgotten that we have not simply lost a "symbol" — we have lost a man, a good man who seldom received the appreciation he was due. Let us on both sides of the hiring debate look beyond only counting heads and see the hearts. It was not Fergy's "symbolic" position that made him special. It was Fergy the man who evoked compassion and distant emotion who will be missed.

Stephanie Y. Moore, 2L
HARVARD LAW RECORD

Letters to the Editor of the Record

It's Clear Now

To the Editor:

I don't know who invited Professors Duncan Kennedy and Morton Horwitz to join the Harvard Law School faculty. But if, as the RECORD for December 9 reports, they see their role to be "subverting the job," working within the space between "making people mad and getting fired" and creating "left culture" (whatever that is), then it isn't hard to understand why the Law School's recent history has been so troubled. May I suggest that they consider self-employment? Then, when they subvert the workplace the only nests they foul will be their own.

John F. Olson, '64
Washington, D.C.

Unconvincing

To the Editor:

As a former member and secretary of the Harvard Law School Forum I read with great interest the article on the program with Defense Secretary Caspar Weinberger. There are a number of policies of the Defense Secretary with which I disagree. Preparedness is not one of them. I must wonder why those so fervently opposed to defense policies are so afraid to hear, *and have others hear*, points of view different from their own. Could it be that their views cannot withstand the searching of studious debate?

One is reminded of the sage old attorney's advice to the younger attorney. "If the law is on your side, pound the law to the Judge, if the facts are on your side, pound the facts to the jury."

"But sir, what if neither the law nor the facts favor us?"

"Then by all means pound the table!" Those who did not permit the Defense Secretary to speak were obviously pounding the table. By their actions they will not convince anyone otherwise.

Anton W. Bigman, '54
Pittsburgh, Pa.

But Why?

To the Editor:

We note that Professor Kennedy approves of Marxism but finds the Russian version not quite to his taste. But why?

How do you motivate some two to three hundred million people to man the factories, till the soil and keep the streets broom clean except by a bit of compulsion? Or how better

to still the chatterings of dissidents than by a bit of refrigeration up in the tundra? Of course lawyers are superfluous except for a handful to serve as judges and prosecutors with a few more to plead 'em guilty. The workers' paradise can't afford the luxury of democracy for the first hundred years or more so that it befalls a self-sacrificing group, some 3,000 strong, to dedicate their lives to the management and control of the state, asking no reward other than a little better housing, a car or two and just a few of the barest privileges.

But how to get it started here? A constitutional amendment wouldn't carry due to the many who own their homes and even have a small kitty stashed away for a rainy day or future generations. Some even cherish the quaint notion that with a little effort they can better their lot or that their sons and daughters can, even sending them to law school for that very purpose!

Well the Russians have solved the problem by liquidating the Tsar and a few unnecessary citizens. But you wouldn't shoot a nice guy like R.R. Perhaps R.N. would be more palatable. But then. . . .

John W. Munro, '29
Fayetteville, N.Y.

Decision Humiliates

To the Editor:

The news story on the conflict between the date of the University Commencement and the Jewish holiday of Shavuot (RECORD, Nov. 18, 1983) raises the issue of whether Jewish religious law permits a Jewish student to participate in graduation exercises during the holiday. As chairman of the University-wide Jewish student committee that met last May with University Vice President and General Counsel Daniel Steiner to request the rescheduling of the upcoming Commencement, I wish to clarify the facts.

Rabbi Moshe Feinstein, whose name is mentioned in the RECORD's news story, is accepted by those who observe the Jewish religious law as the world's leading authority in that law. After considering the matter, Rabbi Feinstein issued a formal opinion stating that the religious law prohibits an observant Jew from participating in a university graduation ceremony during a Jewish holiday. According to that opinion, participation in a public secular activity such as Commencement during a religious holiday constitutes a serious violation of Jewish law.

To date, there is no authority on Jewish law, not even one with lesser credentials than those of Rabbi Feinstein, who has issued

a formal opinion permitting Commencement participation on Shavuot.

Some students do not participate in their Commencement because they have other affairs that they must attend. I, however, will be unable to participate in my Commencement simply because I am an observant Jew. I have come to the understanding that Harvard's upcoming Commencement is made to honor all graduating students, except for those who observe the holiday of Shavuot according to Jewish law. My exclusion from a Commencement which most of my classmates and their parents will attend will cause me deep humiliation. The public media coverage of the Commencement Day Speaker and of the Commencement activities will exacerbate my humiliation. Graduating students and their parents who share my religious beliefs will be similarly humiliated over their exclusion from Commencement.

This harm can be prevented by rescheduling Commencement so that it no longer coincides with Shavuot. Jewish students have repeatedly requested the University administration to do that rescheduling since the fall of 1982. The administration turned down all of those requests. Having refused to act for over a year, the administration should delay no longer, and take immediate action to reschedule the upcoming Commencement.

Jonathan O. Strauss, 3L

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RECORD

Feb. 10

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Profs Meet to Prepare Teaching Program

(Continued from Page 5)

topher Edley and Daniel Tarullo noted that it creates larger sections, more scheduling difficulties and fewer course options for second- and third-year students, about whom there is concern over motivational problems.

Prof. Lloyd Weinreb commented that it seemed that all of the innovations, including the small-section format and the "experimental section," were being concentrated on the first-year curriculum, and that the faculty should seriously deal with experimentation in the other years. Prof. David Herwitz felt that, when making appointments decisions, the faculty should consider the interests of candidates in relation to the school's needs.

Michelman also presented a report on the 1L "experimental section" being taught jointly by Michelman and Profs. Abram Chayes,

Morton Horwitz and Todd Rakoff. Michelman stated that the project was going well, but that he had expected more practice-oriented teaching to take place.

Michelman listed as a problem the lack of diversity among the four professors in values, pedagogy, and "demography," although he felt that the compatibility among the four was "necessary to get the project off the ground." Prof. Charles Fried, supported by Prof. David Kennedy, expressed his opposition to the continuation beyond the experimental period of a "rigorously homogenized and exclusionary" project.

Prof. Philip Heymann expressed doubt that anything was being done to spread the concept of faculty members working with each other beyond the single first-year experimental section. Michelman referred to the teaching materials that have been developed and are available for use by other teachers and stated that the "politics of this venture was largely to encourage such collaboration."

Liebman also asked what sorts of courses the Legal Education Committee should use as 1L spring

electives for the 1984-85 school year. Several professors, including Herwitz and David Westfall, expressed the desire for courses other than the "perspectives"-type ones that largely make up this spring's schedule. They cited the student interest in courses such as Tax and Corporations and the need to take some of these courses as prerequisites for more advanced courses. Herwitz noted that the faculty voted last year to steer away from a schedule composed entirely of "perspective" courses, but that the finalized schedule did not appear to reflect that vote.

Prof. Charles Donahue said that 1Ls should be guided away from the inclination to use their elective to take "courses they 'ought' to take."

Finally, Liebman reported that the expanded clinical program was proceeding quite well but that more faculty members were needed to support the increased numbers of credits and participants. The Clinical Education Committee will be reporting on several "major items" in the spring, he promised.



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Loan Program Encourages Alternative Career Choices

(Continued from Page 7)

between students and faculty" when things seemed to reach a deadlock. Jones commented, "We have to give Dean Vorenberg and Assistant Dean Simpson a lot of credit. There were a couple of times when we had reservations about whether we could get the proposal in place before the summer of '84. But they really made it happen. They pushed it through. They deserve a lot of credit."

Dean Vorenberg commented, "This is an example of the kind of cooperation that is possible between students and faculty, both in developing a program and adapting it to make it as effective as possible. As for the plan itself, the dean called it "very important and very prom-

ising." He said that he had been looking for more and more ways to give students the opportunity to use their summers to consider career alternatives so that "real choices," could be made. Said the dean, "It's a small start, but it is a start."

The key question now is how many students will apply for the program. According to Vice Dean Smith, about fifty persons have applied for assistance to date. He stressed that there is no deadline for applications so students could apply right up until spring.

Information regarding the application process is available at the Langdell reception desk, the Financial Aid Office, the Placement Office and the Office of the Dean.



Rat Race

By Pryma Fasha



Great Moments in the Law

Voltaire Vetoed

The occasion reminds me of something that my former boss, Learned Hand, said to me one day in his chambers. He said that he had been thinking about what heaven would be like, and it had a marvelous tone to it. A day in heaven was spent, he thought, in a series of events, polo games, football games, cocktail parties in which Hand outshone everyone else. In the polo game he scored 8 or 9 chukkers, or whatever it is that you score, in the football game he passed for four touchdowns and ran for three more. Lunch was brilliant: it was an affair of wit and elegance. The cocktail party preceding dinner had the driest martinis the other side of earth, and everything was marvelously to his satisfaction. Dinner came and if you thought the talk at lunch was good you ought to have heard the talk at dinner. Every wit in the history of man's intellect surpassed himself. It was a kind of crescendo of intelligence. All of a sudden, above the dinner, a voice was heard to call out: "Shut up, Voltaire. I want to hear what Hand is saying."

—remarks of Prof. Ronald Dworkin, Second Circuit Judicial Conference 1977, 74 F.R.D. 219, 250-251

Milking A Joke

["Churning" is unnecessary trading in a securities account in order to generate fees and commissions for the broker. Brokers who "churn" accounts get sued by their customers in cases like this one, in which Judge Goldberg captioned the sections of his opinion as follows:]

- I. The Ingredients of a Churning Case: Skimmed Versus Evaporated Milk
- II. Compensatory Damages: Crying Over Spilt Milk
- III. Punitive Damages for Soured Milk: The High Cost of Churning
- IV. The Court's Charge: A Tasty Dairy Recipe
- V. Refusal to Order Arbitration: Preserving the Homogenized Milk
- VI. Conclusion: Grade A Pasteurized and Homogenized

[The opinion concluded:]

The cows were still out to pasture as of the time Judge Mahon was called on to conduct the trial in this churning case. Despite the presence of numerous issues of first impression, Judge Mahon presented a fair and complete charge to the jury and steered the litigation along a proper path.

— *Miley v. Oppenheimer Co.*, 637 F.2d 318 (5th Cir. 1981).

Sports Quiz

Note: As the eighteenth Super Sunday draws near, you are asked to identify by number and year past Super Bowls which can be distinguished for a particular reason, and certain players who contributed to their unique outcomes.

1. While Washington's Mike Bass had the most memorable interception in the Super Bowl in which the fewest total points were scored, this player's two interceptions ensured the crowning triumph to a perfect season. Name this Super Bowl and the Dolphin safety who helped to keep Billy Kilmer and the Redskin offense out of the endzone.
2. In the Super Bowl in which the highest combined point total was recorded, Pittsburgh quarterback Terry Bradshaw connected with this wide receiver on two of his four touchdown passes. Name this Super Bowl and the Steeler who burned the Cowboy secondary with touchdown receptions of 28 and 75 yards.
3. The closest Super Bowl ever played featured a quarterback who came off the bench to replace Johnny Unitas and guide the Colts to the tying touchdown in the fourth quarter against the Cowboys. Name this Super Bowl and the veteran quarterback who was also the holder on Jim O'Brien's game-winning 32-yard field goal.
4. Although the previously unheralded Max McGee is the offensive star who comes to mind when reminiscing about the most lopsided game in Super Bowl history, this Green Bay running back also scored two touchdowns against the celebrated Kansas City defense. Name this Super Bowl and the Packer who took two Bart Starr hand-offs in for scores.
5. In only one Super Bowl did a team have the dubious distinction of not scoring a touchdown, as that team's lone score came on a 31-yard field goal. Name this Super Bowl and the Miami sidewinder whose second quarter kick through the uprights in Tulane Stadium accounted for the only points surrendered by the stingy Dallas defense.

(Answers on Page 5)

'Funny' Calendar Causes Commotion

(Continued from Page 2)

Bagerdjian says the publishing company insisted on a signed waiver-of-claims from each model whose photo was to be used, in order to ensure that Bagerdjian (who drafted the form by himself) had not obtained the pictures fraudulently or unlawfully.

"Of course, all of us started modifying and qualifying the terms on the waiver form," says Daugherty. "You know how law students are," quipped Jim Klenkar, 2L, whose icy baby-blues highlight the living-color cover of *Bar Review*.

Klenkar, whose cover-boy status makes him the most notorious of the models, is taking the whole thing in stride: "The first time I saw the finished product, I just cracked up. I've taken a lot of good-natured razzing from lots of my friends about it."

The calendar has attracted media attention in Boston from the *Herald* and from Channel 7 television news. Bagerdjian's project has also been featured in the *Wall Street Journal*. Perhaps most intriguing of all, Bagerdjian reports that "*Playgirl* contacted me and asked me if anyone would want to pose nude. I said that I didn't think so."

Pumping Irony

Ironically, perhaps, *Bar Review* has been displayed in the "Homophile" section (along with *Playgirl* and gay-oriented porn) at Out-of-Town News, the Harvard Square newsstand. Bagerdjian says he and the newsstand proprietor argued about this matter, after which *Bar Review* was moved out to the front of the store alongside *Gentlemen's Quarterly*. Apparently, however, it has since been moved back into the "Homophile" section.

Bagerdjian is not yet prepared to gauge the sales success of his product. "We barely made it in time for the Christmas market," he laments, adding hopefully that "the women's colleges are still in recess until the middle of January." In any event, a healthy 150 copies have been sold at the Law School Coop thus far. (Alumni can send orders to Bagerdjian at Box 950 Cambridge, MA 02238.)

Ultimately, however, Bagerdjian says the motivation behind *Bar Review* was not money-making: "It was the ridiculous attitude in the Boston area toward the 'typical' man of Harvard Law School—the idea that all of us are burned-out ivory-tower guys who study all the time. So, I thought, why not come up with a funny calendar?" Of course, for many of the men of HLS, it may be a long time before they grow accustomed to their funny new image.

IN MEMORIAM Clarence Clyde Ferguson

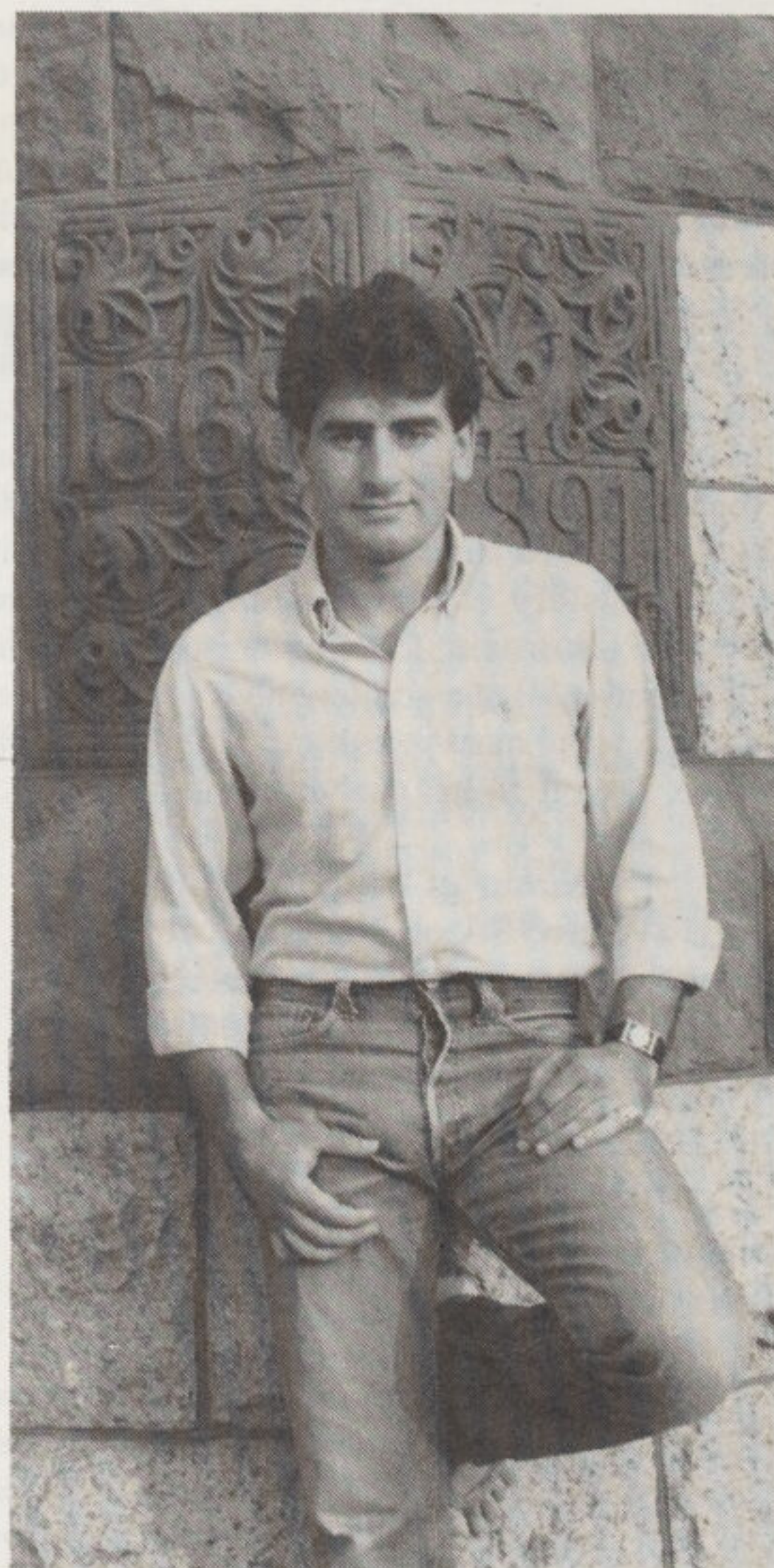
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