

HARVARD LAW RECORD

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25 CENTS

1Ls Urge Grade-Blind Law Review

By Beth Bergman

The *Harvard Law Review* is once again under fire, but this time its assailants are 60% of the first-year class. Members of the Class of 1986 are circulating the following petition: "We the undersigned 1Ls pledge to withhold our first-year grades from consideration by the *Harvard Law Review* if 75% or more of the class of 1986 signs the petition."

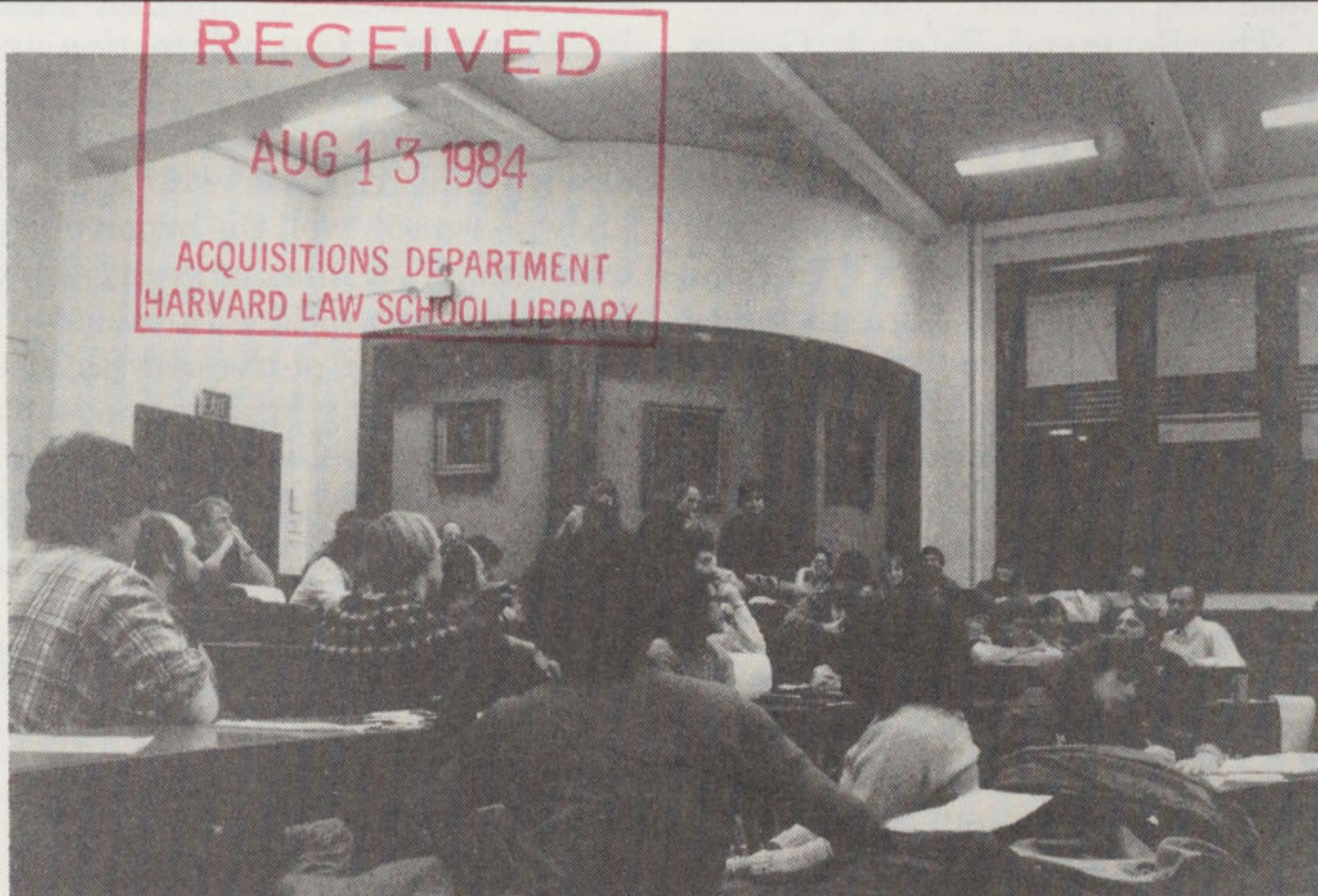
The short petition is designed to undermine the grade-based track in the controversial two-track selection process for eligibility for the *Harvard Law Review*.

The grade-based track precedes the annual fall writing competition for second-year students. Typically, four or five students from each section are chosen after first-year exams conclude, and approximately 20 more are elected to the *Law Review* based on an intensive two-stage research and writing competition.

The originators of the petition, Susan Keller and Carol Steiker, do not want their eligibility for *Harvard Law Review* to be judged on grades, but rather on criteria that are more relevant to journal-writing. These include research, writing, and, perhaps most importantly, an expression of desire and commitment to do the job.

Keller criticized the system for its unbalanced bestowal of *Law Review* membership on a few select students who have no input in the

(Continued on Page 15)



Madeline Thomas

First-year students caucus to discuss Law Review selection and controversial "no-grade" petition.

Working Class Students Find Adjustment Difficult

By Mike Isbell

For a small but distinct minority of Harvard law students, enrolling here requires more than the standard degree of coping with new surroundings. These students must deal with an alien environment which often ignores their own cultural experiences.

"Sometimes I feel myself translating to try to hear people and speak to people who come from privileged backgrounds in class terms," said Muhammad Kenyatta, 3L, who grew up in an inner city working class neighborhood. "There is a sense of foreignness."

Kenyatta and others who were raised in working class surround-

ings are strangers to much of what happens at HLS. Their interests here are unrepresented by any student organization. Their concerns and perspectives are often ignored in the classroom.

"When you get here, an assumption among most of the faculty and your fellow students is that you are of middle class stock," said Paul DiDonato, a second-year student who comes from a working class neighborhood in south Philadelphia. "That assumption and all the assumptions that flow out of that shapes those individuals' reactions toward you. You are out of sync when you come from a long history of a working class family and when

(Continued on Page 13)

Hundreds Mourn Ferguson's Death

By Burlette Carter

Hundreds gathered in the Memorial Church on Jan. 19 to pay tribute to the late Prof. Clarence Clyde Ferguson, Jr., Harry L. Stimson Professor of Law. Ferguson died Dec. 21 after suffering a heart attack.

The Reverend Peter J. Gomes, minister in the Memorial Church and Plummer professor of Christian morals at Harvard College conducted the service. Serving as ushers were Harvard Law's Vice Dean David Smith, Profs. Abram Chayes, Christopher Edley, Jr., Detlev Vagts, Prof. Nathan L. Huggins of Harvard College, and law students Cynthia Boyce, 3L, Tony Thompson, 2L, and Hilary Charlesworth, SJD.

The size and composition of the congregation were a testimonial to the many who were touched by the man affectionately known as "Fergy" by his students. Among those present were many of his former students, like Ambassador Olara Ottuno, Ugandan ambassador to the United Nations and former president of the U.N. Security Council and Francis Boyle, professor of international law, University of Illinois, Champagne. Many of his former classmates were there, as were fellow legal scholars from across the country and representatives from business and government. The audience also contained a significant number of first-year students who could not possibly have taken a course under Ferguson but who, nonetheless, obviously felt compelled to attend.

Remarks on Ferguson's life were offered by Dean James Vorenberg, Former NAACP Bureau Chief

Clarence Mitchell, Former U.S. Attorney General and Former Undersecretary of State Elliot Richardson, and the professor's sister, Vernice Ferguson. Ferguson's deep commitment to international human rights was a consistent theme in all of these presentations. But there were other themes as well: his commitment to affirmative action, his dedication to teaching, his sense of humor. In many ways the service offered those who did not know Ferguson well the opportunity to learn of the man and his work from those who knew him best.

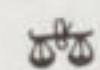
The emphasis of the service was not on lamenting Ferguson's death but rather on celebrating his life. Speakers offered anecdotes about

the professor which occasionally brought forth soft laughter from members of the audience.

Yet, the sense of loss persisted. Not only was Ferguson one of the Law School's most prominent scholars in the field of international law, but he was also the faculty's single tenured minority professor.

Perhaps the feeling was most simply and sincerely put forth anonymously.

At the bottom of the typed message which the dean posted in December to inform readers of Ferguson's passing, some student had added with a pen: "We'll miss you, Fergy."



Group Pushes Divestiture

By Michael Medina

A group of about fifteen HLS students and faculty met on Feb. 2 to formulate plans to pressure Harvard University into divesting its financial interests in the Republic of South Africa. David Hoffman, 3L, who led the discussion, said that the meeting was part of an ongoing University-wide effort to urge Harvard to divest.

Two years ago, Harvard considered abandoning its policy of prohibiting further University investments in South Africa. Strong opposition from students, including many from HLS, was a major factor in the decision of the Advisory Committee on Shareholder Responsibility (ACSR) to recommend retention of the policy.

Over the years, however, despite pressure from various groups, the ACSR has declined to recommend complete University divestiture. One student at the meeting characterized the ACSR as a "stumbling block" created to insulate the Harvard Corporation from student and community pressure, and urged students to redirect their pressure towards the Corporation and/or University President Derek Bok.

Another theme of the discussion was expanding the base of support for divestiture by enlisting the aid of previously uninvolved segments of the University. The group was particularly enthusiastic about enlisting the support of the HLS faculty, either through petitions or a faculty vote endorsing divestiture. Another idea proposed was that of "conditional endowments" whereby alumni would contribute monies to a special endowment fund, to be transferred to HLS only after the University divests.

Participants viewed soliciting support from "mainstream" groups as another way of expanding and legitimizing support for divestiture. For example, the *Harvard Law Re-*

(Continued on Page 14)

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Suit Champions Law Student Leases

By Andrea Hartman

Most lawyers and law students have heard of or told stories about the difficulties members of our profession have in obtaining rental housing. Landlords, it is said, don't like to rent to lawyers or law students because they are likely to complain about the condition of the premises, to withhold rent, or to initiate legal proceedings. One law student confronted with rental problems turned to the logical place for relief — the courts.

At the end of last year, attorneys Harvey Shapiro, '73, of Greater Boston Legal Services, and Ellen Messing brought a housing discrimination case in the Boston Housing Court. The case was brought as a class action on behalf of law students. The named plaintiff is Eric Dannenmaier, who studies at Boston University. The defendant

is Hamilton Realty, which is, according to Shapiro, the largest private landlord in New England. Dannenmaier alleges that he sought housing in August, 1982 through Commonwealth Avenue Associates, a rental agency in Allston, and was told that his application would not be considered by Hamilton Realty because he was a law student.

Consumer Protection

Dannenmaier based his claims both on the Massachusetts Consumer Protection Statute (G.L. Ch. 93A) and federal civil rights legislation (42 U.S.C §1985 (2) and (3)). The federal claim is based upon impeding access to the states' courts and deprivation of associational and first amendment rights.

In December of 1983, the Boston Housing Court granted the defendant's motion to dismiss the federal civil rights claims. The court stated that § 1985(3) "does not encompass a conspiracy to deprive law students of housing where there is not a claim that the discrimination is based on racial considerations."

However, the court refused to grant the defendant's motion to dismiss the Massachusetts Consumer Protection claim. According to the court, the defendant argued that a landlord has the right to determine with whom he will do business, except that he cannot discriminate against certain groups which are specifically protected by statutes. Law students, the defendant claimed, are not such a group.

The court, in denying defendant's motion, pointed out that conduct violates 93A, §2 if it fails to comply with a state statute which is intended to protect the welfare of consumers. One such statute is the Public Accommodations Act (G.L. Ch.272, §98). The first portion of that statute makes it a crime to discriminate in any place of public accommodation on the basis of race, color, religious creed, national origin, sex, deafness, blindness, or any physical or mental disability, or ancestry. The court held, however, that the last part of the statute (referring to the right to a full and equal accommodation), "has been interpreted as providing rights for persons who do not fall into any of the enumerated categories set forth in the first portion of the statute."

According to Shapiro, only in one previous case has the statute been cited "other than for race, sex, religion or another protected group."

Discovery

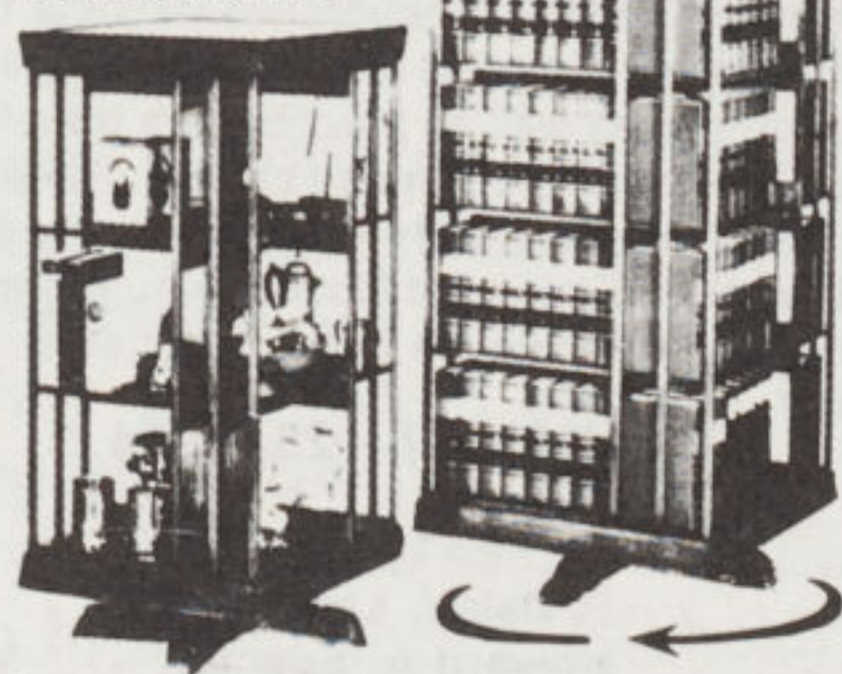
Shapiro said that the lawsuit is now in the discovery phase. The defendant filed an answer, admitting, according to Shapiro, that it had a "moratorium on law students." They claimed, however, that they had ceased the practice of refusal to rent to law students.

Shapiro hopes the case will influence the behavior of landlords. "I think that if we prevail, other landlords will not overtly discriminate."



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Snyder Reflects On Salvadoran Situation

By Brad Hudson

Civil war, death squads, elections, land reform, refugee camps, human rights, leftist guerillas — all are pieces of the puzzle that face anyone trying to evaluate the current situation in El Salvador.

Last month, Frederick E. Snyder, assistant dean for international and comparative legal studies at HLS and lecturer on Latin American law, accompanied a group called the Faculty for Human Rights in El Salvador and Central America on a trip to El Salvador.

The trip's purpose was to investigate the condition of human rights and the status of university education in El Salvador, particularly the plight of teachers and students at the National University of El Salvador.

In a presentation to students entitled "Report From El Salvador" and in an interview with the *RECORD*, Snyder described the group's visit. Snyder stressed that his "report" was not made up of definite conclusions and specific policy recommendations. Instead, he provided a series of images from his visit to El Salvador — images that provide a glimpse into current conditions in that troubled country.

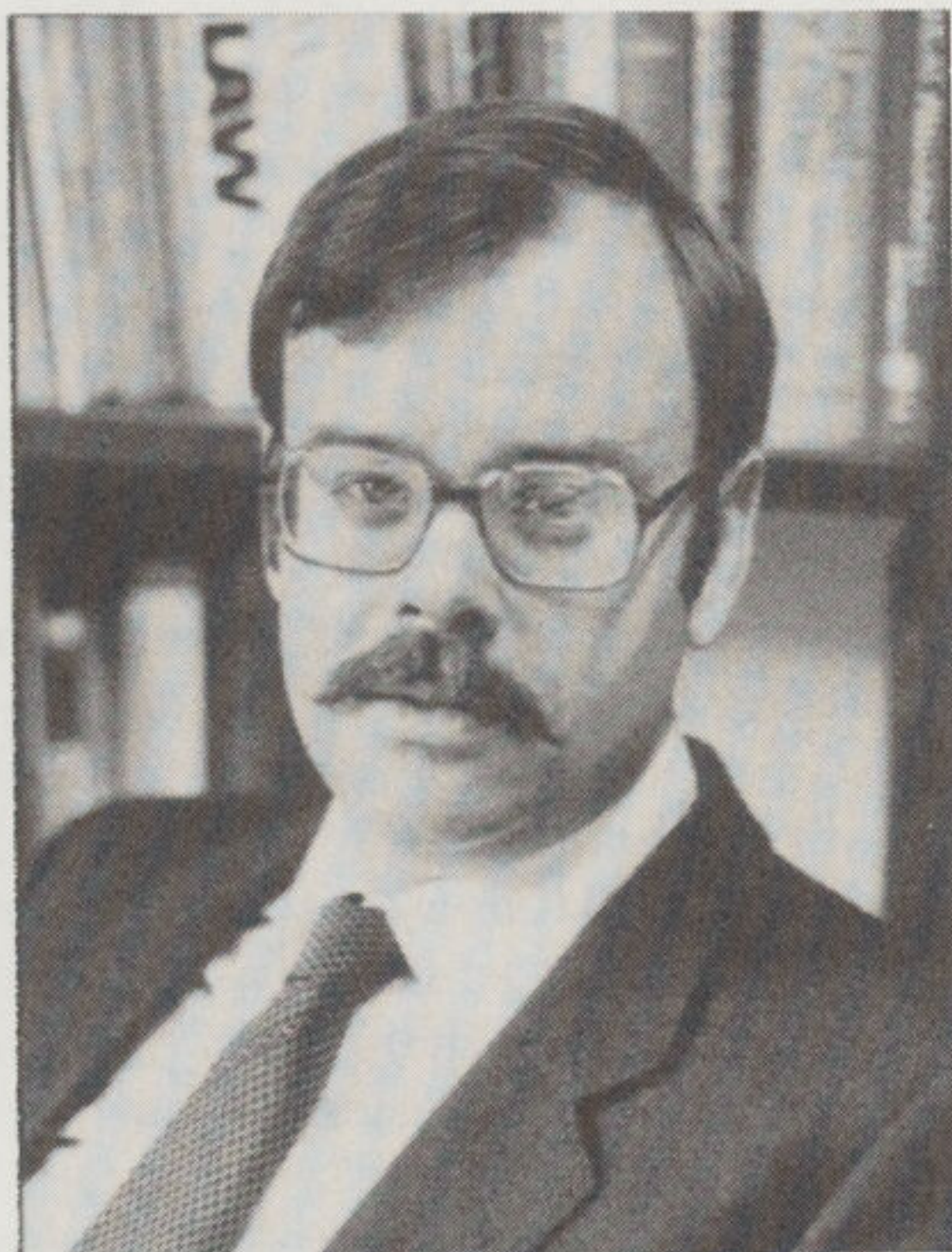
The trip, which lasted from Jan. 5 through Jan. 9, was led by Chester Wickwire, chaplain of Johns Hopkins University. The group was composed of 22 teachers of law, public health, medicine, economics, business administration, geography, anthropology, political science and history. Each group member paid his or her way.

Meetings With Leaders

The group met with many leaders and officials in El Salvador, including President Alvaro Magaña, candidates for the March 25 elections, leaders of several political parties, Catholic Archbishop Arturo Rivera y Damas, directors of various human rights groups, embassy officials, heads of peasant cooperatives, and university officials. The group also visited prisons, refugee

camps and several battle sites.

According to Snyder, the central fact of life in El Salvador is the bitter civil war that is being waged between leftist forces and the current government. The beginnings of this conflict can be traced to an uprising by El Salvador's Communist Party in 1932. At that time, about 45% of the land in El Salvador was owned by the "14 Oligarchical Families." Those involved in the uprising were mainly farmworkers and the owners of small farms.



HLS Yearbook

Assistant Dean Frederick Snyder

The families arranged with the military to put down the uprising, resulting in a famous massacre of the rebels known as "La Matanza." One of the generals, Maximiliano Hernández Martínez, then became president of El Salvador.

But while the massacre ended that particular uprising, it did not end the spirit of rebellion in El Salvador. In 1972, José Napoleón Duarte won a presidential election. But he never took office — he was forced into exile in Venezuela by a military coup.

In 1979, encouraged by the success of the Sandinistas in Nicaragua, some young, reform-minded military officers staged a coup. The popular political leaders they helped to install in office as a ruling junta, however, were thrown out of power three months later in a coup staged

by older, more conservative army officers.

The various revolutionary groups in the country went underground. Today, the Farabundo Martí National Liberation Front (FLMN), a coalition of leftist groups, sees itself as responsible for carrying forward the military aspects of the revolution. The more moderate leftist Democratic Revolutionary Front (FDR) makes up the revolution's political arm.

According to Snyder, the leftists claim control over 20% of El Salvador's land, mostly in the north, and claim support from 15% of the population. Other estimates of popular support vary from 5 to 30%.

Trains on Time

Snyder described El Salvador as having "an appealing veneer of normalcy" about it. There are taxis on the street, and the trains run on time. People can shop in the shopping malls and spend Sundays

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Prisoners, Church Officials Speak Out

in the park with their children. Religious festivals are openly celebrated in the outdoors.

But, said Snyder, this appearance of normalcy "is undermined by continual reminders of state terror and civil violence." Snyder listed some of these "reminders": teenagers, some in uniform and some not, carrying submachine guns on the streets; military police unexpectedly standing guard outside a press conference; electricity in the hotel shut down temporarily at night by guerilla attacks; the sound of bullets right outside the hotel room.

Snyder's most vivid "reminder" took place outside the U.S. embassy. While waiting to be admitted to the embassy, Snyder began to talk with several townspeople who were waiting to get on a bus. During his conversation, a panel truck pulled up, containing three armed men.

An Invitation

Two of the men, armed with submachine guns and dressed in civilian clothes, got out of the truck, pointed the guns at Snyder, and told him to get into the truck so that they could "talk things over." He refused, explaining that he was an American citizen waiting to get into the embassy.

They then asked Snyder for his passport. After he refused to turn it over, one of the men took it away from him and gave it to the driver,

who took Snyder's passport number down. They then gave the passport back and warned Snyder. "You have to be careful whom you talk to on the streets."

Snyder never learned who the men were, whether they were military police, plainclothes embassy security, or members of a death squad. But, he said, it was conceivable that, in broad daylight, he could have been forced into the truck and might never have been seen again. "It was clear that life had become very cheap," he said.

Snyder's fears were reinforced by the stories of killings and disappearances he encountered while in El Salvador. The group had been scheduled to meet with Filomena Claros — the general secretary of the Law Students Association of El Salvador. But the night before the group arrived, Claros was "disappeared." Witnesses said that armed men forced her into a dark brown land rover. She has not been seen since.

Snyder also heard the story of Roberto Franco, a well-known puppeteer in El Salvador. Franco put on shows for colleges, high schools, day care centers, nursing homes and neighborhood theatres. Franco's shows had an "educational purpose" — a liberal, reform-minded theme.

On Nov. 23, Franco was shopping with his friends in a downtown shopping area. They decided to leave — he stayed to do some more shopping. Shopkeepers remember him

being picked up by armed men in civilian clothes. Franco has not been seen since.

The Salvadoran death squads are at the center of the debate over human rights in El Salvador. Snyder described two types of death squads. The first, he said, is made up of "civilian thugs" hired by large landholders and others who feel threatened by the redistributory goals of the new land reform law.

Security Forces

The second, and much more common, type of death squad is made up of military and security forces personnel in civilian clothing, acting under direct orders of a superior military officer. These officers, in turn, may be intimately associated with various political figures. The targets of these death squads seem to be people who are rising to levels of power, influence or credibility.

According to figures compiled by Tutela Legal, a human rights organization sponsored by the Catholic Archdiocese in El Salvador, 47,000 killings of non-combatants by the various government forces have occurred in El Salvador since 1979. In 1983, Tutela Legal reported 5,142 killings of civilians by government forces. It recorded 67 killings of civilians by guerilla forces.

During the same period, Tutela Legal reported 535 abductions attributed to government forces or paramilitary forces associated with the government. Sixty percent of these abductions were performed by uniformed security agents.

Tutela Legal compiles its figures based on sworn testimony of eyewitnesses or relatives of the victim. Because of this method of reporting and the fact that it has only one office in San Salvador, Tutela Legal feels that its figures are low — especially for the rural areas outside of San Salvador.

The fear of these death squads was illustrated by the group's experience with people that it met. At the last minute, the leader of a local peasant cooperative cancelled

(Continued on Page 9)

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Faculty Ponders Alternative Journal

By Bruce Kelly

A memorandum prepared by Prof. Richard Stewart at the request of HLS Dean James Vorenberg has stimulated faculty interest in proposals for a faculty-edited journal and has made a decision on the issue likely before the end of the spring semester.

The nine-page memo received considerable praise for its concise but thorough presentation of available alternatives and their relative merits and drawbacks.

Much of the support for a new journal stems from dissatisfaction with the general format of law review articles. As the memorandum explained:

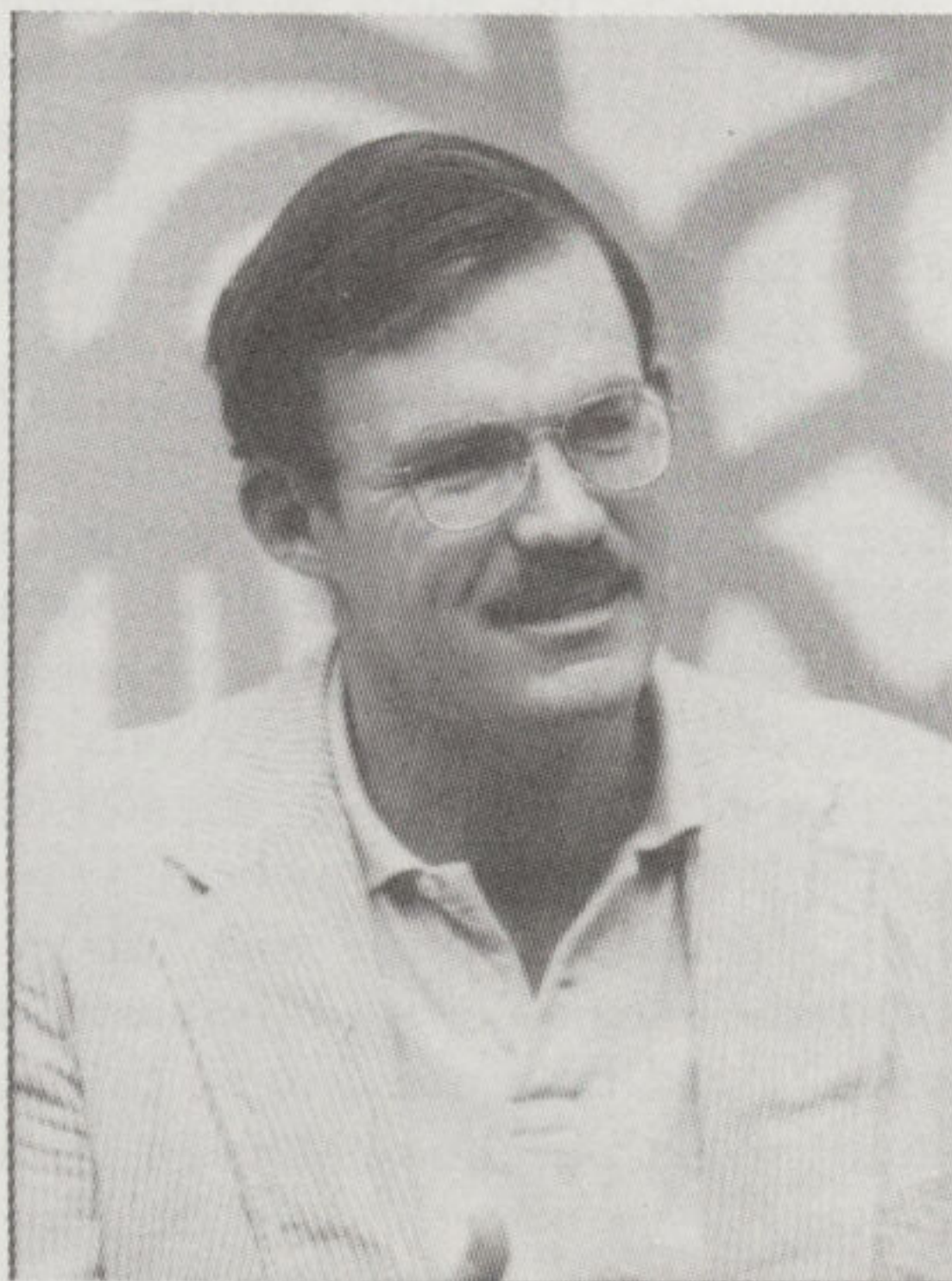
Many contemporary law review articles are excessively long, turgid, and overly footnoted. Often authors rehearse at great length their version of the entire history or framework of a subject before advancing one or two ideas which may represent a real advance in the state of thinking on the subject. . . . Student editors seem to insist on heavy footnoting because they are unsure of the validity of textual assertions and take comfort in finding some authority that assertedly supports it.

The overstuffed discourse that prevails in law review articles tends to smother the pointed debate, exchange, and sense of advance in a field that often characterizes scholarly journals in other fields.

Although articles not fitting this stereotype are published, a feeling nonetheless persists among some faculty members that articles must conform to a certain style for submission to the *Harvard Law Review* and that these format limitations frustrate scholarly exchange.

Approaching this issue from a perspective of developments in legal thought, Prof. Charles Fried notes, "The conception of what is legal scholarship has changed." Generally accepted canons of accuracy and acceptability have been challenged,

leaving student editors with little guidance in the selection of articles. Consequently, the *Law Review* has become in Fried's view "much more a magazine of student opinion," losing its previous status as having the judgment of experts behind its articles.



HLS Yearbook

Prof. Richard Stewart

Despite these general complaints, prior to the presentation of Stewart's memorandum, faculty members were not actively agitating for a new publication. Since its distribution, however, more faculty members have perceived the value of a faculty-edited journal. Stewart's memo contains descriptions of five different types of journals, however, and as Prof. Gerald Frug explains, "Many [faculty members] are for it, but what 'it' is remains uncertain."

More Direct Format

The first alternative proposes creation of "a faculty-edited scholarly journal, aimed at legal academics and reflective practitioners." It would strive to publish the best available scholarship in a shorter, more stylistically varied, and more direct format than typical law reviews. The proposal suggests "essay-type articles, twenty to thirty pages in length and lightly footnoted."

A second model would be "a journal of ideas and opinion" aimed not only at legal academics and prac-

Sports Quiz

Note: The XIV Olympic Winter Games are underway in Sarajevo, Yugoslavia, so this week's sports quiz asks you to identify world-famous athletes who have won gold medals for their performances in previous winter Olympiads.

1. At the 1968 Winter Olympics in Grenoble, France, this hometown favorite took first place in the three men's Alpine skiing events, duplicating the sweep that Austria's Toni Sailer had accomplished in Italy 12 years earlier. Name this former French customs inspector with the looks of a matinee idol.
2. The first American to win three medals in one Winter Olympics, this speed skater brought home a silver and a bronze medal to go along with the gold that she won in the women's 500 meters at Innsbruck, Austria in 1976. Name this world champion cyclist who hails from Birmingham, Michigan.
3. A part of one of the greatest upsets in the history of team sports, this man captured the 1980 U.S. hockey team that

captured the gold medal at Lake Placid, N.Y. Name this Winthrop, Mass. resident whose 25-foot slapshot in the final period provided the winning goal in the dramatic 4-3 semifinal victory over the Russian team.

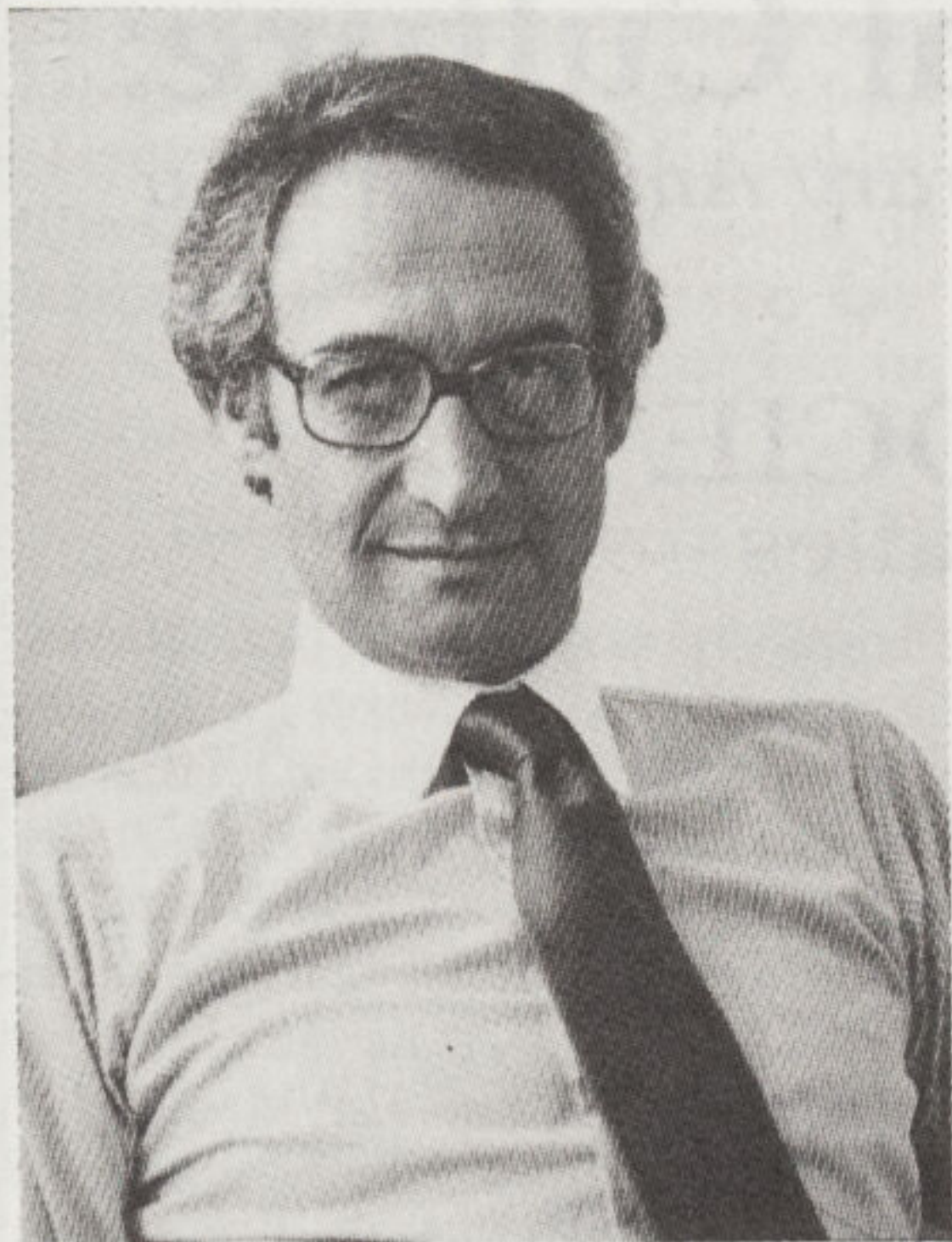
4. A last-place finisher in 1924 at the age of 11, this multi-talented athlete rebounded by taking the women's gold medal in figure skating at the following three Winter Games before turning professional. Name this Norwegian native who settled in Los Angeles and died of leukemia in 1969.
5. The first American figure skater to win an Olympic gold medal, this HLS graduate had first-place finishes at St. Moritz, Switzerland in 1948 and at Oslo, Norway in 1952. Name this veteran Olympic sportscaster whose achievements include seven consecutive national titles and five consecutive world championships in men's figure skating.

(Answers on Page 14)



Stewart Memorandum Outlines Options

tioners but, also at "opinion-leaders" in other professions, government, and business. This venture would pose a much greater financial risk than a traditional scholarly journal.



HLS Yearbook

Prof. Charles Fried

The memorandum's third alternative is a hybrid of the previous two approaches. It would attempt "to publish legal scholarship of the highest quality, albeit in more accessible, shorter, and livelier format than now generally prevails." But, as Stewart admits, it would be difficult to predict whether this hybrid would combine the best or worst of the two proposals.

The fourth model contemplates an in-house journal of essays and articles with contributions generally restricted to Harvard faculty. As outlined in the memo, it would "aim to be a forum for debate and exchange between the faculty as well as an outreach to inform alumni and the profession about ideas and projects within the faculty."

Journal For Lawyers

The fifth and final proposal would be directed primarily at practicing lawyers. Its format would be similar to the *Harvard Business Review's*.

Stewart sees several problems with this alternative, principally the great deal of competition existing in the field, in the form of bar journals, practitioner-oriented law reviews, and the national commercial law publications: *Legal Times*, *National Law Journal*, and *American Lawyer*.

Stewart believes that the most difficult task now is to create a well-defined proposal from among the available options. He favors the scholarly journal or hybrid alternatives, and expects the faculty to approve some form of faculty-edited law journal by the end of the spring semester.

Sources of Tension

Difficulties will remain, however, once a proposal has been chosen.

The memo cites the selection of editors and editorial decisions not to print a colleague's submission as potential sources of tension and conflict.

The role of students in any new venture is hazy. Stewart's memorandum suggests that students "could be used in the editing process to check out or run down sources" for the scholarly type of journal.

Finally, the impact of a faculty-edited journal on the *Harvard Law Review* must be considered. Most believe that the new journal would provide an outlet for different types of articles, rather than siphon off pieces which would otherwise have been submitted to the *Law Review*, but the loss of articles seems less at issue than the possible loss of prestige.



Faculty OKs Schedule

The faculty approved the 1984-85 teaching schedule during its regular meeting Wednesday, Feb. 1, before going into closed session to discuss appointments matters.

Prof. Lance Liebman said the schedule "plainly shows the achievement of smaller courses for every student" in the first year.

"The real question will be whether teachers in smaller courses are able to achieve teaching methods which take sufficient advantage of the smaller number. We haven't yet done enough to adapt teaching methods to the [smaller] size of the student body."

Liebman said the schedule approved for second and third years sticks to the norm of "teaching in traditional classrooms."

In response to a question from Law School Council President Kent Markus, 3L, Dean James Vorenberg said the school is "continuing to expand the number of opportunities for people to have clinical education. I predict there will be more places this coming year."

Markus said HLS still does not require that each student before graduation perform some form of legal work for those who are unable to afford it.

Liebman hinted that scheduling problems could force the school to "put Friday afternoons back into the curriculum." According to Liebman, everyone on the faculty wants to teach from 9 to 11 A.M.



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PUBLICATION

Proceedings of the symposium will be published in the *Harvard Journal of Law & Public Policy*.

INFORMATION

For information about the symposium or the Society, contact: The Harvard Society for Law & Public Policy, Harvard Law School, Cambridge, MA 02138, (617) 495-3105, Mr. Kaj Ahlburg, Vice-President, (617) 498-4813; or Mr. Eugene Meyer, Executive Director, The Federalist Society, (202) 822-8138.

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J. MADISON

THE SOCIETY

The Harvard Society for Law & Public Policy is one of the founding chapters of the Federalist Society for Law & Public Policy Studies, an organization of conservative and libertarian law students, lawyers, and professors represented at almost 100 campuses across the nation. We provide a reasoned alternative to the radical and "progressive" ideologies that have come to dominate to an increasing extent intellectual life at Harvard Law School. The Society is dedicated to understanding and preserving the principles upon which the United States was founded: that government exists to preserve individual liberty, that the rule of law and the separation of government powers are essential to a well ordered republic, and that it is the province and duty of judges to say what the law is, and not what they believe it should be.

Snyder Offers Images Of El Salvador

(Continued from Page 5)

the group's planned visit because of "security problems." Instead, the leader met with the group members at their hotel. Before he arrived, four heavily armed bodyguards checked out the hotel. The meeting was constantly rotated from room to room because of the leader's fear of being discovered. One outspoken critic of the government spoke of planning every minute of every day and never spending two nights in the same place.

Political Prisoners

Snyder and the group interviewed two political prisoners — a husband and wife. The husband, Marco Antonio Coto, was being held in the Mariona Prison for men. Coto had been a political science student and was working as a day laborer at the time of his arrest. The wife, Dina Isabel Rodríguez de Coto, was a medical student at the time of her arrest. She was being held at the Ilopango Prison for women. Both were arrested for bringing food and medical aid to displaced persons in a Catholic Church sponsored refugee camp outside San Salvador.

Both insist that they never have been, nor are now, leftists or leftist sympathizers. Snyder described them as basically liberal university students trying to do charitable volunteer work.

But the police in El Salvador look upon some of the refugee camps as havens for revolutionaries. The act of bringing aid to these camps is viewed as giving aid and succor to the insurgents.

Coto was arrested on July 27. He was picked up by men in a truck, who tortured him on the way to the place where he was held. The device used for the torture consisted of electrodes that were attached to his temples. Wires led from the electrodes through a box to the truck's cigarette lighter. When the men turned a crank that was attached to the box, electricity flowed from the cigarette lighter to the electrodes.

After his arrest, Coto was blind-

folded for 15 days, during which he was tortured. A confession was compiled for him, which he was forced to sign while blindfolded.

Under Decree 507, persons accused of subversion have no access to legal assistance for 180 days after their arrest. At Coto's trial, held in a military court, he was allowed, for the first time, to read his confession. He was then allowed to deny the confession, and a stenographer took down all the changes that he wished to make in it. He then signed that version of the confession. However, the first version could still be used as evidence against him.

Detention in prison after this hearing is supposed to be for only six months, after which time another criminal proceeding is supposed to take place. But, said Snyder, it never does. He said he met political prisoners that had been in prison two or three years without the subsequent proceeding ever being held.

Mariona prison has about 1,000 prisoners, 400 of them political. Ilopango has about 200 prisoners, 50 of them political. Snyder described the prisons themselves as "liberal and wide open." The prisoners he spoke with did not report any torture at the prison. The political prisoners are free to put up revolutionary posters and messages, organize study and discussion groups, conduct educational programs, and try to educate other prisoners politically.

Elections

While in El Salvador, the group met with representatives of the major political parties and with two of the candidates for the March 25 election. Of the election, Snyder reported that the candidates and the staff at the U.S. embassy expressed confidence that the election will help bring about the end of many of El Salvador's problems. But others, especially at the universities, expressed concern that important voices — perhaps representing 15 to 20% of the popular will — will not be participating. They fear that

this lack of representation of the country's left will undermine the credibility and legitimacy of the election as a valid mechanism of democratization.

Snyder reported that all of the parties, with the exception of the conservative ARENA party, felt that democratization in El Salvador is possible without the continuing support of the U.S. The Christian Democratic party was especially optimistic that an accommodation with the guerilla forces could be achieved. Many party officials sensed that Duarte could perhaps pull off such an accommodation, but for this reason he is resented by the far right.

The group also met with the National Association of Private Enterprise — an organization of businessmen who tend to be associated with the ARENA party and the far right. Snyder said that these individuals "deeply resented the American presence" in El Salvador. They are opposed, he said, to any political, social, economic or military intervention by or aid from the U.S.

Cultural Factors

Snyder said that the representatives of this group claimed to support the redistribution of national wealth in a more equitable manner. However, they feel that the beneficiaries of such redistribution are not currently capable of managing the property that they would receive. They cite cultural factors, including an ingrained sense of irresponsibility in members of the lower class, that can be eliminated only through generations of re-education.

In the meantime, said Snyder, the businessmen see themselves as the repository of skill and knowledge of the management and development of property and wealth. Until the beneficiaries of redistribution have received the necessary re-education, the current holders of land and property are entitled to maintain their positions.

(Continued on Page 14)

One Year Later

Sometimes it's a good idea to take a look back a year to remember where you were and to assess how far you've come.

One year ago, Harvard Law School was a hotbed of student discontent, a breeding ground for last May's highly publicized student demonstrations.

One year later, first-year students are again unhappy, this time over the issue of selection of editors for the *Review*. The Third World Coalition is selling "Desegregate Harvard" buttons in the Hark and planning another student-faculty forum this month. And many students (see page 1) still find the course selection here stodgy and irrelevant.

Beyond the continuing student discontent, though, what can be said to have changed at HLS in the past year? Not much. What caused so many disparate elements to coalesce at HLS last spring was a general feeling that students here have little say in their own education. The only real outgrowth of the student unrest last spring was the faculty's grudging decision to take back its approval of a proposal to grade class participation. The process by which decisions are made here hasn't changed at all.

This stability should please HLS alumni who were concerned last spring that renegades were turning the school upside down. But students should be troubled by their failure to produce many positive results. Dean Vorenberg and the faculty appear to be making some effort to bring more minority professors to the school. But, structurally, students are still entirely shut out of the appointments process and are often given only token representation on other committees. It is this powerlessness that frustrates students most.

Hundreds of students who had never engaged in political activism were among those who marched in the halls of HLS last May. It appears their mistake was to accept cosmetic changes and good intentions rather than to bargain for structural changes that would ensure greater student input. If the discontent which is evident here this year surfaces again in the form of student activism, it will be interesting to see how far students push their demands for a greater voice in the educational process.



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Fenno

Eskimos have 24 different words for snow. Fenno could think of 27, but most of these were four-letter words.

Fenno had a secret fantasy: once, just once, after reading the list of school closings due to snow, Natalie Jacobsen would look up at the camera, smile, and say "And yes, Fenno, Harvard Law School has no class."

It had never happened. As a result, Fenno stood in his apartment, mentally inventorying his survival gear. Coat? Check. Thermal Underwear? Check. Gloves? Check. Snowshoes? Check. Flares? Check. Emergency rations? Check.

Gathering his courage, and all of his gear, Fenno set out on the block-and-a-half trek to the Law School.

As he dove into a snowbank to avoid being impaled on the poles of a runaway cross country skier, Fenno wondered what it was that made him hate the snow. Maybe it was the weathermen — the way their eyes sparkled as they gleefully predicted blizzard conditions, slippery roads and four-foot drifts.

Or maybe it was those television commercials for Florida, full of warm sunshine and beautiful beaches. Fenno swore that the creators of those ads had been trained by SAVAK in techniques of torture.

Or maybe it was just disappointment. When he came to New England, Fenno had romantic visions of Harvard Yard, blanketed by pristine, white, peaceful snow.

But no one warned him that by the second day the snow turned slushy and brown. And he'd never caught even a glimpse of Ali McGraw.

Fenno noticed, with satisfaction, the large number of cars on the road. It confirmed a theory he was currently developing for *The New England Journal of Medicine*.

The sight of snowflakes, he reasoned, stimulates the optic nerve, which sends a special electrochemical signal to the adrenals, which then secrete a hormone that causes specialized muscular contraction in the arms and hands, resulting in a reaching into the pocket and a taking out of car keys.

Fenno's preliminary research had revealed cases where, at the first sign of snow, people who had been bedridden for years suddenly found themselves driving down to Dunkin' Donuts for a cup of coffee.

Fenno was still daydreaming about receiving the Nobel Prize for Medicine when he looked up and saw the professor's secretary standing in front of the class.

"I'm sorry," said the secretary. "The professor was supposed to fly back from Washington this morning, but the snowstorm has closed Logan Airport. Class is canceled."

Fenno grabbed his gear and headed for the dean's office, mentally fabricating a case for a hardship transfer to Palo Alto. He allowed himself a slight grin — putting one over on the dean was the only job associated with snow that he really enjoyed.

Letters to the Editor of the Record

Support For 1Ls

To the Editor:

We the undersigned editors of the *Harvard Law Review* would like to register our support for the 1Ls who have signed the grade boycott petition and encourage others to do so.

Our experience on the *Review* and at the Law School suggests that high grades are not essential to produce a high quality journal. Moreover, there are many reasons why abandoning the use of grades for *Law Review* selection would be a boon to the Law School — and the *Review*. For one thing, it would reduce some of the tension in an already overpressurized 1L year. Second, it might help diversify the ways in which HLS students can achieve recognition here. Third, abandoning the use of grades is almost certain to reduce the division that exists in the HLS community between *Review* and non-*Review* students. Fourth, it might reduce the use of *Review* membership as a way of sizing people up at job interview time. Fifth, it would make participation in the other (voluntary) journals here more appealing because it would reduce the status differential between the *Review* and the other journals at HLS. Finally, it might ensure that the students who join the *Review* are doing so because they actually want to work on the journal — which might result in a better *Review*.

Grade-based selection is a relic of the days when grades were the sole basis for choosing not only *Review* editors but also members of the Legal Aid Bureau and the Board of Student Advisers. Both the Bureau and BSA have now adopted more open membership policies and both are flourishing organizations, whose members do outstanding work

with great enthusiasm. There is no reason why the *Review* can't follow their lead.

We are somewhat uncomfortable with criticizing the elite status of the *Review*, in part because we are beneficiaries of that status. Nevertheless, we feel that all HLS students — whether they are *Review* members or not — have a stake in this issue and have a right to participate in this discussion.

The *Review*, of course, has considered at great length the question of how it selects editors. Yet never in the course of this two-year exploration has the *Review* bothered to poll the students at HLS (in particular, the 1Ls) whose lives are very much affected by the way the *Review* operates. The idea of polling students has been raised several times at the *Review* and rejected. The *Review* seems as committed as ever to continuing the use of grades. A successful petition campaign will, hopefully, cause the *Review* to reconsider its current policies.

David Hoffman, 3L, Stephen Presser, 3L, David Goldstein, 2L, Lisa Foster, 3L, Debra Livingston, 3L, Bob Riggle, 3L, Rick Brunell, 3L, Stephanie Y. Moore, 2L, Matthew Diller, 2L, Judith Starr, 2L

Not True

To the Editor:

It has just come to my attention that a piece by Justin Hughes in your issue of Dec. 2 last contains the following statement: "This past September the committee's chairman, Judge Carl McGowan, proposed moving the 1984 starting date to July 15."

Mr. Hughes is misinformed. I made no such proposal and, indeed, stated to the Judicial Conference at its Sept. 22 meeting that I thought it would be unwise to change the date from Sept. 15.

**Carl McGowan
Washington, D.C.**

Bad Odor

To the Editor:

This is a somewhat distasteful (no pun intended) letter to write, but I was afraid "Dear Abby" wouldn't print it and anyway I thought it might work well in the January issue of the *RECORD* under "New Year's Resolutions We'd Like to See."

Believe it or not, you can be bright enough to get into HLS and not have learned the fundamentals of personal hygiene. I find it very offensive to sit in class, day after day,

near someone who obviously doesn't bathe daily, and who is unconvinced about the merits of deodorant. I'm not sure if my malodorous chum realizes how inconsiderate he's being, but I do know I won't be the only one who'll see to it that this letter comes to his attention.

Please do not use my name or year as this is not the cause célèbre for which I want to be known at HLS, although I do hope that as a public interest it is one we can all "pleasantly" gather 'round.

Name withheld by request

Front Page Disturbing

To the Editor:

The sense of priorities displayed in the Jan. 13 issue of the *RECORD* where the report of the death of Prof. C. Clyde Ferguson, Jr. was subordinated to the "ponderings" of the *Law Review* was appalling and inexcusable. This is particularly shocking given Prof. Ferguson's long and outstanding service to this institution, the legal profession, and the world community.

Even the "box" that the *RECORD* used to highlight the story gave insufficient prominence to his passing. We do not feel that it would have been at all inappropriate for the report of Prof. Ferguson's death to have been the sole cover story. We write to express our disgust at such gross insensitivities.

Faculty: Alan Dershowitz, Christopher Edley, Jr., Duncan Kennedy, Martha Minow, Richard Parker, Daniel K. Tarullo, Gerald Frug, Gerald P. Lopez

Staff: Marilyn Byrne, Secretary to the late Prof. Ferguson, Angela Gillem, Counselor at the Law School Health Center, Lori Williams, Secretary

Students: (2Ls) Jorge Alers, Verna Bigger, Peter Bronstein, Sheila Caviel, Robert Dozier, Kimberly Hawkins, Juanita Hernandez, Carl L. Johnson, Camille Jones, Kelly King, Stephanie Y. Moore, Kathy D. Patrick, Rosalind Reid, Ronald R. Ross, Raul Sanchez, Janet M. Savage, George Seeberger, Robert Stulberg, Caroline Wehling, Douglas Q. Woo

(3Ls): Anita Allen, Cynthia Boyce, Kimberle Crenshaw, Ivy Dilworth, Lisa Foster, Ibrahim Gassama, David Hoffman, Will Hunter, Muhammad Kenyatta, Maria Ontiveros, Cliff Sloan, Eliot Spitzer, Robin Weiner, Jenny Wriggins

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

(Mis) Printed

To the Editor:

While it is a natural tendency to link the words "pain" and "suffering," my letter to the editor (mis)printed in the Jan. 13 issue of the RECORD in its original form characterized Prof. Ferguson as a man with "pain and courage." Indeed, it was the rare combination of these qualities that made Fergy the remarkable individual that he was, commanding respect, admiration and pride.

Stephanie Y. Moore, 2L

We regret the error. — Eds.

Wrong Way

To the Editor:

We are writing you to express our support for the 1L campaign against the use of grades in the selection of *Law Review* editors. We view grade-based selection as the wrong way to distribute the benefit of *Review* membership and as a destructive influence on the educational life of the Law School. We hope the 1L campaign will succeed and urge our colleagues and the student body to support it.

Profs. Morton Horwitz, Gerald Frug, Duncan Kennedy, Abram Chayes, Gary Bellow, Christopher Edley, Jr., Richard Parker, David Kennedy, Martha Minow, Charles Nesson, Laurence Tribe

Four More Years

To the Editor:

Three years ago Ronald Reagan assumed the presidency of an ill, dispirited nation. Our economy seemed locked in a permanent crisis. Abroad, our nation was taunted and vilified by the enemies of freedom. Our people were in despair.

President Reagan has turned our country around. Our economy is surging back to health. America once again commands international respect. Our people again look to the future with confidence and hope.

President Reagan has re-awakened America's sense of its own potential for greatness. While problems — notably the large federal deficits — remain, we feel that we can tackle them. Gone is the ethos of national helplessness.

The Democratic candidates arrayed against the President are a sorry spectacle. They speak little of the national interest. Instead they bow before the powerful special interest groups and promise a return to the

failed politics of tax, tax, spend, spend.

We believe the national interest is all too clear, and we reject selfish special interest politics. Therefore, we, the undersigned members of the Harvard Law School community, are pleased to endorse Ronald Reagan's re-election campaign. Four More Years!

Murray Rudin, 1L, Bennett E. Cooper, 1L, Karin Venable, 1L, Kaj Ahlburg, 3L, James W. Butler III, 1L, Frederick C. Foote, 1L, David M. Bader, 2L, Drew D. Webb, 2L, Thomas John Holton, 2L, John B. Lee, Jr., 1L, Kevin F. Blatchford, 1L

Free Speech

To the Editor:

I read with great interest two articles in the Dec. 9 issue of the RECORD. The first, authored by Dean Vorenberg, concerned the issue of free speech at HLS in light of a recent incident involving Caspar Weinberger. The second article reported a recent appearance by Shimon Peres at an HLS Forum.

Of particular interest in both articles was the indication that a wave of open-mindedness has enveloped the Dean's office and the Forum. Vorenberg has finally found a voice and the willingness to use it in the protection of free speech. This is interesting because, less than one year ago, the same Dean Vorenberg sat in the Ames Courtroom and witnessed an unprincipled and provocative attempt by zionists (Law School zionists included) to silence Hassan Abdul-Rahman, the U.S. information officer for the Palestine Liberation Organization.

Mr. Abdul-Rahman had been invited to speak at HLS by no less than six HLS organizations, yet, for more than an hour, shouting, catcalls and other disruptions by zionists prevented Mr. Abdul-Rahman from delivering his prepared speech. My question: Where was Dean Vorenberg then? He sat through the entire episode, yet was apparently not moved to speak out in protection of Mr. Abdul-Rahman's right to speak unmolested. Perhaps there is a different standard for HLS alums who become Secretary of Defense and for people who support national liberation struggles.

Similarly, less than one year ago the HLS Forum was approached by the Third World Coalition and was asked to co-sponsor the appearance by Mr. Abdul-Rahman. The Forum refused to do so on the grounds that the issue of Middle East politics, particularly the Palestinian position, was too volatile and controversial for their sponsorship.

It is somewhat encouraging to see that the Forum has now concluded that, despite their volatility and controversy, issues in the Middle East deserve attention. The Fo-

rum's co-sponsorship with the zionist law students of Shimon Peres's address apparently indicates a new-found willingness to hear all sides of the issues in the Middle East.

The new policy of open-mindedness at HLS, both of Dean Vorenberg and the Forum, will be welcome when Mr. Abdul-Rahman is invited to return to HLS. The Forum should certainly be willing to support co-sponsorship now, and Dean Vorenberg should be willing to state publicly that he would be abhorred to see a recurrence of the behavior of a year ago.

One final note. I did not see any reference in the RECORD article of disruptions by pro-Palestinians of the Peres address, nor any threats against the sponsors of the event. My hope is that the Law School community will recall the marked difference between the behavior at Peres's speech and that at Mr. Abdul-Rahman's when questions of free speech arise again, as they most assuredly will.

Glenn Morris, '83
Denver, Colo.

Inconvenient

To the Editor:

It is highly unfortunate that the University should have been so insensitive about scheduling commencement on Shavuot. The present hue and cry about the date of the exercises, however, is misconceived. Two points have been inadequately considered. First, if student opinions are to be polled, preference should be given to the opinions of graduating students. Second, the practical inconveniences caused by an eleventh hour change of dates must be taken seriously. Now that the date has long been firmly fixed, it should not be changed. One hopes in future years the University will be more thoughtful.

Neal L. Johnson, 3L

Correction

In our last issue, Jan. 13, a line of type was inadvertently dropped from a letter from Mr. Carl Oppedahl, '81. That letter informed us that we had earlier printed a letter from a nonexistent alumnus. The concluding sentence of Mr. Oppedahl's letter was supposed to read: "Perhaps a word applicable to the RECORD editors is 'gudgeon,' which means 'a person easily duped. . . .'"

We regret the error.

Background Affects Social Interaction

(Continued from Page 1)

you have a working class consciousness."

No figures are readily available on the number of HLS students who come from non-privileged backgrounds. It is probably beyond dispute, though, that these students make up only a small fraction of the student population.

These few students are faced with problems of personal adjustment that often dwarf those that confront the bulk of students who are not economically deprived.

For example, students from underprivileged economic backgrounds must learn to interact socially with people whose experiences are fundamentally different from their own.

"I am prejudiced toward working class people," Kenyatta said. "I am prejudiced toward black and Puerto Rican people, especially, because these are the people with whom I tend to be culturally comfortable."

"I do not interact well with upper middle class blacks. If there is one thing I've learned here, I've learned a lot about the black middle class. I've found that the gap in perceptions between upper middle class blacks educated in contemporary Ivy League and Ivy-like educational institutions and the majority of people in the black community is large and growing rapidly. That bothers me."

Total Horror

"The first week of class was a total horror," DiDonato said. "I remember writing letters to my friends saying I was shocked at three things. I was shocked at the level of ignorance of the student body, the unjustified arrogance of the faculty and the sterilized nature of the social dynamic."

Perhaps the most obvious example of the gap in perceptions among those with different economic backgrounds at HLS is earning expectations.

"It's horrifying to hear people talk about taking jobs where they will make \$900 a week and then hearing

them wonder whether that will be enough money to get by on," DiDonato said.

"From my perspective," Kenyatta said, "if someone's talking about making \$20,000 a year to support a family, that sounds pretty good. There is sometimes a dissonance when you are listening to a 25-year old who has no one to support talk about making a sacrifice to do the type of work he or she wants to do."

Law School becomes an endurance contest for many working class students. The students who win are those who find ways of coping with the realities of HLS.

"Part of the coping means spending a lot of time away from the Law School," Kenyatta said. "Part of it is getting back home just to interact with people I am more used to, people I grew up with, folks with whom I am more comfortable."

Going Home

Some students, however, find going home to be painful. Verna Bigger, a 2L who grew up in a working class neighborhood in Baltimore, faced her first adjustment problems when she enrolled at Barnard College in New York. "At school I was around all white people. When I was at home I was around all black people. I missed being around my own people. But you come home and you are different. You look different, you act different, you wear different clothes. People at home waver between being proud and being jealous."

Bigger said she is able to deal with the student body's gap in cultural perceptions because of her religious beliefs. "I am growing in my belief in God," she said. "That is my whole life now. I understand Harvard in the context of being a Christian."

Although Bigger said she is now convinced that her decision to come to Harvard was a good one, DiDonato said he and his other friends who come from working class backgrounds experience periodic spells of guilt as a result of their decision

to come here.

"It is hard to justify a presence here," DiDonato said. "You have to rationalize being here. You can say to yourself that I'm now in the real belly of the beast, and I have access to this place and I should use it and turn it against itself. But you realize you are also contributing to perpetuation of institutions like this. Rarely does a week go by when I don't feel a combination of guilt and anger that I made the decision to go here."

Coping

One way some students cope with Harvard is to place it in the context of their experiences.

"Harvard is nothing," Bigger said. "You just have to learn that Harvard is just a school, teachers are just men and grades are just something they use to keep some people out of here. I was accepted at Virginia and Columbia but I couldn't go there. I had to go to the top and see that it's nothing."

"There is a lack of sophisticated understanding [at HLS] of how human beings are supposed to interact with society," according to DiDonato. "There is a certain humbleness, a certain healthy nihilism that seems to be missing from all of those people who think that just because they are in the process of acquiring one more piece of valuable property, namely a Harvard law degree, that the whole world is lying at their feet. That attitude is dangerous."

According to DiDonato, coping involves some negative side effects. "You define yourself in contradiction to people. Although it's not a bad way to define yourself, it's not the only way."

Working class students are not only required to make personal adjustments to life at Harvard but often must come to terms with course offerings which fail to take their particular intellectual aspirations into account.

(Continued on Page 16)

Snyder

(Continued from Page 9)

Among Snyder's pictures from his trip to El Salvador are several of the Metropolitan Cathedral in San Salvador. Currently, the cathedral sits in a state of disrepair. Repairs were being conducted on the cathedral during the administration of Archbishop Oscar Arnulfo Romero. The facades were taken out, and parts of the floors and ceilings removed.

But Romero refused to complete the repairs, saying that the work of the church takes precedence over its display. In 1980, Romero, an outspoken critic of the role of the oligarchical families in El Salvador, was assassinated while saying mass in the chapel of the Divine Providence Hospital.

The cathedral still sits in a state of disrepair. Snyder used it as a metaphor for the country of El Salvador, describing it as a "great piece of architecture, all of whose ornamentation and aesthetic appeal somehow have been put away in storage — awaiting some unforeseen day in the future when it will be safe, appropriate, and holy enough for its beauty to return."

This article was written with the assistance of Jorge Seall-Sasiain.



Sports Answers

1. Jean-Claude Killy
2. Sheila Young
3. Mike Eruzione
4. Sonja Henie
5. Dick Button, '55

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Group Plans Campaign

(Continued from Page 2)

view is currently considering divesting its own interests in South Africa. (See RECORD, Nov. 18.) Should the *Review* adopt a divestiture policy, its stand could be used as an example for others. Even if the *Review* decided against divestiture, noted Ibrahim Gassama, 3L, its stand could be used to focus attention on the issue if supporters insisted that the *Review* explain its

decision to the University community.

Prof. Duncan Kennedy proposed an information campaign followed by a series of demonstrations to show student and faculty support for divestiture. As the meeting closed several individuals were asked to do preliminary fact-gathering and planning for a semester-long campaign, and to report back to the group at a meeting to be announced.



A MESSAGE TO HARVARD & RADCLIFFE STUDENTS REGARDING NOMINATIONS FOR THE COOP BOARD OF DIRECTORS

If you, as a Coop member and a degree candidate, are interested in serving as a Student Director of the Harvard Cooperative Society for the next academic year, you should obtain an application from the General Manager's office in the Harvard Square Store. Completed applications must be returned to that office by Friday, February 17, 1984 for consideration by the Nomination Committee of the Stockholders of the Harvard Cooperative Society. The Coop's Board of Directors has a total of 23 members, 11 of which are students from M.I.T. and Harvard, 11 are members of the faculty and staff or alumni of M.I.T. and Harvard, plus the General Manager of the Society. The Board oversees the operation of the Coop and sets a policy for the Coop's operation. The Board meets monthly during the academic year.

HARVARD
COOPERATIVE
SOCIETY

the
Coop

1L Majority May Not Sway Review Staff

(Continued from Page 1)

Review's selection process (except in the decision whether or not to submit their grades to the *Harvard Law Review*): "The first-year students are never consulted on the policies for eligibility into the *Law Review*. . . . The selection process takes choice away from the student."

Arbitrary

In an open forum meeting with *Law Review* members, faculty and interested students last Monday, Prof. Morton Horwitz supported the petition before an audience of over a hundred. Horwitz spoke of the "incredibly arbitrary cutoff" that occurs when five students in each section receive "dramatically different treatment than the rest of the class," and later referred to the *Review* as being "extremely corrosive of the educational process at the Law School."

He explained that the additional reinforcement received by those who have already achieved high academic grade standing in the form of "a system of perks and life-long connections" unfairly "stacked the goodies." Calling the system "pathological," Horwitz would prefer to abolish the *Law Review*, in favor of a "healthier, fairer educational system."

Other criticisms of the system focused on the pressure and compe-

tition in the first year, which many feel is increased by the current grade-based track of the *Law Review* selection process.

Prof. Abram Chayes spoke of widespread concern over the difficulties inherent in assessing individual abilities and intelligence based on grades. "There is no way the grades really identify the best — regardless of which grading system you base it on. . . . [The grading system] is a falsehood, an invidious act. . . ."

In the end, Chayes said, the majority of students not invited to join the ranks of the *Harvard Law Review* via the grading route become "angry, resistant and turned off."

Prof. Gerald Frug added: "Exams test only a small slice of human life — so it's an odd idea to base *Harvard Law Review* [selection] on it."

Unpersuaded

Members of the *Law Review*, with few exceptions, seemed unpersuaded. The strongest support for the petition came from David Hoffman, treasurer of the *Review*. He agreed with many of those present at the meeting that grades were a bad idea, and stated that he joined *Law Review* hoping to change the system from within. Hoffman reported that resistance to change is great and noted that "less than 10% of the *Review* members support any move to eliminate grades" from the selection criteria. He strongly endorsed the 1L movement as the best source of change. "The *Harvard Law Review* has a shameful disregard for the views of students," Hoffman

said, ". . . and this embarrasses those who are part of the *Review*."

Other comments from *Law Review* members were less sympathetic. One member asserted that "people's views change when they join the *Harvard Law Review*." Another member clearly approved the present system: "*Harvard Law Review* produces fine work, and grades are a good indicator of those who can do that work."

Moreover, *Review* members by and large agreed that nothing would happen even if the numbers signing the petition reach 75% before grades come out later this month. While it appears unlikely that the *Law Review* would go ahead and choose new members based on at most 25% of student grades, one member of the *Review* stated that the petition would confront a stone wall: "[The *Review*] wouldn't be receptive to the petition."

Prof. Duncan Kennedy responded to the remark: "If the *Review* stone-walls the petition, the student body should be infuriated." Kennedy also stressed the importance of "super-c canvassing or nothing" during the next few weeks to reach unconvinced students before first-year grades are released. The *Review* will be considering changes in its selection process this month (see RECORD, Jan. 13).

Old Hat

Discussions revolving around alternative methods of selection for *Law Review* are not new. Prof. Richard Stewart, who chairs the Faculty Ad Hoc Committee on *Law Review* Selection, agreed that there were problems with the present system, but was not in favor of eliminating grades as a selection criterion. "Distinguishing number four from number five is an arbitrary business, but examination grades are an informative measure of skill of analysis, comprehension, organization and even creativity and imagination."

An alternative faculty proposal would create a weighting system,

(Continued on Page 16)

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Courses Reflect Middle Class View

(Continued from Page 13)

"What is immediately clear [upon entering HLS] is that the faculty views law from the perspective of the bench and/or from an upper class perspective," Kenyatta said.

Examples of such attitudes are numerous, Kenyatta said. He said that whereas most faculty members presume that judges as a whole are good, upstanding people, "I think most judges are insensitive to lower economic class people."

"The faculty does not identify with criminal defendants in petty cases, with people wrongfully arrested, with people in jail. We are always told we should have a 'feel' for the justice system. Does that mean to practice or to be in jail? I've been in jail. I think I have a feel for the justice system. My view of the justice system is that it is hostile to poor, minority people."

"I praise God I come from a humble background because a lot of what

slips by other students doesn't slip by me because of my background," Bigger said. "There is no willingness by professors to learn about life as it is experienced by 75% of the population. They will never have to deal with these problems."

DiDonato framed the problem this way: "Students here tend to have a very middle class view of what life is all about. You talk about welfare law and the first thing that pops into someone's mind is the right of people to keep the property they own versus the government's right to tax. The first thing that pops into my mind is sustenance."

"People make jokes that they don't want to miss the property class meeting on condominiums because they are concerned about that. How many classes are directed to the homeless in America?" For Kenyatta, the issue of classism is more determinative of the experience at HLS than the school's sexual or ra-

cial makeup. "I think this will become more clear as racial and sexual issues at the school are resolved. For several years now the Law School has received a fairly decent racial mix. If the school delivers in terms of desegregation of the faculty, then I think the racial issues within the school will become less important than class issues and class politics."

☛

Petition

(Continued from Page 15)

under which grades and writing competition scores would be averaged and used to select *Review* editors. This idea is problematic, however, because making grades a part of the decision-making process for all students could serve to heighten overall student anxiety about the process.

Selection processes modeled on those at Yale and Columbia have also been considered. New editors on the *Yale Law Journal* are chosen on the basis of notes written by applicants with the editorial assistance of current editors. Stewart considers the Yale program "barely manageable, even for their small size."

He cited the administrative problems that accompany the negotiation of topics, the assessment of preliminary and final notes, and the length of the editing process. Also, according to Stewart, "without anonymity, there is understandable concern that personal and political factors may influence the selection process."

The Columbia system requires all students seeking to make law review to participate in the writing competition, which is completed in June before grades are released.

Stewart feels that "requiring participation in the competition is desirable, but the result need not be solely determinative." Asking potential editors to show the initiative to complete the competition is reasonable, he feels.

☛

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