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25 CENTS



The existence of pornography restricts the freedom of women, Biddle Memorial lecturer Catharine MacKinnon told an overflow crowd in Ames Courtroom.

Risé Peters

MacKinnon Model Law Sees Porn As Civil Rights Abuse

By Lee Christie

Catharine MacKinnon's special crusade is to eradicate pornography in American society, thereby laying the groundwork, she claims, for men's and women's basic equality. Her pet project is an ordinance (already enacted and vetoed in Minneapolis) declaring pornography to be a violation of all women's civil rights.

Analysis

Her address on "Pornography, Civil Rights, and Speech," delivered last Thursday evening as the sixth annual Francis Biddle Memorial Lecture, was more than mere academic oratory; against the bump-

tious backdrop of this law school and its divided faculty, it made for great political theater as well.

A former public interest lawyer and, now, a not-yet-tenured professor of law at the University of Minnesota, MacKinnon is positively exasperated about the historical, and continuing, condition of women in society; about the expression of that condition through pornography; and about the law's usually feeble responses to these ills.

For MacKinnon, regulation of pornography under the criminal "obscenity" rubric has been a bad idea in two ways. As a practical matter, it simply hasn't worked. Potter Stewart's famous line was that he could discern "obscenity"

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Mayor Young: Coalition Key to '84 Election

By Michael Malamut

President Reagan might be able to revolutionize the Supreme Court, if he wins a second term, Atlanta Mayor Andrew Young said Sunday during a speech sponsored by the Harvard Law Forum.

In Ames Courtroom Young gave a short talk followed by questions from the audience. Although the speech was entitled "Civil Rights With a Global Perspective," Young prefaced his remarks by saying that "in a political year, anything is possible." The rest of the discussion centered on domestic politics.

Young said the federal budget should be balanced, but he cautioned against placing a disproportionate burden of the reallocation of resources on the poor.

Young advocated an election strategy that avoided issues which divide Democrats ("I try to talk about issues as little as possible when I run") and concentrated on defining and supporting those issues which unite Democrats. He said that from his own personal experience and his efforts with the first Carter presidential campaign he has learned that personal contact is a far more effective means of winning votes than expensive television campaigns.

Young touted policies he has implemented as mayor of Atlanta that have worked well — particularly the use of broad-based, ethnically diverse coalitions. The Atlanta

(Continued on Page 5)

Legal Aid Tackles Tenant Class Action

By Andrea Hartman

Since the spring of 1983, the Harvard Legal Aid Bureau (HLAB) has represented tenants living in two large Cambridge apartment buildings in a class action lawsuit. The tenants allege that the owners and managers engaged in an "unlawful eviction campaign."

Legal Aid Bureau members John Jacobi, 3L, Kathy Milton, 2L, Jeff Purcell, 3L, and David Reier, 2L, work on the case full-time, while three other members assist.

According to Milton, "this is the bureau's biggest case this year as far as the number of people working on it."

The Fresh Pond Apartments (also known as "Rindge Towers"), located at 362 and 364 Rindge Ave., house primarily low income tenants. Jacobi described the apartments as "privately owned, federally subsidized housing." He explained that about two-thirds of the tenants receive government rent subsidies.

The Bureau became involved in the case last spring. According to Milton, a number of HLAB members representing individual tenants of the Fresh Pond Apartments noticed similarities in their cases.

All of the causes of action involved eviction for nonpayment of rent. Two HLAB members subsequently checked court records, and discovered that the Federal Management Company (the private company which manages the buildings) had brought more than 50 cases against individual tenants, alleging nonpayment of rent. Several of the tenants had receipts showing they had paid.

In May 1983, Judge Zobel of the Middlesex Superior Court certified the case as a class action, and granted a temporary injunction.

Jacobi said the order "prohibited a number of illegal eviction practices." The order also required the management to allow the HLAB student attorneys to inspect the eviction records.

Bureau members working on the case during the summer spent time contacting individual clients and monitoring the management's files. HLAB members say that while

monitoring the injunction issued last spring, they uncovered many instances where the management proceeded against tenants after improperly serving notice, or after tenants produced money order receipts for the months allegedly owed.

Bureau members are currently involved in the discovery phase of
(Continued on Page 16)

New Ferguson Fellowships Foster Human Rights Fight

By Burlette Carter

An effort has begun to establish a permanent memorial to the late Prof. C. Clyde Ferguson, Jr. The goal is to raise sufficient funds to endow a number of C. Clyde Ferguson, Jr. Human Rights and Development Fellowships.

In the past, the Law School has offered a few fellowships to students interested in studying human rights. However, the program was not endowed and the fellowships have always been contingent on the availability of funds. The memorial committee which is temporarily overseeing the current effort hopes that, in addition to providing a memorial to Ferguson, the endowed fellowships will enable students to continue to receive support for work in the area of human rights.

Currently serving on the committee are Stephanie Moore, 2L, Kathy Patrick, 2L, Ronald Ross, 2L, Caroline Wehling, 2L, Marilyn Byrne, former secretary to Prof. Ferguson, Prof. Christopher Edley Jr., '78, and Vice Dean David Smith, '61.

Eventually, a permanent board which will include HLS graduates will oversee the endowment.

The temporary committee is currently directing its fundraising efforts towards faculty and students. Alumni/ae will be contacted soon. The idea is to get a significant percentage of support from the Harvard Law campus which will show a strong commitment to the memorial when the committee approaches foundations and other contributors.

The money raised by tapping these campus sources will be used to fund two or three placements in honor of Prof. Ferguson for the summer of 1985.

However, the eventual goal is to establish permanent fellowships which will perpetually honor the late professor.

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CORRECTIONS

In the March 16 issue of the RECORD, a story on Harvard University President Derek Bok's appearance at a "brown bag lunch" sponsored by the Dormitory Student Affairs Council incorrectly referred to Bruce McCall, 1L, as Bruce McCoy, 2L.

In the same issue, the account of the March 14 faculty meeting twice referred to the Appointments Committee as the Admissions Committee.

We regret the errors.

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Committee Pushes Clinical Programs

By Mike Isbell

A statement by the Clinical Committee on the future of the Law School's clinical programs sparked a wide-ranging debate at the faculty's April 4 meeting.

No action was taken on the committee's statement, but the faculty did approve an addition to the catalog recommending that students enroll in at least one clinical course before graduation.

The committee's statement calls for greater emphasis on "in-house" clinical programs in which faculty members assume responsibility for the design and implementation of field work activities.

The committee also recommended that students be exposed to modes of lawyering beyond the representation of individual clients.

Speaking for the committee, Prof. Elizabeth Bartholet said she was concerned that HLS is moving in the direction of a purely "farm-out" version of clinical field work. In other words, Harvard's clinical programs generally "farm out" students to legal agencies that oversee and direct students' work. The problem, Bartholet said, is that faculty members lose much control over the experience most students have in clinical courses.

"Harvard is significantly behind in terms of what we are doing (in in-house clinical education)," Bartholet said. "There are lots of schools who have more full-time faculty people involved in clinical field work."

Bartholet said her conversations with faculty members from other schools uncovered "a surprising level of agreement" that in-house clinical education is superior to the farm-out model.

Prof. Gary Bellow spoke enthusiastically about the success of the school's clinical programs. Bellow said 79% of tenants who come to the legal services center with problems with their landlords are able to keep their homes. Eighty-five percent of clients with Social Security disputes eventually get their benefits. The success rate for public

assistance cases is 70%, he said.

According to Prof. Lance Liebman, there were about 400 clinical placements at the Law School this year.

Liebman said faculty involvement in clinical education is too small in light of the growth in the school's

clinical programs. "We are very thin in terms of full-time members of the faculty teaching in a clinical program," he said.

Both Bellow and Liebman said maintenance of the clinical programs would require added expenses. **(Continued on Page 20)**



Risé Peters

Group Protests Investments

More than 40 HLS students and several faculty members marched to Harvard University President Derek Bok's office on Wednesday, March 4, to protest the University's investments in companies doing business in South Africa.

The protest began in the Hark,

as demonstrators listened to a series of short statements calling for complete divestment by the University (see photo below). Those passing by in the Hark were urged to sign two petitions — one calling for divestment, the other pledging that HLS students would withhold contributions to the University after graduation until there is complete divestment.

The group picked up additional supporters as it marched across the Yard toward Bok's office (see photo above).

A person who was apparently a Harvard security guard greeted the demonstrators at the door of Massachusetts Hall, where Bok's office is located. The crowd, which by this time numbered about 70 people, again listened to speeches by HLS students calling for immediate divestment.

The march was organized by the Law School's committee on South African divestment.



Risé Peters

Lax Security Cited In Gameroom Heist

By Burlette Carter

In the past few months the Dormitory and Student Affairs Council [DSAC] has been beset with theft problems. The tiffany style lamp advertising "Lite Beer" was stolen from the Back Bench Pub during the winter semester.

Next came the remote control device for the Pub's big screen TV, costing DSAC eighty bucks to replace. Adding insult to injury, a second hanging lamp, bought to replace the first, was stolen just last week.

However, the most significant theft was a recent gameroom burglary. Persons involved in DSAC have credited the happy thief with walking off with over \$1500 but Dave Daugherty, 2L and gameroom manager, calls those figures "grossly inaccurate." Daugherty [who is not in DSAC] says that the amount taken was a great deal lower. Refusing to offer an alternative figure, Daugherty says that the police have asked those involved not to talk about the incident.

The gameroom burglary occurred sometime between Friday night, March 16, when the gameroom was closed and Saturday night, March 17, when it was reopened at about 9:00 P.M. On Friday night, George

Tsangaras, SJD candidate and a gameroom employee, was working the game room desk.

Tsangaras was scheduled to be relieved by Daugherty at 10:00. But when Daugherty did not show, Aurturo Gonzalez, 2L, another gameroom employee who was playing pool in the room, offered to relieve Tsangaras so that the gameroom would not have to close early. Tsangaras then left and Gonzalez took over.

Gonzalez says when he closed the game room he put the money in the safe and locked the safe. He says that before leaving he also locked the glass doors which as a result of recent renovation close off the gameroom area from the rest of the Hark.

Inside Job?

When Jeff Russell, 2L, another employee, arrived to open the gameroom at 9:00 P.M. on Saturday, he noticed that the bartender of the pub was already setting up. Russell unlocked the doors, walked into the gameroom and immediately noticed that the lock on the safe was missing. Russell says that the bartender told him that the doors were locked when he came in.

Opening the door of the safe, he

realized that money was gone. But Russell says that his first thought was that the game manager, Daugherty, had removed the money the night before. Russell did not

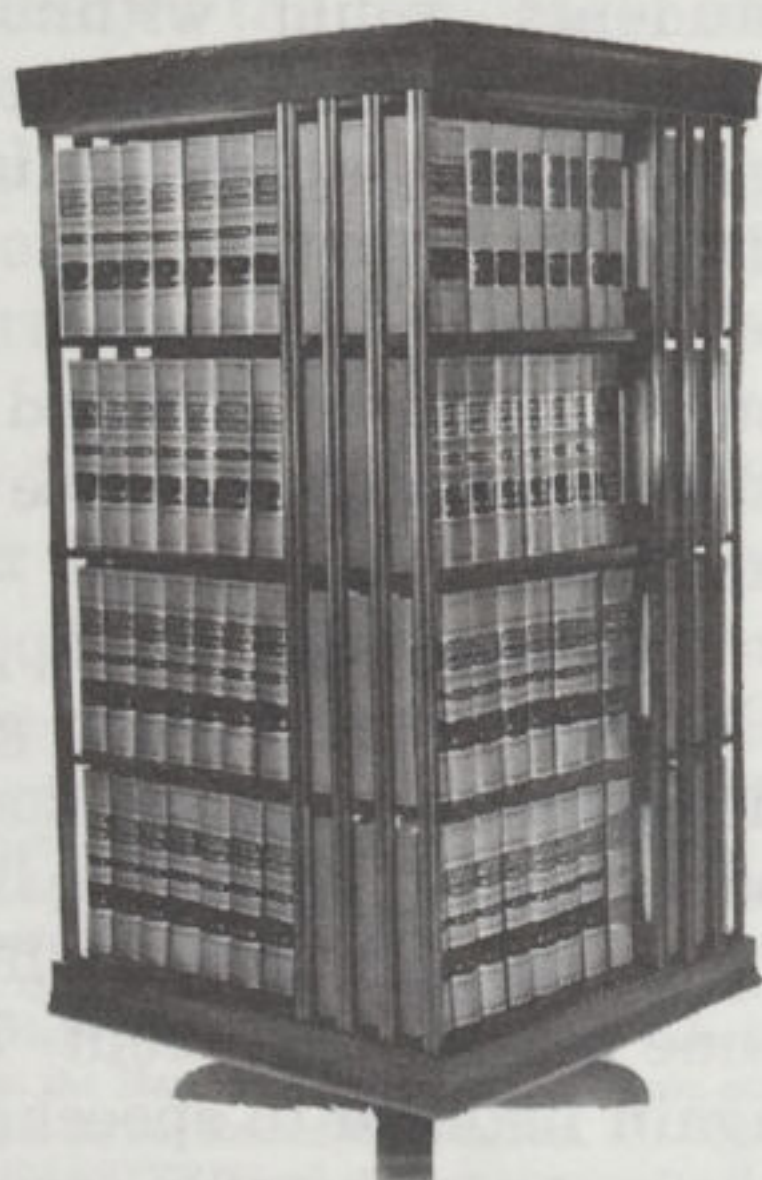
When Daugherty arrived, the two realized that the money had been stolen.

According to Joi Huckaby, president of DSAC, police speculated that the theft might have been an inside job. The glass doors can neither be locked nor unlocked without a key. (However, prior to the theft, one DSAC member had lost a set of keys, and the keys are easy to duplicate.)

According to one source, police noted that the fact that the thief had taken along the lock from the safe also suggested an inside job. However, they did not rule out the possibility that the lock was taken to mislead them. Investigation revealed that the thief might also have attempted to saw off a similar lock to the pub's safe. That lock bore marks and abrasions which pub managers said they had not noticed there before.

The game room includes several pinball machines, a pool table and other recreational items. DSAC also operates its used books sales out of the room. The safe in question con-

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Jackson Candidacy Criticized As Quixotic

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mayor urged grass roots participation in decisionmaking as the best way to discover community concerns and ideas.

He attributed his success to the creation of increased opportunities for service. He believes that in trying to "make government serve those who are not served by the economy," he helped expand economic opportunity to everyone in the community.

On the topic of Black presidential candidates, Young affirmed that a Black candidate must be a serious one who is able to reach out to many constituencies while building on the foundation of Black voters.

Run To Win

Young faulted Democratic presidential hopeful Jesse Jackson for not running to win. Young said it was important that a candidate address certain neglected issues, but he said Jackson's strategy has kept talented young Blacks out of the

policy formation groups in the other Democratic campaigns.

The Atlanta mayor emphasized that there exists a whole generation of Black people who now enjoy the benefits of increased economic opportunity because of the civil rights movement. Young suggested that members of the "Black middle class" owe a special duty to Black Amer-

even harsher terms on South Africa.

Young argued that the situation in southern Africa cannot be divorced from other problems in Africa — political instability, starvation, and continued colonial domination. He called for more American aid to fund economic development in African countries.

On other foreign policy issues, the



Gilad Y. Ohana, The Harvard Crimson

The reelection of President Reagan could produce a revolution on the Supreme Court, Atlanta Mayor Andrew Young said at HLS last weekend.

icans who have not been able to escape the straits of poverty and to the starving denizens of the Third World.

Young said that he felt diplomatic pressure of emerging independent African nations significantly aided the struggle for equal rights in the U.S.

Better Word

Young preferred not to use the term "racism" and instead used "ethnocentrism," which he felt was a better description of a world-wide phenomenon.

As for the apartheid regimes in southern Africa, Young emphasized a diplomatic as opposed to military approach. He feels sure that South Africa will seek a diplomatic solution to the Namibian problem before the Reagan Administration leaves office, fearing that a Democratic administration would impose

former ambassador to the United Nations advocated greater reliance on the Contadora group to achieve American goals in Central America. The Contadora group consists of four Latin American countries that are trying to mediate the conflict between the U.S. and Nicaragua. He also urged a more conciliatory attitude in U.S.-Soviet relations.

Young felt that he played an important role in the United Nations during his tenure there. He said he saw his duty in the UN as representing a coalition of Democratic voters, its base being minority voters and progressive young professionals.

According to Young, the United States is capable of aiding the advancement of the world at large due to America's economic power. Young said it is the duty of those who are able to do so to urge this role on the U.S.

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Wilkey Lambasts "Gutless Congress"

By Paul Cramer

"Gutless congressional decision-making on really important issues," an abdication by Congress of debating and then writing specific legislation, and the willingness of some judges to decide political controversies are creating a constitutional system that is anti-democratic, elitist and contrary to the Constitution's original purpose, according to Judge Malcolm Wilkey of the Court of Appeals for the District of Columbia.

Wilkey, a judge for 14 years, wants to see legislators, and not the courts, held responsible for legislation, even if that means adopting a more parliamentary type of system.

In a speech at the Law School last week entitled, "Judicial Activism, Congressional Abdication and the Need for Constitutional Reform," Wilkey argued that Congress has abandoned its role as a deliberative body and left many legislative decisions to the courts.

Provoked

Practically speaking, Wilkey said, Congress has "provoked" the courts into action. For example, Wilkey said the Clean Air Act was passed with two different compliance dates — one approved by the House and one approved by the Senate — leaving it to the courts to decide which one to enforce. "How do you choose between two coequal branches of Congress?" Wilkey questioned.

For Wilkey, "Clean Air" cases "can be multiplied and multiplied" because "an elected representative" will refuse "to make a needed, long-term policy decision if the short-term consequences threaten his reelection."

This behavior has become "instinctual, habitual and condemnable," Wilkey said. As a result, the courts are forced "to act directly contrary to the role of the courts set down in the Constitution" by "abrogating policy decisions."

Wilkey said Congress also en-

courages judicial activism by writing overly broad statutes.

Wilkey argued that nuclear energy policy has been controlled by the courts, even though "no court has the tools necessary to deal with energy policy in a coordinated and comprehensive way." Other courts have ordered "unwieldy and complex" injunctive orders in areas — such as prison reform — that Wilkey says "can't be a more legislative issue."

Wilkey believes judicial activism and congressional abdication are undesirable because the courts are prevented from doing their "constitutionally commanded jobs," the public rebels, the courts can't gain acceptance of their decisions, and pressure increases to take away from the court certain controversies that they properly should decide.

Reform Needed

Wilkey believes the American governmental system needs reform. Although Wilkey offered no specific

proposals, he presented several ideas.

Wilkey said he thought a more parliamentary system would give "coherence to policy making." Party strength could blunt the influence of single interest groups. The president could declare any vote "a vote of confidence." If either house of Congress voted against the president's proposal, there would be a new election for that house; if both houses voted against the president, there would be an entirely new election.

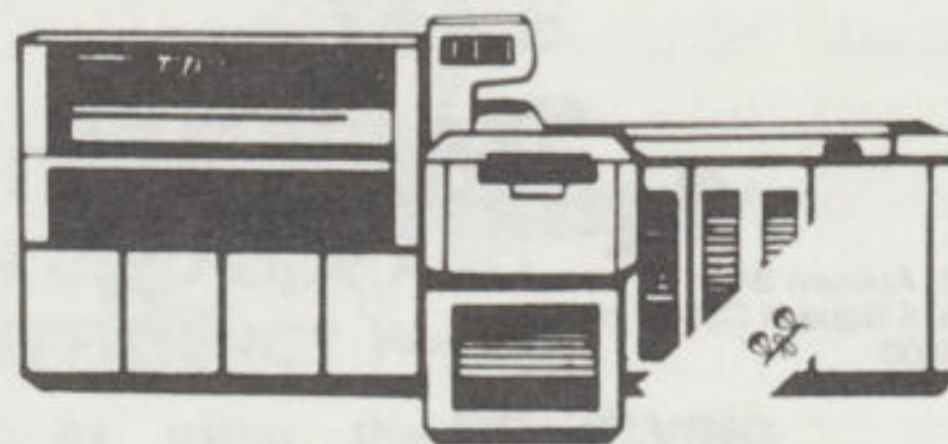
Wilkey said the problem with the present system is that "we can't pin responsibility in any vote on anyone." Wilkey also questioned whether election laws should be changed to prevent anyone from serving two consecutive terms, thereby eliminating legislators' constant fear of not being reelected.

In essence, though, Wilkey's speech was a plea for congressional representatives to define specifically legislation at the time they pass it.

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Library Acquisitions Attitudes Shifting

By Justin Hughes

This is the third and final piece in a series on the HLS library — Ed.

Once a month, "Collection Development," the section of Langdell library that is in charge of acquisitions, holds a party for the entire library staff. They are appropriate hosts for the monthly staff get-togethers, since, of all the administrative areas of the HLS libraries, the people in acquisitions are surely in the most pleasant of situations.

Assistant Librarian Robert Buckwalter, who heads Collection Development, estimates that it takes about \$250,000 a year to maintain and update a basic United States legal collection. HLS spends more than *three times* that much on acquisitions, approximately \$810,000.00 on its annual book-buying. In recent years, the acquisitions budget has grown at or above 10% annually.

Approximately half of this budget is devoted to foreign jurisdictions. In fact, so much is spent on foreign materials that the library has toyed with the idea of maintaining bank accounts abroad to enjoy favorable exchange rates. Students from developing nations often find Harvard's collection of their country's legal materials to be more complete than any collection available at home.

Sometimes collecting foreign materials requires more than money. Often materials must be bartered for; frequently, personal contacts are used. According to Librarian Harry S. Martin, "The Dean of an Argentine law school would rather send us material from his country in exchange for *The Harvard Law Review* than have us send him a check. If we sent him a check, he might never see it."

If a staff member is taking a personal trip to a foreign country, the library might well ask the staff member to buy materials and bring them back. Efforts are also being made to reactivate a network of graduates in developing nations to purchase materials and send them to Harvard.

Despite Harvard's generous budget, a few law schools, including those at New York University and the University of Texas, are adding books at a faster rate. None, however, promises to rival the HLS collection in the near future. After the Library of Congress' collection, Harvard's 1.4 million volumes is the nation's second largest legal collection. The Los Angeles County Public Law Library is next with 700,000 volumes.

The fact that some schools are buying more books than HLS speaks to a change in the library's "mission." Says Buckwalter, "There was a time when this institution thought its mission was to acquire one copy of everything. . . . At the time, considering Harvard's position and the output of the legal community, it was a reasonable view." Both Buckwalter and Martin think that now, with the explosion of published legal material, such a goal would be impossible.

With limitless book collecting neither fashionable nor feasible, the library has begun struggling toward a comprehensive acquisitions policy. A sketchy outline, completed in 1975 but never presented to the faculty, may soon be resurrected.

"Basically, the plan classified the jurisdictions of the world by the intensity [at which] they would be

acquired," Buckwalter explained. "There was an underlying assumption that primary materials would be gathered from all jurisdictions. The only question was how intensively we would collect secondary materials."

Limits on acquisitions do force choices. Some faculty have expressed concern, for example, over the lack of an East Asian bibliographer for the collection and Langdell's meagre holdings in law-related subjects like philosophy and economics.

Chai Feldblum, 2L, a student member of the Library Committee, stresses that acquisitions should also reflect HLS's changing curriculum. "For example," she said, "the library should find out what resources the various clinical programs need and get these on the shelves as well."

Rare books is another area where constraints exist. Although the HLS library is known for having a voracious appetite for rare books, these are no longer a staple on the acquisitions diet. Buckwalter cites this as an area where endowed funds are needed, "We are certainly not able to acquire rare books at the rate we once did."

Any grand framework for HLS acquisitions will certainly be shaped by factors that do not affect the average law school collection. One is the residual feeling that Harvard is *the* repository for the world's legal materials and that these materials should be gathered for future generations of students and researchers.

Buckwalter puts this sense of purpose more directly: "A library's acquisition policy must reflect the kind of research being done. . . . One of the presumptions of this institution has been that people can come here from anywhere to do research and that materials would be available for them."

It's not likely that the Law School will abandon this presumption. Likewise, the obligations it creates will continue to influence the development of the HLS collection.

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Is Pornographers' "Freedom of Speech"

Lee Christie

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when he saw it, but "[Stewart] doesn't see what *I* see, given what's still out there on the newsstands," MacKinnon said.

As an active member of the Conference on Critical Legal Studies, MacKinnon's instinct is to shake things up and to try new ideas.

MacKinnon has, after all, been to Yale Law School; she knows that doctrine is marvelously manipulable. If the legal categories currently in use are not achieving what you want — in this case, if criminal "obscenity" laws are played off against constitutional rights to "free speech" — then you just invent different categories, like "women's civil rights."

All along the way, you make the most compelling case you can for the proposition that the harm you're complaining about is damned serious, and that your policy prescription, in the form of the new or different buzzwords you propose, provides an effective and just legal response. It is, after all, this kind of a process, not any amount of distinctly "legal" reasoning, that truly decides cases, right?

And it is this kind of inventive approach that MacKinnon would bring to the pornography problem, just as she more or less *invented*, in her 1979 book, the now-respectable idea that sexual harassment of women in the workplace constitutes illegal employment discrimination.

The other, and more basic, problem with the old "obscenity" approach, according to MacKinnon, is that it radically misperceives the harm pornography does. Obscenity means that things appealing solely to the "prurient interest" in sex are just too filthy for the public view, are just plain bad for us — all of us.

But pornography, as defined by MacKinnon, is seen as being especially bad for women.

Under the proposed ordinance, "pornography" means "the sexually explicit subordination of women, graphically depicted," where the presentation also contains one or more items from a list of horrors ranging from, "women are presented in postures of sexual submission," to "women are depicted as whores by nature," to depictions of outright sexual torture or brutality.

MacKinnon sees pornography as the basic expression, and the reinforcing engine, of male-supremacist sexism. In pornography, domination/submission and male power are explicitly connected to sexuality and gender.

Where custom has long dictated that women occupy roles and status that are not just different from but *inferior* to the roles and status of men, the society's sexual "literature" (inevitably?) becomes the literature of male supremacy. When rape itself is practically a social custom, MacKinnon would argue, the line between sexuality and the systematic control of women's lives by men is pretty blurry anyway.

As cultural reality and pornographic fantasy feed and reinforce one another, women's inferiority to men crystallizes as unstated, unchallenged ideology. (MacKinnon says we can't even *see* the harm pornography does very easily, because the condition created for women by the pornographic culture is seen merely as "the sex difference.")

Eventually, the basic incidents of personhood — the right to act as well as be acted upon, the right to a fair assessment of your worth by society, the right to be taken seriously when you say reasonable and credible things — become privileges of gender that are accorded only to men.

This is the world MacKinnon sees, and it is fundamentally different, she says, from the world "the law" sees — a world in which men and women are basically equal, except

for some anomalies at the margins that can be tidied up in the fullness of time.

Under the illusion of basic equality, law's job is to be a "neutral" mediator between competing abstract interests, such as "equality" and "freedom." But racism and sexism are real things, not abstractions, MacKinnon complains: "Doing anything for any group is immediately a problem in a legal system that turns everything into an abstraction."

MacKinnon is also annoyed by the law's "analogy habit," which "makes it very hard to *do* anything about a problem if it is *not like* any other problem."

Sexism, she says, is like racism in that both hinge on a condition of birth, but that is where the parallel ends: "Slavery was never justified — especially not in the minds of its victims — by the idea that it was designed for their own best interests, in conformity with their true desires and their basic nature . . . No one ever believed that slave society was a society of equality."

MacKinnon apparently believes, and would have others believe, that a society without pornography would become a society of sexual equality. Or, to be fair, perhaps her "causation" claim is a less strict one — that as long as society permits pornography, it has no hope of becoming a society of sexual equality.

MacKinnon said at a reception following her lecture that the whole issue of sexism, pornography, and causal links is "too much like the chickens and the eggs" for her to get very exercised about it; no matter which one you decide to kill first, you are going to end up with fewer of both.

A casual attitude about causation, however, is completely inconsistent with the message MacKinnon herself has delivered before the Minneapolis City Council last year and before last Thursday's Ames Courtroom audience.

Women's Slavery, Women's Silence?

Granted, her litany of barbarous behavior by pornographers, fantasy-crazed husbands, and violent sex criminals — all of whom *were* inspired by vividly awful pornography and its base message — is a real grabber, especially if her oratorical goal is to make someone feel immoral if he even *thinks* about voting against her.

But MacKinnon purports to justify doing something radical about porn by asserting: (1) that the harm of porn is broadly pervasive, affecting all women and men, not just abnormal men and the unlucky women they victimize; and (2) that her favorite lab studies measuring the attitudes of even very "nice" men *prove* this harm.

MacKinnon has to assert something along these lines, I suppose, but she must know that the harm she is talking about — the condition of being in a status lower than full personhood — is too big and too "soft" to be fitted into anything most lawyers would think of as "causation."

She also must know that her arguments, if accepted, justify cleaning up many more things than just the porn-peddlers — let's start with *all* advertising, for example, and then move on to most of network TV.

As a practical matter, then, MacKinnon's theories and prescriptions bump up against two basic obstacles. The first is that no one has yet appointed her (or me,

for I actually agree with her) philosopher-monarch.

The second obstacle, a related one, is that this is America, where constitutional "freedoms" have apparently been interpreted to include the right of half of us to be turned on at the other half's immediate expense, and the ultimate expense of all of us.

Our law probably just won't stand for effective regulation of the content of communication, *especially* when the regulations are vague.

MacKinnon says her statute is specific, not vague, but it is difficult to believe that anyone who has read it believes that, especially anyone who has been to law school.

Long Odds

MacKinnon, who is, let's not forget, a very smart lawyer, knows that she faces long odds in defending her ordinance against "free speech" attacks.

So she points out that under her approach, criminal "obscenity" standards shouldn't apply because what we'll have are civil suits for prospective injunctions, brought by the lady down the street against porn traffickers.

She also cites the concept of "group libel" laws, which might or might not be constitutional in this country today (their equivalents do exist in other places).

She asserts that trafficking in pornography, like the crime of trafficking in obscenity, or like the civil wrong of practicing racial segregation, is an action or practice, rather than "speech," and hence is not protected by the First Amendment.

Would these kinds of arguments fly? Let's just say that MacKinnon is, for now, probably more adept at wowing students and moving legislators than she would be at persuading judges who believe in "neutral justice" and such.

MacKinnon is no stranger to Harvard; she has taught here during two Winter Terms, and there is the Law School equivalent of a popular guerilla front working to get her a tenure-track appointment.

The "Draft MacKinnon" lobby turned out in full force at the Biddle Lecture, marring the interval between the lecture and Q&A with a "spontaneous" ovation that included not only chants but even "Hire This Teacher!" placards aimed at the side of the room where much of the faculty was seated.

Many people in the lecture hall left immediately upon the conclusion of MacKinnon's address, however, and I couldn't help noticing that Appointments Committee Chairman Al Warren was out of the room before the little demonstration began.

MacKinnon, for her part, was obviously both gratified and embarrassed that a political demonstration aimed personally at her should have taken place during an otherwise staid occasion. "After you've seen a lot of pornography, you think nothing can really surprise you, but *that* surprised me," she would remark later.

When a questioner in the audience suggested that she should skip the level of HLS professor and ascend directly to the deanship, MacKinnon was the picture of graciousness: "I couldn't even *aspire* to that role with the grace of Jim Vorenberg." (He was seated on the dais a few feet behind her.)

If MacKinnon does not get a job here — isn't it funny how we all assume she wants one? — it certainly won't be because her work is not interesting or provocative.

Casual observations of what look like very animated discussions tell me that her remarks have pulled many 2Ls and 3Ls back from the brink of permanent jadedness. "Gosh," we've all suddenly remembered, "law *matters*."



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Being Heard

Catharine MacKinnon's appearance as this year's Biddle Memorial lecturer raised several important questions.

First, after hearing the grumblings of some members of the HLS community after the speech that MacKinnon's presentation was "anti-intellectual," one begins to wonder just how disadvantaged groups are supposed to improve their situations. Certainly, MacKinnon's analysis of the pornography dilemma does not fit neatly into the epistemological construct erected by our constitutional law professors. MacKinnon rejects the traditional model of legal thinking that appears to concern itself more often with abstract philosophical problems than with the concrete experiences of millions of people who are not fortunate enough to be white, male and heterosexual.

Someone who understands and is revolted by the violence — both actual and symbolic — perpetrated against women in our culture might still be troubled by MacKinnon's anti-pornography ordinance. Some might contend it would be unworkable, others might question her causation, while others would argue compellingly that free speech must be absolutely protected. Claiming peremptorily that MacKinnon's speech was "anti-intellectual," though, is nothing more than a simplistic refusal to answer her basic argument, that the law ignores what women have to say, even when women have proof that what they're saying is true.

Second, the student demonstration in support of MacKinnon at the lecture leads one to question just how students are supposed to have an impact on the appointments process. If one accepts the principal that students should have at least *some* limited input on faculty appointments — and although most faculty members do, some most vehemently do not — it would seem reasonable to make regularized student input a part of the system. In the absence of regularized input, students don't know which tactics work and which ones won't work. Informal conversations, lobbying and petition drives haven't worked so far for students who want a more diverse faculty. It is doubtful the demonstration at the lecture will sway many faculty members, either.

You can't blame students for trying, however, even if they're often screaming into a vacuum.

HARVARD LAW RECORD

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Fenno

Fenno was excited to be attending his first seder — the ritual Passover meal. He even brought dessert — a huge solid-chocolate Easter bunny.

His host and hostess smiled wanly. "Oh, don't worry," exclaimed Fenno. "It's kosher-for-Passover."

"We're pleased you could come," said his hostess. "We always have guests. Someday, we hope Elijah will be our guest. Elijah, you know, will precede the Messiah."

"Kind of like his advance man?"

"Kind of. Although it could be her advance man. In any case, that large cup of wine on the seder table is Elijah's Cup, in hopes that he will join us."

"Suppose Elijah doesn't like wine?" Fenno wondered aloud. "Suppose his drink is a Margarita? Then setting out wine might delay the Messiah."

The hostess smiled wanly again. "Perhaps," said the host, "we should start the seder." He began pouring the first of everyone's four cups of wine. Fenno asked for beer instead.

The host shook his head. "Passover," he said, "celebrates the Children of Israel's flight from Egypt. They left in such a hurry that the bread they were baking didn't have time to rise. Hence, we eat matza, unleavened bread, for the eight days of Passover. And we don't consume any leavened or fermented grain, so no bread — or beer."

"Sorry," said Fenno. "I didn't know."

"No need to apologize," said the hostess, "a seder is for learning. Soon we will read the Four Questions about the seder. They're not Socratic — don't worry — so you'll actually learn the answers."

Said the host, "You'll notice that many things at the seder are done in fours. That's symbolic of the four promises G-d made: I will bring you out from the house of bondage, I will save you, I will free you from slavery, and I will take you to be My people."

The seder began, the Four Questions were asked, the four cups of wine were consumed, and all the guests told a portion of the Passover story, the answer to the Four Questions. Fenno was asked to read aloud about the Four Sons — one wise, one contrary, one simple, and one who doesn't even know how to ask a question. The fourth son reminded Fenno of himself as a 1L.

After the seder concluded, Fenno thanked his host and hostess profusely for teaching him about Passover, and headed to Georgie's.

"Draft?" said the bartender.

"No," said Fenno, "it's Passover." He ordered a cup of wine and a Margarita.

"These both for you?" the bartender wondered as he served.

"No, the Margarita's for Elijah," said Fenno, pushing it in front of the empty bar stool next to him. He lifted his fifth cup of wine and said, "He'll be along soon, I hope."

Letters to the Editor of the Record

Depressed

To the Editor:

I wonder if other members of the Harvard Law School community, past and present, are as depressed as I am by the overwhelming evidence reflected in your columns of an increasing atmosphere of intolerance, self-righteousness, and self-pity among both students and faculty at the School.

The relentless backbiting, whining, and confrontationism you report, coupled with a growing politicization of faculty, student and *Law Review* selection, bode ill for the future of the Law School and, far more seriously, that of the legal profession in this country.

Is it too much to hope for a measure of tolerance, moral courage, awareness of human limitations, and some simple civility from members of a community dedicated to the teaching and study of law?

A. Joshua Sherman, '57
New York, N.Y.

Reverse McCarthyism

To the Editor:

For many months now I have felt that this letter, or one like it, needed to be written by me, or someone like me, that is someone who, being a member of an historically ostracized and exploited group (Blacks) is necessarily sensitive to and sympathetic with the concerns of other such people. But I hesitated to do so, cravenly I admit, because I anticipated that the price of such an unburdening would be the loss of many friends and the hostility of others whom I don't even know. But, in the end, precisely because I thought such consequences would be likely, I felt morally compelled to express these views.

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 2:00 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.

The uninitiated look upon Harvard Law School as the citadel of enlightened, uninhibited, critical and "liberal" (in the broad sense) thought. Rarely have I seen reality and reputation more completely divorced from each other. The reality is that if HLS were ever such a place, it is most assuredly far from such a place today. HLS is today afflicted with what may loosely be called a "reverse-McCarthy era madness", a scare whose hue is whatever color is the opposite of red.

Too many of my fellow students insist upon seeing a racist, a sexist and/or a "homophobe" behind every lectern and inside every professional office. And this, at a time when the HLS faculty is more "diversely homogeneous" than ever before. In probably no other academic community in this country is there a greater number of gradations along a single end of the ideological spectrum. Almost to a person, the members of the faculty are appreciably more "liberal" (in the political sense) than the average American "liberal" (if any are left outside of Cambridge). The white men whom my self-righteous, intolerant, myopic and romantic fellow students villify today are the same men who fought selflessly for freedom of expression and association, desegregation and affirmative action long before any of us were old enough to carry a placard into the bright May sunshine and shout "hierarchical replication." These are the very men who voted to bring to the faculty younger, still more "liberal", militant and diverse scholars bent upon challenging their assumptions, pricking their consciousness and generally making life uncomfortable for them.

Can a prima facie case be made that such men are fascists? Are they the very incarnation of Evil? Do they stand committed of high crimes against God and "Hupersonity"? The answer, in short, is only in Cambridge, a community more out of touch with reality and common sense than perhaps any other in the country.

The leftist witch hunt mentality unfathomably prevailing in a predominantly leftist community was most recently demonstrated in the class of an hitherto enormously popular professor. Last week, as he had done for years, this professor showed a film in which two young Black men portrayed two young men who had run afoul of the law. To his understandable consternation, the professor was subjected to a barrage of accusations of racism, sexism and insensitivity to the plight of America's poor & working class. Never mind that the real-life offenders were Black, never mind that eight of the ten films used over the term by this professor depict white criminals, and while you're at it, never mind that the professor had on occasion doctored films and cases so that criminals become white rather than Black.

To these students, this professor is a racist,

one every bit as loathsome as Senator Bilbo and Bull Connor, if not worse since he, at least, is articulate, well-educated and alive.

Not for a moment do I mean to suggest that we Americans may declare victory in the war against racism. There are still plenty of chest-beating flag-waving, card-carrying, "and I'm proud of it" racists out there and they're not all in Dixie. But if we look for them in the F[aculty] O[ffice] B[uilding], we look in a most unlikely place.

In his insightful recent *New Yorker* piece, Calvin Trillin describes HLS as an "unhappy place." Well, no wonder. Joe McCarthy's Washington, Hitler's Germany and Mao's China in the Cultural Revolution weren't very happy places either. But, at least in those times and places, no one pretended that heterodoxy was welcome. Those times were evil, but at least they were honest!

Clark Kent Ervin, 2L

Surrealism

To the Editor:

William F. Buckley, Jr., once said, approximately, that the average sensible person would rather be governed by 100 people selected at random from the Greater Boston telephone directory than by the faculty of the Harvard Law School. Nothing in the RECORD's articles on the politicization of faculty selection decisions would cast any doubt on that assessment.

The bothersome aspect of the RECORD's articles was not the charge of politicization itself, which is bad enough but which may not be true, but the surreally self-important nonsense that was offered in support of the contending positions. The quoted statements are redolent more of the sterility and irrelevance which characterized political debate under the Third and Fourth Republics than of the relentless intellectual realism traditionally associated with HLS.

On the evidence of the articles, for example, Professor Duncan Kennedy is a walking fudge factory who couldn't achieve a "radical transformation" of a bicycle shop if he started out with all the spokes. His comments evoke the formulaic posturing of French socialist militancy which, because French socialists are "above all intellectuals [and] teachers . . . irresistibly resembles a discussion in the faculty lounge during recess."¹

More broadly, the whole "left/right" categorization of the conflict is an intellectual artifact, divorced from real world concerns. The CLS is to the "left" of its opponents in the sense that Khrushchev was to the left of Beria (or that Hitler was to the right of Roehm): that is, not by reference to any coherent set of philosophic principles, but in order to have a better line of fire in an anticipated power struggle. The whole banal

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Letters to the Editor of the Record

(Continued from Page 11)

and depressing spectacle suggests that like the politicians who ran France between the wars, the participants are products of educations which were "designed to produce a highly intelligent national leadership" but which have instead "produce[d] intellectuals; not quite the same thing."²

Michael A. Bowen, '76
Whitefish Bay, Wisc.

¹(Mais, comme il est peuplé avant tout d'intellectuels, d'enseignants et de cadres, il s'accommode de cette cacophonie-là. Le militantisme socialiste français ressemble irrésistiblement à une discussion de salle des professeurs pendant la recreation.") A. Duhamel, *La République de M. Mitterand*, 149, Grasset (Paris, 1982).

²P. Johnson, *Modern Times: The World From the Twenties to the Eighties*, 143, Harper & Row (New York, 1983).

No Need

To the Editor:

As a member of the Jewish faith, a 1938 graduate of the Law School, and a member of the Harvard Law School Alumni Association, frankly, I see no need for a separate Jewish Alumni Association.

I have always been able to say that of all the educational institutions I attended, Harvard Law was the one that paid no attention to your color, race, or religion. All the great professors — Williston, Pound and Scott to name a few — were interested in was intelligence, not racial or religious background.

Does the formation of a Jewish group mean that it will be followed by a Catholic, Lutheran, Episcopalian and Mormon group? I'm sure that one group, the Harvard Alumni Association, can adequately fulfill the needs of all of us without further separation.

Jerome D. Winegarden, Sr., '38
Flushing, Mich.

To the Editor:

I write not about the dispute between my colleagues Bernard Wolfman and Charles Fried over the merits of the invitation extended by the Harvard Society for Law and Public Policy to Assistant Attorney General Bradford Reynolds (as recounted in your issues dated March 2 and March 9) but to shed light on Professor Fried's unexplained remark that I had recently written to Attorney General William Smith "warmly complimenting the Department of Justice for its presentation of its position on the

merits in the *Bob Jones* case."

I did in fact write to the Attorney General on February 19, 1984, to confirm a position he had heard attributed to me and apparently found it hard to believe — namely, "that I have the highest regard for the quality of the brief finally submitted to the Supreme Court by the Department of Justice in the *Bob Jones* case." As I went on to explain in that letter, "I continue to think that the Fifth Amendment itself may well prevent all federal subsidies, even by way of tax-deductible status, of racially discriminatory private schools. But I do not think that the Supreme Court's use of congressional inaction to support the legality of the IRS policy was at all legitimate. If Congress wishes to legislate a tax rule, it must do so by action — not by silence." The point is similar to the one I made in Tribe, "Toward a Syntax of the Unsaid: Construing the Sounds of Congressional and Constitutional Silence," 57 *Indiana L.J.* 515, 531 & n.91 (1982).

That the ultimate result for which the Department of Justice argued in *Bob Jones* might well have been unconstitutional — something I believe, but something the Supreme Court's dubious use of congressional silence made it unnecessary for it to decide — does not negate the excellence of the Department's legal presentation on the statutory issue.

The real reason for disagreeing with the

Department of Justice is that the IRS probably could not grant tax exemption to racist private schools even if Congress decreed otherwise, not that Mr. Reynolds' lawyering was weak when it came to unraveling Congress' intent. I agree with Robert Cover that all of us "deserved better" than a Supreme Court decision "throwing the claim of protected insularity to the mercy of public policy." Cover, "Foreward: *Nomos* and Narrative," 97 *Harv.L.Rev.* 4, 67 (1983). As Cover says, the "insular communities deserved better — they deserved a constitutional hedge against mere administration. And the minority community deserved more — it deserved a constitutional commitment to avoiding public subsidization of racism." *Id.* If, as Cover plausibly concludes, "the whole show in *Bob Jones University* was built on shoddy commitments, fake interpretations", then it seems much too easy simply to shoot at a well-argued Justice Department brief.

Laurence Tribe
Tyler Professor of
Constitutional Law

Disillusioned

To the Editor:

A majority of the Board of Student Advisors have decided that slavery in South Africa is not worthy of critical comment.

Sports Quiz

Note: This week's sports quiz asks you to identify five sports movies which, in no uncertain terms, endeared themselves to sports and film fans alike by memorializing real-life sports heroes and winning at least one Academy Award in the process.

1. This film featured Bob Meusel, Bill Dickey and Babe Ruth appearing as themselves and a Hollywood legend who had to be taught to throw left-handed in order to assume the leading role. Name this 1942 nominee for Best Picture and the Columbia alumnus whose life it depicts.
2. The 1956 Oscar winner for Best Cinematography, this movie starred Paul Newman as the serendipitous middleweight boxer whose hold on the title for just under eleven months in the later 1940s was sandwiched between the reigns of Tony Zale. Name this MGM film and the middleweight champion turned pitcher portrayed therein.
3. The winner of four Academy Awards, this fine British effort reaches its climax at the 1924 summer Olympic Games in

Paris. Name this darkhorse victor among the 1981 nominees for Best Picture honors and the 100-meter and the 400-meter gold medal winners whose feats it captures on the silver screen.

4. Nominated for Best Picture in 1980, this Martin Scorsese film graphically depicts the battles in and outside of the ring of the middleweight division's champion from June 1949 to Feb. 1951. Name this drama which picked up a Best Actor award and the fighter whose life it portrays.
5. Released by MGM, this heartwarming baseball saga starring Jimmy Stewart and June Allyson revolves around the tragic accident which befell a star pitcher for the Chicago White Sox after the 1938 season. Name this 1949 film biography and the tall Texan with a lifetime mark of 36 wins and 23 losses whose abbreviated major league career it admirably recounts.



(Answers on Page 16)

HARVARD LAW RECORD

Letters to the Editor of the Record

Indeed, the naïve majority have successfully railroaded an attempt to make this stuffy organization somewhat humane.

A few weeks ago, the BSA was asked by the Law School Divestment Committee to donate \$50 to \$100 to support a week of activities designed to inform students about Harvard's investments in South Africa. The Committee also asked the BSA to appoint a member to act as liaison and to sponsor an activity on divestiture. When the proposal was initially discussed, some BSA members were concerned about our lack of control over any funds donated for the activities. After nearly all of the BSA members expressed their "wholehearted agreement" with the "injustice" of apartheid, it was suggested that we table the proposal until we could ascertain exactly what the funds would be used for. Realizing, however, that the *principle* behind our support of apartheid con-

demnation is far more valuable than a minute financial contribution, a motion was made to adopt a simple, watered-down statement merely expressing our opposition to the concept of apartheid.

Ironically, but not surprisingly, the apparent possibility that this motion would pass brought a vehement dissent from some of the members. They argued that as a "non-partisan" organization, the BSA should not engage itself in "political activity." After all of the members had aired their views, a vote was taken to determine whether it was proper for the BSA to vote on the proposal. This motion passed. Immediately, a BSA member moved that it be required that the vote be unanimous. Instead of discussing this ridiculous proposal (which would easily have been defeated), it was decided that "since it was almost 4:00," we would only take a straw vote on the apartheid proposal and discuss the unanimity issue later. (Since BSA members frequently come and go during meetings, it was improper for the meeting to suddenly be adjourned. Meetings consistently go beyond their allotted time. At the very least, a vote should have been taken to determine whether or not the meeting should have continued.) By a vote of 13 to 6, the BSA voted to oppose the South African government. The vote, however, was only a straw vote and thus was not binding on the organization.

The following week, the Board decided (19 to 8) that a vote to condemn apartheid must be unanimous, since slavery in South Africa does not "directly affect" the BSA. A majority of the board members present then voted *not* to support the activities of the Divestment Committee. They did, however, give their token approval to the efforts of individual members who may wish to contribute to the committee.

My reason for writing this letter is not only to chastise the BSA's substantive decision *not* to condemn apartheid, but also to express my disillusionment with the way in which the vote was manipulated and the insensitivity which this organization has demonstrated. I cannot believe that Blacks in America and at HLS are not somehow "affected" by slavery in South Africa. I can, however, see how most of the middle and upper-middle class members of BSA are unmoved by the plight of the Black people of that country. Perhaps a faculty proposal to grade them on class participation will once again spark their activism.

The subtle, yet powerful racism which is prevalent throughout this organization is a barrier which cannot stand. The racist tone of the apathy surrounding a majority of current board members must be changed if the BSA is genuinely committed to increasing the number of Third World members in its upcoming selection process. For if "diversity" is truly the goal of this organization, it cannot be attained so long as a "one person veto" is present to reject the new ideas of the previously excluded Blacks, Chicanos, Asians, and Native Americans.

Finally, I would like to point out that while most board members claim to be opposed to the racist South African government, none of the members voting against divestiture followed my suggestion that they attend a movie on apartheid sponsored by the committee, nor have most of them signed the petition being circulated opposing apartheid. This sad reality is but one of the many examples indicative of the general consensus of the predominately white BSA — the consensus that grades, jobs, and personal success are more important than the plight of the downtrodden ancestors of Third World students whom they advise at this institution. My only consolation is that the proposal against slavery received eight votes, whereas twenty years ago, it would surely have received none.

Arturo J. Gonzalez, 2L
Board of Student Advisors

Put-On?

To the Editor:

I have been reading your letters to the editor column. Is there really such a person as "Muhammad Kenyatta 3L", or is this a put-on by the RECORD?

Frederick S. Wyle, '54
San Francisco, Cal.

The RECORD is happy to report that Muhammad Kenyatta is alive and well and studying in Cambridge. — Eds.

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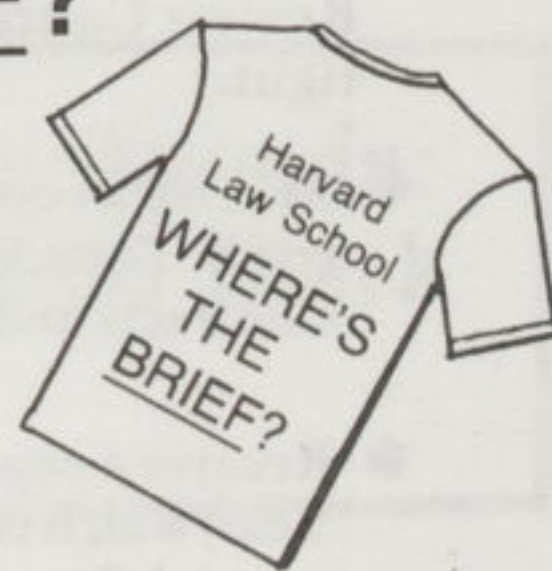


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Water Impurities Worry Local Officials

By John Brandolino

The Cambridge Water Department (CWD) was required in December to send out public notification that the sodium content of the Cambridge drinking water exceeded current maximum standards.

The current standard set by the Massachusetts Department of Environmental Quality Engineering (DOEQUE) would allow, at most, the sodium equivalent of one saltine cracker for every liter of drinking water. However, Cambridge drinking water now contains the sodium equivalent of about one-and-a-half saltine crackers for each liter. This, in itself, is not a serious health hazard, but the vulnerable nature of the Cambridge reservoirs elicited concern among residents restricted to low sodium diets.

Industries and highways surround the three reservoirs from which the city of Cambridge draws its public water. As a result, ex-

cessive amounts of salt (among other things) frequently drain into the city's water supplies.

Cambridge derives all of its water from three sources — the Hobbs Brook, Stony Brook, and Fresh Pond reservoirs. Unfortunately, unprotected salt storage areas comprised of sodium used for road control, coupled with the extensive use of salt by surrounding industries for snow and ice control, create unusual problems of leakage into two of these three sources. The other body, Fresh Pond, is also located in a highly developed area.

In contrast, every other city or town situated east of Route 128 — an area which contains about 50% of the population of Massachusetts — derives all or part of its supply from a huge body of water located within the undeveloped West Central portion of the state.

A 15-mile radius of undeveloped woods surrounds this body, known as the Quaban Reservoir. The land

contained within this radius is controlled by the Metropolitan District Commission (MDC), which maintains the purity of the land and, in effect, keeps this water as untainted as possible.

Water Board clerk Jon M. Beekman insists that Cambridge is "working hard" to clean up the watershed areas. The fact is that the sodium content in the city's drinking water has actually been reduced by 25% within the last five years.

The CWD is presently employing numerous methods to keep up that pace, and is confident that the supply will meet state standards within a reasonable amount of time. Among the methods employed by the CWD are negotiations with businesses and public works departments to eliminate the use of sodium chloride for snow and ice control, and the implementation of a hydro-geological engineering study to identify sources of salt in the Hobbs Brook Reservoir.

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Locals Wary of Salty H₂O

"Choosing the sources for Cambridge drinking water was a decision made in the late 1800s," reveals Beekman, who believes that today's Cambridge residents are not bearing the burden of any narrow, 19th Century decisions. Rather, he feels that any water sources are well protected and scrutinized under a three-tier regulation system.

For instance, not long ago, state testers claimed that the Cambridge water contained a high amount of Philhalomethane. This allegation

set the local process in action, but it was finally determined that the state tests were incorrect. In this way, each sector "checks and balances" the other. (The state has shut down 33 local underground water sources in other Massachusetts communities within the last five years, says one state planner.) Besides state and local scrutiny, the CWD must also answer to federal guidelines by routinely filing test results and other reports.

(Continued on Page 17)

Gameroom Getaway

(Continued from Page 4)

tained money from the used book fees and money for providing change.

One gameroom employee claims that he and others had warned the DSAC leadership and gameroom management that keeping so much money in the safe overnight was dangerous.

The source also said that other extremely lax policies offered easy access. Reports that the key to the safe was often kept "under a book on top of the safe" or "in a desk drawer in the gameroom" have been substantiated by other employees and by Daugherty himself.

Huckaby, who took office in February, said that the vastly increased popularity of the Pub and the gameroom over the past few years raised new issues regarding their operation and security. She said that the gameroom manager was primarily responsible for setting gameroom policies.

However, she acknowledged that she was aware that policies which were being followed raised serious security questions.

Since the theft, Huckaby has met with Harvard University Police in an effort to formulate new security policies. Daugherty, too, has been involved in some of the discussions.

Huckaby and other DSAC officers have also suggested erecting physical barriers which would prevent thief access: a fence that would drop around the bar in the Pub, or a gate which would totally close off the Pub and Gameroom areas.

However, Huckaby says that the buildings are Harvard Law School property and recent discussions with the Hark Committee (which oversees any renovation work in the Hark) has raised questions about whether certain added physical structures would compromise architect Walter Gropius' design. Because of Gropius' importance to the "international style" of twentieth century architecture, the Harkness Commons is in the National Register of Buildings.

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Class Action

(Continued from Page 2)

the lawsuit. In addition, they have defeated about 25 individual eviction actions during the last year.

Jacobi described the purposes and goals of the case. "We're trying to stop an illegal and abusive eviction campaign. We're trying to get them [the management and owners] to stop intimidating tenants by serving them court papers whenever they're just weeks behind in their rent . . . We think they're using notices to quit as reminders to people that they're behind in their rent."

The HLAB class action representatives believe, said Jacobi, based on documents obtained during discovery, "that the management is trying to change the nature of the tenancy."

For example, management reportedly decided at one meeting not to accept welfare recipients as tenants. Statistically, most of the people evicted were welfare recipients or low income tenants.

Jacobi noted that the management has recently advertised for elderly and handicapped tenants. The HLAB also learned that the management maintained a list of undesirable tenants, which included those targeted for eviction.

Jacobi hopes the lawsuit will both force the management to obey the law, and persuade them to improve living conditions at the apartments. (The buildings allegedly have numerous maintenance and health problems, including unreliable elevators, mice and cockroach infestation, defective plumbing, and defective incinerators.)

He added that the HLAB representatives are also trying to work with the tenants, and encourage them to organize, "so they can have some voice in how the apartments are run."

Sports Answers

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Visitor Struck By Student Body Diversity

By Burlette Carter

When Dean James Vorenberg called to offer a visiting professorship to Linda Greene, associate professor at the University of Oregon, he was, in a sense treading on the turf of a friend and former colleague, Derek Bell. Only a year earlier, Bell had left the Harvard faculty to become dean of Oregon. Though not anxious to lose one of his faculty members, Bell apparently didn't mind lending her to Harvard for a time, even though he knew as well as any that visiting professorships sometimes lead to permanent offers.

Greene smiles when she speaks of her discussions with Bell about a Harvard visit: "My dean said to me the *only* place I will let you visit is Harvard or Yale."

During her stay here Greene is teaching three courses: Introduction to Federalism, Employment Discrimination and Constitutional Law. When asked to compare her Harvard and Oregon experiences, Greene chooses her words carefully, displaying the degree of tact expected when one is asked to compare institutions. She calls the Harvard experience "interesting" and the students, "very capable."

One specific difference between Oregon and Harvard which she does mention is the diversity of HLS. The fact that "students come from

a full range of experiences and backgrounds" has, she says, enriched her teaching experience here.

Greene's scholarship addresses a broad range of subjects, including employment and housing discrimination, class actions, separation of powers and bar eligibility standards.



Adam Eisgrau

Visiting Prof. Linda Greene

She is also a co-author of the Clinical Trial Advocacy Teaching Materials used by the Legal Services Corporation in its National Trial Advocacy Training Program.

Greene is also a Kellogg Foundation Fellow. The three-year fellowships offer recipients the unique opportunity to broaden their experiences and their understanding

of public policy issues by underwriting travel and study.

Greene and 49 other Kellogg Fellows (who practice various professions) regularly participate in foundation-arranged group trips throughout the United States and abroad. Recipients also are free to use their funding for self-arranged travel.

Greene will use her fellowship to study the nature of work and the factors which affect the allocation and availability of work in a society. She says that she will examine the policymaking centers of various cultures, and the ways in which these centers affect the societies' division of labor. Future travel under the fellowships will include trips to Brazil and China.

Greene has served as deputy city attorney for Los Angeles and as an attorney for the Legal Defense Fund. But Greene, who comes from a family of teachers, was destined for education.

However, she notes that her current career choice was also the product of a desire to do things her own way — to study what she wanted to study, and to read what she wanted to read. "I wanted to go back to school on my own terms," she said.

Sodium

(Continued from Page 15)

Area residents, including at least one council member, expressed concern over the possible inadequacy of the notification procedures.

According to the state "drinking water regulations," the local water department must send notices of deficiencies only to customers who pay water bills. In Cambridge, where many residents are tenants, this could cause a problem. Many tenants may never see these public documents, especially if their landlords live out of town. The state regulations further require that the notice be published inside a local newspaper but this may also be ineffective considering the small circulation of the *Cambridge Chronicle*.

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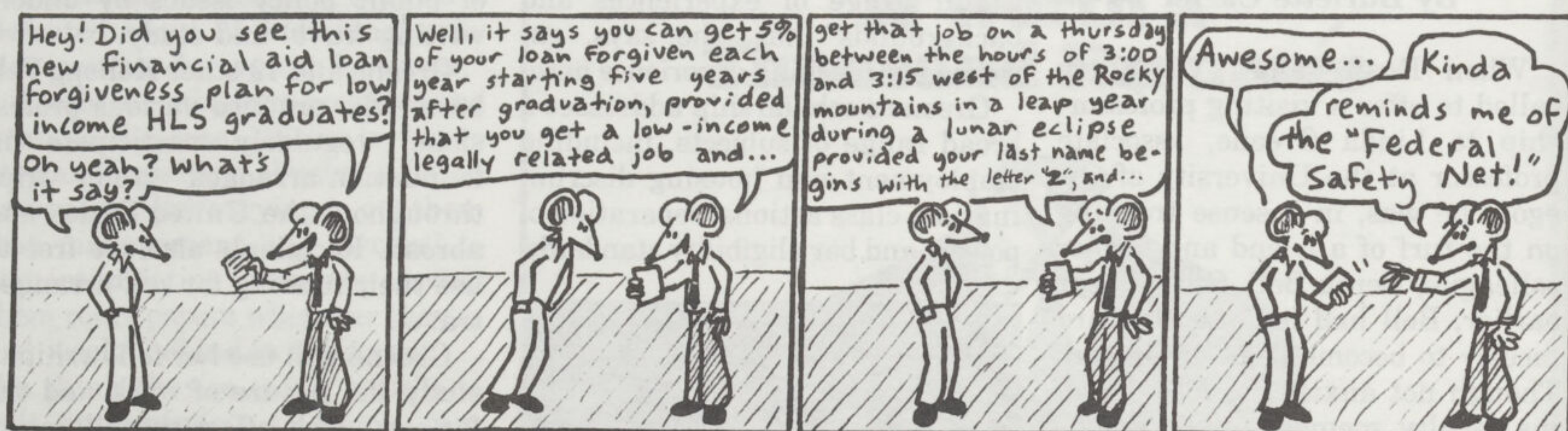
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Rat Race

by Tri L. DiNovo



Tribe Gets Grendel's Fee

On March 19, United States District Judge Joseph Tauro handed down his ruling on Prof. Laurence Tribe's request for fees from the state of Massachusetts for his work on the Grendel's Den case.

Tribe acted as counsel for Grendel's Den in its effort to secure a liquor license from the state of Massachusetts. The license was blocked by the neighboring Armenian Catholic Church under a Massachusetts law allowing places of worship to bar liquor licenses in their area. Tribe won the case for Grendel's Den in argument before the U.S. Supreme Court in October, 1982.

The judge granted Tribe's request for \$182,294.68, representing \$6157.18 in expenses and \$176,137.50 for 640.5 hours of work at \$275 per hour. He also granted Prof. David Rosenberg's request for \$21,915, representing \$165 in expenses and \$21,750 for 174 hours of work at \$125 per hour. The judge denied Tribe's request for an upward adjustment of the fee award because of the successful result.

The request by Ira Karasick, '78, for 399.5 hours of work at rates ranging from \$25 to \$75 per hour was denied, as the judge ruled that his work was conducted under no specific arrangement for payment while he was a student under the supervision of Tribe and Rosenberg, and that his compensation should come out of the professors' awards.

M.M.

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Hoop Heyday Gone, Diamond Days Dawn

By Ernie Cicconi

Intramural sports at HLS are alive and doing well. So says 1983-84 Intramural Commissioner John Carwile, 3L, who reports that the popular four-sport program is as healthy as ever.

Softball season has just begun, and the football and volleyball campaigns went off without a hitch. Basketball again proved to be a major success, as 32 teams vied for the top spots in the five leagues.

The quintet of roundball champions was decided during an exciting day of play on Wed., March 21. The biggest margin of victory came in the Women's League finale, as the Red Hots outmuscled the Pick-ups, 44-28. In the C League, the E-stoppers emerged victorious by coming from behind to maul Mac-cabi, 44-40.

The fiercest battle of the day took place between the B League combatants, the Armadillos and the Rock. Armadillo Pat Watson, 3L,

tipped in an errant jumper with six seconds left in the game to give his team the victory, 42-41. In a losing effort, Rob Fox, 2L, turned in the best individual performance of the day with his torrid shooting from the floor.

In the A League finale, Aaron Alter, 2L, captained his team to

by over 300 students, Carwile notes that he was most pleased by the significant reduction in roughhouse play this year. The same trend was evidenced in the football season this past fall. Last year's excessive violence was not repeated even though virtually the same number of students played this year as last.



Ernie Cicconi

High-flying heroics on the Hemenway hardwood: Co-ed League championship game wraps up this year's intramural b-ball season.

victory over Street Justice, led by 3Ls Gerard Plater and Scott Flood. After jumping out to an early 12-2 lead, the eventual victors fell behind by six in the second half before surging ahead to win, 49-45.

"If it had been a high-scoring game we would have lost," observed forward Bob Hamilton, 3L, referring to the offensive prowess of Flood and Robert Turner, 1L, who excel inside, "but we played a sagging zone and took their game away from them." Clutch shooting by 2Ls Glenn Fine and Peter Lallas sealed the victory.

In another close contest, the Beauties and the Beasts needed a last-second bucket to defeat the CCNY Women's Softball Team, 39-37, winning the Co-ed League championship for the second year in a row.

Thus this year's HLS intramural hoops season came to a dramatic close after 178 regular season and 12 playoff games. Other than participation in the basketball program

There was a dropoff in interest in volleyball play this year, as only two teams expressed an interest in a competitive league. Consequently, all 14 teams played in one league, with six going to the playoffs. Another problem occurred in early December at the end of the volleyball season when overlap with the basketball schedule limited available court time. Otherwise, Carwile noted, there was "no real problem" in providing facilities for the eager athletes among us.

The only apparent obstacle in the way of a stellar softball season is the unpredictable New England weather. But it will take a good deal of rain to dampen the spirits of the well over 500 students who signed up to swing into action on the eight A League, seven B League and 20 Co-ed League clubs. It's a safe bet that a lively softball season will provide the fitting cap to a successful year of intramural sports at HLS.

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Faculty Focuses On In-House Clinical End

(Continued from Page 3)

diture by the school. Bellow said the staff is overworked at the center at Jamaica Plain, while Liebman noted that the school will increase its financial commitment to clinical education to make up for the reduction in the share to be paid by one of the participating agencies.

Responding to a question from Prof. Chris Edley, Bellow said the program at Jamaica Plain is not "politically neutral." Bellow said the presence of HLS students "shifts the balance of power" in favor of those who generally lack resources in a legal battle. "Given our relation to

the housing court and our relation to community groups," it is understandable that the center represents tenants instead of landlords and Social Security recipients rather than the welfare department, Bellow said.

Prof. Charles Fried said the center should represent all types of clients, including landlords. Fried said it is dangerous when legal institutions develop constituencies and refuse to take cases from those on "the other side," regardless of considerations of justice. Such a practice, Fried contended, teaches students improper lawyering ethics.

Prof. Laurence Tribe asked whether the clinical programs do not make "real human beings into guinea pigs" for educational purposes. Acknowledging that the question involved "a difficult tradeoff," Bellow said that prior to the advent of clinical education, lawyers were graduated from law schools with little talent for handling the problems of their true-to-life clients. "Clinical education gives people the tools they need to practice," he said.

The lengthy catalog statement approved by the faculty exhorts students to enroll in clinical education because such courses permit students to explore issues of professional responsibility and also enhance doctrinal and theoretical learning. The statement says clinical education "involves students in dimensions of social reality that must be experienced to be understood."

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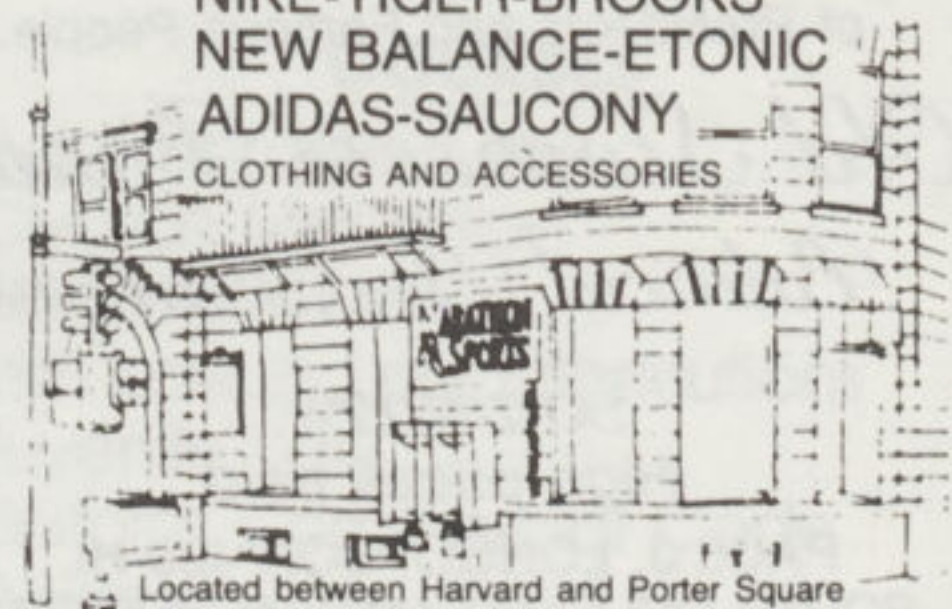
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