



Harvard Law Record

America's Oldest Law School Newspaper

VOL. 79, NO. 2

OCTOBER 5, 1984

25 CENTS

As Students Protest

Falwell Defends Moral Majority

By Raoul Cantero



Greg Peterson

Rev. Jerry Falwell addressed an unsupportive Forum crowd on Sept. 20.

Journal Note Draws Charges of Impropriety

By Burlette Carter

Controversy over a student-written note is causing the *Harvard Law Review* to reexamine its policies regarding student-written material. Among the issues of concern are the participation of outsiders in the *Review*'s editing process and the propriety of student notes on issues which particularly involve the student's future employers.

At the center of the controversy is a student note entitled "Protecting Shareholders Against Partial and Two-Tiered Takeovers: The 'Poison Pill' Preferred," which ap-

peared in the June, 1984 issue of the *Review*. The "poison pill preferred" is a defensive tactic used to defeat hostile takeover bids. The tactic was developed a year ago by Martin Lipton, senior partner at Wachtel, Lipton, Rosen & Katz.

Concern about the article was sparked by Joseph Flom, '48, senior partner at Skadden, Arps, Slate, Meagher & Flom. Flom, who as a student was a member of the *Review*'s board of editors, placed a call to Harvard Law School Dean James Vorenberg expressing concern that

On September 20, before an uncooperative crowd that overflowed from the Ames Courtroom into an audio-equipped Austin North, the Reverend Jerry Falwell spoke on the relationship between religion and politics. He claimed that the current debate over the involvement of religious leaders in political matters "is in reality a non-issue."

Outside Austin Hall, amidst anti-Reagan posters and chants of "gay rights, free choice, Jerry Falwell hear our voice," a crowd of about 200 gathered to protest the leader of the Moral Majority and what they described as its "mass psychology of intolerance."

In addition to heading the Moral Majority, Falwell presides over the Thomas Road Baptist Church, whose 21,000 members make it the second largest church congregation in the country. His radio and television religious programs are carried by more stations in North America than any other program, secular or religious.

Speakers — including law and divinity school students, Professor Duncan Kennedy, community activists and a local minister — denounced the Moral Majority's refusal to recognize the rights of gays to live their own lifestyle, of women to have abortions, and of all people to be exposed to a variety of ideas and lifestyles.

Inside the Ames Courtroom, Prof. Laurence Tribe, who has opposed Falwell on numerous issues, from voluntary school prayer to nuclear

(Continued on Page 18)

(Continued on Page 16)

Happy Hours' Last Hurrah?

By Stephanie Young

Yet another life was claimed by drunk driving in June of this year. This time the people of Massachusetts decided to take measures beyond the usual public service announcements warning of the dangers of drunk driving and alcoholism.

In the past four months there has been a movement, propelled by a broad base of support, to deal with the problem at its source: the establishments that serve liquor.

The Alcoholic Beverage Control Commission of Massachusetts (ABCC) is currently preparing legislation that would prohibit "happy hours" or any other "promotional gimmick that induces people to drink more than they would otherwise." Although bars would still have the option of serving free hors d'oeuvres to attract customers, two-for-ones or other special price reductions of drinks would be illegal.

The fatal accident that prompted the ABCC proposal occurred after three young women had been drinking at the Ground Round in Braintree, where the D.J. allegedly conducted some beer promotions. Since the incident, the ABCC has held seven public hearings throughout Massachusetts, to test public opinion on the issue.

Communities Concerned

According to George McCarthy, Chairman of the ABCC, the hearings have demonstrated that most communities have the same concerns about drunk driving and are anxious to take some kind of preventive action. After the public hearings the ABCC voted to draft legislation making happy hours illegal.

McCarthy does not anticipate any problems or significant opposition; he estimates that 96% of the opinions that have reached the ABCC, either through the public hearings or letters, are in support of the proposal. "Small bar-owners, and bar-owners in general, support the ban. These happy hours are very com-

petitive," stated McCarthy.

In fact, bar-owners and managers do not appear to be overly concerned about the ban. Some think it will never actually come into effect, others do not regard their happy hour business as a significant part of their total revenues, and still others are simply glad to see increasing efforts in the campaign against drunk driving.

Support for Ban

The Ground Round Restaurants plan to support the ban and hope to be regarded as leaders in complying with the new regulations. Earl McKinney, assistant manager of the Cambridge Ground Round, thinks he may lose some of his customers with the abolition of happy hours because Ground Round's prices are approximately 25% higher than those in other area bars. McKinney, however, feels the proposal will have "a positive effect on the problem of drunk driving."

GuadalaHarry's manager, Bob Corrodetti, explained that GuadalaHarry's management is not concerned at this stage: "I don't believe the government can tell a privately-owned business what they can and cannot charge. This will be caught up in the courts for a long time. I can understand the reasons for it, but I just don't think it's legal."

Even though GuadalaHarry's has 19 hours of special prices each week, Corrodetti maintains that happy hour business is not significant in Boston, as compared with other cities, such as Minneapolis, for example.

ChiChi's, another national company, specializes in Mexican food

and frozen margaritas. It boasts 37 "hours of happiness" each week, offering taco chips and dips, in addition to reductions of nearly all drink prices. Jeff Grism, manager of ChiChi's in Cambridge, thinks a national chain like ChiChi's will not be seriously affected by the ban: "ChiChi's' name is recognized across the country, but small businesses need to have some kind of opportunity to attract customers."

Big Brother

At least one small, local establishment is not objecting to the ban. William Love, manager of the Piccadilly Filly said: "It's a lousy law from the consumer's point of view . . . but we'd rather see us getting the full price — people will always come no matter what. Right now happy hours are big business and we all try to grab our share. You have to do it because everybody else is." But Love did add: "It's definitely Big Brother."

The bar at Grendel's Den voluntarily retracted its two-for-one drink special when it heard the ban had been proposed. The bar still offers appetizers Monday through Friday and has not noticed any measurable decline in business. One waitress at Grendel's said she was glad to see the end of happy hours; happy hour drinkers, she explained, are usually bad tippers.

Presently, the ABCC is writing the legislation. On October 25 at 1:30 P.M. there will be a public hearing in the McCormick Building in downtown Boston.

McCarthy expects Governor Michael Dukakis to sign the ban. It looks as if this may be the last call for Boston's happy hours. ☞

Published ten times each semester by the Harvard Law School Record Corporation, 23 Everett St., Cambridge, Mass. 02138-9984. Telephone (617) 495-4418. Subscription price: \$8.00 year mailed; \$10.00 year mailed outside U.S.; students \$4.00 year distributed at the Law School. Individual copies including back issues: 50 cents at the Law School, \$1.00 mailed. Second-class postage paid at Boston, Mass.

Copyright 1984 by the Harvard Law School Record Corporation and by the contributors. The opinions expressed in the Harvard Law Record are those solely of the students comprising the Board of Directors of the Harvard Law School Record Corporation.

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

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

Each alumnus/a receiving a Record subscription through the Harvard Law School Assn. should be on notice that \$5.80 of H.L.S.A. annual dues are used to purchase the Record subscription he or she receives. Dues paid at any time during the H.L.S.A. fiscal year that began in April 1983 and ends in March 1984 will purchase a subscription that begins in September 1984 and expires in May 1985, and so on in following years.

Landers Labels Trouble 'Human'

By Janine Dlutowski

Speaking before a near-capacity crowd in Langdell North Middle last Tuesday, Ann Landers (Esther "Eppie" Lederer) stressed the importance of advice as a vital service in today's complex, fast-changing world.

Through her column, which appears daily in over 1,000 newspapers, Miss Landers directs seriously troubled people to service agencies, quotes experts and authorities on everything from sex to law, and settles disputes of great magnitude and of little consequence.

them. And I believe the most important thing that I do is ... to send people to service agencies so they can get the kind of continuing help that they need."

Landers often recommends professional counseling where simple advice is inadequate and encourages her readers to contact groups such as Alcoholics Anonymous or Planned Parenthood. A list of such agencies and local support groups is available in the office of every newspaper printing her column.

Dealing with the intimate details of people's lives is not only time-

from me." However, this relentless search for answers has its drawbacks: "At the end of the month, my telephone bill looks like the defense budget!"

Who does Ann Landers help? She describes her readers as a "cross-section of humanity," people from every social, economic, and ethnic background. Often, their problems seem not to correlate at all to the external characteristics of their lives.

An advice columnist knows that unpredictability is standard, that all kinds of people have all kinds of problems. "Thirty years of this work has made me positively shock-proof. I would believe anything about anybody now."

Landers cautioned against the popular myth that only other people have problems, and that we are always in control of our own lives. "Trouble will find you and trouble is a not a sign that you are stupid or inept. It's part of the human condition."

Landers also warned that in today's fractured society, feelings of isolation can compound difficulties for people with problems, making them feel even more helpless. For these people, Ann Landers is a reliable friend. While she fills this role willingly and admirably, Landers regrets its necessity.

"I think it's a sad commentary on our society that people have to write to Ann Landers. That makes a statement. People have trouble and nobody to talk to, nobody that they can trust or feel comfortable with."

Some of the letters appearing in her column are so fantastic, so stereotype-shattering, even so disturbing, that many readers doubt their authenticity.

While she shares these doubts about some of the letters she receives, Landers insists that the letters she prints are genuine pleas for help; she vehemently denies that she or anyone working for her would or could fabricate a letter for publication.

(Continued on Page 15)



Teresa Miller

Ann Landers cuts low profile while addressing Harvard students.

There is a lighter side to her work as well. "I am aware that some people read my column for amusement. They think it is a scream. Well, I have no objection to this, but I don't go out of my way to be funny. Every answer I give I hope will help the person with the problem."

Recommends Help

Often, problems are too difficult for even Ann Landers to solve with one letter. The advice column then serves as an information center through which people can discover where to go for help with their particular problems.

"Many people who write to me need a lot more help than I can give

consuming and demanding, it can be a great responsibility. For questions requiring more direct, factual answers, Landers shares this responsibility with her "sources," top experts and authorities in every field. "I'm absolutely shameless in searching the best possible answer. No person is too important or too busy for me to bother."

Landers strongly believes that each letter deserves a sincere, well-researched reply, whether or not it is printed. All letters with a return address are answered.

Her sincerity and enthusiasm for helping people must be contagious; she boasts a perfect record in approaching Important People: "No one has ever refused to take a call

Hanami, Gaillard Bring International Expertise

By David Zensky and
Justin Hughes

Last issue we introduced four professors visiting HLS this semester. In this issue we are happy to introduce Professors Emmanuel Gaillard and Tadashi Hanami, the other visiting members of the faculty this fall.

Professor Tadashi A. Hanami, a leading expert on Japanese Labor Law and Comparative Dispute Settlement, is visiting the Law School this year.

Hanami, 53, hails from Tokyo, and has taught at several schools in Europe and the United States, including Research Scholar appointments at Cornell University and the University of California at Berkeley. He has also taught law at Tokyo's Sophia University since 1966, where he served as Dean from 1979-1982.

Hanami is the author of *Labor Relations In Japan Today* (1979), and edited this year's *Industrial Conflict Resolution in Market Economies*. He has researched comparative dispute settlement in many countries, including Belgium and West Germany, but will confine his spring seminar to the exploration of the settlement of disputes in Labor, Family and Environmental Law in Japan and America.

Professor Hanami, who is married and has one son, does not adhere to the "all work-no play" school of life. "One of my greatest pleasures in coming here," said Hanami, "is being able to subscribe to the Boston Symphony Orchestra," conducted by his fellow countryman Segi Ozawa.

Dispute Expert

In Japan, Hanami served for ten years on the Tokyo Metropolitan Labor Relations Commission, a body he described as somewhat similar to the National Labor Relations Board. While serving, Hanami mediated a controversial dispute involving the dismissal of several union leaders who represented the workers of one of Japan's largest newspapers, *Manichi*. He was also

responsible for settling conflicts between labor and Japanese branches of Chase Manhattan and American Express.

Hanami explained that teaching methods in Japan follow the European lecture model, and while he has tried to stimulate group discussions in his Japanese classes, he has met with little success. "Japanese students are shy," he said, and almost never speak in class.

Emmanuel Gaillard

Visiting Professor Emmanuel Gaillard is joining the HLS faculty for the fall semester, teaching a course in International Commercial Treaties and jointly conducting a seminar with Professor Trautman on the Comparative Law of International Conflicts.

Professor Gaillard received his legal education from the University of Paris (II), where he also taught as an Assistant Professor. His other teaching experience includes a year as a lecturer at the University of Caen and his present position as an *agregé* at the University of Lille.

In the French system of public universities, "full" professorships are awarded on the basis of a nationwide examination. Approximately twenty top scorers in the competition are offered two-year professor positions at schools with faculty vacancies. These are *agregés* which can lead to permanent teaching positions.

The *agregé* at Lille, only two hours from Paris, is a highly sought-after position. At Lille, Gaillard teaches doctoral level courses in private international law and commercial international law.

Gaillard also serves as reporter for the Hague Conference on Private International Law, where he first came in contact with HLS professors. Professor Trautman serves on the Hague conference group working on a convention on trusts, while Professor von Mehren serves on the group working on international law applicable to sales. Gaillard credits the two professors with bringing him to Harvard's attention.

Reaction from Students

Students in Gaillard's commercial treaties course seem impressed with both the materials and lectures. Kirsti Niniisalo, an LL.M. candidate from Finland, captured much of the student reaction to Gaillard: "He uses the Socratic method to a certain extent, but also he sums up the rules of law in the traditional European way." Gaillard calls the course, "sort of an excuse to teach students how to read a treaty from a European standpoint."

Gaillard expressed regret that he will be here only for a semester and admired the wide range of activities the law school offers. He said he enjoys attending faculty meetings and notes the role of the Critical Legal Studies movement, saying "we don't have anything like that at Paris II."



Publication: Harvard Law Record, 00178101. Filed Oct. 1, 1984. Issued approximately weekly September — May. Total number of issues: 20. Subscription price: \$5.81 for alumni/ae. Address: 23 Everett Street, Cambridge, Middlesex County, MA 02138. Publisher & Editor: Steve Cowan, 32A Burnside, Somerville, MA 02144. Managing Editors: Miguel Rodriguez, 7 Cedar St., Apt.2, Somerville, MA 02143; Michael E. Malamut, Box F Mather House, Harvard University, Cambridge, MA 02138. Owner: Harvard Law Record Corporation (non-profit organization, no stockholders) with same address as above. The purpose, function and non-profit status of this organization and the exempt status for Federal income tax purposes has not changed during the preceding twelve months.

Extent and nature of circulation — Average number of copies each issue during preceding twelve months. Total number of copies — 10,171. Paid circulation — 625. Mail subscription — 9,026. Total paid circulation — 9,651. Free distribution — 250. Total distribution — 9,901. Copies not distributed — 250. Return from news agents — 21. Total — 10,171.

Extent and nature of circulation — Actual number of single issue published nearest to filing date. Total number of copies — 10,274. Paid circulation — 600. Mail subscription — 9,250. Total paid circulation — 9,850. Free distribution — 250. Total distribution — 10,100. Copies not distributed — 174. Return from news agent — 0. Total — 10,274.

Abrams Decries Mens' Clubs

By Jane Kaufmann

The annual Harvard Women's Law Association (WLA) dinner was held on September 21 at the Harkness Commons. The approximately 300 participants in the banquet were mainly first-year women, but included students from all classes and several women faculty members. Members of the administration present included Dean Vorenberg and new Assistant Dean Simone Reagor, who replaced former dean Russell Simpson.

Chai Feldblum, 3L and president of the WLA, began the evening's speeches by discussing the purposes of the association. While pointing out that 35% of recent 1L classes have been women, she said "it doesn't feel like that."

Sydelle Pittas, a partner at McCade, Gordon and a founding member of the WLA, spoke about the first Women's Law Dinner a decade ago and about the WLA's formative years.

Judge Ruth Abrams, HLS '56, the featured speaker of the evening, serves on the Supreme Court of Massachusetts and was one of the first HLS woman graduates.

Abrams said that women in high political positions are intrinsically controversial, citing figures such as U.N. Ambassador Jean J. Kirkpatrick. Nonetheless, Abrams emphasized that men rise to the top of professions because of contacts and friends, not because of natural advantages. She focused on private men's clubs as a particularly great obstacle for women in professions.



Teresa Miller

WLA treats HLS women to Harkness dinner.

LSC Announces 1L Reps

By David Zensky

The Harvard Law School Council (LSC) is ready to begin the year, as the first-year class elected four section representatives and one at-large representative on Tuesday. Section I chose E. Jay Ward out of a four-person field, and Diana Newman ran unopposed in section II. Allen Howard was the choice of students in section III, while the three-man, one-woman race in section IV produced the largest section turnout and a narrow victory for Walter Effross. Elissa Stein was elected to fill the at-large position.

The balloting was conducted in first-year classes by 2L and 3L council members. Council President

Eddie Vela said he was pleased with the elections. "We were really excited that there were so many candidates," said Vela, pointing to the two sections that fielded four each. This involvement, he added, indicates that "the student body is taking an interest in student government."

Effross, in a campaign memo to section IV voters, proposed that a panel discussion, led by professors, psychiatrists and clergy, be organized in early December to help one L's "... Deal With and Avoid First-Year Exam Stress." Vela termed Effross' idea "excellent" and said "I'm sure it's one that the council will support."

Stein said she will attempt to institute programs for students interested in pursuing careers in human rights and public interest law.

The LSC held a brief, get-acquainted session Tuesday night and begins its regularly-scheduled meetings Monday night at 6:15.

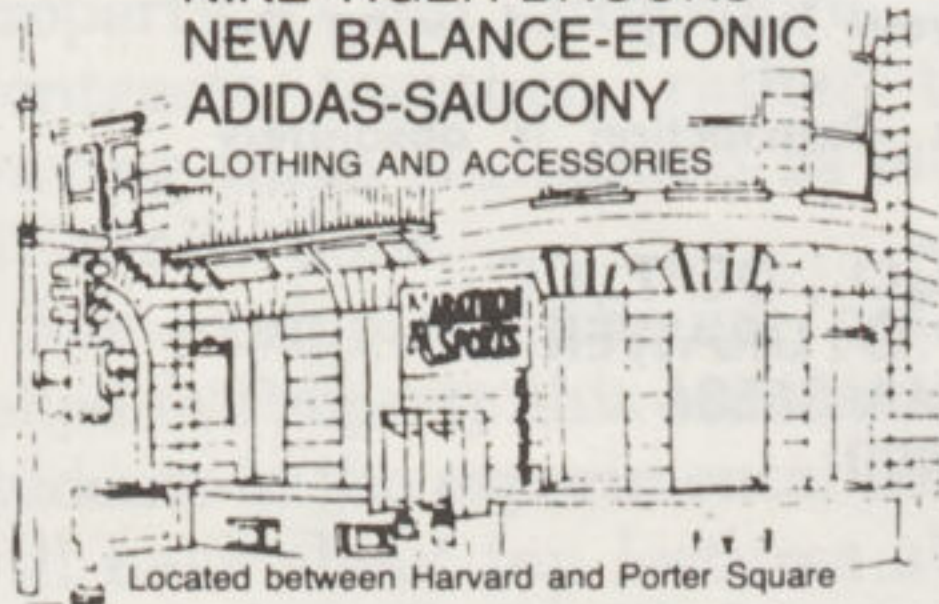
MARATHON SPORTS

FOOTWEAR FOR
DISTANCE RUNNING
TRACK AND FIELD
NIKE-TIGER-BROOKS

NEW BALANCE-ETONIC

ADIDAS-SAUCONY

CLOTHING AND ACCESSORIES



Located between Harvard and Porter Square
1654 Mass Ave Cambridge -- 354-4161

Koby Antupit

PHOTOGRAPHERS

Creative Portraits
Resume & Publicity
Photographs
Instant Color Passports

Harvard Square
8 John F. Kennedy St.,
(formerly Boylston St.)
Cambridge

547-7552

Correction

Last issue the RECORD printed an article entitled "Prof. Surrey Dies at 71" on the first page. The title should have been "Prof. Surrey Dies at 73." The birth and death dates contained in the article were correct. The RECORD regrets the error.

Book Review

Justin Hughes

The Europeans by Luigi Barzini, published in paperback by Penguin Books, May, 1984, 267 pp. \$6.95. Published in hardback by Simon and Schuster.

Luigi Barzini's *The Europeans* was originally published in hardcover last year, but made its paperback debut this past May. If new reviews are warranted by the appearance of a book in paperback, they are certainly due with *The Europeans*. It is a fine, insightful book that will reach a new and larger audience in its paperback edition.

Barzini has served as a foreign correspondent throughout Europe. His book is a collection of long essays on five nationalities: British, French, German, Italian, and Dutch — a monosyllabic label for his essay on the Benelux countries. The omission of other nationalities like the Swedes and Spaniards might make his title seem overly ambitious, but his selection represents a personal focus and perspective, a fact he never hides. Barzini is pro-Common Market, pro-NATO, and pan-Europeanist.

The countries chosen are the core

of the Market and the Alliance in Europe. Although Barzini never says it, they are what he sees as the center of "the West". In fact, the western liberal world is so much the unstated focus of his book that he concludes *The Europeans* with an essay on Americans. For Barzini, America is New Europe, thankfully supporting old Europe.

Throughout the book Barzini's insights and ideas show that he understands the difficulty of saying anything substantive about national characters. And there is no doubt he succeeds in telling us much about Europeans that Americans don't appreciate.

For example, he finds the Germans as a distinctly "mutable" people — susceptible to the decadence of interwar Berlin or the stark discipline of the Nazi Wehrmacht. He reminds us that the democracy of Western Germany may not run as deep as we think.

For Barzini the French are a people unable to give up the Sun King mythology that made them the center of the world. This, coupled with the French fear of Germany, explains why the French hold today's Germany "in an embrace as close as a stranglehold." Barzini says, "If France cannot dominate

Europe alone, it hopes that maybe the two nations together might do it."

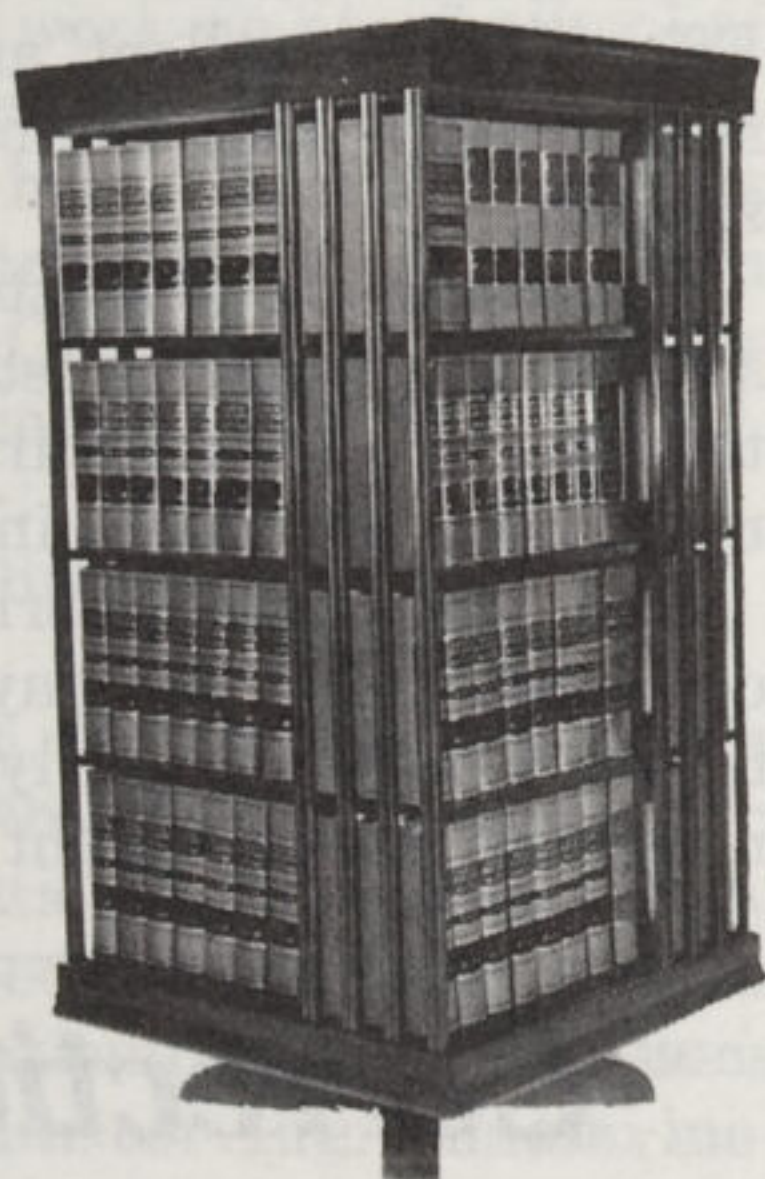
At times, Barzini reveals a clearly Italian perspective, as when he compares the British to the Venetian Republic or, less insightfully, when he seems more generous and forgiving toward his own people than others. But even if the ideas are more occasionally parochial and limited, he still provides a rare view for Americans — how Europeans see other Europeans.

"Limited", of course, is not a word for how this book reads. His writing has a breezy and worldly composure, as though you were conversing with him in a cafe — in the city and language of your choice. Part of that deftness is Barzini's ability to deliver sharp analyses with considerable humor. In discussing the rearmaments of Germany in the fifties, he says:

"The French wanted, it was said, a German army strong enough to defeat the Soviet Union but weak enough to be kept in place by Luxembourg."

Nothing is beyond his good-natured jesting, including his cherished ideal of European unity:

"As a first successive step [to Eu-
(Continued on Page 15)



REVOLVING BOOKCASE
28" x 28" x 61" high
272" Total Shelf Space

a brand new very old idea . . .

THOMAS JEFFERSON USED ONE AND
REALIZED ITS EFFICIENCY

History records great men as using the **REVOLVING BOOKCASE**. We construct our Revolving Bookcase on the design found in London libraries using fine American hardwoods. They are hand crafted and rubbed, stable as Gibraltar's Rock and turn as smoothly as a bank vault door. One finger's pressure moves 800 pounds of books. It makes the perfect display for the serious scholar, the researcher or the professor who must sit in judgment of literary effort. Its delightful design and mellow finish enhances cultural atmosphere.

Whether you are scholarly, literary or practical, you may exhibit your antiques and mementoes in supreme elegance - Or you may simply be more efficient and put your feet up and swing the bookcase to the volume you need.

Write us - we'll call you back. Satisfaction is absolutely guaranteed.

THE LAZY LAWYER CO., DEPT. CC
203 MYRTLE AVENUE, P.O. DRAWER 638
FOLEY, ALABAMA 36536
205-943-1800

Professors Repeat 'Great Experiment'

By Sebastian Hoppe

As a member of the second attempt at an experimental first year section—this year's Section I—Andy Singer feels he is part of "guinea pigs on the run." Nevertheless, he, like several of his classmates, voices a vibrant view of the section.

The experimental section involves a quarter of the first-year students and the cast of professors who originated the concept last year: Profs. Todd Rakoff, Morton Horwitz, Abram Chayes, Frank Michelman, and a new member to the team, Prof. Charles Nesson.

tive on their other courses and get a head start on the themes for the Spring semester.

Also, Section I has Legal Methods twice a week instead of only once to supplement Civil Procedure and to get practical experience in writing motions, directed verdicts, etc.

Extra Meetings

This Section also has an additional Friday meeting where students can ask questions, listen to guest speakers, discuss special topics, or simply recap the week.

Finally, this section will have

and approachability of the professors.

Mike Fink is also "happy" to be in the experimental section. He finds the overlap of courses especially helpful to gain a general perspective on the law. He also appreciates the "relaxed" teaching style and good sense of humor displayed by the professors.

Yet he notes two small drawbacks to his section: first, all the professors tend to have liberal political viewpoints, and second, his section does not have one smaller class of roughly 45 students as do the other three sections. Nevertheless, he concludes that when it is all over he thinks he will better off.

A Bit Hurried

Greg Gumina seconds Fink's feelings and adds that several 2L's who were in this section last year feel better off. He likes the method of looking at each legal problem from an "integrated standpoint rather than solely from the perspective of tort or contract law". But he admits that he does, for example, feel a bit hurried trying to digest five classes and extra projects on the side.

Lenn Elmore refers to his section as an "incomplete experiment, since the jury is still out." Being out of school for ten years, he finds the challenge of the section everything he had anticipated. He notes that the professors seem very much committed to the experiment and recognize the limits they are working under. He has also grown accustomed to the longer hours and by Friday can feel the "fruits of [his] labor".

Finally, George White finds the professors much more affable and helpful than he had expected. Yet he mentions that the experimental section is like a maze—the students become confused, thinking there is only one opening, when in fact there are many.

This is the first of a two part series.



Teresa Miller

Student response to experimental section is mixed.

The "great experiment", the sobriquet given to it last year by its teaching staff, is an outgrowth of the 1982 Committee Report on Educational Planning and Development, drafted mainly by Prof. Frank Michelman.

Linked Perspective

The express purpose of the experiment is to give students a uniform perspective of law by linking the core courses of Crim. Law, Torts, Property, Civil Procedure, and Contracts together, rather than leaving them segmented as is traditionally done.

For example, although not enrolled in Property this semester, the students in the experimental section will hear about ten lectures about property so they can gain perspec-

"bridge periods", consisting of five one- or two-week-long sessions during the year, which aim to overcome the theoretical void by probing the historical, social, economic, and political patterns that shape the law. Each professor will discuss his specialty and try to add another perspective to the study of law.

Compared with the other sections, the experimental section has four extra hours of class time, extra reading, and extra projects. With all these extras do the students feel better off? On the basis of several interviews the answer is an overwhelming "yes!"

While Kyle Beth Basson admits she at times would rather go out with friends, she feels she is reaping the benefits of the integrated network of classes. In particular she is impressed with the availability

Singsen Focuses on Legal Services

By Michael Medina

Antone "Gerry" Singsen III is a lecturer on law for the fall semester teaching a course on professional responsibility. Singsen has devoted his career to providing legal services to the poor.

Although Singsen, 42, was born in New Haven, Connecticut, he spent most of his early years in a suburb of Chicago and in New York. He received his undergraduate degree from Brown University in 1964 and his law degree from Columbia Law School in 1967. Singsen makes his current home in Belmont, Mass. His hobbies are soccer and cooking.

After graduating from Columbia, Singsen clerked for Justice Feinberg (now Chief Justice) of the Second Circuit. In 1968, he joined the Legal Aid Society of Westchester County, New York, and in 1972 became deputy director of the Community Action for Legal Services, based in New York City.

Consulting Experience

In 1978 Singsen began consulting for the Legal Services Corporation (LSC), becoming vice-president of the corporation in 1979. He left the LSC in 1982 shortly after President Reagan's controversial appointment of several LSC board members during a Congressional recess.

"I left because I felt I had exhausted all possibilities for useful work," explained Singsen. He said he does not believe that the new Reagan appointees have made significant attempts to improve legal services for the poor.

Since leaving the LSC, Singsen has served as a consultant with various legal services programs which have been trying to make high-quality legal representation more accessible to the poor.

He also has been working with HLS's Program on the Legal Profession. In that capacity he has been writing and doing research on the provision of legal services to the middle class through programs like prepaid legal services, group legal services and legal clinics.

Singsen is working on a casebook in conjunction with HLS Profs. Philip Heymann and Gary Bellow and the director of the Program on the Legal Profession, Leona Vogt. The book will focus on the delivery of legal services, utilizing actual case studies instead of relying on appellate decisions as do most casebooks.

Singsen stated that this experience at Harvard is the first time that he has taught "in a classroom as a regular instructor." He said

that so far his teaching experience at HLS has been "entirely positive." He added that he finds HLS students "bright, interesting, and responsive."

In the future Singsen hopes to continue his involvement with legal services. Although he admits his attraction to the classroom, he questions whether his enjoyment of teaching is enough to mandate his moving into that field. Says Singsen, "I'm not sure that I want to get that removed from legal services." ❧

Musical Chairs at HLS

By Justin Hughes

Although most people haven't noticed — and probably won't — several HLS professors moved into endowed chairs over the summer.

Professor William Andrews became Eli Goldston Professor of Law as the former Eli Goldston Professor of Law, Detlev Vagts, moved into the Bemis Professor of Law Chair. John H. Mansfield became John H. Watson, Jr. Professor of Law, a chair that had been vacant for a year, while Richard Stewart became Byrne Professor of Administrative Law and Associate Dean of HLS.

David Shapiro became William Nelson Cromwell Professor of Law, a chair most recently held by Louis Loss. Professor Loss became William Nelson Cromwell Professor of Law Emeritus. William Nelson Cromwell is probably more familiar to students as a founding partner in the firm of Sullivan and Cromwell in New York and for his work in the construction of the Panama Canal.

Aside from Professor Stewart's move into the Associate Deanship, none of these changes will alter teaching assignments or faculty duties. According to Assistant Dean Stephen Bernardi, the changes also will not affect the concerned faculty members' salaries or sabbatical schedules.

HLS does not follow the policy of many schools which peg an endowed

chair's salary to the income generated by the specific endowed fund. Instead, endowed chairs have salaries on a par with unendowed professorships. Nonetheless, holding an endowed chair may mean increased academic prestige, if not increased income. They may also represent some personal attachment to the named individual's philosophy or legal accomplishments.

Professor Vagts, who moved from the Goldston chair to the Bemis chair, explained his move as a symbolic statement of Harvard's commitment to international law. The Bemis chair was the Law School's first chair in international law, dating back to the turn of the century. Vagts said, "For Harvard not to have a Bemis Professor in place might imply the school wasn't taking international law as seriously as it does."

If all this sounds confusing, keep in mind that none of the chairs filled over the summer represent additions to HLS endowed funds. The law school's newest endowed chair is the John L. Gray chair, held by Professor David Westfall, former Watson Professor of Law. The Gray chair was announced in September 1983. If you have any spare funds left over after tuition or taxes, you too can endow an HLS chair. According to administration sources, the price tag for HLS endowed chairs is now somewhere in the 1.5 million dollar range. ❧

HLS' Graduate Program: Still Flourishing

By Susan Gilles

With so much emphasis on J.D. candidates, it is sometimes forgotten that Harvard has a thriving graduate program. This year 148 students from 49 countries will pursue graduate degrees beyond the J.D. in Harvard's Graduate Studies Program.

In the 1950's, Dean Erwin Griswold and Profs. David Cavers and Milton Katz were instrumental in the decision to develop a graduate program which would draw students from abroad. The graduate program remains predominantly composed of foreign students. This year only six Americans are among those seeking graduate degrees.

The graduate program offers two degrees: the Master of Laws (LL.M.) and the Doctor of Juridical Science (S.J.D.). This year 123 students, selected from more than 700 applicants, were selected to study for the LL.M. degree. All hold at least a J.D. degree or its equivalent; many

have extensive legal and political experience. Ruben Blades, from Panama, is an internationally renowned salsa player who uses his music to comment on Latin American issues; Cheige Ojiugo Kalu acted as a legal adviser to the Nigerian Police Force, and Kunggur Khantinger from Taiwan is the first member of the Manchu ethnic group to study law at Harvard.

While in the program LL.M. candidates do 16 credits of course work in addition to writing a thesis. Many see the degree as a stepping stone in professional careers in their homelands, others remain in the United States. Claire Dalton and Roberto Unger are recent graduates who have decided to remain in the U.S.

The program also includes 25 candidates for the S.J.D. degree. Selected from among Harvard's LL.M. graduates, S.J.D. spend several years researching and writing dissertations which are substantial contributions to their field. Current S.J.D.s include Luis Diaz, at one time Mexico's representative to several U.N. bodies, and Nari Pillay who worked as a defense lawyer on political cases in South Africa.

Although, the program has a diverse political and cultural base,

only 20% of those in the graduate program are women.

Snyder said that "no quotas" are involved in graduate admissions, but that the program tries to attract applicants from as many countries as possible. He added that an "active recruitment policy" has been initiated in order to encourage applications from students in Third World countries.

The year, said Snyder, is "both an academic and a social experience," and that LL.M.s "learn as much from their own informal associations with each other, and American J.D.s, and extra curricular activities as from their formal studies here."

Snyder admitted that a "traditional complaint" among LL.M. students was that "insufficient contacts or opportunities for contact with J.D. students exist."

This year 11 J.D.s organized by Tom Carothers, 3L, volunteered to help the Graduate staff in the orientation program for the incoming LL.M.s. Both Snyder and Carothers agreed that this better equipped the LL.M.s for life at HLS and produced valuable LL.M. and J.D. contacts.

Reaction among LL.M.s to this program has been mixed. While most have enjoyed this introduction they have found it incomplete. Another attempt to assist LL.M.s' adjustment to the U.S. is the Host Student Program. Although some students have never been contacted by their hosts, and others have felt "mismatched," many graduate students feel this has given valuable insight into American social life.

✽

Second- or third-year law student needed to assist in the research and writing of the West Publishing Supplement to Kent, Rhode Island Practice.

Please contact Peter J. Cerilli at Decof & Grimm, One Smith Hill, Providence, RI 02903.

ATTORNEYS

Established since 1957, Howard-Sloan is the nationwide leader in attorney recruitment and placement. We offer qualified attorneys a specialized approach that accelerates employment opportunities with either outstanding law firms or corporations.

For additional information, either call or write

Stephen H. Berger, President

HOWARD • SLOAN LEGAL SEARCH, INC.

545 Fifth Avenue • New York, NY 10017 • 212/661-5250

Out of New York State Call **TOLL FREE: 800/221-1326**

*Wanted:
Autographs*

of Presidents and Famous People.

*Old Stocks & Bonds
Political Pins, Ribbons,
Banners.*

High prices paid

PAUL J. LONGO, BOX 490-HL,
SOUTH ORLEANS, MASSACHUSETTS
02662
(617) 255-5482

The Tradition Continues

Since Harvard Law School's "revolutionary" decision to admit them in 1950, women have never comprised more than 35% of the law school's population. In the 34 years since that decision the ratio of women to men at HLS has never come close to the 50% women represent in the population as a whole. In fact, what began as a steady increase in the percentage of women at HLS now appears to have halted at one-third.

Of comparable law schools, Harvard's record with regard to its male-female ratio is among the worst. Roughly one half of the incoming students at Berkeley, New York University and Stanford are women. At the University of Pennsylvania 43% of the law students are women, as are 39% at Yale. Among highly rated schools only Chicago, Columbia and Michigan boast records as abysmal as Harvard's.

These facts reflect a traditional attitude of hostility toward women both as law students and as lawyers. At HLS this has evolved into an attitude of indifference and neglect. Recent administrations have evinced some measure of concern for the plight of women at HLS by their support, for example, of the Women's Law Association's efforts to right this severe imbalance through recruiting. While this support is laudable, it is woefully inadequate, and, as the stagnation at one-third indicates, ineffective. The administration's inaction concerning this important issue is another manifestation of HLS' continuing tradition of institutional sexism.

Consonant with these other schools, only 38% of HLS' applicants are women. Unlike a number of schools, however, Harvard suffers from a very low yield. While 38% of those applying and a slightly lower percentage of those who receive offers are women, just over 34% of those who accept are female. To remedy these problems, Harvard should recruit women aggressively, and not merely relegate token support to student efforts. Not only should HLS attempt to increase the number of women applicants, it must persuade those who are accepted to register.

Unfortunately, recruiters' claims that HLS is the best of many fine schools may ring hollow to a number of women. There are only two women among the tenured faculty, and few tenure-track women to follow in their steps. And the history of HLS indifference to recruiting women speaks for itself. In this unattractive environment perhaps the women who chose to matriculate elsewhere have chosen correctly.

HARVARD LAW RECORD

EDITOR IN CHIEF Steven J. Cowan

MANAGING EDITORS Michael Malamut, Miguel Rodriguez

NEWS & PRODUCTION EDITORS . Justin Hughes, Susan Smith

BUSINESS MANAGER..... Mary Drago

EXECUTIVE EDITOR..... Burlette Carter

SENIOR EDITORS Norman Bay, Beth Bergman, Greg Klima

Risé Peters

EDITOR EMERITUS Mike Isbell

EDITORIAL STAFF: Joe Brandolino, John Brandolino, Raoul Cantero,

Paul Cappuccio, Vincent Chang, Janine Dlutowski, Brenda

Paul Cappuccin, Vincent Chang, Sammie Dratowski, Brenda Doherty, Fenno, Susan Gilles, George Golder, Sebastian Hoppe,

Jane Kaufmann, Bruce Kelly, Russell Marsh, Mike Medina,

Vinny Pitaro, Shari Rabinowitz, Stephanie Young, David Zensky

SPORTS EDITOR Rick Schlesinger

PHOTO EDITOR.....Teresa Miller

PHOTOGRAPHY STAFF: Paul Cramer, Greg Peterson

Fenno

Electrified by two cups of coffee, Fenno sauntered into Pound 101 — a full 20 minutes early for his *Legal Hierarchy in America* class. Fenno was psyched. It was the third week of school and he had gone to each of his classes at least once. He had promised himself this year would be different; he would buy all his books, occasionally go to his classes and maybe even participate.

The classroom was empty and Fenno had his choice of seats. In the spirit of renewed enthusiasm, Fenno plopped down in the center seat of the front row.

Slowly the classroom began to fill, but Fenno was oblivious to his classmates. He was engrossed in reading the morning's junk mail from his Hark box. As usual, the only thing worth reading was the week's RECORD.

"What a great newspaper," thought Fenno, proud to be a staff member. "So what if we got a renowned Professor's age wrong in a front page headline," he rationalized. "At least the story was good."

Class was about to begin, so Fenno unpacked his arsenal of legal scholarship: casebook, Casenotes, Nutshell, Gilbert's, Emanuel's, Sum and Substance, legal-lined notebook paper and *four* differently colored pens. Fenno was prepared. It never crossed his mind, however, that something might be wrong since he had a red casebook and everyone else had a blue one.

Without warning, the Professor began. "You! You in the front row, tell me about the case of *Hawkins v. McGee*!"

A bolt of terror shot through Fenno's body. He was in the wrong class. This was a 1L Contracts course and the Professor had just called on him.

"But . . . , but I . . . um, I don't belong here", Fenno stammered, trying to explain.

"That's obvious", roared the Professor. "Well, if you haven't read the case," sneered the Professor, "let me ask you a common sense question."

"Uh, but . . . but I'm not very good at that," Fenno stuttered, reflexively searching through his commercial outlines while the class erupted into laughter.

"Then, what are you good at?" queried the Professor.

"I can tell you about legal hierarchy and how law is merely politics," Fenno boasted.

"Oh, please . . .," snarled the Professor, "save that *critical* analysis for the society column of the *Boston Globe*."

The class continued to snicker as the Professor, in disgust, moved on to someone else.

Realizing that maybe it wasn't such a good idea to go to class after all, Fenno sighed and repacked his useless study aids.

Letters to the Editor of the Record

Brave Girl

To the Editor:

For the benefit of the law school and myself, I request that you immediately terminate my subscription to this magazine. I doubt if my blood pressure would stand reading another issue. I would rather not have any more detail as to what is transpiring in your bailiwick since I have at least up to now contemplated something in the way of terminal donations (50th reunion and testamentary). I must, however, compliment you on telling it as it is and the fair write-up on Phylliss Schlafly's speech. She was indeed a brave girl to appear before your crowd.

Are they admitting teenagers to the school these days?

Matthew E. Murray

Dunning Divestiture

To the Editor:

The editorial entitled "Divest" which appeared in the May 4 issue of the *Harvard Law Record* makes the demand, "that Harvard withdraw its investments in companies doing business in South Africa" which is an understandable reaction on the part of Americans among whom there is no constituency for institutionalized racism. However, divestment has an immediate and negative impact on black Africans in Namibia.

Namibia (formerly South West Africa) continues as a territory administered by the Republic of South Africa. However, in 1979 Namibia's National Assembly abolished all race laws, and made racial discrimination punishable by fine and imprisonment. There is no reason, therefore, for disinvestment in Namibia.

Most black Africans depend on foreign investments for the jobs which provide upward mobility and better living standards, as well as progress toward elimination of racial discrimination.

A top U.S. Government spokesman, Deputy Assistant Secretary of State Leonard Robinson, recently made the following official statement:

"We know that there are a number of city councils and universities talking about disinvesting in South Africa. I think it's a mistake. There's no question that the positive impact American countries have had vis-a-vis blacks in South Africa is significant. If it were not for these American companies you wouldn't have any environment in that country where blacks are in positions where they supervise whites, where they work with whites on an equal basis and are paid on an equal basis, where they have access to educational facilities and health care facilities on an equal basis."

Would it not be better for Harvard University, and all other thoughtful Americans, to try and help the blacks in Africa through

private sector investment in Namibia as well as other areas for the reasons stated by Mr. Robinson?

Marion H. Smoak
Ambassador of the U.S. (Ret.)

Bob Jones "Flip-Flop"

To the Editor:

I have read with a great deal of interest the letters to the Editor of the *RECORD* appearing in your issues of March 2, March 9, April 13 and April 27, 1984 regarding the visit of Assistant Attorney General William Bradford Reynolds to the Harvard Law School and his participation in the *Bob Jones University* case decided by the Supreme Court of the United States.

My firm represented (and still represents) Goldsboro Christian Schools Inc. from the filing for the claims for refund through the decision of the Supreme Court of the United States. *Goldsboro Christian Schools Inc.* was the companion case to the *Bob Jones* case and was argued and submitted at the same time.

(Continued on Page 12)

15 Years Ago At HLS

RECORD Vol. 49, No. 3
October 2, 1969

Letters Policy

Although we do not usually respond to letters, or acknowledge their receipt, we strongly encourage our readers to write expressing their views. We print most of the letters we receive, subject to editorial discretion and space limitations. Short letters are the most likely to be printed, and we reserve the right to edit any letter we receive.

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.

Boston may be a great place to go to school, but, according to third-year women students, it is almost impossible to work here. And their experience seeking jobs for last summer suggests that New York and Washington, D.C. are the only locations where the opportunities for women lawyers are significantly better.

No one went jobless, but most girls reported difficulties which they were sure their male classmates did not encounter. While only a very few interviewers openly admitted hesitancy about hiring women, many girls noted a discriminatory attitude.

Several girls reported difficulty finding positions in the Midwest, South and on the West Coast. Even reputedly "liberal" firms did not notably extend their liberalism to women. While the majority of 3L's readily admit there are many reasons someone may not get a job offer, they believed that the

large number of rebuffs to students who were "competent but female" could only be explained by discrimination in hiring.

While the stories about women students' difficulties with interviews have amused the girls in the past, all were adamant that their experiences demonstrated that the lady lawyer's situation is no laughing matter. They share the feeling of the indignant 3L who said, "I think this is very serious, and I want the fellows in my class to hear about it. They will be hiring in a few years, and I want them to be aware — and considerate."

Sports Answers

1. Rick Sutcliffe
2. Lou Brock
3. Andre Thornton
4. Dave Kingman
5. Joe Niekro

Letters to the Editor of the Record

Continued from Page 11)

Before such insignificant detail gets lost in the flood of documentation which later constitutes history, I will note that the "flip-flop" of the Department of Justice on January 8, 1982 did not take place until after our brief on behalf of Goldsboro Christian Schools Inc. had been filed. Before reaching the Supreme Court, the Department of Justice, the District Court and the Circuit Court of Appeals ignored our arguments on statutory construction as well as the separation of powers argument.

This is not to detract from the quality of the brief finally submitted to the Supreme Court by the Department of Justice in the two cases and I agree wholeheartedly with Professor Tribe that the brief of the Department of Justice deserves the highest re-

gard for quality. I must confess that I have expressed the thought heretofore and express it again, that the excellence of the Department of Justice brief surpassed our own with respect to the detailing of Congressional expressions. However, I attribute this to the fact that the Department of Justice has a somewhat larger research staff than I do.

Moreover, I do not think that Mr. Reynolds has had the tribute which he deserves in the raw courage which he showed in submitting the brief which he did on behalf of the Department of Justice.

My own reaction to the "flip-flop" expressed to my associate when he informed me of the action was to the effect "My God, we have elected Ted Kennedy President in 1984." Fortunately, other considerations have obviated this possibility.

It is also to be noted the *amicus curiae* brief of Professors Tribe and Wolfman, among other alternatives, recommended the procedure finally adopted by the court in selecting suitable *amici* to argue for the validity of the judgments of the Fourth Circuit Court of Appeals in the two cases.

Claude C. Pierce, '38
Greensboro, N.C.

Sports Quiz

By Rick Schlesinger

Note: In honor of the 1984 Chicago Cubs, this week's quiz asks its readers to identify former or current Cubs who came back from adversity to post outstanding seasons in the major leagues.

1. A former NL Rookie of the Year, this pitcher slumped badly in his second season and was sentenced to the Cleveland Indians in 1982. Name this hard throwing righthander who led the Cubs in wins this year.
2. This error-prone outfielder was batting .251 when the Cubs traded him to a league rival in 1964. This player went on to garner over 3000 hits, and lead his team to three pennants.
3. This underrated slugger was batting under .200 for the 1976 Cubs when he was traded to Montreal. Now a member of the Cleveland Indians, he was voted AL Comeback Player of the Year in 1982 when he hit .273 with 32 HRs and 116 RBI. Name this player.
4. A former Giant and Cub, he hit a resounding .198 in 1983. Name this player who was among the AL leaders in home runs, RBIs and slugging percentage this year. Hint: The Chicago Tribune once voted him the Cubs' "worst dresser".
5. This knuckleballer lost 18 games in 1969 as a member of the Cubs and Padres. After stints in Detroit and Atlanta, he finally found a home in the Astrodome, posting back-to-back 20-game win seasons in 1979-80.

(Answers on Page 11)

April Fool?

To the Editor:

I have just finished reading your May 4 issue. Did you, perhaps, transpose this issue with your April 1 issue?

Ari Rothstein, '74
New York, New York

No to Student Reps

To the Editor:

Although I am known as a "liberal" in educational matters, I must respectfully dissent from the tenor of your editorial in the issue of April 27 concerning student representation on various committees.

There is no question but that students and student organizations should have direct input into most aspects of Law School administration. This normally would be attained through consultation with organizations such as the Law School Council or whatever student political organization there may be in the particular school. There should

be open, direct and welcome communication with the various faculty committees, including appearance before such committees to plead certain causes or positions. On the other hand, I do not believe that students should serve as members of those committees.

Students are transients in law school and normally do not have the breadth of experience to see all of the various factors which might compel a decision to be made. This same transitory relationship does not give that student the same feeling of responsibility that is felt by the faculty member. There is much more likelihood that the student will be caught up in some fad or trendy policy which may not in the long sweep be the best for the educational institution.

One of my strongest arguments against student membership has to do with confidentiality. All discussions and the vote on issues within committees should be absolutely confidential. This confidentiality is easy to maintain among faculty members who know each other, work together and will continue to serve over a period of time. There is much more likelihood of a breach of this essential confidentiality where members of the committee may be short term, may be advocating a particular cause and might use both the discussions and the vote in order to rally political support outside of the committee. This could also create a much more adversary atmosphere within the committee than there would be between permanent members of the faculty. Students on the committee might have a strong inhibiting influence on the faculty members of the committee.

On matters affecting admissions, faculty appointments, tenure and things of that nature, total confidentiality must be preserved and seasoned judgment must be exercised. It should also be remembered that at some time or other, faculty members were also students.

Jesse H. Oppenheimer, '42

HEADQUARTERS FOR RACQUET SPORTS

INVENTORY
CLEARANCE
SALE
ENDS
APRIL 30



**Tennis and
Squash shop**

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

EST. 1924

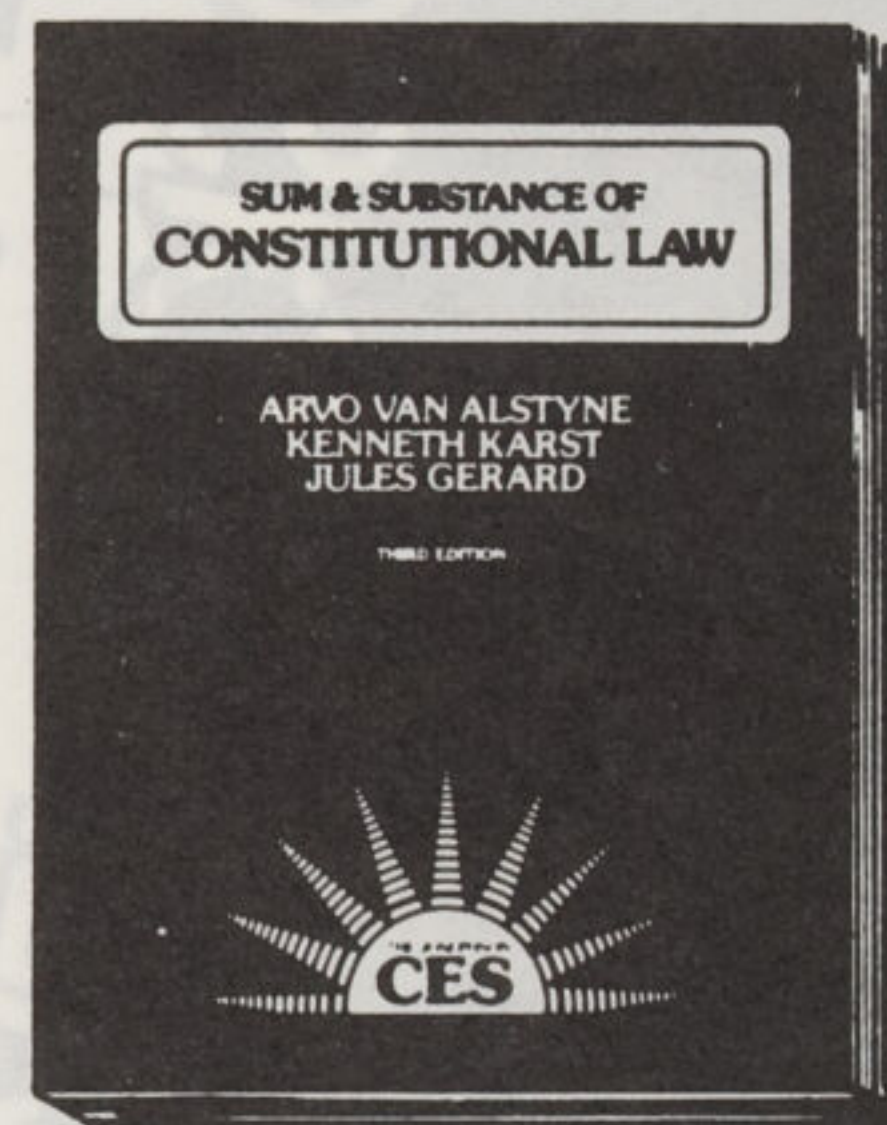
Largest selection of squash
apparel and rackets in this area.

TO LEARN THE LAW

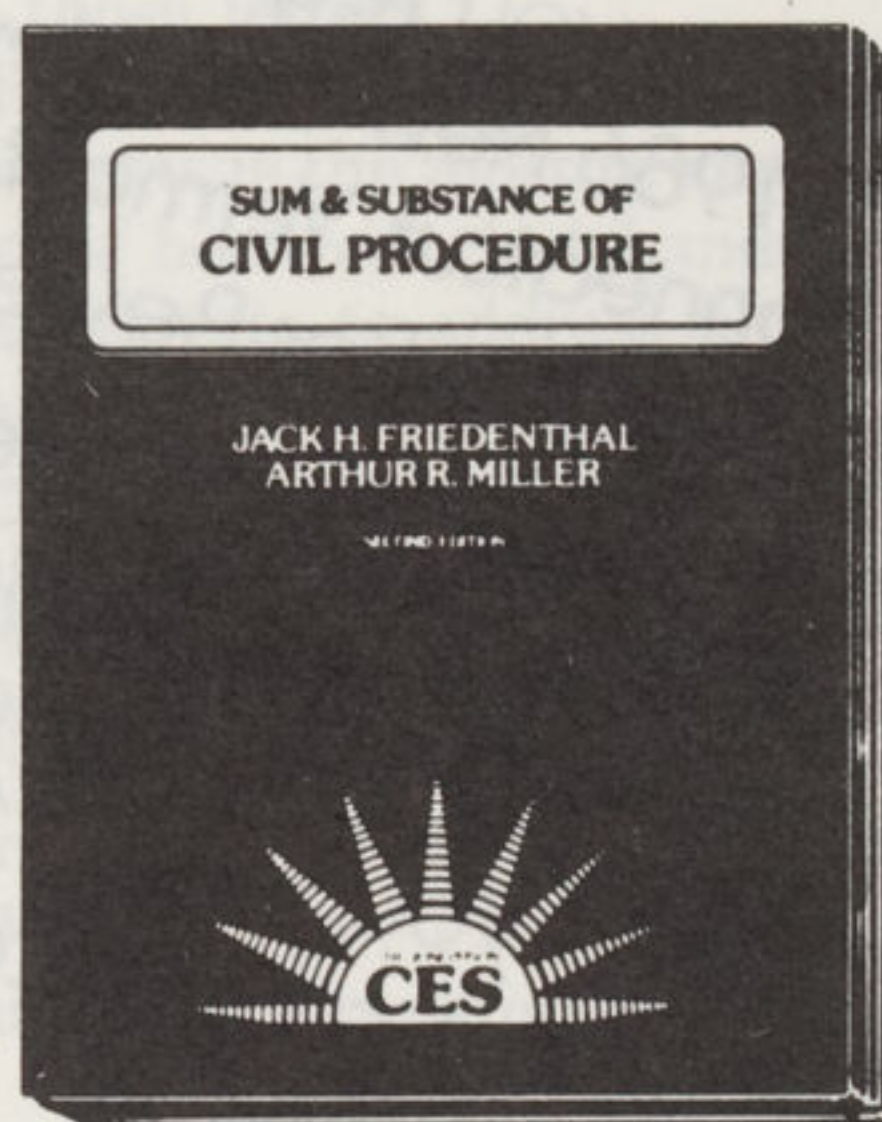
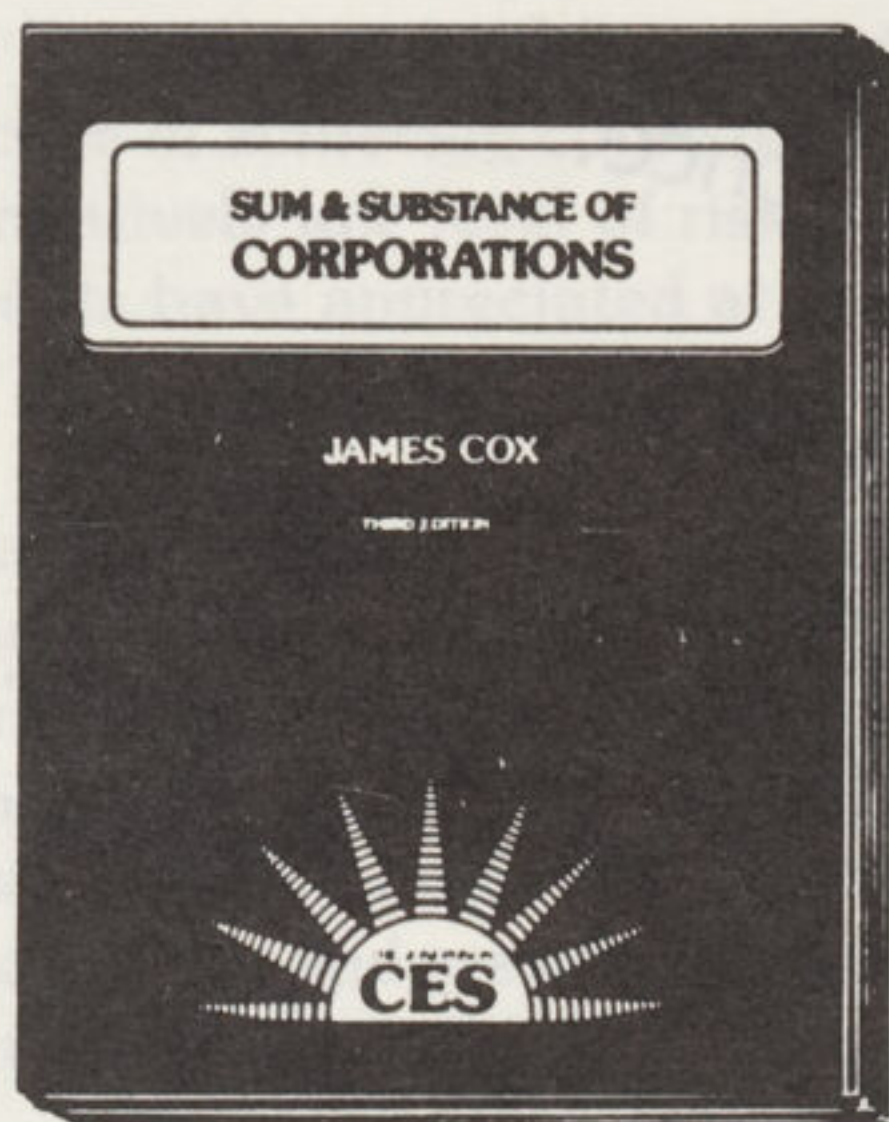
Sum & Substance

comprehensive legal study aids featuring:

- detachable capsule outlines
- cross referencing to each major casebook



- sample exams with explanatory answers



- complete table of cases
- easy reference index

Available at your local law bookstore!

or contact



Josephson Center for
Creative Educational Services
10101 W. Jefferson Boulevard
Culver City, CA 90230
(213) 558-3100

EARLY ENROLLMENT DISCOUNT

ATTENTION: CLASSES OF 1985 & 1986

**SAVE
\$175.**

When you register early for BAR/BRI's 1985 or 1986 New York, New Jersey, Massachusetts, Connecticut, Vermont, New Hampshire, or Maine Bar Review.

You get your materials—NOW
And the nation's largest and most successful
bar review course
and you save \$175
off the current course price.

REMEMBER:

The last day to save \$175
off the price of your course is:

October 19

barbri

401 Seventh Avenue, Suite 62
New York, New York 10001
212/594-3696 201/623-3363

160 Commonwealth Ave.
Boston, Mass. 02116
617/437-1171

Campus
Representatives:

Robby Boone
Gigi Chapman
Larry Eisenstein
Bobby Ervin
Evilio Grillo
Amy Johnson
Carolyn Klamp
Melinda Levine
Peter Mozarsky
Kathy Patrick
Vic Patrick
Carol Phethean
Janet Savage
Jackie Stone
Ken Sulzer
Bobby Thomas
Karl Thurmond
Dennis Waggoner
Kevin Werner
Leslie Zimberg

Head Representative:

Alex Starr

© 1984 BAR/BRI

Book Review: *THE EUROPEANS*

(Continued from Page 6)

ropean unity] they also envisaged a close customs union along the Benelux lines, which fortunately was not to be called Franitalgerbenelux or later still, Franbritdaniregerbenelux, but more simply the European Economic Community."

Journalists who write books based on their experience as journalists often string together anecdote after anecdote. The stories, for one reason or another, never make it into stories in their newspapers and sometimes they are tied together with the barest of central ideas. Perhaps this works with books like Shipler's *Russia* or Hedrick Smith's *The Russians* because they concern closed societies Americans rarely see. It wouldn't work for countries accessible on a Eurail pass and thankfully Barzini doesn't try.

Barzini's anecdotes are more historical and historic: an interview with Hitler, talks with Italian intellectuals of the fifties, stories of diplomatic and military battles of the past three centuries. This is not

a book about Europeans who work in factories or teach schoolchildren. It is a book about national policies shaped as surely by national characters as by national elections.

Barzini wants Europe to be unified and to have a great voice in world affairs through that unity. But he is also staunchly pro-American. In fact, the book is probably especially enjoyable for Americans because in it we are still heroes. Barzini treats us as the America of the Marshall Plan: not completely selfless, but not as nasty as any

world power before us.

In all, *The Europeans* is a wonderful book, a kind of intellectual *Let's Go* to the national psychology of our European neighbors. If you have the good fortune to be travelling to Europe, this book deserves to accompany you as much as any guidebook. Indeed, no guidebook will take you behind the facades of Europe like Barzini's *Europeans*. Whatever your travel or summer plans, that is reason enough to read this book.

✽

Toilet Paper Controversy

(Continued from Page 3)

"Every letter that appears in my column is strictly for real. A person would have to be psychotic to make up those letters."

Helping people with serious problems is the most rewarding aspect of her work, but Landers does not hesitate to address more commonplace, mundane issues.

One such question provoked a most dramatic and unexpected reader response: Should toilet paper be hung so that it falls over the top and down the front of the roll, or over the back and down along the wall?

The great toilet paper controversy surprised even Ann Landers herself. "Would you believe 15,000 people wrote to me on this subject?" No topic is too unimportant for her to write about, and sometimes an apparently trivial topic can have vast impact.

Landers concluded by reminding her audience that life is what happens today, as well as what is to come in the future. She especially urged the law students in the audience not to put off "those terrific things that you plan to do some day. Do them now. There will never be a perfect time."

On this encouraging note, Landers invited questions from the audience ("you can be asking for a friend"). She seemed disappointed that few were of a personal nature, but answered amiably nonetheless on topics such as premarital sex, suicide, fake letters, and Dear Abby, the column written by her twin sister, Abigail Van Buren.

In closing, Miss Landers observed that being in a position of giving advice can be exhausting and requires real dedication, but it is interesting and rewarding. "There are times when this work is a headache, but it is never a bore."

✽

A Success Story

Grossman & Co. was founded in November 1981 with the objective of achieving consistently superior investment returns with a relatively low level of risk. Through June 30th, 1984, our accounts have appreciated at a compound annual rate of 18.1%.

This figure becomes even more impressive when you realize that the end of June was near the year's low for the stock market and for our accounts. Furthermore, most of our profits are long term capital gains taxable at a maximum effective rate of 20%. An 18.1% return taxable at 20% is equivalent to a 28.96% fully taxable return for a 50% tax bracket investor. Dennis Grossman, the founder and president, who managed the accounts during this period, will manage your account.

Our conservative approach is appropriate for both individual and institutional investors. The minimum initial investment is \$25,000. For further information, including a free brochure, call or write:



90 Broad Street
New York, N.Y. 10004
212 - 422-3056

Member NASD and SIPC

Falwell Defends Conservative Stands

(Continued from Page 1)

weapons policy, introduced the Reverend. Tribe expressed his concern that "the prophetic and critical role of religion may be fatally compromised . . . when church and state embrace each other too tightly." Tribe also warned that freedom of speech is jeopardized when people believe that "resisting the government entails defying the Almighty."

Tribe said he was dismayed at Falwell's apparently inconsistent remarks on various issues — reflecting different degrees of tolerance for opposing views — and called for "the real Jerry Falwell" to stand up.

Tribe emphasized that he did not contest Falwell's — or any religious leader's — right to speak on political issues, but only the content of those views.

Falwell stood up, seemingly at ease, and promptly reminded his audience that Reagan was ahead by four points in Massachusetts polls. He joked that it was good to be back in "Reagan Country."

Falwell immediately questioned the controversy surrounding his support of Reagan and the proposed voluntary prayer and human life amendments. He claimed his group's involvement did not endanger the separation of church and state, saying that "nothing is happening now that hasn't been happening for 200 years."

Quoting from an article he wrote for *Newsweek*, Falwell said "I can be true neither to my country nor my God if I separate my religious convictions from my political views."

Falwell emphasized that to vote one's conscience is not to advocate the establishment of religion, but only the free exercise thereof, as provided in the First Amendment.

Falwell criticized the disapproval of his involvement in politics as hypocritical, "unless you also contest the right of the liberal church to do the same."

In justifying his own involvement in politics as a representative of the Baptist Church, Falwell said he didn't approve of the Church as an

institution endorsing a candidate, but defended his right to do so as an individual.

Falwell also explained the conservative church's involvement in religion as a necessary reaction to involvement "from the left." Before the Moral Majority's entry into the political debate, he said, they had been "losing the battle by default because people were only listening to the liberal clergy."

Falwell characterized the Moral Majority as a coalition of religions with different theological philosophies but shared moral values. He said that the coalition now includes 102,000 churches and has a platform that is "pro-life, pro-family, pro-

moral, and pro-strong national defense." Explaining his group's involvement in politics Falwell said "We did not make the moral issues political, the Supreme Court did."

At times Falwell displayed a very pragmatic perspective. For example, he said although the Moral Majority would like to see a constitutional amendment completely banning abortions, he did not think a total prohibition on abortions "is winnable legislation in a pluralist society."

Falwell said that political considerations have led the Moral Majority to support a version of the Human Life Amendment that would allow abortions for rape and incest.

REGISTER NOW & SAVE

No hidden add-ons! Prices include all lectures, written materials, practice, testing, and MPRE preparation.

Discounted Prices in Effect for Bar Exams Taken in 1985:	
CT, DC, FL, MA, MD, ME, NH, NY, VA, VT	\$550
NJ, PA.....	\$495
RI.....	\$475

Deadline: Nov. 18, 1984 742-3900

SMH
BAR REVIEW

CAMPUS REPRESENTATIVE POSITIONS ARE STILL AVAILABLE, CALL FOR DETAILS.

To Skeptical Forum Audience

When asked about Reagan's support for South Africa and opposition to the regime in Nicaragua, Falwell defended these positions as pragmatic attempts to maintain American influence.

He explained this perspective with a home-spun metaphor: "If I've got to support one skunk or the other, I'll support the one spraying in the other direction."

He also admitted that his own groups had been "properly" criticized for wanting to ban abortions but not offering agendas to care for the children that would result from such a ban. He then described new efforts by his organizations to aid unwed mothers and place children

with adoptive parents.

Throughout his speech, Falwell alluded to historical figures for legitimization of his cause. He likened his own work to that of the abolitionist Charles Finney and referred to Benjamin Franklin. He also spoke frequently of Martin Luther King, Jr., angering many in the audience who believe Falwell's work betrays King's ideals.

Falwell ended his speech with a quotation from Solomon, "Living by God's principles creates a nation of greatness; and violating those principles brings a nation to shame."

Prof Baffled

After the speech, Tribe said he remained baffled by Falwell's apparent inconsistencies and that the Reverend's speech had not revealed anything to explain conflicting remarks and writings.

Tribe pointed out that although Falwell's speech was relatively mild, his true attitudes erupted when answering questions extemporaneously — as, for example, when a woman representing herself as a Jewish lesbian feminist asked why he hadn't joined with pro-choice forces in advocating sex education. Falwell replied, "As a lesbian you shouldn't be concerned about abortion or pregnancy."

Terry Todd, a second-year Master of Divinity student who organized

Divinity School students protesting Falwell, said he was impressed by Falwell's persuasiveness, but still opposed to the Virginia minister: "I was appalled because this speech was his attempt to move into the mainstream. He was telling people that 'I'm not as dangerous as you've heard.' But I think he is." Characterizing Falwell's speech as a special attempt to win over Harvard students, Todd said "He was smoothing over his incredibly rough edges."

Dissent Not Immoral

In an interview after the speech, Falwell said he did not consider dissent from his views to be un-Christian or immoral, and said there was often debate within his own church on moral issues.

Falwell may have convinced liberals who had never seen him in person that he is a "worthier" opponent than they had expected. Perhaps most importantly, he may have shaken the conviction of many that the involvement of religious groups in American politics is improper or indefensible.

A few months ago Senator Kennedy described issues where liberals confront the Moral Majority as "an arena of combat between the forces of light and the forces of darkness." Perhaps Falwell's appearance succeeded, as Prof. Tribe suggested, in demonstrating that the political battles in which religious leaders are now engrossed are not, by virtue of their involvement, such apocalyptic battles.

*Legal Placement
Exclusively in*

TAX TRUSTS & ESTATES PENSION

AND

REAL ESTATE

LOUISE LASHAW

Legal Search since 1978

122 East 42nd Street
Suite 1012
New York, NY 10168
(212) 986-4666

JAMES F. BRINE INC.
29 BRATTLE ST.
HARVARD SQ. 876-4218

SPORTS EQUIPMENT AND APPAREL
FOR THE ENTIRE FAMILY

SOCCER SHOES BALLS	JOGGING WARM-UPS SHOES	SQUASH RACKETS SHOES
--------------------------	------------------------------	----------------------------

ATHLETIC SHOES BY:
ADIDAS, TIGER, ETONIC, NIKE,
BROOKS, LE COQ SPORTIF.

WARM CLOTHES FOR FALL &
WINTER

DOWN PARKAS & VESTS, WOOL
SHIRTS, RUGBY SHIRTS, WOOL
SWEATERS.

"BETTER BUYS AT BRINE'S"

**Professional Dry Cleaning
and Shirt Laundry**
at

Rite-Way
DRY CLEANERS, INC.

547-8008
4 Hudson St., Cambridge
(off 1672 Mass. Ave.)

Firm Concerned with Review Note

(Continued from Page 1)

the piece involved a possible conflict of interest.

Skadden, Arps and Wachtel, Lipton, both New York firms, often find themselves at odds in litigation involving contested takeovers. Currently, the two firms are engaged in a takeover battle which, according to the *New York Times*, Flom feels could be affected by the note. Flom could not be reached for comment.

Two issues define the controversy. First, the student author had accepted an offer to work with Wachtel, Lipton before the bulk of the note was drafted. Second, the author sent drafts of the article to lawyers at Wachtel, Lipton soliciting their comments. Above all of this is a concern that courts might defer to the article in making decisions involving its subject.

Student notes are handled through a Notes office at the *Review* which receives and approves suggestions submitted by *Review* members. The author had initially submitted a proposal involving the Uniform Commercial Code. Knowing of the student's interest in takeovers, a fellow editor who had worked at Wachtel, Lipton suggested the "poison pill preferred" topic. That editor is now a first-year associate with Wachtel, Lipton.

Review records indicate that the author began writing the piece in late January. On two separate occasions during the editing process, the author sent drafts of the article to lawyers at Wachtel, Lipton. The author told the *RECORD* that the drafts were sent to Wachtel, Lipton because of a desire to have experts

check technical aspects of the piece.

According to the author, the "full extent" of Wachtel, Lipton's participation was to indicate whether the positions taken by the article were "respectable." Each time the drafts were returned with comments. Two lawyers from Wachtel, Lipton (one on each draft) read the piece.

Wachtel, Lipton also provided the author with briefs, amendments to articles of incorporation and other information which was used in the preparation of the article. Some materials were sent at the author's request; however, unsolicited information which the readers thought might be helpful was sometimes included. According to the author everything received from Wachtel, Lipton was public information. However, obtaining the information from public records would have taken considerably more time.

The article was complete, with the exception of what the author called "minor details," when the author went to work for the firm in June. While in New York, the author participated in the settling of these "details."

Following a well-established policy of regarding student-written pieces as "group efforts," the *Review* published the article without indicating its principal author. After publication, Wachtel, Lipton distributed copies of it to certain of the firm's clients along with a memorandum which indicated that the piece had been written by a summer associate with the firm.

The firm's participation in the process has led to public charges that Wachtel, Lipton "wrote" the article. Editors at the *Review*, including the author of the piece, vehemently denied the charge. "We often solicit the opinions of practitioners," said Robert M. Fram, President of the *Review*.

However, although he too dismissed the charges, one high ranking *Review* editor admitted he considered the submission of drafts to persons outside the law school community to be "unusual."

The submission to Wachtel, Lip-

ton was an independent action by the author. Fram said that as soon as he found out that the drafts had been sent to Wachtel, Lipton he investigated the matter to make sure that such submission was not improper. That investigation led Fram to conclude that Wachtel, Lipton's contributions were minimal and involved no impropriety.

According to Fram, readers of the piece made only a few minor suggestions. The "only significant suggestion," said Fram, involved the author's original thesis that the poison pill tactic could be defeated by anyone who was willing and able to purchase 75% of the target company. Lawyers at Wachtel pointed out that, in fact, the poison pill could be defeated by one who purchased 65% of the target company and they briefly explained why this is so.

Poison Pill

The "poison pill preferred" tactic involves the issuance of preferred stock as a pro rata dividend to holders of common stock in the target company. The preferred stock often carries special conversion privileges and/or the privilege to redeem at the tender offer price in the event of a takeover.

Since shareholders may at the time of takeover exercise their redemption and conversion rights, the issuance of such stock makes taking over the target more expensive. The legitimacy of the tactic has been questioned by some, particularly from the standpoint of whether such an issuance might sometimes constitute a breach of the directors' fiduciary duty.

The note argues that the tactic should be considered legitimate under Delaware corporation law and under state fiduciary law when the stock is issued to protect against partial and two-tiered tender offers. It concludes, however, that the tactic does not serve to discourage bidders who are willing and able to purchase at least a 65% interest in the target.

Considering hostile takeovers, the note concludes that the Williams

(Continued on Page 20)

Free Personal-Injury Case Evaluation

You no longer need to decline lucrative personal-injury cases. From our free case evaluation to courtroom testimony, JD-MD picks up the entire medical side of your case leaving you free to do what you do best—the law!

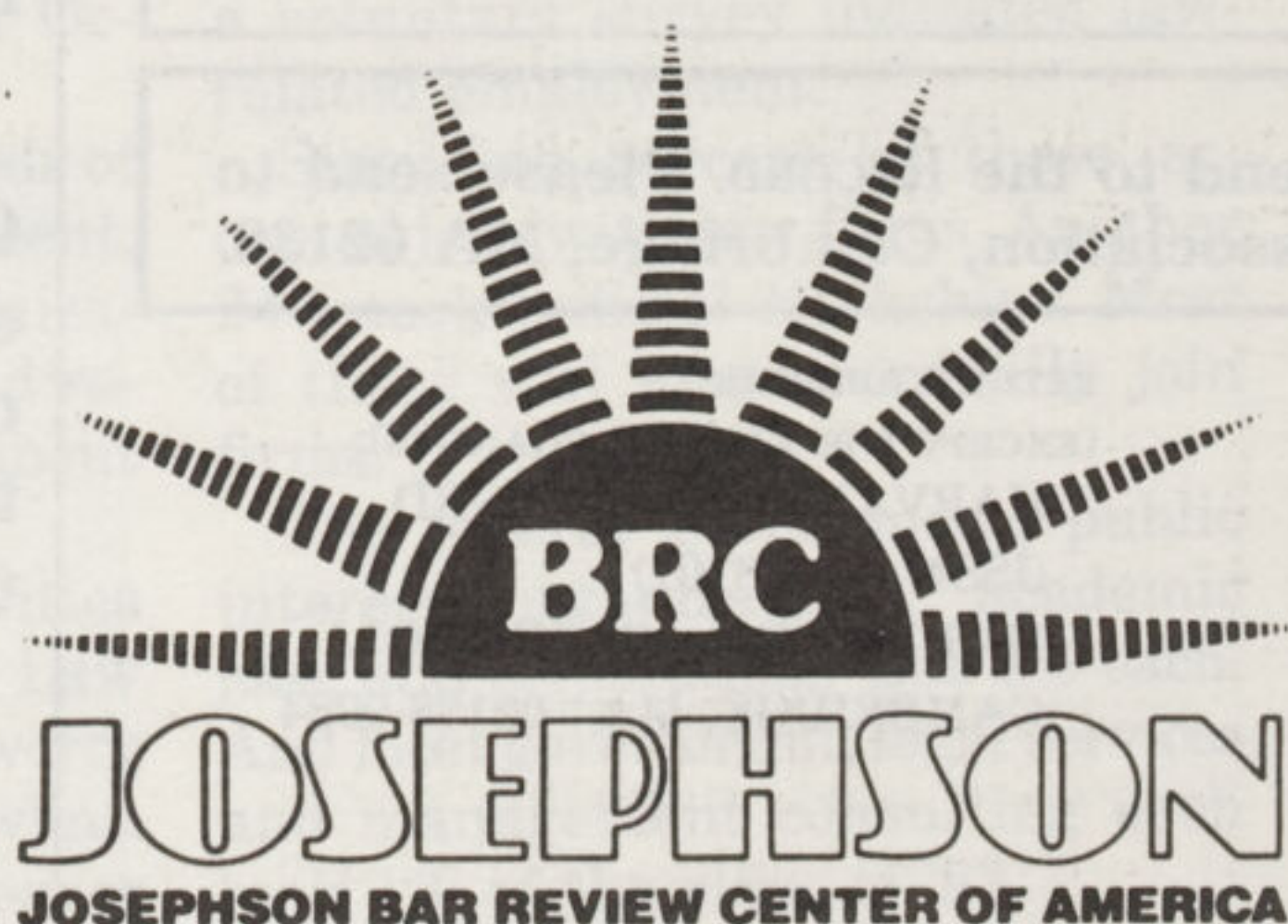
- Free case evaluation by Board-certified specialists
- Money back guarantee
- Expert testimony by medical school faculty members
- Full medical research and advisory support

JDMD
620 Peachtree Street, N.E., #306
Atlanta, Georgia 30308
(404) 523-7936

SAVE

\$1000

**Enroll in the Massachusetts
course by November 16, 1984**



Firm Blasts Note: Questions Ethics

(Continued from Page 18)

Act should not apply to the issuances of "poison pill preferred" stock.

Additionally, the note argues that the business judgment rule is too lax a standard of review for claims of breach of fiduciary duty. Instead, the note proposes that directors prove a "substantial business purpose" which justifies the issuance of the stock to thwart a takeover bid.

Fram asserted that the article, itself, does not support the claim of impropriety. "From reading news reports, many people have just assumed that the article supports Wachtel, Lipton's use of the tactic," said Fram.

He pointed out that in advocating a stricter standard than the business judgment rule, the *Review* takes a position which Wachtel, Lipton might not embrace. The firm more often than not has found itself on the side of directors.

He also pointed out that the note suggests that Wachtel, Lipton should have lost *Brown-Forman Distillers Corp. v. Lenox*, the case in which Lipton developed the poison pill. "Had this note been available and had courts deferred to it, Wachtel would have lost the case."

In defending against charges of impropriety, Fram turns to the *Review's* rigorous editorial process. Each student article undergoes a

process involving at least eight editing phases. At least eleven editors eventually read each piece before publication. He adds that two students who had spent summers working with Skadden, Arps were also involved in the note's production.

At press time, the *Review* board had scheduled a meeting to discuss the journal's policies with regard to the matters raised in this controversy. However, Fram said that he does not see "actual bias" in this case as a problem. "After having looked at the substance of the editorial process in this note," Fram concludes that "the author and the magazine behaved responsibly."

"I don't want to say that there is no issue here," stressed Fram. "I consider the issues raised to be important ones."

But for Fram, the issues which warrant the special meeting have more to do with future guidelines than this particular controversy. "I am not concerned that the process as it works is being abused. I believe that the group process works in general and that it worked in this particular case."

"Avoiding the mere appearance of impropriety is a real concern. There haven't been guidelines for dealing with this kind of problem in the past, and I think that it is important that the magazine talk about it."



UNIVERSITY OF SANTA CLARA SCHOOL OF LAW 1985 SUMMER LAW STUDY ABROAD

Tokyo, Japan

Emphasis on U.S.-Japanese Trade.

Oxford, England

Courses Include Jurisprudence & Legal History.

Strasbourg, France

Emphasis on International Human Rights.

Singapore

Focus on Investment in Southeast Asia.

Hong Kong

Emphasis on Hong Kong as Entrepot For U.S.-China Trade

All Courses Are Taught in English and are ABA Approved.

For a detailed brochure, contact:

Institute of International & Comparative Law
University of Santa Clara School of Law
Santa Clara, California 95053
(408) 554-4162

To reserve your place, please include a \$100.00 deposit.

Address Changes: Do not send to the RECORD. Please send to the Harvard Law School Association, Cambridge, MA 02138.

SECOND-CLASS POSTAGE
PAID AT BOSTON, MA

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

You can teach in the Experimental College at Tufts University

**Gain valuable experience
designing and teaching
courses not found in the
traditional Tufts curric-
ulum.**

*For information or
applications call
381-3384*

Deadline: October 15