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25 CENTS

Dean's Proposal Sparks Controversy

By Steve Cowan

Approximately three weeks ago Dean James Vorenberg quietly circulated a memo to the faculty which has caused considerable dismay among many students and faculty members.

Vorenberg refused to show the memo to the RECORD, and has denied similar requests by Law School Council and the Third World Coalition. In an interview, however, Vorenberg stated that his memo suggests a new procedure for the faculty's consideration of appointments.

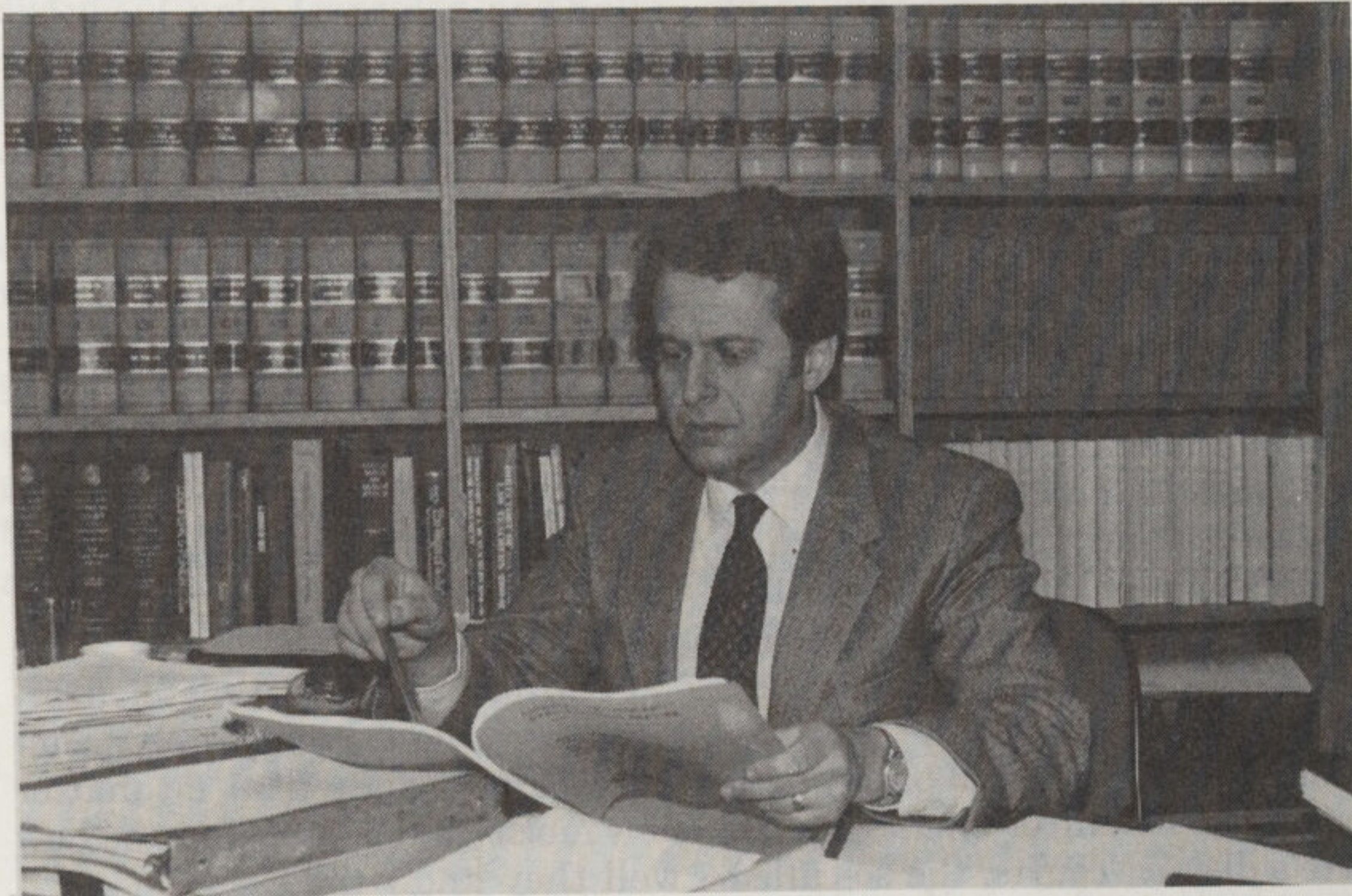
With the exception of tenure decisions about people who are currently assistant professors, all appointments decisions had previously been considered and voted on by the entire faculty after recommendation by the appropriate committee. Following the faculty's vote each decision is forwarded to, and approved by, the University governing board.

Additional Step

Vorenberg's proposal would add a further step to this process. In addition to the approval by two thirds of the entire faculty, Vorenberg has proposed that issues relating to appointments also receive affirmation by two thirds of the *tenured* faculty.

While Vorenberg stated his pro-

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Laurence Tribe

Tribe Seeks Open Court

By Justin Hughes

Arguments are scheduled today before a panel of the Second Circuit in Prof. Laurence Tribe's efforts to open a federal courtroom to live television cameras.

Tribe is representing Cable News Network (CNN) on appeal in its efforts to provide coverage of General William Westmoreland's 120 million dollar libel suit against CBS News.

CNN's original request for access to the courtroom proceedings was denied. New York District Court Judge Pierre Leval cited Canon 3-A(7) of the Code of Judicial Conduct as a basis for categorical denial of television access to federal courts. The Code was adopted by the ABA in 1972 and was recently reaffirmed by the Judicial Conference.

With very limited exceptions,

Canon 3-A(7) prohibits "broadcasting, televising, recording or taking photographs," in the courtroom during sessions.

In its original request, the cable news service offered to "pool" television coverage with any other interested media party. Pooling would allow the same television camera or camera system to be used by multiple companies.

This approach would overcome the traditional objections that allowing access to a camera from one media source would force the court to open its doors to cameras from all networks and news services.

The pooling approach has been used in state courts allowing televised proceedings as well as in the most recent Presidential debates.

Tribe was brought into the case

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Student Litigators Enter Third Decade

By Shari Rabinowitz

HLS students who seek to sharpen their trial advocacy skills this semester have a number of opportunities through the Harvard Defenders program, according to Stephen Latham, 3L, the group's president.

The Defenders currently are handling nearly a dozen cases. The organization also has scheduled several workshops and an Ames Alternative during the next few weeks to give students a taste of criminal litigation.

The Harvard Defenders program, now in its third decade at HLS, has been a key resource for indigent criminal defendants in the Boston area, says Latham.

Such student counsel programs are authorized by the rules of the Massachusetts Supreme Judicial Court. Those rules allow senior law students acting under the auspices of a non-profit legal aid program to appear on behalf of clients in the state's district courts, the so-called "people's courts" of the state's two-tier trial system.

The only statutory requirement for a program such as the Defenders is that each case be conducted under the general supervision of a member of the Massachusetts bar. For the Defenders, that role is filled by Attorney John Salszberg.

After a determination of the defendant's financial status, the court decides whether to put him or her in touch with a group like the Defenders.

Strict Requirements

While the court leaves the training of student counsel to the dis-

cretion of each program, Defenders Vice President Eve Penoyer, 3L, says their program uses a stringent internal certification system.

The only students who may actually represent clients in court are 3Ls who have met all of several basic requirements. These usually include handling nearly every other aspect of a case as a 1L and 2L: interviewing clients, conducting investigations and legal research, and devising strategies for the student who will actually argue the case.

Every 3L Defender is armed with this intensive training and a standard Defender checklist which has been virtually perfected after thirty years of collective courtroom experiences. Nevertheless, standing before a judge for the first time as sole counsel for a client is inevitably unsettling.

Penoyer says few student attorneys have felt "completely comfortable at a first trial no matter how much they've prepared and how well they know the case."

In order to give members and other HLS students a feel for the courtroom, the group has scheduled a workshop series throughout the semester.

The highlight of the series will be a November 3-4 workshop to be led by Charles Ogletree, chief of the trial division at the Washington, D.C. public defenders office and HLS Lecturer on Law.

Latham stresses that any student can attend and that "one does not necessarily have to want to be a criminal defense attorney to get a lot out of these workshops."

The group is currently looking for volunteers to play various roles in the Ames Alternative offered by

the Defenders in lieu of the regular moot court program. Students may volunteer to play a witness, a police officer, or a juror.

First-year Defenders who do choose the Defenders' case over those offered in the regular Ames will not only be writing briefs and conducting research but will also be gathering "evidence" from the "witnesses."

Penoyer says a substantial number of participants have decided to train with the group in order to put their new skills to work for an actual client.



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LSC Reviews Ad Board Selection Criteria

By Raoul Cantero

This week the Law School Council (LSC) finally recommended Mark Plotkin as the 1L member of the Administrative Board (Ad Board). Because of disagreement over the criteria that should be used in selecting applicants, the process has taken five weeks.

The Ad Board is a committee consisting of three faculty members, three law students, and two administrators. The Board has responsibility for matters involving student discipline and exceptions to faculty and administrative rules.

Every year the Ad Board, through the Law School Council, selects a new 1L member who serves a three-year term.

The selection process began in early September, but ran into difficulties. According to LSC President Ed Vela, 3L, the Council was pressed to select a new member this year because of urgent Ad Board business. Consequently, the Council was unable to give guidelines for candidate selection to the committee responsible for screening applicants.

Steve Fryer, 2L, chairperson of the Selection Committee, established his own guidelines. He developed a form that graded candidates numerically in various categories, including verbal skills and experience. The committee used these forms as they interviewed the fifteen applicants.

After the interviews, some members of the committee felt uncomfortable with the procedures. They felt a more subjective, non-numeric approach, or at least one that would allow discussion of each candidate before a final decision, would be more appropriate.

Arturo Gonzalez, 3L, one member of the committee and a student representative to the Ad Board, noticed that the top three candidates under the "objective" criteria were white males.

"It didn't bother me that they were white males if they were the most qualified," he said. "I just wanted a chance to discuss *why* these three men were more qualified

than the others, so that I could feel comfortable with our decision."

Second Interviews

Gonzalez took his concerns to the Council. The LSC agreed that the criteria were inadequate, and established a new committee consisting of Vela, Gonzalez, and Sally Rosenberg. The committee interviewed all of the applicants again, disregarding their previous standings. They used the objective form only as a basis for discussion this time.

Several of the applicants felt frustrated by what they thought was a tedious and time-consuming process. Some felt confused at having to go through the entire process again.

Most were irritated that the se-

lection of one member to the Ad Board was taking five weeks, and were anxious to divert their time to other activities if they were not to be chosen for the Board. One candidate was so disillusioned by the delays that he withdrew his application.

Gonzalez noted that future guidelines for selecting applicants should be written down beforehand, and that, as a rule, current Ad Board members should assist in the selection process, "because of their knowledge of the work involved and because they have to work together with new members."

Vela says that the Council is currently establishing guidelines to avoid this problem in the future. The guidelines should be completed by the time the new Board member is selected for next year. ✽

Students Face Continuing Bias

By David Zensky

"I'm sure there are some firms who will not hire gays . . . women [and/or] minorities," said Placement Director June Thompson.

The HLS position on equal employment opportunities, which appears on almost every piece of correspondence between the Placement Office and prospective employers states:

"[The Harvard Law School] is committed to a policy against employment discrimination based on race, color, creed, national origin, age, sex, sexual orientation, marital or parental status, handicap, or status as a Vietnam era or disabled veteran."

While the school does not demand a written oath of compliance, the statement goes on to say that HLS "believes and expects" that employers will respect this policy of non-discrimination. Nevertheless, Mark Smith, President of the Committee on Gay and Lesbian Legal Issues (COGLLI) says, "There's still a problem."

According to Smith, many of COGLLI's 75 members would prefer

to be open and honest about their sexuality. Yet, as far as he knows, none of them feels s/he can safely relate information indicative of sexual orientation on resumes and during interviews.

He said that there are at least two considerations supporting disclosure. One is that many students have done substantial work for the gay rights lobby and movement, and are proud of it.

Gay or lesbian students who have spent a substantial amount of time on such projects, may be left with "blanks" on their resumes if they do not list these activities.

Another reason, and "a real fear," said Smith, is the fact that gay or lesbian students hired under the pretense of being heterosexual but later being found not to be may be discharged legally in every state except Wisconsin.

Smith noted several pieces of evidence which suggest that the legal profession does not welcome lesbian or gay lawyers.

Last year COGLLI mailed a letter, accompanied by the signatures of 38 faculty members, to about

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Counselor Confronts Students' Isolation

By Michael Malamut

When Angela Gillem began working last year as Minority Counselor in the Counseling Group of HLS Health Service, she expected a challenge. She knew from experience that many hesitate to seek counsel, even though such services often prove beneficial.

One obstacle Gillem faced was convincing minority students that

Students often complain to Gillem about the lack of minority faculty and the difficulty of learning to think "in law." Racial differences from the majority population at the Law School can increase the sense of isolation.

Some minority students also experience a type of culture shock upon coming to HLS. According to Gillem, many Third World students face the pressure of becoming a

lems. As a result, many people believe they are facing such problems alone when, in fact, many students are in similar positions.

Gillem strongly advocates minority student support groups to help ease the sense of isolation by sharing the experiences of others. Such support groups have proved an important resource for many HLS students and Gillem hopes to work with them to provide a well-rounded learning experience for the Law School community.

Originally from Arlington, Virginia, Gillem was graduated from Michigan State University with a B.S. in Psychology in 1974. She then moved to Boston to do graduate work at Boston University where she received her M.A. in 1976. She also earned a Ph.D. in Clinical Psychology there in the spring of 1984. Along the way, she served two one-year internships at Saint Elizabeths Hospital (where John Hinckley is confined) in Washington, D.C.

While continuing her doctoral work, Gillem worked from 1978-81 at the Dorchester Mental Health Center. There she dealt primarily with the families of children with problems. In 1980 she became associated with the Aradia Counseling Center in Kenmore Square, a private counseling center for women, where she continues to work on a part-time basis. In addition, she volunteers her talents at the Boston Area Rape Crisis Center.



Lori Nuckolls

Angela Gillem

they need not be "crazy" to see her. She also sought to make herself more accessible to students by increasing her visibility on campus. To this end she organized the Third World Discussion Series and participated in the WLA/BLSA Conference on Women of Color and White Women in the Law. The Discussion Series will start up again this year in the next few weeks. In addition, she meets with leaders of the Third World student organizations regularly.

As Minority Counselor, she functions as a role model and as an exemplar of a friendly and familiar face in an often hostile bureaucracy. Having recently completed graduate school herself, she empathizes easily with the problems encountered by minority students. While her primary role is to counsel minority students, she also works with white students on occasion.

"credit to their race" and problems brought on by being the only members of their families to attend college, let alone law school.

Frequently students will see Gillem feeling simply uncomfortable, unhappy, and unsure that they belong at HLS, especially when they suddenly are not performing as well academically as they did in college. She helps students overcome their unhappiness by aiding them in articulating their feelings. Many times problems exist — such as subtle racism and insensitivity to the needs of Third World students — which the students must learn to cope with until their efforts to effect change bear fruit.

Group Support

Gillem reports that a "conspiracy of silence" exists at the Law School; students seem wary of telling their friends about their scholastic prob-

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"BETTER BUYS AT BRINE'S"

Prof. Questions Legal, Political Myths

By Janine Dlutowski

Newly appointed Assistant Prof. Randall (Randy) Kennedy hopes to sensitize students to the political nature of law. Viewing "law as a forum for political interests," he says, provides a valuable perspective on the study of law as well as on its practice.

Kennedy's own interests in law developed from his general political interests, particularly his interest in civil rights. He was born in 1954 in Columbia, South Carolina but grew up in Washington, D.C., where his family moved to escape the "Jim Crow oppression" of the South.

His parents, although not politically active, encouraged political discussion and awareness at home. Kennedy credits his older brother and his father with sharpening his political consciousness and helping him define it in terms of law.

Kennedy's decision to study law was greatly influenced by his brother, Henry H. Kennedy, Jr., '73. Although he was "following in my brother's footsteps" by going to law school, their careers have followed widely divergent paths. Henry is now a Superior Court judge in Washington, D.C., having served for several years as an Assistant U.S. Attorney.

Kennedy himself is very much committed to the life of academia. He talks about his teaching with the easy contentment of a man who is where he wants to be and enjoys being there. "I like university life;

I like libraries; I like students," he asserts.

His enjoyment of study dates back to his undergraduate years at Princeton University. There he received a B.A. in History in 1977.

As a Rhodes Scholar at Balliol College of Oxford University, Kennedy mainly studied politics. During his two years abroad he began writing political commentary and reviews of novels for magazines.

He describes this experience as a great way of "getting paid for doing what I like to do: read and write."

On returning to the U.S., Kennedy entered Yale Law School, which had granted him an extended deferment to study in England. Harvard Law had refused to grant him a deferment and Kennedy did not reapply.

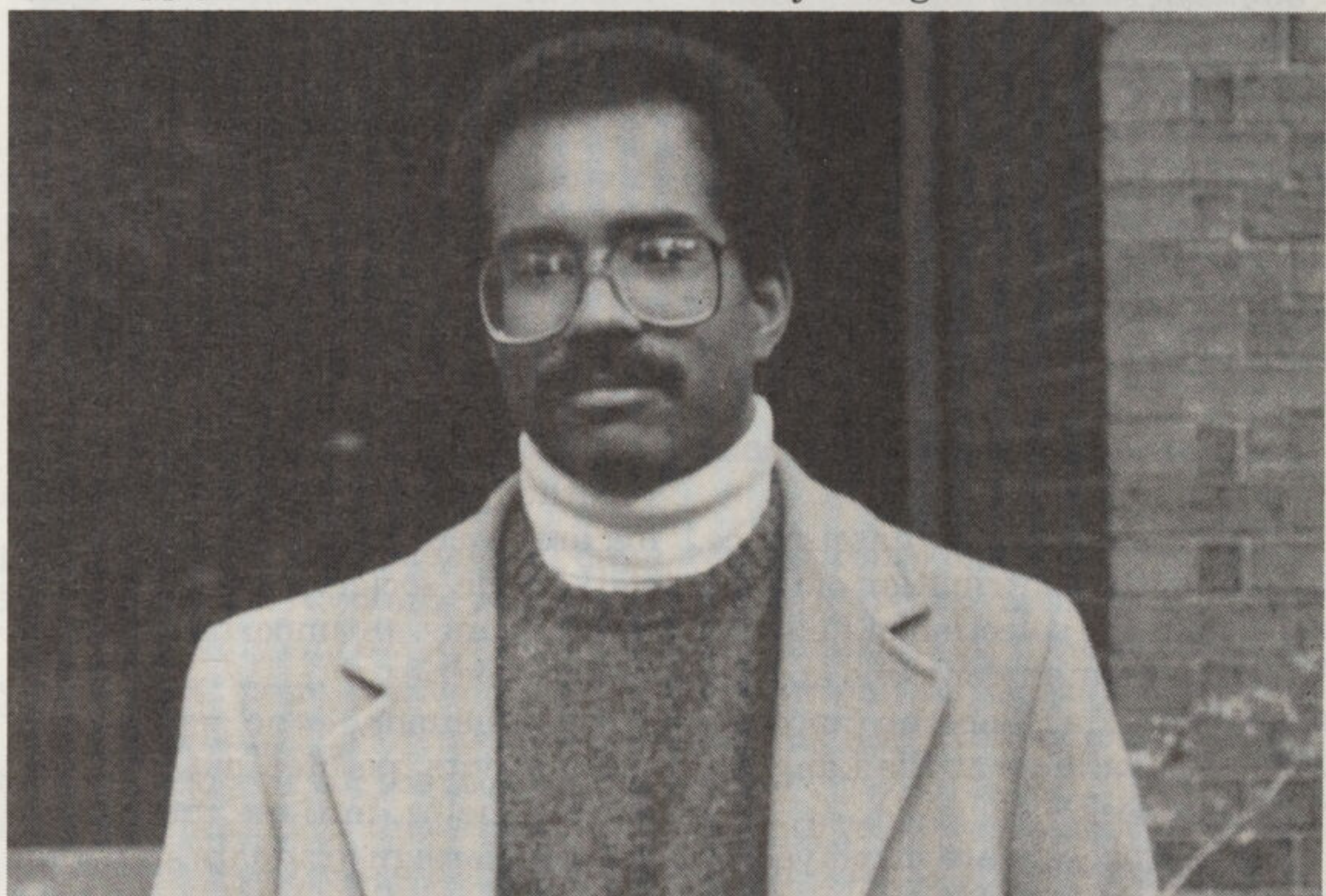
At Yale, he was on the board of editors of the *Yale Law Journal*. Then, his plans were to pursue a career in public interest law or to work in the private sector.

He did not seriously consider a teaching career until the end of his third year in 1982. At that time he was approached by Dean Vorenberg and invited to join the faculty of HLS.

Subsequently, Kennedy was approached by many more law schools. He postponed acceptance of a position for two years while he served as a law clerk in Washington, D.C.

Clerk Experience

One year was spent clerking in the U.S. Court of Appeals, District of Columbia Circuit for Judge J. Skelly Wright. He followed that

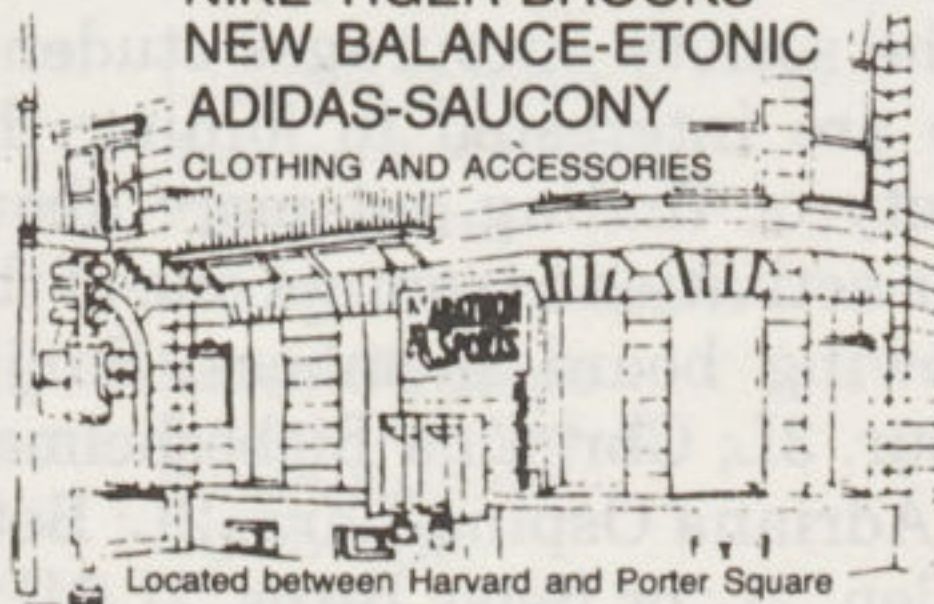


Lori Nuckolls

Randall Kennedy

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year with a clerkship with the U.S. Supreme Court and Justice Thurgood Marshall.

Since one of his major legal interests is Constitutional law, Kennedy found both clerkships particularly rewarding. Yet, he says he found "few surprises."

Kennedy characterizes as "the Great American Mythology" the secrecy surrounding higher courts and particularly that which shrouds

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HFIPIL Renews Fund Raising Efforts

By Susan Gilles

Today, several third year students begin two weeks of fundraising, urging fellow classmates to pledge 1% of next year's income to The Harvard Fellowship in Public Interest Law (HFIPIL; pronounced Fipil).

Begun in 1981 by a group of third year students, the student run fund provides one year fellowships for graduating students committed to working in public interest fields. Support for HFIPIL has increased in each successive year. Last year, the pledges of 200 students of the class of '84 created fellowships for three of their classmates. HFIPIL President Corrie Johnson, 3L, said she hoped they could get 50 more pledges this year.

Johnson said the founders made a conscious decision to solicit funds only from third year students. She compared this approach to that of other law schools, such as Berkeley and NYU, whose programs solicit from alumni. She added, "it gives Harvard students a chance of doing something tangible and positive."

Seeks Student Participation

HFIPIL seeks student assistance not just in the contribution of funds but also in the selection of Fellows. Any third year student who applies must submit a proposal (applications are available at the Langdell reception desk).

These proposals are displayed in the library so that pledgers can read and comment on them. The Board of Directors, composed of nine 3Ls

elected by the pledgers, considers all the applications and any of the pledgers' comments. "This," explained Johnson, "gives those who pledge an opportunity to say where their money goes."

Last year, the applicant pool was small, but Johnson argued it will grow if more fellowships are avail-

able. "Students are afraid to wait if there are only a few scholarships available," she explained. She added that there was little HFIPIL could do to award the fellowships earlier than before spring break as the fund raising could not start until fall when 3L's had some idea of their

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ILS: Emphasis On "Society"

By Stephanie Young

The Harvard International Law Society (ILS) brings together "all the elements at HLS that are interested in international law in any way, shape, or form," commented Christina Biebesheimer, 3L, ILS board member. Throughout the year, the Society sponsors a wide range of activities concerning international law, international affairs, and human rights.

The organization's activities are coordinated by a five-member board, but membership is open to all HLS students. This year ILS has over 180 members, with first-year students making up more than half of the total membership.

Although educating and informing are two of the primary functions of ILS, the society considers their social events an important part of their activities.

Biebesheimer, who supervises those events, pointed out that the Society helps initiate interaction between foreign graduate students, who are usually at HLS for only one year, and J.D. students.

ILS has already held two social gatherings this term and hopes to continue these events by hosting at least one each month. In addition to soliciting participation from HLS students, ILS also invites faculty members to take part in its programs.

But such solicitation is not always successful. In response to complaints from both faculty and students of limited faculty-student contact, ILS invited all HLS faculty members to its reception on October 11. To their disappointment, no faculty member

attended the wine and cheese affair.

ILS also organizes a number of language tables. Among the languages included in the program are French, German, Spanish, Portuguese, Japanese, and Chinese. Typically, the tables are informal gatherings where speakers of all levels of competency can improve their skills in a second language, often through conversations with native speakers.

ILS frequently sponsors well-known speakers on international and comparative law. Betsy Birns, 2L, coordinator of the speaker program, already has secured a number of speakers for the fall term. Topics will include Egyptian law, Sudanese law, Israeli law, Indian law, South American law, and U.S. Trade Policy.

The first talk is scheduled for October 26. Carolyn Fleuhr-Lobban, Professor of Anthropology at Rhode Island College, will speak on Egyptian/Sudanese law.

Finally, this year, ILS, as a branch member of the International Society of Law, will sponsor the Jessup International Law Moot Court Competition.

An ILS newsletter is still on the drawing board and may be introduced this term in an effort to keep the Society's large membership informed.

The society encourages students who are interested in joining the society or finding out more about their activities to contact one of the following board members: Sanjiv Kapur, 3L; Christina Biebesheimer, 3L; Adriana Ospina-Lara, 2L; Beth Golden, 2L; or Betsy Birns, 2L/MPA candidate.

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HLS Rowers Pull Their Weight

By Richard Schlesinger

So the Red Sox were out of the pennant chase by May and the Boston Marathon is still months away. Nonetheless, Bostonians will have the opportunity to watch yet another race when over 400 crews compete in the annual Head-of-the-Charles Regatta on Sunday, October 21.

Sponsored by the United States Rowing Association, the Regatta features teams from such diverse places as Anchorage, Alaska and Huntsville, Alabama. It is, in fact, the largest race of its kind in the world.

Eighteen separate races are scheduled for Sunday, beginning with the Men's Veteran Singles at 9:30 AM and ending with the Men's Championship Eights at 4:00 PM.

Nine Harvard Law students have entered the competition in three events. Competing in the Women's Championship Fours at 3:30 PM will be Linda Dakin, 3L, Debbie Mathews, 2L, and Karen Russell and Karen Natalie, both 1Ls.

The men have combined with the Harvard Business School to enter two teams. In the Men's Championship Eights, Charles Murphy, 3L, Tom Seeman, 3L, Tom Weigand, 2L, and Matt Teplitz, 1L, form one-half of the B-school entry.

John Calloway, 1L, is the sole law student on the Law School's entry. Official Regatta rules permit such comingling.

The races, each five kilometers long, start at the Boston University

bridge and finish approximately one and one-half kilometers past the Harvard Boat House.

"The most popular spot to watch the races is Eliot Bridge," explained Linda Dakin. "There are a lot of parties there and an announcer as well."

Dead Man's Curve

Evidently, Eliot Bridge is a popular spectator spot for an additional reason. The Charles curves sharply at that point, giving viewers there a chance to see for free what others

practice sessions.

The women wake-up at 5:30 AM (with Dakin providing the wake-up call) and practice for two hours before the first "I pass" is uttered in Pound 101.

The men, by contrast, practically waste away the day in heavy slumber: they begin practice at 6:30 AM and pull in the oars 90 minutes later. "Early morning is the only time we can all get together," explained Tom Weigand, almost apologetically.

All of the women and most of the men have prior experience in crew



Lori Nuckolls

Ten law students who will pull their weight in the "Head of the Charles Regatta."

pay for dearly every Memorial day in Indianapolis. According to Dakin, "there's usually one boat crash every year at that point."

But avoiding the dreaded crash at Eliot Bridge is not the motivating force that awakens these nine law students every morning before dawn and moves them to trudge sleepily down to the Charles for grueling

rowing. Tom Weigand, for example, was a four-year member of Yale's crew teams. Yet, none of them expect to pull a "Detroit Tigers" — starting fast and quickly pulling away.

"Last year, we finished 30th [out of 40] with a relatively inexperienced team," said Weigand. "This year we want to finish 20th."

Dakin, for her part, emphasized that the Regatta was a chance to "have fun" and enjoy the competition, without worrying about her team's rank in the final standings. Asked whether prizes will be awarded to the winning teams, Dakin simply shrugged and said, "I think there's a trophy; I'm not even sure."

In sum, this year's Harvard Law School contingent seems to be approaching the Head-of-the-Charles Regatta with the buoyant attitude that "oars well that ends well."

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The More Things Change

Dean James Vorenberg recently issued a "suggestion" to the faculty that the procedures for tenure decisions be modified and standardized. Historically the entire faculty has voted on such decisions. Vorenberg proposes to add the requirement that two thirds of those already tenured approve any decision as well.

While this recommendation may not have been politically motivated, its most profound and immediate impact will almost certainly be political. The appointments process defines and informs the political life of Harvard Law School. And that political dynamic will be dramatically altered by this shift.

For years many students and faculty members have battled for greater diversity among the members of HLS' faculty. The response from those in power has been, "Be patient . . . change will come." Over the past decade some minimal change has occurred. Still, what diversity there is at HLS exists largely among the students and the non-tenured faculty.

While this evolution is commendable, Vorenberg's proposal robs that progress of much of its significance. Many of these non-tenured faculty members have led the struggle to diminish the Law School's homogeneity. Disenfranchising these people stifles that fight, and it deepens the quandary in which the HLS faculty has been mired for years.

If the faculty becomes more diverse but the power to effect true change remains confined to an ever narrowing elite, the promise that change will come is illusory. HLS has returned to a core of all white, largely male decision-makers.

As though walking on a treadmill, just as a more heterogeneous group had gained access to power, that power has been snatched away. As groups with different perspectives and different beliefs have gained a voice through which to articulate their differences, the old guard has stepped in to silence them once again.

What is perhaps most disturbing about this action is that it is but another iteration of the conservative faculty's inability to accept change on terms other than their own. They improperly assume that those who do not agree with them lack the judgement to make reasoned decisions.

Perhaps rather than denying others the power to speak the administration should listen.



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Fenno

A month of classes had gone by and already Fenno was way behind. The problem was not that he was way behind in his studying, but rather, that he had run out of ways to avoid doing any studying. Frantically, he made his way to the local hobby shop where only a week before he had purchased a "De-luxe Ant Farm."

"They sued on an implied warranty of habitability? Don't worry; I have something new for you," said the saleswoman as she pulled out a box from under the table. "It's called *Trivial Pursuits*."

Fenno was intrigued. He hadn't played a board game since he broke his nose playing Twister.

"What happens when you land on these green squares?" Fenno inquired.

"That's Legal Tender Green for Socratic Dialogue Questions," replied the saleslady. "You're asked a question, and if you get it correct, you're asked another."

"And if you get that one right?"

"You're asked another and another until you get one wrong."

"I see," said Fenno, perplexed. "And if you land on a red square?"

"That's Intermingle Red for the Critical Legal Studies Questions," said the saleswoman authoritatively. "Your answers for those questions are always right . . . but of course they're also always wrong."

"And the white squares?"

"Security Certificate White is for the Louis Loss Questions. Each card has the same question on it — only the answers are different. The Institutional Gray squares are for the Ad Board Questions. Whatever the question, the answer is always 'No.'"

"And the chameleon-colored squares are for the Law School Dean questions. No matter what question they ask you, tell them only what you think they want to hear."

"Finally, the yellow squares are the Dean of Students squares. Before you have to answer, you get to read through the file of the student of your choice."

Fenno enthusiastically purchased the game and ran off.

Three weeks later, he returned to the hobby shop with game in hand.

"I want a refund," Fenno demanded. "This game is driving me crazy. The questions are impossible; I don't get any sleep; I'm always nervous, and worst of all, I'm beginning to think like a lawyer."

"That's terrific!" said the saleslady. "You should be ready for our newest game, *Corporate Legal Practice*."



Rat Race

by Jerry S. Prudense



Letters to the Editor of the Record

TWC Slams New Tenure Policy

To the Editor:

The Third World Coalition would like to bring to your attention the newly enacted executive order which has changed the selection process for extending tenure-track offers for the law school faculty. Previously, a two-thirds majority vote of the law school faculty was needed to extend a tenure-track offer to potential faculty members. The new selection process requires an approval by two-thirds of the *tenured* faculty.

The TWC finds it appalling that the law school administration would decide to enact such a change, granting all authority to a group of tenured faculty which consists of predominantly older white males, individuals who attended law school at a time when few, if any, women or minorities were admitted to legal education.

This change is particularly egregious at a time when the law school faculty has no tenured minorities and only two tenured women, disenfranchising the tenure-track faculty, which includes two minorities, four

women, and six other professors. If the administration is truly dedicated to diversifying the law school faculty, the new policy demonstrates a lack of good faith in moving toward this goal.

The administration asserts that tenured faculty occupy a better position from which to assess the intellectual value and teaching ability of candidates to the faculty, than that which non-tenured faculty hold. However, this policy totally disregards the rights and interests of non-tenured faculty who also have a stake in the outcome of the faculty's composition. The administration also contends that the goal of faculty competency is a legitimate policy concern. Surely, the administration cannot believe that diversity and competence are contradictory goals. Furthermore, there is no reason to believe that non-tenured professors will be any less concerned about the goal of attracting competent faculty than tenured faculty will be.

TWC condemns this additional procedural

stumbling block which stands in the way of diversifying the HLS faculty.

The Third World Coalition
Juanita Hernández, 3L

Thrilled by Ortega

To the Editor:

I was so *thrilled* when I read the accounts of "Comandante" Ortega's reception by the Harvard student body.

"No pasarán" — ooh the chills; the passion! Is it really true that a Brigade is being formed for Managua? I'd so love to volunteer but my allergies do not permit it. Can you advise me as to whom I should write to offer boat fares for the young braves?

(Continued on Page 10)

10 Years Ago At HLS

OCT. 11, 1974
Vol 59, No. 4

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.

Professor Robert E. Keeton, Chairman of the Committee on Legal Education, has announced that his committee will consider the issue of whether Gilbert's Outlines should be placed on reserve in the library at its next meeting on Wednesday, October 16.

The issue was referred to Keeton's committee by the Library Committee last spring, following announcement of the results of a poll taken by students on the Library Committee, which indicated that a large majority of students purchase Gilbert's and that over 77% favored

library acquisition of the popular subject outlines.

Dean Albert M. Sacks and Professor Louis Loss, members of the Library Committee, were quoted at that time as expressing opposition to the acquisition on "educational policy" grounds, with student response pointing to the fact that many volumes on the library's shelves are of questionable educational value and noting the discrimination on the basis of wealth inherent in forcing students to the private market for access to materials of a more marginal nature than casebooks, for which the Financial Aid Office provides an allowance.

Letters to the Editor

(Continued from Page 9)

Return passage of course would be the responsibility of the student.

Yours in fervor,

James R. Rumbaugh
Chicago, Ill.

Where do our attitudes and expectations about the profession get formed, if not here? If all of his teachers and most of his class "happened" to be female, would he not have a few qualms, a funny feeling that something was not quite right, no matter how fine and wonderful those women were? Sexism need not be blatant or malicious. The friendly, guiltless variety that exists at HLS is disturbing to many of us.

Amy Young, 1L

Guiltless Sexism

To the Editor:

Paul Cappuccio wrote last week to protest the RECORD's "whining" about sex discrimination at HLS. I encourage such whining.

I'd like to turn Mr. Cappuccio's question to the editor back to him: does he go to the same law school as the rest of us? Has he talked to any of the women here about the importance of female role models? Mr. C[appuccio] says that while the profession may not be free of sexism, the law school may congratulate itself that none exists here.

Sports Answers

1. Jim Burton
2. Derrick Harper
3. Fred Brown
4. Gary Danielson
5. Ralph Terry
6. Richard Schlesinger

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(Continued from Page 1)

positional was not designed as a political move, many observers have noted it will have serious political impact.

The overwhelming majority of the thirteen faculty members to be excluded from the second vote have traditionally voted with the faculty's most liberal bloc. "One of the most troubling things," said Assistant Professor Chris Edley, "is that it results in a shift in the voting pool."

Not only is the group who will participate in the second vote traditionally more conservative, noted Edley, it is also all white and contains only two women. Vorenberg, however, does not feel that this more homogenous group will suffer by losing what diversity is provided by the non-tenured faculty. Because the entire faculty will still discuss and vote on each issue, Vorenberg feels that different perspectives will still be given full consideration.

Juanita Hernandez, 3L, a representative of the TWC disagrees. She stated this move will further impede the process of "diversification" which she feels has been too slow.

Second-Class Citizens

Another concern voiced by some faculty members is that this change will damage already strained relations between them.

This, said Edley, "will, in one stroke, turn assistant Professors into second class citizens." Edley stressed that second only to scholarship, faculty politics shapes each professor's definition of his or her peers. And faculty politics, in turn, revolves around appointments.

Defending his proposal, Vorenberg stated, "The tenured faculty have had more opportunity to see how tenure decisions have turned out. . . . I also think that tenured faculty are more likely to have produced the type of scholarly writing to be considered in a tenure decision."

While the dean concedes that some professors felt this was a poor decision, he does not agree that it will damage relations between faculty members.

Newcomer Empathizes With 1Ls

(Continued from Page 5)

the Supreme Court. "[S]ome of the myths need to be exploded," he commented.

At the same time he feels that the confidentiality of the Court's proceedings is an integral facet of the judicial system.

Ethical concerns prevent Kennedy from becoming too involved in any myth-exploding about the Courts with which he clerked. However, he does see opportunity within the realm of legal academia for exposing political myths.

Currently, Kennedy is teaching a small 1L section in Contracts.

Upon accepting his position, he expressed a desire to "teach a basic first year class." He hopes to counter the notion of some that Contracts is a "dry subject."

Professional Influence

Although Kennedy tries to impart his enthusiasm to his students, he said that it takes more than a feeling for the material to be able to teach well. To Kennedy a successful professor is one who is "provocative."

He cites Prof. Owen Fiss of the Yale Law School as a role model. Kennedy remembers Fiss as his

"favorite and most effective professor" because Fiss "most often had students arguing among themselves after class."

Fiss's course on the First Amendment inspired Kennedy's own seminar on Economic Power and Freedom of Expression which he will teach this spring. In the course, Kennedy hopes to explore the role of law as an instrument of political policy.

The seminar will focus on the practical and political effects of campaign finance regulation and will also address allocation of the means of persuasion through regulation of the electronic media.

Kennedy also hopes to emulate Fiss's stimulating effect on first year students. He considers his own teaching style to be somewhat liberal. The Socratic method can be "counterproductive" if used too rigorously, he asserts, but it is helpful in promoting quick thinking and speaking "on the spot."

He encourages students with opposing views to defend their positions by arguing against one another, both in and outside of class.

Student at Heart

As for his own "outside class" interests, Kennedy is still very much a student at heart. The wall of books which lines his office testifies to his love of reading, the omnipresent word-processor to his love of writing.

Much of his non-teaching time is spent working on several articles which he is writing for various law reviews. In whatever spare time this pursuit does not consume, he enjoys reading (history, legal theory, philosophy, and novels), watching films, and getting to know the Cambridge and Boston areas.

His "newness" here in the Harvard community helps him feel sympathetic towards the first year students in his section: "They're 1Ls, and I guess you could say I'm a 1P!"

But despite his new environment, Kennedy already feels comfortable in Cambridge. And he says he is positive about his future with HLS.

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Note: As of September 1, 1984, New York, New Jersey, Massachusetts, New Hampshire, Connecticut and Vermont have decided to require the MPRE for Bar Candidates. (Maine and Rhode Island have not yet adopted the MPRE).

FREE ETHICS EXAM LECTURE

Date: Sunday, November 4

Time: 10 A.M. (Registration at 9:30)

Place: Harvard Law School
Check with Boston office for room assignment

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Placement Discrimination Plagues COGLLI

(Continued from Page 3)

1,000 employers requesting that they affirm in writing "a formal policy of non-discrimination in the hiring and promotion of gay and lesbian attorneys". Less than 9% or 87 employers were willing to do so.

Around the same time then-COGLLI Chairperson Ben Schatz sent out two types of resumes: one listing his position of leadership in a national gay association and the other with no mention of it.

Schatz said that while this position should have been considered a strong credential, the resume on which it was mentioned elicited an offer-to-interview ratio of 3%, while the corresponding figure for the "straight" resume was 25%. Schatz, said Smith, "had a real tough time," and advised other COGLLI members "don't" on the subject of openness.

Smith argued that other less tangible evidence of biased feelings toward gays is displayed in what he

described as the "liberal" attitude, that the slightest mention of the sexual orientation issue is totally unprofessional and improper.

Smith described it as the "We won't ask; don't you bring it up" attitude. Furthermore, said Smith, the suspicion that those doing the hiring are conservative on this issue is not unfounded.

Thompson said the decision of whether to disclose sexual preference is "very personal" and is "not a decision that the Placement Office can make for people." Thus, the Office advocates no position on this question.

Organizations which openly discriminate against gays, such as the Army, the Federal Bureau of Investigation, and the Department of Defense, are strictly prohibited from interviewing at Harvard, says Thompson. She added that the office receives only 15-20 complaints a year from students regarding alleged discrimination or employer

misconduct, most of them from women complaining about gender discrimination. As of one week into this year's interview season, she had received none.

So where does this leave gay and lesbian law students? "We're pretty grateful," said Smith. "Harvard has stuck by its non-discrimination clause despite some strong pressure," most notably from the Army which has threatened to withhold funds earmarked for other divisions of the University.

The Harvard Graduate School of Business also has a non-discrimination clause, but it does not include sexual orientation as a prohibited basis for discrimination. Thompson and Smith both noted that the head of the California State University system recently reversed its policy which formerly banned organizations which discriminate from interviewing on campus.

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Students Fund Public Interest Fellows

(Continued from Page 6)
employment plans.

Rebutting claims that the fund favored "left-wing" organizations, Johnson said, "We are open to all proposals." The aim of the fellowship is to support work which provides access to the legal and political systems for those for whom it would otherwise be unavailable. This, Johnson commented, "covers a broad range of jobs."

Last year's Fellows have diverse interests. One is working as the ACLU's sole representative in Mississippi. Another is a legal and policy analyst on school desegregation issues for the Boston Project of Massachusetts Advocacy Center. The third is a lawyer for the El Paso Legal Assistance Society. Past Fellows have worked for Trans-Africa Forum, and have helped to implement New Jersey's new domestic violence law.

The Board of Directors does make an effort "to get variety, so that not everyone is working in legal services or everyone in political analysis" said Johnson. She added that there was no "articulated" policy on the choice of Fellows in terms of race and sex. She admitted that the Directors last year had aimed for a "wide geographical distribution", since prior to 1984 all the fellow-

ships had gone to people working on the Eastern seaboard.

Program Is A Success

Johnson reported that both the students involved in the program and their employers saw the fellowships as a great success. In 1984 one of the fellowships was matched by El Paso Legal Services, thereby

creating two positions for Harvard students.

Johnson pointed out that all three of the Class of '83 Fellows had their positions extended and "seem likely to get permanent positions". This suggests the program's success for both the organizations concerned and the Harvard Fellows.

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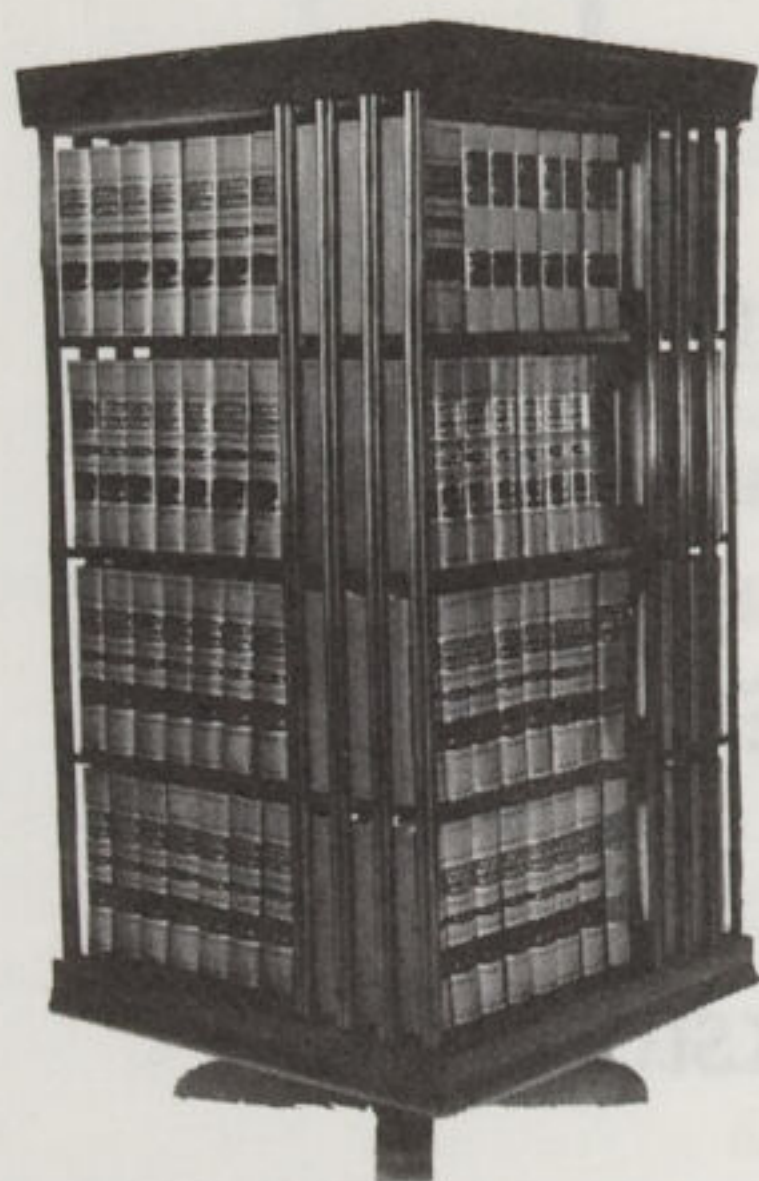
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Professor Michael Josephson, a graduate of UCLA School of Law in 1967 (where he was selected Valedictorian of all graduate departments and also co-authored the *Handbook of Appellate Advocacy*), is nationally known for his excellence in the art of communication as a lecturer and author. He is noted as the nation's foremost authority on the examination process in law school and for bar examinations. Professor Josephson has taught at the University of Michigan Law School, Wayne State University Law School, UCLA School of Law, and is a full-time professor at Loyola Law School, Los Angeles.

An active leader in legal education, Professor Josephson is a frequent consultant and guest lecturer at law schools, law seminars and conferences. His two-volume work, *Learning and Evaluation in Law School*, has been adopted by the Association of American Law Schools (AALS), and, by invitation, he has written a major article and critique of bar examinations in the United States for the National Conference of Bar Examiners publication, *The Bar Examiners* (May, 1984).

Professor Josephson is past Chairperson of both the Teaching Methods and Litigation Sections of the AALS. He is the founder and Executive Director of both the Bar Review Center of America, Inc. (BRC), and the Center for Creative Educational Services (CES), publishers of the *Sum & Substance of Law* and *Essential Principles of Law* legal series. His teaching areas include Evidence, Criminal Law and Procedure, Professional Responsibility, and Examsmanship.



DATES

October 28 & November 4
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October 27 & November 3
October 27 & November 3
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(all locations)

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Lunch Break

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Tribe Takes Turner's Side

(Continued from Page 1)

on September 28, after the initial request, prepared by the Washington, D.C. firm of Verner, Liipfert, Bernhard and McPherson, was denied.

At press time, Tribe was in California delivering a series of lectures and was unavailable for comment.

Tribe's contention, according to CNN spokesperson Judy Borza, is that access to the courtroom is required by the First Amendment.

According to Borza, the appeal brief argues that there is no basis, in either statute or the Canon, for denying access. The brief also addresses the possibility of a balancing test between the public interest in freedom of access to the court and the court's interest in preserving orderly and fair proceedings. Tribe argues that First Amendment concerns should win out in any such balance against courtroom decorum.

The Westmoreland suit concerns a 1982 CBS documentary which al-

leged that the U.S. military under Westmoreland knowingly underestimated the strength of Communist forces in Vietnam in order to increase domestic, especially Congressional support, for the U.S. involvement in the war.

Neither Westmoreland nor CBS have registered opposition to CNN's request. According to unofficial reports from Cravath, Swaine & Moore, the CBS counsel in the case, CBS supports camera access.

✽



Teresa Miller

The members of the winning team "The Road Warriors" (last year's runner-up) receive trophies for their victory in DSAC's Fall 1984 HLS Trivia Contest in which 120 students participated. Pictures (l. to r.): Tim Joranko, 2L, (quizmaster) Mike Hambly, 3L, Pat Schiltz, 3L; and Bill Lash, 3L. DSAC will sponsor another contest this spring. Local trivia: do you know which ace is not included in the Three Aces sign?

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Sports Quiz

This quiz is dedicated to those athletes who, with the game on the line and all of America watching, choked in the clutch. This sports editor can relate.

1. The 1975 World Series between the Boston Red Sox and Cincinnati Reds is usually considered the most exciting ever. The Reds eventually won the Series in 7 games on a ninth inning single by Joe Morgan. Who was the losing pitcher in game 7?
2. This player committed the biggest blunder in the 1984 NBA playoffs when he dribbled away the final seconds of Game 4 of the Dallas Mavericks-Los Angeles Lakers playoff series, thinking his team was ahead by a point. In reality, the game was tied and his team lost in overtime. Name this former University of Illinois star.
3. This player committed the biggest blunder in the 1982 NCAA tournament when he passed the ball to North Carolina's James Worthy instead of one of his Georgetown teammates in the final seconds of the Championship game. His team lost the national championship by one point. Name this player.
4. Placekicker Eddie Murray was blamed for the Detroit Lions defeat in last year's playoffs against the San Francisco 49ers, but this player was equally responsible, throwing 5 interceptions in the 24-23 loss. Name this Lion who was also a goat.
5. Only 1 World Series has ever ended on a home run, that being the 1960 Pittsburgh Pirates-New York Yankees classic. Bill Mazeroski hit that home run to give the Pirates a 10-9 victory in the final game. Who served up that gopher ball?
6. In last spring's coed softball semi-finals, this 1L made a crucial error at third base that cost his team a spot in the finals. Name this player who now spends his time writing about sports rather than participating in them.

(Answers on Page 10)