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25 CENTS

Judge Forces Legislative Issue

By George Golder

A prime example of judicial intervention to solve a community problem long ignored by political branches of government came to a head in Boston this past week. Over a year ago, Massachusetts Superior Court Judge Paul Garrity ordered measures to begin the clean-up of Boston's egregiously polluted harbor. After no significant progress, he decided it was time to take dramatic steps of his own.

Over a year ago, in a suit brought by the City of Quincy against the Metropolitan District Commission (MDC) — which operates the sewers in Boston and 42 surrounding cities and towns — Garrity held that the MDC was discharging illegally high levels of pollutants into the harbor.

Additionally, at that time, Judge Garrity appointed HLS Professor Charles Haar as a special investigative master in the suit.

In that capacity, Haar delivered a report to Garrity which recommended actions the court should take to begin the process of reversing the contamination of the harbor [RECORD, Vol. 77, No.8 (December 2, 1983) at 2].

One of Haar's recommendations was that a financial consultant be employed to prepare a report outlining ways to obtain the funds necessary to clean up the harbor.

According to David Halparin, who has worked with Haar in his efforts

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Greg Peterson

Brandeis Professor of Law Charles M. Haar

Avoiding Exam Season Stress

By Janine Dlutowski

If panic, frustration, and anxiety are not on your list of favorite feelings but you continue to experience them daily, you may be suffering adverse effects of stress. On the other hand, you may only be experiencing these feelings while preparing for finals, in which case there is hope for survival and even complete recovery. "Conquering the Stress of Law School Exams," a panel discussion presented by the Law School Council in Ames Courtroom on December 3, revealed some interesting and practical methods for escaping the biannual ordeal virtually unscathed.

Organized and moderated by Walter Effross, 1L, the panel addressed the problem of stress in general and its role within the context of Harvard Law School, especially at semester's end. Panelists

were Dr. Angela Gillem, Professor Alan Dershowitz, Reverend Stewart Barns, and Estelle Simons.

Gillem, a psychiatrist with the Harvard Law School Counseling Center, opened by describing the symptoms of a sudden stress attack and "stress indicators," the more subtle symptoms of reactions to continuing stress.

Tension Predicts Danger

Gillem stated that while some stress indicators, such as occasional tension headaches, are normal physical reactions, other prolonged or recurring reactions could become dangerous mentally and physically. In order to remain healthy when the source of stress itself cannot be removed, one must relieve the effects of stress.

Each panelist offered different

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Fried Accepts Deputy Solicitor General Post

By Paul Cappuccio and Miguel Rodriguez

Prof. Charles Fried has accepted a position in the U.S. Dept. of Justice as Deputy Solicitor General. He will replace Prof. Paul Bator who will return to Harvard Law School.

As Deputy Solicitor General, Fried will be working closely with the Solicitor General in Washington, D.C. and will help supervise the approval of government appeals from the lower courts. He will also be arguing for the government before the Supreme Court.

Although Fried admits that "it will be a new enterprise" he thinks it is a good thing for the Solicitor General's Office to employ deputies who have virtually no Civil Service experience because it adds "another perspective" to the decision making process. "Mr. Bator was the first person to serve as a deputy who did

not come up through the Civil Service ranks," said Fried.

Fried is openly excited about his appointment and commented, "I expect it to be a great change . . . I've never been out of school — except as a law clerk."

Fried received his law degree from Oxford and LL.B. from Columbia. In 1960, after completing his work at Columbia, Fried clerked for Mr. Justice Harlan. Fried has also served as Consultant to the Treasury Department, to the Department of Transportation and to the White House Office of Policy Development.

general qualifications" as Bator whose two-year term has expired.

Fried will begin his work as Deputy on February 1, 1985. Looking ahead to his return to the Law School, Fried is confident that he will come back "refreshed and enlightened — knowing some things I didn't know before and knowing how to handle things I never did before."



Same Qualifications

Fried believes he was selected because he possesses the "same

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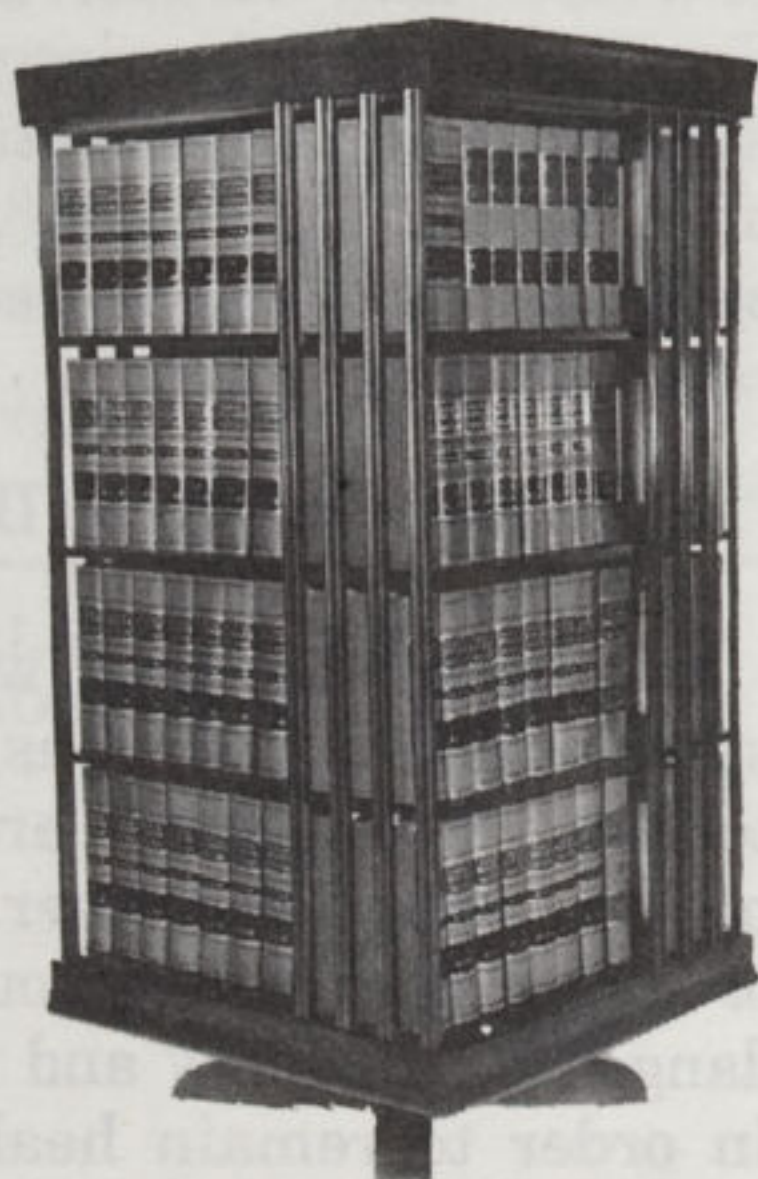
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Zoning Panel Zeros in on Problems

By Bruce Kelly

On November 28, four panelists offered contrasting views on a controversial 1983 New Jersey Supreme Court decision before a capacity crowd in a Langdell lecture hall. The decision, known as *Mt. Laurel*, involved court-ordered low-income housing for developing communities.

The debate was sponsored by the Harvard Real Estate and Urban Development Forum and was moderated by Dartmouth Economics Professor William Fischel. He described *Mt. Laurel II* as "the high-point or low-point, depending on your view, of the attack on exclusionary zoning by the courts."

The impetus for the decision, according to Fischel, was a fear that "instead of using the zoning power for planning purposes, [communities] were using it to exclude the low-income, which coincides with racial, minorities."

The 1983 decision attempts to implement the policies announced in the 1975 decision (*Mt. Laurel I*) in which the New Jersey court held the minimum lot size, floor space, and other zoning requirements of *Mt. Laurel* discriminated against low-income persons and ordered the community to create plans for a fair share of low-income housing.

Subsequent confusion over what communities were required to do resulted in *Mt. Laurel II*, in which the Supreme Court created a panel of three judges to hear all subsequent appeals by communities and develop a consistent approach to *Mt. Laurel* issues.

A community found wanting could be subject to several remedies, including "inclusionary zoning," in which a developer must build one low-income unit for every four units of high-income housing.

The first speaker, Steve Eisdorfer '74, of the New Jersey Public Advocates Office, began his argument that the *Mt. Laurel II* plan was equitable and workable by presenting "a two-minute, stylized history of New Jersey from 1945 to the present."

According to Eisdorfer, after World War II, a series of political decisions, such as government-subsidized housing and improved highways, caused a flow of people from New Jersey's cities to its countryside. "The flow came in waves," said Eisdorfer. "The most affluent left the cities first."

These early, affluent suburban migrants, stated Eisdorfer, "started enacting zoning ordinances the net effect of which was to allow only expensive housing." Following this movement came an influx of jobs, primarily as a result of two factors: first, companies tending to locate where their executives live, and, second, further government action, in the form of community "fiscal zoning" to promote industry.

"The net result," said Eisdorfer, "was that if you could afford expensive housing, you moved to the suburbs; if you couldn't afford it, you couldn't move." As an example, he cited Morris County, where, in the previous year, no home was built for less than \$110,000.

The *Mt. Laurel* decisions, Eisdorfer contended, "seek to un-do the results of policy decisions. . . . Let us give the poor the same opportunity to choose where to live as the affluent have, and let's make those opportunities realistic, not theoretical."

The question remaining, Eisdorfer said, is "can it be made to work?" He stated that the answer depends on whether we are "talking about working cooperatively [with the communities] or fighting tooth and nail. The answer is, that it can be made to work, if we cooperate."

The second panelist, Ronald Reisner, a trial attorney representing Holmdale Township, introduced his argument against *Mt. Laurel II* by focusing on the words in the decision. "The court said, we don't want towns to have 'a radical and substantial transformation,'" stated Reisner, "but there is no question what is being proposed is a radical and substantial transformation."

"Three judges have usurped the concept of home rule, in which the

town develops its zoning plan and the government approves or disapproves. . . . The judges can compel what zoning will be for six years."

Referring to the remedy in which builders must set aside twenty percent of units for low to moderate income people, Reisner questioned whether the principle could be limited. "Where do we draw the line on enforcing set asides on municipalities? . . . Do we now have to have set asides in hardware stores, [where] all hardware stores must put hammers at 25 percent of market price?" he asked. "The problem is [the principle] is never-ending."

Reisner then presented several practical problems with implementing *Mt. Laurel II*, citing first the limits on the town infrastructure, such as sewers and water supply, and then in a blackboard demonstration illustrating the complex formula used to determine how much low to moderate income housing a community *should* have.

For Holmdale the formula requires a doubling of the current housing supply. That ultimate result of *Mt. Laurel II*, concluded Reisner, is just what the courts didn't want, "a radical and substantial transformation" of the community.

Rising to the defense of *Mt. Laurel II* was the third panelist, Stewart Hutt '54, counsel to the New Jersey Builders Association, who entertained the audience with humorous asides, while presenting the developers' view of the decision.

"You can take the *Mt. Laurel* decision," began Hutt, "and read whatever you want into it. But let me tell you the facts of life." He explained that contrary to public perception, "most builders [in New Jersey] build less than twenty-five units per year. . . . This is fundamentally a small, fragmented entrepreneurial business."

Addressing zoning issues, Hutt said, "You are going to hear a lot of professors give you lectures on zoning, and there's all kinds of fancy textbooks, . . . [but] there's only two types of zoning: usable or non-us-

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HLS Assists in Public Interest Search

By Burlette Carter

In recent years HLS has increased its efforts to expose students to public interest career options.

Four individuals, each working part-time, advise HLS students on public interest placement. Doug Phelps, '79, serves as the Administrator for Public Interest Placement and Development and is available to students on Wednesdays. Outside HLS, Phelps is the Executive Director of the Massachusetts Public Interest Research Group (MASSPIRG) in Boston and Chair of the National Advisory Board of the Fund for Public Interest.

Ron Fox, '63, a private practitioner in Lynn, Mass. spends two days a week advising students. Having previously worked for both large and medium-sized law firms, Fox devotes his own practice to the delivery of legal services to moderate and lower income families.

Assisting Phelps and Fox are Jayne Tyrell and Tim Hallahan, '75, who also work part-time. Tyrell has served in the capacities of consultant, director and staff attorney in numerous public interest jobs, and Hallahan was a public defender for six years.

A large part of public interest advising is providing information and support. Meeting this first need is a career resources center which contains job information about thousands of public and private sector employers. Each year HLS solicits information from more than 4000 public interest employers. The only law school to undertake such a massive survey, HLS shares this information with others across the country.

A special secretary coordinates public interest placement job searches. A free long distance telephone line for calling employers is available to students seeking public sector jobs. Since public sector employers usually do not interview students until spring, a special placement office rule allows students who wish to interview in both the private and public sectors to

hold one private sector job open until April 15 while they consider public sector options.

In the support area, the advisors spend much of their time with individual students. Additionally, a Public Interest/Human Services Career Workshop instituted by Fox takes place weekly. Students discuss various issues such as conducting public interest job searches, obtaining money to subsidize relatively low-paying summer jobs, and other concerns relating to permanent public sector employment.

For students facing repayment of law school and college loans, not to mention a spiraling cost of living, one of the most pressing concerns is money. Unlike students at most other schools, the situation for the HLS student is not that of not being able to find a public interest job, but rather that of finding one which offers satisfactory compensation.

As Director of Placement June Thompson observed, "We end up with quite an amount of public interest jobs available to students later in the year." She qualified the statement, however, by noting that "they may not always be in some of the most attractive spots in the United States — where everyone wants to go — and the salaries will be considerably lower than private law firms. . . ."

Fox insists that public interest employment (or "human services" employment as he prefers to call it) does not mean working for free. He points out that some public sector work offers reasonably good salaries (although certainly none as high as private firms) and that he would, in fact, be surprised if students did not raise the question of compen-

sation with public interest employers.

As for students' approach to the problems facing them, HLS Career Counselor Mark Byers observed, with some surprise, that the HLS students currently seeking public sector jobs appear to be more positive and also more realistic about their futures than many of their predecessors. Speaking of students participating in Fox's workshops he noted, "This group seems less in need of handholding than [groups] in times past."

Apart from counseling, the key to finding a position in the public sector is aggressive job searches on the part of both advisors and students.

Phelps concentrates on finding placements for 3Ls. Much of his work is done on the phone utilizing his numerous HLS contacts. The most valuable of these are Harvard alumni, more than 2000 of them now working in the public sector.

As Phelps puts it, the listing of the more than 2000 HLS graduates now involved in public sector work "reads like a *Who's Who's* list." He has called on that network numerous times in seeking to place HLS students in public interest jobs and he says it has not let him down.

The advisors are also utilizing alumni in other ways, contacting those who plan to attend the annual HLS reunion in the fall. Some of these have agreed to interview or to speak with HLS students interested in public interest work.

Phelps thinks that HLS could do a great deal more to help students who want to pursue public interest work. Among key problems he cites

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CASLS Helps Poor, Gives Students Experience

In October, ten Harvard Law School students began a clinical placement at Cambridge and Somerville Legal Services (CASLS). The clinic was established under an agreement made between HLS and CASLS to house a regular clinical placement that will increase clinical opportunities for students, give experience in immigration and housing representation, and provide Law School resources toward meeting the legal needs of the poor in the Cambridge and Somerville area.

Students at CASLS will be getting hands-on practical experience in representing clients. Through regular contact with clients, coun-

seling, negotiations, trials, administrative hearings, and drafting of pleadings and other legal documents, students will have the opportunity to develop a large number of lawyering skills. Students in the immigration section have met with Immigration Judge Ragno and will be certified to appear before the Immigration and Naturalization Service and in federal court. Students in the housing section will similarly be certified under the Massachusetts student practice rule to appear in state courts.

Representing Aliens

Many recent immigrants to this area from Central America have been unable to obtain immigration representation because of federal prohibitions on the use of Legal Services Corporation funds to represent "illegal" aliens. Other poor immigrants have been unable to obtain attorneys because of cutbacks in federal funding of legal services programs. Allan Tow, the clinical instructor at CASLS, hopes the clinic will be a substantial provider of immigration representation to low income persons in the local communities and will be able

to help offset the limited amount of free legal representation available elsewhere.

The Law School and CASLS have a long history of cooperation. In 1965 the Law School was instrumental in starting a clinical program through funding from the Johnson war on poverty. Over the years the program evolved into CASLS, but lost its connection with the Law School. Eugene Benson, the director of CASLS, has stated that he hopes the new clinical program will give students the opportunity to contribute their lawyering skills to the local community. He noted that CASLS is conveniently located in East Cambridge and that CASLS obtained additional space so that clinical students will be integrated into the delivery mechanism of CASLS.

In enacting the Legal Services Act in 1974, Congress found that poor people will only have full benefit of the laws when they have access to legal representation. According to Benson, the Harvard clinic at CASLS will not only educate students, it will also help to fulfill the obligation of all lawyers to increase access to justice.

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Hark: The Fall Did Changes Bring

By Gregory Klima

As anyone who has been to a TGIF lately knows, the Backbench Pub has a new look. Along with the new look comes a pair of new co-managers who are working hard to make the Pub a success.

Rich LeVine, 2L, and John Sanford, second year JD/MBA, assumed their positions at the beginning of this semester. The Dorm and Student Activities Council (DSAC), of which the Pub is a subsidiary, selected LeVine and Sanford at the end of the last school year from among several applicants.

The Pub's new look resulted from actions by the Harkness Committee, a faculty/student committee, which authorized renovations of the Swaine Room, where the Pub is housed. Among the renovations were reupholstering the couches, carpeting most of the Pub, retiling the uncarpeted area, and installing new shades and track lighting. The Harkness Committee and DSAC will share the renovation cost.

LeVine and Sanford have made changes of their own as well. The Pub now serves hot food, warmed by a new microwave oven. And the beverage selection now includes Molson Golden Ale on tap and bottled California wine cooler — both of which were selling very well according to LeVine.

Some of the changes that LeVine and Sanford proposed have not succeeded, however. They tried being open on Sundays for the football games, but lost money and stopped. They have also tried to get live entertainment for Saturday nights. However, too few people come to the Pub on Saturday night for the Pub to afford the entertainment.

Notwithstanding these factors, the Pub is still making a profit. LeVine is quite proud that the Pub is DSAC's main source of revenue. The Pub's profits are not huge, stated LeVine, but he attributed that to the very low prices.

LeVine also realistically assessed the limitations of the Pub's recent success. He noted that HLS students study quite a bit and usually are

not looking for entertainment during the week. This limits the customer potential, and LeVine believes that he and Sanford cannot dramatically change the situation.

"We are not looking to become a disco. We provide a place for people to come and talk and see their friends," stated LeVine. He believes that the Pub should simply be a social gathering place and that any other use of the space would be inappropriate.

LeVine is also planning for the

have become tighter because of the break down of the cash register and stereo system.

"We are always open to suggestions," said LeVine, and in fact they encourage students to come to them with ideas.

LeVine also reminded students that the Pub can be rented out for parties. Along with the use of the Pub comes use of the stereo system, video player and wide-screen television. The only limitation is that the party cannot be private, al-



Teresa Miller

Richard LeVine

effects of the new "Happy Hour" law. The nightly happy hour that the Pub hosts (from 9:00 P.M. to 10:00 P.M.) will have to go. Pitchers of beer and carafes of wine will also be a thing of the past. The famous DSAC-sponsored TGIFs will also have to stop. "But we are a law school," added LeVine. "Hopefully we can find some technicality around the law."

LeVine and Sanford are looking ahead to spring semester, too. They hope to host a wrist wrestling contest sponsored by Miller Beer. They also hope to hold a contest to design a logo for the Pub. LeVine commented that many of the ideas that he and Sanford have had were put on hold because of problems that arose during the fall semester, which caused some tighter funds this semester; for instance, funds

though the group could charge admission to non-members.

The Pub's current schedule and specials are as follows: Monday — Monday Night Football on the wide-screen television; Tuesday — movie night; Wednesday — "a mellow night" according to LeVine, but come greet new bartender Jane Flynn, 2L; Thursday — Dollar import night with frequent give-aways and *Hill Street Blues* (the busiest and best night to come says LeVine); Friday — open at 7:00 P.M. (after the TGIF) and movie night; Saturday — movie night or live entertainment. The Pub is open from 9:00 P.M. until 1:00 A.M. Mondays through Thursday and Saturday; 7:00 P.M. until 1:00 A.M. on Fridays.

The Game Room has also undergone some changes this year. It is

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TWC Attempts Harmony of Diverse Trends

By Vince Chang

"We're not an institution. We have no representatives, no structure, no budget, no letterhead, and no officers." So Asian American Law Students President Doug Woo described the structure — or non-structure — of the Third World Coalition. Consisting of Blacks, Chicanos, Latins, Native-Americans, Asian Americans and others interested in minority group issues, the TWC strives to be, in the words of 3L Juanita Hernandez, "an umbrella organization of minority groups on campus." The TWC meets frequently, but sporadically, to discuss issues that minority groups have in common and to act upon those issues when consensus exists.

Because of its informal structure, the TWC allows a single minority group, perhaps even a single TWC member, to veto a proposal placed before the TWC. Hernandez commented that "we want consensus. If one student organization feels the group would have serious problems supporting a proposal, then we couldn't do it. If TWC can't wholeheartedly support something, then TWC can't just be a rubberstamp for progressive issues. We all have some things we don't necessarily agree on."

Despite the possible lack of cohesiveness inherent in such a decentralized decisionmaking structure, both Woo and Hernandez agree that the TWC's loose organization does not hamper the group's activities. "A tighter structure would defeat the whole concept of TWC," Woo declared. In practice, developing a consensus has proven relatively easy, he claimed. We might disagree on tactical issues. But we never lack cohesiveness on major issues. . . . at the same time a strength of our group is that we're not bound to a fixed set of proposals."

Woo went on to elaborate on the focus of the TWC, outlining four principal areas of TWC concern: faculty hiring, student recruitment, financial aid, and curriculum reform. Hernandez singled out mi-

nority faculty hiring as the most significant issue, contending that "only recently has the law school made an offer to one minority member. It's going to take years to improve the situation . . . this is an issue that's not going to go away."

In addition curriculum development has emerged as, Hernandez claimed, the "issue second to minority hiring. Both Woo and Hernandez decried the fact that HLS has no classes on civil rights. Hernandez maintained that such a course "would benefit the school generally and is supported by non-minority students, as well as minority ones."

Besides specific issue-oriented concerns, the TWC also generally proposes a set of institutional changes. Most important of these is the formation of a minority dean's office to formalize a channel between minority students and the administration. "I'm disturbed about the way the administration has handled issues that affect minority students," Hernandez stated. "With a minority dean, the administration would be less insensitive. A minority dean would be aware of minority students. Things like the placement office rumors and the search for the student imposter might have been handled better."

To bring about its policy goals, the TWC tries to educate the school with lectures, as well as to politically energize the school with demonstrations. The TWC conducts roughly four or five lectures and discussions per year designed, Woo claims to "educate people so they can make their own decisions about where they stand." In particular, educational sessions are held in the fall and are aimed at one-L's. The essential goal, Hernandez says, is to "give people a strong feeling about the quality of the legal education they're getting and to look at ways to make it better."

Demonstrations, on the contrary, are aimed at converting pre-existing opinions into action. Demonstrations arise usually in the spring and have generally occurred in the Spring. Woo describes the demon-

strations as a last resolution resort, claiming that we "try to avoid demonstrations unless they're really necessary." In addition, Woo held that "the TWC does not plan demonstrations. They can't happen unless people are really upset about something."

Nonetheless, the TWC has been in the forefront of a number of demonstrations, most notably the boycott two years ago of a law school civil rights course. Hernandez described the situation: "We boycotted the course because it was a piecemeal response to the underlying issues. It was not a permanent solution . . . we requested minority faculty in tenure track positions, and only ones dealing with minority positions. . . . The course the faculty sponsored was for only one month in January with two practitioners who had no intention of leaving their practice to become academics."

In addition, the TWC has participated in the general class boycott to protest proposals for graded class participation, as well as in a demonstration urging more minority faculty hiring. Hernandez described many of the demonstrations as "controversial ones, which attracted a lot of press." But despite the controversy, both Woo and Hernandez feel the demonstrations have succeeded in presenting the administration with, in Hernandez's words "one unified wide response." "The administration can't say now that they don't know of our needs." Woo concurred, saying "the TWC alters the agenda, even if it has no actual impact on how the administration decides. Still, it brings up the issues and that means the issues have to be addressed."

Because of its participation in demonstrations, boycotts and the like, the TWC has drawn criticism from many law school conservatives. Indeed, the administration tried to foster a perception of TWC extremism. "In the past, the administration wanted to portray the picture that the TWC was outrageous in its demands," Hernandez explained. To

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The Struggle Continues

Nobel Laureate Desmond Tutu's visit to Harvard last Monday reminds us of both the hope and frustration of the continuing battle against apartheid. Tutu's speech was punctuated by irony. While he criticized American investment for its tacit support for South Africa's racist regime, he did not advocate divestment. Under the law of the "Republic" of South Africa, he explained, it is illegal for him to do so.

Another notable event in the last few weeks has been the on-going protest outside the South African Embassy in Washington, D.C. Using tactics similar to those employed by Mahatma Gandhi and Rev. Martin Luther King, Jr., a courageous group of Americans has brought renewed national attention to the repugnance of South Africa's institutionalization of racism. Sitting outside that embassy in non-violent protest until, two at a time, they are arrested; these people serve as a beacon for the rest of us to follow.

The patience of these brave people should also serve as inspiration for the Harvard Community to renew its demands that Harvard divest all of the university's endowment from corporations doing business in South Africa. Additional inspiration for such a move on Harvard's part comes from Yale's recent large-scale divestiture of South Africa tainted funds.

Last week's letter from 21 law school professors backing that proposal, rejecting Bok's arguments for constructive engagement, was laudable. Unfortunately, the CCSR ignored their advisory committee's suggestion that Harvard unconditionally divest.

By renewing this battle for divestiture the Harvard Community demonstrates to the South African government that gagging critics and arresting opponents does not dampen international outrage. Rather, it deepens the fury such injustice inspires.

A Comic Note

With Vol. 79, No. 8, the RECORD says good-bye to Mike Medina and his cartoon strip *The Rat Race*. Mike, who in this issue takes credit officially for his work for the first time, is leaving HLS for the world of legal practice. He has helped to make us laugh while making us think about the most serious issues. We have been proud to present his work and will miss his presence.

HARVARD LAW RECORD

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Fenno

"... and this is just another example of the present administration imposing morality on the American people," argued one of Fenno's classmates.

Fenno was unusually interested in class today. The message was clear, albeit repetitive — the rest of America was falling prey to a repressive administration and the only haven left was within the enlightened walls of HLS and the progressive Commonwealth in which it sits.

As he gathered his books, Fenno was struck with the pangs of hunger that only a two-hour *Legal Consciousness* class could spawn; visions of a Big Mac danced teasingly in Fenno's mind.

Fenno thoughtlessly walked to Harvard Square to satisfy his fast food craving.

"Darn it," reflected Fenno as he passed a group of bottle bill supporters rooting through the trash, "I forgot there's no McDonald's in Harvard Square. Cambridge City Council doesn't allow fast food in Harvard Square. I guess they've determined quiche is better for you.

"Oh, well," reconsidered Fenno, "I'll just hit a bar for Happy Hour."

Fenno headed for *Grendel's*. He was sure glad the state's efforts to close his favorite bar simply because it was next to a church had failed.

"What's your Happy Hour special?" questioned Fenno as he plopped down on an uncomfortable stool.

"I'm sorry Fenno," said the bartender, "didn't you know that Governor Dutaxus just signed a bill making all Happy Hours illegal? It's for our own good, you know."

"That's okay," said Fenno disappointed. "I'll just sit and watch some T.V. What's on cable?"

"Umm, what cable?" stammered the Bartender; "remember, Cambridge hasn't approved a cable T.V. referendum yet."

Fed up, Fenno left and began his long walk to Somerville. As he walked beside the wooden fence bordering the railroad tracks he noticed a new graffiti drawn next to the slogan, "ABORT MALE BABIES." The new graffiti was a drawing of President Reagan with the caption, "BIG BROTHER IS WATCHING YOU." The thought worried Fenno.

Fenno smiled, worried by the thought that such social control could ever take hold in the Commonwealth.

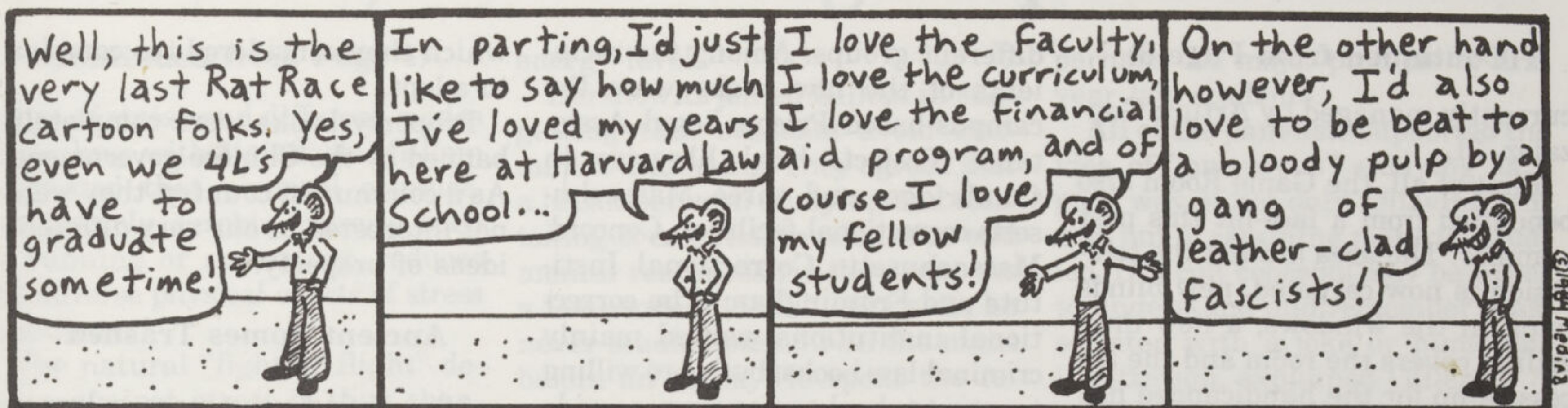
Late that evening, after falling asleep while attempting to study Substantive Due Process, Fenno had the urge to play some *Donkey Kong*.

"Alas," thought Fenno, remembering that Somerville had passed an ordinance banning all video and pinball games on the grounds that it was bad for the development of young minds.



Rat Race

by Mike Medina



Letters to the Editor of the Record

Nicaragua's Day in Court

To the Editor:

By ironic coincidence (or poetic justice) I had just read in your issue of November 2, 1984, the letter of Lee C. Bradley, Jr., '21 of Birmingham, Alabama, in which he asserts that Professor Chayes "is certainly not patriotic" because the professor served as counsel for Nicaragua in a case against the United States before the International Court of Justice, when I heard Dan Rather announcing on CBS news that the Court had rejected the contention of the United States that the Court had no jurisdiction of the case. (In other words, Professor Chayes won.)

I shall eagerly await tomorrow's *New York Times* with the hope of reading a fuller account of the Court's opinion. I strongly suspect that the Court is correct, as it is my impression that the United States tried to withdraw its acceptance of the Court's jurisdiction without having given notice for the period of time required in order for the withdrawal to be effective. To be fully informed, one would have to await receipt of the official text of the opinion, as well as the briefs and arguments of counsel on both sides.

However, my determination to respond to Mr. Bradley's attack upon the patriotism of Professor Chayes was formed before hearing of the Court's decision and without regard to the merits of the points at issue in the case. What ruffled my feathers is the fact that Mr. Bradley's position is not in keeping with a most venerable tradition of the American bar.

It has long been accepted as axiomatic by our legal profession that every litigant is entitled to have its case presented to the court with professional competence and with the strongest arguments which can be advanced in its behalf.

Professor Chayes can not be condemned without repudiating the honorable accolade

that has long been accorded by leaders of the American bar to John Adams of Massachusetts for his resolute defense of the English soldiers who participated in the Boston Massacre.

It has also been said (perhaps by Theodore Roosevelt or William Jennings Bryan) that there has never been an issue of importance in the courts without Harvard Law School graduates being arrayed on both sides of the question. In this respect also Professor Chayes deserves praise, rather than censure,

for upholding the reputation of the School.

In the familiar words of John W. Davis, "A lawyer sells his services but not his soul." I am confident that Professor Chayes can still, as a patriotic American citizen, affirm with the poet:

"I am the captain of my soul."

Edward Dumbauld, '29,
Uniontown, Penn.

15 Years Ago At HLS

December 11, 1969
Vol. 49, No. 10

Forty students confronted recruiters from the New York law firm of Cravath, Swaine & Moore at the Holiday Inn on December 2 in protest of the firm's representation of clients with interests in South Africa.

After abandoning a picket line set up at the entrance to the Inn, the students entered the motel and massed outside the rooms in which Cravath was interviewing second year students.

When Cravath's recruiters returned from lunch, they began to debate the firm's policies with the demonstrators in the halls. Following a report that the management had called the police, the men invited the students into their rooms.

Three groups joined in organizing the demonstration: the Harvard Black Law Students Association, the Harvard Student Bar Association, and the Radical Law Students Group Political Discussion Committee. Leaflets distributed by the group condemned both Cravath and the New York firm of Milbank, Tweed, Hadley and McCloy, which had been the subject of a similar demonstration last year.

"Both firms," the leaflet asserted, "through their clients and through the activities of their own lawyers, are extensively involved in supporting the South African economy and thus maintaining that country's racist Afrikaner government. The Cravath firm is also extensively involved in the military arms procurement trade through its representation of major weapons manufacturers."

"Every student at the law school must be made aware of the role these law firms play in the exploitation of the South African people," the leaflet continued. "And the law firms, themselves, must be aware that students will not work for them as long as they continue these activities."

The leaflet pointed to Cravath's representation of and other ties with the Chemical Bank New York Trust Company, which has helped arrange credit for the South African government; IBM, which is South Africa's main supplier of computers; and TIME, Inc., which, it argued, "effectively serves the interest of the South African government by publishing propaganda pieces in *Fortune* . . . designed to attract U.S. investment to South Africa."

Thrift Shop Sheds Excess Thrillers

(Continued from Page 6)

currently managed by Arturo Gonzalez, 3L.

First of all, the Game Room also benefitted from a face-lift this past summer. The area around the television is now carpeted, new blinds hang in the windows, a new drop ceiling covers the room and the access ramp for the handicapped has been completed.

The Game Room is also operating differently. Only \$40-\$50 in cash and stamps remain in the Game Room at any one time. This change was made following an incident last year when over \$1,500 in cash and stamps was stolen from the Game Room.

The need for cash has also been reduced by the switch to the use of tokens dispensed by a machine near the video and pinball games. Tokens eliminated the need for the Game Room to keep hundreds of dollars in quarters on hand. The Game Room receives half of all the intake from the machines.

The copy machine found in the Game Room last year is now gone. Gonzalez stated that the machine was constantly breaking down, creating too many problems. He added that DSAC is currently looking for a replacement, but he does not know when one will arrive.

Also gone is the older of last year's two foosball machines. The machine was donated to the Neighborhood Youth Center in Cambridge.

Finally, smoking is prohibited in the Game Room now. Gonzalez commented that people were not using the ashtrays provided; people were putting out their cigarettes on the pool tables and other furniture. Also, ashtrays were being stolen as soon as they were supplied.

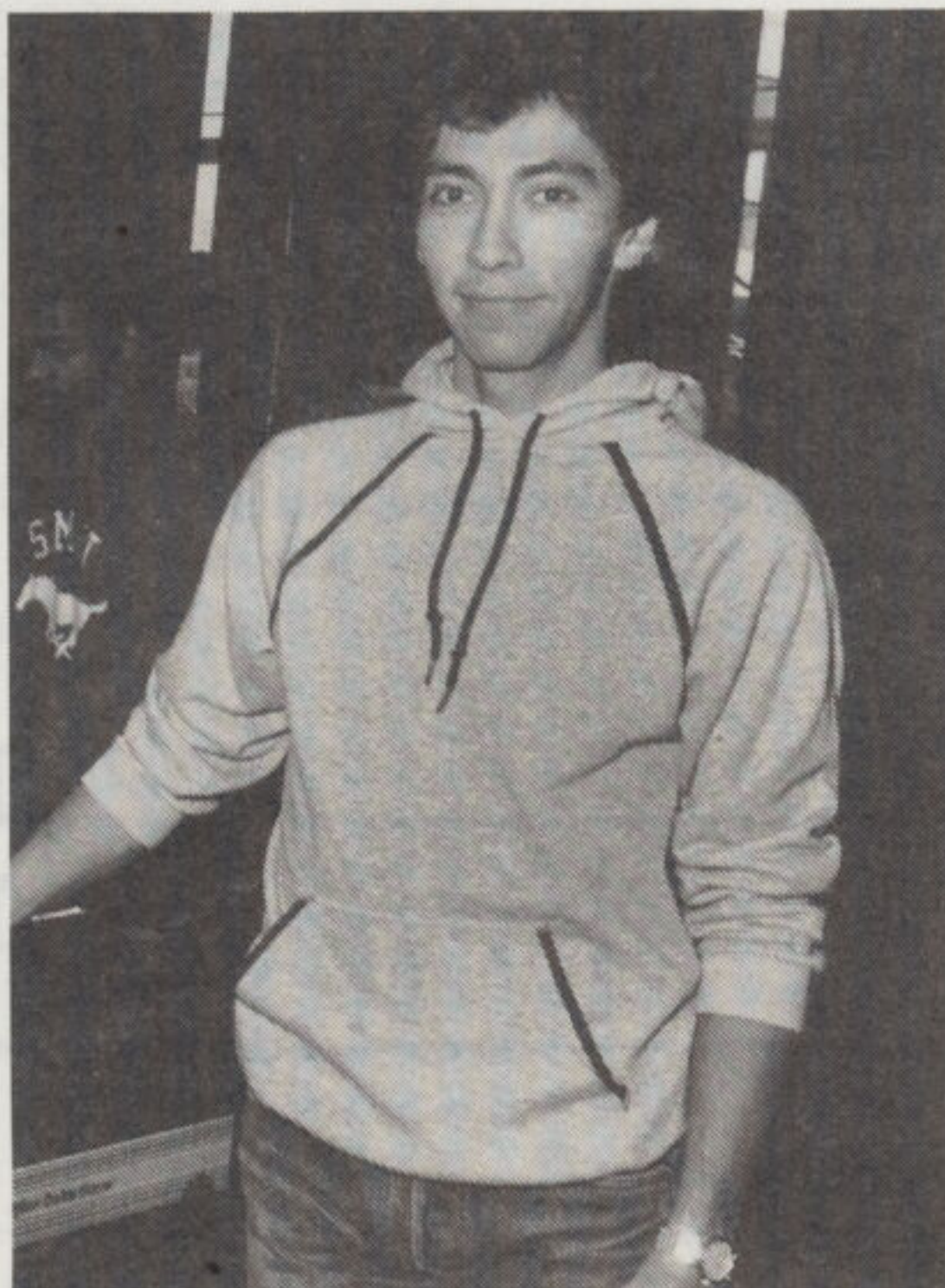
Thrift Shop

Although the Game Room also still serves as the Thrift Shop for used books, the stock of books has been reduced. This resulted from efforts by Gonzalez to dispose of volumes that had been there for years.

Over 700 books were donated to

different groups. Among the recipients of the law books were the campus-based Prison Legal Assistance Project, local libraries in Cambridge, and three Massachusetts correctional facilities: Concord, Massachusetts Correctional Institute and Framingham. The correctional institutions wanted mainly criminal law books, but were willing to accept books covering a wide range of legal topics.

Probably the most interesting recipient was the government of China. The gift of over 450 volumes was made with the assistance of the Chinese-American Association.



Teresa Miller

Arturo Gonzalez

The Chinese were especially interested in obtaining books on criminal law because they have begun to develop procedural protections for defendants, stated Gonzalez. This request was met by providing 80 surplus copies of Dean Vorenberg's book on criminal law, which Gonzalez said had not been used here at HLS for some time.

The Chinese were also interested in receiving books on contract law as well. This need for books on contracts has arisen because of the influx of Western corporations and because China has only recently permitted private contracts.

Only ten tax books were accepted by the Chinese. They wanted the books only for reference and not to copy our Internal Revenue Code,

which they considered too complex to adopt.

Property books were completely banned by the Chinese government. As a communist country, they were not interested in our very different ideas of property.

Ancient Tomes Trashed

After giving away many volumes, other books were just thrown away. Hundreds of supplements to casebooks were trashed. Gonzalez commented that he found one supplement dated 1969.

The Game Room still accepts used books on consignment with the Game Room getting 15% of the resale price. The Thrift Shop sold more than \$3500 in used books this fall semester alone, even though it opened a few weeks late. To sell a book through the Thrift Shop one need only bring the book to the desk in the Game Room, where a simple form is filled out. Each seller is free to establish his own price. On the buying end, however, Gonzalez was quick to point out that the Thrift Shop operates on a caveat emptor basis; the Thrift Shop accepts no returns.

As to other features of the Game Room, a constant special is run selling \$6 worth of game tokens for \$5. Gonzalez stated that foosball is still free with a student ID. Pool is \$1 per hour. Both foosball and pool require IDs because the game balls were being stolen. The television in the Game Room can be used any time during operating hours, and the piano can be used at any time.

Gonzalez said students should look forward to a billiards tournament in the spring, complete with prizes for the winners. He also stated that suggestions on new video and pinball machines are welcome.

The Game Room and Thrift Shop hours are: Monday, Tuesday and Wednesday — 11:00 A.M. to midnight; Thursday and Friday — 11:00 A.M. to 1:00 A.M.; Saturday — 8:00 P.M. to midnight. They are both closed on Sunday.

Humor, Exercise Fight Exam Stress

(Continued from Page 1)

views of stress and different modes of dealing with its effects. Gillem suggested that physical exercise, particularly aerobic exercise such as running or swimming, reduces the adverse physical effects of stress reactions.

The natural "fight or flight" defense against stress is thus channeled into consciously expended energy instead of becoming internalized and potentially harmful.

Barns, an Episcopal minister with Harvard University, added that extra-curricular activities can be helpful in directing mental energies away from the stress source. Interaction with different people may dissipate stress produced by misconceptions about the stressful situation, by putting things into a more favorable and more realistic perspective.

Stress related to studying and test-taking can be reduced or avoided in various ways. Gillem advised against intensive studying for long periods of time, especially all night, which may reduce concentration capacity and result in increasingly diminished returns.

Shorter study segments with periodic breaks help renew energy and ability to study, resulting in a more productive use of time. She also cautioned against the hazards of "study food," saying that a healthy diet is important to maintain a high

energy level.

Dershowitz joined Gillem in suggesting that students avoid last-minute cramming. They agreed that a break between studying and test-taking is essential to relaxation and mental readiness for the exam. As a law student, Dershowitz said, he never studied past 6 P.M. the night before an exam. He spent the remaining countdown hours relaxing — or trying to relax.

Dershowitz offered several humorous generalizations to "keep in mind" when panic sets in, which were well-received by the largely first-year audience. Some samples: "Life is bigger than law school. . . . Fifty percent of you will end up in the bottom half of the class. . . . Exams and grades don't have anything to do with anything." On a more serious note he warned against the evils of overstudying, citing it as

perhaps the major problem of first year law students.

All of the panelists supported the idea of "humorous" studying as a good way of not only relieving tension but of retaining material studied. Difficult concepts may be easier to understand and remember if associated with a joke or humorous illustration, explained Gillem.

Barns and Gillem, who both counsel students, emphasized that feelings of isolation created by stress are misleading: most, if not all, students feel the effects of stress and react to it in some way. "You are not alone, you aren't the only panicked person here," Gillem reassured.

Following the discussion, Estelle Simons, yoga instructor at Harvard University, led the panel and the audience in deep-breathing and relaxation exercises. Simons shared the secret of breathing control: "When you breathe slowly you will never be tense. When you breathe quickly, you will always be tense."

Sports Answers

1. Herschel Walker, who won the Heisman in 1982, was a member of the national champion Georgia Bulldogs in 1980. Tony Dorsett was the last player to win the award and play on a national champion in the same year as a member of the Pittsburgh Panthers in 1976.
2. Herschel Walker.
3. None (although Roger Staubach (1963) and O.J. Simpson (1968) are almost assured of admission to the Hall of Fame when they are eligible).
4. 1.d; 2.a; 3.b; 4.c.
5. True.
6. Of course not. But notice that since Vietnam, no Navy or Army player has come close to winning the award.

Public Interest

(Continued from Page 4)

the financial aid loan burden on some graduating students and disparities in the interviewing process which, he argues, favor the wealthy private sector.

Phelps is not the only one who feels Harvard's commitment to public interest placement is not enough. A year ago, HLS had a full time public interest placement advisor. Now all advisors are part-time, and one 3L complained of a lack of continuity.

Another 3L stated that every once in a while students are reminded of HLS's "priorities" — as he was when he went into the office with the intention of using the public interest phone line. HLS had scheduled law firm interviews in the room.

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Conservative Journal Asserts Independence

By David Price

The *Harvard Journal of Law & Public Policy* (JLPP), one of eight law journals published by Harvard students, makes no secret of its conservative orientation.

The introductory page of one recent issue applauded "the emergence of conservative and libertarian student organizations at law schools throughout the country." JLPP's conservative orientation is reflected in its articles, which generally argue for free market economic policies and limited judicial powers.

Editor-in-Chief Bob Fitzsimmons, 2L, concedes that having an ideological orientation makes scholarly objectivity more difficult to maintain, but suggests that it is also an important asset. In his view, the "shared values" of JLPP editors contribute to the enthusiasm of its staff and help to distinguish the journal from the large number of other legal publications already available.

Fitzsimmons characterizes the

staff as a diverse coalition of libertarians, conservatives, and moderates who tend to differ on civil rights and other social issues while agreeing on "fiscal conservatism."

The journal was founded in the 1977-78 academic year, Fitzsimmons recounts, by several dissatisfied *Journal on Legislation* editors. Since then, the staff has grown to 30-35 and circulation has grown to more than one thousand.

Growth has brought some rocky moments — the journal lost several manuscripts last year and never recovered them — but JLPP editors are clearly pleased with their growth in readership. Libraries hold the bulk of JLPP subscriptions, with the rest going to students, law firms, and judges.

Despite its persistent berating of the federal judiciary, JLPP includes a number of federal judges among its authors. (Indeed, some JLPP authors, such as Robert Bork, Antonin Scalia, and Malcolm Wilkey, are widely expected to be leading contenders for a future Supreme Court nomination).

Fitzsimmons states, however, that the journal's focus has begun to shift from judicial activism to narrower

public policy issues. Articles in the next issue will examine policy issues ranging from felony murder to flat-rate taxation.

One feature of JLPP that is unlikely to change is its independence from the HLS administration. Other journals here receive extensive subsidies from the school, but JLPP, in Fitzsimmons's words, receives only "space, heat, and light."

Its funding comes from subscription fees and private donors. Several editors say that although they would like JLPP to have a larger room on campus than its present one in Hastings Hall, they want the journal to remain self-supporting.

Editors give varying reasons for joining. "Most join because they want to try subciting," says Fitzsimmons, "but they stay because they identify with our goals." Editor Lee Tarte, 1L, reports that JLPP's conservatism was only a small part of her decision. "The people were helpful and were willing to accommodate my schedule. Their conservative philosophy interested me first, but their flexibility helped me to join."

Sports Quiz

By Rick Schlesinger

This week's sports quiz is dedicated to Miami Hurricane's QB Bernie Kosar.

1. Who was the last Heisman Trophy winner to play for a national champion?
2. What player finished 3rd in the Heisman voting in 1980 and second in 1981?
3. How many Heisman winners are now in the NFL Hall of Fame?
4. Match the Heisman winner with the reason why he never played in the NFL:
1. Ernie Davis, Syracuse; 2. Doc Blanchard, Army; 3. Mike Rozier, Nebraska; 4. Billy Cannon, LSU.
a. Army service; b. USFL career; c. AFL career; d. Death.
5. True or false: The University of Chicago has had more Heisman Trophy winners than Alabama.
6. True or False: Bruce Callen, Navy's strong-armed quarterback, won the Heisman in 1941 but was forced to return the trophy on December 8, 1941 because the Navy got "bombed" in their final appearance of the year.

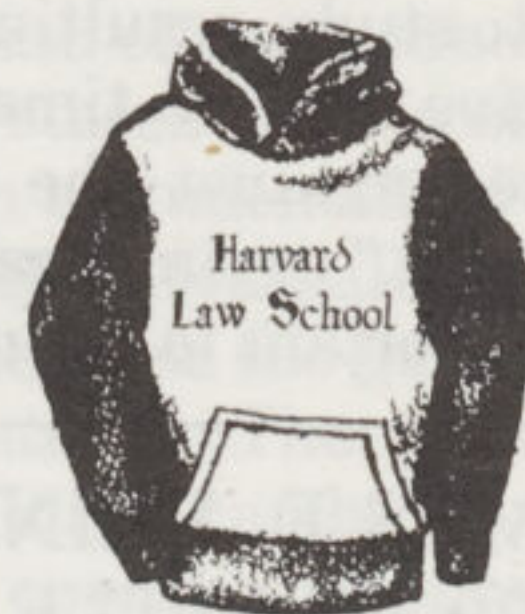
(Answers on Page 11)

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Court Steps Into Sewage Dispute

(Continued from Page 1)

regarding the harbor, this financial report became the foundation for legislation subsequently introduced by the Dukakis administration. The Governor's legislation proposed the creation of a new, independent "Water Resources Authority" to take over the operation of the area's sewer system from the MDC.

The new authority would have the ability to issue revenue bonds and to set sewer rates. It would therefore be able to raise the requisite funds to effectively carry out Judge Garrity's orders.

Haar has continued to be involved with the case, overseeing the progress being made to fulfill the court's orders.

However, progress has been constrained due to a lack of financial and administrative resources available in the MDC's sewerage division. Its organizational and financial structure is such that it cannot easily respond to the court's demands for improvements.

Meanwhile, the bill creating the Water Resources Authority has not emerged from the House, though it was introduced some six months ago. The bill has passed the Senate, though it did so in a form which gives the authority control only over sewers — not water as well, as originally proposed by the Governor.

In mid-November, at Haar's urging, Garrity set 2:00 P.M. on Monday, November 26th as the deadline for the approval of the water authority legislation. If not approved by then, Garrity would take action himself to deal with the problems of the MDC.

When Garrity's deadline came and went, the bill was still stuck in the House Ways and Means Committee. Committee chairman Michael Creedon said he did not think the bill would be passed by the time the House adjourned for the year.

Responding to this legislative inaction, Garrity made good on his promise to act. He enjoined any

further work on current MDC construction projects (which, if completed, would result in an increased flow of sewage into the already overburdened system). In addition, he set December 4th as trial date in the City of Quincy's suit, which will likely result in the MDC's sewerage division being put into receivership.

Most importantly, he ordered a ban, retroactive to June 1983, on new sewer hook-ups for commercial facilities.

This ban is critical because it effectively stops commercial construction in the Boston area. Businesspeople and others have interpreted the action as a means of pressuring the legislature to move on the water authority bill.

The state Attorney General's office this week will ask the Supreme Judicial Court to overrule the ban. However, on Tuesday, the Federal Environmental Protection Agency (EPA) announced that it would back up Judge Garrity. The EPA said that if his ban on hook-ups was overturned, it would seek to impose one of its own.

Haar, commenting on Garrity's moves, said that the law had been broken and the Judge had to take action. He noted, however, that even if supplemented by receivership for the sewer division, Garrity's moves would not be the most effective solution to the problem of pollution in the harbor. The best solution, he said, would still be the creation of the new water authority. He said both he and Judge Garrity remain confident that the legislation for it would be passed soon.

Indeed, following several days of extensive publicity on the issue of the harbor and the legislation, the Ways and Means Committee reported out two versions of the bill on Monday, December 3rd.

Judge Garrity has said that if the legislature does approve the new authority, he would gladly rescind his own measures. Nonetheless, as of Tuesday he was proceeding to trial in the City of Quincy's suit, thereby continuing to move toward receivership for the sewer division of the MDC.

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Panelists Debate Policy, Practicality of *Mt. Laurel*

(Continued from Page 3)

able. If an owner or developer can make a buck as [land] is zoned, he'll do it . . . , but you run into exclusionary zoning," which prevents land from being put to profitable uses.

According to Hutt, it is exclusionary zoning, "the nonusable type of zoning," which prompted builders to bring suits under *Mt. Laurel II*.

Hutt concluded by saying, "There are demagogues going around say-

ing the world's going to come to an end because of *Mt. Laurel*, and they may be right!" But with cooperation, he believed it would work.

The final panelist, William Doud, a former member of the New Jersey legislature and a representative of the Mayor's Task Force on *Mt. Laurel II*, presented a spirited attack on the decision as a usurpation of the democratic process and a threat to individual liberties.

Doud said he spoke, "as a citizen who believes our liberties are pro-

tected only if our republican forms of government are respected," and voiced his support for a state constitutional amendment "to strip the judiciary of authority to invade the prerogative of elected officials."

Referring to the court's exercise of power, Doud stated, "The Supreme Court of New Jersey, the Supreme Soviet of New Jersey says, 'we know best, damn the Constitution.' " In *Mt. Laurel*, he said, "you have seven unelected men . . . who have decided in their opinion, that we have to provide decent affordable housing for those who have been excluded."

"*Mount Laurel* is about moving people around. It's based on a Constitutional right to where you live, that doesn't exist," Doud contended. "Take out the phrase decent housing and substitute your favorite social goal. Maybe it's clothing, food, medical care," he continued. "If you really believe in liberty, you will be deeply offended by a court that says we think it's wrong for people to be excluded," and decrees levels on entitlements.

Doud concluded by saying *Mt. Laurel* must be fought to "save the democratic system."

Hiring, Curriculum, Aid Concern Caucus

(Continued from Page 7)

some extent, that portrayal was reinforced by the intensity of the TWC's membership. "With regard to the issues we discuss, people feel especially strongly . . . far more strongly than they would feel about working for a journal," Woo claimed.

But Woo and Hernandez were quick to dismiss charges that their organization diverges significantly from the HLS mainstream. "People realize that we're centered around issues that everyone here agrees with anyway," Woo responded. Two surveys taken by LSC last year said that 85 percent of the student body wanted more minority faculty. Hernandez noted that "the organization itself has never been radical. The administration knows that the organization was never radical . . . we're not asking to burn buildings. We support the same issues

that LSC, the Guild, ABLE, and a lot of other non-minority progressive groups do."

Even the administration's perception is changing, Woo claimed. "We're accorded more respect by the administration than in the past because we have proved ourselves able to articulate concerns and to bring students out of the woodwork."

"We have a better rapport with the dean and administration, we don't feel inhibited about talking," Hernandez agreed.

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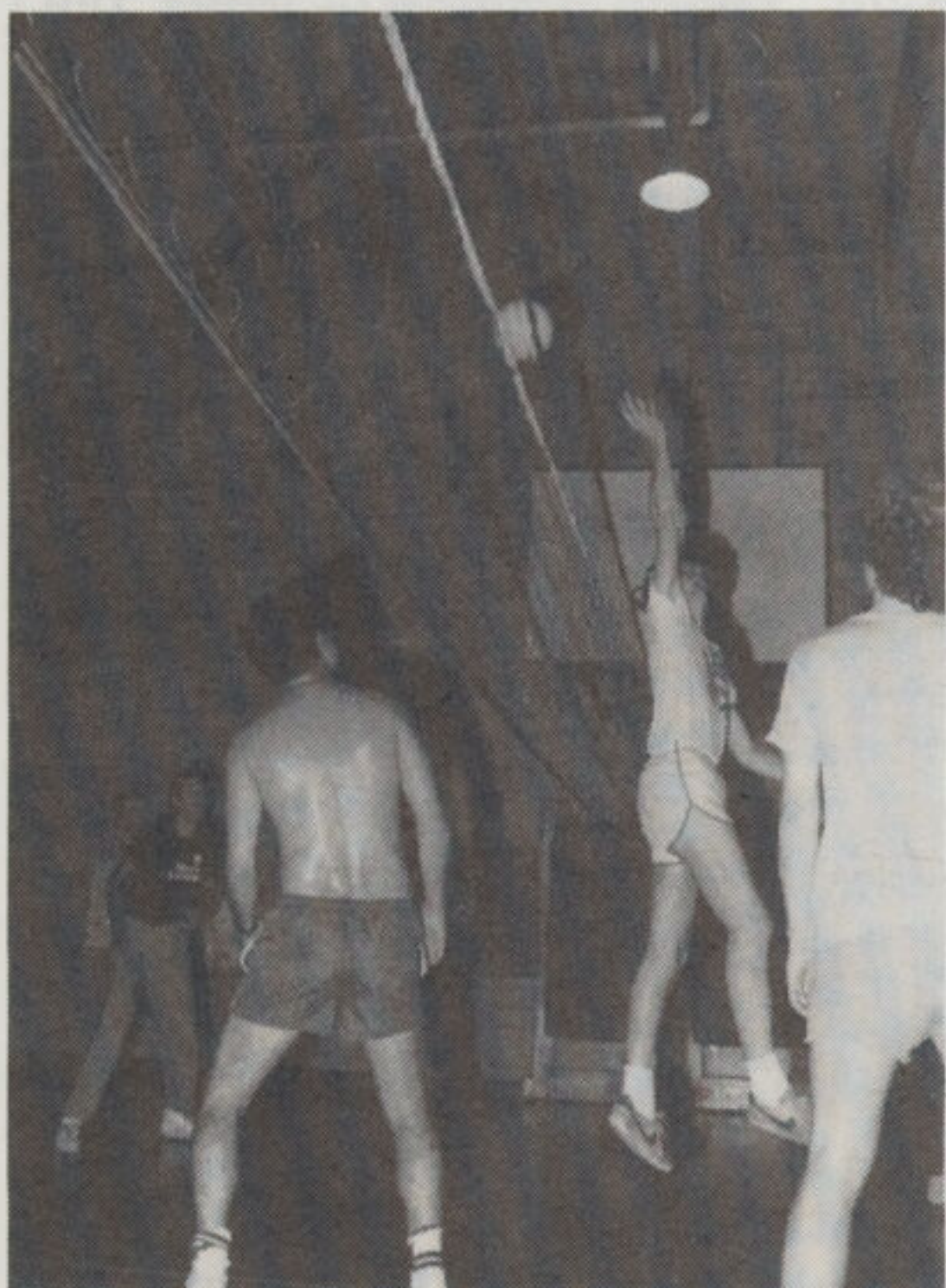


Warning: Contains much foul language and little respect for HLS

Intramurals: Law Students Have a Ball

By Janine Dlutowski

Contrary to popular belief, the strenuous academic demands of law school do not preclude maintenance of a healthy physique. The Dormitory and Student Affairs Council has coordinated an extensive intramural sports program as one option for students who like to work their bodies as well as their minds.



Greg Peterson

Peter Mozarsky, commissioner of intramural sports, oversees the organization of leagues in four seasonal sports: football and volleyball in the fall, basketball through the winter, and softball in the spring.

Intramural football season ended with playoffs November 10-11 in both the 5-team A League and the 8-

team B League. Officially titled "No-Names," the A League champions dubbed themselves "the Tide" after a low ebb 0-2 season start built to a roaring shutout victory in the finals. The team finished with a 5-2-1 record (3-2-1 in regular season) amid chants of "Roll Tide!"

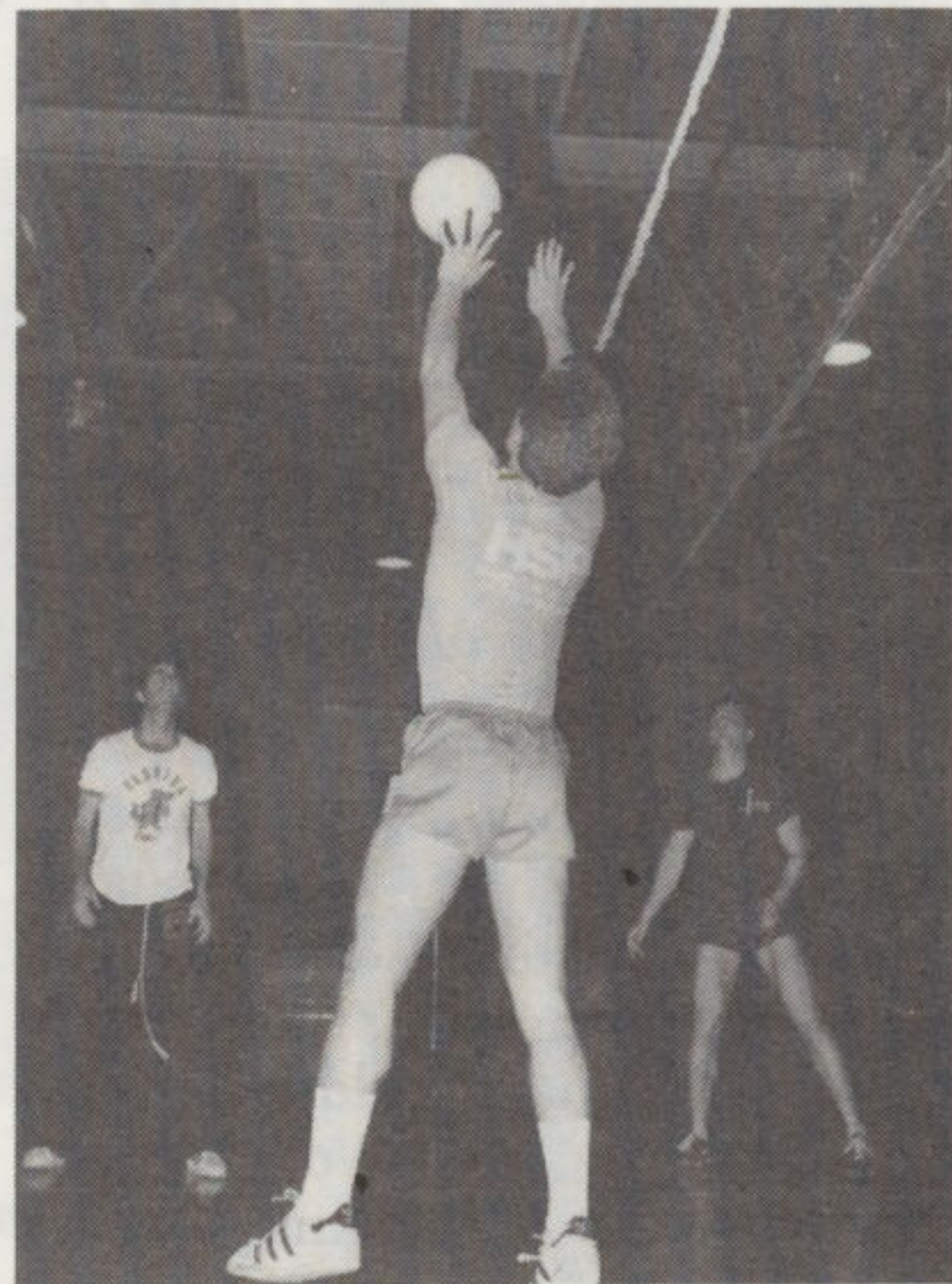
Team captain Doug "Bruno" Braunstein (2L) credited much of his team's success to judicious recruitment of talented 1Ls: Cormac Carney, Doug Ederle, Ron Levine, Victor Rivera, Andrew Varney and Donald Walton (Section 4); Tom Carney, Andrew Singer, Fred Tung (Section 1); and the return of veterans Rich Shearer (2L) and John Q. Barrett ("talent scout and recruitment director," 2L).

In the B League, "the Druugs" capped an impressive undefeated season (8-0-0) with their second championship in as many years. Third year veterans John Frascotti, Harvey Kaish, Adam Schiff, and team captain Raoul Garcia-Cantero have not experienced the agony of a Druug defeat since their loss in the finals of 1982. Garcia-Cantero said he is confident that the Druug dynasty will be maintained by fellow teammates Michael Abney (1L-3), Brian Boyle (2L), John David Dyche (1L-2), and Alan Howard (1L-3).

Intramural volleyball winds up its season with playoffs this week. Fourteen coed teams have been competing (and having fun) since early October.

With the longest season of any sport, intramural basketball opened last week and will continue until the end of March. Participation and enthusiasm are running high already; twenty-seven teams have entered the three men's leagues, four the women's league, and four the coed league.

Next semester, intramural softball — always a major highlight of



Greg Peterson

the year in sports — will begin after spring break in March. Two men's leagues and a coed league are planned, pending team response.

Mozarsky is also tentatively investigating the possibilities of indoor soccer and football for the spring, hoping for interest to create a suitably competitive atmosphere. Procurement of athletic facilities, however, may prove to be a logistical barrier to these programs. Further information about the spring intramural program will be announced at the beginning of the next semester.

Football, volleyball, basketball, and softball are sports calculated to bring out the potential athlete in almost every law student. The success and popularity of DSAC's intramural sports program this year proves once again that intellect-oriented Harvard Law School is not exclusively a "mental institution."

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