



Harvard Law Record

America's Oldest Law School Newspaper

VOL. 79, NO. 9

JANUARY 11, 1985

25 CENTS

Tribe Awarded Reduced Fee

By David Price

The United States Court of Appeals for the First Circuit awarded Prof. Laurence Tribe \$81,987 in attorney's fees for his work on *Larkin v. Grendel's Den*. The appellate decision, announced on December 6, sharply reduced the \$176,137 awarded by the district court last March.

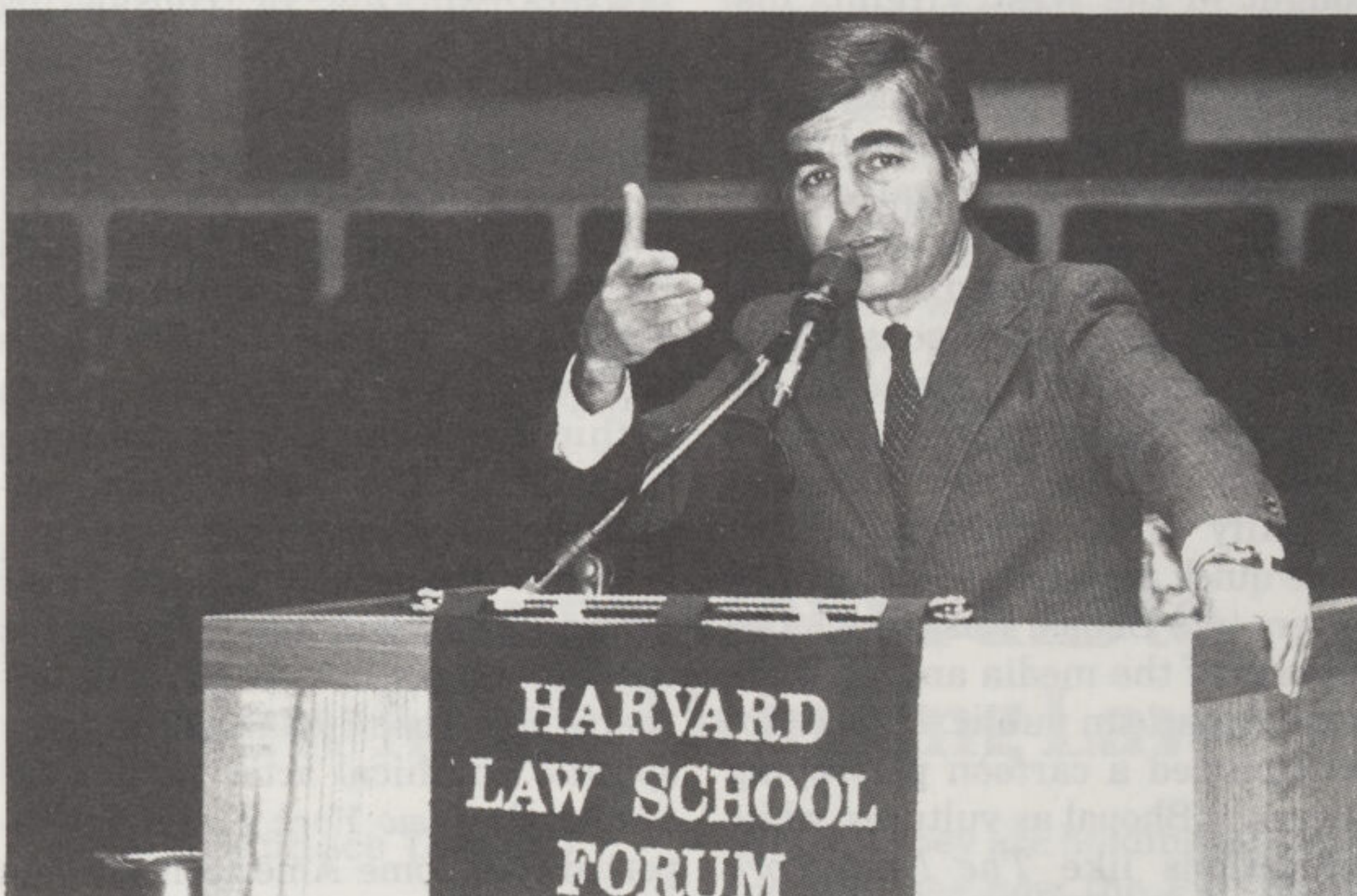
Tribe represented the *Grendel's Den* restaurant in a first amendment claim that reached the Supreme Court in 1982. The Court agreed with Tribe's contention that a Massachusetts law giving churches veto power over the granting of liquor licenses near church property violated the establishment clause.

Tribe then sought attorney's fees from Massachusetts under the 1976 Civil Rights Attorney's Fees Award Act. His petition requested a total of \$322,441 for time and expenses devoted to the case by himself, Prof. David Rosenberg and a then law student, Ira Karasick, '78, who assisted them.

Massachusetts Attorney General Francis Bellotti contested the figure, arguing that Tribe's recordkeeping was inaccurate and that his hourly rate should reflect the lower overhead costs that resulted from Harvard's provision of office space and library facilities.

The amount of the request sparked public controversy prompt-

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Greg Peterson

Governor Michael Dukakis

Dukakis Calls For Return to Democratic Values

By Paul Cappuccio

Recently, Massachusetts Governor Michael S. Dukakis, '60, spoke to a small but supportive Harvard Law School Forum audience about the present state of the Democratic Party and what he believes lies ahead for "the Party of the People."

Dukakis said he finds the 1984 Presidential election very troubling for a number of reasons. While he said he is not a "carping partisan critic," Dukakis was very critical of the policies of the first term of the Reagan Administration, especially as they relate to the economy, foreign affairs and the environment.

The Massachusetts Governor warned that "opportunity for a just and good and prosperous life for all

our citizens will be limited, not expanded" if the policies of Reagan's first term are continued into his second.

From Dukakis' perspective, however, the most troubling aspect of Reagan's landslide victory over Walter Mondale is what it suggests for the future of the Democratic Party. The Democrats face a "curious political paradox" in that they fare well in local, state, and congressional elections, but have lost four out of the last five presidential elections, three by landslide margins. Dukakis said he is worried that the Democrats "can't continue to lose presidential elections and expect to remain strong at the grass roots level indefinitely."

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Profession's Image, the Final Casualty of Bhopal?

By Justin Hughes

A team of lawyers headed by San Francisco attorney Melvin Belli filed suit last week in the southern district of West Virginia for deaths and injuries resulting from the poisonous gas leak at a Union Carbide plant in Bhopal, India.

The complaint is the third suit brought in the West Virginia district; it is one of many complaints filed in several U.S. courts by American lawyers representing, by most recent counts, literally thousands of Indian clients. While the Bhopal accident raised disturbing questions about the responsibilities of multinational corporations, the activity of American lawyers in Bhopal has created new concerns, especially within the Bar itself.

The quick movement of American lawyers into Bhopal was condemned by much of the media and, in turn, by the American public. *U.S.A. Today* included a cartoon portraying lawyers in Bhopal as vultures, while publications like *The New York Times* and *The Wall Street Journal* have made more than occasional references to the presence of American attorneys at the site of the accident.

A large number of calls and letters have reached the American Bar

Association's Center for Professional Responsibility in Chicago. According to center Director Robert Wells, "The general tenor [in the letters] has been a negative reaction."

The center handles the ABA's programs on legal ethics and helps prepare the association's ethical codes. Yet the center has not received any requests for advice from lawyers working or considering working in Bhopal. "The letters I've seen," said Wells, "have been from non-lawyer citizens . . . a number of doctors, oddly enough."

While the Center for Professional Responsibility has not planned any studies or meetings on the ethics of Bhopal legal work, other groups within the legal community have condemned the activity as unprofessional and ethical.

Beside general concern over American lawyers infringing on the legal problems in another country, there have been charges of more specific unethical activity. For example, the *New York Times* has reported that some American lawyers have offered injured Indians payments to allow the lawyer to represent them.

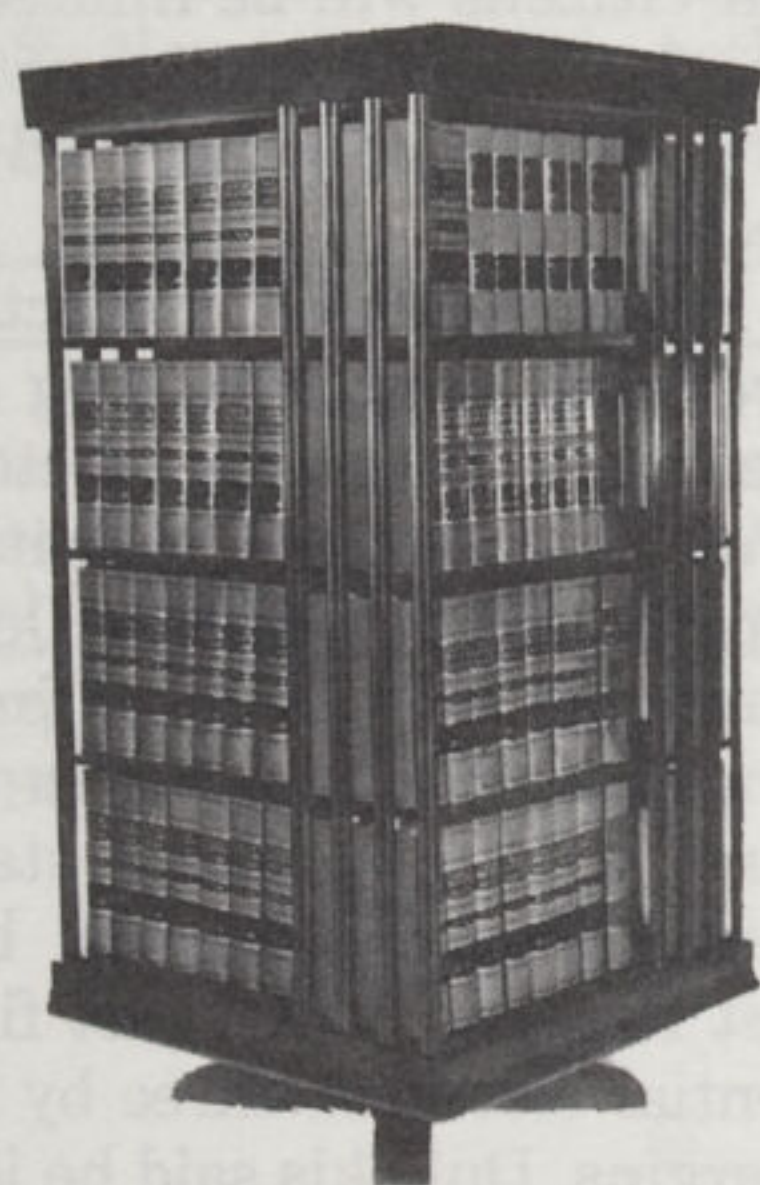
In the view of some people, Bhopal has been a public relations disaster, debilitating the already poor image of the legal profession. While a *Na-*

tional Law Journal article devoted most of its attention to the liability, jurisdiction, and *forum non conveniens* issues surrounding the case, the bold face excerpt from the article was about how "unseemly" it is for lawyers "to run over, sign people up, and try to get on the gravy train."

Many HLS students returned home for the holidays to face questions from family and friends about the propriety of what American attorneys are doing in Bhopal. "I got teased about it," said Leslie Wederich, 3L, "but I also felt they [the lawyers] were over there speaking up — threatening to sue — before we knew exactly what had happened." One 2L described a more indirect confrontation on the accident. "I was at a party and saw a woman who works in a hospital, a person fairly conversant with current events. She had met me many times before, but this time, out of the blue she said, 'Do you think lawyers are really honest?' I had a strong feeling Bhopal was in the back of her mind."

Lawyers working on Bhopal cases have expressed surprise at the sudden and sharp reaction both in the public at large and in the legal

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Student Journal to Divest Endowment

By Steve Cowan

After an unsuccessful attempt last year, the members of the *Harvard Law Review* have overcome the resistance of their trustees who this week agreed to divest *Review* funds from companies doing business in South Africa.

While only one third of the journal's \$335,000 endowment is invested in firms doing business in South Africa and will be effected by the move, *Review* members feel divestiture is a meaningful symbolic gesture. They feel this is a particularly important action in light of the university's staunch adherence to "constructive engagement."

Review member David Goldstein, 3L, expressed the belief, however, that the magazine's action could have a somewhat greater impact. Speaking of President Bok and the university governing board he stated, "We hope they'll follow our lead."

Until this week, the magazine's membership had been unsuccessful in its efforts to divest. Although 78% of last year's members signed a petition urging this action, the fund's trustees voted against divestiture (See RECORD, Vol.77, No.7, November 18, 1983).

In the vote which followed last year's petition the trustees, Ernest Sargeant, Dean James Vorenberg, Prof. William Andrews, Prof. Richard Parker, Scott Nelson '84 and David Hoffman '84, were deadlocked in a three to three tie. This year Nelson and Hoffman have been replaced by Robert Fram and Ben Rosenberg, both 3Ls.

This year an even greater percentage of the membership signed the petition, which stated, in part, "[W]e believe it is immoral for the *Review* to receive profits from economic activities in a nation that is fundamentally rooted in legalized racism and that brutally oppresses the vast majority of its people."

After receiving the petition, Sargeant, the fund's Graduate Treasurer, stated, "It is now apparent to me that more than a majority of the Trustees share the opinion that,

under the special circumstances governing the *Review*, the views of the student editors of the *Review* as expressed in their 1983 and 1984 petitions should be recognized."

In addition, Sargeant added that he felt that divestment could be achieved without any loss of income.

Vorenberg agreed with this position stating, "I am satisfied with the action the Graduate Treasurer took. I thought it made good sense and . . . it can be done with no loss in the endowment so I was for it." In fact, Vorenberg felt that none of the trustees continues to oppose the action.

The Dean feels that as a result of the, "very special relationship of the editors to the *Review*," its di-

vestiture is very different from that of the university as a whole.

Another difference between this year and last has been the absence of any organized opposition to divestiture. Arguing that their journal had not traditionally been involved in politics, and should not become involved selectively, a number of the magazine's editors last year opposed any action by the organization.

Those in favor of divestiture last year, 72 of 92 editors, agreed on a compromise in which the organization would take no action but its members were free to do so individually. Those in favor of divestiture this year, 87%, followed this non-official course once again. ✽

HLS Happy Hour Falls to New Mass. Drinking Law

By Candace Damon

The new Massachusetts "happy hour" law brings a number of changes to the Back Bench. The law precludes bars from selling drinks at reduced prices and from selling pitchers or more than two drinks at a time to any individual patron.

As a result, the Back Bench will be raising reduced mid-evening and Thursday night beer prices to \$0.70 for draught Miller beer and \$1.00 for draught Molson beer. The bottled beer of the week will be sold for \$1.35. All beer will be sold at these prices at all times.

The Dorm and Student Affairs Council (DSAC) will continue to sponsor Friday TGIF parties, according to Back Bench co-Manager Rich LeVine, but beer prices will rise to the \$0.70 and \$1.00 levels. LeVine pointed out that the Pub serves mixed drinks at no other time; consequently, the low \$1.00 price of the TGIF "drink of the week" will be allowed to stand.

The Pub management and DSAC have considered lowering all beer prices to an average price of about \$0.60 for Miller and \$0.90 for Mol-

son, but they are holding off on this move to see how the Pub patrons react to the higher prices. Further, the Pub incurred a number of unexpected expenses this year including a broken cash register and malfunctioning beer cooler. The income from higher prices may be used to cover these expenses.

Frequent price changes would be administratively difficult; the new law requires Pub management to inform Dean Mary Upton of prices. Upton must then relay these prices to the state. A state inspector visiting the Pub would expect to be charge the prices on the record.

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Spartacus League Wins Out Of Court

By Vincent Chang

In a November 30 settlement of a lawsuit with the Spartacus League/US (SL), the FBI and the U.S. Attorney General agreed to change the designation of the SL under the Domestic Security/Terrorism guidelines. Formerly, the guidelines had designated the SL as a violent organization, seeking to "direct and seize control" by revolution. Under the settlement the SL will be defined as a "Marxist political organization" — no longer the subject of FBI domestic security investigation.

Members of Friends of the Spartacus League, a Harvard College organization affiliated with the SL, frequently appear in the Hark distributing organizational materials to HLS students.

Rachel Wolkenstein, General Counsel for the SL, claimed in a recent press release the federal court

had reaffirmed federal domestic security guidelines. The SL suit was more successful because, Wolkenstein claims, "We didn't have illusions of a broad-based injunction or of sweeping changes in FBI policy."

Because of the SL's modest goals, however, it is possible that the SL's settlement will result in absolutely no change in domestic security policy. Wolkenstein conceded that the settlement might not "do anything in terms of FBI policy on harassment or surveillance." Moreover, Wolkenstein disbelieves the FBI's assurance that it is no longer investigating the SL. "We have no way of knowing whether or not there are informers in the SL. . . The Secret Service has concocted stories about SL actions against Democratic Party delegates and about SL terrorism at the Olympics. The police have been urged to take

preemptive action against leftist political organizers."

But why did the government agree to the settlement if it places such a high priority on harassment of the SL? Wolkenstein believes that the FBI has no credible case proving violent activity on the part of the SL. Indeed, no SL member has ever been convicted of a violent activity, according to the SL.

The SL hopes its settlement will set a precedent, "breaking the equation between Marxism and terrorism" and forcing the FBI to change its definition of other leftist organizations. Even if this hope is realized, however, the SL admits that the "narrow grounds" upon which the settlement was made will limit the settlement's impact. It remains to be seen whether the "victory" is entirely hollow, or one of great symbolic importance.

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

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Committee Votes To Raise Protection Plan Floor

The Financial Aid Committee recently approved a revised Low Income Protection Plan. The plan, designed to provide loan repayment relief to students who choose relatively low-paying jobs, is now in effect. A memorandum outlining the plan states "Harvard Law School has a long-standing commitment to encourage graduates to pursue legal careers devoted to public service. Recognizing that our graduates have increasingly high educational debt burdens and that a career choice in the public service will result in relatively low salaries, the Law School has established the Low Income Protection Plan."

Although its major trust is to reduce the loan burden on students pursuing relatively low-paying public sector jobs, the program would be available to any student who met the specified income level, whether that student is involved in private or public sector full time "law related" work.

Raising the Floor

Under the plan, graduates who qualify are expected to allocate specified percentages of their adjusted gross income to the repayment of their educational loans. The effect of the plan is to limit the monthly loan repayment burden for as long as the graduate qualifies. The maximum required monthly repayment figure at each qualifying income level includes both payments on law school and undergraduate loans.

While the plan remains essentially the same as last year's, some revisions promise to provide more relief to qualifying graduates. The new version raises the floor of income below which a student is required to pay no monthly payments from \$14,000 to \$16,999. The ceiling above which a graduate would no longer qualify for the plan is now \$25,000.

Graduates earning from \$16,999 to \$18,999 will pay 4% of their adjusted gross income in monthly re-

payments. Those earning \$19,000 to \$21,999 will pay 6% and those earning \$22,000 to \$24,999 will pay 8%.

Income Adjustments

For four years, these adjusted gross income figures will be increased by \$1000 per year, beginning in the second year. The memo describing the plan offers this example: "[A] single person earning \$21,000 after three years in the program will be in the 4% bracket." The figures for eligibility will be adjusted from time to time to allow for the impact of inflation.

Like the previous version, the new version of the plan contemplates the inclusion of the income of a spouse in the determination of whether the graduate qualifies. In calculating adjusted gross income under the new plan, participants may exclude up to \$5,000 of the spouse's earnings, the amount expended in re-

paying the spouse's own educational loans and \$2,400 for each minor dependent.

The plan also contemplates loan forgiveness. "Beginning in the third year of participation in the program, the Law School will forgive or repay the difference between the borrower's yearly maximum repayment" and payments which would ordinarily be due without the plan. However, this difference cannot exceed "10% in any one year or a total of the original principal and interest on loans borrowed from other than family or relatives."

If a graduate become ineligible for the program, he or she would pay the balance of the loans at 7% interest. Borrowers must work out the details of their loan repayment plans individually with the director of financial aid; however, the period of repayment after ineligibility may not exceed ten years.

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Public Interest Versus Private Firms:

By Burlette Carter

In his opening speech to the faculty this year, Dean James Vorenberg commented, "Many students, and some faculty, have a sense that the School steers students to careers in large private firms. I do not believe this is the case. But we should recognize that students' exposure to the world of large-firm practice is intense. We should help them to understand the broad range of alternative careers that lie before them. . . ."

The dean's comments highlight the continuing problem of how HLS should expose students to the option of public sector careers, considering a market in which the private sector offers the highest financial rewards. On the one hand are those who insist that public sector work should not be touted as more commendable morally than private sector employment and that the efforts should be "value neutral," informing students about their options. On the other are those who insist that without some effort to right the imbalances in the marketplace, public interest jobs will not be able to compete effectively; decisions will result less from "choice" and more from economic necessity or a lack of knowledge about alternatives.

For the most part, the HLS focus has been on informing students of their choices. Thus, in recent years the school has sponsored panel discussions such as the "Inquiries" and "Introduction to the World of Law" series which explore traditional and nontraditional ideas about law and career alternatives.

The course catalogue offers public interest oriented courses, among them Landlord Tenant Law, Poverty Law, and Sex Discrimination.

Harvard has arrangements with legal services organizations such as the Legal Services Institute in Boston and Cambridge and Somerville Legal Services to offer clinical placements for HLS students. More than 150 2Ls and 3Ls now participate in such arrangements.

In addition, student organizations such as the Legal Aid Society, Stu-

dents for Public Interest Law, the Prison Legal Assistance Project and Harvard Defenders provide opportunities for clinical exposure.

A summer loan program offers funding to students to subsidize low paying jobs. If the student chooses a public interest career, the loan is forgiven over time.

Four public interest advisors (each part-time) and a Career Resources Center provide public interest job information and counseling.

We Don't Make the Salaries

Still, the public sector in the marketplace as well as at HLS remains on an unequal footing with its moneyed private counterpart. According to HLS Administrator for Public Interest Placement, Douglas Phelps, the value neutral standard, while nice in theory is, in practice, "a channelling system" which sends students away from public sector options and into the private sector.

The problem is highlighted in a comment to the RECORD made by HLS Placement Director June Thompson. Although she pointed out that any HLS student who desires a public interest job can find

one, she qualified the statement saying that the jobs "may not be in the most exciting places in the country — where everyone wants to be — and the salaries will be considerably lower than private sector." Almost apologetically she added "We don't make the jobs; we don't set the salaries."

Yet, some say that the issue does not rest there. Phelps insists that society sends "a powerful social message." He argues, "From a social point of view we should ask what is important and what is not. [The message we send] is we need you to work in corporate firms. The only thing that correlates with prestige is the wealth of the client." Phelps thinks that HLS should take the lead in asking this question and help to put public sector jobs on a footing to compete more effectively with the private sector for new talent.

Six Percent

If they follow the steps of their recent predecessors, only about six percent of this year's graduating class will accept what has traditionally been known as "public interest" employment: federal and lo-

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An Illusory Choice for HLS Students?

cal government, legal services, public interest organizations.

Two or three percent will choose the management or corporation route. The rest, a whopping 90% or so, will go with the firms, about a quarter of these after a clerkship. The placement office hopes this year to compile data which indicate firm size for the first time.

There is evidence that more and more students are expressing some interest in public interest oriented work. The Clinical Placement Office reports that a majority of clinical course offerings are consistently oversubscribed, and the number of courses offered have increased substantially over the years. The number of students applying for funding from HLS-related organizations which subsidize public interest work such as Student Funded Fellowships (SFF) and Harvard Fellowships for the Public Interest (HFPIIL) has increased dramatically in recent years.

But the number of students eventually accepting permanent positions in public interest jobs has not risen so dramatically. Is the small percentage of students pursuing "public interest" careers upon graduation in direct proportion to the percentage who, upon entering law school, envision themselves in such jobs?

Phelps insists not. He says many students early in their studies express a vision of applying their legal education that does not realistically fit large corporate firm practice — a vision that suggests that if all other things were equal, they would choose a public interest job.

Career Counselor Mark Byers is somewhat more doubtful. While he admits that many students seem to enter with nebulous justice-oriented views of what they want to do with their lives, Byers rejects the "presumption that people who have clear commitments [to public interest careers] get seduced away." Instead, he suggests that maybe the 6% who eventually take such jobs represents a diehard group which enters — and leaves — unshakeable.

The fall interviewing season has

often been cited as a big part of the problem. The first to hit students, it is dominated by the large private firms. Only later, in the spring, are public interest employers able to assess their employment needs.

In one effort to address this disparity, a few years ago, Harvard attempted to initiate a national movement among law schools to move the activities of the fall placement season into the spring. The HLS administration went on record as advocating such a move and sought support for the effort from other major schools. But those schools would not go along, and many students, concerned about the proposal's affect on their futures, were not particularly enamoured by it.

Seduction

Yet, even a move to the fall season would not solve the public sector's recruiting disadvantage at HLS. While public interest jobs entice from afar with good deeds, the large private firms seduce with cocktail parties, free flights to their offices, spectacular dinners, lots of personal attention and salaries which might turn the heads of even the most altruistic students — not to mention the promise of social status.

Also, for most HLS students, jobs with firms will come much easier, practically offered to them on a silver platter.

Corrie Johnson, 3L and Chair of HFPIIL, which subsidizes 3L public sector placements, suggests that the vanity and risk averseness combine to discourage students from considering public interest jobs. "[T]he big law firm jobs are so much easier to come by. [Public interest] groups don't come begging for us."

Jackie Berrien, 2L and a member of the Law School Council, suggests that the financial hardships in summer public interest experiences discourages students who'd like to pursue this career alternative. Berrien suggests that in terms of available dollars the disparity between the lives of an HLS student working as a summer associate and

one working for the summer in a public sector job is often much greater than that which would exist between those same persons working permanently in similar positions.

Probably the most important effort to help public interest jobs become more competitive with the firms is in the form of a placement office rule. With only a few exceptions, any private sector employer interviewing at HLS must hold open until April 15th an offer extended to a student who also wishes to interview with the public sector, providing that that offer is the only one the student is holding open. The rule allows a student to participate in fall interviewing and still have the option of considering public sector employment later in the spring.

Perhaps the most commonly cited disincentive to public interest options is educational debts. According to the HLS Financial Aid Office about 65% of HLS students receive some form of financial aid to finance their law school education. The average law school loan indebtedness is \$27,500 for the class of 1983, excluding interest.

Monthly payments on law school loans can take a nice chunk of earnings if the debt load is high. These payments may be spread over many years. Of course, to get a full picture of a student's debt load one must add payments due on debts from undergraduate or other graduate education.

It is little wonder then that the possibility that a student will be heavily in debt upon graduation affects initial career choices. As Thompson admits, "The difference in salaries [offered by the private sector] is so great now that it has just put everything out of proportion."

The law school attempts to provide some measure of relief to students who work in relatively low-paying jobs. Recently revised, a "low-income protection plan sets ceilings on monthly payments re-

(Continued on Page 15)

Popular Misconceptions

On December 3, 1984, poisonous gas from a Union Carbide plant in Bhopal, India killed more than 2000 people in the worst industrial accident in history.

In the wake of this accident, a number of American attorneys have sought out Indian clients and initiated legal action against Union Carbide in the U.S. As a result, these lawyers have been the subject of considerable media attention and public scorn. The condemnation of these lawsuits betrays a deep misunderstanding of the American legal system and lawyers in general.

Ironically, popular misconceptions hold in greatest disdain those lawyers whose work most directly serves the public. For example, criminal lawyers who daily confront constitutional issues and in doing so are crucial to protecting our constitutional freedoms, receive credit for the demise of law and order and for rampant crime.

Similarly, the tort victim's civil bar is referred to both within and outside our profession as a collection of shysters, vultures and ambulance chasers.

The public and the profession should instead applaud at least the substance of their work. These lawyers protect all of us. Most importantly, they protect indigent victims who without these attorneys and their contingent fees might have no legal recourse against those responsible for such tragedy. It is Union Carbide and its attorneys who should be condemned, not the victims or their lawyers.

A Fine Example

This week the Trustees of *Harvard Law Review's* Graduate Treasurer's fund agreed to divest investment from all companies doing business in South Africa. Their decision came after 87% of the Review's editors signed a petition urging divestment.

While almost entirely symbolic, this is an important and highly commendable act. The message sent by each such act however large or small is invaluable. Not only is this a further condemnation of South Africa's racist regime, it is also an example for the administration's of Harvard university, and the United States.

The policy of constructive engagement has not worked and is not working. While in some cases it may be motivated by the most beneficent ideals, it is ultimately just another rationalization for continued profit at the expense of others, and it must be abandoned.

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Fenno

Although Fenno had joined a study group for each class he was enrolled in for all the many years he had been at HLS, he had never been able actually to make it to any of their meetings. Feeling fortunate to find yet another study group which would let him join, he offered to hold a meeting at his place, even though they met every Saturday at 9 A.M. Unfortunately, everyone showed up, interrupting, among other things, the "Bugs Bunny/Arthur Miller Hour."

"Frankly," said Fenno to the other students whose names he had long since forgotten, "this Winter Term is unbearable. Sixty-seven hours a week in a course entitled 'Law and the Law.' You forget to read the casebook one night and already you're four hundred pages behind."

"But Fenno, you're missing the point," said the student with the bulging eyes and sickly white skin, "Winter Term is the law school's way of rewarding us for working so hard in the fall semester. Instead of spending January loafing around with nothing to do — like college students — we get to enrich our minds with a virtual cornucopia of courses. And besides, Boston in winter is just like the Austrian Alps, only without the mountains."

"Furthermore," chimed in the droopy-eyed, sallow-skinned student, "it's economical. Everyone comes to HLS thinking they will get two semesters a year. What a wonderful surprise when you get a third tacked on for free! Three semesters for the price of two! Over three years that's three additional semesters! It's like coming here for an extra year and a half."

"For me," continued the sallow-skinned sychophant, "the possibility of spending an entire day listening in rapt attention to the pontifications of a single Harvardian solon, instead of running from course to course, invigorates my very soul!"

"And furthermore, besides," interjected the rodent-faced student sitting between Bulging-Eyes and Drooping-Eyes, "Winter Term gives one the chance to interface intellectually with doctrine at a closer all-encompassing level. I can study a subject 17.3 hours per day instead of the usual 8.47 hours. I am not *in* a course, I *am* the course. An acquaintance, for example, is studying first-hand the Real Estate law of Tahiti."

"Tahiti!" shrieked Fenno, "I'll do it!"

"But Fenno," responded the threesome, "they'll never let you. The drop/add period ended long ago."

"No problem," sighed Fenno, relieved at last. "Tahiti's in the Southern Hemisphere. Winter Term doesn't begin there for another six months."



Letters to the Editor of the Record

"Sexuality Disoriented"

To the Editor:

There may be a cause and effect coupling between your recent news item relating the complaints of the Gays and Lesbians because the big law firms do not welcome the sexually disoriented with open arms and your recent editorial which bemoaned the fact that "women have never comprised more than 35% of the law school's population."

I have a good friend who is a female Domestic Relations Court judge — unfortunately not a HLS graduate. To keep her apprised of life in the fast lane I frequently supply her with clippings from the RECORD. Her response to the two items mentioned in the preceding paragraph was: "Re females at Harvard: Maybe some of them are too sensible to apply — particularly those who read the Harvard Law RECORD! Who wants a Lesbian or homo[sexual] in the room next door in campus housing — especially [an] avowed noisy one with 'rights'?"

Peirce Wood, '39
Melbourne, Fla.

Taping Class Lectures

To the Editor:

The professors' reaction to the taping of lectures is predictable. None of the reasons given by these gentlemen for the ban on taping stands up to analysis.

Professor Areeda: "When I'm ready to publish things, I'll publish them." My recollection of the meaning of publish is to utter in public, whether in speech or print. Accordingly, Mr. Areeda's utterances are published as uttered, and take their rightful place in the history of human thought at that time.

Professor Wolfman: "Accuracy." What's the difference if an inaccurate statement is recorded or not? It is still inaccurate, and must still be accepted in context. The only nexus I can see between recording and inaccuracy is that when it's not on tape you can always deny it.

Professor Shapiro: "Discourage openness and informality." As a (part-time) professor who has recently had a lecture taped, I can assure the professor that within seconds after being informed my lecture was being taped I had forgotten the entire incident. Moreover, "openness" and "informality" are not the

words I would have chosen to describe most HLS lectures.

General: "Encourages students to be in class." If taped lectures are anything like my home video collection, unless they are played within hours of being recorded the odds they will ever be listened to are dramatically decreased, which means they will be heard most by students seriously interested in the lectures, the group least likely to cut a worthwhile lecture without cause. If HLS students think about it for a moment, this rationale is a tremendous insult to them.

Professor Rat: "I plan to make a small fortune selling my own tape recordings myself!" This shows the requisite self-interest and so is a plausible, albeit unstated, reason for the ban, but assumes that the professors are the owners of their lectures. This is a doubtful proposition — as the professors are employees of HLS, the lectures given by them belong to HLS. More importantly, it is immoral to ask the students to pay twice for the same drive.

That the great legal minds of our country should think so fuzzily is a matter upon which one might pause. I suspect the strongest reason for the ban is that what many professors say would not stand very close analysis.

Jeffrey L. Gould, '74
London, England

Editor's Note: For "Professor Rat's" view see RECORD cartoon, Oct. 12, 1984.

Hastie: An Inspiration

To the Editor:

I read the article by W. Burlette Carter entitled, "William Henry Hastie: Jurist, Scholar, Friend," in the November 30, 1984 issue of the Harvard Law RECORD. It was an excellent piece.

Harvard Law School has something to be proud of in the person of the late William H. Hastie. He is an example of a person who received an opportunity to receive a legal education at Harvard Law School, the result of which greatly benefitted the American people and the rule of law. Although Hastie took full advantage of this opportunity, the bugaboo of race stared him in the face even with a law degree from HLS. In spite of race discrimination, Hastie accomplished much during his lifetime.

Because of people like Hastie, Black Americans have consistently been inspired not only to defend the security of the nation, but argue for common decency in the treatment of all Americans as well. Hopefully, this nation will never forget Hastie's exceedingly significant contributions to American jurisprudence and to his country.

J. Clay Smith, Jr.
Professor of Law
Howard University
School of Law
Washington, D.C.

20 Years Ago At HLS

Nixon At HLS for Job Interviews



Richard M. Nixon

Former Vice President Richard M. Nixon came to the Law School on Tuesday, October 12, to interview students for his New York City firm — Nixon, Mudge, Rose, Guthrie & Alexander.

Unable to accept a Republican Club invitation to speak in public, Mr. Nixon met with a small group of student supporters in his room at the Sheraton-Commander Hotel.

The twenty-minute conversation reportedly concerned the future of the Republican Party but is otherwise "off the RECORD."

Among Republican Club officials who spoke to Mr. Nixon were Mack Armstrong, 3L; Fletcher Campbell, 3L; Michael Brady, 2L; and Kevin Keogh, 3L.

Oct. 28, 1965
Vol. 41, No. 4

Letters to the Editor of the Record

Divestment: "An Improper Intrusion"

To the Editor:

I am writing to you with reference to the letter to the editor published in your October 12, 1984 edition and authored by Jessica Neuwirth who states that she is a Harvard law student.

The letter is set forth on Page 15 of the Harvard Law RECORD of the above date and concludes on Page 21 of the same issue.

In her letter Ms. Neuwirth states that she is a Harvard Law student, Class of '85, who spent a summer in South Africa, and she states in her letter that she is protesting Harvard University's recent decision against divestment of securities issued by South African companies. She urges such divestment as a protest against apartheid which she claims to be prevalent throughout South Africa.

I am writing as a graduate of the Class of 1929 of Harvard Law School and also as one who has strong views as to what the policy of the University should be under the circumstances set forth by Ms. Neuwirth.

I applaud President Bok's decision, believing it to be eminently sound and correct. It is my view that the University has no business participating in the internal politics of South Africa or any other foreign country, whether by divestment or by other means of protest.

The business of the University and of President Bok in supervising the investments of the University is to give primary consideration to the soundness of the investment and to its yield in sustaining the program of the University.

Ms. Neuwirth's protest if supported would require the University to divest itself of investments in any country which one of your students believed to be exercising and yielding to policies which that particular student believes to be unfair and unjust with respect to social values.

The policy of apartheid in South Africa may be unfair and unjust. I make no comment on this one way or the other, but I do believe that the University should conduct its investment policy without reference to political goings-on in the countries which issued the securities in the University's investment portfolio. Ms. Neuwirth concedes that President Bok has expressed the University's opposition to apartheid but she claims that this is not sufficiently forceful and that Harvard's expressed abhorrence of apartheid when in its financial dealings it is supporting the apartheid regime places Harvard's credibility on the issue in a weak position. Her suggestion to "Put your money where your mouth is," is not, in my opinion, "fitting" as claimed by Ms. Neuwirth but is an improper intrusion in this case into the political affairs of another country and subordination of the University's investment policy to sustain a political viewpoint.

J. Hart Clinton, '29
San Mateo, CA

Not a Psychiatrist

To the Editor:

In the December 7th issue of the RECORD and on flyers advertising the panel on "Conquering the Stress of Law School Exams," I was mistakenly referred to as a psychiatrist. I would like to state that I am, in fact, a psychologist.

Angela Gillem, Ph.D.
Harvard Law School Counseling Center



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Sports Quiz

Rick Schlesinger

1. Who was the last non-center to win the NBA's most valuable player award?
2. Who was the last player to lead his team in scoring, rebounding, and assists in the same season?
3. The San Diego Clippers moved to Los Angeles this season, marking the second time an NBA franchise has left San Diego for a more profitable location. Name the team that left San Diego in 1971 and moved East.
4. Match the NBA player with his nickname

1. Reggie Theus
2. Darrell Griffith
3. Larry Nance
4. Larry Drew
 - a. The Landlord
 - b. The High-Ayatollah of Slamola
 - c. Rush Street
 - d. Dr. Dunkenstein

5. What do James Worthy, Bobby Jones, Michael Jordan, Bob McAdoo, and Geoff Crompton have in common?

(Answers on Page 15)



By Joe Brandolino and
Stephen Dirrane

Coffee. In its highest form it can be a potion of pure pleasure — lifting and invigorating to the pulse, a smooth stimulant to the drinker's awareness. However such cups of brewed ambrosia are few and far between. What we too often find sloshing around in our mug is a well of what looks like Saudi crude. With the law students' perennial need for caffeine in mind, here are a few tips on where to spend those bleary nights in search of java.

Let's start with the basics; the *Greenhouse Coffee Shop* is a purist's delight. No weak attempts at a European atmosphere — clean, spacious, down to earth. This is America, dammit, and we're proud of it. The waiters and waitresses speak English *sans accent*. They don't leave you waiting around 15 minutes to appreciate the decor. There's plenty of space to relax and study without feeling pushed — no music, no pretense, just a very good cup of Columbian. Some of the pastries are made on the premises and served warm and tasty. This is an apple-pie kind of place where you can kick up your heels and unwind.

Just across the Square is *Au Bon Pain*. This cafe is a flagship for a chain of stands and restaurants stretching from the LaGuardia airport concourse to the chic, new Tabor Center in Denver. *Au Bon Pain* is a product of careful marketing analysis and American taste for the superficially French.

The staff is an array of bereted robots working fast food. Relentlessly, popular chamber music is played. In all, it doesn't work.

Au Bon Pain's coffee achieves an amazing balance — watery, to say the least, it still retains that remarkable bitterness that can only come from sitting on a Bunn-o-matic for hours. The café au lait has all the richness of bean curd.

As a rule, the croissants are so sugary they could dissolve in water, (or *Au Bon Pain*'s coffee, noting a

slight difference in color.) The spinach croissants are a fine exception to sugar overstatement. Ironically, the place's best offerings are the breads, which you are more likely to take home than enjoy in the cafe. They are as close as *Au Bon Pain* comes to producing baked goods like the breads and pastries in Paris' *Le Fournil de Pierre*.

So why do they try to mass produce an imitation of French culture? Money. And they charge plenty.

A much nicer attempt at a Euro-cafe is *Croissant du Jour*, at 52 Brattle Street. The atmosphere is a little more authentic; for example, prints of Paris by a Parisian artist. The quality of the food and coffees is good. The croissant choice is excellent and the price/quality ratio is a lot more digestible than at *Au Bon Pain*. The coffees are distinguishable from other dark liquids and have a full body, although they are slightly acidic. Soups and sandwiches are generally creative and very tasty. Service can be sporadic and the menu is overly cute, but this is not a bad place to go for a quick bite or a rendezvous with a friend.

Back in the Square, *The Mug & Muffin* is, well, cheap and in a good location. It could be listed under "places that are hard to avoid, but should be." Still, this is where real people come to eat breakfast. The muffins are ladled with butter and microwaved to Edith Bunker perfection. The bran muffin is great; the coffee is, well, cheap.

The *Cafe Pamplona* has a nice location on Bow Street, off Mass. Ave. However, most of its charm is lost in cold weather when the outdoor tables are brought in. Its wide selection of coffees and confections are all tasty and palatable; the problem comes in distinguishing one from the other. The sweets are rich — as you had best be if you're paying the bill. This is *Cafe Pamplona*; home of the Phantom cup.

Another exotic cafe is *Algiers*, almost hidden under the Brattle Theatre. There, too, the outdoor effect

is somewhat lost when the leaves fall from the trees. Yet the *Algiers* remains a great place to indulge the taste buds and the imagination. Its North African motif is so strong you may expect Sartre or Lawrence Durrell to walk in at any moment.

The cafe mocha here is among the finest to be found in this vicinity. The menu is an intriguing display of titles whose quality equals its obscurity. It's hit or miss to find coffee which suits your own taste and predilection, but getting there's half the fun. The reasonable quality of service and selection makes it a great place to return to, but the place is so pretentiously reminiscent of a Camus setting that you may feel uneasy not having an existential crisis while you are there.

The *Coffee Connection* is a fair title for what would easily be called the best coffee selection in town. Their coffee list is a sort of world bean bibliography. The list is a treat in itself as it uses more adjectives than one might think humanly possible to describe coffee. For example: "... ringing nutty flavor with razor fine acidity. Grown on volcanic topsoil on mountain slopes at 5,000 feet. Body — medium, acidity — high ..." That's just half of the description of Guatemalan Antigua. The selections are served in Melior Pots which allow the consumer to choose the coffee's strength. The *Coffee Connection* has smoking and non-smoking sections as well as a great selection of foods. It is very expensive but worth it if you're in need of great coffee in Cambridge.

The final word on Cambridge coffeehouses may still be in the writing — or the building. *Cafe Paradiso* appears to be the tenant slated to fill part of the ground floor at the Coolidge Bank building in Brattle Square. Although it's doubtful that this new entrant will live up to its own name, *Paradiso* already has one Boston location and may provide the Square's cafes with tough competition.

The P.R. Miasma of Bhopal

(Continued from Page 2)

community. For the most part, attorneys handling these cases have represented plaintiffs in mass tort actions in the past. Melvin Belli, with between 500 and 1500 Indian clients, is best known for his handling of cases like the Korean Airlines downing in 1984 and the IUD controversies.

The Cincinnati firm of Waite, Schneider, Bayless and Chesley is one of Belli's co-counsels and has worked on the Air Canada disaster last year and the Beverly Hills Supper Club fire. The Lafayette, Louisiana firm of Keaty and Keaty is handling not only the Bhopal case but is involved in litigation concerning the Glomar Java Sea sinking which claimed 83 lives.

Firms which concentrate on this kind of practice are often held in some disdain by the rest of the legal community. They are used to being shunned, but not to being criticized internationally as in the Bhopal case.

Phil Allen, an associate at Waite, Schneider, is resigned to the situation: "It was kind of interesting. When we first got involved there seemed to be questions about what business American lawyers had in representing Indians." But he said, "We were asked to represent Indians by Indians."

In a telephone interview, Melvin Belli gave the same answer and asserted that he was urged to get involved by Indians and by some outstanding American lawyers. When pressed to identify who among the country's outstanding lawyers had urged his involvement, Belli named Michael Tobin, a Florida attorney whose firm includes several Indians and who is one of Belli's co-counsels.

Belli has been vocal in his displeasure over public reaction. He denounces people who termed him and other lawyers in Bhopal "ambulance chasers" or "vultures" and has issued a multi-page release defending his activity. He attacked the hypocrisy of lawyers who denigrate his approach, but who will,

in his words, "crawl out from under some rocks on Wall Street" when Union Carbide needs defense counsel.

Belli's complaint against reaction in the legal community does not extend merely to the glass tower views of New York lawyers. The rough and tumble San Francisco attorney is preparing to take on what one would think is another rough and tumble legal group: the Colorado Trial Lawyers Association. Belli claims that he will be filing suit against the trial lawyers "after the mid-winter meeting of the trial lawyers association" on charges of libel and slander over the use of phrases like 'ambulance chaser'.

But although Belli may be concerned about his personal reputation, there is real question about how damaging these activities will be to the long term image of the legal profession. Those who have made apocalyptic prophesies about Bhopal's damaging effect on the image of lawyers have surely been overstating the case. It already appears that the furor over American lawyers in Bhopal is subsiding and may not affect the image of lawyers much in the long run.

According to Lauren Reskin, who edits letters for the *American Bar Association Journal*, the monthly ABA publication has only received two letters questioning the propriety of American lawyers in Bhopal. Although Reskin reports that both letters disapproved of the American lawyers involving themselves in the way that they have, she expressed some surprise that the *Journal* did not receive a deluge of correspondence on the subject.

Another concern has been how the work of American lawyers in Bhopal could exacerbate foreign, especially Indian, impressions of the United States. The concern is that Americans might appear doubly distasteful; first, one group of Americans brings the accident to Bhopal and then another group of Americans tries to exploit the tragedy. As yet, however, it appears that the Indian public has not seen the activities of American lawyers

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all those similarly situated,
Plaintiff

v.

Harold Brown d/b/a Hamilton Realty,
Robert Samia d/b/a Commonwealth Ave.
Associates, and Linda Clark,
Defendants

Notice of Proposed Settlement of Class Action

There is currently pending before the Housing Court of the City of Boston a proposed settlement of the above captioned lawsuit. This lawsuit alleged that the defendants engaged in discrimination against law students in the rental of apartments.

The parties have submitted a proposed settlement in which the defendants, without admitting any wrongdoing, have agreed not to discriminate in the future against law students who seek to rent housing through them. The proposed settlement also provides for damages of \$500.00 for each law student previously discriminated against and enhanced damages in the event of any future discrimination.

If you are or were a law student or were scheduled to attend law school and, with respect to any rental unit or units owned, managed or held out for rental within the City of Boston by the defendants Harold Brown d/b/a Hamilton Realty, Robert Samia d/b/a Commonwealth v. Associates or Linda Clark, you sought to apply for, inquire about, or rent such a unit and were discriminated against because of your status as a law student, you are a member of the class on behalf of whom this lawsuit was brought, and your rights will be affected by the proposed settlements.

If you are a class member, you may obtain a copy of the official "Notice of Pendency of Class Action and Proposed Class Action Settlement" from the plaintiff's attorneys: Harvey S. Shapiro, Esq. Greater Boston Legal Services, 68 Essex St., Boston, Mass. 02111 (617) 357-5757 or Ellen J. Messing, Esq., 11 Beacon St., Boston, Mass. 02108 (617) 720-1310. The proposed Settlement Agreement is itself on file in the Housing Court Clerk's Office, Room 1003, New Courthouse, Boston, Mass. and may be reviewed there between 9:00 A.M.-4:30 P.M., Monday through Friday.

Objections, if any, to the proposed settlement, will be heard by the Court at a hearing scheduled for 2 P.M. Friday, February 8, 1985, Room 313, New Courthouse, Boston. If you wish to be heard, or if you would like to exclude yourself from the class action, you should consult the above "Notice of Pendency of Class Action and Proposed Class Action Settlement" for an explanation of your rights.

/S/ Patrick J. King

Patrick J. King, Associate Justice

December 6, 1984

Lawyers and Other Specialists Visit Carbide Disaster

as a rallying point for all anti-American protests.

Ranjan Mathai, First-Secretary for Information in the Indian Embassy in Washington, reports that the Indian press has paid little attention to American lawyers. In comparing the media coverage in the two countries, Mathai said, "I haven't gotten the same sense of hostility to ambulance chasers as in the American press . . . The whole focus has been on the tragedy itself."

A survey of the December editions of *The Times of India* and *The Statesman* (Delhi and Calcutta) seem to bear out Mathai's point. While American television almost immediately broadcast debates on the potential legal liability of the American chemical company, Indian reporters devoted little attention to the legal issues. There has been a steady, but small stream of reports on Belli's activities, but much, if not most, of the 'legal reporting' has been on what the Indian federal and state governments should do legally to help the victims. In fact, one of the first 'legal' editorials on the Bhopal accident, appearing in the authoritative *Times of India*, was not an attack on American lawyers, but a condemnation of the Madhya Pradesh state government

for arresting Union Carbide officials without cause. A two part feature commentary on the legal aspects of the case in *The Statesman* could muster only abstract criticism of "the proposal to file such cases in the U.S." and seems to assume the cases could be decided under U.S. law.

According to Mathai, "There were a few veiled comments here and there, but there was not the widespread commentary that there has been in the U.S."

Indian public concern over American lawyers has increased as the Madhya Pradesh government has become concerned. According to the Indian Embassy in Washington, the Madhya Pradesh government has set up several free legal aid centers in Bhopal. While the Embassy reported that these centers are to help Indians unfamiliar with laws understand their rights, the Embassy could not confirm whether the Madhya Pradesh government was trying to use these centers to prevent Indians from signing up with American advocates.

Still, the long-term presence of American lawyers could damage the international image of American advocates. Mathai points out that

more and more Indian attention may be focused on the ethics and effectiveness of representation as the disaster itself recedes. The same may happen internationally, especially if American attorneys prevent their Indian clients from accepting immediate, smaller settlements in favor of protracted litigation.

"Even in Latin America," said Adriana Ospina-Lara, a 2L from Colombia, "we think of all lawyers as being crooks. We have this view of American lawyers as being more sophisticated, that is, more sophisticated in their predation. With Bhopal, the lawyers just want the money and can wait for it, but the Indians might want less money immediately. What good does a million dollars do five years from now when the Indian doesn't have a roof over his head today?"

If Belli's strategy against the chemical giant succeeds and other attorneys follow his approach, the public will not have to consider such a dilemma. Belli claims that in all the mass tort cases he has handled, not one has ever gone to trial. "I guarantee it will be settled in a year," said Belli, ". . . and at American prices."

As for international impressions of the U.S. in general, the longer it takes to settle or litigate the cases the more the Bhopal accident will contribute to the view that the U.S. and other Western countries are "exporting" dangerous activities to less developed nations.

The worst offenders among those who descended upon Bhopal were not the lawyers, but a group more secretive about its presence. According to the *Times of India*, chemical warfare specialists from several NATO countries were among the 'doctors' arriving in Bhopal. One anonymous medical authority said they were evaluating the poison gas "as an agent for chemical attack" while working "under the garb of relief organizations." The specialists, unlike Mr. Belli, do not share awards with the victims.

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Debate Rages Over Commitment to Public Interest

(Continued on Page 7)

quired from students whose salaries fall below \$25,000. (See Story on Low Income Plan, p. 5.)

There are, of course, arguments that the entire HLS experience discourages public interest leanings by placing the classroom emphasis on big firm practice. Says Johnson, "I think the school, even the professors on the so-called 'left,' has an elitist attitude about law firms. . . . Most of them believe that really top-quality legal work — and they define that [term] by some standard that I can't understand — is done by the big firms."

Berrien agrees. Also, she asserts that the approach of some HLS faculty to clinical public interest work may be somewhat skewed. Berrien alleges that some at HLS harbour a "practice on the poor mentality" which suggests that clinical work in law schools and pro bono work in practice should be done primarily for its value as a training mechanism and not for its value in offering help to those who could not otherwise afford it.

Phelps expresses some doubt about whether students whom he

suggests are turned away by economic realities will someday enter the public sector. He says that over the years people make commitments and form bonds which essentially limit their freedom to make drastic career changes.

Byers is a bit more optimistic, pointing to figures which show that people do in fact change their jobs and that the number of graduates involved in public interest work increases over time, albeit never to a large percentage of the whole.

When pressed, Phelps will admit that the question is more complex than public versus private sector, the good guys versus the bad. And he admits some truth to the argument that private sector jobs can operate in the public interest. But

he is not willing to say, by his own standards at least, that offering a small percentage of one's time to pro bono work is enough to qualify.

"To some extent [the term] 'public interest law' is a 'PR' battle that we've won." But he offers no apologies. "We have no money, so at least we have a name that makes us sound better than the other side."

Phelps insists that he finds students as they proceed to the third year asking less and less two important questions about what jobs they might take: "What will I be doing? How will I feel at the end of the day?" For him, this exemplifies the impact of the society's message regarding what is important.

☛

Judge Finds HLS Prof's Recordkeeping Inadequate

(Continued from Page 1)

ing coverage in *The New York Times*, *The American Lawyer*, *The Boston Globe*, and elsewhere.

Tribe requested \$264,206 for his time, calculated as 640.5 hours at \$412.50 per hour: \$275 plus a 50% multiplier for the "novelty" of the claim. Prof. Rosenberg requested fees for 174 hours at \$125 per hour.

The district court allowed the claim for Rosenberg, but disallowed the multiplier on Tribe's fee. The court also disallowed attorney's fees for work done by the student. The court suggested that the student be compensated from the professors' awards. Tribe declined to state whether the student had been compensated.

The appellate court not only trimmed Tribe's award further, but also ordered that his expense reimbursement be changed from the \$6,157 allowed by the district court to a lower figure of \$1,457.

One aspect of Tribe's fee petition that appeared to startle Attorney General Bellotti and some other lawyers familiar with the case was Tribe's rather casual approach to

recording the number of hours he had worked. "I would rather spend the time thinking about things and working on issues," he told *The New*



Prof. Laurence Tribe

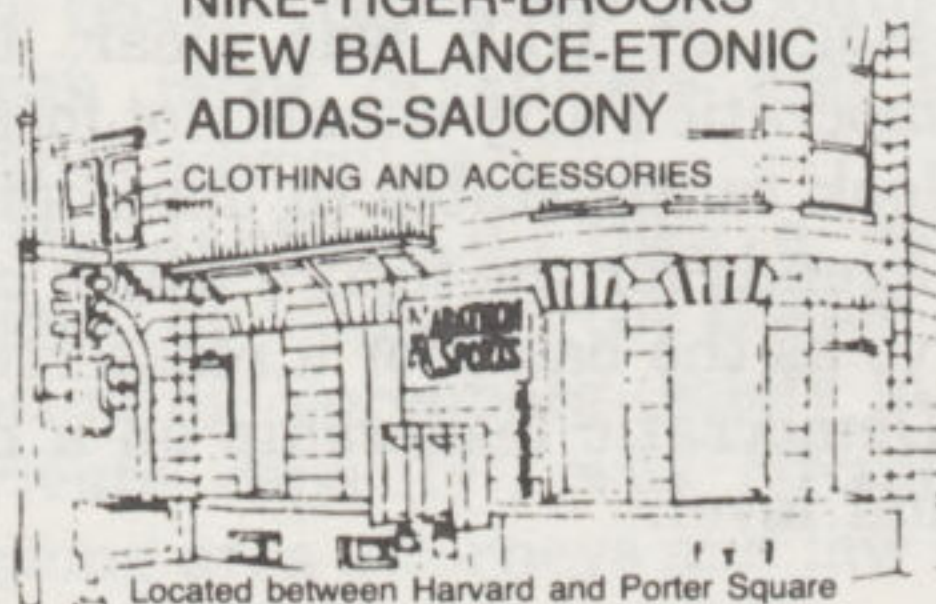
York Times. "I was thinking about how to interact the due process and establishment clauses of the Constitution, not whether I worked on a Monday or a Wednesday." ☛

Sports Answers

1. Larry Bird, Boston Celtics forward, won the MVP award last season.
2. Sidney Moncrief, Milwaukee Bucks, in 1982-83.
3. Houston Rockets.
4. 1-c-2-d-3-b-4-a.
5. All attended the University of North Carolina.

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Dukakis Suggests States Should Help Set Agenda

(Continued from Page 1)

Dukakis told his audience that "everyone is writing op-ed pieces these days, so why not the Governor of Massachusetts?" He then offered his own four-part formula for rejuvenating the Democratic party at the national level.

First, the Democrats must "take [their] case to the nation with national goals and a national vision." Dukakis disagrees with "other Democratic governors" who feel that this involves being more moderate, less extreme, and "moving to the middle."

He feels that while it would be a mistake to abandon the "traditional Democratic coalition," it is important for the Democratic party to be perceived as more than just "a collection of constituencies." Instead, the Democratic party must serve "national purposes" and present a "national vision."

Ironically, Governor Dukakis cites Treasury Secretary Regan's proposed Tax Simplification Plan as an example of how to serve national goals and national interests. Dukakis admits that he was astonished by the Administration's plan, calling it "an extraordinary piece of work" that serves important national goals such as fairness and real economic growth.

Dukakis encouraged Democrats not to remain silent concerning this plan to restructure the Internal Revenue Code, but instead to help improve the plan which in his view

does contain some unsound provisions.

Secondly, Dukakis believes that the Democrats must be perceived as the party of hope and optimism. He acknowledges that President Reagan's victory in 1984 was due in no small part to his ability to convey a sense of hope and optimism, whether or not one agrees that such optimism is justified in light of Reagan's policies, and the corresponding failure of the Democrats to present a similar vision.

According to Dukakis, such a vision has a strong tradition in the Democratic Party and it must be recaptured if the Democrats are to win back the White House.

Further, the Democrats must "once again become the party of economic opportunity for all." Dukakis stated that America is in the midst of an economic revolution in which a new economy "based essentially on knowledge" is emerging.

This new economy presents difficult challenges requiring "not only the new ideas that so many have been calling for, [but also] a renewed examination of some pretty good old ideas with an eye toward making them better."

Finally, Dukakis stated that the fourth key element in the reestablishment of the Democratic party must be "performance." Acknowledging that in 1984 a majority of Americans perceived Reagan as having delivered on his promises, Dukakis argued that "if the Dem-

ocratic party is to reestablish its claim on national leadership, it too must not only articulate an optimistic vision with creative ideas for the economy of the future, but it must also convincingly demonstrate that these ideas work and that Democrats can in fact perform."

Role Of States

Governor Dukakis firmly believes that the states have an important role to play in helping to develop an agenda to meet the goals that Democrats must set. The states can serve as "noble laboratories" in meeting the challenges presented by America's "new economy." He cited Massachusetts as a prime example of state government acting to set the agenda for the future.

The Commonwealth under Dukakis has developed a two-part strategy for meeting the challenge of the new economy. First, the state is continuing its successful practice of targeting economically distressed areas of the state in an attempt to create the conditions for sound investment. In Lowell, for example, high tech investment has brought unemployment down from double digits to less than 4%.

Secondly, but equally important for Dukakis, is the development of programs to help those "people who will not share in this good fortune." In Massachusetts, this translates into a comprehensive training program which recently boasted a recent 10,000 placements of people formerly on welfare into permanent positions of employment.

For Dukakis, the hallmark of these state developed programs is "performance", and he believes Massachusetts with its 3.7% unemployment rate, is proof that these programs work. In the end, his message at HLS was clear: the Democratic Party should not forget to look to the states in developing an agenda for the future which can serve as the basis for a reassertion of Democratic leadership on a national level.

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