



Harvard Law Record

America's Oldest Law School Newspaper

VOL. 80, NO. 10

MAY 10, 1985

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Dalton Gets Two More Years

By Vincent Chang

On Wednesday, May 1, the law school faculty voted to extend the tenure consideration of Assistant Professor Clare Dalton for two years. The Dalton extension carries no "explicit riders," although sources report that there were faculty members who wanted to attach such provisions.

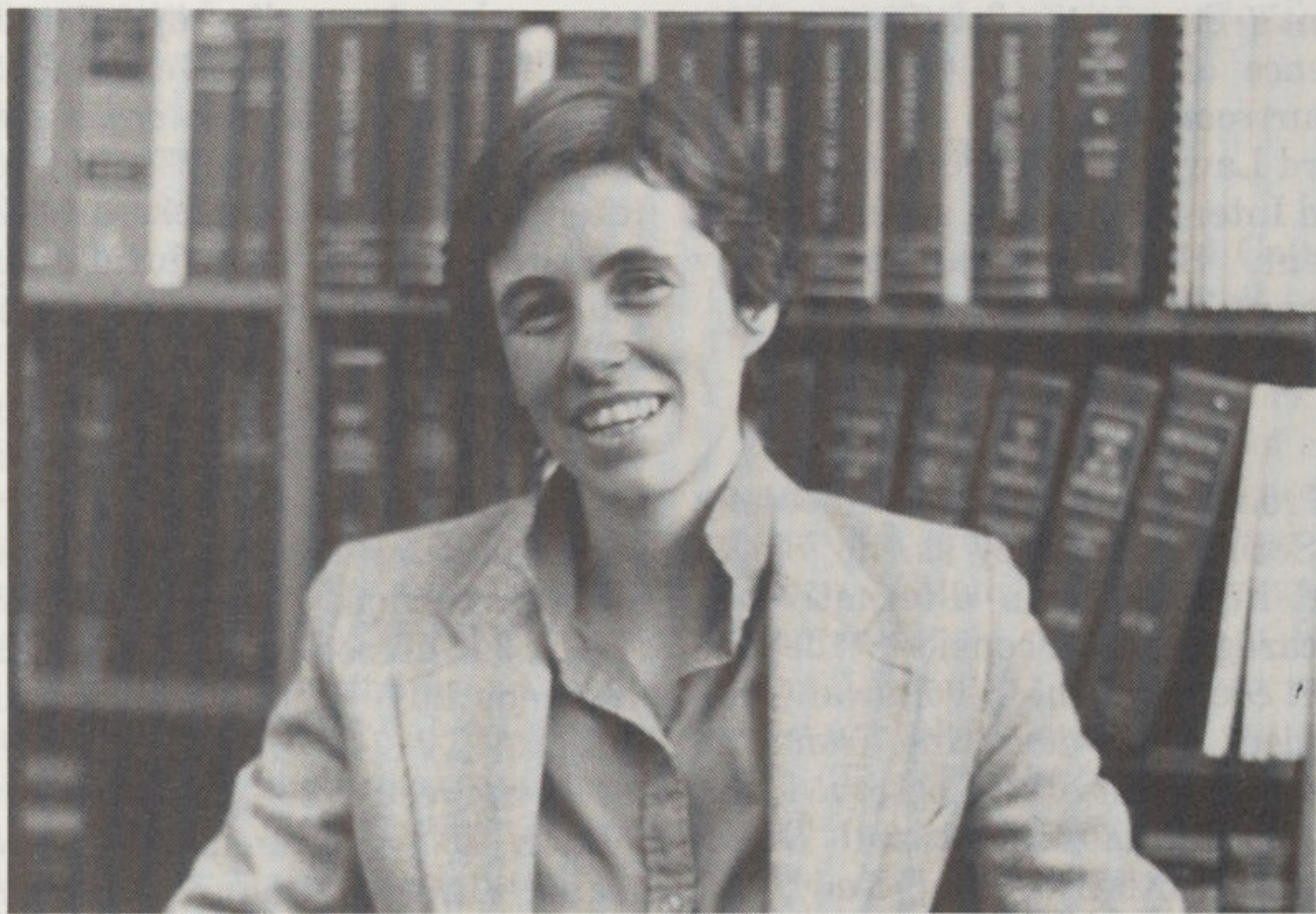
Hence, the decision in all probability means that tenure will be granted at the end of the two year review.

The latest faculty decision comes on the heels of an inconclusive April 10 meeting of the Appointments Committee. At that time, the committee split 2-2-2 on the tenure issue, with two members voting to offer tenure immediately, two members voting to deny tenure, and two members voting to offer Dalton a two year extension.

After the April 10 meeting, Professor Frank Michelman speculated on the effect on an extension decision, noting, "I can't think of any cases in which the person has been denied tenure at the end of extended reviews" [See RECORD, Vol. 80, No. 8, (April 19, 1985), p. 1].

Lockstep Correlation

Because of the lockstep correlation between extension and tenure, the extension vote was hotly contested and was decided by a margin of only a few votes. Dalton's supporters, most notably the Women's Law Association, which gathered



File Photo

Assistant Professor Clare Dalton

Coquilletto To Be B. C. Law Dean

Dan Coquilletto, Lecturer on Law, has been named Dean of Boston College Law School. He has accepted his appointment and will begin his deanship this fall.

Coquilletto graduated from Williams College in 1966 with a B.A. in English Literature. He attended

Oxford on a Rhodes Scholarship and graduated with an M.A. in Jurisprudence in 1969. Harvard Law School followed. In 1971 he was graduated with a J.D.

After clerking for Judge Robert Brancher from 1971-72, he clerked for Chief Justice Warren Burger from 1972-73. In 1973, Coquilletto joined the Boston firm of Palmer & Dodge, where he is currently a partner. From 1975-1978 he taught at the law schools of Boston University and Cornell.

Coquilletto has taught popular courses in legal ethics, philosophy, and history at Harvard Law School since 1979. He is noted for his enthusiasm, scholarship, sense of humor and story-telling ability. Former students have called him the "best professor . . . at HLS." In past



File Photo

Dan Coquilletto

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Nicaraguan Dissident Condemns Corrupt Regime

By Maurice S. Kane

Nicaraguan political opposition leader, Arturo J. Cruz, former President of the Nicaraguan Central Bank, former Ambassador to the United States, and presidential nominee of the anti-Sandinista Coordinadora alliance, spoke on "The Nicaraguan Crisis: A Dissident's Perspective" before an audience of over 200 in the Ames Courtroom on April 23. The Harvard Law School Forum and Sociedad Inter-Americana sponsored the event. Security was unusually heavy.

Social Democracy

Promoting his political philosophy of Social Democracy as the logical and humanitarian alternative in Nicaragua, Cruz considers the current course of the revolution "misguided" and "deviating from the original promise." He observed that the post-Somoza National Directorate initially comprised "all sectors of the Nicaraguan political spectrum," ranging from the widow of the late *La Prensa* editor Pedro Joaquin Chamorro, Violeta, to millionaire businessman Alfonso Robelo, to the Sandinistas who struggled militarily against dictator Anastasio Somoza Debayle.

Subsequent departures of the so-called moderate junta members resulted from an increasing "conflict between democracy and totalitarianism." He said that the peculiar hybrid system established by the Sandinista leadership combines an illusory "apparent tolerance" (for human rights and civil liberties) with "effective authoritarian rule." Cruz compared recent Sandinista proposals for comprehensive regional peace to Anastasio Somoza's lobbying in the United States Congress. He stated that both rely on "influencing American public opinion" through "your open society . . . with [its] checks and balances."

He believes that a Central American peace must involve a "settlement between Nicaragua and the United States." Cruz also stressed

internal Nicaraguan dialogue. He mentioned a February 2 Coordinadora offer of national dialogue which the Sandinistas rebuffed.

Cruz contends that the CIA-backed Contras are fighting a civil war, which the Contadora peace process could solve. The Contadora group — Mexico, Venezuela, Colombia and Panama — has, however, placed a disproportionate "emphasis on collective security matters rather than *internal* conditions." By this mention of an internal focus, Cruz referred to his repeated calls for procedural guarantees for a fair electoral process and individual liberties.

Notwithstanding reports which attest to the legitimate majoritarian support for the Sandinistas (a 63% vote resulting from an over three-quarters turnout of the eligible voters), Cruz insists that Nicaragua does not have a truly pluralistic system.

He suggested the eventual formation of an economically integrated Central America, presumably more effectual than the former Central American Common Market that virtually disintegrated after the 1969 Salvadoran-Honduran "soccer war." Cruz said that the small Central American countries

will "never have economies of scale" and that "there must be one unit."

Economic Woes of Country

Cruz attributes Nicaragua's economic difficulties to the harassment of qualified economic professionals and ideological mismanagement of the promised but defunct mixed economy. "Why should the state own restaurants?" The Country is now bogged down by a "trade deficit, low capital accounts, and an overall deficit." Yet, Cruz reiterated his conviction, "Social Democracy is [the] key to the stabilization of Nicaragua and its revolution."

Wall Street Journal Allegations

According to the *Wall Street Journal* (Tuesday, April 23, 1985) U.S. government officials revealed that Cruz received money from the Central Intelligence Agency, the same organization which funds the Contras. Cruz did not deny this. He took umbrage, however, at any allegation of his dependency on the CIA. "I did not put in jeopardy . . . my freedom, my independence." Cruz' reaction reflected charges of

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College Accused Of Bugging

On May 8, the *Harvard Crimson* reported that two undergraduates involved in the divestiture movement believe their phones have been tapped. According to the *Crimson*, the students claim they have heard "clicking noises" on their phones and insist that several specific Harvard police actions would have been impossible without information conveyed in private telephone calls.

With the assistance of members of the *Crimson* staff, the students devised a scheme to test their allegations. Two members of the divestiture group called each other over their campus phones and pretended to plan a break-in and bur-

glary of the offices of the *Harvard Magazine*. Several police cars were soon observed protecting the *Magazine's* offices and a number of policemen reconnoitered the general area, actions allegedly performed in response to wiretaps of this call.

The *Crimson* quotes Harvard University General Counsel Daniel Steiner as denying the allegations. According to the *Crimson*, Steiner said that the action was based on an anonymous phone call to the police — the tape of which the University is unwilling to release. Steiner also said that the charges are "not worthy of much attention" and told the two students that "it's their problem at this point." ❧

Harvard Cracks Down On S. African Demonstrators

By Vincent Chang

Pro-divestiture protest tactics at Harvard have escalated to new levels of disruption within the past two weeks. During that time, apartheid foes have occupied the Office of the Secretary to the Corporation and have blockaded a meeting at which a South African consul spoke. In response to the occupation, the Administrative Board of HLS has moved to take disciplinary action against all law school participants.

Mary D. Upton, dean of students at HLS, has recently issued a memorandum to suspected participants in the occupation ordering them to submit "any information that you would like the [administrative] board to have when it reviews this matter at its meeting on Monday, May 13." Upton urged the alleged protestors to "discuss your involvement, if any, in the forcible entry." Because spokespeople at the occupation offered to "accept collective responsibility for the sit-in" and to disclose the names of all students involved, Upton called upon recipients of the memorandum to "contact the others who were present and ask them to come forward promptly."

Upton's act mirrors Harvard College's recent decision to bypass its Administrative Board and to create a special University disciplinary body to address the matter.

Occupation

Upton's memorandum was the Ad Board's most recent response to the 45-student sit-in (which included eight HLS students) on April 24 at the 17 Quincy Street Headquarters of Harvard's governing board. The sit-in, the first pro-divestiture sit-

in since 1972, clearly contravenes "The Resolution on Rights and Responsibilities" which appears in the College's Handbook for students. The Resolution states that "interference with members of the University in performance of their normal duties and activities must be regarded as unacceptable obstruction of the essential processes of the University."

Moreover, the University and the law school have attempted to portray the protests as violent. College Dean of Students Archie C. Epps prepared an internal report which characterized the protestors' entry into the 17 Quincy Street building as "entry through a ruse and by forcible means." Reportedly, the police officer on duty at the scene suffered a "scraped" hand and an injury to the right shin. Neither injury required medical assistance.

Michael T. Anderson, a 1L who has been a prominent spokesperson in the anti-South Africa movement at Harvard for five years, angrily asserted that the "administration has engaged in self-serving relativism on the issue of violence . . . Policemen shove us and our bodies recoil but not in the directions we intended to go — and they call that violence. We were merely trying to duck and dodge past this guy. We were only forced to shove because of his forcibility. . . ." he said. Anderson also denied that the protestors unduly disrupted the "university's business." "People who chose to remain were able to get business done. We just sat in the reception area," he claimed.

Epps' report seems to at least partially support Anderson's view of the occupation. Epps conceded that the students' behavior was "civil throughout" and that the

activists "spent most of their time conducting informal seminars on various topics and reading literature on S. Africa." Despite the exhortations of Dean Upton and deans from four other Harvard schools, the students remained in the building until 5 p.m. at which time they left the building. According to Epps' report, "the students cleaned the area, leaving it in good order," before departing.

Blockade

On May 2, the Harvard College Conservative Club invited Abe Hoppenstein, the South African General Counsel to New York, to speak before a small crowd of club members and invitees. In response, about 200 students blockaded the room in which Hoppenstein spoke in an effort to prevent him from leaving. Chanting "How many more unarmed protestors must be shot in the back?" and "One man, One vote," the protestors attempted to drown out Hoppenstein's speech. The last time Harvard demonstrators attempted to forcibly prevent a visiting dignitary from leaving the site of a Harvard appearance was when 800 students mobbed then Secretary of Defense Robert McNamara.

Harvard officials immediately decried the protests, as Vice President and General Counsel Daniel Steiner issued a statement in the *Harvard University Gazette*, the university's official newspaper. Steiner claimed that: "Individuals have a right to speak without fear of physical intimidation . . . These actions do a disservice to the University and do not serve the cause of ending apartheid in S. Africa. . . . Despite the claims of nonviolence,

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

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*EW &
SAS*

August 24, 1985

Response To Stone: Changes End Certification

By Bernard Wolfman,
Fessenden Professor of Law,
Harvard Law School

[Editor's Note: This article was inspired by last week's "Off the Record," written by HLS Prof. Alan Stone, RECORD, Vol. 80, No. 9, (April 26, 1985), p. 7.]

My colleague, Alan Stone, and I look at the *Harvard Law Review* from a common vantage point that places us in a distinct minority among the faculty — neither of us served on the *Review*. We have both taught at the School a good while, he longer than I; we have both been readers of the *Review* a good while, I longer than he. But we see very different pictures when we look at the *Review* and measure its worth against our differing standards, evaluate its effort to improve selection procedures, and make judgments about the motivations of its editors. I will not characterize or comment directly on his vision but will describe what I see.

The *Review* is the single most valuable journal for the dissemination of significant legal scholarship and commentary in the United States, perhaps the world, and it has been so for at least the almost 40 years that I have read and learned from it. This appraisal is not based on anything scientific or quantifiable, but on my experience while a law student, my needs as a practicing lawyer, and my critical eye as a law professor. And it is an opinion that I believe is widely held among scholars, judges, and thoughtful practitioners. To be sure, a number of my faculty colleagues believe the *Review* today is not as good as it was in the halcyon days when they were on the Board of Editors; and I acknowledge that the *Harvard Law Review* was only second best during the two years I served on the Board of the *Penn Law Review*. It therefore seems to me that with appropriate hat-doffing to the continuously shifting halcyon periods at Harvard and to

Volumes 96 and 97 of U. Pa. L. Rev., the special contribution the *Review* makes today, as yesterday, justifies preservation and note, constructive criticism and support.

For most of the historical period that so many of my faculty colleagues and I remember, Harvard Law students were graded in their course work on a numerical scale on which 55 was passing, 75 was an A, with a 79.5 average producing a law degree *summa cum laude*. Averages were computed to two or three decimal places, and students were ranked from 1 to 540 (or whatever the bottom was.) Students knew their average and rank order. The 50th student might be separated from the 150th or 200th by only two points. *Law Review* editors, all of them, were selected entirely on the basis of their first year rank, although in time the *Review* came to add several students a year based on their combined first and second year averages.

In the late '60's the Faculty made a decision not to use number grades at all and not to maintain a rank order of students' academic performances. Although the reasons for supporting the change differed, one professor to another, both at Harvard and at other leading law schools that acted similarly at about the same time, it seems clear that the noticeably higher academic qualifications (college record and LSAT scores) and the greater credential homogeneity of the students were factors. Even if the differences between the 4th student and 20th at the end of the first year, or the 50th and the 100th were meaningful in the past, they had become much less so by the late '60s and early '70s. Continued certification of 5th or 25th or 250th implied much more than was justified. Indeed, it was probably misleading and unfair. There is no doubt that students of that period helped in a somewhat strident way to effect the change.

Law Review selection procedures and changes in the academic grad-

ing scheme did not occur in lock-step with each other, but changes occurred on the *Review*, too. Although many faculty would have liked to see grades alone continue to determine *Review* membership, the *Review* editors who had come to their positions on the basis of grades decided that grades alone did not necessarily evidence the best editors, and that many able students with excellent research, writing and editing abilities were unfairly excluded from participation. That participation did indeed bestow a degree of prestige, and it seemed to imply a level of ability attained by those on *Review* that was far higher and more special than that of the non-*Review* students, even those who had missed *Review* by a hair and whose writing skill and editorial talent might in fact have been superior. And so the *Review* decided to admit half its editors on the basis of a writing competition conducted in early fall of the students' second year, and to reduce to half the number of students admitted on the basis of first year grades. The grade-based admittees were to be only the top four students in each of the first year sections. The School, which had stopped its practice of ranking students, nevertheless certified to the *Review* the names of the 16 who had made it. They came onto the *Review* in August; those classmates who were successful in the writing competition did not come on until early fall. Those on *Review* and many others therefore knew who had made it on grades and who by writing.

The fifth student in each section, though separated, perhaps, by only three decimal points from the fourth, would never know that fact, nor would anyone else. The four students in each section were granted a distinction that separated them from all the other students in a fashion that was sharper, more abrasive, and less valid than it would have been if the probable

Of The Four

closeness of that student to the 10th and even to the 25th were observable. And so the results were both good and bad.

It was good because the writing competition, judged with heavy faculty involvement in the appraisal of the writing, brought those students onto the *Review* who had shown their research and writing prowess and their willingness to expend the extra effort that the competition called for. The educational experience and a good measure of the accompanying prestige would be available to those who could contribute significantly to its work and who had shown their willingness and desire to do so.

It was bad because the School that had decided not to announce or even maintain class ranking, continued nevertheless to certify the top 4 students in each section. This has had a deleterious effect on life at the School, and it has sent an inaccurate, misleading message to the rest of the interested world. A student who did not make the *Review* on the basis of grades was often shattered, not only because of the failure to make *Review* as such, but also because a handful of students were forever set apart from all others as "the best," and this on the basis of data that did not come close to delineating such a group with accuracy. The students in recent years are more alike in their abilities than years ago. The students who do best in second and third year work are not necessarily those who "made it" in their first year. And yet "Law Review — Based on Grades" on a resume could produce a top clerkship or job for a student who might have had to meet a much tougher, fairer competition if judges and law firms had been accustomed to comparing all of a *Law Review* student's academic record with that of a student whose academic excellence emerged more slowly but more persistently and impressively in second and third year.

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Legal Briefs

PEOPLE

Congratulations to **Jonathan Berck, 2L**, and the Legal Aid Bureau. As we reported earlier, Berck recently argued an appeal before the First Circuit of a District Court dismissal in *Crosby v. Social Security Administration*. (See RECORD, Vol. 80, No. 7, p. 4.) The First Circuit has since vacated District Court judgment and remanded for further consideration.

As if law school alone isn't enough punishment, HLS runners were at it again on April 21st. **Jack Cleland, 1L** and **Nora Dannehy, 2L** competed in the Cambridge Center for Adult Education 10 Kilometer Race. Cleland won the men's division while Dannehy took the women's division honors. Only six days earlier, both had run in the Boston Marathon.

On that same day, another glutton for punishment **Daniel Schlesinger, 2L** ran the 10 Kilometer Milk Run in Boston. The field boasted 20 Olympians and according to insiders it may have been the deepest 10K field ever assembled. Schlesinger finished 23rd with a time of 29:23.

And on May 5, **Jack Cleland** continued his winning ways. He finished first in the mens division in the Somerville Elks 4 Mile Road Race. **Cameron Stratcher, 1L** captured fourth place. **Claire Sylvia, 1L**, and **Susan Janicki, 1L**, finished among the top ten women.

Congratulations to the following newly-elected officers:

Bennett Evan Cooper, 2L, President, Society for Law and Public Policy, **Brooks Burdette**, President, Legislative Research Bureau, **Adriana Ospina-Lara**, President, Sociedad InterAmericana, **Ron Bordeaux**, Justice, Phi Alpha Delta, **Karl Sauer**, Editor in Chief, *Journal of Law & Public Policy*; **Beth Golden**, President, International Law Society, **Terry Miller**, Editor, HLS Yearbook, **Matt Teplitz** and **Karen Russell**, captains HLS crew, **Page Kelly**, HLS Defenders.

ORGANIZATIONS

On April 25, the **Dormitory and Student Affairs Council** held its annual DSAC talent show.

On May 3, the **East Asian Legal Studies** society held its year-end party.

Alianza sponsored a videotaped showing of the Marvin Hagler-Thomas Hearns championship fight on April 26 in the Back Bench Pub. The event was preceded by second tostada sale of the semester.

Sociedad-InterAmericana held its annual dinner on May 2 at the Los Andes Restaurant in Jamaica Plain.

MISCELLANEOUS

On May 1, the May Day Celebration Committee held a May Day "Celebration of Diversity at HLS." Various organizations sponsored tables at the event.

On May 6, 3Ls, LLMs and SJDs gathered for the traditional "Graduation Party." This year the party was held at the Charles Hotel in the new Charles Square mall in Cambridge.

Champaign corks popped on May 7 as 3Ls ended their last classes in their law school careers. Several students brought "bubbly" to their classes and professors joined in the toast. That day was also the last class day of 2Ls. One Ls have their last classes of the academic year today.

HLS Students working in California this summer gathered for a wine and cheese reception on May 2. Not to be outdone students working in Seattle held a similar gathering on May 6.

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Ground-Breaking Survey On Legal Profession

By W. Burlette Carter

"Do you remember when you were in law school trying to decide how to spend your life after graduation, what type of career to pursue, and what courses to take?" That is the central question which a current study conducted by Harvard's Program on the Legal Profession asks thousands of alumni/ae from seven Northeastern law schools to con-

sider. If the study is successful, its results will offer the most extensive data available on the subject of how lawyers choose the career paths they follow, the nature of their work, the kinds of factors that cause them to change careers and the ways in which they seek to balance personal and professional goals.

The "Career Paths Study," as it is known, is only one of several projects now being pursued under

the umbrella of the Program on the Legal Profession. (See Box.) Seven law schools — Boston College, Boston University, Columbia University, University of Connecticut, Harvard Law School, Northeastern University and Suffolk University — have joined to form the "Consortium of Northeastern Area Law Schools" for the purpose of conducting this study.

The project is being funded jointly by the Law School Admission Council/Law School Admission Services and the Harvard Law School Program on the Legal Profession.

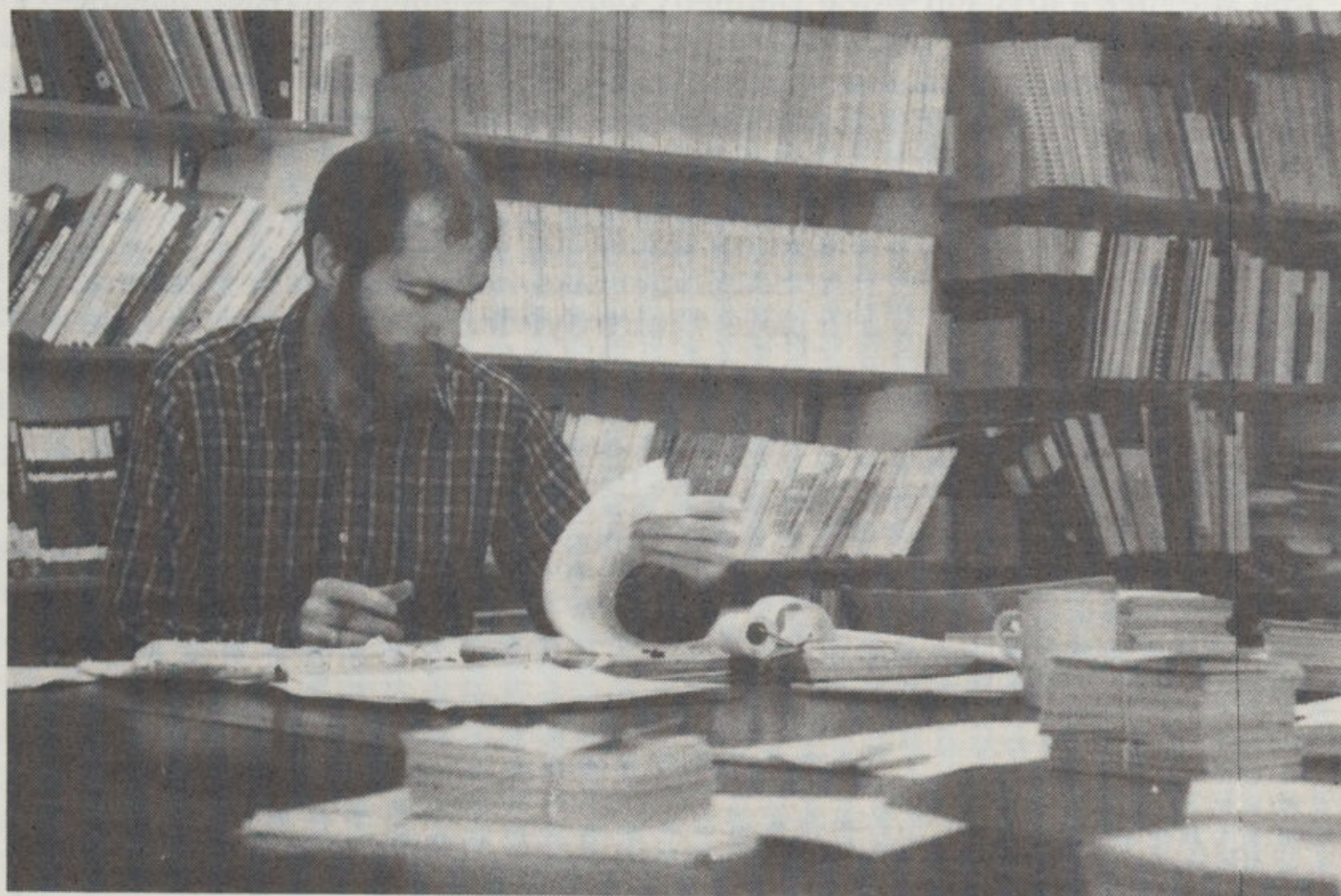
Survey Contents

The vehicle for the study is a 12 page survey, mailed to graduates from the classes of 1959, 1969, 1974 and 1981 of each participating school. Prior to this mailing, the dean of each school sent out a letter informing graduates in the respondent pool of the study and urging them to fill out and return the questionnaires. The actual study contains a single cover letter signed by all of the deans from the participating schools.

The questionnaire is designed to address five major issues: dynamics of the career development process, professional roles and functions, income streams and return on investments, lifestyles and job and life satisfaction. Additionally, the study will also seek to determine how differing responses among graduates can be explained by such factors as age, race, sex, economic background as well as the undergraduate and law school attended, law school performance, the type of work performed, type of clients served, etc.

Broad Range of Topics

The questions touch upon a broad range of topics. Graduates are asked about the nature of the work they do, how much time they spend on various tasks, their job satisfaction, their personal and professional goals, the things they would look for if interviewing candidates for



Harvard College student Michael O'Leary is one of several students helping to code the data from the Career Paths Study.

3Ls, Would You Do It Again?

Alumni are not the only subjects of a study of Career Decisionmaking within the Harvard community. The Program on the Legal Profession has also conducted a survey of current students. The survey in question was conducted last spring. That survey asked members of the class of 1984 their perceptions of why they chose law school and legal careers, what the Harvard Law experience was like, and questions regarding the selection of their first job after graduation.

The Career Paths project was originally conceived to focus on alumni/ae. The impetus for surveying current students as well came from student members of

the committee, W. Burlette Carter, then 2L, Robert Dozier, then 2L and Sara Lord, '85. Those students designed the first draft of the student questionnaire and later worked with Project Coordinator Leona Vogt and her assistant Wendy Wolf in revising that draft and completing the ultimate project. Wolf and Vogt added questions which they anticipated would be included in the upcoming study of alumni/ae.

Two questionnaires resulted from these efforts: first, a seven page questionnaire of selected questions which was distributed

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Charts Career Paths Of Law School Graduates

their jobs, why they decided to attend law school, and the positive and negative aspects of the law school experience. The survey also has a personal section where respondents supply personal data to be used in gauging the responses of particular groups.

7500 Graduates

In all, 7500 graduates, including about 2200 from HLS, comprise the pool of potential respondents. Most of the consortium members sent out their surveys several weeks ago. The last group of mailings, to the graduates of Columbia University Law School, is expected to be sent soon. Like some other consortium members, Harvard expects to use current students to call respondents and follow up on urging alumni/ae participation.

It is hoped that the current study will provide information of use both to the participating schools and to institutions within the profession. From the viewpoint of the educational institutions involved, the main purpose of the study is to learn more about different generations of graduates in the hope of (1) providing current and future law students with a better sense of career options and prerequisites for various types of positions and (2) helping schools to shape their educational and counseling programs.

However, on a larger scale this look at what the members of the profession are up to may provide important information for institutions within the legal system. As the most extensive survey of its kind, it may contain the information needed for private and public institutions to develop more effective and more efficient ways of operating.

The Program anticipates that the preliminary results of the study will be available in the summer of 1985.

The author of this piece is a student member of the Committee on the Legal Profession.

The Program on the Legal Profession was established in early 1982 with a grant from the Alfred P. Sloan Foundation. The Program was developed in response to the recommendation of the Committee on Educational Planning and Development, more commonly known as The Michelman Committee.

The Program's inquiry has focused on five broad areas: In the area of corporate legal services a Corporate Response Project headed by Prof. Richard Stewart assesses perceived changes in the legal and regulatory environment of corporations and the corporate response, including changes in the demand for and organization of legal services. A Corporate Counsel Project spearheaded by Prof. Abram Chayes involves twenty-one students working in small teams to develop case studies in corporations law.

Services to Middle Class and Poor

Profs. Gary Bellow, Philip Heymann, and several other faculty members are spearheading a project considering services to the middle class and poor. Among the topics considered were shelter, family relations, benefits and disability, consumer matters, labor relations, police-minority relations and assaults among neighbors. Last year these matters were considered in a directed research course of 16 students, with a small number working on a certain topic with each faculty member.

The directed research approach is also being undertaken in the area of litigation and the administration of civil justice and alternative dispute resolution mechanisms. Prof. Arthur Miller has led students in directed research on the use of judicial resources. Additionally, five law professors and 13 students last

year commenced work in the areas of Libel Litigation, the Federal Rules of Civil Procedure, Appellate Court Congestion, What Judges Do and Discovery.

The career paths study represents the most comprehensive effort undertaken by the Program to date.

Conferences, Curriculum Development

The Program also sponsors conferences. In the fall of 1982 a conference on dispute resolution brought together 200 scholars, jurists, practicing lawyers, non-lawyer dispute resolvers, and corporate and public interest representatives to discuss that issue. The program sponsored a conference on cost shifting in 1983, discussing proposed changes in Rule 68 of the Federal Rules of Civil Procedure. The most recent conference, in May of 1984, addressed "Personal Legal Services for the Middle Class: Developments and Implications."

Another aspect of the Program's work is curriculum development. In 1982-83, its work yielded a new set of required courses on the Legal Profession. A major product of the Program has been a series of approximately 30 case studies on various aspects of the profession. Harvard students under the direction and supervision of professors developed these studies which are being used in HLS classrooms.

Research done under the auspices of the program has yielded various papers, many of which have been published and are available through the program.

A Committee on the Legal Profession, consisting of Dean Vorenberg, 10 faculty members, three students and Program Director Leona Vogt, oversees the Program's activities.



Panel Spotlights Nameless Victims' Plights

By Maurice S. Kane

On April 24, the evolving sphere of victims advocacy and compensation programs in state criminal justice systems was discussed in the Ames Courtroom. The topic "Victims of Violence — Or the System" was explored by a panel comprised of William L. Murphy, District Attorney, Richmond County, New York; Linda Fairstein, Chief of the Sex Crimes Unit, Manhattan District Attorney's Office; and Jim Stark, an American Civil Liberties Union (ACLU) representative.

Professor Philip B. Heymann moderated the event, which was sponsored by the Harvard Government Attorneys Project and the Women's Law Association.

"Take a Stand," a short film chronicling the emotional and legal experiences of an elderly crime victim named Ruth Taylor, who benefited from a Victim's Witness Advocacy Program in Illinois, was shown before the panel presentation.

Murphy observed ironically that "all of the cases you read are in the name of the defendant (like *Miranda*) . . . but no one knows the names of victims."

Murphy addressed the tight so-

cietal balancing act implicit within a system which combines federal and state constitutional guarantees for criminal defendants with emergent statutory and police departmental assistance for crime victims.

With this balancing act as a paradigm, Murphy compared the rights of defendants and victims. First, "defendants are told that they have the right to remain silent." Crime victims, however, not only lack such a right, they can also be subpoenaed, bringing the danger of a perjury conviction. Moreover, involvement as a witness entails certain consequences: (1) needless court appearances consume time, (2) in many states, employers are not required to pay victims during such time away from work, and (3) stolen property cannot be readily returned because of administrative burdens and the need for trial exhibits, among other reasons.

Defendants also have rights to counsel, trial by jury, confrontation of accusers, and appeal. The witness may suffer, in some measure, from not having counsel (the prosecutor represents the state) and if the jurisdiction is one which does not require jury trial, the victim may not "get his day in court" if, as in 75%-90% of cases involving serious

crimes, the charges are plea-bargained.

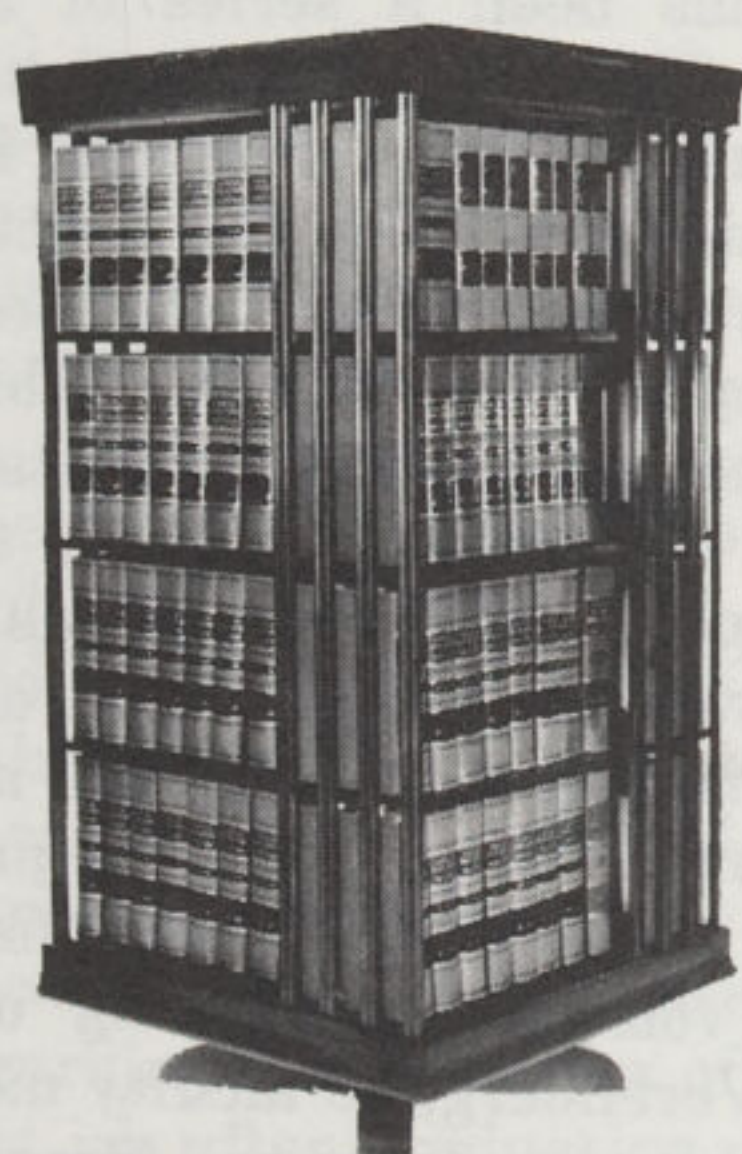
On a positive note, Murphy added that, "In New York, we've confronted these issues through procedural devices," mandated in part by the recently enacted New York state Fair Treatment Standards Act (FTSA) which requires prosecutors to consult with the victim before plea bargaining.

Around the country "crime victims' compensation laws" covering wages, property, and health and medical cost have been passed, and some jurisdictions have eliminated elements of required corroborative testimony in one-on-one situations of victimization.

ACLU representative Stark, the author of the book *Rights of Crime Victim*, cited his own work when he stated that "Twenty-four states [had] passed Victims' Bill of Rights Acts — which usually are not enforceable by victims, but rather by district attorneys and the police," who are given "direction and discretion."

He noted problems in the "40 Victims' Compensation Programs" in the states, District of Columbia,

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Boxing: Is It Going Down For The Count?

By Maurice S. Kane

On Monday, April 22, in Pound Hall, five boxing professionals debated the question "Boxing in the 80s: Should it be Regulated or Knocked Out?" Prof. Paul Weiler served as moderator. The event was sponsored by the Committee on Sports and Entertainment Law. The subject was particularly topical in the wake of the widely viewed Marvellous Marvin Hagler-Thomas "Hit Man" Hearns bout and the Honolulu resolution of the American Medical Association (AMA) which recommended the abolition of the sport of boxing. Yet, although boxing has been characterized as "institutionalized violence" and an "anachronistic blood sport," the five speakers were unanimous in rejecting the sport's abolition.

The first panelist was Dr. Robert Cantu, Chief of Neurosurgery at Emerson Hospital and Chair of the Physician's Committee on Boxing of the American College of Sports Medicine. Cantu criticized

the AMA Board of Governors' Honolulu declaration, characterizing it as a "statement without much scientific support." He emphasized the necessity of scientific testing, research, and detection of chronic brain syndrome or dementia pugilistica, a product of repeated traumatic blows to the head and neck often called punch drunk syndrome.

Cantu advised the sports medical community to take a multifaceted stance on the problem of these injuries, such as following boxers throughout their careers and comparing boxing to other physical contact sports like football and rugby. Regarding research conducted in the past as "anecdotal sampling after the fact," Cantu castigated researchers who did not start off at "base line square one" — the beginning of a boxer's career.

Former light heavyweight champion and best-selling author Jose Torres, who is also the Chair of the New York State Athletic Commission, told the audience that in his "31 years of boxing — starting in

the army, [continuing] in the Olympics, and turning pro in 1958, I never met a punch drunk fighter." He stated that his observation of dementia pugilistica was confined to "films, boxing novels and fiction" and that "so-called brain damage in boxing is probably a myth." Refraining from direct criticism of Dr. Cantu, Torres nevertheless differed with the physician's medical diagnosis of possible brain damage to boxers over time. Torres, however, agreed that the Honolulu decision was "emotional, not scientifically based."

Torres confronted the abolitionist lobby with a call to historical example. "In the period from 1917-1920, when boxing was abolished officially in New York, there were 38 deaths among young men who boxed illegally in the waterfront and in bars and clubs, but from the time boxing was reinstated in 1920 to the present, only 7 boxing deaths occurred. Torres said he believes that the "great, overwhelming majority of injuries occur to boxers who have undisclosed medical problems."

Few Hopeful Alternatives

In answer to critics of boxers, Torres retorted that "99.9% of fighters come from ghetto areas, cultural poverty . . . the majority of boxers are Hispanics and Blacks,

(Continued on Page 16)

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Back To Reality

Spending time as a student at Harvard Law School can result in one's losing touch with reality. Employers woo us with wining and dining, free trips to their offices and money — oh, the money. When one is caught up in the midst of it all, it takes some extra effort to stop and to remember that the rest of the world just doesn't live this way — and likely never will. What we experience now being wooed as students at one of the most elite Law Schools in the country, and what most of us will experience as well-to-do graduates, is luxury only a tiny segment of people in this country — in this world — will ever have.

What is it about the Harvards, the Yales, the Columbias, The University of Chicagos, that makes *their* students different from other people? Students at other less-recognized law schools scramble for interviews and worry about whether or not they will find a job. We wonder about whether we should spend the summer working in New York, Los Angeles, Chicago or if we should split between all three.

Employers want to make money, so they want our brains. Supposedly there's something about our brains that's different from other people's brains. The proposition is, arguably, doubtful. But here we are. Along with our brains go also our hearts, our conscience, our personal values. But the hearts, consciences and values don't make the money. The brains do that.

The brains also make decisions. In making our decisions, we can choose to let our hearts, consciences and values guide our brains or we can choose to throw away our hearts and consciences and to let other people dictate our values for us. Whatever we decide, we should at the very least be honest with ourselves about the choices we have made — and our responsibility for the results that follow.

All over the globe, down the street and abroad, there are people who need our help and will continue to need it after we graduate. It may be that the help needed will be a small part of our salary. It may be that it will be a small part of our time. It may be a great deal of our time. At any rate, we can do them no good if we simply help as lawyers: they also need us as human beings.

A degree from this institution puts the holder in a position to exercise influence in ways that other people cannot or will not. We can use that extra power to make the world in which we exercise it, perhaps in some small way, a better place. Or we can use that power to make it worse. The choice is ours.



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Fenno

Fenno sat in Pound studying for finals. Having never purchased any casebooks, outlines or class notes, he was reduced to meditating on the pictures of the faculty that adorned the hallway. His concentration was broken only by the arrival of two battle-weary 3Ls who seemed desperately in need of advice.

"You're Fenno, right?" said the first 3L. "We've heard about you in all of our classes. We were wondering if you could solve a problem for us. You see, I view law school as the End of an Era."

"And I," said the second 3L, "view the end of law school as a New Beginning."

"An interesting problem," said Fenno without interest. "It would have made a great third-year paper topic."

"Don't you understand?" opined the first, "We're now at the culmination of over twenty years of backstabbing classmates, raising the curve, and cozying up to teachers we didn't even like."

"No, no, no," said the second one. "After three years of law school we can now begin the work for which God created us: large salaries, partnership, and death."

"Those are both good arguments," agreed Fenno, "but law school is more than just an intellectual experience."

"That's true," argued #1, "I personally have found no greater joy than to lounge in Langdell on a warm spring evening, carefully rearranging the hornbooks other students might find useful."

"Oh forget the past," said #2. "You don't need friends, you need connections. You don't need love, you need deductions. When there's mergers, who needs sex? That's what HLS means to me."

"I'm not sure if law school is a beginning or an end," Fenno admitted. "Does eternity have a beginning or an end?"

After this response, the 3Ls feverishly began to page through their HLS handbooks.

"However," said Fenno at last, "to solve your problems in a critical fashion, I think you're both right. Law school shows you what a mess your life has been and gives you a taste of the mess it will become. Harvard simply combines the best of both these worlds in one institution."

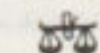
At the word "institution" the Dean and several white-coated administrators jumped out from behind a partition.

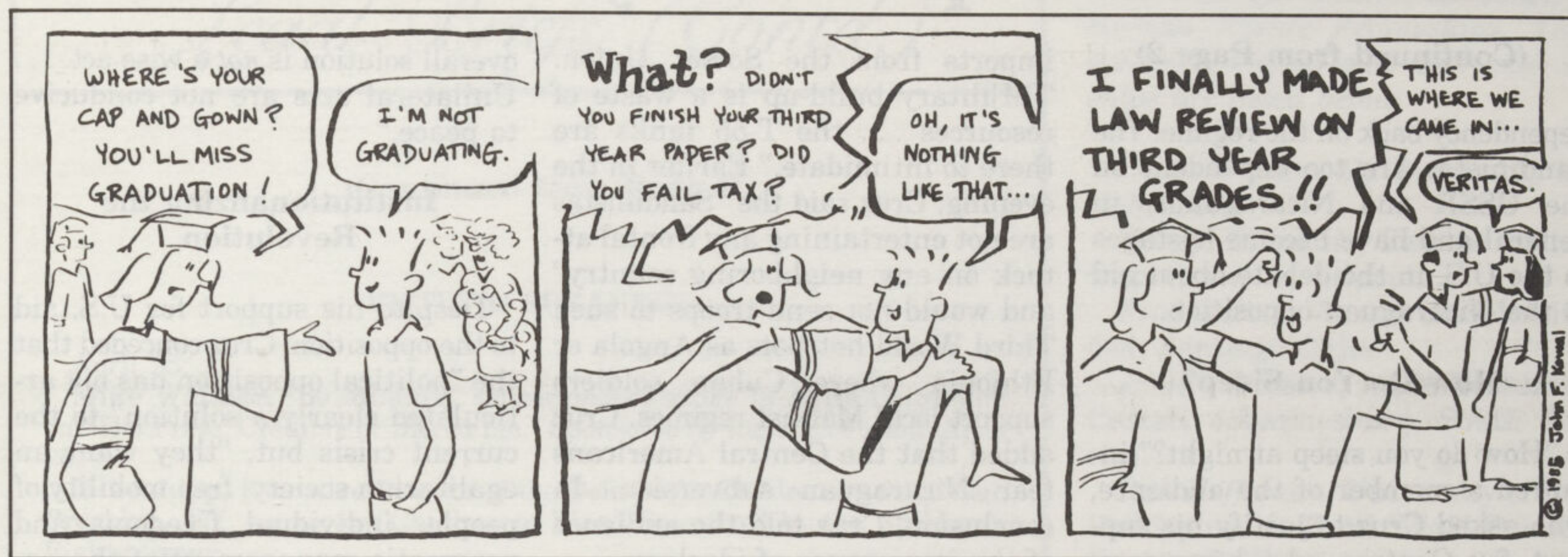
"We have you now, Fenno!" chortled the Dean. "Don't think you can blend in with some 3Ls and escape."

"You'll never get me!" shouted Fenno, and he tore off his law-student clothes and made for the exit. "Sanctuary! Sanctuary! Sanctuary!"

"You'll be back," the Dean screamed. "You won't stay away past interview season, and besides, you're not wearing any clothes."

Fenno stopped, ran back, put on his sneakers and took off on the direction of the Red Line.





Letters to the Editor of the Record

Iertl Lcigpr Tjasfo?

To the Editor:

I write to congratulate you on the April 1st issue of the RECORD because it is the first issue in a long time that has not appeared to have been culled by the janitor of the British Museum from the output of the hypothetical monkeys laboring at their hypothetical typewriters in a statistical effort to produce literature over an infinite period.

Robert L. Foote, '41
Glencoe, Illinois

To the Editor:

I am writing in response to Professor Stone's discussion of the *Law Review's* new selection procedures that appeared in the RECORD's "Off the Record" column on April 26. I feel that Professor Stone failed to capture the spirit of the changes the *Law Review* made.

After a two-and-a-half year period of discussion, debate, and consultation with faculty and students, the *Review* voted last November to change from a system that chose half of its 2L editors on the basis of their first year grades and half on the basis of a writing competition, to a new plan that will still take half solely on the basis of the writing competition and half on a weighted score of 70% first year grades/30% writing competition score. We felt that these changes would contribute to a better atmosphere both in the law school community as a whole and on the *Review* itself.

As Professor Stone aptly noted, selecting on the basis of grades alone created a kind of "super grade" elitism that certified the top four students in each 1L section. This selection procedure fostered the "make or break" attitude toward the 1L grades that

is still prevalent at this and other law schools, and drew an arbitrary distinction between the top four ranking students in each section and others who excelled at their academic work. Moreover, the old procedure distributed places on the *Law Review's* staff to those who had not demonstrated any interest in the journal. The new procedure no longer permits the *Review* to do what the Law School itself has refused to do for years — rank students in the class. The new system also requires that all interested students demonstrate their interest in the *Review* by taking the writing comp and thus distributes places on the *Review's* staff in a more rational and equitable fashion.

The new procedure will, we hope, create a better atmosphere not only in the Law School community, but also on the *Law Review* itself. Formerly, "grades" editors joined the *Review* in early August, and "writing comp" editors joined two months later. The new procedure masks the manner in which editors are selected and brings all of the 2L editors onto the *Review* at the same time in mid-August. Such a change may mitigate competition for grades in the Law School community and minimize hierarchy and divisiveness on the *Review*.

The members of the *Law Review* thought long and hard about the changes we made; we tried to consider the issues from a variety of perspectives. We hope that these changes will make a positive contribution to the Law School community and to the *Review*.

Carol Steicker
President, Harvard Law Review,
Volume 99

"Youthful Spasms"

To the Editor:

In your youthful spasms over South Africa

and Nicaragua, please try to understand even dimly that both are Russian operations to seize vital strategic objectives; to wit: control of the Indian Ocean passage and the Panama Canal. Or else dumb, embrace Russia's slavery.

William Burrow, '32
Dallas, Texas

To the Editor:

As a former Editor-in-Chief of the Harvard Law Record (1949), I would like to applaud the more sprightly and larger format and the quality of your articles.

Jerome J. Shestack, '49
Philadelphia, Pennsylvania

Letters Policy

All letters submitted to the RECORD are read by the RECORD's staff. Many of them appear on our pages, subject only to editorial discretion. We encourage letters on any subject, particularly those subjects which have been covered in the RECORD. Short letters are more likely to be printed. In no event will we print individual letters longer than 700 words.

Letters must be received by 2:00 P.M. on the Tuesday before the issue. Letters should be addressed to the RECORD rather than to third parties. In no event will the RECORD publish letters by writers who have not identified themselves to the RECORD. Organizations should identify the specific individual(s) responsible for approving the letter. All letters submitted become the property of the HARVARD LAW RECORD Corporation.

Cruz Denies Dependency On C.I.A. Aid

(Continued from Page 2)

dependency back on the regime. The Sandinistas are too dependent on the USSR and Nicaraguans, in general and have become hostages to the U.S. in the debate about aid to the Nicaraguan opposition.

How Do You Sleep?

"How do you sleep at night?" inquired a member of the audience, who asked Cruz to justify his support for Contras who have committed human rights abuses in the countryside. Cruz admitted that "rebel forces have committed atrocities" but Sandinista forces were not humanitarian either. He decried "summary executions in Leon, Matagalpa" and "monkey" trials devoid of due process or adequate defense counsel.

Cruz deplored Nicaraguan arms

Record Elects New Chief

On Friday, May 3, the staff of the HARVARD LAW RECORD Corporation elected a new board of directors and a new editor. Gregory Klima of Cleveland, Ohio will serve as editor of Volume 81 of the RECORD which will commence in the fall.

Elected to the Board of Directors were 2Ls Norman Bay, George Golder, Justin Hughes, Gregory Klima, Teresa Miller, Risé Peters, David Price and 1Ls George Borokowski, Vincent Chang, Kerry Osborne, Michael Sturm, and Jonathan Wiener.

Stepping down as editor in chief as of this issue is W. Burlette Carter of Denmark, South Carolina. Members of the Board of Directors not serving another term include 2Ls Paul Cramer, Peter Cohen, Miguel Rodriguez and graduating board members Steven J. Cowan (editor in chief of volume 79), Michael T. Isbell (editor in chief of volume 78), Susan Smith and Michael Malamut.

Members of the new upper masthead staff will be announced in the fall.

imports from the Soviet Union. "[M]ilitary build-up is a waste of resources . . . the T-55 tanks are there to intimidate." Earlier in the evening, Cruz said the "Sandinistas are not entertaining any frontal attack on any neighboring country" and would not send troops to such Third World hotspots as Angola or Ethiopia where Cuban soldiers support local Marxist regimes. Cruz added that the Central Americans fear Nicaraguan subversion. In conclusion, Cruz told the audience of the importance of ideology.

No "Double Standards"

In an interview after the speech, Cruz referred indignantly to criticism of his financial links to the CIA. Refusing to abide by what he called "double standards" applied to democrats and autocrats, Cruz said any money received was for scholarly work. He insisted further that even his fellow dissidents consider Cruz an "oddball," a "free wheel," who bows to no one.

Cruz defended Republican and CIA ties to the Contras. "Suspending aid to the rebels — Contras as they're called here — as part of an

overall solution is *not* a wise act. . . . Unilateral acts are not conducive to peace."

Institutionalizing the Revolution

Despite his support for U.S. aid to the opposition, Cruz conceded that the "political opposition has not articulated clearly a solution" to the current crisis but, "they want an egalitarian society, free mobility of people, individual freedoms and pragmatic management of the national economy."

Interestingly, Cruz observed that flexibility is not a monopoly of his Coordinadora grouping. "Some elements in [the] Sandinista hierarchy" may be capable of realizing "movement to the original parameters of the revolution." Cruz also called for better church-state relations and a resolution to the "foreign advisor" problem in all of Central America.

Cruz ended the interview with these words: "I believe in the institutionalization of the revolution — Si — not of a single party."

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Legal Briefs (Contd.)

(Continued from Page 5)

VISITING SPEAKERS

April 25:

Mike Wallace, "60 Minutes" correspondent spoke in Ames Courtroom on "The Press: Credible or Incredible." Sponsored by the HLS Forum. April 25.

Mike Jupp, Executive Director of the Defense for Children International, Brooklyn, NY, spoke on "Children of War." Sponsored by the Children's Rights Group.

Sabin Willett, '83, spoke on "District Court Practice from a Prosecutor's Perspective." Sponsored by the Harvard Defenders.

The East Asian Legal Society sponsored the following speakers: On April 29, **Dr. Lee Tai-young**, Director, Korean Legal Aid Center for Family Relations, "One Woman Lawyer's Way: Legal Aid Pioneering in Korea." On May 2, **Prof. John O. Haley**, Prof. of Law, University of Washington Law School, Seattle, "Comparative Anti-Trust Law Enforcement."

On May 10, **Edward Abbey**, Environmental Extremist, Wilderness Chronicler, Humorist and Author of *The Monkey Wrench Gang*, *Desert Solitaire*, and *Black Sun*, spoke as guest of the Environment Law Society.

The Women's Law Association held a panel discussion on "Victims of Violence or of the System" on April 24.

FILMS

On May 3, Sociedad-InterAmericana presented the Brazilian classic, "Dona Flor & Her Two Husbands."

On Wed., May 8, The Women Law Association presented "Not a Love Story" a feature-length film that looks inside the porn industry and at the antipornography movement.

PUBLICATIONS

Camille Jones, 3L, authors "Toward Equal Rights and Amendments of Section 12(1)(b) of the Indian Act: A Postscript to *Lovelace v. Canada* in *Women's Law Journal*, Spring 1985.

Also in that issue:

M. Page Kelley, 3L, writes on "*Roberts v. United States Jaycees*: How Much Help for Women?"

Joan M. Griffin, 3L, writes on "*Grove City College v. Bell*: Restricting the Scope of Title IX."

Roland J. Crim coauthors a piece on "Florida's Regional Reciprocal Banking Act of 1984" in the 11 *Stetson Law Review*.

Anne C. Cicero, 3L, writes on "strategies for Elimination of Sex Discrimination on Private Insurance," *Civil Rights/Civil Liberties Law Review*.

Prof. Geoffrey Hazard writes on "Rectification of Client Fraud: Death and Revival of Professional Norm," 33 *Emory Law Journal* Spring, 84.

Prof. Richard B. Stewart writes on "Economics, Environment and the Limits of Legal Control," 9 *Harvard Environmental Law Review*, (1985).

Prof. Detlev Vagts reviews *Corporate Internal Affairs: A Corporate and Securities Law Perspective* by Marc Steinberg in 10 *Journal of Corporation Law*.

The Human Rights Program recently awarded students its Harvard Human Rights Fellowships. The students selected and their internships are listed below.

Hilda Burgos, 1L. Internship in Venezuela.

George Edwards, Famine Relief Organizations, Ethiopia.

Fred Galves, Vicaria de Solidaridad, Santiago Chile.

James Goldston, Legal Resources Centre, Johannesburg, South Africa.

Dan Heffernan, University of the Philippines & Third World Studies Center, Philippines.

Tom Kellenberg, 2L, Corporacion de Investigaciones Economica para America Latina, Santiago, Chile.

Julie Mandell, Big Mountain Legal Defense Office, Flagstaff, Arizona.

Anne Marie Marciarille, 2L, Minority Rights Group, London, England.

Jennifer Moore, Father Moriarty Central American Refugee Program, San Francisco, California.

Nagla Nassar, UNHCR, Geneva, Switzerland.

Liz Nessen, 2L, Interamerica Institute of Human Rights, San Jose, Costa Rica.

Cornelia Pillard, 1L, National Emergency Civil Liberties Committee, Philadelphia, Pennsylvania.

Clara Pope, 1L, ILO, Geneva, Switzerland.

James Ross, Lawyer's Committee for International Human Rights, New York.

Pasqua Scibelli, 1L, ILO, Geneva, Switzerland.

Gloria Valencia-Weber, International Institute of Boston, Boston, Massachusetts.

Vilna Waldron, Lawyers' Committee for International Human Rights, New York.

Paul Weisenfeld, 1L. Pillay & Company. Durban, South Africa.

Ken Zimmerman, Legal Aid, India.

Victim Compensation Programs Lack Resources

(Continued from Page 8)

and the U.S Virgin Islands: (1) limitation to violent crimes (2) failure to cover persons who are related to the culprit, i.e., domestic violence, and (3) the evidentiary burden of demonstrating lost wages.

A purported \$250,000 offer for the grisly autobiographical story of the infamous David Berkowitz inspired the state of New York to pass its "Son of Sam" Law in 1977, which escrows the funds received by felons into a fund from which victims could collect in successful civil suits. Though it has been attacked as unconstitutional under the Due Process Clause and the First Amendment, Stark contends that the law "... does not chill the defendant's rights to due process."

More civil litigation — enabling victims to collect damages for pain and suffering and lost profits — is appearing in the courts, and the defendants are not necessarily the criminal perpetrators. Such "third

party defendants" have included gun sellers (under product liability theories), psychiatrists, parole and probation boards, and police departments, according to Stark. In one case arising in Erie County, New York, a victim's family, alleging negligence on the part of the Police Department, sued and collected \$1 million. The victim had called for police assistance, but the police answering her call went to the wrong street and by the time officers arrived at the correct address, she had been murdered.

Stark mentioned other current measures as well. States have passed legislation to reduce intimidation of witnesses and have ushered in 200 different mediation programs. Some areas have also adopted "mandatory sentencing for crimes against the elderly."

Linda Fairstein, about whom a movie starring actress Valerie Harper was made, referred to the film "Take a Stand," saying that, "in Manhattan, that incident (the robbery and battery) would probably be dismissed as a misdemeanor ... a 60-day sentence is lucky." She stressed the "ignorance and fear of further victimization" by the criminal justice system which traumatically confronts crime victims. The Witness Aid Program at her office "follows the victim through the system" and it has been Fairstein's experience that to actually go through the process, instead of running away, is "very cathartic."

In her role in the Sex Crimes unit of the Manhattan DA's office, Fair-

stein discovered some time ago that "disproportionately, victims don't tell the truth of everything before the crime." Sometimes "women buying drugs in bad areas of town are raped or assaulted" and they are afraid of prosecution, disbelief by the authorities or the prospect of family censure. She frequently has "to cross-examine victims to get at the truth." She called for stronger advocacy programs for victims.

When the prosecution considers its case against the defendant in terms of "admissibility, kind of witness, [and] strength of the case," the victim is "not taken into account."

Where there are "fears of reprisal and revenge," especially acute in small communities, Fairstein said victims can be relocated. "Victim Impact Statements" are now included in the material judges consult in making sentencing determinations, she added.

In the area of child victims and witnesses, New York has attempted to deal with the vulnerability of children to cross-examination through a "new law which allows videotaping of children's testimony for show before the Grand Jury." However, "videotaping has backfired," Fairstein laments. "Children are so at ease or so comfortable that a jury believed an 8-year old child testifying was too comfortable, and demanded to see the child testify in person."

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(Continued from Page 1)

BSA course evaluations, students have praised his courses and strongly recommended them to others.

On Monday, May 6, Coquillette announced the news of his appointment to the students in his seminar on "Lawyers and Morals." He also brought three bottles of champagne. His students gave him a standing ovation and then toasted him. One student noted, "Coquillette is a great guy and a great professor. He'll make a terrific dean. Boston College is lucky to get him." ✽

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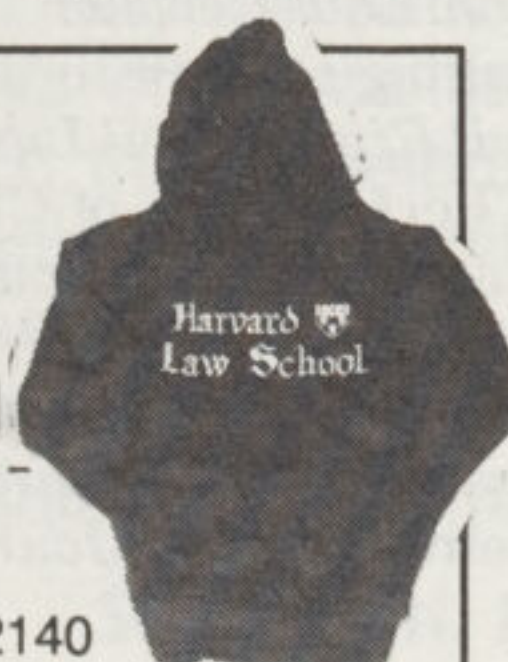
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Organizers Debate The Rewards of Protests

(Continued from Page 3)

the coercive actions of some protestors today are inherently violent."

He added that "I expect that disciplinary proceedings will be initiated." Divestiture movement spokesman Anderson also thought the administration would react to the demonstration and speculated that the upcoming Ad Board action would "collapse the two actions [the Quincy Street occupation and the Hoppenstein blockade] together in vague and obscurantist terms."

But Anderson defended the blockade claiming, "if I had been admitted to the meeting, I wouldn't have shouted him down or tried to gag him. What is important is that this guy wasn't Bok, Buckley, Mansfield, or a conservative politician. He is the most important agent of the South African state next to the Ambassador. He's not just culpable for his opinions; he works for the state that's killed 100 unarmed protestors over the last three months alone."

Anderson derided the free speech argument, contending that "the pro-South Africa lobby outspends its opponents hundreds to one — his opinions are not unrepresented." The protestors were only giving Hoppenstein a taste of his own medicine, Anderson contended: "To the extent he felt imprisoned in Lowell House we were giving him a taste of what it's like to be among the many imprisoned in South Africa."

Anderson blamed the Harvard Police for the confrontation. Initially, the protestors had formed a protest gauntlet which Hoppenstein's bodyguards "shoved out of the way . . . they were like an enormous human threshing machine with forearms . . . to the extent it it was a riot, it was a police riot." Anderson claimed that the protestors never had any intention of preventing Hoppenstein from entering or speaking at Lowell House. "But once we were excluded, we were at the windows tapping to create attention."

Observers also criticized some of the strong-arm tactics of the Harvard Police. When Hoppenstein left the room, the Harvard police, in conjunction with several recruited conservative club members and several agents in Hoppenstein's entourage, tackled those blockading the door and opened up a clear path for the South African diplomat. According to the *Harvard Crimson* at least 19 protestors will write statements to University officials saying that they have been injured. In defense, the police point out that their action took place only after one hour of less violent attempts to disperse the crowd.

Protests: Lasting Effect or Short Run Disruption?

Anderson claims that the primary goal of both the Lowell House and Quincy Street actions was "non-violent confrontation, to make people come to grips with the issue." These tactics, Anderson argued, have caused profound anxiety among the ranks of the faculty. "They don't want the Cambridge or state police to arrest us but at the same time, they want to talk about intramural administrative sanctions that substitute for arrest . . . but they don't want to create martyrs . . ." Thus, Anderson feels that the movement's activities have hamstrung the faculty and have produced concrete gains for divestiture.

But university officials seem resolute in their desire to act against the anti-South Africa activists. Further, they disparage the protestors' efforts as misguided. General Counsel Steiner contends that "opposition to apartheid does not justify interference with rights fundamental to this country and Harvard University . . ." Many students seem to agree. Even Anderson admits that "civil disobedience involves relatively small numbers of students. Civil disobedience must remain subordinate to the overall attempt to organize consensus — rallies, demonstrations, tabling. The movement is not interested in dissolving into a tiny set of people in-

terested in sequential actions of civil disobedience."

Civil Disobedience

More importantly, the recent acts of civil disobedience have resulted in a variety of injuries — thus far minor — to police and protestors alike. While the incidents have remained relatively non-violent thus far, further escalation is likely. According to a statement released by the students who staged the sit-in, the occupation was necessary because "31 years of intransigence on the part of the Corporation have left us no other choice." It is unlikely, however, that the administration will back down on the S. Africa issue and the recent protests, which have heightened the stakes, leave the administration with no face-saving way to offer concessions. In addition, the protestors have backed themselves into an inflexible position and seemingly cannot settle for anything less than total and immediate divestiture. The stage seems set for further protests both during Commencement and beyond, most immediately an effort headed by Anderson to mobilize "a collective response" to the law school's possible disciplinary sanctions.

☛

Dalton Decision

(Continued from Page 1)

roughly 550 signatures on a petition calling for Dalton to be offered tenure — expressed optimism that extension will eventually result in tenure as it has in the past.

The Dalton decision is significant because it precedes decisions on five professors who may come up for tenure next year: Profs. Daniel Tarullo, Chris Edley, David Kennedy, Martha Minow, and Susan Estrich, all younger profs. associated with the left.

☛

Boxing Debate

(Continued from Page 9)

[and] poor whites." He viewed some of the criticism as based on "elitism" and "prejudice."

Torres noted that, "Drugs, gang life, crime, and boxing gyms are the alternatives" confronting many of the urban minority poor.

The third panelist, Massachusetts State Boxing Commissioner and Harvard Boxing Coach since 1940 Thomas Rawson took a different approach, emphasizing "better practice mats, equipment and training" as the mechanisms for reducing injuries in boxing.

Boxing can be made safer, Rawson said, "with the proper modification of equipment and other factors." For example, thumbless gloves "have reduced the severity of eye injuries," now "virtually nil" since these gloves have been used. According to Rawson, the role of doctors should be "constructive suggestions," expanding on medical history, and increasing the use of "physical exams and brain wave traces."

Ringside physician Dr. Alex P. Bloomenthal listed several factors — CAT scan, EEG, physical exam, referees, and the ability of ringside doctors to stop brutal, one-sided fights — as ways of protecting boxers.

The final panelist took a more elaborate approach. A. Joseph Denucci, Chair of the Massachusetts House Human Services and Elderly Affairs Committee in the state House of Representatives, credited boxing with his political success. While conceding that "there's no question that boxing is a dangerous sport," Denucci labeled the suggestion of abolishing boxing "shameless and simple." He suggested five areas in which to improve the safety record of boxing, including uniform, nationwide rules and regulations, physical examinations, higher standards for boxers ("any nitwit with \$50 can get a license to box"), more competent officiating ("referees should know and understand the sport of boxing"), and better boxing commissioners.

☛

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The staff of the RECORD wishes to congratulate the outgoing heads of the organizations below for their performance during the 1984-1985 academic year, and to wish them success in future ventures.

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		Volunteers in Tax Assistance	Fred McConville
		Women's Law Assoc.	Chai Feldblum
		Women's Law Journal	Karen Getman
		Yearbook	Bruce Ellerin

Legal Profession Survey Shows Factors

(Continued from Page 6)

to a control group of 50 randomly selected 3Ls and second, a 15 page version which was distributed to the rest of the 3L class.

Thirty seven percent of those receiving the longer survey responded while 30 of the 50 persons receiving the shorter survey did so. The survey was not ready for distribution until about one week before exams began. While the Program knew that this proximity to exams would probably affect the response rate, they decided to go on and conduct the survey rather than wait another year.

Life at HLS — A Student's View

The survey had two components. The first concentrated on life at Harvard Law School. In this respect, students were asked questions such as whether they would attend law school again, whether they would choose HLS, what factors influenced

their decision, how they assessed the classroom experience, what they thought of their professors. Students were also asked their views on faculty-student relationships outside of class, their feelings about the *Harvard Law Review*, class attendance over the three year period, the experience of writing their third year papers, how much effort they put into studying in the third year, and extracurricular involvement (including off-campus involvement). Additionally, the survey asked students to offer suggestions for solutions to any problems they cited.

The second component focused on career decisions. In this regard students were asked about, among other things, what factors affected their decision to study law, where they worked during summers between law school, their plans and expectations upon entering law school, their current plans, and how educational loan burdens affected their decisions. One section also asked students' feelings about the importance of pro bono work.

Early Results

The full results from the survey are not yet in, however, some responses to some questions have been tabulated and they provide a preliminary glimpse at the class of 1984.

On the question of why they decided to attend law school, a majority of the respondents cited four factors as "important": the academic and intellectual exercise of legal study, the desire to help people solve their problems, a desire to get a "good job" and a desire to promote social change. Interestingly enough, advice or encouragement from friends, relatives, teachers or counselors seemed to have little effect on the majority of the respondents. However, the respondents were divided on factors such as wanting power or wanting a lot of money.

Eighty nine percent of the respondents said that if they could make the choice over, they would choose to go to Law School again with 7% indicating they would not

THE BOARD OF DIRECTORS OF THE HARVARD LAW RECORD CORPORATION

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CONGRATULATIONS

TO THE CLASS OF 1985

And salute the following graduating members of the RECORD staff:

W. Burlette Carter
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Michael T. Isbell

John Kowal
Michael "Mad Dog" Malamut
Gregory Peterson
James Ross
Susan Smith

Sorry, Fenno. Maybe next year!

Influencing Graduates Career Choices

and 4% saying they were unsure. Approximately 79% said they would choose Harvard Law School again, with 16% saying they would not and 6% saying they were unsure.

The factors most influencing their choice of Harvard were the marketability of the degree, the quality of the education, the reputation of the faculty and the location. Families seemed to have a greater influence on the choice to attend Harvard than on the decision to study law.

The survey also asked students to assess the effects of 25 factors which might have influenced their first job choice after graduation. The factors most often selected were geographic location, training potential, the match of the organization with the student's interest, the fit of the job or organization with the graduate's personality and lifestyle and fellow workers from summer jobs.

Career Movement

The respondents anticipated considerable movement in their careers. A significant number of students whose first jobs were to be with law firms indicated interest in moving into government, business, politics and other areas. Approximately 48% percent of the respondents indicated they would be working at large firms, (more than 75 lawyers.) Of those, one fourth had upon entering law school planned to work at a big

firm, one fourth had planned to work in government or for a public interest firm and another one fourth responded that they had had no clear plans upon entering. The remaining students said they had originally planned to in a non-legal area.

Students at large firms were the largest single group planning to make a career shift within the first five years out of law school. Only 32% expected to still be working with a large firm in five years.

Responses were also analysed to determine if the responses of men and women differed significantly. In most cases, the numbers were too small to draw conclusions, however, two deviations were significant. First, men than women planned to work for a large firm when they entered law school, while twice as many women had planned to work for legal services organizations. Men and women did not differ significantly in their first jobs, however, more men than women planned to work in small firms.

Fashioning Responses

Those sections of the survey not yet validated include student feelings about the Harvard Law experience. Vice Dean David Smith indicated to the RECORD that he hopes to use the information obtained from these surveys to fashion responses to student concerns.

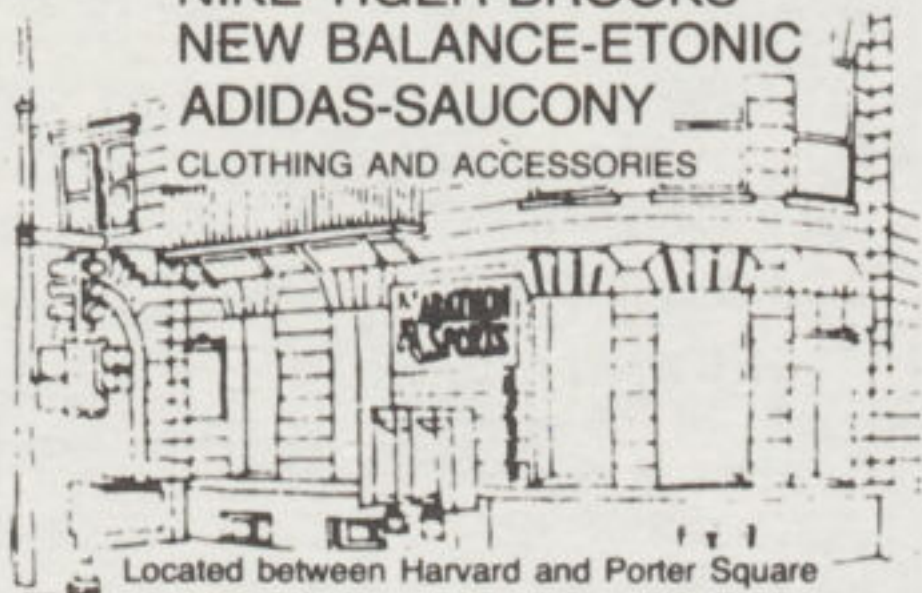
Smith is in fact currently working with a group of students to do just that. Second year students Ken

Anderson, Tom Baker, Nancy Castenholz, Walter Effross, John Matteson, Karen Venable Morin, Dan Mulhern, Lois Murphey, Mary Murphy, Bill Rubenstein, Rebecca Tillet and John Wellington are interviewing faculty about their teaching philosophies and techniques. The idea was a response to students who expressed to Smith concerns over student faculty relationships and learning experience at HLS. The students plan to make a report of their findings to the law school community in the fall. A memorandum sent to all faculty by Prof. Hal Scott, Chair of the Legal Education Committee, called the project "worthwhile" and urged faculty to cooperate in it.

When designed, the 3L survey was anticipated as a test survey, a precursor to a survey of a later class. Thus, its final destiny is still undecided. However, Smith indicated that it, nevertheless, will provide valuable information which will be used in fashioning solutions to respond to student concerns.

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Wolfman: How Good Were The Good Old Days?

(Continued from Page 5)

Since the fall of 1982 the *Law Review* editors, individual faculty members, the Faculty as a whole, and a special faculty committee have been at work trying to develop a new selections procedure. For me and some others the aim has been to preserve the "good" and eliminate the "bad" that I have just described. Both the faculty committee and the *Review* spent endless hours, working independently and in consultation with each other. Suggestions ranged from free and open entry onto the *Review* by any student who wanted to serve to a return to an entirely grade-based system. Some favored preservation of the current system that has now been adopted — half to be admitted on the basis of writing alone and half on the basis of a weighted combination of grades (70%) and writing (30%).

The faculty committee was unable to find any system that commanded a majority, and so it just reported the various possibilities to the Faculty. After considerable debate and the canvassing of views of students not on the *Review* and of faculty members, a majority of the *Review* members adopted the new system. As I have indicated, the faculty was fully informed, with written reports from both the faculty committee and the *Review*. And the Faculty had full discussion and debate before the *Review* took its final action, one which the Faculty has chosen nei-

ther to endorse or oppose, particularly since it has nothing of its own to offer instead. Actually, the new system has many of the elements that were originally suggested by one of the faculty members on the committee the Dean had appointed.

Although all of the details for administration of the new system were not laid before the Faculty, and Dr. Stone has indicated he does not know what they are, all the members of the *Review* are familiar with the details; first year students, those most directly affected, have been made aware of the details; and those faculty who have asked the *Review* for the implementation details have received them. They are the result of very careful attention to every aspect of the basic plan; they are sensitive and responsive to concerns for fairness; they demonstrate the kind of good, lawyerlike work of students who are determined to secure the best possible product, with criteria for selection of the people to produce it that are fair and functionally related to a task whose watchword is excellence.

Students and faculty will continue to disagree as to the right selection procedure. And I am certain that in time there will be changes. The system adopted was not my first choice, as I made clear in Faculty and in discussions with the faculty committee and with students. Like some of the *Review* members, I would have preferred a system based entirely on writing. But I was impressed when *Review* members spoke at Faculty, one in particular who had not made *Review* on the basis of his grades, who explained that the grade-based editors often made a particular contribution that others do not, and so he supported

retention of a significant grade element in the process. For me the important new facet of the proposal was the elimination of the "certification of four." As to the rest, I am content to wait and watch. But I am not happy to see the *Review* members denigrated because they do not close themselves down or announce free and open membership. They believe that standards count, that a work product will differ based upon the abilities and diligence that are brought to it. They believe that competition, if purposefully directed and fair, is not evil. Until evidence is adduced that *Review* members acted for selfish or corrupt motives, that should not be implied. In this environment as in most it is best to take people at face value, on the basis of what they say and do until there are facts to the contrary. No group of students should be disposed of by pigeon-holing. "Elitist," "egalitarian," and other words like them say too much and too little, and so usually say nothing. They create emotional tilts, and that is not what education is for. They are of the same stuff as the words Learned Hand said were "anodynes for the pains of reasoning."

Had I been an advocate of the *Review*'s new system (which I regard as a substantial improvement over the one it replaces), I probably would have felt constrained not to write. I write, however, because I think the students on *Review* have made a valuable contribution to the School and have acted in good faith with the best of motives. They have earned respect.

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