



Harvard Law Record

America's Oldest Law School Newspaper

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SEPTEMBER 23, 1988

Women Make *Law Review* In Record Numbers

By Chris Crain

Despite the rejection last spring of a plan to include women in the affirmative action program of the *Harvard Law Review*, the percentage of women accepted this summer as editors of the publication increased to 40 percent, an all-time high and roughly proportionate to the percentage of women in the 2L class.

The number of women applying to the *Review* also increased, from near 35 percent last year to 40 percent of the 280 completing the writing competition this year, according to *Review* President Dan Kahan, 3L.

Sixteen of the 41 second-year students selected through the summer competition were women, Kahan said. Last year, only one-fourth of the students accepted were

women, below the 32 percent of women in the class of 1989.

In response to the results, Lee McAfee, 2L, a member of the Women's Law Association (WLA), said, "Obviously, this is good news. I'm delighted that that many women are on *Law Review*."

Kahan added that the *Review* staff was "very gratified by the turn-

(Continued on Page 20)

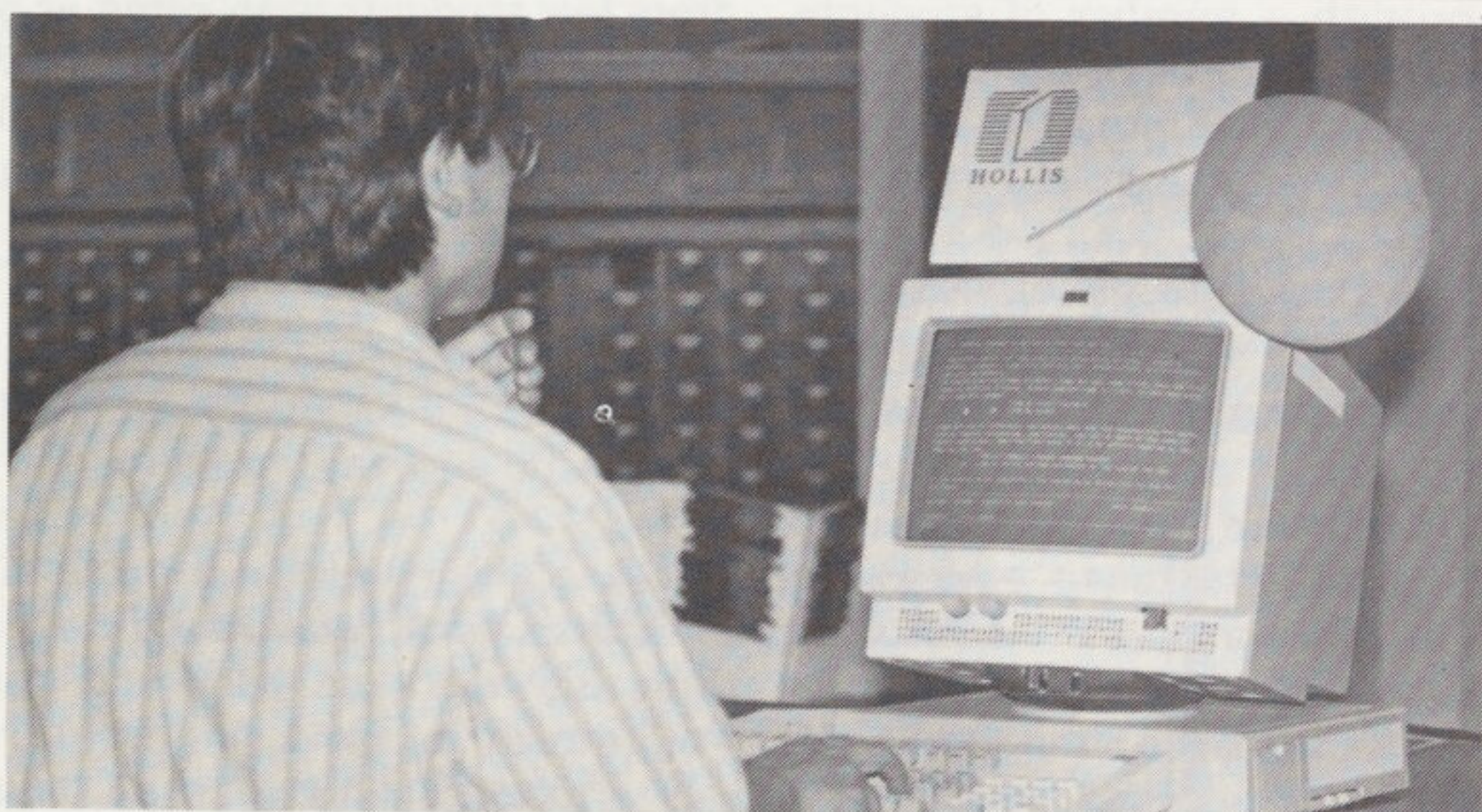
Students Form Dean Committee

By Liz Askey

The selection of a Student Dean Search Committee topped the agenda of the Law School Council (LSC) meeting on Sept. 19. The committee, established by LSC in conjunction with the Coalition for Diversity, is intended to supplement the efforts of the Faculty Dean Search Committee, which has no seats for students due to sentiment that a student's presence might discourage candidates from sharing information with the committee.

Following Dean James Vorenberg's '51 announcement last spring of his intentions to step down after this year, Harvard President Derek Bok '54 met with members of the LSC to discuss concerns about student participation in the search for a new dean. According to LSC President Brian Melendez, 2L, Bok agreed to meet with a small group of students on a confidential basis

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Patricia Lee

Library Goes High Tech

By Lauren Ruby

HLS students and professors whose interests take them beyond the realm of the law contained in Harvard's law libraries can now explore the world of information contained in the entire university library system without ever leaving the Langdell reading room.

On Sept. 6, after more than a decade of development, HOLLIS, the on-line catalog of

the Harvard University Library System, was made available to law students and to the general Harvard community. According to Barbara Mitchell, chairperson of the publications committee of the Harvard University Library, the HOLLIS system, similar to the systems used by the major computerized legal research services, will provide researchers with instant access to over three million documents held by more than 80 Harvard libraries.

Public Interest Draws \$300,000 Grant

By Dorothy Mitchell

Dean James Vorenberg '51 has announced the establishment of the William Andres Fund, a \$300,000 grant program for students seeking summer placements in public interest organizations. The Fund, which will provide 55 grants of up to \$1,800 each for the next three summers, is the gift of Kenneth F. Montgomery '28, a partner in the Chicago law firm of Wilson & McIlvaine.

"I believe that Harvard Law School has an obligation to do as much as it can to make public interest careers a realistic option for our graduates," Vorenberg was quoted as saying in announcing the creation of the Fund. "The new William Andres Fund is a major advance in the school's efforts to ensure that all students who seriously desire to explore professional opportunities in public interest law will be able to do so."

Montgomery, who has been active in public interest endeavors "for quite some time," named the Fund in honor of William Andres '32 — a "good friend and productive cit-

izen," Montgomery said.

Montgomery attributes his concern for public interest work to his belief that "helping those less fortunate pays big rewards. I have been involved in helping students who are prepared to forego employment in large law offices and the \$50-75,000 a year jobs in New York firms," Montgomery said. Among other things, Montgomery has also established a chair at Stanford Law School in poverty law and has been recognized for his contribution to public interest work in the Chicago area by the Public Interest Law Internship.

According to Vice Dean David Smith '61, the Fund is the most recent development in an ongoing effort by Vorenberg to "diversify the summer experiences of students." Smith stated that Vorenberg had been discussing the possibility of a public interest program for two years with a number of students, primarily from the Student Funded Fellowship (SFF) and the Alliance for Public Interest Alternatives (APIA).

The decision to go forward with the program followed a one-year

"pilot program," Smith said, in which the administration made available \$12,000 in grants for public interest work, supplemented by \$12,000 of alumni contributions solicited by student volunteers from SFF and APIA.

"One of the things that was unclear," explained Smith, "was whether, if these funds were made available, students would actually come forward and want to utilize the programs. The upshot was we were convinced that there would be sufficient student interest in doing public interest work."

Grants from the Fund will supplement those already available through existing programs such as work-study, funds from the Ford Foundation and the Clyde Ferguson Fellowships for human rights work, Smith said. In addition, over \$70,000 was raised through the SFF last year by soliciting donations from law students with summer positions in private firms. SFF provided funds to 50 students in public interest placements over the summer.

•••

B R O W N A N D W O O D

Will be interviewing second and third year law students on October 3rd. A cocktail reception will be held upstairs at the Pudding, 10 Holyoke Street in Cambridge, for students who will be interviewing with us.

We look forward to meeting you.

SHEA & GOULD

SHEA AND GOULD'S LOS ANGELES OFFICE WILL BE INTERVIEWING AT THE HARVARD LAW SCHOOL ON OCTOBER 4, 1988.

Shapiro Named New Deputy Solicitor General

By Dan Kroll

Professor David Shapiro '57 has been appointed a new deputy solicitor general for the United States Department of Justice, and his departure at the end of this semester will coincide with the return to HLS of Solicitor General Charles Fried. Fried will resume his position as Carter professor of jurisprudence after serving three years in Washington.

Unlike the solicitor general position, traditionally subject to termination with changes in administration, Shapiro's position as deputy solicitor general is a career civil service post and is not regarded as a political appointment. HLS has granted Shapiro a two-year leave from teaching, and he plans to stay

"There was some outcry that a radical teacher had been appointed."

in the position "long enough to learn something and make a contribution to the solicitor general's office," he said.

Shapiro said he is excited about the position because it ties in closely with his work as a teacher and writer in the areas of federal jurisdiction and civil procedure. He said he is also very enthusiastic about "the opportunity to practice law at the very highest level, with people of very high dedication and quality."

The appointment is a new direction in Shapiro's long and distinguished career as a practitioner, teacher and scholar. After practicing for five years at the law firm of Covington & Burling in Washington, D.C., he clerked for Supreme Court Justice John Marshall Harlan in the 1962-63 term. He has been a member of the HLS faculty since 1963, teaching courses in, among others, civil procedure, federal courts, federal litigation, contracts and legal profession.

While teaching, Shapiro has also served as Reporter for the ABA Advisory Committee on Fair Trial and Free Press, as Reporter for the *Restatement of Judgments, Second*, and as Associate Dean of HLS from 1971 to 1976.

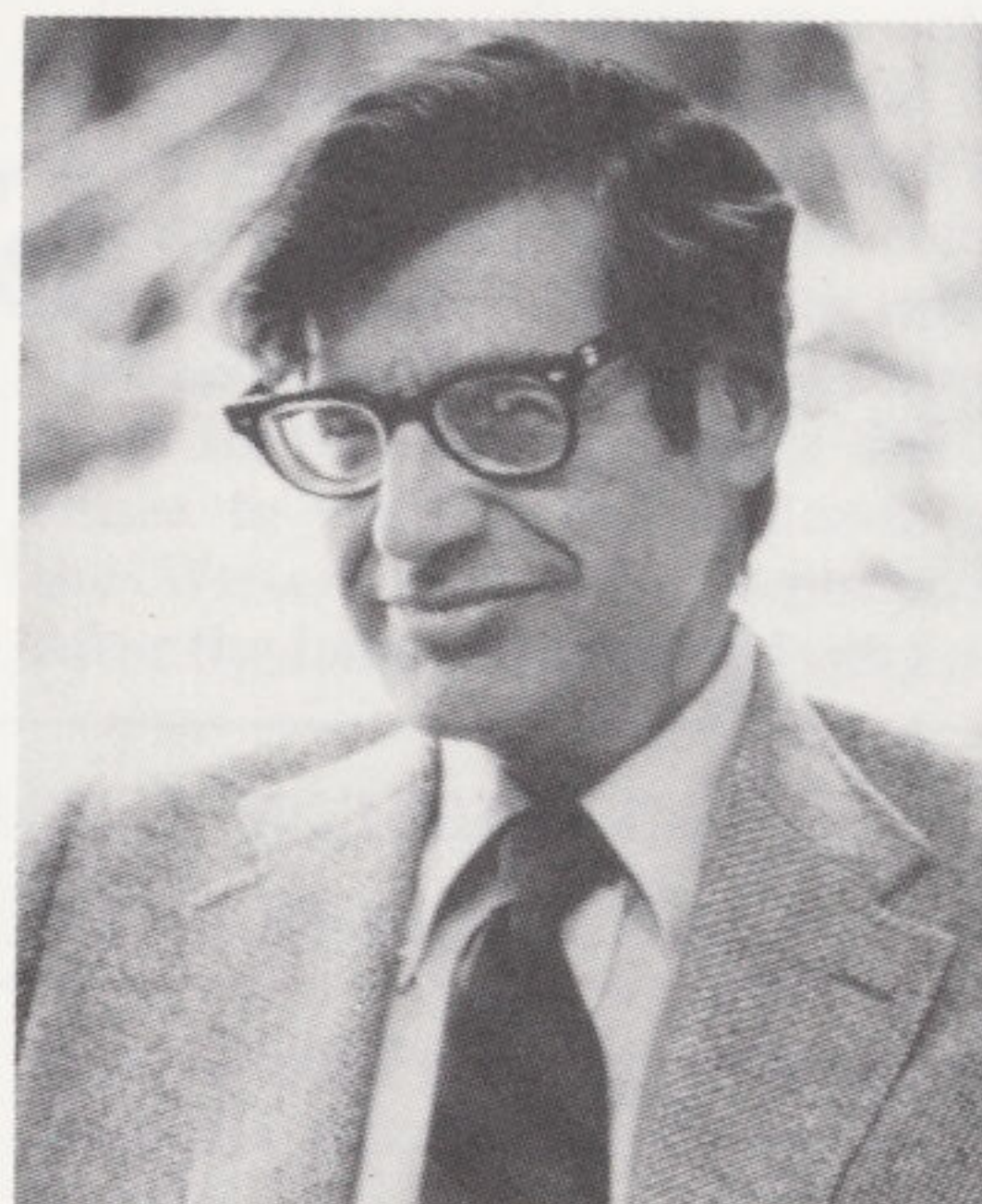
Shapiro said he is pleased with the appointment of Visiting Professor Stephen N. Subrin '63, who will take over Shapiro's first year civil procedure section after his departure. Subrin, who is a Professor at Northeastern University School of Law, "has done outstanding work on the history and development of the Federal Rules [of Civil Procedure]," according to Shapiro, and is well regarded among the HLS faculty.

Shapiro first became aware of the opening in the solicitor general's office early last year, when he found out that Louis R. Cohen, a former law student of his, would be resigning as one of the five deputy solicitors general. Shapiro received his appointment from then Attorney General Edwin Meese III last spring although not without "some outcry," said Shapiro, "that a radical teacher had been appointed."

Shapiro declined to comment on likely candidates to replace Fried as solicitor general, but said he has no qualms about the future appointment. "The tradition of appointing highly qualified people to the position is a strong one," he said, adding that he is confident that he would enjoy working for the new solicitor general "whichever party is elected."

The position is Shapiro's first in government service, with the exception of his Supreme Court clerkship. He said that many years ago he was offered a job as the first assistant to the deputy attorney general, but he turned down the offer because it came shortly after he joined the HLS faculty, and he was "too involved in teaching."

The present position, however, comes at a better time for Shapiro, who says he thinks the experience will broaden his perspective. "I hope it will make me a better teacher. [After serving in the position] I'll



Prof. David Shapiro '57

be able to teach my students about problems I've actually lived through," he said.

RECORD Wins Six Awards

The RECORD reinforced its reputation as one of the top law school newspapers in the nation by claiming six Awards of Excellence in the 1987-1988 American Bar Association Law Student Division newspaper competition. The RECORD took prizes in six different categories, more than any other newspaper in its class.

The RECORD garnered awards in the categories of entire newspaper reporting over the year; feature article on internal law school affairs; feature article on law in the community; written editorial on internal law school affairs; editorial cartoon on broader aspects of the law; and editorial cartoon on internal law school affairs. Other big winners in Class B (larger schools) included *Hastings Law News*, with five awards, and *Motions* of the University of San Diego, with four.

Overall, the RECORD pulled in three second place awards and three third place awards.

SHEARSON LEHMAN HUTTON

CAREERS IN INVESTMENT BANKING

**SLH will be interviewing 2Ls and 3Ls
for positions in Investment Banking on
THURSDAY, OCTOBER 6, 1988 AT
THE CHARLES HOTEL, CAMBRIDGE
beginning at 1 PM and ending at 8 PM.**

**If you are interested in a career in
Corporate Finance or Merchant Banking,
please sign-up at the Placement Office.**

Panel Discusses Writers' Strike, Drug Tests

By Troy A. Morgan

In a freewheeling discussion ranging from the recent writers' strike to drug testing of professional athletes, members of New York's Proskauer, Rose, Goetz & Mendelsohn examined current developments in the sports and entertainment law fields. Sponsored by the HLS Committee on Sports and Entertainment Law, the discussion, held on Sept. 15, featured experts from the firm and their observations on the current developments in the law.

Bernard D. Gold '55 observed that in the recent writers' strike the members of the Writers Guild wanted to "cure the injustices of the past and win their true place in the sun." Gold said that the Guild members demanded the right to revise, rewrite, polish or change any original literary material, and in the case of theatrical motion pictures, movies for television and mini-series, the writers demanded consultation regarding casting, choice of principal locale, selection of directors and more.

Gold stated that the new agreement only won for writers of original material for television a first rewrite under limited circumstances and for those in theatrical motion pictures a similarly restricted right to a second revision. He speculated that,

because rights of consultation are discretionary with the companies, they may not turn out to be meaningful.

"Viewed overall," Gold asserted, "television is neither a writer's nor a director's vision, but a producer's." Whereas the director of a theatrical motion picture will not tolerate interference by the producer, the tel-

Gold concluded with the subject of residuals, or money paid to actors and writers when a film is reshowed. Because television companies would be obligated to raise residuals for all guilds if they raised them for writers, they were disinclined to yield to the demands of the Writers Guild, he explained. After the long, industry-wide strike,

"Television is neither a writer's nor a director's vision, but a producer's."

evision director exercises less independence on the set.

Gold said that, creatively, "the final decision is the writer's in the legitimate theater. He or she owns the script, legally, and in most cases, practically as well." However in theatrical motion pictures, he stated, "that is not so."

Whereas the Writers Guild collective bargaining contract for television and theatrical motion pictures puts "the director in complete control of the editing process . . . the situation in television is a bit more diverse," Gold suggested. In news, sports, quiz and audience participation shows, "the writer's contribution is of a lesser or at least of a different nature," he explained. In episodic television and soap operas, he noted, "the writer has a restricted scope."

both the issue of creative rights and residuals resulted in compromise, he said.

Describing the drug testing issue as "not a question of search or seizure or right of privacy," but of employer discretion, Michael A. Cardozo said that private employers could deny employment to anyone who refused a drug test. "You don't have a right to be a basketball player or a hockey player or a football player," he said.

Under certain state laws or constitutions, Cardozo conceded, such a practice might raise the privacy issue. He admitted the same for city ordinances, like San Francisco's, which prohibit drug testing except under limited circumstances.

Because drug tests are a condition

(Continued on Page 17)

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REPRESENTATIVES FROM OUR 3 OFFICES WILL BE INTERVIEWING SECOND AND THIRD YEAR LAW STUDENTS AT THE SHERATON COMMANDER IN CAMBRIDGE ON:

OCTOBER 3, 1988

Grades: Wild Quayle Chase

The value and importance of grades is a frequent topic of conversation among educators and among HLS students. While most HLS students take their scholastic performance seriously, it seems that a decided majority seriously doubt the use of these figures to reflect anything more than chance. Many call grades random, barely assessing one's knowledge of a particular subject, let alone one's potential for future accomplishment. Almost none consider these figures important measures of one's character, judgment or future success.

After years of thought and progress, many schools have recognized the imperfection of grades as the sole indicator of ability. Some have done away with grades. Most all have wisely recognized that cultural background, hardships, special talents and innumerable other factors must be weighed in admission and in hiring, thus allowing advancement opportunities for female, minority and non-traditional students that would never have existed before.

However, it now seems to a large group of individuals, especially in the media, that law school grades are indeed some sort of intellectual mirror reflecting one's basic qualities. That is, if that one is Senator Dan Quayle. Somehow the belief has taken hold in certain quarters that the release of Quayle's law school transcript, complete with grades and explanation of his entrance into the University of Indiana Law School, will somehow reveal all types of uniquely relevant and pertinent information on Quayle's suitability for the vice presidency.

Many of those who likely supported the reduction in the power of grades now cry out the importance of full disclosure of Quayle's transcript. His low grades are challenged as proving his incompetence and his unusual admission (based on projected performance and personal qualities rather than undergraduate accomplishment) attacked as unfair. Why choose at this point to suddenly weigh grades as *the* reflector of intellect and ability? Are ideals so worthless that they can be traded for minimal political advantage? Don't these charges disparage and undermine other admission programs that claim to weigh similar intangible factors in attempts to assist traditionally disadvantaged groups?

Quayle has admitted himself, without contradiction, that he is no genius, and actual transcripts will yield no more than that. Those interested in disparaging Quayle's intelligence and suitability for the vice presidency have not had to look long or hard for current evidence to prove their arguments. Digging into Quayle's academic past is an unnecessary and counterproductive task.

J.A.G.

Fenno

Fenno gave up. How could he? Why should he, anyway? "Do all this reading? Are you crazy, man?" he said out loud as he wandered through the Hark. Suddenly, "Snap!" his heavy bag of books fell to the ground and he stood holding the broken strap. "Waaaaa!" he cried.

"Waaaaaaa!" cried seemingly the four walls, as one hundred Harvard Law Students bawled in agreement with this courageous pronouncement.

"We can't take it anymore," shouted one lonely, depressed egg-head standing in the corner.

"I'm tired of being a nerd," yelled a four-eyed goofball running out of the baby coop and flailing his arms in anguish, resentment and despair. Professors throughout Langdell threw open their office windows to see what was the matter. "It couldn't be the Commerce Clause," mumbled one paper pusher in the library on the fourth floor. "The revolution must be here."

"The nerds are getting restless," said one security guard to another as they stuck their thumbs in their suspenders and giggled in silly-fashion.

Fenno slowly regained his composure, and when he realized what he had done, he repented.

"I'm sorry everybody," he said, "I guess I lost my head."

"Hisssssss."

"Rusty!" barked Fenno, as his pet snake slithered down the stairs and into Harkness Cafe. "Get back in this bag!"

"Fenno!" hissed Rusty as the cafe staff slowly sliced him up into bite-size micro-wavable "snake sandwiches."

"Waaaaaaa!" cried seemingly the four walls as one hundred HLS students wiggled in revolutionary hypertension. This time there was no turning back the tide of plebian upheaval. All over campus books closed with a clap. Lights went off with a click.



Letters Policy

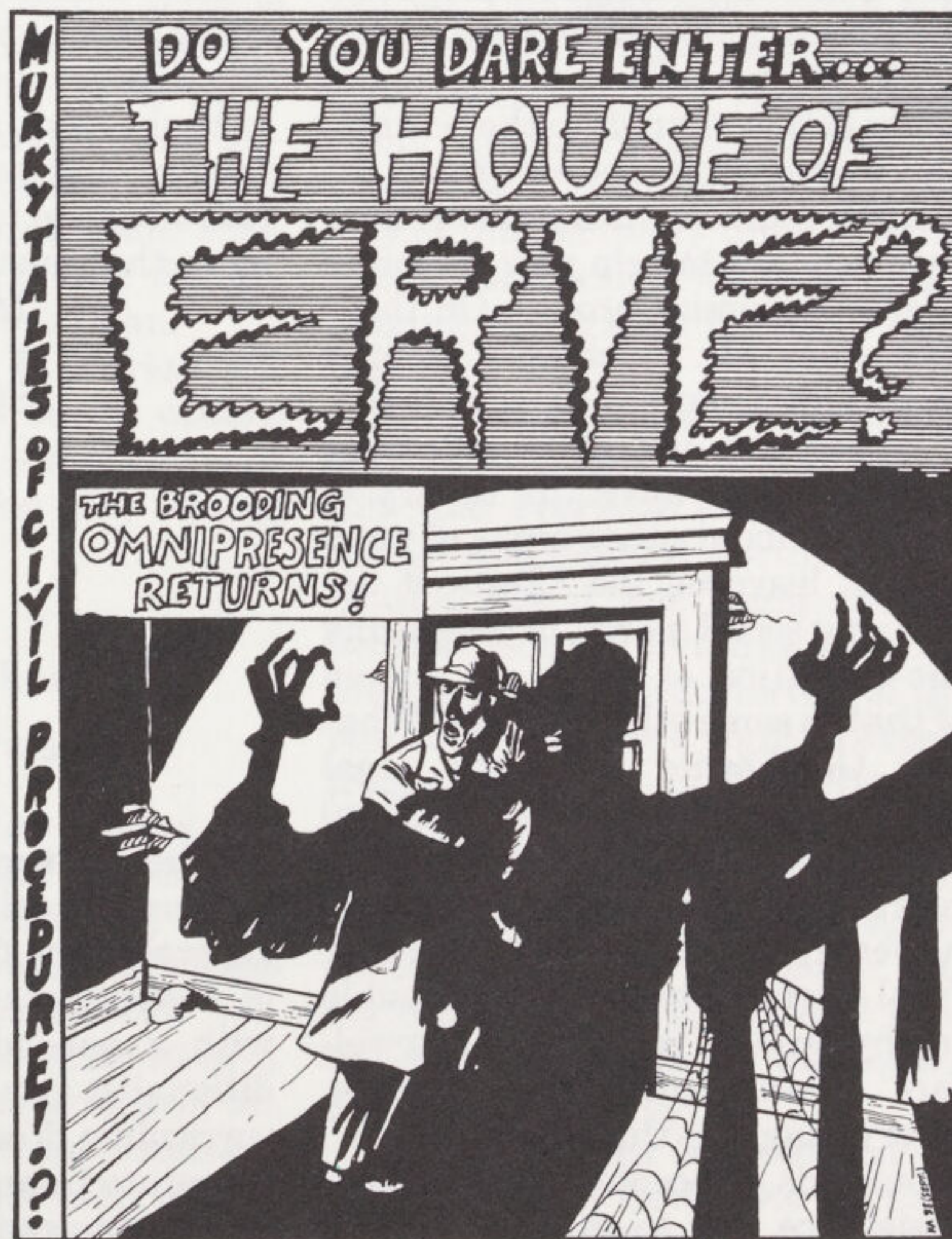
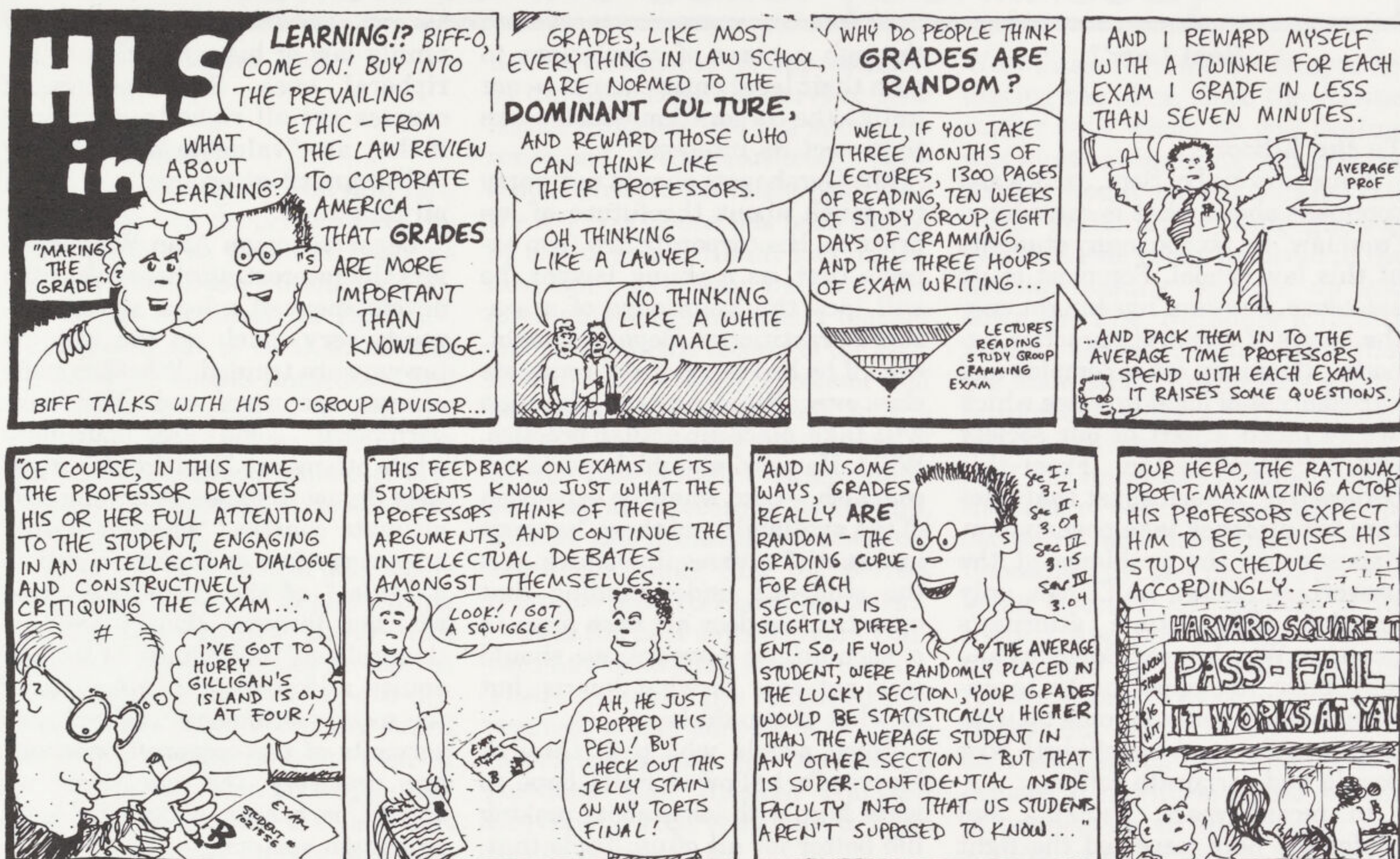
The RECORD welcomes letters to the editor on any subject from students, alumni, and interested members of the law school community. Letters are printed as space provides, and are edited for space and clarity. All letters should include the name(s) and phone number(s) of the author(s). Under no circumstances will anonymous letters be published. Organizations submitting letters should identify the specific individual(s) responsible for approving the letter. All letters submitted become the property of the RECORD.

All opinions included in letters to the editor, as with editorial cartoons and editorials, belong to their authors and do not necessarily represent the opinions of the RECORD staff.

HARVARD LAW RECORD

HARVARD LAW RECORD

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Letters to the Editor of the Record

'Real Law'?

To the Editor:

Your editorial of Sept. 16 is a sad comment about what is considered "real law" by far too many students at this law school. For most of its existence, Harvard has taught only the basics of corporate practice, ignoring the many other complex and varied areas of legal practice which are so much a part of our society and our legal system. From this perspective, it seems just that a future tax attorney take poverty law. Exposure to the problems of the proverbial "other half" can only broaden this future attorney's practice. Who knows? Someday she may have the opportunity to encourage her clients to come up with programs that may benefit both poor people and corporate coffers.

In recent years, students and professors here have led the fight to bring poverty law, comparative law, family law, sexual and racial discrimination law, and human rights law into the curriculum. The fact that these courses are oversubscribed, and that in some classes students are willing to sit in the aisles rather than drop them is evidence that students recognize the need for courses which focus on more than just how to help your corporate clients maximize profits. On those facts alone, Mr. Gershowitz' premise fails. These courses *are desired*.

Where else but in an academic setting do we have the luxury of learning about other areas of practice, of learning the effects of underlying social mores, of comparing the operation of our legal system of that in some other culture? What Mr. Gershowitz calls the "real world" (meaning a corporate firm) cannot offer this education. The courses about which he complains, however, *do* expose us to another "real world": a world clearly visible in any probate court, or in the welfare offices around the country. Every day in this "real world," thousands of people, without legal assistance, try to work their way

through a maze of regulations to gain their legal entitlements — not unlike the corporation which seeks to protect its interests.

Mr. Gershowitz should not worry too much about the future of his practice. His corporate law firm expects that, as a young lawyer, he will lack the knowledge of a seasoned practitioner. Beyond a doubt, even if he had taken every corporate class ever offered, his true education will take place in actual practice. What Harvard should hope to accomplish — and what the expansion of the availability of these "esoteric and exotic" courses illustrates — is the student's understanding that even tax law does not take place in a vacuum. As lawyers, we should look not only to what law is, but to what it should be.

Some people who pass through Harvard's hallowed halls hope to leave here with ideas about making life better for all of us. To do that, we have to understand how the legal system works for most of America, not just for the corporate president or the entrepreneur.

Law school should be a broadening experience, not a narrowing one. The "real world" is not limited to bankruptcy, taxation, corporation finance and securities regulation. Education at our level should be more than just "trade school."

Mary C. Hennessey
Ken Schmetterer
Stephen R. Sulentic
Jesus H. Campos
Bernard Harcourt
Lucinda Sikes
Lee Ann Swann
Brian Thomas

Law's Guises

To the Editor:

Your editorial column on Sept. 16, probed the fundamental problem of contemporary legal education, with a one-sided, simplistic, traditionalist attack on the law school curriculum. You treated courses like corporate finance or bankruptcy as the norm courses and those like

family law or human rights as peripheral ones. Such peripheral courses are all right to exist only if they are "valuable in educating well-rounded attorneys . . . law in all its guises."

Legal historian Alan Watson offers the interesting theory that the development of a legal system depends very much on the way its lawyers are trained. Whether some courses are norm and others are peripheral, some are legitimate while others are "legitimate only if they do not displace other more legitimate courses," whether family or poverty law or human rights is a "guise" of the "real law", and whether lawyers should consider themselves "individuals to uphold equity and justice in *all* parts of the social mechanism" or "exclusive servants of the corporate system," are precisely the questions we should be asking about our legal education system.

Oversubscription does not occur only to corporate courses. The heart of the problem is the faculty-student ratio at HLS and the desire of many students to take the "star" professors; and not that some less legitimate courses displaced the more legitimate ones. Finally, a judgment call from the Law RECORD as to how faculty members and the "handful of similarly disposed students" value courses is absolutely uncalled for.

Maurice Hoo, 2L

Lose 'Fenno'

To the Editor:

Please drop the "Fenno" column. It's embarrassing to read. It does not pass as "light" material in a campus law review — it is worse than sophomoric. Humor and fiction are fine — "Fenno" is not.

Tony Esposito
New York, NY

Ed: Yes, last year Fenno was worse than sophomoric — he was freshmanic. Hopefully, though, he'll improve this year. Have faith.

P.S. Loved your goaltending.

HARVARD LAW RECORD

Letters to the Editor (Continued)

Consider Bell

To the Editor:

As graduates of the Harvard Law School we are deeply troubled by the direction in which HLS seems to be headed. Dean Vorenberg's letter to the alumnae/i of April 27, 1988 has made it clear to us that unless HLS adopts immediate and fundamental changes it will not only lose its place as one of our nation's pre-eminent schools of law, but also the support of its students and alumnae/i.

Harvard Law School has made no progress towards implementing an equal-opportunity policy with regard to the hiring and promotion of faculty members. We find it disturbing that Dean Vorenberg stated in his letter that he was "pleased with what has been accomplished" in this area despite the fact that the HLS tenured faculty members are virtually all white and all male. It is unfortunate that the situation at HLS has been allowed to reach such a boiling point that on May 10, 1988 students felt it necessary to stage an occupation of the Dean's office in protest over this very issue. We call upon HLS to end its policy of discrimination.

We do not approve of the fact that Professor Clare Dalton was denied tenure. Professor Dalton is widely regarded as a brilliant scholar by the academic community and her tenure denial as result of the machinations of a handful of ideologues (many of whom have very weak publication records) has made HLS appear ridiculous. We believe that diversity of opinion adds to the strength of a faculty and as graduates we will not support the political litmus test which seems to have emerged.

Finally, Harvard University continues to invest in companies that do business in South Africa. As attorneys who take pride in our African heritage we cannot support this policy. Investment in genocide is a moral disgrace.

We propose that Professor Derrick

Bell be considered for appointment as the next Dean of Harvard Law School. Professor Bell is a nationally renowned constitutional law scholar, indeed his latest book *And We Are Not Saved* has been hailed by critics as a brilliant and important work. Professor Bell has also distinguished himself as a teacher and he enjoys the respect of the HLS student body. Finally, Professor Bell has distinguished himself in the past as Dean of the University of Oregon Law School. Professor Bell's demonstrated record of leadership, fairness and dedication to academic excellence make him the perfect choice to put HLS back on track.

Over the past several years Harvard Law School has been in decline. The HLS faculty has remained segregated, it has adopted a de facto ideological purity test for tenure positions and, through Harvard University, HLS continues to have ties to South Africa.

We encourage members of the Harvard Community to help HLS out of this decline by making any support conditional upon the desegregation of the faculty, a genuine commitment to diversity of political opinion on the faculty, divestment by Harvard University from corporations that do business in South Africa and the serious consideration of Professor Derrick Bell for appointment as the next Dean.

**Anthony P. Farley '87,
and seven others**

Ed: This letter was sent to Harvard President Derek Bok '54, among others.

Review Lazy

To the Editor:

I just heard a story from a colleague about a recent decision by the *Harvard Law Review* staff which raises significant concerns for me as an alumnus of the School.

My colleague had submitted a lengthy manuscript to several of the leading law reviews for consideration, and has in fact been offered publication by one of the leading

West Coast reviews. He delayed accepting the offer, since the *Review* staffer with whom he was dealing was most encouraging and said the *Review* would make a decision this week. Yesterday, my colleague was told that everybody involved in the decision-making process, up and down the line, including a faculty reader, agreed unanimously that the manuscript was worthy of publication in the *Harvard Law Review*, but that no member of the editorial staff was interested in undertaking the task of editing the manuscript because it was "long and difficult." Consequently, the manuscript was being rejected, not because of its content and not because of prior publication commitments by the *Review* or lack of space in this year's issues, but solely because nobody on a staff which had unanimously deemed it meritorious and worthy of publication in the *Review* was willing to be in charge of editing it.

I found this story astounding. The *Review* has long had the reputation of being the nation's preeminent law journal. This reputation cannot long endure if the word spreads that authors need not send "long and difficult" manuscripts to Harvard because the *Review* editors are too lazy or intellectually timid to agree to edit manuscripts which are challenging due to their length or complexity.

In addition, the sheer arrogance of calling up an author and telling him that everyone loved his manuscript and found it worthy of publication but it was being rejected because nobody felt like tackling the project seems unworthy of the standards one has a right to expect from the *Review*. Is this reflective generally of the current generation of Harvard students? The upshot of this incident is that my own regard for the *Review* has gone down, and my regard for the West Coast journal which accepted my colleague's article has gone up.

**Arthur S. Leonard '77
Professor of Law
New York Law School**

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**CAREERS AT
McKINSEY:
A PERSPECTIVE
ON THE FIRM**

**Monday, September 26, 1988
at 5:00 p.m.**

at

The Harvard Faculty Club

(Room to be posted on
Lobby Directory)

**PALMER &
DODGE**

**will be interviewing second and
third year law students on Oc-
tober 11 and 12 at the Sheraton
Commander. We invite you to
sign up with the Placement Of-
fice and look forward to meet-
ing you.**

Palmer & Dodge
One Beacon Street
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BAKER AND MCKENZIE

Its United States Offices will be conducting interviews for second and third year law students on Thursday and Friday, October 6th and 7th, at the Charles Hotel.

On the evening of October 5th, representatives from all of Baker and McKenzie's offices will meet with second and third year law students at an informal reception at the Charles Hotel, beginning at 6:00 p.m. We encourage all interested students to attend. Please register with the Law School Placement Office.

We look forward to meeting you.

20 Years Ago Today

Radicals Meet

This story was originally printed in the RECORD on September 26, 1968.

Change was the name of the game Monday night as Law School radicals gathered in Langdell North to revolutionize the Law School and outside society.

The meeting, organized mainly by two second-year students, Jerry Billow and Mike Haroz, attempted to gather law students interested in reform to throw out ideas, and split into smaller groups to work on specific projects.

The tone of the meeting of about 100 people, mostly 1L's and mostly white, was set in opening remarks by Billow, who said that the law school was an institution mainly designed to turn out "a highly skilled legal technician who functions very capably as a manager and problem-solver of corporate America." These corporations, Billow said, "are the institutions which buy our bodies."

Billow said that students must gain power at the law school because that's the only way change will occur. "It would be nice if the Harvard faculty suddenly came to see its function as a servant of society. But this is fantasy."

Haroz also said, in introductory remarks, that the students must take the initiative in reform. "It's hard to get the faculty and administration to do anything to shake up the law school."

The student-faculty committee, Haroz said, becomes only a student advisory committee on important matters, citing his understanding that on last year's law school policy on readmitting students affected by the draft, the faculty on the committee would not make a decision, but waited for the faculty meeting on the matter.

Many of those at the meeting called for changes in the school curriculum.

It was suggested that students

(Continued on Page 14)



THE QUALITY GOES IN BEFORE THE NAME GOES ON

INVITES YOU TO THE HARVARD LAW SCHOOL OPEN HOUSE

ON SEPTEMBER 28, 1988
AT THE HARVARD LAW SCHOOL
POUND HALL, 2ND FLOOR, ROPES & GRAY ROOM
FROM 10:15 TO 5:30 P.M.

IMMEDIATE DELIVERY ON:

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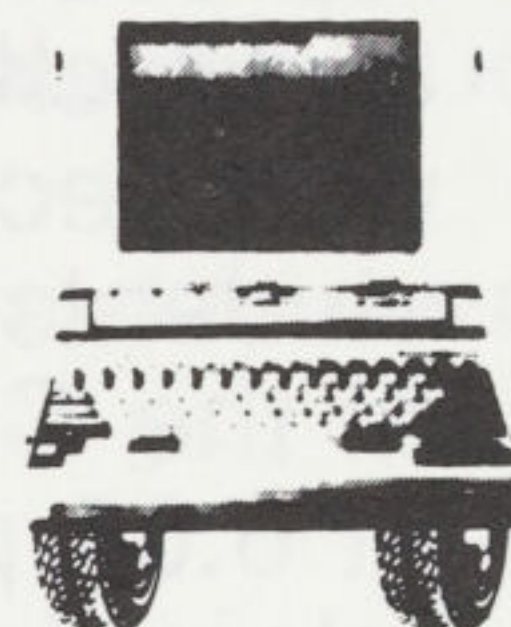
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Radicals Past

(Continued from Page 11)

seek discussion of matters of importance to them.

"In property," said one, "I never understood why there should be private property, and that was never discussed."

There were also demands for student participation on all faculty committees and for credit for extra-curricular projects of community services such as Community Legal Assistance Office.

Also a major topic for projects was activity with the draft and defense of radical students arrested in demonstrations. One suggestion was forming a National Lawyers' Guild unit to defend radicals in the same way one was formed at Columbia University.

In response to the question of what a first year student could do, Haroz answered they could do such things as draft counseling, gathering data and interviewing witnesses for trials.

Other suggestions were cards listing rights for those arrested and a handbook for soldiers delineating their rights under military law.

Professor Roger Fisher suggested writing a pamphlet to advise draft boards on how they could and should use their discretionary powers.

Another general meeting of the group will be held sometime next week.

There will also be a dance to raise money for the Committee on Legal Research on the Draft, on Friday, Oct. 4, from 8 p.m. to midnight in Memorial Hall. Playing will be the Ill Wind and Cloud. Admission will be \$1.50.

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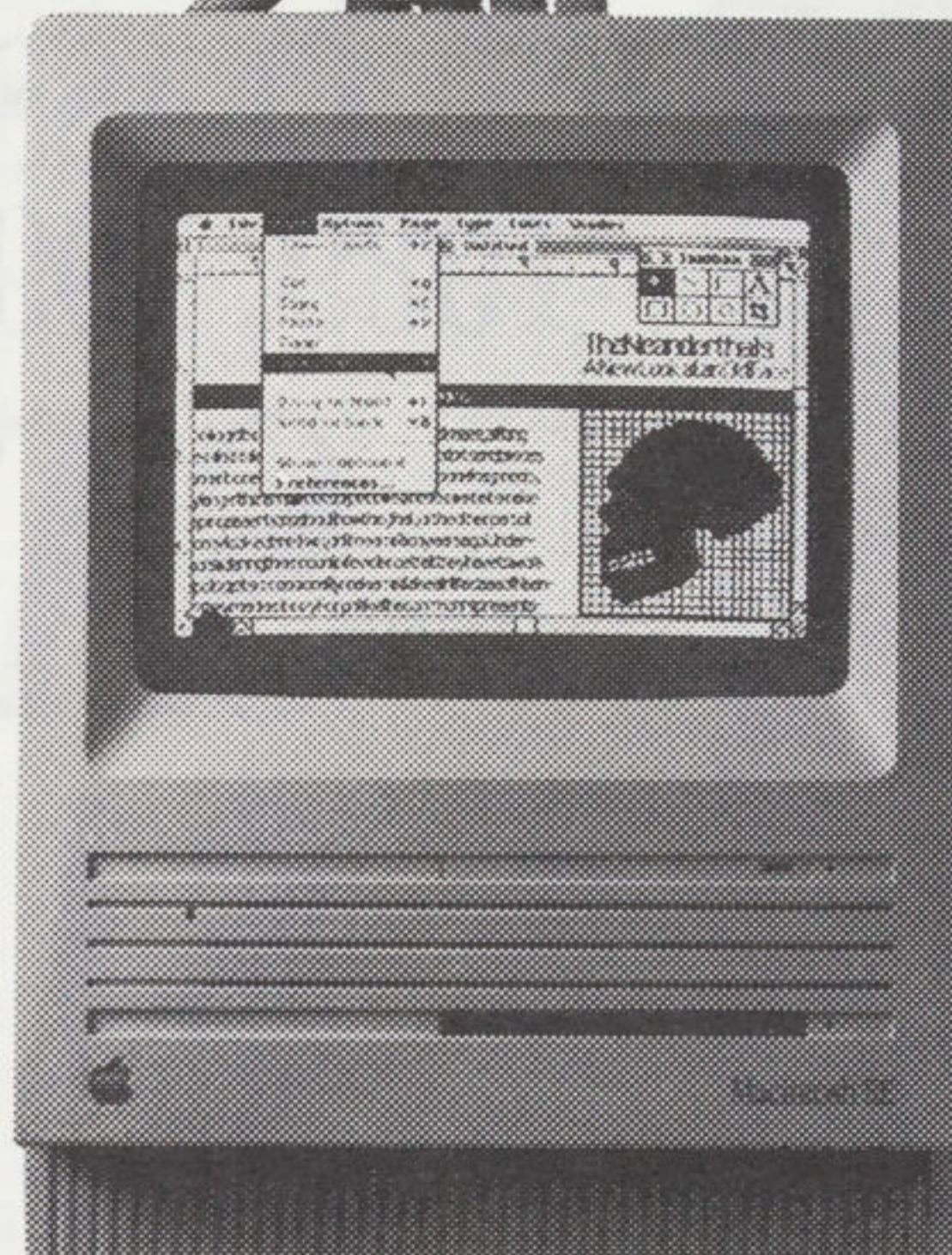
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Lawyers Approve Athlete Drug Testing

(Continued from Page 5)

of hiring, Cardozo explained, organized labor forces employers to come to terms with labor to establish drug programs. He called the "fairly strict" drug program worked out in the basketball profession "a collective bargaining solution to a major problem."

"The entertainment industry is one of the most unionized businesses

an entire year with royalty participants reaping tens of thousands of dollars, while investors were "not getting a penny of their capitalization back." Profit pools, he explained, "return the investment back to the investors." Through collective bargaining, he claimed, all parties agreed to the profit pools, because they recognized the problem of the cost of production.

Regarding electronic music, Jaffe

solved the issue of "double-breasting" yet. Double-breasting refers to a producer's practice of going on the road outside the union by forming "duplicate" or "sit-down" companies that perform a few weeks in one city and then close shop. Jaffe said that unions do not want to fine members that perform in these shows because to do so would be to deprive their own members of work.

Whereas baseball is not subject to the antitrust laws, football and basketball escape them by a labor exemption under the National Labor Relations Act. The gist of the exemption, Mr. Cardozo explained, is that a union and a multi-employer group may sign a collective bargaining agreement that permits such things as a scheme to draft recruits into professional teams that would otherwise violate the antitrust laws.

The issue today, according to Mr. Cardozo, is "once the collective bargaining agreement expires, does the labor exemption expire along with it?" He mentioned that two suits have been brought, one in New Jersey by the basketball players (1987, settled), and, more recently, one in Minnesota by the football players. He forecast that this "is probably an issue that will only be resolved someday by the United States Supreme Court."

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"You don't have a right to be a basketball player or a hockey player or a football player."

in the United States," Jaffe '55 said. "You really cannot function as an entertainment lawyer unless you have a taste of the labor relations problems in this business."

The chief labor problem in the theatrical industry, Jaffe said, is the cost of production. Collective bargaining, Jaffe said, has helped shaped profit pools, electronic music and "double breasting," systems employed by the industry to contain costs.

Profit pools, Jaffe explained, "deal with the problem of the long-running show that benefits everybody except investors." Before profit pools, Mr. Jaffe recounted, a show could run at a break-even pace for

asserted, "The musician's union is very fearful of electronic music. They fear that they will be displaced." He added, "Technology has reached a point where you can replicate a symphony orchestra with a single keyboard."

According to Jaffe, collective bargaining was called upon again after the employers demonstrated that one musician at one keyboard could put on the entire score of Cats in the Wintergarden Theater in New York. The union quickly realized the employers could do without live orchestras so everyone sat down and "worked out a very satisfactory agreement."

Collective bargaining has not

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Law School Council Fights For Voice

(Continued from Page 1)

to discuss potential candidates. Bok also suggested that LSC work with the Faculty Dean Search Committee to identify groups that wish to participate and to organize opportunities for individuals or groups to voice their concerns about the process or about individual candidates, according to the minutes of LSC's meeting on Sept. 7.

Last week members of LSC and the Coalition for Diversity met with Professors Robert Clark '72 and David Kennedy '80 who are on the Faculty Dean Search Committee. Although the suggestion that at least one student sit on the committee was met with replies of "unrealistic" and "out of the question," according to Melendez, Clark and Kennedy did promise to meet with a student committee and to encourage the Faculty Committee to meet with a student committee.

The first joint meeting of the faculty and student committees is scheduled for Sept. 27. Clark and Kennedy have called a general meeting on the same evening which will be open to the entire student body. Clark stated, "We are very concerned that we get as representative a range of opinion as possible." The student response to the faculty committee's letter sent to students and alumni over the summer will be summarized at that time, according to Clark. Although only a few dozen students replied to the letter, Clark said, "what we have gotten has been very helpful." Clark emphasized, "We're still here. Any students who want to express their views to us are welcome to."

Upon learning of the formation of the Student Dean Search Committee, Professor Laurence Tribe '66, chairman of the Faculty Dean Search Committee, commented, "I think it's a terrific idea. I'm delighted that students are getting involved. From the beginning we have wanted as much student involvement as possible."

Tribe said last week that a student's presence on the faculty committee would not be a good idea

because it would ensure some professors' refusal to meet with the committee.

Tribe stated that at this point, it is hard to predict exactly how the two committees will interact. In describing the potential authority of the student committee, he said that while student knowledge will be helpful, there are obviously aspects of dean selection about which students do not have knowledge.

"We're still here. Any students who want to express their views to us are welcome to."

Melendez stated that the goal of the committee will be "to fight for student participation in any form and any forum that we can get it." He expects that in addition to meeting with the faculty, the student committee will try to interview candidates and communicate regularly with the student body. Melendez emphasized, however, that the authority of the student committee will be "purely moral."

Once a new dean is selected, the committee will compile its records, correspondence, and documents and make recommendations for more meaningful student participation in the next such search according to a motion passed by LSC on Sept. 7.

The new Student Dean Search Committee is composed of seven members. Two were elected by LSC, two by the Coalition for Diversity, and three were selected by lot from names submitted by the student body in response to a request published in the Adviser. The committee members are Lisa Ferrell, 2L, Tom Higley, 3L, Jeff Levy, 3L, Faith Rivers, 2L, Melvin Williams, 3L, Maurice Hoo, 2L, and Kirsten Levingston, 2L.

Ferrell noted that although one purpose of the committee is to encourage the selection of a candidate who places diversity as a priority, the committee will be looking for someone who is willing to listen to students concerns on a variety of issues. Concerning the number of

student responses to the faculty committee's letter over the summer, Ferrell said, "I don't think that's adequate response, and I don't think students were given the opportunity to respond effectively. Our committee intends to make sure there is student input."

Similar concerns were expressed by Maurice Hoo of the Coalition for Diversity who criticized the committee's method of soliciting student

opinions over the summer. "We hope to generate input," he said.

LSC has plenty of other items on the slate for this year. Melendez said, "Diversity is an issue we would really like to address." Ferrell, who chairs LSC's Committee on Diversity, said that the committee will work with the Coalition for Diversity as "another voice in support of diversity" without duplicating efforts.

LSC is also meeting with the library staff to discuss the price of vendacard copies which are higher at HLS than at some of the other libraries in the university, according to Melendez. Legal Copy's services are being investigated to see if they might be more efficiently performed by the school's Central Copy Service. A survey done in the spring will be repeated to gauge student interest in running a shuttle between the law school and parts of Cambridge and Somerville.

The Legal Education Committee will look into the HLS registration process and the cross-registration process. An Ad Hoc committee will work with the Administrative Board, the disciplinary body of HLS, to revise procedures which Melendez says are currently characterized by "an alarming lack of due process."



Law Review's Affirmative Action Plan Uncertain

(Continued from Page 1)

out of women who applied and also the result" but refused to attribute the increase to any changes in the selection process.

He insisted that the *Review's* "double-blind" grading system prevented any staff graders from identifying or giving extra consideration to applications from female students.

"It's pretty much impossible that facts about gender could have affected decisions. . . . We gave the same instructions [to graders] as in previous years, and grading responsibilities were divided the same [between genders]," Kahan said.

Bonnie Savage, 3L, president of WLA, said that after the discussions between *Law Review* and WLA concerning the gender gap, the student body became much more aware of the issue. She added, "I suspect the women worked harder on the writing competition and rose to the occasion."

After heated discussion last year, the *Review* staff voted in favor of including women in the publication's affirmative action policy that provides for numerical representation of blacks, Hispanics and Asians. The vote was nullified, however, because the meeting failed to comply with the *Review* organization rules requiring a "super-majority" of more than 50 percent when not enough members are present to reach a quorum.

The vote came after a lobbying campaign by WLA for inclusion of women in the program, which followed an unsuccessful attempt to recruit more female staff members in 1987.

Kahan refused to say whether the improved percentage of women applying and being accepted to the *Review* means the staff will not reconsider its decision last spring not to include women in the affirmative action program.

"It's impossible to say. Those decisions come later in the year, when

the power changes hands from one class to another. . . then that class has a say about how things will be run," Kahan said, declining to offer his personal position on what this year's results mean for the prospects of expanding the affirmative action program.

Regarding the WLA's position on affirmative action for the *Review*, Savage said, "It's a first. When it's the first year ever, it's too soon to say the problem is solved." Savage continued, "It is alarming that the past two years all the grade-ons have been men." However, Savage said that the problem of grade-ons has not been discussed so she could not offer an opinion on behalf of WLA.

Kahan did say that he hopes the improved numbers will encourage women to apply for positions on the *Review*. "We are really eager that people in the law review community know about these numbers. We were concerned like everybody else about last year. I know this can affect what 1L women envision themselves doing over the next two years, and we want to let them know that we encourage them to apply," Kahan said.

"The *Review* is a better place when a diversity of opinions and backgrounds are represented," he added.

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