



Harvard Law Record

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HLS Students Not Afraid Of 'L' Word

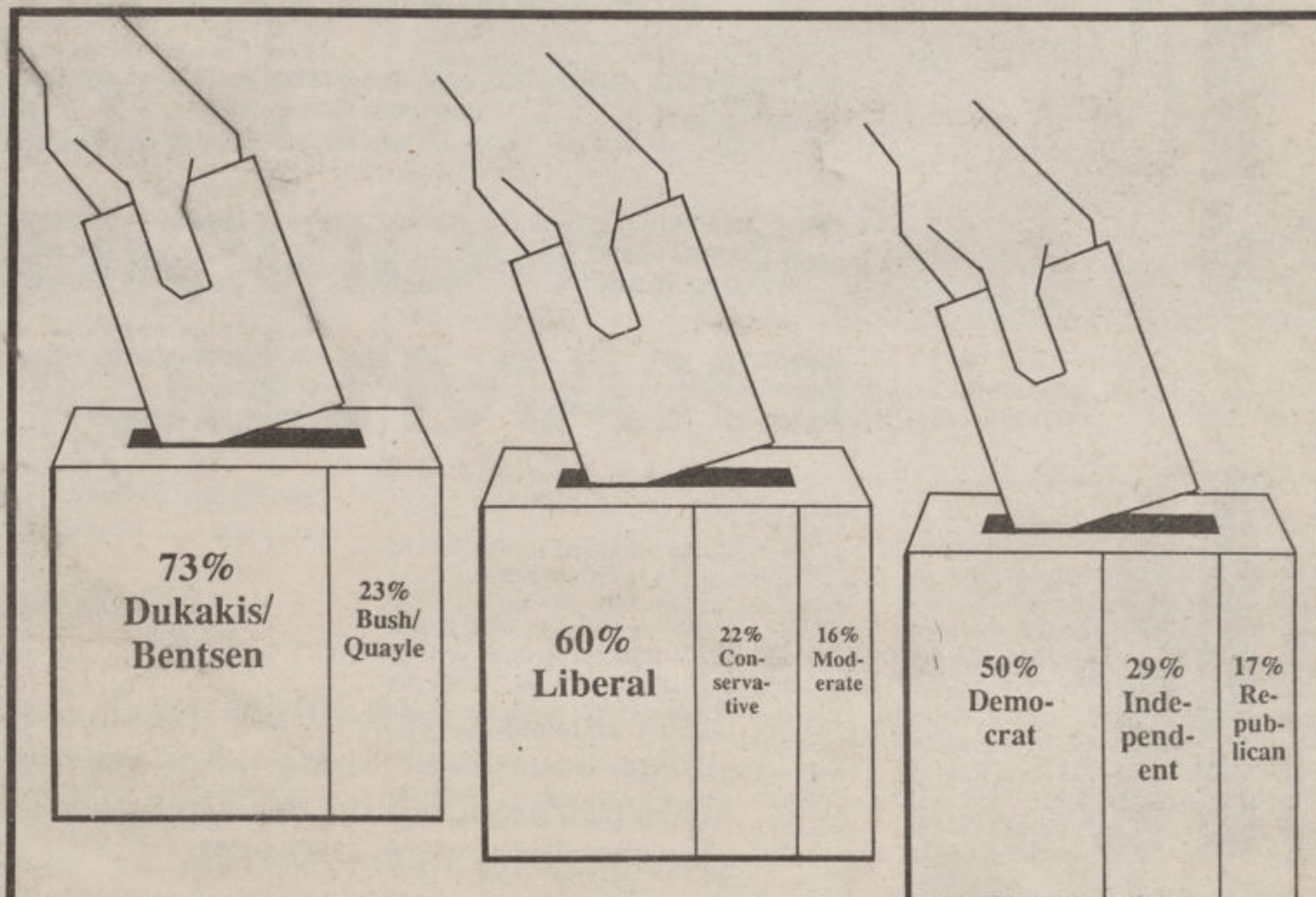
By Erick Hachenburg
News Editor

A pre-election poll by the RECORD indicates that the Harvard Law School student body has proudly joined Michael Dukakis '60 in using the "L" word to describe itself. The students overwhelmingly declared their loyalty to liberalism, with 60 percent adopting the label. That result was reinforced by the three to one margin that Dukakis received over George Bush and the three to one proportion of registered Democrats to Republicans.

The telephone survey, polling five percent of the student body on Oct. 31, appeared to show a strong commitment to their respective candidates and ideology. In the poll's hypothetical contests, pitting the top of one party's ticket with the other party's vice-presidential selection, the students' support did not change significantly. In a race between Lloyd Bentsen and Bush only one Bush supporter defected. When Dan Quayle was run against Dukakis, the weak support for Bush evaporated, but only confirmed a general sentiment that Quayle is a severely under-qualified choice to be "a heartbeat from the presidency."

Interestingly, almost half the students expressing a preference admitted their motivation was to vote against the other ticket, and when given the opportunity to offer alternative candidates, less than one-third stuck with the party nominees.

On a separate note, the last question of the poll explored students' preferences for dean. Most of the



The Harvard Law Record randomly surveyed approximately five percent of 1Ls, 2Ls and 3Ls at Harvard Law School by telephone on Oct. 31. The poll is not intended to be a statistically accurate representation of the student body, only a general sample.

Status Minorities Attack Proposed "Fairness" Amendment

By Sally Johnson
Staff Writer

A proposed amendment to the Law School Council (LSC) constitution prohibiting discrimination against minorities in the formation of subcommittees has come under fire from status minority groups on campus questioning its sponsors' motives.

Constitutional amendments must pass by a simple majority vote of the student body, and balloting was scheduled for Nov. 1 and 2.

LSC President Brian Melendez, 2L, invalidated the first day of balloting after he received various complaints of improper election activity: some students were asked to include their names and I.D. numbers on their ballot to prevent double voting, roughly 100 more ballots were received than students marked on LSC rolls as having voted, and the polls closed earlier than scheduled.

"The students have a right to a secret ballot," Melendez said of the decision to invalidate the first day's results. Melendez originally told the RECORD the election would be held Nov. 2 and 3 because he did not "want to see this type of mudslinging continue." He later issued a statement to the students, however, postponing the election until Nov. 7 and 8.

A number of student groups and organizational leaders distributed statements opposing the amendment to student boxes as the balloting began.

Leaders of status minority groups co-signed a letter charging that although the amendment appeared "neutral on its face," it is in fact "a disguised attempt to undermine the efforts of women and minority student organizations to gain an effective voice at HLS."

The statement added that the leaders, including the presidents of organizations representing Asian-American,

American Indian, black, women and Hispanic law students, were "appalled" that the amendment "equates the experiences of a political or ideological group with that of women, racial minorities, and gay men and lesbians."

A separate statement distributed by the Womens Law Association indicates that although the organization "supports in principle" the idea of non-discrimination in the selection of committees, "the history and wording of this particular amendment have convinced us that we cannot endorse it."

Also opposing the amendment were the boards of the Human Rights Group, the Human Rights Yearbook, the Lawyers' Guild, the Women's Law Journal and the Critical Legal Studies Reading Group.

The LSC held an open forum on Oct. 26 to discuss the pros and cons of the amendment, drafted by the Student Alliance for Fairness (the Alliance) and

proposed by petition.

Section 1 of the amendment would forbid discrimination in the apportionment of student government committee seats on the basis of gender, sexual orientation, race, ethnicity, membership/non-membership in any student organization, or political beliefs. Section 2 would provide for exceptions to this rule whenever voted necessary by at least 75% of the LSC membership. The amendment is written to operate prospectively.

The debate is tied to a recent failed effort by the Harvard Federalist Society for Law and Public Policy (the Federalists) to reconstitute the Student Dean Search Committee (the Committee). According to Sam Levy, 3L, member of the Alliance and president of the Federalists, which is an organization of conservative and libertarian students, the LSC's apportionment of two seats on

(See back page)

Library Crowding Prompts Changes

By Gretchen von Helms
Staff Writer

Following last year's major internal review of HLS facilities and institutions, the first of its scope in a quarter of a century, the HLS faculty is now considering four different proposals to restructure, or possibly to replace, the Langdell law library. Last year's internal review, in which six different committees of HLS faculty and student representatives examined HLS' buildings and its policies with regard to financial aid, academic education and clinical offerings, has also led to increased discussion about the need for HLS' first major capital funding drive since the late 1960s.

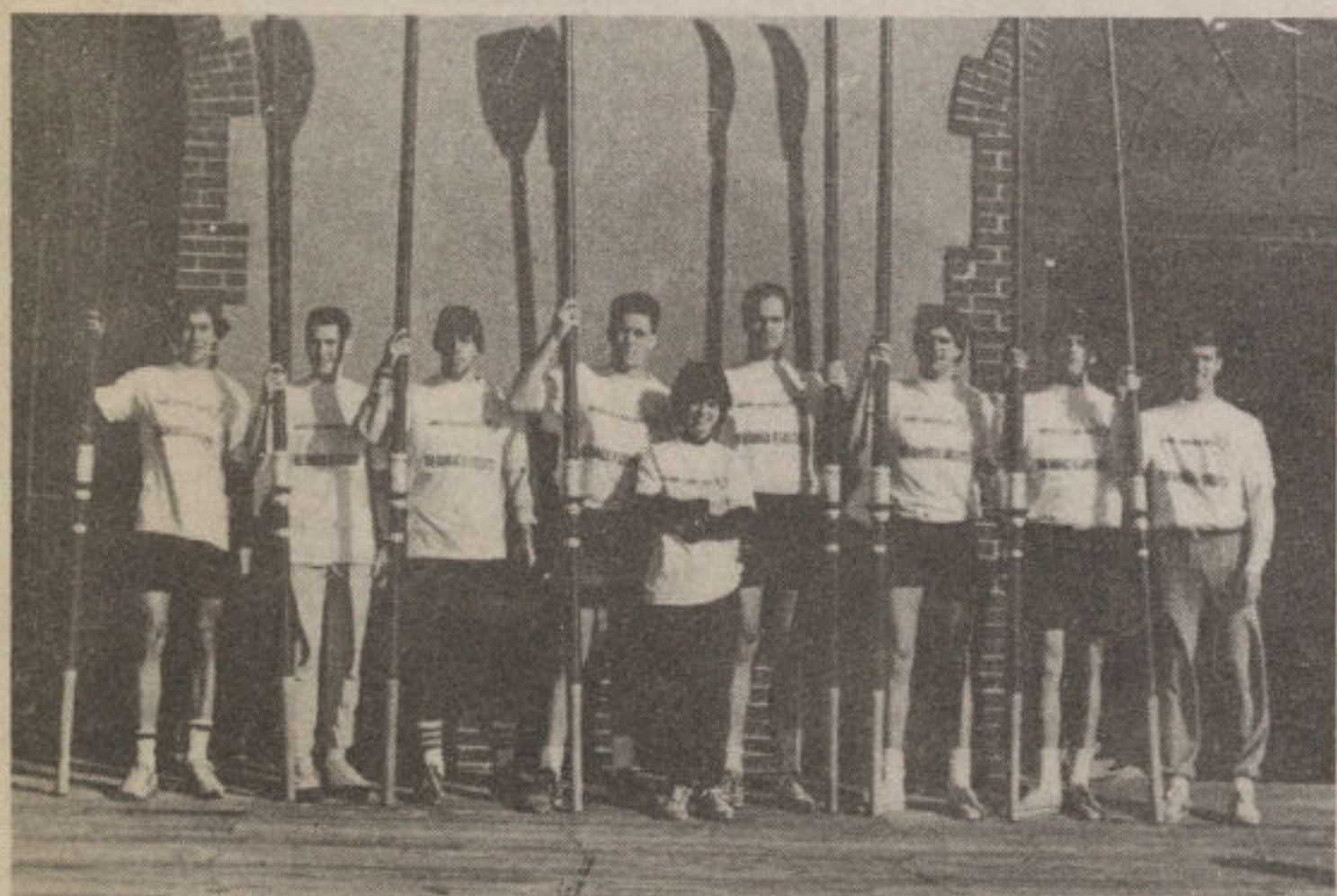
The Steering Committee which organized last year's review, co-headed by Associate Dean Andrew Kaufman '54 and Associate Dean Frank Sander '52, presented the four proposed options concerning Langdell library to the HLS faculty on Oct. 12 for its discussion and review. The options, which the faculty

will consider during the fall semester, are based primarily on the Committee's finding that Langdell lacks the space to accommodate the projected future volume of books.

The first option presented to the faculty, according to Library Committee Chairman Charles Donahue, addresses immediate concerns regarding the library's climate. Donahue said the option includes the installation of a modern heating, air conditioning and ventilation system, as well as a renovated reading room, a new electric substation and a new microform room. According to Donahue, this option is the least ambitious of the four, and would "probably have to be done even if there were no capital campaign."

The other three proposed options focus more centrally on the most pressing problem identified in the study — the library's lack of space. One proposed option is to connect Langdell with the International Legal Studies

(See back page)



The HLS Crew, left to right: Gregg Shapiro, Chris Mann, David Shaman, Phil Berg, Liz Koppelman, Harry Olivar, Robert Benun, Steve Bonarris, John Brintzer. See story on page 3.

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Law School Crew Team Improves Its Head Performance

By Harry Olivar
Special to the RECORD

On Sunday, Oct. 23 the Harvard Law School Crew competed in the annual Head of the Charles Regatta. Sporting racing shirts reading "OUR DAMAGE IS LIQUIDATED," the law school eight battled a chilling headwind and a strong current to row the three-mile course in 18 minutes and 23 seconds. Although slowed by conditions, the team improved on last year's 31st place to finish 23rd of 31 entries in the Men's Club Eight division — a result marred only by a penalty that dropped the law school in the overall standings.

The law school eight consisted of, from bow to stern, 1L Gregg Shapiro, 3L Chris Mann, 1L David Shaman, 1L Phil "Ice" Berg, 3L Harry Olivar, 3L Captain Robert "Blades" Benun, 3L Steve Bonorris, 2L Stroke John Brinitzer, and 3L Coxswain Liz Kopelman. Members of the crew had previously rowed at a variety of undergraduate institutions — Amherst, Harvard, Yale, Penn, Virginia, Cal Berkeley, Stanford, Oxford, and Cambridge.

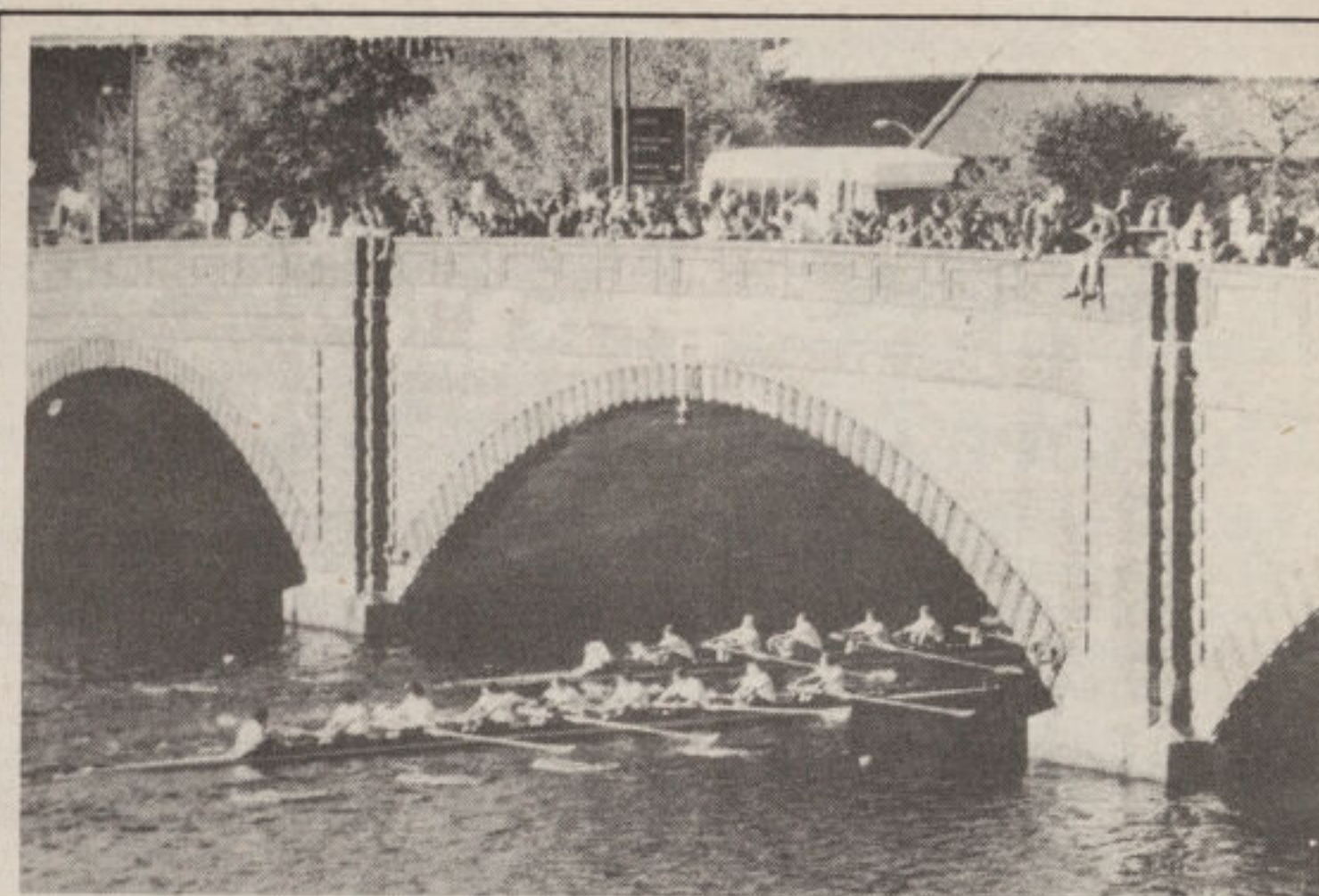
Five weeks of experimentation and

early in the morning," he said, "but this was a lot like college, where I enjoyed crew." Shaman agreed: "The team came together well in the week preceding the race."

The Head of the Charles, which begins at the Boston University boathouse, covers a winding three-mile course upriver. The crew left the starting line at a steady 28 beats per minute, with Brinitzer smoothly leading the eight through turbulent water. Five strokes into the race, the HLS boat passed a crew from the University of Lowell, which was sitting dead in the water. Mann made the cryptic observation that "that made us overconfident — we thought we were going too fast," but other members of the crew differed. "I was pumped to know we weren't in last place," stated Benun.

After settling into the race, the boat had to battle conditions almost as much as other crews. The choppy water caused Bonorris' back to spasm early in the race, and also gave him "serious forearm cramps." "It was just hell," he said, "sort of like climbing Mount Everest ... three thousand times."

Although the law school boat pressed



Rick Genow

HLS oarsmen (near team) put in a mighty effort, and despite a penalty, were pleased with their racing development.

"I was pumped to know we weren't in last place."

practice transformed the boat from a collection of many different styles to a cohesive unit. To help adjust to the presence of four new oarsmen in the boat, Benun scheduled five practices per week, including several morning workouts. Although fatigue induced by interviewing, Legal Methods, and late World Series games occasionally made these practices sluggish, Benun's strategy eventually succeeded. Although he questioned the wisdom of a pre-race ergometer test, Berg stated that the practice was a worthwhile experience overall. "I don't usually like to get up

Harry Olivar, 3L, is a member of the HLS crew team.

hard in the first mile, an eight from Hobart slowly crept up behind its stern. At the Weeks footbridge, Hobart put on a move to overtake HLS, and did so. Shortly thereafter, however, at the Lars Anderson Bridge, the law school turned the tables. Greeted by a dependable squadron of boisterous law school fans, the crew pushed back into Hobart and nearly rammed their stern. Yet the other crew proved too strong and steadily pulled away. Said Bonorris, "We were playing a little for the hometown crowd — but we didn't play well on the road." Hairpin turns and choppy water make the Head one of the most difficult races to navigate, placing a great deal of responsibility on the coxswain. In her third year of coxing the law school boat

in this race, Kopelman brought her experience to bear in what proved to be a difficult set of circumstances. With about two miles gone in the race, a varsity crew from MIT — the eventual winner — began approaching HLS rapidly from behind. On the sharp port turn into the Elliot Bridge, Kopelman hugged the inside to get every possible second for her crew. MIT's coxswain also wanted the inside of the curve, and pressed close behind.

Kopelman, refusing to swing wide, held her course into the bridge, causing stubborn MIT to smash its oars against an abutment. MIT responded well after its crash, outsprinting HLS in the final half-mile to achieve the best time for the race. Nevertheless, the law school oarsmen congratulated Kopelman for a brilliant tactical maneuver. It was not until eight days later that Benun discovered the law school had been assessed a 60-second penalty for refusing to yield, a sanction that dropped the boat from 23rd to 28th place overall.

Berg expressed incredulity about the

penalty. He said, "We knew the Charles, and I guess MIT did too ... but they just ran into the bridge. If they wanted to get by they should have waited." Others were distressed as well. Brinitzer called the penalty "pretty harsh — it wasn't that clear a violation," and philosophized, "We'll have a low seed next year — we'll pass a few boats." Bonorris said, "Liz is an aggressive cox, but still that's crazy. They stripped us of our respectable 23rd place finish."

Penalties aside, the members of the boat agreed that racing in the Head of the Charles was a great experience. When apprised of the 23rd place finish, Mann said, "That's amazing. I can't believe it." Although Bonorris lamented the erg test and said, "We peaked a day early," he noted, "We had a good crew this year." Said Berg, "I'll stick with the law school crew — it was great ... a lot of fun." Brinitzer balance the time commitment against the experience, and said, "Blades was trying to be as serious as possible, and it turned out really well."

Jesse Jackson Knocks Bush Campaign And Praises Union

By Dawn Ross
Staff Writer

The Rev. Jesse Jackson was greeted with a thundering ovation as he took the stage Oct. 24 at a rally sponsored by the Harvard Union of Clerical and Technical Workers, the Black Students Association and the Black Law Students Association. Appearing at Sanders Theater, Jackson received a second ovation as he announced that just moments before, an administrative law judge had upheld the contested union election held at Harvard last spring.

Jackson's appearance, along with those of Massachusetts Congressman Joe Kennedy and Richard Hatcher, former mayor of Gary, Indiana, was an effort to spark voters to turn out at the polls on Nov. 8 to support Gov. Michael Dukakis '60 in his bid for the presidency. The former presidential candidate noted that the Democrats hold the number of votes necessary to win the election but that "the [Democratic] team must cast its nets and pull its weight," by turning out at the polls in large numbers.

Jackson related how he has been personally responsible for the registration of thousands of voters as he crisscrossed the nation in the remaining days of the presidential race. The personal costs have been high in terms of the physical toll, stated Jackson, but he challenged the audience to match his work in getting out the vote. The campaign can be won, according to Jackson, if Democrats encourage unregistered voters and those not intending to vote to make their choices known.

The central message of Jackson's speech was "the struggle to keep hope alive." He noted that the "time has come to unleash [young Americans'] hopes

and dreams on society, to make America strong, to make America better."

Jackson also used the speaking opportunity to find fault with the Republican presidential campaign of Vice President George Bush. In response to Bush's suggestion that liberalism is somehow "dirty," Jackson recapped the history of liberal activism in this country and pointed out the positive changes brought about by liberals.

In criticizing the Republicans' use of Dukakis' liberal viewpoint as a negative feature, Jackson stated that "if they can define you, they can confine you, then they can malign you." He urged voters to not surrender to a Republican definition of liberalism and noted several examples of the effect of liberal thinking on the American civil rights movement, such as Rosa Parks' refusal to move to the back of the bus and the sit-in at a southern lunch counter.

"Liberalism is broader than politics," Jackson stated, noting that the election should not be about Democrats or Republicans, but instead about democracy and our republic. Jackson, in reference to what he termed Bush's attempt to associate Dukakis' membership in the American Civil Liberties Union with involvement in a subversive organization, cited several historical examples of people being labeled as subversives, such as Pharaoh's labeling of Moses, Herod's labeling of Jesus Christ, Hitler's labeling of the Jews, and the FBI's labeling of students in the 1960s. According to Jackson, the fact that Bush, as the sitting vice president, attacks civil liberties as subversive, should be a warning to American voters. Jackson stated that, historically, the idea of calling those holding a different point of view subversive is "not an

original idea but is a dangerous one."

Jackson criticized Bush and conservatism by stating that "Mrs. Bush and the Bush family are beneficiaries of liberalism." Jackson also noted that Bush's continual use of the American flag in his campaigning distorts its image. Jackson said that more American flags are made in Taiwan and South Korea than in the United States. He was careful to point out that this fact is not a reason for "Asian-bashing — it's not their fault that they are exploited for cheap labor."

Jackson depicted Bush's flag-waving as a gimmick designed to focus American attention away from the real issue. "While you are looking up at the flag you are looking away from the buying and selling of America," Jackson said. According to Jackson, America is overdependent on foreign capital, saying "Americans should not keep looking up at the flag while their legs are cut out from under them."

Jackson was also highly critical of the Bush campaign's attempt to make "passion a new, extra-constitutional requirement" in its labeling of Dukakis as a "passionless technocrat." Jackson noted that throughout our nation's history it has not been the president who has needed passion, but instead the people. He cited the integration of public schools in the South as an example, noting that the people who supported equal rights had the passion and President Eisenhower had the troops to act on that passion. Jackson followed up by noting that "[John Kennedy] did not inspire us to civil rights, we inspired him." In the current election, stated Jackson, "Dukakis and Bentzen have the priorities, we will supply the passion."

In another critique of the Republican Party, Jackson blasted the Reagan administration for its institution of an "ethics-free zone" in carrying out national security programs and policies. Jackson cited the arms-for-hostages affair as an example of the ethics-free zone extending beyond the power of the Congress, the media, or any basic moral sense of ethics.

In commenting on what Jackson classified as Bush's lack of compassion for the homeless, Jackson stated that one-third of the nation's homeless are veterans — "not the kind that fought between Gary and Indianapolis," a pointed reference to Dan Quayle's Indiana National Guard duty during the Vietnam War. Referring to remarks made by Bush about the homeless, Jackson said that "when [Bush is] contemptuous of the homeless, [he is getting] into treacherous moral territory."

Jackson concluded his discussion of the plight of the homeless and Bush's attitude toward them by retelling the traditional Christmas story of the skilled but unemployed carpenter, Joseph, and his pregnant wife, Mary, traveling at the behest of their government, who were turned away by an insensitive innkeeper. But the wise men left the comfort of their homes and wealth and brought gifts to the child of the homeless couple. In comparing the insensitive innkeeper to Bush, Jackson stated that "how you treat the least of these is the test of your character."

In closing, Jackson called for young Americans to stop talking and to start acting. "You can die from the paralysis of analysis," according to Jackson. Jackson ended his speech as he traditionally does, encouraging the audience to join him in chanting "I am somebody."



Harvard Law Record

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Jeff Gershowitz
Editor-in-Chief

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Business Manager

Editorials

October Interviews Too Late

With the interviewing season in full swing, many students are beginning to realize that, despite the seemingly never-ending time allotted to recruitment, there is precious little time for HLS students to make well thought-out decisions. And if HLS subscribes to recently promulgated National Association for Law Placement (NALP) principles and standards, their time will be even more drastically reduced.

HLS holds on-campus recruiting throughout October. Current NALP guidelines require offers to former summer associates to stay open only until November 15, while new employment offers remain open through December 15. Thus a 3L debating whether to remain with her summer employer has only two weeks to do all her flyouts, weigh all factors and reach a decision. A 2L conducting a wide search may not finish visits to firms until late November and face the same dilemma.

What is so unfair is that, while HLS remains on an October schedule, other schools have rushed their on-campus interviews to early fall to take advantage of the NALP timeframe. Thus students at schools like NYU and Columbia that interview *before* classes even begin have three or even four full months for visits and careful planning.

And, as if this were not enough, NALP, concerned with what they term "offer hoarding," has ruled that after October 1 a law student may hold no more than four offers open at any time. While their colleagues who interviewed in August and early September have a month or more to decide which four offers they choose to retain for consideration, HLS students must reject offers they are given after October and November visits immediately upon receiving them in order not to violate this "four in the hand" rule.

The placement office at HLS simply cannot go along with this new policy and retain the October interview season. Either Placement must recognize the forces that have led other schools to move interviews earlier, and do likewise, or it must take a stand and tell NALP that its absolutist legislation will no longer rule HLS recruiting. One way or another, the system must change.

J.A.G.

Talk To The Animals

In voting next week HLS students will decide whether to approve a Law School Council constitutional amendment calling for non-discrimination in student government. Whether approved or not, this seemingly egalitarian pronouncement reinforces the argument that there is still one major group that both "pro-diversity" and "pro-fairness" organizations exclude from their conception of inclusion and rights. Yes, HLS can never claim to treat all equally until it recognizes the right of our animal brethren to be heard.

It is no surprise that neither the *human* minorities arguing for diversity nor the *homo sapien* conservatives demanding their share of the pie have voiced concern for the rights of other species. From students' first day at this bastion of elitist humanity they are taught to have no regard for fellow animals. This indoctrination into a sense of superiority over one's fellow inhabitants of the planet knows no ideological bent: while crits like M.J. Frug attack traditionalists like Dawson, Harvey, and Henderson, both sides overlook clear anti-bovine sentiments, as evidenced by the mocking portrayal in a contracts casebook of a proud cow in a photo labelled "Black Angus in Pensive Mood."

While students attack professors for alleged racist and sexist bias, all sides manage to overlook egregious animal slurs, such as the blatant anti-lupine prejudice of Nesson and Green in their evidence text. For example, see the case in which Sophie the Wolf is maliciously blamed for all ills and the hypo "Wolf," in which a noble canine is disparagingly slurred by having its name attached to a sleazy human male.

We have a "Coalition for Diversity" trotting out, under the banner of diversity, a list of demands for the selected special interests they represent. We have an "Alliance for Fairness" raising issues of procedural fair treatment for "all" while masking what may well be substantive anti-affirmative action bias. Yet no one speaks out for the members of the animal kingdom.

It is time for this to stop. As HLS chooses a new dean, let the voice of all sentient beings be heard and let the new leader be someone responsive to the needs of both man and man's best friends.

J.A.G.

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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). 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.

Vote No On Palestinian Issue

To the Editor:

Referendum questions have been placed on the Cambridge, Newton and Somerville ballots concerning United States policy in the Middle East. The questions are sponsored by a group calling itself "The Coalition for Palestinian Rights." The resolution on the Cambridge ballot calls on Congress, in part, to achieve peace in the Middle East by demanding the end of violations of Palestinian human rights and the occupation of the West Bank and Gaza, stopping all expenditure of U.S. taxpayers' money for Israel's occupation and favoring the establishment of an independent Palestinian state.

We are all deeply troubled by the situation in the West Bank and Gaza and we should support measures to bring about a just resolution of the crisis. However, this referendum is not the proper means. Although the resolution may sound like a proposal for peace, closer analysis reveals that it lacks the necessary elements to bring about lasting peace in the Middle East. Conspicuously absent from the resolution is any mention of ways to ensure stability in the area. Twentieth Century conflicts have shown that successful peace plans must contain explicit security guarantees. An honestly motivated peace proposal would call for: 1) secure borders; 2) a concrete plan for a peaceful and feasible solution to the present crisis; 3) recognition of each side's right to exist; 4) condemnation of terrorism and; 5) rejection of the PLO's official charter calling for Israel's destruction. The omissions from the proposal, and

the Coalition for Palestinian Rights' own statements in its fund raising materials, clearly show that the ballot question is neither motivated nor intended to bring peace. Rather, it is a dangerous proposition intended to delegitimize the State of Israel.

In a letter to the *Crimson*, prominent members of the Harvard community, including Yo Yo Ma, Martin Feldstein (Economics), Martha Minow (Law), Martin Peretz (Social Studies), Robert Reich (Kennedy School), Michael Sander (Government), Abigail Thernstrom (Government) and Laurence Tribe (Law), called for the referendum's defeat. Although some of them have criticized Israel's policies at times, and even agree with some of the specifics of the referendum, they see the proposal as deceptive:

In its sheer one-sidedness this political statement is historically and morally false. A prescription for peace that does not recognize the Arab and Palestinian part in the ongoing war of rejection against Israel cannot be honestly motivated. The beguiling simplicity of its recommendations would make it seem that all it would take to bring peace to the area are Israeli concessions. Nothing could be further from the truth. The many strategic omissions from the referendum, including any reference to security guarantees for Israel, suggest that its sponsors intend not real and lasting peace, but an interim peace during which Israel would remain under siege from its neighbors.

An honestly motivated peace proposal would call for *quid pro quo* on both sides including a sharing of the responsibility for the resolution of the current crisis. A feasible peace proposal would guarantee security for both sides of the conflict. The referendum question in Cambridge, and similar questions in Newton and Somerville, fail to serve the cause of peace. If you care about lasting peace in the Middle East with security for both Palestinians and Israelis, please vote NO on question 5.

Miriam Kosowsky, 3L
Harvard Law Students for Peace
in the Middle East

Letters To The Editor

Campaign Guilty Of Malpractice

A copy of this letter to Dean James Vorenberg was sent to the RECORD:

I am sure you have followed the current Presidential campaign.

Regardless of the outcome, it is surprising and shocking to me, as a graduate of Harvard Law School, to see the inept, unartful and insular campaign that has been run by a number of individuals for Governor Dukakis, which

persons are closely associated and identified with the Harvard Law School or its faculty. The manifest ineptness of the Dukakis campaign is certainly a black mark on Harvard Law School training, and I hope that such inadequacies will not be repeated in future activities of the School faculty and graduates. Losing is one thing — inept losing is malpractice.

George D. Webster '48

Law School Yields Poor Training

To the Editor:

It was refreshing to see an editorial ("Students Cheated by Courses", 9/16/88) which relates to the central goal of the vast majority of Harvard law students: preparation for law practice. The fact is that law schools, including Harvard, do not prepare students for practice. If Harvard graduates do better in practice than graduates of lesser law schools, it is because they were more intelligent when they arrived at Harvard. The soul of Harvard Law School is its admissions office. What occurs between admission and graduation is largely irrelevant to law practice. Graduates must teach themselves lawyering skills on the job.

The difference between medical school and law school is instructive. Professors of medicine work as attending physicians in teaching hospitals. They teach medical students and residents by managing cases with them. When they finish their training, medical students have substantial hands-on experience doing what doctors do for a living. Obviously this is not the way Harvard law professors teach law.

There are two reasons for this. First,

the clinical method is better suited to medicine than to law. Second, Harvard professors lack the credentials and the desire to teach the practical aspects of lawyering.

The typical Harvard professor attended Harvard or a law school of similar stature, clerked for a Supreme Court justice or Circuit Court judge, and was invited to join the faculty. Some have held public law positions, but very few have substantial, if any, experience in the private practice of law. They have distinguished themselves as law students, but not as lawyers.

Harvard Law School pays lip service to the idea that it exists to train lawyers, but many faculty members seem to view the law school as akin to a Ph.D. program, where the primary emphasis should be on scholarly activity rather than on professional training.

Judging from their career choices, most Harvard law students aspire to be well paid professionals who can render service which merits their fees. Harvard is shortchanging them, if not cheating them, by failing to train them adequately.

Edward Bart Greene '71

What Have We Learned From Racism In Our Past?

Beyond its guilt-evoking potential, does the history of slavery in this country have any value in analyzing contemporary social policies and legal doctrine? This is



Derrick Bell Off The Record

one of several racial issues we are discussing this Fall in the seminar, Civil Rights at the Crossroads. Constitutional apologists explain away recognition and protection of slavery in the original Constitution as a historical anomaly that occurred because: (1) most whites in the late 18th century (including the Framers) believed that Africans were a lesser order of humans, and (2) the dire need for a strong central government committed to the protection of property pushed the

Framers to accept protection of even property in slaves... despite the realization by many of them that slavery was morally wrong.

Two centuries later, we live in a far more enlightened world. Slavery is no more. Judicial precedent, and a plethora of civil rights statutes prohibit racial discrimination. Compliance is far from perfect, but the slavery provisions in the Constitution seem unhappy artifacts of a less enlightened era. But are they? Racism is far from dead in modern America. Despite undeniable progress for many, no black Americans are safe from discriminatory events in their daily lives. All are subject to career or even life-threatening episodes because they are not white. Even the most successful are haunted by the plight of their less-fortunate brethren who must struggle for existence in what social scientists call the "underclass." Burdened with life-long poverty and soul-devastating despair, they live their lives

beyond the pale of the American Dream.

It is thus appropriate to inquire whether if a set of circumstances arose like those that pushed even those Framers who despised slavery into yielding to the Southern delegates insistence on constitutional protection for slavery, would civil rights laws protect black people from a repetition of the fate that befell their African ancestors? Would modern policymakers be able to resist the temptation to substitute political pragmatism for moral principles? And if the issue were left to a referendum, how would Americans decide a ballot question that would bring great benefit to all whites at the cost of freedom for all blacks?

These are the questions that I raise for discussion in:

The Chronicle of the Space Traders

The first surprise was not their arrival—they had sent radio messages weeks before advising that they would land 1,000 space ships along the Atlantic Coast on Jan. 1, 2000. The surprise was the space ships themselves. Not at all of the Star Wars variety, the great vessels, each the size of an aircraft carrier, resembled nothing more than the square-shaped landing craft used to transport troops to

beachhead invasion sites during World War II.

The great ships entered the earth's atmosphere in a spectacular fiery display, visible throughout the Western Hemisphere. Then after an impressive, cross-continental "fly-by," they landed in the waters just off the Atlantic coast. The lowered bows of the mammoth ships exposed cavernous holds that were huge, dark, and impenetrable. Then came the second surprise. The welcoming delegation of U.S. government officials as well as the media covering the event could hear and understand the crew as they disembarked. They spoke English and sounded like the former President Ronald Reagan whose recorded voice, in fact, they had dubbed into their computerized, language translation system.

But the visitors were invisible—at least they could not be seen by whites who were present or television viewers to the special coverage that had preempted the football bowl games. American blacks were able to see them all too well, though their descriptions differed rather markedly. "They look like the worst rednecks

(See page 6)

Derrick Bell is one of two tenured black professors at HLS. He often employs fictional techniques, such as those employed in the report from meetings last spring between Academic Deans and the Association of Harvard Black Faculty and Staff on affirmative action.

HLS, Inc.

By Luke Cole

HLS, Inc.

WHILE SOME WOULD LIKE YOU TO BELIEVE THAT THE 1988 PRESIDENTIAL ELECTION IS ABOUT THE PLEDGE OF ALLEGIANCE, THERE IS A LOT MORE AT STAKE.

SPECIAL ELECTION EDITION

SINCE 1980, THE REAGAN-BUSH ADMINISTRATION HAS VIRTUALLY ELIMINATED THIS COUNTRY'S PUBLIC HOUSING PROGRAMS. FOR THE HUNDREDS OF THOUSANDS OF HOMELESS PEOPLE,

1980 1988

THE HARM IS IRREPARABLE.

BY NOT CLEANING UP TOXIC WASTE SITES, NOT ENFORCING ENVIRONMENTAL LAWS, AND SQUANDERING THE RESOURCES OF PUBLIC LANDS, REAGAN & BUSH HAVE LAUNCHED A CALCULATED ASSAULT ON OUR ENVIRONMENT.

1980 1988

THE HARM IS IRREPARABLE.

THE REAGAN-BUSH ADMINISTRATION HAS NOT PROVIDED ADEQUATE FUNDS FOR AIDS RESEARCH & EDUCATION AND HAS FOSTERED AN ATMOSPHERE OF INCREASED INTOLERANCE OF PEOPLE AT HIGH RISK OF CONTRACTING AIDS. FOR OUR SOCIETY,

1980 1988

THE HARM IS IRREPARABLE.

IN THE PAST EIGHT YEARS, THE GAP BETWEEN THE RICH AND THE POOR HAS GROWN SIGNIFICANTLY. FOR THE MILLIONS MORE WHO LIVE IN POVERTY,

1980 1988

THE HARM IS IRREPARABLE.

WE CAN'T AFFORD FOUR MORE YEARS OF IRREPARABLE HARM.

Fenno

Fenno stared blankly at the television set. The talking heads were once again debating the upcoming election. The guy from L.A. Law was now apparently replacing Danny Quayle on the V.P. ticket. Some bald guy named LaDouche or something was predicting the end of civilization as we know it. Fenno was confused. He tentatively sipped his Meister Brau and turned to his pet snake, Rusty, seeking consolation and advice.

"Oh friend of mine," sighed Fenno, "what to do? I honestly cannot decide — Duke, Bush, Paul, Kuzak, LaDouche, Fulani — they're all racing around my mind like a thousand points of light. And I can't stop thinking about the race — it's on my mind like ugly on an ape."

The rattled Fenno rolled out of his bed (yet to be made this year), onto a pile of old party clothing he picked up from a box in the Hark (why didn't anyone want that stuff, anyway?). Grudgingly, he stood up, only to find that a pair of wax lips and a melted, bite-size Mr. Goodbar stood up with him.

"Maybe my pubmates will help me out with my choices," he groaned to Rusty, who was still grinning after claiming the prize for "best costume" at the DSAC Halloween bash (the bash wasn't too crowded, but it was fun — for the first time he could remember, Fenno thought he saw someone at a party he didn't recognize).

"Hey Fenno, dude," his buddy Troy called out. "What's news?"

"Oh, my mind is all befuddled with this election-bizz," the Fenno-meister moaned.

A smarmy crowd surrounded him. Some yelled "Diversity." Others "Fairness." Others just threw letters back and forth at each other. Fenno felt dizzy.

"Not that election! Argh!"

Bursting out into the warm night air which suddenly turned into a thunderstorm, Fenno headed for the Root Room for his once a year pilgrimage to the comfy seats and stacks of papers and magazines. Fenno said to Rusty, "Maybe these words of wisdom will point me in the proper direction to correctly exercise my voting rights as a dutiful citizen of the republic."

"Question 2: Bad for You," the ad said. "Huh," Fenno said.

Then the answer came to Fenno. As he flipped through the *Globe*, Fenno saw his hero. His candidate was in the race, and Fenno was struck with the enthusiasm that had eluded him for months.

"Zippy, Zippy!" the joyous Fenno sang. "A Pinhead in the White House — terrific! I might even get a Cabinet post." Rusty hissed in delight.

Dead Lines

By K A

I GUESS IT'S ABOUT TIME TO FLEX MY KALCULATORY MUSKLES AND CATCH UP ON MY LAW N' ESCHONISMISK READING! YUP! I'M GONNA BE THE MOST EFFISHKENT UTARITILIAN SEADORG IN THE WHOLE BLASTED WORLD!!!

HMM...SO THE EXPECTATION REMEDY CREATES EFFISHKENT INCENTIVES TO BADDOCH?

PARETO OPTIMIZMOLOGY? ...AS I SEE, NOTHIN' LIKE FREE MERKETS!

AN INTRODUCTION TO LAW AND ECONOMICS: A HARBORFUL POLICY!!!

WELL BLESS MY SOUL, FANCY FINDING YOU HERE! I WOULD GLADLY PAY YOU TUESDAY FOR A HAMBURGER TODAY!

G'WAY!!

ARF! ARF! YER INTERFERIN' WITH MY EDJAMAKATIM IN LAW N' ESCHONISMISK!

AHEM—NOW THAT YOU'VE MENTIONED IT, I BELIEVE I WILL HAVE A HAMBURGER WITH YOU AND ON YOU!!

I DIDN'T MENTION IT!! G'WAN BEAT IT, YOU FAT LAZY INEFFISHKENT COMMUNISKITARIAN FREE RIDER!!!

BESIDES, ME N'MY INFINK, SWEET PEA ARE GOING TO POSNER'S BABY MERKET WHERE I'M GONNA SELL HIM TO THE HIGHEST BIDDER!

WHAT?!

DON'T GIVE ME GUFF!! Y'SEE, IT'S EFFISHKENT!!!

POPEYE, THAT'S OUTRAGEOUS! BABIES AREN'T FUNGIBLE COMMODITIES, AND BESIDES YOUR MARKET RHETORIC DISGUISES AN IMPROVERISHED AND BLEAK VIEW OF HUMANITY...

HUMANITY?? SHUMANIKY?? DON'T GIVE ME THAT MUSHY-HEADED, LEFTIST ANTI-LAW LIBERAL CRAP!!

NOW NOW, MY LITTLE INFINK, I HOPE YOU DIDN'T LISTEN TO ANY OF THAT NONSENSE. YER GONNA GROW UP EATIN' SUPPLY SIDE SPINACH AN' DRAGON TRICKLE-DOWN MILK! AN' YOU'LL BE A RATIONALIZED AUTOMATIC EFFISHKENTLY-PROGRESSIVE UTARITILIAN JUS LIKE YER PAPPY!!!

...JUS YOU WAIT TILL POSNER GETS ON THE SUPREME COURT!!

SHUDDER!!

A Little Poem About Diversity

To the Editor:

Your rag excels, I must confess,
In finding fault with HLS.
In truth, it's quite naive perversity
To think that students want diversity.
Imagine such a scene, to wit,
A Federalist talking to a Crit.
I get the feeling, not so vague,
She'd rather catch bubonic plague.
The Crit himself likewise eschews
The chance to pound down several brews
With a classmate who was once in ROTC
(Pronouncing it to rhyme with Nazi.)
These biases don't go much deeper
Than wanting to be your brother's keeper.
For when you just dislike each other,
Why become your keeper's brother?

II

Empowerment is all the rage
"Onward to a higher stage!"
And if you think it's not so grand,
I'm confident you'll understand
That when your mind is closed, you shouldn't pout
If somebody helps close your mouth.
As for "fairness," we've all seen
How white males use it for a screen,
Perpetuation status quo,
Shoring up the system though
They wouldn't find it half so "fair"
Were they denied the lion's share.
How fiercely they the rules defend
Who've never held the stick's short end.

III

Ideals are nice, ideals are fine,
As long as yours comport with mine.

IV

I think the only resolution
Will be some kind of evolution
So a person can express his view
And listen at the same time too.
But at HLS, nobody tries
To pull the logs out of her eyes.
Left, center, right, each is a clone
Of him who cast the second stone.

Bob Zafft, 2L

Letters To The Editor

Student Calls For Cheaper Stamps

To the Editor:

It's perfectly legal to buy and sell U.S. postage stamps for less than their face value. Philatelists routinely buy sheets of stamps for full price at the post office, remove the plate blocks (a section of stamps near the bottom of a sheet), and then resell the rest of the stamps for less than face value. One may see advertisements in stamp magazines and newsletters offering U.S. stamps for sale at 80-85% of face value.

Why can't the Harvard Coop buy sheets of stamps from philatelists at 80% of face value and resell them to HLS students at 90% of face value? The Coop would make a profit of 10%; Harvard Law School students would get a discount of 10% from post office prices; and we would be saved that half-hour trek over to Mt. Auburn Street for stamp purchases (or having to buy a roll of quarters for the stamp machine, when it's not broken).

I know that I personally use over a hundred stamps a year (for resume mailings, bill payments, and social letters), and this idea would save me a great deal of time and money. Multiply that by 550, and you can see that this idea deserves some serious consideration.

Judy Resnick, 2L

Conservative's Letter Clarified

To the Editor:

In appealing to the intolerance experienced by status minorities in my letter about the exclusion of conservative and libertarians at Harvard I did not mean to suggest that "ideological" minorities suffer the societal discrimination encountered by many of those represented in the Diversity Coalition, nor to downgrade the emotional legitimacy of the latter by comparison.

My point, quite simply, was that local ideological minorities should not be vindictively labelled and dismissed at an institution ostensibly devoted to intellectual debate. The presumption of improper motives creates enmity instead of understanding. The more general message is that we have a mutual interest in toleration and fair processes that transcends the wording of the Law School Council constitution. The one way we are certain to all lose is if we suppress debate — by exclusion or intimidation — in the single-minded pursuit of ideological agendas. I will stand by my point, and hope that students will be able to join issue and consider its merits.

Rod J. Rosenstein, 3L

Next
Record:
November
18

The Chronicle Of The Space Traders

(Continued from page 5)

imaginable," some said. They were "more like slave drivers," according to others. Particularly frantic reports claimed, "the visitors are dressed in white sheets and hoods like the KKK." In whatever guise they saw them, blacks all agreed that the visitors embodied the personification of racist evil.

Whites, long conditioned to discounting statements of blacks not confirmable by whites, simply ignored the blacks' cries of alarm. "Will they never be free of silly superstitions?" whites asked each other with condescending smiles. "Here in a truly historic hour when America is

space traders promised to give the nation a period of 16 days for a response that would be due on Jan. 17, the national holiday commemorating Dr. Martin Luther King.

The space traders' proposition immediately dominated the country's attention. The President called the Congress into special session, and governors did the same for state legislatures that were not then meeting. Blacks were outraged. Individuals and their leaders said in unison, "You have not seen them. Why don't you just say no?" It was for many whites an embarrassing question, but the space traders' offer proved an ir-

proposition unless the U.S. halted the flight of the growing numbers of blacks who—fearing the worst—were fleeing the country.

In response, executive orders were issued and implemented, barring blacks from leaving the country until the space traders' proposition was fully debated and resolved. "It is your patriotic duty," blacks were told, "to allow this great issue to be resolved through the democratic process and in accordance with the rule of law."

Blacks and their white supporters challenged these procedures in the courts, but their suits were dismissed as "political questions" that must be determined by co-equal branches of government. Forces supporting the proposition, while successful in court, took seriously blacks' charges that if the nation accepted the space traders' proposition, it would violate the Constitution's most basic protections. Acting swiftly, they began the necessary steps to convene a Constitutional Convention. In ten days of feverish work, the quickly-assembled Convention drafted and by a substantial majority, passed an amendment that declared:

"Every citizen is subject at the call of Congress to selection for special service for periods necessary to protect domestic interests and international needs."

The amendment was scheduled for ratification by the states in a national referendum. If ratified, the Amendment would validate already drawn legislation that would induct all blacks into special service for transportation under the terms of the space traders' offer. In the brief but intense pre-election day campaign, pro-ratification groups' major argument had an appeal that surprised even those who made it. Their message was straightforward.

"The Framers intended America as a white country. The evidence of their intentions is present in the original Constitution. After more than 220 years of good faith effort to build a healthy, stable interracial nation, we have concluded that our survival today—as the Framers did in the beginning—requires that we sacrifice the rights of blacks in order to

protect and further the interests of whites. Their example must be our guide. Patriotism and not pity must govern our decision. We should ratify the Amendment and accept the space traders' proposition."

To their credit, many whites worked hard to defeat the amendment, but given the usual fate of minority rights when subjected to referenda or initiatives, the outcome was never really in doubt. The final vote tally confirmed the predictions. By 70% to 30%, Americans accepted the space traders' proposition. Expecting this result, government agencies had secretly made preparations to facilitate the transfer. Some blacks escaped, and many thousands lost their lives in futile efforts to resist the joint federal and state police teams responsible for the round-up, cataloging, and transportation of blacks to the coast.

The dawn of the last Martin Luther King holiday the nation would ever observe illuminated an extraordinary sight. The space traders had drawn their strange ships right up to the beaches, discharged their cargoes of gold, minerals, and machinery, and began loading long lines of silent black people. As the traders directed, the inductees were stripped of all but a single undergarment. Heads bowed, arms linked by slender chains, black people left the New World as their forebears had arrived.

And just as the involuntary coming of blacks had made the nation's wealth and productivity possible, so their forced exodus saved the country from the need to pay the price of its greed-based excess. There might be other unforeseen costs of the trade, but like their colonial forebears, Americans facing the Twenty-First Century were willing to address those problems when they arose.

...

Is the Chronicle's ending inevitable, or are their arguments capable of convincing most American voters that their and their country's interests will be better served by rejecting the space traders' proposition? If so, what are those arguments? Participants in the Civil Rights at the Crossroads Seminar welcome your written responses.

"Heads bowed, arms linked by slender chains, black people left the New World as their forebears had arrived..."

chosen as the site for this planet's first contact with peoples from other worlds, the blacks—evidently unable to cope with so monumental a moment in human history—revert to primitive fears and foolishness."

The space visitors cut short the long-winded welcoming speeches, expressed no interest in parades and banquets, and made clear that their long journey was undertaken for one purpose, and one purpose alone: trade. Here was the third surprise. They had brought in their ships materials that they knew the United States needed desperately: gold to bail out the almost bankrupt federal, state, and local governments; special chemicals that would unpolite the almost uninhabitable environment; and a totally safe nuclear engine and fuel to relieve the nation's swiftly diminishing fossil fuel sources.

In return, the visitors wanted only one thing, and that was more a shock than a surprise. They wanted to take American blacks (defined as all citizens whose birth certificates listed them as black) to what they called their "home star." The welcoming delegation was reduced to instant disarray by the proposition. The visitors seemed to expect this reaction. Emphasizing that acceptance of their offer was entirely voluntary and would not be coerced, they withdrew to their ships. The

resistible temptation. Decades of conservative, laissez faire capitalism had taken its toll. The nation was debilitated by its debts, the environment was in shambles, and crude oil and coal resources were almost exhausted.

In addition, the race problem had worsened greatly in the last decade. A relatively small group of blacks had survived the retrogression of civil rights protection that marked the 1990s. Perhaps twenty percent managed to make good in the increasingly technologically oriented society. But more than one-half of the group had sunk to an unacknowledged outcast state. They were confined into former inner-city areas that had been divorced from their political boundaries. High walls surrounded these areas, and entrance and exit was carefully controlled. Despite all precautions though, black marauders escaped and harassed whites using guerilla-terrorist tactics.

No one even dreamed anymore that this mass of blacks and dark-complexioned Hispanics would ever "overcome." Supposedly, U.S. officials tried in secret negotiations to get the space traders to take in trade only those blacks locked in the inner cities, but the visitors made it clear that theirs was an all-or-nothing offer. During these talks, the space traders warned that they would withdraw their

Libertarian Candidate Ron Paul Is The Best Choice

To the Editor:

The defenses of George Bush and Michael Dukakis appearing in the October 7 RECORD only emphasize the vacuity of this autumn's campaign and the need for a political alternative. Fortunately, an alternative exists in the form of former U.S. Congressman Ron Paul, the Libertarian Party candidate for President. Congressman Paul is the only candidate offering a fresh approach to the desolate me-tooism of Bush and Dukakis.

Take civil liberties. Any student who has taken Criminal Law knows that the drug war is the leading cause of Fourth, Fifth, and Sixth Amendment violations in America. Yet both Bush and Dukakis want to step up the war on drugs. Both propose the reactionary policy of using the military as a police force to interdict drug shipments. Bush wants the death penalty for "drug kingpins."

As governor, Dukakis supported drunk driver (read "warrantless search and seizure") checklanes and mandatory seat belt laws, which violate civil liberties in and of themselves and raise opportunities for police to harass minorities. Dukakis is also in favor of unleashing the IRS to go after "tax cheats." A major violator of civil liberties, the IRS is the only government agency that can seize your property without due process, and before which the taxpayer is considered guilty until proven innocent.

Ron Paul would reduce crime and eliminate a major source of civil liberties violations by legalizing recreational drugs. Ron Paul supports the Taxpayers' Bill of Rights (gutted in committee by Dukakis's running mate, Bentsen) and is the only candidate calling for an end to government invasions of our privacy.

The old party candidates also offer only superficial differences on foreign policy. Bush wants to interfere in the internal affairs of countries like Nicaragua and Angola; Dukakis wants to interfere in South Africa and Chile. Both want the U.S. to continue playing the world's policeman, and both agree on the need to kill American soldiers in the never-ending, parochial struggles of the middle east. Neither has ever questioned whether the United States should continue to subsidize the defense of Japan and Western Europe at a cost of \$220 billion per year, even though the combined GNP of Western Europe exceeds that of the Soviet Union.

Ron Paul believes that America is a friend of freedom everywhere, but the guardian only of its own. Only Ron Paul proposes bringing U.S. troops home, ending U.S. meddling in the Persian Gulf, and reducing military spending to the amount needed to defend the U.S..

In 1980, Reagan opposed the draft and draft registration in both the Republican platform and his acceptance speech. Once in office, he did nothing to eliminate draft registration, and Bush clearly supports it. The Democrat platform is silent on the issue (as on everything else), but Democrats from Sam Nunn to Gary Hart favor the return of a peacetime draft. They call it National Service, and would draft everyone, although it is not clear how one or two years of forced labor for the government will build national character. Only Ron Paul has proposed an immediate end to draft registration and ruled out any peacetime draft.

The Reagan/Bush Administration has seen a sharp increase in trade quotas and tariffs. The Democrats have criticized them for not going far enough to restrict trade. The cost of trade restrictions falls heaviest on the poor, yet in her keynote speech at the Democrat Convention, Anne Richards particularly urged trade restrictions to protect three groups — oil, auto, and steel workers, all of which earn at least 150% of the median U.S. income. Only Ron Paul has proposed a complete elimination of trade

barriers and restrictions, to promote a healthy economy and world peace through commerce.

Finally, we come to the domestic economy. If Ronald Reagan couldn't, or wouldn't, balance the budget, reduce government spending, abolish the Departments of Energy and Education, and otherwise control the growth of government, what Republican on the horizon can we possibly expect to do so? Yet Dukakis's response is worse — he merely proposes higher taxes (as a "last resort," a possibly convincing qualification if he had proposed even one other alternative). Both candidates promise bigger government through new spending on education for the middle and upper classes, child care for yuppies, and a variety of other programs. Only Ron Paul has promised to abolish needless government bureaus and actually cut both taxes and spending.

Ron Paul, and Libertarian candidates for all offices, envision a peaceful, prosperous America. We believe in peaceful relations with all nations, bound by free and open trade. We want to stop gov-

ernment from spying on its own citizens, lying about everything, violating our civil liberties, and taxing away almost 40% of the fruits of our labor. We want a freer, more tolerant nation in which each American can pursue his or her own version of the good life.

This fall millions of Americans who agree more with Congressman Paul on the issues than they do with either Bush or Dukakis will nonetheless go to the polls and vote for Bush or Dukakis, claiming they don't want to "waste their vote." Leaving aside the fact that, in the words of a former president of the American Academy of Historians, "a vote for a third party is the most powerful vote an individual voter can cast"; and leaving aside the unlikely possibility that the election will be tied at 50 million to 50 million until you walk into the booth; the question is at what point will you sell out what you believe in just to be on the winner's bandwagon? This fall, don't be manipulated by the old parties and their vapid candidates. Don't waste your vote ... Vote Libertarian.

Brad Smith, 2L

Judge Approves HUCTW Election

By Troy A. Morgan
Staff Writer

Despite objections by the University that the Harvard Union of Clerical and Technical Workers (HUCTW) acted illegally en route to winning worker support for its representation, an administrative law judge has strongly recommended that the union be officially certified by the National Labor Relations Board (NLRB).

The Oct. 24 hearing considered objections raised by the University surrounding union conduct at the election on May 17, when Harvard employees voted 1530 to 1486 for the union.

According to Maria Manna, co-director of HUCTW, the NLRB will make the final decision about the proposed Harvard local of the American Federation of State and County Municipal Employees (AFSCME), although, she said, "it is very unusual for the Board to overturn

a recommendation from a judge."

Manna maintained that the University's "most serious charge against the union" was that HUCTW kept a list of "pro-union" employees and called them up on election day to encourage them to vote. Manna said that in other similar cases the NLRB decided that such actions "could be seen as intimidating enough to influence whether or not one will vote."

Other charges included electioneering too close to the polls by distributing balloons and posters throughout the campus on election day, and offering to transport only pro-union people to the polls. Manna said that no rules were broken, since no one electioneered inside the rooms where the polling was going on. The University's basic objection was that "the union created an atmosphere that took away people's freedom of choice," she said.

Free Speech Guidelines Announced

By Soo Yi
Staff Writer

HLS has announced the implementation of the law school's new "free speech" guidelines, with the first event affected by the new guidelines being the Sept. 29 speech given by Ernesto Rivas-Gallant, El Salvador's ambassador to the United States.

In response to a protester's attack on Adolfo Calero (a leader of the Nicaraguan contras) at an event last year sponsored by the HLS Republicans, Dean James Vorenberg '51 formed a committee of administrators, faculty members, and law students in Oct. 1987 to formulate guidelines for speakers sponsored by student organizations. Several other incidents in previous years also suggested the need for guidelines more detailed than the statement of rights and responsibilities in the course catalog, said Dean of Student Sarah Wald.

Wald described the guidelines as an attempt "to balance the rights of the speaker and audience with the rights of those who want to protest legitimately." The guidelines include the following:

1) All meetings can use HLS facilities and utilities, but HLS funds cannot be used for other expenses (including security) unless the meeting is designated as "open." According to Wald, most student organizations depend on law school funding for a large portion of their budgets;

2) Limits to acceptable dissent are suggested and the audience's responsibility to respect the right to dissent is pointed out. "The speaker is entitled to communicate her or his message to the audience during her or his allotted time, and the audience is entitled to hear the message and see the speaker during that time. The dissenter must not substantially interfere with the speaker's

ability to communicate or the audience's ability to hear and see the speaker;"

3) Open meetings are required to have a question and answer period, which, according to Wald, was designed to minimize the need for other forms of protest by providing an outlet for dissenting opinions;

4) Rules for security — appropriate measures will be determined by HLS officials and the University Police;

5) A Moderator/Facilitator, whose role is to make decisions regarding the application of the guidelines, will be at the meeting when HLS officials find one necessary to protect free speech at open meetings;

6) Sanctions for violation of free speech rights will be determined by the HLS Administrative Board.

At the Rivas-Gallant event, not only was police security provided, but Professor Henry Steiner '55, Director of the Human Rights Program, served as Moderator/Facilitator. Steiner described his role as a very formal one, his function being to be even-handed in allowing the expression of diverse positions. The event went very smoothly, and Steiner did not see any posters or picketing, but he did remark that the questions were very aggressive.

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The Bar Course That Cares.

Students Pick Prez, Dean

(Continued from page 1)

students, 53 percent, had no preference. The top three choices for dean were Lance Liebman '67 with eight percent, followed by Derrick Bell and Todd Rakoff '75 each with five percent. Other choices included Kathleen Sullivan '81, Mary Ann Glendon, Martha Minnow, and Robert Clark '72. The high percentage of students expressing no opinion possibly casts doubt on Law School Council claims that students are seriously interested in adding their input to the dean selection process.

The eight telephone poll questions

were: 1) If the presidential election were held today, who would you vote for? 2) Is your support more a vote for that ticket or against the other ticket? 3) Are you registered to vote? With which party? 4) Do you consider yourself a liberal or a conservative? 5) Who, if anybody, would you prefer to the candidate you named in the first question? 6) If the presidential election were between Bentsen and Bush, who would you vote for? 7) If the presidential election were between Quayle and Dukakis, who would you vote for? and 8) Who would you like to see as our next dean?

Splitting The Tickets

If the presidential election were between Bentsen and Bush, who would you vote for?

Bentsen 74%

Bush 22%

If the presidential election were between Quayle and Dukakis, who would you vote for?

Dukakis 90%

Quayle 4%

LAW SCHOOL ROUNDUP

Compiled by Jeff Gershowitz
Editor in Chief

SUNY Student Government Sued

The Student Bar Association (SBA) of the SUNY-Buffalo School of Law has been sued by two former students for illegally allocating their student activity fees to partisan political groups in violation of school rules.

The Buffalo SBA receives \$51 from each student's tuition. The plaintiffs, Kenneth Neeves and James McCluskey, contend that the SBA funding of an anti-Bork group, a tuition assistance program, and a pro-PLO group were

"political," thus violating an implicit contract with the students. The SBA claims the activity fee creates no contract and merely allows students to join various groups.

In a preliminary court ruling, the Town Court of Amherst, New York, decided that if it had jurisdiction it would return student funds. The decision on jurisdiction is still pending. (See *The Opinion*, SUNY-Buffalo Law School, Sept. 14, 1988.)

Cleveland - Marshall Attendance Scare

Students at Cleveland-Marshall College of Law were running scared at the thought of mandatory attendance in classes this year. Luckily, that turned out not to be the case. New school policy requested that each faculty member

submit his attendance policy to the dean, and these statements (enforced or not) created a panic. According to the dean, policy is up to individual faculty members. (See *The Gavel*, Cleveland-Marshall College of Law, Oct. 1988.)

Georgetown Students Protest Cafeteria

Union food workers at the Georgetown University Law Center protested against Marriott Corporation, the school's new food contractor. Marriott dismissed

twelve union workers and hired nine non-union employees upon taking over food service at Georgetown. (See *Georgetown Law Weekly*, Sept. 26, 1988.)

George Washington Public Interest Pitch

The National Association for Public Interest Law held its first national job fair in Washington, D.C. Oct. 21-23. Over 65 employers spoke with and inter-

viewed students and held workshops at George Washington University. (See *Georgetown Law Weekly*, Oct. 10, 1988.)

NYU Works For Unemployed

More than 100 first year students have become involved with NYU's Unemployment Action Center this semester. The clinic, where students represent the unemployed, handled 139 cases

and 1200 telephone inquiries last year. First semester students actually can represent litigants. (See *The Commentator*, NYU School of Law, Oct. 13, 1988.)

Blast From The Past: 1968

Humphrey Overwhelms Nixon In Poll

This story was originally printed in the October 31, 1968 edition of the RECORD

Hubert Horatio Humphrey has overwhelmingly defeated Richard Milhous Nixon in a RECORD survey of over 600 Harvard Law students. Humphrey received almost four times as many votes as Nixon and twenty-seven times as many votes as Wallace.

Many of the students did not appreciate having to choose between the three major candidates. One outraged student remarked, "I would not vote. Revolution is the answer." Another said: "I don't trust any of them." He then wrote in the name of Eldridge Cleaver.

The results of the poll were in striking contrast to a similar one taken at the Harvard Business School in late September. That poll, which was published in the *HarBus News*, showed Nixon leading Humphrey 53 percent to 22.3 per cent. Wallace received 3 per cent of the votes, comparable to his 2.8 per cent of the RECORD poll.

Neither the Law School poll results nor those of the Business school are similar to the results of the most recent Gallup and Harris polls, although the Business School poll appears far more representative of voters in general.

The Harris poll, based on 1,899 voters, indicated that Nixon would take 40 percent of the vote, Humphrey 35 per cent and Wallace 18. The Gallup Poll (1,605 voters) had the following results: Nixon - 44 per cent, Humphrey - 36, Wallace - 15.

Despite Humphrey's victory over Nixon in the RECORD poll, over two thirds of the students would not vote for any of the major candidates if they had a choice. Of the 601 students surveyed, 445 wrote in the name of the man they would prefer as President. The survey was framed in a manner so that stu-

dents could vote for one of the three major candidates and in addition state their preference for President. Ninety-nine students did not vote at all. But of those students stating a preference, over one third voted for McCarthy, one fifth for Rockefeller, one seventh for Lindsay, one tenth for Kennedy, one two hundredth for Pat Paulsen and one five hundred for Jack Tate, RECORD President.

Of the 170 members of the Business School surveyed by the *HarBus News*, almost 40 per cent stated that they would have liked to have seen Rockefeller as President. Over 16 per cent preferred McCarthy, over 10 per cent were for Lindsay and about 6 per cent for Kennedy.

The RECORD poll requested that students indicate their class, but about 200 failed to do so. However, of those indicating a class, 148 1L's voted 81.1 per cent for Humphrey, 15.5 per cent for Nixon and 3.4 per cent for Wallace. Humphrey's support was slightly stronger among the 83 2L's: 85.5 per cent for Humphrey, 10.8 per cent for Nixon and 3.7 per cent for Wallace. Of the 89 3L's, 77 per cent were for Humphrey, 20 per cent for Nixon and 3 per cent for Wallace.

Despite the large vote for Humphrey, the reluctant compromise of many voters was reflected in some of the comments: "Though HHH deserves to be smashed, Zero Spiro is just too much." "Robert Kennedy is dead." "A true mockery."

A strange combination given by one student was Wallace as major choice and Eldridge Cleaver as preference. And with this comment: "Now comes the revolution!" One 2L who gave Ted Kennedy as a preference remarked that "after 4 years of Nixon, hopefully we'll still be here in 1972."

1968 vs. 1988

Who, if anyone, would you prefer to the major presidential candidates?

1968 HLS Students

75% preferred someone other than Hubert Humphrey,

Richard Nixon, or George Wallace:

Eugene McCarthy	33.5%
Nelson Rockefeller	20.9%
John Lindsay	15.6%
Ted Kennedy	11%
Edmund Muskie	3.8%
George McGovern	2.9%
Eldridge Cleaver	2.5%
Barry Goldwater	0.7%
Ronald Reagan	0.7%
Other	4.3%

1988 HLS Students

71% preferred someone other than

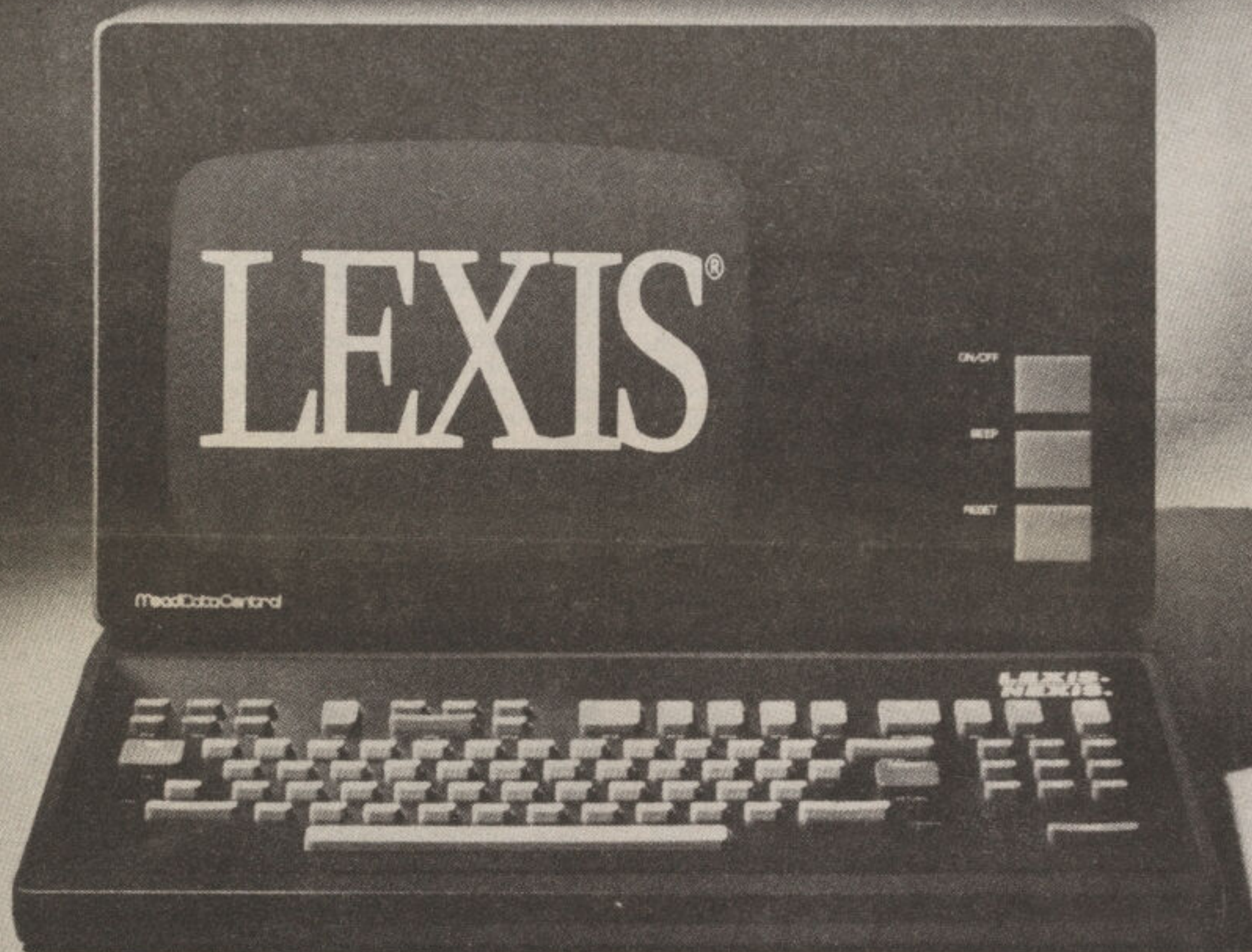
Michael Dukakis or George Bush?

Mario Cuomo	13%
Jesse Jackson	9%
Bill Bradley	9%
Bob Dole	8%
Sam Nunn	6%
Albert Gore	5%
Bruce Babbitt	4%
Paul Simon	3%
Other	8%

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Students Clash Over Definition Of Minority

(Continued from page 1)

the Committee to the Coalition for Diversity (the Coalition) was unfair to other student groups.

At an Oct. 11 meeting the LSC considered but rejected both Federalist proposals for changing the composition of the Committee. The Committee continues to be made up of two LSC members, three HLS students chosen by lottery, and two students selected by the Coa-

tion of the nature and effect of the amendment. Maurice Hoo, 2L, one of the Committee members representing the Coalition, cautioned against reading the amendment as if it arose in a vacuum. "To the extent that [the Federalists] want to support their own candidate [for dean], they will resort to anything from obstruction to destruction to try to taint the Committee," he said. Hoo claimed that implicit in the amend-

ment is the mistaken message that students should not trust the findings of the Committee because of the manner in which it was formed.

Alan Jenkins, 3L, said the amendment "is not aimed at a fairness issue. It is aimed at suppressing certain groups that have been historically oppressed. The amendment is very dangerous for minorities because it would prevent us from getting representation in some areas where there aren't enough of us to get representation in any other way. It is worded in an innocuous fashion, but I feel the agenda of the Alliance is very different from what is on the surface. I think it is somewhat an attempt to use traditional liberal terminology to defeat many of the goals those of us who are 'real' liberals are striving for."

Levy denied the existence of "sinister"

motives on the part of the Alliance. He argued that "if one has some faith in the value and power of language, and faith in the intelligence and good faith of the people who will be interpreting that language, which, under our constitutional scheme, is the LSC itself, then the amendment becomes not only innocuous, but positively healthy."

Deidre Stanley, 3L, pointed out that obtaining an affirmative vote of 75% of the LSC membership, the required percentage for qualification as an exception under Section 2, is "virtually impossible." Stanley also discussed the ease with which a conservative voting bloc of 26% could thwart special committee composition. When asked why the Alliance chose a 3/4 rather than a 2/3 override requirement, Levy replied that "for the general principle of no discrimination to get respected in more cases than not, we would have to have a larger super-majority rather than a smaller super-majority."

Some students objected to what they perceive as an attempt by the Alliance, through the language of the amendment, to equate status minority discrimination with ideological minority discrimination. Robert Wilkins, 3L, in an impassioned speech, said "I reject that analogy as proper or concrete. I find it insulting. [Those of you who draw the comparison] have never walked through the campus of HLS on a Sunday afternoon throwing snowballs with a group of your friends to be confronted

by a Harvard police officer who asks you for identification because you don't look like you are in the right place at the right time. That's not part of your history. Rape is not part of your history. Racism, sexism, those types of problems, are different than any type of ideological discrimination."

Both Levy and Rod Rosenstein, 3L, vice president of the Federalists, acknowledged that the two groups are distinct. Rosenstein, however, said he stood by his point that "there are instances in which conservatives on this campus have been branded, labelled — including by students sitting close to you — for their ideological positions." Levy remarked that he often felt constrained to express his political views in class during his first year at HLS because of harshly negative student responses to them.

Levy emphasized that the amendment was grounded on Equal Protection principles. Jenkins disagreed. "Embodied in ideas of Equal Protection is the representation of disinherited groups, groups that have been traditionally shut out. That is the importance of having the Coalition for Diversity on the Dean Search Committee. That is why I'm against this amendment."

Melendez explained that because the petition was signed by 242 HLS students, more than the requisite 10% of the student body, he was obliged by the LSC constitution to call an election on the proposed amendment.

"Racism, sexism, those types of problems, are different than any type of ideological discrimination."

lition, whose stated purpose is the promotion of status minority students and faculty at HLS.

Levy described the Federalist defeat as the impetus for the proposed amendment, which was authored by "several Federalists and some others who are not Federalists" under the aegis of the Alliance. Levy described the amendment as "basically a process-perfecting amendment, designed to get all voices heard in student government." He said, "It was not drafted to protect the interests of conservatives and libertarians solely, but the interests of all minorities on campus." Levy added that the amendment should appeal to "real liberals — liberals in the real sense, not the abused sense of the word."

Many of the 70 students at the LSC forum disagreed with Levy's interpreta-

Miniaturization And Technology Keys To Langdell's Future

(Continued from page 1)

(ILS) building and to include underground book storage space, as well as to create an above-ground floor for circulation, microforms and computer stations.

Another option expands on this proposal by suggesting the construction of an atrium encompassing the present ILS building and the north side of Langdell West. Donahue said that to accomplish this, ILS would probably have to be razed due to incompatible floor levels.

The final proposal submitted to the

faculty is to build an entirely new library. According to Donahue, this proposal was generated because some people think that the problems of space limitations and technical insufficiencies of the library are too complex to be solved within the structure of Langdell. One shortcoming with this proposal, Donahue said, is the question of location. The proposal does not identify a specific site, although Donahue said that one possibility is the current site of the Baker Alumni House. He added that some other shortcomings with this drastic proposal are how to pay the large price tag and what to do with Langdell.

According to Donahue, the library's problems go beyond the mere question of storage space. "It's not just a warehousing problem," he said, adding that any solution must address miniaturization, electronic access and printed materials and how these will all fit together in order to satisfy client and staff needs.

"Miniaturization has to come because one-half of the printed collection is printed on high acid paper that has a half-life of only 50 years," Donahue said. Miniaturization, he explained, includes a combination of microfiche, film and video disks — all of which require the expensive procedure of

photographing the material.

Donahue said that his idea is not to replace all the books in the library with miniaturized copies, though he hopes that by the year 2015 the library will be at a steady state — discarding as many hard copy books as the library acquires. "In 2015, an academic library will still have books. Law firm libraries, on the other hand, might not have books at all," he said.

Donahue said that the library also needs to be an integrated information center with computerization and reference assistance on all floors. The staff and users need to be made comfortable within an environment that is functional, he said, adding that "Langdell is deficient in all these areas. It was not well designed."

According to Donahue, Langdell was originally designed as a closed-stack library with the reading room at the top. "Pages would go and fetch the books," he said. The result, Donahue said, is that the library is "two football fields stacked five floors high and end to end." A new building, he said, would have to be taller with less walking space, and each floor would have access to computers, staff, copiers, and hard copies. They would all be "mixed together, but functional." The questions are "how many of these changes can we get on

the existing site" and whether "we can cleverly re-use the existing space or if re-use will never work," Donahue said. The proposed changes to the library, as well as concerns with the other deficiencies cited in the study, have led to serious discussions concerning a capital fund drive, according to Kaufman. Kaufman noted that such a drive is being considered to fund "buildings as well as educational needs."

Although a capital funding drive has not been held in over twenty years, previous long-term planning efforts after World War II and in the late 1960's resulted in successful drives.

Scott Nichols, dean for development, said that Dean James Vorenberg '51 has launched a long-range planning process to address the concerns cited by the internal review committees as well as how to finance them. According to Nichols, "there is very little doubt ... that we need [a funding drive] and it looks very optimistic now."

Nichols said he thinks such a funding drive has a good chance for success, given the recent record breaking contributions of alumni and friends of HLS. According to Nichols, 56% of the alumni contribute annually to HLS, which is a higher percentage than any other law school or any of the other Harvard schools.



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Kingsfield Passes On

John Houseman, probably the most famous HLS professor to never teach at HLS, passed away earlier this week. Houseman, well known for his portrayal of the fictional Professor Kingsfield in the film and television "Paper Chase" is shown here, surrounded by other members of the show's cast, during a visit to HLS (Note the RECORD being perused by the famous "Mr. Hart.") Houseman is also remembered for his stage direction and his Puritan Oil and Smith Barney television commercials.