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Threatening Note Sparks Investigation, Speech Concerns

By Dan Kroll
Features Editor

Dean James Vorenberg '51 has announced that he intends to seek disciplinary action against the writer of a threatening note found in the Harkness Commons mailbox of a 1L two weeks ago. The note, which said that the writer would "beat the living crap out of" the student because of her pro-choice views on abortion, was left in the student's box on Oct. 25 or Oct. 26.

In a statement published in the *HLS Adviser* on Nov. 10, 1988, Vorenberg said that although the identity of the writer is not yet known, "circumstances suggest" that the writer is a law student. Vorenberg has asked Vice-Dean David Smith '61 to coordinate an investigation to discover the writer's identity and has urged anyone with information concerning the note to come forward.

The recipient of the note, who spoke on condition of anonymity, said that the timing and the wording of the note suggest that the writer is someone from her 1L section. She said she received the note shortly after placing a notice in her section newsletter about a pro-choice rally to be held in Boston on Oct. 29. The notice informed people about

the rally and included the student's name as a contact person for the Political Action Committee of the Women's Law Association.

The threatening note was apparently in response to this notice, she said. In it, the writer told her (among other things): "I'm sick of your pro-abortion crap," "I'm going to beat the living crap out of you," and "I'm going to fuck you up."

Although not genuinely fearful that the writer would follow through on the threats, the student said she was taken aback by the note and thought it should be brought to the attention of her classmates and others at HLS. "I guess what accounted for my reaction is that it happened at Harvard Law School. It was ... unexpected," she said.

The administration has indicated that it regards the matter as very serious. "This incident is an affront to all of us at the Law School. We shall do everything we can to resolve it," Vorenberg announced in the *HLS Adviser*. "I'm very disturbed about the incident, and I'm very serious about trying to find out who did it," he told *The Record*.

Although Smith would not comment on the actions he plans to take in coor-

inating the investigation into the identity of the note writer, one of the avenues he has already begun to explore is a handwriting analysis of the note.

According to section representative Anne Toker, 1L, Smith and Dean of Students Sarah Wald asked Toker and fellow section representative Chase Sanders, 1L, to turn over some written forms they had obtained from students while compiling a section directory. In a formal letter, Smith and Wald stated that the forms would be helpful in the investigation because they would provide a comparison for the handwriting on the note.

Toker said this request put her and Sanders in a dilemma. Although "we want to do everything possible to help in the investigation," she said, they do not want to betray the trust of any of the students who filled out the forms thinking they would be used only for the purpose of a section directory.

Their decision is further complicated, Toker said, by the fact that the sample is incomplete. "Only about 70 or 80 students out of 150 filled out the forms," she said, adding that "an accurate analysis would require a representative

sample from everyone." Toker said that another factor weighing in their decision is the fact that the administration has other sources which might provide a better sample — registration cards, applications, medical forms and LSATs, for example.

In order to deal with the dilemma, Toker and Sanders recently asked the Law School Council (LSC), of which they are members, for a nonbinding advisory vote on whether or not they should turn over the forms. A majority of the members voted that the LSC should not give advice on the decision.

Neither Wald nor Smith would comment about whether other sources, such as LSAT essays, would be used as handwriting samples. Wald emphasized, however, that if the section directory forms were to be turned over, any use of them for handwriting comparisons would be carefully limited. "In the letter, we said that the [directory forms] would assist the investigation," she said, noting that the investigation is still in the early stages and that no conclusive determinations would be made on the basis of one piece of evidence alone.

"In any careful investigation, it just

(See back page)

'Fairness' Amendment Defeated Amidst Rancorous Debate

By Troy A. Morgan
Staff Writer

After the proposed "Fairness Amendment" (the amendment) to the Law School Council (LSC) constitution failed in balloting Nov. 7 and 8 by a vote of 630 to 278 out of 1798 students eligible to vote, neither side in the often heated debate felt that its position had been fairly construed by the other.

"Frankly, I wasn't at all surprised by the numbers," said Sam Levy, 3L, member of the Alliance for Fairness (the Alliance) that drafted the bill and president of the Harvard Federalist Society for Law and Public Policy (the Federalists). "This is a deeply illiberal institution, in the classical sense of the word."

Levy claimed that "many people were against this not in principle, but because the conservative and libertarian students proposed it."

Robert Wilkins, 3L, president of the Black Law Students Association (BLSA) viewed the amendment as a destructive

move and was "glad it was defeated, not because it was sponsored by conservatives or Federalists, but because the amendment was the wrong way and a dangerous way to address what they perceived to be a problem."

Between the day the petition was being debated to the day of the vote on the amendment, Levy said that he received two letters from people involved on the other side of the debate that he felt were "very offensive."

One letter, released by Levy, said, "I think you and your untermenschen are full of it. Kindly fuck off."

The other, signed "with utmost contempt," began "It's Halloween and you and your Federalist Society amendment are the scariest things going."

Levy, who is Jewish, stated that he was "particularly offended by the use of the term untermenschen because you know what the origin of the term is [it was used by Nazi leaders to describe Jews and other non-Aryan groups.]

Noting that "the word is as much racist as anti-semitic," Levy said, "he could have used the word 'subhuman, which means the same thing.' Levy has written the letter's author a letter in response.

The second letter insinuated that Levy was a "racist, right-wing Jew," who now identifies "so strongly with your class interests that you've forgotten that it was these very people (money, power, etc.) who sent twelve million human beings to the gas chambers of Auschwitz and Buchenwald."

The writer added "you lost enough of your people to anti-semitic, homophobic, red-bashing Nazis to engage in such repugnant, dangerous behavior. I know I did."

According to Levy, the letters "disappointed me in a way. I would like to think one could have a difference of principle with someone without stooping to insult and personal attack."

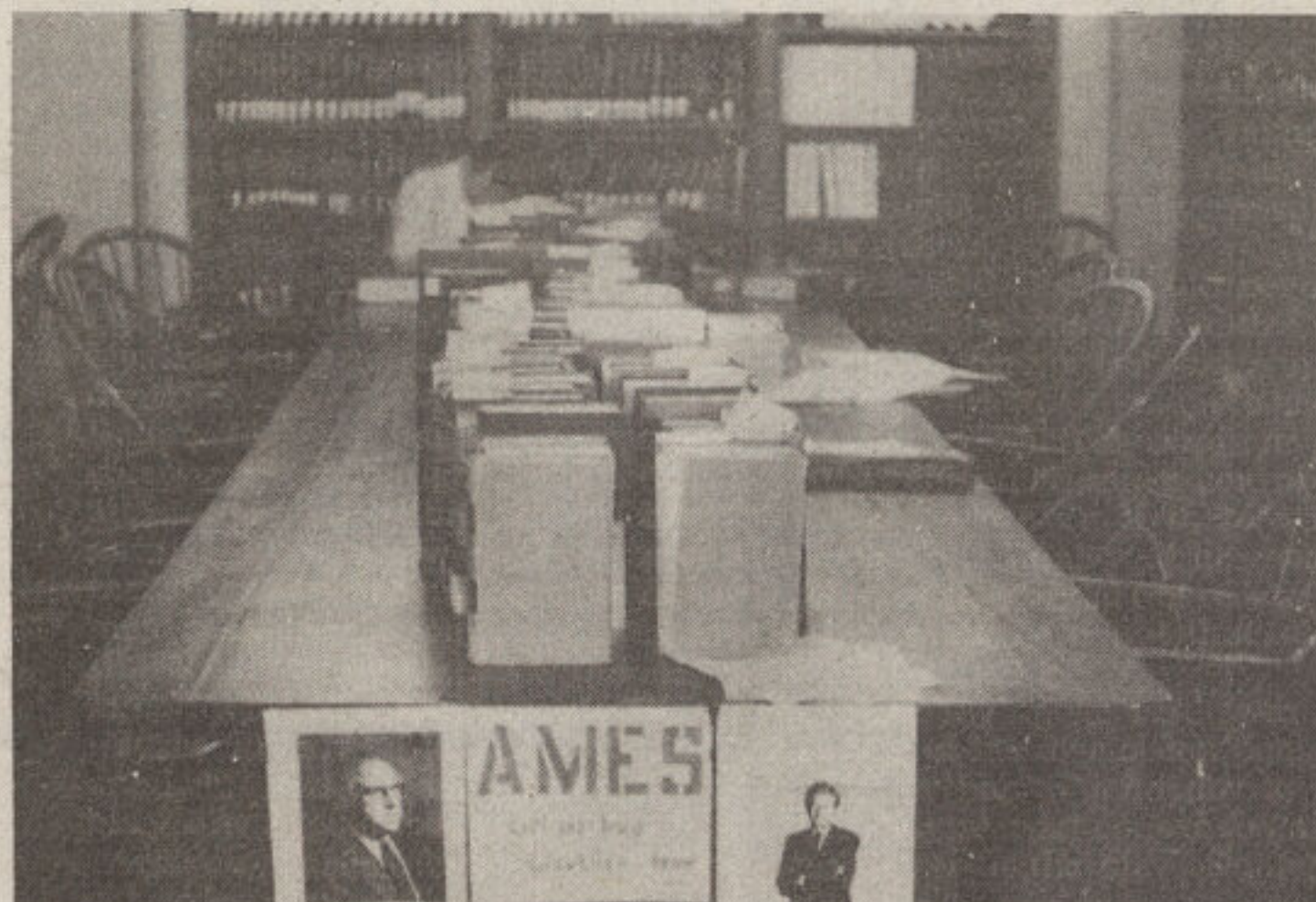
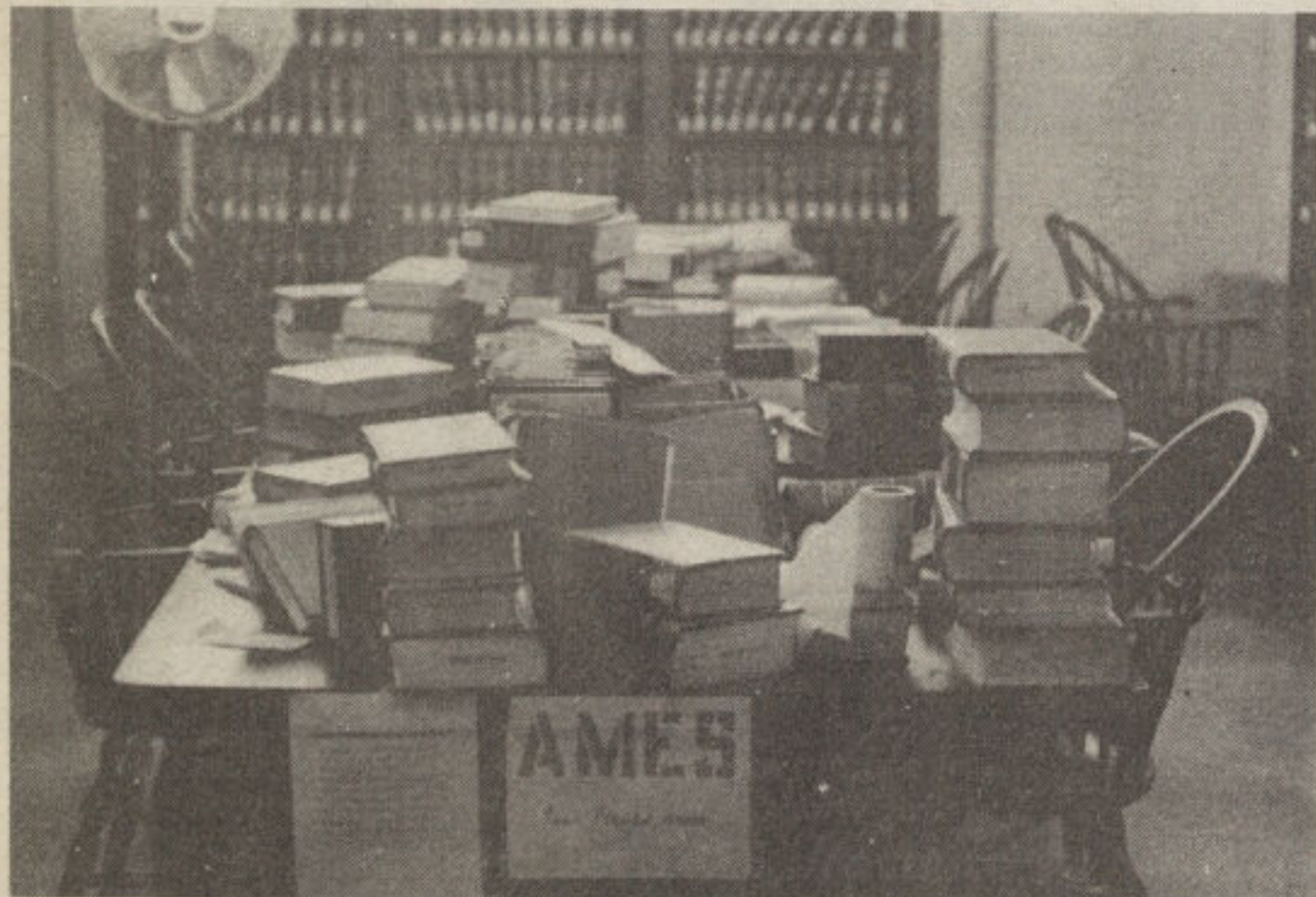
Jeff Selbin, 3L, an editor of the *Human*

Rights Yearbook and member of the Human Rights Group, thought it significant that the amendment "came from a group that has historically been opposed to every single affirmative action policy for women and minorities." He stated that "their intent and purpose can't be separated from the amendment's effect — to make it virtually impossible for the LSC to have affirmative action on its committees."

"The Federalists have been successful in the press, although not among the student body, to cast the question in terms of reserved seats, discrimination and minorities," stated Maurice Hoo, 2L, member of the Coalition for Diversity (the Coalition) and the Dean Search Committee (the Committee). "The *Crimson*, especially, took the easy way out by accepting this rhetoric as a way to characterize the debate," he observed.

Levy, however, also felt that the press failed to capture the essence of the de-

(See back page)



Rick Genow

Ames: The Battle Of The Books

If book accumulation is any indication, the Paul Freund team (left) appeared headed for victory in this year's Ames Moot Court Competition final. The Llewellyn (Carl and Doug) team (right) wins the award for Landell table creativity, however. The actual results were unavailable at presstime, but both teams were gearing for battle. (See page 3).

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'Freunds' And 'Llewellyns' Square Off In 77th Ames

By Jeffrey Gershowitz
Editor-In-Chief

Forget the Olympics, the World Series and the presidential campaign — they're all over with. The main event at HLS this week was the 77th Ames Moot Court Competition Final Argument, held last night in the Ames Courtroom and sponsored by the Board of Student Advisors. The finals pitted the two remaining teams from last year's qualifying and semifinal rounds in oral argument of the fictional case *Rathburn v. U.S.*

THE TEAMS: Petitioner Rathburn was represented by the "Paul Freund Team" of Steve Demm, Meir Feder (oralist), Greg Nevins, Richard Rochman (oralist), Alicia Strohl and Jeffrey Wintner, all 3Ls; representing Respondent U.S. was the "Karl and Doug Llewellyn Team" of John Bush, Arthur Greenspan, Joseph Kearney, Stuart Levey, Robert Miller (oralist) and Mark Nielsen (oralist), also 3Ls.

THE CASE: *Rathburn* is based in part on the case of *U.S. v. Mistretta*, recently argued before the U.S. Supreme Court. It deals with the constitutionality of the Federal Sentencing Guidelines, created by Congress in 1984. The law establishes a sentencing commission, to be appointed by the U.S. President with the advice and consent of the Senate and to be part of the judicial branch, whose purpose is to set guides for sentencing criminals convicted of federal crimes. The case was written by Alan Morrison.

THE JUDGES: Hearing the Ames case were former U.S. Supreme Court Justice Lewis Powell, Judge Patricia Wald, Chief Judge of the D.C. Circuit, and Judge Juan Torruella of the First Circuit.

THE ISSUES: Freund oralists Rochman and Feder planned the attack on the act's constitutionality. "The fundamental decision about criminal punishment must be made by Congress

and not pointy-headed Washington commissions," said Rochman. Feder argues that the act "vests lawmaking power in the Judiciary," thus violating the separation of powers doctrine.

Llewellyn oralists Nielsen and Miller disagreed. "Since the New Deal, the population has required a more active and involved government," explained Nielsen. "This is just such an innovation." According to him, the petitioner is arguing for an absolutist view that "hasn't really held for 50 years."

THE WORK: "To do it right takes a lot of time," explained Strohl, and the amount of effort the teams put in bears this out. "It's been full time for the six weeks of the semifinals and these six weeks," said Kearney. "It's been our entire life since Sept. 26," agreed Feder.

THE "WHY": What motivated these travellers to enter the land of Ames in the first place? "I needed something to occupy my time," Greenspan put it simply. "I lost Ames first year, and I wanted to see if I could do it again," Rochman said. "And today he's an oralist — only in America!" added Feder.

THE BOOKS: A traditional Ames scene is the teams' Langdell reserved tables littered with books.

"Most of them don't have anything to do with our case," admitted Levey. "They're here to impress 1Ls and to intimidate the other team," explained Nielsen. In fact, the Llewellyn squad admitted that some of their books weren't even in English, though Greenspan did say "we got a lot of our best arguments from Soviet books, because in the Soviet Union they don't separate powers very well."

The Freund team took pride in their desk, near the plaque listing previous winners, which served as "a constant source of inspiration," according to Nevins. Rochman defended the team's apparent sloppiness: "You can have an organized desk, but we're not the East

German team. We're Americans, dammit!"

THE HUMOR: Why the two Llewellyns? According to Kearney, the joining of the legal realist and the host of the "People's Court" was a compromise selection. Nielsen explained that Doug, whose picture joins Karl's in adorning the team's table, gets "more recognition than any Justice of the Supreme Court."

The Freund team counters with their table's Letterman-like list of the "Top Ten Reasons the U.S. Sentencing Commission is Unconstitutional," including, "new sentencing guidelines take all suspense out of People's Court," "Act failed to meet Article I Presentment

THE BENEFITS: Both Miller, of the Llewellyn team, and Strohl, of the Freund squad, agree that the most important benefit is learning to work with a group of people with different opinions and ideas striving toward a common end.

"I think it's sad that people who don't go through upper level Ames go through law school without any legal writing experience. The third year paper is more academic, not practical," said Strohl.

THE KEYS TO SUCCESS: Hard work and cooperation were cited by both teams as the major reason for their success. Feder called the effort a case of

"We're planning on opening our oral argument with the pledge of allegiance."

Clause Requirement of signature by Morton Downey," "proceedings of 98th Congress fatally infected by presence of Dan Quayle," and "shocks the conscience: two-bit counterfeiter goes to jail, Mickey Hatcher still roams streets."

THE ADVICE: Both teams seem to agree on sage wisdom to pass on to current semifinalists and potential competitors: just say no. "Lose early," advises Demm. "Join up in the semis. Make friends with a lot of different qualifying teams," says Levey.

On a serious note, Rochman advises teams to "get someone who knows computers. We're technologically retarded and it's no fun." Strohl encourages teams to "read the record carefully and spend a lot of time on actual writing."

Nevins gives probably the most practical advice: "Buy a VCR, or you'll miss ALF."

"the whole clearly being greater than the sum of the parts," while Bush attributes the Llewellyn success to hard work "and a lot of luck."

THE STRATEGY: "We're planning on opening our oral argument with the pledge of allegiance," said Wintner, hoping to ride the George Bush crest of victory.

"Rich is thinking of doing an interpretive dance if he gets into trouble during the orals," disclosed Feder.

When drafting the briefs, "whoever is at the computer at four in the morning has the last word," said Bush.

Since Morrison, who wrote the case, argued *Mistretta* for the prisoner before the Supreme Court, the Llewellyns' Kearney has decided that "if we lose, that's the reason why."

THE WINNER: Who gets to join the wall of fame in Langdell Library? Stay tuned for the next RECORD.

Edley Looks Back At The Dukakis Campaign Experience

By Dan Kroll
Features Editor

The following is an interview with Christopher Edley, Jr. '78, who will be returning to teach at HLS after serving as Issues Director in the presidential campaign of Michael Dukakis '80. Edley has taught at HLS since 1981, and became a full Professor in 1987.

RECORD: What are your plans now, Professor Edley?

Edley: Well, right now I'm leaving on a two week vacation. I'll be returning to HLS to teach in the spring.

RECORD: Have you talked to the administration about which courses you'll be teaching?

Edley: Yes. I'll be teaching administrative law ... and a seminar of some sort.

RECORD: Great. Would you mind if I ask you some questions now about the Dukakis campaign?

Edley: Not at all.

RECORD: Did you feel that the important issues in the campaign were adequately addressed?

Edley: No. But the typical complaint of an issues director is that not enough attention is given to issues.... The press is more interested in ... the "horse-race" and the personalities than it is in the candidates' positions on health care and international economics. So there's a significant limitation on using a political campaign to address important issues. It's unfortunate.

RECORD: Are there any particular issues in Dukakis' platform that you think deserved more attention than they received in the press?

Edley: Many. I particularly regret that

too little attention was given to anti-poverty issues, to third-world economic development issues, and to a whole cluster of issues concerning the family and the workplace. Other issues will become increasingly more important on the agenda in the coming years, such as savings & loan issues and the third world debt, but these are difficult issues to make accessible and politically salient in a campaign.

RECORD: It has been said that Dukakis concentrated too early on in the campaign on wooing the "Reagan Democrats," and waited too long to concentrate on issues such as poverty and welfare programs. Do you agree?

Edley: No, I don't agree.... The effort to attract Reagan Democrats cannot be made to the exclusion of trying to motivate the mobilizing base of the Democratic party.... You have to do both.

RECORD: Do you think the Bush victory was more a rejection of Dukakis' agenda or a failure by Dukakis to communicate his agenda to the American people?

Edley: Both. But it's also a reflection of the underlying realities that the nation as a whole is quite conservative. Dukakis was running against an incumbent when there were no obvious economic crises, and that's very difficult.

RECORD: Do you think it was possible for Dukakis to win this campaign, and, alternatively, do you think it would have been possible for any Democrat to win this campaign?

Edley: I think it would have been difficult for any Democrat to win. Could we have done better? I don't know. Perhaps.

RECORD: What do you think about charges that the Dukakis campaign was insular and that it failed to reach much beyond Massachusetts for its support?

Edley: No comment.

RECORD: What are your plans concerning your future political career?

Edley: I have no plans. After the '76 campaign, I said I planned to stay out of politics, and I have the same feelings now. I'm not somebody who particularly enjoys the political process; I'm more interested in public policy.

RECORD: What made you decide to go back into politics after the '76 campaign?

Edley: I went in because Dukakis was the right candidate, and he offered me the right job, at the right location — I was able to stay here at home in Cambridge with my family. Dukakis had the right values and skills, and he offered me my ideal job. The timing was also

right — I had just received tenure, so I had the flexibility.... It was a confluence of forces.

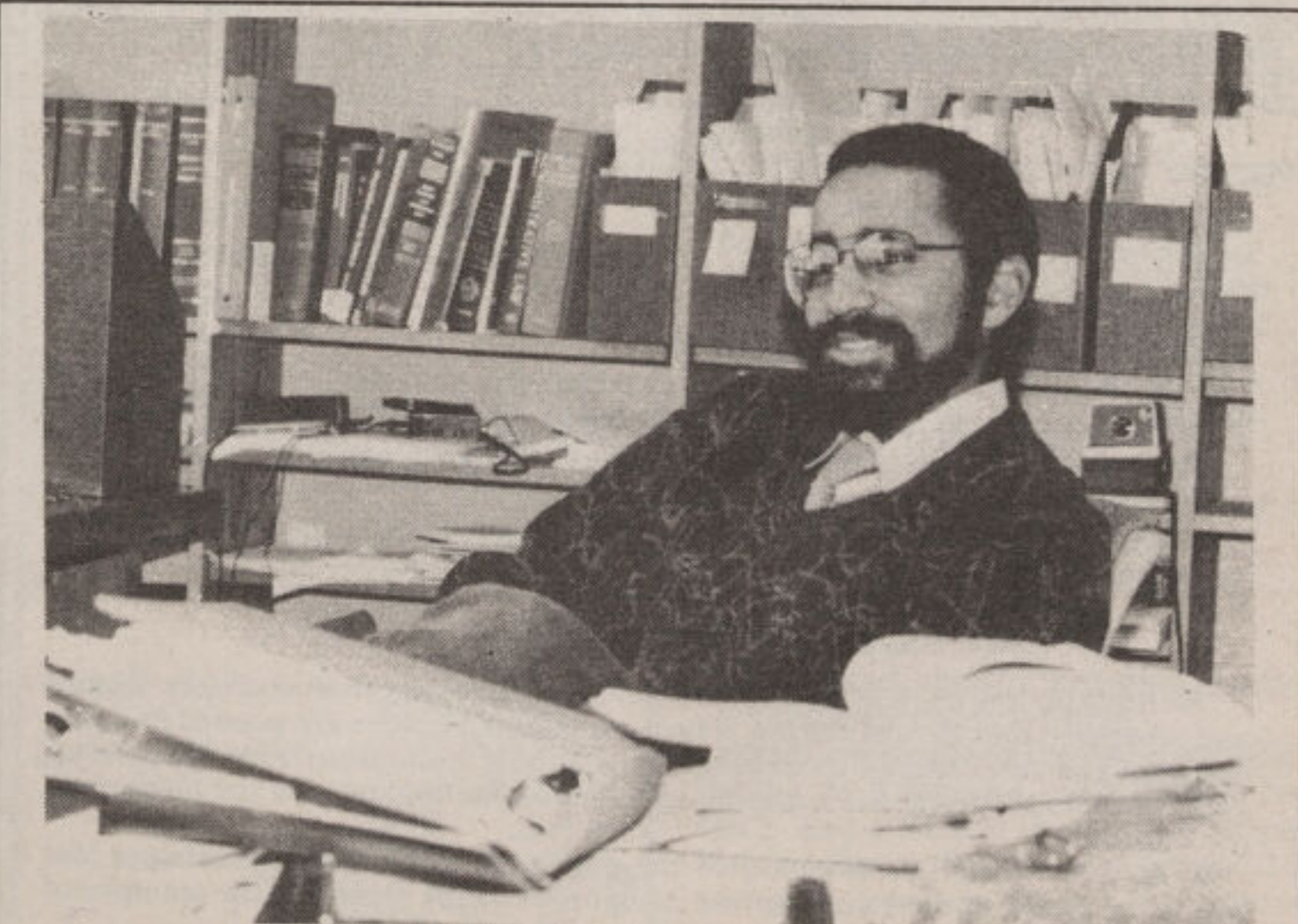
RECORD: Are you happy with the way Susan Estrich ran the campaign?

Edley: Yes. Very happy.

RECORD: Which aspects do you think she was most successful with, and which aspects can you offer some constructive criticism about?

Edley: Let's just leave it as I originally said it. I'm very happy with the way she ran the campaign.

Professor Susan Estrich '78, who served as Dukakis campaign manager, was unavailable for comment. The RECORD hopes to be able to include an interview with her in a later issue. In the meantime, Dean James Vorenberg '51 has assured the RECORD that Estrich will be back at HLS this spring, and will teach a course in advanced criminal law.



HLS professor Chris Edley '78.

File photo

"Dukakis had the right values and skills, and he offered me my ideal job."



Harvard Law Record

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Jeff Gershowitz
Editor-in-Chief

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Editorials

Show Common Decency

Freedom of speech. It seems like a simple enough concept, especially for students of an institution of higher learning. In Justice Holmes' famous "marketplace of ideas," opposite views do battle and coexist, allowing an individual to select those ideas she thinks best. Hopefully, "right" will triumph.

This concept unfortunately does not seem to have taken hold at HLS. Certain people, obviously believing that their opinions cannot withstand the withering light of reason and public analysis in the market of ideas, have decided that they will make it their duty to stamp out other views, by force if necessary.

The latest and most horrifying example of this kind of ignorance and hatred is the "threat letter" received by a 1L woman. The letter ordered her to desist from expressing her views on abortion or face the wrath of the letter's twisted author, who, like most cowards, remained anonymous. This letter, while certainly not the only example of narrow-mindedness at HLS, crossed the line from the mere desecration of posters and shouting down of speakers to actually threatening physical harm.

This simply cannot be allowed to go on. Apparently the intellectually charged atmosphere here has become so volatile that some people have decided that open speech and debate will not serve their ends. Maybe diversity brings strains, especially in an environment of aggressive and competitive people. But the freedom to speak is *not* an issue of politics, race, or sex. It is an issue of maturity, decency and respect, factors that apparently do not correlate with high LSATs and GPAs.

It is time we all took a look at each other and ourselves and declared that from now on we will hiss no one in class; we will shout down no more speakers; we will rip down or deface no more posters; and we will affirmatively protect and encourage all others who wish to speak, *especially* if their views are not our own. If we cannot accept these simple rules of civilized discourse, we will forfeit our right to be ruled by reason and instead descend to the realm of the anonymous letter writer, where threats and ignorance reign.
J.A.G.

Much Ado About LSC

Given the level of acrimonious debate over the proposed "fairness" amendment to the Law School Council bylaws, it is worth asking whether an alteration to that organization's constitution justifies any emotion other than profound indifference.

While the issues involved — intolerance, diversity and comparisons between "status" and "intellectual" minorities — were serious ones and deserving of discussion, they are deserving of a more important context than an amendment to a little-known constitution of a questionably representative organization.

Despite the emotional debate surrounding the "fairness" amendment and the multitudinous opportunities to vote, only about half of this politically active student body eventually cast their ballot.

When the vaunted "student dean search subcommittee" was formed in the first place, at-large positions were appointed by lottery, but only five students applied for the three available seats.

In fact, it appears just about anyone who wants can be a "representative" on LSC. In the most recent round of elections, there were only as many interested persons as there were positions available.

Perhaps the LSC should make a more concerted effort to address more practical student concerns, like livable housing, affordable food and reasonable tuition, than playing scapegoat for the administration's common claim that it has "heard student input on the problem."

Perhaps the vigor and seriousness with which the president of LSC (who prefers, for some reason, to be known as "Student Body President") carries out his duties will change the Council's reputation and level of influence. Or perhaps, other hard-working students in LSC will accomplish this goal.

And perhaps the opinion of a so-called "student newspaper," which grubs money from the Alumni Association and courts the fancy of friendly law firms, should be discounted as self-indulgent anyway.

E.H. and C.A.C.

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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.

Tufts Lets Speakers Speak

To the Editor:

On Oct. 20, the Harvard Law School administration closed a meeting of the Law School Republicans to your student body. The organization was forbidden to advertise the event to the student community, with security concerns cited for the restrictions. Two representatives of the Nicaraguan Resistance, or contras, were the featured speakers.

In light of your school's recently publicized "free speech guidelines," I was surprised to hear of the Law School administration's censorship of the meeting which focused on Sandinista Human Rights abuses. When representatives of the Nicaraguan Resistance appear on local campuses, security is usually a concern, but this concern should not be exploited as to deny freedom of speech.

I feel especially compelled to make my feelings known given that the very same individuals who were barred from addressing an open meeting at Harvard Law School spoke that same evening at Tufts before the public. The Tufts University administration had the same one week's notice given to the Law School administration and proper security arrangements were made. In fact, one of the audience members was Joshua Laub, the same individual who

attacked Dr. Adolfo Calero when he appeared at Harvard last year. He sat in the auditorium with a group of supporters who were at first noisy, but left the room soon after the program began because of the disciplined environment which the Tufts administration mandated. No signs were allowed in the room, and disruptive individuals were escorted out by the police. The lack of signs was an essential element, enabling the police to maintain audience decorum. In other words, common sense carried the day.

Sadly, it would appear that your administration is not only unwilling to take the necessary steps to provide a secure environment for all points of view, but the conservative perspective seems singled out for inappropriate regulation and suppression. I am aware that your Law School administration makes constant protestations of its fidelity to the free speech principle. But actions speak louder than words. The Oct. 20 censorship incident is more telling of your administration's attitude toward equal treatment for all political perspectives than any set of exhaustive "free speech guidelines" could ever hope to be.

Eunice E. Kim, Chairman
Tufts College Republicans

Women Appalled By Vicious Letter

To the Editor:

A member of the Political Action Committee of the Women's Law Association recently was the target of an anonymous note that denounced her pro-choice views, threatened assault, and included vile personal insults (see story, page 1). While the WLA welcomes women of every political persuasion and encourages debate among members and non-members, we abhor cowardly actions like this unsigned note and its violent overtones.

Beyond concerns for safety and free speech, this incident signifies yet another expression of hostility toward women on this campus. One of the most disturbing aspects of the incident is the astonishment of students who refuse to believe that it could happen here. Every year, posters, surveys, and even library books are defaced with comments derogatory toward women. Last year, our efforts to gather women's opinions about affirmative action on the law review were halted when someone stole the survey collection box. And two years

ago, three 1L men covered doors and bulletin boards on an HLS dorm floor with obscene personal messages directed at the women residents.

In that case the men were identified but no administrative action was taken. This time, however, the administration is responding more appropriately than are students. The WLA applauds Deans Vorenberg, Smith, and Wald for their strong reaction to this threatening note. We are dismayed, however, that students — with the sanction of the Law School Council — have withheld handwriting samples that could possibly assist in locating the author of the note. Their decision is further evidence of many students' denial that one of their own could have acted so abhorrently. Instead, the entire Law School community must confront and dismantle this atmosphere of hostility if we are to encourage — rather than silence — voices from all segments of our school.

Bonnie Savage, 3L, For the
Women's Law Association Board

Survey Twenty Years From Now

To the Editor:

I read with interest your HLS student poll results on the Bush-Dukakis race and your reprint of the similar story from 20 years ago on the Humphrey-Nixon race. It occurs to me that if you fellows at the RECORD want to do some real investigative journalism, you might wangle from the Law School Administration a small grant to do a re-survey of the students who were polled back in 1968.

Why would this be a much more interesting project than simply recording the views of current students in any given year? Because you could put to the test my hypothesis (and that of a number of other graduates with a few years' experience in the real world) that such a re-survey of the 1968 students' Bush-Dukakis votes (taking those two as rough stand-ins for Humphrey and Nixon on the liberal-conservative spectrum) would not generate anything remotely close to the 4-1 margin for Humphrey over Nixon.

I submit that such a re-survey is more than just a matter of idle academic interest. Many of us have noted over the years that the large bulk of HLS students seem to subsist in a peculiar state of arrested adolescence regarding politics. They are not only far to the left of the rest of the country, but are even far to the left of what we have come to know of their own future selves. The

Law School period seems to be a sort of suspended animation where a large number of students can indulge what may well be a political guilt-assuaging fantasy time before they move on to do what they are being trained for: help manage the day-to-day workings of the capitalist system.

As far as the lingering influence of romanticism is concerned, your readers would probably be particularly interested if it were possible to track down the 2.5% of 1968 HLS students (about 15 if there were 600 respondents) who voted for Eldridge Cleaver for President. As you may know, this man's sole qualifications were that he was a convicted rapist and author of a racist diatribe suggesting a twisted kind of racist ideological justification for the crime of rape. The rough equivalent of actually voting for Willie Horton in 1988, not just joking about it. Your readers would, I'm sure, be fascinated by the reflective comments of these 15.

Again, I think you and your staff would find it interesting and rewarding to follow up with the 1968 class. By the way, I would also hypothesize that similar results would be found with a follow-up on the 1972 student vote on Nixon-McGovern, if there was such a poll in that year.

Jim Braden '80

Liberal Student Responds To Conservative's Concerns

To the Editor:

As a liberal student here at Harvard Law School, I thought that Rod Rosenstein's letter to the editor entitled *Conservative Students Feel Alienated by Environment* in the Oct. 21 issue should not slip by unexposed, although it is a letter that is best forgotten as quickly as possible. I emphasize from the outset that I write this response not because I am a liberal who has no sympathy for conservative views, but because I am a student who is merely sure that almost all the other students at this law school do not subscribe to Mr. Rosenstein's distorted impression of the HLS atmosphere.

His letter is truly an amazing one. Mr. Rosenstein's central tenet is that conservative students are nothing short of dictatorially oppressed at HLS. "We [conservatives] must choose," he posits, "between adopting the 'politically correct' liberal orthodoxy and learning to sound like them, remaining silent and distancing ourselves from the institution, or speaking out with the understanding that others' evaluations of our opinions will be colored by the prejudice they attach to our label."

Mr. Rosenstein's letter would be bet-

ter entitled, "The Paranoid Student's Manifesto." I do not argue for a second that conservative views aren't in the minority at HLS; they are. My problem, however, lies in Mr. Rosenstein's perception of himself as an enslaved minority whose freedom is truly curtailed by the majority. Mr. Rosenstein thinks that liberal students and faculty look down on him because he is conservative. Certainly there are some students, and perhaps some faculty, who are of this element, who upon determining that someone is conservative subsequently dismiss all of his or her views out of hand.

But I contend that the great majority of liberal students are not of this vein. From what I've seen in two months at HLS, there is a healthy tolerance of diverse opinions. I think I speak for most liberal students when I say that upon hearing conservative views we evaluate their merits and try to respond thoughtfully. Speaking for myself, I am consistently given pause by the eloquent and insightful conservative points that are raised in discussions in my classes. Moreover, I enjoy being given pause, because I want to hear the other side. This is the stimulation I require for

intellectual growth, and it was for this very eloquence and forcefulness with which I knew I would be presented with opposing viewpoints that constituted one of the main reasons I came to Harvard. The last thing I want to do, Mr. Rosenstein, is to dismiss or ignore conservatives. What I want to do is ponder their positions and evaluate them against my own.

Out of his gross generalization of the narrow-mindedness of liberal students, Mr. Rosenstein spends the remainder of his article alleging some almost laughable absurdities. These include that there exists an admissions bias against conservative students, that conservative prospective law students should be warned against Harvard, that conservative students are discriminated against in the budgetary process, and, my personal favorite, that most students would embrace communism before conservatism. I am anxiously awaiting Mr. Rosenstein's distribution of buttons parodying the majority liberal element here at HLS proclaiming "Better Red than Right."

I would submit to you, then, Mr. Rosenstein, that each student represents a slightly different point on the political

spectrum, and thus that you need not feel alienated by a hungry, allied, tyrannical majority out to quash your views. Such a force does not exist. Are your conservative views, generally speaking, in the minority at HLS? Certainly. But surely you must have known that such a situation existed when you made your decision to matriculate; if your ideological minority status bothers you so much perhaps you should have gone to Chicago. As a conservative student at Harvard, you will have to defend your views more often, and more ardently, than you may have had to elsewhere, just as I did at the conservative southern university I attended as an undergraduate. You will frequently, as did I, have to bite the proverbial bullet.

But don't mistake this for oppression, Mr. Rosenstein. Simply accept your conservatism as one of the qualities that we all have which make us unique in a particular environment. And when you get into discussions with political overtones, calmly, reasonably, and proudly defend your positions, and I can fairly well guarantee you that as a general rule you will be taken seriously and treated equally.

Chase J. Sanders, 1L

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Fenno

"Wang-do" thought Fenno, as he leaned back in his comfy wooden seat with the squeaky swivel, kicked up his aardvark skin boots onto the desk of seat 132 and pondered capitalist conundrums in Clark's Corporations class, which he was now taking for about the fifth time.

Fenno's mind escaped the world of director responsibility and flashed back to his earlier days when he was young and hardworking and full of vigor.

He remembered the time that his mother admonished him, "now, Fenno, don't let them give you a stupid haircut — you can't look stupid and be stupid too."

Fenno immediately sat erect. "I vow to no longer go through my days like a sloth! I will be the perfect student," Fenno vowed.

"Time for another song," interposed Clark like a voice from another world, as he tuned up his electronic keyboard. "This little ditty should alleviate any lingering uncertainties you may yet have concerning my sanity... A-hem."

Fenno experienced a warm glow of happiness as he strolled up the aisle in Austin North amidst a thundering applause. "What a way to start my new life," he mused. "I think I'll go to the library..."

Fenno ran into his good friend Sparky and related his new-found belief in diligence and hard work.

"Are you kidding!" exclaimed Sparky. "YOU, Fenno, the feckless wonder, actually bearing down to do work? What, have you been mulcted or something?"

Fenno ignored Sparky's quips and headed on to the library. But he got to thinking.

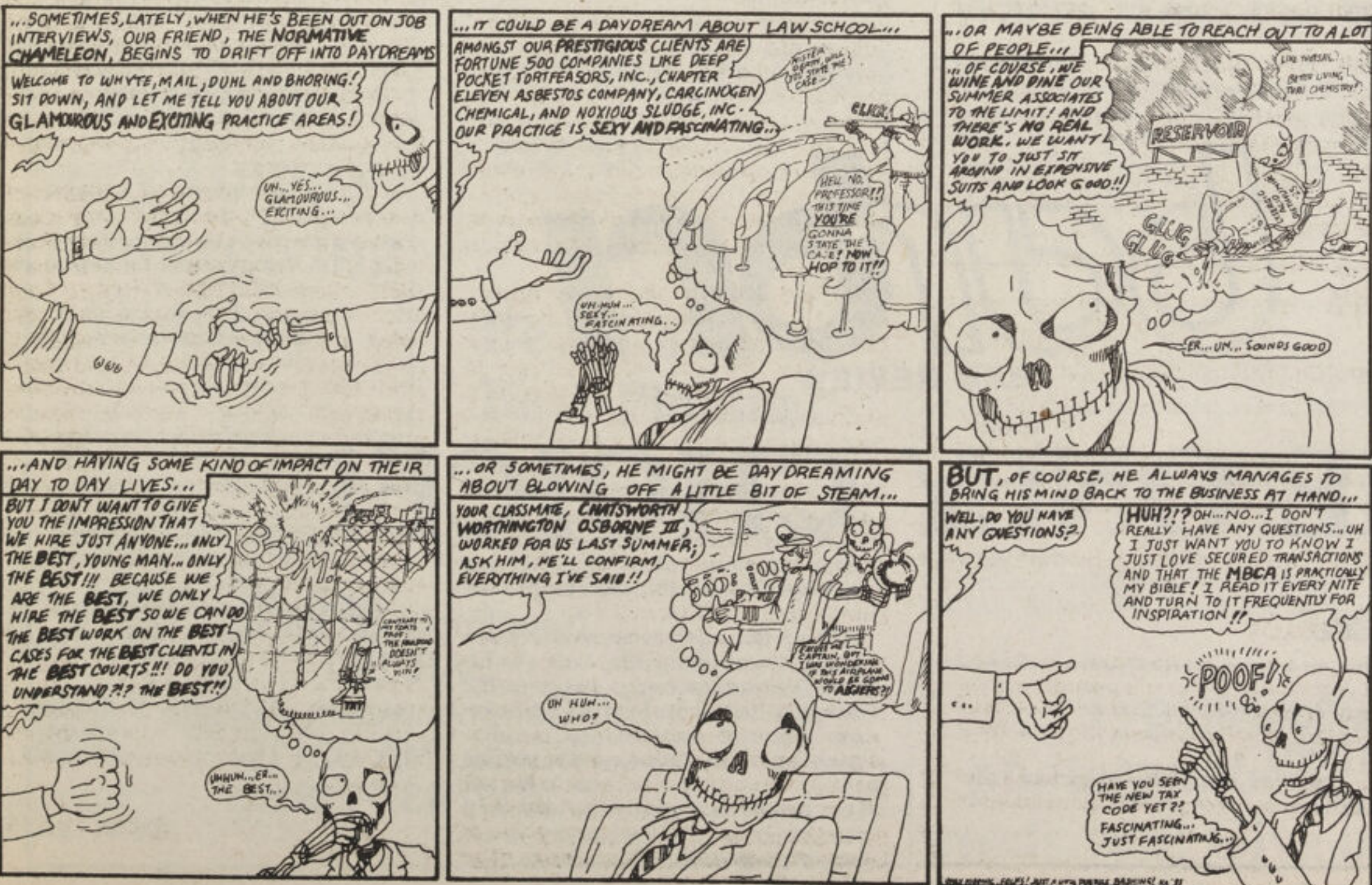
"What does feckless mean, exactly?" Fenno queried to himself. As he peered into the Webster's From the burdened law book shelf. "Spiritless, Weak, and Worthless." Wow! That's eerie! Out of sight! How that Webster is defining Fenno columns that they write.

I could add to Daniel Webster — At the risk of sounding reckless: To define the column 'Fenno' There is only one word, feckless. Fenno is a shallow pool. It has a hollow ring. If you should fish for knowledge here, You'll never catch a thing.

Fenno had realized the often repeated truth that a leopard can't change his spots and a Fenno can't trade in his Meister Braus for the law review. He rested his head on the comfy cushions and leaned back to dreams of his pet snake Rusty and Nastasia Kinski.

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By K A



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Fairness A Matter Of Process, Not Motives

To the Editor:

Well, we won't be needing a recount of the votes cast on the Fairness Amendment. As your readers know, it was defeated by a large margin. This letter is a simple post-mortem: why did the Amendment fail?

No answer to this question is entirely reliable. It requires us to speculate about the motives of the "no" voters, and who can fathom the depths of another's heart? As Justice (then Judge) Cardozo taught us in first-year contracts, "[t]he springs of conduct are subtle and varied." *DeCicco v. Schweizer* (1917).

Because it was predicated on presumed knowledge of our motives, among other reasons, the campaign against the Amendment was flawed. Many groups opposed to the Amendment professed to favor the principle of non-discrimination and to find the language of the Amendment "innocuous" and "neutral on its face." They nevertheless urged its defeat because, they claimed, the motives of its sponsors were evil, "covertly racist" and dedicated "to suppressing the voices of historically oppressed minorities." All asserted with the breezy certainty of Solomons visiting Cardozo's springs of conducts.

These charges are not only false; they are bad argument. In our Western legal tradition, language has meaning apart from the motives of its draftsmen. "Don't trust us," we obliged, "trust the text!" The operative verb of the Amendment,

'shall not discriminate,' has independent meaning that we, the proponents of the language, do not control. Nor are we to be its interpreters; that task is the Law School Council's under our Constitution." This argument was met with jeers and renewed demands that we reveal our "hidden agenda." It is frightening to think that in a law school, where words are our only raw material, so few respond to the idea that the legal concepts we fashion from them have determined, reliable meanings. Many seem to have lost faith in the very possibility of law.

Of course, some thoughtful and sincere people opposed the Amendment because they have a different conception of what fairness requires. To them, fairness is measured by results: if those results correspond to their ideal, a particular allocation of good things is fair. By contrast, we believe that fairness is a matter of process. All through the campaign we repeated the theory behind the Amendment: in a polity in which all constituencies are equally enfranchised, no constituency should have the procedural advantage of reserved seats. In student government, the rules should be the same for everyone. We invoked the theory of vote dilution in the U.S. Supreme Court's reapportionment cases as authority.

We were told by way of reply that all is not equal at Harvard Law School, that status minorities are often disadvan-

tagged. Conceding the point, we answered that the Amendment did not in any way hinder faculty diversity or affirmative action. It was designed to reach *only student government* and status minorities were at no disadvantage, de facto or de jure, in *student government*. We were told that oppression was "not part of your history" (but how could the speaker know our respective histories?) and that all analogies between the mistreatment at Harvard Law School of status and ideological minorities are "highly offensive." Oh.

And that was the spirit in which the balance of the "no" campaign was conducted: the Amendment was treated as just another reprise in a long history of the empowered (read "white men") doing all within their power to silence the voices of everyone not (superficially) like them. Many of those who properly and most vocally demand respect for their historical experiences and feelings showed none at all for others with different experiences and dissenting opinions. I recall a WLA member seriously arguing that white male students should be purposefully disfavored at HLS so that they learn to empathize with those they, white males, allegedly "oppress" everywhere else. "Yes" supporters were branded racists, sexists, homophobes and "untermenschen" or "sub-humans" (the term the Nazis popularized to denote Jews, Blacks and other non-Aryans). Many "yes" posters were defaced,

others torn down (hence the need for Dean Vorenberg's admonishment to fair play). I personally received hate mail and dead-of-night phone calls. The merits of the Amendment were never squarely contested. And the great American liberal tradition of equality before the law that inspired the Amendment was discarded like a warped hoola-hoop.

Why then were conservative and libertarian students abused and their ideas ridiculed? Why did the Amendment fail?

It failed because too many, junk-fed on a steady diet of Critical Legal Studies nihilism, have lost faith in the existence of conceptual clarity and neutral principles in the law. To them, law has become a euphemism for the will to power. It is a lie.

It failed because Harvard Law School is a deeply illiberal institution, where dissent from the prevailing orthodoxy is punished with insult and abuse. Countless thought-provoking comments that might enrich our intellectual discourse go unexpressed for fear of ridicule or retribution. As a result, this once great institution sinks mutely into intellectual torpor and sterility.

To paraphrase Theodore Roethke: I respect you for what you might be; I'm deeply disturbed by what you are.

Sam Levy, 3L

P.S. As for flako conspiracy theories about a conservative plot to install an inflatable Robert Bork doll as dean, they are wildly exaggerated.

Minorities Resent Intellectualization Of Debate

To the Editor:

With the landslide rejection of the "Fairness Amendment" on Nov. 8, the HLS student body made a firm commitment to ending a problem faced by thousands of minorities all over the world every day of their lives — *de facto* discrimination masked by *de jure* non-discrimination. The referendum set the stage for us to confront, question, and examine the meanings of the concepts being contested — minority, oppressed groups, reserved seats, discrimination, fairness, and framers' intent.

One of the concepts being contested most in this process was that of "minority" or "oppressed minority." With the Federalists' claim of being an "intellectual" minority, on similar footing as other "genetically or facially defined" minorities, there are certainly feelings that such terminologies have been abused. Have they? What makes up a minority? Can you make yourself an oppressed minority simply by carving out any special interests commonly held by some members of the populus? Can the BMW owners at

HLS claim they are an oppressed minority because the school does not provide decent indoor parking for them?

Or is "oppressed minority" dependent on history? — that the Supreme Court said that you do not have a right to vote, that the Supreme Court said you can be put at gunpoint and become slaves, that the Supreme Court said your property and liberty can be taken away because of your ancestry, that the Supreme Court said you do not have a right of privacy in your bedroom because of who you are?

Can the socialists at HLS claim to be an oppressed minority, given the proportion of HLS graduates who work for corporate law firms? Given the above questions, is the concept "oppressed minority" such a fluid concept that it totally depends on your definition of its criteria?

The other contested concepts include "discrimination," "fairness" and "reserved seats" in committees established under the auspices of the Law School Council. For this I would like to draw an analogy — if HLS were facing the rapes on campus problem as Brown University is facing

these days, or the campus racial violence problem as UMass-Amherst was facing two years ago, and the Law School Council establishes committees with Women's Law Association or Black Law Students' Association to deal with the problems, are seats being "reserved?" Or is it a cooperation with people or groups with more insights and experience with the problem? Can a Ku Klux Klan member say he is being "discriminated" against for not being able to get a seat that has been "reserved" for a BLSA member? Can we say that is not "fair?"

"Student Alliance For Fairness" urged an acontextual reading of the text of the Amendment. The motto was: "Trust the text, vote yes." Maybe we can even throw in a thing or two about the "framers' intent." But for *We, The People* who had been denied the basic human rights of life, liberty, and happiness, is the kind of intellectualization the Federalists are asking for a little too much? Did Professor Derrick Bell's *Space Traders*, which appeared on the RECORD on Nov. 4, 1988,

offer a much too familiar resonance on the trust *We, The People* have been having on texts, and their interpreters committed to framers' intent — in the Supreme Court in 1857, in 1873, in 1944 and in 1986?

The Federalists could never prove their intent for preparing the Amendments, amidst the accusations of political maneuvers for a specific "dean candidate." Absent any proof of "framers' intent," we were urged to have faith in the power of language and its interpreter. The power of language is great indeed — for without it, "oppressed minority," "discrimination," "fairness" will not be contested. But to pierce through the flagging of empty anti-discrimination slogans, and to take a hard look at *de facto* discrimination in the everyday lives of thousands of people, our job does not end with the defeat of the amendment. Rather, this experience starts our long journey down the road fighting *de facto* discrimination — especially that masked by *de jure* discrimination — the power of language indeed.

Maurice Hoo, 2L

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**Letters To The
Editor**

**Be A Lawyer
Be A Plumber**

To the Editor:

Gee, I feel awfully sorry for those students who have four or more offers and must choose which ones to give up. I have no offers so far, after 61 interviews, three callbacks, and 49 rejection letters.

I'm still hoping to get a job for next summer, and I recognize there's plenty of room for self-improvement. However, I must ask the question: if getting good grades at Harvard Law School is not enough to get a job with a NYC law firm, then what is?

I should have quit law school and become a plumber.

Judy Resnick, 2L

Warm Welcome To Fellow Students

To the Editor:

On Sept. 28, 1988, a gathering of graduate students formed the International Graduate Students Association (IGSA) of Harvard Law School. The organization is truly "international," in the sense that the Graduate Student Body consists of lawyers from 56 different countries, scattered around all regions of the globe.

Individuals with the greatest diversity of backgrounds have come together to form a union, to make their program at Harvard more "profitable," both to themselves and to all other members of the Law School.

The primary purpose of IGSA is to establish strong ties between members, which hopefully will last beyond the limited time we the graduate students spend at HLS.

As a sign of our belief in contributing to the Law School, we expect and fully

support the participation of J.D. students and Faculty members, as well as the Graduate Students, in all activities that we are going to be organizing throughout the year. In addition to the LL.M. and the S.J.D. presence on the Law School Council, we are ready to cooperate with all other associations of the student body and with the Graduate Program Administration, to make this and further years to come, truly fulfilling experiences for us all.

We urge all members of the Law School community to look out for upcoming activities of IGSA and to supply us with valuable criticism and proposals.

Make us your passageway to the rest of the world's legal community. Come and establish a long-lasting friendship with the Graduate Program participants, your colleagues around the globe!

Emre Derman

IGSA Executive Committee

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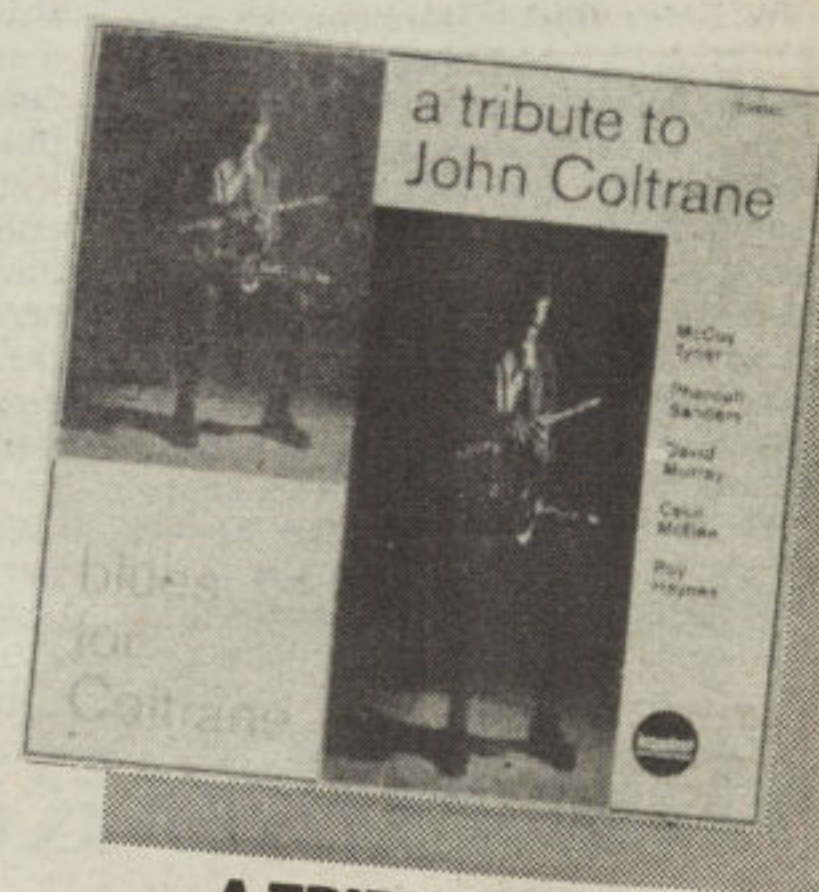


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Concerned Students Flock To Public Interest Fair

By Jeffrey Avina
Staff Writer

The public interest community at HLS took over the Ropes-Gray room in Pound Hall last week, as over 200 students gathered on Nov. 9 to talk with each other about jobs in the public interest.

The occasion was the second annual Student Public Interest Jobs Fair, where over 50 students who have worked for public interest organizations, human rights outfits, legal services offices, government agencies, Harvard-based groups and private public interest law firms shared their experiences with other students.

The fair, which attracted many 1Ls, is part of the ongoing effort by the Alliance for Public Interest Alternatives (APIA) to raise the profile of public interest options on campus. "Part of getting students interested in public interest work is letting them know what's out there,"

said Victor Bolden, 3L, who told students about his summer work at Harlem Legal Services and the Cook County Public Defenders' Office in Chicago.

"One of the greatest untapped resources for students concerned with public interest issues is other students," said Danny Greenberg, director of Clinical Programs, which co-sponsored the event with APIA and the Office of Career Services. "This fair is an integral part of the orientation process which teaches students to look to their colleagues for support and encouragement."

"It's a tremendous service," according to Steve Donziger, 1L, who attended the fair. "For APIA to put all these organizations together in one room saves me days of effort trying to figure out what I want to know."

Students who had worked at 63 organizations were available at the fair. The groups represented ran the gamut

from the big-name public interest organizations — like the ACLU (six different offices), the Sierra Club, and the NAACP Legal Defense Fund — to lower-profile outfits such as the Southern Prisoners Defense Committee of Atlanta, Middle Tennessee Legal Services, and the National Womens' Law Center in Washington, D.C.

On-campus groups such as Harvard Defenders, Prison Legal Assistance Project and the Mediation Program were also present. The most popular tables appeared to be in the government jobs area, which encompassed District Attorneys, U.S. Attorneys, Attorneys General offices and government agencies. "The students with whom I talked were very enthusiastic about the work they did," Donziger said. "It's not like working with a firm."

Lucinda Sikes, 3L, who talked with interested students about her work with Consumers Union and Ralph Nader's '88 Public Interest Research Group (PIRG), said she noticed that there were fewer students attending this year, but added that it "may be a reflection of the student body."

The fair was the idea of Luke Cole, 3L, who has organized it for the past two years. "I was looking for a way to take advantage of the one public interest resource we have plenty of, which is students who have done public interest work," said Cole, who shared his experiences working for the Lawyers Committee for Human Rights in South Africa and Farmworkers Legal Services in North Carolina with interested students.

According to some participants, many of the groups represented at the fair do not interview on campus, and students would have few other opportunities to learn about them otherwise. "These organizations can't afford to come here, and I can't afford to fly there," said Lesley Friedman, 3L, who not only represented the Hawaii Federal Public Defenders Office, where she spent

last summer, but also got new ideas for public interest jobs mingling at other tables. "It's great — it works," she said.

If the fair had a goal, according to those who organized it, it was to show new students that public interest work was a realistic career option. "There's so little guidance for the small public interest community here, it feels good to tell 1Ls, 'Look, you really can do this type of work,'" said Judy Rabinowitz, 3L, who spent last summer working on a Navajo reservation with DNA Peoples' Legal Services in Mexican Hat, Utah.

Dana Bullwinkel, asst. public interest coordinator for the Office of Career Services, concurred. "People got a sense that [public interest work] is a financially feasible option."

Students entering the public interest job market for the first time also were advised on how to go about it. As Nan Dunham, 1L, commented, "It helped me learn the nuts and bolts of looking for a public interest job."

Beyond the informational aspect, the fair was designed to help second and third-year students with a public interest orientation create a sense of community, according to Cole. "Despite Harvard's corporate image," he said, "there are a lot of people here who do good work. And it's encouraging to have so many of them in one place at one time."

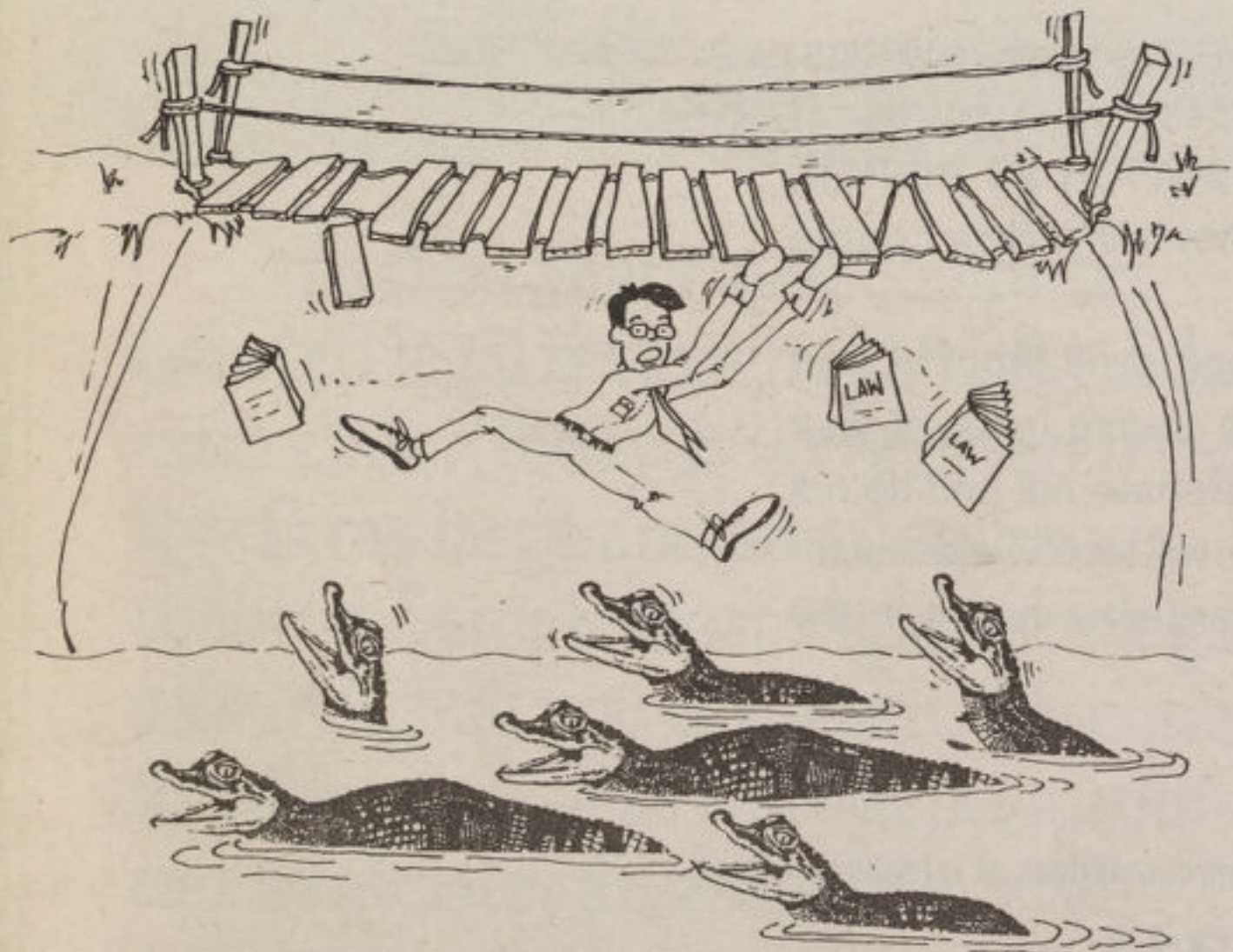
"It's a visual statement," said Ron Fox, Public Interest Coordinator in OCS, as he surveyed the gathering. "It's an impressive display of the number of students at HLS who work in public interest, government, human services, and human rights." More than 200 students worked in public interest jobs last summer, according to statistics compiled by OCS. Fox predicts even more will be able to work in public interest jobs in the summers to come because of the recent gift to the school by Kenneth Montgomery '28 of \$300,000, which will be used for summer public interest grants over the next three years.



Drake Colley, 3L, shares his experiences working with the NAACP Legal Defense Fund with other students at the Student Public Interest Jobs Fair.

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CALS Wins Political Asylum For Central American Refugees

By John Ayon
Staff Writer

The HLS clinical program at the Cambridge and Somerville Legal Services Center (CASLS) recently scored two rare victories for Central American refugees, earning the refugees political asylum in the United States. In what are perhaps the only two recent political asylum cases won for Central American refugees in a Boston court, members of CASLS secured political asylum for a Colombian judge and an El Salvadoran member of the Human Rights Commission.

Fernando Colon, directing attorney of the HLS student clinic at CASLS, represented the Colombian judge. According to Colon, political asylum for Central American refugees is "highly unusual." "Nationally," he said, "Central American refugees win political asylum in about two percent of the cases tried." And this national average, he asserted, is high compared to the Boston area average.

According to CASLS statistics, Colon continued, in the last 1200 cases tried in the Boston area only one other Central American refugee was granted political asylum. This case involved an El Salvadoran who was also represented by a member of CASLS — Emily Yozell. "In fact," Colon said, "this was the first El Salvadoran who has ever been successful in acquiring political asylum in a Boston court."

Colon said one factor which distinguished his case involving the Colombian judge from the unsuccessful multitude was his client's knowledge of political and legal structures. As a result of his client's keen awareness of legal conundrums, Colon said, the Colom-

bian judge procured inordinate amounts of documentation — including newspaper articles and tapes — to substantiate the personal dangers facing him in Colombia.

Although courts are typically reluctant to grant political asylum, Colon said, his client's situation may have been particularly sympathetic to the judge because he presented the judge with a very real fear with which many judges can identify. In Colombia, Colon explained, his client had incarcerated powerful conspirators involved in drug trafficking and infiltration of the Colombian government. Consequently, the judge became a victim of overt and substantial threats against his life.

Colon went on to say that most refugees are unable to accumulate the documentation necessary to win a court case because of their social status and the exigent circumstances mandating their departure. According to Yozell, documentation was also a key factor in her successful representation of the El Salvadoran member of the Human Rights Commission. "Like the Colombian judge, he had quite a bit of documentation," she said.

According to Colon, HLS students are a key ingredient at CASLS. Colon explained that the HLS clinical program there provides students with an opportunity to integrate doctrinal and theoretical principles with real problems. Colon praised the program for its ability to offer students, through HLS commitment, an opportunity to provide community assistance. The program, he stated, fosters learning in a dimension of social reality that deepens by the experience.

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Amendment: Was It A Battle For Power Or Principle?

(Continued from page 1)

bate. According to Levy, "the *Crimson* and the *Independent* missed the point — their insight into the issue has been lacking." He protested their emphasis on the Committee, "which was only the impetus for the amendment." Because it "was designed to act prospectively," he explained, "the amendment would not have affected the Committee." Any claim that it would, he said, "was a distortion."

Nevertheless, Bonnie Savage, 3L, chair of the Women's Law Association, saw the amendment as "an attempt to discredit the whole Committee and divert

amendment's sponsors "a group of white, upper-middle class males who have never had to give equal time or weight to members of minority groups." Belittling what he called "their infantile whining about not having things the way they've always had it," Selbin said "Welcome to the real world — you live in a pluralist society." Selbin suspected that the amendment was motivated by the fears of "an elite losing control, especially in an elite institution such as this."

Levy complained that "the few really far left individuals here really create a climate of intolerance that inhibits free

come the taint associated with the appointment."

Wilkins suggested that the sponsors of the amendment should have utilized other avenues to effect their goals, such as "forming their own committee or otherwise spearheading work on that problem." He challenged them to "do something constructive," instead of obstructing what other students are doing.

LSC President Brian Melendez, 2L, did not think that the Committee and

the failure of the amendment represented a policy change for the LSC. "I doubt very much that the failure of the amendment will affect the formation of committees in the future," he said. Observing that "the Dean Search Committee has been the only committee set up like that in the last couple of years," he remarked, "we'll set them up if they seem relevant."

"As far as I'm concerned," he concluded, "there has been no change at all."

"The few really far left individuals here really create a climate of intolerance that hinders free debate."

energy from getting student voices to be heard." She explained that "the Committee was just a channel to garner and summarize student responses to surveys, not to pick a candidate for dean." She charged that because surveys would indicate that many students opposed Prof. Richard Stewart '66, who is generally considered the conservatives' choice for dean, the Federalists used "craftiness in language and approach to attempt to divert students from expressing their choice for dean." The Federalists, however, have not officially endorsed any candidate for dean.

Selbin stated that "for any radical student in this school the climate in the classroom and around campus is not different" from that the conservatives claim to suffer. He considered the

debate." Alluding to the "hate mail and phone calls in the night" that he received, Levy found some students' "McCarthyite tactics" to be "quite shocking." "In that environment," he said, "people were not encouraged to consider the amendment on its merits. If there is anywhere in the world where debate should not deteriorate into personal attacks, it is at HLS."

Wilkins also viewed the amendment as a destructive move by people "who felt they didn't get the power they deserved."

Wilkins was "angered that the amendment asked the student body to assume that when any group got an appointment to a committee it was discrimination and unfair, and it would require a supermajority vote to over-

Culprit May Be Expelled

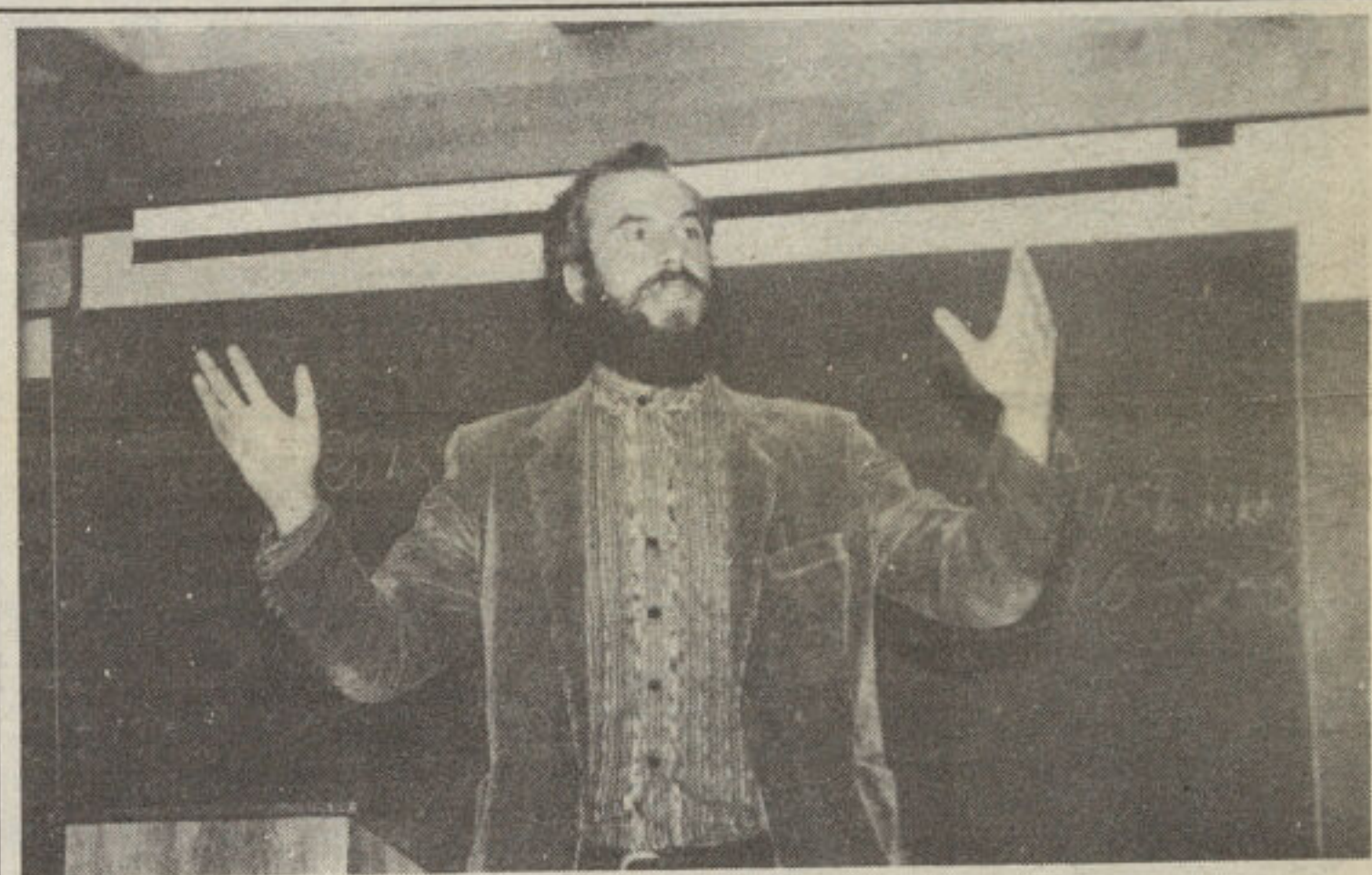
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seems prudent to explore all the relevant sources of information," she said. Wald added that she thinks students waived any privacy interests they may have had in the forms when they turned them over to their section representatives for publication in a directory.

Wald, who is also a member of the Administrative Board which presides over disciplinary cases, explained that if the investigation eventually turns up a particular suspect, the case would then become a matter for the Board. If the Board decides to take jurisdiction, the individual, as in any other disciplinary proceeding, would be afforded an evidentiary hearing at which he or she would have the right to an advocate.

The possible sanctions, Wald said, include a warning, a reprimand, suspension or expulsion — whichever the Board determines is appropriate after the hearing. The Board consists of three faculty members, two members of the administration and three students.

When asked what penalty she thinks would be appropriate for the writer, the note's recipient said it would depend on the circumstances. "I don't know why [he or she] wrote it.... Maybe it was because law school is getting to [him or her]." She added, however, that expulsion may not be inappropriate. "If you believe it's a privilege to be at HLS and that graduation with an HLS degree comes with certain benefits, then it's very questionable whether someone who would do this deserves that privilege."



Rick Genow

Prof. Duncan Kennedy makes the case for Clare Dalton's tenure denial.

CLS Speakers Praise Dalton

By Dan Kroll
Features Editor

"Memory is often short," said Prof. Morton Horwitz '67, explaining why he and two other HLS professors decided to hold a discussion entitled "What Really Happened to Clare Dalton, and the Future of Harvard Law School." The panel discussion, which also featured Profs. Duncan Kennedy and Derrick Bell, was greeted by a large gathering of students and faculty members in Pound Hall on Wednesday, Nov. 9.

"We're here because a lot of first year students have asked us about the Clare Dalton case," Horwitz told the assembly. According to Horwitz, the tenure denial of former Assistant Prof. Clare Dalton, LL.M.'73, last year by faculty vote was the culmination of a series of appointment decisions in which minorities, women and sympathizers of the Critical Legal Studies (CLS) movement have been denied places on the HLS faculty. Horwitz said "there is a minority block of twelve to fifteen faculty members, who, when supported by another three or four members, can block any appointment."

According to Horwitz, "members of the old order have dug in their heels in

fifties standards and are unwilling to look at scholarship by anyone else's views."

Bell was next to speak, emphasizing that Dalton's scholarship — an important issue in the faculty debate — should not have been the decisive issue. According to Bell, the incident demonstrates that even in the face of historical exclusion from representation on the faculty, "when a few [minority and women candidates] finally slip in through the bars, they are subjected to incredible scrutiny."

Bell said HLS should begin to look beyond "traditional qualities" to contributions that professors can make in other ways. "In addition to her scholarship, Clare had shown in myriad ways that she could make contributions to students." Even if there was debate about the quality of her scholarship, Bell said, "she did not receive the same benefit of the doubt that white males did."

Kennedy spoke last, with the main point of his discussion being that the faculty has a "tendency to develop a strong internal consensus and to lose touch with the play of different viewpoints."

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