



Harvard Law Record

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March 10, 1989

Applications Soar, Women Apply In Record Numbers

By Chris Crain and
Jeff Gershowitz
Staff Writers

A record number of people applied for admission to HLS this year despite steadily shrinking demographics, with new highs set for female applicants as well. Of the more than 7,600 applications received thus far, female applicants account for 41 percent, a record high proportion.

"It's been a banner year," according to Joyce Curll, director of admissions. "And we're sort of surprised that it happened."

Curll attributed the seven percent increase in total applications over last year to both an increase in the number of schools some chose to apply to, and an overall larger pool of people interested in law school. Nationally, there was an average of 4.25 schools per applicant, an increase from 3.94 schools per applicant last year.

As for the larger number of people choosing to apply to law schools, Curll said that "some people in the work force decided to come back to law school, while others because of the employment environment decided to go directly to law school from college."

She added that law school appears to be "the graduate school of choice" for many who decide that it provides more career security than a business degree.

Curll said that the record number of female applicants continues a trend of the past several years. And although statistics have not been finalized for minorities, she expects them to have increased significantly as well, especially among Asian-Americans.

The passing of most baby-boomers through their early twenties has yet to impact law school applications, Curll added. Applications are up by more than 15 percent this year nationally, and more than 18

percent more people took the LSAT last year as well.

College applications experienced a major decrease this year for the first time in several years, however, and Curll said she expects a similar "steep decline" in applications to HLS and other law schools three years from now.

The overall increase in applications to HLS does not necessarily mean a higher quality applicant pool, Curll said.

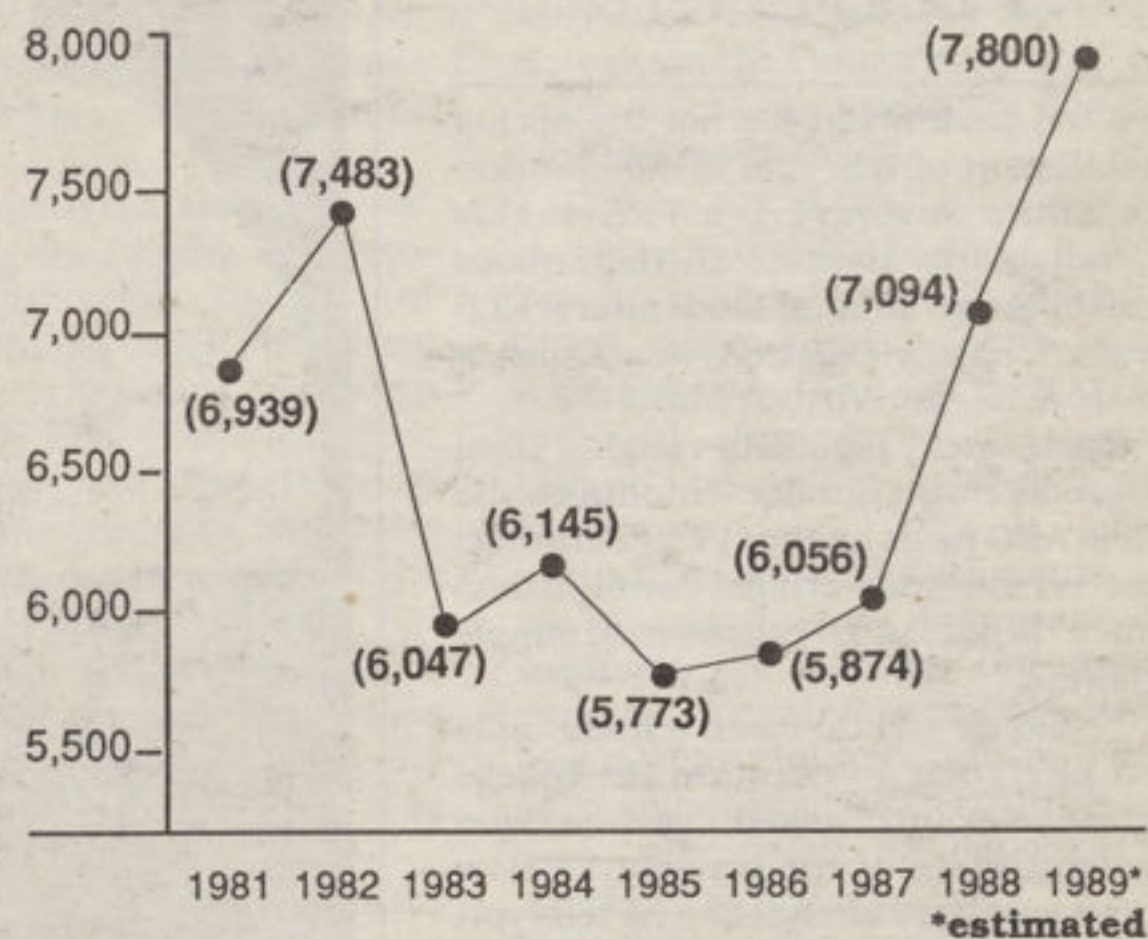
Among LSAT test takers this year, the largest increase was a 40 percent jump among those scoring between 38 and 41 on the test. There was only a 22 percent increase in the scoring range of 42 to 48.

"We're moving along so much at the top [among law schools], that the increase in quality nationally is not really where we take our students," Curll said.

Between 150 and 200 of that record HLS applicant pool will arrive on campus March 13.

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Total Applications To HLS



LSC Tones Down Confrontational Clark Letter

By Erin Edmonds
Staff Writer

The Law School Council's (LSC) open letter of congratulation and expression of student concerns sent to Dean-designate Robert Clark '72 was a retreat from a more confrontational original draft by LSC President Brian Melendez, 2L. The original draft, dated Feb. 22 but altered significantly by the LSC in a Feb. 23 meeting, had asked for stronger commitments by Clark regarding faculty hiring of minorities and women.

According to Melendez, the original letter took a stronger and more confrontational stance with regard to the recruitment of women and

minority faculty members, singling out the issue as the most "pressing and depressing" concern of the student body. It challenged Clark to "promptly and publicly ... make a better effort [toward a] detailed program to redress underrepresentation and insensitivity [surrounding] the recruitment of women and minority teachers and students."

By contrast, the final draft, modified and approved by 23 members of LSC, mentioned the underrepresentation of women and minorities only as one of a number of "issues that the student body deems of critical importance." Other issues of critical concern, the letter says, include smaller class sizes, future student

housing options and feedback on student academic performance.

Pat Wood, 3L and former LSC president, proposed the inclusion of the other issues of critical concern into the final letter. "I just thought it was incomplete. The dean needs to know that students are concerned with more than just one issue," he said. "I thought we ought to keep the tone supportive. This is an obstinate administration. Campus security, for example, is a big issue as well," he added.

David Chasen, 1L and Section I representative to LSC, agreed. "Diversity is important, but I don't know if it's the most important issue, and it's definitely not the only important

issue," he said.

Melendez explained that the first letter's emphasis on faculty diversity was his sense of what the student body wanted, based on concerns voiced during his campaign for LSC president last year. "I may be dead wrong," he acknowledged.

The original draft was also more explicit about the desire of the student body to assert a

more prominent position in the dean search process. The letter said, "The excuses why students could not be consistently represented in the faculty dean search committee were flimsy legalisms, and reinforced the disenfranchisement that the student body invariably feels about major decisions in this community."

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Bator Remembered

By Dan Kroll
Managing Editor

Paul M. Bator '56, a professor at HLS from 1959 to 1985 and a noted expert on the federal courts and constitutional law, died on Feb. 24, of heart failure after a long battle with lymphoma. Bator, a conservative scholar who left HLS in 1986 to join the faculty at the University of Chicago Law School, was 59 years old.

Bator's long and distinguished professional career included work in the public and private sectors of law practice. After serving as president of the *Harvard Law Review* and graduating from HLS *summa cum laude* in 1956, Bator clerked for Supreme Court Justice John Harlan. He then spent two years in private practice before returning to HLS as an assistant professor in 1959.

Becoming a full professor in 1962, Bator taught courses in civil procedure, federal courts and constitutional law, as well as an occasional course in the criminal field and a new course he developed entitled "Art and the Law." From 1971 to 1975, he served as associate dean of HLS.

In 1983 and 1984, Bator took a leave of absence from the faculty to serve as deputy solicitor general in Washington, D.C. In this post, Bator was a highly effective advocate, arguing and winning eight cases before the Supreme Court on behalf of the government. "He had a way of making things reasonable and puncturing the inflated quality of the arguments on the other side," said Professor Charles Fried, who succeeded Bator in the deputy position before going on to become solicitor general.

President Reagan nominated Bator for a position on the D.C. Circuit Court of Appeals in 1984, but Bator withdrew his name from consideration because of heart trouble.

Following a brief return to HLS in 1985, Bator accepted a position on the faculty of the University of Chicago Law School

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NEW VOICES IN JAZZ: (from left) Billy Drummond, Don Braden, James Genus, and Jonny King, 1L, treat the HLS community to a searing performance in Ames Courtroom (see review, p. 10)

Ogletree Cast As TV Ethics Moderator

By Rudy Rodriguez
Features Editor

Since January, television reviewers around the country have been tuning into a new show, and liking it. *The New York Times* calls it "absorbing and ... entertaining." *The Chicago Tribune* says that it "is to run-of-the-tube television what a diamond is to cubic zirconium." *TV Guide* goes further: "Lively, intelligent, surprisingly witty and down-to-earth ... fun to watch."

The program they're all raving about

PROFS IN THE PUBLIC EYE

is a ten-parter, but it's not the spring installment of *War and Remembrance*. It's *Ethics in America*, a PBS weekly roundtable discussion featuring famous panelists and familiar moderators: HLS Profs. Charles Ogletree, Jr., Charles Nesson '63, and Arthur Miller '58.

Each week, panelists ranging from Supreme Court Justice Antonin Scalia '60 to ABC news anchor Peter Jennings discuss everyday ethical conundrums which do not lend themselves to simple answers.

"What do you do when a friend tells you he's going to cheat on his college entrance exam?" asked Ogletree, who moderates six of the programs. "How about ten years later, when he tells you that he's having an extramarital affair? The answers require a choice between conflicting values."

The chain of events which led to Ogletree's high-visibility role began in

1985, when he and Nesson co-taught a first-year criminal law class at HLS. The next year, Nesson introduced Ogletree to former CBS news president Fred Friendly, who has produced two other programs in a format similar to *Ethics in America*. After seeing Ogletree moderate a local show, Friendly asked Ogletree to do the *Ethics* program.

A former criminal defense attorney

in Washington, D.C., Ogletree said he sees the moderating as "an extension of my work as a trial lawyer and my teaching style."

Ogletree drew comparisons between moderating the high-powered panels and trying a case. Both involve months of preparation, which for the panels means researching the subject matter, writing several hypotheticals for each

show, and testing mock arguments with another panel.

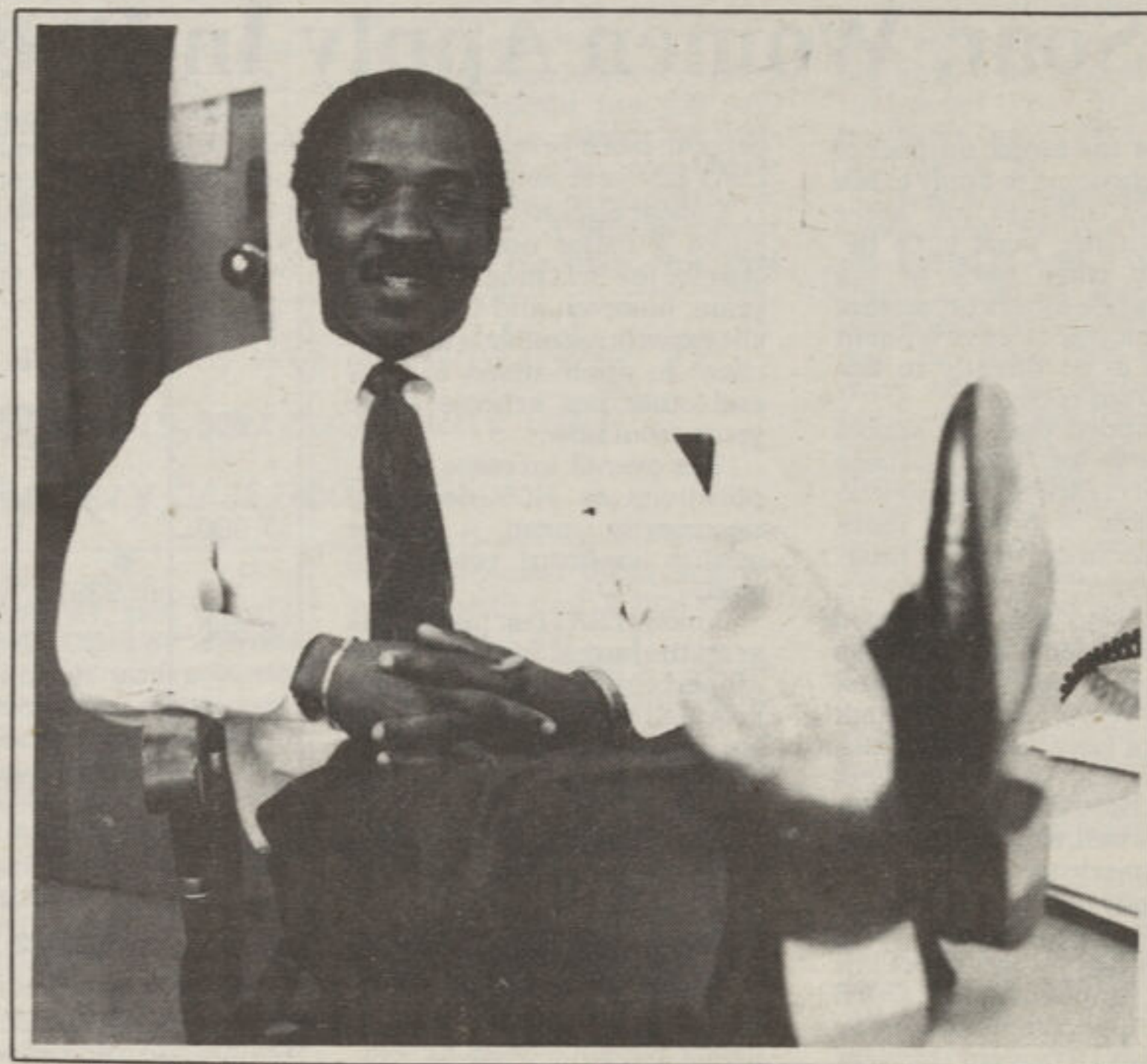
"In a sense, there are more unknowns going into one of these shows because I never really know what the panelists are going to say. I'm about 70% sure for the shows, while in a trial I have about a 90% idea of what's going to happen," Ogletree said.

According to Ogletree, the panel has no advance knowledge of the week's hypotheticals, "except for a brief, one paragraph introduction to the facts of the case — not the issues. For example, the paragraph will say: 'You have been a good friend of Bob since junior high school. You attended college together and took part in his wedding. One morning, Bob comes over and says he needs to talk.' That's it. And then, boom! We're into it."

Ogletree, who is pleased by the critical success of the series, said that the success of the shows depends on "a good moderator, a good panel, and a good, realistic hypothetical." As the moderator, he has to "control the dialogue to make the panelists answer the questions," he said.

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"There are more unknowns going into one of these T.V. shows than a trial because I never really know what the panelists are going to say"



Professor Charles Ogletree

Patricia Lee

HLS Alum To Be First Woman Overseer

By Michael Hughes
Staff Writer

As one of only twelve women in her class at Harvard Law School, Judith Richards Hope '64 learned early in her career the challenges and gratifications of breaking ground for women in all-male institutions. With her appointment as the first female member of the Harvard Corporation in its 339-year history, Hope will continue to blaze this path.

Harvard President Derek Bok '54 appointed Hope, a transportation law specialist at the Washington office of Paul, Hastings, Janofsky & Walker, to one of two vacant seats on the Corporation last month.

Hope sees her appointment as part of a continuing trend toward greater diversity at the University. "Harvard and the Corporation are to be commended for reaching out to a broader base," she said in an interview last Thursday. "As a woman, I'll bring a particular perception and sensitivity to the Corporation."

"On the other hand," she continued, "the work of the Corporation is the

same regardless of gender; it requires judgment, analysis, a little luck, and hard work."

Hope also feels that the analytical skills she has developed over her twenty-five year legal career will serve her well in her new position, one where consensus building is the usual method of arriving at a decision. The high caliber of those people whom she's met so far will make that task easier, she noted.

Her appointment is a reflection of many positive changes Hope has observed at Harvard, and particularly at HLS, since her days as a student, she said. Hope cited a more diverse group of students, including older students and those from foreign countries, and a greater commitment to clinical programs as especially beneficial developments. Still, she looks back on her studies at HLS with a great deal of fondness.

Hope remarked that it would be hard to explain to contemporary students how it felt to be one of only a dozen women in her law school class. "I felt so lucky to be here," she said, "that the hazing and the singling out didn't bother me. I felt they were testing me to see if

I could make it in what was then, and still is largely, a man's world." Among the prosaic difficulties, she recalled, was the fact that the law school had only one women's room, located in Harkness Commons. A more significant obstacle she faced was the fact that her stellar law school record failed to open the same opportunities for her as did similar records for her male classmates. "Whole cities were closed to me because of who I was," she remembered.

One of the traditions Hope faced that current generations of Harvard women do not was Ladies' Day. "I wasn't called on for ten weeks in any section," she recalled. "One day, my teachers called on me in every class." Hope listed the topics about which she and the other women were questioned on Ladies' Day: rape in criminal law, harmful touching in torts, breach of marriage contract in contracts, and divorce in property.

Nevertheless, Hope feels that her gender was "in many ways an advantage." The professors knew Hope and the other female students by name on account of their small number. They frequently dined with their teachers, and were invited annually for a lunch and a dinner with the Dean. "My teachers became my friends and still are my friends," she said.

Those instructors were "really showmen, as well as teachers," she remembered. As an example, she recounted an incident involving the late Paul Bator '56, her criminal law professor. One day a group of Soviet lawyers joined the class. Bator welcomed them and then resumed his lecture, but instead of picking up where he had left off, he reverted to the previous day's lecture. "No one missed a beat," she reminisced; "one hundred forty hands were in the air. The Soviets left that class highly impressed with the quality of American law students."

Hope has remained in touch with issues facing the law school. She be-



Judith Richards Hope '64

that many of the divisions currently riveting the campus will soon begin to heal. Although she has yet to meet with Dean-designate Robert Clark '72, she described him as an "extremely brilliant man," and feels his tenure holds great promise.

Hope has yet to reach a decision regarding Harvard's divestment of its South African holdings. "I don't have an agenda on that right now," she said. "I have strong feelings about apartheid; it's wrong and must be ended. Whether divestment is the best way [to achieve that end] is an open question." She intends to study the issue before taking a stance, she said.

Hope has been a leading figure in the Republican Party, serving as vice-chair of the President's Commission on Organized Crime during the Reagan administration. Although President Reagan appointed her to fill the vacancy for the U.S. Court of Appeals for the District of Columbia left by Robert Bork, her nomination was one of fifteen on which the Senate Judiciary Committee took no action during the last Congress.

Another bond Hope has to Harvard is her son Zachary, a sophomore at the College. Zachary is a pitcher on the Harvard baseball team, and Hope remarked that her son has two primary goals while at Harvard: to win the Ivy League championship this year, and to triumph in the World Series of College Junior year.

Three Aces In Jeopardy

By Troy Morgan
Staff Writer

Harvard law students may soon mourn the passing of some favorite local haunts. Three Aces Pizza House, Crimson Cleaners, Central Barber Shop and Bence's Pharmacy, located on the corner of Everett Street and Massachusetts Avenue, have recently been purchased by The President and Fellows of Harvard College (The Harvard Corporation).

The current leases in the buildings run until Sept. 1989. After that, all "will

be business as usual, except that the leases will operate from month to month," according to Nancy Kossan, Vice President of Harvard Real Estate. The land was purchased in Sept. 1988 from Larry Bence for \$1.6 million.

"The law school has a right of first refusal on the property," said Simone Reagor, HLS Administrative Dean. Reagor said that the options the law school's long-range planning committee is considering include "student housing, or a small office building, perhaps continuing retail on the ground floor." Building options are constrained by the zoning maximum of 60 feet in height.

Legal System Strikes Sour Note For Black Musicians

By Dawn Ross
Features Editor

Ames Courtroom was the scene of the law school's first symposium on "Black Music and the Law," sponsored by the Black Law Students Association and the Committee on Sports and Entertainment Law, held on Feb. 5. The panel addressing the audience of approximately 50 was a Who's Who of jazz music, featuring noted entertainment lawyers, performers, producers, and music critics.

The symposium was the brainchild of Drake Colley, 3L, as part of the law school's celebration of Black History Month. Colley hopes that the event will become an HLS tradition, as a way of showing students how to address problems associated with the historical disenfranchisement of black musicians from a legal perspective.

"One of the greatest resources of the black community is our music," Colley noted. "We produce the culture, but we

don't possess the mechanisms to own it," he added. Colley hopes that situation can be addressed "by exploring the historic ways musicians have been exploited, through failure to maintain copyrights, bad contracts, and lack of legal representation."

The panel was composed of John Armwood, Jr., a jazz historian and Atlanta entertainment lawyer; Mark Fischer, a Boston entertainment lawyer; Gary Giddins, author and jazz critic for the *Village Voice*; Howard Mandel, a freelance jazz journalist; Don Palmer, also a freelance journalist, specializing in black music; T. Brooks Shepard, a jazz artist manager and producer; and Don Sickler, a jazz performer and publisher.

Armwood launched the discussion with an introduction to the unique situation jazz musicians face. Unlike other artists, jazz musicians have rarely had control over the recording of their music, which has led to two major

problems: collecting royalties and losing all control of their work. This happens, Armwood said, either because the record company fails to renew a copyright and the work falls into the public domain, or because the recordings are stashed in a company vault for decades.

The panelists shared horror stories about the difficulties in collecting royalty payments from record companies. Unlike the popular music industry, which has organizations such as ASCAP and BMI to compute, collect and pay royalties, jazz musicians are on their own against record companies, the panelists noted. Two obstacles jazz musicians face, according to Shepard, are the daunting prospect of litigating royalty suits against wealthy record companies and the "trick clauses" contained in many artists' contracts which undercut the musicians' claims for payment.

Palmer supported the "trick clauses" claim by noting that many contracts have clauses allowing the record company to charge back expenses against the artist's royalties. As soon as the artist tries to collect back royalties, the record company threatens to countersue for the expenses, effectively ending the battle for most artists, he said.

Palmer noted that "record companies often say 'no front money' to musicians who don't want to get into the royalty situation" by taking their payment at the outset.

According to Fischer, even artists who manage to negotiate "front money" contracts cannot always collect royalties either. "Record company contracts are extremely intricate — there are all kinds of deductions, and they are very hard to understand. Unless you can afford an accountant to go in and audit the records and find out what's owed you, it just may not be worth pursuing," he stated. Fischer added that an artist has to "sell

a lot of records to cover the advance money and go into [a royalty-paying situation]."

Most of the panelists agreed that some consortium similar to ASCAP and BMI is needed, to guarantee payments to artists based on airplay and performance of work by other musicians in nightclubs and concerts. Fischer advocated "setting up a system for paying performers and producers that bypasses the record company" as a means of providing a more regular income for artists.

Mandel suggested that musicians educate themselves about the music industry as the first step in curing the problems faced by jazz artists. He stated that "there are not enough jazz fans with time to devote [to working for changes in the industry], and 'no group trying to change [copyright and work-for-hire] legislation.'"

Sickler, one of the founders of a new organization called the Jazz Composers Service, explained how his group hopes to get artists and producers to share information — "find out their common problems and then get one lawyer to pursue" an action against a record company.

Fischer stated internships with lawyers-for-the-arts organizations are available for students interested in pursuing a legal career in entertainment law. These organizations are "a clearinghouse for artists with problems" and can provide an opportunity for students to help and learn.

Following the symposium, Fischer conducted a workshop on entertainment law, where students learned some of the intricacies of copyright law.

Jill Louis, 2L, described the symposium as "excellent." She added that the event was a "rare view of something that's actually going on. You can see a real responsibility of lawyers to art."



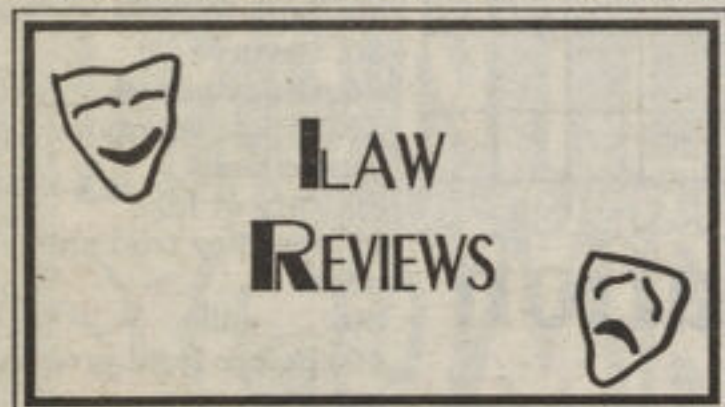
From L: Don Sickler, T. Brooks Shepard, John Armwood Jr., and Gary Giddins discuss black music and the law.

Helen S. Herman

New Voices In Jazz Ring Out In Packed Ames Courtroom

By Drake Colley
Special to the RECORD

The history of the jazz genre is marked by the emergence of waves of vital young talent. Some listeners fondly recall their first hearings of Wynton or Branford Marsalis, while older fans may think back to having heard Miles Davis or John Coltrane during their respective formative years. Young musicians are seldom content merely to emulate those



who were themselves trendsetters in the past. The language of the music constantly expands.

On Feb. 25, the Harvard Law School community was afforded an opportunity to hear which musical directions the present generation of jazz artists are exploring with the presentation of "New Voices in Jazz," a concert performance played to a packed Ames Courtroom. The artists featured were pianist Jonny King, 1L, along with tenor saxophonist Don Braden, bassist James Genus, and drummer Billy Drummond. The concert was sponsored by the Black Law Students Association in conjunction with the Committee on Sports and Entertainment Law as part of the

school's celebration of Black History Month.

The quartet, which was put together for this concert, featured a varied program that combined original compositions by King with jazz standards and the music of established jazz artists. The first selection, "Falling in Love With Love," was given a fresh coat of paint; this standard, taken at a medium tempo, afforded each musician a solo opportunity and allowed the group a chance to get a sense of the acoustics of the room.

Trumpeter Freddie Hubbard's composition "Birdlike," an energetic blues in the hard-bop style of the mid-1960s, was then given a scorching updated treatment. The complex theme was named for saxophone legend Charlie ("Bird") Parker, and was the springboard for a brash and muscular tenor saxophone solo with few wasted notes by Braden. Braden, who has worked with Wynton Marsalis, Betty Carter, Max Roach and others since his graduation from Harvard College, displayed an electrifying technique as his solo covered the entire range of his instrument and evoked an almost human vocal wail.

King then led the band through the first of his original compositions, a piece with a strong Afro-Latin flavor. Buoyed by the interplay between the bass and drums, King's rippling piano solo began in a linear fashion and evolved logically into the alternating use of block chords and octaves. Braden then launched into a lush and lyrical unaccompanied reading of the standard "Body and Soul." Rather than basing his interpretation on the classic version recorded by Coleman Hawkins in 1939 (which has

since been copied by several artists including a recent vocal rendition by the group Manhattan Transfer), Braden surprisingly chose not to stray very far from the written melody. After being joined by the rest of the band during the second chorus, Braden maintained the lyricism of the song and ended with yet another unaccompanied display of his virtuosity.

The first half of the concert closed with a relaxed, bouncy version of "One Finger Snap" (which was composed by pianist Herbie Hancock). The highlight of the performance was an extended solo by drummer Drummond. Drummond displayed total command over his instrument, coupled with an exciting and wide-ranging use of dynamics which created a furious undercurrent of tension that led to appreciative shouts from the audience.

The second set began with two more compositions by King. "Stumbling

Block" is aptly named, as the difficulty of the piece would certainly trip up less technically facile players. The quartet negotiated the music with ease. The next piece was announced to the audience as an untitled composition (although this nosy writer saw a lead sheet which at first glance appeared to be the music for this piece; the title on the chart was "Braden"). Whether the song was dedicated to the tenor saxophonist is unclear. Unquestionable, however, was the volcanic drive which characterized the group's rendition of the music.

Another original by King, "The Giant and the Dwarf," was performed before the quartet launched into an extended variation of "The Theme." "Theme" is commonly attributed to trumpeter Miles Davis, and is frequently used (in an abbreviated form) by many bebop and post-bop performers to end a performance.



Jonny Lee, 1L displays his jazz talents at a performance in Ames

Kevin Reed

Drake Colley, 3L, former writer for Jazz Spotlight magazine, organized this concert



Harvard Law Record

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Editorials

The Road To Homogeneity

Despite repeated protestations that Harvard University has instituted an aggressive program to recruit minority and women professors, a report issued last week by a panel of minority professors in the College has concluded that "all of the good will has not been enough."

Almost ten years after the College faculty welcomed a report harshly critical of the school's efforts to recruit minorities, the number of minority full professors has risen only from 21 to 27 while the number of minorities on tenure track crawled from 17 to 28 (increases of 1.1 and 4.4 percentage points, respectively, within the faculty at large).

Whatever that may say about recruitment efforts within the College, it makes embarrassingly clear how little progress has been made in the law school. Not only are the figures more dismal, but the law school faculty is so homogenous that it could not even form a *panel* as diverse as that of the college to research the issue.

The College panel included three women, two blacks, one Asian-American, and one Hispanic-American.

Were such a panel proposed for the law school, there would be no Asian-American or Hispanic-American participants (not to mention Native Americans), as there are *none* on the faculty — tenured or tenure-track. Including three women on the committee would represent *half* of their number on the entire faculty, while including two blacks would account for almost as much.

As is the case in the College, there appears to be no shortage of "good will" in the law school to diversify the faculty, but here those good intentions have resulted in even fewer successful additions.

Dean-designate Robert Clark last month issued a challenge to himself to find women and minority faculty members meeting the "traditional" standards of excellence in scholarship and teaching. He has claimed that diversifying the faculty and establishing the law school's scholarly preeminence are not mutually exclusive goals.

He is surely correct, as a homogenous faculty (whether by race, gender or ideology) is clearly an obstruction to his dream of Harvard's status as the "greatest center of knowledge about law and legal institutions that ever existed on the face of the earth." Adequate representation of women and minorities is the best way to insure that the law's treatment of such groups (clearly a major theme in American law) is handled properly.

As at the College, we at the law school can no longer rely on good intentions alone, and the time for action is at hand.

C.A.C.

Where's The Beefing?

Morton Horwitz called it "a disaster." Gerald Frug said it was "the worst possible choice." Lewis Sargentich said it was "a bad and divisive appointment."

The panicky reaction from some segments of the faculty to last month's selection of Robert Clark as the new dean of Harvard Law School has hardly been surprising given the recent level of acrimony within that august body.

What has been shocking is the total absence of any meaningful protest within the student body.

On the day Clark's appointment was announced, a group of about a dozen anti-Clark students met to plan possible protest actions, and considered black armbands, classroom boycotts, and letters to major media organizations.

None of these strategies has yet to materialize — not even the ubiquitous mass-stuffing of Hark boxes.

Has the Beirut of legal education found an Anwar Sadat in the unlikely personage of Robert Clark?

Or did Derek Bok exhibit brilliant strategic expertise in announcing the appointment on a three-day weekend, playing off the short attention span of many HLS "activists"?

It could be that many campus nasties have decided, and rightly so, that Clark should get the chance to deserve their ire. More likely, apathy and third-year malaise are to blame.

If, as Dean, Clark can maintain such a Reaganesque teflon shield from student criticism, Harvard Law School may well find rebirth as the Mayberry, R.F.D. of Law Schools. Query whether any of us would want to attend school in those trenches.

C.A.C.

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

Students Had Input

To the Editor:

You chastise Dean Vorenberg for disregarding "student input" on the preregistration system, yet two pages earlier you report the Dean's decision to switch to the system "developed and proposed by HLS students in response to student dissatisfaction." Indeed, Dean Vorenberg responded to, rather than disregarded, students.

The administration used the RECORD to state inaccurately that it

would not decide without further student comment. I, too, have been frustrated by the confusion as to how and when the administration would decide on this proposed system I helped develop.

Your editorial, however, mischaracterizes the problem as the Dean acting without opportunity for student feedback. The system was proposed by a student committee, approved twice by Law School Council, discussed in a meeting to which every student was invited, and described in a Council newsletter which every student received — and all before the Dean decided.

Bonnie Savage, 3L

Letters To The Editor

Grades Shouldn't Divide

To the Editor:

First year grades come out tomorrow, and my mouth is watering already.

I've had some flights of fantasy: Dean Vorenberg personally shaking my hand; Dean Vorenberg and I "talking shop"; Dean Vorenberg and I chumming around town, drinking Michelob and making commercials....

Getting grades will be strange. Like finals or your first class at HLS, the uniqueness of the experience will make familiar surroundings seem different. On top of the usual personal anxiety, I wonder how grades will affect our community of first-year students.

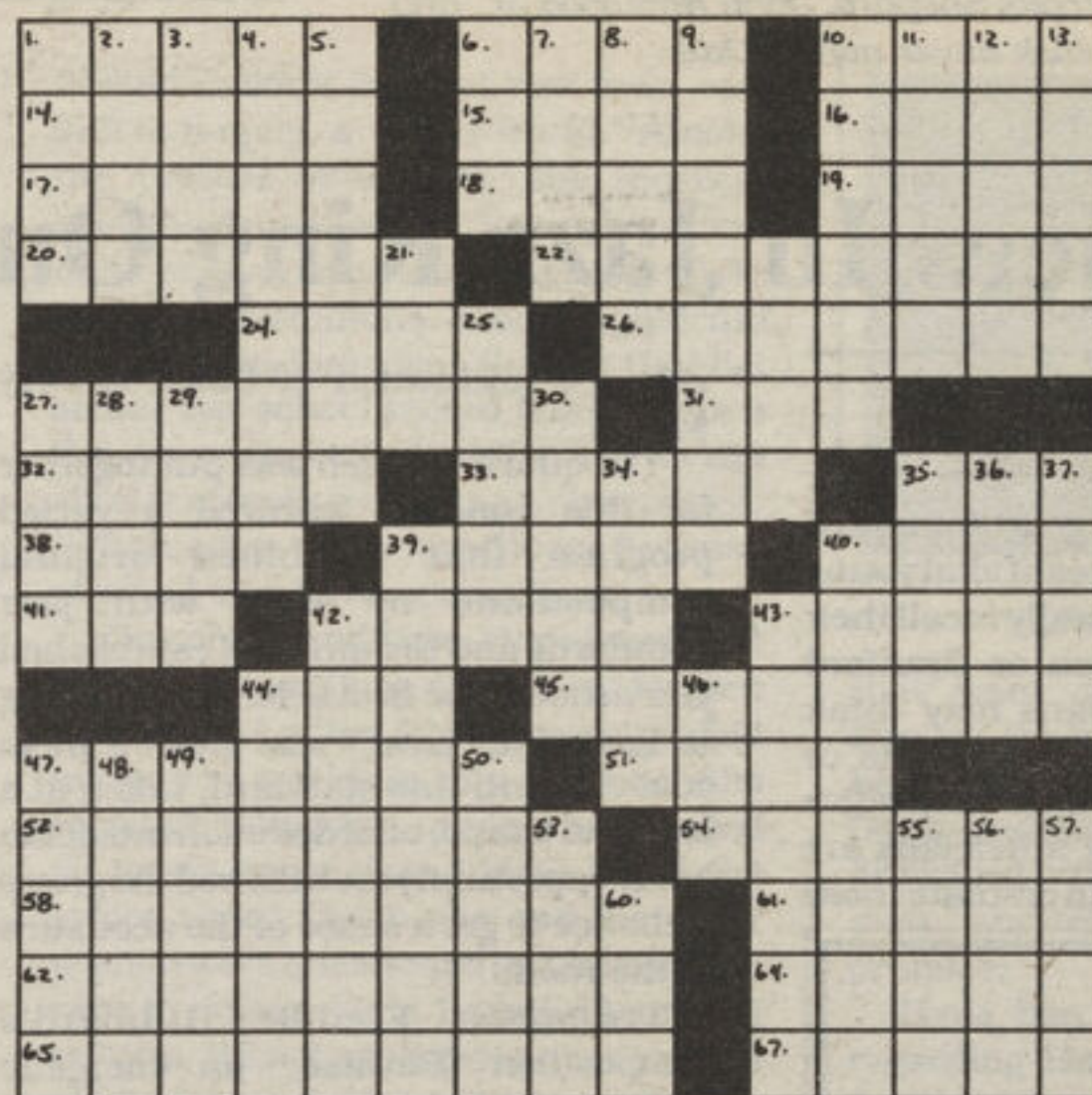
There have been plenty of surprises this year, most of them good, so it is hard to guess what to expect tomorrow. The best part of my "Grand Experience" has been the camaraderie and good will

I feel from classmates. The horror stories about Harvard Law School (e.g., *One L*) turned out not to be true.

I wonder if grades will alter this. Even at a prestigious institution like Harvard Law School, how we treat each other matters as much as what we achieve. I believe a significant way to make the HLS community a better place is to resist all the natural pressures grades create for self-deprecation and stratification among peers.

I am not asking whether or not grades matter; tomorrow there will be more than 500 answers to that question. I am concerned about grades affecting the way we view ourselves and our peers, and I hope the feelings of community and good will are as palpable next week as they have been all year.

Mike Zevenbergen, 1L



DOWN

1. Articles
2. Impolite
3. Eye part
4. Good dog?
5. Tooth coatings
6. Guevara
7. Rajah's wife
8. Actor Jeremy
9. Will, who died leaving one
10. Jury of the vicinage: Lat.
11. Yearns
12. Heraldic device
13. Uptight shelters?
21. Lamprey
23. Site of the Fall
25. Coup
27. mater
28. Legal claims: abbr.
29. Where the boxes are
30. Savory
34. Guardian ad
35. Airline mentioned in Beatle song
36. City or lake
37. Monkey trial state: abbr.
39. will
40. Before legal proceeding
42. Ending for 1m- or centi-
43. Reasons
46. The new dean, to friends
47. He tops an alphabetized list of 2Ls
48. SNL original cast member
49. Opposite of estart?
50. decisis
53. Fight, as in an exhibition
55. Simmons or Hackman
56. modo mirum, quod femina fert breve regis, non nominando virum, conjunctum robore legis (Behold, indeed a wonder! that a woman has the king's writ without naming her husband, who by law is united to her)
57. Stench
60. Greek letter

Cross-Examination

(solution on page 12)

ACROSS

1. He owns a crystal ball
6. Frug, e.g.
10. Covenant
14. Great Lake
15. Race loser
16. Land unit
17. Suburb of Minneapolis
18. Seth's son
19. In the past
20. Word with seed or street
22. Property right less than title
24. Precedes back or bag
26. Devotees of the Marquis
27. He had a weak spot
31. rose
32. Readies gun
33. Claw
35. Love v. Harvey ct. refused to enforce one
38. Sea
39. Hoglike mammal
40. Tiny opening
41. You might receive if you do this
42. Jury tape
43. Munn v. Illinois item
44. Poetic contraction
45. City in Hungary
47. Programs
51. Type of court or point
52. Disagrees with a decision
54. Full of love, he wrote the majority opinion?
58. High: pref.
59. Deck or worm antecedent
61. Relative
62. Object of worship
63. Smell
64. The jerk, e.g.
65. Subject of MPC section 213.1
66. Trillion: comb. form
67. Glossy

When They Say Wait, They Mean It

We spend too little time in these hallowed halls of learning thinking about the really important things in life. Ponder with me for a moment, if you will, one of those burning questions.

You've probably had it happen. You're in a rush to run errands during your 1.32 hours of non-study time per day, and the store clerk has sixteen other customers. In blissful ignorance of your



Robin Juni
Columnist

suffering and sacrifice, she says, "Wait, I'll be with you in a bit." "A bit, how long is a bit?" races through your mind, along with thoughts of murder, mayhem, and how many cups of Creative Gourmet

Robin Juni, 1L, edited The Oracle at Hamlin University, in Minnesota.

toxin it would take to nuke the store.

Which brings me to the topic at hand: indefinite time periods. Had the nice, kindly clerk said she'd be a while, you'd probably have found another store, right? But just how many bits is it until a while has elapsed? And what if your bit is shorter than somebody else's bit? These are weighty questions facing our world today, and it is important to sit back and ponder such crucial points of discussion as whether a bit is longer than a tad, how many whiles in a soon, and exactly how long ago was once upon a time.

I have observed most bits to be two to five minutes long, except when waiting in a cold car for the driver to emerge from the nice, warm house. In that case, a bit is interminable, lasting at least as long as two whiles. For convenience, I have provided a table of values quantifying variable time periods in terms of bits.

Restaurants are a unique exercise in indefiniteness - I swear they pay those host people to operate in a dimension

beyond space and time. However, through long experience, I'm beginning to get a handle on hostspeak. The key to understanding lies in the suffix.

When queried on the wait for a table, every host first states an answer, then tacks on a disclaimer or qualification. Correct interpretation of the suffixes (suffi?) may make a difference in your next outing.

For instance, a red flag should leap in your face with the phrase "or so." "Or so" is the biggest disclaimer on the market, and might well make the difference between waiting for a bit or a while, or even a soon.

However, even "or so" is not as alarming as being told to "wait at the bar." That wait, though more pleasant than cooling your heels in a crowd, is carefully designed to make you forget how long you've been in the place.

After a couple of beers (on a empty stomach, of course), the typical exchange goes something like: "How long have we been here?" "Oh, a while. But we can wait a little bit more. Let's

Time Table

- *tad (2/3 bit)
- *break (two bits)
- *while (six bits, or, a shave and a haircut)
- *lull (eight bits)
- *spell (two whiles)
- *soon (three spells)
- *nevermore (useful only to obnoxious birds)
- *once upon a time (defies all Logic)
- *couple of minutes (at the Border Cafe, anywhere from two to ten whiles)

get another beer." Scary, isn't it? You've begun to buy into the indefinite time rhetoric and have lost any semblance of discerning judgment.

One last observation: when they say a two-hour wait at the Border, no matter what the suffix, ignore everything else. They mean it.

HLS, Inc.

By Luke Cole

STUDENTS: JUST BECAUSE WE CAN'T PICK THE DEAN DOESN'T MEAN WE CAN'T PICK ON THE DEAN...

BOB CLARK COMIX

"THE HONEYMOON IS OVER"

JUST COINCIDENCE...

DAVID DUKE
LOUISIANA LEGISLATURE

- BORN AND RAISED IN LOUISIANA
- ARTICULATE PROPONENT OF EXTREME POSITIONS
- THE CANDIDATE NO ONE TOOK SERIOUSLY UNTIL IT WAS TOO LATE
- RECENTLY ELEVATED TO A HIGH OFFICE DESPITE BEING THE MOST DIVISIVE CANDIDATE
- HAS PROMISED HIS ENEMIES THEY HAVE NOTHING TO FEAR

BOB CLARK
HLS, INC.

- BORN AND RAISED IN LOUISIANA
- ARTICULATE PROPONENT OF EXTREME POSITIONS
- THE CANDIDATE NO ONE TOOK SERIOUSLY UNTIL IT WAS TOO LATE
- RECENTLY ELEVATED TO A HIGH OFFICE DESPITE BEING THE MOST DIVISIVE CANDIDATE
- HAS PROMISED HIS ENEMIES THEY HAVE NOTHING TO FEAR

THIS WEEK'S PUZZLER:

NAME GAME

What famous judge's name can be formed using the letters in BOB CLARK's name?

HINT

SEPARATED AT BIRTH?

ROBERT Bork

ROBERT Clark

* Thanks, SPY.

MORE FALSE RUMORS!

KEEP 'EM COMING, FOLKS!

RUMOR #113: Bob Clark, when he was an HLS student, punched a fellow student who was protesting the Christmas bombings of Cambodia.

THE TRUTH: While an in-class assault did take place in 1972, Clark's 3L year, it did not involve Clark. Edward Morris, 3L, attacked an undergraduate who had disrupted a Business Planning class by denouncing corporate law. Conspiracy buffs point out that Morris was never disciplined by HLS.

RUMOR #268: Bob Clark is a direct descendant of Niccolo Machiavelli.

THE TRUTH: He just acts that way.

RUMOR #445: Bob Clark is arranging a leveraged buy-out of the University of Chicago, after which he will sell off inefficient resources (the clinical programs, the Left professoriate, faculty emeriti, the Bork and the LIPP program) and consolidate the remaining assets in a streamlined corporate heaven.

THE TRUTH: While Clark will put the "inc." firmly back in HLS, inc., inside sources would neither confirm nor deny this one.

HEARD A GOOD ONE? SEND IT TO HLS, inc., THE RECORD, 23 EVERETT, CAMBRIDGE 02138.

Deadlines

By KA

FRONTLINE IDEOLOGICAL COMBAT

DOCTRINAL BLOOD AND GUTS

CLARK, R.C.

"I'VE GOT TO WIPE OUT THIS VILE NEST OF MATTERING HABITS OF NEGATIVITY AND MAKE WAY FOR THE PRUDENT PUNDITS OF POSITIVISM! THIS MUSHIFICATION OF LAW HAS GONE TOO FAR!"

1 HIS MIND IS CLEAR, BUT HIS SOUL IS INSANE (AFTER ALL, EVERYONE KNOWS THAT THE MIND'S OPPORTUNITY IS IN THE HEART'S REVENGE.)

DEEP IN THE HEART OF THE "ARMED CAMP," ALSO KNOWN AS THE "BEIRUT OF LAW SCHOOLS."

"I'LL GIVE THESE 'CRIMINALS' A BLAST OF COGNITIVE PSYCHOLOGY AND STATISTICAL ANALYSIS... WHEN I HEAR THE WORD 'CRIT' I REACH FOR MY GUN!"

THIS STATUS DEGRADATION STUFF HAS GOTTEN OUT OF HAND--WE GOTTA TAKE IT BACK TO THE IDYLIC DAYS WHEN HLS WAS A HAPPY HAVEN FOR MACHO LAW BARRIS!!

CLARK, R.C.

"GOOD STRATEGY, SIR!! FORWARD INTO THE PAST, I ALWAYS SAY..."

"I GOT MY MARCHING ORDERS FROM THE PREZ TO STOP THE RAMPANT 'MUSHIFICATION' AROUND HERE, AND TO TERMINATE THE 'MUSHIFIERS' WITH EXTREME PREJUDICE!! I'M GONNA MAKE THIS 'ARMED CAMP' SAFE FOR 'TRUTH, JUSTICE, & THE AMERICAN WAY' (NOT TO MENTION UNSAFE FOR 'GAPS, CONFLICTS & AMBIGUITIES!!!')"

CLARK, R.C.

"BLAM BLAM BLAM"

NEXT: APOCALYPSE NOW

2 Wall Street Journal, Feb. 23, 1989... OF COURSE, THIS ANALOGY DOES A GREAT DISSERVICE TO BEIRUT.

Fenno

Fenno was in a reflective mood. It had been almost two full weeks since he and John had sat down at Studley's to work out the situation. Fenno remembered it as if it had been yesterday.

"Fenno," his diminutive comrade had begun, "I've been really upset by all of this uproar. Remember all those good times we had together? Damn it, I loved them and I'm proud of it! Why should I feel guilty?"

Fenno empathized with his Texan chum. They had spent many a pleasurable night together snarfing down Scorpion bowls at the Hong Kong, heading over for a little "womanizing" at Wellesley and Pine Manor, and, oh, that wild time they had with Olga and Svetlana over at the Soviet mission's Lenin's Birthday Bash.

"John," Fenno said after much deliberation, "that's all over now. Forget the past, and pledge goodness from now on. 'No more liquor past these lips' or something along those lines. In fact, if you do it, I'll join along!"

Fenno flashed back into the present. It was almost two weeks into his alcohol strike, his strive for sanctity, and it was pure hell.

He couldn't enjoy "Championship Week" on ESPN without a chilled Meister Brau to accompany him through Rutgers v. Penn State (or was that the case he was supposed to read for Con Law?).

Fenno was shaking, and it wasn't voluntary. He hadn't been without alcohol for this length of time since back in junior high, before he slunked out of Cap Weinberger Military Academy.

Fenno slipped on the news to see what was happening with John. At least some good news about his friend's efforts might cheer him up. But no.

"Augh!" screamed Fenno as his blurred mind attempted to register the headlines of the day. "What's this about an 'Easter' strike! No more eggs and candy rabbits! What, did the Easter Bunny get caught over at the Playboy Mansion with a bunny and a scotch? This is lunacy, sheer lunacy and I will not go along with it!"

Fenno ran into the street and headed for the Pub. Blasting his way past visiting accepted students, he grabbed a beer and threw it down in a flash.

"Sorry John, but I just couldn't do it," he gasped as he awaited a refill. "How can you serve your country if you can't be served a Meister Brau?"

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Bell Hooks, feminist author and professor

Patricia Lee

Black Feminist Probes Race, Gender Issues

By Sally Johnson
Staff Writer

Billed as "the culmination of Black History Month," black feminist scholar Bell Hooks presented the topic of "Blackness - The Politics of Oppositionality: Making It or Making It Better" to a capacity audience in Austin East on Mar. 3.

Melanie Cook, 2L and co-chairperson of Black History Month, introduced Hooks as a woman who "tells the truth in a way that American society has a problem dealing with." Cook described Hooks as "a healer. It was a very healing process to read her work [in winter term's gender discrimination class] because I could identify with it. I couldn't identify with some of the other writings that only dealt with white upper class values and problems."

The lecture focused on the politics of black subjectivity, which Hooks defined as "that process by which we, as black people living in a culture that tends to reduce us to objects, claim our subjectivity."

Black subjectivity must be distinguished from an ability to identify racism in society, stated Hooks. "It is very easy for us to name something as racist. It is a lot harder for us to get a sense of what direction we want to move in. That [latter] process emerges as one comes to understand how structures of domination work in one's own life, as one develops critical thinking, critical consciousness, as one invents new alternative habits of being," she said.

Impeding the revolutionary struggle for black subjectivity is "the refusal of black males to consider the importance of eradicating sexism," said Hooks. Hooks' criticism of black males' attitudes extended even to Jesse Jackson. In his 1988 presidential campaign, Hooks said, Jackson's treatment of gender issues was largely "addressed to a potential white female constituency. Many of Jackson's supporters were women, yet he rarely made any direct appeal to gender concerns as they affect black women specifically."

A recurrent theme in Hooks' lecture was the relationship between black identity and popular culture. Despite such cultural phenomena as the novel and film *The Color Purple*, which, according to Hooks, have been criticized for depicting black men and women as adversaries, "blackness does not mean that we are inherently oppositional. Our creative work is shaped by a market that reflects white supremacist values and concerns. It should be obvious to anyone writing in this social context that novels highlighting black male oppression of black females while downplaying white racist oppression of black people would be more marketable than the reverse."

Hooks noted that although black identity politics is perceived by some blacks as "not cool anymore," the struggle for identity continues nonetheless. As an example, Hooks cited the situation of blacks at HLS. "Many of you at HLS are struggling with the question of identity: not only with who you are going to be, but who you are going to serve."

Notions of identity politics need "radical revision," stated Hooks. People who criticize *The Cosby Show*, for instance, are missing the point, she said. "There is no monolithic blackness." Hooks added that her objection to the show is its denial of the primacy and efficacy of revolutionary struggle.

Hooks expressed her view that blacks should feel free to be whoever they are while espousing black liberatory politics. "Recent critical reflections on static notions of black identity urge transformation of our sense of who we can be and still be black. Assimilation, imitation, or assuming the role of rebellious, exotic others are not the only available options."

Hooks is a noted author and professor of English and women's studies at Oberlin College. Her most recent book is entitled *Talking Back: Rethinking Feminism*.

Ogletree Fields Ethics Question

(continued from page 2)

The answers to the difficult hypotheticals are sometimes "surprising," Ogletree said, but usually "likely," given the identity of the panelist. Sometimes panelists resort to humor in an attempt to escape a particularly tough hypo. Justice Scalia was faced with the question: "What sentence would you pass on the mother of a victim who kills her son's murderer after his conviction is thrown out on a technicality?" Scalia answered, "I don't answer questions until two other levels of judges have thought about them."

Ogletree recalled that "after that show [on which Scalia appeared as a panelist], he talked with me and my family for a while. We found him to be just as open and frank as he had been on the program." Ogletree said he has received

similar positive feedback from other panelists.

Confronted with an ethical question of his own, that of whether HLS professors' engaging in a significant amount of outside activity poses a problem, Ogletree answered: "The issue is whether the professor retains a reasonable amount of control on outside activity. Virtually full-time outside activity would raise serious questions of propriety. The law school is becoming more strict about permitting such activity."

As for his involvement in *Ethics in America*, Ogletree said that he is always ready to do a "program of interest to law students and faculty. Another reason I did the program is because of its broader educational value." The series is offered as a component of a credit course in over 100 colleges and universities.



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LSC President Defends Original Clark Draft

(continued from page 1)

The LSC deleted this language in the final letter, substituting instead, "The Law School Council hopes that your administration will inaugurate a new respect for and responsiveness to student opinion. We ask you to begin by proposing changes in the dean search legislation ... that will include meaningful and legitimate student participation in all future searches."

Chasen criticized the adversarial tone of the original draft. "I was offended by the original letter," he said. "It just seemed like the whole motive was to make [Clark] an adversary. People were just basically bashing him."

While the original draft of the letter did congratulate Clark on his appointment as dean, Chasen said he thought it meaningless because the letter "went on to say, fundamentally, 'the dean search was flawed and we wouldn't have chosen you.'"

Both letters congratulated Clark on his appointment as dean, and both invited him to attend an upcoming LSC meeting scheduled tentatively for late March. The final letter, however, added that LSC, on behalf of the student body, offers its "cooperation and support," and asks for Clark's help and leadership.

The final letter was produced after a series of eight or nine amendments, in a collaborative effort which surprisingly lasted only an hour.

Melendez expressed disappointment but acceptance of the final letter. "The second letter was adequate, and I underscore adequate, to serve the job for which it was intended — namely, to establish a relationship with the dean and to get an immediate commitment."

"But," he added, "we could have made a more forceful statement, and we should have."

Melendez said the dean-designate's reaction to the letter was "uneventful. The dean seemed to indicate that the letter sounded fine and that he would discuss individual issues."



Patricia Lee

Dean designate Robert Clark meets students at a February 28 reception

I · V · Y
ASSOCIATES

As soon-to-be Harvard Law School graduates, you probably will be contacted by legal headhunters within the next few years. You should know that, just like the legal profession, there are wide ranges of style and competence in the legal search profession. Be sure to check the credentials of anyone you work with.

Consider whether you want to respond to "cold calls". A few professional recruiting firms, such as Ivy Associates, do not make unsolicited calls to attorneys; we rely on personal and professional referrals.

Also, you should be aware that law firms rarely engage attorney search firms to recruit graduating law students; search firms generally seek attorneys with one or more years of active practice or judicial clerkship experience. However, as a search firm engaged by top San Francisco Bay Area law firms and corporate legal departments, we often receive calls from students who would like our perspective on their career plans, and we are happy to help.

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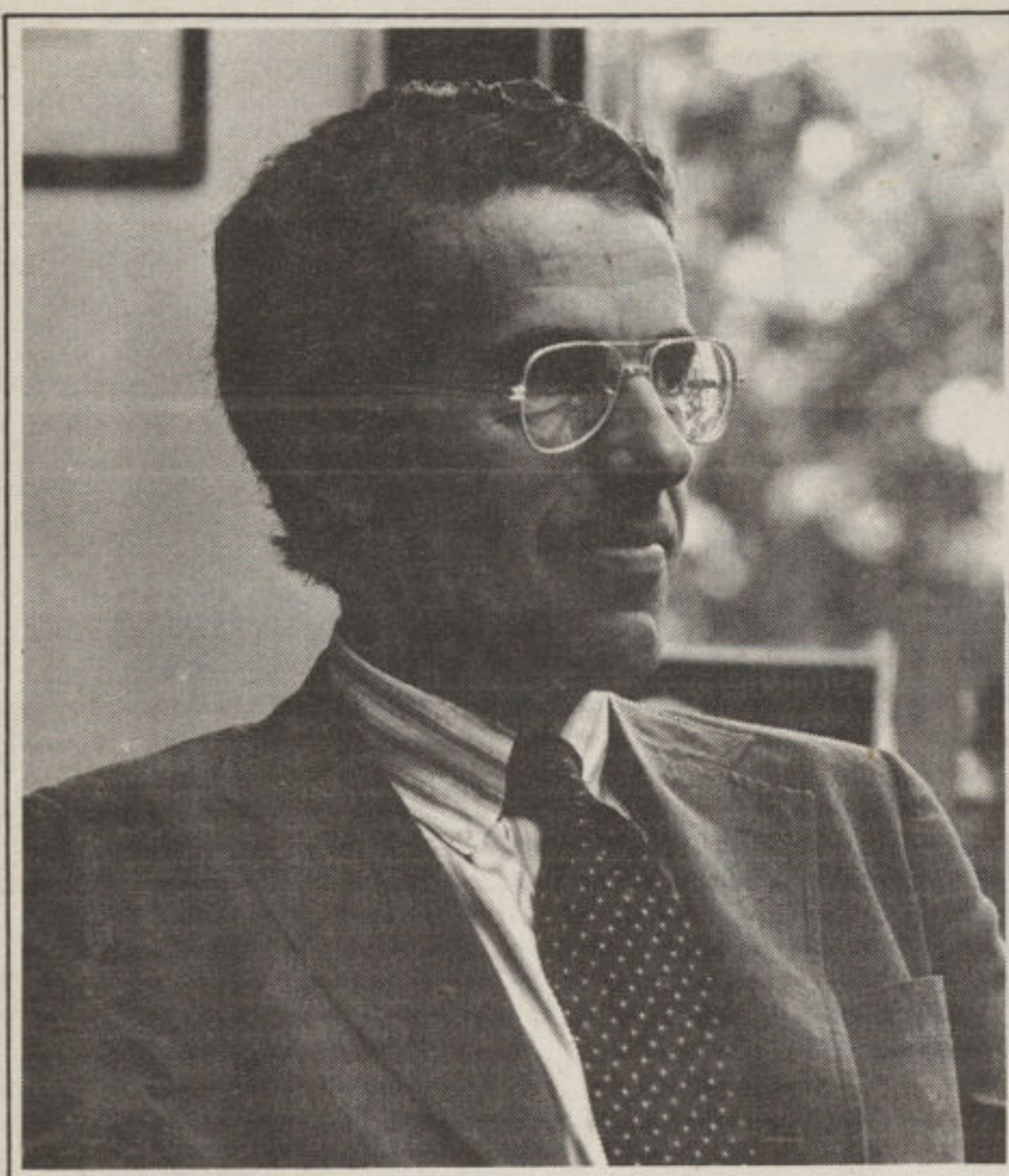
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Former HLS Professor Paul Bator

Faculty Eulogizes Former Professor

(continued from page 1)

beginning in 1986. An outspoken critic of the Critical Legal Studies (CLS) movement, Bator had become unhappy with the growing ideological strife among the HLS faculty and with what he perceived as the hostile environment for conservative thinkers, according to professors who knew him.

An article in the *New York Times* published at the time of his decision quoted him as saying that "serious and productive non-left scholars [at HLS] do not want to be at an institution devoted to guerilla warfare." Bator stated in a letter to the faculty that he decided to leave HLS "because I want to take advantage of new opportunities and meet new challenges in teaching, scholarship, and practice in Chicago."

Bator became the John P. Wilson Professor of Law at Chicago and was also affiliated with the Chicago law firm of Mayer, Brown & Platt, where he practiced appellate litigation. He represented the Federal Sentencing Commission in

the recent Supreme Court case upholding the constitutionality of federal sentencing guidelines.

While at HLS, Bator compiled high commendations from faculty and students alike. "During the whole period he was here, he was certainly respected as one of the leaders on the faculty," said Dean James Vorenberg '51, "adding that Bator was a 'masterful teacher [who] cared enormously about his teaching and his students.' Vorenberg said students consistently gave favorable marks to Bator in evaluations, and that the 'combined intensity and light touch' of his teaching style prompted some students to summarize his federal courts course as 'Mozartian.'"

While Bator was known as one of the few conservatives on what was becoming an increasingly liberal faculty, he earned praise from students and faculty members on both sides of the ideological spectrum. "I remember him as an especially gifted, energetic and devoted teacher, and a committed scholar," said Professor Frank Michelman '60, who admitted that ideological conflicts often found them on opposite sides of the debate.

Professor and Dean-design-

nate Robert Clark '72, whose views on legal scholarship were more aligned with Bator's, remembers Bator as "one of our greatest and most dedicated teachers during the time he was here." Clark added that "even professors and students who had reservations about his political views came to appreciate him deeply, because he put so much effort into his job and did it so well."

Other friends and colleagues of Bator had equal praise for him.

"Paul Bator was a distinguished member of this faculty whose teaching was universally admired and whose intellectual gifts were *nonpareil*," said Professor Philip Areeda '54. Fried described Bator as having an "intensely intelligent mind," and praised his ability to transform complicated material into a clear and crystallized form.

Bator is a co-author of the second and third editions of Hart and Wechsler's *Federal Courts and the Federal System*.

He is survived by his wife, Alice; three children, Thomas, of Boston, Michael, a student at the University of Pennsylvania, and Julia, a student at Yale; a brother Francis, who teaches at the Kennedy School, and a granddaughter.

Accepted Students To Visit Campus

(continued from page 1)

That's the date of the second annual Program for Accepted Students at HLS, when potential members of the Class of 1992 get a chance to look around and take a taste of what law school is like.

The purpose of the day, according to Joyce Curll, assistant dean for admissions and financial aid and the creator of the program, is to provide the prospective future 1Ls with a chance to visit the school, which many would otherwise do on their own, as part of a structured event providing opportunity to meet students, faculty, administrators, and each other.

"This is a big and complicated place and if you walk in cold you might miss something that interests you," Curll explained. The ability to visit on a special day planned for them provides the accepted students with an "expanded view" of the school, and resolves the problem of having no one available to speak with an unscheduled visitor, she said.

The visitors have a full day planned for them, according to

Curll. Their morning will include coffee and donuts with student volunteers who will then guide them to classes for visits. The classes will primarily be typical 1L courses, with a few other classes being included based upon seating availability and faculty consent. The morning will also include panel sessions on such topics as financial aid, placement, housing and clinical programs. Then there will be lunch and an afternoon featuring chances to meet the administrators behind various programs and leaders of student organizations.

The afternoon will also present the accepted students with two model classes designed to give them a taste of what law school education is about. Professors Todd Rakoff '75 and Charles Ogletree will reprise their sessions of last year and walk the students through a hypothetical case.

According to Curll, the model classes are a valuable way to overcome "apprehension and nervousness about the Socratic method."

While recruitment of students is a part of the admis-

sions office's task, and though most of those who visited in last year's program did end up at HLS, wooing potential students is not the program's main purpose, Curll said.

"We just want an opportunity for them to look and see what they are offered," explained Curll, stating that the program is "not so much to persuade them as to inform them. The choice to come here is very individual, and I'm not offended if they go elsewhere. In fact, it's far better that they decide that in March than October. I'd rather have a happy group in the fall."

The admissions office expects somewhere between 150 to 200 visitors. They had already received over 100 confirmations at the start of the week and expected more as the day grew nearer. Accepted students will be coming from all over the country, from such distant sites as California, Georgia and Oklahoma and from such nearby areas as Harvard College. As of now, HLS has admitted approximately 450 people, about two-thirds the total number of acceptances that will eventually be offered.

Solution

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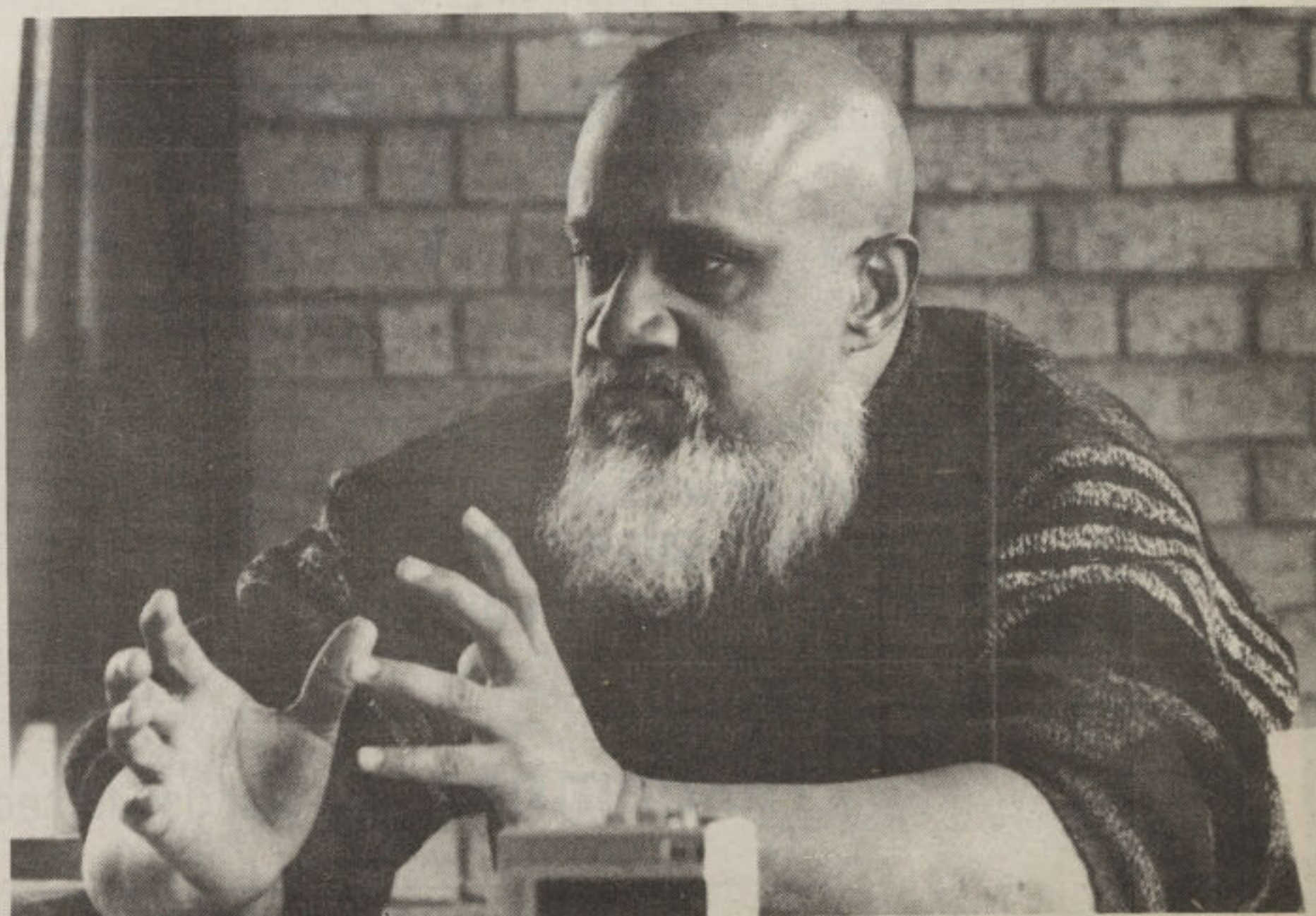
Cross-Examination Puzzle

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Created by Sally Johnson

Community Organizing

Chuck Turner of the Center for Community Action in Roxbury, MA, explains the role of lawyers in community organizing campaigns. Turner and other panelists appeared as part of the Workshop on Community Organizing for Public Interest Oriented Students, sponsored by the HLS Guild and the Program on Law and Social Thought. The Feb. 25 workshop, organized by Luke Cole, 3L, and run by the Organizing Leadership Training Center, featured a panel of lawyers on "Integrating Community Organizing into Legal Strategies" and a panel of organizers on "Integrating Lawyers into Community Organizing Campaigns."



Kevin Reed