



Melendez Proposes Merger of LSC, DSAC, ABA/LSD

By Greg Herbert
Staff Writer

A proposal that would radically restructure student government at HLS, designed to improve coordination and cooperation between the leading student organizations, has generated only controversy and inflamed tensions between the two major student representative groups, the Law School Council (LSC) and the Dormitory Student Affairs Council (DSAC).

Upon introduction at the April 12 LSC meeting, the 21-page "draft constitution," authored by Brian Melendez, 2L, faced vocal opposition on the floor and further discussion was indefinitely postponed. The growing controversy over the proposal has effectively killed the issue for the 1988-1989 academic year.

The major changes proposed by the draft constitution involve the establishment of an "Executive Board" which would oversee and coordinate a newly-designed governmental structure divided along functional lines into three branches. The

three different branches would be comprised of what are currently LSC, DSAC, and the American Bar Association/Law Student Division (ABA/LSD). According to the first draft, the Executive Board would be chaired by the president of LSC. The structure proposed by the first draft would thereby expand the role and powers of the LSC president, one of the positions currently held by Melendez, who is active in all three student groups.

As the first draft states, "The chief executive and presiding officer shall be the President, who shall serve as the general representative and official spokesperson of the student body and student government; shall chair the Executive Board and the Law School Council ... shall coordinate and oversee the duties of the student body officers" (emphasis added).

Although the above section has been deleted from the amended version, the Executive Board and its potential power remain the focal point of the controversy and the source

(continued on page 8)

Students Tell Faculty About Silencing Concerns

By Teri Silvers
Staff Writer

Expressing concerns about the silencing of students in the classroom, a coalition of minority students' groups presented ideas for opening up classroom dialogue at a faculty luncheon program on April 18.

The program, called "Including Different Voices," brought nearly half the HLS faculty together with students who feel they are united by "a history of oppression outside of the classroom which exacerbates silencing dynamics in the classroom," according to Morrie Ratner, 1L, an organizer from the Committee on Gay and Lesbian Legal Issues (COGLLI). The other groups that organized the event were the Asian American Law Students' Association (AALSA), the American Indian Law Students' Association (AILS), the Black Law Students' Association (BLSA), La Alianza, and the Women's Law Association (WLA).

To highlight the ways in which students are silenced, and alternatively can be included in classroom discussion, the students presented a simulated classroom environment in a skit. The skit was followed by individual presentations given by each organizing group, the purpose of which was to show "four ways students are silenced in the classroom and

four easy steps towards a more inclusive classroom," according to a handout passed around to those in attendance.

"Once you sense a classroom is inhospitable to your viewpoint, you shut yourself off from the environment, which creates a vicious cycle," said Loretta Martinez, 1L, a representative from La Alianza. "You sense class discussion is not relevant to your life, so you stop reading, stop caring, and by your second and third year, forget you're at law school. Class experience means nothing to you," she said.

Silencing occurs when relevant issues of race, gender, and sexual orientation are not addressed; when stereotypical references are made to sexual orientation, race, or gender; when relevant emotions and personal experiences are discounted; and when course offerings that focus on gender, race, and sexual orientation are lacking, according to the organizers. "The irony is that you have excellent professors, a diverse student body, but you want to forget you're at law school," said Martinez.

The students encouraged professors to be sensitive to context issues and to include them in class discussion. Students also encouraged professors to address the content of stereotypes, to use personal

(continued on back page)

Long-Suppressed Results Of Student Survey Leaked

By Erin Edmonds
Staff Writer

More than 30 months after conducting a comprehensive survey on the "quality of life" of the law school student body, the administration has commented on the numerical results, but only after learning that the RECORD had obtained a copy of the report.

The administrators heading up the survey, Vice Dean David Smith '61 and Administrative Dean Simone Reagor, offered a number of reasons, including adverse publicity, for their earlier refusal to release full results of the survey.

The most discomfiting feature of social life at HLS, according to the actual report obtained by the RECORD, is the incidence of "intolerance, prejudice, and insensitivity" many students reported. Among the results was a claim by more than 56 percent of women polled that they had experienced some form of gender discrimination while at HLS.

Smith and Reagor defended their unwillingness to release or discuss the full results of the survey until the RECORD obtained a copy of the report by expressing concern about outdated statistics contained in the report, adverse publicity from outside media, promises of confidentiality made to students who took the survey, committee policy that proscribes publication of committee work, questions of the representativeness of students who voiced the most emphatic concerns, and Dean Vorenberg's clear decision not to publish the results.

Smith and Reagor emphasized that the two-year-old

statistics did not reflect current student sentiment because many of the cited areas had been overhauled in the subsequent years, including Health Services, the Dean of Students Office, and Financial Aid. They also pointed out that Dean Vorenberg had sent two letters to students regarding the survey, one in the fall of 1987, one year after the survey was conducted, and one in the Fall of 1988.

TYPE OF INCIDENT

Sex	117
Political views	71
Race	53
National origin	11
Ethnic origin	8
Social class	39
Regional origin	38
Religion	28
Age	20
Marital status	9
Sexual orientation	8
Source of income	5
Parental status	4
Handicap	3
Veteran status	1
Other	18

Student-reported number of incidents based on the above forms of discrimination.

These letters have been the only public reference to, or expression of a 60-plus page report filed by the Committee on the Quality of Life.

The committee made numerous recommendations to the Dean which covered academic, administrative and social features at HLS, which were the three major areas that comprised the survey. Smith and Reagor explained many changes in the academic and administrative areas (administrative overhaul and various processes injected into the IL

orientation package, for example), but they admitted that the "social feature" category has posed problems and needed more work.

The report, based on tabulation of open-ended responses, states, "...relatively few instances of blatant discrimination appear to occur at the School...Nevertheless a significant number of students do experience prejudice, intolerance, and bias concerning a wide range of issues. Many of the instances are subtle..."

"The students who answered 'yes' to this question in general feel silenced and excluded, sometimes in ways that affect and inhibit their educational experience at the School. Many of their reports reflect anger but also a sense of powerlessness...These experiences are viewed as being particularly reprehensible in an institution devoted to legal studies and characterized as the best law school in the country."

The report indicates that bias on the basis of sex is the most common form of intolerance reported at the Law School, by a wide margin: 160 or 56 percent of the women who responded to the survey reported experiences of "discrimination" or intolerance (36 percent of the total female population participated in the survey.)

Women noted varying and subtle forms of social and institutional bias, including subtle exclusion, the small number of women faculty, "male-oriented" professors who only call on men or condescend to women, and male students who "seem to assume the female students are less bright and capable."

(continued on back page)



Vice-Dean David Smith



Administrative Dean Simone Reagor

Student Leaders Urge Placement Ban On Baker & McKenzie

By Troy Morgan
Staff Writer

Representatives from a variety of student groups met with the Harvard Placement Committee on April 24 to demand that Chicago-based Baker & McKenzie, the largest law firm in the country, be prohibited from conducting on-campus interviews of HLS students next year. The demand, approved in a resolution last month by the Law School Council

"Failure to implement the ban would say to firms that its really no big deal."

(LSC), is the students' response to racist and sexist remarks made by a partner of Baker & McKenzie to a black law student during an interview at the University of Chicago Law School (U of C).

Students representing the Black Law Students Association (BLSA), the Women's Law Association (WLA), LSC, American Bar Association/Law Student Division and the Jewish Law Students' Association attended the meeting. LSC President Brian Melendez, 2L, reported that "all students [at the meeting] felt very strongly that there should be a ban on campus interviews with Baker & McKenzie."

Placement Director June Thompson stated that "it was a sort of one-sided meeting mainly to hear the reasons behind the LSC resolution." She said that the Placement Committee, chaired by Prof. Abram Chayes '49, is scheduled to meet on April 29 to deliberate on the students' proposals and to reach a definite decision on the ban.

U of C has already banned Baker & McKenzie from interviewing on campus next year, and Stanford University has issued a statement saying that it will only impose a ban if the firm does not live up to the goals it has set for itself in

its Equal Employment Opportunity Program issued last March.

Specifically, a Stanford Law School office of career services press release requires Baker & McKenzie to fulfill two obligations before it may utilize Stanford's placement facilities: (1) establish a training program for all employees who conduct interviews for the firm's Chicago office, and (2) train all employees who recruit Stanford students anywhere in the country.

The press release stated that, "[a] Baker & McKenzie spokesman, in a letter to the Stanford Placement Oversight Committee said that the firm intends to satisfy Stanford's conditions prior to the fall recruiting season," implying that Baker & McKenzie will not suffer any loss of access to Stanford's placement facilities this year.

Questions have been raised as to the efficacy of Stanford's measures, in light of the difficulty of ascertaining which interviewers have actually gone through the required training. Some suggest that a ban would be more clear, precise and easily administrable than Stanford's policy.

Tynia Richard, 3L, president-elect of BLSA, acknowledged that it was "good that they are in the process of trying to remedy their problems, but the problem is much more endemic than Stanford's solution suggests." Richards brought statistics to the placement committee's attention that showed that "out of eight offices [of Baker & McKenzie] in the country, four have no blacks, there has never been a black partner, and out of 256 associates, they have only six blacks nationwide."

Richard stressed that HLS must implement a ban, because "otherwise students will feel that they have no redress when offensive or discriminatory things happen to them at interviews." Failure to implement the ban, she predicted, would "say to firms that people generally don't like this type of behavior, but if it happens again, it's really no big deal."

Richard lamented, "What's really a shame is that people may think that this happened in a vacuum because they have no running knowledge of offensive or discriminatory incidents that happen. Students don't report [such incidents], either because they feel too ashamed or because they don't think

anything will ever be done about it."

Melendez stated that Baker & McKenzie has agreed to meet with the LSC and any interested students on May 3 to discuss its response to the incident. At this point, he added, the LSC has yet to evaluate the adequacy of the firm's Equal Employment Opportunity Program.

Puzzle Solution (puzzle, p. 14) (DON'T READ IF YOU PLAN TO COMPLETE THE ANACROSTIC)

Dissemt, U. S. v. Schwimmer
(Olliver) W(ende)l Holmes

If there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought — not free thought for those who agree with us but freedom for the thought that we hate.

Author: Grant Gilmore

A. OTTO
B. WHITHER
C. HIGH
D. OFFER
E. LOOT
F. MIGHTIER THAN
G. ETTU
H. SHUFFLER
I. DILIGENCE
J. ITERANT
K. SHOW-OFF
L. STATUTABLE
M. ETHYLENE
N. NAPHTHA
O. TEETER-TOTTER
P. UTTER
Q. STINTING
R. VACUUM
S. STRETCH OF
T. CAPTAIN OF THE SHIP
U. HOORAY
V. WHIP
W. ICHOR
X. MENORAH
Y. MYTH
Z. EPEE
AA. ROOF
AA. NAPHTHA
M. ETHYLENE
L. STATUTABLE
K. SHOW-OFF
J. ITERANT
I. DILIGENCE
H. SHUFFLER
G. ETTU
F. MIGHTIER THAN
E. LOOT
D. OFFER
C. HIGH
B. WHITHER
A. OTTO

Downright — Upright

**The Bow &
Arrow Pub**

1 Bow Street
Cambridge, Mass.

*Under New
Management*

Pitcher of Sam Adams — \$7.95

THE HARVARD LAW SCHOOL ASSOCIATION
OF
NEW YORK CITY

Invites

Members of the Harvard Law School
Classes of 1989, 1990, and 1991

To A Summer Reception With Alumni

On Monday, June 19, 1989
from 6:00 to 8:00 p.m.

AT

SOTHEBY'S GALLERIES

1334 York Avenue
at the corner of 72nd Street
Manhattan

We hope you will be able to attend
if you are in New York City at the time.

You will be the guest
of sponsoring law firms in New York City
which are underwriting the cost of this event.

THIS INVITATION WILL SERVE AS
YOUR ADMISSION TICKET TO THE RECEPTION

Shapiro Enjoys Challenges Of Deputy Solicitor General Post

By Rudy Rodriguez
Features Editor

Speaking from the Washington, D.C., office where he now serves as a Deputy Solicitor General of the United States, David Shapiro chuckled, "I would highly recommend a career change every twenty-five years or so. It's really exhilarating."

Shapiro, who is currently on a two-year leave of

PROFS IN THE PUBLIC EYE



absence from his duties at HLS, had nothing but positive comments about his first few months in his new job. Appointed by former Attorney General Edwin Meese in the spring of 1988, Shapiro began his stint last December, and has already argued his first two cases before the Supreme Court.

"I won't say I wasn't nervous," Shapiro admitted about the experiences. Having studied Supreme Court arguments before, however, he was prepared for the intense intellectual exchanges with the Justices of the Court. "The most enjoyable part is the useful exchange of ideas that goes on during an argument."

According to Shapiro, the Justices are extremely

well versed on the background of each case. "They've read the briefs, and they've been prepared by their clerks, so the real challenge for the oralist is to get some general statement out before the Justices start asking questions."

As exciting as the oral arguments are, though, Shapiro says that they are really only "the icing on the cake." The heart of the work in the Solicitor General's office involves reviewing appeals brought to the Supreme Court by the U.S. Government. If the Government's request is approved, the office prepares the briefs and the arguments for the Court.

"There is no doubt in my mind that I would like to stay the full two years," said Shapiro. "I can't say enough about the talent and commitment of the lawyers in the office. It's a wonderful group of people to work with."

Shapiro has found his expertise in the areas of civil procedure and federal courts very helpful to both himself and others at the office, but he has been especially pleased and surprised to find himself doing a considerable amount of labor law. "I taught the subject for seven years, and I still find it very interesting."

Shapiro, who last practiced law for Covington & Burling in D.C. about twenty-five years ago, effuses enthusiasm about his experience so far at the Solicitor General's. "I'm having a marvelous time. It's about the most exciting work a lawyer interested in appellate litigation can do."



Prof. David Shapiro, now Deputy Solicitor General

Student To Publish Work Exposing American Civil Liberties Violations

By Dawn Ross
Features Editor



Michael Linfield, 3L

Michael Linfield, 3L, has recently signed a contract for the publication this fall of a book on civil liberties.

The book, with a working title *The Limits of Democracy - Wartime Violations of Civil Liberties in the United States* is a comprehensive study of the maintenance of constitutional liberties during our six major wars, from the Revolution through Vietnam. The 400-page manuscript concentrated on violations of the First Amendment, due process violations, travel restrictions and confiscation of property.

"Mention 'wartime violations of civil liberties' to law students or other well-educated Americans, and they will think 'Korematsu,' or perhaps 'The Alien and Sedition Acts,' or maybe Lincoln's un-

constitutional suspension of habeas corpus. We Americans view these as isolated incidents," noted Linfield.

"But the truth is, that in every major war - from the Revolution through Vietnam - our government has systematically violated our most fundamental constitutional guarantees." As Linfield states in the introductory chapter of his book, "Press censorship ... loyalty oaths ... people's tribunals - jailing of opposition leaders ... concentration camps ... denials of passports ... states of emergency - we Americans associate these violations of basic democratic principles with totalitarian countries. Yet the United States itself has resorted to just such illegal and unconstitutional actions during every one of our wars."

The first version of Linfield's book was originally written as a third-year

paper under the direction of Prof. Abram Chayes '49.

Linfield's book, to be published by South End Press in Boston, will be marketed for both the general reader and as a supplemental text for law, history and political science classes. It is the first comprehensive study on war-time violations of domestic civil liberties to be published, according to Linfield. Linfield noted that the bicentennial of the Bill of Rights will be commemorated in 1991, and that his book is well-suited to those interested in learning more about the U.S.'s history of civil liberties.

Linfield's manuscript originally developed out of two trips he took to Nicaragua during the summer of 1987 and the winter of 1988. Linfield worked as the intern for the Chief Justice of the Nicaraguan Supreme Court. Both trips were funded by the HLS Human Rights Program.

"In Managua, I observed numerous violations of civil liberties by the Sandinista government - censorship of the press, harassment of opposition leaders, people's tribunals with serious due process violations. I began to wonder how this compared with the United States' record when we have been at war," said Linfield. According to Linfield, his research revealed that the civil liberties violations in Nicaragua under the Sandinistas during the past ten years have been no worse than those perpetrated by the American government when we have been at war.

"The Reagan Administration's main justification for our war against Nicaragua has been that the Sandinistas have been undemocratic. In particular, the American press has played up the censorship and closing of *La Prensa* by the Nicaraguan government," said Linfield. Yet, as Linfield details in his new book, during the Revolution, patriotic "citizen's committees" tarred-and-feathered pro-Loyalist editors, during the Civil War the military closed down pro-Rebel papers, and in World War I the United States created an official censorship board: every item of news that Americans read had been cleared by censors. And during the Vietnam War, the book notes, the FBI engaged in a massive campaign to harass and destroy the underground anti-War papers - presses were bombed, editorial boards were infiltrated, editors jailed and news vendors arrested for selling the papers.

"The two most startling revelations from the study were 1) how consistently the American government has violated our basic constitutional guarantees of civil liberties when we have been at war, and 2) that these systematic violations are not a relic of the past, but continued, not only through World War II,

(continued on page 10)

Third-Year Paper Grows Into Timely Book

By Dawn Ross
Features Editor

Rakesh (Raj) Bhala, 3L, did not know when he began writing his third-year paper on banking capital regulation that he would not be able to stop writing. He wrote so much, in fact, that the 260-page paper on risk-based capital has been accepted for publication as a book by the Banking Administration Institute (BAI). The work, titled *Perspectives on Risk-Based Capital*, will be out in the next few months. The forward to the book will be written by Prof. Hal Scott, who served as adviser on the paper.

Bhala, who will join the legal department of the Federal Reserve Bank in New York following graduation, calls the events leading up to the book "either luck or karmically-determined."

Bhala chose his paper topic in April 1988 and worked on it until Nov. 1988. Over last summer, people at the Federal Reserve Bank, where Bhala worked, offered encouragement and support.

According to Bhala, Scott suggested that the paper be submitted for publication. Bhala was hesitant, until he saw a television commercial featuring Mike Ditka, coach of the Chicago Bears. Ditka's line was "You're only a loser if you don't try." Being a real sports fan, Bhala felt this was sage advice. He contacted 40 publishers that handle banking law materials to see if there was any interest.

Twenty-three publishers agreed to review the manuscript, and eight considered accepting the work. Finally, BAI

and Harper & Row offered Bhala contracts.

Although Harper & Row is a big-name publisher, Bhala selected BAI for several reasons: he was impressed with the quality of both editing and personal service; he felt BAI would contribute a lot of marketing and promotional effort;

"If the Ayatollah would outlaw risk-based capital, Satanic Risk-Based Capital would be a best-seller."

and most importantly, the timing was right.

"Risk-based capital is a hot topic in banking law right now, and BAI could get the book out more quickly than Harper & Row," Bhala stated, adding that if too much time elapses, other sources of information on the subject will be readily available.

The manuscript is currently in the copy-edit stage, awaiting Bhala's approval. He noted that the book will appear with few substantive changes from his original submission.

BAI will market *Perspectives* through direct mail advertising, catalogs, and advertisements in banking journals. The book will also be carried in bookstores in financial centers, according to Bhala. BAI has projected sales of 6,000-10,000 copies, although Bhala admits those figures "are really speculative."

He added jokingly that sales would be helped "if the Ayatollah would out-



Patricia Lee

Raj Bhala, 3L

law risk-based capital. *Satanic Risk-Based Capital* would be a bestseller." Bhala is interested in writing other books and stated that BAI is also interested in seeing his future work. However, Bhala feels he is "too inexperienced in real-world banking" right now and will probably attempt another book "after a few years at the Fed."

Bhala, whose family is from India, grew up in Milwaukee. He earned an undergraduate degree in economics from Duke, and spent two years in England on a Marshall scholarship.



Harvard Law Record

Volume 88, No. 8

Chris Crain
Editor-in-Chief

Alain Kodsi
Business Manager

Editorials

Intolerant Quality Of Life

Female students feel alienated by the "male atmosphere" of Harvard Law School. Black students object to demeaning stereotypes held by their fellow students and professors, as do Hispanics, Asians, and Native Americans.

Gays and lesbians feel that campus discussion of their place in society is limited to arguments about *Bowers v. Hardwick* in first-year criminal law.

Conservative and liberal students alike claim to experience intolerance from professors and other students. Even Southerners say they are continually subjected to unfair, negative stereotypes identified with that region.

The results of the comprehensive survey on the "quality of life" for students at Harvard Law School has certainly introduced serious doubt into claims by administrators and admissions officers that the law school offers an open, tolerant environment in which to study the law.

These administrators would seem to believe, like many well-intentioned activists in the 1960s and 1970s, that integration alone by race, gender and ethnicity guarantees a diverse community of people exchanging ideas in an atmosphere of tolerance and respectful dissent.

These administrators and admissions officers must now confront the clear message of the "quality of life" survey results, the actual severity of which they worked so diligently to coverup that they banned a student from the Dean's Office for attempting to make them available to students (see story, page one).

Integration and diversification alone are not enough. The administration must take the lead in fostering a more tolerant atmosphere for all HLS students. And trying to hide the scope of the problem by burying the survey's results was hardly a constructive (or encouraging) first step.

Whether their gripe be sexism, racism, homophobia, regionalism or ideological intolerance, the students answering the "quality of life" survey were letting the administration know that intolerance interferes with academic pursuit, in the dissemination of knowledge and its advancement through scholarship.

How ironic it will be if the same generation of professors and administrators that worked to integrate the law school student body is remembered more for turning a deaf ear to the very product of their efforts.

C.A.C.

No Grades In Graduation

Unlike past years, the HLS graduating class of 1989, as part of its commencement, will take part in a processional at the law school in which students will receive their diplomas in a formal presentation exercise.

This additional festivity is the outgrowth of suggestions raised with the administration by this year's Class Committee. While some may agree and some may disagree with the need for this extra layer of formalism on the already stodgy, tradition-cluttered HLS experience, it is refreshing to see the "powers that be" listening to student input. Those seeking a target for criticism in the graduation plans are much better advised to attack the Committee's absurd proposal to commission a "class wine" in celebration of the event.

One touchy question remains unclear about the formal processional, however: How will students march up to receive their diplomas? Alphabetically, perhaps? In order of class rank? A mixture of both, as has been the procedure in the printing of recent graduation programs? Use of grades and class rank in commencements past have led to student protests and petitions, and it would be ironic if it were the graduating class' own Committee that introduced an additional forum in which these tools could be used to divide HLS students into hierarchical units. It is hoped that the next memo from the Class Committee and the Dean will make clear the structure of the processional, and will explicitly reject any method relying upon grade-based distinctions.

J.A.G.

Staff

MANAGING EDITORS Dan Kroll, Erick Hachenburg
NEWS EDITORS Liz Askey, Tom Billello
FEATURES EDITORS Rudy Rodriguez, Dawn Ross
PHOTO EDITOR Patricia Lee
COMMENTARY EDITOR Greg Herbert
STAFF Aoki, John Ayon, Luke Cole, Erin Edmonds, Fenno,
Jeff Gershowitz, Michael Hughes, Sally Johnson,
Susan Jones, Teresa Martinez, Patrick Miles,
Troy Morgan, Rhonda Vosdingh, Teri Silvers, Soo K. Yi
BUSINESS STAFF Shelagh M. Lafferty, Karen Lilly
Anthony Scaramucci

Editorial/Letters Policy

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.

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.

No 'Fairness' Amendment

To the Editor:

The so-called "fairness amendment" died last fall when the student body overwhelmingly voted it down. Your latest editorial nevertheless pretends that the new nondiscrimination policy, for which the student body recently voted, is a repackaged "fairness amendment." In fact, the new policy deliberately unworks most of what the "fairness amendment" would have done. Although the new policy obviously implicates some of the same issues, it differs from the "fairness amendment" in at least two critical respects:

First, your editorial superficially highlights the lack of a "supermajority" requirement in the new policy as its difference from the "fairness amendment." The editorial glosses over the

political reality: the "supermajority" device would have effectively prohibited cooperation with another student group, or affirmative action, by the student government. The new policy explicitly permits such cooperation or affirmative action.

The student government often cooperates with other student groups whose members are volunteers, not representatives; for example, if the Law School Council were researching campus security, it makes perfect sense to take special care that the voices of women be included, perhaps through the formal participation of the Women's Law Association. The "fairness amendment" effectively prohibited such cooperation, because it required not a two-thirds vote, not even a three-fourths vote, but three-fourths of the membership, to authorize such cooperation. Too few members have attended most meetings this year to pass such a resolution, even if all the members present unanimously agreed. No other business in student government must leap such an inac-

(continued on page 7)

Letters To The Editor

Abortion Issue Skirted

To the Editor:

On behalf of those members of the Harvard Law School community who attended the "March For Women's Lives" in Washington, D.C., I would like to thank the faculty, staff and fellow students who so generously supported our efforts.

The HLS delegation actually numbered close to fifty people, counting those who rode down together on a Harvard bus, and those who joined us at the foot of the Washington Monument. It was exhilarating, it was exhausting, and we were all terribly proud to be part of it.

Less enlightening, however, was the April 14 RECORD editorial entitled "Abortion's False Issues." In fact, it was one of the more superficial treatments of the subject I have ever seen. The editorial writer seemed to be trying very hard to create a "false issue" where none exists.

The editorial sought to counterpose the "abortion is murder" argument of

the anti-choice people with the "a woman has the right to control her body" argument of the pro-choice people. Quote: "Pro-choice advocates do not argue that a woman should have the right to abort a fetus once it has developed into a 'person;' they dispute just when the point of 'personhood' has been reached."

Wrong. There is no dispute regarding the onset of personhood, and the RECORD is directed to the brief filed by the American Medical Association in the Webster case. Until a fetus can exist outside the pregnant woman's body, it is not a person. The AMA stated in their brief that for the first six months of pregnancy, a fetus' vital organs — heart, lungs, etc. — are not developed enough to allow survival independent of the woman, even in a hospital setting. Is the RECORD suggesting that a fetus that is not capable of independent biological survival has rights that even equal, let alone supersede, those of its adult mother?

(continued on page 7)

Editor Who Cries Wolf

To the Editor:

Wolf! Wolf! Wolf! In the familiar tale of "The Boy Who Cried Wolf," the boy lost his whole flock of sheep because he wore out his credibility with the good-natured townspeople. Unfortunately, this tale has seemingly drifted from the memory of the RECORD's Editor-in-Chief, Chris Crain.

Over and over I have read editorials, each with its own slant and its own context, depicting every liberal as an irrational knee-jerk and depicting every conservative as a victim of a conspiracy

of intimidation. As with the false cry of "wolf," this false cry has also grown tiresome. Crain adds to this empty wailing a shameful propensity to misstate the facts on any given topic.

Today, I won't be responding to any of the many interesting topics covered in the RECORD editorials. I don't care anymore. My apathy, and the general apathy on this campus toward the RECORD, stems from a view that the RECORD is no longer seen as a place for the healthy exchange of intelligent positions. The Editor-in-Chief has set the pace for the paper, as Editors-in-Chief are supposed to do. But he has taken as his role model the child who sticks his fingers in his ears and yells. In the old tale, the sheep lost out because the boy lost his credibility; at HLS, the conservatives are losing out because the Editor-in-Chief is losing his.

Steve Crawford, 2L

Two Proposals Differed

To the Editor:

Your "Editorial/Letters Policy" disclaimer should say, "All facts included in Chris Crain's editorials are his and do not necessarily represent the truth." The recent Nondiscrimination Amendment not only "contained none of the complicated 'supermajority' requirements of the earlier proposal," as you stated conclusively, but also expressly allowed for affirmative action — a complete departure from the anti-affirmative action focus of last fall's "Fairness" Amendment.

While mischaracterizing the facts of the "Fairness" Amendment defeat may be a job requirement for writing editorials for the *Wall Street Journal*, any ambulance chaser knows that once a judge or jury realizes an attorney has misstated the facts, they won't trust the argument either. An "unpopular messenger" probably was one factor last fall, but you have — once again — missed a chance to make your point.

Bonnie Savage, 3L

Correction

Last week's opinion column, "HLS Misses Chance to Appoint Hispanic Woman Prof," appearing on page 7, was inaccurate to the extent that certain statements tended to exaggerate the role of Asst. Prof. Charles Ogletree in the process of selecting the new professor of the "Government Lawyer" class.

These inaccuracies were cleared up in a conversation between the column's writer and Ogletree, and the column was appropriately changed — in the writer's computer. However, due to an error on the part of the writer, the column's first draft was inadvertently published.

The Record regrets any misinterpretations caused by the statements in question.

HLS Students Master Art Of Procrastination

Procrastination is a great thing. There are all sorts of fun ways to waste time and not feel the least bit guilty about not doing your work.

One of the most effective is dinner. A group can spend two or three hours eating and talking, all the while justifying the excursion to each other: "We do



Robin Juni
Columnist

have to eat, you know."

After dinner, there is the ever-present stop at CVS. Designed to last between five and ten minutes, "Fun and Games at CVS" invariably entertains for at least half an hour. It's even longer

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

if we all get to play with the Clarion "What Color of Our Makeup Should You Buy?" machine.

There's always something fun at CVS. Last time, we spent quite a while analyzing Stim-U-Dent and reading Glamour magazines, before deciding to continue on our merry way.

Lots of other fun stuff fits under the "I was running errands" justification. I once wandered through almost every bookstore in Harvard Square and read two entire books, ostensibly while buying my father a birthday present. I started after lunch and figured I'd better go home when I realized it was beginning to get dark. I had to go back the next day for the present.

Naps are another wondrous invention for the hard-core procrastinators among us. The excuse runs along the same lines as dinner: "Everybody has to sleep, you know." Certainly true, but where is it written that a human being must sleep twelve hours a day, every day, as a perfectly healthy roommate of mine once did for an entire semester?

The number one procrastination device, though, has to be that great hallmark of civilization, the phone. I don't even want to think about all the times my very best study intentions have turned into a party, a movie or

a real law & economics argument could be made.

However, all these methods pale in comparison to a procrastination trick I recently discovered — it's the best I've ever encountered. Swinging by a friend's

"Lots of other fun stuff fits under the 'I was running errands' justification."

even a ski trip on the basis of one short phone call. (The road to hell is paved with good intentions, I know, I know.)

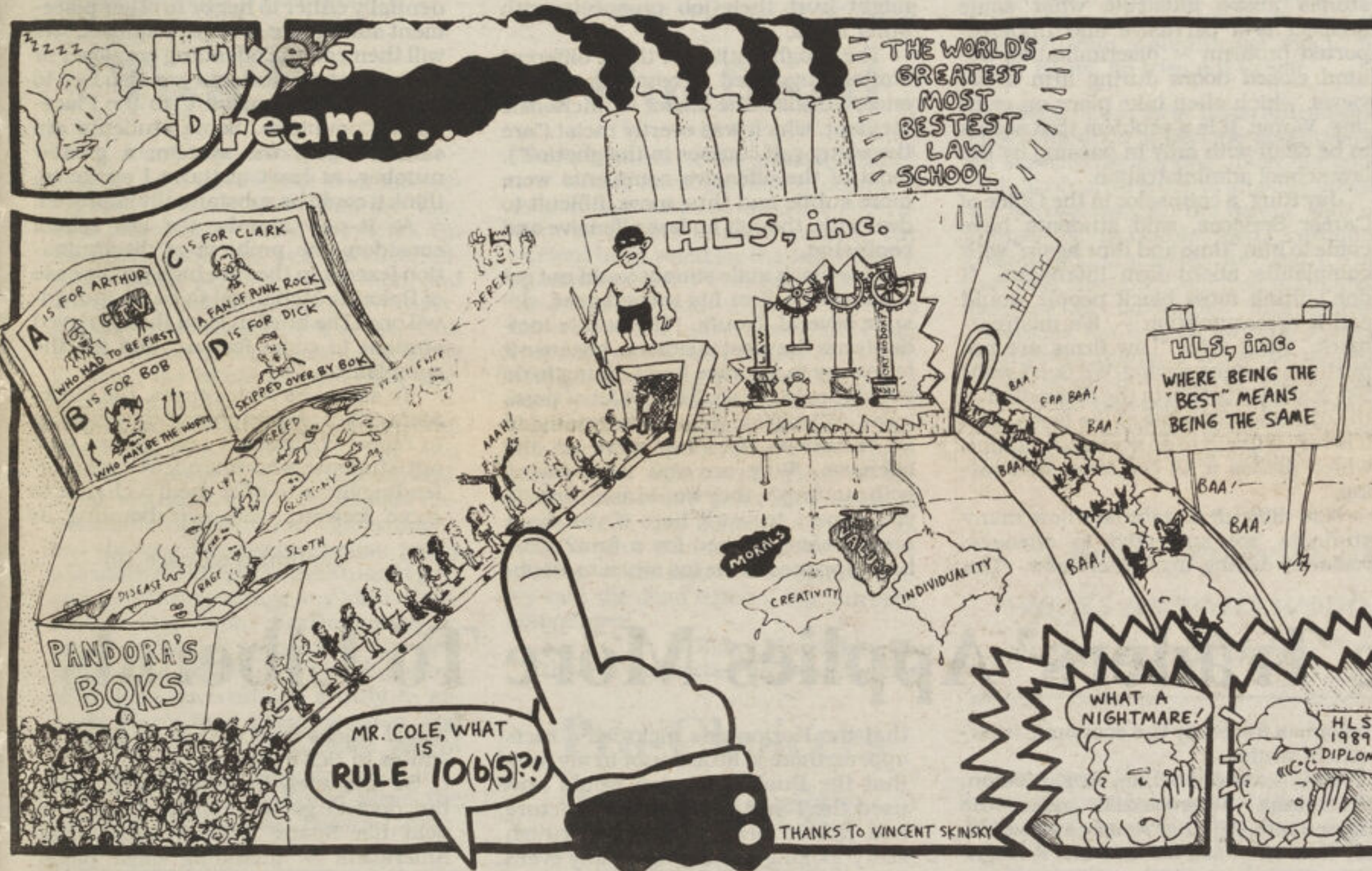
Then, of course, we can't forget the outgoing calls. Most of my calls are long distance, so I get to waste both money and time in one fell swoop. I have a question about that: If I'm efficiently wasting time and money, does that mean I'm not really procrastinating, on sort of a cancellation principle? I think:

room, I found her hard at work on her computer. Figuring she was in the middle of a nasty brief and ready to express sympathy, I asked what she was doing.

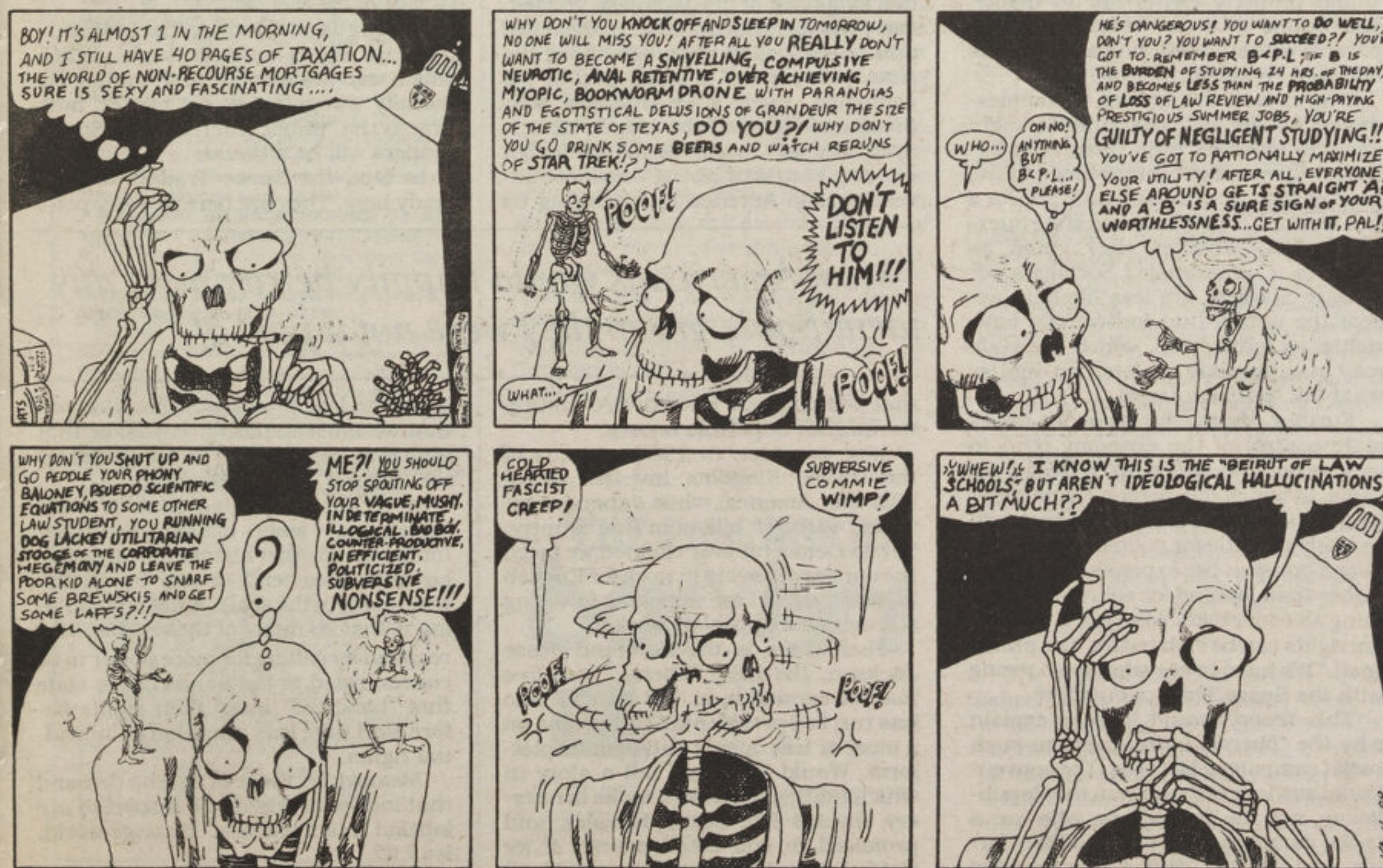
"Oh, I'm just typing out my income tax return — I have to have a copy and I don't feel like running over to Langdell." (Emphasis added.)

And I thought I was a good procrastinator.

HLS, Inc. — By Luke Cole



Dead Lines — By KA



Fenno

"Wang-do: The Autobiography of Fenno — Now On Sale at The Coop! Meet the Author at Sunday's Book Signing!"

Fenno beamed with pride and excitement as he read the huge banner announcing his coming out as an author. To think, his 260-page third-year paper was suddenly a best-selling book! Number one on the best seller list. Appearances on Geraldo, Donahue, Oprah and Mort. And now his glorious homecoming.

The book had captured all the excitement that was Fenno's life. There was his crazy trip to Japan with his international finance class when he partied with Hirohito. His purchase of 20,000 copies of Jim Wright's book. His dates with the mostest, bestest babes at Lesley. His tales of lust and raunch at Backbench T.G.'s.

When Sunday rolled around, Fenno was at The Coop bright and early, wearing his uncle's old smoking jacket, carrying a calabash pipe, and looking the part of the dignified, debonair writer he was. He had foregone his usual Saturday night romp through the bars of Somerville — he even passed up his trip to see Plate O' Shrimp.

The line to have an authentic Fenno stenciled on their own copies of Wang-do was tremendous. It snaked around the tall stacks of books that piled high on The Coop floor.

"Mr. Fenno, you're my hero. Can I have your autograph?" asked an innocent tot. "The part when Bob Clark said 'I always knew you'd turn out all right' brought tears to my eyes."

"Hey dude, your book was wonderful," said a Square resident punker. "Really intense."

"The life of a Fenno is always intense," the author earnestly replied.

The hours dragged on. Fenno tried to remain dignified, but the tension and pressure were getting too great. A voice in his mind kept saying "behave, behave," but a burning in his loins screamed out "Meister Brau, Meister Brau." If he could only hang on 'til dinnertime, he'd be O.K....

Fenno woke with a start. He had fallen asleep at his desk, as he attempted to type page three of his much overdue third- (or fourth- ... or was it fifth-?) year paper on "Beer Law During Prohibition" for his advisor Duncan Kennedy, a master of all fields of law. In a brilliant effort to complete his grand opus, Fenno turned out the light and returned to his blissful rest, hoping to summon the other 257 pages.

HLS Students Reveal Nightmarish Interview Experiences

A first-year student recently had an on-campus interview with a firm from the Midwest (not Baker & McKenzie). The student, who is black, sensed the white male interviewer gave him a strange look when he entered the room. His fear was confirmed when several minutes later the interviewer asked the student if he would mind setting up the grill at the firm's summer picnic or chauffeuring attorneys to the airport.

"I sat there, stupefied," said the student, who did not receive an offer and did not make a complaint to either the firm or the Placement Office.



Steven Donziger
Columnist

Item number two takes us to the HLS placement office in Pound Hall. A female student who is Jewish walked into an interview with a partner from an old line New York firm. Her resume was stocked with jobs on political campaigns and academic accomplishments, yet she was questioned incessantly about her membership in Hillel and her work on behalf of Soviet Jewry. In her 15 or so other interviews, no other firm focused on that aspect of her resume. She suspected anti-semitism, but thinking it would be too hard to prove, made no complaint.

Item three concerns a black female HLS student who interviewed at an 80-attorney South Florida firm that had no minority or female partners. Upon arrival, the receptionist commented how her light complexion seemed suited for tanning. Later, the interviewing partner insisted upon knowing the occupation of her father — fearful, apparently, that the father might move to South Florida to retire and that his working-

Steven Donziger, 1L, worked as chief UPI correspondent in Managua, Nicaragua.

class background might reflect poorly on the firm.

When the student suggested she was uncomfortable with the question, the partner said she was being "too sensitive." When she later asked why she did not get an offer, the partner said he vetoed it personally because she was too "worldly" for that part of the country. He would not reimburse her for taxi fare to and from the airport, claiming she spent too much money.

"I felt I was walking in with a liability," said the student. "I felt they would hire me, but only if I dug myself out of this hole my race had put me in. I had to prove my Daddy did not stand on the street corner and sing songs because they wanted to be sure I wasn't going to move my family down and embarrass the firm."

While Harvard mulls over the recommendation of the Law School Council to ban Baker & McKenzie for a year, it should also turn its sights inward and examine the experiences of its own students who are insulted each year during interviews with law firms. The stories above illustrate what some suspect is a pervasive and underreported problem — discrimination behind closed doors during firm interviews, which often take place on campus. Worse, it is a problem that seems to be dealt with only in passing by the law school administration.

Jay King, a counselor in the Office of Career Services, said students have come to him "time and time again" with complaints about firm interviews. "I don't think most black people would call it discrimination — it's mistreatment," King said. "Law firms are not putting up signs saying 'We don't want black students.' It's in the dispositions, the attitudes, of some of the firms. And it is very difficult to do something about, which makes it all the more frustrating."

It is difficult to tabulate how many students are subjected to offensive remarks during firm interviews. The

Placement Office received 15 to 20 complaints this year. A survey by the HLS chapter of the American Bar Association (put in student boxes two weeks ago) got responses from about 25 students, some of whom said they never complained to the law school because they thought nothing would get done.

I talked to several more students who were anxious to tell their stories. All gave me names of other students who spoke of similar stories. I stopped gathering this information after spending the better portion of two days on the

"I had to prove my Daddy did not stand on the street corner and sing songs because they wanted to be sure my family wouldn't embarrass the firm."

phone. None of those interviewed wanted his or her name in print. The reasons varied, but most felt their comments would look like "sour grapes" because they did not get an offer from the firm they criticized, or that their comments might hurt their job prospects with other firms.

The rough outline of these different stories suggested a common experience. Unlike the Baker & McKenzie incident, which was overtly racist ("are there any golf courses in the ghetto?"), most of the offensive comments were more subtle and thus more difficult to deal with, though no less offensive and confusing.

One black male simply could not get a job with a firm his second year, despite several flyouts. "The subtle incidents are the most insidious, because it is so easy to say race had nothing to do with it," said the student. "A lot of times I was grilled from the very beginning in an interview, like they were on the offensive. 'Why are you interviewing with our firm?', they would ask. 'How do you expect to work here if you have never before worked for a firm?' This has happened to me too much to attrib-

ute it to mere rudeness. I just don't think it would have happened like that if I were a white student."

Women often are asked about their marital status or intention to marry and have children; some women are asked their opinion of birth control; minorities and women often are asked their LSAT scores or if they were accepted under an affirmative action plan; older students are asked if they can fit in with younger associates, and others are asked if they have been infected with AIDS. The Placement Office rec-

ommends that interviewers avoid asking these questions, but a significant number still do.

N. June Thompson, who directs the Placement Office, has set up a system whereby students can complain confidentially either to her or to other placement staff. If the student requests, she will then call the offending employer or write a letter. Students are also free to file a "formal complaint" to the Placement Committee. Some students are satisfied with the system; a greater number, at least of those I spoke to, think it could be substantially improved.

As it now stands, the law school considers the problem of discrimination (except in the rare high profile case of Baker & McKenzie) to be an individual one. The burden is on the aggrieved student to come forward and file the complaint.

To signal its seriousness, the Placement Office should encourage students to report complaints and should seek out students who interviewed with offending firms to offer them a chance to come forward with corroborating or

(continued on page 10)

Bell's 'Space Traders' Applies More To Liberals

Prof. Derrick Bell's "Science Fiction Prophecy" has received quite a bit of attention lately: Bell tells it to classes, and used it as the topic of his Martin Luther King, Jr. commemoration speech in January; it was the topic of an editorial column article in this publication last autumn; it has appeared in the university's official mouthpiece, the *Harvard Gazette*; and in a P.R. package sent out by the Law School Communications Department.



Brad Smith
Columnist

For those who have nonetheless missed hearing this "prophecy," here's the story in a nutshell: in the year 2,000, huge alien spaceships land in the United States. Speaking in voices like Ronald Reagan's, they offer to give us a totally safe, replenishable form of energy, chemicals to clean up the environment, and gold to eliminate the national debt. This last is the only unbelievable part of the story, since we all know Congress would simply leave the deficit and spend more.

In exchange, the "Space Traders" ask us to turn over to them all black citizens, to be taken back to their planet, which is done with relative dispatch.

Bell notes that white audiences seem to think such an event would "never happen here," while blacks are less sure, and then goes on to conclude that

Brad Smith, 2L, serves as a senior policy analyst for the Mackinac Center, a conservative libertarian, Michigan think-tank.

racism is fueled by the economic interests of whites.

Well, I am one white, Anglo-Saxon, Protestant, heterosexual male who agrees with Bell that Americans would, for that offer, sell out our black neighbors in near-record time.

My only real disagreement with Bell is his apparent belief that somehow conservatives, and, in particular, individual property rights are to blame. That seems to be why he never tells his parable without including a gratuitous insult of President Reagan.

But in fact, the type of economics-driven racism Bell describes is more likely to emanate from those who believe in government interference in the market than from those who argue for a free market. That is because state interventionists, whether they come as Fascists, Communists, Socialists, or Welfare-Statists, are less likely to accept the notion that individuals have rights, as individuals, which the state may not properly violate, no matter what the "public interest."

Further, those who argue for heavy state control of the economy tend to view economic policy as a zero-sum game, in which one person's gain must be another's loss, and hence they will be likely to settle for policies that benefit one group at the expense of another, rather than looking for solutions benefiting all concerned. After all, if individual rights can be violated for "the public good," it's hard to see what is so wrong with the Space Traders outcome.

This theory would help to explain why the "liberal" Democrats ran such racist campaigns last year. The conventional wisdom is that it was the Republicans, not the Democrats, who ran a racist campaign last fall — Willie Horton and all that. But even accepting

that the Horton ads included a racist appeal, there is little doubt in my mind that the Bush campaign would have used the issue, and Horton's picture, had Horton been a typically brutish, scary-looking white thug. In any event, these ads appealed to fears of violence, not economic interests.

Meanwhile, over on the Democratic side, Dick Gephardt's campaign was one long bash of the Japanese. Indeed, every Democratic candidate made veiled and not-so-veiled warnings about the new "yellow peril" a stock part of his campaign. Even Mike Dukakis, who proclaimed himself above such tactics, spent the last month of the campaign quoting statistics about Japanese investment in America and warning us

"Most Americans would happily betray most any identifiable group they were not a part of."

that if Bush were elected we'd end up working for Japanese bosses.

Now consider: in 1987, citizens of the United Kingdom invested \$21.2 billion in America, while Japanese invested only \$13 billion in this country. Yet no Democrat ever claimed we faced the danger of having to work for English bosses. Surely I am not alone in seeing a little racist appeal at work.

Then there is the Reverend Jesse Jackson, the most "liberal," anti-free market candidate in the bunch, who has run two presidential campaigns on a more or less openly anti-semitic platform. Would Bell dare tell a story in which the Space Traders spoke in nursery rhymes like Jesse Jackson, and promised to end black poverty if we yielded our Jews and Asians? If so,

would blacks react differently than the whites in Bell's version?

So ultimately Bell's parable is right, but doesn't go far enough. Given the deal his Space Traders offer, most Americans — including most black Americans — would happily betray most any identifiable group they were not a part of: Italian-Americans, partners at major New York law firms, WASP men — you name it.

As long as people deny that individuals have rights as individuals, rights which are inalienable and cannot be morally swept aside no matter how urgent the "public interest," the Space Traders will be a threat.

In fact, the Space Traders are already here. They are here in every poli-

tician or law professor who tells you that we must "balance" rights, or that individual rights must be abrogated for the "greater good" of society.

It is not surprising that in such "balancing" tests blacks, American Indians, and other historically unpopular minorities tend to end up on the wrong side of the scale. What is surprising is that so many of these minorities respond by calling for more power to be concentrated in the hands of the state that "balanced" away their rights before, and urge less attention to individual rights.

Meanwhile, those of us who demand that individual rights be respected are labeled "reactionaries." Strange world, isn't it?

Animal Rights Activist Calls For Humane Legislation

Until final regulations under the Improved Standards for Laboratory Animals amendments to the Animal Welfare Act are published in *The Federal Register*, it is hardly possible to praise or blame them. Parts I and II were published as proposed regulations March 31, 1987, but obstacles

Christine Stevens Off The Record

were put in the way of a final rule by those who opposed the legislation itself. The National Institutes of Health and National Association for Biomedical Research seemed to have united in adopting the aphorism, "Why be difficult when with a little extra effort you can be impossible?"

The Congress and the public, on the other hand, are eager to see Parts I and II finalized and proposed regulations for Part III published in *The Federal*

Christine Stevens is the Secretary of the Society For Animal Protective Legislation, based in Washington, D.C.

Register. Part III includes the requirement for exercise for laboratory dogs and a physical environment adequate to promote the psychological well-being of primates. These provisions of the Improved Standards for Laboratory Animals amendments recognize the regrettable fact that an inverse ratio between the size of the animal and the space allotted has been all too common in research facilities.

The smaller animals usually are permitted, too, to have social interactions with others of their species, while dogs and primates are traditionally confined alone in a barren cage.

It is high time that dogs, monkeys, and apes at least catch up with mice in the 1,200-odd institutions registered under the Animal Welfare Act. Concerning space, here's how the arithmetic comes out. A mouse measuring two inches from the tip of its nose to the base of its tail commonly lives in a bedded plastic cage measuring 6" w x 12" l x 5" h together with several of his own kind. At night a group of mice often engage in plenty of exercise — even acrobatics. For a dog measuring thirty inches from nose to base of tail, if the same space ratio were used, he'd enjoy an enclosure 7'6" w x 15'1" x 6'3" h which he could share with one or two other

compatible dogs. Arboreal monkeys would prefer to turn the dimensions around to provide greater vertical space in which branches or other climbing facilities could be placed. Their psychological well-being would thus be well served.

To adopt the boundless ethics which,

communities of chimpanzees to wage pitiless war on members of another group. These were totally unknown characteristics of our closest living relatives before the long studies at the Gombe Stream. Louis Leakey, the eminent paleoanthropologist who encouraged Jane to undertake her monu-

"We have to put ourselves in the place of the animal to the best of our ability."

in Albert Schweitzer's phrase, "includes the animals also," we should abandon the narrowly human-centered point of view which accepts a shoe box as the "right" size for mice but fails to extrapolate that space to enclosures needed for larger animals. We have to put ourselves in the place of the animal to the best of our ability. With dogs, the human race has had plenty of practice. As every dog owner knows, dogs want to go out. And until they are extremely old, decrepit and stiff, the more exercise they can persuade their owners to allow them, the better they like it. Exercise comprises a variety of both needs and pleasures. At a minimum, the dog is released from a small cage which, in many cases, he tries not to soil.

Ethics of the most basic and simple sort compel us to provide opportunity for exercise for any dog under our control. To deprive a dog of a bodily pleasure second only (in the canine view of things) to palatable food, certainly cannot be characterized as ethical. The fact that the U.S. Congress mandated exercise for laboratory dogs simply expresses the normal attitude toward man's best friend. I trust the modest effort required to conform with the law will not be begrudged by the nation's scientific institutions which use these animals for research or testing.

mental work, made a pronouncement a quarter century ago that is still ringing in our ears: "We must either redefine tool, redefine man, or accept the chimpanzee as men." With 98.5% of our DNA shared with chimpanzees, the last alternative looks the most promising from a scientific standpoint. It makes questions on use of chimps in AIDS research, which some researchers call useless and others call crucial, especially contentious ethically. Without attempting to enter into this argument, which I am not qualified to judge, it is clear that those who use "chimp-men" must get them out of cramped, solitary confinement and into pleasant enclosures, with at least one other compatible conspecific, where an interesting and wholesome variety of food is provided and a choice of boredom-relieving opportunities is available. That is the irreducible minimum requirement for use of our hairy cousins.

It is time to stop harping on the cost of decent accommodations for chimpanzees. We are, thank goodness, a rich country, and there is no need to subtract from research funds the cost of proper laboratory animal housing. It is a legitimate cost in its own right, as is the cost of hiring and training appropriate personnel to serve as care givers. Research scientists and administrators should face these facts squarely. Either

"A more generous and grateful attitude towards animals would become scientists who make use of them."

Assessing the psychological well-being of a particular primate is, admittedly, a more demanding task than providing a dog with exercise and its concomitants. Individual dogs may have their quirks, but generally speaking, dogs like people. Anybody who can't get along with dogs is unlikely to be able to get along with any other laboratory animal and doesn't belong on a staff that handles animals. But getting along with primates, captured in the wild and resentful of captivity, takes patience and skill and effort far beyond the casual friendly attention that dogs so readily appreciate.

To assist the U.S. Department of Agriculture in writing appropriate proposed regulations for environments to provide psychological well-being of chimpanzees, the world's leading expert on this animal, Dr. Jane Goodall, convened a three-day workshop in December to discuss the most practical means of meeting the needs of captive chimps. Principal investigators using chimpanzees for medical research, veterinarians, psychologists, anthropologists, experienced personnel from zoological gardens, and representatives of organizations concerned with the welfare of primates reached consensus decisions which were summarized in the final papers.

The Chimpanzees of Gombe, published by Harvard University Press in 1986, is the most comprehensive of Dr. Goodall's works, constituting 27 years of careful scientific observation of the lives of these great apes, including her discovery of their tool-making abilities and, later, of the propensity of some

animals should be comfortably housed and cared for or they should not be used.

Forward-looking scientists and administrators should welcome humane regulations which, if fully enforced, will go far toward eliminating the sharp criticism of animal experimentation inspired by revelations of abusive treatment of the animals. When two young chimps are no longer jammed into 22-inch wide cages, when animals no longer struggle against surgery under inadequate anesthesia, when laboratory employees can no longer neglect or wantonly hurt a captive animal with impunity, then and only then will the current climate of questioning and mistrust disappear.

A more generous and grateful attitude toward animals would become scientists who make use of them. The obstacles and delays to which regulatory action has been subjected reflect poorly on those who have erected or instigated them. Patience is wearing thin in some quarters, and I urge a friendly reconciliation and acceptance without further ado of final regulations under Parts I and II of the amendments to the Animal Welfare Act unanimously adopted at the end of 1985 and no further attempts to prevent adoption of proposed regulations under Part III.

Let's get on with enforcement of decent standards for laboratory animals and generously supported research to reduce the numbers of animals used, refine experimental methods to avoid pain and distress, and replace animal-based research wherever possible.

Two Proposals Confused

(continued from page 4)

cessibly high hurdle, not even amending the very constitution that the "fairness amendment" tried to amend. On the other hand, the new nondiscrimination policy permits cooperation, and affirmative action, without the "super-majority" roadblock, as long as the result is reviewable by a representative body in which the whole student body participates equally.

Second, however, there is an even more important difference that your editorial ignores. The "fairness amendment" would have prohibited only discrimination within student government, but the new nondiscrimination policy affirmatively obligates the student government to discourage any kind of discrimination, even discrimination in which it did not participate. The new policy adds a basic duty to the mission of student government, a duty to actively discourage discrimination and insensitivity — a duty totally absent from the "fairness amendment."

The student body voted down the "fairness amendment" because, who-

ever the sponsor, it was unwisely drafted and would have prevented desirable cooperation between student government and other student groups. The student body voted for the new nondiscrimination policy because, whomever the sponsor, it may foster cooperation between student government and other student groups, and it may even help make the student government into a voice to address discrimination and insensitivity. To suggest, as your editorial did, that the student body mindlessly votes against the ideas of the Federalist Society and rubber-stamps those of the Law School Council is as lame as your confusion of the positive mission of the nondiscrimination policy with the dead letter of the "fairness amendment."

Brian Melendez, 2L
Chair, Committee on Governance

Pro-Choicers In Majority

(continued from page 4)

The April 15 Boston *Sunday Herald* reported a recent poll which indicated that 77% of Americans favor a woman's right to choose in most situations. True, a majority of those responding oppose "convenience" abortions. An even vaster majority, however, oppose making abortion illegal.

One of the very real issues in the abortion debate is that the pro-choice position is the majority position. The importance of the Washington march was in reminding our elected officials of that fact. We are the majority, but recently we have been losing the public relations war. The Washington march allowed pro-choice activists to regain the high ground, as exemplified by thousands of NARAL posters:

"Who Decides? You or Them?"

Pam Silberstein, 1L



415 Seventh Avenue, Suite 62
New York, N.Y. 10001
(212) 594-3696 (516) 542-1030
(914) 684-0807 (201) 623-3963

160 Commonwealth Avenue
Boston, Mass. 02116
(617) 437-1171

HARVARD LAW RECORD (ISSN 0017-8101) published bi-weekly during the school year. Harvard Law School Record Corporation, 23 Everett St., Cambridge, Mass. 02138-9984. Telephone (617) 495-4418. Subscription price: \$20.00 year mailed; \$30.00 year mailed outside U.S. Individual copies: 50 cents at the Law School, \$1.00 mailed. Second-class postage paid at Boston, Mass. and additional mailing offices.

Copyright 1988 by the Harvard Law School Record Corporation and by the contributors.

POSTMASTER: Send address changes to Harvard Law School Association, Harvard Law School, Cambridge, Mass. 02138.

ALUMNI/AE ADDRESS CHANGES: Alumni/ae who receive the Record as a result of membership in the Harvard Law School Association should mail change-of-address information to the Harvard Law School Association, Harvard Law School, Cambridge, Mass. 02138.

Each alumnus/a receiving a Record subscription through the Harvard Law School Assn. should be on notice that \$5.80 of H.L.S.A. annual dues are used to purchase the Record subscription he or she receives. Dues paid at any time during the H.L.S.A. fiscal year that began in April 1986 and ends in March 1987 will purchase a subscription that begins in September 1986 and expires in May 1987, and so on in following years.

return address

HARVARD LAW RECORD
HARVARD LAW SCHOOL
ASSOCIATION
HARVARD LAW SCHOOL
CAMBRIDGE, MA 02138-9984
SECOND-CLASS POSTAGE
PAID AT BOSTON, MA
AND ADDITIONAL OFFICES

LSC President Aborts Consolidation Attempt

(continued from front page)

of the most widely differing interpretations of the document.

Although there is substantial disagreement about the form and substance of the new government envisioned by the document, opponents of the draft constitution have attacked it as a self-aggrandizement and power consolidation scheme. The timing of the sweeping proposal, as well as its conspicuous absence from Melendez' campaign literature in his successful bid for reelection earlier this month, has enhanced the skepticism surrounding the plan. Melendez has consistently maintained that the proposal is only a preliminary draft, open for discussion, modification or complete rejection by all parties involved.

"I think he [Melendez] wanted to culminate his career at Harvard with having control over Harvard tuition funds," speculated George Anhang, 1L-IV LSC section representative, regarding the student government funding

ping here, let's decide which of us ought to do [a certain project] or let's set up a cooperative way to do it."

Almost all parties involved agree that some structure that provides for cooperation among the groups and reduces duplication of effort is desirable. Nonetheless, some expressed concern over the shifting of power among the organizations which the plan might effectuate. Harry Weitzel, 2L, vice-president of DSAC, commented at the April 12 LSC meeting, "We are all in favor of cooperating with LSC, but we will oppose any proposal which tries to shift power from one group to another."

For Melendez, the proposal had become a political live wire even before LSC had first met to discuss it. In addition to the attack from within LSC itself, the proposal had succeeded in raising the ire and suspicion of DSAC before LSC's first meeting on the subject.

Melendez' manner of introducing the proposal to the HLS community infuriated Charlotte Gibberman, 2L, newly-elected president of DSAC, as well as



George Anhang, LSC Rep.



Brian Melendez, LSC President

literature] are really of much more relevance and interest to students than this is," he said. Melendez asserted that the student control of student funding aspect of the proposal was mentioned in the literature, but admitted that this was done with no reference to the proposed constitution. "We put it in the Adviser the week before the April 12 meeting . . . and nobody except DSAC and Council people expressed any interest. There's just not space for me to put all of [my ideas in my literature]," Melendez said.

In addition, Anhang suggested that the wording of the cover letter accompanying the first draft of the constitution gives the appearance that an entire LSC committee, the "Committee on Governance," had been working jointly at least on the ideas behind the document. When questioned about this committee at the April 12 LSC meeting, Melendez "got very defensive and finally admitted that he was the sole author of the document," according to Anhang.

"You would be hard pressed to find any other active members on that committee," Anhang added.

"We are all in favor of cooperating with LSC, but we will oppose any proposal which tries to shift power from one group to another."

aspects of the proposal. "He knew he was going to be in power [as LSC president] and he set up the constitution which would give him a great deal of control," added Anhang.

Melendez vehemently denied any personal stake in proposing the draft constitution, as well as similar charges that he is attempting to elevate friends of his in the ABA/LSD to powerful positions. "There's really no response to that [charge]. I'm being accused of bad faith and it's impossible to disprove. It's bullshit," he said. Melendez emphasized that he supports the concept behind the proposal as a "compellingly good idea on its own," regardless of which individuals fill the higher positions in the proposed government.

Joe Patino, 2L, LSC representative, echoed Melendez' sentiment. "I can assure you he [Melendez] didn't want to do this to increase his power. This was just an effort to get some ideas on the table," Patino said.

Anhang termed the proposal a "slap

other members of the group. According to Gibberman, she and Melendez met during winter term to discuss some of the basic ideas underlying the proposal, such as the need for a clearer delineation of the roles and functions of DSAC and LSC in order to avoid some of the duplication of projects, lack of communication and overall tension that had historically occurred between the two student groups.

Gibberman said she was "distressed to learn" that Melendez, also a member of DSAC, had met with Dean of Students Sarah Wald to discuss the 21-page draft before formally presenting it to DSAC. Gibberman said she felt it was improper for Melendez, as both LSC president and DSAC member, to go to the administration with a new constitution that proposes to subordinate DSAC under a new form of student government before even discussing it with DSAC. "I do not feel that Law School Council has the right to dictate changes in any student organization's

"Frankly I think the students are not real interested in how this proposal comes out."

in the face of the Law School Council." Anhang's criticism of the first draft of the constitution focuses on the Executive Board, which he called a "clique of super-decision makers [with] more power than the Law School Council itself has ever dared aspire to," in a letter he distributed to LSC members before the April 12 LSC meeting at which the draft was first discussed. "The Executive Board does not represent some pinnacle in the evolution of representative student government. It is a throwback to the middle ages of democratic theory, where suspicion in and disdain for egalitarianism allowed the concentration of power in the hands of an oligarchical elite," the letter continues.

"There is no basis whatsoever for this type of change," said Anhang. "I saw the rationale that was being provided as a cover up, a facade for power consolidation by people who have disdain for the current system [of student government]."

Melendez repeatedly rejected this interpretation of the document. "The Executive Board really does not have any affirmative powers. It can't tell any of the organizations how to act. Each of the three member organizations has a carved out sphere where it speaks for the student body . . . and we don't step on each other's toes. The Executive Board would only come in where one of [the groups] says 'Hey we're overlap-

constitution," she said.

Melendez insists that he only discussed a small portion of the document, relating to funding of student groups, with Wald.

"DSAC just wants the status quo," said John Buckley, 2L, ABA/LSD representative. "It's unrealistic to say that DSAC is not a part of student government."

Another major concern raised by the proposal's detractors was that Melendez downplayed the publicity and potentially controversial elements of such a sweeping overhaul of student government. Anhang said he was concerned and puzzled by the absence of publicity regarding the proposal, especially in light of Melendez' bid for reelection this month. "I searched through all of his campaign literature and found nothing relating to this sweeping proposal to overhaul the current system of student government," Anhang said.

Melendez said he campaigned for reelection on April 10 - 12. The first draft of the proposed constitution was submitted to LSC and Dean Wald on April 4.

"Frankly I think the students are not real interested in how this [proposal] comes out," Melendez asserted in explaining why the constitutional revision was not mentioned in his campaign. "I had a limited amount of money to spend on the campaign, and the six or seven things I listed [in my

NEXT RECORD

MAY

5



THE QUALITY GOES IN BEFORE THE NAME GOES ON

INVITES YOU TO THE HARVARD LAW SCHOOL OPEN HOUSE

ON MAY 3, 1989
AT THE HARVARD LAW SCHOOL
HARKNESS COMMONS, GROUND FLOOR
FROM 10:00 TO 2:00 P.M.

COME SEE OUR LAST OPEN HOUSE
BEFORE THE SCHOOL YEAR IS OVER.

- 80C88 8-4.77MHz
- 640K RAM
- Internal 1200 baud modem
- 10.5" diagonal LCD super twist screen
- Serial port
- Parallel port
- RGB port
- 5.1/4" floppy interface
- MS-DOS included
- Rechargeable-detachable battery included

- Model ZWL-184-HR
- 1 720K floppy drive
- 1 20mg hard disk

\$1835 (Including carrying case)

SUPERSPORT™

*Limited Edition
Portable Computer*



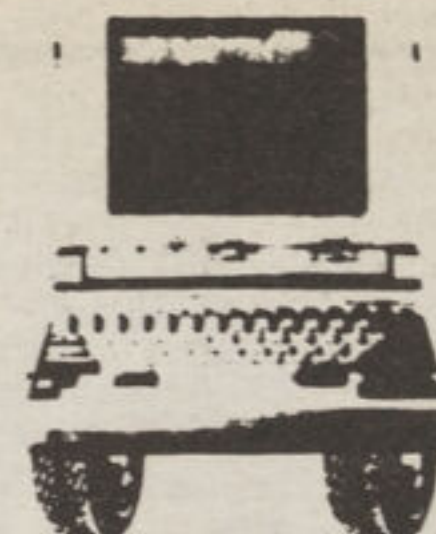
SUPERSPORT™

Portable Computer

Same as the Super Sport LIMITED EDITION model except—

- RAM option 1.64MB with EMS
- Numeric keypad port
- Expansion chassis connector
- Internal 1200 baud modem not included
- Dual floppy

\$1235 (Including carrying case)



Orders may be taken on all ZENITH products

GIFTS WILL BE GIVEN OUT

For More Information Please Contact:

David Stephanik
Educational Account Manager
(508) 250-1940

Alain Kodsi (3L)
ZDS Student Representative
(617) 498-4799

Shocking Interviews Must Be Addressed By Placement Office Action

(continued from page 6)

alternative information.

These issues of mistreatment should be considered a community problem worthy of a community solution. The Placement Office should take steps to encourage all students to be aware of offensive questions so they can be prepared, if so inclined, to deal with and

"You know, you women and minorities say you don't want to be discriminated against, then you join these exclusive organizations."

report them. To explain the policy, the school could require attendance at a meeting where the employer directories are handed out.

Finally, HLS should keep a confidential information bank where students can come and file complaints or comments about particular firms without the firm knowing about it. As the system works now, firms can look at the complaints and respond. This inhibits students from coming forward, because it is easy for a firm to discern identities. This pool should be kept outside of the Placement Committee, which is partially financed by law firm contributions, in order to avoid the appearance of a conflict of interest.

In 1970, about 75 HLS students chased two recruiters from Cravath Swain & Moore through the halls of Langdell to protest the firm's representation of companies doing business in South Africa. Today, the misbehavior of some law firms on campus might be less visible than yesteryear, but it is certainly no less invidious. Harvard

needs to respond with both speed and sophistication.

These are some more stories, in the words of those who told them:

From a 2L white man: "It was a big law firm in Texas. I was talking to an eighth-year litigator about why a motion he had filed had not yet been ruled on. His response was, 'That nigger woman judge is always slow in making decisions.'"

From a 2L Hispanic woman: "I was having a lunch interview with an associate at a Texas firm, and I asked why there were so few Hispanics in law firms. He said, 'Well, we would like to have Hispanics but we have standards to keep.' So I told him for 20 minutes why his comment was not racist, but stupid and ignorant."

From a 3L black woman: "A lot of students think these [incidents of racism] are isolated, but they are not. We are so often put down, there is a sense people feel we are crying wolf when we complain. I was in a firm last summer in D.C. and I shared an office with a white woman who was also a summer associate ... we all were invited in groups of three to dinner parties with the partners at their homes. One day a partner stuck his head in our office to tell the other associate about the party she was invited to at his house. He then turned to me and said, 'Sorry, it's a 'whites only' party ..."

"I was shocked, stunned. It happened so fast my mouth dropped to the floor. He thought he was being funny ... I told one of the hiring partners what happened. They talked to this partner and after that he did not talk to me the rest of the summer." (The woman received an offer from the firm, but de-

clined.)

From a 3L black woman: "I asked a partner with whom I was interviewing why there were so few black partners in the firm. 'To be perfectly honest,' he said, 'they just don't have the technical writing ability.' I let it slide because I wanted to work at that firm ... [in another interview], I walked in the door and before I sat down the [white male] partner said, 'What's all this black law students stuff on your resume? You know, you women and you minorities say you don't want to be discriminated against, then you join these exclusive organizations.' I argued with him for 20 minutes ... he obviously did not want me because of my race, so when I returned I started to write a letter to complain. Then I thought there were

200 attorneys in the firm, maybe this one did not represent the attitude of the entire firm. Maybe if I had gotten an offer I would have complained, but I thought it would sound bitter. I've grown to think it's their ignorance, not mine. I'm not going to get into a battle."

From a 3L black woman: "We [members of BLSA] have had a lot of trouble getting students to talk about it ... you think in the back of your mind it might be your fault ... part of the problem is you never know if you are being asked more than other people are. It seems to me every black person is getting asked about the LSAT. One time I had an interview with a partner who said, 'I really like you, and I find it amazing you speak English so well.'"

Plan To Suspend Constitution Revealed

(continued from page 3)

Korea and Vietnam, but to the present day," stated Linfield. In fact, Linfield notes in the epilogue to his book, in 1982, the U.S. government developed a secret contingency plan to suspend the Constitution in the event that a United

"In every major war our government has systematically violated our most fundamental constitutional guarantees."

States invasion of Nicaragua provoked widespread domestic opposition.

In addition to suspension of the Constitution, Linfield states, the secret plans called for: declaration of martial law; abolition of state and local legislatures, and their replacement with military commanders; and the round-up and detention in relocation camps of American citizens opposed to the invasion.

This will be Linfield's second book. Linfield's first book, *Investments of California's Public-Sector Pension Funds* was published in 1982, when Linfield was working as a liaison for then-California governor Jerry Brown.

FREE SOFTWARE!!

During the month of April, when you buy an IBM PS/2 model 30-021 with the educational discount, you will receive DOS 4.0 or WordPerfect 5.0 free.

Whether you are a graduating student, returning student, staff, or faculty member, this offer can help you save money.

Please visit our Technology Product Center for hands-on demonstrations, technical support, and continuous savings.



TECHNOLOGY PRODUCT CENTER

65 Rear Mount Auburn St. Cambridge, Ma.

Monday-Friday 9:00-5:00

Offer good only while supplies last.

START SMART

BAR/BRI First Year Review
Helps You Make the Grade
With Lectures and Outlines
For Civil Procedure,
Contracts, Real Property,
Torts and Criminal Law.
Contact Your Rep or

barbri
FIRST YEAR REVIEW

Pieper New York-Multistate Bar Review, Ltd.



*This Summer, the **PIEPER BAR REVIEW** will be conducting a tape course in the following **NEW** locations:*

CANARSIE, BROOKLYN

CENTRAL PARK WEST (at 64th Street)

STONYBROOK, SUFFOLK COUNTY

*Seating is limited. If you desire to sit at any of these locations, contact the **PIEPER** office at your earliest opportunity.*

*Other **PIEPER** Tape locations:*

**NEW YORK CITY-Downtown, NASSAU, WESTCHESTER,
ALBANY, BOSTON, BUFFALO, NEWARK,
PHILADELPHIA, SUFFOLK-HUNTINGTON,
WASHINGTON, D.C., SYRACUSE,
QUEENS, BRIDGEPORT**

PIEPER NEW YORK-MULTISTATE BAR REVIEW, LTD.

90 WILLIS AVENUE

**MINEOLA, NEW YORK 11501
(516) 747-4311**

Marshall Captures Swimming National Championships

By Patrick Miles
Staff Writer

Few people in law school are able to continue their undergraduate interests and activities while immersed in the law. Even fewer people are able to maintain their former level of excellence in outside activities. But for those who have left competitive sports, a musical instrument or a favorite activity behind, Dirk Marshall, 3L, is an inspiration, although the word embarrasses him. Marshall won the 100-yard butterfly event at the U.S. Swimming National Championships on March 22.

Marshall's victory was made even sweeter by defeating 1988 Olympic gold medalist Anthony Nesty. "I trained real well for the Olympic trials; I didn't train well this year, but I raced well. I still didn't feel as strong as last year, but I considered the race to be head to head with Nesty," Marshall said.

While Marshall said his performance initially "felt sloppy," the 47.53 seconds he recorded in the 100-yard butterfly turned out to be his personal best.

The National Championship meet was held at the University of North Carolina, Marshall's alma mater. In 1984 Marshall set the UNC school record in the 100-yard butterfly, and the record still stands.

While attending UNC, however,

Marshall never swam in the pool used in the recent meet. "The new pool [Koury Natatorium] opened my first year of law school. It was not like having a home school advantage, but there was the 'revenge factor' in doing well there," Marshall said, explaining the he did not get along well with his college coach. "I spoke to the coach after the race, and he did congratulate me," Marshall added.

At 26, Marshall is not ready to hang up the Speedos yet. "With a 47.5 in this condition, I'm considering going to the national this summer in L.A. I'll swim on a Wednesday, and then fly back to Portland, Oregon and take the bar. I'm concentrating more on the bar. The nationals [decision] is a little premature," Marshall stated.

Marshall credits the precision of his training, rather than the volume, for his good showing. "We (swimmers) usually overtrain anyway," Marshall noted.

Being a competitive swimmer and a 3L is not easy, yet Marshall finds the time to do both. "I've spent my whole life budgeting time; it is just something I've always done. The hardest thing about doing both is concentrating. Before last year I had a hard time thinking about the law. I was thinking about swimming. Generally, it is not a sacrifice; I've spent my whole life swimming."



Champion swimmer Dirk Marshall, 3L

"Before last year, I had a hard time thinking about law. I was thinking about swimming."



HLS Marathoners, from left to right: Laura Handley, 1L, Mike Tanghe, Brian Levy, 3L, John Whelan, 2L, Greg Herbert, 3L, Charles Danaher, 3L, Peter Eccles, 3L, Greg Scheutz, 3L, Dave Schwartz, 1L, Amy Hummel, Bill Sapp, 2L.

HLS Boston Marathoners Led By Larson, Danaher, Sapp

When the starter's cannon sounded at noon in the Boston suburb of Hopkinton on Monday, April 17, a number of HLS students took their places among those testing their endurance and willpower against the challenges of the Boston Marathon.

The Boston Marathon, with its winding, hilly course, is considered one of the most difficult races in the world, and the near 70 degree temperature that day added to the strain of the race.

Despite these obstacles, Nat Larson, 3L, ran an impressive race, placing 74th overall in a very competitive field of over 7,000 runners. Larson crossed the finish line in 2 hours and 33 minutes, only 24 minutes later than the race's winner, Abebe Mehonnen of Ethiopia.

Charlie Danaher, 3L, and Bill Sapp, 2L, were the next HLS finishers, cross-

ing the finish line in 3:19 and 3:20, respectively. Running her first marathon, Laura Handley, 1L, had an outstanding race, finishing in 3:25.



415 Seventh Avenue, Suite 62
New York, N.Y. 10001
(212) 594-5696 (516) 542-3090
(914) 664-0807 (201) 625-3363

160 Commonwealth Avenue
Boston, Mass. 02116
(617) 437-4171

Blast From The Past Law School Girls Charge Firms With Discrimination

The following article and headline were taken from the February 6, 1969 RECORD.

Judy Gilbert, a 2L who interviewed firms in New York, Los Angeles, and San Francisco, sees several causes for the reluctance of law firms to hire women. In her opinion, a lack of experience or bad experiences with women lawyers, fear that clients will not accept women (especially in business matters), expectations that a woman will marry, have children and then quit, and the traditional view that a woman is too emotional for legal work and "belongs in the home" are major causes.

As more and more women seek a legal education, the problem of women lawyers being unable to find as challenging and rewarding jobs as men becomes greater.

Miss Gilbert noted contradictions in the behavior of firms, however. For example, although one objection is that women are too emotional, firms that hire women generally give them work in criminal law, divorce, estates, and other areas which are more likely to touch upon human emotions. On the other hand, women generally aren't accepted in the more unemotional, business areas of practice.

Geography also has something to do with the problem. Miss Gilbert feels that San Francisco firms, with an old industrial and financial practice, are the least open to women lawyers. New York and Los Angeles with more growth and a greater need for good lawyers, regardless of sex, present better opportunities. With the draft, teaching, and clerkships syphoning off more men, and with law schools increasing their admission quotas of women, she feels that the situation is improving. Her advice to women: "ease in gradually and let them see you're competent."

Another 2L thinks that Boston is possibly the worst city with regard to discrimination against women. She feels that most interviewers are polite but not particularly interested. When asked in one interview if she planned to have a family, she answered, "Yes, eventually." The response was, "Well, we're interested in serious lawyers."

Washington is a city which one female 2L thinks is relatively free of dis-

crimination. However, her experience with other cities was not so fortunate. She said that one San Francisco firm when asked if it had any women associates replied, "Of course not." Another firm informed her that "We already took our one woman."

Grades, in her opinion, are a much less important factor since many firms do not take women seriously. She asserts that men with lower grades received offers from firms that did not even invite her back for further interviews. Her experience was that many firms regard hiring women as simply "adding to their furniture."

One person who has received a number of these complaints in writing is Miss Eleanor Appel, Placement Office Director. Miss Appel feels it is quite clear that women's salaries do not go up as fast as men's. However, in her opinion, firms are usually not reluctant to hire women. Rather, they tend to hire women with the expectation that they will not stay on; the difficulty then is advancement.

Students Should Set Standards For Law Firms

This opinion piece, written by Bruce Wasserstein '71 and Don Kozusko '70, originally appeared in the May 1, 1969, edition of the RECORD.

Up to this point, law firms have all too often dictated the going wages and conditions for young associates. Obviously the "going rate" is not metaphysical; yet graduating law students have little to say about what the terms of their employment should be.

The time is ripe for students to set up standards for the larger firms. For example, we could demand that one afternoon a week be donated to legal aid or other public work. If a student happens to join the self-funding, public interest, law firm program mentioned below, we could ask for some type of matching system. Regarding interviewing sessions itself, we could all decide

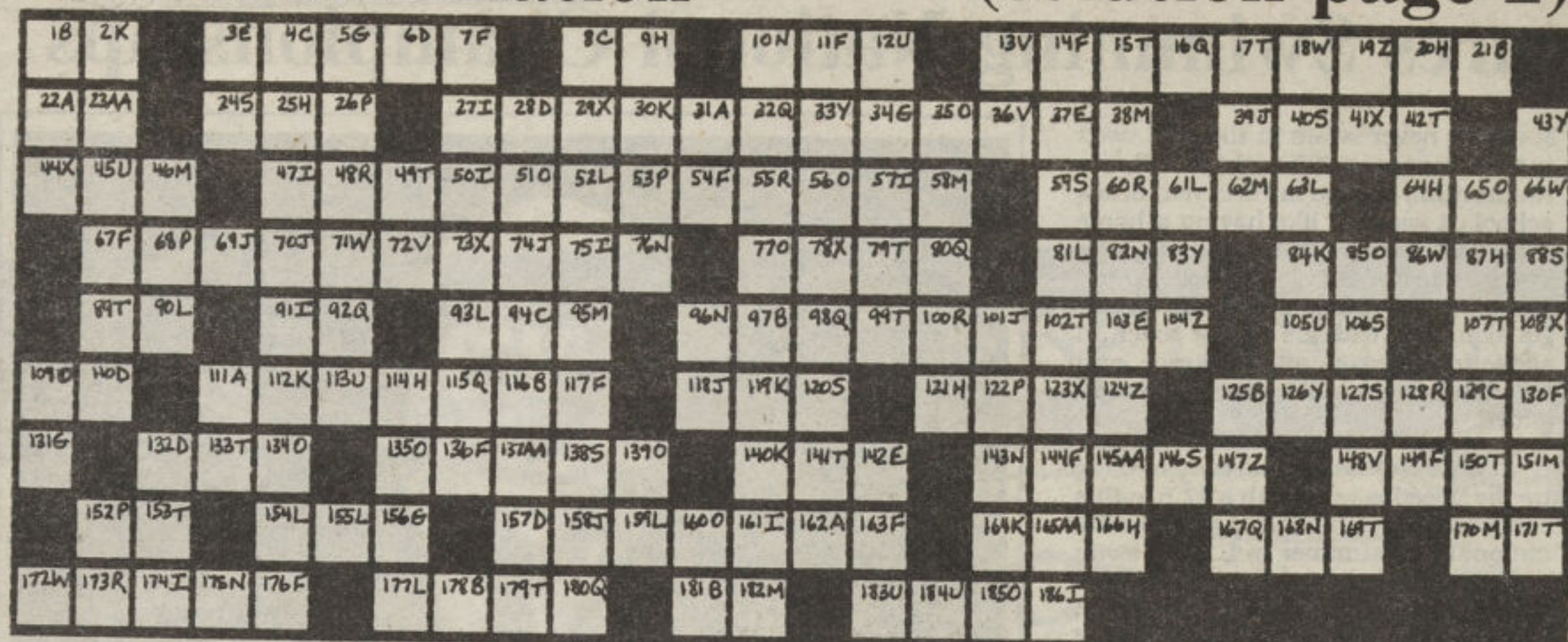
(continued on page 14)

Cross Examination

(solution page 2)

Blast From The Past

(continued from page 13)



Directions:

Using the definitions, fill the words into the WORDS column. Then transfer the words from the WORDS column into their corresponding places in the diagram. It is not necessary to know more than a few words to begin solving. Work back and forth from diagram to WORDS column until both are filled in. A black square in the diagram denotes the end of a word. Your completed diagram will yield a quotation; and the first letter of each word in the WORDS column, reading down, will spell out the author and the work from which the quote was taken.

DEFINITIONS:

- A. "A Fish Called Wanda" character 162 31 111 22
 B. "____ thou goest ____" 181 116 1 125 178 21 97
 C. DUI? 4 8 129 94
 D. One element of a bilateral contract 28 157 132 110 6
 E. Plunder; sack 103 142 37 3
 F. The pen, to the sword: 2 wds. 163 54 144 136 176 149 7 14 117
 G. ____ Brute 130 67 11
 H. One who walks like a certain Tim Conway character 5 156 131 34
 I. Due ____ (prudence) 9 25 114 64 121 20 87 166
 J. Marked by repetition 161 47 57 91 174 50 75 27 186
 K. Exhibitionist: hyph. 101 69 74 158 70 118 39
 L. Not governed by common law or equity 30 112 119 140 84 164 2
 M. A colorless, flammable gas 63 93 52 177 155 90 81 154 61 159
 N. Solvent derived from petroleum 182 170 151 58 62 95 38 46
 82 143 96 175 76 168 10

WORDS

- O. Seesaw: hyph. 135 56 160 77 109 51 35 65 185
 85 139 134
 P. Absolute; total 152 68 53 26 122
 Q. Being frugal 92 180 32 80 167 98 16 115
 R. Emptiness of space 55 60 100 128 173 48
 S. A big ____ the imagination (far-fetched): 2 wds. 138 120 88 146 24 59 40 127 106
 T. Joseph Hazelwood to the Exxon Valdez, once; 4 words 17 79 102 42 179 89 99 133 107
 150 141 169 153 171 15 49
 U. Expression of joy 183 113 105 45 184 12
 V. Majority ____ 148 72 36 13
 W. Blood of the ancient Greek gods 18 71 86 172 66
 X. Jewish candelabrum 73 123 29 44 108 41 78
 Y. "A big firm with a small firm atmosphere," maybe? 43 83 33 126
 Z. Fencing sword 124 19 104 147
 AA. Ceiling 145 137 165 23

CAMBRIDGE

CLASS

Cambridge's Harvard Square, the perfect setting for this fine luxury hotel.

The Charles - host to many of Boston's most illustrious visitors - is famous for genuine warmth, comfort and world-class service. All in all, a more gratifying option for discerning travelers on their visits to Boston.

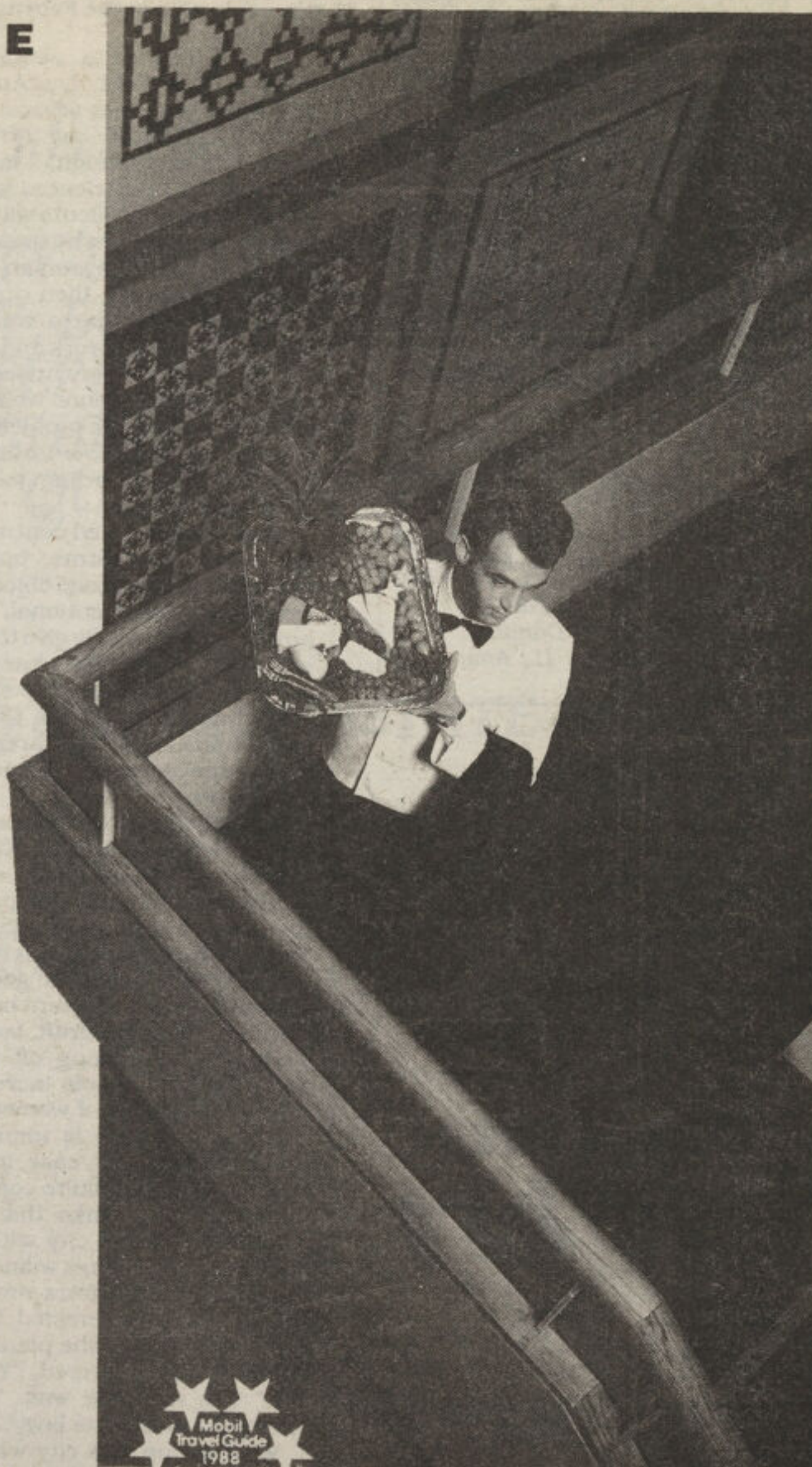
Now, That's Class!



THE
CHARLES
HOTEL

AT HARVARD SQUARE

One Bennett at Eliot Street, Cambridge,
Massachusetts 02138 617.864.1200



that if a firm engages in "unfair recruiting practices" we would boycott it. Furthermore, we could decide that no student will discuss his LSAT scores with an employer because these are inherently even more of an irrational standard than grades; or if pass-fail is approved, we could force employers to evaluate written work by refusing to discuss in detail college grades.

Obviously, the specific standards should be for the law student body as a whole to work out. But what is needed now is an agreement among students to follow standards set up and the establishment of a mechanism to propose specific ideas.

Moved by current proposals for a public-interest law firm, we have developed a funding system which may prove useful. Essentially we would fund the firm through contributions by law school graduates of a proportion of their earnings and provide positions on a rotational basis for these donors. Operationally the program would be a self-funding pro bonum publico sabbatical but it has the advantage of concentrating such service through the law firm institution. Thus the firm structure would develop expertise and continuity, enable a lawyer to do meaningful public service during sabbaticals, and mobilize abstract good intentions into a group effort more durable than "personal commitment" alone.

Students in their last year of law school would enter a "gentleman's agreement" (not legally binding) to pay a given percentage of their income to the non-profit foundation sponsoring the public-interest law firm. This obligation would be a continuing one; thus as the average income of the graduates increased, the absolute donation would increase. The agreement would be on the condition that a sufficient number of students also join the program, e.g. 100. These contributions are especially feasible after the recent salary increases by corporate law firms.

We should try to structure the foundation so that the donations are tax deductible. Many corporations now match an employee's contribution to his college; hopefully, law firms would be persuaded or pressured to give similar assistance. A flexible graduated system of contributions would be necessary to meet the problem of students with varying incomes and financial obligations. This is especially important because many students graduate with outstanding debts and/or enter the military service. We could borrow aspects of the Internal Revenue Code or devise a more appropriate system.

A board of prominent persons and practicing lawyers would provide guidance, which is particularly beneficial during the initial stages - incorporating, securing tax rulings, and developing the goals of the firm.

Current student interest as well as political realities demand a firm which would have a measurable impact in lobbying, law reform, and administrative hearings. We don't want to establish simply a glorified legal aid society. Once the cycle of the firm has been established, skilled lawyers would be employed for a sustained period at wages comparable to their earnings in private practice.

Initially the firm would be organized from the graduates of one year at one law school; later a better mix of schooling, experience, and age would develop as more schools and more classes join.

THE PASSWORD:

barbri



415 Seventh Avenue, Suite 62
New York, N.Y. 10001
(212) 594-3696 (516) 542-1030
(914) 684-0807 (201) 623-3363

160 Commonwealth Avenue
Boston, Mass. 02116
(617) 437-1171



REGISTRATION



Don't miss out on registering for an SMH Bar Review Course of your choice and saving up to \$175.

DATE Tuesday April 25th

TIME 10 am - 2 pm

PLACE SMH table in the Hark

*SMH staff and reps will be there
to answer your questions.*

Spring Discount Deadline is APRIL 28th, 1989



BAR REVIEW

in MA (800) 453-2266 outside MA (800) 343-9188 Boston (617) 742-3900

Survey Publicized Over Administration Opposition

(continued from front page)

The second most cited incident of insensitivity or bias is that based on race. The report indicates that 58 percent of black students who responded to the survey answered "yes" to the discrimination question; 54.5 percent of Hispanics responded affirmatively; and 42

Dean of Students Sarah Wald.

When asked whether the administration had heeded the recommendations, Smith and Reagor emphasized various overhaul efforts in the administrative area at HLS. In regard to academic and intolerance issues, however, although they felt the administration had

ported.

Dean Smith commended the School for various responsive programs, including a "Different Voices Meeting" last week. He emphasized that the student input from the unpublished survey had a "serious impact" on subsequent policy.

The committee's recommendations are supplemented by an addendum memo written by committee member Luke Cole, 3L. The memo urged that the commission had neglected to discuss a number of major issues: diversity of admissions and faculty hiring, moonlighting by professors, the emphasis of the placement office on corporate careers, curricular balance between public and private law were among those neglected.

The addendum declared, "the issues that the Committee is not discussing are not being dealt with adequately by the school...that is why they continually emerge as issues...Because no other body is coming up with viable solutions to these problems, it is imperative that we use the vehicle of our committee to do so."

The memo also urged that the results of the survey be made public. After waiting nearly two years for the Administration to do so, Cole put the results on reserve at Langdell library in December

of 1988, and then again in March of this year. The results were removed both times, and Cole was banned from the Dean's office.

Citing his motivation for wanting to make the results public, Cole said, "There were two major reasons to publicize the report. The first was to keep the pressure on the Dean to get on our recommendations. The second was to provide some institutional memory for students who are concerned with these issues in the future."

Cole also noted in an interview that the survey did not promise confidentiality to students, and that "outdated statistics" is not a valid reason for non-publication since only minor changes have been implemented since the taking of the survey, especially in the areas of student concerns embracing academic life and incidents of intolerance.

Singling out the intolerance or discrimination issues, Cole's report asserted, "Much of the intolerance and insensitivity we found in the 1987 surveys has its structural root in the lack of institutional commitment to diversity at HLS, especially among the faculty."

In addition to the thirteen committee recommendations, the memo outlines fourteen other suggestions derived in part from memos received by the committee during the as-

essment process.

The additional suggestions include: hiring a minority recruiter to ease the burden now being placed on student recruiters, instituting mandatory "consciousness-raising" sessions for faculty, and adopting an anti-harassment code like that at NYU Law School.

In an interview, Cole also explained what he thought were the two most important implications of the survey, saying, the reiterates what women and people of color at HLS have been telling the Administration for years: HS is a hostile place.

The survey also gives the lie to (Dean-designate) Bob Clark's assertions that there is dissatisfaction with the clinical program. Of the 18 academic factors we surveyed, clinical offerings had by far the highest ratings.

On a final note regarding publication of the survey results, Vice-Dean Smith expressed concerns about legal liability for libel should the results be published because some of the open-ended responses had been rather blatant, and also stated to the RECORD, "I hope you really understand the effects students have had. Often in the past, the Administration published [similarly derived] results and nothing happened. There's a difference here. Changes have been made."

"The intolerance and insensitivity has its root in the lack of institutional commitment to diversity at HLS."

percent of Asian Americans who responded to the question also did so affirmatively. The Committee questioned the accuracy of these statistics because of the small sample size.

The report's thirteen recommendations to the Dean to remedy the bias problem include: regular meetings between the Dean and the leaders of groups who regularly experience intolerance, systematic consciousness-raising efforts directed toward faculty and students, rapid and publicized school response to incidents of intolerance, the establishment of a peer counseling program, a rotating committee to serve students' concerns, and a standing faculty, student, and administrative committee on quality of life to be chaired by

taken initial steps to raise consciousness, most of the specific Committee suggestions have not been implemented.

The proposed standing committee has yet to meet, in part because Chair Sarah Wald has been on maternity leave. Dean Reagor concurred with the report's suggestion to bring the issues into the open, stating, "I felt we should do more to publicize, or at least highlight, the lack of acceptance of alternative types of behavior...I don't think we're doing enough of that." She also cautioned against using the word "discrimination," noting that the word carries legal implications, causes those accused to become more firmly entrenched in their bad behavior, and encourages sensationalist re-

Students, Faculty Praise Attempt To Bridge Communication Gap

(continued from front page)

experiences and emotions as a way to help students learn to think through a law's assumptions and consequences, and to advocate for more courses that relate to gender, race and sexual orientation.

"Part of the problem is that minority students already have a seed of doubt and self-consciousness that the traditional style of law school teaching makes worse," said Brant Lee, 3L, an organizer from AALSA. The AALSA dialogue addressed the problem of professors who repeatedly confuse Asian students with one another and who make jokes about Asian languages and cultures. One example cited was that of a contracts professor who asks whether a person who signs a waiver of liability "would have been bound if, say, it was written in Chinese?"

WLA representative and organizer Andrea Paterson, 3L, addressed the problem of referring to traditional roles of women in class discussions. One example was the situation of a professor who, in only addressing a father's right to peace of mind regarding a statute of limitation for child support, furthers the stereotype that the mother is automatically responsible for the child.

Noting a reason that many women and minorities feel intimidated to speak in the class-

room, Paterson explained that their opinions are often taken as representative of their entire status group. "You feel that you're always speaking for a group," she said.

"There is a huge invisible minority of gay, lesbian and bisexual students whose concerns are not raised because law school is a hostile environment to them," added Ratner. "We are asking professors to take a more active role. Professors make something important by [discussing] it," he said.

Ratner said he believes that the painful effects of homophobia and social scorn are heightened at the law school "partly because the legal profession demands conformity and partly because law school often has an atmosphere of a frat house." He said he wanted students to know more about issues of discrimination and security for gay individuals than their brief

exposure to sodomy laws in the first year of law school.

Tynia Richard, 2L, an organizer for BLSA, stressed the importance of talking about, rather than smoothing over, relevant issues of difference. "The assumption shouldn't be, 'slavery is painful to talk about, we shouldn't address it.' The legacy is still a reality for us, so to pretend in class that it's not worth discussing offends black students intellectually as well as emotionally," she said.

Martinez of La Alianza drew loud applause for her presentation, in which she detailed her personal experiences as a 1L with the hope that "it would be analogous to the experiences of other women and minorities." In the section of her presentation called "The Confession," she announced that she had never voluntarily spoken in class. Martinez explained her silence in part by the fact that

she "can't devote all my energy for just preparing for class, because I have to reach out to my community" in such areas as remedying the lack of Hispanic faculty members.

In part two, which she called "The Promise," Martinez made a vow to the faculty that she would do her part "to break down the barrier to participation in the classroom by doing my reading and showing up," but urged that they in turn had to make some changes. "They have to try in some small way to make the environment in the classroom better suited to a diversity of voices," she said, adding that she hopes next year's 1L [will] find her voice a lot earlier."

Like Martinez, the other students involved in the presentation expressed their frustration and anger about being silenced in a productive way. "We discussed over and over

how confrontational we should be," said Richard after the program.

"We could have gone in there and said, 'we think the way you teach law stinks,'" said Lee, "but they would have closed their minds to us. So we decided to speak in a way that they would be able to hear."

Faculty response was very positive. Dean James Vorenberg '51 wrote a letter urging the faculty to attend, and approximately 35 joined the forty or more students involved in the presentation. According to Prof. Charles Fried, the forum was "exceptionally convincing and well done. It had the lovely effect of having everyone who walked out of the room thinking, 'Gee, how could I disagree with that!'" After noting the contrast between this presentation and other more confrontational approaches at HLS, he added, "I think that the students who did that really ought to be given some kind of prize for wit and taste and intelligence."

"I thought it showed an impressive degree of thoughtfulness," stated Randall Kennedy. "I didn't necessarily agree with all the propositions stated but would like to discuss the issues. To the degree that it was consciousness-raising, certainly it will have an effect," he added.

Lewis Sargentich '70 described the presentation as very good and very provocative — "a terrific success" — he stated.

Steven Subrin, visiting professor from Northeastern Law School, agreed that it was "remarkably sophisticated." In contrast to Northeastern, which has institutionalized a dialogue on racism every three months between the faculty and students of color, Harvard's presentation was "slightly more formal," he said, but revealed "how hard it is to be a good teacher to all people."

Students Elect LSC Representatives

By Tom Bilello
News Editor

In an unusually heavy turnout, HLS students elected their 1989-90 class representatives. Polling was concluded Mon., April 24.

Brian Melendez, 2L, Law School Council President was able to set the number of ballots cast for the six at-large positions at 370, a number he characterized as "extraordinary" and "encouraging."

"Students are paying attention and starting to care about the work the Law School Council is doing," explained Melendez. He cited examples of increased student inter-

est such as the large turnout and the competition for the seats. The council has grown from 15 seats in the 1986-87 academic year to the 42 seats it currently contains. Yet even with the increase, spots remained competitive, with only three sections unopposed.

The representatives were chosen from a range of 30 candidates. Each section elected two representatives, along with six at-large members elected by the student body as a whole.

Second-year representatives will be: Section I, Elizabeth Buckley and Tom Samuelian; Section II, Mike Mellis and Anne Toker; Section III, Jeff Piell and Gloria Rivera; and Section IV, George Anhang and Joe

Stanganelli. The election of Rivera, who along with Piell ran unopposed, is pending council confirmation due to an improper filing.

Third-year representatives will also serve on the class committee. They will be: Section I, Kevin Davis and Ben Reder; Section II, Martin Mead and Tatia Williams; Section III, Pam Everhart and George Marek; and Section IV, Brian Melendez and Joe Patino. Both the section I and section IV representatives ran unopposed.

At-large members will be: Paul Baisler 2L-III, Dave Diamond 2L-III, Lisa Ferrell 2L-II, Jennifer Jordan Hall 1L-II, Simon Lee 1L-I, David Leinwand 1L-I, Barbara Pond 2L-IV, the top vote-getter, and Rhoda Weeks 1L-I.

Correction

In the April 21 issue of the RECORD, in the article, "Melendez Reelected," Brian Melendez, Law School Council President, was asked about the reason people did not run for LSC president. He was quoted as saying, "People didn't run because they didn't know about it." The quote should have read: "People didn't not run because people didn't know about it." The RECORD regrets the error.