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Students Rally For Interview Boycott Of Baker & McKenzie

By Felicia Ravago

More than 70 students rallied outside the Office of Career Services on Wed., Oct. 18, to protest the Placement Committee's decision not to ban Baker & McKenzie, the world's largest law firm, from interviewing on campus this fall.

The enthusiastic rally, however, failed to deter many students from interviewing with the firm; Baker representatives reported a full interviewing schedule for the day.

The controversy motivating the rally erupted last December when Harry O'Kane, then a senior partner at Baker, made racist remarks to a female black law student as part of a self-styled "stress test" during an interview at the University of Chicago Law School.

When asked to comment on last week's rally, O'Kane, who no longer works at Baker, told the RECORD that he preferred "not to get involved in the media anymore."

Citing the incident as only "the tip of the iceberg," officers from eight student organizations denounced the "egregious" racism still prevalent in the legal profession and called for a student boycott of Baker's on-campus interviews. They also decried the Placement Office's response — or "lack thereof," according to the officers — to last year's Law Student Council (LSC) vote to ban Baker from interviewing at Harvard.

"We're your students. We deserve more than just being public-related to, and I think that that is all we've gotten so far," said LSC President Brian Melendez, 3L.

Meanwhile, less than a mile away at the Charles Hotel, Daniel J. Burns, Baker's director of professional recruitment, and partner Robert Dilworth started a full day of interviews, which went straight through until 8:00 p.m. Burns told the RECORD, "We had



HLS Students protesting Baker & McKenzie interviewing on campus.

photo by Felicia Ravago

a good day at Harvard. For every student that was bumped off the list, another bumped on."

The Harvard Black Law Students Association (HBLSA) organized the protest to awaken faculty and students to what it called the blatant discrimination manifested by "the insidious zero phenomenon" in law firm records of minority hiring and promotion. Tynia Richard, 3L, president of HBLSA, said that the Placement Office is responsible for instituting clear guidelines for banning firms like Baker and monitoring their hiring practices. "Baker just happened to get caught. This is a problem that happens with many firms that needs to be addressed from a broad array of perspectives," she said.

Burns recognized the need to "correct the evils existing in the law profession" but found the proposal to ban firms "extremely ill-advised and counterproductive to the process of hiring minorities. It is very frus-

trating. How can they be offered employment if they don't come to be interviewed in first place?" Burns also added that he was very pleased with their "productive visit at Harvard," having seen many eager and impressive students, minorities among them, who "make up their own mind."

"HLS '89 shouldn't have a placement policy that is like HLS '49," declared James Bernard, 2L, at the rally. Bernard is HBLSA Community Relations co-chair. "Harvard's a lot more diverse now, and is sending different people out into the legal profession, which hasn't changed either. The Placement Office can't pretend that problems don't exist."

"HLS is not the images on the walls of our classrooms looking down on us. It is not the sons of Langdell, of Pound, of Austin. HLS '89 is the sons and daughters of Harriet Tubman. It is the family and friends struggling for a better life in Tiananmen Square, in L.A., at Stonewall. The New Day

(continued on back page)

ECPIP Withdraws Attempt To Put Member On Dean's Public Interest Committee

By Greg Dingsen

A controversial motion made by the Emergency Coalition for Public Interest Placement (ECPIP) before Tuesday's Law School Council meeting was withdrawn after an unusual and at times emotional debate. The controversy was a blemish on the record of coalition accomplishments, the newest of which includes a resolution unanimously passed at the annual convention of NAPIL, the National Association of Public Interest Law.

The motion, which would have replaced one of the three nominees for the newly created Public Interest Advisory Committee (the Committee) with another member from ECPIP, generated the beginnings of a spirited debate among the LSC before a member from the delegation speaking for ECPIP passed their nominee a note which read: "Withdraw motion B-4 [sic] more damage." The debate ended with the LSC voting to keep the original slate for the Advisory Committee, and adding ECPIP's nominee as an alternate.

Louisa Smith, 1L, the target of ECPIP's motion, gave an impassioned plea on her own behalf, going into a lengthy defense of her qualifications which she read from a prepared statement, and accusing ECPIP of threatening that "things would get ugly" if she insisted on not withdrawing her nomination for a spot on the committee.

Lori Wallach, 3L, speaking on behalf of ECPIP, responded to Smith by saying that the "facts are not accurate and paint a picture of the Coalition which is wrong," and categorically denied Smith's allegations.

Other members later went much further, including Andrea Brenneke, 1L, who characterized the allega-

tions as "blatantly untrue" and "offensive."

After limited debate, ECPIP cut short any further discussion by offering to withdraw the nomination of Jason Adkins, 2L, whom ECPIP proposed to replace Smith, to prevent the discussion from degenerating into a debate on "personal" issues.

After the LSC meeting, ECPIP members talked to the RECORD and again strongly denied some of Smith's allegations to which they had not responded. They emphatically denied any orchestrated effort or any personal efforts to intimidate her, and repeatedly asserted that the Coalition's only intention was to further the already significant accomplishments made on behalf of public interest.

Wallach emphasized the Coalition's support for the public interest committee, indicating that ECPIP withdrew the nomination when it was evident that "to press our points would only serve to hurt the cause of public interest at Harvard."

After the meeting, Smith expressed her pleasant "surprise" at the "level of support" for her position by LSC members.

She also stood firmly by her allegations, insisting that, although she "couldn't say it was an organized effort" to intimidate her, the "hours" of phone calls made to her on the issue extracted a "tremendous personal cost."

In explaining LSC's procedure, David Bucholz, 1L, and Lisa Ferrell, 3L, the two members of the LSC subcommittee which recommended the three candidates ultimately nominated by the executive committee, briefly outlined the qualifications they sought in choosing from the candidates. The subcommittee considered active interest in

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HLS Crew Team Claims Moral Victory At 'Head Of The Charles'

By Sean Brady
Special to the RECORD

More than three thousand rowers and a quarter million spectators flooded into Cambridge last weekend for the 25th annual "Head of the Charles Regatta," one of international rowing's premier competitions. For eight hours on Sunday, the Charles river hosted wave after wave of boats from across the country and the world.

Excitement ran high among both participants and fans, as each of the dozens of separate races brought forth its victors and its vanquished. Harvard Law School's own entry, Harvard Law Crew, appeared destined for a place in the former category after a brilliant start to their early morning race. Only seconds from the starting line of the staggered-start race, they quickly overtook the Cambridge Community Boat Club and began gaining ground on boats farther ahead.

However, they were soon edged out by the number one entry in the race, Tideway Scullers of England, and

began losing ground. A strong headwind, combined with simple exhaustion toward the end of the 19 minute race, seemed to assure that the race would be lost.

When the results were tallied, the Law School Crew had beaten two of their most formidable rivals, Cambridge Community Boating and the University of Baltimore, but they failed to place in the race's top five.

Nevertheless, according to team captain and spokesperson John "Blisters" Brinitzer, 3L, the crew considered their performance a victory. "Performance vis-a-vis other crews is at best a shallow measure of success or failure in this type of endeavor," Brinitzer claimed.

"To properly evaluate our effort, what you really have to look at is the long way we've come from the rag-tag group of couch potatoes we were in September to the lean and powerful machines we are today. When you take this into account and realize all the hurdles we faced getting here, you can only conclude that this year's Head was another stunning triumph for the Law School Crew. Our time

of 18:56 is something we can all be proud of."

Assistant Captain Phil "Ice" Berg, 2L, was quick to agree with this position, adding that one of the hurdles Brinitzer referred to was the early hour at which the team was forced by circumstances to practice. "There were weeks that we were getting up at 5:30 a.m. every day and heading down to the river to spend two hours practicing in the rain and cold. It was tough, although I have to add that our time in the Head made it all worthwhile."

"The race itself was the tough part," claimed Sean Brady, 1L. "At three miles, the Head is really the longest and most demanding course I've ever rowed. But, of course, it was also the highlight of the rowing season. Having a quarter million people cheering you from the banks is always quite a feeling. I guess that's the paradox of the Head: it's simultaneously more exhilarating than a Horwitz Torts class and more grueling than a Legal Methods assignment."

Law School Crew coxs "Killer" (continued on back page)



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Barry Vows To Fight On In D.C., And Says Jackson Will Not Run For Mayor In '90

By Julia Gordon

Although the title of his Oct. 30 speech at the Law School Forum was, "The 90s Challenge to Public Service," Mayor Marion Barry's responses to the myriad allegations of wrongdoing directed at him over the past several years became the focus of the evening.

After an introduction by Professor Charles Ogletree, the Mayor of Washington, D.C. opened by praising Harvard Law School's long tradition of producing lawyers involved in public service, such as Felix Frankfurter, Archibald Cox, and William Hastings.

He then discussed his roots in the South and his involvement in the civil rights movement of the early 60's. "I knew that a struggle was necessary," Barry said. "I could have had a comfortable life in academia, but I wanted to join in the effort to make America a better place."

The Mayor reminisced about his first bid for public office, running for the school board in 1971 wearing an Afro and a dashiki. He won, and in 1974 was elected to the city council. Then, in 1978, Barry became the first mayor of the District of Columbia under home rule.

Barry told the audience, "I was fortunate to be born at a time when Americans could join together for change. The civil rights movement served as a crucible to hone my leadership, negotiation, and strategy skills." But, he cautioned, much remains to be done. "Forty million Americans in poverty, ten percent of all babies born addicted to crack, a growing gap between the incomes of white and black families, continued discrimination against blacks, Hispanics, and women . . . we need lawyers to work on these pressing problems."

It was not until the end of his speech that the Mayor finally began to address the issues that most of the audience had come to hear: accu-

sations that Barry used drugs, that he associated with known drug dealers, that his administration is riddled with corruption, and that the city government is incompetent, especially with regard to crucial city functions such as ambulance service and road maintenance.

Said Barry, "No one's gonna break my spirit. When you're flat on your back, you can look up. When you look up, you can get up. When you get up, you can go up, and when you go up you can succeed." The press, he said, are "alligators and piranhas."

Barry's answers to questions about the allegations seemed pre-scripted. "I had no idea that Charles Lewis [an associate of Barry's recently convicted of drug offenses] was a druggie. But even if I did know, what does it matter? You can have friends who are gay or lesbian and not be gay yourself." When asked about the number of high officials in his administration who had been jailed, indicted, or forced to resign, the Mayor claimed that the Reagan Administration's record was worse.

Regarding the murder rate in the nation's capitol, which on the day of the speech had just equalled the total number of deaths (368) for the entire year of 1988, Barry said, "No mayor can solve this problem by himself . . . and the crisis is not unique to D.C. The community must get involved."

When asked his feelings on Jesse Jackson's recent move to Washington, D.C., which most have interpreted as an indication of Jackson's intention to run for mayor in the 1990's election, Barry asserted, "I'm glad Jesse moved to D.C. He doesn't want to be mayor, and the media has just tried to use this fact to drive a wedge between us."

Prior to the speech, Mayor Barry told the RECORD that he will run for a fourth term as Mayor -- a move which many see as irresponsible and insensitive to the image of the city -- and said that he was sure Jackson would not run for the office.

Harvard Watch Report Critical Of Clark's Public Interest Reorganization

By Julia Gordon

"Dean Robert Clark made a decision that needs to be exposed for what it is: inadequate and insubstantial," said Harvard Watch member Jaron Bourke of the administrative reorganization by Dean Robert Clark '72 that eliminated the public interest counseling positions formerly held by Ron Fox '63 and Dana Bullwinkel.

Bourke made this statement at an Oct. 24 press conference releasing a Harvard Watch report entitled, "Public Loss: An Examination of the Reorganization of Public Interest Law Career Services at Harvard Law School." Harvard Watch, a group headed by Ralph Nader '58, monitors Harvard University actions and decisions impacting on issues of interest to the public.

The report was endorsed by over 14 HLS student organizations, including La Alianza, whose co-chair Loretta Martinez, 3L, introduced Bourke at the press conference.

According to Bourke, who wrote the report, "Public Loss" aims "to provide a how-to action guide" for promoting public interest careers. Along with an 11-point plan of practical steps HLS could take to strengthen its public interest commitment, the report provides an analysis of the trends in legal careers, a comparison of public interest programs at HLS and other schools, and a critical look at Clark's recent reorganization of HLS's career counseling services.

In introducing "Public Loss," Nader wrote, "Harvard Law School's leadership position among law schools, the gatekeepers to the legal profession, imparts to it a duty to graduate the legal services lawyers, consumer advocates, civil and human rights defenders, and environmental protectors of the future . . . [If Dean Clark will] listen to the idealism of law students and support this idealism with a rare

display of law school administrative wisdom . . . [he] can transform a mistake into a historic opportunity."

Regarding "Public Loss" as a whole, Clark asserted that it "was not well done. It does not have the right information or perspective, and the author does not understand the problems facing administrators." He added that it is ironic that a group headed by Ralph Nader wrote the report, since Nader has inadvertently contributed to the difficulty in attracting law school graduates to public interest jobs. Last year, Nader played a key role in defeating a proposed pay raise for government employees, including judges and lawyers.

Director of Placement June Thompson also expressed concern about some information in the report. For example, a comment was attributed to Thompson about HLS alumnae who were happy with the dean's reorganization and felt that the school had been placing too much emphasis on public interest. Thompson argued that no such opinions were ever expressed to her; rather, she spoke to alumnae who supported Clark's administrative efforts overall, but none of these people thought the elimination of the positions was in and of itself "good."

Emergency Coalition for Public Interest Placement member Steve Donziger, 2L, expressed enthusiasm for the report. "As the first comprehensive study of Dean Clark's reorganization, the Harvard Watch report is a terrific resource for both administrators and students to enrich debate on these issues."

Added Donziger, "I suggest that Dean Clark see that copies of the report are printed and distributed to interested students, and that he then address a public forum. That would be a more productive way to move this whole process forward."

"Public Loss" provides a brief overview of the history of public interest support at HLS, (continued on page 4)

LSC Passes Both 'Fly-Out Week' And Abolition Of Letter Grading System Proposals; Sent For Faculty Consideration

By Kristen Swartz

A "fly-out" proposal passed by the Law School Council (LSC) on Oct. 17, would cancel a week of fall classes to accommodate students who wish to apply to distant cities for employment. A fly-out generally comes after the on-campus interview, when a law firm invites a student to its office for more exten-

sive interviews.

LSC passed another proposal on Oct. 31 that would reduce the number of grade categories to five (from nine).

The fly-out proposal, if approved by the administration, would also include a provision allowing first-year students a fall recess during the fly-out week.

According to Tom Samuelian, 2L, chair of LSC's Legal Education committee, the Fly-Out Week should eliminate the "disruption of education" which, he says, exhausts students and annoys professors who feel that the high-absenteeism lowers class comprehension and participation.

Unlike previous suggestions to cancel classes, the proposal does not curtail long week-ends or require that school start before Labor Day. The LSC has determined that with only a one- or two-day extension, "the instructional hours may be maintained at or above the current norm for the law school, thus raising no problem with accreditation."

ABA standards for accreditation require 90 weeks of total residency, including one week per semester for exams. Schools must also meet the 750 minutes of instruction per semester-credit standard. Both the current and proposed calendars meet these standards.

The fly-out proposal suggests starting classes for everyone one day after Labor Day. Both second- and third-year students would end the Monday after the first full week in December. The first-year students would make up their week by extending class time an extra week into December.

Two possible problems were noted with the new calendar. First, starting on Tuesday after Labor Day would mean losing a registration day for upperclass students. The proposal stated, however, that such a difficulty may be avoided due to the new registration system. The Friday registration, with Tuesday overflow, and possible registration by mail, could compensate for the lost day.

The second problem may be a lack of space during fall exams for second- and third-years, because first-years would still be in class. The proposal suggests scheduling exams in other buildings close to the law school, such as the

Science Center.

Employers surveyed were generally receptive to the plan. Their main concern, according to the proposal, was to make "some allowance for interviews at other times under extraordinary circumstances." Students would not be forced to schedule fly-outs during Fly-Out Week, but would be strongly encouraged to do so.

Many law schools, such as Yale, Duke, Stanford, Cornell, and the University of Pennsylvania, already use a Fly-Out Week, and they are generally well-received. In fact, Penn's cancellation of its fly-out days last year caused such an uproar by faculty and students that it was forced to reinstate them this year.

The LSC also passed a proposal to change the current grading system. According to the grading-system proposal, letter grades would be replaced by the categories Distinguished, Excellent, Good, Qualified, and Unsatisfactory.

The proposal stated that the new system will eliminate the "arbitrary" distinctions often made by professors as well as reduce the time they spend grading exams. This will give the faculty more time to spend with the students. Currently, professors spend approximately 70 hours grading exams, only 55-65 hours with students in the classroom and 26 hours for appointments.

According to Samuelian, because the vast majority of students would fall into the Good category (50 percent or more), they might feel less anxiety during exams. Approximately 10-15 percent of the grades would fall in the Excellent and Qualified categories, five percent in the Distinguished category, and less than one percent in the Unsatisfactory category. Samuelian said these categories are not rigid, and professors would not be required to adhere to the suggested proportions.

An amendment to the proposal urges professors to provide students with feedback on exams either through discussions or written comments.

The Committee feels that the five-category system "has both practical and intuitive appeal." Insignificant and inconsistent distinctions (one of the main objections of the current nine-category system) will be erased, as well as

the "stigma of the A, B, C, D, F categories as conventionally understood." At the same time, the new grading system will still distinguish the top of the class for the "traditional purposes of placement, entry into the professoriate, or admission to law review."

Samuelian said that in a casual survey of faculty, most professors seemed receptive, and none completely rejected the grading proposal. Samuelian added that Dean Robert Clark '72 "was favorably disposed to the program," but will study the final proposal before commenting.

Many major law schools have reduced-category grading systems. Most notably, Yale Law School has only three grading categories. Other national schools include Boalt, Penn, Columbia, Texas, Ohio State, Catholic U., and George Washington. Samuelian said that the feedback from these schools was positive; students felt no adverse affects on employment prospects.

The fly-out proposal will be forwarded to the Student Faculty Committee which will study the proposals and make recommendations. After committee consideration the grading system proposal will be held by the dean until a new committee is formed to deal with this issue. The proposals will be submitted to the dean and probably to the entire faculty for a vote. Samuelian said he hoped the proposals would be adopted as early as next year.

Fenno

A moment of space for Fenno. Because he would have wanted us to go on without him...

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Report Critical Of HLS

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beginning with the implementation of the clinical program in the 1970s by then-Dean Albert Sacks '48, through the establishment of the first loan forgiveness program in 1978 and the 1979 hiring of the first Alternative Careers Administrator.

According to the report, HLS's leadership role in this area has been noted by law school administrators across the country. Georgetown's Marcia Shannon told Bourke, "Harvard has always been used by the rest of us as a model." Shannon was "surprised" by Clark's move, and Bourke wrote that other administrators were dismayed as well. Hence, argued Bourke, HLS must recognize its responsibilities as a leader and trendsetter in the field because the slightest indication that HLS commitment to public interest is wavering sends a dangerous signal to other schools and the legal community as a whole.

However, in an interview with the RECORD, Thompson pointed out that no other law school placement advisors -- either those cited in the report or others -- had personally contacted her or the dean to express dissatisfaction with the elimination of the positions.

The report suggests that financial concerns impacted on Clark's decision. For example, public interest lawyers may donate less in the future to the school, and public interest employers are not required to pay the hefty recruiting fees imposed on law firms.

The report also provides statistics showing that only 3.1 percent of 1988 law graduates began practice in public interest law -- and at HLS, the percentage has been even lower. In addition, despite widespread initial interest in the field shown by entering students, many change their minds as they move toward graduation, according to the report.

"Public Loss" offers an examination of the effects of law school on student attitudes in this area. The report cites Robert Stover, who argued in his book *Making It and Breaking It: The Fate of Public Interest Commitment During Law School* that the law school experience

causes many students to alter their public interest career plans. "Students' values changed during their law school years, especially with regard to the attributes which were important to them in their first jobs as attorneys," wrote Stover. In a similar article Howard Erlanger found that "although students generally enter law school with the belief that tax law is dry and unexciting, our informal interviews indicate that they leave with the view that it is dry, boring, and *critically important*."

The report ultimately concludes that if law schools in general, and HLS in particular, believe that the largely unmet legal needs of the poor should be served, they must take significant affirmative steps to direct their graduates into public interest careers.

Responding to the call for a proactive support of public interest careers as part of the law school's overall mission, Clark said, "The law school's mission is not to be of service to society in any immediate and practical way. Rather, it is meant to be a center of learning, thought, and analysis, where people analyze and criticize and assess ideas. Furthermore, it would be wrong to assume that we know the solution to today's major social problems and devote all our resources to actions on the basis of those assumptions."

In the last chapter, "Public Loss" provides 11 specific recommendations, including: halting the "reorganization"; establishing a director of public interest programs; creating a fund for bringing public interest employers to campus; recruiting students with a strong public interest background; and including public interest course work in the first year curriculum.

Commenting on the recommendations, Prof. Charles Fried, who has spent considerable time in public service, most recently as Solicitor General of the United States, said, "Although the adversarial tone of the report is unfortunate, the recommendations are useful, and contain some good ideas." Fried told the RECORD he believes the ideal career path for an HLS graduate would include some years spent in public service, some in the private

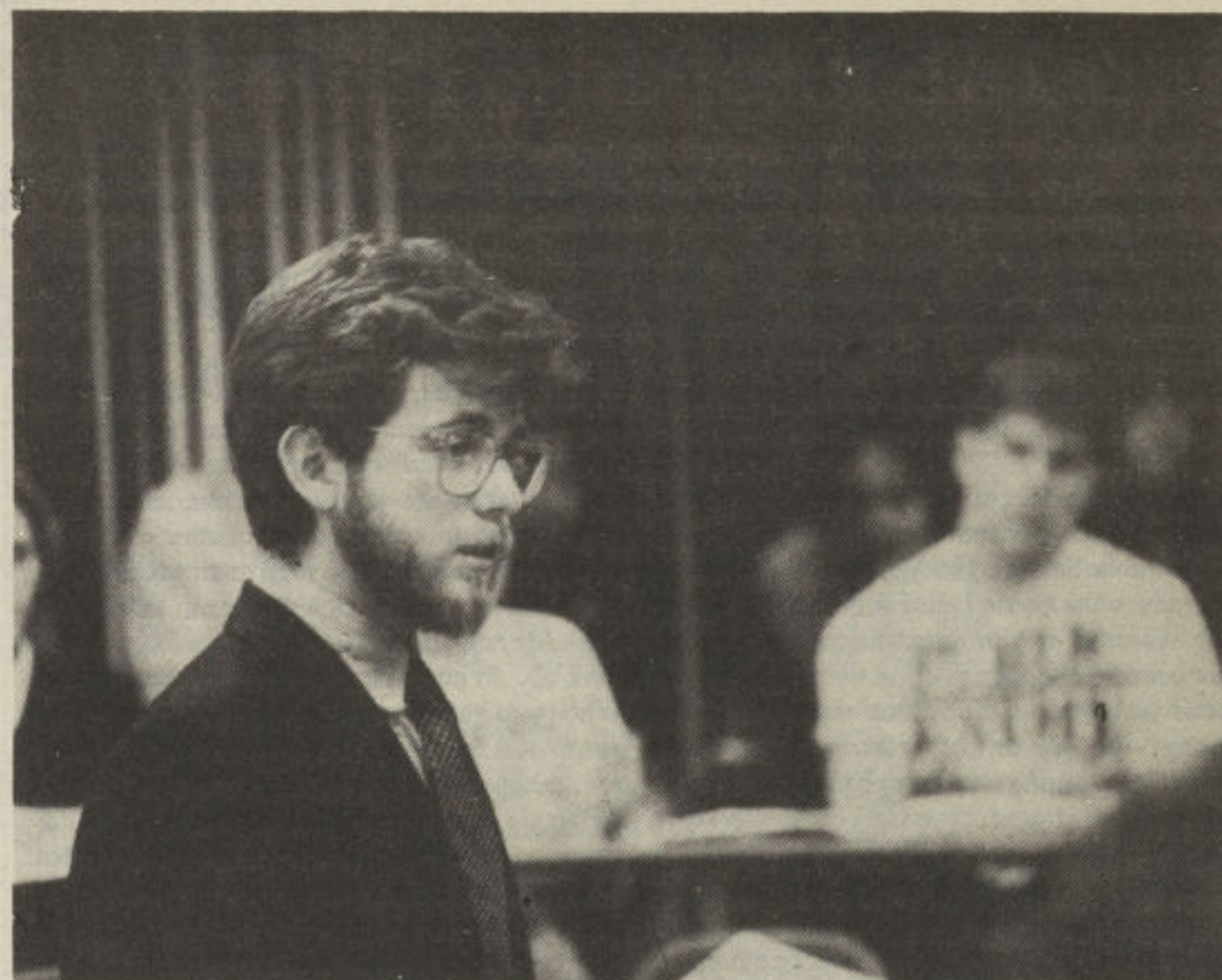


photo by Felicia Ravago

Jaron Bourke, the author of the Harvard Watch Report, addressing HLS students.

sector, and some working for non-profits. However, he was quick to add that the problem is "not just a matter of counseling." The biggest obstacle, he said, was choosing the first job out of law school when the salaries are so disproportionate between the public and private sector.

Bourke gives Clark and the HLS administration good marks for their efforts to shore up LIPP and for the institution of the Kaufmann fellowships. However, throughout the report, the distinction is drawn between the "hard" support for public interest provided by financial programs, and the equally necessary "soft" support of counseling, education, and networking links to the public interest community.

At the same time, several criticisms have been leveled at the 11 suggestions. Although he would not comment on specific recommendations, Clark said that some of the suggestions are based on overly simplistic analyses of

the situation, and he disagrees with its underlying assumptions of what is *really* in the public interest. In response to a question about the call for him to hold a public forum on this issue, Clark said he plans to hold a meeting, but later in the year when the current furor has died down, so that the focus will be on the overall issue rather than specific administrative actions.

Regarding the suggestions to improve public interest on-campus recruiting, Thompson said the ideas have been discussed before. For example, HLS has considered paying the expenses for public interest recruiters, and Thompson herself worked with Sacks to try to move the interview season to the spring. Apparently, no other law school would go along with the plan.

The report did not address the disparity in salaries between large corporate firms and public interest jobs.

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AILSA Symposium Highlights Native American Culture And Legal Issues

By Jacqueline Hayes

"The problem is that most people don't understand what the big deal is about Indian law. We are trying to educate them," said Heather Kendall, 2L, President of the National American Indian Law Students Association (AILSA) and co-President of its Harvard Chapter.

A symposium held on Oct. 27 and 28 by the Harvard Chapter of the AILSA sought to do just that.

Dean Robert Clark '72 hailed this symposium as "one of the most important events at the Law School this year." Seven Indian law scholars and litigators presented papers addressing federal and state policies toward tribal governments, recent Supreme Court decisions on land claims, Indian education and economic subsistence, and recognition of Indian sovereignty.

To understand the issues, Kendall stated, people must appreciate the essence of being Native American. "While gatherings like the symposium are important to the legal and academic dialogue, we want to plan future events that would address the moral and spiritual aspects of law the way Indians view it, just as the Jewish people and many others believe the law is spiritual. That is where any definition of Indian law must begin."

Ray Halbritter, 3L, told the audience, "This symposium was symbolic of what you have to do. It was something that the institution would support because it was in language they could recognize and understand. Next we must address the moral issues."

"Constitutional law," he explained, "in its applications to the Indian peoples is of utmost importance. What other people can have their land taken away and not claim any due process protection under the Constitution? The document itself was largely drawn from the Iroquois Confederation which had provided for the separate powers of government. In this country there are three locations of sov-

eignty, not just two -- federal, states, and tribal. This school has not taught this. People do not know where it all started." Halbritter is co-President of the Harvard AILSA and Representative of the Oneida Indian Nation, which is actively litigating land issues.

Halbritter also criticized legal education for leading students to believe that every litigation issue can be addressed in terms of compensation. For Native Americans, "compensation is meaningless. We are talking about cultural survival. As a people, we will live or die in the next few generations. We must preserve our lands, our religion, our values. The Indian peoples draw strength from having these things; things we are unwilling to be compensated for."

Kendall emphasized that U.S. courts have become increasingly indifferent to "the preservation of [Indian] land rights, including the recovery of land unlawfully taken from them, and the protection of their sovereignty," while threatening to cease recognizing these claims at all.

When asked if this nonrecognition reflected a general hardening to the plights of minorities by the courts and the government, Halbritter objected. He agreed that Indians share with other minorities the problems of inadequate education, poverty, drug abuse, and unemployment, and he also recognized the necessity of cooperation for the advancement of all minorities. But, Halbritter asserted, unlike other minorities whose ancestors came to this country against their will and/or who have been excluded from many of the opportunities of which this nation boasts, Native Americans do not aspire to protection under laws against discrimination. "The purpose of these laws is assimilation. We are not interested in that," he said. "We want only self-determination, to remain distinct."

The manifest tension between conceptualizing Native American rights as questions of United States law or as entitlements under some higher law reflects the dual nature of

Indian litigation strategies. Many litigators in the Indian community have striven for years to make courts recognize Indian rights, committing themselves to the uncertainties of the American political climate. Others have rejected this route, claiming that their natural sovereignty places them outside of the jurisdictions of U.S. courts. After many bitter disappointments, they have resorted to principle rather than practicality.

Recently some litigators have tried, with limited success, to supercede federal authority by uniting with representatives of other indigenous peoples world-wide. They have appealed to the United Nations and the principles of international law in hopes of a permanent recognition of sovereignty.

But underneath all of the rigid legal rhetoric there still abides the fundamental sentiment shared by all Indigenous Peoples. This sentiment spirit marked the close of the symposium on Saturday. In the eloquent words of Faithkeeper Oren Lyons of the Onondaga Nation: "The oldest nations of the world are demanding recognition. The law is helpful, if it's helpful; but my experience has been pretty much the other way... We need law, moral law; what is right, not what nine men think. That is not law. That is not right... The world is waking up and coming to the Indians to remember the knowledge of the land. Well, we can't remember because you beat it out of us."

The American Indian Bar Association co-sponsored the Symposium, which was funded by the Charles E. Culpeper Foundation.

**Next
RECORD:
November 17th**

Socratic Method: Professor And Student Perspective

By Kristen Swartz

"I think the Socratic method is fun. It's sad when it's characterized as a form of torture or student abuse," Prof. Arthur Miller, '58, said when asked his views on the Socratic method of teaching. One wonders, however, just who it is that is having this "fun" in the classroom.

"When you scare people as much as he did," Ellen Robbins, 2L, said of visiting Prof. Ian MacNeil, who taught her contracts class last year, "it's not productive. We weren't learning." Many feel that the time has come put the Socratic method and its scare tactics to rest.

"There is a point," wrote Prof. Duncan Kennedy, while a student at Yale Law School, "at which no amount of intellectual interest will overcome your fear and revulsion at the spectacle of the professor smiling quietly to himself as he prepares to lay your guts out on the floor yet once again, paternally." While visiting HLS, Ralph Nader '58 once called the Socratic method a "monument to professors' intellectual arrogance."

Members of the faculty also feel disenchantment with Socratic interrogation. Many professors have modified their approach to teaching by combining the Socratic method

(continued on page 9)

First Amendment Attorney Speaks Out Against Flag Burning Amendment And Obscenity Legislation

By Gretchen Von Helms

Floyd Abrams, a veteran first amendment attorney, urged HLS students and faculty to speak out and work against the new federal statute that criminalizes flag burning, while addressing a HLS audience on Oct. 17.

"The very reason the flag is our symbol is the reason we ought to allow conduct that might be considered outrageous in respect to it," Abrams said.

Asserting that the flag is a symbol of the freedom of thought and expression that is the bedrock of American democracy, Abrams said Americans cannot stifle speech or other types of expression merely because it offends them.

"The [Supreme] Court has said again and again that that is the sort of country we are, period. We have a price to pay for it," he said.

Abrams, a partner at the New York law firm of Cahill, Gordon, & Reindel, was invited to speak by the Harvard Civil Liberties Union (CLU). CLU President Warren Asher said that Abrams has argued more free speech cases before the Supreme Court than any of his professional colleagues.

Abrams spoke to a crowd of about 100 on two different forms of censorship -- the statute against flag burning and Congress' unsuccessful attempt to control art exhibits that receive federal funds. The latter issue arose recently when Sen. Jesse Helms, R-N.C., offended by an exhibit of sexually graphic photographs at the Corcoran Museum in Washington, proposed a law that would have refused funding from the National Endowment of the Arts to any gallery displaying art deemed "obscene."

"That failed because citizens around the country rose up against it," Abrams said of the

Helms proposal, adding that artists and art lovers have petitioned Congress to defeat the bill. "The artists were not lovable. Many in Congress found them absolutely obnoxious. But the fact that they cared enough to make a scene, the fact that they stood up and showed that they really cared, are the things that made Congress refuse to pass the bill."

Citizens should react the same way to the flag burning statute and the proposed amendment, Abrams said. [The proposed constitutional amendment against flag burning recently was defeated by Congress.] Neither the statute nor the proposed amendment explicitly overrides the first amendment, which the Supreme Court has ruled protects flag burning, he explained.

"The Administration doesn't want to make it clear what it is doing to the bill of rights. It's unwilling to say that it is limiting the first amendment," he said.

"It's not that they don't know how to draft the statute. It's that they are not being serious about it. Republicans in Congress thought that this would be another great substantive issue. Democrats in Congress were determined not to go through another flag thing. The last thing the Democrats wanted was another issue about who salutes first."

"We ought to tell Congress, 'We've got serious problems in this country -- cut this out,'" he said.

On Oct. 30, four men burned a flag on the steps of the U.S. Capitol in protest of the new statute. All four were arrested and charged with violating the statute they sought to protest. One of the men arrested was Gregory Lee Johnson, the "original" flag burner in Texas.

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The Great Society At Twenty-Five: A Bush Agenda?

As George Bush's job ratings begin to melt in October's Indian Summer, he is again coming under fire for lacking a sense of vision and the willingness to set a Presidential agenda. Personally, I'd be satisfied if Bush would just hang around and not propose any new programs for another seven years. But accepting that perhaps a President should have an agenda, here is my humble suggestion to Mr. Bush: launch an all-out assault on the "Great Society."



Brad Smith
Columnist

This year marks the twenty-fifth anniversary of the Great Society, which Lyndon Johnson claimed would abolish poverty or be dismantled. Anyone think poverty is abolished?

In the years before the Great Society was launched, the United States were making significant progress in eliminating poverty and in bringing black incomes up to the level of whites. In 1940, black men earned, on average, \$4956 annually (1987 dollars), white men \$11,441. The gap narrowed rapidly in the 1940s as the war broke down many

Brad Smith, 3L, serves as a senior policy analyst for the Mackinac Center, a libertarian, Michigan think-tank.

discriminatory barriers, both legal and psychological. Progress slowed, but continued, in the 1950s, picked up again in the 1960s on the strength of newly won civil rights, but slowed in the seventies even as Great Society affirmative action and spending programs took effect. Nevertheless, progress continued through 1982, at which time black men earned 68.9% as much, on average, as white men. Then progress stopped. By 1986, black men were earning only 68.2% as much as white men.

Nineteen eighty-two, of course, marks the first year in which Reagan's programs had full effect, and thus many will be quick to blame Reagan for the lack of progress since. But this explanation is tought to square with the facts. For one thing, although Reagan talked a good game and actually did cut a handful of specific Great Society programs, overall "social" spending increased faster than inflation during the Reagan years. Affirmative action programs were not touched at all, not even the federal government programs, which Reagan could have eliminated by signing his name to an executive order, with no congressional or judicial assistance. Moreover, before the Great Society, blacks had always closed the wage gap on whites during periods of economic growth. Thus, even if Reagan had gutted the Great Society, blacks should have gained ground during the boom years 1983-86. They did not.

It is also difficult to place the blame on an

increase in non-legal, or private discrimination. Despite the fact that some demagogic black leaders have said goofy things along the line of "Reaganomics means it's season on blacks in America", in fact personal race relations have improved during the eighties. Recent surveys show that more whites than ever before have black friends, visit with blacks in their homes, work in integrated businesses and attend integrated churches, and report that their children attend integrated schools and play with black children. Blacks report the same results regarding whites.

So what accounts for the sudden halt in black economic progress vis a vis whites? In addition to being the first full year of "Reaganomics", 1982 was also the first year in which not all blacks in the work force had been born before the Great Society was launched. Writes Charles Murray, in his pathbreaking work, *Losing Ground*, "social policy after the mid-1960's demanded an extraordinary range of transfers from the most capable poor to the least capable, from the most law-abiding to the least law-abiding, and from the most responsible to the least responsible."

Could it be that raising a generation in this moral climate has had something to do with the halt of black progress? Well, consider—since 1982, blacks above age 35, that is, those at least eighteen years old when the Great Society was inaugurated, have actually continued to

gain ground on their white counterparts. The decline in black incomes, relative to whites, has come entirely among those who had not entered the work force prior to the Great Society; i.e. those whose values were shaped, at least in part, by the warped sociology of the Great Society.

Nobody really defends the Great Society anymore, at least not as anything more than a noble cause. As syndicated columnist William Murchison has said, "The Great Society helped make Americans unhappier, less self-reliant, less moral, less connected to things permanent—even, in many cases, less prosperous". Yet, by tossing around charges of "racism" and "lack of compassion" whenever someone suggests real reform, the beleaguered social engineers and government sycophants of the left have managed to preserve their dated policies through the Reagan years.

It seems ironic that at a time when the failure of the planned economy is obvious throughout the Communist world, the total failure of America's greatest attempt at central planning has remained more or less immune from attack.

So George, old buddy, here's an agenda that can cut the budget deficit, promote economic growth, help the poor, and promote black progress all at once: do what Reagan failed to do, and rid us once and for all of the late, Great Society.

ECPIP Members Give Their View Of LSC Meeting

To the Editors:

We have just left a Law School Council meeting that we know will be reported in the RECORD. We are writing this letter in the hope that it will add to people's understanding of what went on in that meeting. We are two 1-Ls and Emergency Coalition Members.

We were involved in the Coalition meetings at which the issue of the student members for the Public Interest Committee was discussed. We agreed that there were both substantive and procedural reasons why the Coalition should advocate for a different slate of student representatives than that recommended by the LSC.

However, at the LSC meeting, the tone of debate became destructive to the Coalition's purpose, namely the promotion of effective public interest counseling at HLS. The Coalition delegation at the meeting decided that despite legitimate concerns, in the name of unity and of forwarding public interest at HLS, the Coalition would withdraw its objection to the LSC slate.

Unfortunately, in moving to end the discord, the Coalition also lost its opportunity to respond to a number of statements made about it and its members that were at best exaggerated and at worst fabricated. We left the meeting very concerned that the law school community would actually think that some of those statements and the picture they drew of the Coalition were accurate.

We are not writing to refute each false barb to the Coalition. Rather, we ask that the law school community recognize that the Coalition left much unsaid in its defense and in expressing its initial concerns. To the extent that the community recognizes that much was left unsaid, then it is best left unsaid.

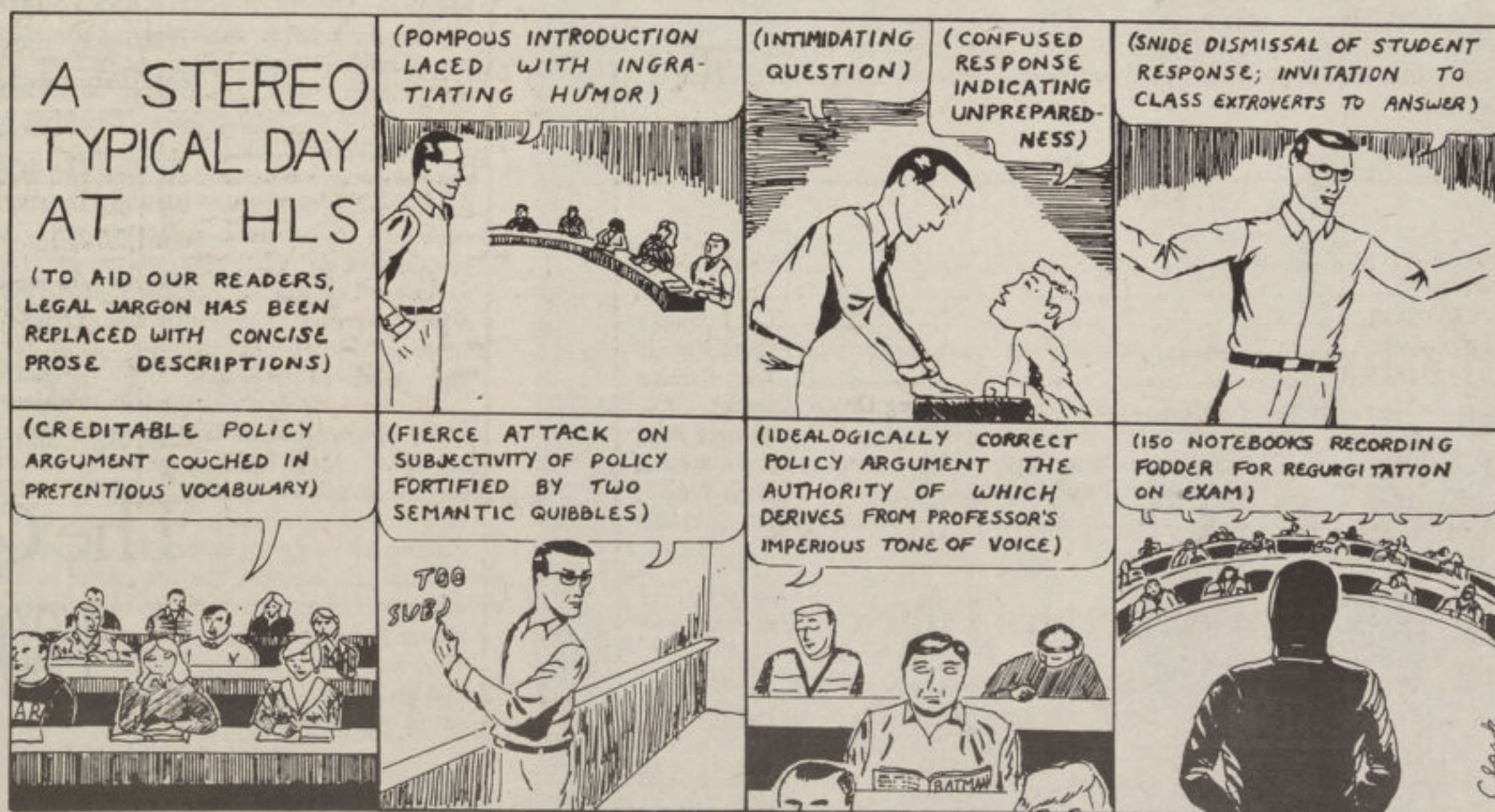
We have a long way to go to get effective public interest career counseling at HLS. As this weekend's Crimson interview with Dean Clark shows, HLS students need to stick together to accomplish this goal. So now, we ask the law school community to join us in taking a forward-looking focus and hands-on approach to promoting public interest law at HLS.

Sincerely,
Laura Hankins, 1L
Jason Litt, 1L

Break Downs — By KA



Agenda Neutral — By Clark



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Public Interest Work For The Poor Important To HLS

I am a first-year student who was surprised to arrive at Harvard and find that a reorganization by Dean Clark had eliminated the position of public interest career counselor. Reasonable people may disagree about whether or not this move represented a weakening of the law school's commitment to public interest;

Marilyn Sager Columnist

my concern is that Dean Clark is showing signs that he no longer wishes to participate in a reasonable debate on the issues.

Last Saturday I picked up the Harvard Crimson to find a front-page interview with Dean Clark. In it he accused students who have protested his decision of "assuming they know the best way to solve the problem" and of going "off like gangbusters."

The Dean's comments are offensive to those of us who have given careful thought to the role of public interest career counseling at

Marilynn Sager is a 1L who spent three years working for a New York City nonprofit consulting organization.

this law school. Hundreds of students have devoted hours of hard work to communicating our concerns about his "reorganization" to the dean, faculty, alumni and our fellow students.

Students have never suggested to the Dean that there is one way to solve the problem. To the contrary, students from the Emergency Coalition for Public Interest Placement have talked about a myriad of alternatives, including changes in financial aid, curriculum, and admissions practices, as well as adopting a mandatory pro-bono clinical program. They have also praised the Dean's efforts to garner money for public interest fellowships.

We have to remember that it was the Dean who eliminated the public interest placement positions in early August without consulting students, faculty, or alumni. Yet the Dean insists it is students who claim an omniscient monopoly on solutions.

By far the Dean's most appalling statement concerned the role of Harvard's clinical programs. According to the Crimson, "Clark reiterated his stance that the school's clinical program ... should make sure it is not skirting its educational mission by providing too many litigation services to the poor."

Our Dean then added, "It's clearly the case that a lot of populations don't have legal

services and have severe needs, but I always have to wonder what's the best way to solve that -- with an indiscriminate supply of legal services or with another approach?"

Imagine -- the Dean of Harvard Law School has said that he wants to be sure our clinical programs do not provide *too many litigation services to the poor*. Yet according to the American Bar Association, we live in a country where 93 percent of the legal needs of the poor go unmet.

I came to Harvard Law School because Ron Fox convinced me that contrary to its corporate stereotype, the HLS community did have a demonstrated commitment to public interest law. It is disappointing to see Dean Clark not only dismiss Ron Fox, but show such a shocking insensitivity to the legal needs of the poor. His statements are not consistent with the image of Harvard Law School that was presented to me and many of my first-year classmates before we chose to come here.

I am worried that Dean Clark is trying to remake Harvard Law School into an ivory tower institution with a minimal connection to the outside world. Clark says clinical programs might "skirt" the school's educational mission by providing too many services to the poor. Isn't learning how to provide real legal services part of the mission of this law school?

Harvard holds itself out as the nation's premier law school. As such, it has an ethical obligation to assess the legal needs of all sectors of society and find ways to produce graduates who will meet those needs. Certainly underrepresentation of the poor is a problem that falls within Harvard's educational mandate.

Clark may be correct that an "indiscriminate supply of legal services" will not meet all the needs of this nation's poor, just as a steady flow of aid did not end famine in Africa. But does Clark suggest we stop sending Peace Corps volunteers to Third World nations just because we can never do enough to solve all the problems? Would he have us overlook our obligation to represent a battered woman or welfare recipient because we are too busy philosophizing about the law?

If Dean Clark has come up with another approach to solve the problems of disenfranchised Americans, we'd all love to hear it. But in the meantime, he should refrain from commenting that clinical programs can ever do too much for the poor. Nor should he deny us counseling to seek jobs that will enable us to make our own contributions to alleviating inequity and injustice.

Socratic Method Of Teaching: Torture Or Professor's Panacea?

(Continued From page 5)

with ordinary discussion and lecture. Andrea Kramer, 3L, said she thought that this "mixture of methods" was the best way to teach a class. "There is not one best method," Kramer said, "professors should tailor their teaching to the student and the subject matter."

Associate Dean Daniel Meltzer, '75, and Profs. Todd Rakoff, '75, and Miller, agreed that not all topics lend themselves to the Socratic method. Rakoff, whose teaching one third year student characterized as the "best use of the Socratic method [at HLS]," said that he uses "different methods on different days."

The Socratic method, employed in the law classroom, has purposes beyond teaching substantive law. It is supposed to teach students "how to think on their feet." In the words of Emeritus Prof. Clark Byse, "it should assist students to develop the capacities to become an effective legal professional." Byse, who has been teaching for fifty years, employs a traditional Socratic style.

"Creating a mystery," according to Miller, "is not the name of the game." Instead, Socratic dialogue is designed to develop the necessary skills of a lawyer, which include "verbal organization and articulation." Miller said that he loves "the sense of discovery that you feel from first year students." He loves to watch "a brilliant student go through layer by layer of analysis. People begin to see how other people think, and [they] develop their own tools of analysis."

Another important aspect of Socratic teaching, Rakoff commented, is the "immersion element." He feels that if he talks like a lawyer in class, the students will eventually learn to do the same.

Byse explained that the Socratic method is necessary because of the inherent indeterminacy of the law. "Professors don't hide things unnecessarily," Rakoff agreed, "they often don't have the answers or feel that their answers are no more legitimate than several other answers."

But why, if the Socratic dialogue is making

law students become better lawyers, do they find it so distasteful? Some of the common complaints are that the professors "hide things unnecessarily" and that students are "intimidated" by the relentless questioning.

"Students frequently use the term 'fear' -- fear of being embarrassed before one's peers, fear of being discovered in the ultimate sin at Harvard Law School; not being smart enough," is how the Sept. 1978 *National Law Journal* described students' perception of the Socratic method. Miller said that he "understands that no one likes to feel embarrassed with peers"; therefore he "urged students to think of the process as a collaboration of 140 [students] trying to support each other." Furthermore, he said, the "sense of humiliation ... is a short-term hurt, and the long-term value may be the greater value."

Another reason for dissatisfaction with the Socratic method, according to Meltzer, is that "students come to law school with the thought that law is a set of rules" and find it "unsettling" when no one tells them what these "rules" are.

Unfortunately, teachers seldom bother to explain to students the purpose of this unnerving methodology. Because Socratic instruction is no longer the norm, students are unaccustomed to it and do not understand it. Rakoff suggested that it might enable the students to enter into the process if "professors were explicit about their modes of thinking." In fact, he said, this is one of the new items on the agenda for the 1L Experimental Section II (taught this semester by Profs. Rakoff, Minnow, and Horwitz). Once a week, students are given a lecture about a particular aspect of

legal reasoning.

Miller agreed with Rakoff, "One of the mistakes that's made is that we do not explain our pedagogical method -- that there might be a method to our madness."

The changing faces of the students has also contributed to the current unpopularity of the Paper-Chase style of instruction. Law students are bolder and expect to be treated as equals. Professor Andrew Kaufman, '54, who said that he still uses the Socratic method in some of his classes, had to come to terms with these changing attitudes in the late 60s and early 70s in his Commercial Transactions class: "I used to teach it in a mixed Socratic and lecture style, and the Socratic portion grew less effective over the years as students resisted it more. So I went to a mixed lecture and beg-students-for-questions style."

Many attribute students' dislike of the Socratic classroom to the fact that it forces them to prepare for class. In a 1976 Report to the President, Roger Cramton, former dean of Cornell Law School, claimed that students consider it an "invasion of [their] privacy to expect them to be prepared and to call on them in class ... [and felt that it] was an impairment of their personal and intellectual freedom."

"Is it right to feel like I can call on students and ask them to respond?" Rakoff asked, "Yeah ... I think it's fair. Should students feel like they should come to class prepared? Yeah."

History credits Dean Christopher Columbus Langdell for introducing the Socratic method of instruction to Harvard Law School when he became dean in 1870. He also initiated the case method of instruction and wrote the first

(continued on back page)

Conservatives, Not Liberals, Encourage Open Debate

To the Editor:

While I wholeheartedly endorse the concept of more and open debate at Harvard Law School, the RECORD's editorial of September 29 targets the wrong end of the ideological spectrum. It is not the Right which has silenced debate either on the national scene or at this school.

I simply cannot believe that any student who has attended classes at this school can argue with a straight face that the right-wing students silence debate in class, that is if he or she can find a right-wing student. It was the Harvard Law School Republicans who challenged the

the very cause of Dean Clark's insensitivity in restructuring the public interest office without first consulting the students.

Finally, it has been the Republicans rather than the Democrats who proposed the new ideas which have provoked discussion in the last decade. It was Ronald Reagan who argued that strength rather than concessions would end the arms race. It was the Democratic Party which mocked him when he proposed the zero-zero option. It was Ronald Reagan who argued that inflation and unemployment might both be reduced to manageable levels, while the Democrats argued that 20% inflation was endemic in the modern world. It is Jack Kemp that argues today that the incredible waiting period for evictions from public housing (caused by the Left) are the reasons that people fear for their lives in their very homes and the public housing projects deteriorate no matter how much money is spent. It was the Republican White House that proposed catastrophic health care. What new programs have the Democrats initiated? What new ideas have they proposed?

As for the RECORD's examples of the Right stifling debate, the RECORD simply has not been listening. Burning the flag is not just "dead wrong," it offends the majority of Americans; it hurts the morale of the military and it lowers the self worth of the country. Capital gains tax cuts are not just good for America, they will produce increased investment. Certainly President Bush must have convinced someone with his investment figures to have won so overwhelmingly in the Democrat-controlled House.

The RECORD has the right tune, but they are just singing the wrong words. Harvard Law School and our nation need open debate and new ideas, but it is not the Right that closes its ears or eyes.

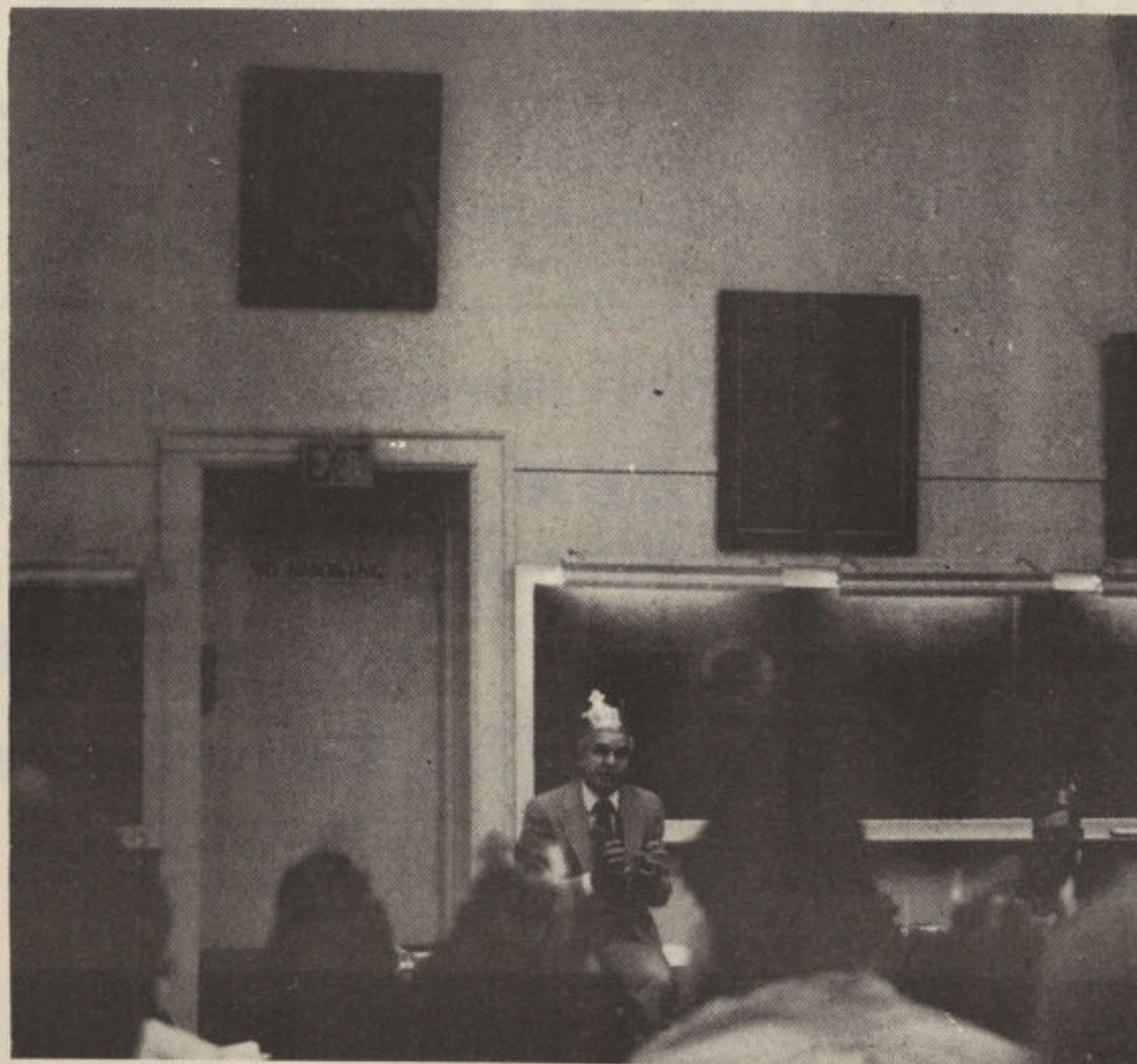
Greg Cook, 2L

Letters To The Editor

Democrats to a debate on the Presidential race, and it was the Democrats who cancelled because they couldn't find anyone to argue their positions. The Federalist Society brought more speakers to this campus last year than even the Harvard Law School Forum. Furthermore, the Federalists almost always provide both sides of the debate (i.e. Richard Epstein and Frank Michelman). It is the Federalists who have distributed a substantive and balanced discussion of the Critical Legal Studies movement.

When has the Left engaged in this debate at Harvard Law School? It certainly can't be during the campaign against the "fairness" amendment last year, which engendered cries of racism.

It certainly can't be when the RECORD prints cartoons of Dean Clark as a Nazi. This unthinking and close-minded attitude may be



Professor Arthur Miller '58 using the Socratic Method of teaching his first year civil procedure class about the "Burger King Case."

photo by Felicia Ravago

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Judge Kozinski Explains And Decries The Art Of Contract Breaking

By Todd Townsley
Special To The RECORD

Billed as "the nation's youngest Federal Court of Appeals appointee, the only judge ever to appear on *The Dating Game*, and the only federal judge ever to have been an official member of the Communist Party" Judge Alex Kozinski of the 9th Circuit Court of Appeals gave a talk at the law school, hosted by the Federalist Society. Judge Kozinski gave the audience insights from his years of experience on the bench.

At the Oct. 16 speech entitled, "Things Judges Say," Judge Kozinski explained how judges signal their intentions by using common judicial phrases such as "plain meaning," "literal construction," and "a case of first impression." The Judge observed that a court's use of the phrase "plain meaning" in a contracts case means that the plaintiff will lose. When the words "literal construction" are used, it means the judge is about to give the language at issue a new meaning. When a judge says something is "a case of first impression," it usually means he intends to ig-

nore precedent to the extent necessary to reach a desired result.

In criticizing the current state of contract law, Judge Kozinski noted that judges too often found ambiguity in unambiguous language and let individuals escape from their contractual obligations. Kozinski disputed the notion that words cannot convey precise meaning. His experience indicates that true misunderstandings of intention rarely occur, but that one party simply finds a contract inconvenient. Kozinski points out that even though language can be determinate and specific, "judges are incredibly adept at snatching ambiguity from the jaws of clarity." In those few cases of legitimate disagreement as to interpretation, context usually makes all but one meaning irrelevant. The Judge urged that courts take an objective approach when interpreting contracts rather than "hunting for the subjective views or secret desires of the drafter," which is far less susceptible to determination.

Judge Kozinski enlivened his discussion with an unforgettable rendition of "50 Ways to Break a Contract" ("just call it a tort, Mort") (with apologies to Paul Simon) a tune he first heard when the ghost of Judge Traynor

visited his chambers. The Judge ended his talk by emphasizing the importance of freedom of contract. He stated that contract law gives individuals the right to order their own affairs, and that when courts abrogate contracts they take away this fundamental aspect of individual freedom.

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'The Marriage Of Bette And Boo' A Reflective Play

By Carol Umhoefer

"The Marriage of Bette and Boo" produced by Jill Richburg, 2L, directed by David Levy, 2L, and written by Christopher Durang. Performed Oct. 19-21, 1989 by the HLS Drama Society.

"The Marriage of Bette and Boo" is a tale of the American Dream gone sour, of a Nightmare in Suburbia. This is what "Leave it to Beaver" would look like if it were set in the anti-matter universe -- we would see a world peopled by brow-beating alcoholic fathers, unfulfilled nagging mothers, neurotic sisters, people wholly incapable of communicating. The play opens at Bette and Boo's wedding, and proceeds through honeymoon, holidays, and hospitals before concluding with Bette's death.

Law Reviews

The lead character is Bette, played by Whitney Fox-Norton, 2L. Early on, Bette appears to us as an arrested adolescent, mildly annoying and barely interesting. Bette is also a helpless sentimentalist. She likens her (unborn) children to "Kanga and Roo and Eeyore too" and calls her only living child "Skippy" (played by Michael Cohen, 2L) after a character in her favorite movie. Luckily Fox-Norton resisted the temptation of going for the facile "I dunno, I'm an airhead" laughs, and gave her character a bittersweet, compassionate reading. The audience saw the strengths and weaknesses of a woman confronted by broken dreams.

Bette's husband Boo, played by Martin Mead, 3L, is a less intriguing character. That Durang does not develop Boo in the way that he does Bette is perhaps a commentary on the stifling effects of alcoholism on the human psyche.

As Boo's mother, Jennifer Walker Elrod, 1L, played a particularly pathetic Soot Hudlocke, so called because, in the words of her husband Karl (played by Mark Sacks, 2L), "She's the dumbest white woman that ever lived." Despite the many laughs they prompted from the audience, this emotionally traumatized wife and her sexist, racist, abusive husband were often the most chilling characters in the play.

Bette's family, played by Sherry Clark, 3L, Tim Schroer, 2L, Cynthia Monaco, 2L, and Liz Turner, 3L, served as a vehicle to further explore familial relationships, especially those between mother and daughters. Bette's inability to produce live babies was in sharp contrast to sister Joan's problematic fertility and sister Emily's neurotic chastity.

On the humorous end of the spectrum was Cameron Jones', 1L, entertaining, occasionally outrageous performance as Father Donnelly. In one scene Father Donnelly is holding a marriage retreat; he gives an impersonation of bacon frying to illustrate the rule that men bring home the bacon, and their wives cook it.

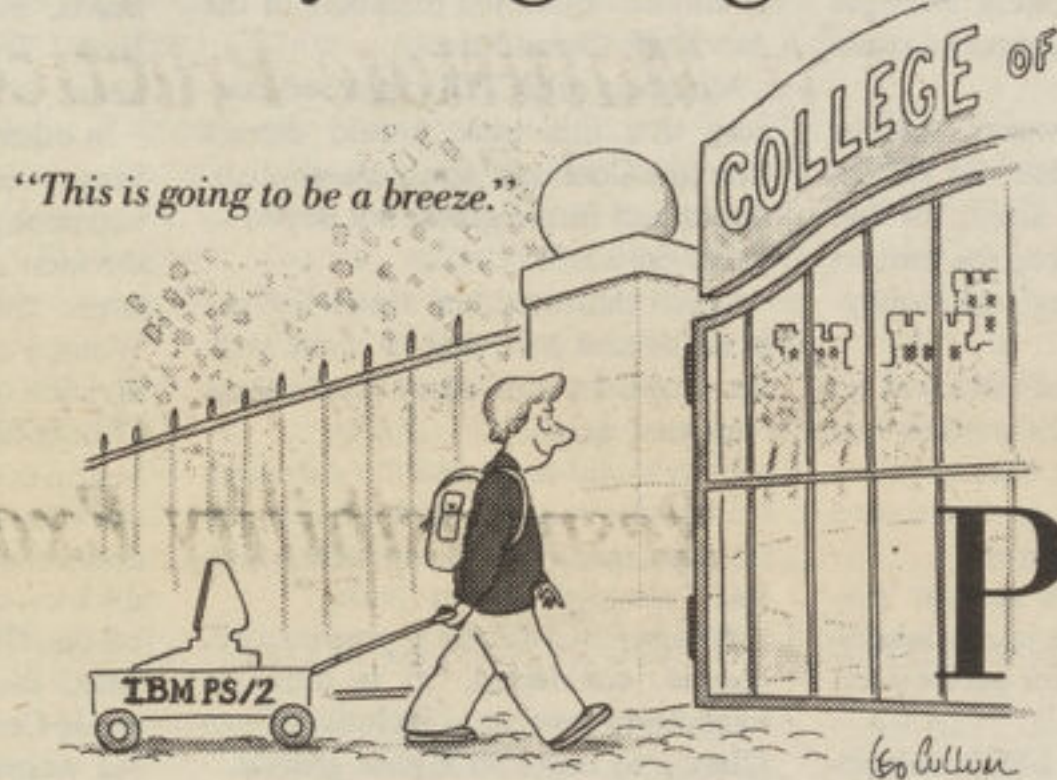
Bette and Boo's son, Skippy, led the audience through this morass of flashbacks of morose characters. As narrator, he gave a limited sense of cohesiveness to the play while unconsciously revealing the scars his parents' destructive antics had inflicted upon him.

The last scene, though predictable, was particularly compelling. A dying Bette and barely lucid Boo reminisce about the good old days, conveniently forgetting all the horrific aspects of their lives together. A Thanksgiving episode involving Boo's attempt to vacuum spilled gravy from the carpet, although painful at the time, becomes in retrospect a comforting illusion of family togetherness.

"The Marriage of Bette and Boo" provided a fine demonstration of how remembrances of things past are often more a product of personal myth-making than reality.

The HLS Drama Society will present the musical revue, "It's a Long Long Way to Certiorari" Nov. 2-4, 1989, in Ropes-Gray.

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Students Protest Against Law Firms That Discriminate

(continued from front page)
must be reflected in our placement policy."

At this point, the crowd became more enthusiastic and began to chant, "New Day! New Day!"

Ian Haney Lopez, 2L and member of La Alianza, stressed that it is not just "Burn, Baker, burn!" Even in firms well known for their diversity, there is still a lack of understanding regarding minorities. "That is why this rally is so important. This happens with everybody. If we remain indifferent, all firms will think it is not a problem."

"When something like this happens to one person, this is an insult and it happens to everybody. The struggle [against discrimination] doesn't end in law school. It continues in our professional lives," Pam Silberstein, 2L, of the Women's Law Association stated.

"Students who are of color, of disability, gay and lesbian, women, have to present ourselves even more care-

fully. It is an unfair burden on us to have to do what we can to fit a mold which we can't fit anyway. The questions they ask and assumptions they make about us are very intrusive," said Carrie Costello, 3L, Co-Chair of the Committee on Gay and Lesbian Legal Issues.

April Ferguson, 1L, of the American Indian Law Students Association, also spoke out against the more subtle but nonetheless pervasive racism cloaked in stereotypes. "Many times, well-meaning interviewers ask you thoughtless questions," she said. "If you are Native American, Black or Hispanic, it is assumed you made it into a good school through an affirmative action program, and therefore your academic capability is questionable. We are not exceptions. There are thousands of capable minorities. Firms must be given a clear message that they will be called to task for inappropriate interviewing tactics."

Joseph Fernandez, 2L, president of

the Asian American Law Students Association, suggested that when interviewers raise racially offensive questions, they are implying, "'I don't think you look like a lawyer.'" In the admissions game, HLS picked you because you will one day be good lawyers. The Placement Office should follow through on that prediction [by taking a firmer stand]."

Cassandra Butts, 2L, HBSA external vice president, called for swift, substantial sanctions against errant firms as well as less labyrinthine grievance procedures for the students. She complained that "June Thompson and the others at the Placement Office are too close to the firms so they can't look objectively." In a telephone interview with the RECORD, Thompson refuted this as "Absolutely untrue. It is the job of this Office to offer services to employers as well as to the students. When you are in the middle position such as we are, you take the heat from both sides. There are griev-

ance procedures and the students have been coming in [to file complaints]. As for the changes that they have proposed, we have referred them to the Placement Committee, since they are the ones who set up policy."

Prof. Chris Edley '78 offered his support, inviting students who do not have faculty confidants to come to him when problems arise in the future. "It is crucial for students who experience discrimination or insensitive behavior by interviewers to do their best to publicize the incident" in order to "rebut the growing myth that racism and discrimination are things of the past." He said, "It is often difficult to challenge acts of discrimination when you feel there is no support system for you. But there are faculty members who care and are deeply concerned with students' welfare. Both sides have to try hard to reach across the gulf of faculty and students and work hard together."

HLS Crew Rows In World's Largest Regatta

(continued from front page)

Keeney also had her own favorite obstacle. "The thing which is so unique about the Head is how very long and winding the race course is. Oftentimes, crews competing in the Head spend all their energy before the first turn, the technique then falls apart, and the crew goes wild. I was really impressed with this crew's ability to remain calm and relaxed throughout the race. In that sense, the race was a true victory."

Bow seat rower Greg "Bulldog" Shapiro agreed wholeheartedly with Keeney's claim. "The Head is a psychologically formidable race, and I was worried that we might lose our calm sense of control which prevailed in practices. But we never lost our heads, even when we were in the Head. There was really nothing wild about it."

In other races on Sunday, the University of Pennsylvania edged out two strong British challengers to claim the men's championship eights' title, while the Boston Rowing Club's Women's team captured the women's division of the same race. Radcliffe College lightweight varsity crew placed first in the women's youth eights, and the Charles River Rowing Association's men's boat captured the men's division title. Irishman Tom Elwood of the Galway Rowing Club dominated the club singles competition, while Canadian K. Steber took home the women's club singles title.

ECPIP Withdraws Nominee To Avoid 'Damage'

(continued from front page)
and dedication to the future of public interest at HLS, an ability to work with the other chosen committee members, an ability to work with faculty, administration, alumni, and "most of all, students."

James Bernard, 2L, took the floor as spokesperson for ECPIP and stated that the Coalition's purpose for the motion was to "focus on the qualifications" of the two disputed candidates, and that, although ECPIP was "respectful of the process of selection," this issue was important enough to bring before the full Council.

Smith, in her defense, painted herself as representing the "moderate" segment of the student body which, she alleged, ECPIP tended to exclude. She added that it was "unfortunate" that she was the only non-ECPIP member to submit an application.

Mara Rudman, 3L, echoed Smith's

feeling of "uncomfortableness" with the methods of ECPIP's selection process. Rudman, who chose not to apply for the Committee, questioned ECPIP's "challenge to the decision made by LSC, the only democratically elected body on campus."

In later responses, a number of ECPIP members defended their actions, maintaining that, because of all their efforts and accomplishments in this area, there was "an understanding" between LSC and ECPIP that the latter would submit the slate of candidates, and that toward that end a democratic process was instituted to select those nominees.

Ferrell disputed the existence of any "understanding," claiming that the applications were open to any student and that there should be "ethical concerns" if, in fact, any student organization were to give, or alternatively, claim exclusive control over such a selection process.

Bucholz, the other member of the subcommittee, also refuted any allegation of an "understanding" and adding there was "never a promise for a rubber stamp," instead suggesting that it was most likely a simple misconstruction of comments he made early in the process.

Bucholz added, however, that he thought it "inappropriate" for ECPIP members to "harass" Smith for "an entire week, only to drop the motion and pretend everything was hunky-dory."

ECPIP maintains that there was no harassment and that the motion was withdrawn because it became clear that pursuing it no longer furthered the cause of public interest.

Wallach added, "We are not 'pretending' anything -- it is crucial that we now unite to work for public interest."

George Marek, 3L, LSC's Admin-

istrative Vice-President, said the result was a "reasonable solution to the problem" but that ECPIP's motion was "problematic" because it was a "direct challenge to LSC's authority to choose" qualified members of the Advisory Committee.

Members of ECPIP expressed concern that this issue would detract from the Coalition's past accomplishments and future goals, but hoped to move forward.

Smith indicated her desire to "put it all behind her" and to work with the members with whom she "shares common goals."

Marek said he hoped the Advisory Committee would work constructively together, and forget the incident which had "clouded greater issues."

Finally, ECPIP, in a prepared response, concluded, "It is time for everybody involved - including Dean Clark - to move to higher ground."

Socratic Method Stimulates Class Discussion

(continued from page 9)
casebook. It is not clear in the history books, however, whether Langdell actually introduced the Socratic method or if it was simply a consequence of his more formal approach to teaching.

Socrates, of course, originated the Socratic method. As the story goes, a priestess told Socrates that he was the wisest of them all. Unable to believe this, Socrates proceeded to question the "politicians, poets, playwrights, and artisans of Athens in order to discover whether he was in fact wise and wisest of all."

What does it mean to be "Socratic?" The Socratic method as understood by Socrates was the "process of questioning people reputed to have knowledge for the purpose of discovering whether they are in fact wise."

Some use the term Socratic method interchangeably with the term case method; however, most professors agree that the two are not identical. Rakoff described the traditional view of the Socratic method as the "dialogue between one student and a teacher where the teacher relentlessly questions the same student." Other characteristics are that the teacher never expresses an opinion and that "every utterance of the professor is in the form of a question."

Could the Socratic method be replaced? Some students feel that law

should be taught through the class lecture and voluntary discussion. Other students and professors, however, think that the lecture alone would never suffice. "It would be a great loss to go to all lecturing," Rakoff said.

Robbins complained that one of her second-year classes taught by lecture was boring because no one talked. Others complained that the lecture method is "numbing" and "create[s] a danger that student efforts... will go unmonitored."

As Meltzer and Byse said, quoting the familiar words of Robert Hutchins, former president of University of Chicago: "A lecture is the process by which the notes of the teacher get into the notes of student without affecting the minds of either."

The Socratic method, on the other hand, purportedly fosters student development. As Byse said at a Colloquium on Preparing for Law Teaching in 1980, "The focus must always be on what the student thinks, how the student thinks -- not on what the faculty thinks."

As Kaufman and others noted, however, "there are many different ways to structure a class so that one hears other voices and ideas beside those of the professor: one might ask specific people directly, or ask questions seeking volunteers, or simply lecture and encourage people to ask questions."

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