



Harvard Law Record

Volume 90, No. 4

America's Oldest Law School Newspaper

March 16, 1990

Clark: HLS Should Further Public Interest



Dean Clark '72, addressing students of Public Interest Forum

By Jim Houpt

Dean Robert Clark's '72 long-awaited public interest forum last week probably failed to win any new converts on either side in Harvard Law School's internal war over public interest.

Students seized the opportunity to serve the dean with a "white paper" proposing public interest improvements at the law school. The dean used the forum to announce a new public interest fellowship, but avoided any commitments to change his funding and curriculum strategies.

For the most part, the dean remained cool and the more than 150 spectators were restrained. The closest approach to an emotional boiling-point came when one student promised not to pay his tuition until Harvard Law School changes. "I think you have a bad attitude," Clark answered. "We think you have a bad attitude," another student shouted to Clark.

"Pretend you're in my shoes," said Clark as he opened the March 7 forum. For more than

a half-hour, the dean lectured his standing-room-only audience on the challenges of budgeting a law school. While he conceded that the law school should serve the public interest rather than just serve to maximize profits for students and faculty, Clark insisted that the primary mission must be the "production and distribution of knowledge."

"I do think this school should further the public interest," said Clark, "the question is, what's the best way to do that." Clark shared his thoughts during the two-hour meeting, then continued the discussion with individual students for more than an hour afterwards.

Dean Clark's presentation failed to satisfy his most outspoken critics. During a question-and-answer period, students called the dean's approach to public interest "shockingly hypocritical" and called the meeting a "guilt-alleviating forum."

Prof. Christopher Edley '78, who spoke after Clark, chided the Dean for an "atomistically-defined grindstone" definition

of the law school as a place for teaching and research. Nevertheless, the tone of Edley's comments were conciliatory.

The reaction was more pessimistic from one member of the Emergency Coalition for Public Interest Placement (ECPPI), which co-sponsored the white paper with the Law School Council. "I think students left this meeting frustrated and worried," explained Lori Wallach, 3L. She believed students would have felt more optimistic if the dean had made a commitment to improve public interest. She described the dean's reaction as "disquieting" and "upsetting."

The dean had a cool reaction to the public interest white paper, passed by an eighteen-to-four vote at a protracted law school council meeting just two days before the public interest forum. "The general vision presented in the white paper," he said, "is problematic or sort of unconvincing."

Clark quickly focused on the recommendation in the report that the Low Income Protection

Program (LIPP) receive greater funding and be endowed. The dean said LIPP is the fastest growing area of his budget and receives significant funding from tuition dollars. LIPP is a loan forgiveness program for graduates who enter low-paying public interest jobs.

The white paper's recommendations are meant to "lead more graduates to take public interest and public service jobs." Dean Clark told students the

reason so many students avoid public interest is that the jobs "don't pay as much — it's really that simple."

But some, including Edley, suggested the dean's reaction to the report was not as negative as it might have seemed. Edley chairs a faculty-student committee working on public interest recommendations.

"I believe Dean Clark thought a lot of the white paper proposals,"

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Survey That Ranks HLS 5th Is 'Wacko', Clark Says

By John Thornton

Dean Robert Clark '72 lambasted the recent US News and World Report survey which ranked HLS fifth among the nation's law schools as a "Mickey Mouse" survey with "wacko" results.

The survey ranks Yale first, followed by Chicago, Stanford, and Columbia. It rates the top 25 law schools according to six

criteria — academics' opinions, reputation among judges and lawyers, selectivity, placement success, graduation rate, and instructional resources.

HLS ranked first in reputation among lawyers and judges, second in selectivity, third in academic reputation, tenth in instructional resources, 18th in placement success, and 24th in graduation rate.

HLS ranked first overall in the magazine's last survey, conducted in 1988.

Clark, who refused to cooperate fully with the magazine when it sought data, said he was unimpressed with the results of the survey.

"The whole thing is highly dubious," he said in an interview. "It's incomplete. It uses criteria that don't necessarily get to the real measures of quality, and a lot of the data is clearly screwed up. Some of the particular results were just plain wacko."

For example, Clark argued that flawed data led to HLS being ranked 18th on the issue of "placement success". According to the US News survey, the placement ranking is derived from four factors: the percentage of the class of 1989 employed at graduation, the percentage employed three months after graduation, the number of employers' recruiters on campus last year com-

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LSC Sends Pro Bono Issue To Students For Vote

By Jim Houpt

The Law School Council (LSC) last week endorsed the public interest "white paper", but decided to submit the issue of a public service requirement to a school-wide referendum during the next election in April.

The LSC voted eighteen to four to approve the white paper

— including the recommendation that Harvard students be required to fulfill a minimum number of hours of pro bono work during their second and third years of law school.

The LSC also passed an amendment that recommends the school compensate the pro bono work with two academic credits without increasing the total number of credits required for a Juris Doctor degree. Some supporters of those proposals failed in attempts to make several other changes in the white paper.

Formally titled, "A Program in the Public Interest for Harvard Law School," the white paper was a joint project of the Law School Council and the Emergency Coalition for Public Interest Placement. If imple-

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New Civil Rights Group Will Host Teach-In

By Morris Ratner
Special to the RECORD

Several HLS students are organizing a "teach-in" in early April as part of a nationwide class strike in order to encourage law schools to increase diversity in the faculty and student body, supporters announced this week.

A new student group called the Coalition for Civil Rights will host a "teach-in" on April 5 between 1 pm and 3 pm. According to CCR Steering Committee member, Tynia Richard, 3L, members of the faculty and student speakers will discuss the importance of "normalizing" the faculty, the student body, and the curriculum.

"We aren't asking the law school to give us something unusual," Richard said. "We just want HLS to be normalized — to look like and to reflect the society in which it is situated. We want the composition of the law school to reflect the make-up of this country's population."

During the teach-in, professors and students will speak about the relationship between a faculty and student body which excludes members of certain groups, and the failure of professors and students to critically examine many of the racist, homophobic, and sexist assumptions underlying much of the law, said CCR member

Grande Lum, 2L.

"This is not just a special interest issue," Lum said. "We are all suffering from educational malnutrition. Women, minorities, people with disabilities and openly gay and lesbian people are underrepresented on the faculty and in the student body, and issues of race and gender and sexual orientation are ignored in the classroom."

Representatives from the Black Law Students Association, La Alianza, the Asian American Law Student Association, the Native American Law Student Association, the Women's Law Association, the Committee on Gay and Lesbian Legal Issues, the National Lawyer's Guild and the Disabled Law Students' Association have joined to create the coalition, CCR member Marie Arnold, 2L, said.

Explaining that CCR's name, John Bonifaz, 1L, said the new group invokes civil rights because "it is particularly appropriate for the problems we face. We want fair and equal treatment of all of our issues in the classroom, and fair representation in the faculty and student body."

The April 5 teach-in is part of a nationwide commitment to diversity law schools which was expressed during a national strike last year, Bonifaz said. This commitment was renewed after law school representatives

met last month at a national conference entitled "Unequal Treatment Under the Law: Racism, Sexism, Classism and Homophobia in U.S. Law Schools."

A general meeting for students interested in helping to plan the April 5 teach-in will be held on Mon., March 19 at noon, Arnold said.

Regina Austin: Pioneer Professor

By Linda Popejoy

Visiting Prof. Regina Austin, the first black woman professor to teach at HLS, described herself as a "token's token" at the annual women's dinner last fall.

In a recent interview, Austin spoke less about her symbolic status at the law school and more about her experience as a teacher and researcher, and her vision for the future.

"I have been caught up in a whirlwind" since entering HLS, said Austin, who taught at University of Pennsylvania Law School for 12 years before coming here.

She likened her experience at HLS to a "carnival ride." The students, "especially the women," keep her calendar filled with speaking engagements, informal talks, and other events. Austin said she is "more engaged this year" than she



Photo by Felicia Ravago

Regina Austin has been in some time, and she credits her students who are "energetic" and "interested in [her] research."

"I love students at Harvard. They are quite an asset," said Austin.

In response to a question concerning rumors of racial tensions in her first year torts class, Austin said the class reflects the make up of "real communities," and she feels they "do pretty well at dealing

with issues."

Last semester, Austin also taught an advanced seminar on intentional torts and contemporary cultural conflict. This semester, she teaches a course on insurance law for the consumer.

When asked what she envisioned a truly diversified faculty would look like, Austin replied, "more women, more women, and more women after

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Former NYC Mayor Ed Koch Gives Spirited Talk

By Julia Gordon

Speaking at the Law School Forum on March 4, Ed Koch denounced the idea of drug legalization, proposed to imprison all drug addicts who do not receive treatment, and excoriated CBS for suspending Andy Rooney, all in the colorful language the former mayor of New York City is famous for.

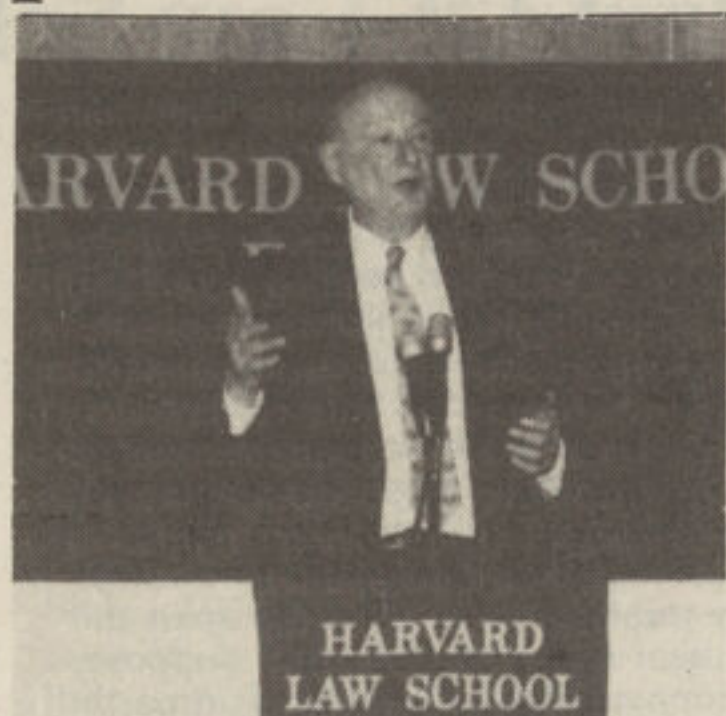
During the hour Koch spoke, some of the 150 members of the audience muttered under their breath, while others cheered, and approximately fifteen students asked questions in alternately confused and hostile tones. But not a single person appeared bored.

Koch opened with a short diatribe against drug legalization, which he calls a "stupid idea that comes from frustration on the part of decent people such as Bill Buckley." He suggested that not only would legalization increase the number of drug addicts, but it would force black market drug dealers to target children — who would not be able to purchase drugs legally under any scheme currently proposed — to replace the profits they would lose.

To support his position, Koch cited the experience of legalization in England, which he claimed witnessed a fourfold increase in drug addiction after the legislation's passage. He also stated that a person cannot take drugs without becoming addicted. On this point, Koch compared his own social use of alcohol which he argued does not inevitably lead to addiction.

"The answer to the drug problem," said Koch, "is to be much tougher than we are . . . If we are so concerned about drug dealers, just shove them in prison." Regarding the problem of prison overcrowding that already exists, the former mayor said we should abolish "prisoners' rights" along with court decisions such as the one mandating that all inmates have 60 square feet of living space. Instead, he argued, "Put 60 of 'em in one square foot."

Other solutions, he continued, include building prisons in Alaska, because if inmates escaped they would have nowhere to go, and the routine execution of major drug dealers. Koch then told a story about two Australians who were caught dealing drugs in Malaysia, which has a death penalty for that offense. Apparently, the Malaysian government paid no attention to



Former NYC Mayor Ed Koch addressing the Forum.

foreign pressures, and went right ahead and executed the travelers. Said Koch, "To their credit, they showed no racism [in imposing the death penalty on foreigners]." Koch would like the United States to emulate this policy.

The former mayor added, "Today, when two rights come into collision—the rights of society and the rights of the criminal—we take away the rights from society and given them to criminals. We should give society back its rights."

Koch concluded his remarks on the drug problem by saying that any drug addicts who did not go into treatment should go to jail. In response to a question from Jennifer Bensinger, 1L, about the lack of slots in treatment centers and noting that treatment was less expensive than prison, Koch asserted that most addicts do not want treatment.

Next, Koch turned his attention to the free speech interests implicated by CBS's suspension of Andy Rooney for alleged racist and anti-gay remarks. He expressed disappointment that the First Amendment only applied to government, because he thought CBS violated Rooney's right to free speech. Koch lamented, "Whatever happened to the notion, 'I may not like what you say, but I will defend to the death your right to say it'?"

He went on to lambast college campuses for silencing "the radical right," saying that students would willingly invite Professor Griffin from the rap group Public Enemy but would not want to hear from the other side.

Seven Of Fourteen Visiting Professors Are Women

By George Paul

Dean Robert Clark '72 has named 14 visiting professors for the next academic year, half of whom are women. The action brought praise from leaders of the Woman's Law Association.

Merle Weiner, 3L and outgoing Women's Law Association (WLA) co-2D chair, said the announcement was "good news" but "it is just as it should be."

"We expect that at least seven of 14 visiting professors will be women. Our concern is to insure that it is a diverse group and that women of color are represented," Weiner said.

One of those named was Anita Allen '84, who will visit from Georgetown Law Center. Allen, who was an associate at Cravath, Swaine & Moore in New York, will be the second black woman to teach at HLS.

Allen taught at Pittsburgh, then Georgetown. Her areas of study include jurisprudence, and privacy and the law.

Clark stated that the number of visiting professors will be higher than previous years because he thinks they will better serve the school's needs than lecturers. Unlike lecturers, visiting professors are fulltime members of the faculty who keep office hours and generally spend more time on legal scholarship.

Clark said the selection of visiting professors reflected "meeting short and long term needs in areas of the curriculum. It is good to increase the size of the faculty so we can offer smaller classes."

Clark also said the visitorships allow

HLS faculty to become acquainted with prospects for permanent employment.

Clark's latest announcement won praise from other students as well.

Ch'iu Lien Chang, 1L, a WLA member, said she was cautiously optimistic that "Harvard seems to be taking steps to bolster the number of women faculty members."

Rebecca Rosenberg, 1L, also a WLA member, said that Harvard "needs more women on the faculty" and hopes that the appointments "lead to more permanent positions being offered to women."

Those scheduled to join Hispanic Gerald Torres as visitors next year include scholars from throughout the nation.

Julie Roin and her husband Saul Levmore will visit from Virginia Law School. Roin remarked that visiting professors bring "different attitudes" into the law school environment.

"The slant a school provides," Roin continued, "is a definite feature in law." She felt students benefited from exposure to divergent points of view.

Roin will teach contracts and taxation. She is a graduate of Yale Law School where she was a member of the Yale Law Journal. After clerking for Judge Patricia Wald, U.S. Court of Appeals, D.C. Cir., Roin practiced at Caplin & Drysdale before moving to Virginia Law School in 1984.

Saul Levmore is the Barron F. Black Resident Professor at Virginia Law School. Also a graduate of Yale Law School, Levmore will teach commercial law and corporations. He has been at

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HLS News Briefs

Fly-out Week Petition.

The Law School Council (LSC) is circulating a petition asking that the faculty-adopted version of the fly-out week proposal either be replaced by the original LSC proposal or eliminated altogether.

In particular, LSC disagrees with the elimination of the two reading days and the two law school holidays. According to LSC member Tom Samuelian, 2L, the petition is intended to "register" student opposition to the faculty's version, stating that the "faculty's elimination of four school-free days is at best unnecessary." Samuelian said the petition will not have an "immediate impact" because the school calendar for next year has already been adopted, but could affect faculty decisions in future years. First year section representatives and all LSC members have copies of the petition.

Children's Advocacy Conference.

"Lawyers for Children in the 1990s" is the title of a national conference to be held at HLS April 6-8. Presented by the Harvard Children and Family Rights Project in conjunction with the ABA Center on Children and the Law, the conference will include panel discussions of child abuse, domestic violence, juvenile delinquency, guardian ad litem programs, children's right to support and shelter, and parental substance abuse.

Judge Patricia Wald of the United States Court of Appeals, D.C. Circuit, will deliver the conference keynote address on Saturday morning. Other speakers include Donald Bross, National Association of Counsel for Children; Howard Davidson, ABA Center on Children and the Law; William Grimm, National Center for Youth Law; Professor Martha Minow, Harvard Law School; and Shari F. Shink, Children's Legal Clinic.

Registration information is available through the Children and Family Rights Project, Austin Hall 207, telephone 495-0410. HLS students may attend free of charge.

Kevin Watkins' Update.

Kevin Watkins' trial, originally scheduled to begin on Tues., March 14, has been delayed. Watkins, who was suspended from HLS earlier this year "pending the outcome of the criminal case" against him, was charged with rape and assault and battery, according to his lawyer, Willie Davis. Watkins, who would have been a third-year student at HLS, was accused of raping a Harvard College student. Although Davis refused to discuss the case or Watkins' defenses, he told the RECORD, "be assured I have a defense." One of the important issues of the case, according to a *Crimson* reporter who has been following the case, will be the admissibility of "X-rated films" allegedly showing the victim and Watkins together. The reporter said the films could help Watkins if his defense is consent, as expected. Watkins' lawyer said that Watkins "hoped he'd return to Harvard Law School." The trial, to be rescheduled sometime this week, will be held in Cambridge Superior Court.

MELSA Squash Tournament.

The Middle East Law Students Association (MELSA) will hold the first round of a squash tournament this weekend. According to the chairman of the event, Sadig Reza, 2L, the tournament will culminate in final rounds on April 14, followed by a "Middle East Extravaganza" including a Palestinian Folk Dance, Turkish Cabaret Music, Persian Food, and a guest speaker. Saud Al-Ammari, LL.M., president of MELSA, said they chose to have a squash tournament because it seemed to be common ground between Harvard, well-known for its squash team, and the Middle East, where some of the "best

squash players" are from. MELSA was created last year to "create a better understanding in the school community between the U.S. and the Middle East," according to Al-Ammari.

SFF Fellowships.

The Student Funded Fellowships (SFF) spring phone-a-thon raised \$64,109 from 680 HLS students this year, according to Bob Nielson, 2L, SFF steering committee member. All but 130 students were contacted during the drive. The money, which Nielson said was a "slight increase" over last year's total, will be used to fund fellowships for HLS students choosing public interest work this summer. Sandy Hauser, 2L, also a SFF steering committee member, said the goal of SFF is to "fund people who would not be able to work without the fellowship." According to Hauser, "about 75 applications" from HLS students were received this year. She said the criteria SFF uses to select recipients is whether the applicant has shown an "interest in exploring public interest work," whether the organization is one which "traditionally is most in need of outside funding," and finally, particular financial needs of the recipient.

SFF has been interviewing applicants over the last two weeks and expects to make its final decisions tomorrow, March 17. Nielson said that SFF "anticipates having to turn down at least some of our applicants due to insufficient funds." Fellowship amounts are based on the "particular need of the recipients," Hauser said.

WLA History.

As a lead-in to Women's History Month, several women on campus have begun coordinating an effort to create a "Women's History of HLS," according to Andrea Kramer, 3L. Kramer, who is acting as an adviser for the project, said the purpose was to "create an oral history of women on campus" ranging from the experiences of women professors to the daily experiences of HLS students. The effort, which will consist of lunch discussions, interviews, alumni mailings, and in-depth research of HLS history, will culminate in a "very large book which would keep growing and growing." Kramer said the project intended to propose the idea to the Coalition for Civil Rights, hopefully encouraging other groups to create similar "individual data bases." The history, Kramer said, would "raise consciousness" on campus. Two of the main project facilitators are Pat Gulbis, 1L, and Cheryl Hanna, 1L.

Class Consciousness Day.

Flyers started circulating last Friday announcing "Class Consciousness Day" on Wed., March 14, sponsored by the Committee for the Liberation of All Sentient Students (CLASS, an unofficial student organization). A spokesperson for the group, whose members remain anonymous, emphasized although Class Consciousness Day was a "skip day" for 1Ls reminiscent of Senior Skip Day, "This is not a statement about any particular class or any particular professor. We chose Wednesday because Sections I and II have both classes on Wednesday and we didn't want either professor thinking we were snubbing them in particular."

CLASS garnered support for the skip day by stuffing 1L Hark boxes and plastering the campus with posters. "Our flyer said 15th Annual" but that's just to evoke a sense of history and legitimacy. We do want to see the tradition continue, and we're going to help organize next year's 1L Class Consciousness Day." Other CLASS projects are still being discussed. "We are attempting personal empowerment through mass mobilization of the 1L class."

Harvard Law Record

Volume 90, No. 4

Erick Hachenburg
Editor-In-Chief

Referendum On LSC

Law School Council elections will soon be upon us, and consequently it is a good time to take a look back at what LSC has accomplished in the past year. First, LSC wrestled with issues such as whom to select as dean, whether to ban Baker & McKenzie, and most recently, what to recommend to the administration with respect to the public interest debate. In each case, LSC failed in its role as a representative body.

First, LSC expended much effort to organize its dean search committee. Following the selection of the members to the dean search committee, a student debate began about the selection process for the members of the committee. This debate turned out to be the hottest debate of the year, and it diverted much energy away from the task at hand. In the end, Derek Bok surprised the LSC dean search committee; he selected our current Dean Clark, a candidate that the dean search committee never even suspected. Of course, no one suspected that Clark would be chosen, but the events call into question the legitimacy and effectiveness of LSC. The committee's only accomplishment was to waste the energy of many student groups. The debate proved two points, however. First, student groups were not entirely happy with the way in which LSC had approached the dean selection process. Second, LSC may have been out of bounds in assuming the role as representative of the student body. In fact, some students probably felt the dean search was not a student concern at all.

Second, LSC took it upon itself to deal with the Baker & McKenzie ban, after the racist incident that occurred at the University of Chicago Law School. LSC formed its committee, discussed its options, voted on its proposals, and wrote its letters, but nothing happened. The administration skirted the entire Baker & McKenzie issue by announcing to students while they were in exams that a ban was inappropriate. While LSC was bogged down in its procedures, the Black Law Student Association quickly responded by organizing protests and making its position well known. LSC actions added nothing to the response and may have permitted the administration to avoid BLSA by looking to LSC.

Finally, LSC has just entered the public interest debate with full force by sending the White Paper recommendation to the administration for consideration. Of course, the results of this latest step are unknown as yet. However, the early signs show that LSC has little idea of the support it has for the proposals. Although one of the proposals will be put up for a referendum vote, the other proposals were already sent to the dean. In the end, LSC may let end up disappointing both the Emergency Coalition for Public Interest Placement, the group that formed immediately after Clark fired Ron Fox, and the opponents of the White Paper. Most likely, the administration again will play the game with LSC, and in the end, Clark will do whatever he wants.

LSC has assumed the role of representative student organization. At many schools, this is an important function, but at the Harvard Law School, the organization may be superfluous. The law school is filled with active students, and whenever a high profile issue arises, the student groups affected by the issue will rise to the occasion. If a student group does not exist to address the issue, it is only a matter of minutes before a new organization will be formed. In fact, LSC may be counter productive. The administration displays little interest in discussing issues with the student body. Students and the dean are so far apart on various issues that it is just a headache for the administration. However, LSC provides the administration with an easy way to tell the students that they have been consulted without having to respond to the students. LSC is exactly the bureaucratic type of organization with which the administration is most comfortable. The administration can address the LSC and never have to change its mind.

As the election approaches, it is time for LSC to legitimate itself. LSC should put on the ballot a referendum to disband itself. If it fails and LSC continues, it will stand in a better position than it is does today; and if it fails, the represented students will have spoken. On March 11, students should be given the opportunity to vote to disband Law School Council.

— E.H.

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Letters To The Editor

Mandatory Public Service Not Part Of Law School Mission

To the Editor:

At first blush, criticizing public service is like criticizing motherhood or the flag. But for those people who think that a woman shouldn't be forced to carry a pregnancy to term or that burning the flag shouldn't be a criminal act, the issue of mandatory public service for law students might deserve closer examination.

Although the supporters of mandatory public service probably span the political spectrum (as do, I suppose, the opponents) I will respond primarily to remarks Steve Donziger, 2L, made in his column in last week's RECORD.

One problem with the mandatory public-service proposal is that, as presently structured, it has little to do with the business of the law school. The law school has two broad purposes — conducting legal research and training future lawyers. Of course the Law School can't be isolated from the world at large, but that begs the question. A university wholly detached wastes its energies on things irrelevant to the outside world. On the other hand, a university too involved in the affairs of the world ceases to be a university — a place that stands apart in order to gain the time and the perspective necessary

for reflection, study, and preparation.

The question is where in the middle the line should fall. In drawing the line for training future lawyers, the faculty has the right to demand that students who walk out of here with an HLS diploma have demonstrated knowledge of the law above what the faculty believes is a minimum standard. It would be nice that students also left here compassionate and caring individuals, but that is irrelevant to knowledge of the law (or to granting of tenure, it would seem). So long as what students do in their free time does not impair the efforts of other students to learn or implicate the school, it is none of the faculty's business. What is the faculty's business is our education as lawyers, and in its present form, the public service proposal is too amorphous to have any legitimate educational mission. The proposal does not care where students work, what students learn, or what students do, so long as the people they do it for (or do it to, depending on the quality of the representation) don't have to pay. Whatever may in fact be motivating those in favor of mandatory service, the only effect of their plan will be to increase the supply of public-interest

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A Call For Robust Debate

To the Editor:

I left the public interest forum last Wednesday disturbed that Dean Clark's mischaracterizations of the public interest "white paper" might end debate on the document and its proposals long before it has a chance to begin.

Dean Clark suggested that the white paper was a partisan document written by a small minority of students, and he reacted as if it were the final student word on the subject. As I understand it, however, the Law School Council approved the white paper as a committee report written jointly by LSC and the Coalition, a paper designed to foster the formulation of public interest policy at the law school.

Over the weekend, I heard there would be a response to the White Paper in The Record from some of the more conservative members of the law school class. I would hope that the white paper stimu-

lates debate across the political spectrum. But I hope that those who enter the debate do so with earnest, constructive suggestions about what the Law School's role should be, and what steps the school should take to pursue that vision. I hope that the Dean's mischaracterization of the document as a political does not lower the student, faculty, and administrative discussion to the level of hollow political mudslinging or destructive criticism.

One thing that's overwhelmingly clear to me is that those who are wealthy in this country have greater access to the courts, greater access to bright legal minds — frankly, greater access to "justice" — than do those who are less fortunate. The questions are, what can be done and what should be done. The best answers will come from robust, constructive debate.

— Ted Billich 3L

More letters about Public Interest on page 6.

Teaching Method Does Not Merit High Tuition

To the Editor:

Once again, the tuition increase at the Law School will outpace inflation. In a few weeks we probably will receive a very smooth letter from Dean Clark. (Former Dean Vorenberg was especially good at this.) The increase, he will say, is necessary to maintain the quality of education at Harvard Law School.

But, are we getting a quality education? According to a Harvard study commissioned by Derek Bok, the results of which were recently reported in the *New York Times* (Mar. 5, 1990) "students do their best in courses that include frequent checkpoints like quizzes, tests and oral exams." The myth that "students prefer courses where they are left to work on their own with relatively few exams or papers is just that, a myth." The study stresses that

small group discussion and frequent feedback are crucial to a good education.

Does this sound like your experience at Harvard Law School? Outside of seminars or clinical work, the Law School fails miserably in both of these areas. In most courses, feedback is virtually nonexistent. (Is a grade coming two months after a course is over really helpful?) For all but the pathologically aggressive, most classes are too large to allow for meaningful participation.

Our tuition should be lower than at Yale or Stanford. Aside from economies-of-scale, by Harvard's own criteria — class size and feedback — we are not receiving a first-rate education and should not be paying for it.

— Ed Colloton, 3L

Black Review Member Left Out Of Article

To the Editor:

The Feb. 9 issue of the RECORD states on page 12 that "no black had served on the Review for the 30 years preceding Prof. Christopher Edley's '78 appointment in 1976" and that "Only 3 blacks were members in [the Review's] first 85 years," namely, Messrs. Houston, Hastie and Coleman. I call to your attention that both of these statements are incorrect.

My close friend, John R. Wilkins, of the Class of 1947, was an editor of Volumes 58, 59 and 60 of the Review. In fact, he served at the same time as Bill Coleman, who is mentioned in your

article. Mr. Wilkins subsequently had a distinguished career as a Teaching Fellow at the University of Chicago Law School, as law clerk to Judge Hastie, as counsel to the Agency for International Development, and as Professor of Law at Boalt Hall, University of California at Berkeley. Unfortunately, John Wilkins' career was cut short by his premature death in 1976. A book fund has been established at the Law School Library in memory of John Wilkins. It also may be of interest to note that John Wilkins was the uncle of Professor David Wilkins, who is now serving on the Harvard Law School faculty.

— Jerome E. Hyman, '47

Public Interest Proposal Requirements Are No Lesson In Altruism

The "Public Interest" proposal drafted by the Emergency Coalition for Public Interest Placement (ECPiP) and endorsed by Law School Council in the name of the student body would raise tuition, increase the academic workload, and discriminate against less wealthy students. The proposal has

Brad Smith
Columnist

four main components: skewing the admissions process to try to admit more people who, it is guessed, will pursue a "public interest" career after law school; providing more financial aid to these same people; altering the first year curriculum to indoctrinate students in the importance of "public interest," as defined by ECPiP; and requiring students to engage in 100 hours of unpaid "public interest" legal work over their second and third years.

The proposal to change the admission policy is careful to note that such changes should not affect the Admission Committee's efforts to ensure "racial, ethnic, and geographical diversity." They just want us all to think alike. To find these "public service oriented" students, the Committee would

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

be instructed to put special emphasis on past "public interest" work experience.

This is the most insidious, invidious, part of the program. It discriminates directly against students applying straight from college, and basically requires that admissions essays become little more than competitive, self-conscious efforts of applicants to show the Committee how altruistic they are — institutionalized piety. It also discriminates against students from poor and working class backgrounds, both because these students are the most likely to graduate from law school with significant debt, or otherwise need to head towards higher paying jobs, and because these are the students who are most likely to have spent their spare time in high school, college, and any career after college working rather than engaging in unpaid or low-paying "good deeds."

The scholarship suggestions are equally discriminatory. For years, universities have been moving away from merit scholarships and towards scholarships based solely on financial need. Now ECPiP and LSC want to return to merit scholarships — albeit a curious kind of merit. Naturally, the cost of this backwards turn of the clock will fall most heavily on students from poor and working class backgrounds, who

most need aid to attend law school. The proposal's drafters will, I am sure, claim that they don't want to reduce need-based aid, but they can't escape the fact that any aid going towards these "social merit" scholarships is aid that could otherwise go to the neediest.

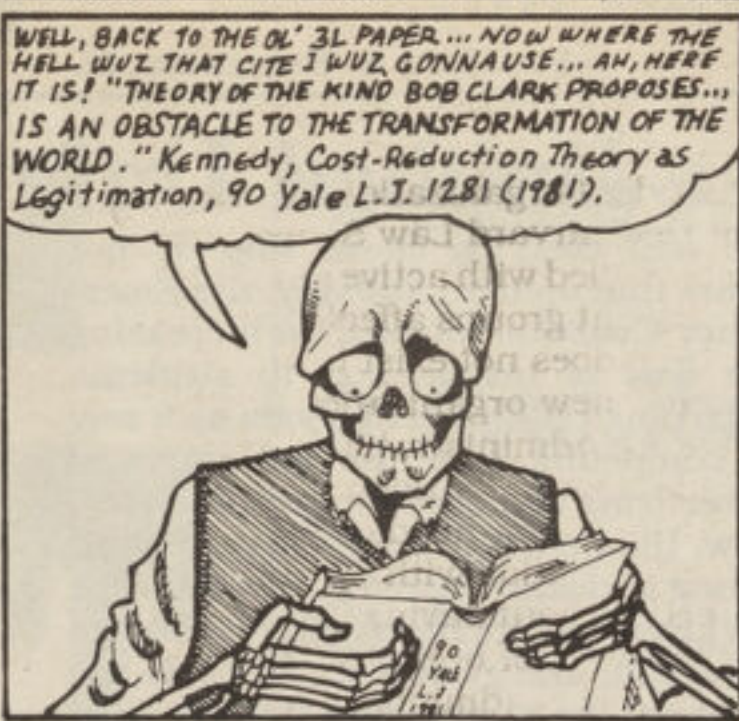
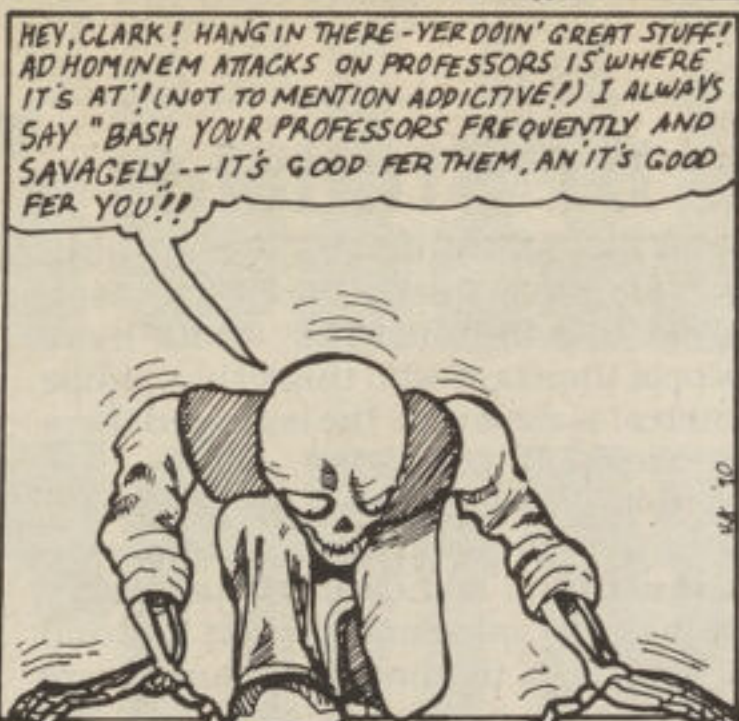
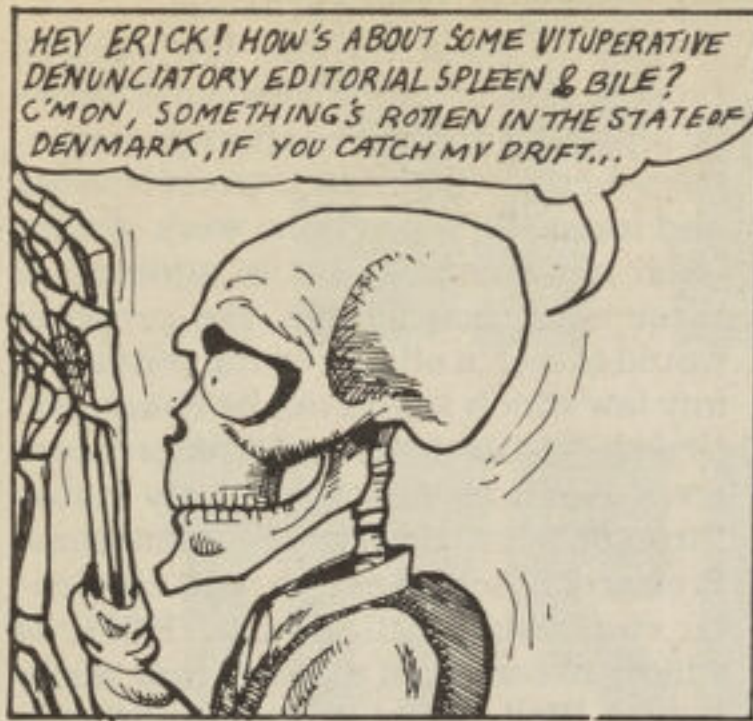
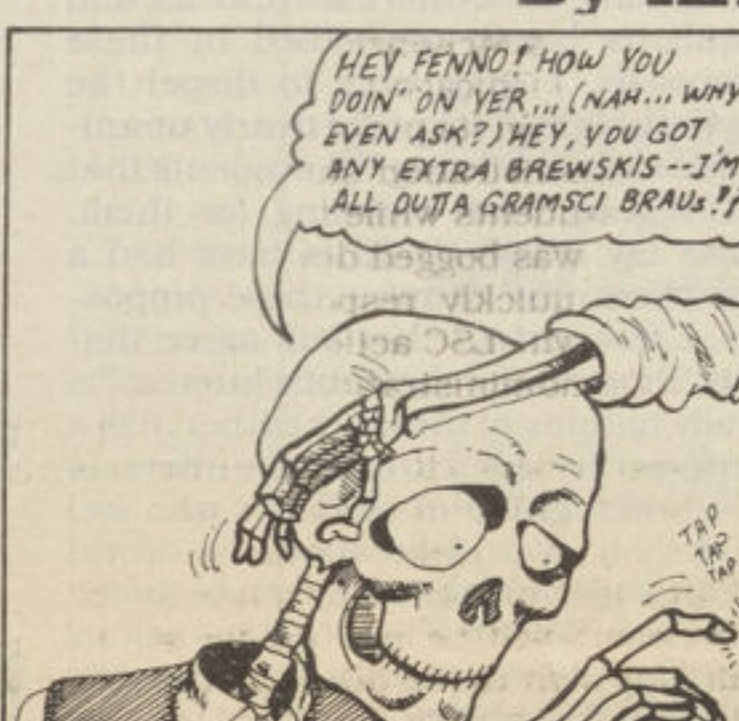
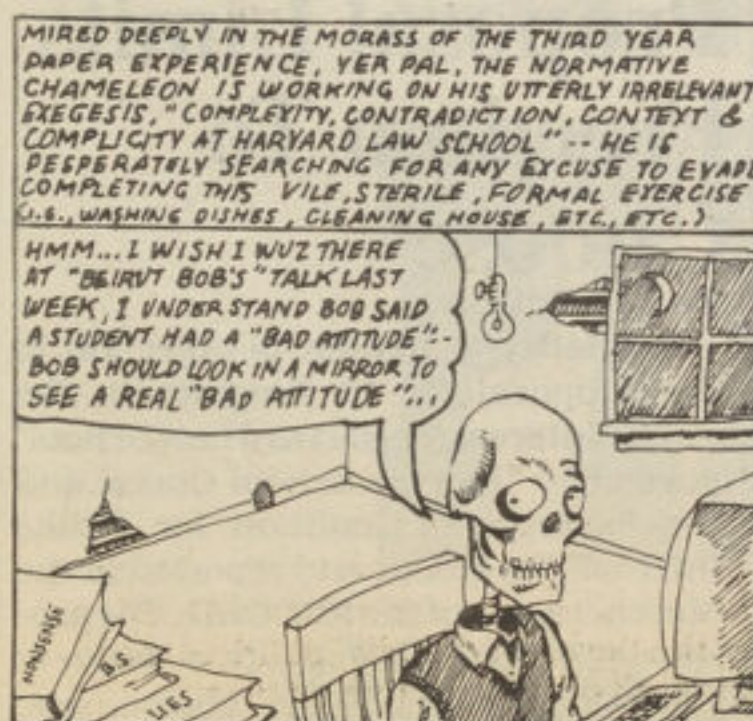
The cost of LIPP alone already adds well over \$1,000 to the expense of every student's education here. This proposal would blow the cost out of the water. The proposal calls for higher income ceilings for LIPP, expanding LIPP to cover "replacement loans" — i.e., non-need based loans — providing work stipends, travel, workshop and seminar grants, and offering added assistance to all students who demonstrate a commitment to a "public interest" career, as defined by ECPiP. Incredibly, the proposal specifically calls for funding this tremendous aid expansion directly from current tuition. Tuition, already through the roof, would head toward the moon. This would, of course, place tremendous pressure on students to gravitate towards the highest paying jobs. Students interested in middle-income jobs — small firms, firms in small cities and towns, corporate legal departments, and trade associations (which are not "public interest" in ECPiP's lingo) — would disappear from the school. The gap between those students interested in "public interest" ca-

reers, and those desperately seeking big money to make up for all the tuition dollars they will be forced to shovel to their "altruistic" classmates, will grow larger than ever.

The curriculum component of the proposal would abolish existing first year electives, and instead force all students to take one of a handful of courses which ECPiP believes "lend themselves to public interest work." . . . poverty law, family law, civil rights law, housing law, immigration law, environmental law, and consumer advocacy." This illustrates a flawed understanding of what the first year curriculum is all about. The first year curriculum consists of courses applicable in any field of substantive law. Certainly one cannot be an effective "public interest" lawyer without an understanding of torts, contracts, civil and/or criminal procedure, and property. First year electives follow this theory. Legal History is useful in any practice. Ad Law and Federal Litigation skills useful in any substantive area of law. Indeed, most Federal Litigation sections are based on a paradigmatic "public interest" case, the Bridgewater State Hospital affair.

Although the proposal makes a few half-hearted references to educational value, it is clear that the real desire of the suggested curriculum change is to
(continued on page 8)

Break Downs



By KA

Fenno

Fenno knew he had to get back to HLS. No one down here appreciated him, and besides, the humidity was bad for the Meister Brau. Mostly, though, he just wasn't ready for the real world.

He walked to the Metro, wondering how they got those big trains into those small station entrances. But that wasn't his problem, because he was in law school.

In fact, the next thing he knew, Fenno was in law school — in the Pub, to be exact. Watching TV — it was time for Dribble Gipardy with SmartAlex Quebec — where anything can happen. As Fenno relaxed over the first cold beer in weeks, Dean Dark walked in.

"You've proven an important point, my boy!" exclaimed the Dean. "Requiring students to work in the real world while they're still at law school won't do any good at all for anyone. You'll be happier sitting in the Hark, having a brewski with your friends, and listening to Awful Shriller tapes on evil — I mean civil — procedure. There'll be enough time for that messy stuff later on."

Fenno opened his mouth to reply — but he couldn't come up with anything. That was a problem a lot these days. Maybe it was the Meister Brau. Or maybe Dean Dark was right. Maybe things go more smoothly when you worry less and think about yourself instead.

Fenno started to walk to the Goop, where they have the best electronic equipment selection in the world. Well, the best selection that he can pay for with his Goop card. Fenno remembered that if he took Dean Dark's advice, he soon would have enough plastic to burn — or is that melt. It didn't matter, because either way, things were looking up.

In fact, Fenno could already tell precisely how comprehensive the Dean's plan was. If he carried plastic only, he didn't even have to feel guilty walking past the panhandlers!

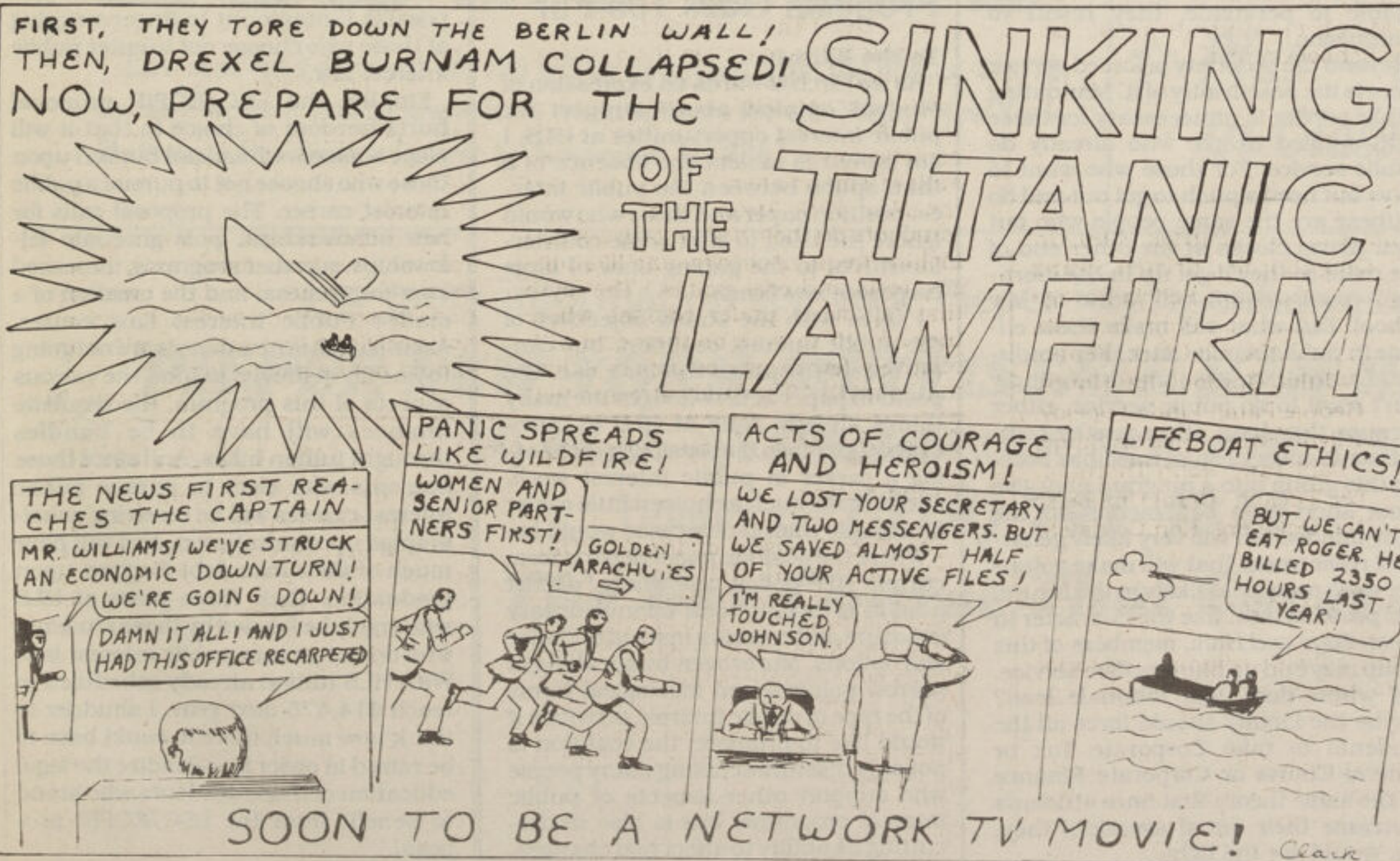
And soon, Fenno walked out of the Goop with a brand-new toy in a nice cardboard box. The box really must have been nice, because the panhandlers seemed to want it for some reason. But Fenno figured they could hardly need it for their electronic equipment — where would they plug that stuff in?

I can hardly wait to get back, thought Fenno. I think I finally have this law school thing worked out. I can even add music to the "Interests" category on my resume.

He held his head high as he hurried home.

By Clark

Agenda Neutral



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Clark

Letters To The Editor

Public Interest Minority Forces Agenda On Student Body

To the Editor:

Having heard that the Law School Council (LSC) had adopted a set of proposals on "A Program for the Public Interest for Harvard Law School," I decided to take a look at what my elected representatives passed on to Dean Clark in my name. Frankly, I am appalled.

These proposals embody a dangerous and deeply authoritarian program that would deprive the students of Harvard Law School of the freedom of choice and freedom of thought that they rightly deserve. They seek to ordain a regime of public interest orthodoxy at the law school, from the admissions process straight through to the placement process.

The proposals direct the admissions office to "look for applicants with a demonstrated commitment to public interest work," as evidenced by a record of undergraduate activism or "public interest" job experience; they would require all first year students to take a course in a substantive area of poverty law and direct the school to "systematically incorporate the perspective of low-income people in legal study;" they would "require each student to fulfill a minimum number of hours of pro bono work in order to graduate;" and they would compel the law school to use its resources to create a "Public Interest Law Center" that would explicitly act as "an advocate of public interest career choices."

The people in the Emergency Coalition for Public Interest Placement (ECPIP), who rammed this through the LSC, have every right to make these curricular, extracurricular, and career choices for themselves, but no right at all to make them for the rest of us. Students here can make up their own minds about what they feel is worthwhile — in their course selection, in their free time, and in their profes-

sional lives. And it is surely illegitimate for the Admissions Office to accept applicants on any basis other than their recognized potential to do outstanding work, of whatever type, in law school; an explicitly political bias in admissions would rightly bring the entire law school into disrepute.

What these proposals add up to is a desire by a vocal and committed "public interest" minority to create the law school in their own image. They want Harvard to accept more students like them, to force those students to take the courses that they take and to do the jobs they think worthwhile. The program is obnoxious to every principle of individual liberty I can think of. If Harvard Law School were a state actor, there can be little doubt that these proposals would, on their face, violate first amendment guarantees; they are precisely what the Seventh Circuit recently condemned as "thought control." *American Booksellers Ass'n v. Hudnut*, 771 F.2d 323 (1986), *aff'd* 475 U.S. 1001 (1986).

It would take too long to point out all of the logical fallacies, unsound assumptions, flawed normative ideas, and insidious biases embodied in these proposals. I write only to dispel the myth that they enjoy the nearly unanimous support among the students that ECPIP has been claiming for them. Once my fellow students have had a fair chance to examine these proposals, I feel certain they will agree that this "Program for the Public Interest" is really nothing of the kind: rather, it is a program designed to serve the interests of a small group of students who feel that their own ideas about the world are so important that they can be forced on others. The faculty of this law school should give this program the summary rejection it deserves.

— Bradford A. Berenson, 2L

A Four Prong Attack On Public Interest Proposal

To the Editor:

The Law School Council (LSC) and the Emergency Coalition for Public Interest Placement (ECPIP) have recently drafted a proposal that will seriously harm the future of HLS. As a 3L, I would not be affected by the proposal. However, I cannot ignore the gravity of its contents. Below, I address the proposal's four most outrageous sections.

Admissions: Harvard already rejects about 60 percent of the applicants who score a 48 on the LSAT. (Talk about discrimination!) That practice makes it increasingly difficult for Harvard to maintain its status as a top law school. The only way to damage Harvard's admission program any further is to let the students participate, which is exactly what the new plan proposes. It also suggests that rural students be favored in the admissions process because they would be more inclined to avoid big-city practice. (Maybe Harvard should even expel the rural students if they later decide not to do public interest work.)

Curriculum: Believe it or not, there are those of us who still believe that a law school's function is to educate, not indoctrinate. Presently, all first-year required courses have a valid educational purpose. Torts, contracts, etc., serve as basic building blocks for further legal study. The proposed new elective courses serve no such purpose. Frankly, I am not worried about any possible indoctrination. The students here do exactly what they want to do. (Unlike my opposition, I do not believe HLS takes eager, public-interest-minded students and brainwashes them into corporate lawyers.) What I am worried about is the colossal waste of time this program would impose on future students who have no interest in family law, consumer advocacy, environmental law, etc.

Public Service Program: Under this section of the proposal, each student would be forced to do public service work or else forego his diploma. Just as a reminder — involuntary servitude

went out with the Emancipation Proclamation. If students are required to work for free, I think the faculty should have to participate in the same manner. That's right, from Arthur Miller to Larry Tribe, every faculty member should put in the same number of hours, not coaching the students, but actually participating with them in the required clinical programs.

Financial Incentives: Among other things, this section proposes that Harvard give scholarships to those who choose public interest careers. The plan also advocates loan forgiveness for those people. I can only assume that all that money will come out of everyone else's tuition. I think tuition is too high as it is, especially considering Harvard's huge class sizes.

During the last two weeks, I have spent over twenty hours on a pro bono project for my community. No one on the LSC forced me to; I wanted to. The LSC, whose legitimacy as a representative of the student body is dubious to begin with, has gone too far. Its members should channel their energy toward pro bono activities, instead of cracking the whip at everyone else.

— Mark Cowan, 3L

Proposal Limits Freedom To Choose

To the Editor:

This letter is written in objection to the proposal for "A Program in the Public Interest for Harvard Law School" passed by the Law School Council and the Emergency Coalition for Public Interest Placement and reported in the March 2 issue of the RECORD. The proposal is, in several respects, violative of a student's freedom of choice, and therefore should be eschewed.

Without question the LSC/ECPIP proposal would inhibit freedom of choice by replacing the current first-year elective scheme with public interest courses and imposing a pro bono work graduation requirement. But in addition to these overt restrictions, the proposal would attach a stigma to the pursuit of any law which would not be characterized as "public interest." The proposal gives public interest law a lofty status through such devices as admissions preference, scholarships, and curricular emphasis. Until the LSC/ECPIP is willing to come out and say that working on Wall Street is inherently evil, those students who want to do so should not feel coerced in their choice. As currently written the LSC/ECPIP proposal is tantamount to finger-wagging at those who choose not to enter public interest law.

Finally, the LSC/ECPIP proposal hurts freedom of choice in that it will place a massive financial burden upon those who choose not to pursue a public interest career. The proposal calls for new scholarships, post-graduate fellowships, summer programs, increased loan-forgiveness, and the creation of a staffed Public Interest Law center. Assuming that new donors are not going to line up in droves to fund the various aspects of this program, the requisite finances will have to be handled through tuition hikes. And since those students who elect to pursue public interest careers will be receiving scholarships upon admission, and will have much of their loan debt forgiven upon graduation, their three years at HLS will largely be funded by those students who do not go into public interest law. With HLS tuition already scheduled to reach \$14,475 next year, I shudder to think how much more it would have to be raised in order to subsidize the legal education of those students who stand to benefit from the LSC/ECPIP proposal.

— Chris Bartolomucci, 1L

Mandatory Service Dubbed Unfair By Students

(continued from page 4)

workers. This is a worthy goal, no doubt, but what gives the plan's proponents the right to conscript others in order to achieve this goal? If what students do in their free time is none of the faculty's business, what makes it the business of other students?

The mandatory-service plan also exacts an opportunity cost that runs contrary to the plan's stated goal. That cost is the real educational purpose that could otherwise be served. It may be that a complete legal education requires exposure to public-interest law. If so, I suggest that instead of sending 1000-odd students scurrying over the Boston area to do good works, the school should offer a course that examines issues like the formation of class actions, discovery problems in mass tort cases, professional responsibility in counseling civil protest, the regulation of lobbying organizations, and the representation of clients having a different cultural background.

Because of the Civil Procedure and Tort issues involved, such a class would need to take place after the first year. It would be aided by exposure to Administrative Law and Professional Responsibility. For the faculty to mandate such a course, it would have to find the course as essential to legal education as other required courses such as Contracts or Property (Professional Responsibility is an ABA requirement). Even if such a course were determined to be as important as Corporations and Constitutional Law, it would be recommended not required.

One feature of Steve Donziger's argument I find not only unpersuasive but disturbing is his desire to inculcate values. One of the reasons the Emergency Coalition was formed, I believe, was to combat the off-to-the-mega-bucks-job values which many feel suffuse the school. There is a difference, however, between advocating an opin-

ion and coercing those who do not share that opinion. Initially, the Emergency Coalition focused on increasing the flow of information to students regarding public-service jobs as a way of competing with the avalanche of advertising coming from private firms. Now, the Coalition wants to stop competing and start coercing. Even though the private sector has greater resources to recruit, and even if students do not discount the information they get from firms, the mandatory-service plan's proponents should consider what values they really will be inculcating if, unable to persuade, they resort to compulsion.

Beyond the propriety of forced service there is the practicality of it. Mandating public service is unnecessary for those right-minded people who already do public service. For those who want to serve but need a push to get out and do it (these are the same people who put their alarm clocks at the other end of the room so they'll get up in the morning), requirements will work in law school. But what will make them engage in public service after they graduate? Lastly, there are those who simply don't want to do public service, either because they have other worthy commitments or they're just irascible. Forcing this group into a program may give some short-term satisfaction to the right-minded but will very likely generate a resentment that will make volunteer work much less likely in the future. It is possible that, like the character in *Green Eggs and Ham*, members of this group may end up liking public service, but where does this rationale lead? Maybe the faculty should force all the students to take Corporate Tax or Federal Courts or Corporate Finance on the same theory that once students overcame their initial aversion, they, too, would see the light.

Finally, Steve Donziger supported the plan by reference to a referendum at

Penn that showed overwhelming support for public interest work. This fact, to me, cuts the other way, for the more people there are who think that public interest is essential, the less need there is to make it mandatory.

Public service deserves the support of both the Administration and the students. But to mandate it is to destroy its inherent value and to exact a pound of flesh from the unwilling that is very little good to anybody else.

— Bob Zafft, 3L

Proposal Goes Too Far

To the Editor:

As we lurch towards an expression of student opinion about support for public interest opportunities at HLS, I am moved to lament the absence of a third option between the public interest position paper and those who would ignore the need to offer some counter-incentives to the gaping maw of large corporate law firms.

I agree with the stated objectives of the public interest coalition, but cannot accept the policy they propose. The position paper acknowledges the many things already done at HLS to introduce students to the possibility of choosing a career in public interest work, and to make such a choice a little easier financially than it otherwise would be.

Where the position paper departs from current HLS policy, and where I depart from it, is its emphasis on involuntary exposure and coercion instead of choice and options. Moreover, by speaking in narrow political and ideological terms of the type of public interest activities it would like to promote, the coalition is not only disenfranchising many people who support other aspects of public interest programs, but is also undercutting its ability to affect real changes.

— Nigel Wright, LL.M.

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Brad Smith

(continued from page 5)

"socialize" students to the importance of following the same career paths as ECIIP leaders. They even hope to stamp out diversity of teaching ideologies and methods, urging all first year classes to analyze "[e]very legal rule... in terms of its social context and impact." But why stop here? Human rights are important, and lawyers should certainly play a leading role in the field — perhaps that should be mandatory. A disproportionate number of us will rise to positions of political leadership, so maybe we had better all take a course in economics. Not Law and Economics — just economics. One may disagree with the present first year curriculum. But if we base it on various views of the good life, rather than pedagogical norms, we're in for a real war.

Finally, we come to the mandatory public service requirement, the proposal's magnum opus. But even this reflects the preference of ECIIP and LSC for conformity and coercion over diversity and volunteerism. Unable to persuade enough students that their path is the right one, they now plan to force students to follow them. It appears not to have dawned on them that coerced altruism is not altruism at all. Nor do they recognize the diversity of the student body. For some, the most "public service oriented" use of their spare time is unpaid legal work, but for others it is working for NASAH. For still others, it is writing or researching law review articles that will shape views of civil rights or republican virtue. Those with small children may find their highest social utility in taking time to raise them well during their law school years. And it seems to be beyond the drafter's comprehension that paid work may often be as "socially" desirable as unpaid work.

A lot of smoke has been blown about "public interest" this year. But if even

A Moral Critique Of The Proposal

To the Editor:

The Law School Council's (LSC) proposal for public interest law at Harvard Law School deserves a moral critique. The proposal contains serious moral problems that must be addressed before everyone genuflects to its good intentions.

Morality is about rules. The LSC proposal must be based on either a deontological or utilitarian rule. (1) Deontological Rule: A law school has the right to make students take courses in public interest subjects and do *pro bono* work. Conceptually, this rule means that law schools can indoctrinate. (2) Utilitarian Rule: A law school has the right to make students take public interest courses and do *pro bono* work because those measures will improve the quantity and quality of public interest legal services. Conceptually, this rule means that law schools can force students to do things that will produce socially useful consequences.

Both rules have serious moral problems. Rule (1) in effect acknowledges that law schools have the duty and the right to indoctrinate students. Phrasing the rule this way brings out the suspect moral basis in the LSC proposal. Current critics of HLS have argued that it already indoctrinates students towards

corporate law. This argument, however, is specious. First, the critics want to dump indoctrination for, surprise, indoctrination. Second, and more importantly, current law school requirements set out to provide every law student — no matter his or her interests — with the basic mechanics of the legal craft (civil procedure, contracts, criminal law, torts, property, and professional responsibility). A lawyer must learn the basics no matter what legal career is pursued. Other requirements, like credit hours and written work, can be satisfied however the conscience of the individual student decides. To argue that HLS "indoctrinates" corporatist yearnings in students means either that students here have no individual consciences or that students are not strong enough to live by their own principles. Neither the former nor the latter justify a moral rule based on the premise that a law school has the right and the duty to indoctrinate students.

My opponents may, at this point, be thinking that I am ignoring that the goal of the LSC proposal is noble. That brings me to Rule (2). Rule (2) is, in short, based on the utilitarian premise that the ends justify the means. The end of improving public interest legal services justifies the means of forcing

students to take public interest courses and do *pro bono* work. If you are a utilitarian, then you will not be offended by this moral rule. I assume, however, that the champions of the LSC proposal are not utilitarians, which means that they either believe that a law school has the right to indoctrinate or suffer from moral confusion. In fact, based on my classroom experience, most HLS students dislike utilitarian arguments. So why do people justify the LSC proposal because the consequences (i.e. the utility) will be beneficial? Moral consistency is not a virtue of the moralists clamoring for more public interest requirement at HLS.

Since neither a moral rule that holds that law schools can indoctrinate students nor one that presumes the ends justify the means is acceptable, I cannot see the moral basis for the LSC proposal. Good intentions are not enough.

I propose the following non-utilitarian moral rule for public interest activities at HLS: *A law school has the right and duty to encourage the study and practice of public interest law.* This rule has the following consequences. First, the law school cannot force individuals to study or practice public interest law. The integrity of the individual conscience is respected. Second, the consequences of law school encouragement can only be used in discussing the type and level of encouragement and cannot justify forcing students to do anything. Utilitarian calculus is thus avoided.

HLS has experienced a vigorous debate on whether Dean Clark's strategy is encouragement enough. This is fine. But when the LSC proposes to force students to "do the right thing," the students of this law school should condemn the proposal for moral inconsistency and hubris.

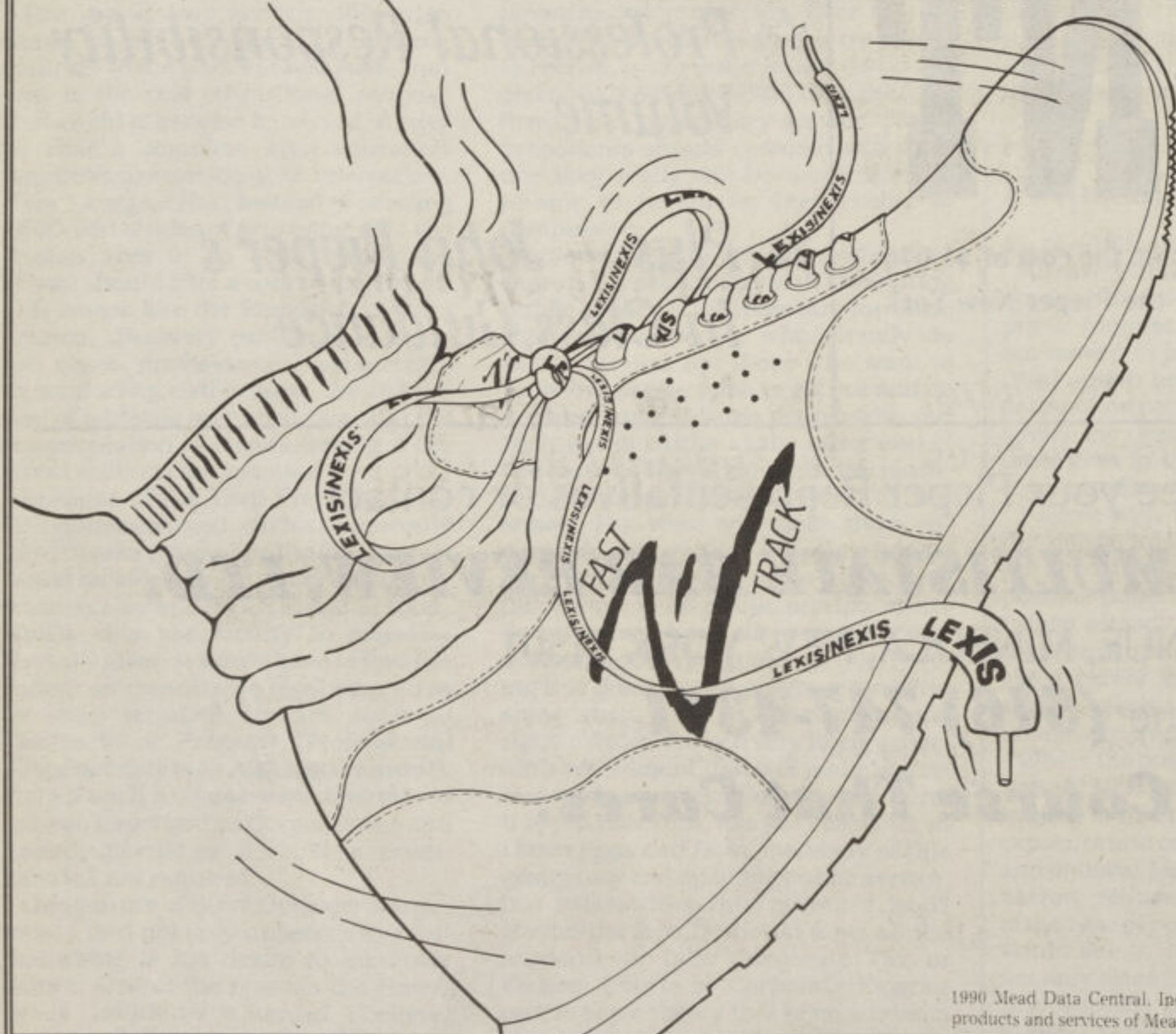
— David P. Fidler, 2L

ten percent of those who signed ECIIP's letter urging the dean to replace Ron Fox '63 actually went in to "public interest" careers, it would increase the number of students going into the field by something around 1,000 percent. If students value unpaid work so highly, why isn't it getting done voluntarily? If students think poverty law is so crucial to a good education, why does Prof. Bellow's '60 Poverty Law class languish with an enrollment of approximately 40 students — unable even to fill twenty spots reserved for students not taking the course's clinical component?

This proposal is shamelessly self-serving. ECIIP has drafted a proposal which calls for preferred admissions, more scholarships, more loan forgiveness, and academic credit for the extracurricular preferences of . . . ECIIP members! It will be financed by increasing the tuition and academic workload of everybody else! This is greed masquerading as altruism, hypocrisy dressed as public service.

But ECIIP is right about one thing — this is not a partisan issue. Students of all political views should vote a resounding "NO" in April's referendum.

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Law School Teaching Method: Nowhere Near Ideal?

By Greg Dingens

A recent Harvard study shows students perform optimally in courses which test students frequently and offer immediate feedback—the antithesis of the customary law school method of teaching required core courses.

Stressing the need for more "active learning," Bruce Spiva, 1L, voiced a common student concern that "more feedback is definitely needed" in the typical large classes which finish an entire semester before taking the single final exam, and in which students receive minimal, if any, feedback several weeks later.

Law school classes would be more effective in an undergraduate format with more tests and possibly assignments, added Sue Bryan, 2L. "It is important to give the students something by which they can gauge their progress," she said. "It helps them retain information."

Students thrive, the study concluded, in classes in which there are "frequent checkpoints" to assess their progress, such as quizzes, papers and tests. More importantly, "quick turnaround" in the evaluation of their work is overwhelmingly valuable. One HLS faculty member who was involved with the study at very early stages, Prof. Lance Liebman '67 praised the study as a "very serious, very valuable study" which could be used as a blueprint for change at the law school. "Judged by the study's standard," he said, "much of the education at HLS could be significantly different and much better."

While cautiously agreeing with the findings in principle, faculty and administrators around the HLS campus were quick to draw distinctions between the study—which culminated a three year effort to analyze undergraduate response to different teaching methods—and the law school experience.

Economic impracticability and the qualitative disparities between graduate and undergraduate education were the differences most frequently cited.

While agreeing that "everyone recognizes that more feedback is desirable," Dean of Education Daniel Meltzer admitted that reforming the law school class structure or teaching method is not on the administration's agenda. He emphasized, however, that one important initiative which has arisen in conjunction with Dean Clark's fundraising drive is to "increase the size of the faculty by roughly a dozen, facilitating the provision of smaller classes."

Most hesitate to draw a literal analogy to law school with the inquiry's conclusions, however, because of the fundamental differences between studying in law school and in an undergraduate curriculum. "Maybe," said the project director, Prof. Richard J. Light, "what applies to the 25 year old law students is different from an 18 year old Harvard freshman."

Light did go on to note, however, that "some generalizations" may apply to law students and their response to different teaching methods.

HLS Prof. Todd Rakoff '75 who holds a masters in education and has been involved with the development of the experimental section for first year courses, added that law students "are supposed to be better self-learners" and should not need as much expensive attention.

But all interviewed agreed economic factors are a critical factor. The study was strictly an empirical survey, and made no attempt to evaluate the costs of implementing such an ideal teaching system against the benefits. There is, Light said, "not a doubt in the world there is a great cost to the professors."

Liebman agreed that there is always a trade-off involved between individual attention and expense, but added that

the results of the study "ought to make us think much harder about the resources professors put in to feedback, which is an enormous amount of time, versus the educational value it provides the students, which is very little."

The study, based on analysis of a random sample of Harvard undergraduates, concluded a three year project initiated by Harvard President Derek C. Bok '54 and directed by Light, who is on the faculty of both the Graduate School of Education and the Kennedy School of Government.

Rakoff, who had not read the report but agreed to comment upon its findings, pointed to the costs involved, quickly labeled the "first big issue as one of simple practicality" if such an idealized system were to be instituted in law school.

The increased costs involved in reducing class size and getting more frequent professor evaluation would be "not trivially more, but a whole lot more expensive," he said. He hypothesized that if just one course in one section were split into groups of twenty, requiring a midterm exam, paper, and final exam, the number of professors teaching that subject would double.

One might say, Rakoff went on, that a legal education is unique, emphasizing not knowledge accumulation but the development of legal research and analytical skills, and that accordingly ideal teaching methods would be different from other disciplines. "The heavily knowledge-intensive" undergraduate curriculum, he said, "might be very different from what we are teaching, which is skill intensive."

"If I were the Ayatollah of the Educational Universe," Rakoff mused, "and had to choose between spending money on undergraduate and graduate students, I would let grad students fend for themselves."

Austin Reflects On Stay At HLS

(continued from page 1)

that." She added, however, that "it's good to have colleagues who don't agree with you." A diverse faculty would be "a productive one," one that freely exchanges ideas, she said. Born in Washington D.C., Austin received her B.A. from the University of Rochester and her J.D. from Penn. As a second year law student, she knew she wanted to be a professor.

Prior to becoming a professor, Austin clerked for a year in Pennsylvania and worked in a large firm for three years.

Austin's recent research has focused on black women and black feminism, as well as trying to infuse black cultural notions into jurisprudence. These themes come together in her current project on the black community and its conception of deviance, including its conceptions of "street women." Austin recently presented a draft of this paper at a faculty workshop.

Austin said the thesis of her paper is that "we don't see enough of ourselves" in people who engage in aggressive crimes.

"We need to take risks to solve social problems as they take risks in their behavior...Reestablishing a nexus to the people left behind will lead to a sounder moral perspective," she added.

At HLS, Austin has developed ways to "link teaching and writing more," something she feels should happen more often. Her students have been "very helpful in her research," bringing her new and different sources of information and offering to be research assistants. Austin has also "thoroughly enjoyed the support of colleagues."

Austin does not know where she will be teaching next year, but said she would love to be back teaching at HLS when her first-year students graduate.

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**Friday, March 16, 1990
(Happy St. Patrick's Day!)**

African-American Journal Makes Debut

By Kristen Swartz

Reconstruction, a new magazine with a focus on "African-American culture, society, and politics," premiered last week on the HLS campus. Its founder and editor, Prof. Randall Kennedy, who called himself a "rank amateur," said he created *Reconstruction* to be "the magazine he was looking for."

The articles, written mostly by professors and students, in the first issue of *Reconstruction* ranged from in-depth book reviews to a model statute responding to abusive speech on campus. Kennedy said *Reconstruction* welcomed writers from any background. For example, he said, an art curator will be writing about the film "Glory" for an upcoming issue.

"It is willing to talk about anything," according to Kennedy, "nothing is too hot or too delicate."

According to its editorial policy statement *Reconstruction* is a "journal of opinion" offering "discussion about the wide variety of issues that confront our world" with a particular concern for "providing a forum for uninhibited commentary on African-American politics, society, and culture."

The political viewpoint of *Reconstruction* is "pluralist," Kennedy asserted. The magazine, he said, would encourage debate. He wants "people to read it and challenge it. *Reconstruction* is intended to make people uncomfortable. It is not a cuddly magazine but a prickly magazine."

Associate editor, Peter Cicchino, 1L, contributed a piece to *Reconstruction* criticizing the magazine for its "ambivalence" towards politics, taking issue with an article by a Prof. Stephen L. Carter from Yale Law School. A substantial portion of Carter's article (who is black) concerned his reservations

about "racial preferences in faculty hiring" and affirmative action in general.

Cicchino called Carter's article "neo-Conservative" and said *Reconstruction* should be a "primarily Progressive journal" that would "articulate a vision of what we'd like society to be like, and even promote that vision." He said he feared that, given Kennedy's already "undeserved" reputation as a "neo-conservative," Carter's article give people the wrong impression about the politics of *Reconstruction*.

This belief was justified, Cicchino claimed, "since we have already received a half-dozen or so letters" critical of the Carter piece.

The letters didn't seem to bother Kennedy. In fact, he seemed to welcome them. Kennedy, who insisted that his own politics are progressive, said "things will be said that will piss people off and make them not want to buy it. . . I want them to challenge it." Although he is willing to let *Reconstruction* evolve, he is "resistant to a larger editorial policy."

Kennedy's contribution to his first magazine is a portrait of the African American founder and owner of three very successful black magazines, *Ebony*, *Jet*, and *The Negro Digest*, John H. Johnson. Kennedy praises him for his accomplishments, but then harshly criticizes Johnson for his "subjection of other values to a desire to make money for the sake of making money." Asked if he saw any similarities between Johnson's magazine ventures and his own, Kennedy insisted that *Reconstruction* was different, because "its reason for being is not to make money."

Although *Reconstruction* is not affiliated with HLS (its publisher, New Departures, is a non-profit corporation), Harvard has been "very supportive of

Reconstruction," Kennedy commented. Although a considerable amount of capital for the venture came out of his own pocket, Kennedy said that he had received "financial help from the dean as well."

Upcoming articles in *Reconstruction* cover a wide spectrum of issues; in addition to topics with an African-American focus such as "Mandela," "The Era of Jim Crow," "Spike Lee," and "Rap and Censorship," there will be articles on repression in China, women and civil rights, and Panama.

Several HLS professors will be contributing to the upcoming issue, in-

cluding Prof. Martha Minow, Prof. Detlev Vagts '51 and Prof. Christopher Edley '78. Kennedy also said there would be HLS students writing in the next issue. Kennedy saw *Reconstruction* as a chance for students to get published and to "interface with faculty."

The long range plan? Kennedy thought about the question and finally answered, "I would like it to become one of my favorite magazines...I would like *Reconstruction* to be on library shelves 10 to 20 years from now, to leave a mark, a record, of what people were thinking about."

HLS' Diverse Journals In Brief

The *RECORD* sent out questionnaires to the legal journals on campus asking them about their upcoming issues, here are some of the responses we received:

The Harvard Environmental Law Review (ELR) The ELR April issue will be a "topical issue featuring a symposium of articles contributed by the Attorneys General of several states (Minnesota, Vermont, California, New York, Ohio, Colorado, Illinois). The articles discuss a range of legal environmental issues currently confronting states, including criminal enforcement of environmental laws; state and federal roles in environmental enforcement; and environmental hazard prevention. Founded in 1976, ELR's current editor-in-chief is Catherine Colivaux, 3L.

Harvard Human Rights Journal In its third year of publication, the May issue will feature "a commentary on democracy in Eastern Europe and articles on the United States Constitution and International Human Rights Law, Islamic Law and Human Rights, Fact-Finding Activities of Governmental human Rights Organizations." The editor-in-chief of the journal is Mara Rudman, 3L.

Harvard International Law Journal (ILJ) Already in its thirty-first year, the next issue of ILJ will be out in April. It will feature the "the proceedings of the Harvard Law School Conference on International Cooperation in Criminal Matters (made possible by a grant from the National Institute of Justice and the Center for Criminal Justice)." Other papers will address "refugees, EEC securities regulations, the Latin American debt crisis, and the constitutional status of the US Trust Territories." The editor-in-chief is David Rockwell, 3L.

Harvard Journal of Law & Technology (JOLT) The upcoming April issue of JOLT "will feature a forum on space law with contributions from Justice William Brennan '31, two officials of the National Space Council, and Prof. Glenn Reynolds. The issue will also include other articles on the use of DNA diag-

nostic technology in toxic tort litigation, Department of Energy patent policy, and telecommunications regulations." The editor-in-chief of JOLT, which is in its third year of publications, is Gary Marchant, 3L.

Harvard Journal on Law & Public Policy (JLPP) Due out next week (March 19), JLPP will feature "the Eighth Annual Federalist Society Symposium, which focused on 'Property: The Founding, the Welfare State, and Beyond.' Among those to be included in the issue are Charles Fried, Richard Stewart '66, Richard Epstein, Frank Easterbrook, Alex Kozinski, Akhil Amar, Peter Huber '82, and Edwin Meese. The issue will also include two feature articles: Prof. Robert Hahn of Carnegie-Mellon Univ. and formerly of the President's Council of Economic Advisers on 'Regulation: Past, Present, and Future'; and Prof. Steven Lubet of Northwestern Law School on 'Confirmation Ethics: President Reagan's Nominees to the U.S. Supreme Court.' JLPP has been published for 13 years, the editor-in-chief is Peter Harris, 3L.

Harvard Journal on Legislation (JOL) In its 27th year, JOL will be publishing its second issue of the year in June. The summer issue "features articles analyzing the 1991 plebiscite in Puerto Rico, the takings implications of certain banking and thrift regulations, and Virginia's No-Fault scheme for neurologically impaired infants." The president of JOL is Nancy Young, 3L.

Harvard Women's Law Journal (WLJ) The May issue will include "a dialogue between a law professor and a NOW litigator on feminist litigation in the reproductive-rights context post-Webster, teaching law in a feminist manner, sexual harassment of women in both non-traditional jobs and in the military, using civil RICO to fight Operation Rescue blocking, drug testing of pregnant women, legal issues concerning women with disabilities, and issues regarding the American Indian Child Welfare Act." The editor-in-chief of WLJ, which is in its thirteenth year of publication, is Suzanne Goldberg, 3L.

Clark Approves New Clinicals

The Office of Clinical Programs has given the *RECORD* an advance look at its course offerings for 1990-91. "Next year's line-up is an All Star team," said Danny Greenberg, director of clinical programs. "In addition to the perennial favorites like Introduction to Advocacy, Trial Advocacy Workshop, Family Law, Disability Law, Judicial Process, Legal Services for Poor People, Judicial Process and Immigration Law, some appear for the first time."

Prof. Charles Ogletree's '78 Criminal Justice Center will begin operation in the fall. "Creating a criminal justice analog to the civil Legal Services Center, is one of the most exciting clinical developments in a long time," said Greenberg. Ogletree will teach his Criminal Justice Administration course in the fall and ITA: Criminal, The Defense Perspective in the spring.

Students will also have a chance to have full-year placements in other areas by enrolling in courses in the fall and spring. Lecturer Barbara Sard '74 will teach Advocacy, Strategies in Social Welfare Policies: Homelessness, and Prof. Gary Bellow '60 will continue this theme in his four credit expanded spring course Poverty Law: Politics, Policy and Practice. Placements will be in the new Homeless Unit of Greater Boston Legal Services.

Visiting Prof. Gerald Torres will place students through his Environmental Law course with the Environmental Protection Agency of Massachusetts in the fall. Prof. Christopher Edley '78 will continue those placements in his spring Administrative Law course. Edley will also have year-long placements working with the Senate committee on Labor and Human Resources through his Law and Governance course.

Fall and spring representation of people in state mental institutions continues through Lecturer Stephen Schwartz's fall Disability and the Law course and Bellow's Poverty course.

Prof. Martha Field is offering placements at the Legal Services Center and other organization in connection with the new AIDS and the Law course in the

spring. In the fall, students working with people with AIDS will do so through Bellow's ITA: Civil course.

Prof. Elizabeth Bartholet will be teaching Public Interest Law: Employment Rights Clinical Workshop in the spring. "Professor Bartholet has taught her Public Interest course focusing on race and poverty in the past," said Greenberg. "We are pleased that she will continue to focus on significant social issues." Bartholet describes her course saying, Student work may involve major research and writing projects in connection with litigation or legislative reform, or more case specific activities. Some students will work as investigators and lawyers for the Mass. Commission Against Discrimination (MCAD), the key agency in charge of enforcing Massachusetts anti-discrimination legislation."

Former Dean James Vorenberg '51 after this year's sabbatical, will return to teach government Lawyer, the course

he pioneered and developed. Placements will be in the Attorney General's Office and the United States Attorney's Office.

Two visiting professors will have placements in the family law area. (See related article). Robert Mnookin '68 of Stanford will teach Child, Family and the State in the fall. Prof. Elizabeth Schneider of Brooklyn Law School will teach Battered Women and the Law in the spring and Gender Discrimination in the winter.

A Clinical Fair will be held on Wed., April 4, from 3:00-5:00 p.m. in the Ropes-Gray Room, before clinical pre-registration on April 9 and 10. "The professors, lecturers and fieldwork supervisors involved in our courses will be there to answer any questions students may have," he said. "After all, we're the clinical program. We wouldn't expect students to register for a clinical course without some direct experience with those who will instruct them."

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Fried And Kennedy Debate Civil Rights Act Of 1990

By Mike Guigley.
Special to the Record

While agreeing that most aspects of the Civil Rights Act of 1990 should become law, Profs. Charles Fried and Randall Kennedy were in disagreement as to what employers should have to prove in order to maintain an employment practice that has a disparate impact on minorities. The two professors hotly debated before a standing-room only crowd of approximately 200 students on Feb. 28.

Both professors criticized recent U.S. Supreme Court decisions, but disagreed as to whether the bill is an appropriate response to those decisions. Fried feared that certain provisions of the bill would force employers to engage in quota hiring, while Kennedy argued that present inequalities demand that Congress err on the side of over-enforcement.

Kennedy and Fried strongly disagreed over the bill's response to a case in which the Court held that victims of discrimination must bear the burden of proving that the employer has no legal justification for exclusionary practices (*Ward's Cove Packing Co v. Antonio*). In doing so, Kennedy said, the court overruled an eighteen year-old case which placed the burden of proof on employers (*Griggs v. Duke Power Co*).

Fried said that the CRA's response to this case is controversial because of the extent to which it shifts the burden back to the employer. The bill, he said, not only restores the burden of proof to employers, but it also requires them to prove that challenged hiring practices are "essential to effective job performance." Furthermore, Fried said, the CRA provides that plaintiffs need not show which specific employment

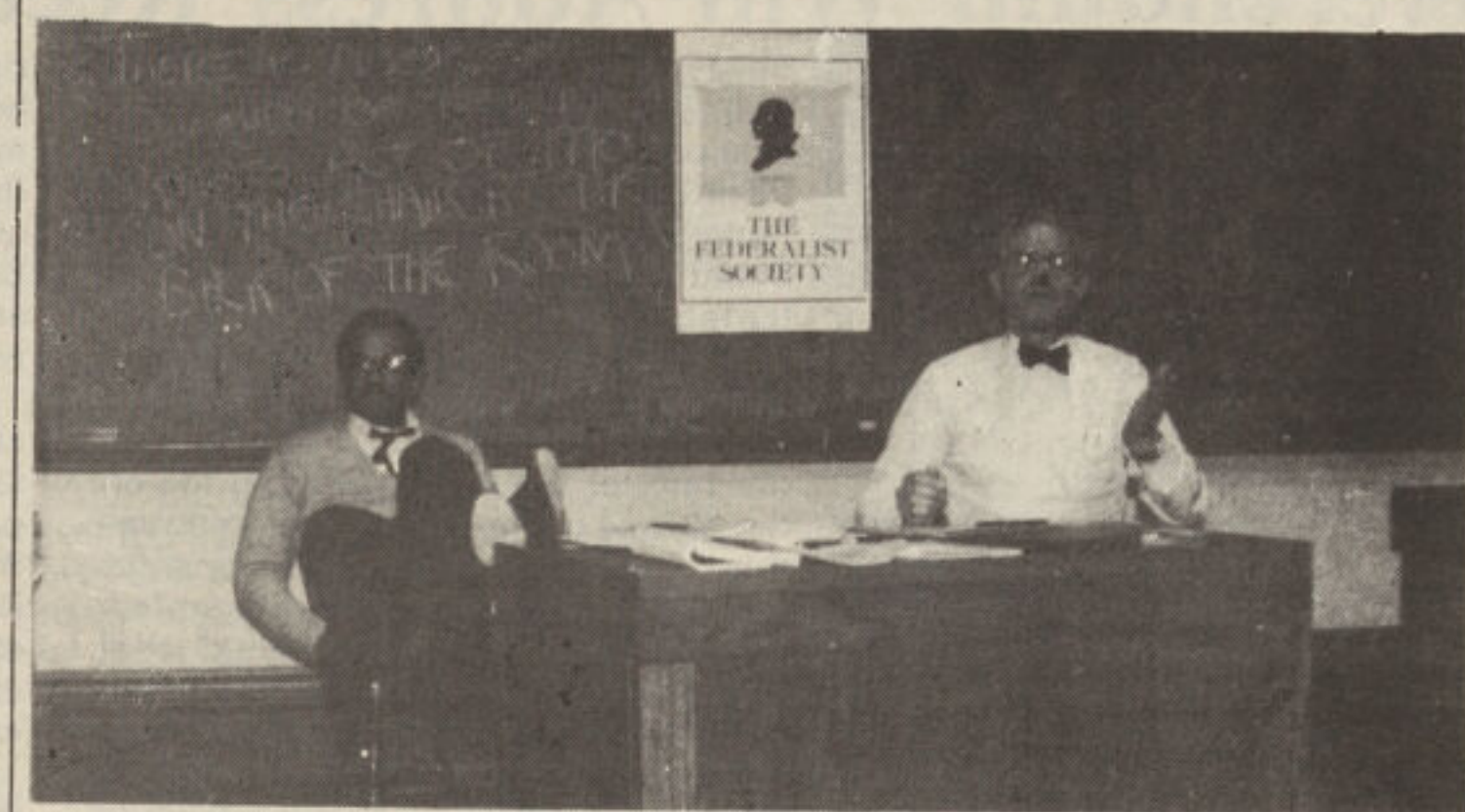
practice is having a discriminatory effect.

The result, according to Fried, is a no-win situation for employers. If the CRA is passed, Fried asserted, plaintiff's lawyers will present employers with long lists of suspect employment practices. Employers will then have to prove that each practice is "essential," a practically insurmountable burden. As an example, he said, Harvard could be forced to prove that Ph.D.s are essential to teaching or that publication is essential to attaining tenure. Faced with such a difficult burden of proof, Fried said, employers will hire by quota rather than face court battles they cannot win.

Kennedy countered that courts were capable of constructing the term "essential" in a way that would not place insurmountable burdens on employers. "Suppose pressure is put on employers and they lean over backwards to stay out of litigation range. So? That'll impose a cost. What about the cost on the other side?" Kennedy explained that, given the history of racial discrimination, Congress should risk over-enforcement rather than under-enforcement.

Kennedy also said that Fried held an outdated notion of discrimination as simply the intentional exclusion of people because of race. Earlier decisions, he said, "enlarged our notion of racism. It said we're not going to allow employers to be complacent and impose a disproportionate burden on blacks and others." Kennedy believes that the CRA, like *Griggs*, will make employers rethink the burdens they're imposing on society.

When one student asked Fried what was so bad about forcing businesses to hire people they wouldn't have otherwise hired, Fried replied, "I don't be-



Professors Randall Kennedy (left) and Charles Fried debate civil rights legislation.

lieve the private businesses of this country belong to Congress, I don't believe they belong to the courts, and I don't believe they belong to you. They belong to the people who own them, who invested their savings in them. So long as they are not discriminating, which I deplore, they should be left alone."

Fried and Kennedy also discussed a decision which narrowly interpreted an 1866 statute prohibiting discrimination in contractual relationships. (*Patterson v. McLean Credit Union*). The Court held that the statute did not apply to racial harassment on the job. As a result of the decision, Kennedy noted, 96 claims filed under this statute had to be dismissed. Kennedy explained that the CRA would remedy this by amending the statute to include all benefits and conditions of the contractual relationship.

Fried also discussed a case where the Court held that, the limitations period on discriminatory seniority plans begins to run when the plans are adopted

rather than when the plan is implemented. As Fried explained, this decision bars actions by many victims of discrimination before they are even aware of the plan's discriminatory effect. Under the CRA, he said, employees could challenge the plans when they are actually harmed.

Fried also argued that the problem of underprivileged minorities is in large measure an economic problem. "What will put people to work is employers, the engine of our economy. The more you regulate them, the less effective they are and the less wealth is created. This bill has nothing to do with that except that it makes the economy marginally less effective and leaves fewer jobs for those people to take."

The event was co-sponsored by the HLS Democrats and the Federalist Society. Kennedy will speak on the CRA again at the Federalist Society's Ninth Annual National Symposium entitled "The Future of Civil Rights" to be held on March 16 and 17 in Palo Alto, California.

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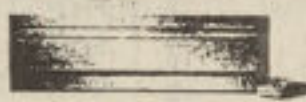
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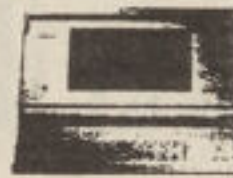
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Referendum Will Address Recent Civil Rights Decisions

By Kristen Swartz

The Law School Council (LSC) will give the entire HLS student body an opportunity to voice its objection to the U.S. Supreme Court's recent civil rights decisions. Proposed by the HLS chapter of National Lawyer's Guild (NLG) and endorsed by several other organizations on campus, the referendum asks students if they agree with the statement that recent decisions of the Supreme Court have "turned back the clock on civil rights...and substantially weakened the protection of some of the most basic of human rights."

The LSC will hold the referendum during its annual spring elections.

The referendum is part of the upcoming National Law Students Strike, according to John Bonifaz, 1L, a member of NLG and initiator of the referendum. Bonifaz said that a national referendum would "send a message to Washington that the racism existing in the

Supreme Court is unacceptable" as well as "encourage educational discussion on campus."

Bonifaz explained that the vote was "suggested as a component of the National Law Student Strike" which is tentatively scheduled for April 5. Last year, HLS participated in the national strike of 34 law schools by holding a "study in" in protest of the lack of diversity of the faculty nationwide on law school campuses. The referendum statement calls upon Congress and the President to restore the protection of "hard-won civil rights" that Supreme Court decisions "have substantially weakened." The final statement asserts that "when the rest of world is recognizing people's human rights on an unprecedented scale, the United States...should do no less."

"The message," Bonifaz explained, "is that these decisions cannot be viewed in a vacuum — they're serious attacks on people who have gained hard-won

rights." The referendum results would be sent to the Senate Judiciary Committee, which will be holding hearings this spring on Senator Kennedy's bill on the Civil Rights Act of 1990. The bill, Bonifaz said, was in response to the same Supreme Court decisions the referendum addresses.

Explaining the importance of the referendum as an educational tool, Bonifaz said, "Those of us going into the profession need to know what the Supreme Court is doing to our basic civil rights." The recent Court decisions, Bonifaz claimed, "show the racism that exists in the Supreme Court, especially among the 'Majority Five'."

An ad-hoc coalition endorsing the referendum has been formed on campus. Besides NLG, five other HLS organizations have already endorsed it: La Alianza, the Native American Law Students Association, the Black Law Students Society (BLSA), the Committee of Gay and Lesbian Legal Issues

(COGLLI), and the Coalition for Civil Rights (a newly-formed coalition on campus which includes the above-mentioned groups as well as the Women's Law Association (WLA), Asian American Law Students Association, and the Disabled Law Students' Association).

The Asian American Law Students Association and WLA were expected to vote on the referendum sometime this week. Bonifaz noted that only "those organizations which represent the groups most affected by the decisions" were asked to endorse the referendum.

Supreme Court decisions NLG regarded as "turning-back-the-clock" included one holding that the Civil Rights Act of 1866 protected racial discrimination only during hiring and not while on-the-job, another placing the burden of proving the lack of a business reason for discriminating upon the employee, and a third holding that affirmative action plans can be challenged as reverse discrimination years after adopted.

According to Brian Melendez, 3L, president of LSC, the vote has no "binding effect" but is merely meant to "register the official opinion of the students." Although referenda are commonplace on campus, Melendez said that as far as he knew, referenda in the past had only dealt with issues involving the school itself. The elections for LSC, which will include the referendum, will be held on April 11.

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Clark Announces Fourteen Visiting Professors

(continued from page 3)

Virginia since 1980. Both Roin and Levmore previously held visitorships at Yale Law from 1986-2D1987.

Robert Mnookin '88, is the Adelbert H. Sweet Professor and Director of the Stanford Center on Conflict and Negotiation. Mnookin will teach Children, Family and the State and Negotiation Workshop.

Karen Nelson Moore '73, returns to Harvard from Case Western Reserve Law School. She will teach civil procedure and taxation. Before practicing for two years at Jones, Day in Cleveland, Moore clerked for Judge Malcolm R. Wilkey, U.S. Court of Appeals, D.C., and for Justice Harry Blackmun of the U.S. Supreme Court. Moore has been at Case Western since 1977.

Frances Elisabeth Olsen comes to HLS from UCLA. Olsen will teach Feminist Jurisprudence and Torts. Olsen graduated from Colorado Law where she was a law review member. In 1984 she received her SJD from Harvard. Olsen has previously visited at St. Johns; New College, Oxford; and Michigan.

Jay Westbrook will visit from Texas, where is the Andrews and Kurth Central Professor. He will teach bankruptcy, commercial transactions, and international business transactions. Westbrook has been at Texas since 1980. He is currently visiting Queen Mary College, University of London.

Next spring, Cynthia Farina, an associate professor at Cornell Law, will come to HLS for the calendar year. Farina was drawn to Harvard because of her knowledge of the faculty's work and a "curiosity about what Harvard students were like."

Farina is currently studying procedural due process and speculating as to how it might look differently if it began from "feminist assumptions about human nature." After graduating from Boston University Law and clerking in Rhode Island and D.C., Farina practiced at Foley, Hoag & Elliot in Boston until 1985 when she left for Cornell.

Also coming for the calendar year 1991 is Elizabeth Schneider. A 1973 graduate of NYU, Schneider has worked at the Center for Constitutional Rights in NYC and at the Constitutional Litigation Clinic in Newark, where she was Acting Director in 1982-1983. She was the 1988-1989 Chair of the AALS Section on Women in Legal Education. She will teach Gender Discrimination and Battered Women and the Law.

Also visiting are Elizabeth Clark of Pennsylvania who will teach American legal history and property, Katsuya Uga and Shinasaku Iwahara of Todai, and Yukio Yanagida who will teach Japan: joint ventures.

BLSA Spring Conference Raises Issues For Professionals In '90s

By Sharon Stone

Current and future black professionals gathered to discuss the issues they will face in the new decade at the Black Law Student Association's (BLSA) Spring Conference. The conference, a weekend of activities and discussions for BLSA members, Harvard Black Alumni, and prospective students, was held on March 9 and 10 at various locations on the law school campus and at the Charles Hotel.

The theme of this year's conference was "The New Decade: The Mission of Black Professionals in the 1990s," and focused on achievements of blacks in the professional world, as well as the effects recent trends will have on the realization of future goals in the black community. The conference was a forum on how the black lawyer can best prepare to fulfill the responsibilities to the community as the new decade commences.

The first event of the Spring Conference was an Employer Forum, composed of representatives including recent Black Harvard graduates from over 35 law firms nationwide. BLSA members got a chance to speak candidly with black members of law firms about the nature of their employment, receive insight about the job market, and gain information about summer job opportunities.

Misa Roquejoffre commented, "This year has seen an increase in the number of employers that send representatives to the Forum. Representation is bound to increase as the number of black Harvard alumni in the job market increases, and it is a fantastic opportunity to network." The Friday events continued with a panel discussion on Women of Color in Law and Education. This panel featured women professors from both the black and Latino communities. Later, a cocktail reception at the Charles Hotel featured a live jazz performance by Frank Cooper '90, Grant Fine '91, and their band.

The evening ended with a speech by California Assemblywoman Maxine Waters. She emphasized that despite the varying options available to black Harvard graduates, they still have a mission to act in the black community's best interests and to maintain a base with their past to one day realize the community's goals. She stated that, no matter what one's career choice is, there will always be opportunities to act creatively to foster the ideals of the black community.

Saturday, the conference continued with a series of panel discussions. The panels addressed issues ranging from the career perspectives of recent graduates starting their careers, to black legal entrepreneurs who have carved their own niche in highly competitive markets, to the issues relating to South Africa and finally to the politics of education and the nature of the education system into which black children are thrust.

The conference ended with a dinner/dance at the Charles Hotel, highlighted by two moving speeches. Barack Obama, 2L, the newly elected president of the *Harvard Law Review*, told the audience that despite the achievements blacks as individuals may realize, one must never forget where one came from or lose sight of the community goals. Obama stated that only when we acknowledge that one is part of a communal enterprise, can one hope to effect lasting change.

Elaine Jones, deputy director counsel of the NAACP Legal Defense and Education Fund, pointed out dangers of the Supreme Court's recent rulings on Civil Rights and challenged the lawyers of tomorrow not to forget their past, but to recognize and meet the challenges that still face the black community.

The Spring Conference tried to give practical insights into how Harvard Law School students and graduates can act to bring about the goals of the black community.

Dorothy Goes To Law School In Spring Performance

By Carol Umhoefer

Last weekend the Harvard Law School Drama Society presented "The Crimson Slippers (or) There's No Place Like Holmes," a loosely styled parody of "The Wizard of Oz." The production gave an amusing, sometimes outrageous, and ultimately all-too-true vision of life at HLS.

The heroine, Dorothy, is a disappointed 1L who wants to escape the boredom of HLS, "where the social life makes chastity belts redundant." Played by Annabel Shull, Dorothy combined cynicism and wide-eyed naivete with a sweet and sometimes compelling singing voice.

One Friday night Dorothy goes to a yawner dorm party featuring former actress/Olympic swimmer/Mt. Everest climber turned O-group leader, Auntie Trust (Catherine O'Neil in an exceptionally bright performance) singing, "I am a model student, model by day, student by night."

Bored senseless, Dorothy heads to the Hark, where despite the obvious risks she plays pinball and is subsequently zapped into the Real World. Wicked Dean West (played with a wonderful cackle by Jennifer Radding) cannot permit the early departure; Dorothy has not yet signed her life away in the form of a HLS Loan Package. Dean West pursues Dorothy into the Real World, but the dean is banished back to HLS by a Good Recruiting Coordinator (Jennifer Walker Elrod). Upon hiring idealist Dorothy the Recruiting Coordinator advises her to forget about ethics, morals, sexism or racism in the Real World — "Those things take care of themselves!"

Shortly thereafter Dorothy and the Litigation Partner (Jill Richburg) are fired from the firm and make their way to the Public Defender's Office (Rudy Rodriguez). The Defender is assigned to infamous Courtroom 10, where the judges, Teutonic Twin Terrors Learned Hans and Felix Franzfurter (Cam Jones and Cameron Powell), sport greysweats, leather lifting belts and biceps the size of tree trunks.

Next stop for Dorothy, the Litigator, and the Defender is a Federal Court with a loony Judge (Erin Monaghan), transporting the audience back to the glorious 1970's with her rendition of "I'm Only a Bill, and I'm Sittin' Here in Capitol Hill."

The Judge joins the triad and they decide to petition the President to make clinical requirements mandatory for law students. Temporarily sidetracked by the White House Deputy Undersecretary of Avoidance (Elizabeth Turner), they end up on the Morion Uppity Show (a hilarious Jorge Ramirez) with his hot backup band, The Burning Klansmen (David Haug, Lori Osmundsen, Steve Ganis, Dave Strachan and Jarrod Newman providing the heat). Uppity lambasts lawyers and lawmakers, a/k/a "The pinko meatballs and tapioca brained mutants who are sending this country to hell in a big red bucket," then emerges (off-camera) as a Closeted Liberal.

Finally making it to the Oval Office with their petition, President Shrub (Adam Raichel) and Vice-President Pigeon (David Haug) reveal that Pigeon is the true dynamo of the White House.



The HLS Drama Society

duo; Shrub is such a wimp that "he couldn't rise to the occasion if you locked him in the Rose Garden with Paula Abdul and a bottle of peanut oil."

Pigeon assumes the Wizard role, this time with more hair, and gives the Litigator the power to say nothing of interest but have people listen anyway, a power held by most HLS faculty members. The Defender gets a limousine, to be parked for free at the ACLU parking lot. The Judge gets improved decision-making powers with the aid of the dart board currently used by the HLS Admissions Committee. And Dorothy can find respite from the Real World simply by clicking her heels three times and saying, "Man, am I bored!"

Back in the Hark all is safe, excepting the continuing obvious risks of the pinball machine and the big screen TV which, to the dismay of "LT" (brilliantly played by Lawrence Taylor), has exploded during the closing minutes of Double Jeopardy.

"The Crimson Slippers," produced by Adam Raichel and David Levy, directed by Adam Raichel, assisted by Leigh McAfee. Musical direction by David Haug, choreography by Kathleen McAchran.

Doing the HLSDS spring show can involve almost as much time as clawing your way to make partner at a New York City mega-firm. The cast and crew put in two 40 plus hour weeks before opening night; the directors almost twice that. Elizabeth Turner, 3L, is an eight show veteran of HLSDS. "What makes someone build a cardboard pinball machine instead of writing a brief? I do it because it keeps me sane. Our group doesn't talk about law all the time; we actually have fun." Said Producer David Levy, 2L, "We are the people at Harvard Law who don't go to class and don't do our readings."

"Other people," added Cam Jones and Cameron Powell, 1Ls, "are little and small. They have no legal pumptitude. They spend no time in the gym and too much time in the library."

The creative element was more than evident in this year's show, which knocked attitudes all over the political spectrum. "We're not making a political statement," said Levy, pointing to Dean Robert Clark's '72 cameo appearance Saturday evening as evidence. "It all is really in good fun."

Support for all this fun comes from law firms who are interested in promoting themselves among the Harvard Law School community. This year's supporters are largely Texas firms, noted Levy, reflecting the Texas roots of a number of HLSDS members.

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Public Interest Debated At Forum

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als were reasonable," Edley said afterwards. "He didn't like the packaging."

An author of the white paper was not overly discouraged. "I can't fault him for not going part-by-part, but I wish he would have given his thoughts about some of the substantive recommendations," said David Buchholz, 1L. The law school council member agreed that Dean Clark would probably avoid any commitments until the dean's public interest committee issues its recommendations.

ECPIP members have criticized Dean Clark's timing in his announcement of two public interest fellowships funded by private donations. The Kaufman Fellowship, a \$1 million donation to provide stipends to recent graduates working in the public interest, was announced last fall as the public interest debate heated up. At the start of last week's meeting, the dean announced the Morris Wasserstein Public Interest Fellows Program, a \$500,000 gift to fund visits by public interest practitioners who will lecture and counsel Harvard law students inter-



Prof. Christopher Edley '78 and Dean Clark '72 at the Forum.

ested in public interest jobs.

Though he was not questioned about his motive in announcing the Wasserstein Fellowship only last Wednesday, the dean denied he timed the disclosure of the Kaufman Fellowship to defuse student protests last October. Clark, who appears to have been an unusually successful fundraiser in his first few months as dean, collected both donations. The dean emphasized that he is not opposed to public interest funding from gifts designated for that purpose. But he does question the use of "tuition money and undesignated giv-

ing" for such programs.

Dean Clark chose to leave the incident that sparked the public interest debate cloaked in mystery. A student questioned the dean about the last August's firing of Ron Fox '63 and the elimination of a separate public interest counseling office that Fox headed. The dean would only reiterate that his decision was based on "urgent problems throughout the student services area....some of which I can't talk about." He did state, though, that the public interest program was "spending a lot of money and not getting enough results."

Dean's Public Interest Committee Near Decision On Recommendation

By Kristen Swartz

The Public Interest Advisory Committee (PIAC) is expected to make its final recommendations to Dean Robert Clark '72 sometime in the "near term," according to Prof. Christopher Edley '78, PIAC chairperson. While suggesting that his committee agreed with several proposals of the Public Interest White Paper, Edley questioned others and outright disagreed with one major initiative, to provide post-graduate fellowships.

Edley would only hint at the specifics of PIAC's upcoming recommendations. He offered his own views of the White Paper but did not claim to officially represent PIAC's views.

While he was in favor of a pro bono requirement, Edley said he did not agree with the reasons the White Paper had given to justify it. Rather than calling the requirement "a service of the law school," he said, "a better justification for it is as part of the moral and legal education of students."

He agreed that, if the requirement was implemented, "it was not irrelevant that the requirement would result in helping poor people," Edley thought it was more important to HLS that pro bono work "would help shape young lawyers and their perspectives."

Edley disagreed with the dean that post-graduate fellowships are not something a law school should have to provide. "The school should be raising money for things no one else is raising money for — summer jobs, placement, or LIPP, for instance."

Edley said the dean was "excessively rigid" in many of his ideas, and his "single-minded focus didn't seem all that helpful." While Edley didn't disagree with Clark that HLS's primary objective should be scholarship, he said Clark missed the "real question [which] is how does one balance primary goals with secondary and tertiary goals."

Yet despite the dean's "single-mindedness," Edley did say he thought the dean's view "seemed broad enough to en-

compass a lot of what the committee would be proposing."

Edley also praised the dean's accomplishments. He said that since July, Dean Clark's public interest "record has been a spectacular one." Echoing Daniel Greenberg's comment at the forum, Edley said it was important for students to "look at the concrete results, even if they disagreed vehemently with the rhetoric that the dean uses."

Edley considered the forum "a valuable chance for the dean to hear some of the students' perspectives" regarding public interest and also good for "students to hear where [Dean Clark] is coming from and to understand his passions."

Asked if he was bothered that four other law schools were ahead of HLS in instituting a pro bono requirement policy, Edley's response was, "Me, personally? Yes."

Edley also spoke about a rumored "pro bono requirement for faculty." Edley said the "cafeteria talk" he had heard suggested that there would be "very little support from the faculty," Edley said faculty opposed pro bono requirements for themselves for several reasons: they came to school to teach and not to practice; they already did a substantial amount of pro bono activities not necessarily involving a clientele; and they felt that, compared to other lucrative alternatives, teaching itself is a public service activity.

Edley said we could expect PIAC's final recommendations to range from those "easily implemented by the dean" to some he considered more ambitious and requiring "a lot of discussion and debate."

He was reluctant to comment on PIAC's success. "It's too soon to tell," Edley explained, "Whether Dean Clark pays attention to our recommendations depends on how well we come to consensus." He admitted, however, that PIAC had "enormous potential" and that he felt "cautiously optimistic."

Although PIAC will be dismantled after making its recommendations, Edley said

that a new permanent public interest committee is one of the issues being considered by PIAC. PIAC consists of five faculty and four students. The faculty were hand-picked by the dean.

PIAC faculty members include Prof. Gerry Singsen, who runs the program on legal profession; Daniel Greenberg, director of the clinical program; Prof. Charles Fried, a strong advocate of government service; Prof. Albert Sacks '48 who launched the clinical program; and Edley. Explaining why he was chosen, Edley, appearing serious, said, "Dean Clark wanted to punish me. I had attacked him at a faculty meeting and he turned around and chose me for the committee."

LSC Sends 'White Paper' To Administration

(continued from page 1)

mented, backers hope the program will improve Harvard's public service to the community and convince more students to enter public interest and public service jobs after graduation.

Currently, only about six percent of HLS graduates take public interest and public service jobs. The LSC representative to the drafting committee, David Bucholz, said he welcomed the idea of putting the public service requirement to a student vote. The faculty, however, would have the final say on any curricular changes.

Four other law schools (Penn, Tulane, Florida State, and Valparaiso) have adopted a public service requirement, but it was put to a student vote only at Penn. It passed there by a three to one margin.

Another controversial proposal was watered down by the LSC. The draft white paper proposed elimination of traditional first-year electives and replacement with "substantive public interest law courses." The council voted to "augment" first-year electives with the public service offerings, rather than replace the traditional selection entirely.

HLS Ranked Number Five; Clark Criticizes Survey Results

(continued from page 1)

pared with the number of 1989 graduates, and the average starting salary of graduates from 1988 or 1989.

Pointing out an inaccuracy, Clark said that "the estimate of median starting salaries of Harvard graduates excluding clerkships that they used was \$52,311, while the actual median last year was \$62,760."

Harvard did not turn over the salary information to the magazine, Clark said.

"I told them in a letter that it would be impossible to make meaningful judgments of the sort that they were making. We did not cooperate very well because I think it's a Mickey Mouse survey."

He further questioned the validity of the starting salary criteria. "Even though we have a smaller number of students than Columbia doing public interest, we also have a broader geographic distribution. A school like Columbia does well because most of their people work in New York City where salaries are higher, whereas we have a nationwide, indeed a worldwide distribution. Furthermore, to equate salaries with quality is silly," Clark added.

The employment rates were also not provided to US News. N. June Thompson, placement director, said that she never gave them figures "because we don't know the exact figures."

HLS typically has about five people, less than one percent, who the placement office knows are still looking for jobs at graduation. Thompson estimated that the jobless rate at graduation could not be more than 2%.

US News did not return calls requesting the details of their calculations.

Dean Clark refused to speculate for the record whether the US News was being vindictive, but he did say that, "They emphasized to me that we

weren't being fully cooperative."

He said the report was "Mickey Mouse" because "things such as the richness and quality and range of curricula offerings or the existence of an international program are not factors."

"And I think that however they surveyed academic reputation, they must have talked to the wrong people."

US News claimed to have surveyed two top officials at each of the 175 law schools.

Clark did not cast his vote.

"They didn't get a very good response rate from deans of top schools," he said.

In regard to the graduation rate statistic, in which Harvard ranked 24th, Dean Clark responded, "They're totally bonkers. We couldn't possibly be as far down in the rankings as they suggest there."

The registrar's office said that they did not calculate graduation rates, but gave the Record figures for the number of students entering and leaving HLS for the last five years. While this figure does not reflect the graduation rate for any particular class, the number of people who graduated was 98 percent of the number of students admitted to the law school. The US News ranking was for the percentage of students who graduate in three years.

Clark admitted that there was "a little sting to the survey," but added that the survey is being decried by enough people, including Dean Calabresi of Yale Law School, that it will not have the self fulfilling impact of deterring top students and faculty.

Regarding the instructional resources rank of tenth Clark commented that, "I don't know how they computed that. We didn't give them enough data that they could have done it directly, so they should have put an asterisk by that (indicating an estimate)."

"It seems crazy to me because even though we do have a large student body, we are just so dominant compared to other schools in certain areas like the library. Our library is so much bigger than anyone else's that it's not funny."

"We are number one. That's what I say."

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