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Photo by Felicia Ravago

Muhammad Kenyatta speaking to HLS students about the diversity struggle at HLS

Ogletree Launches Criminal Justice Clinic

By Sharon Stone

HLS has introduced Criminal Justice Institute (CJI), a unique new clinical program designed to give students practical experience in criminal justice, while including research opportunities normally not associated with law school coursework.

CJI was conceived to "fill the gap beyond first year Criminal Law for those who desire to pursue criminal litigation as a career," said Prof. Charles Ogletree '78, who lead the introduction of the program this semester.

According to Dean Robert C. Clark '72, CJI "will acquaint students with the tough practical realities of the criminal justice system and motivate them to play constructive roles in it."

Ogletree explained that this clinical program is different from anything currently offered at the law school because of its research component.

"This is the first clinical program to have a research component which will assess what we do in the criminal justice system," he said. "We need to assess if our acts as defense attorneys are effective, if modifications are necessary and if alternative strategies can be formulated. This will not just be *ad hoc* representation, we will be researching complex issues with an eye to establishing effective solutions."

The CJI hopes to acquaint law students with real-world criminal law practice. Students who enroll in the program will receive

placement with outside agencies or HLS organizations such as the Prison Legal Assistance Project (PLAP), and will take on cases under CJI's supervising attorneys. Students will represent of adult criminal defendants, juvenile defendants, and prison inmates and will brief and argue criminal appeals. Their work will be strongly tied HLS courses and programs on government lawyering, criminal prosecution and defense.

Managing Attorney Martin Rosenthal and Education Coordinator Abbe Smith will head CJI in addition to Ogletree.

Rosenthal, a graduate of Harvard College and Stanford Law School, has been a public defender with the Committee for Public Counsel Services (formerly the Massachusetts Defenders Committee) since 1973 and served as training director since 1984. Rosenthal will supervise the attorneys who oversee the students' work.

Smith, a graduate of Yale and New York University School of Law, was with the Defenders Association of Philadelphia as a trial attorney and is former Adjunct Professor of Law at Temple University School of Law. Smith will supervise students and coordinate with the field work instructors linking the Institute and the academic courses.

Rosenthal expects that by next semester another attorney will be hired to act as a field work instructor. When CJI is running at its full capacity, Rosenthal said there will be a total of five supervising attorneys.

"This kind of clinical experi-

ence is invaluable--perhaps the most valuable thing in law school," said Rosenthal. "This program will not only serve the existing needs of HLS students and the client community but has already generated enthusiasm and participation on the part of students. People are already stopping by and asking about topics for their third year papers."

Ogletree expressed similar sentiments. "It is heartening that HLS is concerned enough about the issue to take on a serious role to address the problems. Insofar as student response, there is far more demand that can now be met, the courses are substantially oversubscribed. There has also been positive feedback from HLS graduates who are currently practicing in the field."

"I view this as a great opportunity for Harvard to play a significant role in addressing the problems facing the criminal justice system. CJI will be a way of certifying HLS students when they wish to pursue careers in the field. Students currently enrolled in the class already want letters of recommendation."

Rights Groups Plan To Rally For Diversity

Promising to continue the activism of last spring, students from the Coalition for Civil Rights (CCR) have scheduled a rally for next week to reach out to the first-year class and to spread their battle for diversity from the faculty into other departments of the law school.

In a meeting Monday attended by several dozen students, the CCR decided to embark on a multi-pronged campaign that will encompass dialogue with Dean Robert C. Clark, "direct action" to pressure the faculty, and continued support for the protest being held by Prof. Derrick Bell.

"We want to emphasize that in spite of all the work we did

Public Interest Office Swamped

By George Paul

Students who want job counseling from the new public interest office will have to wait three weeks for an appointment because of overwhelming demand, said Stacey DeBroff, director of the office.

The development already is being cited by some students as evidence that Dean Clark '72 should hire a second public interest counselor in accord with the recommendation of the Public Interest Advisory Committee.

"This proves what the committee had determined last spring," said Jason Adkins, a student member of PIAC. "This school needs at least two full-time public interest job counselors who are attorneys."

"It is distressing that during this critical job-hunting season many students cannot secure public interest counseling from attorneys who know the job market. . . . As a result, some students could be pushed for lack of a better alternative to taking jobs in firms. The dean and faculty should help Stacey get through this period of peak demand," DeBroff said that for the next three weeks she is booked solid from eight in the morning until eight at night. The office has been "a magnet for students interested in public service alternatives," DeBroff said.

To partially offset the increased demand, the office plans to add four part-time law students to help. They will do employer outreach, develop information resources and meet individually with fellow students to help with job searches.

Two college work study students will also be hired to deal with the "hundreds of letters discussing job notices and job bulletins" coming into the office, according to DeBroff.

Pete Levitas, 3L, was told Tuesday that he would have to wait until Oct. 5 for a full inter-

view with DeBroff. Levitas, who was given a shorter 15 minute interview set for later this week, complained, "It's clear that now that the service is available, people are using it. But students need public interest counseling now, not in October."

Levitas agreed with the PIAC recommendation that two full-time counselors be hired. "It is the school's obligation to make the information available to students about as many career options as possible. To do this we need more counselors--two or three. That has been PIAC's argument all along."

"It is just like 'Field of Dreams,'" Levitas added. "If they build it, people will come."

Trying to juggle 12 hours of appointments, edit 15 resumes, answer questions from 60 students, and answer phone inquiries each day is not easy, but DeBroff and staff assistant Barbara Agresti are not complaining.

"It's wonderful! It is an indication of the desire of students to have counseling options other than the traditional fall schedule," DeBroff commented.

She said the response is an "indication of just how many people are seeking to talk about their desire to pursue public service careers and take advantage of the myriad of new services offered by this office."

DeBroff added that, although she is busy, anyone with questions about public interest should contact her.

Third year student Jennie Green is interested in international human rights law and U.S. foreign policy. She is using the office to help revise her resume and help start her job search. The public service office will also steer her toward jobs and direct her to fellowships and grants that are available.

Green added that the establishment of the public service office is producing concrete re-

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you, but you didn't meet any of our demands from last year."

Asked to respond to Clark's comment in his letter that this year's pool of visiting professors includes several women and people of color, Melchor said, "We welcome all kinds of diversity, including that which exists in the group of visiting professors. But the only thing that will make a difference in the long run is the bringing in of people of color to tenure-track positions. With rotating diversity, it's unpredictable from year to year. This is a good year. Who is to say next year will be good?"

The CCR was created last
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"What we are saying is thank

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Student Groups Demand Boycott Of Baker & McKenzie

By Karen Levy

Several minority groups on campus will ask the HLS Placement Office to ban the law firm of Baker & McKenzie from interviewing on campus this fall because of the firm's boycott of Michigan Law School.

Last year Baker & McKenzie recruiters were met with a protest at HLS because of a national controversy stemming from the racist harassment of a University of Chicago student who was interviewing for a summer associate position.

The latest controversy stems from a six-month investigation by the University of Michigan Law School that concluded that hiring partner Arthur Rovine '61 questioned a female Michigan student about her parents' reaction to her living in Japan, and insinuated that living abroad could lead to intermarriage. The firm denied the questioning took place.

Although Michigan decided the remarks were only "inappropriate" and did not warrant a ban on Baker & McKenzie, the firm nevertheless decided to boycott the Michigan interviewing season because it disagreed with the findings of the investigation.

The Political Action Committee (PAC) of the Harvard Black Law Students Association (BLSA) plans to draft a letter to the administration "to convince them that [the conduct of the Baker & McKenzie interview] is blatantly discriminatory and therefore should be banned," said co-chair of PAC, Erin Austin, 2L.

BLSA member Cassandra Butts, 3L, expressed outrage over the

interviewer's remarks and the firm's response. "Last year's course of action was to prevent the firm from interviewing on campus," she said, "but since that didn't happen, it gives Baker & McKenzie the opportunity to do something like this again."

Co-chair Michelle Benecke, 2L, of the Women's Law Students Association (WLSA), predicts that her group will request that the administration officially boycott Baker & McKenzie. She asserted that the firm's behavior warranted student action. "All Michigan said was that this woman was telling the truth. Baker & McKenzie acted in a really defensive manner. Their decision was an insensitive, not a thoughtful or very professional, response. They should have taken it as constructive criticism," she said.

Other student groups are meeting this week to consider joining the protest. Co-chair Gloria Rivera, 3L, of La Alianza, the Hispanic students association, said that "La Alianza is committed to [getting rid of that] discrimination. I would lay that [responsibility] on the doorsteps of all placement offices around the country that refused to ban Baker & McKenzie last year because that sent a message to the firm that they didn't have to deal with

their interviewing practices."

"Since Michigan did not sanction the firm, it looks as though the firm is punishing them for looking into a students' complaints. And that is a scary prospect," she added.

Asian American Law Students Association (AALSA) Chairman Grande Lum, 3L, noted that the alleged comments reflect a bias against Asians

which "would be detrimental to an Asian or Asian-American trying to advance in the firm."

Student actions come in response to a letters sent to HLS student groups last week by a coalition of students at the University of Michigan Law School requesting that the groups encourage

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Student Mugged: Gives 'Tort' Retort

By George Paul

An HLS student was attacked and beaten unconscious last Wednesday night in Harvard Square after refusing to give cigarettes to two homeless men.

Minwoon Yang, 2L, left Store 24 after purchasing cigarettes around 11:30 p.m. on Sept. 12 when he was approached by two men he described as "street people," one of whom asked, "Can you spare a cigarette?" As he recounted his tale to the RECORD,

Yang said "I hesitated and then gave him one and started to leave." The second one then said, "Why don't you give me one, too?"

Yang said he balked and continued walking. When the second man screamed, "F--- you, give me one!" Yang again refused and continued walking because, he said, the "guy was being obnoxious." The first attacker then grabbed Yang by the arm. Yang jerked away, saying, indignantly, "Get your

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Prof. A. James Casner: 1907 - 1990

A. James Casner, a distinguished legal scholar in estate planning and taxation, former professor and dean at HLS and decorated veteran of World

War II, died Friday, August 31, 1990 after a brief illness. Casner, the Austin Wakeman Scott Professor of Law, Emeritus at HLS, was 83.

"A. James Casner was one of the outstanding law teachers of his generation," said Dean Robert C. Clark '72. "He played a major role in shaping American law in the fields of taxation and estate planning."

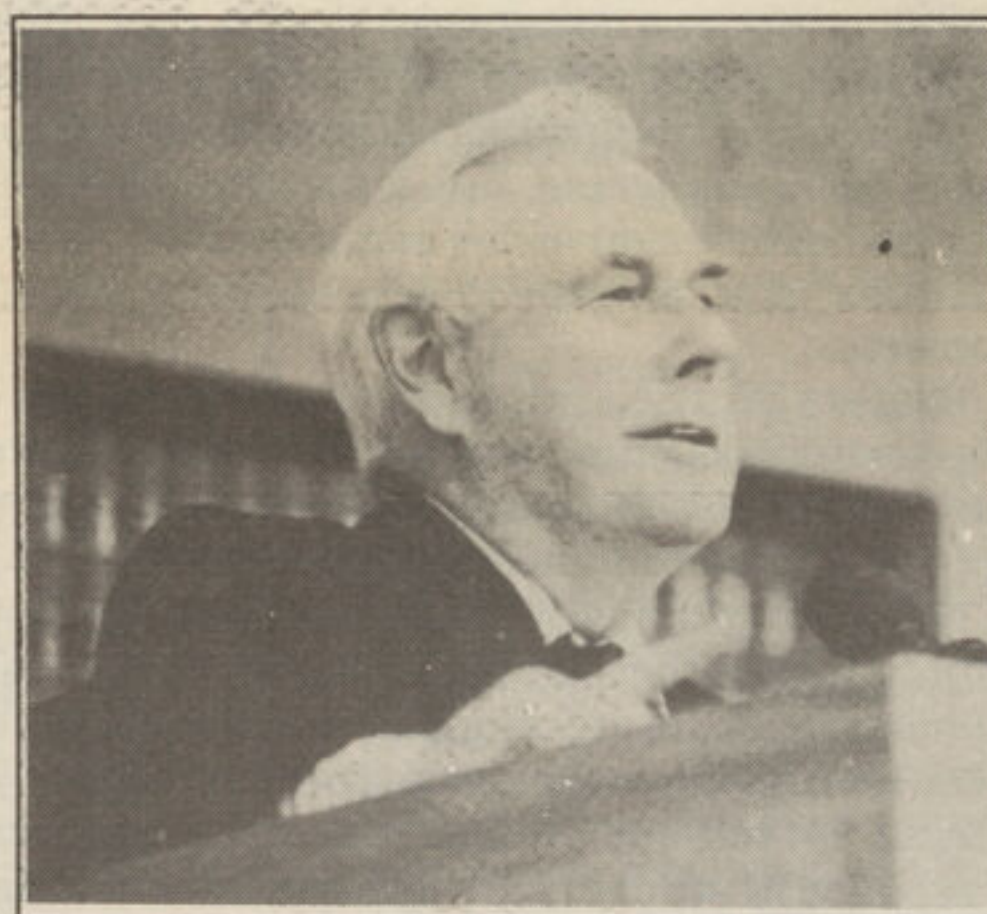
Upon receiving his LL.B. degree from the University of Illinois in 1929, Casner dedicated his life to teaching. Since 1938, he taught at Harvard where, in addition to his teaching assignments, he was Associate Dean from 1961 to 1967, Acting Dean from 1967 to 1968 and the Director of the Harvard Law School Program of Instruction for Lawyers from 1953 to 1976. In addition, at various times during his career he taught at the law schools at the Universities of Illinois, Maryland, Michigan and Texas, Stanford University and Boston University.

From 1942 to 1945, Casner was in the U.S. Army Air Corps serving almost all of his tour of duty with the 8th Air Force in Europe. At the end of World War II, he was a Colonel and was awarded the Legion of Merit and the Bronze Star.

In addition to A.B. and LL.B. degrees, Casner received an S.J.D. degree from Columbia University and honorary doctorate degrees from Harvard University and Suffolk University. He was a member of the Bar in Illinois, Maryland and Massachusetts and was admitted to practice before the U.S. Supreme Court.

Casner was the author of the multi-volume treatise, *Estate Planning*, editor-in-chief of *American Law of Property*, and co-author of *Cases and Text on Property*.

In the 1930s, Casner began a long



Prof. A. James Casner

association with the American Law Institute and served as adviser and reporter for many of its projects. Included were restatements of the law of property and trusts, projects on landlord and tenant law, the rule against perpetuities, powers of appointment, donative transfers and federal income, gift, and estate taxes. His work with the American Law Institute enabled him to be an active participant in the development and growth of the law. Many of the concepts he helped to formulate for the institute, in projects related to the unification of gift and estate taxes and the income taxation of estates and trusts, have been incorporated in the Internal Revenue Code.

He received numerous awards including the "Estate Planner of the Year Award" in 1990. Casner was elected an Honorary Fellow by the American College of Probate Counsel.

In addition to his teaching career, Casner was associated with the Boston law firm of Ropes, Gray, Best, Coolidge & Rugg (now Ropes & Gray) from 1945 and 1958.

A memorial service for Casner will be held at 2:00 p.m. on Friday, Oct. 5, in Harvard Memorial Church. Following the service there will be a reception at the Faculty Club, 20 Quincy Street.

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Harvard Law Record

Volume 91, No. 2

Patrick Miles, Jr.
Editor-In-Chief

Baker & McKenzie Action Should Concern All Law Schools

The reaction by Baker & McKenzie to its latest interviewing controversy raises the question of whether or not the nation's largest law firm respects the integrity of the interviewing process. The controversy is larger than whether or not the interviewer actually made the insensitive remarks in this particular instance. What should gall students, placement advisors, law firms, and law school administrators is the fact Baker & McKenzie decided to punish the University of Michigan Law School by not interviewing its students this year.

It should be remembered that after a six-month investigation into the student's allegations, the Michigan administration neither sanctioned or denounced the firm, it was merely concluded that the student's version of incident was accurate. The firm vigorously denied the veracity of the student's allegations; the firm maintained that the comments were never made. The lines were drawn: the school backed the student while the firm backed its hiring partner. However, while the educational institution chose not to take any action, the firm fired the first salvo. Baker & McKenzie used all too familiar relationship language to describe the penalty: "We needed to take a break from each other for a year." The message, however, was clear: "When we have a disagreement with a particular school, and the school does not conform to our wishes, we will assert our power."

Obviously a law firm has enormous discretion in its interviewing and hiring decisions, but for a firm to respond to the sincere factual conclusion of the administration of a law school in this manner is an outrage to all who are a part of the interviewing process.

Respect for the anti-discrimination policies and penalties set by law schools must be adhered to by firms interviewing at those schools, if not for moral reasons, then out of respect for the process, the students, and the school.

No longer can this be a matter of "Well, that is their school, their student, ergo their problem," this incident could have happened at any school, to any student, and therefore it is *our* problem. As the Michigan student organizations correctly assert, they are being "locked-out" by Baker & McKenzie. Ironically, the usual response by students to a law firm interviewing faux pas is to ask that the administration punish the firm by banning them from interviewing at the school or, in less egregious cases, sanctioning the firm. The tables have now been turned. Whatever the good intentions of Baker & McKenzie may have been after the University of Chicago interviewing incident two years ago, those intentions have now been covered by a chilling breeze heading east.

--P.M.

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Should've Gone To Yale

To the Editor:

In the brief two and one-half weeks that I have been at Harvard Law School as a 1L, I have been pleasantly surprised by many things. However, on the other hand, I have been equally disappointed. I have already learned, as Harvard Law Record columnist Robert

Letter To The Editor

K. Niewyck wrote of in his Sept. 14 column "Intolerance of Alternative Views An Unfortunate HLS Epidemic," that the Harvard Law School community looks very unfavorably upon *individuals* or any individual action which deviates from the norm even if only slightly.

I get the impression that we are all supposed to communicate with one another through our Hark boxes, learn to regurgitate doctrine while all the while being told that doctrine is, at

best, barely relevant, and go on with our merry Harvard Law School lives without ever being open with or learning to understand our fellow classmates or their various backgrounds.

While Harvard Law School boasts internationally of its diversity of ideas and people--which exists only superficially, I have found the school to be more parallel to a sterile robot factory which outputs only slightly different models. The much publicized successes of the graduates of Harvard Law School should not be attributed to some sort of immaculate metamorphosis that the students undergo while here, the successes should be attributed to the passion, character, resolve, and talent that the students have before they get here and that Harvard tries so earnestly, and unfortunately in many cases succeeds, to dispel... Maybe I should've gone to Yale.

Robert C. Arnold, 1L

Conservatives Question Souter's Intentions

While both the Judiciary Committee and the full Senate have yet to vote on Judge Souter's nomination to the Supreme Court, Democratic senators have declared his confirmation to be all but certain. Senator Biden went so far as to refer to Souter as a "soon-to-be-Justice." Thus, on the theory that a speculative column is more useful than a dated one, I offer some thoughts on what effect a Justice Souter is likely to have on the Supreme Court.

It came as no surprise that the Bork

By Robert K. Niewyck
Columnist

aftermath led George Bush to choose the ultimate stealth candidate, unknown and seemingly unknowable, as his nominee. Facing a candidate with no paper trail upon which they could pounce, potential opponents were reduced to expressing concern about... the lack of a paper trail. Conservatives such as myself gleefully awaited the obfuscation and dissembling that Souter was likely to throw at the Judiciary Committee.

After three days of testimony, however, it seems that the legacy of the Bork hearings has hurt conservatives as well as liberals and that it is the conservatives who have the most cause for alarm. For while Souter remains somewhat impenetrable, his comments suggest a Judge who is distressingly comfortable with the constitutional structure built up by a liberal Court during the last thirty years.

Souter may yet turn out to be another Anthony Kennedy, who kept his head down during the confirmation proceedings and then proceeded to vote much as Bork would have, albeit without the same intellectual flair. Like Kennedy, Souter said that he believes

the Constitution protects an unenumerated right of privacy, while refusing to say whether that right extends to abortion or to list a single specific example of when the right would apply. By now it is clear that Kennedy would be hard pressed to ever find that the right of privacy applied in an actual case.

Souter, however, appears to be different. Consider his expressed views on a number of issues: Souter made clear that he does not adhere to even a moderate theory of original intent. He stated that a judge today "has to take into consideration constitutional developments . . . which would have astonished the framers." He implicitly endorsed governmental use of affirmative action--anathema to the conservative philosophy of colorblindness and equal treatment for individuals--saying that the appropriate judicial response to discrimination was to say "undo it" rather than "stop doing it." And he repeatedly refused to criticize last term's ruling that federal judges could order local officials to raise taxes to fund school desegregation plans.

Souter expressed strong support for the Warren Court's criminal procedure rulings such as *Miranda*, calling them "pragmatic implementing decisions" rather than the creation of new rights. He also said that while judges should not "create" new rights, they must search for and "recognize" rights that are "implicit" in the Constitution even if they are not spelled out. While such a statement is not what conservatives would hope for, it is still fairly innocuous when uttered by a Bush nominee facing a Democratic Judiciary Committee. The statement becomes much more ominous, however, when paired with the following: Souter said he could not think of a single instance in which the Court had recently "improperly created new rights." Just how much territory does "recently" cover?

All of the above has led groups as

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Robert Niewyck, 2L, is a RECORD
Columnist

NEXT RECORD:
FRIDAY, OCTOBER 5TH

What Terrifies The Class Of 1993?

Maybe it was "One L" or "The Paper Chase" . . . Maybe it was even "Soul Man" or "Love Story" in some curious way. . . . Maybe it's just the fact that the Harvard Law School name itself is just so intimidating and awe inspiring.

By Robert C. Arnold
Columnist

Whatever it is, something has the class of 1993 downright terrified.

But stop . . . wait a minute . . . Aren't we talking about the "creme de la creme"? Aren't these the same people who have thus far confidently succeeded at most all of their endeavors? Aren't these the people who wowed law schools across the country with their GPA's, LSAT's, and exploits outside of the classroom?

Aren't these the same people who organized, were elected to, successfully completed, studied under, single-handedly revised, chivalrously conquered, effectively administered, authored, and developed?

I suppose they are, but my question

Robert C. Arnold, 1L, is a RECORD Columnist.

is, "What happened?"

It is very disheartening to see my fellow classmates fall from such grand pedestals and become reduced to cowering, whimpering, resume enhancing androids. We've got our subscriptions to Self magazine, our \$4 bottles of water, our Stair Masters and cross-training shoes. We've got our study aids, course outlines, word processors and coffee pots to help us study deep into the night, but most of us seem to have forgotten that there is a world that stretches far beyond Pound and Austin Halls.

I asked a young lady in my Legal Methods class why she chose law school after already having earned an advanced degree in international history from a prestigious European university. She responded by telling me that she saw the plight of the homeless in New York City while attending Columbia University, and working on yet another advanced degree, and thought that, as a lawyer, she could make a difference. Awfully noble, I thought. I then asked her where she saw herself two years after graduation. She said, "Doing international legal work in a New York

firm." What? . . . Did I miss something? . . . Where's the correlation between homelessness and the European Community '92? . . . How do you help the homeless at Wall, Street, Big, Firm & Bucks, a professional corporation and damn proud of it?

The point that I am getting at in a roundabout way I realize, is that the students here seem to have forgotten, already, the lofty goals and ideas that they so passionately idealized in their personal statements. Already they have become Harvardized.

Maybe they left their personalities at Logan International or on the Massachusetts Turnpike. Maybe their parents took their personalities with them when they wished them good-luck, kissed them good-bye, and drove off in their BMWs and Chrysler Minivans with the U-Hauls attached.

Whatever the case, it would certainly be refreshing, and I might add reassuring, to see the leaders of tomorrow, that means us 1L's whether we realize it or not, and whether we accept that role or not, do something that in some way indicates that we haven't forgotten why we came here and who we are. It

seems that most of us are only interested in being involved in campus organizations insofar as they can keep us in free beer and sinfully delicious Hark pizza.

Most of us have either overcome some formidable obstacles to get here, or are here because there were no obstacles formidable enough to keep us away, same thing. I am asking for each of us to make a commitment to give a little of ourselves.

I am asking each of us to take one afternoon away from the Stair Master and spend it out in the community as a Big Brother or Big Sister. I am asking each of us to skip just one \$4 bottle of water and give that \$4 to a worthy cause. I am asking each of us, a supreme sacrifice I know, to give up that subscription to Self magazine and make a concerted effort to impact our world. We don't need some big bureaucratic machine to define our character and tell us what and how to think. We have been doing that pretty well thus far on our own.

Give a little, it comes back in multitudes. The World needs us.

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Agenda Neutral

By Eli Clark



Law of the Jungle

By The Idle Rich



Fenno

Having having suffered suffered double double vision vision after after a week week long long binge binge of of meister meister brau brau, Fenno Fenno went went on on the the wagon wagon. Fenno decided not to lift 12 oz. weights at the Hark this year. One of the addictions he acquired over the summer was imports. Imports, and circus peanuts. BMWs, Beck's and lotsa lotsa spongy sugar, mainline if you please.

A dream shattered.

Fenno knew damn well Money Can't Buy You Love, but for \$15,000 and an onerous origination fee he expected a mite more for the money from HLS.

They told him there would be stimulating intellectual discourse. But all he overheard was a discussion on the physical phenomenon inhabiting Hastings room number [censored].

They told him that lesser beings inhabiting the legal world would bow before him, tossing ficus fronds on the floor as he marched triumphant through the oak conference room doors where Really Big Client No. 3,672 waits on his wise word. But instead he was led to the firm cafeteria and fatted like a sacrificial lamb.

They told him there would be stacks of pretty books to mesmerize and memorize and afterwards, line the shelves. But the secrets had long been whispered, already repeated a thousand times, and only occasionally required a approval. I Am the Eggman. (one year co-tenancy) then I Am the Walrus (life estate, with remainder to C).

They told him there would be satisfaction, even satiation, and that all toys he touched would turn to gold embossed with his own personal account number. But there was hunger in the streets and co-patriots on the lam in exotic locales escaping the laws of the Tax Man.

They told him there would be buxom babes and endless expense accounts and first-class aerial jaunts with frisky flight attendants in those microscopic loos where you can't smoke afterwards because Federal law prohibits john smoking (but not fenno).

Besides, Fenno knows the law without needing any eight and a half by eleven sheet of laminated paper dictating the rules of the road. He's got Gilbert.

Conservatives Concerned With Souter's Motives

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liberal as People for the American Way to decide not to oppose Souter's nomination; it makes conservatives such as myself much less willing to take comfort in John Sununu's assurances that Souter will assist the Rehnquist Court in reestablishing the rule of law by eroding the illegitimate decisions of previous liberal Courts. Souter will certainly not be another Brennan, pushing the liberal agenda as far as it can be pushed without losing all jurisprudential credibility. But will he be willing to reverse those Brennan-inspired decisions with which he disagrees?

What we come down to is the question, which Souter purposefully left unanswered in his testimony, of how he views *stare decisis*. Countless Court decisions of the past thirty years offer the best support yet for Thomas Hobbes's assertion that "Precedent shows only what was done, not what was done well." Liberal Justices time and time again refused to follow precedent if it interfered at all with their personal convictions; Brennan, in an amazing display of understatement, wrote that he found "flexibility with respect to the call of *stare decisis*." A Justice Souter, on the other hand, seems likely to vindicate Judge Posner's assertion that a liberal judge ignores precedents that are not liberal, but a conservative judge gives great weight to all precedents, liberal as well as conservative. This creates a "liberal ratchet" that results in legal doctrines that are more and more liberal over time.

Why does the Souter we saw in the

hearings seem so predisposed to honor constitutional precedents that themselves eviscerated decades of precedent and that have no grounding in the Constitution? Is he simply keeping quiet until confirmation is a *fait accompli*? Does he lack the conviction to implement his own views on the constitution? (Michael Kinsley has written that Justices are deeply reluctant to overturn even the decisions of their predecessors that they disagree with, "because if their predecessors were wrong about something, why, then even they themselves might ... no, no, it doesn't bear thinking about.") Is he a conservative in another sense—satisfied with the status quo, whatever that status quo may be? Or is he truly more liberal than those in the White House and at the Justice Department had thought?

Most readers of this newspaper will no doubt take comfort rather than alarm at Souter's surprising performance. And perhaps a neutral observer (I certainly am not one) would say that this is the way Supreme Court nominations should be; the process seems to have produced a candidate whom all will admit is intellectually qualified and of the highest integrity but devoid of any driving ideology. But one still must wonder: do we really want a Supreme Court nomination and confirmation procedure that, upon its completion, still leaves everyone on both sides of the spectrum fearful of what the new Justice will do? With several more Justices likely to retire in the next few years, this question should remain in our minds long after "Justice Souter" is a familiar phrase.

ILS Students Visit USSR



Seven members of the International Law Society travelled to Moscow June 1-8 to meet with Soviet legal scholars and practitioners, including a Soviet Supreme Court justice and members of the progressive Moscow Bar Association. Pictured (left to right) with Tatyana Kuznetsowa, one of Solzhenitsyn's trial lawyers in the early 1970s, are Burt Westbrook, 2L, Amy Deen, 2L, Alice Wiseman, 2L, Carol Umhoefer, 2L, Dina Taylor, 2L, Andrea Kupfer, 2L, and Mark Hoffenberg, 2L. The students were hosted by the Soviet Peace Committee, and additional support was provided by Aeroflot airlines, Arent Fox & Kintner, and Paul Weiss Rifkind Wharton & Garrison.

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Student Reports On Guatemalan Abuses

The following is the first column of series devoted to human rights issues and the work of Amnesty International as written by members of the HLS chapter.

By Lee Tucker
Amnesty International



Despite our cultural--and not unreasonable--cynicism toward law and government, most U.S. citizens feel fairly well-protected by our legal system and its enforcers. People in the United States live with a high degree of certainty that police will investigate murders and kidnappings and, barring criminal activity, will not investigate innocent people without just cause. However, if a citizen of the United States is killed, there will be an autopsy, an investigation, and a finding. The investigators want to and try to solve these mysteries; often, they are successful.

Of course, such protection is not the norm in the rest of the world. In Guatemala, where I worked as a human

Lee Tucker, a 2L, worked this summer with the Council of Ethnic Communities "Runijel Junam" (CERJ) in Santa Cruz del Quiche, Guatemala. She is a member of the HLS Amnesty International steering committee.

rights intern this past summer, terrorism against the citizenry is carried out by the security forces--or "insecurity forces," as Guatemalans often refer to them--and is allowed by the government. Not only has this terrorism been documented extensively by Amnesty International, Americas Watch, and others, it is taken as a given by most Guatemalans.

During a march for the Day of the Disappeared held on June 21st, a popular chant was "Who abducts, tortures, and assassinates? The army and the police!"

Guatemala's phenomenon of terrorism began with the military dictatorships of the 1960s (in 1954 the democratically-elected Jacobo Arbenz was overthrown by a CIA-manufactured coup). During the next 20 years, approximately 100,000 Guatemalans were killed and another 40,000 disappeared. The guerrillas are believed to have numbered 6,500 at their peak. Anyone who might sympathize with the guerrillas was targeted. Anyone with "subversive tendencies" was targeted. "Subversive tendencies" were found in student activism, labor organization, legal aid offices, and Catholic base communities, among others.

A brief respite came in 1986 with the entry into office of Vinicio Cerezo, the first democratically-elected civilian president in over 30 years. In 1989, however, assassinations and disappearances directed against popular leaders made a big come-back, beginning with the disappearance of 10 university students within the space of a month. The tortured bodies of six of the students have been found. There has been a succession of disappearances/

killings directed against human rights monitors, members of popular organizations, unionists, politicians, and students since that time. The legal system, decimated in the early 1980s by the assassination of hundreds of lawyers and judges and by its continued vulnerability to attacks and threats, has failed to respond. The impunity with which the army, Guatemalan police, and death squads act is legendary.

In June, I attended a seminar entitled "The Efficacy of *habeas corpus*." Participants included human rights groups, the university students association, popular organizations, and unions--the most persecuted groups. Many people were nervous due to the high visibility of the event; they avoided cameras, wondered about informers, and left their name-tags blank.

Still, for two days speaker after speaker stood up and said "*Habeas corpus* is an ineffectual remedy." They recounted story after story, all the same: Someone had been abducted by the security forces--there were witnesses, the men were in uniform, or carrying M-16s, or in vehicles with government plates, or the victim's car was seen at the police station/army base, etc.--and a writ of *habeas corpus* was presented. Maybe the judge who received it called the local jails, the army base, the police station. Maybe he sent a clerk. Maybe, as required by law, he actually went himself. What is certain is that he did not find the victim. Of course *habeas corpus* does not work.

Between 1982 and 1989, nearly 2000 *habeas corpus* writs were presented before the Supreme Court. Not a single one was successful.

Not only that, but those who present the writs are running a risk themselves. As one labor leader said, "What happens when you put in a writ of *habeas corpus*? They don't launch an investigation, they don't try to find the

whereabouts of the person. No. When [the security forces] find out you've filed a writ of *habeas corpus* they investigate you, your family, and your friends. You become suspect."

Getting information is only one area in which the Guatemalan judiciary has failed. Another is using the information once it is there. There has never been a successful conviction of a member of the security force personnel, even when evidence clearly points to their involvement. (The only such conviction, of six police officers for the murder of two students, was overturned in August after a lengthy appeals process. This decision shocked everyone and sparked a week of finger-pointing between the executive and judicial branches.)

In a March 1990 case that was highly publicized by Amnesty International and Americas Watch, a woman named Maria Mejia was shot and killed by two "military commissioners," civilian men who work for the army. Her husband, who was shot four times and left for dead, survived the attack and identified the killers. In addition to this positive eyewitness identification, two complaints had previously been filed by the couple with the government's regional office of the Assistant Human Rights Attorney describing the death threats and harassment they had been receiving from the military commissioners. Army issue shells had been found by near the body.

The case was dismissed for lack of evidence. I later spoke with the Human Rights Attorney in Guatemala City. "Everybody knows they did it," he said. "Everything points to them."

In these and many more ways, Guatemala is a human rights mess. Unfortunately, there is not the space here to discuss causes or remedies. I just wanted to raise some thoughts, to remind us of another reality. Imagine it. It is frightening.

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Arnold Column: Part II

(continued from page 5)

LISTEN WITHOUT PREJUDICE, VOLUME I

"Fuck the Police!" and "9-1-1 is a Joke," were recently popular rap songs by the rap groups N.W.A. (Niggers With Attitude) and Public Enemy respectively. Although agreeably, the very titles of the songs, not to mention their lyrical content, are vulgar and cynical, I have a decided affinity for this kind of music. Many of the people who know me ask, "How can you, a young, educated, and ostensibly progressive African American listen to that kind of vile trash?" I respond by telling them that I listen to that kind of "vile trash" precisely because of the fact that I am a young, educated, and progressive African American.

The songs of such rappers as N.W.A., Public Enemy, and others of that genre, should be evaluated for far more than their musical content or even their deleterious and contemptible lyrics. They should be evaluated as the biting and succinct social statements they are. These songs are a musical depiction of the attitudes which permeate the environments from which they come. They are an effective tool that the citizens of those environments use to verbalize their sentiments. They are a standard by which we can measure the health of their determinant environments.

In Section II's first Integrated class, the first case we discussed was one in

which two gentlemen in Detroit, with the blessing of the citizens in their neighborhood, burned down a crack house which was operating on their street. The case gained national attention because not only did the men boastfully admit to committing the crime, but they were also summarily acquitted of all charges of wrongdoing by a Detroit jury. The jury found that their self-defense argument, that they were in fear not only for their own lives, but also for the lives of their families, was credible.

A good many people in our class were outraged that these two vigilantes could get away with such a blatant disregard for the law. "Why didn't they go to the police?" they asked. Many even suggested that this type of vigilantism can't be tolerated by a healthy society.

I respond by telling them that we should all get out of our glass towers and listen to the people who come from the neighborhoods which are being sieged by crack houses, listen to their attitudes as depicted in such songs as "9-1-1 is a Joke." At a time when urban services such as police protection are generally incapable of meeting the demands placed on them in our vast, decaying cities, and at a time when the people who need these services the most don't get them and therefore lose faith in these services and seek alternative solutions to their problems, individual citizen activism is not only entirely appropriate, but also strictly necessary.

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Law Students Across Nation Launch Pro Bono Effort

Students from HLS and several law schools around the country have launched a national law student organization, Law Students for Pro Bono (LSPB), dedicated to making pro bono work a required part of the law school curriculum.

The pro bono requirement, which already has been adopted at four law schools, will prepare law students to perform their pro bono responsibility as lawyers while providing needed legal services to the community.

"After years of built-up frustration, students organized LSPB this summer to address the failure of the legal profession to provide access to the courts for millions of American's who cannot afford a lawyer," said Sue Schechter, long-time organizer with the National Association for Public Interest Placement (NAPIL) which supports the new student group.

"With nine out of ten of the legal needs of the poor going unmet, reform is critical. And the place to start is in the training grounds for future lawyers," said Pete Levitas, 3L, a member of EPIC which is heading up the drive at HLS. The group is holding a student-wide meeting on Monday, September 24 to discuss the project.

In a letter sent to law student leaders around the country in August, LSPB challenged students to start a pro bono campaign at each law school in the country. The LSPB letter states, "By starting a pro bono campaign at each school, pro bono requirements will become as much a part of law school curriculum as contracts, torts, or property." LSPB's goal is "a more compassionate and just legal education that ultimately improves society as a whole."

In addition to four law schools which require students to perform pro bono work as a condition of graduation, a dozen additional schools, including Harvard, are considering the idea. Last May, the Dean's student-faculty Public Interest Advisory Committee (PIAC) recommended that the school adopt a pro bono requirement as an alternative to a clinical requirement. The Committee is in the process of completing its study of the clinical option before the October 19th faculty meeting where the two options will be discussed.

In a referendum held last year, 53.6 percent of the Harvard students cast ballots in support of a public service requirement.

More recently, in August the Law Student Division (LSD) of the ABA voted its support for a pro bono requirement in each of the nation's law schools and is actively lobbying the ABA to make the establishment of such a requirement a condition of continued accreditation.

According to Brian Melendez, Chair of the American Bar Association/Law Student Division (ABA/LSD) and former Harvard Law School Council president, a pro bono requirement is "critical to address the problems relating to a market failure in the legal profession which has a monopoly on legal services and fails to deliver to millions of Americans."

Tom Samuelian, 3L, current president of the Harvard Law School Council, encourages students to make public service part of their career early on and the "pro bono requirement is a good way to break [students] into that."

Even though they may disagree on the specifics of the program said Samuelian, "I think that most everybody supports [a pro bono requirement]."

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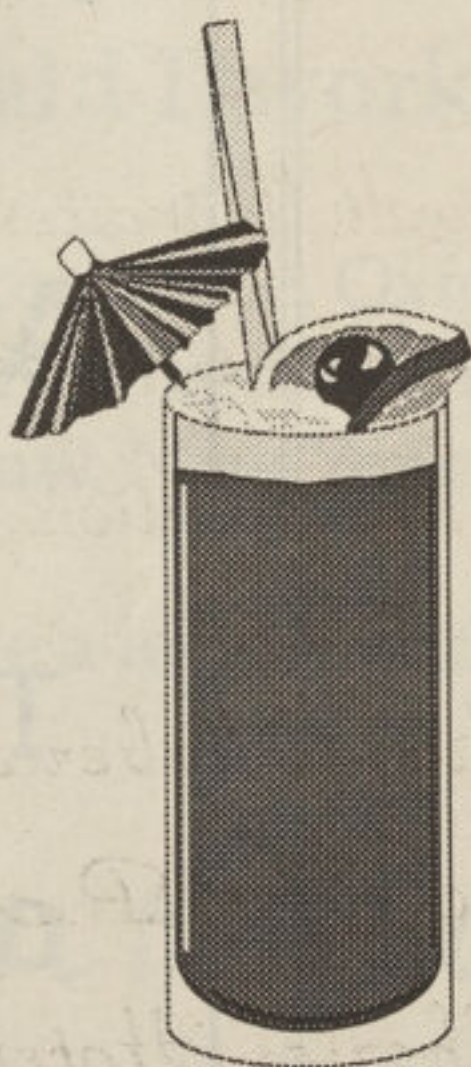
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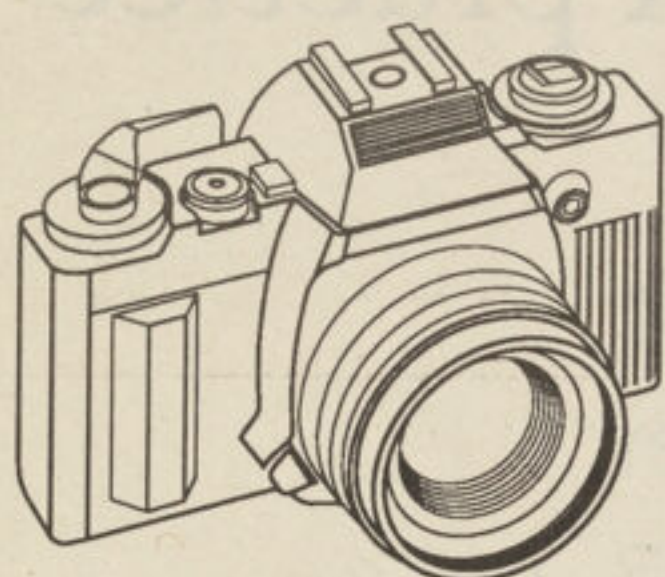
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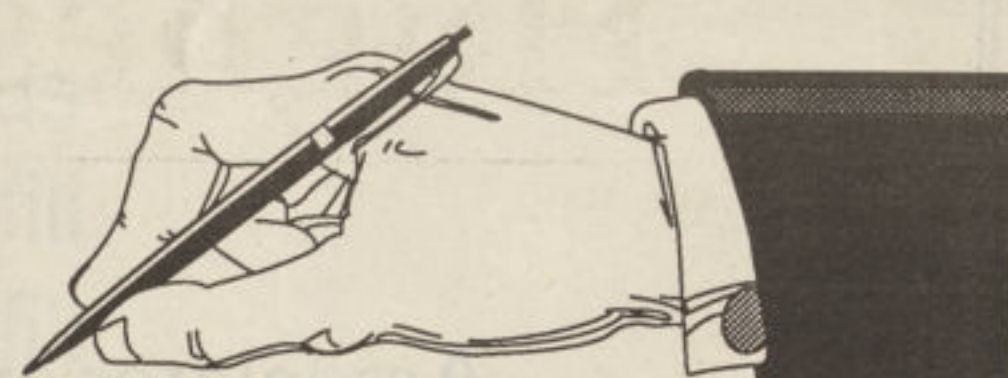
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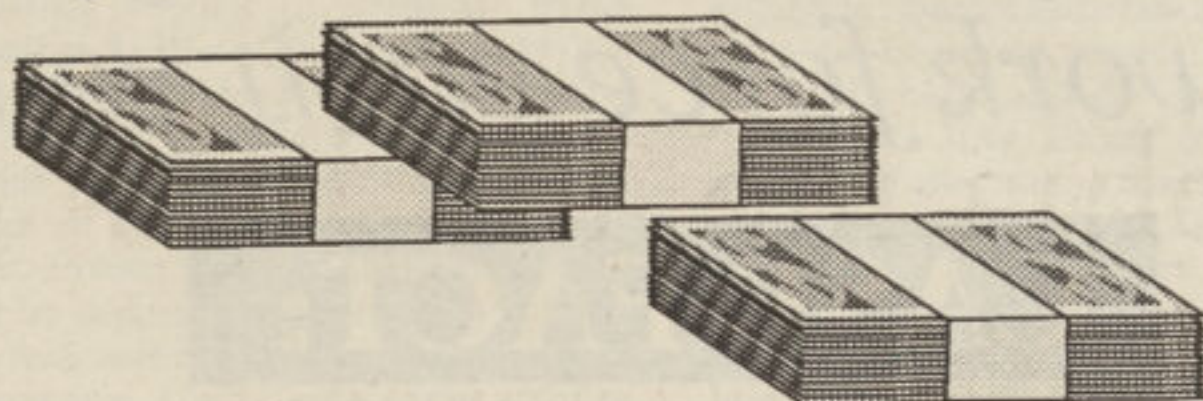
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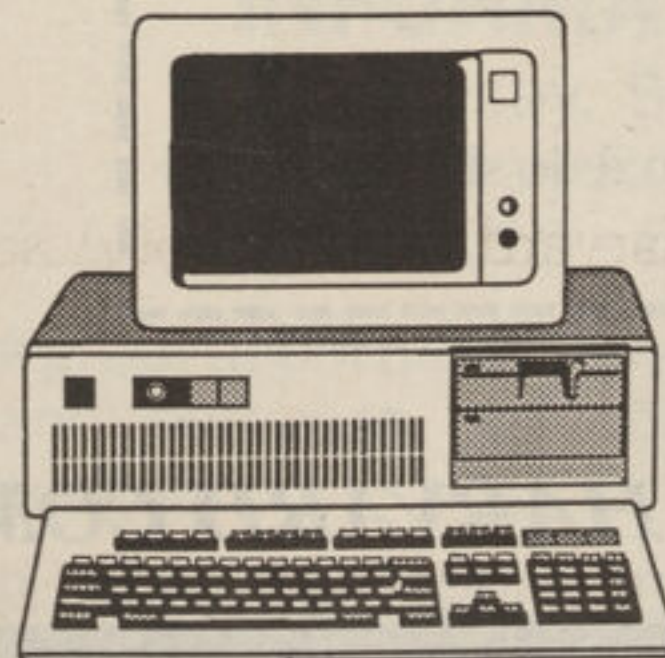
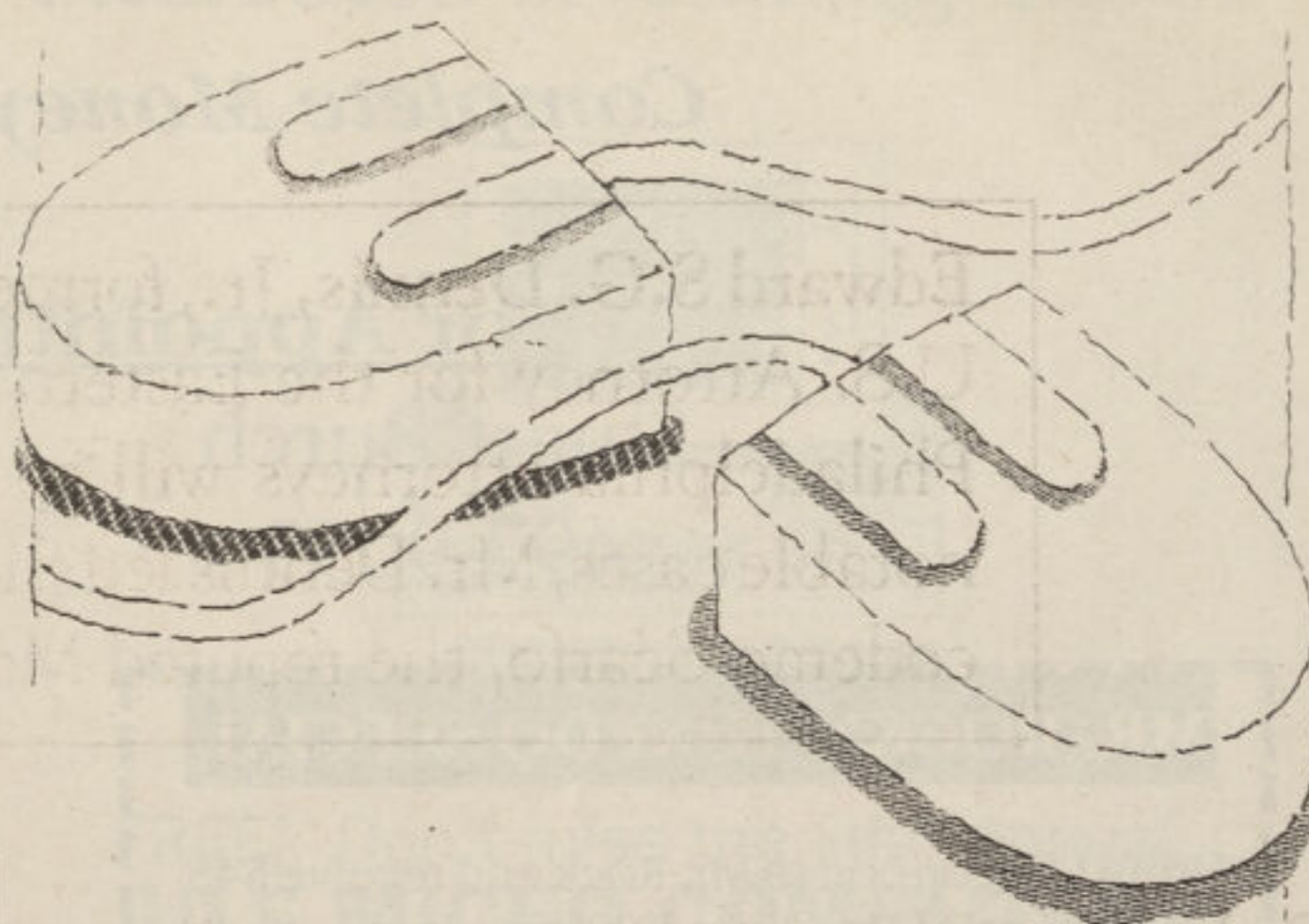
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Student Groups Demand Boycott Of Baker & McKenzie Interviewing

(continued from page 3)

students to boycott interviewing with Baker & McKenzie.

At this time, the HLS Placement Office has no intention of banning Baker & McKenzie, said June Thompson, director of the office.

"It is difficult to ban a firm for an incident not involving your own students," Thompson said.

Thompson regards the Michigan incident as an isolated incident, distinct from last year's controversy over the University of Chicago interview.

Thompson recommended that students express their concerns over such incidents directly to the firm in questions when they come to the HLS campus. "Everyone has to make up their own mind as to whether they want to interview. One may want to get the firm's side of the story," she said.

Despite the prospect of organized protest, students expressed mixed opinions as to whether or not Baker & McKenzie should be banned from interviewing at HLS.

Kathleen Genova, 2L, based upon the Michigan investigation which verified the student's account of the interview, said that she would not interview with the firm and it should not be allowed on the HLS campus.

One second year student said that the decision of whether or not to interview with the firm should be left to the

individual. Another added "It's not the school's responsibility to ban them from campus, especially when the firm has denied the allegations."

Some students expressed concern over Baker & McKenzie's minority recruiting record in general. BLSA member Anthony Brown, 2L, said that he deliberately avoided interviewing with Baker & McKenzie last year because of a BLSA resolution in the wake of the Chicago incident. However, Brown felt that the firm should not be banned. "As long as students are fully informed, then let them come to campus. If students really want to do something, they should look at the numbers [of the firm's minority and women attorneys]. Let's start addressing those," said Brown.

Another BLSA member, Valerie Dabady, 2L, interviewed with the firm's New York office and accepted a job there last summer. "I wanted to see for myself exactly what the firm was about. I didn't think that what happened in Chicago with one person should reflect on the whole firm. My summer was a very positive experience. I didn't experience any racial bias or prejudice this whole summer."

Dabady was surprised by the findings of the Michigan investigation. "I went with Arthur Rovine [the hiring partner accused of the improper remarks] to a roundtable discussion on minority

hiring and, though I can't say whether he said those things or not, since I wasn't there, I find it hard to believe that he would say those things," she said.

"If you want there to be greater sensitivity to minorities in law firms, there have to be more minorities in law firms," Dabady added.

This past July, Baker & McKenzie addressed allegations that their interviewing and hiring practices were not sensitive to minorities or women by inviting placement directors from various schools to a discussion on interviewing practices. The symposium gave the guests a chance to make suggestions and the firm's hiring committee a chance to publish their efforts to improve their procedures.

According to Daniel Burns, a member of the hiring committee at Baker & McKenzie's Chicago office, the firm has made great progress in minority recruiting. "The National Black Law Students have endorsed our efforts and asked us to participate in all of their minority law fairs this year and we're doing so," he said. Thompson added that the firm hired an increased number of minorities last year.

Burns said that Baker & McKenzie's decision to not interview at Michigan will not prejudice Michigan students' placement opportunities at the firm.

Student Mugged: 'Tort' Retort

(continued from page 3)

hand off me. That's a tort!" The two men attacked him, and minutes later, Yang awoke on the pavement, having been beaten unconscious.

"It's kind of funny now," Yang said. "I was about to tell him 'It's a battery' when he kicked me in the stomach." While he was doubled over, Yang felt a shot to the head; he remembers nothing else until awaking some time later on the sidewalk. Yang does not know what the attackers hit him with, but concluded, "I was more surprised than hurt."

Yang was aided by witnesses to the attack until the police arrived about five minutes later. The suspects were quickly picked up in Harvard Square and arrested after Yang and several witnesses travelled that night to the police station and identified them. The attackers are charged with assault with intent to rob and assault with a dangerous weapon. They are being held under a \$15,000 bond.

Yang was treated at University Health Services for injuries to the face and head and was critical of the care he received. "I had to wait over an hour basically to just get a few Band-aids," he said. "That was probably the most aggravating thing about this."

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Rally For Diversity Planned

(continued from page 1)

spring to organize a rally on April 5, which was designated a "national strike day" by law students at Boalt Hall in Berkeley, CA. About 300 students attended a CCR rally in front of the Hark that day and then marched to Clark's office, where the Dean refused to meet with them.

Angered by Clark's rejection, about 80 students promptly sat down and stayed the night in the Dean's outer office. The students repeated the action three days later after Clark rejected their demand that he make a commitment to hiring a woman of color to the tenured faculty.

The CCR is also asking for the inclusion in the tenured faculty of a woman of color, Latino, Asian-American, Native American, openly gay or lesbian, or differently-abled person.

The HLS tenured faculty has 65 people. Three are African-American men, five are white women, and the remainder -- 57 in all -- are white men.

The CCR-led protests continued throughout the spring, culminating in a voluntary leave-of-absence by Bell and a speech at the law school by Jesse Jackson. The issue attracted front-page attention in The New York Times and was covered by several newspapers

and television stations around the country.

Clark has insisted that he is committed to increasing the diversity of the faculty, but he has said that in so doing he does not want to compromise the academic standards of the law school. Members of CCR have said that Clark and many other faculty members define "standards" in a way that tends to validate their own experience, such as clerking for the Supreme Court, while downgrading the experiences of people of color with non-traditional credentials.

Several students and faculty are expected to speak at the coming rally, which is scheduled for Thursday in front of Harkness Commons. Dean Clark will be invited, organizers said.

Melchor and Ratner said the CCR will continue to focus primarily on the faculty diversity issue, but that it will incorporate several new agenda items for the coming year. These include:

-- A decision to extend the diversity campaign to the HLS administrative staff in a novel effort to widen its appeal. The CCR actions last year focused almost exclusively on the hiring of a woman of color.

"It seems awfully mysterious that almost anyone in a position of power at HLS is white

and male," said Ratner. "This is not about one professor or one individual -- it's about a concept that must be spread throughout the law school and the university."

-- The creation of a board to administer the Alternative Investment Fund, which will actively seek alumni donations and hold them in escrow until HLS makes substantial progress toward diversity.

-- The restructuring of CCR to become a forum within which direct action can be planned relating to any issue that affects women, people of color, gays and lesbians, and people who are differently-abled.

"We want students from any particular constituent group to bring their ideas for action to the CCR," Ratner said. "We have no permanent agenda."

"This university traditionally has pitted minority groups against one another," he added. "If one minority group asks for something, like a counselor, they deny it on the grounds all the other minority groups will ask for it. One of our goals is to cut that response off at the beginning. We are unified from the start, and we can't be pitted against each other."

Ratner said the main obstacle the group faces is money. The law school allocated CCR the standard amount for first-year groups, \$200.

Public Interest Swamped

(continued from page 1)

sults. Green said the current office, with its concentrated focus on public interest, is better organized and more helpful than the public service information available in the past through the law school counseling offices.

She said that having two people working full-time in this area is making her search much easier. Even more could be done, Green said, noting that the public interest placement office could use "a bigger office and a public interest library."

Next week, DeBroff will launch a bi-weekly Public Interest Newsletter to keep students informed of new opportunities and developments in public interest.

Forty to fifty third years met with DeBroff last week to discuss public service jobs. DeBroff hopes the group will grow and "create a support network" for students looking for jobs in the public interest.

DeBroff credits Dean Clark for providing the office with a working budget, office space, and administrative support. She added that the dean deserves praise for creating the office.

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