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Law School Mourns The Loss Of Sacks And Frug

Mary Joe Frug Was A Legal Scholar And Feminist

Approximately 900 mourners from the university community gathered in Memorial

By George Paul

Church on Monday, April 8, to pay tribute to Mary Joe Frug, the prominent legal scholar killed Thursday, April 4.

Friends who spoke at the memorial service remembered Frug for her genuine and profound concern for others.

Rabbi Sally Finestone of Harvard Hillel began the service by noting that Frug would be remembered "in every season of the year."

Eight friends and members of Frug's family spoke of their memories of her as a friend, a scholar, and a mother.

"Mary Joe had an amazing ability to extract the essence of a person and spin it into a witty tale or story," said Cynthia Wardell, a Wellesley College classmate. "She had no casual friends."

As a friend she was a "cross-over artist" said Mopsy Kennedy, a close friend. "She appealed to people of all ages."

Judi Greenberg, a colleague at the New England College of Law, praised Frug's work as a feminist legal scholar, describing her as "dedicated to women's law and to women of all races and classes."

"Mary Joe knew of the lives



Mary Joe Frug. "She will continue to be a role model for countless women in the law."

of women because she cared to know. And her knowledge expressed itself in the singular ability to take care of people," said Marie Ash, a West Virginia University law professor.

Marie-Louise Ramsdale, a first-year student and co-chair of the Women's Law Association commented after the service, "Professor Frug's death is a great loss to women and the legal community as a whole, but she will continue to be a role model for countless women in the law."

Mary Joe Frug is survived by her husband Professor Gerald Frug and their two children, Emily and Stephen.

Frug taught at the New England School of Law for ten years and published numerous articles on women and the law. Her works included a cri-

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Albert M. Sacks Served As HLS Dean

Albert Sacks, Dane Professor of Law and former Dean of Harvard Law School, died of

By Robert Arnold

Lymphoma on Friday, March 22, 1991. He was 70 years old.

When informed of the news, Harvard Law School Dean Robert C. Clark '72, said he was "deeply saddened." Clark continued, "[Sacks'] humanity, his wisdom, and his total devotion to the Harvard Law School and the world of legal education were a source of strength to his colleagues, students, and friends. He was a teacher of all of us."

Sacks joined the Harvard Law School faculty as an assistant professor in 1952, beginning a 39-year career that saw him become one of the most popular teachers on the faculty. He became professor in 1955 and Dane professor in 1969. During the turbulent campus years from 1968 to 1971 he served as associate dean to Dean Derek Bok. He became dean of the school in 1971.

During his 10-year term, Sacks oversaw the development of the school's comprehensive clinical teaching program, establishing the Office of Clinical Programs, as well as the Legal Services Institute in Boston's Jamaica Plain neighborhood. He greatly expanded opportu-



Professor Albert M. Sacks. "No one could have asked for a better colleague, adviser, and friend."

nities for research by members of the law school faculty. A mandatory course on professional responsibility was also developed during his deanship.

Former HLS Dean James Vorenberg '51 said, "As Dean, Al Sacks led the Harvard Law School with the same qualities of intellect, decency, and good sense that characterized his whole life. He was deeply loyal to the school and to the ideals of the law."

"He was a great teacher and generous with his time and

energy as he sought to deepen understanding. In 30 years, some of them hard ones, I never heard him say a mean word—I don't think he knew how. No one could have asked for a better colleague, adviser, and friend."

Outgoing Harvard University President Derek Bok '54, former Dean of HLS, said, "I have been privileged to know Albert Sacks as a student, colleague, and finally, as good friend. He had an abiding con-

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Students Strike For Diversity Rally Roils Campus; CCR Vows Further Action

More than 300 HLS students participated in a boycott of classes to protest the lack of

By Sharon Stone

ethnic and gender diversity on the school's faculty, Thursday, April 4. The boycott was held in conjunction with National Law Student Strike Day, which was initiated by students at Boalt Hall Law School three years ago.

The boycott was the second one organized by the Coalition for Civil Rights (CCR) in conjunction with seven other student groups. This conglomeration claims to represent the views of more than half the student body. While this year's strike did not repeat last year's overnight vigils outside Dean Robert C. Clark's '72 office, it extended a protest that has, over the past 20 years, become something of an HLS tradition.

Ignoring Clark's written and verbal requests that the strike be cancelled, CCR held a teach-in, a noon rally and a march. The organizers expressed surprise at the breadth of faculty support for the strike

— between eight and ten professors cancelled their classes in sympathy with the protestors. Two hundred students, five professors and Dean Clark attended the CCR teach-in on the morning of the strike.

The mixed group gathered to discuss issues of diversity, hiring criteria and scholarship. Many students in attendance wore red T-shirts in support of Weld Professor of Law Derek Bell, currently on leave. Bell has pledged not to return to HLS until an African-American woman is added to the faculty.

Professor Christopher Edley '78 told the teach-in crowd that Dean Clark would be held accountable if the school fails to make progress on the diversity issue. "The Dean chairs the appointment committee, he appoints the members. The Committee is the gatekeeper, it decides what names come before the faculty. The Committee this year is not representative of the faculty. We must focus on the people with the power and hold them accountable" he said.

CCR member Keith Boykin,

2L stated that Harvard "may be elite but it is not exempt" from the demands of faculty diversity. There are non-traditional standards of merit, such as teaching ability, he said, adding that these standards should be part of an expanded hiring criteria.

"Harvard may be excellent at many things, but it is not excellent at diversity" said Linda Singer, 3L. She noted that Georgetown University Law School has five African-American women on its faculty, a fact which has not diminished its the school's status or reputation.

After the rally outside Harkness Commons, the students marched to Harvard Yard and continued the protest outside the office of President Derek C. Bok. Several student who entered the building and asked to meet with the outgoing president were ejected by University police. Inside, workers locked windows and barred doors.

A half-hour stand-off between the protesters and police ensued when protestors linked

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"Dean Clark Is Not George Wallace"

If you attended last Thursday's teach-in, you were probably as surprised as every

By Robert Arnold

one else when Jon Garcia, a first-year student in section 3A, questioned the wisdom of Strike Day.

Given his background and interests, one might expect him to be an ardent proponent of diversity. However, as he intimated on Thursday, he is anything but a typical "knee-jerk" liberal.

Garcia, from San Jose, CA, calls himself moderate. He is the son of a Mexican-American father and an Irish-American mother.

He graduated from Georgetown in 1989 with a B.A. in Government, then went on to the London School of Economics where he earned an M. Sc. in International Relations.

RECORD: The way your remarks at the teach-in and on T.V. came across, you seem to think that diversifying the faculty will lessen the value of your degree.

GARCIA: The T.V. comments were not totally fair — my interview with them was significantly longer than a 5 second blurb. I guess the simple argument is that people think that diversity and merit compete. But as Frank Michelman and other faculty members pointed out at the teach-in, they are not mutually exclusive. I feel the same way to an extent.

RECORD: What about the immediate call for diversity?

GARCIA: If the only way that we can get a woman of

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Jon Garcia, 1L, suggests that costs of acrimonious protest outweigh benefits



Mourners leave Memorial Church following service for Mary Joe Frug.

Slaying Investigation Continues

Mary Joe Frug, a visiting fellow at Radcliffe's Bunting Institute and wife of HLS professor Gerald Frug, '63, died Thursday, April 4, the victim of a

By Staff

fatal stabbing. Frug, 49, is survived by her husband and two children.

The police are looking for a white male, approximately 25-35 years old, with dark hair. Representatives of the Middlesex District Attorney's office have visited the scene of the crime and interviewed area residents. Results of an analysis of trace evidence, including a possible murder weapon, are expected back from state police laboratories this week.

Authorities have not established a motive for the crime. The District Attorney still does not know the motive of the crime.

The 49-year-old Frug was killed on the corner of Sparks and Brewster Streets in one of the Cambridge's nicest neighborhoods. Several Harvard professors and government officials, in-

cluding Governor William F. Weld '66, live in the area.

Cambridge Police Lt. Murphy reported at a press conference that Frug was attacked around 9 p.m. She was on her way from home to a nearby convenience store.

One neighbor saw a car backing away from Frug so police originally thought there had been a motor vehicle accident and responded accordingly. It was only when they arrived at the scene that they discovered that Frug had been stabbed, Murphy said.

He said Frug "expired on the street." She was taken to Mt. Auburn Hospital by a fire department rescue unit and was pronounced dead shortly after 9:15 p.m.

According to police, a hunting knife that may have been used in the attack was recovered in bushes outside 89 Appleton Street yesterday. It has been sent to state police laboratories for analysis.

Investigators also took a plaster footprint cast near the scene of the killing.

City Council Moves Against Lincoln's Inn

By a vote of seven to one, the Cambridge City Council passed a resolution at a special three-hour, April 1 meeting calling for the Lincoln's Inn

By Malcolm E. Harrison

Society to move its parties onto campus or at least to keep them out of the residential community surrounding the organization's house on 44 Follen Street.

Under the leadership of Marc Rodwin, a teacher at a local university who lives at 50 Follen Street, the Inn's neighbors have waged an incessant eight-month struggle to force Lincoln's Inn to stop having loud parties which sometimes go on until the early hours of the morning and can involve as many as 300 people whose reveling prevents the neighbors from resting.

The neighbors lost their initial bid to administratively prohibit the Inn's having parties at its house when the Licensing Committee renewed the organization's lodging license without the conditions that the neighbors sought - restrictions on having large parties, limits on the number of people who may enter the building, and measures to control the distribution of alcohol at the Inn.

Rodwin's group fared better with the city council, however. The special hearing, which was called by Councilman William Walsh at the behest of the neighbors, heard testimony from representatives of the residents of Follen Street and other neighborhood

associations, Lincoln's Inn, and the law school before determining that the Inn should not be allowed to have any more parties.

The counsel went even farther by passing two additional resolutions calling on all universities in Cambridge to pass a code of conduct for students who live off campus and for there to be additional inspections at Lincoln's Inn to determine how many people can fit safely into the 44 Follen Street house.

Even with the support of the Cambridge City Council, Rodwin is still doubtful that the neighbors' eight-month quest to silence the Inn once and for all has been successful.

"We have the resolution on our side, but we're not sure that that's going to work," Rodwin said. "We won't be content until we have a commitment that Lincoln's Inn will not have any more parties. Just ceasing this activity until we stop complaining is not acceptable. The resolution is fine, but we do not know how enforceable it is, and the law school has not shown a great interest in enforcing it."

At the hearing, Dean Sarah Wald said that while the law school took seriously the complaints of the neighbors, HLS's position was that the students should be given another chance. While commending the students for the structural and procedural alterations they have implemented as part of their good neighbor policy, Wald said that of there was a problem in the

future the law school would become more involved in the situation up to the point of canceling the Inn's relationship with the University and going before the licensing commission with the neighbors to request that the Inn lose its lodging licence.

Dean Wald's presentation did not sway Councillor Frank Duehay who called the school's position "weak."

Lincoln's Inn members feel that Rodwin and the neighbors are treating them unfairly. They have altered the facilities at 44 Follen Street to reduce noise and inconvenience for the neighbors. In addition, the board of governors is working in conjunction with four prominent area alumni - R. Newcomb Stillwell '84, Melville Chapin '43, James Roosevelt Jr. '71, and James Barr Ames '36 - to institutionalize the organization's "good neighbor" policy over successive generations of students.

In spite of the fact that the vote did not go their way April 1, Lincoln's Inn members insist that they can continue to have parties and conduct other activities on their property which does not break the law.

"As a matter of law, the council's resolution does not prohibit us from doing anything," said Adam Weiss, the board member in charge of community relations and one of the participants in the city council hearing. "The city council's resolution is something that we have in mind, but we own that property and Lincoln's Inn reserves the right to use its property in any manner

consistent with applicable law."

The primary source of friction is that Rodwin and the neighbors are focusing on prohibiting any parties while the Lincoln's Inn board of governors is concentrating on reducing noise. Weiss asserts that if given a chance the Inn can have its parties and the neighbors can sleep without the fear of being disturbed by rowdy party-goers. Since November 1990, there have been five events at the Inn with more than 50 people and not one complaint has been lodged against the Inn by its neighbors.

"The way to reconcile the neighbors' interests and our own is to have quiet parties," Weiss said.

Rodwin and the neighbors assert that after 20 years of struggle with Lincoln's Inn over the noise in their neighborhood, they are not disposed to give the organization any more chances. Armed with the city council's resolution, they hope to have seen - and heard - the last party at 44 Follen Street.

Lincoln's Inns members, insist that the resolution will not hamper their activities on their property.

As for parties in the future, Inn members say that their plans are not a matter of public concern as long as they continue to abide by the laws.

"It's nobody's business what we do at Lincoln's Inn," Weiss responded in response to inquiries about when the next activity will be at the organization's house. "Our parties are for our members only and their guests. This is not an appropriate topic of inquiry."

CCR Lawsuit Update

The case of *The Harvard Law School Coalition for Civil Rights, et al. v. The President and Fellows of Harvard College* has slowed down considerably in pace. On February 22, 1991, Judge Patrick F. Brady of the Massachusetts Superior Court dismissed the complaint, asserting that students lacked standing to sue for faculty discrimination. Subsequent to the dismissal, the Coalition filed a notice of appeal and a motion asking Judge Brady to reconsider his refusal to allow the Coalition to amend the complaint to add a claim under Mass. Gen. Laws Chapter 151C. Chapter 151C is a statute prohibiting discrimination in the provision of educational benefits and services. The motion to reconsider was denied without explanation. The appeal is pending.

The Civil Rights groups that filed an amicus brief in support of the students' standing intend to file a similar amicus brief at the appellate level.

Students Storm Dean Clark's Office

For the first time in Harvard Law School's history, a group of students successfully shut down the Dean's office for an entire day.

By Robert Arnold

The students, representing the Coalition for Civil Rights in the name of faculty diversity, blocked all entrances to Dean Clark's office from 8:00 a.m. until 5:00 p.m. on Wednesday, April 10, and ended the blockade with a victory rally outside of Griswold Hall.

CCR member Keith Boykin said of the blockade, "the escalated tactics of the diversity movement are a response to Dean Clark's undemocratic, virtually authoritarian, management style. Dean Clark repeatedly rejects student concerns as mere cries of 'consumers,' which is how he sees the student body."

Although the CCR had hoped that they would surprise the administration, local media broadcasted the details of the planned event prior to Wednesday morning, and the Dean scrambled to organize an *ad hoc* meeting with the students to diffuse the blockade.

However, the students refused to meet with the Dean until he presented them with a written proposal outlining a plan for achieving faculty diversity.

"Isn't it peculiar how the Dean always schedules these meetings and forums of his on the same day that we plan our events," said Linda Singer, 3L. "If he were sincere about diversity, he would've moved on this issue a long time ago."

The students assembled at the Harkness Commons at 7:45 a.m. and broke up into three groups for security reasons before they seized the Dean's office. Although, there were Harvard University police patrolling the outside of the building, they did nothing to stop the students.

"We could've done whatever we wanted," said Camille Holmes, 1L. "The police never did anything more than threaten us."

The blockade was a continuation of the sit-in in the Dean's office which the students had undertaken on "Strike Day," Thursday, April 4, but which they had abandoned out of re-

spect for the death of New England Law School Professor and Radcliffe College Fellow Mary Joe Frug, wife of Harvard Law Professor Gerald Frug.

Vice Dean David Smith tremulously issued repeated warnings to the students throughout the day telling them that they were breaking the law. "This is a very serious matter. You may face very serious consequences including expulsion," Smith said.

The students were unmoved by the threats responding by chanting "We shall not be moved."

The Dean was not seen all day, and he could not be reached for comment.

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April 19th

**WE'RE NOT THE BEST
BECAUSE WE'RE THE
BIGGEST**

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BAR/BRI

BAR REVIEW

Harvard Law Record

Volume 92, No.6

Daniel J. Greaney
Editor-In-Chief

Albert M. Sacks

"It is typical of the Harvard Law school that the seat closest to the Professor will be the last seat to be filled."

With that observation, Professor Albert M. Sacks commenced what turned out to be his final semester of Legal Process in a crowded room in Pound Hall last year. The remark came as Professor Sacks was enjoying some success in his attempt to induce the students who were scurrying towards the darkest and most distant corners of the room to come forward and fill the empty seats in the first row. After a few minutes, only one seat remained open. Glancing down at his seating chart, Professor Sacks realized that the remaining place, which was immediately to the left of his lectern, was seat number one. That was when he made the comment quoted above.

A few moments later, a student rose from an unseen corner of the room and came forward to take the seat.

The incident seems somehow typical of Professor Sacks, who died last xxx. That he should observe the pattern of professor-avoidance in seat selection—and regret it with a note of both understanding and disappointment—was typical of the balance of analysis and sympathy which Professor Sacks brought to teaching and studying the law. That his comment should compel one of his students to step forward and do what what Professor Sacks believed was the right thing to do exemplified the peculiar force of his personality.

I call his force peculiar because it depended so little upon the motivations which usually drive law students. Professor Sack's well-deserved reputation as a generous grader defused student anxieties about marks. Similarly, his gracious habit of outlining the facts before asking a student a question minimized the possibility of public humiliation. No, if students were to to more than the minimum in Professor Sack's class it was because he appealed to their intellectual ambition, their sense of responsibility and, perhaps most important, their desire not to disappoint Professor Sacks. Not that he consciously sought to make students feel guilty; it was simply a side-effect of his kindness towards them and his enthusiasm about the law. He expected to be impressed by his students and letting him down seemed like a rotten thing to do.

I myself crumpled before his searching gaze. After two terms of stoically averting my eyes from those of a half-dozen professors, I find my resolve weakening when Professor Sacks asked for volunteers to prepare talks on several topics. After thirty seconds of silence—seconds of trying desperately not to meet his eyes as they passed from bright expectation to disappointment, I gave in and raised my hand. Other students followed.

Who could one say no a teacher who seemed never to have encountered a case in which he didn't feel sorry for both parties? He felt sorry for the poor tugboat captain who didn't want to shell out for a new radio when none of his competitors were doing so; and he felt sorry for the customer whose barge was lost because the tug lacked a radio. He felt sorry for the woman whose image was used without her permission in an advertisement, but he also sympathized with the advertiser's desire to have a pretty face on his product at no cost.

Perhaps it was because of his inclination to empathize with all parties that Professor Sacks looked for the answers to unresolved cases in the "reasoned elaboration" of the underlying postulates of the legal order. Perhaps he simply didn't have the prejudices necessary to make decisions as the critical legal studies scholars argue they are made, on the basis of race, class, gender. Legal Process, the manuscript which Professor Sacks co-authored with Henry Hart, remains a powerful statement of belief in the possibility of fair, rational and disinterested justice.

In a time when confrontation and hostility increasingly characterize the tone of campus disputes, Professor Albert Sacks will be missed as a man whose life and work reflected the power of reason and good will combined.

D.G.

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CCR Intimidates, Insults And Condescends

To The Editor:

Members of the Coalition for Civil Rights (CCR) came into Prof. Kathleen Sullivan's Criminal Law class last Thursday and stood in a large circle around the room, holding posters reminding students that it was Strike Day and of Harvard Law School's abysmal record on faculty diversity. They

class was over.

Frankly, I think it was a bullshit way to do business. The CCR has done an admirable job educating people about diversity and organizing activities like Strike Day which work to push an intransigent administration into the modern world. But I am appalled at this particular CCR tactic, which was interpreted by many as intimidating and arrogant, and which targeted the classroom of one of the only women on the Harvard Law School faculty.

I know a little about protest politics. I was extremely active in the divestment movement in college, and never once did we trap the "unwilling" in a classroom in order to "scold" or "educate" them. You provide as much information as possible to people and

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Letters To The Editor

stood for some twenty minutes, silently, while Prof. Sullivan tried to teach the Fourth Amendment. They then left and returned for the last ten minutes of class, to stand silently in a ring again and then try to talk to students when

"The Best Black" Embodies Self-Hatred, Naivete

To the Editor:

During the recent debate about "Strike Day", Dean Clark requested that all interested students read an article by Mr. Stephen L. Carter entitled, "The Best Black, and Other Tales." While Mr. Stephen's discussion about faculty hiring was thought provoking, what was more fascinating was his self-hating, naive attitude. As a result, I want to assert three observations in response to Carter's article which I believe need illuminating.

First, an oppressive society rarely acknowledges the achievements of the oppressed. Throughout the article, Carter asserts his desire for self-

affirmation by white society. He writes, "we yearn to be called what our achievements often deserve: simply the best—no qualifiers needed!" A nation in which Black children still choose white dolls as being the pretty ones and black dolls as being ugly. Our society psychologically denigrates Black people and Black culture. To expect that same society to affirm us and to be surprised when it doesn't, is shocking.

The problem is Carter's premise. He honestly believes if minorities work hard they can overcome the racism of the larger society. He is wrong. Both Jews and Asians have attained a mea-

Carter page 11

Not All Conservatives Are Privileged

To Alisse McIntyre:

I am one of the non-rich conservatives who read your recent article in the Record. I wanted to take a minute or two to share how sincerely I disagree with your stereotype of conservatives.

My family of eight lived in West Virginia with an outhouse and no running water on \$11,000 a year. My father was generally liberal politically, and worked with LBJ's War on Poverty. We, as a family, personally tried to implement the Great Society programs in our mountain valley. They did not work. We fed people's bodies, but their souls were dying.

I became an evangelical Christian largely because it is the only program that made a difference among the poor

people of my own community. The message of dignity that an impoverished Palestinian carpenter shared with His destitute neighbors worked in Galilee, and it worked in West Virginia. So here I am, today, lumped in with "Rich Conservatives" because I have chosen a path that involves discipline, dignity and sacrifice. Is this fair?

You may not agree with the stands I would take on Welfare, criminal justice, taxes, abortion or many other issues. But should you dismiss me as a person without even acknowledging that I might exist?

Alisse, I would like to understand you. I hope we get a chance to meet and enlarge both our horizons sometime soon.

Scott W. Somerville, 2L

JLSA Issues Invitation to "Jewish Perspective"

To the Editor:

In light of the on-going debate at the law school about, among other things, diversity, viewpoint, perspective, and community ties, the Harvard Jewish Law Students Association would like to extend an open invitation to the entire law school community to attend and participate in our April 21st conference entitled "Jewish Perspectives on the Law."

This invitation is extended in the spirit of hoping to engender greater inter- and intra-communal understanding within the law school community. The focus of the conference includes exploring such issues as: is there a unique and identifiable "Jewish

perspective" on the law; if there is, how would we describe it, and what, if any, are the discernible consequences (for Jews involved in the law, and for the development of American law as a whole); what is the significance of factors such as gender and generation; and, with respect to judging, does it or should it matter, and historically, has it mattered, that one was born or raised in the Jewish tradition?

The conference fee for students and faculty is \$5, which includes lunch. Please look for our table in the Hark this week and next week to register. We hope to see you there.

Eric Tirschwell, 2L,
Conference Coordinator

Tarazi Comments Ignore Israel's Needs

To the editor:

I respond to the interview headed "Woeful Ignorance" in the March 1, 1991 issue—specifically to the last question and answer where a distinction is made between de facto and de jure recognition of Israel. The United Nations created the State of Israel de jure in 1948. This Mr. Ali Tarezi would ignore or reverse. Instead, he will recognize that the Israelis exist (as they

existed prior to 1948). This reasoning caused united Arab states to invade Israel in 1948, aiming to destroy it as it had no de jure right to exist. What kind of dealings can result from this attitude, what future? When Tarazi refers to dealings "for the sake of our children" does he include Israeli children? I do not read his response that way. "He is woefully ignorant!"

Fred B. Grill '25

"I Don't Whine, I Bitch"

The week after Spring Break started out on an upbeat. The weather had begun to warm up. Criticism of my past

Alisse McIntyre
RECORD Columnist

columns proved to me the theory that HLS students are the kind of humorless overachievers who think having a wild time is mixing beer and wine at a party. (Confidential to my critics: I don't whine, I bitch, Thank-You-Very-Much. And to those of you who offered to take me out, please submit a photo and a personal statement in care of the Record. Public Interest types preferred.

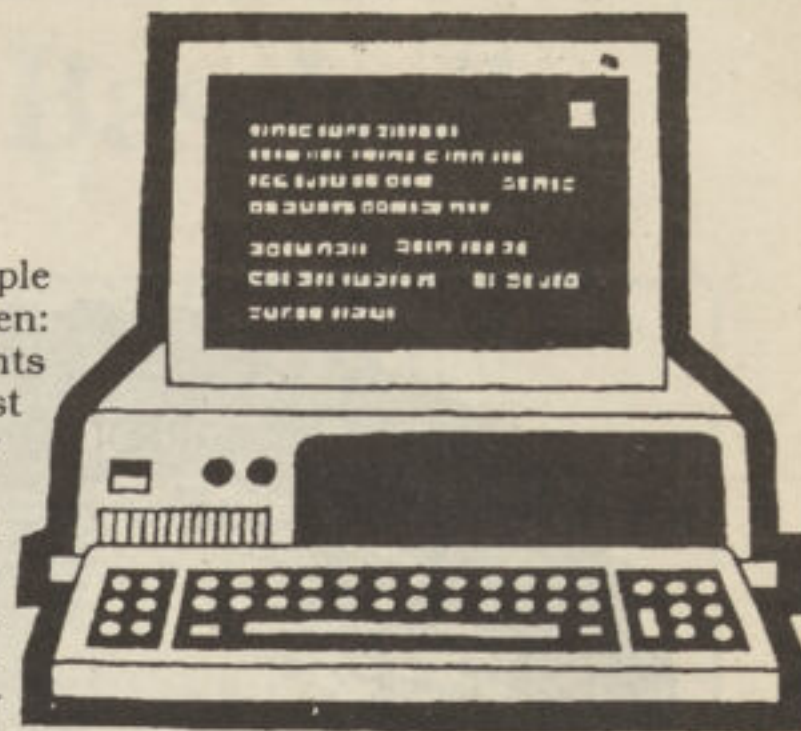
By Thursday my plans for a great weekend were firmed up plus it was National Strike for Diversity Day. This meant for a change I could blow off class for an actual good cause. I figured I could sun myself at the rally and gather ample material for another column, but I found myself facing one serious difficulty: there is nothing funny about this school's discriminatory hiring practices. Simply put, I realized that I am too infuriated to even make light of the fact that the administration cares so little about the students' concerns and obstinately refuses to work toward diversifying the faculty. And lord knows, there is precious little I won't make light of (or so my editor complains).

Strategies for diversifying the faculty must include money; money is the operative force. Dean Clark was ap-

pointed over his worthier colleagues to appease conservative alumni who were sitting on large pots of money and telling the school that they wouldn't see a dime of it until the end of the faculty infighting (read: "liberal problem"). This explains why Clark, a man with little to no social skills, has had such success in gathering contributions even before the official start of the capital campaign. His refusal to acknowledge student concerns reflects the mandate of his hire: keep the conservatives happy.

that this is really one of life's simple pleasures routinely denied to women: the pleasure of enjoying your thoughts as you walk alone on one of the first warm nights of Spring. I felt very happy.

The next morning, I learned that Professor Mary Joe Frug has been stabbed to death not far from where I was. In fact, not far from any of us. In her honor, the CCR temporarily called off their sit-in. Students and faculty consoled one another over our



It's hard to escape the feeling of being a member of a gender under siege.

And so as a future alumna, I join with many others I heard Thursday is saying to the Administration "Not one penny!" Diversification of the faculty will occur when the law school sees that the alternative will cost them alumni dollars.

So come Thursday night I was feeling pretty good. It's refreshing to see so many people dedicated to worthy causes and not just six figure incomes. The night was warm and perfect for taking a quiet walk. Enjoying myself, I went to Sage's and picked up the ingredients to make myself a really nice dinner. On the way home, it struck me

terrible, terrible loss.

That next night, I walked to Harvard Square to meet a friend. But this night instead of enjoying the pleasant walk alone I played the "What-if" game. "What if there's a man hiding behind that building? What if that guy over there is the one who did it? What if that car pulls over and the guy jumps out and..."

In fact, all of my female friends have spoken of the same feeling of fear when they go out now.

Why do I bring this up when I talk about diversity? This mental sensation of feeling like you're wearing a bulls-eye

is what it means to be oppressed in society. It's the sensation of being a woman walking alone at night. It's the sensation of violating some senseless social prohibition that others are entitled to do routinely. It is the experience that women, Gay men, Lesbians, and Ethnic Minorities bring the law school. It is a reality with legal implications. It is a reality that can be enforced or torn down through the law. It is a reality that escapes most of those who do not live it.

And that is why the issue of the diversification of the faculty cannot rest.

Not one penny, Dean Clark, not one penny.

Fenno

Fenno is on assignment in Palm Beach.

Fenno was on an extended Spring Break Easter/Passover Weekend in Palm Beach. Hot for some action at Au Bar and Girl Harbor, Fenno was determined to get a tan so he wouldn't look like just every other law geek. Cruising the strip with Jimmy Buffet and Neil Diamond on the jam box, Fenno spotted the babe of babes— "Roxy Pulitzer Prize."

"Hi. [wink] I'm Fenno from [pause] Harvard. Haven't I seen you [seductive leer] somewhere before?"

Next thing ya know Fenno is doing the Lambada with Roxanne at Au Bar where the women are rich and ugly and the drinks are \$7 bucks. Some much for strategy number one.

"So Rox, want to go to the beach and grease my Harvard Law back?"

"No!"

Fenno stares.

"What? No thank you?"

Ouch, a classic blow off. Baseball season has begun and Fenno just struck out.

Undaunted, Fenno heads back to the Holiday Inn where the guys and gals from A Current Affair are hanging. Seems like the Kennedy clan is up to its Chappaquidick in trouble again. Hopefully, this time justice will be served.

Hours later and still alone Fenno goes to the beach when who does he see but Ted the man.

"Yo, Ted. How can I get chicks?"

"[Hiccup] You asked the right guy. Here's how a [hiccup] fat obnoxious Irish guy get chicks the honorable way, unlike others I know."

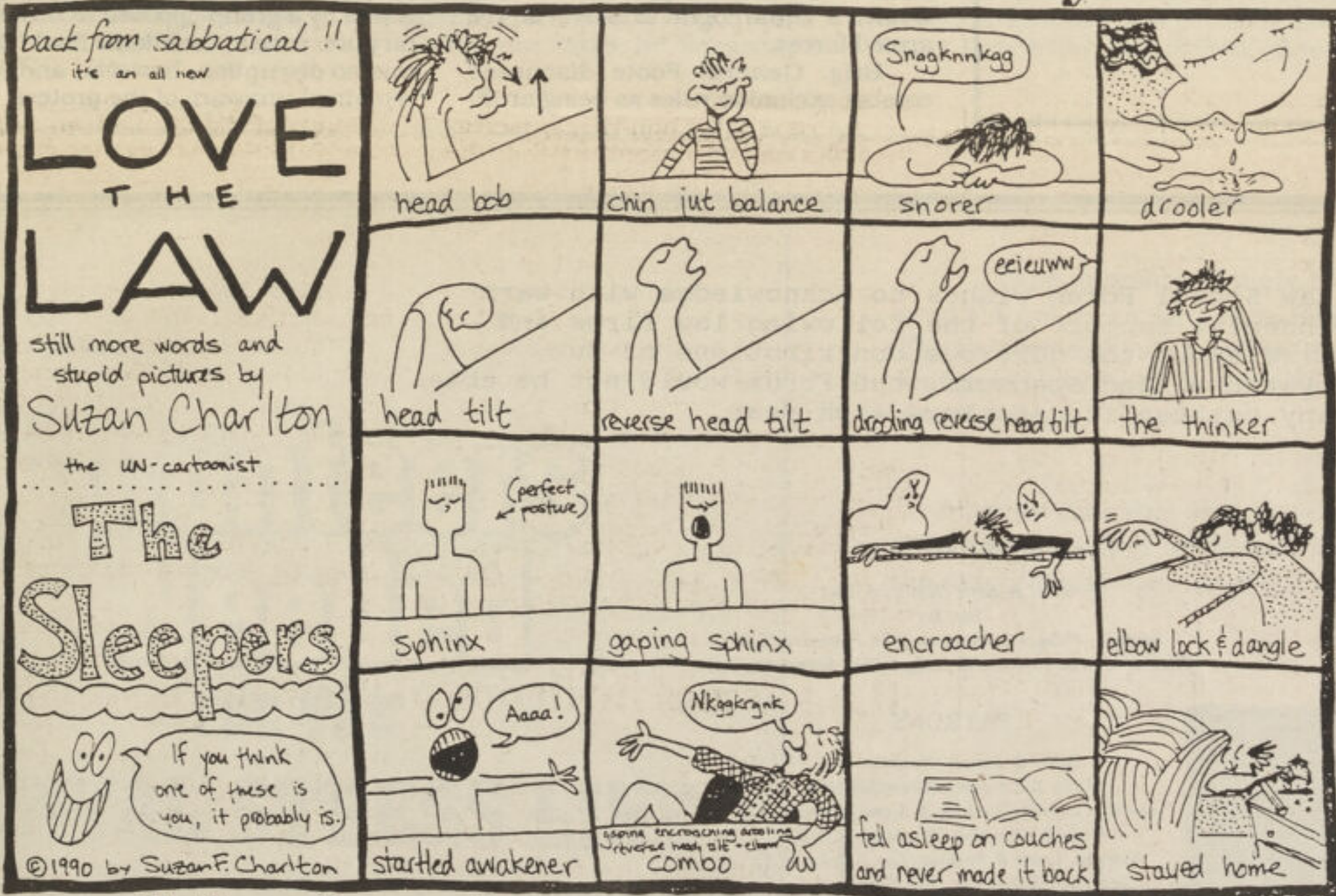
Fenno listened, learned and at the next Lincoln's Inn party at the Hark applies his knowledge.

"Hi. [wink] I'm Fenno from [pause] Harvard. Haven't I seen you [seductive leer] somewhere before?"

Strike two."

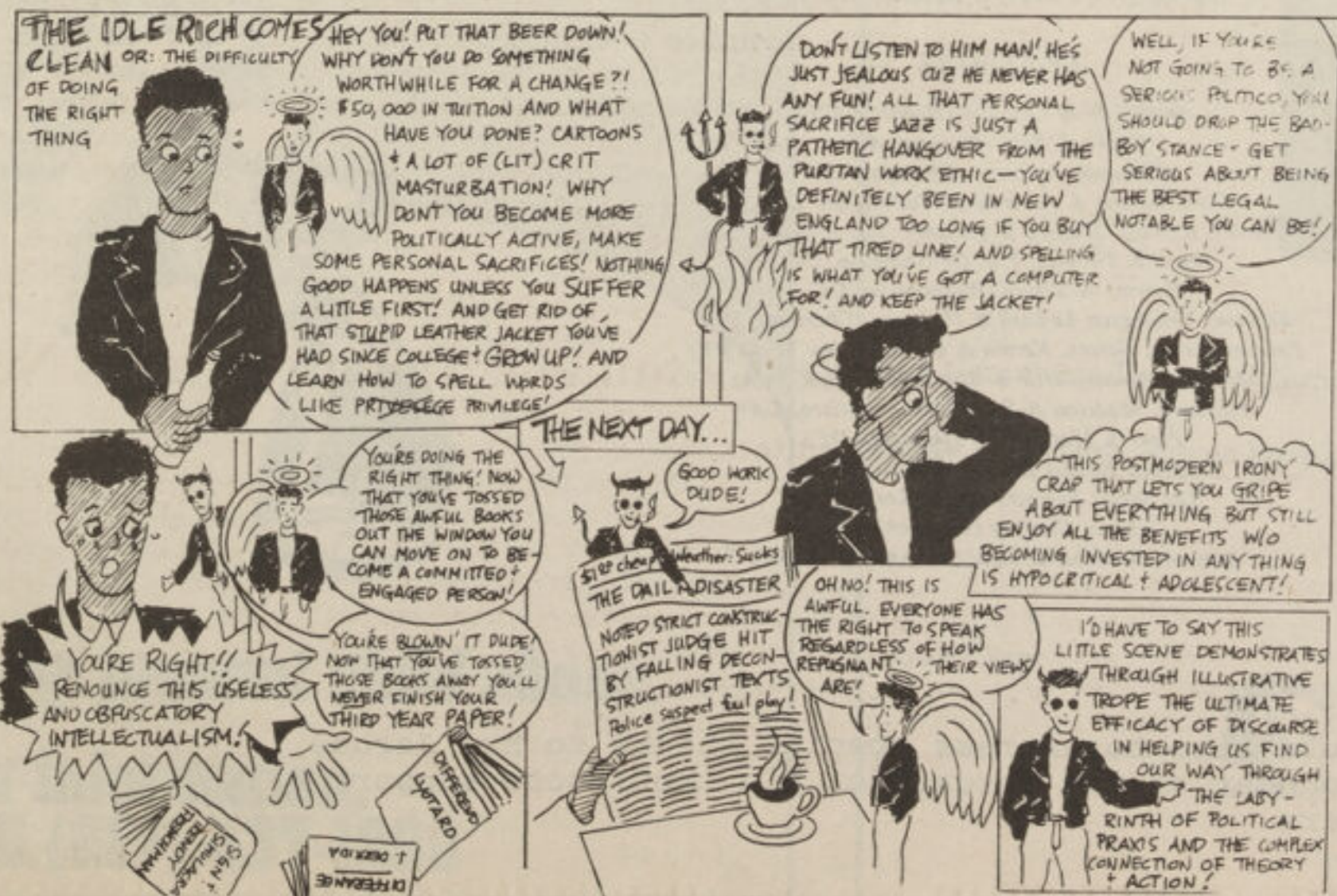
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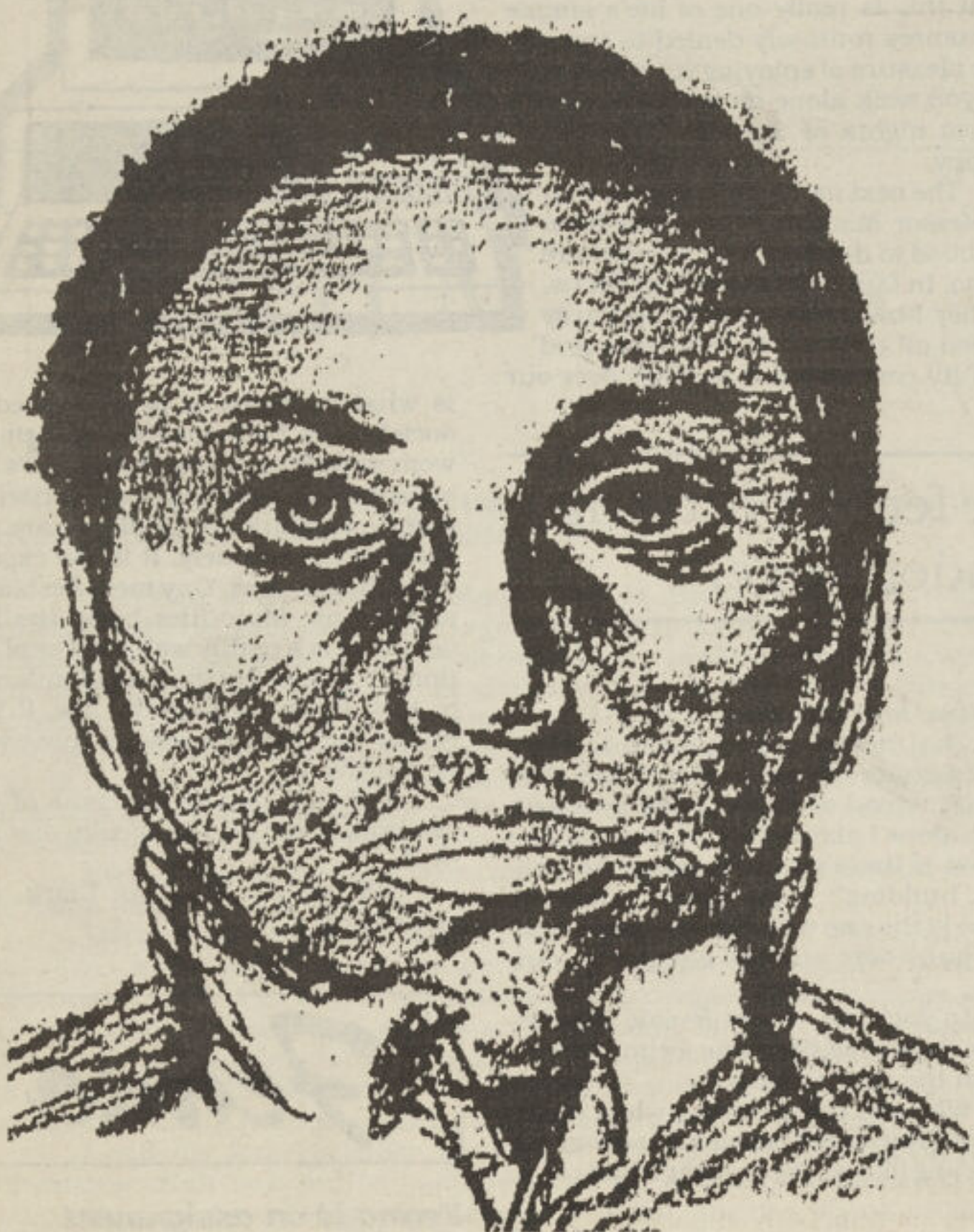
By Eli Clark



Law of the Jungle

By The Idle Rich





Combat Role For Women Discussed At Conference

On Saturday, April 6th a one-day conference entitled Women in Combat was held in Austin Hall. Hosted by the

By Elizabeth Moreno

Harvard Law School Association, the Women's Law Association, the Women's Law Journal, and the Mitre Corporation, the conference examined combat exclusion rules pertaining to women in the military.

Participating in the conference were women and men presenting various

cial and arbitrary. She expressed concern that especially in an all volunteer force the military must consider the demoralizing effect of arbitrary rules based on gender. In her speech on the history of women in the military, General Foote connected recent improvement of the status of women in the armed forces to the end of the draft in 1973. Without a sure supply of men, the military was forced to make service more attractive. Necessity demanded that they improve the role of women and the options available to them.

"There is no job in the military that women have been asked to do that they haven't done well," said Chayes.

perspectives on the issue of women in combat. Panelists included retired Brigadier General Evelyn Foote, Major Marilyn Gordon, associate professor of law at the U.S. Air Force Academy, Isabelle Katz Pinzler, Director of the Women's Rights Project at the ACLU in New York, and Michelle Benecke, 2L and former U.S. Army Air Defense Artillery officer. Joan Jordan, maker of the film "In Command: Women at West Point" was also a panelist. Former undersecretary of the Air Force, Antonia Handler Chayes served as moderator and dedicated the conference in memory of Professor Mary Jo Frug.

Discussion focused on justifications given for combat exclusion rules and strategies for ending them. "There is no job in the military that women have been asked to do that they haven't done well," said Chayes in defending women's equal right to serve in the armed forces.

Brig. General Foote discussed combat exclusion rules as being artifi-

Several strategies for ending combat exclusion rules were also discussed, including educating future leadership. Panelists expressed pessimism about the role of the courts, especially in light of the conservative make-up of the Supreme Court. It was also noted that women who might have standing to bring a discrimination suit would likely be too fearful of the repercussions. Consensus seemed to be that combat exclusion policies would be more likely to be chipped away little by little rather than all at once. There was praise for General Colin Powell's sensitivity to women's issues in the military and optimism that the recent high profile performance of women in the Gulf War would help break down negative stereotypes of women's fitness for combat roles.

The conference was briefly protested by a group opposed to U.S. military presence in the Middle East. There was no disruption, however, and most remained unaware of the protest.

The Harvard Law School Forum wishes to acknowledge with warm thanks the financial support of the following law firms and corporations. Without the generous contributions of our Benefactors, Patrons, and Sponsors, the Forum would not be able to host so many outstanding speakers each year.

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The Forum also would like to express special thanks to Mr. Jerome Lyle Rappaport, founder of the Forum, for his continuous support throughout the years.

Sorry, Professor, I was Thinking About Baseball

Ah, Spring. As we walk around our fair city, the sights and sounds of this, the season of rejuvenation, abound.

By William Steinman

The cherry blossoms are in full bloom, like proud peacocks displaying their downy plumage; the branches of every tree are bursting with young buds; the flowers — the sweet flowers — push out from the earth with brilliant eagerness.

Nature's rebirth, however, is not all there is to Spring, not by a long-shot. There are other sounds, other sights, and none is more important than baseball. Like our feathered friends who have returned to their homes after a winter in warmer climes, the boys of summer have come home from their brief sojourns in the leagues of the Cactus or Grapefruit; opening day has already taken us by storm. Please add to Nature's cacophony the crack of the bat, the sound of a fist against a leather glove, the hot dog man selling his wares, the carbonation of a slightly warm Bud, and the fans in the cheap seats (bless their souls) creatively shouting that the umpire "sucks." It is these images, as much as anything Mother Nature can come up with, that mean Spring in the good old U.S.A.

Yes, folks, baseball is the National pastime. Yeah, yeah, I know, more people watch football on TV than any other sport, but there's just something so **patriotic** about baseball. First of all, anyone can play baseball. Grab a bat, a ball, and the old glove that every American has in his or her closet and get a game going. Second, baseball and hot dogs are inextricably tied together, and we all know that hot dogs are **the** American food. Third, baseball is played

in the summer. And as everyone knows, summer, with its highlight the Fourth of July, is All-American. Finally, baseball's two leagues have titles that make even the Harvard Law student swell with pride: the **NATIONAL** and the **AMERICAN**.

Now that I have established that baseball is more American than the Patriot Missile (and that is God-Damned American), let us move on to the quintessential form of the baseball game. There are, after all, some ways to enjoy the sport that are more American than others, and I will attempt to describe the most Star-Spangled way to savor the game.

First, baseball was meant to be enjoyed **during the day**. Every red-blooded American mourned when the lights were installed at Wrigley Field. After all, if the game were supposed to be played during the evening, why would the caps (they are not, despite the popular misconception, hats) have such large brims? Afternoon games, therefore are **the** games to attend if you're looking for the highest form of Flag-waving baseball.

Second, the day of the week is important as well. Weekend games are great, but the real time to see a baseball game is on a weekday. There's just something about a stadium filled with men loosening their ties and women taking off their suit jackets. Long lunches are American. Long lunches at the ball park are even more American. Also, baseball players are working at their jobs just like the rest of the country. Decent Americans work during the day, most often from 9 to 5. What kind of American heroes would ball players be if they worked on the weekends?

Third, you must be foregoing a



previous obligation to be at the ball park if you expect to derive the full benefit of the game. Even though America has the largest economy in the world, and exports more manufactured goods than any other nation, we are not the most productive people on the planet. We like to blow things off to have a good time. Puritan work ethic aside, there is just a patriotic feeling to push aside something truly important in order to relax and have fun.

Finally, and most importantly, you must be a student of some sort. Playing hooky and baseball have been one since Abner Doubleday first drifted off in a

one-room schoolhouse somewhere and invented the game. For more than a century, American children come Spring have cast their samplers aside, donned the cap of their favorite team, and ran to the ball park with great enthusiasm. Their faces are bright, and they know the feeling that deep down, the United States of America is really an OK place.

This, my friends, is the true secret to enjoying baseball. Try it sometime, and I think you'll discover I'm right. If you have any questions, feel free to ask. But don't look for me when I'm supposed to be in Property. I'll be at Fenway.

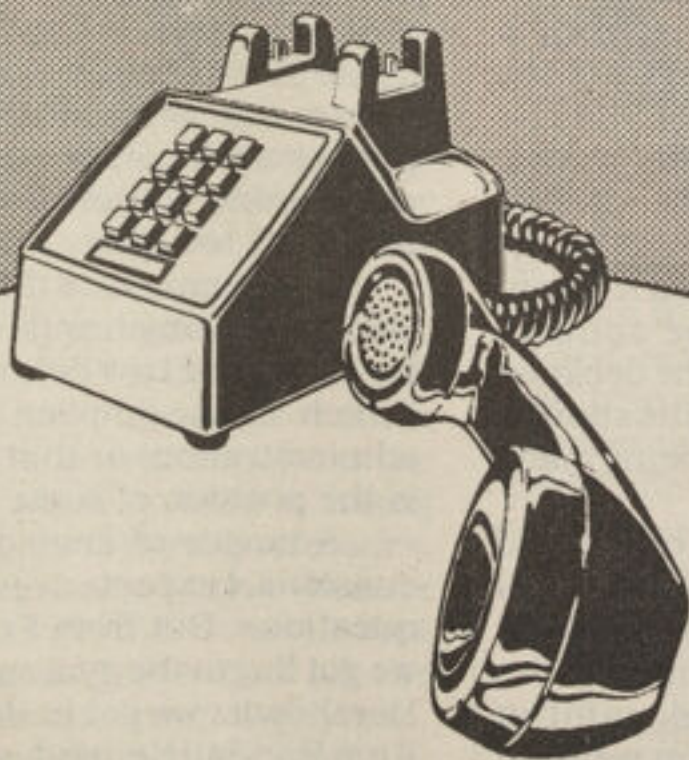
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Diversity Day: A Chrestomathy

The Curtain Is Rising On The Class Of 1993

The very idea that students possess some kind of inalienable right to enforce their own, self-imposed "Strike Day" on the members of prominent law

By Robert Arnold
RECORD Columnist

school communities throughout the country is not only arrogant, bold, dissonant, and unorthodox, it is also an idea whose time has come.

There is only one word to describe the far reaching magnitude, vigor and importance of the success of Strike Day: Wow!

No matter how one feels about faculty diversity, every member of the Harvard Law School community was affected by the events on and around Strike Day.

In fact, there were a lot of events last week which combined to make it the most incredible, dynamic, weird, unsettling and invigorating week thus far this year. Events in the "real world," like the L.A. police brutality controversy, two Senators being killed in similar accidents on consecutive days, the rape of a Harvard undergraduate, the killings in California, and Mary Joe Frug's tragic murder; combined with Strike Day and the continued demonstrations, have moved all of us tremendously and shown that Harvard Law School does not exist in a vacuum.

Though all of those events were very strange, emotive and unusually unfortunate, the most relevant to Harvard Law School students were the events on and around Strike Day.

Many 1Ls are left with a sinking, empty, uncomfortable and confused feeling by the events. For those 1Ls who are already dogmatically attached to their positions, there is an equal number who fall into an as yet undefined category about the diversity issue. It is something we inherit.

However, the most important lesson that can be learned from Strike Day is the realization that, as most eloquently and poignantly stated at the rally by 1L Ronald Sullivan, students do indeed have power and input in determining what goes on at this school. This is a consumer driven institution: we can, and should legitimately, participate in shaping the school's agenda.

Early in the school year last semester, (when 1Ls were as frightened as untenured law professors), at one of

the section 2 section meetings, our section representatives raised the issue of trying to get some kind of special recognition on our transcripts for all of the extra classroom hours and work load we have, (when compared to other sections), because of our argument lecture, Ames workshop and Integrated class.

At the meeting, one of the most well-spoken and articulate members of our section immediately contested the idea of trying to get special recognition for ourselves simply because he didn't "want to be known as the section that



whines.

"This is, after all," he continued, "Harvard Law School," implying that it is supposed to be a drag. We should just buck-up and drudge through it with the faith and knowledge that it will be over in three years, (akin to a prison sentence without time-off for good behavior in my mind).

Although I personally think very highly of my classmates and particularly highly of the originator of that comment, the mentality indicated by that statement is misguided at best or simply, at worst, flat-out erroneous. In fact, too many students believe that we are indeed "subjects" and therefore powerless in the "inertia of the bureaucracy" as Professor Randall Kennedy ascribes it.

However, the fact that the Dean of
Curtain Next Page

Why I Believe In Confrontation

The events of the pas week have prompted many provocative questions, ranging from the value of diversity to

By Keith Boykin
Special to the RECORD

the methods used to achieve it. I have considered many of these questions, and I would like to put forward responses to these questions most frequently asked. Although I am a member of two organizations active in the diversity movement—the Black Law Students Association and the Coalition for

of the population and women comprise more than half of our nation's citizens. Moreover, even in law schools nationwide, women make up 23.7% of the full-time faculty while only 7.58% at Harvard.

The law reminds us of human limitations when lawyers do not seek truth in their advocacy. Rather, the quest in any legal proceeding is for sufficient information for an impartial arbiter to decide the case. Legal education can be no different from the rest of the law. It can never determine absolute truth; it can only provide sufficient differing perspectives for the student-arbiters to decide. Yet this is exactly what Harvard Law School fails to provide. Rather than seeing the law through the eyes of diverse facilitators, students are instructed to see the law through eyes that are 95% white and 92% male.

Some have argued that greater minority representation will not necessarily guarantee new perspectives in the classroom. This is partly true, but there are many other reasons besides cultural pluralism why diversity is important. For example, a diverse faculty provides role models for the diverse student population. These role models, by their very existence, provide examples, and by their deeds they may provide much more, including advice, support, and understanding. True, some sensitive professors who are neither women nor minorities may also be able to fulfill some of these needs. But no sensitive professor who is not a woman or a minority can provide an example for someone who is a woman or minority.

Some have questioned the importance of role models for mature students at the pinnacle of sophisticated, professional education, but I think it is precisely because these students are at law school that the need for role models is even stronger than at the elementary level to achieve certain goals. Elementary school children, who need role models for their overall personal development, are not in the position of law students, who will within three years of initiating their legal careers decide whether to follow in the footsteps of their instructors. Elementary students, on the other hand, may wait years before they seriously consider career choices.

Confrontation Next Page

Civil Rights—my comments are solely my own.

Why is diversity important? Faculty diversity enhances the quality of education by expanding the perspectives presented in the classrooms. Despite the fact that some have questioned this premise, I have always taken this idea to be a given. If all of the 65 faculty members were Protestant, white men from New England, upper middle class backgrounds, few would doubt that the perspectives presented in the classroom would be limited by the similarity of the professors' experiences. The professors' backgrounds and experiences would not likely reflect the experiences and backgrounds of most students here, let alone that of most of society. Yet Harvard Law School's tenured faculty is 95% white, 92% male in a country where minorities make up nearly 20%

Diversity Forum Was A Showcase For Cowardice

During the panel discussion on diversity last Thursday, a discussion, according to Dean Clark, devoted to

By Eric Posner

"reasoned debate," Randall Kennedy furiously denounced Brian Timmons for reading to the audience notes Timmons had received from some friends warning him against appearing on the panel. Timmons had read these notes in an ill-advised attempt at humor; but Kennedy took Timmons to mean that Timmons' position enjoyed support everywhere but in universities, and I suppose he meant that this invisible support would compensate for the hisses and cries of racist cast at Timmons by members of the audience. Kennedy's outrage was rewarded with applause and sympathetic laughter.

Kennedy can be forgiven for seizing upon Timmons' tactical blunder in order to obtain that commodity so rarely enjoyed by professors — student applause. But I think that Kennedy slighted Timmons' "courage" — courage, which I admit, was not the courage of a Greek hero, but which certainly stood out in comparison to the cow-

ardly behavior of the rest of the panel.

Timmons' courage consisted not so much in his willingness to express an unpopular position; it consisted rather in his willingness to express his position in unequivocal language. None of the other members of the panel conducted himself so nobly, preferring the security of evasion and abstraction to the risk of taking a stand.

Frank Michelman, for example, in a delightful parody of academic argument, mustered the most extravagant and pedantic language on behalf of the proposition that the merit of a student or professor depends in part on the diversity of his background. Few disagree that diversity plays some part in the determination of merit; even Dean Clark conceded as much. Because Michelman did not bother to tell us how large a part diversity should play in the determination of merit, his position and Dean Clark's were indistinguishable.

Alan Dershowitz treated us to a diversion on the use of the concept of "diversity" in the 1920's to discriminate against Jewish law students. His words were timely reminders of the tragic underrepresentation of Jews on the faculties of America's law schools. Al-

though Dershowitz parenthetically assured the audience that he was a leftist and that he supported diversity, he, like Michelman, declined to tell us how much diversity should matter.

Jerry Sorkin indulged us with a nostalgic journey back through his law school years. In a daring bit of irony he recalled James Watt's famous words, when he paid tribute to the diverse group of students who were his "teachers" — two blacks, a gay man, a lesbian, and two whites. But, in the spirit of Michelman and Dershowitz, he declined to tell us whether these students should, say, have to graduate before being made our professors.

From their comments one could not distinguish the positions of Kennedy, Michelman, Dershowitz, Sorkin, and Dean Clark: none of them denied that diversity should count at least a little bit. None of them went on to say how much diversity should count.

But the question of how much diversity should count is the nub of the controversy. The panelists, other than Timmons, avoided all of the difficult questions.

Do the panelists think that diversity should function just to break ties?

Should the law school stop hiring white males until it has hired enough women and minorities? Should the law school, when confronted with the choice, forego hiring famous white male scholars in order to leave room for women and minorities? Should the law school try to buy out some white male tenured professors in order to make room for women and minorities? Does the faculty have too many Jews?

Do the panelists think that no available black women and Hispanics qualify for a Harvard Law School professorship (which is the implicit position of the administration) or that some do (which is the position of some students)?

A novice of law school panel discussions, I expected responses to these questions. But from Frank Michelman we got linguistic gymnastics; from Alan Dershowitz we got crafted indignation; from Randall Kennedy we got apoplexy; from Jerry Sorkin we got sentimentality. The panelists' evasion, calculated to prevent them from appearing moderate to the radicals and radical to the moderates, saved them from the embarrassment that Timmons endured; but their behavior was an embarrassment for the rest of us.

Curtain

continued from page 8

the law school thinks it's worthy of his time to attend and speak at a blatantly power-contentious and "illegally" organized teach-in and also sees fit to hold his own forum, is undeniably indicative of the fact that students do have input and do possess some kind of inalienable right to participate in establishing the school's agenda (not that we need the Dean's stamp of approval to tell us that).

Presently, 1Ls are going through one of the most critical junctures of our law school experience: we are making crucial decisions that will shape our lives next year. We are deciding what courses we will take, where we will live, and what cliques we will hang in. We are preparing for hopefully challenging and rewarding experiences this summer, and we are quickly assuming positions of leadership in campus organizations.

I respectfully and strongly urge all students, (hopefully not sounding too patronizing), to do something, to make a concerted effort, to become involved in this community and make it a better, more responsive, more relevant, more productive, more beneficial, more enjoyable (yes, it's possible), more real-world oriented place than it is now; to make the law school experience

worthwhile, rewarding, and meaningful.

If that means striking for faculty diversity, strike for faculty diversity. If that means rallying for smaller classes, rally for smaller classes. If that means protesting to restructure the curriculum, protest to restructure the curriculum. If that means demanding faculty responsiveness, demand faculty responsiveness. Whatever that means, just do it!

According to many alumni, legal practitioners, upper-level students and others who have attended law school, (and even 1Ls can figure this one out with no help), many people view their law school experience as incessantly, tediously boring and/or irrelevantly useless to their professional careers. (That's from the people who enjoyed it!) Most of them also say, it doesn't have to be that way.

I agree: it doesn't have to be that way.

I will end this admittedly biased diatribe with a portion of the recent interview I conducted with Professor Derrick Bell that was edited and thus left out of that week's edition of the *Record*. My final question to Professor Bell was, did he have any message that he wanted to relay to the students or faculty or anyone else that might see the interview. His response was:

I would say that Harvard is a great law school and has the reputation of being the greatest. I would just like to see it live up to that reputation. Of course, to some extent, it does already



or else it wouldn't have the reputation it has. On the other hand, there is still an awful lot it can do. It can serve, and does tend to serve, as a model for students and for other schools throughout the country. I'm not sure all of the messages we send out are as positive and forward-looking as one would hope, that's with regards to curriculum, hiring, tenure, etc. Those are things that I see as challenges, hard challenges. It is very

hard to alter structures but certainly worth the effort.

To quote some classmates, "Change will not happen overnight, but it will not happen without people who will stand up and ask for it!" It is time to stand up and ask for it. There has never been a more urgent need for student initiative. We do have power.

And as Victor Hugo once said, "There is nothing quite so powerful as an idea whose time has come." Class of 1993, our time has come!

Confrontation

continued from page 8

The presence of diverse faculty, thus, also serves the end of encouraging women and minority students to enter the teaching profession which expands the pool of qualified women and minority candidates.

Isn't Harvard doing enough? Dean Clark's Administration contends that it has spent a "disproportionate" amount of time recruiting women and minority candidates. The Administration maintains that 45-50% of all offers in the past ten years have gone to women and minority candidates. These numbers seem counterintuitive given the lack of change in the composition of the faculty during the past ten years. In 1980, two blacks and three women are tenured faculty. Harvard's 45-50% figure, thus, reflects the addition of one black male and two white women to its faculty in ten years. No women of color, no Latinos, no Asian Americans, no Native Americans, no openly gay, lesbian, or bisexual persons, and no persons with disabilities were added, and none of these groups has ever been represented on the permanent faculty.

The 45-50% figure has haunted the diversity movement for a year now, but it has two problems. It is both misleading and irrelevant. The figure is misleading for at least three reasons. First, its small sample size distorts the insignificance of the numbers of persons actually offered positions. Second, it appears to include re-hires and non-permanent hires. The figure apparently includes professors, such as Clare Dalton, who were hired as assistant professors and then denied tenure as full professors. It also includes re-hires such as Derrick Bell, who left the law school in the early 1980s to become of the law school at the University of Oregon and returned in 1986. Third, the figure is reached only by lumping together women and minority professors as a single group. Based largely on the law school's flurry of activity in hiring black males as assistant professors, the figure would mislead one to believe that women and the other minorities had actually made up half of all the hiring offers in the past ten years. Nothing could be further from the truth.

The second major problem with the figure is its irrelevance. Even if the law school had offered 45% of its assistant professor positions to women and minorities in the past ten years, the stultifyingly low numbers of professors from these groups on the current faculty tells a different story. Faculty di-

versity must be measured by results, not by good intentions. The purposes of diversity are not served by the law school's misguided sincerity. Offers don't teach classes, introduce diverse perspectives, serve as role models, and encourage women and minority students to enter teaching. Only real professors, with flesh and blood, can fulfill the objectives of diversity.

Why is the diversity movement so confrontational? This is perhaps the question most asked by supporters and detractors alike. Why not talk to the Administration, negotiate with the Dean, send letters to the faculty, or educate the students, I am asked. My first response to these questions is that all these things have already occurred. Part of the problem any student activist movement encounters, however, is making progress without reinventing the wheel. Each year, one third of the law student body disappears and then reappears as first year students. Consequently, it is difficult to advance a student-driven movement without re-debating the issues that were settled only the year before. But as I indicated earlier, strategies and tactics evolved before they reached the current approach.

For more than 20 years, Harvard Law students have appealed to successive Administrations for action on diversity. Even since Dean Clark took office, the diversity movement attempted conciliation before confrontation. By writing letters to the Dean and the faculty, by meeting with the Dean, by submitting names of qualified women and minority candidates to the Appointments Committee, by recommending changes in the appointments process, and by debating issues in public fora, diversity activists have a long record of conciliation and a broken record of excuses from the Administration as a response.

My second reaction to the question is that confrontation works. Although no one in power ever likes to be pressured, or to admit to being pressured, the history at Harvard indicates that confrontational student protest has been effective. In the late 1960s, as

Thurgood Marshall was appointed to be the first black justice to sit on the United States Supreme Court, Harvard Law students saw the tragic irony in Harvard's refusal to hire a black professor because of the school's "high standards" and the problems of a limited pool. But when students vocally and indignantly protested to then-Law School Dean Derek Bok, the Administration responded by hiring its first black professor, Derrick Bell, soon afterwards. Then, in the 1987-88 academic year, after more than fifteen years of slow progress on minority hiring, black students occupied Dean Vorenberg's office until he agreed to consider student demands for more black professors. The following year, Randall Kennedy was tenured as a professor, and the law school subsequently hired several black assistant professors.

What can be done to achieve greater faculty diversity? I divide my response to this question in two parts—what the Administration must do, and what students can do to facilitate diversity. First, the Administration's leadership in achieving faculty diversity is crucial to attaining this goal. But sadly, student concerns have been shot down repeatedly with missiles of condescension from a more-knowledgeable-than-thou Administration. Only recently has the Dean expressed an interest to hear students even talk about diversity issues, and coincidentally, on the day of planned diversity activities. Last year, the Dean said he would resist efforts to promote excessive "consumerism," which was his way of saying that law school does not exist primarily for the law students—the consumers—but for the law professors and the law administrators. But student "consumers" are not merely an incident of the modern law school, we are the very purpose of its existence. The law school exists to train law students to become lawyers, and students must have a voice in the governance of the school insofar as it effects the quality of their education. Among the proposals generated by the diversity move-

ment is to include a student representative in the appointments process. Although this idea is unpopular among both the Administration and the faculty, it has worked at other law schools without compromising the integrity of the appointments process. One obvious advantage of such student involvement is that the selection of professors might begin to focus on sometimes overlooked priorities such as ability to teach. Another idea is to democratize the appointments committee, which is currently selected entirely by the Dean rather than by faculty vote. If the Dean resisted this suggestion, then the faculty might wish to revise the appointments process by allowing women and minority candidates to go directly to the full faculty for consideration rather than be screened by the Dean's hand-picked gatekeepers. Because the "pool" argument is so often raised to counter great speed in diversifying the faculty, the Administration should consider developing programs and incentives for women and minority candidates to enter teaching, as other schools such as Stanford have already done.

Many other suggestions have been presented, but few have been seriously considered by the Administration. Without pressure, bureaucratic inertia will prevent structural changes from ever being implemented. Moreover, without pressure, the Administration will likely continue along on its slow, smug pace toward faculty diversity without ever considering fundamental questions about the nature of merit and the role of legal education. What, then, can students do to nudge along an Administration that yields most painfully to change? Agitate, agitate, agitate. On many different levels to suit our differing levels of comfort, students must assert a role in the governance of the school. These individual and group efforts will send forth what Robert Kennedy called "ripples of hope" that when combined can build a current powerful enough to "sweep down the mightiest walls of oppression and resistance."

The purpose of direct action, as Martin Luther King, Jr., once said, "is to create a situation so crisis-packed that it will inevitable open the door to negotiation." This is what the diversity movement seeks to do. But to create this atmosphere requires both student activism and support. Last week's Student Strike dramatized the crisis about faculty diversity, but it would be a mistake to allow this energy, enthusiasm, and debate to end there. Students must not permit the law school to return to business as usual.



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then you let them make their own choices. That's the whole point about progressive politics — it has to be procedurally "free" or you defeat the whole purpose and descend to the level you're protesting against.

CCR members who stood in Sullivan's room tried to say afterwards that they were not worried that they had made students feel uncomfortable, because people's comfort levels **should** be low — they should feel agitated and angry about diversity at HLS and if CCR members had generated that emotion in standing in our class, then they had fulfilled their purpose. They then tried to lecture us on choices people have to make with their lives, and I left.

Never have I been so insulted and patronized in my life. I had chosen to come to class **and** participate in strike day activities. To assume that any of us sitting in that room had not thought long and hard about coming to class, had not made a difficult choice, is absurd. To assume that none of us was equally angry about diversity and hiring at HLS is judgmental and arrogant. To presume that because we decided to come to class, none of us are actively working on **other** ways (yes, there are mechanisms and organizations other

than CCR) of pushing for a diverse curriculum and diverse faculty is extremely short-sighted. And to lecture me on choices I have made with my life, which has been openly focused on race, ethnicity and social welfare issues since I was in high school, is childish and disgusting.

But even saying that seems to beg the question. **No matter what I have done with my life, I'm allowed to make choices about my politics and so is everyone else.** There were people in that room yesterday who may be conservative on diversity and other issues, who attended class for reasons different than mine. They are entitled to make their own choices and not be harassed in an atmosphere of "PC-ness" and intimidation. It is outrageous to witness a progressive cause descend to that level. People should certainly challenge and question other people's beliefs and engage in open discourse about those beliefs, but yesterday's action was not "challenge" and "discourse" — it was obnoxious.

If I chose to come to class, it was because I thought one could both come to class and participate in diversity activities — I could be angry at HLS' attitudes and hiring practices and still learn the Fourth Amendment from Kathleen Sullivan. That's **my** choice about protest, and I'm entitled to exercise it.

CCR made a big, alienating mistake which merits serious examination by the group. It hasn't alienated me from the cause, but it has certainly made me wary of the tactics.

—Betsy Fishman, 1L-III

Carter

continued from page 4

sure of success in this society. Both have largely resisted notions of affirmative action and both groups are respected for their intellect. But, both groups still face virulent racism. Both groups complain that if Blacks benefit from affirmative action they will be the losers because, for all of their achievements, they are still minorities fighting for scraps just like Blacks and Latinos. Indeed, far from being respected, many in the majority fear them. I have frequently heard phrases like, "the Jewish conspiracy," and "the yellow peril." If simple respect for intellect was all that mattered, why did Asian groups sue several major schools, like Harvard, for discrimination in their admissions process?

The problem is racism not affirmative action. If people believe that we are inferior it is because they are bigots. Affirmative Action simply provides a nice excuse. Respect for intellect doesn't equal respect for the person, only if you have the second, will you truly have the first.

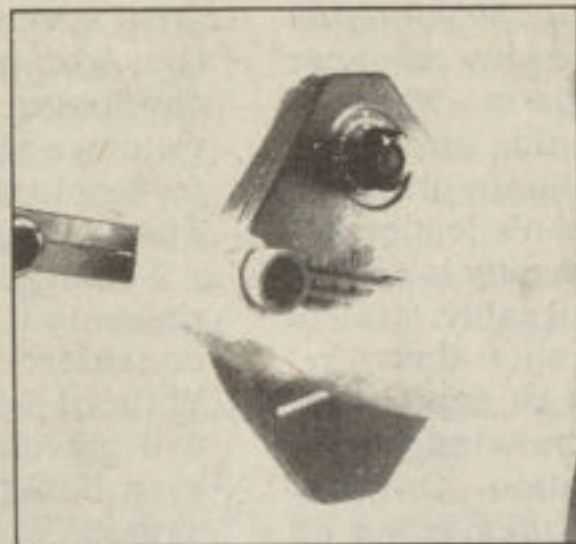
Second, white males don't worry about their qualifications, why should minorities? Carter worries about what our "colleagues" will think about us. Do any of my old white male professors worry about what I think of them? How

many of our "great" professors would be here today if they had to compete against white women, Jews, Asians, Blacks, and Latinos yesterday? I have had numerous discussions with white males who passionately deny that they and all white males are to one degree or another beneficiaries of racism. Let's be honest! The phrase "a white man's world" didn't come about without reason. I am not saying all white males are racist, that is false, but all white males have benefited from the system that glorifies their intellect above all others. They have never felt the sense of otherness others have felt. They have never had to confirm their own racial equality. So if they don't feel guilty about their achievements, why should we, who have so much more to deal with?

Third, black people must look to themselves for affirmation. Carter is concerned about what his colleagues (white apparently) would think of his intellectual capacities. Who cares? We are the children of a proud, determined, resilient people. Many peoples have been oppressed throughout history. Few have been subjugated throughout the entire world simultaneously and have remained a viable race. When I think of the psychological denigration I had to fight to arrive at Harvard, and what Carter probably had to deal with as well, it saddens me that he would need outside affirmation. Carter would do well to remember that you do not judge a race or a person by how far it has come, but by what it has had to overcome just to get to where it is.

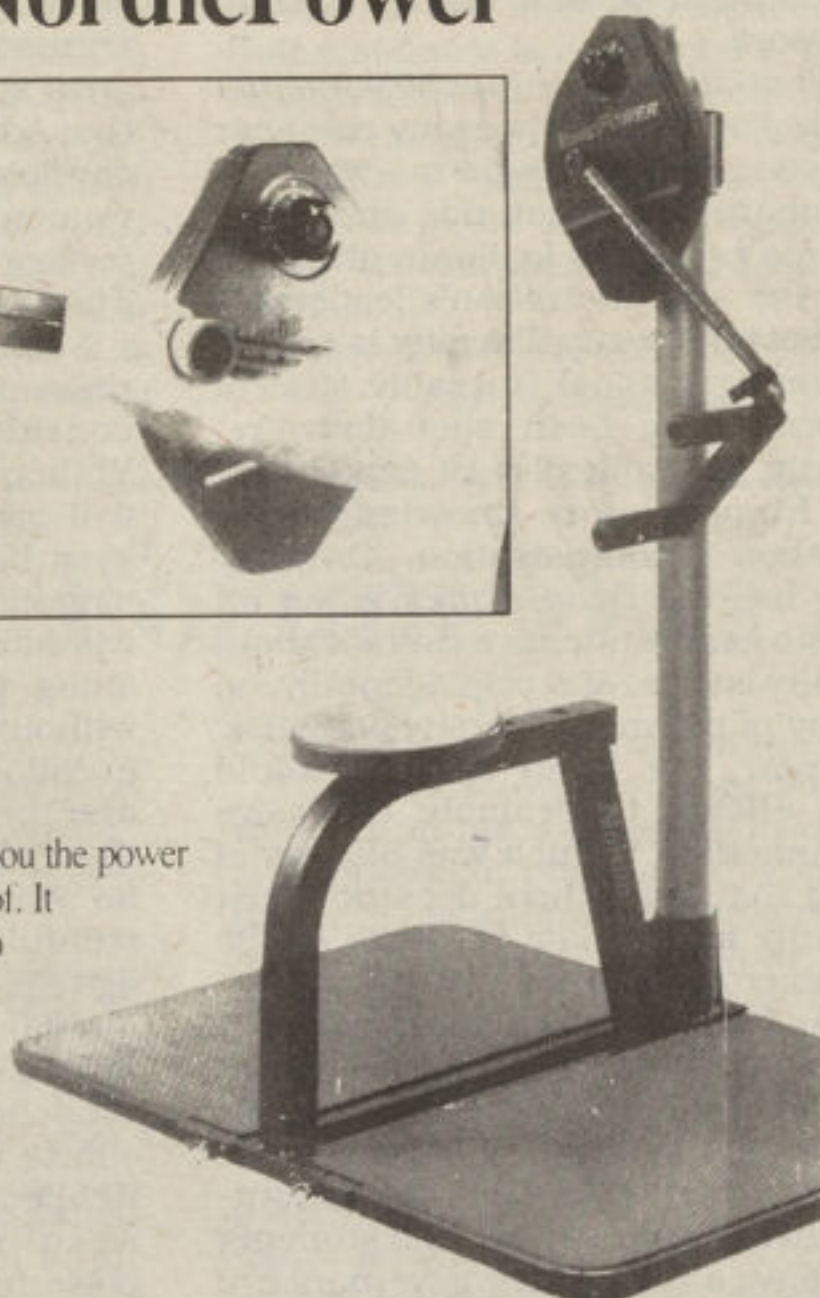
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On Friday, April 19, 1991, members of the Admissions Committee of the Harvard Club of New York City will be in Cambridge at (1) Harvard Faculty Club at 20 Quincy Street, 2nd Floor; (2) Baker House, 1st Floor Conference Room; and (3) Varsity Club Lounge, Carey Cage between 10:00 a.m. and 5:00 p.m. to make it easy and convenient for Faculty, University Officers and Graduates to become members of the Club. On Saturday, April 20, 1991, members of the Committee will be in Boston at Medical School Building A, 3rd Floor Alumni Council Meeting Room between 9:30 a.m. and 1:30 p.m.

Graduates of the Class of 1991 will be proposed, seconded and interviewed in one step for membership in the Club. Requirements for supporting letters, etc., are waived for this event for 1991 graduates. Information about the Club will be available and Committee Members will try to answer any questions you may have concerning membership.

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Carey Cage
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SATURDAY, APRIL 20, 1991
9:30 A.M. TO 1:30 P.M.
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International Law With A Human Face

Harvard has been busy transforming itself into an international law school during the past few years, in

By Lee Tucker

creasing its offering of international law, human rights law, and comparative law courses, bringing in visiting scholars and professors from all over the world, and encouraging students to consider international work as they plan their careers.

One aspect of this international aura has remained relatively low profile, although it involves many students and lets them engage in what might be called "international law with a face." This area is immigration and asylum law, represented at HLS by two courses and a variety of clinical placements. Martin Elling, 3L, President of the International Law Society, describes this field as "the flashpoint where domestic interests meet international humanitarian obligations. I find it fascinating," he says.

It is certainly one of the newest and fastest growing areas of law. Membership in the American Immigration Lawyers Association (AILA) has more than tripled in the past ten years, and more and more law schools are adding immigration and asylum law to their stable of course offerings. (Assistant Professor Deborah Anker began teaching these courses at HLS in 1985.) It is also highly dynamic, as U.S. law races to respond to the effects of our quickly changing world. Armed conflicts, natural disasters, and economic upheaval, interdependence and fluidity: all of these have repercussions which spill over into other regions, affecting the flow of people.

This dynamism, and the field's focus on flesh-and-blood people rather than abstractions, may explain its attraction to students and lawyers. Practitioners, working in settings as diverse as legal services offices and large corporate firms, describe immigration and asylum law as "the most compelling area of practice," "fascinating," "satisfying," "exotic," and even "fun." "You never get bored," says Rusty DeMoss ('89), an associate with Foley and Lardner in Tampa. "It's a highly complex field, and is constantly changing."

Immigration law carries a heavy history with it. The U.S. is a country of immigrants, but the stories of arrival and integration are full of the tragedy of racism and scapegoating. The pendulum of welcome and rejection swings from time of labor need to time of economic depression. Our most prominent examples of this have been with the Irish, Italians, East Asians, and Mexicans.

Although studies indicate otherwise, it is widely accepted that new immigrants threaten the job security of U.S. citizens. This belief leads to greater hostility against the foreign born, increasing the risks and problems they encounter here. An example of this is the policy of many unions—including the United Farm Workers—to refuse union membership to undocumented workers. This increases their vulnerability to exploitation.

Still, the U.S. is relatively immigration-friendly, admitting hundreds of thousands each year. But it is often a chilly welcome which greets would-be immigrants and refugees. For prospective immigrants, there is a serious backlog. The Philippine children of a U.S. Legal Permanent Resident may have to wait 7 years for a visa allowing entry. For Mexicans, the wait could be as long as 10 years. These waits may be eased somewhat by the passage of the Immigration Act of 1990 last fall, which increased the number of visas available for some categories of immigrants; still, many families will have to wait several years before being reunited.

The problems of refugees are more apparently dramatic. It was not until 1980 that the U.S. formulated a specific refugee policy, setting up administrative procedures for those seeking po-

litical asylum. These procedures, designed to determine whether an individual has a legitimate ("well-founded") fear of persecution if returned to their home country, are facially neutral. In fact, the application of the process is shot-through with political and foreign policy considerations. It is extremely difficult for someone fleeing a country allied to the United States to attain refugee status. The converse is true as well. Thus we see 1989 approval ratings of 29% for Cubans and 2% for Salvadorans. Victoria Lewis, an immigration attorney at the Legal Services Center in Jamaica Plain, provides an interesting example of this political tilt: During the past decade Nicaraguans have enjoyed an unusually high approval rating. After the election of Violeta Chamorro, however, the Immigration and Naturalization Service (INS) announced a change in policy, part of which was the revocation of asylum granted to those who had left Sandinista Nicaragua.

This kind of political game may partially explain the arbitrariness of the asylum system. In a study conducted by Assistant Professor Anker and published in 1990, she found that the "system remains one of ad hoc rules and standards," and that, despite its professed neutrality, "...ideological preference and...political judgments continue to influence the decision-making process." This study is known to be based on the Boston immigration courts, which are in turn known to be particularly hostile to asylum claims. The INS has used this to dispute the national applicability of Anker's findings. Recent studies in San Francisco, however, show the same streak of arbitrariness; unlike Boston, San Francisco is considered one of the best courts for asylum applicants.

The picture is brightening. Following years of hard work, immigration lawyers and refugee advocates have won several large victories within the past few months. The Immigration Act of 1990 included a provision granting Temporary Protected Status (TPS) to Salvadorans. This status—the granting of which has been fought for by key players on the Hill for several years now, most notable among them Representative Joe Moakley (D) of Massachusetts—allows undocumented Salvadorans to remain in the U.S. for 18 months while the GAO conducts a study of conditions in their homeland. Estimates are that over 400,000 Salvadorans are affected by this. (Liberians, Lebanese, and Kuwaitis were included in this provision, perhaps explaining its passage after so many years of struggle and defeat.)

Soon after this came the legal victory in *American Baptist Church v. Thornburgh*. The settlement of this case included an agreement by the INS to readjudicate all Guatemalan and Salvadoran political asylum applications which have been denied in the last 10 years. Implicit in this settlement is an acknowledgment of the political taint surrounding these denials, which was the issue at hand.

While many of their Central American clients have thus found a bit of respite, attorneys and students doing clinicals continue to work with a diverse group of people. It is as if the news of the world is passing through their doors. Over the past few years there have been significant numbers of Afghans, Somalis, and Vietnamese clients, and since 1989 increasing numbers of Eastern Europeans. Workers also see a fair amount of Chinese, Moroccans, and Ethiopians.

Those who work with asylum applicants report a high level of interest and satisfaction. Michelle Syper ('92) worked last fall with a Liberian woman who was seeking asylum. "You're able to work more in depth [than in other areas of legal services]. It's more intimate, with more time on each case, and lots of client contact."

There is also a deep admiration for the clients, most of whom have suffered and struggled a great deal to make it to the U.S. As supervising attorney Lewis

says, "You develop an intense relationship with your clients. They're incredible people, the cream of the crop."

The clinicals impress students with their relevance and urgency. Rusty DeMoss ('89) recalls that a friend convinced him to take immigration law and a clinical. "I knew nothing about the field," he says, "but all of a sudden everything clicked. All of a sudden, being in law school made sense. I loved it. I felt like I was making a difference in peoples' lives." Atsuko Hirose ('92), herself an immigrant, talks about feeling a great "sense of responsibility for these people. This is something you can't get in the classroom." Elling agrees. "It's so wholesome to be with these people, away from HLS. It's very practical, and I love the clients." In addition to his direct work with clients, Elling is currently writing part of an *amicus* brief, to be submitted before the Supreme Court.

Many who do clinical work while at HLS go on to become immigration lawyers. Eleanor Pelta ('86), an associate at Arent, Fox in D.C., is among them. "My parents are immigrants, which perhaps explains my first attraction to the area. I did an immigration clinical as part of ITA, liked the people, and found the legal part really fascinating. By the time I graduated I knew that this was what I wanted to do."

Business immigration is booming. "All of the big firms are either opening or expanding their immigration departments," says Rusty DeMoss of Foley and Lardner. "Five years ago it barely existed. Now it's all over the place."

Pelta agrees. "The firms are realizing that immigration law has a big impact on corporate decision-making.

As international borders fade away, the saying 'There are no countries, only corporations,' becomes increasingly true," she notes wryly. "The multinationals are transferring people globally at a very high rate. It is no longer cost-effective to refer immigration matters out."

Pelta and DeMoss express excitement about their work, both for its "cross-fertilization" with other fields, such as tax, labor, and communications law, and for its personal nature. "I was deathly afraid of being just another corporate clog slave," says DeMoss, "but this has to do with individual people: with their lives, their problems, their families, and their businesses."

Like the legal services lawyers, both believe in the importance of what they are doing. "These are people who would make a wonderful contribution to our country," says Pelta. DeMoss, who advocates examination of U.S. immigration policy from a global economic and social perspective, says "We should open our arms to people from abroad, whether they be refugees or business people investing millions of dollars."

There is little hope that the flow of those escaping war, state terror, and extreme poverty will lessen anytime soon. And it is certain that the business and knowledge spheres will become increasingly transnational. Immigration and asylum law responds to this world. It is an open and dynamic field, and accommodates many different personal goals and career styles. In all cases, though, it is an area where law drops its abstraction and takes on a human face.

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Sacks

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cern for the Harvard Law School and what it represents at its best for the legal profession, for legal education, and for the professional development of students.

"He consistently brought to his work a genuine sympathy for other human beings, a total lack of concern for personal aggrandizement, and a constant exercise of good judgement."

Professor Sacks resumed his teaching duties at HLS in 1981, a move he described filled him "with great joy."

As a teacher and scholar, Sacks pioneered work in the field of legal process, co-authoring the textbook, *The Legal Process* with Henry Hart. He also wrote for numerous law review publications. Besides legal process, his principal areas of interest were constitutional law, federal procedure and jurisdiction, and legal education.

Sacks received the B.B.A., magna cum laude, from the

College of the City of New York in 1940. Following military service, he attended Harvard Law School, where he was president of the *Harvard Law Review*, and received the LL.B., magna cum laude, in 1948.

Following graduation, he clerked for Judge Augustus Hand for the U.S. Court of Appeals for the Second Circuit from 1948 to 1949 and for Supreme Court Justice Felix Frankfurter from 1949 to 1950. Sacks worked as an associate with Covington and Burling in Washington, D.C. from 1950 to 1952.

He had been president of the Association of American Law Schools and reporter of the U.S. Supreme Court Advisory Committee on Federal Rules of Civil Procedure. Locally, he had been chair of the Boston Home Rule Commission and chair of the Massachusetts Attorney General's Advisory Committee on Civil Rights and Civil Liberties. He was also trustee of the Law School Admission Council and of Massachusetts Continuing Legal Education, Inc.

HLS Law Review President

David Ellen, one of Professor Sacks' former students said, "Anyone who has ever been in Professor Sacks' class knows he was a remarkably dedicated teacher and a warm man, very wise and thoughtful."

The November issue of the *Harvard Law Review* will be an extended tribute to Professor Sacks.

He leaves a wife, Sadelle R. Sacks; a daughter, Janet Sacks, and her companion, Martin Schafer, of Bedford, Massachusetts; and a daughter, Margery Ablon, her husband Richard, and her children Zachery, Hillary, and Samantha, of Lloyds Harbor, New York.

A memorial service for Professor Sacks will be held on Friday, April 19, at 2:30 p.m., in Memorial Church, located Harvard Yard.

Speakers include Divinity School Professor Preston Williams; Dean Robert Clark; former Dean Erwin Griswold; Law Professors Clark Byse, Frank Michelman, and David Wilkins; and law student Sara Clarke.

Frug

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tique of contract law, and contributions to the Critical Legal Studies movement.

Her scholarship at Radcliffe focused on the "impossibility doctrine." Frug was attempting to demonstrate that conventional litigation alone is unable to provide social equality and physical security for women.

Frug graduated from Wellesley College in 1963 with an A.B. in English. In 1968, she received a J.D. from George Washington University, where she graduated cum laude and was a member of the Order of the Coif. She holds an LL.M. from New York University School of Law.

Her extensive professional contacts include several feminist organizations, the Family Law Council of the Mass. Bar Association, the Boston Feminist Discussion Group and the Mass. Gender Bias Commission.

Diversity

continued from page 1

hands with Boykin, who was inside the building. Police prevented the front door from opening while protestors prevented it from closing. The students chanted slogans and unfurled a red spray-painted banner reading, "Harvard on Strike". Harvard Police Chief Paul E. Johnson arrived at 2:15 pm and informed the crowd that Bok was not in his office. The students left shortly thereafter. In fact Bok was inside, meeting with an editor from the Harvard Crimson.

The protestors left the Yard and headed for Dean Clark's Griswold Hall office where they began a sit-in that lasted until Friday morning. They curtailed their protest after hearing of the death of Mary Jo Frug, wife of Professor Jerry Frug '63.

BLSA member David Strickland, 1L denied that the shortened protest signified any intention on the part of CCR and others to soften their position. "It was simply cut short out of respect for Mary Frug. We still plan to submit a list of demands to the Dean" he said. An Administration-organized panel of students and professors discussed the need for faculty diversity while CCR led a student strike.

A crowd of over 150 students attended the two-hour discussion, timed to coincide with National Law Student Strike Day. CCR supporters boycotted the forum because it was planned without their input and instead held a sit-in at Griswold.

Members of the panel included Dean Clark '72, Professors Alan M. Dershowitz, Randall Kennedy and Frank Michelman '60, a last minute replacement for Duncan Kennedy, who withdrew from the forum. Two students participated: Brian Timmons 3L, and Jerry Sorkin, president of the Board of Student Advisors.

Garcia

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color here next year, when one might come here in two years anyway as a matter of procedure, is to sit in the Hark for a week and throw eggs at the dean, I'm not sure it's worth it. The process should be allowed to work.

RECORD: But George Bush has recently successfully demonstrated that you can do a lot by using bayonets too.

GARCIA: Bayonets can do a lot but the question is whether we progress. Sometimes it's necessary to stop talking and resort to other means. I think Ghandi demonstrated that, Martin Luther King demonstrated that, etc. But nothing that extreme exists here at Harvard Law School. This isn't South Africa, this isn't Alabama in the 60's, this isn't Germany during WWII. There is no incredible injustice going on here.

RECORD: What's the recommended approach?

GARCIA: Most importantly, I'd like to see a better attitude on all sides. I think the Dean is less willing to listen to students now than he might've been before because there is a heightened level of controversy. I think the students are less willing to listen to the Dean because they feel that he hasn't done enough. Whatever the case may be in fact, as I said before, I'm not sure that controversy is the best way to bring about a solution.

RECORD: Do you think that either side is hearing what the other is saying?

GARCIA: Of course not. We are not having any "clash" or at least very little. The numbers dispute is a perfect example of this. The Coalition has its numbers and the Dean has his numbers, and they respond to each other with more numbers. Except for a couple of occasions, seldom are there "answers" instead of just responses. There is very little dialogue. It's like two monologues in concert.

If that is because neither side is willing to listen then I think we need to change that. However, it's hard to believe that we have reached the end of our tolerance rope. We are tolerant people, and we should be tolerant before we discard argument and constructive engagement. Otherwise the school may descend into chaos.

Tangentially, you didn't see

my Crim Law class on Strike Day. It was extremely, just out and out, rude. Kathleen Sullivan is no right-winger. We all know that. Of the students who normally attend class, except for maybe 10%, most of them were there in large measure to show support for her. Others said a more significant protest would be for them to actually attend class for a change. There were so many CCR people standing around with placards, she had to move one of them out of the way just to write on the board. She was obviously extremely upset with their presence. They were very distracting, etc. There are other ways to get someone's attention than to piss them off.

RECORD: You think the approach is unproductive?

GARCIA: All it does is alienate the moderates. That's the typical thing that happens at this school. Moderates get alienated. Then, they either become indifferent or they radicalize to the side that is less extreme.

RECORD: What do you think of "Political Correctness" in general?

GARCIA: In many ways it's very good. Because of it, I have learned a great deal about myself, biases expressed in my language, insensitivities, that I might not have otherwise realized. I am really grateful for all of these things. But, unless they come in the context of sensitivity and concern for education and reason, then sometimes the "PC" movement really bothers me.

Many people here are uncomfortable about expressing their feelings. The diversity teach-in was, I think, a perfect example of the problem of running against the prevailing political winds. I was terrified to say anything at all, and I didn't say anything radical. I could say what I said anywhere in America.

RECORD: But, given the occasion?

GARCIA: I understand what you are saying, but I do think my remarks were appropriate, especially at the "teach-in." The opening speaker said "we want to hear all views."

Every experience I have had with the CCR—I joined the Civil Liberties Union when I got here and I am also interested in the diversity issue—but every experience I have had with that crowd of people, and I know this is a sweeping generalization, but all of my experiences have been alienating. When-

ever I felt like I wanted to say something, I was either booed or hissed or either whispered about. I mean, that's ridiculous.

And though it's a cliché now, I am not a conservative whiner. I might be a whiner, but I am not a conservative.

It is silly that reason has gone out the window. We no longer talk about the merits of arguments, we just name-call. It's very disconcerting, and I don't think it has to be that way.

RECORD: What do you think of the diversity movement more particularly?

GARCIA: I think it shares many of the "PC" movement's flaws. The strike is a perfect symbol of what's wrong with the diversity movement.

Undoubtedly, everyone thinks that diversity is a good idea. Not on top of merit, but as a part of merit. Why Strike? Well, Chris Edley said we should strike because things aren't happening. We don't see any results, we need to show them that it is no longer business as usual.

I think, we don't really know about the results because the results are difficult to know, especially to know well. It's silly to criticize the number of women and minority faculty members here at Harvard in much the same way that is silly to congratulate Harvard for having a large number of minority students. Neither of those numbers point to the effort that is being made.

It's true that the only form of public measure is results in terms of the number of bodies, but it scares me when we are looking at a very big ship to look at which direction its pointing instead of looking at how fast its turning. We can't just all of a sudden say that tomorrow, there should be ten more minority faculty members. We just don't know what kind of internal politics, offers, are going on.

RECORD: What about the people who say there is nothing to know, that there is nothing significant going on in closed quarters?

GARCIA: I find that really hard to believe. Harvard Law School is not Alabama in 1960. Dean Clark is not Governor Wallace. That's just not the case.

While it may be true that there is latent racism, latent gender discrimination, latent discrimination of all sorts, that

is something that exists across society. But I can't believe that it is so great here that we need to mount a revolution to get things changed.

RECORD: Bob Marley once said: "the only solution is a revolution."

GARCIA: I don't believe that. I think that Randy Kennedy was dead right when he said that the faculty and administration here is not a bunch of white supremacists. And the way that the CCR people answer this claim is by pointing to the numbers again. "How come we only have two of these, and one of these, and none of these." That evidence is not very convincing. There are lots of other factors that go into it. Some people have left, some people are scared to death to come here because they don't want to be dragged into this controversy filled environment.

I was showing a prospective student around a couple of weeks ago, and we encountered one of these protests in Langdell. The prospective was just an average kid from middle America, and he said, "you know, I have just come from Yale. And at Yale, they have these same sort of very powerful arguments about diversity and what ought to be done and where we are going, etc., but they don't stand around and sing: 'We're fired up and ain't gonna take it no more!' They talk about it."

People have forgotten about that here. The retort is, well we've been talking long enough and nothing is getting done. I'm no expert, but I don't know if that is true. And even if it is true, there is no evidence that protest of this sort will get anything done. There is a tremendous risk in deciding that we are no longer interested in being rational.

RECORD: What then of student activism in general?

GARCIA: I think it is important part of higher education. Without it, higher education would be a less important and a less wonderful experience.

RECORD: What has been the reaction to your remarks at the teach-in?

GARCIA: The immediate reaction, of course, is that I was booed and hissed. I didn't have a chance to stick around to hear what people said after me but I understand that some students apparently said something in defense of my comments.

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