



Harvard Law Record

RECEIVED

MAY 13 1991

Volume 92, No. 8

America's Oldest Law School Newspaper

ACQUISITIONS DEPARTMENT May 3, 1991
HARVARD LAW SCHOOL LIBRARY

We're Number Two!

HLS Climbs U.S. NEWS Chart

Harvard Law School's roller coaster ride in *U.S. News & World Report's* survey of top law schools continued this week as Harvard ranked second to Yale, moving up from its fifth place ranking of last year.

The survey ranks Yale first followed by Harvard, Chicago, Stanford, and Columbia. It rates the top twenty-five law schools according to five criteria: academics' opinions, reputation among lawyers and judges, selectivity, faculty resources, and placement success.

Harvard's jump up is attributable to improvements in the placement and faculty resources categories. Last year, Harvard ranked 18th in placement success and tenth in instructional resources.

Harvard ranked first in three of the five categories: academic reputation (tie), reputation among lawyers and judges, and student selectivity; and placed fifth for placement success and sixth in faculty resources.

Harvard swept every category of lawyer and judges interviewed. Public interest lawyers, federal judges and U.S. attorneys, state judges and attorneys general, small law firms and hiring partners at large firms all put Harvard first.

Harvard's corporate and international law programs earned number one honors from legal scholars, and its clinical programs placed third behind NYU and Georgetown.

Dean Robert Clark '72, who last year called the survey, "Bonkers," said this survey was "much better than the one last year" but still questioned the rankings. "In my opinion, we are number one."

Last year, the Dean said "A lot of the data is clearly screwed up. Some of the results were just plain wacko." Clark pointed out that the reported starting salaries figure, as over \$10,000 below the true figure and that Harvard's 24th place finish in graduation rate was incom-

U.S. NEWS page 6

Tort Report Calls For Dramatic Reforms

Paul Weiler '65 Served As ALI's Chief Reporter

The long-awaited American Law Institute Report on Enterprise Responsibility for Personal Injury has recommended

by George Paul

sweeping reforms for the tort system. The report was released April 23 by Chief Reporter Paul Weiler '65. Among the changes suggested are a "regulatory compliance" tort defense, the awarding of funds to cover toxic exposure monitoring costs, and the standardization of pain and suffering damage awards.

The changes are designed to alleviate the concerns of enterprises facing rising litigation and insurance costs and to make the legal system more accessible and more effective for the tens of thousands of Americans injured each year from business and technology.

Paul Weiler, called the two-volume, thousand page report "the most far ranging analysis ever of the performance and problems of the tort system."



Paul Weiler heads ALI Committee on Tort Reform.

Judge Jack B. Weinstein, the central figure in the mammoth law suits involving Agent Orange and asbestos, called the report, "an extraordinarily fine contribution to American legal

scholarship, destined to be the baseline for judicial and legislative activity in the years to come."

Weiler headed the group of fourteen scholars that included

Weiler page 12

Two HLS Students Visit Post-War Iraq

Students Intend to Deliver Medical Supplies and Examine Bomb Sites

Two third-year students from Harvard Law School have travelled to Iraq in order to

By Record staff

distribute medical supplies and study the effects of the Gulf War on the Iraqi civilian population.

The students, Roger Normand and Steven Donzinger, are part of an eight member team composed of students from the School of Public Health, two experts on international law, and two award-winning documentary film-makers. Each of the participants has an extensive background in human rights and fact-finding missions.

According to Normand, one

of the trips two organizers and a member of the Harvard Human Rights Program, the trip is mostly fact-finding in nature. "We are going to Iraq to gather our own information and report our findings to the international community and the United States Congress," he said.

The trip's other organizer, Donzinger, a former professional journalist, said that the American military's restrictive press policy during the war has made the trip quite necessary.

"We were disturbed by the Pentagon's characterization of the war as a painless, antiseptic exercise rather than something that causes extreme pain for people," he said.

When they return to the United States, the group hopes to publicize its findings. We hope to "sensitize people and policy makers to the plight of the innocent civilians on the ground," Donzinger added.

The trip is the first on-site inspection of post-war Iraq by scholars versed in international law. The group will examine 50 sites which were bombed by Allied sorties during the war and will try to assess the extent of civilian deaths and injuries, and determine whether some of the bombing raids in the U.S.-led attack violated international law as laid out by the United Nations. Members will pay particular attention to the

impact on children in light of the Convention on the Rights of the Child, which was approved by the United States last September.

The experts on international law who are part of the delegation are a professor from the University of Tennessee and the legal director of the Seattle-based International Commission on Medical Neutrality. The two documentary film-makers are Gregory Landau and John Knopp.

Lawyers from the group will conduct interviews with witnesses and gather other information at 50 sites where civilians were either killed or injured during Allied bombings. Doctors plan to conduct nutri-

tional surveys of children and will assess health services in hospitals and neighborhood health clinics in Baghdad and in some of the other affected outlying areas.

Students from the School of Public Health (SPH) will examine the impact of the embargo and the war on the health of Iraqi civilians, by examining the effect of destroyed power plants and contaminated water supplies, group members said.

"The impact of the destruction of electricity and water purification on civilians, especially children, is enormous," said Magan Passey, a masters

Iraq page 6



Diversity protesters picket Griswold Hall. See related stories on page 3.

"What I Do Is Actually Quite A Bit Of Fun"

Because of his position as Dean of the law school, Robert C. Clark '72 is the most pivotal

By Robert Arnold

member of the our community. His actions, words, and views help determine the law school's agenda on all issues.

Despite the seemingly all-encompassing current controversy surrounding his views and actions with regards to diversifying the faculty, there are other responsibilities associated with the Deanship.

The Record interviewed him recently to find out what some of these responsibilities are, and to get a more definitive justification of his views and actions.

RECORD: Should the Deanship get combat pay?

CLARK: Absolutely. It is an entirely different thing from being a professor. I actually think part of what I am paid to do is to be a flak catcher from all quarters.

RECORD: What's the toughest part of your job?

CLARK: I guess the most serious concern and one that is sometimes tough is trying to deal with faculty divisions when there is an occasion for voting on something. That spans a wide range. It includes such things as our new building proposal which finally was in fact approved by the faculty in the fall, but not without struggle and elaborate argument and lobbying by me.

The same thing with appointments. We made three appointments offers about a month ago to new assistant professor candidates. It all, in the end, went through very well, but it was a huge process that involved a lot of anxiety on the part of the Dean and oth-

Clark page 12/1



Dean Robert Clark '72

CLASSIFIEDS

BED FOR SALE.

One Twin size bed for sale with comfortor.
1 year old. \$75 or best offer. Call 493-9249

CAR FOR SALE.

1986 Red Ford Mustang, 3 door hatchback with T Roofs.
Excellent condition; low mileage; automatic. Loaded; stereo
with cassettes; original owner from California. Garage parked
in Massachusetts. \$4500 or best offer. Call 628-2432.

SELTZER, CAPLAN, WILKINS & McMAHON

is pleased to announce that

Kevin A. Werner,

a 1985 graduate from Harvard Law School,
has been admitted to partnership of this firm.

THE HARVARD LAW SCHOOL ASSOCIATION OF NEW YORK CITY

Invites

Members of the Harvard Law School
Classes of 1991, 1992, and 1993
To Its 10th Annual Summer Reception with Alumni

On Wednesday, June 19, 1991
from 6:00 to 8:00 p.m.

AT

SOTHEBY'S GALLERIES

1334 York Avenue
at the corner of 72nd Street
Manhattan

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

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

**THIS INVITATION WILL SERVE AS
YOUR ADMISSION TICKET TO THE RECEPTION**

BAR/BRI TRAINS MORE
BOSTON AREA LAW SCHOOL GRADUATES
THAN ALL OTHER BAR REVIEW COURSES

COMBINED

- Expert lectures
- Unparalleled testing programs
- Clear & concise outlines
- Convenient schedules and locations

Courses in 46 Jurisdictions

BAR/BRI

BAR REVIEW

The Bar Review that cares about you!

20 Park Plaza, Suite 931, Boston, MA 02116

barbri 617-695-9955 1-800-866-7277

Diversity Protesters Picket Griswold Hall

Students Picket, Respond to Dean's Letter

Exactly one year after Professor Derrick Bell announced his plans to take a voluntary leave of absence until a woman of color was offered a tenured position at the Harvard Law School, approximately 50 students picketed outside of Dean Robert Clark's Office in Griswold Hall in the name of faculty diversity last Thursday, April 24th.

The rally, organized by members of the Coalition for Civil Rights (CCR), was a continuation of that organization's attempts to contribute to the process of diversifying the faculty. Many of the comments at the protest were in response to a letter that the Dean distributed to students the previous day, April 23rd. Some group members attributed the smaller than expected turn-out to the fear of disciplinary actions warned in the Dean's letter.

However the impassioned crowd that gathered was undaunted by the warnings. Keith Boykin, a second-year law student said, "I am not afraid. I am not intimidated."

The students voiced extreme displeasure with Clark's letter. Many questioned the veracity of his account of their behavior, calling the accusation of secretary-shoving as "completely unfounded." They also said the letter was "an intimidation tactic."

In their own letter addressed to the Dean, the CCR said, "It has not gone unnoticed that letters were sent to students one day before a scheduled protest. Because you have had two weeks in which to send out these letters, we must assume that your timing was deliberate."

"Taken with your decision to release the letter to the general student body, rather than only to those students directly implicated in your charges, your acts reveal a clear intent to intimidate students into silence."

David D. Troutt, a third-year student, called for the Dean's resignation, citing the Dean's inability to handle such a serious issue diplomatically. Troutt called the letter "Gestapolike."

He said that since the Dean refused to even discuss the issue of diversity, there was no indication of possible

compromise. Rather, the Law School might try to quell the problem by limiting the acceptances of students who strongly opposed the administration's point of view.

"It's fair to assume that there may be an effort to change the political complexion of students admitted," Troutt said.

Troutt reminded the protesters not to forget the importance of their primary goal, faculty diversity.

"Diversity arguments rest in the principle that it is an interaction," he said. "That is the value of it."

In addition, CCR's letter said the Dean's treatment of the photographed students as targets for future suspension or expulsion was "simply repugnant."

Dean Clark, responding to the claims, said, "The letter was not sent to 'selected student targets.' The letter was sent to students who were identified by official photographs as violating University and Law School rules."

He continued, "some students seem to think that somehow it's a crime to be photographed in public...I took probably the mildest possible approach, which was to write a letter, not even an official reprimand which goes on a transcript, but just a personal letter. And, I didn't broadcast the names. I was just sort of telling people that 'you got one free, but not any more.'"

"It would be quite within the rights of the school to start disciplinary proceedings right now before the Administrative Board but I thought that might be too much at this time. So, I see myself as being excessively nice," Clark said.

Clark added, "I am perfectly happy with people carrying placards and chanting to their hearts content. These protests, however, must be within the rules."

Julie R. Gordon, a second year student, said that sending the letters to all law school students was tantamount to "McCarthyism."

Third-year student Gloria Rivera urged her classmates at the protest to continue the fight for faculty diversity.

"There has got to be a commitment from students because there is no commitment from the faculty and administration," she said. "We are not going to accept this."

Dean And CCR Exchange Letters

Harvard Law School students and faculty members were recently subjected to another round of the cant, from both sides, that has characterized the "debate" over faculty diversity. The Dean and CCR distributed letters throughout the campus in response to other, acts already committed.

First, Dean Clark, apparently attempting to be thoughtful and gracious, provided students and faculty with information he "thought the entire student body should be aware of." His letter, dated April 23rd, was the same letter that he sent to student protesters identified as participants in the April 10th blockade of his office. It was, however, accompanied by a cover letter addressed to the student body generally informing them about "permissible modes of expression at the Law School."

In his letter to the protesters, Dean Clark wrote, "I am writing to put you on the clearest possible notice that future disruptions like this one [blockading the office], or other violations of Law School and University rules, will be immediately subject to disciplinary action."

The Dean wrote that no future warnings would be given, and that the likely punishments for future disruptive actions included "suspension and expulsion."

He also cited "an unidentified student's pushing a secretary in the Dean's Office during a demonstration, and several students failing to permit secretaries in the Dean's Office to leave when they wished to do so."

Finally, he lambasted demonstrations which disrupted classes, stating, "students are not free to enter or remain in a classroom contrary to the direction of the instructor," and that "disruption of classes will not be tolerated..."

"All students are free to express their views on matters relating to the Law School, whatever those views may be. But all of us must respect the rights of everyone else who is part of our community, and expressive conduct must comport with University and Law School rules," the cover letter concluded. A copy of the University's resolu-

tion on rights and responsibilities, which calls "interference with members of the University in performance with their normal duties and activities" an "unacceptable destruction of the essential processes of the University," was appended to the letters.

The Coalition for Civil Rights, responded, in kind, with a letter dated two days later, April 25th. Their letter, addressed to the Dean yet presented to the student body and faculty generally, stated they would ignore the Dean's warning because it was a violation of due process and lacked authority.

"First, we regard your warnings as a clear attempt to chill voices of dissent on this campus. Using cryptic threats against a few selected student targets in order to squelch the activism of all students is an unacceptable use of administrative authority."

"At Harvard Law School, of all places, there should be a profound institutional respect for deep-rooted principles of free expression and due process. Your letter indicates an alarming willingness to abandon these fundamental rights," the CCR stated in their letter.

The letter continued, "As set forth in the Harvard Law School Catalogue, authority over disciplinary matters resides in the Administrative Board. As far as we are aware, you [Dean Clark] are not a member of the Administrative Board and your letter does not constitute an official statement of the board. Therefore, we do not consider your opinion on the 'appropriateness' of any conduct in which you believe our members were involved as authoritative or binding..."

"Protected rights of free expression counsel against such subjective and manipulable rules of conduct. It is in a university setting that independent thinking and dissent should be most vigorously guarded and not limited by the personal predilections of those who hold power."

The CCR also announced that they planned to go ahead with their previously scheduled protest on April 25th.

Michelman Receives Highest University Distinction

Harvard Law School professor Frank Michelman, a noted teacher and legal scholar specializing in constitutional and property law, has been ap-

Compiled by the RECORD staff with contributions from the Gazette

pointed the Robert Walmsley University Professor. The appointment will become effective in 1992.

A University Professorship, which allows a scholar to teach anywhere in the University, is the highest academic distinction Harvard can bestow. The University Professorships are "intended to reinforce teaching and research by...teachers and scholars of unusual scope and ability."

In making the announcement, University President Derek Bok said, "Frank Michelman is a distinguished scholar and a first-rate teacher who has made lasting contributions to the study of law. He embodies the high standards of intellectual rigor and commitment to students for which the University Professorships have been reserved. I am delighted to announce his appointment to a post that recognizes the quality of his work and that may expand the sphere of his influence at Harvard."

"Frank Michelman is one of the country's most highly respected legal scholars," said Dean Robert Clark. "His work is bold and creative yet always founded on careful analysis, deep reflection, and an astonishing breadth of knowledge. I am delighted that his tremendous talent as a teacher and his capacity to generate imaginative thinking will be shared more widely within the University. As University Professor, Frank Michelman follows in the

footsteps of two other great constitutional law scholars, Paul Freund and Archibald Cox. I am extremely pleased that the tradition continues."

Former Dean James Vorenberg said, "Frank has been at the core of the intellectual life at the Law School for many years. This appointment is both richly deserved and reflects the value to the university as a whole of someone with his breadth of interest and knowledge. It's a wonderful appointment!"

Michelman, who received a B.A. in history from Yale in 1957, and a law degree from Harvard Law School in 1960, has been teaching at the Law School since 1963. He has been a full professor since 1966.

"Obviously it's gratifying," said Michelman. "I certainly don't plan on dropping out of circulation at the Law School. If it turns out that the appointment brings new or strengthened ties with people enjoy that and benefit from it."

Law School Dean of Students Sarah Wald called Michelman "an effective and caring teacher who is very popular with students."

While at the Law School, Michelman has encouraged innovative approaches to the curriculum. He chaired a committee on educational planning and development, known as the Michelman Committee, that conducted a major curriculum review between 1979 and '82.

One recommendation of that committee, the experimental or coordinated first-year section, has been used extensively. Those teaching different subjects to the same group of first-year students plan together in order to clarify for students the relationships among their areas of expertise. They also sometimes meet, as Michelman and two of his

colleagues did this year, to develop week-long mini-courses on topics of general educational interest. Last semester Michelman and two other professors taught such a "bridge week" on the topic of American legal realism and its aftermath. The curriculum was developed to present a recent history of some leading ideas in American legal thought in order to familiarize students with habits of thinking in American judges and lawyers whose works they study.

Michelman served as law clerk to Supreme Court Justice William J. Brennan in 1961-62 and as special assistant to the Assistant Attorney General, Tax Division, in the United States Department of Justice in 1962-63.

He is the author of many articles of legal scholarship and is the only person to have more than one item included on the list of the 25 most frequently cited law review articles since World War II.

Michelman's interest in government and public life has led to service as a member of the school committee and the elected town meeting in Lexington as well as advisory activities for the U.S. Department of Housing and Urban Development (1966) and the Boston Model City Program (1968-69). He also served on the Harvard University Committee on the University and the City (1968-69), the Boston Home Rule Commission (1969-71), and the Governor's Task Force on Metropolitan Development (1974-75).

Since the term of appointment of the current incumbent of the Walmsley chair, C. Roland Christensen, was extended to carry out some special assignments relating to the improvement of teaching at Harvard, Michelman will not take up the chair until 1991.

Bomb Scare in Griswold

Responding to a purported bomb threat, the Harvard University Police Department made all occupants evacuate the administrative offices of Griswold Hall last Wednesday, April 24th.

The police were called upon at about 3:30 p.m. by one of the law school staffpersons who thought that an unusual looking package laying abandoned near the Dean's office might be a bomb. The police rushed to the scene and called on the assistance of the City of Cambridge Fire and Bomb Squad when they could not identify the package.

The threat disrupted work for about an hour and a half, but it proved to be a false alarm. According to the Harvard University Police, the package was later identified as a bottle of wine, given as a gift, to one of the law school staffpersons.

Harvard Law Record

Volume 92, No.8

Daniel J. Greaney
Editor-In-Chief

An Alumnus Remembers Dean Sacks

We arrived in the Fall of 1987. "Paper Chase" and suicide stories were foremost on the lips of students. Video games were a new technology, freshly installed in the Hark. Knickerbocker was the beer, \$1.75 per six bottles. Albert M. Sacks was Dean.

He had eyes that seemed to squint behind gold spectacles that peeled over his ears. A portion of one ear was missing, cancer operation they said. But always a smile. A bow tie and a smile; they went together wherever he walked, suitcoat slung over shoulder.

We kept our distance, of course. He was Dean and we were One L's. He was brilliant and we were potential intellectual disasters. For some reason, the Master of the Law School appeared at every function— Beer Blasts, coffee houses, Halloween parties, Law School Talent Shows. There was something wrong with this scenario. This man— this Dean— was following us.

By Second year, a strange truth revealed itself to us. This man who occupied the corner office of Griswold was (inexplicably) our friend. He tolerated the Somerville Bar Review, a plebian drinking organization that served as a vaguely coherent expression of Law School rebellion. Against something. He contributed to crude Bake Sales (brought in cookies and *bought* then back) to fund dances in the sterile Second Floor splendor of the Hark. He buried his spectacles in other work— no time, don't bother me— when the Registrar informed him that we had cross-registered for art appreciation and Alfred Hitchcock film courses at Harvard College. (This was part of education, wasn't it?)

The Boston Globe featured the picture of Dean Albert M. Sacks in its March 7, 1979 issue— blindfolded and gun pointed towards his head— when a group of still unidentified Law Students kidnapped his portrait from the wall of Pound Hall, and held it hostage in a closet in Somerville. His wife, Delle Sacks, appeared in the March 9, 1979 *RECORD*, offering to donate free coffee cup lids (one of the radical demands of the kidnappers) to guarantee her husband's safe return.

Life was good at Harvard Law School. The Somerville Bar Review team won (to its own surprise) the Ames Moot Court Competition. It was 1979. Albert M. Sacks was Dean.

For twelve years of Reunions and otherwise rote Alumni functions, Dean Sacks told and re-told these stories. With grin and bow tie firmly in place. The kidnapping was his favorite: "These culprits....," he would blare in Dean-like fashion— were never identified, never brought to justice. In reality, he had found their names inside the frame two weeks after the Portrait was returned in 1979; but he kept this information under his hat for over a decade. Why ruin the slow process of something resembling rehabilitation?

In the Spring of 1991, things have changed. Most of us for the Class of 1980 are now lawyers, prosecutors, parents, businesswomen, or teachers ourselves. The Somerville Bar Review no longer exists. Knickerbocker beer is unknown to the palate. Dean Sacks, we are told, is no longer with us.

But for the members of the Class of 1980, and others like us, Albert M. Sacks embodied every smile, every warm feeling, every untroubled flashback we have today about Harvard Law School. The spectacles, bow tie, one ear partly missing. It was the face of a gentle humanity, pointing us all towards something distinctly positive.

That was after all, his mission. We had forgotten all along that Albert M. Sacks, the man who we viewed as THE DEAN, the man who occupied the lead chair in Griswold hall at the famous Harvard Law School, had a far simpler job description in his own mind. He was simply a teacher.

Guest Editorial by Ken Gormley for the Class of 1980

Staff

MANAGING EDITOR.....George Paul
NEWS EDITOR.....Robert Arnold
FEATURES EDITOR.....Sharon Stone
STAFF.....Doug Berman, Eli Clark,
Steve Donziger, Fenno, Richard Ford, Evette Harrison,
Malcolm Harrison, Robert Niewyk, Henry Kerner,
Bill Marin, Kristen Swartz, Paul Tarr, Carol Umhoeffer
LAYOUT.....Allen Glazier
BUSINESS MANAGER.....Ron Goldstein
BUSINESS STAFF.....Dan Goldberg, Greg Dingens, John Bautista

PRINTING BY THE HARVARD CRIMSON

Editorial/Letter Policy

All opinions included in letters to the editor, as with columns, editorial cartoons and editorials, belong to the authors and do not necessarily represent the opinions of the *RECORD* staff.

The *RECORD* welcomes letters to the editor on any subject from students, alumni and interested members of the law community. Letters are printed as space provides and are edited for space and clarity. All letters should include the name(s) and phone number(s) of the author(s). All letters submitted become the property of the *RECORD*.

More on the Diversity Controversy

To the Editor:

Three observations on the recent diversity protests:

First, Garcia may be correct that actions such as sit-ins and classroom protests alienate some "moderates" [*Record*, two issues ago], but these acts still may be effective and even vital

school classrooms, and in private conversations as a result of the sit-in and classroom protests is indicative of this impact. Protest thus may be an irreplaceable means of igniting an otherwise moribund debate and heightening popular awareness of important issues. This outcome is both worthy and essential.

Second, hyperbolic analogies which equate detractors of public protest to satanic figures are unhelpful and are only meant to hurt. Jon Garcia is not morally equivalent to a disinterested spectator to genocide [Anonymous letter in the last *Record*] for believing that the protest in Kathleen Sullivan's classroom was neither efficacious nor desirable. He is simply an individual who believes that alternative means best achieve a mutually-agreed-upon goal.

Controversy page 11

Letters To The Editor

means of raising civic consciousness. Such protests *directly* contribute little to the marketplace of ideas and create few converts to a cause, but these acts nonetheless greatly enhance public debate. The dramatic increase in high-quality discussions of diversity issues in the *Record*, in hark boxes, in law

Erasing of Queer Nation Note is Inappropriate

To the editor:

On April 18, 1991, during Prof. Randy Kennedy's Race Relations class in Pound 102, there was an announcement written on the blackboard which said, "R. Kennedy is on the Appointments Committee. What has he done for Diversity?"

Regardless of my opinion on the good taste or sound judgment displayed by this message, I was somewhat disturbed. Also on the blackboard that morning—where it had been when I left the room at 9 o'clock the previous evening—was an announcement of the Queer Nation meeting scheduled for the evening of April 18th. That announcement had been removed and replaced by the message to Prof. Kennedy.

First, I question the propriety of erasing any group's message (before the appropriate date, i.e., after the meeting being announced) in order to put up another group's message. Who is to be the judge of which groups or meetings are more deserving of publicity? And using what criteria?

Second, I am troubled by the hypocrisy involved in this particular incident. I am assuming that the replacement message was written on the blackboard by someone supporting diversity at HLS, a goal with which I heartily agree. However, that person effectively lessened the diversity showing in that classroom by silencing a group with a strong, if controversial, message.

Note page 11

RECORD: A Fascist Enquirer!?

To the editor:

We are writing to ask you a very simple question: "What is the goal of your newspaper?" Specifically, we are referring to the front page of the April 19th edition. In the top left corner of the page you had a headline, "Crime Wave Strikes Campus." This was juxtaposed with a picture of convicted rapist, Kevin Watkins. Watkins, not surprisingly, is a black male, and, more importantly, he no longer attends HLS. So why is he on the front page of the *HLS Record*? Perhaps he is on the front page because he (and the 100 black men at Harvard Law School) match the overbroad description of the criminals that you think are causing the "crime wave" that you describe in the article on the left.

In the bottom left corner of the page, you cast suspicion on a member of the HLS community who, according

to police, is not a suspect in the murder of Mary Joe Frug. Why did you have to write about this in the manner you chose, and more importantly: "Is this rumor really front page news?"

Finally, in the bottom right corner of the page there is an article about Visiting Professor Anita Allen. This article was well-written and informative. Professor Allen was very enlightening in the interview. Out of all the wonderful words that Professor Allen said, you chose to highlight the quote, "I don't sit in my office all day thinking about diversity." As we read the entire interview we realized that this quote was taken out of context. We also could not help but think you were trying to give readers the impression that she does not support diversity, when clearly in the interview she states that she does.

So again, we ask, "what is the goal

Enquirer page 11

Fenstermaker's Refund Request Impracticable

To the Editor:

We are writing in response to Scott Fenstermaker's letter which asked students to request a refund of the portion of their health services fee which goes toward abortions.

The health services program is a system of pooled resources that allows efficient health care for students with various needs. The administrative problems of individuals requesting refunds for services that they do not use or services which they disapprove would greatly increase the cost of health services for everyone.

In addition, it is inappropriate for students to interfere with the medical choices made by others. What kind of health services system would this University have if gay and lesbian students could request a refund of the portion of their fee which went toward pregnancy testing or if students who disapprove of non-marital sex could get a refund for that portion of their fees that goes to birth control counseling?

Students simply might request refunds for services that they do not use in order to get the refund, since it would be extremely difficult to determine which procedures people have genuine moral objections to.

A health services system which would allow these types of refunds would be especially problematic for women, gays and lesbians. Many people have private moral disagreements with a woman's Constitutional right to choose, with contraceptive use, and with gay and lesbian sexuality. However, these private disagreements should not be allowed to diminish the quality of health care that women, gays and lesbians receive.

If the principle of refunds should apply to health services, why not to the rest of the University? Should the Kennedy School students get refunds for the funding that goes toward controversial cold-war relics like the National Security program or C.F.I.A?

Open Letter page 11

How Many Feminists Does It Take To Screw In A Lightbulb?

A guy once said to me, "The problem with you feminists is that you're all so humorless."

By Alisse McIntyre

Moi? Humorless? Never. But I like to tell two jokes based on this stereotype of the humorless feminist. One goes as follows - Q: How many feminists does it take to screw in a light bulb? A: That's not funny. The other goes: Q: How many Harvard chicks does it take to screw in a light bulb? A: That's Radcliffe women, and that's not funny.

The fact of the matter is that the first thing that would happen after a feminist revolution is that we'd all bust out our Victoria's Secret best and party in the streets. That's my personal Madonna-esque fantasy. I'm not really so much of a feminist as I am a hedonist. I want equal access to pleasure and I am pissed that society denies it to me based on my sex, of all the silly things. The fact that I can't take off my shirt on a hot day is the source of my feminist anger. Most women chose to sweat rather than wear anything too skimpy when it's hot. Who wants to endure the harassment? Or worse yet, be told that they provoked sexual assault? Most women won't go to the beach in a bikini if they think they're thighs are a millimeter too wide. On the other hand, men, including those of the most obese and disgusting nature, are free to exercise their entitlement to walk around without their shirts on and leer at women. A politically incorrect confes-

sion: If women cannot have the same entitlement the idea of men suffering the same oppression has some appeal to me. I just want to go up to these guys and say "If you don't got it, don't flaunt it, fatsu!"

It has a lot of appeal, actually. I day dream about holding men up to the same high and generally unnatural standards of beauty that women are held up to. Like hairless legs and armpits. I'd get a kick out of men having to shave their legs and underarms. I imagine my boyfriend asking me for

working at it harder than usual.

Take for example the Harvard police's response to the recent attacks on women. They're handing out plastic whistles. I don't know how the hell they think a whistle is going to protect me, unless it's a Patriot whistle with a tracking device and a warhead that can be used to hit a guy in the cajones. You'd have to be on acid to think that promoting light sentences for rapists in the classroom (because prison is so "cruel and unusual," and rape isn't, I guess) and in giving out whistles to women is

distributed a letter to the law school student body encouraging them to get a refund on the portion of their insurance fees that go to fund elective abortions. And to make it easy for the lazy yet morally outraged crowd, he even included a form for them to request their refund. The letter would appear to be a personal appeal from Mr. Fenstermaker, but in fact it was paid for the HLS Republicans (verified by a phone call to Mr. Fenstermaker himself). Nothing like an attack on my personal freedom to make my day. The form reads, "I have strong moral objections to sharing the costs of elective abortions..." As if we all didn't know that if men could get pregnant abortion would be a sacrament. I have strong moral objections to Mr. Fenstermaker and the HLS Republicans in attacking my right to privacy. Are there no women in the HLS Republicans to reign in these misogynists? Or were they all out of the room making coffee when the vote to fund the letter was taken? Not even the real Republican party is actively attacking the right to an abortion anymore. Get with the national agenda, guys. I'm personally going to request a refund on my contribution to their health care. Let them take their chances on back alley cold care, Rogaine treatments and prostate exams. If they were morally upright, they wouldn't get germs. If they didn't masturbate they wouldn't be going bald and having prostate problems.

The fact that I can't take off my shirt on a hot day is the source of my feminist anger.

advice: "Honey, what do you do about your anti-perspirant stinging after you shave under your arms?" My response: "Shut up and endure it like a Woman!" Just imagine the kind of food we'd get at the Hark if all the men started complaining about just not being able to lose that last ten pounds.

It's pretty obvious that to be a woman, you've sometimes got to have a hell of a sense of humor in order just to keep going. Assault, rape, sexism, and discriminatory treatment in the classroom are just a few of the things we have been asked to endure on a daily basis. To keep going in the face of it all is a feat of strength and good humor. With the current events in Cambridge, I've been

any kind of adequate response to rape.

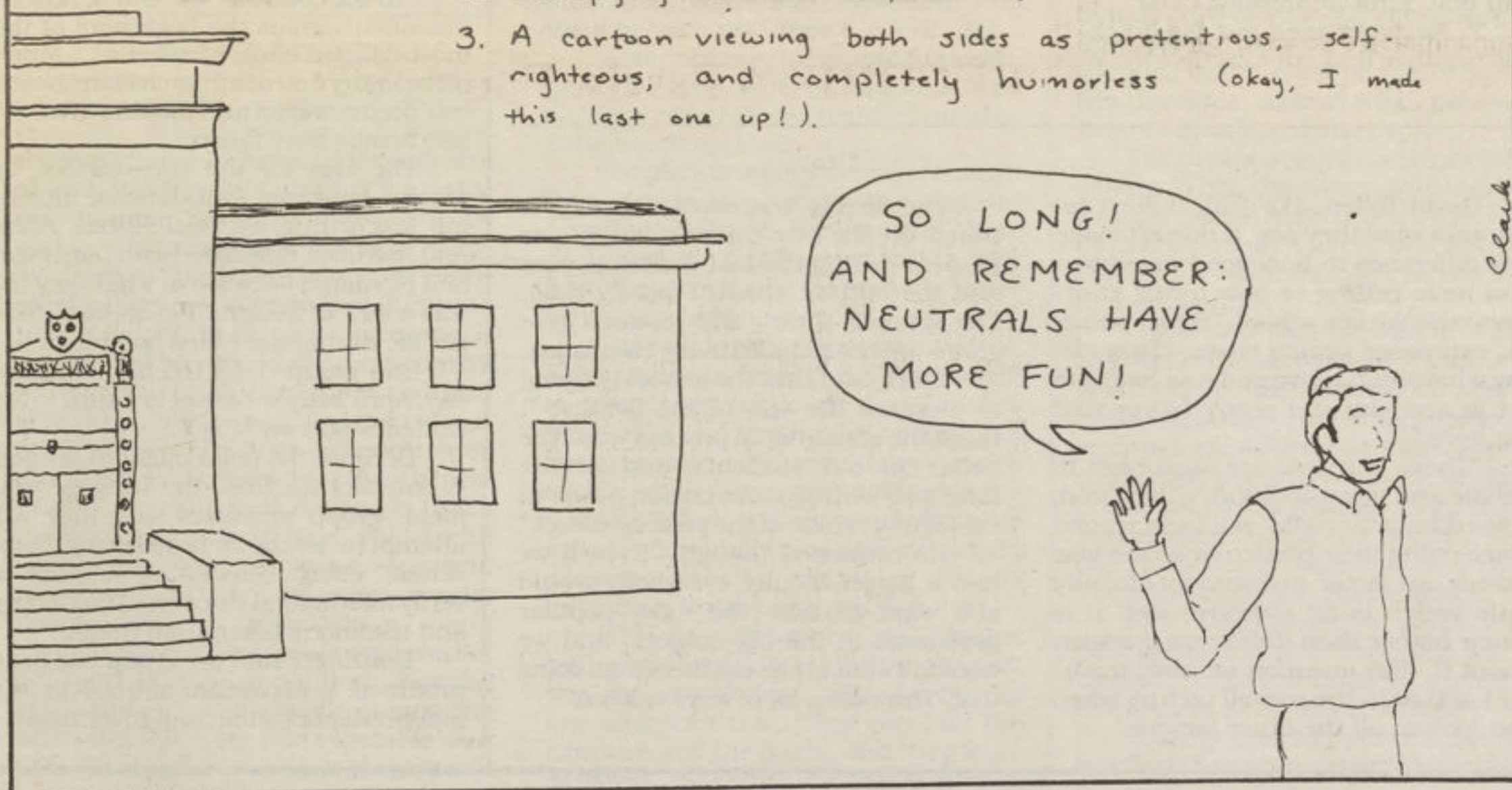
I've also been really depressed lately because Bob Clark slighted me on his CCR Hit list. All my friends got personalized letters threatening them with disciplinary action. What's a girl to do to catch the dean's eye? I sat in front of his door. I smiled for the camera. I even bashed Bob in a recent column. Do you think he can remember to include me? Just see if I send him a Christmas card next year.

Then if being slighted by the dean and worrying about my immediate physical safety weren't enough, I discovered an attack on my right to a legal, safe abortion right in my Hark box. As you'll recall, Scott Fenstermaker

Agenda Neutral

By Eli Clark

neu-tral (noo'tröl) adj. 1. Not inclining toward either side in a matter or dispute.
2. Occupying a middle position; indifferent.
3. A cartoon viewing both sides as pretentious, self-righteous, and completely humorless (okay, I made this last one up!).



Law of the Jungle

By The Idle Rich

YOU CAN'T IMAGINE HOW MAD I WAS. KA + LUKE TOLD ME IT'D BE SO EASY BEING A CARTONIST. "WITH BEIRUT BOB AS DEAN YOU'LL HAVE PLENTY OF MATERIAL." YEAH. RIGHT. EARLY APRIL? OL' BOB HADN'T DONE A DAMN THING. I WAS GETTING DESPONDENT, GRASPING FOR MATERIAL—SELF REFERENTIAL STUFF, THE AD BOARD, AND THAT PRIVILEGE FIASCO! I WAS ABOUT TO QUIT. THEN IT HAPPENED. JUST LIKE THEY PROMISED. THE CAMERA, THE KGB STYLE LETTERS...

BIG BROTHER BOB IS BORN
BIG BOB FIGHTS INTIMIDATION WITH THREATS.

APRIL 23, 1991. NOT-SO-VAAGUE THREATS ARE MADE IN LETTERS TO IDENTIFIED SUBVERSIVES.

You have been identified in the photographs as having been a participant in subversive, counter-hegemonic activities. Future disruptions will subject you to disciplinary action at the time and place and of the nature of our choosing. We know who you are. We know where you live. We are everywhere. We have access to your FM files, credit ratings data bases, and prospective employees. There exist a wide range of means by which we can make your life a living hell. Don't push it. Don't push us. I'll be watching you.

BIG BOB KNOWS THAT SECRECY ENHANCES ACCOUNTABILITY.

APRIL 10, 1991. 14:31 HOURS. SUBVERSIVE TYPES OCCUPY GRISWOLD HALL. HIDDEN CAMERAS RECORD THE EVENT!



Fenno

Obsequious or overbearing, that was the question Fenno faced. How should he conduct himself while interacting with the ultra-powerful senior partners of Dying, Slowly & Pretendingnotto the arguably prestigious New York law firm where he had gained a position as a summer associate by dint of hard going-through-motions (being a law student and filling out scanning forms and showing up for interviews). As a student at the Harvard Law School, Fenno was generously endowed with an absence of individuality and eager to exploit this quality to please attentive, friendly senior partners whose vaguely flattering manner concealed their essential indifference (after all, all they really needed was someone, almost anyone to do a fairly simply job for a few years before being put out on the street, and a flattering, attentive manner had been known to lure many a young or woman starting out to throw away crucial years of their lives).

Fenno, however, had no illusions. He had held jobs before. He knew how silly and small were the devices with which employers played to their employees' vanity. But the approval of these middle aged ciphers was his only ambition, all that might reassure him that his life was not being mis-spent. And so he resolved to strive mightily for the approval of these essentially indifferent strangers. Forget self-respect, forget a feeling of accomplishment, he lived now only for the day when the pinstriped senior partner would pull him aside at the firm outing and say, "Fenno, we've had our eye on you..."

The issue was no longer whether or not to prostitute himself, but how to prostitute himself most effectively.

Plans Move Forward For Holmes Field Building

As part of its ongoing expansion strategy, the Law School has plans to break ground next spring on a five-

By Malcolm E. Harrison

level, multi-purpose building to be constructed on the north end of Holmes Field just in front of Child Hall. The \$10 million Holmes Field Building, as the structure is currently called due to the lack of an official name, has four primary purposes according to Prof. Terry Fisher, the chairman of the Holmes Field Building Committee.

First, the building will provide six additional small classrooms. There will be two classrooms with space for 50 students, two classrooms with space for 32 students, one classroom with space for 20 students and one even smaller classroom with space for 15 students. These new rooms will ease the shortage of space for small IL sections and specialized classes for second- and third-year students.

The second, third, and fourth floors

of the building will each have space for 12 faculty members and five or six secretaries. The increased space will enable the university to accommodate faculty members whose offices are currently in the north wing of Langdell. Once the professors have relocated into the new building, the north wing of Langdell will then be renovated and added to the library.

In addition to providing new offices for professors currently in the north wing of Langdell, the new building will allow HLS to increase the number of faculty - thereby improving the school's student-teacher ratio. The tentative plan for the building provides for there to be 13 or 14 offices for new faculty members. At the current time, there is no more space at HLS for new faculty members.

The final purpose of the new building is to accommodate some of the functions that are currently in the basement of Langdell west and free up some space in the rest of the campus. The basement level of the new building will feature a large computer lab for

students, an educational technology center with interactive videos, an adaptive technology center with equipment for differently-abled students, a micro-computer support center to support computer operations throughout the law school, a word processing center for faculty and staff, and a staff lounge.

Although this basement level is underground, it will still receive natural light. A large moat around the building will enable sunlight to enter the basement level through large windows. The first floor will be on grade with the ground. Thus, there will be no stairs which could impeded the access of differently-abled students at the law school.

Fisher noted that the \$10 million construction costs will be financed as part of the capital campaign and will not come out of student tuition.

HLS has contracted with the Boston architectural firm of Kallmann, McKinnell & Woods to design the building. The firm has won five Parker Awards - an award given to the archi-

tecs of the best building constructed in Boston in a given year.

For the last four months Fisher and the other members of the Holmes Field Building Committee - Prof. Charles Nesson, Administrative Dean Sandra Coleman, and the school's financial officer Paul Upson - have been busy choosing an architect and working out details. According to Fisher the group needs only to fine tune the plans such as deciding what type of exterior the building will have and determining what the relative size of the classrooms and computer spaces should be. Fisher estimates that the new building will be ready for use by September 1993. The Holmes Field Building will eventually receive a proper name. It might be named for a donor who gives the school the money to construct it, or it might follow the Harvard tradition and be named for a past dean of the law school. Regardless of its name, it will form a vital part of HLS' drive to find more space as the law school enters the twenty-first century.

Panel Reveals Secrets For Summer Success

Tues., Apr. 23 the Office of Career Services sponsored a panel featuring practical advice on how to be a successful summer associate:

1. The summer is like a long first date. You (and they) like what you see but it is not true love yet - You're still seeing other people.

2. Remember that the summer is the firm's primary recruiting tool. The firm wants ample chance to scrutinize both your work personality and your interpersonal and social skills. Be yourself and let people get to know you.

3. Work Hard. Do your work with pride. Treat the job as if you were a junior level associate with real dead-

lines. Become a part of the firm. In the tight market, this year not every one may get an offer.

4. Always understand exactly what is being asked of you. Make sure all of your questions are answered before you accept the assignment. Find out your deadlines and never miss them.

5. Work with a mixture of attorneys. Make sure you get exposed to the entire firm so you have a better picture of what it is like.

6. Take your first assignment very seriously. It is your most important one. First impressions last.

7. Actively seek out feedback. If it is negative find out exactly why. Was

it a personality conflict? writing style problem?

See if you can do a rewrite.

8. Find out how selections are made and by whom.

9. Attend as many social events as is comfortable. Remember you are being evaluated at these events.

10. Take advantage of the mentor/buddy system to find out the scoop on firm politics, the city, etc.

11. If problems arise, go to your mentor or summer coordinator.

Panelists were Susan Beth Cohen '82, Kevin Davis '90, and Chritine Kendall '90.

U.S. NEWS

continued from page 1

prehensible given a estimated jobless rate of below two percent.

"This is an amazing law school in terms of what you can get out of it. The diversity of the curriculum is just astounding compared to any place. We teach so many things," Clark said in an interview with the RECORD. "Not that we teach every thing that we should, but boy what we have is amazing... These surveys don't take much into account of the fact that we have a great library or great research programs like the human rights program and so on."

David Tollen, 1L, said, "I don't really care what they say. It doesn't make any difference to how good an education we're getting or how hiring attorneys view the law school." Bing Maisog, 2L, expressed similar views. "They can say whatever they want. I was happy to get in and, am still pretty happy that I'm here."

"These [surveys] are so subject to debate and interpretation," Clark said, "I would say that what put us in second place using their particular scales was mainly one factor, our student/faculty ratio which is an objective fact. It is much higher than Yale's, no question about it. The question is, how important is that in the overall picture when you look at all the other factors."

The faculty resources category is based on the law school's outlay per student during the last academic year and the current student-faculty ratio. The school's library and research programs are not included in the calculation.

Clark said that the school is trying to increase the size of the faculty; "I think the educational process would be better for our students, and for the faculty, if we had more person power in the faculty ranks, at the professor level."

He cautioned though, "Even if we had a bigger faculty everybody would still want to take the most popular professors in the big subjects and we wouldn't want to prevent them from doing that. There are a lot of ways to learn."

Iraq

continued from page 1

candidate at SPH.

The group will break into small groups and visit several areas in the country simultaneously, including places that up to now have been off-limits to reporters.

In addition to fact-finding, the group will deliver two tons of medical supplies, purchased with donations from the American public, to the Iraqi Red Crescent.

"We must remember that for the civilian population the end of hostilities does not mean the end of suffering," said Dr. Rob Moodie, an Australian physician from the Harvard School of Public Health.

"To the contrary, the end of hostilities often signals the beginning of the most difficult stage of survival... Much of the injury and death to civilians in any war occurs weeks and months after the last bombs have fallen."

The idea for the trip - funded by several American foundations, including MacArthur, Samuel Rubin, Arca, and Needmor, originated with Donzinger and Normand because of what they felt was a lack of information on Iraqi civilian life during the Allied bombings.

The group departed last Wednesday, April 24th and is set to return to the United States on May 7.

Because the team might be subject to interference from the Iraqi government, group members said they will attempt to "let the facts speak for themselves," using painstaking methods to verify information uncovered on the trip and testimony taken from Iraqis.

Donzinger said the group has been promised "a maximum of freedom and independence by the Iraqi government."

Hark Responds to Student Requests

Although eating at the Harkness Cafeteria may not be a culinary experience worthy of writing home about, the Hark has made considerable improvements this year. In response to

By Glennis Gill

suggestions made by the Law School Council Food Service Committee and other students, Food Service Director Jill MacKinlay and Cafeteria Manager Carolyn Backus have implemented many changes.

MacKinlay said, "The focus in Harkness has been to get feedback and respond."

The Cafeteria has expanded the variety of the menu, begun providing nutritional information, and made strides to become more environmentally aware.

Students expressed concern about the small dinner selection and in response, the Hark always has pizza at

dinner now, a deli board, bagels, and an open grill. In addition, the main entrees reflect a new focus on food with less fat, more fresh vegetables, fish, and chicken. This increased nutritional focus can also be seen in the fewer marinated salads on the salad bar, the low-fat cottage cheese, low-fat mayonnaise, and lite cream cheese. And of course, the popular no-fat frozen yogurt.

Another area of great concern has been the large amount of paper and plastic used in the Hark. The Hark Managers have responded by making china and flatware more available so that students may choose not to use disposable items.

However, progress on the environmental issue has been limited due to several factors. The primary one is cost. The Law School contracts the services of Creative Gourmets and it is up to the School to decide on the allocation of funds for large expenses, as converting

to all china and glass would be.

In response to the Food Service Committee's concerns, Jill MacKinlay had a study done on how much this would cost; figures included those for buying the initial dishes and glasses, putting in stations to hold these in the serving area, employing an additional dishwasher, and replacing broken items. Despite subtracting the paper costs from this total, which is considerable, this change will still be fairly expensive. Nevertheless, the Hark Managers believe the Law School will be willing to spend the extra money and that the Hark will be converting to almost completely reusable dishware in the Fall.

While progress has been made in certain areas, there are still many improvements which can be made.

The Hark Meal Plan is a constant source of complaint and has been discussed by the Food Service Committee. In response, the Hark Managers and

the School have been and will continue to investigate other options, such as a "cash-card" system. Once again, it is an expense the Law School may be willing to make, provided there is sufficient student demand, so let your thoughts be known.

All of the improvements made this year, and the plans underway for further changes, reflect the Manager's belief in the importance of being responsive to student concerns and increasing communication.

In addition to meeting regularly with the Law School Council Food Service Committee, the Managers have installed a suggestion box (and do take these seriously!), provided nutritional flyers and a bulletin board, and conducted a student survey.

MacKinlay said their office is always open and invited students to walk in and tell the Managers what's important to them.

HLS POSSE AND STORY TWO ROLL IN FINAL GAMES

The Road to Hemenway ended in grand style for two basketball teams last week, as the two HLS intramural leagues determined their title-bearers. In the A-League playoffs, the HLS Posse rode a balanced attack to the championship, while Story Two capped a perfect season by steamrolling its way to the B-League crown.

The Posse, 7-1, flashed a potent mix of height and quickness to outlast an upstart and overmatched Black Panther squad, 47-26, in the A-League title tilt.

Bucking a league-wide trend toward the zone defense, Seth Rosenthal's Posse employed a decisive man-to-man defense throughout the season. Under this scheme, the Posse aggressively used its quickness to deny easy outside shots, knowing that, Rosenthal said, "if they drove around us we would swat it

away with our height underneath."

Although their playoff run collapsed a game too soon, the Panthers, (5-4), achieved a season-long goal in the league semifinals. "We had set," Honore remarked, "an early goal of meeting and beating Guaranteed ThreePeat," the 1989 and '90 A-League champions. By causing havoc with a tight half-court man-to-man trap, thereby forcing numerous turnovers that led to easy baskets, the Panthers set flames to ThreePeat's attempt at a third consecutive title. But the emotional high of their semifinal win, combined with the absence of their leading scorer, Earl Phalen, may have handicapped the Panthers in the final game. After acknowledging the outstanding play of the Posse, Honore admitted that his squad "just couldn't get up as much as we did for ThreePeat."

Guaranteed ThreePeat represented the lone blemish on the Posse ledger. Rosenthal's squad dropped an eight-point decision to the defending champions during the regular season. Otherwise, the Posse produced enough firepower to clinch each of its victories by at least 15 points, spreading its scoring load evenly across the board.

Story Two: A Perfect Ten

In the 'B'-League final, Story Two, (10-0), continued its mastery of its opponents, defeating Eat My Shorts 58-40. The 18-point championship win upped Story Two's average playoff victory margin to 17 points. Their average victory margin during the regular season was 24 points.

Despite some last minute line-up changes to overcome the unexpected absence of point guard and team cap-

tain, Phil Hastings, Story Two used a ball control offense and a stingy zone defense to limit the effectiveness of Eat My Shorts' big man, Lance Hirt, to the ecstasy of the partisan crowd gathered in Hemenway. As Eat My Shorts team member Clark Goodman said, "They shut us down. They were by far the class of the league."

Story Two used the same strategy, combined with a complete domination of the boards, to upset a powerful La Alianza team in the semi-finals. After opening with a six-point run by overwhelming Story Two with a swarming full-court press, La Alianza's guns fell silent as Story Two rolled off its own 28-3 run. They never looked back. "Once we started beating their press and getting the ball inside, I knew we had them," said Hastings.

Calzones Top Menu At Trattoria Il Panino

TRATTORIA IL PANINO 1001
Mass Avenue Cambridge 547-5818



2-1/2 out of 4 scales

Open 11:00 a.m. to 11:00 p.m. Monday through Saturday and 4:30 p.m. to 11:00 p.m. Sunday, serving lunch and dinner; prices: submarine sandwiches \$3.80 - \$4.45, salads \$2.25 - \$6.25, large pizzas \$6.95 - \$8.95, calzones \$4.25 - \$5.95, pastas and dinners \$5.95 - \$9.95. Cash only. No alcohol, dessert, or coffee served.

If you know what to order and what not to order Trattoria Il Panino is a great spot to enjoy good Italian food in

By Lucy Braun

a casual setting. A popular Harvard Business School hang-out, Il Panino features generally fresh and hearty fare at reasonable prices, making it a natural for students who seek a no-frills meal. Offering everything from pizza, calzones, and pasta to submarine sandwiches, burgers, and chicken, Il Panino tries to have something for everyone. It often overreaches, leaving customers in the dark about what the restaurant is really good at. One thing the restaurant does wonderfully is calzones: these are killer concoctions, oozing with mozzarella and wrapped in dough that's good enough to eat by itself. Filled with a choice of ricotta cheese, spinach, broccoli, pepperoni or other meats, they're delicious and addictive.

The spinach calzone is my favorite; it's stuffed with fresh and flavorful spinach and will leave you wondering why you didn't like this vegetable as a kid. The pepperoni calzone is spicy and satisfying; the ricotta calzone is good too, but you won't notice how rich the foot-long creation is until you're on inch eleven—and by then it's too late.

The pasta dishes are excellent too; stick with the fresh linguini or fettuccini and avoid the frozen tortellini. Il Panino properly cooks its pasta al dente, leaving just a bit of bite. The fettuccini is topped with either "cream" or "cream sauce"—not a lot of variety there, but the Fettuccini Alfredo (with "cream sauce") is a winner.

Linguini lovers have a wider selection. The house special is Fra Diavolo, lobster over linguini. Other seafood toppings include clams, calamari, mussels and squid. Non-seafood aficionados can opt for Linguini Puttanesca, with capers and black olives; Linguini Aglio e Olio, with garlic and oil; Linguini Filletto di Pomodoro, with fresh tomatoes; and Linguini with meatballs.

Other entrees include ziti, ravioli, gnocchi, eggplant parmigiana and chicken, many of which are featured as daily lunch specials.

The pizza is merely average. Though it has a good, thin crust with a pleasant oven-baked flavor, the sauce is bland and there isn't enough of it. I've only had slices, so maybe the made-to-order pizzas are better.

The salads range from fair to awful. The mozzarella, tomato, and basil salad is generously portioned and features fresh basil and homemade cheese, but the tomatoes are sometimes unripe and the dish is overpriced. Pass on the Garden Salad: it's an uninspiring tin full of yellowish lettuce with a vinegary dressing, which, according to one customer, "tastes like gasoline."

With its self-service, red formica tables and bright lights, Il Panino won't win any awards for ambiance, but no one comes for that. They come for the calzones and the pasta, and they leave satisfied. Slashing the menu in half and adding beer, coffee and good cannoli would make a great improvement. Yet if you choose wisely, Il Panino will reward you with good food at good prices.

THE CROESUS OF BASEBALL CARDS

The Gulf War was really over when CBS News, instead of devoting additional air time to some aspect of the

By Stephen Kastenber

war, showed one of those All-American, feel-good feature stories. This particular one involved a freckle-faced, skinny boy from a small town, and baseball.

Though the feature purported to be entertaining (and not educational) it taught a lot about America. The fair-haired cherub (let's call him Tommy) loved to collect baseball cards. One brisk autumn day he strolled down to the local baseball card shop. There, his eyes honed in on a Nolan Ryan rookie card. The sign next to the card read "1200." Tommy asked the clerk, was that \$1,200 or \$12.00? She examined the display, unsure herself, and responded that it must be twelve dollars. His freckles aglow with pleasure, Tommy purchased the card.

The card was worth twelve hundred dollars. When the owner, who had been gone temporarily, returned to the store, he called Tommy's house and asked for Tommy to return the card, as there had been a mistake.

Nope! said Tommy, with nurturing support from his parents. Its mine fair and square. The dispute has now entered litigation, and Tommy's attorney reported confidently to CBS that his client will prevail. In fact, no doubt prompted by his legal advisor, Tommy has already traded his card for three others worth approximately \$500 each. There goes specific performance.

How cute Tommy's parents are. He's getting his first lesson on life in a litigious society. Tommy's parents are the ones in need of a spanking.

Tommy and his parents seem to feel that they played within the rules of the system and therefore the outcome is fair. This gamesmanship attitude is rampant in our society. How can we twist and abuse this income tax loop-

hole, this discovery rule, this contract clause; how can we squeeze out a windfall at another's cost? A friend told me about a fall interview with a New York law associate about a headline case. He confided that he spends all his time trying to overwhelm the Assistant U.S. Attorney with admittedly useless discovery requests. Seems OK: after all, someone knew what they were doing when they created the rule, so why worry about concepts of good faith and fairness. If there's a problem, they'll change the rule.

Unlike the New York attorney, Tommy at least tried to justify his position. He argued that if two baseball card collectors negotiated a sale, you don't make one return the card because he got a bargain. However, there is a huge difference between two knowledgeable people sitting down to negotiate, and tricking a local store clerk who made a stupid mistake.

A contagion of good-spiritedness and communitarianism could be damaging to our very profession: lawyers would be reduced to litigating serious disputes, not representing people who see a way to gain because another inadvertently broke a rule.

I am not sure Tommy will win in court. Was there a mutual mistake, unilateral mistake, unconscionably low consideration? Upholding the sale would create profound economic benefits for society. Wealth is redistributed from the largest baseball-card dealership in 10 miles to Tommy and his lawyer and the shop-owner's lawyer. Businesses all over the country will improve clarify their price tags and train their employees better. Efficiency will skyrocket. More lawyers and consultants may even be hired to help businesses meet the new standards.

As for the shop clerk, who is probably now either unemployed or in debt to her boss for \$1188, she will be more alert, more cautious, and quite a bit less trustful in the future.

International Law Society Sends Delegates To France

A group of Harvard Law students travelled to Paris over Spring Break to meet with French officials to study the

By Steven McLeish

French judicial system and the France's relations with Europe. The group was sponsored by the International Law Society.

Delegates had the unique opportunity to watch the justices at the Cour de Cassation, the highest French civil court, reach a decision then come to agreement on the published opinion immediately after.

The group also had the opportunity to meet with the United States ambassador Walter J.P. Curley at his residence. Embassy officials briefed the delegates on Franco-American relations and political and economic af-

fairs including the progress of the current GATT talks and the future American role in Europe.

Later in the week, the French Ministry of European Affairs presented a comprehensive outline of current European relations. The students were, thus, able to examine political issues from different angles as there was a subtle difference in perspectives at these two meetings. The two meetings gave the students a balanced overview of the French viewpoint.

The International Chamber of Commerce hosted the delegation and held a session to explain the functions of the International Court of Arbitration. Arbitration is especially attractive in France because of the difficulty of bringing appeals from French arbitral decisions.

The delegates also visited the

Sorbonne, one of the world's premier law schools. The group attended a lecture on French nationalization and privatization by Professor Dominique Carreau at the Sorbonne.

Porus Kaka, LL.M., described this field as "the new legal growth area". In fact, delegates noted that some of the firms they visited in Paris are developing expertise in this area for clients involved in Eastern Europe.

A recurring theme of the visits to Parisian law firms was the impending restructuring of the French legal profession, which will effectively make starting practice in France harder for American lawyers. Details of the reforms are currently being negotiated and delegates were able to explore many of the alternatives with their French counterparts.

The week's social activities were equally diverse and extensive. Many law firms, as well as Elf Aquitaine, the large state-owned petroleum company, hosted lunches, dinners or cocktail functions in their offices, which typically were located in gracious former mansions rather than steel and glass towers.

Shearman & Sterling sponsored a sight-seeing dinner on the Seine and other sponsors included the law firms Baudel, Sales, Vincent & Georges and S.G. Archibald, and the Hilton Hotel.

The highlight of the week was widely agreed to be the unexpected display of dancing talent by group member, on a table in a Greek restaurant to the applause of admiring Parisian diners. The trip was organized by delegation leader Sylvie Rottman LL.M. and Carol Ann Umhoefer, 2L, Secretary of ILS.

HLS Students Meet Mandela On ILS Trip To South Africa

Delegates on the International Law Society study visit to South Africa spent almost forty-five minutes in an impromptu meeting with Nelson Mandela at his Soweto home. It was the highpoint

By Sharon Bowden
and David Pope

of a two-week trip to Johannesburg, Cape Town, and Pretoria for students Rhonda Adams, 1L, Sharon Bowden, 2L, Steven Lurie, 1L, David Pope, LL.M., and Michael Quigley, 2L.

The delegates had no appointment with Mr. Mandela and had been informed that it would be virtually impossible to obtain one. Undeterred, they approached the house guards and offered them a copy of the Harvard International Law Journal and HLS Crest gourmet chocolates from the Alumni Office as gifts for Mandela. After a brief wait, the surprised T-shirt and shorts-clad students were invited into the African National Congress leader's home for a chat.

Mandela sought to impress upon the delegation the need for the U.S. to retain economic sanctions.

Mandela said that it would be a mistake to lift sanctions before free elections on the principle of "one person, one vote" clearly demonstrate that the process of change in South Africa has become "irreversible."

The rulers of South Africa maintain that the reforms are already irreversible. The Deputy Minister of Constitutional Development, Dr. Delpont, claimed that the National Party was committed to universal suffrage, despite opposition from its own constituency. ILS delegates spoke to representatives of the private sector who seemed convinced of the Government's sincerity and urged that sanctions be lifted immediately. Michael Quigley observed that "every corporation we met was keen to impress upon us the vital

financial boost, especially in the form of IMF credits, which the economy needed, and which lifting sanctions would bring."

Claims of an ailing economy did not fit the picturesque, tree-lined suburbs surrounding the major cities. Yet even here, evidence of the changing times was clear. Many houses were hidden from sight by eight-foot walls, and most were protected by elaborate security systems. The crime rate in South Africa has escalated dramatically in recent months, and the problem is no longer confined to the townships. One member of the delegation recalled waking up the first day in South Africa to the news that sixteen people had just been killed in a township less than five miles from where the group was staying.

Violence has begun to dominate political discussion in South Africa. In his meeting with the delegates, Mandela suggested that the Government might be allowing the violence to continue unchecked, if not deliberately provoking it, in order to discredit the black leadership. The Government maintains that the unrest is the result of tribal rivalry between the ANC and the Inkatha Freedom Party (the conservative Zulu organization). In the meantime, the chances for peaceful resolution diminish as the death toll rises.

The delegation focused much of its inquiry on the way in which this factionalism could be reconciled. After years of governing under a strong central authority, the National Party is now advocating a federal, constitutional structure, under which localities would have greater autonomy and control. The ANC, Rhonda Adams said, "understandably views this about-face with suspicion, as it could allow the white community to remain as segregated and self-governing as ever, albeit with a narrower sphere of power."

Proportional representation is another means by which the National



Harvard Law Students discuss South Africa with Nelson Mandela after an impromptu stop at his home.

Party is attempting to guarantee a minority presence in future South African governments. "What I think they want to avoid," said Michael Quigley, "is the kind of 'majority rule' which typifies the rest of Africa: one-party states with no democratic opposition whatsoever."

Plans for a new constitution also include a bill of rights based on the American model. "It was impressive to realize how much influence the U.S. Constitution has had," reflected Steven Lurie. "Everyone seemed to take for granted that the kind of freedoms of speech and assembly enumerated in the U.S. Bill of Rights would form part of a revised South African Constitution. The debate centered instead on which 'second generation' rights to incorporate, with the ANC arguing for guarantees of economic security and prohibitions on hate speech, and the National Party lobbying for explicit protection of property rights."

The most immediate question, however, is not substantive, but concerns the process by which the new constitution will be drafted. While the National Party and Inkatha favor a multiparty conference, providing a forum for all political groups, the ANC insists upon a constituent assembly

elected by nationwide vote. The distinction is crucial, said Steven Lurie, because it determines whether the ANC will occupy the dominant negotiating position after "an election which everyone, even the National Party members we met, conceded the ANC would win."

The opportunity to investigate firsthand the complexities and divisions of South African society, at a time of such radical change, had a profound effect on the delegation. Adams spoke of the inspiration she derived from the extent of student protest in the two countries; she hopes to apply some of the courage she witnessed in South Africa to "the struggles we as African-Americans face in the U.S." Quigley was impressed with the "lack of bitterness and sense of optimism" that characterized the attitudes of black South African law students and ANC supporters who had been detained and sometimes tortured for up to three years. All the students expressed enthusiasm for the ILS's coordination of delegations to areas torn by cultural and political conflict.

The delegation was sponsored by the Chairman's Fund of the Anglo-American Corporation, the law firm of Spoor and Fisher, and Standard Bank.

Unified Germany Debates Compensation For Estates Seized By Communists

Though there have recently been many interesting debates at the Harvard Law School (some even regarding the law surprisingly enough), it is often

By Julia Anna Alvarez
and Erimar von der Osten

valuable to keep an awareness of legal issues as they develop in other parts of the world. While the media and those in intellectual circles have given great attention to the unification of Germany, an extremely interesting constitutional debate concerning two amendments to the German constitution have been completely ignored. These amendments legalize certain expropriations which occurred between 1945 and 1949 in former East Germany. Many German constitutional law teachers, judges and major German papers address the incorporation of these amendments as a "CONSTITUTIONAL SCANDAL" or "CONSTITUTIONAL PUTSCH." This is precisely the type of debate which readers of the *Harvard Law Record* should have brought to their attention. (All the more so considering the close association which Harvard University and West Germany have shared over the years).

The political developments in Germany, which resulted in the German unification on October 3, 1990, brought forth a number of legislative acts allowing the restoration of private property and providing for compensation of nationalized assets in East Germany. However, excluded from these provisions for restoration and compensation is any property larger than 100 hectares (about 250 acres) which was confiscated during the four years after World War II and before the founding of the

GDR, partially on the basis of orders imposed by the Soviet Union as one of the four occupying powers.

The German government states that this is one part of the price Germany has to pay for the Soviet Union's ap-

above mentioned amendments. The West German government side-stepped this issue, in order to avoid the political controversy which would have resulted from the public airing of the conflicting claims of the State, former landowners,



The German government states that this is one part of the price Germany has to pay for the Soviet Union's approval of unification.

proval of unification. The price, however, is actually paid by the former owners, who were mainly farmers. In many cases these expropriations were originally illegal, since they were neither executed in agreement with the laws of the Allied forces nor even with the orders of the Soviet Military Administration.

These expropriations are now legally recognized by the German Constitution through the inclusion of the

and East German citizens, in anticipation of state and federal elections. Instead it chose to deprive a minority of its citizens of their constitutional rights.

Taxpayers will have to pay for the restructuring of the neglected agricultural areas in the territories of former East Germany and the conservation of thousands of culturally valuable old estate residences because the former owners (who in many cases would be more than willing to invest in such

agricultural projects and architectural / cultural conservation, even if it meant making great personal financial sacrifices) will not have their property restored to them. For some of these people, more than just their former farmlands or homes are at stake. They face the prospect of yet again being deprived without compensation for things which have no equal compensation — homes in which their families resided for centuries, portraits of family members and family heirlooms of great sentimental and historical value.

While these owners of illegally expropriated properties had suddenly been given hope of regaining their lost property at the prospect of a unified Germany, that hope was torn to shreds when it was learned that the State Treasury is planning to sell off these properties.

The last recourse for the minority group of former owners is a case currently before the German Constitutional Court which raises these issues. This pending case should decide whether the amendments to the German constitution are unconstitutional or not, particularly balancing the constitutional goal of restoring the unity of Germany on the one hand and property rights on the other.

The pending case before the German Constitutional Court continues to spark intense debate among scholars, attorneys, and the judiciary in the German press. Considering the importance given to constitutional issues that arise (more frequently now than ever it would appear) under the United States Constitution, it is odd that no attention has been given to these issues underlying the celebrated unification of Germany.

HLS '91: Reflections On Community Peace On The Color Line

"Almost everything serious is difficult," Rilke once wrote, "and everything is serious."

Their were two big things in Gerry Frug's Local Government Law class:

by David Dante Troutt (3-L)

decentralization and participation. At least once a class, Gerry would saunter across the pit in Pound 106 and float a long 'a' syllable in the middle of each word at us. His third favorite word was corporation. He'd float the middle 'a' on that one, too. "Corpor-aaa-tion," he'd tell us. When those didn't work, he'd urge us to consider the public-private distinction. It was not your average Harvard Law School class.

It was only average in that it contained the usual assortment of sycophants, conservatives, people who failed the lottery and got stuck there, CLS wannabes, law reviewers all in a row, and loudmouths like me. But perhaps because local government connotes cities and black students dream of them, there was an unusual number of blacks and other students of color. Unfortunately, HLS can bring out the mean sides of people at times, and I'm afraid Gerry was a victim. The class often gave him the hard stare and silent treatment as he went on so musically, so theoretically, about imagining communities in which people's participation might be enhanced by decentralization.

But it was not your average class when a professor became as passionate as Gerry did, pleading for our imagination. Slowly, we woke up. Comparing Harvard to cities and cities to corporations sparked regular exchanges. Our answers became formidable creatures again, our comments had keen eyes of their own, and all of our questions were above average. By the end, the class was far from usual.

No one went home and recollected her embarrassment in tears. No one maligned his classmates for speaking honestly. We experienced community.

This is part of the work we will be doing from now on, creating communities our parents hardly imagined. Some call it diversity, while we must call it survival.

Such is the seriousness of life at this law school and in the law we will practice. Imperfect as it remains, we experience community. Difficult as it is, we validate each other.

Yet the most serious difficulties at HLS may begin with its leadership. You need not be a person of color to see both the opportunities and the challenges that faculty and ideological diversity present. You need not have taken Gerry Frug's class to ascertain threats to community peace. Your own job interviewer need ask you nothing of protests here for you to recognize the damage that campus chaos can do to the reputation of the school. When I stopped into the Griswold lobby at 4:45 on April 10 to monitor the protest there, I arrived in time to be photographed. Now that I have received my personal threat letter from Dean Clark, I am persuaded that the community must re-evaluate its governance or contend with chaos.

At the outset, there are a few points on which we may all agree. First, the law school comprises a community in which all of us have an enormous present and future interest. While some level of conflict is always healthy, conflict at HLS is out of control. None of us benefits from a re-enactment of the CLS controversy.

Second, the diversity issue is predictably upon this country and will remain so well into the next century. From property tax regulations to the soundness of the Social Security system, issues of mainstream versus mi-

nority interests will assume priority in every major institutional context.

Third, as the magnitude of this debate grows, the leadership of academic institutions such as HLS must facilitate constructive exchange. Decision-making processes will have to reflect the competing legitimacy of arguments on all sides if we expect to move toward resolution. Ultimately, the ability to manage community diversity will join fundraising ability on the list of dean qualifications.

If these observations represent some common ground, they provide measures with which to evaluate Dean Clark's tenure. During the last two years, many of the dean's actions seemed designed to divide rather than to unite this community. A few examples follow.

First Dean Clark clearly miscalculated the level of student interest in public sector alternatives when he terminated Ron Fox's position as public interest job counselor. Massive protests criticized both the form and substance of his action. After a committee was convened, a new public interest office has been established across the hall from Ron Fox's old office with the same number of employees. Was the warfare worth the casualties?

Second is Dean Clark's handling of the Regina Austin protests. The dean's arguments in the press hardly acknowledged the complexity of the issue or the glaring absence of women of color or Latino/a faculty in the history of HLS. Instead, he made defensive statements about meritocracies and explained the months-long appointment process for visiting professors. These remarks provided fodder for more inflamed protests as well as Professor Bell's decision to take a leave of absence. A year later the dean had failed to dignify the law school community with final disposition of the Regina Austin matter. Professor

Austin's denial was simply leaked. Is such conduct conducive to good faith discussions of community-wide conflict?

Finally, when the dean held his own "diversity" forum, he seemed oblivious to the symbolic effect of his panel: five white men and Professor Randall Kennedy. Is the dean really unaware of the alienating effects of his decisions?

Perhaps. It may be that this dean is not a man steeped in the subtle, intensely complicated yet necessary dynamics of a multiracial community in an era of fundamental cultural transition.

But nothing is more indicative of desperate leadership than attempting to use power to inhibit dissent, and the dean's letter of April 23 suggests that he has lost control. When conflict resolution sinks into crisis management and management assumes methods reminiscent of Tienmen Square, we must re-examine ourselves, our community, and our leaders.

I am reminded of Professor Frug's public-private distinction and the necessity of protecting rights we hold in one sphere as vigilantly in another. I am reminded of the hard work students of color endure as they get real in the name of diversity and for the sake of survival. There is a degree of community accountability from which even Harvard is not immune.

At times like this it is easier to leave than to imagine an HLS community in which our participation is enhanced. Still we must. At the end of the year it is hard to evaluate the quality of institutional leadership here. Still we must. Because diversity is more interaction than mere presence. Because community lasts a long time. And because this is a diverse community that can do better.

David Troutt, 3L, is a guest columnist for the RECORD.

An Open Letter To Dean Clark

To Dean Clark:

My purpose for writing you on behalf of my organization is two-fold. First, I would like to commend you for your exemplary handling of the so-called "diversity" issue. The forces arrayed against you are formidable, and undoubtedly the pressures that have been brought to bear on you personally are enormous. I do not pretend to know the full weight of the burdens you bear during this critical period. But, having been subjected to more than my quota, to use the term loosely, of the sanctimonious coercion of self-labeled "diversity" advocates during my three years at HLS, I can only imagine how difficult your ordeal must be. We sympathize, and we thank you.

Second, on behalf of HLS Republicans, I am writing to formally request that you punish the students who blocked the entrance to your office on April 12, in accordance with the rules and regulations governing HLS student conduct. Our chief concern is not that these students be punished for punishment's sake, although there can be little question that willing violators of HLS's common order deserve the penalties they receive. Rather, we fear that if you refuse to reprimand these students for their flagrantly illegal actions, the forces that to this point have been content with menacing your office will aim their sights on other inviting targets. And judging from the long history of political pogroms conducted against HLS Republicans, that means us.

From its establishment in 1986, HLS Republicans has encountered unremitting hostility from many of the same full-time radicals who are now laying siege to your office. The most famous incident was one protestor's throttling of *contra* leader Adolfo Calero in 1987. But that was only the most publicized incident. Since that time HLS Republicans has endured countless attacks which the media have ignored, mainly in the form of systematic suppression of our freedom of speech through the destruction of our flyers on campus. Moreover, if one has followed articles in the HLS *Record* lately, one will have recognized that there is an

emerging consensus that Republicans and non-leftists at HLS are "whiners" if they decry such organized intimidation, either in the classroom or in student organizations like HLS Republicans.

Let us be clear about what this represents: a classic totalitarian mindset committed to the bald denial of fundamental rights, in this case the right of free speech for a beleaguered political minority. This attitude is truly indistinguishable from that of the Nazis, with all the predictable consequences for the rights of the minorities disfavored by the regime in power. Perhaps the most bitter irony of a bitterly ironic "diversity" movement is that part and parcel of their effort to secure greater faculty representation for select minorities is the brutal denial of the basic liberties of other minorities — i.e., Republicans and non-leftists — at this law school. If you decline to impose any penalties for the April 12 blockade of your office, such a decision will signal to extremists at this institution that they can act with impunity. That would usher in a very dangerous period for a group like HLS Republicans, which cannot be sure of its ability to ward off a committed and powerful adversary which knows there is no threat of punishment.

The most recent spate of protests is an all-too-familiar throwback to the outlawry that swept American campuses in the 1960's, and which seems to be congealing in today's universities as unabashedly intolerant "political correctness." The nation is just beginning to realize the threat to academic freedom that the "PC" movement poses. A failure to hold the protestors of April 12 accountable for their conduct will all but ensure that "PC" will become the official ideology of Harvard Law School. And that, of course, will mean the extinction of our organization. We urge you to punish the April 12 activists with sufficient severity to deter them and like-minded offenders in the future. Quite literally, our existence depends on it.

—Andrew P. Thomas, 3L
Out-going President, HLS Republicans

Outcry At Georgetown Unfounded

After reading about the controversy at Georgetown Law School, I realized that many of the issues raised by that scandal are intrinsic to our campus' debate about diversity. Timothy Maguire,

By Francis Phillip
Guest Columnist

the Georgetown student at the center of the debate, alleges that the median LSAT scores of Blacks admitted to the Georgetown Law Center in 1988 was 7 points lower than the median for white students; therefore, the "academic credentials" of Black students at Georgetown are "dramatically unequal" to whites.

However, for Maguire to believe that Georgetown Blacks have inferior credentials to their white classmates based on the LSAT, he must have assumed that the test is unbiased and that Blacks and whites compete on equal footing in this country. These assumptions are at the heart of the affirmative action debate.

If it is biased to treat people in the same situations differently, then it is also biased to treat people in different situations synonymously. If Blacks do face discrimination in America, (which I take as an undeniable given), and if standardized tests are biased, (which also has been empirically shown), then it is illogical to expect Blacks to have the same LSAT scores as Whites.

Having experienced racism in many forms, I know it exists in this country. However, what concerns me is not that many people don't share my perceptions about Black life in America, but that they haven't even bothered to challenge their assumptions about this society.

I have heard many people complain about reverse discrimination and state a litany of reasons why affirmative action is discriminatory. However, very few of the people complaining have discussed the possibility that Blacks face discrimination or that the standards currently used favor others. Even when they have admitted the possibility that racism exists or that standardized tests are biased, they tend to minimize their degrees of importance.

New York State has stopped using

SAT scores in determining Regents Scholarships because it discovered that, while females, state-wide, consistently achieved better math scores on other exams, males consistently outperformed females on the math portion of the SAT.

In the 1950's, an IQ test, similar to the ones still used today, was deemed defective and was discarded because Blacks did better than they were expected to do on the exam.

Critics of these results have argued that these tests can not be racially biased because other minority groups, Asians for example, have done exceptionally well on standardized tests. One response to this criticism is that some minority groups do better than others because their performance on these exams is dependent on their ability to assimilate into the larger society. As a result, Blacks may be disadvantaged in testing because of the continuing resistance by the larger society to permit them to integrate. Do these examples prove that standardized tests are definitely discriminatory? No, but they are at least enough to begin an honest inquiry, something that hasn't been done in significant scope.

Why didn't Maguire investigate how impartial the LSAT is before he released his findings? Why didn't he consider what impact discrimination may have had on Black test scores before declaring Black law students unqualified? Why are so many people so blindly willing to accept the standards of our society as being objective, while not recognizing that they are the ones for whom the standards were designed?

I am tired of hearing the endless whining of those who immediately scream reverse discrimination and call for a meritocracy whenever affirmative action programs are used. Moreover, I am disgusted that universities, like Georgetown, would treat affirmative action like a dirty little secret rather than a program with legitimate justifications.

However, what really troubles me is that, rather than honestly evaluating admittance criteria to see if they are fair, many people simply want to accept the standards as they are and to pretend that they are an objective measure of merit.

Democrats Ain't Dead Yet

"The Democratic party of the nation ain't dead, though it's been givin' a lifelike imitation of a corpse for several years."

George Washington Plunkitt
Tammany Hall Boss, 1905

With President Bush's popularity hovering around an all-time high and a

By Rich Wareing

dearth of high-profile Presidential challengers, the Democratic Party seems once again headed for defeat in 1992. Despite the success Democrats have enjoyed in Congressional elections in the last two decades, only one Democrat has occupied the Oval Office in that period. Can the Democrats do anything about this in 1992? I believe they can, but it will not be easy. Demographics and public opinion are against them, and victory will require that they quickly re-define themselves and assemble a new coalition of voters for the first time in 60 years.

George Bush's popularity with the American electorate will be difficult to overcome as long as he is able to focus attention on our victory in the Gulf and away from thorny issues such as the deficit, education, the economy, and the environment, as well as the darker implications of the Gulf War, such as the Kurdish refugee crisis and the potential for future civil war and instability in Iraq and the Middle East.

As long as he is able to do this, the real Democratic contenders, New York Governor Mario Cuomo and Texas Senator Lloyd Bentsen (and perhaps Tennessee Senator Albert Gore) are likely to remain on the sidelines. This will leave the Democrats with only longshots such as former Massachusetts Senator Paul Tsongas (that's song-us for you non-Bay Staters), one-time candidate George McGovern, and the nation's only black governor, Douglas Wilder of Virginia, along with the Rev. Jesse Jackson and the usual crowd of Fritz Hollings, Paul Simons, and Jerry Browns.

If, however, American somehow becomes entangled in a prolonged military conflict in Iraq, the internal political situation there continues to crumble, or the domestic economy worsens, then the President's position might well start to decline towards the pre-Gulf War 50% mark. Whether or not this occurs depends considerably on Bush's own political skills, but forces beyond the President's control (as well as fate) could conspire to create an opening for the Democrats. At this point, one of the stronger candidates might enter the race, or one of the longshots could conceivably pick up steam. Even assuming that a swing in public opinion creates an opening for the Democrats, they must be able to capitalize upon it with a candidate who can convey to the American people that the Democrats are competent, as well as concerned, and have practical solutions, and not just partisan criticism, to offer. This is largely a matter of personality and packaging, as well as developing a coherent and simple message, but it is absolutely essential to Democratic hopes in 1992.

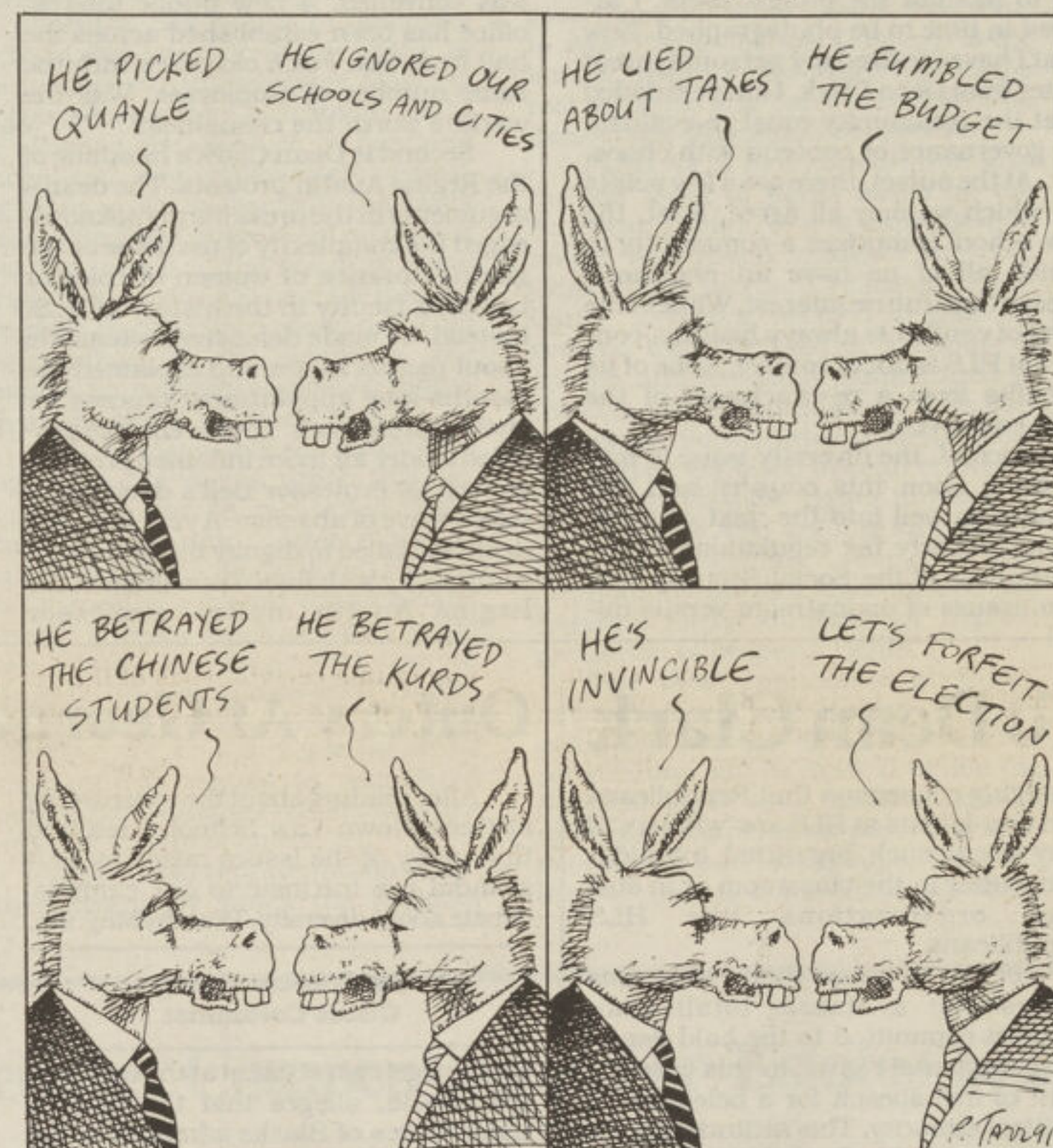
Even with a candidate, the demographics are stacked against the Democrats, and it will take considerable effort to assemble a winning coalition. To win, the Democrats must assemble a coalition of Eastern, Mid-Atlantic states, and Midwestern states, California, (and Hawaii and probably Washington) and possibly one or two Southern states. Given the demographics and the political realities in these states, this will not be easy.

The last 20 years have seen an exodus of population from the Northeast and Midwest to the Sun Belt and far West. This, coupled with a massive wave of immigration has shifted the locus of electoral power away from Democratic strongholds like Illinois, Massachusetts, and New York, to GOP bulwarks like Florida, Texas, and California. Essential to Democratic hopes in 1992, and indeed beyond, is the

ability to rebuild a credible party organization in each of these states, especially California and Texas, and throughout the far West in general.

Also, Eastern and Midwestern blue collar elements are no longer the automatic votes they once were (they don't call them "Reagan Democrats" for nothing). Since 1968, there has been a growing rift between old-line Democrats and elements of the "New Left" and minorities.

For the Democrats to have any chance at all in 1992, they must secure at least a portion of their right flank through a more moderate stance on issues such as crime, urban and industrial decay taxes, social spending, the military and foreign affairs, without alienating the party's core of minorities and progressives. This is especially critical in states such as Illinois, Ohio, Michigan, and Pennsylvania, where victory rests on the hopes of uniting



TARR is courtesy of the Crimson

blacks and white blue collar elements.

This will also require difficult philosophical and practical compromises about affirmative action, the environment, the current direction of welfare policy, military spending, and the role of the U.S. abroad. The Democratic nominee will have to be able to balance these competing and often conflicting issues in such a way as to convince liberals that he (and I assume, based on the field of candidates and history, that it will be a he) may be hard-nosed and practical, but that he is also compassionate and has a vision of a better, more just nation. At the same time he must convince more moderate and conservative voters that he may be caring, but he is no wimp, and can make tough decisions and lead decisively.

While the Democrats remain in disarray and lack any high-profile candidates, there are 15 months until the national conventions. In such a political eternity, almost anything could happen. So don't send flowers and put on black for the Democratic party yet, because there might just be some life left in that old corpse. Maybe.

Rich Wareing is a member of the Executive Board of the HLS Democrats and is active in Massachusetts Democratic politics.

GOP: King Of The Hill

The American public elects presidents on the basis of three factors: national security, the economy, and

By Jim Bowen

what might be characterized as "personality." First, national security: unless there's some unforeseen development on the horizon (and eighteen months is a long time), the Party of Appeasement has no one who can match WWII's youngest navy pilot, Lieutenant George Bush, who grew up to preside over the fall of the Soviet bloc, the Panama operation, and the liberation of Kuwait. No contest here.

The economy's not going to give the Democrats much help either. Contrary to popular belief in academia (which presumes to solve all social wrongs with government money), ordinary working Americans resent paying taxes — and they pay a lot of them. They

Democratic pack. The best the Democrats possibly can do here is break even; this gives the Republicans a clear edge on national security and probable wins on the issues of economy and personality.

On behalf of the Democrats, it should be remembered that there's always '96. If a credible candidate can emerge as the party's standard bearer and survive the elections without humiliation, he or she will be in a position to present the Democratic alternative for four years, then run in 1996 with the benefits of hindsight and experience.

Another reason to run is to help shape the party. The Democrats' schisms must, inevitably, be addressed if the party is ever to regain the presidency. Better that the party resolve the bloody struggle in 1992 than four years later, when infighting could scuttle a winnable election.

So who's going to get the nod? Senator Tsongas has a message last heard from the Democrats in 1960, from another Massachusetts Senator: we can afford progressive programs, but only if we have enough economic growth to generate surplus wealth. It makes a lot of sense, but sounds suspiciously like the claim that "a rising tide lifts all boats" — the old trickle-down "voodoo economics." Its not likely to be a winning message for the party of Hubert Humphrey.

Governor Wilder has potential. He's deflated the race issue, but his spotty track record in his short tenure as Virginia's governor will give him some trouble.

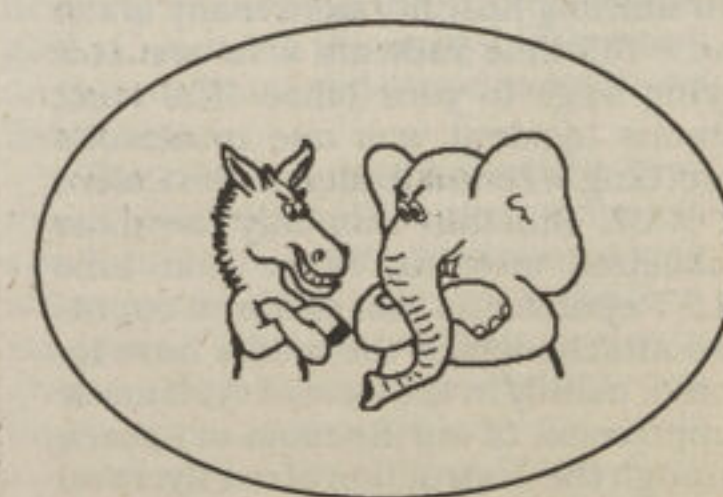
Former Senator McGovern would be a dream candidate for the GOP. He was a liberal out of touch with America in 1972; the Republicans' "evil media geniuses" won't have any trouble convincing the electorate that he's still liberal and still out of touch.

Senator Gore voted for the war and served in Vietnam (albeit as a photographer). He's arguably the only Democrat with a prayer of neutralizing the national security issue. He's also the only prospective candidate who can realistically challenge Bush in the South. Both of these qualifications doom him in the nominating process, unless the national Democratic party markedly shifts to the center.

Whither Hamlet of Albany? His state is in a fiscal crisis almost as bad as California's, which could make a national campaign political suicide. If the crisis were resolved, Governor Cuomo could be an attractive candidate. He's a rousing speaker on the stump. He could emerge from a well-fought 1992 campaign as the de facto leader of his party, positioning him for '96 run for all the marbles. But would the country elect a Northeastern ethnic liberal Democratic governor to be the President of the United States?

Not in 1992 it won't. The GOP's advantages on national security and the economy confront the Democrats with the choice of being the party of weakness and welfare indefinitely, or of moving to the center. If it chooses the former, it will forever hamper presidential nominees; but if it chooses the latter, will it still be the Democratic party?

Mr. Bowen, LL, is the President-elect of the HLS Republicans. He cautions that any views expressed in this article are his own only.



Clark

continued from page 1

ers, and a lot of work trying to get people together.

So, I would say that is the most challenging part of the job. The most boring part is the paperwork. But most parts are very good. I want to emphasize that: the great majority of what I do is actually quite a bit of fun.

RECORD: What's the most rewarding part of your job?

CLARK: I would have to say that it is attending workshops, and reading the works of people who are being considered for appointments, just because that's more intellectual, more of what I am used to doing. It stimulates the brain, gets you going, part of the life of the mind.

I also enjoy meeting with alumni and talking to them about the school's plans and kind of describe what we're trying to do. I like working with the faculty when we're not about to vote on something. I enjoy my colleagues quite a bit, and I miss teaching. I wish the job had not grown so complicated that it is just not feasible for me to teach, because I really do enjoy the classroom. I don't like reading bluebooks, but I do like the actual process of being up their explaining things.

RECORD: Do you ever see yourself returning to the classroom?

CLARK: Yes, I do. The main reason it is impossible now is the campaign we are trying to launch. We haven't had a comprehensive capital campaign in over twenty years. The last one was started by Griswold and finished by Derek Bok in the year or so that he was here. So that is quite a while ago.

It really adds about another 1/3 to the job of the Deanship. That's about how much time I spend on that, seeing people, well, external relations in general. Not just money raising, but reminding people, giving speeches, meeting people, visitors and all that.

It's larger now than it ought to be permanently, but it's unavoidably so if we are going to re-tool the school for the future. So when that campaign is

under way in a year or two, I can foresee getting back to teaching. I very much want to do it.

RECORD: Does Harvard Law School have a mission?

CLARK: Yes, absolutely. Its mission is to contribute to legal education and legal research. That is, it should try to be a center of learning about law and legal institutions. It should not only preserve, but also produce new knowledge and insights about law and convey it through the written word and through training students who are going to be leaders of the profession. One of our main functions is to produce the leaders in legal profession of this country. That's really true. A disproportionate number of our graduates get into the top echelons in practice and in companies and in non-profit organizations. I am very proud that. I see it as not only something to be proud of, but it imposes an enormous amount of responsibility on us not to mess it up and to make people as best prepared as we can.

RECORD: What's your job in seeing that mission come to its fruition?

CLARK: Well, there are many parts to the job. The main job is simply to keep one's eye on the ball: what is it we are actually trying to do. We are trying to prepare students to be functioning, honest, high-quality members of the profession.

We should always be thinking about whether our education actually equips people for that. That education is not just a sport or something we do because the faculty enjoys it or students enjoy it. It has to be looking towards the future, towards careers. The same with the research. It should be looking towards understanding the world so that at some point it becomes improved as a result of our efforts.

Concretely, that means we, as Dean, I should be concerned about faculty development and faculty recruitment. Faculty development in the sense of giving people the resources and the encouragement and the incentives to be the very best scholars and teachers they can. So I worry about things like paying our people enough to keep them here, and getting recognition when they do great work, whether they have adequate advice about

teaching. I hope to institute some programs for the new assistant professors to get them, in a more systematic way, exposed to the techniques of the older teachers who are recognized as great.

On the research and intellectual side, I am a big supporter of faculty workshops. That's a main thing that we have done. We have really beefed-up that program of faculty presentations at luncheons. I am not sure if you are aware of that, but it's a big thing now. Just about every other week, somebody on the faculty, the last few months it's been visitors mostly, will present a paper and everyone will discuss it over lunch. Things like this are really important: giving people a sense that there is intellectual life around here and that their ideas can be heard and reacted to.

That is one thing an institution can do. It can facilitate that kind of activity which gives people an incentive and feedback on what they are doing. And, I have helped raise funds for some of the other things, like the "Law and Economics Program" which has a workshop, and the school supports the "Legal History Program," the "Law and Governance Program," and the "East Asian Legal Studies." I have to work to make all of those things a reality.

RECORD: According to a recent poll by "U.S. News and World Report," Harvard is the second best law school in the country. Are you pleased with that ranking?

CLARK: Students should have a fair amount of input into determining it, and they do by a lot of their choices. Simply by deciding whether to come here, that's a form of discipline of the school. If people stop applying to get in, that tells you that something is wrong. In our case, people have not stopped, it's been quite the opposite. Applicants keep going up and the qualifications keep getting better.

Another form of influence is when students choose which courses to take. I'm a big believer in, if anything, expanding the range of choice as opposed to mandating certain parts of the curriculum because I think it's a healthy discipline. It's one of the most sensible ways that student input can be registered.

If a particular course doesn't get

many people signing up for it, that's a sign that something is wrong. Teaching evaluations are important in making appointment decisions. That's another checkpoint. And I think student organizations legitimately will petition for particular subject matters to be covered or offered.

In some ways, students reflect the market better than the professors because they may have gone out on a summer job, or they know what they want to do and they want to get something that they perceive is more relevant to that, or at least an explanation why other training is actually better for them in the long run. So I see students having a lot of influence, and properly so, on the curriculum.

RECORD: What about the way students have been going about it more recently?

CLARK: Well, students in general, there are many different groups. If you point to the CCR group, or the people who are blocking offices here, I think they are about one percent of the student body. That's not exactly representative. You can't refer to them as "the students." I don't think they represent everybody.

I get input from many different types of people, from many organizations. A lot of it is conflicting, a lot of it is just different. There are some people who are all worked-up about why don't we have more courses in information technology and the law, or the environment, or other stuff like art and the law. I got a petition on that. So, there are a lot of influences here. It's hard to sort them all out.

RECORD: So what would you say to CCR? What's the recommended approach for getting their particular issue heard?

CLARK: I think their issue is heard. I think what is more needed is extended, reasoned argument rather than sloganeering or pressure tactics. I suppose that some of the leaders feel pretty strongly that it's only pressure tactics that work. But I think they are profoundly wrong, that in the end it backfires. The only way you can change the faculty is by convincing them that their point of view is right. That requires a lot of work.

Clark page 12

Controversy

continued from page 4

Third, people should admit to and learn from their mistakes. CCR summarily dismissed umbrage against its disruption of the classrooms of Kathleen Sullivan and Randall Kennedy with the simple statement that this action "was part of a necessary protest" [April 22 CCR Open Letter]. If Dean Clark were to offer a similarly cavalier "justification" for the targeted harassment of one woman professor and one African-American professor, CCR would likely find this proffered explanation exceptionally inadequate. Members of CCR should not attempt to ignore or rationalize the incongruity between their own disparate treatment of these two professors and CCR's demand that HLS display special attention to the needs of minority and women faculty members. The most generous interpretation of CCR's exclusive disruption of Professor Sullivan's and Professor Kennedy's classrooms is that this ill-conceived act was performed by committed and well-intentioned individuals who did not realize the adverse disparate impact of its acts. CCR should recognize this fact, and ponder whether not this description might not also accurately describe Dean Clark and the rest of the faculty appointments committee. Without such self-reflection, CCR risks becoming precisely what it alleges that the HLS administration has become: vicious, intolerant, and convinced that it can do no wrong.

Anonymous

Enquirer

continued from page 4

of your newspaper?" While the *Harvard Law Record* is reporting on old crimes, spreading rumors, and quoting professors out of context, the national media and the *Harvard Gazette* were reporting on Professor Frank Michelman's University Professorship appointment. Most of your readers do not know the extent of Professor Michelman's achievement, because you were too busy printing rumors and innuendos on the front page to find the room for an article explaining that Professor Michelman has achieved the highest academic distinction that Harvard can bestow.

Please rethink your approach to campus news. Instead of a law school newspaper, the *Harvard Law Record* is beginning to resemble a fascist version of the *National Enquirer*.

—Charisse Carney, 2L
Nicole Lamb, 3L

Note

continued from page 4

Does diversity not include lesbians and gays? Or does diversity only include gays and lesbians when they use non-controversial tactics? I do not always agree with the means used by Queer Nation anymore than I always agree with the means used by the current HLS "pro-diversity" forces, but I would hesitate to silence either group by erasing its messages.

—M. Courtney Koger, 3L

Open Letter

continued from page 4

Should law students get refunds for salary paid to professors whose scholarship they find impractically obscure?

Clearly, a University should not and cannot be run with a refund request system; neither should a University's health services.

Women's Law Association

Committee On Gay, Bisexual and Lesbian Legal Issues

Please submit all
letters to the Editor
to the RECORD office.

We would greatly appreciate
if they were in Word Perfect.

Thank You.



Weiler

continued from page 1

noted Harvard professor David Rosenberg, who litigated DES litigation. The team studied recent experiences with high-stakes tort litigation over product, medical, occupational, and environmental injuries, preparing dozens of background studies about how well tort litigation has done in comparison with health and safety regulation, public and private social insurance, no-fault workers' compensation, and other well-established personal injury programs.

Weiler said the report was the "first truly even handed look at this problem area. [It is] a report that recognizes the considerable administrative waste and business dislocation generated by tort litigation, but that also insists on the indispensable value of the private model of civil justice in securing a measure of compensation for and effective prevention of the host of personal injuries that are left unattended by our other social institutions."

"The aim of this report," Weiler continued, "is to present the case for major changes that will enhance the value of the tort system for the people who need it, while reducing the unnecessary burdened imposed on enterprise that must foot the bill."

The report made recommendations in a number of areas:

1. Damage Awards

The report names large, unpredictable damage awards from juries as the major problem for businesses in tort litigation. To make awards more predictable the report calls for major alterations to the current method of award determination.

The report, first, calls for scales for pain and suffering damages that attach specified dollar amounts to a number of standardized disability profiles for certain injuries. The scale would provide clear guidance to parties for determining the monetary value of their own particular case and an authoritative standard for judges reviewing jury verdicts.

Punitive damage treatment would also change. The report recommends legal changes that would specify more clearly when firms would be exposed to penal awards beyond the compensation payable to the injured victim and would tighten the criteria for calculating the size of a punitive award. One change would be that no references to the wealth or assets of the defendant would be allowed.

In order to insure adequate compensation of the financial losses of victims and to provide sufficient legal and financial incentives for firms to reduce injuries and avoid suits, the report recommends the adoption of the principle that reasonable legal fees incurred by a successful plaintiff should be treated as an additional category of damages to be paid by

the tortfeasor. This would be the first system of its kind in America.

The report also endorses the contingent fee now widely employed because it provides incentives for plaintiff's attorneys to take or not take a case. The report, however, urges refinements to enhance the lawyer's incentive to drop or settle claims where doing so appears sensible.

2. Mass Tort Claims

The report concludes that, contrary to popular belief, the country does not have too many spurious tort claims. The report found evidence from recent empirical investigation is that only a small fraction of victims of medical or product injuries bring suit, much less collect damages.

A particular instance of this tort gap concerns environmental litigation. Despite occasional highly publicized cases, remarkably few successful suits have been brought by the victims of toxic environmental exposures in the last two decades. To help remove some of the barriers to such suits and improve the way in which mass tort claims are handled, the report recommends several key changes.

The report urges the creation of a legal facility for consolidating multiple tort claims arising out of the same episode or source into a single class action. The report also recommends a procedure for utilizing

nonpartisan science experts to assist courts in resolving complex, hotly contested scientific questions within the adversarial process.

To facilitate suits about cases of toxic exposure where the symptoms have not manifested themselves, the report recommends the awarding of funds to cover the expenses of systematic medical monitoring and investigation among the exposed victims.

Finally, the report recommends the prorating of damages payable to disease victims in light of the statistical likelihood that a particular disease is attributable to the defendant rather than another source. This proposal, which has been endorsed widely by tort scholars but not by any court, would help ease the burden imposed on plaintiffs to demonstrate individual causal connections.

3. A Pluralistic Personal Injury Universe.

The study endeavored to situate the tort system within the broader institutional landscape, rather than as an isolated response to personal injury. Looking at the area from this point of view, the report developed a number of changes designed to dovetail civil litigation.

The report recommends the "collateral source offset" rule that would make tort liability insurance secondary to cheaper programs such as public or private loss insurance for compensating victims. The report-

ers also endorse a "regulatory compliance tort defense" that would be available to firms that relied on administrative agencies concerning the safety of the firm's activity or product. The defense would preclude juries from second guessing expert judgments made by agencies, although the defense would only be available only to defendants that had fully informed the agency of the relevant facts.

Product liability would be changed to generate more helpful information and warnings to the purchasers and users of products in order to enhance the potential value of competitive markets to reduce the risk of injury.

Weiler noted that these and other innovations are designed to make the tort system "more productive for its intended beneficiaries and more bearable by the enterprises that are subject to it."

The American Law Institute commissioned the study in 1986, under the leadership of Richard Stewart. When Stewart left to go to the Justice Department, Weiler succeeded him. The team of legal scholars included Kenneth Abraham from Virginia, Robert Rabin of Stanford, Alan Schwartz of Yale, and Kip Viscusi of Duke. The general membership of the Institute will begin its own discussions of the report at its annual meeting in May.

Clark

continued from page 11

RECORD: Why did you feel compelled to write the letter?

CLARK: I didn't feel compelled.

RECORD: Okay, why did you write the letter?

CLARK: Why did I write the letter? To give, as it said, to put people on the clearest possible warning that certain behaviors can't be accepted. Behavior that is already prohibited, very clearly, by university rules.

What was done on that particular day was the basis for sanctions. I took probably the mildest possible approach, which was to write a letter. Not even an official reprimand which goes on a transcript, but just a personal letter and I didn't broadcast the names. I was just sort of telling people that "you got one free, but not any more."

It would be quite within the rights of the school to start disciplinary proceedings right now before the Ad. Board. But, I thought that might be too much at this time. So, I see myself as being excessively nice in that regard, and so I've been told.

The reaction to that letter has been, across the board. I have some students writing me saying "it's a mere slap on the wrist, you should, especially the people who went into the classrooms, should be suspended or something, and why don't you do that." Then other people are saying "well you did just right" and still others are saying that somehow it's a crime to be photographed in public.

RECORD: What do you say to students who say that it's beyond the point of extended, reasoned argument, now is the time for heightened action?

CLARK: I say they are quite wrong, and they have a lost perspective on the history here and elsewhere. In any kind of institutional sense, if you look back at this school over the last ten years, you can see that lot's

of things have changed. Maybe it doesn't seem that way when you are just here for three years, but there in fact have been a lot of changes.

RECORD: What do you think of the Political Correctness movement in general? Does it in fact exist?

CLARK: (That's so amorphous it's hard to deal with.) The talk about political correctness has a point. It seems fairly clear to me that the majority view at many places, including the Harvard Law School, has a very liberal cast to it. There are certain subjects and ideas and thoughts that are taboo, and that regularly receive some form of social sanction.

So, it's true. There is a lot of political correctness in the air. What's interesting now is that there are people that are challenging it. It's still a minority but a bigger, somewhat more encouraged group than before. Where it will all go, who knows?

RECORD: How do you feel towards it?

CLARK: Basically, I sympathize with the challenge to be politically correct. I think it's long overdue. But, of course, I don't want to associate myself with any particular strident statement about any subject. One can make anti-p.c. into a hobbyhorse that has some of the same characteristics as p.c. I'm more for relaxed, free, and open discussion: everyone able to say what there ideas really are and be subject to counter argument.

RECORD: What do you think of diversity as it's being defined here?

CLARK: (That's too general of a question.) I think there are many forms of diversity. It's a shame in a way that the debate gets so limited to race and gender and ethnic or sexual orientation when there are lots of other dimensions that aren't really part of the standard debate, which is Allen Dershowitz's point. I think he may have overstated it, but he is right in a way.

The faculty and the student body doesn't really see the whole

set of possibilities. I also think that the primary concerns of the school are to ensure the quality of the education and research. So, I insist that we look for the best scholar that we can get in any particular field: people who are very good teachers and who work in areas where we have significant needs.

Those things that I mentioned don't always fit together. I grant that, but I also think having diversity is a value too. It's one of the whole set. To make it the only thing to focus on right away can lead you into trouble in terms of the other things. If you try to do every thing at once.

RECORD: So would you say you most closely align yourself with Professor Michelman's sentiments as expressed at the forum and the teach-in?

CLARK: Well, it's similar. It's in the same universe of discourse as Michelman's views. Except I know that when you get down to specific cases, I value certain things more highly than some of my colleagues. I think part of what we have to learn is how to adjust our preferences.

I value knowledge of law very highly. I think it would be great to have people who are not only general legal theorists, but actually knew a lot of hard law about certain subject matters that are not well represented on our faculty like environmental law. We have Professor Stewart but he's not here now.

Other people wouldn't see that as so important, so there are many differences.

RECORD: Have the protests made you defiant not to offer a woman of color a tenured position to sort of show the rest of the world that you are not giving in?

CLARK: No, basically not. I try to keep myself feeling as free to do what I think is right. I think it would be a bad reaction for a faculty member or a Dean to say "well, here's something we would've done but

because now it will look as if we are being forced, we won't." I don't like to reward bad or disruptive behavior that goes beyond the rules, but on the other hand, you have to do what you think is right for the institution: to neither get pushed into doing anything or deterred from it.

That's obviously hard to do. But I think all members of the faculty, when they are working on appointments ought to think that way. Think about what's right, what's good on the merits, rather than respond to pressure or to react either way.

RECORD: Have the protests here scared anybody away?

CLARK: You mean caused a backfire reaction? Probably a little bit, yes. I think it has caused some bad feelings and I think it has alienated some fellow students too. I am a little more in touch with faculty members than I think a surprising number of them are. But faculty members don't get as much upset about it as students do. You know, the demonstration is not in front of their office it's in front of the Dean's Office. The Dean is getting paid to do that. They can just stay home, and read a book.

RECORD: If you could redo the past year, since Professor Bell announced his protest, would you have handled anything differently?

CLARK: There might be some things. You mean in dealing with the agitations about diversity?

RECORD: Yes.

CLARK: No I don't think so, no major thing. The things that I would change don't have to do with diversity so much as with dealing with my colleagues in a different way, in terms of getting to them sooner, in a more personal way. I'm looking forward to trying a new approach next year.

I'm happy with our results this year. We did a lot. But, there were some parts that didn't go as smoothly as they should've.

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

Copyright 1990 by the Harvard Law School Record Corporation and by the contributors.

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

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

Each alumnus/a receiving a RECORD subscription through the Harvard Law School Assn. should be on notice that \$5.80 of H.L.S.A. annual dues are used to purchase the RECORD subscription he or she receives. Dues are paid at any time during the H.L.S.A. fiscal year that began in April 1, 1990 and ends in March 1991 will purchase a subscription that begins in September 1990 and expires in May 1991, and so on in following years.

return address:
HARVARD LAW SCHOOL
HARVARD LAW SCHOOL
ASSOCIATION
HARVARD LAW SCHOOL
CAMBRIDGE, MA 02138-9984

SECOND-CLASS POSTAGE
PAID AT BOSTON, MA
AND ADDITIONAL OFFICES

6097-110