



Harvard Law Record

Volume 93, No. 1

America's Oldest Law School Newspaper

September 13, 1991

Charny Gets Tenure

Popular Professor Makes The Grade

David Charny '82 has been granted tenure. He has been assistant professor at HLS since 1985. "David Charny's

by George Paul
Executive Editor

work in contract and corporate law will enrich the School for many years to come," said Dean Robert Clark. His promotion makes me very happy for our students, for he is one

of our very best teachers."

Professor Reinier Kraakman said of Charny's promotion, "I am delighted. He is a leading younger scholar in contracts and corporate law. He has written pathbreaking articles on bedrock issues in contract law, including the legal analysis of informal contractual relationships and the rationale for judicially supplied terms in contracts. He is one of the Law School's beset

teachers. And he is a wonderful colleague, whose insightful comments on drafts and at faculty workshops are widely appreciated."

Charny's current research concerns mechanisms for protecting stakeholder interests, regulation of employer-sponsored medical insurance programs, and choices between centralized and decentralized rulemaking. His writings include "Nonlegal Sanctions in Commercial Relationships," "Models of Ethical Regulation," and "Collateral Estoppel in Section 1983 Actions" in *Harvard Law Review*, and, most recently, "Hypothetical Bargains" in June 1991 issue of the *Michigan Law Review*, and "Competition Among Jurisdictions in Formulating Law Rules" in the Spring 1991 issue of *Harvard International Law Journal*.

Charny received a B.A. *summa cum laude* from Yale University in 1977 and his J.D. *magna cum laude*. Before joining the Law School faculty, he served as a law clerk for Judge Malcolm R. Wilkey of the U.S. Court of Appeals for the District of Columbia Circuit, and for Justice Lewis F. Powell, Jr., of the U.S. Supreme Court.

Outgoing Justice Has Surgery To Implant Pacemaker

Last Friday, September 6, outgoing Supreme Court Justice Thurgood Marshall underwent surgery to implant a

the hospital after complaining of light-headedness on September 4. Justice Marshall has remained in the hospital since that day.

Commander Clyde said the 83 year-old Justice had remained "awake during the procedure and tolerated it well." The announcement did not say when he would be released.

Marshall, the only black Justice in the Court's history, said in June that health had been a factor in his decision to leave the Court after 24 years. He is to retire as soon as a successor is confirmed by the Senate.

He suffered a heart attack in 1976, has had bouts of pneumonia and bronchitis, and was hospitalized in 1987 with a blood clot in his right foot and in 1990 for a fall in Chicago.

From the Associated Press

pacemaker in his chest at the Bethesda Naval Medical Center. A spokesman for the hospital said Marshall is "resting comfortably and in good spirits."

"The pacemaker is functioning as expected," said the spokesman, Lieutenant Commander Bill Clyde.

Commander Clyde said the pacemaker had been implanted "to treat an abnormally slow heart rate."

The condition was discovered during extensive evaluation of Marshall while under examination after being admitted to



Then and Now: David Charny as newly tenured professor, (left) and as a newly admitted first-year law student (right). He is popular for his personable teaching methods.

Fourteen Kaufman Fellowships Begin Legal Careers In The Public Sector

Dean Robert Clark '72 has announced the second annual Kaufman fellowships from the School's \$1 million program

By Staff

to develop a corps of legal professionals dedicated to public service. The Law School has awarded 14 Fellowships of \$5,000 each to graduating students and alumni "who demonstrate truly exceptional promise for a career in public service or public interest work," said Clark. "The program is the best of its type in the country."

Low income persons living with AIDS/ARC, poor and minority victims of environmental crimes, victims of domestic violence, death row inmates, international victims of human rights violations, and Native Americans will be served by the 1991 Irving R. Kaufman Public Service Fellows: *Sandra Babcock '91, Texas Resource Center, Houston, Texas; *Amy Baron-Evans '91, North Carolina Resource Center, Raleigh, North Carolina; *Stacy Brustin '89, Ayuda, Clinica Legal Latina, Washington, D.C.; *Luke Cole '89, California Rural Legal Assistance Foundation

and Natural Resources Defense Council, San Francisco, California;

*Jennifer Green '91, Center for Constitutional Rights, New York, New York;

*Suzanne Groisser '91, Manhattan District Attorney, New York, New York;

*Susan Warren '90, DNA-People's Legal Services, Inc., Chinle, Arizona; and

*Jeffrey Selbin '89 (Honorary Fellow) Berkeley Community Law Center, Berkeley, California.

They will join the 1990 Kaufman Fellows, who have received fellowships for a second year.

*Sarah Buel '90, District Attorney's Office, Norfolk County, Massachusetts;

*Robert Owen '89, Texas Appellate Practice and Educational Resource Center, Austin, Texas;

*Lisa Ferrell '90, District Attorney's Office, Pulaski County, Arkansas;

*Edmund Goodman '89, Native American Program, Oregon Legal Services, Portland, Oregon;

*LaJuana Davis '90, Alabama Capital Representation Resource Center, Montgomery, Alabama; and *Natalie Hanlon '89, Welfare Reform/Self-Sufficiency Project, Legal Aid Society of Metropolitan Denver,

Colorado.

Said Dean Clark, "The Kaufman Fellows evidence a remarkable commitment to public service. While the Fellowship is intended to honor these individuals, it is clear to me that the Harvard Law School is honored by its association with these alumni."

The fellowship program is named for Judge Kaufman of the Second Circuit Court of Appeals and honors his distinguished career of public service. The program is funded by The Annenberg Foundation.

"Harvard has created in my name a permanent fellowship to promote public service - the first and only one of its kind," said Judge Kaufman. "In looking back on the exemplary achievements of the first group of Kaufman fellows, and in congratulating the new students honored in 1991, I am particularly pleased to note an increase in the number of extraordinary qualified candidates seeking careers in the field of public service. Such dedication bodes well for this country's next generation of lawyers and citizens. I am proud to lend my name to a fellowship that enables students to fulfill these noble goals."

North Hall Opens Its Doors

Harvard Law School's newest dormitory, North Hall, opened its doors to students for the first time this Fall. The dorm stands two blocks north of the campus on Massachusetts Avenue in the building that formerly housed the Quality Inn.

Earlier this year, the Law School garnered a long-awaited permit to convert the hotel to needed new housing for students. The Law School had purchased the property in October of 1988, and obtained the developers' lease in March, 1990.

Harvard has made a number of structural and aesthetic changes to the building. The pool has been eliminated, but the lobby has been restructured and redone, and new paint coats have been added.

The dorm is also the first of the Law School's to be fully co-ed.

Cari Dawson, a resident assistant in North Hall, feels the dormitory is a very positive addition to the Law School. "It's a great place to live," says Dawson. "It may be a sign that HLS is putting greater emphasis on making students feel more comfortable in this stressful environment."

The carpeted rooms range

from 144 to 245 square feet, and each has a private bath and double bed, as well as the traditional dorm furniture. North Hall also features individually controlled heating and air-conditioning.

Residents receive free basic cable TV service already hooked up to full-size sets, and priority for on-site parking managed by the University.

The building itself has elevators, two modern, newly-designed, shared kitchens, a three-room lounge and meeting suite with an unexpectedly beautiful view, and is fully accessible to the physically disabled.

Ed Joy, another resident assistant in the facility, said, "It's as nice as an apartment complex, but it's even better because you are surrounded by friends and colleagues who are sharing the law school experience with you."

The one thing which is already producing snickers is the sign outside the building which now reads: "NORTH HALL, HARVARD LAW, DOLLAR OPEN." It refers to the Dollar rent-a-car which is still operating in the building. This may not be clear to all who read it.



The new dormitory has such comparatively luxurious features as air conditioning, cable TV, private bathrooms, and priority parking.

Russians Turn To Harvard Law School

A group of Russian legal experts recently spent three weeks at the Law School's Center for Criminal Justice

From the Gazette

conferring with their American counterparts on a proposed new criminal code for the Russian Republic.

Yevgeny Igumnov, legal specialist and deputy department head in the Russian Ministry of Justice, said that the assistance offered by the Americans has added precision and consistency to the revised code, and that these qualities should increase its chances of being adopted by the legislature.

"The work with our American colleagues was a pleasure to us both professionally and personally," he said. "The atmosphere was business-like, but at the same time warm and human. It would be unthinkable for our discussions to end without the most fruitful results," Igumnov said.

Philip Heymann, James Barr Ames Professor of Law, said he was struck by how easily the Russian and American lawyers had been able to communicate.

"It's been very surprising to me how much similarity there is our problems and attitudes in the area of criminal law. It seems to me our legal culture is about 95 percent shared. Except for the fact that we're working through an interpreter, we could almost be discussing a proposed criminal code for an American state."

Making Free Enterprise Free

The Russian Republic Legal Reform Project was initiated this March when Nikolai Fyodorov, Minister of Justice of the Russian Republic, visited the Law School and discussed Russia's need for assistance with legal reform as it struggles to survive its present period of

social, political, and economic transformation. A revision of the criminal code is especially important, he said, because of the law's impact on the process of democratization and economic restructuring.

Sarah Reynolds, Thayer Lecturer on Law and organizer of the project, reiterated Fyodorov's assertion: "The criminal code has been the source of very serious blocks to the development of a market economy because many of the restrictions on economic activity were codified in the criminal law."

For example, under current Russian

market activity because it means that entrepreneurs can't help breaking the law."

Rising crime rates in the Russian Republic have also made revising the criminal code a vital issue, said Reynolds.

"The perception is that there has been a rise in economic crime and also in organized crime and violence. Certainly the shifts in the economy and the increased use of cash have opened up possibilities for crime that didn't exist before, but it's also important to remember that until a few years ago, there were strong pressures on law enforcement officials to minimize the amount of crime

tions," said Vazhenin, speaking through interpreter Alex Schiller.

The Russian lawyers brought a draft version of the new code, then refined it in consultation with Harvard Law faculty, legal practitioners, and scholars from area law schools. Participants included Heymann and Archibald Cox, Carl M. Loeb University Professor Emeritus.

"These sessions were a sieve through which our ideas have been sifted," Vazhenin said. "We have not heard a single comment suggestion that we have found unacceptable, either practically or theoretically."

According to Heymann, the Russian legal system has something to teach Americans as well. The Russian code, for instance, is more careful in the way it holds individuals responsible for the actions of others; it makes more sophisticated distinctions between different kinds of theft; and it provides more effective laws against crimes of bribery and the abuse of power.

"Situations like the Iran-Contra problem, for which we do not have statutes readily available, are more clearly dealt with under their system," he said.

After the draft of the new code goes through a final revision by the Russian Republic working group, it will be submitted to the Russian legislature. Vazhenin is optimistic that the adoption of the new code will proceed smoothly. Russian policymakers tend to be less conservative than members of other institutions and on the whole are favorably disposed towards reform, Vazhenin said.

The Russian Republic Legal Reform Project was made possible through grants from the Carnegie Foundation and the Rockefeller Family and Associates.

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law the large-scale resale of state supplied goods for profit by private persons is considered a crime. This restriction has had a serious negative effect on entrepreneurial activity, Reynolds said, because it impedes the distribution of goods and may make it difficult or impossible for private entrepreneurs to procure materials.

"The policy of the Russian Republic with respect to economic activity has turned around nearly 180 degrees in many areas," Reynolds said. "But the criminal code, including many articles severely restricting economic behavior, has remained almost unchanged. This has hindered the development of all kinds of

in their districts, and as a result, accurate crime statistics were almost never reported," she said.

Open to All Ideas

The Russian visitors were Mikhail Vazhenin, adviser to the Minister of Justice for the Russian Republic and coordinator of the revision of the Russian criminal code; Silvia Brize, chief consultant of the Supreme Court of the Russian Republic; and Igumnov. All three hold degrees from Soviet law schools. Their stay at the Law School extended from July 15 to Aug. 4.

"The old criminal code is like an iron curtain in the way of building a new life in Russia, especially new market rela-

Law School Council Report

Student Representatives Set Ambitious Agenda

Welcome to Harvard Law School to all the entering LL.M.'s and 1L's from the Law School Council, and welcome back

By Francis Phillip,
Secretary of LSC

to the returning 2 and 3L's. This year, the Council intends to write a weekly column in the *Record* not only to inform the Law School community of our activities, but also to enable law students to better inform us if their needs are not being addressed.

The current members of the Council are:

Executive Committee:

Michael Twomey, 2L, President
Harry Johnson, 2L, Administrative Vice-President
Ben Lieblich, 2L, Executive Vice-President
Isobel Jones, 2L, Treasurer
Francis Phillip, 2L, Secretary
Beverly Brown, 2L, Programming Chair
Mary-Louise Ramsdale, 2L, Facilities & Services Chair
Spencer Overton, 2L, Legal Education Chair

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David Hoffman, 3L-2
Barry Dicker, 3L-4
Glenn Miller, 3L-4
Beverly Brown, 2L-1
Michelle Wachs, 2L-1
Marie-Louise Ramsdale, 2L-2
Rich Wareing, 2L-2
Kim Greenwood, 2L-3
Harry Johnson, 2L-3
Camille Holmes, 2L-4
Spencer Overton, 2L-4

At-Large-Representatives

Rebecca Eisenberg, 2L
Michael Imbrosio, 2L
Ben Lieblich, 2L
Francis Phillip, 2L
Alix Pustilnik, 2L
Stephanie Sowell, 2L
David Tollen, 2L

Amongst the immediate priorities of the Council are the elections for Section Representatives, LL.M. Reps., and S.J.D. Reps. to the Council. A "Q & A" session for all eligible students will be held on Thur., Sept. 19., from 9-10pm so that they can discuss Council duties with previous section reps. Position papers are due by Sun., Sept. 22, and elections will be held on Wed., Sept. 25 and Thurs., Sept. 26.

In addition, the Council is now accepting applications for positions on various Student-Faculty committees. Among the available positions are seats on the Financial Aid, Public Interest Funding, Clinical Legal Education, and Curricular Assessment Committees as well as seats on the Administrative and Student Funding Boards. Interested students should check the Adviser for a full list of open positions.

Finally, and perhaps most important, an Ad Hoc Committee co-chaired by Ben Lieblich and Mary-Louise Ramsdale has been formed to investigate the status of the Somerville Shuttle which was instituted last year at the behest of the Law School Council in the wake of one murder and two rapes in nearby neighborhoods. To date this semester, the shuttle has not been running, but the Executive Committee is committed to make every effort to bring back shuttle service on a permanent, year-round basis.

New President Begins Reign

Rudenstine Has Three Appointments To Make

Neil L. Rudenstine, a Renaissance literature scholar and a former provost at Princeton, began his first academic year as President of Harvard University on Monday September 8.

Although he has not been formally inaugurated, Rudenstine officially succeeded former President Derek C. Bok on July 1 and he has spent the past five months getting acquainted with the University and preparing to make a number of key appointments.

Rudenstine will be formally installed as president at ceremonies on October 18 outside in Tercentenary Theatre on the Harvard College Campus. The inauguration—the 26th in Harvard's 354 year history—will be a large affair, much more elaborate than the simple ceremony held when Bok took office.

Bok, who retired last year after a 20-year era marked by rapid expansion and financial growth, recently checked in at Stanford's Center for Advanced Study in Behavioral Sciences, where he will spend a year before returning to assume Harvard's 300th Anniversary University Professorship.

University officials announced that Rudenstine would be Bok's successor at a press conference in late March, ending a secretive 10-month search process. Rudenstine, 56, was the executive vice president of the Andrew W. Mellon foundation and had served as provost of Princeton for about 10 years.

Rudenstine and his wife Angelica arrived early at Massachusetts Hall on the president's first day, and were welcomed by champagne from the staff and a bouquet of flowers from Radcliffe President Linda S. Wilson, according to published reports.

Rudenstine, who spent much of his spring and summer living in the Charles Hotel, focused his energy during the transition on filling a number of important vacancies.

He has already made one major appointment, the dean of the Faculty of Arts and Sciences. Houghton Profes-



University president Neil Rudenstine.

sor of Chemistry and Biochemistry Jeremy R. Knowles begins his first academic year at that post this week.

Rudenstine's agenda this fall will be centered on appointing new deans at the Kennedy School of Government, the Graduate School of Education and the Graduate School of Design. In addition, the new president will participate in a search for a new member of the Corporation, the University's chief governing board.

One of Rudenstine's top priorities will be the creation of office of the provost, a University-wide academic administrator. The president is still working to define a structure for the new position, but officials say he may already have a few people in mind for the job.

Administrators say the transition has gone smoothly at Massachusetts Hall. Rudenstine has kept much of the central administration intact so far, including the vice presidents and Bok's assistant, Elizabeth Keul.

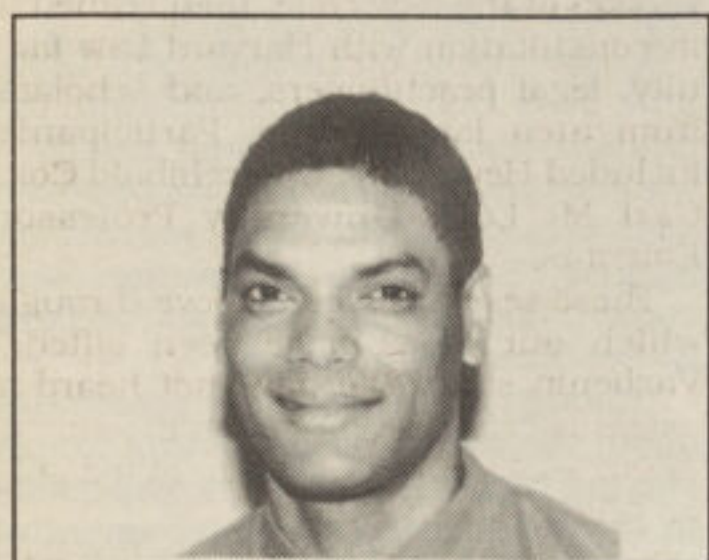
At some point, Rudenstine will have to find a replacement for Vice President and General Counsel Daniel Steiner, LLB '58 who has announced plans to step down during this academic year.

One relatively new face in Massachusetts Hall is University attorney Michael W. Roberts, JD '70, who Rudenstine has appointed Special Assistant to the President and Acting Secretary to the Corporation.

Happy Jewish New Year!

Harvard Appoints Two To Tenure Track

Scott Brewer A Jurisprudence Specialist



Scott Brewer is a former Editor-in-Chief of the Yale Law Journal.

Scott Brewer, a specialist in jurisprudence, has been named an assistant professor of law. He teaches courses on philosophical underpinnings of legal thought.

Dean Clark '72 announced, "We are very pleased that Scott Brewer has agreed to come to Harvard Law School. He brings expertise in jurisprudence, logic, and the philosophy of languages that will enhance our ability to prepare students to think critically about legal practice."

Brewer recently completed a term as clerk for Supreme Court Justice Thurgood Marshall. He was appointed to the faculty last year while he clerked for Judge Harry T. Edwards of the U.S. Court of Appeals for the D.C. Circuit.

He received a B.A. in philosophy and religious studies from SUNY at Stony Brook in 1979, a diploma in ancient Greek from the CUNY Latin-Greek Institute, an M.A. in philosophy from Yale University in 1980, and a J.D. from Yale Law School in 1988, where he served as editor-in-chief of the *Yale Law Journal*. He is working on a Ph.D. in philosophy at Harvard University.

His fellowships and awards include

the Harvard University Minority Prize Fellowship, the Olin Fellowship at Yale Law School, the Cassidy Fellowship in Law and Philosophy from the Institute for Humane Studies in Chicago, the Danforth Foundation Fellowship, and the New York State Regents Scholarship.

His articles include "Figuring the Law: Holism and Logical Structure in Legal Interpretation," *Yale Law Journal*; "Rhetorical Vision and the Rule of Law," *Proceedings of the Third Annual W.E.B. DuBois Graduate Colloquium*; and "DuBois' Talented Tenth: Its Role in 1984 and Beyond," *Proceedings of the First Annual W.E.B. DuBois Graduate Colloquium*.

He was a lecturer on law at the School in 1989, teaching the Philosophy of Legal Language, and a visiting instructor at Yale College in 1987, teaching the Creation of Meaning in Law and Literature. A teaching fellow in the philosophy department at Yale in 1981 and 1987, he taught courses on logic and philosophy of language. From 1985 to 1986 Brewer was a visiting instructor in philosophy of language. From 1985 to 1986 Brewer was a visiting instructor in philosophy at Dartmouth College, where he taught Democracy and the Rule of Law in Contemporary Society, Philosophy and Literature, and Introduction to Problems of Philosophy. From 1981 to 1986 he was resident tutor in law and philosophy at Harvard College, as well as a philosophy teaching fellow, for Philosophy. From 1981 to 1986 he was resident tutor in law and philosophy at Harvard College, as well as a philosophy teaching fellow, for Philosophic Aspects of American Constitutionalism and other courses, while working on his dissertation.

Frank Vogel Placed On Tenure Track



Frank Vogel's work is particularly important in the wake of the Gulf War.

Dean Robert Clark '72 announced that Frank Vogel, the Ezra Ripley Thayer

From the Gazette

Lecturer on Law, has been named assistant professor of law, which now places him on the tenure track.

"We're pleased to be continuing our relationship with Frank Vogel," said Dean Clark. "He is an unusually talented scholar who is doing serious and pathbreaking scholarship in Islamic legal studies. His knowledge is important today, in the wake of the Persian Gulf war, and its importance will grow as Harvard Law grows as an international law school."

"I am very grateful to the Law School for this appointment," said Vogel. "Decades ago the School set out to develop Islamic legal studies through programs of which I was later a beneficiary. The School deserves great credit for that foresight, and for the boldness exhibited now in devoting institutional resources to this neglected field. The School is very serious about its internationalization, and I am honored to be a part of it."

Vogel has been at the Law School since 1987, developing and teaching three new courses: Comparative Law; Islamic Legal System; Comparative Law Seminar — Case Studies in Contemporary Islamic Law — Commercial Law; and Human Rights and Islam. Among Vogel's areas of specialization are Islamic law, the law of modern Muslim countries, including Saudi Arabia and more broadly, comparative law and law and religion.

Before coming to the Law School, Vogel studied the Saudi Arabian Islamic legal system for four and a half years in Riyadh, Saudi Arabia, observing court sessions, discussing law and cases with judges, interviewing government ministers and officials, and consulting Islamic law scholars of Saudi universities. While in Saudi Arabia, Vogel also practiced law for 18 months in the Riyadh office of Jones, Day, Reavis & Pogue.

Vogel received his A.B. in 1972 from Harvard College and J.D. *magna cum laude* in 1975 from Washington College of Law, American University, where he was a member of the *American University Law Review*. Following graduation he clerked for Judge George Hart, Jr., of the U.S. District Court for the District of Columbia. He was an associate with the Washington, D.C. firm of Shaw, Pittman, Potts & Trowbridge from 1976 to 1978.

He began a Ph.D./LL.M. program at Harvard in 1978. A research trip to Cairo in the fall of 1981 was funded by the American Research Center in Cairo. In 1983 he won a Fulbright-Hays fellowship, enabling him to conduct further research in Riyadh. He is now completing his thesis "Islamic Law and Legal System: Studies of Saudi Arabia."

The RECORD Invites

All Students,

Particularly First-Year Students,

Interested In Applying For Positions on

The RECORD Staff

To A Pre-Production Fiesta

On Tuesday, September 17

In The RECORD Offices

In The Basement Of Ames Hall at 5:00 p.m.

Harvard Law Record

Volume 93, No. 1

Robert C. Arnold
Editor-In-Chief

A Record Welcome

The Harvard Law Record would like to welcome and acquaint the Class of 1994, and others, to our publication.

The RECORD is the independent, student-owned and run newspaper of Harvard Law School. It is, as our motto states, "America's oldest law school newspaper."

Our goal is to provide not only a place where one can learn about events that affect the HLS community, but also to provide an unbiased forum for students, faculty, administration, and alumni to express their views and positions on any issue.

The RECORD is published on Fridays, sometimes bi-weekly, sometimes weekly, depending on the academic calendar. Because of our publication schedule and deadlines, the news we present may not be as current as we would like, thus we try to give a different angle and perspective to a story about which you may already know something.

Irrespective of your position in the HLS community, the RECORD encourages everyone to participate in the dialogue and debate that occurs here that the RECORD has traditionally enhanced.
—Ra.

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PRINTING BY THE HARVARD CRIMSON

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The RECORD is committed to equality and diversity. We strive to provide a forum for the free exchange of ideas. As a result, the opinions reflected in articles, editorials, and cartoons are those of the authors and do not necessarily reflect the opinions of the RECORD.

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

...will make no law...abridging the freedom of speech, or of the press;...

FIRST AMENDMENT, U.S. CONSTITUTION

Two Students Find Love at HLS—Despite The Odds

Although he is not Ryan O'neal and she is not Ali McGraw, Dan Drosman and Anat Hakim's story-book romance is quite the "Love Story."

Dan and Anat met a little more than one year ago on August 31, 1990, the third day of 1st year orientation at a Harvard Law School Dormitory party. (Proving, to the dismay of many, that the Gropius complex has some qualities to recommend it.) He was a first-year student in Section One while she was a member of the Section Two 1L class.

On that enchanted evening, their eyes met across a crowded room, their palms were sweaty and they couldn't keep still (who writes this mushy stuff). They said they felt immediately comfortable in each other's company.

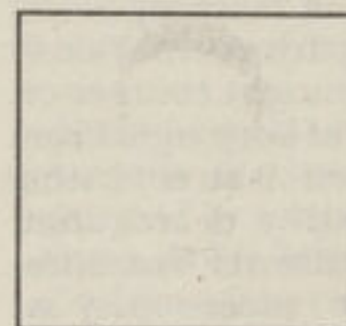
Despite the rigorous first-year curriculum, their relationship blossomed into love. In fact, both Dan and Anat said their relationship made everything about the

first-year much more enjoyable.

Dan proposed on December 8, 1990, little more than three months into the relationship, at the annual Lincoln's Inn Holiday Ball. The rest, as has been said, is history. They were married on August 18, 1991 in Milwaukee, Wisconsin, the bride's hometown, at Beth El Ner Tamid Synagogue.

Although there are many pessimists about the prospects of a young couple staying together nowadays, especially in the tenuous social environment of the Law School, Dan and Anat are confident that they will have a bright, happy and long future together.

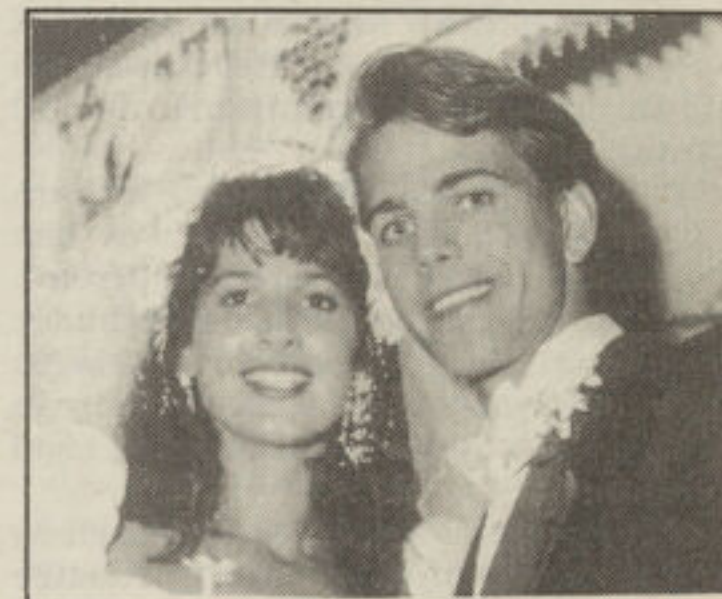
Three Cheers!!!



Dan Drosman



Anat Hakim



The blissful wedding couple.

Fenno

"Cross check." Fenno's twenty-third, and with any luck, last year at Heap of Limpid Sh*t (hereinafter "HLS") began shortly before dawn as he arrived on the red-eye from Shanghai. Petite bottles of Courvoiser protruded from the pockets of Fenno's spandex Mao suit, pressed mere hours before by his faithful rickshaw driver cum tailor, Phred. Punching down puss-caked ocular sockets, Fenno shook off the residuals of last (Sunday? Friday? Confounded international dateline!)s We-really-liked-you but-the-market's-kind-a-tight party, and ordered the \$30.00 one way ticket to Valhalla-sur-Charles.

A sea of foreign faces swam before Fenno's differently-abled corneas. "Praise the Pantheon, I don't recognize a soul —"

"FENNO!" A sonic boom bored through spongy synapses glued to cranial craters. "How was your SUMMER?" shrieked the notes, leaping octaves in a single measure.

Fenno hurriedly (and with little yar, my he's like a boat on shoals, shipwrecked between my thighs) pulled his Thrilla in Manila Non-manila Registration Packet over his swollen throbbing head. It was a snug fit. He opened his eyes, but plastered upon his visage was a Friendly flybill from financial aid. "Damn, the Perkins-IHOP, SLS/SLUT/S&M

loan apps!" He'd used them to roll a farewell reefer for the hiring committee at Molehill & Deng. But there was no room for a token white lawyer.

He collapsed atop the nearest divan. Thankfully the Perkins paramedics remedied the problem with a top-of-the-line stop-gap funding bill to the tune of \$26,345.19, guaranteed by the Israeli Knesset and backed by Federated high-yield bonds.

Fortified by this cold cash injection, Fenno booted himself down to the damp basement where he would be appropriately inoculated by a battery of rapier hypodermic syringes. "Could I take them in the tush?" he asked the understanding R.N. ("Sweet Virgin Queen of the Heavens," he thought, "don't let her find the tracks.")

Fenno marched into majestic second floor Pound and presented his strong-arm credentials. He was sweating rancid torrents in anticipation of his six-credit electives, Sleeping About Studying, Black-Market Regulation of Money- Laundering Schemes, and All Fall Down: Deconstructing Construction Law. Besides, who knew what other wonderful surprises the computer virus had thrown up. "Register me!" he commanded.

The blue-hair peered at Fenno's name scrawled in black on a blip of white paper. "Is this my fortune?" he mused. "And if so, where is Mr. Smiley Face?"

"Mr. Fenno," she read aloud, "shall not register without a court order."

Next RECORD September 20th

PROFESSORS SPEAK ON THOMAS CLARENCE THOMAS AND 'NATURAL LAW'

A Radical Double Agent

What is really at stake in the nomination of Judge Clarence Thomas to the Supreme Court? While any candidate nominated to replace Justice Thurgood Marshall would likely accelerate the

by Lawrence H. Tribe

Court's rightward trend, Judge Thomas's adherence to "natural law" as a judicial philosophy could take the Court in an even more troubling direction.

Most conservatives criticize the judiciary for expanding its powers, "creating" rights rather than "interpreting" the Constitution. These critics talk of returning issues like abortion to democratically elected and politically accountable bodies.

Clarence Thomas, judging from his speeches and scholarly writings, seems instead to believe judges should enforce the Founders' natural law philosophy—revealed most completely in the Declaration of Independence. He is the first Supreme Court nominee in 50 years to maintain that natural law should be readily consulted in constitutional interpretation.

When a child born today reaches voting age, Judge Thomas will be 61, still five years younger than Chief Justice William H. Rehnquist is now. By then, the nation will face many new issues—new reproductive technologies, computer privacy, genetic engineering.

Might a Justice Thomas some day provide a fifth vote to hold that Congress and the states may not respond with measures contrary to natural law, as construed by the justice on the basis of their understanding of the rights

"given to man by his Creator?" Whether that understanding coincides with specific religious teachings matters less than how it affects legislative power and personal liberty.

Consider abortion. Judge Thomas has called even the right of married couples to use birth control—recognized by the Court 26 years ago in *Griswold v. Connecticut*—an "invention." Unfortunately, he seems likely to help overturn *Roe v. Wade*.

But whether *Roe v. Wade* is overruled is only half the question. No less important is the kind of regime that would follow. The Court in a post-*Roe* world would probably debate whether the Constitution permitted states to ban the French abortion drug RU-486 and whether state abortion bans must contain life, health or rape exceptions.

In these debates, a Justice Thomas, for whom the right to privacy may seem anathema, might seek to replace *Roe* not with a system that strengthens states' rights, but with a decree that abortion is murder and that its practice or counseling cannot be permitted by any state.

Judge Thomas has already dismissed talk of states' rights as a "constitutional sideshow." He also endorsed Lewis Lehrman's 1987 *American Spectator* article, which argued that because abortion violates the "right to life" guaranteed by the law of God in the Declaration of Independence, the Constitution cannot tolerate even a neutral stance on the issue. To Judge Thomas, that extraordinary theological argument was a "splendid example of applying natural law" to define the "right

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After a careful analysis of the civil rights writings and statements of Clarence Thomas, I am tempted to support his nomination to the Supreme

By Derrick Bell

Court. I have concluded that Judge Thomas is not really a conservative, but, rather, a committed black revolutionary. I am convinced that he plans to use right-wing dogma to spark racial revolt, a revolt he evidently sees as a dangerous but urgently necessary response to this society's growing hostility to African Americans.

Initially, I had a number of grave concerns. I was baffled by Judge Thomas's opposition to affirmative action and other civil rights remedies that advanced his career.

I cringed at his advocacy of capital punishment when blacks are given that irreversible penalty in such disproportionate numbers.

I wondered how he could condemn poor black people—including his own sister—for relying on Government assistance to feed, clothe and house their children at a time when so many Americans are dependent on the Government to spend billions of dollars to insure savings that have been put at risk by ill-managed banks and savings and loans.

Even his anti-abortion advocacy seemed to fly in the face of reality. State limits on a woman's choice contradict his espousal of free enterprise without government interference. Such limits also ignore the fact that state-mandated restrictions fall heavily on the poor, among whom black women are disproportionately represented.

Then I realized that Judge Thomas's seemingly ridiculous statements must

be part of a carefully conceived conspiracy. No black man with his roots and knowledge of the nation's dire employment situation could actually believe that today's poor can find a formula for success in a "self-help" ideology advocated by those born into wealth or privilege or both.

Many liberals hope that, if seated on the Supreme court, he will take a more realistic and sympathetic position on issues concerning minorities and other disadvantaged groups. Large numbers of blacks also hope for a post-confirmation conversion. They support him based on his race and his impoverished childhood and despite his disavowal of all race-based selection processes. Such hopes are futile.

Indeed, his value as a revolutionary double agent depends on his strict adherence to the positions that persuaded President Bush to mock both merit and good sense by claiming he was the most qualified candidate.

An all-white Supreme Court hostile to racial issues is one thing. But a Court with its lone black Justice joining the majority in its anti-civil rights decisions will send a clear message: It is useless to continue seeking relief through law for America's still rampant racism.

Militant arguments that blacks now have no alternative except disruptive protests and boycotts will be invulnerable to more moderate responses. The Court's action will even give legitimacy to claims by some extremist leaders that black people must respond with violence to the violence inflicted on them by an uncaring society.

History reveals no precedent for a black man in a position of real power advocating racial policies that are so at

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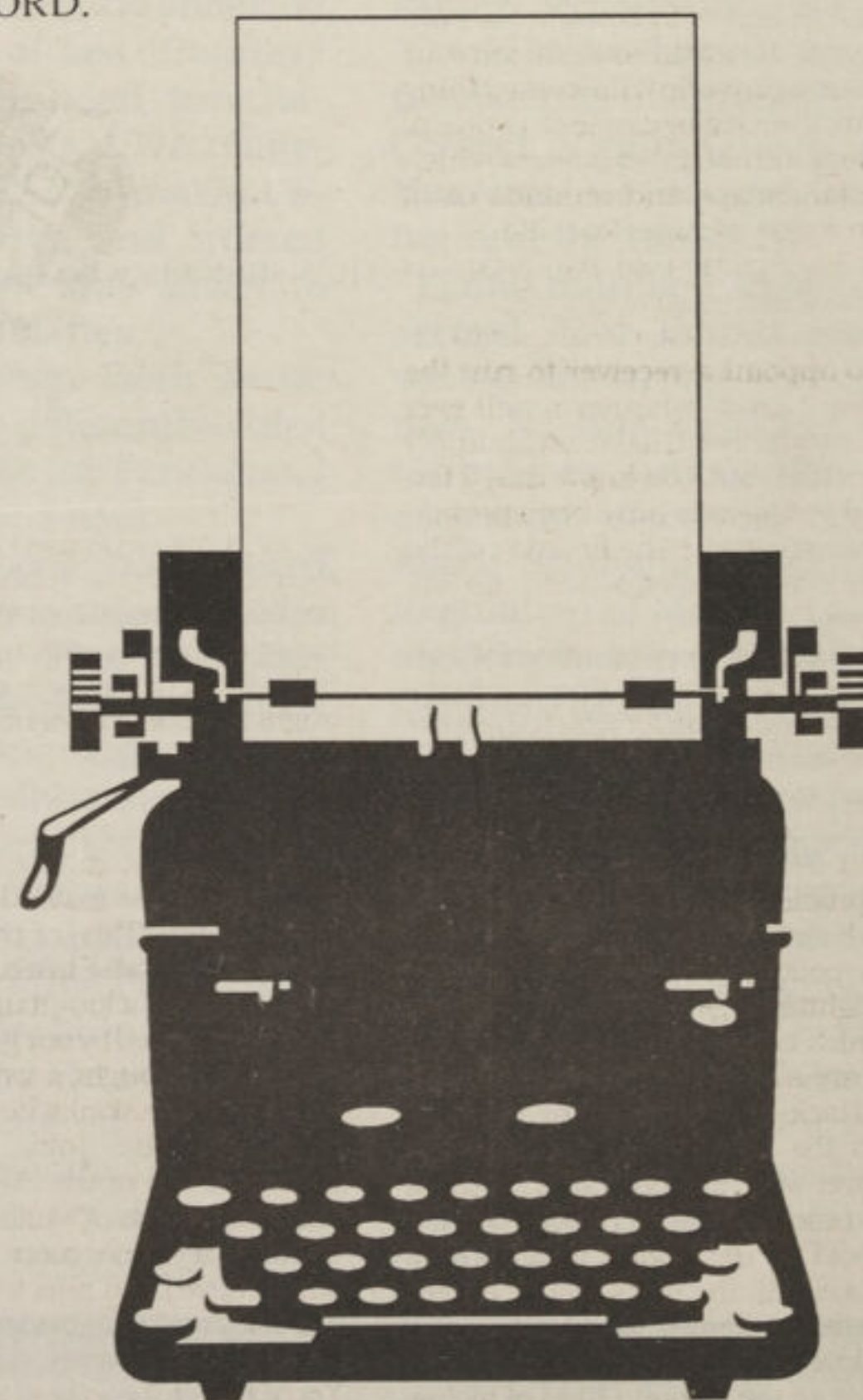
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Two Semesters That Shook The Square

CAMBRIDGE, Sept. 13, 1992 — There were times during the 1991-92 school year when we feared for Harvard Law School's very existence. Who could have

By Robert K. Niewyk
and Sean T. Brady

predicted the pivotal changes that have swept this campus in the past twelve months? Who could have envisioned the shape of the new, reborn Law School? To help 1Ls make sense of those tumultuous semesters, we have prepared the following chronology:

Oct. 14, 1991: Communist statues torn down in the Baltic republics find new life as replacements for the dying elm trees in Harvard Yard. Spike Lee, promoted from visiting lecturer to Dean of Harvard College, explains that the statues "are more durable than trees, and they bring to the campus the kind of gritty, urban reality that Harvard students should be exposed to. Besides, most faculty members find the presence of two dozen five-ton Lenins reassuring."

Oct. 24: Citing intense pressure from a waning Critical Legal Studies movement frightened for its future, Dean Clark cuts the number of "conservative" course offerings at the Law School from three to two. Many angered faculty members call for Clark's removal and the death of CLS.

Oct. 25: Charles Fried resigns from his law school post in protest over Dean Clark's move, warning of "impending philosophical chaos" if the Crits' influence over Clark is not checked.

Oct. 27: A protest by students in law and economics courses is photographed by agents of Dean Clark. Clark's fascist tactics are denounced by students and faculty alike. He responds that "the influence of CLS is on the wane, but we must not rush headlong into the arms of law and economics. We must plan our

steps carefully." As a symbolic but less-than-carefully-planned step, he agrees to offer tenure to Daniel Fischel, Richard Epstein, and Brian Timmons.

Nov. 11: Claiming it is dangerously short of cash, the Law School declares that the students will no longer receive free No. 2 pencils at drop-add. Students stock up for a harsh winter-term.

Nov. 20: Morton Horwitz (in town to lay wreaths on Harvard Yard's new statues) is met by Duncan Kennedy (on his way to Revolution Books) and Roberto Unger (on his way back) at the base of Proctor & Gamble's "Lenin Greets the Workers." This chance meeting of four great progressive thinkers produces much griping about Dean Clark. Horwitz warns that Clark's new appointments will cost CLS its veto power over faculty actions. Kennedy is not so sure, but neither professor can calculate whether 18 out of 62 faculty members is greater or less than the necessary 33 percent. Unger refuses to assist, declaring that rigidly hierarchical and absolutist conceptions of mathematics are merely tools of an aristocratic and corporatist regime.

Dec. 2: Students returning from Thanksgiving Break are shocked to learn that Dean Clark has been deposed by reactionary members of the Critical Legal Studies faction. Duncan Kennedy declares that the Law School is now being run by a "Committee of Eight," composed of himself and five other Crits.

Asked by conservative professors where Dean Clark is, Kennedy responds that the Dean's ceaseless fund-raising efforts "have tired him" and that he is convalescing in the Berkshires.

Dec. 4: Horwitz enlists the support of Derrick Bell and members of the Coalition for Civil Rights. Citing their wealth of experience in such actions, Bell instructs the Coalition to storm Griswold and take control of Shavell's Law and Economics seminar, then meeting in G110. However, a crowd of sympathisers

gathers outside Griswold and clashes with Coalition members during the night. None are killed, but several students are rushed to the University Health Services with severely bruised egos.

Dec. 5: Noted negotiation expert Roger Fisher offers to mediate between the two groups: "What the Crits want is to have absolute control over the Law School. What the law and econ folks want is to have absolute control over the Law School. If they would only talk to each other, they'd see that there's ample room for compromise." Fisher is summarily gagged by the Coalition for Civil Rights' Ad Hoc Committee to Silence Roger Fisher.

The crowd outside of Griswold grows, and Shavell appears briefly, urging sympathetic students to boycott classes. "This coup" exclaims Shavell, "is unconstitutional, if not downright sub-optimal."

Dec. 6: Coup leaders try to defend the legitimacy of their actions. In a blinding flash of insight, however, the crits realize that they have now become the dominant hierarchy. They logically turn on themselves, noting that any arguments they could make in favor of Crit rule are now "inherently deceptive; any claim of legitimacy by a hegemonic regime is fundamentally nothing more than a formalistic mask used to preserve its coercive structures of social power." The coup self-deconstructs.

Dec. 8: The World Tree is toppled by a crowd of students celebrating the coup's decorporalization. The crowd becomes an angry mob that executes anyone having anything to do with the drop-and-add process.

Dec. 9: Dean Clark returns from the Berkshires and regains control of the Law School, arguing "I may have been deposed and returned like Gorbachev, but I have the support of the masses like Yeltsin."

Dec. 10: Dean Clark confronts a student mob just as it is about to lynch Professor Abram Chayes, and warns against anti-Crit "witch hunts." Chayes

declares, "I am not a Crit. They just dressed me up like a Crit." Chastened students disband, admitting: "Well, we did add the plaid shirt... the plaid shirt and the workboots. But he's still a Crit!"

March 15, 1992: Teaching thrives at the Law School under the new market-driven registration system designed by Professor Kaplow. Many professors put effort into their classes for the first time in their careers, now that their salaries are tied in part on the number of students they attract to their courses. Students praise the new registration system under which they may take any course they wish, but some object to paying varying amounts of tuition depending on how popular their courses are. Classes in high demand, such as Professor Warren's Tax class, fetch up to \$2000; certain sections of evidence go for \$3.98.

April 10: Donations from law firms and alumni pour in as renewed confidence in the Law School's market reforms excites the legal world. Flush with new funds, the school immediately begins construction of the new faculty building, Hayek Hall. Renovation of the library (renamed "Langdell Book Rentals, Inc.") is scheduled to be completed by the commencement of classes in September. Pre-construction sales of study carrel time-shares are brisk. The Program on Negotiation and the International Tax Program both declare their independence, but professor Horwitz recaptures some profit for the Law School by restructuring the deals as privatizations.

May 2: Reports of the Law School's newfound prosperity cause a flurry of trading in the secondary market for Law School classes, with speculators pushing the Second-Year-Basic-Courses Index to an all time high. The broader-based Standard-and-Boring Class Average jumps 132 points in a single day. All ten planets momentarily align, and Dean Clark holds a five-kegger in celebration of the New School Order.

School Daze In Bankrupt Chelsea

This is a column about Massachusetts, which means I'm going to lose a lot of you right here. But this is also a

by Rich Wareing, 2L
RECORD Columnist

column about urban America and the hopelessness which defines everyday life there. Chelsea is bankrupt. The fact that Chelsea is in trouble, or even on the verge of death, should come as no surprise to anyone who knows thing one about the city because it is one of those dying industrial eye-sores which dots the landscape and reminds us of the darker side of American life.

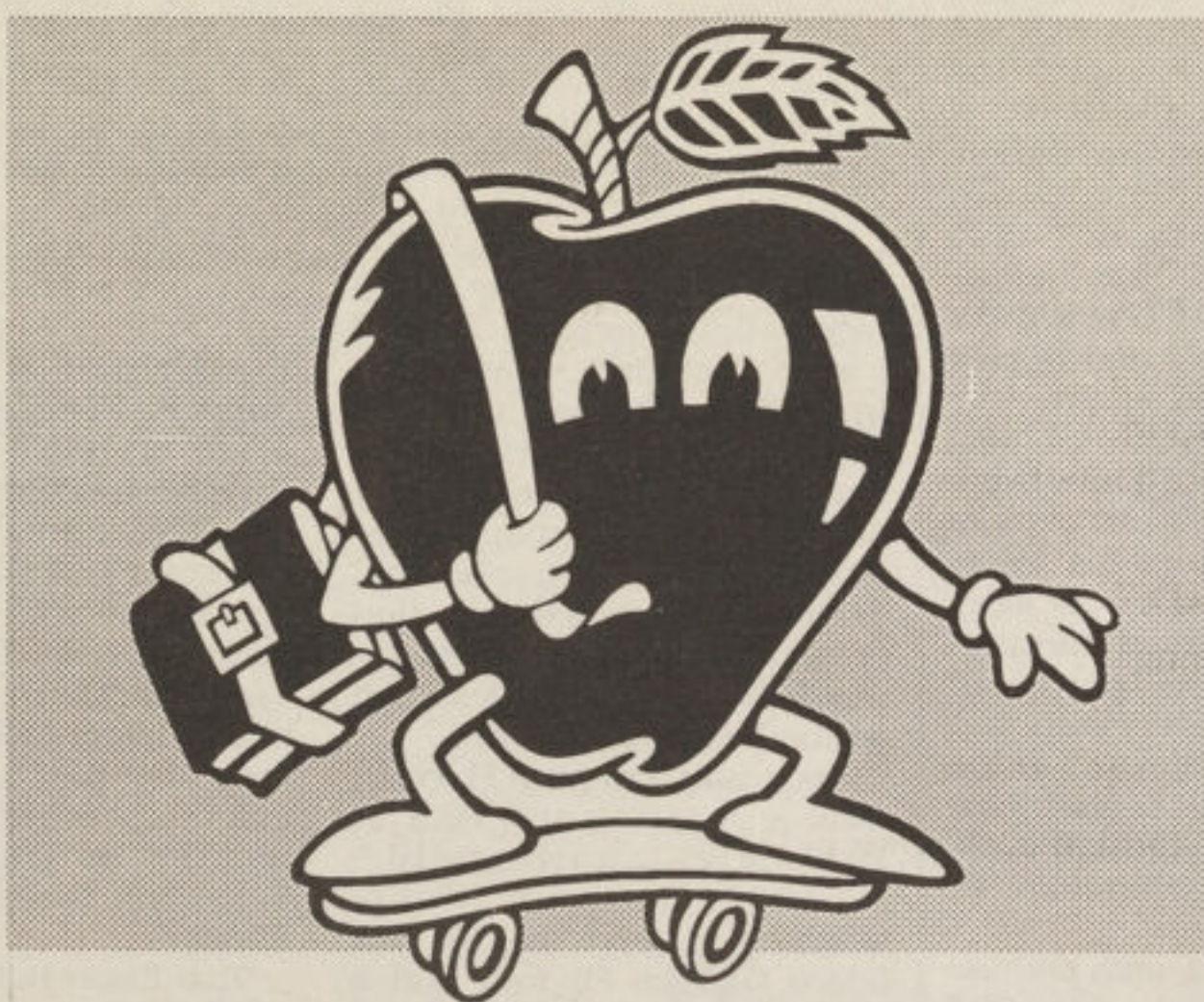
Things have gotten so bad that the mayor has closed the schools, shut down city services, and asked the Commonwealth to appoint a receiver to run the city. I don't know whether it will ever improve, or whether Chelsea will simply wither and die, but I do know that a few thousand young kids have been prematurely presented with the first day of the rest of their lives - no education, no job, and no hope.

I wish I could tell you for sure how this happened and who is to blame, but that's a complicated question for which there are no easy answers. I do, however, have some candidates. We probably should start with the local political leadership which, when faced with decreasing resources and increasing problems, responded with a battle to grab whatever they could get.

As one politico friend of mine put it "They're fighting to get above each other on a rope which isn't attached to anything."

Things are so bad in Chelsea that local leaders attack each other in the newspapers with the maturity of third-graders arguing over who hit who first. The police and fire unions have achieved such a stranglehold on the budget that nothing can be done with the city's money except paying rather generous salaries to a few city employees. The schools had to be turned over to the Captain Kidd of higher education, John Silber.

That the people of Chelsea would ever be forced into such an unholy alliance with



Silber, a man who used Boston University as a marauder to gobble up high-priced professors, shaky biotech companies and foreign students with money to spend in his quest for ever more name recognition, ought to be clear evidence of their desperation.

I suppose we could also blame the voters themselves because in a moment of crisis they refused to raise their own property taxes and came instead crying to Beacon Hill for help. This, of course, should not come as a surprise in a country where self-reliance and sucking it up are either quaint values practiced by our grandparents (who incidentally fought a world war and survived a depression) who simply don't understand the joys of credit-card consumerism or the "Me Generation," or the watchwords of white male domination to be discarded for more "sensitive" values which have been rejected everywhere but Berkeley and Cambridge.

The buck, however, does not stop here. You'd have to be a damn fool to think it did because as bad an enemy as Chelsea has been to itself, it faces a load of problems not of its own making.

Surely big industry ought to take some of the blame because Chelsea, like dozens of other Rust Belt cities was dumped unceremoniously when the fat cats found out that labor was cheaper and more gullible someplace else and that politicians there were a lot easier to bribe.

With no real jobs, what were the people of Chelsea supposed to do, commute to Boston on the T and sell raspberry croissants in the Au Bon Pain to Yuppies named Thad and Muffy? Without meaningful work, Chelsea and its people were left to die by short-sighted businessmen who figured a dollar today in dividends or leveraged buyouts proceeds was better than one invested tomorrow.

Chelsea, like Detroit, or Akron, or Flint suffers from the fact that American Businessmen have consistently failed to reinvest and modernize, siphoning off capital like it was going out of style in a bonanza of greed which has left the steel, auto, and consumer goods industries and the cities that once supported them in a tangled wreck of broken lives and dreams.

State political leadership can't escape the blame either. For years conservatives

in business and in government have waxed eloquently about job creation and creating a better business environment, seemingly trying to convince themselves and us that if we all chanted the American Dream enough times it would really come true.

About all that has been created in recent memory are the high-tech jobs which require the education simply beyond the reach of those who crowd the tenements of Lowell, Lawrence, Fall River, New Bedford, Worcester, and the other famous mill towns of this state, and the low-tech service jobs on whose salaries raising a proverbial family is a task requiring the management skills of the old lady who lived in a shoe.

Worse yet, this high-tech boom has created a generation of Yuppies (known locally as the Mass High Tech Council) who have run for the suburbs and advocated anti-loitering ordinances so they don't have to look at urban blight.

I would recite the faults of our national leadership in solving the problems of urban America, except that those guys are, by and large, such utter boneheads and gutless opportunists that anyone even remotely aware of current events knows the level of their incompetence and selfishness.

Suffice it to say that a generation of political leaders who think a profile in courage is voting to beat the hell out of Iraq or declare the "War on Drugs" is being won when crack can be gotten easier than the morning paper on many city streets is not likely to face, let alone solve, any problems tougher than whether they should raise their pay 10 or 20%.

I suppose the schools will re-open in Chelsea and the kids there will go back to class so the better ones can learn how to become burger-flippers and croissant-butterers of tomorrow. Most will become the faceless poor. That they, like millions of other kids across America, will learn almost nothing of worth is a given. I hope, however, that in the days before this charade called public education starts again in Chelsea, it might dawn on at least a couple of these kids that they've been cheated, and what's happening to them is a God-damn shame.

You Mean You Really Wanted To Come to HLS?!

Welcome One-L's. Because orientation was shortened this year, I've taken it upon myself to let you in on some things you

By Alysse MacIntyre
RECORD Columnist

should know about Harvard Law. Here's the Official Alysse MacIntyre Introduction to Life at the Harvard Law School.

Intimidation

Everyone here turned down outrageous offers from other schools to come here. I mean, it's only Harvard. It's not like achieving Nirvana or anything. Personally, I turned down the value of Fort Knox from other schools to be here. Just another example of what can happen if you do too many drugs. Sometimes I can't help thinking of my brain as a fried egg on top of a staggering accumulated loan debt: "This is your brain... This is your brain on drugs after Harvard Law School." I guess that it's true that we all have to learn the hard way. So when you look around the room during class and are thoroughly intimidated, just remember that combined all these people turned down millions of dollars from other schools. How bright could they possibly be?

Student Life & Politics

If you're conservative, you'll want to practice complaining about how persecuted conservatives are here. Repeat, "We're so silenced here" over and over until it sounds natural and you can do it with a straight face. I know this sounds silly, but you're never going to be in with

the hip crowd over at Lincoln's Inn unless you can do it. You should sign up for Conservatives Anonymous ("My name is Binky, and I'm a conservative." "Hi, Binky!") and other conservative support groups such as the Federalists. If you're into covertly attacking abortion rights, don't miss signing up with the HLS Republicans. It's what they do best. You'll also want to start complaining about my column and writing me angry letters. I try my best to make people around here laugh (hey, it's a dirty job, but someone's got to do it) and I love it when conservatives do the same for me.

If you're a Perpetually Indignant Liberal-type (to borrow P.J. O'Rourke's term), you'll want to start plotting a novel way to get under the Dean's skin. He loves to be embarrassed in front of the alumni. Plus this year he's hard at work collecting the big bucks for a new building that 1) they've already got enough money for, and 2) will make the years here more miserable than they already are with construction noise. An even better reason to annoy Dean Clark is that he's got a new boss to be embarrassed in front of this year. If you want to be hip in the Perpetually Indignant scene, you'll not want to be left out. You'll also want to start silencing people with different views from yours, especially liberals and moderates who insist upon a critical, two-sided analysis of the issues. These people are your natural enemy, not the conservatives.

No one takes the conservatives seriously anyway. Never admit that there might benefit from open dialogue and ideas that are not Politically Correct, lest you find yourself banished. Practice being self-righteous, but don't overdo it or you'll be confused with a conservative.

While heterosexual males will probably have had enough experience apologizing for these three little accidents of fate, they won't want to quit now since that experience will really pay off here. PC Jews will want to start adding a special apology for Alan Dershowitz when they're apologizing for Jackie Mason and others who have done so much to further relations between the Jewish community and women, gays and lesbians, and ethnic minorities.

Lastly, if you're in the middle, just try to stand back and avoid the crossfire. Good luck. You'll need it.

Sex

Cherish it as a fond memory. On the rare occasion that you might need a condom, never buy one out of the Hark bathroom vending machines. They've been there since you were in junior high.

Hark Boxes

They self-generate paper. Scientists are still trying to explain it.

Dean Bob Clark

Never say "hi" to DBC when you pass him on campus. He's put a lot of work into his image of being aloof and uncaring and doesn't want to blow it now.

The Professoriat

Your years here will also be

much more pleasant if you learn to stay out of the way of the camera crews and the professors whose egos they inflate. Be happy if you never get on of these guys because they are much too busy giving interviews and telling studies about when they represented God to bother teaching. They figure that you can catch them on PBSA or Good Morning America like everyone else. Also, don't confuse the Media Slut Professor with his close cousin, the Name Dropper. The Name Dropper merely likes to tell stories ("I was counseling someone you may have heard of, a justice by the name of Bill Brennan, and I said, 'Bill,...' but isn't a Talking Head. Always keep in mind that most professors have had less experience practicing law than the average 3L. A vast number of professors who seem to have a lifetime of stories from practice in fact practiced less than a year.

Lastly, don't get too attached to Women and Minority Professors. If they're tenured, chances are good that they won't stay. If they're visiting, they won't get an offer. If they're associate professors awaiting offers, they'll be strung out so long that they'll likely settle down at Stanford or Yale or some school that isn't so overtly racist and sexist in its tenure consideration.

2Ls and 3Ls

2Ls are the ones who will in a short time be putting on a fashion show in suits. (Is that an oxymoron?) They're the ones full of sympathy for you be-

cause they recall the horror they were experiencing just one year ago. A lot of 2Ls have the expression of indulgent parents: "Oh, aren't they cute? Remember when we were just learning to Shepherdize?"

3Ls are Captains Invisible. They've got jobs, they don't care. They're sick of the law school scene. They've got better things to do like reasearch the mutual funds that they'll be investing in shortly. They only show up from time to time to take a final or collect their degrees.

The Library

It's true; it used to be an echo chamber. Alisse's Postulate: the more you need to study, the louder the librarians will be. They are the most helpful bunch; they'll never look at you like you're an idiot even when you ask the stupidest questions. But they are the loudest library staff known to woman and man. Take your ear plugs.

Dropping Out

Psych. They lied to you. People do drop out. Oh, sure, they say it's because they made a mistake in applying to law school or choosing Harvard, but it costs \$1,000+ to apply to law school between Stanley Kaplan, the LSAT, the application fees, etc. How many people spend that kind of money and then realize law school is not their cup of tea? Well, most of us, actually. But the truth is that law school is not any harder than what you're used to. Most people who have left did not stay long enough to find that out. You'll hear it a thousand times because it's true: It gets better.

Tribe

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to life" secured by the Declaration.

Or consider Judge Thomas's insistence that "economic liberties [are] a vital part of the rights protected by constitutional government." To be sure, judges today understand that certain economic rights, like the right to fair compensation when private property is taken for public use, are constitutionally guaranteed.

But the last time a Supreme Court majority invoked natural rights theories, some 80 years ago, the Court held that the Constitution protects such economic rights as the "liberty" of employers to conduct business free of health and safety regulations and minimum wage laws.

Libertarians, though, can take little solace: Natural law has most often been cited to justify moralistic intrusions on personal choice — as illustrated by Chief Justice Warren E. Burger's appeal to "Judeo-

Christian moral and ethical standards" in *Bowers v. Hardwick*, a 1986 case condemning oral and anal sex between consenting adults.

And, perhaps echoing the Declaration's language that "all men are created equal," the Court 120 years ago relied on the law of "nature" and "the law of The Creator" to deny a woman the right to practice law, deeming it the "paramount destiny and mission of woman to fulfill the noble and benign offices of wife and mother."

Before the Senate decides whether to confirm Judge Thomas, they should explore the implications of his views about natural law as the lodestar of constitutional interpretation. With the power of Congress and of every state and local legislature hanging in the balance, the Senate cannot avoid sharing the responsibility for the fate of self-government in the United States.

This is a reprint, with permission, from the July 15, 1991 *New York Times*. Larry Tribe is a professor of Law at Harvard Law School.

HLS Exhibit Honors Cox

Professor Emeritus Archibald Cox '37 is being honored on the forty-fifth anniversary of his appointment to the HLS faculty by a retrospective exhibition on display in Langdell library. Entitled "That Justice Be Done: Archibald Cox's Life in the Law," the exhibition includes papers, photographs, and memorabilia from Cox's life and career. Materials were drawn from the collection of Cox's professional papers at the Special Collections Department of the library, from photographs in HLS's art collection, from Cox's personal collection of memorabilia, and from various federal repositories such as the National Archives.

Cox graduated from Harvard College in 1934 and HLS in 1937. He began teaching at HLS in 1945, interrupted his teaching to serve as U.S. Solicitor General for four and a half years in the early sixties, and returned to Harvard until being named Watergate Special Prosecutor in 1973. After President Nixon had him fired, Cox returned to academia, as Pitt Professor of American History and Institutions at the University of Cambridge in the

academic year 1974-75, and then at HLS. He was named Carl M. Loeb University Professor in 1981; since 1984 he has been emeritus. He continues to teach, as a visiting professor at the Boston University Law School.

The exhibit's 15 cases focus on Cox's schooling, teaching, and writing; his work for the Presidential anticampaigns of John F. Kennedy and Morris Udall; his public service under Presidents Truman, Kennedy, Johnson, and Massachusetts Governor Dukakis; his lifelong connection with Harvard university; his leadership role in Common Cause; and professional honors he has received over the past decades. Two exhibit cases are devoted to his months as Director of the Watergate Special Prosecution Force.

"That Justice Be Done: Archibald Cox's Life in the Law" opened on Sept. 3 and will be on display through January 6, 1992 in the Reading Room of the exhibition and its accompanying annotated catalog were prepared by Erika S. Chadbourne, Curator of Manuscripts Emerita in the Law Library.

Bell

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odds with the convictions of a great majority of his people. Thus, Judge Thomas must expect fierce criticism, first from blacks and then — when they realize the racial chaos his decisions will create — whites as well. His stand will require personal courage.

The brilliance of his scheme lies in the following: It will work

even if he denies — as he probably will — that his conservatism really masks a radicalism to which most blacks do not adhere but to which an ever-increasing number will subscribe within months after he takes his seat on the Supreme Court.

This is a reprint, with permission, from the September 8, 1991 *New York Times*. Derrick Bell is the Weld Professor of Law at Harvard Law School and is currently a visiting professor at the New York University Law School.

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.

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