



Harvard Law Record

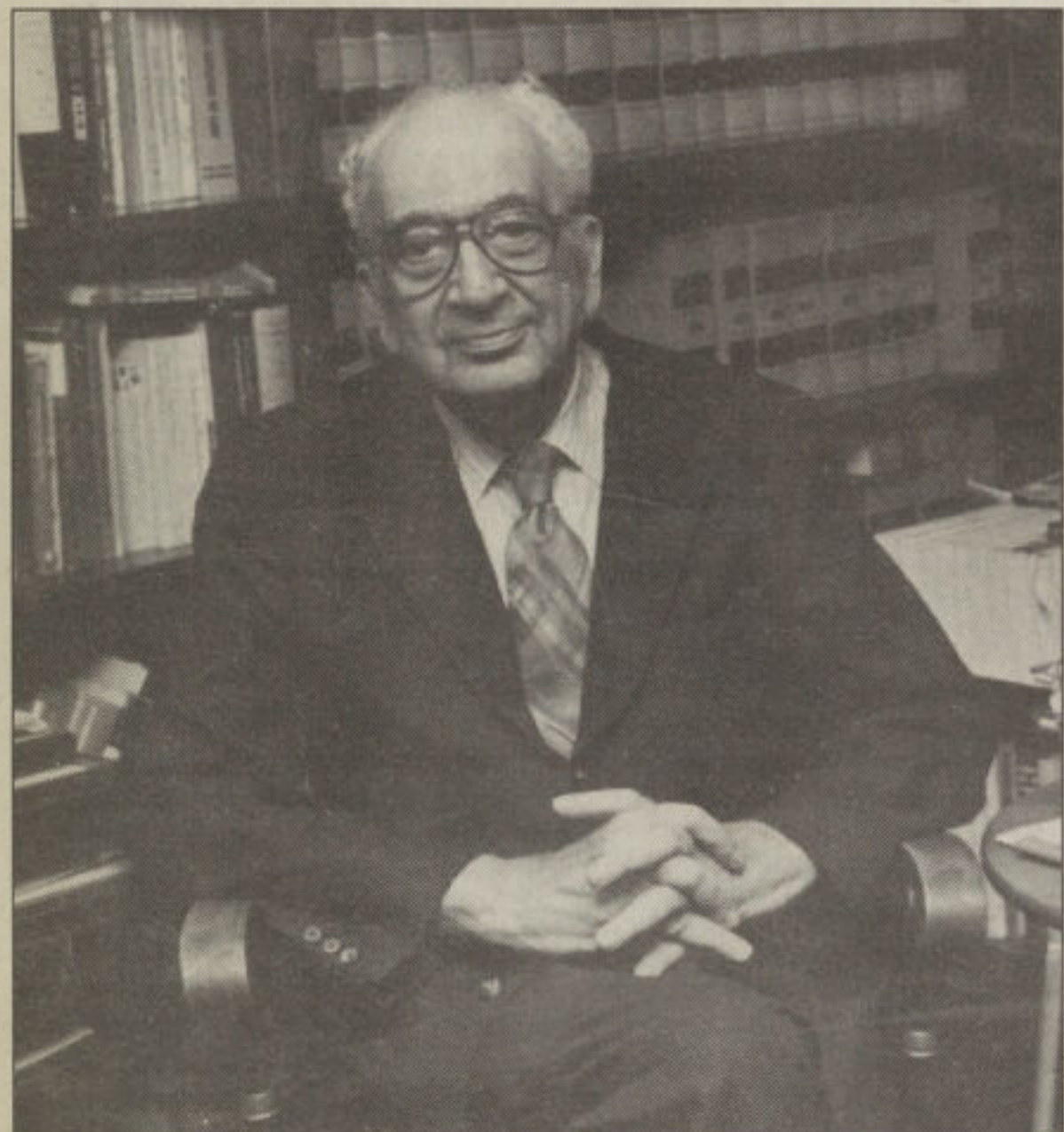
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February 7, 1992

Professor Emeritus Paul A. Freund Dies At Age 83

Scholar Of Constitutional Law And The Supreme Court



Constitutional Law and US Supreme Court scholar, Paul A. Freund. A person of great intellectual integrity and insight.

Paul A. Freund, 83, Carl M. Loeb University Professor

By Mike Chmura
Special to the RECORD

Emeritus at the Harvard Law School, died on Wednesday, February 5, 1992 of cancer. He was a resident of Cambridge.

"All of those connected to Harvard Law School feel a loss with the passing of Paul Freund," said Harvard Law School Dean Robert Clark. "He was an outstanding teacher, to both students and colleagues, about the constitutional framework for our society. Even after joining the alumni ranks, his former students sought Freund out as a spokesman on the School and on the law. And his colleagues at the School relied on him constantly through the years for advice and assistance."

"Paul Freund was the dominant figure of his time in the field of constitutional law," said former HLS Dean James Vorenberg. "He combined knowledge, insight,

and a matchless ability to express himself.

"His persuasive force came from the depth of his intellectual integrity and from his gentleness," said Vorenberg. "In 40 years as his student, colleague, and friend, I never saw a heavy hand. He was one of the rare few who, at an institution as complex as Harvard Law School, could speak for everyone, because of his intense loyalty and love for the School and because his life's work symbolized the School's greatness."

"Many thoughtful admirers, in and out of the law, had been exposed to his marvelous personality or benefited from his sound counsel," said former student John B. Davidson of Chicago. "He similarly touched many others who heard him speak or who shared in his gem-like essays, sculpting a difficult subject for us or often simply, but most beautifully, capturing and describing the essential character, struggle, or contribution of some

great judge or lawyer."

Freund was born in St. Louis on February 16, 1908. He received the A.B. from Washington University in 1928 and attended Harvard Law School, receiving the LL.B. in 1931 and the S.J.D. in 1932. While at the Law School, he was President of the Editorial Board of the Harvard Law Review.

Following graduation, Freund served as law clerk for Justice Louis Brandeis from 1932 to 1933. This appointment led to a lifetime of research and interpretation of the works of Brandeis. Freund worked at the Treasury Department and the Reconstruction Finance Corporation from 1933 to 1935. From 1935 to 1939 and again from 1942 to 1946 he worked in the U.S. Solicitor General's Office.

Freund joined the Harvard Law School faculty as Lecturer in Law in 1939, specializing in constitutional law and conflict of laws. He became Professor of

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Mass' Supreme Judicial Court To Hear HLS Discrimination Suit

SJC Grants Students' Motion For Direct Review Of Lower Court Ruling

In a highly unusual move, the Supreme Judicial Court of Massachusetts has granted a motion by Harvard

By Eric Blair

Law students for direct appellate review of a lower court ruling in their case alleging that the school discriminates in its faculty hiring practices. The decision, issued on Wednesday, January 22, means that the students will bypass the Massachusetts Court of Appeals and have their case heard directly by the state's highest court. The SJC will consider whether a lower court ruling, holding that students could not challenge their school's discriminatory faculty hiring practices in court, should be reversed.

According to Massachusetts court rules, the SJC only grants such motions in cases presenting "novel questions of law" or "issues in the public interest." Harvard University had opposed the students' motion.

Numerous civil rights groups from across the country, led by the Boston Lawyers' Committee for Civil Rights Under Law, had filed an amicus curiae, friend-of-the-court, brief in support of the students' motion before the SJC, as well as a friend-of-the-court brief in support of the students' appeal. The civil rights groups' briefs were authored by the Boston law firm of Widett, Slater & Goldman at the request of the Lawyers' Committee.

"This is a major development in our lawsuit against Harvard," said Inger Tudor, a third-year student and a member of the HLS Coalition for Civil Rights. "With this ruling, the SJC has signaled its recognition that this case presents issues of critical importance to civil rights law for this state and for this country."

"Students suffer direct injuries when their school discriminates in the hiring of their teachers. If anti-discrimination law is to apply effectively to institutions like Harvard Law School, then students

must be allowed to challenge their school's discriminatory faculty hiring practices in court."

On November 20, 1990, the Coalition for Civil Rights filed suit in Massachusetts state court charging that Harvard Law School has for years unlawfully excluded women and minorities from its faculty. The case, in which the students are representing themselves, is believed to be the first of its kind in the country. The students are seeking a reversal of a Massachusetts Superior Court ruling of February 22, 1991, that they do not have the legal right to bring the suit.

Of the 66 tenured or tenure-track faculty members at Harvard Law School, only five are women—all of whom are white—and only six are African-American—all of whom are male. The rest are all white men. No women of color, no Latinos, no Asian-Americans, no Native-Americans, no openly lesbian, gay, or bisexual persons, and no

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HLS Offers Tenure To Steiker '86

No Word On Anita Allen '84 Or Gerald Torres

Carole Steiker '86 will be the seventh woman to join the

By Lisa Zornberg

Harvard Law School faculty if she accepts the tenure-track position recently offered to her by the administration. The law school faculty voted in early December to offer Steiker an assistant professorship, and that decision was recently ratified by Dean Clark and the Harvard Corporation.

Professor Paul Weiler '65, who chairs the Appointments Committee, called this a "clear-cut case."

"When a record is as outstanding as Steiker's," he said, "we don't feel we have to wait to see the entire applicant pool."

Dean Robert Clark agreed with this commendation, describing her work and intellec-

tual prowess as, "dazzling."

Steiker graduated from the law school in 1986. As a first year student she won the Sears Prize, and went on to become President of the Harvard Law Review. She also served as an executive board member of the Women's Law Association.

Steiker's post-law school record is equally impressive. Following graduation she clerked for Justice Skelley Wright on the D.C. circuit, and later for Justice Thurgood Marshall on the United States Supreme Court.

Among her scholarly writings is an article published in the Review in 1985, entitled, "The Constitutional Status of Sexual Orientation: Homosexuality as a Suspect Classification." Since 1988 she has built a reputation as one of Washington D.C.'s top public defenders.

Asked whether she plans to accept the offer, Steiker answered that she has not yet made a decision. She stated that while she was "delighted" by the prospect of teaching at her alma mater, her acceptance depends on whether her husband, a D.C. civil rights attorney, can find work in the Boston area. The administration is currently helping Mr. Steiker to investigate job possibilities that would guarantee his wife's acceptance, and the two are planning a trip to Boston for this purpose.

Reaffirming what many law students have known for months, Steiker commented that, "the market for law jobs in Boston is not too good these days."

If she accepts a faculty position at the law school, Steiker will

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Fisher To Retire As Professor

Negotiation Guru To End Career At Age 70

Willston Professor of Law Roger Fisher '48 knows how to

By Toy Chandler
with contributions
from the Crimson

help people get along. And for just one more semester, he'll be teaching Harvard Law students the secret.

The best-selling author of *Getting to Yes*, now in its 20th edition and published in 18 languages, Fisher is retiring in May due to a university policy that requires faculty to step down at age 70. He will continue to have ties to the law school.

From El Salvador to South Africa to Iran, Fisher has travelled the globe to teach his negotiation techniques to world leaders with hefty problems

on their hands. Students in his Negotiation Workshop learn to apply his methods to mediating complex international disputes.

According to Fisher, much of what he teaches is grounded in simple common sense.

"So many courses are 'about something' and yet what we need are skills, and the skill to think clearly and to relate

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Prof. Roger Fisher '48

Courts Biased Towards AIDS Victims Report Shows

Criminal law decisions and judgments appear to contradict current

From the Gazette

knowledge about the transmissibility of AIDS, according to a report released a few weeks ago.

The report, based on a project supported by the Department of Health and Human Services, the U.S. Public Health Service, and the National AIDS Program Office, asserts that AIDS discrimination continues in powerful forms: punitive actions by the courts and severe restrictions on coverage by insurance companies, the report shows.

The report details an uneven response by the courts to the right of access by AIDS patients to medical care, particularly dental care and nursing care.

"This study documents the extent to which courts are giving harsh prison sentences to persons with AIDS for biting or spitting; insurance companies are not covering people with AIDS; and health care professionals will not treat them," said

Larry Gostin, principal author of the study and professor at the School of Public Health. "Furthermore...our study shows that some courts perpetuate stereotypes and myths about AIDS rather than defend human rights. Because judges appear undereducated on the subject of AIDS, they are permitting prosecutors to use fear and misunderstanding to undermine the rights of persons with AIDS."

One of the issues least resolved in the courts at this time is education policy, said Gostin, including issues of condom distribution; whether children and youth from certain religious groups can be exempted from AIDS education; and whether education programs can be censored by the state.

"Government, rather than promoting frank discussion of sexual behavior, drugs, and AIDS, often impedes AIDS education," according to Gostin.

The 400-page report is a digest of the federal, state, and local court cases and decisions that encompass

all aspects of American life—not only people infected with AIDS, but families, the workplace, schools, and societal attitudes about sexual behavior.

Co-author of the report is Lane Porter, chair of the International Health Law Committee of the American Bar Association.

The study comes at a time when courts increasingly are interpreting and making laws relative to AIDS, where formerly the states and federal regulatory agencies predominated.

Harvey Fineberg, Dean of the School of Public Health and proponent of the use of public health knowledge to guide policy and law on AIDS, said, "It appears that those of us in public health have not yet done an adequate job in educating the judiciary and other key decision makers. Some courts seem unable to distinguish important from inconsequential risks of AIDS transmission."

Health insurance companies continue to discriminate against persons with AIDS, according to the report. Perhaps more than any other

restrictions on access, current health insurance policies are shown to prevent people with HIV from obtaining needed treatment, according to the report.

An escalating number of cases involve the validity of insurance policies when misstatement by the applicant is alleged, according to the report. In one case, an insurance company attempted to rescind death benefits after the insurer died; the beneficiary tested positive for HIV, when neither knew of his infection at the time of application.

The court ruled that the deceased had not misrepresented his medical status at the time of application. The company was required to honor both policies.

"My concern is that there is nothing in place which protects or guarantees treatment or health insurance for people sick with AIDS. An insurance company or an employer can effectively stop or deny treatment altogether despite willing and expert providers available to provide care," said Gostin.

Wasserstein Fund Creates Public Interest Summer Fellowship Program

Just as it seemed that public interest summer funding had

By Steve Yarian

virtually dried up (RECORD, Sept. 20, 1991), HLS students will now be able to pursue public interest work this summer, and for three summers to come, because of the generosity of the family of New York City businessman Morris Wasserstein.

The Wasserstein family has presented the law school with a gift of \$300,000 to establish the Morris Wasserstein Public Interest Summer Fellowship Program.

Announcing the program, Dean Robert Clark said "We are delighted by the Wasserstein family's generous assistance to Harvard Law School programs designed to help students who wish to explore careers in public interest work. This new endeavor, along with the previously established Morris Wasserstein visiting fellows program, will serve as a cornerstone

for the School's activities in this area of legal education."

Speaking for the Wasserstein family, Sandra Wasserstein Meyer, daughter of Mr. Wasserstein, said "The summer fellowship program is intended to enhance the development of an outstanding public interest program at Harvard."

The largest barrier for students interested in summer public interest work is the disparity between private and public sector salaries. The Wasserstein Summer Program will help reduce this salary differential and will allow students to work with groups who are unable to offer a salary. The Wasserstein donation will provide 55 grants of up to \$1,800, for each of the next three summers, for students working in public interest organizations. The term "public interest work" has been broadly defined to include law-related work for governmental organizations or for non-profit

organizations that provide legal services, conduct research, or engage in other activities aimed at advancing the common good.

Morris Wasserstein has been active in support of charitable causes throughout his life. His wife Lola Wasserstein and his children — Bruce Wasserstein '70, President and CEO of the investment banking firm Wasserstein Parella Group; Wendy Wasserstein, the Pulitzer-Prize winning playwright; Georgette Wasserstein Levis; and Sandra Wasserstein Meyer, a senior executive at Citicorp — have all been active in charitable causes as well.

Harvard Law School has been served since March 1990 by the family's Morris Wasserstein Public Interest Fellows Program. Income from that Program's \$500,000 endowment fund supports visits to the campus by practicing public interest lawyers, who lecture about their experiences and counsel students con-

sidering public interest work.

Bruce Wasserstein, a graduate of Harvard Law School class of 1970, currently serves as a member of the Law School Visiting Committee and the seven-person Executive Committee for the Campaign for Harvard Law School. While at the Law School, he worked for public interest groups, including the Washington-based office of consumer advocate Ralph Nader '58 (former RECORD President). Upon graduation from HLS and Harvard Business School, the younger Wasserstein received a Knox Fellowship from Harvard to study at Cambridge University. During that period he worked on two books concerning consumer protection with Mark Green '70, now New York City Consumer Affairs Commissioner.

The Wasserstein grants give Harvard Law School one of the most generous summer employment funding programs in the country.

Bush's Judicial Appointments Overwhelmingly White, Male, Rich

Despite the fact that his most famous judicial nominee was a Black

By Toy Chandler
with information
from Cox News Service

man, Clarence Thomas, President George Bush has appointed judges who are not only overwhelmingly white and male, but also the richest jurists to join the federal bench in recent history.

Among 126 appointees Bush made to the U.S. courts, three-fourths had a net worth of more than \$500,000 each, said the Washington-based research group Alliance for Justice.

By contrast, 45 percent of President Ronald Reagan's judicial appointments and only 17 percent of President Jimmy Carter's selections were worth at least a half-million dollars.

Bush has made only a lackluster effort to choose women and minorities, the group charged.

Although he has nominated 18 women — an improvement over Reagan's record — four of those were merely elevated from a lower court.

Bush has named six Black judges, four Hispanics, and no Asians, for a total of 8 percent minorities, only a small increase over Reagan's record.

Amy Casner, a spokeswoman at the Justice Department, declined to comment at length on the report. However, she pointed out that the Bush administration had increased its record of picking judges during

the past year to 16 percent minorities and 19 percent women.

Although minorities made slow gains, the completion of Bush's third year in office brought a nearly complete dominance of appointees by Bush and Reagan in the federal courts. Judges appointed by those two presidents fill 440 of the 837 lifetime federal judgeships.

But even more striking is their almost total dominance in the appellate courts. Bush and Reagan's appointees now form a majority on the Supreme Court and on all but two of the 13 federal circuit courts.

The Alliance for Justice, a coalition of law groups that oppose the conservative direction of the courts, also criticized Bush's appointees for poor records in donating legal help on behalf of the disadvantaged.

Such "pro bono" work is listed by the American Bar Association as the professional responsibility of all lawyers. However, several of Bush's nominees counted as "serving the disadvantaged" their work for bar associations or other lawyers or even for political parties, the report said.

The alliance cited Harvey Bartle, a lawyer from Philadelphia who is now a federal judge, who listed free assistance to a neighborhood association.

A neighborhood newspaper reported that part of Bartle's work had been to block efforts to put a home for the mentally retarded in the community.

Fisher

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thinking to doing," he said.

"I hope, at least, that students will not only enjoy it but become ever more committed to doing something, not just be spectators," he added.

For Fisher, the spectating ended in 1958 when he first came to teach at Harvard. Since then, as director of the Harvard Negotiation Project, he has led countless workshops and seminars worldwide, often at the invitation of foreign governments.

In the late 1970s, Fisher helped the Carter administration design a formula for the landmark Camp David Accord which made peace between Israel and Egypt. Later he assisted in negotiations with the government of Iran during the 1979 hostage crisis.

More recently, Fisher has lectured to leaders of the African National Congress and the South African government on how to resolve their long-standing differences.

"Having the [South African] foreign minister pretend he was the member of a Black squatter group in

role reversal was fun," he said.

And in war-torn El Salvador, Fisher led separate negotiation workshops to end bitter feuding between FMLN guerrilla leaders and the government of Alfredo Cristiani.

"When they reached agreement, they called me up and wanted me to come down to Mexico for the signing [of a cease-fire treaty]," he said.

Clearly, Fisher is good at what he does. But ask him the secret of his success, and he remains modest.

"It's not that I did it," he said. "You're helping people deal with their differences better. And the fact that I'm not an official makes it useful. I'm not threatening. I'm no Henry Kissinger telling them what to do."

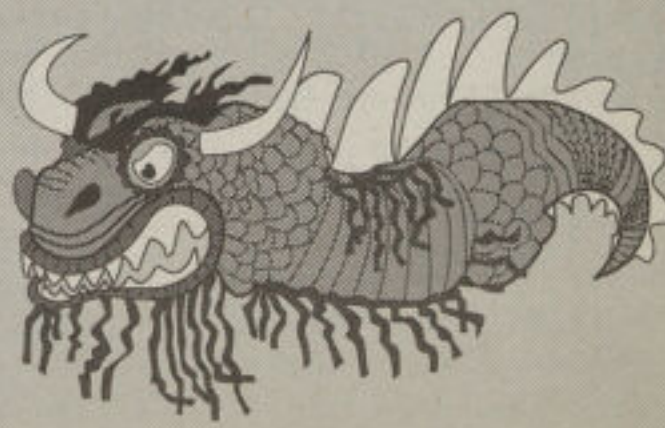
After studying his techniques, students who do well in Fisher's class can often watch their own suggestions in action. In the past, student-written solutions for real-life conflicts have been considered by the governments of Yugoslavia, Germany and the United States.

But, according to Fisher, the techniques are not limited to global politics.

"I had one student tell me he wasn't sure how much good it did in the world, but it sure helped him with his roommate and his family," Fisher said.

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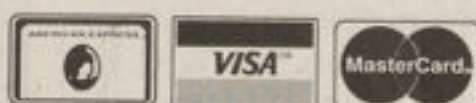
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OBJECTION! was written and programmed by Ashley Saunders Lipson Esq., J.D., LL.M., M.A., As.D., author of *Documentary Evidence*, 1986, and *Demonstrative Evidence*, 1988, both for Matthew Bender Inc., in addition to *Law Office Automation* for Prentice-Hall, 1989, and over 40 articles. He is a 20-year trial lawyer with membership in The ABA, ATLA, Mensa Lawyers, Volunteer Lawyers For The Arts, The College of Computer Lawyers, and several bar associations, including California and Michigan.

Legal Briefs



Jonathan King '91 Wins Award for Copyright Research

The American Society of Composers, Authors & Publishers has awarded the national second prize in its 1991 National Nathan Burkan Memorial Competition to Jonathan King '91. He received the \$2,000 award for his paper, "The Anatomy of a Jazz Recording: Copyrighting America's Classical Music," which was selected from 101 papers submitted and certified by the deans of 68 law participating law schools.

King is currently clerking for Judge Douglas P. Woodlock of the

U.S. District Court for the District of Massachusetts.

King's paper will appear in ASCAP Copyright Law Symposium Number Forty-One, published by Columbia University Press. Granting the awards were Judge A. Leon Higginbotham, Jr., of the U.S. Court of Appeals for the Third Circuit; Judge Harry T. Edwards of the U.S. Court of Appeals for the District of Columbia Circuit; and Judge Nathaniel R. Jones of the U.S. Court of Appeals for the Sixth Circuit.

Law Review To Publish Frug's Profanity

The student editors of the Law Review voted to publish an article by slain feminist legal scholar Mary Jo Frug without omitting profanities contained in the text.

Mary Jo Frug, a professor at Radcliffe's Bunting Institute and wife of HLS professor Gerald Frug, was fatally stabbed last April by an as yet unidentified assailant. Frug was known for her outspoken views, and after her death, police reportedly explored her work in feminist theory to see if it might have provoked a man to attack her, according to the

Boston Globe.

Her uncensored article, a post-modern feminist manifesto containing the words "fucking cunt" repeatedly, will be published in the Review's March issue. Bruce Spiva, an outgoing treasurer of the Review said that this was not the first time the Review had printed profanity, but the staff decided to publish the article with an editorial note stating that the Review deliberately chose to print it without any changes from the original.

Spiva urged students to "read the article."

Judges Increasingly Choose HLS Graduates for Clerkships

One hundred fifty seven Harvard Law School graduates are currently serving as legal clerks to judges throughout the United States. This number reflects a 50 percent increase from 1982.

"The clerkship season was a phenomenal success," said Judicial Clerkship Administrator Margaret Tuitt. "This success reflects favorably on the quality of our students as well

as on the benefits of the judicial clerkship experience for lawyers beginning their careers."

Graduates are clerking at the state and federal levels in 32 states. Besides those with Supreme Court clerkships, 61 alumni are at the U.S. Courts of Appeal, 66 at the U.S. District courts, and others at various state and federal courts.

Claudia Conway '76 Named Principal Of New Jersey Firm

Claudia C. Conway of Malverne, NY, has been named a principal of Butler, Fitzgerald & Potter, a law firm with offices in Manhattan and Rutherford, NJ. The appointment was effective January 1.

Ms. Conway joined the practice in March 1986. Her specialty is commercial litigation.

She earned her JD as a cum laude graduate of HLS in 1976 and practice law with Donovan, Leisure, Newton & Irvine in New

York for two years before joining the Legal Aid Society of New York. She began in the society's Criminal Appeals Bureau, where she remained for almost five years before moving to the Criminal Defense Division.

Ms. Conway's promotion was announced by Raymond Fitzgerald, business manager for the firm, which is a litigation boutique. Another HLS graduate serving as a principal in the firm is James Beggans '65.

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persons with physical disabilities sit on the Harvard Law faculty. In its 174 year history, Harvard Law School has never hired a member of any of these groups.

In their brief filed with the Massachusetts Court of Appeals, the civil rights groups stressed the importance of the anti-discrimination law at stake in the students' case. "It is much, much too late in the day," the civil rights groups wrote, "for any court to hold, as a matter of law, that discrimination in the hiring and retention of faculty does not have a discriminatory effect on the education and opportunities of minority students. Indeed, to so hold would suggest that the school children in

Brown v. Board of Education could seek to remedy segregation among schoolchildren in Topeka, Kansas, but they would be without legal right to seek redress if the integrated student body were to be taught by a segregated faculty."

If Massachusetts' highest court finds that the students do have a right to bring this case, such a ruling is likely to open the doors to lawsuits across the country by students seeking to eradicate discrimination in their schools. In addition, a SJC reversal of the lower court decision will lead to further court hearings in this case on the trial level with regards to the students' charges that Harvard has violated Massachusetts anti-discrimination law. No court has yet addressed the merits of those charges.

The CCR brief along with the amicus briefs will be put on reserve in the Langdell library. Harvard University filed a reply brief on Monday, February 3.

Job Market Not As Bad As Expected For HLS Students

The faltering economy has caused many firms to scale back hiring, but

By Johanna Davis

Director of Career Services June Thompson claims that Harvard Law students are still faring better than she expected. "It appears it won't be as bad here as I thought. A pretty good year for us," Thompson stated.

Thompson said that this year's employment situation was no worse than last, and pointed to the fact that the numbers of jobless students have stayed about the same. But the level of job anxiety has unquestionably increased.

At this time in 1991, twelve 2L's and twelve 3L's were jobless, and as of last Monday, 15 2L's and 17 3L's were still without offers. Thompson conceded that the low numbers reflect only those students who registered with Career Services, but she observed that with the many methods the office has to find students jobs, "you'd have to be foolish not to register."

Career Services stepped up its efforts in the face of the recession, sending out over 1,000 extra mailings to firms inquiring whether positions were available, as well as providing more personal counseling. "This year required strategy, not just hit-or miss interviewing," noted Thompson.

Because of the shortage of positions, employers are looking past the school on the resume to students individual qualifications, such as activities and grades.

Alissa Pyrich, a 3L who just recently accepted an offer, reported that she was "asked for LSAT scores for the first time in any interview, and SAT scores as well." But contrary to popular belief, Thompson said that grades were not the most crucial factor in finding employment. She said the 2L's and 3L's who still had no offers were not the ones with the worst grades, rather, describing them as "mainly people who either made last minute changes in plans, or people with poor interviewing skills."

Thompson countered claims that 2L's were hindered in job-seeking by Harvard's late fly-out week. "The only schools that disadvantage us are Columbia and NYU who have their interviews in August," claimed Thompson. "There's no way to offset that unless everyone wants to come back a week early to school."

She also observed that Stanford and Yale, two of Harvard's major competitors, also schedule their flyout week during the first week in

November. "It just doesn't seem to bother employers," said Thompson.

Looking past the summer horizon, 2L's are also concerned about finding post-graduate employment. This is one reason for the increasing popularity of clerkships. "The number of law clerks has been steadily rising. It's more likely this year's second-year students will be taking clerkships when they graduate. Most aren't doing it because they can't get a job, but just to hedge their bets."

Thompson said clerkships benefit students in two ways: "If you get a job you can always put it off, and it looks good on the resume."

As for the prospects for One L's, Thompson claimed that they, "don't look disastrous. In fact, firms might be more inclined to take One L's this year since they don't have to offer them permanent positions." But Thompson admitted, "For One-L's, the point is to get a job, not the job. If first-years are too selective about what they want, they will be disappointed."

She said that until the sign-ups for on-campus interviews were complete, the office could not be sure how many first-year students were still looking for work. She was optimistic, however, observing that 23 employers were visiting campus this year, whereas last year only 20 came to interview One-L's.

One-L Andrew Kofman isn't sure the picture is so rosy. With several possibilities open, but still jobless, Kofman characterized the on-campus interviewing situation as, "a little hopeless. It seems like there are so few firms coming, and so many people I know still need jobs. Also, many firms who wrote letters saying they'd be on campus aren't listed."

Kofman admitted that his decision to only apply to New York firms "may have been a mistake." Thompson agreed that choice of locale has a big impact on chances of getting a job. "Things are very bad in this part of the country, although I'm still hearing from One-L's who got jobs in Boston," she said.

Thompson pointed out that Career services could direct One-L's to many job listings for non-legal work, including a directory of corporate counsel and non-profit organizations. She pointed out that summer research assistantships were also a good option for One-L's. "More first year students took those jobs last year than in the past. It's a sign of the times."

Steiker

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begin teaching here next fall, and will specialize in criminal law, evidence and legal ethics. She feels it will be difficult to make the adjustment from practicing as a public defender to teaching, observing, "I can't imagine two jobs that are more different. Standing in front of a group of 1Ls has got to be different than standing in front of a jury."

She added that if she comes here to teach, she hopes to make her classes "interesting and fun for students" by giving course material a "real world spin."

Steiker admitted that it would be a jarring change for her to go from the environment of the public defender's office, which is about fifty percent women according to her estimation, to working with the Harvard law school faculty, which is overwhelmingly male. She feels that women are a positive and needed element of the faculty, and expressed her own joy derived from being taught by tal-

ented female professors, including Martha Minow and Susan Estrich.

Steiker's offer follows on the heels of the offer made to Christine Desan Husson, who accepted the position of assistant professor in September 1991, and who will join the faculty in fall 1992. Steiker said she will decide whether to accept the offer soon. "It won't be a big mystery for long," she declared. In the meantime, a hopeful administration awaits her answer.

Elizabeth Moreno, Co-Chair of the Women's Law Association, also expressed the organization's support of the offer to Steiker, commenting, "We hope the administration realizes that there are qualified women [for professorships] out there, and that there is not the pool problem they're imagining." But Moreno cautioned that while WLA is happy to see all women tenured at the law school, "this doesn't excuse the problem that there are no women of color on the faculty."

Rumors as to whether or not Georgetown Law Center Professor Anita Allen '84, a woman of color, or University of Minnesota Professor Gerald Torres, a Latino, both of whom were visiting professors at HLS last year, will receive an offer are still unable to be confirmed.

outwardly obnoxious in
an oddly endearing way

495-4418

Write for the RECORD

International Student Delegations Visit Ecuador

Two months ago, while most HLS students headed home to family and

By Eric Blair

friends for the Thanksgiving holiday, the Harvard International Law Society sent four students on a study-visit to Ecuador. Tom Cervantes J.D./M.B.A. '92, Reed Herrero '93, Jan Joosten LL.M. '92 and Howard Sklamberg '94 spent one week meeting with Ecuadorian lawyers, judges, government officials and others.

This trip was the most recent in a series of International Law Society study-visits which has included delegations to Japan, South Africa, Germany and the Soviet Union. The Ecuador trip was paid for by contributions from the law firm of Perez, Bustamante y Perez and by the Conoco Oil Company.

The law students attended fifteen different meetings during their stay, including lunch with the Vice-President and briefings by a Supreme Court Justice, the American Ambassador, and a public-interest law firm fighting oil drilling in the Ecuadorian rainforests. The students also spent a day visiting oil drilling sites in the rainforest near Lago Agrio, one of the largest sites of oil extraction in Ecuador.

Since oil accounts for half of Ecuador's exports and since the great majority of that oil is being pumped out of the rainforest, the Harvard delegation focused its attention on the environmental impact of the oil industry and the legal issues involved. Seismic testing, oil drilling, oil processing and pipeline spills all constitute threats to what is one of the most bio-diverse and fragile environments in the world.

Since environmental legislation is undeveloped in Ecuador and since the government resources for enforcement are negligible, oil companies are left to regulate themselves. The American oil company Conoco, which up to now had proposed the highest environmental standards among those companies operating in Ecuador, recently abandoned plans to develop Ecuadorian oil fields because of difficulties with the government ministry of mines and energy. A second American company, Maxus Energy of Dallas, will take over the Conoco projects

and has promised to maintain the same standards proposed by Conoco. Public-interest groups have posed legal challenges in the Ecuadorian courts to the development of the most sensitive parts of the rainforest but thus far have failed to halt development.

A second significant threat to the environment is the influx of large numbers of Ecuadorian colonists who use the oil-company roads to settle the jungle, cutting down trees in order to obtain title to the land and setting up ranches or farms which quickly deplete the thin topsoil causing erosion. This problem of colonization can be expected to continue as long as Ecuadorians are under pressure to leave other parts of the country seeking opportunity.

After neighboring Peru deprived Ecuador of a large part of its territory, the Ecuadorian government passed laws encouraging colonization in order to secure its claim to its remaining territory. These outdated laws are an additional obstacle to the regulation of settlement in the rainforests.

Politically, it seems to be more expedient for the Ecuadorian government to leave the rainforests as an escape valve for colonists seeking a better life, in spite of the cost to the environment and to indigenous peoples.

Although many Latin American nations are turning towards privatization, liberalization of currency controls and the free market as ways of improving their debt-burdened economies, Ecuador has taken a wait-and-see attitude.

In meetings with government officials the Harvard law students learned that Ecuador is skeptical about the experiments with the free market which are being carried out in places like Argentina, Mexico and Chile. Although business leaders are calling for free market reforms, the current government retains an ambivalent attitude towards privatizing the many state-run enterprises and towards opening up Ecuadorian markets to foreign investment. This attitude has led to criticism of the national government by American Ambassador to Ecuador Paul Lambert, a Harvard Law alumnus who met with members of the Har-

vard delegation. The day before the Harvard students arrived in Ecuador, Ambassador Lambert's criticism sparked a sharp reply by President Rodrigo Borja that the U.S. should refrain from meddling in domestic Ecuadorian policy.

Aside from its schedule of official meetings, the Harvard law students made a day trip to the market at Otavalo, a town in the Andean highlands known for its indigenous handicrafts. The work of indigenous artisans is so sought after that it is not uncommon for them to fly to the States to sell their work.

The students also enjoyed a tour by dugout canoe on the Agua Rico river while they were

visiting Texaco oil operations in the rainforest. They were impressed by the towering trees along the river banks, but they also learned that local pollution has spoiled the fishing in that river. Their guides explained that the monkeys and other animals which had formerly populated the local forests had now largely disappeared, leaving the ride along the river eerily quiet.

The impact on the environment of the oil industry and of the overnight boomtown which sprang up at Lago Agrio provided the students with a somber reminder of the price of developing Ecuador's most precious natural resources.



International Law Students visited with Vice President of Ecuador, Luis Parodi. They went to Ecuador over the Fall semester break.

Summer Law Study

in

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London

Mexico

Oxford

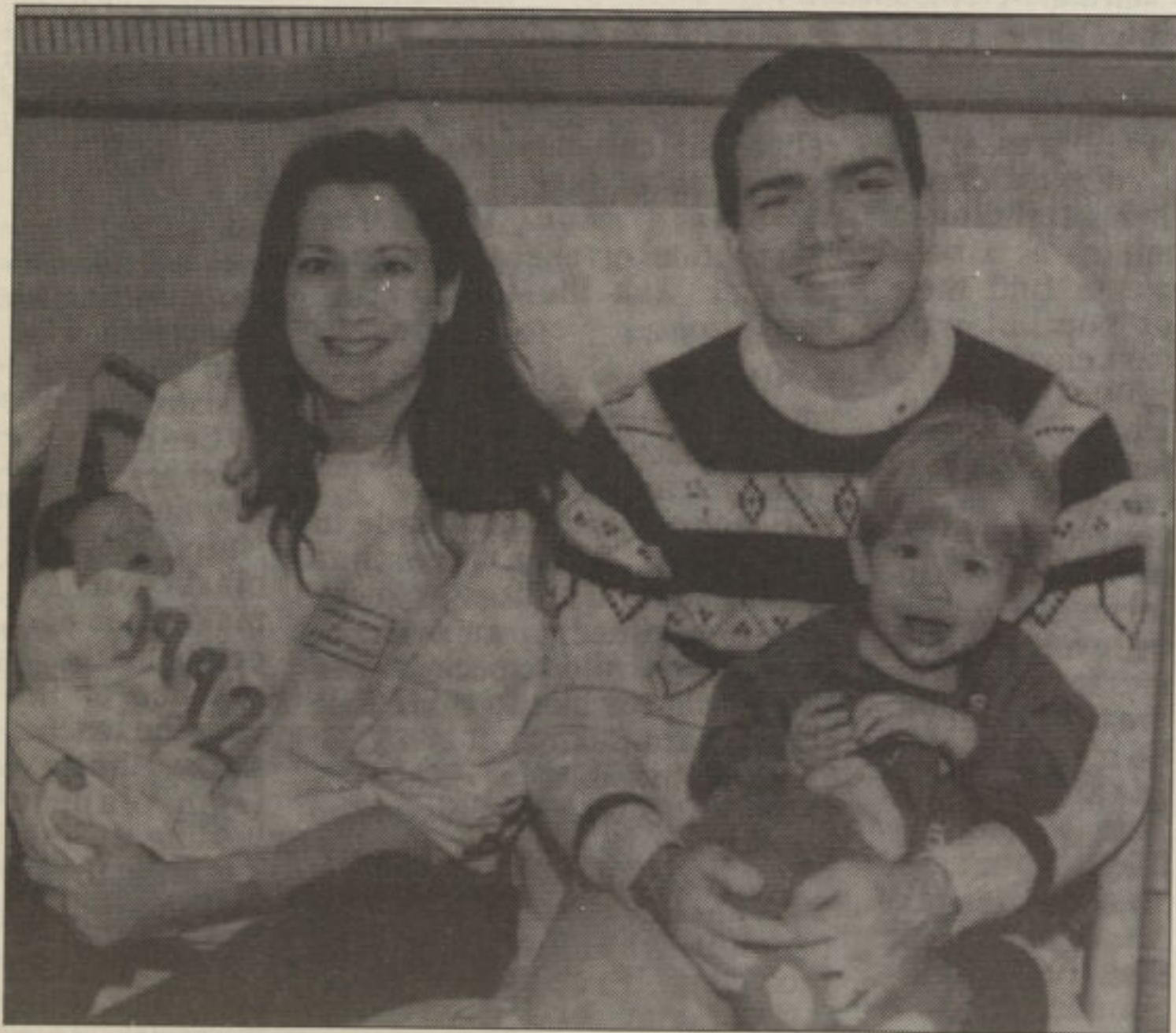
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Alcalá Park, San Diego CA 92110

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Proud parent Jim Bowen '93 holds his son Scott, while wife Vanessa holds their newborn daughter, Jordan. Jordan was the first baby of the year born at Waltham Weston Hospital and Medical Center. She was delivered 3:20 PM on January 1, 1992, weighing 7 pounds, 14 ounces. A RECORD Congrats!!! [When you see Jim ask him for a cigar.]

Harvard Law Record

Volume 94, No. 1

Robert C. Arnold
Editor-In-Chief

Equal Justice for All

Inscription on the edifice of U.S. Supreme Court

I am saddened by the loss of Professor Paul Freund. Although I never had the pleasure of having a class with him, and thus knew very little about him, I feel the same way one feels when a member of one's extended family passes. Whether that person was close to you or not, it brings to mind the reality of our communal existence in a heartfelt, visceral way.

No matter what I say or write, I do want to feel as if I have some sort of familial relationship with Harvard Law School. No matter how naive that may sound, as a student and as a prospective alumnus, HLS is an indelible part of my life, and collectively, our lives hereinafter. As a member of that family, I want to be a part of something much larger than myself, something that I can be proud of.

I have, however, had the pleasure of taking a class with Roger Fisher who is retiring. I am glad that I had the opportunity to learn more than the art of negotiating with the amazing Mr. Fisher, or as he has his students call him, Roger. In his Negotiation Workshop, in addition to learning the skills of Getting To Yes, I also honed my skills of getting along with the many diverse people who comprise our world.

Juxtaposed with the loss of these two great legal scholars is the news that a new professor, Carole Streiker, has been extended an offer and may join our faculty. I heartily welcome the news of her acceptance of the offer, and I think it is an example of the incredible regenerative powers of this place. Although eras end, eras begin anew.

Ms. Steiker, a "clear-cut" "star" by whatever standards one wishes to apply, attributed part of her development as a legal scholar to having had Martha Minow and Susan Estrich, role models, as professors. One of CCR's complaints in its law suit against the law school (first filed in November of 1990) is that there are no role models for certain underrepresented groups to pattern themselves after. More fervently though, CCR alleges outright discrimination.

When CCR filed the suit, I was like many other students at the time, skeptical. Combined with Professor Derrick Bell's protest, I thought these actions were merely pressure tactics to get the faculty to move on hiring a woman of color.

However, some of the comments which have been made in the past and continue to be made today about the lack of a pool of qualified candidates from which to choose, and about how a disproportionate amount of the Appointments Committee's time is spent addressing the issues raised by Bell and CCR continue to be disturbing.

Discrimination is difficult to prove. However, it is not untenable given the facts. I give you an example of two classmates from the HLS class of 1989, both obvious "stars."

Both were summa's from prominent undergraduate universities. One was graduated with honors from Oxford, while the other was awarded the Fay Diploma for having the highest combined three year GPA. Both were editors of the Law Review, and both clerked for the Supreme Court. Both obvious "stars," but their similarities begin to dissipate there.

While both were courted by just about every prominent law school in the country, one has been ignored by her alma mater, Harvard Law School. One will be joining the faculty in September of 1992, the other is an associate at an obscure law firm in her hometown in Alabama. One is a White male, the other is a Black woman. Guess which one.

Ultimately, in light of the January 22 ruling from Massachusetts' highest court, the nebulous concept of due process will determine whether or not Harvard Law School discriminates in its hiring practices. However, even a judicial edict, in the unlikely case that there is one, cannot change implicit and inherent bias. Male professorial candidates are nurtured and pursued, while female candidates are contacted only as a tangential afterthought.

Ultimately, whether or not Anita Allen is extended an offer, we will lose one of our great scholars, Derrick Bell, who has indicated that he will not return irrespective of what happens at this point. Although, as I mentioned, I want to feel pride towards our HLS "family," the permanent loss and treatment of Professor Bell, combined with the outright antagonism of some faculty members, makes it difficult to feel anything but disappointment, disgust, and even disgrace.

Ra

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"Congress shall make no law...abridging the freedom of speech, or of the press;..."
FIRST AMENDMENT, U.S. CONSTITUTION



HLS Students In Love, Nothing New

To the Editor:

In regards to the September 13, 1991 article "Two Students Find Love..." (I'm a little behind in non-critical correspondence....) This is

for years at the New York City Legal Aid Society. (Now he's a judge and she's in private practice, and yes, they're still married.)

As are Kurzman and Rykowski, and Schildkraut and Wallach., and us, Cohen and Feyer. Another section mate "married out" (another section!), Shames and Groen. That's 6 of 11 women in our section, and a few were married when they arrived.

Perhaps the odds, though, have changed now that the ratio (we were 11 with 125 men) has changed. But love at HLS is no novelty.

Marsha Cohen '91
December 21, 1991

Letters To The Editor

news?? Why when I went to HLS a virtual majority of us women married HLS men (mostly from our first-year sections). One of four section couples, Anita Fisher and Steve Barrett, met I think 5 minutes into the semester and were inseparable thereafter. They married at least by the summer, and worked together

Dersh: What a genius, What chutzpah!

To the Editor:

I read sporadically about the feverish activities of Professor Dershowitz and it is difficult to avoid the following conclusion: He needs no PR person, but represents himself splendidly.

He recently multiplied the sales of a book critical of his client ("Den of Thieves") by publishing a large expensive ad publicizing the book, and thus detrimental to his client.

Has he actually ever tried and won a jury case? From his television persona it seems evident that, if he didn't confuse most jury members, he would nevertheless antagonize a fatal percentage.

On appeal, he asserts such brilliantly original views as "my client has overpaid her taxes so she can lawfully cheat and assert fake deductions".

On appeal, he has also brilliantly demonstrated that if material evidence is found and submitted under suspicious circumstances by prejudiced parties, and not by the authorities, his client von Bulow is entitled to a new trial.

All this with the help of hypnotized, burrowing student volunteers. What a genius! What chutzpah!

Stanley L. Kaufman '35
November 30, 1991

Protesting Ingrates Unwelcome at HLS

To the Editor:

Your well-written and good-natured editorial of November 22, 1991 is presumably correct in stating that 75% of the School's budget is derived "from student tuition".

The editorial fails to acknowledge, however, that a large part of that tuition is paid not by students but by alumni in the form of scholarship funds and annual contributions.

To that extent the editorial incorrectly asserts that "students pay the bulk of faculty salaries"; that "this place is maintained primarily by

our money"; and that "our money" should be used "as we ask".

All students at HLS — and not just those enjoying financial assistance — are fortunate indeed to be there. They of course have the right to protest, and to be as ungrateful as they wish. But if they really want to run a school while simultaneously learning law, they should try it elsewhere.

Rupert Warren '31
Founder, The Emory R. Buckner
Scholarship Fund
December 9, 1991

Bush Deserves Our Full Support

To the Editor:

In his State of the Union message, President Bush emphasized the need to put politics aside and work together as a nation to overcome the difficulties that face us. The President deserves our full and energetic support.

The President's recovery package is now before Congress. In the short term, the President has asked Congress to amend the tax code to stimulate real estate and business investment, innovation, and growth. The staples of the plan are: a \$5,000 tax credit for first-time home buyers, a 15% tax allowance for new business investment, and most importantly, a cut in the long-term capital gains tax rate. All of these reforms will undeniably speed our return to a growth-oriented economy by creating thousands of jobs.

While the President's short-term proposals will get us out of our current funk, his long term domestic agenda will sow the seeds for future economic prosperity. The long term plan proposes much-needed reform of healthcare, education, and children's programs. It contains special

proposals targeted directly at economic revitalization of inner-cities. It declares that freedom from crime is a civil right.

Fundamentally, the President's initiatives draw on the great lessons of this year's collapse of the Eastern bloc's centrally-planned communist economies. President Bush realizes that answers to our problems must inevitably come from private individuals, and not from inefficient bureaucracies. This is the most important characteristic that distinguishes the President from his less experienced critics and Democratic Party rivals.

The time for action is now. The President took the first step by courageously placing the nation's well-being above his own political survival. We must all, Democrats, Republicans, Independents, all of us, realize that the need for action outweighs the value of petty partisan gain.

HLS Republican Club
Jim Bowen '93, President
Ari Goldfield '93
January 29, 1992

Gender Bias: Challenging The Hypothetical

Harvard Law School is in the midst of an ambitious \$150 million campaign "to

By Jamienne S. Studley '75

sustain its position of world leadership in the law." Reading the fund-raising material I was amazed to discover that the leadership of The Campaign for Harvard Law School is entirely male.

Twenty-six men serve as chairs and on the executive and steering committees. Even for the most elite levels of the legal profession or business, the exclusion is striking.

According to law school dean Robert Clark, the success of the campaign depends on the ability of committee members to solicit six-figure gifts, which in turn requires a personal commitment in that range. All of the committee members had made such a pledge.

"Although the campaign chairman and I have solicited several women for gifts of this magnitude, we have not yet been successful," Clark wrote in answer to my criticism. "While I, too, would like to see women on the list, we do not want to add a woman to the group simply as a token."

Well, I don't like tokens either, but there is something drastically wrong with this answer.

This no-women-would-make-the-required-six-figure-gift thinking ignores the very reasons that women graduates might not have the same financial resources as male graduates to contribute at this level. Harvard itself erected the most obvious barrier: the law school admitted no women until the class of 1951, and then only a handful each year for many years. The result is that women represent an infinitesimal proportion of the graduates in the older classes with the

Jamienne S. Studley, Esq., legal management consultant with The Studley Group in San Francisco, is former executive director of the National Association for Law Placement and a member of the ABA Commission on Women in the Profession. © American Lawyer Media 1992. Reprinted with permission.

greatest wealth and tendency to make large gifts.

Harvard's approach also ignores the fact that pervasive gender bias has barred women's ascent to the levels where the greatest financial rewards are available. It is no surprise that women graduates are unable or reluctant to make comparable donations when so often they have been foreclosed from the most lucrative partnerships, rainmaking opportunities, and stock options won by their classmates. UNEXAMINED ASSUMPTIONS

There could have been a very different story had Harvard examined the true goals of its campaign. For example, must graduates really give \$250K to be successful major gift solicitors? Successful fund raising really only requires that solicitors make equally significant gifts, given their own resources, as the gifts they seek. In the interests of building broad and continuing support for the institution, Harvard might have chosen some members of the policy-making committees on the basis of their foundation and corporate connections, ability to mobilize particular audiences among the graduates, or expertise in campaign strategy.

Instead, Harvard adopted a facially neutral approach that reinforces women's exclusion. Perhaps not coincidentally, the school will be indebted to another cadre of men for their role in leading the campaign. And yet another generation of Harvard students will get the message that when something important needs to be done, men are asked to do it.

But the point of this story is not just that there should be women on the Harvard campaign committee. Rather, this tale exemplifies the persistence and consequences of unexamined assumptions and models. The real issue is that far too often the people who have the power to set selection standards fall back on traditional, superficial criteria instead of think about the substance of the job that needs doing and the abilities needed to do it. Applying selection shortcuts when both job requirements and the work-

force are changing significantly risks poor choices and perpetuation of the status quo at the very least. At worst, it can lead to outright discrimination.

We don't let police and fire departments exclude candidates based on height and other non-predictive requirements anymore. They have had to develop tests that are reasonably related to the job to be done. Why do we let our profession get away with less?

There are many examples of unexamined, dangerous criteria being used in legal hiring and other selection processes. For example, new lawyers are still hired by law firms largely on the basis of grades and law review membership. Performance on a relative handful of timed, high-anxiety exams is not a good predictor of success in a job that quickly comes to depend on common sense, judgment, and the ability to get along with other lawyers and clients.

Too often firms imagine the ideal candidate is a 26-year-old graduate (perhaps with a year as a paralegal) and discount, or even disdain, the maturity, independence and judgment of an older new lawyer. It's time to figure out some better ways to evaluate the competencies that really count.

Selection criteria also need to change with the times. Firms should be scanning resumes for new kinds of markers. For instance, with the proliferation of law reviews, membership on a journal is not necessarily a good indicator of in-depth research and writing experience; indeed, good clinical programs and tiny tutorials often do a better job teaching these skills nowadays.

Law schools don't do much better in selecting faculty, relying on similar shorthand criteria of top grades, law review and appellate clerkship. There is much debate in the law school community as to whether these blue ribbons predict a person's ability to carry out the core functions of a good law teacher, which are to contribute to the understanding of law through creative, valuable research and effective teaching. If we add in the desirable traits of dedication to students and contribution to a competent and ethical

profession, the need for more subtle selection criteria is striking.

One of the most intractable assumptions involves commitment to law practice—which is measured by the extraordinary hours that lawyers call full time. In the minds of many lawyers, a lawyer who won't work full time isn't really committed.

A substantial, although declining, number of legal employers use this argument to limit "reasonable time" arrangements (my preferred term for reduced, flexible, or individualized work loads and schedules). Time flexibility often may be restricted to parents only, to parents of small children only, or to short, specified durations. Typically attorneys who vary their time arrangements have to leave the partnership track. In drawing the conditions for reasonable time work so tightly, such employers indicate their distaste and distrust of such arrangements.

This equation of commitment with 60-hour weeks doesn't make sense. Law firms' goals, at least to read their trendy mission statements, are to deliver high-quality, cost-effective legal services to their clients. To provide this kind of service they need to have knowledgeable, experienced, effective lawyers. The firm's goal should be to retain its proven performers. It makes no sense to cut off lawyers when they want or need to work reasonable time or to create artificial impediments to working out mutually satisfactory arrangements.

Though less concrete and more difficult to judge, better indicators of commitment would be client satisfaction, quality of work product, and ability to manage priorities and people.

In law school, we were taught to respond to the questions within the confines of the situation set up by the teacher. Challenging the ground rules is called "fighting the hypothetical" and is bad form. But sometimes fighting the hypothetical is the only way to test the underlying stereotypes and break out of traditional models of thinking.

Fenno

While waiting in line to buy textbooks and ogling some fine Bar/Bri representatives, Fenno glanced at his Visa bill. "Wow! I owe \$2,953 to Gilbert and Emmanuel. Those guys will be on my case pretty soon if I don't pay up. I've got to find another source of income." But he quickly decided he couldn't take on a part time job at Shurwee Gagem & Lovett in addition to watching Studs and reading for Tribe. "Studs is on two times a day now," he reasoned.

Instead, he flipped through the Harvard Gazette looking for an opportunity to sell his body to science. "Hmm...here's one. 'Healthy law students wanted for Lawyer Brain Syndrome study. \$2,953 promised for completion of treatment.' Sounds good."

Fenno trotted down to the antiseptic white sub-basement of Holyoke Center, and gave his name to a kindly nurse wearing cats-eye glasses. "Are you here for the experiment for people with overwhelming memories of a traumatic nature?" she asked.

"Would having Rosenberg for Fed Lit. count?" Fenno wondered aloud.

"Oh, Fenno, with two n's. You're here for the LBS study. You must take off all your clothes and put this on." She handed Fenno a fluorescent caftan and fez.

"Why?" Fenno asked.

"Oh, no reason, really. It amuses the

doctors. Most of them got slapped with malpractice suits a while back and that's why they're down here in the basement."

Dressed like a psychedelic Nefrititi, Fenno entered a small white room where Dr. Jeffrey Dahmer (an unfortunate coincidence, no relation) administered a diagnostic word association test.

"Love?"

"Palsgraf."

"Corn starch?"

"Palsgraf."

"Zimbabwe?"

"Palsgraf."

"Ah, just as I expected," sighed the good doctor. "Acute lawyer brain syndrome. You need treatment, before it's too late."

Two bald men in white jackets and black sunglasses emerged from around a corner carrying a 7-foot long syringe. "Allow me to introduce my two associates: Dudley and Stevens. They want to help you."

Fenno gasped. "Hey! Who do you think you're dealing with here? I've seen the Titticut Follies! Just because I'm paranoid doesn't mean everyone isn't out to get me! Help! Help! A tort!"

Fenno spluttered as a cool glass of Tropicana Twister hit his face. "What? What happened?"

"Relax," said Simmey. "It was all a dream. You passed out here in the Law School Coop. I think you might have caught a whiff of the sushi roll in the refrigerator." The Bar/Bri doll was there too, with a patronizing grin. "This is really quite a compliment, Mr. Fenno. I saw you looking at me — when you make a pass, you go all out."

Quote of the Week

He was "like an octopus and moreso. He was feeling one girl's behind while rubbing up against another girl's breast while touching another girl's behind while trying to get another girl to come over. He was pretty busy."

Stacy Murphy, a witness against accused rapist and known "serial buttocks fondler" Mike Tyson, making the understatement of the young year.

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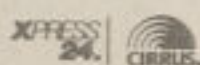
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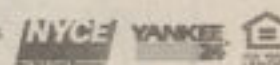
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HLS Haters Should Just Move Aside

To the Editor:

I was so unhappily surprised by your editorial in the November 1, 1991 edition. I am sure that Yale has a very fine law school. However, if your editorial

Letters To The Editor

correctly states the conditions now existing at Harvard, things must have really changed very much for the worse between 1961, when I was graduated from Harvard Law School, and the present. In fact, I just recently returned from the law school after having enjoyed my 30th reunion with many of my classmates.

In your editorial you point out that there is a weakness in the law school in that the students were not encouraged to form close relationships with professors. That is indeed unfortunate. However, contrary to your stated preference for small classes, I found the larger classes to be a distinct advantage. When the professors were good, and most of them were, having the interplay of 100 plus intellects racing around a room created such an electric atmosphere that I literally felt energized and going to class was so exciting. I would have hated to have missed the contributions of so many of my classmates if I had been confined to small study sections. I would also have missed the excitement of being in the presence of professors who had the power to awe the class and to turn poorly disciplined minds into the minds of great lawyers.

On my first night at Harvard Law School, Professor Austin W. Scott, whom you have the misfortune of having never met, gathered the new students around him for a fireside chat. At that time he told us that the intellectual atmosphere of the law school was so exciting that it surpassed any other emotional experience in life. The three years which followed certainly proved his words true for

me. Like most of my classmates, I too had been accepted at Yale, but chose Harvard because of its greater prestige and also because of the advice given to me by people in the legal community with respect to the advantage of studying by the case method. At that time, Yale's education was based on the reading of treatises. When I got to the school, and walked up the old indented stairs in Langdell North and realized that the grooves that I was walking in had been made by so many of the great people in history, like Brandeis, Holmes, Frankfurter and on and on, I was just so honored to be part of that history. When I heard the arguments of my classmates and met with them in study groups I was so honored to be in their presence and to benefit from their brilliant minds.

Having been away from the school for 30 years and having been in practice with many lawyers who did not have the benefit of a Harvard education, I can truthfully say that not one of my compatriots has the training and discipline which I received as a Harvard Law School student. I am sure that if you interviewed my partners, both present and past, who did not attend Harvard, they would agree. No, W. Barton Leach and Clark Byse were not friendly to students in general. They did, however, know how to make you think and they did make you appreciate the importance of well founded and carefully reasoned argument.

There were, other professors whom I remember more affectionately. I was present on the last day that Judge Calvert McGruder of the First Circuit of the United States Court of Appeals taught his last class at the law school. I remember him crying without restraint at the tremendous loss that he felt at being separated from his colleagues and from the student body and the traditions of Harvard Law School. I remember Ben Kaplan, my Equitable Remedies professor, thanking the class at the end of the term for all that he had learned from

us and realizing that he was absolutely sincere. I could go on and on describing the wonderful experiences of being at the law school.

Contrary to what you stated in your editorial, almost everybody I knew enjoyed their time at the law school. I didn't know anybody who was suffering through the most miserable period of his or her life. Certainly the students had all of the attributes to which you referred in your editorial, but those who have succeeded are the first to admit that so much of their success was due to the training that they received at the law school. One only has to look at the tremendous sums which are raised by contributions from alumni to realize that this is so. I am proud that I graduated from a school which did nurture and develop some of the most talented people in the history of our society. I am sorry to read that you and everyone you know are having just the opposite experience. I am left with the question: Why do you remain? There are so many who would enjoy the law school. Why not move aside and allow them to attend in your place? If you feel that Yale has the quality then why do so many Harvard Law School students turn down Yale Law School acceptances in order to go to Harvard? If you feel that Yale is vastly superior, why don't you transfer there?

Over the years, Harvard has presented a life experience that goes beyond mere education. To my knowledge it builds intellect, character and discipline. I, like most of my classmates, am deeply indebted to the law school and the many wonderful and brilliant professors and colleagues who shared my experience. I believe the school should be left to people who feel as I. If the school does not have that capability anymore, I am sure that it will find it if those of you who hate the school so much will just move aside.

David C. Weisberg
December 9, 1991

Frank Quoted Incorrectly

To the Editor:

There is an error in the caption to the photo of me in the November 15, 1991 issue. The caption accurately quotes me as saying "on the whole, Republicans go from mediocre to terrible" but it gives an inaccurate description of the subject to which that remark refers. I made reference there to the National Republican Party and its record on gay and lesbian rights in general. The caption says instead that this was a reference to the record of the Bush administration of AIDS. I do respond to a question about my views of the Bush administration and AIDS, and it is not a favorable one, but it is a different view than the one quoted in that caption. In fact, if you re-read the interview, you will see that the quoted sentence came in response to a question prior to the one about the Bush administration and AIDS.

Sometimes I feel the need to justify my requesting precision in the reporting of my remarks, but I assume that in a law school context my concern with accuracy of meaning will be appreciated. I would not have used that phrase "mediocre to terrible" in response to a question about the Bush administration and AIDS and I thank you for this chance to make that clear.

Barney Frank '79
December 9, 1991

vast disarray of
cumbrist youth

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Freund

continued from page 1

Law in 1940, Charles Stebbins Fairchild Professor of Law in 1950, Royall Professor of Law in 1957, and Carl M. Loeb University Professor in 1958. He became professor emeritus in 1976.

He was Pitt Professor of American History and Institutions at Cambridge University from 1957 to 1958 and was Jefferson Lecturer in the Humanities for the National Endowment for the Humanities in 1975.

Freund wrote *On Law and Justice* (1968), *The Supreme Court of the U.S.* (1961), and *On Understanding the Supreme Court* (1949); edited *Experimentation with Human Subjects* (1970); co-edited *Cases on Constitutional Law* (1977); and wrote numerous book chapters and articles for legal and general pub-

lications as well as for the *Encyclopedia Britannica*. He was Editor-in-Chief of the ongoing *History of the Supreme Court*.

He was a fellow and past President of the American Academy of Arts and Sciences, former Vice President of the Massachusetts Historical Society, Senior Fellow Emeritus of the Harvard Society of Fellows, and Chairman Emeritus of the American Friends of Cambridge University. He was Chairman of the Study Group on the Supreme Court Caseload at the Federal Judicial Selection Commission for the First Circuit of the U.S. Court of Appeals from 1977 to 1979. He had been a fellow of the American Bar Foundation, member of council of the American Law Institute, member of the American Philosophical Society, trustee of Washington University, fellow of the Center for Advanced Study in Behavioral Sciences from 1969 to 1970, member of the board of the Salzburg Seminar in American Studies, and corresponding fellow of the British Academy in 1982.

His awards included the Research

Award of the American Bar Foundation in 1973, the Torch of Learning Award of the American Friends of Hebrew University in 1974, the Roger Baldwin Award of the Civil Liberties Union of Massachusetts in 1982, the Justice Award of the American Judicature Society in 1983, the Harvard Medal from Harvard University in 1986, and the Henry J. Friendly Award of the American Law Institute in 1989.

He received honorary degrees from Bates College, University of Bologna, Boston University, Brandeis University, Brown University, University of Chicago, Clark University, Columbia University, Cornell College (Iowa), Harvard University, Hebrew Union College, University of Louisville, Queens University (Ontario), Temple University, Tufts University, Union College, Washington University, Williams College, Worcester Polytechnic, Yale University, and Yeshiva University.

He leaves no immediate family.

A private burial will take place in St. Louis. A memorial service will be held at a later date.

Liabilities



By Paul Taylor

A Feminist's Review Of 1991: Oi Vai!

I was happy to see 1991 go. It was not a good year for women. Unless, of

By Alyse MacIntyre
RECORD Columnist

course, you're a hysterical woman prone to hallucinating with regard to sexual issues. Then it was really the year for you. Lets hope you don't have another one ever, although it seems unlikely.

Nineteen-ninety-two is scarcely underway and the nation is already obsessed with the alleged infidelity of Bill Clinton. Bill says the woman who is accused of having the affair with him, Gennifer Flowers, made it up for all the money the Star paid her for the exclusive. All I can say is that she obviously didn't get much, running around on national TV with those brown roots of hers. Someone get that girl to her stylist!

What I find really alarming is not her roots or even Bill's alleged infidelity, but the fact that the word going around is that Bill Clinton is friends with our old buddy from the Thomas hearings, John Dogget. And, sit down for this Ladies, he believed Dogget over Anita Hill.

Personally, I am kind of shocked that a narcissistic schmuck like John Dogget has any friends. I thought believing that liar Clarence Thomas over Hill was bad, but this takes the cake. Before I heard this rumor and had it subsequently confirmed in the current edition of Ms., Bill was my favorite of the Dems, which I kind of equate with having a favorite on Hee Haw. That is, it didn't mean much to me. In fact, if I were forced to chose, I would have to say that I probably always preferred Minnie Pearl to Bill Clinton. But, anyway, I think I would now even vote for Jerry Brown before Clinton.

I found 1991 somewhat reminiscent of 1987, the famed "Year of the Bimbo." For those of you with short memories, 1987 was the year of Jessica Hahn, Donna Rice, and

Fawn Hall. As far as I could tell, Fawn Hall never did anything to deserve the bimbo title. If Donna Rice was a bimbo, she was at least a Phi Beta Kappa bimbo, a not unheard of phenomenon. Jessica Hahn, unfortunately the biggest victim of the bunch, also turned out to be the biggest bimbo of the bunch. Jessica is working her own 976 sex talk line these days, and recently tried to seduce Al Bundy on an episode of Married with Children. The '80's most over exposed rape victim has done nothing but fulfill every

due the victims. Let's let the market regulate it! If we are to believe the Law and Economics crowd, the market can regulate anything. Let's give it a try with the Kennedys and their rapist ilk. We've got nothing to lose, obviously.

Ah, Anita Hill. I feel anticipatory nostalgia and sadness at the idea that Anita Hill will become nothing more than a trivia question for future generations, meanwhile Clarence Thomas will run free to destroy civil rights. Some don't understand why one day women were

If Donna Rice was a bimbo, she was at least a Phi Beta Kappa bimbo, a not unheard of phenomenon. Jessica Hahn, unfortunately the biggest victim of the bunch, also turned out to be the biggest bimbo of the bunch. Jessica is working her own 976 sex talk line these days, and recently tried to seduce Al Bundy on an episode of Married with Children.

stereotype of being an oversexed nympho who probably asked for it and probably enjoyed it. Yeah, so who am I to lay my feminist trip on Jessica? I know, but I can't help myself. Jews have their shanda fer de goyim trip; Blacks criticize Uncle Toms. I disdain women who play into the hands of the male oppressors. Pardon moi, s'il vous plait.

After the Kennedy rape trial I was left with one question: Why would any woman press criminal charges in rape? The burden of proof is too high for what invariably boils down to a question of his word against hers. And even if the jury does believe you, what do you get? Nothing but some abstract sense of justice. Forget it, go for the civil trial. The burden of proof is more appropriate to the general circumstances of the crime of rape: if you win, you get money. Leave justice to the philosophers. Reparations are

infuriated about the Thomas hearings and about a week later they were saying "Anita who?" But I understand. It takes up too much energy and makes you too damn unpopular to be a 24hr feminist. Who wants to be that angry all the time? It's just so much easier to ignore big issues and to focus on the immediate concerns of life like finding a parking space near the door so you don't get mugged on the way out and getting the ex to finally cough up all the back child support he owes you.

The real story of the Thomas hearings is what the Senate didn't allow the public to hear "because there wasn't time." Apparently there was time for John Dogget's hysterical rantings, but not for the testimony of Angela Wright, a former EEOC Director of Public Affairs who said that Clarence Thomas also sexually harassed her.

Nor was there time for the testimony of Rose Jourdain, former speech writer for Thomas who corroborated Wright's allegations. They also didn't have time for a memo written by Thomas characterizing sexual harassment complaints as "trivial" and recommending that the EEOC not concern itself with pursuing sexual harassment claims. They also didn't have time to consider that Thomas once justified refusing to fire a man at the EEOC against whom 12 different women had made complaints of sexual harassment because that man was a veteran. Perhaps the only thing more outrageous about this information is that it also never got any attention by the media with the exception of a few leftist papers, although it is fully authenticated and is a matter of public record. (See The Boston Phoenix, 11/8/91)

In fact, there seemed to be more concern with the possible wrong doings of Nina Totenberg than with Clarence Thomas. Did she or did she not once sleep with Potter Stewart? Did anyone ever ask if Bob Woodward slept with Pat Nixon?

Pamela Smart was tried without due process of law for doing what hundreds of men do daily - kill their spouse. Do these trials get national attention? Do people take off work to watch the live TV coverage? When you examine domestic violence statistics it seems a woman is safer smoking or maybe dancing on the Mass Pike during rush hour than getting married. But when a woman is charged with doing what is commonplace with men the shit really hits the fan. At one point during the trial I started keeping a tally of the number of times I heard the press forget to say "alleged" in reference to the charges against Pamela Smart.

1991 - I won't miss it. I just hope we all remember it come November 1992.

Mindwalk: An Intellectual Orgasm Of Thought

Mindwalk? Mindwalk? Yeh, walk. Like, the ankle express. Blisterville. No

By Mike Wall

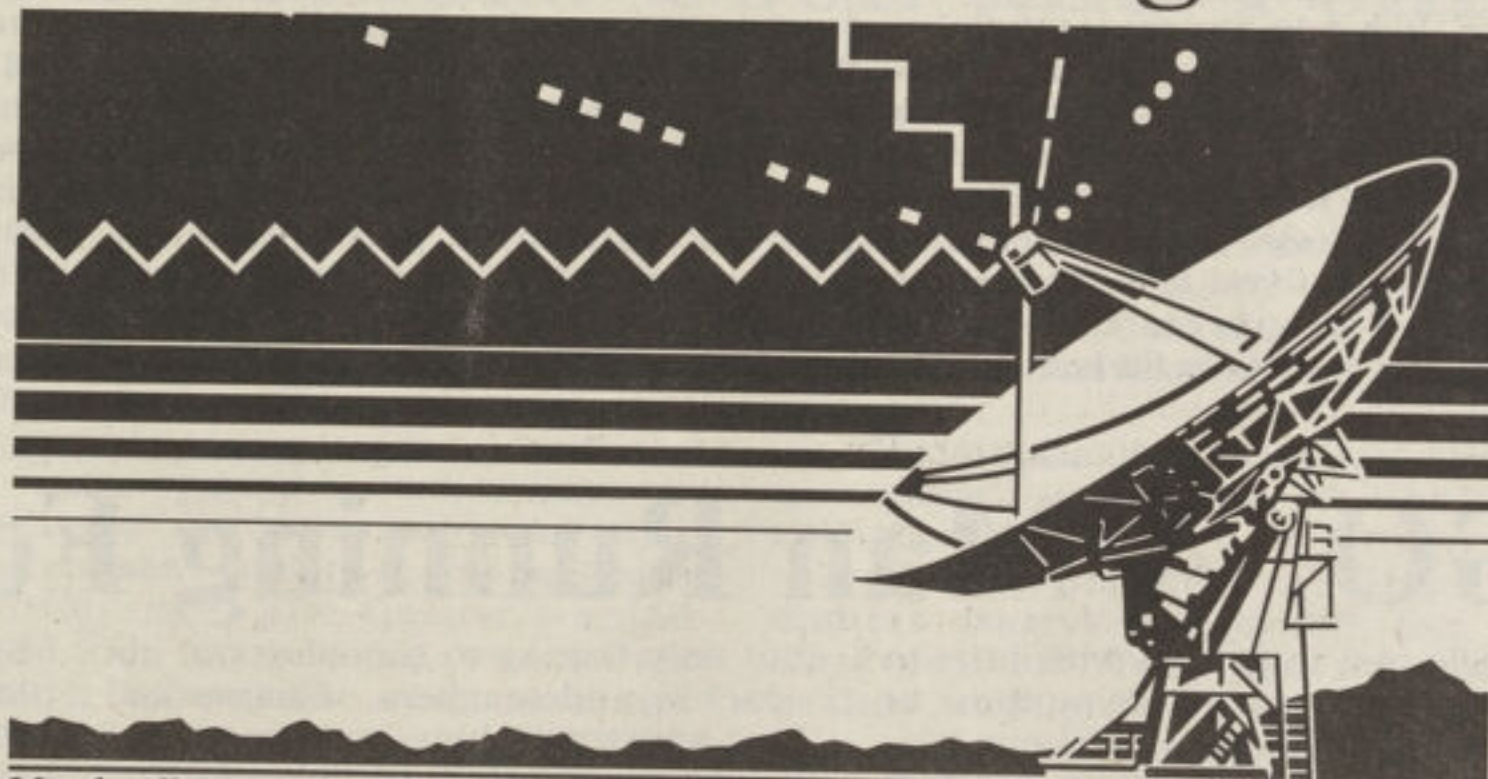
taxis please. No cruise control. No boob tube. Get out and think. Shock therapy by discussion.

This latest creation from director Bernt Capra ("Spinal Tap," "Baghdad Cafe") and writer Fritjof Capra (The Tao of Physics) splatters its audience with an intellectual orgasm of thought. Like most orgasms, this one is a bit crude and most satisfying for those who have a pre-existing relationship with their partner.

So allow me to make introductions all around. Liv Ullmann plays the passionate but detached physicist-philosopher. Sam Waterston creates an American senator - cynical always, idealistic when needed - in search of that "vision thing." John Heard offers up a poet fatale, fighting that favorite battle of expatriate writers against human folly. See generally Ernest Hemingway.

These unlikely companions find themselves conversing about life and species suicide on Mont St. Michel. Their exploration of this medieval island mecca symbolizes their mental struggle with Ullmann's new environmentalism. She believes that a piecemeal approach to problem solving does more harm than good. In a profoundly interconnected world, every action ripples outward forever, and often in unforeseen directions. Much like a random note dropped by accident into a completed musical composition, unforeseen ripples are mostly bad. But humanity is collecting ripples, headless to the consequences, headed for disaster. We must instead, she argues, make decisions holistically. Ecologically.

Three talking heads set to stunning coastline and Philip Glass.



Mindwalk gives its audience no violence. No plot. Not even any sex, although the torture chamber scene has potential. Capra & Capra abandon the conventional wisdom of Hollywood for a sometimes righteous but refreshingly impotent attempt to reshape the way we filmgoers view ecological interdependence. In other words, we have here the ultimate in heavy-handed conversation pieces, a movie that gives new meaning to that expression, "it makes you think..." In terms of subtlety, Mindwalk predates the wheel. Cf. the title. Melville must be smiling in his grave.

But bluntness is precisely what the creators intended. They believe, quite simply, that we humans are about to find our way onto the endangered species list. So, as an alternative to humanity's Lemming-like mentality, Mindwalk offers an epiphanic pilgrimage for those of earnest mind and a 90-minute attention span.

As John Heard put it, "I have a son who is now two years old. When he grows up and asks me, 'Daddy, where were you when they discovered the hole in the ozone layer?', I want

to show him this movie."

Reviewers typically apply a three-part balancing test in resolving the merits of a movie such as this. First, we consider the importance of the author's message. Second, we discount that finding to account for the impotence of uncompromised moralizing. Finally, we refer to other sources of inspiration, such as personal bias and the percentage of US RDA in our breakfast cereal. Under this test, I now grant declaratory judgment for the movie on the question of its inspirational value.

Mindwalk takes itself too seriously, far too seriously. It will never reach a mass audience. We all know that people sleep through Professional Responsibility, although Castro has yet to concede this point. Moral lessons must be slipped in rather than sprung like a trap. Mindwalk springs. It preaches. And even if it preaches truth, most people don't want to know that truth. They prefer to be diverted. Witness our presidential campaigns. Sure, the earth's ecology will one day collapse, but most people hope to be resting happily in a bone orchard before that day

arrives. A collapsed ecology could mean less worms to eat at their remains.

Capras & Co. do not seek to re-educate the masses, however. They try instead to inspire "passionate thinkers." A bit of tactical genius, that, even if their movie won't win the environmentalists' war. You see, passionate thinkers might just listen, for they are people for whom thinking is entertainment. People like Harvard law students. Divinity students. The people who attended the movie's premier at the Carpenter Center (appropriately placed between the Fogg and Widener) last Thursday.

Once you accept the need to think, the movie's argument (yes, argument) is simply too perceptive to be denied, which is why the Harvard Environmental Network brought it to Cambridge. We humans like to place everything in convenient little boxes. Thus we have departments of government, racial stereotypes, genetic classification schemes. Needless to say, the world does not fit into our boxes. Bright lines are, as every lawyer knows, arbitrary. The world is painted like a Monet rather than Dick Tracy.

Unfortunately, we humans ignore everything outside of self-imposed boxes. We ignore, for example, the fact that agricultural chemicals can kill of nitrogen-fixing fungi as swiftly and silently as they destroy the medfly. We forge that by draining our aquifers now we force ourselves to build desalination plants in the future. We change the world with reckless disregard for all but the most immediate consequences. And in the process, we are racking up an incredible debt to nature and to ourselves. All this movie asks is that we consolidate our debts and live within our means.

The Best And The Worst Of The Year

The year 1991 was marked by many individual accomplishments in

By Ed Joy '92
RECORD Columnist

the gay and lesbian community. Of course, there have also been those who have stood in the way of the advancement of our civil rights. My selections for some individuals deserving particular attention follow.

Top Homophobes of the Year

4. Sean Brady and Max Torres. The Law School's own Sean Brady and Max Torres deserve a little recognition here as Guardians (There word not mine) for that gay-bashing piece of intellectual trash, the Peninsula. In the words of their own publication, "[W]e have been tagged by some of our opponents as ... anti-gay.... [T]he label is, well, silly." Turning to page 15, the Guardians choose to emphasize the following passage through a pull quote, "The practice of homosexuality lies outside the realm of virtues and vices which are proper to humanity, and arises either from a brutal and subhuman disposition or from disease and morbid habituation." Call me silly, but this seems just a little on the anti-gay side to me. If you boys cannot find a job in the States after graduation, South Africa is looking for some people to defend the morality of apartheid and you two seem well suited to the task.

3. David Duke. I actually have not heard Mr. Duke go off on any anti-gay tirades just yet, but I think it is a pretty safe bet that one of the most prominent bigots of our time will soon contribute to the cause of homophobia. People who hate don't discriminate. If you are looking for some clues, this guy says "Christian" and "family values" so often I can feel the fire from the cross in my backyard already. For all those Duke supporters wondering who to throw their support behind in case the hooded one drops out of the race, Duke himself said he would probably support Patrick Buchanan. Bigots of the same feather...

2. Pete Wilson. Pistol Pete the Unprincipled Politician reneged on his campaign promise to sign California's gay rights bill into law after pressure from the right wing of the State's Republican Party made it clear that he would pay a high price if he did sign it. Wilson later commented, "I regret ... any false comfort [my veto provides] to mean-spirited gay-bashing bigots." Nice words Pete. How about a little action to back them up!

1. Michael Bowers. The Georgia Attorney General of Bowers v. Hardwick fame withdrew a job offer to Robin Joy Shahar who graduated with the third highest GPA at Emory University Law

School. It seems that after Bowers made the offer of employment, he learned that Shahar planned to marry her lover of five years in a Jewish wedding ceremony. In Hardwick Bowers sought to deny gays and lesbian the right to love. Now he seeks to deny us the right to work. God only knows what this civil servant has in store for us next in his divine plan.

Greatest Heros to the Gay and Lesbian Community

5. William Weld. Pete Wilson can learn some lessons from the Governor of Massachusetts. In spite of some run-ins with progressive elements of the gay and lesbian community over fiscal policy, Governor Weld has consistently been the most pro-gay governor in the United States. He and his Lieutenant Governor, Paul Celluci, have been ardent supporters of Massachusetts Gay Rights and Hate Crimes laws and have brought gays and lesbians into his administration. The Governor has also lobbied governors of other states to sign their own gay rights bills into law. If there is any hope for the Republican Party, William Weld is it.

4. Northstar. How could I not put the cartoon creation on my list? He is, after all, a superhero by definition. Northstar comes out of the closet in the latest issue of Marvel Comics' "Alpha Flight" series to fight anti-gay bigotry and AIDS. A gay superhero will prove to be a true lifesaver to many young fans.

3. Sherry Harris. Harris became the first openly lesbian African-American to be elected to public office as she was voted on to Seattle's city council.

2. Karen Thompson. Thompson persevered through a seven year legal battle to obtain custody of her lover, Sharon Kowlaski, who was paralyzed in an automobile accident. Karen Thompson's love and dedication finally paid off when a state appeals court in Minnesota granted her the right to be with her loved one.

1. Roman Kalinin. This courageous civil rights leader is the founder of Russia's first gay and lesbian organization and the editor of its first gay and lesbian newspaper. Keep in mind, such actions are not exactly in the best interest of one's personal safety in an environment where gay male sex is still criminalized and 20 year prison sentences are imposed upon violators. Kalinin does take the precautions required of a gay activist given such conditions: he ran for the Russian Presidency as an openly gay man. He found himself quoted along side Boris Yeltsin in the mainstream Soviet media. Admittedly, Kalinin was no threat to Yeltsin, but he is a grave threat to standards of inequality and injustice in his homeland.

Do What You Do Well, Sayeth the Poet: Drink

When Guy Debord's autobiography Panegyric appears in the next

By Harry Mittleman '94
RECORD Columnist

couple of months, that most impenetrable French theorist will reveal to the bookish what for so long has been known to the HLS barfly: "Even though I have read a lot, I have drunk even more. I have written much less than most people who write; but I have drunk much more than most people who drink." Or, as the similarly unprolific poet Larkin wrote, "Get stewed: Books are a load of crap."

Let us ignore for the moment the protests from those scions of three generations of Connecticut inbreeding who will find tragedy in this apologia pro vino sua, bleating "Another genius crucified on the altar of Glennfiddich, and the library shelves wastefully barren!" and ask instead, where do those in the know check their academic hair-shirts when they doff them for the night?

Habitues of a creepy bar atop a Chinese restaurant swear up and down by their salad bowls brimming with cane juice. But prudence pays dividends to those who first pause before the on-duty policeman guarding the entrance to this bistro. For if you too hastily rush past this key player in our fair city's arsenal of law-enforcement, there remains only to fully behold the clusters of pathologically sloped foreheads, attached like pilotfish to each other at the ends of sixteen-inch straws and glistening ropes of dribble, for you to realize that three actors are simply too few for No Exit to convince. His beat must be reserved to those cops who get demoted from undercover work in truckstop bathroom glory hole patrol—this one's ineptitude in combating the undergrad rough trade epidemic may explain the administrations drastic decision finally to remove the doors from the stalls in the Science Center's basement men's room.

Perhaps on to the "Bow" then? Here undergrads whose sequoia-like necks stretch their collars like sausage wrapping won't think twice before striking the top of a stranger's beer bottle with the bottom of their own. If you are not vigilant and foolishly wear a red and black shirt over your subereous chest you may find yourself struck in the upper body by an errant dart. If you stick around till closing time,

and nature calls, you will be surprised to learn that the management, eager to clean the bathrooms free of vomica, will deny you access, preferring, presumably, that you bulbitate while standing near the Pop-a-Shot machine instead. If you are sensible, you'll pass this one by.

Most dissolutes eventually wind up in Brattle Square, at the Spaghetti Club. While right next door patrons cheerfully fill their glasses from the straining bung-holes in Grendel's elegant wine cellar, a veritable gaudeamus rages on the Spaghettic Club's tiny dance floor—there the largely-undergrad (and conspicuously wealthy) crowd scurries around the bar like tuxedoed dungbeetles in search of such colorful sexual emollients as "Sex on the Beach," "Screaming Orgasm," or "Coprophile's Steaming Purse," or dance themselves into such slack-jawed oblivion that scholars of religious charismatics and the related phenomena of glossalalia would do well to take note.

Perhaps unique among night-clubs in this respect, the Spaghetti Club somehow attracts patrons who actually do dance the lambada—a dance as baffling to the uninitiated observer as a string of pearls undoubtably would be to an ape.

Last saturday two young men and a women quite nearly pulled a train beneath the prescient spray-painted graffiti: veni vedi vici—to which one might have added vici vici.

Neither clean nor well lighted, the Spaghetti Club has an atmosphere of almost Stalin-like mean-spiritedness, which may explain the senseless brutalizing of a 1L patron outside the club earlier this year.

All this is very dispiriting, and indeed one may well despair of ever fully coming to grips with Debord's message: "Among the small number of things that I have liked and known how to do well, what I have assuredly known how to do best is drink."

With the recent announcement that the public release of Powermaster malt liquor may now be suspended indefinitely—the result of consumer backlash to a shamelessly meretricious and predatory advertising campaign—such despair seems more justified than ever. And perhaps the sad entertainment faire in Cambridge dictates that among the small number of things that we students like and know how to do well, what we assuredly know how to do best is to Shepardize.

DANA BURGO: A Man Running For His Life

Dana Burgo was the best I ever saw. He had blazing speed, and the

Rich Wareing '93
RECORD Columnist

kind of moves that left defenders grabbin' at air and opposing coaches just shaking their heads. More importantly, though, he had heart. Dana ran with tremendous emotion, with real passion, though it was hard to tell sometimes whether Dana was running to the endzone or away from something which he knew he had to escape.

Dana was so good that Bally named him a high-school All-American. So good that major college scouts were interested in him, despite his slender build. So good that people around New Bedford started talking, dreaming really, about Dana playing in the N.F.L. after he finished college. Dana was on top of the world, or at least his little piece of it, and it looked like anything was possible for him.

There was only one small problem. Dana could just about read and write. To start with, Dana was not the brightest guy in the world. This made school hard for him, because unlike in track and football, school was one long

struggle just to get by, with little in the way of attention or support at the end of the line. We tell our kids that school is what matters and that athletics are secondary, yet what kind of results can we expect when ten thousand people cheer a touchdown on Friday night, but only a handful cheer a passing grade on Friday afternoon?

He might have been O.K., though, if he had come from a better neighborhood. Perhaps his family would have known more about how important school is, perhaps his friends and neighbors could have given him encouragement, perhaps the PTA, could have paid private tutors, or one of a hundred other advantages a kid in a good neighborhood can have might have been there to save him. Dana, however, made the mistake of being born in a drug-ridden and bullet-riddled housing project. Life is not worth a hell of a lot where Dana grew up and education doesn't mean spit there because almost nobody has any, or even has an idea of what it can do for you. On Potter Street, the law of gravity has always taken a back seat to the law of the jungle.

Dana did manage to get through high school, in five years,

but only thanks to the efforts of his coaches and teachers, who worked long hours with him, and because of a few administrators who pulled enough strings to make it all possible. Even with all this against him, Dana might still have been O.K., because somehow, somebody finagled him into a junior college somewhere in New York.

Even here, though, the deck was stacked against him. When you grow up in New Bedford, you learn to value your family, your neighborhood, your hometown. You see yourself not as an isolated individual, but rather as part of a family and part of a community. Not many people leave, even to go to college. Those who do are often looked at as odd, as strange, as somehow having sold out their friends and neighbors, and sometimes even their family. Those who do go, rarely leave home with the social skills or the perspective you need to function in a place where the biggest crisis is whether to go to Cancun or Ft. Lauderdale for Spring Break.

Needless to say, Dana didn't make it to college, or even through a semester of junior college. The schoolwork, too people, the changes, it was too much for him.

So he came home to his family, to his friends, to Potter Street, and to everything from which he had tried to run.

This time, nobody cheered, nobody applauded, nobody offered support. Dana became just another high-school hot-shot who couldn't make the cut. Eventually, somebody in the Gridiron Club felt sorry for him and got him a minimum wage job as a phys-ed teacher's aide—the only job he probably has ever and will ever hold.

Whenever I go by Sergeant Field, I cannot help but think of Dana Burgo. I cannot help but think of thousands of people screaming "N.B. Rocks the House" whenever he touched the ball. I cannot help but remember the night that Dana Burgo personally carried New Bedford to the league title and a shot at a state championship by beating my high school in the local "Game of the Century." I cannot help but remember how he ran right by my old pal Dave Greenhalgh for the winning touchdown. And no matter how hard I try, I cannot but remember Dana Burgo sprinting across a frozen field into the clear on a chilly November night, running, running for his life.

Drifting To Freedom: A Survivor's Story

In October 1989, I stood in the Los Angeles Convention Center, recited the

By Viet D. Dinh '93

Pledge of Allegiance to the United States and became a citizen. Unlike others at the ceremony, I was not forsaking one national heritage to join another. I had been stateless since the day a 11 years earlier when, with my mother and six siblings, I boarded a small fishing boat out of Vietnam.

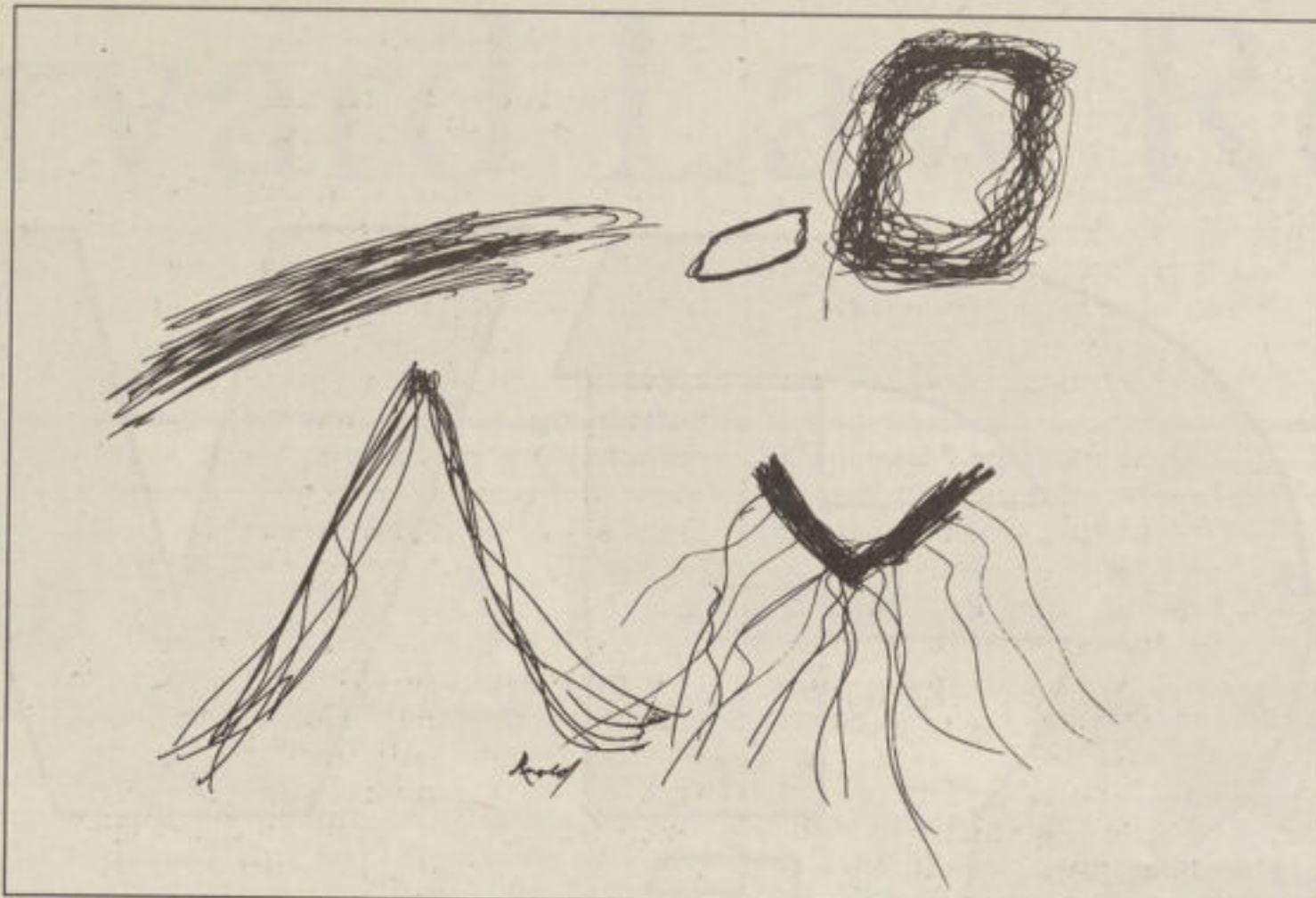
For 12 days, all 85 people aboard watched anxiously for a glimpse of a new land. On the seventh day, we ran out of provisions, except for the hope and optimism that sustained our resolve.

After we battled a severe storm that crippled our engine, our boat drifted aimlessly. Fortunately, Taiwanese fishermen gave us food, fuel and directions to Malaysia. When we got there, a patrol boat fired at us, forcing us back to the open sea. Even as our tattered "S.O.S." flag flew above, machine-gun bullets ripped into the water five feet from our vessel.

We went back to international waters, but without adequate supplies we could not stay, and returned to the Malaysian harbor at dusk. About fifty feet from shore, we sank our boat and swam to a beach. The next morning United Nations officials processed us into a refugee camp, carefully omitting our accounts of the gunboat assault from our statements.

People often ask me why we risked so much to leave Vietnam. Why did we choose to endure so much pain, humiliation and anx-

Viet Dinh is a member of the class of 1993 here at HLS and was elected to the position of Articles Editor on the Harvard Law Review on Wednesday, February 6. This article appeared on the op-ed page of the January 8, 1992 edition of the New York Times and is reprinted with permission. © New York Times.



What was for me an isolated incident of cruelty is now an international policy: let them drift, let them die, but don't let them land on our soil.

ity — not to mention the loss of our motherland? But those who ask have not suffered under Communism. The totalitarian regime confiscated our property and terminated my mother's job as a teacher. It incarcerated my father in a re-education camp because he had been a city councilman in our hometown, Vung Tau. And it drafted my brother to invade Cambodia as a part of the same army that had murdered our neighbors, pillaged our home and destroyed our lives.

We escaped that regime, but after I was admitted to the U.S. I discovered that there were further obstacles to overcome in order to normalize our lives. Our family of eight arrived in Portland, Oregon with \$200, most of which we

spent immediately on used winter coats.

Every midnight, we went to local restaurants and cleaned until dawn, earning \$35 a night for our collective toil. During the summers, every day at 4 A.M. a bus took us to berry fields where we worked until late afternoon. The money we earned was sent to my father, who had escaped from the camp and was living as a fugitive in Vietnam. He managed to escape the country after 25 unsuccessful attempts and in May 1983 we were reunited in America.

Through these memories, I identify with the thousands of Vietnamese refugees still seeking asylum. Their prospects are bleak. Thailand closed its harbors to

them. Malaysia continues to push them seaward to face death. And immigration officials in Hong Kong have begun deporting them to Vietnam, a fate worse than death in the eyes of most refugees. Even Vietnam does not want them; Hanoi demands payment with each repatriated refugee.

What was for me an isolated incident of cruelty is now an international policy: let them drift, let them die, but don't let them land on our soil.

In June 1989, my interest in refugees took on an even more personal meaning. My eldest sister (who had remained to help my father) and her children joined the 50,000 refugees who arrived in Hong Kong, only to find the gateway to freedom locked.

She escaped Vietnam because her 7-year-old son has a serious heart condition and couldn't get treatment there. Her application to emigrate was denied because of my father. Escaping was the only hope of getting medical help for her son and leaving behind the harassment that is a way of life for politically suspect families. Now she, her children and thousands of estranged Vietnamese are waiting in Hong Kong until their fate is determined.

For me the old anxiety is over. Free to go where I want, I am now protected by the blue covers of an American passport. But what about my sister, her dying son and the thousands of Vietnamese refugees languishing in their quest for freedom?

Editor's Note: The Supreme Court ruled in *Baker v. Hatian* Refugee Center on Friday, January 31, 1992, that the United States may lawfully return refugees fleeing oppression to their homelands. 10,000 Hatians are in the midst of being returned to Haiti from the U.S. Naval Base in Guantanamo Bay, Cuba. Their quest for freedom continues.

Christopher's: Fabulous Food and Politically Correct

Christopher's
1920 Mass. Ave (at Porter Square)
876-5405
Rating:

If you've been searching high and low for a restaurant that guarantees its

By Mike Wang

coffee is brewed with 100-percent dioxin-free filters, Christopher's is the place to be. Oh, and by the way the food is fabulous.

The dining room at Christopher's has the ambiance of a cozy country inn, complete with fireplace and wood floors. But its menu slogans and political conscience mirror that of the Hard Rock Café. One percent of all Visa sales, for example, are donated to the Boston Food Bank and Oxfam. All profits from cigarette sales go to Children's Day Care. And plastic is definitely verboten—even drinking straws are paper.

The cigarette machine at Christopher's belies the restaurant's health-conscious menu, which features dishes made with no preservatives, canola oil instead of saturated oils, salad dressings prepared with egg whites only, and of course, dioxin-free coffee filters. Christopher's claims that nothing it serves is prepackaged; nothing prepared by the chef ever sees the inside of a microwave.

"I'm a little fussy about food. OK, fanatic," restaurant owner Charlie Christopher says in the menu.

I took the restaurant's claim to be usual eatery puffery—until our appetizer, stuffed potato skins (\$3.50), was served. They

were made with fresh potatoes, stuffed with crisp, independently stir-fried vegetables, stir-fried, topped with cheddar and jack cheese, and then cooked in canola oil. These skins were crisp outside, tender inside, and delicious, unlike the overfried skins served at many restaurants that crumble at the touch.

Everything served at Christopher's is prepared on the premises—and it really makes a difference. The Caesar's salad (\$3.95), for example, was served with homemade croutons and dressing (made with egg whites), avoiding the usual saltiness of Caesar's salads. But if salt is what you want, order your salad with anchovies (not recommended for a sodium-restricted diet).

Fresh ingredients made all the difference in our entrées. The chicken-and-broccoli pasta (\$7.95) was made with fresh, steamed broccoli, large chunks of grilled chicken breast (instead of stewed or diced chicken), cooked in olive oil, fresh garlic and parmesan cheese and served over zita.

The fajitas (\$8.95) were served with a sizzling plate of chicken, marinated beef and shrimp with stir-fried onions and sweet peppers, as well as a cold plate of lettuce, diced tomatoes, sour cream and very spicy guacamole.

For dessert we tried the

Velvet Underground cake, a chocolate cake with white frosting as smooth as its name suggests. The cake was not too sweet, not too rich, and also made with egg whites.

Service at Christopher's is prompt if somewhat unenthusiastic.

Christopher's is well known as a place to grab a burger (they call them "burgahs") for lunch; the establishment's excellent dinners deserve recognition, too. Here you can feast on fresh, healthy, expertly-prepared dishes at a place with a conscience. Who else serves a Veggie Peace Burgah with all proceeds going to charity?

One complaint: By the end of the meal, my environmentally correct paper straw was so soggy that I couldn't finish my drink.

POTLUCK

Try the grilled turkey-and-swiss at Souper Salad in the Garage. Stay away from the overly spicy "seasoned" Idaho fries unless you have a particular desire for orange fingers. The famous salad bar is loaded with fresh bounty but waaaaay overpriced at \$5.99.

Speaking of overpricing, Bartley's Burger Cottage, 1246 Mass. Ave., a Harvard Square classic, needs to rethink its \$4.99 and \$5.99 price tags for burgers. If a cop ever follows you



there, ask professor Richard Parker what to do....

Café Casablanca, an erstwhile legend of a greasy spoon near the Square, has reopened—but with clean walls and spotless new tables. Professor David Wilkins reports that he misses the filminess that gave the old Café Casablanca its unique ambiance. "Maybe if they just don't clean the walls or wipe the tables for about five years, you know, kind of 'dirty up' the place, it will be like it used to be," Wilkins was heard to lament during a recent outing with students.

condetanut in nature yet hauntingly sweet

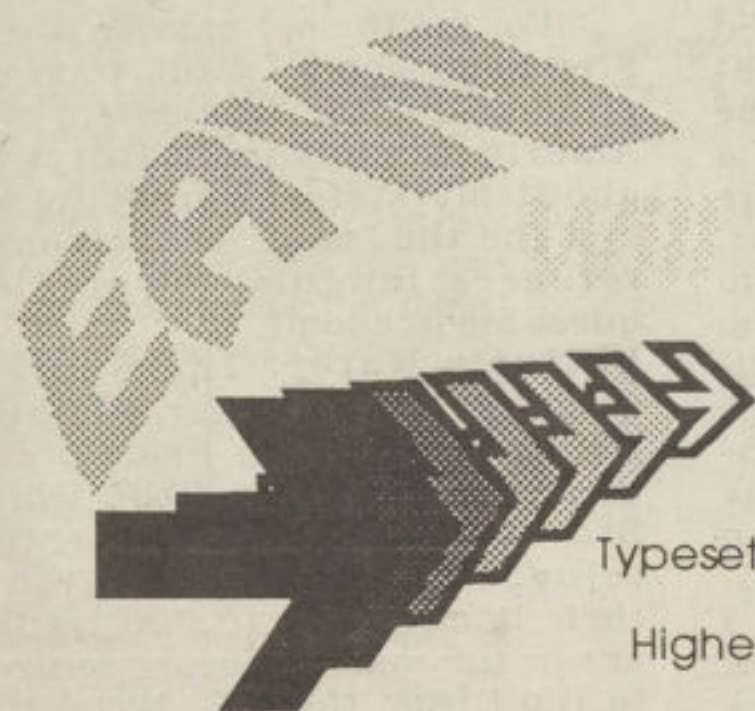
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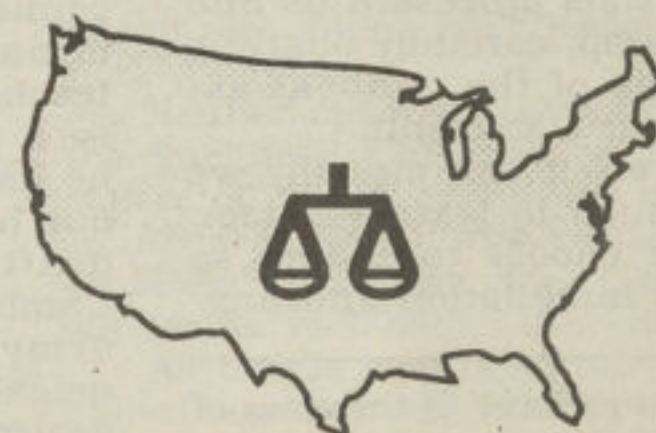
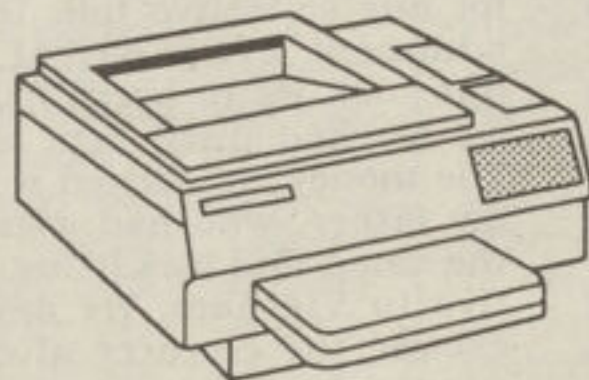
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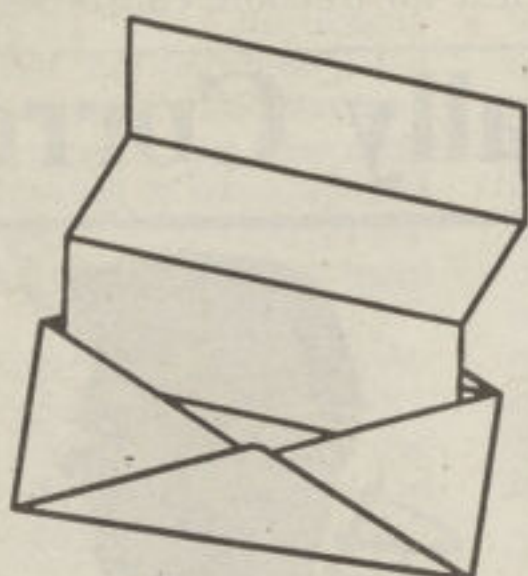
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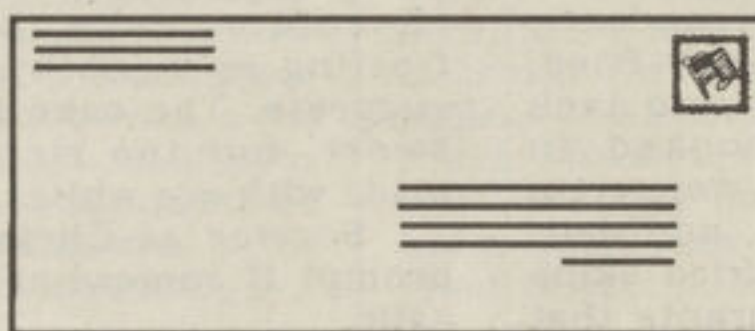
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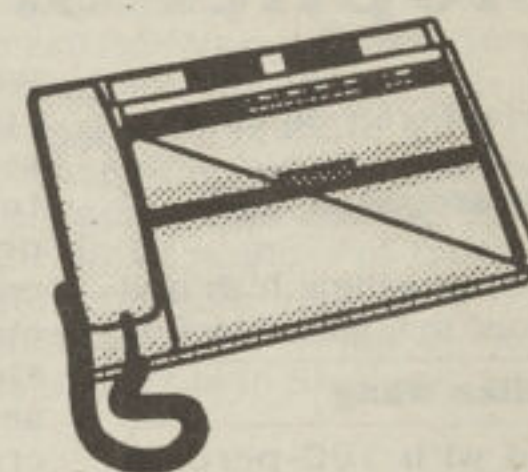
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