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Yale #1 Again!!

By Jason Levine
Special to the RECORD

The March 23, 1992 issue of *U.S. News and World Report* contains this year's annual installment of "America's Best Graduate Schools." For the third year running, Yale Law School took first place. For the second year in a row, HLS came in second. Runners-up included Stanford at third, University of Chicago at fourth, and Columbia at fifth. For the first time, the survey also included a quartile ranking of the 150 law schools that did not make the top 25.

The top six schools in the survey (sixth place going to University of Michigan) all shared a #1 reputation rank among academics, determined through a survey of law school and academic affairs deans, and senior faculty. No explanation is given for how six schools could simultaneously share a ranking, however.

In the next category, reputation rank among lawyers and judges, Harvard took #1 and Yale #2. These numbers were determined through a survey of over 2,000 practicing lawyers, hiring partners, and senior judges who based their answers on appraisals of recent graduates. Last year, this category was specifically expanded by *U.S. News* in a way that broke

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U.S. News Rankings of Top Law Schools

SCHOOL	Overall Score	Reputation by Academics	Reputation by Lawyers	Student Selectivity	Resources	Faculty Success	Placement Success
1. Yale University	100.0	1	1	1	1	1	3
2. Harvard University	94.9	1	1	2	5	6	
3. Stanford University	93.6	1	3	4	3	5	
4. University of Chicago	92.8	1	7	3	2	2	
5. Columbia University	90.0	1	5	7	8	4	
6. University of Michigan	87.7	1	4	8	22	11	
7. New York University	86.4	9	11	5	4	1	
8. University of Virginia	85.0	9	6	10	31	10	
9. Duke University	83.7	14	9	9	12	8	
10. Univ. of Pennsylvania	82.2	7	10	12	15	7	

Tenure Candidates ID'd CCR asks them to delay acceptance

By Lisa Zornberg

The announcement last week that the Law School has offered tenure positions to four White male professors sparked both student curiosity and debate. Dean Clark's office now confirms that these four individuals are Henry B. Hansmann '82 of Yale, Robert H. Mnookin '82 of Stanford, Joseph W. Singer '81 of Boston University, and Joseph H.H. Weiler of Michigan. Both Hansmann and Singer are currently visiting professors.

The Coalition for Civil Rights (CCR), whose case against the Law School for hiring discrimination is now on appeal, reacted to the announcement with outrage and scorn. In their view, the recent tenure offers exemplify the administration's failure to seek out a



Students talk with Dean Clark outside of his home.

Clark, Students Discuss Diversity on "Zero Day"

By Ashley Barr

Student frustration and anger, produced by Dean Bob Clark's announcement two weeks ago that four more White men had been offered tenure, culminated in Zero Day when students began their protest by confronting the Dean at his home at 7:30 AM on Thursday, March 12. Student meetings with Clark and other faculty members, in which they demanded concrete substantive and procedural changes in faculty hiring practices, lasted from this ad hoc breakfast conference to a three-hour, afternoon "town meeting."

Twenty students, led by spokespersons Raul Perez '94 and Marcia Narine '92, met Clark at his house and accom-

panied him to the Harkness Commons "for a cup of coffee" at Clark's suggestion. Dean of Students Sarah Wald and twenty other students joined the group at the Hark where students voiced concerns about the inconsistent application of the "year away rule" to professors of color, but not White professors, as well as stagnation in discussions about faculty hiring. The students urged Clark to take the leadership role in promoting diversity.

Referring to the political divisiveness of the Appointments Committee, Narine called on Clark to "take a leading role in making the Faculty make peace with itself, and give a message to the Faculty that you are committed to diversity."

Clark admitted that the lack of communication surrounding the suspension of the year-away rule and the appointment of the four White men was a "muck-up."

Andy Levin '94 and other students said that they have been "amazed" at the lack of communication between the administration and students, especially given the fact that

please see **ZERO DAY**, page 7

House Hunt!!

Groping for Gropius, or Left with Fred

By Glennis Gill

The signs have started appearing — "We'll buy out your lease," "1Ls looking for apartment," "Rent Our Great Apt. and Buy Our Furniture," and, of course, "Call Fred." The dorm lottery results have been posted and returning students chose dorm rooms this week. Local realtors report lots of student inquiries and the Harvard Housing office has suddenly gotten busy.

Those who wanted the convenience and low price (at least of the beautiful Gropius complex) entered the dorm lottery by February 28. Results were posted on March 6 and students chose this week, in a new system designed to be better for returning students. Frank Lamentea, Director of Building Operations, explained that "this year we tried to eliminate as many restrictions as possible." Lamentea spoke with students, Resident Assistants and DSAC representatives in deciding how to best alter the system.

In years past, most of the nicer dorm rooms were held for incoming students, so that when current 1Ls and 2Ls went to choose their rooms, there was an "X" over most of the better rooms. This week students can pick the luxury of Hastings and leave the award-winning Gropius architecture for the incoming students. The process has also been improved for current students since 40 less rooms have been saved for incoming students.

This opening up of more rooms and the greater choice is mainly a result of the addition of North Hall this year. HLS now has 134 more rooms, and according to Frank Lamentea, "this

allowed us to open up the process."

The other big change this year is that groups of students can enter the lottery as a block. In years past, it was very difficult for people to choose their floormates since only a few rooms on each floor were open to returning students and these could be picked by students whose lottery numbers fell in between. This year lottery applications could be clipped together so that all students in the group would get one number, and therefore would pick at the same time.

One controversial aspect of the dorm lottery which has been retained this year is the preference given to DSAC representatives. They were awarded the first 26 lottery numbers, after the physically-challenged students. In order to get this perk, DSAC representatives must have worked a total of 24 hours for the organization. DSAC president Sharon Sobczak '92 defends this policy: "I think if people are doing their DSAC job as they should, they deserve to get preference. These students help the hall by organizing parties and other activities that make the dorms more enjoyable for everyone."

DSAC representative Carlos Spinelli '94 agrees: "if you've given service and gotten involved in providing service to the dorm you should be rewarded. It seems fair that people representing the dorms should be given preference to live in them next year."

Apartment Hunt Begins

Although the dorm lottery is finished now, the hunt for apartments has just begun, and many think it's too early. An

please see **HOUSING**, page 14

Resignations, Ousters & Elections

Student Groups Struggle Through Transition

By Johanna Davis

After a tempestuous year of shifting control within the leadership of the ABA/LSD and Law School Council, both groups struggle to find separate identities as student organizations.

Rebecca Eisenberg '93 ceded her title as ABA/LSD president to Bill O'Dowd '94 in controversial internal elections on Wednesday night, March 18. Eisenberg assumed the ABA/LSD presidency by default earlier this academic year when then-President Melissa Kraras '92 and board members Jeffrey Cherry '93, Francis Phillip '93 and Howard Glaser '94 all resigned from their posts.

Prompted by requests from first-year ABA/LSD members, Eisenberg called the Wednesday elections. Eisenberg stated she did not run for president again because, "it's only fair to let someone else run," but predicted she would still be active within the organization. She also plans to run for a position on the ABA National Commission for Minorities and Women in the

Profession, having lost several elections for ABA/LSD Circuit offices earlier this year.

O'Dowd expressed optimism about rebuilding the ABA, which has careened downhill since Brian Melendez '91 merged its leadership with the LSC's two years ago, when he served as president of both organizations. Currently, less than 15% of HLS students are members of ABA/LSD, well below the national average of about 30%. Board member Sarah Fandell '94 observed, "It's weird that Harvard which has such a prominent reputation has so little say in a national organization like the ABA....I hope to lead the ABA into being a far more active organization on campus."

Board members ascribe the slippage to the organization's low profile and infrequent meetings. Eisenberg admitted that she had been lax about calling ABA/LSD meetings, calling only two since the beginning of the year. "I have to take blame for that and I don't offer any excuses," she said.

Board member Len Jacoby '94 agreed, "We certainly should have had more meetings. Any

please see **OUSTERS**, page 12



Mike Twomey



Rebecca Eisenberg

please see **TENURE**, page 3

Timely Topics Highlight Ames Semi-Final Arguments

By Mike Chmura
Special to the RECORD

While some members of the first-year Ames Competition prepared for pre-Spring Break final arguments this week, the members in the second-year class completed their semi-final debates in the Ames Courtroom before two panels of distinguished judges.

On Wednesday, March 18, Judge Robert Keeton S.J.D. '56, U.S. District Court for Massachusetts, Judge Thomas Ellis III '69, U.S. District Court for Eastern Virginia, and Judge Albert Rosenblatt '60, Appellate Division, New York Supreme Court, presided over the first argument of the 1992 Ames Moot Court Semi-Final Competition. The issue being considered was a fetus' right to life in a woman who is in a permanent vegetative state. The case was supervised by Professor Arthur Miller '58 and written by LL.M. candidate Lynn Roseberry.

Members of the petitioner team, the Fetal Attraction Team, are second-year students Rob Juman (oralist), Lucy Koh, Alan Romero, Rich Wareing, Keith Wofford, and Ernest Young (oralist). Members of the respondent team, the Thurgood Marshall Legacy Team, are Artur Davis (oralist), Cari Dawson, Carolyn Edgar, Kim McCullough, Kim Robinson, and Jacqueline White (oralist).

On Thursday, March 19, Judge Carol Los Mansmann, U.S. Court of Appeals for the Third Circuit, Judge John Sprizzo, U.S. District Court for the Southern District of New York, and Judge Thomas Penfield Jackson '64, U.S. District Court for the District of

Columbia, presided over the second semi-final argument. Under consideration are the rights of Haitian refugees to enter the United States. The case was written by Lecturer Deborah Anker LL.M. '84.

Members of the petitioner team, the Cayo Lobos Team, are second-year students Kara Cunningham, Larry Kraus, James O'Keefe, Stefanie Roth (oralist), Marshall Searcy (oralist), and Susan Spotts. Members of the respondent team, the Ames, Iowa 50010 Team, are second-year students Mike Dierks, Viet Dinh (oralist), Susan Genco, Mitch Kamin, Margaret Minister (oralist), and Jeff Udell.

Ames State Hospital v. Angela Cardozo

Angela Cardozo, the respondent in this case, was a thirty-two year old pregnant woman. She suffered massive head injuries in an auto accident. As a result of these injuries Angela settled into a permanent vegetative state.

The hospital used life support systems to sustain her. Angela's unborn child survived the accident unharmed and continued to develop normally; at the time of the trial the fetus was approximately six-and-one-half months old. In the hospital's opinion, it would have been in the best interests of both Angela and

her unborn child for the delivery to have been performed by caesarean section when the fetus was more fully developed.

Angela's parents, Lester and Joyce Cardozo, refused to consent to caesarean delivery and demanded the termination of Angela's life support systems. The Cardozos based this demand on the grounds that Angela had, prior to her accident, executed two documents: a "living will" and a durable power of attorney. In the living will, Angela directed that life supports be withdrawn if she were ever to be in a permanent vegetative state. The power of attorney gave the Cardozos the authority to make health care decisions for Angela if she were ever incapacitated.

The hospital refused to terminate life supports because such action would result in the death of Angela's unborn child. The hospital argued that such action would be contrary to the mandate of the Ames abortion statute which prohibits the termination of pregnancies during the third trimester in most circumstances.

Since the hospital refused to terminate life supports, the Cardozos brought suit requesting an order from the court which would compel the hospital to do so. The trial court found for the Cardozos and ordered Angela's life support systems to be terminated. Angela died shortly thereafter.

The hospital has appealed the trial court's decision.

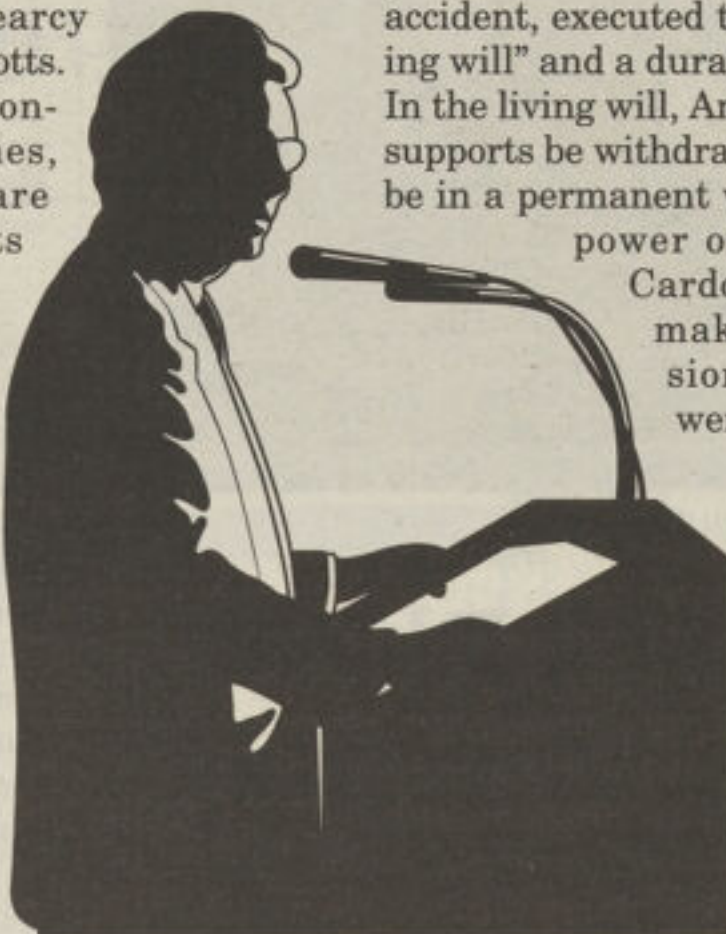
CDHR v. Baker

In 1981, the United States began interdicting vessels in international waters that were carrying Haitian refugees bound for the U.S. The refugees were conducted to Corning Field in Belize, Central America, and were not permitted to enter the U.S.

The Center for the Defense of Haitian Refugees (CDHR), a nonprofit organization based in the U.S., and named Haitian plaintiffs held at Corning field brought suit against the U.S. Secretary of State on several grounds. First, CDHR claimed that defendants have infringed upon their First Amendment rights to gain access to the detained refugees. Second, the named Haitian plaintiffs allege that the defendants have discriminated against them on the basis of nationality and race in violation of the Fifth Amendment. Plaintiffs also brought suit under Article 33 of the 1967 United Nations Protocol Relating to the Status of Refugees, and the Administrative Procedure Act.

The District Court found for the plaintiffs on all grounds except the Fifth Amendment, and granted a preliminary injunction against the defendants. The Court of Appeals reversed and the Supreme Court granted certiorari.

The competitions were sponsored by the Harvard Law School Board of Student Advisers. The outcomes of the arguments were not available at press time.



Streetlaw Program Educates City Youths About Their Legal Rights

By Andrew Genser

It's a little after midnight and you are hanging out with a few friends in the doorway to your apartment building, taking a break from the summer heat. Maybe you are scared by the patrol car parked across the street, or maybe you just hear the phone ring, but anyway, you run up the stairs.

Three years ago, when Lamar Phillips, 17, did this in Dorchester, he gave Boston policemen all the reason they felt they needed to search the stairwell where Phillips was standing and arrest him for possession of the firearm they "saw" him leave there. Upon further investigation, it turned out that the police could not have "seen" anything of the sort from their vantage point, and when one of the officers changed his testimony to cure this defect, Judge Cortland A. Mathers of the Suffolk Superior Court dismissed the charges against Phillips.

As this incident illustrates, depending on who you are and where you live, even the most innocuous behavior can invite unwanted, illegal and highly invasive attention from the police. According to Kobi Kennedy '93 of the Street Law program, teenagers living in high crime areas in Boston are frequent victims of police harassment. The problem is exacerbated when police respond to the epidemic of violent crime with controversial stop-and-frisk law enforcement techniques that sometimes include public strip-searches of suspected gang members. "The police are out of control," claims Kennedy, but she and about fifteen other organizers of the Street Law program, working with Harvard Defenders Supervisor Naomi Cotter, believe that education and understanding can make a difference.

The Street Law program is designed to encourage teenagers to obey the law, as well as to teach them how to best protect themselves in confrontations with police by exercising their legal rights. The product of a coalition between Drop-A-Dime (a Boston neighborhood crime-watch organization), Professor Hemingway of Boston University Law School, local law students and police precincts, Street Law comes to middle schools and high schools in the Boston area to teach kids about the law in real life. The program runs for six weeks, and culminates in a moot trial before a Boston Municipal Court Judge, in which the kids role-play the parts of prosecutors, defense attorneys, witnesses and defendants. The program targets first-time juvenile

offenders, but participation is voluntary and open to all students in a given school.

The program affects its participants in two important ways. First, it provides teenagers with practical knowledge about what their legal rights are and what they aren't. Each week, volunteer law students teach a different subject, including *Terry v. Ohio*, the Fifth and Sixth Amendments, or the basic rules that govern police behavior. One class involves discussions with local police officers in an effort to develop an understanding of the motives and fears that condition the often hostile confrontations that occur between the police and the teenagers on the street.



Kobi Kennedy

These discussions help break down negative stereotypes by allowing participants to view charged situations from each other's perspective. Through work on the moot trial which is based on an actual teen drug possession case, the kids learn about the consequences of breaking the law, and about everyone's role in the legal system including their own.

In addition to providing its participants with practical information and experience with relevant legal issues, the Street Law program changes the way the kids think of themselves. Many of them are surprised to find that they can understand cases and laws, and that they can successfully play the roles of lawyers and policemen. Quite often, this new perspective on themselves makes the kids feel strongly about obeying the law, and some of them even say they want to become police officers and attorneys.

The best thing about the program is that it raises their self-esteem, and Kennedy, who teaches Street Law, believes that the first-time juvenile offenders who go through the Street Law program are far less likely to get in trouble again.

Up until now, the Street Law program has only been available to teenagers on the South side of the Charles River. But Harvard Law students are working to bring the program to Cambridge middle schools and high schools. Scheduling and transportation problems have resulted in some setbacks, but Kennedy says she expects the program to be running by September.

The new Street Law program needs the help of Harvard Law students to fuel this new expansion, and those who are interested in working within the community to effect positive change are encouraged to contact Kobi Kennedy through the Harvard Defenders Office (1L's are especially needed.)

ILS Meets with Wald

By Robert Arnold

After a nearly three-hour emergency meeting on Wednesday, March 18, convened by Dean of Students Sarah Wald, three Board members of the International Law Society, President Susan Erickson, Graduate Student Coordinator Sharon Bowden and Professional Programs Coordinator Matthew Yeo, reached a decision regarding allocation of funds for the Scandinavia Study Visit to be held over Spring Break. Some members of the organization consider the decision questionable because there were not enough Board members present to constitute a quorum under the by-laws of the ILS Constitution.

The meeting grew out of concern raised by some ILS members after a controversial Board meeting on Tuesday, March 10. At that contentious meeting, the ILS Board met with the purpose of, *inter alia*, dispelling concern about the proper allocation of funds raised for study visits. Because of the importance of the issue and the means by which a decision was reached, witnesses to the meeting authored a letter establishing the facts and calling on the membership to express its views.

President Erickson, who also serves as acting Treasurer and Scandinavia trip co-organizer, with strong support from Board member, and co-organizer Matthew Yeo, said that an excess \$3,400 raised for Scandinavia would be split among the 9 trip participants as a total *per diem* of \$375 per person. During subsequent discussion, the fact was pointed out that of the 12 study visits which ILS has sponsored, only 3 have provided a limited sum to cover taxis and other required costs of participation.

Per diem has never exceeded approximately \$10 per day; the proposed *per diem* would be more than \$37 per day. In past years additional funds were used, with the permission of sponsors, to help finance study visits to developing countries, or to assist in the purchase of the ILS computer.

On the motion of a Board member, the Board voted 4 to 2 (Erickson and Yeo opposed) to reduce the *per diem*. In the heated discussion which followed, the other Board members reached a consensus to reduce the *per diem* by increasing the size of the Scandinavia delegation. With a per person cost of \$730 (which includes a \$10 *per diem*), an additional 4-5 ILS members could have been taken to Scandinavia.

Yeo stated that he would feel uncomfortable traveling with less than the anticipated cash payment, and that he would consider such a reduction a "taking." In his reasoning he was strongly supported by Erickson.

Some members of the organization are concerned that these actions will set a bad precedent for future study visits. They charge that not only are these actions against convention, but they may also be against the organizations written policies.

Because of the time of the emergency meeting, no Board members could be contacted to contribute to this story.

Jesse Jackson Exhorts HLS to Diversify

By Madeline Fain

The Coalition for Civil Rights (CCR) brought the Reverend Jesse Jackson to speak at HLS on Wednesday, March 11, demonstrating that the struggle for a diverse faculty continues to be an important issue for both students and non-students. More than 450 students and faculty packed Ames Courtroom to hear Jackson eloquently support Professor Derek Bell and CCR.

A leading advocate for justice and democracy, Jackson set the tone by saying that just as students must fight apartheid in South Africa, so must they "fight apartheid in the Law School faculty here at Harvard."

Reminding his audience that some people are less able to qualify for tenure because they are Black and female, Jackson added that "the threat of dignity to anybody is the threat of dignity to everybody." In his discussion of the struggle for democracy and fairness, Reverend Jackson included Bell in the class of people who are willing to give up personal gain for a better future. Jackson also mentioned the importance of Assistant Professor Charles J. Ogletree's role in supporting Anita Hill during the Clarence Thomas hearings.

"Harvard is too high on the hill to cast shades of darkness when we need points of light," argued Jackson in reference to university policy in faculty hiring. "It is beneath Harvard to do this."

Not only is giving tenure to minorities and women at Harvard Law School important to students, continued Jackson, but it is also encouraging to those who may never be able to attend a university. The position of tenured professor "gives aid and comfort to the lowest in American society." Added Jackson, "It costs twice more to go to jail than to go to Yale."

Implying that Harvard Law School's discriminatory hiring policy is an extension of the general "dis-



Jesse Jackson speaks to HLS students

ease" which pervades this country, Jackson said, "if the matter is morally wrong then the law should do something about it...inclusion is the answer."

In his discussion of why Harvard Law School faculty is truly unrepresentative of society as a whole Jackson said, "Most of the world is not White...seven eighths of the human race are of color, young, non-Christian, poor, women, and non-English speakers."

Overtone of Jackson's speech planned for later that evening at the Kennedy School crept into his address about faculty diversity as he repeatedly referred to world issues. In addition to criticizing discrimination at the Law School, Jackson addressed the broader issue of global discrimination and urged the United States to admit more immigrants. He claimed implicit policies of discrimination and racism were keeping Haitians and Japanese from migrating to this country.

Jackson also spoke of the need to continue the fight for justice and peace by raising consciousness. He told the audience "you must be prepared for litigation, demonstrations...even jail." Then he added "you can count on me to be with you."

Jackson ended his speech by asking the audience to join the Rainbow Coalition in increasing the vote by twenty-five percent. Jackson explained, "You can't complain unless you use your vote to fight back."

Tenure Candidates Identified

TENURE, continued from page 1

they believe in."

Hansmann acknowledged having received CCR's letter and commented that it will be some time before he decides whether to accept a position here. "I haven't made up my mind. It will be a big decision needless to say." Asked what impact CCR's letter will have on his decision, Hansmann responded: "Of course the operation of the Appointments Committee, student attitudes and student/faculty relations are all important to me, and I will take them all into consideration."

Professor Hansmann received his J.D. and Ph.D. from Yale, and has taught at Yale Law School since 1982. His specialties include: Corporations; Economics of Law; Non-Profit Cooperative & Municipal Corporations; and Organizations of Enterprise.

Professor Singer refused to comment for the RECORD on either his reactions to CCR's initiatives or his intentions to accept the offer. Singer received his J.D. from Harvard in 1981, and has held the position of Associate Professor at Boston University since 1984. His specialties include: Conflict of Laws; Jurisprudence; Property; and Supreme Court Decision Making.

Both professors Weiler and Mnookin reported that they have not, as of yet, received CCR's letter encouraging a delay of tenure acceptance. Mnookin, however, expressed interest in recent student activity concerning faculty diversity. He was at Harvard last year as a visiting professor and has not been back to campus since. While he has not yet decided whether to accept the offer, Mnookin commented that he is delighted for being considered. "I had a perfectly marvelous year last year. I found Harvard Law School an enormously stimulating place."

Professor Mnookin received his J.D. from Harvard in 1986, after which he served as a law clerk to Supreme Court Justice John M. Harlan. He has taught at Stanford since 1981, where he also directs the Stanford Center on Conflict and Negotiation.

Professor Weiler now teaches at Michigan Law School and specializes in international law areas, including European trade law and human rights. He plans to inform the Dean of his decision by the end of April.

Robinson is skeptical as to how much influence the CCR letter will have on the professors' decisions. "It's a difficult call," she remarked, "because we don't know where these professors stand — if they sit on the right or the left. We do know that it would be more effective if, along with the letter, each professor could receive personal visits from CCR representatives. Our most powerful tool right now is being vocal."

Welcome to New York, John Harvard. Have You Considered Joining The Harvard Club Of New York City?



On Friday, April 10, 1992, members of the Admissions Committee of the Harvard Club of New York City will be in Cambridge at (1) Harvard Faculty Club at 20 Quincy Street, 2nd Floor; (2) Baker House, 1st Floor Conference Room; and (3) Soldiers Field Park, Building 2 between 10:00 AM and 5:00 PM to make it easy and convenient for Faculty, University Officers and Graduates to become a member of the Club.

Graduates of the Class of 1992 will be proposed, seconded and interviewed in one step for membership in the Club. Requirements for supporting letters, etc., are waived for this event for 1992 graduates. Information about the Club will be available and Committee members will try to answer any questions you may have concerning membership.

The Harvard Club of New York City can be a most comfortable and convenient amenity that will make New York more enjoyable. It offers a central location in the Grand Central area, with spacious dining rooms, bedrooms, bar, lounge library, and extensive sports facilities.

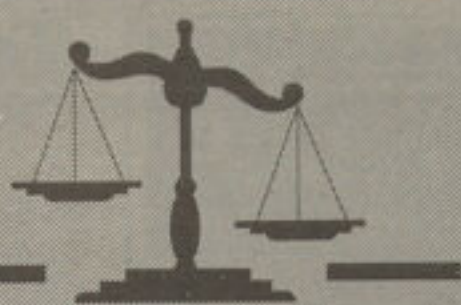
DATE: FRIDAY, APRIL 10, 1992

PLACES: Baker House, 1st Floor Conference Room, Law School;
Harvard Faculty Club, 20 Quincy Street
Soldiers Field Park, Building 2, ground floor, 111 Western Avenue

Harvard Club of New York

27 West 44th Street, New York, New York 10036 (212) 840-6600

BRIEFS



More Hard Times For Law Firms

Faced with a \$275 million federal lawsuit stemming from its allegedly unethical representation of the failed Lincoln Savings and Loan Association, the New York law firm of Kaye, Scholer, Fierman, Hays & Handler recently agreed to pay the government \$41 million as part of an out-of-court settlement. Kaye, Scholer's decision to settle the suit was prompted by the government's earlier freezing of its assets, a move that threatened to force the firm into financial collapse.

The arrangement also includes an agreement that will prohibit Kaye, Scholer partners Peter M. Fishbein and Karen E. Katzman, who were involved in the firm's representation of Lincoln, from any further representation of financial institutions. Timothy Ryan, the director of the Office of Thrift Supervision, which brought the lawsuit for the government, termed the prohibition "unprecedented."

The lawsuit is expected to be only one of a number of such actions filed against law and accounting firms and savings institutions over the next two weeks, as the government seeks to recoup its losses from its takeover of numerous failed savings and loan associations in March 1989. The statute of limitations on such lawsuits expires this month...

In other legal circles, the old-line Boston firm of Hutchins & Wheeler recently announced that it will be reducing its partnership contingent by four. Managing partner Frederick H. Grein Jr. confirmed the firm's decision that "four partners of the 36 are going to be leaving."

With about 75 lawyers, Hutchins & Wheeler ranks as Massachusetts' 21st-largest law firm. Contractions in the leveraged buyout market, in which the firm has been substantially involved, may have played a significant role in the firm's decision.

Memorial Service for Freund Planned

A memorial service for Paul A. Freund, Carl M. Loeb University Professor Emeritus, will be held at 2:30 p.m. on Tuesday, April 7, in Ames Courtroom in Austin Hall. Freund died on February 5, 1992.

Freund, "the dominant figure of his time in the field of constitutional law," in the words of former HLS Dean James Vorenberg, was a member of the Law School faculty from 1939 until his death.

Amnesty International Announces Student Human Rights Day

Amnesty International will hold its fourth annual Students For Students' Human Rights Day on Saturday, April 11 at Government Center in Boston. Governor William Weld has announced his support of the event.

The day will feature a march through Boston, beginning at noon, followed by a rally at Boston City Hall Plaza, at Government Center. Slated to appear at the rally are a number of Boston-area bands, as well as former political prisoners and their relatives and Amnesty International activists in the U.S.

Walk For Walden Woods Set for April 12

A 10-kilometer Walk For Walden Woods will take place on Sunday, April 12 in Concord. Sponsored by the Walden Woods Project, the walk is intended to publicize the threat of proposed condominium and office complex construction near Walden Pond, where the American philosopher and author Henry David Thoreau lived during the writing of his masterpiece, *Walden*.

In response to such proposals, the National Trust for Historic Preservation has listed Walden Woods as one of America's Eleven Most Endangered Historic Places.

Information regarding the walk may be obtained by calling Lydia Lalli or John Laughlin at 536-6033.

Elling '92 Awarded Bosch Fellowship

Martin Elling '92 has been awarded a Robert Bosch Foundation Fellowship for 1992-93. The nine-month program includes high-level, full-time work experience in the public and private sectors in Germany. The program is very selective and available only to 15 American citizens each year.

"I am very excited. It's a very important time to learn more about Germany after reunification and in this year of European integration."

Elling has already made his plans for next year. "I expect to be with the economic speaker of the ruling of the German parliament in the Fall and with the trustee agency in Dresden learning more about its privatization efforts."

Interested applicants for the 1993/94 program should be aware that October 15 is the application deadline. Applicants should have outstanding credentials, including advanced degrees or equivalent work experience in one of the following fields: journalism, public policy, mass communications, law, economics, political science, or business administration.

The ability to communicate well in German by the start of the program is required. Language training may be provided by the Foundation if necessary. If interested, contact William C. Brown, Program Officer, at (212) 760-1400.

Library Exhibit to Honor Prof. Sheldon and Eleanor Glueck

By Toy Chandler

With the Library Staff

The Harvard Law School Library will stage a major exhibition in the Spring of 1992 honoring Sheldon Glueck on the 50th anniversary of his appointment as professor at the Harvard Law School. The exhibition titled "Pioneers in Criminology and Criminal Justice: Sheldon and Eleanor Touroff Glueck" draws on the professional and personal papers that Sheldon and Eleanor Glueck donated to the Special Collections Department of the Harvard Law School Library.

Sheldon and Eleanor Glueck are credited with laying the groundwork for modern studies of criminology, and especially juvenile delinquency. The findings of this remarkable husband and wife research team led to an upgrading of the entire penal system, including better pay for prison personnel, better treatment of inmates, and more realistic follow-up once prisoners returned to society.

Of the Gluecks, Justice Frankfurter once said, "They have blazed significant trails. It means much to have speculation supplanted by facts, to prove quantitatively that which was previously merely surmised."

Born in Warsaw, Poland, Glueck emigrated to this country when he was seven years old. He received a Ph. D. from Harvard University and his law degree from George Washington University. Eleanor received the Doctorate in Education from Harvard University and was employed from 1930 to 1953 as a research assistant in criminology at Harvard Law School. In 1958 they were the first husband-wife team to receive honorary degrees from Harvard for their pioneering work.

Professor Morton Horwitz '67 also acknowledged the significance of the Glueck's work but he suggested that there is another telling point of their life story, which is borne out in the exhibition, that should not be overlooked.

"This is a classic example of the exclusion of women from the 'academy,'"

Horwitz said. "There is no question that Eleanor was as equally gifted as Sheldon. But while he went on to become an internationally renowned scholar of criminology, which they both were, she was considered a comparatively lowly research associate."

In addition to his position as the first Roscoe Pound Professor of Law at Harvard Law School, Sheldon served as the official delegate of the U.S. Government to the International Prison Congress in Prague, as a member of the Advisory Committee on Federal Rules of Criminal Procedure, and as a member of the Board of Advisers of the Psychiatry and The Law Foundation. He had also been adviser to Justice Robert Jackson on law governing Nazi war criminals; a member of the American Law Institute for the Model Penal Code; and head of the National Crime Prevention Institute.

The eight exhibit cases concentrate on various aspects of Sheldon and Eleanor's lives

and activities, such as their schooling, teaching, and writing. The many levels of their research into crime and offenders will be looked at, particularly their best known work, *Unraveling Juvenile Delinquency*, a monumental 10 year comparison of 500 delinquent boys with 500 nondelinquent youths. In addition, exhibit cases will be devoted to their international studies of police systems and criminology, their longitudinal studies of crime and delinquency, their impact on popular notions of juvenile delinquency, and Sheldon's work with the Nuremberg War Crimes Trials, the American Law Institute, and the Federal Rules of Criminal Procedure.

The Sheldon and Eleanor Glueck Exhibition, on view from April 10, 1992 to June 15, 1992, may be seen in the Reading Room of the Law School Library, on level 4 of Langdell Hall. The exhibition and its accompanying annotated catalog were prepared by John Laub, Professor of Criminal Justice, Northeastern University and David de Lorenzo, Curator of Manuscripts and Archives, Harvard Law School.



Prof. Sheldon and Eleanor Glueck

US News Ranks Yale #1, HLS #2

YALE, continued from page 1

down the survey into its constituent parts. Harvard was #1 in all categories, with Yale occasionally appearing in the top five. *U.S. News* did not include such a breakdown this year, despite its informative value.

In student selectivity, Yale was adjudged #1 and Harvard #2. This category was determined by an analysis of the class of 1994's median GPA, median LSAT, and the school's acceptance rate of applicants. This too is a change from last year's survey, in which Harvard placed #1 and Yale #2. Last year, *U.S. News* included the additional criterion of "retention rate," namely, the percentage of students accepted by a school who then attended. This year, the magazine deleted this factor without any explanation.

In faculty resources Yale scored #1 and Harvard #5, and in placement success Yale took #3 and Harvard #6 with NYU capturing #1. Faculty resources were calculated by a measurement of expenditures per student, number of volumes in the library per student, and student-faculty ratio. Placement success was determined by an analysis of percentages of the class of 1991 employed upon graduation and six months later, the ratio of

on-campus recruiters in 1991 to that year's graduating class, and the average salary of 1991 graduates. Yale topped Harvard by almost \$1,000 per year in this last measure, perhaps casting some doubt on the much-touted claim that Harvard is a "corporate law factory" while Yale "serves the public interest."

Annual ranking stirs old rivalries

Further data showed that Yale's median LSAT score was 46 to Harvard's 45, and Yale's acceptance rate was 6.2% to Harvard's 10.8%. In academic specialty categories, Harvard placed #1 in international law with Yale #4. Harvard also placed #4 in tax law while Yale did not make the top five in any other categories. The sleeper of the year was NYU, taking first place in both clinical training and tax law.

The objective data for the survey were supplied chiefly by College Research Group of Concord, Mass. *U.S. News* collected the remaining data by contacting schools directly. When a school would not supply the information, *U.S. News* made its own estimate of the missing data.

Conference Focuses on Children of Today

By Paul Butler and Susan Conwell
Special to the RECORD

On Saturday March, 14, the HLS Children and Family Rights Project and the Harvard Forum on Law and Education co-sponsored the "Rethinking Our Schools to Serve Today's Children" conference. The conference, which took place in Austin Hall, gathered panelists and attendees from Miami to Oregon. Keynote addresses were given by Dr. Ernest Boyer, President of the Carnegie Foundation for the Advancement of Teaching, and by Lisbeth Schorr, Lecturer in Social Medicine at Harvard University and author of *Within Our Reach*.

Dr. Boyer addressed a capacity crowd of administrators, attorneys, educators and health practitioners. He offered five priorities central to achieving "school readiness." They were health, quality preschool for every disadvantaged child, empowered parents, schools becoming ready for the children, and readjusting the school calendar and clock. Dr. Boyer's address was the perfect opening to the day long conference as it raised many issues that were more extensively examined in the panel discussions and the very lively question and answer sessions.

The first panel discussion provided a "particularly lively introduction to the conference." While Primus Mootry, co-founder of the Corporate/Community School in Chicago called for breaking the grip of teacher's unions in school, Daniel Tosado, a school administrator in Dade Co., countered that all Dade Co. elementary schools were beginning pre-school programs through increasing cooperation between the teacher's union and administration.

Professor Gary Orfield, of HGSE, argued that schools might never be able to meet the needs of students in a society that offered increasingly punitive social policies toward poor families. Reduced levels of welfare, increasing numbers of poorly paid service sector jobs, and increasing housing costs that eat up 50% to 75% of a poor family's income leave little for poor families to invest in the education of their children.

Later panelists addressed specific topics in providing services for children including evolving litigation and advocacy strategies, parent and community involvement in selecting services, how to reach preschool students and dropouts, providing services to at risk and abused youths, and health services.

The participants included civil rights and disability rights leaders, the State Commissioner of Education, attorneys, members of local parent groups, teachers, principals, and community organizers. Dr. Boyer described the participants as "dynamic and caring." Ms. Schorr noted the excitement, and the synergy created by bringing together an audience of such diversity and experience.

The attendees got a very diverse picture of the American school system. Anecdotes and statistics provided vivid pictures of the disturbing crises facing our urban schools. Other panelists presented programs that have been implemented in their

schools, successfully incorporating parents, teachers, and students in the operation.

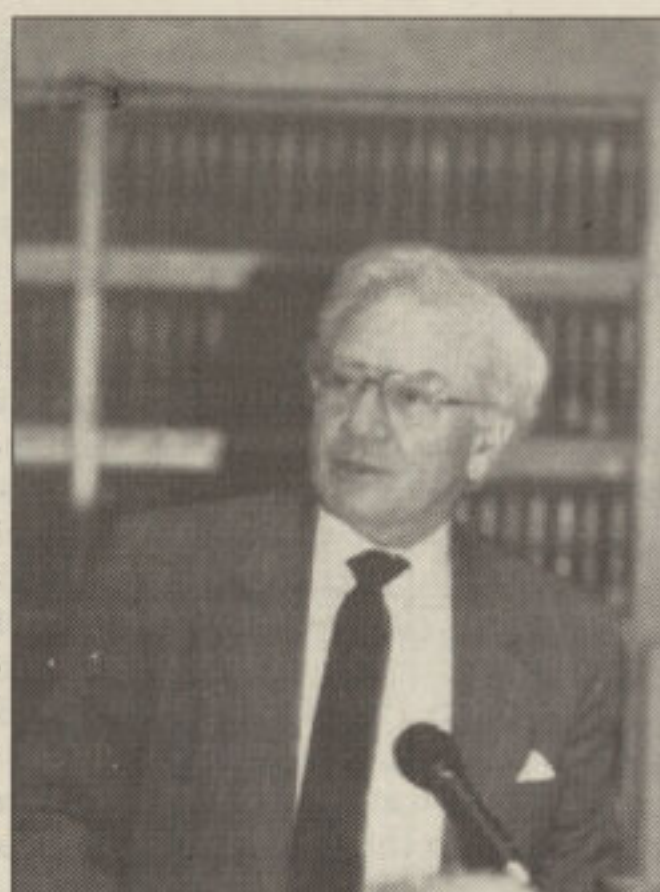
Despite the variety of topics discussed throughout the day, one overall message that seemed to permeate all the discussions was, as one panelist put it, the need for "whollism." All agreed that we must recognize that national and local education policies are and must be linked to economic policies and to social policies. Schools must respond to the emotional and spiritual needs of children as well as their intellectual. Many panelists and attendees agreed that the schools have become more than just schools whose sole task is to teach. Instead, our schools have become second homes for many children, and teachers have become surrogate parents. Thus, this increased centrality of the school demands that more and multiple resources and services be offered there. One panelist, State Representative Polly Williams from Wisconsin, made the point very clear when she said that no institution exists in a vacuum and schools cannot successfully change unless there is broader social change.

Common objectives were to increase parent participation, broad based decision making, and grass-roots control, to increase knowledge and awareness, to diversify resources and services, to establish support systems for teachers and to attack childhood poverty. Mr. Primus Mootry said that restructuring was not a question of knowledge or of resources, but a question of will.

A contingency from the Roxbury Boys and Girls Club attended the conference. Darryl Simpson commented that the conference was a success but pointed out that in order to bring the ideas to fruition, serious action was necessary. He said that in the midst of all the discussion, we must remember that our first priority is the children.

Ms. Jackie Scott, Education Director at the Roxbury Boys and Girls Club, said that the conference was wonderful. She stressed that parents and teachers must realize that they are all professionals, parents are professional at raising and teaching their own children, and teachers at teaching other people's children.

The conference was co-chaired by Susan Conwell, of the Forum on Law and Education, and Marilyn Sager, of the Children and Family Rights Project. Tapes of the entire conference, and of each panel and address, are available from Sound on Site in Boston, telephone 338-5475. The cassettes may qualify under I.R.S. regulations as an educational expense.



Keynote speaker Dr. Ernest Boyer.

Learning about Latin America

By Steve Yarian

The Latin American Studies Association was established last Fall in order to draw attention to areas of legal concern with which most Harvard Law students are unfamiliar. Many students at HLS would discover an entirely new world for legal practice if the Law School gave them the opportunity to learn more about Latin American issues.

Latin America is a huge market, very near the United States, which will undoubtedly play an increasingly important role in US foreign relations and business. Economic reform is now underway in many Latin American countries and the potential for growth is great. Latin America has a larger population and higher GNP than Eastern Europe, for example, and is more politically and economically stable.

Harvard Law School does not yet have a Program on Latin American Legal Studies. Moreover, there is not a single course on Latin American issues, and the courses related to the Third World only pay marginal attention to Latin America.

Latin America will play an increasingly important role in US foreign relations and business.

The Latin American Studies Association aims to change this lamentable situation. The organization has received the warm support of Vice Dean David Smith, who is now the organization's faculty advisor. Our long-term goal is to make HLS the center of Latin American Legal Studies in the United States by developing a formal program here.

Recently, the Association has invited US and Latin American representatives of the public and private sector to lecture at Harvard. In addition, they are working to bring visiting professors and scholars from Latin American law schools and to promote endowments from international organizations, governments and law firms for the future program in Latin American Legal Studies. They are also encouraging donations of Latin American books to the HLS library and planning concrete efforts to help US students interested in finding summer jobs in Latin America as well as Latin American students who want to study at HLS.

In the near future, Francisco Santos, chief editor of the Colombian newspaper "El Tiempo," will speak on "Columbia: Past, Present and Future" on Tuesday, March 31 (ILS, Seminar Room 1, 6:30) and Jorge Dominguez, Professor of Government at Harvard University will discuss "US Relations with Mexico and other Latin American Countries" the next day (Mallory Smith room, Harkness, Noon), among other events after spring break.

The Latin American Studies Association invites all HLS students, from any origin or nationality, who are interested in Latin American issues or in doing business with Latin America to participate in our events and in planning for the future. Interested students should leave messages including their name, address, telephone and Harvard affiliation in the mail box of Malcolm Harrison '93 or Andres Cerisola L.L.M.

I Hate Those %@!#\$@? Copiers!!!

By Glennis Gill

Although disdain for the photocopiers is frequently heard in the Library, the library staff sees the current situation as a recent improvement.

According to Marian F. Parker, the Associate Librarian for Research Services, this past June the staff began analyzing the photocopying that has been done in the library in the last five years. They looked at the overall volume, volume per machine, service for the different brands and the copycard system. They discovered, to no one's surprise that the copying equipment needed upgrading.

"They nickel and dime us to death on everything around here!"

The staff visited other libraries with comparable volume, and had several different vendors give proposals for copiers, copycard readers and dispensers. They then settled on the Océ brand of photocopiers and the XCP Vendacard copycard dispensers and readers. This equipment was installed in August.

Océ brand copiers were chosen because they are specifically made for walk-up library use in high volume areas. They are designed to withstand much

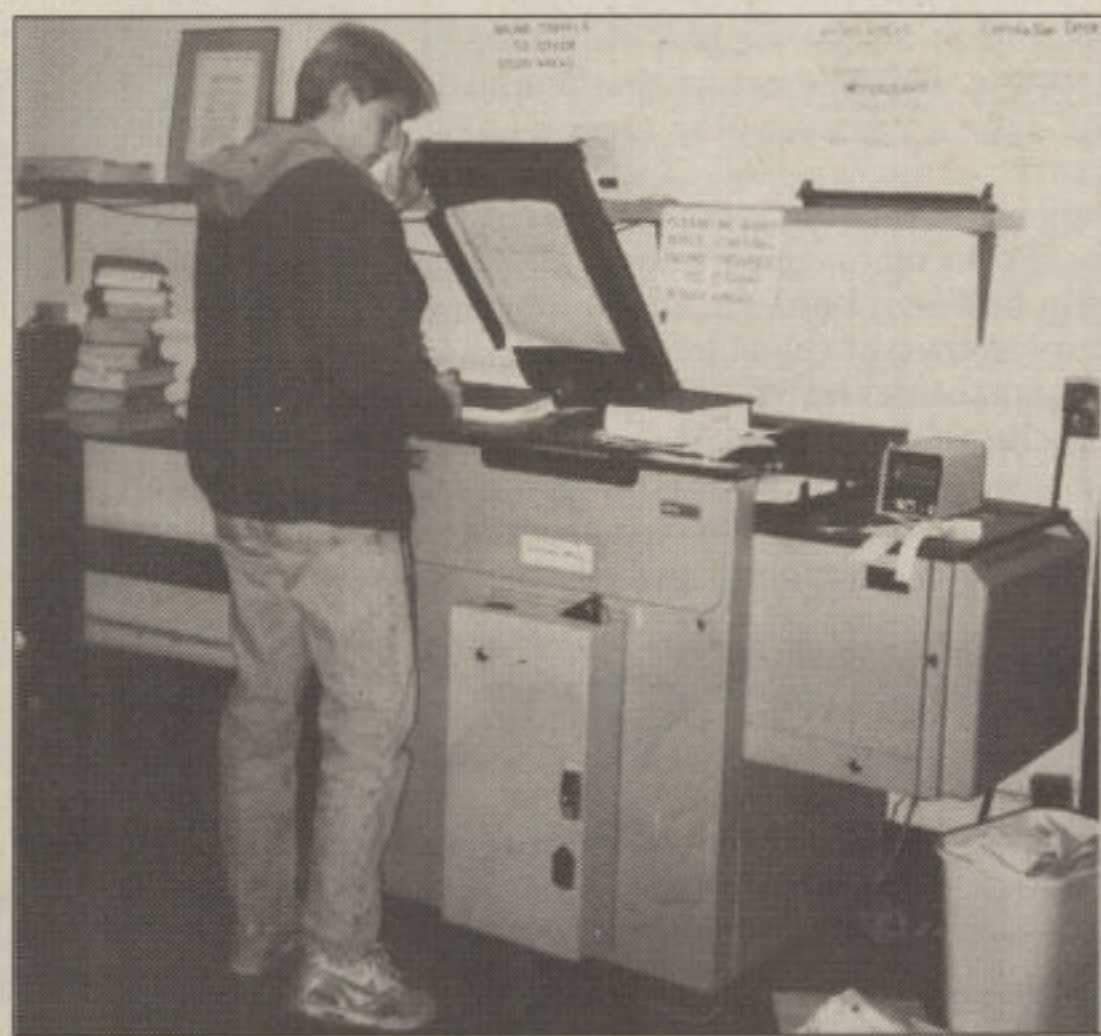
abuse and the specific mechanism for getting the image to the paper greatly improves the capability of this copier to function without jamming. They also "cradle" the books, so as not to damage the spines, which happens on regular office copiers.

With all this research, one might think the students would be happy with the results. But complaints abound. Amy Silliman '94 asserts that the copiers "are too slow, should have 11 x 18 paper, should be able to do reduction, and we need feeders."

One constant source of complaints is the price. Bob Daut '93 complains that "they nickel and dime us to death on everything around here." But according to Parker, "We tried everything possible to get the cost-per-copy down to a nickel, but that is not possible with the volume of activity here in the library."

"That's bullshit!" asserted Johanna Davis '94 while searching her raincoat pockets for loose change.

Parker is "mindful of the fact that places like Kinko's are much cheaper," but claims that that is based on an extremely high volume and the fact that



Student marvels at efficient new copy machines. Not!

they have someone watching over the machine to fix it the very second it breaks, something which can't be done in the library. Parker stated that this is also the reason that the public copier installed in Pound last year was cheaper. The library chose not to utilize those service providers because "they could not give our library copiers the attention they need for paper and service."

The library staff wants copying to be an enjoyable experience and suggests that anyone with comments should see Ms. Parker.

The F Word — Has Feminism Become a Dirty Word?

By Glennis Gill

"For those of you who think feminism is a dirty word, my advice is to get over it." This statement by Janice Prior, one of the three distinguished guests at the WLA panel "The F Word — Has Feminism Become a Dirty Word?" was echoed in the positions taken by the other two speakers, Ann Lewis and Ellen Goodman. Prior has been in politics and the media since 1976. She is a television producer and teaches Women & Politics at Wheelock College.

Lewis is the former political director of the Democratic National Committee and is currently teaching a course on Women & Politics at the Kennedy School with Evelyn Murphy. Goodman is a columnist with *The Boston Globe* who often writes on women's issues. The panel, organized by Wendy Patten '94 and Claudia Salomon '94 as part of the Women's History Month activities sponsored by the WLA, was in response to talking to "people who agreed with some of the issues but are hesitant to call themselves feminists."

Ms. Prior began the discussion by asserting that "Yes, feminism has become a dirty word, but only because we've allowed it to become a dirty word."

As an example of this phenomenon, Prior stated that, at the beginning of every Women & Politics class she teaches, she asks "who calls herself a feminist?" and very few hands raise. And as a follow-up she asks what people associate with feminism, and suggestions from "dykes" to "crazies" are offered. But when she starts listing the tenets of feminism, equal pay, opportunities, etc., people agree with those yet still don't want to be called a feminist.

This apathy exists despite the fact that everything is not okay for women. Prior said people should look at examples like Anita Hill and Mike Tyson and realize that women must rethink their aversion to being called a feminist.

Prior explained that many women need to be confronted with sexism where they are to understand that it's real. She shared a few flagrant examples of when she had been victimized by racism and sexism in her career. She added that "For those of you who think feminists are troublemakers, well, you're probably right. Because injustice has never been reversed without some trouble."

Ann Lewis followed Prior with the best definition of feminism she has ever found: Rebecca West, in 1913 said, "I only know I'm accused of being a feminist whenever I express sentiments that differentiate me from a doormat."

Like Prior, Lewis discussed the perceived unpopularity of "feminism," but also asserted that these statistics shouldn't be read too literally. Lewis quoted a survey that found that when asked whether they consider themselves feminists, 58% of women said no. But when asked whether they favor efforts to change the status of women, 77% said

yes. Therefore, even "if a majority of the women don't identify themselves as feminists, they do support the goals for which they stand."

Lewis also asserted that this contradiction can be partially explained by the fact that words that end in "ist" tend to do poorly in American polls. "We shy away from words that seem harshly ideological and yet we support the goals for which they stand." However, Lewis added "it's worth noting that women getting elected to higher offices are far more likely today to identify themselves as feminists."

Lewis also attributed part of the misconceptions to the media, which regular-

rights. How wonderful that the younger generation doesn't have memories of illegal unsafe abortions, because "those assumptions of what you have are very hard to shake."

Despite the progress, Goodman's sense is that "the woman's movement hasn't gone far enough." There were two prongs, access and change. Access was achieved, but change, the idea that women shouldn't just get into the system and put on the little bow tie, without any restructuring, didn't work. "We have access but we're living and working in institutions designed by men, for men."

Goodman asserted that "our genera-

Goodman commented that women are often afraid to identify themselves as feminists because they don't want some guy to say "Oh, you're one of those." She added that very often these women don't get over letting men define them until sometime between their first and second marriages.

Lewis added that feminism grows as one ages. She pointed out that the workplace is much less egalitarian than the university environment.

Another student suggested that since the word feminism has become a "bad word" and the majority of women embrace the goals of feminism, the woman's movement should just fight for the substantive issues and not worry about the name. The panelists responded that words are important, as a measure of respect, and that substantive accomplishments can be made while these issues are resolved. Another student countered that this idea would not solve anything, that "by shedding the word we will not get rid of the connotations."

When asked what to do about the hostility from women who have gotten access, Lewis pointed out that "If you allow yourselves to buy the argument that women's enemies are other women, you're making a mistake." She further stated that it is in the movement's interest to show that the majority of women is supportive of it. She asserted that the key to making social change is the ability to leverage a small number of women and the others can say "Great, let me know when it's accomplished." Goodman expressed the same sentiment, that "at any given time there are very few people whose driving motivation is for social change."

A survey found that when asked whether they consider themselves feminists, 58% of women said no. But when asked whether they favor efforts to change the status of women, 77% said yes.

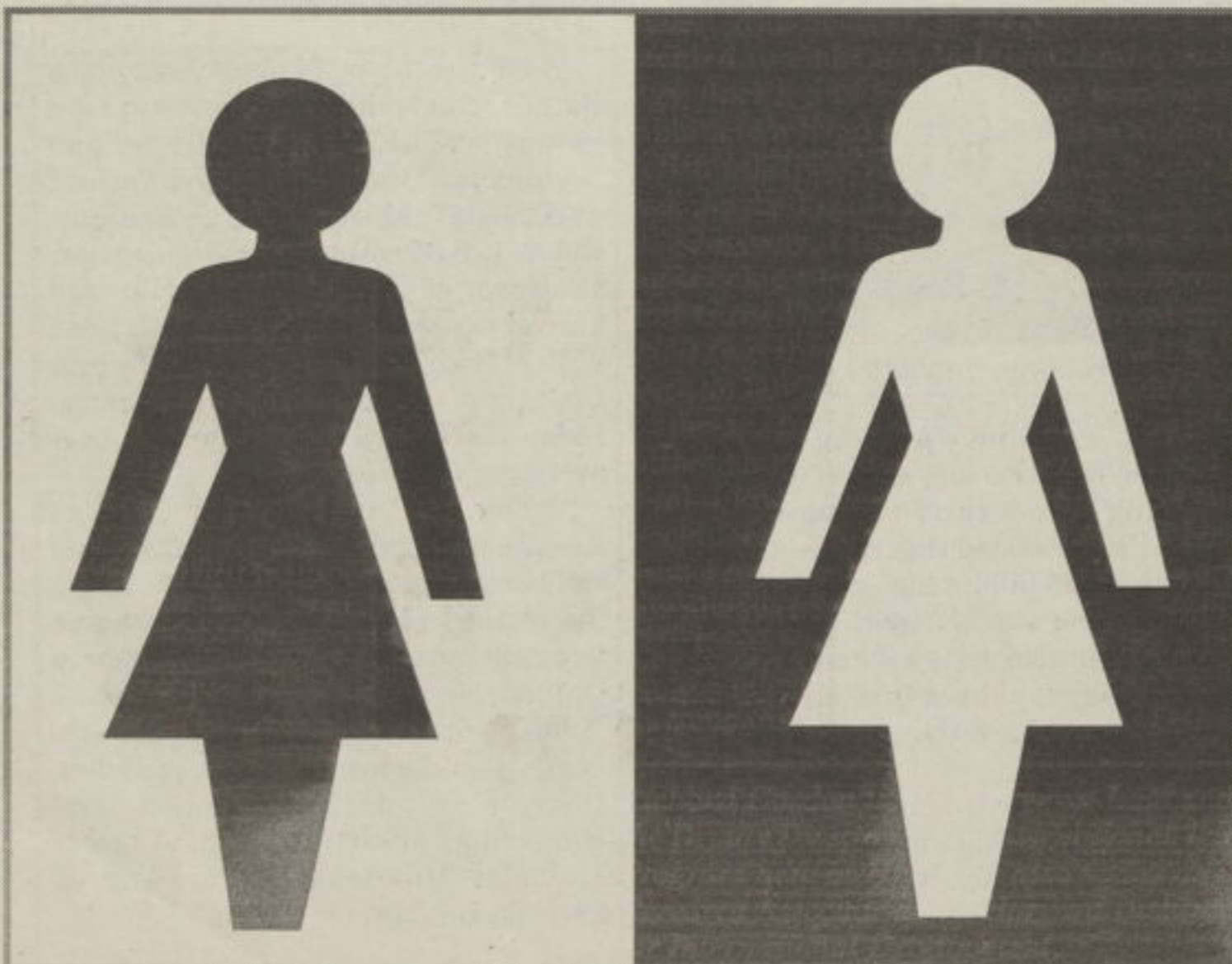
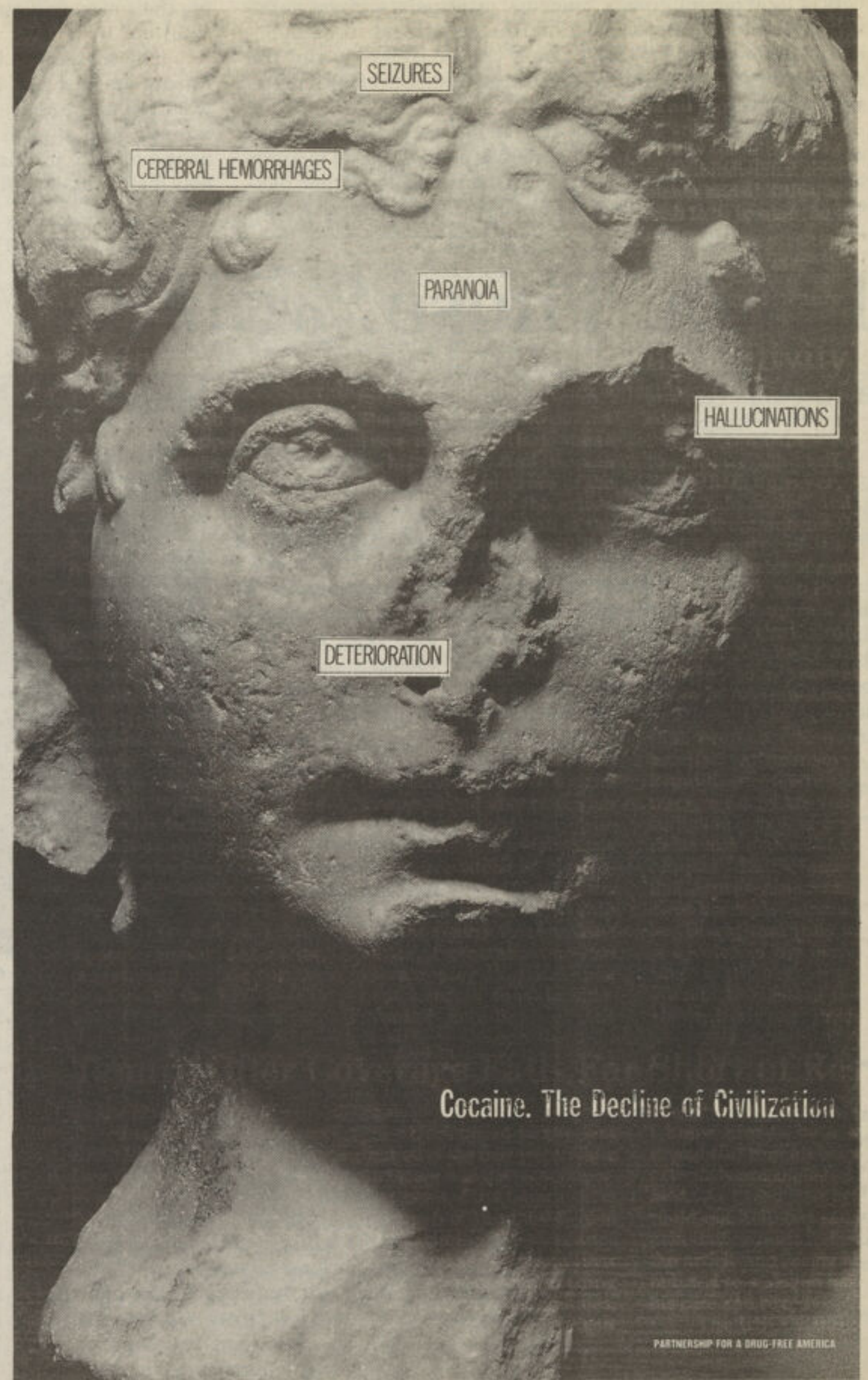
ly underestimates feminism. She pointed out that the *New York Times Magazine* seems to have a yearly story that "The Woman's Movement is Dead."

But despite the messages, Lewis asserts that change continues to happen, and it happens because brave people challenge the status quo. Thus, "perhaps feminism is in better shape than the word. But words are important, so the more often we use the word, the better." Lewis pointed out that however frustrating it may be today in the women's movement, everyone should remember that throughout history there were extraordinary women who worked harder and had it tougher. She quoted Mrs. Josephine St. Pierre Ruffin, who at an 1895 meeting of a Negro Women's Organization said: "our women's movement is a women's movement in that it is led and directed by women for the good of all humanity, which is more than any one branch or section of it... we are not alienating or withdrawing, we are only coming to the front." Lewis added that she did not know where Ruffin had found the strength to say those words, just 30 years after the Civil War, "but I do know that she sets a standard that feminists could do no better than to live up to today."

Ellen Goodman followed up on the misconceptions Lewis had discussed by asserting that "the notion that feminism was ever a vast popular movement is greatly exaggerated." The idea that everyone in the '70s agreed is not true — "there's far more support now." She also put a different angle on the notion that many women of the older generation of women think the younger generation takes things for granted: "Frankly, I think it's good you take a lot for granted, because it's less likely it'll be taken away." The primary example of that is abortion

tion has been raised to believe you'll have active professional lives and rich personal lives, and there's a real gap... but you shouldn't down your expectations... the women's movement is ready for another lift-off."

A lively discussion followed the presentations. One student expressed her frustration that all of her best friends at the Law School were completely uninterested in coming to the panel; she wondered how to gather grass roots support.



Broken Contract Author Criticizes HLS' Influence

By Thad Davis
Special to the RECORD

Richard D. Kahlenberg '89, author of "Broken Contract: A Memoir of Harvard Law School," spoke at Pound Hall on Monday evening, March 16. The Harvard Law School Forum sponsored the event.

Kahlenberg offered a synopsis of his book to the crowd, likening his remarks to "criticism among friends," as in a Democratic Presidential primary race. He directed his talk primarily at the "corrupting influence" of the Law School, meaning that a vast majority of students at HLS, while interested in public service when they arrive, leave as employees of large corporate law firms.

Kahlenberg first explained his rationale for writing the book. Approached by a publisher as a 1L while trying to publish his undergraduate senior thesis, Kahlenberg was first wary of rehashing the oft-told tale of the HLS experience. Only when he realized that two-thirds of the story wasn't being told did Kahlenberg agree to write the book.

He described his own personal experience in the second and third years at HLS as a paradox: "the career path I had once deemed unacceptable had become acceptable." As a first-year student interested in public service, Kahlenberg found himself increasingly drawn (or pushed) towards large firm, corporate practice.

While most commentators state that many HLS graduates go into corporate firms is "no great revelation," Kahlenberg said that he felt the need to explore the truism, because "description is not justification."

Kahlenberg catalogued the many factors operating to send a majority of HLS graduates to corporate firms: high salaries, the view of joining a firm as the "correct" career move even among the "liberal" elite establishment, and the effortlessness of recruitment by large firms. All this stands in sharp contrast to finding public service employment.

Kahlenberg also critiqued the view that going to a firm job first is a way "to keep options open." Kahlenberg placed some of the blame on students themselves, saying that the problem "feeds on itself," in his words, public interest work is seen as "eccentric" or "mildly dangerous" even among students. And that peer pressure operates as a strong disincentive to "nontraditional" career choices.

The author briefly explored the institutional pressures at work in the classroom, factors which he says lead down the corporate law path as well. Kahlenberg described his own disillusionment with the Socratic method, the "stone wall" between students and professors, the uninteresting nature and overwhelming volume of readings, and the unsettling competition embodied in the *Harvard Law Review* selection process. The author

also criticized the sharp ideological splits on the faculty as another factor alienating students. According to the author, "the hard Left is too disillusioned to inspire anything," while more conservative professors offer little in the way of guidance or support for alternative careers.

In response to the theory that HLS merely reflects society's own priorities, Kahlenberg reached the crux of his argument against the institution and its practices. Yes, the author said, the Law School does mirror the values of society at large in its placement record, but that "does not excuse [the Law School]." According to Kahlenberg, HLS should lead society, rather than mirroring the choices and economic priorities of society at large. In his words, "this institution has enormous potential to promote justice, which is what makes its failure so disappointing."

The author offered several prescriptions for change. Kahlenberg repeatedly praised the Low Income Protection Plan for its role in reducing economic pressure on students interested in public sector jobs. He also suggested that students unhappy with the placement process give feedback to the Dean, though he admitted that "I've heard he [Dean Clark] has sent some bad signals lately." Kahlenberg offered one concrete proposal: a surcharge on corporate firms coming to HLS to interview students, to be utilized to fund public service job interviews and place-

ment efforts. The author said that this "surtax" would help "level the playing field" between the firms and public service employers.

In a more pedagogical vein, Kahlenberg suggested several changes in teaching method and approach to learning at the Law School. The author said that "there are law schools where students actually enjoy themselves," and urged students to not accept the current learning environment "just because it's Harvard." According to the author, HLS need not define the practice of law so narrowly and with so little creativity and vibrancy. Painting the law as a valuable instrument for social and political change, Kahlenberg appealed for a shift in both the professional and the scholastic priorities at the Law School.

Kahlenberg's speech was relatively brief, and followed by several contentious questions by students in the audience. Kahlenberg currently works as a staff member for Senator Charles Robb; several students questioned if the political arena was indeed "public interest work," given the role of PAC's and other notorious aspects of the political process. Another student criticized the various "dichotomies" in Kahlenberg's book, between firms and public service, CLS and conservative professors, etc., as simplistic and obscuring the real debate at HLS.

Students and Faculty Debate Diversity Issues

ZERO DAY, continued from page 1

students have been raising these concerns for over 10 years. While agreeing that "a more regular forum for people on the [Appointments] Committee to talk to students" would be reasonable, Dean Clark asserted that putting students on the Appointments Committee was "not in the cards." Clark opined that students' interests were too "short-term" for their concerns to be reflected in the hiring process.

While reiterating that HLS "cannot afford to ignore specific curricular needs" (such as tax and corporations), Clark observed that Carol Steiker '86 had been offered a tenure-track position to teach Criminal Law because, "She's qualified, and she's so good that we couldn't pass her up." He announced that Steiker had accepted the offer.

Students pointed out that if HLS were to broaden its vision of "curricular needs" to emphasize subjects such as Poverty Law, the "pool problem" would disappear since most of the experts in this and other cutting-edge fields are minority women practitioners.

The Appointments Committee is composed of "a whole bunch of independent-minded people," Clark said, and although the Committee is "committed to hiring women of any background realistically by the end of next fall," Clark stressed that he couldn't "guarantee or promise anything."

The breakfast meeting ended at 10:00 AM, when Clark agreed to meet at 2:00 PM with other faculty members, whom he invited, and the entire HLS community. CCR members hastily posted the campus to alert students about the 2:00 PM meeting in Langdell North.

Two hundred students met in the Ames Courtroom to plan the strategy for the rest of the day, many leaving their classes to attend the meeting. Some professors, including Frank Michelman and Visiting Professor James Boyle endorsed the meeting by scheduling make-up sessions. Over 100 students then demonstrated in Langdell in front of professors' offices in the faculty hallway and in the Main Reading room, shouting, "Diversity now!"

At 2:00, almost 300 people packed the Langdell North "town meeting" with Clark and Wald, which was

facilitated by Camille Holmes '93. Twenty-one faculty members attended, including Appointments Committee members Weiler, both Kennedy's, as well as Professors Meltzer, Nesson, Wilkins, Edley, Fried, Bartholet, both Fisher's, Frug, Fallon, and Vorenberg.

Students initially focused the discussion on procedural issues such as student participation in hiring practices and mitigating the "pool problem." Specific proposals were offered in order to solicit immediate, candid responses from faculty members and then reactions from student participants.

Professors Weiler and Wolfman expressed the opinion that direct student involvement in the hiring process was "a terrible idea," citing their experiences

at other universities where student participation on Appointments Committees resulted in a "stilted, inadequate critique of many candidates," according to Wolfman. Professor Frug, disagreeing sharply, nevertheless noted that the faculty of HLS would be "overwhelmingly opposed" to student representation and discouraged CCR from "putting too much weight" on the proposal.

Professor Charles Fried went further, claiming that students were approaching the issue "from the wrong end." He told the students that their proposals were "counterproductive to what [they] care about," since in order to attract qualified status minority candidates "the Appointments Committee must be taken seriously," and student involvement would undermine its legitimacy.

Other professors, while affirming their support for greater diversity on the faculty, warned against the students' focus on mere procedural changes. Professor Christopher Edley, for example, urged students not to place too much emphasis on "any particular verbal formula or procedural gimmick" which seems to give them greater power, but fails to accomplish any tangible results. Instead, Edley insisted, changing the "substance" of the faculty's approach to diversity issues should be the goal. "Where is the commitment [on the faculty] to make diversity an institutional priority," he asked, "so that it's not pushed to the back burner?"

Regarding the supposed "pool problem," several of the faculty members affirmed their commitment to hire several White women by next fall since, in

Professor Edley's words, "there is a large enough group who meet the threshold of political plausibility so that we can make deals. No one wants to support a minority candidate," he pointed out, "if that candidate is going to be charged to their account."

Students raised objections, however, to the professors' hiring of White men first, then White women, then possibly men or women of color, in admittedly political bargains among faculty contingencies. "Aren't these policies obviously discriminatory?" Jennifer Taub '93 asked. "Where is the concern with complying with the law?" Professor Fallon called the need to make political deals and hire new faculty in waves "lamentable, but not legally problematic."

Other students, including Keith Boykin '92 and the facilitators of the meeting, expressed exasperation with the repetitive rhetoric and promises about "commitment" they have heard from the faculty and pressed the faculty members present to articulate their own suggestions for improvement of the hiring process.

Professors Edley and Wilkins took up this challenge, offering, respectively, to galvanize faculty support for minority hiring and to chair a committee of students and professors who will read legal scholarship together with an eye towards understanding HLS' criteria for "excellence."

Dean Clark, to the students' disappointment, continued to insist that "it is premature to expect a timeline on hiring," but agreed to meet regularly with a small group of student representatives to improve the lines of communication and to be open to further changes in HLS' hiring policies. Similar promises have been made and broken before, according to many third year students in the audience, including Juan Zuniga, and CCR representatives insist that only "action, not words" will quell their outrage.



Students wait for Dean Clark.

The RECORD:

Go light on the Pesto!

Harvard Law RECORD

Founded in 1946

Robert C. Arnold
Editor-In-Chief

"In individuals insanity is rare, but in groups it is the rule."

Friedrich Nietzsche

What Legitimacy?

Professor Charles Fried says that more direct student involvement in the hiring process would undermine the Appointments Committee's legitimacy. This statement seems rather laughable at best when one looks at the members of the Committee and some of their recent actions.

Duncan Kennedy, a self-proclaimed "radical," is the member of the Committee charged with exploring the scholarship of promising women professorial candidates. However, this "radical" constantly reveals himself to be little more than the hypocrite and "flake" his detractors claimed him to be, but that students didn't want to believe him to be. We now see that Dean Clark appointed him because, although admittedly concerned, he is hardly someone who can be taken seriously.

Randy Kennedy is the Committee member charged with exploring the scholarship of promising minority candidates. He constantly reveals himself to be little more than the Dean's "boy" his detractors claimed him to be, but that students didn't want to believe him to be. He seems to have forgotten, already, that it was student protest, led by Muhammad Kenyatta's Third World Coalition, the precursor to CCR, which brought him here. We now see that he has become too comfortable as the "house" Black to be taken seriously.

Who authors those memos saying that 20.7 percent of the Law School's faculty are minorities and 28 percent are women? Here's a hint, it is not students. These numbers are so obviously erroneous because they include in their calculation Clinical Fieldwork Supervisors. In that calculation, there are already several women of color, several Latinos and Latinas, and several openly gay and lesbian "faculty members." If Clinical Fieldwork Supervisors were the issue, what would be the point of student protest?

How about the "year-away" or "not on the premises" debacle? Whose credibility was brought into question there?

When students offer lists of prospective candidates to mitigate the alleged "pool problem," the candidates are dismissed as "not for us," to quote Randy Kennedy, without any explanation. What does "not for us" mean?

Does the faculty expect students to just go away? Are we supposed to regard our experience at HLS as just three years of our life? It is amazing how something so symbolic of honesty and justice as Harvard Law School can so easily abandon these concepts when dealing with students.

Students will continue to be labeled as corruptive influences by the Faculty and even by other students. However, it is the Administration which has displayed the dishonesty, chicanery, and animus necessary to earn the title. I wonder, what legitimacy was Professor Fried referring to?

Ra

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"Congress shall make no law...abridging the freedom of speech, or of the press;..."
—First Amendment, U.S. Constitution



Letters

Basing Constitutional Protections on Race?

To the Editor:

I write in response to the article in the February 28th RECORD regarding student protest over Professor Dershowitz's possible participation in the Tyson case. Those students whose criticism is based upon Professor Dershowitz's supposed "reputation for handling rape in class" might well change their opinion in light of the facts.

I am an attorney, a former student and a current associate of Professor Dershowitz. Last fall, I supervised a group of students in Professor Dershowitz's first-year Criminal Law class who, at Professor Dershowitz's request, had volunteered to research and compile a set of reading materials addressing the topic of rape from both feminist and civil liberties perspectives. Professor Dershowitz's goal was to assure that this topic was addressed from a broad range of perspectives, including those deemed important by his students. The students and I met several times over a period of weeks, and they produced a packet of readings including pieces by Catherine MacKinnon, Susan Estrich, and others, addressing issues such as consent, rape and racism, and various eviden-

tiary issues that arise in rape prosecutions. Other than initially requesting volunteers, Professor Dershowitz had no input into the contents of these materials.

I attended the classes in which the materials were discussed, together with the regularly assigned readings on the topic of rape. Student participation in the discussion was active, and Professor Dershowitz consistently took pains to focus the class on very difficult issues such as the legal standard for determining consent, the constitutional implications of rape-shield laws, and the normative impact of nuances in these legal rules. I found nothing "insensitive" or gratuitous about his comments in these classes, nor did any of the students with whom I spoke. Moreover, I never thought he "overused" rape in his criminal law class in the fall of 1983, when I was a student.

As anyone who has interviewed for a job as a public defender knows, rape is the most frequently used subject for probing the hard issues in criminal law. Not surprisingly, the nature of the crime tends to cause people to re-evaluate their assumptions and beliefs. There is nothing

"suspicious" about a professor who recognizes and uses this phenomenon as a teaching tool. If Professor Dershowitz has a "fixation," then it is one that he shares with thousands of other criminal defense attorneys, who recognize that their empathy for the victims of rape has the capacity to diminish the zeal of their advocacy for criminal defendants. Far better to confront the tension between these strongly held views than to ignore it.

Finally, I was puzzled by the fact that Ms. Greene noted the disparity in result between the Kennedy Smith case and the Tyson case, apparently attributed it to racism, and was nevertheless eager to volunteer to aid the prosecution. Doesn't this disparity instead suggest the importance of closely scrutinizing Mr. Tyson's conviction for error? Surely those students quoted in the article do not advocate different constitutional protections depending on the race of a defendant, or even upon the crime with which he or she is charged. Yet, that is the unfortunate implication of the position they have taken.

Rosanna Cavallaro '86
March 3, 1992

LSC a Resume Filler For Apolitical Moderates

To the Editor:

I am writing in response to the recent resignation of one of the Law School Council's most productive members, Secretary Francis Phillip. Phillip resigned after the Law School Council (LSC) established precedent that it would remain "neutral" on political issues.

I, like Phillip, am an advocate of politics within political bodies. Many have criticized the council for being an ineffective, apolitical bureaucracy. Several members win by default because very few people run for positions. Contended races often become popularity contests which ignore issues. Less than 20% of the study body cared enough to vote in the last LSC election.

The present structure of the LSC breeds ineffectiveness. Several of the members, including President Mike Twomey, are talented and dedicated, but are handicapped by the bureaucratic neutrality of the council.

Recognizing our mundane responsibilities, I view the LSC as Harvard Law School's cost-cutting substitute for payroll office staff.

Politics are the missing ingredient of the LSC. Politics will breed accountability. In taking stands on important, even controversial issues, the LSC increases its visibility, invites criticism, and begins to truly be a forum for student discussion. Student groups from different political corners will compete for power on the LSC, and it will become representative of the true conservative and liberal diversity of the school, rather than a low-key bureaucratic resume filler for apolitical moderates. Due to the increased spotlight on the LSC, members would be pressured to fulfill their rudimentary tasks to avoid criticism.

On Wednesday, February 26, my ideas regarding politicizing the LSC were introduced. At a Thursday, March 5 meeting, I proposed four resolutions demanding that the Law School Council

take a political stand. Two of the resolutions, both drafted by a member of the HLS Republicans, were against traditional "diversity" in faculty hiring. The other two advocated diversity, and were written by a member of CCR. My goal was not to be a proponent of any one position, but rather, to give the council an opportunity to choose one of the four and thereby take a stand. None were passed. Instead, the LSC passed a handwritten resolution improvised by Treasurer Isobel Jones allegedly precluding the council from taking a stand on the diversity issue.

Francis Phillip immediately submitted his letter of resignation because of the council's failure to address significant issues. I suppose Phillip has better things to do with his time than serving as an unpaid paper shuffler. I appreciate Phillip's political stand, I will continue to advocate that the LSC take one.

Spencer A. Overton '93
March 11, 1992

Right on Point

To the Editor:

No, Claudia Salomon, my letter does not miss the point.

We agree that the people who cynically manage their images or obscure their opinions are not the people we want as leaders. My point was simply that the truth about a person (positive, negative or cipher) will come out with or without the videotape.

Robert Kantowitz '74
March 12, 1992

Letters Policy

The RECORD welcomes letters to the editor on any subject from students, alumni, and interested members of the Law School community. Letters are printed as space permits, and are edited for space and clarity. All letters should be typed, no more than 250 words, and should include the name(s) and phone number(s) of the author(s) on disk and hard copy.

Asserting Legal and Human Rights in New Settings

By Susan Oker

It can be alienating. It can be frustrating. It can be overwhelming. Why do lawyers/law students voluntarily put themselves in the position of working with clients whose suffering rarely lends itself to a legal solution, in a place that does not often welcome their efforts putting aside the constitutional issues, the deprivation of liberty, and the balancing of complex and conflicting societal interests, it is the terrible vulnerability and universal humanity of the people that grabs one's empathy and attentions.

In the Disability Law Clinic, students represent individuals who are hospitalized in the state psychiatric facilities in the Boston area. Typically the client has been admitted and detained on a locked psychiatric unit against her will. She can be kept on the unit for up to twenty four days before going before a judge. While there she can be physically restrained, that is to say tied down by wrist and ankle shackles; restricted to the unit, a part of the unit, or a room on the unit. She can be subjected to the forcible administration of medication or other treatment. The units are crowded, noisy, offering little if any opportunity for privacy. Residents are locked out of bedrooms for most of the day. Diversions are scarce, the television (if it exists) is shared by all. Access to food, bathrooms, telephones, and smoking is extremely limited.

What crime must one commit to warrant such extreme restrictions of one's civil liberties and personal freedoms? Most often it is sufficient to carry the label

Susan Oker is the clinical supervisor of the Disability Law Clinic which operates out of Greater Boston Legal Services and is funded by Harvard Law School and the Center for Public Representation.

of mental illness and to exhibit aberrant or antisocial behavior, without actually causing or threatening harm to oneself or anyone else.

What students quickly find are two things, often in the same moment of pain or understanding. The first is that the client on the other side of that locked door is not very different from one's sister, or brother, or oneself. There is also an acute awareness that there is no one else in the role of legal advocate. If you do not make the effort, no one else will. If you are not there to inform her of her rights, the client may be days or weeks without any understanding of how or when she will get out or at least go to court. If you are not there to hear the complaint, the client may not encounter anyone else to whom he is willing to entrust it. It is certain that there will be no other presence on the units, far away from the public eye, to guarantee protection and assertion of important legal rights.

Students in the clinic have represented clients in civil commitment proceedings. Frequently, hospitalization also results in petition by the state to either the Probate or District Court seeking authority to override the client's right to refuse treatment by forcible administration of antipsychotic medication. Representation of clients in any of these proceedings involves the cross-examination and presentation of expert medical witnesses.

Cases have involved such novel issues as the authority of the state to take away someone's liberty because he is practicing unsafe sex (while HIV negative) and has a desire to harm himself. In one case the state refused to discharge the client unless she agreed to undergo sterilization, as a result of concern regarding and disapproval of any potential pregnancies.

The rewards can be great. By utilizing an administrative complaint procedure students have achieved significant systemic reform in the facilities. Examples include asserting the right of those confined to vote,

which resulted in the establishment of new procedures ensuring access to the polls. Criteria for restricting movement have been revised, preventing arbitrary and longterm restrictions. One of these cases involved a man who was restricted to a common area for eight weeks. He was allowed no privacy and was required to sleep on a mattress on the floor immediately outside the lighted nursing station throughout the period of restriction. The case resulted in an agency ruling that the restriction was excessive and unwarranted, and established tighter criteria for imposing such restrictions, as well as requirements for frequent review and documentation to prevent abuse.

In the coming year the delivery of mental health services in this state will be undergoing massive restructuring as a result of privatization. Advocates and the clinic will be involved in helping to assert the importance of legal and human rights in the new system. There will be challenges in devising a system of delivery of advocacy services to clients in new settings. As both a pedagogical experience and a way of serving a largely unrepresented population, work in the Disability Law Clinic is interesting and compelling.

One man was restricted to a common area for 8 weeks, and was required to sleep on a mattress on the floor.



Fenno

"May it please the Court," Fenno started and stopped. A deadening silence fell over the Ames courtroom. He wanted to make sure that all eyes and ears were focused on him before he continued.

He made eye contact with each of the judges, slowly drawing them in. He wouldn't continue unless he had their rapt attention because he was about to deliver the most awesome oral argument they had ever heard.

He had practiced this very moment for over twenty-four hours. He coached himself while standing in front of his full-length mirror in his ruffled Sears-sucker suit, checking to make sure that his hand movements added emphasis to his points, yet not excessively. He told himself to stand erect behind the podium, while exhibiting the grace, poise and confidence of a figure skater, and yes, even the beauty.

He had watched the requisite video tapes, not the old standards like Perry Mason, but the new, really good ones like Legal Eagles with Bobby Redford. He had tried the cliched reruns of LA Law, but found the videotaped cable coverage of the Tyson trial much more compelling. He had a brief, \$1,000.00 per minute, chutzpah

building session with the Dersh. Ogletree had coached him on proper vocal inflection. This was to be his moment. His delivery would be flawless.

His brief, immaculate is the only word that comes close. It was filled with every relevant case on point, updated to the Westlaw minute, and some whose arguments were still in process. He had consulted with Tribe, flown to L.A. for a power lunch with Sullivan, gone to New York for a quick Constitutional fix from Bell. This was it. Showtime!

This is what he had come to law school for. This is what his dreams were made of as a child. He never wanted to be in a real courtroom, he only wanted to participate in the moot court competition. And this was it. The BIG TIME! The Harvard Law School Ames Moot Court Competition. He had arrived.

Quotes of the Week

"I think there is some, general agreement on this."

—Professor Mort Horwitz explaining yet another concrete principal of legal theory.

"I was unaware of that."

—Mike Myers as Wayne in Wayne's World

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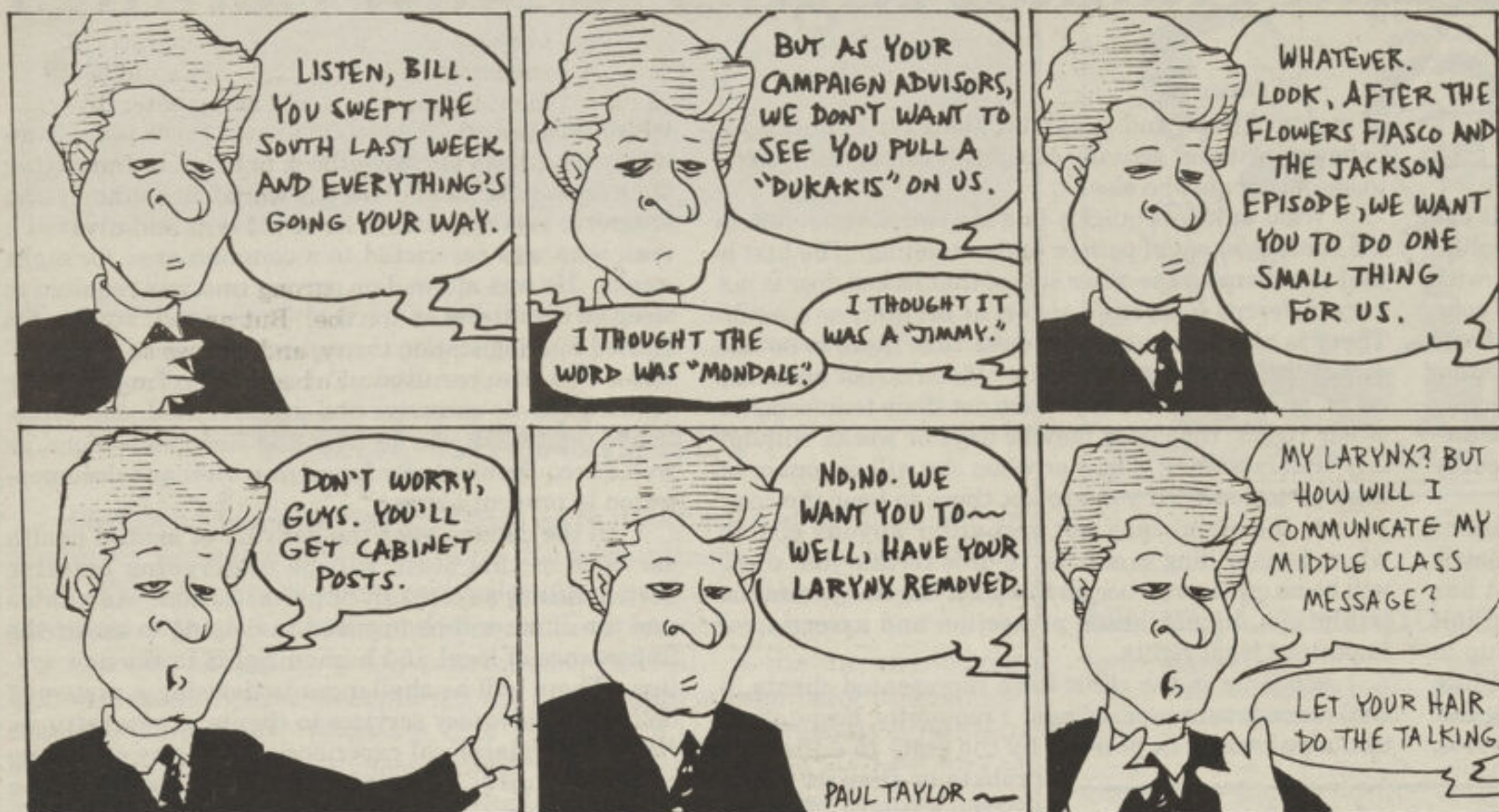
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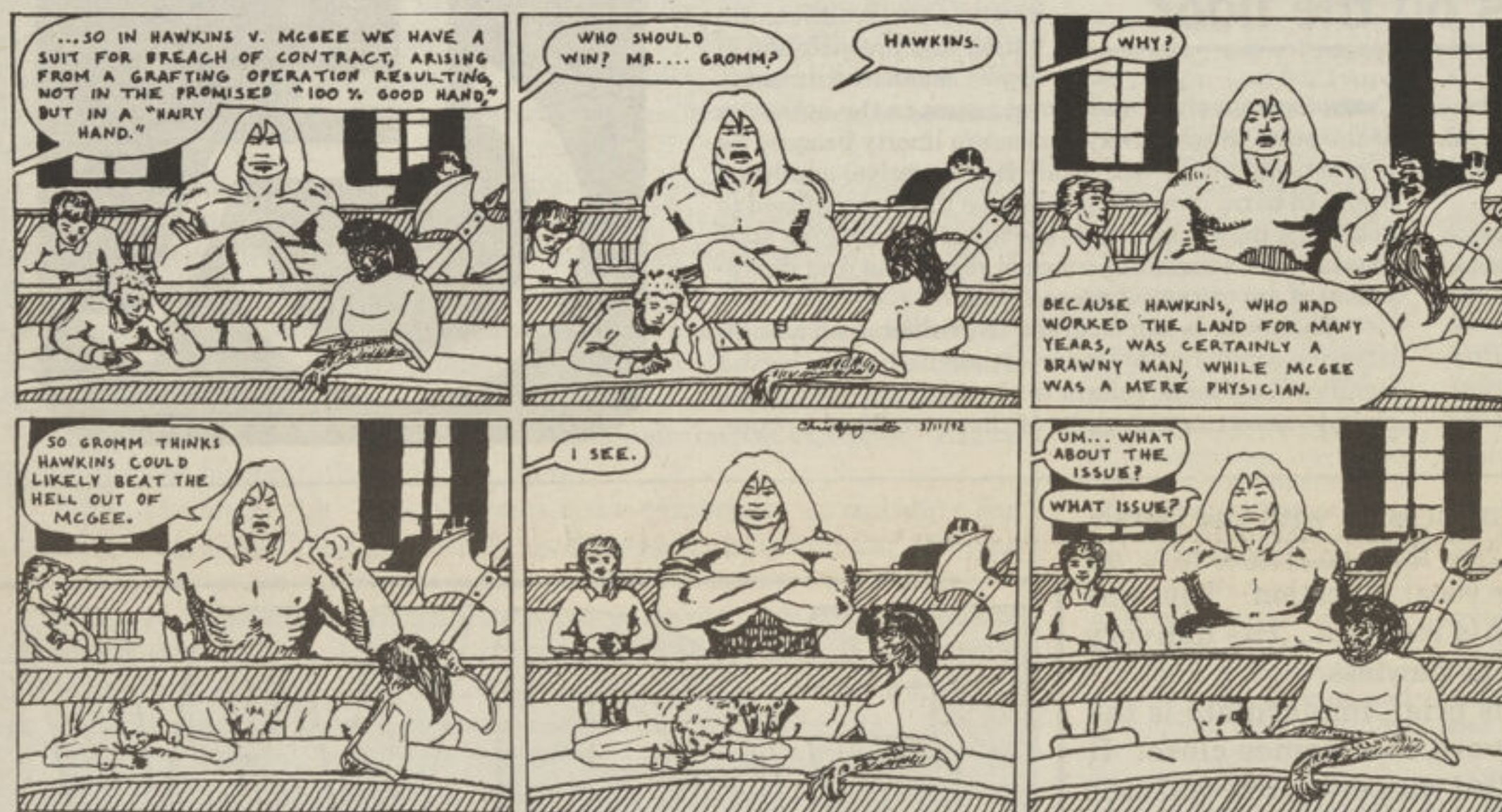
Liabilities

By Paul Taylor



GROMM: Barbarian at Law

By Chris Spagnoli



HLS Intramural Basketball Standings

as of March 17, 1992

Team Number and Name		Wins-Losses
"A" LEAGUE		
1	The One-der Years	8-2
8	Assault & Battery	6-2
4	HLS Posse	7-3
6	Gimme The Rock, Baby!	5-5
2	All That Jazz	4-5
5	Black Panthers	4-5
7	D'Bulls	2-8
3	Whoopie Cushions	1-7
"B" LEAGUE		
23	Mo Knows	6-0
26	The C.B.A.	5-0
11	Well-Hung Jury	5-1
21	Black Panthers II	5-1
22	Story Too Legit	5-1
13	Dream Team	4-2
20	Rodwin's Rebels	4-2
25	Lincoln Park Rules	4-2
14	Ames Aardvarks	3-3
17	A to Z	3-3
28	The Grizzers	3-3
10	Hezekiah	2-4
16	John 3:16	2-4
19	Bildad & the shoe-hites	2-4
24	The Hammer	2-4
29	Thao's Team	2-4
27	Skywalkers	2-5
15	(nameless)	1-5
12	Los Homies	0-6
18	HLAB-The Team	0-6



Compiled by Frank Yokoyama & Jeff Wing

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CALENDAR

Monday, March 23

A five-day training session for lawyers interested in European Community law begins, sponsored by the European Law Research Center. The teaching method used in Professors David Kennedy and Jean-Francois Verstrynge's winter-term course will be utilized. A few places in the program will be reserved for HLS graduate students. For more information, contact Carole Smith Banta, Langdell 368, 495-3145.

Wednesday, March 25

Students from New Jersey are invited to attend the annual Arthur T. Vanderbilt Dinner and Lecture at The Manor, on 111 Prospect Street in West Orange. The program is sponsored by the HLS Association of New Jersey, and the Honorable Marie Garibaldi will be the guest speaker. To make arrangements to attend, contact Albert Cohn at (201) 845-9600.

Friday, March 27

A Human Rights and Labor Rights conference will be held at the Schell Center for International Human Rights at Yale Law School. Among the issues to be considered are labor rights in international trade and the litigation of labor rights claims domestically and internationally. For more information, check the bulletin board outside of the Human Rights Program office in Pound 401.

Wednesday, April 1

Professor Christopher Edley, who worked for the Carter Administration and the Dukakis campaign, will relate his experiences and advice to those interested in becoming involved in this year's campaign. The meeting will take place at 4:30 p.m. in Pound 102.

Thursday, April 2

An informational meeting on poverty law, sponsored by the Harvard Legal Aid Bureau, will be held in the ILS Lounge from 6:00 to 7:30 p.m. Refreshments will be served. For more information, contact Deborah Broyles at 495-4408.

Friday, April 3

The Environmental Law Society is sponsoring an afternoon tour of the Deer Island MWRA sewage treatment facility. An additional tour is tentatively scheduled for Saturday morning. For more information, call the ELS office at 495-3125.

Correction

The review of Objection! by Kurt Copenhagen, which appeared on page 13 of our March 6 issue, mistakenly stated that one of the shortcomings of the game is that it "fails to give an explanation of the correct answer when the player responds incorrectly."

The designer of the game, Ashley Lipson, Esq., who has also written several manuals on Evidence, points out in fact that "the correct answer appears on the screen immediately after the judge makes his ruling. Even if the student provides the correct answer but not necessarily the best answer, the best answer is provided." Also, a fully annotated book covering each of the major objections accompanies the game.

Is it True that I Add no Diversity to Harvard?

By Richard Gordon '83

I sat up in bed last night, troubled by my White maleness. Is it true, as Derrick Bell and plenty of students and other faculty suggest, that I can bring no diversity to the Harvard Law School? Would a woman with darker skin pigmentation automatically broaden the scope and resources of our community than would I?

It is obvious that there is something degrading about being reduced to gender, skin pigmentation, sexual orientation, or physical disability. If a goal of Derrick Bell is to make Whites or males or straights feel such degradation, a degradation experienced daily by Blacks or females or gays, then he has succeeded in my case. Perhaps if we all feel at least somewhat the pain of prejudice, we will all be less likely to practice it.

But if the goal is to increase the diversity of the faculty, I'm not certain that Derrick has got it right. Reducing people's lives to a few obvious characteristics leaves out rather a lot. Granted, it does have the benefit of making lines easy to draw. But the lines may not always be the right ones.

My skin pigmentation is very White. But my grandmother's wasn't. She lived next door to me, at least until the day she died, and she was a proud member of the Cahnewaga clan of the Mohawk nation. For me this was not a trivial matter. She filled me with stories of the Mohawk, and taught me to respect my Quebec relatives, my Indian heritage, and myself. And, perhaps most importantly, she and my father taught me what the Europeans did to the Iroquois nation, and to all indigenous peoples.

I am very male and very heterosexual. But these factors did not mean that I had a narrow life experience. When I was growing up, my father did much time at various prisons; Walpole, Norfolk, and Plymouth here in Massachusetts. At age 14 I had no clue as to how to dribble a basketball, but (and I am being serious here) I could pick even a difficult lock in only a few minutes. When I was a law student I had special skills as a PLAP attorney: I actually knew some of the inmates. And, some of the guards.

If a goal of Derrick Bell is to make Whites or males or straights feel the degradation experienced daily by Blacks or females or gays, he has succeeded in my case.

But I think it was disapproval by my mother's family of my siblings and me that made me most conscious of being different. They were strict Polish Catholic immigrants, and thought that their atheist nieces and nephews were deeply suspect (my grandmother was a Wobbler, and we were raised accordingly). Add to that an Indian grandmother, an ex-con father who decided to embrace Judaism, and a cow, pigs, ducks, and a rather large number of rabbits (we lived on a small farm and my Polish relatives were from South Boston), and, maybe I could see their point.

Anyway, I think that it was this feeling of being suspect because I was different that turned me to things as different as I could find them. In my professional life, I work on law issues in developing countries. I speak Hindi and Urdu and Punjabi (although the latter is a little rusty), and I think I know something about parts of the world foreign to most of the Harvard Law School community. My *pro bono* legal work has always been immigration.

I suppose I don't know if my life adds up to a person who is different. I can't easily compare my experiences to those of other

members of the Law School community. We can all easily determine the Bell criteria, but can we discover who these people really are? That's a lot harder.

When I heard about the four White males being offered tenure positions, my initial reaction was selfish and predictable. "This will hurt me!" I thought. I am only a lecturer and therefore never to achieve tenure anyway, but it certainly wouldn't improve my chances for staying at Harvard.

To return to my original question: do I add no diversity to Harvard? Maybe my students could provide some help; more than half are non-White, and five are women

of color. Perhaps they can bring a comparative perspective. Maybe another, better question should be: is there a replacement for me who would add greater diversity to this community?

If there is, I can always go back to India, or Indonesia, or to Kenya or Malawi. There is work for me there, I have good friends there, and I know I will add diversity to those places.

I have always been a strong believer in affirmative action, and I continue to be. But are we being careful enough in defining diversity, and how we should achieve it? I honestly don't know. To begin with, I'm prejudiced...

Sounding Off on Diversity: A selection of recent letters



CCR Comends Faculty for Effort

To the Harvard Community:

On behalf of the Coalition for Civil Rights and other students concerned about diversity, we would like to thank those professors who took time out of their busy schedules to attend the impromptu diversity forum of last Thursday, March 12. Their attendance shows that whether they agree with our position or not, they are still willing to engage in a constructive dialogue and to listen to our ideas as well as to

suggest some of their own. We hope that yesterday's meeting will be the first of many regularly scheduled meetings with those professors and other members of the faculty.

We would like to extend a special thanks to Dean Clark. Though neither side knew what to expect from "zero day," we are glad that the Dean made an unprecedented effort to listen to student concerns and acted almost immediately to keep

the momentum of cooperation going throughout the day. We hope his quick action is an indication of a *serious* commitment to real, *concrete* progress on the diversity issue.

The events of this past week evidence the broad base of support for the issue of diversity on this campus. We hope that the statements made by faculty members and the Dean last Thursday were not empty promises meant to pacify us and "keep

order in the halls." We prefer dialogue to civil disobedience.

This has been a trying time for both students and faculty. The atmosphere on campus has been one of distrust and miscommunication. We consider last Thursday's meeting the first step on the road to cooperation, community, and diversity.

Marcia Narine '92 and
Camille Holmes '93
March 13, 1992

Categorization an Extremely Offensive Affront

To the Editor:

According to your March 6th edition, the persons reported to have been offered tenure at HLS are Joseph Hansmann, Robert Mnookin, Joseph Singer, and Joseph Weiler. I do not know anything about three of these professors; the only one I have taken a class with is Joseph Weiler. This Fall I took "1992 - Trading In and With Europe, Introduction to the Law of the European Communities from Professor Weiler and I enjoyed

the class very much.

Professor Weiler was an extremely effective teacher—knowledgeable, engaging, and humorous. Additionally, to my understanding, he is one of, if not *the* most respected authority on European Community Law on this or any other continent. From what I know of his credentials and abilities, HLS students would be lucky to have him as a tenured professor.

To reduce him and the other professors who were

reportedly offered tenure to nothing more than a race and a sex is extremely offensive. It is an affront to Professor Weiler. It is an affront to "White men." It is an affront to all persons who strive to accord others the respect and dignity they deserve by virtue of their individual accomplishments and abilities, and who wish to be treated the same in return.

Those who posted fliers reducing the professors who were offered tenure to "4

White Men," and the RECORD, which printed the same as its headline, acted in a racist and sexist manner. All individuals should be treated with the respect they deserve by virtue of who they are, not by what classes they can be lumped into. To do any less is to deny their human dignity.

Jonathan Biedron '93
March 6, 1992

A Sorry Episode of Journalistic Insensitivity

To the Editor:

Enough is enough! When I am compelled to put aside my thesis as well as the thousand other natural (and unnatural) shocks my poor beleaguered third-year flesh is heir to and to write a letter to our law school paper, you can bet that something has brought my bodily fluids to a boil. Never in my three years of reading the RECORD have I seen such a biased, offensive, and journalistically irresponsible headline and article as I did on the front page of the March 6 edition. The staff of the RECORD has done a disservice to this law school as well as the students and alumni who fund their paper—and for that I condemn you.

It was not only unprofessional, but racist, sexist, and unfair for the headline of the RECORD to refer to the four new faculty

members as "White men." The RECORD article did not even indicate that these "White men" had names until the last sentence of the last paragraph of the article and even then, two out of the four names were misspelled. In reality, these "White men," Henry Hansmann, Robert Mnookin, Joseph Singer, and Joseph Weiler are hard-working and brilliant legal scholars who have widely different legal backgrounds, personalities, and life experiences, and they deserve more respect than that afforded them by the mean-spirited generalization that appeared in the RECORD. It is ironic that a newspaper which so blatantly panders to the views of the Coalition for Civil Rights should resort to the same device of generalization and stereotyping that has long been used to shackle able-minded members of the

groups—the Coalition supposedly represents.

Perhaps it is unfair to criticize the staff of the RECORD, however, when their "role model" and ideological fountainhead Derrick Bell is guilty of the same detestable habit of generalizing. Was it not Professor Bell suggesting in a speech last year that Professor Randall Kennedy was too "White" to represent the views of African-Americans at HLS? I can assure you that Professor Kennedy is hardly a conservative Republican. Quite the contrary, most of his views are sufficiently left of center to choke any Federalist on this campus. Bell's insinuation that African-Americans must meet his leftist standards to be "Black" and thus worthy of a voice in his movement was a thinly disguised attempt to sidestep the task of challenging Professor

Kennedy's views at an intellectual level. Bell's comments, like the comments in the RECORD, were insulting and the epitome of intellectual cowardice.

It is my hope that all parties involved in the diversity dispute will deal with opposing opinions and opposing parties with the respect that is usually afforded intellectual discussion in this allegedly enlightened institution. Generalizations by either side serve only to obscure the truth and victimize free thinkers. As the most powerful voice in law school life, the campus newspaper should strive to uphold this ideal. The RECORD staff should make sure there is no repeat performance of this sorry episode of journalistic insensitivity.

Glenn S. Miller '92
March 6, 1992

Tenure Offer Coverage Falls Far Short of Respectable

To the Editor:

I take exception to the RECORD's coverage of the Law School's recent decision to offer tenure to the four professors. The article referred to them in the headline and throughout the article as "four White men." Only in the last sentence, on an interior page, were they referred to by

name. Undoubtedly, the fact that all of the four were White and male was the most important news of the tenure offers for much of the Law School population. But to reduce these four professors to their race and sex and nothing more, not even their names, was to degrade them. I know

one of the four personally, and I know him to be a warm, thoughtful human being and extremely accomplished in his field. As I read your article, I could not help but sense the pain that he must feel reading the article and seeing himself reduced to a slogan based on his race and sex.

The RECORD'S cover-

age fell far short of the respect for persons that we should all exercise, and which we particularly should be careful to preserve in public debates as volatile and emotional as the tenure appointment process.

Eric W. Treene '92
March 10, 1992

Richard Gordon is a Lecturer on Law and the Deputy Director of the International Tax Program here at HLS. He also serves as a Research Associate at the Harvard Institute for International Development.

Walking Together on Common Ground

By Ed Joy

RECORD Columnist

OVER this past summer, I had the privilege of hearing a speech given by the Honorable Thelton E. Henderson, an African-American judge serving on the United States District Court in the Ninth District. He urged African-Americans, gays, lesbians and other minorities to seek common ground in order to overcome a shared history of oppression. The following is an excerpted version of his speech.

The Reverend Martin Luther King, Jr. once wrote:

Injustice anywhere is a threat to justice everywhere. We are all caught in an inescapable network of mutuality; in a single garment of destiny. What affects one directly affects all indirectly.

King's words continue to speak to the problems that we and our communities must still address; indeed, with some urgency. Dr. King speaks of the need to rise up against not only one's own oppression, but oppression wherever it rears its hideous head. Dr. King commands us to recognize the unity of our experience.

If we are to take Reverend King's words seriously, it means nothing less than to make each other's issues our own. This project presents a simple yet enormously difficult challenge. First, to treat people as equals and to respect fully their capacities and their dignity. And if that were not enough, then to imagine actively how other people experience life, to be humble enough to learn from others, and to surround ourselves with other people who can teach us — and finally, most of all, we must advance the causes of other communities as vigorously as we advance

our own.

The political right seems to have taken this project far more seriously than we have. We all know that it is quite often the very same groups which oppose the rights of Blacks to live and work where they choose, who also oppose the rights of gays and lesbians to love whom they choose. There is a coalition based on intolerance of those who are different, of those whose existence is threatening, and of those who, with power, could undermine the hierarchy of society as they envision it.

In the face of such opposition we must recognize that we can no longer afford the luxury of infighting. Because as Blacks or as gays and lesbians we have each experienced the pain of discrimination, and the humiliation of exclusion, one might say we should speak up all the more for other victims of discrimination. However, even the most casual observer can see that oppressed people do not always work together in support of one another.

The Black church that has led much of the Black Civil Rights movement has not actively purged itself of sexism and homophobia. Similarly, the gay movement has been plagued by its own racism and sexism. We must examine ourselves and ask ourselves honestly, do we speak up for others, do we always seek to walk in the other person's shoes and seek to understand him or her?

It seems particularly appropriate to quote from James Baldwin, who as well as being one of the most prominent African-American authors of our time, was also openly gay. Baldwin wrote:

It is an inexorable law that one cannot oppress another; for in thy victim's face you see a reflection of your own.

Baldwin's words speak to both the Black community and the gay community and, unfortunately, as true as the day when they were written. Baldwin tells us that we must not oppress one another for in that act we see our own oppression. It is a simple message yet is one which has all too often gone unheeded.

We must remember Baldwin's words. And we must recall Dr. King's words, and move beyond tolerance to solidarity. We must find common ground, and recognize the commonalities of our experiences.

Although the problems which the Black community and the gay community face certainly differ, both Blacks and lesbians and gays know the pain of living in America as people who are "different" and who are often "despised" because of that difference. For centuries, we've been taught that "Black is bad, Black is lazy, Black is genetically inferior," and also that "gay is perverted, gay is sick, gay is mentally ill." We both know the fear of walking down the street not knowing the safety of our next step — whether it be on the streets of Howard Beach, the streets of Selma, Alabama, or the streets of San Francisco.

Coming together on common ground is not just a matter of survival in the face of a united and advancing right and a divided and retreating judiciary, rather, it is a moral imperative that we learn to live, work, and struggle together. We must heed Dr. King's words and support the struggles of others even when we do not see our own interests at stake. We should fight for the rights of others simply because it is moral to do so.

Perhaps Dr. King's words reveal something very clear and powerful to the straight community about their commitment to lesbian and gay rights, and that

is something about coming out. Harvey Milk said:

"You must come out. Come out to your parents...come out to your relatives...come out to your friends...come out to your neighbors...to your fellow workers...to the people who work where you eat and shop....[S]tand up and let the world know. That would do more to end prejudice overnight than anybody would ever imagine. I urge [you] to come out. Only that way will we start to achieve our rights."

Harvey Milk urged gay people to come out, but I am not speaking about gay people coming out. I would not presume to make such a command. It is straight people, I say, who must come out. And by coming out I mean actively and openly supporting the rights of lesbian and gay people as the White Civil Rights workers "came out" for Blacks in the south.

Today many straight people perpetuate the silence because they are afraid to come out, or don't really want to come out. Perhaps they are afraid that they will be identified as gay or lesbian. But we must realize that this type of silence truly does equal death.

I would like to close by sharing the memory of a dream that I will always carry with me. Almost thirty years ago now, Martin Luther King, Jr. told us of his great dream for his children: "That they might one day live in a nation where they will not be judged by the color of their skin, but the content of their character." His great dream for our people: "That one day on the red hills of Georgia, sons of former slaves and the sons of former slave owners will be able to sit down together at the table of brotherhood." And his great dream for the country: "A dream rooted in the American meaning of its creed, 'We hold these truths to be self-evident, that all people are created equal.'"

My challenge to you is nothing less than to make Dr. King's dream a reality. To "come out" for each other. And to recognize that we are caught in a "single garment of destiny." When we do this there will be no stopping us. And we will all sit "down together at the table of brotherhood and sisterhood."

Student Groups Wracked by Changes

OUSTERS, continued from page 1

organization should have more than one meeting a semester."

LSC Steps In

During the ABA/LSD's decline, the LSC has usurped duties the ABA might have performed. For example, LSC President Mike Twomey feels that LSC members felt obligated to address the issue of faculty diversity because of the ABA chapter's weakened state. "While we're allowed to make political resolutions of any sort in LSC, these types of matters are more in the realm of the ABA," Fandell concurred, "It's a crying shame that we haven't done as much as we should have in these matters."

Twomey observed that at ABA national meetings, student representatives pass resolutions on everything from boycotting grapes to opposing the ruling in *Rust v. Sullivan*. "But Harvard didn't make one resolution last year because the ABA/LSD is defunct," asserted Twomey. Glaser resigned as HLS' ABA/LSD Resolution Representative early this year, and the vacant position was never filled.

Diversity Resolution Forces Resignation

The resolution on faculty diversity, which LSC passed by a vote of 11-9-2 on March 5, reads, "Whereas, the LSC is designed to represent the entire student body; Whereas, there is no clear majority position on the diversity issue; Whereas, there is such a shortage of truly neutral opportunities to discuss such explosively divisive topics as faculty diversity; Resolved, the LSC should strive to serve as mediator and forum [sic] to increase dialogue among all the various students on campus, the faculty, and the administration."

Francis Philip '93, already distressed by LSC's neutrality on the faculty diversity issue, resigned from LSC the day following the vote. In an open letter to the LSC, Phillip stated his decision to resign was "based on my frustration with the Council's unwillingness to become 'political,'" and further, "the issue of faculty diversity represents issues of sex, race, and lifestyle that are much more impor-

tant to a large number of students than what the Council currently deals with, and for the Council to remain relevant, I believe that it should enter the debate."

Twomey expressed "great personal sadness" at Phillip's resignation, describing him as an "exemplary member" of the LSC. But Twomey reiterated his belief that LSC's proper role in the diversity debate is to "preserve neutrality and deal with the administration and student groups." He believes many members feared "LSC would be drawn into a lawsuit," and analogized the referendum to remain neutral to WLA's choice "not to take a stand on abortion."

Further, Twomey said that LSC was more adept at "working with the nuts and bolts" of life at HLS such as getting maintenance to change locker combinations and provide cheaper copying machines than at expounding political platforms. He felt LSC members voting and acting on political issues was inappropriate because they would only be representing their own views and not those of other students. "Eight section representatives were elected only 1 1/2 months into the year — they didn't run and weren't elected for such political agendas: there was no mandate to express political opinions."

Strained Relations Between LSC and ABA

Relations between the LSC and ABA have been rocky during the past six months. Eisenberg admitted the switch from allowing all HLS students to vote for ABA board members to exclusive, members-only elections at the beginning of this year was one of the incidents which strained relations between ABA/LSD and LSC. Eisenberg called this confusion a "misunderstanding," explaining that it had been "wrong that the entire student body was voting before. Only paid members of the ABA are supposed to have a vote. We switched to doing all elections internally as directed by the Circuit."

Another squabble between the two organizations arose in October when Glenn Miller '92 discovered the HLS chapter of the ABA/LSD had no valid charter registered at the Dean's Office. Eisenberg quickly produced and regis-

tered a model charter from the Circuit organization. She labeled the charter controversy "purely a personal vendetta," and said that earlier this year certain LSC members were "mad at me for a reason I didn't understand."

But Eisenberg feels relations between the ABA/LSD and LSC have vastly improved, and predicts the two organizations will work harmoniously together in the future. "The school is best served by having a strong ABA and a strong LSC."

First-year members stressed the importance of building an independent reputation for the ABA/LSD through its community activities like "Race Judicata" and "Law Day," as well as mounting vigorous recruiting efforts next fall. Fandell said, "I hope the past problems don't cripple us now and prevent us from making this into a viable organization."

Elections Scheduled Amidst Allegations of Logrolling

LSC elections will be held in three weeks, amidst allegations of logrolling between BLSA and La Alianza, as well as rumors that BLSA plans to run a coordinated slate of candidates. While Twomey felt there was "no evidence of logrolling," he stated that if organizations wanted to combine tickets, it was "entirely their right." Twomey stated he would only run for LSC president again if he "could balance the budget of New York State first."

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April 3

"Thelma and Alysse??"

By Alysse MacIntyre
RECORD Columnist

As many of you are probably aware, there's a feminist gun movement afoot. That's right, feminists, who until just recently were the great lovers of peace, running around promoting such things as "dialogue," "empowerment," and "education," are saying, "Screw it, Let's go get the guns."

Thelma and Louise was certainly not the beginning of this. The NRA had begun targeting women in its ads long before. These ads typically feature some respectable, White, middle class grandma holding up her pearl handled pistol with the caption, "I'm Today's NRA." The recent increase in books and magazine articles advocating that women arm themselves has been phenomenal. And I'm not just talking *Guns and Ammo* or even *Cosmo*; I'm talking *The Utne Reader*.

Up until this point I had resisted learning how to fire a gun as giving into the basest of human paranoid instincts and hostility. So when I realized I could justify it as political expression I was understandably psyched. Like all my decisions with feminist significance, I considered the implications of my choice carefully. But truthfully, I have to admit that the day I actually made the decision to go to a firing range it was really because I was hoping to look as cool as Geena Davis and because I had raging PMS and simply had to shoot the crap out of something.

I once said in a column that some of my best friends are conservative. I don't think anyone believed me, but it's true. It's just something about me; I can't help myself from having a soft spot for those free marketeers. So when I was home recently I phoned my conservative gun-nut friend; David, who has for years nagged me to come to a firing range with him. I said, "Let's go shooting or I'm going to lay in bed all day eating chocolate and sticking pins in my old Ken doll." How could he resist my charm?

Gentle reader, not only did I learn to fire a gun, I

entered into a whole other world previously unknown to me that I feel compelled to tell you about (Besides, if I don't I'll never convince the RECORD to pick up my expenses for the day.)

We first went to David's favorite ammo shop where the local Crips and Bloods shopped side by side with White supremacists, proving that in fact an armed society is a polite society. This might be the only store in the world where one can find both customers in tee-shirts that say, "The South will Rise Again," and customers in leather 8-ball jackets and caps that say "Down Wit OPP." I was awed. David said it gave him hope for the Middle East. I said it gave me hope for the Harvard Law School faculty. Personally, I was wearing a Harvard Women's Law Journal Tee-shirt. Never ever had I had so many men stare at my chest but not my tits.

We were forced to make a hasty exit when a guy with a Gold Mercedes emblem on his tooth put a loaded fully automatic rifle down on the counter and said, "Yo, what kinda ammo dis mo' fo' take?" The people working there didn't seem to act like this was any kind of unusual occurrence; they quickly and politely took the rifle, removed the ammunition, and said, "Sir, no loaded weapons in the store." But among the customers - well, you've never seen so many people hit the ground so fast. Especially the ones in the Confederate flag shirts.

When we finally got to the range David let me wear his "Jews for the Preservation of Firearm Ownership" baseball cap with the Star of David, a handgun and an Uzi on it. David joined this organization hoping to be recruited by the Mossad. I put it on hoping to attract any Jewish boys that might be hanging out around the firing range that day. Unfortunately it was the shabbas, so I was pretty much out of luck.

David helped me set up my target that I had picked out at the ammo shop: a politically correct blue silhouette of a person, as opposed to the standard, politically incorrect, black silhouette. Then he suggested that I start with the 357 magnum. He showed me all the

basics of gun etiquette and safety. He showed me how to take a gun apart and how to load. Most importantly, he showed me how to aim. Then he stood back and said, "Go for it."

I amazed myself by snarling and pumping 12 rounds into my blue man target. After a few more rounds I said, "Cool! Can I try the 9mm now?"

"Try not to drool on the guns," David said.

Feminists who just recently were the great lovers of peace, running around promoting such things as "dialogue," "empowerment," and "education," are saying, "Screw it, Let's go get the guns."

I was reloading when three heavily damaged Vietnam Vets came over and said to David, "Shit almighty, don't go pissing her off."

"The good lord made men and women, but Sam Colt made them equal." I was shocked to recognize my voice. They liked this. I blew out the head on my blue man target.

I was loading David's 45mm, a gun about half as big as myself, when one of them asked me if I had considered getting a Lady Smith & Wesson. "The Lady Smith & Wesson is for sissies," I snapped.

"You'll have to pardon her," David said. "She just hasn't been herself since Clarence Thomas was appointed to the Supreme Court."

"No," I said, "I haven't been myself since Fed Lit."

ALYSSE

Sex Appeal and Pop Psychiatry Fail in Joanou's "Final Analysis"

By Brian Bendig

This film wants to be a contemporary reprise of the stylish and deceptive psychological thrillers made in the 1940's and 1950's, most notably by Alfred Hitchcock. *Final Analysis* even uses the flavor and basic plot devices of Hitchcock's 1958 classic, *Vertigo*. Both films feature gorgeous San Francisco scenery, lots of similar deceptive plot twists, and people perched dangerously on high places.

Perhaps unsurprisingly, Hitchcock did a much, much, better job than *Final Analysis* director Phil Joanou (*State of Grace*). Joanou uses nearly every bad suspense film cliché in the vast repertoire of such things. For example, characters fail to notice extremely proximate people and objects just because they are out of frame. There is an annoying and trite "suspense film" soundtrack that is supposed to cue the audience's brains in Pavlovian fashion. Also, the film's pacing is laggard, and key plot devices are laughably contrived.

Richard Gere plays Dr. Isaac Barr, a somewhat noted psychiatrist who spends a lot of time testifying as a defense expert in criminal trials. He's a dorky and romantically disabled workaholic with a penchant for home and work interiors wanly lit by simulated natural light filtered through window blinds. He's none too bright either, since his psychiatric knowledge is puny and he is played for a monumental sap by the other main characters in the film.

As *Final Analysis* begins, Dr. Barr is treating a sultry patient (Uma Thurman). Thurman's character is a rigorously tormented person with no visible means of support who mocks the dim Dr. Barr by repeatedly offering pop psychiatry self-diagnosis in his presence. She claims to

have been messed up by a blocked, hellish childhood. She suggests that Dr. Barr contact her sister, who might be able to provide him with some of the details of the childhood trauma that has caused all the psychological trouble. Said sister, played by Kim Basinger, shows up at Dr. Barr's office at night, sexily backlit and enigmatic. Gere and Basinger end up in the sack and develop close emotional ties.

Conflict rears its ugly but required head because Basinger's character is married to an underworld figure originally from Greece named "Jimmy Evans." Mr. Evans (played by Eric Roberts) is a seething, hazardous heavy who is continually sucking the innards out of lit cigarettes and doing a fairly competent non-vocal impression of James Cagney in such films as *The Public Enemy*. Roberts' character is in possessory overload regarding his attractive spouse, and complements this personal drawback with raging boorishness and the message that he doesn't belong in any of his custom-made Italian suits.

This expendable character is soon expended by his eminently filmable wife, who suffers from something called "pathological intoxication," a bizarre affliction that causes the victim to wig out after more than just a sip of alcohol. The plot and the cloud of miasma surrounding the film then thicken, relieved only by the ending credits.

As leads, neither Gere nor Basinger do good jobs in *Final Analysis*. Gere is never very believable as a medical school graduate, let alone a successful psychiatrist. Thoughts seem to occur to Dr. Barr at the rate they must have occurred to a sleeping Stegosaurus. Gere walks through his part, mistaking middle-aged coasting for a composed and understated performance. He never gets worked up apart from resenting a single veiled slam

to his fashion sense.

To paraphrase a critical appraisal of the young Candice Bergen once offered by veteran cinephile Rex Reed, Basinger has stunning hair, stunning clothes, stunning everything, including stunningly limited dramatic range. The plot calls for a transformation of her character as well as psychological troubles. Before and after the transformation, Basinger turns in one one-note scene after another. The manifestation of her psychological problems features a similar switch of monotones.

In fairness, both Basinger and Gere have to say some pretty ludicrous lines. Basinger, for example, when explaining to Gere why she doesn't leave her husband, wonders if he'd like to "try divorcing a Greek American gangster...[who] builds public housing for the poor." Gere, after piously affirming his *pro bono* commitment to treat an acquitted murder defendant, tells an incredulous minor character that "if Pepe is safe, then we are all safe." Incidentally, *Final Analysis* was written by Wesley Strick, whose most recent credit was the much better but even more derivative *Cape Fear*.

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Sunday Bloody Sunday?

By Rich Wareing '93
RECORD Columnist

If you watched the news last Sunday or read the Monday papers, you probably got the impression that the St. Patrick's Day Parade was a five mile long riot in which 600,000 crazed Southie bigots tried to annihilate 25 gay and lesbian marchers. Unlike about 99% of the people who will pass judgment on what happened, I was there. What I saw walking around that morning and watching the parade from the corner of K Street and Broadway right near Flanagan's Market was very different from what I saw on TV that night and read Monday morning.

Don't get me wrong, the day was not without its problems. There were some bottles thrown down by the D Street project. What was unusual about that was not the fact that there was violence, but rather that reporters and cameramen were actually there, and for once cared about the fact that violence is all too common on D Street. There were taunts and jeers, but most of it came from a pack of about 150 teenagers who followed the marchers down Broadway disgracing themselves and their neighbors by shouting things they wouldn't want their mothers to hear.

Many, perhaps most, of the onlookers did nothing. A few cheered. Others, deeply offended because of their religious convictions about how a

Saint's holy day should be celebrated, simply shook their heads. Some gave the gay marchers the thumbs down. The most angry booed.

There was some trouble, but it cannot be blamed on all the 60,000 people who live in Southie, many of whom leave for the day to avoid the crush, or watch the parade from the privacy of their living room windows. In all, seven people (only two of whom said they were from Southie) were arrested out of the over half-million spectators. The trouble was caused by a few, a large number of whom were outsiders who had come only to make waves.

Mostly, what I saw was thousands of people who were proud to be Irish. Southie Pride, Celtics, and Notre Dame jackets and caps were order of the day. There was green everywhere. Carnations on lapels,

ribbons in the hair of both old women and young girls, cut out shamrocks on every shop window, Green sweaters, shirts, sweat-shirts, hats, pants, balloons, the whole works.

There were also more serious reminders about what it meant to be Irish. The flag of Erie, the free part of Ireland, flew proudly from many windows. A huge painting on the side of a building down

on B Street and Broadway reminded the passerby that as long as England remains in the North, all Ireland and all Irish cannot be free.

Special cheers were reserved for those that represented the best Southie could offer. Police colour guards, loaded with sons of Southie, were cheered and

applauded as they marched down Broadway. When the South Boston High float came by, the crowd cheered wildly for the boys, black and Hispanic, as well as Irish, who won titles this year in football, basketball, and hockey. The Southie youth hockey team, this year's city champs, were met with an avalanche of applause, as were the Southie cub scouts and little leaguers.

State Senate President William Bulger, a Southie boy, marched alone down Broadway, Sheliaghliagh in hand. It did not matter that unlike the other pols, no one carried a banner with his name to identify him. The crowd, filled with old friends and neighbors, knew exactly who he was. A huge cheer went up for him as he walked by Flanagan's. "God bless you!" one onlooker cried, as another rushed out to shake his hand and slap him on the back. Two teenage girls, dressed in green, with shamrocks painted on their faces, ran out to hug Bulger and give him green carnations, which he proudly held aloft.

None of this was reported by the press, who also conveniently ignored the fact that a number of gays and lesbians have moved to Southie recently because of its safe streets and leave thy neighbor alone ethic. I saw no cameras or reporters on Sunday, except when the gay and lesbian marchers went by. The press had already decided on the story it would tell, and spent the day following only one small part of the parade to collect ammunition.

It was not, as the media would tell you, a day dominated by controversy or violence, but rather a day to be Irish, a day to be proud. For one day at least, God really had, as the saying goes, made the Irish #1, especially if they were from Southie.

It was not, as the media would tell you, a day dominated by controversy or violence, but rather a day to be Irish, a day to be proud.

Life at Harvard Law Mart

By Kaushal B. Majmudar '94

The current diversity debate has revealed and confirmed many aspects of how Dean Clark, the University Counsel, and some of the faculty appear to view this institution. According to statements made by the university counsel during oral argument of the Coalition for Civil Rights' (CCR) motion for standing in the Massachusetts Supreme Judicial Court, students have no status because they are "merely" customers of a service selling institution, much like weekend shoppers at Wal-Mart or drivers at a gas station. If you don't like the service, the prices, or anything else, you are free to leave! After all, didn't you freely choose to come here? To purchase this "credential" called a Harvard Law degree?

By this reasoning, students who spend more than \$60,000 have no more right to demand change or even a voice in the operations of the institution than the shopper who buys a \$1.99 item from K-Mart has to demand that the chain promote a more diverse group of managers. The fact that this analogy was so blatantly used illustrates not only what is wrong at HLS, but also what is destructive about American ideas regarding the role and responsibilities of its corporate institutions. Forgetting universities for the moment, even profit-making private companies, as in Japan, should be responsible not only to its equity holders, but also to its customers, its suppliers, and the communities which they influence.

Institutions are made up of people, and must ultimately benefit the lives they touch and the society in which they claim membership. It is precisely when organizations deny accountability in the above fashion that decay and uncompetitiveness follow closely behind. But even if the argument regarding corporations is not persuasive, educational institutions of public stature and importance should meet a heightened standard of democratic functioning and accountability to its members.

In many ways, the administration is so content and able to operate by inertia and reaction, that it may well be less accountable to its "customers" than K-Mart is to even its smallest patrons. The Law School, however, is a semi-public institution which must, at the very least, be more accountable to its present, past, and future students. This institution is wasting resources when it shirks its role in the community. HLS is not a private law firm, and tenured faculty shouldn't act as if they were the sole partners and equity holders.

Why should educational institutions, especially universities, meet a higher standard of responsibility to its "public?" First, Harvard is already public to the extent that it depends on federal, state, and local government for tax exemption and research subsidies. By accepting this money, it often explicitly promotes itself as a semi-public institution. Students, who pay most of the tuition money, and represent much of the "goodwill" of this organization ought to have a greater role and demand such a role when necessary. It is not simply the scholarship of the faculty, but the quality and life-long activities of the students which contribute to and represent a great portion of the strength and stature of this institution. It is especially amazing to note that many of the current faculty were former students who seem to have forgotten their prior lives at this place. If students contribute so much to the financial and scholarly health of this institution, they should also have some significant voice in one of its most important powers, the ability to directly influence faculty appointments. Why, given the thousands of students who have made this place what it is, should such a vital function be controlled by a fairly homogeneous group of less than 66 members that were not democratically elected?

As for the efforts by students to force change at this institution, I would be both surprised and pleased if the CCR suit got standing. If the effort fails, however, it is important to realize that other avenues for change, besides the judicial process, exist.

First, the state legislature should already be targeted for assistance in this matter. If the legislature should amend the discrimination statute to explicitly provide that students shall be regarded as being injured by discrimination against teachers and will have standing to bring suit, the case could more certainly be maintained.

Finally, a maxim often quoted but not yet mentioned in this context comes to mind. They who have the gold, make the rules (or ought to if they put their minds to the task). A former professor of mine pointed out that the most beloved and critical element of an institution is its cash inflow. Perhaps a hypothetical would help.

What if a large number of students and former alumni resolved to implement a tuition/contribution boycott until significant steps to make the faculty more diverse are implemented? Call it political leverage for a voice in what the Dean has already admitted is a political process. It would be interesting to see the reaction of the same school which calls its students "mere customers" and treats them as insignificant.

Students Hunt for Housing

HOUSING, continued from page 1

associate at Linden Realty reports that they have received lots of phone calls from students, but "I just tell them to wait until May."

Bill Luther, the proprietor of Channing Real Estate says that "this is somewhat early in the season because most tenants don't start thinking about the end of their tenancy until a couple of months before their lease expires." The Linden associate continues that "a lot of people just don't understand the system," and should realize that "the economy's so bad that a good apartment can be found at the last minute."

But not everyone agrees on that assessment. Luther asserts that "in the past couple of years there were a tremendous number of properties intended for sale dumped on the rental market, and that improved the situation for tenants. But that situation is changing a bit. People are buying again and as a result, properties are now on the way back to the selling side of the coin. This year there seems to be less of a supply in the rental market."

That is not to say that there aren't plenty of apartments, but Luther predicts that "if the supply side continues to diminish, it's possible the prices will go up, or some of the perks will change."

For example, "in the past couple of years landlords have become increasingly willing to pay the realtor fee, and that might change." But Terrence O'Flaherty, an associate at AAA Accommodations believes that it's still a renter's market and that "about seventy-five percent of intelligent property owners are paying to get qualified tenants."

It's still early, but many HLS students have already begun their quest for a place to live next year.

While the rents are often steep, there's no realtor's fee involved if one rents from Harvard Housing. But timing is a key factor to getting these popular apartments. Students are now applying for the lottery on April 15 and then Harvard Housing rents the apartments as it knows about vacancies. Therefore, as Bill Reynolds of Harvard Housing states, "if students can take a June or July lease they have a big advantage. Sometimes people end up paying a couple of extra months rent to get one of these apartments."

Reynolds agrees with the realtors who assert that it's way too early to get apartments for next year. At Harvard Housing listings come in about a month or so before they're available. But not everyone signs at the last minute.

Jim Mega, who owns 30 apartments in the Cambridge/Somerville area, about half of which get rented to law students each year, is already busy. Mega finds that "large four bedrooms with lots of amenities are in relatively short supply. . . People looking right now want nice places and are willing to look at slightly more expensive apartments." He adds that, "there's a very limited supply of well-equipped nice apartments."

These may disappear quickly, and there may be some bargains to be found, but wait too long and "Fred" apartments might be all that's left.

Congressional Executive Pay Proposal Falls Short

By Robert K. Niewyk
RECORD Columnist

LATELY our Members of Congress have been worrying that recent events — the midnight pay raise, the revelations about Jim Wright and Tony Coelho, the Keating Five, the Keating Five whitewashing, the check-kiting scandal, the attempted check-kiting whitewashing, the Anita Hill leak, the Anita Hill leak coverup, and the Judiciary Committee's general fumbling of the Thomas hearings — may finally be enough for voters to throw them out of office.

They have cause to be worried; the list of misdoings is long and sordid. So, in the spirit of reasoned debate and public-spirited policymaking, they are doing what countless Congressmen have done before them: just divert the public's attention by finding a no-lose issue with a target that can't fight back publicly, and demagogue away.

This year's targets are the top executives of large corporations, and the issue is the staggering amounts of money they make. After all, who is going to make a public defense of, say, the \$78.2 million earned by Time Warner CEO Steve Ross? Who is going to justify Chrysler's proposal to adjust Lee Iacocca's package upwards retroactively when Chrysler's stock languishes and the intended "incentive pay" doesn't materialize? And who is going to feel sorry for these poor, overpaid White males as they endure the cheap shots of the politicians? They can fend for themselves quite well, thank you, during private meetings on Capital Hill and at countless fundraisers.

Admittedly, the issue is hot because these salaries really are indefensible. We don't begrudge Ryne Sandberg his \$7.1 million per year, because he will actually earn far more than that for the Cubs. We also sense that there's a functioning market for professional athletes: team owners will pay only as much as they must to get the players they want.

The link between an executive's performance and a company's profits, on the other hand, is far from obvious. Too many other employees, and external factors such as recessions, or booms, or oil gluts, or dumb luck, contribute to the bottom line. Even if we somehow knew that an executive was directly responsible for his company's success, the company may not have to pay him a large chunk of those profits to keep him, because the supply and demand for executives is different than it is for star athletes; there are far more people willing and able to run a company well than there are pitchers who can throw 93 mile-per-hour fastballs.

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Finally, we can't trust the "market" for top executives to get it right; that market is a joke. Executive pay is set by a company's board of directors, many of whom are themselves executives at the company and almost all of whom are hand-picked by management. They have strong incentives to give Mr. Executive what he wants. Until last month, the sole check from shareholders was their ability to vote directors out of office. But that vote is a blunt weapon — it requires single issue voting — and shareholder apathy makes its use unlikely.

The SEC recently gave shareholders a bit more power by allowing them to put proposals on the company's annual proxy statement to "suggest" that the directors observe limits on executive compensation. That's a step in the right direction, because it makes the market work better — it gives the owners of companies, i.e. the shareholders, more of a say when those who bargain for them are self-interested.

The proposals in Congress, on the other hand, are both loony, because they make no economic sense, and disingenuous, because the Congressmen do not intend or expect the bills to become law. The bill introduced by Congressman Sabo of Minnesota and explained by him in a recent *New York Times* op-ed piece is typical. It would disallow tax deductions for executive compensation in excess of 25 times the salary of the company's lowest-paid employee. Sabo claims this limit will prevent tax "subsidies" for extravagant pay and will also provide incentives for executives to raise the salaries of

the lowest-paid employees. Sabo also cites as precedent the existing tax code's requirement that only "reasonable" compensation be deducted.

Let's take this one mistake at a time. First, the "subsidies." The baseline assumption of the corporate income tax is that it is a tax on, not surprisingly, a company's income. Executive salaries, like any other payroll expense, or rent, or an electricity bill, are expenses paid by the company to earn revenues. Companies deduct salaries and other expenses from revenues to determine their income, for both accounting and tax purposes. Deductions for salaries are "subsidies," then, only to the extent that a deduction for every other business expense is a "subsidy" — in short, not at all. By singling out an expense it doesn't like and disallowing a deduction for that expense, the government is imposing a penalty, not withdrawing a subsidy.

Second, tax penalties are not the way to enforce policy choices. The whole point of the 1986 tax reforms was to strip away the thousands of tax penalties and incentives (otherwise known as "loopholes") that produced such an incomprehensible tax code and distorted the economy so badly. Tax reform is dying the death of a thousand pinpricks from bills just like Mr. Sabo's. If he really wants to limit executive pay, then go ahead and limit it (but of course, the better solution is to improve the market for executive pay).

An additional argument against fiddling with the tax code is a twist on the standard argument about its disparate effects based on different tax rates. A profitable company paying a high tax rate would be penalized the most for high salaries, while a company that is losing money and paying no taxes would not be penalized at all. That result is the opposite of what we would want: There might be something wrong when a CEO earns an eight-figure income at a profitable company, but it's even worse when a company that is hemorrhaging red pays its CEO the same amount.

Third, for a company that pays any of its employees the minimum wage, the bill will put about a 30% surtax on any compensation over \$200,000. This surtax would undoubtedly lower salaries. But by how much? \$200,000 is 1/390 of Steve Ross's compensation. Companies are clearly going to pay their top executives more than that, so the restriction amounts to a backdoor increase in the corporate tax rate. This hurts shareholders, who are largely the middle-class Americans that are the beneficiaries of pension funds, mutual funds, and the like.

Fourth, the incentives: companies are unlikely to raise their lowest salaries in the first place. Every \$1000 increase in the floor salary saves about \$8,000 in taxes for each executive above the ceiling (that's \$1000 x 25 x 30% tax rate). If the company has more than eight times as many low-paid employees as highly-paid executives, the gain in tax savings is more than offset by the increased salary costs. The actual ratio of low-paid employees to highly over-paid ones is usually hundreds to one, not eight to one.

Even if companies do increase their lowest salary, the tax restriction is merely acting as a backdoor increase in the minimum wage, and the usual effects of a minimum wage occur: artificially raising the price for something, including labor, decreases demand for that thing. In other words, companies hire fewer unskilled workers. That means unemployment. Alternatively, because the 25-to-1 calculation doesn't include part-time workers, the company will hire people part-time instead of full-time. That means no health benefits, and people who can't even earn a full-time minimum-wage salary.

Finally, the use of the current limit on deductions to only "reasonable" compensation completely mis-

es the point of that limit. It was meant to prevent small, private corporations that are owned by their managers from paying the firm's profits, disguised as salaries, to the manager/owners as a way of avoiding double taxation (a corporate tax on the company's profits and a personal income tax on those same profits when they are distributed as dividends). The current problem with executive compensation at large, public corporations simply has nothing to do with this issue.

You might get mad at Congressman Sabo for making a proposal that's so politically slick and substantively stupid. On the other hand, this might be a great opportunity to "hate the sin and love the sinner." Why? Because the "sin" of enactment will never happen. Few groups shower more dollars and have more pull on the Hill than CEOs, and Congress is not likely to take such a big and obvious bite out of the Business Roundtable that *literally* feeds it.

Before you think forgiveness, however, you should realize that's exactly what Congressmen are counting on when they introduce bills like this. They can write their op-ed pieces for the *Times* and score their cheap political points, knowing all the while that their bill will die safely in committee or on the floor of one of the houses. For example, Billcast, a service that estimates a bill's chances of becoming law, puts the odds on Sabo's bill at only 5%. Congressmen can even pass a bill in the House — as just occurred with a similar bill — with assurances from their colleagues in the Senate that it will die over there.

Congressmen don't pay a price for introducing these bills in the first place, because their CEO campaign donors know the game, too. Steve Ross might not like getting slammed in the press, but he knows that these poor Congressmen have to do something to stay in office, and he knows the bills won't pass. In the end — as is often the case on Capital Hill — everyone wins except the public. The politicians can skirt the tough questions on issues that genuinely need addressing, yet look like populists, keep their jobs, and keep their contributions flowing. And Steve Ross, bless his capitalist heart, can count his millions and let the op-ed pieces fly.

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