



Harvard Law RECORD

America's Oldest
Law School
Newspaper

Volume 94, No. 9

Cambridge 02138

Friday, May 1, 1992

Viet Dinh's Sister Freed with HLS' Assistance

By Glennis Gill

On March 26th Viet Dinh's '93 sister and her two children were released from a Hong Kong refugee camp where they'd been since August, 1989.

Dinh had been trying to secure their freedom for over a year when he entered HLS in the Fall of 1990. At an informal gathering Dinh discussed his sister's plight with Professor David Wilkins, then his Civil Procedure professor. According to Dinh, "Professor Wilkins took an immediate interest and put me in touch with Professor Deborah Anker (immigration) and Professor William Alford (East Asian Legal Studies)."

Anker coordinated efforts with United States immigration officials while Professor Wilkins attempted to contact acquaintances at the State Department.

Prof. Alford recommended Dinh to 1990 Visiting Scholar Anthony Francis Neoh, a respected barrister and a Hong Kong High Court Justice, and to David W. Ling LL.M. '87, a prominent Hong Kong solicitor.

According to Dinh, "it's not an overstatement at all to say that without their dedicated intervention and advocacy, my sister and her children would still be in the prison-like detention camp, without much hope of seeing freedom and being reunited with our family."

Dinh's sister, Dinh Thu Van Thi, 33, and her two children, Chau, 16 and Quan, 7, had been

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Viet Dinh '93 and sister "Van" celebrate their reunion.

Fried 4 Absolved, Griswold 9 Hearing Set for Monday

By Andy Ward

Three of the "Fried Four," students accused of participating in a sit-in protest at Professor Charles Fried's office on April 7, will not be formally charged by the Administrative Board. A public hearing for the Griswold Nine is tentatively scheduled for May 4 at 4:15 in Ames Courtroom.

A spokesperson for the Nine confirmed that, as of this past Tuesday, negotiations between representatives of the Nine and a subcommittee of the Administrative Board continue over issues of the location of the trial, the composition of the audience, the presence of representatives of the press, and the scope of evidence to be admitted. The Nine are being represented by Professor Terry Fisher '82 and Peter Cicchino '92. The case against the Nine will be pre-

sented by Professor Detlev Vagts '51. The prosecution will present its case first, followed by the defense. The Nine will probably testify on their own behalf but when the RECORD went to press, it was unknown whether Dean Clark would testify against the Nine. The rules of the Ad Board do not specify whether the Dean can be compelled to give evidence.

On Thursday, April 23, the Board announced its decision against three of the Fried Four. The students issued a statement in which they acknowledged that they had "crossed a boundary between offices in which professors have a privacy interest" and that their protest was "of a different kind than other types of protest." In their statement, the three students (Julia Gordon '92, John Bonifaz '92, and Raul Perez '94) also asserted that they did "not waive their right to protest the lack of progress toward achieving a diverse faculty." One member of the Ad Board described their letter as "the finest non-apology I've ever read."

please see **HEARING**, page 6

Elections Transform Student Leadership

By Harry Johnson

Special to the RECORD

Voters flocked to the polls for the Law School Council elections to determine who will represent Harvard Law's student body in the upcoming 1992-93 year. The LSC held elections on April 15 and 16 for President and Treasurer, and on April 22 and 23 for 2L and 3L Section Representatives, half the Council's At-Large Representatives and the 1993 Class Marshalls.

In the earlier contest for Council President and Treasurer, Marie-Louise Ramsdale defeated incumbent Michael Twomey for the LSC presidency, while Stephanie Sowell carried the Treasurer seat, besting opponents, Hank Fincher and Andrea Robinson. The following week's election saw candidates for all the available seats as well as several tight races at the Section and Class Marshall level.

Turnout reached record levels for an LSC election, swamping Council election officials. Though less than half of the student body voted, the voters more than doubled the turnout of the previous year's Council balloting. Organized campaigning for many of the candidates heightened the usually sparse turnout, with voters swarming over the at-times confusing array of election choices. Many chose the day to express their feelings over the "diversity controversy," an issue by which several of the candidates defined themselves. The politicalization of the Council and an active role in

support of "faculty diversity" had made up a large part of President-elect Ramsdale's platform.

Ms. Ramsdale expressed a conciliatory note following the election, hoping that next year's Law School Council is "not exclusively concerned with political issues, but I still think that it's very important that the Council address and take a stand on important issues facing

the campus. Neutrality is perpetuation of the status quo." She believed that the turnout increase came from "students who are ready for a change around here and who are tired of feeling disempowered." Ms. Ramsdale added that the Somerville Shuttle, campus-wide recycling, Course Evaluations, and addressing the "exclusion or limited participation of students in decision-making at the Law School" were additional priorities her administration was committed to pursue.

Responding to campus rumor that she was CCR's "official candidate" for the presidential election, Ms. Ramsdale said the alleged sponsorship "is not the issue for me at this point - the issue is how effective we can make the Council in the coming year." Raul Perez, the successful campaign manager for Ramsdale, also commented that he was disturbed "by the perception that because a woman was running for President, the Law School Council would be controlled by special interests... I do not find the counter-effort unhealthy because I think that

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Marie-Louise Ramsdale



Stephanie Sowell

Faculty Clash Over Revue, 1st Amendment

By Steve Yarian

While practically everyone at HLS immediately reacted to the *Revue* with outrage, the residual effect has been the splintering of the faculty and student body. *The New York Times*, the *Boston Globe*, and several local television news programs have featured stories about the faculty split between the Tribe/Kennedy/Bartholet "hostile environment" camp and the Dershowitz/Fried/Nesson "free speech" camp during the past two weeks.

The first response by the faculty, on April 14th, was to the point: "We believe that the article in the Harvard Law *Revue* pertaining to Mary Joe Frug is contemptible and cruel," forty-seven professors said in a statement.

But soon after the rift began. In a letter dated April 19, Professor David Kennedy wrote that he was, "ever more convinced of the need for an offi-

cial, even routine, investigation of the episode in accordance with our normal procedures..." Kennedy then announced that he had filed a complaint with the Administrative Board.

In his letter to the Administrative Board, Kennedy asked "that a hearing be scheduled to consider the events surrounding the publication of the 'Revue'..." He contended that the Board should "bring charges against those students directly responsible... as well as the outgoing President and members of the masthead responsible for maintaining a working and academic environment hostile to women."

The open letter to the HLS community by the "Group of Fifteen" arrived on April 20th. They wrote that "There is good reason to believe that the *Law Review*'s publication of the April 1992 *Revue* is a symptom of a much wider problem," and that HLS "has done far too little to address issues of sexism and

please see **REVUE**, page 6

'Community' Forum Underwhelming

By Toy Chandler

After weeks of divisiveness in the wake of the *Revue*, Ad Board proceedings and faculty appointments, Dean Clark invited students, faculty and staff to a Forum entitled "How to Build A Sense of Community at Harvard Law School."

Moderated by Professor Charles Ogletree and attended by students, and around 50 faculty and staff overflowing Ames Courtroom, the two hour event featured reactions and suggestions from a broad spectrum of the HLS community.



Dean Clark.

Upon entering Ames, everyone was handed a sheet entitled Building Community at HLS. Authored by Getting to Yes maven Roger Fisher as "a way to organize our thinking on the situation facing the Law School," it described the symptoms of the problem, including the pain caused by the *Revue*, the HLS climate which has made many women feel marginalized, the institutional failure of HLS to hire a

sufficiently diverse faculty and the problem of free speech being restrained by fear of consequences. The chart went on to list diagnoses, prescriptive ideas and specific action ideas.

Professor Ogletree began by explaining that the panelists, students, faculty, and administration, had been asked to speak in their own individual capacity as citizens. Ogletree prefaced the panelists' remarks by saying that he hopes "the dialogue will continue beyond today," and that "we won't spend a lot of time talking about the past."

Dean Clark was the first to speak and began by saying, "I see myself as here basically to listen. I want to collect ideas for all of us to consider, including me."

He continue, "this is not the meeting - it's the beginning of a whole series of endeavors."

The Dean said that "I see a lot of tension in this community, and some of it is caused by witting and unwitting things we do to each other." As examples of these, he included the fact that "at the time of the Griswold Nine sit-in I was upset by the insensitivity of the sit-in students to the female staff in the Dean's office." DBC also claimed that "I'm very sorry for talking to the

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David Kennedy Requests Investigation of *Revue*

By John Regis

Professor David Kennedy has called for Administrative Board action against the writers and editors of the Harvard Law *Revue* attack on Mary Joe Frug. Kennedy, a close friend of the Frug family, eulogized Mary Joe Frug at her memorial service last year.

In a letter made public to the law school community last week, Kennedy formally requested that the Board begin a preliminary investigation of the *Revue* incident. Naming the "President and Masthead" of this year's *Harvard Law Review* as the most likely starting place for an investigation, Kennedy's letter suggests that the Board initiate a public process to investigate sexual harassment at the *Review* and, more generally, at the Law School itself.

Kennedy's letter asks the Board to investigate two sorts of charges raised by the *Revue*. "First, the incident raises issues of professional and personal integrity and judgment sufficiently substantial to bring into question the suitability of the individuals concerned for the practice of law and evidences a level of vicious disregard for others incompatible with an open academic environment. Second, these acts, considered in the context of the environment of hostility towards women in which they occurred and to which they contributed, lie, to my mind, at the point where sexual harassment verges into assault."

Kennedy's letter has drawn negative reactions from a variety of sources, including the Civil Liberties Union, Federalist Society, and Professor Alan Dershowitz. The call for Ad Board action on the *Revue*, contained in Kennedy's letter, came in the same week as a group

calling itself the *Revue* Action Committee issued its own call for public hearings on the status of women at HLS.

Though much criticized for its suggestion of an Ad Board investigation, Kennedy claims his letter was directed primarily at opening discussion and initiating a public soul searching on issues of misogyny, racism, and homophobia at the Law School. Kennedy's letter was distributed to the entire Law School community in an attempt to disseminate, as broadly as possible, an invitation for students, faculty, and staff to come forward with any testimony relevant to the *Revue* controversy or the broader issues implicated by it.



Prof. David Kennedy.

Ashley Barr '94, falsely accused of being one of the "Fried Four" by Professor Fried himself, feels exasperated with the administration's overreaction to the student protests, particularly in light of the administration's lame response to the authors of the *Revue* parody. Although both instances involve serious First Amendment issues, Barr claims the two groups have received radically different treatment. She stated, "Professor Fried and Dean Clark, who continue to defend the authors of the *Revue* parody against administrative board action, initiated disciplinary proceedings against 13 other students exercising their First Amendment right. Cohen and Fenyo, who have not even been contacted by the Board, and who are by their own admission guilty, received immediate institutional support. I, on the other hand, facing serious and false accusations, received no response for a week."

The Ad Board has not yet reacted to Kennedy's request, but a response is anticipated sometime within the next week.

HLS Affiliates Help Free Viet Dinh's Sister

VIET, continued from page 1

in the refugee camp since June 1989, when after their application to emigrate had been denied, they escaped Vietnam because her son had a serious heart condition and couldn't get treatment there.

Dinh's sister and her 2 children stayed to help his father when Dinh, his mother, five siblings and one of Van's children fled Vietnam eleven years ago on a small fishing boat. As Dinh says, "if anyone deserves to be here in the United States, it is my sister. . . My sister volunteered to stay behind to help my father. She paid the price for being the last of our family to escape."

In 1983 Dinh's father, who had been put in re-education camp, made it to the U.S. after 25 unsuccessful attempts to escape Vietnam. Dinh explains that "without Van my father would not have been able to escape from the camp, would not have been able to live as a fugitive, would not have been able to escape from the country."

The NBC show *Dateline* picked up the story and publicity started building. On January 27, 1992 the story hit the cover of the South China Morning Post, the major newspaper in Hong Kong. The headline read "Hole-in-the-heart boy's family plead for refugee screening."

The article explained that the boy's condition could kill him in two years, that the family has a very strong claim to refugee status because of years of persecution in Vietnam, and that Hong Kong authorities have known about the boy's condition for nearly two years.

The Hong Kong authorities announced that the screening for Van and her children would be expedited. But the process was far from easy and Dinh relates that "all through the months of January, February and March, I was constantly bothering Mr. Neoh and Mr. Ling, trading faxes nightly concerning the case. Their tireless dedication and unquestioned commitment to the case is a real tribute to HLS. They showed me the human side of the law and the need for such compassion in our profession."

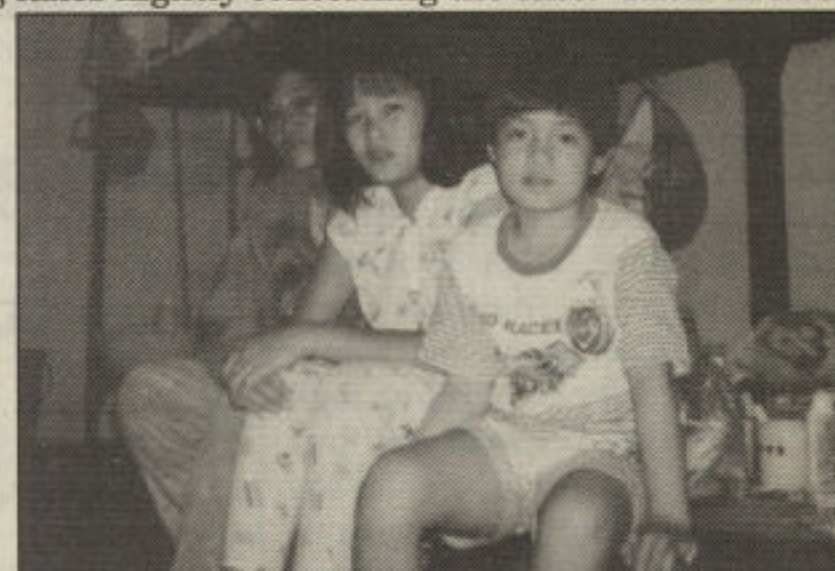
The *Dateline* show had already been to HLS to film portions of the broadcast and when Van's release was announced, accompanied Dinh and his family to Hong Kong for the reunion.

The reunion was the first time that Phoung, now 15, had met her mother and her siblings. Dinh was amazed at how similar Phoung and Chau, 16, are and how quickly they were off chatting.

Dinh points out that although his family's case has ended happily, there are still 50,000 Vietnamese languishing in these camps. All boat people who have arrived since June 1988 must prove that they are political refugees. They must wait for a screening process, which is arbitrary and without due process, to determine whether they are true refugees or economic migrants. If they fail the screening, which the majority do, they are sent back to Vietnam.

Dinh is understandably grateful that his sister is no longer in that precarious situation. He explains that "it is hard to say thanks to people who have in effect, given my sister back the life she lost thirteen years ago. But if they could just see the joy and emotion that we all felt during the reunion, that moment conveys our appreciation for their work more than any words of thanks that I can muster."

Fortunately, they can. The *Dateline* NBC story will air on May 26th.



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The Press, Fair Trials, and the Oprah Factor

By Doug Moll

Special to the RECORD

On Thursday, April 23rd, some 40 students attended the panel discussion "Rights in Conflict II: The Freedom of the Press and the Right to a Fair Trial," co-sponsored by the Civil Liberties Union and the Civil Rights and Civil Liberties Law Review. This panel presented inter-

esting and controversial viewpoints on topics ranging from the Arthur Ashe AIDS disclosure to the reporting of poll results to the William Kennedy Smith trial. Moderated by Professor Charles Nesson, the panel included Catherine Crier, news anchor for CNN and host of "Inside Politics" and "The International Hour," Michael Gartner, President of NBC News; Stu Pearson, legal counsel in the *CNN v. Noriega* case (involving CNN's broadcast of the government's tapes of Manuel Noriega's cell con-

versations); and David Kohler, legal counsel for Turner Broadcasting Systems who also litigated the *Noriega* case.

Despite the title of the panel, a significant portion of the discussion dealt with the freedoms of the press in general, with Gartner and Crier presenting provocative and often opposing view-

points. Proclaiming "the glory of the free press," Gartner stood firm in his belief that the press should print all available information on a story. Crier disagreed, essentially stating that the press should be socially responsible and should consider the effect on the subject of the stories. These themes played out in a number of recent events discussed by the panelists.

Opening up with the issue of publishing rape victims' names, Gartner adamantly maintained that disclosure was proper, as "names add credibility to stories." Gartner would release victims' names "because it was news" and because the press "ought to be able to present the facts." In contrast, Crier believed that a rape victims' name is "not deemed relevant" to delivery of a story.

In discussing Patricia Bowman, Crier conveyed that the press has a responsibility to protect victims from emotional harm, especially since the name has no relevance to the story. Even when asked about the danger of women not reporting incidents of rape if their names were released, Gartner stood firm. Stating that he was "not in the socially redeeming value business" nor "in the business of keeping secrets," Gartner would name the rape

victim, even if his own daughter, as the role of the press is "not to change society."

The viewpoints also played out in discussing Arthur Ashe's AIDS disclosure, which Ashe claims was prompted by the imminence of the press releasing his story. Crier would not have gone with the Ashe story, commenting that simply because an event has occurred, the press does not have "to come down on the event, like ants at a picnic." Gartner responded with an empirical analogy to cancer and AIDS, both hidden and not supported until the press helped to bring the diseases into the spotlight, providing funding, government assistance, etc. As Crier stated, however, the American Cancer Society encouraged cancer patients to come out, Magic Johnson chose to come out, but Arthur Ashe did not choose to make his disease public. Gartner still would have published Ashe's story, as he later mentioned, the "great sins of American press are not what they print, but what they don't print."

The panel did focus on the Noriega trial, notable since a district court issued a prior restraint against CNN prohibiting the network from airing a tape of conversations between Noriega and his counsel. An appellate court affirmed the restraint and the United States Supreme Court refused to grant certiorari. Nesson presented a hypothetical to Kohler and Pearson about whether they would air an attorney-client tape knowing that it would undercut a fair trial. Kohler responded by saying remedies such as a prior restraint are available, but that is "not the press's burden" — it is "not the press's job to give him a fair trial." Pearson agreed, stating that a defense counsel "has the option" to get a prior restraint. Both men therefore agreed that they would air the tape, as long as a prior restraint was an option that the

defense counsel could pursue if the tape was truly damaging to their client's interests.

Specific to the *Noriega* case, both men held similar views, as Kohler argued that it is "not [the press's] job to make sure Noriega gets a fair trial," rather, a fair trial is a responsibility of the government and the defense counsel. Kohler stated that the prior restraint was wrong in the context of a fair trial, because "you can always get a fair trial." Pearson agreed, commenting that the judge in the *Noriega* case did not even look at other judicial alternatives. These contentions were supported by Gartner's earlier comments that a defendant has other options for a fair trial, including a change of venue, jury empaneling, etc. Gartner commented that the media cannot affect every potential jury member in this country, as "more people watch Nick at Night than watch CNN." CNN's "bad journalistic decision," according to Gartner, was in not quickly airing the tape before the court could take action. Kohler disagreed, however, mentioning that CNN was attempting to be responsible by authenticating the tapes before disclosure.

In response to a student question on the impact of ratings in news reporting, Gartner told the audience that the single most important factor in what network is watched by people is what channel Oprah Winfrey comes on. As a syndicated program, Winfrey appears on different networks in different markets. Apparently, viewers simply leave their televisions on Winfrey's station, causing it to be the channel they watch for news when they turn the television on again. By analogy to newspaper circulation increases on grocery coupon days, Gartner wound down the forum by commenting that Winfrey "is the grocery couponing of television."

"You should be tired, I saw most of you at ROSIE'S last night!"

—The Dean at last year's Law School Graduation

Late Night Menu

Every Night 'Til 1:00 a.m.

Pizzas, Sandwiches,
Buffalo Wings, Desserts,
Appetizers!

5
4
7
-
1
2
2
8

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BRIEFS



Former HLS Professor Accepts NYU Job

Professor Richard B. Stewart, former Byrne Professor of Administrative Law at HLS, has announced that he will join the faculty of NYU School of Law. Stewart will join Derrick Bell at NYU next fall as a fellow HLS expatriate.

John Sexton, Dean of the NYU School of Law, said, "Distinguished faculty are the key to being in the forefront of legal education. We're delighted that a superstar such as Richard Stewart has accepted our invitation to join NYU's faculty."

During his leave from HLS since 1989, Stewart served as assistant attorney general in charge of the Environment and Natural Resources Division of the U.S. Department of Justice, and was responsible for negotiating the government's settlement with Exxon resulting from the Valdez oil tanker wreck in Alaska. Stewart is considered one of the nation's leading scholars of administrative law and environmental law. He is particularly noted as an expert on federalism in environmental law and on the use of market-based schemes as alternatives to command-and-control regulation.

Stewart received a Bachelor's degree from Yale University, a Master's degree from Oxford University, and a LL.B. from Harvard Law School. He was an editor of the *Harvard Law Review*. Following graduation from law school, Stewart clerked for U.S. Supreme Court Justice Potter Stewart. He joined the Harvard faculty in 1971, and has also been a visiting professor at the University of California at Berkeley, University of Chicago, and the Georgetown Law Center.

Panel To Discuss "When Women Accuse Men"

The Criminal Justice Institute Speakers Forum at HLS will present a panel discussion entitled "When Women Accuse Men" on Wednesday, May 6, 1992 from 4:00-6:00 PM in the Ames Courtroom. The panel will explore issues of gender and race in a number of highly publicized accusations this year, including the St. John's rape trial, the Anita Hill-Clarence Thomas hearings, the William Kennedy Smith rape trial, and the Mike Tyson rape trial.

Panelists include Alan Dershowitz, appellate counsel for Mike Tyson; Star Jones, NBC News Commentator for the "Today Show" and a former prosecutor from Brooklyn; Charles Ogletree, Harvard Law Professor and counsel for Anita Hill; and Katha Pollitt, Associate Editor of *The Nation* and feminist writer and poet.

The event is free of charge and open to the public. For more information, please call Maureen Leary or Christa Evereteze at the CJI at 496-8143.

Magic to Speak at Med School Ceremony

Basketball star Earvin "Magic" Johnson will speak at the Medical School's Class Day ceremonies on June 4. Class Day ceremonies will be open only to students, their family and friends, and faculty. Johnson announced on November 7 that he was HIV-positive and was going to retire from the Los Angeles Lakers to become a spokesperson for AIDS awareness.

Johnson was overwhelmingly chosen by Medical School students. In keeping with tradition at the Medical School, the selection process began with a meeting to which all members of the Medical School graduating class were invited, potential speakers were suggested, and ballots listing them were distributed to the class. Johnson received more write-in votes than any nominee on the ballot.

Johnson joins a long list of distinguished physicians and health care professionals who have addressed Medical School graduates, including Dr. Jonas Salk, who developed the first polio vaccine, Professor of Surgery Emeritus Dr. Joseph Murray, co-winner of the 1990 Nobel Prize.

Turow Will Deliver College Class Day Address

Author and lawyer Scott Turow '78 will deliver this year's Class Day address, scheduled for Wednesday, June 3, at 2 p.m. in Tercentenary Theatre. It will be open to the public.

Turow authored *One L* about his first year-experiences at HLS. After graduating, Turow joined the U.S. District Attorney's Office in Chicago as a deputy prosecutor, where he obtained ideas for the more commercially successful *Presumed Innocent* (1987) and *The Burden of Proof* (1990). *Presumed Innocent* spent 44 weeks on the New York Times bestseller list, and *Burden of Proof*, another thriller, reached number one on the Times bestseller list in its debut week on the chart.

Class Day speakers are chosen from among 10 to 15 candidates suggested by graduating seniors.

Prof. Sullivan Receives Teaching Award

The HLS Class of 1992 will present Professor Kathleen M. Sullivan with the first annual Albert M. Sacks-Paul A. Freund Award for Teaching Excellence on Class Day, June 3rd. In a poll of the graduating class, students praised Sullivan for her inspiring instruction and clarity of presentation in the classroom, as well as for her enthusiasm, compassion and accessibility. "Her clear presentation and organization of materials made complex issues easy to understand and made class a joy and a challenge," commented one student.

The teaching award was named in memory of two of the most beloved and well-respected Professors in the history of the Law School, Albert M. Sacks and Paul A. Freund. It will be awarded annually to a Law School faculty member on the basis of her excellent in teaching, accessibility outside the classroom, demonstrated interest in student life, and respect shown towards students. The recipient of the award will receive a plaque from the graduating class and will have her name inscribed on a permanent display.

"We are delighted to be able to present Professor Sullivan with this award," stated Cameron Powell, 1992 Class Marshal. "Unfortunately, the Law School does not provide much recognition to a Professor for her teaching ability and her relationship with students. We hope that the Sacks-Freund Award will do just that. To no one's surprise, Professor Sullivan received high praise for all aspects of her teaching."

Earth Day Festivities Dampened by Rain

By Ben Rozwood

Special to the RECORD

Mother nature celebrated Harvard Earth Day on Friday, April 24, with liquid confetti, as rain dampened most of the outdoor festivities planned on the "Science Center Green." Andrew Walker '92 ventured to the field to get a free sample from Ben & Jerry's Solar Ice Cream Truck, and commented sadly, "if that's the extent of the environmental movement, bring back the excess of the eighties."

Rain forced most information booths indoors and out of sight. The various bands, originally scheduled to play outdoors, also ended up inside. "We were hurt by the rain," said John Walke '93, president of the Environmental Law Society. "Several hundred people took off running for cover and missed the best part of the event."

Justin Smith '94, ELS member, called the students who were kept away by the rain, "fair weather environmentalists" and said, "What happened to real dedication to a movement, rain or shine? Like the post office guys?"

The celebrity panel discussion held in Sanders Theater, entitled "Earth Day: Sound Action and the Next Generation," went as planned, however. The eight panelists included Steve Miller, Peter Garrett of Midnight Oil, Phillip Fisher of Fishbone and Winona LaDuke, a Native American environmental activist. Walke moderated the event, which lasted for about two hours.

"I am really pissed off about the num-

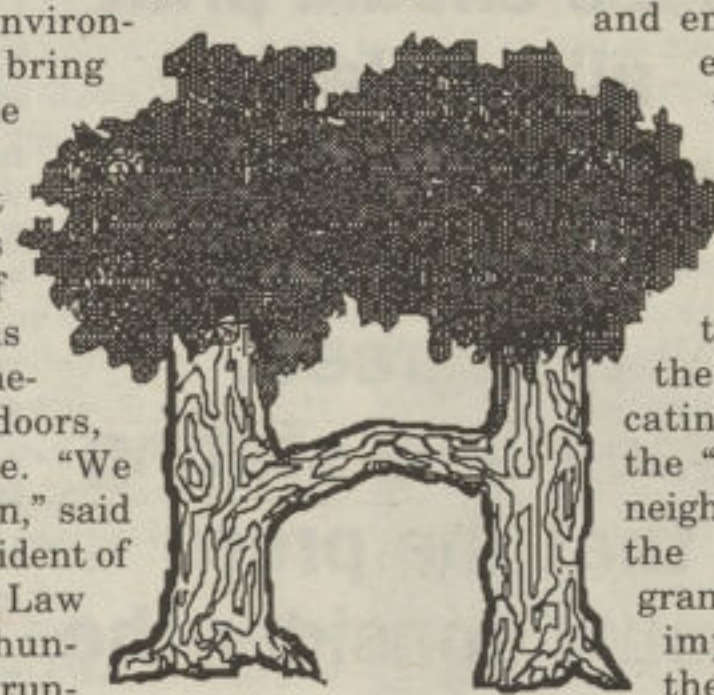
ber of people that are here today," began Steve Miller in his shades after a few long moments of silence. He went on to observe that public awareness of environmental problems is far too low and encouraged active involvement, both at a personal level and at a political level, saying, "Drop your representatives a note and turn off the water when you brush."

LaDuke suggested that most environmentalists were too concerned with preserving the diversity of other species, and emphasized instead the extinction of peoples and their cultures.

Fisher gave a brief but intense presentation about the pollution problems in the ghettos, exhorting the audience to start educating their children about the "environment" in their neighborhoods. He said after the discussion that his grandmother impressed the importance of respecting the environment at a young age, and that he had carried her message with him. "I owe it all to my grandmother," Fisher said.

The panel was co-sponsored by ELS, the Harvard Environmental action committee, and Concerts for the Environment. First-year Harvard student Bonnie Becker coordinated the event from the undergraduate side. "Overall, given the rain, it went well. We were hoping for a large walk-in turnout, but then came the rain. Those that were there definitely wanted to be there," said Becker.

Cambridge Earth Day, scheduled for Sunday, was postponed entirely. The event was rescheduled for 12 to 5 p.m. on Saturday, May 2nd down the banks of the Charles River on Memorial Drive.



Class Marshall and Council Elections

ELECTIONS, Continued from page 1

competition fosters debate and creative ideas that will end the inertia the LSC has experienced. I do object, however, to the accusation that because a white woman and a black woman were elected to the leadership, the Law School Council is somehow no longer a legitimate representative of the student body. Yes., we mobilized people of color and women to support Marie-Louise and Stephanie, but for the reason that we wanted to move the LSC in a new direction, and more power to those who organize and deliver the vote."

Michael Twomey, the incumbent Presidential candidate, found turnout "remarkable, and it's implausible to believe that she [Ramsdale] didn't receive great support because of her inclusion in the 'Griswold 9.'" He saw the incoming representatives as an "excellent group coming in and I'm optimistic about that, but at the same time I'm concerned that tensions on campus will now be reflected in the Council and therefore we may get sidetracked from our regular important business."

Perhaps one of the most surprising elements of the Council elections was the candidate interest in 3L section seats. In a rare occurrence, every 3L section seat was filled by the end of the section elections, which often leave 3L positions vacant. Section Two experienced a four-way contest for two seats, from which Derek Honore and Scott Auby emerged victorious. Mr. Honore, who took his seat by a wide margin, found it "unusual" that the other sections were not contested but was pleased "to present Section 2's concerns to the Council." Ben Lieblich, who lost in Section 2 but had a convincing victory for an At-Large seat, added that the 3L class had "very fine representatives."

Twenty-one 1L candidates slugged it out for the eight 2L section and five

remaining At-Large seats. Every race was close, the second seat for Section One being decided by less than half a vote under the Council's inscrutable Hare electoral system. At times, the campaigning within the sections grew fairly hot, bruising more than a few feelings. Enu Mainigi, who easily captured the other Section One seat, found it "unfortunate that it was such a divisive election." A common theme for next year was sounded by Raul Perez, who pledged to "maintain the sense of community" for his section. Many of the defeated section candidates ran dually in the At-Large election and picked up seats there. Whatever the outcome of their respective elections, the rising 2Ls as a class showed matchless political activism.

The 1993 Class Marshall race pitted a number of popular 2Ls against each other for the four available seats. Jodi Grant of Section Four received the most votes and became First Marshall. Viet Dinh, Kevin Martin, and Rhonda Adams finished second, third and fourth, respectively. Along with the 3L Section reps, they will form the core of the 1993 Class Committee to organize and hold the Class of '93 events until graduation.

Later!

HLS Prof Saves Tison Brothers from Death Row

By Johanna Davis

Raymond and Ricky Tison, two of Alan Dershowitz' most notorious *pro bono* clients, will not be executed, according to Arizona Attorney General Grant Woods. Prosecutors had pledged to reduce the brothers' death penalty sentences to life terms if the Arizona Supreme Court excluded certain statements which the brothers had made in a failed plea bargain, and last week the Court held those statements were inadmissible as evidence.

The Tison brothers were convicted in 1979 of smuggling weapons into Florence Prison to break their father out of jail, and then helping him brutally murder a family and a honeymooning couple in the Arizona desert. A third brother, Donald Tison, was killed in gunfire at a police blockade, and their father Gary Tison died from sun exposure while fleeing from police.

Ricky and Raymond agreed to testify against Randy Greenwalt who broke out of jail with Gary Tison and helped him murder the family. While testifying, Raymond Tison made several incriminating statements about how the brothers obtained the guns. The statements were excluded at the original sentencing in 1979, but prosecutors tried to use them when the case was remanded from an appeal to the U.S. Supreme Court in 1989.

Nan Watanabe '92, who spent a summer working on the Tison appeal, said that the ruling to exclude the testimony preserved the integrity of the plea bargaining process. "If this testimony were allowed against the Tisons, it would undermine all defendants' confidence in the plea bargaining system."

Watanabe explained that the turning point in the case came when the State's motion to change trial judges was denied, and Maricopa County Judge Martin consolidated the two brothers' cases. "That was the first time the case was considered by a truly fair judge interested in applying the law," said Watanabe. "Judge Ketty, who

had the case before, was vindictive, and interested in twisting the law." She pointed out that Ketty used the same language in describing the Tisons' involvement in the case as he did in describing Greenwalt's, who was a convicted murderer.

Judicial bias worked against the Tisons even in their Supreme Court appeal, according to Watanabe. "Justice O'Connor, who wrote the opinion, should have removed herself because she lived in Arizona at the time of the case, and was quoted as saying that she was fearful for her life and the life of her children while the Tisons were loose," said Watanabe.



The Tison brothers.

The Tisons' appeal to the Supreme Court revolved around whether a court must find a defendant had specific intent to kill in order to sentence them to death. Rather than rule on the specific intent question, O'Connor's majority opinion changed the standard for applying the death penalty to an accomplice. They outlined a new test, asking whether the defendant was a "major participant" in the killing and if the defendant displayed "reckless indifference of human life," in his participation. The Supreme Court then remanded the case to the Arizona Supreme Court to determine whether the Tisons' actions satisfied these two criteria.

But the prosecutor's vow to take the Tisons off of death row if the plea bargain evidence were excluded made the "major participant" inquiry moot. Dershowitz felt confident the Tisons would not have satisfied the new death penalty requirements anyway. "There's no question they broke their father out of prison, but there's been a real dispute about their degree of complicity all along," claimed Dershowitz.

Dershowitz said he was surprised that this was the basis on which the Tisons avoided the death penalty. "It's been thirteen years, and to use a sports metaphor, this case has been a broken play from day one. Nothing has gone according to plan."

The Tisons' case was mentioned in the film *Reversal*

of *Fortune*, is featured in Dershowitz' book *The Best Defense*, and Dershowitz has used the case to teach the death penalty to his classes for over a decade. "About one hundred law students over 13 years have helped generate ideas for how to defend this case," Dershowitz said.

He complained that the media stresses his celebrity clients too much without acknowledging his extensive *pro bono* work. "Reporters always ask me, 'How come you always take cases from famous clients?' I always say, 'How come you only cover cases I take from famous clients?' At least half of my cases are *pro bono*," Dershowitz claimed. Dershowitz stated he has spent over \$50,000 of his own money on the case.

"I've argued this case three times before the Arizona Supreme Court, and two times to the Supreme Court, once orally," said Dershowitz. "But I won't stop working on this case until they can come here to speak to my classes," he observed.

Always an outspoken objector to the death penalty, Dershowitz said his beliefs did not spring from his religious convictions, observing, "Judaism actually calls for the death penalty...I oppose the death penalty because of personal moral principle, and because today in the U.S., the death penalty is imposed in such a racially biased way."

Dershowitz said the Tison brothers' case was a perfect example of the injustice of the felony murder rule. "This was a combination of the fiction of felony murder, and conspiracy theory. Neither brother did the act, nor had the mens rea for the crime. So without intending to kill and without killing, they were sentenced to death."

Dershowitz described the Tisons' predicament as "entirely situational," noting how their father manipulated the brothers, then both teenagers, at the scene of the crime. Watanabe concurred, "There were huge extenuating circumstances—their father was an extraordinarily dominating man who they believed in. He promised them that no one would get hurt. Their only intent was to break him out of prison, and that was because they believed a contract was out on their father's life in jail. They were trying to save his life."

Dershowitz speaks and writes to the brothers often, especially Raymond, who he described as a "very articulate young man." He claimed, "I would trust these kids to babysit my children." Dershowitz said he would continue to work on their case until they can "come here to speak to my classes."

LSC Election Results: President and Treasurer

President

Total Votes Cast: **604**

Percentage of Electorate: **33.6%**¹

Votes Cast for Marie-Louise Ramsdale: **355**

Percentage of Total Votes Cast: **58.5%**

Votes cast for Michael Twomey: **249**

Percentage of Total Votes Cast: **41.2%**

Treasurer (final ballot)²

Total Votes Cast: **551**

Percentage of Electorate: **30.6%**³

Votes Cast for Stephanie Sowell: **303**

Percentage of Total Votes Cast: **55%**

Votes Cast for Hank Fincher: **248**

Percentage of Total Votes Cast: **45%**

¹Figure is based on total number of students at Harvard Law School eligible to vote. Turnout percentage for 1L, 2L, and 3L classes combined was 36.6%.

²There was no majority on the first ballot. On the first ballot, Andrea Robinson received 78 votes. On the second ballot, the second preferences of Robinson voters broke down as follows: S. Sowell—40 votes, H. Fincher—28 votes, No Choice (thrown out)—10 votes.

³See FN1, above. Turnout percentage for 1L, 2L, and 3L classes combined was 33.4%.

Breyer Proposes a "More Effective Government"

By Franklin Ridge

Judge Stephen Breyer, Chief Judge of the U.S. Court of Appeals for the First Circuit gave the Harvard Law School Oliver Wendell Holmes Lecture on Tuesday, April 28, at 7:30PM, in the Ames Courtroom. The lecture was entitled "The Regulation of Health Risks: A Proposal for a More Effective Government."

Mark Filip '92 said, "Judge Breyer has been a respected legal scholar for decades as both a professor and a judge. He is respected by liberals, moderates and conservatives alike as a rigorous and reasoned thinker."

Breyer received an A.M. with highest honors from Stanford University in 1959. He earned his B.A. in 1961 with 1st class honors from Oxford University, where he was a Marshall Scholar. Breyer received his LL.B., magna cum laude, in 1964 from HLS, where he was a *Harvard Law Review* editor.

After clerking for Justice Arthur Goldberg at the U.S. Supreme Court, Breyer served as Special Assistant to the Assistant Attorney General, Antitrust Division, Department of Justice and as Assistant Special Prosecutor for the Watergate Special Prosecution Force. From 1974 to 1975, he was Special Counsel to the Administrative Practices Subcommittee of the Senate Judiciary Committee. In this position he headed

the staff for Senator Edward Kennedy's investigation of the Civil Aeronautics Board—an investigation that helped to bring about airline deregulation. From 1979 to 1980 Judge Breyer was Chief Counsel for the Senate Judiciary Committee.

An Assistant Professor of Law at Harvard Law School from 1965 to 1970, Breyer became Professor in 1970, teaching here until 1980 in the areas of Antitrust, Administrative Law and Economic Regulation. Breyer was Professor at the Kennedy School of Government at Harvard University from 1977 to 1980.

In 1980 Breyer was appointed by President Jimmy Carter to the Court of Appeals for the First Circuit and became Chief Judge in 1990. He was a member of the U.S. Sentencing Commission from 1985 to 1989 and has continued teaching Administrative Law and Economic Regulation at Harvard as Lecturer in Law. In 1987 Judge Breyer received the American Bar Association's Annual Award for Scholarship in Administrative Law.

Judge Breyer is the author of *Administrative Law and Regulatory Policy* (with Richard Stewart), now in its third edition (1992); *Regulation and Its Reform* (1982); and *The Federal Power Commission and the Regulation of Energy* (with Paul MacAvoy) (1974). His latest articles include "On the Uses of Legislative History in Interpreting Statutes," 65 S. Cal. L. Rev. 845 (1992) and "Administering Justice in the First Circuit," 24 Suffolk L. Rev. 29 (1990).



Judge Stephen Breyer '64.

City of Joy, or Calcutta Confidential

By Brian Bendig

City of Joy has two intertwined plots that are best described as *The Razor's Edge* meets *The Grapes of Wrath*. The former story is Maugham's 1944 novel about an American who travelled to India to — anachronistically speaking — find himself. *City of Joy*'s anomic protagonist is a lapsed Houston doctor played by former hoofing wonder Patrick Swayze. After forming the idea that India is the place to get some enlightenment, Swayze's character arrives in a really unpleasant quarter of Calcutta, where he has various adventures.

One of these events involves encountering the Joad-like family of a former farmer from Bihar. The sub-plot constituting their story provides the film's genuine human interest and best acting. We meet the Ali family (a couple with three young children) as they journey to Calcutta in search of a better life. The father, who tries to provide for his desperate family by being a rickshaw driver, is wonderfully played by Om Puri.

Swayze's character and the Ali family end up together at the City of Joy, a free clinic run by another Westerner, an Irish nurse played by Pauline Collins. Together and with the help of various Calcuttan unfortunates, they fight the local villains who control the rickshaw trade and extort protection money from

their slum tenants. Swayze's character loses a lot in his interaction with the nurse, which mainly consists of treacly and stilted dialogue on the themes of his quest for purpose and desire to come to terms with what he considers egregious failure.

There are other problems with this latter-day Lord Jim. It is probably time for a moratorium on doctor films. More than this, Swayze's doctor must be the ten-billionth fictional Westerner to seek enlightenment in India. According to Hollywood and numerous authors, travelling to India for wisdom is as common as going to McDonald's for greasy gratification. But despite the purported ease of sub-continental wisdom, Swayze's character seems to need personal supervision by a professional guru. The good doctor gives up on book enlightenment, but it's no wonder, because as he angrily tosses his sage tomes into a hotel trash can, we see that they are nothing more than churlish and skimpy pamphlets of the kind passed out by deluded mystics in airports and on street corners.

City of Joy was directed by Roland Joffe, who has made a specialty out of the theme of cross-cultural contact. Two of

his main credits to date include *The Killing Fields* and *The Mission*. In *City of Joy*, Joffe sets his theme of Westerners out in the world into the venerable tradition of movies set in India,

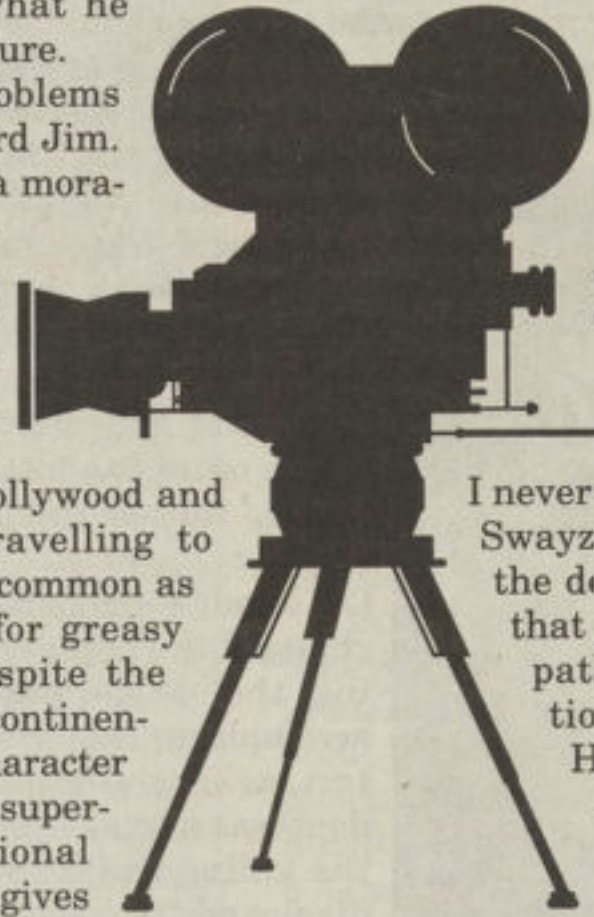
exemplars of which run the gamut from Gunga Din to Gandhi. These films all go in for imposing cinematography, and *City of Joy* is no exception. Calcutta never looked so grand and endearing.

City of Joy is extremely effective as a heart-strings-tugger, although I never developed much concern for Swayze's improbable doctor. It is the denizens of Calcutta's slums that generate considerable sympathy, although their tribulations are swamped by a Hollywood-standard rapturous ending. The final scenes are so affirming and blissful that the film jeopardizes its status as a multi-hanky weeper.

The film is also weighed down by clichés and obscure pretension. An example of the former is the flower that grows

in a box in the Ali family's hovel throughout the film. Purchased as a seed in the depths of the family's despair, it grows to be a beautiful accoutrement to the blissful finale. In the latter category is Theodore Gericault's famous painting *Raft of the Medusa*, which hangs on the clinic wall and depicts a bunch of shipwreck survivors clinging to a raft in stormy seas. Swayze's character fatuously muses on the meaning of the raft for the slum dwellers.

Although Joffe rather adeptly directs his Indian cast through various dangers and horrors, the film's pathos is given considerable help by Ennio Morricone's score. Morricone is perhaps the most skillful composer of music for film, and in *City of Joy* he once again masterfully complements a celluloid story with extremely evocative music. Morricone perfected his craft during the 1960s while collaborating with such directors as Sergio Leone and Gilo Pontecorvo. Morricone's music for Leone's allegorical Westerns such as *A Fistful of Dollars* and *Once Upon A Time In The West* is rightly regarded as brilliant in its augmentation of those films' visuals and characterizations. In *City of Joy*, Morricone's score perfectly accents the story.



Faculty Factions Spar Over Revue

continued from *REVUE*, page 1

misogyny."

The Group of Fifteen also drew a connection between the *Revue* and the hiring practices at HLS. "A central factor in that hostile environment is a faculty whose composition, and whose processes of self-replication, profoundly undervalue the contributions of a more genuinely diverse group of teachers and scholars could make." The Group also requested that "the current Appointments Committee be replaced by a new Committee committed as a first order of business to the creation of a truly diverse and broadly representative Faculty." In addition, they called upon the Dean to appoint a Special Committee to examine the *Revue* incident and make recommendations to the HLS community.

Five other faculty sent out a letter the same day indicating that while they did "not agree with all of the implementing recommendations with which the letter concludes," they nevertheless agree with many of its characterizations of the Law School.

Charles Fried fired right back at the Group of Fifteen's letter. He argued that, "It is incorrect to criticize the Appointments Committee. . . And it is unfair to use the deplorable episode of the Law *Revue* parody as a stick with which to beat the Dean, those faculty members who do not share the agenda of the fifteen, and the appointments committee." Fried claimed, "There is about as much connection between the *Revue* and our hiring policy as there is between Members' overdrafts in the House bank and the budget deficit."

The Dean responded the same day that, "I respect the colleagues who signed the open letter of April 20th" but then went on to criticize them. He wrote that "to state that the parody reflects misogynist attitudes shared by many is unfair." He also commended the current Appointments Committee and wrote that interrupting the committee's work would set us back, not forward."

Three days after the Group of Fifteen distributed their letter, a group of twenty-one professors wrote an open letter "lest silence be interpreted as agreement with its various assertions..." They criticized the Fifteen's assertion that the HLS environment is pervaded by sexism and misogyny, writing, "Such conclusory accusations neither help the community to deal with a painful situation nor assist in identifying particular ways in which

the School can be made more open, civil, and welcoming for all students."

Rather than just sending his reactions to the HLS community, Professor Alan Dershowitz published his critique in the *L.A. Times* and sent it to the Faculty F.Y.I. After describing the *Revue* as "a parody in somewhat poor taste," Dershowitz went on to argue that, "the overreaction to the spoof is a reflection of the power of women and blacks to define the content of what is politically correct and incorrect..." Dershowitz concluded that, "What is wrong at Harvard is that for too many radical professors and students, freedom of speech for those who disagree with them is 'just not (their) thing.'"

Disturbed by Dershowitz' article, Professor Laurence Tribe distributed a memo to the Faculty. He wrote that, "It's quite remarkable to me how easy it has become for people to parrot the argument that, on 'liberal' campuses like ours, it is the conservatives — the beleaguered members of the Federalist Society in particular — who feel belittled and silenced by an atmosphere in which only feminist views, advocacy of affirmative action, and the like may freely be expressed." Tribe contends that, "In the name of courage and iconoclasm, Alan repeats a conventional wisdom that seems to me all convention and little wisdom."

Dershowitz struck back quickly, quoting Tribe's opinion in *Falwell v. Hustler Magazine, Inc.*, 485 U.S. 46 (1988). Dershowitz claimed that Tribe had said that the *Hustler* case, "pits pomposity against bad taste" and that "[t]he winner of that titanic struggle is free speech." Dershowitz wrote that "This demonstrates again how differently we feel when offensive speech hits close to home."

Professor Tribe wasn't the only one to disagree with Dershowitz. In a letter to the faculty dated April 23rd, Professor Elizabeth Bartholet criticized Dershowitz, among other professors, for trivializing the *Revue* incident.

Bartholet addressed "the institutional response and lack of response" to "the *Revue* incident and charges of related matters involving treatment of women at the Review." Writing that "these phrases have a visceral impact on me," Bartholet continued that "They indicate to me that you don't begin to get the point as to why there might be something seriously wrong with making a joke about the violent murder of a woman. . ."

Griswold Nine Open Hearing Set for Monday

continued from *HEARING*, page 1

After receipt of the letter, the Ad Board agreed not to pursue charges against the three students. Instead, it will insert into each student's file a record of the incident consisting of the student's written response to the Board's inquiry along with a copy of the Board's public statement published in the April 23 *Adviser*. The record in the students' files carries no weight unless the student receives a warning or is charged by the Administrative Board in the future. If the student is never involved with a warning or charges, the record disappears. Although similar to a warning in its potentially retroactive effect, this record does not give the students the benefit of an evidentiary hearing.

In addition to dropping charges against the Fried Three, the Ad Board admitted it had misidentified Ashley Barr '94 as one of the protesters. Although the Board eliminated Barr from consideration for action at its April 15 meeting, she received no written confirmation of this fact until April 21. Barr called Dean Wald's office on April 17 to inquire about the Board's decision, and at that time, she was given oral assurances that the Board would not pursue charges against her.

Last week, Barr received a personal letter from Professor Fried, in which he communicated his "expression of regret" for any anxiety he caused her.

Public Hearing for Griswold Nine

The public hearing for the Griswold Nine will take place on Monday, May 4, at 4:15, tentatively in the Ames Courtroom. Technically, all defendants before the Ad Board have the right to a public hearing. The Griswold Nine, however, are the first defendants to exercise this right in the history of the Ad Board.

The late date of the hearing seriously concerned all nine defendants. Three of the nine have exams on May 7 and, through their counsel, all the defendants had requested that the hearing be moved to an earlier date, preferably April 27. According to Elizabeth Moreno, '92, one of the Nine, several hundred students signed a petition requesting that the date for the hearing be moved back. The Board denied the request, citing scheduling difficulties for individual Board members and a prior commitment of the Board itself.

Cicchino explained the Nine's desire for a public hearing, "Prompting open, honest, and full discussion was one of the purposes of the nonviolent action that the Nine undertook. Since they have nothing

of which to be ashamed or afraid, they naturally sought a public hearing. This hearing will stand in marked contrast to the clandestine and coercive quality of much of the Dean's behavior throughout this matter."

Cicchino commented on reports that Dean Clark is unhappy at the prospect of a public hearing, stating, "I have no confirmation of those reports, but as a general principle I take seriously the words of the Scripture: 'Those who live in darkness fear the light.'" The Nine are urging all students to attend the hearing.

Board Accused of Abuse of Due Process

The Nine have alleged that the Ad Board has abused student rights. William Anspach '93, a member of the Nine, claims that the Dean and members of the Dean's staff met privately with the Ad Board (with the exception of Arthur Miller, who was out of town) on the morning of April 7. At that ex parte meeting, the Dean and members of his staff testified as to their impressions of the protest. Anspach claims that the Board heard testimony from members of Dean Clark's staff in the Dean's presence.

Coercion was possible, because the staff in the Dean's office are not members of the collective bargaining unit at Harvard and, therefore, have no union representatives between themselves and the Dean. At one point in the April 7 hearing, the Dean is alleged to have responded to a request by a member of the Administrative Board with the words, "I want them (the students) suspended!"

The Griswold Nine have confirmed that, at a meeting of their counsel and a subcommittee of the Ad Board, the April 7th ex parte hearing was addressed only after counsel for the Nine raised the issue. The Ad Board confirmed all of the basic elements of Anspach's account, except the Dean's demand for suspension.

The Ad Board agreed to consider only evidence which becomes part of the record as a result of the May 4th hearing. After extensive discussion, and expressions of "profoundly troubling" concerns over due process abuses, the Ad Board agreed to ignore the testimony of the April 7th ex parte hearing.

Anspach commented about the decision, "That's a little like promising that a bell will be unring. I suppose the Ad Board will do its best, but, quite frankly, I am deeply disturbed by the due process abuses I perceive in the way we have been treated. We've asked our counsel to keep communicating this concern to the Administrative Board."

One-der Years, Mo Knows Triumph in Basketball Finals

By Frank Yokoyama

The final whistle was blown and the HLS intramural basketball 1992 season came to an exciting end last Monday night. And after the combatants had given it their all, The One-der Years and Mo Knows triumphed.

During the "A" League playoffs, top-seeded The One-der Years and the sixth-seeded Black Panthers defeated each other once, forcing a winner-take-all third confrontation between these two high-intensity teams. The Panthers won the playoff just one hour before the final game, and they had momentum on their side. Bill O'Dowd's The One-der Years had taken the loss seriously and were hoping to move their game up a notch.

The Years took a quick lead and never gave it up, although the Panthers made them work for it. The big man O'Dowd '94 was unstoppable inside the paint, scoring, rebounding and swatting. During the game, O'Dowd also showed the Panthers that he could hit the outside shot. However, O'Dowd gives a lot of credit to teammate Chris LeHane '94, for good cause. "Magic" LeHane's ball-handling was mesmerizing and his outside shot was hitting only net. But in the closing seconds, the Panthers' Earl Phalen '93 communicated that the Panthers would be back next season with a resounding slam dunk. The Years beat the Panthers 49-35.

O'Dowd said about his team's victory, "It was a hard fought game. Both teams played very well. We felt confident that we wouldn't lose twice in the same day, but we were concerned because the Black Panthers gave us the most trouble during the season." The Whoopie Cushions' Bob Daut '93, ruing his team's early demise, lamented, "Unfortunately, we didn't get enough forfeits to win the title."

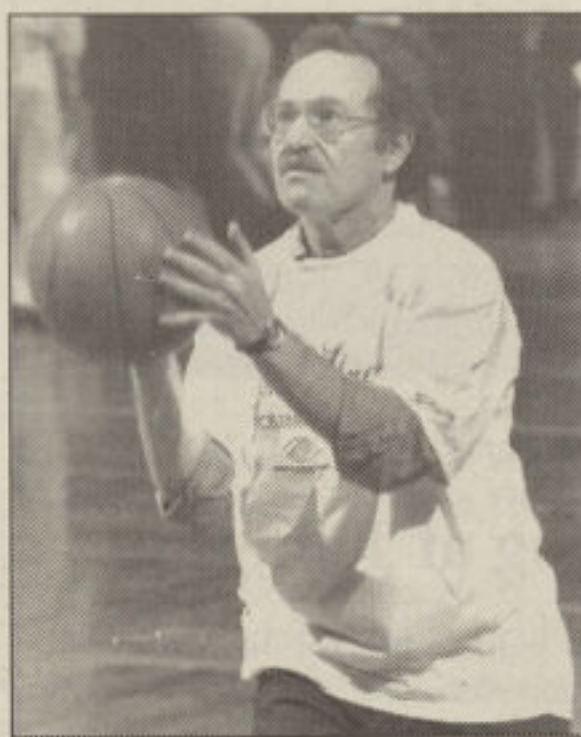
Mo Knows takes B League Crown

Top-seeded Mo Knows became the undefeated "B" League 1992 champs after beating the second-seeded Well-Hung Jury 40-25. Both teams play a fast-paced game, but Mo Knows played faster to take the early lead and never looked back. Although the Jury hoped to avenge a loss to Mo Knows during the regular season, the Jury's usually strong outside shooting was off and the rest of their shots refused to fall.

Meanwhile, Mo Knows' Clark "The Sneezer" Goodman '93 showed the Jury how to shoot the outside shot. Jury captain David Jacobs '94 said, "We played our best game against The C.B.A. in the semifinals. In the finals, Mo Knows played great defense and we couldn't buy a basket. However, we have a great bunch of guys and we'll be back next season." Goodman said about the playoffs, "All the teams played with a lot of intensity. It feels really good to have gone undefeated. We lost in the finals last year [to Story Two] and we didn't want it to happen again." Mo Knows controlled the ball and the boards throughout the game, and when it was over, like The One-der Years, Mo Knows had won the bragging rights.

Mo Knows had a much closer call in their semifinal game against the Black Panthers II earlier that night. In an emotionally draining battle, the game was tied when Goodman was fouled with two seconds left in regulation. Dramatically, "The Sneezer" hit the second of two free throws to give Mo Knows a one-point victory, sending them to the finals.

Mo Knows captain Harry Rothenberg '93 said about his team, "We just really wanted to win the championship for our big guy Lance Hirt, because he is graduating this year and he swore that if we had lost, he would have repeated his last year."



Dershowitz Wins B-Ball Charity Shootout

By Eric Blair

Harvard Law School's resident B-ball "superstar," professor Alan Dershowitz emerged victorious from the March 22 celebrity Shootout at the Boston Garden during halftime of a Celtics-Golden State Warriors game. Competing against renowned Boston sports attorney Bob Woolf, Dershowitz successfully nailed 13 free throws in 90 seconds, easily besting Woolf's total of seven.

While initially hesitant to participate in the contest when challenged, uh, invited by Woolf, Dershowitz eventually agreed, with his decision encouraged by his receipt of several telegrams from Woolf through the course of the week preceding the shootout. Dershowitz responded to the telegrams by focusing determinedly on honing his shooting skills to their peak ability.

Dershowitz' halftime performance was also aided by the Celtics' agreeing to allow him to take some practice shots at the Garden before the game. Showing up at the arena wearing a custom T-shirt with a slash through a picture of Bob Woolf on the front and the words "Who's afraid of the big bad Woolf?" on the back, Dershowitz acclimated himself to the unfamiliar Garden environment and made short work of his opponent at half-time.

The only slightly down side of the evening for Dershowitz was his reportedly receiving a somewhat less positive response from the Garden crowd upon being introduced than did Woolf. In trouncing his rival at the free-throw line, however, Dershowitz would certainly appear, in the end, to have vindicated his presence at the event.



Race Judicata: A Running Success

By Bill O'Dowd

Special to the RECORD

The battle for the title of Harvard Law School's Greatest Athlete was no contest, literally. Anne and Lisa were scheduled to settle the score in Boston last Saturday at the annual Race Judicata, a charity run sponsored by the ABA with all proceeds going to Greater Boston Legal Services.

Unfortunately, Lisa contracted a rare 48-hour spinal disease which left her immobilized from the waist down last weekend. That left Anne Curi, a One-L from Section One, alone to compete against the rainy weather. In the words of Dick Vitale, it was an M-and-M all the way, baby. Mother Nature didn't stand a chance.

Anne blistered the 5-K course along the Charles River in a sizzling 17:24. With scouts from the United States Olympic Team on hand, Anne finished second overall and first among women. Said one scout: "That was the best athletic performance I've seen since Carl Lewis in '84." Upon claiming her prize of a free pair of running shoes, Anne thanked all her sponsors, including Gatorade, Nike, and Gilbert's Outlines.

Other strong performances were turned in by Harvard runners. Mike Gorman, also a One-L from Section One, returned in under twenty minutes to finish in fifth place overall. Elizabeth Gorman, Mike's wife, was only a couple of minutes behind to finish in third place among women. When Bob Costas of NBC Sports asked Mike for the secret to his unexpected speed, Elizabeth chimed in: "He knew I was chasing him. This is the

first time I couldn't catch him."

Jennifer Brown '93 could hardly contain her enthusiasm for the race. The first Harvard runner to find her way to Artesani Park, a full half-hour before the race, Jennifer said later: "This was a dream come true. Some people may prefer the Boston Marathon, but I've wanted to run in Race Judicata ever since I was a little girl."

Dave Kinkopf (yet another One-L from Section One) led a contingent of four from Wyeth Hall to the event. Calling yours truly at 11 P.M. on Friday night to register for the event, Dave was driving home when he was clued in by the spotlights and fireworks marking the starting point of the next morning's race. "Once I saw the flashing lights out my window and realized it wasn't another speeding ticket, I knew what I had to do."

This year's Race Judicata once again proved true the old sports adage that, with all due respect to Kevin Costner, "if you organize it, they will come." Twenty-three runners from HLS contributed \$10 each to the race. Over another \$100 was raised from individual sponsors. All runners and donors of \$10 or more will receive a collector's item special Race Judicata T-shirt.

The real winner, of course, was Greater Boston Legal Services. With half the publicity time as the other local law schools, HLS donated \$351 (with another \$200 hopefully coming from our ABA Budget), a total second only to Suffolk Law School, the host school this year. Thank you HLS for your generosity. We, the ABA Board for 1992-1993, look forward to more highly successful events in the upcoming year.

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Harvard Law RECORD

Founded in 1946

Robert C. Arnold
Editor-In-Chief

"Nothing is so powerful as an idea whose time has come."

A Different Way of Looking at Things

For the first time in our history, an openly gay columnist, Ed Joy, has contributed to our newspaper. I am proud to have been associated with this organization because of it.

Also, three weeks ago, for the first time ever, the HLS gay student organization, COGBLLI, had its own, public "coming out," by holding a rally in front of the Hark which was attended by over 300 members of our community. It was a beautiful, affirming experience and I am proud to have been around for that as well.

* * *

It has been an incredible year in many respects for HLS, as I suppose it usually is. This year seemed to eclipse the last, and I'm sure next year will eclipse this one. Although great things have happened, many horrible things have happened as they usually do too.

The events of the year, intensified in the last few weeks, reflect a deep-rooted bitterness that seems to run through the Law School's veins in a persistent, spiteful and self-destructive manner. Although they were feverishly contentious—in true Harvard Law School fashion—these very many incidents, involving students, faculty and the administration mark the most recent wave of a steady and inevitable, though difficult, transition. We are in the midst of a changing of the guards. We have moved irreversibly away from our past.

I don't mean to sound disparaging, just factual. The majority of the people in the Law School, let alone in the country, are not represented by our present leadership. We are not overwhelmingly of one persuasion. The 1990 census, for the first time in our history, revealed that one state, California, the most populous in the nation, has already become predominantly populated by people of color. That's not a disparaging condition, just a factual one. It's a reality we have to deal with. Sure, it is a collective reality, but we are, collectively, members of the HLS community, collectively, citizens of the United States, and of the world. Collectively, we seek human dignity.

The demographic shifts in the country are reflected on many levels here. We, the HLS community, are different than we were even ten years ago. One of the great things about the Law School is the diversity of our student body. People of all different stripes, shapes and sizes hold positions of prominence, leadership and respect amongst their peers. When I look to my left and to my right, I see something wonderfully non-problematic. However, when I look at the "power" structures, I see something profoundly disturbing.

As a popular folk artist once said, "The times, they are a changin'." We can no longer pretend that Harvard Law School, as an institution, can exist as it once did. It is futile and unproductive to resist the inevitable course of change. We talk about issues in lofty, Constitutional terms, but these inflated, hyperbolic and silly exchanges undermine the real dialogue about human dignity.

Unfortunately, too often, we place people in categories around here. We focus, too often, on what seem to be "trivial" and counterproductive things. We don't do this to be divisive. We do it to make a point. The path through the difficulties of our transition is one of recognition, acknowledgment, celebration and acceptance of the fact that "excellence" comes in all shapes and sizes. We are all different, yet we are all human beings, of human dignity.

Good luck on exams. Outta here!

Ra

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The Harvard Law RECORD (ISSN 0017-8101) is a publication of the Harvard Law RECORD Corporation, a non-profit, independent, student-owned and run corporation of the Commonwealth of Massachusetts. Harvard Law RECORD, Harvard Law School, Cambridge, MA 02138-9984. Telephone (617) 495-4418. Fax (617) 495-8457.

The RECORD is published on Fridays, sometimes weekly, sometimes bi-weekly, depending on the academic calendar, throughout the academic year and is distributed free of charge to Harvard Law School Students and at a minimal charge to Harvard Law School Alumni. Copy and photo deadlines are 5:00 pm, on the Monday preceding publication. Advertising deadlines are 12:00 pm, on the Wednesday preceding publication.

Submissions may be sent to The RECORD at the above noted address, dropped in the RECORD box located in Harkness Commons, or left in the Hark box of Robert Arnold (2L). All copy must be typed, double-spaced, and submitted in a paper copy and on a computer disk (Macintosh or IBM). The RECORD reads and appreciates every letter we receive. We will return your disks. Off-campus subscriptions are available. Subscription price: \$20.00 year mailed; \$30.00 year mailed outside U.S. Individual copies: 50 cents at the Law School, \$1.00 mailed. Second-class postage paid at Boston, MA and additional mailing offices.

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



• Letters •

Professors' Attack on Revue "Just Plain Silly"

To the Editor:

I just received "An open Letter to the Harvard Law School Community," which was written and signed by 15 members of the Harvard Law faculty. In short, I am appalled at the unscholarly and, at times, ludicrous nature of this letter. For example, the professors write that portions of the parody "personally attack identified women editors, vilifying them for defending Professor Frug's ideas."

As a student who is not a member of the *Law Review*, but has nonetheless read the *Revue*, I can assure the concerned faculty members that all editors, male and female, are identified and spoofed. Nobody, however, is being vilified. To suggest, as the open letter does, that certain women were singled out because of their defense of Professor Frug's ideas, is at best dishonest. At worst, it tends to show the underlying problem that has characterized this situation: the exploitation of this tragic incident by those with their

own political agenda. The references in the parody to Professor Frug's tragic death were clearly disgusting and tasteless. All persons involved agree and have apologized. To then, however, make sweeping generalizations about allegedly endemic misogyny in the institution as a whole, as some students and the authors of this letter have done, is plainly irresponsible. It rather shows the desire of some faculty members to use this occasion and the justifiable pain and anger felt by many to serve their political ends, namely linkage of this incident with the wholly separate issue of faculty hiring.

The Professors decry the alleged acceptance of rampant sexism and misogyny by the HLS community. The response of the community to this event, however, belies this assertion. A wide spectrum of voices, from Dean Clark to CCR, have universally condemned the parody. Even the writers themselves have apologized for their mistake. Where are the voices

condoning sexism and misogyny at HLS?

The latest letter by the Faculty members represents a calculated overreaction to the event, designed to fan the flames of discord, instead of helping the healing process. Professor Tribe, in particular, has uttered a remarkable string of incendiary statements on the issue. For Professor Tribe to compare the authors of the *Revue* to Ku Klux Klan members is just plain silly. For him to invoke the memory of the Holocaust in this context goes beyond the bounds of reasoned discussion. It is rather grotesque and tasteless. I urge him to apologize to the *Law Review* editors, some of whom are Jewish and will have experienced particular pain at his comparison, and the *Law School* at large, which deserves better from somebody who wants to sit on the Supreme Court one day.

Henry J. Kerner '92
April 23, 1992

Newspaper Shirks Duties to Student Body

To the Editor:

It appears to me that the RECORD is shirking its duties in the *Law Revue* controversy. The last issue of the RECORD actually published the first page of the Frug parody ("The Revue in the Center of Controversy," 4/17). The RECORD should do more than this: it should publish the entire piece.

The HLS community has been bombarded for the last three weeks with denunciations and outcry from a myriad of individuals who are outraged and indignant about the parody. We have been privy to nearly three dozen pages of commentary not only from penitent *Law Review* members, but from students, faculty members, and organizations, all of whom wish to sway our opinion on the matter. Flyers and mailings have attempted to induce us into outrage, often through the use of

selective quotations. In short, a massive public opinion campaign is being waged over an article that almost none of us have even had the opportunity to read. This is an insult to the intelligence of everyone at HLS.

Those doing the denouncing have presumably read the entire piece. But their exegesis is nothing more than hearsay: the general HLS community deserves actual evidence. We deserve the opportunity to read the Frug parody. I did not think this was the case at first, when it appeared that the *Law Review* was going to handle the matter internally. But now that dozens of pages of condemnation have been foisted upon all of us, we deserve nothing less than the opportunity, as rational individuals, to make up our own minds and to read with our own eyes what has caused this unprecedented clamor on

campus.

I appreciate the pain that reading the parody may cause members of the community, and I am sure that we will all be shocked by it. I also appreciate the argument that Mary Joe Frug must not have died in vain. But I am sure that the last thing she would have advocated was censorship and the manipulation of an uninformed public. It is therefore in the spirit of allowing true debate and fostering individual inquiry, that the RECORD should publish the Frug parody in full. As a newspaper, the RECORD has a duty to keep the community informed. Until we all have the chance to read the Frug parody itself, this duty will have gone unfulfilled.

Jason Levine '94
April 24, 1992

Students Present a Vulgar Obstacle to Diversity

To the Editor:

Appearances are everything.

As my daily routine takes me through the Law School every day, I have become aware of a rather vulgar obstacle to diversity at your institution; namely, the habit of students and other members of your community who insist on locking their bikes to the rails of the wheelchair ramp outside of Pound Hall. Someone needing the assistance of a handrail would not only have to struggle to go around these barriers,

but might even injure herself in the process.

To many, wheelchair ramps and their handrails are symbolic and practical. They allow people with disabilities to enter buildings. They allow people with disabilities to enter institutions. Hence, they also may make a statement about social justice. What does the ramp outside of Pound Hall symbolize? An obvious sign clearly states the purpose of this structure and that it is not a bike rack. Still, numerous bicycles impede its

use. In fact, as I pass by every weekday, I have yet to see this wheelchair ramp free of the bicycles of the able-bodied.

I would challenge the HLS community to allow barrier-free access for people with disabilities. Simply by locking bicycles somewhere else, institutional accessibility is not only increased, but the cause of those who call for diversity would gain that much more integrity.

Charles Wyatt, Jr. (MTS '90)
April 27, 1992

Only Voters Can Save the Right to an Abortion

The 'Anti' Crowd is Winning on the Streets

By Susan Estrich '77

ROE v. Wade is already dead. Whether the Supreme Court finally overrules it — this year or next — is a formality, the signing of a coroner's certificate. Roe will not be lost in the courts, because it has already been lost on the streets.

In much of America, there is no right to abortion. In 90 percent of the rural counties and 50 percent of the urban ones, there are no clinics or hospitals willing to perform an abortion. The only doctor who performs abortions in North Dakota lives in Minnesota. The

The real question in this election year is not whether the high court will formally overrule Roe vs. Wade...

number of hospitals offering abortions dropped 50 percent from 1977 to 1988, while only 13 percent of the nation's residency programs now train young doctors to perform first-trimester abortions.

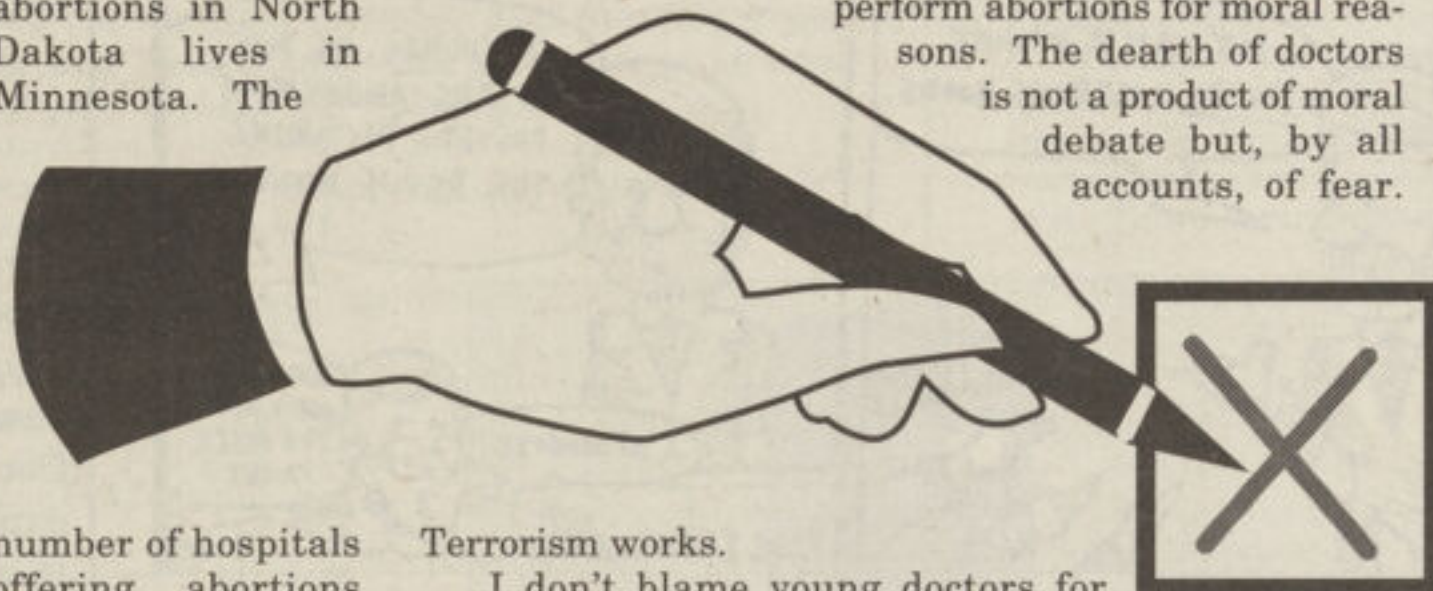
The tactic of making access most difficult for women who have the least power in our society — for the young, the poor, for women who don't have private physicians willing to help them — has been politically and judicially accepted and encouraged. If middle-class women had

Susan Estrich is presently a professor of law at the University of Southern California. She is a former professor here at HLS, served as campaign manager for Michael S. Dukakis '60 in 1988, and was the first woman elected to the position of President of the Harvard Law Review. This article is a reprint, with permission, from the April 26, 1992 Boston Globe.

lost their rights first, it would be another story.

But at least laws are passed by democratically elected majorities. What is most pernicious about the loss of abortion rights in this country is the extent that it has been a triumph of a small minority — elected to no office, appointed to no court — practicing the politics of coercion, with a wink and a nod from those who should know better.

Doctors have a right not to perform abortions, if doing so would violate their own moral precepts. But there is no evidence that the medical profession woke up one day and decided, en masse, not to perform abortions for moral reasons. The dearth of doctors is not a product of moral debate but, by all accounts, of fear.



Terrorism works.

I don't blame young doctors for refusing to perform abortions — I'm not sure I'd have the courage to face the threats and pickets, let alone expose my family to them. But you shouldn't have to be a hero to be gynecologist.

Last week, when Operation Rescue moved into Buffalo, N.Y., invited by that city's mayor to violate its laws, abortion-rights activists were not relying on the courts or the politicians to keep the clinics open. They've formed human rings of their own, proving two sides can play this ugly game. I would hate to be a 15-year-old, pregnant rape victim in Buffalo.

But you can't form human rings around every doctor's office and every hospital in America. Operation Rescue is not going away. Louisiana, Idaho and Guam have already passed laws even more restrictive than the Pennsylvania law currently being argued before the Supreme Court. The real question in this election year is not whether the high court will formally overrule Roe vs. Wade — it will, but probably next year in the Guam

case — but whether the majority in this country will use their ballots to take control back from the gangs now terrorizing doctors, frightening women and denying basic rights.

The abortion issue is a painful and personal one for most Americans. They are not *for* abortion. They are troubled by the number of abortions in this country. They want to keep the government out of the decision because they view it as an individual, moral choice. The challenge for the abortion-rights side is to convince voters to treat this personal, moral decision as a public-policy issue that should influence their vote.

...but whether the majority in this country will use their ballots to take control back from the gangs now terrorizing doctors, frightening women and denying basic rights.

What makes the task more difficult still is the question of whose ox is being gored. The abortion issue should obviously work best for the abortion-rights side in those states where there is a strong abortion-rights majority — states like California, which will probably be the critical battle-ground next fall. Will California's abortion-rights Republicans desert George Bush because of what is happening to young women in Kansas City and Buffalo, or what will happen in Pennsylvania, Guam and Utah?

We know what the activists will do. We know what the Supreme Court will do. The question now is what the voters will do. They are the only ones who can restore the protections of Roe vs. Wade.

Fenno

Fenno was really cutting it close this time - April 28 and he hadn't even bought any of his books. "No sweat," he thought, as he ran a regression analysis of Pr. Whitebread's last twenty Law & Oppression exams. "Once I know the questions, all I need to do is go memorize the model answers on reserve in Langdell," he said confidently. "Thank God for Thorndike!" said Fenno, referring to his old college roommate who was now at M.I.T. and gave him the regression software. In no time he was off to the library to look up the answers.

"One down, three to go," he said, as he finished photocopying the model answers. "O.K., where's the *U.S.A. Today*?" he asked the reference librarian, "they've got a great three part series on *L.A. Law* that I want to use for my paper for my Law & TV seminar." Shocked that Langdell didn't carry *U.S.A. Today*, Fenno stormed off to the Square to buy a copy, "Ha, they call this a world-class library. How's a guy supposed to keep up with the box scores? I knew I should have gone to Yale!"

After a few drinks at the Boathouse, Fenno got down to business for his exam in Equitable Remedies and Other Arcane Stuff. "Well, I've got the old geezer's hornbook, a photocopy of every one of the 47 articles he wrote before World War II, and my father's classnotes and outline for the Fall of 1962, I should be set," said Fenno as he rummaged through his notes.

After a long afternoon of work, he finished his paper on *L.A. Law* and had memorized most of his Law & Oppression answers. "God, it's almost

6:30! I promised Betsy Bubblehead I'd take her to the Harvard Club tonight. Those Wellesley chicks, they dig the H-Bomb," said Fenno as he rushed out the door to meet Betsy as she got off the bus.

After a long night, Fenno rolled into the library at about 2:00 to start studying for Equitable Remedies. "Lord, Collateral Estoppel, Merger, what is all this stuff!" he cried. "Another good afternoon of work left Fenno confident and ready for his exam the next day. Fenno had every intention of reviewing his notes again after dinner, but when his old college pal Biff Wentborne IV called to tell him he was in town, Fenno's notes got about as much attention as a student with a question at the registrar's office.

Fenno's two exams didn't go quite the way he hoped. "The nerve of those guys!" he fumed. "To actually change, change an exam after all these years! Whatever happened to the expectations of the parties?" he cried in disbelief. Well, in any event, his paper was in and two exams were over, so he treated himself to a hearty meal at Nick's to celebrate. As he sat there digesting his Double Cheeseburger Special, he thought to himself, "I suppose I ought to look at the Gilbert's for Fed Courts before the exam tomorrow."

Quote of the Week

"Hey hey, ho ho, this sexist shit has got to go."

— Chanted at the Take Back the Night rally

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Liabilities

By Paul Taylor



GROMM: Barbarian at Law

By Chris Spagnoli



Basketball Playoff Results

A League (double elimination)

SEMIFINALS

Black Panthers (1 loss) def. One-Der Years (undefeated)

FINALS

One-Der Years (1 loss) def. Black Panthers (1 loss)

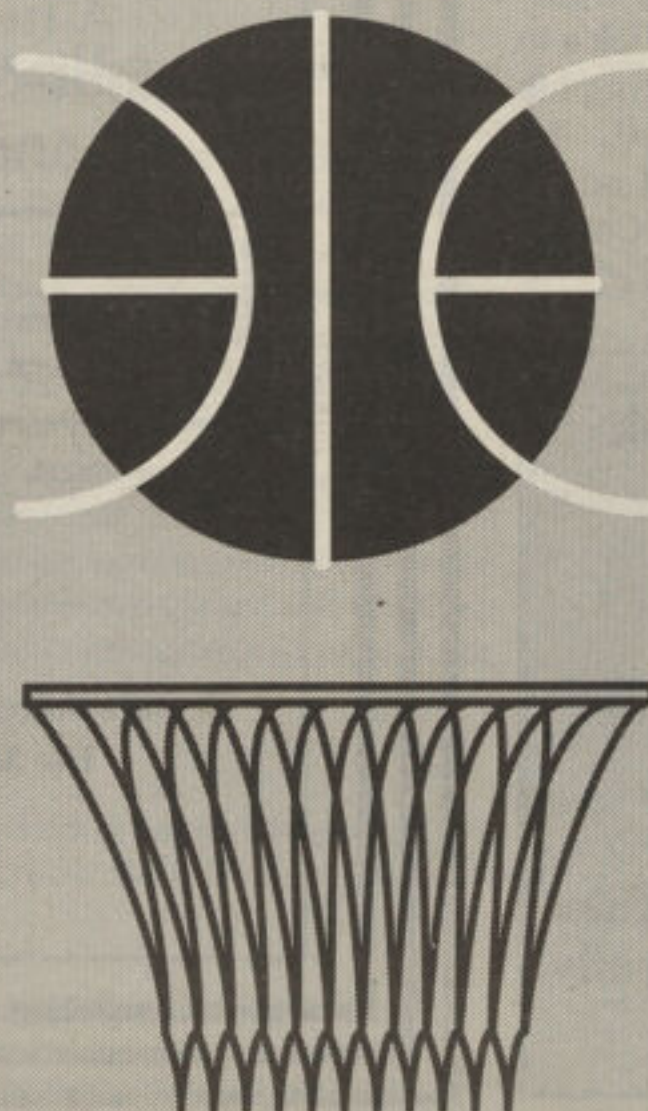
B League

SEMIFINALS

Mo Knows def. Black Panthers II
Well-Hung Jury def. The CBA

FINALS

Mo Knows def. Well-Hung Jury



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CALENDAR

Monday, May 4

Jonathan Kozol will speak from 7-9p.m. at Longfellow Hall 100. Mr. Kozol is the author of *Savage Inequalities*, *Rebecca and Her Children*, *Illiterate America*, and *Death at an Early Age*. Sponsored by the Forum on Law and Education and Professor Gary Orfield.

Wednesday, May 6

Criminal Justice Institute Speakers Forum presents "When Women Accuse Men," a panel discussion from 4-6p.m. in the Ames Courtroom. The panel will explore issues of gender and race in a number of highly publicized accusations this year, including the St. John's rape trial, the Anita Hill-Clarence Thomas hearings, the William Kennedy Smith rape trial, and the Mike Tyson rape trial.

REMINDERS

The Deadline to apply for the Charles Hamilton Houston Fellowship is May 15. Interested 3Ls should contact the Graduate Program in ILS 203

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Graduating students: June 5

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• Letters (Continued) •

Clark Lacking Self-Confidence in his Abilities?

To the Editor:

Like many other members of the HLS community, for the last few weeks I have been racking my brain trying to come up with an explanation for Dean Clark's highly offensive statement to the *Wall Street Journal* that the diversity movement on campus results from a lack of self-confidence by beneficiaries of affirmative action.

My initial thought was that Dean Clark was simply trying to take a swipe at women and minorities by

suggesting that somehow they ought to lack self-confidence. But after additional reflection I realized that the Dean is merely extrapolating from his own experience as a beneficiary of affirmative action. When the Dean attended HLS there was de facto affirmative action for white men, and thus, by and large, he did not have to compete with women and people of color. Perhaps this has caused him to lack self-confidence about his own abilities. (If he had a self-

confidence problem to begin with, you can imagine the doubts he must have given the difficulties he has encountered as Dean.) Thus, instead of merely dismissing the Dean's remarks as hostile or insensitive, we should be more understanding. Don't worry Dean Clark, you probably would have done fine even if you had to compete on an even playing field.

Andrew Strom '93
April 27, 1992

Free Speech: Cornerstone of Tolerant Society

To the Editor:

Nobel Laureate Friedrich Hayek once noted that competition is the source of truth. Free markets ensure that better products emerge through competition. Similarly, maintaining a free market in ideas through protection of free speech ensures that the best ideas win out through competition.

Therefore, the insecure and spiteful among us fear free speech, knowing their warped views cannot prevail in it. This insecurity mani-

fest itself last week in acts of vandalistic censorship. Nameless vandals repeatedly tore down fliers that bore Alan Dershowitz's editorial defending free speech in the furor over the Frug parody.

I responded to these cowardly attacks on free speech by making more than 1000 additional copies of the editorial, placing them in Hark-boxes and on bulletin boards. I will file Ad Board charges against anyone who removes copies on display, since such behavior violates

the Statement of Rights & Responsibilities.

Free speech is the cornerstone of a tolerant society. Censorship deserves condemnation, whether it manifests itself in childish acts of vandalism or devious demands by law professors that students' self-expression be punished as "sexual harassment."

Hans Bader '94
April 28, 1992

Revue Shocks Former Editors

To the Editor:

As former editors of the *Harvard Law Review*, we were shocked and embarrassed to read about the offensive attack on Mary Joe Frug, that appeared in this year's *Revue*. The parody of her life and work was bad enough; the cavalier manner in which the article referred to her brutal murder was simply inexcusable. Not only did the article show a lack of judgment and maturity on the part of the editors involved — both those who wrote it and those who acquiesced in its publication

— it also showed a woeful disregard for the ongoing pain and suffering of Professor Frug's family and friends.

Having seen at first hand other productions of the *Revue*, we realize that it is sometimes difficult to determine what falls within the bounds of acceptable satire. This article, however, was not even a close call.

Signed by 44 Former
Members of the Law
Review, Classes '87-'91
April 24, 1992



Protestors Irrelevant, Immature

To the Editor:

If the students at HLS were as concerned about getting an excellent legal education and becoming excellent lawyers, as they are about the color or sex of the faculty, the general public would get better legal representation.

Faculty members in any school should be chosen because of excellence. An attorney should be chosen because he or she is the best and not because of sex, race,

religion or any other unimportant criteria. I would think that law students would have better things to do than to be involved in illegal occupation of offices, senseless parades and stupid lawsuits against the school.

Dean Clark is to be commended for his patience in dealing with the irrelevant, immature dissidents.

Leonard Robbins '44
April 24, 1992

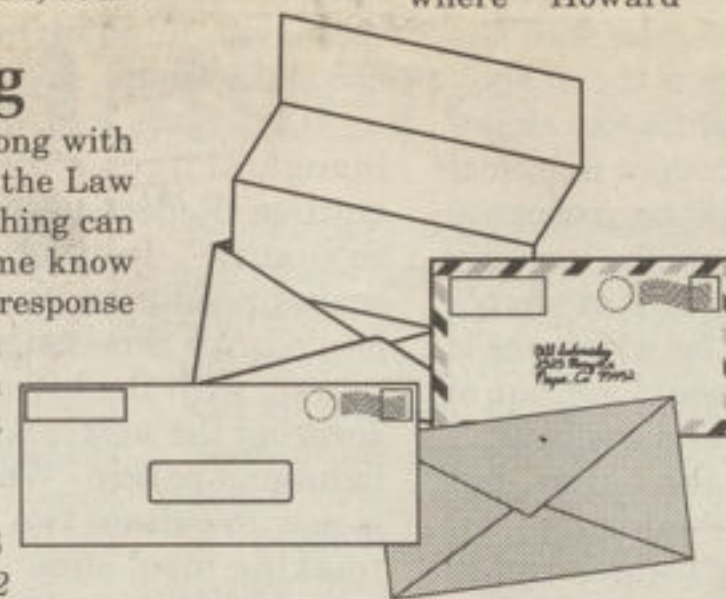
Something is Morally Wrong

To the Editor:

I was absolutely disgusted to read the recent articles about the *Harvard Law Review*. I am appalled that Harvard Law students could be so cruel, grossly insensitive, and sexist. I am also appalled that no one involved with the *Revue* had the common sense or common decency to stop the article from being published. Some-

thing is seriously wrong with the moral climate of the Law School if this sort of thing can happen. Please let me know what is being done in response to this incident, which reflects badly on every HLS student and graduate.

Lauri Donahue '86
April 14, 1992



Gardner has been working on his Theory of Multiple Intelligences: intelligence being measured not only by math and verbal ability, but also by a person's aptitude for music, art, spatial relations, linguistics, body kinesthetics, interpersonal relations, and intrapersonal knowledge (the ability to understand oneself). Gardner has implied that the last two factors are probably the most important for success in life, including, no doubt, the legal profession.

I am confident that if Coben and Fenyo had been measured on Gardner's scale, they both would have been found lacking in the area of interpersonal relationships. Otherwise, they certainly would have been incapable of writing that incredibly insensitive article. The admissions committee would be well advised to review its criteria for admissions in light of the recent research being conducted by Howard Gardner! The fact that these two young men could have reached such a pinnacle of success, and still not have developed a sensitivity for others, is the real tragedy as I see it.

Elizabeth af Jochnick, M.ED.
Harvard '59
April 25, 1992

Professor Jackson Denies Assaulting Student

To the Editors:

I am writing to correct the inaccurate reports that you printed about me in the last issue of the RECORD.

It is not true that I "attacked" a student or "violently shoved" a student or did anything remotely of the sort. What I did do was to hurry through a group of more than a hundred students assembled in the Griswold Hall lobby outside of my office, in much the same way that I might have pushed through a crowded subway or busy department store. To the extent that there was any physical contact between the students and me, I was more pushed against than pushing. Had the RECORD editors or staff taken the trouble to check their story with me or with Harvard police officers in the lobby at the time—or had they even carefully interviewed the students mentioned in the article (as I have now done)—they would have quickly discovered how misleading their account was.

Perhaps the most disturbing aspect of RECORD's coverage is the extent to which stories of this sort needlessly foment misunderstanding and exaggerate differences of opinion within the Law School community. In fact, I fully support the protesting students' goal of increasing the number of women and minorities on the Law School faculty, and have myself recommended several candidates to members of the appointments committee. I am, moreover, optimistic that the school will make substantial progress in its hiring on these fronts in the coming year.

Prof. Howell E. Jackson '82
April 28, 1992

Dave Sanchez '92 responds:

Prof. Jackson and I met on Wednesday, April 22. At that meeting, Prof. Jackson made many of the same claims he makes in his letter. He even used the same subway analogy. I replied, "No you pushed me, it was definitely a push." Prof. Jackson then said, "Well it was not an assault." I said, "No, it was an assault." He then said, "it was not an 'attack.'" I replied that maybe "attack" conjured too strong an image, but push and shove, those were words I was comfortable with. I want to go on record as saying that, in my opinion, Prof. Jackson was not, by any means, pushed against as hard as he pushed me.

I understand that Prof. Jackson was in a hurry, but I told him that I thought he chose the most confrontational route to his office. Professor Jackson replied that he always walked through sit-ins, and I repeated my sense that he then always took the most confrontational route. Prof. Jackson apologized and expressed his sincere commitment to the cause of faculty diversity. I deeply appreciate his commitment and do not want to seem unnecessarily antagonistic. Nevertheless, I definitely disagree with Prof. Jackson's characterization of the incident and am very curious as to the identity of the students he claims to have "interviewed" who would confirm his account.

Keith Boykin '92, an eyewitness to the incident, also takes issue with Professor Jackson's account of the events and stands by his original comments to RECORD reporters.

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Apologia For My Ideas

By Max Torres '92

Attentive readers of this publication might have gotten the impression that "Max Torres and *Peninsula*" concoct insensitivities to hurl at homosexuals, and others. They will be surprised to learn that Max Torres: has neither written for nor published in *Peninsula* for a year; does not have, and never has had, any editorial influence at *Peninsula*; and had nothing to do with *Peninsula's* homosexuality issue. I am listed on the masthead of *Peninsula* as a Guardian (a taxonomy that readers of Plato's *Republic* might recognize), and to some, that fact alone suffices to establish GUILT.

One undoubted sympathizer, however, will be the student whose April 14th cries of outrage filled my Hark box. Apparently, she was implicated as a sit-in demonstrator even though she had specifically chosen not to participate. I am implicated as a [choose your epithet] even though I deliberately chose not to write for *Peninsula's* homosexuality issue. She believed that her misidentification indicated the more general and substantive problem of a fundamental carelessness with the rights and lives of others. Amen. She believed that her reportorial coverage of, and active participation in, campus activism had marked her for targeting. I believe that my outspoken defiance of sexual-revolutionary dogma provoked those who could not answer what I have written to assail me for what I have not. She was outraged that her liberty to act has been compromised by selective prosecution. I am affronted that my opportunity to contend for the public mind in an unprejudiced forum has been compromised by name-calling. She believed that her inaccurate prosecution was designed to effect the chilling of student activism. I believe that my censure is devised to chill the thought—and barring that, the expression—of anyone who might be so impudent as to question the strident march of "tolerance." I can imagine her response to the suggestion that since she is guilty of dissent in general, she is punishable for specific acts of dissent for which she is not guilty, or that she should get out of the kitchen if she can't stand the heat.

I am responsible for the letter—but not its garish title ("Peninsula Not Gratuitous Gay Bashing") which ran in the February 28, 1992 issue of The RECORD. The gist of my letter was that (1) a quote that I had nothing to do with, but that was attributed to me anyway, and that purportedly illustrated *Peninsula's* effrontery, was actually a summary of Aristotle's opinions, (2) the Hitler-Duke poster campaign—though in keeping with the current rhetorical excess of analogizing everything that rangles or perturbs to the Holocaust and cross-burnings—was childish, and manifested the very brown-shirt tactics it attributed to *Peninsula*, (3) if there is a truth regarding the matter of homosexuality, or any other matter, it cannot be advanced by people dogmatically opposed to the notion of truth, and (4) while I accept homosexuals as they are, I neither accept what they do, nor the assertion that they must do it. A person is no more what he does than he is what he eats. I offered my thoughts publicly then, and now, only because certain writers have assumed too much about me while fulminating in print.

I was asked to write for the homosexuality issue of *Peninsula*, but declined for a number of reasons. I had lost sight of whom I was writing for, and, consequently, the sense of what good I was doing anyone by writing. I had lost faith in the possibility of rational discourse on campus, and did not wish to engage in irrational discourse. I was tired of endeavoring to provoke thought and reevaluation only to encounter personal attacks, silence, or comments such as "You might be right, but (1) it's too late to change, and/or (2) your ideas can be put to bad use." Finally, I consider homosexuality to be a symptom rather than a core prob-

lem, and it is core problems that I am interested in writing about, when I am interested in writing at all. I was perfectly content to move on to other things, and to keep my silence until, by keeping it any longer, I was permitting a disservice to thoughts which deserved a better fate than death-by-bullying.

I now wish to "speak my mind," because so many think they know it but do not. I thus extend an "apology" for my ideas, not in the modern sense of admitting guilt and asking for pardon, but in the classical sense of proposing that no guilt exists, and, hence, that no pardon is required. I proceed with the example and method of John Henry Newman—composer of the *Apologia Pro Vita Sua* (Apology for his Life)—before me, and present a history of my ideas, as I have expressed them in the pages of *Peninsula*. Like Newman, I write for my own sake and the sake of "my friends and of my foes, and of that general public which consists of neither one nor the other, but of well-wishers, lovers of fair play, skeptical cross-questioners, interested

mony between nature and normalcy, and the welcome use of medicine to cure sickness proves it. So, I wrote "In Defense of the Naturalistic Fallacy" for the second issue of *Peninsula*. The criticism was telling insofar as fertility is treated in post-revolutionary culture as an infirmity, like strep throat, which needs to be "cured" by contraception, abortion, and reversal of the procreative assumptions which underlie our law of families. Noting that my argument had been empirical, not moral, I offered commonplace evidence of the proposition that deviations from nature are not the place from which to construct social and cultural norms. For instance, the cultural norm of applying deodorant via aerosol spray erodes the ozone layer and consequently increases the risk of getting cancer; the social norm of meeting our energy demands with nuclear power threatens mass annihilation; the cultural norm of one-car-per-person pollutes our air supply, which leads to respiratory and cardiovascular ailments. Rights-based arguments are not sympathetic-

offend nature, with grave consequences for man and society.

My last article for *Peninsula*, published in May 1991, was entitled "A Family Affair," in which I plumbed the facts of *Michael H. v. Gerald D.* Over a three-year period, Carole, with infant in tow, pinballed between Michael, Scott, Gerald, Los Angeles, New York, Europe and St. Thomas. By infant Victoria's fourth birthday, she had two daddies, a guardian *ad litem*, and a psychiatrist. These people, in a special way, and the numerous people like them "in every corner of the country," are victims of the sexual revolution, particularly the little Victorias of the world, who (in the event they survive their mothers' wombs) are born into the chaos begotten by self-centered adults. The solution to this tragedy lies not in better contraception, safer abortion, or freer sex. Rather it lies in self-restraint, consideration of others, and respect for the full nature of sexuality.

One of the great exchanges in all of law, and perhaps the death knell for the sexual revolution, was the one in *Michael H.* between Justice Scalia and Justice Brennan—the revolution's judicial patron. In response to Justice Brennan's exertions on behalf of an adulterous father's "freedom not to conform," Justice Scalia noted that one man's freedom is another man's obligation. Such a "happy choice" as the expansion of one "liberty" of sorts without contracting an equivalent "liberty" on the other side is "rarely available." In other words, rights are a zero-sum commodity which are not created from whole cloth; they are reallocated to some citizens, and away from others. Over the past twenty-seven years, it has been the rights of procreators—who believe in the integrity of the whole person, and who cannot sanction the objectification of the body (whether in the name of liberty, freedom, pluralism, or any other talisman)—to live in a hospitable world, that have been reallocated away under the "harmless" guise of extending individual rights to those who will not conform. Somebody always conforms; the question is, "Who to whom?" The closet is never empty. The real issue is not whether it should be opened to permit everyone to enjoy equal liberties, but whether others should be further stripped of their liberties and forced to switch places. Thus, when any sexual-revolutionary issue—whether contraception, abortion, or the acceptance of homosexuality—is presented to the public mind as if one side is for greater liberty and the other is against it, a fraud is being perpetrated.

Moreover, none of the sexual-revolutionary battles, with which our contentious world is rife, can appropriate the sympathy forthcoming to victims of indisputable atrocities. This is not a battle between Nazis and Jews, or between Klansmen and Blacks. This is a battle between those who would hold the procreation line embedded in our understanding of family, and those who would replace it with a completely abstract formulation. While it is undoubtedly easier to effect a balance between the interests of a Hitleresque oppressor and a Christ-like martyr than it is between those who would maintain tradition and those who would discard it in favor of new equally "oppressive" traditions, the comparison is inapposite.

One of the true victims in modern political discourse is civility. Thus, it is not surprising that some disputants grasp neither the sublimity nor the necessity of ground rules such as: Love the sinner, hate the sin. But in light of the evident and devastating consequences of that principle's rejection, best evidenced by violence to gays and women, such ferocious opposition as has been engendered by the evocation of that principle is mystifying. The possibility of loving the sinner while hating his sin is what makes notions of tolerance and diversity plausible, and what underlies

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inquirers, curious lookers-on, and simple strangers, unconcerned yet not careless about the issue."

Two years ago, I composed for the inaugural issue of *Peninsula* an article entitled "Reflections on the Revolution in Sexuality." In brief, I argued that the sexual revolution parted the unitive and procreative dimensions of sexual intercourse, with the broader consequence of severing the abstract from the corporeal in human nature. What is in nature one, is now in culture two. Since the norm of "making love" sans "making babies" is now the rule in culture, but not the rule in nature, culture regards as normal what is not natural. I offered the example of homosexual relations which, given the norm of unitive-only sex, "cannot be considered abnormal. In fact, they are ideal: purely unitive sex without any risk of procreative consequences. When viewed [with]in the fuller context of nature, however, what fashions these relations ideally normal renders them inescapably unnatural." The juxtaposition of two words, "normal" and "natural," that usually agree in meaning mirrors a greater opposition currently existing between mind and body. Reality is presumed to be all in the mind. Therefore, should the mind decide that it is a woman trapped within the body of a man, the genitalia will be summarily dispatched. Hence, in the post-revolutionary world, the "liberated" body is actually mere chattel, enslaved to the dictates (often referred to as "choices") of a libidinous will that is culturally liberated from physiological exigencies. I concluded that the sexual revolution not only marked "a profound alteration in the human condition," but perpetrated a grave anthropological disorder on our species and culture, of which contraception, abortion, the acceptance of homosexuality, and transsexualism are symptomatic.

The anticipation of, and response to, our debut was fierce, both nationally and locally. At Harvard one pundit quipped of my "Reflections" that "[t]he naturalist fallacy in this argument is easy to discern. By the author's moral criteria, taking a dose of penicillin to cure strep throat is a profoundly immoral act." In other words, there is no necessary har-

ly received when advanced to justify violations of nature in these contexts. But "[b]ecause the promise of unbridled sexual gratification is so alluring, many are adamant to [deny] in the sexual context what they are eager to [advance] in the environmental one:" that nature must be respected in the construction of social and cultural norms. Among other consequences of denying sexuality's procreative dimension, I mentioned the increasingly hostile relations between the sexes, and the difficulty of finding a suitable mate with whom to begin a family. The revolution's social costs are imposed even on those who never wished to revolt.

I published three more articles in *Peninsula* which I shall describe in very brief compass. In "Kirk or Bork?" I argued one year before the Thomas hearings that "because liberal courts have been exceedingly [prepared] to impute their vision of natural law into the Constitution, and because that vision is so strikingly deformed, conservative jurists have been loath to promulgate their own vision [of the good]. . . . It is time for conservatives to meet liberals' assertions [about rights and substantive justice] head-on, and not to side swipe them on procedural grounds. Time, in other words, for conservatives to reorient themselves to the [natural-law] philosophy of Russell Kirk, and to leave the [legal-positivist] philosophy of Robert Bork behind."

In "Biology, Destiny, and False Freedom," I argued that attempts to liberate people from "biological slavery" were futile, as "physiology is inextricably woven into the fabric of personhood. My fundamental dispute with the liberationist project is that it presupposes an anthropology [more suitable to inert playthings like] Lego building blocks: [as if] unwanted 'accidental' aspects of personhood can, at will, be neatly detached from the whole without consequence. . . . [People are not] simple modular creatures, able to click their fecundity switches on and off with chemicals, limb implants, or surgical procedures without any corresponding harm to their persons or society." Nature does not offend the Constitution, as some contend. Rather, some constructions of that document

Change Must Begin at Harvard Law School

By Julie Su '94

Guest Columnist

After months of "legal writing" and supposedly learning to "think like a lawyer," it is refreshing to be able to write about something personal.

I am a One-L. I did not come here with the conscious intention of changing, or hope of improving, Harvard Law School. My decision to become involved with CCR and with AALSA is a very personal one, combining my ethnic identity, my personal values, my definition of "the best" legal education, and my outlook for social change.

As a child, although my memory stores some painful incidents starting with the playground taunts and all-too-familiar pulling of eyes into small slits, I was never actively conscious of being "different." Having grown up in a suburb of Los Angeles, California, Cerritos, recently declared to be the most ethnically diverse community in the nation, the transition to college and my first truly conscious awareness that ethnic identity could be a liability as well as an asset was a shock to me. At the same time, I became acutely aware of representing a whole group of people with my individual actions. Naturally, I did well in Calculus — I was the model minority. Of course, I changed lanes at the wrong time on the freeway — you know those Asian drivers.

What these realizations have come to mean to me is this: as an Asian American

Julie Su, a second-generation Chinese American and first-year law student from Cerritos, California, graduated Phi Beta Kappa in 1991 from Stanford University. She speaks of her own experiences here although she is one of the "Griswold Nine." The Ad Board decides their fate on Monday.

woman I have a responsibility to my community. That responsibility is to speak out, to stand for something, to help foster a world that actively supports the diversity of life, a diversity that recognizes and embraces all peoples. As future graduates of Harvard Law School, and the so-called movers and shakers of the world we will enter, we all shoulder part of that responsibility.

All too often, what we hear about people of color in the U.S. is what has been done to us, rather than what has been — or could be — done by us. Throughout my life, I have attempted to find, create, and develop opportunities that utilize the energies of people of color and other status minorities to do what can be done by us. Unexpectedly, some of these endeavors brought a head-on clash with my parents' traditional Chinese values. Teaching physical education to inner-city youth, or S.A.T. prep courses to economically depressed Chinatown juniors and seniors, and talking to high school students about racism and openness were not in my family's visions of a college "education."

I am just coming to the end of my first year at HLS. I have made many wonderful friends and been challenged academically as I never had been before. However, it is disappointing that among so many intelligent, ambitious, motivated and "well-educated" people, there is also so much ignorance. By "ignorance" I mean an inability to accept differences in people, disregard or denial of the experiences of people less privileged — less fortunate than we all have been — and a form of racism, sexism and homophobia much more dangerous because of its subtlety and rationalized intellectualism. Sadly, it is often the environment that fosters this ignorance rather than the

innate tendencies of people themselves. Nowhere have the dangers of being locked up far too long in an ivory tower of elitism been made more clear to me than here, in my first year at HLS.

My parents remind me every time I talk to them on the phone, "Julie, you are there for an education first and foremost. The other stuff can wait."

I am sure that I could have gone through my first year here, indeed my entire three years, concentrating solely on my classes, outlines, study groups, and textbooks. But throughout my life, I have learned that "education" means much

definitions of both education and merit, rather than recognizing that "quality" and "diversity," instead of being contradictory, are actually complementary and necessary for a "well-educated" human being. The call for "faculty diversity" is not some wild fringe movement, but is driven by the students who care most about our educations, about this place called Harvard Law School, and about the communities in which we find ourselves and will find ourselves.

What people learn at HLS and carry into their lives will have a great impact on the general legal community, the American political climate, and public policy well into the next century. This is why I think change must start here, not later. HLS can and should be a place where "thinking like a lawyer" and thinking like a human being are not mutually exclusive.

I have read the Rights & Responsibilities of Harvard Law School. I believe, in all honesty, my actions have been consistent with them. The second sentence of the statement reads, "By accepting membership in the University, an individual joins a community ideally characterized by free expression, free inquiry, intellectual honesty, respect for the dignity of others, and openness to constructive change." It continues, "In particular, it is the responsibility of officers of administration and instruction to be alert to the needs of the University community, to give full and fair hearing to reasoned expressions of grievances, and to respond promptly and in good faith to such expressions and to widely-expressed needs for change." (emphasis supplied) If there has been a violation of the Rights & Responsibilities, it has not been on the part of myself and the rest of the Griswold 9.

HLS can and should be a place where "thinking like a lawyer" and thinking like a human being are not mutually exclusive.

more than that. I have tried to convey this to the students I have had in my life, the large majority of them kids who had been hardened by their experiences and seemed unreachable. They proved to me that believing in yourself and what you are doing brings not just academic success but personal fulfillment.

In some roundabout way, this brings me to why I sat in the Dean's office on April 6-7, 1992. I believe it is too easy to wait for a "better time" to stop thinking about personal self-interest and start thinking about the rest of the world, too easy to remain passive in the face of injustice hoping that, by refusing to see it, it will go away in time.

It is too easy to accept the traditional

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even the sentiments of so virulent an opponent of Catholicism as Voltaire, who professed that while he might hate to the death what a man had to say, he would fight to the death for his right to say it. The discrediting of a venerable principle by those who stand to gain the most from it, in order to make their adversaries appear more malicious than they are, is a striking example of cutting off one's nose to spite one's face.

Nevertheless, it is well to put Christian principles aside here, and to recall that I have appealed neither to theology nor to ethics in order to make my argument. Though love of one's own will to the exclusion of God's is a sin, and though the sexual revolution's objectification of the person, especially woman, is immoral, I have argued empirically to the secular mind that the "right to engage in sexual intercourse without having a child," is a grave anthropological misconception that has fostered, not forestalled, degradation, abuse, disease, frustration, anger, violence, and death. While I readily admit that religion informs both my ideas and my conscience, I sturdily deny that a religious outlook is needed to perceive that the sexual revolution is a bust.

Twentieth-century Catholic philosopher Etienne Gilson began his James Lectures at Harvard in 1936-37, by referencing a 1901 letter written by William James to G.H. Palmer in which James credited Harvard's philosophy department with a "genuine liberalism, and non-dogmatism." Gilson graciously offered that "[w]hen non-dogmatism shows itself generous enough to welcome even dogmatism, it has obviously reached its point of perfection." However, when "non-dogmatism" proves itself to be even more dogmatic than those it perceives to be dogmatists, then true liberalism—liberality of mind—is dead. I take this opportunity to express my observation that the intellectual life at Harvard Law School is brain-dead, having been killed by dogmatic non-dogmatists. I extend my condolences, for the record.

**We is
outta
Here!**

Happy Mother's Day

By Rich Wareing '93

RECORD Columnist

THIS is not about violence against women, Anita Hill, rape, the *Revue*, or anything else weighty or heavy that becomes outrage of the week around Mother's Day. This is about my biggest (maybe my only) fan. My mom.

She grew up at a time when being ethnic and Catholic were not exactly assets. To be an ethnic Catholic in those days meant you lived in a tight neighborhood with people like yourself, because "Real Americans" wanted very little to do with you and weren't exactly subtle about it. People laughed at your name, made fun of your language, and condemned your culture and values as "Un-American." Being Catholic meant being part of the Church Militant — a community of believers who isolated themselves against the charges of papal plots, heresy, and outright hostility.

All you had was your community, and your church and you weren't exactly made to feel welcome. Despite this, I know no-one with a better sense of what it means to be an American and to still have an appreciation for your heritage. I know no-one who has a better appreciation for her religion or a deeper faith in it.

Aside from your faith and your community, all you had was Notre Dame and J.F.K. Notre Dame football gave you respectability, so you rooted hard for them. Their victories were your victories, their defeats burned inside you. No matter what the rest of the country thought of you, they could not deny that Rockne, Leahy, Lujack and the Gipper were the best around. J.F.K. was the symbol of your success and acceptance, so you campaigned for him, like your father and grandfather campaigned for Al Smith — not as just another candidate, but as a proxy for all you were and all you wanted to be. When he won, you knew that you had arrived.

She grew up at a time when being a woman wasn't cool either. When my grandfather taught her to play baseball, my grandmother and half the neighborhood had a fit. Little girls did not get dirty or play sports,

they jumped ropes and played with dolls. When he took her to union rallies and local Democratic ward committee meetings, they nearly had a heart attack. Even if my mother prayed the rosary for Truman in '48, she was supposed to leave the important stuff to the men. None of this stopped her from becoming a big sports fan and an expert on politics and organization.

In another time she might have parlayed this into a career, but in those days women, especially ethnic Catholic ones, became housewives, or maybe school teachers or nurses, not politicians.

She grew up at a time when a poor man's daughter couldn't go to an Ivy League school, even if she got accepted, because there were no GSL's or government scholarships. Poor people, especially women, did not think about college, that was for people with money and privilege. College, especially for women, was something for people who were looking for polish and connections. None of this stopped her from becoming the first person in my family to go beyond high school. She got

through Bridgewater State College on tips from waitressing and money she made doing piecemeal work in a sweatshop. The work was hard, but she had a dream and stuck to it.

She came from a generation where bigotry and prejudice of all kinds pervaded America. It was a time when words like Nigger, Kike, Cannuck, Mick, and Greenhorn or Portagee were all too common where she grew up, but she does more for civil rights on a daily basis working in a ghetto school than most do-gooders do in a lifetime of complaint and breast-beating. Equality is a concept she lives by, not because she read it in a book, but rather because she lived in a time and place where that word had to be fought for.

In an age where values, responsibility, and courage are out, my mom has taught me the value of these things. Work hard, stand for what you believe in, and do the right thing. In an age where failure is acceptable, she gave me the determination to rise above limitations and circumstances. She gave me the will to succeed. In an age without heroes, she has always been one for me.

Thank You God for Making Me Gay

By Ed Joy '92

RECORD Columnist

HOMOSEXUALS are condemned to suffer in the deepest depths of hell. If I knew that someone were gay, I would not hang around him. Homosexuality is a sickness and AIDS is God's divine retribution.

The first of the statements above was to me made by my priest when I was sixteen years old and attending weekly classes to become a confirmed member (i.e., an adult member) of the Catholic Church. The second statement was made to me by my best friend in college during my senior year. At that point, his friendship was the closest relationship I had ever had; as friends, we were practically inseparable. The final statement was made to me by my mother during my first year at Harvard Law School before I had come out to her, or to anyone else for that matter. We were discussing the AIDS crisis and, in no uncertain terms, she related her opinion to me. These statements represented the combined sentiment of my church, my best friend and my family. Not surprisingly, I did not accept my homosexuality at this time.

Frankly, I could not understand why I was gay. I could only wonder why I deserved such a rotten fate. Never having met anybody else who was openly gay and never having heard anything but disparaging words regarding "homosexuals," I thought being gay meant choosing a perverted, sick and immoral lifestyle. I had my share of faults, but I was not that bad. Moreover, if there were a choice to be made, I would not have chosen to be gay. The whole notion of homosexuality being a choice seemed implausible to me. I would not have chosen the pain that accompanied my vigorous and relentless attempts to eradicate this part of me which was, in fact, unchangeable; the pain that accompanied the fear of rejection by my family and friends; the pain that caused me to call up my parents in tears during the last part of my senior year and not even be able to tell them

why I was crying. For me this pain was part of the process of coming to terms with being gay. Given this pain, it made no sense to me to think of any individual making the choice to be gay. I had always been gay and I was coming to the conclusion that I always would be.

Four months after my discussion with my mother, I came out. In all honesty, even at this point I would have changed my sexual orientation if I could have. After coming out, I was truly proud of my accomplishments for the first time in my life. For the first time in my life, I liked myself completely. For the first time in my life, I realized that the problems that I had because of my homosexuality were due to the faults and prejudices of others. However, it was also the first time in my life that I realized the extent of the prejudice gay people face. I was not prepared for the first man who called me a faggot when I walked down the street wearing a gay rights T-shirt; I could not understand how he could be so hateful to someone he knew nothing about. I was not prepared for the realization that my rural hometown in Western New York would no longer consider me an acceptable candidate to teach in their schools in spite of my many years of education. Nor was I prepared for the fact that law firm interviewers were uncomfortable interviewing someone

with COGBLLI on his resume or the fact that the highest court in the land could opine that intimate sexual relations between gay men are a "deeper malignity than rape." Perhaps, if my skin had been a different color, such prejudice would not have surprised me, but it is not and I was. All in all, it just seemed too difficult to be gay.

But then I began to get beyond the bigotry and came to appreciate the gift of my homosexuality. A gift that allows one to experience relationships of a higher order and greater complexity and beauty than mere friendships. The forces of passion and love are among the greatest forces known to humanity, and homosexuality, just like heterosexuality, contains the potential to unleash these forces. As much as bigotry has attempted to corrupt the gift of homosexuality, bigotry cannot do so

unless one consents to the corruption.

And I have come to recognize being gay as a gift in other ways. My membership in this minority has helped to erode my false pride and callousness and enabled me to better empathize with others who also face prejudice and hardship. Through empathy, I have come to see the fundamental communality of all forms of prejudice; hate and ignorance feed the fires of every form of prejudice. This recognition has led me to fully appreciate Martin Luther King's message that, "We are all caught in a single garment of destiny [such that] injustice anywhere is a threat to justice everywhere." Prejudice against any group puts in question the basic assumption that we are all created equal. Because this assumption is one of the foundational principles of a free and democratic society, if we allow this principle to be eroded then we will all be endangered by the weakened foundation. Ultimately, the defense of the freedom of any disenfranchised group is a matter of self-defense.

Moreover, I have been pushed beyond the condescending belief of tolerance of difference to the ennobling belief of celebration of difference. One is not beautiful and fully human in spite of difference, but because of it. White by itself is bland and boring. White interwoven between black and yellow is a beautiful part of the human rainbow.

The gift of my homosexuality has caused me to reflect and change. Coming to terms with being gay, brought the world as I knew it crashing down around me, but this destruction allowed me to start anew and enabled me to build a better world. Since my church, community, friends and family had all informed me that gay was bad, the process by which I came to view this proposition as false and prejudiced has led me to root out other false propositions. Now, my basic beliefs are not simply a mirror image reflection of all that I have been told since birth, but, rather, the result of serious questioning and introspection. No longer am I dependent upon tradition and majority approval as poor substitutes for serious inquiry and introspection in the process of arriving at the truth. More than ever, I realize the great distance that separates me from the truth, yet more than ever I am beginning to walk that great distance.

Now, I can finally say that if I were given the choice today, I would choose to be gay. No, it may not be the rational choice, but it sure would be a wonderful choice and it is a choice I would like to thank God for making.

I can finally say that if given the choice, I would choose to be gay. It may not be the rational choice, but it sure would be a wonderful one.

"Community" Forum: Promises and Little Else

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Wall Street Journal reporter and saying things that struck many students here as very offensive." He continued that "it was wrong for me to say it. . . I didn't mean to be dismissive towards any of our students. . ."

The second speaker was Shelley Simms '93, a member of the Black Law Students' Association (BLSA) and the *Harvard Law Review*. After prefacing her comments by the fact that "I'm speaking on behalf of myself. . . definitely not on behalf of the Law Review," Simms stated that "it's very clear to me that there are a lot of problems here now. . . we need to recognize that people here are hurting. . ." Simms added that "I think it would be a mistake to think we can build a community in an hour and a half. . . I am hoping I'll be able to understand different peoples' perspectives. . . and that we'll be able to start the healing process."

Professor Todd Rakoff was the first faculty member other than the Dean to address the group. He began by saying, "I'm someone who likes to come to work, and what I've felt this Spring is that I don't like to come to work." He explained that it started with the faculty appointments and then the Revue article, "but I must admit that over the past few weeks, I find myself reacting more and more to the reactions to those events. . . this seems out of control to me."

Rakoff was followed by Jim Bowen '93, the former President of the HLS Republicans and incoming editor of *Journal of Law and Public Policy*. Making his remarks short and to the point, Bowen said that you can call it the Golden Rule or whatever, but we should "treat other people with respect."

Professor William Alford spoke next, and said he was asked because he's a relative newcomer. He came here two years ago from UCLA and commented that "As a new person here, I am deeply troubled by our lack of community. . ."

Alford closed with a few suggestions, including the Dean appointing an Independent Committee to examine the quality of the community here. He also recommended a regular forum for discussing these issues and that the Dean establish some incentives to create better relationships between students and faculty.

Dean Sarah Wald talked about her three-year-old's nursery school, where there is a poster "No pushing, no shoving, use your words." She commented that this is a good rule for three-year-olds, "but I think it needs to be refined here." Wald asserted that the treatment of women on a daily basis can be seen as static that gets worse at times but "the static has always been there for me." She added that "to me it doesn't matter whether differential treatment is intentional. . . the most important goal is to change the behavior."

Wald concluded that "I hope we can figure out better ways of solving these problems than putting it all on the Ad Board," and suggested HLS use the model some states have in their gender-bias studies.

Professor Betsy Bartholet framed her comments as what can be learned from the Revue and the recent faculty hirings. Referring to these, Bartholet stated that "we can wish these didn't happen, and I think most of us do, but given that they did. . . it seems to me useful to see if there are important connections to be made between what has happened and this institution."

She questioned why there was no understanding that the announcement of the "four plus one" appointments would lead to a blow-up, and no understanding that the Revue would either.

As far as suggestions, Bartholet lamented that "it still seems to me that the Fifteen's suggestion of a new Appointments Committee is appropriate and that a special committee is appropriate."

The first panelist to generate

applause was Peggy Smith '93, a member of BLSA and the incoming president of the *Women's Law Journal*. Very eloquently, Smith said, "what has struck me. . . has been the language in which we've chosen to discuss these issues. . . and my sense is that community encompasses so much more than privacy and free speech. It is about responsibility. . . it is about deconstructing norms to understand that the way in which we speak can hurt, can be racist, can be sexist and can be homophobic. . . my sense is that if we're going to build an accepting and supporting environment, we must begin with a notion of community that is presumed on inclusion. . ."

Following the panel, approximately twenty comments were taken from the audience.

Students and Faculty Respond to Panel Comments

Bob Foster '93 began by commenting that as a "step to healing the community, I would ask the Dean or the Ad Board or whoever has the power to do it to drop charges against the sit-in students," a statement that generated lots of applause.

Andy Field '93 also mentioned the sit-in by comparing how the HLS administration privileges the *Peninsula* and the Revue but not other forms of speech which come from groups that don't have the resources to publish their expression and just have their bodies."

Charisse Carney '92, outgoing BLSA president, offered the Dean some insight as to what has made this situation so bad. She stated that "it's wrong to premise this on the fact that there's been no debate" because there's been a lot, and "after all this debate, we've seen the administration engage in actions in complete disregard of prior discussions."

Raul Perez '94 also directed his comments at DBC and, after asking the Dean to please look at him, said that Clark is "always in a state of denial." Perez stated that the Dean has been more of a divider than a healer and hoped "that in the future you'll be a little

more sincere both in your comments and your actions."

Drawing connections between the Revue and the faculty hiring process, Rene Jones '93 said that we should think about the fact that the people with the most merit, by appointment committee standards, are the ones that created such a hateful piece.

Professor Chris Edley raised to say that he doesn't feel that HLS is a community. It's a job, he doesn't like being here, and spends as much time as possible away from HLS, a privilege he pointed out that HLS students don't have.

Rebecca Eisenberg '93 asked why we're so focused on reactions and not what actually happened. To great applause she stated that it's ridiculous "to punch me and then criticize me for saying 'ouch'."

The last comment from the floor was offered by Peter Cicchino '92, who asked Ogletree to move so that he could directly address the Dean. Cicchino stated that "You have an opportunity to do something dramatic. . . and all it takes is words. . . issue a statement saying you want Professor Derrick Bell to come back. . . and why not as a gesture ask the Ad Board to drop prosecution of the nine students?" He concluded "Why don't you do it?" and received great applause, with a good portion of the audience standing.

The Dean got to have the last word and began his comments by stating that "Pardons are not in my power." He went on to state that there are four things happening: the working group that has developed a Sexual Harassment Policy, his emphasizing to the Appointments Committee that they should recommend women candidates, his hope to establish at least monthly exchanges between the appointments committee and students, and his plan to involve more women faculty in key committees and the administration of the school.

Many students were disappointed that Dean Clark didn't take this opportunity to do more. DBC expressed several "hopes," but none directly on point and none as immediate as he could have.

Alysse and Her Beau: The Last Word

Warning: Menses Power Day in Progress

By Alysse MacIntyre

RECORD Columnist

A friend of mine has a pin her boyfriend made her that reads, "Warning: Menses Power Day In Progress." It made me wonder, how did being on the rag become a bad thing? Doesn't it just mean you're in a hell of an aggressive mood and other people ought to beware of you? This is often a desirable trait in men. Clearly, if men could menstruate, they would not be "on the rag." They would be having menses power days.

Ah, if men could menstruate. Of all the things that have been said about what it would be like if men could menstruate*, two things I know for sure are true: first, they would try to convince women that sex is better at that time of the month. Women who resisted would be branded as "hemaphobes." Men would have conversations like, "I heard she's frigid." "No, she's not frigid, but she's a hemaphobe." "Just as bad, dude, just as bad."

Secondly, if men could menstruate, they would worry that their flow wasn't as heavy as the other guys'. Their girlfriends would reassure them to their faces that it didn't make a difference. But between ourselves we'd whisper, "Oh my God, he's so cute! And his flow is so intense! He has to get up twice in the middle of the night to change his maxi."

(OK, so a few of you guys are out there right now scratching your heads and saying, "Wait, does that mean...?" Yes, it does.)

Ah, but back to reality where only women get to menstruate. Certainly if men could menstruate they would openly brag about it. Meanwhile in the real world as a woman you're not suppose to talk about it. Half of the country's population menstruates and we can't even get a prime time commercial for tampons that uses the word "period." Instead the slogan goes, "Tampax can actually change the way you feel about that time of the month." Yes, but will it help me say the word "Period" in public? As it stands today, the only commercials to use the actual "P word" appeared only a few years ago and only during the afternoons when men are less likely to be around to be offended. Listen, I don't see them limiting the Jock Itch commercials to Monday Night Football.

Perhaps nothing makes people more uncomfortable than openly discussing your period. Some one asked me in the Hark Box Cafe recently how I've been doing. I said, "I have cramps that could sink a ship." The poor 1L boy in line behind me fainted.

Or I saw a commercial the other day where the woman looks at the camera and says, "Does your maxi ever feel, *pardon the expression*, wet?" I swear to you, up until this point, I had lived my long 20-some odd years never knowing that "wet" was an offensive word. I am so embarrassed just thinking about all the times I've said "wet" in mixed company. It's like how I don't use the word "confident" any more because I know that it is something that a douche is suppose to do for you and I hate to embarrass people. Frankly, I am not even sure what it means that a douche will make you feel confident. Hell, when I want to feel confident, I pack my 9mm semi-automatic Smith & Wesson, a present from my new significant other (diamonds are so passé). Now that's confidence. Believe me, I can

tell you from personal experience that Dirty Harry was not able to deliver a line like "Go ahead, make my day" just because he had douched.

Of course, not everyone is so uptight about matters involving menstruation. I went out with a guy for a while who used to say to me, "You're beautiful when you're menstruating." With original lines like that, no wonder I went weak at the knees for him. He ended up leaving me for a woman that uses extra-super tam-pax, the kind that could attract a bead of perspiration in the Mojave at ten miles. How could I compete, being a light days kind of gal? I tried faking it for a while, but he could tell. I felt so inadequate.

If men could menstruate, they would not be "on the rag." They would be having menses power days.

After I got toxic shock trying to impress him I realized I needed help. I was in therapy for 6 months before I got my self-esteem back. I'm going to be on Donahue next month talking about it.

Of course, I must admit that the fear of menstruation has its benefits. If they were able to talk about it, religious fundamentalists would organize a national boycott of companies that make cramp pills and one of my favorite

euphemisms, feminine hygiene products. After all, virtuous women like The Blessed Virgin never needed such things. Catholics would interpret the Bible to mean that Mary Magdalene stopped menstruating after hooking up with Christ. And here at home at the law school, conservatives would probably be demanding a refund on the portion of their health service fee that goes to fund Midol treatments.

*For a politically powerful and flat-out hysterical discussion on what the world would be like if men had periods, see Gloria Steinem's essay, "If Men Could Menstruate" in her first book *Outrageous Acts and Everyday Rebellions*.

Because this is my last column of the year, I have a few closing remarks:

To Fenno: Only in your dreams, dude, only in your dreams...

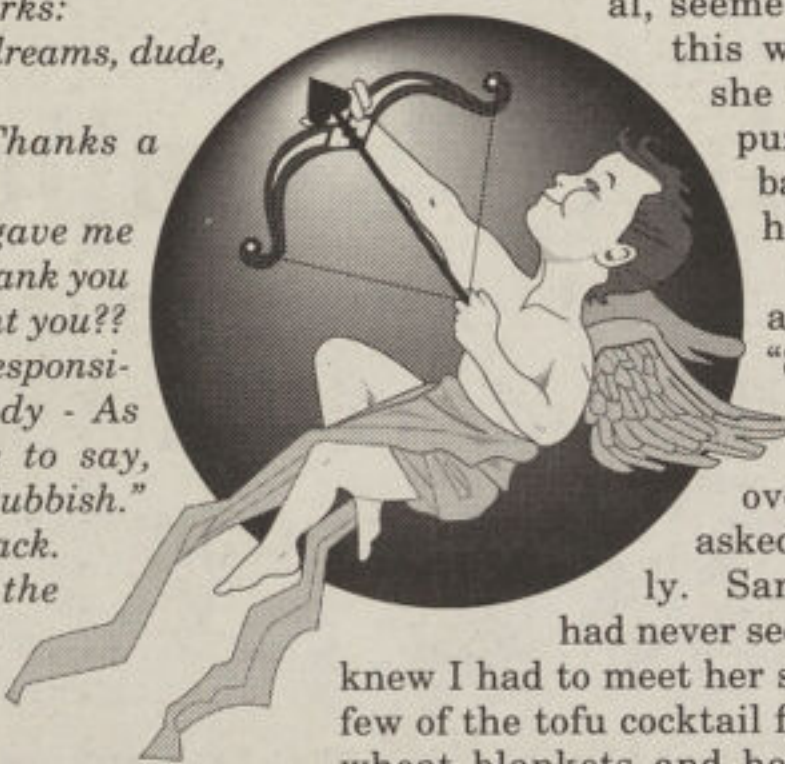
To my Alumni pals: Thanks a Million!

To the Gentleman who gave me the Vibrator: What, no thank you note for the cockring I sent you??

To the graduating 3L's responsible for The Revue Parody - As Grannie MacIntyre use to say, "Good Riddance to Bad Rubbish."

Get out and don't come back.

To Everyone else: Keep the Faith. Mary Joe lives in our fighting the racist sexist culture of HLS.



By Sol Edelstein

Alysse's Lover

WELL gentlemen of HLS (and male alumni), I have some bad news: Alysse MacIntyre is off the market. Yes, it's true, a man was finally bold enough to ask out the woman who is not afraid to write "wide-on" in a prestigious newspaper. I should know, I am that man.

I suppose like all good stories this one deserves to be told, so here I sit at my "McClassic" computer (I won it by collecting six thousand stickers from medium sized Cokes at McDonald's) writing the tale.

It all started one Saturday night when my friend Sam and I were sitting in my Gropius Cell trying to decide on what revelry we would partake in that night. Little did I know what was in store for me as I left for one of those parties in the Hark. This one was sponsored by the feminist theory reading group. Sam had convinced me that this would be a great place to meet babes.

I was trying to make small talk with a group of women in Birkenstocks, but apparently we had little in common. One of them, however, asked me what I thought about Susan Faludi's new book, *Backlash*. I was glad she was willing to talk to me about something I was interested in, but the truth is that I hadn't read a thing since I finished my lava lamp owner's manual. So I simply told her that I stopped following Faludi's career after he won the Heisman Trophy and sold out to the USFL. With great bravado I told her that some things were more important than money.

Much to my amazement this subtle attack on greed, and capitalism in general, seemed to be lost on this woman because she simply looked puzzled and went back to talking to her friends.

Then I saw her across the room. "Sam, who is that vision of loveliness over there," I asked, pointing wildly. Sam said that he had never seen her before. I knew I had to meet her so I picked up a few of the tofu cocktail franks in whole wheat blankets and headed her way. When I reached her she was pouring cuervo gold into her organic raspberry juice. Apparently she had smuggled in her own styrofoam cup.

Alysse Finds an Alternative to the Vibrator

I knew she was different right from the start. In place of her "Whale Lover's for Choice!" button she wore one which read "This body protected by Smith & Wesson."

"Frank?" I queried offering her one of the PC Dim Sum-like delights (I had been informed a moment earlier that the expression "hors d'oeuvre" is Euro-centric).

She looked down at my offering with disdain and responded, "What does a girl have to do in order to get some Hebrew National around here?" Before I could correct her by saying "You mean 'woman'," she was inviting me to NICK'S BEEF and BEER HO_SE. (What is that missing letter, a "U"? An "R"?)

Small talk came easily as we shared a pitcher of beer and a double cheese-burger special with tops. I wanted to know what she had majored in during college; she asked me if I had had an HIV test. Something told me I was doing well.

We discussed our feelings about the Law School and she asked me what I thought about the column she writes in the RECORD. I confessed that I, like most law students I knew, had never opened the RECORD, and therefore had never seen her column. "You're in luck,"

she said, "I keep a collection of them in a scrapbook in my apartment."

This seemed to me like shades of "Would you like to see my sketchings?" so I excused myself to go to the bathroom. Thanks to a truly enlightened Cambridge law, even Nick's had what I needed for 75 cents so a trip to the men's John in the Hark would be unnecessary.

Back at her place she broke out this large scrapbook

filled with clippings of all of her columns as well as the Letters-to-the-Editor they generated. But unquestionably the funniest thing in the book was a section marked "Fan Mail." Apparently her article on vibrators encouraged a flood of older male alumni to come out of the closet and have their secretaries fax off a letter of appreciation.

I could see all of these old men reading her column, waxing nostalgic about their virile days at HLS, grabbing a big fountain pen, and sending off a big check to the DBC "Keep America White" capital campaign fund. I now understood why this campaign has been so successful. How else can you explain it when the man at the helm thinks that changing qualifications for tenure from those currently in use at Gov. Clinton's golf club will take "patience." But issues of ingress and egress, now that deserves Das Ad Board! Ya, Mein Dean! Freud was right.

So, what is Alysse really like? Everything you've imagined is true.

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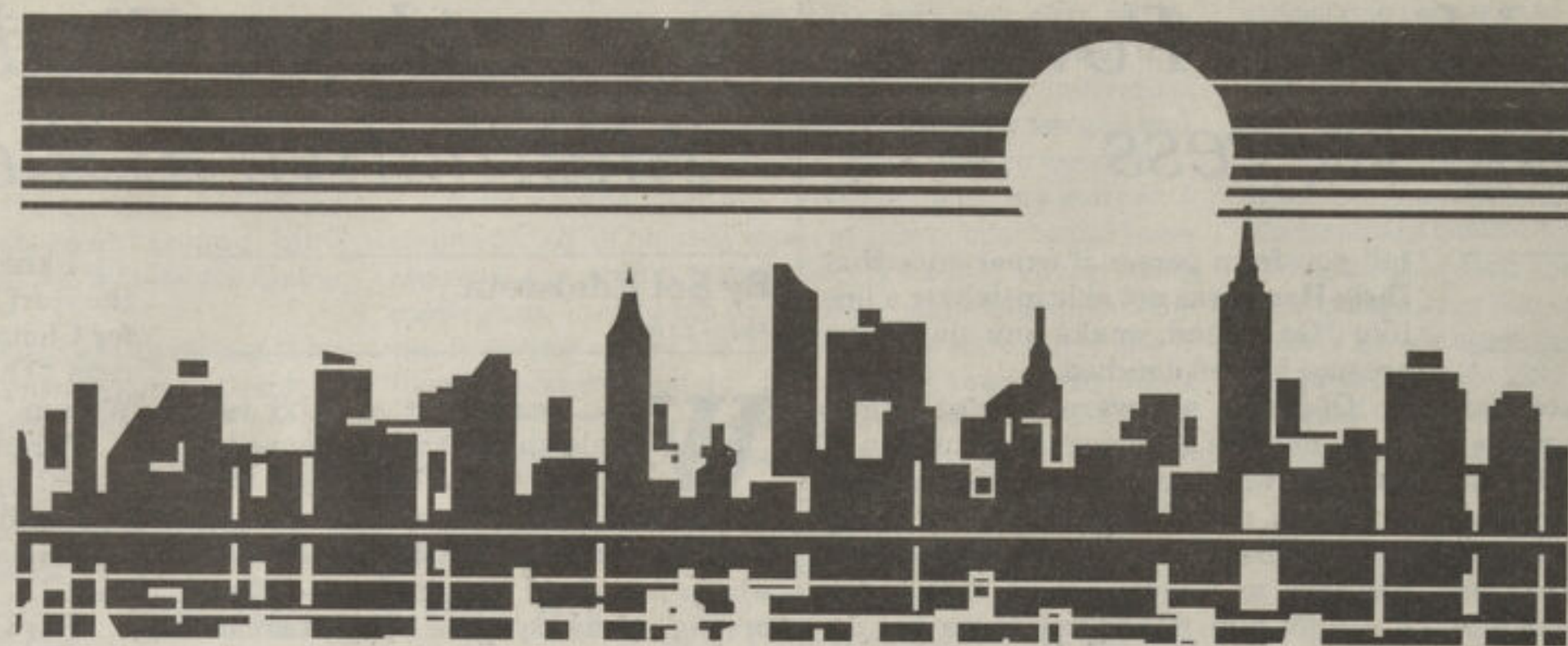
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