



The job search continues, as students examine firm résumés

RECORD Photo / Josh Freeman

Law School Due to Get New Sexual Harassment Policy

By April Rockstead

As the nation observes the first anniversary of the Clarence Thomas-Anita Hill sexual harassment hearings — and the Law School community itself recovers from similar allegations raised by the *Law Review* parody last spring — a proposed sexual harassment policy for the Law School is bubbling under preliminary review by the Dean and selected faculty committee chairs.

Though the law school Sexual Harassment Policy Committee recently provided a working draft for limited circulation, the specific terms are under wraps until the public unveiling — still a few weeks away, according to committee member and outgoing Dean of Students Sarah Wald.

In scope, Wald said, the proposal represents a comprehensive policy aimed at preventing and addressing sexual harassment wherever the law school can "legally get at it" — includ-

ing harassment in some situations where the interaction is more personal than pedagogical. "It's not just the classrooms," Wald said. "It's the dorms. It's the Hark."

The proposed policy would apply to peer interaction, such as that between two students, in addition to the traditional policy province of supervisor-employee and faculty-student harassment, Wald said.

The policy's reach also would extend to law firms providing summer clerkships, Wald said, adding that any sanctions imposed against firms would probably be limited to recruiting restrictions.

Wald rejected contentions that the policy's broadness would augur punishment in situations that don't warrant Law School intrusion, such as romantic relationships between students in dorms.

"There are certain areas of privacy," she said. "You have to look at the facts of the case."

Off-campus events related to the Law School would have to be similarly scrutinized to deter-

please see **POLICY**, page 8

High Turnout Elects Mixed Slate to Law School Council

By Greg Stohr

In an election marked by a high voter turnout, 17 new representatives were elected to the Law School Council last week.

The new Council members — eight IL section representatives, seven at-large representatives, and two LL.M. representatives — include both students who are outspoken on controversial issues like faculty diversity and students who say they are more interested in making the Council an effective body for improving student life.

Brian Ellner '95, a new at-large representative said the Council should have a two-pronged agenda — both improving tangible

aspects of student life and bringing more women and minorities into the HLS community.

"It's unconscionable that we have a faculty that is 90 percent male and 90 percent white," Ellner said. "The Council must address issues of diversity both in the student body and the faculty."

New at-large representative Christa Foster '94, said the

Council should be more concerned with facility improvements and other issues of student life.

"I ran because I think a majority of the student body just doesn't care about the things the majority of the Law School Council is talking about," Foster said. "The Law School Council should be sensitive to the concerns of the whole student body, not just the 'right' or the 'left.'"

An estimated 750 students voted in the election, some 100 more than voted in last Spring's election for Council president and Administrative Vice-President. The high turnout was fueled in part by the distribution of at least two flyers promoting slates of candidates.

Raul Perez '94 said the high turnout was a sign of student interest in the activities of the Council.

"If this is what politicization does — increase turnout by 400 percent — I think it's healthy for the Law School Council," Perez said. "It definitely gives a lot more legitimacy in regard to stu-

please see **COUNCIL**, page 8



Rich Wareing, LSC Rep.

Charges Against President Leave Review Reeling

By Glennis Gill and Bob Arnold

It started out as a seemingly innocuous gathering to discuss judicial clerkships. But a *Law Review* meeting on Wednesday, September 30, dredged up silent animosities that had been festering beneath the surface for months. Immediately following the meeting on clerkships, third-year editors held a separate meeting to respond to allegations of sexism, possibly remaining in the wake of the *Revue* scandal last year, and new charges of racism and general abuses of power, leveled against *Review* President Emily Schulman '93.

Despite several hours of heated, often acrimonious discussion, the issues raised remained unresolved and result-

ed in several further meetings of all Review members — and separate factions — at which resignations were threatened and suggested, and ousters attempted.

According to several editors on the Review — those that volunteered information requested anonymity — the accusations of racism against Schulman stem from three separate incidents. First, she was accused of refusing to allow a black third-year woman edit an article by professor Charles Ogletree '78, a black professor up for tenure. Schulman allegedly said that allowing the woman to edit Ogletree's tenure piece "would be a disaster" and that "this 3-L editor would be the black editor on the piece and you know how

please see **REVIEW**, page 15

Court Reconvenes to a Full Docket

By Toy Chandler

The Supreme Court opened its new term this past Monday, October 5, amid speculation about the future of the highly rancorous split which emerged over the final months of the past term. The split surprised some Court watchers as the conservative block fractured into the "Centrist Coalition" on one side, consisting of justices O'Connor, Kennedy and Souter, and the more conservative justices Rehnquist, Scalia and Thomas on the other side.

This term is the first in three years without a personnel change, and it is likely to be the last for quite a few more. Rumors about the health and

retirement intentions of at least four of the Justices are circulating. Justice Blackmun is now 84 years old; Justice Stevens is 75. Rehnquist, age 68, has said publicly that he does not intend to spend his old age there. Justice Stevens was treated for prostate cancer this year. It is also widely rumored that Justice O'Connor is being treated for cancer. Thus, the next few years could see a major upheaval in the Court's personnel.

One of the highest profile cases of the 65 currently on the Court's argument calendar is *Bray v. Alexandria Women's Health Clinic*. The case regards the application of the Ku Klux Klan Act to Operation Rescue

please see **COURT**, page 9

Bell Urges Continued Pressure

By Betsy McGrath

Former Harvard Law School Weld Professor of Law, Derrick A. Bell, presently teaching at New York University Law School, addressed a special session of Saturday School on Thursday, October 1. He urged the near-capacity crowd in Austin North to continue to press the Administration to hire a woman of color.

Professor Bell said that he does believe the faculty will invite other women of color to visit here. He added that "while I will urge them to consider coming to Harvard for all the reasons that led to my protest," he will suggest that they seek an immediate tenured appointment instead of merely accepting the visiting professorship "given the precedent set for white males last Spring." He was referring to the offers of tenure extended to the infamous "4 White Men" apparently in violation of a previously exiting "year-away" or

"not on the premises" rule, which had been used to block tenure offers to minority professors in the past.

Bell, who was the first tenured black professor at the Law School, took a leave of absence two years ago to protest the lack of minority women on the faculty. His attempts to get an extension of the rule limiting leaves to two years were unfruitful and his tenure ended this summer. He continued his remarks by reflecting on his two year protest.

He stated that although he did not "regret" what he did, he "certainly wished there had been a way to garner more support from the students and faculty here, and those who claim to support diversity across this campus."

Bell further implied that people should be willing to stand up for what they believe, no matter the consequences.

"The opportunity to illustrate my commitment to my beliefs has been worth the sacrifices

please see **BELL**, page 16



Prof. Derrick Bell

Look at me now and what do you see? A young, successful attorney. The picture of confidence. But twenty years ago, you saw a different person. I was a shy, scared little girl so physically and verbally abused at home **I DIDN'T THINK I WAS GOING TO SEE MY SIXTEENTH BIRTHDAY.** Thanks to you. I did. Because you helped out the United Way, an adult/youth mentoring agency helped me. You gave me the strength to survive. The hope and encouragement to succeed. You gave to me when I needed it most. And today, I'm in a position to do the same for others.

■ I don't know you, but I love you. ■



United Way
of Massachusetts Bay
Something to feel good about.



City Year: Honest Labor from Law Students

By Andrew Greenblatt

Special to the RECORD

City Year, Boston's "urban peace corps," is looking to Harvard Law School for volunteers. But don't worry, they're not looking for a two year commitment, just one day of honest labor.

City Year was founded by two HLS graduates, Alan Khazei '87 and Michael Brown '87, to bring young adults

"Nobody knows what will happen when a bunch of law students actually try to do something akin to manual labor," Leyens quipped.

from diverse backgrounds together for one year of community service in the greater Boston area. Like the Peace Corps, City Year workers earn meager wages working for nine months making the world a better place.

According to their brochure, City Year workers have run after school programs and turned vacant lots into gardens, all while building the confidence and skills which 17-23 year olds need "to become active citizens and leaders."

Chip Leyens '93 has been working with City Year workers while volunteering his time at ROCA, a youth center in Chelsea which targets kids who have been involved with gangs. Leyens reports that City Year workers are involved in many important activities at the center, including leading peer support groups. Leyens describes the City Year workers as "very dedicated. They really do good work."

To support this program, City Year runs an annual Serve-A-Thon in order to raise money while helping the community. Different companies and organizations send teams which spend the day working together on a specific project. These teams get people to sponsor their work in order to raise money for City Year.

This year Harvard Law School is sending its first team to join the Serve-A-Thon cause. "We consider this

a kick-off year," said JoAnn Corti '93, student Director of PULSE, HLS's voluntary pro bono program and a Co-Sponsor of the Law School's team. "We are trying to just get people out there."

Students, faculty and staff can join the HLS team by simply dropping by the Office of Public Interest Advising, Pound 328, and picking up a registration sheet. Registration forms need to be returned by October 14. If you include a five dollar check, you'll also receive a T-shirt on the day of the Serve-A-Thon.

The big event itself takes place Saturday, October 24. The day begins at 7:45 with registration and breakfast in Boston Common. Volunteers work throughout the day which ends with a big party at the Boston Transportation building. "It's a lot of fun," stated an enthusiastic Corti.

Leyens, who has already registered with the team, is a little concerned though. "Nobody knows what will happen when a bunch of law students actually try to do something akin to manual labor," he quipped.

Different groups at HLS are also being encouraged to set up sub-teams. For example David Chiu '95 is attempting to organize a section three team. "It's important to get student's noses out of their casebooks and actually doing something to help the people we are supposed to be serving," said Chiu.

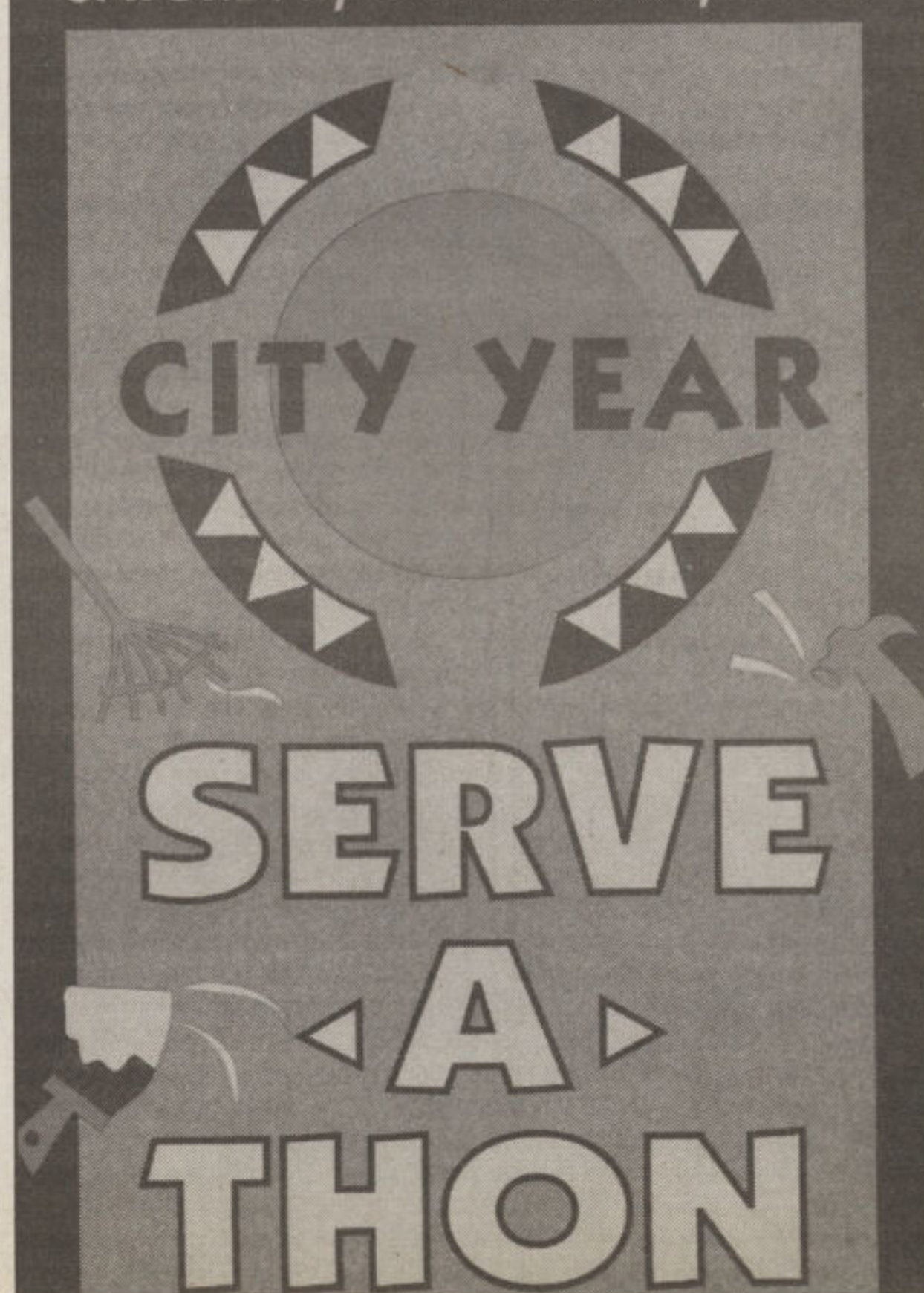
If Harvard Law School sends too many volunteers we may be assigned several projects, but Corti is sure that sub-teams will be able to work together.

How successful have Serve-A-Thons been? Corti proudly lists some recent stats: "Last year we painted over three miles of walls with more than 900 gallons of paint. More than 2,500 plants and saplings were planted and 15 tons of food was sorted for distribution." In the end over \$400,000

were raised.

Questions concerning the City Year Serve-A-Thon should be directed to either JoAnn Corti or Enu Mainigi '94 who are organizing the Harvard Law School team.

SATURDAY, OCTOBER 24, 1992



**ABSOLUTELY
THE BEST
FAJITAS
ON THE
PLANET!!!**

**"...has the
locals excited!"
The PHOENIX**

**"...deliciously
eclectic."
The TAB**

*"Eating cheap does not mean
eating poorly..."*

**LATE NIGHT MENU
EVERY NIGHT 'TIL
1:00 A.M. !!!**

LASAGNA, TERIYAKI STEAK,
PIZZAS, SANDWICHES, BUFFALO WINGS,
DESSERTS, APPETIZERS!

**NEW ITALIAN MENU
including
7 pasta dishes and 5 sauces from
\$5.95 - \$7.95!!!**

**LUNCH from \$2.95 & DINNERS from \$4.95
INCLUDING
NUMEROUS \$5.95 DINNERS EVERY NIGHT!!!**

**6 T.V.S WITH ALL THE COLLEGE AND PRO
FOOTBALL ACTION EVERY SATURDAY!!!**

**"BEST OF CAMBRIDGE"
SUNDAY BRUNCH 10:30-3:00**

**R
O
S
I
E'
S**

547-1228

**1667 MASS AVE.
JUST A 5 MINUTE WALK
FROM HARVARD SQUARE
TOWARDS PORTER SQUARE!!!**

BRIEFS



North Hall Open House

Harvard Law School is hosting an open house at North Hall to showcase the new Agassiz Neighborhood Council Community Room. The celebration of the completion of renovations will be held from 4 to 7 p.m. on Thursday, October 15. Short tours of a dorm room, kitchen and common area will be available from 4:30 to 6:00. At 5:30 Dean Clark and Agassiz Neighborhood Council president Kathleen Manion will speak.

HLS invites members of the University community and Cambridge neighbors to join the festivities.

Harvard Appoints New General Counsel

Margaret Hilary Marshall has been appointed General Counsel and Vice President of Harvard University, succeeding Daniel Steiner, who held the position from 1971 until June 1992.

Marshall is a senior partner at Choate, Hall & Stewart and is the immediate past president of the Boston Bar Association; she also serves as Massachusetts state chair of the American Bar Foundation.

Marshall received her B.A. from Wiatersrand University in South Africa in 1966. She then served as president of the National Union of South African Students, fighting against apartheid, from 1966 to 1968. She received a master's degree in education from Harvard and her J.D. degree from Yale in 1976. Marshall then joined the Boston firm of Csaplar & Bok, where she was named partner in 1983. In 1989, she moved to Choate, where she has specialized in civil litigation.

As president of the Boston Bar Association, Marshall worked on court reform, professional responsibility, gender and racial bias, and juvenile justice.

Marshall was born in Newcastle, Natal, in the Republic of South Africa and became a U.S. citizen in 1978.

New Women Professors Welcomed

The Women's Law Association and the Dean's Office are co-sponsoring a welcoming reception for the two new women assistant professors, Chris Desan and Carol Steiker '86.

Desan comes to HLS from the U.S. Department of Justice, where she represented the U.S. in a number of cases before the Supreme Court. Prior to that, Desan clerked for Judge Stephen Breyer at the U.S. Court of Appeals for the First Circuit. She received a J.D./M.A.L.D. in 1987 from Yale Law School and the Fletcher School of Law and Diplomacy at Tufts University.

Carole Steiker graduated from HLS in 1986 and has built a reputation as one of D.C.'s top public defenders since 1988. She won the Sears Prize as a 1L and went on to become President of the Harvard Law Review. Upon graduation she clerked for Justice Skelley Wright on the D.C. Circuit and later for Justice Thurgood Marshall on the United States Supreme Court.

WLA co-chair Linda Dunn '94 states that "we're very pleased to have these women on the faculty, and we just want to extend a welcome to them to make them feel they're a part of our community." She adds that "we know that as women on the faculty they're probably asked to do a lot of things, since there aren't many women to go around, and we want to find out more about their research and their interests to see if WLA can be of any help."

The reception is today, October 9, at 4 p.m. in the John Chipman Gray Room.

Practicing Out of a Travel Agency

HLS graduates work in many different places, but Elizabeth Perez may be the first to practice legal aid work out of a storefront travel agency in Harlem.

After graduating from HLS in 1988, Perez worked for the Democratic National Party and later for a corporate law firm in Washington for several months. She then moved to Brussels where she was a television reporter for a year.

But then she returned to New York City, where she grew up, and began helping lawyers in Harlem. She loved it. Perez comments that "I love talking to people" and that "I've never had real clients before."

Perez decided to open a practice in the Borinquen Travel Agency on Broadway between 138th and 139th Streets. Perez often knows the people who walk through her door with a huge range of legal problems and she explains that her reputation has grown quickly because of her familiarity with her neighbors, as well as her fluency in Spanish. Most of Perez's clients have little money; some don't pay, some pay with small gifts, or lunches from their restaurants, and some pay in installments.

Perez supports herself on what she calls her "downtown" clients, whose fees help pay the bills for her uptown office.

Sears Prize Winners Announced

While not officially ranked by the Law School, the top students of the last year's 1L and 2L classes have been formally recognized as this year's recipients of the Sears Prize. Second-Year students Yochai Venkler and Shawn Fagan and third-year students Samuel Bagenstos and Ernest Young received the annual prizes given to those students who earned the highest grades in their class. The awards were established in 1912 by Sarah C. Sears in memory of her son, Joshua Montgomery Sears, a member of the Law School Class of 1904. The prize is accompanied by a gift of \$4,500.

Grease is the Word

By Todd Hartman

Unfortunately, most of us remember the 70s as the decade of disco, gauché pants and corduroy sport coats. Mercifully, one movie took us away from all of that and into a 1950s world of tough, leather wearing hoods who also liked to sing and dance a lot. Yes, somewhere between *Freaky Friday* and *The Fish That Saved Pittsburgh* came *Grease*, whose stage version will bring vivid nostalgia from both the 50s and the 70s to HLS next week on October 15, 16 and 17.

Produced and directed by Rob Schwinger, the HLS Drama Society presents *Grease*, not as it was on screen, but as it ran for a record 3,388 performances on Broadway. For those expecting the film version, the only difference is that we are spared the Bee Gees, boogie-fever rhythm of "You're the One That I Want" and the overplayed Olivia Newton-John single, "Hopelessly Devoted To You," which only served to bring back shocking memories of *Xanadu* anyways. But fear not film fans, there's plenty of "Summer Lovin'" to go around.

For those unfamiliar with the plot, it's a typical boy-meets-girl, boy-dumps-girl, girl-changes-to-get-boy-back story. The boy is high school head tough-guy, Danny Zuko, played by Scott Auby '93. The girl is sugar-sweet prep-school transfer Sandy Drombowski, played by Page Lichtenfeld '93. While Danny and Sandy are in love, the rigors of their social situation in school makes it impossible for them to express their feelings to each other and have a meaningful relationship.

However, *Grease* is never remembered for its plot, but rather for its musical numbers which people can't seem to stop singing. And in this production, they are equally unforgettable.

Auby and Lichtenfeld's golden voices blend perfectly, making their duets the star of the show. Indeed, from the opening number you'll be looking backstage for a CD player and wondering "Why the hell are these people in law school?"

For comic relief, Rob Rader and Frank Yokoyama slither their way back on to the HLS stage with hilarious por-

trays of Kenicke and Sonny, Danny's fellow gang members. The "King" returns as Rader does his gyrating version of "Greased Lightning" with the jocular expertise he has perfected in HLS classrooms. As the deluded ladies man Sonny, Yokoyama has transformed the maniacal nervousness he displayed in last spring's *The Malfeased Falcon* into the subtle art of crotch-grabbing, which will send you into fits of hysteria.

As for the opposing gang of females, a series of great individual performances will have you dying of cuteness by the second act. That is, all except Melissa Landau '93, who plays the loud and bossy Rizzo to eerie perfection and steals the show with her mocking rendition of "Look at Me, I'm Sandy D."

On the softer side, Shawna Swanson '93, Susan Blackmun '93 and Julie Sternberg '95, all have their moments in the spotlight, and will probably win over the otherwise cold and clammy hearts of the HLS men.

Let me see, there was one other thing. . . oh yes, SEX!

No HLS Drama production would be complete without a steamy dance number to appease our frustrated libidos. Take heart, *Grease* is no exception. As the exotic Cha-Cha, Mara Yoelson '94, who also did a fantastic job of choreographing the show, dances around a dumb struck Auby in a hot Latino *canta*.

Adding to your overall enjoyment, is a top-rate band put and creative costuming by Cari Dawson '93. Perhaps most shocking is the impressive set actually built by HLS students. Tech directors Pam Coukos '94 and Steve Bondi '93 are all involved and are to be commended for helping Schwinger create a setting equal to these outstanding performers.

Most of all, the show is, well, fun. Having the most fun of all are the performers, and seeing HLS students have fun is oddity enough to make the show worth seeing. Who knows, maybe all that great music, dancing, humor and energy will rub off and stick around for awhile.

Tickets for *Grease* are on sale all next week in the Hark from 10 a.m. to 2 p.m. Ticket price is \$5.

Grease

Presented by the HLS Drama Society



October 15, 16, 17 at 8:00 pm
Ropes-Gray Room, Pound Hall
Tickets on sale Oct. 8 in the Hark

Students Confront Union-Busting Firm

By Robert Weissman

Capping a week-long campaign to urge students not to work for union-busting law firms, 50 law school students and supporters demonstrated against the firm Morgan, Lewis and Bockius on Tuesday. The protest was organized by the Labor Law Project.

Dozens of students, and about a dozen trade unionists, picketed outside the Sheraton Commander, located across the Cambridge Common from the Law School, where Morgan, Lewis was holding interviews. Three students and three unionists confronted Morgan, Lewis representatives inside the Sheraton

Commander, and met with a Morgan, Lewis labor attorney for about 20 minutes.

The demonstration followed a Labor Law Project-organized petition drive asking Harvard Law School students to pledge not to work for seven firms interviewing at the Law School this fall which the project identified as "union-busting." In its literature, the group defined "a union-busting firm is one that advises companies to use coercion and intimidation to effectively deny their employees the right to represent themselves."

More than 300 students signed the petition, according to Labor Law Project members.

After wandering briefly through the halls of the Sheraton and being bounced between a couple Morgan, Lewis representatives, the six-person pro-union group met with Tom Wotring, a Morgan, Lewis labor representative in Washington, D.C.

With the outside protesters' chants — such as "Two, four, six, eight, workers' rights you violate; Three, five, seven, nine, we won't work for legal swine" — audible in the background, Damon Silvers, '95, a

member of the Labor Law Project,

told Wotring, "We understand that Morgan, Lewis helps clients to avoid what you call 'third-party involvement in labor relations.' We think it is actually union-busting, and that your presence at Harvard Law School is inappropriate."

Mike Duff '95, charged Morgan, Lewis with having a hand in breaking a union to which he formerly belonged. Duff worked at USAir and was a shop steward with Teamsters local 732, which represented ground crew workers in Philadelphia, when USAir broke the union.

Duff told Wotring that his firm was "indirectly responsible for a large number of workers having lost their union and union benefits." Duff said that it is difficult to tie a company's specific anti-union activities — the USAir anti-union campaign included firing union supporters, fomenting racial divisions in the workplace, creating an atmosphere of fear and intimidation on the job, and wiretapping union supporters, according to Duff — to a particular law firm, but that there was no doubt Morgan, Lewis played an important role in USAir's effort to break the Teamsters.

Wotring replied that Morgan, Lewis was not campaign counsel to USAir, but merely litigation counsel, and therefore not responsible for whatever tactics USAir used. Duff answered that Morgan, Lewis' litigation played a central role in USAir's anti-union campaign.

More generally, Wotring said, "We represent management — yes, guilty as charged. But that doesn't make us bad guys." He denied Morgan, Lewis advised clients to engage in intimidating anti-union activities. In fact, he contended, "most of our clients are unionized. That is our bread and butter."

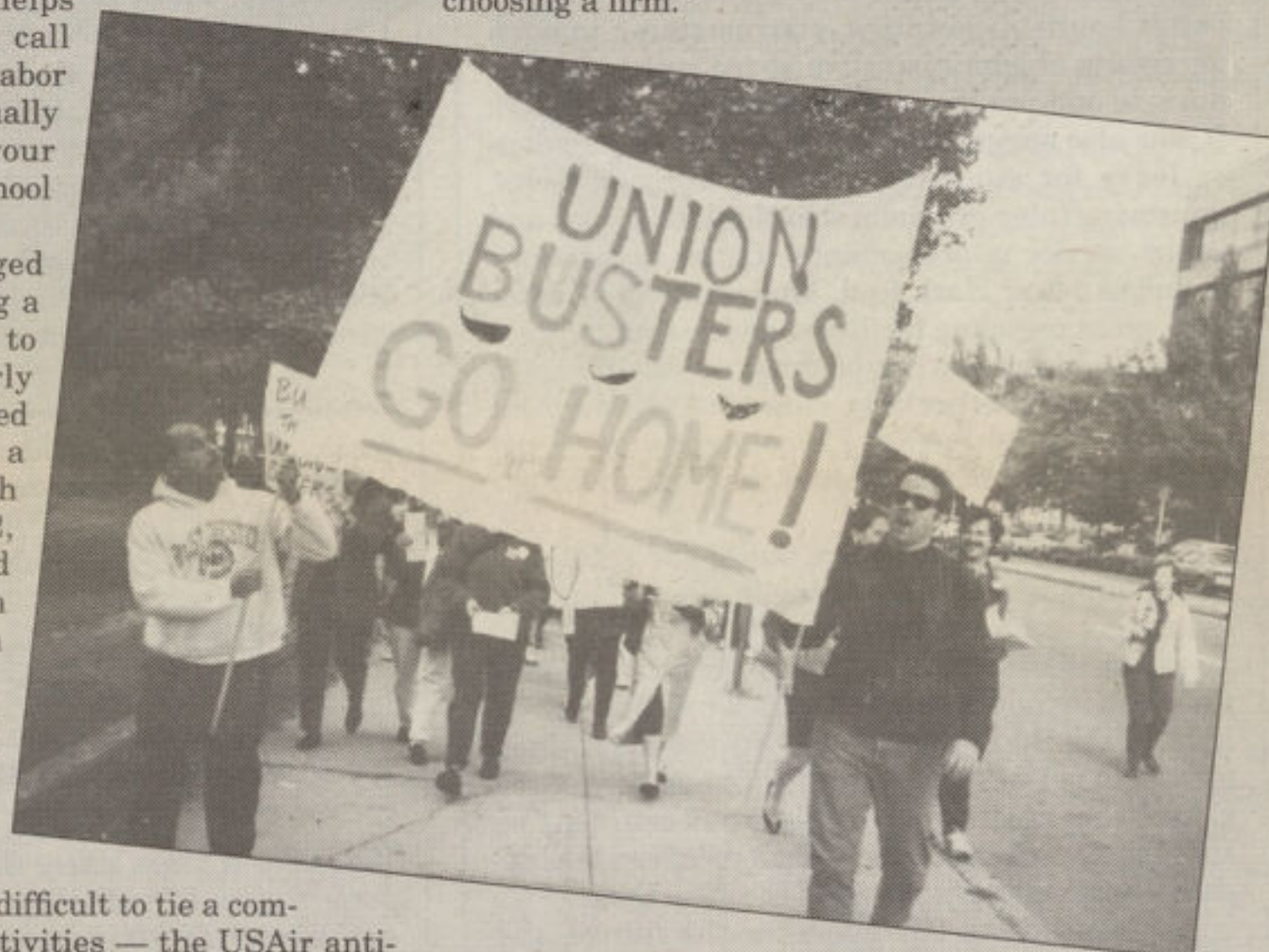
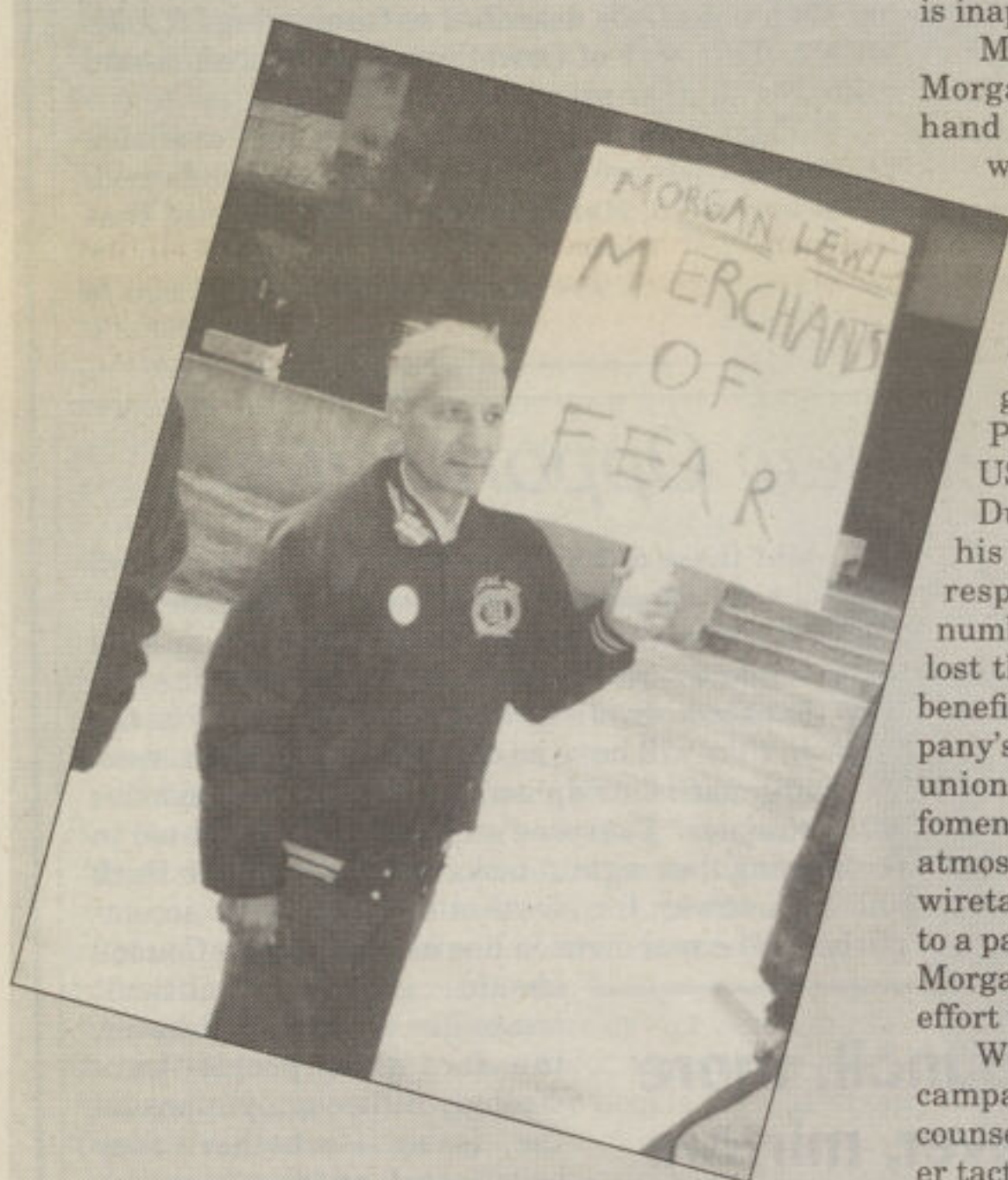
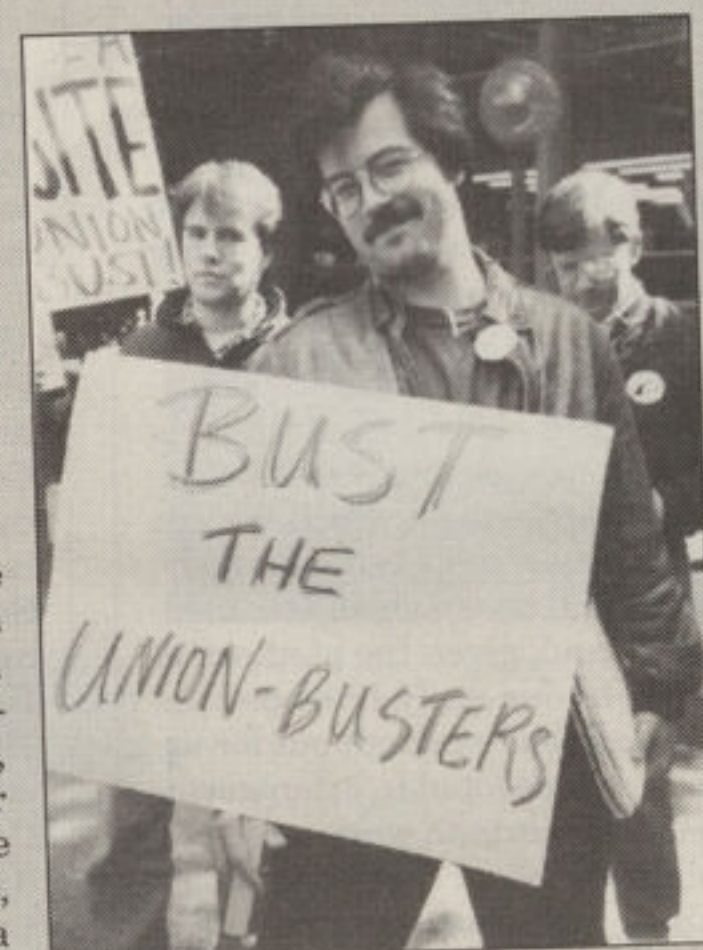
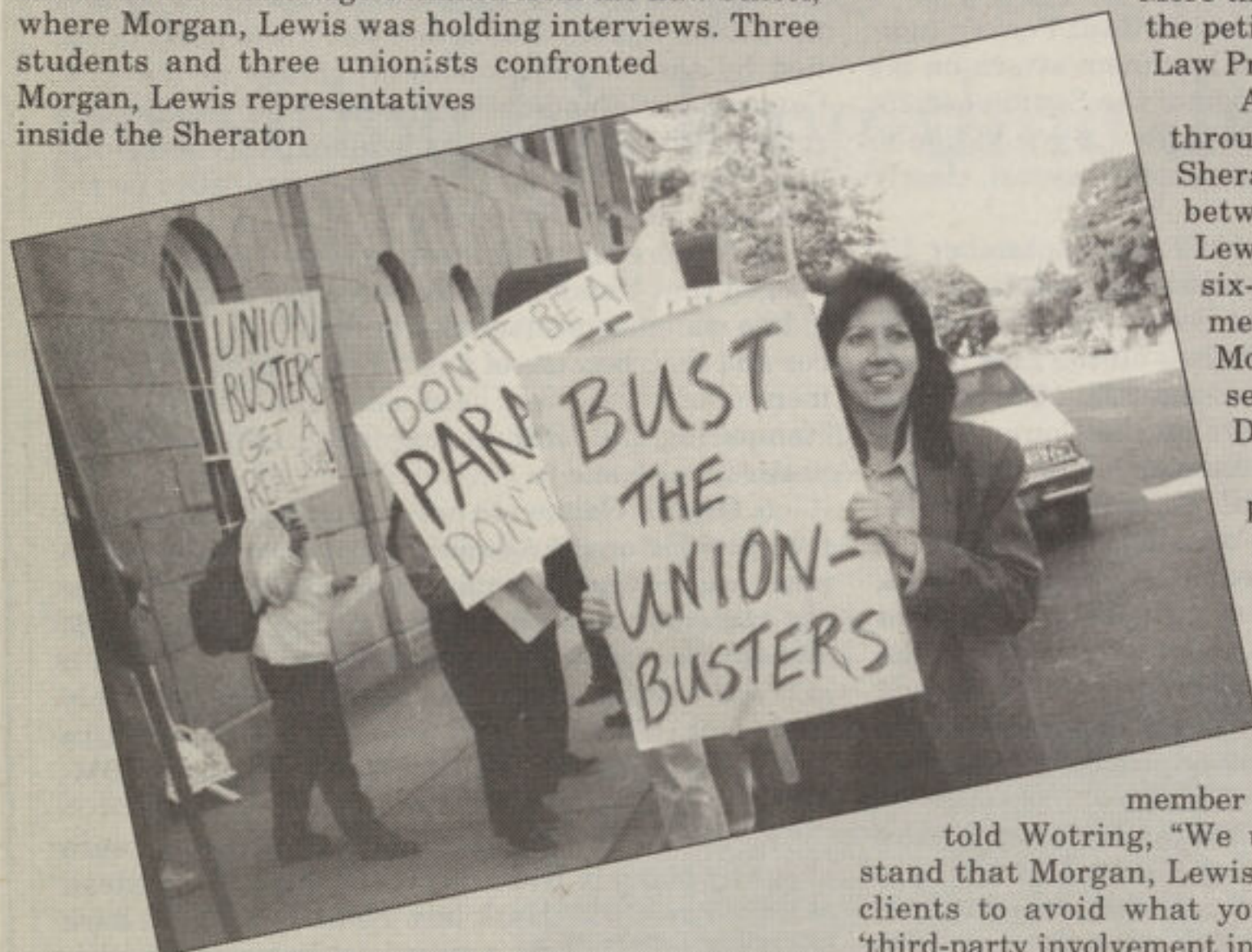
The pro-union group was not impressed with this argument. Phil Mamber, president of District 2 of the United Electrical Workers, said, "Working people in this country are terrorized today, due to the efforts of law firms and consultants working with the

most reactionary of corporations. That has to be put to an end." He added, "Working people cannot allow people in the legal profession to walk the line where their words may be legal but the effect is intimidating."

Labor Law Project members felt their efforts were worthwhile. Duff said, "I'm glad to have had the chance to express a personal view." Too often, he said, discussions about labor relations issues are confined to theoretical issues.

Andy Levin '94, president of the Labor Law Project, termed the group's overall anti-union-buster campaign a success. He reported that at least a half dozen people said they canceled interviews with firms on the Labor Law Project's boycott list, or crossed those firms off the list of ones from which they are seeking interviews. More importantly, he said, "We reached a lot of our peers, and put the question of whether a firm bashes poor and working people on

the agenda of what they think about when they are choosing a firm."



Photographs Courtesy of the HLS Labor Law Project

ALL SIDES

Conflicts Continue on Law School Council

LSC is Poised to Move Forward

By Marie-Louise Ramsdale '93

Now that all of the election furor is (hopefully) behind us, the Law School Council, including the newly elected members, took this past Sunday afternoon to step back and assess our goals and objectives for the year ahead. While it would be foolish, as well as incorrect, to say that our political differences are now completely resolved, it is accurate to say that common ground was definitely found with regard to projects on which we can work for the benefit of the law school student body. As your elected representatives we should be advocates for your concerns, and, given the plethora of problems that face us in our daily lives on this campus, we certainly have our work cut out for us.

Part of our retreat was devoted to brainstorming, developing a list of projects to work on in the months ahead. While some of our ideas are maybe just wishful thinking (i.e.: converting to Yale's grading system), I think that many others can definitely be accomplished. We plan to work for improvements in Hemenway gym (cleaner floors, better hours of operation, stairmasters); to push for reform of administrative board rules of procedure; to address the huge problem of registration. It was also suggested that we address a pregnancy leave for students, reducing copying costs, improving inter-graduate school relationships and escort service improvements. Other suggestions included better Hark food, improving 1L orientation, more recycling facilities, addressing matters of faculty hiring and establishing a book exchange. While these ideas are only a few of those that were mentioned at the retreat, I hope that they give you an idea of some of the goals of the Council for the year ahead.

Another idea that came out of the retreat is the holding of a town meeting, a time when students can come and address their concerns to members of the Council. I think that this suggestion is an excellent one, and such a meeting will be held in the upcoming weeks. In the meantime, please do not hesitate to contact me or any of the Council members with any of your concerns or suggestions. (A list of all Council members is posted in the display case outside the Law Coop.)

In addition to our plans for the future, the Council has already been busy this year, even in the midst of the controversy. We sponsored a back-to-school jam with AALSA, BLSA and La Alianza, we co-sponsored the diversity panel with the Dean of Students Office and we sponsored a voter registration in the Hark this week. Furthermore, we are working with PULSE and the Office of the Public Interest Advisor to involve the Law School in City Year, a city-wide volunteer project to be held later this month. We are also co-sponsoring a program on safety with the Dean of Students Office and WLA this Friday and are in the process of appointing students to the administrative board and numerous faculty/student/administrative committees.

I hope this article gives you all a better idea of what the Law School Council is all about. When we are not being rocked by political controversy, we are trying to make this place a little more tolerable. Hopefully in the future, such controversy as has taken place over the past few weeks can be pre-empted, especially since we are now developing long-needed election codes and by-laws for the Council. Also, having seen the stagnation that can result when we are beset by unnecessary political strife, I think many of us feel that the sacrifice of productivity for political agendas is too great a price to pay. While I cannot say that "all is well" on the Council, for much is yet to be resolved, I can at least comment that for the moment we are moving forward on issues of concerns to all students.

Marie-Louise Ramsdale is President of the Law School Council

Attempting to Set the Record Straight on LSC

By Michael Twomey '93

I will not respond in kind to Raul Perez's ludicrous, but now familiar, ad hominem attack on me printed in the Letters section of the September 25, 1992 issue of the RECORD. Rather, I would like to stick to the facts involved and make several, clearly noted, comments.

1. The September 10, 1992 and September 17, 1992 issues of the Adviser notified ILs that they were eligible to run for positions as Section Representatives and/or At-Large Representatives on the Law School Council. The same issues announced that 2Ls and 3Ls could run for At-Large seats on the Council. Both issues listed the filing deadline as 5 p.m. on Friday September 18, 1992. LSC representatives also apprised students of these openings at the Student Organizations Fair on Wednesday September 16, 1992 and each IL Section was visited during the first week of classes to inform them of the role of the Council and the positions open to them. (LL.M. and S.J.D. students were not notified of their eligibility to serve on the Council at the appropriate time; see below.)

2. On September 16, 1992 the LSC met for the first time. The Executive Committee informed the Council that it had already established and published filing deadlines and election dates (9/18/92 and 9/22-23/92, respectively). Presumably, this decision was authorized by the "urgent business" clause in the LSC Constitution. The Council acquiesced.

3. On September 20, 1992, two days after the filing deadline, LSC members were informed that the Executive Committee had unilaterally decided to postpone elections one week and to extend the filing dead-

line by one week. There was, in fact, no meeting of the Executive Committee but merely telephone calls to line-up a sufficient number of acquiescers to "justify" the action. Again, this action was presumably justified by the "urgent business" clause in the LSC Constitution. Candidates who had filed on time and several Council members complained. An "emergency" meeting of the full Council was therefore called for the next day, Monday September 21 at 8 p.m.

4. At the emergency meeting of the Council, it was alleged that "tampering" had occurred with the candidate statements submitted to Raul Perez's 2L Hark box and that, because of this "tampering," a postponement of one week was necessary. The allegations of "tampering" fall into two groups discussed below under items 5 and 6.

5. One 1L claimed to have submitted a statement for a position on the Administrative Board. The statement was, allegedly, not found by Mr. Perez. Whether the statement was never submitted (COMMENT: "What? You didn't get my paper? I'm sure I turned it in...") or whether something else happened is simply irrelevant. The Ad Board positions are non-elective and have nothing to do with the elections. (COMMENT: Smokescreen.)

6. Three or four candidate statements were allegedly found in Nidia Perez's 2L Hark box instead of Raul Perez's 2L Hark box. Nidia Perez's 2L Hark box (COMMENT: Take a guess...) is immediately adjacent to Raul Perez's 2L Hark box. (COMMENT: Oliver Stone just took a room at the Sheraton Commander.)

7. Items 5 and 6, above, are the totality of what has been repeatedly described as "tampering." (COMMENT: This sort of Orwellian doublespeak would make Big Brother proud.)

8. There were no candidates for the two available LL.M. seats because LL.M.s had never been informed, by spoken word, Hark box, or Adviser notices, that

please see TWOMEY, page 16

Michael Twomey is a Law School Council representative and former President.

LSC Elections Offer New Opportunities

By Francis Phillip '93

"Show me a place where Blacks and Whites get along perfectly, and I will show you a place where Blacks and Whites don't talk to each other."

During the last two weeks, the Law School Council has weathered deep internal divisions and apparently suffered a loss of credibility among the student body. Unlike some of my fellow council members, however, I regard the recent events as potentially a step forward for both the Council and the Law School. The political infighting at the Council should not be a reason for doubting the Council's legitimacy, rather it demonstrates that the Council is finally achieving its purpose — to represent all student interests.

In the current turmoil, certain facts have been ignored of which the school needs to be reminded. First, before the Council became "political," voter turnout was less than 20%, there was little or no competition for seats, and students were not concerned with what candidates thought. In the last election, approximately 50% of the student body voted, only one section was uncontested, and voting blocs were organized to support candidates who had differing platforms. As a result, today, the student body is better informed and the democratic process is working better than ever before.

Second, not only is the Council more racially diverse than in any year since I have been at the Law School, but it is also more ideologically diverse. This diversity is one of its strengths.

Unfortunately, students don't realize that the Council is probably the only forum where members of the Republicans, Democrats, BLSA, La Alianza, AALSA, JLSA, the Federalists, WLA, Christian Fellowship, CCR and Lincoln's Inn meet on a regular basis. To the extent that the members of the Council

represent these different organizations, the Council provides an opportunity to create understanding. Many of these groups view each other with mutual suspicion and hostility, and refuse to communicate. Now that these diverse groups are represented on the Council, they will have no choice but to communicate.

Third, partisanship isn't necessarily synonymous with paralysis. Everyone on the Council is united in recognizing that certain tasks — improving the Hark and Hemenway for starters — need to be accomplished. The real division lies in whether the Council should address "political" issues like diversity. However, the fact that people have strongly differing opinions on the issue — whether they believe such an issue is or isn't appropriate for the Council to handle — doesn't mean the Council is less legitimate.

What does hurt the Council's legitimacy though is when members decide to publicly malign each other, hurl invectives, and accuse each other of "conspiracies" and extremism. When council members behave in such a vindictive manner, they are merely reflecting the deep divisions that exist at this school.

Harvard Law School is factionalized. But rather than confronting the tough issues, students prefer to ignore one another and maintain a "hostile truce." The Council, more than ever, mirrors the ugliness that exists at this school and some people don't like what they are seeing. Some would prefer the calm that comes from avoiding problems, than the storm that arrives when conflicts are faced. There will never be true peace, however, until these conflicts are dealt with, and no student organization is more qualified to deal with the problems common to all students than the Law School Council.

We embody virtually the entire range of student ideology and if we can learn to cooperate, then perhaps the student body will be able to as well. If, however, our partisanship does result in inertia, mutual contempt and even more hostility, then our failure will serve as a warning to all of the dangers of not dealing with problems until it is too late.

The Council, more than ever, mirrors the ugliness that exists at this school

Francis Phillip is Secretary of the Law School Council

Reconstructing a Dialogue

Professor Randall Kennedy takes his scholarship to the public in pursuing his long-time dream.

By Todd Hartman

Two years ago, Professor Randall Kennedy decided to take his scholarship to a frontier where few scholars dare to venture — the general public. With nothing more than promises from fellow scholars and an attitude more common to people who sell motivational tapes, Randall Kennedy decided he would go and fulfill a long-time ambition. While most professors think about reading their material in someone else's magazine, Kennedy decided to publish his own.

Kennedy's vision was to create a magazine devoted to the single issue which had consumed his legal career, race relations. Frustrated by the spiteful and politicized treatment the issue has always received in the general media, Kennedy wanted to create an approachable forum which would "elevate the general intellectual level of the country" concerning an issue which has become too often the subject of the next "Geraldo."

"There's a real hunger for a forum which lets scholars go and debate the issues," explained Kennedy. "It is unusual."

One would think that publishing a magazine might be a bit much for a full professor at Harvard Law School. As most students who work on journals know, it requires a staff, editors, an office, and a whole slew of eager LL.M.'s willing to subside. Yet, Kennedy's subtle desire, combined with half a Langdell office, a telephone, and a rolodex, provided Kennedy with enough reason to risk thousands of his own dollars on a project he was willing to work to make succeed.

"I had been thinking about it before coming to Harvard [eight years ago]," recalled Kennedy. "My attitude was 'Forget about organization and simply get in motion and keep going.' So I just printed up some stationary and went to some friends and said 'write something for me.'"

And from these almost matter of fact beginnings, *Reconstruction* magazine was born, a quarterly publication which presents articles by people serious about discussing race relations.

However, the success of the publication is decidedly more impressive than its "shoestring" existence. After printing the first issue, Kennedy approached Reading International as a possible distributor. One store reluctantly agreed to carry three copies in one of its newsstands, doubting that the magazine could sell at the \$8 cover price Kennedy suggested. In less than a week, all three copies had been sold and Reading International has kept a steady supply ever since. Now in its fifth edition, *Reconstruction* has over 4,500 subscribers and can be seen on newsstands from New York to Nigeria, a success which even surprises Kennedy.

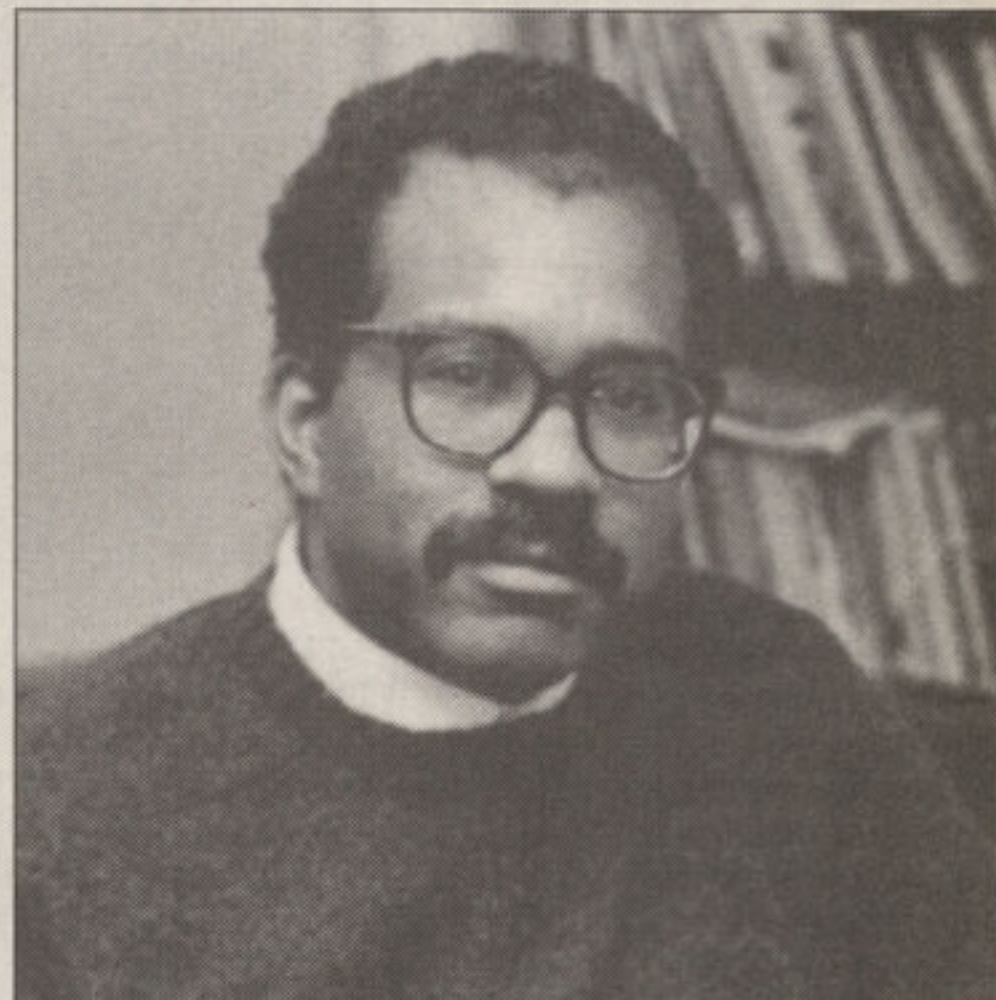
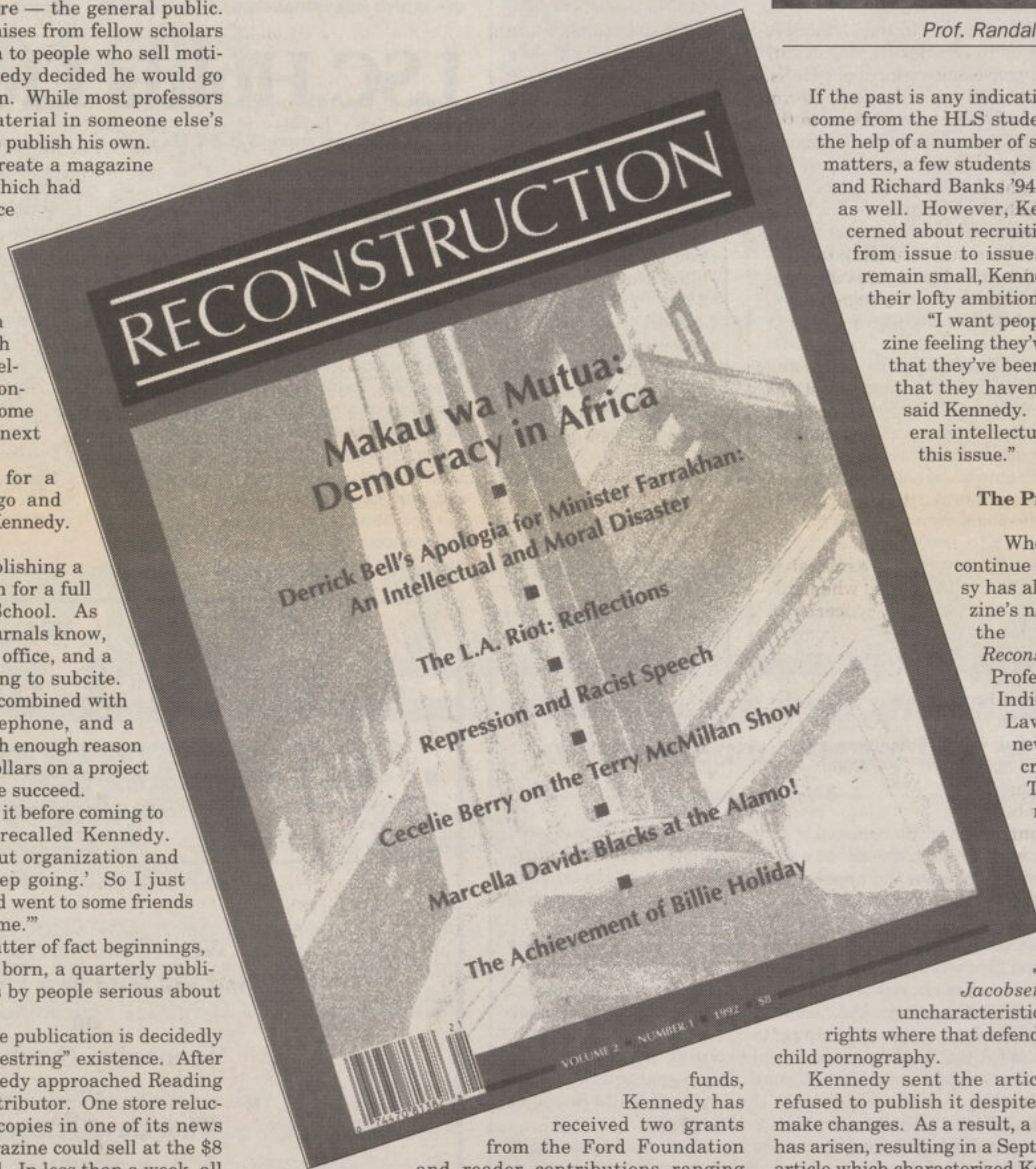
"The one thing I'm happiest about is it's such an eclectic audience. Ideologically there are all sorts of folks," said Kennedy. True to his intention, the readers have not been limited to academia as businessmen, students and even prisoners have expressed their growing interest. So many in fact, Kennedy has found it difficult to keep up.

"The single biggest difficulty is financial resources which puts a limit on press run," said Kennedy. "We could sell more, but we don't have the capital to make the copies."

Since beginning publication with entirely his own

nings.

"The other main problem is organizational where-with-all," Kennedy said. "I've been trying to create a better organizational framework for the publication and I guess eventually that will happen."



Prof. Randall Kennedy

If the past is any indication, that framework could come from the HLS student body. Besides gaining the help of a number of students in administrative matters, a few students such as Peter Cicchino '92 and Richard Banks '94 have contributed articles as well. However, Kennedy remains less concerned about recruiting help than just getting from issue to issue. And while the origins remain small, Kennedy's goals have sustained their lofty ambitions.

"I want people to put down the magazine feeling they've gotten new info, feeling that they've been introduced to new ideas that they haven't previously discovered," said Kennedy. "I want to elevate the general intellectual level of the country on this issue."

The Problems of Success

Whether *Reconstruction* will continue to grow or not, controversy has already baptized the magazine's nascent success.

For the fourth issue of *Reconstruction*, Kennedy asked, Professor Craig Bradley of the Indiana University School of Law, whom Kennedy had never met, to write an article critical of Justice Clarence Thomas' first year as a member of the Supreme Court. According to both Kennedy and Bradley, the original article contained some explicit language, using innuendo to question Justice Thomas' vote in

Jacobsen v. U.S., where Thomas

uncharacteristically sided with defendant rights where that defendant was accused of selling child pornography.

Kennedy sent the article back and eventually refused to publish it despite Bradley's willingness to make changes. As a result, a semi-national controversy has arisen, resulting in a September 11 *New York Times* article which characterized Kennedy's judgment as censorship, a charge usually reserved for publications in the national spotlight.

"It surprised me that this was of such interest to the Times," remarked Bradley himself, "I didn't really think of it as censorship as such. I don't think Kennedy did it because he disagreed with me, but because he thought the language was intemperate." In the wake of this coverage, Bradley's article, *In Praise of Clarence Thomas*, will appear in the January issue of *Playboy* magazine.

While standing behind his judgment, Kennedy admits his lack of experience as an editor may have blown this controversy out of proportion.

"I wish I had been more clear in the reasons behind my editorial judgment," confessed Kennedy. "I'll get better as I go, though I feel confident in the decision I made."

Whatever the ramifications of the controversy, it remains an indicia of success, a success which has already affirmed the possibilities Kennedy envisioned just two short years ago.

"I think it would be a great triumph to have 10,000 readers, and we're half way there," Kennedy reflected, "Already it's been more successful than I thought."

COMMENTARY

Sexual Harassment Shouldn't Be a Code Word for Censorship

By Hans Bader '94

FOR five months, a group of faculty and administrators has been involved in the drafting of a sexual harassment policy for the law school. The new policy may provide an additional avenue of redress for victims of workplace abuse. However, what little information is currently available about the policy also suggests that it may serve as a pretext for censorship, incorporating into its provisions speech regulations reminiscent of the speech codes struck down at state universities by federal courts and rendered unconstitutional by the Supreme Court's landmark free-speech ruling this summer in *R.A.V. v. St. Paul*.

If the proposed policy punishes speech merely because it is offensive to listeners, it will restrict students' exercise of their First Amendment rights as defined under the *R.A.V.* decision, and will thereby violate the Massachusetts Civil Rights Act, which requires that even private college campuses not interfere with students' exercise of constitutional rights such as free speech. In *Abramowitz v. Boston University* (1986), the court held that students at privately-run Massachusetts colleges enjoy the same free-speech rights under the MCRA as students do at public universities under the First Amendment.

Largely shielded from public scrutiny, the working group members have provided the student body with few details of their proposed sexual harassment policy. Dean Sarah Wald told me after the diversity forum on September 8 that the policy is based on the hostile environment theory, in which speech which generates a hostile work environment for a member of a protected group may constitute illegal discrimination. But the hostile environment theory has never been applied to a public forum such as a university, since no court has ever held a university liable for discrimination merely because one student's speech offended another. Indeed, a speech code at the University of Michigan which banned speech that "Creates an intimidating, hostile, or demeaning environment" was overturned in 1989 in the case *Doe v. University of Michigan*, 721 F.Supp. 852, 856.

According to the Dean, the same provisions apply to interaction between powerful professors and their staff as apply between fellow students. But applying the same provisions to student life as to university workplaces is both oppressive and legally unnecessary.

Unlike college staff, who serve faculty and administrators from 9-to-5 and then depart from the campus, university students live in a public forum ideally-suited to the free exchange of ideas. The proper response to offensive speech by a fellow student is more speech in response, not censorship. Unlike an employee, who can be fired for criticizing his or her boss for offensive comments, a student who is offended by a peer's comments can easily respond with counterarguments, criticism, and ridicule. And unlike an employee who must work in close proximity with co-workers or lose her job, a student can leave the scene of a social event or residence of another student if their speech engenders subjective offense. Speech regulation is therefore utterly unnecessary to protect an offended student's ability to live and work in peace.

Applying the same provisions to student life as to university workplaces is both oppressive and legally unnecessary.

Regulating students' speech is not required by federal or state civil rights laws. Unlike employees, students are not considered agents of their educational institution, which is therefore not liable for their speech in the manner in which an institution can be held liable for discrimination for the offensive patterns of speech of employees.

Dean Wald also stated that the policy applied everywhere on campus, including student dormitories; therefore, the sexual comments a student utters even in the privacy of his or her dorm room could lead to penalties to the extent that offensive speech is held to violate the policy. Unlike obscenity laws, which exempt private speech and expression from punishment to protect individual rights, the policy's regulations of sexually offensive speech would contain no provisions to safeguard students' privacy rights, even though students are guaranteed privacy rights against private colleges in the state under the Massachusetts Supreme Judicial Court's ruling in *Bally v. Northeastern University* (1989).

Applying the same standards to dormitories as to workplaces is frighteningly intrusive because of the radical difference in the mores of the two environments. The workplace is impersonal and desexualized to promote maximum efficiency and smooth integration of work performance between people who share little or nothing in common. By contrast, dormitories are intensely private places where students engage in sexual relations, tell off-color jokes, peruse sexually-explicit movies and books, and discuss the intimate details of their lives with others.

Mandating workplace mores in the bedroom promotes Puritanism at the expense of students' privacy and free speech rights. It deprives students of their dignity and individual autonomy and brings student life a little closer to Orwell's vision.

More importantly, restricting students' freedom of speech on sexual issues deprives them of the opportunity to debate some of the most contentious political issues of our time, a fundamental requirement of the liberal education a university is supposed to provide. "Nowhere in our society is the protection of the free flow of ideas more important than in the university community, the quintessential 'marketplace of ideas.'" *Abramowitz*, citing *Papish v. Curators of the University of Missouri* (1969).

Many political issues have a sexual component. For a student to support his position on public policies relating to pornography, obscenity, or sexually-oriented literature and art, it is often necessary to engage in graphic sexual descriptions or anecdotes to clarify his meaning or provide real-life examples. Similarly, it is necessary to discuss human sexuality graphically in depth when grappling with issues such as sodomy, age-of-consent, and rape-shield laws.

please see *HARASSMENT*, page 14

Harassment Policy

continued from *POLICY*, page 1

mine whether applying the policy would be appropriate, Wald said, adding, "It's the nexus with the Law School that's important."

Fears that the policy would pose a threat to speech, in particular, may be based on a misunderstanding about its intent, Wald said.

"The important concept is sex, not gender," she said. "It does not reach all forms of bias against women, just those of a sexual nature."

If adopted by the faculty, the policy will be implemented through existing faculty committees appropriate for particular segments of the law school community, Wald said.

The administrative board, for instance, would investigate sexual harassment grievances against students, she said.

The proposal is the product of approximately two years' effort by the committee, which was established by the Dean to



Dean Sarah Wald

respond to an administrative, faculty and student "push" for a policy specifically regarding sexual harassment, Wald said.

LSC Holds Elections

continued from *COUNCIL*, page 1

dent interests."

The new Council gathered Sunday for a retreat designed to improve harmony in the wake of last year's tensions and the heated dispute earlier this fall over whether to extend the deadlines for submission of candidacy statements. Council President Marie-Louise Ramsdale '93, who two weeks ago had expressed concern about the Council's perceived legitimacy, said that as a result of the retreat she was optimistic that the Council could be an effective body.

"Everyone who was there, whether left, center, or right, seemed really enthusiastic about the Council and getting things accomplished this year," Ramsdale said. "I'm looking forward to a very posi-

tive year, at this point."

New at-large representatives in addition to Ellner and Foster are: Bill Candelaria '95, Diane Law '94, Spencer Overton '93, Mike Sullivan '93, and Rich Wareing '93. New IL section representatives are: Chantal Thomas and Jon Unger in Section 1, John Bates and Robert James in Section 2, Lezlie Jenson and Bo (Darren) Schwiebert in Section 3, and Eugene Wade and Lisa White in Section 4. New LL.M. representatives are Juan Bautista and Viviana Krsticevic.

Six at-large representatives were to have been elected, but the resignation of at-large representative Ana Salas '94 last week created an additional at-large vacancy.

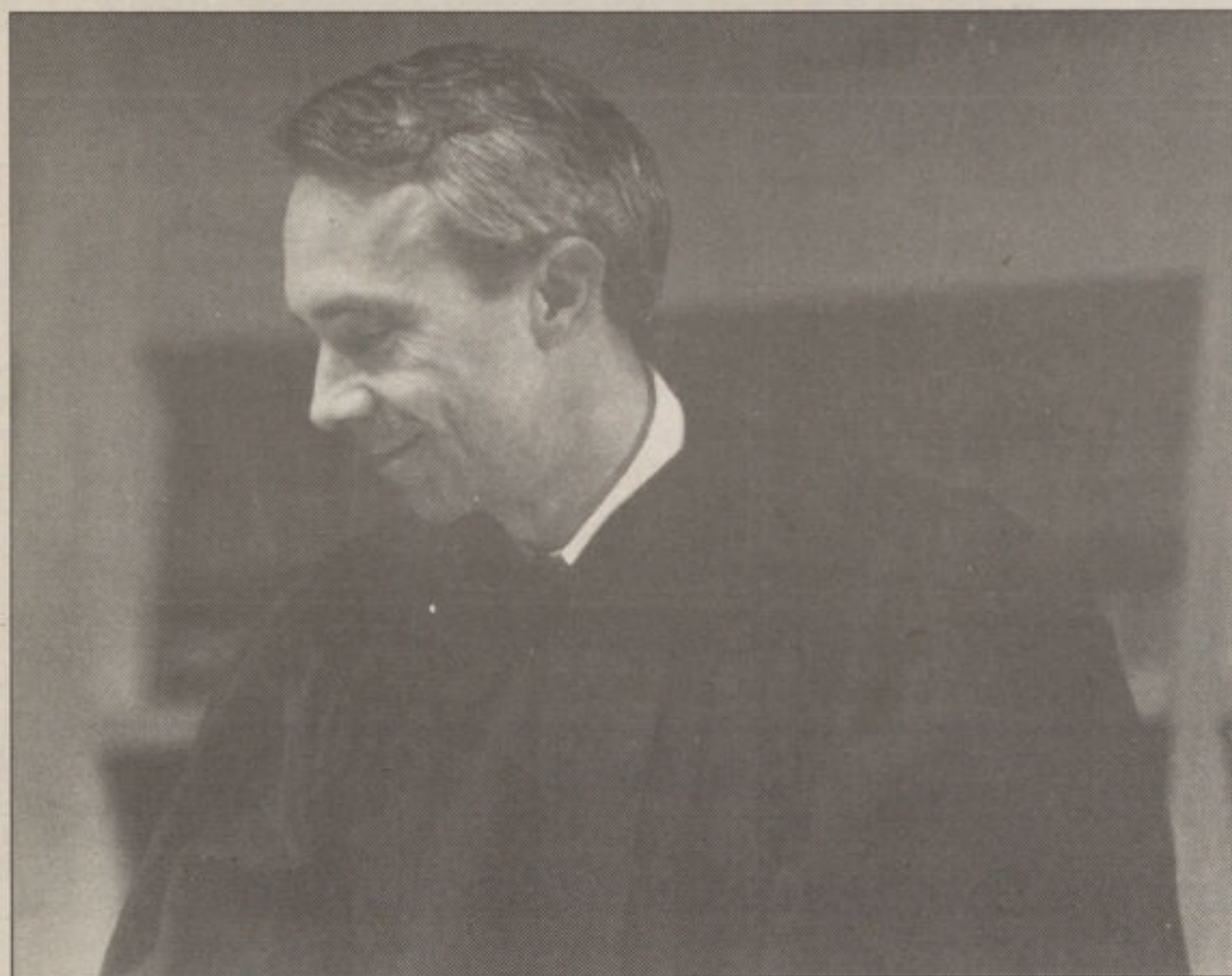
LATHAM & WATKINS

■ Chicago ■ London ■ Los Angeles ■ New York
■ Orange County ■ San Diego ■ San Francisco ■ Washington, D.C.

We will be interviewing
second and third year law students
on
Wednesday, October 14
and
Thursday, October 15
from
1:00 p.m. to 8:00 p.m.
at
The Charles Hotel
for each of our domestic offices

We encourage you to sign up for an interview through the Placement Office. If you are unable to obtain an interview through the Placement Office, we invite you to drop by our Hospitality Suite at The Charles Hotel to meet with a representative of our firm.

■ ■ ■



Justice David Souter '61 at last year's Ames Moot Court Competition finals.

Supreme Court

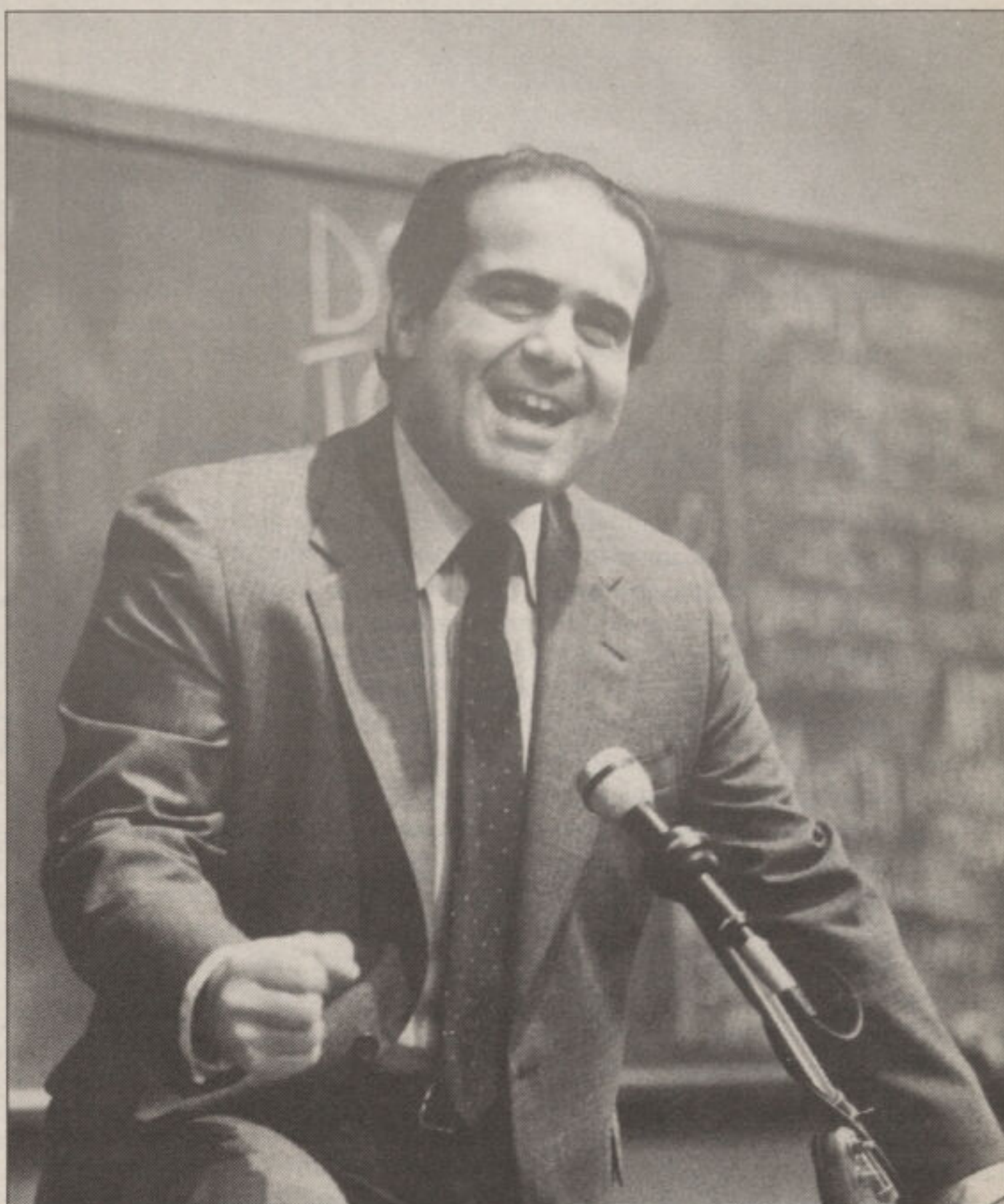
continued from *COURT*, page 1

protesters. The Act, passed in the Reconstruction era, prohibits conspiracies that deprive people of their Civil or Constitutional Rights. Specifically, the Court is considering whether the Act enables judges to issue injunctions against protesters who block access to abortion clinics. The case, initially argued before the confirmation of Clarence Thomas, resulted in a 4-to-4 split and was reargued this week. The Court will also decide whether to grant cert in order to consider a Federal court of appeals ruling declaring Guam's anti-abortion law unconstitutional. The law would have made abortion illegal in vir-

tually all instances. After *Pennsylvania v. Casey*, cert is expected to be denied.

In the First Amendment area, the Court will also be hearing arguments in *Church of Lukumi Babalu Aye v. City of Hialeah*. The case involves practitioners of Santeria, a Caribbean religion with African roots, who practice the ritual sacrifice of animals. When the Santeria Church of Lukumi Babalu Aye announced plans to build a church in Hialeah, a city in Florida, the city responded by enacting ordinances prohibiting the killing of animals for ceremonial purposes. The acts were upheld in a one page Federal appellate court ruling.

The Court will also consider a case that could greatly expand First



Justice Antonin Scalia '60 speaking at HLS.

Amendment protection for commercial speech. The case, *Cincinnati v. Discovery Network*, involves Cincinnati's attempt to justify the removal of 62 news racks used to distribute real estate listings and adult education materials as a means to control litter, while at the same time allowing major newspapers to add 2,000 more

newsstands. The Court of Appeals held that commercial speakers are entitled to full First Amendment rights unless the city can show a special interest in the regulations. Finding that the city had no such interest, the court held that the First Amendment rights of the affected publications had been violated.

MPRE LECTURE

PRESENTED BY STANLEY D. CHESS, ESQ.

President, BAR/BRI Bar Review

More people take BAR/BRI than all other bar review courses combined. And more people take BAR/BRI's course on the Multistate Professional Responsibility Exam (MPRE).

For students currently enrolled in law school and enrolled in the BAR/BRI bar review for New York, New Jersey or any New England state that requires the MPRE, all you need do to take the MPRE course is put down an additional \$75, the full amount of which is credited to your BAR/BRI bar review course (differing amounts will be credited in other BAR/BRI states).

BAR/BRI

BAR REVIEW

The Nation's Largest and Most Successful Bar Review.

1500 Broadway, New York, NY 10036
(212) 719-0200 • (800) 472-8899 • (201) 623-3363 • (203) 724-3910 • FAX: (212) 719-1421
20 Park Plaza, Suite 931, Boston, MA 02116
(617) 695-9955 • (800) 866-7277 • FAX: (617) 695-9386

LIVE

HARVARD LAW SCHOOL
AUSTIN NORTH

THURSDAY, OCTOBER 22

6PM - 10PM

Harvard Law RECORD

Founded in 1946

Robert C. Arnold
Editor-In-Chief

LSC Electoral Process Needs Reform

Last week, the President of the Law School Council, along with several other members of our governing body, executed every aspect of the elections. From accepting campaign statements to counting ballots, members of the Council oversaw the entire process. According to members of the Council, the rules stipulate that this procedure is proper.

However, the controversy over the questionable extension of the candidate filing deadline highlights serious problems with this policy. Politically motivated individuals with particular agendas are put in charge of running what is supposed to be a fair election.

For a government, even a student government, to retain legitimacy, its officers should be elected in a manner free from possible corruption in a process conducted by impartial election personnel.

Elected officers are inherently biased. They are elected on platforms and they have goals which they are looking to promote. One terrific way to advance their ideas is to help others with similar platforms get elected. We make no accusations, but there is always the temptation for people with political agendas to use their power to unduly influence the outcomes of elections.

It is not only in the interest of the public to have an impartially administered election, but also in the interest of the elected officers themselves. Such a process gives the election of officers more legitimacy and prevents allegations of election fraud.

Reform is not difficult. The Council should appoint an impartial student, administrator, or faculty member, who meets the approval of the diverse political interests represented on the Council, to supervise elections. Processing of candidate statements, and distribution and counting of ballots should be handled by anyone but the small population that have personal interest in election outcomes.

It is surprising that in a place as political as HLS, no previous effort was made to avoid such obvious conflicts of interest. Fortunately, members of the Council are now talking about forming a committee to investigate reforming the electoral process. Unfortunately, they are at least one semester too late. Their efforts, however, should be encouraged so as to secure a fair process and ensure the legitimacy of the Council in the future.

Josh Frieman

Staff

NEWS EDITOR	Glennis Gill
FEATURES EDITOR	Todd Hartman
PRODUCTION EDITOR	Kevin Werbach
PHOTO EDITORS	Josh Frieman, Miguel Huerta
SENIOR EDITORS	Fenno, Alyse MacIntyre, Rich Wareing, Lisa Zornberg
COPY EDITOR	Derek Honoré
EDITORS	David Clancy, David Lopez, Peter Mucchetti, April Rockstead, Greg Stohr, Eugene V. Wade, Robert Weissman
CONTRIBUTORS	Toy Chandler, Bob George, Malcolm Harrison Betsy McGrath, Irie Taylor, Steve Yarian
CARTOONISTS	Shawn Fagan, Chris Spagnoli, Paul Taylor
GENERAL MANAGER	Bobby Daut
BUSINESS MANAGER	Kerwin Chung
ADVERTISING MANAGER	Ryan Downs

Printed By The Harvard Crimson

Editorial/Letter Policy

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) 495-4412. Fax (617) 495-3457.

The RECORD is published weekly on Fridays 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 p.m. on the Monday preceding publication. Advertising deadlines are 12:00 p.m. 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 3L Hark box of Robert Arnold. 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: \$30.00 year mailed; \$35.00 year mailed outside U.S. Individual copies: 35 cents at newsstands, 50 cents at the Law School, \$1.00 mailed. Second-class postage paid at Boston, MA and additional mailing offices.

© 1992 by the Harvard Law RECORD Corporation and by the contributors.

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

"Congress shall make no law...abridging the freedom of speech, or of the press..."

—First Amendment, U.S. Constitution



• Letters •

Harvard Law School in Kindergarten

Harvard Law School. The big number one. The cream of the crop. At least it appears that way to those on the outside trying to get in, which, incidentally, was me not that long ago. Surely, if anywhere in the country, here at least was a place with lofty goals and worthy challenges.

It is with this backdrop that I mirthfully view the whole student council cum Griswold nine brou-ha-ha. Now don't get me wrong. I am sure that there are those within this august body that find the whole affair of immense importance. Consequently, they are placing great concern in the current election. Lowly 1L that I may be, I wish to offer my deepest

heartfelt good wishes to Ms. Ramsdale & Co. No doubt, she has the greater good of Harvard Law School, nay, all humanity at heart. Still, it just seems to stretch one's credibility to raise such a hullabaloo over an issue which, while I am not minimizing it, doesn't seem all that really important.

So now we are in the midst of furious campaign controversy, the like of which George Bush and Bill Clinton would be proud to see. Obviously, we have some definite politician material in training here. Surveying the walls at the Hark, it is obvious that there are a lots of really serious issues for our representatives, an our council to address.

That is, if you happen to be a career student, and nothing in life is more important than what goes on at Harvard Law School and the workings of petty, personal greed and ill will.

Suffice to say, that I am somewhat dismayed that people here tend to take themselves a bit too seriously. I propose that we postpone the election in favor of some therapy, say a retreat wherein the warring factions can learn to operate on something more of an adult level. After all, if we can't get along here, we might just as well be back in the cradle. Hey! Let's grow up folks!

David Oles '95
October 2, 1992

HLS, The Land of Many Surprises

Harvard is an amazing place. Only here a month, and already I've had a significant emotional experience. All of us poor folks (those of us who will have no personal experiences to share in Estates and Trusts) know when it hit us. It was at the financial aid seminar, where we got that letter spelling out exactly what we'd gotten ourselves into. I don't know about the rest of you, but the only paperwork I've ever seen sporting both my name and that many places to the left of a coma was signed by Ed McMahon and was promptly recycled.

What was I thinking? Why did I have to come to Harvard? I turned down full scholarships, with stipends, to great schools in warm, sunny places. Why did no one stop me? I was even more shocked when I realized that I couldn't afford to quit, that I had to graduate or start selling internal organs to pay off just the loan's from the first year alone. What does a kidney go for anyway, and how much will it hurt?

As I sat breathing into a paper bag, I was truly unable to remember why I had come here. I was similarly unable to imagine meeting that pay back schedule from hell without ending up on "A Current Affair" with my jacket pulled over my face. How

can \$7,000 become \$22,000 and not involve the bunco squad? Whatever happened to simple interest?

Considering the forests leveled for the paperwork involved in getting here, it may seem disingenuous to claim shock now, but I swear that I broke out in a cold sweat and developed vertigo at that meeting. I actually called my alum friends for reassurance. Given that none of them are even in the neighborhood of paying off their debts to this place, I shouldn't have been surprised to hear "Psyche!" "Sucker!" and "Misery loves company, doofus."

Mom wasn't much help either. She just wants me

to hurry up and graduate because she tripped over my neighbor's cat last week and is thinking of suing. She's just about got the limp perfected.

I'm trapped. I owe my soul to the Company Store and am reduced to old lady metaphors to express myself. Since I have no choice but to go on, I guess I'll just have to find the bright side in this mess I made. Hmmm. Lemme think. Giving Harvard dibs on my firstborn male child does kinda put charging that CD player in perspective, doesn't it?

Debra Dickerson '95
October 7, 1992

Mad?
Fed Up?
Pissed Off?
Upset?
Angry?
Furious?
Indignant?

Share your feelings!

Write a letter to the
RECORD!

Small Sacrifices on the Road to Social Justice

By Prof. Derrick Bell

THE loss of my tenured position on this faculty, is a small sacrifice in the continuing struggle for social justice in this land where the boast of freedom and justice for all is mocked by the practice of racial and class subordination.

I am reminded of the far greater sacrifice Paul Robeson made in a similar cause almost 50 years ago. Robeson was one of America's greatest singers and a superb actor, whose talents were hailed both here and around the world. But Robeson was appalled by the continuing oppression black people faced in this country. He spoke out against American racism at what this country's leaders deemed a most inopportune time.

The War had devastated Western Colonial powers. Non-white peoples were demanding an end to the occupation and exploitation by European nations. Communism offered a powerful alternative that both challenged and evoked great fear in this country. Paul Robeson, an international figure, by giving voice both here and abroad to what every black person knew about racism and Capitalist exploitation, invested that knowledge with a legitimacy that is a prerequisite for serious opposition.

And, as if that were not enough, Robeson preached the doctrine unholy to guardians of the status quo that the working classes, black and white, were not only brothers, but suffered the same exploitation, a truth quite intentionally (and all too easily) hidden from lower-class whites by appeals to racism propounded by upper-class whites from the earliest days of American history to the present. Any assumption that Robeson's right of free speech encompassed such inflammatory truths was misplaced. When he proclaimed, as he did in *Here I Stand*, that the enemy are the "white folks on top," (p. 36) and dared suggest that American blacks might not so compliantly fight for America in some future war against a non-racist country (Id. at 49), the retaliation that followed became inevitable.

That policy-makers in this country recognized and determined to eliminate this formidable black danger to the economic status-quo, is evidenced by the systematic and blatant violation of Robeson's constitutional rights, admittedly accom-

plished to shut him up. Concert halls and the theater were suddenly and systematically closed to him. Deemed a dangerous spokesperson, Robeson was denied a passport that would enable him to pursue his career abroad. In 1950, when Robeson demanded to know why his passport had been canceled, State Department officials said it was because he refused to sign the non-Communist affiliation oath, but they promised to return it if Robeson would sign a statement promising not to make any speeches when he was abroad. (Id. Gallium, Paul Robeson: All American, p. 158.) He refused.

Robeson was barred from leaving the country. But his message had been heard. And if far fewer rank and file Americans heeded his advice than he had hoped, far more policy-makers than have ever acknowledged it learned from Robeson that to preserve the Union and their pre-eminent positions in it, a twentieth century equivalent of the Emancipation Proclamation might be necessary.

To my knowledge, Paul Robeson, while a lawyer, deeply committed to civil rights, never had his name on any of the legal briefs in the school desegregation litigation that led in 1954 to the Supreme Court's decision in *Brown v. Board of Education*. Indeed, as those cases slowly made their way through the courts in the early 1950's, the government's campaign against Robeson had succeeded in turning even some black leaders against him.

And yet, it is clear today that his statements out of court were as effective as any of the arguments propounded by lawyers who have received due credit for their roles in that landmark litigation. Robeson had stated the unstatable. By urging blacks not to reject Communism until the free world proves it has a better deal, (*Here I Stand*, pp. 45-46), he enabled NAACP lawyers to warn the Supreme Court that the "Survival of our country in the present international situation is inevitably tied to resolution of this domestic issue." (Brief for Appellants at 194).

In his most famous stage role, Shakespeare's *Othello*, Paul Robeson says in the final scene, "I have done the state some small service. And they know it." Even today, that statement, applied to his life, would not be acknowledged by most Americans whose sense of security seems congenitally condemned to fear any black, particularly one whose achievements have been recognized and who then insists on criticizing even the most odious racial problems.

Robeson's message to us is that in the face of adverse reaction, we continue our protests against racial injustice; and that we hold open the door of fellowship to America's white masses against the day when they discover, finally, that black people are not the cause and racism not the remedy for their oppression. Commitment of this character may not save this country, but we will save our souls, and we will have remained true to the rich testament Paul Robeson and so many others have left us.

W

HEN I spoke here last March, shortly after announcing that I would

take a third year of protest leave, despite the University rule limiting such leaves to two years, I observed that the way of the trouble-maker is long and most lonely. But every

still hurt. Then there are those who claim to share my views on faculty diversity, but respond as though my protest was intended to embarrass them rather than pressure those in power.

Without broader support, there was no chance that I could convince school officials that they should actually do what they proclaim they want to do regarding a more diverse faculty. There is a nagging sense that I could have done it better, been more effective by some other tactic though I certainly tried hard to "work from within."

Even so, I wonder. Have we diversity advocates omitted or underplayed some line of argument that would, if effectively advanced, either convince others that we are right or so influence them with our earnestness that they would defer to our eminently reasonable commitment to a more diverse faculty? They must know that we do not seek a radical restructuring of this faculty. Surely, we concede nothing they could not imagine in suggesting that their commitment to hiring say, a woman of color, an Asian, and a Hispanic faculty member this year, together with a promise to bring in at least one new person in the "diversity" category each year for the next five years would silence if not satisfy all but the most militant in our ranks. A commitment of that character would hardly threaten the existing power relationships at this school, but it would recognize that students should be heard and not merely tolerated. More importantly, we would

gain the benefits now of the more diverse faculty students want and need to prepare for professional life in an increasingly heterogeneous world.

I am concerned as well that once more, as a civil rights lawyer, I have fared better than those I tried to represent. This was certainly true of my litigation work for the NAACP Legal Defense Fund in the 1960's. There is a painfully similar pattern to my racial diversity effort in the 1990's. In short, my protest leave was risky and finally cost me a tenured position for which I worked very hard. And, at least in the short run, my efforts have not added more minorities to the Harvard faculty and quite possibly may have increased the resistance of those opposed to greater faculty diversity.

I do not regret what I did, but I certainly wish there had been a way to garner more support from the students and faculty here, and those who claim to support diversity across this campus. When asked why other faculty members did not join me in protest, I have no easy answer. It may well be that other faculty members feel they are a part of the faculty family, and thus there is no impetus to enter into risky protests. Only if you were never admitted to the club does your frustration and rage motivate an action almost cer-

Please see **SPEECH**, page 18

tain end to failure.

I wonder! If a white member of this faculty had taken an unpaid leave in

Every once in a while, there is recognition — more often in defeat than victory — that you tried, and more importantly, you cared. This is such a moment.

plished to shut him up. Concert halls and the theater were suddenly and systematically closed to him. Deemed a dangerous spokesperson, Robeson was denied a passport that would enable him to pursue his career abroad. In 1950, when Robeson demanded to know why his passport had been canceled, State Department officials said it was because he refused to sign the non-Communist affiliation oath, but they promised to return it if Robeson would sign a statement promising not to make any speeches when he was abroad. (Id. Gallium, Paul Robeson: All American, p. 158.) He refused.

Robeson was barred from leaving the country. But his message had been heard. And if far fewer rank and file Americans heeded his advice than he had hoped, far more policy-makers than have ever acknowledged it learned from Robeson that to preserve the Union and their pre-eminent positions in it, a twentieth century equivalent of the Emancipation Proclamation might be necessary.

To my knowledge, Paul Robeson, while a lawyer, deeply committed to civil rights, never had his name on any of the

once in a while, there is recognition — more often in defeat than victory — that you tried, and more importantly, you cared. This is such a moment.

My special thanks to Charles Ogletree who has supported my effort from the beginning and Frank Michelman who represented me before the University in the appeal process. I understand those who supported me in principle but who doubted or disagreed with my tactics. I even have tolerated for those who breathed a sigh of relief at my ouster. For them, I want to cite the warning in the old blues melody: "every sleep eye ain't sleep. Every good bye ain't gone."

ACTUALLY, if you want the truth, I felt a real sense of loss. A principled stand may be justifiable, but the consequences of taking a stand can



Harvard Law School
cordially invites you to attend

THE OLIVER WENDELL HOLMES LECTURE

**Paying Lawyers,
Empowering Prosecutors, and
Protecting Managers:
Raising the Cost of
Capital in America**

to be given by

**THE HONORABLE
RALPH K. WINTER, JR.**

United States Court of Appeals
Second Circuit

**Tuesday, October 13, 1992, 7:30 P.M.
James Barr Ames Courtroom
Austin Hall, Harvard Law School**

The lecture will be followed by a
reception in Pound Hall, 2nd Floor

Liabilities

By Paul Taylor



GROMM: Barbarian at Law

By Chris Spagnoli



NEXT ISSUE:

Safety at HLS

1L Sections

World of Law



Chef Lee's

Gourmet Chinese Food

296-298 Beacon Street
Somerville, MA 02143FREE DELIVERY
876-7666

5% OFF

with student ID.

Dining room and take-out only.

Lunch Specials

from \$4.25 to \$5.10

Occasional Daily Specials

\$3.99

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

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

Each alumnus/a receiving a RECORD subscription through the Harvard Law School Association should be on notice that \$5.00 of H.L.S.A. annual dues are used to purchase the RECORD subscription that he or she receives. Dues paid at any time during the H.L.S.A. fiscal year that began on July 1, 1991 and ends on June 30, 1992 purchase a subscription that begins in January 1992 and expires in December 1992.

Return Address:
Harvard Law School Assn.
Harvard Law School
Cambridge, MA 02138

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

HOROSCOPES

By Rosie Cosentino

ARIES March 21-April 20: The full moon on the 11th gives a week to finish up loose ends. It is a time of spiritual growth. You will find yourself wanting to be alone for a few hours just to think. Too much worry over career causes you to be cross. Try a little tenderness. The child in you always wins.

TAURUS April 21-May 21: The full moon in your twelfth house can cause you to be in the dog house this week. Think before you talk and know your enemies. A change in authority can mean an opportunity for you to ask for what you want. Jealousy and envy are for others after this month so keep smiling.

GEMINI May 22-June 21: The full moon answers your hopes and wishes. Love is all around you. It is time to give a party. Beware of gifts from a friend. Travel if you can. Your intuition is very strong, use it. A week to watch money.

CANCER June 22-July 23: Things are turning around for you. This full moon sextiles Saturn in money house. So new ways to get money or maybe a pay back from a friend. Love and social functions fill your week. It is nice to be popular. Exercise and fresh air are a must for you now, it takes off the edge of excitement.

LEO July 24-August 23: This full moon can mean the fulfillment of great expectations. Falling in your ninth house of contracts and travel, your luck seems to be all good. A romantic weekend. Although all is good, beware the shadows and being set up. Being in the wrong place at the wrong time could cost your reputation. Avoid an enemy.

VIRGO August 24-September 23: Being a psychiatrist for a friend can make you feel responsible. Get real help. Try a weekend at the movies. Unexpected adventure awaits you on a short trip. Your romantic spirit needs time to play. Keeping up with the crowd goes against your morals.

LIBRA September 24-October 23: Opposition to your plans causes emotions and tempers to rise. A week of tension and change. Your personality will get you through. Try exercising to keep busy, and a song to help you relax. Listen to the wisdom of a child. And this week soon will pass.

SCORPIO October 23-November 22: Try being on time, it will win you friends. Car trouble: tires and a wire loose. Your creativity is very high now use it wisely. A time to shine. An interest in history and the family tree turn a hobby into a profession. See what your family did.

SAGITTARIUS November 23-December 21: The full moon in your love house could be the beginning of something wonderful, or the end of a romance. It is your choice, don't let friends interfere. Look to your inner-self and see what is best for your future.

CAPRICORN December 22-January 20: Judgments in your favor. Friends carry your banner. A time to be proud. Make time for studies, you are on a roll and need to take advantage. An appointment is right around the corner be ready.

AQUARIUS January 21-February 10: Travel and studies top your list. This is a week for good grades and letting school be your social outlet. A new car or a change of routine bring happiness. A neighbor of the opposite sex will become a good friend.

PISCES February 21-March 20: Now is the time to get what you want. If you do what you love the money will follow. Older friends will help. A ground trip lets you look at another with different judgment. Hearing the other side of the story helps you make your decisions.

The full moon in October, also known as the blood moon because of the hunting season, causes emotions to be a little on edge. Full moons are endings, a time for being quiet and going within to see the spiritual side. They are for setting goals.

For personal consultations contact:

Rosie Cosentino
P.O. Box 306
Hazelwood, MO 63042
(314) 621-6529

Sex, Drugs, Guns, Politics & Dissin' The Dean

By Alysse MacIntyre

RECORD Columnist

JEOPARDY! watchers will know that the show frequently features a column called "Potpourri," made up of the left over answers from other columns on past shows. This is the column where the questions will often be things like, "What is the Blue Danube Waltz?" followed by "Who was Idi Amin?"

I've always admired the thrift of the Jeopardy! writers for utilizing their unused material. I've faced a similar problem myself. On occasion I have to edit out what I think are great jokes because a column is too long. Other times I've had a few ideas that just aren't enough for a full column. Not wanting them to go to waste, and having to write total of nineteen columns in this my 3L year of sloth, I've found the Jeopardy! Potpourri solution a divine inspiration.

"Whine" is the most over used word at Harvard Law. Everyone loves to accuse everyone else of whining. I know I once accused conservatives here of being whiners, so I have to accept my part of the blame. Mea Culpa, everyone. Now stop your kvetching.

I am personally sick of the PC silencing issue. I am tired of the conservatives who blame everyone else for their lack of courage that prevents them from voicing their opinions in class. I am sick of the liberals bitching about the backlash. If everyone is so damned silenced, why the hell don't they all just shut up?

Embarrassing Moments in the History of White People: 1975, The Bee Gees singing, "Jive Talking."

People often want to know if I've always been writing things along the lines of these columns. The answer is no; before I took up writing I was an amateur inventor. My great inventions:

Decade at a Glance. This is the invention for those hyper planning type people that have their lives all mapped out. "1993 - turn 22, get engaged. 1994 - get married. 1995, accept job at Wall Street Firm" Personally, I find these people lacking in creativity and devastatingly boring, but I have no problem making a buck off them.

Mobius Cheese. Does this sound like the invention of a stoned woman with the munchies who is irked that there is no more cheese to make another batch of nachos? You got it. (Hint: if you didn't get this joke, ask an M.C. Escher fan or someone with a background in theoretical mathematics to explain it to you.) (Or, if you really didn't get it, ask someone hipper than you who's smoked pot, like, say, Clarence Thomas.) (And, no, gentler reader, M.C. Escher is *not* a rap artist.)

"BANG! The Only Beer With Caffeine!" My problem is definitely not that I have a low tolerance for alcohol. My problem is that I can't stay awake long enough in order to discover the limits of my tolerance. Tell me (and you can tell me this because, after all, I'm your Aunt Alysse), how many times have you started ordering coffee drinks at a bar because you're certainly not ready to go home, but you're getting a little sleepy? My point exactly. You need "BANG! The Only Beer With Caffeine."

I'm working on my first screenplay, "Thelma and Alysse meet The Harvard Law Revue." Why me and not Louise? It's simple - I'm a better shot and we don't want to leave anything to chance.

I have this theory about East to West immigration and Evolution. The Europeans worth their salt immigrated to the New World, or just the "Same-Old-World-As-Always" to the Native Americans. Those who stayed behind were ancestors to the people who became Nazis, Fascists, and modern day Parisians. Coincidence? *I think not.* Likewise, Americans with half a wit packed up for the West, leaving behind the ancestors of the modern citizens of North East, most notably New Yorkers. Let's just say it's not an accident that there are so many rotaries in this region of the country, not to mention the Kennedys.

In a temper tantrum benefiting my status as RECORD prima donna, I asked my editor, Bob Arnold, why Rich Wareing gets a photo when I don't. He finally agreed I could have a photo, but only as long as I kept my clothes on. Bob loves to spoil all my fun. I bet he

never told Rich he had to keep his clothes on.

Why do we need more women in the Senate? Forget all the good reasons you've heard. The truth is that we need legislators who will pass laws ensuring that men who snore bear warning labels. It's the kind of thing you need to know and that you never find out until it's way too late in the game to say good night and go home. Women lose millions of hours of sleep every year due to this problem and the men in Washington are completely blind to it - except for maybe Barney Frank.

I started to worry about the HLS Republicans last year when they threw an "End of the Evil Empire" party with the Federalists. I imagined that with the end of the cold war, their days must seem a little bleak, like there is nothing left to look forward to.

I try not to be bitter thinking about the good time I missed at this party. But I knew that Alysse MacIntyre at an HLS Republicans & Federalists event would stand out like a woman of color on the Harvard Law School Faculty. I bet they sang a few rounds of "For he's a Jolly Good Fellow" in honor of Eugene McCarthy and J. Edgar Hoover. Some bald guy probably even colored in a splotch on his head.

But there's one soiree they will be throwing that you know I won't be missing: The Bush/Quayle Retirement Party. I'll bring the Dom Perignon, boys.

"Hey, you're not going to actually publish a column that doesn't diss Bob Clark, are you? How will people know its your column?" asked my homme du jour (or du soir, as the case may be), while reading over my shoulder.

"You're right." I said. "What would a week be if 7,000 alumni didn't receive a copy of the RECORD reminding them that Bob is the most hated dean in HLS history?" Look, it's a dirty job but someone's got to do it.



"I dunna know," said one of Fenno's buddies, "fifty-nine interviews is sure a lot."

"I know," Fenno replied, "but I want to keep my options open. Besides, some of these firms have great receptions."

It was a good bluff, but Fenno knew he was in trouble. He had figured to just go back to his firm from last summer, but that had pretty much gone up in smoke when he got drunk at the firm outing and hit on the managing partner's wife. Now he was forced to hit the hotel circuit - the Commander to the Charles to the Inn, back to the Charles, over to the Inn, back to the Commander, etc., etc. "Geez," thought Fenno, "I feel like Sammy Davis Jr."

Things weren't looking good. Fenno had been talking jobs with one of his O-group mates from first year who was on law review and it left him with a cramp.

"Well, Fenno" Marvin said, "I can't decide whether to clerk for Rehnquist or go and be senior fellow at the Hoover Institute. Maybe I'll just take the partnership offer at Cravath. Then again, I can always come back and teach here."

"I always hated that guy," Fenno thought walking away. "Sure," he continued, "plenty of jobs for those anal JD/MBA/PhD Law Review guys, but what about for guys like me? I feel marginalized."

It's not that Fenno wasn't trying. He had actually gone to every workshop offered by career services and had read the summer evaluations of 97 firms in 20 cities, including Bute. He even typed his resume, but no luck.

Nobody who didn't have the highest GPA since Felix Frankfurter was getting interviews, and if things were tough all around, it was especially bad for Fenno - when you're a 25L, law firms don't exactly beat a path to your door. "Great," Fenno thought, surveying his situation,

"I'll probably end up with my own T.V. ad - 'If you've been injured in an accident, you deserve quality legal representation, but I'm the best you'll get.'"

In fact things were so bad that Fenno even gave up a Wellsley sorority party one weekend to visit his Grandfather, Charles Evanston Wilson Fenno III, (LLB '22), to get him to call around. While his grandfather had promised to make a few calls to his classmates, Fenno wasn't optimistic. "Most of his classmates are dead," Fenno quipped during the long ride back, "besides, I don't think he even remembers my name."

Accepting his fate, Fenno checked his schedule, "Seven interviews? Time to turn on the ol' charm." Fenno went over the routine again and again "Hi, my name isn't important and my grades suck, but I'm willing to kiss your butt, make you coffee, carry your bags, pick up your dry cleaning and not complain for two or three years until you replace me with someone younger and more gullible."

Fenno headed down to the Charles for his first interview. It was going to be a long day. Walking into the outer room, he looked around for the reception area. "What," he cried, surveying the scene, "no food?"

Quote of the Week

"They have great snow cones in Minnesota."

—Bill Choslovsky

The Harvard Law RECORD

The Best Little Newspaper at HLS

FOR INFORMATION ON JOINING OUR HAPPY FAMILY, CALL **495-4418** AND ASK FOR IRIE TAYLOR.

Hartman & Rader: The Saga Continues

Et Tu, Robert?

By Todd Hartman '93

My Dearest Robert, thank you. Thank you for the letter and saying all that need be said about yourself and your demeanor. I weep for all those who missed your psychotic rantings concerning me and my attempts to express my rights as an editor of this publication. As I dipped my feet in the fetid, putrid and puss laden bile of Law School politics, so you reached your sagging and withered arms from the decaying abyss which you have always called home and dragged me in. And so I thank you, for now I take no blame for the fecal deluge which may follow in response. I wash my hands with the pummous of your pimpled volcano and relish in the destruction of pretentious amenities which this paper has long since abandoned.

I, yes I, published your letter over all objections. "No," I said, "Let it run. Let them see the brooding evil which seeks to destroy me and all good intentions for the fate of this school. For like a zit exposed in the sun of truth, it will come to a head, bleed for awhile, infect the surrounding area and then be removed from the cratered landscape of this sagged but impressionable community." So must all wisdom be beaten into the dull point of a butter knife before it can spread jam.

And to think I thought you a grateful and trusted friend. How pathetic you were when I first found you floating white and bloated in that Turkish mineral bath. As I breathed life into your lungs filled with champagne and whirlpool sledge, I had to close my eyes over that ghastly mustache and the stench which brought those tears you mistook for caring.

"I am forever in your debt. Let me be your slave," you begged. Fool that I was, I pitied you and took you in as my brother as you will find Jesus himself commands if you'd care to read those parts of the Bible which don't involve plagues and killing first born males. And for this I am repaid with your diuretic stream of logorheic spite which I gladly used in lieu of toilet paper upon finishing. The ink did not sting half as much as your slanderous jealousy. Say what you want about my country, my school, my personal life, my mother and father, my siblings, my writing, my home, my nervous disorders and all my past lovers, but don't you dare criticize my acting. While your stage appearances have been relegated to inanimate walls and small shrubbery, I am made to suffer for having gratefully accepted the limelight the HLS community has thrust upon me. My only fault is not realizing that while I was sincerely trying to reflect some of my ever luminous spotlight in your direction, it only served to burn you like an ant under a magnifying glass in the hands of some wretched, pre-pubescent version of yourself.

But I shall waste no more of my polemics on you, oh prosaic Sir Butthead. It is the community at large to which my appeal is deserved. Think what you will of me, but mark my admonition: Mr. Rader is dangerous. Don't let his diminutive frame fool you, for inside that meager scrawniness boils a short-man's disease that could sink small continents. I can only shudder in wonder as to what became of the "hilarious" parody he told me he was writing for his 1L Law Review competition. And what of his strange disappearance from the law school last year? Though I am too disgusted to tell the details, it involved Annie Bombard and an aquatic "sport" beginning with the letter "Q." As to the hypocritical allegations directed towards myself, medical records will verify that I quit smoking two weeks ago and am currently free of sexually transmitted diseases. Besides, veracity has never excused sin in the eyes of God. Any Greek tragedy will tell you that.

As for you Rob, whom I had once held so dear, I leave you with this: "A man's self is like a pool of water which he holds in his hands. If he dares to separate his fingers, he need never hope to find himself again" (Sir Thomas More). Lick up what you can from the scuffed and seldom-washed floor of Harkness Commons, Rob, but trust it has already been tainted with the urine of all decent, loving, honest, intelligent and good-looking HLS students.

Hartman a Suckling Pig

By Rob Rader '93-'94

ACTUALLY, I'm glad to see that Todd Hartman has responded to my carefully reasoned letter in exactly the fashion I anticipated. Nothing so perfectly encapsulates his disgusting and loathsome way of thinking as the very "response" he has submitted this week. Todd, I congratulate you on having purchased a thesaurus; I hope it continues to provide you with adjectives and adverbs for many years to come. But, the graphic detail with which you describe "my fetid descent" is more reminiscent of your recent proctologic examination/STD checkup than anything in our relationship, I would venture.

Anyway, I got to thinking what you could possibly mean when you wrote "Your only friend" in the salutation of your "Editor's Response" last week. Perhaps I don't understand because I don't equate "friendship" with "penetration" as you do. That, by the way, also explains why no one wants to be your friend. Some friends just ask too much.

As for your "Turkish Bath" yarn, I applaud you on your active imagination; I know it's gotten you through those lonely periods in the past, too. When I first met you, I admit, I was vulnerable and coming off a bad relationship—with my family—but don't clap yourself too heartily on the back, Todd; you may strain something. What you leave out is, as always with you, more exciting than what you stick in. Assuming, arguendo, that I did swear to be your slave and not your indentured servant, as I maintain, how do you explain my escape, then? Last year, I took the whole year off, as you know. Could a slave do that? It just doesn't make sense, Todd, and you know it doesn't.

So, why don't you just continue writing your articles on emeriti professors in your shameless attempt to curry their favor and leave serious journalism to your more rational colleagues? I know how much you've always enjoyed hanging around older men, but do you honestly think that the emeriti are going to bequeath their brains and reputations to you? Incidentally, nice job of getting in pictures of both Marie-Louise Ramsdale and Michael Twomey in the RECORD; I'm sure that was your best-selling issue ever!

I'd like to leave you with another quote from the Bible, which we all know you've never actually touched because it would probably sear off your skin: "The desert and the parched land will be glad; the wilderness will rejoice and blossom. Like the crocus, it will burst into bloom; it will rejoice greatly and shout for joy. The glory of Lebanon will be given to it, the splendor of Carmel and Sharon; they will see the glory of the Lord, the splendor of our God." (Isaiah 35:1-2) Yes, Todd, I am like the crocus and, though degraded by my contact with you, someday I too will burst into bloom and shout for joy. And, when that day comes, I will roast you on a spit like a suckling pig. Your former friend.

Harassment Policy

continued from *HARASSMENT*, page 8

But political opinions on these issues can be censored by campus administrators, since sexual harassment is defined so broadly on many campuses that virtually any idea that offends anyone can violate the harassment policy. At M.I.T., for example, a single "sexist comment" is deemed sexual harassment, although M.I.T. administrators provide no guidelines to determine what is or isn't "sexist." Similarly, a student's offer to take a classmate out on a date can violate the policy, since a single "unwanted sexual advance" is technically defined as harassment.

Sexual harassment codes have been repeatedly used as tools of censorship at colleges across the nation. Many students have been punished merely for stating political views on issues such as gender-based differences, gender-specific traits, and views of sexual morality. At the University of Michigan, for example, an evangelical black man was convicted of sexual harassment for claiming in class that homosexuality is a disorder. The graduate student who brought the successful suit overturning the University of Michigan speech code under the pseudonym John Doe won because he convinced federal judge Avern Cohn that he would likely be punished for discussing biological and psychological gender-based differences in the psychology section he taught. *Doe v. Michigan*, 721 F.Supp. at 860.

But under the Massachusetts Civil Rights Act, every college, even almighty Harvard, must obey the First Amendment. If Harvard places students in danger of disciplinary intimidation for expressing political views or for isolated non-political comments of a sexual nature, merely because they are deemed offensive, I will seek legal counsel and prepare for a lawsuit against the law school. My standing to sue will be buttressed by my published writings on sexually-explicit art, pornography, verbal harassment law, and other sexual First Amendment issues in newspapers such as the New York Times, the Washington Post, the Wall Street Journal, and Harvard undergraduate publications.

Accordingly, I urge the working group that is drafting the law school's new sexual harassment policy to preserve freedom of speech by guaranteeing that speech will not be regulated merely because it produces subjective offense. Instead, the policy should define sexual harassment among students as a pattern of activity or speech by one student or students acting in collusion that interferes with the work performance, bodily security, physical movement, or privacy rights of the affected student.

Sexual harassment policies should shield students from sexual abuse, not exposure to new ideas or different forms of expression. Sexual harassment should not be a code word for censorship.

HOLLEB & COFF

of Chicago

will be on campus

Friday, October 23, 1992
at Sheraton Commander
1:00 p.m. to 8:00 p.m.

**2Ls—Please sign up for
interviews
in the Placement Office**

• • • • •

Massachusetts a Mistake

By David Oles '95

RECORD Columnist

I should have listened to my wife. I can say that now in all humility, because like most men, I felt I knew better. "You won't get me to set foot in that state," she said, meaning Massachusetts. "But it's not that bad," I assured her. "I kind of like the place. There's lots to do and see."

"I don't care," she said. "It's just not safe." But I, of course, ignored her and made my plans in my own merry little fashion.

An explanation is required here. There has been a little change of heart on my part, and even though it is probably unfair of me to burden you with this, I've got to get it off my chest. It seems that some disgruntled Massachusetts resident took exception to my parking next to him or her today, and left key scrapes all up and down the side of my van. Not just lightly either, all the way to the metal, which means either it has to be repainted, or I live with touch-up streaks all over my van. Either way, it's not something that I find very pleasant.

Perhaps I am being to harsh. I guess that parking in between the yellow lines was too much to expect of a Massachusetts native. I know that the rail terminal parking lot can be crowded, and people tend to park in a hurry, but I still don't think that it was my fault that he parked halfway into my space. After all, I didn't tell him where to park.

This all tends to leave me a bit disillusioned. Here I am in Ted Kennedy's back yard, literally heaven on earth, where the people care about each other and are more than willing to see to their needs (which, I suppose, is why the taxes are so high). It comes as quite a shock to learn that in this enlightened state that there are people of dubious character, who would willfully damage someone else's property. Why, even Willie Horton could get a break here, so surely I could too.

I guess not. Concern here seems only to be about the homeless or unwed mothers, and doesn't extend to other people. Common courtesy, and trivial respect for your fellow humans seems to be out of fashion. It's much easier to vent one's frustrations on a party who is not present, than to walk around that poor soul lying on the sidewalk.

I am planning my revenge now. I will find that car again, and when the guard isn't looking, I am going to slash the tires or something. When the thrill of vindication is coursing through my veins, the little damage I have suffered will fade to insignificance. A little self-help was good for the goose, so why not for the gander?

But wait a minute. Why should the battle take place on his/her level? I'm bigger than that. A southern boy doesn't get upset over the likes of a Yankee. If he had any manners, he wouldn't be stuck up here in Massachusetts in the first place, which is probably punishment enough.

No- I take that back. In fact, things might not be how I see them. I'll bet that person really was worried sick over the state economy, particularly the auto body repair business in Massachusetts, and was just trying to do his part to help drum up a little work. God knows, what with the recession and all, utopia ain't what it used to be.

Still, a lesson has been learned by this boy, and hopefully one that I can profit by. The next time I go to pick a state, I'll be a bit more selective, and maybe I'll listen to my wife in the bargain. One is never too old to admit one's mistakes and learn anew.

Maybe next time I'll try New York.

Turmoil at Law Review

continued from REVIEW, page 1

complicated that would get." Schulman has repeatedly denied making any such comment.

Second, Schulman is charged with changing the assignment of an editor without informing her. Schulman indicated that she had spoken with the editor and acknowledged that she may have been mistaken in acting secretly.

The editors further stated that Schulman had offered to call a second-year black student's professors about her academic performance before allowing her to primary edit a piece. Schulman acknowledged making that suggestion, said that she did not act on it, and apologized.

On Thursday, October 1, the Editors of the Review passed a resolution stating that "Recent events at the Law Review have been perceived by a number of members as having racist overtones. These events have damaged our community. As a body, we condemn bigotry, racism, and sexism and we are committed to remedying that damage."

In addition to the charges of racism, editors related several other incidents in which Schulman allegedly abused her power. One 3L editor says that there's a sentiment among a large number of 3Ls

that she's a "power wielding maniac." Another 3L editor commented that "she'll do anything she can to manipulate people and go behind their backs. I find it a malicious abuse of power."

A meeting was scheduled for Sunday night, October 4, with an agenda focusing on considering some specific proposals for structural changes at the Review.

However, four black 3L women editors were first on the agenda, and in conclusion, they asked for a vote of no-confidence in Schulman to head the Law Review. After hours of contentious debate and discussion, in which old accusations resurfaced — including one that Schulman had tried to dissuade another woman from running for a position on the masthead because she

felt that "too many women on the masthead would look bad" to first-year, prospective Review editors — a vote of no confidence in Schulman was taken by secret ballot. The result was a tie — 33 for, 33 against and 2 abstentions, with Schulman participating in the vote. In light of the tie, the motion failed.

The group then voted on a motion to reprimand Schulman. The vote was 39-10 in favor, but the motion did not pass for lack of a quorum. At the end of the meeting, Schulman accepted several proposals putting structural limits on her

Finally, a Movie I Liked

By David Lopez

Well, well, boys and girls, I have finally seen a good movie. Everybody rush out and watch "Hero" with Dustin Hoffman, Gena Davis, and one of my favorite actors, Andy Garcia. It's about a horrible, nasty, mean Dustin Hoffman who, in a moment of weakness, saves a whole planeload of people. It's also about a very good Andy Garcia, Vietnam war hero and now a homeless man, who, in a



moment of weakness does a bad thing and pretends to be the guy who saved the plane and becomes a "hero." The irony of it all is that Andy Garcia is not just pretending to be a hero, but really is a hero who has just never been recognized. Dustin Hoffman, on the other hand, did something contrary to all his long-held beliefs of watching-out for number one, and, but for that one incident, is not a hero.

Both characters are more complex than that, as is the character of Gena Davis, a reporter who starts out as stressed-out as a law student during interviews and ends up getting... well, let's just say more relaxed. I don't want to give anything away. The only bad actor in the whole movie was Chevy Chase. He's trying to change his image from bumbling comedian to suave sophisticated guy and he's failing miserably. He just ends up trying to look cutesy, not good for a grown-up. I saw him in "Memoirs of an Invisible Man," and he was truly, truly bad.

I give the movie big points for good writing and lack of Hollywood glitz. All the actors did their lines like real people would and weren't trying for any prizes and the blow-up special effects scenes were kept to a minimum. A great scene/classic line: Andy Garcia and Dustin Hoffman are in a car and Dustin is lamenting the fact that he lost one of his shoes saving people in a plane. Dustin is going on and on about the uselessness of having one shoe—"What can you do with one shoe? You can't sell it, you can't do anything with it." Andy Garcia: "You can sell it to a guy with one leg."

Andy Garcia is one of the best actors of all time. I saw him in "Black Rain," a movie everyone hated except for me and Ed Ducaet. Andy played a young fun-loving cop on a trip to Japan. This type of guy plays more than he works, until he is cornered by a Yakuza gang on motorcycles. The look on Andy Garcia's face at that moment is unforgettable. One of the Yakuza took out a samurai sword and was creating sparks by running it along the pavement as he raced his motorcycle toward Garcia. Garcia looked terrified. You could tell he knew he was going to die, and that he was feeling sorry for himself, and that there was absolutely nothing he could do. So let's just say he's one

powers. However, most editors left dissatisfied that not enough had been done.

To the best of anyone's recollections, this was the first time in Law Review history that a no-confidence in the president vote had been taken. The Law Review constitution provides little insight into how the Review should proceed on such matters. One member summed up the constitution as "saying basically that there shall be a president and a treasurer and that the president shall be in charge."

On Monday night several 2L editors held a meeting. According to Law Review members, there was a lot of anger among the 2Ls that "the 3Ls had screwed up this process." Most agreed that the issues had not been resolved and that the fundamental question of racial prejudice had

of my favorite actors. He's my Hispanic role-model.

Not that I'm going back on what Randall Kennedy and I argued about in Employment Law last week. A lot of people in class were advocating the need for more Black professors for various reasons, among them the role-model argument. Kennedy basically was saying c'mon, you pick your role models according to skin color? Kennedy's a pretty gutsy guy; you don't talk like that at Harvard without taking some kind of heat. I should know; I catch it all the time, especially when I disagree with the p.c. line.

Anyways, back to Andy Garcia. He's just a great actor. Did anyone see that performance in "Godfather III"? No, I won't kill you, just tell me who sent you. Saza, Saza sent you? Blam. A bullet through the guy's hand and into the face. Oh, yes.

Bottom line though, great movie. I am an action-adventure kind of guy and I have to admit it was good. Marie-Louise Ramsdale of LSC fame liked it too, but then again, we practically had to drag her to "Buffy: the Vampire Slayer" over the summer, a perfectly good movie. (She ended up liking it.) Viet "D" Dinh of Dateline NBC fame hated it and thought it was horrible, but he needs to get a life. This is a movie that Spy Magazine's reviewer, Walter Monheit, would call "indisputably a classic."

An honorable mention as far as film goes, and calling it film would be stretching it, is Lance Bass and Meryl Cohen's bungee jumping experience. All the way over to their place, people that were with me in the car were saying, "I hope they don't show the bungee jumping video. I hope they don't show it." Others, though, insisted that Lance and Meryl would show the video at all costs. Then we couldn't find a parking space, and people began to say, "Let's take a lot of time looking for a spot so maybe they will have already shown the video by the time we get there." Others, though, insisted that Lance and Meryl would wait until all had arrived.

How bad could it be, I thought to myself. I didn't have long to wait, because as soon as we arrived, Meryl said, somewhat casually, "hey, does anyone want to see our bungee jumping video?" Nobody objected, I guess I was hanging out with really polite people. So Meryl put it on and we watched. I was on the edge of my seat, I was expecting something really bad.

It was great. Meryl went first; it was on the side of a cliff and it had a platform like a diving board where Meryl was standing. She bent her knees and put her hands together like she was going to jump into a swimming pool. Then she leaned forward, and went. After a long time falling, the bungee caught her fall, and her whole body went limp, her arms were just dangling. "Did you pass out?" I asked. "No," replied Meryl, "I was just sitting there realizing what a stupid thing I had just done." Lance did a swan dive. I liked Meryl's dive better. I think I know why my body slumps in class.

not been addressed. Some felt that a lot of 3Ls have personal grievances against Schulman and that this is an attempt to get her out.

Work at the Review has been disrupted by the controversy over Schulman. Members say that people writing notes have become uncomfortable about who's editing them, and people are avoiding Gannet House altogether.

The long-run effects for the journal aren't yet clear. One editor opines that "this will damage the Law Review for this year, but not in the long-run if the 2Ls continue as they are now."

Schulman has no plans to resign and has suggested that the Review use the opportunity to make their work environment more harmonious.

The Hillary Factor

By Rich Wareing '93

RECORD Columnist



I am going to offer some unsolicited advice to every red-blooded man out there. DO NOT CRITICIZE HILLARY CLINTON IN FRONT OF ANY WOMAN TOO YOUNG TO BE YOUR MOTHER. You've got a better chance of getting away with using the word 'babe' at H.L.S., or attacking Murphy Brown at the Emmy Awards, than you do of criticizing Hillary Clinton in that audience and living to talk about it. Trust me on this.

Last week, I went out with some friends. Included in this group were two absolutely wonderful women of whom I think the world. As we sat there swigging Rolling Rocks, the conversation shifted to politics and then to Hillary. In a flash of stupidity, I let it slip that Hillary is not exactly at the top of my Christmas card list. Bad move.

I got hit with both barrels. More or less, I was condemned of everything from supporting Dan Quayle to kidnapping the Lindbergh Baby. In my defense, I tried to sputter something about Arkansas bond contracts and conflicts of interest, but that did about as much good as a screen door on a submarine. In their little Kangaroo court, I was adjudged a Bubba. Me and my big mouth.

Lucky for me that these two women are my friends and most of their criticism was good-natured and their jibes meant in fun, I think. After a little friendly ribbing, I was able to extricate myself from this mess by cleverly changing the subject and asking if anyone wanted another beer.

At that point, I was tempted to mutter my favorite John Silber quote — "damn patriarchy" — and let it drop, but something about the whole scenario stuck in my mind. Let's face it, Hillary Clinton wouldn't know my two friends from Eve, but they were ready to go to the wall to defend her. This caught me off guard. I would expect such behavior from your basic sullen, bitter, obnoxious feminist whackos who think 'man' is a four letter word and have nothing better to do with their time than complain that Harvard is too reactionary. People like that don't need an excuse to sing Hillary Clinton's praises or to whack me over the head.

My two friends, however, are a different matter. They are fun, well-adjusted, sensible, intelligent people, not given to ranting and raving. What's more, I think they actually think I'm a halfway decent person and not some loudmouth jerk.

Thinking about this the last few days, it occurred to me that Hillary Clinton is a heroine. A heroine, mind you, not in the Abraham Lincoln cultural icon kind of way, but rather in the Billy Bulger, loved by your own, sense of the word.

This comparison struck me as just a little odd at first, but the more I thought it about it, the more sense it made. Bully Bulger is worshipped in Southie. Not only for what he does for the neighborhood, but also, I think, because to people from that neck of the woods, he is the embodiment of all that they think is good and all they could ever hope to have or be. When it comes to the opinions of outsiders, they couldn't care less. Hillary Clinton is, from what I can tell, viewed the same way by many young professional women. They love her for what she symbolizes, and it doesn't really matter to them what others think about her.

And if you think about it, this all makes perfect sense. Whatever you might think of either of them, you've got to give them both credit — they're smart, tough, aggressive, and more than capable of holding their own with the big boys. In short, they're pretty fair role models for people like themselves, no matter what the rest of the world may think.

Don't get me wrong. Hillary and Billy Bulger are not perfect. Even their supporters can be made to recognize their faults, and among themselves, perhaps even discuss and be critical of them. It is a different story, however, when someone from the outside, like me, for instance, opens his big fat mouth and offers an unsolicited opinion. You see, criticizing the symbol means criticizing those who identify with it, and while they can kick their dog, I can't.

I've got to think that when women like my friends look at her, they see something in her they like, and when they look at themselves in the mirror, I bet they'd like to see a little piece of Hillary in them.

LSC: What Really Happened

continued from TWOMEY, page 6

they were eligible to run for the Council. Mr. Raul Perez was responsible for conducting the elections and has not yet indicated that anyone but himself is at fault for this omission.

9. At the emergency meeting of the LSC, a motion was immediately introduced to legitimize the unilateral decision of the Executive Committee. That is, a motion to extend the filing deadline for all positions as well as for the LL.M.s and 1L Section 4 and to postpone all elections one week.

10. This motion was opposed and it was argued that (counting candidates whose statements were found in Nidia rather than Raul Perez's Hark box), elections should proceed as planned for 1L Sections 1, 2 and 3, as well as for At-Large seats since there were more than enough statements filed on time for these positions. (There were 3 candidates for 2 seats in each of 1L Sections 1 and 2, and 2 candidates for 2 seats in 1L Section 3, and at least 9 candidates for 6 At-Large seats.)

11. I discussed a compromise position with 2L Council member Greer Hersch. (COMMENT: Ms. Hersch is an intelligent and independent thinker and hardly a part of the mythical coterie which Mr. Perez dubbed "Twomey's gang.") Ms. Hersch proposed an amendment to the pending motion which closed nominations for At-Large Representatives and 1L Sections 1, 2 and 3 (which had enough timely candidates), held open nominations for 1L Section 4 (which had failed to field sufficient candidates), held open nominations for LL.M.s (who had never been informed of their eligibility), allowed candidate statements submitted to Nadia Perez's Hark box, and set back all elections one week (to avoid the need for staffing polls two consecutive weeks). (COMMENT: This was a reasonable and

justifiable approach which should have been adopted.)

12. After much debate, the vote on Ms. Hersch's compromise amendment was 10 to 9 with one abstention.

13. Although there appeared to be no disagreement that an abstention did not constitute part of those "present and voting," the minority was unconvinced that 10 was a majority of 19. Rather, it was argued that 10.5 was a proper majority (being one-half of 19 plus 1). The minority then called for a ten minute recess to get a copy of Robert's Rules of Order to confirm that ten is indeed a majority of nineteen. (COMMENT: Please!)

14. After passage of the amendment to adopt the compromise position, the one abstaining member (Mr. Perez) switched to a negative vote to force a tie. (COMMENT: Clever use of procedure.) Ms. Ramsdale, the President, then broke the tie to defeat the compromise position. The meeting was then adjourned, leaving the Executive Committee's unapproved but unrepealed extension of the filing deadline intact.

15. At the end of the second filing deadline, the number of candidates increased as follows: from 3 to 4 in 1L Section 1; from 3 to 4 in 1L Section 2; from 2 to 3 in 1L Section 3; from 0 to 2 in 1L Section 4 (COMMENT: Recall that the compromise resolution would have left nominations open in 1L Section 4); from at least 9 to at least 20 for At-Large seats; and from 0 to 4 for LL.M. candidates (COMMENT: Recall that the compromise resolution would have left nominations open for LL.M. seats).

16. Excluding 1L-4 and LL.M.s, of the 16 candidates who filed on time, 8 were elected. Again excluding 1L-4 and LL.M.s, five of the late filers were elected. (COMMENT: To the best of my knowledge, none of the late filers claimed to have sub-

please see TWOMEY, page 17

Cadwalader, Wickersham & Taft

will be interviewing

second year law students

for summer positions

on

WEDNESDAY, OCTOBER 14, 1992

at

The Charles Hotel

Bell Calls for Continued Action

continued from BELL, page 1

that I have made." He continued, "we must commit ourselves to a better school, in the very face of overwhelming evidence that change may not be possible. I

remain committed to this goal at Harvard and at other law schools around the country.

Bell said that he is skeptical of the Dean's latest efforts to bring the community together as outlined in the Dean's September 8 letter to the community. He commented that "if the Dean and the President were unable to view my 20-year campaign to increase faculty diversity as worthy of an exception to the two-year limit on faculty leaves, I see little likelihood that there will be reform of the general rule that candidates for this faculty must hold traditional credentials — despite the fact that adherence to this standard does not guarantee that those meeting it will become great teachers and scholars, and despite the fact that the credentials serve to exclude many fine teachers and outstanding scholars."

He thanked Charles Ogletree for supporting his effort and Frank Michelman for representing him before the University in an Appeal of the Law School's refusal to grant an extension of his leave, but he added that he did not foresee ever returning to HLS.

**Koby
Antupit**
PHOTOGRAPHERS

Creative Portraits
Instant Color Passports
Résumé & Publicity
Job Photographs

Harvard Square
8 John F. Kennedy St.,
Cambridge
547-7552

Is the Media for Clinton?

By Dean Newton and William Growney, Jr.

RECORD Columnists

It's an election year, and during almost every election one of the candidates complains about not receiving equal time in the media. In some years the charges have more merit than others. But this year a different phenomenon seems to be emerging. Rather than giving one candidate more coverage than the other, the press seems to be giving one candidate more scrutiny than the other. By failing to ask questions about Clinton while maligning Bush, the media appear to have quietly chosen their candidate.

It is true that both candidates have had their "scandals" which the media had no choice but to cover. Allegations of extramarital affairs have plagued both candidates. But that is where the similarities end. Bush has been scrutinized for advocating family values, for his stance on abortion, for his decision to accept a tax increase and for advocating a tax cut. It has been suggested that he deliberately started the Gulf War. Even his children have been thrust into the public eye.

Although Clinton has changed his position on numerous issues, the media have failed to take notice. Clinton told Larry King he would balance the budget in five years¹, and now claims he will only cut the deficit in half in four.² In 1990 Clinton opposed gun control³ and today he supports the Brady Bill.⁴ In 1991 he opposed taxpayer funded abortions⁵ and today he supports them.⁶ As recently as May, Clinton opposed a 24 hour waiting period on abortions and now he supports one.⁷ Such maneuvering can be noted on every issue from free trade and school choice to government spending and the draft, but despite Clinton's numerous press appearances no one has challenged him on his incessant lying and flip flopping.

Arguably all candidates shift positions now and again. What is more troubling than the media having ignored Clinton's political positions is their having ignored substantive issues relating to Clinton's past. Most notably is the plight of Charlette Perry. Ms. Perry is an African American employee of the state of Arkansas, who was recommended by her supervisor for a promotion to a higher position. She was denied promotion when the job description for the position in question was mysteriously altered. Who eventually filled the position? Gennifer Flowers. Ms. Perry filed a grievance with a state commission, which ruled in her favor, only to be ignored by the Clinton administration, an administration which governs one of only two states in the union without civil rights laws. The ultimate disgrace is that Bill Clinton is on tape advising Flowers on how to handle the matter, and the hearing transcripts should be a matter of public record.

Surprisingly, no one in the media seems to care. If it were not for a small column by Reed Irvine and Joe Goulden of Accuracy in Media, a nonpartisan organization, we would not have known of the issue either. Doesn't the press care about Charlette Perry's rights? Didn't America recently put Clarence Thomas on trial for similar charges? Why were such accusations so important then concerning a Supreme Court nominee and yet completely unmentioned in a presidential election? Doesn't the press have an obligation to bring this to the public's attention before we are asked to choose a president?

Lest we be charged with focusing on one issue, someone should also mention the \$1.4 million in free tickets Clinton receives from the Oaklawn horse racetrack in Hot Springs, Arkansas. According to *Money Magazine*, Clinton gives the tickets to state legislators and campaign contributors.⁸ Michael Josephson, a government ethics expert quoted in the magazine, said he was "stunned frankly at the amount. It's a staggering amount. It is a mistake for a public official to accept gratuities. It creates appearances of impropriety. It visibly underlines a relationship between a governor and a racetrack, which is gambling."

How many times have we heard Clinton asked about this? It seems ironic that a nation who wants to lynch the Congress for postal improprieties and checks bounced on the funds of other members would simply ignore such a questionable act by a presidential contender. The fact is that the media aren't asking Clinton about this.

Even forgetting Clinton's questionable "gifts" and civil rights record, there is still plenty to question Clinton about. Take a good look at his position on free trade or lack thereof. Does he support the North American Free Trade Agreement (NAFTA) or not? Clinton says he supports free trade and possibly NAFTA, but wants to "protect U.S. jobs and make sure environmental rules apply."⁹ So does he support it or not? Clinton lives up to his nickname, Slick Willy, when it comes to free trade. While he wants to appear supportive of free trade, he also wants to avoid offending the unions. According to the *Washington Post*, "...in search of a middle ground to satisfy labor, Clinton has regularly quoted Gephardt's doubts about whether the sort of treaty the Administration would negotiate would adequately protect... workers."¹⁰

Trade is one of the most important issues in the campaign. Any economic recovery will rely to a large degree on foreign trade and exports. But no one is making Clinton clearly state his position on free trade. Only Monday did Clinton claim to endorse the agreement, but not in its current form. Rather Clinton would make "changes" to the current form.¹¹ George Bush's position has been straightforward. He is a staunch supporter of NAFTA. However, Clinton leaves us in the dark, and the media refuses to turn on the light.

Members of the press aren't necessarily giving Clinton more air time; they are just failing to make him answer questions about his positions and his conduct. While President Bush is being scrutinized, Clinton is being treated with kid gloves. The media appear to have chosen their candidate. Meanwhile, they are inhibiting the American people from making an informed choice about the candidates. That's not fair to the candidates, the system, or most important the American people. If the media is criticized for their treatment of this campaign, they deserve it.

¹CNN's "Larry King Live," 6/4/92.

²Putting People First, 6/20/92.

³Arkansas Gazette, 11/2/90.

⁴NBC's "Today" show, 10/17/92.

⁵Letter to Arkansas Right to Life, 9/26/86 and Associated Press, 10/11/91.

⁶Bill Clinton for President Committee, Women's Issues Paper.

⁷USA TODAY, 10/1/92, p. 4A.

⁸Money Magazine, July 1992.

⁹The Boston Sunday Globe, 9/20/92, p. 81.

¹⁰The Washington Post, 4/14/92.

¹¹The New York Times, 10/5/92.

Twomey's Side of the Story

continued from TWOMEY, page 16

mitted statements on time. Conclusion: five people who filed on time were gypped. As the votes were counted, Ms. Ramsdale made remarks at the election of four out of those five which were to the effect of "Yes! He's one of ours!" The word "ours" is a direct quote.)

Departing entirely from the facts and venturing only opinion, I will say this: I have no problems with the 1L-4 and LL.M. Representatives who were elected because the filing deadline was properly held open for them. The compromise resolution which I favored would have allowed this. As for the other seats, the filing

deadline should have been enforced. The allegations of "tampering" were, I believe, a ridiculous sham designed to allow the majority of the Executive Committee another week to line-up "their" candidates. Apparently they succeeded.

Does the election have credibility? No. Does the LSC have credibility? It depends upon how it conducts itself. My "agenda" for the LSC? The same as always: to improve student life and legal education at Harvard Law School. Overall? There's just too much noise and too little sense around this place for me to waste my third year worrying about it. Still, I'll do what I can.

LSC Has to Earn Respect

By Greg Stohr '95

RECORD Columnist



ACROSS America, voters are saying their elected representatives are out of touch with the concerns of the average citizen. When they look to Washington, they see representatives who are more interested in scoring political points than in solving problems. These voters are looking for leaders who can rise above partisan politics and help make their lives a little better.

This characterization is in some respects unfair. Congress and the president can point to a long list of accomplishments that receive little fanfare but nonetheless are important. But the core complaint—that elected officials tend to get caught up in the politics of Washington and forget the reasons they went there in the first place—has at least a kernel of truth.

Here at Harvard Law School, one can easily view our political situation as a microcosm of the national scene. In the wake of the Law School Council's rocky start—in which the timing of its elections managed to become a heated political issue—one has to wonder whether this year's Council will be able to represent the true concerns of the student body.

Last month, Council members spent 2 1/2 hours arguing over whether to extend the deadline for students to submit statements of candidacy for the elections. In truth, they didn't spend the entire time arguing over the deadlines. They spent part of it arguing over when they would stop arguing over the deadlines and part of it arguing over whether they should even be there arguing over when they would stop arguing over the deadlines. When the dust settled, they had accom-

Individual Hark boxes are hardly the Eiffel Tower. It is possible to get them mixed up.

plished nothing; they adjourned without passing a motion. To boot, a fight nearly broke out between a Council member and a Council candidate after the meeting.

The Council is roughly split between two wings that are relics of last year's diversity battles. On both sides are a number of well-intentioned individuals who are sincerely attempting to make the Council an effective body. But each side also contains a core group that seems far more inclined to wage holy wars than build consensus. A fundamental mistrust divides the core groups of the two wings, and that mistrust was painfully prominent during the candidate deadline controversy. A few candidate statements were misplaced, and so the left wing cried, "Tampering!"—an odd charge considering that most of the misplaced statements were found in Nidia Perez's Hark box instead of where they belonged, one box over in Raul Perez's box. (How many times, I ask myself, have I almost pulled papers from Jonathan Stock's box rather than my own. Individual Hark boxes are hardly the Eiffel Tower. It is possible to get them mixed up.) Though the tampering charge was unwarranted, the left wing offered the reasonable suggestion to extend the deadlines to ensure that the irregularities in the process did not prevent any potential candidate from having a legitimate opportunity to run. The right wing refused even to allow that suggestion to come to a vote—presumably under the belief that if the left was attempting to extend the deadlines, it must be bad for the right.

Council President Marie-Louise Ramsdale says she does not believe the Council will become so polarized this year that it will be unable to address the issues that, though more mundane, affect the lives of students every day. The Council has an ambitious list of goals that includes improving the Hemenway gym, procuring an ATM machine for the Hark, and improving the quality and selection of food in the Hark cafeteria. The Council is also planning student town meetings and a variety of other events.

Ramsdale says her hopes for an effective Council have increased in the weeks following the candidate deadline controversy. Last week's Council meeting was downright congenial, and Ramsdale also said she was pleased with the tone of the Council retreat last weekend.

The election results offer mixed blessings for the hope that the Council can be an effective student advocate on non-political matters. Though the new group of representatives includes several individuals who have identified themselves clearly on one side or the other of the diversity debate, a number of potential consensus-builders have also found their way onto the Council. Perhaps the most encouraging sign is the election of ten 1Ls, who should at least be untainted by the ugliness and personal animosities that remain from last year.

Still, the Council must prove it will not be paralyzed by the differences of its members over diversity and other emotional issues—important though those issues may be. Ramsdale was speaking of a true danger at the Council's candidate deadline meeting when she said, "I am incredibly, incredibly concerned about the legitimacy of the Council this year." To earn that credibility, the Council must facilitate some concrete, even if minor, improvements in student life.

We'll be looking for that better Hark food.

Bell Speech

continued from *SPEECH*, page 11

protest of our failure to gain a more diverse faculty, would his or her protest have gained a greater legitimacy, and carried a weight and stature that mine could not emulate? At the least, you cannot convince me that the Dean, the President, and the Governing Boards would have adhered so rigidly to a limit-on-leave rule that quite obviously was not intended to apply to protests based on conscience. They can hardly deny my arguments and those of Prof. Michelman made on my behalf, that a rule without exceptions is a rule capable of both mischief in the community it serves and serious injustice to individuals in that community.

Perhaps both faculty and students here will feel more comfortable trying to move toward the goal of greater faculty diversity within the context of the Dean's efforts to bring the community together. I wish you well even as I express a degree of skepticism. After all, even considering my secondary status here, if the Dean and the President were unable to view my 20-year-campaign to increase faculty diversity as worthy of an exception to the two-year limit on faculty leaves, I see little likelihood that there will be reform of the general rule that candidates for this faculty must hold traditional credentials — despite the fact that adherence to this standard does not guarantee that those meeting it will become great teachers and scholars, and despite the fact that the credentials serve to exclude many fine teachers and outstanding scholars.

In appealing to the Dean and University President for an exception to the two-year limit on faculty leaves, I was encouraged that the Law School had quite recently set aside rules of more significance than the two year limit on leaves, when such alteration is in its interest. In both 1990 and 1991, students urging permanent appointments for three, minority visitors were told by the Dean and top faculty members that — while the school had not in the past consistently followed its rule that no visitor would be considered for a permanent appointment during the year of his or her visit, they would apply that rule consistently in the future.

None of the minority visitors was offered permanent positions and at least two were denied appointments because of reported adverse student evaluations. Last Spring though, the Harvard faculty voted tenure for four white males, three of whom were visitors at the time of their appointment or had visited earlier that school year. Suddenly, the prudent reasons for delaying consideration of permanent positions for minority visitors, all strongly supported by students, were forgotten.

These instances of rule adherence and reversal regarding minority hiring are far from unique at Harvard. A few years ago, the Dean at the University of California at Berkeley School of Law (Boalt Hall) told a student group pressing for minority hiring that only one half of a faculty position was available. Later in the same year, two white candidates (one male and one female) were offered teaching posts. The chair of the faculty appointments committee acknowledged that "there was only one half of a position open," but said the administration "had to act quickly because the two candidates were highly sought after, being among the top prospects in the country." [Hiring Sparks Boalt Hall Protest: Students Divided Over Offer to Couple After School Denied Opening," San Francisco Banner Daily J., Jan. 25, 1990, at 1, col. 3. The article is discussed in Stephanie M. Wildman, *Integration in the 1980s: The Dream of Diversity and the Cycle of Exclusion*, 64 Tul. L. Rev. 1625, 1633 (1990).]

With perfectly straight faces, law school officials with few women and no minority faculty members assure one and all that they have been giving the search for "qualified" minorities "special attention for quite some time." The implication is that they simply cannot be found — that they likely do not exist. [See Richard Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U.Pa.L.Rev. 537, 538 (1988)] In short, faculty faith in and commitment to existing standards remain firm in the face of student demands for greater faculty diversity, a rigidity not much threatened by oversight from either the courts [See, e.g., Mary Gray, *Academic Freedom and Nondiscrimination: Enemies or Allies?* 66 Texas L. Rev. 1591 (1988), and a concurring response by Drew S. Days, III, "Enemies or Allies?": *Widening the Scope of Conflict*, 66 Texas L.Rev. 1621 (1988); Elizabeth Bartholet, *Application of Title VII to Jobs in High Places*, 95 Harv.L.Rev. 845 (1982)] or professional bodies like the AAUP. [Rabban, *supra*, note 11 at 1424-1427.]

As to the value of faculty diversity, the almost hyster-

ical opposition to its acceptance into faculty hiring criteria is impressive proof of its need. Whatever the good faith fears of twenty years ago that outstanding grades and law review editorship earned at a major law school were absolute prerequisites for effective teaching and scholarship, such concerns have been answered by the performance of dozens of minority law teachers since that time. And yet, critics claim that diversity reflects no more than the desire to hire less competent persons of color over intellectually-gifted whites.

Again, the major opposition here is more complex than simple prejudice. The fact is, most schools will hire the first (though possibly not the second) black of Hispanic or Asian, or Native American with scholastic credentials like theirs. If the minority hire holds "mainstream" ideological views, so much the better. This will-



ingness suggests both the power-preserving and community comfort considerations discussed earlier, but also a culturally-based (and wholly understandable — though no less misguided) desire to get beyond this nation's racial past by the simplest means possible, which is to say, to pretend it never happened.

But beyond its significance and worth, minimizing the value of diversity in the academic enterprise, as Professor Phoebe Haddon warns, "invites grave danger: it allows us to erect a monolithic conception of competence that stifles the creative development of the discipline."

Minority law teachers, particularly those whose writings are intended to unearth rather than entomb racial connections between past and current events, are disturbing to many whites. These disturbances tend to construe our refusal to conform with a lack of competence — a barrier that is insurmountable in the absence of some

not minority diversity. Rather, I suggest that law schools, like so many other institutions that adopt affirmative action policies — at least in principle — have done so to maintain intact the essential class preference of current hiring and promotional criteria.

What Harvard — and most other law school faculties — do not want to do, is restructure the hiring and promotion requirements to bring them into line with validation standards that Title VII requires for industries whose hiring procedures result in the disproportional exclusion of persons protected by that law. Of course, the restructuring of law school hiring procedures might bring in some of the extremely successful practitioners who now, despite their achievements as lawyers, can't get serious consideration from many law schools unless they fit a very narrow academic profile. Applied here, we might gain the perspectives of more ethnic white Americans. The Harvard faculty now has virtually none.

Far from a conflict, there should be a convergence between the goals of diversity and academic freedom. The current controversy reflects the contradiction between those who exercise their academic freedom to exclude those who are not like them. The preservation of this academic nepotism is the hidden agenda of far too many law faculty members. It is a stance that unjustly excludes worthy teachers students want and need. Finally, it is a stance that, while likely motivated by non-racist considerations of power protection and enhancement, has for me deeply symbolic racial significance.

Over the last three hundred years, the racial subordination of blacks in America has taken many forms: slavery, segregation, and the current equal opportunity standard. A common characteristic in each status is usurpation of our citizenship rights in order to serve the needs of dominant whites. The necessary correlative outcome is the denial of our dignity as human beings. Lacking this dignity, empathy across racial lines is difficult, and subordination based on race becomes inevitable as we serve involuntarily as catalysts for change, or smoke-screens to divert the forces of change.

This inability to deal with blacks and other people of color as human beings is the essence of the Harvard faculty's steadfast rejection of our insistence that the law school should hire and tenure women of color. During its close to two hundred years of operation, no woman of color has ever been a regular member of the faculty — an egregious insult in itself. To ignore this history, while boldly asserting that there are no women of color qualified to teach at the Harvard Law School, is both arrogant and wrong.

In the last several years, the Harvard law faculty has invited three black women as visitors. Each was an experienced and respected teacher. All were tenured and valued members of law faculties at other schools. None was offered a tenured position here. Those faculty members who found these black women inadequate surely did so without real consideration of either their teaching and scholarly skills, or the courage, and fortitude, required for these women to pioneer in an environment where none like themselves had ever served and where stereotypes about the appropriate role of women of color abound. (See, e.g., Anita L. Allen, *On Being a Role Model*, 6 Berkeley Women's L.J. 22 (1990-91).) Unable to confront their two centuries of exclusionary history, the faculty ignored the monumental pressures these women faced and overcame, and belittled the many students — white as well as minority — who urged their appointments.

Two things are clear. First, the faculty will invite other women of color to visit here. Second, these individuals will likely contact me for advice. While I will urge them to consider coming to Harvard for all the reasons that led to my protest, I will strongly urge that they not accept a visit. Given the precedent set for white males last Spring, I will suggest that they seek an immediate tenured appointment. Emotionally scarring three women of color over the last several years should be sufficient sacrifice even for Harvard.

DESPITE warnings from some faculty members that my protest leave will delay for years the hiring of black and other minority women on this faculty, I hope you will join actively with a cause that is far more critical to Harvard's reputation and your education than capital fund raising campaigns and new buildings. The goals we seek are reasonable and rational. Professor Frank Michelman's statement of those goals at a student rally last Spring captures a vision of Harvard Law School as it might and will be with your commitment. Frank wrote:

My views about faculty diversity are pretty simple. It's a matter of excellence combined with simple justice. Simple justice means not forgetting matters of history, national and local, that we haven't yet earned the right to forget. Excellence means making Harvard Law School the best it can be.

I doubt that our faculty as it is now is, with its small numbers of people who are not white

I suggest that law schools, like so many other institutions that adopt affirmative action policies — at least in principle — have done so to maintain intact the essential class preference of current hiring and promotional criteria.

pressure or other urgency.

The struggle over diversity in law faculty hiring is real, not feigned. Even so, I view the compulsive focus on minority hiring as a diversionary conflict, one that is no less effective a distraction because it is perceived as the main battle by so many participants on both sides.

The fact is that while faculties parry the thrusts for diversity with the shield of merit, when under pressure of student or alumni pressures, law schools look beyond law school credentials and hire the best minority they can find just as, when under pressure to cover the curriculum, they look beyond law school credentials, and hire the best white they can find.

Some of these hires work out. Some don't. The percentages of successes and failures are likely no different than for those faculty candidates so highly sought after because of their law school records, and despite their lack of either practice or teaching experience. If this is the case, and we all know that it is, then the real concern is

please see *SPEECH*, page 19

Prof. Derrick Bell Addresses Community

continued from *SPEECH*, page 18

and who are not men, does or can excellently satisfy the real educational needs and requirements of all of our students. Education here would be more excellent if our faculty's composition better responded to our student body's full range of backgrounds and experiences, perceptions and sensibilities, interests and con-

cerns, plans and purposes. On the scholarship front, excellence means — among other things — inclusion of the full variety of legal scholarly talents, visions, and projects that merit recognition and a chance to be further developed, displayed, and shared here. (Frank Michelman, Statement read to Harvard Law Student rally on March 4, 1992). Faculty diversity, far from in conflict

with academic freedom, is a prerequisite for its vitality and value in our modern world. But it will not happen automatically, and it will not result spontaneously from faculty-student gatherings intended to placate protest rather than plan for reform.

As was the case when I spoke here last Spring, I return today with some reluctance. From a distance, it seems today as it did then that the vigorous student movement that I tried to support with my protest leave has tired of protest and become discouraged because — you felt — we can't win. Harvard is too tough.

The first conclusion is correct. Harvard is tough and changing its minority policy from a form of regularized tokenism to true diversity is all but impossible. But, you knew that. You recognized as well that your professional training has some components not listed in the catalog. One of the most important of those is gaining skill in taking risks for things in which you believe, changing things you sense are wrong.

There is at Harvard as in the rest of our modern world a rather distressing commitment to the unwritten commandment: "thou shalt comply and not confront." The seeking of security seems to be a principal priority even though here, faculty members are tenured, most key staff are equally secure, and students, compared to their counterparts around the country, have it made.

Harvard's status and meekness though are almost contradictions in terms. In asserting the supremacy of our University, we are seldom meek or humble or submissive. Nor, in my experience are we very tolerant of those within our midst who dare venture beyond the accepted procedures in an effort to bring change and reform.

At bottom, my protest leave was undertaken less to change the school than

to influence you through example as well as exhortations of perhaps the most important truth my life experience has taught: a commitment to change must be combined with a readiness to confront authority. Not because you will always win, not because you will always be right, but because your faith in what you believe is right must be a living, working faith that draws you away from comfort and security and toward risk through confrontation.

As we learn in the Book of James, "For as the body without the spirit is dead, so faith without works is dead also." [James 2-26 (King James Version)] When people ask me what I teach, I respond Constitutional Law and Civil Rights. But an underlying lesson in all my courses is that individuals must gain control of their lives, not through the attainment of riches or power or fame, but through confronting the evils and wrongs that we witness every day.

The opportunity to illustrate my commitment to my beliefs has been worth the sacrifices that I have made. If my experience as a racial pioneer here is a predictor, even the hiring and tenuring of the first woman of color in the school's 170-year history, will not herald the adoption of policies intended to insure either diversity or merit in the hiring process.

Remember, social reform, when it comes, at Harvard or elsewhere — is borne on the scary wings of risk. Even so, we must commit ourselves to a better school, in the very face of overwhelming evidence that change may not be possible. I remain committed to this goal at Harvard and at other law schools around the country. I hope you will want to be counted in that number.

George Bush: The Devil We Know

By David S. Clancy '95

RECORD Columnist

THE current 15-point polling margin between Bush and Clinton is due in large part to a strange and dangerous phenomenon — ever since the Democratic Convention, Bill Clinton has been a stealth candidate, campaigning in his magic bus far below the savage, pulsing radar of the media establishment.

He's somehow escaped an arsenal of criticisms which, unleashed on the Bush campaign, has it staggering. The result is a massive image gap — Bush is seen as a cynical, pledge-breaking steward of the status quo, Clinton some kind of boy wonder.

The fact of the matter is that some of the same criticisms which have Air Force 1 in a nose-dive could have the magic bus in a ditch on the side of the road. They just haven't been fired in that direction.

The following are ten major critiques of Bush which could just as easily be used against Clinton.

1. **Bush is a dishonest pledge-breaker.** That Bush broke his "read my lips" pledge is well established. But Clinton broke a big campaign pledge too. When he last ran for governor of Arkansas, he won partly on a pledge that he would serve out his term as governor — and not abandon Little Rock for Washington.

2. **Bush is running on a lackluster record.** Bill Clinton keeps saying that Bush has nothing to run on. But what exactly does Bill have? Look at the hard statistics and you'll see clearly that Clinton really is "the failed governor of a small Southern state."

3. **Bush is no "man of the people."** George Herbert Walker Bush is ridiculed for being an insulated, out of touch lifetime politico with a pedigreed background, and so he is. But so is his frequent accuser, who has never had a job outside politics since his Georgetown/Oxford/Yale education.

4. **Bush is an unprincipled waffler.** Bush is accused of waffling on key issues, which he does. Abortion is a good example. But Clinton's a chronic waffler too. Nobody really knows whether Clinton was for or against the Gulf War — he's on the record as backing the President's use of force and backing the congressional minority's desire to "give sanctions more time."

5. **Bush's vice-presidential candidate is "no Jack Kennedy."** Kennedy's appeal lay in his heroism, his magnetism, and his principled ideological moderation. Quayle doesn't measure up, but neither does Gore, who spent his time in Vietnam at a typewriter, got crushed in the '88 primaries because he was wooden and boring, and whose recent book betrays a radical liberalism.

6. **Bush suffers from a charisma deficit.** Bush pales in comparison to his telegenic, charismatic predecessor. But Clinton would also suffer by such a comparison. A recent *Boston Globe* article evaluated his performance in primary-season debates, for example, as having been dry and unmemorable.

7. **Bush is missing half of the domestic-foreign policy equation.** Bush is missing the former half of the equation, but Clinton is missing the latter. Why? Simply because he has no experience, just like the last Democratic president. Bungled foreign policy would be a hallmark of his presidency, as it was in Carter's.

8. **Bush has a tax-hiking problem.** Bush has gotten torn apart for giving in to the Democrats and raising taxes once. But taxes will be hiked in every year of a Clinton administration.

9. **Bush wants to be a new Truman, but he's not.** Truman showed that a simple, uneducated, and plain-talking man could be a rational, decisive, and visionary leader. In addition, he had integrity and demanded full personal accountability. Neither Bush nor Clinton, pretty clearly, bear any strong resemblance.

10. **Bush casts himself as a moderate, but actually panders to the extreme wing of his party.** To some extent, the truth of this charge is betrayed by Bush's convention and by his Vice-President. But it's true of Clinton too. George McGovern, of all people, said the Clinton-Gore ticket is a "Trojan Horse" — moderate on the outside, radical on the inside. Also, look at Clinton's convention (a PC festival) and his Vice-President (author of *Earth in the Balance*).

Why haven't these criticisms been turned against Clinton?

One part of the problem is a curiously lifeless Bush campaign, which should respond to such charges from now on with an emphatic "so is Clinton!" But a bigger part of the problem is a left-leaning press which has handled "The Comeback Kid" with kid gloves ever since his nomination.

How else can you explain the deafening silence on Clinton's dismal Arkansas record? Fear of his New York record being dissected kept Cuomo out of the race, and yet somehow Clinton is exempt — and not because his staff handles the issue with any savvy. Last week, Clinton aide Betsey Wright dismissed the fact that the Arkansas public transportation vehicle-to-car ratio is the worst in the U.S. by saying "Well, that's to be expected in a rural state."

Clinton, meanwhile, has been spared in these recent and crucial months the close and responsible examination Presidential candidates always receive. The scary result is that we're about to elect a stealth candidate, someone we know relatively little about personally and politically.

Bush's flaws — his cautiousness, his ambivalence — are significant but tolerable, and they've been on public display for decades. Clinton is an unknown commodity.

How about this for a new Republican slogan — "Bush — Quayle in '92: Vote for the Devil You Know."

BROWN, RUDNICK, FREED & GESMER

Boston, Massachusetts
Hartford, Connecticut
Providence, Rhode Island

A Partnership of Professional Corporations

We will be interviewing
second-year law students for our
Boston office
during our on-campus interviews

on

Monday, October 26, 1992

at

Phillips Brooks House

1:00 to 7:00 p.m.

HARVARD ALUMNI PLACEMENT

Is Proud to Invite You to Attend the

THIRD ANNUAL MINORITY RECRUITMENT AND PLACEMENT CONFERENCE:

The New Paradigm: Professionalism, Leadership and Valuing Diversity

To Be Held at Harvard Law School on
Friday November 20th and Saturday November 21st

We would like to acknowledge the following organizations for
their current and past participation:

ALCOA	Gaston & Snow	Morrison & Foerster	Telesector Resources Group (NYNEX)
Adorno & Zeder, P.A.	General Electric Company	Mudge Rose Guthrie Alexander & Ferdon	Temple University School of Law
Aetna Life & Casualty	Georgetown University Law Center	Munger, Tolles & Olson	Testa, Hurwitz & Thibault
American Telephone & Telegraph Company	Gibson, Dunn & Crutcher	Nashville Bar Association	Thacher Proffitt & Wood
American University, Washington College of Law	Goldman, Sachs & Co.	National Association of Law Placement	Thurgood Marshall School of Law
Anheuser-Busch Companies, Inc.	Goodwin, Procter & Hoar	New York Law School	Toll, Ebby, Langer & Marvin
Arent, Fox, Kintner, Plotkin & Cahn	Goulston & Storrs, P.C.	Northeastern School of Law	Tulane Law School
Arnold & Porter	Greenbaum, Rowe, Smith, Ravin, Davis, Bergstein	Nutter, McClennen & Fish	U.C. Hastings College of the Law
Attorney Access, Inc.	Hale & Dorr	O'Melveny & Myers	U.S. Attorney's Office
Baker & Botts	Hangley Connolly Epstein Chicco	Olwine, Connelly, Chase, O'Donnell & Weyher	U.S. Department of Justice
Baker & McKenzie	Foxman & Ewing	Palmer & Dodge	U.S. Department of State
Barnes & Thornburg	Heller, Ehrman, White & McAuliffe	Patterson, Belknap, Webb & Tyler	U.S. Department of The Treasury
Bay Area Legal Services, Inc.	Hill & Barlow, P.C.	Patton, Boggs & Blow	U.S. Environmental Protection Agency
Benjamin N. Cardozo School of Law	Hinckley, Allen, Snyder & Comen	Paul, Hastings, Janofsky & Walker	U.S. Securities & Exchange Commission
Best & Flanagan	Hinshaw, Culbertson, Moelmann, Hoban & Fuller	Paul, Weiss, Rifkind, Wharton & Garrison	United Technologies Corporation
Beveridge & Diamond, P.C.	Holland & Hart	Pavelic & Levites P.C.	University of Akron School of Law
Bingham, Dana & Gould	Holland & Knight	PeA	University of Connecticut School of Law
Bodman, Longley & Dahling	Homans, Hamilton & Dahmen	Peabody & Arnold	University of Massachusetts
Bond, Schoenck & King	Hopkins & Sutter	Pepperdine University School of Law	University of Michigan Law School
Bower & Gardner	Howard University School of Law	Pepsico, Inc.	University of Minnesota Law School
Breed, Abbott & Morgan	Howrey & Simon	Perkins Coie	University of Nebraska College of Law
Brown, Rudnick, Freed & Gesmer, P.C.	Hughes Hubbard & Reed	Pettit & Martin	University of Oregon
Cadwalader, Wickersham & Taft	Hunton & Williams	Pillsbury, Madison & Sutro	University of Ottawa
Cahill Gordon & Reindel	Hutchins & Wheeler	Piper & Marbury	University of Puerto Rico Law School
Campbell & Associates P.C.	IBM Corporation	Pitney Hardin, Kipp & Szuch	University of the Pacific, McGeorge School of Law
Cargill Incorporated	ITT Hartford Insurance Group	Pope & John, Ltd.	Valdes-Fauli Cobb Petrey & Bischoff
Carter, Ledyard & Milburn	Internal Revenue Service	Popham, Haik, Schnobrich & Kaufman, Ltd.	Varet Marcus & Fink, P.C.
Chadbourne & Parke	Jenner & Block	Porter Wright Morris & Arthur	Varnum, Riddering, Schmidt & Howlett
Chevron Corporation	Jones, Day, Reavis & Pogue	Posternak, Blankstein & Lund	Vinson & Elkins
Choate, Hall & Stewart	Katz & Ross	Powell, Goldstein, Frazer & Murphy	Vorys Sater Seymour & Pease
Chrysler Motors Corporation	Kaye, Scholer, Fierman, Hays & Handler	Preston, Thorgrimson, Shidler, Gates & Ellis	Wachtell Lipton Rosen & Katz
Clapp & Eisenberg	Kelley Drye & Warren	Proskauer Rose Goetz & Mendelsohn	Walker & Bailey
Cleary, Gottlieb, Steen & Hamilton	Kenyon & Kenyon	Rackemann, Sawyer & Brewster	Walt Disney Company
Coca Cola Company	Kern, Sosman, Hagerty, Roach & Carpenter	Reed Smith Shaw & McClay	Wang Laboratories
Cornell Law School	King & Spalding	Reid & Priest	Warner, Norcross & Judd
Coudert Brothers	Kirkpatrick & Lockhart	Riddell, Williams, Bullitt & Walkinshaw	Washburn Univ. Law School/Kansas Bar Assoc.
Covington & Burling	Kramer, Levin, Nessen, Kamin & Frankel	Rivkin, Radler, Bayh, Hart & Kremer	Washington DC Public Schools
Cravath, Swaine & Moore	Kronish, Lieb, Weiner & Hellman	Robins, Kaplan, Miller & Ciresi	Webb & Tyler
Crowell & Moring	Latham & Watkins	Rogers & Wells	Weil, Gotshal & Manges
Crummy, Del Deo, Dolan, Griffinger & Vecchione	LeBoeuf, Lamb, Leiby & MacRae	Ropes & Gray	Weiss Dawid Fross Zelnick & Lehrman, P.C.
Cutler & Stanfield	Legal Aid Society	Ross & Standard Co., Inc.	Whirlpool Corporation
Dalhousie Law School	Lewis, White & Clay, P.C.	Ross Dixon & Masback	White & Case
Davis Polk & Wardwell	Lord Bissell & Brook	Salomon Brothers Inc.	Whitman & Ransom
Day, Berry & Howard	Lord Day & Lord, Barrett Smith	Sanchez & Daniels	Widett, Slater & Goldman, P.C.
Debevoise & Plimpton	Lord, Bissell & Brook	Schatz & Schatz, Ribicoff & Kotkin	Wiggin & Dana
Dechert Price & Rhoads	Marks Murase & White	Schiff Hardin & White	Wiley, Rein & Fielding
Dickinson, Wright, Moon, Van Dusen & Freeman	Marquette University Law School	Schnader, Harrison, Segal & Lewis	William Mitchell College of Law
Dickson, Carlson & Campillo	Massachusetts Attorney General's Office	Schulte Roth & Zabel	Willkie Farr & Gallagher
Dickstein, Shapiro & Morin	Mayer, Brown & Platt	Seward & Kissel	Wilmer, Cutler & Pickering
Digital Equipment Corporation	McCarter & English	Shaw, Pittman, Potts & Trowbridge	Wilson, Sonsini, Goodrich & Rosati
District Attorney's Office of New York County	McCutchen, Doyle, Brown & Enersen	Shea & Gardner	Winston & Strawn
Donovan Leisure Newton & Irvine	McDermott, Will & Emery	Shea & Gould	Winthrop, Stimson, Putnam & Roberts
Dorsey & Whitney	McElroy, Deutsch & Mulvaney	Sherburne, Powers & Needham	Yale Law School
Dow, Lohnes & Albertson	McKenna & Cuneo	Sidley & Austin	
Drinker Biddle & Reath	McKenna, Conner & Cuneo	Sills Cummis Zuckerman Radin	
E.I. du Pont de Nemours & Company	Merchant, Gould, Smith, Edell, Welter & Schmidt, P.A.	Tischman Epstein & Gross	
Eaglin & Drugis	Merrill Corporation	Simpson Thacher & Bartlett	
Emory Law School	Meyer, Hendricks, Victor, Osborn & Maledon	Sirote & Permutt, P.C.	
Exxon Corporation	Mezzullo & McCandlish	Skadden, Arps, Slate, Meagher & Flom	
Facgre & Benson	Milbank, Tweed, Hadley & McCloy	Snell & Wilmer	
Farris, Warfield & Kanaday	Milgrim Thomajan & Lee, P.C.	Squire, Sanders & Dempsey	
Federal Express Corporation	Miller & Chevalier, Chartered	Steel Hector & Davis	
Federal Reserve Board	Miller, Canfield, Paddock and Stone	Stephoe & Johnson	
Fish & Neave	Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.	Solar Partnership	
Foley & Lardner	Mitchell, Williams, Selig, Gates & Woodyard	Stroock & Stroock & Lavan	
Foley, Hoag & Eliot	Mobil Oil Corporation	Sugarman & Sugarman	
Ford Motor Company	Morgan Stanley & Co. Incorporated	Sullivan & Cromwell	
Fried, Frank, Harris, Shriver & Jacobson	Morgan, Lewis & Bockius	Sullivan & Worcester	
Fulbright & Jaworski		Sutherland, Asbill & Brennan	
Gardner, Carton & Douglas		Syracuse University College of Law	
Garvey, Schubert & Barer			

**To Receive Information
and Registration Material
for this Year's Conference
Please Contact Julie Anna
Alvarez or Alain Kodsi at
(617) 661-8099 or (212)
643-9745.**