



GQ Article: Accurate Portrayal of HLS?

By Jeff Bucholtz

"Beirut on the Charles," John Sedgwick's exposé on life, love, and politics at the Law School in the February 1993 issue of *GQ*, has inspired considerable rancor on campus. Sedgwick visited the Law School in the fall, and spoke with many students about the diversity movement, the *Law Review* and *Law Revue* incidents, and campus dynamics.

The resulting article portrays the Law School as a "faction-ridden" pressure cooker of contentious and sexually deprived extremists, obsessed with race and gender issues. Sedgwick describes the atmosphere on campus as overcome by the emotional clash of radically opposed and "all-encompassing" ideologies, and opines that "everyone is typecast by his or her race, gender, sexual orientation and political perspective."

Media accounts of fevered political disputes at the Law School are nothing new. But Sedgwick's account of life here struck many students as exaggerated and sensationalized. Dianne Rosky '94 found the article "kind of funny, because it made this place seem like a soap opera: more interesting than it really is, but at the same time, trivial and petty."

Many students thought Sedgwick's focus on the Law School's "cultural elite" skewed his perspective. In the words of Ellen Chubin '93, "he took the people who are the most involved in the controversies and presented them as the norm."

Several students criticized their depiction in the article. Law School Council Vice-President Raul Perez '94 objected to Sedgwick's characterization of him as a "radical leftist." Marie-Louise Ramsdale '93, LSC President, complained that Sedgwick trivialized the seriousness of the diversity movement's efforts.

The assertion that Law School men are "compliant," passive objects of female sexual predation also provoked some angry responses. As Zion Shohet '95 put it, "Not all of us are scared to approach a woman in the Bow."

Sedgwick acknowledged this week that his article did not necessarily paint a representative picture of HLS. But he added, "The extreme reactions by some students to my story are very reflective of my point: Harvard law students are deeply involved in these issues, and everything is grist for the mill."

Relative to last year's turmoil, which included CCR's takeover of the Dean's office and the *Revue* scandal, HLS is enjoying long-overdue calm. As Chubin observes, "The label

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RECORD Photo / Josh Freeman
New Law Review President Van Nguyen '94 in his office.

Review Confronts Past, Looks to Future

Conclusions of Report Unclear

By Johanna Davis

Special to the RECORD

Racism, sexism, and anti-Semitism were not the motivating forces behind *Law Review* President Emily Schulman's '93 controversial actions, but Schulman did commit various judgmental errors, according to the 109-page report submitted by Ralph Gants '80 to the Trustees of the Harvard Law Review on January 27.

Gants, a Boston attorney and former *Law Review* Note Editor, produced the report after a three-month investigation of allegations made by law review editors that Schulman had discriminated against them based on their race and gender.

While not absolving her of misconduct, Gants found that Schulman's judgmental errors were not serious enough to require disciplinary action. And, despite conflicts in testimony, the report concluded that no law review editor knew

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Journal Elects New Officers

By Johanna Davis

Special to the RECORD

The *Law Review* editors elected a new masthead this week, relieving an administration torn by factionalism and scandal.

Van Nguyen '94 will try to heal old wounds as the newly elected President of the Review. He feels the process has started already. "During the transition [meetings in January], we agreed to adopt specific resolutions aimed at addressing the divisions which occurred during the fall, at restoring community spirit, and instilling a sense of trust, mutual respect, and tolerance."

A Vietnamese immigrant, Nguyen (pronounced Nū-yen) commutes over an hour every day from his home in Nashua, New Hampshire, where he lives with his wife and two children, aged 7 and 8. His former employer, Digital Equipment Corporation, transferred him to the United States in 1984,

please see *ELECTIONS*, page 6

Elizabeth Warren Gets Tenure Offer

Students, Faculty Praise Visiting Prof

By Lisa Zornberg

The Law School Faculty voted on Friday, February 5, to offer Visiting Professor Elizabeth Warren a tenured position at HLS. Dean Clark '72, who officially extended the invitation, called the Faculty's vote "a fabulously good decision" and described his personal reaction as "one of ecstasy."

Warren currently enjoys tenured status at the University of Pennsylvania, where she has taught for the past five years. Other law teaching credentials include three years at the University of Houston (where, in 1978, she was the first woman law professor hired), six years at the University of Texas and a short visit at the University of Michigan. Warren received her B.S. from the University of Houston in 1970, and a J.D. from Rutgers University in 1976.

When she entered teaching, Warren muses, she never dreamed that one day she'd be asked to join the HLS faculty. "If you'd told me this, I'd simply have laughed at you and said, 'What a charming thought! I have as good a chance of flying a

rocket ship to the moon!'" The first member of her family to graduate from college, let alone from law school, Warren explains, "My family still asks if they should call me 'Doctor.' I was always afraid someone would call me to perform a tracheotomy."

Warren's specialties include bankruptcy, secured transactions and contract law. Her acclaimed book, *As We Forgive Our Debts: Bankruptcy and Consumer Credit in America* (1989), with T. Sullivan and J. Westbrook, empirically analyzed how bankruptcy law affects society. It was the first demographic study of its kind. Warren continues to examine the impact of creditor/debtor law on different social groups, including women, ethnic and racial minorities, small businesses and the elderly.

Often asked to testify before Congress on bankruptcy issues, Warren considers her political role essential. "Law matters," she proclaims. "And I want my voice heard, not only the voices of paid lobbyists." Future positions in government or as a bankruptcy judge remain a pos-

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Prof. Elizabeth Warren

Liberators Theme: Shared History

By Betsy McGrath

An ethnically rich crowd of 1200 gathered Monday evening in Memorial Hall's Sanders Theater for a sold-out screening of "The Liberators," a documentary on the role of Black soldiers in the liberation of several Nazi concentration camps. Anticipation of the film, at a surprising height in light of previous showings and minimal publicity, mounted during the introducto-

ry remarks of Reverend Jesse Jackson, who said that "African-Americans and Jews have an obligation to come together. Our survival is at stake, and we share common values, dreams, and hopes." Jackson stressed the themes of "healing, not hurting," and "hope, not hatred." He talked about Arthur Ashe and what we can all learn from his life, including "the need to be ethical over ethnic."

Harvard University President Neil Rudenstine credited Rev. Jackson with having developed the idea for the screening, and for the panel discussion which followed, as part of an effort to promote better relations between Blacks and Jews.

The film, actually an episode of the PBS series, "The American Experience," combined interviews and newsreel excerpts to showcase the efforts of two exclusively Black military units who helped free Jews from concentration camps at the end of World War II. Notably, the production revealed the common, historic persecution of the two groups, juxtaposing portraits of bigotry in the American South with the simultaneous horrors of

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see *LIBERATORS*, page 3

Breyer on Short List for AG

By Bryan D. Garsten

Crimson Reporter

Harvard Law School Lecturer Stephen G. Breyer '64 may be a candidate for US Attorney General, according to a report in Tuesday's *Wall Street Journal*.

Breyer, a federal judge at the First Circuit Court of Appeals in Boston, would not comment when reached at his home.

Recent speculation on Capitol Hill brought up Breyer's name as a possibility, but George Stephanopoulos, the White House communications director, has not commented, the *Journal* reported.

President Clinton had been looking for a woman to fill the Cabinet post at the Justice Department, but nominee Zoë Baird, a Connecticut

corporate attorney, and near-nominee Kimba Wood '69, a New York federal judge, pulled themselves out of consideration after admitting to hiring illegal aliens as employees.

"He's not female, but it would be terrific," said Frankfurter Professor of Law Abram Chayes '43. "He knows the law. He knows the political scene in Washington. He works very well with Congress."

Breyer has worked in government before. He was an assistant special prosecutor for the Watergate Special Prosecution Force in 1973, and chief counsel to the US Senate Judiciary Committee from 1979 to 1981.

He also "was instrumental in deregulating the airlines" while working with Sen. Edward M. Kennedy, according to Professor Charles R. Nesson

Hark Goes High-Tech: Crimson Card Debuts

By Greg Stohr

It still might not be as fast as, say, the McDonald's drive-through, but buying lunch at the Hark promises to be a quicker and perhaps even fairer experience thanks to the new "Crimson Card" system introduced this week.

The product of discussions between the student Food Services Committee and Gardner Merchant, the Crimson Card, works like a debit card for purchases in the cafeteria and Harkbox cafe. A representative from Gardner Merchant says the card should greatly improve efficiency at the cafeteria.

"The lines are absolutely going to go faster," Gardner Merchant Food Service Manager Beth Davidson said. "Speed will be increased."

Student reaction has generally been positive, although Food Services Committee member Kerry Davidson '94 said he was concerned the new system might not be accompanied by a reduction in food prices, which is another goal of the committee.

"I think students are happy about the convenience of the card, but I think students are also very concerned about the pricing system," he said. "I think they [Gardner Merchant] are going to make a profit from it. What I'm hoping is that they're going to use this as an opportunity to see where they can provide cuts in prices."

Students and Harvard employees can purchase the Crimson Card in increments of \$50, with a minimum starting amount

of \$100. Balances remaining at the end of the term can be carried over to the following term or refunded (a feature, Beth Davidson says, unavailable even with the advanced systems in place at Yale Law School and, yes, Harvard Business School). Cardholders receive a ten percent discount in the cafeteria and Harkbox Cafe, 15 percent for those who put \$250 or more on their cards.

Sales of the Crimson Card have been "unbelievable," Beth Davidson said. Some 450 cards have been sold so far this spring, compared with about 300 meal plans sold last spring.

Under the old system, students found themselves dealing with unwieldy punchcards and booklets that seemed to contain a disproportionate number of five cent coupons. The meal plans would expire at the end of the semester, so students who



Hark Manager Beth Davidson beams with satisfaction at new Crimson Card.

bling standing in line."

Despite the general optimism, a few students still see room for improvement. Elizabeth Harrison '95 has had experience with a debit card before. At her undergraduate school, one card served both as ID card and debit card. "And the food was cheap and edible," she added.

Robert McBurney '95 lamented that his friends would no longer face the end-

planned on eating at the Hark much more often this semester, in part because "we actually have a lunch break this semester," but also because of the 15 percent discount she receives with the Crimson Card.

"They gave me a deal," she said. "I'm one of those bargain-shopper people and I couldn't resist. And the fact that they put it on my term bill didn't hurt."

Perhaps no one, though, is happier than the people who run the cash registers. Gone, they say, are the days when students would struggle to hit the magic \$4.25 mark. (Sales of those little Reese's Peanut Butter Cups have plummeted.) Better still, gone are the days when students would haggle over how they surpassed their daily lunch limit.

"No one gives you a hard time," said one woman (who asked that her name not be used), as she rang up a student who failed to notice how much his salad cost. "You're not fighting over five cents or ten cents."

of-the-semester rush to use their remaining meals—on him.

"I guess this is actually a great downfall for me," he said. "I was one of those vultures who'd swoop down on people near the end of the year."

But Rupa Bhattacharyy '95 said she

"The lines are absolutely going to go faster. Speed will be increased."

failed to use up their allotment had to forfeit their remaining meals.

"Students were just dissatisfied," Beth Davidson said. "It didn't suit their needs. They wanted a system that was a lot more flexible. I would hear it walking through the cafeteria. People were grum-

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University Of Maine	TBA	
Vermont Law School	3/6/93	10AM-2PM
Western New England	3/6/93	10am-2pm
Mass. School of Law	3/6/93	3:30PM-7:30PM
Franklin Pierce Law Center	3/8/93	6PM-10PM

Report on *Law Review* Sends Mixed Signals

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ingly made false statements to Gants regarding the relevant events.

The report detailed each of the principle charges against Schulman, which first surfaced in a confrontational law review meeting on September 30. First, Elizabeth Wolstein '93 claimed that Schulman had advised her not to apply to be managing editor because too many women already appeared on the masthead. Law review editor Rhonda Adams '93 charged that Schulman presumed that Adams would support having Professor Derrick Bell write the Forward for an upcoming issue solely because Adams was an African-American.

Schulman was also accused of racial discrimination because she questioned the selection of two African-American women, Renee Jones '93 and Lisa Peets '94, as primary editors for a proposed article by Professor Charles Ogletree '78. "Renee would be the black person on the piece and you know how complicated that can be," Schulman said, according to Annelise Riles '93.

Shelley Simms '93 charged Schulman with considering her race and gender when she chose two white males, Marc Goldman '93 and Adrian Vermeule '93, to further edit two case comments which Simms had already edited. Further, Simms claimed that Schulman

whether the charges against Schulman could have been the result of anti-Semitism or misogyny directed against her. Gants' report rejected this notion, finding that the women who "supported

facts he found. "People called it a post-hoc rationalization. They said there was a leap of logic," reported Adams.

Adams explained that many law review members felt that Gants' conclu-

one will grow from it. ... People learned a lot through this process, despite the final outcome. People did a lot of soul-searching."

Gants recommended several solutions to avoid future conflicts. His primary suggestion was to appoint an ombudsman and to create "some process to resolve disputes among Editors, including disputes that involve issues of race and gender." Other recommendations included establishing institutional training in confronting issues of race and gender, formal management training for law review editors after the transition of power, and creating a written institutional memory.

Nguyen called the suggestions, "relevant and thoughtful." He said that in the January 1993 transition meeting, the Law Review had already anticipated and implemented several of these changes, including creating training workshops on sensitivity to race, gender, and sexual orientation, appointing a mediator, and redefining the president's role and responsibilities.

Nguyen reports that the Law Review is still in the process of evaluating the report, but it is undecided whether this will be done formally or informally. Adams suggested that the Law Review write a Comment in reaction to the Gants report, and present it to the Board of Trustees and Gants as a form of closure. But she admits that for many, the controversy has dragged on too long. "A lot of the 2L's are just sick of it, and want it to all disappear, including the 3L class, and I don't blame them. I don't know how much energy the Law Review has left for that kind of forum."

Eisenberg also feels the new masthead will revitalize the embattled publication. "There is a sense of optimism and renewed energy," she said.



Gannett House, home of the Harvard Law Review.

these allegations did so in spite of Schulman being a woman, not because she was a woman." Likewise, Gants found no "evidence of anti-Semitism

sions were inherently flawed, because discrimination was inherent in the facts he found. "This man took a set of facts and determined they didn't show racist or sexist intent, but the law review had already decided that if these events took place, then there was per se discrimination. I wasn't interested in his conclusions. We were interested in learning the facts," said Adams.

But Eisenberg feels that ultimately, despite what she views as an unsatisfactory resolution to the dispute, the controversy could have a silver lining. "What I'm hoping is that people will be more aware of these issues, and every-

"I wasn't interested in his conclusions. We were interested in learning the facts," said Adams.

improperly encouraged Vermeule and Goldman to edit a note by Rebecca Eisenberg '93, despite Vermeule's acrimonious editorial history with Eisenberg. According to the report, Eisenberg claimed that "being forced to work again with Vermeule was itself a form of sexual harassment."

Gants' report found that while Schulman took the actions which her accusers described, her "conduct towards particular Editors was not influenced by their race or gender." Gants wrote, "As occurs in every law review, some Editors may believe they were treated shabbily, and some may be justified in that belief. But, based on the evidence from this inquiry, no Editor on the Harvard Law Review was treated shabbily on the basis of her race, gender, or religion."

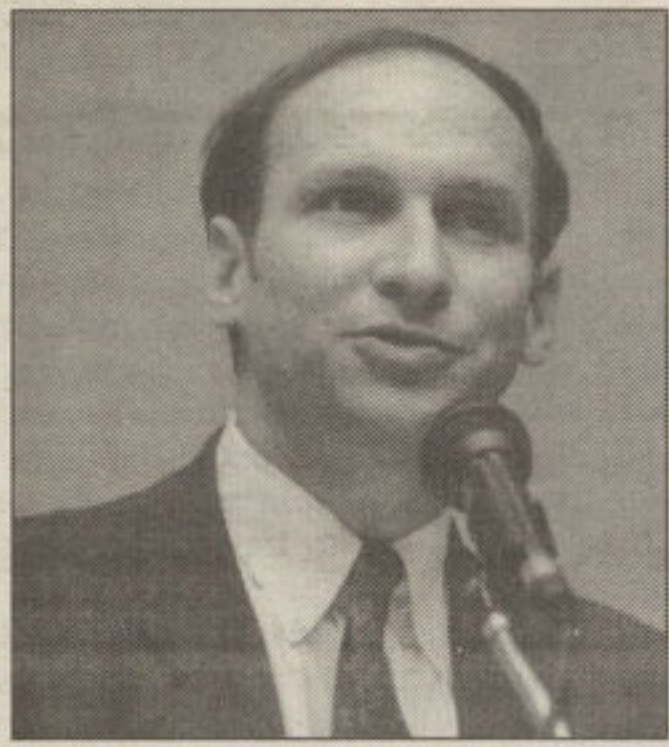
At the request of Schulman's lawyer, Nancy Gertner, Gants also investigated

among Schulman's African-American accusers," nor among the many Jewish editors who adamantly opposed her actions.

In a press release, the Trustees of the Harvard Law Review endorsed the findings in Gants' report, stating, "The process of inquiry was long, elaborate and careful." Gants interviewed 29 people, examined the relevant documents, and met with attorneys for the principle students involved before submitting his findings and recommendations.

While the trustees are satisfied with the investigation and its outcome, reaction among the law review members has been mixed. At

the Presidential Candidate's Forum, fourteen hopefuls including new law review President Van Nguyen '94 agreed that the conclusion in the Gants report did not logically follow from the



Ralph Gants '80

A History of Shared Struggle

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the Holocaust in Europe. The film served as an introduction to the presentations which followed.

Professor Charles Ogletree '78 moderated a panel of eight, which featured, among others, a female survivor of Buchenwald and a veteran of the unit involved in the liberation of Dachau. Their first-hand testimony served as a poignant response to doubts that had been raised as to the film's accuracy in depicting the extent of Black participation in the liberation effort. The panel's resolution to continue the exchange of information between the cultures indicated the likelihood that similar events will be hosted, in the words of Rev. Jackson, "again, and again, and again, ..."

Gail Javitt '93 commented that "it was a very powerful and moving evening, particularly the film's presentation of the Holocaust and its presentation of the contrast between what the blacks' lives were here and what they were sent to fight in WWII." She continued that "I was very inspired by Jackson's powerful message. As the generation that experienced the Holocaust dies, it's important for more people to see eye-witnesses — it's the only defense against forgetting."

Malcolm Harrison '93 added that "the movie did a good job of showing what a lot of black soldiers had to overcome before the official integration of the armed forces. It highlighted a lot of the commonalities between the struggles of African-Americans and Jews."

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BRIEFS



Ice-T Set to Chill at HLS

The controversial author of the song "Cop Killer" will be appearing at Harvard Law School to discuss the First Amendment and his personal experience with censorship. Ice-T is expected to respond to criticisms of his songs, both those criticisms he feels have merit, and those he feels are invalid.

The song "Cop Killer" generated a storm of controversy when it was released last summer, both from law enforcement officials and proponents of censorship, who said it encouraged or glamorized the slaying of police officers. Attempts were made to force Time-Warner to remove the song from distribution, but they strongly defended their artist at the time, maintaining his right to free speech and denying that the song encouraged violence against police officers. Subsequently, relations between Ice-T and Time-Warner were severed.

Ice-T recently has been doing the college 'circuit' to relate his experiences with free speech and the use of language that some deem offensive. Harvard Law School has invited him here to speak to students on these issues of personal freedom.

He will make one appearance, at the Ames Courtroom, on Tuesday, February 16, at 4:00PM. A Harvard I.D. will be required, and no taping or photographs will be allowed. The program is being sponsored by Saturday School.

HAP and FDIC Team up for Alum Jobs

The Federal Deposit Insurance Corporation (FDIC) is pleased to announce that their unprecedented "Job Fair," held at HLS concurrently with Harvard Alumni Placement's (HAP) Third Annual Minority Recruitment and Retention Conference on November 20-21, 1992, has produced results.

The FDIC has hired five attorneys for the New England field offices of their Legal Division and has compiled a referral list of candidates for possible positions elsewhere within that division. The FDIC states that their hiring success is the "direct result" of the Harvard Job Fair.

Additionally, based on the success of the HAP Job Fair, the FDIC plans to hold a series of other job fairs to be conducted by field offices throughout the country.

Harvard Alumni Placement is an independent affiliate of Harvard Law School founded by Alain Kodsi '89. It is based in Cambridge.

HLS Grad to Help Reinvent Justice

Barbara M. Diamond '73 was appointed effective January 4, 1993 by the Supreme Judicial Court of Massachusetts as Director of Special Projects. In that role, she will work with the Justices to translate the vision of the future judicial system set forth in the 1992 report, *Reinventing Justice 2022*, developed by the Chief Justice's Commission on the future of the Courts, into a functioning statement of policy for the Massachusetts courts.

Prior to her appointment, Diamond was Director of the fiscal and policy unit for the Massachusetts Senate Committee on Ways and Means. Before that, she was counsel to the Massachusetts Senate Committee on Criminal Justice for two years.

Pro-Life Pow-Wow Planned

The Rutherford Institute is hosting an abortion forum with a pro-life perspective on February 18 at HLS. Five women from different backgrounds will speak on abortion, feminism and the dignity of life. The panelists include Micheline Matthews-Roth, Embryologist, Faculty Harvard Medical School; Mildred Jefferson, Assistant Professor of Surgery, Boston University School of Medicine; Susan Smith, Policy Director, National Right to Life Committee; Mary Roque, Family Lawyer; and Ruth Gana '91 HLS Visiting Researcher. Although the perspective will be pro-life, the organizers hope to encourage reasoned discussion.

Alum Gets Non-Profit Appointment

Dwight Golann '73 has been appointed as public representative to the Board of Directors of the Medical Malpractice Joint Underwriting Association of Massachusetts (JUA). Golann is a Professor of Law at Suffolk University and former Chief of the Government Bureau in the Office of the Massachusetts Attorney General. JUA is a non-profit organization providing professional liability insurance to 14,000 physicians, dentists and hospitals in Massachusetts.

Students to Compile Book on HLS Women

By Toy Chandler

Amidst the gender issues and controversies that continue to swirl about the Law School campus, two third-year students, Anat Hakim '93 and Vikki Wulf '93, have announced their plans to write and publish a book about HLS women.

A significant part of the book will consist of essays written by HLS women focusing on how Harvard has personally impacted them. Hakim and Wulf envision the book as contributing positively to the ongoing discussion about women leaders in our society.

"Many of us have had negative experiences here, but upon reflection we realize that we have grown from these experiences and can take something positive with us when we leave HLS," Wulf said. "This is not a *Broken Contract*, or *One L*-type product. This is a chance for everyone to reflect on their time here and to share their thoughts with women who come here in the future."

"Perhaps women will feel less alienated during their first year here if our book gives them some perspective before they arrive," Wulf added. "We hope that the insights presented in this book will illustrate the formative processes experienced at Harvard which have helped to

make HLS women stronger."

Hakim and Wulf encourage all women to write about their experiences at HLS. "We want women with different perspectives, experiences and ideologies to write," Hakim emphasized. "Feminist, conservative, liberal and other viewpoints are all important for this book to be written by women about women. We seek variety because that is our strength. We are not all of one voice."

Some might choose to focus on classroom discussions that affected them or experiences involving journals and organizations. Others might address the influence HLS has exerted on their personal relationships with family members, men and other women.

Still others might want to focus on a single transforming event, such as having a child while attending law school, getting married, or any event that has caused them to rethink deeply held beliefs.

Hakim and Wulf hope to have the book published sometime this upcoming

summer. They are currently consulting with professors and others on how to best obtain funding for the project.

The deadline for submissions is at the end of February. All second- and third-year HLS women interested in submitting essays should contact either Hakim or Wulf.



Anat Hakim '93



Vikki Wulf '93

Warren Receives Offer

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sibility for Warren, but her first priority is to work in that capacity where she can have greatest impact.

Diversity At HLS

Warren's tenure offer coincided with last Friday's silent vigil, held by students to demonstrate their ongoing commitment to faculty diversity. Should she accept, Warren will become the sixth tenured woman on the Law School Faculty. However that number is soon to be reduced, following Professor Kathleen Sullivan's '81 November announcement that she will leave HLS next fall to accept a position at Stanford.

Asked whether the campus politics that have made HLS a national media focus in recent months will influence her decision, Warren declared, "It's part of the reality of what Harvard Law School is today, and I'm a realist. The truth is,

though, I'm not sure whether it argues in favor of staying away or coming."

"Students here have exercised power in a very interesting way," she added, "but my suspicion is that it's time to exercise power in different ways."

Still, for Warren, Harvard's student body is what makes the offer most attractive: "The students are interesting people, truly diverse in the rich meaning of the word. I've never seen such an unusual mix, and it excites me."

Warren should be happy to know that her classes equally excite students. Most who have had Warren for a professor emphatically praise her teaching and scholarship. Michael Sullivan '93, a student in her fall bankruptcy course was asked for his evaluation by the Appointments Committee. "I'll tell the RECORD what I told [Professor Charles] Fried," Sullivan declared. "It doesn't matter if she's a man or woman or whatever. Warren is the best professor I've had at Harvard, and the school would lose a lot if they didn't get her."

Breyer up for AG

continued from BREYER, page 1

'63. Nesson, who said he has known Breyer since 1962, thought it was "quite likely" the judge would accept an appointment.

"I think the job would be very enticing to him," said Nesson. "He wants to do what he can to make the world a better place."

Nesson described Breyer as "very astute about problems of justice...very good on civil rights and exceedingly conscious about the environment — he bicycles to work."

"He's also very sensitive on gender issues. He's always had a really deep appreciation of women's roles," Nesson said.

"He'd be excellent," said Pound Professor of Law and former Law School Dean James Vorenberg '51, who said he had not heard Breyer was a candidate. Vorenberg, who served as dean from 1981 until 1989, said he knows Breyer well from working with him on the faculty at the Law School.

Breyer was a professor at the Law School from 1970 until 1981 and at the Kennedy School of Government from 1978 to 1981.

This fall Breyer taught "Administrative Law: The Regulatory Process" and he co-lectures "Government and the Regulation of Industry", with Ramsey Professor of Political Economy Richard J. Zeckhauser this spring.

—Courtesy of the Harvard Crimson

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While We Were Away...

DECEMBER

December 1: University President Neil L. Rudenstine was recently named one of Boston's ten sexiest men by *Boston Magazine*. The Magazine declared that "Women all over Boston have fallen for Harvard president Neil Rudenstine." The article explained, "Women praised Rudenstine for his intelligence, his warmth, his genuineness and 'a smile that could make your knees buckle.'" Rudenstine was surprised and commented that, although "I have always read *Boston Magazine* with real interest, and had the greatest confidence in the accuracy and reliability of its reporting... this particular finding has deeply shaken my confidence. Or maybe there are two Neil Rudenstines."



Neil Rudenstine



Janice Ugaki '94

Two Harvard Law students won Rhodes Scholarships this year, contributing to Harvard's record of, yet again, winning more Rhodes Scholarships than any other university. Janice R. Ugaki '94, a law student from Blackfoot, Idaho, will work toward a PhD in politics. David Panton '94, who won the only Rhodes awarded in Jamaica (he's from Mandeville), will pursue a PhD in management studies. Both Ugaki and Panton have been granted a leave of absence from the Law School to study at Oxford. According to official guidelines, the criteria for winning the Rhodes Scholarship are intellectual and academic achievement, integrity and the energy to use those talents to the fullest, and the participation and success in sports.

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David Panton '94

December 7: The Law School announced the publication of Dean Clark's essay, "Why So Many Lawyers? Are They Good Or Bad?" in the November *Fordham Law Review*.



Dean Robert C. Clark

In the article, Clark hails the United States legal profession as still a noble one, and criticizes comparisons between American and Japanese lawyer populations as flawed. Clark attributes the recent growth of lawyers to factors including greater population diversity, increased participation by the workforce in formal organizations, and greater internationalization. Yet, Clark muses, "I calculate that if we keep going in this way, by the year 2023 there will be more lawyers than people."

December 12: Approximately 60 Law Students held a silent vigil outside Pound Hall, as faculty members collected to vote on whether to tenure a visiting woman professor. Students did not know upon which tenure candidate faculty members were deciding, but they demonstrated their unwavering support for increased faculty diversity. They displayed signs reading "Good Enough for the Cabinet but not for HLS" and "Diversity Now."

JANUARY

January 6: A survey conducted by the International Association of Campus Law Enforcement Administrators reveals that the number of reported crimes on American college campuses increased each year from 1989 to 1991. The study, which surveyed 410 of the largest U.S. colleges and universities, also reported an 12.4 percent increase of violent crimes between 1989 and 1990, and 5 percent increase between 1990 and 1991.

January 8: Harvard University has finally agreed with negotiators for the Harvard Union of Clerical and Technical Workers on the terms of a new contract. The agreement provides for an average annual wage increases of approximately 4 and 5 percent over the next three years. Other items agreed upon include work security for union workers and improved child care and education benefits.

January 11: A researcher at the Ukrainian Research Center accused the Law School of misusing funds from the \$3 million gift made by Reginald F. Lewis last year. The research associate, David Lempert, said the donated money was intended to benefit Third World communities, but instead has been spent thus far on administrative costs and other short-term projects.

Professor Christopher Edley '78 denied the charges, saying that \$500,000 of the gift was designated and is being used for projects related to diversity at the Law School, Third World issues, and international law. Dean Clark was to decide how to spend the remainder of the gift.



Prof. Chris Edley

January 14: Joseph Alex Ward '91, won the \$500 First Prize in the Nathan Burke Memorial Competition at Harvard Law School. The competition, sponsored annually by the American Society of Composers, Authors, and Publishers, is designed to stimulate interest in the field of copyright law. Ward's essay was entitled, "Copyrighting Context: Law for Plumbing's Sake."



Prof. Mary Ann Glendon

January 28: Professor Mary Ann Glendon, specialist in comparative law, received the Order of the Coif Award for her 1989 book, *The Transformation of Family Law: State, Law, and Family in the United States and Western Europe*. The award, which is bestowed once every three years, honors the preeminent book on law in the country.

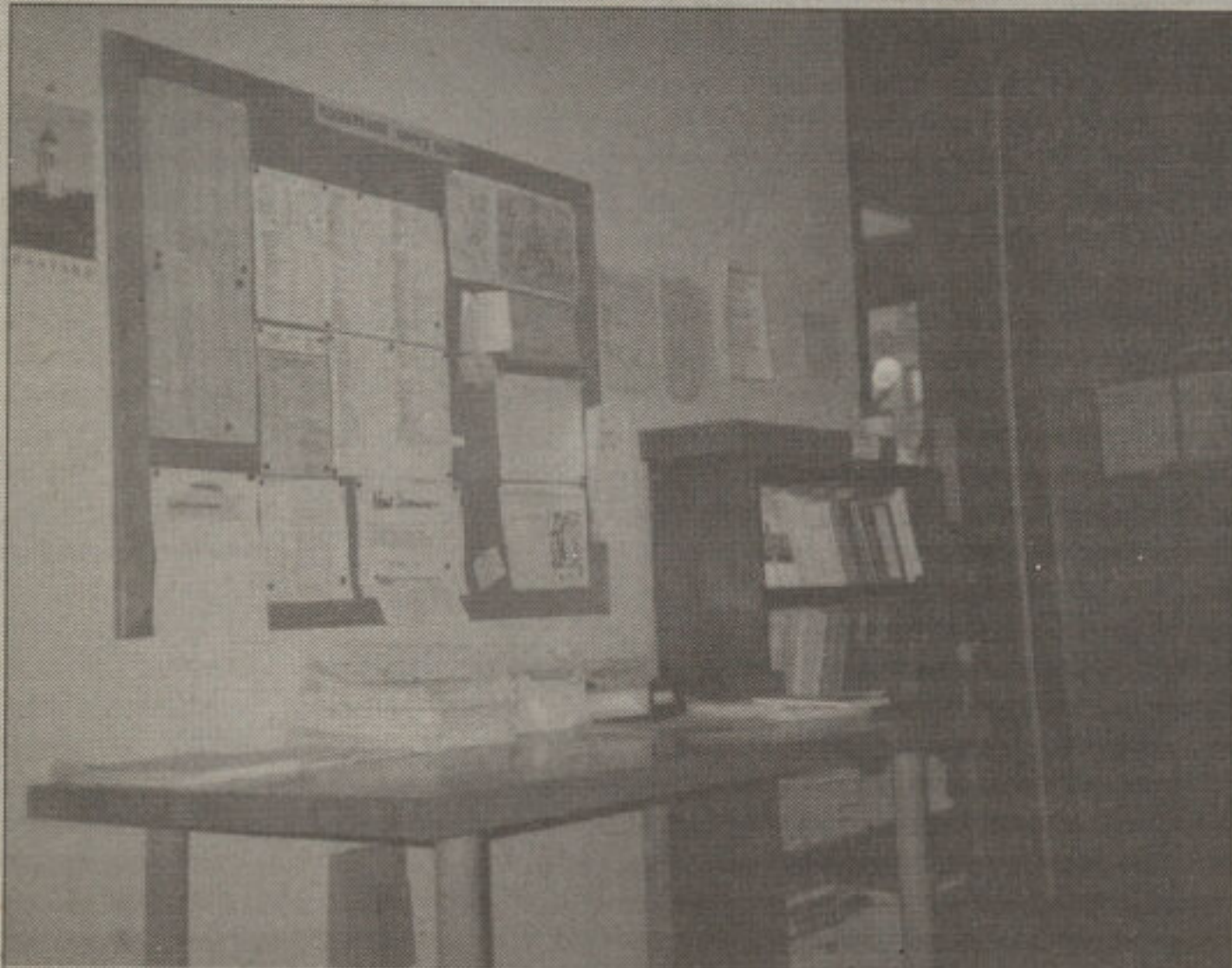
COMMENTARY

The Silencing of the Grades

By Michael Moffitt '94

THE other day I asked the HLS Registrar to stop sending me my grades. I can't remember a greater sense of relief and freedom than the one I got from this remarkably simple act. All at once, it was as if some lodestone I'd been carrying for a long time was suddenly gone. When grades are sent out later this month, all I'll have in my mailbox are bills — no grades. I'll never know what I got in my fall courses or any classes from now on. As strange as that may sound, it's a great feeling.

Before I got rid of my grades, I couldn't imagine being a student without grades. Now, I only wish I'd done it earlier.



With no grades to worry about, Mike Moffitt has nothing to fear from the dreaded Registrar's Office in Griswold Hall.

The decision wasn't an easy one. I'd always gotten good grades, and they'd always been a source of pride. I got some kind of strange thrill each grading period opening up the report and seeing the grades. I convinced myself that I was concerned about grades for very practical, career-oriented reasons. The reality I'd been denying was that I liked the way that good grades made me feel. In a sense, I had come to define myself in part by these letters assigned to me.

The more I thought about grades, though, and the impact they were having on me, the clearer it became that I had to make a change. I was going to classes trying to figure out what the professors wanted to hear. I was studying based on what I thought would be useful for the exam. I wasn't learning for learning's sake, I was learning for the grades. This isn't a picture of school I'm comfortable with, and yet, it was my reality.

But what about feedback? How will I know how I'm doing in these classes? It's true that without grades, I'll get no feedback at all from professors about how they think I performed on that three-hour fact-patterned frenzy we call an exam. Really, that's OK with me. Before, all I ever got from them was one letter. From that letter, I was supposed to figure out specifically what I was doing right and wrong. That's a harder task than anything I faced on a final exam. I'd rather have no feedback at all than useless and misleading feedback. At least without any feedback, I'll be able to decide for myself what was and wasn't useful by looking at what I've learned.

Will I work less now that I won't know what my grades are? I don't think so. But I will study more of the things I'm interested in, and less of the things that are mainly useful for the exam. It doesn't mean I'll ignore what professors think is important. Not at all. It's just that I'll take my cues from their words, not from their exams.

Though I'll never actually be able to verify this, I don't think this decision will even mean a change in the grades I'm getting. So far at HLS, my grades have been remarkably poor indicators of how much I learned and worked in classes. In almost every case, I admit that the grade I received was far better than the one I'd have assigned to myself. Grades seem to be as much a function of several independent variables: effort, knowledge, the skill of the professor as an instructor, luck, exam-taking skill, the phases of the moon, and the professors' breakfasts the mornings when the exams are written and graded. I'd rather stop trying to glean useful feedback from grades, and put them in the place they belong.

I wish that HLS would come to realize that there is a better way of evaluating students and giving them feedback than the assignment of a single letter based on a single exam. Still, it makes sense that the school is in no hurry to do so. Some would say that it refuses to change because of tradition. Others say it's because this is the easiest system for the professors. Still others say it's because outsiders need to be able to differentiate among us. Some even claim that grades are the only way to ensure that dedicated and talented students who have worked hard all their lives continue to work hard. My guess is that students like me are as much to blame as anything. By caring so much about grades, and by allowing grades to become central to my experience as a student, I was legitimizing their use and their existence. Asking not to see them anymore is my way of trying to delegitimize grades, at least on a personal level. They are at best unhelpful as pedagogical tools, and I'd rather not support their continued use.

In the fifth grade, my teacher Mr. Havens asked the class the philosophical riddle about a tree falling in the woods where nobody was around to hear it fall. I'm not sure I understood it then, and I'm still not sure I do. I do wonder, though, if the same kind of riddle isn't true for me now. Professors will continue to give me grades, but I'll no longer be around to hear them.

With High Hopes, Law Review Names Officers

continued from ELECTIONS, page 1

allowing him and his wife to relocate from Australia. He continued to work part-time for Digital throughout his first year at HLS, but finally resigned when he made the Review.

Nguyen is not one to rest on his laurels. "I feel challenged, but optimistic that the Law Review will meet the new mission set for ourselves...We want to push legal scholarship work, and we want to emphasize community building."

Emily Schulman's '94 stormy reign will create an atmosphere of heightened scrutiny for her successor. Beginning with the uproar over the *Revue* satire that mocked the life and death of Professor Mary Joe Frug, and ending with the Gants investigation of Schulman's alleged racist and sexist actions, her presidency will live in Law Review infamy for years to come.

But Nguyen doesn't fear life under the microscope. "Regardless of the background, I think that the President of the Law Review should always behave as though he's under intense scrutiny, because of the weight of the position," he said.

Nguyen declined to describe any specific changes he planned to make as President, stating that "any change would be a Law Review decision." He did, however, favor continuing the initiatives adopted at the January Transition meeting. These included creating training workshops on sensitivity to race, gender, and sexual orientation, and appointing a mediator for organizational disputes.

He also said that the transition meetings redefined and clarified the President's role. "They outlined the position's responsibilities and accountability while emphasizing teamwork and delega-

tion, so the President doesn't do everything," Nguyen said.

The rest of the masthead positions are filled by the most diverse group ever in the Review's history. Michael Labson will serve as Treasurer, and Martha Rubio will be the Managing Editor. The four Executive Editors are Gail Brashers-Krug, Charlie Duggan, Tami Lefko, and Michael Shen. The Supervising Editors are Stephen Choi, Douglas Driemeier, Michelle Goodman, and Rick Sinkfield. Other positions were not yet filled at the time of this publication.

This was the first election in which the President had no discretion in choosing other members of the masthead. Law Review editors voted in separate elections, first for the President, then for the managing editor, then directly for the four executive editors and for the four supervising editors.

Rebecca Eisenberg '93, who was embroiled in the latest Schulman controversy, feels the new method of selection produced fair results. "Removing discretion in choosing masthead officers was a good change. Picking the most qualified people does have the inevitable result of diversity."

Choi agrees. "This time we had a straight vote, and no discretion. The people who were elected represent a very diverse bunch in terms of interests, viewpoints, and abilities, and I think that will bring a lot of strength to the Law Review."

Sinkfield predicts that the new masthead will avoid errors of the past. "There's various plans in the works to ensure that what happened this year won't happen again. Everyone is determined to do a great job and to have next year go off without an incident. We're looking at ourselves and taking steps to

EAW ENTERPRISES

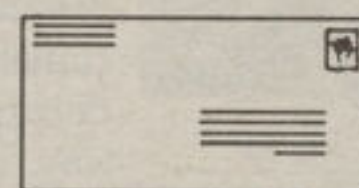
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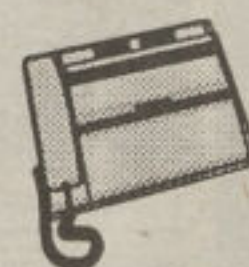
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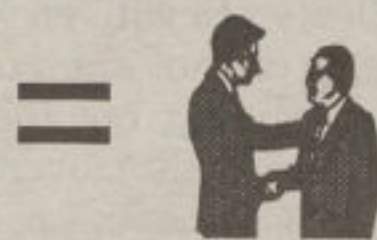
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By Walter Harvey '95 on Behalf of the
Black Law Students Association

THE LIFE AND LEGACY OF TWO PIONEERS

Thurgood Marshall 1908 – 1993

In a six decade legal career, Thurgood Marshall breathed life into the aphorism "justice for all." As a lawyer for the National Association for the Advancement of Colored People (NAACP), and later as the first black Supreme Court Justice, Marshall personified the movement for civil rights, justice and equality in America.

He was a great legal mind, possibly the best of his time. In fact, noted constitutional scholar Laurence Tribe '66 has called Marshall the "greatest lawyer of the twentieth century."

Marshall spurred changes in American society in ways which were barely imaginable to most people who came before him. He spoke bravely and forcefully against injustice. He was an unrelenting voice of a silenced people.

He encouraged America to tap into its greatest, but most underutilized resource — its people. He helped transform the definition of what a lawyer can and should be: a public servant, an innovator, a fighter for truth, a mold of social policy, and a marshal of justice.

He meant many things to many people. He has been, and still is, a hero to many aspiring lawyers. Drew Carter '94 analogized Marshall's struggle against legal segregation to David's struggle against Goliath: a brave warrior challenging and defeating a lumbering giant.

In addition to honoring Marshall, Spencer Overton '93 noted that we should not forget the "team" of lawyers who worked alongside Marshall in his fight to end legal segregation, people like his mentor, Charles Hamilton Houston LL.B. '22, SJD '23, and his co-workers such as Constance Baker Motley and Robert L. Carter, who aid-

ed Marshall's development and growth. Working together, these people lent their valuable talents to an uphill struggle.

Marshall was also a great teacher. He never hesitated to remind us of the problems of bigotry and ignorance. He gleaned lessons from an history which has often been untold, stolen or betrayed. His mark upon the world has been imprinted indelibly upon our institutions, our minds and our hearts. President Clinton recently echoed

these sentiments, calling Marshall one of the giants "in the quest for human rights and equal opportunity in the whole history of our country."

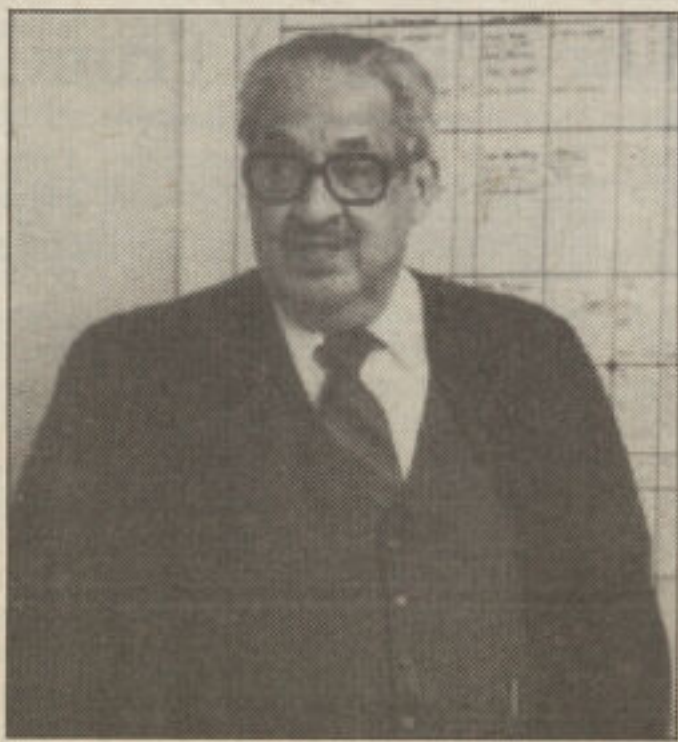
In remembering Thurgood Marshall, many commentators have focused primarily on his personal attributes: his quick wit, his great sense of

humor, his modesty, and his humility. However, in addition to his charming personality, his skill as a lawyer was nonpareil and cannot be overlooked.

Zanita Fenton '93, Editor of the *Black Letter Journal*, said, "I feel that the inspiration and continuation of the Marshall legacy is critically and crucially important. We have also used the *Journal* to honor him and to provide a forum for the issues that he cared for."

Marshall represented that which was best in an American lawyer. He forced America to stop, look and listen — to reassess its personality, its passions, its direction, and its aspirations. In doing so, he helped America see that it has the power to shape its destiny.

When asked how he wanted to be remembered, Marshall replied humbly, "That I did what I could with what I had." Indeed!



Thurgood Marshall: An Unparalleled Life

- Born in Baltimore the son of an elementary school teacher and yacht club steward
- 1930 Graduated from Lincoln University, an all-black college in Pennsylvania
- 1933 Received his law degree from Howard University, graduating first in his class. Marshall began practicing law in Baltimore
- 1936 Hired as an assistant to the national counsel for the NAACP
- 1938 Became chief counsel to the NAACP
- 1939 Created the NAACP Legal Defense Fund.
- 1940-1961 As Chief Counsel for the NAACP, Marshall litigated cases that ended all-white primaries, barred explicit discrimination in housing contracts, and won civil rights gains for blacks in a wide number of areas.
- 1954 Argued a series of school desegregation cases, collectively known as *Brown v. Board of Education*. The Supreme Court ruled in those cases that segregation in public schools is unconstitutional.
- 1957 Led the case for the integration of the Little Rock Central High School in 1957.
- 1961 Selected by President John F. Kennedy to serve on the US Court of Appeals for the Second Circuit. Marshall became the second black judge to sit on the Second Circuit.
- 1965 Appointed by President Lyndon B. Johnson as the country's first black solicitor general, taking the lead in promoting the Johnson Administration's civil and constitutional rights agenda.
- June 13, 1967 Appointed to the Supreme Court by President Johnson.
- August 30, 1967 Confirmed by the Senate 69 to 11, Marshall becomes the nation's first black Supreme Court Justice.
- June 27, 1991 Retired from the Supreme Court after 24 years as a Justice.
- January 24 1993 Marshall died of heart failure at the National Naval Medical Center in Bethesda. He was 84 years old.

Reginald Lewis 1942 – 1993

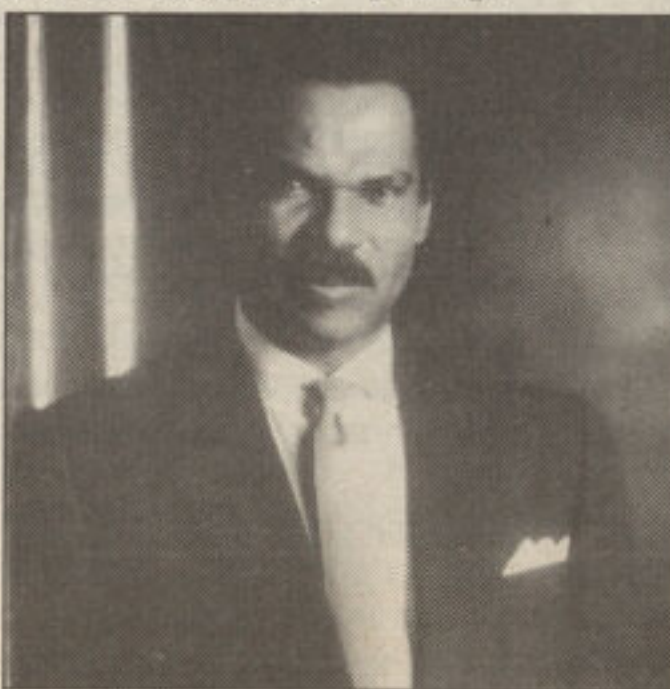
REGINALD Lewis '68 was like a flame that burned briefly, yet brilliantly. He was born in the early 1940s, before the landmark decision of *Brown v. Board of Education*, when "separate but equal" was the law of the land. However, by the time he graduated from Virginia State University, an all-black college, he was afforded the opportunity to enter the integrated "mainstream" of Harvard Law School.

Lewis had been working on attaining respect and stature for 20 years, and was by no means an "overnight success." He always kept an eye on the horizon and challenged the status quo. In a 1988 interview with *Black Enterprise* magazine, Lewis remarked that while some people warned that there were limits to what one can achieve, he felt that one could overcome any obstacle because, "the mind is a wonderful thing."

One of the most remarkable things about him was his preoccupation with the spirit of "giving some back." Rev. Jesse Jackson once noted that Lewis was one of the few people who would give without being requested. He raised hundreds of thousands of dollars for charities, the Democratic party, as well as for Rev. Jackson's 1988 presidential campaign. Shortly after graduating from HLS, he sent the school a \$10 check, establishing a pattern of continuous giving. Additionally, Lewis gave liberally of his time and money to black colleges and other organizations, including Abyssinian Baptist Church in Harlem and the Kappa Alpha Psi Fraternity Scholarship Fund. He also enjoyed serving as an adviser to young people starting in the law and business.

Few people know that Lewis was one of the first leaders to officially use the term "African American." Lewis paid tribute to the "great men," the African-American entrepreneurs who came before him; however, he was

reluctant to discuss his experiences as a black business executive in a white corporate world. In a *New York Times* article of July 8, 1992, Lewis elaborated on this point: "I am very proud of my heritage as an African American....Unfortunately, when we label people it tends to circumscribe and define them in ways that cut away from their accomplishments or their achievements. I decided that, particularly in my business career, I would do everything I could to avoid that happening."



Lewis' life exemplified many admirable qualities: integrity, family values, intelligence, diligence, persistence, leadership, dedication, and originality. And while several members of the Black Law Students Association expressed sorrow

at his death, they also voiced hope that his spirit will survive. Camille Holmes '93 reflected, "It is sad that he died so young. He had the potential to contribute much more to the welfare of the community at large."

Francis Phillip '93 remarked, "Upon the death of Reginald Lewis, we can use his life as a guide for our own lives in that Mr. Lewis made the most of the opportunities that he had in the time that he was given."

Lewis' attendance at Harvard Law School resulted from the efforts of individuals like Thurgood Marshall and Charles Hamilton Houston LL.B. '22, S.J.D. '23. Lewis walked through the doors opened by desegregation, and Harvard Law School realized the fruits of integration when Lewis recently donated \$3 million, the largest gift in the history of the Law School. Lewis represented a poignant and striking example of how Harvard Law School has benefited from accepting underrepresented groups. Although he was taken from us prematurely, his legacy lives on in this institution and in our hearts. For this, we pay tribute.

Reginald Lewis: A Bright Light of HLS

- 1942 - Born in Baltimore, Maryland.
- 1965 - Graduated from Virginia State University with a degree in Economics.
- 1968 - Graduated from Harvard Law School and accepted employment with Paul, Weiss, Rifkind, Wharton & Garrison in New York.
- 1970 - Started his own small law firm on Wall Street, Lewis & Clarkson; Lewis began to specialize in business transactions and venture capital projects. He remained senior partner with the firm until 1987.
- 1973-1981 - Served as counsel to the National Association of Investment Companies, an organization which funnels investor money to minority-owned businesses. While there, he secured venture capital of up to \$100 million.
- 1984 - Established the TLC group, an investment company with \$1 million of his own money and a \$24 million loan.
- 1987 - Engineered a lucrative \$985 million leveraged buy-out of Beatrice International Food Corporation.
- 1991 - Donated \$1 million to Howard University.
- 1992 - Donated \$3 million to Harvard Law School, with the International Law building set to become the first building on the Harvard campus named after an African American.
- 1992 - Sales at Beatrice top \$1.5 billion annually; Forbes estimates Lewis' net worth at \$400 million.
- January 19, 1993, Lewis dies of a cerebral hemorrhage after being diagnosed with brain cancer less than two months previously.

Harvard Law RECORD

Founded in 1946

Robert C. Arnold
Editor-In-Chief

Women Submit!!

I have been giddy since the November election, and it's not just because my great state elected two — yes, count them, two — women to the Senate. It's not just because I get to gloat about it to people from those inferior states with two male senators.

The real source of my non-stop giddiness has been Bill Clinton. Bill has hardly let me down for a minute. I love him when he embarrasses reporters who attempt to chastise him for Hillary's obvious position of power (No, we did not elect Hillary. But in the immortal words of Anna Quindlen, "Get over it; You didn't elect James Baker either"). I love him when he wipes out the "gag rule" and fights to allow open homosexuals in the military. I especially love that he jogs to McDonald's.

But it was when he vowed to make his staff "look more like America," that he first won my heart. Then he backed up his promise with action, something you never see in a politician.

Who would have ever imagined that we'd get a White House that looked more like America before we would get a Harvard Law School faculty that looked like America? After all, Washington is all about power and political clout, something women and minorities run short on, and faculty appointments are supposed to be "meritocratic," a level playing field for everyone. And I bet that it probably would be a level playing field if Paul Weiler, Bob Clark and Charles Fried were not ruling the Appointments Committee. When it comes to women and minorities, the HLS tenure playing field looks more like the proverbial slippery slope.

While Washington moves into the future and the faculty stands frozen in the ice age, there is one thing for which there is no excuse: The RECORD. Why am I the only woman writing columns for the RECORD?

Women say to me all the time, "You really speak for us!" A frightening concept, isn't it? But it is understandable, considering that I am *the one and only woman* regularly writing opinion pieces for this newspaper. Where are my female colleagues?

Despite the stereotype that women talk a lot, studies indicate the exact opposite. Men talk more frequently, they speak longer, and they interrupt more. Face it, men are never going to shut up and ask us women what we think. The female voice is not going to be expressed unless we put ourselves out there and voice our opinions.

Ladies, I know you have opinions. You knock me over every day saying, "You should write about...." And what do I always say? "Get your own column!" And I mean it. The RECORD needs women columnists. You don't have to be funny, you don't have to have a particular political bent. And, hell, you might even get your picture in a national magazine some day. So, ladies, especially 1L's, submit to the RECORD. Let's have a RECORD that looks more like the real world, too.

—Elizabeth Moreno

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—First Amendment, U.S. Constitution



• Letters •

Lewis' Gift Shows Good Judgment

The article "Money Grubbing HLS" in the October 20, 1992 edition of the RECORD brought to mind the gentle remark of Professor Freund '55 when he addressed us on the occasion of our 35th Reunion, to the effect that, as evidenced by the portraits hanging in the rooms and corridors of the School, honor is given to legal giants rather than to donors of funds.

Upon reading Mr. Swinson's article, the question comes to mind as to why he would characterize a donor to the Law School as "stupid."

Having had the honor and pleasure of attending the School and having benefited during four decades from that association, I would regard Mr. Lewis' gift as evidence of his good judgment.

Robert B. Simon '52
December 1, 1992

News Should be Separate From Editorials

Rebecca Eisenberg's "article" "Students Defend Clinic From Operation Rescue" (RECORD, November 20, 1992) proved an interesting exercise in journalism. From my rudimentary understanding of newspapers, the opportunity to express one's opinions and beliefs are generally the province of an "editorial" section. More factually and personally objective presentations are to be found in "articles". Indeed, your own masthead (on page 8 of that particular edition) implicitly recognizes such a distinction in its separation between "articles" and "editorials". Nevertheless, from Ms. Eisenberg's efforts one would never know that such a distinction existed.

Ms. Eisenberg's article was a polemical defense of pro-choice activism, and a vitriolic attack against opponents of abortion. Now, I can't express a particular personal

appreciation for the efforts of Randall Terry and Operation Rescue forces. Nevertheless, the fact remains that right here on the Harvard Law School campus, there are people who align themselves with the Operation Rescue effort. On that particular Saturday, I had friends from HLS march off to join forces on both sides of this pitched battle. Unfortunately absent from Ms. Eisenberg's effort is an appreciation of that reality, and any fair effort at presenting the nuance and complexity of what is assuredly a critical and complicated issue (Incidentally, toward the end of fostering such an understanding, the Rutherford Institute is presenting a forum on "Abortion, Feminism, and the Dignity of Life" on February 18, 1993 at 4:00 in Austin East, with five prominent women expressing views from their different areas of expertise).

Yes, the issues of abortion and the attribution of reproductive rights are extraordinarily important—and are perhaps even more volatile. It is in such volatile, heartfelt arenas that we test our ability to act with integrity, particularly with respect to perspectives and agendas which are not our own. My basic quarrel with Ms. Eisenberg's presentation is that it runs counter to basic principles of intellectual integrity that are a supposed common ground of our education and our prospective profession. Clearly, she has the opportunity to present her most heartfelt opinions and sensibilities (with whatever attendant presentation of the facts she chooses) every week in the Harvard Law RECORD. There is room for such an effort—but that space exists on the editorial page.

John Kingston '94
December 1, 1992

HLS Crew Team Hardly Entertaining

In the official results for the 1992 Head of the Charles, the Harvard Law School crew was the only entry in the men's club eight event to receive an interference penalty. The judges clearly saw that Old Lyme did not swing into the path of the Harvard

Law School crew but saw the Harvard Law School crew obstruct Old Lyme and, when the oars tangled, push into the path of Milwaukee. Having caused a collision through an error in judgment which caused damage to equipment, we could not have expected

that the Harvard Law School crew would make light of the damage to the other crews or, worse, attempt to blame the consequences of its mistakes on others.

Gary A. Ahrens
December 2, 1992

Lopez a Breath of Sanity and Fresh Air

I have been increasingly saddened to read the various exchanges of hateful and spiteful letters, presumably indicative of the forces tearing the Law School apart. There is something clearly wrong with our society if the Harvard Law community is any reflection of how people treat one another.

The only breath of sanity and fresh air, I thought, was the letter of Mr. David Lopez, dated November 18, 1992. He actually sounded like a normal human being confronted with difficult problems and difficult choices, trying to muddle his way through like most of us do. In contrast,

the other writers all sound shrill and bitter. I hope there are more "moderates" like Mr. Lopez on campus, and that they truly form the "silent majority".

Howard Liebman '77
December 7, 1992

Help Me

Please be advised that I've written to Professor Laurence H. Tribe on August 6, 1992, seeking assistance on my criminal appeal. Mr. Tribe has written me back and informed me that he has forwarded my inquiry to Harvard Law School's Legal Aid Bureau. Nonetheless, they have never written me back. Moreover, I am hoping that the RECORD can help me in any way that you can on my appeal. I would greatly appreciate if you will help me get my case accepted into Harvard's Appellate Litigation Clinic.

Marcus Bezar
Attica Correctional Facility
Attica, NY 14011
February 1, 1993

CORRECTION

The special insert in our November 20, 1992 issue mistakenly reported that the Law School has raised \$700,000 to support the Charles Hamilton Houston Fellowship program. The actual figure is \$70,000.

More Letters
page 12

FRIDAY, NOVEMBER 13TH REVISITED

Student Activism Still Welcome at HLS

By Harold I. Cramer '32

THE letter from Irwin Markowitz '52 ("Students Should Focus on Legal Education," November 13, 1992) reflects a view not uncommon among alumnae and alumni—that the current student body doesn't measure up to what it was in the happy days when they were in the school.

His letter does not suggest, however, that today's HLS students are not as bright, educated, informed, high-minded and socially committed as his contemporaries were or that they are indolent, or that the School had to lower its standards to admit them. To the contrary, admission is tougher than ever.

Yet he is "angry, upset, disappointed, and fearful for the future excellence of the Law School" because he had concluded, despite "a lack of first-hand knowledge," that the "primary goal" of "the majority or loudest body of law students" is not a legal education but finding fault with everything about the school, specifically "its gender/racial/ethnic/political make-up." He therefore proposes a mediation panel to deal with this problem upon which he offers to serve.

I think Mr. Markowitz's target should be the School administration, not the student body.

I am a member of the class of '32, the class which entered with the onset of the Great Depression and graduated with the defeat of Herbert Hoover. Women were not admitted to the School. (It was thought that an HLS education would be wasted on them because

they were supposed to marry and raise children, not practice law.) Nor were there any blacks in the school. These facts involved serious campus problems, but they were of no apparent concern to the students, who included (later) Justices Blackmun '32, Brennan '31 and Powell '32.

Our class was also passive about the curriculum. The Supreme Court was still composed only of the pre-Roosevelt Nine Old Men. Our constitutional law course dealt primarily with the commerce clause (tax avoidance on goods moving in commerce) but the Bill of Rights was unmentioned. We were taught that the Constitution tolerated contractual and legislative prohibitions against selling or renting to blacks and Jews; unequal schools, hospitals and other private and public facilities; yellow dog contracts and labor spying (but not wages and hours laws or protection of the right to join a union); price fixing by bar associations; ex parte injunctions; gerrymandering; poll taxes; literacy tests designed to deny the vote and representation to blacks; and life sentences for persons who could not afford trial counsel.

In consonance with these holdings, the School also exercised the "right" not only to exclude women from the school but to prohibit their presence in a room without the prior permission of a proctor unless the door was kept open during all the time they were there.

I don't know how things were in Mr. Markowitz's time, but I doubt they were much different.

I doubt that upon reflection, Mr. Markowitz will regard student apathy an appropriate law student response to issues of racism or gender discrimination. I

therefore suggest he look to the administration's indifferent, insulting response to the students' effort to induce it to diversify the racial composition of the faculty by granting tenure to at least one black woman. Despite its many faculty appointments during the decade that the issue has been pending, the administration still claims to have been unable to find even one available black woman who is sufficiently qualified to teach at the School.

Given the reasonableness of the request, joined in and actively pressed by both black and white students for many years, and the successful hiring of black women of unquestionable excellence by other prestigious law schools, the administration's good faith is clearly open to question. These facts apparently led Professor Derrick Bell—as able and distinguished a teacher as any law school could hope for—to leave the faculty until it does find a candidate it considers qualified. I think the administration has paid a high price in accepting his departure as the price for proving its power.

I submit that it is cause for pride and rejoicing, not for fear, that students have taken the lead on the pro and con of these issues and that my generation of HLS students deserves criticism for its indifference to issues which so deeply concern the campus and the community. In short, Mr. Markowitz should be very pleased that today's students do care.

In my opinion, therefore, the conduct of the present administration creates greater cause for concern about the future of the School than the student conduct which "appall[s]" Mr. Markowitz.

RECORD FULL OF MoFos?

RECORD Owes an Apology to MoFo

I read newspaper articles about the anonymous letter concerning Morrison & Foerster which was published in the November 13, 1992 RECORD before I read the article itself. Having done so, I believe you owe this fine law firm an apology and I hope you will learn from this incident the perils of printing undocumented accusations against a law firm.

While details of the article may contain a grain of truth, the overall impression that Morrison is a poor place to work or is uncommitted to diversity is blatantly false. I know many partners and associates in the firm, more in San Francisco than Los Angeles, and the firm is well regarded in the community. Moreover, it has been in the forefront in promoting diver-

sity. Undoubtedly, women and minorities have left the firm but so have white males and from the statistics I review, Morrison's turnover is about average. It is only because of efforts to increase diversity that there are minorities and women there in the first place.

Regardless of the details, it is simply inappropriate to allow someone to trash a firm anonymously. How can the firm respond without knowing whether the particular person has a grudge or was disciplined or otherwise might have a reason to supply exaggerated or false information.

You compounded the mistake by failing to print the firm's response at the same time. The excuse that you did not know that the firm

wanted its response to be printed is, to put it charitably, lame.

Perhaps you do not appreciate the impact this kind of smear tactic can have on a firm. One person's unacknowledged opinion should not be permitted to impugn an entire firm, even if corroborated in part by others. Your newspaper is not the proper forum nor is an anonymous "article" the proper way to critique a firm.

I hope you will exercise better judgment in the future. Freedom of the press also carries with it serious responsibilities which you appear to have forgotten in this instance.

Paul L. Warner '72
November 30, 1992

Morrison & Foerster Highly Respected

While my respect for freedom of speech usually precludes me from criticizing the judgment of editors (even student editors of student newspapers), I find I must take to task those on your editorial staff who exhibited the bad judgment to publish, anonymously, the article entitled "MoFo full of MoFos" in the November 13, 1992 issue of the Harvard Law RECORD.

The article is obviously the work of a disgruntled employee who is probably among those who were terminated recently by Morrison & Foerster. While I have no doubt that Morrison & Foerster is experiencing some

of the problems and difficulties being encountered by other major firms in Los Angeles, it clearly does not deserve to be the subject of the vitriolic diatribe of this anonymous article writer. The article is typical "sour grapes" and can be heard from recently terminated associates from firms all over Los Angeles, not just Morrison & Foerster. By publishing such an article, on an anonymous basis, the Harvard Law RECORD is merely acting as a public catharsis for an apparently mean spirited ex-associate.

Morrison & Foerster is one of the most respected firms in this country. It has an excellent record of hiring

fine attorneys, especially those who are classified as minorities. For the writer of this article to anonymously cast aspersions upon the integrity of Morrison & Foerster and its hiring policy is unconscionable. I doubt very much that any decision to terminate a lawyer, or even a staff person, has ever been made at Morrison & Foerster based upon a person's race, sex, sexual orientation or religion. And I say that without any hesitation or reservation at all.

Neal S. Millard
December 1, 1992

ACLU Attorney Defends MoFo

I am General Counsel of the ACLU Foundation of Southern California, and have worked for the organization in this position or as a staff attorney for twenty years since my graduation from Harvard Law School. It has never been the general case that private law firms have been generous in their commitment to prosecuting public interest litigation, especially on behalf of the poor or disadvantaged against powerful entities top-heavy with legal or other resources. It is, therefore, with genuine confoundment that I read your paper's recent story about Morrison

& Foerster's Los Angeles office, and the attendant publicity about the article within the legal community.

Perhaps you have simply undertaken no independent investigation. I recently completed a case working closely with two associates at Morrison & Foerster against a major pharmaceutical company. The commitment of resources and efforts of Morrison & Foerster was *pro bono* and unqualified, and the legal work resulting was, I believe, what made the difference. I know that our clients were repeatedly impressed with the sensitivities, as well as the talents of the office.

The problem with articles like the one I read is that it may discourage students intent on private law careers from a firm that actively encourages its attorneys to spend otherwise billable firm time on matters of public concern. In my experience, low morale is endemic at many private law firms, precisely because attorneys are afforded no opportunities to nourish their souls. Morrison & Foerster, I find, is a praiseworthy exception; it would be a shame if Harvard students were led to believe otherwise.

Mark Rosenbaum '73
December 3, 1992

DID ALYSSE GO TOO FAR?

Sophomoric Offering a Turn Off

I would like to express disapproval of Alysse MacIntyre's November 13 piece ("Market Failure: Dating at HLS Revisited"). This type of tasteless writing strains hard for humor and really achieves more in offensiveness. Perhaps greater blame for the appearance of the column in the Record should rest with its editors, however, than with the contributor.

There are aspects of the HLS scene that are suitable and warranting satire, criticism and humorous treatment. Many articles in your paper succeed along these lines and are illuminating or

insightful; many others represent balanced reporting, some illustrate human foibles in an acceptable way, others constitute proper advocacy for one or another viewpoint. In general, your publication is a good source of information on current happenings and issues in Cambridge, the views and concerns and interests of the student body, and the "mood" of the Law School. However, many alumni (and surely many HLS students also) are shocked, and really more importantly are simply turned off, by the kind of sophomoric performance exemplified by Ms. MacIntyre's latest contribu-

tion. The great majority of your readers surely expect a higher standard of expression and — excuse the old fashioned word — taste.

Merely because the recent column was submitted doesn't mean it should be printed. A service would have been done to your publication, the HLS community at large, and even to the writer herself, if editorial discretion had been exercised to reject this piece.

Not all letters ought to be mailed; not all one's thoughts should be uttered; not all jokes one can think of should be told. The Law Review has learned a bitter lesson in this regard. There is no valid issue of free speech or censorship involved, only sensible discretion and appropriate selectivity—good newspaper editing.

Jas. Murray Howe '50
December 3, 1992

Racy Talk Goes Too Far

I am not a prude and I enjoy racy talk and racy writings. I even enjoy vulgarity when it is relevant to the context. However, the pointless article by Alysse MacIntyre appearing at page 9 of your issue of Friday, November 13, 1992, has no excuse, no rationale, and no redeeming fea-

ture for its very existence.

Speaking with only one voice, as one alum, I suggest that the article is degrading to your publication and I hope that it is the last of its type.

Jesse H. Oppenheimer '42
November 25, 1992

A New Low

For some years, I have been distressed by some of the material contained in the RECORD. I feel that the article by Alysse MacIntyre in the November 13 issue reaches a new low. I cannot comprehend the reason for insertion of such material in AMERICA'S OLDEST LAW SCHOOL NEWSPAPER.

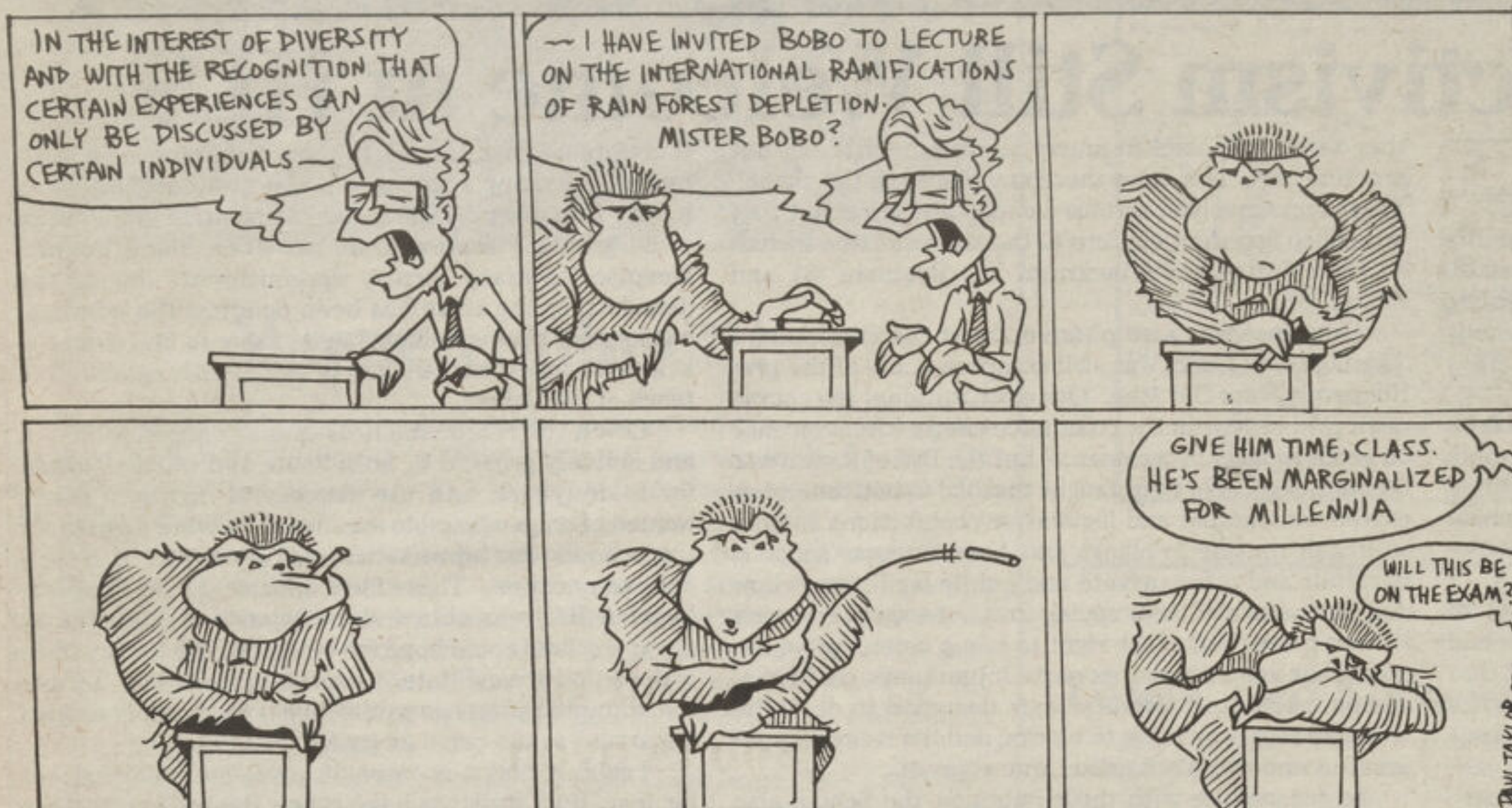
Robert B. Simon '52
December 11, 1992

HAPPY
VALENTINE'S
DAY!



Liabilities

By Paul Taylor



GROMM: Barbarian at Law

By Chris Spagnoli



3L

By Steve Baughman



DISHEARTENED BY THEIR FIRST-SEMESTER RESULTS,
BILL AND HIS STUDY-GROUP DECIDE TO TRY
THE CASE METHOD.

HOROSCOPES

By Rosie Cosentino

ARIES March 21 to April 20: A week to make money. Be creative and study with a friend. Attending lectures and seeing alternate views will help you in your choices. Avoid arguments at home. You will receive a package from a distance. Love is all around you.

TAURUS April 21 to May 21: Watch your driving, being late is better than getting a ticket. Money lent to a friend comes back. Read over your work papers, something is missing or misplaced. An enemy turns into a friend and comes to your rescue. Romance fills the air.

GEMINI May 22 to June 21: A week to remember. A social engagement leads to a great business venture. A lesson in real life shows that you are making the grade and could be the turning point in your future. Study hard now for your goals are before you. A choice between two loves.

CANCER June 22 to July 23: This is a week to think of yourself first. Be cold, hard and to the point. Business... this is the beginning of a new job, career, name and reputation. You can do it. Attitude shows that you are in charge and without fear. The spotlight is on you and success is your name. Looking back will only cause sorrow. Love is at home.

LEO July 23 to August 23: A week to give yourself a break. A party and a short trip. Something fun to help you forget the troubles of others. A week to answer letters, write papers and start something new. Exercise to relieve tension. Let love have a chance, it is right for you.

VIRGO August 24 to September 23: A new friend. More hours and money from a job. Time to have a party and decorate the house. Don't make moral judgments, they will come back to haunt you. Try subliminal tapes to help you study and keep your self-confidence up. Love and be loved.

LIBRA September 24 to October 23: A proposal and a trip for pleasure. A week to be seen and work on redecorating your office, room or home. Making decisions on your own makes you in charge and renewed. Love is not easy this week, but it is worth the effort.

SCORPIO October 24 to November 22: A week for taking pictures and collecting memories. Love is something special and should be kept to yourself for this week. It is warm and true and will give you the extra little push you need to go after your desires.

SAGITTARIUS November 23 to December 21: Trying to choose between two loves can cause you stress. Relax, romance this weekend and work the rest of week. You always can have both, just not one at a time. Plans for a future romantic getaway and a box of sweets now can solve your dilemma.

CAPRICORN December 22 to January 20: Go ahead and spend the extra on your loved ones, it will make you feel better. You are sensitive and romantic even if you don't always show it. Try a card or gift for her or his parents just to add a special touch. Now is the time to think of your future.

AQUARIUS January 21 to February 20: Be competitive, love is watching and you will get just what you want. A sports event and a private party may top off your weekend. This is a week to win in education and romance. News from the southwest may change your plans for the summer... think carefully before you make your decision.

PISCES February 21 to March 20: Being in too much of a hurry can cause you sorrow, back off and look for better timing. You can get what you want, just not now. Romance and a fun commitment will be later. Be yourself. Listening to friends can confuse you. Be practical and keep yourself looking good, love is out there even if you don't notice.

For personal consultations contact:
Rosie Cosentino
P.O. Box 306
Hazelwood, MO 63042
(314) 621-6529

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PAID AT BOSTON, MA AND
ADDITIONAL OFFICES.

Bob Clark: Justify My Love



By Alysse MacIntyre

DID you miss the "Town Meeting" in December? You're a lucky dog if you did. It was boring, boring, boring.

What happened to the good old days of a packed audience screaming for Mein Dean's resignation? Of impassioned speeches, accusations and finger pointing?

Bob Clark's gotten foxy, that's all. He finally figured that if he acted *human* the whole thing would tone down immensely. You should have seen Bob at this meeting, expressing fatherly concern for a student from the Southwest who didn't own a pair of gloves, talking about how he suggested that the boy head right on down to the Army surplus store in the Square and buy some. He came off just as harmless and silly as Mr. Rogers. And oh-so-misunderstood, just a kind man who wants us all to like him.

I'll admit that Bob is even throwing me for a loop these days. Every time I turn around he's doing something that leaves me all *verklemt*. Was that really our Dean who bragged about how his diversity protesters are better than any other deans' protesters in *GQ*? After all, he didn't seem too proud when he was trying to get the Griswold Nine suspended without a hearing. And would you believe that Bob Clark *requested* that

CCR hold a Silent Vigil before last week's faculty meeting? I swear it is true. He even stopped on his way into the meeting to *thank* the Vigil organizers. Is this the same Bob Clark who threatened to fire former Dean of Students Sarah Wald because she didn't want to name protesters who had occupied Charles Fried's office for all of fifteen minutes? What must Roger Fisher be putting in Bob's water to cause this spectacular change?

It's no wonder the 1L's have no idea why the 3L's think of Bob as evil incarnate because even the 3L's are getting sucked into this "kinder, gentler dean" act. It's just so hard to hate a man so awkward and obviously uncomfortable when he's just begging to be liked. Bob is bending over backwards to justify our love. So much so that even I have a bit of sympathy for Bob now. And here it is, all my sympathy. Don't blink or you'll miss it.

Poor Bob — once one of the most beloved professors on campus, known for making corporations fun and interesting. Singing and playing the keyboard for his class, autographing copies of his hornbook, keeping women and minorities off the faculty without too much public outrage — they were Bob's salad days.

But then Bob bit off more than he could chew, the deanship, and what ensued was over 2 years of political misstep after political misstep. From eliminating the public interest job placement adviser, to trying to convince the campus that hiring four white men was a dramatic step toward diversity — Bob just couldn't seem to do anything right.

Poor Bob even lost Derek Bok, the man who chose Bob to be Dean above the protests of members of the faculty. Suddenly he was stuck with Neil Rudenstein, and Neil wasn't going to put up with this student outrage stuff. Neil must have put quite a fire under DBC's butt judging by how much effort poor Bob has put into his new "Shaven Angel" persona. But at least it created the perfect opportunity for that perfect opportunist, Roger Fisher. Yes, Roger stepped in with The Plan — a plan perfect in that it is at once a money maker for

Roger and a chance at greater self-aggrandizement: The Project on Community. Oh, how humiliating for Poor Bob, having to lean on a man who could take humility lessons from Alan Dershowitz. Oh how Bob must mourn for his beard and the good old days.

So there it is, my sympathy for Bob. Sure, other people may have more, but I bet Bob didn't try to throw them out of law school, either. At any rate, what I am left wondering is why we don't hear all those law & econ types and all those "pull yourself up by your own bootstrap" conservatives howling for Bob's resignation. Consider the following.

Bob's economically inefficient. We're paying Roger Fisher a tidy sum to head the Project on Community, and the Project itself is rumored to be funded at around ten thousand dollars. All this additional money is going

to repair the damage of Bob's first years as dean and to do what he is suppose to do as dean anyway. We're getting one dean for perhaps as much as twice the cost. I say we solicit proposals from other deans and would-be deans and do the economically rational thing by going with the lowest bidder.

Secondly, this law school is home to lots of conservatives who made it here from the harshest of backgrounds (I know, because from time to time they write cranky letters to me, as if I made it here riding in the back of a lim-

ousine). They oppose affirmative action and other types of aid programs because if they could do it on their own, everyone should be able to do it on their own. Yet Bob, the single greatest aid recipient at the law school, has not come under the attack of these bootstrappers. Could be that they only favor aid for rich white men with a fetish for limited corporate liability?

Oh, what the hell. Let's all play along with Kinder, Gentler Bob. After all, if I can do it, anyone can do it. And, in the end, remember that actions speak louder than words. And what will speak louder than thanking protesters will be a truly diversified faculty.



Fenno was practically catatonic. For twelve years, life had been good. Easy money, low taxes and hot babes. Morning in America. Now, the party was over — the Democrats were in office. "Good God," Fenno thought as he finished the Wall Street Journal. "Now they'll probably expect me to pay the help at minimum wage! After all, it's not like I'm in the cabinet, or anything." Slugging down the rest of his last Old Milwaukee, he looked at the can and mused, "I suppose I can forget about them ever getting the Swedish Bikini Team back on the commercials now."

Clinton aside, it had not been a good winter. Rain, cold, snow, Philosophy of Law and Sociology during the winter term, no undergrad women to scam on, Alysse McIntyre in *GQ*, and betting on the Bills with the points in the Super Bowl had all made January a pretty miserable month.

February, however, was going to be better. Fenno resolved himself to making big changes, "no more sitting around the house drinking beer, watching back episodes of McHale's Navy. I'm going to start running, five ... err... three, well, two miles a day, working out, lifting, the whole nine yards." With new purpose, Fenno changed into his HLS sweatpants and his Gold's Gym T-shirt with no sleeves. Doing his best Arnold pose, he thought, "That's right baby, gonna be a lean, clean, lovin' machine."

Heading out of his apartment to the gym, Fenno checked his mail. "Hmmm," Fenno mumbled, throwing out the "Have You Seen this Child?" flyers (who cares?) and the True Love Dating Service ad (already a member). Coming to the package from Columbia House Records, he paused, "Hmmm, I think I'll sign up the old bat across the street; that'll teach her

not to complain about my parties."

Thumbing through some circulars, Fenno came to the dreaded envelope from the Registrar's Office. "Well," Fenno said, crossing his fingers and opening the envelope, "it's not like anyone actually fails, do they?" Checking his grades, Fenno breathed a sigh of relief. "Well," he thought, "it won't win the Sears prize, but, hey, D is for diploma, right?"

After his workout and shower, Fenno headed home. "Oh yeah, oh yeah, you know it baby, prime time," he thought, flexing his soon to be impressive muscles. Even though Fenno had done only about three bench presses and two curls, he was on the way to studdom.

Checking his answering machine when he got home, Fenno ran through the usual spate of rejections from female law students, undergrads, Wellesley girls, err, women, secretaries, waitresses, store clerks, random women he met on the street, and anyone else who'd give him the time of day. Winding the tape back, Fenno shook his head, and said in a pitying tone, "Father, forgive them, they know not what they do."

Quote of the Week

"The girl who is in charge of it is a WOMAN."

—Overheard at the Back Bench Pub

WANTED!

by

The Harvard Law RECORD:

An Entrepreneurial type to assume the responsibilities of General Manager. Duties include general bookkeeping, and maintenance of our advertising and subscription bases. A personality is desired along with a basic understanding of computer hardware and software. Call 495-4418 and ask for Steve Yarian or leave a message.

The Party of Immigrants

By Rich Wareing '93
RECORD Columnist



WHERE I grew up, the vast majority of people can say four things about themselves — they are "ethnic" (that is white, but not Anglo-Saxon), they are Roman Catholics, they are working people, and they are Democrats. The first is true by birth and the second by upbringing. The third is true because they are the "little people," — the shop clerks, nurses, fishermen, machinists and mechanics who make the economy go while struggling to make decent lives for themselves. As for the fourth, that they are Democrats, that follows from the first three as a matter of necessity.

It is an article of faith at home that the Democrats are the party of working people. This, of course, is the legacy of F.D.R., Harry Truman, the New Deal, and Tip O'Neill. People who sweat for a living are Democrats. To be a Republican is to admit that one is, or one wants to be, a plutocrat. It's just that simple. As for the ethnicity thing, Brahmins, Yankees, other assorted WASP's and those who pretend they are, are Republicans. People with vowels at the end of their names are Democrats. It's just that simple.

The reason for this is not hard to figure out. When the ethnics arrived in America about a hundred years ago, the well-bred Republicans at best turned up their noses at the smelly, ignorant, foreigners who spoke funny languages and didn't eat meat on Fridays. At worst, they tried to pass restrictive immigration laws, distributed birth control information and devices among the "undesirables,"

Funny, I always thought the Democrats were the people who stood up for the immigrants, not the ones who exploited them.

posted "No Irish Need Apply," signs and their various equivalents, tried anything and everything to make the naturalization process more difficult, and Gerrymandered city councils, state legislatures and congressional districts to minimize the political power of the immigrants.

Faced with a new and all too unfriendly world, the immigrants needed somewhere to turn. Fortunately, for them, there was the Democratic Party, and its local affiliate: the Ward Boss. These Ward Bosses, themselves usually the sons of immigrants, understood what immigrants needed — jobs, housing, help with immigration papers, police protection, a little money or coal in hard times, social and recreational activities, and ten dozen other kinds of help you now have to pay taxes to get. In return, the Boss demanded but one thing from the immigrant — undivided loyalty on election day. Time and again the high-born critics sneered at "the party of immigrants" as the ethnic vote came out big for the Democrats from such places as Hell's Kitchen in New York, the West End and Southie in Boston, Bridgeport in Chicago and hundreds of other ethnic enclaves where help procured votes, and votes, for the right candidates, meant more help.

The Bosses were not altruists, history will tell you that. But they were businessmen, of a sort, and they treated immigrants with respect, and bargained with them as equals — The Boss' help for the immigrants' votes, nothing more, nothing less. Hundreds of thousands of immigrants took the Bosses up on this deal, and their children and grandchildren stayed with the party of their parents, some becoming Bosses themselves. Loyalty, help, and hard work, made the big city machines a political force from Boston clear west to St. Louis.

Needless to say, the Zoë Baird — Ron Brown "Nannygate" thing hit me like a ton of bricks. These were big, fat cat lawyers and politicians, who called themselves Democrats, but who casually hired illegal aliens under the table (thereby wrecking any chance these people might have to stay in the country permanently), for sub-minimum wages, and didn't seem to give a damn when the I.N.S. tried to ship the immigrants back. Funny, I always thought the Democrats were the people who stood up for the immigrants, not the ones who exploited them.

Of course, the days of the Bosses are just a dim memory from a time when the Democrats wanted for "principles," though not for victories. Now, you see, we vote for "issues" and for leaders who offer "policies." Jobs, and a helping hand, are too trivial for politicians to worry about. Those things are left to bureaucrats with no stake in the people who come to them. The old party was not perfect, but it put food on the table, gave people a sense of purpose and power, and offered them hope for their children, and for the future. Truly, it was the party of the people, and the party of immigrants.

• Letters (Continued) •

Keep the Pressure on Neil Rudenstine

I first came to know of the Harvard Law RECORD while attending a meeting (April 10, 1992) at HLS on Critical Legal Studies, Critical Race Theory, and Critical Feminist Theory. I am sure many people will always wonder how a "Professor of Management" became interested in such subjects given my long and stable career in academic business. Such will have to come later. I have always had a curiosity about public interest work (law, business, academics) since my days as a graduate student at the University of North Texas.

Now let me move on to the purpose of this letter. I now subscribe to the RECORD since I read of the Griswold Nine. The "HLS Coalition for Civil Rights" is long overdue. The lawsuit filed against the Fellows of Harvard College (413 Mass. 66, 1992) was simply outstanding. Protest when coupled with courtroom advocacy will ultimately yield results. Justice Lynch was dead wrong (political rule of law) regard-

ing the decision issued. Students are indeed harmed by only being exposed to the "white male voice" within the academy. Not only are law schools refusing to diversify, but all professional schools (business, medicine, engineering, etc.) are very guilty of white supremacy. Do not let Allan Ryan (General Counsel, HU) shake the tree of the coalition.

Currently, we (African American class of citizens living in Alabama) are involved with a desegregation lawsuit (Knight v. Alabama, CA. No. CV-83-M-1676-S, N.D. Ala.) of the higher education systems in Alabama. The judge (Harold Murphy) issued a decision and order last December (1991) where he found for us that vestiges and discrimination are alive and well. The remedy did not fit the liability for some unexplained reason. Some of the issues we have appealed to the Eleventh Circuit for remand and correct relief. Such illustrates the courts do work sometime for people of

color. We need to strategize on how to accomplish faculty diversity at Harvard and other institutions of higher education in these United States.

By copy of this letter I am as a member (NCBF) requesting Dr. Nolan Penn, President, National Congress of Black Faculty to issue a letter of support to you and the "HLS Coalition for Civil Rights" today. We must develop a national network. Keep the pressure on Neil Rudenstine. He appears to be progressive. Contrary to popular opinion university presidents wield tremendous power. They refuse to use it for the common public good and allow Deans and elite professors to run amuck for some unexplained reason. Feel free to distribute this letter widely as you deem appropriate. Continue to stand for justice and protest each faculty meeting held at HLS forever. When I'm in Cambridge again I'll join in.

George Munchus, III
December 9, 1992

Alum Urges No Support to HLS Fund

When I was at the law school just over three years ago, there were six women tenured professors, among a faculty of, I believe, almost 70. Now Susan Estrich has left and Kathleen Sullivan is leaving. I am counting: Minow, Field, Bartholet and Glendon. Not only has the law school not improved on women and minority hiring and retention, it has regressed. The big excuse has always been improvement takes time. Well, regression does not take much time, does it?

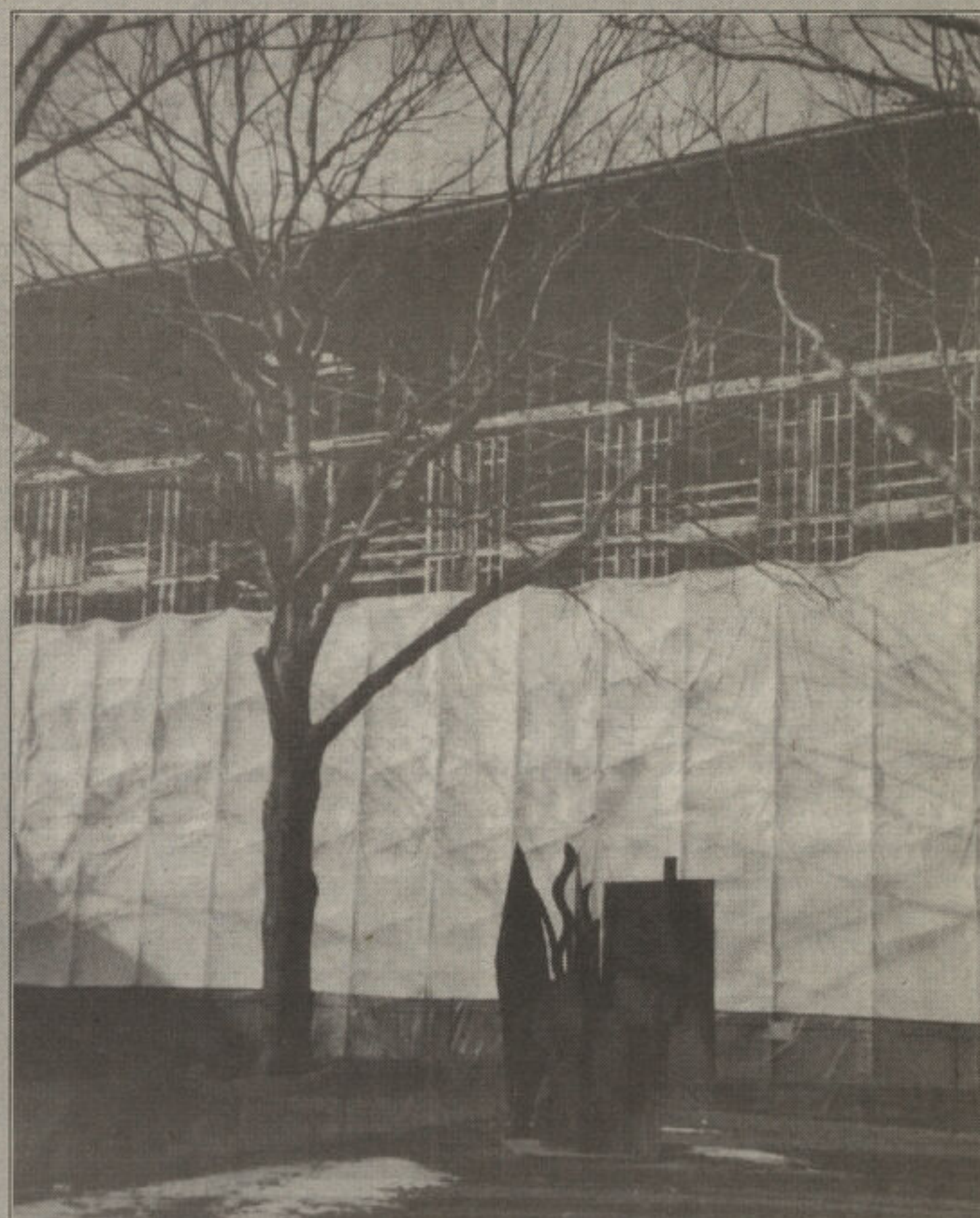
Since I left the Law School, the RECORD has reported a consistent drop in incoming women students in

the last three years. Obscene parodies have become free speech not to be disciplined; student protests are to be stamped out. Derrick Bell left. Sarah Wald left. The school is losing its "leading scholars and great teachers," who take with them the "extraordinarily rich and diverse curriculum." Ames courtroom disciplinary drama did not silence the students: it amplified their causes and the reactionary paranoia of the administration. I cannot in good conscience support an administration that presides over such an embarrassing record of convenient disappearances of women and

minorities. The faces are changing even in the nation's cabinet, and even the President-elect is holding town meetings to listen and respond to constituents' needs. The same must happen at Harvard Law School. No associate today in a law firm can survive on empty promises and non-performance, and aggressive, maybe even drastic remedies are now needed at the law school. The time has come for Harvard Law School to deliver before it deserves any support from its alumni.

Maurice L. Hoo '90
December 15, 1992

Work in Progress



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Having Our Voices Heard

By Stephanie Goodman '93
RECORD Columnist



BACK in December, I had a conversation with my faculty advisor for my third year paper, who pointed out to me that our professors had more black women in their classes than ever before in HLS history. I was struck by his sincerity in admitting that, suddenly, all these white men were confronted with the dilemma of figuring out who exactly we were, what our experiences were, and how our presence would affect classroom dynamics. Most, it is obvious, have chosen to put the issue on the back burner, while some, like this professor, have tried to understand the quality of our difference and its impact on the law school community.

Aside from being somewhat surprised by his interest in the issue, I was impressed by his honesty, particularly in his willingness to admit that when he, a white male professor, looks at me, or other black women in his classes, he doesn't see a black person first, or a woman first, but a combination of both. He seemed to recognize that, as the embodiment of two traditionally marginalized groups in American society, our experiences just might be different from those of either black men or white women.

Like most black women, I have grown up with the task of defying stereotypes about black women. Aside from being dismissed as either aggressive, loud, emasculating, or oversexed (this last one's a joke — particularly at Harvard Law), we have had to work to bridge many gaps between ourselves and others. A very close friend of mine here at the law school, also a black woman, likened the role we play to that of diplomats. She said that we, as black women at this particular point in American history, have been socialized to fit in, to understand, to join the other side in an effort to be included and accepted and to increase awareness that we are not the aggressive, sex-crazed beings our stereotype suggests. This may be, in part, a function of desegregation and the civil rights movement. But perhaps we have taken it too far. Our willingness to join and to be the ever present diplomats has, in too many instances, led to the failure of others to see that they, too, have

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to make similar efforts to understand where we are coming from, if we are to have any success in changing the world together. All too often we are categorized by either race or gender, but not both. Because we are women, many assume that our issues are the same as those of other women. Because we are black, many assume that the opinions of black men sufficiently represent our own.

Unfortunately, the willingness of my faculty advisor to make the effort to understand my difference is not widely contagious in the HLS community. Even many white women who call themselves feminists — even those who are our close friends — often do not understand that it is our difference from them as women that must be explored, and that can make us stronger as a group. They sometimes find it hard to move outside their experiences as white women to approach certain issues and problems from our perspective as well.

My mother, growing up a black girl in rural Louisiana and Southeast Texas, was not able to go anywhere she chose. She could not walk into many of the stores, restaurants or even schools that others could. She could not go to the college I attended some twenty years later. And she was discouraged from pursuing many of her dreams because she was not only a woman, but a black woman, without the privilege of race to shield her from added injustices. My mother's story is not very different from those of other black women of her generation. She, like others, had to SCREAM to have her voice heard, so that I might have the freedom to just be, without sacrificing my dreams because I could not fit in.

But here, at Harvard Law School, the struggle continues. My voice, along with the voices of other black women, is very likely to be drowned out, or silenced in some way, not because we are intimidated or afraid to speak, but because others believe they already know what we have to say, and make the mistake of not hearing, really hearing, what we are all about. When we do speak up, as several did about what they perceived to be discriminatory treatment at the *Harvard Law Review*, we are often called "angry black women," treated with disdain and dismissed by our classmates and professors, who are, in many ways, quick to remind us that we are only here on borrowed time.

The voices of black women are all different. We all look different, act in different ways and believe different things. But our voices do exist, and they exist separately from those with whom we share many desirable traits, like our womanhood or our status as African-Americans. As time goes on, our voices will get louder, until others recognize that we are a presence to be reckoned with. And in the end, we will be heard.

COMMENTARY

Law School Should Kill LIPP

By Howard G. Seitz '66

PRIOR to the receipt of your copy of the RECORD dated November 20, 1992, I, too, was under the impression that the Low Income Protection Plan was a public interest program.

I was vehemently opposed to it.

On the assumption that your presentation is correct and that it also benefits those who go into the private sector, I am even more vehemently opposed.

Analytically, there are only two reasons why a graduate of the Law School takes a job paying less than the \$41,000 annual ceiling (hereinafter referred to as the "Harvard Law Minimum Wage") at which repayment assistance ends.

Either you are unable to get a better paying job or you elect to take a job paying less than the Harvard Law Minimum Wage because of some personal interest.

As to the first group (hereinafter, in the interest of being politically correct, the "Job Market Disadvantaged") the question is why should Harvard, and ultimately, its alumni support this group.

In the final analysis, the only reason to support the Job Market Disadvantaged is if Harvard feels that, in order to attract students, it must give an implicit warranty that the benefits of its education are such that any graduate will achieve the Harvard Law Minimum Wage or get his money back.

This would be a perfectly reasonable position to take as a marketing gimmick if Harvard did not have the ability to attract students in the absence of the guaranty.

Since it has the ability, as evidenced by the overwhelming number of applications for slots available, it is silly to protect the Job Market Disadvantaged.

As to the second group, those who wish to pursue government service or some other comparatively low paying endeavor (I believe \$23,000 is in excess of the average wage nationwide) which pays less than the Harvard Minimum Wage, the question is very simple.

Why should the Law School support a life style choice? If I have the capacity to get a job at a salary in excess of the Harvard Minimum Wage and elect not to, what right do I have to have my choice subsidized?

Net, I do not believe the Law School should support life style choices.

Even if the Law School would otherwise make the determination to support life style choice, as a matter of practice, I believe it is impossible to distinguish between the Job Market Disadvantaged and the life style choice.

This suggests most strongly that one should terminate the LIPP.

Finally, with life style choice, I do not believe that the LIPP will be administered with the even-handedness attributed to the blind lady from the scales of justice.

If the starting salary for the Kluge of the Ku Klux Klan is only \$25,000, I do not believe the Law School, or its alumni, should pick up the shortfall and treat

Why should the Law School support a life style choice?

the person in the same fashion as the fellow electing to become associate general counsel of the Boy Scouts for \$25,000.

When all is said and done, the benefits of an education at the Law School should be available to all who qualify. Harvard should lend the money to those who need it. There should be no grants except for the privately established scholarships.

I recognize the Law School's administration will go nuts at this proposal. "How can we attract top-stand students?" "We'll only get second raters because our grants don't match up!"

There are several responses to this:

First, try it and see if others don't follow Harvard's lead. Basically, all institutions are in the same position as the airlines with their frequent flier miles. Since everyone has them, there is no competitive advantage to any airline. All you're doing is cutting into your net cash by having the program.

If all law schools dropped their grant programs, there would be no change in the relative positions as to students;

Second, if the dire consequences do materialize, it will be clear that the Law School education is not worth its cost and must be subsidized.

In effect, the Law School will be forced to prove to the world that its product is better. If not, you can always reinstate subsidies; and

Third, those students who do choose to attend Harvard will be more highly motivated since they'll be spending their own money. If the faculty thinks it through, this, alone, should result in its support for the proposal.

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What Double Standard?

By David Weinstein '94
RECORD Columnist

P

rry Bill Clinton.

In Eighteen Days of office, he has lifted the gag rule, opened military hospitals to abortions, signed family leave legislation and begun, at tremendous political cost, the tortuous path towards ending the ban on gays in the military. Yet, the assault he has sustained from his foes on these fronts is nothing compared to the withering fire he now takes from his erstwhile allies on the left. Faint praise for the landmark family leave law has quickly been replaced by talk of Kimba Wood and "double standards."

Judge Wood, so the argument goes, was crucified for legally hiring an undocumented worker, while Commerce Secretary Ron Brown remains in office after

Admittedly, a country that cares more about who employs Peruvians than say, who takes money from the tobacco industry, has its priorities a little skewed

acknowledging petty illegalities similar to those that brought down Zoë Baird. Such asymmetry was enough to bring the wrath of this nation's moral guardians squarely on the head of the beleaguered President, angrily claiming that Wood would have been judged differently "had she been a man."

Ignored amid the firestorm is the fate of Charles Ruff, esteemed attorney of the male persuasion. Ruff was widely believed to be Clinton's backup selection to head the Justice Department, but his candidacy quietly crashed behind Wood's, following revelations that he had "failed to pay social security taxes for his household maid." (Boston Globe 2/8).

Thus, while pre-Baird Clinton paid little attention to the immigration peccadilloes of his nominees, male and female, post-Baird Clinton has subjected potential cabinet members, male and female, to the same silly litmus test that today's political climate seems to demand. The test was not created by Clinton, who nominated Baird despite knowing of her victimless crimes, and nudged her to withdraw only after her defeat appeared imminent. That he has no desire now to destroy his administration by purging all similar sinners from his already confirmed cabinet is simply not evidence of gender bias.

Admittedly, a country that cares more about who employs Peruvians than say, who takes money from the tobacco industry, has its priorities a little skewed. Yet, this taste for micro-analyzing the petty personal slips of our leaders is hardly new to American politics, and is hardly restricted to women. Witness the uproar over check kiting at the Congressional Bank, which inspired far more concern than the wholesale looting of the nation's Savings and Loans. Or perhaps more to the point, witness how much more attention was paid to Zoë Baird's employees than to her employers, General Electric and Aetna, for whom she fought valiantly against the rights of whistle-blowers and tort victims.

Undoubtedly, Clinton will do much to disappoint over the next four years, and should be held accountable for his betrayals. But if his potential allies continue to ignore his achievements, while going out of their way to find slights where none exist, the next four years will be nothing more than another sad case study of the left; as always, far more successful at destroying its friends than its enemies.

On the Application of Standards in Hiring Law Professors

By the Coalition for
Civil Rights

In *Yick Wo v Hopkins*, the United States Supreme Court considered the legality of the application of a San Francisco ordinance regulating the building materials used in the construction of laundry operations. City officials used the ordinances to arrest immigrant Chinese laundry operators while "other" laundry operators violating the same ordinance remained free of prosecution. Writing for the Court, Justice Matthews found the ordinances "directed so exclusively against a particular class of citizens that, whatever may have been the intent of the ordinances as adopted," their application was "unequal," "oppressive" and "a denial of equal justice."

Many observers of the current struggle for civil rights find that Justice Matthews' suspicions provide strong warnings about the illusion of neutrality in the enforcement of substantive criteria. Given the frequent invocation of standards as a defense against charges of discrimination, many find *Yick Wo* logic as applicable to Harvard Law School in 1993 as to San Francisco in 1886.

HLS, founded in 1817, culled its faculty for 154 years exclusively from a pool of white males. In 1971, HLS hired its first full-time African American professor, Derrick Bell. One year later, the Law School hired its first two full-time women faculty, Elizabeth Owens and Diane Lund

been devised to ensure quality teaching and fairness in faculty hiring. That claim imploded this past spring with the extension of four offers to white males. Despite repeated application of a rule requiring visiting professors to leave the school for one year before consideration for an appointment, HLS offered positions to four professors, two of whom were still teaching on campus, and all of whom were white male. At least two offers were thus made without the benefit of student evaluations, while the Administration has previously insisted that the elaborate process of on-site evaluation was essential to protecting HLS.

The Coalition for Civil Rights argues that the discriminatory application of standards runs much deeper than this incident. One recent appointee had only two years of clerkship experience and two years of law firm experience before coming to the law school. Another served only a district court clerkship and a one year fellowship before his appointment. Meanwhile, Yale Law School graduate Gerald Torres, the Assistant Dean of the University of Minnesota Law School with over a decade of experience teaching environmental law, visited Harvard Law School in 1990-91 and left without an offer. HLS has passed over a number of other experienced professors, such as Anita Allen '84, Regina Austin, and Clare Dalton LL.M. '73.

No challenges to these hiring practices suggest that white male faculty members, including the recent appointees, are unqualified to teach at

Given the frequent invocation of standards as a defense against charges of discrimination, many find *Yick Wo* logic as applicable to Harvard Law School in 1993 as to San Francisco in 1886.

'61. To date, the Law School has appointed no woman of color, no Asian American, no Latino, no Latina, no Native American, no person with a disability, no openly gay person, lesbian or bisexual to a full-time position on the faculty.

The current debate seems infused with an indefatigable unwillingness even to discuss what, at a minimum, appears to be a troubling pattern of hiring practices at the law school. By claiming that the Law School is strictly applying standards, the Administration sends the message that, of all the women of color, Latinas, Latinos, Asian Americans and other unrepresented groups that have received law school degrees in history, absolutely zero are qualified to teach here.

For years, the Administration has insisted that HLS applies strict substantive and procedural standards which have

HLS. Rather, the debate continues to focus on whether HLS heightens already questionable standards for minority candidates only. The raising of the banner of "extremely qualified candidates" for the recent appointments of Assistant Professors Christine Desan and Carol Steiker '86 accordingly raises suspicion.

The Coalition for Civil Rights agrees with the consensus of professors, law firms and students that praises Professors Desan and Steiker and their current minority counterparts on the HLS faculty. Nevertheless, as long as the faculty hiring process remains secretive, CCR and other diversity supporters promise to continue to demand explanations and reversals of policies which may not be fairly applied or objectively devised, all for the sake of defeating faculty diversification.

GQ Article

continued from GQ, page 1

'Beirut on the Charles' seems overly dramatic and inappropriate this year."

"The Beirut comparison might be apt," counters former LSC President Michael Twomey '93. Following that analogy, Twomey hopes that here, too, "after years of civil war, the parties may have realized that continuing to fight does more harm than good."

NEXT ISSUE:

20 Questions

Spike Lee

Shuttle Update



**Unke
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You Never Know When You're Gonna Hurl

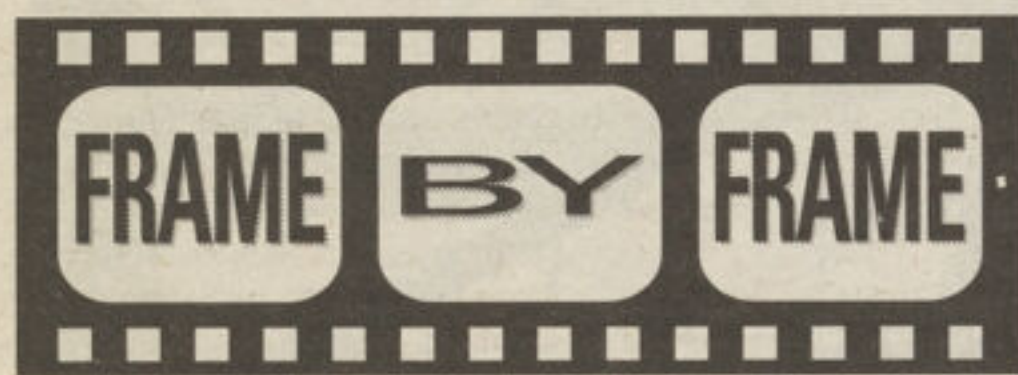
By Dave Lopez '93

RECORD Columnist

DOES art imitate life or does life imitate art? I am beginning to wonder which is which. First, take art. I saw a very good movie at the Brattle called *The Young One* by director Louis Bunel, who is a famous director from pre-Technicolor days. It's about a black man who, while running from a trumped-up rape charge, escapes to an island hunting preserve. On the island lives a game warden and a young girl. The girl is mourning the recent death of her grandfather, and the game warden is quite unsympathetic until he notices that she's not quite so young. He clumsily attempts courtship, but she runs back to her cabin.

The next morning, the warden must go to the mainland and that is when the black man makes his appearance. The girl notices that he is nice and charming

and they talk while he eats. He tells her that he must fix his boat and move on. He takes some supplies and a gun and goes back to his boat. When the warden comes back, he hunts the black man



as if it were hunting season. Both the black man and the warden have fought in Italy during the war, but the black man prevails, taking the warden hostage.

The black man, willing to stay and work in exchange for the warden's food and supplies, stays on the island. The warden can't keep his hands off of the girl and, how shall I say it . . . kisses the girl and fade to black? Anyway, you can guess what happened. The warden is jealous of the friendship between the black man and the girl, yet is afraid of being found out when a minister comes out from the mainland to take the girl to an orphanage. The girl, being told not to tell the reverend anything about what happened, tells the reverend exactly that. "I'm not supposed to tell you what happened," she says.

The warden finds out that the black man is accused of rape at almost the same time the reverend finds out about the warden. The reverend, certain that the black man is innocent and about to be killed by the gun-toting warden, confronts him about the girl. "I'll lose my job if anyone finds out about me and the girl. It couldn't be helped reverend, me and her alone, it was bound to happen," says the warden. The reverend responds, "I'm getting tired of hearing excuses, he was too young, he was hit too much as a child, he wasn't hit enough . . . it couldn't be helped. And now you're going out to kill a man who's been accused wrongfully of what you have just admitted to doing?" The warden gets the hint and helps the black man get off the island.

Now that was art, right? I just want to keep these things straight, because the headlines of Spanish-speaking newspapers have been screaming: "HUNTED—LIKE AN ANIMAL," talking about Zoe Baird's chauffeur. It seems like the guy is in hiding and unemployed all of a sudden because of nannygate. Seems he's been in the good 'ole land of liberty for eight years and was getting to like it here. When Kimba Wood was asked if she had the Zoe Baird problem, she replied that no, she had not broken any law and was so good as to actually inform the Immigration service that her employee had "overstayed her visa." Did you remember to pay your employee before having her carted off, Kimba? Oh, how Pat Buchanan must be laughing now. First the Haitians get sent back, and now those other people. According to the newspapers, they're not human, they're *aliens*. A parting on the right is now a parting on the left.

I sat in on Local Government Law for one day. It was like a southern church revival meeting, except for liberals. They weren't shouting amen or hallelujah when Frug spoke, but you could see the glossy eyed fervor of the truly initiated. Frug was a great speaker, setting up a really tough hypothetical about the difference between a small, self-selective group of leaders as opposed to a large group of voters. One person raised her hand: "If the small group would select people of different gender, color and sexual orientation, it would be good. If not, it would be bad." I almost hurled right there. I could feel it coming up, and I had this urge to bang my head against the desk in order to force catatonia, but then I thought: Margaret Thatcher, Clarence Thomas . . . Roy Cohn. A perfect mix of color, race and sexual orientation. Ahhh. I think I'll drop the class anyway; you never know when you're gonna hurl.

To add to the bizzareness of the week, I've been interviewing in New York. I feel like the only 3L without a job. It's kind of my fault because as much as I think learning law is interesting, I have no interest in actually practicing it. So I go down on the bus every week and bother people. On the way down, a lady turns around and asks me: "Can I ask you a personal question?" I say yes. She says: "Are you going to kill me?" I say no, and she says: "Well, I just wanted to know, so I don't have to worry." Then I go to Goldman, Sachs. A senior partner is flipping my resume with one hand. "So, you go to Harvard Law, so what?" "You were in the army. Did you kill anybody?" —No, I didn't kill anybody. "Did you learn to kill anybody?" —Yes, I learned to kill people. "But you didn't actually kill anyone?" —No. "But you learned to kill people?" —Yes. "C'mon, you can tell me . . . who'd ya kill." —Nobody. "C'mon, you can tell me." —I didn't, I would have remembered. "Are you sure?"

It's always so hard to know what to say in an interview. Life and art, the real and unreal are slowly blurring in my mind. Nothing blurs life and art, however, like watching a movie with artists. I watched an old *Phantom of the Opera* with the drama society and that can really make someone borderline fall over the edge. For every line in the movie, the audience, the drama society, had an answer. A detective walks into a room. Rob Rader shouts: "Madame, do you have any nude photos of yourself? Would you like to see some?" Once, after a woman followed her employer into his office, the entire drama society shouted in unison: "Counselor Troy, I'd like to see you in my ready room!" Rob Rader summed the movie up nicely, saying it had a certain *je ne sais quois*. I don't know either, Rob.



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