



Students Heading to Haiti

By Kevin Werbach
and Johanna Davis

Several intrepid HLS students will soon witness Haiti's tumultuous struggle for democracy first-hand. The group is part of a 28-person delegation which had originally planned to travel to the Caribbean nation in conjunction with ousted Haitian President Jean-Bertrand Aristide's return to power. Local politicians Bruce Bolling of the Boston City Council and Pat Jehlen and Byron Rushing of the Massachusetts House of Representatives were also members of the original delegation.

But despite an international agreement, it soon became clear that Aristide will not be able to return on October 31 as planned. The delegation thus agreed Tuesday night to split into two groups. The first contingent, including three HLS students, will leave for Haiti this week, and the second group will go to Haiti whenever Aristide returns to power. The students are Becky Sharpless '94, Peter Eliasberg '94, and David Thronson '94.

As part of the delegation, Sharpless and Thronson met with Aristide last Saturday in Boston, and went away feeling impressed with the exiled leader's stature and charisma. "It was obvious after meeting him why he's so well loved and

please see **HAITI**, page 14

Souter to Judge Ames Final Round

By Robert H. Liao

US Supreme Court Justice David Souter '66, Second Circuit Court Judge Kimba Wood '69, and Third Circuit Court Judge A. Leon Higginbotham, Jr. will be judging this year's Ames Moot Court final round competition on Thursday, November 18.

Each year one Supreme Court justice comes to HLS, usually an alum of the Law School, to judge the final round. This year will mark Souter's second turn at being a final round judge, as he last appeared two years ago. He is not currently scheduled to make any additional speeches at HLS during his trip, although BSA Administrator Yvonne Smith indicated that Souter is trying to rearrange his schedule to permit such an appearance.

Although the BSA runs the Ames competition, the judges for the final round are selected and recruited annually by Dean Clark's Office. Smith gave special mention to the efforts of Vice



Entrance to the Hale & Dorr Legal Services Center.

New Legal Services Center Dedicated, Cooperation Hailed

By Greg Stohr

The name might be a little long, but The Hale & Dorr Legal Services Center of Harvard University was officially dedicated Wednesday.

Financed by a \$2 million grant from Hale & Dorr, the cen-

ter's spacious, comfortable new home promises to allow the Legal Services to provide expanded, better services for the residents in and around Jamaica Plain and more opportunities for HLS students to gain practical experience.

The final touches to the new office were completed last week as the workers installed a marble plaque bearing the full name of the center on the ground outside the front entrance of the four-story structure.

"The construction is totally complete," Associate Director Cheryl Burg said. "I'm thrilled."

The Legal Services Center, which last spring moved from a one-floor rental unit in another part of Jamaica Plain, provides

Dean David Smith '61 in obtaining this year's panel of judges.

This year's case, written under the supervision of Prof. Alan Dershowitz, is based on a

please see **SOUTER**, page 15

please see **CENTER**, page 15



Professors participate in a panel discussion as part of "Diversity Day" on Tuesday.

Clerkship Rules Cause Controversy

Ninth Circuit Judges Promise Non-Compliance

By Lisa Zornberg

A heated exchange has erupted among judges and law school deans over the March 1 "benchmark" starting date for clerkship interviews, with Dean Clark '72 and other prominent law school deans saying their schools will abide by the date and judges on the Ninth Circuit saying they plan to begin interviewing before March 1.

The debate has caught second-year students in a tenuous middle ground: On one hand, students welcome rational reform to an application process that has run amuck in recent years, pressuring students to send out applications earlier and earlier each year and thereby placing disproportionate emphasis on first-year grades; on the other hand, students fear that conformity with the guidelines, if not universal, could jeopardize their chances for securing a competitive clerkship.

In an attempt to stabilize what he deemed an "extremely chaotic" process, Clark announced last Friday that the Law School will abide by the application and hiring guidelines recently approved by the US Judicial Conference for 1995 federal judicial clerkships. The

Judicial Conference, the official administrative body of the federal courts, is comprised of the chief justice of the US Supreme Court, the chief judges from each of the 13 circuit courts, and one district judge from each circuit, who is elected by the district judges.

Far from settling the issue, the guidelines, which are non-binding, have sparked a flurry of correspondence and telephone calls among judges, law school deans, students, and professors. This week 15 law school deans, including Clark, said that sticking to the new policy is the only way to make it work. However, with a number of judges already pledging to defy it, whether the policy will stick is open to question.

While Clark said he wasn't "in" on the planning and drafting of the timing guidelines, he intends to fully cooperate with other law school deans. Following the lead of Yale Law School Dean Guido Calabresi and University of Chicago Law School Dean Geoffrey Stone '50, Clark has instructed students not to submit 1995 clerkship application materials before February 1, 1994, and faculty members not to send out clerk-

please see **CLERKS**, page 13

Law School May Hire New Security Guards

By Greg Stohr

HLS is considering contracting outside the University for security guard services on the Law School campus.

Building Operations Director Frank Lamentea said this week that he is studying options for replacing the current arrangement under which security guards employed by the Harvard University Police

Department patrol the campus. Lamentea is heading a committee that is expected to make a recommendation to Administrative Dean Sandra Coleman in the next few weeks. A change could take place as soon as December.

Lamentea denied that the charges pending against two Law School security guards, George Perry and Mike Auterio, for allegedly stealing a water cooler are the driving force behind the possible change. He has been a supporter of the two accused men.

"It's a small factor, but that's all," he said.

Coleman said the review was a "standard" procedure the Law School undertakes periodically for all service contracts. She pointed out that several other schools at the University, including the Business and Medical Schools, employ guards from outside agencies.

"We're simply reviewing our security guard contract," she said. "We're not doing this because we're suddenly angry or unhappy or something like that. It's just a routine review."

Lamentea said an outside contract would give the Law School administrators greater

please see **GUARDS**, page 12

Diversity in New Faculty Book Publications

Spotlights on Duncan Kennedy and Elizabeth Bartholet

By Louie Lopez

Two new books by HLS professors address controversial legal issues affecting the daily lives of millions of Americans.

Prof. Elizabeth Bartholet '65 has written a book on the need for reform in the current policies and procedures for people interested in adoption. In her book, entitled *Family Bonds: Adoption and the Politics of Parenting*, Bartholet recounts her personal experiences as a single parent having to deal with both infertility treatment and the adoption process.

Prof. Duncan Kennedy's new book, entitled *Sexy Dressing, Etc.*, is a compilation of four essays that deal with different themes that have preoccupied the leftist intellectual in recent years, including one on how subtle institutions like unofficial dress codes perpetuate the male domination of society.

Bartholet says that adopting two Peruvian children and having one biological child has provided her with a knowledge and understanding of the international adoption process and raising a family. In her book, published in May, she argues for fewer restrictions in the adoption process in the hope that more children will grow up in loving homes instead of in foster care or institutions where they are neglected and unwanted. Regulations that seriously limit the possibility for willing people to be parents of adopted children should be "designed to eliminate child abusers and people who are below any minimum threshold in terms of the economic wherewithal to support a child," she said, arguing that any further screening is unnecessary.

Another regulation that Bartholet views as a serious detriment to the adoption process is the racial matching requirement. Bartholet argues that many white families standing in line to be adoptive parents cannot adopt because of this restriction.

"It is current racial matching policies that are doing untold damage to black children by preventing their placement in the only permanent homes realistically available to them," Bartholet said. "Racial matching policies look much like the laws that used to forbid racial intermarriage. They should be struck down as fundamentally inconsistent with the law and with our commitment to an integrated society."

To support her stance, Bartholet presents factual evidence indicating that transracial adoptees do as well on all measures of adjustment, including racial identity measures, as children raised in same-race homes.

In light of her personal experience with infertility treatment, Bartholet argues for greater regulation of in vitro fertilization (IVF). Bartholet does not deny that women should have the right to choose between IVF and adoption, but she says that there is often false hope associated with IVF and that women should know all their options before making a complicated decision. Opposed to mandated

insurance coverage of IVF, she says that the "coverage simply adds to the coercive pressures pushing women toward IVF and away from adoption."

The book is intended "for people struggling in their personal lives to deal

with infertility and with choices about whether to pursue infertility treatment, adoption, or some of the new 'child production' methods, such as surrogacy," she said. "It is also for policy makers — the people who shape the political context in which personal decisions are made."

Bartholet says she is thrilled at the success that *Family Bonds* has had in reaching both audiences. She says the book is being reviewed by the serious legal journals, such as the *Harvard Law Review*, and is being featured in popular magazines and newspapers that reach "real people" directly affected by infertility and adoption. Bartholet also appeared this past Tuesday on *The Oprah Winfrey Show* to present her views.

Kennedy's book, released on October 15, addresses issues like affirmative action in law-school hiring and sexual harassment in the context of a white, patriarchal society. In separate essays, Kennedy also compares the radical intelligentsia in America to that of Western Europe and discusses the distribution of

wealth in America.

The last essay deals with how sexual "abuse" is handled by law and society. Kennedy discusses the implications of such subtle differences as the way men and women dress.

"Skirts mean vulnerability, and pants mean protection," he writes. "Skirts mean: my sex is hidden from you, but it is not protected by clothing, like pants, [which] can be removed only by a complex series of unzipping, pulling down, and pulling off."

Kennedy identifies universal themes, including group identity and regime theories, to facilitate the understanding of the "radical, straight, white male" perspective. In his critique of regime theories, Kennedy discusses the "capitalist, patriarchal, white supremacist regime" that he suggests has no "system of logic." By arguing that the system or regime exercises less central power than the intellectuals think it does, the four essays attack the notion of a social and political grand theory. In spite of his negative critique of the system logic and central control, Kennedy argues that "the essays are full of moralizing and prescription . . . and all kinds of changes in legal rules."

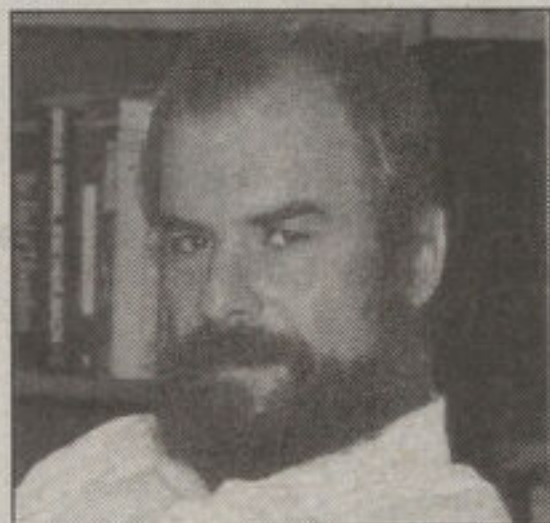
"I am trying to give a white, male, radical take on national, racial, class, and gender identity without developing a single unified theory, but with lots of small scale proposals and contextual analysis," he said.

Because this is his first major book, Kennedy has "a rosy view of it," making him quite happy with the final product.

Kennedy has begun writing on a new book criticizing the adjudication process. He says the book will be "a more traditional work of legal scholarship."



Prof. Elizabeth Bartholet '65



Prof. Duncan Kennedy

Want to Be a Prof? Start Early, Byse Says

By Maria Politis

Comparing becoming a professor to "becoming part of a social community," Emeritus Professor Clark Byse advised students who think they prefer to be at the other side of the classroom to start preparing for their debutante ball now. About 15 students turned out for his annual talk on law teaching, which last year drew about 100 students. The audience was a mixed group both in terms of ethnicity and gender.

Byse reduced his many pearls of wisdom on preparing for a law teaching career to five gems of advice. First, get good grades. Even though "our student body is fantastically able," he said, "the better your grades, the better it is."

Next, Byse said, know your professors. "Conduct yourself so that some professor and preferably, professors, will get to know you and your academic abilities." Law professors play a large role in recommending former students for teaching positions and helping their entrance into the field, Byse explained.

"It's very important to make an effort to get to know your professors," Byse repeated, citing the need especially to get into "intellectual exchanges" with them. He advised taking a seminar or other

small class, or being a research assistant for a professor.

Third, write, write, write. Byse said that "every member of every appointment committee is going to emphasize scholarship." He advised first-years to try out for the *Law Review*, or work on a journal.

A fourth way to prepare both your mind and your resume, Byse told students, is through a judicial clerkship. The judge will serve as another reference, he said, and the clerkship is evidence of analytical ability.

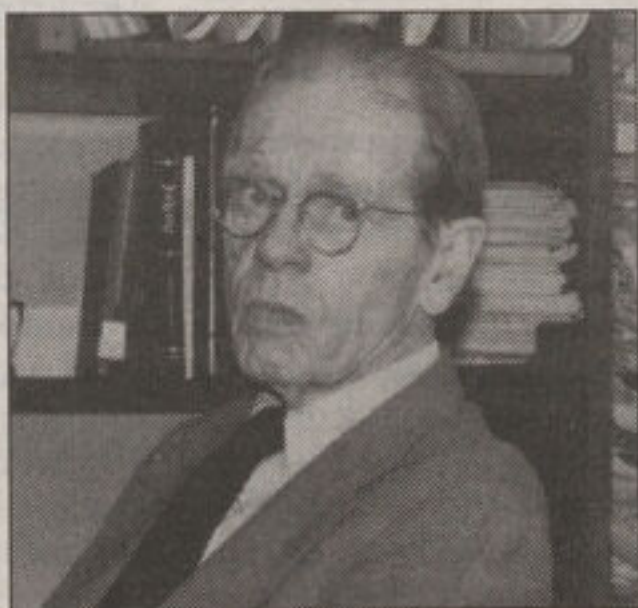
Last, but not least, Byse said the importance of an appealing résumé can not be overestimated. "See to it that it is not too pushy but that it communicates why you should be selected for an interview rather than someone else," he said, stressing that references should appear on resume itself.

Asked by a black woman in the audience whether diversity issues will affect her candidacy for teaching positions and how students

should deal with concerns about increasingly politicized appointments, Byse responded: "It is a factor in the process, but I don't think it makes a difference to any particular applicant. . . . An applicant should present herself as she sees herself, not as she thinks others see her."

"Don't be anything other than yourself," Byse said.

Interested students can obtain additional information from Margaret Tuitt in the Office of Career Services.



Prof. Clark Byse

"Don't be anything other than yourself,"
Byse said.

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Carter: Courts Indifferent to Religion

By Ray Kahler

Several Supreme Court decisions on religious freedom issues show a pattern of judicial indifference toward religion and a lack of respect for religious minorities, Professor Stephen Carter of Yale Law School told an audience of about 70 at last weekend's Saturday School.

Carter said the Court's indifference toward religion reflects the trivialization of religious faith in society as a whole, the subject of his new book, *Culture of Disbelief: How American Law and Politics Trivialize Religious Devotion* (Basic Books, 1993).

Judicial protection of religious freedom has reached a precarious moment in our history, Carter said, because of "a habit of mind that suggests religious knowledge is like any other knowledge." According to this view of religion, if legislatures choose to make certain religious practices illegal, then the members of the affected religions can simply step up to the buffet and choose another religion. Carter said that the end logic of this attitude toward religion is that we should have fewer religions because they are not necessary.

It is dangerous to see religious beliefs like clothing fashions, Carter cautioned. "Religiosity and personality should be seen as a much deeper connection. You can't see the two as separate. The relationship is far too close for a reductionist approach," he said.

Carter said the Supreme Court's problems with trying to solve religious freedom questions arise from the "per-

fectly opaque language of the First Amendment." He advocated that the clauses of the First Amendment pertaining to religion must be read in a way that enhances rather than restricts religious freedom. The religious freedom clauses must have been put there to protect something other than free speech or solicitation of funds for religious activities, because otherwise they wouldn't be there, he said.

Citing several recent Supreme Court cases that have taken a statist attitude toward religion in upholding state statutes and military regulations that infringe on certain religious practices, Carter said the statist approach has devastating effects on religions that are not strong enough to protect themselves in politics. "It's dangerous to leave religious freedom, like any other right, to the legislative process," he said.

The subtext to these cases and others, Carter said, is that even if members of minority religions lose in the legislature and courts and cannot practice their religion, they can join another, larger religion.

Carter gave several justifications for protecting religious plurality in the United States. Drawing on the insights of Tocqueville, he said it is important for the

Supreme Court to accommodate minority religious beliefs because of the essential role of religion in democratic society and in the individual personality. Tocqueville believed that "democratic intermediaries," like political parties, civic groups, and religions, were essential to guard against the "tyranny of the majority."

Carter further argued that religions are important because democratic gov-

ernment needs external moral critics. A plurality of religions, Carter said, provides competing meanings of justice and reality.

Religion is subversive, Carter said, because religious groups obey two different sovereigns — the state and a deity or religious tradition. Carter said some people fear this division of sovereignty because it might lead religious groups to refuse the sovereignty of the state on certain issues. He pointed to the civil

rights movement as one example of an independent religious voice that moved people and altered public policy.

The Supreme Court needs to walk the fine line between destroying religions as democratic intermediaries and allowing religious groups to capture the apparatus of government, Carter told students. The importance of church-state separation is due to the power of government, not the power of religion, Carter said. He asserted that the Spanish Inquisition was possible only because of the power of government, not the Church, and that a minister who tells people how they should vote is not violating church-state separation.

It is dangerous to see religious beliefs like clothing fashions, Carter cautioned.

New Dershowitz Book Will Be a Novel Idea

By Matthew Huggins

For Prof. Alan Dershowitz to be writing a new book is nothing new. He has already published four books that include details of his most famous cases.

But Dershowitz has never written a book like the one he is writing now. He is currently working on his first novel.

The action takes place in Cambridge and Boston, and revolves around a date-rape, a murder, and the involvement of several generations of lawyers. There is a 40-something HLS graduate and father, who is "a bit of a dinosaur on women's issues," according to Dershowitz; his "modern, young, vibrant feminist" 17-year old daughter, who ends up teaching her father something about the world; his mentor, a 70-something "old school" HLS professor; and a young woman attorney from Newark, New Jersey, with an ethical dilemma revolving around an innocent person on death row.

The story, "filled with drama and suspense" according to Dershowitz, also

involves the ethical dilemmas faced by lawyers working on the cases. "This novel is my attempt to talk about ethics in a readable book that people can relate to, and to show that there is no simple solution to these problems." In the novel, the woman attorney is able to resolve her dilemma "dramatically," but the father fails in his efforts. Dershowitz declined to give away any more details before the novel is finished.

Dershowitz admits inspiration by other legal novelists. "I like to think that I'm influenced by my former students," he said. "Scott Turow ['78] has set a very high standard."

Dershowitz does not use a computer for any of his writing, but instead fills hundreds of steno pads with over a million hand-written words a year. He likes to write on airplanes, which is "the only time I'm telephone-free." (He tells the flight attendants, "I don't want a drink, I don't want a meal, I just want to be left alone.")

A title and publication date have yet to be announced.

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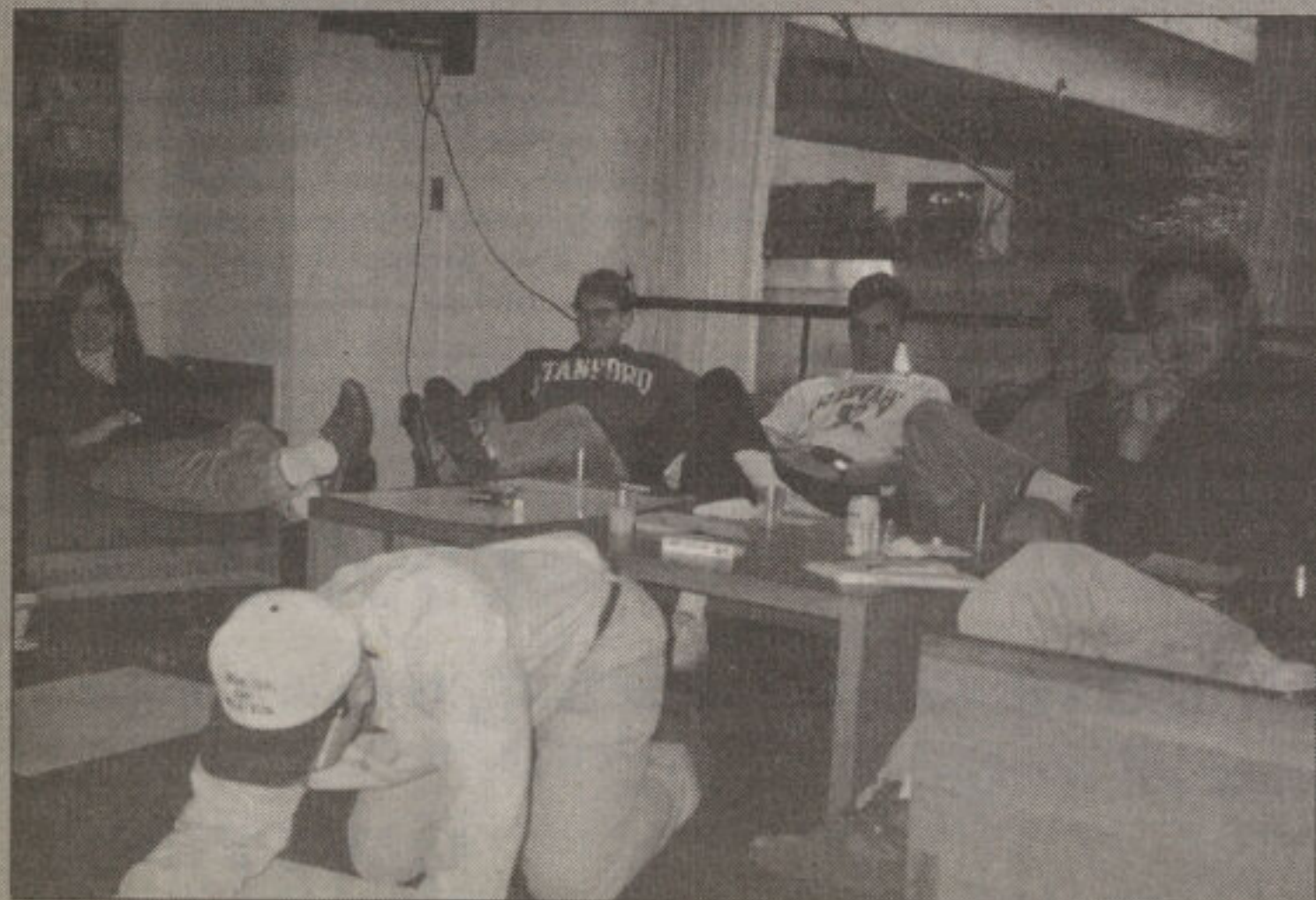
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"Whaddya Say we Tap the Keg?"



Law School Council members participate in a retreat last week.

RECORD Photo / Josh Freeman

BRIEFS



Committee Drafts Harassment Guidelines

Dean Clark '72 has appointed a committee to draft guidelines defining and prohibiting sexual harassment at the Law School and among the Law School community. Anyone wishing to express his or her views about the problems posed in establishing sexual harassment guidelines is invited to communicate, either personally or in writing, with any member of the committee. Requests for confidentiality will be respected.

The committee is chaired by Professor Richard Fallon and includes Professor Elizabeth Bartholet '65, Professor Alan Dershowitz, Professor Joseph Singer '81, Dean of Students Suzanne Richardson, Marilyn Byrne, Mary Cronin, Rich Gordet '96, and Noeleen Walder '95.

National Law Journal Covers Beer Fight

The November 1 issue of the *National Law Journal* includes an article titled "The Brewing Harvard Beer War: Students' Reps Say 'Lite'n Up.'" Despite a series of rather lame puns (see, e.g., "it's been a long time since students [at Harvard] got into a 'brew-haha' this big"; "some student leaders . . . are downright angry that a hallowed institution is being taken so Lite-ly"), Ken Myers' story is saved by a last-paragraph quotation of RECORD Editor-in-Chief Lisa Zornberg '94, who, in Myers' words, "puts the whole controversy into perspective" with the observation that "[s]ome people say the council is way too uptight. There's a certain amount of immaturity on one side and a certain amount of solemnity on the other side."

Streaking in the Yard

The normally predictable chemistry lectures of pre-med Harvard undergraduates were interrupted Tuesday as three unidentified men streaked through classes. Though the nudists were not apprehended, students speculated that they were Princeton students. The streakers shouted "Go Tigers," and "Go Princeton" as they raced down classroom aisles. However, the pre-meds reprieve was short lived. Said biochemistry Lecturer James E. Davis, "I went right back to the Millikan oil-drop experiment."

— from *The Harvard Crimson*

HLS Alumni Win Awards

Alan Schwartz '93, of Princeton, NJ, was awarded the \$500 first prize in the Nathan Burkan Memorial Competition at the Law School. The competition is sponsored by the American Society of Composers, Authors and Publishers (ASCAP) in memory of ASCAP's first general counsel who died in 1936. Swartz's essay, entitled "Copyright Protection for Sound Recordings and Musical Works in Japan and the United States," will now be considered for one of five national prizes. Joel McQuin '93, of Little Rock, AR, earned second prize for his article on the Audio Home Recording Act of 1992.

Head of the Charles Draws Crowds

As anticipated, the banks of the Charles River swelled with spectators Sunday as more than 200,000 regatta fans attended the annual Head of the Charles crew races. Warm temperatures coupled with the normal fanfare of street vendors and bands attracted many casual crew fans. Said an inebriated Kevin Kakareka '94, "Race, what race? I just came to people watch and let women chase me." HLS students sported both a women's eight and a men's eight in the event.

CCR Organizes "Diversity Day"

Poetry readings, music, panel discussions, and a student-faculty happy hour all marked Wednesday's "Diversity Day" organized by the Coalition for Civil Rights (CCR). "Our goal is to have the faculty at Harvard Law School represent the world," said CCR Co-chair Inga Bernstein '94. An afternoon panel discussion on diversity attended by about 40 students featured Professors Charles Ogletree '78, James Vorenberg '51, and Gerald Frug '63. Presently, six women and five minorities are among the 65 tenured and tenure-track HLS faculty.

"Baby Busters" Host Teach-In

The organization "Lead or Leave" will host a "teach-in" at the Kennedy School Monday at 4:00 PM. Originally founded as a voice for Generation X, persons aged 12-32, Lead or Leave adopted a simple, singular goal: Reduce the federal deficit in half by '96 and eliminate it by the year 2000. The group has since expanded its focus beyond governmental fiscal responsibility to include general awareness issues and burdens that face the rapidly maturing "baby busters" of the much publicized "Generation X." The group claims approximately 12,000 members on 150 college campuses nationwide.

Expected attendees at the "teach-in" include US Congressman Barney Frank (D-Mass.), former Senator Paul Tsongas, and State Treasurer Joe Malone. For more information contact Matt Henshon '95 at 666-3790.



David Kinkopf '94 and Brian Glasser '94 staff table in Harkness Commons to attract volunteers for last weekend's City Year Serve-a-Thon.

HLS Students Turn Out to Serve the City

By Maddy Fain

More than 60 HLS students and staff members joined thousands of volunteers on Saturday at the 1993 City Year Serve-a-thon. Through sponsorship for their hands-on community work, Serve-a-thon volunteers raised more than \$750,000.

HLS sponsored its own team of about 35 people for the event. Other members of the HLS community participated either with the regional BLSA team or individually. Helen Cantwell '95, Brian Glasser '94, and Dave Kinkopf '94 organized the HLS team. Cantwell, the HLS team project coordinator, has been an active participant in the Serve-a-thon for the last four years.

Following coffee and calisthenics on the Boston Commons, the HLS volunteers took the T to their project sight — Dorchester High. Together with the school's students and teachers, the HLS team painted school buildings and picked up trash.

But the day was not all hard labor. As they worked, volunteers listened to rap, reggae and hip-hop music, talked, spilled paint on themselves, and had a lot of fun. Thanks to everyone's cooperative efforts, the project was finished well ahead of schedule.

For many participants on the HLS team, working together with diverse members of the community was the best part of the experience. "Not only did we volunteer with residents of Dorchester, but also we met other members of the HLS community for the first time," said Kinkopf. "Staff members, LL.M.s, and law students from every year participated."

Kaushal Majmudar '94 and Dave

Goldstone '94 were among the HLS students who volunteered individually. Majmudar, who assisted in clearing a lot for the Arnold Arboretum in Jamaica Plain, said the experience "was hard work, but at the end of the day we felt good about working with others in the community and accomplishing something that will help the arboretum for years to come." Goldstone, who performed a magic show for children at a boys and girls club in Dorchester as part of a day-long fair, said "the experience was especially rewarding because many of the children

had never seen a magic show before."

Originally founded in the late-1980s by two graduates of HLS, City Year recruits a diverse group of young adults every year to participate in hands-on community work. Participants in the City Year program perform a wide variety of work in greater Boston, including coordinating after-school programs, teaching, painting, and planting community gardens.

Since its inception, City Year in Boston has expanded dramatically. Its success, moreover, has inspired similar programs in other parts of the country. Programs modeled on the Greater Boston City Year include President Clinton's National Service Program; City Year in South Carolina, which was started this year by Mary Louise Ramsdale '93; and City Year in Providence, Rhode Island.

Members of the HLS community are encouraged to volunteer in City Year "Mini-Serves," which take place throughout the year. Interested persons can contact Dave Kinkopf through the Office of Public Interest Advising.

For many participants on the HLS team, working together with diverse members of the community was the best part of the experience.

To all 2Ls and 3Ls interviewing next week:

GOOD LUCK!

GOOD LUCK!

To all of you using this opportunity to take a much-needed vacation:

HAVE FUN!!

HAVE FUN!!

Bill's Top 10 Fly-Out Week Tips

By Billy Choslovsky '94

RECORD Columnist

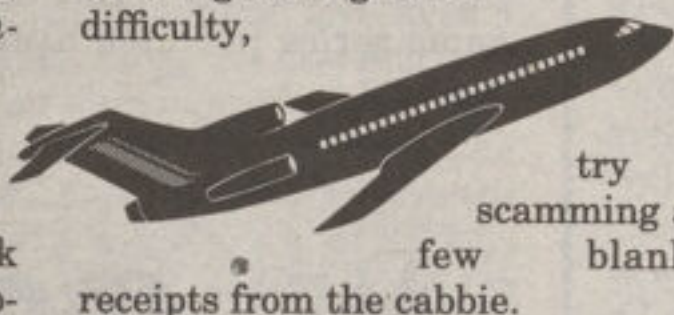
This week, I offer only practical guidance for all you soon to be jet-setters. Forget June Thompson, OCS, and other traditional sources of interview wisdom. Instead, stick with me - interview expert extraordinaire, not to mention Love G-d in numerous third world countries. Simply stated, this fly-out season remember the MILKING PRINCIPLE. Yep, you got it, milk those firms dry. After all, notwithstanding those troublesome details of ethics and integrity (they're overrated anyhow), it's just a matter of time before the firms extract their pound of flesh from you, right? Besides, when was the last time ethics or integrity bought you an all-expense paid rendezvous with your ex in Las Vegas? See what I mean... I bet June Thompson has never even been to Vegas!!

10. TIPPING: Always had problems calculating 15%? Well, forget troublesome decimals and fractions. Stick with halves, as in 50%. Even the most incompetent liberal arts major can handle dividing their bill in half. However, for all you former Beowulf scholars, don't sweat it, go with 100%. Besides, admit it, you've always wanted to be called "big spender." Now's your chance.

9. THE POWER LUNCH: Although conventional wisdom dictates no drinking, remember, you're anything but conventional... you're a Harvard student. Go ahead, belly-up to the bar and go wild; firms like initiative. Also, when it comes to doggie bags, request them for the whole table. You've got socially inept roommates who received no callbacks - the least you can do is bring back a souvenir. Besides, that greasy bag makes for quite a first impression in those afternoon interviews. And hey, however noble, don't discuss the homo-erotic experience you enjoyed on the flight in. Lastly, gentlemen, remember chivalry is not dead, it's just lazy. Consequently, when it comes to ordering lunch, order for all the females at the table. For instance, a polite, "Don't worry your pretty little head over details, you're having the rib tips," is a perfectly appropriate comment. Ms. Manners would be proud.

8. THINGS NOT TO LET THEM CATCH YOU DOING: No matter how great the temptation, under no circumstances do any of the following: the Curly shuffle, random scratching, Kramer impressions, any form of break dancing, or monster faces at yourself in the firm's big bay window. Trust me, though admittedly valuable time killers, don't do any of these - Shea Moxon has lost coveted jobs for each of the above reasons.

7. CABS: Forget walking - your time is much too valuable. Besides, most cabbies, especially the ones with an over-abundance of vowels in their names, let you fill in the amount on the receipt. For those yearning for a higher degree of difficulty,



6.5. THE EXCEPTION: Silly me. Before continuing, I'd be remiss if I failed to mention the one important exception to the MILKING PRINCIPLE: When checking into your lavish, five-star accommodations, establish a personal account for pay-per-view pornos and spa facilities. Believe me, I speak from personal experience. Explaining to the recruiting coordinator why you found it necessary to watch *Please Mr. Postman* while receiving a personal massage can be quite embarrassing. On the upside, it is quite a conversation starter.

6. THE HANDSHAKE: No matter how many times you've seen *Boyz in the Hood*, or how progressive you mistakenly think you are, no high-five handshakes. And gentlemen, please, chivalry aside, don't lick any women's hands... even secretaries. Again, if you don't believe me, just ask Mr. Moxon.

5. THE BATHROOM: Unless completely unavoidable, don't excuse yourself to use the bathroom during an

interview. However, if you must, do not, and I repeat do not, grab the *Wall Street Journal* off the interviewer's desk on your way out to the facilities. However, *Modern Bride* is too tempting a magazine to pass up. If given the chance, take it to the can.

4. THE EX-PRINCIPLE: Never pass up the opportunity to reacquire yourself with a former love toy. Face it, that's the only reason you interviewed in Denver anyhow. Besides, never underestimate the power of the words, "I loved you... once."

3. THE TROUBLESOME HYPO: Next time some self-absorbed partner (a title I aspire to) asks you, "Where do you see yourself in five years," remember, Mom was right, honesty is the best policy. Simply respond, "Signing your paychecks, Homeboy." Ah, flattery will get you everywhere.

2. ARRIVE LATE: Remember, you're trying to distinguish yourself. Any anal retentive Harvard 2L can get there on time. Explain that you were performing CPR on a few old ladies. You'll get to sleep in late, the firm will think you're great, and, with any luck, your heroic public service should excuse you from troublesome pro bono requirements. Some would call that a hat trick.

1. THINGS NOT TO ASK: When squinting to read the interviewer's diplomas, don't ask, "Hey, are any of those accredited schools?" Also, no matter how much you crave showing off your Lexis research prowess, do not ask, "So how has the firm's general managing partner fared in those sexual harassment suits?" And lastly, please, when the person who interviewed you on campus appears to say hi during one of your interviews, don't ask her, "Hey, is this the jerk-off you were telling me about? Because he's really pissing me off!" Learn from Shea, don't let any of these easily avoidable mistakes cost you that dream job.

Here's wishing you loads of frequent-flyer miles, mid-night room service, and numerous hangovers. L'Chaim.

"Lastly, gentlemen, remember chivalry is not dead, it's just lazy."

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Waiting for Godot

No Other Life
By Brian Moore
New York: Nan A. Talese
223 pp./\$21.00 hardcover



By Mike Fischer '95

Book Review Editor

"I've come," proclaimed Guy Malory, Justice Minister of Haiti's provisional government, "with the intention of building something new that this country can be proud of." Two days later — two weeks ago — Malory was murdered by a coterie of what the US charge d'affaires in Haiti has aptly designated "a group of gangsters, a group of thugs who don't want the future of Haiti to arrive."

Those thugs sprawl across the pages of Brian Moore's latest novel, *No Other Life*. Set on the fictional Caribbean island of Ganae, *No Other Life* is nonetheless a meditation on the nightmare which is modern-day Haiti. All the familiar players in Haiti's wrenching drama of perpetually stillborn history are here: the dictator Doumergue and his *bleues* stand in for Duvalier and his private militia of murderers, the Tonton Macoutes. The horrific poverty of the Port Riche slum La Rotonde, with its rotting garbage, child prostitutes, and nightly murders, replaces Port-au-Prince's equally hellish slum-metropolis of La Saline. La Rotonde harbors an inspiring young priest preaching a message of hope and salvation against this backdrop of dashed hopes and thwarted dreams, much as La Saline once sheltered the past and perhaps future president of today's Haiti, Jean-Bertrand Aristide.

Aristide's scheduled return to Haitian soil is less than a day away. Unless a miracle occurs, that return will be delayed, perhaps indefinitely. Moore's novel suggests, provocatively, that waiting for such miracles — in Haiti and everywhere else — may be a big part of the reason why they so rarely occur.

Narrated by a Canadian missionary, Father Paul Michel, *No Other Life* revolves around the story of Michel's friendship with Aristide's fictional double, Jean-Paul Cantave. Having rescued the young Jeannot, as he is called, from a life of poverty in rural Ganae, Father Michel watches his meteoric rise from star pupil to priest of the people, who eventually catapult him, at thirty, into the presidency.

Given the extent to which *No Other Life* parallels Aristide's own rapid rise in Haiti's post-Duvalier years, Moore could easily have allowed his novel to "write itself," coupling his plot onto the train of Haitian history and allowing it to pull him along. His novel stands out because it resists this temptation. Having described Jeannot's fabled ascent in less than 70 pages, the bulk of *No Other Life* is a trenchant account of how Jeannot wields power once it is his. *No Other Life* is not a hagiography about a budding saint, but an indictment of what happens to politics when people make saints of their leaders.

One variation on this theme has become familiar: Trotting out pedestrian phrases such as "power corrupts and absolute power corrupts absolutely," the pundits point to all the good men gone bad — the erstwhile idealists and revolutionaries who become part of the very system they risked their lives to replace. This version of the populist saga, tired and dull, focuses on the psychology of leadership and the inevitability of betrayal.

But Moore's Jeannot — like Haiti's Aristide — is not a tin-pot dictator in the making. Both Moore's character and his prototype sincerely believe in justice. Their passion for change is real, their commitment to the people is pure, and their courage in the face of unimaginable terror is legendary. If they nevertheless fail, suggests Moore, it is less because they betray the faith of the people than because their leadership cannot provide the tools people need to build a future for themselves.

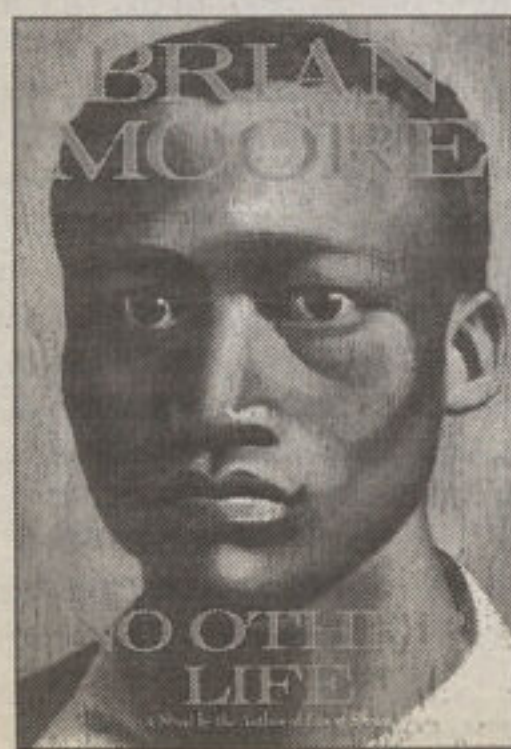
Nor, for that matter, can leadership alone provide people with the tools they must have to defeat the thugs who stand against them. *No Other Life* powerfully confirms the old adage about talk being cheap. Jeannot calls upon the people to seize power for themselves, to defend him against impending coups, and to prevent a military which has never fought a foreign war from waging war against its own people. But the people have machetes, and the army has guns. I'll let you guess who wins.

Is Jeannot to blame? Partially, Moore's novel implies. Jeannot's inspiration was not joined with insight, and his war against the rich was not fought with wisdom. A revival meeting cannot substitute for politics. And liberation theology cannot devolve into a cult of the messiah promising to hand-deliver the future.

Reading *No Other Life*, one is never really sure to what extent Jeannot is aware of these problems — or if he would recognize them as problems at all. But this is not so much a flaw in Moore's novel as a reminder that *No Other Life* is not really about Jeannot. To focus upon the faults of the leader, Moore implies, is to duplicate the very cult of personality that impedes ordinary people from participating in politics in the first place. Rather than focusing on why and how leaders lead, *No Other Life* is really a novel about why followers follow — which means that its true protagonist is its narrator, Father Michel.

Captivated — enraptured — by Jeannot's message, Father Michel enlists in his burgeoning army of the poor. But he can never entirely quell his doubts about Jeannot's intentions, his disagreements about tactics, and his fear that the inspiring young priest will lead his flock awry. The real drama in *No Other Life* is the success with which Moore captures Father Michel's consequent dialogue with himself as he veers unpredictably between bouts as Jeannot's blithe follower and moments as his sternest critic.

I leave the outcome of this dialogue to you, reader, for two reasons. First, of course, because you should read Moore's novel yourself. But also because the outcome of this dialogue, in the broader sense, is up to you. The drama currently unfolding in Haiti is a tragic reminder that history is not a *tabula rasa* on which we can write as we please. But neither is it a book of revelations or a pre-ordained script which we must perform. History is and has always been what we make it; as Moore's title suggests, no other life can — or should — make it for us.



Toronto Repeats as Baseball Champs

By Bill O'Dowd '94

Sports Editor

Joe Carter hit a three-run homer in the bottom of the ninth inning of Game Six to give the host Toronto Blue Jays a 4-2 World Series victory over the visiting Philadelphia Phillies last Saturday night. Some reflections on this year's World Series:

— I don't know whether to attribute the record number of runs scored in a six-game series to clutch hitting or awful pitching.



— Speaking of awful pitching, what are the odds that Mitch Williams will be with the Phillies next year?

— In fairness to the Wild Thing, the pitch that Carter hit out was on the inside corner at the knees. But do you think anybody in Philadelphia really cares?

— From the home office in Gainesville, Florida . . . the number of ex-Padres in this year's World Series: 9, including Joe Carter, Roberto Alomar, and John Kruk.

— Number of Blue Jays players from last year's 25-man roster on this year's World Championship team: 13.

— Obviously, it will be too expensive in this day of expanded free agency for Toronto GM Pat Gillick to keep his team intact for next season. Two give us to stay: Joe Carter and World Series MVP Paul Molitor. Two who should be packing their bags: Rickey ("Public Relations Nightmare") Henderson and Jack ("I Want to Finish My Career in Minnesota") Morris.

— Was it really just two years ago that we were calling Toronto the "Blow Jays" for their lack of success in the post-season?

— Fearless Prediction #1: The Phillies won't make the playoffs next year, despite the expanded format. Atlanta will win the NL East and Philadelphia's record won't qualify for a wild-card berth.

— With all the talk of too much violence on television, is there one prime-time show that could scare kids as much as the sight of an unshaven John Kruk chewing tobacco?

— Was there a better human-interest

story in this year's World Series than Paul Molitor? After battling a severe cocaine addiction early in his career (and knocking the habit without any outside help), Molitor developed into the best pure hitter in the game while with the Milwaukee Brewers. A true gentleman both on and off the field, it appeared that he would end his career without a championship ring. After a heart-rending decision to leave Milwaukee to play for a contender, Molitor was named World Series MVP after hitting 12 for 24, with 2 home runs and 8 runs batted in. He deserves to be this year's media darling.

Other developments

in the world of sports:

— A federal jury awarded ex-Patriot owner Billy Sullivan \$114 million in an antitrust suit against the NFL. Sullivan had claimed that league policy unlawfully prevented him from selling a 49 percent stake of the team to the public and forced him to sell the Patriots for a "mere" \$80 million. Forget the merits of the case for the moment. Given the option of the Patriots or \$80 million in cash, is there anybody out there who wouldn't take the cash and hope that your daughter mar-

ries the best antitrust lawyer in the country (which Sullivan's daughter did)? Throughout the proceedings, lawyers for the NFL painted Sullivan as a doddering old fool and a bungling businessman, who hoped to sell a stake in the team to repay debt. It seems to me that he is a shrewd, calculating executive who parlayed the Patriots (the Patriots!!!) into a \$194 million payday.

— Fearless Prediction #2: There will be a Florida State v.

Miami rematch in the Fiesta Bowl for the mythical national championship in college football.

— Finally, for those of you who consider my column your "sole source" for sporting news, take heart. A special report from Hot Springs, Alaska: Little Mary Lou Comaneci, an 8 year-old from neighboring Palm Springs, won the girls division of the state gymnastics competition last weekend. A prodigy on the vault and the balance beam, Comaneci promises to be a force in the Sydney Games. Gushed her exuberant mother afterwards, "Mary Lou has had a gift ever since we started feeding her Wheaties at the age of two."

Was it really just two years ago that we were calling Toronto the "Blow Jays" for their lack of success in the post-season?

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Violence Plus

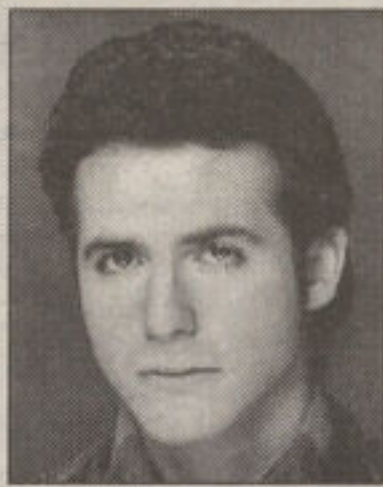
By Rob Rader '94

RECORD Columnist

I went to see *Demolition Man* because I was depressed. Something really deep like not making a difference in the world or not getting a job offer or not being invited to speak at "Diversity Day." What could rouse me from this existential dilemma? How do I cure my blues? Then, it came to me: See Sly Stallone kill dozens of people in an orgy of the only kind of violence I like, *senseless violence*.

Nowadays, senseless violence gets a bad rap. (In fact, most bad rap is about senseless violence.) For example, Attorney

Okay, so what was I writing about before I got all excited about sex? Oh yeah, it was violence. *Demolition Man* scratched my itch for violence. Rocky – I mean Stallone – must kill (surprise!) a black man, Wesley Snipes. (Wesley Snipes is great as the villain, even better than in *New Jack City* or *Mo' Better Blues*.) Both Stallone and Snipes have been frozen like popsicles until they serve their cryo-sentences and are reformed via subliminal messages. I buy that. Snipes thaws out first and goes on an unstoppable rampage because, in the future, the L.A.P.D. – continuing its well-known progressive stance – has abandoned violence as a tool for law enforcement. Thus, the future Los Angeles turns to Stallone to save it. Smart move.



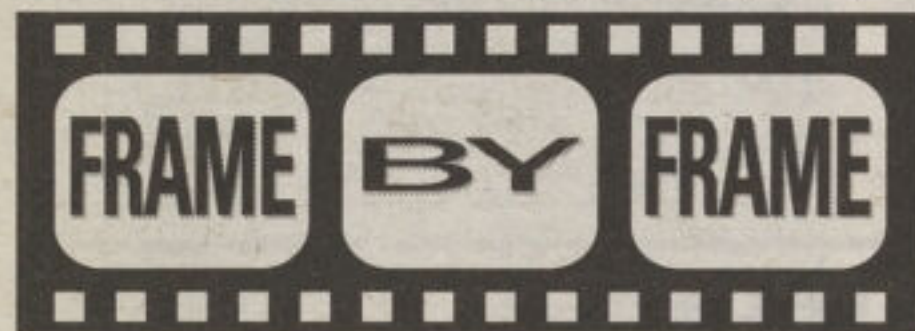
What makes a good action (violence) film? It's the element beyond the gratuitous violence. Don't get me wrong, the gratuitous stuff is necessary; it's just not sufficient. What Stallone and Schwarzenegger are able to do is to bring in a sense of humor, of play, to the film in order to help us laugh at the cartoonishness of their actions. *Demolition Man* exemplifies this perfectly. If pure violence isn't your thing (i.e., you don't go see the John Woo films at the Brattle), you will still find lots to like in *Demolition Man*. The movie is genuinely funny, almost *Tango and Cash*-like in its sense of humor. Unlike Jean-Claude Van Damme in *Hard Target*, Stallone has some sense of timing, while Snipes is a master. Together, they carry the film by letting you enjoy the unreality of it all. Their bemusement at the future world is ours.

Further, much of our current society is parodied by the film's portrayal of the future. In a classic Foucauldian twist à la *Discipline and Punish*, people in the future are controlled down to the most minute detail. They can't swear, screw, smoke, or eat fat. Sounds like Black Muslims. Anyway, I wrote about chaos and order a couple of weeks ago for *Dazed and Confused*, so I won't go into my whole rebellion - against-authority diatribe no matter how much you beg me.

Okay, enough of that pretentious pseudo-talk. The movie was directed by some guy I'd never heard of, but it had a good pace. Paradoxically, the movie hit high gear only after Stallone was iced. (Sly does a great frozen. It's the part Sly was born to play.) Even after he wakes up, Stallone is still beyond cool compared to the un-hip future people. They can only imagine what it is to live before Sly rises from the freezer like leftover Haagen-Daaz. Yet, in true parable form, he teaches the future two things it needs to know and can only learn from the past: how to have fun and how to kill.

But I repeat myself.

The movie cheered me up and if it can cure my angst, it can cure anybody's. Go see it.



General Janet Reno recently condemned violence on television and MTV just toned down "Beavis and Butthead" in response to complaints. (I mean, what is the point if Beavis can't go around yelling "Fire! Fire!?" It ruins the whole integrity of the show. And its all just because those stupid mothers in Illinois aren't watching their kids while leaving butane and matches for them to play with. Why don't they take responsibility and stop scapegoating poor Beavis?) What's the matter with violence, I wanna know.

Violence is as American as sexual repression. Without violence, we'd be as boring as Canadians. This country was built on violence: That's how we took the land, that's how we treat each other, that's what we like. We are a violent culture because we've always been a violent culture. The original European settlers were all religious fanatics that England kicked out after they failed in a revolution there. Instead of wringing our collective hands about it, let's celebrate it. Up with violence! Cut out all the peace, love, and happiness garbage and go beat the crap out of somebody. Not me, but somebody.

Of course, the only thing I like more than violence is sex. If you can get them together, it's like a Reese's peanut butter cup. ("Hey, you got violence in my sex! No, you got sex in my violence!")

Mmmhmmh. And, enough of that psycho-babble about eroticizing violence. Let me say this once: Violence doesn't need to be eroticized; it already is.

Unfortunately, in *Demolition Man*, Rambo – I mean Stallone – only has a little simulated "future sex." That's not enough for me. Generally, you need some graphic stuff, like full frontal nudity. You do, however, see almost all of Stallone, but the tabloids already showed everything months ago. (By the way, the man is cut! Chiseled! Shea Moxon-like! Still, I don't want to have sex with Stallone. Shea's a different story altogether.) Apparently, according to *Demolition Man*, in the future people won't actually penetrate one another. So, in the future every place is like the Law School.

Violence is as American as sexual repression. Without violence, we'd be as boring as Canadians.

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FOOD - O - RAMA

Marino's: New Age Gnocchi for the 90s



By Ted Cohen '95 and Jonathan Goldstein '95

Marino Ristorante (2465 Mass. Ave., Cambridge, 868-5454) attempts to create the feeling of the outdoors in its soaring dining space: tables are placed – a little too closely together – beneath vine-laced trellises, and photographs of bucolic life and fall foliage line the white walls. The crowds of suburban families and couples complete the picture of an earnest, down-home, good-eatin' place for the health- and environment-conscious nineties.

The philosophy behind Marino's menu – as your waiter is likely to bring to your attention – strikes the same chord: Only 100% extra virgin olive oil is used in the appetizers and entrees, and all of the produce and meat is organically raised.

Philosophy, especially when marketed as aggressively as Marino's, often kills food. But the simple fare at Marino's is so well-prepared and unpretentious, the ingredients so fresh, that you'll probably leave the place thinking about buying a crystal to contact your inner child.

As Marie Curie noted, presentation is nine-tenths of culinary enjoyment, and on that score Marino's shines. The panoply of fresh vegetables and herbs, piled high on big, steaming plates, almost makes taste irrelevant. This is immediately evident in the Assortimento Marino (\$9.95, serves two). Forget about those third-rate rolled prosciutto plates which leap to mind at the mention of antipasto; this is a rich array of marinated beets, mushrooms, eggplant, red peppers, and artichoke hearts alongside a quiche-like cheese and spinach frittata. Not unlike eating Renoir's palette. (Except for the toxic oils and the wood.)

As Marie Curie noted, presentation is nine-tenths of culinary enjoyment, and on that score Marino's shines.

No Italian starter list would be complete without the standard Bruschetta (\$4.95), grilled Casareccio bread smothered in diced plum tomatoes (organic, natch), basil, a ton of garlic, and all the basil-infused olive oil you wish. Yummy.

Now comes the moment of truth. Did you come to Marino's for a serious dinner, or for some pizza? The pizza, ranging in price from \$7.95 to \$12.50 (the most expensive of which is the imaginative Pizza Gustosa with sun-dried tomatoes, mozzarella, capers, smoked salmon, and scallions), is good, if a tad doughier than the genuine crispy Naples article. But there's so much more to this menu: To stop at pizza would be like visiting the coat-check room at the Louvre.

So you came for a serious dinner. Then you probably shouldn't pass up Marino's pasta special, especially if it's the combination of butternut-squash-filled ravioli and pheasant-filled ravioli in an orange-almond cream sauce. The sauce is a lusty foil to the sweet squash and tender meat.

Then there's the roasted half chicken (\$11.95). "So what?", you're thinking. But you're wrong. Desperately wrong. Desperately, horribly wrong. Because this is, quite honestly, unlike any bird you've ever had. Its royal juiciness turns on a mesquite-stoked rotisserie all day, infusing the pink flesh with that smoky essence. And the skin is the kind you'd wish you had too, if you were edible: herb crusted, crackling, and buttery. In case you care, the plate is also heaped with a bevy of fresh carrots, broccoli, and earthy salt-crusted roast potatoes.

Where Marino's really excels is in treating its ingredients with care. With food this simple, the slightest bit of overcooking can spell "disaster." But you won't be calling in the National Guard to rescue you from the Grigliata Mista Di Pesce (\$17.95). Here are generous cuts of salmon, tuna, and two large shrimp – the freshness of the fish shines through a drizzle of olive oil and a dash of salt and pepper. And the accompanying grilled vegetables – red peppers, onion, corn on the cob, zucchini, and eggplant – are hearty enough to make a meal of by themselves.

If your meat-tooth is hankering for some tasty flesh, there's plenty of carne in the \$15 to \$20 range. Try the Saltimbocca Alla Romana (\$19.95), sautéed veal scaloppine with prosciutto, mozzarella, and sage in white wine. Or the Bistecca Alla Fiorentina (\$21.95), a marinated T-Bone with garlic and all the trimmings.

True to its policy of home-growing, raising, and preparing, the restaurant maintains its very own vineyard in northern Italy. Its grapes go into the house red and white (\$3.95/glass, \$16/bottle). The deep red Chieti Abruzzo is rich and chewy, with a fruity, if slightly acidic base. Enjoy a bottle with a dish of fresh pasta: ah, that's Italian. Ask about the wine specials, too.

If after stuffing your face with all of the above, you have some room left, head for the dessert tray. Marino's own pastry chef prepares some of the richest and sweetest treats this side of Lombardy. Throw that diet to the wind and dive into the classic Tiramisu (\$5.95). It's easy to lose yourself in the luscious folds of these espresso-soaked lady fingers filled with sweet Mascarpone custard. Truly something to write home about.

Likewise, the Budino Al Limone (\$5.95). Misleadingly billed as "lemon pudding wrapped in a soft flaky pie crust," the budino is really more like a *baba au rhum*, a dense cake suffused with butter and tart lemon and topped with a dollop of whipped cream. Have a good espresso or cappuccino to cut the relentless richness.

Marino's is jam-packed, especially on weekends, so a reservation is a good idea. But if you have to wait, do so in the little market, which offers a variety of prepared salads and sandwiches, as well as olive oil and other Italian staples. There's parking behind the restaurant, as well as in a scary, poorly-lit lot across the street.

The Rating System is divided into three categories, each based on a ten point scale, with ten being the best. Because restaurant staff is aware of our identities as reviewers, the service we receive may very well not be the service you receive. Moreover, our own state of inebriation will not be discounted from the atmosphere rating. On food, however, we are uncompromising.

FOOD: 8
SERVICE: 9
ATMOSPHERE: 9
TOTAL: 26

Harvard Law RECORD

Founded in 1946

Lisa R. Zornberg
Editor-In-Chief

Kevin D. Werbach
Publisher

The Culture of No Beliefs

Taking a class with undergraduates is a bracing experience for a law student. A stroll through the Yard on an autumn day, surrounded by hundreds of knapsack-clad cardigans, conjures up the kind of nostalgia that only comes with one's first fledgling gray hairs. It is pretty difficult to recall exactly what I felt like when I was in a similar position, what with *The Class of '96* being canceled and all. But looking at it today, the college seems more like a refuge than anything else, a place where almost complete isolation strangely coexists with intense passions about the faraway outside world.

I have often heard it remarked that law school hones one's analytical skills and teaches one to argue with discipline. In contrast, the debates carried on by sophomores and juniors seem sloppy and emotional. There is little mention of "balancing tests," "perfect markets," or other staples of law school discourse. And therein lies their beauty.

In contrast, the ideal of dispassionate discussion that the Law School purports to foster too often becomes passionless discussion. I have lately begun to keep a list of the ways in which law students have learned to answer point-blank inquiries without placing themselves in the line of fire. I have never before heard so many sentences begin with "it can be argued that" or "if we adopt the logic of Justice X" rather than "I think" or "I believe." If pressed to speak in the first person, students often respond by crafting elaborate cost-benefit analyses, weighing happiness and efficiency — making surreal comparisons that are equivalent to, in the words of Judge Traynor, "balancing a pound of feathers against next Tuesday."

Back in the heyday of scientific faith, Jeremy Bentham advocated reducing all policy decisions to equations involving utils — units of benefit — whose value could be calculated mathematically. To most of the world, Bentham's ideas are quaint relics of a forgotten era. But here at HLS, we breed hordes of neo-Benthamites — individuals willing to replace a true moral calculus with phony formulas that add up to nothing but evasion.

Perhaps some of the blame for this state of affairs can be laid at the feet of the well-worn case method. In studying appellate decisions, law students inhabit an intellectual world in which facts are never ambiguous, long lists of factors replace Solomonic judgment, and difficult ethical dilemmas are solved with a remand. But the fault lies not only in the Law School's pedagogy, but in its purpose. After all, strongly held beliefs and detached advocacy mix about as well as soy sauce and mayonnaise.

Arguing two sides of a question effectively is an important skill to have, but it is no substitute for arguing one side with conviction. Try as we might to turn debate into a science, the strongest arguments still come from the gut. And if the sacrifice of some intellectual rigor is the price that must be paid so that our stated beliefs do not sound like the dicta of a circuit-court opinion, it is well worth the cost.

Or so it can be argued,

— David Weinstein

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—First Amendment, US Constitution

THE FIRST OFFICIAL "WHERE'S WALDO?" BAR EXAM

Try to find all of the sources of civil or criminal liability in this picture in under 10 minutes.



• Letters •

Blue Jeans Day Was Stupid, Immature

On any given day, perhaps 70 percent of the students on this campus will be wearing blue jeans, but on Wednesday, October 13, there were far fewer — because LAMBDA had declared that all gays, lesbians, and bisexuals should wear jeans that day.

Let's be honest. Didn't LAMBDA choose blue jeans as their symbolic vehicle in part so that they could have the

smug satisfaction of seeing an entire campus dress around their self-declared dress code? And didn't the vast majority of students who chose not to wear blue jeans do so not out of enlightened respect for the integrity of LAMBDA's right to self-expression, but simply because they didn't want other people to think that they were gay?

I'm not sure who to blame more for this sorry

spectacle — the small minority of students who tried to appropriate blue jeans for their symbolic purposes, or the large numbers of self-concerned students who allowed others to dictate what they should or shouldn't wear.

I thought I already graduated from high school.

Raymond Nomizu '96
October 13, 1993

Rader's an Idiot and His Music Sucks, Too

It was with great interest that I began reading Rob Rader's recent "movie review." It was with great disdain that I finished it.

Let's forget for the moment that Rob's philosophizing about the sad state of law school life and the even sadder state of his own life has grown, shall we say, tedious. For now I take issue with his long-winded anti-conformist diatribe about people complaining about his

music.

Rob, I have lived down the hall from you, and I take it upon myself to tell you that, while study geeks do attend this school by the multitudes (it must be an admission criterion), the problem with your music isn't the volume. It's the fact that you play sucky music. Face it — exposure to loud levels of the Village People and Meatloaf has been found to cause extreme agitation and intense nausea in lab

rats, which researchers use when they run out of HLS students.

So the next time people gripe about your "symbolic protest" (and methinks you doth protest too much) and you wonder why, remember: The answer, my friend, is blowing in the wind; the answer is blowing in the wind. So blow it out your ear.

Susan E. Brooks '94
October 15, 1993

Work for Peace in the Middle East

The Middle East Law Student Association (MELSA) of HLS would like to announce its excitement over the possibilities for peace marked by the turn of the Israeli-PLO agreement in September this year. It is the start of a debate for a just peace, hopefully calling the end of bloodshed in the

Middle East.

We hope that this agreement is followed by further moves between Israel and neighboring Arab states for creating peace. MELSA is an organization dedicated to the notion of fostering respect and trust and tolerance between the peoples of Israel and the

Middle East. Its aim is to continue working towards cooperation amongst the Middle Eastern countries, encouraging the need to translate values in the struggle for peace.

Middle East Law
Students Association
October 15, 1993

LSC Reps Brand Scarlet "F" On Student

Just in case anyone out there thought that some members of the Monster Truck Coalition only cared about beer, it seems that other items are on their agenda.

At the last LSC meeting, Bill Gowney '95, who heads the Coalition (you may remember the picture in the RECORD of him pounding his boot on a desk), along with 11 other LSC reps, was able to have one student removed from the list of students approved by the Council to join student-faculty committees. The student had been nominated for a position on the Sexual Harassment Committee.

Asked why he opposed her nomination, Gowney replied, "She's a stark-raving feminist." This statement was followed by a debate which included an assertion by another "Monster Trucker" that the student might single-handedly take over the committee (which would include overpowering Alan Dershowitz, one of the faculty members) and impose her own version of an "unfair" and "unconstitutional" burden on the men at HLS.

The debate did not discuss any specific views held by

the student but consisted mostly of charges that she could not be "open-minded" or "representative," presumably partially because she had been thoughtful enough to explain what kind of sexual harassment policy she would prefer (instead of, I would guess, opposing such a policy altogether).

I do not have the room to fully rebut the outrageous assumption that feminists are incapable of serving in positions on committees that might affect the environment for women at HLS. I'd like the "open-minded" students out there to consider that having a feminist on this particular committee would be a positive thing. Why shouldn't the voices of victims of sexual harassment be represented, if this is what feminists do? Wouldn't this provide a needed ideological balance to the committee? Are the other members of the committee really going to assume that every member of the LSC and the student body holds the same opinions?

You might also want to consider whether the search for the hypothetical "representative" student for any committee is useful. Isn't the "average" student apathetic?

Why would an apathetic student want to serve on a committee? How can anyone determine what opinion the "average" student would have on even a mildly controversial issue? Is the "average" student a man or woman?

Other questions: Is the only "open-minded" and "objective" student one who has absolutely no opinion on a subject? Or is it someone who supports the status quo? Is that really being "open-minded"? Is opposition to feminism objective? What is a feminist? What does a woman have to say to have the scarlet letter "F" placed on her chest? Is it any wonder that so many women are reluctant to give themselves this label?

I'd like to urge those who want to challenge the all-too-common assumptions that feminists are irrational, subjective, close-minded man-haters — assumptions that the LSC validated by its vote this week — to call me at 666-2744 to discuss a response to this contemptible action.

Catherine Caporusso '95
LSC Section Representative
October 26, 1993

Is Embryo Cloning Part of Reproductive Freedom?

By Elizabeth Bartholet '65

Recent news stories reveal that fertility specialists at George Washington University's In Vitro Fertilization Clinic have cloned human embryos. Debate has erupted over the ethical issues involved, as people speculate about the possibilities involved in freezing cloned embryos for future use — might they be thawed and given life at some later time in order to provide needed medical treatment to the first "twin," or for purposes of sale to an infertile couple who would have had a chance to see what kind of genetic product they were getting?

But the fact is that fertility specialists have been engaged for years in radical forms of experimentation with the meaning of life, parenting, and family. Leading IVF clinics throughout the country are, together with their client-patients, buying and selling sperm, eggs, embryos, and, with the aid of surrogacy brokers, pregnancy services. They are stockpiling tens of thousands of frozen embryos for unknown future use, and conducting research experiments on early-stage embryos of the kind that produced the cloning breakthrough.

To date there has been no governmental regulation in this area. Indeed the US has never even established a commission to consider the need for such regulation, as have virtually all other countries in our situation. Fertility experts defending the cloning experiment have talked of rights to "privacy," "liberty," and "reproductive choice" (*New York Times*, 10/26/93, p. C3). But much of what the fertility specialists are doing violates principles thought sacrosanct in the traditional adoption area, where a very different idea of the appropriate meaning of family reigns.

Policy makers in this country need to address the conflict between our rules in the area of traditional adoption and those in the new area of "technologic adoption." They need to accept responsibility for the vital policy issues that are now being decided on a daily basis by doctors.

—October 26, 1993

What follows is an excerpt from Prof. Bartholet's new book, *Family Bonds: Adoption & the Politics of Parenting*, in which she addresses in detail the issues noted above. The excerpt is taken from chapter 10, "Modern Child Production: The Marketing of Genes, Wombs, Embryos, and Babies."

ADOPTION regulation rests on the premise that biologic parenting relationships are sacrosanct. These relationships are to be disrupted only as a last resort, and the regulation is designed to ensure that they are not unnecessarily disrupted. The universal rules against baby-buying reflect and affirm the value placed on these relationships, for if birth parents could be paid for agreeing to give up their children, it would both encourage such action and risk devaluing such relationships more generally.

Although this premise continues to govern the traditional adoption world, technology has ushered in a new world of adoptive arrangements where entirely different rules apply. Technology facilitates the separation of biologic from social parenting. It means that a child can have as many as five parents: an egg mother, a sperm father, a gestational mother, a social mother, and a social father. Technology is increasingly being used to produce children for the specific purpose of separating them from their genetic and birth parents. While in the traditional adoption world parenting rights and babies are not supposed to be for sale, in this new technological adoption world *everything* is for sale. The raw materials for producing babies are being marketed with increasing aggression and sophistication. . . .

A rapidly expanding industry is engaged in producing children for these new forms of adoption. Thousands of donor insemination children have been born every year for decades, and thousands of surrogacy babies have been born and delivered to the intended rearing couples in the past fifteen years. We stand on the edge of a probable explosion in IVF [in vitro fertilization] embryo adoptions and other IVF involvement in the splitting of biologic from social parenting. The time to figure out whether we want to continue in this direction is now. If we take no regulatory action,

we will discover in another five or ten years that surrogacy brokers and IVF clinics have arranged for the production of huge numbers of new adoptees, and that a vast array of new enterprises has developed to market genetic material, gestational services, embryos, and babies.

FAMILY BONDS

Adoption & the Politics of Parenting



his wife, who will usually end up doing the bulk of the social parenting. Critics of these arrangements also argue that by commercializing reproduction and putting a price on parenting rights and on children, we are turning people into property and devaluing parenting relationships in ways that are likely to erode the quality of all our lives. . . .

For me, these concerns are compelling. But my focus here is on issues that have been almost entirely ignored in the general debate — issues that have to do with the discrepancy between the way we treat traditional adoption and the way we treat these technological forms of adoption. The debate goes on as if traditional adoption existed only in an earlier age or on another planet and had no real bearing on these modern methods of constructing families. My thesis is that we have something to learn from our experience with traditional adoption. . . .

The traditional adoption world makes the claim that biologically linked parenting serves children's interests, as well as the interests of birth parents, in important ways. My contention is that society has enormously overvalued the biologic family and undervalued adoptive arrangements. But it is quite a different thing to say that biologically linked parenting is *without* value. I argue that for children in need of nurturing homes, adoption is a great solution that simultaneously serves the needs of infertile adults. But it is quite different to say that we should promote the removal of children from biologically linked parents so that they can be raised by others, or promote the creation of children for this very purpose. I argue that we should recognize adoptive families as having some uniquely positive features. But this does not necessarily mean that we should see biologic family bonds as shackles to be cast off or as simply irrelevant.

Surrogacy, embryo adoption, and the other new methods of child production force us to consider these more radical arguments. *Should* we hold on to the biologic model of parenting? *Should* we instead view it as a positive good for people to give away or sell their genetic products for others to raise? Would this produce families that make more sense than traditional families? Would it be a better world if babies were systematically scrambled in the hospital nurseries, so as to ensure that no parent goes home with a genetically linked child? . . .

What should be clear is that it makes no sense to rush to experiment with the family by creating these new adoptive arrangements without first rethinking and significantly revamping the way we structure traditional adoption. If we genuinely cared about children's interests, we would focus on finding adoptive homes for existing children in need rather than on creating new made-to-order adoptees for adults in need. We would eliminate the barriers to traditional adoption before encouraging people to sell their genetic material and products to facilitate new adoptions. We would enable singles, gays and lesbians, older

In this new technological adoption world everything is for sale.

This will not be easy to undo.

There are many reasons for concern with these new adoptive arrangements — many reasons to question the direction in which we are moving. A growing body of literature catalogues the problems that some of these arrangements pose for women. Feminist and other critics argue that such practices as egg and embryo sale and surrogacy should be understood as inherently oppressive and exploitative. Egg vending practices mean that women subject themselves to the rigors of the major part of an IVF treatment cycle not for the pleasures of parenting but for a fee. Gestational surrogacy means that two women share an IVF treatment cycle, then one of them carries and gives birth to a child in order to surrender it to a man who is seeking genetically linked parenting and to

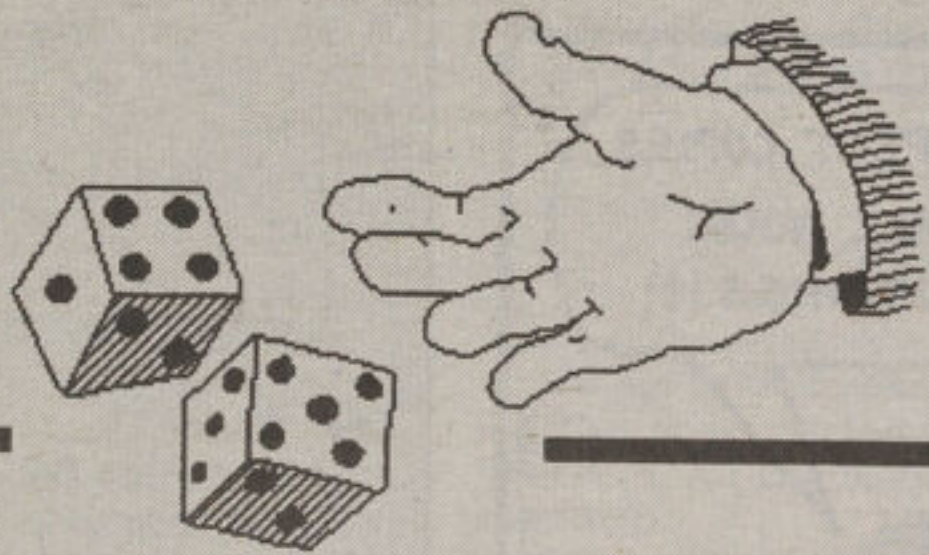
people, and other nontraditional parent types to give homes to existing children rather than insisting that they parent children whose production they have arranged. At present, we drive such people away from traditional adoption by parental screening and other policies, at the same time that we lure them into the new child production world with promises that they can purchase whatever combination of genetic material and gestational services it takes to produce their baby of choice.

We should call a halt to these new methods of child production while we move forward with the business of reforming the traditional adoption system. We would then have some time to think about the hard questions involved in deciding whether we want actually to *promote* the separation of children from their genetic and gestating parents on a systematic basis. Do we want to permit payments of the kind now forbidden — payments to already pregnant women to surrender their children upon birth? Do we want to permit payments of the kind now generally allowed — payments to enable the *creation* of children to be raised by biologic others?

My sense is that the answer to both questions should be the same, and that it should be no. Biologically linked parenting may be overvalued, but we should not simply jettison it as having no value. If we allow people to buy and sell parenting rights, we put the quality of all parenting relationships at risk, because that quality has to do with an understanding that parenting is or should be about relationship, about holding on to and nurturing those to whom we are connected rather than letting go and spinning off. Surrogacy expresses "an inferior conception of human flourishing." Treating people as disposable procreators seems likely to do injury to them, to their children, and to the quality of our parenting relationships more generally.

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If you have questions for the Squid, place them in the RECORD box in the Hark, by the Story exit.

Dear Squid:

My shiny, red, unlocked \$800 Schwinn racing bike was stolen last week. This was the third bike stolen from my hall this year. What should we do about the rash of recent bicycle thefts?

Walking from Wyeth

Dear Walking:

Apply calamine lotion liberally to the entire area.

Dear Squid:

My roommate and I have a bet over whether Prof. Charny looks more like Radar O'Reilly from M*A*S*H or George on Seinfeld. Would you settle this for us?

Perplexed in Pound

Dear Perplexed:

Your roommate wins. What are you doing in Pound, shmuck?

Dear Squid:

My roommate's mother is coming to town next weekend. Do you think it would be too forward if I asked her to sleep with me?

Horny in Hastings?

Dear Horny:

Don't waste your time. I already did and she's not that good.

Dear Squid:

I heard that Bob Packwood has come out in favor of NAFTA. What does he think NAFTA stands for, anyway?

H. Ross Perot

Dear Ross:

"Not Averse to Fondling T and A."

Dear Squid:

I can't seem to figure out what the problem is. I have good grades, great references, fine work experience, and I seem to get along well with my interviewers. Yet I don't have a single callback. What do you think could be wrong?

The Naked Guy

Dear Naked Guy:
It's your tie.

The Revolution has Already Been Televised

By Debra Dickerson '95
RECORD Columnist



In one of the '92 southern state elections, a columnist enthused over a female candidate for using "Pretty Woman" as her theme song. Having begun by rhapsodizing about her looks and willingness to flaunt her femininity, he went on to bemoan the fact that the South was one of the few places where it was still OK to compliment a woman on her looks.

That column stays with me because I think it helps explain the backlash against "political correctness" we're currently witnessing.

Without question, there are those liberals, minorities, and women who have made taking offense over inanities their "life's work." On the other hand, there are also those conservative anti-feminists whose mission is to deny that anyone has any legitimate beef against society at all. (This denial takes the form of articles such as the one wherein underlying, societal discrimination is never acknowledged so that responses to it can be ridiculed.)

The "Pretty Woman" thing typifies the reactionary mindset that the content of political and social discourse is to be determined unilaterally (presumably by that writer and people like him) and not by any mechanism which includes input from the 'target', as it were, of the behavior. How will you know I don't like to be called a 'girl' if I don't tell you? Does anyone deny our history of juvenilizing women?

I'm not bothered by a woman's decision to use her looks as a political asset. Politicians are, after all, opportunists: Had she a wooden leg, this politician would have been dispensing free beer from it at her local American Legion Hall.

What is bothersome is the fact the columnist didn't discuss the details of how the pretty woman ran her campaign; I don't know whether she wore spandex micro-minis or just knows how to accessorize. He refused to examine the contention put forth by reasonable people of both sexes that such a focus risks trivializing women's abilities and accomplishments. That is intellectual dishonesty.

All he was interested in was his freedom to do as he pleased without regard for the consequences.

Given the undeniable history of American sexism (which that writer never granted), the piece read as just another well-off, well-educated white guy's anger at his inability to ride roughshod over everybody as he could have in the good-old, bad-old days. He evidenced no understanding of the dangers women face of being misunderstood, whether or not we choose to barter our sexuality. (This is, after all, the nation where an alleged rape victim's clothing was entered into evidence against her.)

On one job, a superior used to compliment me all the time. At first, I'd just say thanks. No big deal, right? When I realized he wanted action, I told him about my boyfriend, the employment-discrimination lawyer. But he just escalated, hanging around my desk, cornering me in the copier room, staring at different body parts and licking his lips. Literally. (I call it the "ham-sandwich routine" — when they stare at you like you're a ham sandwich and they just got off the Nutraslim diet.)

He'd call me unctuous, drippy names like "Tootsie Roll" and "Lollipop." Then he wanted dates; he'd call me at home, he'd tower over me (he was very tall) and tell me all the things he'd like to do to me in graphic detail. (This Neanderthal's take on Anita Hill-Clarence Thomas was that "the sister shouldn't have dissed a brother in front of white people.")

It was all very gradual. Had I officially complained, I'm sure I would have been held to have encouraged him by not stopping it from the beginning. But if you stop it from the beginning, you're a humorless sourpuss of a feminist (redundant, I know, in some circles).

I also knew that formal charges would have polarized the few African-Americans there; I'd have been

guilty of "fronting a brother" when there were so few college-educated professionals around. I took it for a long time before finally giving him the bumrush, brother or no. Even then I did it unofficially (a photo of my very large brother was involved). If I ever find out that he pulled that on some 22 year-old who didn't know how to stop him, how will I forgive myself?

At another job, seemingly innocuous compliments led to a co-worker rubbing his genitals against me at high noon in the building cafeteria. While he gyrated, he asked me if it was "true about black girls." Finally, I was disgusted enough to tell our boss, but he was in conference.

By the time it was over, I'd done all the rationalizing necessary to keep quiet; I knew I'd be blamed for bringing disharmony into the unit. Later, three secretaries brought the lout up on charges and I felt like dirt. As an officer, I should have protected those below me in the chain of command. But they had to do what I wasn't woman enough to.

If someone takes liberties with me now, I stop it. Quick, fast, and in a hurry. If a friend compliments me, I smile and say thanks. If a stranger does so, I use my eyes to freeze-dry him. No, I don't think most men are dangerous; I think most are well-intentioned and consciously trying to keep up with the continuing changes in this area. I just know that those who are dangerous will not tell you about the prime-time special America's Most Wanted did on them.

Since I'm forced to choose, I'll be a humorless, sourpuss of a feminist before I'll be a victim. Conservative anti-feminists don't have to like or approve of me. They just have to respect me 'cause my name ain't Anita; it won't take me 10 years and a Senate subcommittee to fight back.

If someone takes liberties with me now, I stop it. Quick, fast, and in a hurry. If a friend compliments me, I smile and say thanks. If a stranger does so, I use my eyes to freeze-dry him.



Feeling excited about receiving one call-back out of 124 on-campus interviews, Fenno decided to make a call of his own. He eagerly dialed the reference attorneys at 1-900-WESTRAW.

Fenno: Hello?

Digitized Voice of Sunny Day O'Connor: Greetings. Thank you for calling WESTRAW, the erotic legal phone service that's always on point. And best of all, there's no prophylactic rule. For partnerships, press one. For triangular mergers, press two. And for multiparty actions, press three.

After pushing his own button a couple of times, Fenno pressed two.

Zoe Bared: Hi. Tonight you have diversity jurisdiction over both of us. How is your long-arm statute?

Kimba Woody: We're here to serve your subpoenas. At the tone, you can drop your briefs and begin your pleadings.

Fenno: Well, I just wanted a little fee tail. I've been stuck here for three months with just my Learned Hand to stimulate my Felix Frankfurter.

Bared: Well, come here, and let me give you an in-camera inspection. You won't have to bang your gavel alone tonight.

Fenno: MMMM. I can just see your jury box.

Bared: Yeah. I like my juries stacked and well hung. But why don't you tell us why you called?

Fenno: First of all, it seems like the women at law school are great believers in judicial restraint. Every time I practice my oral skills, I'm clitorally estopped. What's the deal?

Woody: Maybe you're not using a civil procedure. You've got to show a little consideration.

Bared: Yeah. You can't just search and seize her, and then commence join-

der. You've got to lead the wetnurse.

Fenno: Is that a hard and fast rule?

Woody: You bet. Otherwise you'll never pierce the corporate veil.

Fenno: All this talk is making me want to unleash my white knight on your slippery slopes. My double-edged sword is harder to swallow than a poison pill.

Woody: Well, we're ready for a hostile takeover, if you would stop palming off.

Fenno: So help me out here with a little T & E. Tell me about all the hairs of your body.

Woody: Let's play master and servant. I'll get out my restraints on alienation, and you can act out your footnote fetish.

Fenno: I'd rather see you two make a nudum pactum.

Bared: Sorry. There'll be nobiter dictum here. But let me tell you, you have quite a model penal code.

Woody: Is that your canon of construction, or are you just glad to see me?

Fenno: All the better to butt and rebut with.

Woody: That's assuming you can get it up on appeal. Whoops! I'm sorry, your time is up.

Fenno: But I'm not. And what kind of attorneys are you — You didn't even get me off! I was hoping to make it to the Second Circuit! What happened to free and open access to the courts?

Woody: Sorry. But look me up in the hornbook any time. You can redress now. (Click.)

Fenno hung up the phone, and bent over dejectedly. It was time for a remand.

Quote of the Week

"I have no intention of ever using this for blackmail, gray mail, or anything else."

—Senator Bob Packwood, referring to his infamous diary.

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Spare No Expense

By Marc Channick '94

RECORD Columnist



EITHER someone changed the dress code while I was attending the "Stop the Insanity" lecture in Worcester ("you can either eat one Tootsie Roll or 5 million carrots!"), or it's been interview season again here at HLS. Over the past four weeks, your friends and classmates have descended upon the hotels of Cambridge like a swarm of hungry (but incredibly well-dressed) locusts, each hoping to meet that special firm and make a "law connection."

I can't tell you how glad I am to be sitting out this round. Having already accepted an offer, I am now free to poke fun at this year's festivities. Hey, I paid my dues. I spent so much time in the lobby of the Charles Hotel last fall that the concierges began watering me.

For me, interview season was like one long blind date from hell. I spent the whole month trying to impress total strangers. I was never on time, I never said the right thing, and the majority of the people I met never wanted to see me again. Not even a goodnight kiss from most of them.

Right off the bat, things did not go well. I'm convinced that my name translated into binary code spells out some sort of unspeakable insult, because the computer in charge of assigning interview slots really had it out for me. All of my interviews were either four hours apart or back-to-back in different hotels. I can't tell you how many times I arrived at an interview breathless and sweating. Not that it mattered, since most of the firms just assumed I was excited about seeing them.

The interviews themselves could be divided easily into two groups, depending on the identity of the interviewer. Most of the time, I got HLS alums who had invariably been on *Law Review* and who therefore looked at my own meager résumé as if it were covered in a thin layer of squirrel snot. Sprinkled in among those were the corporate partners who had been rejected by Harvard and who had been secretly carrying a grudge for the past 25 years before deciding that their humiliation was in fact my fault ("So, I guess you think you're pretty special, don't you? Well, we'll see how long you last in the *real world*!"). Come to think of it, they gave me the "squirrel snot" look as well. I suppose that's what comes of having my résumés laminated at "Joe's Copy Center and Taxidermy Hut."

Some students take interviewing very seriously, researching each firm in *Martindale-Hubbell*, memorizing practice groups and attorney names to perfection. I was not one of those students: I tended to focus on the important things, such as whether the firm paid for my health-club membership for the summer. Thus, I went into many interviews not even knowing the firm's name, much less its specialty areas.

This approach can lead to some embarrassing moments, such as the time I spent the first ten minutes of one interview talking about how I considered the idea of practicing tax to be the equivalent of assisted suicide, only to be informed that the firm was exclusively a tax outfit. I'm happy to report that major surgery to remove not only my foot, but most of my left leg as well, from my mouth was completely successful.

It didn't take too long to realize that firms all speak in the same clichés and generalities. Of course, what they say and what they really mean are two totally different issues. For the benefit of you 1Ls who haven't started the process yet, I would like to give you a brief interpretation of some of the more popular phrases:

When They Say

- 1) "We're a big firm with a small firm attitude..."
- 2) "It's a very collegial place..."
- 3) "We want to give our summer associates a realistic view of the firm..."

They Really Mean

- "We hire a lot of people each year, but we fire them quickly."
- "Just like in college, we've broken down into a series of cliques that never associate with each other."
- "Bill 90 hours a week or you're out."

I recall spending a ton of time waiting in the "hospitality suites" of large, multi-branch firms. In my time there, I came to the unmistakable conclusion that the places are completely misnamed, since it's usually only one room and the people in them are neither hospitable nor sweet. The students are trying to impress the attorneys, the attorneys are trying to ignore the students, and the recruiting coordinators are busy handing out bottles of Calistoga water and planning the order in which they will kill every one of the students and lawyers who are making their lives a nightmare.

One thing I quickly learned to avoid were those "unscheduled interviews" when a firm would call you up and invite you to meet with someone even though you hadn't actually gotten onto the "official" list. While at first I took these calls as compliments, I quickly began to notice that these interviews were always scheduled at 7:30 or 8 in the morning. Make no mistake — all you are to the firm is a wake-up call in a suit. Don't be surprised if the interviewer answers the door in his or her bathrobe. If you really want to fulfill your duties, bring some hot coffee and a muffin along with your résumé and transcript. It's the little things that firms really appreciate.

Lest you think that there is no silver lining to the interviewing process, just remember that magic word "callbacks" and its equally magical companions "NALP expense-account guidelines." Going on callbacks is the closest most of us will ever come to being "kept" for any appreciable period of time. Think about it — the firms pay for everything, and all you have to do is be nice to them for a few hours. Most of them will even take you out for a meal afterwards.

Seriously, take advantage of it. My personal theory is that if you don't know the name of the entire room service staff at your hotel by the time you leave, you lose.

As fly-out week begins, may I take this opportunity to wish everyone good luck in their searches. And don't worry about it if things don't work out — you can always go out with the firm the audience selected for you (and Chuck will pay for it).

Security Guards

continued from GUARDS, page 1

control over security on campus. Currently, a seniority system allows Harvard security guards to choose their own assignments, thus preventing Law School officials from having much input on which guards patrol the campus, he said.

"The Law School really has very little control over our own security," he said. "That's really the key to this. It will give us more control."

Sources say faculty members and administrators may have attempted to intervene on behalf of the current security guards, but none of the those individuals reached by the RECORD were willing to comment. If the Law School decides to contract with an outside agency, the guards currently patrolling the HLS campus would be reassigned.

Bob Dowling, manager of security operations for the Harvard Police, was out sick this week and was unavailable for comment.

Both Coleman and Lamentea said the decision would not decrease the presence of security guards on campus and might even increase the level of security.

Lamentea would not disclose details on the number of security guards on duty at given times but said that a guard was on duty "just about around the clock." Four to five security guards currently are posted at the Law School on a full-time basis and four to five others patrol the campus part-time. Lamentea also said the outside arrangements under consideration would not increase the costs of security services.

The duties of the security guards include patrolling the campus, watching for safety and security problems, escorting individuals on the Law School campus, ensuring that doors are locked and unlocked at the proper times, and opening doors for students who are locked out of their rooms. The security guards are unarmed and are instructed to call the Harvard Police in cases where an arrest might need to be made.

Lamentea hinted that, while he was pleased with the performances of Perry and Auterio, he was not satisfied with the work of the security force as a whole. "They're our better guards," said Lamentea of the two indicted men.

"The Law School really has very little control over our own security," Lamentea said.

RECYCLE!

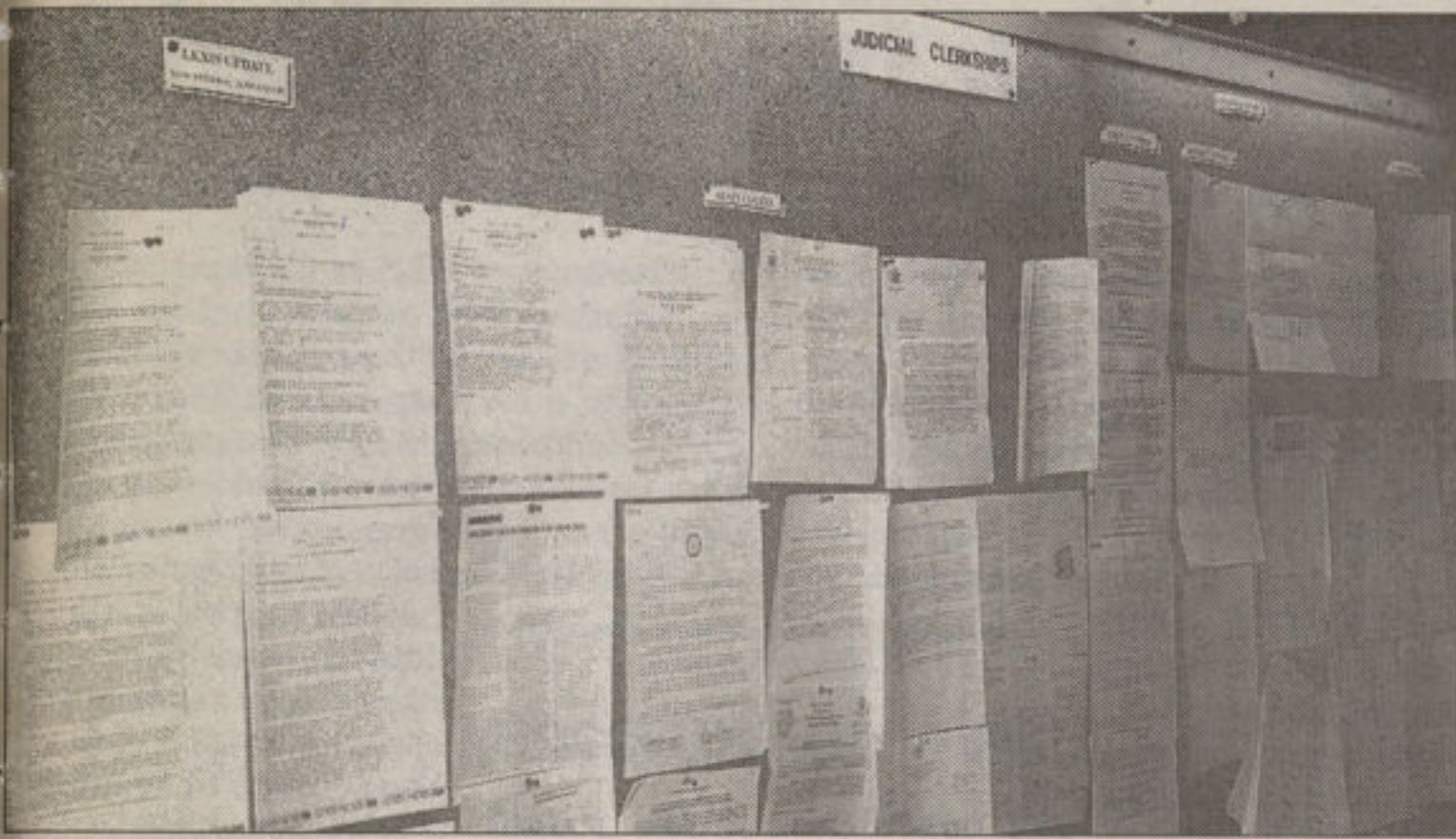


Brown & Wood of New York

is pleased to announce that
Murph Willcott,
a recent graduate of Harvard Law School,
has become associated with the Firm.

We are also proud to have had the
following members of the
Class of 1994
as summer associates:

Dean Bertolino
David Smoot



Lists in Pound Hall herald the onset of the clerkship application process — or so students thought before Dean Clark's memorandum was distributed.

Clerkship Applications

continued from *CLERKS*, page 1

ship letters of recommendation before then.

In addition, Clark yesterday sent out a letter, on behalf 15 law school deans, to all one-thousand federal court judges. "As you know, the Judicial Conference on September 20th adopted a resolution setting March 1 as a 'benchmark' date for the start of the clerkship interview season," the letter stated. "We strongly support this effort to bring some sanity and order to the selection process."

Peggy Tuitt, who oversees the clerkship process at HLS, anticipated "a good response" to the letter. "If judges know these schools are holding the line, they will rethink," she said.

Law school deans who signed the letter represent Boalt, Columbia, University of Chicago, Georgetown, Michigan, Northwestern, New York University, University of Pennsylvania, Stanford, University of Southern California, UCLA, University of Texas, University of Virginia, and Yale.

Clark Memo Called Authoritarian Manifesto

At least three judges on the Ninth Circuit told the RECORD they plan to begin interviewing students before March 1, and Judge Stephen Reinhardt yesterday sent out a letter, addressed to all Ninth Circuit judges and the deans of the top law schools (including HLS), criticizing the guidelines. He also condemned Clark's imposition of the February 1 rule on students and faculty as "wholly inconsistent" with the voluntary nature of the guidelines adopted by the Judicial Conference.

"I have now seen Dean Clark's edict to Harvard students," Reinhardt's letter declared in a post-script. "Issuing orders to students prohibiting them from sending out applications prior to February 1st is not only unworkable and self-defeating, but puts the entire project in substantial jeopardy. If anything is likely to cause judges to ignore the proposal entirely rather than simply to make the type of adjustments suggested in my letter, it is the authoritarian nature of Dean Clark's manifesto."

The letter advised Clark to reconsider his approach to implementing the guidelines, and cautioned that "Harvard students who are interested in West Coast clerkships would certainly be well advised to ignore their Dean's unauthorized directive."

As for his criticism of the March 1 guideline, Reinhardt is joined by most of his colleagues on the Ninth Circuit. According to Judge Dorothy Nelson, this past summer the Ninth Circuit considered the March 1 proposal and voted it down "by a substantial majority." She said it was "odd" and "unfortunate" that the Judicial Conference went ahead anyway and unanimously approved it, knowing it was "not agreeable to our court."

Opposition to the March 1 interview start-date stems largely from the Ninth Circuit's concern that West Coast courts, as well as East Coast law students who want to clerk in the West, will be placed at a disadvantage. Nelson said that dur-

ing November and December students come out West to visit families and interview for summer jobs, making it a convenient and economical time for them to interview for clerkships. By making students wait until March to interview, she said, students would be forced to pay their way out, and might decide to interview in the East instead.

Reinhardt agreed that West Coast judges would be "put at a considerable disadvantage" with respect to the Eastern law schools, because "with the same opening interview and offer date, it is probable that many of these students will never see the West Coast prior to the time that they are required to decide on offers from Eastern judges."

"[T]he wiser course would have been to select an opening date for offers . . . instead of the identical date for both interviews and job offers," Reinhardt stated in his letter.

Both Nelson and Reinhardt said that they are willing to wait until March 1 to make offers, but they plan to begin interviewing students earlier. "While we would not be following the precise format of the Judicial Conference resolution," Reinhardt explained, "we would be following the spirit." It is not certain how many Ninth Circuit judges will adopt this approach.

Clark expressed doubt about Reinhardt's criticism. "It's a cover for what he really thinks," the dean said. "Reinhardt was an opponent of the whole thing from the very start."

As for the claim that students will not fly out West for clerkship interviews in March, Clark called himself "agnostic." "I don't know to what extent it's backed up by any evidence on interviewing," he said, adding that he has placed calls to Calabresi and Stone to discuss this concern.

Judge Edward Becker of the Third Circuit, who along with Judge Stephen Breyer '64 of the First Circuit drafted the March 1 guideline, said he did not believe Reinhardt's claims are "technically true."

"A guideline of the Judicial Conference is important and entitled to respect," Becker said. "But if judges depart from it, I don't think it's the death of the resolution."

Becker staunchly defends the March

"Issuing orders to students prohibiting them from sending out applications prior to February 1st is not only unworkable and self-defeating, but puts the entire project in substantial jeopardy," Reinhardt's letter stated.

1 date as necessary to reform "a system that has been a mess, and largely unfair to law students." He said that by slowing down the process, students could make better choices and present judges with fuller records for evaluation. Furthermore, he asserted that the action

The Lawyer's Paradox

By Kevin Lyskowski '94

Guest Columnist

WHY are lawyers unhappy? Surveys reveal lawyers have the highest job-dissatisfaction rate of any major professional group. Lawyers complain about a variety of blemishes on their charmed lives of money, prestige, and power: the sixty-plus-hour, six-day workweeks; the mind-numbing drudgery of due diligence and document production; the shamelessness of brown-nosing partners and wooing clients. All these complaints aside, however, few attorneys admit to what is for many of them an equally important source of discontent: hypocrisy.

The hypocrites are the lawyers in the big-name, big-money firms who think of themselves as liberals. Not surprisingly, these lawyers use their mega-buck salaries to make sizable donations to various left-of-center groups, such as the ACLU, NOW, and Greenpeace. But how do these self-described liberals get the huge salaries from which the huge contributions are made? They defend oil shippers whose spills have poisoned pristine ecosystems, companies that like to keep the "girls" below the glass ceiling, and school districts that dismiss gay, lesbian, and HIV-positive teachers. However "neutral" most firm work may be, sooner or later a "liberal" lawyer learns not to think twice about representing clients that he

Lawyers need to stop drawing this nonexistent line between their personal and professional selves, or they'll never enjoy life: schizophrenics just aren't happy people.

considers "politically incorrect." I even know a lawyer who has, in a single day, written a brief opposing a suit by the Natural Resources Defense Council (NRDC), and then gone home to renew his NRDC membership.

Thinking about this paradox, I've wondered: How can anyone be a conservative by day and a liberal by night? How can anyone, for example, be an environmentalist at home and an anti-environmentalist at work? Don't these "liberal" lawyers feel like hypocrites — either at home or at work? Why don't they make up their minds about what they are: liberals or conservatives? Why don't they say "I'm a liberal" and quit defending rogue corporations and homophobic school boards? Or, why don't they say "I'm a conservative" and start making their checks out to the Republican party instead of Greenpeace?

Even more astounding, lawyers deny that any paradox exists. Ask any "liberal" lawyer, and he will tell you there's no conflict between his conscience and career. He'll tell you a lawyer's job is simply to represent his client (bad actor or not) — and not to represent the public interest as well. He'll tell you that only at home can a lawyer afford to put the public interest first: At home, he's acting on his own behalf, not his client's.

Lawyers need to stop drawing this nonexistent line between their personal and professional selves, or they'll never enjoy life: schizophrenics just aren't happy people. Lawyers can continue telling themselves that "even bad guys deserve a lawyer" and that "if you look past the black and white and see the shades of gray, my client isn't so unsavory after all." But these rationalizations won't do the trick: happy people never have to make excuses to themselves for the work that they do. Unless lawyers stop swallowing hard and betraying their instincts, unless lawyers start following their hearts instead of their heads, they'll remain as uninspired and unhappy as they are now.

of the Judicial Conference was animated by letters received from over 69 law school deans asking for reform. "We owe it to the law schools to bring regularity to the system," he said.

Despite their commitment to the guideline, however, both Becker and Breyer recognized that judges are not

they're ten years old, let them go ahead."

Kozinski Cites Professors As Problem Source

One openly non-complying judge is Ninth Circuit Judge Alex Kozinski, who called the whole thing "a bad idea." He voted against the March 1 proposal when it was presented to his court, and has informed students to start applying now to his chambers.

"This is one of many efforts to try to impose a cartel on law clerk selection," he said of the guidelines.

Kozinski explained that the guidelines are "misguided" because they don't get to the root of the problem, which he cited as "tattling, sneaking" professors and "abusive" judges.

Because professors see themselves as a source of power in the clerkship application process, Kozinski said, they will outwardly abide by the "benchmark" date, but actually "use their special influence with judges. They'll sneak in and call to say, 'I have someone really good for you.' It's ridiculous."

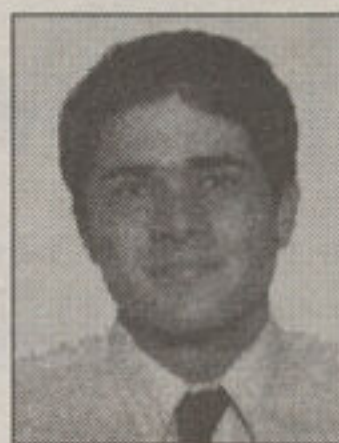
Instead of a starting-date guideline, what the system needs, said Kozinski, is

please see *CLERKSHIPS*, page 14

Managing the Health-Care Debate

By Steve Weinstein '94

RECORD Columnist



HILLARY Rodham Clinton recently invaded the electronic halls of our made-for-TV democracy, debuting the eminent transformation of the US health-care industry. Usefully, the humanist cause may have benefited from Ms. Clinton's display of obvious intellectual superiority in the sound-bite tourney with her (mostly male) critics. More importantly, Ms. Clinton's mediagenic congressional testimony demonstrated that the health-care "debate" has already been conducted.

Getting his due turn in front of the cameras, Republican presidential candidate and US Senator Robert Dole solemnly opined that, indeed, he wanted debate in Congress to focus not on whether we need to reform the health-care system, but on what kind of reform we need.

What does Bob mean? I believe that Senator Dole has signaled that he will accept the basic outline of the Clinton plan. Thus, we are presented with a *fait-accompli* double header: First, alteration in health care will occur; second, reform will roughly mimic the model currently labeled "managed competition."

Unbeknownst to most Americans, most of whom tell poll takers that "managed competition" means nothing to them, this model is not the only available option. It is, however, the option championed by Ms. Clinton's task force (more on that later). Still, at least two other major options exist. Both have been rejected without public debate.

Option 1 is to rejigger the current system. The primary components of such schemes are to: 1) wring waste and fraud out of the system to lower costs; and 2) provide health care to those currently without it through transfer payments with which they can buy their way in. For example, Republican Senator John Chafee of Rhode Island has proposed a voucher-based assistance program. Phil Gramm's "conservative" alternative is really another version of Option 1, featuring tax increases and new government-funded entitlements.

Option 1 beneficially preserves the gravy train for those who prosper under the current order. It would also preserve the market incentives often credited with generating today's miracle procedures and drugs. Option 1 has been mostly ignored by the media and summarily rejected by the Clinton administration.

Option 2 has been kept under even heavier wraps: This proposal recommends empowering the federal government to pay for and regulate universal health care. Historically termed "National Health Insurance," the supporters of Option 2 market it these days under the supposedly cheerier title "single-payer." Single-payer-system fans point with favoring fingers to the varieties of this model in place in Europe and Canada, where people generally seem happier about health care than we do. Critics charge that a single-payer system would stifle medical innovation (probably false) and that a government bureaucracy will be as wasteful and foolish as the insurance oligopoly bureaucracy (probably true).

This may be the last time you hear about either of these feasible, if imperfect, options. The forthcoming debate will focus on adjusting Clinton's "managed competition" proposal.

What is managed competition? Why are we going to be stuck with some version of it without considering other possibilities?

Managed competition did not spring forth fully grown, an industrial Athena from the mind of Ms. Clinton. Rather, it was slowly developed over the last decade by a coterie of academics, insurance-company executives, and health-maintenance-organization (HMO) leaders, all of whom will benefit in a managed-competition regime. Labeled "managed care" before the P.R. folks were consulted, this scheme envisions banding together employers and people in purchasing "cooperatives." These cooperatives are supposed to negotiate terms with insurers and HMOs. In turn, insurers and HMOs will compete with each other to provide the best care for the least money. Consumers (that's us) will get to choose between plans (unless our employer has done so), but if we opt for any but the cheapest plan we lose the tax deduction covering the price of the cheapest plan. Notably, we will not be able to see doctors outside of the plan that have been "selected" for us.

The above-mentioned coterie is known as the Jackson Hole Group, after the Wyoming resort where members gather, ski, and pontificate. Foremost among them is Alain Enthoven of Stanford, whose prior claim to fame was service as an efficiency expert at the Vietnam-War-era Pentagon. Another Jackson Hole affiliate: Hillary Clinton.

In January, Ms. Clinton assembled her health-care task force, which operated in intense secrecy. Even the names of members were kept secret until March. The James Bond-style secrecy was said to be a necessary shield against interference from the nefarious and ubiquitous "special interests." However, we know now that the task force was — surprise — largely recruited from the Jackson Hole network or from figures known to share similar views. Non-Jackson Holes were largely segregated from the meat of the process. For example, it has been reported that the ethics sub-group, which drafted the pleasant but toothless preamble to President Clinton's health-care address, often met alone, in a stairwell. It seems fair to say then, that the secrecy was really meant to shelter one special-interest coalition from public competition with its rivals.

Maybe managed competition is the best solution. But I'd feel a lot more confident about that if we had publicly scrutinized managed competition in comparison with credible alternatives. The press has largely failed to help out, covering the dramatic, easily-filmed battle to pass health-care legislation rather than the boring, detail-filled debate about what health-care reform should look like.

What's next? Expect full-fledged warfare between existing industry players — doctors, hospitals, HMOs, and insurance companies — to preserve or expand their current position and to slough off costs to the others, or the public. Individual doctors, handicapped by conscience, are likeliest to take an economic hit.

On the airwaves, look for abstract pontificating from Congressfolk, public-interest leaders, and Clinton administration wonks about "values" and universal coverage. Republican "moderates" will protect core constituencies like the insurers and tinker at the edges of the Clinton plan (see, for example, Chafee's suggestion to delay passing on extended benefits to sick people ["consumers"] until the accountants can measure "savings.")

Meanwhile, the usual cast of characters will be faxing their "suggestions" to swamped Congressional committee staff members. Stay tuned.

Students to Go to Haiti

continued from HAITI, page 1

can still go wrong," said Eliasberg.

respected as a spiritual leader and politician," said Sharpless '94, adding, "I got to kiss him."

Aristide encouraged the delegation to go to Haiti this week whether or not he returned as a way of focusing attention on events in the country. The group departs with a clear mandate, according to Eliasberg. "We have been invited to meet with members of the Aristide government, and with Haitians doing public interest work," he said.

Concerns About Safety

With politically-motivated violence still rampant in Haiti, delegation members are worried about their safety during the trip. "We're all concerned, but we feel like the situation merits taking a risk and showing our solidarity," said Sharpless.

Eliasberg, who worked as a photo-journalist during the Czech revolution in 1989-90, downplayed the safety risk, explaining, "We've done as much as we can do to get information. It's relatively safe, but obviously not as safe as other places." He concluded that, "all of us feel the risk is worthwhile."

The group is also worried about the possibility that American Airlines, on which their flight is booked, would cancel all its flights to Haiti before the departure date. "There are all kinds of things that

"We've done as much as we can do to get information. It's relatively safe, but obviously not as safe as other places," said Eliasberg.

History of HLS Involvement

Aristide, who was elected in 1990 with 67 percent of the popular vote, was ousted in a military coup in September 1991. Members of the US Senate and the CIA have criticized Aristide's human rights record and questioned his mental stability, but Sharpless called these allegations "gross distortion[s]" and "blatant attempt[s] at character assassination." According to Sharpless, the Aristide administration had the best human rights record of any government Haiti has ever had.

HLS has a long history of involvement with Haiti's quest for democratic government and human rights for Haitian citizens. In the fall of 1992, HLS students helped prepare an amicus brief for the Supreme Court challenging the US government's policy of automatically returning

Haitians interdicted on the high seas to Haiti. During the winter term of 1993, a group of HLS students went to Miami with Lecturer Deborah Anker to work on obtaining political asylum status for Haitian refugees. In spring of 1993, HLS students staged a hunger strike protesting the internment of Haitians on Guantanamo Bay, and during last summer, Andy Levin '94 was a human rights monitor for America's Watch in Haiti.

Guidelines Cause Controversy

continued from CLERKSHIPS, page 13

an honor code that discourages judges and professors from taking advantage of the system. Students must be able to report judges who make "exploding offers" (offers that only stand if the students accept them on the spot), and pressure students unfairly to accept a clerkship before they are ready.

Whether or not professors will comply with the February 1 rule instituted by their law schools is also a subject of debate. Judge Becker said that in his 23 years as an Article III judge and 12 years on the Court of Appeals, not once has he experienced the kind of sneaky-professor phenomenon indicated by Judge Kozinski. "But paraphrasing T.S. Eliot," Becker said, "I am not Judge Kozinski, nor will I ever be, I suppose. He may be the exception."

Dean Clark said he "certainly hope[d]" the HLS faculty would comply with the rule, and expected that they would. "I've talked to a few faculty members with questions," he said, "and urged them to stand fast." Clark said some faculty members expressed concern that Harvard students might be hurt by guidelines if other law schools "cheat."

Those professors contacted by the RECORD said they intended to fully abide by the February 1 rule. Said professor and Associate Dean Frank Sander: "I would be pretty shocked if the Dean of the Law School asked the faculty to support a program he worked on and colleagues of mine went off on their own. I would hope we're not a total chaotic community."

Professor Bernard Wolfman agreed that "the bulk of the faculty very much supports the guidelines. The rat race of the past has not been helpful to anyone." Wolfman, who is former dean of University of Pennsylvania Law School, also denied that professors often try to use their influence with judges. "Professors who do that are a very, very small minority," he said. "Rather, the main cause of breakdown are judges who say, 'guidelines are not for me.'"

But while HLS professors may abide

by the February 1 rule, compliance still presents hard issues. "The interesting question," said Prof. Howell Jackson, "will be what happens if a judge calls in the fall and asks, 'What do you think of person X?'" Jackson said the real compliance pressure will fall on professors who teach large first-year classes, and therefore write most of the clerkship recommendations for second-year students. Jackson does not teach any first-year courses.

But Prof. Alan Dershowitz does — Criminal Law. And although he has not confronted this situation yet, he said he anticipates it will arise. "I'm waiting for a judge to call me saying, 'I'm about to choose my clerk, and it will be either one of your students or someone from another school. What can you tell me?'" He said he has not received any official instruction on how to respond in such circumstances.

Dershowitz also reported that, despite the guidelines, he has already been approached by students seeking recommendations. "I feel very uncomfortable," he said, "because I'd like to give my students a competitive advantage." However, Dershowitz said he is strictly following the new policy. "Unlike some judges, I abide by the rules. I plan to be a role model to my students," he said.

Judge Reinhardt, employing the outsider's perspective, took a more cynical view on whether HLS professors would uniformly comply with the February 1 rule. "It would be wonderful if the Harvard faculty were sweet, agreed, and united about something," he said. "If Dean Clark could succeed in that, he could succeed in making them one big, happy family."

Students Have The Most To Lose

So where does this leave students? Although they have the most at stake in obeying or disobeying the new guidelines, their voices are the ones least heard in the debate. "There are a lot of titans involved here, and the only ones who don't have tenure are the students," said

please see GUIDELINES, page 15

Legal Services Center

continued from CENTER, page 1

services primarily in the areas of family law, landlord-tenant relations, government benefits, and estate-planning for HIV-positive clients. It is currently staffed by 17 legal professionals (nine lawyers and eight paralegals), six administrative and support staffers, 57 HLS students, and Professors Jeanne Charn and Gary Bellow '60.

Charn says the center's new home will allow it to accommodate as many as 90 students in the future, perhaps allowing the center to handle even more than the 900 to 1000 cases it completes every year. "The new building has the capacity for a larger program," Charn said.

About 100 people attended the dedication, including Dean Clark '72, who hailed what he described as an "amazing" new structure. "We're happy, we're thankful, and we're committed to the future of this enterprise," Clark told the audience. Harvard contributes approximately two-thirds of the center's \$1.5 million annual operating budget.

Clark commended Hale & Dorr both for its gift and its "long tradition of serving those who need assistance most." John D. Hamilton, Jr. '60, managing partner at Hale & Dorr, said he hoped the center could serve as a "prototype for how a law school, a clinical legal services center and a law firm can combine resources and talents."

Charn shared Hamilton's enthusiasm for the unusual partnership that spawned the new office — and accounted for the center's long name.

"I think it's absolutely unique," she said. "These worlds don't [normally] meet and undertake joint ventures together."

Ames Final Round

continued from SOUTER, page 1

date rape scenario. The two main issues involve statutory interpretation of entitlement to jury instructions and the admissibility of expert testimony.

The petitioner team, which calls itself "The Schoolhouse Rock Team," consists of Marc D. Ashley, Theodore D. Chuang, Brian S. Kaplan, Michael A. Newman, Craig S. Primis, and Keith S. Rabois. The oralists are Newman and Rabois.

The respondent team, known as "The

Hale & Dorr, Boston's third-largest law firm, is contributing the time of some of its attorneys, who are serving as supervisors in the center's landlord-tenant practice. Hamilton said the firm is also working to establish a clinical program for HLS students in entrepreneurial law through the center next spring. Hale & Dorr attorneys would serve as supervisors for the new clinical.

The clinical program at HLS has generated controversy within the legal academic community because students at the

center are expected to take on a great deal of responsibility for clients at a relatively early stage, Charn said. But she defends the program on the grounds that "the sooner you can get in, the more you'll learn."

"I think our clinical is the best in the country," she said. "There's no school that offers opportunities for the number of students to get exposure to and training in the variety of practice areas that

[students] get at Harvard."

Although some students privately complained about the complexity of the clinical program structure and the difficulties encountered in trying to juggle a 20-hour work week with classes and interviews, most said they were happy to be working at the center.

"I think it's a great thing for Harvard to spend its money on," Jennifer Middleton '95 said. "I'm learning a lot more about real law than I would in any class."

Josh Moore '95 said that, even though much of what he is learning does not fit into his career plans, he is pleased to be at the center.

"I'm sick of classroom credits," he said. "I was bored with classes."

Galileo's Justice Team," consists of Christine Chi, Emily Duke, Mark Gordon, Anne Hoskins, Stephen Rabinowitz, and Alan Rutenberg. Duke and Hoskins will serve as oralists.

For these two teams of 3Ls, the year and a half long competition is about to come to an end. Having begun the competition in October of their 2L year, the teams were two of the four to survive the qualifying round that fall. Last March, they advanced from the semifinal round to reach the finals.

Clerkship Guidelines

continued from GUIDELINES, page 14

one student who expects the guidelines to fail. "I think it's silly to expect students to force the change when they're the ones who stand to get screwed," he said.

Skeptical of whether the guidelines will be complied with, and unwilling to leave matters in the administration's hands, a group of students gathered this week to call the circuits themselves. Dean Newton '95, who called the Fifth Circuit, reported that "roughly one-quarter of the judges I called are not complying with the guidelines."

Newton expected many students to jump ship and start applying for clerkships now. Indeed, most of the judges contacted by the RECORD reported that they have already received applications from HLS students, as well as recommendations from HLS professors. Although these materials may have gone out before the dean released his October 15 memorandum, students who are wait-

ing until February 1 find little consolation in this possible explanation.

"My concern is that by changing the process late in the game, when some students have already decided to send out letters, there's a real chance of backfire," said Anthony Ryan '95. Ryan added, however, that if the policy holds it would make the application process less stressful for students.

Cathy Struve '95 said she heard that students at other law schools received news of the guidelines three weeks before HLS students, and said some confusion could have been avoided had they heard sooner.

The coming weeks will be crucial for second-year students applying for clerkships, as judges and deans will try to resolve the issues raised by the March 1 guideline and February 1 rule. According to one student, in the meantime "the only moral thing to do is to hold the policy — at least for judges who haven't yet broken it."

HLS Should Implement Mandatory Pro Bono

By Maddy Fain '94

Guest Columnist



MANDATORY Pro Bono (MPB) is the most important way in which a law school can demonstrate a commitment to public-interest law. Although many other prominent law schools, such as Columbia and the University of Pennsylvania, require students to complete a certain number of hours of public-interest legal work before graduation, HLS has barely addressed the issue of a public-service requirement, let alone adopted one.

The absence of MPB at HLS is not surprising considering the Law School's dismal record in sustaining public-interest alternatives for students. Perhaps the most blatant example of this occurred in 1989 when Dean Clark '72 eliminated the position of public-interest counselor in the placement office. Only in the face of student protest and faculty admonishment did HLS later establish the Office of the Public Interest Advisor (OPIA) as well as the Harvard Law School Dean's Public Interest Advisory Committee (PIAC), chaired by Professor Christopher Edley, Jr. '78.

Yet PIAC has also fallen upon hard times. While PIAC was supposed to produce a report evaluating HLS's commitment to public interest at the Law School over the last three years, it failed to do so. Why? Because almost all of the faculty members and students on PIAC are no longer at HLS. Dean Clark promised to reformulate PIAC at a town meeting last spring. Not surprisingly, he has yet to do so.

As further evidence of HLS's lack of commitment to public-interest law, students have continually had to organize, petition, and protest in order to raise funds for summer public-interest opportunities. Even now, Wasserstein and Student Funded Fellowships can only provide enough money to fund about half of the students who are interested in pursuing public-interest work over the summer.

Although public-interest law at HLS is in dire need of sustained support, many faculty members and students, including some who are strong proponents of public-interest opportunities at HLS, object to public-service requirements.

The most powerful criticism of public-service requirements at law schools is that students will not advocate wholeheartedly on behalf of indigent clients if they are forced to participate in a pro bono program. But this reasoning makes no sense. Many students participate in HLS clinical programs because the clinical experience provides them with essential litigation skills. Although these students may not be interested in public-interest careers, they still work hard for their clients in order to learn all they can about litigating effectively.

Moreover, in the current climate of increasing commitment to public-interest law, law schools would be remiss in not preparing students to serve the community. Many state bar associations, including Massachusetts', are currently considering the adoption of pro bono requirements for bar members. Indeed, Florida has already adopted a pro bono obligation. Given that many bar associations may soon adopt mandatory pro bono for attorney members, law schools must prepare students so that they can fulfill their requirement effectively.

In addition to helping students learn legal skills and become prepared for state bar public-service requirements, MPB can also inspire students to become involved in pro bono and public-interest work during their careers. Advocates for this belief include the American Bar Association, which unanimously adopted a resolution, on August 10, 1993, encouraging law schools to adopt a public-service requirement, and Supreme Court Justice Sandra Day O'Connor who said that "[r]equiring law students to do some pro bono service as a graduation requirement is a good [idea]" (*National Law Journal*, April 29, 1991, page 4).

The benefits which pro bono confers upon the community, of course, need no more justification. Hit hard by the recession and Governor Weld's budget cuts, many public-interest offices in Greater Boston would benefit from MPB at area law schools. By providing greatly needed legal services, HLS can make an important contribution to the surrounding community.

Organizing a mandatory pro bono program in the face of the HLS administration's repeated efforts to thwart public-interest programs at the Law School will not be easy. But HLS has many positive role models from which to draw. These models range from schools like Columbia, which requires public-interest legal work without compensation or school credit during students' second and third years, to the University of Washington, which requires students to do public-service legal work, but allows students to receive credit for their efforts.

By implementing a public-service requirement, these law schools have asserted that public-interest work is valuable. Already there are twenty-two law schools around the country that have adopted a pro bono or public-service requirement. HLS should join these schools in making a positive statement about the value of public-service work.

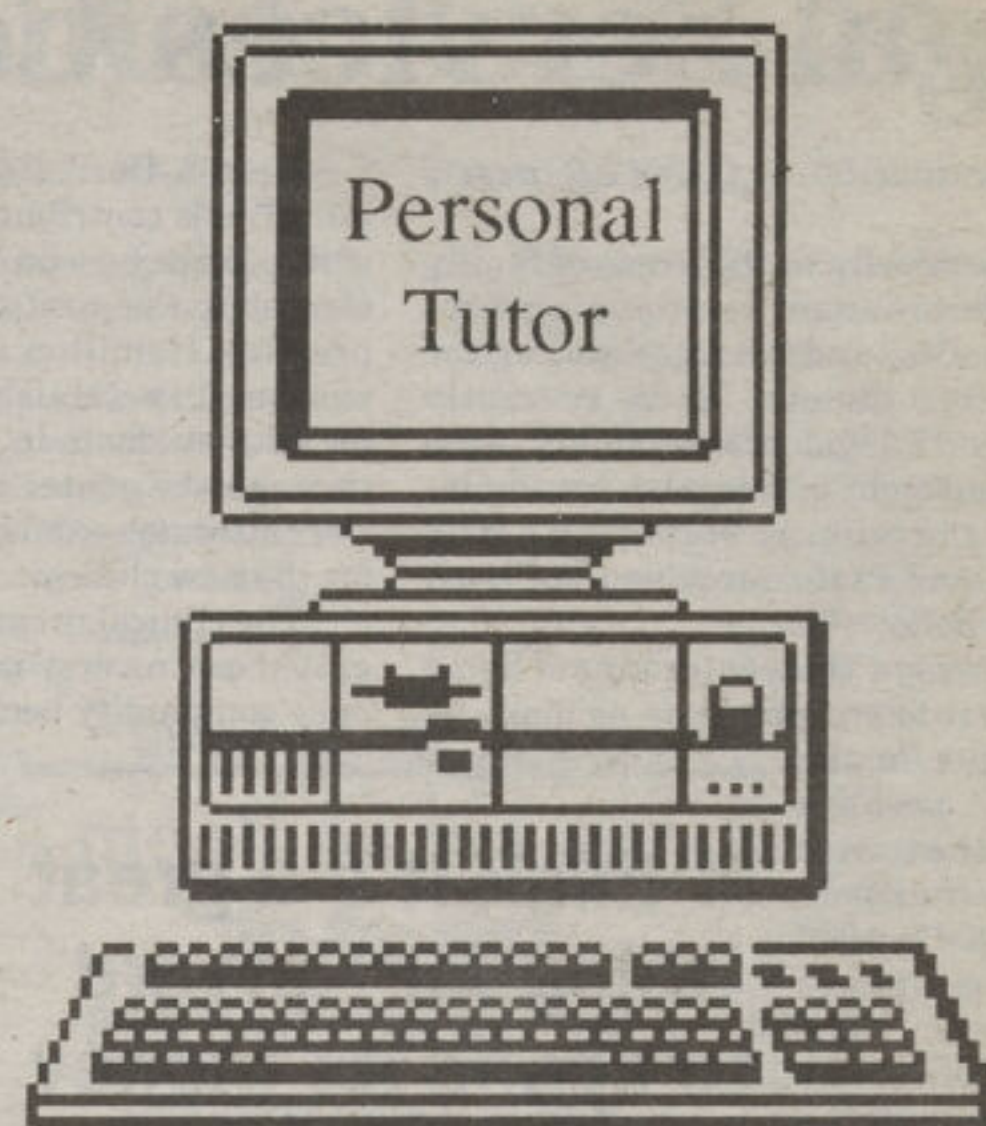
Getting started will be the hardest part. Students must first educate one another about the merits of mandatory pro bono and then make a recommendation to the faculty. A combined faculty and student committee must then be appointed to examine requirements at other law schools and issue a report on what type of mandatory program might work best at HLS. When the specifics of the requirement are finally ironed out, HLS can then begin to implement the program.

Locating and matching placements with students can be a daunting task, but other law schools have already found effective methods for facilitating the placement process. For example, New York University School of Law implements an easily reproducible computer-assisted system which matches student interests with organizations. In addition, most successful pro bono programs have a counseling component to help students identify their interests and preferences. By increasing the staff at OPIA, HLS could provide the necessary counseling to students.

Given our professional responsibility to provide pro bono assistance to poor communities, HLS must insist that students develop the necessary skills to perform public-service legal work. Moreover, adopting mandatory pro bono indicates a strong commitment to public interest law which will in turn encourage students to continue public interest work after graduation. While many other law schools have already embraced MPB, HLS has yet to take the first step towards a public-service requirement. It is about time.

Maddy Fain '94 is Co-Chair of the Alliance for Public Interest Alternatives.

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