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Students gather to watch a screening of "The Paperchase" on Tuesday.

Stone Assails FBI Handling of Waco

Professor Lone Critic on Panel

By Greg Stohr

Prof. Alan Stone, M.D., said he cannot explain why he was the only member of a ten-person expert panel to level sharp criticism against the FBI and the Justice Department for their handling of the Waco cult disaster, but he said that key facts were not made available to him until after the reports of the other experts had been released to the public.

Stone's report, in which he criticized FBI officials for ignoring the advice of their own behavioral experts, became public Monday, more than a month after the Justice Department released its official review of the fatal FBI assault on the Branch Davidian

compound. That review was issued along with reports written by the other nine members of the panel and the conclusions of an outside evaluator.

"The fact that no one else has said that surprises me, but I am honestly convinced of this conclusion," said Stone in a RECORD interview.

At least 75 people died in the disaster, including 25 children. Many of the victims died as a result of a mass suicide inside the compound.

Stone said the release of his report was delayed because he was awaiting

answers to questions he considered crucial to the inquiry. He said he was reluctant to file his report until he had sufficient

please see **STONE**, page 12



Prof. Alan Stone

Lambda Boycotts Beer Distributor for "Outlaw Party"

By David S. Clancy

The Labor Law Project (LLP) scored a victory in its advocacy of a Miller Beer boycott last week by convincing Lambda to drop a local distributor of Miller beer as a sponsor of a Lambda social event.

Burke Distributing Company, the exclusive Boston-area distributor of Miller Beer, was the primary sponsor of Lambda's "Outlaw" dance Saturday night until LLP informed Lambda members — three days before the dance — that Burke is the target of ongoing allegations of union-

busting.

The dance's organizers made a swift decision to purchase beer from another distributor despite the cut-rate prices and free delivery offered by Burke. "We thought the union's allegations were serious enough that we felt uncomfortable about continuing our connection with Burke," said Dan Caul '94, a Lambda board member and an organizer of the "Outlaw" dance.

"We were incredibly impressed at how quickly Lambda acted," said Andrew Levin '94, a member of LLP.

please see **BOYCOTT**, page 12

Latino Law Review Debuts Soon

By Jeff Bucholtz

The hard work of starting a journal from scratch appears to be paying off for the students on the Harvard Latino Law Review Committee. Although HLLR is still just that — a committee — organizers plan to publish papers from their spring symposium and hope the event will mark the beginning of a permanent publication on Latino issues.

Entitled "Latinos and the Criminal Justice System: A View from Both Sides of the Bars," the symposium is scheduled for

April 22-24, 1994, with a target publication date of June.

Establishing a new law review at HLS is a near-impossible task given the Law School's moratorium on official new journals. Enacted in 1989, the moratorium reacted to the proliferation of student publications and the resulting strain on HLS funding of the organizations.

But the organizers of HLLR are not discouraged. "[We] have been working closely with and getting great support from the administration," said Cristina Toro-Hernandez '95, the new journal's editor-in-chief.

Managing Editor Felicia

Franco '95 recalled that "the idea has been around for a few years, and last year a bunch of 1Ls got together and decided that it was important to launch a truly national Latino journal." The students enlisted Prof. Martha Minow and Prof. David Wilkins '80 as faculty advisors, and obtained permission to proceed with the symposium, despite the moratorium.

"We're hoping to continue beyond the symposium and create a full-fledged journal," emphasized Franco, "so we're trying to come up with ways to address the Publications Committee's concerns." To combat the problem of scarce resources for student journals, the HLLR Committee has begun fund-raising, targeting law firms and corporations.

"If we can establish a good base, we can be independent," said Jessica Herrera '95, the journal's treasurer. "Dean Clark and Suzanne Richardson have been extremely supportive in helping us get grants, and our goal is to raise enough that we

please see **LATINO**, page 14

Students Develop Business Job Market Prospects

By Maria Politis

And you thought public interest was off the beaten track.

While most Law School students seek and accept jobs either with firms or public interest organizations, a growing number are trying their hand at the business world.

In true HLS spirit, added to the list of high-profile firms students are interviewing with this fall are big names like Morgan Stanley, Goldman Sachs, and McKinsey & Company. These companies do not currently interview on campus, but they are showing increased interest in hiring law students, said June Thompson, director of the Office of Career Services.

"It's an old trend revisited," said Thompson. "Before the stock market fell [in 1987] these firms were starting to come on campus." She said that after the crash they were hiring less in general, but that this year, big-name companies seem to have rekindled their interest in visiting the Law School.

Terrance McGuire '94, presi-

dent of the Harvard Association for Law and Business, an 111-member organization started last year which seeks to provide a liaison between law students and the business world, said these companies have consistently been interested in law students; the change this year is that they are making more of an effort to actively recruit JD candidates.

McGuire explained that with the market expanding for certain business jobs, "in order to get qualified people, [these companies] are making more of a push on the law school campus." For instance, the Wall Street investment firm, Goldman Sachs, recently held a presentation of their equities division at the Law School. They have since interviewed a handful of students.

McGuire said these companies are willing to hire students from HLS because enrollment here provides a sort of "screening process" for competency, and because a legal viewpoint is often welcome. "Having a JD on a team helps diversify a deal. . .

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Under Pressure: 1Ls Anxious about Classes, Exams, Jobs

By Louie Lopez

It is that time of the year when 1Ls begin to feel both the anxiety of approaching exams and the pressure of summer employment. If packed study-skills workshops and job search programs are any indication, the Class of '96 is feeling the same tensions that have accompanied first-year HLS classes for generations.

"There is a definitive calendar of law school stress and this year's 1L class is right on time," said Dr. Mark Byers, director of the Office of Student Life Counseling.

Byers said the most common sources of first-year stress

are the struggle to prove competency and the search for summer employment. It is to combat these anxieties, he said, that the Law School offers a host of programs aimed at first-year students.

This fall, Student Life Counseling held a series of well-attended study-skills workshops, focusing on outlining, exam preparation, and time management. The program on outlining, held in Austin East, was so packed that many students could not

even get in the door.

But some students left the session with mixed feelings.

"Apart from the presentation style, the reality of seeing everything I had yet to do to prepare for finals worked to create more stress instead of alleviate it," said Patty Maribona '96.

Kevin Banasik '96, who has attended several of the study-skills programs, said he feels the pressure less from the sessions than from the concern that he lags

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Mark Byers

ATM Machine Finally Arriving, Other Projects in Progress

By Matthew Huggins

The long-awaited ATM is finally coming to a Hark near you. The plans have been finalized and approved by the Harvard lawyers, and the cash machine should be in operation by January 1, according to Law School Council President Enu Mainigi '94.

The cash machine will be placed in back of the Hark to ensure 24-hour access. Security will be vicariously provided by the security guard on duty at the parking garage.

Although the attempt to bring an ATM to campus has been one of the LSC's most visible quests, the Council has also been active on a number of other projects, including:

Student Life Improvements

- If you don't have confidence in paper currency, the LSC has arranged for change machines to be installed next week, one in the Hark and one in North Hall.

- The Somerville Shuttle, a service won through hard lobbying, has suffered from declining ridership. The administration has threatened that if ridership doesn't increase by December, the service will be discontinued. The LSC has negotiated changes to make it more convenient for students to catch the shuttle and to buy tickets. The changes have led to a substantial increase in ridership, which the Council hopes will placate the cost-conscious administration.

- And speaking of cost, what about

the \$50 it costs law students to access e-mail? The LSC is working with the computing center and the administration to get this fee, which the undergrads don't pay, waived.

Academic Affairs

- If Rosenberg is right and it's all policy, there is one administration policy that needs to be changed, according to the LSC. As it stands now, students have one day to withdraw from an over-subscribed class without incurring a "WD" ("withdrawn") on their final Law School transcripts. The administration is trying to create an incentive for students to drop those courses quickly, so that others may get a spot off of a waiting list. The problem is that many of these same students can't drop the course until they find out if they've gotten off the waiting list for another oversubscribed course. This Catch-22 situation will be brought before the Administrative Board next week by the LSC.

Coming Up

- The LSC will run the highly successful book exchange again next semester. This time, the Council will charge a \$1 transaction fee. It is waiting for the results of a student survey to determine how to use those profits. One suggestion so far has been for a photocopy machine in the Hark that (a) actually

works, and (b) accepts the same copy cards that are usable in Langdell.

- The annual charity auction of items donated by professors will also return next semester. Past years have seen such varied choices as autographed books, a week at a house in Italy, and Professor Ogletree's famous home-baked sweet potato pies.

- The LSC will facilitate a Law School blood drive in early February. Reporting that many law students don't

have enough contact with the College to take advantage of the undergraduate blood drive held each winter, the LSC hopes to make it easier for busy law students to give a pint.

Just for Fun

- Turn-out at the LSC movie night on Tuesday was good. Almost 75 students showed up to watch

Kingsfield terrorize overworked and overanxious HLS students in the classic *The Paper Chase*. Since the demise in popularity of Thursday nights of *LA Law*, there hasn't been a similar pop-culture rallying point for over-booked law students. The LSC is considering Tuesday movie nights as a possible replacement, or maybe *Melrose Place* on Wednesdays.

- Finally, tonight the LSC is sponsoring a night of dancing at the Jukebox in Boston. Students interested in free tickets can contact Spencer Levy '95.

**The long-awaited ATM
is finally
coming to a
Hark near you.**

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BAR REVIEW

**Do it once.
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Panelists Ask: Are We Approaching Pornutopia?

By Ray Kahler

America is steadily approaching "Pornutopia," law professors Ronald Collins and David Skover told an audience of about 80 people on Saturday.

Collins, who teaches at George Washington University, and Skover, who teaches at the University of Puget Sound, were two of ten panelists who participated last weekend in the *Law Review* symposium, "Changing Images of the State." Held in Langdell North Middle and Ames Courtroom, the panels were well attended by students, although virtually no faculty members who were not moderators came to the talks.

The symposium, the first which the *Review* has sponsored in recent history, brought professors and one federal judge together in three panels to debate traditional issues of state power from a variety of viewpoints. By discussing topics including feminism, environmental law, pornography, and the rise of the administrative state, the participants demonstrated that the common ground of different legal viewpoints may be greater than they imagined.

The Pornographic State

Collins and Skover delivered one of the most provocative presentations of the conference during the final panel, "Does the State Really Matter?" In dialogue form, the two professors elaborated their views on the implications of pornography for the state. Collins said that most people see the threat to the Madisonian ideal of deliberative democracy in Orwellian terms, but a more serious threat comes from an increasingly commercialized, eroticized culture.

Skover identified mass consumerism, a propensity for self-gratification rather than self-realization, and abuse of technological advances as potential threats to deliberative democracy. Collins and Skover pointed to pornography, in a broad sense, as a symbol of a culture in which images take the place of essences, producing "pornographic discourse," the antithesis of "Madisonian discourse."

The sexualization of imagery for commercial and entertainment purposes leads to the inevitable collapse of self-realization into self-gratification, they argued. "Remember when Plato said, 'Know thyself?' Well, the new maxim will be 'feel thyself,'" Collins said. Following Plato's views in *The Republic*, Collins and Skover asserted that self-realization and deliberative democracy are intimately connected. Madison's First Amendment is not supposed to protect self-gratification, Collins said.

Collins and Skover took issue with scholars who say pornography should be protected under the First Amendment in the name of deliberative democracy and as a means toward self-realization. "That is a lie," Collins said. Pornography is protected not to protect self-realization but to protect the capitalist culture, which depends so heavily on sexualized imagery.

Although Collins and Skover said that America had not yet become Pornutopia, they said that the vital signs of Madison's First Amendment are weakening. The death of discourse in the Madisonian sense, they said, is the climax of Pornutopia.

To prevent the death of discourse, we may have to destroy the pornographic part of our culture, Collins and Skover argued. They suggested that legislatures pass laws to invigorate speech and that individuals recognize the fraudulent arguments used to defend pornography.

Collins' and Skover's lively discussion was followed by presentations from two

other panelists: Prof. Peggy Davis '68 of New York University School of Law, and Judge Frank Easterbrook of the Seventh Circuit.

Davis Unearths Neglected Stories

Davis, speaking on her paper, "Neglected Stories and Family Values," argued that the histories of certain groups have been neglected in constitutional adjudication, and that these neglected stories should be used to reinterpret American culture and law. An

inclusive reading of history is more likely to produce a government that reflects the needs of all the governed, she said. She argued that such a government would be more likely to produce laws that will claim allegiance.

Davis claimed that the history of the Reconstruction had been grossly distorted by legal scholars and the courts over the last 100 years. She described the Abolitionist position as viewing people as creatures capable of moral choice and rational thought and therefore entitled to a degree of autonomy that would allow them to reach self-definition.

She questioned how "moral legislation" — laws meant to restrain moral choice on such issues as sodomy and abortion — could be squared with the tradition of moral autonomy and antislavery. She called this quandary "the contradiction," namely, that the principle of liberty has always been at odds with certain practices of the state.

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"Remember when Plato said, 'Know thyself?' Well, the new maxim will be 'feel thyself,'" Collins said.



Prof. Ronald Collins (left, standing) looks on as Prof. David Skover (left) and Judge Frank Easterbrook (right) discuss a point at last weekend's *Law Review* symposium. Standing at right is Prof. Cass Sunstein.

Easterbrook Looks at Public Choice

Easterbrook looked at state power through the lens of public choice. He said the Leviathan image of the state as having a monopoly on public force is contrary to the Founders' view of the state as consisting of separated powers and competing factions, or interest groups.

Easterbrook drew on Madison's views on factions, expressed in *The Federalist Papers*, Nos. 10 and 51. Describing the "simultaneous terror, inevitability, and desirability of faction," Easterbrook said that factions are beneficial but dangerous. For example, the division of labor and religion both give rise to factions and threaten to harm government, yet we want to preserve them, he said.

Madison's solution to the problem of factions was to elect representatives whose self-interest is not identical to their constituents', to fragment the electoral base so that different groups dominate different levels of government, and to ensure competition so that factions will multiply and check each other's power.

Noting that public interest legislation is common, Easterbrook said that the predictions of *The Federalist* have not come true. Nonetheless, Easterbrook said, there is resistance to national legislation because the institutional design of Congress makes it easy for interest groups to concentrate their attention on certain committees and senior legislators who exercise disproportionate power.

Judges Come to HLS for Alternative Dispute Resolution Institute Event

By David Weiss

In a step that affirms the shift of the legal system away from the traditional focus on adjudication, federal judges and magistrates from across the country met at HLS last weekend to discuss various alternative dispute resolution (ADR) techniques.

Although conferences on ADR have been held before — the most recent one hosted by Harvard being in 1991 — last weekend's event, the National ADR Institute for Federal Judges, marked the first time federal judges have been seriously involved.

"The purpose of this institute is to help all of us to think more clearly about ADR, to enhance the ability of the courts to make informed decisions about ADR, to create sound programs where programs are appropriate, to make wise choices about the referral of cases to ADR, to further effective use of ADR by counsel and parties and to bring about the optimum and not necessarily the maximum use of ADR," said keynote speaker Hon. William Schwarzer, director of the Federal Judicial Center (FJC), which co-sponsored the program with the Center for Public Resources/CPR Legal Program, HLS and the Litigation Section of the American Bar Association.

The impetus for the new judicial involvement is the Civil Justice Reform Act of 1990 — better known as the Biden Bill — which requires federal judges to consider and implement ADR in appropriate cases to decrease their caseloads. To aid them in this effort, the organizers invited one representative from each of the 92 judicial districts to learn about the design and operation of the various ADR options.

"In most districts, it won't be the judges themselves who will be acting as the mediators or arbitrators," said pan-

elist Prof. Robert Mnookin '68 in a RECORD interview, "but it is very important that they have an understanding of the advantages and disadvantages of ways neutrals can facilitate resolution of conflict. Judges have long been familiar with settlement conferences [a technique judges can employ to force parties to settle]. . . . The critical task is to develop ways of facilitating resolutions earlier in the process before there have been extremely wasteful expenses on vast amounts of discovery that can be of only marginal usefulness," Mnookin said.

As judges were taught by ADR experts in the Ames Courtroom, students observed the proceedings on closed-circuit televisions in Austin classrooms. According to FJC senior research associate and conference co-organizer Donna Stienstra, the nature of the institute precluded students from actually sitting in on the plenary sessions.

"It was not an open conference, not a general conference open to the public," she said. "The nature of the proceedings was educational for the judges, and they were the intended audience, so they were the only ones there." Stienstra added, however, that when a request was made to allow students to view the proceedings, the FJC agreed to the simulcast arrangements. She denied that security concerns prompted the arrangement.

The ADR Message

The conference covered issues related to ADR processes, the design and operation of ADR programs, and the relationship between ADR and case management. Following the keynote address and an overview lecture by HLS Associate

Dean Frank Sander '52, the Friday program focused on mediation, a technique in which a neutral third party helps the disputants reach a negotiated resolution themselves; early neutral evaluation, in which lawyers volunteer to serve as evaluators early on in the case and to provide a legal analysis of its merits; court-annexed arbitration, which involves a non-binding decision on the merits being

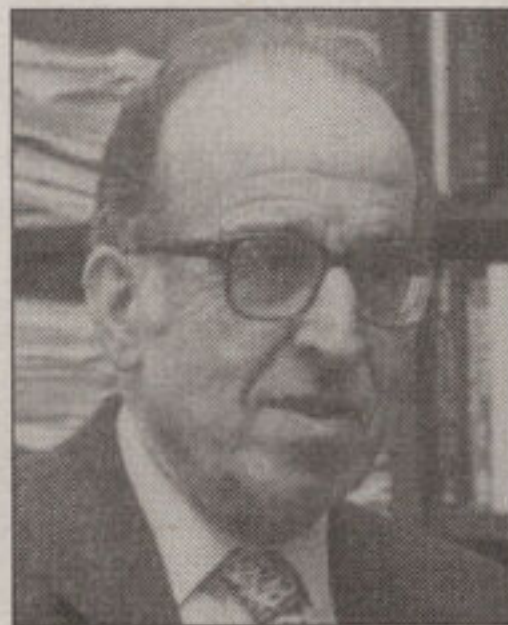
given by a neutral third party appointed by the court; and summary jury trial, which provides an advisory jury verdict based on the parties' limited presentation of their evidence.

Organizers said the focus on these four techniques was not meant to exclude other forms of ADR or to endorse ADR as the best technique for handling cases. Sander told the judges in his overview lecture, "I think your approach here should be

like that of a carpenter who is trying to acquire a large tool box and to find out what tool will fix what plumbing. . . . You can take elements of each tool and create a new tool to deal with that ornery faucet in your judicial house."

The attending judges and magistrates are now expected to return to their districts, share what they learned with their colleagues, and help implement new ADR programs in their districts.

"I feel this was an important milestone because the fact that 90 or so federal judges would come to Harvard for a day and a half to learn about the rudiments of ADR indicates it is no longer a marginal undertaking," said Sander. "It is gratifying that we were able to participate in this milestone."



Keynote speaker Prof. Frank Sander '52.

BRIEFS



Professional Women Still Face Barriers

Though progress has been made, employment discrimination against women is still a workplace staple according to eight professional women who gathered Saturday for a panel discussion in Langdell Hall. Titled, "Glass Ceilings in High Places: Diversity and Women's Voices," the panel drew more than 50 people to hear the panelists share their professional experiences.

Dr. Francis Conley, professor of neurosurgery at Stanford Medical School, candidly discussed the disparate treatment she has encountered in the male-dominated medical field. Conley, who once resigned her tenured faculty position due to an unmanageable work environment, said, "Men are unable to accept the fact that they have competent, capable, high achievers next to them." She later rescinded her resignation to prove that "we don't have to get killed to make a statement."

Also included on the panel were two attorneys, Nancy Ezold and Dorothy Sanders. Ezold received national attention when she brought a landmark sex discrimination law suit to the Supreme Court claiming the proverbial "glass ceiling" was responsible for her failed partnership effort. Sanders discussed the difficulties she faces as a black female in the traditionally sterile corporate world.

The panel was sponsored by the Law School Office of Student Life Counseling, the Law School Saturday School Program, the Law School Women's Law Association, and the Women in the Workplace Research Center at the University of Massachusetts, Lowell.

Pacino Speaks at Science Center

The normally staid science center was thriving last Sunday as Al Pacino joined over 500 people gathered to discuss and screen Pacino's new semi-completed documentary, "Talking Shakespeare." Pacino starred in and directed his pet project.

Pacino, who received a standing ovation when he entered, said he conceived of the project when he was asked to do a movie of *Richard III*. The film analyzes Shakespeare in a non-traditional manner. Interspersed with scenes of Pacino and Winona Ryder acting in *Richard III* are interviews with lay people off the street as well as celebrities. Said Pacino, "[the movie] is a way of putting Shakespeare in a way that has some relevance."

The screening was followed by a question and answer session with Pacino asking the audience members for their frank assessment of his work. Ticket prices ranged from \$50 to \$250 with proceeds benefiting Harvard's American Repertory Theatre. Though originally aimed at universities, Pacino said he is hopeful that the work will eventually reach network television.

Alum Links Breast Cancer to Abortion

According to Scott Somerville '92, scientific evidence shows that women who abort first pregnancies are significantly more prone to breast cancer. Somerville addressed a group of about 40 gathered for a meeting of the Ivy League Conference for Life at Sever Hall last Saturday.

Somerville asserted that first pregnancy abortions increase the risk of breast cancer by a "conservative estimate of 50 percent." He based his conclusions on research into previously published results in collaboration with breast cancer specialist Dr. Joel Brind. During the early stages of a first pregnancy, breast tissue cells rapidly multiply as they prepare a network of milk ducts. If the pregnancy is terminated prematurely and the process is interrupted, breast tissue cells remain suspended in this state and are hence more susceptible to malignancy, said Somerville.

Responding to the soundness of his assertions, Somerville said his evidence was "far from tenuous. I'm a lawyer. If this was a court of law, I would have proved this legally already. But proving the link scientifically will be [more difficult]."

— from *The Harvard Crimson*

RU 486, "Abortion Pill," Discussed

The Harvard Society for Law Life and Religion sponsored a forum on RU 486, the "abortion pill," Wednesday. Held in Pound Hall, the forum focused on the public perceptions of the pill in light of the current debate whether it should be legalized in the US.

The forum included panelists Andrew Cocco, on behalf of Pharmacists for Life, Judie Brown, President of All-American Life League, and Paige Cunningham, President of Americans United for Life.

"RU 486 is a big issue with respect to the issues of life and the dignity of life," said John Kingston '94, president of the pro-life sponsoring group. "There is a deficiency of information regarding RU 486, and we want to address this information gap."

Public Interest Funding Requests Increase

The number of HLS students seeking funding for public interest work this summer is on the rise. Student Finance Officer Susan Chin reported that 376 students entered this year's lottery for work-study and grant awards, an increase of 38 over last year. Results of the lottery went out to students on November 1, a full month earlier than last year. "We thought it would be helpful for people looking for a job if they had the money in hand," Chin said.

Sixty-five students received work-study funding awards of \$4,000 that will be paid 40% by the summer employer and 60% by the federal government. Grants of \$2000, drawn from the Wasserstein and Andres Funds, will go to 120 students.

Least the 190 students on waitlists for these grants be discouraged, Chin encouraged students to pursue other funding possibilities. "It's still early in the process," she said. Students can apply for funding through Student Funded Fellowships (SFF) in January. Last summer, using revenues from its annual phone-a-thon, SFF sponsored 45 students doing summer public interest work, and hopes to fund at least as many students this year. Other possible funding sources for public interest work are the Human Rights Program, the Lewis Fellowship Program, and the newly-established Alumni Fellowships, which are offered through the Office of Public Interest and Advising.

Just What We Needed...



Cantabridgians stroll through the newly renovated "Shops at Harvard Yard" in the Holyoke Center at Harvard Square.

Supreme Court Releases Oral Argument Tapes

By RECORD Staff

In a surprise decision several weeks ago, the United States Supreme Court, for the first time, ended restrictions on public access to recordings of its oral arguments. The unprecedented ruling by the secrecy-obsessed Court resulted largely from the efforts of one man, Professor Peter Irons of the University of California at San Diego, to publish tapes of oral arguments from 23 famous Bill of Rights cases.

The taped set, *May it Please The Court* (The New Press, 1993) caused controversy this past summer when it hit bookstore shelves. In August, the *Los Angeles Times* wrote: "So annoyed is the Court at Irons that the justices have taken the extraordinary step of issuing a statement threatening him with legal action. Court watchers say nothing like this has happened since 1906."

HLS Professor Lawrence Tribe '66 told the *Washington Post*, "Any objection that the court would have to the widest possible availability of the tapes is unjustified. . . We are not talking about secrets and leaks. These are clearly public documents. Why access should be limited to the few who are lucky enough to sit in the courtroom is beyond me."

Then, recently and without warning, the Court instructed the National Archives, where the tapes are stored, to make the tapes available to the public "on a generally unrestricted basis." Irons, in

response to the Court's decision, stated: "This change in policy is long overdue, and underlines the fact that restrictions should never have been imposed in the first place. The question now is how far the Court is willing to go."

The Supreme Court has long permitted members of the public to attend oral argument sessions and has limited attendance only by the number of seats (234) available to the public in the gallery. Since 1955, at the direction of Chief Justice Earl Warren, the Court has

recorded all oral arguments. Beginning in 1968, tapes of these arguments were transferred to the National Archives with no restrictions on their use.

In 1979, following the broadcast of a portion of the 1971 Pentagon Papers case on CBS, then-Chief Justice Warren Burger stopped transferring tapes to the Archives. In 1985, he met with the Archivist to develop an agreement to be signed by users of the tapes limiting their use to "private

research and teaching purposes." The Archivist at the time noted in a memo to the file that "I was not sure that we could come up with anything that would stand up in court."

In a memo dated two weeks later, the Archives' legal counsel referred to the First Amendment, which "precludes the use of prepublication restraint," to make the point that "there is no completely effective legal deterrent" to prevent

"Why access should be limited to the few who are lucky enough to sit in the courtroom is beyond me," Tribe said.

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Pippin: Musical Parable for Law School

By James Olson

When I first saw *Pippin* in middle school, I didn't like it.

Now, after a few years of law school, I finally understand what it's about. Of course, the literal story of *Pippin* is easy enough: He's the existentially precocious son of Emperor Charlemagne who wants to figure out what to do with his life. But, the story of *Pippin* is only half the story of *Pippin*.

Pippin is a post-modern parable about coming to grips with feeling extraordinary but not knowing what to do with it. The HLS Drama Society's production, directed by Susan Brooks '94 and produced by Mara Yoelson '94, highlights the relevance of this theme at law school, faithfully rendering the original with our own home-grown talent.

Pippin, appropriately played by the RECORD's own angst-ridden nightingale Marc Channick '94, wrestles with the problem of figuring out how to live up to his own expectations about himself in songs like "Extraordinary" and "Corner of the Sky." Always up for the challenge, Channick manfully sings and dances his way across yet another HLS Drama Society extravaganza. Along the way, *Pippin* constantly faces the temptations of the Leading Player, newcomer sensation Gerald Halfhide '96, who offers repeated distractions to *Pippin* — war, sex, assassination, glory, power, etc. Halfhide's energy carries the audience away, especially in his standout number "Simple Joys."

Much of *Pippin*'s anxiety stems from the Oedipal inadequacy he feels compared to his father Charlemagne, played by Dave Hornik '94, who is, after all, the ruler of all Christendom. Charlemagne, not Hornik, that is. *Pippin*, on the other hand, knows everything, but can do nothing. Who here at law school hasn't felt a shade guilty about throwing away the hard-earned family nest egg in order to learn the UCC in great detail? Of course, most of us don't kill our fathers because of that. And if we did, at least we could defend ourselves *pro se*.

In an original plot twist, *Pippin*'s problems are compounded by his evil stepmother Fastrada, portrayed by the lascivious yet nicey Melissa Manwaring '94, and her ambitions for her son — the muscle-bound Lewis, as portrayed by the beer-belly-sucking-in Kevin Kakareka '94, — to inherit Charlemagne's empire. If you thought *Pippin* was Oedipal, wait until you see these two! As Kakareka puts it, "After seeing me with Fastrada, everyone at law school will want to sleep with me! Again!"

Manwaring had no comment, but the exuberance with which she performs her song, "Spread a Little Sunshine," says it all.

This sample dialogue between *Pippin* and his father exemplifies the play's message:

Pippin: "I just want to be dedicated to something, too... With all my heart and soul... and whatever it is, I want to do it as well as I possibly can. Otherwise, my life won't have any meaning at all."

Charles (Charlemagne): "Oh, you want your life to have meaning, do you?"

Pippin: "Yes, I do."

Charles: "Well, that's very ambitious of you, *Pippin*."

Pippin's ambition mirrors our own. Who here doesn't want his or her life to have meaning? Aside from Bill Choslovsky '94, of course.

Does *Pippin* ever receive an answer? Well, his grandmother Berthe, played by class marshal and official wine-pusher Julie Lythcott-Haims '94, suggests one: Berthe: "Now, don't take life so seriously. Just take

change of pace to the show. Always energetic, her duet with Channick, "Love Song," is a song about love. "Once I understood what the song was about, it was no problem," she exclaimed. "It's about love," she added conspiratorially.

Following the climactic battle scene, Joel Kurtzberg '96 plays a Head. "You wouldn't believe the tryout I had for that," he confessed, grinning. The other Players — Harold Dichter '94, Mike Huppe '95, Natt Gantt '94, Cathy Gordon '94, and Philip Kong '95 — add color and humor to an already accomplished cast. According to Huppe, "This was the best cast I've ever worked with at law school! We had some great discussions on substantive due process!" "Definitely beats studying!" agreed Dichter. The always-contrarian Gantt replied, "I don't know if I'd go that far. I thought we had much better discussions of due process in *Grease* last year."

Besides Brooks, Yoelson, and Trenchard, the production staff consisted of musical director Dan Fiore '95, technical director Kevin Oliver '95, vocal director Ed Ducayet '93, assistant director Laura Putney '95, lighting director Jeff Osterman '95, and stage director Pam Coukos '94. "Basically, we each agreed we had to 'direct' something," explained Putney: "Unfortunately, I'm only an assistant because I missed a meeting." Oliver agreed, "Yeah, we really stuck you with a dog." "You should be talking, Mr. Tech Director!" mocked Fiore.

Pippin is a musical feast. As in recent productions, such as *Guys and Dolls* and *Grease*, the Drama Society has once again demonstrated that Law School talent can put on "real" plays as well as parodies. Not only that, they had a great time doing it. Henninger summarized the feeling of many on the cast, "Hey, I could do any legal extracurricular if I wanted, but law school shouldn't be all work and no plays." "I'm not so sure of that," retorted the still contrarian Gantt.

"Basically, this was better than getting engaged to what's-her-name... uh, Pamela, yeah!" said Hornik. "And I, like, love her. I know — she told me."

Pippin will be performed Friday, Saturday, and Sunday nights in Ropes-Gray at 8 PM. Tickets are on sale at the door and on weekdays, 10 AM to 2 PM, in the Hark. The price is a measly \$5, one-seventh the cost of taking the MPREs with at least twice the entertainment value.

"Everybody better come to my show," threatened Yoelson, "or else I'll make you all convert!" Trenchard confirmed that, "I'd come if I were you. Otherwise you'll be stuck in minyan every morning the rest of your life. Besides, it's a great show. Did I mention the sets?"



***Pippin* is a post-modern parable about coming to grips with feeling extraordinary but not knowing what to do with it.**

things as they come along. Don't do too much planning, and don't do too much thinking. How's that for wisdom so far?"

It's pretty good. Unfortunately, *Pippin* doesn't know a good thing when he hears it.

Unable to be satisfied with anything short of his "destiny," *Pippin* succumbs to each temptation the Leading Player offers. For example, *Pippin* experiences a Joey Buttafuoco-ish encounter in the number "With You" as the female Players — Audrey Henninger '95, Joyce Lee '96, Ellen Rubin '96, Kate Arms '96, and Mara '94 and Allana '96 Yoelson — seduce him. "My goal was to put Marc into a Yoelson sandwich," announced Mara Yoelson proudly, who also choreographed the show. Set designer and Hasidic fiancé Bob Trenchard '94 had no comment except, "How 'bout those Gothic sets?! Would you follow Virgil into there or what?"

Other leading numbers include the big ensemble pieces "Magic To Do" (featuring Halfhide's vocals) and "War Is a Science" (featuring Hornik and Channick). The "Finale" is another high point and not just because it's the end of the show.

Tara Koslov '94 plays Catherine, *Pippin*'s redemptive lover. Her entrance in Act Two brings a refreshing

FOR THE RECORD

"For the Record" is a periodic opinion poll of HLS students. Please take 2 minutes to fill in your responses, and return this questionnaire to the RECORD box in the Harkness Commons (next to the Story Hall exit). Results will be published next issue.

There has long been discussion as to whether law school really needs to take three years. Especially now, when the tuition cost of an average law school education is over \$45,000, it seems timely to continue this discussion.

By Matthew Huggins

- 1) Do you think law school should be shortened to only two years?
☐ yes ☐ no
- 2) Do you think more people would go to law school if it were only a two-year program?
☐ more would go ☐ stay the same ☐ fewer
- 3) How do you think the prestige of a law degree would be affected if the program were shortened?
☐ prestige would drop ☐ stay the same ☐ improve
- 4) Do you think having only two years would make it more difficult to prepare for the bar exam?
☐ more difficult ☐ no change ☐ less difficult

- 5) Do you think a two year program would produce young attorneys less prepared for practice than the present system?
☐ less prepared ☐ same as now ☐ better
- 6) If you are a 3L, do you feel that the third-year curriculum is substantively different than the second-year, or just more of the same?
☐ substantively different ☐ more of the same
- 7) If you had one-third less debt to worry about, would you be more likely to consider lower paying job opportunities?
☐ You betcha! Less debt = more options!
☐ What, are you nuts? Most people will go for the high paying jobs anyway
- 8) Shortening law school to two years would mean there would only be one summer to work before finishing. Do you think the advantages of trying out different jobs outweigh the benefits of a shorter program?
☐ Let's get on with it: I don't need two summers before I start working in my career.
☐ I want that second summer to explore exactly what kind of career I want.

- 9) The same question can be posed with regard to journals, extra-curriculars, and activities. Would the faster track be worth the lost opportunities?
☐ give me a faster track!
☐ give me more time to do activities
- 10) Hypothetically, if other top law schools shortened their programs, but Harvard did not, would you still come here?
☐ still come to HLS ☐ go someplace quicker

Please use the space below to comment on any answers you have given, or attach a separate sheet. The RECORD does not usually quote anonymously, so please include your name.

Name (optional) _____

May we call you to ask you more questions? _____

Phone Number _____

Do you have any suggestions for future poll topics?

Prisoners of the American Dream

A Simple Plan
By Scott Smith
New York: Alfred A. Knopf
335 pp. / \$21.00 hardcover



By Mike Fischer '95

Book Review Editor

READING the *Adviser* last Friday, I came across a remarkable item: "FOUND: Money dropped on the floor of the Career Services Office during the employment directory rush. Call . . . to claim by saying how much you lost. You can leave a message." How much, I wondered, could there have been? Even at HLS, the land without an ATM, students don't carry that much cash (then again, you do need a wad just to afford a bagel at the Hark). A twenty? A pair of twenties? And with all due respect to the noble soul that placed the announcement, would I have been reading it if the person had found \$1,000? \$10,000? How about \$4.4 million?

That's how much Hank Mitchell finds on the blustery afternoon in late December which opens Scott Smith's thriller, *A Simple Plan*. As Hank rides down a desolate road in northwestern Ohio with his brother, Jacob, and Jacob's best friend, Lou, Jacob's dog suddenly makes a leap for the woods, in hot pursuit of a fox. As they follow the dog back into the woods, the three men come across a crashed single-engine plane, nestled into a hollow and still intact.



One hour later, they climb back into Jacob's pick-up truck, weighed down by a sack full of cash. There will be no announcement in the *Adviser*, or anywhere else. The three of them have concocted a simple plan, one that they are sure will harm no one. One that will allow them to keep the cash. One that will dramatically change their fortunes — although not in the sense they imagine.

Imagination is always in short supply when it comes to acknowledging one's own moral fragility, and Hank is no exception. As the novel opens, he is indistinguishable from the "solidly middle class" population in which he claims membership. He has a steady if unspectacular job as an accountant at a feed store. He has a beautiful young wife, Sarah, who is eight months pregnant. Together they have simple, predictable dreams: of a good life for their coming child, of "a larger house, a better car, more complicated appliances."

The money changes all of that. With mounting anxiety, Hank keeps watch over Jacob and Lou, increasingly convinced that one of them will let slip a secret that could send all of them to jail. Anxiety makes way for suspicion. First of Lou. Then of Jacob. And, finally, of Sarah. Suspicion produces anger, which precipitates violence and then murder. The simple plan has become a convoluted nightmare.

Much of this devolution is sketched far too quickly, as are all of *A Simple Plan's* characters. Like most first-time novelists, Smith invests most of his energies in working out a plot, leaving little room for the much harder task of developing his characters. But cardboard characters can asphyxiate the very plot for which they are originally sacrificed, and at least the first half of *A Simple Plan* is regrettably faithful to this cardinal rule. I simply could not picture stolid (and solid) Hank Mitchell making such a lurid descent into the hell he himself had created.

Once he gets there, however, his character takes on a depth that had been missing on the long ride down. It is as if Smith, free at last from his own simple and mechanistic plan to map the road to hell, could finally devote his undivided attention to the good intentions that paved the way — and the inevitable regret that kicks in when Hank comes to realize that there is no going back.

What Hank regrets most is his inability to return to a time of simpler aspirations and more modest dreams. In those first heady days following the discovery, he had imagined that "in a few months, I'd set out into the world, free from everything that had formerly bound me. I would recreate myself, would chart my own path. I would dictate my destiny."

The money seemed to guarantee that there would be no repeat of the failure of his parents, condemned to struggle through a life of poverty, only to have the bank foreclose on their farm. There would be no accountant's lifetime of adding and subtracting promises and frustrations in the hope that the final tally was in the black. Instead, like manna from heaven, a sudden reversal of fortune had transformed rags into riches, offering an escape from a mortgaged present into a glittering future.

It is a recipe as old as the New World, as familiar as the Emersonian credos and Horatio Alger myths that dot every page of American history, from the earliest treks West to the latest stock bubble: Take a little grit and mix it with a lot of luck and a whole lot of money, and rags — or even a comfortable middle class life — will indeed turn into fabulous riches. It's the American dream. Its siren song sings to all of us. And most of us listen. It is why most of us are in law school.

What rescues Smith's novel from mediocrity — and intimates real promise of even better novels from him in the future — is the extent to which *A Simple Plan* captures and dramatizes this simple truth. Melodramatically, to be sure. But as I wrote here last year, much-maligned melodrama is simply a very effective form for sharpening, heightening, and clarifying the "real" meaning of the ostensibly simple and innocuous moral conflicts that we face every day of our lives — like whether to place a notice in the *Adviser*.

The pot of gold, after all, doesn't come free. All of us know this, especially those of us here at HLS. A lot more than a twenty can slip through one's fingers in an "employment directory rush" undertaken, after all, so that those twenties can be fruitful and multiply. And maybe it's even worth it: That is a decision each of us must make alone, in those precious late-night hours when we take off the mask and commune honestly with ourselves.

Smith's book won't make that decision for you, but it will remind you that you have to ask the question — while filling those late-night hours with a damn good read as you ponder the answer.

Frenzied Finish To HLS Football

By Bill O'Dowd '94

Sports Editor

On a warm November weekend, the hallowed grounds of Cooper Field (named for the legendary Harvard quarterback who threw for a school-record 128 yards in a single game) witnessed the end of yet another HLS intramural football season. Nestled snugly between the undergraduate track (and accompanying metal bleachers) and the Harvard stadium (and complementary chain link fence), Cooper Field had the air last Sunday of warriors preparing for battle (aided by its downwind location from Harvard Stadium's portable bathrooms). And battle four teams did.

In the first semi-final game, Mike Newman's '94 Big Gavels defeated BLSA's Black Plague in a Game for the Ages. The Plague, heavy preseason favorites to repeat as intramural champs, entered the contest unbeaten. Loaded with Division One football talent, they were two or three deep at every position.

The Gavels, led by quarterback Hunter Bates '94, entered the game with slight hangovers. Yet, with a gritty defensive scheme designed by John "Lightning" Lawrence '94 to stop the sensational Plague connection of Ron "Cannon" Machen '94 and R.L. "the Franchise" Beeman '94, the Gavels' defense stiffened and rose to the occasion in a stunning 12-6 overtime victory. Wide receiver David "Mo-Man" Morales '94, whose twisting catch sealed the win, claimed, "Now I know how my beloved Miami Hurricanes must have felt after winning any of their four national championships in the last ten years!"

In the second semi-final game, La Alianza's Chicano Bears squared off against the best of the 1L squads, the Young Guns. The Bears were able to jump out to an early lead and hold off the feisty Guns, 34-14. The Bears were guided by quarterback Rich "The Latin Lover" Marquez '94. Displaying a rare combination of arm strength and agility, Marquez connected early and often on scoring strikes to Danny "the Fightin' Chihuahua" Lopez '94 and Jason "M.C." Hammerman '94.

The Young Guns had a few lethal weapons of their own. Quarterback Len "Semi-Automatic" Simonian '96, wide

receiver Whitey "Bullet" Berardinelli '96, and all-purpose lineman Pete "Don't Call Me Emilio" Underwood '96, starred for their team.

Shortly after high noon, the stage was set for a dramatic championship game: the Bears versus the Gavels. Marquez versus Bates, head-to-head in the Granddaddy of them all, the Microsoft/MCI/Westlaw/Roto-Rooter Bowl. As with all football games of Super Bowl dimensions, though, this one was an NC, baby — No Contest. The Bears won handily, 28-12.

Afterwards, the ever-gracious "Lover" Marquez stated: "It was a pleasure to play with such a great group of guys . . . and, oh, by the way, I'm going to Disney World." (In an unrelated story, all three major airlines have announced sold-out flights to Orlando for the next three months after a rush of teenage females swamped travel agencies yesterday.) A

Commissioner Ernie "the Whistle" Acevedo '94 offered this conclusion to the season: "I'm glad it's over."

dejected Hunter Bates '94, now known as the Jim Kelly of HLS athletics after being the losing quarterback in the championship game each of his three years, pondered simply: "Budweiser or Coors?"

Commissioner Ernie "the Whistle" Acevedo '94 offered this conclusion to the season: "I'm glad it's over." Seriously, though, folks, Ernie

did a great job and is looking for applicants for the position next year. The only prerequisites are a lack of self-respect and being hard of hearing.

In other sporting developments, there were no other sporting developments, except, of course, for the fact that Notre Dame beat Florida State, 31-24, to claim the top ranking in the college football polls (just like I said they wouldn't).

Answer to last week's trivia quiz: The only professional football team to make the playoffs only once in the last twenty years is the Green Bay Packers.

This week's trivia question: On Sunday, Don Shula, head coach of the Miami Dolphins, passed George Halas as the winningest coach of all-time in the NFL. Name the other coaches in the top five. (Bonus points: How many victories for each?)

Be sure to recycle all those rejection letters from law firms!



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NO MSG!

Bang Your Head to This

By Jeff Bucholtz '95

RECORD Columnist

Wackiness abounds right now in the music scene, as alternative has become lucrative. With Pearl Jam outselling Meat Loaf and Nirvana recently unseating Garth Brooks at the top of the charts, it might seem like there is no more "alternative," but there remain legions of interesting groups and musical styles on the fringes of the mainstream.

Any skeptics about the compatibility of rap and hard rock not won over by Body Count or "Bring the Noise" will be convinced by the soundtrack to *Judgment Night*. I can't tell you much about the film, except that it stars Cindy Lauper as a bad guy, but the music's all you need to know.

All 11 songs are collaborations between hip-hop and alternative-credentialed hard-rock artists, and unlike many cool-sounding ideas, this one works. *Helmet*'s sparse grind lurches wildly over *House of Pain*'s propulsive beats on "Just Another Victim"; you won't know whether to dance or to mosh. *Boo-Yaa*

T.R.I.B.E. help clear up the confusion with the command, "Bang Your Head to This," while *Faith No More*'s jagged guitar attack hammers the point home.

And by the time you get to *Slayer* and *Ice-T*'s ultraviolent "Disorder," you'll wish you were hurtling through the air into the pit. "Disorder" blows away anything rap-metal genre has ever even hinted at. It's the kind of thing made to explode your speakers and your neighbors' brains. We, who are but law students, are not worthy.

Judgment Night also features *Living Colour* and *Run-DMC*'s exuberant "Me, Myself & My Microphone" (although Run does sound eerily like Beastie Boy Ad-Rock) and *Sir Mix-A-Lot*, back on the subject of, well, back, with *Mudhoney* on "Freak Momma," and hey, it's got explicit lyrics.

Different, but equally deserving of your cash, is *Chrome*, the brilliant second effort from *Catherine Wheel*. Their lush guitar sound and relaxed groove sometimes get them lumped in with the British "shoegazing" scene of would-be "ethereal" (is that anything like "collegial"? groups like *My Bloody Valentine* and *Chapterhouse*, but *Catherine Wheel* are heavy enough for frontman Rob Dickinson to make his Uncle Bruce proud. Like Bruce's band (*Iron Maiden*), *Catherine Wheel* take their name from a torture device, and that's pretty cool.

Throughout *Chrome*, atmospheric feedback waves break onto powerful rhythms and plaintive, dreamy vocals mask rather twisted lyrics. On "I Confess," Dickinson whispers, "taken too many drugs, popped so many pills," and out of a graceful ambient bridge materializes... a Sabbath riff. Like *Radiohead*'s recent smash, "Creep," *Chrome* entices despite, or perhaps because of, its jarring, noisy touches in uneasy coexistence with its dominant pretty pop textures. You may very well find yourself singing along to "Broken Head" or "Pain," but it'll scare you and those around you.

Brussels' *Front 242* are one of the few bands left from the late '80s industrial dance scene (an aggressive alternative to *Depeche Mode* and *the Cure*) still making industrial music, obviously uncorrupted by the hordes of groups following

Ministry (*Nine-Inch Nails*, notably) into thrashier, guitar-dominated territory.

Now in their twelfth year and still intentionally uncommercial, *Front* unveil some changes with their brand-new *Evil Off*. Fresh off *Lollapalooza* this summer, principal songwriters

Daniel B. and Patrick Codenys booted singer Jean-Luc de Meyer and recruited replacements from the NYC band *Spill*. The most prominent addition is a female vocalist, whose breathy, non-threatening style couldn't contrast more sharply with de Meyer's steely tones.

Front explore new sonic directions on *Evil Off*, too: complex, largely instrumental, "difficult" music. Much of the experimentation works to great effect, like the uncharacteristically slow groove and melodic chorus on the sinister "Serial Killers Don't Kill Their Girlfriend." And the contrast of "Animal"'s echoey vocals and distorted, aggressive rhythms is compelling. *Evil Off* showcases a talented band proving it can succeed on its own terms — just don't expect another "Headhunter."

Whether you're an old fan or a curious newcomer, you definitely should not miss

Front 242 live at Avalon on December 9. Most industrial shows involve watching one guy jump around and another bang on drum pads that aren't plugged in, all the while hoping the DAT machine doesn't break. But *Front* put on a great show, playing most everything live and varying many arrangements.

Edith Piaf. Jacques Brel. Jean-Michel Jarre. Chances are, when you think of French music, "aggression" isn't the first word that comes to mind. But you haven't heard *Treponem Pal*, five Parisians charmingly named for the little nasty that causes syphilis.

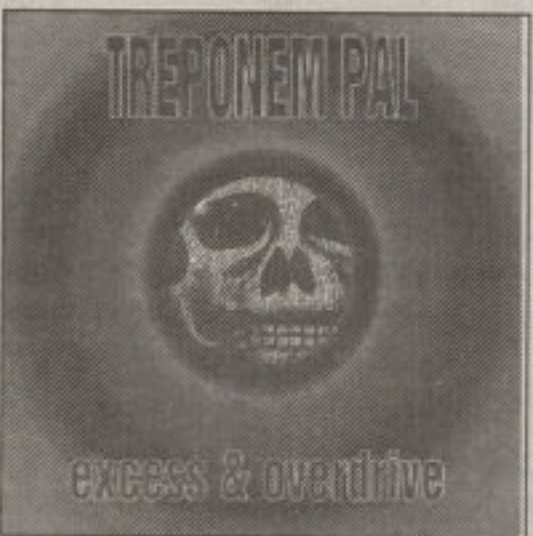
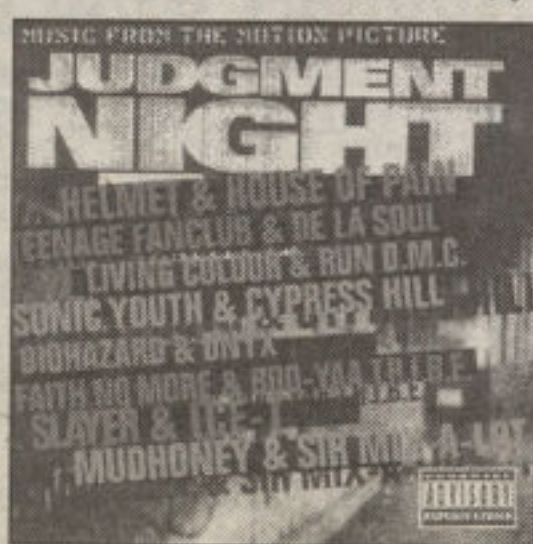
Two Pals accompanied Ministry on *Lollapalooza '92*, and *Excess and Overdrive* cements their status as one of the best industrial metal bands. The title track's ultra-heavy, deliberate thump brings to mind *Godflesh*, and one wonders if the Ministry-esque "Stoned" is a message to that notorious band. But T. Pal carved out their own territory between the lugubrious

sludge of grindcore and the hyperspeed cyberstomp of industrial.

With brutal neck workouts like "Pushing You too Far" and "Out of Reach," *Treponem Pal* look poised to follow *White Zombie* and *Nudeswirl* into *Beavis & Butt-head*-propelled stardom. And they deserve better than hopelessly bewildered French audiences who flee at the first sign of a pit and don't realize that you're supposed to catch stage-divers. (Two years ago in Paris, one poor slob in a *Slayer* shirt kept diving, face-planting on the concrete floor, laying there dazed, and then, bloodied but unbowed, getting up to do it all over again — a familiar concept to anyone who's been interviewing).

Concert update: Tomorrow, check out *Sacred Reich*, who are what *Metallica* should still be, and *Souls at Zero*, a promising new band who bear more than a passing resemblance to the godlike *Pantera*, at Local 186 in Allston. It's sponsored by NORML and *High Times*, so be careful who sees you there.

Short pop quiz: In *Meat "Pinch a" Loaf*'s number one song, "I'd Do Anything for Love (But I Won't Do That)," what's "that"? Have plastic surgery? Join the 90s? Get a life? Surgically reattach Mr. Bobbitt's penis? Great legal minds want to know.



FOOD - O - RAMA

Catching a Less-Than-Gnarly Wave



By Ted Cohen '95 and Jonathan Goldstein '95

MANGO raisin hollandaise. Sesame soy daikon slaw. Cilantro mayonnaise. Goat cheese with a variety of edible flowers. To the uninitiated, the menu at the *Blue Wave* (142 Berkeley St., Boston) reads a bit like the playlist of an alternative rock station. Unfortunately, like many ambitious and cutting-edge songsters, the restaurant is big on image and not so big on harmony. Though it turns out some colorful and creative dishes, the *Blue Wave* has a problem tying all those tastes together.

The menu is giant and far-flung, leaping from Italy (pizza and pasta) to Mexico (quesadillas, chili, and new-wave burritos) to Thailand and the Middle East before coming to rest in the United States, where it covers retooled, coffee-shop standards like burgers and roast chicken, as well as regional fare of the South and Southwest. The allure of the place — that reaction on reading the menu of, "Boy, I want to try all of this" — is what ends up making the experience disappointing: It sounds like a luxury cruise around the world but ends up more like a flimsy dinghy cast about on the high seas.

That's not to say, of course, that you can't have a very good meal here if you choose wisely. Following the suggestion of the lovely Monica, we thoroughly enjoyed the Cold Vermicelli with Spicy Sesame and Peanut Sauce and Chinese Vegetables (\$6.95). You know the dish — it's a staple at Chinese restaurants — but here the noodles are thin and the sauce is more than just peanut butter. In fact, it's actually spicy. Also quite good were the lightly fried ravioli stuffed with lobster and ricotta and drizzled with strands of blue curacao and (green) Midori yogurt sauce (\$6.95). It may sound like something you might have made your sister eat during your "experimental" years — like the time you told her to brush her teeth with Comet — but it's actually delicious. The Smoked Seafood plate (\$7.95), on the other hand, was only fine: Though the scallops and mussels were nicely smoked, the salmon was too oily for our tastes, and the Roasted Tomato and Fennel Vinaigrette with it was not a vinaigrette at all but a heavy sauce with little of that promised fennel.

Though it turns out some colorful and creative dishes, the Blue Wave has a problem tying all those tastes together.

In our state of culinary disorientation, it was a relief to move on to the slightly less esoteric entrees. Of the four possible *Rotisserie Chicken* dishes (at \$8.95 a pop) we opted for the chopped garlic-jalapeno-balsamic rather than the spicy-mustard-tarragon or the orange-ginger versions. A juicy bit of poultry, lovingly basted with that balsamic reduction, but, like the accompanying curly fries, a little on the lukewarm side. Ted began to look faint as he plowed through the Penne with Scallops, Prosciutto, Sun-Dried Tomatoes, and Broccoli in a Roasted Pepper and Gewurtztraminer Sauce: apparently too much oil for his delicate constitution.

Note that the *Blue Wave* has a fine wine list, mostly in the \$15 to \$25 range, with many offerings by the glass.

Debbie was nearly livid to find that despite her explicit instructions to the contrary, her tuna steak arrived in a state of (horrors) overcookedness. We had only just managed to calm her when she flew into a rage over the mediocre melange of shredded vegetables beside her tuna. Yet another example of the gastronomic form-over-substance problem plaguing the *Blue Wave*. And although the grilled catfish, in its blue corn meal crust, was cooked to a turn, the okra, corn and tomato ragout accompanying it was more like an insipid brown gravy. The fish deserved better.

Desserts (\$3.95 each), on the other hand, were met with much enthusiasm. The apple blackberry pie, more cake than pie-like, was nonetheless right-on: tart and sweet, the fruit fresh, the crust buttery. And the white chocolate pecan brownie was satisfyingly dense with its dribble of caramel sauce.

The *Blue Wave* has a cool, So-Ho loft feel, with lots of wood, glass, and steel; the walls are covered in mod art, and the tables are sealed tableaux of sand and props. Depending on your tastes, you'll find the atmosphere hip and lively, or cold and noisy. Either way, you'll want to make reservations: The *Blue Wave* is one of the hottest spots in town, and going there on a weekend sans reservation is a recipe for starvation. (Be warned: The bathrooms are a block away down some ominous hallways. Go before you leave home.)

FOOD: 7

SERVICE: 7

ATMOSPHERE: 8

TOTAL: 22

IS THE GOP MOVING BACK TO THE MAINSTREAM?



A discussion group with
ANN STONE
President, Republicans for Choice

Monday, Nov. 22, 7:00pm
Austin East

Harvard Law RECORD

Founded in 1946

Lisa R. Zornberg
Editor-In-Chief

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Publisher

Democracy at Any Price

The political pundits agree on one thing this week: Ed Rollins is an idiot. The mastermind of Reagan's '84 re-election, short-lived captain of the Perot presidential bid, and, most recently, manager of Christine Todd Whitman's closely-contested New Jersey gubernatorial victory has stuck his foot in it, to put it mildly.

It seems that Rollins bragged that Republican campaigners in New Jersey had \$500,000 in "walking around money," some of which was given to black ministers to keep them from urging their congregations to vote for incumbent Governor Jim Florio. Showing the keen political acumen that has made him one of the top spin-doctors in the game, Rollins chose to make this damaging admission at a breakfast meeting with the entire assembled Washington press corps, thereby ensuring his front page pillorying the following morning.

Republicans, who had hailed the election results as a rejection of the Clinton administration's policies, had to interrupt their jubilation to begin immediate damage control. Rollins issued a prompt retraction, saying he had been falsely bragging. Some Democrats were quick to demand a full investigation, with the President, Jesse Jackson, and Al Sharpton all making impassioned statements.

Not all Democrats are happy with the public airing of this dirty little secret of campaign tactics, though. If a full investigation into last-minute vote buying is launched, there will be plenty of embarrassment to go around. It turns out that street money is nothing new; both parties have used it to increase, or suppress, voter turnout in areas they deem of strategic importance. In fact, the practice is something of an open secret — the only startling thing about Rollins' comments being that he made them at a press breakfast. (Or perhaps it was the dollar figure involved. Maybe Democrats were just dismayed to discover they were being out-bribed).

While the pundits are discussing the legality of "walking money," its immoral character has been taken for granted. Perhaps, in view of its widespread acceptance, the acceptability of such public bribery is due for re-examination.

Several defenses might be imagined. After all, what is a bribe but a contract between a candidate and a voter, exchanging valuable consideration for action (or forbearance)? Who is hurt by the practice? Certainly not the public at large.

Voters willing to trade their vote for cash are satisfied with the economically efficient disposition of their rights, and voters who retain their voting rights find their votes proportionally more influential, as the voting population shrinks. On the other hand, those who would not otherwise vote become active members of our democracy after being bribed — everyone wins. Nor does it seem that candidates are harmed; in fact, after months of soliciting campaign contributions (read: "bribes") from PACs, organized labor, and corporate America, there is sublime poetic justice in seeing candidates forced to return the favor on election day.

The obvious objection is that democracy would be frustrated by legitimizing this practice; elections would be "bought." Any candidate with sufficient resources could simply spend his way into office. One wonders, though, whether this isn't what happens by and large anyway. In any event, if the majority wants to vote for a candidate in exchange for a payoff, maybe democracy is being served after all. Isaac Asimov's dictum still seems appropriate: People generally get the government they deserve.

—Lank

Staff

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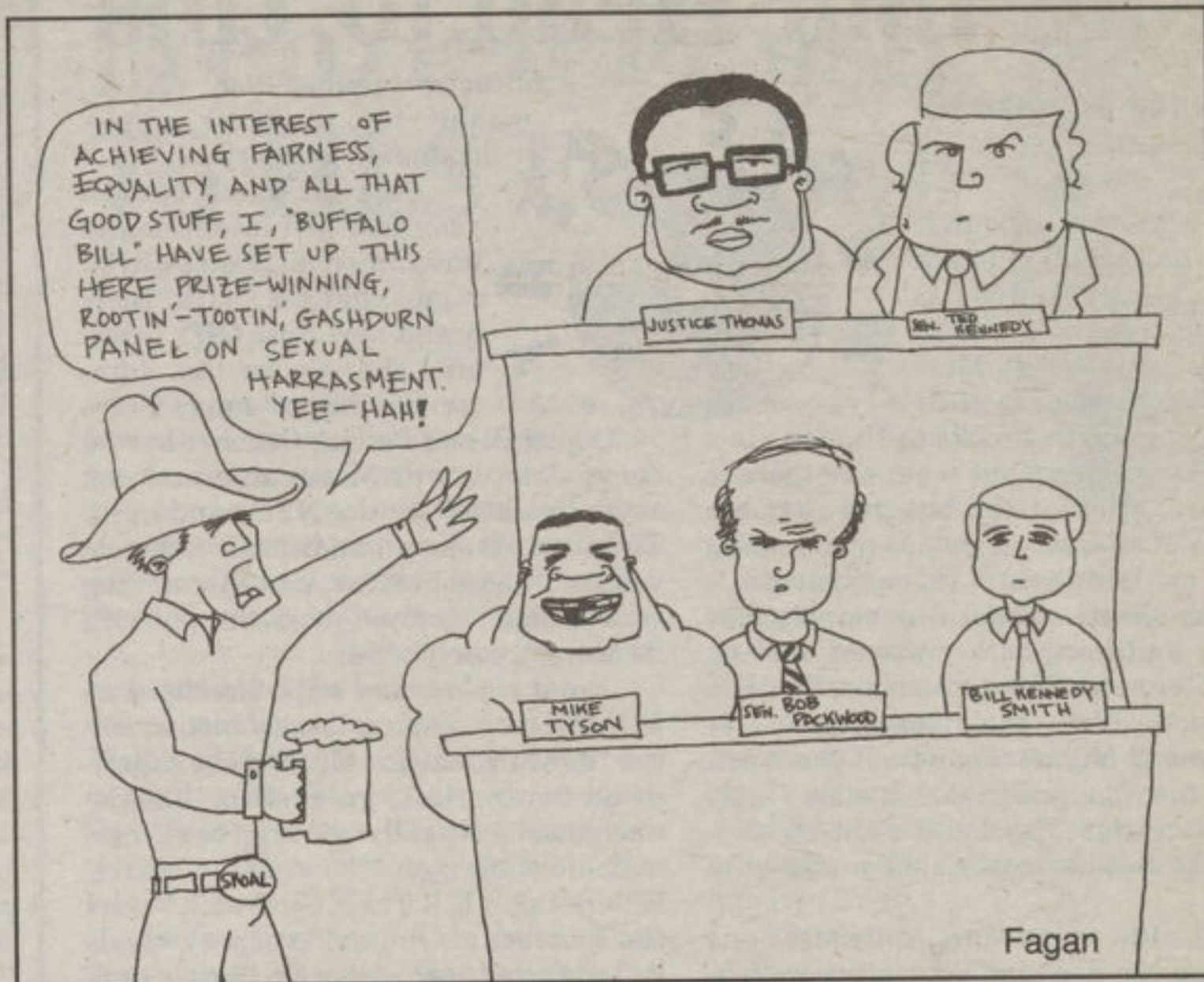
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"Congress shall make no law...abridging the freedom of speech, or of the press;..."

—First Amendment, US Constitution



• Letters •

Levine Demands Apology from RECORD

My letter of last week ("Squid Ticks Off Right Wing Zealot," RECORD 11/12), which I wrote in response to an earlier Squid Pro Quo column (RECORD 10/15), seems to have confused and surprised many people on campus. This is understandable, since my letter was printed a full month after the column to which it responded (though it was submitted the day after that column appeared). Please allow me to explain the whole silly exchange.

The RECORD, without my knowledge or consent, attributed a fake "advice-seeking letter" to me in its Squid Pro Quo column of October 15. "My letter" sought advice

about whether I should accept an employment offer from Cravath, Swaine & Moore or from a fake public interest organization. The response to "my letter" advised me to take the public interest job. I did not write this fake letter. The RECORD has attributed every other entry in Squid Pro Quo to a fake "humorous" personage (e.g., "Guy Without A Head"). I have no idea why the RECORD singled me out for actual attribution.

I responded to the Squid Pro Quo entry with an attempt at humor. My letter of 11/12 stated that Cravath rescinded my offer of employment because of "my advice-seeking letter" in Squid Pro

Quo, and that I am suing for defamation. This was a joke. Cravath has taken no such action, and I am not suing the RECORD. I do, however, request an apology from the RECORD for having attributed my name to a fake letter in Squid Pro Quo without my consent.

I hope this clears up the whole ridiculous matter.

Jason Levine '94
November 14, 1993

Editor's Note: The RECORD appreciates Mr. Levine's sense of humor, and apologizes for any inconvenience this may have caused.

The LSC's Month Before Christmas

Twas a month before Christmas,
and all of the crew
that made up the Council
were quite in a brew.

Oh, what fun that they had
with all of their fights
that lasted for hours
and made for long nights.

They were all of the mode —
so mean and so crass
it was just like each one
had a stick up his a—.

The LLs were busy
absorbing this mess
while 2 and 3Ls
couldn't care less.

Enu sat at her desk
at the front of the room
and she called for order
and ignored pending doom.

As at the rear door,
there arose such a clatter,
Enu jumped from her chair
to see what was the matter.

She looked to the back,
when what should appear
but a bunch of big boys
with twelve packs of Beer?

And there was Ole' Bill —
with tobacco to spit

which sent Enu a flyin'
into one stormy fit.

Cuz Bill's fellas came
and took up their spots,
as Bill took off his boot
and said a whole lot:

"On Moxon, On Ekman, On
Frieman, & Hank.
Down Levy, Down Lindseth,
Stop Being such Cranks!"

"Take over the Meeting and
demand the best Beers.
Ignore all the liberals
with their big Commie
sneers."

Then this Bill Growney,
with his White Boy Complex
looked the room over,
as his muscles he flexed.

He was dressed in blue jeans,
a shirt much too tight,
and a black Cowboy hat
which made him a sight!

He talked for a while,
explained why he ran —
making school a fun place
was all part of the plan.

He said his boys wanted
a Monster Truck Pull
on Mass Avenue
that would be totally cool.

Then Bill sat in his seat
amidst looks of disgust
from all of the folks
who wished he'd combust.

Enu shook her head
as she looked all around.
She could tell that trouble
was all that she had found.

This was Harvard Law,
and Beer wasn't right
to serve to these people
who just liked to fight.

The National Law Journal
had just greatened her pain
by making Bill and the boys
think there were votes they might gain.

So she packed up her gavel
and put on her coat.
Said "I'm ready to leave."
And that was a quote.

And they heard her exclaim,
"The Beer backers have lost,
and if they still want their
ale it'll be at their own cost!"

Jess Herrera '95
Law School Council Rep.
November 15, 1993

LAST CHANCE!

There is only one more issue of the RECORD this semester to submit your witty, insightful, indignant yet laudatory letters to. Letters should be no more than 500 words, and submitted in both disk and hard copy.



Kids Need Parents of Any Race

By Prof. Randall Kennedy

If enacted into law, the Multiethnic Placement Act would give congressional backing to practices that have the effect of condemning large numbers of children—particularly children of color—to unnecessarily long stays in institutions or foster care. These practices involve a commitment to “racial matching”—the dubious notion that authorities should seek to place parentless children of a given race with adoptive parents of that same race.

The Multiethnic Placement Act states that its purpose is “to decrease the length of time that children wait to be adopted” and “to prevent discrimination in the placement of children on the basis of race, color, or national origin.” Yet the bill then proceeds to undercut its own laudatory goals by providing that “if . . . efforts fail to produce an appropriate placement of a child with a parent of the same race, color, or national origin, a transracial or multiethnic placement may be a preferable alternative to long-term foster care” (emphasis added).

In other words, the act assumes the legitimacy of racial matching, presumes that authorities will seek same-race adoptions in the first instance, conveys a willingness to countenance at least some delay for the purpose of racial matching, and then portrays transracial or multiethnic placement as decidedly inferior by asserting that for a parentless child such a placement “may be” preferable to prolonged foster care.

The Multiethnic Placement Act is thus an egregious example of legislative inconsistency. Its aim is to decrease the length of time that children wait to be adopted. Yet it expressly permits delay for the purpose of racial matching, prohibiting only undue delay. The bill’s aim is to prevent discrimination in the placement

of children on the basis of race, color or national origin. Yet it expressly states that an agency “may consider the race, color, or national origin of a child as a factor in making a placement decision.”

The principal sponsor of the bill, Sen. Howard Metzenbaum (D., Ohio), has stated that the Multiethnic Placement Act “reaffirms the fundamental principle that our child welfare system should judge people by the content of their character and not by the color of their skin.” Yet the bill’s language does just the opposite, affirming instead that it is proper for the government, and private agencies that receive funding from

ing transracial placements even when the cost of doing so is consigning children to lengthy or indefinite stays in institutions.

Attempting to make fine distinctions between acceptable delay and undue delay for purposes of racial matching will fail to uproot this pernicious practice. Indeed, the Multiethnic Placement Act will likely worsen the situation. At present, there exists no congressional authorization for race matching, much less for any delay in child placements for purposes of racial matching. If this bill is enacted there will exist congressional authorization for both.

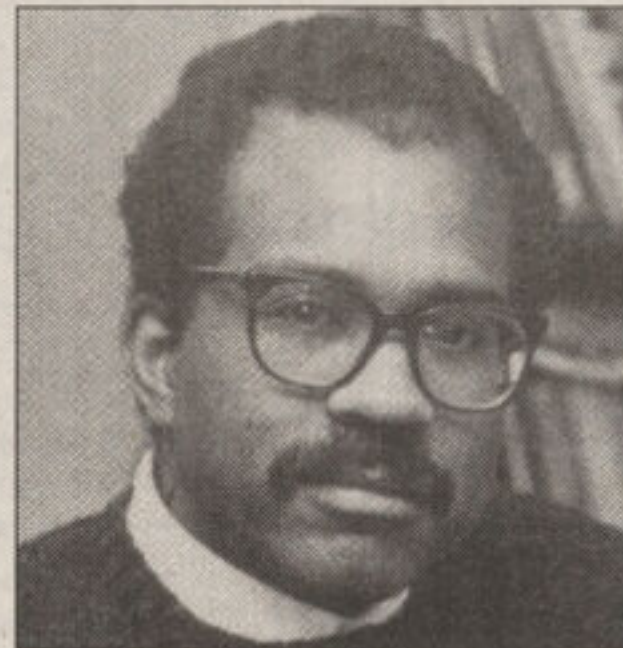
Across the nation, racial minorities account for as many as half of the children in need of placement in adoptive homes. Despite successful efforts by racial minority adults to adopt such children and increasing efforts to encourage and facilitate adoption within minority communities, the population of parentless minority children is increasing dramatically. Against this backdrop, and considering that the bias in favor of racial matching is already ingrained in many social welfare bureaucracies, the provisions of the Multiethnic Placement Act that expressly authorize delays for the purpose of racial matching are unwise, intolerable and unconstitutional.

There is simply no compelling reason to delay even briefly, for the purpose of racial matching, placing parentless children in permanent homes. What parentless children need most are not “white” parents or “black” parents or “yellow” parents but loving parents able to raise children in a nurturing environment.

Although proposed with good intentions, the Multiethnic Placement Act should be rejected. At the very least, additional hearings should be held to explore the many troubling issues this proposed legislation raises.

—Reprinted by permission of the author.

The Multiethnic Placement Act is thus an egregious example of legislative inconsistency.



Prof. Randall Kennedy

the government, to decide that racially coordinated placements of children are presumptively better and more worthy of support than transracial placements.

There is another major problem with the compromise embodied in the Multiethnic Placement Act. It will fail in its effort to prevent the lengthy delays that even proponents of racial matching recognize as hurtful burdens that deprive children of a good chance at being adopted. It will fail because, as the sponsors of the bill themselves recognize, there exists already a widespread and deeply ingrained practice of discourag-

• Letters (Continued) •

Student Asks: Alums Married to the Law?

Ahhh, nothing quite like defending a colleague in need. In last week’s RECORD the most Honorable Carol S. Brosnahan ’59 and equally worthy James J. Brosnahan ’59 paddle-whipped venerable RECORD columnist David Weinstein for his “cynicism” in writing “Mercenaries All” (9/17/93). They expressed their “sadness and concern” for David since he “will not be proud, as [they] are, to be a part of a tradition that goes back thousands of years, and to do a small part to maintain the rights and freedoms of all who appear in a courtroom seeking justice. . .” (Please, hum “America” at your leisure).

Sarcasm aside, your Honor and esteemed mate, David’s point was relatively simple: “Litigation unmotivated by belief better suits

the caricatured image of the sweaty-palmed lawyer than the mythical ‘defender of rights’ promulgated by the American legal profession. If it must be done, let it be done without self-aggrandizing illusions.”

OK, so Dave is a bit cynical, but similarly a bit accurate. Perhaps he hit too close to the bone. No matter. More important and equally suspicious, the Brosnahan’s wrote that they “write from the perspective of two people who felt greatly privileged, for different reasons, to be admitted to the Harvard Law School and ultimately graduate.”

You see, as suspected, there’s more to the Brosnahan’s dogma-laced rhetoric than nostalgic traditions of the law. Perhaps less perceptive readers missed an important detail. Judge Carol Brosnahan and

James Brosnahan share a suspicious something. Give up yet? They have the same last name — Brosnahan (years of reading Encyclopedia Brown have served me well).

Heck, if I met my life-long mate here my memories would be a bit fonder too. Admit it, nights of endless passion cloud suppressed memories of the law of chattel mortgages or whatever else you studied way back then. Is it really Dave’s fault that he has no sex life? Really, your Honor, Dave didn’t need to be so painfully reminded that comic books and inflatable dolls will remain a constant staple of his Saturday night entertainment. Cheap shot.

Bill Choslovsky ’94
November 18, 1993

Don't miss this year's fall musical!



November 19, 20, 21
at 8:00 pm

Ropes-Gray Room,
Pound Hall

Stay alive, Don't Drink and Drive!



Liabilities

By Paul Taylor



GROMM: Barbarian at Law

By Chris Spagnoli



Temporary Insanity

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SQUID PRO QUO

A Periodic Question and Answer Column

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

Dear Squid:

I keep having these dreams about a huge banana on two wheels sliding effortlessly into the Holland Tunnel. What does it mean?

Dreaming in Dane

Dear Dreaming:

Well, I'm not a licensed therapist, but it seems patently obvious that you should be making alternative travel plans for the Holidays.

Dear Squid:

Next Thursday, I'll be entertaining several relatives who I want to impress. How can I make my Thanksgiving turkey not turn out so dry?

Afraid of Paltry Poultry

Dear Afraid:

Your turkey may be so dry because it was born in 1925. A simple reminder that Prohibition has ended may be enough. Oh, and a bottle of Old Granddad always helps.

Dear Squid:

I have to confess my guilt. My evidence professor told us that we'd have to learn the most important rule of evidence by heart, so I tattooed it on my chest. What can I do to remedy this situation?

Tattooed in Terry Terrace

Dear Tattooed:

Have you tried Clorox bleach? I mean drinking it, because anyone who does something that stupid doesn't deserve to live. I think your only other option is to visit a tattoo artist and have him turn it into an entire Gilberts outline.

Dear Squid:

My fifth year high school reunion is coming up, and I'm looking for a way to show all the guys and gals back home that I'm not the geek I used to be. What's the best way to go about it?

Geek No More

Dear Geek:

I'd strongly recommend hiring Sergio Orozco '94 to go in your place. Have him magically appear on horseback in the middle of the high school gym, surrounded by dry ice, waving a bull whip, and shouting "Let the games begin."

Quote of the Week

"I gotta go to Vegas."

—Prof. David Charny

Cognitive Dissonance

By Debra Dickerson '95

RECORD Columnist



OVER lunch one day, some classmates and I were having a friendly (for us) political discussion. These friends went to Yale and Williams undergrad — professional parents, international travel, that whole thing. Not Kennedys, but none of them have ever missed a meal. Anyway, I said something which referred to "elites." One of them asked, "So how does that work now that you're one of the elite?"

I was ready to kill. I've spent my whole life defining myself in opposition to the privileged classes. My parents were manual laborers who migrated to St. Louis from the deep South in the 1940s and couldn't go to high school; my father was a truck driver and my mother is still a cook. Until now, I haven't been without at least one job since I was 13, and my earnings helped keep electricity and food in the house. I began my collegiate career at Florissant Valley Community College and finished it after eight years of night school and 12 years in the military. Me? Elite?

Just as I was about to decapitate my friend, I realized he was right.

I was speechless. Me? Elite? By my own definition, I am now. I have a BA, an MA, and an Ivy League JD in sight. I've traveled widely and only miss meals these days because of the weight I gained at my summer firm. When I told my mother what I was making there, she quoted Scripture and reminded me that liars never prosper. When I convinced her that I was serious, she was stunned into silence. Then she laughed. "Lord have mercy," she said, "Have they actually met you?" We tried to calculate how many plates of spaghetti she had to serve to make that much, but we laughed so hard we never finished.

Now I'm just confused. In the fourth grade, I was placed in the gifted program and bused to white St.

Louis. The first thing I learned there was that I was poor. Even though I know the education I got there made the difference between me and my siblings, between me and everyone in my neighborhood, I never felt I belonged. I was always embarrassed and ashamed. I sometimes think I honed my talent for comic exaggeration and sarcasm there, making excuses for my clothes and my inability to participate in class activities.

Even though I was in the gifted program, it never occurred to me that that said something about

the course my life should take. There was no public gifted high school, so mine just let me take whatever I wanted. By junior year, there was nothing left to take, so I tried to drop out, get a GED and work full-time. My mother wouldn't let me, so I took shorthand and typing to prepare to become a secretary. My family thought that was great — a "sit down" job where you got to keep your hands clean. Back in those days, I could type 100 wpm and take dictation (anybody remember that?) at over 200 wpm.

I never took the SAT (what was the point?), but when I scored in the top 6% of blacks nationally on the PSAT something very frightening happened. Colleges started calling, offering me scholarships. Hard as it is to explain now, that didn't make me happy — it scared and confused me. I knew I couldn't possibly go to college, both because I still needed to help out at home and because I knew I wasn't good enough. So I listened on the extension while my sister told them I was out. They kept calling, so I hit on the tactic of telling each that I'd accepted another offer. They finally stopped calling and I set up a secretarial job for right after graduation. I never filled out a single college application. Mid-August 1977, I had a panic attack. I thought

I'd accepted my fate in the working class, but, as what should have been my freshman year approached, I freaked. The future stretched out before me, an endless trail of letters to be typed and coffee to be fetched. I watched the neighborhood women trudge to the bus stop every morning, grim-faced and sullen, and knew I had to make a break for it.

One week before classes began, I was in the registrar's office at the community college begging to be admitted. A four-year university never occurred to me, and, like my high school guidance counselors, no one at Flo Valley suggested it.

How I ended up at Harvard is an even more tortuous story. But the point is that I'm here now, with all my baggage. Now that I am, it's painfully difficult for me to accept that, because I'm here, people perceive me differently than I perceive myself. And I know I have to learn to deal with it. I'm having to accept that my identity as a lower-class person is no longer either obvious or quite accurate.

My reluctance to relinquish that self-image must be based on the fact that so many years and so much self-hatred had to pass before I learned to believe in myself and to handle my anger at life's unfairness. Or am I reluctant because I've only gotten as

far as identifying the things that torment me?

It infuriates me when classmates (whom I automatically assume to be elite) orate about poor people as rational economic actors or about how poor people "choose." It bothers me not at all to disassociate from the dominant ethic here. It breaks my heart when clients at the Legal Services Center say I can't understand how they feel. I see myself as one of them, but they can only see me as a Harvard-trained almost-attorney.

I can't seem to belong to either group.

I'm having to accept that my identity as a lower-class person is no longer either obvious or quite accurate.



Although Fenno had tried to submit his third-year paper every semester since he was a 1L, he had never received credit for his efforts. One month after the deadline, Fenno decided that it was time to try again. He now recognized it was necessary to have an actual paper topic. Also, he had learned the hard way that Rocco Forgiione was not a viable advisor.

Armed with his Westlaw card and a slide rule, he rushed up to the third floor of Pound, eager to begin his research. Then he realized the library was in Langdell. On the way over, he made a mental list of possible topics, and potential advisors:

Pushing the Limits of the Fighting Words Doctrine: "I Know You Are, But What am I?" Visiting Prof. Nockelby.

Putting the Pro Back in Pro Bono: How to Rip off the Indigent. Prof. Gary Singen.

Cockfighting as a Method of Alternative Dispute Resolution: Who Will Choke Your Chicken? Prof. "Colonel" Sander.

Doritos and Corona: The Effect of NAFTA on LSC Meetings. Vice Dean Smith.

When Jews Aren't Funny: A Legal Justification for Gag Orders. King Alan Dearth-of-wit.

The Jurisprudence of Vinny Barbarino in Welcome Back Kotter: "Off My Case, Toilet Face." Prof. David Rosenberg.

"Why Don't You Clean it Up, Justice Scalia": Stories from the Supreme Court Washroom. Prof. Martha Minow.

Fifty Years that Shaped American Legal History: Where Were You? Prof. Morton Horwitz.

Critical Race Theory and the Love Boat: Reinterpreting Isaac. Prof. Randall Kennedy.

When Women Exercise Reproductive Freedom: Helping Your Secretary Choose a Copier. Prof. Elizabeth Bartholet.

Rhombus, Newtons, Calico, Meisterbrau: One of These Things is Not Like The Other. Prof. Charles Nesson.

Rusty v. Bull: Battle of the Network Bailiffs. Prof. Paul Weiler.

Co-Dependency in the Courtroom: Lawyers Who Love Judges and the Judges Who Hate Them. Prof. Felix Unger.

The Burger Court's Impact on Short Order Cooks: Would You Like Cheese on That? Beth Davidson, Manager of the Harkness.

Who Killed Roger Rabbit?: The Case for the Single Gunman. Prof. Duncan Kennedy.

Fenno eagerly had his roommate write up a small proposal for each idea, and left them with the professors. But no one would sponsor him. "I'm already advising 26 other 3Ls — all on that same topic, curiously enough," said Prof. Nesson, stroking his goldfish between the ears. "Who could explain the sudden, pervasive interest in projectile vomiting? I'm so sorry."

When even Prof. Horwitz rejected him late on Friday afternoon, Fenno reeled in disbelief. Determined, he rushed down to the faculty meeting in Pound. He pushed past the throngs of student protesters carrying signs reading, "No more Faculty Meetings! We're Tired of Standing Here and Chanting!"

He jumped up onto the long table and sprayed some shaving cream in his mouth before addressing the faculty. "Dammit! For the love of God, I beseech you! Help me!"

Dean Clark huddled with all 68 members for a moment, then nodded solemnly. He picked up the phone. "Rocco, are you still available for a third year paper topic? Yeah?" DBC turned to Fenno with a confident smile. "How do you feel about writing on, 'Procedural Aspects of the Dorm Lottery: A Crapshoot for Crap?'"

Fenno sighed with relief. "Where do I sign?"

Winter is just around the corner...



...Which means there's only one more issue of the RECORD left this semester!

Submit your letters, columns, or photos by Monday, November 29 for publication in our December 3 issue.

Next Stop! Border Crossing

By Christa Foster '94

RECORD Columnist



FLYOUT week. While most 2Ls (fresh-eyed and optimistic about getting a job) and 3Ls (weary and fatalistic about life-decisions) flocked over the Charles by T, down to the Big Apple or the Capitol by shuttle, or across the fruited plains to LA, San Francisco, (or more adventurously) to Chicago or Seattle, I ventured where few have dared to go before, into the resume-destroying land located south of the Mason Dixon line (assuming my memory of tenth grade American History is right): Louisville, Kentucky.

I knew I was no longer in Cambridge when a review of the new Beverly Hills movie read, "I wish Hollywood would stop perpetuating the stereotype of country-folk." I knew I was no longer in Cambridge when not knowing the translations of UK, UL, OTs, TOs, FGs, and FTs brought me suspicious stares and angry snickers. And I knew I was no longer in Cambridge when I actually met a sixty-three year old woman who had for ten years been married to a twenty-six year old man who was her son's best friend and his wife's brother. But despite myself, I found myself liking it there. Real people didn't pontificate about the plight of the pitiable. No one knew about PC or TROs or LDCs. And heritage and family were important. Life was simple and easy to live.

Now of course, despite being "a small city with a big town feel" and even having its own arts program, Louisville's life off the beaten path is not just a bowl of cherries. For one, coming from Harvard was suddenly a disadvantage. I had to convince numerous interviewers (and ultimately myself) that I chose Harvard so that I would have options, and that options didn't just mean New York, LA, and Washington. But some of them were afraid of what they didn't know, afraid to change, and not quite sure why they ought to.

There was also the little problem about finding a church. My boyfriend and I first attended a huge all-black church. It was a colorful service. The congregation was fanning itself and shouting "Amen." The choir was swaying and belting.

I never thought living within my borders was so bad until I stepped out of them.

out spirituals so loud and so long I was sure it would bring the Lord back to Earth. The preacher was preachin' and preachin' and preachin' and then he started dancing and the congregation was shouting and the preacher started singing and the choir sang back, and we all were swayin' and there was shoutin' and the preacher was singin' and shoutin' and preachin' and dancin' and singin' and then all of a sudden in front of my eyes with a shout, he did a 360. And another one. And the guy with the drums in the band punctuated his feat as he spun around so fast that I thought he was going to fall off the stage even though the momentum from the shouts and "Preach it brother"s from the congregation would have pushed him right back up if he did. We all felt invigorated, if not a little weary as we filed out of the service: skinned-kneed little girls in ruffle socks and braids, skinny young men in dark blue Sunday suits, round middle aged women in big stylish hats and African garb, and my white boyfriend, our Asian friend and I.

Then there was the time we visited his tiny church. The clean cut white pastor greeted me with slightly sweaty palms, his big, friendly smile almost covering his apprehension about his congregation meeting an inter-racial couple. Slowly, one by one, the congregation wandered in. The first woman, besides us, was an elderly black woman from next door. I was pleased because her presence, technically at least, meant that this was an integrated church. Then several white families entered, arranging themselves on their accustomed pews. We began singing hymns next, somberly, quietly. In the sermon the pastor remarked how nice it was to see people smile while we were singing. I settled into a comfortable position on the hard pew and felt my boyfriend's arm wrap around my shoulder. My eyes widened with terror as I waited with fear for verbal protest and shifted uncomfortably as I felt the stares bounce off the back of my head.

After the service, to my surprise, Bud, the pianist came and shook my hand. Another woman, who had been sitting across from us, came and gave me a hug. Suddenly, I was surrounded by people who were glad to meet me. We had all crossed a border that morning.

But isn't that what life is really about, crossing borders? It's not sitting in a watchtower with binoculars taking down copious commentary on the character of the unknown land. It's not sitting in the trenches masticating the evils of the territory we've never encountered. It's about exposing ourselves, daring to venture over the edge, to try the unknown and to follow our hearts.

I never thought living within my borders was so bad until I stepped out of them. Only then did I realize that the circle of options around me was not only small, but that I had not even sketched out its dimensions myself. Every year, the expectations of my parents, then of teachers, then of peers, my parents' friends, counselors, professors, institutions, and, finally, law-firm interviewers had narrowed my focus, had drawn a picture of my life that left me little room to be myself. And I had grown to accept and even like that image. I had built my life upon it. Sure, it wasn't a bad picture. Millions of Americans would kill to have it. But did I want it? That was the question I was forced to ask, and that was the question I had to find the courage to answer.

But maybe you've evolved further than I. Perhaps you know thyself and have established your own goals. Unlike the Kentucky coal miner who has known only one kind of life, you have seen the world. You find contentment in knowing all about the rule against perpetuities, the chain of possession, and Coase's theorem. You know where you will be in five years, in ten years, twenty years from now. You have high hopes, a stellar résumé, glowing recommendations, and a crimson-laced ticket to success.

But may I recommend one thing before you go? Don't forget to stop off, remember who, and not just what, you are, and to cross a few borders if you can along the way.

Stone Criticizes FBI

continued from STONE, page 1

information about what advice FBI officials had received about the Branch Davidians and their leader David Koresh, what advice they received about the possibility of a mass suicide, whose advice they followed, which individuals made the key decisions about the raid, and the basis for those decisions.

"I brought up some of these questions the very first day," said Stone, who is also a psychiatry professor at Harvard Medical School. "I never got adequate answers to them."

"I didn't understand how I could give an informed opinion of what could have been done differently without knowing what had been done," he continued. "I feel I have to know the nitty-gritty. I need to know the facts."

According to Stone, he learned the answers to some of his questions when he raised them in a preliminary report filed in August. After that report was circulated within the FBI, Stone said, he began receiving calls from individuals who told him they had information about the decision-making process leading up to the raid.

But Stone said he did not learn of some other key facts until the same time the general public did — when the Justice Department released its official factual investigation along with the other expert reports on October 8.

Stone declined to criticize the other panelists directly, saying he did not know the extent of the information on which those individuals based their reports.

Each member of the panel, which included law enforcement and religious experts, filed a separate report, although only Stone's was released independently.

In the report, Stone also leveled harsh criticism against the Justice Department, particularly with regard to Attorney General Janet Reno's approval of the use of tear gas in the raid. Reno '63 ordered the assault in April after a 52-day standoff between FBI agents and cult members.

Although Stone said that no clear picture had emerged as to the basis on which Reno made her decision, given the facts as Stone knew them, "it is difficult to understand why a person whose primary concern was the safety of the children would agree to the FBI's plan," he wrote. None of the other reports were critical of Reno.

Stone's report also said that when senior FBI officials recommended the assault on Reno, they had already discounted the views of behavioral experts who were in Waco studying the situation. "By the time the AG made her decision, the noose was closed and, as one agent told me, the FBI believed they had 'three options — gas, gas and gas,'" the report stated.

"I am now convinced that the FBI's noose-tightening tactics may well have precipitated Koresh's decision to commit himself and his followers to this course of mass suicide," Stone added.

Stone presented his report to Deputy Attorney General Philip Heymann '60, a tenured HLS professor currently on leave of absence.

Beer Distributor Boycott

continued from BOYCOTT, page 1

Caul noted, however, that the decision was not an easy one because Lambda's earlier relationship with Burke was "pleasant and accommodating" and because, despite the allegations, Lambda is not certain "what's true and what's not" about the conflict.

Although the decision to drop Burke was made solely by dance organizers, the decision has the support of Lambda as a whole. "It was in the best interest of Lambda not to buy beer from Burke," said Carlos Vasquez '94, co-chair of Lambda. "It was the right thing to do."

Lambda was aware of a general boycott of Miller Beer, but did not know that Burke Distributing was the focus of the boycott until informed by LLP, Vasquez said.

The Labor Law Project is currently supporting Local Union 122's ongoing efforts to boycott Miller Beer as a means of pressuring Burke management to offer contractual concessions to workers, according to Jen Middleton '95, president of LLP. Burke Distributing Company and

its workers have been unable to come to terms over a new employment contract since last October — the longest running local labor dispute.

Advising Lambda to drop Burke as sponsor is the first expression of LLP's support for the union, said Middleton, who added that LLP plans to publicize the union's boycott using posters and other methods in the future.

Because LLP and Lambda have no formal relationship, it was sheer accident that LLP caught wind of Burke's sponsorship of Lambda's dance, said Middleton. Soon after becom-

"It was in the best interest of Lambda not to buy beer from Burke," said Carlos Vasquez '94, co-chair of Lambda.

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In Our December 3 Issue, You'll Find:

- * New Federal Financial Aid Laws and How They Affect You
- * A Critical Examination of Winter Term: What's the Point?
- * Complete Coverage of the Ames Moot Court Final Argument

Business Job Options

continued from BUSINESS, page 1

[The team] can learn from one who can provide a perspective of a JD," he said.

For law students, business jobs can offer a desirable career alternative. The salary, at least in investment banking, is often higher than that of law associates, said Thompson. She added, however, that the hours are just as long, and often longer.

Salary considerations aside, many students find non-law work preferable to the job duties of low-level law firm associates. Todd Hammer '94, who split last summer between a law firm and McKinsey & Company, a New York-based consulting firm, said he enjoyed the consulting work much more than the law work.

"Law work is intolerably boring," Hammer said. He faulted law firms for giving associates little responsibility and only small pieces of projects. Hammer also said he found the emphasis on research and writing tedious. At McKinsey, in contrast, Hammer said he worked with team members to solve business problems through research that involved interviewing people, traveling to different work sites, and making presentations. The work used not only research and writing skills, said Hammer, but also "creative skills, analytic skills, quantita-

tive skills, and presentation skills."

David Morales '94 tells a similar story, having already accepted an offer in Goldman Sachs' private banking division. Morales worked for a law firm after his 1L year, but found that "the [law] career itself wasn't as interesting as I thought it'd be." So rather than practice law after graduation, Morales will head straight to Wall Street. "I've always been interested in business," he said. "I thought law school would be a way to diversify my background, knowing I'd eventually want to go into business."

Despite the allure of business jobs for many, recruitment

timing makes these positions difficult for law students to secure. While NALP guidelines set law interviewing for the fall, with December 1 as the date when offers expire, investment banks and other companies do not usually interview until January or February. As a result, students must give up any law jobs often before any non-law offers have come through.

Nonetheless, McGuire encourages interested students to actively pursue these jobs, even if the companies do not interview on campus. "They're almost always responsive to a JD from here," he said.

"Law work is intolerably boring," Hammer said.

Waiter, There's a Derivative in My Bond Fund

By Steve Weinstein '94

RECORD Columnist



RECENTLY, this column looked at the exploding use of derivative securities products and new trading techniques by depository banks. I suggested that this phenomenon might pose substantial risks to individuals and to our financial system. Derivatives, sometimes called "synthetics," are bought and sold by entities other than banks. Some mutual funds have similarly jumped onto the derivative roulette wheel, visibly boosting short-term yield and invisibly increasing investor risk.

In general, mutual funds are the dandiest tool for the small investor in the history of market capitalism. Through mutual funds, the small investor receives the benefits of portfolio diversity formerly available only to the rich. Mutual funds smell like democracy and taste like affluence. Today, there are at least 4,500 funds, and new ones begin their direct-mail kick-off campaigns every day. Investors can choose between more funds than listed stocks. Not surprisingly, funds have become more specialized and compete more aggressively against each other.

Funds compete in two ways. First, they try to pay their investors as much money as possible (more on that later). Funds also try to differentiate themselves qualitatively. Thus, you can invest in a fund that buys only health-care stocks or one that focuses on emerging Mexican manufacturers. And, of course, some funds invest only in bonds.

The idea behind bond funds is to provide high current income and greater safety of principal, at the expense of some principal growth. Bond funds therefore appeal especially to retirees, particularly as faith in Social Security and corporate pensions wanes. Traditionally, bond funds have played it safe and bought similar-looking, and yielding, packets of bonds from governments and blue-chip corporations. Today, however, some bond-fund managers have betrayed their investors' faith and have gambled their money on products that are exceptionally risky, rather than pursuing conservative strategies, as the public expects.

Let's peek at the market in mortgage-backed securities, which are instruments derived from bundles of home mortgages. Today, approximately \$730 billion of the \$1.4 trillion of outstanding US mortgages have been transformed into derivative products. Analysts estimate that bond funds may have snapped up \$500 billion of the things. In a positive environment, mortgage-backed securities pay more interest than government and corporate blue-chip bonds, and can also be resold at a higher price. They also carry more risk. However, these risks are commonly not made known to the thousands of unwitting retirees and other small-timers whose bond funds buy the stuff.

Consider one of the simpler products, interest-only strips (IO's). IO's are created by fee-hungry investment bankers, who bundle up thousands of mortgages and sell off different packages of the accumulated legal and economic rights. IO purchasers receive the interest payments of the bundled mortgages (minus the banker's cut). This yield can be significantly higher than that of most other products bond funds are allowed to buy.

Sounds peachy, right? Here comes the downside. Homeowners have this nasty habit of prepaying their mortgage before it comes due, kicking the IO holder out of the high-yield candy store. IO's become worthless at prepayment because the holder has no right to the principal of the mortgage. Worst of all, prepayment will occur at the most disadvantageous times, when yields drop sharply.

The trick for an investment banker hawking IO's is to figure out when the homeowner will prepay; otherwise, even the greenest fund manager won't snap at the high-yield bait. Investment bankers claim that predicting prepayment is possible when enough mortgages are involved. The initial math on this was performed in the early 1980s by Lewis Ranieri's "rocket science" group at Salomon Brothers. Ranieri's team calculated that mortgage holders on the whole would not prepay their mortgage unless the spread between their rate and current rates hit 200 basis points (2%).

Until recently, Ranieri seemed to be right. However, new technology and the burgeoning industry of fee-driven mortgage providers now makes refinancing valuable to many consumers at spreads of as low as 75 basis points. Spreads have been higher than that for about a year, and hordes of Americans have prepaid their mortgages. This means that IO holders, including bond funds, have lost these expected flows of revenue.

Sounds bad. It's worse. Some funds account for these assets as if there were no possibility the mortgage holder would prepay, or as if that possibility were very slight. After prepayment, though, IO's are worthless. Therefore, the fund loses not only the interest income it had expected but the entire declared value of the IO. Thus, this summer, a Hyperion bond fund which had invested heavily in IO's had to tell its investors that 30% of their investment had evaporated and more was on its way down the drain. The news was not taken well, and investors have sued. Who owns Hyperion? Shockingly enough, Lew Ranieri.

If everyone on Wall Street knows how risky IO's and other derivatives can be, why do bond funds continue to buy them? Generally, fund managers are not compensated relative to their performance, but relative to the size of the pile of loot they manage. However, high investor returns will attract more investors, enlarge the pile of loot and swell the manager's pay. Today, so many bond funds exist that fund managers have a harder time attracting investors and increasing their percentage-based salary. This equation makes derivative products awfully tempting.

Like the rest of the American securities world, mutual funds are regulated by New Deal legislation based on Justice Brandeis' vision of market-correcting disclosure. The SEC requires funds to disclose, but not comprehensively explain, their investments and strategy. In today's derivative universe, this is not enough.

For example, fund investors may be told that they have indirectly bought investments derived from government-guaranteed bonds. Sounds great, but this "guaranty" applies only to the issuer's credit, and not to the synthetic product owned by the fund investor.

A bond-fund prospectus explaining the nature and risks of all possible investments would be as long and as little-read as your law-school casebooks. Nevertheless, we should consider some change in the existing order. Otherwise, mutual-fund investors who have been encouraged to expect the safety of savings accounts are in for a scary surprise. Interest rates have to go up eventually, and on that day expect shock from the surprised owners of inverse floaters, a derivative whose value falls when rates rise. Are your grandparents among them? Do they even know?

The holidays can be draining for us, too.

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Ad Council

'Tis the Season...

By Billy Choslovsky '94
RECORD Columnist



LET'S see here. Now that we've set the clocks back, Mother Nature graces us with about seven hours of cloud-covered daylight. (Frankly, after that whole Eve fiasco, I am surprised G-d let another woman penetrate the biblical glass ceiling.) The ridiculously titled "foliage season" has come and gone and all your inane romantic visions of steamy weekends at New England B&Bs remain mere wet dreams.

Thanksgiving dinner with your Uncle Mort is quickly approaching and, though you may have spent fly-out week ordering room service and feeling all grown-up, no matter, 'cause next Thursday you're back at the kiddie card table on the short end of Jello fights with your pre-pubescent cousins. Then there's those nasty details called FINALS looming larger than my omnipresent gut.

Yep, it's here. It's late November and a quick check of the calendar officially reveals that the ORNERY SEASON is upon us. I knew it was here when I saw Mother Theresa and Mr. Rogers high-five one another in the Square after she kicked over a bum's change cup and he taunted small children while smugly screaming, "There's no Santa Clause, you suckers." You don't think they've been getting it on do you? I mean if George Bush can actually bag Barbara anything's possible. OK, OK... it was just a thought.

In any event, whether or not you think Mother Theresa and Mr. Rogers are romantically involved, don't fall into the all-too-common trap of fighting those feelings of gloom and doom this time o' year. Instead, cherish the moment and embrace the season. For instance, next time your Torts professor greets you with an artificial "good morning," don't hesitate, follow your gut. Simply respond with a forceful "yuck foul!" Granted, it's not quite conventional, but it's oh so therapeutic. Besides, there's no downside. In addition to not attending class, random profanity and wet willies are the other two fringe benefits of blind grading.

The moral: Live a little this ornery season. The average HLS student (I know it pains you to be categorized as just average) spends December much like a street person: disheveled, distraught, and disoriented. Not to mention generally disgusting. The only discernable (tell-tale?) difference between the two groups is that HLS students generally mutter to themselves *more* while walking down the street. However, it need not be that way. If you find yourself saddled with long reading lists and short attention spans, try out a few of the following. Your grades won't improve, but heck, who's to say studying will help in that regard anyhow?

- Make a pass at a professor. Forget those bogus touchy feely Friday mixers with the faculty. Let's really get to know our teachers. Granted, the pickings are slim for us guys, but hey, as a team player I am willing to share. On second thought, scratch that. Now that I actually think about it, there's no prof. you'd actually want to fool around with. I hate to admit it, but you're better off studying.

- Make a pass at a friend. Yeah, it's time to start exploiting those age-old platonic bonds. After all, talk is cheap, and that's about all you've been getting from these relationships. Next time you're waiting in line at the Hark and your "friend" is fretting about exams, drop your tray, kick hers out of the way, and do what comes natural. Nay, scratch that too. I'd hate to witness what actually comes natural for most of you, especially those of you who've read this far.

- Make a pass at a neighbor. Yes, all the benefits of meaningless sex, some would say the best kind, without all the baggage. Think about it. In the morning, there is no walk of shame. If you forget your toothbrush, there's no nasty sharing since you live next door. Heck, you can even knock out common walls. More important, borrowing a stick of butter is hardly an awkward experience once you've tussled naked together. Mmmm, butter. Ouch, once again sanity reigns supreme. Who needs a crying "neighbor" knocking and proclaiming, "We've really got to talk," the night before your big tax final? So much for baggage-less sex.

Wow, now I am really depressed. We are doomed after all. Not even sex can carry us through the dark months. Well, I defer to the experts... enjoy your studying.

Latino Law Review

continued from *LATINO*, page 1

won't need the administration to pay for us," Herrera added.

Both Franco and Herrera observed that there is no broad-based national Latino law journal in the US. "The half-dozen that exist tend to be focused regionally and ethnically," said Franco, "and we think there's a need for a journal that includes all Latino ethnic communities and that engages in real cross-ideological examination of the whole community."

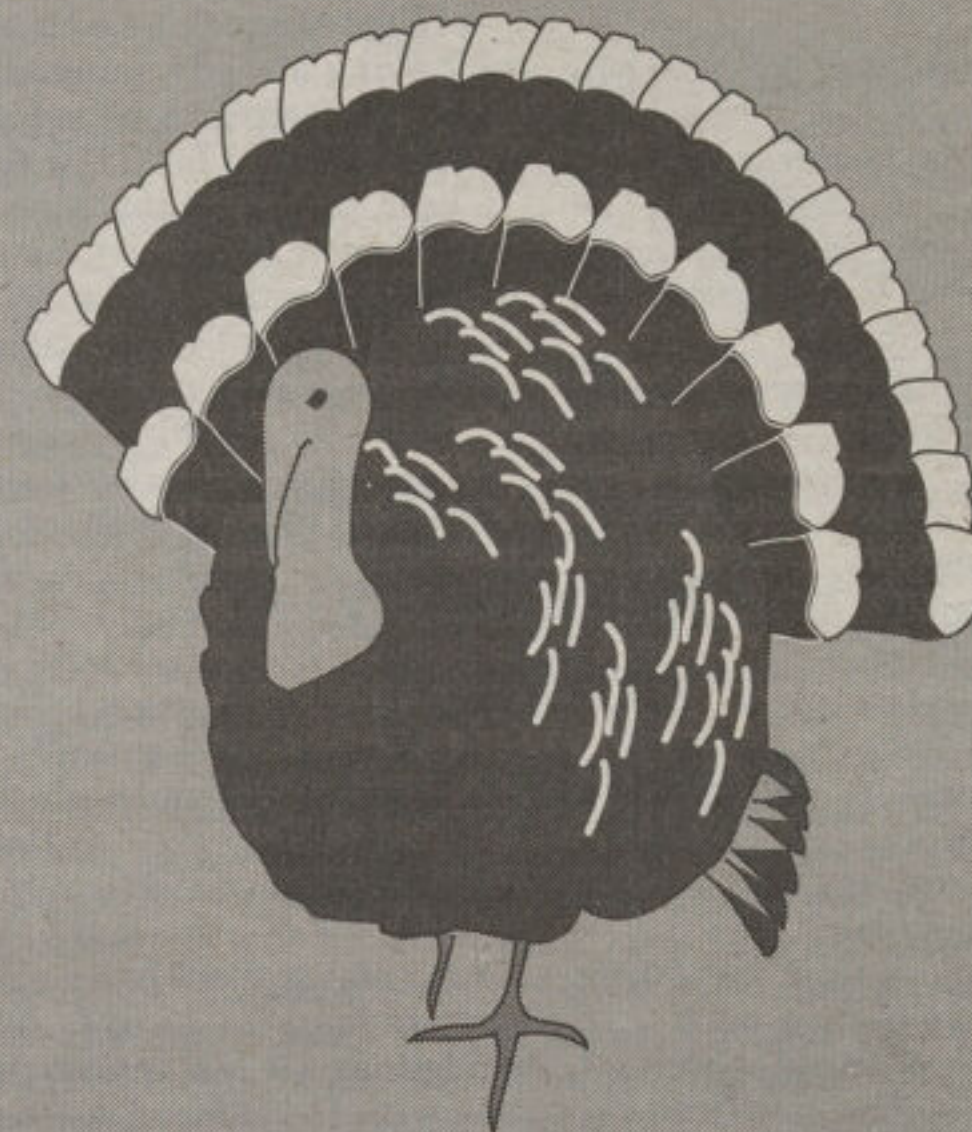
HLLR would "cover issues traditionally of interest to Latinos, like immigration and bilingualism," said Franco. "But we also want to include broader legal issues, with a Latino spin."

Toro-Hernandez predicts that 250 to 300 people will attend the April symposium. Among the papers to be presented is an article on sentencing guidelines by Judge Jose Cabranes of the US District Court in Connecticut. Toro-Hernandez said that "half of the paper will be in Spanish, which I believe has never been done before at a symposium like this."

In addition, Prof. Charles Ogletree '78 and Prof. Gary Bellow '60 will present a piece on Cesar Chavez. "We'd like to get some student-written notes, too," Toro-Hernandez said.

Franco reported that serving on the unofficial journal's advisory board are Cabranes, Xavier Suarez, former mayor of Miami, Antonia Hernandez of the Mexican-American Legal Defense and Education Fund, and Juan Figueroa of the Puerto Rican Legal Defense and Education Fund.

Approximately 44 students are working on HLLR as of now, "including many who are not Hispanic," according to Herrera. While recognizing that "it's an uphill battle because of the moratorium," Toro-Hernandez expressed "incredible optimism" about HLLR's prospects. "With the momentum we have now from student involvement here and rising national interest, and the support we're receiving from the administration, I'm very confident about the journal's future," she said.



**From one
turkey to
another...**



**The RECORD
wishes
everyone
a happy
Thanksgiving!**

Every Silver Lining Has a Cloud



After last week's Indian summer, brilliant sunshine yielded to November showers this week.. Ahh, Cambridge in the rain!

RECORD Photo / Josh Friedman

1Ls Experience Stress

continued from *STRESS*, page 1

behind the study schedules of other students.

"I am disturbed that I haven't begun outlining yet when I realize that several of my classmates are well into the process," said Banasik. "Since I won't be going home for Thanksgiving break, I hope to make up for lost time during that holiday."

Another program offered annually by Student Life Counseling, *Introductions to the World of Law*, focuses on the wide range of employment opportunities after graduation and enables 1Ls to meet professionals who have used their law degrees in different ways. Byers reported that students have been very responsive to the program.

Interview strategy workshops are a third way that Student Life Counseling seeks to reduce first-year tensions. By crafting mock questions geared specifically to 1Ls, counselors prep students for their first law job encounters, just in time for Thanksgiving or Christmas interviewing.

Teresa Gonsalves '96 said she benefited from the workshop she attended earlier this month, although it was by no means a stress reliever. "A workshop like this tends to heighten stress by drawing attention to present obligations," she said. "However, in the long run it will help us to do better during the interview process."

Compounded with job anxieties, Mark Horowitz '96 said that, as of November 1, classwork has "started to pick up." "The job search added an additional burden to the everyday requirements of school. I am looking forward to sending out my résumés so I can focus on the last few weeks of class."

But crediting "today's steady, belt-tightening environment," Byers said this year's 1Ls are still "calmer" than in past years. Expectations are less inflated, he said, because students have more realistic notions about both education and employment.

In an analogy likening law school to learning a foreign language, Byers said when students first come to law school they are surprised to see that they can speak and understand "the law." Then students realize that their profes-

sors are fluent in "the law" and that they are not, and there is a lot more work to be done. "After encountering people who are most likely as smart as you, you experience a culture shock and it is very easy to lose faith in your abilities," Byers said.

Byers proffered words of advice to those 1Ls experiencing the pressures of exam preparation and job searches: "Have faith in yourself. Remember every new situation you've ever been in, you've prevailed in the manner that works best for you and it will happen again."

But crediting "today's steady, belt-tightening environment," Byers said this year's 1Ls are still "calmer" than in past years.

The Heart of the Matter

By David Weinstein '94

RECORD Columnist



THE ascendancy of Janet Reno '63 to the twin roles of Attorney General and American folk hero has brought to the fore a debate long dormant in American society: the causes of America's love affair with the bullet. Reno has drawn much fire of late for resurrecting the "root causes" theory of criminality. The fabled Justice Department head has made a habit of peppering speeches on crime fighting with references to the need for improved pre-natal care and better job training.

While Reno's comments have become favorite targets for right-wing pundits, her views have long been a prevalent mantra in discussions of the criminal law at HLS. That improved employment opportunity is the only path to ending violence is the chorus in a well-worn critique of our penal system, and the traditional bob-and-weave response to difficult issues of crime and punishment.

The seductive power of such an idea is easily apparent. It places the blame for the random destruction taking place in our urban killing fields at the feet of a neglectful government, and posits a solution fed by good intentions. But is it true? Therein lies the rub, and the answers so far are less than promising.

There has been one concerted effort at state intervention in the lives of this nation's indigent, the War on Poverty. While the efforts of the Sixties are now

In short, the "root causes" theory of criminality possesses much rhetorical appeal but little explanatory power.

casually dismissed as half-hearted attempts to placate revolutionary sentiment, those public policy innovations joined with the full employment economy of the Vietnam War to drive the poverty rate down to its lowest point in American history in 1973. Yet it was precisely at this time that violent crime in the United States was metastasizing, doubling in the second half of the 1960s. It was during an epoch of prosperity, not during the Great Depression, that our youth began replacing the zip-gun with the Uzi.

If poverty were the primary determinant of a society's criminality, one would expect the sprawling urban centers of the developing world to be experiencing the kind of open combat one finds in our nation's capital. Yet from Calcutta to Mexico City, extreme disparities of wealth and vast shantytowns coexist with murder rates that would spell easy re-election for any American mayor. Admittedly, these cities suffer from economic crimes, such as theft, but many are free from the kind of nihilistic gunplay so common in the United States. Poverty gives rise to the likes of Jean Valjean. Here, we must deal with David Berkowitz and John Wayne Gacy.

In short, the "root causes" theory of criminality possesses much rhetorical appeal but little explanatory power. It does not even ask the threshold question of why spilling each other's blood has become our new national pastime in the last three decades. Other explanations, from the proliferation of firearms on our streets to the celebration of violence in our popular culture to the breakdown of our families, at least try to provide an answer. However, the more we recognize our inability to respond to this question simply, the more we must resign ourselves to the necessity, for the foreseeable future, of confining the violent and deterring the dangerous.

There is no greater threat to the well-being of our nation's poor than that posed by violent crime. Yet many of the poor's most dedicated advocates continue to express far more concern at the depredations of the police than at the swath of destruction cut across our urban landscape by private actors. Many continue to view a career in law enforcement as illiberal at best and destructive at worst. And many still identify prisons and punishment with what is most reactionary in American society. As long as the violent are equated with the deprived, this attitude can at least lay claim to internal consistency. In light of the catastrophic breakdown of our moral sensibilities in the recent past, it has become increasingly untenable.

Improving education, expanding employment, and equalizing access to health care are desirable in their own right, but they will not stop the bullets from flying. Those who prefer to fight crime by creating a utopia will find themselves sorely disappointed. Utopias do not grow amidst the fire of automatic weapons and the chalk outlines of murdered children.

Court Releases Tapes

continued from *TAPES*, page 4

broadcast and other public uses of the tapes. In spite of these reservations, the Archives agreed to ask users to sign a restrictive form, in the hope that it "may serve to deter most researchers" from disseminating the tapes. This is the form that Peter Irons, his co-editor Stephanie Guitton, and other people involved with The Earl Warren Bill of Rights Project signed to access the recordings included in May It Please the Court.

The oral arguments from *Terry v. Ohio*, *Regents v. Bakke*, *Miranda v. Arizona*, *Roe v. Wade*, *Gideon v. Wainwright*, and *United States v. Nixon*

are featured among the 23 cases in the May it Please the Court collection. The edited tapes were developed through the not-for-profit Earl Warren Bill of Rights Projects at the University of California, San Diego. Commentators have speculated that this opening will likely lead to calls for increased openness by the Court in the future. Irons plans to again take the lead in publicizing the inner workings of the Supreme Court. "For the past three months, I have been under threat of legal action by the Court. With that threat now lifted, I plan to produce additional tapes that will allow the American public to listen to more historic arguments."

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