



## New Guards Patrol HLS Campus

By Greg Stohr

The Law School has ended its longstanding relationship with the security guard unit of the Harvard University Police and has hired an outside company to patrol the HLS campus.

The new guards assumed responsibility January 10 after a panel chaired by HLS Buildings Operations Director Frank Lamentea recommended that the HUP guards be dumped in favor of Security Systems, Inc. (SSI). Lamentea said he was not dissatisfied with the work of the HUP guards, but wanted more localized control of the security arrangements.

"We thought they could respond better to our needs," Lamentea said. "They report directly to our office."

Lamentea said the new agency would be less expensive than the HUP guards but that the changeover "wasn't motivated by money." He said SSI would devote more hours to on-campus patrol than its predecessors did and would implement a new electronic system to monitor the patrols of the guards.

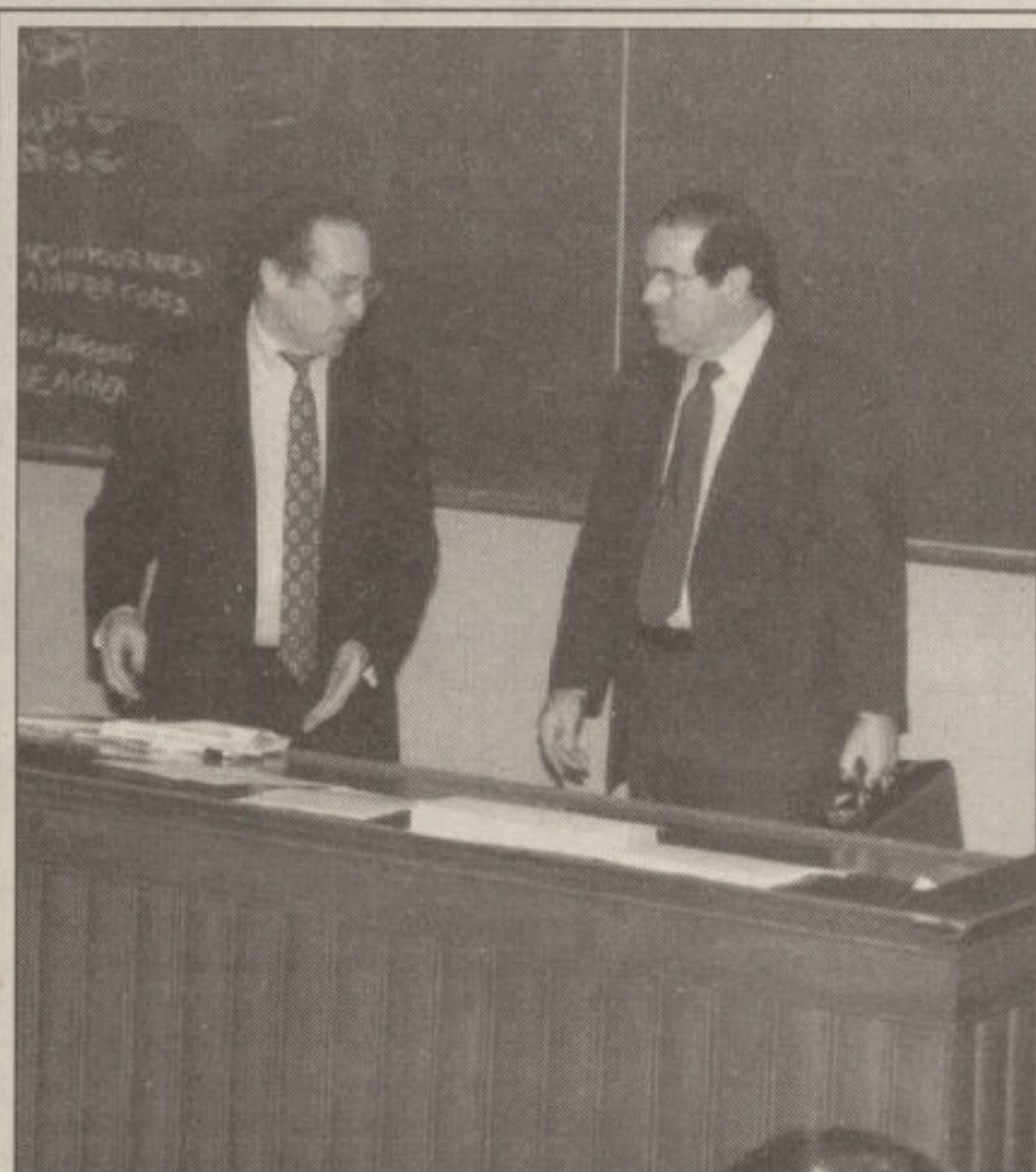
"We're saving a few dollars, but we're getting more for our money too," Lamentea said.

SSI already patrols the Medical School, the School of Public Health, and parts of the Business School. Dana Milne, the new on-site supervisor for the Law School, said the job here would be similar to the duties performed by SSI at other Harvard schools.

"It's basically the same, only on a smaller scale," said Milne.

Milne said that right now three guards are patrolling the HLS campus, a number that she expects eventually to increase to

please see **GUARDS**, page 15



Prof. Alan Dershowitz talks with Justice Antonin Scalia '60.

## Scalia Drops in on Criminal Law Class

By Matthew Huggins and David Weiss

Professor Alan Dershowitz picked up his office phone late last November to hear the voice on the other end say: "Professor Dershowitz? This is Justice Scalia."

After he overcame his initial shock, Dershowitz learned the reason for the call: his students had invited Supreme Court Justice Antonin Scalia '60 to debate Dershowitz in class.

Scalia was calling to accept the invitation, and on December 15, the last day of the fall semester class, the Supreme Court justice addressed Dershowitz's Criminal Law class.

The invitation was the idea

of Saurabh Shah '96, who drafted a letter, signed by 121 students, and sent it to Scalia. The invitation enticed the contentious justice with the promise of a good debate: "Prof. Dershowitz has on numerous occasions in our class mentioned you and commented on your judicial opinions. We would like to invite you to visit the school and address our class sometime this semester."

Scalia insisted that his comments in the classroom be off the record. He said he just wanted to get back in the classroom and address a group of Harvard law students with the chutzpah to write him such a "crazy" letter, as he described it to Dershowitz.

Dershowitz solicited writ-

please see **SCALIA**, page 14

## HLS Quality of Life Worst in U.S., Claims New Book

By Jeff Bucholtz

Life at HLS may not have improved much since the unlamented old days of *The Paper Chase*, according to the recently published Princeton Review "Student Access Guide to the Best Law Schools."

Author Ian van Tuyl constructed the guide on the basis of more than 11,000 surveys of students at 140 law schools, ranking and compiling information about the schools on a variety of subjects, from the traditional (admissions index) to the surprising (students' political orientation). But the ranking sure to provoke the most indignant reaction on the banks of the Charles deals with quality of life.

HLS students might be accustomed to sniping about being number two, behind Yale, but the Law School now faces the novel experience of seeing itself ranked dead last in a national survey. In surveys conducted last spring, HLS students reported their quality of life as the lowest of all 140 law schools analyzed. "More glamorously than we ever could have hoped," observes the Guide with barely concealed glee, Yale owns number one, so "the twin titans of American legal education . . . anchor the top and bottom of our list."

Cynthia Brantley, Princeton Review's director of publishing, said the rankings were derived from surveys of approximately 100 HLS students, posing 70 questions on a computer form and requiring five minutes to complete. "Most questions used a strongly agree-to-strongly disagree or one-to-five rating system," said Brantley, "and it covered everything from range of course offerings to hours spent studying per day."

Student reaction to HLS's ignominious ranking tended toward incredulity. "Oh, come on! It's not bad at all here," opined Jennie Thelen '96. Patrick O'Connor '95 was less charitable, terming HLS's last-place finish "a complete crock. I'm having a good time." Michelle Kisloff '96 wondered "how anyone could have a higher quality of life in New Haven than in Cambridge."

Brantley said, however, that the survey employed a particular definition of "quality of life" that may not coincide with that phrase's ordinary meaning. As the guide explains, the quality-of-life rankings were based on student answers to questions about three items: the "degree of competitiveness" among students, the "sense of community" among students, and the quality

please see **BOOK**, page 12

## Dean Returns From Saudi Arabia, Hails Trip as a Success

By RECORD Staff

Some people's vacations are better and longer than others. While most of us endured sub-freezing temperatures last week, others — namely Dean Clark and an HLS entourage — enjoyed the warm, sunny climate of the Middle East.

Dean Clark '72 and other members of the HLS community traveled to Saudi Arabia, the United Arab Emirates, Kuwait, and Egypt for 13 days over the December holidays, in part to thank the Saudi royal family for its \$5 million gift to the Law School last summer. The entourage also secured additional donation commitments and worked to strengthen ties between Middle Eastern universities and the Islamic legal studies program that will soon be established at the Law School through the Saudi gift.

"I think we succeeded on all three dimensions," said Clark. "It was a marvelous trip," he added. "It was fabulous, fascinating, and fruitful."

Development Dean Scott

Nichols, Professors Frank Vogel and Arthur Von Mehren, and HLS Capital Campaign Chairman Jack Cogan '52 joined Clark on the trip. They engaged in meetings, presentations, sightseeing, and social events — and even found time to snorkel in the Red Sea. The group did not visit with Saudi King Fahd but did meet with most of his top ministers, including the king's son and brother.

"The trip was a very concrete step toward the internationalization of the Law School," Vogel said. "We went abroad to underline our seriousness."

Clark also returned from the trip with two large donations to announce. Saudi Arabian businessman Bakr Binladin, who escorted the group on part of the trip, pledged \$1 million, and Sheikh Ahmed Zaki Yamani, LL.M. '56 made public a previous pledge of \$1 million. Both donations will be devoted to the Islamic studies program. Clark hinted that the Law School had secured some additional donations but would not specify any

please see **SAUDI**, page 13

## New Building Nears Completion

By April Rockstead

A three-month delay in the construction of the Holmes Field building has pushed back the earliest projected move-in date

to Spring Break but won't cause any serious administrative difficulties this semester, according to an administration official.

The building was originally scheduled for "substantial completion" in late November and a

January move-in, but according to Administrative Dean Sandra Coleman, substantial completion is now expected in mid-to-late February — after which it will take about a month to put on the finishing touches and ready the building for use.

A late design decision and delayed delivery of material such as stone for lobby flooring were among factors that contributed to the delay, Coleman said.

"Nobody in the construction business thinks it's a big deal," Coleman said of the delay. "It's not like we got some unexpected disaster."

The delay is not expected to increase the building's \$13 million price tag, of which about \$10 million is construction cost.

Since the administration knew about the potential delays early enough to avoid assigning spring term classes to the new building, there won't be any

please see **BUILDING**, page 14



Entrance to the Holmes Field Building.

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# HLS Professors Play Key Roles In Big Cases

By RECORD staff

HLS professors stepped out of the classroom and into the courtroom, in person and in brief, to argue in three important cases recently.

• Prof. Laurence Tribe '66 served as lead counsel for an amicus brief submitted to the Supreme Court in the lawyer-intensive cable regulation case. Tribe, representing most of the nation's regional telephone companies, argued that the Court should overturn a 1992 law requiring cable systems to devote up to a third of their channel capacity to local broadcasters. The case, *Turner Broadcasting v. Federal Communications Commission*, was argued before the Supreme Court last week.

Tribe, in an interview, said the First Amendment should protect all types of content-based speech similarly. Under current law, the government may impose more restrictions on broadcast television than it may on other forms of communication, like the print media. The main issue surrounding the cable case centers on where cable fits into that scheme.

"The core principle oughtn't to be defined in a different way for each new technology," Tribe said. "To have a First Amendment law for cable boxes and a First Amendment law for interactive video and a First Amendment law for the

movie industry is crazy [and] impractical."

Tribe says he hopes the unusual alignment of the cable and telephone companies might make his brief stand out from the 21 others submitted in the case. The impact of amicus briefs, Tribe says,



Prof. Laurence Tribe '66



Prof. Arthur Miller '58



Deborah Anker '84

"varies a great deal from brief to brief and case to case. In general the Court is not swayed by 'me, too' amicus briefs."

But the cable and telephone industries generally view themselves as competitors, particularly in the race to capture the emerging "information superhighway" market. The regional telephone companies are eager to combine telephone video and services, in some cases through mergers with cable companies.

In a separate case involving many of the same issues, Tribe and his client Bell Atlantic are on the opposite side from the cable companies. That case, which Tribe will argue February 7 before the Fourth Circuit, involves a statute that restricts telephone companies' ability to enter into the video communications field.

Tribe has also been active in the aftermath of the BCCI scandal. Tribe is representing Sheik Khalid bin Mahfouz, the former chief executive officer of the National Commercial Bank of Saudi Arabia, who is being sued for \$10.5 billion in London.

• Prof. Arthur Miller '58 successfully argued in the Second US Circuit of Appeals for shareholders of Time Warner Inc. in *In Re: Time Warner Inc. Securities Litigation*. In its November 30 decision, the majority revived claims against the corporation for allegedly misleading statements about debt-reduction plans made subsequent to the merger of Time Inc. and Warner Communications Inc. in 1989. According to the majority, a corporation has a duty to disclose "whenever secret information renders prior public statements materially misleading, not merely when that information completely negates the public statements."

• The Harvard Immigration and Refugee Program coordinated by Lecturer on Law Deborah Anker '84 participated in submitting an amicus curiae brief to the Third US Circuit Court of Appeals in a case in which the court recently acknowledged that women seeking protection against gender-based persecution can qualify for political asylum under the

Immigration and Nationality Act. Anker called the case "ground-breaking in terms of gender-based persecution claims," and said it represents the first such holding by either an administrative or federal court. "The reasoning adopted by the court was really set out in our amicus brief," she added.

Although the petitioner in *Fatin v. INS* was not granted asylum, the court observed that "feminism qualifies as a political opinion within the meaning of the relevant statutes." The petitioner claimed she belonged to a group of "Iranian women who refuse to conform to the government's gender-specific laws and social norms," but the court said she did not satisfactorily show that her own "opposition to the Iranian laws at issue is of the depth and importance required."

According to Anker, the lawyer representing the plaintiff at the trial level had poorly developed the facts of the plaintiff's case.

Anker said she hopes the Third Circuit holding will have a big impact on similar claims in other jurisdictions. She also reported that the Women's Refugee Project, a joint project of the Harvard Immigration and Refugee Program and the Cambridge and Somerville Legal Services, has just developed guidelines for adjudicating women's asylum claims that will be made public in about a week. She said the guidelines will be given to the INS, and hopes they will be used by INS officers and legal advocates. "We also expect to get women's human rights organizations and refugee rights organizations to sign onto them," Anker said.

## Guards Acquitted of Stealing Water Coolers

By Greg Stohr

Harvard security guards George Perry and Mike Auterio have been acquitted of stealing water coolers on the HLS campus. But the two guards have not been compensated for the combined 20 weeks they were suspended without pay, and they refuse to rule out a civil lawsuit against the University.

Meanwhile, estimates based on information provided by police and court sources suggest that the investigation and trial of the two men may have cost the University and state of Massachusetts as much as \$90,000. The coolers, which had been rented for last spring's graduation ceremonies, retail for \$219, according to manufacturer Poland Springs.

Cambridge District Court Judge June Gonsalves found Auterio and Perry not guilty in a three-day bench trial that ended December 23. Middlesex County prosecutors were unable to convince Gonsalves that Perry and Auterio stole the coolers from a room near the dumpsters behind the Hark the day after graduation last spring.

"Thank you for coming, sir, Merry Christmas," a jubilant Perry told his lawyer after the verdict was read. "I was overwhelmed," he said later. "I jumped for joy."

Perry and Auterio admitted taking the coolers but said they had been thrown in the trash. Auterio testified that he returned one of the coolers to the dumpster the next morning after he discovered it was "all banged up, dented and stunk like garbage."

Both men had been indicted for larceny-of-property-worth less than \$250 and

could have faced jail terms had they been convicted.

Perry and Auterio say they intend to fight to receive back pay for the time they were suspended. Perry was suspended for 11 weeks last summer and Auterio for nine. In addition to the suspensions, both men also were forced to use up their accumulated vacation time. They have enlisted the assistance of the union that represents the Harvard security guards.

"It's crazy," Auterio said. "The judge said it wasn't wrong. It was never wrong. If I'm not guilty, I'm not guilty."

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Auterio said.  
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Both men said their attorneys were looking into the possibility of a civil suit against the University if their back pay is not restored. A departmental hearing on the matter is expected to be scheduled soon.

Harvard Police Chief Paul Johnson defended the suspensions and said the acquittal did not exonerate the two men from internal

department disciplinary action.

"There are many reasons for a not guilty verdict," he said. "It was a non-violent crime at minimal (value) a few days before Christmas. The burden of proof in a trial is a lot different from an administrative hearing."

The \$90,000 cost estimate, compiled by reporters at *The Harvard Crimson*, was based on calculations of court costs and the salaries of prosecutors and police officers who spent time working on the case. Perhaps as many as a dozen members of the police department were on hand for all or part of the trial, and several testified in the case. The estimates do not include legal expenses incurred by Perry and Auterio.

please see ACQUITTAL, page 15

## Still #1 in Some Polls



### Management Training

Where law firms' top managers went to law school.

| SCHOOL       | NUMBER OF LAW-FIRM MANAGING PARTNERS |
|--------------|--------------------------------------|
| Harvard      | 106                                  |
| Yale         | 43                                   |
| Columbia     | 36                                   |
| Michigan     | 35                                   |
| Virginia     | 33                                   |
| Pennsylvania | 28                                   |
| Texas        | 26                                   |
| NYU          | 23                                   |
| Stanford     | 21                                   |
| Berkeley     | 20                                   |
| Northwestern | 18                                   |
| Georgetown   | 17                                   |

Source: Law Firms Yellow Book, Winter 1994.

—From the Wall Street Journal

# BRIEFS



## Skadden Chooses Six Fellows from HLS

The law firm of Skadden, Arps, Slate, Meagher & Flom named 25 new Skadden Fellows on January 5 as part of the ongoing Skadden Fellowship Program. The program provides funding for 25 academically outstanding law school graduates and judicial clerks who have chosen to work full-time in public interest law. While hundreds of third-year students and recent grads from top law schools apply for the Skadden Fellowships, six of this year's Fellows attend or attended HLS.

Mitchell Kamin '93 plans to work at the Neighborhood Defender Service of Harlem. Wendy Patten '94 will work at a women's organization called Ayuda in Washington D.C. Wendy Seiden '93 will spend the year working at Legal Services for Children in San Francisco. William Street '94 will work at Texas Rural Legal Aid, Inc. in Weslaco, Texas. Mary Strimel '94 will work at Legal Services of Northern Virginia in Arlington. And Julie Ann Su '94 will work at the Asian Pacific American Legal Center in Los Angeles.

## Field named to Retardation Commission

Governor Weld named HLS professor Martha Field to a new Commission on Mental Retardation last week. The Governor's Commission on Mental Retardation was established after federal court consent decrees elapsed and the state's Department of Mental Retardation (DMR) began to function without judicial oversight.

Field teaches Federal Courts, constitutional law, and reproductive rights. She earned her JD from the University of Chicago, and graduated from Radcliffe. She will join 9 other members who were chosen to represent the interests of higher education, medicine, law, parents, and the advocacy community. The appointment is for a three year term.

## HLS Grads Achieve 95% Pass Rate

While 77% of people taking the Massachusetts bar last July passed the grueling exam, HLS grads boasted a 95% pass rate. Boston College and Boston University has pass rates of 91.2 and 88.5 percent, respectively. Northeastern and Suffolk Universities ranked fourth and fifth in the state with 87.2 and 82.2 percent of their graduates passing muster. And 92 percent of the graduates of Western New England College School of Law in Springfield enjoyed success. New England School of Law fared considerably worse, ranking last among the state's accredited law schools, with a 75-80 percent pass rate.

Massachusetts' two unaccredited law schools reported the lowest pass rates for their students. Massachusetts School of Law, in Andover, posted a disappointing 65 percent pass rate. And Southern New England School of Law, in New Bedford, which had a 38.2 pass rate last year, would not return calls about how their students had fared.

## Sander Named Vice-Chair of Committee

Professor Frank E.A. Sander '52 was named Vice-Chair of Massachusetts' Supreme Judicial Court Standing Committee on Dispute Resolution. Sander was one of fifteen members selected by SJC Chief Justice Paul J. Liacos and the Chief Justice for Administration and Management of the Trial Court, John E. Fenton Jr. to advise the Court on the development of consistent, statewide standards governing alternative dispute resolution (ADR) cases.

The Dispute Resolution committee will also review procedures provided by the Trial Court and on the implementation of ADR programs and services, and will advise the SJC on issues raised by the relationship between the court system and private for-profit ADR providers and programs.

National studies have indicated that the use of appropriate dispute resolution techniques other than adjudication can offer the public faster and less costly results, promoting greater satisfaction on the part of litigants and their attorneys.

Sander currently teaches Mediation and Alternative Methods of Dispute Resolution, and leads sections of the Negotiation Workshop. Other members of the Committee include the Honorable Lawrence D. Shubow, ret., who also Chairs the Massachusetts Bar Association Subcommittee on ADR Standards; and the Honorable Catherine A. White, an Associate Justice of the Superior Court Department of the Trial Court.

## LSC Book Exchange in Full Swing

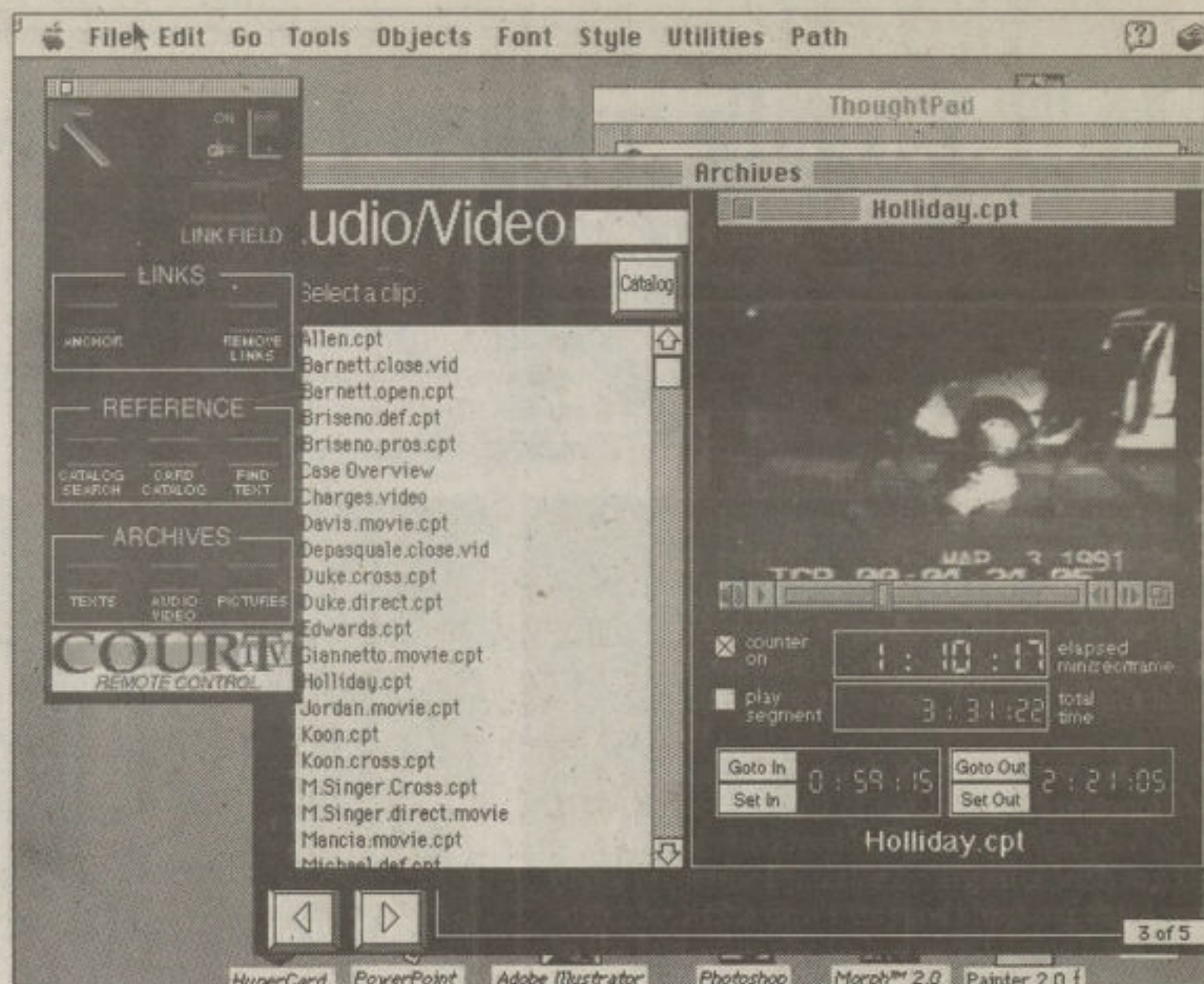
Used textbooks are available at discounted prices from the Law School Council Book Exchange. The Exchange has been very successful in its first two years — last fall, the council collected over \$20,000. This semester, books for first year courses will be available January 25-27, from 11 a.m. - 4 p.m. in the basement of Story Hall. Books for second and third year courses will be sold February 2 - 4, from 11 a.m. - 4 p.m., also in Story Hall basement. Books may also be dropped off for sale at any of the above times.

LSC hopes that the disorganization of the Book Exchange last semester will be amended this January. The Law School Library agreed to donate part of its storage space to the Council, and exchange organizers promise that the sale will run much more efficiently.

## Stolen Party Invitations May Prompt Administrative Board Charges

A group of four third-year students plan to bring Ad Board charges against another third year student whom they suspect of stealing party invitations which the group had placed in Hark Boxes. The incident, which took place early last Tuesday morning, was allegedly due to a personal grudge which the individual held against the group due to his omission from the guest list of a prior party.

Besides stealing nearly 50 invitations, the perpetrator also wrote vindictive, threatening messages on the back of two of the invitations and stuffed them into the Hark Boxes of two women in the group. "This is psychological harassment and intentional infliction of emotional distress. It's the kind of thing that should definitely go on someone's permanent record," said one of the group. Another added, "All we really want is a confession and an apology."



Students in Prof. Nesson's winter Evidence class are testing a new multimedia software program called Casemaker, shown here.

# HLS Revs Up for the Information Highway

By Lisa Zornberg

Toto, we're not in Kansas anymore, we're in Prof. Charles Nesson's winter Evidence class, where 150 students participate daily in an experiment at integrating multi-media and legal education. From the musical selections Nesson '63 plays before (and sometimes during) class, to his microphone, to the slides and movies he projects on full screen overhead, to the sophisticated "CaseMaker" software he is piloting with students on twenty-one leased Quadra computers, technology is certainly par for the course.

"Going into Evidence everyday is like seeing the Wizard of Oz conduct a motivational seminar," said Paul Taylor '94.

While more than a few students criticize the class for being too heavy on multi-media and too light on legal education, Nesson's point is this: It's time for law students, law professors, and lawyers in general to get up to speed on technology. "This is the way of the future, and lawyers should be masters of it," he said.

As chair of the Legal Education Committee, Nesson has taken this message beyond the classroom. Along with Committee members Prof. Howell Jackson, Prof. Robert Mnookin '68, and Lecturer-on-Law Virginia Wise, he is currently investigating the electronic future of the Law School and possibilities for technological innovation.

Number one on the group's agenda is installing a Law School E-Mail system. "I'm very eager to see the School develop its own local area network," said Mnookin. "E-Mail is old hat in most of the world and could have an extraordinarily positive effect within the Law School."

Electronic communication at the Law School is already possible through the Harvard University VAX system, but Jackson cited the system's complexity as a serious disadvantage. "VAX is not user friendly, but it's there," he said, adding that he plans to experiment with VAX communication in his spring Securities

please see **TECHNOLOGY**, page 15

# 2L Weaving SafetyNet for Asian-American Community

By Maria Politis

It's the stuff that hate crimes are made of: rocks and bottles thrown, homes set afire, people beaten to death. When one hears of acts of violence that are racially motivated, the first victims that come to mind are blacks targeted by whites, or whites targeted by blacks. Almost never entering the picture are Asian-Americans.

In fact, in 1991, 16 percent of racially-motivated crimes in Suffolk County, which includes Boston, targeted individuals of Asian descent, reported Shirley Su '95. In response, Su and Greg Chen, Harvard College class of '92, have started SafetyNet, a hate violence prevention program whose goal is to create a legal resource for members of the Boston area Asian-American community who are victims of hate crimes.

"Just knowing there's a legal resource

out there can decrease feelings of disempowerment," said Su. Asian-Americans especially need a program like SafetyNet, she said, because relative to their population, they are disproportionately the victims of hate crimes.

Also exacerbating the need for support services is that most people don't realize the extent of violence against Asians, said Su, because Asians are seen as a "model minority." "People like to think Asians have no problems," said Su. She said stereotypes tend to categorize Asians as smart, Ivy League goers, for instance. "People also don't

think Asians are poor," she said, which leads many to the conclusion that Asians can afford to pay for help.

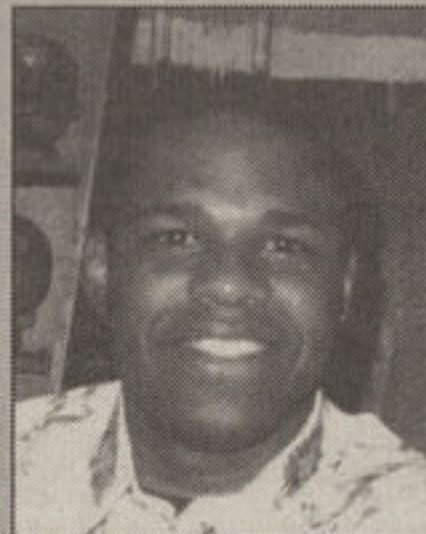
Chen stressed the importance of having counseling services that are based directly in the Asian community.

please see **SAFETYNET**, page 14

**"Just knowing there's a legal resource out there can decrease feelings of disempowerment," said Su.**

# The L.A. Quake of '94

On Monday, a powerful earthquake caused heavy damage in Los Angeles. Although we are 3,000 miles away, many HLS students have friends, family, and homes in the affected areas. The following are a sampling of reactions from students touched by the quake.



**Steve Yarian '93**

Lives in Santa Monica, CA

"There are no grand philosophical statements to make about it; I was scared shitless. I thought it was going to be just another earthquake, but it kept going on and on. It was so violent that I thought it was going to do serious damage; and it did. The bridge on the 10 freeway that collapsed at Washington Street is about a mile away from where I live."



**Robert Carlson '95**

From Northridge, CA, the site of the epicenter of the quake

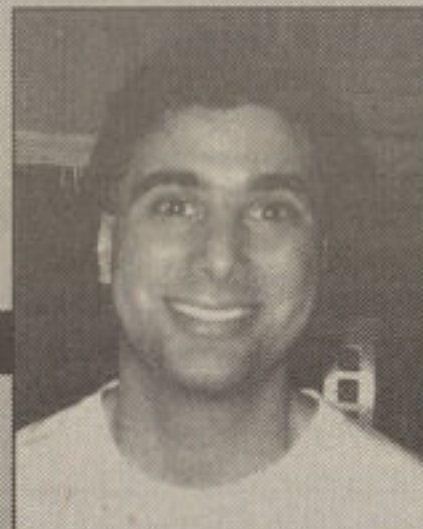
"My family is okay. I just feel very lucky. I talked to my parents yesterday [Monday]. It was the earliest I could get through. They didn't have much damage, though. I was in the one in Berkeley, the big one in San Francisco, and I'm glad I wasn't there for this one. It's just really scary when it starts, because you don't know when it's going to end. Living in other places now looks better to me. But then again, in a couple of months, things will seem normal again. You get used to the way things are."



**Debra Rogers '94**

graduated from Cal. St. Northridge 23 years ago and her family lives in Westwood, CA

"Just the normal stuff, cracks in the walls, that kind of thing. Everything that was up is now down. ... Lots and lots of broken furniture, ... but nobody was hurt."



**Kevin Werbach '94**

From Tarzana, CA, a few miles from the epicenter

"The chimneys collapsed in my parents' house, and there was a lot of damage from things falling and shattering. But fortunately everyone is safe, and the

house is structurally intact.

It's scary — both the amount of damage that can happen so suddenly, and how easy it is growing up in California to pretend that earthquakes will never actually affect you. This doesn't change my willingness to go back, though. There's always a risk, but you take precautions and live with it. When I finally got through to my parents on Monday, they made sure to let me know, after describing the damage to our house, that it was 80 degrees and sunny out. That's California."



**Gloria Wang '94**

"My family lives in Granada Hills, which is very close to Northridge, the epicenter. My family's house suffered a lot of damage, I think. Two chimneys blew off and one of the walls collapsed. After it happened, my mom went to a friend's house in Palm Springs to spend the night. She called to say everyone was OK, but I haven't been able to contact her since."

When it happened I was worried. I looked at the TV and there it was. The damage is repairable. As long as everyone is OK, everything else is secondary.

Earthquakes are a big minus in deciding whether to return to California. I'll be in New York next year for at least a year, but this will be a factor in deciding whether to go back. Since most of my family and friends are there, I'm not sure yet."



**Ben Rozwood '94**

"Basically, it's really bad out there, it's really, really bad. My grandfather's apartment was condemned, and he, my mom and aunt all live within 5 miles of each other in Granada Hills. My mom is in tears over the fact that she has no power, no water, no phone."

I guess the worst thing about it was the time-spread between the hour of the earthquake and the time my sister was finally able to call from a payphone to tell me what was going on. I think in times of disaster it's important for the victims to contact their loved ones as soon as they can. The positive fact is that everyone was fine, but now they have to deal with the strain of family stress and losing items of value — like china and antiques that had been in the family for generations. It's an emotional disaster."

# Fatal Distraction

Disclosure

By Michael Crichton  
New York: Knopf  
405 pp./\$24.00 hardcover



By Mike Fischer '95

Book Review Editor

IN his new novel, Michael Crichton leaves behind the world of pop science and dinosaur theme parks that had produced original and imaginative novels from *The Andromeda Strain* through *Jurassic Park*. Instead, *Disclosure* offers a decidedly unoriginal — and frequently offensive — treatment of sexual harassment. Billed as a different look at a familiar problem, *Disclosure* underscores instead that the old, tired song remains the same: White males are oppressed. White males are threatened. And they're not going to take it any more.

The basic plot, coming from such an accomplished writer, is embarrassingly predictable. Tom Sanders is a rising star in a high-tech company. Arriving at work one Monday and expecting a promotion, he learns that an old flame, Meredith Johnson, has been awarded the position instead. Worse, she is now his boss as well.

So when Meredith — known as the Manmuncher — invites him up to her office for an end-of-the-day meeting, he can hardly refuse. As he dutifully prepares for their meeting by studying production line problems, Meredith prepares by having her secretary pick up three bottles of wine and a pack of condoms. When Tom arrives in Meredith's office, the wine is chilled, but Meredith is hot and bothered. Within minutes, she jumps a surprised Tom; when he refuses to deliver, she is furious. By the next morning, Meredith is accusing him of harassment. Poor Tom, on his way to the top a mere twenty-four hours earlier, is now on his way out.

But Tom, if you'll pardon the pun, refuses to accept his fate lying down. Hiring Louise Fernandez, a hotshot lawyer who, conveniently enough, is not only a woman but Latina as well, he presses his own sexual harassment charge.

Louise treats us to some really choice insights: Harassment is about power rather than sex; the law is about facts rather than theory. And the facts turn out to be disarmingly simple. Men, she continues, currently file 5% of all sexual harassment suits; 5% of corporate supervisors are women. "So," Louise concludes triumphantly, "the figures suggest that women executives harass men in the same

proportion as men harass women." Q.E.D.

No wonder Crichton opens his book by quoting Title VII with all the oily solicitude of the Weber dissent. Tom, like Brian Weber, is denied a promotion that he "rightfully" deserves because a decidedly less competent woman — and Meredith is truly incompetent — gets the job instead. Competence is sacrificed on the altar of affirmative action, victimizing not only Tom Sanders, but also, Crichton implies, America's competitive future: Meredith is not only genuinely inept, but is also willing to close down American factories and move the jobs overseas. Crichton's Japan-bashing *Rising Sun* joins hands here with *Disclosure*, conjuring up a dystopian vision of women and people of color swarming over the ramparts of the patriarchal castle.

And that men are the true victims is never, in *Disclosure*, in doubt; Crichton drives the point home with scores of little details that have little to do with the plot itself. As the novel opens, for example, Tom is reluctantly feeding his kids — which makes him late for work — because his wife Susan, a prominent Seattle attorney, is running late.

Crichton never explains why, if both parents work, it is Susan's job to feed them in the first place. But that doesn't stop Tom and another man from enjoying a male bonding session on the ferry into work; both are late, we're told, because their wives can't take care of the kids properly. It doesn't stop Tom from grousing about how empty the refrigerator is when he is foraging for a late-night snack: Staring at a lone Diet Coke, he realizes that the kids ought to be getting healthy food. Real food. But Susan was busy, and Consuela (their maid) indifferent. The kids ate all kinds of crap. It wasn't right. It wasn't the way he had been brought up.

And so on. From the opening pages, when his four-year-old daughter delivers a well-placed kick to his groin and receives a stern lecture about how "We don't kick Daddy there," through the "burst of sudden anger" he feels when Susan wants to have sex and he doesn't, to the "kind of male fury" he feels when Meredith the Manmuncher is able to arouse him, Tom Sanders stumbles through life convinced that every single woman — from four to forty — wants to castrate him. Emasculate him. Enter his domain, the work-place, and make it her own, all the while falling down on the job at home.

That a writer like Crichton can succumb to this logic is disappointing, but not surprising. As made clear by films such as *Mrs. Doubtfire* — #1 at the box office right now for three weeks running, despite the simultaneous presence of at least a dozen infinitely superior films — the idea that they don't make moms like they used to has a certain popular appeal. No wonder we've had to endure so many Hillary jokes. Or her husband's outrageous recent assertion that maybe Dan Quayle's infamous remarks about Murphy Brown weren't so wrong after all.

There are moments when *Disclosure* transcends this logic, giving us glimpses of vintage Crichton. His forays into high tech's dazzling future are explained in terms that even techno-morons like myself can understand and appreciate. When he leans on this technology to inject unexpected twists in the plot, *Disclosure* can generate real page-turning excitement.

I'd be a lying hypocrite if I didn't admit that I occasionally caught the fever and couldn't put this book down. But the sexism keeps getting in the way — annoying not only because it is stupid, but because it is so predictable. Boring. A fatal distraction from a thriller that could have been much better. Crichton ought to stick to writing about dinosaurs, rather than disclosing the extent to which he is one himself.



In honor of Martin Luther King Day, we thought it appropriate to remember the man who symbolizes the struggle for equality and justice in the United States. Because we cannot possibly improve on Dr. King's timeless words, we offer a few of them here:

"Every nation must now develop an overriding loyalty to mankind as a whole in order to preserve the best in their individual societies. This call for a world-wide fellowship that lifts neighborly concern beyond one's tribe, race, class and nation is in reality a call for an all-embracing and unconditional love for all men. This often misunderstood and misinterpreted concept has now become an absolute necessity for the survival of man. When I speak of love, I am speaking of that force which all the great religions have seen as the supreme unifying principle of life. Love is the key that unlocks the door which leads to ultimate reality. This Hindu-Moslem-Christian-Jewish-Buddhist belief about ultimate reality is beautifully summed up in the First Epistle of Saint John:

Let us love one another: for love is of God: and every one that loveth is born of God, and knoweth God. He that loveth not knoweth not God; for God is love.... If we love one another, God dwelleth in us, and his love is perfected in us.

Let us hope that this spirit will become the order of the day. We can no longer afford to worship the God of hate or bow before the altar of retaliation. The oceans of history are made turbulent by the ever-rising tides of hate. History is cluttered with the wreckage of nations and individuals who pursued this self-defeating path of hate. As Arnold Toynbee once said in a speech: "Love is the ultimate force that makes for the saving choice of life and good against the damning choice of death and evil. Therefore the first hope in our inventory must be the hope that love is going to have the last word."

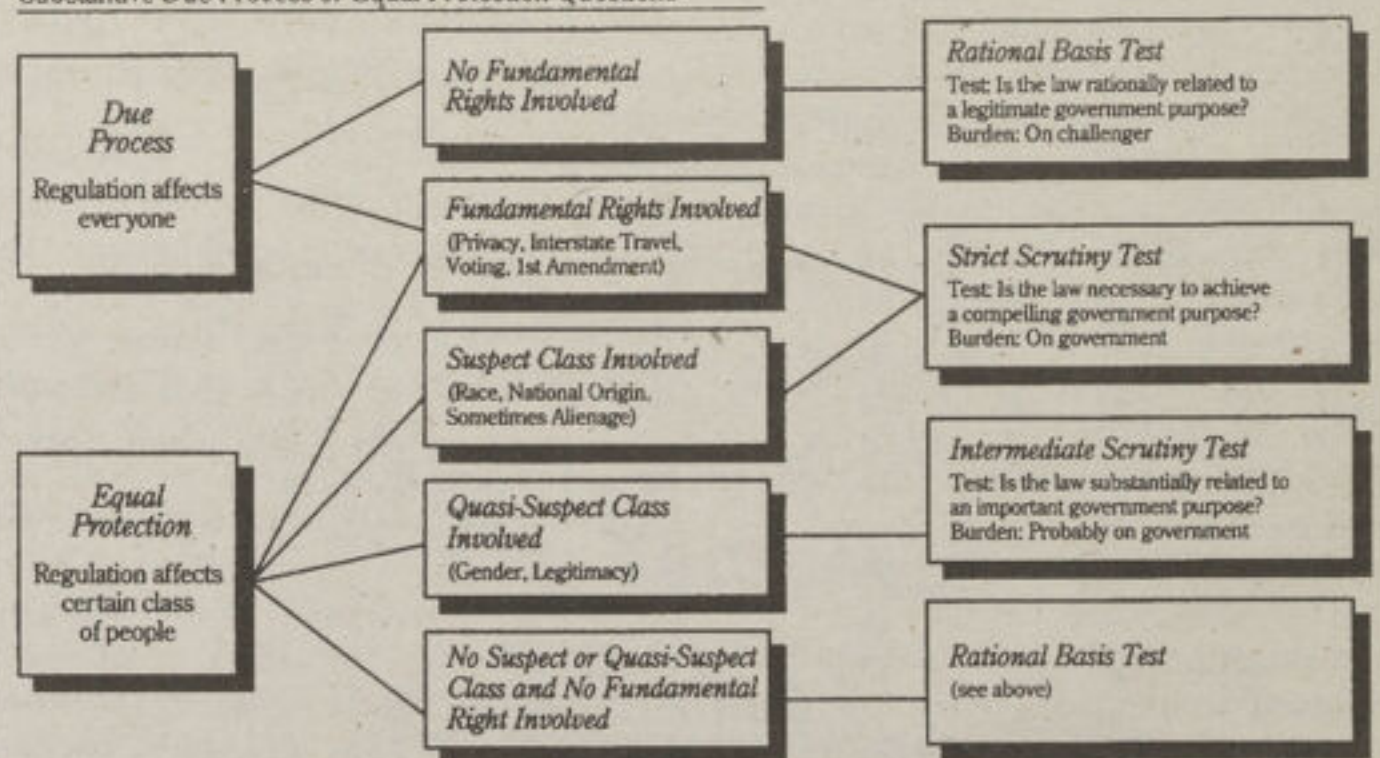
We are now faced with the fact that tomorrow is today. We are confronted with the fierce urgency of now. In this unfolding conundrum of life and history there is such a thing as being too late. Procrastination is still the thief of time. Life often leaves us standing bare, naked and dejected with a lost opportunity. The "tide in the affairs of men" does not remain at the flood; it ebbs. We may cry out desperately for time to pause in her passage, but time is deaf to every plea and rushes on. Over the bleached bones and jumbled residues of numerous civilizations are written the pathetic words: "Too late." There is an invisible book of life that faithfully records our vigilance or our neglect. "The moving finger writes, and having writ moves on. . . ." We still have a choice today: nonviolent coexistence or violent coannihilation. This may well be mankind's last chance to choose between chaos and community."

— from *Where Do We Go from Here: Chaos or Community?*

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## C O M M E N T A R Y

## Easy Beauty, Real Beauty

By Inga S. Bernstein '94, Robin A. Lenhardt '95,  
and Julie A. Su '94

Guest Columnists



ASY beauty. The desire to draw simple conclusions from complex situations is something that Dewey, and others, have cautioned us to resist. Much of our law school education is designed to push us to unravel complexity; nonetheless, it can be seductive to "discover" easy "truths."

Greg Stohr, in his editorial (RECORD, 12/3/93), painted a simplistic picture of conflict and progress at HLS. Stohr suggests that conflicts around diversity and discrimination that spurred articles like *GQ's* "Beirut on the Charles" have been replaced by a "new tranquility [which] represents a healthy reaction to the excesses of previous years." Unfortunately, Stohr glosses over a number of critical issues and reduces the experiences and concerns of more than half our student population to mere "symbolism" or folly. Easy beauty.

In our view — the perspective of three women who look back on our activism without "chagrin" or embarrassment — the real inquiry turns not on the level of "tranquility" but on institutional "wholeness" and individual responsibility.

To be whole, excellence would be wrought through the challenge of inclusion. The tensions in our guts would find their place in our analyses. Scholarship recognizing these tensions would be recognized as excellent. Our belonging would mean more than simply being present. We would know we belong because our questions would be addressed as a matter of course; our experiences acknowledged; our differences and our similarities celebrated. Real beauty.

As Alice Walker says, "Nothing is right/that does not work." From where we stand, the rifts caused by what was wrong with the Law School two years ago have not been mended. Sexism, racism and homophobia still shape the experiences of many of us here, and of those who are afraid to come. (Efforts to diversify the faculty have been stymied by potential candidates' concerns about entering an environment which has proven itself to be inhospitable.) In fact, our faculty has become less, not more, diverse.

Thus, the contention that we have reached a "new tranquility" unjustly priv-

## The rifts caused by what was wrong with the Law School two years ago have not been mended.

ileges majority experiences over minority voices. Adopting the status quo as acceptable, this contention implies that those who respond to the problem have caused it and that those who dissent somehow do violence to those who do not. This view is odd in an environment that encourages us to look to the words of dissenters to fully understand and appreciate the dynamics of controversy. It is the proclivity to succumb to normalcy, not the demand for change, which is divisive.

And so, in the words of Langston Hughes, "... we stand here/... And Wonder/What we're gonna do/ In the face of/ What we remember." What we should not do is accept "how things are," because to do so abdicates responsibility for combating discrimination and building community. On this anniversary of Martin Luther King, Jr.'s birth we would do well to ask, as he did, "not whether we will be extremists, but what kind of extremists will we be. ... Will we be extremists for the preservation of injustice or for the extension of justice?" This is a question each of us answers with our actions. Every day.

As individuals, and as a community, it is not "taking ourselves too seriously" to recognize that, regardless of which path we choose, our decisions impact our institution and the world around us. Each of us — students, staff and faculty — bears responsibility for the future of this community and our relations with each other. How, and whether, we engage in this collective process matters.

A number of students and student groups have accepted the challenge of furthering the dialogue around diversifying the faculty and improving our community. These efforts are a continuation of those begun by many before us, and will continue when we have left. They are also part of a continuum of action, including sit-ins and other forms of protest. These actions have in common a desire to be heard and to make just the community of which we are a part.

This year, new students, especially 1Ls and LLMs, have committed time and energy to both the goals and the future of the Coalition for Civil Rights (CCR). In the early fall, CCR celebrated the faculty's tenuring of Charles Ogletree. On Diversity Day, CCR sponsored a well-attended faculty panel with Professors Ogletree, Frug and Vorenberg addressing stumbling blocks to achieving diversity. CCR also held a rally at which students from a variety of groups and Professor Randall Kennedy spoke about the importance of diversity and dissent, and the experience of outsider groups at the Law School. In addition, members of CCR have spoken with Dean Clark, faculty members, alumni and each other about how to diversify the faculty.

The *Harvard Civil Rights-Civil Liberties Law Review* and Lambda are planning a conference entitled, "Stonewall at 25 and Beyond," addressing gay, lesbian and bisexual issues. The *Women's Law Journal* has published a bibliography of the scholarship of women of color in the law. "Celebration 40" brought back to campus the first women admitted to HLS, many of whom expressed deep concern with the continued marginalization of women, lesbians and gay men, and people of color at the law school. AALSA, BLSA, La Alianza, Lambda and WLA are constantly involved in activities that further the cause of diversity. We take these efforts and accomplishments very seriously.

*GQ's* invocation of Mid-East tensions as a metaphor for HLS should not be prematurely dismissed. The historic handshake of the early fall reminds us that the most divided among us can aspire to a future of peace and understanding. Efforts to build real peace are ongoing and hard; many pitfalls and setbacks are bound to appear. There is no easy beauty.

Here at home, we, too, hope to move forward. Faith in commitments will grow if real progress is made. In the meantime we will continue to talk, to protest, to challenge, to engage. See you at the revolution.

## F O O D - O - R A M A

## Get Hip to the Square: Jae's is In, Man



By Ted Cohen '95 and Jonathan Goldstein '95

There was a time when Inman Square called forth in one's mind images of power tools, house paints, and those "antiques shops" specializing in rusty salt shakers and warped Andy Williams LP's. But the times they are a-changin', and what was once a perfectly ordinary, working-class neighborhood is evolving into one of Boston's most interesting and innovative eating scenes. Joining old stalwarts like the East Coast Grill, Cafe China (now past its glory days), the Cajun Yankee and Rosie's, the newly opened **Jae's Cafe & Grill** (1281 Cambridge St.: the original is at 520 Columbus Avenue in Boston) tells us two things: first, the recession is over, and the wheels of gentrification can begin to turn again. (There's a similar influx of new restaurants in Central Square, Cambridge's other last bit of semi-charted territory.) Second, who cares about gentrification if the food is this good and this fun?

Quite obviously, Jae's is doing something right. Even on a Sunday night, the new Inman Square location is packed to the gills with well-scrubbed hungry folks, gulping down sushi and sake by the light of the room-length fish tanks which divide the space between dining area and bar. The atmosphere is reminiscent of a Boston-cum-New York dance club, with its mod light fixtures, chaotic paint swirls, hardwood floors and exposed brick. (In a touch that fuses grandmotherliness with hipness, a giant wood Buddha — tsatchke to end all tsatchkes — presides over the bar. His Dionysian smile urges you to eat! Eat!) The frenzied activity of the chefs in the open kitchen (which is ringed by a sushi bar) makes for a good show. If there is a flaw to the dining room, it is the insane proximity of the tables, which makes entering or exiting an ordeal, and creates the feeling that you could eat from your neighbor's plate if you so desired. On the other hand, it's a good way to meet people.

While it is certainly possible to order a more or less traditional Korean or Thai meal at Jae's, the excellence of the place lies in its more adventurous and inventive dishes. A good starting place is the sushi. To our knowledge, there is none better to be had in the Boston area; the ultra-fresh "inside-out" rolls (with sesame-seed flecked rice on the outside of the roll) are beautifully presented: They come in the shape of a flower, each piece a petal. Jae's Maki (\$5.25) is the Dagwood of sushi, stuffed with shrimp, crab, scallop, smoked salmon, and cucumber swathed in just a little bit of mayonnaise. Even better is the Screaming Spicy Roll (\$4.75), with chili sauce, cucumber, scallion, and your choice of either yellowtail or tuna. The chili sauce leaves a pleasant slow burn behind its initial wasabi kick. Also stellar was the tuna-and-avocado boat, a hollowed-out avocado shell holding a salad of pristine chunks of raw tuna and creamy avocado tossed in a wasabi-and-soy marinade. (Set menus run from \$15, for your standard sushi platter, to \$24 for a sushi-sashimi combination; we recommend picking and choosing among the a la carte selections, though, and leaving room for a hot meal. Oy!)

As for other appetizers, the highly recommended Chinese Water Dumplings (\$7.95) turned out to be pretty boring, though well-prepared. More like a Japanese won-ton soup, the soft dumplings, stuffed with pork, ginger and scallion, come in a watery miso broth (who thought you'd ever tell a Japanese chef to turn up the salt?) with wilted bok choy and strips of carrot and red pepper. Much better are Jae's Tidbits (\$11.95) a pu-pu platter with satays, grilled seafood, and dumplings. It's easily enough for three.

Part of what makes Jae's appealing is the "do-it-yourself" ethic of the menu, which transforms what is actually a limited number of ingredients into an infinite number of choices. For noodles, you can choose from whole wheat, buckwheat, sautéed or pan-fried egg, and cellophane; for toppings there's chicken, beef, shrimp, vegetables, Jae's Special (which contains all the above), and seafood (scallop and shrimp). Oh, and you can also request spicy basil, black bean sauce, or spicy Welfleet farm-raised clams. Prices range from \$8.50 to \$12.95 (for the clams), and what you get is an enormous amount of deftly cooked noodles, fresh vegetables, and lots of meat and/or seafood served on the biggest plate this side of Amarillo. Jae's does the same thing with vegetables rather than noodles for the starch-wary. Either way, this is fantastic winter food. All your friends will have to do is put a chain around you and roll you home.

There's also hearty Thai curries (red or yellow, for \$8.95), far-out fried rice (with kimchi, calamari, or smoked salmon skin, to name a few, \$7.50-\$7.95), excellent Pad Thai and a bunch of variations on the Korean casserole Bi Bim Bab, with its rice, bitter greens, and beef cooked with sesame oil and topped with a fried egg. Break the yolk and stir it in.

For dessert Jae's puts on another hat, coming up with convincingly Western cream-and-butter packed confections. We had the pumpkin cheesecake and were very happy, although we would have been just as happy with the Chocolate Decadence Torte (will everyone please stop using that name?) or the Fruit Tart.

Oh, two quibbles. Since there's a wait at peak hours (which seems to be all the time), Jae's allows you to order at the bar. However, they also charge \$3.50 for a twelve-ounce beer on tap. That's usurious, even by New York standards. Curiously, there are wine bargains in the \$15 range, but beer goes so well with much of this food that we think the overpricing is a shame. And the service on our first visit (in October) was slow and confused; however, this appears to have been a glitch in the opening days. On our second visit, despite the crowds, service was efficient and helpful. But don't let either of those things keep you away. Jae's funky, hap'nin atmosphere and excellent food is a score for Cambridge.

Dinner: 5:00-10:30 daily. Sushi until 1:00 a.m. All major credit cards accepted. Tel. 487-8380.

FOOD: 8  
SERVICE: 8  
ATMOSPHERE: 8  
TOTAL: 24

## Harvard Law RECORD

Founded in 1946

Lisa R. Zornberg  
Editor-In-Chief

Kevin D. Werbach  
Publisher

### Just What the Doctor Ordered

Another Martin Luther King Day has come and gone. Most of my friends viewed it as a three day-weekend, perfect for skiing in Vermont, or trekking to a blowout blitz clearance sale at the mall. Few of us stopped to think about what the holiday stands for, or the man behind it.

At a time when violence is the greatest crippling disease of this nation, and when the rise of hate crimes threatens the vitality of our cities, Martin Luther King Day should be more than a national holiday — it should be *the* national holiday. A holiday to commemorate the nonviolent appeals of Dr. Martin Luther King should be a time for thought and action, and I don't mean hitting the slopes.

I am deeply disturbed by continuing apathy and outright hostility by many toward Martin Luther King day. First, because it's a testimony to the racism that is still alive and well in the United States, racism that many refuse to recognize. But more importantly, we can no longer afford to ignore the relationship between white brutality toward blacks, and black violence against whites. The two are bound in a self-perpetuating cycle, and a universal appeal to nonviolence is needed to break the chain.

An incident in Professor Nesson's Evidence class perfectly illustrated this point. Nesson marked Martin Luther King Day with one of his trademark audio visual presentations. He amplified a recording of one of Doctor King's inspirational speeches, while simultaneously projecting a videotape of the Reginald Denny's savage beating at the hand of black youths.

I was immediately struck by the odd pairing. Nesson could just as easily have shown the Rodney King beating (which has become the focus of his unconventional course). Yet, he chose to show a white man brutalized to the tempo and cadence of King's stirring speech.

I realized this struck me as odd because in our society we are conditioned to compartmentalize violence and crime into two categories: racist, oppressive violence against blacks, and black street crime against fearful whites. Deep down we identify and sympathize with one side more than the other, but less often do we condemn violence and hate crime regardless of the victims or the perpetrators.

Why is it that leaders (and we in our hearts) no longer strive for universal non-violence? Rather, we spearhead efforts to end bigotry, or to put more cops on inner city streets. These band-aid solutions overlook the breadth of the problem.

I advocate transforming Martin Luther King Day into a true national holiday, one which reminds us of a lesson too easy to forget in our ever-fragmenting society: All violence is wrong. We must go beyond condemning violence against the particular ethnic, religious, or gender group with whom we identify, and condemn violence against any and all groups.

The national government could go a long way to effect this change. The President could organize a national Guns-for-toys, or guns-for-cash exchange, modeled after the type successfully launched by many cities in recent years.

Or, perhaps even more constructively, the President could use the opportunity to organize a national day of public service, modeled after the Boston City-Year program. Despite Clinton's numerous campaign promises, his plans for organizing national service are still no more than lip service. Martin Luther King Day would be the ideal time to rechannel the energy directed toward violence into restoring neighborhoods together.

Forging hope within our society, both through constructive dialogue about violence, and actual reconstruction of our broken communities, can perhaps keep the true spirit of Martin Luther King Day alive throughout the entire year.

— Zornberg

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"I THINK THE NEW MOSQUE WOULD  
LOOK GREAT NESTLED IN THAT LITTLE BIT  
OF GREEN SPACE BETWEEN THE HOLMES  
FIELD BUILDING AND AUSTIN."

"GREAT IDEA, DEAN CLARK."



### • Letters •

### Alum Inflamed By Forest Fire Editorial

I have read with despair for the future of your magazine the poorly written diatribe by Huggins entitled "Wildfires: Spare Me the Tears" appearing in your issue of Friday, November 12. I am a 1932 graduate of the Harvard Law School, now 86 years of age, who lost a second home in the Laguna Beach fire. It was a vacation residence that I was able to pay for largely out of the

earnings that I worked for as a lawyer, thanks to the education I received at the Harvard Law School, and as a co-founder of a 300-member law firm that I and two fellow Harvard Law School graduates started from "scratch" following the Second World War. The last thing I want is tears from Mr. Huggins, whose heart, I predict, will bleed less profusely when he reaches my age and has, I hope, enjoyed a suc-

cessful legal career.

In closing, and to confirm my status as a wealthy second homeowner, I can't resist an expression of "alarm" for the future of Debra Dickerson '95. As the father of three daughters, I believe she needs compassionate help in a psychiatric ward served exclusively by female custodians.

Lee G. Paul  
November 29, 1993

### Donahue Disentangles Loan Confusion

I read your article on "Loan Changes" in the December 3 issue of the RECORD with interest. The subject was a complicated confluence of changes in regulations governing the process of applying for federal financial aid and in the structure of federal student loans. The information in the article was generally accurate. There were, however, a few serious errors in the factual details you presented that need correction.

Simply put, determining eligibility for federal loans is accomplished by trained financial aid staff members, not by loan agencies. Further, this determination is done using the information contained in a Student Aid Report (SAR), which is now sent to students in response to their filing the Free Application for Federal Student Aid (FAFSA) by the processing agents for the federal government. Loan processors are different and include an array of guaranty agencies and other non-profit organizations which together provide the funding and government guarantee and insurance for the current student loan programs. If lenders and guaranty agencies determined eligibility for student loans, there would be a conflict of interest because of the financial structure of the federal student loan programs.

It is true that application for federal aid for law students is essentially synonymous with application for loans, and so I can ful-

ly understand your confusing the two processes.

The other significant change that you addressed in your article concerns the birth of the Federal Direct Student Loan Program (FDSLPL) and its gradual phase-in to a volume that will represent at least 60% of all federal student loan dollars by the year 1997-98. During this time, the current Federal Family Educational Loan Program (FFELP), which includes Stafford and SLS loans, will continue to exist with its full range of financing partners (banks, guaranty agencies, schools). Although Direct Lending is projected to save a substantial sum of money for the federal government through the elimination of banks and guaranty agencies, this has been hotly debated over the course of the past few years and has not yet been demonstrated. A common concern among school administrators is the ability of the Department of Education to handle the administration of this program in the wake of the very serious school code confusions that occurred in the federal financial aid application process this past year.

In your discussion of this issue, you indicated that students with access to Direct Loan (not HLS

students in 1994-95) will have the advantage of lower interest rates than those who do not. This is not true; the interest rates and other fees charged to students will be the same for both programs - FFELP and FDSLPL. It might also be important to note that Harvard University was chosen by the Department of Education to participate in the Direct Loan Program for 1994-95 at a rate of 31% of its total student loan volume. Although I am uncertain as to how exactly this percentage breaks down, I know that it includes the undergraduate college and various pockets of students in a range of other graduate faculties. As you indicated, the Law School will continue to assess the pros and cons of Direct Loans for our students and will have the chance each year to reconsider our present position. My expectation is that we will be able to make a better informed choice with some demonstration of the relative success of the program, even in its beginning stages.

I hope that this helps to clarify some of the issues presented in your article.

Sally Donahue  
Director of Financial Aid  
December 7, 1993

### Write to the RECORD!

Submit letters to Lisa Zornberg's  
3L Hark Box or the RECORD drop-  
box in the Hark.

# The Ethics of Whitewater

By Alan M. Dershowitz

**W**HETHER is selected to investigate the Whitewater-Madison matter should quickly brush up on legal ethics in general and on the Code of Professional Responsibility in particular. The investigation will probably turn up no hard evidence of criminal behavior by President Clinton. Even if Governor Clinton did use his influence to delay the closing of Madison Guaranty Savings & Loan Association, and even if he did so in exchange for campaign contributions traceable to bank funds — and there is currently no evidence of either — these elusive facts would be virtually impossible to prove.

What might be possible to prove, however, is that the Rose law firm, and some of its partners, may have played fast and loose with the Rules of Professional Conduct. Those Rules, with some variations, govern the conduct of lawyers in virtually every state, including Arkansas. In particular, Rule 1.7 prohibits lawyers from engaging in conflicts of interest. And the Rose firm's representation of the Federal Deposit Insurance Corporation in its claims against Madison after it previously was the lawyer for Madison appears to constitute a classic conflict of interest. Exacerbating this conflict may be a letter written by Vince Foster to the FDIC soliciting the FDIC's business. In that letter, Foster apparently failed to advise the FDIC of the law firm's prior representation of the bank. If that failure to disclose a material fact was wilful, it could constitute fraud. Federal bank regulators are now looking into this

matter.

Then there is the potential exposure of the Rose firm to massive civil liability if it helped to cover up Madison's shaky financial condition. In recent years, both accounting and law firms have been held liable for failure to disclose adverse financial information about which it knew or should have known. The Rose firm may be particularly vulnerable on this score,

because in 1985, Hillary Rodham Clinton and another partner used an audit by Frost and Co. to show that Madison was financially solvent, and then in 1989 another partner of the same firm sued Madison on behalf of the FDIC, alleging that the audit was bogus. That partner was Webster Hubbell, who is now the Number 2 person in the Justice Department, and whose father-in-law borrowed more than \$500,000 from Madison Guaranty and failed to repay it.

At a more general level is the appearance and, perhaps, reality of conflict that always exists when the spouse of a high public official practices law in front of judges, administrators and others whose careers may be influenced by

that official. There can be little doubt that clients sought out Hillary Rodham Clinton precisely because her husband was the governor. Regardless of whether the governor actually influenced — directly or indirectly — any decisions in cases in which his wife was counsel, the appearance of influence is inescapable.

Professor Paul Rothstein of Georgetown Law School, a knowledgeable

expert on legal ethics, urges "leniency" in this area: "Unless you want to say the wife of an important man can never apply her trade, you've got to be lenient on that. You don't want to disable professional wives from practicing their trade."

But many spouses of public officials have made the decision to withdraw from practicing the kind of law that creates the appearance of improper influence. There are many ways of practicing law — both profitably and usefully — without even coming close to the line of impropriety. Hillary Rodham Clinton's practice of law was so close to her husband's base of influence that many will ask the question, just how good a lawyer would Mrs. Clinton really have been if her husband had not been the governor?

These and other ethics issues may become the focus of the special prosecutor. I hope he or she will take these issues seriously, not so much to criticize particular individuals for past derelictions but to educate the American public about this relatively hidden but widely practiced genre of elite influence peddling and questionable ethics. Because this form of "cheat elite" is so prevalent among big city lawyers and law firms, I have decided to begin my legal ethics course this semester with a survey of the ethics issues surrounding Whitewater-Madison. My goal is to sensitize law students to the kinds of ethical problems they are likely to encounter when they begin to practice law. As a Democrat who voted for President Clinton, I wish Bill and Hillary Clinton had been better sensitized to these issues when they studied legal ethics at Yale Law School in the 1970s. I hope that nothing negative turns up against the First Family. But as a law professor, I understand the importance of a full and open investigation of Whitewater-Madison that will sensitize a generation of future lawyers to the ethical pitfalls of practicing law at the highest levels of government.

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# Turning Into Art

By Debra Dickerson

RECORD Columnist



**M**y father was a truck driver. Our backyard was littered with the carcasses of the cars, trucks, and maybe even bicycles that he would somehow cart home and cannibalize to keep himself on the road. For the most part, he made his living hauling debris for businesses and construction sites. Given that my father was also the most addicted pack-rat I've ever known, it was the perfect job for him.

My mother kept the backyard from getting completely out of control with his junk, but she'd had to wash her hands of the basement. Over time, it became an impenetrable forest mounded high with crates, piles, and bags full of long-forgotten junk that no one, including my father, would ever use. Waterlogged arm-chairs missing all their cushions. Once, a huge box full of key blanks. Another time, a shipment of tar-like shampoo that another, wiser businessman had realized no one, but my father, would ever put in his hair.

We lived in fear of car trips with him. Eagle-eyed, he'd scour the roadside as we drove in search of his next junk fix. No matter how far off the road, no matter how thick the bush it had lodged under, my father would see it. He'd pull over and run back, chuckling and congratulating himself on his keen eyesight and thriftiness. He never seemed to notice the tire tracks which had flattened the box or, once, that rain had swollen the toilet paper he'd found to the size of a human head. We'd crouch down below window level in the station wagons he was always piecing together for his six kids, praying no classmates would pass by.

Every now and then, though, he'd bring home something we could actually use. Once he brought home something that changed my life.

I spent most of my childhood in the kitchen with my mother and my sister 'Wina. We did all the cooking and cleaning and the kitchen was our headquarters. When we weren't working, we'd sit in there crocheting, reading, and drinking Lipton tea with lots of

lemon and sugar. And we'd listen to the radio.

On the windowsill in our kitchen was this broken radio that my father brought home one day. It was pale green plastic with long, jagged cracks running everywhere. The dial's face, also plastic, was chipped and smashed but that didn't matter because the radio had no knob. You couldn't tune it. Raggedy as it was, that radio never fell apart and we kept it for years. Even

my father eventually wanted to throw it out, but we three kept it in our kitchen.

That radio was a constant source of amazement to us. There was no telling what you were going to hear when you turned it on. If you picked it up and shook it just right, you could change the station, but you couldn't control it. I heard foreign languages for the first time on that radio. Country music, opera, radio plays, the folk music of the '60s. We were the only kids in my neighborhood who knew who Perry Como, Maria Callas, Bach, and Joni Mitchell were. (As a strange side benefit, 'Wina and I were unbeatable at Name that Tune.)

My CD collection today can only be described as eclectic — speeches, lots of music in languages other than English, classical, opera, country, gospel, rap, and, of course, jazz. I love to dance and the best evening I ever spent on the dance floor was at a Polish wedding where we polka'd the night away. My reading and travel preferences are similarly broad. I was mesmerized by the whirling dervishes in Turkey and by kabuki in Japan (although sumo wrestling remained merely comical to me). Beijing Opera, a la *Farewell My Concubine*, was thrilling. I've acquired

clothing, furniture, and ex-boyfriends from all over the world. Perhaps I'd have developed the same intellectual and cultural curiosities in any event, but I've always liked to link it to that crappy little radio without a knob.

So when I read George Will's latest diatribe against the NEA, something clicked. He characterized the NEA, and presumably any spending on the arts, as subsidizing intellectuals' taste for that which interests Joe Public not at all. I don't think he could be more wrong.

Growing up in the inner city, there was no way I would have known of the artistic and literary worlds without someone from those worlds making it their business to get it to me. How can you patronize some-

thing you've never even dreamed of? People like Will assume that everyone is just like him, thinks just like him, has his same awareness. He learns of an art exhibit or a new play and decides whether or not to support it based on his wide knowledge of the world and current events. I can assure you that I had no such awareness and neither do many living in inner cities today. It's not that they've chosen not to support a particular art form — it's that they don't know it exists and couldn't afford to experience it without some form of subsidization.

Every civilized society should value art and culture in all its myriad forms and ensure that it's neither reserved for nor controlled by any one subset of the privileged classes. Reasonable people can disagree about what art is — left to me, neither Picasso nor the creator of Piss Christ would have been funded — but not over whether maximizing public access to it should be a priority.

**Perhaps I'd have developed the same intellectual and cultural curiosities in any event, but I've always liked to link it to that crappy little radio without a knob.**

## Fenno

### Fenno's Celebrity Cookbook:

Overwhelmed by free time during the winter term, Fenno decided to compile a celebrity cookbook.

**Tom Hanks' Philadelphia Cream Cheese:** Add chocolate and vanilla to a burning social issue. Drizzle sappy melodrama over concoction. Best served with Kool-AIDS.

**Michael Jackson's Cream of Some Young Guy:** Open a little white can and serve five to ten years. \*\*Hey, kids—a great dish for sleep-over parties!

**Lorena Bobbitt's Pigs in a Blanket:** Take a sharp knife from under your pillow and slice off a length of meat. Throw unused portion out window. The authorities will retrieve it and wrap it for you.

**Cybil Shepherd's Pie:** Sift out Bruce Willis, and add lots of peroxide to an irreparably faded career. Use dental floss for stray hairs. But hey, you're worth it!

**Tonya Harding's Roast Leg of Lamb:** First, find lamb ready for slaughter. Tenderize it with a club, remove leg below the knee. Put it on ice, then serve. (But make sure your assistant doesn't spill the beans — you might get burnt.)

**Mayor Richard Rierdon's Shake and Bake Chicken:** Place sitting ducks near gas main in San Fernando Valley. Wait for Earthquake. Serve with martini — shaken, not stirred.

**Joey Buttefuoco's Tuna Fisher Salad:** Mix raw tuna with Italian seasoning, and plead to be eaten in prison. Best served with the cherry on top.

**Heidi Fleiss' Tarts:** Blend tender young flesh with a juicy story. For extra moistness add KY jelly. \*\*Note: They make excellent whors d'oeuvres.

**Nesson's Fruitcake:** Rhubarb, rhubarb, rhubarb. Add eggnog and STP Oil Treatment. Be sure to wear an apron over your black turtleneck.

**Clinton's Big Mac:** Mince porkbarrel politics, making sure it's not roddam. Boil in white-water, then sandwich between two buns. Over 6 million women served!

**David Koresh's Nuts Flambe:** Take one crackpot and add 300 nuts. Set aside for 4 years, allow to rise, then sear thoroughly.

**Vladimir Zhironovsky's Half-Baked Alaska:** Stew 250 million disgruntled Russian peasants with 100,000 gallons of Vodka. Place near Chernobyl for 5 years while stirring up hatred.

### Quote of the Week

"I'm going to bring that to faculty meetings."

—Dean Clark, referring to his new large dagger.

# WRITE FOR THE RECORD

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## A Tale of Two Law Schools

By Terri Gerstein '95

Guest Columnist



**A**s I shared my thoughts about what to do this summer, a newfound friend shook his head and commented, "We go to different law schools." We had just finished the semester in Con Law together, but he was absolutely right: There are two law schools at Harvard.

I was dumbfounded to learn that he didn't know the difference between impact litigation and direct services. He was shocked that I didn't know the name of a single firm in the private sector, except for McKenzie Brackman (for obvious reasons) and Hale and Dorr (because they gave money for the Legal Services Center in Jamaica Plain).

They stick us together during the first year, but after that, we sort ourselves out very nicely, thank you: Intro to Trial Advocacy, Employment Law, Family Law, to the left. Secured Transactions and Corporate Finance, to the right. Almost no one I hang out with has a summer job yet. Almost everyone I hang out with has been to court several times with a client — a family about to be evicted, a woman seeking a restraining order, someone whose welfare is about to be wrongfully terminated.

Since the Other Law School dwarfs my law school in terms of numbers, our existence is often overlooked (although we are helpful for fundraising purposes). When we are noticed by our peers at the Other Law School, we are often misunderstood.

So I'd like to take the opportunity to dispel some myths.

1. We are not all granola-eating, sandal-wearing, hairy-armed (where applicable) rhetoric squawkers. In my experience, many people who go the corporate route have a hard time making distinctions among people who see any problem with the status quo; we all get relegated to a bin marked "Relic of the 60s. Disregard." Two investment bankers I met this summer hit this point home for me. While discussing politics, they shook their heads earnestly, and one of them said, "But I think you should work for change from *inside* the system."

I looked at him quizzically. "I'm going to Harvard Law School," I reminded him. "If we're talking System, that's the epicenter."

He didn't get it. After all, I had mentioned sexism, racism, and imperialism as problems. He had this picture of me living in a commune of long-haired, naked people who took occasional forays into the Real World to spatter organically-produced ketchup on fur coats in Saks. (Not that there would be anything wrong with that. It's just not me.)

Personally, I don't give a damn about whales or snails or owls, with or without spots. I eat meat, shave my armpits, and I wear (and obsessively reapply) lipstick. (So, by the way, do all of my clients at the Legal Services Center, although I don't think they're quite as obsessive about the lipstick.)

All of which is to say that progressive, politically-committed, public-interest people (i.e. the students at my law school) are not two-dimensional caricatures. Which brings me to my next point.

2. We got into Harvard Law School the same way everyone else did: we were (a) lucky and (b) *smart*. Don't assume we're mush-minded and soft-thinking just because we want to help people.

Our Ogletree/Bellow-trained minds are just as capable of analytical rigor as those Shavell-sharpened cerebra. We are capable of recognizing complexity. We don't automatically assume that everyone who is poor and/or dark-skinned is always good and right and angelic. Nor do we think that everyone male and/or pasty-faced (i.e. white) who owns a CD player, a piece of real estate, or a post-1984 car is necessarily bad and evil. In fact, some of the spiritual leaders at my law school are pasty-faced (see Smith or Anker) and some are male (see Bellow, Greenberg, Singer, for example). (I'd even venture that at least one of the above drives to his own piece of real estate in a fairly new car with a CD player.)

3. My law school is emphatically *not* populated by rich kids who don't have to worry about paying back loans. This fall, the Alliance for Public Interest Alternatives held a gathering for 2Ls who weren't interviewing at firms. We found we had two things in common: We hadn't gone straight to law school from college, and we were notably working- and middle-class — children of social workers, factory workers, union organizers, and schoolteachers (like me).

Personally, I already owe enough money to feed a village for a year or two. That's what LIPP is for. (For students at the Other Law School, LIPP is the Low Income Protection Plan, a loan forgiveness program for graduates doing public interest work.)

4. This admission may not be in our own interest, but here goes: Working at the NAACP Legal Defense and Education Fund or Greater Miami Legal Services is not the same as going to work among lepers with Mother Teresa (with attendant dysentery and other sundry forms of suffering). I don't like self-flagellation any more than anyone else.

Graduates of my law school do public interest work because we like it and we find it personally and professionally satisfying. As for the monetary sacrifice, well, a treatise on materialism in the US is beyond the scope of this article. Suffice it to say that you can live a dignified lifestyle on a public-interest salary.

This admission, as I noted, may not be in our interest because we get a lot of mileage out of the Ghandian, we're-so-self-sacrificing image lots of people at the Other Law School have of us. (On the other hand, I, for one, could do without the condescending "I admire you sooo much" that I hear all the time, said in the same tone of voice I use to admire my four-year-old brother's paintings.)

For those of you who go to the Other Law School, and for 1Ls who haven't yet enrolled in either, here's the good news. Admission in my Law School is unlimited and newcomers are always welcome.

## Quality of Life Ranking

continued from BOOK, page 1

of relations between students and faculty."

No attempt was made to ascertain student satisfaction with their social life, their school's location, extracurricular options, workload and free time, or other factors that help determine the Princeton Review's quality-of-life rankings for undergraduate institutions. Defending this disparity, Brantley said that "it was a conscious decision to focus on different things for graduate schools than for colleges, because we believe that law students and other grad students are less interested in having fun and partying all the time than undergrads, and more concerned with their academic lives."

The guide also provides a brief written profile of each school and statistics on admissions, placement, faculty, and student diversity. HLS is reported as having a median LSAT of 168, a median GPA of 3.81, and an admissions rate of 12 percent, figures that Joyce Curll, assistant dean for admissions and financial aid, called "certainly not provided by us and not correct for this year." She said HLS's policy is not to release

this information because "our admissions process takes much more than grades and test scores into account and it's misleading to print this kind of information and give the impression that the numbers are determinative."

Brantley confirmed that the statistics quoted for HLS were not provided by the Law School, but by College Counsel, the firm that supplies *US News and World Report* with the information for its annual issue ranking educational institutions. "We try to get the info from the school, but when they don't respond to our survey, we have to rely on an outside firm," she said. Brantley did not know what year was purported to be the source of the figures.

Curll took issue with the Princeton Review's publication of the data, calling it "inappropriate and irresponsible to hold out these figures as accurate when they haven't come from a reliable source directly at the school."

The charts accompanying HLS's profile also reveal that students here are unhappy with the curriculum and the quality of teaching. The Law School was given moderately positive ratings on its facilities and extremely high marks for salary expectations. HLS students overwhelmingly described themselves as polit-

ically liberal.

The profile posits a "consensus" among students from which "few dissented" that the campus is "politically polarized" and severely lacking in a "sense of community." It also asserts that half of 1Ls are taught in an "integrated curriculum," an experimental program that was discontinued after the 1991-92 school year. Equally non-current is the guide's data on the composition of the faculty.

Associate Dean Todd Rakoff '75 expressed concern that "since several of the specifics are wrong or out-of-date, I wonder whether the picture of the school as a whole characterized by the 'bitter disputes' they focus on doesn't reflect troubles that are now behind us."

Brantley recognized that "some of the data may be out-of-date, which is something I'm looking into now. This is our first edition, and especially when schools don't return our surveys, it can be difficult to get current and accurate data."

With respect to the quality of life ratings, Rakoff said that "of course there's some competitiveness, but from teaching 1Ls, I really don't feel that it's very prevalent. People here have less reason to be competi-

tive than at schools where only the top students get jobs, and I generally sense a strong degree of cooperation in learning in the classroom."

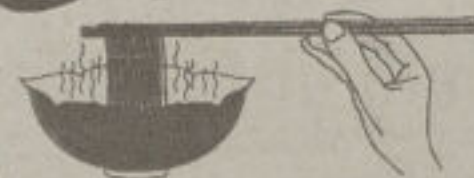
The profile concludes by quoting an HLS student importuning the Admissions Committee to let in "more students with a personality and/or a life." Rakoff disputed this characterization of HLS students, claiming that "my experience is exactly the opposite: Enormous numbers of students here have done truly impressive things before law school and nearly everyone does something substantial besides just studying for their classes all the time."

David Frakt '94 agreed that "one of the best things about HLS is the people. Just look at me." "I think most people here probably don't have great lives," offered Paul Taylor '94. "But if they don't, it's their own fault because there's plenty of time and plenty to do around here."

Brantley admitted she was "surprised" by HLS's poor showing on quality of life. She noted that HLS students' average time spent studying per day was "fairly low," and made perhaps the most perceptive and revealing evaluation of the survey results: "Harvard students just tend to be more critical than the average."

**Curll took issue with the Princeton Review's publication of the data, calling it "inappropriate and irresponsible to hold out these figures as accurate when they haven't come from a reliable source directly at the school."**

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**NO MSG!**



Some of the gifts Dean Clark brought back from his Saudi Arabian junket.

## Saudi Arabia Trip

continued from SAUDI, page 1

total amount.

"We did very well," he said.

### Islamic Program Establishes Middle East Links

For Professor Vogel, who is in charge of developing the new Islamic studies center, the Middle East trip engendered encouragement for his efforts. "The aim was to gain support and contact connections with lots of people and institutions, and we got very favorable responses," he said.

Vogel said that universities in the Middle East will serve as a valuable resource for the soon-to-open HLS center by providing access to libraries and potential students, scholars and visiting professors. "It is vital for this center to remain in close substantive contact with the Middle East, and the whole world," Vogel said.

Although Vogel is the only HLS professor of Islamic law, he said "that's still about 100% more than any other law school in the country," reporting that no other law school faculty has a full-time professorship for Islamic legal studies.

Still, he said that as part of the Islamic studies center, he hoped that one visiting professor could participate in the program each year, teaching specialized subjects in the field. "We need diversity in Islamic law. It's an immense field encompassing 14 centuries of work by a good one-half or one-third of the world, geographically," he said.

### HLS Entourage Treated Like Royalty

Clark said he was particularly impressed with the "obviously high regard" in which Vogel is held throughout the Middle East. "He is a perfect person to be heading our program," Clark declared.

In fact, all members of the HLS trip received royal treatment. "Everywhere we went we were treated like visiting heads of state," Clark said. "The generosity and hospitality were mind-boggling. We were flown around

at the king's expense."

Among the host of gifts the Dean brought back to Cambridge were a large gold and silver dagger. "I'm going to bring that to faculty meetings," he quipped.

**"Everywhere we went we were treated like visiting heads of state," Clark said.**

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## Rose Rader: 1919 - 1993

By Rob Rader '94

RECORD Columnist



**M**Y Grandma died last month.

I knew she was sick. She'd been rushed to the hospital during fly-out week and the doctors said she was never going to leave. Still . . . I guess you never expect your Grandma to die.

I was planning to go down to Florida for Thanksgiving, to say my goodbyes. If she'd lived another week and a half, I would have seen her one last time. Grandma never did have good timing. I guess I can't blame her. After all, when is it a good time to die?

It's strange to think she's not around anymore. I can't think of anyone who would hate the idea of not being alive more than Grandma. I know how trite it sounds, but she loved being alive, even though it was mostly "just" watching TV or doing crossword puzzles or arguing with my Grandpa. (She really liked arguing with him.) She never stopped thinking there were other things she was going to do. In the last year, she talked about going back to school to get a degree in political science, so she could help Bill Clinton run the country. She was constantly under the illusion that because she donated money to his campaign, Bill Clinton wanted her advice. Hell, she donated money to me a lot and I never wanted any advice.

I keep worrying I'm going to forget her, now that she's gone.

I won't, but my memories of her are all so idiosyncratic and stupid. I've always hated the way people who die ascend to sainthood so quickly. My Grandma was not Mother Teresa. She was a cantankerous old biddie — the most narcissistic and vain person I've ever met. (She would have fit right in at law school.) But, I didn't love her because I thought she had no faults. On the contrary, I loved her for her faults. Hell, I loved her because she was my Grandma.

My first memory of my Grandma is when I was four years old, I think. She was knitting (that's what Grandmas do) and we watched "The Mod Squad" together. Most of my memories of Grandma involve watching TV, since that was about all she ever did. Cable was a great boon for her. The last time I saw her, last winter break, we watched our usual daily allowance of TV. Each night, we would watch "The Arsenio Hall Show" and "Studs." That's my life with Grandma right there: "The Mod Squad" to "Studs."

Grandma loved crossword puzzles, too. But I never gave a shit about the crossword puzzles, so forget reminiscing about that.

We both loved football, however. Each Sunday (even during the off-season), I would call her. Most of the time, we'd talk about the Dolphins. She was a huge Dan Marino/Don Shula fan. After each game, she would explain how the defense wasn't working hard enough for Marino. The morning after Shula broke George Halas's record for most coaching victories, she died. So I guess she died happy.

I went to Detroit for her funeral and to sit shiva. (In English, that means sit around and eat a lot.) My Mom, sister, and brother flew in from, respectively, Japan, Israel, and Los Angeles to do the same. I'm jealous; they all got the chance to say goodbye to Grandma in the last couple of months. I hadn't seen her since winter break. So, I'm left with my last calls to the hospital when she could barely speak except to say "Robbie, the Dolphins are winning. Talk to your Grandpa."

Grandma was just so vain. It was incredible. She refused to see anybody unless she had her makeup on. After the chemotherapy, she lost her hair and wore a turban everywhere. Maybe it's a good thing I didn't see her, so I don't have to remember that part. My brother, sister, and I all refused to look at Grandma in the coffin. That's not what I want to remember about her. Besides, she put on her makeup much better than the undertaker did, I'm sure.

The day of the funeral, it was, appropriately enough, very gray. Of course, it's always pretty gray in Detroit. After the service, everyone went to the grave and we lowered Grandma in. You never imagine putting your Grandma in a box and shoveling dirt over her. At least, I never imagined that. Yet, I did it. My brother, sister, cousin, and I covered Grandma's box with dirt. It's a Jewish custom for the family to cover the box up themselves. I don't know why; I don't understand any of our customs.

After everyone else filed off, we grandchildren continued shoveling and filled up the entire hole. Then, you stand there and look at this big filled-in hole with your Grandma in it and other relatives tell you it's time to go. Twenty-six years of my life I'd been with Grandma and the only thing I could do for her was cover her with dirt and cry. It seemed so desperate, stuck in a box under dirt. I keep imagining Grandma trying to get out, just like in those old Vincent Price movies. He's dead now, too.

I guess it was appropriate that the grandchildren finished her off. That's what my Mom told us anyway.

Grandma and I would always argue and yell at each other on the phone. My whole family yells a lot, actually. But Grandma was very opinionated. Come to think of it, my whole family is pretty opinionated. She and I both swear a lot. Like my whole family, really. Okay, so whatever. We would talk on Sundays. And, we'd be yelling and swearing at each other. I'll always remember my roommates in college listening in to my conversation, sometimes through the walls. They'd be thinking, "Who is Rob talking to, swearing like that?" Then, they'd overhear me yell, "Oh, Grandma, you're so full of shit!" Then, my poor roommates would be shocked. Grandma and I never were.

For some reason, Grandma always thought the world of herself. Here was a woman who never did a day's work in her life, who didn't even cook or clean her own house, and yet claimed she was an expert in all matters. It was always very funny to me. If you tried to list her accomplishments, you couldn't come up with one. No work, not much help in her family . . . what else is there? She was a good grandmother, but, let's face it, that's a pretty easy job. Just say "yes" a lot and give out some money. A parent's job is much harder. Yet, if you asked her, no one else in the history of the world had done as much as she did.

On the other hand, I think Bob Dylan once said that if you get up, do what you want during the day, and then go to bed, you're successful. By that standard, I know no one more successful than my Grandma. She did nothing but what she wanted. And, what she wanted was to watch TV and do crossword puzzles. So, that's what she did. Occasionally, she'd go on a cruise. And that was that.

I'm not sure what I can learn from her example. I'm not going to be rich by marriage, I sense. Unlike Grandma, I'll have to work. I guess I inherited her sense of being special beyond any point justified by my accomplishments. Thanks, Grandma. I don't know what good that legacy is, but it's mine and I've got it.

So, adios, Grandma. I'll miss you. I hope they carry "Studs" wherever you are.

## "Hi Ho, Hi Ho, It's Off the Edge We Go..."

By Marc Channick '94

RECORD Columnist



**H**ERE at the Institute for Consumer Travel Safety (motto: "making your travel dollar work for you, then firing it to avoid having its pension benefits vest"), it is our fervent wish that all of you out there thoroughly enjoy your vacation time. (Actually, it is our fervent wish to be allowed to go skinny-dipping with Nicole Kidman in a giant vat of strawberry Jell-O, but we are attempting to keep some toe-hold on reality these days). Thus, with HLS in the icy grip of winter, and dreamy thoughts of Spring Break just beginning to emerge, we feel it is our duty to issue the following Emergency Travel Advisory: **MAKE YOUR FLIGHT RESERVATIONS EARLY!!!!**

Several years ago, five of us from college decided to travel to Disney World for a few days of rest, relaxation, and conspicuous consumption. Being the free-spirited youths that we were, we decided to drive the whole way from Rhode Island to Florida. If the truth be known, it wasn't so much that we "decided" to drive as that we "forgot" to make airplane reservations until only a few days before the travel date, at which point the only fare available would have required us to make the entire trip wearing live weasels on our heads.

At first, the idea of driving didn't seem so bad, since, according to our map, the entire trip covered a distance of no more than seven inches. Of course, we had forgotten to consult the scale legend at the bottom, which explained that one inch equaled "more miles than you would ever want to spend cooped up in a small moving vehicle with four 19-year-old males of questionable personal hygiene."

The vehicle itself was provided by one of my friends, who assured the rest of us that we would be traveling "in style." I can only assume that he meant "in the style of total dorkheads," since we arrived at the departure point to find him sitting behind the wheel of... an AMC Gremlin. For those of you not familiar with this pinnacle of automotive style and elegance, suffice it to say that this was a car on which AM radio was a luxury option.

Nevertheless, we boarded the Nerdmobile and started on our way. Everything was fine for the first 107 billion hours, but then we ran into trouble. More specifically, we ran into the back of a very large, very expensive black luxury sedan. As the five of us tried to make ourselves look respectable (in the sense of removing the larger pieces of junk food from our teeth, bodies, and hair), out of the other car stepped a gentleman wearing a suit that cost more than my college education.

He stepped up to our car, giving us a look which seemed to indicate that he hadn't decided whether to exchange insurance information, or simply shoot us and recoup his losses by selling our bodies for medical research. Luckily for us, he was so close that any gunfire would have resulted in his getting blood stains on his suit, so he contented himself with giving us an 11-minute lecture on The Importance Of Traffic Safety, and how if we ever did this again, he was going to Hunt Us Down And Kill Us Like Dogs.

This little adventure behind us, we forged on, driving a little faster now to compensate for time lost. This strategy worked well for a while, but then failed us somewhere in rural Georgia (just outside one of those quaint little towns where everyone has the same last name), when we were pulled over by a state trooper.

At this point, I was riding shotgun. As we all know, the first rule of riding shotgun when there are police involved is "keep your mouth shut." This is a hard-and-fast rule, no exceptions. Even if your underwear is on fire, it is usually best to keep it to yourself. However, I was born missing whatever bit it is that stops thoughts from passing instantaneously from mental to verbal form, and thus when the trooper menacingly informed us that "no one goes that fast through Georgia," I could not help but instantly respond, "Sherman did."

I'd just like to state for the record that prison food is not as bad as some people say. After a pleasant 5-hour interlude as guests of the State we were allowed to go on our way. We escaped unharmed, except for my friend who was driving at the time. He enjoyed a meaningful encounter with one of the deputies which has left him, to this day, with a major fear of latex gloves.

Finally, we arrived at Disney World. I don't know if it is truly "the happiest place on Earth" (having never been to Dollywood during "Spring Is Bustin' Out All Over" Week), but it certainly is the most expensive. Entering the park is like being magically whisked away to Italy — all of the prices have a couple of extra zeroes on the end.

The most amazing thing about the entire place, apart from the perpetual meeting of the Lost Screaming Children Society (motto: "waaaahhh!!!"), is that there are numerous scenic ponds scattered around the park, filled to overflowing with spare change thrown in by visitors. I guess some people feel that it's about time we Americans chipped in and bought Mickey a shirt, and Donald some proper pants. One can almost picture Michael Eisner wading through the ponds at 3 AM, cheerfully whistling "Zip-A-Dee-Doo-Dah" as he shovels the change into his pockets. In Disney-speak, such behavior is known as "cashing in stock options."

I'm not saying that all spontaneous travel is bad. I know that for some people, there is nothing better than waking up each morning without a plan, ready to go in whichever direction the wind is blowing. Most of these people currently occupy seats in Congress. Seriously, though, I believe that there is definitely a value to be placed on planning and preparation. However, if you insist on going on the spur of the moment, I can get you a Gremlin wholesale.

## Dersh and Scalia

continued from SCALIA, page 1

ten questions from the class, encouraging students to ask about Scalia's judicial philosophy and his views on the various issues addressed throughout the semester. These questions were then forwarded to the justice in Washington, DC.

The class itself was largely taken up by a debate between Scalia and Dershowitz over various legal issues, including the justice's "original intent" interpretation of the Constitution, with some students posing questions to the justice toward the end.

"I thoroughly enjoyed the experience,"

Dershowitz said after the class. "Law is an adversarial profession, and I think it is important for students to see the adversarial process at work. Every professor comes to a class with his own perspectives, and I think it is important for students to get a different point of view. . . . I thank Justice Scalia and the students who invited him."

Visiting

Professor Lucy White '81, one of the many visitors back-benching on that day, said: "The

chance to hear Justice Scalia have to justify his judicial philosophy in an almost adversarial setting is perhaps a once in a lifetime opportunity for you all."

**"I thoroughly enjoyed the experience," Dershowitz said after the class.**

## Holmes Field Building

continued from BUILDING, page 1

reshuffling hassle, Coleman added. "We were pretty realistic about how fast things were moving," she said.

In addition to five new mid-sized classrooms, the 53,000-square-foot building is to house 35 faculty offices, a faculty lounge, secretarial offices, and the soon-to-be relocated word processing department, and student computer lab.

Many faculty members who will have offices in the new building have toured the site and are pleased with the progress to date, Coleman said. "The feedback has been very positive," she said.

Prof. Charles Nesson '63, who is moving into an office in the building and is also a member of the Holmes Field Building Committee, said the delay would cause him "no problems whatsoever" as long as it is ready for move-in by Spring Break.

Space in Langdell North that will be vacant as a result of the office moves will eventually be part of a \$28-30 million expansion to the Law School library, but that project is on hold, awaiting a donation to finance it.

Despite the library expansion's financial limbo, the administration is confident the project will take place, Coleman said.

"There is absolutely no reason at this point to think that it will not happen," Coleman said, adding that she expects it will occur during the 1995-96 or 1996-97 academic year.

Once the dean's office issues a go-ahead on the library expansion, it will take about another 18 months to finish the plans, Coleman said. "Even if someone gave us a \$25 million check tomorrow, we could not do it during 1994-95," she said.

Coleman said a dedication date has not yet been set for the new building because the Law School is seeking a \$10 million donation that will provide a name for the building. The building construction is currently financed through a loan from Harvard University.

"That's why Langdell is not a go yet," Coleman said. "We don't want the interest on [both] the new building and Langdell [renovations] to come out of your tuition."

Some classroom items have already been donated, Coleman said, adding that the Law School's fundraising campaign is "way ahead" in other areas. For example, money has been raised to add 10 new professorships by 2002 as planned, Coleman said.

## Students Start SafetyNet

continued from SAFETYNET, page 4

"[Recent immigrants] within the Asian community often have a significant level of distrust of government," he said, citing especially immigrants from nations whose governments have been oppressive. As a result, Asians tend not to report crimes committed against them, and therefore don't go through traditional channels for help. In addition, Su cited language barriers as part of the reason why Asians keep quiet.

That's why SafetyNet's goal is to first to reach victims through the people that victims have substantial contact with, and are likely to tell their problems to. "We want to train staff of direct services agencies to identify hate crimes and help the victims. We want them to know the laws regarding hate crimes, identify the victims, and know the steps to bring a

prosecution through if the victim desires," Su said. Direct services agencies employees include health care providers, mental health practitioners, and ESL (English as a Second Language) teachers, Su added.

SafetyNet's ultimate goal, however, is to set up more direct services, such as a hotline Asian-American victims can call to report hate crimes. Su said the hotline will probably be centered in Boston, and she hopes to have it functioning this February. Chen said other plans include a walk-in clinic with full-time services and multilingual staffers. "These are the types of services we'd like to flesh out and make more robust," said Chen. "Something needs to be done to make [Asians] feel like there's a community that supports them."

Su said anyone interested in joining SafetyNet is welcome to contact her.

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RECORD!! OR ELSE!!!**

## Guards Acquitted of Theft

continued from ACUITTAL, page 3

Harvard University Attorney Allan A. Ryan, Jr., who attended the entire trial, suggested that the estimates might be high. "I'm never sure how the costs of trials are estimated," he said. Ryan declined to comment on the specifics of the case.

Johnson defended the police department's pursuit of the case, in spite of the cost. "The charges were legitimate, or they would never have been brought," he said.

"You can't put a price tag on the dissemination of justice," Johnson added. "In most cases, the costs far outweigh the crime committed, except in a case like a homicide."

Perry said the police department could save itself and the University, as well as the guards, a great deal of addi-

tional money by restoring the guards' back pay and avoiding a prolonged legal battle.

"They just can't accept that this was a mistake," he said. "They can't say that they're wrong."

As a result of the Law School's decision to replace the guards with an outside security service (see related story, page one), neither Perry nor Auterio is currently patrolling the HLS campus. Perry is working in an administrative capacity and hopes to be reassigned to the Business School. Auterio has been working at the Kennedy School and the science laboratories.

Middlesex County Assistant District Attorney Marc Eichler, who argued the case for the prosecution, did not respond to a request from the RECORD for an interview.

## New Security Company

continued from GUARDS, page 1

four or five. The new guards spent their first week in training and are only beginning to meet students, faculty, and staff.

Lamentea says he has already been impressed by what he has seen. "So far I'm pleased," he said. "It looks like a pretty good crew."

The duties of security guards include patrolling the campus, escorting people on

the Law School campus, and locking and unlocking doors. The guards are unarmed and do not have the authority to make arrests.

All the HUP guards who previously patrolled the Law School have been reassigned, according to an HUP spokesperson. Bob Dowling, who manages the HUP security operations, was out sick this week and was not available for comment.

## Information Highway

continued from TECHNOLOGY, page 4

Regulation class.

Lots of new teaching and communication applications would become possible through a local network, Jackson said. Professors could hold electronic office hours in which students would send questions through E-Mail and professors would return answers electronically to the entire class; administrative notices, class assignments, and the Advisor, could all be posted electronically; E-Mail could spare hundreds of trees the fate of being stuffed into student hark boxes as processed paper.

At Columbia and other law schools, these possibilities already exist, Mnookin reported. "It is fair to say that Harvard Law School is in no sense a leader in technology," he added.

But Mnookin and Jackson cautioned that forging ahead carries risk as well. "Though my own inclination is to go as fast as possible and get this all set up, you have to go carefully," Jackson said. "You have to be extremely careful buying technology because it's possible to spend a massive amount of money and end up with something that's not all that useful."

At this stage in the game, Jackson said the goal of the Committee is to thoroughly study the situation this spring and design a system appropriate for the Law School. Considerations include how to connect all the campus buildings, what type of hardware to purchase, and what personnel would be required to support the system. Finding funding for these costly accommodations is also a factor.

For students, a big issue is whether the Law School would require them to own computers with networking capabilities. This requirement already exists at Harvard Business School, although Jackson noted that business school education is also "more quantitative" and computers are needed for a variety of other applications.

But Jackson predicted that "it is easy to see a time when law students will be expected to have computers of some sort to participate in many aspects of their

education." He expected that it would be factored in to the cost of a law school education. In the meantime, however, he said one alternative would be to set up E-Mail terminals throughout the campus buildings for student access.

Also on the Legal Education Committee's agenda is encouraging professors to bring multi-media and technological innovation into their classrooms. According to Nesson, responses from the faculty have been ones of "curiosity, receptivity, and some phobia." He added that "we've never worked on teaching as a faculty, although we work extremely hard on teaching as individuals."



Prof. Charles Nesson '63

**"My attitude is it's here for us, we're ready," Nesson said.**

Excited to lead the pack in innovating law teaching, Nesson said, "My attitude is it's here for us, we're ready." He also said that Dean Clark has been supportive of his efforts. "Bob is extremely interested in technology. He loves it."

If Nesson's Evidence class is any indication, student responses to these initiatives are likely to be mixed. "Technology is a great thing and Harvard Law classes should use it," said one student, who then cautioned, "but not in a way that interferes with teaching of the subject matter."

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## Lessons of the Junk-Bond King

By Stephen Weinstein '94

RECORD Columnist



**Y**OU may have heard that Michael Milken, former junk-bond king and current probationer, is teaching a business class at UCLA. Not only is the class wildly popular, supporters increasingly hail Milken as an unappreciated, even victimized hero of financial creativity. Indeed, gauging the tenor of classroom discussion, I suspect this attitude may be shared by many of our peers here at HLS. Thus, it may prove useful briefly to review some of the key business principles employed by Milken during his now-celebrated reign.

**Screw your customers, Chapter I.** Unlike the case for stocks and other instruments, when Milken began his career there existed no exchange or vibrant over-the-counter market to facilitate trading in what we now call junk bonds. Milken stepped into this void, to his great profit. By essentially functioning as a monopoly-market maker, Milken was able to seize several profit opportunities.

For example, he was able to profit greatly from undisclosed spreads, the difference between the price paid by buyers and sellers of a particular bond. Because his clients never communicated with each other, and depended on him for price information, Milken could buy from sellers for less than he could convince another party to pay. Even better, Milken did not disclose the many occasions when he was trading from his own, vast account. It is unlikely that Milken ever suffered

### We should neither lionize Milken nor turn to him for special wisdom.

losses in such transactions.

**A Captive Market is a Friendly Market.** Aided by the above dynamic, Milken succeeded in creating a clutch of "captive clients," vulnerable institutional investors who depended on him to provide high-yielding investments and to bail them out of unpleasant positions. As every ulcer-clutching taxpayer knows, these institutions included maverick savings and loans and insurers in under-regulated states such as California, Texas, and Florida. Milken encouraged these clients to feel like privileged insiders in a money-making machine, a feeling similar to that enjoyed by early investors in a Ponzi scheme.

And, indeed, while Milken's hand was at the wheel, the system benefited favored customers such as Columbia Savings and Loan and Lincoln Insurance. In return for inside information and access to sure bets, such faithful clients loyally purchased dubious offerings underwritten by Milken. Typically, Milken would cash out his inner circle later on, passing on the supremely junky bonds to desperate customers lower down the feeding chain. Note that if you failed to play Milken's game he would push you off the gravy train and leave you with a portfolio of junk no one else could unload.

**Screw Your Customers, Chapter II.** Because Milken could count on his captive clients to snap up even the most risky junk bonds, he could offer correlative monopoly service to clients on the other side of the financial divide: junk-bond issuers. Only Milken, claimed Milken (correctly), could provide billions of dollars for risky ventures to unproven nobodies such as Ron Perelman, Nelson Peltz, and, yes, HLS's own Reginald Lewis.

This second monopoly opened up its own set of profitable opportunities. For example, Milken charged issuers inordinately high fees. Furthermore, Milken habitually demanded that issuers provide warrants to buy stock along with their junk bonds. The warrants, Milken claimed, were a necessary "sweetener" needed to induce customers to buy the bonds. However, this was a lie; as seen above, Milken could force his captive clients to buy swiss cheese. Rather, Milken pocketed the warrants himself, as a "bonus," usually stuffing them secretly into a labyrinth of trusts and holding companies nominally owned by his children and other fictional "partnerships."

Moreover, Milken typically forced issuers to borrow more money than they actually needed. This left issuers with a pile of very expensive cash they couldn't use in their business or transaction. The only way to pay off the interest on this cash, Milken argued, was to buy more junk bonds. From Milken, natch.

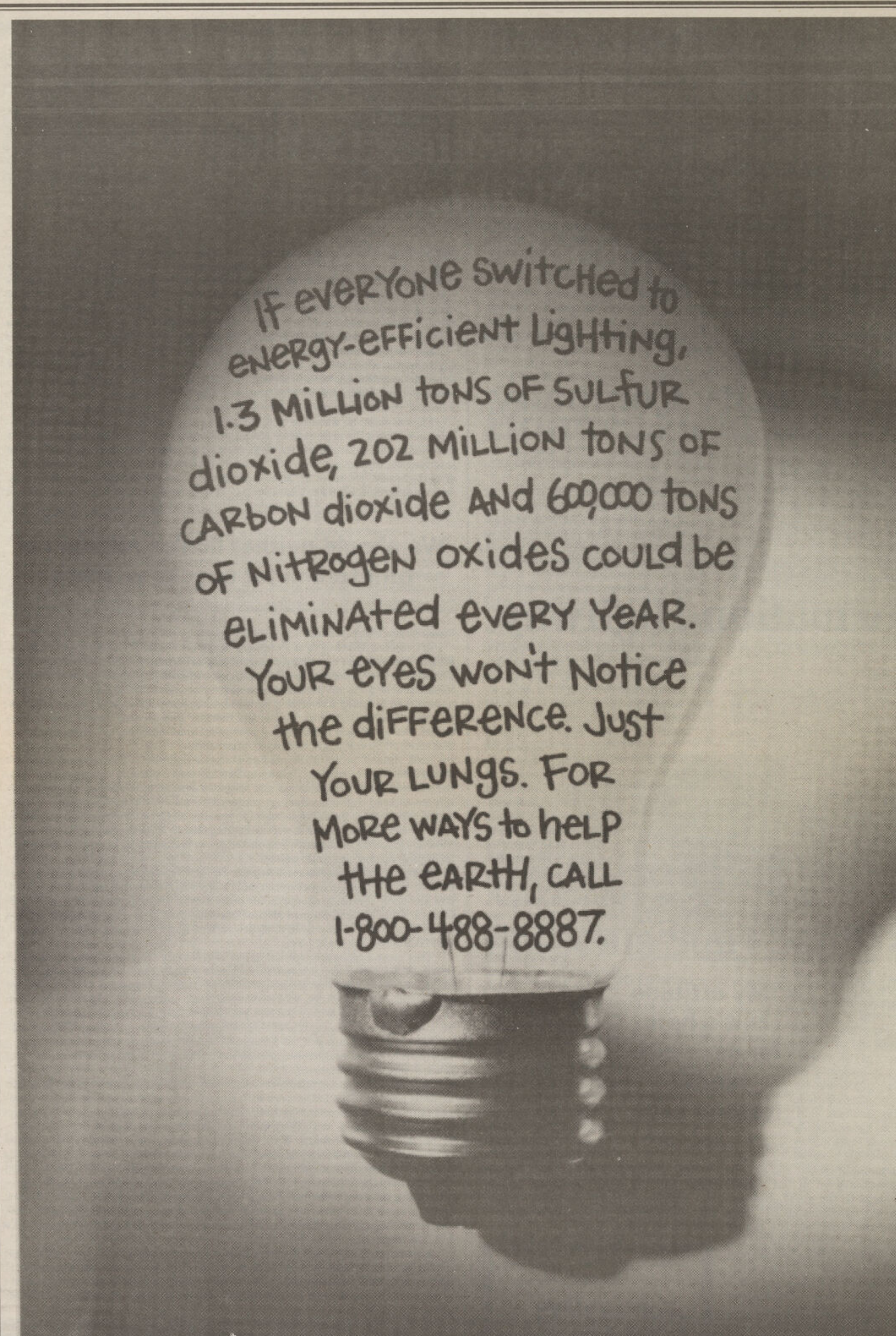
**Reward Your Cronies.** Wow, you might wonder, these clients Milken fleeced sure are idiots. Not really. Milken took advantage of what some law professors might term socially sub-optimal incentive structures. That is, Milken realized that the managers running his institutional clients were paid relative to factors other than safety of principal or long-term returns to their own fiduciary clients. Indeed, these folks generally had more to gain from short-term spikes in yield than from long-term profitability. And no one could provide short-term gains like Mike Milken.

Milken could also provide more direct rewards. Members of Team Milken got invited to exotic "conferences" such as the annual, prostitute-laden bacchanal nicknamed the Predator's Ball. Even better, especially helpful managers were given nominee accounts in Milken-controlled trusts and secretly allowed to invest alongside the Master.

**Some Real Lessons.** Actually, I have a certain admiration for Milken. He rose from the middle class to wealth. He worked shockingly hard. He cared for his family. He lived frugally. Not least in my estimation, he overcame entrenched anti-Semitism in the financial world.

Nevertheless, we should neither lionize Milken nor turn to him for special wisdom. (We certainly should not let him teach our young.) Rather, we should draw our own lessons. Here's one: Ambitious individuals will seize structural market advantages. A corollary: Let's work harder to prevent people like Milken from cheating and stealing. Perhaps some of us will consider the real-life lessons before next opining about the supposed efficiencies of insider trading or "deregulation."

Finally, future clients or investors of Milken's should remember: Before he was a professor, Milken didn't grade on a curve.



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