



Ted Ruger '95 was all smiles after election as the new Law Review president.

Ruger New Review President

By David Clancy

Ted Ruger '95, one of last year's Sears Prize winners, will replace outgoing President Van Nguyen as head of the country's most prestigious law journal, the *Harvard Law Review*.

Ruger was elected from a field of 11 candidates in a vote among his fellow *Law Review* editors Sunday. Also elected to leadership positions this week were Sangita Rao '95 as managing editor and Chris Foster '95 as treasurer.

Colleagues attributed Ruger's election to the high level of respect in which he is held by his fellow editors. "There was a broad consensus that Ted had no peer in terms of intellect, fairness, and sensitivity," said Rao.

Patrick Nominated for Top Rights Job

By Jeff Bucholtz

The president and his wife may be Yale graduates, but their administration continues to attract alums of Harvard Law School. Deval L. Patrick '82 was nominated last week as assistant attorney general for civil rights, a position that has remained vacant as President Clinton's first two choices were forced to withdraw.

Prof. James Vorenberg '51, a longtime friend of Patrick, praised the nominee as a "superb choice." Deval showed himself to be a natural leader while he was at HLS. Recalling Patrick's ascent from poverty and segregation on Chicago's South Side, Vorenberg said that Patrick "has never forgotten where he came from, and that gives him a sensibility to issues of opportunity and civil rights in general."

Before joining Hill & Barlow in Boston in 1986, Patrick was a staff attorney for the NAACP Legal Defense and Educational Fund (LDF). Patrick's work for LDF focused on death penalty appeals and voting rights challenges, including a case against then-Arkansas Gov. Clinton. "Nothing personal," Patrick told

High on the new leadership's list of priorities is to continue ongoing efforts to change Gannett House's image as a place of "myth and mystery," said Foster — both to enhance the organization's reputation generally and to attract 1Ls.

The turmoil that plagued *Law Review* two years ago "has passed," said Ruger. "With each new class there is a different dynamic," he said. "Our class tends to separate ideology and personality, and one of our goals is to keep that up."

The *Law Review* experience is largely positive, said Foster. "You learn an extraordinary amount, it's great for your writing, and it's a lot of fun," he said.

The *Law Review* staff will take on the task this spring of educating and informing 1Ls

about life at Gannett House. "If people understand who we really are, then the vast majority will enter the writing competition," said Foster.

Foster cited the large turnout for the 1L writing competition last year as evidence that the *Law Review* is quickly recovering from its negative image of previous years.

The new leadership also plans to "become a more active part of the Harvard Law School community" on both a social and an intellectual level, Ruger said.

"We are planning to meet with leaders of student organizations and journals and be creative about joint projects," he said.

The new leadership intends to make the publication itself more "accessible," said Rao. "We are going to try to include shorter pieces and more dialogues."

Another substantive goal is to improve continuity from one year to the next, said Ruger. "We are a strange organization in that we've been around for over a century, but no person is here for more than two years." Cited by Ruger, Foster, and Rao as ways to improve continuity are strengthened communications with alumni and better record-keeping.

Other newly elected officers are Melissa Hart and Dean Newton as articles chairs, and Tony Barkow and Cathie Struve as student writing office chairs.

the *Boston Globe*. "We settled the case." Pro bono civil rights work has occupied nearly one-third of Patrick's time at Hill & Barlow, in addition to his commercial litigation practice. He was made a partner in 1990.

Patrick's distinguished career as a civil rights litigator propelled him into the US

please see **PATRICK**, page 11

Nesson Invites Critic to Campus

By Victoria Kuohung

A casebook is never just a casebook. At least that's what some students in Prof. Charles Nesson's Evidence class thought this year.

After Nesson '63 distributed an article criticizing his Evidence casebook for gender bias, members of the Women's Law Association were so interested they asked Nesson if he would co-sponsor a visit by the author, Prof. Ann Althouse of the University of Wisconsin Law School.

Nesson agreed, and this week Althouse, whose article "The Lying Woman, the Devious

Prostitute, and Other Stories from the Evidence Casebook" will appear in *Northwestern University Law Review* this spring, came to HLS to discuss Nesson's book.

Nesson said the invitation was part of an effort to understand how students felt about the casebook.

"The gender issue is the number one problem in student-faculty relations... contributing to a sense of distance between students and faculty," he said.

Althouse said she chose to write about the Nesson and Green casebook after teaching from it for several years. "I started to notice... instances of violence against women were

Heymann Resigns From Justice Post

Prof. Will Return Next Year

By Greg Stohr

Prof. Philip Heymann's decision to resign from his post of deputy attorney general after less than a year on the job has caused surprise and disappointment among his colleagues at HLS.

Heymann '60 announced his resignation at a January 27 press conference, at which both he and Attorney General Janet Reno '63 cited "chemistry" problems between them as the key factor in Heymann's decision. Heymann said differences in the pair's "operational and management styles" prevented them from working together effectively.

Prof. Alan Dershowitz, who called the resignation "a tragedy for the Justice Department," praised Heymann's managerial skills. Dershowitz suggested that if style changes were need-

ed, Reno, not Heymann, should have been the first target.

"He's a superb manager, a real professional," Dershowitz said of Heymann. "He really was a stabilizing force in a Justice Department that is full of amateurs."

In the wake of a year of tough and often controversial decisions at the Justice Department, speculation has centered around possible policy differences that might have driven a wedge between Heymann and Reno, as well as between Heymann and the White House.

Dershowitz suggested that disagreements over

issues like mandatory sentencing, the Jonathan Pollard case, the Whitewater affair, and the aftermath of the Waco tragedy might have contributed to Heymann's departure.

Prof. Alan Stone who submitted a report on the Waco

please see **HEYMANN**, page 10



Philip Heymann '60

Tribe, HLS Facing \$5 Million Lawsuit

By Katrina Campbell

HLS Professor Laurence Tribe '66 and Harvard Law School have been named as defendants in a \$5 million lawsuit for breach of contract, slander, and fraud brought by a lawyer with whom Tribe worked on a 1992 appeal.

But Tribe said allegations made by the lawyer, Steven Kramer, were "filled with fantasy rather than truth," and has filed a motion to dismiss the complaint

in New Jersey Federal District Court.

"The complaint is irresponsible, frivolous, and has no merit," Tribe said. "I fully expect it to be dismissed with prejudice."

Kramer's complaint, filed in January, alleges that Tribe violated a contract in which he agreed to represent Lightning Lube, Inc. in the appeal of a multi-million dollar judgment in its favor. Kramer, who had represented Lightning Lube at the trial level, says Tribe failed to master the record and wrote almost none of the briefs on behalf of Lightning Lube.

"Mr. Tribe says his role was a limited one," said Kramer, who identifies himself as a third-party beneficiary of the contract. "If you're going to pay someone \$2.75 million, you're going to expect more."

Tribe stood to make up to \$6.5 million if the case progressed all the way to the US Supreme Court. The case was eventually decided by the Third Circuit in favor of Lightning Lube, entitling Tribe to a \$2.75 million fee. Kramer was to be paid under a contingency fee agreement with Lightning Lube and was responsible for paying 25 percent of Tribe's fee.

Kramer also alleges he suffered hundreds of thousands of



Laurence Tribe '66

please see **ALTHOUSE**, page 8

please see **LAWSUIT**, page 2

Dershowitz Cautiously Optimistic About Black-Jewish Relations

By Ray Kahler

Speaking to an overflow crowd in Pound 200 Tuesday, Professor Alan Dershowitz said the "good news is very good indeed" with respect to relations between the African-American and Jewish communities.

Dershowitz said that the relationship between Jews and African-Americans at Harvard has been very good during his 30 years here, in part because both groups were discriminated against by the University in the past.

Despite the common ground within the African-American and Jewish communities, however, Dershowitz said the recent speech by a member of the Nation of Islam is a cause for concern.

While Dershowitz praised Jesse Jackson for condemning the speech as anti-Semitic and for distancing himself from Louis Farrakhan, Dershowitz said he was disappointed by the NAACP's decision to maintain relations with Farrakhan and the Nation of Islam.

Rather than denounce the speech, Farrakhan merely condemned the words and rhetoric used, while reaffirming its message, according to Dershowitz. He cited Farrakhan's allegation that 75 percent of slaves in the South were owned by Jews as indicative of Farrakhan's unrepentant response.

"Trying to pinpoint Jews as responsible for the problem of slavery is core anti-Semitism," Dershowitz said, comparing Farrakhan's remark to Hitler's attempt to blame Germany's problems on the Jews. Dershowitz said that "probably far less than one percent or even one tenth of one percent" of slaves in the South were owned by Jews.

Dershowitz, who said he has been closely associated with the NAACP over the last 35 years, said that he is more concerned with the NAACP than with bigoted speech by Farrakhan and his Nation of Islam associates. The NAACP's refusal to condemn Farrakhan and distance itself from his organization, Dershowitz said, tends to legitimate bigotry.

"The best way to ensure [bigoted speech] has no legitimacy is to have it renounced by black leaders," he said.

Dershowitz offered six possible responses to the speech and Farrakhan's subsequent remarks. First, the Jewish role in slavery could be challenged in academic debate, as the NAACP has recommended. However, Dershowitz said that debating a bigot in an academic setting may tend to legitimate bigoted views. "How do you debate a non-debatable issue?" he asked.

Second, the incident could be ignored because its impact and the extent to which such bigoted views are widespread is unknown.

Third, people could continue to expose such bigotry when it occurs by publicizing bigoted remarks, as was done in this case.

Fourth, people could protest bigoted speech when it occurs. "Protest is not to be confused with censorship," Dershowitz said. "Protest is a core part of free speech."

Fifth, bigoted speech could be censored. Dershowitz rejected this option, saying that some colleges at which Nation of Islam representatives have spoken have speech codes, but colleges apply speech codes selectively to censor only certain kinds of offensive speech.

Sixth, political and social leaders could condemn bigoted speech, regardless of its source. Dershowitz said that South Carolina Senator Fritz Hollings' recent remarks on African-American diplomats, for example, warranted much more condemnation than they received.

Dershowitz warned that political and social leaders such as Farrakhan and Pat Buchanan must be condemned for their anti-Semitic views, regardless of whether they have other good ideas. Most Germans who voted for Hitler, he said, did so despite Hitler's anti-Semitism rather than because of it, because they were attracted to Hitler's ideas on other issues.

"You can't support a bigot under any circumstances," Dershowitz said. "You cannot make compromises."

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Attorney Sues Tribe

continued from LAWSUIT, page 1

dollars in lost fees when he was fired as a result of Tribe's slanderous statements to Lightning Lube founder Ralph Venuto. Tribe allegedly told Venuto that Kramer was incompetent. Kramer additionally says that Tribe defrauded him and Venuto by concealing his intention to back out of the agreement if he were appointed solicitor general by President Clinton.

Tribe's brief for his motion to dismiss denies that he violated his contractual obligations and says Kramer's complaint is an attempt to disrupt Tribe's relationship with Harvard Law School. This brief states that Kramer has no claim primarily because he was an incidental rather than a third-party beneficiary to the contract.

The brief also argues that Tribe's statements to Venuto about Kramer's competency were privileged by his attorney-client relationship with Venuto, and that he was obligated to inform his client of any reservations he had about participants in the litigation.

Tribe said that Kramer has been dis-

ciplined several times in the past by the courts for ethical violations, including a public reprimand for witness tampering in the Lightning Lube case. In an interview with the RECORD, Kramer defended his record as a lawyer but admitted he had been sanctioned "five or six" times.

Harvard Law School was named as a defendant under the doctrine of vicarious liability for allegedly allowing Tribe to threaten and defame Kramer and for not enforcing its policy of limiting the number of hours professors can work on private legal matters.

Allan Ryan, counsel for the University, said the Law School was not involved with Tribe on the Lightning Lube case. "As far as I know, this was a private matter Professor Tribe undertook," Ryan said. Ryan said Kramer's charges have no significance as a matter of law.

Also named in the lawsuit were Ken Chesebro '86 and Jonathan Massey '88, who worked with Tribe on the case, and Ira Karasick '78, an attorney Tribe retained in his fee dispute with Lightning Lube.

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Student Threatens Suit Over LSC Book Sale

By April Rockstead

While Law School Council representatives toast the success of last week's LSC used-book sale as a service to students, at least one HLS student is threatening to sue the council members in small claims court and file a complaint

with the Administrative Board for what she calls the LSC's "robbery" of an estimated \$500 worth of her books.

Tina Wolfson '94 said the council violated basic principles of fairness when it appropriated books she dropped off at the beginning of the 1993 spring semester. Wolfson claimed she did not see Adviser notices informing students that books left after that sale would become LSC property if not retrieved by donors.

"The bottom line is it doesn't matter," said Wolfson of the notices. "They can make up all the arbitrary rules they want to — the point is fairness."

But LSC representatives say the procedure was applied "evenhandedly" and note that the deadlines for picking up books to avoid their becoming LSC property were extended several times.

"As far as I know, no one else has had a problem with this policy," said LSC President Enu Mainigi '94. "People either picked [their books] up or notified us they wanted them held over the summer."

Wolfson, who disputes the contention that the policy was applied uniformly, may be confusing two separate drop-off procedures, LSC officials speculated.

Shortly before the end of the 1993 spring semester but after taking owner-

ship of any books that had been previously dropped off, the Law School Council held another drop-off for books that were to remain students' property for vending in the 1993 fall book sale.

But Wolfson says she knows many people who dropped books off before the 1993 spring book sale and simply assumed the LSC would hold them for

resale. Some of these students received checks for the sale of their books in the 1993 fall book sale, she said.

In addition, Wolfson said LSC officials told her they could not locate her books for return because the identifying information was crossed out when the Law School Council assumed ownership.

A friend subsequently told her he purchased her

Corporations text book in the 1994 spring book sale with her name clearly visible, she said.

"Apparently, some of the books are still there and they're being sold, but I'm not getting the money," she said.

Mainigi said she believes Wolfson may have overestimated the number of books she left with the council and the value of any books she did submit for sale. "Only if there were any proof would I consider asking the council to vote on an exception for [Wolfson]," Mainigi said.

Wolfson said she sold some books in the 1993 spring sale and received compensation for them, but she maintains the list submitted to the council is for the remainder of books she dropped off in the spring of 1993.

The LSC claims of uniform treatment and Adviser notices cannot save the LSC's "irresponsible" decision to appropriate students' unclaimed books,

Wolfson said. "All they had to do was look in the front flap and call me to say, 'Please pick up your books,'" she said.

"This whole thing made me question the entire structure of the organization," Wolfson added. "The one thing they did that I thought was worthwhile turns out to be a total scam."

Mainigi defended the book sale and said student response to it has been overwhelmingly positive.

While the council will distribute flyers to students' Hark boxes with several

options for dealing with unsold books this semester, the change is part of overall improvement of the book sale as it evolves rather than a specific response to Wolfson's complaints, Mainigi said.

"It certainly wasn't perfect," Mainigi said of the sale. "We did our best, and you learn from your experiences."

Added Mainigi, "I'm just really happy that we can provide that kind of service to the students, and we just hope to keep improving it and make it an institution at Harvard Law School."

"Apparently, some of the books are being sold, but I'm not getting the money" — Tina Wolfson '94.

Dull Hardbacks Earning Students Fresh Greenbacks

The rumor that some students consistently fare better than others at the Law School Council book sales is supported by evidence, LSC officials say.

According to LSC representative Tracy Williams '94, whose council committee oversees the book sales, some students who use the LSC's middleman service regularly hit the \$100 to \$200 range in total sales.

The secret to their success?

"If you pay attention and follow the rules, you can make a lot of money," Williams said. Successful sellers generally are those whose books are reasonably priced, she said.

Some who grossed large receipts included those "who overbought study guides" and then resold them at the book sale, Williams added, providing solace for those who feel mocked by collections of pricey and unused study aids at semester's end.

Running at an average price of about \$10 per book, roughly 1000 books changed hands at the LSC book sale last week — representing an estimated \$10,000 in proceeds for individual student book-sellers and the Law School Council. The sale did not yield as much money as past sales.

"We didn't have as much to sell," Williams said. "New editions were issued for a lot of first-year books."

Among improvements that debuted in last week's sale was its location. The shelved room in the Story Hall basement where the sale was held was donated by the Law School library, Williams said, and she believes it greatly improved student impressions of the sale.

"A lot of people commented that [the sale] was a lot more organized this year," Williams said, noting that the LSC apparently will be able to use the room again for future book sales.

"I think it's been one of the best things we've done," Williams added. "It's a direct service to students."

Money the LSC makes on the sale — for example, from a \$1-per-book surcharge for LSC's handling the books — is being set aside to bring a comedian to campus, Williams said, but a date has not been set for that event.

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BRIEFS



LSC Prepares for Elections, ATM Arrival

The long-awaited ATM machine will arrive by late February and will be installed outside the Harkness Commons, reported LSC President Enu Mainigi '94. Originally scheduled to be in place by early this month, the machine has been delayed by the bad weather and a late equipment shipment, Mainigi said.

Also upcoming are officer elections for the LSC, which will be held February 23 and 24 in the Hark. Elections for representatives will be held the following Wednesday and Thursday, March 2 and 3. One-page candidate statements for officer positions are due in the dean of students' office by February 18 at 5 PM. Statements by representative candidates are due by February 25. Positions are open for 2L and 3L section representatives, and for six at-large representatives. Candidates can run for both section and at-large representative.

Mnookin Honored for ADR Article

Recognizing the work of HLS Professor Robert H. Mnookin '68 in advancing alternative dispute resolution, the CPR Legal Program presented him with an award for Outstanding Professional Article at its 10th annual awards ceremony, held on January 27 in New York City. Mnookin received the honor for his article "Why Negotiations Fail: An Exploration of Barriers to the Resolution of Conflict," which appeared in the 1993 edition of *The Ohio State Journal on Dispute Resolution*.

The CPR Legal Program is a nonprofit association of corporations and law firms united to develop alternatives to the high cost of litigation. Besides recognizing the practical and literary work of others in the field of ADR, CPR also has worked to develop new ADR procedures, educate law departments and law firms about ADR, advocate the use of ADR procedures, and provide mediators and other neutral parties to resolve business and public disputes.

3L Wins MAWL Scholarship

Wendy Patten '94 received the Carol DiMaiti Stuart Scholarship from the Massachusetts Association of Women Lawyers in a ceremony on January 27. The scholarship, awarded annually by the association, is granted to one student from a Boston-area law school on the basis of academic achievement, extracurricular activities, and financial need.

Spring Wasserstein Fellows Announced

Four Wasserstein public interest fellows have been invited by the Office of Public Interest Advising to speak to students on campus this semester. Paul Fishman '82, the first assistant United States attorney for the District of New Jersey and the former chief of the office's criminal division, has been on campus since Wednesday and will be available for appointments today. Diana M.T.K. Autin, the managing attorney of Advocates for Children in New York, will be coming to the Law School on February 28. Between March 2-4, Angela Jordan Davis '81 will be available to talk to members of the Law School community. Davis has served as an executive board member of the National Capital Area ACLU and is currently the director of the Public Defender Service for the District of Columbia and the co-chair of the ABA Committee on Race and Racism in the Criminal Justice System. Finally, on March 17, Frederica S. Brenneman '93 will be coming to campus. Brenneman is the senior judge of the Superior Court of Connecticut and has previously served as a statistician for the International Monetary Fund in Washington, D.C. and as a lawyer for the Antitrust Division of the U.S. Department of Justice.

Any students, faculty or organizations wishing to meet with these Wasserstein fellows should arrange an appointment by going to the Office of Public Interest Advising in P328 or by calling them at 5-3108.

Scientists Used Children in Studies

In 1961 and 1962 Harvard University researchers gave large doses of radioactive iodine to "mentally defective" children ages one to 11. The Cold War studies focused on the consequences of nuclear fallout and were uncovered last week when a Harvard medical professor discovered the study during normal preparations for an unrelated lecture.

The experiments, performed by a Medical School assistant professor and a Harvard researcher, were performed on children who attended the Wrentham State School, which is administered by the Massachusetts Department of Mental Retardation. Harvard researchers have been linked to other Cold War experiments that are now being scrutinized as part of a nationwide period of ethical insight.

In response to the recent revelations, a Harvard task force was established to examine the University's involvement in Cold War era radiation experiments. "For government researchers concerned about radioactive fallout to use institutionalized two-year-old children is an insult to the children, their families and to every individual concerned with individual rights and dignity," said Frederick Misilo Jr., chair of the task force.

—From *The Harvard Crimson*

Cruise, Ryan Win Hasty Pudding Prize

Finally, the man who for millions of Americans personifies the Harvard Law graduate is coming to Harvard. The Hasty Pudding last week named Tom Cruise "Man of the Year," and on February 22 he will be honored with the traditional "Pudding Pot" at the theatrical group's premiere of "A Forum Affair," its 146th annual production. In both "The Firm" and "A Few Good Men" Cruise played a cocky Harvard Law School graduate battling the evils of power and greed.

Actress Meg Ryan, best known for her irresistible roles in "When Harry Met Sally" and "Sleepless in Seattle" was named the Pudding's "Woman of the Year." She will be honored on February 15 in a colorful parade through Harvard Square followed by the presentation of the "Pudding Pot."

Pudding Publicity Manager Bonnie L. Graves said Ryan was selected for her "real sincerity both as an actor and a person." As for Cruise, while Graves recognized his reputation as a top actor, she said it was the "Harvard link" that attracted the Pudding's selection committee.

True Northern Exposure

The Shipping News
By E. Annie Proulx
New York: Scribner's
337 pp./ \$20.00 hard cover



By Mike Fischer '95

Book Review Editor

FESS up. You too are one of the law school legion who, every Monday night at ten, leaves behind the fascinating world of corporate bonds and securities for a magical hour with that cute doctor in Alaska. It's a nice escape from your next 50 years as a quotidian drudge — a chance to stand up and be counted as someone who appreciates the weird and the different. A chance to walk on the wild side.

But *Northern Exposure* isn't that weird and it certainly isn't wild. It isn't even very good. It takes few risks and explores fewer differences. Its weekly voyage out of port hugs the shore and delivers you — one hour and scores of commercials later — back to harbor, safe and snug. In short, vintage idiot box, with a bit of '90s introspection mixed in for that authentic feel.

E. Annie Proulx's new novel *The Shipping News*, on the other hand, does more than give you a "feel" for life in the great bleak north. Winner of America's 1993 National Book Award and a sure bet to win this year's Pulitzer, Proulx takes us to North America's real last frontier, Newfoundland. There, amid May snow storms and a collapsing fishery, dark pasts and uncertain futures, she plumbs the extent to which, as one of her characters puts it, "we're all strange inside."

The novel revolves around Quoye, a hack journalist who admits to himself that he can't even count all of his mistakes, "perhaps because they had compounded beyond counting, or had blurred into his general condition." At once oafish and sensitive, ridiculously large and wonderfully gentle, Quoye is trying to piece together the flotsam of his life after a horrendous marriage. Needing a clean start and prodded by a no-nonsense aunt seeking a rebirth or two of her

own, Quoye scoops together his small daughters and the four of them head from New York for the ancestral home in Newfoundland.

Proulx's Newfoundland is magnificent — a land which, perhaps precisely because it is so sparse, provides ample opportunity for Proulx to focus on overlooked details and let them run riot. There's no flashy aurora borealis here to prod Hollywood's Alaskan darlings into trading dreams and swapping secrets. But there is a foghorn sounding like a "bull in a spring meadow bellowing with longing." "Heather that covered the slope like shriveled wigs." "The glare of ice erasing dimension, distance, subjecting senses to mirage and illusion." In short, Quoye comes to realize, "a rare place."

Rarest of all are the people. As Quoye settles into his job — reporting the shipping news for the *Gammy Bird*, the local paper specializing in

endless stories of sexual abuse and horrific photos of car wrecks — we come to know many of them well. His fellow reporter Nutbeam, wrecked off the coast during an impossible voyage around the world in a Chinese junk, steals foreign news for the *Gammy Bird* off the radio. Crusty Jack Buggit and his buddy, Billy Pretty, long for simpler times when fish and jobs were plentiful. Beety Buggit and silent Wavey Prowse ostensibly respect, while repeatedly transgressing, the Newfie adage that "an empty cupboard and a full plate were the man's business, a full cupboard and an empty plate the concern of the woman."

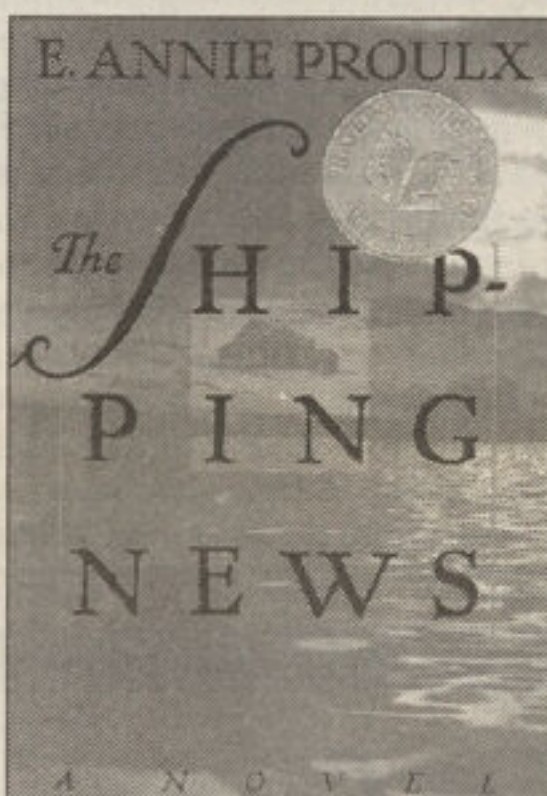
Most of these characters — and many more as well — take on narrative lives of their own, appropriating whole chapters for themselves in which, hot cup of tea in hand, they can spread out the stories of their hard lives and dashed dreams, pious hopes and simple pleasures. While *The Shipping News* remains Quoye's tale from start to end, he continually slips out of focus: Being the good listener that he is, he readily makes room for other lives so that the community he wants to join might take shape.

Proulx is masterful in sustaining this formal tension between what the dust jacket designates "a novel" and the parallel lives whose centrifugal force threatens to make it a collection of short stories instead. The result, so rare in the house of fiction, is a novel unafraid of its differences — those quirky lives whose jagged edges won't quite fit but nevertheless, paradoxically, belong. In this sense, *The Shipping News* recalls the classic novel of the north, Sarah Orne Jewett's great, still largely unappreciated tale of turn-of-the-century Maine in *The County of the Pointed Firs*.

But *The Shipping News* is set in the early 1990s, not 1900, and the problems besetting its inhabitants are therefore less about myopic tourists than about survival. "I'm coming back some day," they all wrote. But never did. The old life was too small to fit anyone." Throughout the novel, characters are leaving or preparing to leave Newfoundland. But Quoye stays, despite the collapsing economy and the accompanying — the consequent — violence and degradation, incest and sexual abuse.

For the privations also produce genuine community and solidarity between people — what Billy dubs "a journey of lives all worked together, smooth in places, or lumpy, but joined." For Billy and for many other Newfies, such a world no longer exists except in their memories. For Quoye, who finds not only friends but also love, the journey of lives is less a present or absent objective fact than what one makes of it and decides it can be.

The Shipping News sides with Quoye's optimism, but Proulx resists the urge to sentimentalize her choice. Instead she offers the modest prospect that despite all the obstacles and all the lumps, people might be able to share "comfort and a modest joy." Two rare commodities at HLS, I know. And *The Shipping News* no more guarantees that you'll find them in your life than can any novel. But I'll personally guarantee that Proulx's yarn serves up comfort, joy, and an ample helping of good writing for those hours spent away from Tax. Hours which are precious and not to be wasted on a glorified soap opera. So click off the box, reader, and treat yourself to a true northern exposure.



The Name of The Game

By Bill O'Dowd '94

Sports Editor

Well, it's that time of year again, sports fans: Opening Day at Hemenway. The HLS Intramural Basketball Season is set to begin. Commissioner Kirby Lewis '94 has tossed the ceremonial first ball, proclaiming "May the best teams win. (And may all teams pay their \$50 membership fee on time)."

The A League promises to be as competitive as any year in which this humble reporter has provided coverage. A team which calls itself "Emite Romeno" (named after the famous Italian patron saint of basketball) seeks an unprecedented third straight A-League championship. In an exclusive interview, team leader Mark Wehrly "Bird" '94 explains the team's odd selection of a name: "Well, since our All-World point guard Chris LeHane is out for the year, we knew that we would have Hunter Bates 'Motel' as our point guard all season long and that Nathan 'The Human Ruler' Whitaker would start every game. We just figured that we would need some holy intervention to pull off the miracle of a three-peat."

David Morales '94, a longtime friend of this reporter (Inside Scoop: Dave, "Miami's Most Eligible Bachelor," is engaged to a woman much too good for him.), has other ideas. With no false modesty, Dave named his team "The No-Three Peeters." With friends like this . . . Anyway, Dave picked up Hemenway stars John "Married with Children" Wunderli '94 (Inside Scoop: John's wife Deb is expecting their second child, a baby boy tentatively named William O'Dowd Wunderli, this week.), and John "Married with Child" Kingston '94 with some shrewd off-season maneuvers, making this team the preseason favorite to capture the A League championship. However, a caveat is required: word on the street hints that Dave's game has gone as soft as his belly since the wedding bells chimed.

Other strong contenders include "Two-L," captained by Tony "My Bite is Worse than my" Barkow '95 and "The Seventh Seal," led by Lang "Three" Wiseman (named for his special ability to sink the trey). Of course, BLSA's entry, "Black Plague Returns," should never be counted out. Alum Earl Phalen '93 does his best Freddie Krueger impression, returning from the afterlife of graduation to lead the Plague as player-coach. Spoon "David Witherspoon" '94 offers his top three reasons why the Plague will win it all this year: "Me, me, and me."

Darkhorses for the title include the "Funky Bandits," led by Jody "Do Re Me Fa So" LaNasa '94 and "House of Style," captained by Oleg "Operaman" Vyadro '95. Finally, among the one-L entries this

year, Colin "Don't Call Me" Stretch's "Well-Hung Jury II" appears most capable of making a run for the title. When asked to comment on his time-honored, albeit presumptuous, selection of team name, Colin replied: "It ain't bragging if it's true."

The B League promises to be played out Pamplona-style. Every team will be watching the running of the Bulls. The Chicano Bulls, that is. The Bulls play a fast-break brand of B-ball and are capable of embarrassing most B-League teams on any given night. Faithful readers will remember that the Bulls are led by the legendary back court of Rich "The Latin Lover" Marquez '94 and Danny "The Fighting Chihuahua" Lopez '94.

Perhaps only "Mo Knows" if the Bulls can be beat. When asked to explain his team's mysterious name, captain Donny "Odd Or" Ebenstein '95 replied: "Ask Mo." To be sure, several teams are devising schemes to dethrone the Bulls as we speak. Blake "Dollar" Bilstad '96 hopes to "Break Like the Wind," while David "DJ Jazzy" Jefferds '95 hopes to apply a "Full Tort Press" with true

Rosenberg tenacity.

Let's get one thing straight. After an innate ability to hack, the B League is most famous for its inexplicable team names. Topping this year's list are David "America, Love it or" Levitt's "No Swiss Cheese . . ." (perhaps referring to an order for a deli sandwich), Mike "Chemistry" Labson's "The Grizzlers" (proving once and for all that the *Law Review* members are on drugs), and Rob "Mind Over" Musselwhite's "Team Gooch" (?).

Don't get me wrong. There are some beautifully appropriate team names as well. Paul "I'm Too Cool to Have a Nickname" Marazita's "We're Not Role Models" is truly Barkley-esque in its poetic simplicity of an obvious truth (remember Paul, those new Nikes won't make you play like Sir Charles — more like Humpty Hump). Brian "LSAT by" Kaplan '94 admits to playing "Below the Rim" (of course, in Brian's case the game is played below the net).

While only very close family members have ever shown up at Hemenway to watch a B League basketball game, the contests are often very competitive (frequently reaching double digits). Commissioner Lewis and all intramural referees have extended a special invitation to HLS students to support a team this year by attending a game of your choice, in either league. This week's Games To Watch: A League — Friday, Feb. 18, "No Three-Peeters" v. "Two-L." B League — Wednesday, Feb. 16, "Mo Knows" v. "Joker & the Jumping Js."



FOOD - O - RAMA Naked Brunch



By Ted Cohen '95 and Jonathan Goldstein '95

Little is known about the origins of that peculiar American custom of eating a meal that's not quite breakfast and not quite lunch, yet bears attributes of both. But despite the murkiness of its roots, brunch (along with the complex rituals of "brunch-ing") has carved a place for itself up and down both coasts, bringing with it a cottage industry of brunches, catering to a Hollandaise-hungry, caffeine-craving public. It comes as no surprise, then, that Cambridge should count a plethora of these institutions among its eateries.

What follows is a brief sampling from three of the more popular choices for brunch. It should be kept in mind that each of these also serves meals other than brunch. But that's not our concern.

Of the two brunch schools of thought, the all-you-can-eat school and the you-get-what-you-order school, the former is by far the riskier. While the customer is sure to leave with a full belly, swearing not to eat for the next week, chances are good that she will have eaten lots of bad food. Alas, such is the case at **Capucino's** (1812 Mass. Ave., 547-8228). What seems at first like a pleasant enough deal — a well-appointed \$9.95 buffet, replete with cake, muffins, petits fours, pasta salads, Belgian waffles, and a choice of one of the brunch menu specials — turns out to be chock full of ill-conceived, poorly prepared dishes served too warm or too cold.

Case in point: a Kafkaesque Eggs Marinara consisting of a mini-casserole of under-cooked vegetables, topped with a runny egg and smothered in a bland red sauce. Arggh. Likewise, the Vegetarian Crepes with more of those veggies tucked into a Hannibal Lecter-esque leathery crepe-skin along with some thinned tomato paste. One final note on the pre-entree smorgasbord: There is a point at which "choice," as an end in and of itself, is not a valuable thing. The sheer juxtaposition of desiccated, hot-plated baked ziti, lukewarm honeydew melon, and pink-and-green petits fours should be enough to get even the un-hangovered stomach doing backflips.

Rating: 3/10

If this town has a "brunch institution" it is without question the **S & S Deli** (1334 Cambridge St., Inman Square, 354-0777). Taking its name from the Yiddish "Es & Es" (eat and eat), that's exactly what everyone has been doing there since it opened in 1919. On an average Sunday, some 1500 people make their way through the seemingly endless rooms of this bustling place. Grab your Sunday Times and get in line.

But don't expect miracles. While the S & S offers good food, in large portions, at reasonable prices, it does suffer from a somewhat institutional quality. Omelets (\$5.95) tend toward the bland, despite such creative titles as nova, havarti-spinach-mushroom, and pesto-Swiss-broccoli. On the starchy side, a special of carrot raisin pancakes (\$5.50) could have used an extra jolt of cinnamon, but the cakes themselves were impeccably hot. The cinnamon-croissant french toast was eggy and delicious (but we would have preferred challah to the croissant, which has a hard time standing up to the milk-and-egg dip.) Go for the challah french toast (\$5.50).

The S & S also turns out competent versions of fancy egg dishes, like the Benedict (\$6.95), the Florentine (\$6.95) (same egg set-up as the Benedict, but with spinach, onions, and Mornay sauce), and the Copenhagen (\$7.95) (with nova, onions, and Hollandaise).

The absolute best thing about the S & S, though, is what comes on the side: Egg dishes are served with fantastic bagels and textbook home fries; pancakes and french toast with smokin' hot syrup and whipped butter; and everything comes with a surprisingly good little cup of fruit salad. All in all, the S & S is a nice way to start a catatonic Sunday.

Rating: 7/10

On a sheer conceptual level, **Pentimento** (344 Huron Ave., 661-3878) demonstrates the other direction that history can go in. Whereas the S & S has recently renovated and expanded, its previous incarnations neatly framed in clear prints of vintage photographs, Pentimento's lavender walls sag under dusty, obscure bits of someone's past: diplomas, cartes de visite, cookie cutters, dried flowers. If S & S is the Barbara Streisand of brunch, then Pentimento is its Shirley MacLaine.

What is Pentimento? Not exactly hippie. Yuppie? No: There's enough butter in this food to grease the World Trade Center. Yuppie? Not that either: While half the clientele is under thirty-five, the other half lives on Brattle Street, spending trust fund moneys on pottery classes and seaweed wraps. Cambridge proto-yuppie? That's about as close as we can hope to get to a pigeonhole without drifting completely into inscrutability.

All theorizing aside, there's nothing inscrutable about the appeal of the food. Muffins like peach-ginger, sweet potato-pecan, raspberry-almond, and blueberry-butter (\$1.00) are the best this side of Beacon Street (definitely on par with Panini Bakery's scones) and a bargain to boot. Omelets — which you can fill with everything from standards like ham, bacon, spinach, and tomato to delicacies like blue cheese, aloo chole (an Indian stew of potatoes and chick peas), and sour cream and caviar — are light, fluffy, and ample. They run from \$4.55, depending on your poison. The french toast is simply excellent. And the home fries are good, if not quite as oniony as we'd have liked them.

Despite this bounty of good food, there was one near-disaster at our most recent brunch. The specials of the day were frittatas (\$6.50) — the Italian quiche-like dish of baked eggs — and they came with a potato-leek or carrot-dill stuffing. Okay, we said, we'd like a frittata. The potato-leek frittata.

When it arrived, we thought, hmm, this doesn't look like a frittata, this lumpy mass of potatoes and slick green leeks under a helmet of muenster cheese. And, lo and behold, this was decidedly not a frittata: Instead of eggs, the cheese, potatoes, and leeks hid a soggy slab of milk and (allegedly) egg soaked croissant (though it tasted more like white bread). Maybe we're ignorant. But Pentimento should tell its customers that its frittata is made with bread rather than just egg.

That aside, Pentimento is a delightful place for brunch and people-watching.

Rating: 8/10

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HLS: What's Love Got to Do With It?

Valentine's Day is just around the corner. Few people know about the etymology of the word "Valentine," but it is vastly illuminating in examining the holiday's significance and impact. "Valen," is derived from the Greek "Fallon," meaning "can't teach," and "tine," meaning "Holiday in February that makes you feel horrible about not having a significant other."

Valentine's Day is a good opportunity to take a long, hard look at the dating scene at Harvard Law School. Things have changed tremendously since the halcyon days of the mid-fifties when nearly all female students married their male HLS counterparts. Now eligible law school men would rather go on a blind date organized by their grandmother than to dinner and a movie with an HLS gal. So where has the thrill gone?

If one asks the average guy in the Hark why he eschews dating law school women, he'll probably rattle off the usual fallacious litany: a) They're ugly; b) they're snobbish c) they're all aggressive feminists who hate men d) they talk your ear off about the law and e) lawyers shouldn't breed.

The fallacy behind each of these justifications is evident. There are plenty of attractive, down-to-earth women at the Law School who would be perfectly happy discussing March Madness or Seinfeld over a beer with a male friend.

The simple fact is this: Most HLS men can't bear the company of intelligent women. This is not a syndrome endemic to law school men, of course, but HLS men seem to suffer more acutely than most. Perhaps it's because most HLS men have been wimps and geeks their whole lives. (If you doubt this, I suggest you watch the Grizzlies attempt to play an intramural basketball game.)

To make up for their lack of height, athletic prowess and ability to perform manual labor (i.e., carrying more than two volumes of the Areeda antitrust treatise without help), law school men have been trained from an early age to assert their masculinity through their minds. Smart women threaten this intellectualized masculinity with equal cerebral beef.

So, instead, the men recourse to the colleges, the bars, and the law firm secretarial pools. There they find easier pickings, without the mental challenge. Of course, there are some section sweethearts, and a few couples who beat the odds, but by and large the dismal cycle continues.

This is by no means a tragedy, but it is a disappointment that so many of our future nation's leaders are not mature enough to handle a relationship with an intellectual equal. Imagine if Bill and Hillary had met at Harvard Law School. The nation's favorite comedy team would have never formed, and Hillary wouldn't be running the country today.

So boys, remember, if you play your cards right when you're sending that DSAC carnation, you too could be president someday. Or at least have something to do next Saturday night besides your laundry.

— Davis

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A LAW SCHOOL VALENTINE

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Fagan

• Letters •

"Real Beauty:" A Response

I would like to say three things in response to "Easy Beauty, Real Beauty" in the January 21, 1994 issue of the RECORD.

First, I'd like the "leadership" of the Left to consider a quotation by a very dead, very white European male: "The fault, dear Brutus, is not in our stars, but in ourselves." As far as I can tell the leaders of the Left are uninspired and uninspiring. I am a feminist, lefty, radical who has been an active political participant for quite some time. I am unmoved by most of the attempts at organizing here.

I attended CCR's faculty panel with Gerry Frug, Charles Ogletree, and Jim Vorenberg. When one has witnessed an entire school, block, neighborhood, country mobilize in protest, it is difficult to perceive of a scant small room (Pound 100) full of people, meeting amidst a class of five hundred and a larger academic community of thousands, as "well attended." Basically, the meeting centered around some of the more careerist left-wingers questioning the professors on the best way to become tenured at an elite law school. I yawned.

Change on the faculty is an issue both too small and too big to interest me. I'd like to see more widespread and fundamental societal change than can be accomplished through changing the faculty at HLS. On the other hand, HLS is too big and too entrenched an institution for me to challenge. In other words, it's not cost efficient for

me to spend my valuable Left-driven time integrating the faculty. Let it flourish or rot under the weight of its own decisions. I'd recommend that "they'd better start swimming or they'll sink like a stone," to quote another almost dead white European male (mitigating factor: Jewish).

Second, as a far left member of the lumpen proletariat, I have never denied the opportunity to any member of "the masses," however centrist, to participate. Not all of us are lucky enough to be born with multiple immutable characteristics of discrete and insular minorities. I myself have only one mutable (poverty) and one immutable (womanhood) characteristic. (Although these days, not only are there those who regularly challenge the immutability of sex, I, myself, have been questioning the mutability of poverty both personally and societally. But, ah, this is no time for student loan polemics.)

Furthermore, if a yuppie's consciousness is newly raised because he just got canned; or a person of color seeks a position within the established hierarchy; or a woman pines for suburban mommyhood — I'll take 'em if they want to march with me.

Radicalization is a matter of degree, not all of us are lucky enough to have the harsh kinds of experiences which raise consciousness. But, as my very politically radical, unselfconsciously feminist grandmother used to say in heavily Italian-accented

English: Many hands make light work.

Group identity politics is exceedingly fragmenting and: Hey, I have news for you — excluding straight, white men is sexist and racist. That is not to say we ought not revel in our own identities. I for one am happy to know that there are angry and proud people on campus. On the other hand, we will never vanquish the monolith of perverted social values and mores that constitute "traditionally held" American beliefs without the power of numbers.

Finally, it is time we, The Left, controlled the discourse instead of whining in response. Critical theory is good as far as it goes. It's always fun and empowering to debunk, unmask, defrock, unclothe, strip naked "legitimately" held power. But, it's time we made The Right, and even callous members of our own, answer to us. The time is ripe. We should be ready. People are still reeling from the assaults and indignities of the past twelve years. We no longer need to be critical; we no longer need to justify ourselves; we need to act, not react. The task is to construct a new society, a society where we don't have to prefer gay over straight, black over white, woman over man because of past injustices. We must construct a place where we all can just be, with dignity and respect both inter- and intra-personal.

Maryann Gatto '94
January 27, 1994

An Open Letter to the Feminist Colloquium

In September 1993, a group of women in the graduate program at Harvard Law School organized a group to meet and discuss feminist issues. This group, the Feminist Colloquium, received funding from the HLS Graduate Program and has met at several points in the school year at a variety of venues. This letter is written in response to the establishment of the group, and its administration, and the entity that it has become.

We are angry. Make no mistake about that. We feel it, you created it, you must learn to deal with it. Deal with our anger in the spirit that it is given: the anger of three women of color refusing to apologize for the strength of our voices in the face of opposition and adversity.

The first meeting of the Feminist Colloquium was by invitation only. Who gives you the right to decide which women are women? Who gives you the right to determine which women can speak? Who told you that you are able to determine what feminism is and who feminists are? You have taken this beautiful opportunity to

unite, as much as possible, women from around the world. You have chosen to choose whose voice has merit. How dare you.

Do you see that there is a problem here? If three women of color see it as a problem, it is a problem. If one woman of color sees it as a problem, it is a problem. We are weaker in number, we are politically disenfranchised. And you repeat our oppressions. . . . We know the pain of exclusion. We know the sting of bad planning.

Since the initial meeting there has been a decision to invite all the women from the graduate program. This has not been entirely successful. This is not enough. . . . We are angry that money set aside for feminism goes to white people. That you white people decide the way in which it will be spent and who will get to join in the spending of it. You always decide the way in which the resources will be divided up. And somehow, you always seem to get the biggest share.

You must acknowledge your continued role in our oppressions. You can look at us toiling in the fields, clean-

ing your houses, and living in poverty, but you cannot face us, the real us. The educated, determined, and strong us. You are cowards. Look at your hands. They are stained with our blood. How dare you look us in the eye and call us sister.

This is not a personality clash. This is not an over-reaction. This is our existence that we are talking about. This is more than being called "honey" or "dear" in the classroom and the courtroom. This is about the systematic rape and murder of women of color. This is more than "differential wages." This is about women too beaten and battered to leave the house in the morning. This is more than "universal day care." This is about our fight to stop the state from stealing our children. This is more than the "right to choose." This is about stopping cultural genocide.

This is our right to life. To exist.

Our invisibility is not consensual.

Larissa Behrendt, LL.M.
Tracey Lindberg, LL.M.
Mumbi Mathangani, LL.M.

Transformation in the Classroom

By Prof. Charles Nesson '63

I am in the midst of an all-out effort to find ways to transform Harvard Law School. My belief is that transformation will come only through our teaching, which is our primary student-faculty relationship and the most fundamental interactive form of intellectual stimulation.

In my winter Evidence class, which I have just completed, my students and I explored many new approaches to the learning process. This class introduced technology to large classroom teaching in a manner never done before at Harvard Law School, using audio, video, projection, computer, and computer networking, with students working in groups, each with its own Macintosh Quadra. Reviews were mixed at first, with some students excited and some repelled. By the conclusion of the course, student response was overwhelmingly positive. Students expressed themselves in their group projects, their journals, their feedback memos, and statistically in surveys and comments.

The educational effectiveness of one piece of pedagogy stood out from all the rest, so much so that I have come to see it as a key to transformation and want to recommend it to everyone. I recommend a simple method for achieving feedback: Periodically during the course I asked my students to respond to three questions in relation to the course — "What is your biggest thought?" "What is your biggest confusion?" "What do you want to say directly to me?" Their responses could be signed or anonymous, as they chose. The process took only five minutes at the end of class and required absolutely no fancy technology, just paper and pen.

The resulting stack of feedback memos was, each time, a reservoir of fascination. Of all the enjoyable parts of this course, reading and responding to these feedback memos was the most fun and interesting part for me. I would take them home, sit in my easy chair, read and react, writing my responsive comments right

on each student's feedback sheet.

The memos are full of humor, intelligence, and feeling. Students speak in different voices, from different roles, and with remarkably different points of view. Inevitably students would tickle my mind by references to things that happened in class and all their different reactions and interpretations. Diversity and strong feelings came through. Questions, doubts, fears, suggestions, support, thought, frustration, excitement — all were there. I would read them feeling, "This is why I am a teacher."

The process of reading and responding to the stack took no more than three hours. The following morning I would take the memos to class with me, spread them out, and let students find their own at the break. I would also send a copy of the whole stack to the Distribution Center to be

reproduced and distributed to each student. This gave each student not only individual feedback, but also a sense of the thoughts and feelings of



the class as a whole and the benefit of all my responsive comments.

Feedback memos connect the teacher and students. Students have actual personal intellectual and emotional contact with their teacher, and vice-versa. The teacher is confronted unmistakably with the problems of the class and is given the opportunity to recognize the problems and to solve them. True teachers are, I believe, creative problem-solvers. Our highest calling is to exemplify this within a frame of integrity and caring. Q.E.D.

I warmly recommend this feedback process, and I thank Frank Sander and Jim Wilkinson of the Bok Center for recommending it to me. I also offer an emotional caution from the teacher's viewpoint. The most difficult part of the feedback process is dealing profes-

True teachers are, I believe, creative problem-solvers. Our highest calling is to exemplify this within a frame of integrity and caring. Q.E.D.

sionally with the problems it reveals in your teaching and in your self. If you open your enterprise up to feedback, you will inevitably get some comments about your teaching and your self. You will be forced to confront the fact that you may be the problem. That is where the rubber meets the road with feedback and problem-solving. My advice is to fear not. My experience is that when students see a teacher putting out effort for them, they temper their criticism with support. The pain is not so bad, and the progress is worth it.

Let me conclude semi-statistically. On an exit survey of different teaching modes used in my winter Evidence course, my students rated feedback between teacher and student way at the top with rave reviews. I have become convinced that this simple change in the process of our classroom communication carries a power of transformation.

Veritas.



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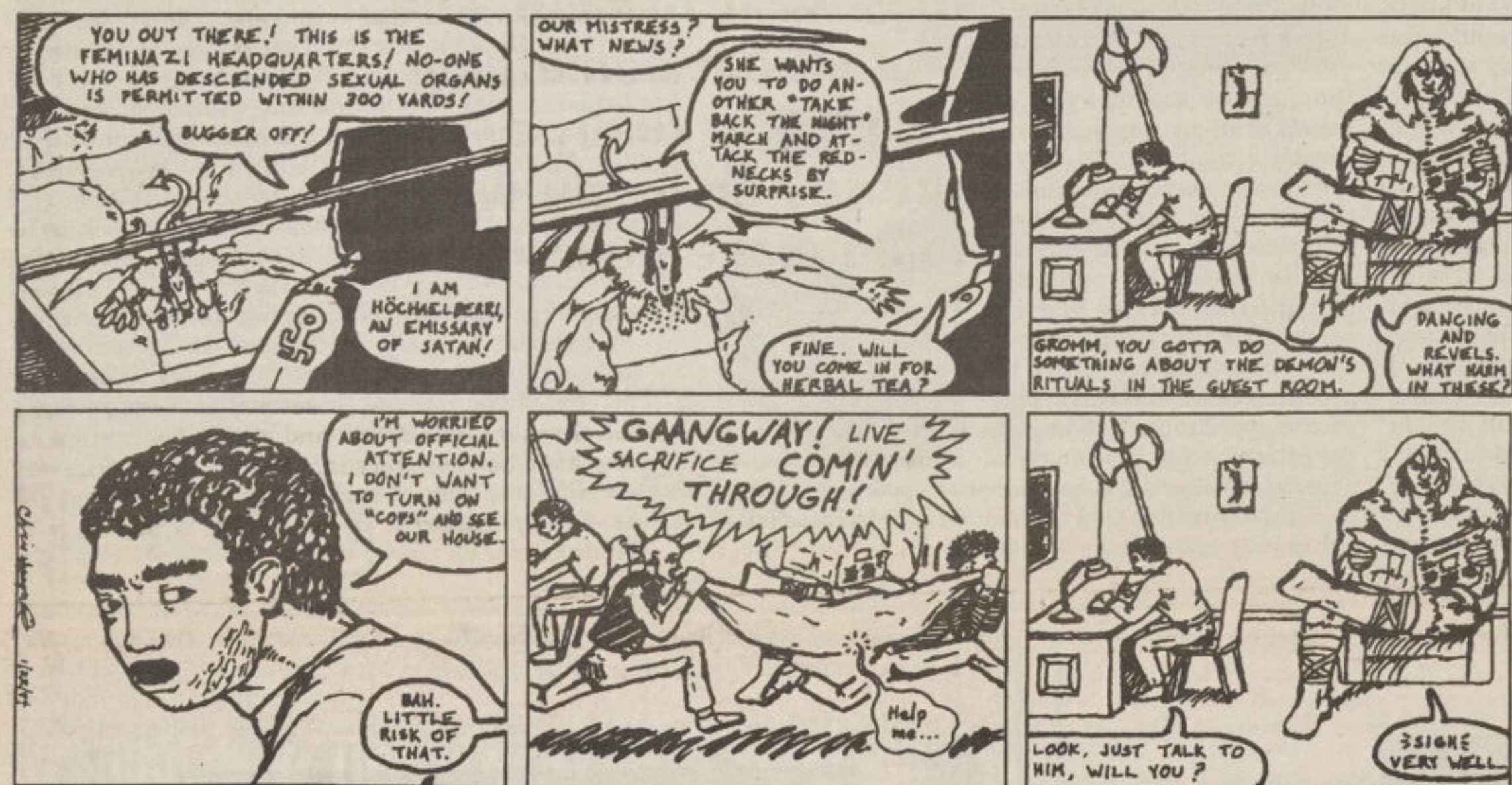
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A new edition of Nesson and Green's casebook will be published late this spring.

What I Say When I Talk to Myself

By Debra Dickerson '95

RECORD Columnist

DURING one of this winter's snowstorms, I fell down the Hilles Library steps. I'm famous in my family for this kind of stuff. I was always bumping into things, walking into walls, or just missing the chair as I sat, my head stuck in a book. I spent my entire childhood with electrical tape on my cat-eyed coke bottoms. I had to; I was always breaking them and I couldn't hear, let alone see, without them. But I digress. These days, I still daydream, but I've learned to idiot-proof my home and make lists.

Anyway, I fell and it really shook me. My feet flew out ahead of me and I landed splat on my butt and elbows — half on, half off the stairs. I was purple for a week and it hurt like hell. I wanted to sit and compose myself, but the entire area was snow covered. I just stood there shaking, wet, and trying not to cry.

Why I was so shook up I don't know. Maybe I've grown more fearful of hurting myself as I've aged. Maybe I don't like feeling like that geeky kid again. Probably, it's 'cuz I know that the mandatory Blue Cross fee is as theoretical and useless as most of our classes. Regardless, I was spooked.

I stood there trying to give myself permission to go back inside for a minute and get to my clinical placement a little late. It was then that I "heard" what I was saying to myself. I realized that I was chastising myself like a drill sergeant. I was telling myself things like "Stop it! Get yourself together, you're not hurt. Don't be weak." It was not a soothing, sympathetic voice. It was harsh, ugly, taunting. I went on to work (I did have responsibilities and I wasn't really hurt), but it gave me pause.

Is this how I've been motivating myself all my life? If so, should I be more worried about that fact or that I think I can hear my own subconscious thoughts?

At first, I resisted writing about this because I don't want to become totally self-absorbed, writing

about my every ache, meal, or stray thought. Then I realized three things. First, that those who dislike me already think that I do write about my every ache, meal, or stray thought; second, that I was desperately in need of a topic for this week; and third, that maybe I'm not the only one here who beats herself up to keep up the pace.

It's my opinion that most people here feel inadequate compared to everyone else at HLS. I wonder who else dogs themselves out whenever they want to take a nap or sit out something they're really not interested in but which would make good resume fodder.

Last year, when I "came out" about having gotten Bs, quite a few classmates sought me out. I saw some very tormented young people lashing themselves and feeling like failures. Some were hiding their grades from their parents, some could only leave me anonymous notes. I had my regular blood pressure appointment at the HLS clinic during exams and joked with the doc that it would probably be off the chart. Very seriously, he took my hand and counseled me. He told me our class had set a new record for stressing out — vomiting, crying jags, dehydration from studying for hours without rest, food, or motion — some even studied here through the holiday break.

As I achieved each of my goals, I worried that I would lose my edge as my life became easier. Now I worry that I won't. I can remember people throughout my life telling me to chill out, lighten up, slow down. That used to confuse me. I was 26 before I got a glimmer of what they meant.

I had just finished my B.A. on an Air Force fellowship and graduated 11th of 400-plus from Officers'

Training School as Wing Commander (trust me, that's big). At that time, to blaze through the officer ranks was the goal of my existence. I arrived at my training school and was livid because I couldn't begin work on my M.A. (which you need for promotion) until it was over. Six whole months wasted! Antsy, angry, and at loose ends, even my friends couldn't stand to be around me for long. Since then, I've been working on it.

What's the secret formula for combining big dreams and deferred gratification with a nourishing social/family life? How do you know whether you're an achievement junkie or just a hard worker seeking healthy challenges that facilitate growth? I've got a new set of wild dreams I'm determined to bring to fruition, but, at the same time, I don't want to end up smearing excrement on bathroom walls somewhere.

Over inter-session, I'd planned to make myself some "good girl" work clothes, rearrange my crowded apartment, get ahead on my columns, and finish a draft of my first novel. Instead, I rented movies by the cartload, read scads of novels, and watched Letterman maraud in Times Square. OK, I did finish that draft, but only because I was enjoying it. And the rearranging. But nothing else. I nagged myself to death as I lounged about, but at least I'm aware of it and trying to achieve some balance.

I know, maybe I'll set non-achievement as a

goal. I could make charts and give myself points for every hour I sleep, every inane sitcom I watch, every beer with the gang. I could do independent research and arrange for extra credit. I could compete with friends to goof off most...

I wonder who else dogs themselves out whenever they want to take a nap or sit out something they're really not interested in but which would make good resume fodder.



Fenno heard a knock on the door. He rushed to his dirty laundry and grabbed a smock and some lederhosen. As an afterthought, he put a beret over his private parts so as not to offend.

"Coming!" he thought. And he answered the bell.

"Hi!" She was cute, except for the fact that she wore handmade baggy clothes, a hand-knit wool cap, and no make-up.

Fenno decided to take a gamble. "Don't I know you from feminist jurisprudence?"

"Yes! Are you in that class?"

"No."

"Oh. Well, I guess I have the wrong place. I was looking for the Poetry Society meeting."

Fenno remembered that artist-type women were supposed to put out, and that all the men at school were at Hemenway for the Ames Greco-Roman intramural basketball tournament. "Hey, well, as you can see from my Bard's garb, I'm headed there too. Come on — it's just next door."

They were escorted into a dark room with beads dangling at obscene angles. Fenno sat with the women Native-American style on two sensitive guys. He could tell they were sensitive because they really got chafed from the Guatemalan alpaca rug.

"So, we're reading our original works that we've prepared during Government Lawyer class over the last week. Maybe our newcomers should begin."

Fenno started to panic. He frantically tried to remember the only poem he had ever memorized, but couldn't get past the first line ("There once was a man from Nantucket.")

Much to Fenno's relief, the young woman who he had come with volunteered to begin: "This poem is about my

experience breaking up with my lover. It's called "Janet."

Janet

Janet
You send me to another planet
If there were an ocean
Our love would span it
Your dolphin-safe tuna
I'd still love to can it.

Fenno had been scribbling furiously, and when everyone stopped snapping their fingers, he began to read in a clear voice. He thought that a love poem would go over well with this crowd.

"Fenno once walked through the Hark
It was midnight—the halls were all dark.

He saw a hot girl.
Tried to give her a twirl,
Then he realized that it was Dean Clark."

Clean shaven and somewhat distressed
Bob—you're wearing a dress!"
"I admit that it's so.
I'm in-cog-ni-toe.
Because all of my suits aren't pressed."

"I think it'll play with alums.
Just imagine all my old chums
They'll donate more money
When I'm sweet as honey..."
"G-d, I think I need Tums!"

Quote of the Week

"I'm auditing Kraakman's class, so you don't have to."

— Self-deprecating Prof. Jon Hanson, speaking to his Corporations class



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Tyranny of the Text: The Bluebook's Unhappy Reign

By David Goldstone '94 and David Weinstein '94

Special to the RECORD

"In no country perhaps is the law so general a study.... This study renders men acute, inquisitive, dexterous, prompt in attack, ready in defence, full of resources."

WHEN Edmund Burke penned these words over two centuries ago, he apparently never had the experience of subciting a journal article or bluebooking a writing sample. Despite all the lip-service we pay to the value of a legal education in developing our minds for reasoned debate, we fill our law school hours analyzing footnotes instead of logic, scrutinizing emphasis in font rather than emphasis in argument. When friends and relatives ask for practical legal advice, we point out that our legal training focuses primarily on widely applicable general principles. But let them ask how to cite a book note in the *University of Puget Sound Law Review* from 1982. Then we will make them proud.

What sinister force endows the simple task of referencing legal works with all the complexity of a Rube Goldberg invention? What devious actor causes law students to while away their youth hunting down authors' middle initials and determining proper abbreviation format? The culprit is well-known to all of us: the 300 page tome affectionately called the Bluebook. It is our purpose here to show that this text's oppressive reign is neither inevitable nor desirable. Rather, it has earned consignment to the dustbin of history, along with the Soviet Empire and the pet rock.

The Bluebook is presented to law students as an indispensable tool for crafting legal documents. Yet with the years this instrument has grown blunt and heavy — literally. In the words of one critic, "the twelfth edition fit in a person's pocket. The fifteenth edition could have its own carrying case. The twentieth edi-

What sinister force endows the simple task of referencing legal works with all the complexity of a Rube Goldberg invention?

tion will undoubtedly arrive on a flatbed truck." In its ever-widening wake, a competitor has developed; whereas earlier generations of law students truly had no alternative to bringing sacrifices at the altar of Gannett House, today's editors have a more rational option — The *University of Chicago Manual of Legal Citation*, also called the Maroonbook.

The Maroonbook exemplifies brevity and simplicity where the Bluebook epitomizes obsessive complexity. At sixteen pages, the Maroonbook lacks its competitor's bulk, but easily matches its scope. It achieves its success by restricting itself to a Spartan diet of general principles, rather than gorging on endless classifications — each one sliced infinitesimally thin and each one following a different arbitrary rule.

Here are a couple of examples. Need to abbreviate a journal name? Forgo the 18 page absurdity known as "T.13: Periodicals." The folks in Chicago took a different approach. They set the tone in the first sentence — "Generally, abbreviations should only be used if they are easily recognized without reference to this book." In fact, they needed only two pages to handle all abbreviations.

We are all too familiar with the elaborate set of rules for citing and abbreviating case names. Here's how to cite reported cases the Chicago way: "Use the running head in the first reporter cited. In text, however, words may be spelled out where reasonably necessary for clarity and readability." That's it — take the rest of the afternoon off.

One may quibble with some of the specific choices made by our colleagues in Chicago, but their approach has the potential to rescue students here in Cambridge from countless hours of drudgery. Bluebook loyalists are ever-ready to answer their critics with the tired argument of the dire need for uniformity. Yet, in its quest for the holy grail of uniformity, the Bluebook forgets its place as a practical aid to legal writing. For many students, citation does not facilitate the journal experience — it dominates it.

It's time the editors of *A Uniform System of Citation* took seriously the proposition that law students and attorneys can be capable and consistent without being spoon-fed every comma, colon, and period. In fact, it's time that every journal editor reconsidered his or her role and remembered writing, reading, and editing for what they once were before law school: a craft, not a chore. In contrast to the many circumstances where previous generations have bequeathed problems to our own, in this instance we have no one to blame but ourselves.

In the best of all possible worlds, journal editors would shop around for the optimal citation system, and publishers of these guides would seize upon the innovations of their competitors. Alas, we live in an imperfect world. In our world, journal editors have little choice but to follow the dictates of the school's standard bearer.

And what of the Law Review itself? A misguided pride of authorship and a perceived sense of prestige might alone suffice to allow the heavy inertia of the Bluebook to continue plodding on its present course. Some even revel in their command of this arcane code. If that were not enough, the sight of Gannett House floating in a sea of red ink absent the revenue that the Bluebook brings would be sufficient to stifle any thoughts of abandoning ship.

So like the monks in a medieval abbey, the sages of Gannett House continue to propagate their ancient traditions, paying little heed as their artistry becomes increasingly obscure. The world need not blindly receive their wisdom anymore. The time has come for Reformation.

Heymann Resignation

continued from HEYMANN, page 1

standoff to Heymann, said that he did not know whether Heymann had differed with Reno over that issue. But Stone said Heymann reacted positively to the report, in which Stone leveled harsh criticism against the department, particularly Reno's decision to use tear gas in the raid on the Branch Davidian compound.

"He told me he thought [the report] was wonderful," Stone said. "I think his word was 'classy.'"

Prof. Charles Fried, who clerked with Heymann for Supreme Court Justice John Harlan, told the *Boston Globe* that Heymann may have clashed with the administration over crime issues, particularly President Clinton's support of the "three strikes and you're out" rule. "Phil's not a lock-'em-up sort of guy," the *Globe* reported Fried as saying.

At the press conference, both

Heymann and Reno denied that policy differences precipitated Heymann's resignation. "There are no significant philosophical differences, and there's no precipitating episode [or] disagreement on some particular matter," Heymann said.

Heymann's departure was particularly surprising in light of his original enthusiasm for the job. When he was nominated in April, he called the position "pretty close to my dream job." He had worked with Reno once before — when Reno was the chief prosecutor for Dade County, Florida — and had predicted that she would be "a pleasure to work with." Even after announcing his departure, Heymann has steadfastly defended Reno's performance as attorney general.

Heymann, who is popular with HLS students and colleagues, is expected to return to teaching here next fall. He is likely to leave his Justice Department post as early as the end of this week.

HLS Grad Likely Replacement

Jamie S. Gorelick '75, the woman expected to replace Philip Heymann as deputy attorney general, is held in high regard by members of the HLS community who knew her when she was a student at the Law School.

Gorelick graduated in the same class as Associate Dean Todd Rakoff and Prof. Daniel Meltzer. Rakoff said he did not know Gorelick well, but Meltzer knew her both at the Law School and at the College, from which they both graduated in 1972.

Meltzer lauded Gorelick's intellect, work ethic, and ability to gain the respect of her colleagues.

"She'd be a very able addition to the department," said Meltzer, who had equally high praise for Heymann.

While at HLS, Gorelick worked for Prof. Alan Dershowitz as a research assistant. Dershowitz, who wrote a letter of recommendation for Gorelick, agrees that she will be strong deputy attorney general.

"She's very smart," Dershowitz said. "She's very energetic. She has an open personality. She understands Washington very well. Her instincts are right on."

"I think she will work very well with Janet Reno," he added.

Gorelick is currently the top lawyer at the Pentagon. Her appointment would mean that for the first time in history the three most powerful posts in the Justice Department would be held by women. Jo Ann Harris heads the criminal division.

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Clinton Nominates Patrick

continued from PATRICK, page 1

Supreme Court in 1987. In *McCleskey v. Kemp*, Patrick argued that capital punishment as administered by Georgia violated the Equal Protection Clause since murderers of white victims were four times as likely to be sentenced to death than killers of blacks. The Court held against Patrick, by a 5-4 margin, on the basis of a lack of the required discriminatory intent.

Patrick's other moment in the public eye came two years ago when he represented Desiree Washington in her civil suit against Mike Tyson, who was convicted of raping her. Unlike Clinton's first nominee, Lani Guinier, Patrick has done little scholarly writing and thus should prove less susceptible to ideological attack. Ironically, Patrick and Guinier worked together with LDF, including on the Arkansas voting rights case.

While at HLS, Patrick won the coveted Best Oralist award in upper-level Ames Moot Court competition. Prof. Howell Jackson '82, who argued for the opposing team, recalls that "Patrick was far and away the best. Judge Friendly was particularly impressed." Patrick also served as president of the Law School's Legal Aid Bureau.

Judge Stephen Reinhardt of the Ninth Circuit Court of Appeals, for whom Patrick clerked upon graduating from HLS, praised the nominee in the *Chicago Tribune*: "He never backed down, but he was always calm, always reasoned."

Perceived as more of a litigator and less of a radical theorist than Guinier, Patrick's nomination has so far not excited much controversy. The only attacks have emanated from Clint Bolick of the conservative Institute for Justice, who led the opposition to Guinier.

In the *Wall Street Journal* last week, Bolick termed Patrick a "quota clone" in a twist on his "quota queen" tag that stuck to and helped defeat Guinier. Calling

Patrick a "stealth Guinier," Bolick disparaged LDF's "relentless[]" support of "race, quotas, busing and . . . set-asides" and devotion to "race-conscious social engineering."

Patrick replied that "[m]ost of what [Bolick] has to say is about the Legal Defense Fund, and most of that is wrong. I don't know who he is and he doesn't know who I am."

Vorenberg, who as master of Dunster House met Patrick when the nominee was a sophomore at Harvard College, denounced Bolick's charge as "a bad rap. Deval and I have been close friends for twenty years and I can say for a fact that he doesn't advocate quotas."

Assailing Bolick's characterization of LDF and Patrick's service with that organization as "an indefensible attempt at guilt by association," Vorenberg explained that "from my work on LDF's executive committee, I know that it doesn't support quotas."

Patrick has been reported as being particularly interested in enforcing civil rights laws against lending and housing discrimination, as well as voting rights and disability discrimination issues.

Discussing his views on affirmative action on a cable news show in 1992, Patrick criticized employers who take "shortcuts" aimed at "a numbers game" rather than meaningfully looking toward "nontraditional sources of employees" with an intent "to bring in people who are qualified . . . [who] can contribute to the workplace." Patrick emphasized that affirmative action "wasn't intended that way [as a numbers game], and it shouldn't be that way."

Jim Eastman '95, who met Patrick last summer at a dinner for minorities in the Boston legal community, held at Patrick's house in Milton, was impressed with the nominee. "He seemed like a genuinely nice man who was concerned about equality of opportunity for minorities at all levels of society," he said.

Confessions of an Angry Young Jew

By Bill Choslovsky '94

RECORD Columnist



THE Final Solution: Auschwitz, Treblinka, Bergen-Belsen, Dachau, Buchenwald, Terezin, Sobibor, Majdanek, Chelmno, Belzec, Polish Ghettos.

Adolph Hitler's Nazis murdered six million Jews — 6,000,000 girls, men, grandmothers, toddlers, uncles, women, grandsons, fathers, sisters, cousins, wives, babies, lovers, boys, mothers, aunts — six million human beings. Most perished (were murdered) quickly in the gas chambers, gallows, or execution lines. They were the fortunate ones. The rest were forced to perform labor so excruciating the likes of which adjectives do no justice in describing. Then there were the rapes, beatings, heinous medical "experiments," and brutal, arbitrary tortures. Souls and stomachs were starved in unison. None of this happened by accident or coincidence. Quite the contrary, it was planned, it was designed. Though statistically insignificant, a few Jews somehow survived.

Note, the above description is hollow; it is weak; it is inadequate. It is all I can offer.

The mere fact that I feel compelled to write this column is sad. The sober reality that it is necessary is tragic. I would like to think that my time, this newspaper's space, and your attention could be better spent. Unfortunately, they can not.

Today there is a growing group of individuals who deny the Holocaust ever occurred. They are called "Holocaust revisionists." For starters, why are we so semantically diplomatic? If they are "Holocaust revisionists," then the town idiot who claims that two plus two is five is a "mathematical revisionist." We call the town idiot ignorant, stupid, crazy, or some other less than redeeming word. Simply stated, he is wrong — two plus two is not five. Likewise, let's call a spade a spade: Those who deny the Holocaust are either hate mongers, anti-Semites, Jew haters, racists, or some other less than redeeming word. In no event are they "revisionists." To call them such implies that there is room for debate; it lends credence to their asinine assertions. Again I remind you, I am talking about historical fact, not policy debates or competing historical theories. Remember, two plus two is four.

Ideally, the "revisionists" would warrant no attention. Quoting my grandmother, Baba Bella, "If you argue with a fool that makes two." Following such wisdom, the "revisionists" would be dismissed outright much like the town idiot. After all, it hardly seems necessary to counter the town idiot's claims with full-page columns.

The difference, unfortunately, is that nobody believes that two plus two is five. Ergo, no energy, time, or resources need be spent on combating the mathematical fallacy. However, in a recent national survey, 34% of Americans said they are "uncertain" whether the Holocaust took place. Uncertain whether 6,000,000 Jews were murdered. Uncertain, essentially, whether two plus two is four.

Additionally, unlike the town idiot, some of the "revisionists" possess an air of credibility. Some, like Professor Arthur Butz of Northwestern University, are rep-

I relish the day when the "Holocaust rrrrrrevisionists" can be dismissed as town idiots.

utable professors from esteemed universities. They pen books denying the Holocaust entitled "The Hoax of the 20th Century" while working in the bastions of intellectual debate. I assume they laugh heartily every time they receive a paycheck from their university, every time a Jew like me feels compelled to respond to them, every time a survey reveals that 34% of Americans are "uncertain" about whether the Holocaust happened.

Unfortunately, in a world that is often ill-informed, ignorance passes as fact and people like Professor Butz soon become Hitlers. If seemingly credible individuals such as these are not unilaterally condemned, then the perpetual lie soon passes as fact. Our silence is the source of their strength. Our silence is a de facto acquiescence.

Though historical tragedies rarely make for good analogies, I resort to the tactic nonetheless to lend some perspective; I provide the following for shock value. What would be the reaction if a group of "antebellum revisionists" claimed that blacks were never slaves? That blacks were never sold, lynched, beaten, raped, divided, and bartered? Even worse, suppose these "scholars" said that not only were blacks never slaves, the whole idea of a black slave trade was simply a hoax devised by blacks to garner sympathy. And what if 34% of Americans were "uncertain" whether blacks were slaves? How would we respond?

I would like to think that I would be joined by everyone, no matter what their ethnicity, in obliterating such a lie. I would like to think that the "revisionists" would be called racists. I would like to think that columns like this would be plentiful. I would like to think that our initial shock and disgust that such venom could be spewed with a straight face would serve as a catalyst for collective action. Fortunately, none of this is necessary.

My real concern is not that "Holocaust revisionists" exist and flourish. They are a dime a dozen. Neither their existence nor their presence surprises me. As a Jew who grieves for those of my heritage who have suffered over five thousand years of systematic persecution, I come to expect it. In some ways, I welcome it. Bring it on. It serves as my strength.

What I cannot tolerate, however, is the rest of society's collective silence. I cry for the 6,000,000 when I read "34% uncertain." I respond with mixed joy when I read that the Holocaust Museum in Washington is packed to capacity and "Schindler's List" is captivating audiences nationwide. Yes, I am pleased that people are learning, understanding, and viewing the carnage and hate. Just the same, I am insulted and disappointed that this is such an eye-opener for so many. Dismayed that a museum is necessary to document the destruction.

I relish the day when the "Holocaust revisionists" can be dismissed as town idiots. Until then, I remind you, two plus two is four. Don't forget it.

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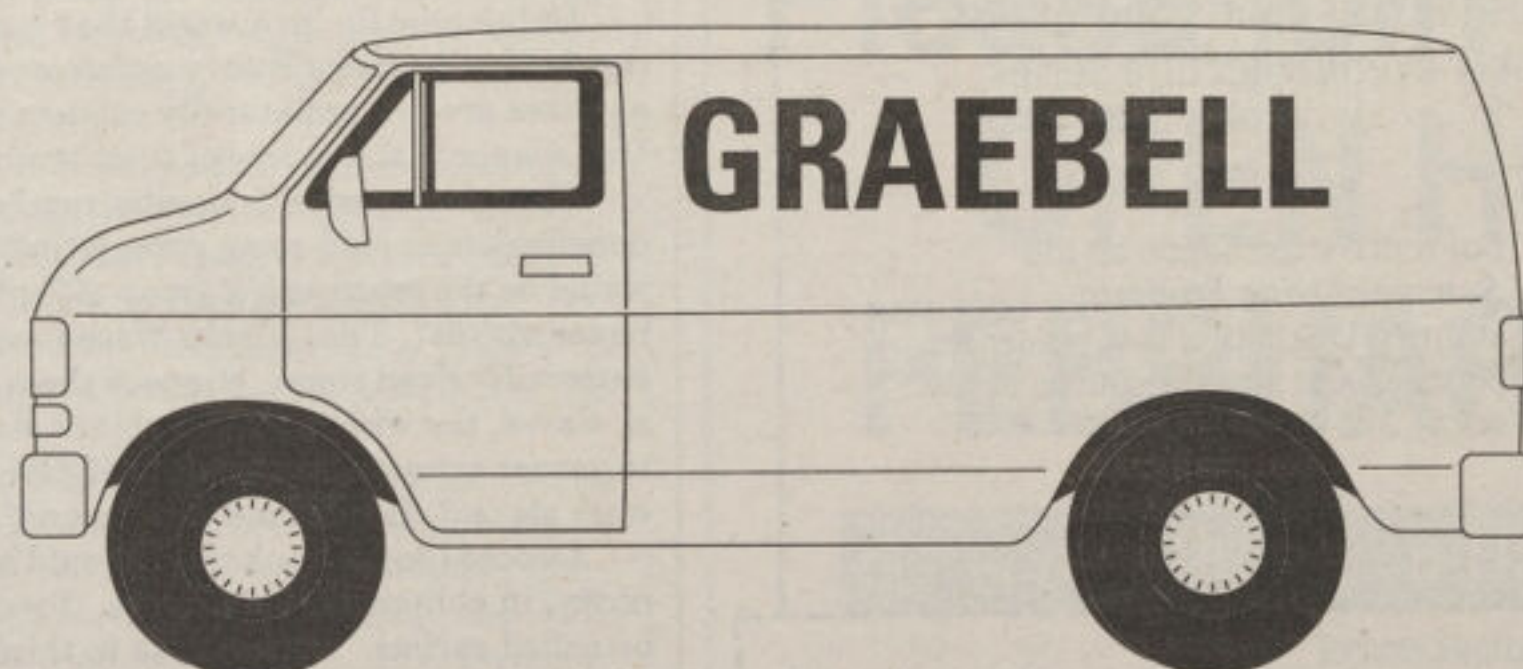
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