



David Aronberg '96 makes his case to Dean Clark during the last of this year's informal get-togethers at John Harvard's Brewhouse.

Sullivan Returns for Speech

By April Rockstead

Stanford Law School professor and self-proclaimed "progressive free speech libertarian" Kathleen M. Sullivan '81 — until last year an HLS professor — drew a crowd of about 100 to Austin North last Thursday to hear her Harvard Law School Forum-sponsored talk.

Sullivan, who was greeted with a few chants of "Come home!" by some in the audience, gave a comprehensive, almost "nutshell-ish" summary of developments in free speech law from *Brandenburg v. Ohio* to *Buckley v. Valeo* — interspersed with earthquake analogies and needling comparisons between the Cambridge and California climates — before turning to her own views.

"The question is, is there room for being a post-modern free-speech libertarian?"

Sullivan said. "Or, can you be cool, and for free speech?"

In a tentative, ten-minute conclusion, Sullivan offered responses to would-be censors —

from groups as diverse as feminists led by Catharine MacKinnon and Andrea Dworkin, advocates of hate-speech codes, critics of television violence, and abortion-clinic protestors — arguing that members of that "modern [anti-free speech consensus] pose challenges to traditional doctrines that require more than the 'tired, rote' arguments often offered by free speech defenders.

"It's as if by bringing out free speech as a talisman and saying, 'Back, back,' you could make these arguments go away, and I don't think that's possible,"

Sullivan said. "I don't want to wield the First Amendment as a magic wand."

Sullivan said that a criticism of traditional doctrine is that it

adheres to an outmoded and unworkable distinction between "speech" and "conduct," the artificial distinction, she said, is aptly described by the adage, "Sticks and stones may break my bones, but words will never hurt me,"

which many parents tell their children.

Sullivan acknowledged the concept embodied in the adage is flawed, saying, "You found out on the playground that, though she meant well, your momma lied."

However, Sullivan responded

please see **SULLIVAN**, page 12



Kathleen Sullivan '81

Guards Receive Back Pay, Fees After Acquittal

By Joe Mathews

Harvard Crimson reporter

The University has agreed to give back pay to two Harvard security guards who were tried last December for allegedly stealing two water coolers from the Law School.

The two guards, George D. Perry and Michael J. Auterio, were acquitted on December 23 after the case against them — which was largely based on erroneous evidence accumulated during a Harvard police investigation — crumbled in open court.

As part of an agreement reached earlier this spring, Perry will receive approximately \$9,000 and Auterio will get \$5,500 to make up for time they were suspended without pay. Harvard has also agreed to pay the two men's legal fees for the criminal trial, sources said. The payments to Perry and

Auterio bring the cost of the investigation and trial to more than \$100,000, according to police and court sources. The two coolers at issue in the case retail for \$219 each, according to their manufacturer, Poland Springs.

While costly, the payments to the guards may actually save Harvard some money. Sources close to both Perry and Auterio said they would have sued the University if they did not receive back pay.

Auterio declined to comment, and Perry could not be reached.

University officials have said before that the cost of the trial is not a significant issue. "The problem is in any case, regardless of whether it's a misdemeanor or a felony, costs are incurred," said Harvard Police Lt. John F. Rooney. "We're not in the business of weighing the costs. Our only

please see **GUARDS**, page 12

LSC to Appeal Wolfson Award

By Greg Stohr

The Law School Council has decided to appeal a \$201 judgment rendered by a small claims court in favor of Tina Wolfson '94 in a dispute arising out of the council's used-book sale.

The appeal, which may not occur until next fall, could mean a jury trial, said John Bates '95, who investigated the appeals procedure for the council. The LSC will have to post a \$100 bond, which will be refunded if the council wins, and pay a \$29 filing fee. Bates said he did not know whether the council could waive the jury trial.

In spite of the costs, the council voted 12-1 Tuesday to appeal. Council members acknowledged the expense but said the precedent the award could set might jeopardize future book sales.

"We have principles," Bates said. "We think we're right."

But Wolfson said she thought the council might have missed the deadline for filing the appeal. She said a court official told her Wednesday that the deadline had

passed and that the LSC would have to file a special motion. She called the situation "yet another testament to their complete incompetence and irresponsibility."

Wolfson sued the council for allegedly failing to return her

books after the council's sale last year. At a hearing before a magistrate last month, former council President Enu Mainigi '94 and former council member Tracy Williams '94 unsuccessfully argued that the LSC had given Wolfson adequate notice that the books would become council property if they were not claimed.

Wolfson, who will begin work this fall at a law firm in California, said she had not yet decided what approach to take in opposing the suit.

"I'll have to see," she said. "I'm going to prevail, I'm sure. It's just a pain because I have to go back to court."

Bates said he thought the small claims magistrate made a

number of errors, including failing to give sufficient weight to notices published in the Adviser. The notices said all books would become council property if they were not claimed.

"I don't think he appropriately considered that students are deemed to know what's printed in the Adviser," Bates said.

Bates also suggested Wolfson might have changed her story as to whether she made a

list of the books when she submitted them to the council. According to Bates, when Wolfson first complained about the procedure to council members last fall, she compiled a list of the books and told them not to lose it because "this was her only list."

"Her testimony was very questionable," Bates said. "I don't think she had made a list when she gave us the books."

Wolfson said she kept a list of

please see **APPEAL**, page 2

Unger Tops 2L Marshal Vote

Some Question Selection of Four Men

By Victoria Kuohung

Jon Unger '95 is an intramural basketball player, and Rory Verrett '95 devotes his time to the Legal Aid Bureau. Matt Henshon '95 works on a Massachusetts political campaign, and Joe Hurd '95 advises pre-law undergraduates. But the four have at least two things in common: As the four highest vote-getters in elections held at the end of April, they will serve as marshals for the Class of 1995.

And all four are men.

In all, 373 ballots were cast, with each voter allowed to indicate up to four choices for marshal. Ballots were counted twice to confirm final results. Hurd's fourth-place finish in the balloting was particularly close; he finished just four votes ahead of fifth-place Cristina Toro-Hernandez '95.

Each marshal will assume specific positions, into which general duties are divided: Unger will serve as class speaker, Verrett will work as secretary; Henshon will be treasurer; and Hurd will serve as social chair.

Responsibilities of marshals also include organizing year-long social functions such as this year's Casino Night, as well as fundraising and coordinating graduation activities.

Working as marshal provides a chance to give back to the community of students at the law school, said Hurd.

"By far one of the most enjoyable aspects of being here at the Law School has been the friendships I've developed with

my classmates," he said. "Hopefully, they will be friendships for life, as our paths continue to cross in the professional world."

Henshon sees his position of class marshal as an opportunity "to get involved in the class, to take initiative, and to use my energy and time to try and improve [life at the Law School] before we go into the real world."

But the selection of four men from a field of 14 candidates — equally split between men and women — has caused concern in some quarters around campus.

Julie Lythcott-Haims '94, a 1994 class marshal, said the lack of female representation among 1995 marshals "definitely bothers me."

"I don't know if [the results] mean that women don't vote, but it does surprise me. You would hope that the foursome would be more representative of the class," she said. Lythcott-Haims is the only woman marshal in her class.

"I don't mean to denigrate the success of the people who won. I applaud their success," she added. "But it is unfortunate that the class [of 1995] did not see fit to elect at least one woman."

"Maybe it's a reflection of the fact that women aren't as well connected politically as men are, in which case the law school is a microcosm of the world."

Women's Law Association spokesperson Kim Christensen

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Tina Wolfson '94

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Harvard to Host Mock Constitutional Convention

By Ray Kahler

Undergraduates and graduate students from more than 15 schools — including HLS — will gather May 16 and 17 at Harvard's Kennedy School of Government for a mock constitutional convention to address a hypothetical balanced budget amendment.

The convention will include two panel discussions each day, featuring scholars and politicians debating the pros and cons of a balanced budget amendment.

Mark Goffman, a student at the Kennedy School and a convention organizer, said the goals of the convention are to "provide a practical experiment for how a real constitutional convention might proceed" and "to heighten the level of awareness and deliberation about a balanced budget amendment."

Goffman said such a practical experiment is important because there is considerable debate over whether a constitutional convention would be appropriate or even possible. The only time a constitutional convention has been convened in the nation's history was in 1787 to create the Constitution.

Thirty states have called for a constitutional convention to address a balanced budget amendment — four short of the requisite 34.

"It's very possible, and even likely,

that if Congress continues to vote against a balanced budget amendment, the states are going to call for a convention," Goffman said. In the cases of the 17th and 21st Amendments, state movements toward conventions acted as catalysts for congressional action.

According to promotional materials for the convention, "[T]he United States

Strauss '73, author of "Thirteenth Gen" and "Generations;" Lewis Uhler of the National Tax and Legislative Committee; and a representative from the National Taxpayers Union. Bo Cutter of the National Economic Counsel and U.S. Rep. Charles Stenholm — who sponsored a balanced budget amendment in Congress — have been invited but have not yet confirmed as of Tuesday.

The panel discussions and the convention itself are open to the public, as is a speech by 1992 presidential candidate Ross Perot at the Kennedy School on May 16.

A number of national newspapers, periodicals, and television networks have expressed interest in covering the convention, Goffman said. C-SPAN will cover parts of the convention, and MTV may send a crew.

HLS students have until May 9 to register to be convention delegates. Goffman said that delegates do not need to be for or against a balanced budget amendment, and they can be from any state. "Just like in real life, delegates can be as active or as passive as they want," Goffman said, adding that delegates do not have to attend all events during the two days.

The convention is sponsored by the Kennedy School student government, the Harvard Institute of Politics, and United We Stand America. The convention has also received assistance from Third Millennium, the Concord Coalition, the Harvard Model Congress and Senate, and the College Democrats and Republicans.

"It's very possible, and even likely, that if Congress continues to vote against a balanced budget amendment, the states are going to call for a convention." — Mark Goffman

has run a deficit every year since 1970 and has only balanced its budget once since 1960. . . . Today, the accumulated national debt is over \$4.5 trillion, or 70 percent of our national economic output (GDP)."

Michael Renetzky '96, the Law School coordinator for the convention, said convention organizers hope the event will result in a draft amendment. "We expect that people in Washington will get notice [of the result of the convention]," he said.

Scheduled participants include Bill

Faculty to Consider Harassment Policy

By Katrina Campbell

The HLS faculty is scheduled to consider today whether the guidelines proposed by the Committee on Sexual Harassment should be adopted as school policy.

Although the portions of the rules that govern inherently sexual harassment are not expected to spark significant controversy, the committee's revised draft of guidelines on personal vilification is likely to be the subject of much debate.

The eight-member committee voted unanimously last week on Part I of the guidelines, which concerns inherently sexual harassment, and Parts III, and IV, which cover procedural matters. But only five members voted to include the current version Part II, which prohibits speech or conduct not inherently sexual but still targeted at others based on

their gender or sexual orientation. The other three members would vote to amend some or all of that section.

Among the amendments likely to be offered today is one by Prof. Elizabeth Bartholet '65 to exclude the requirement that sex-based harassment by personal vilification be "addressed directly to or targeted directly at the individual or small group of individuals whom it insults or stigmatizes." Bartholet said the clause poses an illogical limit on the meaning of harassment that is not supported by legal precedent or government guidelines.



Prof. Elizabeth Bartholet '65

Bartholet, a member of the drafting committee, dissented from the committee's version of Part II.

If faculty votes to pass the guidelines, they will become effective immediately, said the committee's chairman, Prof. Richard Fallon '80.

Council Appeals Lost Suit

continued from APPEAL, page 1

the books on her computer all along. She said the list she gave the council was the only list that contained prices for the books.

Wolfson also suggested that the council might face difficulty in procuring witnesses for a trial next year. She said that during the dispute she dealt only with members of the graduating class of 1994.

"I don't see how they can appeal because their witnesses will be gone," she

said. "No one on the council now has personal knowledge of what went on."

"I'm sure that I can [present] a motion before the trial date to show that they have no case unless they're going to bring their witnesses in," Wolfson added.

The sole dissenter on the council was Spencer Levy '95, who said he was not troubled by the possibility the suit might endanger the book sale.

"We should just pay her," he said at Tuesday's meeting. "This is ridiculous."

By Greg Stohr

Students who were upset to learn they are being billed for course materials distributed in ten fall courses probably will be pleased to hear of this news: A number of other HLS fees are about to disappear.

Fees for athletic privileges, e-mail, student lockers, and computer terminal time will be incorporated into the overall tuition bill next year, administration officials confirmed this week. Library copying rates will also be lowered from ten cents to five cents.

Paul Upson, assistant dean for finance and operations, said the changes were designed to "make life simpler" for both students and administrators.

"People don't like being charged for lots of things separately," he said. "There's been a lot of complaining about being nicked and dined to death. This is in part a response to that."

Although a few fees are likely to remain in place — including printing charges for the computer lab and athletic stickers for the summer months — Dean of Students Suzanne Richardson said the changes would eliminate the fees students have found "especially aggravating."

Upton said the administration considered the impact on students who do not use services like athletic facilities, but he said those students were clearly a minority.

"Far more people bought athletic stickers than didn't," he said.

As far as the distribution charges are concerned, Upton said the Law School's fee policy, described in the HLS course catalog, is long-established. Students are charged \$20 for courses in which their professors distribute 1001 to 1500 pages of materials, \$30 for 1501 to 2000 pages, \$40 for 2001 to 2500 pages and \$50 for more than 2500

pages. Prior to the 1992-93 school year, Upton said, students were also charged a general copying fee of \$150, a charge that has since been incorporated into student tuition.

Although students were not billed at all for photocopies during the 1992-93 school year, Upton blamed that anomaly on "poor administration."

At least one student group, however, believes the current system has some harmful side effects. The Environmental Law Society is exploring options that will

reduce the amount of paper used, said ELS President Reynold Siemens '95.

"We're in favor of charging people for their paper use as a means of reducing waste, but this is not an efficient mechanism," he said. "Professors have no idea that their students are being charged for their excess photocopies. Most professors think they're doing us a favor. They

think we're getting this material for free." Siemens also said many students do not learn of the charges until the end of the semester and thus they have an inadequate incentive to prod professors into reducing the paper flow.

Siemens said one alternative might be to provide faculty members with a photocopying budget. He also suggested exploring the possibility of charging students on a per-page basis at the beginning of the semester.

Upton agreed the best solution might be for students to convince their professors to distribute less paper, and he suggested that retaining the fee would provide an incentive.

"If enough students complain to professors, maybe they'll copy less — and that might be good for everybody," he said.

"People don't like being charged for lots of things separately." — Paul Upson.

Clark: Holmes Building a Gem, Nesson a God

By Jeff Bucholtz

The HLS community got its first official look inside the brand-new Holmes Field Building Monday afternoon at Dean Clark's open house. Over a hundred students, faculty, and staff crowded into the lobby for food, drink, and the ceremonial unveiling of HLS's newest edifice, billed as "an Austin Hall for the 21st century."

Dean Clark '72 addressed the gathering from the second-floor balcony, sporting a hard hat and carrying a shovel. Calling the building "wonderfully successful," Clark told of how, since the project's genesis a decade ago, its development has been made possible by the hard work of the building committee.

Laughter greeted Clark's description of the committee co-chairs, Prof. Terry Fisher '82 and Prof. Charles Nesson '63, as "Apollo and Dionysus." Fisher "is the god of order, form, and cherry wood, and Charlie Nesson's the god of wine, song, and cyberspace," Clark said.

Clark then introduced Prof. Andy Kaufman '54, who has also been heavily involved in planning the new building. Kaufman drew loud applause for his self-deprecating admission that he is but a mere mortal. "It's probably a good thing that there's at least one human being on the HLS faculty," he joked.

Kaufman said the Holmes Field Building is "only one step in the project of bringing the Law School into the next century." Next on the construction list is the planned Langdell renovation, which will be followed a few years hence by a renovation of the Harkness Commons.

When asked before the remarks about a rumor that HLS's construction plans included "blowing up Gropius," Clark demurred. "One has hopes," he conceded, but he cited the improvement

of the library as the school's first agenda item.

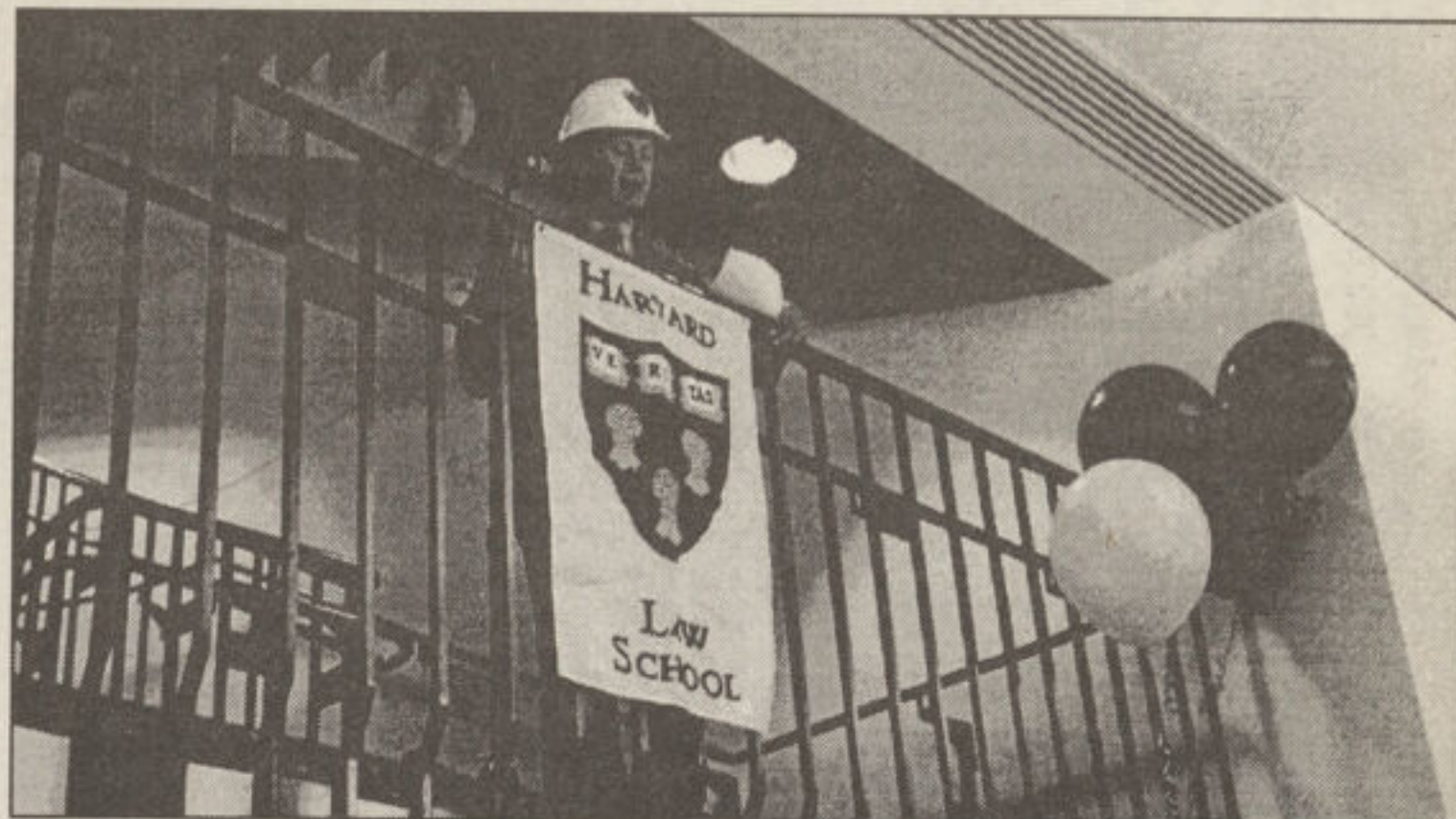
Fisher praised the architects and builders for their "precision" in crafting a structure of such "presence and character, worthy of its prominent spot at HLS." He also said he hoped that the new building would "help foster a sense of community" with its comfortable, mixed-use facilities.

When Nesson rose to speak — dressed in a sweater and slacks and clutching a coffee mug — his broad smile relayed his pleasure with the successful final version of the building he helped plan. Giving "broad credit to Bob Clark for his clear vision and utterly supportive leadership," Nesson said that despite the faculty's "longstanding reputation for internecine warfare," the edifice was built "in a truly harmonious way."

After acknowledging the efforts of the rest of the people who had a hand in the Holmes Field project, Nesson exhorted the gathering to watch the videotape Clark put together to document the building's progress in the two years since ground was broken. "Bob's really excited about the video," said Nesson.

Highlights of the video presentation included labor law Prof. Paul Weiler, LL.M. '65, admonishing Clark, "I hope it's a union job," and longtime Dean Erwin Griswold '28 announcing, "I'd like to take over a floor." The tape, which Clark edited at home, traced the history of the project from its beginnings as an empty field through the often-snowy construction up to its completion this year. The comments of the faculty and contractors were interspersed with classical music, crescendoing in rough rhythm with the images.

The many students present seemed pleased with the building — and the free food. Stacy Kleiner '96 opted for understatement, declaring, "it's a big improvement on Gropius."



As the band played on outside the Holmes Field Building, Dean Clark '72 played a construction worker inside at the open house for the new building.

Brooke Deratany '96 was more exuberant. "The building is beautiful, and the film is a must-see," she said, adding, "I give the whole thing a thumbs-up."

For his part, Nesson offered a suggestion in keeping with his penchant for

high-tech education. "I think we should pipe Tresor [a German techno club and record label] through the building."

Clark noted that the Law School is still looking for a donor to name this newest addition to the HLS campus.

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Their support made this year's events possible. These events included exiled Haitian President Jean Bertrand Aristide, Representative Joseph Kennedy, Professor Kathleen Sullivan, a Spring Conference on Sports and Entertainment Law, and a Panel on the Changing Dynamic of the HIV Epidemic.

BRIEFS



3Ls Tab Areeda as Top Teacher

Prof. Phillip Areeda '54 won the third annual Albert M. Sacks-Paul A. Freund Award for Teaching Excellence. Initiated by the Class of 1992, the award recognizes that part of the law school learning experience which most directly, personally, and strongly impacts the students: the quality of teaching.

"I am surprised and delighted," Areeda said. "I have great affection for the Class of 1994." Past honorees include former HLS Prof. Kathleen Sullivan '81 and Prof. Charles Ogletree '78.

The award, voted on by third-year J.D. candidates and LL.M. students, includes four criteria: excellence in teaching, accessibility, interest in student life, and a personal, humane touch.

Students to Lobby Faculty on Pass/Fail

Students proposing to move HLS to a pass/fail system will get a chance to raise the issue with the faculty today. Erik Lindseth '95, who drafted a grade reform proposal being recommended by the Law School Council, says he and a group of students will give a five- to ten-minute presentation at the weekly faculty meeting this afternoon.

Lindseth said the students will not address the merits of their proposal, but they will try to convince the faculty to consider the issue in depth, possibly by forming a faculty-student task force.

"We're going to make the case that it's an issue that ought to be debated," Lindseth said. "At the very least, that's a step forward."

Prof. Charles Neason, who has expressed support for the student efforts, extended the invitation to the group.

1994 Kaufman Public Service Fellowship Awards Announced

Dean Clark '72 announced the fifth annual fellowship awards from the Law School's \$1 million Irving R. Kaufman Public Service Fellowships program, which honors the late Judge Kaufman of the Second Circuit Court of Appeals and is funded by a gift from the Annenberg Foundation.

The program's 1994 full fellows are Michelle Benecke '92, co-director and founder of the Servicemembers Legal Defense Network; Andrew Carter '94, who is looking for work with minority children; Kathleen Flaherty '94, who is looking for work in disability and mental health law; Mithra Merryman '92, who is applying to legal services and district attorneys' offices and hopes to co-found a Domestic Violence Institute in Boston to provide legal services to battered women; Rebecca Sharpless '94, who will serve next year as the director of Immigration Naturalization Center of the Northwest Chicano Radio Network in Granger, Washington; Andrew Stanton '94, who will work next year at the Office of the Public Defender in Dade County, Florida; Tracy Stone '94, who is looking for public interest jobs involving children's rights issues; Rebecca Thorne '93, who is looking for work in legal services following a clerkship, and has developed a project to provide "shelter-based" legal service to the homeless, minors and battered women in rural Maine; Melody Webb '93, who plans to establish a youth violence prevention advocacy project in Washington, D.C. this fall; and Stephen Weisbrod '91, who recently opened his own criminal defense solo practice following two years of clerkships.

The award committee also awarded partial fellowships, honorary fellowships and renewal grants to some of last year's fellowship winners.

Split Decision in Rent Control Battles

Anti-rent control forces won a court victory last Friday only to suffer a setback at the hands of a state legislative committee this week.

Suffolk County Superior Court Judge Martha Sossman ruled on April 22 that property owners gathered the 70,286 valid signatures necessary to allow the state legislature to decide to hold a statewide referendum on the issue. But as a result of a state legislative committee vote this week, supporters of the initiative now will have to gather another 12,000 signatures by June 22.

A tenants' group had said it would appeal Sossman's decision, which followed a lengthy court battle that included testimony from registrars and handwriting analysts on the validity of hundreds of the certified petition signatures.

The petition also sparked two pending spin-off lawsuits against the state attorney general. One attack, by the rent control advocates, was to be considered in court yesterday, and alleges the attorney general should never have certified the petition because it violates the "home rule" portion of the state constitution by precluding Cambridge, Boston and Brookline — the communities that would be affected by the referendum — from deciding the issue themselves.

The rent control advocates' suit against the attorney general claims the summary of the petition he prepared for inclusion on the state ballot gave voters the misimpression the petition was pro-rent control.

Student Group Puts SPIN on Public Interest

Emboldened with a fresh name, the Student Public Interest Network — or SPIN, according to its new acronym — held a reception this week to honor the 160 HLS students planning to work in public interest law this summer.

More than 50 people attended Monday's reception, including Profs. Gary Bellow '60, Lucie White '81, and Carol Steiker '86, said SPIN Co-chair Terri Gerstein '95.

As for the name-change, SPIN members say they thought the organization's previous moniker, the Alliance for Public Interest Alternatives (APIA) had negative connotations.

"The word 'alternative' just reeks of counterculture," Gerstein said. "Doing public interest is not some hippy thing. It's totally normal and cool. In fact, the Kennedy School, a whole graduate school, is devoted to it."

Among the other names considered (albeit, some of them briefly): PIP (Public Interest Project), HAPI (Harvard Alliance for Public Interest), SAPI (Student Alliance for Public Interest), and SPIA (Student Public Interest Alliance). In the end, Gerstein said, group members took a vote and SPIN won by one vote.

"We thought it was hip," she said, "very active."

Out of the Frying Pan

By Marc Channick '94

RECORD Columnist



As I sit before my trusty word processor, staring at the blank screen that will become my final column, I find myself searching for the perfect quote with which to begin. However, all that comes to mind is the hitherto unpublished first line of the Platonic dialogue "Crito," in which Socrates asks, "Is it just me, or does this stuff leave a funny taste in your mouth?"

Seriously, folks, what can I tell you that you haven't already heard from people with a lot more letters in front of their names than me? Do unto others as you would have them do unto you? To thine own self be true? Never get involved in a land war in Asia? For what it's worth, my own personal credo is that you should live every day as if it was your last — a lot of whimpering and cowering under the bed.

Well, this is it — the end of my career as a student. Make no mistake, I do mean "career," since by my count, I am just finishing up 19th grade. If I could find a way to stick around for one more year, I could probably start drawing a pension. What scares me most about the end of school is that I am not qualified to do anything but be a student. The sum total of my practical legal experience is 12 weeks as a summer associate last year, where my major achievement was using a free Lexis day to find out how many times the word "roadkill" appears in the Federal Reporter (23, in case anyone ever asks you).

I have spent countless hours over the last three years trying to figure out what makes this place tick, and I believe I can sum up the results of my research in two words: I failed. HLS is many things to many people, and one person's experiences cannot in any way be considered determinative. However, since I'm the one with the byline, I will share my thoughts with you anyway. That's why they pay me the big bucks.

I don't believe I will miss this place. Unlike college, which seemed to be a four-year experiment into how much mindless fun you could have without your head actually imploding from the lack of input, law school is a very instrumental place. People come here for a very specific purpose, namely to provide amusement for the professors, who otherwise would have nothing to distract them from their work. I spent a good deal of my time in class feeling like one of those extras in red tunics on "Star

I have spent countless hours over the last three years trying to figure out what makes this place tick, and I believe I can sum up the results of my research in two words: I failed.

Trek" — I knew I was going to get nailed before the end of the hour.

I will miss my friends. They have been the constant in this whole confused equation, always there to keep me going when I faltered, or at least managing to avoid pointing and laughing out loud. While there are many of you out there to whom I owe thanks, two people deserve special mention. Without my housemates, I am convinced I would not have survived the past three years. I do not have the words to express my feelings towards them, so I won't even try. Above all, they have taught me the most important lesson I could have learned: Never mix tequila and beer. Never. I would like to identify them by name, but they have both expressed a near-pathological aversion to being included in my columns. So, Marc Zwillinger '94 and Thad Davis '94, rest assured that your continued anonymity is safe with me.

So here I stand on the threshold of real life, with one foot still firmly entrenched in my childhood, and the other in document production in Topeka. Harvard has taught me to talk the talk. Now it is time to see if I can bill the hours. Of course, I know that no matter how difficult the road gets, I can always look for inspiration to the motto "Veritas" (literally, "failure to drop a course after the first meeting will result in a grade of 'WD' being placed on your permanent transcript").

Good-bye, HLS. Good-bye to assigned seats, commercial outlines, and the Socratic Method. Good-bye to Drama Society and the Scales of Justice — thanks for the good times. Good-bye to the RECORD, the closest I ever came to being on a journal. Good-bye to friendships made, and to those missed. Good-bye to all of the people and things that have left a mark on me, or in some cases a fairly major bruise. As we venture out into the great unknown, I wish for all of you the same good things I wish for myself. Of course, I'm a masochist.

Good night, Mr. Langdell. . . . wherever you are.

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The Year in Review

By HLS standards, 1993-94 was a pretty quiet year at the RECORD and at the Law School. Nevertheless, as the year winds down, we thought we'd provide this retrospective of some of the highlights and lowlights of the past nine months.

9/93: Dalton Settles Suit

Five years after the Law School denied tenure to former Associate Professor Clare Dalton '73, it settled the gender discrimination lawsuit Dalton levelled against it. The Law School agreed to jointly sponsor a Domestic Violence Institute with Northeastern University School of Law, where Dalton now teaches.

10/1: MTC Wins LSC Beer Battle, For a While

After two weeks of brewing debate, the Monster Truck Coalition, commanded by Bill Growney, Jr. '95, drove through a resolution to serve beer at every Law School Council meeting. The LSC allocated a beer budget of \$25 per week for all council members as well as any students who attend their meetings. The vote was later reversed.

10/8: Ginsburg Speaks at Celebration 40

Justice Ruth Bader Ginsburg '56-'58 accepted an award for lifetime achievement presented by her daughter Jane Ginsburg '80 during Celebration 40, which commemorated 40 years of women students at HLS. The day's events included a variety of speakers and panels on issues facing women in the legal profession.

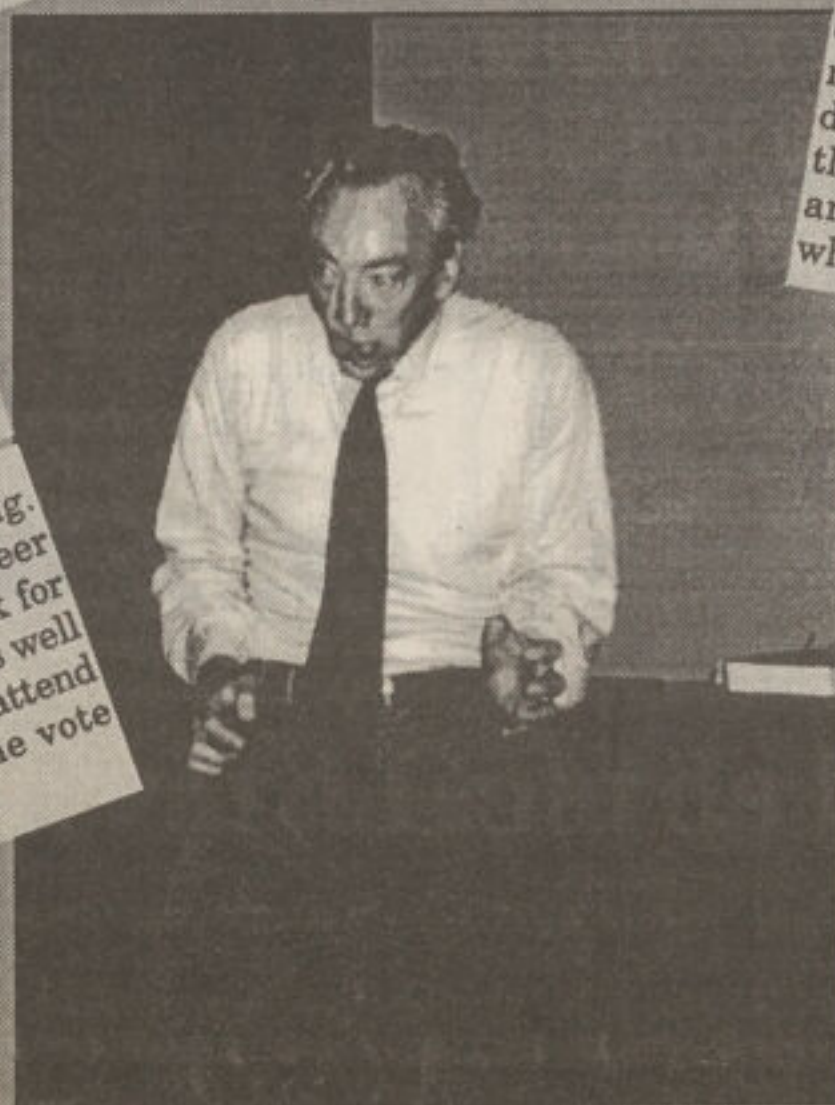


10/29: Ninth Circuit Ignores Interview Date

Despite efforts to regulate the clerkship interview process, judges on the Ninth Circuit said they intended to interview students before the March 1 start date agreed upon by law school deans, including Dean Clark '72, and promulgated by the U.S. Judicial Conference. 2Ls found themselves in the middle of the conflict, with many deciding to ignore the "benchmark" date.

1/21: HLS Ranked Last for Quality of Life

The infamous Princeton Review survey — the "Student Access Guide to the Best Law Schools" — ranked HLS dead last among 140 law schools in its "quality of life" category. The ranking was derived from surveys of more than 11,000 students. The profile said there was a "consensus" among students from which "few dissented" that the campus is "politically polarized" and "severely lacking in a 'sense of community.'" Students were ranked by the rating, as were faculty and administrators. Associate Dean Todd Rakoff '75 said since some of the survey's statistics were wrong or old, the result might "reflect troubles that are now behind us."



2/25: Cruise Receives Award from Law School

Actor Tom Cruise visited the Law School and received a certificate of appreciation from Dean Clark '72 for "outstanding contributions to the reputation of Harvard Law School." Cruise portrayed young HLS grads in the films "The Firm" and "A Few Good Men." Cruise's elite welcoming committee included Profs. Alan Dershowitz and Paul Weiler '65; students Lisa Zornberg '94, Rob Rader '94 and Enu Mainigi '94; Vice-Dean David N. Smith '61; and the dean's office staff.

3/11: A Standing Ovation for Justice Blackmun

Justice Harry A. Blackmun '32 delivered a special Saturday School address in a packed Ames Courtroom, receiving an extended standing ovation. Blackmun encouraged students not to wallow in self-doubt, saying, "The reason you're here is because you belong here." He also counseled students "to relax a little bit. The law is a jealous mistress, so be sure to do something to escape once in a while."

3/18: Panel Proposes Hate Speech Code

A hate-speech provision was included in draft sexual harassment guidelines submitted for community comment. The provision would have applied to speech or other expression "intended to insult or stigmatize another member of the Law School community... on the basis of their race, color, religion, gender, sexual orientation, disability, age or national origin." A subsequent version of the guidelines omitted the general hate speech provision and restricted it to hate speech or expression based on gender.



Taking Your Time (II)

"The Nobel Prize Lecture in Literature, 1993"
By Toni Morrison
New York: Knopf
37 pp. / \$12.00 hardcover



By Mike Fischer '95

Book Review Editor

-For the class of 1994

"CALL me a pencil geek. Or just call me a 1L. Either way, this past Saturday morning had an unpleasant feel about it. Overnight, April became May, and I became another victim of the exam phobia currently descending upon 1Ls with all the fury of a pandemic. Worse yet, I still hadn't written my last 1992-1993 RECORD column. I hadn't thought about my last RECORD column. I hadn't even chosen a book for my last RECORD column."

This was how, one year ago, I opened my final RECORD column of my 1L year. Admitting, as every RECORD staffer must, that there are times this labor of love we produce 20 times a year must take a back seat. Living, as every HLS student must, with the knowledge that hell hath no fury like the sound of a ticking clock in the month of May. Wondering, as all Americans must in this age of diminishing expectations, whether leisure time has gone the way of the corner store: a quaint and fondly remembered curiosity from another era.

Literature is one of those fading curiosities, though I've become quite adept at pretending not to notice. Like last week, for example, when my students watched me wax eloquent about Virginia Woolf as if I was on a different planet (if you don't love Virginia Woolf's prose, what person or thing or idea can you love?). Or the time when a dear colleague at the RECORD admitted that she read my columns religiously but had never read one of the novels I reviewed. Or on the occasions when professors here ruefully acknowledge that they used to read novels, but . . .

But what? A rhetorical question, of course, since we all know the answer, played out in an apparently endless series of permutations that, upon closer examination, are neither endless nor particularly interesting: But I had another paper to write. But I had exams to study for. But I had a case to prepare. But I had to move faster and work harder for longer.

We know the logic well, with its stern interdictions and its aura of exigency.

And I use the "we" advisedly, for I too, of course, am subject to its commands and feel the pull of its power; otherwise I wouldn't be here. Still, there is more to life than interdictions and exigencies, power and commands, the logic of the inexorable and the logic of final exams. Even at HLS. And even in the month of May.

So before you throw up your hands in despair, concede with a false cheerfulness that you're a hopeless Type A and wouldn't know what to do with yourself if you didn't work 90-hour weeks, take a deep breath, close your eyes, and try to remember the magical power you once associated with what the novelist Toni Morrison has called "the oldest sentence in the world, and the earliest one we remember from childhood: 'Once upon a time . . .'"

It is with these words that Morrison opened her address to the members of the Swedish Academy when, this past December, she was honored with the 1993 Nobel Prize for Literature. Her address tells the story of "an old woman," "blind but wise," a daughter of slaves who lives in a small house at the edge of town. Determined to probe her reputation for

wisdom, a group of young people appear before her, challenging her in the one realm where she seems most vulnerable: Her sight. "Old woman," one of them asks her, "I hold in my hand a bird. Tell me whether it is living or dead." After a long silence, the old woman admits that she does not know. "But what I do know," she continues, "is that it is in your hands."

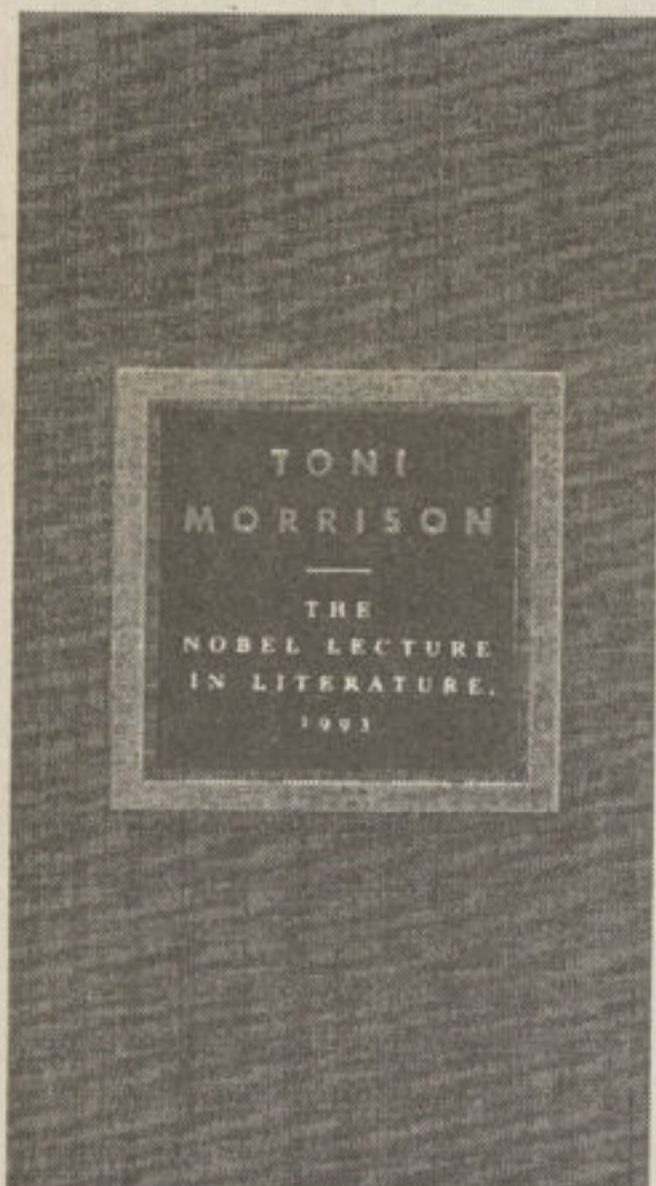
"I choose," Morrison said, "to read the bird as language and the woman as a practiced writer." Language may live or die, fall or fly. It is a question of how we use it, and of how we hold it. Some, writes Morrison, see language as a treasure to be plundered and looted at will, violently and for selfish ends. "There is and will be," she warns, "rousing language to keep citizens armed and arming . . . arrogant pseudo-empirical language crafted to lock creative people into cages of inferiority and hopelessness."

But there is also, Morrison continues, language which "laughs out loud" or "is a cry without an alphabet," language which is "generative" precisely because "it secures our difference, our human difference — the way in which we are like no other life." For while death may be the meaning of life, "we do language. That may be the measure of our lives."

Meaning just what, precisely? But isn't the "precise" point that language doesn't mean, precisely, at all? That it celebrates difference, passionately? That it both fires and expresses the imagination, exuberantly? That it gestures to an ineffable realm far beyond all attempts to cabin its splendid power?

So many of you, this year, have asked me how I find the time to read fiction. My answer is simple, as simple as the implicit question posed by Morrison's fable: How could I — and how can you — not find the time to read fiction? How can any of us, however busy, forget what it once meant to hear the phrase "Once upon a time"?

That phrase stirred us as children because we believed, back then, that stories and dreams were infinite in number and might all eventually come true. And we were right. For as Morrison's fable and as all good fiction reminds us, we are indeed capable of so very much — if we would only take the time to forget to tell ourselves that we are capable of doing so very little. If we would only recognize that our personal and collective future is, as Morrison's fable makes clear, in our own hands.



Final Fearless Predictions

By Bill O'Dowd '94

Sports Editor



WELL, sports fans, the intramural basketball season is drawing to a close. Unfortunately, due to the unexpected delay in the schedule caused by a lack of funding, the results of the playoffs will only be known after the final issue of the RECORD is published. Thus, we will have to resort to this humble reporter's "foolproof" predictions to report the "news" (as some critics have been quick to point out, "just the facts" has never been a credo of this column).

Hey, don't worry. Didn't you first read it here that all three NBA expansion teams in the Eastern Conference would have a better record than the Boston Celtics? Also, who first told you that Purdue would win the NCAA championship (ooh, bad example)? Or that the Dolphins were going to the Super Bowl (ouch)? Or that David Morales' "No Three-Peeters" were the team to beat in A-League?

Well, anyway, here are some concluding thoughts to the sports scene at

of course!). Sorry to the Bulls, also. Once is enough for the boys in black.

No repeat in the B-League this year. Who will win it all? AALSA. Why? Because I'm a sucker for undefeated underdogs (at least the quiet ones, Willie).

A-League: In this column's proud tradition of objective and unbiased reporting, I hereby proclaim "Emite Romeno" to be the sure "lock" for the A-League championship. That's right, folks, we have got a "three-peat" at hand. How can I be so sure? Because of the team's innovative name. Explains team spokesman Nathan "The Human Ruler" Whitaker: "Most people think we named our team after the Italian patron saint of basketball. That was just a lie we fed a lazy reporter who wouldn't verify it [ed. — hey, that hurts!]. In reality, our name is 'One More Time' spelled backwards, in recognition of our quest for immortal glory as the first intramural basketball team

to three-peat in the history of HLS. I got the idea from my Polynesian neighbors who named their son Hama-Ramah, which spelled backwards means something totally different."

Other teams in the semi-finals include Jody "Do Re Mi Fa So" LaNasa's "Funky Bandits," Ron "Paper" Machen's "Black Panthers," and Tony "My Bite is Worse Than My Barkow's" "Two-L." Many observers were surprised at the early exit of Oleg "Cassini" Vyadro's "House of Style." Upon his team's elimination, a deflated Vyadro held a press conference to announce his intention to retire from basketball. After nobody attended, Oleg stated: "Now I know how Charles Fried must have felt after his panel for diversity!"

There you have it, sports fans. This year's pseudo-champions. In a special note, thanks to all the faithful readers who made this column so much fun to write on a weekly basis. Thanks, also, to my good friends who were the subjects of much "material" in this space over the course of the year. Remember to keep aiming high in whatever you do (this will allow me to see where you are going — it will also help with the "airball problem" many of you suffer). And, if you're ever in Miami, don't hesitate to look me up (under "S" for Mr. Sports Guy!).

[Late-breaking news from the publisher emeritus: In a stunning turn of events reminiscent of their Cinderella march to the Final Four last season, the Law Review's "Grizzers" upset defending champion "Chicano Bulls" and last year's finalists "Mo Knows" to advance to the B-League semi-finals. Look for the Grizzers to contend for the prestigious B-League title next week.]

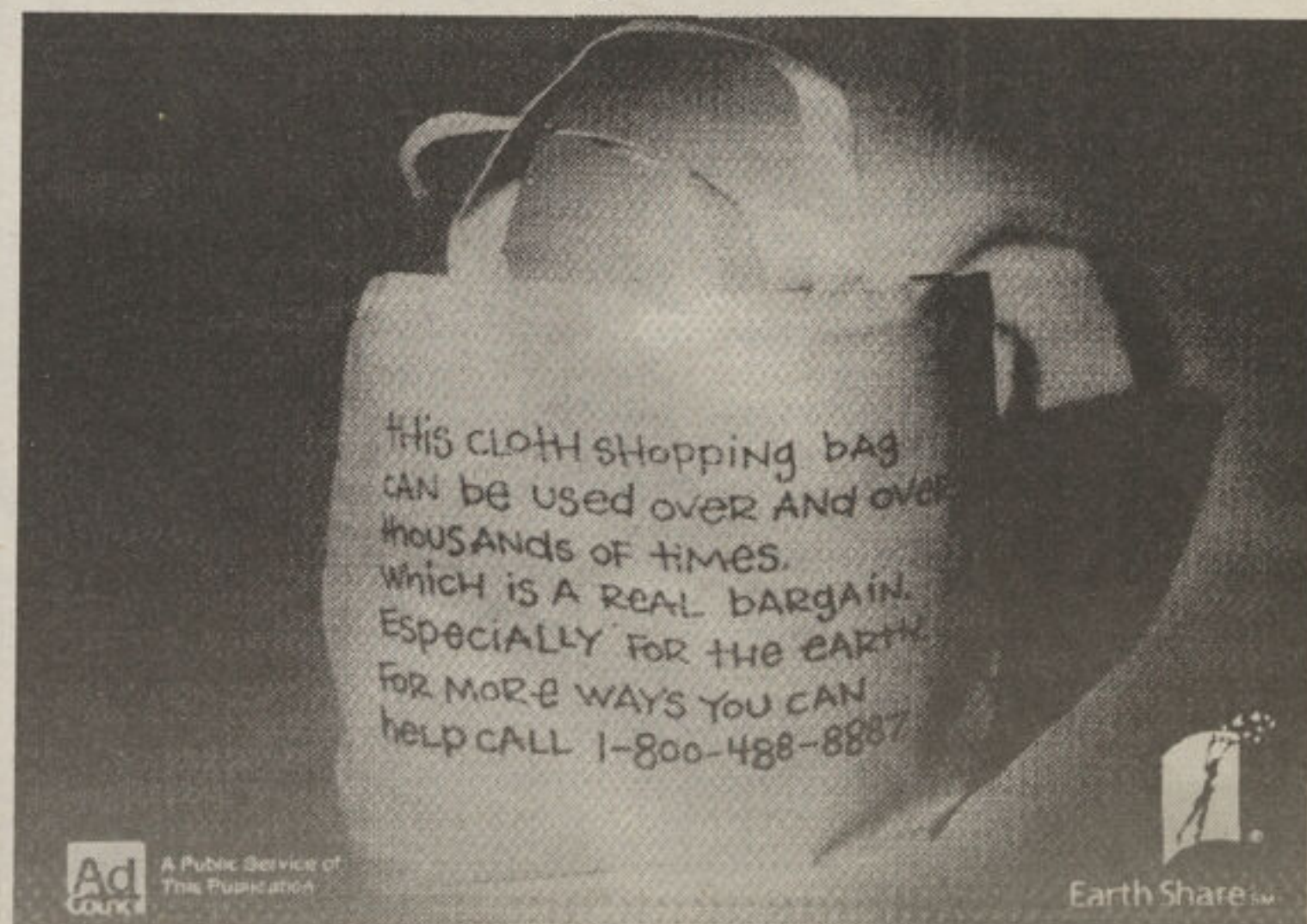
Mr. sports guy

beloved HLS:

B-League: AALSA's "Year of the Dragon" and Law School Council President Willie Epps' "The Runs" were the only two undefeated teams during the regular season. Yet, most reporters who cover the Hemenway beat rank both squads as underdogs to win it all. Says a disgruntled "Diet Puh" Epps "EEE:" "I feel like Rodney Dangerfield. I ain't getting no respect. I've carried this team on my back all year long. I can do it again in the playoffs. Somebody send for Aretha so she can spell it for these people!"

Well, Willie, if this were college football, you know where this modest journalist would stand. But, here at "progressive" HLS (peach baskets were replaced almost a decade ago in the dust-bowl of a gym we call home), we have a playoff system in place and the heavy favorites are Paul "Coming To A" Marazita's "We're Not Role Models," La Alianza's "Chicano Bulls," and BLSA's "Black Plague Returns." Plague power forward (and when I say power, I mean power), R.L. "Bumble" Beeman, "guaranteed" victory for his squad: "Last night, I was looking for guidance. An angel came to me in a dream. She said: 'Work hard and good things will come — Remember Nesson's Evidence class.' Right then, I knew we were a team of destiny."

Sorry, R.L., I've got just two words for you. Evander Holyfield. Divine inspirations don't hold true in the sporting context (unless you're Jon "Walk For" Unger,



OUT OF TOWN

Jackie Mason: Politically Incorrect

By Michael Tenenbaum '94

Those who would believe that political correctness prevails in all but the most private circles in America should probably pay a visit to New York City where the pungency of Emmy award-winning comedian Jackie Mason's humor permeates the Golden Theatre with public proof to the contrary.

Few are safe from the legend's acerbic and painfully accurate wit, a barrage of insults that is fearless in its scope. Mason confronts, predictably, Bill Clinton ("Washington couldn't tell a lie. Nixon couldn't tell the truth. Clinton can't tell the difference."), indirectly, affirmative action ("Are the blacks stop-

ping the Chinese from becoming tap dancers?"), and, unremarkably, Indian taxi drivers. This ordained rabbi spares not even the Jews, instead directing half of the show's provocative and, at times, hilarious appeals to the predominantly Catskills crowd.

Mason, who met Nelson Mandela on his tour of South Africa (at the invitation of the ANC) just one year ago, restrains his otherwise relentless satire only once in the evening, to remind us of the essential freedom America gives him both to share his version of the truth and, in doing so, to entertain.

"Jackie Mason: Politically Incorrect" runs at the Golden Theatre in New York City, 252 West 45th Street, until at least June 18th.

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FOOD - O - RAMA

Tender is the Steak



By Ted Cohen '95 and Jonathan Goldstein '95

IT was a cool night in Boston. The tired men were packing up their roasted nut carts, and the kids were hawking the late edition of the Globe. I was meeting Scott and Zelda for a drink at that new hot spot beside the Common. Marais, it was called (116 Boylston St., 482-7799; T-Stop: Park Street or Boylston/Theater District).

I could tell when I walked into the place that it was a far cry from La Coupole, where we usually went to down glasses of absinthe and handfuls of olives. Too much dark wood. Like a bank. And too damn long. Like a bowling alley. But that bar was superb, with a wall of bottles and one of Toulouse-Lautrec's big cabaret affiches. The lights were dim and the atmosphere was moody and comfortable.

Or at least it was until all those young, professional people started filing in and ordering Amstels. I felt downright ill at ease in my flak jacket and khakis amidst all those suits. Then in walked Gertrude with some young tart on her arm. They sat down at my table without asking.

"Have you ordered, Ernest?" she asked me.

"Not yet."

She plopped down beside me and reached into the bread basket, pulling out a chunk of this unbelievable brown bread, with dates and walnuts. More cake than bread, but delicious whatever you called it.

So she proceeded to order for all of us. Four crisp lobster-filled wontons with ginger-soy sauce (\$8.95) were pricey, but pretty tasty. Ditto the baked goat cheese tart, served over a round of celery root with a drizzle of pesto (\$6.95). I found the goat cheese a little acrid, not quite smooth enough, and the whole thing a little sweet. In fact, I found nearly everything at Marais a little sweet.

Meanwhile, Gertrude and her friend brazenly ordered on: the fried clams (\$8.95), roasted scallops with endive relish (\$8.95), and spicy lamb calzone with goat cheese and tomatoes (\$6.95). Finger food, Gertrude called it. I took a slug of my Beaujolais Villages (\$5/healthy glass) and felt a little depressed.

Just then, Scott walked in. Zelda was apparently in one of her moods. She had grabbed a glass out of some man's hand and was guzzling down the contents. She plopped down beside me and reached into the bread basket, pulling out a chunk of this unbelievable brown bread, with dates and walnuts in it. More cake than bread, but delicious whatever you called it.

We skipped past the pizzettas (\$8.50-12.95) — what the hell's a "pizzetta"? — and headed straight for the main courses, the kind of food, Pablo might have said, that you "catch on a hook or shoot with a gun." (He would have said it in his crazy English, which always got us all laughing so hard that one time I had to give Dos Passos the Heimlich maneuver.)

So. How's the mahi (\$17.75)? It's a fist-sized hunk, like a filet mignon, and it's been grilled real nice, then set in a pool of beurre blanc over some wild mushrooms: I found portobellos, shitakes (mostly), and some garden-variety whites. This is a strong fish (I think I arm-wrestled a mahi once, and it nearly had me pinned before I pulled out my elephant gun and blew its head off), so it stands up to the mushrooms OK, but there's still something off about the dish. It's the beurre blanc. It spent a little too long on the burner and has taken on the taste of caramel. I said the fish was strong. But not that strong.

Of course, the mark of a bistro is its steak-frites. Marais doesn't even serve that famous, narrow, salt-and-peppered cut known as the "hangar." It serves a sirloin (\$22), which is a cut of meat I have only the most profound respect for — but isn't this a bistro? I pose the question to the table, but it falls on deaf ears. Marcel has diverted everyone's attention to some fixtures he ripped out of the men's room.

I'm left to judge this steak on my own. Well, it's a hefty cut. I ordered it medium, though it arrives more on the "alive" side of rare. It is very tasty. All right. I'm willing to forgive. But what comes on the plate with it reminds me why I hate this town (besides the fact that they wouldn't sell half of my friends' goddamn books here until 1960-something).

There's a ramekin of barbecue sauce next to the meat. Now if that's not sacrilege, I don't know what is. But it gets worse. It's not even good barbecue sauce: It tastes like McDonald's. I toss the ramekin under the table and head for the garlic mashed potatoes to cleanse my palate. Another wrong turn. These aren't mashed potatoes. They've been liquefied in a food processor until they have no texture, and then compressed into an unappetizing disc. (Don't they know that lumpy is good?) There's no garlic there to speak of. And they're stone cold in the middle. Maybe I should've had the lamb tenderloin in a garlic sauce (\$19).

But there's no time for regrets. I've got a deadline, and no one else at the table is going to help me out on the dessert front — especially not Salvador, who's so intent on going home with someone other than his wife tonight that he's chatting up a mannequin in the corner. All right, then. The clafoutis it'll be, a little casserole-sized pie crust filled with baked apples, cherries, and blueberries (\$6.95). It reminds me of the Midwest, and I like it. The chocolate baklava with mango ice cream sounds like serious overkill (\$6.95 bis. And tell me: Isn't \$7 an absolutely outrageous amount to pay for dessert? Not even in Paris. . . .) But the bittersweet chocolate actually tempers the honey-and-nut sweetness of the baklava. And the ice cream takes the edge off the bitterness. Good. Very good. . . .

It's espresso time, and the little number here is excellent. A fine way to end a decent, if expensive and unspectacular, meal.

RATING: ☆

Harvard Law RECORD

Founded in 1946

Greg Stohr
Editor-In-Chief

What's Wrong With HLS

This is it. After putting more than four dozen issues of the RECORD to bed, I am graduating along with many others who helped make the paper what it is today.

I truly enjoyed my three years at Harvard Law School. I'm glad I came here, and upon reflection I can't say I would have chosen any law school in the country over HLS. So why is it that, when so many of my friends complain about how much they hate this place, and how certain they are that they will never give a dime to HLS, I often find myself nodding my head and agreeing? Why do we always come out so low on those quality of life surveys?

The truth is, the Law School administration has no idea what quality of life means. While lifting the siege mentality that surrounded the Dean's Office three years ago has led to a more tranquil campus, it hasn't altered the fundamental atmosphere of HLS. Students' opinions about a school derive from a multitude of small, seemingly insignificant interactions, which over time produce a consistent impression.

Take a few examples from my own experience. The Registrar's Office gave me incorrect information about the opening date of the dorms my first year, necessitating a costly last-minute airline reservation change. This fall, when my mother called the Registrar to find out about graduation, she was assured repeatedly that there were no specific Law School ceremonies and that she should only plan to attend the Harvard graduation exercises. Last week, as I was researching an article, my inquiries to staff and administrators were met with hesitancy and outright hostility, and I was told that the dean had issued strict orders not to disclose certain information about already-approved changes in E-Mail fees.

These are not isolated events. I would wager that every student here has at least one "horror story," some far more serious than mine. The administration has created a culture of secrecy, which impedes the flow of even the most trivial information to students. As a result, students are taught to see the Law School as a distant, uncaring edifice, and the administration loses touch with the issues that truly matter to students.

This place has changed a great deal since my class arrived in 1991, but in many ways it remains the same. More changes are needed to truly enhance the quality of life at HLS. In the near term, that means the familiar litany of improvements, such as computerized book tracking at the library, better facilities in Hemenway, and elimination of fees for computer facilities and E-Mail. These proposals have tremendous symbolic value, and the administration has made little effort even to justify its refusal to address them.

In the long run, the faculty-student ratio must be reduced; there is no way around the fact that our education suffers because of our size. A real effort to reshape the curriculum will require a shift in fund-raising priorities as well as support for innovative programs such as encouraging faculty to teach additional seminars and using computers to facilitate small group projects. It will also require the dean and other administrators to talk about these projects, and look for new ones, at every opportunity. This sort of effort has not taken place, for the same reason that a dialogue about other quality of life issues has not arisen.

Institutions like Harvard Law School have distinctive climates, which can be shaped by those who run them. Staff, faculty, and students can sense a true commitment to improving day-to-day communication and a long-term vision for the future. Formal discussions, such as those sponsored by the Project on Community, are helpful but ultimately may only camouflage the lack of a pervasive commitment to openness and dialogue.

It's a good sign that the dean is serenading Corporations classes about securities, but much more needs to be done. The task now falls on future classes to pick up the torch.

— Kevin Werbach

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

—First Amendment, U.S. Constitution

HLS STUDENTS WHILE STILL IN SCHOOL—



HLS ALUMNAE BACK FOR THE 25TH REUNION



KINDA MAKES YOU WONDER WHAT WE'RE IN FOR, DOESN'T IT?
SEE YOU AT THE REUNION—SRF

• Letters •

Revised Speech Code Still Invalid

The illegality of a speech code cannot be fixed simply by reducing the number of subjects whose discussion it censors. Therefore, the sexual harassment committee's recent narrowing of its ban on politically incorrect speech to cover only gender and sexual orientation and not race and religion does nothing to resolve its conflict with the First Amendment.

The University of Michigan tried a similar ploy in 1989 when students sued to overturn its speech code. It dropped its ban on speech that created a hostile environment on the basis of race and religion, while keeping a parallel provision restricting speech on the basis of sex and sexual orientation that was contained in its sexual harassment policy. It wrongly assumed that it could ban politically incorrect speech about sex and sexual orientation simply by including such restrictions in its sexual harassment policy.

Federal judge Avern Cohn disagreed, holding in *Doe v. University of Michigan* that it is just as

unconstitutional to restrict speech about gender and sexual orientation as it is to restrict speech on race or religion. Cohn noted that the policy had already been used to charge a black evangelical Christian with harassment for expressing his views about homosexuality.

In treating speech critical of homosexuality as if it were akin to the pressure for sexual favors that commonly underlies sexual harassment claims, the proposed HLS policy stigmatizes the religious beliefs held by many and endangers the free exercise of religion. Logically, sexual orientation should not be covered by a sexual harassment policy, since distaste for homosexuality or other personal traits bears no resemblance to the persistent unwelcome sexual attention whose regulation is the hallmark of sexual harassment policies.

The harassment policy also violates students' privacy. In *Stanley v. Georgia*, the Supreme Court held that privacy rights keep the govern-

ment from restricting sexually-oriented speech in the home. Logically, students should enjoy similar protections in their dorm rooms. Yet the policy expressly allows students to be convicted on the basis of decorations and music in their rooms.

The danger of charges being filed over students' artwork and decorations is real. Six percent of the instances of censorship of the arts chronicled in a recent survey by the liberal People for the American Way involved charges of sexual harassment against paintings; University of Nebraska graduate student Chris Robison was recently held to have engaged in sexual harassment merely because he kept on his desk a small portrait of his wife in a bikini.

To preserve free speech, the harassment policy should be modified to require that expression be recurrent and directed at the complainant before it can form the basis for a charge.

Hans Bader '94
May 3, 1994

Fly Your Flag at Half-Mast, HLS

When the president of our United States of America declares a month-long mourning for the

death of an ex-president, why is the flag at our Harvard Law School the only one around not flying

at half-mast?

Michael G. DeSombre '96
May 2, 1994

Choose Recommenders Carefully

It has come to our attention during the clerkship application process that an inordinate number of professors at your institution write unhelpful and unflattering letters of recommendation. We have received letters to the effect of:

make a fine law clerk.
Professor X.

Letters such as this speak poorly of the professor-student relationship at Harvard.

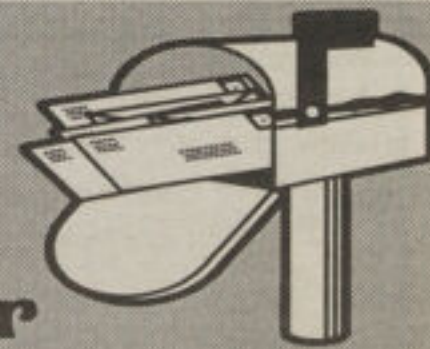
Your professors might be reminded that if they do not have anything complimentary to say about a student, they should decline to write a letter of recommen-

dation. Similarly, students should inquire as to the potential content of a letter before asking a professor to write a recommendation.

Thank you for your consideration.

Annalisa Pizzarello
The Law Clerks for the
District of Hawaii
May 3, 1994

This is the last issue of the RECORD. but save up your thoughts and opinions over the summer and write to us again in the fall!



• Letters (cont.) •

Bates Condemned ... and Commended

Critic Lacks Commitment to Equal Access

I read of the white guy attack on BLSA in the RECORD last week, and boy, was I mad. I thought back to a time (long ago and far away) before HLS, when I knew people who could make the distinction between right and wrong (simply), and some subjects were just not up for discussion. Organizations like BLSA and WLA have been developed by people who traditionally have not been able to get in other CLUBS. Get it, John Bates? So for a little support and solace they come together.

Somehow I doubt Bates' commitment to anti-discrimination. Why do I get the feeling he's engaging in rhetorical moves without genuine passion? Am I just a deeply cynical and suspicious person? Is that why Bates' allegations ring hollow? I probably am just jaded. Someone as dedicated to the cause of anti-discrimination as Mr. Bates '95 is probably deeply concerned about the lack of representation of people of color and women at large law firms. I have no doubt he would have a problem "supporting any organization (like his firm) that discriminates in its membership." He would undoubtedly turn down even the top firm if they offered him a job — if their partnership

and associate ranks were not freely open to anyone qualified.

I'm sure Mr. Bates has worked tirelessly to ensure more equal access in all public/private areas — government, country clubs — his neighborhood back home. He certainly would not be wasting Dean Richardson's time, our [the students'] time, the RECORD's time, or the associations' time just to prove a point and make a name for himself. I cannot doubt his concern.

To BLSA and WLA, I say hang tough. If retaining control over your own membership means no funding, screw it. Send out letters, fundraise from the alums; I would personally pledge a week's pay to prevent you from being forced to capitulate to the demands of a whining careerist who is abusing our Constitution for his own self-serving

ends. Personally, I'm big-time in favor of integration, and I think it can be accomplished in conjunction with all-black etc. organizations. I do not feel unwelcome at BLSA events; of course, I know a lot of members. Do you, Bates? I'm just as committed to integration as you are, I just do it one person at a time — dig it?

Maryann Gatto '94
April 30, 1994

P.S. You're feeling the urge to hang with a lot of black people, Bates? Check out Roxbury or Harlem. I know some good restaurants around 125th St. And wear your preppiest clothes, you won't feel different or weird one bit, I guarantee. And, ooh, if you have some wire rim glasses and a Harvard tie that's a snappy touch.

Commentary is Right on Target

I write this letter in support of John Bates '95 and to commend him for having the courage not only to bring this issue to the attention of the administration but also for refusing to back down in the face of the ominous, underhanded accusations already being leveled at him by the current and future leadership of BLSA and — one has to assume from the lack of letters to the contrary — by its general membership.

Ms. [Linda] Dunn '94 and Mr. [Robert] James '95 find "suspicious" Mr. Bates' motives in raising this issue. Implicitly, they are branding him a racist, a "non-black" student whose hostility to the black race — as evidenced, of course, by his actions in this matter — only further proves that BLSA must "remain as currently constituted."

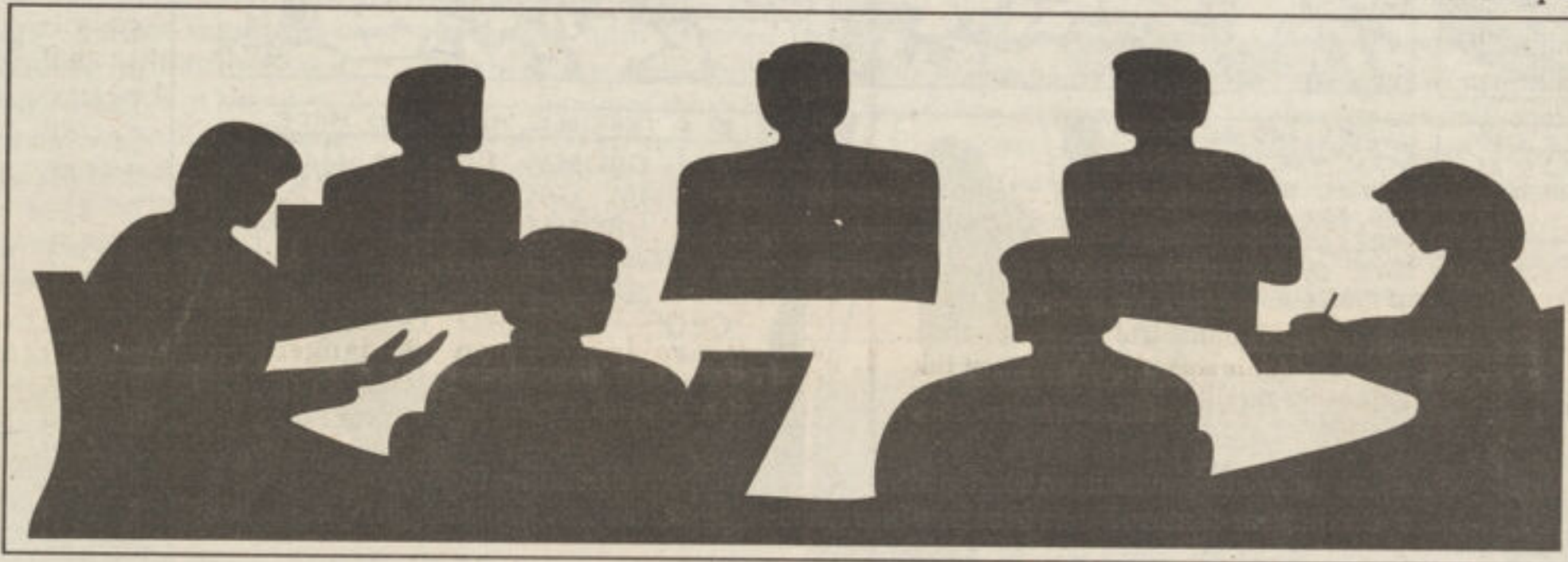
This reasoning is circular. It is also glib to suggest that the restrictive mem-

bership policies of BLSA must be valid and accepted as such because no "non-black" students have approached the organization in order to further its goals or become members or have attended its functions open to the public in any significant numbers. When an organization's written constitution specifically states, as does BLSA's, that membership "shall consist of Black law students of Harvard University," it seems at best naive to think there will be large numbers of "non-black" students clamoring to join BLSA, help it to further its goals or, even, to attend its public functions. People usually like to be full-fledged members of groups or organizations in which they expect to participate; one would have at least hoped that the civil rights struggles of this country and the ongoing elections in South Africa would have made this point

abundantly clear.

Like a "substantial number" of the students at this Law School, I believe BLSA's goals and activities are important and that it should continue doing what it has. I agree with Ms. Dunn and Mr. James that BLSA "has contributed a great deal to the black students on this campus and to the HLS community." However, like Mr. Bates and many others who, perhaps, do not feel comfortable speaking publicly on this issue, I do not think the Law School should financially support a race-restrictive organization. BLSA should go independent and not depend on Harvard for funding. The all-male finals clubs at Harvard College have done this. With its current membership dues and donations from its alumni, I feel confident BLSA would have no problem in raising the funds necessary to maintain itself as an independent organization. Strategically, this might be better for BLSA in the long run; it would certainly eliminate the troubling contradiction of having an institution that is, in theory, committed to fighting discrimination and ending distinctions based, among other things, on race, fund such an obviously race-restrictive student organization.

Carlos J. Spinelli '95
April 29, 1994



Real Issue is Self-Determination for Minorities and Women

Those who oppose John Bates '95 and forced integration have intimidated, by "questioning (his) motives," that racial and/or sexual animus is at play. Others argue that the real issue is that students shouldn't have to spend money on an organization in which they do not have the opportunity to be included. Both of these categorizations, however, miss the true issue at stake: the ability of minority and women's groups to self-determine their identities.

The quest for self-determination takes many forms. One of the most overt forms of the quest for self-determination is found in the names by which individuals would like to be referred. Many female groups have fought for the use of the term "woman" to refer to all adult females, and they revile the terms "ladies" or "girls" because they believe that these terms are derogatory. African-American groups have traveled an even longer self-determination journey from being referred to as "colored," to "Negro," to "black," to "Afro-American," and to today as "African-Americans." Another

road to self-determination has been for many African-Americans to change their western names to Muslim (while simultaneously following the teachings of Islam).

Such changes have not been without controversy and backlash by society, as noted by the battles that Muhammed Ali (a.k.a., Cassius Clay) faced in getting people to refer to him by his Muslim name, and by the continued objection to use of the term "African-American," by many (perhaps a majority of) whites. Such backlash in this area is wrong. If there is anything to the merits of self-determination of identity, then people should be able to be referred to by whatever names they please. Such a categorization is an important means of strengthening individual and cultural identity and is costless to society as a whole.

However, outside revulsion at exclusionary membership policies is a completely different situation. While membership policies are at least in part a tool of self-determination, and this motive should be lauded, they are also a means of psychic and real harm to

individuals who are excluded. Moreover, by harming excluded individuals, social advancement for historically oppressed groups is delivered a setback because these excluded individuals (with the exception of individuals with extraordinary commitment who seek alternative forums) will tend to feel disenfranchised from these movements, and they will often respond by becoming apathetic to these causes, or, tragically, by lashing back at these groups to spite them.

It is axiomatic that whites will never be African-American, and men will never be women (surgical means excluded). Consequently whites and men will never experience many of the things that members of the historically oppressed groups experience. In developing and implementing policies for social change, these are very difficult, though not insurmountable, walls to overcome for a non-oppressed group member. Yet, by having exclusionary membership policies, these walls become even harder to scale. Why are these new walls built? Exclusionary policies have been advocated for a

variety of reasons: They will lead to greater solidarity among group members; it is the only way group members can have a totally free and relaxed discussion; it will give the group a greater ability to influence change; outsiders don't have much to add to these discussions; and outsiders' presence is destructive to the effectiveness of these meetings either by lessening solidarity or deliberately undermining the process.

I will not argue here that any one of these justifications is absolutely wrong. In fact, having an exclusionary membership policies for these reasons is not morally wrong. All the individuals I have talked to who support exclusionary membership policies truly believe these policies are the best means to make advances for historically oppressed groups. Such a sentiment can never be morally wrong. But the underlying policy is still "wrong," given that the alternative, absolute opportunity for voluntary participation/integration, is the highest social ideal we can attain and is the most effective strategy for social change.

This is not the proper forum to get into an exhaustive historical

analysis of the civil rights movement or constitutional changes that have occurred to support the principle of integration. However, I believe exclusionary membership policies cannot be reconciled with the goals and policies of the civil rights movement, and I believe it is difficult to persuasively justify these policies as a means to attain the ultimate goal of integration. I believe all individuals are capable of understanding the fundamental issues that confront oppressed groups and can add something important either substantively or tacitly to organizations which represent these causes. By excluding any individuals with a different point of view, opinion, or alternative means to the desired end, you are not just hurting the excluded individual (who will likely be bitter over the exclusion), you are hurting all of us, since you are not using the most effective means to attain social justice. Social justice is not just a good for historically oppressed groups; social justice is a good for all.

Finally, I would like to end with a plea to any organization that feels slighted by Mr. Bates'

actions not to respond by leaving campus and becoming a non-recognized and non-funded organization by the Law School. I am certain that if I were a member of one of these organizations I would be extremely upset at the way that Mr. Bates initiated this action. Given the understandable desire for self-determination, I believe the natural reaction is to reorganize without Harvard's money and recognition so that you can operate under your own terms. Nevertheless, I ask members of these organizations to look beyond the less than tactful (to put it mildly) way you were confronted with this issue, and stay on campus with a new integrated membership policy. Since the natural reaction is to leave, I believe that your organizations will be showing their strength by changing their admission policies and staying in light of adversity. It is a change that will show the strength not just of your current organizations, but, through integration, it will lead to much stronger organizations in the future.

Spencer Gordon Levy '95
May 2, 1994

Liabilities

By Paul Taylor



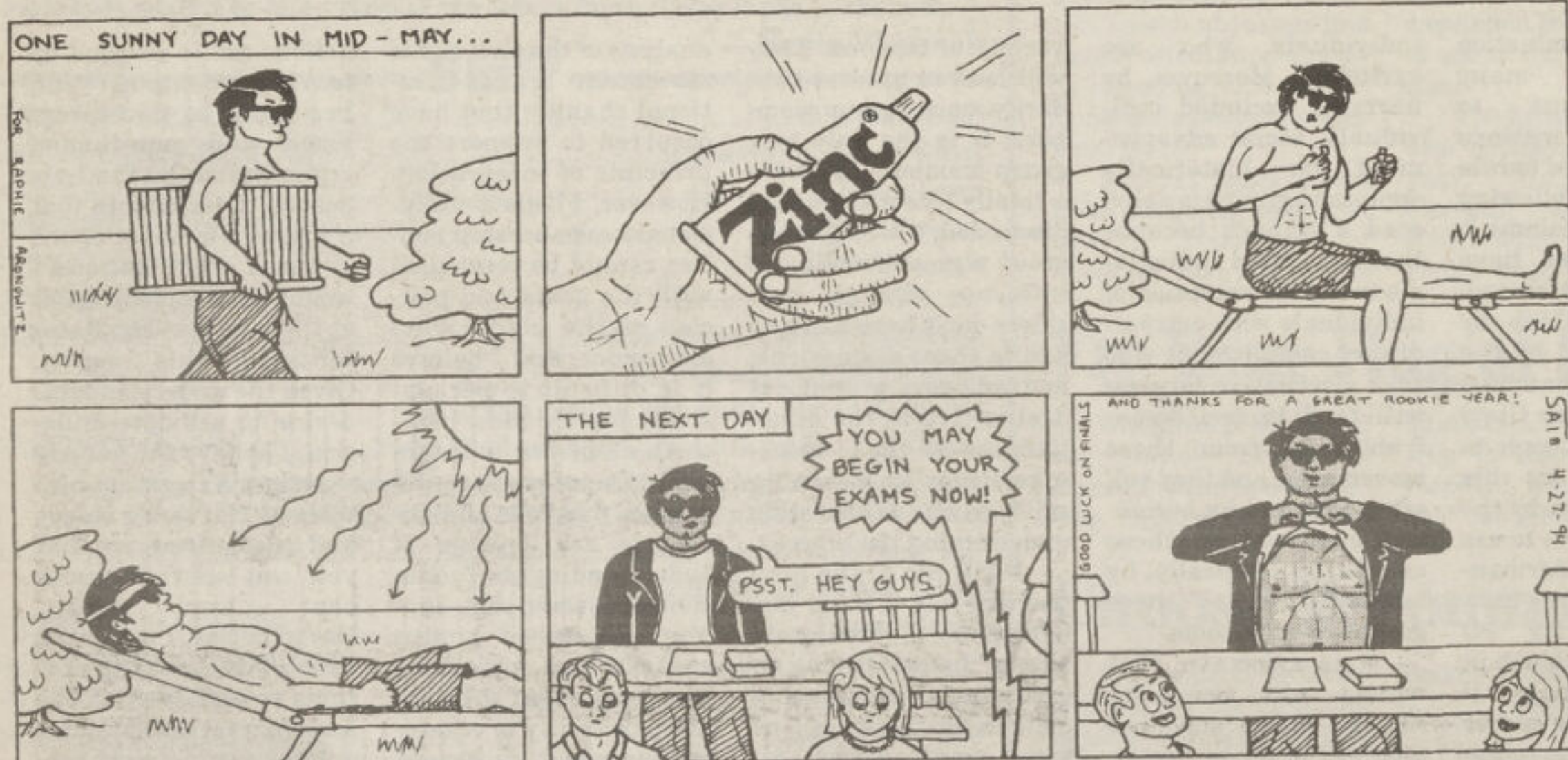
GROMM: Barbarian-in-Chief

By Chris Spagnoli



Temporary Insanity

By Sheila Tuller



CALENDAR

Music this Week

No Pity for the Corporate Tools

Kein Mitleid für die Mehrheit, better known as **KMFDM**, vow "No pity for the majority," but instead of revolutionary furor, their life-industrial dance has lately shared an uncomfortable catchiness better associated with the group sometimes read into their acronym: Kill Motherf---ing Depeche Mode.

Whatever their name means (Karl Marx Found Dead Masturbating is another favorite), KMFDM's pounding rhythms and menacing Teutonic vocals are a sure recipe for aggressive entertainment. Their sense of humor distinguishes them from the techno pack—who else could admit, "Our music is stupid and totally fake/we use machines because they don't make mistakes." Opening at Venus de Milo (421-9595) on Sunday, May 22 are Ministryites **Chem Lab** and **Sister Machine Gun**, whose sell-out Nine-Inch Nails imitation has more in common with Billy Idol than industrial.

Suicidal Tendencies' funkified alter ego **Infectious Grooves** invade Axis (262-2437) Wed., May 18. There's no more apt description of the Grooves than their own: The Plague that Makes your Booty Move.

Last but not least are the new hip-hop/funk/blues sensation **G.Love & Special Sauce**, who play the Middle East (497-0576) on Wed., May 11. G.Love may have lost their regular gig at the late, lamented Causeway, but soon you'll hear them everywhere.

-Jeff Bucholtz

Readings. Shows. and Stuff

Baseball Fever

I could close out the year by telling you about this week's awesome readings, but why mess around? With exams looming, you probably won't go anyway. Moreover, if you can only get out one more time between now and the onset of exam hell, there is a much more crucial scheduling issue for you to address: September **Red Sox** tickets.

In the middle of a weekday afternoon this week, I went down to Fenway (going to Fenway itself saves the \$2 per ticket processing fee) to get mine. The line stretched out the door, even though the Bosox were not in town. Forgetting that their beloved Bosox have fattened up on the sorry competition from the A.L. West, Beantown fans have gone batty.

Which means September's tickets are going fast. If you want to see the Old Towne Team take on the Chisox, the Orioles, or the Yankees — and even if you're willing to settle for one of the other two teams visiting in September, the Royals or the Twins — you'll be lucky to grab a bleacher pass if you wait until fall.

Who knows? Maybe you'll even return from your summer sojourn to find yourself in the middle of a pennant race. In the interim, here's hoping you find a pennant race wherever you'll be. At the very least, here's hoping you're afflicted with a serious case of baseball fever. Go Tigers.

— Mike Fischer

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Body of Evidence

By Debra Dickerson '95

On April 16, my warranty ran out. The instant I turned 35, all my body parts became suspects in a conspiracy to slowly, but inexorably, kill me.

All the warning sirens sound for a woman at 35. Especially one who hasn't had a child. Why is that worse? Call me crazy, but since I'm not married, avoiding pregnancy seemed sensible. Story of my life — damned if I do, damned if I don't.

Actually, I shouldn't feel so suddenly besieged by my body. It's been turning on me slowly for some time now. I place the initial warning at about 28, when I got my first mystery pain. For two days, my left arm was too sore to use. The doctor found nothing, just dispensed Tylenol and congratulated me on being right-handed. The pain subsided and I didn't think much of it. Younger then, I was still unaware of the treachery of which the human body is capable. It fired a warning shot across my bow as a courtesy and began laying the groundwork for my gradual decline. An unexplained twinge here, quarter-inch of fat there, a smidgen of lung capacity lost from smoking during Reagan's first term. Soon, you're grunting to get out of a chair and manage to hurt yourself just stretching before a workout.

A societal warning light that I largely ignored came even earlier, at 25. I wore makeup then and noticed sneaky little ads and products aimed at "over 25 skin". I remember wondering what the hell that meant. Is there "over 25" shaving cream? Richard Cohen, in the Washington Post Magazine, once wrote that men age better than women. Bunk. Men and women age in exactly the same ways: thinning hair, thickening waistlines, wrinkles, sagging pecs. The difference is that it's acceptable and natural for men to age and much less so for women. A wrinkled, gray man is 'distinguished,' 'rugged,' a woman needs surgery and French hair dye. I always notice that at black-tie TV events, many men wear glasses. Virtually none of the women do. Are there any male equivalents to 'crone' and 'hag'?

Sexism notwithstanding, the war against me is largely medical and the formal indignities have begun: a



"baseline" mammogram. After 17 years of pelvic exams, I thought I'd bottomed out on the indignity continuum. I was wrong. Basically, a technician drags your breasts across a room and gets mad if you try to follow. I told her that my 34Bs were only going to get her just so far, but she was adamant. Finally satisfied with the circus-freak-like pose she origami'd me into, she smushed 'the girls' (as I like to call them) into a vise much like the one Bugs Bunny used on Elmer Fudd's head. She

tightened the machine's grip on my favorite erogenous zones and hissed, "Don't breathe." No worries. If I'd had any breath left in me as I vlogged, pinned, and flattened like a science project under a microscope, I'd have used it to scream. At least I didn't come out of it with Madonna cone-breasts.

You can't avoid doctors ,though. Over the last few years, I've developed one annoying health problem after another. I stay in shape, but I've definitely felt myself slowing down, searching out elevators, accepting rides, nursing injuries. I realized I'd changed for good when I bored my teenage nephew with the old saw about the two bulls. He was wasting energy washing a car without a hose, carrying a bucket back and forth.

"From atop a hill," I intoned sagely, "a young and an old bull watched a herd of cows below."

The young one says, 'Hey Dad. Let's run down and make love to a couple of those cows!'" The old bull replies, 'Son, let's walk down and make love to all of them.' I waited for enlightenment to dawn on my nephew's face but there was only polite patronization of his aged aunt's clear dementia and severe un-hipness. Concerned, he got me a chair and some water. At that moment, I knew I'd

crossed a line, developmentally speaking. I may not be old, but I'm no longer young.

I've accepted my decline and taken to cataloging the sins and offenses of my various body parts like the slow-moving old ladies blocking the Star Market aisles to compare operations. Blood vessels: first degree hypertension. Requires two pills a day, yearly cost of \$432. Lungs: felony asthma. Requires a \$22 inhaler the use of which makes me look like a complete nebbish. Feet: misdemeanor flatness. Require frequent elevation, immersion, and \$47 orthopedic inserts which only fit into old lady shoes. Endocrine system: misdemeanor hypoglycemia. Gives me 'the bends' if I go off prescribed diet. Reproductive system: attempted murder and fraud. I'm screwed for reproducing, screwed for not reproducing. Breasts: felony terrorism — matching time bombs.

For all my complaints, I wasn't really bothered by turning 35 until a "friend" described me as "pushing 40". What have I accomplished, am I as mature as I should be? Should I still be filing the 1040EZ? Is it seemly that I own a pair of green construction boots and fish-nets?

On the plus side: I turned 21 in Air Force basic training, a college drop-out; 26 at Officers'

Training School with honors as Wing Commander; 31 in Turkey as chief of intelligence; and at 36 I'll graduate from Harvard Law School. Achieving my goals is the flip side of aging, I guess. It's pretty hard to do one without the other.

Now if I can just manage to estop my body from further deterioration.

The war against me is largely medical and the formal indignities have begun: a "baseline" mammogram. Basically, a technician drags your breasts across a room and gets mad if you try to follow.



Fenno's Mailbox

Hey Moron: Why is your column so stupid? If you've got nothing better to do than whine all the time, why don't you go cry by yourself? Who gave you the right to weigh all of us down with your sorry problems? — Well-Adjusted Guy

Dear W-A Guy: First, take the stick out of your butt. Second, if you don't like it, don't read it. Third, I am God.

Dear Fenno: I'll be working for Sullivan & Cromwell this summer. You may not know this, but they are a very prestigious firm and I REALLY want to impress the people there. Any pointers? — Tan Nez

Dear TN: I've learned that it is always important to demonstrate that you are comfortable around the senior partners. They love body contact. So, whenever you get the chance, put your hand on a partner. If your hands are full, try a leg. Torso-to-torso is also popular. The key word here is "touch". Don't be shy!

Dear Fenno: What is the appropriate standard of review of a district court's granting of a 12(b)(6) motion to dismiss for failure to state a claim for which relief can be granted? — D. Meltzer

Dear Dan: You know this. I know you do. Questions of law are to be decided anew by the appellate court; deference goes only to issues of fact.

Dear Fenno: Maybe you can help. I came to HLS looking for a way to meet African-

Americans, to join with them in their ethnic, cultural, and organizational activities. What would you suggest? — White But Not Hostile

Dear WBNH: Try Yale. Acceptance of diversity is all the rage here, pal, at least until it comes time for the loudest proponents to join in the game.

Dear Fenno: You've got to help me. (1) I need to raise \$50 million by '95, (2) the faculty is pissed about having to move into that new tinderbox we built on Holmes Field, and (3) the alums are screaming at me for hiring a few womyn. What should I do? — RC

Dear RC: 1) Try Jordan (as in King Hussein of or Michael). 2) You're the boss; tell them to shut up. 3) It's about time we let some chicks onto the faculty; it'll give us something better to look at in class than, say, Duncan Kennedy.

Dear Fenno: You are the most primitive, misogynistic, cretinous excuse for a writer I have ever read. You should be banned and the RECORD fined for allowing your disempowering text to be printed. Women are dying out there and you just laugh! — Nancy Roe

Dear Nan: I'm getting excited just feeling your angry words rub against me. I wonder what you would look like in something tight, black, and short. Call me, 495-4418.

Dear Fenno: Is it true that Robert McBurney is being cast as Elroy in the new Jetsons movie? — JH

Dear Jon: Though Mr. McBurney's performance as the beanie-wearing candy stripe in your Corporations class was impressive, the directors felt he was too old for the role. You, on the other hand...

Fact: 3 of every 4 RECORD cartoonists surveyed are 3Ls.

To help prevent humor decline, become a cartoonist for the RECORD!

Imagine the possibilities!

Contact Greg Stohr

at 495-4418 if interested.

Giving LIPP Service to Student Dreams

By Stephen Weinstein '94 (fingers crossed)
RECORD Columnist



As I write, the class of '94, considered as an amoebic collective, is polishing off its Third-Year Paper From Hell, skimming borrowed class notes for lectures missed while writing the aforesaid paper, reserving every available restaurant seat in Cambridge for June 9, and otherwise preparing to graduate with all due hoopla and huzzahs. But what comes next? Will the members of the class of '94 begin immediately to pursue their dreams? Will they realize the goals that drove them to HLS? For far too many of my classmates, the sad answer is: No. And the major culprit is simple dollars and cents.

Everyone recognizes that many HLS grads shuffle off to large law firms or similar jobs in finance or consulting with less than total enthusiasm. While for many students, their first job is exactly what they hoped for, other students feel forced to forgo their preferences. Perhaps some students who turn away from an entrepreneurial opportunity or public service are merely greedy or risk-averse. But for the most part, these students believe their unhappy choice is dictated by their debt load and the perceived irrelevancy of HLS's Low Income Protection Plan.

To be fair, it speaks well of HLS and its alumni even to have established LIPP. Under current conditions, a new HLS grad earning less than \$44,000 in a "law-related" job qualifies for LIPP benefits. In the first three years, LIPP provides a mix of grant money and interest-free loans to cover as much as 80 percent of the interest payments on her eligible debt. The loans go toward so-called "non-need" debt, generally loans taken to replace the parental contribution. After the fourth year, students still eligible receive grant money to service "non-need" loans as well.

Overall, LIPP is well-conceived, if underfunded. Certainly it aids a number of grads, and we should cheer for every case. Nevertheless, numerous deficiencies prevent more students from shielding themselves under the LIPP umbrella. First, for some students the income ceiling is simply too low, especially if they move to an expensive area. Note that the ceiling is not adjusted for actual cost-of-living expenses, which vary considerably between New York and New Mexico, for example. The federal government pays workers in designated high-cost cities an 8 percent bonus. Why can't LIPP do the same?

Furthermore, LIPP does not cover all the interest payments of most eligible students. Instead, students must make escalating contributions pegged to their salaries. Thus, while grads pulling down \$25,000 or less don't kick in anything, grads making more than \$35,000 have to chip in \$3,000, plus 60 percent of their salary over \$35,000. Thus, a student nominally under LIPP protection could be required to pony up as much as \$9,000, or roughly one-fifth of his income. One wonders how this student will fare after taxes, rent, and groceries. The Student Finance Office points out that students in LIPP manage to survive nicely. Granted. Only students who calculate that they can survive in LIPP enter the program, while those who cannot pursue other career choices.

Additionally, LIPP does not cover judicial clerks during their clerkship, because clerking is seen as a quick road to big-firm jobs, often with special bonuses for having clerked, rather than a long-term career choice. I'm not convinced that clerks make that particular choice more than other grads, or that if they do it's not a result of having already struggled across the high debt/low wage tightrope. Indeed, it seems that all things being equal, judicial clerks are more rather than less likely to select law teaching or public service litigation, for example.

Nor do I see why clerks can't be treated like other students whose salary comes to eclipse the LIPP ceiling early in their career. This would preserve both students' freedom to choose their job and LIPP's kitty of cash. Isn't this more fair? Why should judicial clerkships, with their varied and splendid attendant benefits, be reserved for the already affluent?

The harmful effect of LIPP's deficiencies — discouraging some HLS grads from pursuing their real career dreams — is greatly magnified by the widely held perception that LIPP is even less helpful than it actually is. I conducted an informal survey of my classmates to gauge feelings on LIPP. Their responses? "A total joke." "Completely irrelevant to my life." "Just a PR move to get me to come here."

My survey provided a lot of anecdotal evidence that high debt and LIPP's aura of irrelevance indeed affect many career choices. One student turned down a preferred clerkship because the position was for two years and "survival the second year would have been impossible." Numerous others rejected public sector offers in favor of more lucrative jobs. "I tried to make the numbers work, but chickened out," said one such student. Another turned away from a promising business venture because of the need to service law school debt (LIPP applies not at all to "non-legal" jobs).

The numbers bear out this anecdotal data. Suzanna Soh '94 helpfully analyzed this issue for her third-year paper. She discovered that while 35 percent of our class expressed plans on matriculation to take government or other public-sector jobs, only 5.7 percent of our graduating class did so.

The high debt problem limits student freedom in our time at HLS as well as after graduation. Many students, seeking to keep post-graduation options open (or merely to pay the bills) burden themselves with one or more jobs during the school year. While some students told me that their wage-slave work load simply bit into their free time, others say they were unable to participate in journals, clinics, and other HLS opportunities.

The problems with LIPP are not the only restrictions on free career choice. According to OPIA, over 200 students were denied funding for low-paying or volunteer summer positions. Many students are deterred from seeking clerkships, government or other non-law firm jobs because they can't afford the travel and other costs of the job search.

The bottom line is that high debt and the absence of meaningful LIPP relief cut down student freedom to follow dreams, at least in the short term. Are HLS grads, uniquely in the American work force, specially entitled to total career freedom? Of course not. However, HLS does market itself as providing such freedom. Potential recruits are also told HLS will provide for them if they need it, and my classmates seem in general to have found this not true. More importantly, HLS could, if it chose, empower each graduate to pursue her vision, whether she wanted to serve the public, build a business, or follow some other muse. Let's choose to.

To my classmates, I wish open skies and good omens as they make their dreams come true. To the students who come after, I wish the same, adding only a better-funded, more meaningful LIPP.

Sullivan Speaks on Speech

continued from SULLIVAN, page 1

ed to the argument by positing that although both may cause "harm," it may nonetheless be that "speech" is fundamentally different than "conduct," at least when it comes to government attempts to regulate.

"It is possible to round up goods that are sold on the black market," she said, "but it is harder to erase the traces that literature leaves behind in the minds of those who read it."

Another trenchant criticism speaks to a traditional distinction between "private" and "public" conduct that allows even some government limitations on free speech where the government is analogized to a private actor or market participant, Sullivan said.

But though it may be that the government restricts speech whether it pays to encourage some speech or passes legislation to restrict other speech, or that

large corporations can drown out individual free speech as effectively as government regulation, to realize those possibilities doesn't end all inquiry, she said.

"It still doesn't follow that we should

give [censorship] power to the state," Sullivan said. "There may be strong reasons to distrust the state even if we trust it as a regulator of other of our affairs."

In fact, she said, it may be that some aspects of having powerful and weaker voices in society may be beneficial in the long run and that it is in fact better that we are not "monolithically socially constructed."

"If we were, MacKinnon and Dworkin could not have written their law,"

"It still doesn't follow that we should give [censorship] power to the state," Sullivan said. "There may be strong reasons to distrust the state even if we trust it as a regulator of other of our affairs."

Sullivan said, referring to an ordinance that has been proposed in some jurisdictions around the country to ban pornography, but which has failed so far at the hands of voters, municipal officials and judges. "They had to stand outside patriarchy in order to critique it."

Harvard Guards Not Guilty

continued from GUARDS, page 1

job is to make sure justice is done."

But the two guards and several department sources have said that there was only a trial because of mistakes made by Rooney. Under cross-examination by Perry's attorney, William P. Homans '48, Rooney acknowledged that the department had submitted informa-

tion that turned out to be false on a sworn affidavit in order to obtain a warrant to search Perry's home.

Perry and Auterio admitted taking one water cooler each from a loading dock next to the Law School's Harkness Commons after Commencement last June. Both men said they thought the coolers were trash.

White to Stay Another Year



RECORD Photo / Gene Roughton

Visiting Prof. Lucie White '81 said last week that she would stay another year at HLS — at least as a visiting professor. The Law School faculty voted on April 8 to recommend extending an offer of tenure to White, a poverty law expert currently tenured at UCLA Law School. The University's governing boards might consider the recommendation some time this month, but White says she has not yet decided whether she would accept an offer.

Above, White talks with Greg Hollon '96 and Elizabeth Brown '96 at an April 22 reception. Students from 1L Section IV, in which White taught a small section of Civil Procedure, held the reception in her honor.

Marshals Elected

continued from MARSHAL, page 1

'95 said the organization was "disappointed" with the election results. "We might like to see the process changed in future years in such a way to ensure that a more representative group of students is elected," Christensen said.

Emily Widmann '95 was also surprised by the results but didn't think "it'll ruin [her] last year."

"If [the marshals] are going to hammer out sexual harassment guidelines, then I'd be upset, but if they are just going to distribute class wine, then I don't think it's such a big problem," she said.

Shannon Liss '96 criticized the election procedures as being "a travesty" and "inexcusable."

"The system must ensure that women would be elected, especially if a marshal is supposed to represent the class," said Liss. "The Law School should realize a system which would allow four men to be elected to represent a class lacks credibility, especially considering that as many women were running as men."

"They can't use the excuse that no women were interested, and they definitely can't use the excuse that there were no qualified women."

Liss suggested the Law School follow election procedures like that at the College, where four of eight slots are reserved for women. Roughly 40 percent of the undergraduate population is female, as at the Law School.

But Hurd said the lack of female marshals would not exclude women from graduation activities.

"Any fears that activities will be run by a cabal of men or will be male-centered are unfounded," said Hurd.

Unger said the goal of next year's class marshals was "to make extra sure to keep everyone involved."

"We weren't running as men, but as members of the class," said Unger. "We're aware of the 4-0 split [between male and female representation]."

Henshon said the marshals were "concerned and conscious about [the lack of female representation]."

"We're going to make sure that it is not a problem by making sure we reach out to women in the class," he said.

Verrett also said plans for next year's activities will keep gender diversity at the top of the agenda.

"We're hoping that [our plans] are reflective of a gender balance and will include options and activities that previous years have not considered," said Verrett.

"We don't want it to be close-minded planning. We want it to be fully participatory," he added.

The newly-elected marshals have already initiated plans to select their graduation speaker. A sheet will be posted in the Hark on which 2Ls can write their suggestions for speakers.

"If [the marshals] are going to hammer out sexual harassment guidelines, then I'd be upset, but if they are just going to distribute class wine, then I don't think it's such a big problem,"
Widmann said.

What Have We Done?

By Rupa Bhattacharyya '95

Guest Columnist



FROM a very competitive field of seven women and seven men, the class of 1995 last week elected four men to represent us as our class marshals. The responses to that result were varied. Some noticed nothing wrong. Others were disappointed that 38 percent of the class, the female 38 percent, would not be represented by our elected officers.

The result is not manifestly unjust. There is no indication that people consciously decided not to vote for women. Many would say that any one person can represent all people. Most probably would echo the sentiments of one of the losing female candidates, "It's only class marshal. What difference does it make? I'm sure people didn't do it on purpose."

Of course they didn't do it on purpose. The election result was almost definitely not the product of invidious discrimination. It was probably not the product of a hostile environment at HLS. Most likely, it was the result of indifference. People who voted in the class marshal election didn't think about who was going to be represented; they didn't think about who would be included and who would be excluded. It didn't matter.

The only people to whom the question of representation mattered were those who have been affected by indifference in the past. I'm willing to bet that a poll of minority and female students would show that most of them thought about it for at least a second. How many women were they voting for? How many minorities?

Why is it so important? Because the so-called class marshal problem is emblematic of something far more than just who's going to plan our third-year social activities. It's a symbol of who we believe are representative, who we believe are capable, who we believe are leaders, and even who we believe are better party planners. The question in the class marshal election, as in all political campaigns, came down to who could mobilize greater support. And, as in all political campaigns, the people who got excluded, the people who got underrepresented (or, as in this case, not represented at all) are the ones who can't appeal to a large enough group of supporters — the ones whose campaigns and interests are met, if not by hatred or prejudice, then by indifference.

The so-called class marshal problem is emblematic of something far more than just who's going to plan our third-year social activities. It's a symbol of who we believe are representative, who we believe are capable, who we believe are leaders, and even who we believe are better party planners.

HLS is not an invidiously discriminatory environment. It may not even be a hostile one. But it definitely is an indifferent one. We all take care of our own here. And the Class of 1995 seems to be in a number of respects worse than most. Every one of us who voted in the class marshal election but didn't think about the question of representation and didn't think about the message we were sending, regardless of how unconscious or "non-intentioned," is guilty of that indifference.

So what do we do about it? Some have suggested that we follow the lead of the undergraduate campus and mandate that our class officers be two men and two women. A few have argued that results like this are exactly why cumulative voting is a serious proposal. Most have shrugged and dismissed the "problem." People are people, they say, representation is representation. But is that really the case? Can 38 percent of our class be represented by four men, or are some of us being misrepresented? The best solution is for people to be more aware that there is a problem, to be more sensitive to the indifference.

The reaction to the election I remember best was the person who asked, "women only make up 38 percent of the class — what did you expect?" What did I expect? I suppose I expected that our class representatives would be, well, representative. Maybe they are and maybe they aren't, but from an evenly divided field of 14, we ended up with four men. That may not be unjust, offensive, or immoral. But it is unfortunate and highly disappointing.

1995 Class Marshals

The Class Marshals of the class of 1995 appear below, in order of the number of votes received. Jon Unger is class speaker, Rory Verrett is secretary, Matt Henshon is treasurer, and Joe Hurd is social chair.



Jon Unger



Rory Verrett



Matt Henshon



Joe Hurd

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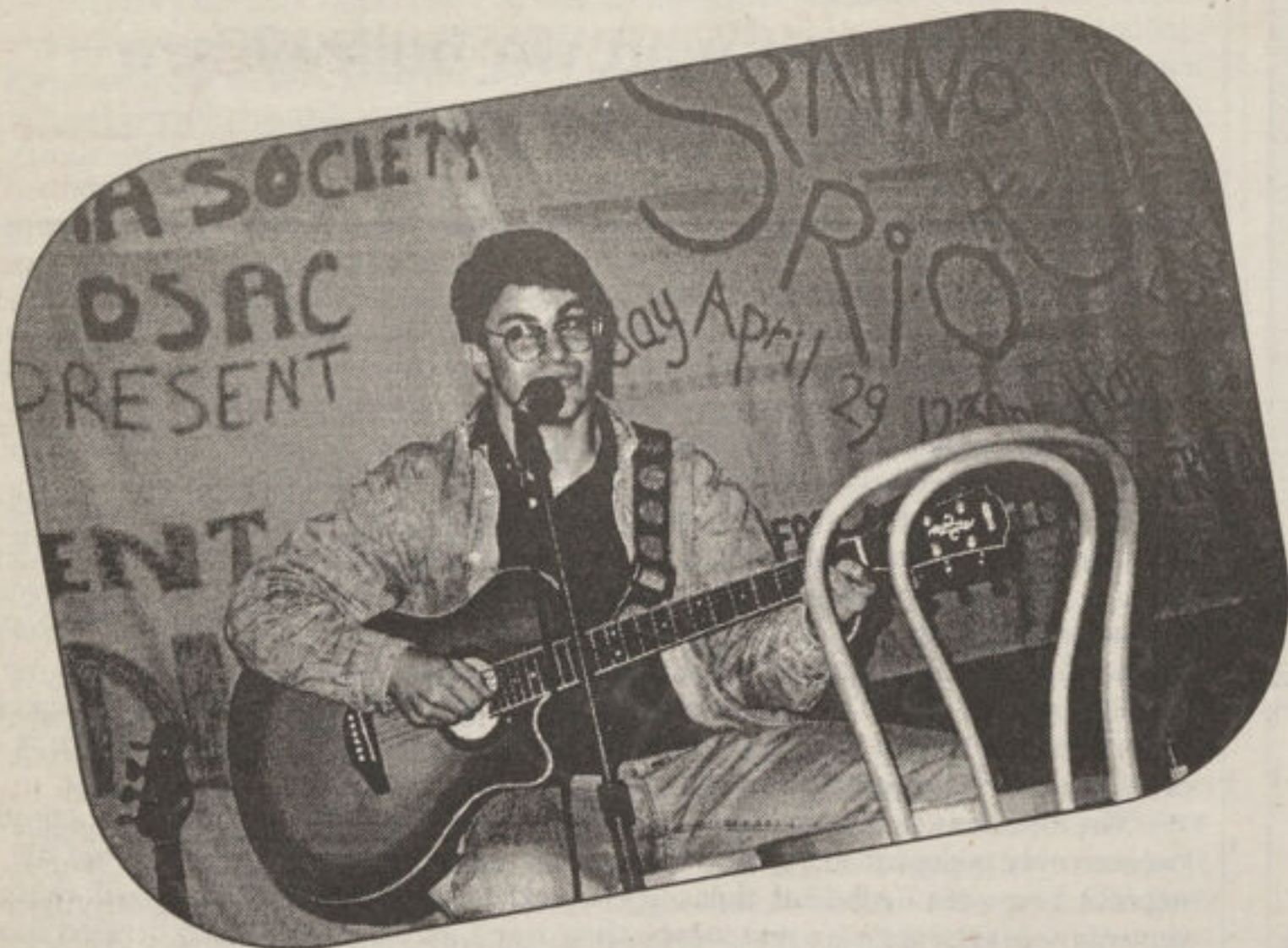
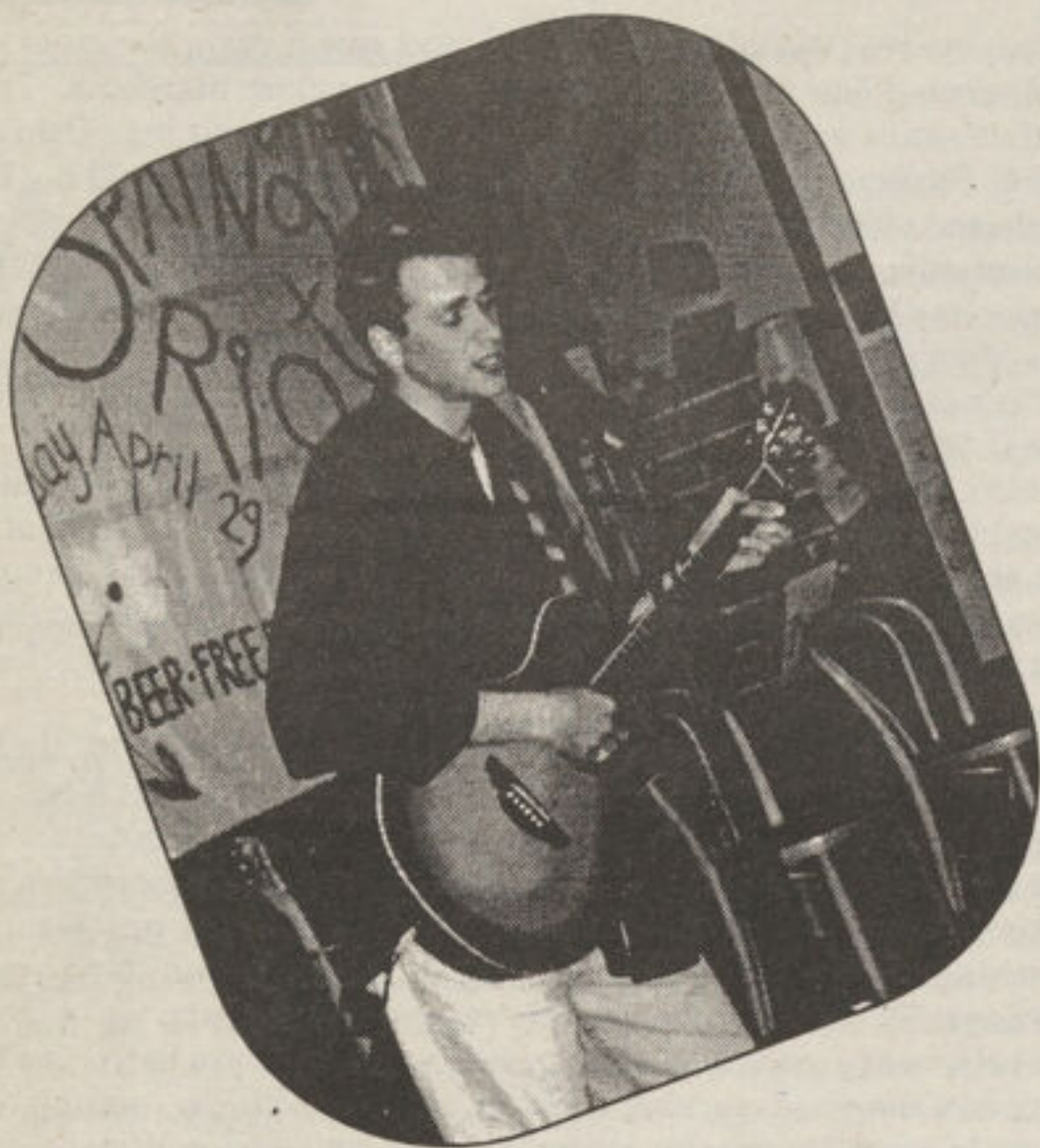
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HLS Talent Night '94



Although last week's HLS Talent Night '94 was competing with one-hour specials of both "The Simpsons," and "Seinfeld," more than 100 students and alums showed up to appreciate the often-surprising musical abilities of the HLS community. The show was sponsored by the HLS Drama Society and DSAC and was produced by Kate Arms '96 and Gerald Halfhide '96.

Clockwise from upper-left: Byron Stier '96 sings "That Joke Isn't Funny Anymore;" Halfhide, Dan Vail '96, and Dean Sussman '96 perform an acapella version of "So Fine;" Susan Brooks '94 and Pam Coukos '94 tell the crowd "Let's Get Out of This Place;" Scales of Justice turns the Walt Disney classic "Under the Sea" into a Law School parody "Under a C;" David Koontz '96 performs one of his two original songs; David Hornik '94, host of the show, performs an original parody based on the Jacobson kiddie porn entrapment case; Bill Growney, Jr. '95 leads a cheering crowd.

Photos by Jeff Litvack
and Christopher Shen

To My Coy Teetie

By Rob Rader '94

RECORD Columnist



T EETIE!

Has a nice ring to it, don't you think?

For the last two years, I've been dating my Sweetie McTeetie (not her real name, but my nickname for her). Although we've had our ups and downs (and not just in bed), it's been mostly up. Or, at least parts of me have been.

On our first date, I was so nervous. It was either the weather or her, but I was shaking. (Come to think of it, it could have been that typhus outbreak.) We walked around the Boston Public Gardens on a warm September night. She just talked, talked, talked, talked. I couldn't figure out when to kiss her, she was talking so much. Finally, I couldn't wait any longer and just kissed her mid-sentence. That shut her up! Unfortunately, this technique no longer works. I'm still searching for a substitute.

We share a lot of qualities. We both like to play silly word games and speak silly baby-talk to one another. For example, entire conversations occur that are incomprehensible to others. To paraphrase "The Sure Thing," "We speak each other's nonsense language fluently." And that's nicey, you tiki!

Whenever I want to work, she wants it, and whenever she wants to work, I want to work, too.

At night, we like to play something we refer to as The Game. Not that game, but one of our own invention. First, we pick a category, like Countries or Mythological Characters. Then, one draws the letters of something in the category on the other's back while the drawee guesses what it is. I'm much better at it than she is, no matter what she claims. She's better at coming up with new categories, however, even though an unusual preponderance are drawn from geography.

Unfortunately, we also are very different. Maybe that's not so bad. Because our viewpoints are so opposed, we found each other really interesting. I remember early on, we'd have conversations and everything I said seemed so interesting to her. Oh, how times have changed!

Still, our differences continue to generate sparks between us. Trying to plan anything together is hell. For vacations, she always wants to go hiking while I want to visit the mall. When we finish working at night, I'm sleepy and she's wakey. Worse, our sexual schedules are in sync only half the time. Whenever I want to work, she wants it, and whenever she wants to work, I want to work, too.

Every day, our friends pose the eternal question asked of the Law School couple: "So, what are you two doing after graduation?" We hate this question. There are only three possible replies — (1) We're getting married; (2) We're going to keep seeing each other and/or commute; or (3) We're breaking up. We've picked Door Number Three.

Ultimately, our differences are too great. Both Sweetie and I have realized we're not for each other forever. And, while we care about each other, we know a permanent relationship would be doomed. I know that doesn't stop most marriages, but we're holding out for perfection.

These last few months at law school are the last time we'll be together. At the end of the summer, we're breaking up. We've planned it all out. It's scheduled for July. Mark your calendars and check Tiffany's because we've registered.

Are we making a mistake? I often wonder.

How will I ever replace my nicey Sweetie? Who will understand my idiot-speak? Who will draw on my back at night and prevent me from getting a good night's rest? Who will leave the passenger's seatbelt dangling out of my car? Who will take notes for me in Advanced Criminal Procedure?

When I came to law school, I was half-convinced I'd never find anyone I'd be remotely compatible with. I had gotten used to solitude and the prospect of a life alone no longer held much terror for me. Now that I've found Sweetie, all I can think of is how much I'll miss her in the fall.

I wonder whether I could ever find anyone as nicey as her anywhere. It doesn't seem possible. The process of acclimating anyone to my idiosyncrasies would prevent me from getting that involved with anyone again. Why would anyone want to get to know me after meeting me? My break with my Honeybee was getting involved before she knew me.

But fear is not a good enough reason to stay with someone. We both realize this even though we're afraid that we're throwing something away, namely each other.

If I only think of this, however, I'll be brooding and regretful the rest of my life. More than I already am. Instead, I'd prefer to remember us poking each other, yelling "poke, poke, poke" like Ernie did to Bert on Sesame Street. Or, fogging up the windows of my car parked outside her apartment on Harvard Street when we were still in our heavy breathing stage. Or, going to Lenox, Massachusetts for Valentine's Day, massaging each other, and reading Shakespeare.

We weren't perfect, no. But we were nicey.

Bye-bye, Bunnyface.

Hippity-hoppity!

Parting Shots

By Billy Choslovsky '94

RECORD Columnist



A DDITIONAL evidence that the apocalypse is upon us and I am not going to graduate:

1. On Tuesday, Question 13 of my Advanced Legal Research quiz stated, "List two print sources where you could find the phone number and address of the National Atomic Commission on Radioactive Waste." For one of my sources I wrote, "Phone Book."

2. Later that same Tuesday, I was practicing my opening statement two minutes before my mock trial was to begin. My co-counsel complimented me on my diligence and noted that I looked tired. I told her that I stayed up all night preparing because this was the one class in which I thought I could get an A. After hysterically laughing for over five minutes, thus delaying the start of the trial, she informed me that TAW was pass/fail.

Unless I return as a 4L — mind you, a not so unlikely scenario given my third year paper, final trial in TAW, and exams that still loom — this is mercifully my swan song. As such, I had hoped to end on a positive note.

Despite such noble intentions, a few frustrations remain. Specifically, HLS' holy trinity — Faculty, Administration, Law Review — begs for a beating. Besides, it's all too predictable to merely wave the Law School banner while chanting "Ra Ra" on the way out (something Rob Rader would do, ugly little man that he is). Before beginning, one caveat is necessary: each of the following beefs could easily be flushed out as separate columns. Consequently, I leave myself exposed by not connecting all the dots. However, if you question any of my assertions, I welcome you to check out the facts for yourself. Doing so could only make this a better place.

Faculty Apathy: Where do I start? Two events seem most telling and typical. First, when Justice Blackmun recently spoke here, 20 front row seats were roped off for faculty. Professor Emeritus Archibald Cox occupied one seat; the other 19 remained empty. Likewise, the Drama Society produces a parody each spring intended solely to foster "community." Pitifully, one segment of the "community" is absent. Word has it that only Professors Kraakman, Nesson '63, and Roger Fisher '48 attended. Perhaps at the next faculty meeting they can share just what the rest of them missed: a good time. In the spirit of fair reporting, note that Dean Clark '72 and Lecturer Bruce Patton '84 lead by example. They attended all four performances this year AND last year. They were in both shows. Almost ironically, the staff attended both events in large numbers. I even saw Dr. Wanzer at Justice Blackmun's speech.

Administration: From what I read and hear, Corporations Professor Jon

Unless I return as a 4L — mind you, a not so unlikely scenario given my third year paper, final trial in TAW, and exams that still loom — this is mercifully my swan song.

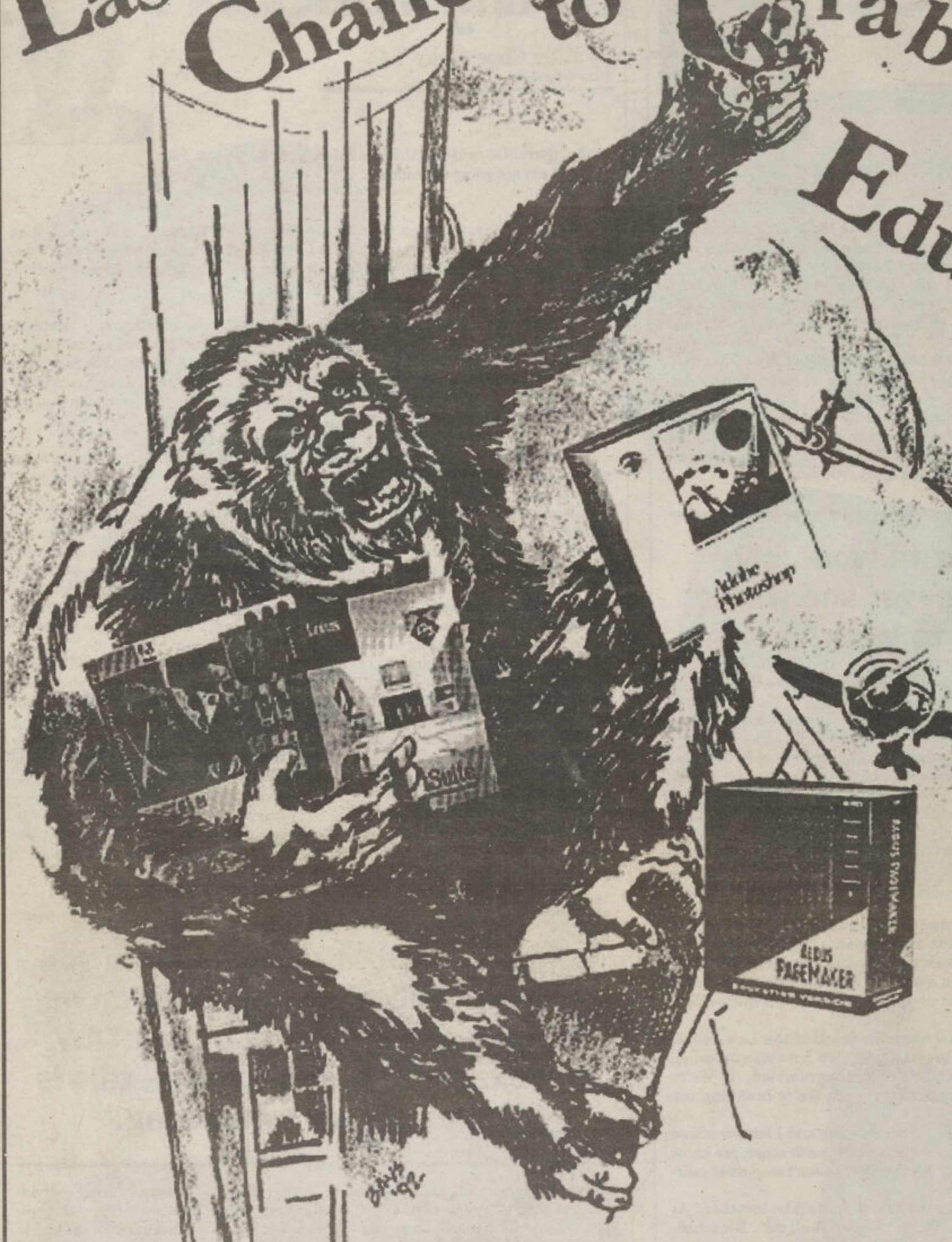
Hanson is an incredibly nice, articulate, humorous, dedicated and caring individual. Problem is, by his own self-deprecating admission, he doesn't know corporations. To better himself, he attends Professor Kraakman's lectures, and his class coincidentally lags about one week behind Kraakman's. Note, the same could be said for Professor Hay and Environmental Law. For their part, Professors Hanson and Hay deserve nothing but respect and admiration. Simply stated, they take their duties seriously and try quite hard. However, by placing them in such a position, the administration deserves only condemnation and repute. By prematurely placing "works-in-progress" inside the classroom, the administration does a disservice to everyone. Hay and Hanson are thrown to the wolves and students receive an inferior education. To say otherwise is simply kidding ourselves. Though the administration justifies it as necessity, it is actually neglect.

Law Review: The fact that the Law Review has an affirmative action policy is commendable. In order to effectuate its policy, the Law Review's application naturally has boxes one can check to indicate minority status. One such box is labeled "African American." With this in mind, consider the following: If I, a white male, were born in Egypt and moved to the United States as a child, could I check the "African American" box and qualify for the Law Review's affirmative action policy? Technically, Egypt is in Africa, and thus I would be an "African American." Sounds preposterous, right? After all, following that logic, a white male from South Africa who supports apartheid would be deemed an "African American" subject to special treatment under the Law Review's affirmative action policy. Continuing this upsetting hypothetical, next year the Law Review could theoretically have ten "African Americans" all of whom are bigoted whites. If such were the case, I am sure Dr. Martin Luther King would be proud to know that only at the Harvard Law Review could you have ten "African Americans" but not a single black American! Note, a few years ago such a hypothetical was impossible. Until semantics became more important than substance, the box one could check was labeled "black" not "African American." Could this actually be more than a mere hypo? Check it out, the Law Review calls it progress.

P.S. Thanks for the new flag Bob.

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