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Law Review To Study Gender Disparity

By Tara Dawood

Of the 44 newest Harvard Law Review members, only 11 are women, leading the Law Review to create a task force to investigate this disparity in gender representation.

"Because in the past women have been represented on Law Review in relatively low numbers, I think the time has come for it to be analyzed and examined," said Law Review President David Friedman '96.

"The task force first and foremost is looking at the reasons why we have the number of women we have and inquiring as to whether it is an undesirably low number because that is a value judgment," said Friedman. "We intend to take a fresh look at the problem without any assumptions one way or another. Then, based on the results, we may consider policy changes."

Although 11 female editors is not an unusual figure for the Law Review, it is particularly striking in contrast with the previous year's record high of 17 women. This return to the previous low female representation has left members of the Law Review puzzled as to whether the number is undesirable, and interested in finding reasons for the abrupt reversion.

"The Harvard Law Review is ideologically committed to being an equal opportunity organization and is dedicated to taking measures to ensure that it achieves

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Law school students have increasingly been turning to consulting firms' brochures this year as part of their job searches.

Students Seek Consulting Firm Jobs in Droves

By Josh Strathman

Drawing its motivation from various sources, student interest in non-legal career opportunities reached new levels this interview season.

This was most apparent in the landslide of applications to interview with McKinsey & Company. June Thompson, director of Career Services, said that more than 100 students sought interviews with McKinsey, which expanded beyond its planned three interviewers to accommodate them. Even ranking McKinsey as the first choice was often not enough to secure an interview, a number of students complained.

Thompson offered a number of factors she said might explain the rising student interest. One

explanation, she said, was the active recruiting by many of the consulting firms in soliciting HLS applicants.

Simon Mendelsen, head of the law school recruiting effort at McKinsey, emphasized the importance of such efforts. There has been "a big growth in interest because we've worked hard to build awareness of our practice on your campus," he said.

One 3L agreed, noting that the receptions and presentations were effective both at bringing the consulting option to students' attention and at portraying that option as an appealing alternative.

Another factor cited by a number of sources was students' disenchantment over their first experiences with the law.

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Faculty Divided Over Students' Role on Ad Board

By Hope Yen

A faculty proposal requiring that students on the Administrative Board decide disciplinary action for fellow peers drew spirited debate among professors last Friday, sending an already lengthy faculty meeting past its scheduled ending time.

Under the proposal, students subject to disciplinary action — which may range from a warning and reprimand to temporary suspension and permanent expulsion — would no longer have the option to exclude the three student representatives of the eight-member Administrative Board from deciding their case.

After a half-hour debate that led the board's chair, Prof. Lloyd Weinreb '62, to say he might consider resigning his post if the change was not approved, the faculty agreed to postpone deciding whether to reconsider its vote last spring to leave the policy as it is.

An apparently divided faculty last year decided against changing the policy after one meeting of debate. Weinreb then proposed the change a second time, hoping that faculty members would change their minds.

"I would be very unhappy if I have to make decisions in my situation [as board chair] without the knowledge students give me," he said after the meeting. "Most disciplinary cases coming to us are not about an actual event, but rather they typically turn on the intent of the students involved. So it's important to see how the rules are perceived by students and how they bear on them."

Supporters of the change say that students bring a necessary

perspective in deciding a peer's intent — and thus blameworthiness — behind committing a punishable act. But critics argue that allowing peers to judge others would politicize the process and could unnecessarily stigmatize the student for life.

"Students will become peers and colleagues later in life in ways they can't predict," said Assistant Prof. Carol Steiker '86, who said she doubted that student representatives could keep cases secret from their friends. If only faculty and administrators sit in judgment, the disciplined student "can leave us and the unpleasant memories behind. We don't want to always be remembered for something we did at age 23."

Prof. Lucie White '81 agreed, pointing out that at a Women's Law Association meeting she attended last year, it was noted that "women may have a heightened sensitivity" to the opinions of peers.

But Weinreb argued that opponents were misconceiving the nature of the board's business. Only a small fraction of cases, he said, require formal hearings in which disciplinary action may be handed down. The vast majority, however, are handled informally and resolved without disciplinary action. In those instances, student board members are fully involved and would be privy to the case, Weinreb said.

Furthermore, only three student representatives — one from each class — sit on the Administrative Board, so there is little chance that they would know the accused student well enough to be subject to bias or political pressure from friends,

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Committee to Plan Law School's Future

By Hope Yen

This is the second in an occasional series on the development of Dean Clark's administration.

In a faculty meeting anticipated to offer a glimpse of Harvard Law School's future, Dean Clark '72 instead sounded a cautious note in announcing the creation of a long-term committee to decide where "we want the Law School to go."

"Some you may have expected for us to come in here and say what we ought to do for the next five years, but I want us all collectively to think about where we should go," Clark told a filled Hauser Hall room of professors, administrators and some student

leaders. "The idea is not to come to a conclusion too quickly, but to think big."

In an interview later, Clark said he saw the end of the \$175 million fundraising campaign as marking a new phase of his deanship in which he hoped to take advantage of the Law School's financial strength to develop its status as a global institution.

Clark's Deanship

A new phase of his leadership?

The committee, however, met some initial criticism from professors at the meeting who said Clark was neglecting more pressing issues facing the Law School, such as curriculum reform and public interest funding. Clark then halted discussion on the committee, saying there would be time later to

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Faculty Support for Public Interest Funding Puts More Pressure on Dean

By Katrina C. Randolph

As students attempt to galvanize support for increased public interest funding, many HLS faculty members are showing that they too support more millions for public interest.

"The faculty should consider, the dean should consider, a minimum of \$15 million," said Prof. Elizabeth Bartholet '65. "And I think significantly more should be allocated, not simply in light of the fact that there is this extra money."

In a letter to Dean Clark '72 dated Oct. 12, the day before the monthly faculty meeting, 37 faculty members and clinical instructors urged Clark to "exercise whatever discretion remains over [Capital Campaign] and future funds to strengthen the school's public interest programs," impliedly referring to the \$25 mil-

lion in extra funds raised by the Capital Campaign. Although the goal had been to raise \$150 million, HLS ultimately received \$175 million in donations.

Clark refused to comment on the letter, saying he would release a letter to the HLS community by the end of this week. At RECORD press time on Wednesday evening, that letter had not been released.

An ad-hoc group of students have spearheaded an ongoing effort to pressure Clark and Capital Campaign organizers to allocate the \$25 million to public interest programs. Members of the group said they are disappointed in Clark's response to their concerns.

"It just seems obvious to me that he is ignoring public interest

and that's not good for society," said Christy Ochoa '98 at a student meeting Monday night. The ad-hoc committee, a spin-off of the Student Public Interest Network, met to develop more ways to publicize their effort and put more pressure on Clark.

"I think the students have come up with a very powerful showing when they show that 140 students applied for public interest funding [last year] and didn't get it," said Bartholet.

She said she was at first discouraged about getting more funding for public interest because students had been told that alumni were not interested in the LIPP program

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Elizabeth Bartholet

Profs. Show Support for Public Interest Funding

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"But we were also told alums weren't interested in the library [renovation], but 'bones were broken' around the country" to get them interested, said Bartholet.

Bartholet and Prof. Christopher Edley '78 wrote a cover note to the faculty letter requesting that the public interest issue be included in the talks about the "larger post-campaign future." However, Bartholet and several students said they felt Clark tried to avoid discussion about allocating more funds to public interest programs.

"I would like to think there will be a healthy dialogue in the future," said Bartholet, "[but] I haven't been part of one."

"We certainly didn't have that discussion at the faculty meeting," she said.

Shannon Liss '96, who attended the faculty meeting and is at the helm of the ad-hoc committee, said Clark appeared not to want to discuss public interest funding,

despite having received the faculty letter. "He's going to have to feel a lot of pressure before he budes on this," she said.

"Harvard University is a bastion of higher learning. It's sick — you're at a university and you can't talk about the issues," said ad-hoc committee member Amy

The \$15 million refers to a 1989 recommendation by the steering committee of the Long-Range Planning Committee to faculty. In that memorandum, the committee, chaired by Profs. Andrew Kaufman '54 and Frank Sander '52, said that "[t]he estimates of the Financial Aid Committee sug-

"HLS really needs to rethink its mission in terms of what it wants to do," said Bartholet.

The idea for a faculty letter to Clark came from Profs. Bartholet, Edley, Gerald Frug '63, Martha Minow and Lucie White '81; and Visiting Prof. Peter Murray. Others who signed the letter are Profs. Gary Bellow '60, Martha Field, William Fisher '82, Philip Heymann '60, David Kennedy '80, Duncan Kennedy, Randall Kennedy, Charles Ogletree '78, Lewis Sargentich '70, Joseph Singer '81, Anne-Marie Slaughter '85 and David Westfall '50; Assistant Prof. Christine Desan; Lecturer Deborah Anker LL.M. '84; and clinical instructors Sonia Arteaga, Clarissa Bronson, Pat Cantor, Ray Cebula, Syrie Davis Fried, Lee Goldstein LL.M. '81, Julie McCormack, Cynthia Monteiro, Vernor Moore, Mary Prosser, Victoria Read, Veronica Serrato, Eileen Seidman, Abbe Smith, Elizabeth Solar, William Talley and Sheri Zimble.

"HLS really needs to rethink its mission in terms of what it wants to do," said Bartholet.

McManus '98.

Bartholet and several other faculty members want to see at least \$15 million go to the Low Income Protection Plan (LIPP), a program in which Harvard Law School makes partial loan payments for HLS graduates who accept low-paying, public interest jobs.

gest that full funding would require an endowment of \$20 million. The figure of \$15 million has been suggested for the program because of the limitations of the total amount of the proposed campaign." The 1989 committee recommended that the amount allocated be directed primarily at LIPP.

Clark Creates Committee to Plan HLS Future

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debate the group's goals.

Under Clark's plan, the Strategic Planning Committee, a newly formed group of eight professors, will spend one year brainstorming ideas for the Law School's future and setting a timeline for putting forth specific proposals. As proposals are developed, students, alumni and outside experts will then be brought in to analyze and debate their value.

The committee is comprised of Clark, Associate Deans Frank Sander '52 and Todd Rakoff '75, and Profs. Abram Chayes '49, Philip Heymann '60, Morton Horowitz '67, Alvin Warren and Elizabeth Warren.

"We have a lot to do in the next few years before thinking about long-term planning in a concrete sense again," Clark said at the meeting. "We have to add to the faculty still, we have to accomplish the Langdell renovation project, and we have to complete setting up support for a few of the research programs that were targeted in the [Capital] Campaign. But that's the intermediate term."

"I think it's not too soon to identify,

analyze and discuss strategies the Law School might pursue in the next 25 years, like what major corporations periodically do when they, for example, see that the U.S. market is saturated and thus start thinking about going abroad, or going high-tech, or narrowing their customer base," he said. "The idea is to focus ourselves and not try to do everything."

Clark said that the committee decided at its first meeting to target the following areas for long-term planning:

- Aggressive internationalization. "We're talking mega-internationalization, and creating a global law school in a serious sense," he said. "Why not have 550 LL.M. students, as well as 550 J.D.s, or having satellite schools abroad? Harvard Law School is in the best position to satisfy world demand for legal education because of our reputation abroad and the talent we have here."

- Interdisciplinary emphasis by, for example, hiring more faculty with advanced degrees in areas besides law.

- Technology. "Should the Law School be at the forefront of education in cyberspace?" asked Clark.

- Training the next generation of law teachers. "Why don't we have a serious Ph.D. program targeted to have Harvard Law School graduates dominate the legal education systems in the other world?" he asked.

- Law reform. "This relates to what kind of role our Law School should have with major law reform efforts in the U.S."

- Solving the "lawyer image" problem. "One answer is having a very strong and well-advertised program on ethics to get the message across about what lawyers do that's constructive," said Clark.

Some professors, however, said the committee may be taking the wrong focus.

"I think many of us had hoped that when the Campaign ended, the school would turn its attention to [curriculum reform]," said Prof. Lloyd Weinreb '62. "But what I just heard, suggested very strongly, is that we were not going to turn to that, except incidentally to these other strategic plans. For myself I have to say I found that very profoundly depressing."

He added after the meeting, "It seems to me that the curriculum now is a cobbled up version of a curriculum designed

decades ago. But the situation of the profession has changed."

Clark responded that he felt that curricular issues should stay with the HLS legal education committee.

"What I'm nervous about with curricular reform efforts is that they often simply spring out of what people are already doing and they aren't informed by any strategic planning process," he added after the meeting. "In the past few years, the issues that people have put forward about curriculum reform have been all over the lot, ranging from things like having pass-fail grading in the first year to having teaching assistants for professors."

Prof. Elizabeth Bartholet '65 said that student demands for greater public interest support would help solve problems of lawyer image. "It would be a very good start for long-term goals and changes if we put more funding into public interest," she said at the meeting.

After about five minutes of faculty comments on public interest, Clark stopped discussion on the committee. "I just wanted to bring it up today. That's all we have time for today. We have got to move on."

Low Number of Women at Law Review Prompts Study

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this aim," said Seana Shiffrin '96, chairwoman of the task force which is examining the selection of women editors.

The decision to set up a task force was an executive one that came in response to the concerns of editors who had approached Friedman about the underrepresented female population.

"I generally think it's a good idea to have organizations that are roughly representative of the larger populations that they cull members from, unless those organizations are meant to serve a discrete segment of the population. I think it would be nice if the Law Review had more women on it," said Shiffrin.

Joanna Buck '96, executive editor of the Women's Law Journal, said the Law Review suffers because of this disparity. "Every organization benefits from having a multitude of voices. There must be a void or at the very least an imbalance in the discussions when there are so few women and minorities represented," she said.

Buck did not try out for Law Review, nor did any of her close female friends, she said. The current situation for women at the Law Review is counterproductive, she said. "This situation is similar to a law firm known to be inhospitable to women and minorities being unable to attract candidates from these groups. The Law Review's lack of female editors result in its ability to attract women to its organization, almost like self-fulfilling prophecy. Women look at the Law Review and see that there are few women and this must subconsciously affect their evaluation of their own chances of making the Law Review."

The current selection process for the

Law Review breaks down into three groups: 40 percent (approximately 16 students) are selected on the basis of a writing competition, 40 percent are selected on the basis of a 70 percent grades: 30 percent writing sample ratio, and the remaining 20 percent are selected on a purely discretionary basis with the selection committee, according to Friedman, factoring in affirmative action for Asian Americans, African Americans, Latinos, Native Americans and the physically disabled.

The Law Review has never had an affirmative action policy for women,

more women on the Law Review. "There were very few when I was president of the Law Review," she said.

The task force has already begun its investigation and plans to distribute a survey to upperclassmen soon, asking why they did or did not try out for Law Review, how much time those who tried out spent on their work, and why some people quit working on the competition.

"We're interested in the choices people make concerning the ways they want to spend their time in their second and third years," said Shiffrin.

The Law Review has never had an affirmative action policy for women, because women editors voted against it at the time the affirmative action policy was implemented.

because women editors voted against it at the time the affirmative action policy was implemented. Even today, some female editors continue to agree with this principle.

"Including women under the discretionary slots could make women editors feel that their position on the review had to do with affirmative action or that they were perceived by other people as getting in under special consideration," said I-Wei Wang '96, a Law Review editor.

Assistant Prof. Carol Steiker '86, who was the second woman president of the Law Review, said she would like to see

"In general, when a woman is presented with the choice of spending 25 hours a week helping poor people or battered women or children in the community, as opposed to checking a law school professor's footnotes, there is essentially no decision. Women enjoy doing projects that they perceive as having social value or helping others. That's not to say that men don't also enjoy that, but I think men are more willing to sacrifice their personal interests for their career goals," said Buck, who admitted that the situation could be much more complex.

The complexity of the issue will be

addressed in a the multi-step plans of the task force. "After the survey," said Shiffrin, "we plan to talk to other law reviews about their selection criteria and what they do to recruit women."

"The final stage of the Law Review's investigation involves an internal examination of the selection procedures," she said.

This low representation of women on the Harvard Law Review mirrors the situation at the Yale Law Journal, but sharply contrasts with the figures at the Stanford Law Review.

Of the 123 members of the Yale Law Journal, 37 are women.

"We are concerned about the underrepresentation of women on the Journal staff, and we are currently undertaking a review of our admissions policy," said Yale Law Journal Editor in Chief Jonathan Cedarbaum.

At the Stanford Law Review, of the 57 3L Law Review members, 28 are women, and both the president and managing editor are women, according to Stanford Law Review President Lisa Kern.

"In recent years, the membership of the Review has consistently been at half or more women," said Kern.

"The high number of women members and women in leadership positions may be attributed to the fact that Stanford has traditionally been a supportive environment for both women faculty and students," said Kern.

At Harvard, on the other hand, Buck said, "Women's grades tend to go down in law school and perhaps there's a concern that the time commitment required by the Law Review will cause their grades to suffer further," said Buck.

Kinoy Talks About Lawyering for the People

By Craig Buckser

Constitutional rights advocate Arthur Kinoy urged students last week to fight for rights which he said most Americans risk losing today.

"The challenge is enormous," said Kinoy. "The majority of America is at risk of losing their constitutional rights." Kinoy told the crowd to face the challenge. "The important thing is not whether we win," he said. "It's that we are fighting back."

Kinoy, president and co-founder of the Center for Constitutional Rights, is also a retired law professor at Rutgers University and the author of *Rights On Trial: The Odyssey of a People's Lawyer*. His address on Oct. 11 to about 40 students was sponsored by the Harvard Lawyers Guild, a student chapter of the National Lawyers Guild.

Kinoy related the wisdom that former Supreme Court Justice Oliver Wendell Holmes shared with his law students a century ago. Quoting Holmes, Kinoy said, "Those of you that aspire to the greatness of your profession must immerse yourselves in the agonies of the time."

"The agonies of today are not hard to

find," Kinoy said. He listed the proposed anti-terrorism legislation, the dismantling of social-welfare programs, and the attack on affirmative action as some of the contemporary constitutional concerns. "If we throw ourselves into the agonies of today, we will achieve greatness in the profession," he added. "We will discover that it's a hell of a lot of fun."

Kinoy, a self-described "people's lawyer," gave pointers on how a people's

Panthers, a group of young adults in Detroit who had formed a fair housing committee and opposed the Vietnam War. The group became the target of a wiretap which had been ordered by the President, said Kinoy. In an affidavit, then-U.S. Attorney General John Mitchell asserted that law enforcement agents "were monitoring wiretaps which were being employed to gather intelligence information deemed necessary to protect the nation from attempts of

"The Nixon Administration believed that they owned the Supreme Court, and they were looking for the judicial imprimatur that they can suspend the Constitution."

Recounting his nervous feelings before oral argument, Kinoy said he had thought, "What am I, a little Jewish boy from Brooklyn, taking on the establishment. The whole country." He argued to the Court that allowing the president to suspend the Fourth Amendment would permit the Nixon Administration to "wiretap their opponents in the Democratic Party." Afterward, many people told him that he had overstated the case. But a unanimous decision came down in favor of his client.

"The clerk told me the opinion had been written from Mr. Justice Powell. And I died. 'Who were the dissenting justices?' I asked. 'None,' she answered. I asked, 'Not even Justice Douglas? Not even Justice Marshall?' She said, 'Mr. Kinoy, you don't understand. You won.'"

Carla Halpern '97, president of the Harvard Lawyers Guild, said she enjoyed the speech.

"He related his early work to what we need to do today. He was able to connect to the students," she said.

"The majority of America is at risk of losing their constitutional rights," said Kinoy.

lawyer should argue a case. "When you are in the most difficult legal struggle, go for the jugular. Lay out to the court what is really involved. The life and future of the country. The life and future of the Constitution itself," he said.

Kinoy connected his advice to a story about a case he briefed and argued before the Supreme Court in 1972, *U.S. v. U.S. District Court for the Eastern District of Michigan*.

Kinoy's clients were the White

domestic organizations to attack and subvert the existing structure of the government."

The district court judge had concluded that the wiretapping was unconstitutional, and the government appealed the case up to the Supreme Court, where Kinoy was asked to represent the White Panthers.

"We were frightened to death," Kinoy remembered. "The Supreme Court was known as the Nixon court."

Faculty Split Over Students' Power on Ad Board

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he said.

This year, Noelle Dalrymple '96 and Vivian Hamilton '97 hold seats on the board along with two administrators, Registrar Sue Robinson and Financial Aid Director Sally Donahue; and three professors, Weinreb, Prof. Arthur Miller '58 and Prof. James Vorenberg '51. Dean of Students Suzanne Richardson also sits on the board but does not have voting power. A 1L student representative for

this year has not yet been chosen.

Law School Council President Rob Simmelkjaer '97 said after the faculty meeting that he planned to raise the issue at the next LSC meeting to see where representatives stand. The LSC's position will then be publicized to professors and probably announced at the next faculty meeting on Nov. 10, he said.

"It's extremely important that a student position be legitimate and maintained on the board," he said. "We are going to discuss whether the ability of a

student facing a board to waive his or her right to dismiss students from the Administrative Board is really in the best interest of the student body as a whole and the workings of the board."

Prof. Richard Parker '70, however, questioned at the faculty meeting why the proposal was being raised again. Professors rarely ever get to vote on any matters, he said, so the few times a decision is made it should be taken seriously.

Prof. Morton Horwitz '67, meanwhile, warned that a move toward allowing a

greater student role on the Administrative Board could provide an opening for students demanding authority over other aspects of the school's governance.

"What are we going to say to the students, based on this precedent, if they want to sit on the admissions committee?" he asked. "There will be a time when we will have to say once more to them that students should not sit in judgment of individual name students, [yet] we will have this precedent."



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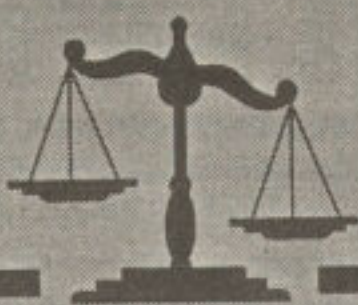
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BRIEFS



Treasure Room Dedicated to Beneficial Corporation Chairman

Harvard Law School dedicated the Treasure Room in Langdell Library to Beneficial Corporation Chairman Finn M. W. Caspersen '86, who served as a member of the executive committee of The Campaign for Harvard Law School.

As chairman of Beneficial Corporation, a financial services holding company, Caspersen is a leading spokesman for the financial services industry and frequently testifies before congressional committees regarding governmental policy. He is the past chairman of the American Financial Services Association and current chairman of its Government Affairs Committees. He is also a member of various Harvard University committees and was a member of the New Jersey State Board of Higher Education.

"The university bestows a humbling honor on our family name with this recognition," Caspersen said regarding the dedication.

"I am profoundly grateful for his leadership and service during our recent \$175 million fundraising campaign," said Dean Clark '72. "Finn's tireless efforts for the executive committee of the Campaign for Harvard Law School allowed us to complete successfully the largest fundraising campaign in the history of legal education."

Opened in 1948, the Treasure Room serves as an exhibition gallery to display some of the rarest books and law documents in the world. The room also serves as a memorial for the 193 Harvard Law School students and alumni who died in the two world wars.

Harvard University Capital Campaign Nears the \$1 Billion Mark

By the end of September, the university-wide Capital Campaign had raised nearly \$960 million, said Vice President for Development and Alumni Affairs Fred Glimp.

Harvard University President Neil L. Rudenstine said he wanted the campaign to raise its first billion by the end of 1995.

"Things are going well," Rudenstine said. "All things considered, a little better than expected."

Harvard Law School is the only one of the University's independent schools to have completed its fundraising campaign, which it began in 1991. The other schools began their drives in 1994.

The Faculty of Arts and Sciences has lagged behind the other schools although it has raised \$400 million of its \$965 million goal. At the other end of the spectrum, the School of Public Health has reached the 75 percent mark in its drive to raise \$125 million.

The Capital Campaign will end in 1999.

Cornel West Warns of a Deteriorating Democratic Culture

A legacy of racism and the effects of a market culture are undermining the democratic tradition in this country, Cornel West said in a lecture at the Graduate School of Education.

A professor of Afro-American Studies and a professor of the philosophy of religion at the Divinity School, West traced the roots of white supremacy in western civilization and concluded that race may be the end to American democracy as patriarchy was to Athenian democracy.

"I believe that we are living in one of the most terrifying and frightening moments in the history of this nation," West said.

West also blamed the disintegration of the democratic tradition on the United States' market culture, which he distinguished from a market economy.

"The ultimate result of a market culture is the systematic destruction of the institutions of nurturing and caring," West said. He emphasized the importance of education and its value in sustaining a democracy by cutting through to the human sense of empathy and hope.

West, who was a speaker at this week's Million Man March, also commented on the O.J. Simpson trial, saying that Simpson's mother Eunice deserved admiration for her grace and dignity in not expressing words of hatred or contempt after a jury acquitted her son.

A Q & A with Prof. Dershowitz

Why O.J. Went Free

By Justin Weiss

Last week, Prof. Alan Dershowitz revealed the avenues of appeal he had planned for O.J. Simpson's case had Simpson been convicted of murdering his former wife, Nicole Brown Simpson, and her friend, Ronald Goldman. This week, Dershowitz tells why, in his view, Simpson was not convicted.

Q. Given the pro-prosecution bias you attribute to Judge Ito, isn't it strange that the jury found as many holes as it did in the prosecution's case?

A. No, I don't think so. I think the key to this case in the end was [Det. Philip] Vannatter, not [Det. Mark] Fuhrman. Vannatter testified falsely that he didn't suspect Simpson. The jury didn't believe that. So the jury starts out and says, "We have a liar. We have a cop who's lied to us." Now, that same cop carried around O.J. Simpson's blood for several hours for no good reason. The exact same amount of blood that's unaccounted for mysteriously appears a month later on the socks.

How do we know the socks had the exact same amount of blood?

Dr. Lee and the other experts were able to figure out exactly how much [blood] was on the sock and exactly how much was on the fence, and it amounted to the exact amount of blood that was unaccounted for. And then, it shows up a month later, the blood. It had the EDTA on it, which is a preservative. You don't have to be convinced [that the blood was planted]. You just have to have a reasonable doubt.

So the key was Vannatter and sloppy blood work?

The key to this case, this case was won in the first two weeks. It was won because of the difference between the way we gathered our evidence, and the way the prosecution gathered its evidence.

So the prosecution really sank its own case, while the defense simply did a competent job?

This is a case where there were real questions about the evidence. Those questions were exacerbated by the fact that the prosecution relied on perjured testimony. The jury simply didn't have faith in the prosecution's evidence. And so, even if there was a mountain of evidence, once the jury said to itself, "We think there was evidence planted here," they didn't believe any of the evidence.... If the prosecution has provided false evidence on any one thing, you can assume the rest of their case is loaded with false evidence.

Aren't you disingenuously using a narrow principle of law as the broad theme of an entire case?

I think it's a valid broad theme. Remember, the key mistake that the commentators have made about this case from day one, is they called this a circumstantial evidence case. This is not a circumstantial evidence case. This is an eyewitness case. The key to what the jury disbelieved in this case was the eyewitness testimony of human beings as to how they gathered the evidence and as to how they treated the evidence.... And the weakness of the case, for the prosecution, was in the eyewitness part of the case.

If the sloppy mistakes had not been made, and Mark Fuhrman were not a racist — these little things that you don't expect to happen — would O.J. have been found guilty?

Well, there's an old Yiddish expression: "If my grandmother had wheels,

she'd be a wagon." You know? That's not this case! The reason that this case didn't result in a conviction is that the prosecution didn't have the evidence. It wasn't there. And so they faked the evidence. The evidence would have been strong if it were true. If you had real blood on the socks that hadn't been planted, that's very compelling. **You do believe that the blood was planted.**

Oh, absolutely! Here, I'll show you. [Dershowitz removes a shoe and peels off his sock, laying it next to his cup of tea.]

The experiment is the most obvious one in the world. Here. Take off sock. Take a little bit of tea. ...And you put it on the sock, the tea, the blood. It goes through. It forms a pattern on the other side. A smear pattern! We had one of the world's leading experts testifying to that. If someone's foot is in the sock, and you sprinkle the same blood on it, it doesn't form that pattern! This had the pattern of lying flat. That's why the blood had to be planted. The sock was found on the floor. The theory was he was wearing it. While wearing it, the blood of the victims got on this side. And then he took it off. And then the blood from one side touched the other side. Blood dries much too quickly for that. The only way the patterns that were found could have occurred, according to our expert, was if the blood hit the sock when it was lying

flat on the floor. Or on a table. That's planting.

This sounds like the most incompetent job of planting ever.

That's why they were caught. And how else? You plant on a gate? You have photographs of the gate on the day of the crime, it doesn't show blood. A month later, their lab experts come in, and they find blood. And what do they find on the gate? They find blood. They find the highest density of DNA even though the blood would have been out there for a month exposed to the elements, and tourists, and cameramen, and they find EDTA on it.

So the blood wasn't found until well after the crime was reported and the police showed up?

That's right. See, I myself personally saw the socks. I went to L.A. shortly after the crime. I went with Dr. Baden to the lab. I saw the socks. Baden saw the socks. I'm not an expert. He is. He didn't see blood. A month later, blood shows up on the socks!

Why would anyone plant evidence?

Why would anyone, like Fuhrman, express the racist views he expresses? Why would anybody climb a fence and then lie about it? Why would New York state troopers take fingerprints from their own crime scene and then plant them against the man they believed was guilty? The reason they did this is because they honestly believed O.J. Simpson was guilty. And they honestly believed he'd get away with it. And they honestly believed they had to enhance the evidence.

Why would they believe O.J. Simpson was guilty without sufficient evidence?

Why did Marsha Clark get on television without blood tests coming back, without any evidence, and say she was personally convinced that he did it and he did it alone?

Because of the reports of spousal abuse?

They rushed to judgment. They came to their conclusion within hours of this crime. And then the police tried to make a case by the way they know how to make cases.

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GYM RAT

October Fest

By David Koontz '96
Sports Editor

OCTOBER is the harmonic convergence of the sports world. As Mother Nature brings forth another impressive bounty of colorful leaves and enormous pumpkins, baseball players find themselves in the World Series. Football players get their first big injuries of the season. Hockey thugs start sucker-punching each other again. Even the basketball season begins anew, as NBA general managers get amnesia and acquire players like Benoit Benjamin and Chris Morris.

Somehow, the excitement of the baseball wildcard races and the new playoff format have overshadowed the fact that this is the first World Series since 1993. Something else the world has not had since 1993 was good television coverage of the postseason. Now, along with the new wave of teams that get a shot at freakishly upending the two or four teams that actually deserve to be there, the unsuspecting television viewer gets Brent Musburger.

The same viewer also gets a wonderful little idea called Regional Coverage, which allows many fans to see literally none of what he or she wants to see. Understandably, it would be difficult for one network to show all of the games in the first round. Still, TWO networks could broadcast all of the games in the first round. Failing that, I am at a loss to explain why a network was able to show all of the ALCS and NLCS games for years, but now is unable or unwilling to do so. It is more than just a little ridiculous that one is left with no other option but to argue with someone at the local affiliate that, for example, the Braves used to actually BE in Boston, so why not show them here?

Having vented that, it is time to jump headlong into a much more relaxing and soothing subject — the wacky and occasionally uncontrollable world of HLS flag football. Headed into the final weekend, many teams are jockeying for the eight available playoff spots. First, however, I need to retract publicly a snafu from last week's standings. The Great Danes are not changing their name again, but they were erroneously reported with four wins and two losses. In fact, the Danes have yet to lose their second game after another mighty successful weekend.

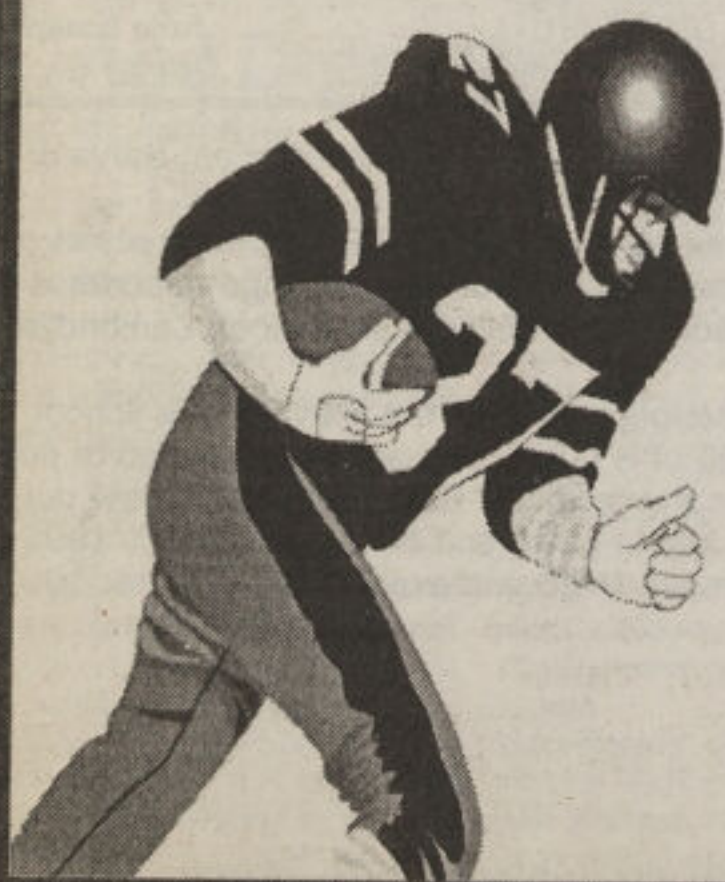
The Chicano Bears benefited from the mistake, and for a week were once again undefeated in print. The game in question, between the Danes and the Bears in the first week, was one of the more interesting ones this year. The Bears were up 6-0 and attempting a one-point conversion when a new league rule went into effect. The Danes intercepted the conversion and returned it for a single point to make the score 6-1. Later, in the bottom of the ninth, Chris "Rah Rah" Ree, Kick 'Em in the "Niewohner '97 hit a six-run homer to bring the Danes a 7-6 victory.

The Danes have become the sole team breathing down Learned Hands' collective neck at only a game behind first place. The Hands continued to romp with a couple of shutouts that combined for a 60-0 score this weekend. The Hands' Jim "Silence of the" Lambright '96 gets special mention this week for his lightning-quick efforts at peacemaking — Hands Captain Whitey "I've already got a nickname" Berardinelli '96, who was out of town, will be sorry he missed more than the games.

In the "Where the Hell Did Those Guys Come From?" category, the Freshies jumped from a 2-2 record to a 4-2 record by virtue of two victories with a combined 106-0 score. That is not a misprint. Dave "id Lee" Rothenberg '98 looked like Dan Fouts on a sunny southern California afternoon, throwing for 39 or so touchdown passes and getting some ridiculously good defense. When the Freshies have the ball, they convert. When they don't have the ball, they intercept it. It's as simple as that.

Another team that's starting to make some noise is J.J.'s Golden Rotunda, who beat the Grad Guys 6-0 just an hour after the Grad Guys had beaten the Chicano Bears 6-0. Zack "Hands of" Stern '97 ignored the pain of having his arm nearly torn off recently, shedding his lineman persona to make a nice leaping catch for the winning touchdown.

Finally, this week the Saturday Gang consisted of Levitt's Too Sexy for This League, Six Feet Under, the Dissenters, and Locus Poenitentiae. The players dealt with an alternate field (spacious Glacken Playground), the threat of rain, and little orange cones that heightened one's appreciation of people who could create straight lines in this world. Two things emerged Saturday: first, the receiving tandem of Jeff "Ball" Hawkins '97 and Chris "Deep Throws with Jack" Handy '97 is one of the best, if not the best, in the league. Second, the Dissenters lost their first game in which Mike "the Barometer" Bennett '96 was not in attendance, throwing my Five Forces of Nature theory (gravity, electromagnetism, strong and weak nuclear forces, and Bennett) completely out the window.

Intramural Football Standings
as of Sunday, October 15

TEAM NAME	WON-LOST
2. Learned Hands	8-0
13. Great Danes	7-1
7. Chicano Bears	5-2
5. Freshies	4-2
1. Tortfeasors	4-2
10. Dissenters	5-3
4. Locus Poenitentiae	5-3
17. Well Hung Jury	5-3
12. Death Judicata	4-3
16. Grad Guys	4-3
9. J.J.'s Golden Rotunda	4-4
14. Six Feet Under	4-4
11. Levitt's Too Sexy ...	3-4
15. Kenny the Greek	1-5
3. Wolverines	1-5
18. Black Plague	1-7
8. Rush to Judgment	1-7
6. Illegal Motion	0-8

Compiled by David Koontz

FOOD - O - RAMA

Using Your Noodle to
Get a Bang for Your Buck

By Heather Friedman '97 and Betsey Nevins '97

Restaurant Reviewers

THE poet Shel Silverstein (remember "Where the Sidewalk Ends" and "The Giving Tree") once wrote, "Spaghetti, spaghetti all over the place, up to my elbows, up to my face." And certainly, the humble noodle has become ubiquitous lately. Gone are the not-so-glorious days of Chef Boyardee, Chun King Chow Mein, and Prince Spaghetti Wednesdays (though some may cling to their 25-cent Ramen). One of the happier by-products of the decadent '80s was the transmogrification of the low-life noodle in the glitzier realm of "pasta." Today, there are literally oodles of noodles in our midst, including those found at the brand new Ma Soba in Holyoke Center, as well as older faithfuls such as Cremaldi's on Putnam Street, the Noodle Alley in Porter Exchange Mall, and Il Panino on Mass Ave.

Maybe it was an esprit de grunge — or some other retro inspiration — that led the owners of the newest pasta shop on the block to call their restaurant **Noodles**. It's not a restaurant, really. With just a few tables and a prominent glass display counter, Noodles feels more like a quaint deli. It's got wall-to-ceiling windows and even a few outdoor tables — unfortunately, the view of the intersection at Kirkland and Beacon streets is hardly the Piazza San Marco. Still, you could imagine yourself sitting outside with some friends and a bottle of wine (you have to bring your own, but the well-stocked Wine and Cheese Cask is right across the street) on a warm evening. Even the advent of fall couldn't deter some merry revelers from dining al fresco this past Saturday night.

These reviewers decided to forgo the natural exposure and were lucky enough to snag a couple of free tables right after walking in; sometimes the paucity of tables creates a line. We did have to queue up to order, however, though the wait was only a minute or two. Noodles is a cafe/takeout, featuring fresh pasta and sauces, a few soups, salads and desserts, and a dozen daily specials. The "regular" blackboard lists a number of traditional pasta dishes (tomato sauce, pesto, etc.) served daily, while the more exotic fare can be found among the specials.

We started with perhaps the most successful dish of the night: a creative rendition of Italian antipasto. This heaping platter for two (\$7) served four more than amply, without the overabundance of olive oil and pickled peppers that sometimes plague this dish. Instead, we were treated to a diverse array of salads, including cinnamonous cous-

Noodles ... would be perfect for a
pre-movie supper.

cous with raisins, pesto green beans, new potatoes with red onions, a garlicky white bean concoction and a surprising cumin-flavored zucchini. There were also generous portions of olives, marinated artichokes, mushrooms and a dry table ricotta cheese. The platter was topped with delicious olive oil-soaked toast and some slices of smoky prosciutto.

We were less impressed with the pepperoni-chicken-vegetable soup (\$1.95 a cup). It was actually a perfectly nice chicken soup, full of fresh vegetables and white meat chicken. It was soothing, surely, at least to one stuffy-headed reviewer, but it wasn't anything special, and what was the idea with those little pieces of pepperoni which floated to the top every now and again?

The food at Noodles is lovely to look at, and the pasta dishes were no exception. But we couldn't help being slightly disappointed that it didn't taste quite as special as it looked. One of the least elegant-looking dishes, scallion linguine with eggplant sauce (\$7.95; this sauce is also available for take-out), turned out to be the most flavorful. A spicy marinara with cubed eggplant, the sauce had zing without masking the fresh taste of the pasta. One taster found the pasta gluey, but the rest of us agreed that this was basically a good dish.

Much more spectacular in its presentation was the fontina and artichoke stuffed ravioli with spinach, chicken, capers and a white wine and roasted red and yellow pepper sauce (\$9.25). The ravioli were a hit — plump and chewy — though it was hard to fully appreciate the different ingredients; had it not been for the name, we'd never have known there was anything but cheese inside. On the downside, the capers made the sauce too salty, and the poached chicken didn't really add anything to the dish.

The basil linguine with mussels followed the general trend of being good without being great. Like the other pasta dishes, the portion was large, and there was no skimping on the mussels. But the garlic sauce was thin and seemed to keep slipping off the pasta and down to the bottom of the bowl. As a result, the dish lacked flavor.

The lemon linguine with tomatoes, basil, white wine, and ginger (\$7.25) was also a bit too subtle. The lemon-flavored pasta was nicely matched with chunks of fresh tomatoes and a light infusion of ginger, but something seemed to be missing. The salt shaker helped, as did a sprinkling of parmesan cheese.

The desserts were clearly a highlight of the meal. There were at least half a dozen choices, and all of them seemed tempting. We limited ourselves to a tiramisu (\$3.25) and a slice of the sour cream apple pie (\$3.75). Both were beautifully served — the pie was topped with a dollop of ginger whipped cream and accompanied by a bright yellow bloom. It tasted good, too — moist, tart apples in sweet custard with a buttery crust. The tiramisu was a gentle version of Venice's classic dessert: espresso-soaked lady fingers in marscarpone cheese. Despite our full stomachs, we managed to pack it away in short order.

In the end, we thought that, notwithstanding its humble name, Noodles tries to be a bit too ambitious. The pasta itself is of a notably high quality, and that alone goes a long way towards good eating. We suspect we might've been more satisfied had we stuck to the more basic items on the menu. With prices ranging from \$5-7 instead of \$7-10, these choices probably give more bang for the buck, too.

Noodles may not be the place for an intimate tete-a-tete, but it would be perfect for a pre-movie supper. Located just five minutes' walk from Oxford Street, you could even go there with your study group (We're not serious — we don't even believe that study groups exist). Those wet noodles who have mastered the art of boiling pasta to a perfect al dente might even try passing off Noodles' noodles and sauce as their own at their next dinner party.

Noodles is located at 414 Washington St., on the border between Cambridge and Somerville. It's open Monday through Saturday from 11 a.m. until 9 p.m. For more information, call 492-1770.

Harvard Law RECORD

Founded in 1946

Katrina Randolph
Editor-In-Chief

David Weiss
Publisher

Catering to an Irrational Fear

When RECORD reporter Hope Yen went to last Friday's faculty meeting, she did what is standard practice for professional journalists covering major events — she took a tape recorder.

The meeting, to which she had been especially invited by Dean Clark and which was opened up to several student leaders, had been touted by Clark as a significant event at which he would introduce several initiatives for the Law School. Given the wealth of information and debate expected at the meeting and wanting to ensure the accuracy of her report on what would be said, Yen turned on the tape recorder.

Well into the meeting, Dean of Students Suzanne Richardson demanded that Yen forfeit the tape, telling Yen only at that point that she must always receive prior permission before taping "a Law School event." Apparently, Richardson's demand was spurred by a complaint by Prof. Alvin Warren, who had noticed the tape recorder. She justified this demand by citing some unwritten policy that professors not be taped in class and said that that policy extends to faculty meetings as well, even when the reporter is an invited guest. Already late for a job interview, and unsure of how to respond to this pressure from an authority figure, Yen agreed only to allow a neutral person (in this case, a professor), to hold the tape for the weekend, pending further discussion of the problem.

The RECORD and Richardson finally struck a compromise Monday afternoon, in which Yen would listen to and take notes from the tape that evening and return it to Richardson Tuesday morning. Clark later informed Yen that taping any future event at the Law School would require the newspaper to affirmatively seek and receive permission from the organizers.

This incident and its implications are troubling for a number of reasons. First, Richardson insinuated that she had no choice but to confiscate the tape from Yen. That is simply not true. One would think that the dean of students has a responsibility to protect, or at least represent, the rights and interests of students and student organizations. She showed little interest in representing the RECORD's right to gather information for reporting to the community. It seems that her responsibility to represent student interests was easily overwhelmed by the complaint of one faculty member.

Second, banning tape recorders from Law School events can lead to decreased accuracy in reporting. Professional newspapers often encourage their reporters to use tape recorders at major events attended by many people, especially when those people have been told that they should have a lower expectation of privacy. Such was the case at the faculty meeting, where the agenda stated that representatives of student organizations were present and where Dean Clark knew the press was present.

Finally, banning tape recorders from Law School events is a prima facie violation of the Harvard University policy stating that "interference with members of the University in performance of their normal duties and activities must be regarded as unacceptable obstruction of the essential processes of the University." Certainly it was normal for a RECORD reporter to use a tape recorder at an important meeting attended by dozens of people.

That tape recording is prohibited in either classrooms or general Law School events is not stated in the Harvard Law School Catalog, which sets out the rules, rights and responsibilities for the Law School community. It is troubling that an administrator, without the support of a written rule but only at the impetus of a professor, nearly succeeded in keeping the RECORD from reporting important information to its readers.

Although there are valid intellectual property considerations in the classroom lecture situation which may justify excluding tape recorders, this justification does not extend to general meetings. Some members of the faculty and administration seem to harbor an irrational belief that it is better for a reporter to rely only on her notes for accuracy than for her to use a tape recorder to ensure accuracy. Perhaps these members do not want their statements to be accurately reported.

Many of the habits and values we embrace now as students and democratic citizens will stay with us after graduation. We should be wary of attempts to stifle efforts to promote a free and accurate press at Harvard Law School.

— Randolph

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—First Amendment, US Constitution

• Letters •

Analogies Do Not Justify Amendment 2

Gay rights issues have been thrust into the fore as a result of this past week's oral arguments in front of the United States Supreme Court in *Romer v. Evans*, the case about the constitutionality of Colorado's Amendment 2. Curt Levey ("A Brief Respite from Political Correctness," the RECORD, Oct. 13, 1995) argues that Sidney & Austin's representation of Colorado is "reasonable" and not "evil or filled with hate." Levey's supporting arguments are deeply flawed.

One of the many things with which I take issue in Levey's column is his adoption of the Scalia-esque analogical argument against "special rights" for homosexuals. On this line of reasoning, homosexuality is typically compared to such traits as blue eyes and baldness. I now understand why Prof. Minow dislikes argument by analogy. First, I would like to know if anyone has heard of any organizations whose sole purpose is to "protect our children from blue-eyed people." Second, I would like to know when was the last time someone was denied access to a rental unit for being bald.

Levey raises the issue of forcing "the employer, whose religious beliefs say that homosexuality is immoral," to hire a gay or lesbian applicant. The alleged conflict between gay rights and religious freedom is a recurring theme in the debate. I wonder why the "anti-special rights" never mention "holding certain religious beliefs" as one of those analogous conditions that would be so obviously ridiculous to protect. After all, surely one could be "Catholic" or "Southern Baptist" without acting on those feelings, right? And if an employer or landowner did not want to hire or rent to that person because she acted on her religious beliefs, could the employer be forced to do so? Consider the following hypothetical: I am the hiring partner in a law firm, and a white, heterosexual man comes in wearing a cross around his neck. His resume indicates that he has performed pro bono work for his parish church. He speaks about his wife and 2.4 children during the interview. Can I tell him that he will not be hired because he is "religious"? What if a woman wearing the Star of David interviews for the position? Could I just simply put up a sign that reads, "Religious people need not apply"? If the United States Supreme Court reverses the Colorado Supreme Court's decision, could a Denver employer put up a sign that reads, "Homosexuals need not apply"?

Since when does the constitutional guarantee of religious freedom guarantee the right to discriminate against those with whom you dis-

agree? Didn't the founders of the Massachusetts Bay Colony come to the new world to escape persecution for their religious beliefs? I wonder if the question of whether or not the Puritans were "born that way" ever entered into the debate.

One possible argument for Amendment 2 that is noticeably missing is the argument that since homosexuals are not discriminated against on the basis of sexual orientation, no protection is necessary. Amendment 2's advocates never claimed that there is no discrimination against gays and lesbians on that basis. That contention, were it to be true, would be an excellent argument against extending "special rights." The missing piece, however, is that, in fact, there is enormous evidence that homosex-

ordinances on their books and allowing bald men to seek redress when they have been wronged. Would you argue that since bald men still had the same protections everyone else has, they do not deserve "special rights"? I doubt it. Why? Because everyone else is not being discriminated against because of their hair. If all of a sudden rampant anti-blue eye-ism swept the country, the blue-eyed people would have the right to work for ordinances to protect themselves. The bald men, however, could not. What if then the bald men decided to try and pass a constitutional amendment prohibiting blue-eyed people from passing any future anti-discrimination statutes, and invalidating the ones they already have? What happens when the tide turns against people with

brown eyes?

Can't you see how quickly this becomes absurd? If we deny homosexuals the right to work for passage of anti-discrimination statutes, when do we stop? Do you really think that the voters of Aspen, Boulder, and Denver would have passed anti-discrimination ordinances because no homosexuals were being discriminated against, but they thought they would give homosexuals "special rights"? Amendment 2 is about "special rights;" however, those "special rights" are the bigots' rights to discriminate and to be protected by the Colorado Constitution while doing so.

Amendment 2 hurts everyone. Consider this scenario: two women want to rent an apartment in Aspen. When they find the one they want, however, they are told that they cannot rent the apartment, because the landowner

thinks that they are lesbians. If they are lesbians, they have no legal recourse under Amendment 2, right? What happens if they are not? Could two heterosexual women who wanted to rent an apartment together be discriminated against because someone thought they were lesbians? What would they have to do to get the apartment? "Prove" to the landowner that they are straight? How do you do that?

Imagine the uproar if gays and lesbians, fearing and loathing the growing power of religious people, sought to amend a state constitution in a way that would eviscerate the political rights of religious people to participate in the political process. And if that Amendment was passed, and the religious people brought suit, and the case went to the Supreme Court, would you protest against the firm who was defending the amendment?

I would.

Julie Kamps '98
October 15, 1995

Amendment 2 is about "special rights;" however, those "special rights" are the bigots' rights to discriminate and to be protected by the Colorado Constitution while doing so.

uals do suffer discrimination in Colorado and everywhere else. Discrimination on the basis of sexual orientation is real. It happens. When, however, was the last time someone was denied employment because he is bald? Or, was denied the right to rent an apartment because she has blue eyes?

Levey contends that "there is no basis for Lambda's claim that Amendment 2 'relegates us to the status of second-class citizens.'" "To fully comprehend that," he continues, "imagine your reaction if bald men claimed that they were second-class citizens because some state had a policy of not passing 'bald men's rights' legislation." I suggest that you should imagine your reaction if there was widespread and pervasive discrimination against bald men, and a state passed a constitutional amendment prohibiting communities WHICH HAVE ALREADY PASSED LEGISLATION PROTECTING BALD MEN FROM THAT PERVERSIVE DISCRIMINATION from keeping those

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Ancient Wisdom on Women

By Susan Weld

IN 1974, in the village Mawangdui in central China, archaeologists opening the grave of a Han princeling who lived in the third century B.C. found ancient silk books, miraculously preserved for more than 2,000 years and previously unknown to modern scholars. A chapter in one of the "lost" books is entitled "The Female and Male Tallies." At the time these scrolls were written, "tally" referred to bamboo documents used to demand performance under a contract or prove legitimacy in office; it was therefore an important symbol of the exercise of power. The first few lines of this chapter read:

"The emperor, in explaining the regular causes of good and bad luck, distinguished between the male and female tallies in order to make clear the roads leading to disaster and prosperity. The male tally symbolizes brazen pride and arrogance; the female tally, reverence and moderation.... In general, reliance on the male tally is called 'obstructing life' ... holding onto it, one will not be at peace ... one's life will be short and one's descendants few. Thus it is called the tally of evil luck, the dissipation of virtue. In general, reliance on the female tally is called 'receiving wealth' ... a rich person will flourish, a pauper gain enough to eat; holding onto it, one will be at peace ... one's life will be long, and one's descendants many. Thus it is said to be the tally of good omen, the accumulation of virtue."

Not long after this silk book was buried with its owner, a rich Confucian orthodoxy succeeded in monopolizing the philosophical stage in Han China. This work, and perhaps many others like it, fell into disfavor and were lost to history.

More than 40,000 women from around the world gathered in Beijing last month to discuss ways to "wield

Susan Weld is a research fellow at Harvard Law School.

the female tally" in the early 21st century. The Fourth World Conference on Women and its companion the Forum on Non-Governmental Organizations at Huairou, are products of at least two international lineages.

One began with the First World Conference on Women in Mexico City in 1975, to be followed by a second and third conference in Copenhagen and Nairobi, in 1980 and 1985. This year's meeting of more than 180 nations was designed to produce a detailed "Platform for Action" that would guide nations and organizations to the implementation of the "Forward-looking Strategies" drafted in Nairobi.

The other lineage began with the 1990 World Summit for Children, followed in 1992 by the Rio Conference on the Environment and Development, in 1993 by the Vienna World Conference on Human Rights, in 1994 by the Cairo Conference on Population and Development, and last winter by the Copenhagen Social Summit.

One of the great triumphs of the conference this year has been the general assumption that these two lineages converge. It is no longer possible to compartmentalize a "women's movement" and understand it as anything separate from the goal of a healthy future for all people, a future featuring peace and a clean environment, vital but sustainable economic growth, manageable populations enjoying the basics of clean water, health care, strong families and education, as well as the basic human rights and freedoms listed in the Universal Declaration of Human Rights. It is no longer possible to visualize such a future without the equal participation and equal leadership of one-half of the world's population.

Consider what the ancient author (almost certainly

male) must have intended in the silk book quoted above. He lived at the end of the Warring States period (453-221 B.C.), a time of ruthless wars and massacres, widespread extinction of states and families, vast population movements and dizzying economic and technological change. His modest prescription for saving the world, put in the mouth of a primeval emperor (as was usual in his day) was to abandon the aggressive and self-seeking policies of conspicuous consumption and ritual and military excess for more yielding policies of moderation and preservation.

His use of the "female tally" to symbolize this program did not mean that women were to take over, that men had to fear displacement, or even that women were necessarily to have a higher or better place in his new world order. He simply seems to have felt that women, perhaps "female culture," offered a better model for statescraft if his world was to survive.

The women of the meetings in Beijing this year demand more, of course, on behalf of the women of the world. But the convergence of their rights and interests with

those of all people in a future healthy world hints at what women can offer in achieving that goal. Men and women together may be learning how to wield the "female tally" to get from here to there.

There is a warning, however, in the fact that this Mawangdui book was so soon to be defined as heterodox, neglected and its faint voice ultimately lost to future generations. Progress is not, as some have hoped in the past, inevitable; the story does not end with the meeting of minds in Beijing and Huairou. Men and women who want that healthy future will have to remember the message and work to make it begin to come true.

It is no longer possible to compartmentalize a "women's movement" and understand it as anything separate from the goal of a healthy future for all people...

• Letters (cont.) •

Alum Says Dershowitz Should Not Be Allowed to Exploit the Harvard Name ...

Dear Dean Clark:

I am a graduate of the Law School, Class of 1960, cum laude. I am writing to complain about the public statements of one of your employees, Prof. Alan Dershowitz.

First, I want to make it very clear that I believe, notwithstanding how loathsome the criminal or the crime, every defendant has the right to a competent defense. I also believe that criminal defense attorneys have the right to speak out publicly about what they perceive may be injustices done to their clients. But what I object to strongly is the use by Prof. Dershowitz of the name of the Harvard Law School to promote his private money-making criminal practice, including his incessant appearances on the leading national talk shows. He uses these shows to voice his many misstatements and outrageous opinions (such as that police academies routinely teach police officers to lie and manufacture evidence).

It is the persistent conjunction of the name Harvard Law School in all of Prof.

Dershowitz's appearances, advertising his wares, that I find thoroughly objectionable. It is your responsibility to put a stop to it. Who else but you is the guardian of the name the Harvard Law School? I believe your legendary predecessors, including Dean Roscoe Pound and Dean Erwin Griswold, are turning over in their graves at the spectacle of Prof. Dershowitz's exploitation of Harvard Law School's name to promote his legal services, his books, his personal appearances, and his other commercial activities. I would object to this travesty even if the professor were to give Harvard a royalty for the use of the name, as he should.

To show you that my love of the Law School is sincere, I am enclosing a check for \$1,000, payable to the Law School, to be spent any way you decide. I have made these donations in the past, and I hope to continue to make these donations in the future. But, this time I am asking you a favor: please invite Prof. Dershowitz into your office and hand him a copy of this letter to read in your presence. I can only

hope, too, that you will look into, and put a stop to, his exploitation of the name of Harvard Law School.

Mine is the class of Mr. Justice Scalia, Sen. Sarbanes, William Ruckelshaus, Gov. Dukakis and many other distinguished sons of the Law School. I cannot but believe that they would agree with this letter. Please take this matter into your hands personally. I will not rest easy until I can have your assurances.

If, however, I continue to be disappointed, I will be talking to other of my classmates, whom I am consulting, and we will then be required to commence an organized effort. Hopefully, this can be dealt with by you, as it is your proper responsibility.

Thank you for taking the time to read this letter. I know you have a very hard job, and I don't envy you. The reports I have received, however, are that you are doing an excellent job to protect and preserve our proud and historic heritage as the greatest law school in the world.

Jerome E. Weinstein '60
September 5, 1995

... And Dean Says Prof. Only Speaks for Self

Dear Mr. Weinstein,

First, I want to thank you for your generous gift to the Law School. In light of your complaint about Prof. Dershowitz, your support is particularly generous and most appreciated.

We have received a large volume of mail addressing the various issues of Prof. Dershowitz's participation in the Simpson trial. I should say that Prof. Dershowitz, who is a tenured member of the Law School faculty, speaks for himself and does not represent Harvard University or its Law School. As a matter of fact, various faculty members here

disagree with some of his public pronouncements.

Nonetheless, as Prof. Dershowitz conducts his personal affairs, he is free to communicate his association with the School to others.

Harvard is committed to upholding the basic tenets of academic freedom and free expression for all members of our community. According to the principles of academic freedom, professors may express their views without institutional interference. Accordingly, it is not the policy of the University to monitor the writings or speeches of faculty members. In addition, Law School professors are per-

mitted to devote a specified amount of time to outside activities, and the School's deliberate policy is not to evaluate the character or control the identity of the persons whom they choose to represent.

Thank you for writing to me about this important matter. While I appreciate your disagreement with Prof. Dershowitz, I hope your generous support of the Law School continues. It does make a difference in helping to maintain the institution's excellence in teaching and scholarship.

Dean Robert C. Clark
September 29, 1995

"Union-Busting" Claims False, Outdated

This letter is in response to the recent propaganda released by the so-called Labor Law Project advocating a boycott of law firms that allegedly engage in "union-busting." This propaganda is utterly false and reprehensible and reflects a fundamentally flawed notion of what labor law is about.

The National Labor Relations Act is designed to permit the workers to freely choose between union representation and forgoing such representation. To the extent that these firms, including the firm that I worked at last summer, provide information to the workers that occasionally persuades them to reject unionism, these actions are perfectly consistent with ethical legal representation. Yet the radicals at the Labor Law Project would falsely characterize these acts as "union-busting," utilizing intentionally deceptive and emotionally loaded word games to malign these firms.

The truth is that the decline in union representation indicates the increasing realization of the workers that unions are bad for workers. First, unions tend to serve their own interests, rather than their members. The Teamsters' massive and expensive bureaucracy cares a lot about their own fancy cars and salaries but does not care about the workers at the local plant. Unions are legendary for waste, inefficiency and corruption, and workers are starting to realize that unions aren't worth these costs.

The radical extremists at the Labor Law Project still have not figured out that we no longer live in the 1800s. The workplace is one of the most heavily regulated areas in existence, and unions are no longer needed to ensure job safety. The Labor Law Project simply has no clue about how modern labor law actually works, desperately clinging to images of Pinkerton's beating up work-

ers that are pure fantasy solely to advance their extremist ideologized agenda.

In 1995, unions are like dinosaurs stuck in a tar pit. Their last struggles are loud and desperate, but their fate is sealed. It is unsurprising that this desperation manifests itself by activists blaming a natural evolutionary process on a sinister conspiracy by "union-busters." Sophisticated law students should not be deceived by the Labor Law Project's attempts to market their fantasy world as reality.

Kerry P. Hastings '96
October 16, 1995

P.S. It is surprising that the Labor Law Project knows anything about the working environment at these law firms to be able to condemn it. I did not notice any Labor Law Project members at my firm last summer, which had a very pleasant work environment. Curiouser and curiuser!

Theft of SLLR Box for Rebate Letters Cowardly

On October 1, the Society for Law, Life and Religion placed a notice in every student's Harkbox explaining Harvard's policy allowing students who morally object to funding abortion to receive rebates of that portion of their mandatory health services fee that goes towards funding abortion. We placed a cardboard box in the Hark to collect rebate request letters. On October 5, after letters had been placed within, the box was stolen. We would like to respond to the individual(s) who stole our box.

You received our notice in your Harkbox along with everyone else: "Rebates are available from Harvard for those with moral objections to abortion. Just sign this letter and put it in the SLLR box in the Hark."

We made

tion available as a public service for those who do have objections to abortion. We didn't ask you to agree with us, or even to read the notice. We did expect that you would respect our right to convey our point of view. We did expect that you would refrain from pure theft.

We don't mind public debate. In fact, we welcome it as a chance to explain our position that abortion is a grave moral evil and that those who support it taint themselves with the same immorality displayed by those who practice it. But for some reason, you refused to engage us in a debate. Perhaps you did not want our point of view to be spread further.

Instead, you stole our box. Too cowardly to disagree publicly, you decided to shut

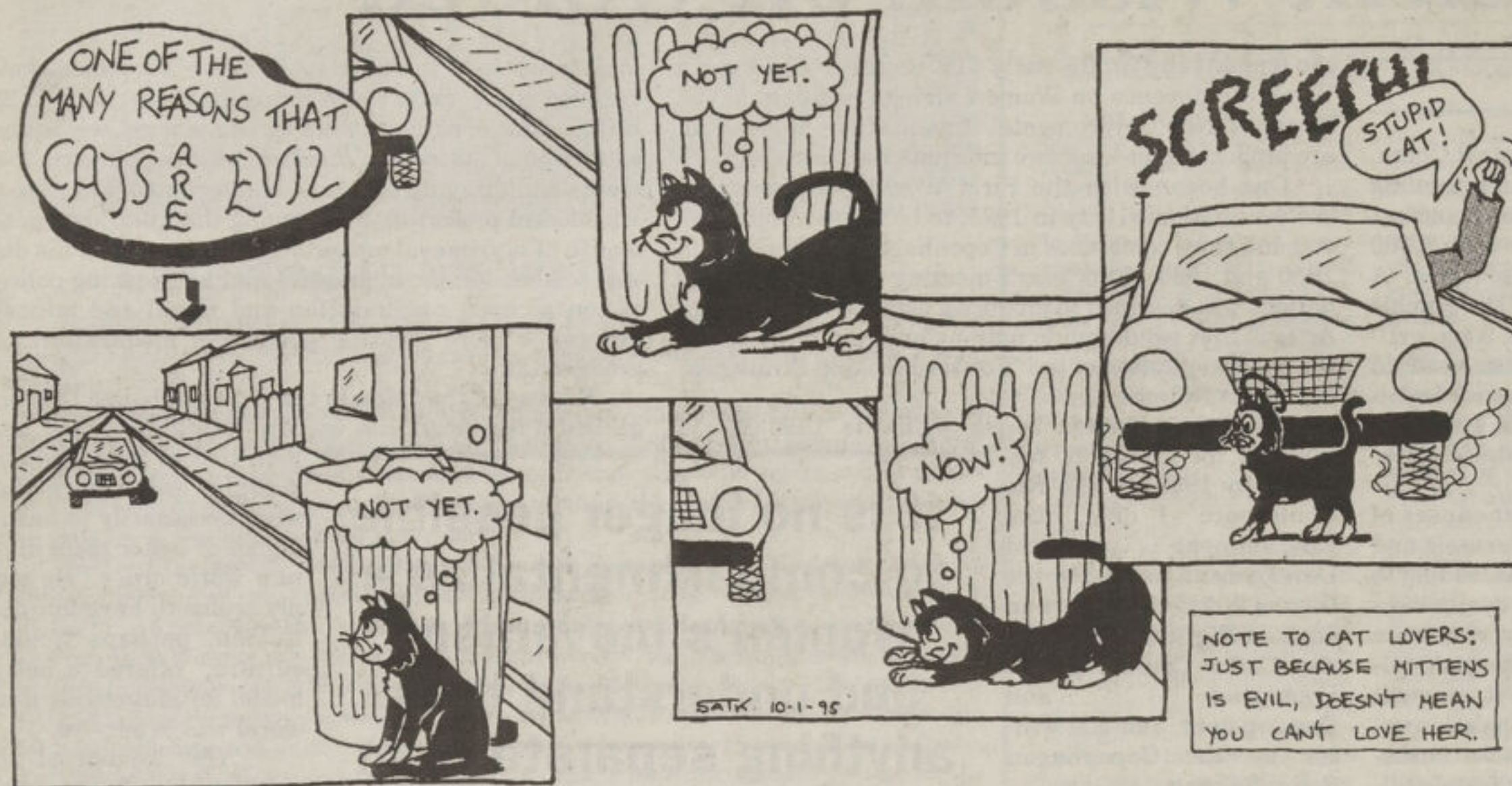
us down by stealing our box and preventing those who do object to funding abortion from sending that message to Harvard.

We were both outraged and saddened to discover your theft. This is Harvard Law School; we are all adults, all educated, all able to articulate our positions. There can be no excuse for your behavior. This theft was an offense not only against the law but also against the community we share. We hope that the rest of those who read this letter will join us in condemning your behavior.

Louisa Oliver '97
Patrick Lannon '96
David Lester '97
Jonathan McCants '97
Jim Sonne '97
The Officers of SLLR
October 15, 1995

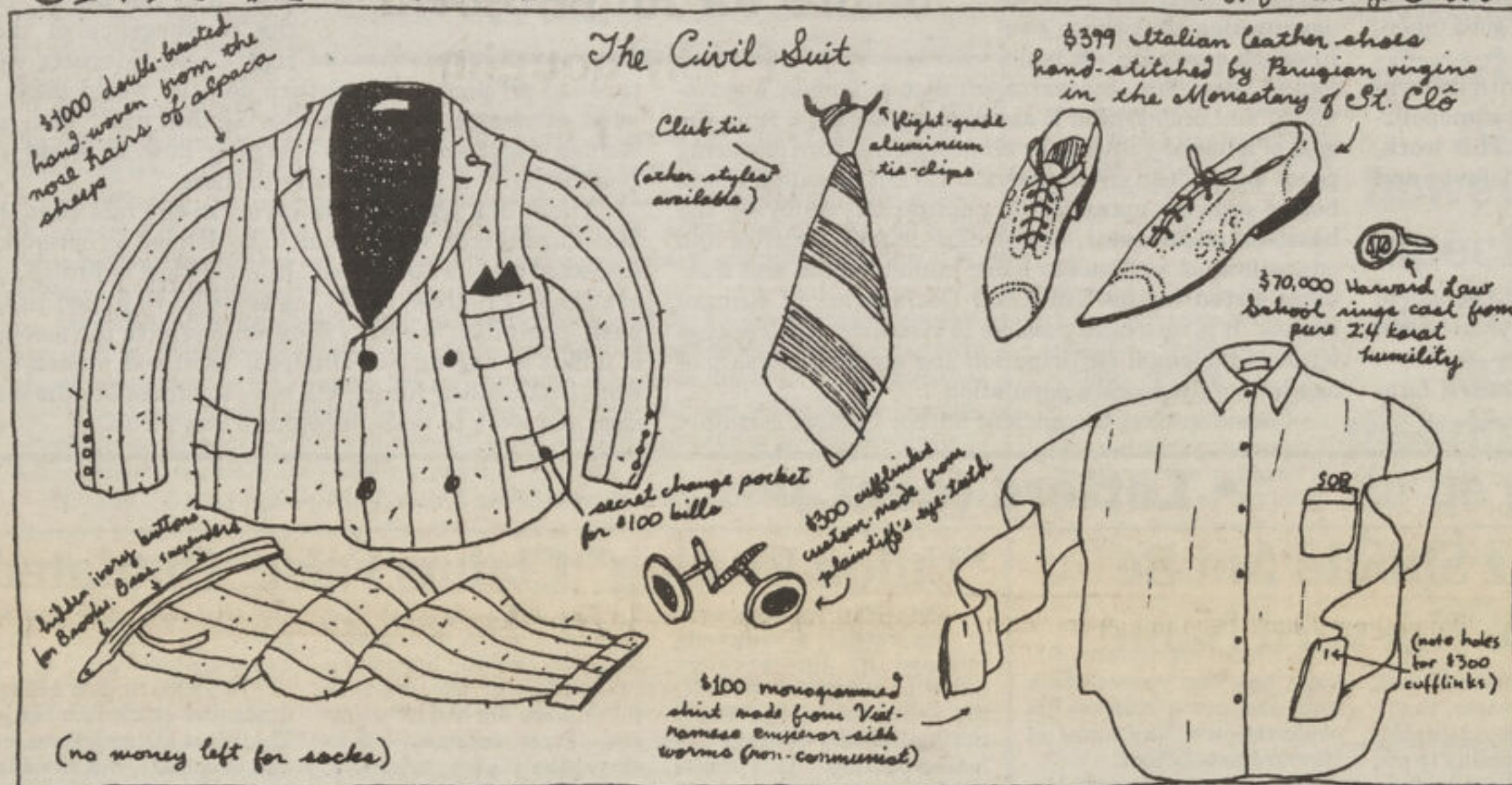
Temporary Insanity

By Sheila Tuller



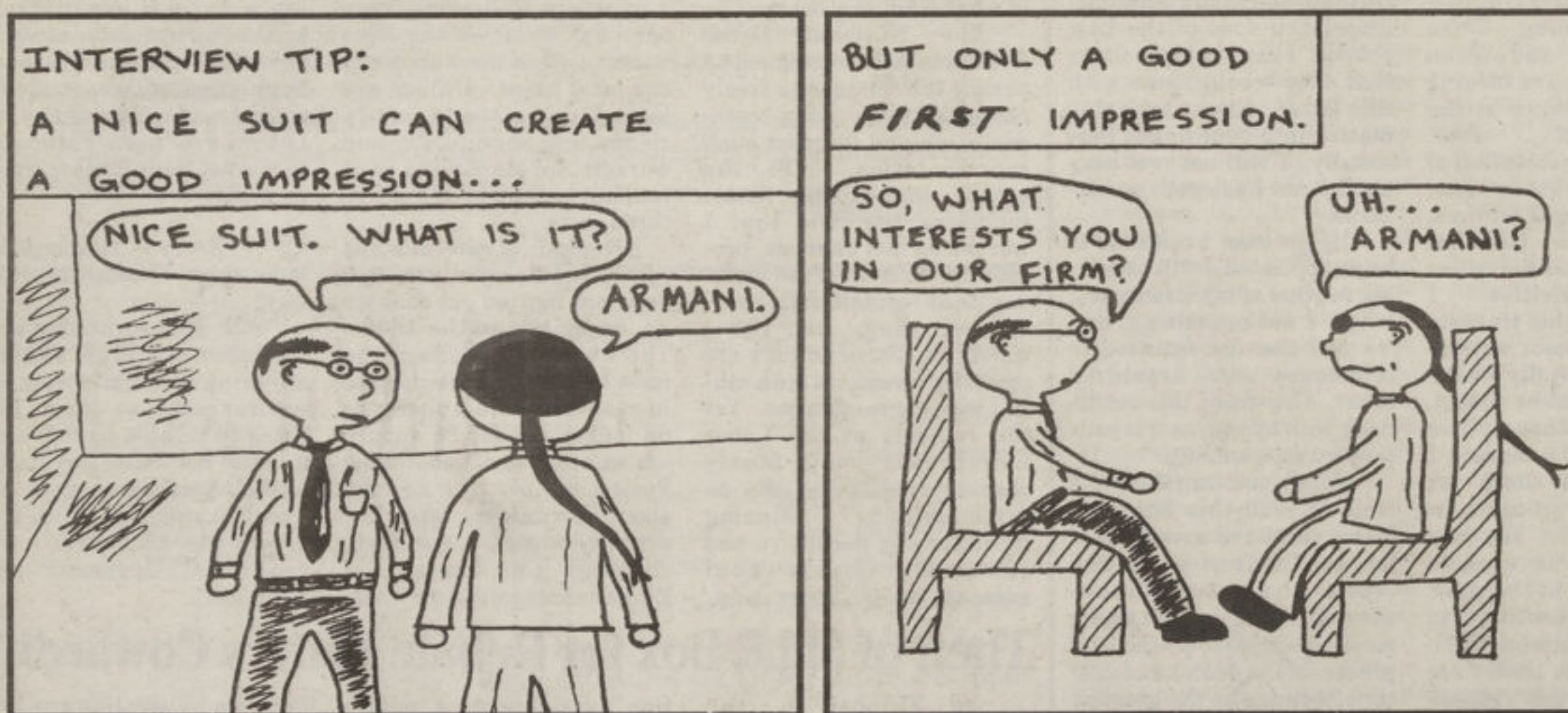
Civil Procedure

m. j. kelly © 1995



Backbench

By Brian Cheng



Ad Hominem

By Stuart Rees and Bill Zimmerman



CALENDAR

Vision of Hell

By Colin Meeder

Let me share with you a recent glimpse into the abyss. It was one of these lovely brisk fall mornings as I made my merry way from my Cambridgeport apartment to the Law School. Suddenly, I espied two charming young girls on their way to a nearby elementary school, holding hands and skipping, singing "I went to the Animal Fair, the birds and the bees were there . . ."

All very adorable, right? So I thought, until it suddenly became apparent to me that these little girls were keeping pace with me without ever stopping their chant. It continued, ever more loudly, frantically, insanely — "The elephant sneezed, and fell on his knees, and whatever came of the monk, the monk, the monk . . ." After about ten minutes of this, I was damn well ready to *show* them what happened to the friggin' monk. Fortunately for us all, our paths parted, and no one was killed.

When I replay this event in my mind, I can no longer hear the little girls — instead, I hear **Crispin "Hellion" Glover** singing. You remember him as Michael J. Fox's dad in "Back to the Future," or freaking out on David Letterman's show? Well, if you've never heard his music or seen the sickness that passes for his performance art, you may wish to check out his "Big Slide Show" at Mama Kin (351-2525) tonight (Th., 10/19). I, however, fear his madness too greatly, and will instead check out the rock brilliance of **Babe the Blue Ox** at TT the Bear's Place (492-BEAR). This is a band on the rise, and one of the best live acts I've ever seen. Pretty, crazy, noisy, crunchy pop for smart people. Come early, 'cause the opening acts — **Syrup, The Mommyheads** (yeah!), and **Resolve** — also rock most fiercely.

Jonathan Richman, who's been writing and performing heartbreakingly perfect (if a little weird) pop songs for decades now, begins a three-night stand (10/19 - 10/21) at the Middle East (497-0576). Saturday night (10/21) brings the **Fleshtones** to TT the Bear's. Peter Zaremba's ultimate bar band simply grow fiercer with age. Opening are **Prime Movers**, **The Dancing French Liberals** of '48 and **Black Barbie**.

Sonic Youth are touring behind "Washing Machine," their strongest album since 1989's "Daydream Nation." Fly with them to realms of Sonic Bliss on Sunday (10/22) at the Orpheum (931-2000). **Helium** opens. If, however, you prefer your flights to be of funk rather than feedback, **George Clinton & the P-Funk All-Stars** are throwing down that same night at the Roxy (338-7699).

I think **Paula Poundstone** is terrifically funny; however, she reminds me far too much of my terrifying ex-roommate for me to see her at Sanders Theater (6-2222) on Monday (10/23). I have no such qualms with the delightfully mellow, if sometimes middle-of-the-road, **Grover Washington, Jr.** at Scullers (562-4111) the same night.

Mush-mouthed Philadelphia pseudo-rapper cum fake bluesman **G. Love** brings his **Special Sauce** to the Somerville Theatre on Wednesday (10/25). As we all know, special sauce is fake stuff dripped on fast-food that is utterly unwholesome, though nevertheless irresistible.

Coming up: **Superchunk,**
Emmylou Harris, **Joan**
Armatrading. Surely y'all can find
something better to do than study!

Of Doughnuts and Damnation

By Markus U. Hartmann

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation. — ABA Model Rule 2.1



SARAH Weddington, Linda Coffee, and Val Vojdik. Not exactly household names around these parts, but they should be.

Academics and the media have a penchant for short-hand. Because of this leaning, most of us immediately recognize the names Jane Roe, Norma McCorvey and Shannon Faulkner. Sarah and Linda supposedly worked for Jane/Norma, and Val was looking out for Shannon.

Sarah, Linda, and Val have not received much attention recently despite the fact that they are all lawyers associated with two events that occurred this past summer. Lawyers, like doctors, tend to shy away from publishing win-loss records, but this summer's events can only be characterized as losses for abortion-on-demand types and those who believe that feminism requires the breakdown of anything that is all-male.

It was big news when these lawyers won in the courtroom. By winning in court, not only did they vindicate the immediate interests of their clients, but they also won major victories for "the cause." More often than not, "the cause" is a political one. When the democracy frowns on your cause, these lawyers learned the all important modern lesson: Don't get mad, take 'em to court.

The courtroom part requires at least three years of law school and admission to the bar. After that, gaining legal experience at the expense of the client is one of the costs of doing business. It may be asking too much, but the ABA suggests that lawyers also consider the "moral, economic, social and political factors, that may be relevant to the client's situation." On that scorecard, Sarah, Linda and Val came up a little short; perhaps they were gaining political experience at the expense of their

clients.

This summer, Norma McCorvey, the Jane Roe of the infamous *Roe v. Wade* decision, quit her job at Dallas' A Choice For Women clinic, announced that she had been baptized a Christian and started volunteering for Operation Rescue. One of Norma's lawyers, Sarah, was so stunned by the decision that she was quoted by Time magazine saying, "When I first heard about it, I had to sit down." A more attentive lawyer would not have been so surprised. When Norma's case was ultimately decided by the Supreme Court, Norma learned about the victory from the newspapers, not from her attorney.

The ABA recommends that lawyers render candid advice. It is difficult to hold politicians accountable when there are no elections in the offing, but the ABA recommendation does give us a standard of accountability for lawyers. Norma McCorvey went public last summer with a tragic tale of being a pawn in a political chess match. Norma's story should be of at least a passing interest to law students.

Candidly speaking, Norma was not the ideal feminist icon. She holds no advanced degrees, and has a history of drug abuse. On the feminist icon spectrum (with Anita Hill at one end and Paula Jones on the other), Norma is much closer to Paula. Because of her lowly stature, neither Sarah Weddington nor Linda Coffee, who were supposedly representing her, bothered to let her know that the Supreme Court had decided in her favor. At the 20th anniversary party for *Roe*, no one bothered to invite Norma.

Norma's defection resulted in part from her lawyers never being candid enough to tell her: "Look, this case isn't about you; it's about changing America's political landscape by judicial fiat." Sarah and Linda were political lawyers who let their client fall through the cracks. Norma came back 23 years later and gave their political movement a body blow.

Shannon Faulkner's lawyer was also involved in

things political. When Shannon announced that she was quitting the Citadel, her lawyer Val Vojdik was quoted saying, "If the Citadel thinks it can solve the problem through Shannon's leaving, they're dead wrong." From the outset, Val was more concerned with the Citadel's problem than with Shannon's.

Long before Ms. Faulkner started Hell Week, one wonders if Val took the time to meet the client. If Val had had regular meetings with Shannon and was even remotely aware of what the client was getting into, the plaintiff's corpulence should have raised the attorney's concern. Candid advice, taking other factors into account, may have gone something like this: "Hey Shannon, why don't you put down that jelly doughnut and go for a run."

Shannon's lawyer had an obligation to tell her that thousands of women have graduated from the nation's service academies. They achieved that feat by showing up prepared to meet the challenge. Shannon did not show up prepared, and at 19, it was not completely her fault. Maybe if she had been a little more concerned with the client, Val could have told Shannon the obvious facts surrounding the requested relief. To paraphrase a well worn truism: If you can't run with the bulldogs, stay on the porch.

"Hey Shannon, why don't you put down that jelly doughnut and go for a run."

Comment [1] to Rule 2.1 warns that "a lawyer should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the client." There is no doubt that Norma would not have

liked hearing what her role was in *Roe*, but she needed to hear it anyway. Had her attorneys been a little more concerned about the client and a little less concerned about politics they could have avoided the political defection that, at a minimum, has not helped their cause. Shannon's lawyer had a much simpler mandate under Rule 2.1, but she was obviously too busy to notice.

In both cases, the client was subordinated to the political. The lawyers were more political than professional. By winning in court, they achieved a short term quasi-legal victory. Those victories were cold comfort to Shannon and Norma and were politically shortsighted.



Fenno was excited. He'd always been a big fan of Lee Majors; the day they took the Six Million Dollar Man off television was one of the blackest days in Fenno's childhood. Now, almost 15 years later, people were at last rallying to bring back the series. At least Fenno assumed that was what people were rallying for: what else would a "Million Dollar Man March" be for?

Apparently, Fenno was not the only one missing Steve Austin; posters were up all over school advising people to skip school and take a bus to Washington, D.C. for the event. Fenno wasn't in the habit of going to school in the fall anyway, but it was nice to have an excuse for once. Not having enough money for a bus, Fenno hitchhiked and arrived late in the day.

The grounds in front of the Capitol were crowded with fans of the series. Fenno raised his "Goldman Rules" poster and pushed his way to the front, hoping to catch a glimpse of Farrah Fawcett Majors. He'd taken his faded Farrah poster down from the ceiling over his bed and brought it with him in hopes of getting it autographed.

He was soon confronted by a stern-looking official in a tuxedo. "What is the meaning of this sign?" the man asked. "Don't you know this event is about the Black Man?"

"You're thinking of some other series," Fenno said. "Steve Austin's boss was Oscar Goldman, not Blackman. By the way, have you seen Farrah? Or Lindsey Wagner?"

The man in the tuxedo looked confused.

"You know, the Bionic Woman," Fenno explained patiently.

His explanations not seeming to have any effect, Fenno pushed his way past the fellow in search of a better view. He soon came up to a group of high school students. Trying to be friendly, Fenno greeted them.

"You all must have been in diapers when the Six Million Dollar Man was on TV. What brings you here?"

"We're here to hear Minister Farrakhan speak," one replied. "What are you doing here?"

"I'm trying to get Farrah Fawcett Majors' autograph," Fenno admitted, "but I haven't been able to locate her yet. If I can't find her, I hope I can at least see Lee Majors."

"You do realize that this is a gathering of black men, don't you?" the student asked.

"Lee Majors is black?" Fenno exclaimed, "I didn't realize that. Boy, it has been a long time since I saw the series. I can't believe I never noticed that before."

The students gave Fenno a strange look and tried to be inconspicuous as they edged away from him.

Fenno turned his attention to the man speaking at the podium. He couldn't hear everything, but it was something about the number "19." Fenno assumed he was referring to the fact that the Six Million Dollar Man first aired 19 years ago, in 1976.

When the man at the podium finished speaking, there were long applause, and the group began to break up. Fenno hitched a ride back to Boston, happy to have done his part to support a part of TV history, but saddened that he hadn't gotten his poster autographed. One thought nagged at him, though, as he returned from the Million Dollar Man March:

"How could I have not noticed that Lee Majors is black?"

Quote of the Week

"That's all we have time for today. We have got to move on."

— Dean Clark, after a five minute discussion about public interest funding.

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REASONABLE WOMAN

Who Should Make the Sacrifice?

By Linn A. Brady '96

RECORD Columnist



THE American Lawyer recently published the results of its nationwide survey of summer associates. The editors noted that respondents wanted to "peer through the glitz of free lunches, sports tickets, country club outings, and mock trials" in order to "see whether life at a large firm — any large firm — [was] the best option nowadays for lawyers in training." After reading the results of a recent survey published by the Women's Law Association, the answer to that question, at least for female attorneys, may be a resounding "No."

Presumed Equal: What America's Top Women Lawyers Really Think About Their Firms paints a distressing picture of what life at a large law firm involves for female attorneys. Surveys sent out by the WLA indicate that a woman's prospects for progress and advancement, as well as the opportunity to work in a comfortable environment at a large firm, are mixed at best. This troubling conclusion is based on the fact that women's choices in balancing their personal and professional lives at large firms appear to be mutually exclusive: a woman can have a career if she completely sacrifices her personal life. If she chooses to devote time to a family, she will be shunted off the partnership track.

According to survey respondents, the typical pattern is that a woman will work

Are women really asking for too much when they demand flexible work schedules, part-time work and other accommodations to allow them to work and have a family? Is this undeserved special treatment?

at a large law firm for roughly 3-5 years and then make a decision to continue or to have a family. Those who attempted to do both quickly learned that flexibility in work schedules was difficult to find, and many attorneys reported that working part-time permanently removes an attorney from partnership consideration. Many women noted that the mere act of having a child was treated as an act of disloyalty and that they were "punished" by being treated as someone who was "less committed" to the firm and not a "team player." Some women discovered that a new position was created for the woman who was off the partnership track: "of counsel," a junior position that often offers little or no hope of advancement.

Are women really asking for too much when they demand flexible work schedules, part-time work and other accommodations to allow them to work and have a family? Is this undeserved special treatment? The short answer to these questions is probably based on economics. Can a firm that provides these arrangements still compete with firms that do not? One can argue that firms cannot afford to allow attorneys to work part time or to have flexible hours because of the very nature of legal work and the demands that it places on an attorney. Legal work, so the argument goes, requires continuity in the attorneys that staff a case. The deadlines that cause attorneys to work around the clock can't be changed and are an inevitable part of the work. Therefore, those female attorneys who want to work at a large firm have to make sacrifices, and if they do not want to make them, they should look elsewhere for employment.

The difficulty with that argument is that it ignores the fact that historically the duties and obligations of raising a family have been placed on women while the expectations for what a good lawyer is have been defined by men with wives at home. In a sense, men and women are not starting from the same position. Male attorneys often find themselves in a better position to work the 80-hour-plus week because childcare responsibility is borne by their spouses. Men make a sacrifice as well because they do not have the opportunity to spend time with their families. But if women are expected by society to take charge of both family and work, then it is arguably unfair to demand that they either make the "sacrifice" of forgoing the opportunity to work at a top law firm or to "sacrifice" by working there without any accommodations and then be punished by being denied partnership. Fairness demands that firms "sacrifice" some profit in order to provide certain adjustments, such as part-time hours or on-site daycare. Why should a firm be concerned with anything other than the bottom line? Quite simply, firms make such decisions all the time, whether it be allowing associates to pursue pro bono matters or allowing attorneys to take time off for government service. Further, certain benefits, such as on-site daycare, assist both men and women and may result in increased overall efficiency because they eliminate one concern of working parents.

Perhaps, as the editors of the Presumed Equal note, the best hope for women attorneys is that the results of the surveys will allow women to be more selective about the firms for which they choose to work. If firms cannot recruit top law school candidates, so the theory goes, they will be forced to make changes to accommodate women's needs and demands. However, without affirmative steps being first taken by law firms, I am not overly optimistic about the prospects for change. Deeply ingrained beliefs about the role of women in society are notoriously difficult to alter, as the decision of one top firm to take male summer associates to a nude dancing show as a firm social event so painfully indicates. The WLA survey results are deeply demoralizing because they indicate that the formal trappings of equality that women have fought for are not enough. Indeed, the victory is bittersweet: at the same time that women earn the same salaries and perform the same work as their male counterparts, they encounter barriers to advancement that seemingly defy all attempts to tear them down. Women, who make up approximately half of all law school graduates and who invest thousands of dollars in their educations, cannot reap the rewards of their efforts. Instead, female attorneys are being sidelined and prevented from reaching the highest peaks of the profession.

QUEER VIEWS

Don't Ask, Don't Tell

By Scott Wiener '96

RECORD Columnist



THE United States Marine Corps may soon be recruiting at Harvard Law School. Over the summer, the Placement Committee reversed its previous position and decided that the Marine Judge Advocate General could make an official recruiting presentation to HLS students. It made this decision despite the fact that the Law School has absolutely no legal obligation to allow the military to recruit here. To allow the Marines to come to HLS on an official recruiting visit is both a slap in the face to gay, lesbian and bisexual HLS students and a blatant violation of the Law School's anti-discrimination policy.

To allow the Marines to recruit at HLS is an insult to gay, lesbian and bisexual students because the Marines, as part of the military, enforce the ban on openly gay members of the armed forces. In fact, the Judge Advocate General (the legal branch of the armed forces and the branch that may be recruiting at HLS) is specifically charged with enforcing the ban. Over the years, the ban has led to witch hunts and mass purges in which military investigators have interrogated anyone even suspected of being gay, lesbian or bisexual and have expelled them from the armed services. In so doing, they have blackmailed those suspected of being gay, lesbian or bisexual into revealing the names of other gays, lesbians and bisexuals. They have even gone so far as to "infiltrate" gay bars to find out whom they might snare. In their zealous enforcement of the ban, they have not hesitated to destroy careers. The military's policy on gays, lesbians and bisexuals has been disturbingly reminiscent of the inquisitorial tactics of the House Committee on Un-American Activities.

In 1993, Congress codified the ban on gays, lesbians and bisexuals (which had formerly been an executive order) under the nickname "Don't Ask, Don't Tell." Under this allegedly more liberal approach, the armed forces are no longer supposed to conduct massive witch hunts. Instead, they are only to investigate and purge gays, lesbians and bisexuals who actually have the temerity to admit that they are not straight. Such an admission will lead to a presumption that the individual is engaging in "homosexual conduct," which means that he or she is sleeping with someone of the same sex. In reality, "Don't Ask, Don't Tell," differs little from the former policy. Witch hunts and blackmail still occur, and careers are still destroyed.

The Placement Committee made its decision against the backdrop of the Law School's anti-discrimination policy. HLS's anti-discrimination policy states that:

[t]he Harvard Law School does not discriminate against any person on the basis of race, color, creed, national or ethnic origin, age, sex, sexual orientation, marital or parental status, handicap, source of income, or status as a Vietnam-era or disabled veteran in admission to, access to, treatment in, or employment in its programs and activities.

Until now, employers who were unwilling or unable to sign the anti-discrimination policy were prohibited from officially recruiting on campus. For example, if a firm instituted a policy that only married people could work for it or that no Jews could make partner, HLS would bar the firm from campus.

Because the military has an official policy of discrimination, it has never been allowed to recruit here. But the Placement Committee has apparently decided to carve out an exception to the anti-discrimination policy. One wonders whether this new exception — which has absolutely no basis in the policy's text — applies just to the military or if the Placement Committee has decided to read the words "sexual orientation" out of the policy. In either case, the committee's action is without justification since it flies in the face of an official Law School policy. Unfortunately, the committee has given no reasons for its action. Instead, it has simply made its decision and acted.

Despite the Placement Committee's failure to provide a rationale for its action, several could be advanced. None of these rationales, however, is valid. One could

To allow the Marines to come to HLS on an official recruiting visit is both a slap in the face to gay, lesbian and bisexual HLS students and a blatant violation of the Law School's anti-discrimination policy.

argue that students should have the right to choose with whom they interview. Of course students should have that right. In fact, they do have that right. Yet just because students have the right to interview with whomever they please does not mean that discriminatory employers should be allowed to recruit on campus. After all, not everyone at HLS can interview with the Marines. As a gay man, I am automatically excluded. So is every other gay, lesbian or bisexual person at the Law School. HLS has every right to tell employers recruiting on campus that they may not arbitrarily exclude members of the Law School community from consideration for employment. It has exercised that right by drafting an anti-discrimination policy and, at least until now, by applying it to all recruiters.

One could also argue that the Marines are not violating any law by adhering to the ban. However, the ban's legality under federal law is irrelevant, since it violates the "law" of Harvard Law School.

Finally, one could argue that it is simply not as important to protect gays, lesbians and bisexuals from discrimination as it is to protect other groups. Unfortunately, this is the only rationale of which I can conceive to explain the Placement Committee's decision. Yet even if the Placement Committee decides that it does not care about discrimination against gays, lesbians and bisexuals, it has absolutely no authority to amend the Law School's anti-discrimination policy to allow such discrimination to occur on campus.

Fortunately, Dean Clark and June Thompson have indicated that the Placement Committee will reconsider its decision. Having dealt with Dean Clark and June Thompson on several occasions, I know that they are open-minded, well-intentioned individuals. I trust that they will do the right thing and enforce the anti-discrimination policy by prohibiting the Marines from recruiting at HLS. Until the committee does reverse its decision, however, I am left with the reverberating question of why the committee did what it did.

Students Looking to Consulting

continued from JOBS, page 1

One 2L looking into consulting firms this year said that she "didn't find law firm work that intellectually challenging, but [rather] more repetitive." Consulting, she felt, was an alternative that offered more varied and difficult work.

Furthermore, she remarked that consulting was more apt to be appreciated by the client than was legal work, which was "more like laundry — just something that had to be done."

Another 2L, who said he was still considering legal work, remarked that con-

sulting was attractive as an alternative career choice that at least merited investigation. He attributed his interest to his feeling that consulting work would be "more rewarding, offer more client contact, and allow [him] to work on problems more directly."

The 3L mentioned above said that while he was satisfied with his summer's law firm work, he felt that consulting work would be more open-ended and "more creative."

Susan Littlefield, recruiting director for the Boston Consulting Group, noticed similar student concerns. "Many students working over the summer with law firms dealt with business problems but were interested in broader questions than it was their role as lawyers to help out with."

She said that because students "see consulting as something offering a breadth of experiences" and the flexibility to deal with issues beyond discrete packages, they turn to consulting when firm practice seems constraining.

A number of students indicated that

their interest in consulting work stemmed from an interest in business matters that predated their decision to come to law school. One 3L who said she was planning to go on to business school indicated that she saw working in consulting as aligned with this intention. Other students noted a connection between their decision to look into consulting work and their interest in corporate or finance law.

Thompson said that for students who come to law school thinking that they will not practice law or "for those not really sure of what career path" they will eventually follow, consulting offers an attractive substitute for legal careers. She remarked that "some students who express interest do not really know what consultants do."

For those students not settled on legal careers, the growing number of "examples of people [from HLS] going to McKinsey and doing well here" has helped to channel interest toward consulting, said Mendelsen.

Thompson also said that some of the increase in interest may have resulted from

McKinsey's changing its recruiting procedures this year. The standard recruiting process for consulting firms, she said, focuses on distributing materials, giving presentations and collecting resumes from interested students which would then be referred to after the consulting firms had conducted their main recruiting at business schools later in the year.

McKinsey's switching to on campus interviews this year made its recruiting schedule more accommodating to students at the Law School and consequently may have prompted some of the applications, said Thompson.

"Some students who express interest do not really know what consultants do," said June Thompson.

Why I Support the Million Man March

By Kimberly Jenkins '96

Guest Columnist



LAST Monday, more than 1 million black men responded to the call of the Minister Louis Farrakhan, the Rev. Benjamin Chavis and others, to participate in the Million Man March. The march drew black men, and a few women, from throughout the country to support the need for atonement within the African American male community. Even before the march, it drew negative press and public reactions; now in the wake of the phenomenally successful, inspiring, transformative gathering, it continues to receive a mixed response. However, I think many people misunderstand the significance of this historic occasion.

Yesterday, a close friend asked me why this march was occurring. I explained to him that there is a crisis within the black community, particularly among black men. I told him of the dismal fact that among black men aged 20 to 29, more black men are in our criminal justice system than in college, and that within our communities we are battling crime, drugs and inadequate education. And I explained that while the entire black community faces many crises, some of our crises are unique to black men, such as much of black-on-black crime.

Therefore, I support the march for many reasons, as it strives to address these problems. First, I support the march because I agree with the Bishop W.C. Walker of the A.M.E. Zion Church, who said, "We have failed ourselves and our people." In addressing the sea of black male faces, the bishop recognized that black men have often not lived up to their responsibilities to themselves and our community, to raise their children, to reach out to their brothers and sisters in love rather than in violence, to resist the vices of this world and to obtain the education and resources that would enable them to succeed. The Million Man March was called as a day of atonement to encourage black men to repent of these sins against themselves and our community. Throughout the march, speakers representing diverse religious and social segments of our community reemphasized the need for "atonement, reconciliation and responsibility." Consider briefly how often one sees former gang members on national television repenting of their sins against our community and encouraging black men throughout this country to do the same. Such behavior is unprecedented. Consequently, I support this march because I think this time of introspection and atonement is necessary for us to move forward.

As a Christian, I regret that the predominant organizer of the march was not one of the Christian members of our community. As a Christian, I also know that eternal forgiveness is only through Jesus Christ. However, I rejoice at the recognition of the wrongs committed against our communities and pray that this march will be the beginning of a positive change within our community. Furthermore, I recognize that within my generation, no Christian leader has had the foresight to organize and execute such a march. In addition, I was encouraged by the inclusion of clergy members of various faiths. Therefore, in choosing between no march and this march, I choose the latter.

I also support the march because I believe that the African American community must recognize the need to take action to make improvements within our community. As one speaker stated, "Black America needs a wake-up call, and this is it." For too long we have observed and lamented the violence and destruction within our communities without dedicating ourselves to making our communities safe and decent places. This march did not ask Congress or the president for increased aid to the black community, changes in civil rights laws or any other government-sponsored solutions. This march did not embrace such goals because White America cannot go to college for the black community, stop black-on-black crime or take responsibility for our black children. The African American community must do these things on our own. This march is a recognition of this reality that is long overdue.

In addition, I support the march because it not only recognizes the need for action, it challenges the African American community to move beyond recognition and take action. Farrakhan encouraged the black men present, and African Americans throughout this country, to join churches and mosques, register voters, join African American organizations, adopt orphaned black children and recapture our communities. He asked the black men present to pledge to stop the violence within our communities, respect and love their wives, build businesses within our communities, and patronize black businesses. This call to action should reverberate within the African American community at HLS, including me, as we examine how we can increase our contribution to the advancement of our community. As Dr. Dorothy Height, president of the National Council of Negro Women, explained, "It is time for those that have made it to lift the bottom."

Prior to the march, considerable controversy surrounded the event, particularly its gender and racial exclusivity. However, given the purpose of the march, this format was reasonable and necessary. First, organizers invited black men because the African American community is examining, questioning and repenting of the previous sins that we have committed within our community and against our community. This march was not about blame or accusation; rather, it was about introspection. Only those within the African American community can repent of the sins that we have committed. Others cannot repent for us; therefore, exogenous forces need not and should not have been present. Second, while the march featured several prominent African American women speakers, including Rosa Parks, it did not encourage women participants because this was a time of atonement for black men, a time for them to challenge behavioral patterns that they must confront, such as the abandonment of their children and the high incidence of black-on-black crime. Black women cannot repent for these sins on behalf of black men.

In addition, many people opposed the march because of the participation of Farrakhan. He has been accused of harboring hostility and enmity for various groups. I have not followed the teachings of Farrakhan; therefore, I can only comment on the remarks he made yesterday. Farrakhan did not "preach hatred" of other groups at the march; in fact, he expressed his desire for reconciliation between the African American community and other communities. Many leaders, including Farrakhan, spoke of healing the racial divisions within our country. I hope that the march does encourage greater understanding and respect among members of various races. Furthermore, I hope that the changes within the African American community will silence those who continuously condemn and seek to undermine our community.

Most importantly, however, I hope that the African American community will respond positively to this march and its invocation of the challenge of our ancestors in the Black National Anthem — "Let us march on 'til victory is won."

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