



New Committee To Review HLS Public Interest Programs

By Victoria Kuohung

Public interest at Harvard Law School may soon get a facelift.

Following in the footsteps of a similar committee formed in 1989, Dean Clark '72 unveiled a new Ad Hoc Public Interest Committee earlier this week, responding to faculty and student pressure to invigorate HLS's public interest services while also surprising some of his appointees with Tuesday morning calls.

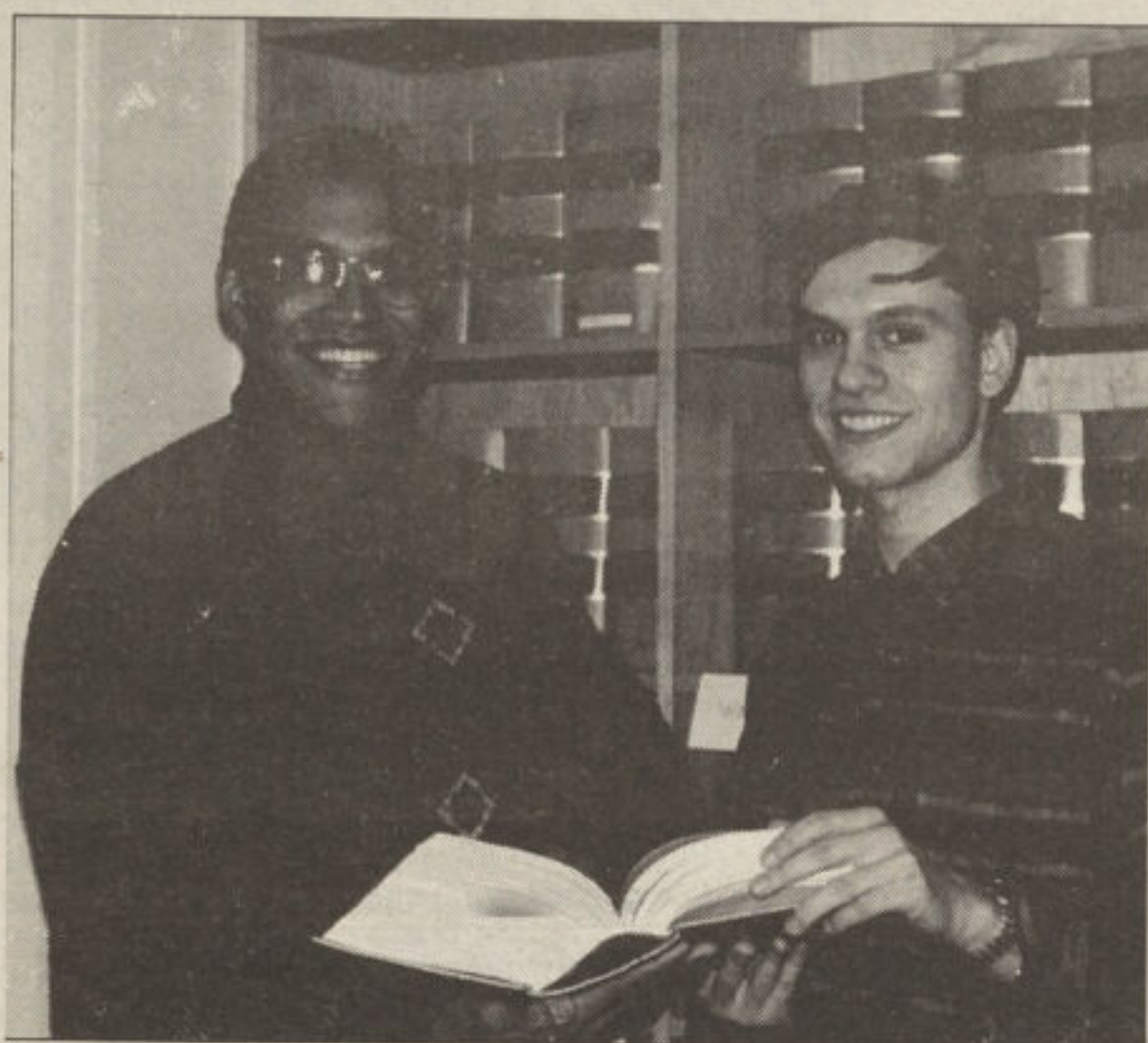
"A number of faculty members will look systematically at the several different parts to what we do, such as LIPP [Low Income Protection Plan], OPIA, clinical programs, and summer internships run by special committees like the Lewis Fund and the Human Rights Program," said Clark.

"We hope to do a comprehensive review of all of our public interest activities with a view of making suggestions for appropriate changes in two parts," he said.

"[The first part] is fairly quickly to make suggestions relevant to next year's budget cycle by early March. [The second part] is to take a longer term view of what we should be moving toward, which will take the whole semester."

Clark noted that the new group will take as its example a similar committee formed toward

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Outgoing Law Review President David Friedman '96 (right) will pass the torch to David Panton '97 when the new Law Review board takes over.

Faculty May Soon Fill Tenured Spots

By Hope Yen

One or more candidates for tenured professorships at HLS may soon be presented to the faculty for a formal vote pending approval from the Laterals and Promotions appointments committee, its chair said.

"There is a good chance that the appointments committee will recommend to the faculty some appointments but I can't provide details," said Prof. Terry Fisher '82, who chairs the five-member faculty appointments committee.

He said the committee hopes to make the recommendations in "early spring." The next monthly faculty meeting is Feb. 16.

Among the candidates reportedly being considered is University of Pennsylvania Law Prof. Lani Guinier, an African American well-known for her controversial views on voting representation. Guinier has declined to comment on whether

she would accept a tenured position, although her friends, including Prof. Charles Ogletree '78, have told the Boston Globe she would likely accept.

Fisher did note the curricular areas in which the appointments committee has identified the Law School as having an "especially sharp need" for candidates: women in the law, including feminist theory; sexual orientation and the law; negotiation; property; torts; and contracts.

Guinier taught Law and the Political Process during the winter term. At Penn, she also teaches women and the law.

"I'm encouraged about the overall mood of the appointments committee this year, including the candidacies that have substantially gone through the process," Fisher said. "Things are looking more promising this year. It's a more

please see **FACULTY**, page 2

Panton Elected President of Law Review

By Katrina C. Randolph

The Harvard Law Review's new leader says he wants to change the public "misperception" of the journal as a group of elitist, overworked students.

"A lot of people have a misperception that this is a place where people work exceedingly hard to the detriment of everything else," said incoming President David Panton '97. "I wanted to build on the traditions previous editors have established, producing one of the finest legal journals in the country," he said, but added, "I also wanted to help make this place a fun place."

Panton, 23, was elected president of the Harvard Law Review from among 14 candidates. Students agreed that his interpersonal skills and personality were what made him the winner.

Damon Watson '96, a close friend of Panton's and a Law Review member, said of the candidates, "Everybody was pretty smart," but that "David would be a more dynamic leader than any of the rest of them."

"He definitely cares about where the Law Review is going and where it has been," said Watson.

Panton has an exceptional history, even for an HLS student. A native of Mandeville, Jamaica, he graduated in 1992 from Princeton, where he was president of the student body. After his first year at HLS, he went to Oxford on a Rhodes Scholarship, where he earned a doctorate in management studies in two years. Currently, Panton is a John Olin fellow in law and economics at HLS.

Panton said during his tenure he wants the Law Review

to work more with other student organizations in planning social events and fora.

He also wants to change the journal's format to once again include an editor's page, which he says will help reinstitute a dialogue with readers.

"We're going back to the concept of law being a dynamic, of [law] being a social institute," said Panton. He said the Law Review started with a few people in the late 1800s who were communicating with the readership.

"That's my vision," he said. "We're a democratic organization, and the body has the final say. But that's what I want."

Farewell to Friedman

Panton replaces David Friedman '96, who says he is "certainly ready to hand over the reins." Friedman estimated that the Law Review work week is typically 40 to 50 hours; the president and other officers usually work even longer.

Reflecting on the past year, Friedman said his most important work for the Law Review as an institution was to initiate the task force on women. "I feel like I sort of got the ball rolling and forced the Law Review to look at itself and see whether it had a problem it needed to work on," he said. Results of the survey should be presented next month, he said.

The Supreme Court review forum, with Justice Charles Fried and Stanford Prof. Kathleen Sullivan, was another achievement, said Friedman. But he noted his and the Law Review's disappointment that no HLS professors attended the forum.

Elections for the other Law Review offices were taking place at RECORD press time.

LSC Rehashes Issues, Looks Toward Elections

By Rob Friedman

The Law School Council held its first meeting of the spring semester this week, with an agenda full of carry-over issues and an eye toward the upcoming LSC elections.

Council President Rob Simmelkjaer '97 told the RECORD that he had no plans to run for a second term. "I will not be running for re-election," he said. "It's been really enjoyable, but it's time to move on and do other things."

Council elections are scheduled for Feb. 26 and 27. Candidates run in three-person

tickets consisting of a president, vice president and treasurer. Candidates for office will be announced on Feb. 16, when candidacy statements are due.

Carry-over issues on the agenda Wednesday included the scheduling of fall registration and updated equipment for Hemenway gym.

New motions were filed at the meeting by Chip Nierlich '97 and Rob Jancu '98. Nierlich motioned for changes in LSC's constitution, including publication of Council meeting times in the Adviser and a constitutional amendment prohibiting Council members from

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Cookies, Anyone?



Students get treats from "Marilyn Monroe," who appeared live on stage in the newly-renovated Harkness Cafeteria last week. The cafeteria, which had been under renovation since the end of fall term, opened on Jan. 30 with an expanded menu and staff.

Faculty Posts to Be Filled

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constructive atmosphere in the appointments process."

The Laterals and Promotions committee has been working hard this year to pinpoint candidates for tenured positions after faculty disagreement stalled the process last year. In response, Dean Clark '72 has said the Law School planned to "crank up its machinery" this year to hire more professors.

As a part of the \$175 million Capital Campaign, Clark has said he wants to expand the current 71-member faculty to a core group of 78 by the year 2000. He has noted in particular that he would like to see more women professors, who currently make up only 15 percent of the faculty.

Clark also has said he wished to target for hiring more assistant professors with practice experience. These younger assistant professors, still relatively fresh from theoretical training as law school students yet also having worked in the field for a few years, offer a better blend of theory and practice as teachers in the classroom, Clark said.

Prof. Martha Minow, who chairs the Entry Level committee, said the committee has recently been focusing on 12-15 candidates for assistant professorships after narrowing it down from a pool of 2,000. She declined to comment on them specifically, but said a formalized vote on them is likely planned at the end of the semester.

Guinier, Schneider Discuss Role Of Gender in Legal Education

By Victoria Kuohung

Calling for an overhaul of the law school curriculum as well as the very definition of lawyering, visiting Prof. Lani Guinier of the University of Pennsylvania Law School, visiting Prof. Elizabeth Schneider of Brooklyn Law School and Prof. Catherine Krupnick of the Harvard School of Education spoke last winter term about gender differences in law school performance to an audience of about 100.

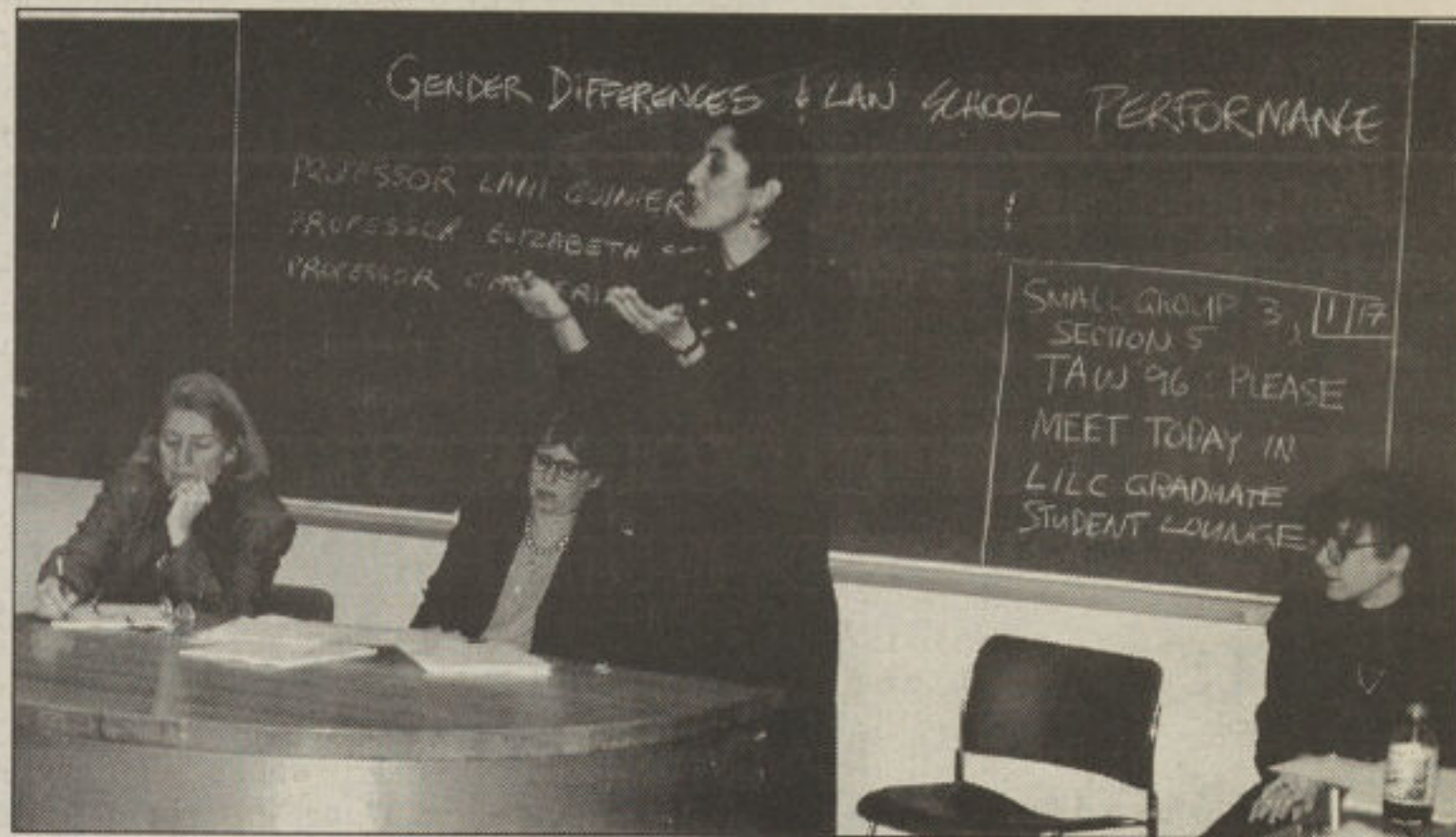
Guinier opened the panel discussion by describing her 1994 study, published in the *University of Pennsylvania Law Review*, which found that male law students outperformed female law students in terms of academic honors and class rank.

Her study, however, was "not just about women not doing better, or about women not talking in class," Guinier said, noting that a significant number of male students also felt "devastated" in the classroom.

"We need to critique what is happening in the classroom," she said. "We have modeled legal education on a static view of what it means to be a lawyer, as being an aggressive advocate in the courtroom."

"We have an idea [of law school] as training gladiators, where in fact the nature of the profession is not the gladiator but the problem solver. Is there something in the fact that there are women who say they are alienated by the confrontational classroom, and who can listen and not just talk?"

Comparing classroom responses of women to haiku poems, where "you build on what was said before," Guinier said that the essence of lawyering is "not just about being the first to speak but rather



Visiting Prof. Lani Guinier discussed the results of her study on the effects of gender on law school performance at a panel discussion held during winter term.

listening to what clients are trying to say and building relationships so that you can negotiate and settle some problems, not just take them to court."

Guinier's study, published as "Becoming Gentlemen: Women's Experiences at One Ivy League Law School," collected GPAs for graduates of five classes of the University of Pennsylvania Law School. Although men and women matriculated with roughly the same college GPAs and LSAT scores, male students had a three times greater chance of being in the top 10 percent after the first year.

The difference was "basically sustained" throughout law school, with third-year male students outperforming third-year women on average, said Guinier, who also surveyed such phenomena as talking in class, utilizing office hours, and personal values.

Guinier said her research was inspired by a female student's independent study in which the student shot a videotape reversing gender roles at the law school. The student then surveyed classmates to assess their self-perception. The project was modeled on a similar experiment at the medical school.

Referring to Guinier's study as a key-stone in the attempt to reshape legal education, Schneider spoke of using "gender [as] the lens for opening up the larger process of legal education."

"There are many impacts [gender-based studies] can have on people not comfortable with the mainstream Socratic method of legal education," said Schneider, who worked on the ABA Commission on Gender and Professionalism and the Gender Bias

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B+ or Higher GPA is Key to Job Interview Success, Survey Shows

By Justin Weiss

1Ls already nervously awaiting next year's interviews with law firms can relax if they have a B+ average or better, says David Kaplan '96.

Kaplan, a joint degree student who has studied statistics at the Kennedy School of Government, conducted a survey of 54 3Ls, asking them 16 questions about their experiences during last year's interview season.

He found that grade average was the most precise determinant of interview success, with B+ being "a significant cut-off point." Kaplan found that while B+ students received about seven more callbacks than B students, further increases in GPA beyond the B+ level yielded only minimal increases in callbacks. The figure is based on an average of 25 interviews per student.

The second most important factor, Kaplan found, was spending one's undergraduate years on an Ivy League campus. All other things being equal, an Ivy Leaguer can expect to get about three more callbacks than her non-Ivy classmate, he says.

Or "his" classmate: Kaplan found gender to have no statistically significant effect on interview success. However, race appeared to play a role: Kaplan found that black and Latino 2Ls receive an average of seven more callbacks than similarly qualified whites, while being Asian conferred no appreciable advantage. Kaplan noted, however, that there were only four non-Asian students of color in his survey.

Kaplan found that students who researched firms excessively fared no better than students who did only minimal

research, hypothesizing that a laid-back approach to research is linked to the ability to "shoot the breeze" during interviews.

Similarly, Kaplan found that interviewing with more than 25 firms was unlikely to gain students additional callbacks. Finally, Kaplan found that prior work experience, advanced degrees, and geographical factors (interviewing in "big" or "small" markets, or close to home) all had no significant effect on interview success.

"I hope the results of this survey would be a first step toward students taking a more rational approach to selecting firms, and the number of firms to interview with, because I think that students are far too pessimistic," Kaplan said.

Asked about the survey's findings on race, Black Law Students' Association President Patience Singleton '96 expressed doubt that any meaningful conclusions about the effects of race could be drawn from so few minority respondents to the survey.

"There are many methodological problems, like the gross underrepresentation of African Americans in the survey," she said. "And there were problems with the self-selection nature of the survey. Only those people who felt comfortable answering it did answer."

1Ls interviewed also questioned some of Kaplan's findings. Brian Sims '98 said, "I wouldn't have thought the part about [researching firms being irrelevant] would be the case. I know a friend of mine researched firms and was able to talk to a lawyer about a specific case they were working on. It would be silly to go into an interview knowing nothing about the firm."

Asia Law Society Co-Hosts Business Conference

By Tara Dawood

Asia, law and business came together at the Harvard Business School for "The Third Annual Harvard Asia Pacific Business Conference, 1996: Exploring Asian Dynamism: Seizing Opportunities in the Pacific Rim."

Facilitated by experts from the HBS and HLS faculties, the event, held Jan. 26 and 27, provided an opportunity for participants to engage in discussions and workshops with prominent leaders in Asian dynamism.

"Drawing record numbers, this year's conference was able to attract more law students than previous years due to the sponsorship of law firms, who subsidized student ticket prices," said Albert Lee '97, president of the Harvard Asia Law Society, which co-sponsored the event.

"The conference featured business and legal professionals from all over the country and the world," said Eric Sibbitt '97, Law School conference chair and vice president of HALS. "It was tremendously exciting to bring all these people from around the world to one place; to create something from nothing."

"One of the main goals of our organization this year, and in particular with the conference, was cooperation with the Business School and we were very pleased in largely achieving that," said Peter Kuo, treasurer and employment chair of HALS. "The Law School and the Business School have very different cultures which lead to vastly divergent approaches to doing things and it was a remarkable achievement that we were able to mesh the two different backgrounds and come up with such a successful achievement. That was one of the biggest challenges facing us."

Attending speakers included Ezra Vogel, Asia watcher and Harvard professor; Kunitake Ando, executive vice president of Sony; Ted Beczak, chairman of JP Morgan, Hong Kong; and Prof. William Alford '77, director of HLS East Asian

Legal Studies.

Alford moderated a panel on intellectual property which featured panelists Laura Young, a partner at Wang & Wang, and Suzanne Bell, a partner at Wilson, Sonsini, Goodrich & Rosati.

"The intellectual property panel was a really good success for the law school aspect of the conference because the two panelists and Prof. Alford, the moderator, were extremely articulate in explaining many of the legal intricacies of international property law," said Peter Kuo.

The success of the intellectual property panelists, as well as Alford, was centered in their ability to convey legal arguments to a non-legal audience. They were patient with elementary questions, and went out of their way to explain and break down legal concepts.

Keynote Speaker Aziz spoke about Malaysia and the importance of cooperation among Asian communities. She made three main points. First, the experiences of older ASEAN member nations,

which have already made the shift from labor-intensive to capital, skills, and technology-intensive industries, have served as valuable examples for newer ASEAN member countries, such as Vietnam. Second, ASEAN is fully committed to multi-lateral trade liberalization and economic cooperation on both the regional and international level. Third, the removal of economic trade barriers is important to future growth of ASEAN countries.

Aziz was particularly effective in answering audience questions and she was quick to getting to the point.

"Her speech was very direct and she was extremely articulate in getting her word across, unlike many speakers," said Kuo.

One of the most popular events at the conference, Aziz's speech is second in significance only to her actual presence at the conference.

"The fact that Minister Aziz, one of the most influential players in the region,

came all the way to Boston just for this event, shows her attention and support for this student-organized conference," said Lee.

Conference panels included India, China, Japan, ASEAN, and Pan-Asian Developments, and workshops included Intellectual Property, Venture Capital, Joint Ventures, and Risk Management. There was a significant amount of student complaint as to the dominating content of Malaysian discussion at many of the events, particularly the ASEAN I panel.

"There was a lot of focus on Malaysia at this conference — why?" said Juliet Chan, a senior at Jurong Junior College, Singapore. "I'm quite interested in Malaysia, but I hear from other participants that they are pretty interested in Japan, China and the rest, and yet the focus here was more on Malaysia."

Justin Tan '97, Indiana University, agreed with Chan, saying, "I didn't like ASEAN I because it wasn't really ASEAN, but mainly Malaysia."

Overall, Tan enjoyed neither the first day of the conference nor the Market Entry panel, the latter of which featured Bain & Co. and A. C. Nielson, whom he did find to be very good speakers.

The panel on China seemed to elicit more positive feedback.

"The Ph.D. on Philosophy at the China panel spoke so well, that he didn't speak just about economics but about the political situation and other facets of China's society," said HALS member Prabha Kodiswaran, LL.M. "You need a really good understanding of all these areas."

Tan added, "I think I missed the most interesting part of the conference which was the China panel at 8:45 a.m. Saturday morning."

The primary focus of the conference seemed to be on networking and learning about future growth trends in Asia.

"There was so much interest in meet-

please see **CONFERENCE**, page 5



Photo courtesy of the Harvard Asia Law Society
Vice Dean David Smith '61 (center) discusses Harvard Asia Pacific Conference 1997 with the next business conference chair, Lalitha Vaidyanathan (MBA '97) (right), and HALS President Albert Lee '97 (left) at the 1996 Conference Ball.

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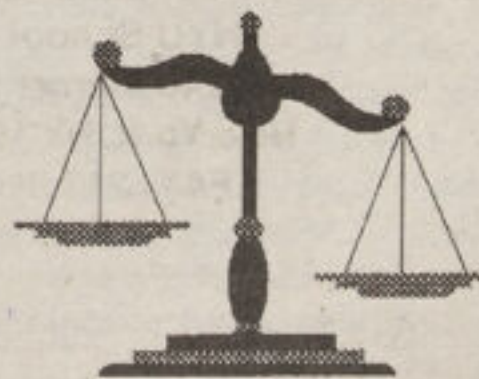
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Prof. Bellow Receives Achievement Award

The Massachusetts Bar Association has presented its Lifetime Legal Services Achievement Award to Prof. Gary Bellow '60 for his service to poor clients.

Bellow, who founded the Law School's Legal Services Center and is faculty director of the clinical program, was honored last month.

Bellow is "a fitting recipient of this award," the bar association said. "His pathbreaking work for migrant laborers through California Rural Legal Assistance established significant legal precedents and showed how to litigate in a manner that empowers the client."

The association also praised Bellow for his achievements as a teacher. "Bellow has inspired generations of law students to follow their hearts and principles into legal services work," it said.

Former Harvard Medical School Dean Remembered for Founding HMO

Dr. Robert H. Ebert, who served as dean of Harvard Medical School from 1965 to 1977, died last week of cancer at the age of 81.

In 1969, Ebert founded New England's first health maintenance organization (HMO), Harvard Pilgrim Health Care, which is now the region's largest HMO. The organization's corporate medical director Joseph Dorsey said Ebert was a pioneer in finding cost-effective methods of providing health care.

"[W]hen Bob Ebert got the Harvard Plan started, it was a big deal. Most of the medical community did not think it was a good idea," Dorsey told the Boston Globe.

Ebert, a Rhodes Scholar, earned his M.D. at the University of Chicago and taught at Chicago and Case Western Reserve University before beginning his career at Harvard.

— from the *Crimson*

Susan Sarandon, Harrison Ford to Receive Pudding Pots

Hasty Pudding Theatricals will honor Susan Sarandon and Harrison Ford as its woman and man of the year this month. Sarandon will lead a parade in Harvard Square Feb. 12 at 2 p.m. and will receive her "Pudding Pot" afterward at the Hasty Pudding Theater. Ford will receive his award Feb. 20 prior to the opening performance of "Morocco 'Round the Clock," the Pudding's 148th production.

Both actors will be honored at roasts when they receive their awards. The Pudding will give the thespians gifts as well. Last year, Tom Hanks received a decorated bra.

The Pudding's publicity manager Dana A. Wallach said the organization selects the male and female actors who they believe have made an "outstanding and lasting contribution to the world of entertainment."

— from the *Crimson*

Harvard Business School May Lose \$1 Million

Harvard Business School may lose more than \$1 million it received as a result of a donation from the bankrupt Foundation for New Era Philanthropy, according to a story last week in the Boston Herald.

The federal trustee administering the bankruptcy of the Philadelphia-based organization has the option of recovering any money involved in the foundation's deals. The Business School received \$502,000 from a third-party donor and a matching amount from New Era. The foundation allegedly used questionable means of collecting money for donations, such as telling donors that their contributions would be doubled in six months by anonymous donors.

When asked by the Boston Herald to comment on the potential loss, B-school spokesperson Jim Aisner said, "That's the first I've heard of this."

The B-school is one of several Massachusetts institutions that stand to lose money in the bankruptcy proceedings, including Boston College, Gordon College and Lexington Christian Academy.

— from the *Crimson*

Valentine's Day Set as Cambridge Voter Registration Deadline

Students must register with the Cambridge Election Commission by Feb. 14 to vote in the March 5 presidential primary.

Former Cambridge Mayor Alice K. Wolf said financial aid issues may draw more students to the polls this year.

"Right now, the student loan program is up for grabs," Wolf said. "The program that President Clinton proposed is being attacked by the Republicans.... This could affect a lot of students."

To vote in Massachusetts, out-of-state students must declare Massachusetts residency. Mail-in affidavits are available at the registrar's office and local public libraries, schools, and post offices. They must be postmarked by midnight on Feb. 14. Registering in Cambridge invalidates voting rights in other states and therefore may disqualify students for state-sponsored scholarships.

— from the *Crimson*

Labor Law Project Hosts "Tales From the Front"

By Rob Friedman

Two area labor organizers addressed a group of 40 at Hauser Hall, discussing the need for community-based organizing to overcome employer paternalism.

"The hardest part was convincing the workers that the abuses that had gone on for so long were wrong, that things as they had always been were wrong," said Natalina DosReis, a speaker at the Labor Law Project's Tuesday night forum entitled "Tales From the Front."

DosReis helped organize fellow workers at a Pawtucket, RI laundry facility where full-time employees earn five dollars an hour, a wage that puts them all, even many who have second jobs, below the poverty line.

"Management used to have meetings [with workers] once a month. Once we told them we wanted a union, we would meet once a day, and they would say how the union would cost jobs and they would shut the plant," DosReis said.

The company then staged a temporary lock-out of employees, "just to make us think they'd done it, to scare the hell out of us," DosReis said. The union won the election, however, and management now faces the prospect of bargaining.

Eileen Haggerty, an organizer of Boston mental health employees, said her greatest challenge was fighting a legal system that "simply doesn't work for workers."

"Our strategy was to completely avoid the NLRB," Haggerty said, citing its "slow and litigious process." Also, "by the time the union is certified, many of the workers

aren't employed at the workplace anymore," she said.

DosReis added that unions spend time and money fighting to reinstate illegally fired workers. "The penalty the law imposes on the employer?" Haggerty asked the crowd. Someone from the audience answered, "Nothing. Back pay — what the employee deserves. Nothing punitive."

Haggerty said she has sought help from community-based mediators, such as the Catholic Labor Board, to help settle disputes that might otherwise be litigated. "The only people that seem to gain from the litigation process are the lawyers, so we avoid it if we can," she said.

"The only people that seem to gain from the litigation process are the lawyers, so we avoid it if we can," Eileen Haggerty said.

Kent Anker '98, who organized the forum, said of the event, "I'm glad so many students turned out. Harvard is such a feeder school for corporate America, it's important for students to hear from the side of working people."

Mark Hickernell '96, president of LLP, said he wasn't surprised by the workers' antipathy towards the legal system.

"Many people think that since workers have the right to organize on paper, they don't have any problems when they try to form a union," he said. "We wanted to show the reality, which is very different."

Hickernell also invited students to participate in a labor law internship program that LLP is starting in March.

"[The internship program] is aimed at 1Ls who are unsure about what type of law they would like to pursue," he said. "It's clinic-like, meant to fill a void of hands-on experience for students in their first year."

Profs. Discuss Study on Gender in Education

continued from *GUINIER*, page 2

Task Force of the New York Bar Association, and who has taught Gender Discrimination at HLS during Winter Term for the past several years. "Gender can be a critical disparity but not the only disparity."

Krupnick also noted that gender served as "a proxy" for other social differentials, such as economic class and race, which are played out in the classroom context. Despite the fact that professors may be aware of the effects, "once the culture of self-marginalization takes over, there is an epidemic that is very hard for faculty members to fight," she said.

And although defenders of traditional legal education claim that tough classroom dynamics are necessary preparation for the workplace, "there is no shred of evidence that having undergone any second, minute, or year of oppression prepares people for the future—if this is so, then oppressive people would have a short half-life," said Krupnick.

"You may get used to being ridiculed, and it may so build your pessimism for human nature," she said. "But there is no reason to believe that it is anything other than just training people for subordination."

Schneider pointed out that even though the number of women in law has increased, she still finds "a great consistency between the attitudes expressed to me in 1971, my first year of law school, and those which persist now." Her Civil Procedure professor, Schneider said, told students that he thought women "just shouldn't be here." "Numbers are not enough," said Schneider. "They may be a start, but they do not ensure the true integration of attitudes in the practice of law."

Stories like hers, said Schneider, are important because they increase students' awareness of their situation, which then translates to "activism as well as an ability to say, 'I'm not going to tolerate it,' and to take charge of their education."

Integrating new attitudes involves reassessing legal education, said Schneider. "Other dialogic possibilities exist in the classroom context [for students] beyond traditional legal education, she said, noting that educators cling to the idea that "the traditional Socratic dialogue is the appropriate vehicle for developing skills in planning, listening, and problem solving, rather than other methods such as clinical training, which are much more likely to develop those skills."

"Analytic skills are critical but they are not necessarily enhanced for many people through the Socratic process," said Schneider. "We ought to be eclectic and visionary in thinking about the development of legal skills, rather than arcane and formalistic."

Although Guinier agreed with Schneider about the need to change traditional legal education, she defended the Socratic method, which has come under much criticism for being too confrontational.

"Part of the value of the Socratic dialogue lies in whether a professor is trying to help people think the best they know how, or trying to show that she is the sage on the stage," said Guinier. "The dialogue is about learning how to think together and collaboratively, giving people a chance to say something in front of an audience, as clearly and persuasively as possible."

The panel was sponsored by the Colloquium on the Pedagogy of Law, a student organization at the Law School.

Library Exhibits History of Evidence Teaching at HLS

By Craig Buckser

A new exhibit currently being featured at Langdell Library traces the legacy of evidence teaching at HLS, from an 18th century professor who wrote the first evidence treatise of its kind to the present-day likes such as Prof. Charles Nesson '63.

The exhibition, "Teaching Evidence at Harvard: A Venerable Succession," is a tribute to the lineage of prominent evidence professors who have taught at the Law School. "We have this long straight line of evidence teachers," said curator Erika Chadbourn, who prepared the exhibition. "One was taught by another."

HLS professors said the display demonstrates the dramatic impact the Law School had in the area of evidence.

"The exhibition shows how HLS has been ingrown or inbred as an institution," Prof. Laurence Tribe '66 said. "Professor [James] Chadbourn was the professor who taught me evidence. I found that experience helpful when I taught the subject."

The exhibition focuses on teaching rather than on scholarship. In fact, its subtitle is "An Exhibition at the Harvard Law School Honoring Its Evidence Teachers Past and Present."

It features Simon Greenleaf, James Bradley Thayer 1856, LL.D. 1894, Edmund Morgan '05, John Maguire, and James Chadbourn. Justice Louis Brandeis 1877, John Chipman Gray 1860-62, John Henry Wigmore 1887, LL.D. '09, Zachariah Chafee Jr. '13, Prof. John Mansfield '56, Prof. Charles Nesson '63, Justice Stephen Breyer '64, and Tribe are also included in the exhibition.

Greenleaf, who taught at HLS from

did both. Moreover, the exhibition has letters from legal luminaries including Justice Joseph Story, President and Chief Justice William Howard Taft, Justice Felix Frankfurter LL.B. '06, and Daniel Webster.

The exhibition comprises material that Erika Chadbourn believes would strike viewers emotionally. These items include a sign written by a student who offered to pay \$25 for a space in James

professors as well as professors from the Law School's past. Nesson is among those considered to be part of the legacy of evidence teaching at HLS. "I'm honored," Nesson said. "It's wonderful."

Ironically, Nesson never took an evidence course. "I always considered it to be an advantage," he said. He learned evidence while practicing law, explaining: "I thought about the subject for myself."

The exhibition also honors Tribe. For example, his student notebook for James Chadbourn's 1965-66 evidence course is displayed in the exhibition.

"I'm not sure how authentic my inclusion is," Tribe said. "I've never really consider myself an important evidence teacher."

Tribe taught evidence for seven years, but he stopped teaching the subject about 20 years ago. Nonetheless, Tribe had written two influential law review articles in the field.

Mansfield both took evidence as an HLS student and teaches the subject to current HLS students. He wrote the exhibition's catalog.

There will be a reception commemorating the exhibition's opening at 4 p.m. on Friday, Feb. 16 in the Langdell Hall Reading Room. The exhibition will be on view through April 15.

"The exhibition shows how HLS has been ingrown or inbred as an institution," Prof. Laurence Tribe '66 said.

1833 through 1848, was the first eminent evidence professor at the Law School. He wrote a five-volume evidence treatise, the first of its kind for Anglo-American law. The first volume of the treatise and a handwritten manuscript of its first chapter are displayed in the exhibition.

The exhibition also contains many other treatises, casebooks, and law review articles by evidence professors who either taught at HLS, graduated from here, or

Chadbourn's evidence course.

In addition, there is a "summons" from Justice David Souter '66 to Chadbourn to appear at Lincoln's Inn on March 19, 1964 to defend against a charge of unjustly vexing a student. Souter wrote the writ in Latin.

James Chadbourn is the late husband of Erika Chadbourn, who has completed 12 major exhibitions for HLS.

The exhibition honors present HLS

B-School, HLS Clubs Hold Asia Conference

continued from CONFERENCE, page 3

ing speakers and networking, that what was often left out was the opportunity to meet other students," said Kuo. "Next year, one of the aspects of the conference we might want to emphasize more is the overall Harvard experience."

"Overall, the event was general and informative," said Kodiswaran. "However, it was tough to meet people. In fact, there were very few people that I actually met at the conference." Kodiswaran attended the conference to hear the panel on India.

The conference was an opportunity for students and firms to get a taste of Asian business and law.

"This conference allows students to get to know law firms that have interest in Asia," Alford told Kuo and some students at the end of his Intellectual Property panel.

"Then he mentioned that it was a great opportunity for firms that haven't had much exposure to Asia. In particular, Wang & Wang," said Kuo.

The conference ended with a banquet held at the Sheraton Boston Hotel.

"The post-conference banquet and ball was a good opportunity to celebrate a successful event," said Sibbett. "We were

especially pleased that Vice-Dean David Smith '61 was able to attend."

Smith expressed his pleasure at this cooperation to Steve Chen '97, HALS vice-chair and other students at the ball.

The celebratory evening featured a cocktail party, dinner, drinks, Japanese Taiko Drumming, other cultural entertainment and dancing at the Sheraton.

"It is a Harvard experience," said Andy Hubbard MBA '96, conference chair.

"This event captures the soul of what University is supposed to be about," added Lee. "It is not a Harvard Business School event, a Law School event, or an undergraduate event; it's a university-wide event."

The conference objective was to present a stimulating perspective exploring the many facets of Asian dynamism through interactive country and policy discussions and workshops. Students, sponsors and speakers from all around the country participated in the student-run event.

"It provides a forum for law students to go beyond the law school," said Lee. "Law students, business students, undergraduates, medical students, academics as well as full-time business and legal professionals were there, making it a microcosm of the world dynamic."

LSC Plans for Future

continued from LSC, page 1

"accept[ing] personal compensation" for their activities — a change many are calling the "Kasner Amendment."

Jancu motioned for approval to run a sale of stockpiled textbooks. The sale will begin this Friday at 4 p.m. in the basement of Story Hall. Boxes of case books will be donated to Bir Zeit University in the West Bank.

Jancu also moved that LSC adopt a formal position on changes faculty wish to enact, such as whether professors may consider class participation and attendance in grading, and whether the cum laude threshold should be raised.

"I polled my section by e-mail and students overwhelmingly reject the proposed changes," Jancu said. The Council passed motions to oppose changes in attendance-based grading and cum laude determination.

Simmelkjaer, however, said he believes the crucial issue facing HLS students concerns the timing of fall registration.

"Fall registration will be held the Friday before Labor Day weekend instead of the Friday and the following Tuesday," he said. Because the Ropes-Gray Room will house temporary library materials by that time, and because all law school rooms will be occupied with classes, the registrar Sue Robinson has decided to scrap the extra day of registration.

"The Registrar's office says students would rather have the inconvenience of coming back early than the inconvenience of walking [to a registration site away from the law school]. I think they're plain wrong," Simmelkjaer said.

Simmelkjaer hopes to have registration on Tuesday in a building near the law school, or even in Ames Courtroom or the Hark. "This would give students who are coming over from the West Coast, or who have leases that begin on September first, time to get settled," he said. In other business, Dan Jaceam '98 was introduced as the replacement of Ron Kasner. Jaceam won a special election to fill the vacant seat.

Students Plan Annual Phone-a-thon to Support Public Interest

By Hope Yen

About 50-70 HLS students planning to work in low-paying public interest jobs this summer will be hitting the phones next week, hoping that the generosity of their classmates will help support their work.

The Student-Funded Fellowships program begins its annual phone-a-thon Sunday, with plans to call students with law firm or other jobs, asking them to contribute a

day's pay. With limited public interest funding available from the Law School, organizers said, student support becomes all the more helpful.

"The Law School doesn't provide many resources to fulfill the demand students have for public interest, and so student-funded fellowships really play a critical role in funding students who choose to work in the public interest," said Elchi Nowrojee '96, who received a \$1,000 fellowship last year.

Nowrojee worked at the Women's Refugee Project in Cambridge last summer, assisting indigent clients.

"Student-funded fellowships gave me an opportunity which I otherwise would not have had to work with women refugees filing gender-based asylum claims from Ethiopia, Ghana and the former Yugoslavia," he said.

The program, now in its 22nd year, relies on the good graces of student, faculty and alumni who are willing to help support students seeking public interest work. Last year, the program

received \$40,000 in pledges, although only \$30,000 was ultimately donated.

That money translated to financial support to 29 students last summer working in organizations ranging from the U.S. Attorney's Office to the Legal Aid Society of Minneapolis and the Neighborhood Defender Service of Harlem.

About 30 fellowship recipients are chosen from the applicants, all of whom must work the phone-a-thon, based on an application and interview.

Significant weight is given to the individual's financial situation.

Organizers of the program also stressed that fellowships are not awarded based on the politics of the organization to which an HLS student applies.

Huyen Pham '96, who co-chairs the program, said students rely on any penny they can get given the small stipends typically accompanying public interest jobs. The huge interest in organizations like SFF,

"The Law School doesn't provide many resources to fulfill the demand students have for public interest, and so student-funded fellowships really play a critical role in funding students who choose to work in the public interest," said Elchi Nowrojee '96.

she said, is another indicator that students will go the extra mile to pursue lower-paying public interest work.

"Organizations like SFF and the public interest auction just go to show that students are willing to work for their money. They don't just expect people to give money to us," she said.

Pham also said more needed to be done to support students seeking to help the public interest.

"We give a lot of money," she said. "But there's still a lot of people who do not receive funding."

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Across the Wire ... Across the Country

New England's Lead in Education Slipping, Says Study

BOSTON (AP) - New England colleges and universities continue to attract more students than those of any other region, but their lead is slipping, according to a new report.

Total enrollment at New England's 260 colleges and universities declined from 827,300 in 1992 to 816,600 in 1993, the last year for which the figures are available, according to the New England Board of Education.

The region's share of total U.S. university enrollment also fell, from 6.5 percent in 1985 to 5.7 percent in 1993, the board reported.

Still, while New England is home to only 5 percent of the U.S. population, it continues to confer about 8 percent of all doctoral degrees and its universities and colleges spend the most per capita on research and development.

In fact, despite complaints about federal cuts in research funding, research grants to New England colleges and universities actually have more than doubled in the last 10 years, although they've grown more slowly than for the nation as a whole.

The region's share of federal research money has dropped from 12 percent to 10 percent since 1988; still, New England colleges and universities conducted \$1.7 billion in research, nearly 9 percent of the U.S. total, and they hold 13 percent of all the patents awarded to U.S. colleges and universities during the last three years.

State legislatures in New England provide only 2 cents on the dollar for university and college research and development, considerably less than states in other regions. The rest comes from federal sources — sources endangered by congressional plans to cut science funding by nearly a third over the next seven years.

New England also has become the most expensive place in the United States to go to college.

Tuition at four-year private colleges in New England averages \$13,641, compared with \$12,432 nationally. At public colleges and universities, tuition and mandatory fees for in-state residents average \$3,720, compared with \$2,860 nationally. And state legislatures provide less money in student scholarships and grants than their counterparts in other regions.

Yet, 20 percent of the students in New England come from elsewhere in the country, a higher proportion by far than any other region. There also are more than 36,000 international students at New England colleges and universities, up 32 percent in the last five years.

The New England Board of Higher Education is a non-profit interstate agency linking area colleges and universities, established under a 1955 compact between the six New England states.



This Week, Reports From the Northeast

Mass. High Court Hears Arguments on "Coed Naked" T-Shirt Ban at School

BOSTON (AP) - A high school's decision to ban a popular line of suggestive T-shirts is being evaluated by the state's highest court, which must decide whether students who wear them could cause a disruption.

In oral arguments Tuesday, a lawyer for the South Hadley School Committee urged the Supreme Judicial Court to uphold the school's right to ban the "Coed Naked" T-shirts. Harry Miles

argued the shirts can be vulgar and disrupt the learning process.

But William Newman, a lawyer for the Massachusetts Civil Liberties Union, argued that such a ruling would nullify a 1974 state law. That law allows students to engage in freedom of expression as long as it doesn't create a disruption.

"In a free society, where we attempt to teach democratic values, censorship may be the greatest vulgarity of all," Newman told the justices.

South Hadley has struggled with its dress code since 1991, when a group of students wore T-shirts

saying "Button Your Fly: Levi's 501 Jeans." The committee voted 3-2 to allow that shirt.

But in 1993, then-senior Jeffrey Pyle wore a T-shirt saying, "Coed Naked Band: Do It In Rhythm." A teacher asked him to remove the shirt and he refused, but the school later banned it. That prompted Pyle and his younger brother, Jonathan, to sue.

The boys' father, Christopher Pyle, is

Before it makes its ruling, that court wants to SJC to rule on whether the 1974 law, the state's Student Free Expression Law, allows students to wear symbols that may be considered vulgar but do not cause a disruption.

Miles, the committee's lawyer, acknowledged that Jeffrey Pyle had not disrupted his class the day the teacher asked him to remove the T-shirt.

But he said allowing him to wear the

shirt would be akin to carrying a vulgar book into a classroom.

"Here we have a walking message. The book comes into the classroom and says, 'Here, you must read me,'" Miles told the court.

Pyle, now a junior majoring in history at Trinity College, attended Tuesday's arguments.

"The School Committee favors censorship to teach manners and civility," he said. "We believe that censorship doesn't teach kids anything. We believe it engenders cynicism."

The SJC typically renders its decisions within three months.

A U.S. District Court judge initially ruled that the committee had the right to ban clothing that is considered "obscene, lewd or vulgar."

a professor who teaches constitutional law and civil liberties at Mount Holyoke College in South Hadley.

A U.S. District Court judge initially ruled that the committee had the right to ban clothing that is considered "obscene, lewd or vulgar." The Pyles then appealed to the 1st U.S. Circuit Court of Appeals.

CBS May Record Jury Deliberations

PORTLAND, Maine (AP) - Maine's highest court granted CBS unprecedented permission Tuesday to put hidden cameras in the jury room to record deliberations in a civil case for a documentary.

It is the first time a commercial network has received access to a jury room, according to several judges involved. The first deliberations to be taped came in a Wisconsin case, taped by PBS' "Frontline" in 1985.

The 5-2 decision allows the network to place up to five cameras in the courtroom and two hidden cameras in the jury room. The jurors, plaintiffs, defendants and lawyers would have to agree before CBS could tape the case.

CBS also asked last month for access to deliberations in a criminal case in Arizona. The Arizona Supreme Court has yet to decide on the request.

The civil case has not yet been selected. It will probably be held in Superior Court Justice Carl Bradford's courtroom in Portland. Bradford said he is working with CBS to find a case and expects taping to begin in May.

"While the knowledge that cameras are rolling — even though they are unseen — may initially influence the jurors' dress, manner of speech, or other superficial characteristics, it is not likely to change the verdict itself. In our experience, self-consciousness tends to

disappear quickly when there is serious business at hand," CBS said in its request for camera access.

CBS News spokeswoman Sandy Genelius said from New York that the network was seeking access to jury deliberations for an upcoming "CBS Reports" documentary expected to air later this year. She declined to elaborate, citing concerns about competition.

The high court's five-member majority approved the request without comment.

In a dissent, Justices Caroline Glassman and Paul Rudman warned: "Selection of only those jurors who do not mind thinking out loud before millions of observers, or those who will serve but in silence, by its nature will distort the jury's deliberative process."

One of the project's supporters is Judge Ralph Adam Fine, who presided in the Wisconsin case that was on PBS. The defendant was acquitted of illegal possession of a gun.

Fine, who now serves on the Wisconsin Court of Appeals, said the broadcast was a demonstration of how

the jury system works in its finest hours.

"This will certainly be a first for commercial television, and it will reach a much broader audience than the PBS program," said John O'Leary, a Portland lawyer supporting the project.

Tom Hoopes, a Boston defense attorney and former prosecutor, said that while there might be some educational merit to filming deliberations, he would oppose it in criminal trials.

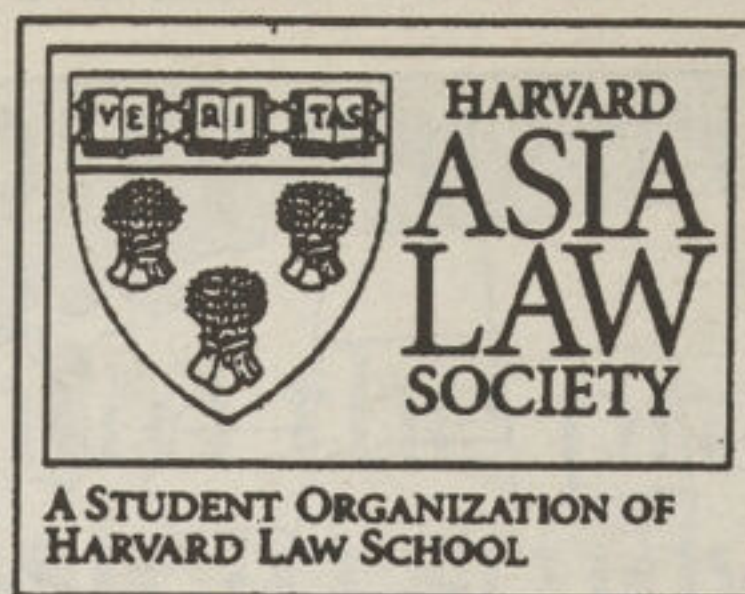
"I can't imagine people not feeling aware that what they are saying is being taped. Then they wonder: Are they being politically correct instead of are they being just?" he said. "As a defense attorney, it's a disaster."

Laurie Levenson, a professor at Loyola Law School, said the deliberations may be colored by the presence of cameras.

On the other hand, she said, the taping could help restore public confidence by allowing people to see the serious manner in which jurors typically work.

"And we need that confidence," she added.

The Maine high court's five-member majority approved the request without comment.



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Special thanks to our co-organizer, The **Asian Business Club** of Harvard Business School and all our other partners for their hard work and cooperation during the last few months.

We also wish the best of luck to the HALS delegation going to Taiwan, Republic of China this spring.

GYM RAT

The Wild, Wild World of Sports



By David Koontz '96

Sports Columnist

THIS week, the Gym Rat is torn among approximately eight gazillion scintillating sports topics. The Super Bowl came and went, and we discovered that it was—gasp—just another football game, albeit a very good one this time. The NBA season is hitting its stride again, and some guy named Magic has given Bullssters something to do besides groan at Chicago's bid to win more games than the Cubs. Pitchers and catchers report to major league baseball's spring training camps this month, barely allowing Albert Belle the six to eight weeks he was promised for his new delivery of corked bats. (Just kidding, Albert.)

Perhaps the most exciting sports topic around these parts for about 250 amateur basketball players (not to mention countless fans and groupies) is the new HLS intramural basketball season. I was thinking about doing a pre-season Gym Rat issue, but when it comes right down to it, I hate those things. All you get is a lot of very general information and some tepid predictions. I do enough of that kind of thing from week to week, so I wanted to break the mold and skip the whole process.

Games are scheduled to begin this week, however, and I will be right there to scout the teams and get some clichés, er, quotes from the players. Also, the previously promised tributes to last year's A-League and B-League champions are still in the works. This year's champions, by the way, might even get a special limited edition tribute issue of the Gym Rat, but they're going to have to cough up some dough first.

Now that you are salivating for HLS hoops action, let's try to satisfy that appetite somewhat with news from around the rest of the sports world. Before continuing, I would like to welcome the addition of Craig Buckser '97 to the sports column. Buckser will bring a fresh perspective and his expertise in the area of Harvard non-law school sports, and the column will now provide nearly global coverage—unfortunately, Craig and I were not able to convince the RECORD to take us to Hawaii to cover the Pro Bowl this past Sunday.

The Fiesta Bowl. The Top 5 things I loved about this game: 5. David Letterman's nearly accurate prediction of the half-time score. 4. I got a better view from television than people who paid hundreds of dollars to see it in person. 3. Tom Osborne, a reserved and respectful coach, beat Steve Spurrier, who wasn't listening when his mother told him if he couldn't say anything nice, then don't say anything at all. 2. Tommie Frazier breaking eight or nine tackles on the way to a devastating touchdown run. 1. At the end of the season, there was only one team left undefeated, and Nebraska could fairly be recognized as the best, and probably the best ever.

The Top 5 things I didn't love about this game: 5. Jim Nantz was so bland and uninspiring that I actually longed for the grating tones of Brent Musburger. 4. Florida's tackling was an embarrassment to the SEC which before now was known for its physical play. 3. Terry Donahue was so bland and uninspiring that I actually longed for the grating tones of Brent Musburger. 2. The overabundance of corn chip commercials, especially the way CBS weaved the product in with the actual production of the game, was an abomination and showed why CBS has sunk to the level of fourth-best (non-cable) sports network. 1. Tom Osborne kept convicted batterer Lawrence Phillips on the roster and painted him as a victim who needed to be protected from the evils of society for his own good. Phillips has since filed for early admission to the NFL draft.

The Super Bowl. For once, a terrific game was played, and turnovers were the deciding factor. The Steelers actually gained more yards than Dallas did, but Pittsburgh quarterback Neil O'Donnell will have a few months to think about the two passes that got away. Reportedly, neither interception was really his fault. In the first case, the ball slipped out of his hand, and announcer Dick Enberg noted that the Steelers' center, Dermonti Dawson, had very sweaty hands. I'm no coach, but there had to be some way to remedy that, even without removing Dawson's sweat glands. The second interception apparently was a miscommunication between O'Donnell and his receiver, who had run the wrong way. In the end, though, the AFC has finally begun to close the gap. Let's say they've pulled even in a game of horseshoes.

The Magic Man. I'm still so deeply in shock over Magic Johnson's return to the NBA that I have to hold my tongue for a week or two. The game needs him, and he needs the game, but can he play power forward? Dennis Rodman and the Bulls contained him, but the Bulls have contained nearly everybody so far this year. Johnson has played continuously in pickup games and overseas since his retirement, so even at 36 he looks in better shape than some of his less-dedicated NBA brethren. See you next week, after I'm done picking my jaw up off the floor.

* * *

The 44th Annual Beanpot Hockey Tournament began this week. It was the first time the tournament was played in the FleetCenter.

In the first game Northeastern beat Harvard 4-1. A shorthanded goal by Craig MacDonald at 18:37 of the third period was the lone Harvard goal.

Harvard played the game without Peter McLaughlin, perhaps the team's best defenseman, and Brad Konik, the Crimson's captain and leading scorer. They were in the front seat in McLaughlin's vehicle when it was hit head-on by another car. McLaughlin was ejected from the driver's seat and suffered lacerations and a broken nose. Konik had a stiff neck from whiplash. Three other players were in the back seat, but they did not miss the game.

The Crimson had more success last weekend. Harvard rallied from a 3-1 third-period deficit to beat RPI 4-3. Henry Higdon scored the tying goal at 17:05 and assisted on Jason Karmanos' winning goal 89 seconds later.

Harvard beat Union 6-0 on the following day. Freshman Rob Millar had a hat trick and won the ECAC Rookie of the Week award. His classmate Peter Zakowich recorded his first career shutout.

In the other Beanpot semifinal, BU beat BC 4-1. Mike Grier had two goals, including the game winning power play goal at the beginning of the second period.

The tournament concludes next Monday.

THE VERDICT

Movies to See, Old and New



By Michael Bennett '98

Movie Reviewer

"Casablanca" (1942)

FEW American films in the history of the industry have been as representative of the manner in which the U.S. viewed itself, its allies, and its enemies during the Second World War as the classic "Casablanca" (1942). Almost every character alternates between the role of individual and that of a conduit for the voice of one of the warring countries. This duality is accomplished so smoothly that it fails to become quaint.

Its main plot and various mini-plots revolve around an American expatriate, Richard Blaine, who owns the Café Americaine in 1941 Vichy-controlled Casablanca, Morocco. The club serves as a high-scale flea market for the innocent and the not-so-innocent alike. And Casablanca, due to its location and temporary lack of Nazi-infestation, is an ideal launch pad for a two-legged journey to the U.S. via Portugal.

Blaine's philosophy, summed up in one of the least appreciated great lines of the movie, "I stick my neck out for nobody!", initially works perfectly as he pays off corrupt officials, manages the club, and watches indifferently as the Nazis begin to penetrate North Africa. But his world is turned on its head when Ilsa Lund, a lover from the past, enters the picture. Rick's tough outer shell is disintegrated as he learns that almost everything he believed about her is false. Their reunion is further stalled by her husband and traveling companion, Victor Laszlo, a Czech refugee who might be capable of freeing occupied Europe if he can only escape the Nazis at his heels. Rick learns that Ilsa continues to love him and hope blossoms anew only to be stomped out again as he finds himself in possession of only two exit visas to America, meaning one of the members of the love triangle will have to stay behind. If you don't know the rest of the story... shame on you.

Directed by Michael Curtiz, the film is a melodramatic masterpiece of the first degree. Despite the wit of the powerful, rapid fire dialogue (kudos to the Epstein brothers and Howard Koch), the script is nonetheless bordering on minimal when compared to many films from the era. The visual component says at least as much. The effective use of shadows in many of the scenes, now almost reduced to cliché status by the abuse of many modern day movie makers, is fresh and provocative considering the period.

As for the acting, it is wonderful as well. Humphrey Bogart's portrayal of Rick is done in his typical "ultra-cool guy" manner. For a true sense of his acting capabilities, compare his character in this work with his anti-hero role in "The Treasure of the Sierra Madre" (1948) (Ronald Reagan was at the last moment turned down for the part of Rick, so perhaps in a perverse way we have Warner Bros. to thank for his two terms. Apparently, this was not "one for the Gipper"). Ingrid Bergman's leading lady role emphasizes her beauty almost as much as her acting ability. This is especially evident as she makes her initial appearance; her presence is, simply put, stunning. Supported by a cadre of superb secondary actors like Sydney Greenstreet, Conrad Veidt, Claude Rains, Paul Henreid, and especially Peter Lorre and Dooley Wilson, the film easily qualifies as a "must see."

Suggestion: see this in the company of as many people as possible and bring a box of tissues. The emotional wave that usually rides over the crowd at a theatre as members of Allied countries drown out the singing Nazis with a grand rendition of "La Marseillaise" is lost in the home's solitude, and soggy popcorn tastes nasty.

* * *

Due to the considerable amount of time and films that have passed since my last review, I offer several condensed critiques of works I've seen since my last column appeared:

"Leaving Las Vegas" (1995)

A disturbing look into the mind of a man who plans to drink himself to death. Directed by Mike Figgis, starring Nick Cage and Elisabeth Shue, this film by many accounts, including my own, is very difficult to watch due to its grittiness and gut-wrenching portrayal of alcoholism and vice in general. As a friend put it, "Nick Cage makes Ray Milland in 'The Lost Weekend' (1945) look like a social drinker!" This is probably Cage's best work since "Red Rock West" (1993) and Shue is equally strong.

"Cries and Whispers" (1971)

Warning: Do not attempt to watch this film alone, especially at night! Ingmar Bergman's film of sibling rivalry, hatred, and the meaning of death borders on horror as many of his films do, despite the lack of the typical props of that genre (rolling heads, big knives, etc.). For viewers who have not been exposed to Bergman's work, this is probably a good place to start; unlike many of his other works, there is at least the outline of a plot, as a main-stream consumer of movies would understand.

"Drunken Master" (1978)

Classic Kung-Fu! A young Jackie Chan plays the wild son of a father who's given up any hope of controlling him. Instead the father sends the problem man-child to study with the Drunken Master. Chan hones his skills in order to avenge his father's shame and his own, as well. Chan's incredible physical ability and great sense of humor shine through in this cult milestone.

If you haven't been keeping abreast of the films coming out of Hong Kong, you'll be left in the dust when New Asian mega-stars led by director John Woo, actors Chow Yun Fat, Jet Li, and, of course, the magnificent Jackie Chan, land in this country. Watch for Chan's new U.S. release, "Rumble in the Bronx" (1996) in the next few weeks.

Harvard Law RECORD

Hope Yen
Editor-In-Chief

David Weiss
Publisher

A Continuing RECORD

Fifty years ago, the Harvard Law RECORD began as an experiment, justifying its place at the Law School on a shaky notion — the evolving idea that a legal education necessarily extends beyond classroom theory to practical concerns of greater society.

Today, as we look back on our development and look ahead to the next millennium, the newspaper hopes to boost coverage in at least three major areas that we feel will better meet the demands of the HLS community.

First, the RECORD plans to include stories of greater society that will likely affect our future role in the legal arena. That means state and national news on major lawsuits, as well as political and social events affecting the profession, such as congressional action on the Legal Services Corporation. We will thus be using the services of the Associated Press, as an experiment, to help keep students informed of the outside, socio-legal world.

Second, we hope to cover more alumni developments. As the nation's oldest law school, HLS has a number of distinguished graduates who can help bring perspective to our views of legal education and the profession. Converging at the RECORD are views of the three main components of the institution of Harvard Law School: students, faculty/staff and alumni. The newspaper thus has a vast potential to foster dialogue and debate among the disparate HLS community.

The voices of alumni present a necessary view of where the Law School has been and where the legal profession is going at a time when students and faculty are tackling — in both practical and theoretical contexts — problems facing HLS and greater society. Our news series, "Alumni in Action," which profiles interesting and unusual graduates, was created with this idea in mind. We invite more letters to the editor, as well as guest columns and story ideas, to help serve the RECORD's mission of promoting informed debate as we face new challenges in the 21st century.

Third, we remain committed to a focus on student news. The RECORD will always be Harvard Law School's independent, student-run newspaper. In many regards, that means we are the student voice at the Law School; active coverage of the diverse student groups and individuals will thus continue. Student involvement also is key to our vitality. We hope that you will consider joining us as reporters, columnists or editors when deciding how to spend your spare time this spring.

Any added coverage, of course, will not come at the expense of our current attention to newsworthy faculty and administrative news affecting the Law School community. From faculty hirings to Administrative Board proceedings, we hope to bring you the latest on key issues of Law School governance.

Our plans come at the heels of an outgoing RECORD administration that strenuously held to ideals of a democratic free press. Editor-in-Chief Katrina Randolph '96 and publisher Dave Weiss '96 are two extraordinary journalists who constantly emphasized the RECORD's role in promoting open debate with hard-edged news and diverse editorial coverage. Their leadership will be sorely missed. The RECORD is also indebted to editor emerita Victoria Kuohung, '96 whose tireless energy will be an asset as she returns to the core staff this semester.

Finally, as we look ahead to another half century of service to HLS, the RECORD wishes to express appreciation to administrators and faculty, who have been cooperative and supportive of our efforts. Their openness is vital to keeping the HLS community informed and aware.

—Yen

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

—First Amendment, US Constitution

• Letters •

Bag Search Not Intended to Demean Students

This is a letter in response to Scott Ziance '97, who wrote a letter (see RECORD, Jan. 12, 1996) concerning the library's practice of checking students' book bags when they leave the library.

I want to thank you for taking the time to express your concern over the library's activity of checking people's book bags when they leave the library. Let me first assure you that the library at no time has intended to make this a demeaning experience or embarrassing for anyone.

It is routine for libraries to ensure that library materials do not leave the library without having been checked out. The primary concern is not, as you may think, to prevent theft but to ensure that, if what you need is not available, we know where it is. I agree that it is very difficult to stop a determined thief. In fact, we do not suppose that law students will routinely steal books. But we have

found that people often throw personal and library materials together when running off to class. Without a reminder that materials need to be charged out, many people would remove the materials unintentionally. We know the items will probably be returned eventually; but if you need them in the meantime, they are not available.

I might add that law students are not the only regular users of the library. Faculty and students from other parts of the University and from other law schools and members of the profession also use our collections. Most of these users do not have the same level of circulation privileges as do law students.

At the present the only means the law library has to ensure materials do not leave the library by accident is to ask you and all library users to show your book bags and brief cases when leaving the library. This is the same process that happens when

you leave Widener. Many libraries have installed electronic systems to detect whether books are being removed without having been checked out first. Such a system is in place at the Ohio State Law School library which you mentioned in your letter. We have installed such a system but are still in the process of tagging the collection. This will be largely complete this semester. When you return in the fall of 1996, students will not need to display their book bags when they leave the library.

In the meantime we hope that you and others understand the need to continue the present procedures. They are meant not to demean you but to ensure that the books you expect to find here are in fact available for you when you need them.

Harry S. Martin
Librarian &
Professor of Law
February 5, 1996

Reactions to "Problems" at HLS Absurd

Though viewed from afar with detached amusement, two recent events reported in these pages reinforce my belief that some things never change, especially at HLS. First, in fine tribute to the old world practice of "shooting the messenger," I was more amazed than amused at the backlash directed at the RECORD for having the nerve to cover Prof. Arthur Miller's ad hoc sabbatical. And to think I actually thought the RECORD was a newspaper responsible for covering community events and controversies notwithstanding whether the controversy involved a distinguished professor. Silly me. Only at HLS can the reporting of an event warrant more attention than the underlying event.

The only thing more humorous was the letter to the editor submitted by the majority of students in Prof. Miller's class. For starters, a brief reminder: given the school's purported blind

grading policy, brown nosing is wasted energy, though it may come in handy when seeking letters of recommendation. Furthermore, Prof. Miller is quite able to defend himself, assuming he needs defending at all. His impeccable record and longstanding devotion speak for themselves. Finally, though I am certain that many of you actually believe that your collective letter was a principled, conscience driven effort to show support, next time you choose to take a mighty stand, consider helping those truly in need of your skills, talent, advocacy, and time (i.e. the homeless in Harvard Square, the welfare mother in Roxbury, or the many juveniles in custody in Cambridge).

On a different note, proving that absurdity has no limit and perspective is in short supply, I am convinced that only at HLS can the "problem" of having an extra \$25 million cause divisiveness. As my father would say, "remember, this is a

good problem to have." Furthermore, though I never thought I'd be defending Dean Clark this soon after graduation, consider this excerpt from a recent RECORD editorial: "Perhaps more dialogue is needed. But, Dean Clark, here are some suggestions to show concretely that you are listening: Explicitly spell out where discretionary funds remain and allocate it toward LIPP, as students and faculty have demanded." Translated, do what we want. Last time I checked, demands and dialogue do not go together. In short, before you accuse the Dean or anyone of assuming an uncompromising posture, look in the mirror. Also, did it ever occur to anyone that those generous folks who actually gave the money may want a say in how it's spent?

If all else fails, give me the \$25 million. That'll solve your "problem."

Bill Choslovsky '94
January 9, 1996

Halpern's Lust Column Disappointing

I read Carla Halpern's "In God We Lust" with great shock and disappointment. In fact, she got the entire issue of sodomy ass-backwards. She really tuchis for a ride. Where is she from — Uranus?

People with religious convictions and the courage to voice them should not be made the butt of her derision merely because she disagrees. Moreover, her characteriza-

tion of biblical arguments was a bum rap. Next time, she should try to get the straight poop and not use her column to dump on her enemies.

Nor did I appreciate the cheeky tone of her editorial. Once again, sophistry rears its ugly head. It's clear she's fallen behind. At bottom, her arguments rest on fallacious assumptions.

As Ms. Halpern demonstrates, the unofficial motto of

HLS remains: "Harvard Law School, where anal refers to more than just our personalities." Now more than ever.

Rob Rader '94
January 6, 1996

P.S. I must admit that Ms. Halpern was right on target about using the penis during sex. I tried it and it works! Thanks!

Editorial Wrong: Law Not About Justice

Your half-baked editorial "Of Mumbles and Ethics" (RECORD, Dec. 8, 1995) misses the mark in its infantile pronouncement "The law is about ethics and justice."

Dean Roscoe Pound, God bless his memory, advised us that lawyers are professionals, not tradesmen, and as such officers of the court;

"engaged in the pursuit of a learned art as a communal calling in the spirit of a public service."

In his "Common Law" Holmes tells us that "the life of the law has not been logic; it has been experience. The felt necessities of the time, even the prejudices which judges share with their fellow-

men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed."

Ethics and justice prevail only now and then by accident in court decisions.

Carl Shipley '48
January 6, 1996

Consider Jobs Besides Law and Consulting

I'm writing in about an article in the RECORD ("Students seek Consulting Firm Jobs in Droves," Oct. 20, 1995). I graduated from the Law School in 1993 and went straight into high-tech product management. My advice to other HLS'ers who don't want to practice law: Consulting (McKinsey et al.) represents only a small part

of the business world.

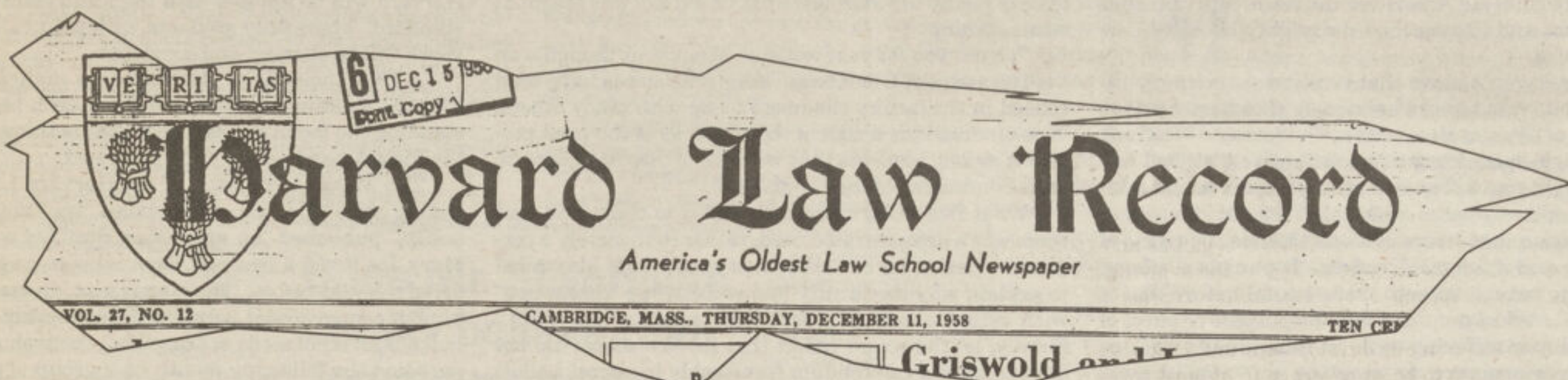
There are incredible changes underway in the computer, communications, and entertainment industries and great opportunities for HLS grads in business roles. The consulting firms are not leading the changes. For my interest (the Web), companies such as Microsoft and start-ups such as Yahoo!,

@Home, Progressive Networks, and others are very exciting places to be. They probably will not recruit at Harvard, but they're worth a look. Consulting is just one option — graduates should consider operating companies as well.

Steven Lurie '93
January 12, 1996

Write to the RECORD!

The birth of the Consumer Revolution.



Cotters

...a Endowment
\$168 million in 1948
1958. Over the same
value of its general
fund grew from \$204
million, an increase of
over 100% under the super-
Cotters, Treasurer of
the university since 1948, that
achievement evi-
dence has been.

to the Bull and Bear
November 21. Mr.
the policies which
ment of Harvard's
fund.
university endowment
ent upon three factors:
(1) the number of
return on their invest-
ment degree of efficiency
university uses the

nted out that one of
nt factors in causing
Harvard's general in-
over the past decade
that every budgetary
and of itself. This
ub on its own bot-
calls it causes
versity to func-
its responsible
its operation
them up

...the international law dem-
the rights of coastal states to territorial
waters and the high seas, failed to
resolve the much-publicized question
of the breadth of the territorial sea.
(See SEA LAW on page 6)

...the inquiries
time the police reports will be re-
to him and to the public. He said that
under Massachusetts law, there is a
cause of action for wrongful death;
(See VOSS on page 6)

...of clauses
agreement which
antitrust laws. It is de-
Lyman M. Tondel, Jr., LL.B.
decision has not yet been announced

The American Automobile Designed for Death?

by
RALPH NADER

It was a bright summer day when
Robert Burelson was driving home
with his wife and three small children
from a vacation trip. He had just
entered Mint Canyon near Los An-
geles when suddenly an automobile
veered across the road into his path.
A split second later, Burelson, his
family and the two occupants of the
other car became statistics for the
annual national motor-vehicle fatality
count of some 40,000 victims. Other
statistics will record at least 110,000
permanent disability cases, 1,500,000
injuries and \$5 billion of direct mon-
etary cost. They will not record the
toll of pain, anguish, wasted talent
and devastated hopes suffered by the
dead, the maimed, their kin and
American society in general.

The tragedy of the highway blood-
bath extends to the callousness and
apathy of the public's reaction to this
vast accident-injury problem. The fa-
talism inherent in the common de-
scription of the fatalities and injuries
as products of "accidents," thereby
implying the inevitable working of
the law of averages, has paralyzed our
abilities and deprived most of us

of such magnitude.
The programs of our public au-
thorities and interested private or-
ganizations have been of minimum
efficacy. To try to stem the tide that
has claimed over 1,150,000 victims
and injured countless millions since
1899, more driver education and
stronger enforcement of traffic laws
have been urged.

Education consists, by and large, in
the unimaginative and incessant re-
iteration of ad nauseam by press and by
radio of the hackneyed safety slogans
with their hollow ring of "drive slow-
ly," "when you drink, don't drive,"
"take a coffee break," and all the other
advice that John Doe thinks applies
to the other fellow.

Enforcement concentrates on im-
partiality, on requiring more literal
observance of traffic laws many of
which are obsolete, inadequate and
actually contribute to the accident-
injury toll.

These programs of education and
enforcement should not be judged too
harshly. They have taken enlightened
forms such as the driver training
courses and state motor vehicle in-
spections. Though difficult to mea-
sure, approaches such as these have
contributed to some reduction of the
accident rate by concentrating on con-
ditions that cause accidents.

standing. Causal factors and condi-
tions can be enumerated indefinitely
from our birth rate to the fatal side
glance at an alluring female. A more
fertile inquiry could be phrased this
way: "Our primary objective is to
reduce fatalities and injuries; what
are the principal avoidable causes that
contribute to these casualties?"

Conception of the problem in this
manner recognizes that efforts at en-
forcement and education center on
accident prevention rather than in-
jury prevention. It is true that pre-
venting the accident prevents the
injury. But is such emphasis realistic
in its exclusive concern? Erratic and
mistaken judgment in driving will
always be characteristic, to some de-
gree, of highway behavior though its
incidence can be reduced.

Two Collisions
Most vehicular accidents can be
considered as two separate collisions.
First, the striking of the vehicle with
another object and second, the strik-
ing by the occupant against the in-
terior components of the vehicle (such
as the steering wheel, dashboard,
knobs, rear view mirror) or ejection
through the door opened by the im-
pact.

It is this second impact of the
pant against the inside of his
does the killing and injury
is nothing accidental.

...ary
late-
cipate.
Usually
unless rec-
a rare occa-
discussion on
lar field.

Monday's visi-
citant as most of
hibited none of the
icipate that is the
showed admirably
to the front of the
pating in the cla-

But when he
the center of a
the back of the
envy of students who
to time wished that the
professor's question-
manner.

Professor Fiel-
was pressed for
detaim him.

His presence
ly distracting to
bers of the class
them kept glancin-
to make sure of
Without utter-
inspired class
very presence.
leaped from his
pursue the visitor
the room, as Pro-
"Catch him and I
Dean."

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Harvard Law Caves In to the Censors

By Harvey A. Silverplate '67

REPRESSION at American universities continues apace and has reached the mighty Harvard Law School.

The faculty, in a move that received surprisingly little attention, voted overwhelmingly this past April to adopt a set of "Sexual Harassment Guidelines." Weighing in at 11 single-spaced pages of substantive text, and bolstered by eight pages of enforcement procedures and a 15-page "appendix of related materials," the guidelines contain a provision that critics contend violates the rights of free speech and academic freedom. It punishes, among other things, "any ... speech ... of a sexual nature that is unwelcome ... abusive ... and has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, demeaning, degrading, hostile, or otherwise seriously offensive working or educational environment at Harvard Law School."

Even though the guidelines were adopted with only one dissenting vote (not counting those professors who absented themselves from the faculty meeting), there are signs that some of the brighter lights at the institution had qualms.

For one thing, the faculty inserted a wishful clause that declares "no speech ... shall be deemed violative of this guideline if it is reasonably designed or intended to contribute to legal or public education, academic inquiry, or reasoned debate on issues of public concern or is protected by the ... First Amendment."

Putting aside the faculty's elevation of public discourse above private communication, one marvels that such an august group of legal scholars and teachers has adopted a speech code so ambiguous that they find it necessary to assure those under its authority that if charged with uttering words that an American (non-Harvard) citizen would be free to speak, they may argue the First Amendment in their defense. How many students, however, are likely to take the risk of being prosecuted for their "speech of a sexual nature" and rely upon the law school's good faith and good sense in accepting this defense? Indeed, can this exception for constitutionally protected speech really cure the chilling impact that the guidelines will surely exert on speech at Harvard Law?

Harvard Law students (as well as many faculty members, for that matter) are not widely known as risk-takers when their careers are at stake. Furthermore, there is already a perception that the decks are stacked at the disciplinary tribunals.

Although adopted in April, the guidelines did not go into effect until October. The six-month delay was occasioned by the requirement that the guidelines be vetted and approved by Harvard's Office of the General Counsel. Here we have the specter of some of the nation's leading constitutional law scholars being second-guessed by the university's staff of 13 in-house lawyers.

Why did the faculty see fit to adopt such a speech

Mr. Silverplate, a 1967 graduate of Harvard Law School, practices law in Boston. He is working on a book about the state of liberty on American college campuses.

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code? Was there an epidemic of gross sexual misconduct that provoked curtailment of speech? Dean Robert Clark, queried on the subject in a letter I wrote him in April, said little to justify the code, but what he did say was pregnant with meaning:

"Thank you for your letter ... about your thoughts on the Harassment Guidelines. Your sentiments have been echoed in the faculty chambers along with many others. This discussion is a sign of the times, as is the need perceived among students that we have to discuss this or be seen as uncaring of their concerns."

What Dean Clark pointedly failed to claim was that there was a demonstrated need, rather than merely a perceived occasion for curtailment of speech. He also failed to explain why the faculty had to follow up "discussion" with actual censorship, lest it be seen as "uncaring." Finally, let the record reflect that the law school did not dare to have a referendum (preferably by secret ballot) among the students to see if a majority really needed or wanted such "protection" at the expense of their free-speech rights.

Indeed, to my knowledge, no academic institution has ever dared to put restrictive speech codes to a vote to see if students really feel the need to be "protected" by a sacrifice of their liberties. As far as one can tell, these codes are simply another example of the university's unilaterally acting *in loco parentis* — a distant but direct relative of the rules of prior decades, imposed from the top, that prohibited the sexes from visiting each other's dormitory rooms.

Some administrators have sought to defend speech codes by claiming that federal Department of Education

[I]t is hard to understand how and why the current "hostile environment" language is any less restrictive of or threatening to free speech and, for that matter, how it differs from a "hate speech" ban.

guidelines require universities to take unspecified steps to prevent and deal with "harassment" of "vulnerable classes," and that failure to do so invites lawsuits. However, it is clear that no bureaucrat has the power to force a university to curtail free speech, since the Constitution trumps a mere regulation every time. In any event, none of these academic bureaucrats has demonstrated sufficient integrity to launch a court challenge to these alleged governmental censors.

Of course it could have been worse, according to Dean Clark. An earlier proposed version of these guidelines proposed banning "sex-based harassment by personal vilification," which would have included speech directed to individual members of the law school community that is "intended to insult or stigmatize ... on the basis of their gender or sexual orientation" and conveys "visceral hatred or contempt." Faced with the prospect of this near-total ban on any kind of personally discomforting gender-based speech, Dean Clark and some faculty members appear to feel that the code actually adopted is the lesser of evils. Certainly Dean Clark's letter makes that appear to be so, dubbing the "harassment by vilification" language to be a "hate speech" ban.

Yet it is hard to understand how and why the current "hostile environment" language is any less restrictive of

or threatening to free speech and, for that matter, how it differs from a "hate speech" ban. Further, if experiences on other campuses are a guide, any speech ban at Harvard will be applied with the all-too-familiar double standard, where only students with politically incorrect views will be charged and convicted.

A 1992 incident at Harvard Law makes one pause over the meaning and scope of the speech ban, notwithstanding the faculty's assurance that nothing violative of the First Amendment will be penalized.

The March 1992 issue of the Harvard Law Review, setting aside what the editors called "traditional editorial policy," published "an unfinished draft" of an article by Mary Joe Frug, a feminist legal scholar tragically murdered the year before. The manuscript, an example of the kind of controversial politicized scholarship that traditional legal scholars do not consider scholarship at all, was parodied the following month by a group of students in what was denominated by them, in a "warning" on the cover, as admittedly "highly insensitive."

The publication provoked a storm of outrage from many faculty members and administrators, some calling for the disciplining of the offending students and the wrecking of their legal careers. Ultimately, the students survived, as it became clear that their attempt at parody, though perhaps in abysmally poor taste, should be protected.

However, when at least one faculty member asked the drafting committee whether the Frug parody would be viewed as nonprotected hate speech under the guidelines, the committee failed to deal with this crucial question.

Had the guidelines been in effect in 1992, it is thus not at all clear whether the law school parodists would have been punished. What is clear is that students with a sharp tongue (or perhaps just an independent mind) walk on egg shells at Harvard Law School these days. To quote Dean Clark (who appears to have used the phrase more with resignation than enthusiasm), this is "a sign of the times."

To make matters worse, it appears that in caving in to the authoritarians, the faculty has not ended its agony, and the administration has not guaranteed itself "no trouble on this watch."

A first-year law student wrote in the Dec. 8, 1995 issue of the Harvard Law RECORD, the official student-run newspaper, that it was "tragic and ultimately short-sighted" for the faculty to adopt a policy that "seeks to protect students from offensive behavior or dialogue on the basis of sex, yet failed to adopt a comparable policy on the basis of race." Ominously, but instructively, what the student columnist was complaining about was the showing of a film in his criminal law class, which depicted a debate between a prosecutor and defense attorney over an encounter between a black college student and a white police officer who used a racial epithet.

"I became miffed, confused, and ultimately offended as the film progressed," wrote the student. Showing the film in class without giving students "proper warning" of its offensive content constituted racial harassment, he argued in all seriousness.

Dean Clark and the faculty are about to learn that once principle is sacrificed in the name of expedience, there is no end to the demands from ever-proliferating groups of self-described victims seeking to cleanse the campus — and the classrooms — of unpleasant speech, not to mention uncomfortable ideas.

My Mother Would Have Supported Mfume, Too

By A. Leon Higginbotham, Jr.

EIGHTEEN years ago this month, my extraordinary mother, Emma Lee Higginbotham, died. Each year, as the Christmas season approaches, I think of her often. In her wallet she had several pictures of her family, to whom she gave so much in love, values and wise judgment.

She also had her Social Security card, her current membership card in the NAACP and her tithing pledge to the Shiloh Baptist Church. From the depth of the deprivations imposed upon her in rural Virginia, she recognized that her church and the NAACP were the critical institutions to protect her family from injustice and to make our nation the democracy it should be.

As a child on her knee, I often listened to her sing the Negro National Anthem, "Lift Every Voice and Sing." It was a poem written by James Weldon Johnson, the first African American executive director of the NAACP, put to music by his brother, J.



Rosamond Johnson. One of the most powerful verses is: "Facing the rising sun of our new day begun, let us march on till victory is won."

I know that she would have had tears in her eyes and pride in her heart if she could have heard Congressman Kweisi Mfume's moving speech when he agreed to accept the position of president and chief executive officer of the NAACP. Thoughtful writers for the Boston Globe and the New

York Times suggested that in my praise of him, I may be "overselling Kweisi Mfume just a tad," or that I am engaging in a bit of "hyperbole."

I wrote that Mfume has the "brilliance of DuBois, the eloquence of Martin Luther King, the toughness of Thurgood Marshall and Sojourner Truth, the caring of Mary McCloud Bethune and Harriet Tubman and the diplomatic skills of Ralph Bunche and Roy Wilkins." I knew that I was using superlatives, but, from my view, Mfume deserved those accolades. Yet it is understandable why some reporters may view my perception of Mfume as a bit extravagant.

I admire these sophisticated, talented and younger writers of today, but I sometimes wonder whether they have become so pragmatic that they don't have enough space left for dreams. They may not fully appreciate the fact that the success of Martin Luther King, Nelson

Mandela and Thurgood Marshall came from their daringness to dream what other could not envision and then, against the odds, going on to defy the probability curve.

Fortunately, none of the young and rising professionals have had to travel the uphill road that my mother journeyed as she confronted insurmountable barriers. She had less than a sixth-grade education. She read the Bible daily. She never once read the New York Times or any of the major eastern establishment newspapers.

Nevertheless, she would have been confident, as I am, of Mfume's greatness, just as she was of Martin Luther King's, long before he became a national hero. She would have been praying for and praising that "new colored leader [with the odd name]" she had just seen on television. She would still be humming to me or her grandchildren the longer stanza of Johnson's poem: "Sing a song full of the faith that the dark past has taught us; sing a song full of the hope that the present has brought us. Facing the rising sun of our new day begun, Let us march on till victory is won."

As I reflect during this holiday period, I am confident that if she were living today, my mother would have pledged her support to both Myrlie Evers-Williams, chair of the NAACP National Board, and to new president Kweisi Mfume for "our new day begun." And the NAACP membership card in her wallet would be current.

A. Leon Higginbotham Jr., the Public Service Professor of Jurisprudence at the Kennedy School of Government, is a lecturer at Harvard Law School. He served as co-chair of the NAACP Search Committee.

Free Speech and Sexual Harassment

By Dean Robert C. Clark '72

In his Jan. 8 editorial-page article "Harvard Law Caves In to the Censors," Harvey Silverglate attacked the Harvard Law School's Sexual Harassment Guidelines as a species of "repression" that "continues apace at American universities." His article is seriously misleading.

First, he implies that there was no need for Harvard Law School to adopt sexual harassment guidelines at all. But the school is under a legal obligation to protect its students and employees from sexual harassment. Moreover, contrary to Mr. Silverglate's intimations, the committee charged with drafting guidelines learned of a student who claimed to have been pressured to have sexual relations with a prospective employer who used the school's placement office; similar accusations of sexual harassment brought by several members of the school's support staff against other employees; and various dramatic instances of alleged sexual harassment of students by other students.

Second, Mr. Silverglate gravely mischaracterizes the school's carefully drafted Sexual Harassment Guidelines by associating them with misguided attempts to promote political correctness at other unnamed institutions. Quoting only a snippet out of context, he claims that the law school's guidelines are "ambiguous" and generally invasive of free speech rights. This charge is false.

A key feature of the guidelines is that they move beyond the vague formulations used by many other academic and business organizations. (The committee looked at and rejected dozens of sexual harassment guidelines adopted by other institutions.) They include nearly 20 single-spaced pages of text, analysis and illustrative examples precisely because they try to be as clear as humanly possible about what is forbidden and what is protected. They

strive for clarity in order to protect speech, not limit it. Moreover, although Mr. Silverglate overlooks the point, the existence of clear guidelines can afford protection to those accused of sexual harassment. Besides giving clear notice of forbidden conduct, the guidelines serve the important function of limiting the authority of disciplinary boards. Speech not expressly covered by the guidelines is not subject to sanction.

No speech is subject to sanction unless it runs afoul of multiple, primarily objective standards. As a further protection, the guidelines state explicitly that "no speech or combination of speech and conduct" may be punished "if it is reasonably designed or intended to contribute to legal or public education, academic inquiry, or reasoned debate on matters of public concern." A series of examples, included in the guidelines themselves, demonstrate that this proviso would protect virtually any expression of opinion in public or classroom debate.

Once this latter point is recognized, Mr. Silverglate's complaint reduces to an accusation that the guidelines fail to protect "private" speech of a sexual nature. Again, however, the guidelines establish multiple criteria that must be satisfied for speech to be punishable. They provide ample latitude for boisterousness and insensitivity.

The guidelines do contemplate discipline for some very narrow categories of "private" speech. For example, in certain contexts they provide sanctions for speech used to propose a sexual quid pro quo — such as a promise by a professor to give a student a better grade if he or she will provide sexual favors in return. Does Mr. Silverglate really believe that female members of the law school community, in particular, must endure abuses of this kind for "academic freedom" to be preserved?

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Does Mr. Silverglate really believe that female members of the law school community, in particular, must endure abuses of this kind for "academic freedom" to be preserved?

By Prof. Alan Dershowitz

My friend and civil liberties colleague Harvey Silverglate and I seek the same ends in regard to sexual harassment rules: 1) eliminating quid pro quo sexual exploitation by those in positions of power; and 2) maximizing freedom of expression. We respectfully disagree, however, over the best means for achieving the latter goal in the context of a university setting.

I prefer clear, written rules rather than faculty or decanal discretion. Indeed, it was precisely the episode cited Mr. Silverglate that led me to support — admittedly with some reservation — Harvard Law School's year-long effort to articulate a set of written rules regarding "hostile environment" sexual harassment. When some students published the sexist parody of Mary Joe Frug's article there were no written rules, and yet several respected members of the faculty called for the students to be disciplined under "general principles" or "the common law" of university governance. That is when it became clear to me that statutes are better than unwritten "general principles" or "common law" in preserving freedom of speech. A statute, by occupying the area, significantly cabins the discretion of administrators.

The rules that Harvard Law School finally agreed upon are the most protective of free speech of any university, corporate or other guidelines with which I am familiar. They expressly forbid the imposition of any sanctions for any speech — no matter how sexist or otherwise outrageous — that meets any of the following criteria:

- 1) it is "reasonably designed or intended to contribute to legal or public education, academic inquiry, or reasoned debate on issues of public concern";
- 2) "or is protected by the Massachusetts Civil Rights Act";
- 3) "or is protected by the First Amendment."

The parody of Prof. Frug's article is well within these protections, as should be every other instance of speech about which civil libertarians have legitimate concerns.

There is always the possibility that censorial students, faculty or administrators will try to construe the Harvard Law School rules so as to restrict speech, but as a long-term civil-libertarian defender of free expression on campus, I feel more empowered and protected with our rules than I felt without them.

The Jailing of America

By Abbe Smith

THE United States has set a dubious record. The Justice Department last week reported a record increase in the prison population: nearly 90,000 more inmates than the year before, enough to require 1,725 new beds each week.

The United States not only imprisons more people than ever before, but it also now locks up a higher percentage of its population than any other nation. And that includes Russia, China and the Third World.

Add to that the recent finding that one out of three African-American men is either under some form of court supervision or in jail or in prison.

The result is a stunning and grim reality: This is another sort of Million Man March. If you build it, they will come. And come they have. Somehow, the "land of the free" is increasingly becoming a nation of jailors and the jailed.

But behind the sterile reporting of statistics are little-discussed social implications.

Our acceptance of imprisonment as a tool of social control goes well beyond the Dickensian images of debtors' prisons in 19th-century England, which, even when they flourished, did not lock up such a large chunk of the population. Prisons are now industries unto themselves. They are good employers, unlikely to relocate in some far-off place where labor is cheaper.

We must picture more and more teenagers in prison as we reduce the age of adulthood for purposes of criminal responsibility, and continue to embrace mandatory minimum sentencing, guidelines sentencing and so-called "truth in sentencing."

There are American communities in which everyone knows someone who is locked up. There are families who organize their free time around prison visiting hours. When young people growing up in our most devastated communities envision the bleakest possible future for themselves — that they will end up either dead or in jail; as one young man put it, "They'll either take me away in a hearse or a paddy wagon" — too often those worst fears become true.

We must picture more and more older people in prison. Long sentences mean some people will live most of their lives in prison (way beyond the time when they pose a danger to society). People get sick and die in prison. Some peo-



ple even get buried in prison. In "Life Sentences," a book by Wilbert Rideau and Ron Wikberg, two prisoners at the Louisiana State Penitentiary in Angola, there is a haunting account of the prison funeral of a man whose mother was too poor to bring her dead son home. He was buried in a beige coffin made of imitation wood, with the word "HEAD" scrawled across one end so the prison chaplain would know where to stand.

Except for periodic reports about the rate of incarceration — which reports apparently have little or no impact on the rate of crime — and an occasional story about prison unrest, we don't hear a lot about prisoners. Prisoners are not a strong political constituency. Aside from family members, prisoners have little public support, except from the "usual suspects": civil libertarians, public defenders and an occasional well-intentioned columnist.

Prisoners are simply not an appealing topic for public discourse. Truthful portrayals of the complexity of crime and those who are imprisoned for it are barely present in the popular culture. (There are a few exceptions, including last year's powerful film about brutality and survival at Alcatraz Prison, "Murder in the First"; Bruce Springsteen's wonderful acoustic albums, "Nebraska" and the just-released "Waiting for the Ghost of Tom Joad," which include novel-like ballads about poverty, crime and punishment; and, of course, Johnny Cash's classic album "Live at Folsom Prison.")

The plight of prisoners and their cause do not carry the urgency or glamour associated with those who are sentenced to death. Prisoners claiming wrongful convictions and serving sentences short of death do not make it to the front page of The New York Times or onto the Internet. Large law firms with traditions of pro bono representation of prisoners challenging death sentences seldom take a "regular" prison appeal. Meanwhile, government financing of legal services has all but disappeared.

Gone are the days of Clarence Darrow, the lawyer and statesman who championed the dispossessed and despised. He wasn't simply a lawyer of high-profile cases; his 1902 address to poor prisoners in the Cook County Jail, in which he railed against the politically-driven hysteria to punish instead of addressing the causes of crime, has force today. Darrow wanted people to understand that there but for the grace of God go we. He argued against vengeance. Though he was not immune to controversy, his work was widely regarded as heroic.

Make no mistake about what goes on in prisons. Though penal institutions came about as part of a social reform movement as an alternative to harsh labor camps and public torture, there is no question that we mean to

break the spirits of those we imprison. The intense deprivation that imprisonment imposes puts prisons on a continuum with other forms of torture.

As one man who completed a lengthy sentence explained, "You don't do time, time does you."

There are those who still think prisoners have it easy, with the security of "three hots and a cot" each day. There are some who think that prisoners have access to resources not available to law-abiding citizens. The reality is that the vast majority of prisoners in this country are doing hard time. There are no plentiful "resources" for prisoners. There are no more Pell grants for higher education (though such programs have been shown to reduce recidivism). Although illiteracy has been strongly linked to crime, prison reading and GED programs hang by a thread.

There is woefully inadequate substance abuse treatment in prison. There is less and less vocational training — and a renewed interest in the chain gang, in which men are shackled to each other in brightly colored prison garb and break up rocks for no purpose except public humiliation. There is more and more surveillance in the new high-tech prisons, where everything from a phone call to a bathroom visit is monitored.

Why has it come to this? Why are we turning to prisons as The Answer to a host of complex social problems from drugs to violence? Do we really want to lock up all these people? Do we really believe we should be spending more money building prisons than rebuilding our schools?

These are hard times for people on the margins of society. These are times of blame, of finger-pointing. We wish we could just get rid of society's troublemakers — those in prison and those on welfare and those with AIDS and those who immigrated to this country after the referee blew the whistle. They are the ones who fail to take individual responsibility.

But, individual responsibility and social responsibility do not have to be an either/or proposition. We ought to be able to hold individuals accountable for doing wrong, but also show compassion for those whose crimes are born of misfortune. Didn't the Bible caution, let those who are without sin cast the first stone?

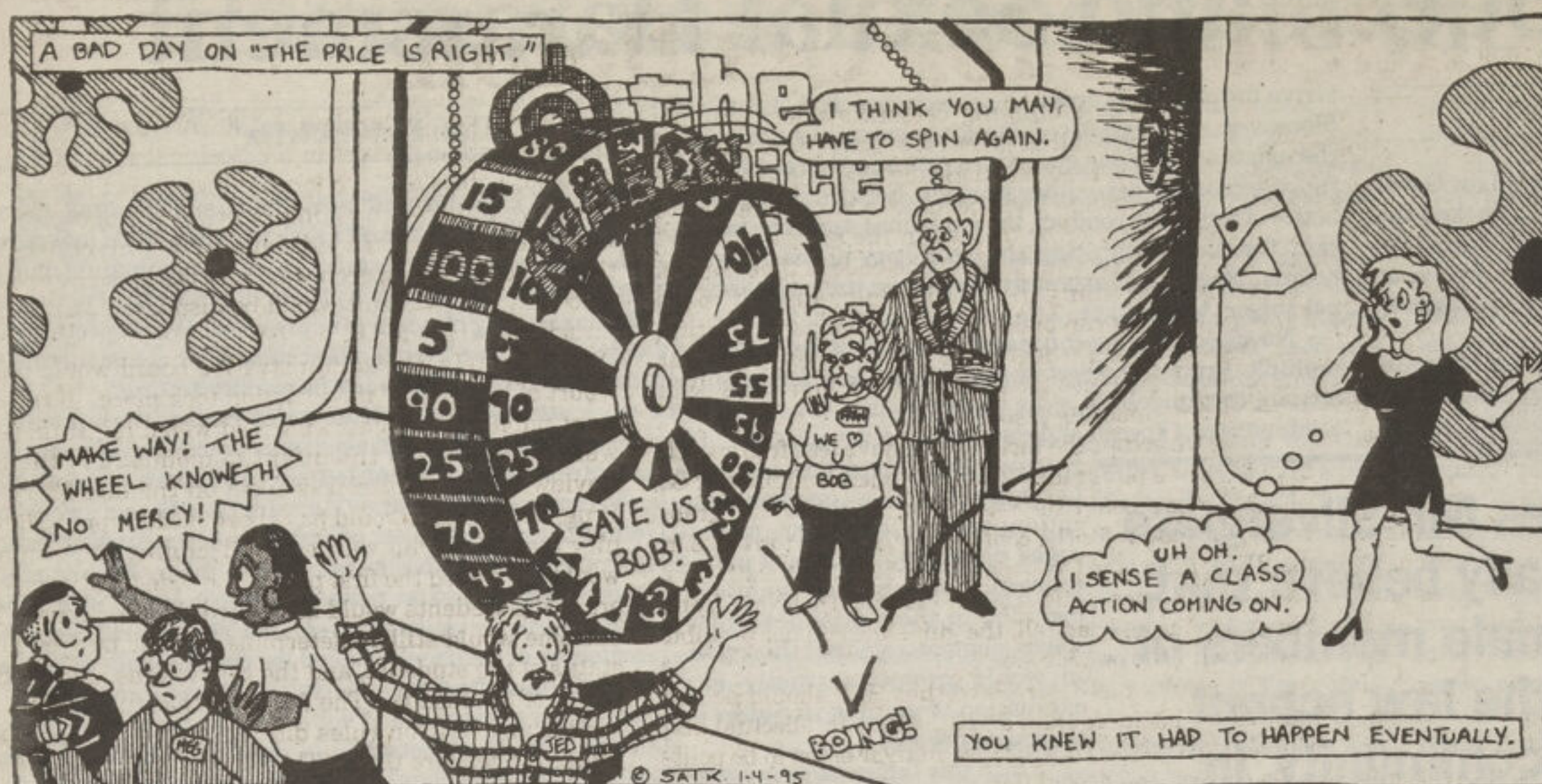
There was a time when Americans applauded the struggles of the poor and downtrodden and allowed for some mistakes. It seems a long while since the popularity of John Steinbeck's "The Grapes of Wrath" and Lorraine Hansbury's "A Raisin in the Sun."

Today, it seems, we want to hold those less fortunate at a distance — the greater the better. That's why shipping those Massachusetts prisoners down to Texas in the middle of the night last month was such a brilliant idea. Who's gonna care about a bunch of convicts? Besides, we needed to make room for a few new prisoners.

Abbe Smith is deputy director of the Criminal Justice Institute at Harvard Law School. She is a practicing criminal lawyer and a former public defender.

Temporary Insanity

By Sheila Tuller



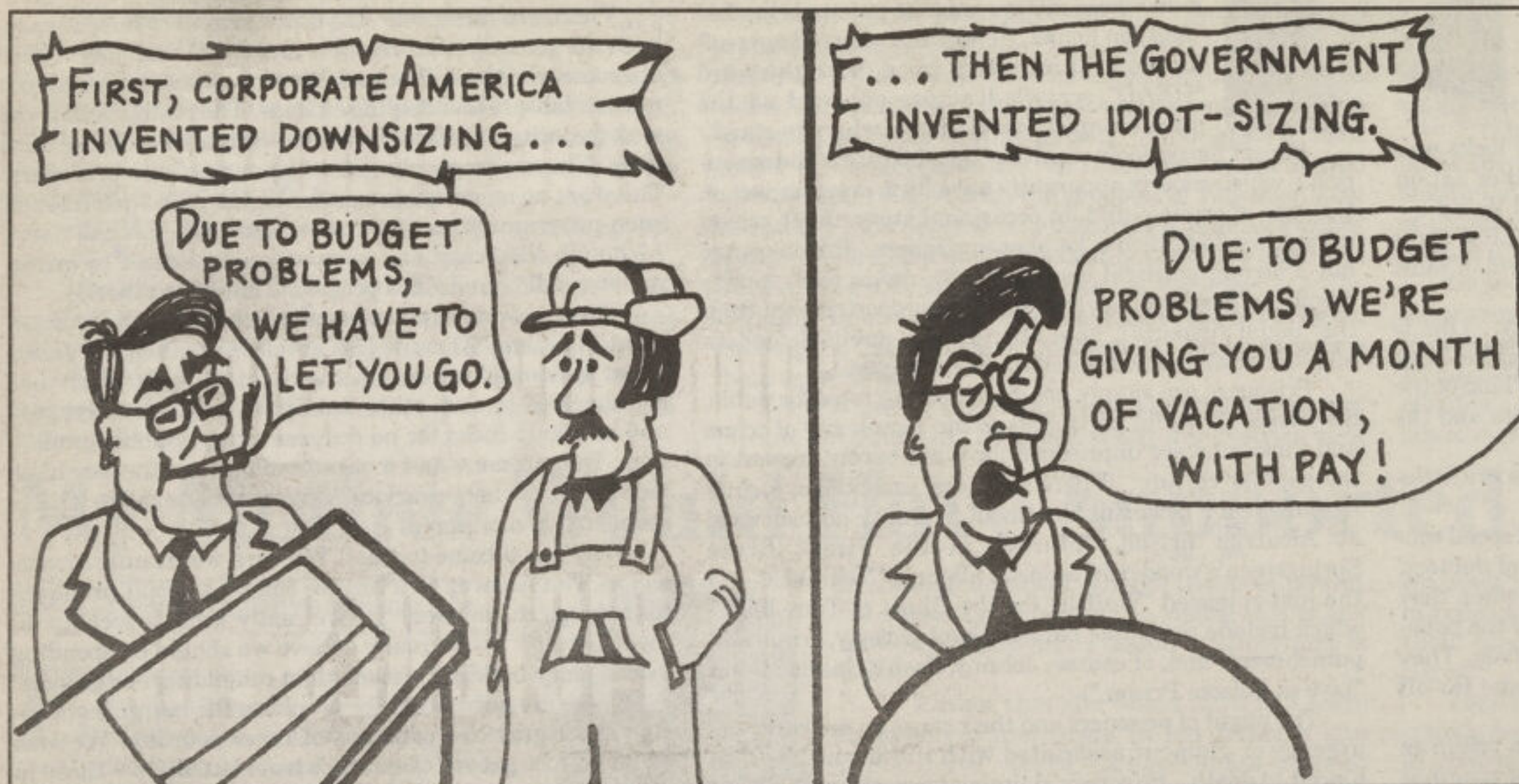
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CALENDAR

By Colin Meeder

My readers, we've shared the good times together. I've let you know what great acts have come to town, and let you in on happy little tidbits of the artists' careers and lifestyles. I would be remiss, therefore, if I failed to fulfill my duty as a journalist and relate to you sad news of showbiz tragedy as it occurs. I'm not talking about Gene Kelly's death, although that was in fact a drag; no, I have a far heavier tale to tell. Rob Pilatus of Milli Vanilli (he was the cute one with the hair) was arrested last week for attempted burglary of an automobile and for threatening the life of the vehicle's owner. I think a moment of silence is in order.

Speaking of talentless prettyboys, the Red Hot Chili Peppers are playing the FleetCenter tonight (2/8) with Silverchair and the Rentals. But unless you're willing to pay hundreds of dollars to some low-life scalper, you won't get in. If you really need a fix (get it?) of these bands, though, you can make the drive to the Worcester Centrum on Monday (2/12). Call Ticketmaster (931-2000) for ticket info. More interesting stuff is available right here in Cambridge tonight downstairs at the Middle East (497-0576) courtesy of the terrifically talented singer-songwriter Freddy Johnston. Jules Verdone, Buttercup, and Jesse Lee Montague open.

If you can think of a better way to spend a late Friday (2/9) afternoon than going to an all-ages show at a seedy dive featuring at least one brilliantly stupid punk rock band, I'd like to hear it. If you can't, check out the *Queers* along with the *Cretins* and *Cletus* at the world-famous Rat (536-2750). The show starts at 4 in the afternoon, so go early and hang out with the tattooed twelve-year-olds.

Christine Lavin and her traveling collective of songstresses, collectively known as *Four Bitchin' Babes*, will sing their endearing tunes of modern angst at our very own Sanders Theater (6-2222) on Saturday (2/10).

Some reunions seem inevitable. Others, as longed for as they are unexpected. Some simply beg the response "oh, dear God, why?" On Sunday night (2/11), two reunion tours come to the area; I leave it to you to place the band in its proper category. First off is *Southside Johnny & the Asbury Jukes*, featuring Bru-u-uce's old guitarist, at Mama Kin (536-2100); second, and perhaps more disturbing, is *Morris Day & the Time*, who come to the Roxy (442-2622) as part of something called the "10th Anniversary Purple Rain Reunion Tour." No word on whether Apollonia Six or Mr. Thingie-Symbol Himself will appear.

You all snicker, I'm sure, but I'll bet that when you were in Junior High you were either listening to the *Time* or *Iron Maiden*. However, the *Pop Powers* That Be have officially declared Metal dead, so that instead of sneakin' Natty Bohs into the local hockey rink, you can legitimately buy white wine spritzers while you rock out at the Avalon (262-2424) where the Maiden will be playing on Tuesday (12/13). Opening will be *Fear Factory*, who are Very Angry, but you gotta question the street credibility of a Pantera-esque group with an endorsement from a clothing company.

More sad news: this Valentine's Wednesday is very likely your last chance to see the *Ramones*, who bring their "Adios, Amigos!" tour to the Avalon. If punk rock lives are measured in dog years, the Ramones are each about 101, but damned if they don't still rock.

Coming up: Rod Stewart, Bikini Kill, Johnny Cash. Variety is the spice of life.

Guidelines for Gentlefolk

By Markus U. Hartmann '96

Established in 1817, Harvard is the oldest existing law school in the United States. The School prepares its graduates to serve as lawyers and in law-related roles.

— Harvard Law School Catalog 1995-96.



THE first two sentences of the catalog's introduction serve as a useful reminder and a practical mission statement for this hallowed institution. HLS is a private institution with a narrowly defined purpose. Therefore, it should come as no surprise that the students and faculty of HLS have what could best be described as a limited freedom of expression. Harvard Law School is not the public square.

The faculty and administration have at long last adopted guidelines that seek to curb free speech in an effort to combat perceived sexual harassment. Speech of a sexual nature that is unwelcome or is "abusive or unreasonably recurring or invasive," and "has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, demeaning, degrading, hostile or otherwise seriously offensive working or educational environment," is now verboten. Presumably, we can go on being as offensive as we ever were so long as we do not use speech of a sexual nature. Whew.

Now many of us reflexively respond to such regulations on speech with a First Amendment objection. Well dear reader, Harvard, being a private institution, is not bound by the First Amendment. In fact, if the faculty and administration announced that all men had to wear a coat and tie to class and all women had to wear dresses, there is not much we could do about it.

We could raise quite a fuss if we were at places like the University of Michigan, George Mason University, or the University of Wisconsin. The speech codes at all those places have been thrown out by the federal courts because they are public institutions. The courts seem to be of the opinion that academic freedom and intellectual discourse would suffer if speech were regulated by these types of codes. The faculty and administration of HLS have come to a different conclusion.

Admittedly, the faculty may be doing nothing more

than mollifying certain student groups. Even if that is the case, is there anyone here who is so linguistically challenged that she needs to use speech of a sexual nature to train or be trained in the practice of law? Moreover, does anyone believe that there is anything in the soon-to-be-unread codes that can make this a less demeaning, intimidating, degrading or hostile environment for those tender souls that think HLS is an uncaring place?

Once we accept the fact that we have less free speech than folks at a public university, the question remains: So what? In the recent efforts to memorialize Harvard graduates who fought for the confederacy, it wasn't articles in the RECORD or the Crimson that got the administrators' attention, it was calls from NPR and the New York Times. As far as I can tell, the guidelines do not prohibit contact with the outside world.

The faculty has determined that HLS should be run more like a business than a place where intellectual discourse takes place. Unwittingly, in their effort to be politically correct, the liberal (for the most part) faculty members have let it be known that HLS is really a very conservative place after all.

There does seem to be some residual affection for the values that we learn in constitutional law. The guidelines carry the following disclaimer:

"[N]o speech or combination of speech and conduct shall be deemed violative of this guideline if it is reasonably designed or intended to contribute to legal or public education, academic inquiry or reasoned debate on issues of public concern or is protected by the Massachusetts Civil Rights Act or the First Amendment."

Basically, "F*** You" could be considered offensive and unprotected. "F*** the Draft" would be protected. This an unworkable standard, and the disclaimer doesn't provide any real protection.

As Harvey Silverglate '67, a National Law Journal columnist and a partner in the Boston firm of Silverglate & Good, points out, "[N]obody disciplined for uttering offensive but constitutionally protected speech would have the ability to seek judicial review of his or her claim that the offending speech was constitutionally protected, since any such lawsuit would be dismissed instantly on jurisdictional grounds."

Ultimately, the administrative board would be the "court of last resort" if a violation took place. If the case went public, the professors would weigh in. If this code were around when the infantile members of the Law Review did their tasteless spoof on the late Mary Joe Frug, the outcome would have been no different. The faculty members who wanted to discipline the students would have cited the first part of the code and the defenders of the students would have cited the disclaimer. The outcome would still be determined by the publicity, the status of the students, and the reputations and political power of the faculty. The fact that the students did not violate any written rules did not matter to those who wanted to censure them. The fact that Harvard is a private institution did not stop those professors, who defended the students, from invoking the First Amendment.

The irony of this "progressive" speech code is that it has such a retroactive effect. As the nation's culture coarsens and political discourse becomes more strident, HLS enacts speech codes reminiscent of a more genteel era.

Libertarians may be unhappy with the current code, but feminists and conservatives can act as triumphant as Stalin and Truman did when the Germans surrendered. A private institution has attempted to impose its own private moral code in an effort to create a pleasant working environment. Feminists can claim that the underlying values for the code can be found in Catherine MacKinnon's "Only Words." Conservatives can find similar values expressed in William Bennett's "Book of Virtues." Either way, the gentlewomen and gentlemen of Harvard Law School should not find these standards too difficult to adhere to.

Presumably, we can go on being as offensive as we ever were....



No, Fenno never did get a chance to finish that last sentence. Likely, it would have ended up being some pathetic wheedle about never finishing his third year paper on "The Rehnquist Court and their Favorite Cocktails" (Fenno's thesis was that Justice Souter was a Pink Squirrel man) or about never finishing Prof. Fried's most recent law review article (of course, Fenno was hardly alone in this). He did, however, get a chance to stay at his home-away-from-the-Cantab, our beloved Law School.

For, as he gingerly and weepingly began to remove his adored-though-frayed Farrah poster from the filth-encrusted ceiling of his tomb-like cell in one of the Gropius dorms (Fenno would name the specific building, but who can tell them apart?), his phone rang. It was the Dean, and he wasn't amused.

"You may unpack your things, miscreant. It seems that I simply can't expel anyone who's not on financial aid."

"Hoorah!" cried Fenno, in a fit of joy unseen since the black day Zima was invented. "I get to stay here forever!"

"Not so fast, Fenno," grumbled the Dean. "Although I can't make you leave, I can make your life here an unending hell, a pleasureless void, an experience so unpleasant that no amount of margaritas can ameliorate your suffering."

"You don't mean..."

"That's right, Fenno. Mandatory counseling."

"Oh, that's not so bad," said Fenno, "I thought I was going to have to take Virginia Wise's class."

This was how Fenno came to be seated in a comfy chair in a small room in one of the upper floors of Pound, the sort of chair wherein you feel no harm may touch you, the sort of room where no good whatsoever can come to pass. There were two other such chairs in the room, comfy enough

that Fenno could not see their occupants, arranged in a semi-circle around a professional-looking woman who exuded so much caring that Fenno would have found her annoying had he not been nearly senseless with drink.

The Comfy Chair on the Left was speaking. "I mean, my services to my section were enormous, without peer. So should I have just given them away? I don't think so. Does Tribe give his services to Massachusetts to take on the evils of tobacco for free? Do nightclubs give out tickets for nothing?"

"Well, actually, Mr. —, they do, but I understand and can validate your feelings. Do you feel small and scared inside when...?"

"Record clubs always give stuff away for nothing," interrupted the Comfy Chair on the Right, "especially if you"

"Now, Mr. —," scolded the therapist, "that's just your pathology talking. But inside, isn't there a scared and lonely little boy who...?"

"Aw, for crying out loud," ejaculated Fenno from deep within his alcoholic haze, "these idiots are being trained to loot and pillage on an international scale, and they risk it all for chump change and a few Michael Bolton albums? That's not crazy, that's stupid!"

"Mr. Fenno!" scolded the therapist, "We don't use the C word or the S word in here — just the H word, Hurting. Are you Hurting, Mr. Fenno?"

But Fenno had made another of his miraculous escapes. As he bolted from his lushly upholstered dungeon, he almost immediately passed an open door, wherein a group of professors, among whom he recognized Lew Sargentich, Duncan Kennedy, and Roberto Unger, were marching in circles, weeping, and chanting "the Market knows best. The Market knows best. I want to be a good corporate citizen!"

As Fenno gawked, dumbstruck, a man who looked eerily like Steve Forbes poked his head through the doorway, glanced angrily at him, and slammed the door shut. Upon the door was written: "Crit Retraining. Do Not Disturb. *Lasciate ogni speranza, voi ch'entrate.*"

**Feel like shooting
some professors?
TAKE PICTURES FOR
THE RECORD!
(No Experience Necessary)**

Dog Story

By Calvin Gladney '97
Guest Columnist



IN a household in an unnamed land, there were but three entities: two dogs and another dog who was the master. Both of the non-master dogs were female; one had a beautiful black coat, and the other's coat was the same color as that of the master dog. The master was male, and his coat was an invigorating ivory color.

In this dog-eat-dog household, both female dogs continuously fought over the scraps the master dog miserly dropped from his bountiful table. The female dogs, being the intellectuals they were, engaged in a daily heated discourse to "prove" who deserved the scraps more. Staunch disciples of the law, they argued in terms of 'equal protection' and the 'proper levels of master scrutiny in reference to scrap distribution.' As they sat underneath the master dog's table their arguments asserted conflicting hierarchies of oppression.

"You should not get the strict scrutiny which is applied to my scrap potential," said the female dog with the black coat, "because your oppression has not been as bad as mine. Millions of ivory-coated female dogs were not mercilessly slaughtered when they were originally brought here as slave dogs and furthermore, only black-coated female dogs were treated as something less than a dog — they were

"Foolish dogs," he spat as he looked down at them with an amused smirk, "Your arguments are both misplaced and irrelevant!"

considered only three-fifths of dog!"

With a snarl the black-coated dog continued:

"Your oppression cannot compare to mine because you share the master dog's color — that ivory color — and thus you are simply a subordinated dog — but never were you treated as something less than a dog!"

The ivory-coated dog, heretofore silent, was unfazed by the force of the black-coated dog's arguments. With a sniff, she rose and began to articulate her point of view:

"The oppression of the ivory-coated female dog has been the definitive equivalent of the oppression of the black-coated female dog. Do not make the mistake of viewing the pedestal upon which I was placed as a sign of status or power; view it as a further vehicle of my oppression, for that pedestal was really a cage! Moreover, the ivory-coated female dog was just as much the slave as the black-coated female dog. The only difference was that the beatings of the ivory-coated female dog occurred behind closed doors, our victims of rape were hushed up, and we were sold as property under the veil of marriage.... Our oppression was the same as yours, my friend!"

"HAHAHAHAHAHAHAHA!"

The dogs' debate was cut short by the piercing sound of amused laughter. They both looked upward toward the edge of the table and realized that the master dog had been listening the entire time.

"Foolish dogs," he spat as he looked down at them with an amused smirk, "Your arguments are both misplaced and irrelevant!"

"Don't you realize that it doesn't matter whom I've oppressed the most or who should have the higher scrutiny regarding the law of scraps?"

"I am oppressing and subordinating both of you! Oh it might be true that one is oppressed more than the other, but that should not be a focal point of your struggles. Why? Because I am your common enemy and this is so because I oppress you both because I am male and you are not!"

"Oh you two have important differences and thus you might have to fight some battles — and I emphasize the word 'battles' — to gain justice on issues on which you two don't have the same perspective.... But the overarching war is against me!"

He shifted so that they could see his eyes sparkle wickedly.

"You shouldn't let these sometimes necessary separate battles sway you both from the common war you need to fight; that is a war which counter-attacks my attack on both of you as female dogs and nothing else.

"For right now you fight over the scraps I throw to you when the true war is to get control of the bountiful table! But you guys are too busy arguing to see that...."

Content with his soliloquy, the master dog bounded away, hoping to himself that the two will never selectively join forces on any common issue because then, he figured, they might realize how powerful they could be together.

Reagan's Children

By Judd Serotta '97
Guest Columnist



ON Tuesday, Feb. 6, Ronald Reagan celebrated his 85th birthday. While Reagan bashing will be fashionable so long as the nation's ivory tower elites wage their war against free markets, for me he will always be what a president should be.

Ronald Reagan was a man who stood up for principle. While our current president waffles in the political winds, incoherently blowing wherever the polls may lead, President Reagan was a true visionary. He never needed to be told what his vision of government politically should be. His abiding faith in the individual, in unfettered markets, in democracy, and in a government whose compassion could be measured not only by what it did but what it did not do, were bedrock that never wavered. In these cynical political times, it may be difficult to remember that that president won two landslides by standing up for his core beliefs, and he left office with an astonishing 65% approval rating.

To Ronald Reagan, the glass was always half full. His was the politics of possibility, where everyone was encouraged to make the most of their native talents, and the future would surely be brighter than the past. In Reagan's America there was no place for negativity and cynicism. To be sure, his politics were partisan, but he was a true leader who knew when more than votes were at stake.

Many have attacked Ronald Reagan for his personal attributes. It has been argued that Reagan was style over substance, that he was intellectually unsuited to the job, that he was an actor playing a political role. Yet even those who opposed his policies must admit that his was a coherent ideology, a consistent message sorely missing in our current political debate.

I was eight years old when Reagan was sworn in as our president, and I was 16 when he left. My earliest political memories were of the charismatic, stubbornly optimistic, grandfatherly figure who was a genuine father to the nation. When Reagan spoke, he spoke for all the people regardless of race, gender, social class, and background. Who can forget the Gipper's moving words at Pointe-du-Hoc, celebrating the 40th anniversary of the D-Day invasion? Or consoling the nation after the explosion of the Challenger? No one could ever accuse Ronald Reagan of being out of touch with average Americans, and he didn't need to reassure us by pandering, "I feel your pain." And, agree or disagree with the substance, we knew that Ronald Reagan did what he thought was right.

Much of what Reagan sought to accomplish as president came to pass during his time. Benefitting from his tax cuts, America enjoyed the longest peacetime economic expansion in its history. Unemployment and inflation dipped to levels few believed were possible after the havoc wreaked on our economy during the 1970s. America's faltering international prestige recovered as the world saw a nation resolutely standing by its words, its commitments, and its national interests. And, perhaps most importantly, largely due to Ronald Reagan's steadfastness and deep moral conviction that nuclear weapons were the world's scourge, the United States won the Cold War. Despite all of the pressure to unilaterally disarm (remember No Nukes?), Reagan proved the wisdom of peace through strength.

To be sure, his successes were incomplete. But the remarkable thing about the Reagan legacy is its sheer staying power. For the first time since the New Deal, Ronald Reagan showed the nation that the federal government's share of the gross

While Reagan bashing will be fashionable so long as the nation's ivory tower elites wage their war against free markets, for me he will always be what a president should be.

national product did not have to continue its seemingly unstoppable ascension, crowding out the private sector in ever more ways. Under his leadership, the assumption that government could solve all of the nation's problems was first successfully challenged. And look where we are now?

In 1996, liberal Democrats like Tom Daschle and Bill Clinton are proposing balanced budgets by reducing government spending as a percentage of the GNP! After 16 years, the Reagan message has won. And, though you would never know it from looking around Harvard Law School, our generation is by comparison very conservative. We have learned that, in our day, "progressives" are those who believe in less government, not more.

Today, the man who will always be everything a President should be suffers the cruel blows of Alzheimer's disease. While he is still with us, on the occasion of his 85th birthday, we should reinvigorate our generation. Told over and over since 1989 that we should be cynical and hopeless, we have been labeled "Generation X." In the spirit of eternal optimism which so pervaded Ronald Reagan's presidency, and in the hopeful spirit which shows our nation at its most good and great, we should rename our generation. We are "Reagan's children."

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Clark Announces Public Interest Committee

continued from *INTEREST*, page 1

the beginning of his tenure. The work of that committee, which consisted of five faculty members and five students, led to the formation of the Office of Public Interest Advising.

"This [new committee] is the next step, and [the old committee] is something that we always want to look at in figuring out our long-term strategy," said Clark.

Chaired by Prof. Christopher Edley '78, the committee will be comprised of Profs. Elizabeth Bartholet '65, Gary Bellow '60, Phil Heymann '60, Randall Kennedy, Carol Steiker '86, Henry Steiner '60, and former Dean James Vorenberg '51, who had called organizational meetings for the committee in early January.

OPIA Director Stacy DeBroff, Financial Aid Director Sally Donohue, and students selected by the Law School Council will also sit on the committee. Vice Dean David Smith and Dean of Students Suzanne Richardson will serve as participant-observers.

"There is quite a bit going on [at HLS] in public interest but it's not pulled together in one administrative unit, which makes it hard to think about what we need to do," Clark said. "My strong belief is that the substance and magnitude of what we're doing is very impressive even though we are not quite as good in public relations [about the Law School's public interest work]."

"The committee is looking at what other law schools are doing to see what we can do," he said. "For example, there may be an argument for redesigning LIPP along the lines of the NYU experiment," which provides virtually free tuition for graduates committed to public interest for at least 10 years.

Faculty and students first openly confronted Clark with the need to improve the Law School's public interest programs in a faculty meeting last October. Since then, public interest advocates have met both

with the dean and among themselves to propose efforts to review public interest services.

Selecting committee members also embodied an effort to have a representative sample of backgrounds and experiences, said Clark.

Besides faculty members who lead major public interest programs, "there are people who have the experience of making tradeoffs," he said. "[The committee members] have all seen the dangers of being too narrow about a topic like this. They have different ideas of what is feasible but these are also people who are used to understanding others rather than insisting only on their own view."

DeBroff also noted that the makeup of the committee would be crucial to its mission.

"My impression is that the administration wants as many faculty members to sign on for a real diversity of views to lend credence to the recommendations [the committee] makes, and so that it will cross both the political spectrum and the views of what public interest should be," she said.

"A terrific side accomplishment of the committee could be to give the public interest discussion at HLS a forum to be heard," DeBroff said. "One of the things that people mentioned was the inability to discuss openly different solutions and perspectives even of conceptualizing what the issues and problems are."

"Given the ongoing needs of summer funding and LIPP, it's a wonderful step to try to focus discussion and criticism, hopefully generating a resolution that everyone feels positive about."

However, student activists with Student Public Interest Network (SPIN)

and its unofficial affiliate Campaign 25 expressed reservations about the ultimate influence of the committee.

"We are a little concerned about the committee structure and process," said Shannon Liss '96, SPIN member and chair of Campaign 25. "[The previous committee] decided on allocations such as \$15 million to \$20 million to LIPP. At the time they didn't know how much the Campaign would bring in. But now that we have \$25 million more, we're being told that the old recommendations are not being honored and that we have to set up a new committee."

"We are a little concerned about the committee structure and process," said Shannon Liss '96.

"If it's just a way of sidetracking the issue for a period of time and not really making funding allocations, that is a problem."

Liss also noted the role of student activism in precipitating the formation of the new committee.

"The committee itself is a result of student activism, because we students moved to get faculty members behind this," she said. "We encouraged faculty members to sign onto letters this fall, and brought to faculty members' attention the student concern over public interest funding."

"This issue is not going to graduate [with 3L activists]," said Liss. "Many 1Ls are involved and committed. It's important to continue student pressure because that is the only way students can get anything changed on campus."

Edley, however, noted that many members of the faculty have been promoting public interest issues for several years and that "it wouldn't be accurate to say that all this is happening because there is student interest. There is also substantial faculty interest moving on a parallel track."

Regarding the ad hoc nature of the committee, Edley noted that "it's important to distinguish between the short term and the long term. One of the things for us to consider is whether there is a need for a permanent committee and if so, what its charter is and who the members are."

"Public interest is a broad topic and the work of a public interest committee implicates the current jurisdiction of several other committees — clinical, legal education, financial aid, and even the appointments committee."

"There is a complicated governance issue in thinking about what the role would be for the new committee," said Edley. "My strong sense is that we should focus immediately in putting committee members to thinking about the issues and the alternatives, and to leave for later whether there is a need for a permanent committee. It could likely be that one of the recommendations would be to establish a permanent body."

Much of what the new committee will begin with are recommendations from the 1989 group, Edley said. "I'd be disappointed if this new committee didn't have a substantial amount of additional wisdom. On the other hand, we need to avoid reinventing the wheel and profit by whatever analysis was done before. I'd rather start with what we used back then and see if people feel it still works."

Despite the ongoing nature of the discussions about establishing a new committee, Clark's announcement still seemed to astonish some new appointees.

"I just got a call this morning [from the Dean] that I was on the committee," said one appointee, who declined to comment further because of unfamiliarity with the committee's purpose.

"I don't even know what the mission is or what the committee will be doing," said another appointee. "I got a call yesterday from the Dean and I don't even know who else is on the committee. But I look forward to working on it."

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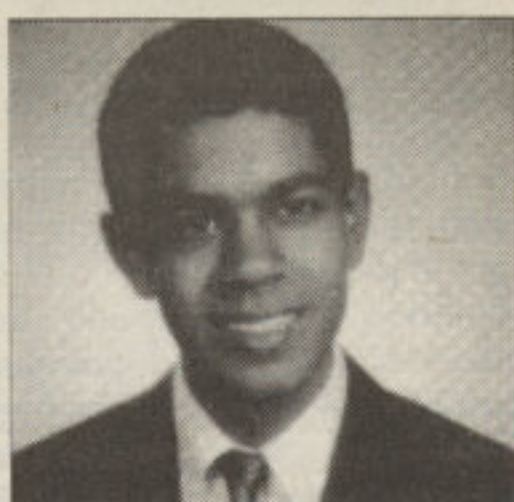
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Free Agency

By Kannon Shanmugam '98

Guest Columnist



WHEN I was traipsing around the country on the beauty-pageant — sorry, I meant to say interview — circuit, I was invariably asked, "What do you think of law school?"

To which my response was usually something along the lines of, "The work's fine. But pity about the people."

Of course, I didn't quite mean that. There are some very interesting people at Harvard Law School, who did an incredible array of amazing things with themselves before coming here.

But what I did mean to do was to bemoan the social life — or lack thereof — here at HLS.

Admittedly, I have a jaundiced perspective, coming as I do from two years of virtual vacation at Oxford, where a hard day's work meant breaking off at 10 instead of 9 to go down to the pub for a beer or two. But I don't think I'm alone in finding HLS social life wanting.

A sage 2L friend of mine warned me in my first week here that HLS students would fall into two categories: nerds and failed frat boys.

And after a term here, I have to say, that analysis rings true.

On the one hand, there are the nerds — or, as my British friends would call them, the "spods." These are the people who simply study all the time. You know the ones — they come to class with multi-page typed briefs and spend whatever

I don't know if it's something about law school that selects for socially inept people. Perhaps having interviews for admission, as does every other type of graduate school or job in the country, would help.

free time they have chasing down cases cited in footnotes on Lexis or Westlaw. Don't get me wrong; the nerds aren't necessarily the smartest people in the class. Just the hardest-working.

On the other hand, there are the failed frat boys. I suspect you know these folks, too. They're the ones who have suddenly decided to become "cool," as if to make up for the fact that they were far too bookish to be considered that as undergraduates. Therefore, they get obscenely drunk (on suspiciously small amounts of beer), play football really badly outside the Hark (and talk about sports far too often to be real sports fans), and drop the line, "Hey babe, I go to Harvard Law School," at least once per bar visited. Again, don't get me wrong — the failed frat boys study, too. They just engage in the high-school-like game of pretending that they don't. (The analogue to the failed frat boy, the failed sorority girl, is easy to spot — just look out for the woman who wears at least four separate items of clothing emblazoned with "Harvard Law School" to class every day. Pairs of socks count as only one item.)

Now, if you're a nerd or a failed frat boy, then you fit right in. But I suspect that a majority of us fall somewhere in the middle. I know that I spend far too much of my free time working (usually inefficiently), and that I am fully capable of getting obscenely drunk on suspiciously small amounts of beer. But generally, I find I don't fit comfortably into either group.

I don't know if it's something about law school that selects for socially inept people. Perhaps having interviews for admission, as does every other type of graduate school or job in the country, would help. (Though I suspect the faculty would cringe at the idea. After all, it would mean more work for them, and therefore less time to pursue their real jobs — sorry, I mean their socially valuable consulting work.)

But whatever the solution to the problem, the fact remains that I, like many of my friends, find the social life at HLS disappointingly sterile.

And that's a long answer to a short question.

Well, loyal reader, as a reward for making it this far into my column, here's a worldwide exclusive scoop.

According to an inside source of mine, the Registrar's Office will distribute first-year grades next Thursday, Feb. 15 (give or take a day in either direction).

This presents something of a dilemma for me. I am due to jet off on vacation for the long weekend Thursday afternoon ... so should I pick up my grades before my holiday, or after?

I suspect I shall wait until after I get back. It's not so much that I wouldn't want to have an awful weekend after I see the first Cs of my academic career.

Rather, it's that I find myself, at the beginning of my sixteenth term at one university or another, just not as worried about grades as I used to be.

It is amazing how worked up people can get over three measly letters of the alphabet (plus a plus or minus or two) on an official sheet of paper. For some, it is the culmination of a life's worth of running the rat race, and I never cease to be amazed at how people can vest so much self-esteem in so little.

Maybe I'll just have the registrar forward my grades to the RECORD to publish in the place of my next column. Then again, maybe not. After all, then I'd have to rename my column "Full Disclosure."

During the 1992 presidential campaign, Bill Clinton called his marriage to Hillary "a real partnership."

Question: if Hillary is found guilty in the Whitewater scandal, does that mean Bill can be held joint and severally liable under the Uniform Partnership Act?

JUST CAUSE

No Accounting for Taste

By Carla A. Halpern '97

Guest Columnist



WELL, I did it.

I accomplished something that very few HLS students will ever do. Or, to be more honest, that they will ever want to do.

I took Prof. Herwitz's one-credit pass/fail accounting course...and failed.

Failing the course did come as a shock. Prof. Herwitz swore up and down that you have to "really try" to fail. I didn't feel that I had tried to fail. In fact, I put in what I thought was a reasonable effort toward passing: I actually attended class. I even kept up with the reading, with hi-lighters yet. I studied for the exam. So, I told myself there must have been an error. Somehow my name had gotten on that registrar's list of infamy by mistake. When I stomped into the registrar's office, I was politely greeted: "Of course we have time to see you; you're one of the Accounting People."

Now I was one of the few, the embarrassed, the Accounting People. No longer confident in my righteous indignation, I kind of slunk up to Herwitz's office, hoping that he'd made a mistake. Yeah, maybe he accidentally switched papers. Prof. Herwitz was as kind as could be. He put his work aside and flipped through a pile of bluebooks until he found one with a big "F" on it. This particular bluebook also happened to have my ID number ... and handwriting. The good professor opened it and began to read out loud. As he read, one thing became blindingly clear:

I, Carla A. Halpern, do not understand basic accounting principles. The registrar's office had not messed up. Prof. Herwitz had not made a mistake. I could claim all the credit for the "F" ... and no credit for the course.

After I left Herwitz's office, I admit, I did cry. At first I felt that I must be stupid; I made all that effort and failed anyway. But what I actually didn't want to admit to myself was that I hadn't put in that much effort. Sure, I went to class ... where I promptly put my head down on the desk and fell asleep. I mechanically read and hi-lighted every assignment, without bothering to understand a word of it. I "studied" from outlines that I didn't write, barely glancing at an old exam. I wasn't stupid; I was careless.

It was careless of me simply to follow the pack and enroll in Accounting, a course which held no interest for me. I spent sixteen beautiful autumn afternoons in the humid, chlorine-scented stinkhole known as Langdell North Middle. When I was notified that I had wasted a New England October for a big fat "F," I felt like a real chump.

Thank goodness for the cool people in the world. My parents sweetly reminded me that I had never confessed any desire to be an accountant. Friends helped me make light of the annoying addition to my transcript: we bemoaned my ruined chance at the Securities and Exchange Commission, dashed hopes for a Delaware clerkship, my tattered dreams of a corporate career.... It became clear that accounting was simply not a skill I needed to fulfill my legal goals. As one particularly astute friend put it, "Carla, there's just no accounting for the likes of you." And he's right.

I can't tell you anything interesting about debits and credits. Instead, here are the lessons I did learn from Herwitz's accounting course:

"Osmosis" doesn't necessarily work. If you're going to go to class, try to stay awake. If you open the casebook, try to make sense of what you read.

1) "Osmosis" doesn't necessarily work. If you're going to go to class, try to stay awake. If you open the casebook, try to make sense of what you read.

2) Take whatever courses you damn please. The fact that a course is "basic" doesn't make it sacred. Follow your interests. Follow your heart.

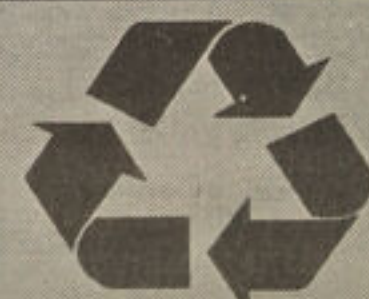
3) Failing a course doesn't make you stupid. Particularly, failing accounting doesn't make you stupid with numbers. Prior to law school, I was the financial officer on the board of a non-profit corporation. (Please, no peanut gallery comments about the corporation being non-profit because I was in charge of the finances—we were chartered that way.) I handled a six-figure budget. I was good at math then and I still am.

4) Failure in a course does not equal failure in school. I still have every intention of graduating with honors. SEC aside, all the interesting jobs are still open to me.

5) Failure in a course, or even failure in school, does not equal failure in life. An "F" on a transcript is no match for the complicated hurdles and tragedies that are simply part of life. When an "F" breaks your spirit, it's time to crawl back into the womb.

A new semester's round of grades is coming out soon. Here's hoping that no one gets any unpleasant surprises. But if you do find yourself face-to-face with one of those ugly letters, stare it down. Don't let it define you.

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In law schools across America, West Bar has blanketed bulletin boards and flooded student mailboxes with misleading flyers and letters. Students everywhere are being asked to believe that BAR/BRI has been stripped of its best and brightest.

I assure you that nothing could be farther from the truth. In over 25 years as the President and CEO of BAR/BRI, I have never responded directly to the claims and puffery of other bar review courses. However, in light of the sheer volume of misinformation, I feel compelled to separate fact from fiction.

FICTION: BAR/BRI's management has left.

FACT: Last year, two former BAR/BRI employees started West Bar. Contrary to West Bar's claims, neither ever served as the President or National Director of our company. In fact, both were primarily regional directors with no meaningful input in the creation or editing of materials or lectures. It is true, however, that these two former employees aggressively pursued many of BAR/BRI's attorneys. Their efforts fell flat. Of the more than 50 attorneys working for BAR/BRI nationwide, a grand total of *one* left.

FICTION: All of BAR/BRI's best faculty "went West."

FACT: Here too, West Bar's aggressive pursuit was in vain. BAR/BRI has *over 300 lecturers* in 46 jurisdictions. *Only 10* left to join the two former BAR/BRI employees in their "start-up" bar review. *Seven of these ten* were ranked in the bottom 25% on BAR/BRI student evaluations.

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