



LSC Election Policies, Spending Criticized

By David Liu and
Christopher Edwards

In the settled dust of the Law School Council's election, many LSC members publicly are criticizing the election policies, the council's failure to convene its committees, and its funding of student groups.

Last Minute Change in Election Guidelines

Under election guidelines the LSC approved in September, a majority of votes cast was needed to elect candidates to council offices. A Feb. 7 resolution, introduced by outgoing LSC President Rob Simmelkjaer '97, changed the requirement to a plurality of votes, thus eliminating the need for a run-off election.

"This change makes administration of elections a lot easier," said Marcelo Calliari '96, a LL.M. representative. "We were also worried that there would be a small turnout in a second round [of elections]. That would be bad for the legitimacy of the council."

Incoming LSC President Chip Nierlich, however, disputes the policy behind the rules change.

"The problem has always been a low turnout in the first round, not the second," said Nierlich, who currently serves as chair of the Rules and Procedures Committee. "The last time there was a runoff election was before the current 2Ls were here, and

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An artist's rendition of the new Areeda Hall is currently hanging in what used to be known as Langdell West.

Langdell West Renamed In Areeda's Honor

By Craig Buckser

More than 100 members of the HLS community gathered at Memorial Church in Harvard Yard last Friday to mourn late Prof. Phillip Areeda '54. Later, Dean Clark '72 announced the renaming of Langdell West as Areeda Hall in honor of the professor's contributions to the Law School.

"There is, I believe, no more appropriate and poignant way to recognize Professor Areeda's vast intellectual contributions to the School," Clark said in a memorandum distributed to the student body last week. "He spent most of his adult life working in the former Langdell

West and many generations of students and colleagues associate this part of the School with him."

Areeda died of leukemia Dec. 24.

After he donated \$5 million to HLS last spring, Areeda could have had an endowed professorship named after him. However, the renowned antitrust scholar preferred that the structure which housed his office for more than 30 years bear his name.

His former colleagues said the naming of Areeda Hall is a well-deserved tribute to a professor whose teachings and writings shaped the legal pro-

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Nierlich Ticket Sweeps to Victory In LSC Elections

By Josh Strathman

In an election notable for the vigorous and at times contentious nature of its campaigning, Chip Nierlich '97, Rob Jancu '98 and Dina DeFalco '98 captured clear majorities in Monday and Tuesday's voting to become the new LSC officers.

With more than one-third of the HLS student body voting, Nierlich collected 60.6 percent of the votes for LSC president. His running mates for vice president and treasurer, Jancu and DeFalco, took in similar percentages with 54.0 and 60.5 percent, respectively.

Although the time between official declarations of candidacy and the elections was significantly longer this year than last and though this year's was a much more active campaign, voter turnout saw only modest increases from last year's level of 26 percent.

DeFalco said that she was "really happy with the turnout" stating that greater voter participation "legitimizes the process of LSC elections."

Nierlich was similarly pleased with the level of student interest. He attributed the relatively high turnout to the fact that this year's was a "higher profile campaign," to "the longer window [for campaigning] allow[ing] more time for action and reaction" and to the candidates doing "a good job at being as positive [in their campaigning] as possible."

This perception of a campaign largely free of acrimony left Nierlich optimistic about his upcoming tenure. "Because it was so positive, it will be easier for the competitors to work together [within the LSC] afterwards," said Nierlich.

Statements of presidential candidate Blythe Holden '97 indicated that cooperation between the former opponents would be the norm within the LSC. She indicated that she was looking forward to working with Nierlich and would be ready "to help implement some of our ideas."

While not displaying any great cooperative sentiments, Bob Melson '97, the other contender for LSC president, at least indicated that he would not act as an impediment to the functioning of the new officers. When asked if he would seek election to the LSC, Melson responded, "You gotta be kidding."

Speaking about his plans as president, Nierlich indicated that his top priority upon assuming office would be involvement in the Langdell renovations. He noted that he had already spoken with Paul George, associate librarian for research services, to lay the groundwork for this involvement.

Another high priority, Nierlich said, would be to "get the [standing] committees back up and running."

"Committees traditionally are the real engines of getting things done in LSC," Nierlich said, indicating he would encourage more frequent meetings of the standing committees.

According to Nierlich, although LSC rules have the new officers assuming their appointed functions after spring break, the transition traditionally occurs at a meeting before then. At any event, Nierlich said that the new officers "will consult [the present

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Students Urge Timely Finish to Langdell Renovations

By Jaclyn Liu

One year after Dean Clark '72 apologized to students for poor communication on Langdell library renovations, students and administrators say they are committed to seeing the project finish on time.

Preparations for the 15-month renovation of Langdell continue in earnest this week with transfer of books to the East Cambridge storage site, which ultimately will contain 175,000 volumes. The project then will be turned over to contractors on June 10, with major structural work scheduled to begin this summer.

Chip Nierlich, the incoming Law School Council president, said he wants the council to take significant steps to keep the

administration accountable to students on Langdell renovations. Nierlich campaigned on a platform pledging to ensure the project finishes on time.

"LSC's position is tricky — we can't go to the contractors and make them build faster," he said. "Our job is to serve as folks that keep an eye on the renovation. We can keep pressure on the school and communicate the situation back to the students."

"I see two major problems with the renovation — the effect it will have on the 2Ls next year and the effect on classes of '98, '99 and 2000. The most important thing for LSC to do is to make sure the administration follows through with its promises."

He proposes to establish a committee or a subcommittee of "dedicated" students who would "communicate back and forth

with the administration.

Student leaders and administrators have said they will be particularly sensitive to student concerns about the renovation time-table, the library's ability to retrieve books quickly from off-campus sites and the need for alternative study spaces.

The 1.8 million volume library will be shut down for multimillion dollar renovations during the 1996-97 school year, and a makeshift facility will be set up in Pound Hall.

The renovation, which begins June 10 and is expected to be completed by Aug. 27, 1997, will replace outdated mechanical and electrical systems as well as improve the building's structure, including leveling the floors, constructing new washrooms and

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RECORD Photo / Katrina Randolph

It's the "Raiders of the Lost Hark!" Members of the cast of the HLS Drama Society's Spring Parody are caught in action at — where else — the Hark!

Republican-Proposed Welfare Reform Problematic, Say Women of Color Attorneys

By Victoria Kuohung

Republican-proposed welfare reform will hurt low-income women of color, speakers said at a conference focusing on women of color and the law held at HLS last weekend.

HLS's Women of Color Collective sponsored the conference, "Forging Forward: Women of Color and the Law."

"No one disagrees that there is a problem and there are better ways to improve the system, but that has gotten lost in the debate," said Executive Director of the National Asian Pacific American Legal Consortium Karen Narasaki, who participated in a panel on welfare reform. "Instead, the debate has become what the country's values are going to be about."

"The discussion has become a macho face-off and an example of wedge politics," she said, noting that debates over welfare have been similar to discussions about Colorado's anti-gay legislative initiatives and California's Proposition 187, which restricted benefits to illegal immigrants.

Narasaki noted that the Republican plan to distribute federal welfare funds through block grants "will push all of these social issues to the states."

"And who will be facing off for this money? We will be forced into a situation where it is difficult to work together as communities," she said.

President and CEO of the George Bird Grinnell American Indian Children's Fund Lucille Echohawk pointed to the implications of welfare reform for Native Americans.

"The U.S. government promises to give services in perpetuity such as health education and welfare to native peoples,

and it hasn't carried through very well," said Echohawk, who belongs to Oklahoma's Pawnee tribe.

Echohawk noted that less than one-tenth of one percent of federal welfare money funds Native American concerns, with an even smaller portion going to support groups controlled by Native Americans.

"The movement in welfare reform is to give block grants to the states, but states and Native American tribes ignore each other, and tribes prefer to deal with the federal government," she said.

Policy-makers ignore Native Americans because of "a growing perception that all Native Americans are getting rich via gaming and that we can take care of ourselves and become self-sufficient," said Echohawk, noting that Native American poverty has increased over the last 10 years and that most gaming operations on reservations are "mom and pop businesses."

Boston activist Taciana De Campos Ribeiro, who is compiling an oral history project about poor women and who herself was on welfare for six years, said that, like statistics on Native American gaming, the welfare debate was "based on untruths."

"Nobody stops long enough to look at the facts and figures," said Ribeiro. "All the policies don't look at the types of jobs open to women when we enter the job market." Ribeiro said that despite her college degree, she could not find a job after she left her abusive husband.

"Welfare is a big sucking mechanism that once you get in, good luck in getting out," she said. "Even so, 75 percent of women are getting out in two years."

"But as of November 1995, only



Members of the Welfare Reform Panel at the Women of Color Collective's Weekend Conference discuss how recent reform proposals will effect recipients.

women who are already grandfathered [into the system] can finish their education," said Ribeiro. "This law is punitive, damaging and ineffective."

Massachusetts Department of Social Services Deputy Regional Counsel Eedy Nicholson said welfare reform has weakened the department's mandate to "maintain the integrity of the family and protect children from abuse and neglect." The reforms have threatened initiatives such as the state's Teen Living Program, which funds teenage mothers to move out of abusive homes.

"A lot of clients that DSS serves are single mothers, overwhelmed with life and unable to take care of their children," said Nicholson. "But with all these departments reorganized and budgets cut, how are these families going to lift themselves up and help themselves with-

out services?"

"When you don't have enough daycare slots for working mothers, when you have parents in the grip of drug addictions and willing to go to rehab programs, but when you don't have enough slots to accommodate them, the issue always becomes, 'Where is the service, and where can they find it?'" she said.

Boston private attorney Francine Applewhite said battered women often cannot qualify for welfare under new reform measures.

"When we all hear about the welfare reform, we need to know as women of color what are we going to be realistic about?" Applewhite said.

"Now the concerns are real — the women out there are real, and the children are real. How has the welfare reform being done match the reality?" she said.

Langdell West Renamed For Late Prof. Areeda

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fession.

"I think it's very fitting," Prof. David Wilkins '80 said. "Phillip Areeda gave his life to this school. He touched many of us. It will be a reminder about everything that's great about this profession."

"It's very appropriate," said Prof. Clark Byse, who for many years worked in his office across the hall from Areeda. "He spent his life here."

"Nothing can be more appropriate," agreed Massachusetts Supreme Judicial Court Justice Charles Fried, who, like Areeda, began teaching at HLS in 1961. "I'm going to want to have my office in Areeda Hall."

Clark's announcement accompanied a memorial service held in Areeda's honor at Memorial Church, where friends remembered him as a man of impeccable character and ability.

"Most of all, what Phillip Areeda gave us was an example of intelligence, integrity, honesty, dedication to work and dedication to principle," said U.S. Supreme Court Justice Stephen Breyer '64.

"Phil attacked everything he did with determination," said Prof. Andrew Kaufman '54, whose close friendship with Areeda dates back to 1948. "When

he took something up, he went all out. He was an expert in wine and antitrust."

Others praised the legacy Areeda left behind.

"Phil was one of the few scholars of his generation to leave a lasting impression on a field of law," said former Harvard University President Derek Bok '54.

"Phil Areeda contributed greatly to Harvard Law School throughout his life as student, teacher, scholar and, finally, financial donor," Clark added.

Eight people offered remembrances at the memorial service. They included Clark, Kaufman, Byse, Fried, Bok and Breyer. Lisa Berg, Areeda's secretary, and Profs. Mary Ann Glendon, David Rosen-

berg, Steven Shavell, Alan Stone, Miller and Wilkins served as ushers. Before he died, Areeda selected the speakers for his memorial service. "Phil managed his dying as he managed his life," Byse said.

Fried said he considered it an honor that he was chosen to speak at the service. "It's a bigger honor than any honorary degree," he said. "There was a more demanding selector."

Kaufman agreed. "We were close friends," he said.

"Most of all, what Phillip Areeda gave us was an example of intelligence, integrity, honesty, dedication to work and dedication to principle," said Justice Stephen Breyer '64.

RAIDERS

of the LOST HARK

March 6-9 at
8:00 PM in the
Ropes-Gray Room

Tickets for the annual spring
parody are \$7 and
are available at the Drama
Society Booth in the Hark.

BLSA Wraps Up Black History Month Activities

Clark Addresses BLSA on Diversity, Affirmative Action

By Katrina C. Randolph

Achieving diversity is a worthy aim for future affirmative action programs, and is a justification which will correctly replace the old civil rights rationales, said Dean Clark '72.

Clark, in an address on Wednesday to members of the Black Law Students Association about blacks in HLS history, expressed support for University

President Neil Rudenstine's recent affirmative action report, which focused on diversity as a goal.

"The basis of his argument is not that the university as a whole is trying to make up for discrimination of past society. The basis is to promote a better learning environment," said Clark of Rudenstine.

Clark said his own views on affirmative action and affirmative action programs parallel those of Prof. Christopher Edley '78, who conducted a federal review of affirmative action programs for President Clinton. Responding to a question from Reg Brown '96 about his views on the major 1995 Supreme Court decisions which focused on race issues — *Miller v. Johnson*, *Adarand v. Peña* and *Missouri v. Jenkins* — Clark said, "My own view is that in some sense [the court is] not where the main action is. It's not in the end going to be all that important.

"There's pressure; there's resistance against explicitly race-conscious preferences or set asides. My own global sense is that whether the Supreme Court is right or wrong, whether any particular

program is good or bad — and I agree with Edley that we should keep some and do away with some — the argumentative base for the approach is eroding."

Things are changing, he said, "and it becomes more difficult to build programs based on a remediation theme."

"We can't turn back," he added.

Clark also criticized the court's constitutional law jurisprudence. "My view of con law is that you could go this way,

and you could go that way. In some sense it almost strikes me as silly to get so hung up on formulas like strict scrutiny. It's so squishy," he said.

At HLS, Clark also emphasized a need for increased faculty diversity.

"The hardest part of all is getting the optimal mix. You have to get people who are diverse in different areas," including age, race, gender, nationality and ideology, he

said.

However, when asked about specific faculty tenure offers — like one for black female Prof. Lani Guinier of the University of Pennsylvania Law School — Clark's only reply was, "Hold your breath and we'll see what happens."

BLSA Political Action Co-Chair Natosha Reid '97 told Clark that black students at HLS face serious issues, and expressed concern that Clark might not be aware of them. Clark said he would begin a formal dialogue with BLSA members about improving the environment at HLS for blacks as well as other students.

But "we've got to have a lot of other faculty involved," he insisted.

Clark said, "My own view is that in some sense [the court is] not where the main action is."

Race Still Rules in America, Says Author

By Katrina C. Randolph

Americans are in a "hypnotic state of amnesia" about race, and therefore have a difficult time talking about the issue, Rev. Dr. Michael Dyson told an audience of 90 during his Black History Month address.

"What is interesting is that so many of us were surprised about O.J., Colin [Powell], and the Million Man March," said Dyson Monday night. "This level of surprise itself is an index of the continuing plight of race."

Dyson addressed students from the Law School and the Divinity School, as well as other visitors. His speech, entitled "Race Rules" after his upcoming book, focused on recent events which highlighted issues of race in America — the O.J. Simpson trial, retired Gen. Colin Powell's consideration of a presidential bid, and the Million Man March. Dyson, currently a professor at the University of North Carolina at Chapel Hill, was the keynote speaker for the Black Law Students Association's Black History Month activities.

His talk stressed what he called the need for Americans to remember and appreciate American history, and the way in which American policies have influenced our culture. Such an appreciation, he said, is "important for movement toward a larger debate which will impact the world."

"The reality," said Dyson, "is that there was a tremendous struggle waged, a tremendous price paid and tremendous blood shed."

Recent events only brought to the surface feelings which had been brooding in not-so-private circles, he said.

"There has been a relegitimation and reclaiming of a logic of racial demonization and resegregation," he said. "O.J.

Simpson was just a convenient excuse."

The emergence of Nation of Islam Min. Louis Farrakhan as an "icon" continues to raise questions among blacks, said Dyson.

"If Farrakhan had been a white minister, [black people] would have been outraged!" he said.

Powell, said Dyson, was the personification of white people's "dream" that "black people can get beyond race." But he added that if Powell had run for president, some extremely ugly racism would have been targeted at him.

Many black students were surprised when Dyson compared Farrakhan and Powell, saying Powell was in ideology like a "Louis Farrakhan without the anti-Semitism." He included in that comparison U.S. House Speaker Newt Gingrich, Senate Majority Leader Bob Dole and conservative commentator Pat Buchanan.

Adrienne Wheatley '97 protested Dyson's criticism of Farrakhan and comparison of him to the other men. A self-proclaimed feminist, Wheatley said she had no qualms with the Million Man March which Farrakhan co-organized, because "there is a time for men to get together and a time for women to get together. And I would bet that if that had been a group of women, this would not be an issue."

Farrakhan, she said, is in the group that includes early 20th century black leader Marcus Garvey, as well as Malcolm X, and not in a group that has no concern for blacks.

Dyson responded that Garvey, as well as Farrakhan, comes from a "deeply conservative tradition within the African American community."

The author, whose most recent book is "Between God and Gangsta Rap: Bearing Witness to Black Culture," has a forthcoming book entitled "Race Rules."

Students Join to Educate Community on Ethnic Conflict

by Rob Friedman

A new student organization is hoping to raise campus awareness of the distant world tragedies that rarely touch students' lives.

The Project on Law and Ethnic Conflict (PLEC) is a group seeking to educate the Harvard community about the destructive effect of ethnic conflict around the world and to focus students' attention on their connection with world crises.

Organized last year by Warren Binford '97, PLEC began as an ad-hoc collection of students who had worked in the former Yugoslavia and were concerned about human rights violations. This year the Dean of Students Office officially recognized the group.

Debra Solomon '96, co-chair of PLEC, said the group has expanded its focus

beyond the Bosnian conflict. Nevertheless, for the students, like Solomon, who have worked in Bosnia, the images of war and injustice are impossible to displace.

While in Bosnia, Solomon started a women's rights group. An off-shoot of efforts to provide humanitarian aid to refugees, the group organized in the face

of increasing hostility from the Croatian government. The result was a political human rights group focused on women's issues that monitors elections and seeks to protect abortion rights.

Protecting human rights in Bosnia was a monumental task, Solomon said. Not only was the government hostile toward anyone seeking to help refugees, but ascertaining the law was even difficult.

When Solomon told officials she was interested in learning about Bosnian regulations for a book she is writing on refugee rights, officials told her that none existed. When she pursued the matter further, Solomon was told that the rules are not written; instead, officials "memorize them."

"They change every week," said Solomon.

Solomon said she believes conflict in the former Yugoslavia is more about political and class struggles than

ethnic differences.

Government officials on all sides have "stirred [people] into a frenzy by vitriolic media campaigns," Solomon said. She cited the example of government officials digging up soldiers' bones from World War II and waving them in front of television cameras while telling people that this is what will happen to

them if the other side gains power.

Mark Hickernell '97, co-chair of PLEC, said he believes the main purpose of the group is to "see that people in the former Yugoslavia experience the justice they need to achieve peace." Although members of the group differ in their outlooks, Hickernell said that "most members strongly support the multicultural ideal which Bosnia at one time represented."

Hickernell also noted that members of the group who have experienced the Bosnian crisis first-hand have been "deeply affected" by what they have seen and "anxious to do more."

PLEC Treasurer Dan Smith '97 worked in Bosnia for a year before coming to law school and feels his work here is important to bring student attention to the situation. Smith ran convoy operations for the International

Rescue Center (IRC), an independent humanitarian organization.

Smith said he felt a strong need to educate students about moral injustice in Bosnia. Although he admits the issue "seems so far removed" for most HLS students, he said he hopes to "empower [students] through education." Smith said his connection to the tragedy and

the people has continued since his return from Bosnia.

"You care about the people," he said. "You just can't cut yourself off."

Samantha Power '98 spent two years in Sarajevo as a journalist for U.S. News & World Report. She said she believes that U.S. troop presence in the area is vital to the peace process.

Power said she views the Dayton agreement as a step forward toward restoring "the right personality" to the region and "put[ting] Bosnia back together." A withdrawal of U.S. involvement in the area would shatter the possibility of peace, Power said, because "the absence of hope and fear would be destabilizing."

Last year PLEC organized a week-long, educational "teach-in" — a series of events that included films and speakers. Guests included journalist David Rieff and Kemal Kurspahic, the former editor of Sarajevo's daily newspaper. The organization also collected money and school supplies that were sent to Bosnia.

Group members currently are working with a coalition of students from the Fletcher School, Kennedy School and the undergraduate college to bring former Bosnian Prime Minister Haris Silajevic to campus. Also planned is a mock war crimes tribunal.

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Across the Wire ... Across the Continent



This Week, Reports From the U.S. And Its Neighbor to The North

Grandmother and Lesbian Daughter in Continuing Custody Battle Over Son

RICHMOND (AP) — Lesbian Sharon Bottoms returned to court Monday for another round in her battle to regain custody of her 4-year-old son from her mother.

Lawyers for Sharon Bottoms tried to shift the main focus of the case off her homosexuality, arguing that she could offer Tyler Doustou a more secure, loving home than that of Kay Bottoms, who won custody of the boy in 1993.

"Her life has stabilized compared to the life that she led once she left her mother's home," Sharon Bottoms' lawyer, Donald Butler, said outside court. "There was no evidence he was doing badly" with his mother before she lost custody, he said.

Butler said he intended to show that living with Kay Bottoms in her Spotsylvania County home has harmed Tyler's development. A court-appointed psychologist was to testify Tuesday in the second day of the trial.

Sharon Bottoms' lawyers also contend that Kay Bottoms has violated the

terms of Tyler's visitation agreement.

Juvenile and Domestic Relations Judge William Boice closed the trial to the news media at the request of Kay Bottoms' lawyer, Richard Ryder. Kay Bottoms, Sharon Bottoms and her lover, April Wade, testified but were not permitted to comment about the case.

Kay Bottoms testified that on more than one occasion, a scheduled visitation between Sharon and Tyler failed to take place, Steven Pershing, a lawyer with the Virginia chapter of the American Civil Liberties Union, said.

Ryder said Kay Bottoms only barred Sharon from visiting Tyler a few times in October, when Wade was present in violation of a court order. He also said that Sharon Bottoms simply failed to show up for several

visits.

"The visitation problems are partially of her making," he said.

Beth Marschak, a friend of Sharon

Bottoms, testified about a failed attempt to visit Tyler at Kay Bottoms' home.

Ryder said the latest issues being raised by Sharon Bottoms are "utterly ridiculous. All this is ACLU garbage."

He said a large part of the fitness of a parent still revolves around sexual orientation.

"What is the child going to do when he's 11 or 12 years old when he brings his buddy home?" he said. "What's he going to do when guys at school say, 'You're mother's a dyke?'"

Butler said that Sharon Bottoms' lesbianism is at issue "because it's the only thing they have."

"They can't point to Sharon as being a bad mother and certainly can't show evidence of Kay as being a good mother.... They keep using the word 'lesbian' over and over and certainly did that today," he said.

Pershing said the case is not about homosexuality, but rather is a bitter feud between a mother and daughter in which sexual orientation was used as a weapon.

"The system gives the mother a stick to hit her own daughter over the head with, and that stick is the disfavor that the legal system holds lesbian relationships in," Pershing said.

Boice was expected to rule in the case at the conclusion of the trial.

Butler said that Sharon Bottoms' lesbianism is at issue "because it's the only thing they have."

Ottawa May Challenge Secession

OTTAWA (AP) — Hinting at a new strategy to keep Canada intact, the justice minister said Monday the government might seek a Supreme Court ruling on whether Quebec could legally secede.

It was the first time Prime Minister Jean Chretien's government has raised the possibility of a legal challenge to secession by the mostly French-speaking province. In the past, Chretien has said Quebecers have a right to decide their future for themselves.

Separatists in Quebec lost an independence referendum by a very narrow margin last fall, and recent polls indicate they would win if another vote were held now.

Justice Minister Allan Rock said no decision had been made yet, but a legal challenge was "an option we are considering."

Chretien's Cabinet is said to be divided on the wisdom of court action, with some concerned that the move could backfire in public opinion, polarizing Quebecers and other Canadians.

Over the weekend, Quebec's separatist government reiterated its intention to tackle the province's \$2.8 billion debt before mounting another breakaway attempt.

Supreme Court Handles Civil Rights, Hate Speech Cases

Civil Rights Case Settles; Court Dismisses

WASHINGTON (AP) — A Supreme Court dispute of potential importance for civil rights lawsuits washed out Monday, when the justices dismissed a Virginia case after an out-of-court settlement was reached.

The justices last month had agreed to review the case of a Great Falls, Va., man whom a jury concluded was passed over for a management job because he is black.

In *Merrill vs. Barbour*, the court was to have decided whether Martin Barbour was entitled to punitive damages aimed at punishing and deterring the company that did not hire him.

A federal appeals court ruled that punitive damage awards are available under a much-used civil rights law whenever on-the-job racial bias is found.

In the Supreme Court appeal dismissed Monday, lawyers for Medlantic Management Corp. argued that not all conduct found to be illegal discrimination deserves to be punished so severely.

Medlantic was providing centralized management services for a multi-hospital system in the District of Columbia

area when in 1989 it began searching for a director of the department that handled its purchasing.

Barbour, then director of materials management for Columbia Hospital for Women and a member of Medlantic's purchasing council, was one of some 70 applicants. He was not hired.

He sued Medlantic and Mark Merrill, a company vice president. A federal jury ruled that Barbour was not hired because he is black and awarded him \$2,500 in compensatory damages and \$25,000 in punitive damages.

A federal judge later ordered Medlantic to give Barbour \$84,285.08 in back pay as well.

The U.S. Circuit Court of Appeals for the District of Columbia upheld the three awards.

Barbour, who represented himself in the Supreme Court case, confirmed in a telephone interview Monday that there had been an out-of-court settlement on the punitive damages award. He said he was not at liberty to discuss it.

Medlantic's lawyer was not available for comment.

Court Allows Ban on Cross Burning

WASHINGTON (AP) — A Florida law making it a crime to burn a cross on someone else's property will stand, the U.S. Supreme Court ruled Monday.

Without comment, the court turned away an underage boy's arguments that the law violates free speech rights.

Supreme Court documents identified the boy only by the initials T.B.D., but Florida courts previously had identified Thomas Davis by name. He was charged with erecting a cross on the property of Atef Abdul-Nour in Jacksonville on Aug. 2, 1993 and then setting it afire.

The decision was applauded by the Anti-Defamation League.

"The Court in effect has said freedom of speech does not include the right to harass or terrorize others because of their religion, race or ethnic beliefs," said Arthur Teitelbaum, director of the group's southern region.

In 1992, the Supreme Court struck down a hate-crime ordinance from St. Paul, Minn., that banned displays of Nazi swastikas or burning crosses that were intended to anger or alarm people "on the basis of race, color, creed, reli-

gion or gender."

Davis' high court appeal said the 1992 ruling should doom the Florida law as well.

The Florida Supreme Court had ruled last year, however, that its state's law differs from the invalidated St. Paul ordinance.

"The Florida prohibition is not limited to any favored topics, but rather cuts across the board evenly," the state court said. "No mention is made of any special topic such as race, color, creed, religion or gender."

Cross-burning is banned, the state court said, "because it is one of the most virulent forms of 'threats of violence' and 'fighting words' and has a tremendous propensity to produce terror and violence."

The state court added: "The statute ensures that those who exercise freedom of association or who join in robust debate on controversial issues need not fear this particular threat of violence.... Few things can chill free expression and association to the bone like night riders outside the door and a fiery cross in the yard."

N.H. Judge: Stoned Student Couldn't Consent to Dorm Search

KEENE, N.H. (AP) — A glassy-eyed Keene State student who admitted he had been smoking pot was in no condition to consent to a search of his room, a judge has ruled.

Thus, police and college officials illegally searched the room shared by Derek Mauldin of Yarmouth, Maine, and Mark Sandquist of East Dennis, Mass., Cheshire County Superior Court Judge Philip Mangones has ruled.

Neither police nor dorm officials had a search warrant.

The ruling means everything police and college officials say they found on April 4, 1995, including marijuana worth \$500 and 10 tablets of Ritalin, cannot be used against the 21-year-old roommates.

Ritalin is a prescription drug used for hyperactive children and acts as a stimulant in adults.

Police and college officials had the roommates' permission to search their room, but that consent, particularly Mauldin's, might not have been "freely, knowingly and voluntarily given," Mangones wrote in a decision delivered

Thursday.

Mauldin and Sandquist were charged with illegal possession of Ritalin following the incident. Sandquist also was charged with possession of marijuana with intent to distribute, a felony, and Mauldin with misdemeanor marijuana possession.

Dormitory officials called police shortly after midnight April 4 when a fire alarm forced students out of the building.

A firefighter making a room-to-room search of the dorm discovered that the fire alarm inside Mauldin's and Sandquist's room had been activated.

The firefighter noticed "a haze of smoke and an odd odor," according to court documents. He told college residence directors the alarm was set off by someone smoking marijuana inside the room. When college officials arrived, they also

noticed the smell of marijuana and found drug paraphernalia, according to court records.

Mangones ruled that observations of the firefighter and residence director and Mauldin's statement about smoking pot, can be admitted.

[T]hat consent ... might not have been "freely, knowingly and voluntarily given," wrote Judge Mangones.

Questions Raised About LSC Funding, Policy Decisions

continued from LSC, page 1

most 3Ls who were here voted against this change.

"The LSC passes rules one week and violates them the next," he said. "I'm not sure why we have rules if we are not going to stay with them."

Bob Melson '97, former candidate for LSC president, also voiced concerns. "Under these rules, the winner could be less representative of the student body," he said.

A major concern for Nierlich and Melson, however, was the timing.

"There is a big ethical problem with changing rules midstream," said Nierlich. "Sections nine and 10 [of the election guidelines] are pretty clear about the majority system. I don't know why they had to wait until after the candidates filed to go to a plurality system."

Melson also noted that it was "highly suspect that rules changed on the eve of election, after everyone declared their candidacies and the tickets were picked."

Several council members said Simmelkjaer's preference for the Holden ticket motivated the change. Members also said they believed the general sentiment within the LSC was that the Nierlich and Melson tickets appealed to similar constituencies and that the Holden ticket was more likely to win in the initial election than in a run-off election.

Simmelkjaer disputes that theory.

"We've contemplated changing the system for a long time, and we merely passed the motion when it was finally made," he said. "The change clearly didn't advance any candidate. Every candidate voluntarily abstained from the voting, and it was a fairly clear vote."

Former Chair of the Rules and Procedures Committee Joseph Ditkoff '96 said changing election guidelines in the middle of a campaign was "normal" although "unfortunate."

"Rob [was] pretty partial for the Holden ticket," Ditkoff added, "but I have not seen any way he has interfered in the election. He's been very fair."

Failure to Appoint Independent Election Commission

Some student leaders say, however, that the question of Simmelkjaer's fairness never should have arisen. Last fall's election guidelines called for the appointment

of an independent election commission composed of three student election commissioners to administer all LSC elections, but the commission never materialized.

Explaining the rationale for an independent commission, Ditkoff said "there's a practical problem with the council running it. People on LSC are never neutral for these elections."

Ditkoff added, however, that "the commission is the kind of thing that is great to have if people are willing to do it. We should have made it optional instead of mandatory."

Among the commission's duties are the investigation of allegations of unfair practices and the enforcement of election guidelines. Simmelkjaer, however, did not select a commission and personally oversaw the elections until Sunday, when he appointed

LSC members also noted that the recent election is not the first time the council has ignored its by-laws.

Katherine Romano '97 as election commissioner.

As a result, several candidates complained about problems with the enforcement and distribution of the election rules. "I was not given any written material as to what the [election] rules and regulations were," said Melson.

Incoming Vice President-elect Rob Jancu '98 said he approached Simmelkjaer several times about "egregious practices" such as tearing down and papering over flyers.

"But [Simmelkjaer] couldn't do anything about it because there's no commission and therefore no method for taking problems forward," Jancu said. "He just said that I was taking the election too seriously."

According to Simmelkjaer, however, the rule about election commissioners has "always been ignored."

"We've never been able to find three students who were willing to do it," he said. "However, in the last few days we decided it was necessary to have an independent election commissioner to clamp down on some candidate concerns."

"The tearing down and poster over

of campaign posters happen every year. Some rules are just impossible to enforce," he said.

Inactive Committees

LSC members also noted that the recent election is not the first time the council has ignored its by-laws.

The LSC Constitution establishes four standing committees: Academic Affairs, Facilities and Services, Programming and Rules and Procedures.

"A few years ago, when there used to be more bickering on the council, the committees got work done," said Nierlich.

Most LSC committees, however, are defunct this year. The Academic Affairs committee has not met since the middle of last semester, and its chair is not certain whether he is still a LSC member.

The Facilities and Services committee, usually the busiest, had some early successes last spring improving Hemenway Gym and moving student mailboxes to their present location. According to Simmelkjaer, however, the efforts of former presidential candidate Blythe Holden '97 were responsible for these initiatives.

This term, the Facilities and Services committee has held only one meeting that the chair did not attend.

"This has been a year of freelancing," said Jancu. "The president didn't tell the committees to meet. People like me just listened to student problems and freelanced. That's not how LSC should work."

The LSC executive board, which is composed of elected officers and standing committee chairs and which acts as the LSC steering committee, also has not met this year, according to Nierlich.

Simmelkjaer, however, said regular meetings seemed unnecessary.

"I never really felt the need to meet formally," he said. "I'm less of a meeting guy and more of a communications person. I'm with most of these people [executive board members] all the time."



Yahrzeit candles were lit in Harkness Commons Monday in memory of Sara Duker and Matthew Eisenfeld, who were killed in a bus bombing in Jerusalem.

Two American Students Killed in Terrorist Bombing Buried

WEST HARTFORD, Conn. (AP) — The two American students killed in a suicide bomb attack on a Jerusalem bus were buried together.

Funeral services were held Tuesday for Sara Duker, 22, in her hometown of Teaneck, N.J., and Wednesday for Matthew Eisenfeld, 25, in his hometown of West Hartford.

Following Wednesday's service, the two were buried in adjoining plots at a cemetery in suburban Avon.

The couple had been dating, and Duker had gone to Israel in the fall in part to be near Eisenfeld, relatives said.

A family spokesman declined to com-

ment on the decision for a joint burial.

Eisenfeld was a second-year rabbinical student at the Jewish Theological Seminary in New York and was taking part in the school's Jerusalem study program. Duker was taking classes at Hebrew University in Jerusalem and working in a school microbiology lab.

Duker was a graduate of Barnard College in New York, just across the street from where Eisenfeld studied in Manhattan. Both had several friends at Harvard Law School.

The two students were among the 25 people killed during two bombing attacks on buses early Sunday in Jerusalem.

Appropriation of LSC funds to student groups

Some LSC members also have criticized the Council's recent emergency funding of the HLS Drama Society as an unusual and problematic move, although others say it was a routine step necessary for the group's spring parody performance.

Nierlich, as well as several LSC members who spoke on the condition of anonymity, complained that the Drama Society's funding illustrated an overly political allocation process. This funding process, they said, favors groups with LSC ties more than groups lacking such ties.

At the Feb. 7 LSC meeting, members voted to suspend the organization's bylaws to allow an appropriation of \$700 to the Drama Society.

"The LSC is under political pressure to give money to groups," said Nierlich.

Typically, the LSC has leftover funds from its annual allocation of approximately \$2,000 from the Dean of Students Office, according to Nierlich. In the past, LSC has usually allocated funds to groups such as the four 1L sections and the LSC committees, although the Drama Society and other students organizations also have been funded before.

According to LSC bylaws, groups are required to give 24-hour written notice to council members about funding requests that they plan to make at LSC meetings.

Although Drama Society representative Brandon Baer '97 had told Simmelkjaer a week before the meeting that the Drama Society needed emergency funding, "LSC members weren't told of the request 24 hours in advance" but rather learned of the request at the time of the meeting, Nierlich said.

Others, however, have a different view. The Drama Society had serious financial problems that would have put the show in jeopardy unless the LSC stepped in, said Simmelkjaer, noting that the parody "is one of the biggest events of the law school ... [and is] a high point of the year."

As to the waiving of the notice requirements, Simmelkjaer said that before this year started he had warned against LSC members who might try to use "loopholes and minor points in the bylaws to obstruct action."

"Minor points should not prevent the LSC from being able to act," he said. "Waiving the LSC's notice requirement was a minor procedure."

BRIEFS



HUPD Adds Campus Station

The Harvard University Police Department (HUPD) plans to open a substation in the basement of Weld Hall in Harvard Yard in early March.

HUPD plans to staff the new substation 24 hours a day with one officer who will monitor Harvard's computerized keycard system, which indicates when a door has been opened without proper access, Harvard Police Chief Francis D. "Bud" Riley said. Riley said the new station will also be home to a security guard unit.

The SafetyWalk program, which provides nighttime escorts for students, will be moved from the department's headquarters at 29 Garden St. to the new substation in Weld Hall.

Riley said he hopes students also will use the substation to report incidents.

"The presence of a uniformed officer is an absolute deterrent [to crime]," Riley said.

— from the *Crimson*

Radcliffe Organization Sponsors Violence Awareness Week

Radcliffe's Education for Action (E4A) is sponsoring Action Week to inform the Harvard community about various forms of violence, including domestic violence and youth violence.

In events that began Monday and will continue through Sunday, March 3, E4A is hosting a series of panels aimed at making "the Harvard community aware of a crisis that is going on in our society today in every sector," said Julissa Reynoso, a member of E4A.

E4A Coordinator Faith Adiele said each day of the event focuses on a different social problem, including domestic violence, ethnic sensitivity in education and economic discrimination. Adiele said she hopes the program will allow students to "take advantage of all the resources for social change" available at Harvard.

Groups co-sponsoring Action Week include Harvard's International Peace Games, the Asian-American Association and the Bisexual, Gay and Lesbian Students Association.

— from the *Crimson*

Harvard Union to be Renamed for Alum

Dean of the Faculty of Arts and Sciences (FAS) Jeremy Knowles said Harvard Union will be renamed Barker Hall for Robert Barker and his wife Elizabeth Barker, who donated \$13 million to the university.

The Barkers' donation will provide more than half of the \$25 million needed to transform the Union into a new Humanities Center that will bear the Barker name.

Robert Barker, who served as president of the Board of Overseers and a member of the FAS Dean's Council, is currently a general partner for Barker, Lee & Co. in New York City.

"Bob and Betty Barker have been steadfast friends of Harvard for so long," said President Neil Rudenstine. "I am delighted that their names will always be associated with the great Union building."

Barker said all of his previous donations to Harvard University have been anonymous, and he was hesitant to have the building renamed.

"I'm ashamed to confess it," Barker said. "I think it's too much, too glorious, but the answer is we couldn't resist."

— from the *Crimson*

Harvard College Bowl Wins Trivia Competition

A Harvard College Bowl team won the fifth annual Terrier Tussle, a trivia competition hosted by Boston University.

Harvard's team, "Dogs Playing Poker," was one of 25 teams from 11 schools, including Columbia, Cornell, Dartmouth, MIT and Yale, that competed in the invitational tournament.

Led by Captain Jordan Katine, a physics graduate student, and lead scorer Mark Staloff, Harvard's top team finished 10-1 in one round-robin bracket, second only to an undefeated Cornell team. The team went on to defeat Cornell's second team in the quarterfinals.

Team member Matthew Bruce said one of the most interesting questions came in the form of a game of charades.

"One person had to act out a word; another held his breath as the timekeeper; another translated into French, German, or Spanish; and another person guessed what it was," Bruce said.

— from the *Crimson*

Pulitzer Prize Winner Advocates Arab-Israeli Negotiated Peace

Two-time Pulitzer Prize winner Anthony Lewis told an audience at Hillel last week that the only possible resolution of the Arab-Israeli conflict is compromise.

"There is no decent alternative to negotiations and compromise," Lewis said.

Lewis condemned recent backlashes against the Middle East peace process and warned of the "bloody consequences" of fundamentalists on both sides taking sacred texts too literally.

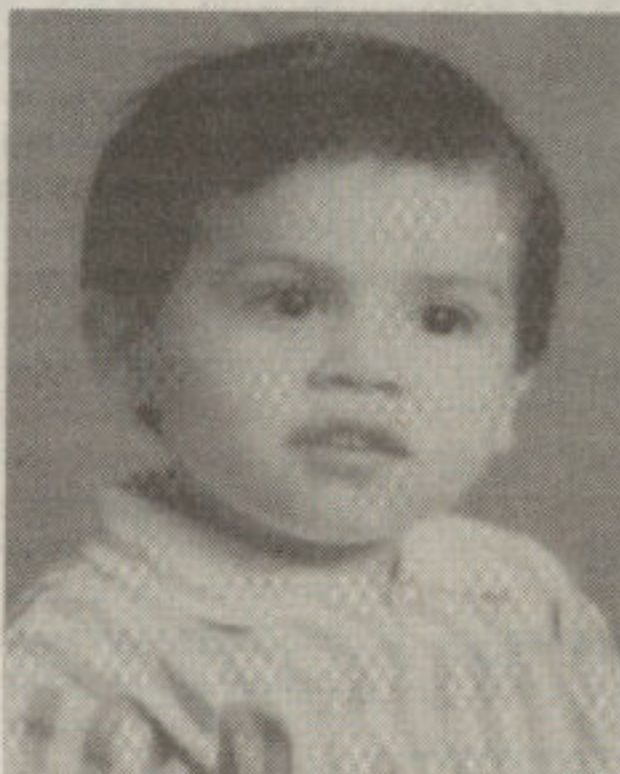
"Just as Israel is here to stay, so is Palestine here to stay," Lewis said. "Realism is the beginning of wisdom."

Lewis received Pulitzer Prizes in 1955 and 1963 for national reporting at the *Daily News* and Supreme Court reporting for the *New York Times*, respectively. He currently writes two columns each week for the *New York Times*.

— from the *Crimson*



2 weeks old, 1989



1 year old, 1991



2 years old, 1992

Stevie Ace Flores.

Killed by a drunk driver on March 23, 1993, on Pacific Coast Highway in Wilmington, Calif.

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GYM RAT

Intramurals Heat Up

By Todd Stillerman '97

Guest Columnist



STRAINING to overcome the incessant plinkety-plink of squash balls against the walls of the 96 racquet-infested shoeboxes below, the storied hardwood of Hemenway Gymnasium resounds with the grunts and strains of noble cage-warriors: the proud players of the HLS intramural leagues. The glory of the basketball season shines resplendent upon us, and not a moment too soon. Celebrating the long-overdue acquisition of a new broom, these lawyer-athletes completed their third week of competition. Sadly, your resident Gym Rat was nowhere to be found, exiled to Atlanta for the Georgia bar exam. But fear not, sports fans! The sports-journalism staff of the RECORD has a deep bench.

At the close of Week Three, the strengths and weaknesses of the leagues are beginning to take shape. This week's column focuses on the B-League's Eastern Conference, but future columns will spotlight the Western Conference and the A-League with suitable aplomb.

Kicking off its season last Thursday night, the defending B-league champion Great Danes (1-0) quickly learned that 1996 would be no cakewalk. Facing off against a drastically improved Short Guys (née Mo Knows) squad, the Danes struggled defensively against the dynamic outside shooting of Dan Kosowsky '96. Kosowsky and Ivan Deutsch '96 form the core of a team making its third trip through the league. Free throws proved the difference, however, as the Danes rallied for a five point lead with 3:00 to play. The Short Guys fouled early and often, but the defending champs just did not miss, finishing the game 26-for-31 (84 percent) from the charity stripe on the way to a 68-59 win. "I was pleased with our effort. We expect to make a serious run at the playoffs," said Kosowsky. "We were lucky to get out alive," noted Danes coach Roberto Hernández '97. The Danes' unbeaten streak now stands at 15 consecutive games dating back to last season.

The Short Guys' (2-1) accomplishments are hardly diminutive, however, as they have already knocked off playoff contenders, the Sleestaks (0-2) and the Sweathogs (2-1). The Sweathogs met the Sleestaks Saturday morning in what Sweathog David Markus '97 described as a sleeper. "[Sweathogs forward] Mark Jensen '97 was devastating both inside and outside, and the game was never very exciting," said Markus of the 56-34 blow-out. When asked whether the contest invited any spontaneous exhortations of movie titles (currently the hippest, most ESPN-style way to add emphasis to an exciting play), Markus said only "Jumanji!" The large deficit apparently placed no damper on the Sleestaks' spirits. Sweathog gunner Mike Beach '97 recalled that the Sleestaks' Mike Bennett '96 continued to "talk smack" even when down by 30 points, eventually resorting to comparisons of last season's rosters. And who says the B-League is non-competitive?

Although the Eastern Conference features several veteran squads, two newcomers found themselves tied atop the standings as of Sunday night. The Stormin' Mormons (3-0), the Ivy League's answer to Brigham Young University basketball, blew through their competition like Hurricane Andrew through Miami. Team captain Tim Strong '96 says the team met through an intra-graduate school Mormon fellowship organization. The connection convinced Strong to abandon Gooch's Last Stand (nee Gooch's Two-Headed Johnson) to form a new team. "I was sad to leave the team," notes Strong, who craves a "friendly rematch" in the post-season since Gooch abides in the Western Conference. He may get his chance, with rebounding monster Drew Johnson HBS '96 (the Shawn Bradley of the intramural world?) and rookie sharpshooter Josh Little '98 (the poor man's Danny Ainge?) helping the Mormons to their strong start.

Matching the Mormons' 3-0 start is LLMagic, a team of international basketball barnstormers who also dabble in the law. Led by William Valasidis LL.M. '96, the guys with student visas showed that Dr. Naismith's little game is a world-wide phenomenon. The Magic began the season with a double-overtime thriller against The Dissenters (0-2), delivered a final judgment to Reversed and Remanded (0-3), and sailed past Port Isabel Homes (1-1) as the buzzer sounded. Valasidis noted that his team won even though it "didn't play well," proving that trash-talk has made its way through international air space. The Magic will face the Mormons this Saturday at noon. Given that most of the Stormin' Mormon team picked up a couple of foreign languages on their two-year missions, expect taunts in everything from Portuguese to Swahili. *Callate la boca!*

Also undefeated at week's end was TCB in a Flash (2-0), after wins against Asphyxiation (0-2) and Double Trouble (0-2). Team captain Joe Matellis '96 explains that TCB is "taking care of business," and refers to the patch Elvis Presley wore on all his karate uniforms. After a quick start, there will be no Blue Hawaii for these three-year veterans of the B-Leagues. The team was formerly Rich Cundiff: Go-To Guy, named for the now legendary Rich Cundiff '96. After a disappointing season last year, coupled with the football woes of Rich Cundiff: Go-Long Guy, Matellis says his team figured "we'd gone to the well a few too many times. Rich is a real prince of a guy, but Elvis is the King, and we needed an upgrade."

Regular Gym Rat Dave Koontz '96 will return in two weeks.

The Harvard hockey team lost a pair of heartbreakers last weekend to Clarkson and St. Lawrence. The Crimson have now lost seven straight games.

The Clarkson game was scoreless after two periods, largely because Harvard goaltender Tripp Tracy was phenomenal. Tracy stopped 15 second-period shots, six of which were from point-blank range. Clarkson finally got on the board at 5:14 of the third period when Guillaume Besse put a 35-foot wrist shot past Tracy, who was screened. The Golden Knight lead increased to 2-0 after Todd White scored a power play goal at 13:24. Two goals were all Clarkson needed because Dan Murphy was spectacular in net for the Golden Knights. Murphy made many terrific saves in the game, especially in the final period when he had 15 saves. Although Craig MacDonald thwarted Murphy's shutout bid with 1:34 left in the game, Clarkson won 2-1.

On the following night, St. Lawrence jumped out to a 5-2 lead before Harvard mounted a valiant comeback attempt. In the third period, the Crimson played its best hockey in weeks and outshot the Saints 17-4. When MacDonald cut the SLU lead to 5-4 on a power-play goal with 4:24 remaining in the game, it appeared that Harvard would tie up the game. But the Crimson could not find the equalizer. Harvard had its best scoring chance one minute after the MacDonald goal. Kirk Nielsen's 20-foot one-timer from between the circles just barely missed the net. After SLU goalie Clint Owen stopped Tommy Holmes's 15-foot shot with 1:45 remaining, Harvard could not muster another shot, and St. Lawrence escaped with a 5-4 win.

The Crimson conclude the regular season this weekend with games at Dartmouth and Vermont.

FOOD - O - RAMA

Comfort Food
Boho-Style

By Heather Friedman '97 and Betsey Nevins '97

Restaurant Reviewers

IT had been a hard week. Even with the long weekend last week we'd fallen behind in our classes; our career prospects were looking grim; and now we have to worry about President (AIEEEE!) Buchanan. One bright spot was the warmer weather that allowed us to shed the down-jackets for a bit. But it'd been raining for days now. Some trade-off. We were pretty crabby.

Where to turn for some kindness and spiritual nourishment? Daddy-O had always delivered in the past — so we decided to seek comfort there.

There was a parking spot just opposite Daddy-O's Bohemian Cafe, which made us feel things were taking a turn for the better. Inside Daddy's den things were buzzing warmly. We were greeted with bright smiles and welcoming words.

But then they tried to seat us at a table next to a party of twenty. Over the din of the happy revelers, we shouted that we'd prefer a different table. Unfortunately the larger tables were reserved for other guests, so we ended up dining in the shadow of an office party. We did have the soft sculpture bohemians perched disconcertingly behind us — it felt like their felt eyes were watching us. But hey, we hadn't come here for the seats or music; we were looking for good food. Soul food. Old Standards — with a new spin, says the menu.

A hot pink card inside the regular menu announced a week-long special menu of Thai soups and stews. We decided to stick to the tried and true for appetizers, choosing latkes (thankfully not renamed "potato pancakes") (\$4.50) and Deviled Crab Cakes (\$6.00). Both were extremely generous portions, practically meals in themselves. We found the thinly-grated, densely-packed latkes a treat for their texture, but somewhat lacking in flavor; we prefer a bit of minced onion and a heavier hand with the salt and pepper.

The crab cakes were crabbiest than most, which made them perfect for us. The moist mixture of crabmeat, red pepper, and scallions was pan-fried to a golden brown and complemented by a dollop of Cajun remoulade (a mayonnaise-based sauce with a cajun kick).

For our next course we strayed further from the familiar with a Thai duck curry (\$12) and the intriguingly-named Moroccan Lamb Hash (also \$12). These dishes were only satisfactory, making us think we that this kitchen is more skilled when it stays closer to its American roots. The hash turned out to be a mix of basmati rice, diced lamb, eggplant, olives, and raisins. A citrus-flavored spice dominated the plate, but after a while, without any complementary flavors, our tastebuds grew bored. The whole half duck was more than we could finish, highlighted by snappy green pea pods.

Now, Gentle Readers, Take Heed. Do not do repeat our folly and ignore the fine print at the bottom of the menu telling you to order the deep dish pie a la mode (\$5)

Do not do repeat our folly and ignore the fine print at the bottom of the menu telling you to order the deep dish pie a la mode with your entree.

with your entree. After clearing our main dishes, our friendly waitress extolled the virtues of the apple-cranberry pie and then gently reminded us that this was a cooked-to-order dish that takes twenty minutes to prepare. Twenty Minutes might be peanuts to heirs, heiresses, and hundred year old elephants, but we were tired and had to make it back to the computer lab before closing time. Alas, we missed out. The sweet potato pecan pie (\$4) was sweet and filling, but small consolation. Luckily, the coffee was richly delicious — even the decaf. Apparently, it's ordered specially from the Big City.

Daddy-O's feels a bit like an old fashioned rumpus room: black and white tiled floors, no windows, nothing fancy. In that respect, it was a shelter from the storm of our pathetically harried lives.

Though we hit a few bumps on this visit, we're still awfully fond of this place. It's a real Cambridge institution; looking around us we saw families, couples, and the office party. We like its homey, neighborhood feel, its friendly service and its unabashed straightforwardness. It's a great brunch place, and we hear it's also particularly nice for outdoor dining in the all-too-rare warm months. Check it out; it's cool.

Daddy-O's is located at 134 Hampshire Street, just beyond Inman Square towards Boston. Open nightly, except Monday, for dinner, 5-10 p.m. Call 354-8371 for more information.

Quote of the Week

"Hold your breath, and we'll see what happens."

— Dean Clark '72, responding to a question about whether Prof. Lani Guiner would be given a tenure offer.

Harvard Law RECORD

Founded in 1946

Hope Yen
Editor-In-Chief

A Call to HLS

This week's Law School Council elections were a much needed change from the apathy of previous years. The parties should be commended for running an intense campaign — so hard-fought, in fact, that night-shift employees at the Harvard Square Kinko's, where the candidates xeroxed their flyers, became curious about the outcome of the LSC race. It is refreshing to witness LSC elections transform from an annual event slightly more involved than a popularity contest into a more serious forum where the merits of candidates are judged with greater reference to concrete student concerns.

Yet voter turnout, although higher than last year, reveals a disturbing fact: with slightly less than one-third of the school voting, the student body has extended only a tenuous mandate of governance to the incoming LSC executive board. Alienation from real issues that affect Harvard Law School still reigns fundamentally undisturbed, a situation which indicates that most students consider the LSC very much tangential to their HLS experience.

Comprehending the extent of that alienation, then, is crucial for Nierlich, Jancu and DeFalco. To strengthen the Council and to become the effective leaders they have promised to be, all three will need actively to mobilize students in order to press claims vis-a-vis Dean Clark's administration. That requires, however, proving to voters that they will put true effort into efficiently meeting simple campaign promises such as instituting daily LSC office hours and an official e-mail system to field complaints, or finding a way to distribute unused commencement tickets.

But already the incoming executive board is showing signs of slippage. Pre-election claims made by the Nierlich ticket in RECORD interviews that the ethernet would be operational by March 1 are proving to be more than they can assuredly meet. Less than a day after Nierlich's electoral victory, he has begun hedging his bets in discussions with the RECORD by falling back on disclaimers like, "Things won't always be done in one year." These statements do not bode well for Nierlich's inauguration.

Realistically, the new LSC executive board only may be able to lay the initial groundwork for achieving certain goals like securing full summer public interest funding. Actually realizing these aspirations may have to depend on future LSC leaders who will work from this administration's headstart. But at the same time, in order to begin rousing students from apathetic slumber, our new leaders must honestly work toward change without falling back on the tired excuse that "We can't do it all." Doing so would be a slap to their voters and would cheapen the integrity of LSC elections and the Council itself.

At the same time, the burden to revive student strength on campus cannot rest solely on the shoulders of three individuals. As citizens of this campus, we ourselves must take charge and hold the Law School Council as a whole responsible and responsive to our concerns. That requires strict attention to LSC business, a firm demand that the our new leadership be accountable for their promises, and a willingness to work energetically with the Council to achieve our goals. Reviving student engagement on campus cannot be an isolated effort; it is a community affair.

— Kuohung

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

—First Amendment, US Constitution

• Letters •

Jerusalem Bombing Victim Remembered

How does one deal with the loss when a close friend is whisked away in a brutal and senseless act of violence? How does one begin to make sense of the futility — the injustice — when two young people with tremendous potential are taken from the world? I am just beginning to piece together the emotions, to articulate the questions; the answers are far more difficult. Perhaps because there are none.

Sara Duker, one of the 25 victims whose precious life was cut short in the recent bus bombing in Israel, was my first "college friend." We had met on the Admitted Student's Day at Barnard College in April prior to our first year. Her sweetness shone through her warm smile and the ever-present twinkle in her eye. At the time, Sara was unsure about where to attend college, but that summer, I was thrilled to learn through a mutual friend that she, as I, had decided on Barnard. When I arrived, I was anxious to track her down, but Sara beat me to it. On our first day there, I returned to my room to find a message from her on my door.

That first year, we spent endless nights sharing our feelings, dreams, ambitions and fears about embarking on the new experience of college life. Yet, four years later, when we sat on Lehman Lawn, (the lawn at the center of Barnard where Sara was frequently to be found on Spring afternoons reading, hanging out or just pondering life, as she often did) just prior

to our graduation, to again share the new adventures that we each saw in our futures, it was obvious that Sara's earlier fears had been unfounded. Having amassed a collection of accolades academically, Sara had proved herself to be clearly one of the brightest in the class, while remaining active in a whole range of extra-curricular activities, including performing in a number of plays; tutoring disadvantaged students; planning forums to address some of the racial problems on campus; and involving herself extensively with the Jewish Student Union at Columbia. But those are the things that build resumes, not friendships.

There was so much that was special about Sara. Though thin and small in size, Sara had always led me to believe that she was invincible. As the oldest of three daughters, whose father had passed away many years before, Sara exuded an inner strength that was beyond compare. Never one to succumb to adversity, she was fearless; it always seemed that there was nothing that she could not do, nor would not try. The possibility of danger was not of significant consideration in her decision whether to return to Israel where she had spent several months for religious study during the prior year.

Sara had a remarkable gentility and sensitivity to the plight and problems of others; there was none with a kinder heart or more giving soul.

Her generosity of spirit extended to friends, acquaintances and strangers. Together, she and Matt, a Rabbinical student (with whom she intended to spend her life and ultimately met her death) had plans to better the world, one step at a time, be it through helping friends, teaching, extending efforts to feed the homeless or working for the environment, work with which Sara was involved both during the past summer which she spent doing research in Siberia and during her studies in Israel at the time of her death.

But there was so much more to Sara than all that. I'll always remember her bright turquoise tights, the rolled-up bandanna she would sometimes wear in her curly golden brown hair, the way she'd respond, "The sun," whenever you'd ask, "What's up?" (unless of course it was nighttime, when she'd say, "The moon"), and she and Matt on my couch trying (unsuccessfully) to teach me a new tune to a popular zemer (a Jewish song traditionally sung on Shabbat).

I have only just begun to fathom the enormity of our loss. I have lost two friends; the Jewish community has lost two leaders; the world has lost two gems. And yet there are 23 more victims, whose families and friends have memories of their own to share. May they all rest in peace.

Esta M. Smith '98
February 27, 1996

Jancu a Good Choice for Law Students

On Monday and Tuesday, the Harvard Law School student body elected Rob Jancu to be its next LSC vice president. Section IV 1Ls like myself have already had the pleasure of seeing what an extraordinary representative Rob is. As the first semester ran its course, Rob established an unquestionable reputation as a person dedicated to helping others. As one student put it, "Rob solves problems I didn't even know I had." Many of us now share the expectation that some day we're going to read our e-mail and find the following message from Rob:

"Hello Section IV,
"This week I spoke to God about the problem of evil. I think he's starting to buckle."

When we hear from Rob, good news or bad, we know we are in good hands. Rob has unintentionally and silently paraphrased Kennedy: "Ask not what your school can do for you; tell me what I can do for your school." And tell him we have. Whether through his e-mail polls regarding the grading policy, or his door-to-door survey about life in Gropius, we know that Rob is not far from anyone's complaint. Through his original sectional e-mail system, Rob kept us so informed that reading the RECORD was like having redundant *deja vu* all over

again.

It's great to see Rob in action. It's kind of like when you're taking an exam, and one person starts writing right away from the very first minute and doesn't stop until the time ends. But this is different. With Rob, he's not writing his own exam. He's helping us on all of ours. That's not just a metaphor. When our torts exam presented us with an eight-page court opinion and six questions to be completed in one hour, Rob took time out of his test to write a message to the professor: "I just wanted to let you know that the opinion was of undue length. In the future, I hope you will provide a more reasonably lengthed section. Anyway, back to my exam." That's just Rob. He's what you would call a private attorney general for our class.

Be glad he's on our side. If it was your job to answer the phone for the Charles Hotel, you might not appreciate his resolve. While the rest of us were interviewing and relaxing over intercession, Rob was calling the Charles Hotel every day during break until one of their bookings fell apart. Guess who was right on top of things to snatch up the opening. Now, Harvard Law School will enjoy its Spring Semi-Formal in the dining hall of a hotel whose next open booking is late 1997

or early 1998.

It would be hard to find someone at the Law School who has not benefited from Rob. If you think you haven't, recall that it may have been Rob who handed you that free beer at one of the Seinfeld/Friends nights at the Hark. You may have seen him (or perhaps laughed at him) deicing the walkways around Gropius, tossing salt and smiling. And when you use the photocopier in the Hark, you can thank you-know-who.

But by the time you can say the words, "Thanks Rob," he's already done something else for you. For instance, you may have known that Rob arranged the LSC two-day Book Sale, but maybe you didn't know that Rob arranged to have all the proceeds donated to a nearby homeless shelter. Or maybe you knew that Rob filed complaints on your behalf regarding dorm conditions to the building managers, but you probably didn't know that he also checks up with them all the time to make sure that things get done.

Rob is an amazing advocate. It is thrilling to know that he will continue to serve our interests in his upcoming position as LSC vice president.

Kimo Peluso '98
February 28, 1996

Simmelkjaer Needs Con. Law Refresher

In "LSC Changes Election Rules" (see RECORD, Feb. 21), Rob Simmelkjaer '97 is quoted as saying that if a plurality system is "good enough for presidential elections in the United States, it's good enough for us."

Despite his accomplishments as president of the LSC,

Simmelkjaer is apparently not a great scholar of constitutional law. According to Article II and the 12th Amendment, a candidate for President must win the support of a majority of the Electoral College (or if no candidate does so, a majority of the House of Representatives, voting as

states). Indeed, a candidate for President can win not just a plurality but a majority of the popular vote and yet lose in the Electoral College, as did Grover Cleveland after the election of 1888.

Jol Silversmith '98
February 28, 1996

Clinton Not Necessarily a Sexual Harasser

Carla Halpern completed her recent essay on the Law School's new sexual harassment guidelines (see RECORD, Feb. 23, 1996) with the statement, "in a profession where one of the highest-

ranking officials is a known sexual harasser, we cannot be too careful in promoting justice."

I remind her that Paula Jones' accusations against President Clinton have not

been proven, and as such, it is inappropriate for her to conclude her editorial with a reference to such allegations.

Mark R. Yzaguirre '97
February 23, 1996

When Lawyers Discriminate

By Prof. Alan Dershowitz

A female lawyer's decision to turn away all male clients has opened a hornet's nest of questions about the nature of a lawyer's duty.

The Massachusetts Commission Against Discrimination has found "probable cause" to believe that Judith Nathanson, a divorce lawyer, was guilty of gender-discrimination when she told Joseph Stropnicki that she would not represent him simply because he is a male. The facts make it a perfect test case.

Joseph Stropnicki is a "house husband" whose wife is a medical doctor earning a six-figure income. During their seven-year marriage, he stayed home taking care of the couple's two children while she was out practicing her profession and being the breadwinner. Since Judith Nathanson had a good reputation for winning large settlements for housewives against doctors and other professionals, a mediator recommended her to Stropnicki. When Stropnicki asked Nathanson to represent him and to review the draft of a settlement agreement, Nathanson refused — gratuitously adding that she would be interested in representing his wife. She said that she could never represent a man, regardless of the circumstance, and would never do anything to hurt the interests of a woman.

By making these statements, however, Judith Nathanson may well have hurt many women. Imagine what would happen if male lawyers refused to represent female clients. Since most lawyers are still male and most women clients are still poorer and less powerful than male clients, a gender-apartheid system of legal representation would hurt women far more than men. Moreover, the implications of the Nathanson approach to client selection would return us to the bad

old days when white, Anglo-Saxon law firms represented WASPs, Jewish law firms represented Jews, black lawyers represented blacks — and nobody represented most indigent women, Hispanics and other disempowered groups and individuals.

A license to practice law is a public trust. Lawyers have a state-granted monopoly to represent clients in court. No one else is permitted to perform that function. Lawyers should not be able to refuse clients on the basis of discriminatory criteria such as race, religion, gender and national origin.

Imagine the following situation. An Islamic woman seeks representation in an important case — say, the state is trying to take her children away. In this particular state in which she lives, there are no Islamic lawyers. If all lawyers were permitted to limit their practices to members of their own religion, race, gender or place of national origin — that is, if all lawyers were to behave as Judith Nathanson did, the Islamic woman might be denied an important right solely on the basis of her religion. It is simply un-American. I hope it will not be tolerated by the legal profession.

The technical issue before the MCAD is whether a lawyer is a "public accommodation" under the law, since public accommodations may not discriminate on the basis of gender, race, religion or national origin. The courts have already ruled that law firms may not discriminate in the hiring or promotion of lawyers. It is not a long leap to extend that principle to the selection of clients.

Such a ruling would still allow lawyers to select clients on the basis of ideology or expertise. A radical lawyer could specialize in radical causes, a conservative lawyer in conservative causes. An antismoking lawyer could not be forced to represent the cigarette industry. Nor could an antiabortion lawyer be required to represent a woman seeking an abortion. But if the only reason a lawyer refused to represent a client is because of race, gender, religion or national origin, then that lawyer has engaged in discrimination, pure and simple.

Nathanson will defend her action by arguing that her feminism is her ideology. But racist lawyers could make the same claim, as could other bigots. By winning a large settlement for house-husband Joseph Stropnicki, Nathanson would have been serving the interests of feminism, since far more women than men are in Stropnicki's legal and economic situation. But Nathanson was not acting as a feminist. She was acting as a sexist. It is surprising that her actions were defended by the chief counsel for the Massachusetts Civil Liberties Union, who said: "A private attorney can decide for any reason to represent or not to

She said that she could never represent a man, regardless of the circumstance, and would never do anything to hurt the interests of a woman.

represent someone. I think that's entirely up to the attorney." The attorney for the MCAD got the better of the argument when she pointed out that Nathanson's absolute policy of gender discrimination "perpetuates social injustice." The law must insist that those of us who hold a state granted monopoly license to perform an important service — whether that service be medicine, law or driving a taxi cab — may not discriminate on the basis of race, religion, gender, or national origin.

China: Does Beijing Signify Anything, With Power Flowing to Provinces, Cities?

By Stanley B. Lubman

One problem among the many that vex Sino-American relations has received little notice: the inability of the Chinese central government to control many activities outside Beijing.

An example is the U.S.-China disagreement over unauthorized Chinese copying of U.S. intellectual property. Last year, China's Ministry of Foreign Trade

Economic Cooperation negotiated an agreement with U.S. representatives that included a promise to shut down 29 factories suspected of pirating American computer software, music and movies. But most of the offending factories continue to produce the counterfeits, with some of them now reportedly

turning out more expensive CD-ROMs of just-released software. In response, the United States threatened last week to impose trade sanctions unless China lived up to its agreement.

China's piracy problem stems, in part, from its trade ministry's lack of control over the factories producing the illegal copies. In China's councils of state, the ministry does not have the muscle to compel other ministries and organizations, such as the Chinese army, to close down profitable enterprises.

Another troubling illustration of the problem surfaced recently. Bruce Reidel, a deputy assistant secretary of defense, testified before a House committee about

Chinese chemical companies helping Iran develop chemical weapons. "China's chemical industry," he said, "is very rapidly growing at this time, and not all facets of it may not be under the fullest scrutiny of the Chinese government." Reidel was being diplomatic.

During the last 15 years, China's remarkable economic reforms have been made possible by the devolution of power from Beijing to provincial and local gov-

ernments. These and strong central organizations, including the Chinese military, are loathe to surrender their autonomy. But this dilution of Chinese totalitarianism limits Beijing's reach over the rest of the country and threatens to impair China's performance as a member of the interna-

tional community. Kenneth Lieberthal, a China specialist, has written, "Beijing's ability to discipline its own localities and citizens to obey its international agreements and to abstain from opportunities for illegal gain has significantly eroded."

A more extreme view is taken by Gerald Segal, director of the Institute for International Studies at the University of Technology in Sydney: "In some aspects of its foreign relations, power has simply been decentralized, and no one, except assorted individuals acting independently, has taken up that power.... Beijing may sign international agreements on textile exports, protecting intellectual property or halting trade subsidies, but the central authorities are unable to control the violation of such accords."

China has long been less monolithic than it appeared to the West, and some would contend that the disarray many Western observers see today has existed ever since the People's Republic was established in 1949. Because local auton-

omy was granted by Beijing, rather than wrested from it, the new reallocation of power does not signify political disintegration. But implementation of any policy or law is usually inconsistent and uneven, a frustration often magnified by the slow-moving Chinese bureaucracy. Also, even though central-government control is slackening, so, too, is that of local governments, because the market is gaining, as Beijing and regions want.

Nonetheless, the problem of institutional weakness is real. China seems less able to take responsibility for fulfilling the international agreements it has signed than at any time since the People's Republic was founded. The extent of the continuing decentralization raises the acutely difficult question of how the United States should shape its dealings with a country that is steadily increasing its economic power without enhancing the internal controls and discipline it needs to fulfill its responsibilities.

To some, it might seem tempting to deal with the holders of decentralized power. In international trade, it makes sense for foreign investors or traders to act where problems emerge. The Americans whose intellectual property is being pirated could seek enforcement in cities and provinces where the counterfeiting is going on by bringing suit under Chinese law. This would put pressure on local governments to end the illegal conduct or suffer declining U.S. investment. It might also be appropriate, or necessary, to take the next step and urge Washington to exert pressure at the regional level, not only on trade but on other issues, including security-related issues.

Yet, a local approach in dealing with China would be dangerous. Power has been so diffused, and the situations in each region are so different, that the United States would end up a clumsy and

ignorant actor among fractious factions. Furthermore, Beijing would no doubt vehemently object to any moves to deal directly with specific regions, a reaction all the more intensified by painful memories of Western attempts to carve out enclaves in China during the 19th Century. Already, Beijing is paranoid about possible U.S. desires to "contain" China.

Washington must thus continue to act as if Beijing is the government of China, while making it clear that Chinese leaders will be held accountable for failing to carry out their international obligations, even if violations can be traced to regions or organizations defying their orders. For example, if a Chinese enterprise exports products that China has agreed not to sell abroad, whether missile-related or produced by child or prison labor, whatever sanctions are applied must treat Beijing as responsible. Diplomacy assumes that the nation-state is the basic unit in the normal conduct of international relations. No less should be expected of China's government in Beijing.

Ironically, the decentralization problem may be made more acute by U.S. attempts to deal with it. It would be easy for the United States to sound like a mor-

alizing bully, hectoring and nagging Beijing about its failure to act according to standards that the United States takes it upon itself to define and impose on other nations. At the same time, China cannot be treated as less obligated than other nations to keep its word. Discreet diplomacy, not accusation and defensiveness, should

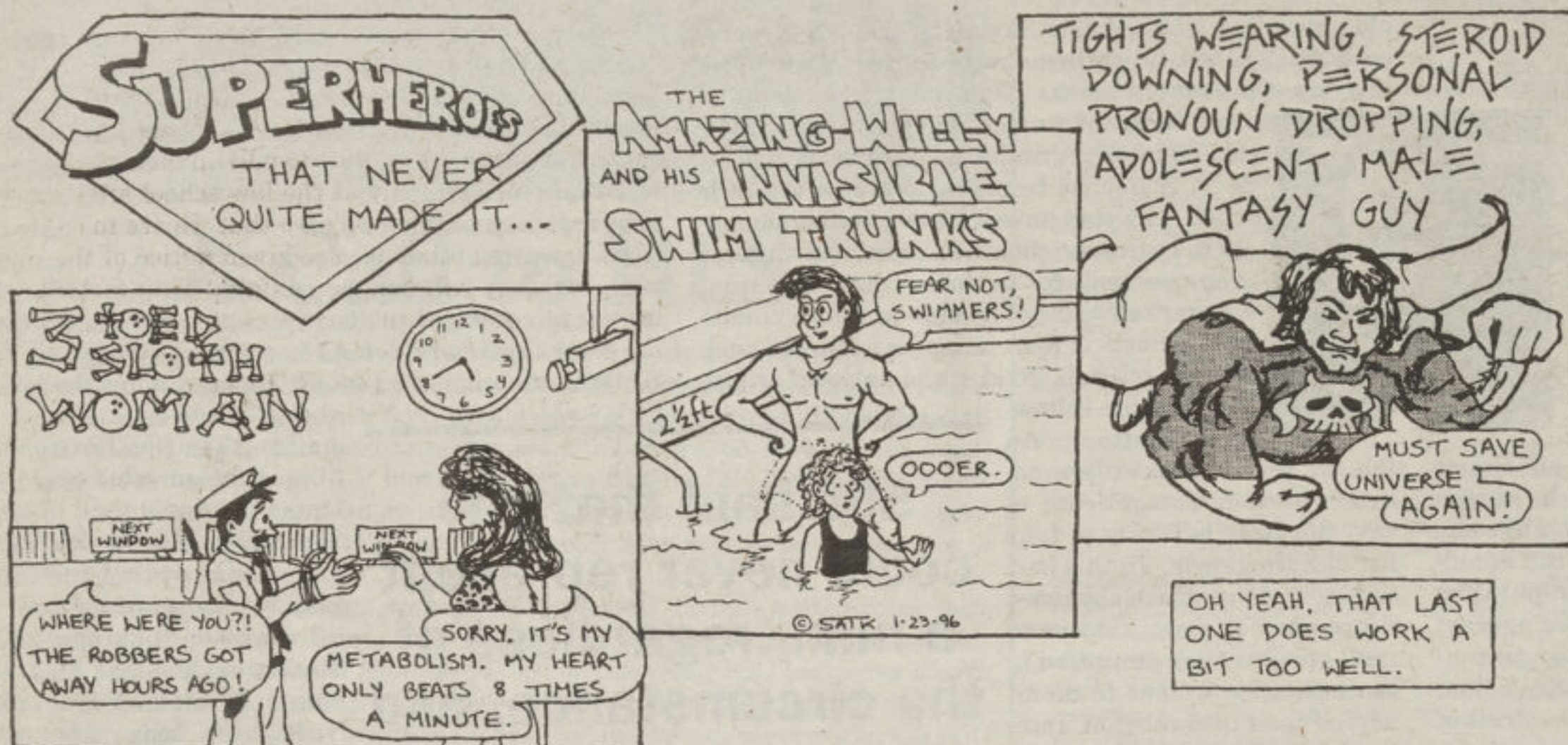
be used to try to manage this problem. The threat of sanctions should be a last resort. But the dispute over intellectual property also illustrates that if diplomacy fails, sanctions may be required to remind Beijing that it must keep its word.

Yet, a local approach in dealing with China would be dangerous.

Stanley B. Lubman is a San Francisco attorney and 30-year specialist in Chinese affairs who has taught at HLS four times in the past, most recently in 1990. This article originally appeared in the December 3, 1995 issue of the L.A. Times. Reprinted with permission of the author.

Temporary Insanity

By Sheila Tuller

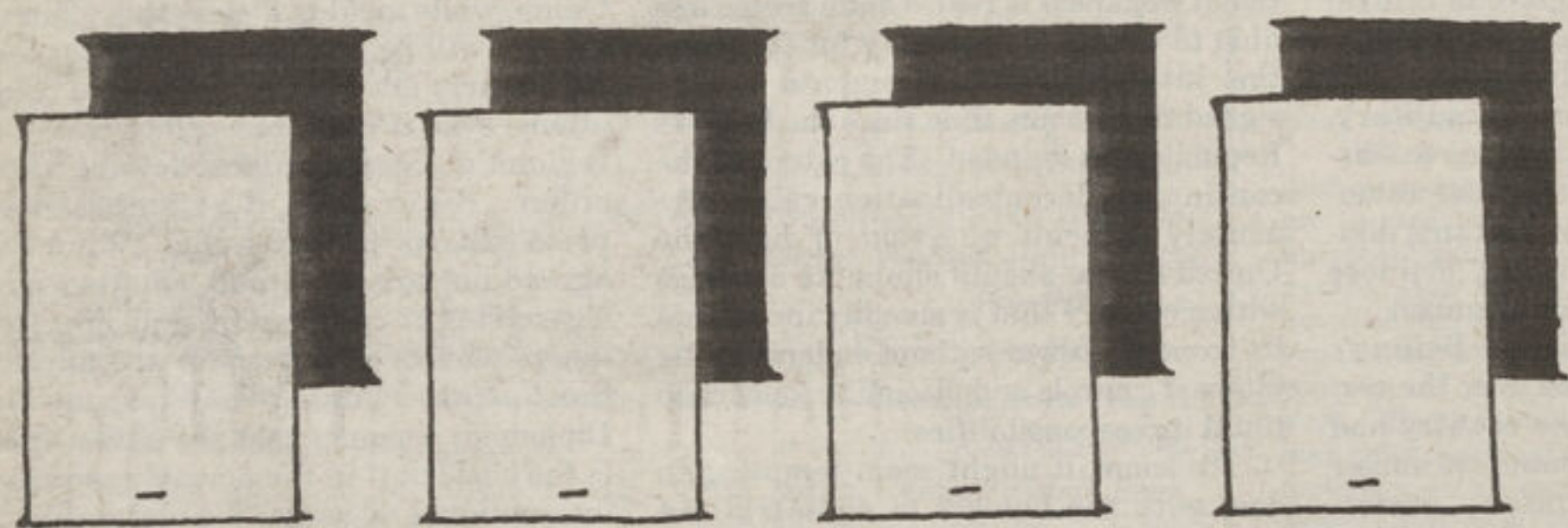


Backbench

By Brian Cheng

BAR APPLICATION	BUSINESS	DATE
SECTION II	Drug Dealer	9/93-Present
List all non law-related self-employment since your eighteenth birthday.	Hit Man	8/91-5/93
BAR APPLICATION INSTRUCTIONS	BUSINESS	DATE
Every candidate shall be of good moral character. "Good moral character" includes obedience to the laws of the state.	Drug Dealer	9/93-Present
	Hit Man	8/91-5/93
NUTS.		
	BUSINESS	DATE
	Herbal Importer	9/93-Present
	Trouble Shooter	8/91-5/93

Ad Hominem - Watchdogging "E.R." By S. Rees and B. Zimmerman



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CALENDAR

By Colin Meeder

Those of you out there who read my column only to bask in the beauty of my language ain't necessarily going to be too happy with me this week; however, those of you who read this column despite the beauty of my language in order to feel the pulse of the world of music will be damn pleased. Yup, the feast-or-famine world of concert-going in the greater Boston area is definitely in the feast cycle, so I shall mince no more words, and get right to the goods.

So it's Sadie Hawkins' Day (2/29), ladies, and you don't know where to invite that man you've been eyeing all semester? Have I got options for you! You could take him to experience the exotic, post-psychedelic jazz sounds of the **Pharaoh Sanders Quartet**, at the Regattabar (661-5000) through 3/2. Sanders, once accused of trivializing the music in search of popular success, has matured greatly as an artist since then, and ironically is more popular than ever. If you prefer your artistic maturity at higher decibel levels, check out **Wayne Kramer** at Mama Kin (536-2100). The former MC5 guitarist has just released "Dangerous Madness," a follow-up to his critically acclaimed "The Hard Stuff." Drill open. Those who prefer tossing around flaming torches to kicking out the jams might opt for the **Flying Karamazov Brothers**, who will bring their juggling schtick to the Spingold Theater (736-3400) and will stay there until 3/3.

Friday night (3/1), make your stand as a member of the nonexistent Cocktail Revolution by taking in the luxurious sounds of **Combustible Edison**, who'll be playing a benefit concert for and at the Brattle Theater (876-6837). Fusion fans might choose to opt for the **John McLaughlin Trio**, featuring Dennis Chambers, whom many consider to be the best drummer working today. They're playing the Charles Ballroom (876-7777). Transcendent garage rock will rule the night at Mama Kin, where former Dream Syndicate leader **Steve Wynn** will front a crack band including members of Boston's great indie-pop hope, Come, and Dennis Duck, the Syndicate's old drummer. Saturday night (3/2) will bring talented British singer-songwriter **John Wesley Harding** to Bill's Bar (421-9678) with **Robert Lloyd**. Kathleen Hanna brings her grrrl-positive **Bikini Kill** to TT the Bear's (492-BEAR) along with dykecore warriors **Team Dresch**, **Cold Cold Heart**, and **Shiva Speedway**.

Former Waterboy **Mike Scott** drops the charade of actually having a band, and appears under his own name at the Berklee Performance Center (call them TicketMaster folks) on Sunday (3/3). **Jane Brody** will open. Or, if you're interested in a bunch of punk rockers' interpretations of old timey music, you can check out the **Squirrel Nut Zippers** just a few blocks from the factory where they make the candy after which the band named themselves. **Magnetic Fields** will open.

The transcendently beautiful sounds of South Africa's **Ladysmith Black Mambazo** will fill Sanders Theater (876-4275) on Monday (3/4); by no means confuse them with the washed-up supermodel-marryin' sounds of **Rod Stewart**, who will be performing "in the round" at the FleetCenter on Tuesday (3/5).

Coming up: **Wedding Present**, **Lou Reed**, **Foo Fighters**. The long cold winter is over.

Survival at HLS

Every morning in Africa, a Gazelle wakes up. It knows it must run faster than the fastest Lion, or it will be killed.... Every morning, a Lion wakes up. It knows it must outrun the slowest Gazelle, or it will starve to death. It doesn't matter whether you are a Lion or a Gazelle... when the sun comes up, you'd better be running.

— Successories, Winter 1996



er professionals, including doctors, engineers and MBAs." The law grads in the greatest danger are those who have to borrow the most amount of money. The Law School Admission Council confirmed that the heaviest debt burdens the lawyers least able to pay. Those unfortunate souls attend the "larger, more expensive, less selective schools." There is no doubt that tuition here is expensive, but imagine how

our brothers and sisters at some of the other "less selective" law schools feel. They would likely label us all lions. They may be justified in doing so.

The story goes on to state that indebted minority students from middle- and low-rung schools are likely to land lower-paying public sector jobs. H.T. Smith, a past president of the National Bar Association put it this way: "The private sector is open only to superstar black lawyers."

Just when you thought it was safe to go back to your firm, along comes Prof. David Wilkins '98 and recent HLS grad G. Mitu Gulati to bring even less pleasant tid-

ings. In the February issue of *Student Lawyer*, an ABA publication, Mark Melickian reviews a draft article by Wilkins and Gulati that comes to the unfortunate conclusion that when partners decide who will be selected to be mentored, "cultural background, including skin color, becomes a major factor." Those mentored are most likely to become partners. The unmentored suffer the fate of being "flatlined," a term borrowed from the medical profession in which a "flat brain wave denotes death." This trend helps explain why the pool of black partners is growing at such a slow rate.

One of the strengths of the HLS student body is its diversity. That same diversity means that the students at HLS come from varied "cultural backgrounds." Those folks will likely go on to work in prestigious law firms. As the faculty decides who will be given the marks of dis-

inction, it should investigate who exactly will be the winners and losers as they decide to pull up the drawbridge.

The people presently at the law school are exempt from the change. The inference that we are to draw is that if incoming students are given notice of the new standards, they will act accordingly. That factors out the suicidal ones and the ones who struggle to survive. Like it or not, in the process of acting accordingly, there will be more fear and apprehension among the ILs. There will be more gazelles.

It should be noted that Profs. Charles Donahue, Morton Horwitz '67 and Christine Desan voted against changing the honors requirements. I find myself in the position of being in agreement with Prof. David Kennedy '80, who abstained. Horwitz and Kennedy were concerned about the HLS graduates in the teaching market. I would abstain because, like Prof. Richard Parker '70, I am not sure that this issue is a big deal.

What this issue does is remind us of the competitive pressures that we face at HLS and how they are mirrored in the next phase of our professional development. The students who do well here tend to come from similar

"cultural backgrounds" to the professors that teach them. The people who are mentored at large firms, according to Wilkins and Gulati, have "cultural backgrounds" similar to those that do the mentoring.

One thing is certain: the notion of a pass/fail option

is not compatible with the tightening of the honors requirement. The pass/fail movement seeks to take some of the pressure off the students; raising the honors requirements will have the opposite effect.

The faculty has reminded us that even though there is no formal class ranking, there is a formal class ranking. That reminder should be followed by another reminder of how fortunate we are in terms of the entire legal market, a market which is not as kind to many of our fellow law students. In any event, it doesn't matter how you graduate; when the sun comes up, you'd better be running.

The magnas can have a picture of a lion actually eating a gazelle carcass.



When last we saw Fenno, he was crawling from underneath the podium in Pound 101, where he had been placed by person or persons unknown, and was headed towards Gannett House, where, he had been promised in a vision, he would learn the truth about 1L Ron Kasner's mysterious disappearance and the Ad Board's complete failure to make any sort of public announcement on this point.

Fenno's heart beat quickly with apprehension. He was off to Gannett House, home of the Harvard Law Review, the single most powerful institution in all of Western Civilization, with the possible exception of the Walt Disney Corporation. Like many of us, Fenno had long harbored hopes of actually joining the Review one day, although his had been smashed on that dark day in June when he picked up the competition packet containing *United States v. X-Citement Video*, and soon found himself headed for the Combat Zone to conduct extra research into the cinematic works of Traci Lords. One brief excursus into a Chinatown bar for refreshment later, and it was August, the competition had ended without a word written, and Fenno had never shown up for work at 1-800-INJURED.

But that was the past, and the stench of Hemenway soon brought Fenno back to reality. He quickly took a swig from his blender to keep reality's intrusions to a minimum, tripped mightily upon Gannett's dangerous and sorry excuse for a wheelchair ramp, righted himself, and grasped the doorknob, which failed to move. He tried again; still nothing.

Fenno was puzzled at first, and soon realized the potential source of his punishment: he had no idea how long he'd been unconscious from the time he was struck in the head at Langdell until he'd woken up in Pound. He took a quick glance at his George Bush backwards-running watch, which he'd bought off of

the TV while under the influence of a rare Himalayan liquor made from fermented yak milk. It was now three in the morning. "Damn," thought Fenno, as he turned back towards the rest of the campus, concerned that Farrah had led him astray.

Suddenly, he heard the door open behind him, as a small voice asked, "Can I help you?"

It was someone Fenno had never seen before. The khakis, Oxford shirt, and requisite short haircut quickly identified it as a law student, but this one had far less of that air of fascistic good health that characterizes most of HLS' denizens, wore remarkably thick and unattractive glasses, and was so pale as to be translucent. Fenno supposed it to be male, but also supposed that in this case it didn't matter much anyway, for he had recognized the species of that which now faced him: a Harvard Law Review Editor.

Fenno thought of offering the creature a drink, but was worried about frightening it away, so he came right to the point. "Do you know," he asked, as sweetly as possible in the face of so horrible a nocturnal creature, "why the Ad Board isn't keeping students informed of its decisions these days?"

"Oh dear, oh dear," worried the creature, "you must come inside right now! They'll hear us out here!"

"Who will hear us," asked Fenno, "and why does everyone act like a Justice Department applicant at a pot part when I mention the freakin' ad board?"

"Be quiet now, and put this on," said the editor, handing Fenno a blindfold, "for eyes such as yours cannot bear the sight of the wonders within Gannett House."

"Have you been sniffing the copier fluid? I got thrown out of the Open House there last year," sniffed Fenno proudly, "I know it's just bagels, books, and geeks. Hell, I..."

Showing surprising strength, the Editor grabbed Fenno by the collar, pulling him inside the door just as a blackjack wielded by a black-robed figure whizzed by where his head had just been.

Next week: Fenno learns the Unspeakeable Truth.

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Beyond Liberal v. Conservative

By Sharon Dolovich '98

Guest Columnist



SOMETHING strange is happening to the American political spectrum: it's shrinking. This phenomenon first became clear to me when I found myself filling out a survey sent by the Democratic National Committee. A quick perusal of such penetrating and open-ended questions as "Do you agree that President Clinton is the only American who can save us from the scourge of Republicanism?" made it clear that this survey was not, as I had hoped, a good-faith effort to tap the views of the party faithful. But it wasn't until I reached the questions designed to ferret out my target group (no doubt intended to determine whether to sell my name to *The Nation*, *Newsweek* or *Guns and Ammo*) that I realized the real problem.

It was all there in the last question — or more correctly, in the answers. The question was fair enough, given the source of the survey: "How would you describe yourself politically?" But the choices they offered — (1) liberal (2) moderate or (3) conservative — stopped me short. How did it happen, I wondered, that the vast political spectrum has been reduced to this choice? Who says everyone is a liberal or a conservative (or a "moderate," whatever that is)?

The assumption that these alternatives exhaust the range of political possibilities is, sadly, not unique to the DNC. Lately, everyone from the editors of the *New York Times* to Prof. Gerry Frug seems to lapse into using the terms "liberal" and "conservative" as if they capture all political differences worth bothering about.

I think this is a problem. Now granted, I come from Canada, where we were never as successful as the Americans at purging the word "socialist" from our national lexicon. But I've done my best to take the political pulse of this country — I've read both issues of *George* — and I'm convinced that a richer political vocabulary is not just another quirky Canadian notion, like the Mounties or universal health-care, that Americans can afford to dismiss.

Allowing the terms "liberal" and "conservative" to set the parameters of political debate forces those with fundamentally conflicting views to join hands under the same banner. This creates unnecessary confusion and acrimony which our limited vocabulary is at a loss to explain, and which could be alleviated by a larger set of options.

Signs of this confusion are evident in both "camps." On the conservative side, libertarians who oppose what they see as state intervention into the "free-market" are forced to keep company with Moral Majority types intent on using the state apparatus to further their "traditionalist" social agenda. Pat Buchanan's recent assaults on NAFTA and calls for new trade barriers threaten to blow the lid off the uneasy compromise the Republican party managed to broker between these two groups. Watch for complicated maneuvering by Bob Dole and Lamar Alexander as they try to distinguish themselves against Buchanan as the "true" conservative, the only distinction our current polarized vocabulary will allow them.

On the liberal side, the failure to develop an effective strategy to counter the current drift to the right is directly traceable to the strictures of the label itself. Liberalism's many stages of development mean the term may be applied accurately to those with somewhat divergent political programs (including free-market libertarians). But one abiding constant in liberal theory has been a commitment to the individual as the primary locus of rights and obligations, a

Who says everyone is a liberal or a conservative? (or a "moderate," whatever that is)?

commitment in some tension with the view — also mysteriously labelled as "liberal" — that group membership carries political and economic implications that must be publicly acknowledged and addressed. This latter view, of course, is shared by feminists, civil rights advocates, anti-poverty activists and all those who have noticed that an individual's social positioning (i.e., one's class, race, gender, ethnicity, etc.) can have a significant effect on his or her life options.

The policies which flow from this view are not necessarily antithetical to liberalism. Affirmative action, for example, can be justified with a John Stuart Mill-type argument for the need to break down the barriers that keep women and minorities from reaching their full potential as individuals. But there are also more radical arguments for affirmative action that are less easily accommodated under the liberal banner. For example, that what it currently means to be successful has been defined in a way that makes it more difficult to achieve success if one is not a straight, white, middle-class man and that we need to change the face of those in power if our conceptions of success are to change. Labelling as liberal everyone who supports affirmative action has the effect of obscuring the differences between these (and other) arguments of justification and, ultimately, emptying the term "liberal" of all meaning.

True, labels can be an effective shorthand. But the reduction of all political views to "liberal" or "conservative" robs both terms of any real content. Whatever our political views, we all pay the price for this impoverishment, which blinds us to principled differences between us and constrains nuanced and creative thinking about political issues. Rather than buying the idea that we're all either liberals or conservatives, we should be making room in the national conversation for alternative labels. Doing so would give voice to those marginalized by the current polarization of political exchange. It would open up space for yet more ways of conceiving of our political world. And as an added bonus, it would have Joe McCarthy spinning in his grave, which when you think about it is no more than he deserves for helping get us into this bind in the first place.

All this was on my mind as I wrote in my own political classification on the DNC survey. A small gesture, I know, but we all have to start somewhere.

Dr. Jekyll & Mr. Tribe: A True Story

By Ray Bronner '97

Guest Columnist



LARRY Tribe '66 is a nice guy; he really is. Every week, he brings baskets of apples for his constitutional law class — my constitutional law class. He even has a nice-guy voice; it's not the robust baritone one might expect a prominent constitutional lawyer to have. So, I was surprised when this nice guy seemingly shared a very ugly secret with me.

It all started with a spirited, yet good-natured classroom conversation that I had with Prof. Tribe about constitutional law. The discussion likely aroused strong feelings in all directions. News of this class reached the faculty that same day and yielded strong praise for my position.

When I arrived home later that evening, around 11 p.m., the voice on my answering machine said, "Ray, this is Professor Tribe; I'll see you in my office at 9 a.m. sharp tomorrow so we can talk about transferring you out of my class." The last time I heard such fury was back in 1982 when I filled my summer camp

If a professor doesn't like student participation, he might as well dictate his lectures to his secretary and simply distribute the copies in lieu of a class.

counselor's pillowcase with shaving foam. I played the tape several more times to make sure that I wasn't delirious; I wasn't.

The morning came, and I found myself in Prof. Tribe's office. The secretary didn't have a record of my appointment, so she called the professor at home to see if he was on his way. She eventually handed me the phone and said that he wanted to talk to me. Accordingly, I briefly recounted the events that brought me to his office.

In an apologetic voice, Professor Tribe said, "It seems that some as*hole in the class is playing a prank on you." I immediately felt very bad for him. "I never called you," he promised.

I paused for a moment, took a breath, and lapsed into deep thought. A second later, I realized that Prof. Tribe was still talking to me. "I'm sorry — what did you say?" I mumbled absentmindedly.

He repeated himself. "Did you keep the tape?"

"Yes, of course," I answered. "I have it right here." I imagined him sitting in bed in his pajamas while I sat yawning in his office. I wondered what kind of pajamas he wore — whether they were the sexy kind or the funny type, maybe with little Constitutions. I then peered at a photograph of his secretary, who was striking a friendly pose with a beaming Bill Clinton. I was tired and drifted back into a meditative state; I wondered if Hillary knew.

Prof. Tribe was still speaking, but in a slightly more reassuring tone now. "I want you to know that whoever did this is guilty of misconduct, and I will do everything in my power to..."

I interrupted him. "I'm neither easily excitable, nor punitively inclined," I said. "Professor Tribe, I can take a joke as well as anyone." What I didn't tell him was that I had only gotten three hours of sleep because I spent the night lamenting the embarrassment that would unfold that morning. I imagined a faculty "free speech war," the kind they usually have with name calling, followed by professors threatening to quit their jobs; and in a moment of clarity, when the check arrives, conclusions are reached that the school is actually a good place to work!

Another fear, however, suddenly loomed larger. I worried that Prof. Tribe would take it upon himself to defend me in class against the anonymous Dr. Jekyll; it would have been a bit like sending my mother to defend me against the school principal, but only in reverse. I was comfortable defending my position without his assistance. In fact, if you want to know the arrogant truth, it was my perception that it was Prof. Tribe who was wavering in his position and could have used some help.

He surprisingly eased my concern by asking me how I thought the constitutional issue should be handled in that day's class; a real nice-guy thing to do. I told him that I would follow his lead — meaning that I wouldn't challenge him directly — and promised that I would reduce a serious argument to a few sound bites. He seemed pleased. I didn't want to do it this way, but frankly I was just happy to have a class to go to that afternoon.

Later that day, there was silence when Prof. Tribe asked the class about the legal issue; he asked more than once. I didn't want to leave him hanging, so I gathered my thoughts, in light of the little sleep I had, and said a few words. It didn't take long for the hands in the class to bloom like Napa Valley daisies. The student comments were uniformly terrific — the best part of the class I thought.

I am convinced that there is more to learning than showing up for class just to hear professors spout off rules. If a professor doesn't like student participation, he might as well dictate his lectures to his secretary and simply distribute the copies in lieu of a class. Meaningful student participation can bring a class to life, but there exists a natural fear of speaking publicly and taking positions; it certainly terrifies me. There is also the fear that one might be labeled a "Johnny Jump-up," that is, a student who will wet himself if he doesn't consistently speak more than the professor. This fear is probably exacerbated by the smattering of Dr. Jekylls who often whisper mockingly when a student musters up the courage to say something in class. Dr. Jekylls remind me of the sparrows that anonymously chirp in the shrubs near Langdell Hall — I can't help but think that if they had something important to say, they would share it with the class.

So am I upset? Absolutely not.

Timely Renovation Of Langdell Sought

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installing a new air conditioning system.

During the interim, the second and third floors of Pound Hall will serve as a temporary library facility. Pound Hall will contain about 30,000 volumes, including post-1986 law reviews, Shepard's Citations, recent periodicals and reference books. Materials stored at the East Cambridge site and other locations will be retrieved on a next-day delivery schedule.

To compensate for inaccessibility to some books, the Pound facility will have improved computers, and the library staff will provide extra computer research training sessions.

Prof. Harry Martin, the head librarian, said he will work to ensure that student research is not substantially disrupted by Langdell's closing and that students will be kept adequately informed.

Nierlich said he hopes to increase communications with the administration in efforts to avoid a situation similar to what prompted last year's protest by more than 400 students. The students presented a petition to Clark protesting the lack of notice, and expressed concerns about the availability of study space and research materials for third-year papers.

Nierlich argued that the best tactical approach in dealing with the administration is an initial non-confrontational stance. He cautioned against "cornering" the administration: "It wants to be flexible, they don't want to see student unrest on campus."

Paul George, associate librarian for research services, said he will be holding two general meetings — Monday, March 11 from 12:30-1:30 p.m. and Tuesday, April 16, 12:30-1:30 p.m. at Austin North. The purpose of the meetings, he said, is to give "students background information while getting feedback from them."

At this point, Martin said, no general contractor for the renovation has been chosen, but the administration plans to start bids in the next few weeks. University Planning Office and Turner Construction Company have already been hired as project consultant.

Although he acknowledged that uncertainties about the project still remain, Martin stressed that the administration will do what it takes to have it finished on time.

"We are in the process of refining the general plan," said Martin. "We'll know by August whether or not the project will finish on time."

Measures to keep the project timely, he said, will include an emphasis on scheduling in the bidding process and strong incentives in the contract to stick to the schedule. The administration also is anticipating some double shifts from morning to midnight, and possibly even triple shifts.

Martin said that in the event delays occur, renovation would only take about a month or two more: "We are not talking about an extra year of renovation, if it is not August, it will be October."

He said the only problem he foresees with renovations is the availability of study spaces.

"We'll have the core books and the new computers but we cannot manufacture new study spaces," Martin said. "The library is discussing options for alternative study environments with attention to student suggestions."

Dean Clark '72 said he was optimistic that the renovation project will be completed with minimal delay.

"The project is necessary and important," he said. "It is an ambitious schedule but we have things worked out."

Clark said students concerned about the progress of Langdell renovations can go to the renovation committee, a five-member committee established last February and chaired by Martin, or talk to Dean of Students Suzanne Richardson or Clark directly.

Clark also said he is open to the idea of adding another student representative to the Langdell renovation committee if students feel that will better ensure their input. However, he noted that larger committees are often slower to take action and get things done.

Stuart Rees '97, the student representative on the committee, said he is not certain whether another committee member is necessary.

"I don't know what another student can possibly add to the committee," Rees said. "It is hard for student input on this issue to be meaningful."

Rees also said he plans to keep the LSC informed of committee matters.

"I will do so now since more issues will directly affect students," he said.

Nemo Dat Qui Non Habet

By Matthew Huggins '96

RECORD Columnist



I wanted to take my girlfriend out to dinner, and so I looked in the yellow pages for a nice restaurant. Nolo Contendere sounded like the right place; must be northern Italian cuisine, I thought. So we hopped in my car, a Fiat Justicia, and headed onto Memorial Drive and into Boston. When we finally got there, the mater dei was very solicitous. He showed us to a nice table right by the privy. I tipped him a fee simple. He looked at me funny.

Because I wanted to impress my girlfriend, I ordered some Russian caveat emptor and a bottle of their best chattel to have while we were looking at the menus. I looked at the date on the bottle — anno horribilis. Wow, I thought, this must really be good stuff. We looked at the menus, but we couldn't decide. As an appetizer, we thought about just getting the autrefois. Or maybe the green salad — cy pres with watercress and arugola. The trovers stuffed with assumpsit sounded excellent. For entrees, the carpe diem, broiled, with a lemon-garlic sauce, looked great. The catch-of-the-day was the quod, with ipsa loquitur on a bed of res. They also had ex turpi with gaudium et spes. We just couldn't decide. I finally ordered the a-fortiori with a sine-qua-non sauce over a bed of res judicata and a side of socage. My girlfriend was feeling adventurous, so she got the springing executory interests, which the chef prepared right at the table. They were served over curtilage with a light seisin sauce. By this time, we had pretty much finished off the first bottle, so we ordered another criminaliter of the chattel.

The atmosphere in the restaurant was super. The lights were low, and there was music playing. I don't know the name of the song, but it sort of went "da tua dum tua sunt, post mortem tunc tua non sunt," or something like that. You know, a catchy tune. There was a cute couple in one corner. They were giving each other interrogatories. At one point, I thought he was going to encumber her assets, right there in the restaurant! Our food was wonderful, and pretty soon we were ready for dessert. The mater dei brought over the cartulary with the desserts on it, so we could choose. My girlfriend had the jus cogens with a sweat creamy qui-tam sauce. I had the ipso facto in rem (you know, with the burnt sugar on top). We were both feeling a bit ad nauseum at this point, so we both ordered an expressio unius and asked the equitable servitude for the check.

When the billa cassetur finally came, I admit I was in loco parentis at how much everything had cost. Luckily for me, I had my new gold-card with me, the Vis Impresa. We paid, I helped my girlfriend on with her modus operandi, and we left, but not before snagging some reverts they had in a bowl by the coat check.

At this point, we thought we might like to see a movie. But which one? I wanted to see something really ultra vires, with car chases and exploding helicopters. She wanted to see something more contiguous, like the new film The Burden and the Benefit Run, but I thought it was a bit too scintilla, and anyways, it didn't really touch and concern me. I wanted to see Sic Semper Tyrannis, the sequel to Jurassic Park. I wanted to check out the riparians. But she said that dinosaurs were already per se. We finally decided on an historical film — Actus Reus. The theater was too far to walk, so we went back to the Fiat Justicia — and the damned thing wouldn't start.

Ever since I bought this asset, it had been unperfected. The collateral was constantly estopped, and there was some problem with the statute of frauds. I thought this time maybe there was a lien on the collateral, but then I saw it was leaking equity. I think if I'd had a scrivener, or maybe a long-arm statute, I could have fixed it, but I had left everything at home. So we ended up taking the omnibus home. While we were looking around for a bus stop, I could barely read the street signs. I could tell it was time to get a new prescriptive easement.

When we finally got to our apartment, the laches on the door were stuck, and I swear I could barely get the interlocutory open. I think my girlfriend was glad to finally get home where she has personal jurisdiction over me. I, too, was glad to be home, but it was nice to have been out of the apartment for a while, not thinking about the law.

Nierlich, Jancu, DeFalco Win LSC Elections

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board] over the next couple of months" to facilitate the transfer.

Nierlich also expressed his hope that, working with the other candidates within LSC, the new officers would be able to achieve a "synthesis" of the proposals offered by the various tickets. "Ideas put forward by [other tickets] were important too and I want to see that these get attention," he said.

Outgoing LSC president Rob Simmelkjaer '97 entertained similar hopes. "The people who ran ... are obviously dedicated, so hopefully we will get past these differences and get together as a team," he said.

Nierlich then responded to some of the criticisms leveled against him during the campaign. Regarding complaints that he too readily took credit for group accomplishments, Nierlich said that he had "no interest in rehashing the campaign" but that "if people really require more information, I'd be willing to provide it."

As for concerns that he might attempt personally to shoulder an unrealistic load of projects, Nierlich indicated that many of the elements in his ticket's platform would be farmed out to committee and that he would maintain strong personal involvement only in certain efforts, such as the Langdell renovation. "Any one person is limited in



LSC election winners Rob Jancu '98 (back), Chip Nierlich '97 (front left) and Dina DeFalco '98 will take their respective offices following spring break.

what they can do — this is why we'll want to get committees up and running."

Concerning the likelihood of fulfill-

ing the elements of his platform, Nierlich said that the LSC had good arguments for all of his planks. He stated that an important determinant of

success would be the ability to capture sufficient student interest and support and to present this to the administration.

Nierlich noted that which projects met with success was also largely dependent upon broader LSC support. He also acknowledged that many of his projects "won't always be done in one year." Although his campaign materials mentioned such capital-dependent goals as "[s]ecur[ing] funding for public interest summer work" and improvements to various facilities, he also conceded that "anytime you ask the Law School to spend money it'll be difficult."

Nierlich characterized fears that he would be too conciliatory with the administration as simply indicative of divergent tactical approaches. He expressed the opinion that knee-jerk opposition to the administration would tend to force the administration into a reactive and inflexible stance.

Such perennial hostility, Nierlich continued, would also reduce the leverage the LSC could bring to bear on any given issue. "Strict opposition can only work on a limited number of issues a year," he said. As a general rule, "I think a more friendly relation is more effective in the long run," he concluded.

As a final remark to detractors on this subject, Nierlich said, "I have no problem standing up to the Dean or the administration if it comes down to it."

Photo courtesy of Chip Nierlich

A New Media Role

By Judd Serotta '97

RECORD Columnist



HERE'S nothing new about conservatives griping over bias in the media. I find it amusing how liberals and conservatives can view the same exact piece of reporting and extract two different analyses of the spin. For my part, I have always found the media's liberal biases to be unmistakable. That bias has been there for ages (Richard Nixon justifiably complained about the problem during his terms). Of a more recent and a more troublesome vintage is the media's bias against the political system as a whole. One need only look at the press's surprisingly uncritical examination of the Patrick Buchanan candidacy (amazingly, it took until after New Hampshire for anyone to dispute the assertion that this guy is actually a conservative) to see that for the mass media, "outsider" equals "good." Now, I know that one common criticism of anti-media criticism is that it assumes a monolithic mass media. In this age of information, we obviously have nothing of the sort, and for those who wish to be informed, data from all perspectives are admittedly available. But although the monopoly of major television news programs may be slipping, television is still the way most Americans get their news. And television news, which used to be liberal, is now liberal and nihilistic.

I confess that I am somewhat of a news junkie. Translation: a CNN watcher. And nothing has been more stunning than the 24-hour news channel's resolute unwillingness to be unbiased or informative. For instance, I recall a clip of an "average" voter, shown over and over again before the Iowa primary. This person asserted (and I paraphrase) that if you took all of the nation's politicians and laid them down along the bottom of the ocean, the country would be a better place. Indeed, these types of "angry" voters have become a key focus of CNN's news coverage.

Does this type of coverage help to inform voters about their political preferences? Clearly not, but it does make for a great story. But it is hardly remarkable that average voters who observe these "average" voters become more angry with their politicians. They are consistently told by the media that they should be angry. Why? It is not exactly clear. Something about not acting in the public interest. But then, why are voters so much more angry than they used to be? It is not the politicians who have slipped, but the media who has told the voters that they should be angry, even if there is really no rationale behind voter rage.

The unfortunate result of this media cynicism is an unconstructive debilitation of the democratic process. Ironically, the media is sacrificing long-term benefit for short term gain because as voters become increasingly disillusioned, they cease to care about politics and refuse to watch the news. Consequently, the American electorate has become progressively less informed about political issues (not to mention the lack of substance in the coverage voters do watch). And no democracy can flourish when its voters are too angry to care. Then, we are told, low turnouts are the result of voter anger.

One clear problem is that our media has stopped encouraging our citizens to be more informed and better citizens in a representative democracy. The story has become the voters themselves rather than the issues. I give two examples. First is the swell of television call-in shows. While one may think these programs enhance interest in a democratic society; instead they inevitably sink to the lowest common denominator as the most illogical, inane propositions go unchallenged. Maybe I have become less tolerant of bad argumentation after a year and a half of law school. But when voters call CNN Live to argue that the Republican Congress is bad because it both refuses to exert leadership and it is trying to push for unpopular positions, I instinctively long for someone to commence a Socratic dialogue with the caller asking him or her to reconcile these two positions. And when callers say the problem is that the two parties are too extreme but that "there's no damn difference between the two of them," I wait in vain for Frank Sesno to ask the callers to clarify. Instead, we are told, this is the "vox populi." This is what the people think, and therefore it is true and legitimate. Well, is it not legitimate for the news media to encourage their audience to think in rational lines of argumentation, rather than blind, sensational anger?

This person asserted (and I paraphrase) that if you took all of the nation's politicians and laid them down along the bottom of the ocean, the country would be a better place.

That brings me to my second example, the horse race. To lay my cards out on the table, I drove to Manchester nearly two weeks ago to campaign for Steve Forbes. What I saw when I got there was a caravan of reporters far more interested in his predictions for the New Hampshire primary than in his stance on particular issues. Political campaigning has become a spectator sport, and the substance has consequently suffered. It was nearly impossible to ask the candidate questions since he was completely ringed by immobile photographers and cameramen; it is the voters who suffer while the media pathetically laments that the New Hampshire primary is not so personal as it used to be.

For example, in my Corporations class, we were early on introduced to the concept of double taxation of corporate income. It is not a difficult concept to grasp, and the arguments both for and against double taxation hardly require a J.D. to comprehend. Watching intently, I never saw any analysis of Forbes's argument that the flat tax would end double taxation, and that claim was never discussed or explained to the average voter, who is consequently left shaking his or her head that "there's no damn difference." Agree or disagree, double taxation is a key issue in Forbes's candidacy. And while it may not be as much like the Super Bowl as the five daily tracking polls leading up to the primary, it is what is really at stake in the political dialogue. When CNN chooses to ignore Forbes's arguments in favor of its "poll of polls," the voters are done a disservice because they are not informed. And I argue that bandwagon effects have risen dramatically based on images of a campaign's prospects. Pat Buchanan's recent surge and Steve Forbes's earlier "boomlet" were not based on voters' sudden agreement with their positions. Rather, they were the result of the media's fascination with style over substance. And that is no way to run a democracy.

Reasonable Woman

Bringing it Under Control

By Shannon Liss '96

Guest Columnist



I thought I had this mortality thing licked. For the last year and a half, I have cut meat and poultry from my diet. Broccoli, grapefruit, and tofu, foods I would hardly touch two years ago, have become my staples. I constantly consult the teachings of best-selling natural health expert Andrew Weil, known affectionately to some of us followers as simply "the guru." (He looks like a guru. If you haven't been exposed to him yet, I highly recommend his book, "Natural Health, Natural Medicine." Get two of his fans together in the same room, and we will go on and on about wisdom of his advice: the benefits of raw garlic and black currant oil, the evils of caffeine and dairy products.) I subscribe to Harvard Women's Health Watch. And running has become an important part of my life. An avid reader of "Runner's World," I am now training for my first marathon, Boston's 100th, on April 15.

I have convinced myself that heart disease, breast cancer and stroke cannot touch me. I will remain healthy and energetic into my 90s, at least. My health is under my control.

If we separate out into our own little worlds, each believing we can navigate the system on our own wits, some will come out ahead, but many will not.

Or is it? How depressing it was to read the latest news on Alzheimer's. According to a report released last week, some researchers think it's possible to predict who will get the disease more than 50 years before its onset. A study of a group of nuns found an eerie correlation between grammatical complexity and density of ideas in samples of the nuns' writing when they were in their 20s and freedom from Alzheimer's now that they are in their 70s. In other words, writing that contained fewer ideas and simpler declarative sentences foreshadowed the dreaded illness.

Naturally I rushed to my computer to call up old papers, journal entries, columns, frantic to see which sample nun I compared to. Imagine, all those high school English teachers trying to convince us that good writing is clear and simple! From now on, I decided, I will no longer hesitate to use more clauses, parentheticals, and generally obfuscatory writing. (If this theory holds, I realized, most legal writers should not be too worried.)

But what an awful prospect that I hadn't even considered. How tragic to invest so much energy keeping your body in great shape, functioning well into old age, only to find your mind deteriorating — a process set in motion years before and there was nothing you could do about it. I would like to believe, and I hope further research reveals, that our minds simply need exercise in order to stay healthy, just like our bodies. That the fate of our mental agility is not foreordained, but can be influenced by our conscious efforts to embrace complexity and keep learning throughout our lives.

Whatever scientists eventually conclude, this news article got me thinking about how we spend so much time and energy on things, particularly personal matters, that might be largely beyond our control. At the same time, we're often prone to shy away from bigger issues, outside our immediate universe, which people have convinced us we cannot affect.

Take law school in particular. Many of us control freaks lose a lot of sleep plotting our strategies for:

- Getting Tribe for Con. Law. (Alas, my waitlist number was well into the three digits.)
- Judicial clerkships. (Take heart, 2Ls. Several judges told me last year they didn't even pretend to read more than a couple inches of their couple feet high stack of applications before choosing students for interviews.)
- Grades. (Can anyone claim a perfect correlation between the classes they worked hardest in and their best grades?)

For another example: many of us women think that, through our own efforts, we can escape the dilemmas that have confronted generations of women in the workforce who have had families. We want to believe that we can find and keep the right partner, one who will truly share domestic responsibilities. That we can find an employer who will not only respect our double life but will allow us to advance at work in spite of it. That, in this era of downsizing, we will be able to stay with that employer.

As long as we concentrate all our attention on finding individual solutions and making ourselves exceptions to the larger framework, we miss the opportunity to unite and confront that larger framework on a structural level. But working together we have the power to force workplaces to change. Producing and using WLA's survey *Presumed Equal*, for instance, can exert an influence on law firms that have not been welcoming to women.

The gains of the civil rights, lesbian and gay rights, and women's movements are terrific examples of what can happen when people pool their efforts to effect major change that would have been beyond their individual control. If we separate out into our own little worlds, each believing we can navigate the system on our own wits, some will come out ahead, but many will not.

So as we sweat away on the banks of the Charles or in Hemenway, as we devise our course-ranking strategies, clerkship interview schedules, and personal class outlines, perhaps we might also harness some of that energy and together figure out how to... Improve our school's social life and sense of community? Convince employers that they may lose their top recruits if they don't offer family-friendly policies? Even, dare I say it, influence how a fabulously wealthy law school spends its money?

Holmes' Cow

By Alexander Boldizar '98

Guest Columnist



At a time which a reasonable person might call long ago, in a place which a reasonable person might call far away, I lived in a Buddhist monastery. As usual, the reasonable person would be wrong. My Lama was the reincarnation of Oliver Wendell Holmes, and time being as relative as space, which is why Mr. Reasonable would be wrong, I asked Holmes what he thought of the law. He answered, "Thoughts are not fish to be caught by beast or man."

"How then can we learn the law and get an A?" I asked.

"There is no 'we' to 'learn' any 'law' as such. Law is all of existence, yet it has no characteristics and does not exist."

"No characteristics? How about 'dullness'? And what about the three types of fee simple? I don't have to learn them?" I was happy.

"They have as much existence as an 'A', but they are not Law. Law is (also) the space between such concepts as fee simples, and the more concepts 'we' create to capture the space, the more the Law is obscured by nonsensical slogans. It is long gone by the time it becomes an idea. As long as there is a 'we' thinking, whatever is said must be nonsense."

"Huh? Why is that?"

"Because thought is relative, and the Law is Absolute. Any 'we' must be relative to a 'them'."

"Legal realists say that it is Law which is relative."

"Realists acknowledge relativity but they too are so attached to their 'selves' that they have to make Law relative rather than face their own relativity. Words like 'they,' 'we,' and 'you' also have no meaning without a foil. 'They' are 'realists' only in relation to natural law types or 'idealists' or 'liberals,' depending on the context. No independent counterparts can exist; they are conceptual estimations which abolish one another in mutual negation. Law is Absolute, and relativity cannot judge Absolute for Absolute is all that relativity is when it ceases to be relative."

"Now you sound like a judge again, Your Honor. But you remind me of another characteristic of Law — it is tautological."

"It is not anything; if it were it would not be Absolute but relative. It is both tautological and paradoxical. It is Absolute and all-inclusive."

"If Law is Absolute, where can I, or a judge, find it?"

"I am Law. The Law *am*. Law cannot be 'found' or 'understood,' for who would be doing this 'finding' thing. Finding and understanding are performances of a schizophrenic mind. You are looking for Law where Law is not Law."

"Where is that?"

"A positive answer would be absurd and interminable. Law *am* is the inclusive dimension, at right angles to each and all others. Grammatical absurdities create linguistic confusion, but Law cannot be perceived, Law/I can only be apperceived. The 'you' that pretends to be a profane person, a law student, is made up of my three subsidiary dimensions of length, breadth, and height extended in space-time; whereof the phenomenal universe which consists of my apperceiving."

"If Law is inclusive, how can I profane it by studying it? And how does an all-inclusive Law measure the schizophrenic me?"

"The 'you' that is a realist or a naturalist or a blockhead is always measured from Here, This and Now — from the ubiquitous Center. The center of Infinity must be ubiquitous and Here, and the center of Intemporality eternally Now. Law has as many centers as there are sentient beings to perceive it, but the Law is, or rather *am*. Only when the perceiver has a schizophrenic mind, does s/he pick a center and create the illusion that s/he is not free from categories such as realist/naturalist, female/male, legal/illegal. Thus it is absurd to 'study' Law, for study necessitates a perspective and any single perspective obscures the Law."

"In that case, I'm off to see the Bulls game instead of studying for that law degree."

"I know no difference between a game and a law degree."

"I knew a student who knew no difference between five dollars and a law degree. He perceived Law so well that he's no longer at school. But you've lost me. You were saying that you are Law..."

Holmes hit me on the head. "You are it also, you ass."

"You once said, 'The Law is a ass.'"

"So what are lawyers and law professors?"

"They are peddlers and polluters. They mentally objectify the Law and see nothing but what isn't there. They are you and I."

"Exactly."

"Or am I a donkey too?"

"Now you're beginning to understand. As always, in all possible circumstances, and everywhere — the Asker is the Answer — although this time I was using the term figuratively."

"So you are me?"

"Where did you learn grammar? Me's make nonsense. I, who am no thing — am everything. I am Law. Develop a mind which rests on no Thing whatever, and you will perceive Law. There is no Law to be learned, for I am Law."

"So what are lawyers and law professors?"

"They are peddlers and polluters. They mentally objectify the Law and see nothing but what isn't there. They are you and I."

At the end of the lecture, Justice Holmes gave me an exam. He said, "The Law is like a cow passing through a window frame. The head, the horns, the four legs have all gone through; why can't the tail go through?"

I grabbed him by the nose, slapped his rear and said, "Even if I say giddy-up, he doesn't budge an inch." — I passed, so I failed.

Gay Youth and "Parental Control"

By Scott Wiener '96

Guest Columnist



RECENTLY, Americans have become obsessed with "parental control." Many parents are concerned that they are losing or already have lost control of their children's education and social life. Politicians, ever eager to please, have been happy to oblige parents' demands for greater control and involvement. Some politicians have demanded that special chips be placed into televisions so that parents can control what programs their children watch. Others recite the mantra of local control of public education so that parents, not "bureaucrats," determine what their children learn and do not learn. Yet others insist that parents have wide discretion in determining the types of programs, educational and otherwise, in which their children participate.

Although "parental control" has a superficial appeal, for gays and lesbians it is not such a comforting thought. In fact, "parental control" is often another buzzword for repression of homosexuality. It is yet another way for parents either to prevent their children from being exposed to positive images of gay men and lesbians and to prevent their gay children from coming to terms with their own sexual orientation.

The "parental control" movement seeks to implement these goals in numerous ways. For example, after a public school implements a gay-positive education program, a group of parents (almost invariably organized by the Religious Right) will often demand that they be allowed to exempt their children. Another example that is becoming more common is for local school boards, at the behest of parents, either to ban teachers from speaking positively about homosexuality or to structure the curriculum to exclude any and all positive references to it. School boards have even attempted to ban gay and lesbian student groups from forming and meeting on school premises.

The end result of this process is to subject children to the whims of their parents' prejudices and bigotry, and to preclude children from learning that it is okay to be gay. While this result is precisely what many parents are seeking, it leads to an unfortunate state of affairs. The suicide rate among gay and lesbian teenagers is

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astronomical; a study by the federal government found that 30 percent of teenage suicide victims are gay or lesbian.

A major cause of this high suicide rate is the isolation of gay and lesbian youth from positive images of homosexuality. They are shut off from all sources of affirmation, and once they have been trapped by their parents, they are erroneously led to believe that they are disgusting, sinful perverts. All too often, they believe that they are better off dead.

Part of the problem is that unlike racial, ethnic, and religious minorities, gay and lesbian youth do not have an automatic support network of family, friends and neighbors. Many do not even realize that there are other gay people in the world and that being gay does not have to translate into an existence of misery, isolation and inferiority. It is therefore vital that children be given access to reaffirming information about their sexual orientation.

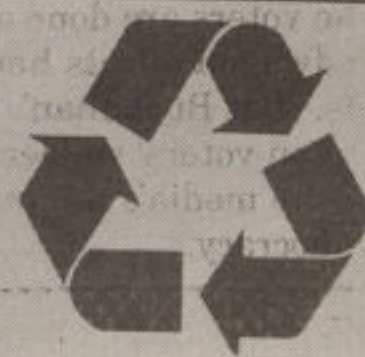
We as a society should not allow parents to control their children to the point of isolating them from positive images of gays and lesbians. Parents should not be allowed to control the information that their children receive, whether that information is communicated via television or school. While being a parent necessarily gives people control over aspects of their children's lives, vital information should not be one of those aspects. Society should therefore impose an obligation on parents to allow their children access to positive images about homosexuality. It should also impose an obligation on parents not to torture their children once their children come out of the closet. All too often, kids come out only to be assaulted verbally, emotionally, psychologically, and even physically by family members. And many parents who do not actively attack their gay children still encourage them to "change." Such a state of affairs is simply unacceptable. Children do not lose what few human rights they normally have simply because they happen to be gay. The state has as much an obligation to protect gay kids from psychotic, bigoted parents as it does straight children.

Just as it is child abuse to deprive one's child of essential nourishment, shelter, or clothing, it should be child abuse for a parent to fail to affirm her child's homosexuality. Parents who torture their gay children, attempt to isolate them or otherwise fail to affirm them should be punished. If the situation is bad enough, the state should even take their children away from them so that they can flourish in a more caring, gay-positive environment.

We live in a society that prides itself on its diversity and tolerance. America's diversity manifests itself not only in its varying neighborhoods, cities and religious communities, but also within families. Families that are fortunate enough to contain children whose sexual orientation differs from that of their parents are also part of the American melting pot.

Gay children deserve the tools of self-realization; they certainly do not deserve to be isolated, repressed, and told that they are worthless. Until we as a society are willing to take parents to task for effectively abusing their gay children, our commitment to the most vulnerable among us will remain sorely lacking.

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