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Profs Urged to Make Classes Hi-Tech

By Hope Yen

Professors and some alumni were shown how the World Wide Web can potentially enhance learning and simplify research at a faculty meeting designed to encourage professors to make greater use of computer technology in the classroom.

Profs. Howell Jackson '82 and Charles Nesson '63 described how they used the technology in their courses to help engage students and promote discussion in and outside the classroom.

The meeting was aimed at urging professors to see the computer potential available as Harvard Law School heads toward becoming the leader of education in cyberspace. The viability of that goal is currently being discussed by the Strategic Planning Committee, the eight-member faculty group appointed by Dean Clark '72 to examine the direction HLS should go as it approaches the next millennium.

Close to half the faculty appeared at the faculty meeting last Friday, along with a few alumni who were on campus for the Harvard Law School Association's annual business meeting and reunion events over the weekend.

"These wonderful initiatives are here to stay; it's not just a matter of fad," said Clark at the meeting. "In the current state of technology, there are enormous cost savings in three dimensions — communication, interaction" and information-gathering.

"It's a tremendous opportunity,"

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Photo courtesy of HLS Communications

Charles Porter '47 and Judge Charles Sweet '47, two of the three principal founders of the RECORD, visited with current and former staffers at the RECORD's 50th anniversary reunion this weekend. The two shared memories of the first days of the paper, Harvard Law School, and Dean Griswold. The first issue of the RECORD appeared in 1946.

Students Puzzled by Kennedy's Removal

By Jaclyn Liu

S.J.D. students say they are anxiously awaiting Dean Clark's '72 explanation for the unexpected removal of Prof. David Kennedy '80 from his position as chair of the Graduate Program.

"Dean Clark made a very abrupt and unilateral decision," said Aeyal Gross S.J.D. '96. "I feel that he doesn't think it is important to get our input about his decisions with the Graduate Program."

"As far as I know, at no time before or after the decision did he talk to the students or the graduate committee. It would have been comforting to know

that he did, because it would have shown that he wanted to learn more about the students. But I can't even say in hindsight that Dean Clark was interested in the program," he said.

Prof. Frank Vogel, a member of the graduate committee, confirmed that "to [his] knowledge, Dean Clark did not hold a meeting although [he] spoke to the Dean personally."

According to many S.J.D. students, their frustration stems from the fact that Clark seems uncaring about the Graduate Program, since he has failed to articulate a vision for the program and has had little

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Law School at a Crossroads, Dean Clark Tells Alumni

By Hope Yen

Harvard Law School stands at an historical moment in deciding its place within legal education at the close of the school's lucrative \$175 million Capital Campaign, Dean Clark '72 told alumni at the Harvard Law School Association's annual business meeting.

Clark also told the alumni at the meeting last weekend that the faculty had voted to extend tenured offers to two professors, but declined to comment publicly who they were. A source familiar with the appointment process said University of Pennsylvania Law Prof. Lani Guinier had been extended one of the invitations, after HLS professors unanimously approved her appointment at the Feb. 16 faculty meeting.

Several professors, including Clark, have declined to comment on the appointments. Should she accept, Guinier, an African American well-known for her controversial views on voting representation, would be the first woman of color appointed to the tenured faculty in HLS history.

At the HLSA meeting, Clark updated alumni on recent events in his "State of the Law School" address, which focused on the close of the Capital Campaign and the current work of the eight-member Strategic Planning Group that is pondering the future of HLS.

"As you may expect, my impression is that we're at a good point in the history of the Law School," he said. "Lots have happened in the last five to six years, such as the completion of the campaign, that have had tremendous impact. But we still

need to implement things we said we wanted to do."

"First and foremost, we are preoccupied with having the best faculty in the nation," Clark said. "It takes an enormous amount of time for me and dozens others on the appointments committees to negotiate the deals. Each faculty acquisition is like a merger acquisition."

Along with the recent addition of Profs. Elizabeth Warren, Lucie White '81 and Einer Elhauge '86, he said, Prof. Dan Halperin '61, who is currently teaching at Georgetown Law Center, will be joining the faculty.

"Two other senior level offers are outstanding [but] I can't talk about [it] publicly," Clark told alumni.

He also discussed some of the brainstorming of the Strategic Planning Group, and described one possible strategy to make the Law School a global institution. The group is expected to brainstorm ideas for about a year, before presenting proposals for debate.

The group, Clark said, is debating the Law School's major emphasis in the future — whether it should seek to "ward off threats in the environment, such as the decline in law school applications," or think about where HLS could make a special contribution to the area of legal education.

"One possible strategy is to create a world law school in a stronger sense," he said. "The domestic market for lawyers is maturing.... The rest of the world is on a different plane, where the legal profession is growing by leaps and bounds."

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Photo Courtesy of Rob Jancu

Louisa Oliver '97, at left, poses with John Frantz '96, the night's biggest "money" winner (\$260,000) at the spring semi-formal casino night, and with Jane Fanjoy, the manager of Happy Nights Precise Gambling Machines. Please see page 2 for more photos of the semi-formal.

On Harvard's Watch

As Course Offerings Decline, Professors Moonlight

By Rob Friedman

This is the last in a four-part series on employee relations, student services and internal decision-making at HLS.

On the heels of a Law School Council report showing course offerings down 17 percent from two years ago, HLS students are wondering what their tuition dollar, or the \$175 million raised by the Capital Campaign, is buying.

"Students arriving in the fall of 1994 might have expected such progress [in the Capital Campaign] to result in greater class offerings and smaller classes; instead, these students have fewer choices and larger class-

es," stated a news release from LSC President Chip Nierlich '97 and Vice-President Rob Jancu '98.

The report, showing a drop

The Corporation

Inside Harvard's Administration

in course offerings and predicting a rise in class sizes, did not come as a surprise to Associate Dean Todd Rakoff '75. While Rakoff said HLS has a strong commitment to expanding the faculty, he expressed disappointment and puzzlement at the school's inability to keep class sizes small.

"It's a mystery to me," said Rakoff, referring to HLS' rela-

tively large class sizes compared to such law schools as Yale and the University of Chicago. While HLS accepts a much larger class than these schools, it also has a larger faculty. Because HLS professors are paid on a par with professors at other schools, and tuition is comparable, Harvard should be bigger but not more crowded, said Rakoff.

"One would hope that the student-faculty ratio at Harvard could replicate that of a place like Chicago or Yale," said Michael Baur '98. "Unfortunately, that's not the case."

For 1993-1994, HLS had a

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BLSA Conference Panel Stresses Empowerment

By David Liu

African Americans must reduce their reliance on government and develop a coordinated strategy for community economic development, said speakers participating in a panel on economic empowerment and achieving political equality.

The panel was part of the Black Law Students Association's 13th annual spring conference, "Political Equality 100 Years after Plessy: Strategies for Empowerment," which was held at HLS last weekend.

"We need to have a multifaceted approach [to achieving social equality]," said Shirley Wilcher '79 of the Department of Labor. "We can't put all our eggs in government."

Stephen Glaude, president and CEO of the National Congress of Community Economic Development, agreed. "It's right to expect certain things from government, but we're responsible for recognizing government's limits."

Glaude noted the historical tendency of the African American community to "move forward in one area [at a time]," and said that though the African American community's recent focus on gaining political power had resulted in some overall gains, it did not benefit the community to the degree expected.

"Now we need to move forward in all directions," he said.

Ronald A. Homer, president and CEO of the Boston Bank of Commerce — the largest minority-owned bank in New England — said the African American community has yet to adequately identify its economic interests.

He suggested that African Americans

capture the "true power of the African American dollar," and he offered the example of the Unity credit card, which allows its users to donate one percent of the cost of their purchases to African American causes.

Reverend Calvin O. Butts III warned that "without an independent economic base, we will be at the mercy of others." However, he also said that business leaders should have integrity and criticized African American businessmen who engaged in the sale of alcohol, tobacco, and pornography.

"Our inclusion in greater American society has caused some of us to prostitute ourselves for a dollar," he said.

Butts argued that "philanthropy," not pure profit, "is the test of business." Although there would be a price to pay initially by refusing to sell alcohol and tobacco, "that which is to be gained and passed on is much greater," he said.

Homer reasoned that economic development depended on a proper understanding of trade.

"Inner cities are attractive to only one type of capital — drugs and prostitution," he said. "We are not going to develop ourselves as a people until we establish ourselves as an organized marketplace."

Wilcher emphasized, however, that though energy should be focused on economic development, political activism should not be neglected. She said that in her work with the Department of Labor, she saw numerous examples of the continuing pervasiveness of discrimination. "African Americans are still locked out, not only by glass ceilings, but even at the entry level," she said.

Wilcher noted the interdependence of economic development and political

empowerment.

"We cannot minimize the importance of government in determining economic welfare," she said. "We need to develop our economic resources, but we need to keep our hands in government."

Similarly, Butts said that one legitimate means of fostering economic development was through the effective use of political power. "Public money should be used to create private wealth," he said.

Homer asked, "What if all the black mayors used their power to build buildings in black communities? Government consumes 10 to 15 percent of the GNP."

Jacqueline Berrier '86 of the NAACP Legal Defense and Educational Fund also stressed the symbiotic relationship between economic development and political empowerment. "The two issues can't be separated," she said.

Berrier discussed the examples of Ron Brown, the late Secretary of Commerce, and the late Reginald Lewis, after whom the Lewis International Law Center is named. "Secretary Brown rose to power as an effective fundraiser. Reginald Lewis converted his personal savings into something larger — a building that shows that we are here."

Glaude agreed. "As the members of a community generate economic development, they decide who is on city council."

Panelists also encouraged students to take an active role in community develop-

ment.

"There's a whole lot right here that we can do that we don't do," said Berrier. "We don't have to move out of the city, creating an increasingly poorer inner city that can't meet its needs."

Homer told students that "if you want to leverage what you have, use your information about African American society." He encouraged conference participants to develop a strategy for selling housing,

insurance and legal services to the African American community.

"You are either going to be victims of genocide or fully functioning members of society," he said. "Until there is a link between the people in this room and the broader black community, you will always be a minority — weak, disempow-

ered."

Butts encouraged students to consider investment and trade opportunities with other blacks around the world. "We are not all that there is," he said.

"But while we talk about economic development, materialism must not become our God," Butts said.

"To the extent we look at economic development to improve the human condition, we have proven ourselves better than those who have enslaved us, we have given America a better opportunity," he said.

"We can be the salvation of what this country stands for," Butts said.

"You are either going to be victims of genocide or fully functioning members of society," Homer said.

Dancing and Playing With

D.
S.
A.
C.



Gabe Meister '98, with friend, watches while Bob Melson '97 breaks the bank.

The 1996 Spring Semi-Formal at the Charles Hotel, sponsored by the Dormitory Student Affairs Council, was attended by almost 400 people. A combination of good food, gambling, dancing and exciting prizes left everyone feeling great — or maybe that was just the three free drinks per person. Congratulations go out to the evenings winners:

- 1st Prize - Alex Cano '98 — A trip to Aruba for 2 compliments of STA Travel.
- 2nd Prize - Robert Melson '97 — A \$400 Air Voucher compliments of LETS GO Travel
- 3rd Prize - Brooke Deratany '96 — A night for two and brunch at the Charles Hotel, compliments of the Charles Hotel.



Nick Brown '98, at far right, plays at the craps table.



(Left) Larissa Shamraj '98 and friend, far right, lead the "Blanco Negro" Dance.



Mike Offner '97, at left, Treasurer of D.S.A.C., and Dave Koontz '96 dance with Katherine Dowling '98.



(Left) The jazzy "Ned Flanders Quintet," featured Karim Alzand on piano, John Capello on bass, Chris Yeh '96 on sax, Andy Eggers on drums, and Stephen Lapointe on guitar (not shown).

All photos courtesy of Rob Jancu '98

Panel Debates Ethics in Legal Profession

By Craig Buckser

Attorneys Bernard Nussbaum, Robert Bennett and First Circuit Court Judge Sandra Lynch defended the legal profession against a scholar's claim that lawyers resemble the "Executioner of Paris" in a forum this week on professional ethics.

A crowd of 300 filled the Ames Courtroom to attend the discussion sponsored by the Harvard Law Review and the Program on the Legal Profession that was entitled, "Lawyer as Executioner: A Forum on Professional Ethics." Prof. David Wilkins '80 moderated the event.

Kennedy School of Government Prof. Arthur Applbaum spoke first, setting the terms of the debate. Applbaum summarized the arguments he made in a provocative article published in the December 1995 issue of the Harvard Law Review.

Applbaum told the story of Charles-Henri Sanson, the Executioner of Paris. Sanson beheaded more than 3,000 people around the time of the French Revolution. Sanson defended his deeds by asserting that he did not really kill anyone. Rather, he maintained that he was just an ax.

"He considered the fulfillment of his duties to be professional activity; the citizenry did not hold him responsible for his crimes," Applbaum said. "The arguments used by the executioner are precisely the same arguments used by lawyers to justify what they do."

"Executioners kill on cold blood," he added. "Lawyers induce false beliefs in others to further the goals of their clients who are up to no good."

But Nussbaum, former White House Counsel to President Clinton, replied: "The fact of the matter is that the legal profes-

sion and the rules of ethics expressly prohibit a lawyer from lying about or misrepresenting facts or even from making frivolous legal arguments. A lawyer who lies to the judge about a fact is violating the canons of the bar — the canons of professional ethics.

"The executioner asks no questions," Nussbaum said. "The prosecutor asks a lot of

questions. The good prosecutor must be a truth seeker as well as an advocate."

Lynch, a judge of the U.S. Court of Appeals for the First Circuit, agreed.

"The excuse of professionalism, which was used by Sanson, cannot be used by lawyers," she said. "As moral creatures, lawyers will have to exercise moral judg-

"Let's call it what it is," Bennett said. "We are not lying. But we surely are misleading."

Legal Academia Offer Latinos Freedom, Says Ramirez

By Hope Yen

The life of a law professor offers special opportunities for Latinos and other minorities who can follow their interests and bring their unique perspective to the field, said a speaker at La Alianza's 1996 Spring Conference this past weekend.

"I think that one of the things enormously satisfying to me as an academic is having the time to pursue your own perspective, which may be different from the dominant one, and giving this information to other people ... who [often] don't know that history can be told from a different perspective," said Northeastern Law Prof. Deborah Ramirez '81, a criminal law professor who researches race and language issues.

Ramirez helped kick off the start of Alianza's conference, which focused on "Latinos in Legal Academia," a theme that members said is particularly appropriate given the absence of a Latino law professor at HLS.

Panelists throughout the conference spoke on a variety of topics pertaining to the profession, providing advice and guidance about what the current opportunities are for Latinos in legal academia.

Ramirez said she chose to become a law professor after working with the Boston law firm Hale & Dorr and the U.S. Attorney's Office because the previous jobs were too limiting. As a law professor, she said, she wanted to teach students legal skills to achieve the social ends they desire.

"I felt I could teach them something more than what a prima facie case is, or what murder or homicide is," Ramirez said. "I could teach them about how to use power, how to use power effectively, how to use the rules of evidence — to teach them what's going to happen to them in the courtroom when they come representing an unpopular cause, and ... to empower them hopefully to do great things."

As a law professor, [Ramirez] said, she wanted to teach students legal skills to achieve the social ends they desire.

world, you first have to find someone who knows how the world you want to change works.

"And if there are no brown faces, or black faces or Asian faces in the power structure, then when you need money, resources and political backing, there's no one there to tell you how the world works to get what you want to get," Ramirez said.

Community-building and support, she said, can be accomplished through an infinite number of ways, and so the individual student must find the path best suited for him or her.

"Trust yourself, trust your instincts and do what's right for you," she said. "And remember, whatever path you go on, it doesn't mean you have to follow it for the rest of your life. Learn what you need to learn at institutions, and when you aren't learning what you don't want and you feel you're not doing what you should be doing, then branch out and do something else."



Law Review Pres. David Panton '97 introduces the panelists. From left to right, Arthur Applbaum, Robert Bennet, Judge Sandra Lynch and Bernard Nussbaum.

ment."

Bennett, who is President Clinton's counsel in Paula Jones' sexual harassment suit against the president, noted that under our adversary system lawyers can cross-examine a witness they know is telling the truth. "Let's call it what it is," Bennett said. "We are not lying. But we surely are misleading."

Although Bennett said he is willing to mislead a factfinder, he would not ignore the dictates of morality. "If a client wanted me to do something I found morally repugnant, I would withdraw from the case," he said.

Applbaum believes that a lawyer should have a higher standard for deciding whether to take a case. "When it comes to litigation, a lawyer should not take a case if it is not meritorious," he said. "If you are free as a lawyer not to take a case, you ought not take a case you don't agree with."

"There are lots of gray areas," Nussbaum responded. "I make lots of arguments that I would not find if I were a judge. If my arguments are not frivolous and in good faith, let the judge decide. Decisions that ultimately emerge would be good for society and good for justice."

HLS Updates Technology, Moves Into Cyberspace

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nity, especially for the academic world. Journals perhaps could be distributed into the community and the world," said Clark, who has articulated a vision of HLS as a global leader in legal scholarship.

Added Nesson, who used the technology for his winter evidence course as well as his seminar this spring on Law, Internet and Society: "I have been at meetings at other places interested in this technology, and we at this point are the envy of other schools. The impact of the network is profound not just for teaching in law schools, but for major changes in the substance of courses taught."

HLS is in the midst of improving its computer technology for students in a process that began two years ago but has been particularly active in the last nine months. In the coming months, the Law School's relatively outdated VAX system, which services e-mail, will be replaced with a faster system. The ethernet system should also be installed during the summer, providing students with dorm access by next fall.

In addition, plans are in the works to make the classrooms more hi-tech in order to accommodate computer classroom presentations, according to Clark. Currently, only Hauser Hall and Austin North have that capacity, and Pound 102 is now being adapted to meet those demands, he said.

Jackson, who actively uses the Web for his spring course on Securities Regulation, said the system has been efficient and simple in providing students access to multitudes of supplementary research information that printing costs or inconvenience would

ordinarily render unavailable.

Students are greeted upon arrival in class with video projections that inform them what will be discussed that day and who will be on panel, among other things. To encourage students to access the system outside of class, he posts the panel lists a day or two before class so students will know who will be called on, Jackson said.

"In my class, I am often dealing with student boredom," he said. "So I used

gimmicks to show what I'm teaching is relevant to the world. This brings the world into the classroom ... and provides the tools enabling us to distribute information very cheaply."

For students who may not have computers or are less computer literate, they have found little problem asking friends or accessing Netscape from Langdell Library, Jackson said. Print copies of crucial information put on the Web are placed on reserve

in Langdell as well.

The Web also promotes outside discussion, and comments posted can only be accessed by a member of the Law School community. An interesting effect has been that women have disproportionately participated more on the Web than in the classroom, according to his study, Jackson said.

"Students can do it anytime they want — at 2 or 3 a.m., they can get on the Web, see what's there, and react to it," Clark said.

Clark also stressed the ease of using the Web — "it's the equivalent of using a very simple word processor" — and said that staff would help the professors work out the technical details of creating a home page.

"The impact of the network is profound not just for teaching in law schools, but for major changes in the substance of courses taught," said Nesson.

Across the Wire...

Libraries A Frequent Victim of Crime

BOSTON (AP) — Temporary shelvers at Harvard's Widener Library aren't supposed to have unlimited access to the library's famed stacks. But Stephen L. Womack did.

Womack somehow parlayed his \$5-an-hour job into a gateway to the Widener's most valuable holdings. Known as "the library slasher," he stole and destroyed more than 600 scholarly books before he was caught and left notes threatening anyone who tried to stop him.

Womack, 42, testified in Middlesex Superior Court that he was seeking revenge against authorities who had sentenced him to a state mental hospital after unrelated convictions for malicious destruction and exposing himself.

Library security specialists say his case shows how little administrators do to protect their collections. A background check would have shown Womack's previous convictions, but administrators often balk at conducting such searches for low-level employees and scholarly staff as well, said Steven Layne, a security consultant to the Smithsonian Institution in Washington, D.C.

"In one recent case I worked on, a volunteer showed immaculate credentials that were never verified," Layne said. The volunteer was promoted to a full-time position in charge of a collection and looted books worth more than \$1 million.

"When I ran a background check, I found out all of the credentials were phony," he said, adding that staff and volunteers are responsible for about 70 percent of book theft in U.S. libraries.

"It's all about greed," said Larry

Shelley, acting chief of protective services at the Library of Congress in Washington, D.C.

"People tend to cut plates out of books on nature and sell them to antique dealers or interior decorators. Then there's the person who steals the entire book for a part of a personal collection," he said.

Library theft made headlines in the early 1990s, when FBI agents found more than 20,000 books worth millions of dollars in the Ottumwa, Iowa, home of Stephen Carrie Blumberg.

Prosecutors said Blumberg stole the identity of a University of Minnesota professor to gain access to libraries in 45 states and Canada.

Blumberg's attorneys used the insanity defense.

"It's the only instance I can find for what amounts to criminal bibliomania," said Nicholas Basbanes, author of "A Gentle Madness: Bibliophiles, Bibliomanes, And The Eternal Passion For Books."

"It's laughable, but having attended the trial, it is not a frivolous defense. He had an obsession with the past and conceives of himself as a Victorian man. He thought of his collection as a resource library for studies in Victorian Americana," he said.

An Iowa judge sentenced Blumberg to 71 months in prison.

Layne said library crime has occurred for years but has gone unreported by administrators who fear news of theft may discourage donors from giving to the library.

But tough economic times have been forcing administrators to go public, said Mike Daly, chief of security at Queens Borough Public Library in New York.

"The book budgets are decreasing, so they have to come forward now to stop it," Daly said.

When Womack was arrested, investigators found a kind of renegade reference room in the basement of the Arlington home he shared with his mother. He favored texts in Latin and Greek, and rare books on early Christianity in languages like Icelandic.

He also had taken books from Northeastern University's Snell Library.

Womack's lawyer, William Homans, said his client was an intelligent man who was trying to amass a private library by microfilming the books but destroyed them when he tried to cut the pages while making copies.

Womack was convicted and sentenced on March 14 to seven to 10 years in state prison.

But even the threat of jail time may not be enough to stop the twisted bibliophile, as Womack's behavior indicated immediately after his arrest.

"He asked (an investigator), 'If I go to jail, do you think they'll let me use the library there?'" said Harvard Police Sgt. Kathleen Stanford. "It was a dead-up serious question on his part."

He favored texts in Latin and Greek, and rare books on early Christianity in languages like Icelandic.

"It's the only instance I can find for what amounts to criminal bibliomania," said Nicholas Basbanes.

House-Ordered Study Calls D.C. Prison System "Substandard"

WASHINGTON (AP) — The District of Columbia's corrections system is plagued by staff shortages, overcrowding and ages-old equipment that force the department to operate at a substandard level, according to a new report.

Virginia Reps. Tom Davis, Frank Wolf and James Moran are scheduled to release the eight-month study by the National Institute of Corrections on Tuesday.

The House ordered the study last year to assess the state of the city's prison system.

A copy of the findings obtained in advance by the Associated Press reveals a prison system gone awry.

The 178-page report details numerous problems, including excessive overtime, outdated computer systems and low morale.

"Although the current (corrections) administration has begun to make important and far-reaching improvements in the overall management of the ... system, it continues to function at a substandard level," the report said.

The document also said renovations were much needed at the city-run Lorton Prison complex in Fairfax County, Va.

There, observers found windows and roofing in need of repair, as well as insufficient space for inmate work programs, food services and work training.

At the 20-year-old D.C. Jail in Southeast Washington, observers reported "strong odors" in portions of the facility and found some cells did not

have lighting and many of the prison's closed circuit television monitors were broken.

Some of the problems found system-wide included worn out electrical systems, a lack of sprinklers or centralized alarm reporting system, and plumbing troubles resulting in inoperable showers and inadequate sewage lines, the report said.

The document said that while corrections administrators were aware of the problems, they had not been given the funds to correct them.

It also suggested repairs be made to ailing buildings, as well as construction of over 2,000 new prison beds.

Just recently, the city's financial control board asked Mayor Marion Barry to revise his four-year plan to include additional funds for corrections.

"This is a resource problem, a long-standing historical resource problem," said Corrections Director Margaret Moore.

But Patrick Hickey, a prisoner-advocate attorney who has brought numerous suits against the city concerning

D.C. Jail, said many of the problems with the jail in particular have to do with management.

"Keeping the jail clean is not a funding issue," Hickey said. "The reason their kitchen keeps failing its inspection is because it's dirty. It's got roaches. I think it's a management problem."

The department is currently under 11 court orders, and an estimated \$29 million is needed just to comply with the orders.

The findings come at a time when a federal judge is trying to decide whether to find D.C. Jail warden William Plaut in contempt of court.

U.S. District Judge William Bryant summoned corrections officials last week after a court monitor filed a highly critical report that detailed

problems in the South One "supermax" unit, where the most violent offenders are housed.

The monitor's report described feces smeared on the walls, broken showers and inmates without proper cleaning supplies.

Moore said up to \$60 million was needed to address staffing deficiencies and implement the court orders.

The 178-page report details numerous problems, including excessive overtime, outdated computer systems and low morale.

Supreme Court Refers Indian Gambling to Appeals Court

SPOKANE, Wash. (AP) — A U.S. Supreme Court order offers hope that the Spokane Tribe of Indians will be able to offer Nevada-style gambling without any state intervention, an attorney said Monday.

The court told lower courts to restudy cases from Oklahoma, Montana and Washington state in light of its ruling last month in a Florida case.

The Spokanes' suit against Washington state was among those cases that had been held by the justices pending the outcome of a case decided March 27 involving Florida's Seminole tribe.

In it, the justices ruled that Congress cannot make states and state officials the targets of federal lawsuits when negotiations between a state and an Indian tribe break down over placing casinos and other gambling activities on reservations.

Scott Crowell, a Kirkland attorney who represents the Spokanes, said the court's order offers hope to the tribe, which operates slot machines at its reservation and trust land casinos without a compact with the state.

"The court ... leaves open the question for the court of appeals to address as to remedies available to tribes confronted by hostile state governments," Crowell said by telephone from Washington, D.C. "What the Spokane tribe intends to do is use the opportunity to seek clarification that it is able to proceed with Class 3 (Nevada-style) gaming without any state involvement whatsoever."

Washington State Gambling Commission Director Frank Miller was out of the office. Spokeswoman Carrie Tellefson said the state would probably move to dismiss the case for lack of jurisdiction, based on the earlier Florida case.

The March decision was based on the Constitution's 11th Amendment, which protects states from being sued in federal court against their will.

Monday, the court said federal appeals courts should study that ruling when they reconsider reservation-gambling disputes in Washington, as well as those pitting Montana against the Fort Belknap tribe and Oklahoma against the Ponca tribe.

The court also turned down ruling on a dispute between the Poarch Creek tribe and Alabama.

The Supreme Court in 1987 ruled that states cannot bar gambling on Indian reservations within their borders if the same gambling is allowed elsewhere in those states.

Congress responded the next year by enacting the law that requires tribes to negotiate with the respective states before starting some types of on-reservation gambling.

The law required states to negotiate in good faith, and allowed a tribe to sue a state in federal court if the state failed to do so.

That part of the law was struck down last month, and it's unclear whether tribes now can rely on another part of the 1988 law to take any gambling dispute with a state directly to the federal secretary of the interior for resolution.

One of the appeals acted on Monday — filed by Oklahoma — challenged the secretary of interior's authority to intervene. The appeal contended that allowing such a federal role violates states' sovereign contracting rights — an alleged violation of the Constitution's 10th Amendment.

That amendment reserves for the states any powers the Constitution does not specifically allocate to the federal government.

Across the Country

High Court Refuses to Bar Assault Hearing

WASHINGTON (AP) — The Supreme Court on Monday refused to block an appellate hearing for a Texas man who says his sexual assault conviction is tainted because blacks were unlawfully excluded from his trial jury.

The justices, without comment, turned down prosecutors' arguments that Ronald P. Reed's appeal should be thrown out because he did not file enough information to support it.

[Reed] was sentenced to life in prison.

Reed was convicted in 1986 of aggravated sexual assault in an attack on a Dallas woman. He was sentenced to life in prison.

After state courts upheld his conviction, Reed sought help in federal court. He said his rights were violated because prosecutors unlawfully excluded blacks from the jury that convicted him.

A federal judge ruled against Reed, saying he had not complied with a Texas procedural rule that required him to file a complete transcript of the jury-selection proceeding.

Federal courts cannot review state inmates' claims when state courts have ruled that they defaulted on procedural grounds, the judge said.

The 5th U.S. Circuit Court of Appeals reversed and said Reed was entitled to have his appeal heard.

State procedural rules must be "firmly established" before they can be applied to a federal constitutional claim, the appeals court said. The Texas procedural rule never before had been applied to a case alleging unlawful exclusion of jurors based on race, it added.

The case is *Johnson vs. Reed*, 95-1305.



**This Week,
Reports
From the
Northern US**

Testimony Concludes in Cyberspace Censorship

PHILADELPHIA (AP) — Three federal judges deciding whether to overturn the cyberspace-censoring Communications Decency Act were presented on Monday with a choice of two acronyms: PICS vs. -L18.

PICS, which stands for the Platform for Internet Content Selection, is an industry-endorsed rating system which labels on-line material as to whether or not it is appropriate for minors similar to movie ratings.

Two legal challenges have been filed to the Feb. 8 statute, which outlaws displaying indecent text and images in any on-line areas accessible by minors. The testimony concluded Monday.

The government presented a ratings system of its own called -L18, devised by Brigham Young computer science professor Dan Olsen.

"The difference is that in their scheme, the content originator (whoever transmits the material) is responsible for the labeling — which would include the on-line services," plaintiffs' attorney Bruce Ennis said.

But Congress already rejected putting the onus on the content origina-

tors when it passed the current law, he said.

"They are defending the act that Congress rejected — not the one that is on trial here," Ennis said.

The PICS project, on the other hand, would establish a labeling bureau to provide third-party ratings of Internet sites. It is supported by Microsoft, Netscape,

Apple, America Online and others.

"It is not a perfect world. We can't rely on everyone to rate themselves appropriately and responsibly," said Chris Hansen, a lawyer for the American Civil Liberties Union. "That's what -L18 does."

An ACLU-led coalition of free-speech defenders and a second group made up of representatives of the computer industry, newspaper publishers, librarians and booksellers have filed

lawsuits seeking to strike down the Communications Decency Act. The legal challenges were combined by the court.

The government says the statute, which would punish violators with prison time and hefty fines, is necessary to shield minors from cyberporn.

But the plaintiffs argue the law

would violate the First Amendment rights of adult computer users and might even outlaw discussions on breast cancer or safe sex. They say banning "indecent" or "patently offensive" material is too vague and impossible to interpret uniformly.

The plaintiffs also say the law would be ineffective against pornographic text or images that originate outside the United States.

"The -L18 proposal of Dr. Olsen can do nothing about transmissions from Amsterdam or Japan. PICS, however, allows parents to block everything that hasn't been labeled by a third party," said Jerry Berman of the Center for Democracy and Technology.

He said any group could conceivably establish its own third-party ratings system under the PICS proposal.

"It could be a parent who wishes to conform to his or her own particular family values, or it could be the PTA, Christian Coalition, or the Boy Scouts of America," Berman said.

The Justice Department called two witnesses, and the plaintiffs called 13 during four previous days of testimony. Closing arguments are June 3.

Implementation of the Communications Decency Act has been blocked pending the outcome of the suits. A ruling could take weeks.

The three-judge panel consists of Dolores K. Sloviter, chief judge of the 3rd U.S. Circuit Court of Appeals, and U.S. District Judges Ronald Buckwalter and Stewart Dalzell.

The plaintiffs also say the law would be ineffective against pornographic text or images that originate outside the United States.

Court Hears Plea to Relax Spending Limits

WASHINGTON (AP) — Federal limits on campaign spending by political parties violate their right to free speech, the Supreme Court was told Monday by a lawyer for the Colorado Republican Party.

"Political parties believe they have a role in public debate," argued Jan Witold Baran, the state party's attorney. "This (law) tells the parties they can only engage in that debate up to a point."

But the Clinton administration said the spending limit actually is an "authorization for parties to spend more money than any other entity can."

"There is a significant corruptive potential in large amounts of money," added Solicitor General Drew S. Days III.

The Colorado Republicans are challenging a lower court's ruling that said the party illegally spent \$15,000 on advertising to criticize then-Rep. Tim Wirth, a Democrat, when he was running for the Senate in 1986.

Both the Republican National Committee and the Democratic National Committee are supporting the Colorado's party's appeal.

But Days said that allowing parties unlimited campaign spending could provide a way to evade the limits on individual campaign contributions, upheld in

1976 by the Supreme Court. The court also has said individuals and groups can spend money independently to support or oppose a candidate, so long as the spending is not coordinated with the candidate.

Days said the Colorado GOP was seeking an "unlimited right to spend funds that are coordinated" with candidates.

Justice Antonin Scalia questioned whether it should be considered corruption for a party to use spending to induce its candidate to follow its political views.

"It's called party discipline," Scalia said. "I have never considered it corruption. I have considered it good old-fashioned democratic politics."

Baran said political parties are in a unique position when it comes to spending because other groups, such as political action committees, do not nominate candidates for gen-

eral elections.

Baran said political parties' "whole purpose for being is to engage in political activity ... When it comes to commenting on political issues with your own members, you become subject to this limit."

Justice Antonin Scalia questioned whether it should be considered corruption for a party to use spending to induce its candidate to follow its political views.

Days said the federal limit does not apply to political party spending that is not related to a particular campaign. For example, he said it would not apply to an anti-Wirth ad that aired before he announced his candidacy.

Justice Sandra Day O'Connor questioned whether the limit even applied to the \$15,000 spent by the Colorado GOP. Noting that the ads were aired before the Republicans had chosen a nominee to oppose Wirth, she

said, "One could read (the law) as not covering that at all."

The dispute stems from radio ads financed by the Colorado Republicans

that questioned Wirth's dedication to a strong defense and a balanced budget.

Wirth had registered as a candidate for the Democratic senatorial nomination. He later defeated Republican Ken Kramer in the November 1986 election.

Federal campaign law says individuals may contribute up to \$1,000 and political committees up to \$5,000 to candidates for federal offices.

National and state committees are allowed to spend additional money "in connection with the general election campaign" based on the state's voting-age population. A state party can assign the right to spend its allocation to the national party.

Before buying the anti-Wirth ads, the Colorado GOP had assigned its entire spending authority for the 1986 Senate campaign to the National Republican Senatorial Committee.

Colorado Democrats complained to the Federal Election Commission, which filed an enforcement action in federal court.

A judge ruled for the state GOP, but the 10th U.S. Circuit Court of Appeals reversed. It said the spending was covered by the Federal Election Campaign Act and upheld the law's constitutionality.

The high court is expected to issue a ruling by July.

BRIEFS



Jewish Law Students Association Host Conference

More than 150 Harvard students and Boston-area residents attended the 1996 annual conference of the Jewish Law Students Association, which explored the relationship between Jewish values and the American political and social identity.

American Jews should not base their political ideology on their Jewish values, argued Prof. Peter Berkowitz of Harvard's Government Department in the first panel discussion on Jewish values and their connection modern liberal and conservative ideologies.

Conservative activist, Rabbi Daniel Lapin, and Martin Peretz, editor-in-chief of *The New Republic*, meanwhile, sparred over the merits of conservative and liberal ideologies and their bases in Jewish tradition, while Prof. Sylvia Fishman of Brandeis University examined the views of American Jewish women toward reproductive freedom.

Other panels examined current social and political trends affecting Jewish life as well as the trend toward greater stringency in American Orthodox religious observance.

The conference, entitled "The Spectrum of Jewish Practice and Political Identity," was organized by Alexi Lahav '98, Gordon Lederman '97 and Ron Meyers '98.

HLS Grad Named to Head OMB

President Clinton has announced that he will nominate Franklin D. Raines '74 to become the director of the Office of Management and Budget. Raines currently serves as the vice chairman of the Federal National Mortgage Association.

"I view the charge of this job to be to help the President carry out that mandate which is to make this economy more vibrant, not by wishing, not by hoping, but by doing, by changing the ability of American workers to create wealth that they can share in so that people throughout the nation will see a higher standard of living," Raines said last week.

If confirmed, Raines, a former Rhodes Scholar, would replace Alice Rivlin, whom Clinton nominated to be the vice chairwoman of the Federal Reserve Board.

Leebron '79 Named Columbia Law School's Dean

David W. Leebron '79, a professor at Columbia Law School and an authority on international trade and investment, has been chosen as the dean of Columbia Law.

Leebron, an HLS graduate who has been a member of the Columbia faculty since 1989, will take up his new post on July 1 when Lance Liebman steps down after five years as dean to return to teaching and research.

Leebron was among a handful of candidates, including Prof. Todd Rakoff '75, who interviewed for the position.

Leebron graduated summa cum laude from Harvard College in 1976 and received his J.D. magna cum laude from HLS in 1979. During that time, he was awarded the Sears Prize and served as president of the Harvard Law Review.

Harrington Talks About Civil Rights Lawyering in Texas

James Harrington, the founder and legal director of the Texas Civil Rights Project, told HLS students about his legal practice and the state of civil rights in Texas.

"For a civil rights lawyer, Texas is a paradise," Harrington said. "Some parts of the state, you would think, are in a deconstitutionalized zone."

"Language discrimination is a code for racism," he added. "This is the only country that I know of in the world where you are looked down upon for speaking two languages."

Harrington called the civil rights jurisprudence of the U.S. Court of Appeals for the Fifth Circuit "a nightmare." He was especially critical of the court's decision in *Hopwood v. Texas*, in which it held that the University of Texas Law School's affirmative action admissions program violated the Fourteenth Amendment.

Much of Harrington's work involves arguing for interpretations of the Texas bill of rights that would buttress constitutional protections. Harrington said Texas has a strong equal rights amendment, which he has used to win rights for farm laborers and to reapportion the Texas legislature.

The HLS Civil Liberties Union sponsored Harrington's lecture.

Animal Rights Litigator Discusses "Institutionalized Exploitation"

The founder and co-director of the Rutgers Animal Rights Law Center, the only clinical program in the country devoted to animal rights litigation, urged an HLS audience this week to find ways to end "institutionalized animal exploitation."

"It is ironic that in 1996 we live in a culture where almost everyone agrees with the proposition that we ought to treat animals humanely ... and yet we tolerate and participate in the slaughter of eight billion animals for food and allow vivisection to take place," said Rutgers University Law School Prof. Gary Francione, who was speaking on "Animal Rights, Property, and the Law."

Francione said anti-cruelty statutes are interpreted to only protect animals against "unnecessary" suffering, or suffering that is not judged to be useful to humans in the mainstream American culture.

"So long as animals are considered property within the legal system, there is no way that their interests can ever be protected against those of the legal persons who own them," he said.

Francione's talk was sponsored by the HLS Student Animal Legal Defense Fund.

FOOD - O - RAMA

Glug, Glug

By Heather Friedman '97 & Betsey Nevins '97

Restaurant Reviewers

DID you know that precisely 73.7% of the HLS student body lives within a block of Beacon Street (that's the street that runs along the border of Cambridge and Somerville, not the big daddy boulevard across the river)? We both live near the corner of Beacon and Kirkland (which mysteriously transmogrifies into Washington Street as it passes into Somerville) but we won't tell you exactly where we live due to the plethora of weirdos already turning up at our doors.

This intersection may not look like much, but we believe it is a blossoming example of corporate community renewal the culinary way and may soon rival for gourmet greatness nearby Inman Square, whose propaganda-meisters recently proclaimed it to be "the culinary star of the region." Within a couple of blocks, we now have a funky Spanish tapas bar, a well-stocked wine and cheese shoppe, a fab bakery, a dark place with live music and a menu, a yuppie cafe, a fresh pasta restaurant (remember that review we wrote for a fall issue of this publication?), a brand-spanking-new Thai take-out and the Atlantic Sea Grill.

The Grill now occupies the space recently vacated by the short-lived Kismet Cafe. As local food advocates, we felt particularly sorry about that restaurant's quick demise. We also felt a twinge of guilt — if only we'd offered our professional insight...or at least our patronage — which has given us a special sense of responsibility towards the success of its successor. Lest you think there's anything fishy going on, let us remind you we would not let these personal emotions tip the scales in our evaluation; neither would we try to set you adrift by touching the depths of your un-conch-ious with subtle seafood puns.

No chickens of the sea are we in offering our offishal judgment: the restaurant is still a work in progress. Small touches suggest that the restaurant is swimming in the right direction; the basket of fresh rolls and lavash with olive tapenade is a good example. To become a true pearl, however, the Grill needs more polish; over-cooked fish and under-cooked broccoli must become things of the past.

High ceilings, fishy portraits, and big windows give the restaurant an aquatic feel.

The lobster bisque (\$2.95 for a cup, \$4.95 for a bowl) was the star-fish of the evening. Rich and creamy enough to sink a ship, the soup had more lobster than others of its school. Stuffed clams (\$4.95), two large half-shells, were served perfectly hot, but the clam chunks got lost at sea in a bland bread-crumble mixture. The toss'd salad (\$2.25 a la carte or free with an entree) was thankfully not made with iceberg lettuce, but was submerged beneath a house dijonnaise dressing heavy on the dijon.

In general, the menu offers what you'd expect. You can get your seafood broiled, grilled, deep-fried with chips or on a roll. Lobster and surf-and-turf round out the menu and yes, there's beef and poultry for you landlubbers; vegans would be advised to cast their lines elsewhere.

The grilled salmon (\$13.95 with choice of two side dishes) was overdone. Not much more needs to be said about such a dish (or a fish) at a place that calls itself a Sea Grill. To the restaurant's credit, though, our waitress fished for information about the unfinished portion and offered to replace the offending fish. (We were too full to accept, but trust that they would have gotten it right the second time). The side dish of pasta with tomato sauce deserves a special nod, for its al-dente noodles and better-than-average red sauce (garlic butter was also available).

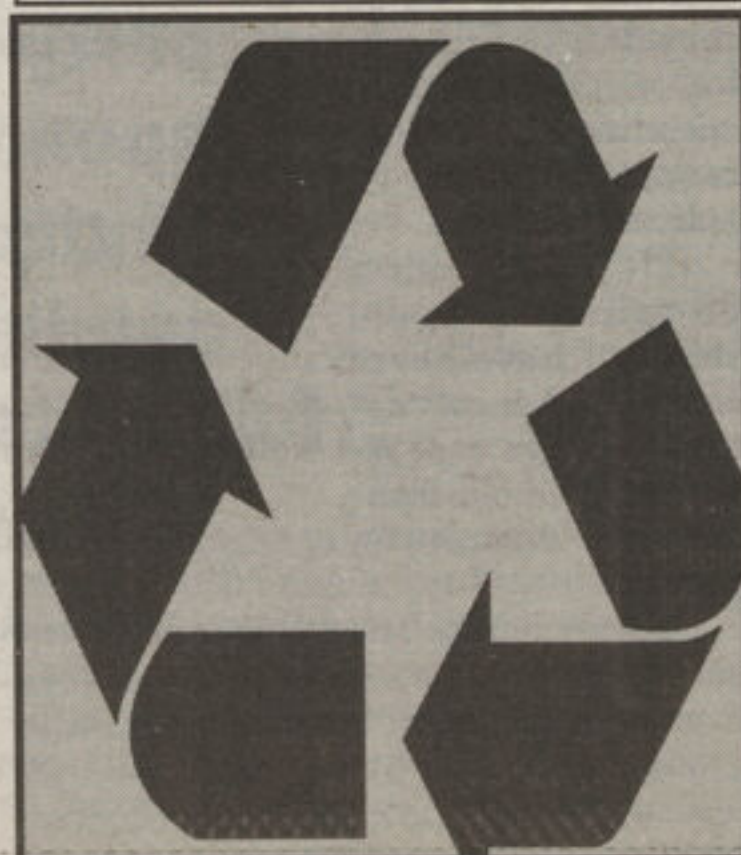
Wanting to test the far shores of the kitchen's ability, we charted a non-traditional course toward the shrimp and scallop stir fry with sun-dried tomato pesto (\$13.95 — the menu usually offers this dish with either shrimp or scallops alone) as our second entree. Served atop a generous portion of linguine, the seafood was cooked perfectly this time. The sauce, though, drifted aimlessly; it was hard to taste the sun-dried tomatoes (a red herring?). With the aforementioned broccoli, the vegetable du jour, the Grill avoided the typical restaurant blunder of overcooking, but erred too much in the other direction.

For dessert we chose the carrot cake (\$3.95) from a display-case offering half a dozen varieties. The cake was moist and tasty, but the frosting missed the boat. Instead of the sweet cream-cheesy topping we love, it tasted like it had just surfaced from the icebox.

On this mid-week evening, the restaurant was half-full with young families and thirty-something couples. High ceilings, fishy portraits, and big windows give the restaurant an aquatic feel. The waitstaff was super-attentive and sincerely solicitous.

Though our haul contained a few crabs, this is not a whale of a problem just yet and might well be attributable to the restaurant's newness. We're not ready to throw this minnow back yet. As the great Dr. Seuss once said, One fish, two fish, try this new fish.

Atlantic Sea Grill is at 118 Beacon Street in Somerville. It's open everyday from 11:30 a.m. to 10 p.m. and has a luncheon menu until 4. Their phone number is 497-8000.



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G Y M R A T

Timing Is Everything

By David Koontz '96
Sports Columnist



IN sports, there are a lot of opportunities to feel good about yourself, interspersed with all too many chances to feel really horrible about yourself. Ideally, we're all in it just to have a good time, but when you've just thrown a pass over your teammate's head and then been dunked on to lose a pickup basketball game where 38 people are waiting for the next game, it's hard to keep that sort of thing in perspective.

Of course, if you make that bad pass or get dunked on earlier in the game, people tend to forget it a little more easily. In short, it's all about timing.

David Justice took heat for questioning Atlanta Braves fans' enthusiasm, then hit the World Series-clinching home run the next day. Cleanup hitter Reggie Sanders of the Cincinnati Reds had the worst series of his career when it mattered the most — in the National League Championship Series. All the bad or good things you do during the course of a game or a season can be forgotten in an instant if you succeed or fail during crunchtime.

This week, the spotlight shone heavily on this phenomenon in the sports world. While the Chicago Bulls have drawn attention all year for its excellence in basketball, hockey's Detroit Red Wings set the NHL record for most victories during the regular season. When coach Scotty Bowman was interviewed regarding this feat (which broke the record set by his own Montreal Canadiens of the '60s), he casually acknowledged that none of the regular season victories would mean a thing without bringing home the Stanley Cup.

The Bulls themselves have been compared to the great teams in NBA history, but such comparisons are pointless until Chicago wins the championship as well. A team could not be considered the best ever if it wasn't even the best this year. Can anybody

Consistently good players are often appreciated, but never revered.

remember who won the most games in the Eastern Conference two years ago, when Jordan was retired and the Bulls failed to make it to the conference finals?

The leader was the Atlanta Hawks with 57 games, but they lost to Indiana in the second round of the playoffs. Danny Manning was so excited by the Hawks' regular-season victory total that he left them via free agency to sign with the Phoenix Suns for 20 percent of what Atlanta offered him. Unless you succeed when it really counts, you can try to put yourself into the elite category, but history won't let it stick.

Perhaps the most tragic example of this is Greg Norman's performance at the Masters tournament this past weekend. Augusta National golf course is one of the least forgiving and most challenging courses on the PGA tour, and it left Norman struggling for any explanation that would make him feel better than everyone expected him to feel. Norman, who has won millions of dollars in prize money but only two major championships, entered the final round six strokes ahead of two-time Masters champion Nick Faldo. By the 13th hole, he was two strokes behind. By the 18th hole, Norman was a full five strokes behind.

In all, Norman shot a 78, which overshadowed Faldo's superb 67 and ranked as one of the most shocking collapses in sports history. At age 41, Norman is dangerously close of leaving a legacy of being a consistently excellent golfer who never truly achieved greatness. Why? Timing. Nobody could have said it better than Norman himself: "That's just golf."

And that's just sports in a nutshell: we focus on the glory of peak achievement and rarely on consistency. Consistently good players are often appreciated, but never revered.

On a lighter note, you can find a bevy of appreciated, revered players in the HLS intramural basketball league. This week is the final week of the regular season, which does mean something because some teams are fighting for a chance to get into the playoffs and work some magic. The B League allows 16 of its 26 teams into the playoffs, so there are plenty of teams that can look forward to juggling basketball practice with that group outline they never finished.

The gym rat loves having mistakes in the column pointed out, by the way, because it shows that people are reading. (I've already talked to two jaded sports fans who say they never read anymore because they never appear in the column. If that's their standard, I don't know what they DO read.) I overstated my point last week in the column about the B League West just a touch when I said that Flagante Delicto had the "toughest schedule." I hadn't done the math, and instead I relied on a usually reliable source who has now been sacked. My spies have revealed to me that Soulbucket's four losses have come to teams with a combined 27-1 record. Okay, I'll have to admit that's a pretty tough draw.

The B League East is motoring along with two undefeated teams, the Great Danes and the Stormin' Mormons, as well as the Short Guys and Port Isabel Homes with only two losses, and the United Nations (a.k.a., at least as far as I'm concerned, Really Huge Guys) with only one loss.

There's plenty of jostling for playoff position after that, among TCB in a Flash (which I've found out is named after the writing on Elvis Presley's karate uniforms — I'm not kidding), L.L.Magic, Sweathogs 2, and Asphyxiation. I wish to console my fellow teams who have been officially eliminated from the playoffs — as Sleestaks captain, I feel your pain quite personally.

The A League is now led by the Black Plague, after Caution: Flammable fell half a game behind the Plague with a gut-wrenching one-point loss to Well Hung Jury. The loss came on a last-second shooting foul with the score tied, and Well Hung captain Lang "Three" Wiseman '96 sank a free throw to win it.

"Don't make up some fake quote about me saying that was a bad call," said Flammable captain Jake "The Body" Schwarz '97. "Why aren't I ever quoted in your column?" added teammate Mike "Now I'll Have Something to Read" Stefanoudakis '96.

Meanwhile, a few Plague teammates, including Carter "The Thing about the Walnut Wasn't a Joke" Stewart '97, were seen celebrating their off week at Bar Review. "We're not celebrating early," said Chris "With the Girls be" Handy '97. "It's just Carter's birthday."

Reasonable Woman

Of Whine and Women

By Cynthia Godsoe '96 and Elizabeth Mitchell '98
Guest Columnists

"STOP YOUR WHINING." This recommendation scribbled on a flyer advertising the recent publication "Presumed Equal" conveys the idea that the concerns of women at Harvard Law School are trivial or even worse irrelevant. Yet, as this publication detailing the bias and harassment experienced by many women in law firms around the country demonstrates, the concepts of the boy's club and the man's world are not entirely things of the past. Although Harvard Law School first admitted women in 1950, the school has yet to achieve a gender-neutral character. The imbalance between women's official status and practical experiences in both the academic and professional realms of the legal field remains to be corrected.

Recently, the Women's Law Association sponsored a panel discussion between four Harvard associates who attended the 1996 International Women's Conference at Beijing. This conference sought to empower women and to address the global problems facing them. Clinical instructor Deborah Anker, Prof. Mary Ann Glendon, Director of Graduate Program Admissions Athena Matua, and Fellow Susan Weld offered insights and experiences that may be useful in effecting change during our years at Harvard Law School and as we enter the professional world.

Look at the world through women's eyes

One of the panelists emphasized the importance of looking at the world through women's eyes — not only for the duration of the conference but in every aspect of life. Women are disproportionately represented on the faculty of this law school and in pow-

Looking at the world through women's eyes also means valuing non-traditional activities and subjects that are largely done and studied by women

er positions in the legal profession. Although this is an obvious point, it merits saying because of the ramifications on women's experiences at Harvard and in employment situations. The shortage of role models and the minimal incorporation of family needs (for instance, parental leave, child care) make women's satisfaction in the legal profession an uphill battle. Looking at the world through women's eyes also means valuing non-traditional activities and subjects that are largely done and studied by women, such as the Legal Aid Bureau and clinical classes, public interest work and feminist legal theory. More funding and recognition of these aspects of legal education are essential both to the fulfillment of many students here and to the continuance of Harvard Law School as a center of legal excellence.

Influence the language of the debate

Only by voicing our opinions and concerns can we shape the outcome. We must be vocal about problems such as Harvard Law School's 167 out of 168 showing in the recent National Jurist's ranking of the "Best Law Schools for Women." Although recent hirings reflect administration efforts to increase faculty diversity, more remains to be done. A potential goal is to bring the number of women faculty, currently 15 percent, into line with the over 40 percent of female students. Gender inequities in classroom participation and in the workplace also merit student attention. By talking about these issues, we can put our concerns on the agenda of the Law School and our future employers.

Move beyond the principles to action

Once the debate has been broadened, the hardest part begins — putting a platform for change into action. The panelists agreed that the platform from the Beijing Women's Conference has yet to be fully implemented. The difficulty arises from the distinct needs of women in different countries, geographic separation and the absence of a strong organization for oversight. Although women at Harvard have diverse needs and wants, certain improvements in the classroom and the workplace would undoubtedly benefit us all. These include smaller class sizes, more flexible working schedules, and the enforcement of sexual harassment policies. Additionally, whereas the Beijing conference lasted a mere two weeks, students at Harvard have the opportunity to build and maintain a community — the first step to action. Students may not have the power to accomplish radical change overnight but through their actions and attention, change can be made inevitable rather than seemingly impossible.

Intramural Basketball Standings as of Sunday, April 14

TEAM NAME	WON-LOST	TEAM NAME	WON-LOST
"A" LEAGUE			
4. Black Plague	6-1	2. One and Gun	3-4
5. Caution: Flammable	6-2	3. Court Marshals	2-7
1. Well Hung Jury	6-2	6. The Associates	1-8
"B" LEAGUE EAST			
7. The Great Danes	7-0	1. Gooch's Last Stand	8-0
10. Stormin' Mormons	6-0	12. Bye	7-0
9. Port Isabel Holmes	5-2	8. Last Call	7-0
11. Sweathogs 2	5-3	5. General Gao	6-1
3. United Nations	4-1	9. Flagante Delicto	5-2
1. Short Guys	4-2	7. Off-White Slammers	3-4
2. TCB in a Flash	4-3	2. Soulbucket	3-4
6. L.L.Magic	3-4	4. Free Exercise	2-5
12. Asphyxiation	2-3	13. The Quick Shooters	2-5
5. Reversed & Remanded	1-6	10. Dude Looks Like a Levitt	1-5
4. Sleestaks	1-6	11. The Grizzards	1-5
13. Double Trouble	0-6	6. Just For Laughs	0-6
8. The Dissenters	0-7	3. The Real Killers	0-7

Harvard Law RECORD

Founded in 1946

Hope Yen
Editor-In-Chief

Toward the Future of the RECORD

For the past 50 years, the Harvard Law RECORD has reflected an intimate story of the nation's oldest law school that goes beyond official reports of successful tenure appointments and fundraising campaigns. The RECORD's reporters have provided an independent account of the news at Harvard Law School, an endeavor that has often come under attack by administrators intent on preserving the sanctity of their image.

But the RECORD's goal of independent journalism drives home repeatedly the fact of Harvard Law School's responsibility to lead the legal community, and to lead with a clear eye cast upon its own weaknesses. When media like the New York Times, the Wall Street Journal, the American Lawyer, and the National Law Journal turn to the RECORD as they often do for information that tight-lipped administrators refuse to surrender, the value of an independent source of news at HLS is further underscored.

The pages of the Harvard Law RECORD are filled with stories of a law school that has lived through some of its — and the country's — most tumultuous (sometimes humorous) times:

- "Cuban Report," Feb. 19, 1959: The recent revolution in Cuba inspires RECORD editors Dave Binder and Ralph Nader to license themselves as foreign correspondents and travel to Cuba for an exclusive interview with Fidel Castro. Upon their return, they are castigated by Dean Griswold personally.

- "Harvard's Loyalty Oath," March 5, 1959: During the height of McCarthy's House Un-American Activities Committee, the RECORD's pages are filled with discussion about the propriety of the Law School's acceptance of federal funds conditioned on signing a loyalty oath. The campus is split, with the Law-Graduate School Democratic Club's bitter opposition to the move derided by equally-ardent supporters of the requirement.

- "Profs. Freund and Dershowitz Quit," April 1, 1971: The RECORD's parody issue headliner gets picked up by an unsuspecting New York Times.

- "Law Students Vote to Join Strike," May 21, 1970: In the wake of the killings of four Kent State students by the National Guard, law students band together to join others in a campus-wide demonstration of support. The faculty votes to permit all exams to be taken on the honor system, allowing strikers to take finals outside of Cambridge.

- "Bok Taps Clark as New Dean, Students Wary of Choice, Faculty Split Along Ideological Lines," Feb. 24, 1989: The selection of Dean Clark '72 heralds a new period of unprecedented conflict that dovetails with the murder of Prof. Mary Joe Frug, culminates in Derrick Bell's resignation from the faculty, precipitates student takeovers of administrative offices and attracts national news coverage.

With the aid of late treasurer of the HLS Association Reginald Heber Smith '14, the three principal RECORD founders — former U.S. Rep. Charles Porter '47 (D-OR), Judge Charles Sweet '47, and late managing partner of Hale & Dorr Paul Hellmuth '47 — established an independent institution that has stood for self-criticism and reevaluation at this Law School. It is a tradition continued by each new generation of student writers and editors.

— Kuohung

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

—First Amendment, US Constitution

• Letters •

Areeda Deserves Building Wing

Rob Friedman's discussion of the naming of Areeda Hall in his recent polemic on naming buildings after HLS donors (see RECORD April 12, 1996 p.1) is wholly devoid of reason, decency and appreciation for what makes our institution a leader in legal scholarship and education. In describing the claimed circumstances surrounding Prof. Areeda's enormous financial contribution to the school, Mr. Friedman suggests that Prof. Areeda's non-financial contributions do not deserve a building bearing his name. As those who have had exposure to Prof. Areeda or his work unquestionably know, Mr. Friedman is dead wrong.

Prof. Areeda's scholarship and teaching prowess were second to none. To say that his work on antitrust law is highly influential understates its significance. Supreme Court Justices, distinguished practitioners and renowned academics have all testified to the enormous value of his endeavors in that arena. Beyond his analysis and writing, Prof. Areeda served this

institution for 35 years as a dedicated and extremely effective teacher. He has won the Sacks-Freund teaching award in two of the four years since its inception. In an institution that has traditionally prided itself on its teaching abilities, this is an accolade of no small significance. Those of us who have had the enormous good fortune of taking a class with Prof. Areeda will cherish forever the positive impact he has had on our legal studies and our personal and professional development.

Prof. Areeda's dedication to the Law School did not ebb even in the face of the illness that eventually took his life. He taught an antitrust course in the fall of 1994 even though he was at that point physically weak and often in substantial pain. Further, he continued his scholarship to the fullest extent possible up until the very end. His internal strength and dignity during this extremely difficult period far surpassed what I had previously thought was humanly possible. When death finally came and deprived the Law School community of one

of its most significant intellectual and pedagogical assets ever, Prof. Areeda graced us with everything he had left, his worldly wealth.

In questioning whether Prof. Areeda deserves to be honored with a building's name, Mr. Friedman has it backwards. It is not Prof. Areeda that has been most honored by the renaming of Langdell West. Rather it is the building itself and the Law School that are honored by this testament to their long term association with such a distinguished member of the legal community. Just as we are proud to call Langdell, Pound and Griswold our own, so too should we take pride in the fact that it was Harvard Law School upon which Prof. Areeda decided to bestow his incredible talents. Mr. Friedman's suggestion that Areeda Hall is inappropriately named disgraces not only himself and the RECORD, but also this august institution of learning.

Erik Caspersen '96
April 15, 1996

Levey Misguided on Affirmative Action

These brief comments are in response to Curt Levey's recent letter published in the RECORD (4/12/96) in which he criticizes the Law Review's "arrogance" for "hiding [its affirmative action program] behind a veil of secrecy."

Mr. Levey's charge is based on an inaccurate sentence in an earlier RECORD article (3/15/96) that falsely claimed that the Law Review "declined" to discuss our affirmative action policy. We

were quite surprised by that sentence in the RECORD article since we had previously been very open with the RECORD about our affirmative action policy and have subsequently provided it with more extensive details about the history and operations of our affirmative action policy.

Indeed, we have disseminated this information in the past and are quite willing to share it with interested parties in the future. Most

recently, in our information sessions this month that were open to all first-year students, we explained in detail how our voluntary affirmative action policy works and to whom it is applied.

If Mr. Levey (or any other person) is interested in learning more about our affirmative action policy, I would be more than happy to discuss it with him.

David Pantan '97
April 16, 1996

Review Open on Affirmative Action

Curt Levey's attack of law school affirmative action (see RECORD, April 12, 1996, p. 10) is wrong-headed. Law is power — the power to define and administer the norms that govern society. Members of the legal profession are in a unique position to define legal right and wrong for the masses, especially graduates of this school. When members of the bar decide what is "reasonable," engage in the "balancing" of competing interests or "interpret" law, they are not doing anything that requires rare "legal" talent (though some confused professors clearly believe the contrary); rather these actors are merely giving legal weight to their idiosyn-

cracies and moral theories. But in this country no person's moral voice is supposed to be greater than another person's. That is, we abandoned the shameful ideal of inequality rooted in our country's embarrassing past and substituted the moral and legal norm of "one person, one vote." Accordingly, the essence of law school affirmative action is not that "minorities are incapable of competing with whites," as Curt Levey suggests. The message underlying law school affirmative action is that all groups deserve membership in the common enterprise of lawyering. Through affirmative action, we lessen the likelihood that members of the bar and

those governed by its legal rules will be racially separate.

Nonetheless, Curt Levey's larger point — that the Law Review should disclose its affirmative action policy — is correct, but not for the reasons he gives. Although law school affirmative action is virtuous, it can be manipulated and misused like any other policy. Racism is a pervasive problem; it exists among all groups and in all institutions. Accordingly, the Review should fully disclose its policies; closed doors and secrecy only conceal misdeeds.

Ray Bronner '97
April 15, 1996

One Alum's Take on Recent Coverage

I have a couple of quick comments regarding the recent doings in the old hallowed halls (or is it yellowed halls)?

Re: Rees and Zimmerman cartoon strip, dated 3/8/96

Although my memories of the Law School are rapidly leaving me, as I remember it, lo those many years ago, about 99.9 percent of all talking done in class was by men. In fact, some of my fondest memories are of quick dozes taken in Contracts during discussions of perfect market theory. I don't dispute the content of the strip, but the form is all wrong. The figure atop the soapbox/pedestal should most rightly be a lockjawed, self-absorbed male graduate of an Ivy (however, a neurotic, overcompensating state school graduate would also be an accurate bet). I may, of course, be mistaken (because things change so rapidly at Harvard), and the current classes may be overrun by underprepared, overly-confident women who feel it is their god-given right to be heard. After all, it has been almost two years since I was

graduated.

Re: Ron Kasner Scandal
Clearly, this misguided boy merely has a poor sense of direction. He should have taken a LEFT at the Charles to the B-School, not a RIGHT to the Law School. But I'm unclear about something: On the LSAT games section, in the question where Alice, Bob, Carol, Donald, Ethel and Fred are lined up for tickets at a fabulous downtown disco. And if Ethel is standing at the end, but not next to Fred. And Donald and Carol are always standing next to each other. How did Ron get all the members of Lincoln Inn in ahead of A,B,C,D,E and F?

Re: New, More Rigorous Honors Standards

As a graduate, I'd like to share my professional experiences with current and future classes. It seems that everything you are and will be rides upon whether or not you get a magna or cum stamp on your diploma. It affects everything from the attractiveness of your mate to whether or not you will be considered for the Nobel

Peace Prize. Therefore, I highly recommend that everyone stress out over this issue so as to make themselves sick. High school students and undergraduates who are contemplating attending the Law School, start now. It's never too soon to develop any one or more of a number of debilitating diseases: alopecia, anorexia, depression and neurosis come to mind. This advanced level of worrying will be extremely helpful when it comes time to face some other, but less important, of life's trials, i.e. death of a parent or spouse, divorce or job loss. N.B.: Old copies of the RECORD are filled with excellent examples of ways to bug out during school. Use one of these tried and true methods or create one of your own.

Thank you. I feel much better now, and as I am currently working at a large New York City firm, I must go. I have an urgent interview lunch to attend.

Maryann Gatto '94
March 29, 1996

Payroll Tax Reform Can Have An Environmental Dividend

By Stephen B. Land '79 and Phyllis Arnold

What's the biggest tax your company pays? Chances are it's not the income tax. Payroll taxes produce far more revenue. This year, corporations will pay \$146 billion in income taxes, but more than \$218 billion in payroll taxes. And employees will match that corporate contribution with an additional \$218 billion in payroll deductions. Despite these huge numbers, none of the politicians debating tax reform talks about the payroll tax.

At the same time, the debate over regulatory reform pits economic growth against environmental protection, with little hope of solutions that advance both interests. Currently, the tax law promotes the use of raw materials at the expense of labor. Shifting taxes on payroll to taxes on raw materials will help both the economy and the environment.

In many ways, the payroll tax is an ideal way to raise revenue. There are no loopholes, the burden is broadly shared and the public associates it with retirement income. The resulting bipartisan consensus to use the payroll tax to keep Social Security funded has led to an explosion in the payroll tax burden from a maximum of \$288 per employee in 1960 to \$9,363 today. It's created a real problem. The payroll tax makes it costly to hire people.

By contrast, except for a handful of excise and sales taxes, we don't tax raw materials at all. Not surprisingly, the heavy use of resources that our tax laws encourage has environmental consequences we can neither deny nor ignore. Entrepreneur and author Paul Hawken writes that every day we burn fuels that took 10,000 days to make; every day ranchers and farmers draw 20 billion more gallons of water from the ground than rainfall replaces; every year we lose 108 million acres of productive agricultural land to degradation; every 20 minutes we lose one species, which amounts to 74 a day and 27,000 species a year. The list goes on.

Businesses are behaving consistently with our tax policy. For example, beer was once sold mainly in refillable bottles; aluminum cans now predominate. While we have begun to appreciate the environmental effects of this shift,

Stephen B. Land is a partner in the New York law firm of Howard, Darby & Levin and general counsel of Inform Inc. Phyllis Arnold is an attorney and director of research of Inform Inc. Reprinted with permission from the Corporate Legal Times.

there are employment consequences as well: Since 1947, the number of employees in the beer industry has dropped from 82,500 to 32,400. Although there are a number of factors at work here, including recycling, aluminum cans require more electricity and other raw materials but less labor than refillables to produce or to handle once emptied. To the extent the tax law discourages the use of labor in favor of the use of raw materials, it accelerates this type of change.

Downsizing fever has gripped the nation. People are being laid off in droves. To the extent this trend reflects enhanced efficiency, it can be a good thing. But under-use of people and over-use of materials increases the burden on the environment and escalates unemployment and welfare costs. There is no reason for the tax law to promote this trend.

If tax law is part of the problem, then it can be part of the solution. The formula is simple: Lower payroll taxes and raise taxes on raw materials usage and waste. Of course, the public debate today is mainly about taxes on capital: Politicians are proposing capital gains cuts, tax-exempt savings accounts and the like. But people have largely ignored the idea of shifting payroll taxes to taxes on materials, which offers an incentive that both favors labor and reduces our use of resources.

The idea of taxing materials to raise general revenues has never been popular, as shown by the short lives of various proposals for a gasoline or a BTU tax. But a few excise taxes now exist on materials (for example, the gasoline taxes that fill the Highway Trust Fund.) A broader materials or energy tax likely could be politically acceptable if used to finance a payroll tax cut.

A materials tax could cover ores, fossil fuels and forest products. The tax could be applied not only to extraction, but also to disposal or emissions. Environmentalists have been proposing such taxes for years, but with limited success, since nobody wants a new tax. The arguments against a materials tax are familiar: It increases production costs and is borne mainly by the middle class. Yet the same is true of a payroll tax. If we think of shifting taxes rather than raising taxes and use the materials tax to cut the payroll tax, these objections largely disappear.

Making labor cheaper and raw materials more expensive represents a win-win approach: It offers incentives for hiring people over using resources, as well as induc-

ments to change product design and production practices that use materials more efficiently. Today, the high cost of labor makes it cheaper to throw things away rather than to repair them.

Lower labor and higher materials costs will readjust this trade-off, making it cheaper to provide warranty protection and thus encourage the design of products that last.

The Europeans are already getting this point. Many European countries have labor costs that are higher than ours, along with high taxes used to fund more expensive social programs than we have. Their environmental problems are more serious, too, because the population density is higher in Europe than in the United States. The European Commission recently noted that both high unemployment and environmental degradation could be traced to the same source: under-utilization of labor and over-utilization of raw materials. The Commission described the use of materials tax revenues to cut payroll taxes as a "logical and promising option."

This same logic has already been exported to the United States. The President's Council on Sustainable Development, representing industry, government and environmental interests, is reportedly about to recommend increasing taxes on pollution and consumption in exchange for cutting income taxes.

Businesses complain that environmental rules are costly and inefficient. But the interests of economic growth and environmental health need not be locked in a zero-sum game. Shifting taxes from labor to raw materials serves both interests without increasing the overall tax burden. Instead of adding to the rolls of the unemployed and accelerating our depletion of resources, we can keep people working and slow the rate of environmental degradation.

Although a shift from payroll to materials taxes would appear to benefit some industries at the expense of others, companies in every industry can take advantage of tax incentives that discourage overuse of materials, reward reuse and recycling, and encourage job creation. We must change the focus of our innovation, which is closely linked to saving human effort. Future innovation must concentrate on saving materials and resources. Businesses that successfully innovate this way will not only preserve jobs and the environment, but will also gain a competitive edge.

If tax law is part of the problem, then it can be part of the solution.

• Letters Cont. •

CCR Disturbed Over Survey Interference

Many of you have already filled out the "Survey on Diversity at Harvard Law School." The Coalition for Civil Rights thanks you for doing so. Our purpose in administering the survey is to get a reasonably accurate sampling of student opinions on various issues surrounding diversity - class, gender, ideology, race, and sexual orientation - and to promote open dialogue on these issues at HLS. We plan to publish the results in the fall.

Because no student organization's name appears on the survey, some have asked who the sponsor of the survey is. Relying on the methodology commonly used by pollsters and statisticians, we left our name off the survey to prevent skewing of the survey answers. However, we did publicize our sponsorship of the survey in other ways: placing our name on the survey collection box; hanging our banner when tabling at the Hark to pro-

mote the survey; and always telling those who ask that we are the sponsors.

Unfortunately, on Wednesday, April 17, we observed two students attempting to skew the results of the survey by taking multiple blank surveys and filling them out with different colored pens. When we confronted the students, they claimed to be completing the surveys "for their friends" who could not answer the questions for themselves. They argued that a conservative viewpoint could not be represented in the results because of a bias that they perceived in the questions. One of them disingenuously claimed that he was not trying to hide the fact that he was completing multiple copies of the survey because "you can tell it's my handwriting on all of them." The other ripped up a survey, threw it on the floor, and shouted at a CCR member, among other things, "This is a piece of junk!"

We welcome any constructive criticism and commentary about the survey. There is room on the survey for commentary. There is a public forum for dialogue in the Harvard Law RECORD, through poster campaigns and panel discussions, etc. And, any student group can administer its own survey. However, childish and illegitimate tactics designed to sabotage the results of a student poll administered publicly and in good-faith is destructive and results in wasted time and energy. Such covert scheming does not contribute to rational discourse on matters of controversy.

We hope that those of you who have not had the opportunity to complete the "Diversity Survey" will take the time to do so next week.

Sonia Banerji '98
Lina Han '97
Rudy Reyes '98
Hilary Ware '97
Coalition for Civil Rights
April 17, 1996

Smoking Lounge Article Appreciated

The Law School employees and students who, especially in bad weather, rely upon the school's only smoking lounge, thank the RECORD for reporting (March 8) our view of the school's plan to close - and not reopen - this lounge. We thank the RECORD also for

supporting our request that there be a replacement lounge.

Administrative Dean Coleman has respectfully heard our request, and we have submitted to her ideas of a possible location for a replacement lounge. We are grateful to the many employ-

ees, students, and faculty who have encouraged us and signed our petition.

Stephen Helfer, ILS
Jason Kim '98
Paula Isola '97
Kathy McPherson, LILC
Athena D. Mutua, LILC
Julia Brown '96

Corrections

In a page 3 article on March 8, the RECORD incorrectly identified Judge A. Wallace Tashima '61 as the first Asian Pacific American HLS graduate to be appointed to the Ninth Circuit Court of Appeals. Judge Herbert Y. C. Choy '41 actually was the first appointee to that court.

Also, in a page 1 article on April 12, the RECORD stated that 32 editors of the Harvard Law Review will be chosen based on their grades and/or performance on the writing competition.

Under the new selection process, 22 editors will be chosen based on the competition, 12 will be picked

based on grades and the competition, and eight will be selected on a discretionary basis where race-based affirmative action policies may play a factor. The total number of Review editors chosen will be 42.

The RECORD apologizes for any confusion this may have caused.

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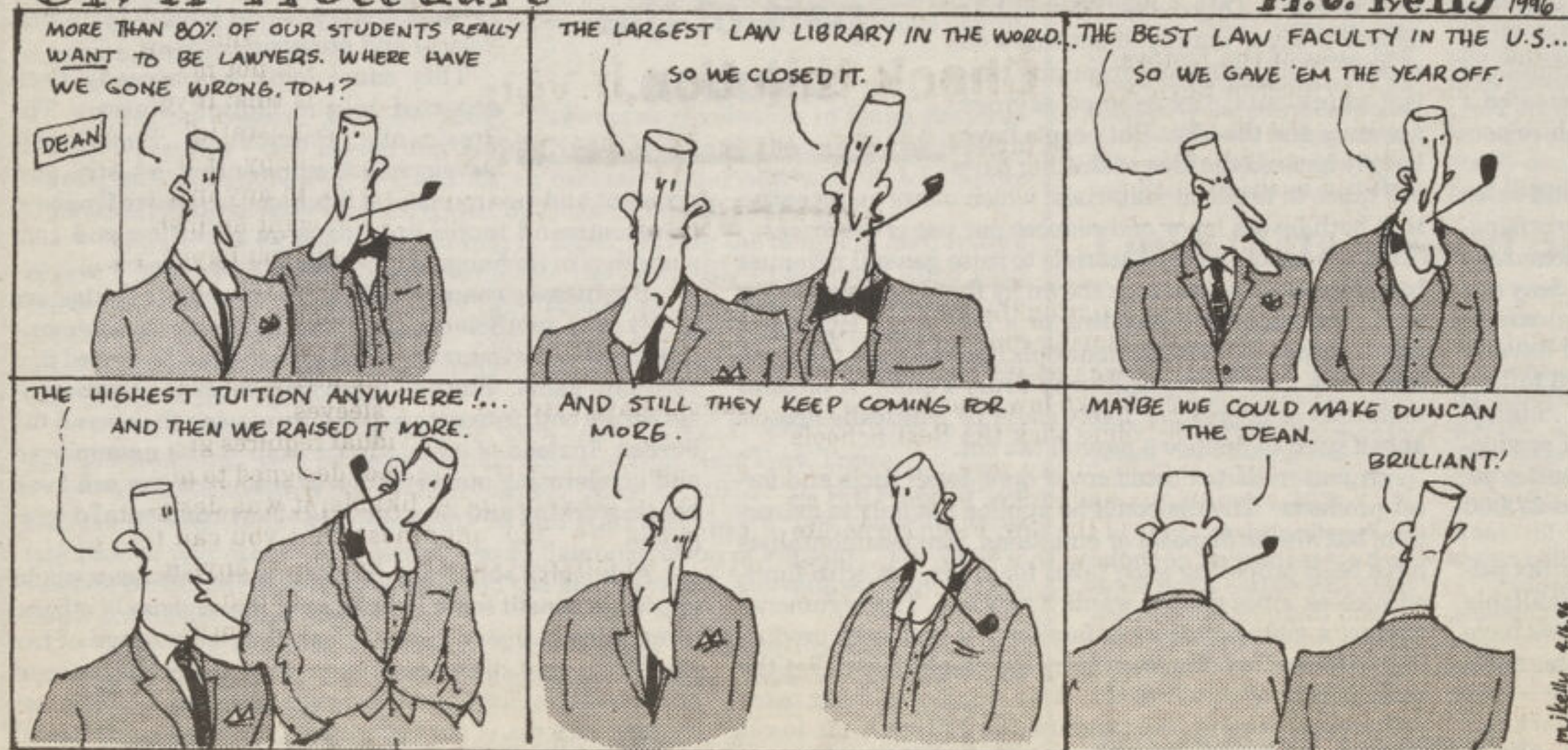
Temporary Insanity

By Sheila Tuller



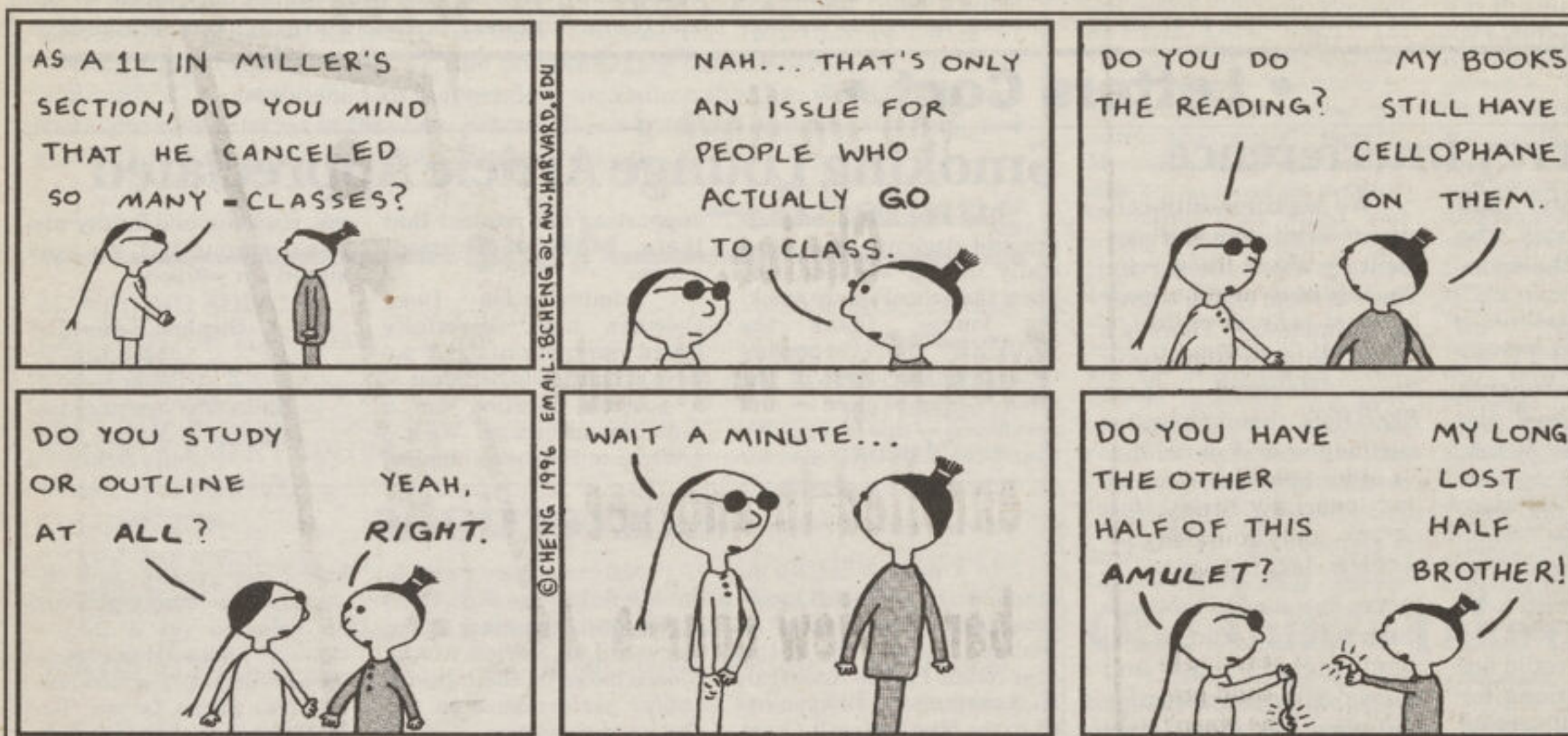
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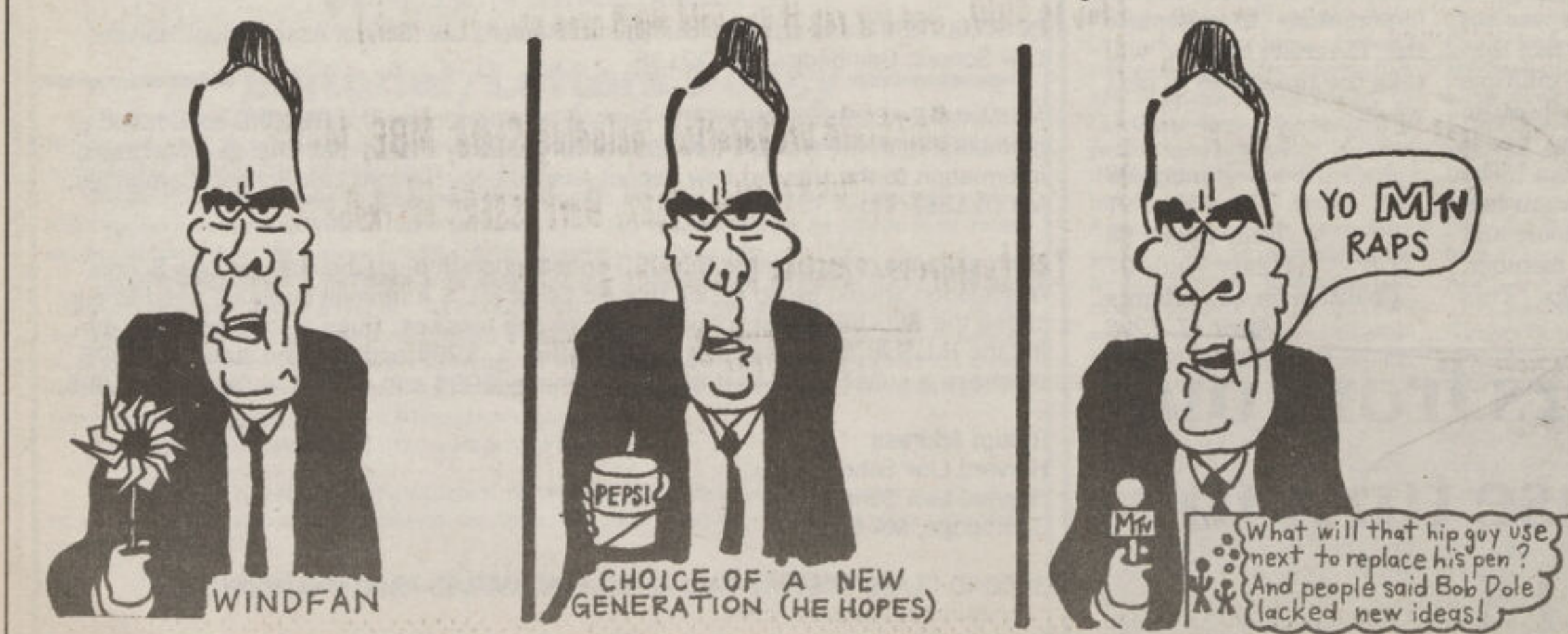
By Brian Cheng



Ad Hominem

By Stuart Rees and Bill Zimmerman

How BOB DOLE SHOULD GAIN THE INTEREST OF YOUNG VOTERS



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The Pursuit of Happiness

By Markus Hartmann '96

Last October, the National Law Journal reported that "Itlwo years ago, Shara L. Gray, a graduate of Auburn University, got the news that thousands of young people dream about: She was accepted to Harvard Law School." Ms. Gray subsequently decided to leave us.

We will be forever deprived of the pleasure of her company. During orientation, before she had taken even one class, she decided to withdraw. She is quoted saying, "I didn't want to pay \$100,000 for the privilege of having three years of misery." Currently at Washington and Lee University School of Law, she is reported to be "ecstatic."

Well, Shara, you weren't missed. In fact, it is probably better for everyone that you are happy where you are and not here. As for the "privilege of having three years of misery," we are all doing the best that we can as we lament the fact that HLS is not the Semester at Sea. Had Shara decided to complete her sentence here, she no doubt would have been one of the sniveling whiners who answered the student satisfaction survey jointly conducted by the Princeton Review and the National Jurist. (My apologies to the folks who gave HLS good marks, but you were obviously outnumbered by the whiners.) Shara's new school was ranked first in the nation for student satisfaction in a survey of 18,000 students at 165 law schools. HLS was ranked 154th.

If you are one of the people who is truly dissatisfied, it's not too late. Unless you are a 3L (check this box if you expect to graduate this semester), you can still transfer. Looking at the numbers, if you are here, you have an excellent shot at getting accepted at Washington and Lee. By transferring, you can join Shara, who is saving a grand total of about \$5,000 per year; Washington and Lee's tuition is about \$14,800. In 1993, the median starting salary for a graduate from Washington and Lee was approximately \$46,000. Ms. Gray saved \$15,000 in tuition and took a



projected \$24,000 pay cut. You, too, can join Shara and pay a mere \$85,000, while foregoing \$24,000, for the privilege of being at the nation's cuddly-wuddly law school for three years of fun.

Shara's story was included in the National Law Journal piece to bolster the findings of the latest entry to the law school ranking game. The methodology of these various surveys is a little suspicious. Looking at the variables used to rank the law schools, HLS seems to get the short end of the stick because of its size. Of all the criticisms, there may be a kernel of truth to the size problem. The best experience I have had here occurred in my 1L small section. Contracts with Prof. Frug in a small section was worth the year's tuition. He even took the time to give us a practice exam question halfway through the semester. Believe it or not, he actually read our initial attempts at answering exams and returned them with useful comments. The school can address the issue if it wants to add more small 1L sections would certainly help relieve some of the "misery."

The rest of the factors used by Princeton Review and the National Jurist seem to be rigged to knock HLS off its position at the top of the mountain. U.S. News and World Report has also done some adjust-

ing with an eye toward dethroning the king. The U.S. News 1991 ranking had a glaring contradiction. Yale was ranked #1 and HLS was at its customary #2. Next to the ranking of the top 25 law schools were two subcategories: "Legal Scholars Pick the Best Schools by Specialty" and "Top picks of Lawyers and Judges." The legal scholars, lawyers and judges picked HLS as #1 in eight out of ten areas of the law. From corporate law to public interest, people with a little more legal experience and some distance from the law school experience ranked HLS as #1.

By 1994, U.S. News realized how silly it looked having so many knowledgeable people rank HLS as #1 while it consistently ranked them #2. Rather than adjusting HLS' position, the folks at U.S. News opted to change the subcategories that appear next to the top 25 ranking. Of the 10 subcategories listed in 1991 (dominated by HLS), only two survived until 1994. You can rest assured that it was merely a coincidence that the two surviving categories were the ones that HLS was not ranked #1 in. So much for the objectivity of the U.S. News survey.

Looking at these surveys, one wonders if they were not commissioned by disgruntled lawyers and law students who didn't get the "It-gives-me-great-pleasure-to-report..." letters from Joyce P. Curll. You can sympathize with these folks; with a 10.9 percent acceptance rate, HLS is bound to create a lot of shoulder-mounted chips. Rejection, in love or at the law school door, is never pleasant. What is much harder to understand is how the surveyors are able to target the near suicidal HLS students for their stupid questions.

All that can be said to the folks who find that HLS does not make them happy is this: If you want to be "ecstatic" or just plain happy, it is unwise to look to any institution. If you want an institution to make you happy, I suggest that you have a long

talk with Dr. Alan Stone. Dr. Stone is well acquainted with institutions that can make you happy. Unfortunately, the appropriate attire for these institutions have extremely long sleeves.

Happiness for any individual requires great effort and maintenance. HLS was not designed to make you happy, or secure or even likable; it was designed to teach the law. The happiness that you can find at HLS is no different than the happiness envisioned by Jefferson in the Declaration of Independence: You have the right to pursue it; it is not an entitlement.

Check this box if you expect to graduate this semester



Fenno awakened with a start. He had only half an hour before class. This in itself would not normally be a problem, but he was on panel today. This too would not normally present any sort of problem, but things had changed around Harvard Law School in recent months — the class for which Fenno was late was called "Mixed Drinks and the Law," and the teacher was none other than Mr. F. Lee Bailey, the newly installed Ernest and Julio Gallo Professor of Law.

Needless to say, Fenno wanted to impress this rotund bacchic divinity of inebriated jurisprudence. This would require some advanced preparation. So, quick as a bunny, Fenno leapt out of bed, threw on his clothes, and blew his Farrah Fawcett poster — recently renamed the "Dickstein Shapiro Farrah Fawcett Poster" — a heartfelt kiss. He ran out of his room, down the stairs of Artist Formerly Known as Prince Hall, and out onto the Nike "Just Do It" Memorial Quad, right past the Jones Intercable World Tree.

As the Depends Undergarments Law Library had not yet reopened due to the necessity of inconveniencing as many students as possible for the longest period of time during renovations, Fenno knew that his pre-class research would have to be conducted on that CB radio of the nineties, the internet. So down Fenno ran, into the Charlie "Moonglow" Nesson computer lab in the basement of Arthur R. Miller Hall. (Fenno had a good idea where the latter had gotten the money to pay for the building's name, but hadn't a clue as to where ol' Charlie had gotten the scratch together — that is, until he saw a notice in the Texaco HLS Adviser that Winter Term Evidence had been renamed "Carnival Cruise Funtime.")

Fenno quickly took a seat in front of the nearest computer terminal, recently renamed as a memorial to Bill Gates' newly deceased chihuahua, and logged on

to the Microsoft Internet. Paying only scant attention to the phone sex ads on the Law School's home page, Fenno quickly did his needed research for the class — "In fact, it was once illegal to drink in a law school classroom. Then the Adolph Coors company bought out Lexis/Nexis, and all Hell broke loose" — and looked at his watch. One minute to get to class.

Fenno quickly stood up, and ran down the halls of the Cravath, Swain, and Moore tunnels (its slogan: "get used to dimly lighted places full of miserable young people regretting their ambition, kiddies"), ignored the Public Interest beggars in his way, and finally arrived in Steven Spielberg's Austin Hall of Wonders, and quickly made his way to the Must See TV classroom. He took his place in seat 121, now known as Harrison LeFrak chair of Unctuous Law Study, just in time for the grotesquely rounded professor in the front of the class to beamingly call his name.

"Mr. Fenno?"

Fenno awakened with a start. He was still being called on by a rotund professor, but it was Larry Tribe, he wasn't beaming, and he apparently wasn't for sale. Well, not to just anyone, anyway. He had simply fallen asleep in class. It had all been a crazy, crazy dream. This made sense, of course — in his mad reverie, he had imagined buildings named after non-Whites who weren't fabulously wealthy alums. Impossible!

Quote of the Week

"The rest of you have joined the Rhett Butler School of Jurisprudence."

—Prof. Todd Rakoff '75 in response to meager participation in his Ad law class.

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S.J.D. Students Upset

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contact with the students.

"Dean Clark's participation is extremely limited," said Robert Chu '93, S.J.D. '96. "I have never heard him speak substantively about the content of the program, social events aside.

"One of the things students were most disappointed with is that Dean Clark never showed up during the first week of orientation for LL.M. students," said Chu.

"There is a S.J.D. colloquium held every week which all S.J.D. students attend — Dean Clark has never come to one of them," said Gross.

"Their feeling is that this change will indicate a shift in vision of S.J.D. program at HLS," said Jorge Esquirol, academic affairs director of the Graduate Program, in explaining the nature of the students' anxieties.

"When they came to HLS, they believed in the vision framed for the program and articulated by Kennedy — that this is a terminal degree for law teaching and is supported by a range of academic programs," he said.

"If Dean Clark's only motive was rotation, then there is no need for the rush to do it," said John

Ohnesorge S.J.D. '99 in agreement. "We want the reputation of the program preserved and enhanced; it affects our job prospects."

"We take very seriously the nature of the program we have," said Kerry Rittich S.J.D. '98. "That is why the lack of transparency is so disturbing. Programs take their form in large part due to the vision of the director. You can't expect to change the director and not change the nature of the program."

According to Esquirol, Clark's decision came at a very surprising time because of strong faculty and student support for Kennedy's administration of the program.

"This took us at an very awkward moment. Reform for the program started in 1991. David has been instrumental in leading and articulating the vision for this program. He has devoted a lot of time and energy in making the S.J.D. program more like the Ph.D. programs in other departments," said Esquirol.

"A visiting committee, consisting of alumni who audit selected programs each year, reviewed the Graduate Program and gave very positive feedback a week before Dean Clark's decision. Reports from the Strategic Planning Committee were also very supportive. This is what's so surprising about the decision," he said.

Kennedy was appointed chair of the Graduate Program in 1991. According to sources close to Kennedy, he received a

call from Clark on March 4 requesting a meeting. At the meeting, Kennedy was told to step down, effective July 1, 1996.

Widespread faculty dissension regarding Clark's dismissal of Kennedy ensued. According to some faculty sources, a letter written by three professors and signed by 30 professors was sent to Clark protesting the manner in which he handled the situation and requesting him to back off from his decision. Despite much negotiation between faculty members and Clark, only a partial compromise was reached on March 22. This compromise entailed Kennedy acting as the chair for an additional year, until July 1, 1997, in order to facilitate the transition.

"I am indeed sorry not to be able to continue with the Graduate Program," said Kennedy in response to Clark's decision. "Over the past weeks, it has meant a great deal that so many colleagues and students, across such a wide spectrum, have valued what I, along with the Committee and staff, have been trying to do in the graduate program."

Although Clark has failed to make any official announcement since the March 22 compromise, reports indicate that it is widely understood by faculty and students that Kennedy will be replaced by co-chairs,

Prof. Ann-Marie Slaughter '85 and Joseph Weiler '65. Slaughter was unwilling to confirm or deny this news, while Weiler was unavailable for comment.

One source suggested that Kennedy's dismissal was not due to Clark's criticism of the way he was running the program. Rather, Clark did not want a faculty member to become identified with a program for too long a period. This source felt Clark wanted to convey to faculty members his broad discretion over hiring and firing.

The same source commented that Clark's insistence on his authority to arbitrarily appoint and remove people from administrative posts has aroused a lot of uneasiness among the faculty.

Although most people know that Clark has complete discretion in administrative appointments and that there are no formal set of guidelines for these matters, some faculty members commented that the established assumption was that if the faculty member was doing his job well and if he had the support of the faculty, he would keep his post. Otherwise, they claimed, there would be no incentive to spend a vast amount of energy building up a program.

Both graduate students and some faculty members agree that to end all the speculation, Clark should make a public announcement explaining his decision.

Clark was unavailable for comment on Monday and was out of town Tuesday and Wednesday.

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Clark Addresses Alumni

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"Harvard Law School has a spectacular reputation in the world. The legal education system is different here — it's much more interdisciplinary and there is much more interaction pedagogically. So a U.S. legal education is something we can offer to the world ... Harvard Law School is in a unique position to do that," he said.

Possible ways to implement that vision, Clark added, is to expand the graduate program, create a two-year J.D. program for international students, admit more LL.M.s, and/or hire more international law faculty.

Clark also reported to the alumni association that HLS:

- spent 25 percent more — \$5 million vs. \$4 million — on scholarship aid than the previous year;

- was looking for a contributor to establish a professorship in the legal profession;

- had begun the \$33 million Langdell renovation project, which will close down the library for a year after the June commencement.

In other business, alumni officers also voted to approve Charles Brock '67 to succeed Charlotte Armstrong '53 as president of the Harvard Law School Association.

Of Bulldozers and Butterflies

Law and Nudity

By Alexander Boldizar '98

RECORD Columnist



THIS is a column about my ass, so if you are faint of heart, please stop now. I realize that my rear end is not an inherently interesting object of discussion, but it does have significant repercussions on the law, and on Harvard Law School.

Some time ago an unsigned notice appeared on my all-male Gropius bathroom door, expressing the anonymous author's disgust at those of us who towel off outside the shower stalls, thus exposing the unfortunate author to the occasional glimpse of our bare buns. It finished with an imperative saying "thou shalt make thy buns unseen and towel-wrapped, whils thou art in the bathroom!"

I have spent much time thinking about this anonymous note, because it reflects certain gaps in our legal education here at HLS. We learn all about Legal History, Law and Economics, even Psychology and the Law, but we are lacking that most essential of theoretical legal tools, Law and Nudity.

The elements of Law and Nudity already exist within the law, as do the requisite Latin tags, for example the *nuda proprietas* in international law. Legal theorists argue about the *nuda*, the bare essence of the Law, but clothed as they are, they can see nothing but the external manifestations of this essence. They are like the peeping-tom overdressed Englishman who believes he can understand sex by watching it. He may learn the technical moves, but he will never be able to exclaim "*coito ergo sum!*"

If you wish to understand the *nuda*, the source which generates the Law, forget ontology, sociology, psychology and their never-lacking explanations, and take your clothes off. One compulsory class in Law and Nudity during the 1L year would go far toward improving the legal profession. It would narrow the distance between us and reality, between us and our neighbors. It would significantly decrease many lawyers' arrogance. And it would certainly improve Harvard's quality of life, currently ranked at #167 by the National Jurist.

Naked and vulnerable, stripped of our lies and abstract arguments, we would feel a pressure to add substance to an increasingly procedural Constitution. Rather than abstractly arguing over line-drawing to determine the precise definition of 'liberty' in the 5th and 14th Amendments, we would intuit the meaning through our nakedness. The word "liberty" can be flipped, flopped, twisted, and manipulated like a smelly sock that fits either foot, but that does not mean that there isn't something important and undisrobable under that label. But because

One compulsory class in Law and Nudity during the 1L year would go far towards improving the legal profession.

we live in a society of clothing, of surface, we focus analytically on the word "liberty" and not on the nude and beautiful essence of liberty which can only be understood in the same way a beautiful body can. Instead of using our minds to analyze precisely which curves make it beautiful and instead of attempting to clothe it in ugly interpretations, as students of Law and Nudity we would appreciate the Constitution with our bodies, as a beautiful body.

Naked and honest, we would understand both the fear of the victim and the 'primitive' passions of the criminal without artificially categorizing these positions and without pretending that certain vital aspects of human existence are unworthy of our attention. They may be at the source of what it is that drives societies to create laws.

If you ever look up "sewers" in the Encyclopedia Acephalica, you will come to the sentence, "Luckily insanity, torture and war maintain the complexity of a world in which sh*t is as indispensable as roses." This complexity, however, could be maintained with much less insanity, torture or war if everyone, especially lawyers, were naked. Without nudity, wars, insanity and torture periodically correct the imbalance between mind and body which society creates through an artificial puritanism and a denial of the body. But whereas war, torture and insanity merely swing the pendulum to the other extreme of no mind and pure passion, nudity melds the extremes into an identity. Nudity, like poetry, has presence, shock and intimate brightness. Like poetry, it disrobes the lies; it makes people, even lawyers, human. As Bismarck once said, "I have seen three emperors in their nakedness, and the sight was not inspiring."

The intimacy of nakedness makes each individual stand out as an individual entity. This is not an intimacy of sexuality but an intimacy of responsibility. You can no longer hide in the crowd or behind your clothes, you can no longer leave anonymous notes on the door, not because of rules backed by coercion, but because you do not have the luxury of cloth to separate you from your acts, your words or the consequences to others. So you take responsibility as an individual. You can no longer separate yourself from either the vulnerability or the 'primitive' passions that are equally an inherent part of the human condition, and which are the source of our laws. Whether this new theory of law comes to be considered natural law or legal realism is irrelevant, for the labels would fall off with the clothes.

It may not be realistic to expect an entire society to run around naked, especially not in winter. But as future lawyers and law-makers, we are fooling ourselves if we believe we can understand how a complex system like society functions without taking our clothes off. As chaos theory has shown, complex systems cannot be dressed in simple analytic formulas and thus understood intellectually. They can be intuited through the body, but not a body separated from reality by an armored suit of clothes. Thus, we must petition the administration to include clinical courses on Law and Nudity if we are to truly learn the law.

So, to the anonymous Puritan on my floor, I say that my buns are promoting world peace, they are giving meaning to the United States Constitution, and they represent new hope for a theoretical understanding of the sources of law. If despite all this they still bother you, well, you can always look the other way.



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Drivers wanted. 

• Letters Cont. •

D.S.A.C. Advertising Homophobic

Last Friday, the Dormitory and Student Affairs Council (D.S.A.C.) put on its Spring Semi-Formal Event. When I saw the initial advertisement — an image of a man and woman dancing — I wondered, “Am I (as a gay man) invited?” I explained my concerns to Jeff Karish, D.S.A.C. president. My 1L year, there was a poster advertising the same event with the same heterosexual image. A student responded by placing a same-sex image near the poster with the sign, “Are we invited too?” I was disturbed that the same heterosexual image had been used again. In addition, I noted that the 3L Class Committee had already apologized this year for advertising a 3L Dating Game as a heterosexual event (adding quite belatedly that “of course, everyone is invited.”)

Mr. Karish asked me if I had “actually” felt excluded by the heterosexual image. I asked him to imagine three posters — one with a heterosexual couple; a second without a couple; and a third with several images (including different and same sex couples). I explained that the latter two posters felt more inviting than the heterosexual couple poster. To make the point more clear, what if DSAC had chosen a same-sex couple for its initial poster? Would a heterosexual make any assumptions about the event from the same-sex image? He agreed that heterosexuals might feel excluded or at least draw an inference about the event. He added, however, that heterosexuals might take notice precisely because such a poster would be unusual (i.e., heterosexuality is the “norm”).

Still, if there are more heterosexuals, why shouldn't a poster reflect this fact? Isn't heterosexuality the “norm” in a statistical (if not normative) sense? Perhaps if we treated sexual identity as just another characteristic like left-handedness or eye color, no harm would be done. However, I don't think many of us can honestly claim that we fail to notice or care about sexual identity — either the queer person staring at the heterosexual couple or the heterosexual person staring at the queer couple. “Norm” is normative

for the queer person, who is assumed to be heterosexual and for whom coming out as “not heterosexual” is fraught with real-life risks. I imagine that many persons (gay and straight) may have thought nothing of the poster. I felt embarrassment and discomfort. I felt embarrassed by the poster's presumption of heterosexuality because I am not heterosexual. Imagine receiving an invitation to a party that's mistakenly addressed to a different person — how invited do you feel?

Now imagine that your boss or best friend sent the invitation and has been mistakenly calling you this name for years — how comfortable are you correcting this person, especially if your boss may fire you, your friend may disavow your friendship, and the invitation is consequently rescinded? It makes a difference that people (or posters) get names right. In my experience, the Law School has not been welcoming for queer students. While some students and faculty express a general support for gay and lesbian rights, many fewer wear pink and black triangles of support, are open about their sexual identities or are vocal in their support for persons of all sexual identities. More frequent is the presumption of heterosexuality (QUESTION: “How old will I be when I get married?” ANSWER: “I'm hoping not much longer.”) Most disturbingly, Lambda fliers have been torn down and defaced several times this year. For students concerned with being open about their sexual identities, any sign of support or simple affirmation is a welcome relief from the “norm.”

What can DSAC do? (1) Examine its advertisements and ask, “Am I excluding anyone?” I hope DSAC will reach out to individuals of all genders, sexual identities, races, ethnicities, religions, and more. Mr. Karish's statement that Asians might have felt excluded by the image or that Orthodox Jews might have felt excluded because of the night of the event (i.e., you're not the only ones excluded) seems hardly a defense. If DSAC can anticipate exclusion, DSAC should make posters with a diversity of images, announce-

ments to a host of organizations, and consult with a variety of persons on how to be more inclusive. It's an issue that Lambda still struggles with but an endeavor worth making. If DSAC chooses not to take the time, at least be clear that the event is not for everyone. (2) If complaints are received, take action. Do not simply reply that other posters for the event are free of heterosexual imagery or that the fine print states “all are invited.” After all, if DSAC had mistakenly printed only posters with a same-sex couple, I doubt that those who felt excluded by the same-sex image would have felt re-invited by seeing a new poster with a pair of dice next to the same-sex posters.

Currently, heterosexuals get two invitations (the text and image on the poster) while non-heterosexuals get one questionable invitation (the text notwithstanding the image) — unless queers realize that of course we're invited. But I don't take this for granted, given the number of defaced Lambda fliers, the objections Lambda has had to make to homophobic speakers and heterocentric fliers, and the overwhelming presumption of heterosexuality. It's hard not to dwell on the irony.

After all, April is BGLAD (Bisexual, Gay, Lesbian, Awareness Days) month, and the same issue arose two years ago for the same event sponsored by the same organization. I'm furthermore angered that Mr. Karish questioned whether my concerns were “real.” I'm willing to discuss how DSAC or Lambda fliers can be more inclusive; I'm more reluctant to explain how the presumption of heterosexuality could be experienced as exclusionary. In the end, I hope DSAC gives this issue some more thought. I also hope that students concerned about being “out” at events or at the law school generally realize that while the law school may not always be welcoming, that doesn't mean you're not welcome or entitled to be here. Whether others like it or not, you're invited too.

Phil Hwang '96
April 16, 1996

D.S.A.C. Event Not Meant to Exclude

I have recently received complaints regarding the advertising for the Spring Semi-Formal. One of our five posters advertising the event and the available prizes contained a silhouette graphic of a man and a woman dancing. This poster was described to myself and DSAC as a “heterocentric” and “homosexually exclusive” image. Most disturbingly, one person wrote me e-mail to explain that he chose not to attend because he felt that, as a gay man, he was not invited; nothing could be more antithetical to the desires and goals of myself

and DSAC. We have just taken up our new positions and firmly believe that we have the fortune of running one of the few campus groups completely dedicated to serving every member of the Harvard Law School community.

DSAC's purpose is to make Harvard a friendlier and more social place for all people, of any sexual orientation, race, religion, gender, etc. DSAC did not intend to exclude anyone, and I sincerely regret that one of our posters was open to that interpretation. DSAC's intentions were to advertise the “Monte-

Carlo”-esque gambling/dancing theme as noticeably as possible — at the time a “dancers” clip-art image seemed to be appropriate as one of our poster designs, as we thought were our other posters with only dice graphics, money graphics and a boat graphic. All DSAC events have always been, are, and always will be, open to all members of the Law School community, and everyone is encouraged to attend.

Jeffrey Karish '98
D.S.A.C. President
April 16, 1996

Saying No to the War on Drugs

By Sharon Dolovich '98

Guest Columnist



No American president has ever really been a friend of narcotics, but candidate George Bush was the first to declare an all-out war on drugs. This seemed an odd target for a nation still showing signs of post-Vietnam trauma, since as Bush must have known, drugs and their advocates had too much at stake to capitulate at the first show of U.S. military strength. But the Cold War had just about been won, Saddam was still our friend, and the Pentagon was running out of small Central American nations to invade. So what's a presidential candidate to do?

Bush's attention eventually wandered to the Persian Gulf, where he set about waging a kinder, gentler war. But by then, with the way well prepared by the passionate anti-drug rhetoric of the (Nancy) Reagan years, the war on drugs was progressing nicely on its own.

By now, the war on drugs has become a national habit. This is a habit we need to kick, however, because waging war against drugs is not the solution. It is the problem. The adoption of a supply-obsessed, militaristic stance against drugs has been the surest way to create the very elements of the crisis it claims to remedy. It is also the single biggest obstacle to developing a healthy, far-sighted plan for addressing the real problem: demand.

The question of why people use narcotics is a complicated one, tied in with conditions of poverty, un- and under-employment, illiteracy, capital flight, a growing wage gap and general despair. But instead of addressing the causes directly, we have chosen to demonize the substances themselves and to moralize the issue to the point where no politician can risk deviating from the party line for fear of having his or her own character besmirched.

The moral consensus on drugs is familiar. Drugs are evil. Drugs stand against everything Americans hold dear. Drugs destroy families, communities, individual health. They also reduce productivity, hook the most vulnerable, corrupt youth, waste

Although it is easy to forget, it wasn't so long ago that alcohol was the target of moralizing politicians and law enforcement officials for much the same reasons drugs are today.

lives. Keeping America safe, so goes the refrain, means keeping it drug-free.

From here, it is only a short step to the position from which no anti-drug measure is too draconian: those who traffic in drugs are evil. They must be stopped, whatever the cost.

There is no question that the presence of drugs in America's communities brings a litany of horrors: police shot by drug dealers; suspects shot by police, accidentally or on purpose; innocent bystanders caught in the crossfire; communities like Chicago's Cabrini Green held hostage by drug gangs fighting for control of territory; police corruption; addicts turning to crime to support their habits; significant chunks of whole communities behind bars.

Yet one need be no friend of cold-blooded murderers or people who get 8-year olds hooked on crack to raise the question of cause and effect. For it seems that the greatest evils of drug trafficking — the violence, the corruption, the underground economy, not to mention the increased police powers and concomitant erosion of our constitutional rights and freedoms — stem not from drugs, but from their illegality.

Put simply, it is hard to see how drugs themselves are the culprit. Yes, some addicts steal to get drugs. But drugs are so expensive because they are illegal. Yes, gangs protect their turf with guns. But lest we forget, they are fighting for control of a lucrative black market. Seagram's, Labatt's and Bacardi all manage to conduct a brisk trade sans guns or artillery, and the legality of alcohol is the likely cause of their success.

Drugs, like alcohol, are a fact of life we all need to learn to manage. Americans, politicians and citizens alike, must make peace with this reality. We need less demonizing, less overzealous law-making and more willingness to teach our kids (and ourselves) to relate responsibly to the presence and temptation of drugs.

Although it is easy to forget, it wasn't so long ago that alcohol was the target of moralizing politicians and law enforcement officials for much the same reasons drugs are today. Yet the first Prohibition era now seems utterly misguided as a public response to the existence of intoxicants. True, we know that people hooked on alcohol can do horrible things to themselves, to their families and to total strangers. But we consider this insufficient reason to criminalize the manufacture, transport, sale or consumption of alcohol. Instead, as a society, we strive to teach and learn mature attitudes to the use of alcohol while wisely reserving contempt and severe criminal sanctions for those who kill, abuse or otherwise do harm while under its influence.

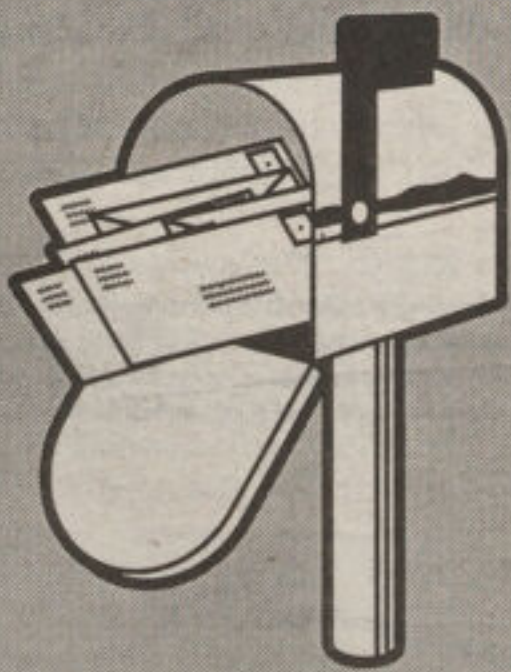
As a society, we also regulate alcohol, heavily. Every stage in the process, from the production of alcohol to its ingestion by consumers, is controlled by the government. There is no reason we could not do the same for drugs. Government regulation of narcotics could limit access, ensure quality control, stabilize prices, shrink (if not eliminate) the black market and generate tax revenues to fund educational and other programs aimed at reducing demand.

Such regulation might well raise the ire of those persuaded by the presently fashionable less-is-more approach to government. But as is clear from the seemingly endless powers enjoyed by the D.E.A. and other agencies charged with enforcing our current drug-war policies, the choice we now face is not between individual freedom and the tyranny of government intervention. It is rather between endorsing unchecked governmental discretion to harass, arrest and incarcerate, and effecting a reasoned response to a serious but not unbeatable problem.

The choice should be an easy one. But given the widespread belief that drugs are the enemy of free people everywhere, and the fact that Clinton just appointed as “drug czar” a Pentagon general with a chest full of medals, it will likely be some time before Americans learn to say no to the war on drugs.

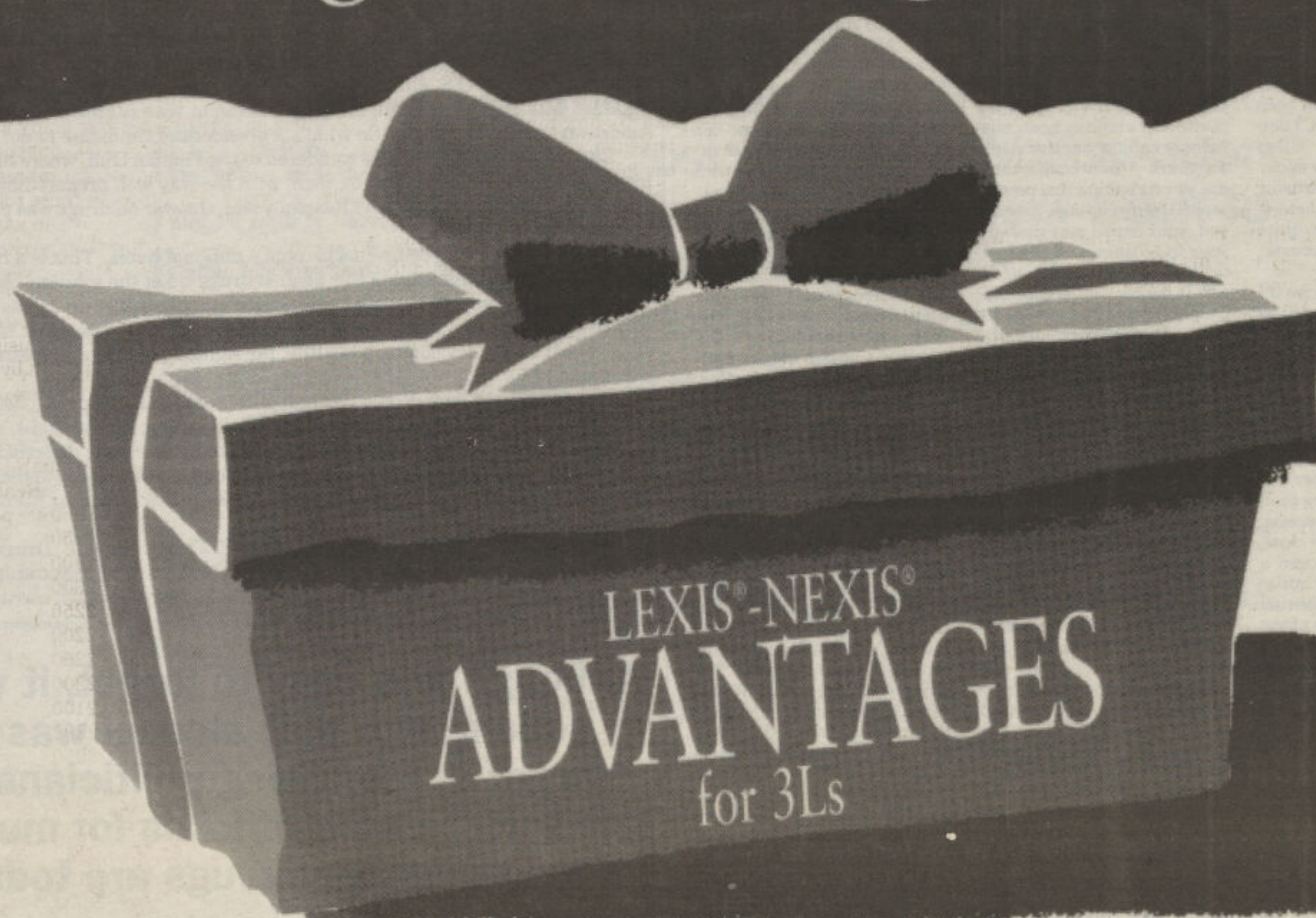
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The Verdict

Yah, Sure, Good Movies

By Michael Bennett '98
Movie Reviewer



FARGO (1996)

Adding a healthy dose of directorial and cinematographic sophistication to the blossoming "Dumb and Dumber" genre of film, Joel and Ethan Coen have spawned a gem in their new movie "Fargo". Sticking to their traditional strategy used in previous films, like "Miller's Crossing" (1990) and "The Hudsucker Proxy" (1994), Joel directs, Ethan produces, and they share the writing credit. Despite this tag team approach, the movie is extremely well made and shows no sign of a stylistic tug-of-war. As for the writing, the brothers have put together some very fluent dialogue.

Accent has often been key to Cohen characters—see Jennifer Jason Lee's portrayal in "The Hudsucker Proxy" and John Turturro's work in "Miller's Crossing." But this time, the duo has reached a new level that could be considered over the top. The story is based in Minnesota and in an attempt to remain true to that state's cultural flavor, almost every character speaks with a Scandinavian accent and ends every other sentence with the word "yah." Initially, this is extremely disturbing and tends to make everyone sound very silly, but eventually it adds a layer of reality that too many films lack. A perfect example is Kevin Costner wobbling back and forth between a poor facsimile of an English accent and his natural drawl in "Robin Hood: Prince of Thieves" (1991). Combining this slice of local color with the generally low mental capacities of most of the characters creates a comic atmosphere that, alone, would not have made a very interesting work. But when combined with a sinister plot and several devilish characters, the film ascends to a much higher level.

The story initially revolves around Jerry Lundegaard (W. H. Macy), a simple-minded car salesman who's down on his luck and so decides to engineer his wife's abduction in order to get money out of her rich and stingy father. Jerry hires two hoods (Steve Buscemi and Peter Stormare) to do the dirty work. The collective intelligence of the kidnappers is only slightly greater than that of Jerry, so things go awry immediately. When the 'nappers start to leave bodies at the roadside (literally), local Police Chief Marge Gunderson (Frances McDormand) intervenes to help solve the murders. Despite her inept law enforcement sidekick and the seven-month old fetus growing inside her, Margie methodically unpacks the scheme gone bad. Her character is by far the most intelligent person in the entire film.

For every moment that makes the viewer laugh out loud, there are several that are fantastically scary. During one particularly masterful scene, the soon-to-be snatched wife watches as one of the kidnappers is prowling around her glass door for an entrance opportunity. It's so ridiculous that it's funny, that is, until the intruder finally smashes the door. Immediately, the viewer is whisked from the equivalent of an SNL skit to the shower scene in "Psycho" (1960). The Coens are grand manipulators and make no apologies for toying with the viewer's mind.

Rating: 

At the Kendall Square for "at least two more weeks."

CHUNGKING EXPRESS (1996)

Wong Kar-Wai's "Chungking Express" begins with the story of a heart-broken police officer (Takeshi Kaneshiro) whose only identifier is badge number 223. It's been a month since his girlfriend left him, and 223's got a serious case of the blues. Since he was born on May 1st, his ex-girlfriend's name is May and she loves pineapple, he figures that by eating canned pineapple with a May expiration date he will make his love return.

During his nightly excursions into the Chungking Mansions district of Hong Kong, 223 comes within .001 cm of a sunglasses-wearing, trenchcoated woman (Brigitte Lin) wearing a blonde wig. He assures the audience that he will fall in love with her in 57 hours. Unbeknownst to 223, the blonde woman is masterminding a drug smuggling deal with a small army of Indians from the Mansions district. From this point on, the movie fractures itself between 223's bleeding heart and the wig's desperate attempts to gain the return of her drugs after her plans go afoul.

Roughly halfway through the moving picture, the main characters exit stage right and the viewer is introduced to a couple of new focal points: Faye (Faye Wang), a young woman working at the Midnight Express, a street side restaurant; and a new policeman, number 633 (Tony Leung). Just like the last copper, 633 is dumped by his girlfriend, a United Airlines stewardess, but he's a bit more stoic about his circumstances. Faye, unhappy with her life and unsure of herself, takes a liking to 633 but is not willing to tell him how she feels. Instead she intercepts a letter from his former love that contains his apartment key. Her plan is to express her feelings by rearranging his home. 633's mental fortuity dissipates as he slowly sees his place transform: he has no doubt that he's lost his mind.

When 633 realizes what's happening, it's too late. True to her anthem, "California Dreaming," Faye finds the stewardess' uniform in the apartment, takes the cue and escapes Hong Kong, leaving 633 at 0 and 2.

The film deviates from the traditional Hong Kong fare of period pieces and carefully choreographed martial arts works but does maintain remnants of mysticism and superstition. 223 attempts at affecting the future through his diet and 633's myriad conversations with various utensils and stuffed animals in his apartment are key examples. This ancient cultural residue contrasts nicely with the neon lights and hustle of present day Hong Kong.

Wong Kar-wai's camera action is initially disorienting and causes a feeling of vertigo. Discontinuities in flow and the obviously sparse editing tend to confirm reports that the film was completed in three months, conception to release. But after the director tires of juggling your sense of balance and the drama begins to unfold, the film gels and becomes quite enjoyable. All performances are fresh and engaging, especially Ms. Wang's. An extra bonus is wonderful subtlety that is comprehensive enough to convey the important ideas yet sparse enough so as to not divert attention from the film's powerful visuals.

Rating: 

Look for it at the Brattle or on video.

The Running Of The Numbers



By Todd Zubler '96

Guest Columnist

It has always amazed me that for all we law students know about salaries and partnership chances at various law firms, no one seems to know anything about where lawyers get the best deal after adjusting for cost of living and hours worked. Sure, we all have a general idea that a dollar goes farther in Des Moines than in New York and that lawyers in larger markets work longer hours than in smaller markets. But exactly how much farther does that dollar go, and exactly how many weekends will large market lawyers spend doing due diligence? To answer these questions, I present the following rough, quick study of where we lawyers can maximize real income per hour. The methodology is admittedly far from exact, but even these rough numbers should improve knowledge about the tradeoffs inherent in working in any one city.

I first took the October 1994 American Lawyer and chose all of the cities with three or more firms responding to the magazine's Midlevel Associates Survey. Taking the latest salary data for each of these firms from the HLS Employer Directory, I divided the salary data by a cost of living index taken from the "1993 Places Rated Almanac." (A number of cities have since increased their salaries for 1996, but using data from one year for all firms should be approximately fair.) Dividing the result by billable hour data taken from the Midlevel Associates Survey yielded a rough measure of real income per hour.

Gross City	Average Cost Salary(\$)	Adjusted Index	Billable Salary(\$)	Annual Hours	Real Income per Hour(\$)
1) Indianapolis	57,333	0.9136	62,755	1950	32
2) Milwaukee	63,000	1.0807	58,296	1900	31
3) Columbus	59,500	0.9961	59,733	2000	30
4) Cleveland	67,667	1.0827	62,498	2250	28
Houston	62,540	1.0236	62,540	2200	28
6) Dallas	64,736	1.0834	59,753	2200	27
Detroit	63,333	1.0786	58,718	2200	27
Pittsburgh	65,000	1.1631	55,885	2100	27
9) Atlanta	60,000	1.0294	58,286	2200	26
10) Miami	58,750	1.1292	52,028	2050	25
Chicago	69,778	1.2934	53,949	2150	25
Denver	52,000	1.0817	48,072	1950	25
13) Minneapolis	57,600	1.1099	51,897	2150	24
Washington, DC	72,346	1.4004	51,661	2150	24
15) Philadelphia	63,500	1.4507	43,772	2100	21
16) Seattle	51,667	1.3509	38,246	2000	20
17) Boston	69,778	1.6781	40,373	2200	18
New York	83,426	2.0513	40,670	2250	18
19) Newark	63,500	1.7477	36,333	2100	17
Los Angeles	70,000	1.8350	38,147	2250	17
21) San Francisco	66,900	2.1932	30,503	2200	14

The results may surprise you at first. Being a lawyer in Indianapolis — a fate thought worse than death I'm sure by many — appears to be the best deal, while San Francisco looks to be the worst. (In the interest of full disclosure, I accepted an offer from Baker & Daniels in Indianapolis before I did these calculations. Anyone can easily verify the numbers, however.)

On second thought, however, the results probably shouldn't surprise anyone. The legal market responds to the forces of supply and demand just like any other market. If young lawyers are eager to live in cities like Boston, New York, and San Francisco, the firms in those cities simply won't have to pay their lawyers as much real income. (This theory doesn't explain Newark, however.) Life, after all, consists of much more than disposable real income, and people may quite happily work longer hours and sacrifice some real income in exchange for the culture and lifestyle of a city like New York. (Those people are also getting the crime and traffic of New York, but that's another story.) My point here is only that people should know the tradeoffs they are making.

But is living in New York really more than twice as expensive as living in Indianapolis? To test the cost of living data, I also made some after-tax income calculations for lawyers in four cities. (I assumed single taxpayers taking one personal exemption and the standard deduction, unless state and local taxes themselves exceeded the standard deduction.)

	New York	Washington	Los Angeles	Indianapolis
Gross inc.	83,426	72,346	70,000	57,333
Fed. inc. tax	17,681	15,100	14,748	11,226
Soc. Sec. tax	3,794	3,794	3,794	3,555
Medicare tax	1,210	1,049	1,015	831
State inc. tax	5,468	5,872	4,660	1,915
City/co. inc. tax	3,157	0	0	394
Net income	52,116	46,531	45,783	39,412

The cost of living data seem more reasonable when one considers that New York's initial \$26,000 lead in salary over Indianapolis narrows to less than \$13,000 before anyone even spends a penny. When one then factors in New York rent, sales taxes, and other higher prices, the cost of living data don't seem far off the mark. Salaries in later years may change the picture somewhat, but as higher marginal tax rates eat up larger shares of higher salaries, the gap between markets may not be so large. Moreover, a fair analysis of later years would also consider the greater partnership chances in smaller markets.

Should everyone therefore start sending their résumés to Indianapolis? Of course not. All of us have to make our own calculations about what makes us happy. This data isn't meant to put down anyone's career decision, but only to improve people's decisionmaking. Everyone should be better off with this information. That is, of course, unless my friends going to New York start hitting me up for money now.

Professors' Outside Activities Concern Students

continued from PROFS, page 1

student-faculty ratio of 16-1, according to the 1995 Official Guide to U.S. Law Schools published by the Law School Admission Council. Yale Law School's ratio was 6-1, while the University of Chicago had nine professors for every student. When part-time professors are excluded from the count, HLS' student-faculty ratio rises to 22-1.

Outside Activity Guidelines

What may explain the difference is the amount of time HLS professors devote to outside activities. In 1991, Harvard president Derek Bok sent a memo to Dean Clark '72 requesting that the Law School devise a plan to monitor the amount of time professors spend on activities not related to student instruction.

"The Corporation ... is interested in the amount of time professors spend away from academic duties in Cambridge and hence is concerned with unpaid as well as paid activities, in academic conferences as well as corporate consulting, and in time spent traveling as well as time actually spent on the activities themselves," Bok wrote.

In response to the university mandate, an ad-hoc committee developed a set of guidelines in 1991. The process was strongly opposed by many members of the faculty, however. One faculty member wrote that he believed the process was burdensome because of "excessive forms." Another wrote simply, "The whole exercise is distasteful."

Despite faculty dissatisfaction, the rules were approved beginning in 1992. The rules require faculty members to fill out a single form reporting the number of days spent on activities such as client representation, consultation with law firms, academic lectures and seminars and commissioned projects.

Commonly known as the "20 percent rule," the rule prohibits professors from spending more than 20 percent of their time on outside activities. Curiously, however, the 20 percent is calculated off of a 40-hour work-week, establishing the normal business week as the only time professors are deemed to be "on Harvard's watch."

Clark said the rule "has been interpreted" to allow professors to work on outside activities "a day a week during term time." While the faculty manual states, "Outside activities should not interfere with faculty members' predominant commitment to teaching and scholarship, their availability to students and colleagues, and their responsibility to participate in the affairs of the School," the rules only require this commitment be fulfilled in a 32-hour work week.

The report of the ad-hoc committee on outside activities describes full-time faculty commitment in terms of days. "The academic year is about 39.5 weeks long," stated a footnote in the report. "Subtracting Winter and Spring vacations and all of the individual holidays (e.g., Columbus Day, President's Day, etc.) reduces that figure to 36 weeks. 36 times, 4 days a week equals [a faculty commitment of] 144 days a year."

Clark said last year's forms reveal most professors "only take about half that time" for outside activities. "Many people do far less and some do up to the limit," said Clark.

Of the activities they devote their time to, Clark said "about half of the work — the largest component — is giving papers at other law schools and academic conferences." The remainder is paid outside work such as consulting for law firms, engaging in litigation and working with

professional groups.

The "Spiritual Rule"

One problem with the rule, however, is that it is not strictly enforced. Clark said that a few professors have gone over the limit due to "special circumstances," but that professors overwhelmingly comply. When asked what happens to a professor who violates the rules, however, Clark said that professors are given "a jawboning" and encouraged to spend more time in Cambridge.

"The substantive rule is more spiritual and aspirational," said Clark.

Enforcement of the rule rests entirely on individual faculty members. The faculty manual states, "There are obviously very difficult questions of definition here and, in the absence of detailed guidelines, the usefulness of the principle depends upon individuals being rather vigorous with themselves in applying it."

As to the stringency of the rule, the ad hoc committee report suggests flexibility is in order. "For example, Professor Blue

may devote more than one day per week (on average) to such broadly defined activity as drafting an ALI code of criminal procedure. We rather suppose that such an undertaking is not only permissible but commendable. [A] broad definition of outside activity surely means that some faculty members will report more than one day per week but remain fully consistent with School policy," states the 1991 report.

One implication of the lax standard for students is that professor accessibility is low. "I rarely see my professors outside of class," said Neal Kaplan '98. "And, with classes of 150 and [professors only required to allot two office hours per week per class] that means I get about 48 seconds of my professors' time a week," he said.

Another implication of the lax rule is that it breeds a culture in which professors act like free-agents. "Professors are fairly autonomous here, and there's not much the school can do," said Prof. Laurence Tribe '66, who will be on research leave next fall while working on a treatise.

Tribe points out that many professors, like himself, are careful never to miss a day of class due to outside work. But, due to difficulties in coordinating professors' schedules, gaps in the curriculum sometimes occur.

"I have been told that there is little or no upper-level constitutional law offered next year, which is a shame if true," he said. Indeed, of the nine constitutional law electives listed in the registration bulletin, only two are offered next year.

Like Tribe, Prof. Alan Dershowitz spends a good deal of time on outside activities. Also like Tribe, however, Dershowitz prides himself on never missing a class.

Alexander Boldizar '98, a student in Dershowitz's first-year criminal law class, recalls the day O.J. Simpson was slated to conduct an interview with NBC news. It was the same day in which Dershowitz's criminal law class met.

"During class, Dershowitz's secretary came running in and started whispering to him. But he didn't take the call [reportedly from O.J.]," said Boldizar. "He

turned to us and said that 'class comes before even O.J.,'" Boldizar said.

But, even if professors with busy schedules show up for the classes they have, often they fail to take on a full course-load. While professors are required to teach at least 10 credits per year, Nierlich says that many are teaching significantly less.

This year, only 24 professors met the minimum requirement according to Nierlich. This figure drops to 16 if co-teaching is taken into account. Thirty-seven professors taught less than 10 credits this year, said Nierlich. Fourteen professors were on leave for one term.

Of those who met the minimum, six taught 11 credits, while only one, Prof. David Rosenberg, taught 12 credits.

Basic courses have been especially hard hit. "The HLS administration has often voiced its goal of more and smaller classes, yet even in basic courses such as tax, corporations and evidence, we're getting fewer and bigger classes," Jancu said. When he and Nierlich asked the adminis-

tration for an assurance that rising 3Ls who have yet to take these basic courses would be able to, the administration refused to make any commitment.

"As a Harvard student, I'm embarrassed for the school that our administrators won't guarantee us the rudiments of legal education," Jancu said.

The day before registration, Profs. Reiner Kraakman and David Wilkins '80 announced they will be taking unexpected leaves of absence from the school, leaving

holes in both corporations offerings and professional responsibility sections. Rakoff said they left due to "special opportunities" outside of Cambridge.

One possible explanation for the flight of professors may be the construction to Langdell library that will restrict student and professor access. But Tribe rejects this idea.

"We [the faculty] may not be the heartiest soles around, but it takes more than the library construction to frighten us off," Tribe said.

Rakoff said the administration requires professors to announce their intentions to go on leave one year in advance. Then, the Curriculum Committee, consisting of Deans Clark, Rakoff, Frank Sander '52, and Registrar Sue Robinson try to plan the next year. Whether a professor is granted leave is up to Clark, but the group works to fill "holes left in the curriculum," according to Clark.

Angry Alumni Letters

Students are not the only ones upset about the insufficiency of class offerings due to professors occupied with other activities. Alumni routinely write letters to Clark expressing their dissatisfaction. "I get letters all of the time from alumni wondering about high-profile professors," said Clark, who added that alumni often ask, "Aren't they supposed to be teaching?"

Clark defends the level of outside activities performed by professors. In fact, he said that he believes many professors are not doing enough outside work. "I was surprised when the reports starting coming in [last year], because I thought there was more [outside activity] than there is,"

Clark said. "There are half a dozen professors who I'd wish would get more involved, to improve their scholarship," he said.

Clark said there is an optimal amount of time a professor should spend on outside activities. "It is not a good idea in a professional school to tell people they can't do outside activities," he said. Clark said professors need "engagement in law reform or practice to keep their knowledge base fresh and connected to the world." He added, however, that "if it gets out of hand, then it hurts the students and institution because we lose the value we are paying for."

Many students agree with the notion that professors who do outside work add something to the classroom. "Outside activities of professors often enhance their in-class teaching ability. Instead of using hypotheticals, they bring in real life experience to make points clear to students," said David Smith '98.

Problems arise, however, when professors flaunt the rules. According to an anonymous staff member, faculty members have, on occasion, knowingly misreported information on their outside activity forms. The charge, corroborated by another staff member, is that the forms are not taken seriously. "They are dispensed with a wink and a nod," said one source.

Another source told the RECORD that when the requirement was first enacted in 1992, Dean Clark personally visited an irate professor who refused to fill out the form. The Dean reportedly told the professor "don't worry about it," that the requirement was flexible, and that only the professor and the Dean had access to the form's information.

According to the source, violation of the reporting requirements not only undermines the school's ability to monitor and manage professors' time, but may mean HLS is in violation of federal tax policy.

According to a memo sent by an HLS tax professor, the Harvard Corporation must monitor the activities of its professors in part because of restrictions in the IRS Tax Code. Section 501(c)(3) of the Code covers tax-exempt educational institutions. Reporting of income must be carefully scrutinized to separate taxable from non-taxable income, and to separate expenses incurred by the University pursuant to its educational mission from those incurred in non-educational, profit-making enterprise.

According to Robert Kobel at the IRS' Brooklyn district office, which handles Harvard's tax filings, all unrelated business income must flow as profit in the non-exempt entity and be taxed. While Kobel said that it is up to the University to make these determinations, he added that the IRS "will work with [Harvard] to get them in line with the statutes." "Our major concern is that they maintain their status as a tax-exempt organization fulfilling their educational mission," he said.

Despite the LSC findings and staff accusations, Jancu and Nierlich hope outside prodding will not be needed to persuade HLS administrators to get tough with professors who violate school rules and to work with students to find a happy medium.

"HLS students understand and appreciate the value in professors pursuing external opportunities," Jancu said. "Professional experience complements scholarship in making a professor well-rounded, and students are primary beneficiaries of that knowledge."

"If we can staunch the decline in course offerings, as well as ensure that professors teach their allotted 10 credits' worth of classes per year, then we have found the mutually beneficial mean," he said.

While professors are required to teach at least 10 credits per year, Nierlich says that many are teaching significantly less.

Clark defends the level of outside activities performed by professors. In fact, he said that he believes many professors are not doing enough outside work.

April 15th

By Matthew Huggins '96
RECORD Columnist



TWO weeks ago, a man named Fred Goldberg spoke at the Law School. Mr. Goldberg, now a partner at a large law firm in Washington D.C., once served as the Commissioner of the IRS. Reflecting upon this job, he spoke of the awesome sense of responsibility he felt, knowing that his agency had what he described as an "intimate" relationship with essentially every American. Since the IRS possesses perhaps the most comprehensive data base on U.S. citizens, he mentioned how foreign heads of state just assumed that he had the real power in the government.

As most of us are aware, this past Monday was tax day, the day by which we should have filed our tax returns. As essentially (on paper at any rate) destitute law students, there probably wasn't much tax liability to worry about for most of us. But this will soon change. And this change to come has led me to reflect upon the power of the IRS that Mr. Goldberg alluded to. And, because I'm a third year law student and have nothing better to do, I found myself day-dreaming about what I would do if I had such power. Yes, if I had that power, things would change around here.

I would start off simple. Take skateboards, for example. Skateboarding would not be illegal, per se. It's just that anyone caught doing it would be executed on the spot. But they would technically be free to skateboard if they wished. I would cross out all those T-shirts that say "SkateBoarding is Not a Crime" and write on them "It is Now." This treatment would be distinguished from that given to jet-skis, which would be illegal and their operation would be punishable by death. Unfortunately, they have no T-shirts that I could alter. And while I was on sports, Lycra would be made a controlled substance. Sometimes, when I'm out running, I look about me at some of my co-joggers, and think that Lycra is the most wonderful substance ever invented. Then I look at some of my other co-joggers and I just think to myself: "No. Oh, no." And because weather can affect sports, I would echo a suggestion made in William Hall's column in last week's RECORD: No snow in April. Everyone knows how much I love snow, but too much of a good thing and all that.

At this point, I would start to get rolling. On to the Law School. Gropius. I'm not sure if I would use explosives, or maybe tanks, or maybe something like a few columns of bulldozers. Or maybe all of the above. Of course, it would be unfortunate to have to

It is my sincere belief that God made animals of different sizes for a reason.

raze the Hark after they spent all that money on renovating the cafeteria, which, I must admit, I like much better now, even if they don't have my favorite muffins or scones. But even Gardner Merchant (pardon me, Sodexo, or whatever) could not stand in the way of the Law School Beautification Project I would carry out. More Law School things. No more third-year paper. I mean, who do they think they're kidding. "OK, we want you to come to our Law School, spend two-and-a-half years reading cases, writing outlines and taking three hour exams, and then, in your last semester, we want you to spontaneously generate a publishable piece of original research." And then we want you all to sprout wings so you can flutter around the graduation ceremony like little cherubs. Jeez Louise. No more third-year paper. And while I'm at it, there would be no more third-year exams. In fact, there would be no more third year!

And then on to more important things. Like little stupid yappy dogs. It is my sincere belief that God made animals of different sizes for a reason. Elephants are real big. Horses are big. Dogs are smaller. Cats are smaller still. And then there are rats. If you want a pet the size of a rat, then get a rat, not some hairless Chihuahua. And, similarly, if you want a pet the size of a horse, then get a horse, not a Great Dane. Of course, there would be an issue of what to do with all these mis-sized dogs during the transition to my new regime. I think medical experiments would be a fine socially beneficial use.

There are other things I would fix. Take car-rental places. Over spring break, I tried to rent a car. I was, it turns out, ultimately successful. But this did not happen without a fight. I arrived in San Francisco at 1 a.m., that is, 4 a.m. Boston time. It was past 2:30 San Francisco time when I finally got my car. That's an hour-and-a-half to rent a car.

I had, of course, made a reservation, so I expected to be able simply to pick up the car and go. Ha! When I arrived, there were about 10 people who needed cars. There were two people serving customers, and two more who seemed to be managers who were essentially floating around behind the counter. It took an hour-and-a-half for two employees to rent 10 cars. That's just under 20 minutes per customer. If you average in the two managers, that's 40 minutes per customer. At two o'clock in the morning, Most of these other customers, it seems, also had reservations, which as I found out did not expedite matters. Or maybe it did. Maybe otherwise it would have taken 40 minutes to rent a car. Or, counting the managers, 80 minutes. The employees were so slow, and I was so tired, I almost started laughing, when the people behind the counter stopped to chat with each other, spent long minutes looking for a stapler, tried to find a form. All the while, cleaning crews had begun to use some extremely aromatic organic solvent on the floors, so that while I was standing in line for an hour-and-a-half at two o'clock in the morning, I was nauseous from fumes as well. I think the management of this particular rent-a-car company, whose name I cannot divulge but might rhyme with "dirts," might be looking for new jobs if I were in charge.

With all the things I have in mind, it's probably just as well that I'm not IRS Commissioner. Yet. And by the way, I hope you all filed your tax returns....

A short note of reply to Kannon Shanmugam's piece "In the Public Interest" in last week's RECORD. Mr. Shanmugam seems to be working on the assumption that only public interest courses and programs have a political bias, while other courses and programs at the Law School do not. It seems to me that the mainstream business-law courses at HLS such as corporations, taxation, antitrust, corporate finance and secured transactions all share common political and economic assumptions about the value of free markets and competition that many at the Law School might not agree with. Just because I agree with the economic and political assumptions that are being made in connection with much of the HLS curriculum does not mean I cannot recognize that there is a political bias involved. Once again, I think Mr. Shanmugam has shot from the hip and missed.

10 Ways to Elect Bob Dole in '96

By Judd Serotta '97
RECORD Columnist



As of this printing, President Clinton retains a double-digit lead in head-to-head polls against Senate Majority Leader Bob Dole of Kansas. Nearly all experts agree that that lead will shrink. Indeed, all the fundamentals are there for a very close election. While many oddsmakers have made the President the favorite, Sen. Dole can win in 1996 with the right campaign strategies. Here are 10 suggestions (some obvious and some not) for the Dole campaign:

1) Sen. Dole should carefully target his attention to specific key geographical battlegrounds. Dole must sweep the South except for Arkansas (namely Virginia, North Carolina, South Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Louisiana and Texas). Of these states, only Florida, Tennessee and Louisiana should present serious challenges, so he should concentrate on those three states. Expect him to win them all. Dole will win the Great Plains (the Dakotas, Nebraska, Kansas and Oklahoma) without any trouble. He should try to win the entire Rocky Mountain region (Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona and Nevada). Of those states, New Mexico poses a minor problem, while Nevada and Colorado will be major battles. Dole should spend time in those states. He should ignore the Pacific Coast, since it will likely be too expensive for him to win those states, though he can count on Alaska's three electoral votes and Indiana's 12. That gives him 221 of the 270 electoral votes he needs. His best chances for the additional 50 are Illinois (22), Ohio (21), Michigan (18) and Kentucky (8), which are sure to be hotly contested. He should also campaign in winnable states like Pennsylvania (23) and New Jersey (15).

2) Dole needs to select a running mate who will help carry one of these key states, and to generally make the candidacy more viable. I recommend John Kasich of Ohio. In addition to helping in Ohio, Kasich would add youth and vigor to the ticket, helping to dilute the President's generational appeal. In addition, Kasich has a proven record on issues of importance to mainstream Republicans. While he is socially conservative, he would help broaden the ticket's appeal to economic conservatives and moderates, who are indispensable to the Republican's chances. In the Vice Presidential debate, Kasich would appear far more dynamic and articulate than Al Gore, and I believe he is the right choice, though his age makes him a somewhat unconventional selection.

3) Dole must emphasize character. I would not recommend attacking the President's, since most Americans have already formed their opinion on that score. Instead, Dole should emphasize his sacrifices for the country, including his devastating war wound, his three years in a hospital recovering, his 35 years in the Congress and his 11 years as Republican leader in the Senate. He must convince Americans that he truly has sacrificed his life for this country, while no more than alluding to the President's comparatively painless road to success.

4) Dole should emphasize his bipartisan respect. In an age of public mistrust of party squabbling, Dole should prominently feature quotes past and present from Democratic senators proclaiming their respect and admiration for Bob Dole. Indeed, Democratic senators as diverse as George McGovern, Sam Nunn, Daniel Patrick Moynihan and Bob Kerry have at one time or publicly lauded Dole for his exemplary leadership. Americans constantly gripe about politicians' unwillingness to compromise, and Dole should stress his proven ability to achieve consensus and bipartisan loyalty.

5) Dole's real running mate should be his wife Elizabeth, a graduate of Harvard Law School. Elizabeth has many of the qualities of the current First Lady, but without the abrasive, divisive and highly partisan manner. "Liddy" is truly an accomplished woman: twice cabinet secretary (labor and transportation) and current president of the American Red Cross. And since she has announced that she intends to be the first First Lady with a career outside the White House, she may help to close her husband's prodigious gender gap. In addition, no serious ethical charges have ever been leveled at Mrs. Dole, and she takes away the "they just don't like strong women" rationalization of criticism of Mrs. Clinton.

6) Just as the President will attempt to tie Dole to Newt Gingrich, Dole must tie the President to unpopular people. He should emphasize the trial lawyers' fervent opposition to legal reform and the President's subsequent veto. He should cite the President's liberal judicial appointees (such as Harold Baer and Rosemary Barkett) and their extensive use of "technicalities," which has received heightened public criticism after the O.J. Simpson trial. He should at every turn revive the specter of Joycelyn Elders, who represents exactly the values the President now professes to condemn.

7) In a similar vein, Dole must seek to paint the President as a liberal. Over the past year, Clinton has moved towards the center in rhetoric if not reality. By reminding Americans of the 1993 tax increase, the health care debacle, Joycelyn Elders, Lani Guinier and partial-birth abortions, Dole can alienate Clinton from moderates, which is critical since fewer and fewer Americans now identify themselves as "liberal."

8) Dole must also remind Americans that he is not an "extremist." Indeed, Senator Dole has for the past 15 years been consistently associated with the moderate wing of the Republican Party, supporting the Civil Rights Act of 1990, the Clean Air Act of 1990 and the Americans with Disabilities Act. The Democrats' strategy has been to paint Republicans as lunatic reactionaries, and that strategy should be easily parried by a competent Dole campaign. Americans must be reassured that they have nothing to fear from a Dole presidency. (As one commentator noted, the modern Democratic party paraphrases FDR: "We have nothing to offer but fear itself.")

9) Dole must demonstrate his record over the past two years as Majority Leader and emphasize where the President has dodged 1992 campaign pledges. The President vetoed a promised middle-class tax cut. The President vetoed a plan to "end welfare as we know it." The President vetoed several balanced budgets, though he had promised to balance the budget in five years. The President opposed lifting the Bosnian arms embargo though he assailed George Bush for it. Aside from the substance of each of these charges, they must exploit average Americans' fears that Bill Clinton is only true to his word so long as his words are politically expedient. The implication should be, "If he lied to you in 1992, don't you think he's lying to you in 1996?"

10) Finally, Dole should tackle the Perot issues. Obviously, the 1992 Perot voters will be a key constituency in 1996. Dole should unhesitatingly affirm his support for a balanced budget amendment and term limits. He should note the extensive Congressional reforms launched since 1994, such as the lobbyist gift ban, the Shays Act and other reforms, while reminding Americans of the innumerable scandals of previous Congresses. Should Perot choose to run, Dole can still win if he takes the wind out of Perot's sails by stealing his issues (which are natural Republican issues anyway). Indeed, if Perot voters want honesty in government, and they realize that their true choice is Bob Dole or Bill Clinton, Dole will win their support in droves.

START SMART

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