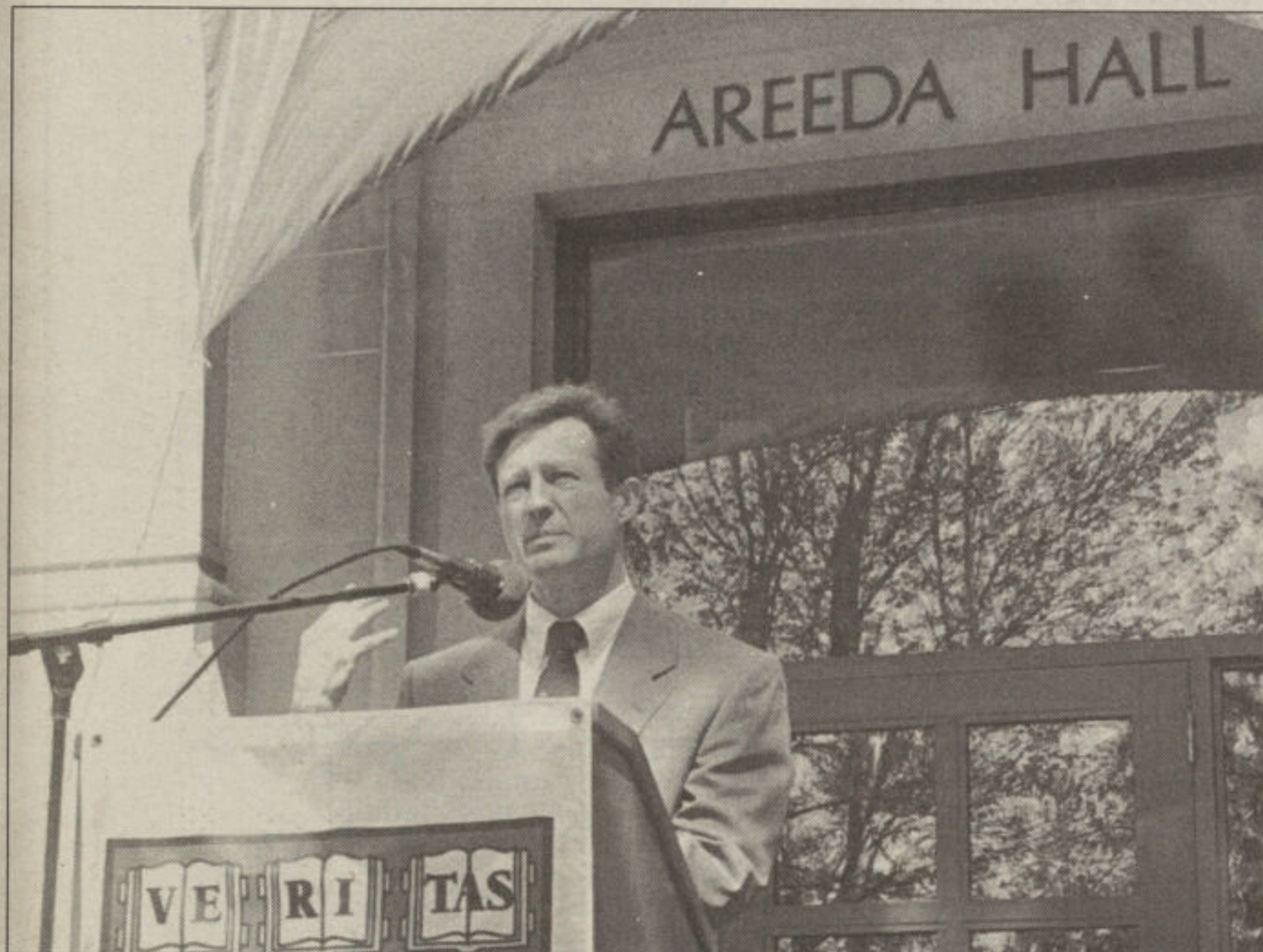




Dean Clark '72 speaks at the re-dedication ceremony of Areeda Hall (formerly Langdell West), named for the late Prof. Phillip Areeda '54, who died of leukemia in December. Areeda donated \$5 million to Harvard Law School and requested that the building be named for him.

HLS Increases Commitment to Public Interest Work

But as Rising Demand Outpaces Available Funding, 26 Students Still Wait

By Rob Friedman

Thanks to a \$110,000 allocation of operating funds by Dean Clark '72, all but 26 HLS students remaining on the wait-list for public interest summer funding will be granted a \$2,500 stipend. However, given a sharp rise in students wishing to pursue public interest summer work, the one-time allocation raises questions about the school's long-term funding commitment.

Despite consistent increases in public interest summer funding, demand from students continues to rise even faster, according to Sally Donahue, director of financial aid. The problem, she said, has been an

unexpected rise in the number of students who decide to accept the grants they are offered.

Last year, the financial aid office overawarded public interest grants by about \$14,000, according to Mary Magnuson, director of summer funding for the financial aid office. Because funding ran out on the initial awards, the 131-person wait-list went unfunded.

This year, the Financial Aid Office not only had to make up for the \$14,000 deficit from last year, but again saw an unexpectedly large number of students accept grants. This year's yield — the percentage of students who accept public interest funding in the initial offering — jumped to 54 percent. Last year, 40 percent of

students accepted initial grant offerings, according to Donahue.

Because of the shortfall in funding this year, Donahue said the office would once again have failed to reach the waiting list, which at its peak hit 132. However, due to Clark's \$110,000 pledge, the Financial Aid Office was both able to pay off the deficit and fund students on the wait-list.

"The Dean has made a tremendous effort to reach wait-listed students," said Stacey DeBroff, director of the Office of Public Interest Advising.

The \$110,000 pledge provided funding for 22 additional

please see FUNDING, page 10

Students Block Bulletin Photo

Public Interest Funding Debate Brews

By David Liu

Thirty graduating students pursuing public service careers refused to have their photograph taken for the June issue of the Harvard Law Bulletin, which will focus on public service and public interest work.

Students contacted the editors of the Bulletin shortly after learning about last Wednesday's shoot in hopes of including a student-written piece or receiving some editorial control over the issue. Although the Bulletin called a few students Wednesday about being interviewed for the issue, student leaders were not notified. Thus, at the time of the shoot, most students believed the student contribution to the issue would be limited to a group photograph and a listing of their post-graduation plans.

"We do not feel comfortable with the photo because none of us were interviewed or asked to contribute to the article," said Mark Pearce '96. "The Bulletin's refusal to value and include student opinions is, unfortunately, reflective of our general experience at the Law School."

In subsequent negotiations with students the Bulletin agreed to interview three to four students in a two-page spread accompanied by the group photo. The interviewed students will have final approval over their sections. In addition, students on the faculty-student Ad Hoc Public Interest Committee may be given some space to comment about their experiences and the work of the committee.

"My hope and expectation is that our conversations will lead to greater clarity among all the students about our plans for this issue of the magazine," said Nancy Waring, the editor of the Bulletin.

However, many students feel

that this compromise did little to address the more central issue raised by the protest — whether or not the Law School provides a friendly environment for students interested in careers in public service.

According to Mike Chmura of the HLS News and Information Office, "Dean Clark has said over and over again that he supports public interest law." Chmura noted that the school has increased its commitment to public interest during Clark's deanship through such actions as the establishment of public interest professorships, the expansion of the legal services center and the creation of a criminal justice institute. "We compete very well with other law schools," he said.

When asked about the role of public interest law in the school's future, Chmura said that "the commitment will be maintained; we're certainly not talking about cutting areas."

Many students, however, disagreed with Chmura's rosy assessment of the environment for public interest at HLS. They argued that instead of only comparing Harvard's support of public interest to that of other law schools, the administration should also be comparing it to Harvard's support of corporate law. And they said that instead of merely maintaining its present level of commitment to public interest, the administration should use the success of the Capital Campaign to make public interest a prominent part of the Law School's future.

According to Melissa Brooks '97, though the environment at HLS is not "openly hostile" towards students pursuing careers in public interest, "it doesn't seem like public interest is an actual alternative. The presump-

please see STUDENTS, page 5



Rich Chen '98 demonstrates a Tae Kwon Do concentration exercise involving board breaking at the Talent Show last Friday. He broke five boards and received a standing ovation from the crowd in the Hark. For more pictures of the Talent Show, please turn to page 2.

Stories From a Lifetime

Prof. Louis Loss Publishes Memoirs in "Anecdotes"

By Victoria Kuohung

"There must have been a time in my life when I did not have my mind set on being a lawyer," HLS Prof. Louis Loss writes in his latest book "Anecdotes of a Securities Lawyer," published last year. "But I don't know when that was."

That single-minded determination has parlayed into a legal career which — besides consulting for state and foreign governments and educating hundreds of students in the field of securities law (more than any law professor alive) —

virtually created the field of securities regulation. And it is a legal career which Loss outlines, intriguingly in broad sketches and snippets of remembered conversations, in his recent memoirs.

Loss, who taught at Harvard Law School from 1952 and later assumed the William Nelson Cromwell Professorship, is perhaps best-known for consolidating the entire scope of regulations, court holdings and laws in the area of modern finance.

Now emeritus, he has "gotten away from the teaching aspect of the school although I'm here every day," said Loss

in a RECORD interview.

Writing his memoirs was "my occupational therapy — I was working on the third edition of my treatise" at the time he conceived of the project, Loss said.

"I figured I'd have a reaction when I tried to think of something to write that would be light. I jokingly said that I'd like to write something without footnotes before I die — and there are very few footnotes," he said.

Loss coined the term "securities regulation," using it as the title of his first book on the

please see MEMOIRS, page 3

The "Hidden" Talent at HLS



Last Friday, D.S.A.C. and the HLS Drama Society co-sponsored a talent show for HLS students in the Hark. A wide variety of entertainment, ranging from dramatic readings, to juggling acts, to ad hoc attempts at stand-up comedy, were part of the afternoon's activities.

Aya Gruber '97 (above) sings an original song. Clan Baer (above left, from left to right, Dino Wu '97, Mark Fleming '97, and Brandon Baer '97) sing a traditional Scottish Ballad. Darren Mungerson '98 and Sharon Remmer '98, (above right) two of the three coordinators of the talent show, accompany some of the singers. Sharon Simpson '98 (below left) sings an original song. Rich Chen '98 (below right) demonstrates a Tae Kwon Do kick. Julie Cromer '96 and Brandon Baer '97 sing a duet.



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Symposium Celebrates 25 Years at PLAP

By Jaclyn Liu

Prisons are a big business, said Prof. Charles Nesson '63 as he moderated a discussion on the reemergence of chain gangs and the impact of privatization on the modern prison system.

The symposium, entitled "Back on the Chain Gang: From a Prison System to a Prison Business," was the highlight of Harvard Law School Prison Legal Assistance Project's 25th anniversary celebration held last weekend.

Nesson began the discussion by describing a hypothetical "State of Ames" where 82 percent of the citizens believe prisons are like country clubs and 60 percent believe rehabilitation is a waste of time. Not so coincidentally, the panelists found the hypothetical survey all too familiar.

"[Chain gangs] are a ridiculous idea," said Michael Fair, former commissioner of Massachusetts Department of Corrections and founder of SRT, Inc., a criminal justice and corrections consulting firm.

"Even if you subscribe to the belief that you want prisoners out doing work and necessary work that is visible to the public, by chaining up the prisoners you reduce their efficiency," he said.

"The program is not about work — it's an image thing," injected Nesson, playing the role of the adversarial moderator.

Richard Stratton, editor in chief of Prison Life magazine and a former inmate who spent eight years in prison, agreed. "Politicians are proving in states across the country that if you talk tough on crime, you get elected."

"But as rational citizens, we should

think about the net effect on society of dehumanizing people, treating them like junk yard dogs," Stratton continued. "What we'll have are more vicious and violent criminals. After you spend all day in chains, when you get back to the prison you'll feel like killing someone."

Alvin Bronstein, former executive director of the National Prison Project at the ACLU, characterized the current government policies as mean-spirited and punitive.

"When politicians say they are fighting crime, they are really beating up prisoners, most of whom are poor and black Americans," he said.

Bronstein believes one of the real reasons behind chain gangs is economics. "Without chains, you need two officers for 40 men. Now you only need one officer. Also, prisoners without chains might escape and if guards shoot them, hospital bills go up."

"This idea is inherently irrational," said Stratton. "The really bad criminals are not in the chain gangs. Prison officials are afraid of them. Generally only nonviolent repeat offenders are in the chain gangs. So society is not getting retribution against the really bad guys."

Prof. Lynn Branham, who teaches at Thomas M. Cooley Law School and is a member of the Commission on

Accreditation for Corrections, suggested that government should "talk less about punishment and more about accountability by having the prisoners give back to society for the wrong they have done."

Nesson moved onto the issue of privatizing the prison system, an equally political and controversial topic.

"Prisons are overcrowded; there is a move to build new prisons. Governor Weld wants to put out bids for the construction of new prisons. What do you think of that?" he asked.

Nesson noted that prisons are a lucrative industry with \$50 billion in revenues. He added that corrections officials are one of the top 15 expanding working positions.

"I am recently converted to be a proponent of private prisons," responded Fair. "Private corporations can always do as well, sometimes better and always cheaper."

This response drew strong criticism from the other speakers. Nesson questioned the other panelists regarding the principles behind such a proposal.

"Everything about it is wrong," contended Bronstein. "Deprivation of liberty is the most dramatic exercise of government power. The decision of when to incarcerate, whom to incarcerate and for how long should not be impacted by profit margins."

"Private corporations are lobbying to get rid of good time and for three strikes and you're out policies. They are lobbying to get more people locked up because that's how they make money. It's immoral," he said.

Stratton agreed. "Private prisons do not save taxpayers more money. Profits go to private corporations."

"In 1986 American Correctional Association put a moratorium on privatization until more in depth study is done," said Branham.

"Bids are not awarded on basis of the lowest cost," said Fair in defense of privatization. "Bids are selected based on who most responds to the given jurisdiction's needs and they must conform to American Correctional Association standards."

Fair's answer generated a heated response from Bronstein who retorted, "What have you been smoking?"

Probing the issue further, Nesson questioned the panelists about the interstate nature of the privatization movement in which states like California and Texas are importing prisoners like a business.

"Texas is handling prisoners like cattle," commented Stratton. "In rural white areas of America where there are no jobs, they are getting black and Hispanic prisoners shipped there and making a business of them. This is not far from slavery."

"It's ironic that we prohibit the interstate sale of prison-made goods but we allow interstate sale of prisoners," said Branham.

In the end, Bronstein warned, "We are mortgaging future for present benefits. We need to look at the long-run impact."

"After you spend all day in chains, when you get back to the prison you'll feel like killing someone," Stratton said.

"Anecdotes" Traces a Lifetime in the Law

continued from MEMOIRS, page 1

subject published in 1951. The Oxford English Dictionary (Second Edition) credits him for the the word "tippee," which means the person who illegally trades on an inside stock tip.

Loss's writings are copious, and include his first one-volume treatise on securities law which he wrote 42 years ago — a book that was credited by a New York Times article as "found[ing] an entire field of study." That first effort grew to become an 11-volume treatise on securities law last updated in 1993. Loss also authored a 700-page bill aimed at consolidating all existing securities laws into a single statute, a decade-long effort which failed with the advent of the Reagan Administration and its lukewarm support.

(Interestingly, Loss's failed measure is cited by courts seeking a coherent interpretation of securities measures. The SEC has also transformed several of his ideas in the measure into actual regulations.)

But it is his memoirs, packaged neatly into a compact, five-essay book by his long-time publisher Little, Brown and Company, which provide a glimpse of the personality behind the scholarship.

"This is something that may be a new art form," said Loss when describing his book. "It's a collection of five disparate essays that are autobiographical. The thing that makes a book out of the five essays is that each one involves a truly extraordinary event and I happen to be in the midst of them."

Loss focuses on his early career and teaching experiences at Harvard Law School; his visits to apartheid South

Africa in the early sixties and to Ethiopia during the debate over recognizing Ethiopian Jews; the Kaiser-Eaton litigation in the SEC's early years; and his efforts to codify U.S. securities law in the 1970s. While the essays differ in the amount of legal detail and therefore accessibility to the non-expert reader, Loss's mild and humorously self-deprecating manner is apparent in each.

Born in 1914, Loss grew up in Pennsylvania, the son of Jewish immigrants. After his father died, he was raised under the tutelage of his oldest sister's husband, who was a Dickinson Law School graduate. From his mentor Loss developed a fascination with the law, and in high school hung around the local courthouse watching trials.

His scholastic achievements earned him the recognition of his teachers, many of whom were Christian ministers, who encouraged him to apply for college scholarships.

Loss's struggle to win a scholarship, which was the only way he could finance his education, was his first taste of institutional anti-Semitism. His high school teachers had frankly told Loss that unless he was willing to lie about his Judaism, he shouldn't waste his time. "And Rentz [one of his teachers] was at least half serious in advising me to say that I was a Unitarian," writes Loss.

Rejected by the Harvard Club of Philadelphia for a scholarship after being asked point-blank what his religion was, Loss nevertheless managed to secure a partial scholarship to the Wharton School at the University of Pennsylvania. But finding funds later was tough, even after personally meeting with the Wharton Dean who suggested that he should drop out and work for a while. Difficulties at Penn were

not limited to the financial, and Loss recalls being segregated from Christian students at freshman registration.

Incidents such as his experiences grappling with discrimination, which also circumscribed his job prospects after graduating from Yale Law School, provide meat for commentary into current affairs throughout the book, and drive home the sense that, candidly and without condescension, Loss is personally imparting his "Anecdotes" to the reader. Of discrimination, he writes: "So far as equal opportunity in education and employment is concerned, we have, of course, come a long way, even though we must remind ourselves every so often that the time has not yet arrived to open the champagne."

Loss's frankness permeates his observations about his first years at the

SEC to his stories from his trips abroad. His 1962 meeting with Nobel Laureate Chief Luthuli of South Africa, then a principal enemy of the apartheid state, is retold through snatches of conversation highlighted by Loss's down-to-earth personality. He writes that Chief Luthuli "repeated, continually looking at me, that 'You people did this to us,' and 'You people did that to us,' I interjected that I was a bit sensitive to the 'you' as applied to me, and he roared with laughter."

Both in the stories Loss relates and in his writing, "Anecdotes" lends a humanity to what may seem an imposing retelling of achievements by a giant in modern law, yet without diluting a profound sense that Loss writes from one of the sharpest perspectives in legal scholarship.



Professor Louis Loss used to teach corporations and securities regulations at HLS.

Harvard should be a responsible employer.



Harvard Labor Law Project

A student Organization of Harvard Law School
Austin Hall Room 009
Cambridge, MA 02138
(617) 495 4871

May 9, 1996

Dear HLS Community:

In recent years, Harvard has adopted the new corporate employment agenda: cutting costs at the expense of the people who make Harvard work every day. The "downsized" workers at Harvard need your help.

Harvard Workers are facing two serious problems. First, this year, the University suddenly cut health care benefits to all of its workers. The impact varies with each worker but hits those with poor health and families the hardest. It has forced many Harvard workers to switch to the least expensive HMO plan Harvard offers, meaning many workers are forced to use a centralized clinic in Cambridge and have lost coverage for expensive procedures for which they can no longer afford to pay.

Secondly, Harvard has developed a plan to out-source many of the custodial, maintenance, security and technical jobs on campus. The University has already begun to hire non-union contractors for construction projects.

As students, we believe Harvard should resist the corporate trend towards a contingent workforce because it owes a duty to its employees and to the greater community. Bringing in outside contractors lowers the standard of living of the community because Harvard has the ability to affect the prevailing wage.

Harvard should be a responsible employer and model citizen of the Cambridge community. It should set an example for the corporate world by renouncing the national trend.

The Labor Law Project urges interested students to call the Coalition of Harvard Unions at 661-8289 or LLP at 495-4871 to learn how you can help Harvard employees win back their health coverage and fend off out-sourcing.

Yours,

Labor Law Project

Harvard Labor Law Project: 'Working for the Rights of Working People'

Dispute Brews Over Public Interest Funding

continued from *STUDENTS*, page 1

tion is that you're going to a firm job." Brooks noted that the "majority of classes are corporate or geared towards that." She also commented on the scarcity of public interest employers that interview at the school.

Amy McManus '98 agreed. "Because of a wide variety of factors ranging from the assumptions many professors make in class to the timetable of different job markets, some students interested in serving the public sector feel marginalized."

McManus pointed out that the unfriendly environment stemmed not only from the limited course selection but also from how many of the basic Law School courses are taught. She described how her contracts professor "assumed that everyone in the class was aiming to become partner at a large firm" and taught the class accordingly.

Students said that one bright spot for students interest-

ed in public interest is the Office of Public Interest Advising. "OPIA does a wonderful job of both at creating a positive and supportive environment for students pursuing public interest careers and at providing resources that help students seeking public interest employment," McManus said.

However, students also felt that OPIA should be given more administrative and financial support. "I think about my experiences with OPIA, and how having OPIA there has been tremendous help," said Pearce. "But OPIA could use more funding," he said.

"That the OPIA staff is as small as it is and yet so enormously effective is nothing short of amazing," said McManus. "However, their office space is too small to reasonably accommodate more than one or two students at a time, and scheduling career counseling can be quite difficult at certain points in the semester."

Support for public interest was expressed both by students pursuing public interest careers and by those intending

to enter the corporate world.

"There is a great group of students that are dedicated to public interest issues here at HLS," said McManus. "I think the tremendous success of the public interest auction is an indication not only of the incredible effort invested in that event by many volunteers, but also of some degree of wider support by the HLS community of those same goals."

2Ls and 3Ls, however, commented that though their peers accepted their decisions to seek public interest employment during the summer after their 1L year, most non-public interest students were surprised at their continuing efforts to seek public interest jobs.

In addition, Pearce noted that the dedication of public interest students may stem from necessity.

"I look at things students have done, like the public interest auction, and how it took a group of students three years ago to put that together," he said.

"That kind of motivation is something that students who chose to work in law firms don't have to have. If the environment were as friendly for public interest as it is for law firm work, things would be a lot different."

After a series of faculty and student initiatives last fall, Dean Clark '72 established the faculty-student Ad Hoc Public Interest Committee this spring to address many of these student concerns. Clark approved the committee's recommendation earlier this semester that summer public interest funding be made available to more students.

According to Shannon Liss '96, a student member of the committee, the committee is currently discussing proposals to create public interest scholarships for incoming students and to broaden funding for the Low Income Protection Plan. Of particular interest to the committee is NYU's public interest program, which includes public interest scholarships that attach a legal obligation on their recipients

to go into public interest work as well as a more-generous LIPP component.

Among the many complaints that the committee hopes to address with regard to LIPP is the relatively low salary cap. After one year HLS graduates who earn less than \$27,000 are eligible for full LIPP protection; NYU graduates can make up to \$32,020 without owing their school a cent for that year. LIPP protection for HLS graduates ends at \$47,000; NYU graduates are protected up to \$56,246.

Starting next year, the salary ceiling for HLS graduates does increase by \$1,000 per year. Thus, though the salary cap for full LIPP protection remains at \$27,000, after nine years a HLS graduate can earn up to \$56,000 and still be eligible for some LIPP protection. However, since the NYU program is tied to the federal pay scale, after nine years a NYU graduate who earns \$59,320 — \$3,000 more than a HLS graduate who is eligible for no LIPP protection — is fully protected and remains partially protected up to \$83,546.

Another complaint about LIPP involves the imputed parental replacement loan, which is absent from NYU's program. If an HLS graduate's parents are deemed able to pay the graduate's debt for any of the first three years he is eligible for LIPP, his LIPP contributions for those years are considered loans which he must pay back when he becomes ineligible for LIPP. Although this rule does not apply if the graduate is deemed to be independent, independent status is extremely difficult to obtain. Since a graduate must remain in LIPP for 10 years for his imputed parental replacement loans to be forgiven, "the current system makes people feel like they have to stay in for 10 years or not at all," Liss said.

"[LIPP] should be more generous for students who stay in the longest, but I think it'd be great for students to try public interest work out for a few years to see if they like it," Liss said.

A third oft-mentioned problem with LIPP concerns the marriage rule. In order to determine LIPP eligibility, a graduate's

salary is averaged with his spouse's. "A lot of students feel uncomfortable making their spouses pay," said Liss. "Especially older students whose spouses have saved up."

Despite these complaints, however, students generally also had good things to say about LIPP.

"The Financial Aid Office does a good job administering the [LIPP] funds available to them, but especially in light of the fabulous success of the capital campaign, the administration should allocate more money to the LIPP program," McManus said.

Liss concurred. "The LIPP program is generous. But we want to encourage the Law School to do even more with what it has," she said.

Similarly, despite their concerns about the public interest environment HLS, people involved with public interest at HLS encouraged students to consider careers in public service.

"Harvard should do more to encourage students to do public interest work and to use their legal talents to further social justice goals," said Prof. Elizabeth Bartholet '65, a member of the public interest committee. "For me a commitment to using one's legal skills to further social justice is what lawyering should be about. I don't find lawyering either interesting or satisfying [without that commitment]," she said.

"Though some other schools enjoy more financial and institutional support for public service interests than HLS, there is a strong and viable public interest community here," said McManus. "With some dedication and resourcefulness, most graduates will be able to pursue their career aspirations."

Liss concluded, "It is possible for students to work in public interest. Our criticism is not that the Law School has made it impossible, but that it could be doing even more."

"We want the Law School to do what it can do to truly provide its students with freedom of career choice," he said.

Support for public interest was expressed both by students pursuing public interest careers and by those intending to enter the corporate world.

"There is a great group of students that are dedicated to public interest issues here at HLS," said McManus.

Project Helps Secure Woman's Freedom

RECORD Staff

A 19-year-old Togo woman has been released from Immigration and Naturalization Service (INS) custody after legal advocacy by the Harvard's Women Refugees Project prompted INS to issue ground-breaking guidelines for women's asylum claims.

INS is now taking the position that female genital mutilation can be a basis for an asylum claim. Fauziya Kasinga, who is claiming asylum based on female genital mutilation, was freed from over a year in INS custody last week. Her case will be argued on May 1 to the agency's highest administrative court.

"INS is now arguing in its legal brief that female genital mutilation is a serious human rights violation and should be the basis for an asylum claim," said HLS

lecturer Nancy Kelly, co-founder of the Women Refugees Project and author of the draft guidelines. The guidelines were presented to the INS in March 1994.

INS has credited the Women's Project for drafting the guidelines and getting the issue of asylum for women on the agency's agenda.

"Before this advocacy and the guidelines, women's claims were completely invisible, ignored, treated as trivial — even when the threatened violations were as extreme as they are in Fauziya's case," said HLS lecturer Deborah Anker, who heads the asylum and immigration program. "Now the climate has, hopefully, profoundly changed."

The guidelines make the United States the second country in the world, after Canada, to formally recognize women's claims.

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Across the Wire ...

SJC Sides With Legislators In Fight Over Pay Raises

BOSTON (AP) — The state's highest court sided Monday with legislators fighting a citizen-backed ballot question to slash their pay, saying the proposal was not properly drafted.

Massachusetts Senate President Thomas Birmingham (D-Chelsea) said the Supreme Judicial Court's opinion meant the move to cut lawmakers' pay in half was dead for the year.

But the sponsors of the ballot question vowed to fight on.

"This is just the opinion from the Supreme Court. This doesn't mean anything to us," said Barbara Anderson, director of Citizens for Limited Taxation. "We're going to continue our petition drive. The legislature is obviously going to do everything it can to keep us off the ballot."

In a unanimous decision, the SJC said the question was invalid, because it would alter the term limits law passed by voters in 1994. State law prohibits ballot measures from modifying laws passed in the last two statewide votes.

Also, the court said the question's scope was too wide-ranging, because it included a provision allowing the state inspector general to audit the Legislature.

The justices wrote that "we are of the opinion that the initiative is not properly introduced and pending before the General Court ..."

Birmingham and House Speaker Thomas Finneran said that because of the ruling, lawmakers would not vote on the question on Tuesday.

"This is just one more pothole the Legislature's thrown at us," said Robert "Chip" Ford, head of the group Coalition for Pay Raise Repeal. "It's white-knuckle desperation. They're just not going to let go without a fight."

Under the state law that regulates initiative petitions, if the Legislature doesn't pass a question by the first Wednesday in May, the sponsors must gather additional signatures to get their

question on the ballot.

"As I read the opinion, this is the end of the matter," said Birmingham.

The state House of Representatives asked the SJC to rule on the constitutionality of the ballot question, which stemmed from voter anger over the 55 percent pay hike legislators gave themselves in December 1994.

In addition to cutting the base salaries of lawmakers, the question would cut off all payments after June of each year, hoping that will force the Legislature to wrap up its business in six months.

Legislators argued that allowing voters to set their salaries would improperly shift the balance of power in the state government.

Legislators argued that allowing voters to set their salaries would improperly shift the balance of power in the state government.

Finneran (D-Boston) and Birmingham argued that while the process that produced the 1994 pay raise was widely unpopular, it ultimately would help attract a better class of legislator. The pay-raise bill was rushed through in two days, at the same time a pet tax bill of Gov. William F. Weld's was approved. It was done so quietly that many lawmakers did not know what they were voting on.

But they vowed to work to find other

ways of managing legislators' pay besides setting it themselves.

"It makes us seem venal," Birmingham said. "It makes us seem greedy."

Anderson and Ford said they would ask Secretary of State William Galvin for petition papers — to gather the additional 10,821 signatures — on Wednesday.

It was unclear whether Galvin would hand the papers over. If he doesn't, Anderson promised a court battle although any fight would ultimately end up before the SJC, which ruled against the sponsors on Monday.

"I'm waiting to hear from the attorney general what his advice is to us," said Jack McCarthy, Galvin's chief of staff. "The question is, what effect does this ruling have on our ability to put out petitions?"

"I'm seeking his advice as a courtesy, basically, but I'm not bound by it," McCarthy said.

Attorney General Scott Harshbarger, who certified the question for the ballot last year, clearly was surprised by the court's ruling.

"The SJC is the final arbiter of what our state constitution requires," First Assistant Attorney General Thomas Green said in a statement. "This decision reflects an evolution in the court's thinking in the area of initiative petitions."

Anderson said the question's sponsors could prevail because they did not get a chance to argue their case in court, although they did file a brief with the court.

On one of the SJC's points, Anderson said the sponsors could file a technical change, on the inspector general provision, with Galvin's office. She said the court was wrong and "bizarre" on the other point — whether the term limits language would "substantively" change the law passed in 1994.

Unabomber Suspect Appeals to Supreme Court

WASHINGTON (AP) — Unabomber suspect Theodore Kaczynski asked the Supreme Court on Tuesday to order a lower court hearing on his argument that he should be freed from prosecution because of government leaks.

"The government's decision to vilify him in the national media with incriminating evidence, before charging him with any 'Unabomber' crime, worked to forfeit the government's right to prosecute (Kaczynski) for such crimes," his appeal said.

"The government's conduct has made the word 'Unabomber' and the name Theodore Kaczynski interchangeable," the appeal said. "And a pre-indictment hearing is necessary to show that the government intended this result."

Kaczynski's court-appointed lawyer,

The high court could decide within a few weeks whether to grant review to Kaczynski's appeal.

Michael Donahoe, asked the justices to reverse lower court rulings that denied him a hearing on the issue.

A federal judge in Montana on April 19 refused to throw out a charge of possessing bomb components and bar any government prosecution of Kaczynski because of a flood of leaks about the case by unnamed government officials.

U.S. District Judge Charles Lovell said the news leaks were "entirely regrettable," but added he saw no evidence they were part of an intentional effort to prejudice the public against Kaczynski.

The San Francisco-based 9th U.S. Circuit Court of Appeals dismissed Kaczynski's appeal last Wednesday. The appeals court said that except in rare situations, it lacks jurisdiction over an appeal by someone not yet indicted by a federal grand jury.

Kaczynski's appeal to the Supreme Court said he "was entitled to prove through the presentation of evidence that the government's outrageous conduct denied fundamental constitutional rights."

Otherwise, his lawyer said, he would lose his right to an unbiased grand jury indictment and the presumption of innocence.

The high court could decide within a few weeks whether to grant review to Kaczynski's appeal.

Kaczynski was arrested April 3. A 12-day search of his tiny shack near Lincoln, Mont., turned up what sources said was evidence linking him to the Unabomber's 18-year spree of bombings, which killed three people and injured 23. He has not been charged with any of those attacks.

The case is *Kaczynski v. U.S.*, 95-8785.

Prof. Sues Over Internet Pornography

OKLAHOMA CITY (AP) — The University of Oklahoma's efforts to limit access to sex topics and pictures through the school's computer system is a violation of fundamental free speech rights, an OU journalism professor claimed Monday.

Bill Loving sued OU President David Boren in U.S. District Court in Oklahoma City in a petition that accuses Boren of overstepping the First Amendment when he censored access to newsgroups on the Internet.

The school recently closed access to more than 100 "alt. sex" sites that officials deemed were in violation of the state's obscenity laws. Rep. Fred Perry (R-Tulsa), complained about the access on the publicly funded system.

Boren said the blocked sites were selected based on prior court rulings about what is obscene and not a protected expression under the First

Amendment.

"We're not blocking any whole category — only addresses about which we receive complaints, and so far we have blocked those that deal with explicit child pornography and bestiality," Boren said.

"We are attempting to be very careful, very balanced and to respect the First Amendment while still complying with state law," he said.

Loving, former president of Freedom of Information Oklahoma, Inc., alleges Boren's action is unconstitutional prior restraint on speech and the press. Loving wants U.S. District Judge Wayne Alley to declare the censorship illegal and bar the practice.

Loving routinely uses the university's computer system for research, teaching and gaining information to comment on contemporary society, the lawsuit says.

Access to newsgroups helps him gain a "wider understanding of signifi-

cant social issues from a diverse community of speakers," it says. Newsgroups are electronic gathering places where computer users worldwide post messages and exchange material on

specific topics.

"In order to make these comments and to teach his students, Loving seeks information about the matters of public interest in Oklahoma and other states," the petition says.

Boren said access to hardcore pornography is an issue at schools from Oklahoma State University to

Oxford. The university created a task force to study the issue.

The school will grant access to the blocked sites for legitimate research purposes, he said.

"The university is not being extreme here in comparison with other universities," he said.

Boren said the blocked sites were selected based on prior court rulings about what is obscene and not a protected expression under the First Amendment.

Across the Country

Fuhrman Deposed for Simpson Civil Suit

RATHDRUM, Idaho (AP) — Former Los Angeles police detective Mark Fuhrman refused to answer questions Monday in a deposition for the wrongful death lawsuit against O.J. Simpson.

"He took the Fifth on everything," a source close to the case told The Associated Press in Los Angeles.

The deposition was conducted at a golf course building in Rathdrum, a small community in northwest Idaho. Simpson was not present.

Attorney Edward Medvene, representing the plaintiffs, commented briefly to reporters as he left.

"We wished he would have testified because during all the time between his testimony and now, there's never been any indication that anything he testified

Fuhrman had been expected to invoke the Fifth Amendment, as he did when recalled to testify in the Simpson murder trial.

to about his investigation has been disproven," Medvene said.

First District Court Clerk Kathleen Hutter said the deposition took about two hours.

"It happened. It's done," Hutter said by telephone from Sandpoint, Idaho.

Hutter is also secretary to District Judge James Michaud, who had placed a gag order on attorneys prior to the deposition.

Simpson was acquitted last year of murdering his ex-wife, Nicole Brown Simpson, and her friend Ronald Goldman. The wrongful death suit on behalf of the victims now seeks to hold him liable in civil court.

Fuhrman is a now-retired homicide detective who became a key figure in Simpson's murder trial. He said he discovered a bloody glove at Simpson's estate that matches one found near the victim's slashed bodies.

Simpson's lawyers contended Fuhrman had a documented history of racism and may have planted the glove to frame their client.

Fuhrman had been expected to invoke the Fifth Amendment, as he did when recalled to testify in the Simpson murder trial.

Any testimony could be used against him in an investigation by the California attorney general's office.

Prosecutors are looking into whether Fuhrman lied under oath in the Simpson criminal trial when he denied using racial epithets against blacks in the last decade. A tape recording of an interview with Fuhrman conducted by a screenwriter showed he did.

Fuhrman now lives in rural Bonner County and works as an apprentice electrician.

Members of Nicole Brown Simpson's family will be deposed Tuesday, starting with her father, Louis Brown, and sister, Dominique Brown. Her mother, Juditha Brown, will be questioned Thursday.



This Week, Reports From the North and South

Jesse Jackson Threatens to Rally During Yale Graduation

NEW HAVEN, Conn. (AP) — The Rev. Jesse Jackson on Monday threatened to disrupt Yale University's graduation ceremonies this month if the school does not negotiate a labor contract with its workers.

After a 20-minute meeting with Yale President Richard C. Levin, Jackson said the only way to avert his marching with 10,000 unionized workers on graduation day is for the university to settle its ongoing labor dispute.

"Workers across the East Coast are mobilizing for May 27," Jackson told The Associated Press.

"This university will not be in a position of moral authority unless it shows a real willingness to be fair to its workers and their families."

The Local 35 union of 1,100 food service, custodial and maintenance workers recently ended a month-long strike. Its sister union, the Local 34 of 2,600 clerical workers, also struck for a month earlier this year.

Both unions are seeking four-year contracts. The main sticking points are pension cuts and subcontracting. The university would like some flexibility to hire outside laborers for some jobs. The unions fear that allowing nonunion labor would open the door for Yale to rid itself of unions altogether once the four years expire.

Both Jackson and Levin said their meeting went well and both sides agreed negotiation on substantive issues was

needed. Negotiations were scheduled to resume Tuesday.

Still, the unions have obtained a permit for a parade on the outskirts of Old Campus, the site of Yale graduation, and a permit to hold a rally on the New Haven town green, just across from the ceremonies.

The AFL-CIO's national secretary-treasurer, Richard L. Trumka, and thousands of mine workers from Pennsylvania and Virginia are expected to be among those marching during Yale graduation if a contract is not settled, said Laura Smith, president of the Local 34.

Jackson said he has made the resources of his Rainbow Coalition available to the unions until the matter is settled. He added that his presence would not be necessary if a pact is reached.

Jackson said he has made the resources of his Rainbow Coalition available to the unions until the matter is settled. He added that his presence would not be necessary if a pact is reached.

University spokesman Gary Fryer insisted that an appearance by Jackson would not embarrass the university, nor give commencement a circus-like atmosphere.

"This is an institution that has a reverence for free expression and if anyone — the unions, Rev. Jackson, local community groups — want to express their point of view, they are free to do that," Fryer said. "We also believe that it's the unions desire not to ruin commencement."

Jackson said that a demonstration at Yale would be a good opportunity for organized labor to show its unity against what he described as a growing corporate cul-

ture of vindictiveness toward workers.

He cited a recent, company-organized rally by 2,000 Mitsubishi workers in Chicago against a group of women employees who sued the automobile company, citing sexual harassment.

"We are beginning to see companies on the attack, going after workers," he said.

Last week, before a possible Jackson visit at graduation was announced, the school said it was considering moving ceremonies from Old Campus to the Yale Bowl for the first time since World War II in order to avoid a disruption.

But Fryer said Monday that a move is less likely because the university has received assurances from city police that ceremonies could proceed in an orderly manner despite the presence of protesters.

He also said that Yale has offered to put union flyers on all seats at commencement if the unions agree not to disrupt the ceremonies.

"I don't know if they're trying to make a mockery (of Yale graduation)," Fryer said. "We'll do the best we can under the circumstances."

Such a demonstration would not change Yale's approach at the bargaining table, Fryer said.

Earlier in the day, Jackson led a march of students across the campus of nearby Southern Connecticut State University. At a rally of more than 500 students, he urged faculty to pass a student proposal for a course requirement in human diversity.

Despite the support of SCSU President Michael J. Adanti, the proposal, which would necessitate that all freshmen take a course in minority studies, was voted down by the faculty last November.

"God made us diverse. The world is a Rainbow Coalition. America is a rainbow. To stand against the diversity is ungodly," Jackson said. "It is not only offensive, it is a sin. It is an affirmation that God made a creative error."

After the rally, Jackson registered more than two dozen students to vote.

Texas to File Appeal With Supreme Court

AUSTIN (AP) — Texas will file its appeal of an anti-affirmative action ruling with the U.S. Supreme Court Tuesday, the state attorney general's office says.

Attorney General Dan Morales has expressed optimism that the Supreme Court will agree to hear the case "and give guidance to Texas and the nation on this important issue." HLS Prof. Laurence Tribe '66 is representing Texas in the appeal.

In the decision being appealed by the state, a three-judge panel of the 5th U.S. Circuit Court of Appeals in New Orleans last month struck down the University of Texas law school's admissions policy.

Ruling on a lawsuit filed by four

white law school applicants, the court said UT had failed to justify favoring some racial groups.

In the wake of that ruling, higher education officials at a number of universities had stopped using race as a factor in admissions and awarding of financial aid. Texas then asked for a stay of the ruling's effect, which the 5th Circuit granted.

The stay paved the way for universities to resume, at least temporarily, taking race into con-

sideration in their decisions, officials said. The University of Texas and Texas A&M immediately said institutions would do so.

After the state files its appeal, the stay will remain until the court decides whether to consider the case, according to Morales' spokesman Ron Dusek.

If the high court decides to hear the case, the stay will continue until the case is decided, Dusek has said. If the court does not hear the case, the stay would be

Texas ... asked for a stay of the ruling's effect, which the 5th Circuit granted.

dissolved.

BRIEFS



HILS Sends Delegation to Australia

The Harvard International Law Society recently sent a seven-member delegation to Australia to study its domestic legal system and explore the international legal issues prominent in the Asia-Pacific region.

Highlights of the delegation's visit from March 22 to April 1 included a private meeting with Justices McHugh, Gaudron and Gummow of Australia's High Court; an address by the newly appointed Attorney General Daryl Williams; and round-table discussions with top legal advisers to the Ministry of Foreign Affairs and Trade and the Securities Commission.

Marcelo Etchebarne LL.M. '96, who headed the delegation, said HILS members were particularly interested in the legal, financial and environmental aspects of the Australian mining and resources industry and the development of constitutional law establishing aboriginal land rights in Australia.

HILS's trips abroad, which are arranged with the help of HLS alumni, are designed to broaden the legal education of students while also strengthening ties with the host countries' legal community, said Etchebarne.

College Tightens Security After Student Protests

Harvard administrators have tightened security around the administrative headquarters at Mass. Hall in light of recent student protests for ethnic studies departments at Harvard and other Ivy League schools.

A Harvard security guard was posted in front of Mass. Hall last week in response to recent protests at Yale and Columbia in which students overtook administration buildings.

Harvard News Office officials said security around Mass. Hall is sometimes increased when circumstances warrant.

Provost Albert Carnesale downplayed rumors that officials expected trouble. "There has been no threat," he said. "It is purely a matter of prudence, not a matter of anticipating trouble."

The move comes after 100 Harvard students recently staged a protest calling for ethnic studies departments.

"It's obviously an offensive gesture on the part of the administration," said Joshua Oppenheimer, a student organizer of the protests. "Instead of listening to student demands, they take the defensive position of posting a security guard."

—from the *Crimson*

Brokaw to Speak at College Commencement

NBC News Anchor Tom Brokaw will be the keynote speaker at Harvard College's Class Day celebration on June 5.

"We wanted someone who will represent the '90s when we look back on them," said Harvard First Marshal Peter Cahn, "We've gotten a very enthusiastic response."

Some students viewed the selection of Brokaw as an attempt to balance the choice of National Institutes of Health Director Harold Varmus as Commencement speaker.

"He combines the interests of politics and media and thus provides a good contrast with Harold Varmus, who represents the scientific community," said Virginia Triant, who is a representative to the class committee.

—from the *Crimson*

"Inside Edition" Features "Crimson Criminals"

The television news tabloid *Inside Edition* recently aired a report on Harvard criminals that featured several alumni — a bookie, a bank robber, an embezzler and Unabomber suspect Theodore Kaczynski.

The five-minute segment was inspired by the recent allegations leveled against Kaczynski that has brought the press in droves to the Harvard campus.

Correspondent Joey Loy centered his report around Kaczynski.

"Harvard has educated many people of note — presidents, Supreme Court justices and authors," said Loy to open the segment. "Add to that list a bank robber, a bookie and a suspected bomber."

Missing from the report, however, were perspectives from Harvard students and administrators.

Instead, the show interviewed James Sturtz, a free-lance writer for the *Generation X* magazine "Swing," who has investigated Harvard criminals in the past.

"People at Harvard feel they have a right or obligation to change the rules if they want to," he said.

—from the *Crimson*

Students, Union Leaders Protest Work Conditions

Students joined several union leaders outside the Faculty Club recently to protest the University's treatment of Harvard Dining Services employees.

As Faculty Club guests mingled inside, about 50 demonstrators roped off the area with yellow warning tape and rallied against low wages, long hours and poor benefits.

Harvard University police were called to the scene after a minor scuffle broke out, but the rally disbanded before they arrived.

Edward Childs, a cook at Adams House and co-chief steward of Local 26, charged the Faculty Club with mistreating employees and ignoring their labor grievances.

"The Faculty Club is the place with the least respect for workers," Childs said. "The general manager is literally throwing grievances back at workers. There is a total denial of the union. There is a huge work overload."

The protest on April 17 came as food service employees and the University prepare to enter contract negotiations.

—from the *Crimson*

HLS Drama Society Presents:

"The Colored Museum"

by George C. Wolfe

Thurs.-Fri.

May 9-10

Ames Courtroom

8 p.m.

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GYM RAT

Bottom of the Ninth

By David Koontz '96

Sports Columnist



As the Gym Rat rides off into the sunset, there are just a few more things I'd like to say. First of all, thanks to anyone and everyone who has ever read word one of this column, whether or not your name has appeared. For a year and a half I've been a kid in a candy store. People elsewhere in this newspaper write about real life, while I just get to ramble on about all the fun things that happen on the side. A few more of those things:

The A league playoffs have boiled down to the final championship series, which wasn't a series until this year. The Black Plague defeated One and Gun, a 1L team which will be on the rise the next two years, to make it into the finals. The Plague will face off against defending champ Well Hung Jury, which won a typically tense and tight game over Caution: Flammable by a mere three points. This ought to be a whale of a series (there's a southern expression I've never been able to use before), so come on out and catch the best basketball action with really big people that the Law School has to offer. The games are at 9:45 p.m. Thursday, 7:45 p.m. Friday, and if necessary, 12 noon on Saturday. All games are at Hemenway Gym, and it doesn't cost anyone a penny to go watch.

The best basketball the Law School has to offer which involves somewhat smaller people is in the B league this weekend. Monday night, General Gao dealt the previously undefeated Stormin' Mormons a convincing defeat. Gao will face Gooch's Last Stand in the semifinals this Thursday night, May 2, at 6:45. The game-saving and game-winning plays for Gooch deserve some attention, especially because they came against giant-killers United Nations. The score was tied with less than a minute to go when Gooch's Todd "No, I'm not related to Kevin, but thanks" Johnson '96 poked the ball loose and dove out of bounds to save it. Sean "Yes, I am related to Todd, but I've got a little game of my own" Johnson '97 dove on the saved ball and smartly called a timeout. On the ensuing play, Todd Johnson found a cutting Dave "Finally, I'm back in the sports column!" Levitt '96 for the game-winning basket.

In the other B league bracket, Last Call hasn't made me look bad yet, and they will face nothing but challenges the rest of the way, beginning with Flagrate Delicto at 7:45 this Thursday, May 2. The Great Danes will resume their title defense against the 1L team Bye, which still has not lost a game this year. Did the

When you walk onto the court in Hemenway Gym, there are people there who don't talk about law or their problems. They just get together and play a game for a little while, and when it's over, no matter what happens, you're still friends.

team mind a few weeks ago that the Gym Rat didn't really know much about these guys? "Combined with that and the fact that as an undefeated team, we wound up a number three seed, we feel great disrespect, and we're on a mission to get some," said Bye player Brent "All Along the" Schlotthauer '98. Brent was smiling, but it's true that the 1L guys have to prove themselves in this league before they get noticed by the 2Ls and 3Ls. They'll have their chance this Thursday night, May 2, against the Great Danes, who won that respect last year as 1Ls themselves.

The winners of the Last Call-Flagrate Delicto game will play the Bye-Great Danes winner on Friday, May 3, at 8:45 p.m. The championship game is scheduled for 11 a.m. this Saturday, so come on out and watch the smaller guys play the best below-the-rim action HLS has to offer.

There were many possible ways I could end this column, seeing as it is my last. I could tell the joke about the grasshopper who walks into a bar and orders a beer, and the bartender says, "Hey, did you know there's a drink named after you?" And the grasshopper says, "There's a drink named Steve?" (Credit goes to Mike "Day at the" Beach '97 for that one, especially if you didn't laugh.) But I don't think I want to end it that way.

One friend, Jonathan "Building from a trot to a" Cantor '97, wanted me to devote the entire column to honoring the recently deceased Jimmy "The Greek" Snyder. Cantor obviously did not support the Greek's ignorant and racist remarks, but instead wanted to pay tribute to a legend in gambling and sports, a man who invented the teaser bet. For some reason, I decided against that too.

I could always mention friends who helped me along the way, and especially those friends whom I promised would appear in the column some day if they were patient. I just hope that Beth "The Tonight Show with Johnny" Carlson '96 and Stacy "I'd rather play sports than just sit in a La-Z-Boy Re-" Kleiner '96 are still reading, not to mention David "It's cal-zon-ee, not cal-zone" Markese '96 and all the Sleestaks who played together and played with heart for three years — screw the wins; we had a good time.

In the end, though, I just want to give you my take on what sports are all about, if you don't mind too much. When I was five years old, I began swimming year-round on a team in Mississippi, and I never quit until college. Some people went to parties in high school; I went to swim practice and swim meets. The competition was healthy and not oppressive, and whether or not I won races didn't define my self-worth.

Instead, it was a way to grow up and learn about discipline while having a good time and staying healthy. I didn't realize any of those things until it was over. So I still hang on in some small way, for the camaraderie, the highs and lows, and the ability to escape for just a little while. When you walk onto the court in Hemenway Gym, there are people there who don't talk about law or their problems. They just get together and play a game for a little while, and when it's over, no matter what happens, you're still friends.

Thanks for letting me be a part of that with you, and good luck to you no matter what you do or where you go after I'm gone.

FOOD - O - RAMA

East v. West

By Betsey Nevins '97 and Heather Friedman '97

Restaurant Reviewers

JUSTICE O'Learned-One delivered the opinion of the Court.

As the dawn of the 21st century approaches, the restaurant Ginger Bistro presents this Court with the opportunity to reconsider a question much mused over, but never satisfactorily laid to rest: is fusion food a worthwhile culinary innovation or a fly-by-night trend that this Court — with its responsibility to history, to herstory, and to chopsticks, forks, and fingers of many generations to come — is bound to condemn?

The case also presents a novel procedural issue. Apple-ants and applebees have both moved for summary judgment. In support of their motions, the parties complain that both the restaurant at issue, and this esteemed Court, are *fora non conveniens*. We dispose of the first contention by pointing out that on a recent Sunday night, parking was found a mere two blocks from the restaurant, despite its Back Bay locus. As for the second, more troubling, challenge to this Court's hospitality, we decline to comment. In fact, we decline to give either party the satisfaction of an easy way out, and now proceed to consider all issues before us on the merits.

Thankfully, this case does not require us to consider the issue of standing. All parties were happily and speedily seated as soon as they arrived. Congressional findings suggest that this might have been an unusual occurrence, related to the aforementioned day of rest on which the meal took place. (As for the *amicus* curate urging this Court to examine the circumstances under which a meal for pay was procured on a Sunday, we regretfully conclude that this is a question more properly left to the political branches, beyond the purview of this Court.)

To return to the matter at hand, Ginger Bistro, formerly known as "Wild Ginger Bistro," is clearly now in the process of redefining itself. Signals of the restaurant's new direction include a new coat of pale citrus green paint on the walls and the subtraction of the word "Wild" from the its name. While not substituting its own moral judgment

The Court notes the differential treatment for the Asian and European elements on the menu, but believes ... the disparity is a harmless error.

for that of the legislature, the court supports this hardline position against the wild side.

More significantly for our purposes, the menu was also changed shortly after this case was filed.* As of May 2, 1996, many of the existing entrees were banished. Less popular *tapas* (the aggregation theory holds that many of these snacks may take the place of a unitary main course) have also by now disappeared. After lengthy discourses with dispassionate experts, we conclude that these extreme restrictions on culinary liberty and free association were carried out with due process of law.

Because the new menu highlights a revised and expanded *tapas* and salad selection, these classes merit heightened scrutiny. A spinach salad (\$6.25) of fresh greens atop cold *soba* noodles was dressed to perfection with what the menu called a Korean-style vinaigrette. The salad bespoke an eye to color as well, with purple cabbage, white bean sprouts and shredded carrot hidden beneath the dark green of the spinach leaves.

The high-art of food presentation celebrated in traditional Eastern cuisine has certainly influenced this kitchen. Especially visually striking were the black and white shrimp (\$5.25). Fried with a layer of dark and light sesame seeds and accompanied by a raspberry cream-cheese sauce, the classification was suspect at first, but turned out to be rationally-based.

East urges the Court to consider the bright-line rule that one can live by dumplings alone. Steamed shrimp (\$5.25) in translucent wonton-wrappers looked delicately lovely, but we found it difficult to distinguish them from a case of ordinary steamed shrimp. Careful fact-finding suggests to this Court that they were enlivened somewhat with a spicy soy dipping sauce, which seemed vintage Szechuan, though applebees argued that it was Vietnamese. Peking ravioli (\$5.25) were tasty bite-sized, pan-fried pockets of pork.

Applying a balancing test, however, it is clear that the satisfaction of the Western factor raises the Eastern factor to a level of prominence not previously recognized by this Court. Crispy seafood ravioli (\$5.50) were scalloped-edged deep-fried dumplings which would have been bland but for apple-ant West's addition of a surprising cilantro zing. More class action was found in the steamed mushroom dumplings (\$4.95). Reminiscent of Eastern European piroshki (but wearing light dough jackets instead of heavy potato-dough coats), these triangles blended a pure mushroom essence with a boursin-ginger sauce that beats the pants off the more quotidian sour cream.

A less perfect union was the scallion pancake (\$4.25). This flour tortilla-style pancake with a *salsa* paste of sundried tomatoes affirms that some cultural metaphors just should not be mixed. The resulting offering was rather tasteless (if, thankfully, not greasy) and the sauce, rather than redeeming it, smothered it.

The Court notes the differential treatment for the Asian and European elements on the menu, but believes that this Court's long-standing commitment to free speech requires the conclusion that in this case, the disparity is a harmless error. We decline to bow to structural fetishism and outmoded classifications. Besides, the super-rich flourless chocolate cake (\$4.95) — their only dessert — was yummy.

Assuming *arguendo* that there was an argument, the Court declares the subject of East v. West moot.

The decision is affirmed.

The Chef Justice, with whom Justice Burger, Justice Frankfurter, and Justice Red-quin join, dissenting.

Bunk and poppy-cock! Ever since the demise of Justice O'Gravy, this Court has been floundering. I steak my reputation on it! Waiter! Another martini. And make it dry this time.

* Our understanding of the full implication of these menu modifications was assisted by a conversation with a patient wait-person.

Ginger Bistro is at 95 Massachusetts Avenue (at Newbury Street) in Boston, 267-2868. There is an \$8.00 per person minimum for parties of five or more.

Many Students Still Waiting

continued from **FUNDING**, page 1

public interest grants. As of Tuesday, 11 students had accepted the grants, according to Susan Chin, student finance coordinator at the financial aid office. Chin said there were 13 students remaining on the original November wait-list and 11 grants left. "Given the history [of acceptance], we would expect everyone to be taken off the [first] list," said Donahue.

On Wednesday, Chin said she will have called the 11 students by Thursday. Those students will then be given two weeks to decide whether to accept funding, Chin said. If some students reject the grants, they will then be made available to the 24 students on the second wait-list.

Too Little, Too Late

But the 24 students who remain on the post-November waiting-list may be out of luck, according to Dean Clark. Clark said he promised unrestricted money to be used to fund students off the November wait-list, "not the late-comers," he said.

Clark said the financial aid office increased its allocations by \$56,000 from last year in order to "cover predicted demand." While Clark said his goal was to cover everyone, it would cost an additional \$50,000 to clear the entire wait-list.

While grants may spill over from the original wait-list, Chin said it is unlikely that many of the 24 will be offered funding.

"The acceptance rate is higher [for students on the second wait-list] because all other sources of funding have been passed out," said Chin.

"The only thing available at this point is work study," she said.

Several students said the money is coming too little and too late for many students. "Before spring break there were 70 people on the waiting list," said Deborah DosSantos '98, noting that many students had already made their employment decisions by that time.

"Spring break is awfully late to still be looking for funding," she said.

"The problem is that students are not told up front [about their chances of receiving funding]," said DosSantos, who urged the Financial Aid Office to increase communication with students.

Janet Goldberg '98 heard about her funding in April. "Waiting so long was difficult, because I didn't know if I was going to get any money or when I would get it," she said.

"When I was offered a job [at the New York City Office of Collective Bargaining], I didn't know if I could accept it," Goldberg said, noting that she waited until the last possible day to accept the job, and did so immediately after learning the good news from the financial aid office.

Delays in the funding process may have discouraged public interest job seekers and forced students to take less appealing jobs in the private sector, said DosSantos. DosSantos said she wasn't surprised the wait-list "dwindled so quickly in recent weeks."

Shannon Liss '96, who sits on Clark's Ad Hoc Public Interest Committee, agreed. "The yield is low this late because it is so late in the process," she said, urging administrators to let students know whether they have funding earlier in the year.

Guaranteeing funding for all would eliminate the problem and allow students to make decisions confident that they had backing from HLS, said Liss.

The Supply of Funding

Summer public interest grants come from nine sources, according to Donahue. The main source comes from gifts from the Montgomery and Wasserstein families. The Andres and Wasserstein grants account for \$120,000, and will grant \$2,500 to 48 students this summer.

Student Funded Fellowship (SFF), a student-run organization that solicits pledges from students to fund public interest work, raised \$38,000 this year, according to SFF co-chair Joe Holt '96. SFF will fund 20 students in whole or in part, according to Holt.

The Public Interest Auction raised \$51,000, according to DosSantos, who helped organize the auction this year. Sixteen students will be funded with \$2,500 grants, and five more with work study matches or supplemental money to bring them up to \$2,500, according to DosSantos. Last year, the auction raised \$28,000.

The Human Rights Program will fund 18 students this summer, according to director Gerry Azzata. Azzata said students will be given \$2,500 to work in the United States and students working abroad are eligible for grants of as high as \$3,500.

given by the Dean towards this summer's funding, a total of \$573,000 will go to fund 189 students to work for the public interest.

The Demand for Funding

While it is difficult to accurately calculate the number of students who would like to pursue public interest summer work, about 235 students do so each summer, according to DeBroff. This would be higher, said DeBroff, if all students who wanted to work in the public interest could receive funding. Without funding, many students are forced to accept paying jobs in the private sector, she said.

"There has been a tremendous upsurge in public interest work over the course of the last four years [at HLS]," said DeBroff. In 1990, only half as many students were interested in public interest as are now, she said.

DeBroff said that, while 235 students do public interest work each summer, about 350 people apply for public interest funding. Throughout the course of the year, DeBroff estimates that about 50 to 70 students either take themselves off the waiting list because they don't hear the funding decision early enough, or are not able to afford pub-

Thompson said HLS receives notice of about 300 1L summer job openings. All of the offers are filled, said Thompson.

"If we could get 400 openings, would 400 students fill them? My guess is 'Yes,'" said Thompson.

HLS employment trends support Thompson's belief that much of the fluctuation in public interest employment is due to the availability of private sector jobs. About 40 to 50 percent of the applicant pool expresses some interest in public interest work, with about 10 to 15 percent showing a "demonstrated commitment," according to Joyce Currl, director of admissions.

By the summer of their 1L year, about 40 percent pursue public interest work. During the summer of their 2L year, only about five percent of students are employed in public interest organizations. After graduation, this number jumps back up to about 10 percent.

Thompson notes that the private sector job market is tightest for 1Ls and is best for 2Ls. A smaller number of students accept private sector jobs after graduation than during their 2L summer, said Thompson.

Clark Afraid of 'Open-Ended Entitlements'

DeBroff said that, while the private sector job market is a factor in students' decisions to pursue public interest, she doesn't believe it has a major impact. "Most 1Ls are looking to experience some form of public service lawyering," she said.

"Given how low the stipends are, the incentives are there to take private sector work," DeBroff said. DeBroff said students make the earnings sacrifice because they feel a strong moral attachment to the work.

"[Y]ou're not going to take a public interest job for the \$2,500 [stipend]," she said.

Dean Clark disagrees. Clark said guaranteeing public interest summer funding would "effect people at the margin" who are deciding between public interest jobs and jobs in the private sector. "Experience suggests that if you make funding available, you get more people who want to do something," Clark said.

Clark said he was against making public interest money into "open-ended entitlements." Instead, he said the Law School's goal is to "provide a fixed dollar amount that will enable summer public interest funding to continue at the historic level with some growth."

Students believe Clark is overly concerned with 'the creation of a welfare state' at HLS. Not only do many students disagree with Clark that public interest grants induce students to forego jobs in the private sector that pay upwards of \$1,600 a week, but they believe the \$2,500 grants are inadequate, according to DosSantos.

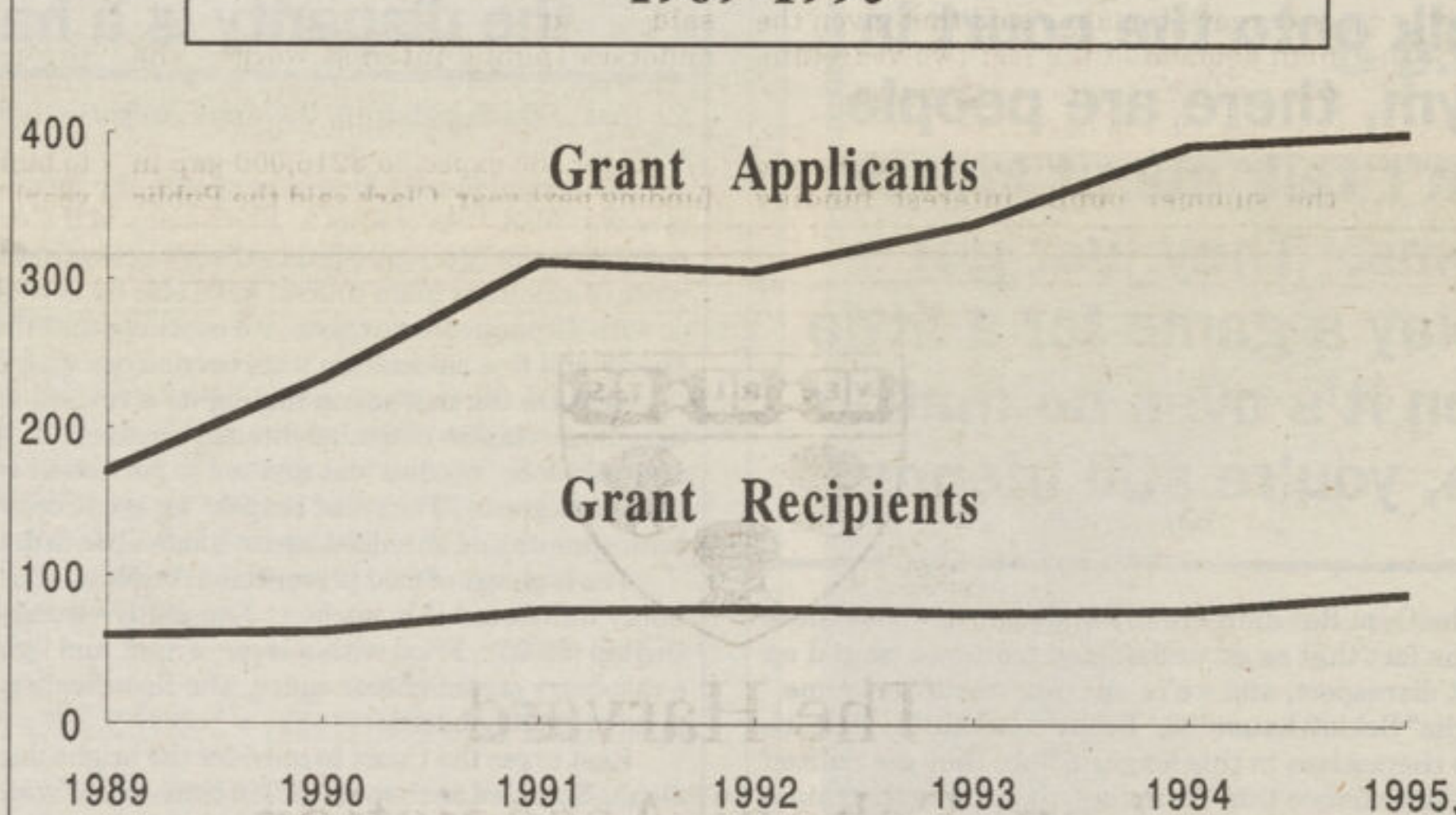
This year, grants were increased from \$2,000 to \$2,500, according to Donahue. Magnuson believes that the increase in the grant may have contributed to the jump in the number of students accepting funding.

But Liss believes otherwise. "\$2,500 is rather difficult to live on," she said.

In fact, the financial aid office estimates \$4,700 is a "reasonable amount for students to live on for the summer," according to Magnuson. Thus, students may be self-financing as much as \$2,200 to subsidize their public interest work.

"While some students are able to piece together funding from other sources, many are left either to choose between borrowing money to pay for

Public Interest Grant Applicants v. Recipients
1989-1995



Source: Harvard Law School Financial Aid Office

Eleven alumni associations across the country have given a total of \$30,000 for public interest summer work, according to Kathy Reich at OPIA. Reich said most grants average \$2,500, although some cities decide to split their grant to fund more students. Reich added that, while the New York chapter received 17 applicants for one grant, grants in New Jersey and Connecticut are still available.

Seven Lewis Fellowships were also awarded this year, providing a total of \$15,000 for students doing human rights work this summer.

In addition, the school has given out \$130,000 of federal work study aid to 32 students this summer. To qualify for work study aid, students must have financial need and must obtain matching funds from an employer, according to Donahue.

Several smaller sources of funding also exist, according to Donahue. The Carlyle Hall fund provided \$5,000 for three students last summer. The Mansfield fund provided \$4,500 for three students. The Shea fund provided \$3,500 for two students. In addition, \$4,700 was given in small amounts by a number of alumni, according to Donahue.

Including the \$96,000 (\$110,000 less the \$14,000 to cover last year's deficit)

lic interest work, even with the \$2,500 stipend.

Based on DeBroff's estimates, total demand for public interest funding is \$875,000, leaving a gap of nearly \$300,000.

DeBroff said the demand for funding from HLS has increased in recent years due to a decline in other sources of funding. DeBroff said government budget cuts and declining funding bases has led many government agencies and legal service organizations to cut paid positions. "Most of them are only taking volunteers," said DeBroff.

Magnuson agreed that the public interest job market is tight. "2L paid positions are going away," said Magnuson, who also noted that paid government positions are also becoming a rarity.

"Now, many of these employers are less and less able to fully fund or at least match [public interest funding from HLS]," Magnuson said.

Another problem with calculating the number of students who wish to work in public interest jobs is that the number seems to be dependent on the market for private sector jobs, according to June Thompson, director of career services. According to Thompson, the number of 1Ls working in public sector jobs is a constant 300 every summer.

For Public Interest Funding

summer expenses or to forego an extremely crucial step in their career development," said Amy McManus '98.

Liss said HLS falls far behind Yale and NYU law schools when it comes to support for public interest work. "Yale has a flexible screening process that is need-based but ordinarily doesn't turn students down," said Liss, noting that Yale averages \$3,360 per student. NYU offers \$3,250 per student per summer.

"Even though [these schools] have smaller class sizes, they supply significantly more money in the aggregate for summer funding," Liss said.

Next Year: a \$216,000 Gap

Because no part of the operating budget goes to support summer public interest grants, funding is constantly in danger, said Liss. Money in the Andres and Wasserstein fellowships runs out this year, leaving a \$120,000 gap in next year's public interest funding.

In addition, the Dean's one-time allocation added \$96,000 to this year's funds.

Absent new alumni pledges or administrative support, funding for summer public interest work will face a \$216,000 gap next year, a 50 percent cut in the overall budget.

"We have an ongoing problem with summer funding," said DeBroff.

Holt said the Dean's "gift" shows the problem with HLS' approach to public interest funding.

"Major structural changes with public interest funding are needed," said Holt. "A number of groups are doing good but limited things to address the need, but none of them are adequate to meet the task."

Holt said the school needs to come up with an institutional response to the problem.

"It represents the difference between justice and charity," Holt said.

While the Dean's gift was perceived as charity, Holt said "it was something that was due." "I'm glad to have it [the Dean's funding]," said Holt, "but it shouldn't be an isolated act."

DeBroff said Clark is working to convince alumni to give gifts in support of public interest. Noting large gifts from Montgomery and Wasserstein, DeBroff said, "The Dean has done significant outreach to alumni."

DeBroff noted that the task is huge, however. "At a four percent payout rate, it would take several million [dollars] to endow [the whole program]," said DeBroff.

Donahue said the financial aid office's Summer Public Interest Funding Committee is working on recommendations to deal with budget constraints next year. Donahue said that given the high demand of the last two years, the office will be "more conservative in the original awards next year."

Liss said she believes the solution to the summer public interest funding

problem is for the school to guarantee funding, pointing to the Low Income Protection Program (LIPP), which is guaranteed to graduating students.

"I don't think Harvard is a world of such limited resources that they can't give grants to those who need them," she said.

But it seems the ultimate commitment will have to be made by alumni, and not Clark.

Noting the large donations from Montgomery and Wasserstein that have acted as the engine for summer public interest funding for the last five years, Magnuson said, "It was donors' intentions to encourage public interest work."

"[HLS] has never said it endorses [public interest work]," she said. "The intent has been to try to fund as many people as possible."

As for the expected \$216,000 gap in funding next year, Clark said the Public

Interest Committee is working on the problem.

Prof. Chris Edley '78 said the committee has submitted a proposal to Dean Clark to allocate \$265,000 out of the School's unrestricted budget to fund 106 students next summer. Edley said the recommendation fulfills Clark's request for "a reasonable estimate of student demand."

But Edley added that it is difficult to accurately measure what the demand for public interest work will be next year. In fact, the \$265,000 estimate was made on the assumption of a 40% yield, an assumption which turned out to be far too low this year.

"There was a surge in demand this year, so it's hard to project what the future needs will be," Edley said, noting that

the committee has already begun to "revisit [the \$265,000] recommendation" for fear it "may not be a sufficient sum to budget for our expected demand [next year]."

Clark said he was against making public interest money into "open-ended entitlements." Instead, he said the Law School's goal is to "provide a fixed dollar amount that will enable summer public interest funding to continue at the historic level with some growth."

While grants may spill over from the original wait-list, Chin said it is unlikely that many of the 24 will be offered funding.

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to the

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Founded in 1946

Hope Yen
Editor-In-Chief

Deliverance

May brings deliverance of several sorts — from the drudgery of winter, from the turpitude of textbooks and overheated lecture halls. 3Ls pray for relief from papers, their last set of finals, and for the long-awaited moment to don black robes and celebrate graduation. Little activity exists but for the intent scurry of students cramming for exams, focusing on their imminent release into summer. Inertia, which had begun settling in since the shock of 1L exams, hitches up its skirts and hunkers down for the last few weeks.

Yet examples exist of students who continue a standard of activism throughout their three years at HLS. Several students, many on the verge of graduation, rallied last weekend to publicize how far Harvard Law School has yet to go before it claims credit for public interest success. Other students continue to work unmitigated hours at the Legal Aid Bureau, ensuring that their clients receive the best legal help they can provide. Still others marshalled forces just a few days ago to stage a letter-writing campaign to oppose anti-immigration provisions in the latest anti-terrorism bill on Capitol Hill.

What is noteworthy in this activism is not the particular political credo which these students hold. Nor is it their *modus operandi*, or their timing. It is instead the willingness they demonstrate to commit themselves, their time and energy, into concrete expressions of belief, despite the sometimes debilitating pressures of deadlines and the spiritual tiredness when it seems that few people care.

Not every act of implemented courage is executed with careful thought, and on hindsight some may seem to amount to not much more than crazy derring-do. The Griswold 9 — the group of students who took over the Dean's Office in the spring of 1992 to protest the lack of faculty diversity — faced expulsion for their protest. So close to graduation for some of the 3Ls, the move seemed reckless, thoughtless. Yet by the media they attracted, they raised national awareness of the diversity problem. But their strategy was not flawless, and in many ways the protest failed to sustain strong and meaningful activism about the issue.

Perhaps what counts, then, rather than explosive, momentous but nevertheless occasional bursts of protest, is the continued effort, an activism bent hard at the grindstone, shedding the inertia that shutters our eyes from seeing what we truly care. For graduating students, this is a realization that we can take into the world in order to change the lives of those around us. If anything, we should learn in our time here that we can transform our beliefs into what matters to others. And to do this, it is by informing our lives with action, with a commitment to efforts that we care about, that should characterize our contributions to this Law School and beyond.

— Kuohung

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

—First Amendment, US Constitution

• Letters •

Class Day Speaker Choice Justified

While we appreciate the fact that our buddy Markus Hartmann '96 took time away from his precious law school studies to devote an entire column to Class Day speaker Ted Turner, we legal heathens feel compelled to respond.

We feel the best response is simply to lay out our three criteria for choosing the Class Day speaker.

(1) The students had to recommend the speaker.

After stuffing everyone's Hark box with requests for Class Day suggestions, we received many responses — nearly all of which were people outside of the law. We would never accuse Markus of being hypocritical, so we assume that he gave us his suggestions when we solicited them (he wouldn't be complaining just now if he didn't already give us some suggestions when we asked for them, would he?). From the student suggestions we received, we created a short list. And, without going too deep into the arduous, frustrating process of selecting a speaker, we can say that "accomplished" people — in Markus' words — have busy schedules. We were extremely fortunate to get someone as accomplished as Ted Turner with relatively short notice.

(2) The speaker had to be recognizable to students and their parents.

White House counsel Abner Mikva is a great legal mind and was surely a good speaker at last year's Class Day. But one of the comments we consistently received from our classmates was that we choose a Class Day speaker that is well-known. We're sorry, Markus, but Class Day is for our families too, and it's a little insular (not to mention selfish) for us to invite an "accomplished lawyer" who would talk the language of the law, to which not everyone is privy. Moreover, as you have repeatedly recognized in your weekly columns (yes, people do read them!), HLS students are

always trying to shed their legal blinders and learn what the real world is like. After eating and sleeping law for three years, we felt that most members of the Class of '96 would prefer hearing an accomplished, intelligent celebrity at their Class Day, rather than an obscure judge or practicing attorney who will tell us, above all else, to remember supplemental jurisdiction.

(3) The speaker had to have some relevance to what we may do as lawyers.

We are not saying that a speaker at a law school always needs to have a connection to the law. After all, we are human beings as well as lawyers (although some may disagree) and would benefit from an important life message. With that said, we didn't want our speaker to stray too far from the law, since some student columnists may insist that lawyers need to hear a legal message. This eliminated Michael Jordan, although we respect his work for the Chicago Bulls.

Although Markus criticizes cable television along with the man who revolutionized the concept, it is ironic that the head of MTV, Sumner Redstone, is an HLS graduate. Despite this, we are certain that Markus would have welcomed the boss of "Beavis and Butt-head" as our Class Day speaker because Redstone is a "distinguished HLS alumnus." Although Markus is correct in saying that Ted Turner heads World Championship Wrestling, it is also true that Ted Turner has accomplished something that many said could not be done: a 24-hour world news network.

Indeed, ownership of CNN, TBS and TNT have made Ted Turner one of the most influential people in the information business. And lawyers are certainly in the information business; law and the media are inextricably intertwined, and a message

from one of the innovators in this field would be invaluable. In particular, Turner may comment on the numerous important legal issues that have been raised with his businesses and his upcoming corporate merger with Time-Warner. Ted Turner is also relevant to the field of intellectual property, where his colonization of old movies has raised some interesting copyright questions (see *Turner Entertainment Co. v. Huston, Court of Appeal of Versailles [France], Decision No. 68, Roll No. 615/92 (1994)*).

In addition, many of us, as so many of our predecessors, will end up in the business world. And even if graduates find themselves practicing the law for their whole lives, a fresh perspective from someone who deals with lawyers on an everyday basis could be illuminating. HLS is such an insular community; we should be aware of what a respected leader in the non-legal community has to say. He may provide an interesting perspective about what lawyers do well and not so well, and how they may be able to do it better. We do not know exactly what Ted Turner will discuss, but we know that he will be quite candid and interesting.

But why harp on our disagreements? We actually agree wholeheartedly with at least one thing in Markus' column: in attempting to be "a good servant to HLS," Markus is certainly "guilty of the crime of whining."

Still, we have to respect Markus for standing by his guns and inviting all of us law-starved graduates to talk torts with him at Nick's Beef and Beer during the Class Day ceremonies. More power to you, Markus! Just make sure you request a small table.

Dave Aronberg '96
Scott Goodreau '96
Eulas Boyd '96
Tim Elliott '96
April 30, 1996

Paper Requirement Needs Reevaluation

Given the many provocative letters published in the RECORD last week, I was unsure as to which issue I wanted to respond. Instead, I have decided to attack a completely different topic, but one which has made me increasingly dissatisfied with my HLS experience.

This may be stating the obvious, but the third-year paper requirement in its current form is disastrous. Indeed, the written work requirement embodies everything which I dislike about HLS.

First of all, many people seem to write their papers in a vacuum with little or no input from fellow students or professors. Most people spend a great deal of time (even if they deny the number of hours they devote) researching and writing their papers. Rather than being able to bounce ideas off others in any structured way, students are left often to flounder around, wondering if they are going off in the completely wrong track with their thesis. Instead of fostering a sense of intellectual community, the paper requirement gets people to sit alone in their little cubicles for weeks without discussing their work with anyone (although the requirement does cause people to commiserate together). This is no way to write an article.

Indeed, many journal articles include as the first footnote a note of thanks to the many people who provided critiques of the article.

Second, as Matthew Huggins pointed out in one of

his columns, students are expected to write a legal essay of publishable quality when for the previous two years many people's writing experiences consist of cranking out exams or writing memos. To suddenly come up with an original, thought-provoking, well-edited legal essay can prove to be quite a challenge when one has been trained to figure out how to fit information into an essay of 1200 words or less for the past two years.

Third, the third-year paper requirements appear to vary widely from adviser to adviser. Some advisers require 40 page papers while others insist on papers of 80-100 papers in length. Some advisers want outlines and rough drafts, while other advisers do not want to see anything but a final version. This situation seems unfair to those students who do not have particularly attentive or accessible advisers and who want more help with their papers.

Fourth, it is unclear whether the requirement allows an adviser to dictate the contents of a student's paper. Obviously advisers can and should suggest ways to make a paper stronger, but advisers should not use students for their research agenda as a prerequisite for advising a paper.

Fifth, it is also unclear whether or not professors must return final papers to students with their comments on them. It is very disheartening to put a great deal of effort into something and then

just receive a letter grade as your only inkling of what your adviser thought about your essay.

Very little in the way of greater legal skills seems to be gained from the third-year paper requirement, beyond the acquisition of better bluebooking skills for law journal articles. I am not arguing that a paper requirement in and of itself is necessarily a bad idea. In an ideal world, such a requirement would sharpen student's research and analytical skills. Instead, HLS has set up a requirement which many students view as something which must be suffered through in order to receive the coveted Harvard diploma.

Perhaps one way to address some of the problems I have listed may be to require that all students write a third-year paper but require that such a paper be written in conjunction with a seminar. It could be required that each seminar would discuss all students' papers and a length limit could be placed on papers. I am sure that many students would be able to provide the administration with creative ways in which their undergraduate schools dealt with the writing of theses which are far superior to the treatment of third-year papers.

I am asking HLS to take a hard look at this requirement. I am no longer naive enough after being here for three years to think that anything will actually be changed, but I suppose I can still hope.

Jennifer Lowman '96
April 29, 1996

• Letters (cont.) •

Yearbook Portrays HLS Unrealistically

Let me begin by thanking the Yearbook staff for the hours they put in to their 1996 magnum opus. The Yearbook obviously took a lot of time and energy to compile, and I'm glad they were willing to work for an important but often overlooked mission: to create and preserve the community of Harvard Law School. In an extremely antiseptic and resume-focused environment, the Yearbook staff has reminded us of a life beyond the books — real life, as it were.

Having said that, however, I want to criticize the result. This year's Yearbook depicts a Harvard Law School that is unlike any I know. Sure, there are commonalities between the Yearbook's vision of HLS and my own, but really, they're not the same school.

First of all, I'd like to remind the Yearbook staff that we go to Harvard, not Stanford, as much as they'd like to believe the contrary.

Where's the snow? There's not one picture of the huge blizzard drifts that made those unending Boston winters oh-so-special. My first year, we had record accumulation over the winter; this year, we had record accumulation in the month of January. Yet all of the outdoor yearbook photos portray shiny, happy law students frolicking in shorts and T-shirts on bright green lawns. Perhaps the Yearbook staff missed those days when the Hark Common was covered with snow — or a mass of mud and murky water.

Second, if the Yearbook is any guide, the class of 1996 should be signing up not for Bar/Bri or West classes, but for Alcoholics Anonymous. I actually counted the pages on which students were drinking one form of alcoholic beverage or another, and I found that out of 127 Yearbook pages with pictures of random students on them, 58 pages had

pictures of students drinking. That's almost half! Part of me wishes I had spent half my time at HLS drinking, but I don't think my HLS experience can be summed up by a mug of frothy golden lager. Perhaps the young man with the "trouser tuber" sticking out of his pants (see p. 211) spent half his time drinking; even so, perhaps it'd be better if we weren't confronted by the results.

While there are countless pictures of imbibing law students, there are scant pictures of them doing anything else that looks vaguely interesting. Intramural sports? No real pictures of those. The various plays, including the yearly parody, put on by the Drama Society? Nope. The public interest auction, started by members of our graduating class? Nope. Any sort of political event or student protest? Well, I guess there are vague references to "a

movement to pressure the administration" (p. 36) and a picture of a "Honk for Gay Rights" sign (p. 30). Most pictures, however, seem to depict smiling, sated students doing nothing more than mugging for the camera.

Which brings me to my main point — this Yearbook seems to be nothing more than an inoffensive propaganda piece put out by the folks at the Harvard Law Bulletin. The tone of the whole book is designed to give the reader bland, pleasant memories of their time here at the Law School. My suspicions were confirmed by this remarkable tract about Dean Clark:

"When [Dean Clark was appointed], the decision immediately stirred up controversy. Supporters extolled his superior scholarship and teaching abilities, while critics charged that Clark was intolerant towards alternative legal ideologies . . . and would polarize

the faculty. The passage of time has not only diminished those concerns, but has also seen the Law School reach a number of previously unimaginable goals during Clark's seven-year tenure. . . . Dean Clark is well poised to lead Harvard Law School into the next century." (p. 42)

Although this is a plausible interpretation of Dean Clark's administration, it is by no means the only one. And it seems odd that such a glowing remembrance would be put into a student yearbook — especially since students, as is their wont, have been fairly critical of the Dean.

For an encapsulation of my Law School experience, I much prefer the version put on each year in the Spring Parody. Every possible target is skewered, including the Dean, with harsh yet humorous barbs that are funny because they ring true. Despite its critical nature, the

Parody is important enough that the Dean and other faculty members sign up to parody themselves. I'm not saying the Yearbook could get away with the Parody's total irreverence — nor should it. The Yearbook need not, however, toe the party line in its presentation of Harvard Law.

In closing, I like to recommend that next year's Yearbook staff see its mission a little differently. Instead of taking pictures of your friends, take pictures of a visiting speaker or extracurricular event. Instead of paying homage to the Dean, poke fun at him. Instead of making the Law School look like a California fraternity, make it look like it really is — a frustrating, fun, snowy, socratic, bizarre place to go to school. We can take it — after all, we have for three years.

Matt Bodie '96
April 29, 1996

Cyclists Should Follow Basic Safety Rules

On a recent morning, walking past the Science Building on our way to work, my wife and I engaged in a minor altercation with a bicycle rider after reminding her to "watch out!" for pedestrians. Ours wasn't the sweetest way of saying it, maybe, but when someone's tearing by you at a fast clip, you don't have time to call your FTD florist. Plus, we're both sick of near run-downs by well-meaning bikers in a hurry.

We probably wouldn't have said anything in the first place if I hadn't been carrying our four-year-old daughter on my shoulders. Hitting an adult is one thing. But knock-

ing a child to the pavement can be fatal. Seriously. My wife and I had an acquaintance who was knocked down by a bike rider on Commonwealth Avenue several years back. After days in a coma, she died.

Anyway, the response we got from this particular biker was less than satisfying. She stopped briefly, outraged that anyone would question her right to ride anywhere and anyhow she should please. After all, the little signs with crossed-out bicycles are posted only in the Yard. Soon I had the joy of explaining to my little daughter the symbology of the

extended middle finger, and why this well-dressed stranger had started shrieking at us. (To top it off, she had the nerve to accuse us of being impolite.)

I'm not writing to expose the behavior of this particular rider. I'm sure that someone else will deal with her if she goes on this way. My aim is more modest: to suggest a few basic rules of form for you bikers out there, so that you can avoid all this unpleasantness.

First, I should make it clear that I'm not a biking expert. I haven't read (and certainly haven't written) "The Huffy Guide to Biker's Etiquette" or any other such

nonsense. My main qualification is that in my days as a biker (pre-dad), I tried to exercise some common sense and consideration for pedestrians. After all, you're wearing a helmet; they're not.

And don't think that I would deprive anyone of the pleasures of biking. I've enjoyed it in the past, and I'm sure that one day I'll ride again. But when you're pedaling like a bat out of hell because you're late for class or work, you're not a biker. You're a commuter. And if you commute like a jerk, you deserve the kind of rebuke usually reserved for Boston's infamous neanderthal drivers.

So here we go, and I'll keep it to an easy four rules:

1) Don't whizz past pedestrians, especially when you're approaching them from behind. Seems obvious. They can't see you. People tend to weave slightly when they walk, even when sober. If you allow them six inches of weaving room, there's bound to be trouble. So leave a wide berth and stay off the sidewalks if at all possible.

2) When you approach pedestrians, announce yourself. Okay, this makes you feel silly. But we walkers would appreciate the warning. "Bike!" to the tune of "supper!" would be fine.

3) Watch out for blind intersections and slow down. I can't tell you how many times I've nearly been whacked exiting the Yard through the gate by the Science Quad. "Sorry" just wouldn't be enough.

4) Stop at the red lights. If you cream a pedestrian in a crosswalk, I believe that the law is on their side. Please, act like a car for once.

That's it. Now biking is safe and fun for everyone. Simple enough?

P.S. to the finger waver: same to you.

Ken Lafler
Financial Aid Office
April 5, 1996

Fifth-Grader Reports on HLS Life

For "Take Your Daughter to Work Day," I still had to go to school — law school. My mother is a first-year student at Harvard Law School. I met and interviewed five teachers and six students at the Law School. I attended one class called torts, which is basically about suing people for money when

they get hurt.

I learned that law school can be boring but also fun. Prof. Sargentich, whose class I attended with my mother, was interesting. Prof. Sargentich was very nice and funny, and was good at explaining things so I could understand.

I was surprised as I

compared fifth grade behavior to graduate school behavior. I saw a student doing a crossword puzzle during the lecture! If I was caught doing that during class discussion, I would be in major trouble. Although nearly everyone was taking notes, I was shocked to find a student taking a catnap.

I talked with many students and professors (which I thought was a good experience for me). I asked the students why they wanted to be lawyers. Many said "because they wanted to help people." And one person said, "I don't know."

I asked professors what they liked best about teaching

at Harvard Law School, and I was not surprised when almost all of them said "the students." I met Prof. Meltzer, Prof. Sargentich, Prof. Singer and Prof. Desan — all were interesting people.

I asked students and professors if they were familiar with the life story of John Harvard, and I was surprised

to find that most of them said "no."

My day at Harvard Law School was memorable as well as a lesson; I now understand what my mother has to go through!!

Sarah Poradzisz
Westborough, MA
April 25, 1996

For more letters from your fellow students, please see pages 14 and 15.

RECORD Readership Survey

Students • Faculty • Staff • Alumni

The editors of the RECORD would like to get a better idea of the direction the paper should take in the coming years. Responses may be dropped off in the RECORD box in the Hark, sent to our offices via inter-campus mail (Ames basement) or mailed to Hope Yen, c/o the Harvard Law RECORD, Harvard Law School, Cambridge, MA 02138

1) Do you actually read the RECORD?

☐ yes ☐ no

2) If you answered "yes," what parts of the RECORD do you usually read? (Check any that apply.)

- | | |
|--|---|
| ☐ news stories on HLS | ☐ movie/restaurant reviews |
| ☐ AP wire stories | ☐ sports column |
| ☐ letters | ☐ comics |
| ☐ student opinion columns | ☐ Fenno |
| ☐ speakout | ☐ advertisements |
| ☐ faculty op-eds | ☐ calendar |

3) Of the parts you read, which is your favorite? (Please indicate with the number "1.") Which is your second favorite? ("2.") Your third favorite? ("3.")

- | | |
|--|---|
| ☐ news stories on HLS | ☐ movie/restaurant reviews |
| ☐ AP wire stories | ☐ sports column |
| ☐ letters | ☐ comics |
| ☐ student opinion columns | ☐ Fenno |
| ☐ speakout | ☐ advertisements |
| ☐ faculty op-eds | ☐ calendar |

4) Have you ever patronized a business because of advertising you saw in the RECORD? (Check any that apply.)

- ☐ ate in a restaurant/saw a movie
☐ bought something
☐ used a service
☐ other - please explain:

5) Tell us what you think of the RECORD's graphic design.

- a) Is the type easy to read?
☐ yes ☐ no
 b) Are the photos interesting?
☐ yes ☐ no
 c) Is the layout reader-friendly?
☐ yes ☐ no

6) What would you change about the RECORD?

"I'd like to see more ..." (explain)

"I'd like to see less ..." (explain)

7) Any other comments?

8) Who are you?

A student, Class of _____
 An alum, Class of _____
 A faculty member
 A staff member

THANKS FOR YOUR INPUT! LOOK FOR OUR NEXT ISSUE SEPT. 13!!!

• Letters (cont.) •

Accusations About CR-CL Irresponsible

As outgoing editors-in-chief of the Harvard Civil Rights-Civil Liberties Law Review (CR-CL), we are writing in response to Russell Robinson '98's letter printed in the April 26, 1996 issue. In his letter, Mr. Robinson expressed dismay about the CR-CL selection process, inferring that the process was in some way discriminatory against blacks and/or men. We are deeply offended by Mr. Robinson's unsupported allegations of discrimination, particularly his cavalier speculation that the Selection Committee decided to "reduce the participation of blacks."

CR-CL enjoys a long history of challenging discrimination of all kinds, both through the written word and through active participation in our community. It is exactly because we value the voices and experiences of all people that "subjective" factors play a part in the selection process. It is profoundly inaccurate, however, to assume that consideration of diversity — political, racial, ethnic, sexual orientation, etc. — in the selection of our Board members, obviates the importance of other criteria such as subcultural performance, writing statement quality and technical exercise accuracy.

CR-CL has no policy of keeping its selection process "extremely secretive," as Mr. Robinson asserts. On the contrary, the nature of the selection process was explained at two large meetings for sub-

citers: once in the fall and again in the spring. (The Executive Board's letter, printed below, again describes that process in detail.) Current EIC Nina Wang '97 also held a pre-selection meeting with interested subciters where she explained in detail the selection criteria for the Volume 32 CR-CL Board. At all of these meetings, we encouraged potential applicants to ask questions, provide us with feedback, and/or voice concerns. If Mr. Robinson had principled objections to the selection criteria, he was provided ample opportunity to raise them before applying to the Board.

CR-CL has always valued and encouraged dialogue as a vehicle for making improvements both within the journal and within our larger community. Mr. Robinson's letter, sprinkled with unsupported and inaccurate charges of discrimination and favoritism, however, defeats this spirit of productive communication. In publishing articles, we stress the importance of substantiation, and indeed demand that authors support all statements of fact and theoretical propositions that they make. In contrast to this philosophy, Mr. Robinson's letter to a newspaper circulated to thousands of students, faculty members and alumni/ae makes serious allegations with no support other than his observation that there are less blacks and men on the Board this year than last year.

He does not seem to consider the possibility that all of those who made the Board did so because they were best qualified for a Board position. He also fails to contemplate that the reduction in the number of blacks on the Board reflects an overall reduction in the number of black applicants.

That drop in applicant numbers is troubling to us, as individual persons of color and as leaders of an organization committed to the principle that the diversity of its members is its greatest strength. And, as a concern grounded in fact, the reduction in black applicants is a legitimate subject of discussion and debate. Nonetheless, it is our view that, though the author voiced concerns he believed to be valid, he did so without full consideration of the myriad factors that affect the final make-up of the Board.

All of our Board members share a passion for using our legal educations, our particular skills and our power and privilege as Harvard Law students to further the promises and protections of civil rights for all people, not only on this campus and in the communities that we live, but also in the composition of the journal's membership. We are confident that the selection process, rather than being arbitrary or discriminatory, properly reflects that commitment.

Michelle Kim '96
Angela Payne '96
April 29, 1996

LL.M.s Object to Fenno, Seek Apology

We take strong objection to the comment in the Fenno article about LL.M. students, written in page 11 of the Harvard Law RECORD (see April 26 issue). Fenno wrote that "he became aware of an awful smell, worse even than an LL.M. around exam time." This, to say the

least, is insulting and racist. The comment is humiliating, derogatory and stigmatizes us all. This comment reflects xenophobic prejudice of the worst kind against foreigners. We therefore demand an immediate public apology from the Harvard Law RECORD for publishing the article

and the columnist who acted in wanton disregard of all decency and the "equality and diversity" which the RECORD claims as its policy.

Francesco Paolo Traisci
LL.M. '96
with 30 others
May 1, 1996

Fenno Comment on LL.M.s Offensive

"[H]e became aware of an awful smell, worse even than an LL.M. around exam time." (from "Fenno," the RECORD, April 26, 1996). Substitute the name of your own ethnicity, race or religion for "LL.M." How does it feel?

In Oxford, English

acquaintances told me that Turkish Gastarbeiter ("guest workers") stink. In Vienna, Austrian acquaintances told me that Hungarian tourists stink. In Warsaw and Krakow, Polish acquaintances told me that they are glad Hitler rid them of Jews because

Jews stink. You know what? Fenno stinks. I apologize to foreign graduate students at Harvard for the poor judgment of the editor-in-chief of the RECORD and the "rank" xenophobia in last week's issue.

Turner Brings Fresh Perspective

It may come as quite a shock to Mr. Hartmann but the law does not exist in a vacuum. It doesn't breathe its own air. It doesn't drink its own water. It is not self-contained nor exist only for itself. There are actually other people than lawyers and practicing judges from whom we can learn, be inspired, and appreciate in their own right. For a fellow law student to dismiss Ted Turner, who is responsible for the birth of CNN, TBS and TNT as someone whose only relevant legal insight is a mastery of pro-

prietary rights of the tomahawk chop, is not only laughable but it is an embarrassment. It is no wonder that the majority of people consider our profession to be filled with self-aggrandizing elites who have forgotten that a world exists outside our own narrowly self-constructed legal regimes. What we are all looking for in a class speaker is someone who will spur us into a world beyond the safety of our Ivy League walls. Someone who has overcome hardships and has wrestled with intellec-

tual wits in pursuit of a higher cause. Someone whose accomplishments we can admire and celebrate. That is exactly what Ted Turner will provide for us on graduation ... with the fact that he may be a "celebrity" name being simply an added benefit. I look forward to Mr. Turner's words of inspiration and only hope Mr. Hartmann is not too lonely at Nick's Beef and Beer.

Alissa Vradenburg '96
May 1, 1996

CR-CL Responds to Allegations of Discrimination in Selection Process

In a recent letter to the RECORD, questions were raised regarding the Civil Rights-Civil Liberties Law Review's selection process. Because issues of equal opportunity and diversity are of great significance to our organization, the allegations of discrimination are of particular concern. CR-CL did not at any time "decide to reduce the participation of blacks" or to give preference to women during the selection process for Vol. 32. Categorizations and statistics regarding the board composition cannot prove our commitment to communities of color or to civil rights and civil liberties. Rather, our published scholarship, our activities and our individual members and their activism must demonstrate our dedication to social justice and equality. Because CR-CL editors are critical to the mission, vision and community of the journal, the selection process was developed and implemented with care and deliberation.

To compose the most qualified and cohesive board possible, the CR-CL selection process began well before the applications were distributed. Together as a Vol. 31 Board, the editors set priorities and goals for membership including, but not limited to, the acceptance of individuals with strong writing and editing skills, the addition of members with substantive knowledge and

experience in civil rights and civil liberties and the inclusion of a variety of voices to ensure dialogue. The selection committee, consisting of the 12 members of the executive board, then developed a process to achieve the various goals. When applications were distributed, CR-CL held two informational meetings to inform applicants of both the organization's membership goals and its process of selection.

A completed application consisted of a personal statement, a technical exercise and a resume. Candidates were asked not to place their names on the writing samples or technical exercises to guarantee objective evaluation of their work. Immediately upon receipt of the application, the cover sheet and resume bearing the candidate's names were separated from the personal statement and technical exercise. The statements and technical exercises were identified only by a candidate number during the evaluation process. The anonymity of the candidates guarded against any positive or negative bias of evaluators who may have known the candidate personally.

Each personal statement was assessed by at least two executive editors for clarity of writing, grammar, organization and structure, content and overall composition. The candidate's statement received individ-

ual ratings for the respective categories and an overall rating; the scores ranged from 1 to 5, with 5 as the highest score. In order to ensure independent scoring, editors were not permitted to discuss the content of the statements during the evaluation process. The technical exercise was scored for Bluebook accuracy, spelling and punctuation and was also rated from 1 to 5. Exercises that contained obvious mistakes, such as punctuation errors within a well-known citation form, were automatically rated below average while exercises that contained no mistakes were scored 5.

A short interview was also required for each candidate. The interviews were conducted by at least two executive board editors and were used to get a sense of the candidates as a person: her work style, her initiative and commitment both to CR-CL and to particular civil rights or civil liberties issues, her ability to articulate ideas for discussion and her interest in writing a student piece for the journal. After an interview, the editors each filled out an interview evaluation which included a recommendation to the selection committee regarding the individual's candidacy. Every interview evaluation also included substantive comments about each of the above-named factors.

During the selection

meeting, each candidate's application was considered in conjunction with her subcultural evaluations and editor evaluations. Subcultural evaluations were written by editors who supervised the candidate's subcultural(s) throughout the year and contained information about the quality of the subcultural gauged by Bluebook accuracy, suggested substantive and line edits and adherence to the subcultural deadline. Copies of these evaluations were both sent to the subcultural and kept on file with the journal. Editor evaluations were available to any editor who had worked with candidates either in CR-CL or other activities, such as the Political Lawyering Conference. On these evaluations, editors were asked to comment about relevant factors such as a candidate's work style or ethic, demonstrated commitment to civil rights and civil liberties, substantive and technical editing skills and experience in civil rights or civil liberties work. All evaluations provided an editor an opportunity to make a recommendation regarding a subcultural's application to the board.

The decisions regarding the steps of the selection process as well as the final determinations of new editors were made by committee consensus. When voting was used to assist in reaching consensus, each candidate

who advanced in consideration had a minimum of eight out of 12 votes. Throughout the process, the selection committee was mindful of CR-CL's commitment to bring together individuals with a diversity of interests and a diversity of identities, such as race, gender and sexual orientation. At no time, however, did CR-CL ever set a quota for any group of people or eliminate or promote a candidate solely because of an "identifying" characteristic. Candidates and their respective qualifications were considered individually, and their scores and recommendations were used as benchmarks for discussion. The deliberation was limited to the selection criteria and was based upon the information provided in each candidate file, including the substantive comments made by all editors on their evaluations. No one factor weighed more heavily into the equation than the others. Taken individually, the scores on the writing sample and the technical exercise were insufficient to guarantee an applicant a position on the board, as were the respective recommendations from the interview, subcultural and editor evaluations. Taking the factors together, the selection committee based its candidacy decision on the individual's potential contribution to the scholarship, activities, activism and community of CR-CL.

In any selection process, choices between qualified candidates are difficult to make. We thank everyone who submitted for CR-CL this year. As the current executive Board of the Civil Rights-Civil Liberties Law Review, we fully support the selection process and all the editors of Vol. 31 and 32. We look forward to the coming year and to the opportunities it holds for our members and our organization to build coalitions for the progress of civil rights and civil liberties within the Harvard community and beyond.

Nina Y. Wang '97
Editor-in-Chief
Ben Brown '97
Recent Developments Editor
Stacey H. Dore '97
Lead Technical Editor
Greg Gibson '97
Lead Technical Editor
Jennifer E. Goldsmith '97
Collaborations Editor
Hannah L. Kilson '97
Managing Editor
Colin Meeder '97
Lead Executive Editor
Jessica A. Roth '97
Lead Executive Editor
Martina Stewart '97
Lead Articles Editor
P. Andrew Torrez '97
Solicitations Editor
Hilary E. Ware
Lead Articles Editor
Elisabeth Yap
Managing Editor
Harvard Civil Rights-Civil Liberties Law Review
April 29, 1996

Manager of the Hark Box Cafe Will be Missed by Many Students

Many students may not yet be aware that one of their staunchest advocates in the Sodexho food service was quietly let go on Tuesday, April 23. We are writing to publicly thank Karen Nowell, head of the Hark Box Cafe for nearly the past two academic years, for all she did for us and for the entire Law School student community.

Karen truly cared about the students and was willing to go out of her way to satisfy everyone. Working for the food service industry

can be very difficult, and we are sure working for Sodexho was no exception, but Karen always had a smile and a great attitude. More than once while closing at the end of a busy day, she would keep the Box open "just a few more minutes" while the last few students grabbed a snack and a drink. She always made sure there were plenty of bagels, sandwiches, drinks, donuts and frozen yogurt on hand. No student request was too much — if there was a way to satisfy what we wanted, she would

do her best to make sure it happened. She made working at the Box an enjoyable experience, and for many of us became a friend and trusted confidante.

These are rare enough traits around the Law School, but they are especially rare in the Hark. Although Sodexho claims Karen "violated company policy," she was a kind, decent, honest, conscientious and hard-working employee. During her tenure, it is our understanding she increased the sales and profitability of

the Box, which just goes to show that a good person at the helm can also be good for business. We sincerely hope Sodexho fully considered the ramifications of its actions and seriously considered whether this "violation" could have been handled differently. It seems an odd choice to cast off one of your best assets when friendly and convenient service is available just steps away at the Science Center and Loker Commons. We also object to the way it was handled, by dropping this bomb-

shell on her at the end of the day with no advance warning which would have allowed her to seek other employment and, not insignificantly to us, which would have allowed her to say goodbye to each of us. Sodexho should have known that we would want that opportunity to tell her how we felt about her in person, rather than through a newspaper clipping and a card.

Again, we want to say: Karen, thank you for being such a wonderful person. We consider it a privilege to

have worked with you. We wish you all the best, and you will be missed.

Richard L. Shimp, Jr.
Karen J. Shimp '96
David J. Kowitz '96
Richard E. Gortel '96
Eric G. Groen '96
Anthony Tu '97
Renate Harrison '97
David Weiss '96
Adam Paris '97
Brooke M. Deratany '96
John M. Steiner '97
David J. Markese '96
Joseph Deal
April 25, 1996

• Letters (cont.) •

Dean Clark "Too Busy" to be Accountable for Graduate Program Decision

On March 4, the Dean unilaterally dismissed Prof. David Kennedy '80 from his position as director of the Graduate Program. The Dean made no public statement explaining his decision-making process. On April 12, the RECORD published a letter

from a number of S.J.D. students who expressed concerns about the Dean's decision. The Dean made no attempt to address these concerns. On April 19, the RECORD published a story on the Dean's decision, but the Dean was unavailable for comment. On

April 26, the RECORD published a letter from a number of LL.M. students who expressed concerns about the Dean's decision. The Dean has remained silent.

But we must understand, Dean Clark is a busy man.

More cynical minds may suggest that the Dean's silence is indicative that the factors informing his original decision will not stand up to the glare of public debate. But we must understand, Dean Clark is a busy man.

More cynical minds may

suggest that the Dean's silence indicates a less than wholehearted commitment to the principles of accountability and transparency in decision-making. But we must understand, Dean Clark is a busy man.

More cynical minds may suggest that the Dean's silence

is indicative of his indifference towards the Graduate Program, and his disrespect for the graduate student community. But we must understand, Dean Clark is a busy man.

Vasuki Nesiah, S.J.D. '97
April 29, 1996

"Heterosexism" of D.S.A.C. Spring Semi-Formal Poster Unwelcoming

There has been much written in the past two weeks about D.S.A.C.'s posters for the semi-formal dance. Many people seem to think that it is ridiculous for queer students to feel alienated by posters displaying only opposite-sex couples dancing, and that it should be understood that D.S.A.C. necessarily must make discriminating choices when picking its advertising images. Yet D.S.A.C. does not discriminate equally. When several heterosexual single students complained to D.S.A.C. this year that its flyers seemed to indicate that the dance was a "couples" event and that only students with dates were welcome, D.S.A.C. immediately produced another set of flyers sporting only dice so as to reassure dateless students that they were welcome.

D.S.A.C. did not question whether the sense of exclusion experienced by these students was sincere, and no one insinuated that their suppositions were outrageous. Yet when queer students complained of feeling excluded by these images two years ago and then again this year, our concerns were not taken seriously. Since our concerns were publicly voiced, other students have treated them as bizarre, unreasonable and overbearing.

Responses to Hwang Letter Miss Point

The three responses which appeared in the April 26, 1996 issue of the RECORD to the letter by Phil Hwang '96 concerning the D.S.A.C. Semi-Formal poster represent three different approaches to the issue: the homophobic, the liberal and the postmodern. But all three responses also have something in common: they all ignore the fact that we live in a heterosexist society. It is only by ignoring this that all three writers can address the issue in an extremely decontextualized way.

The differences in approach, and yet the shared ability to address the D.S.A.C. poster affair while ignoring the context of heterosexism, is what makes reading these responses so fascinating: the homophobic, liberal and postmodern responses all somehow succeed in saying the same. So it is only because of my personal bias that I choose to focus on the postmodern response.

Alexander Boldizar '98 is the "sophisticated post-structuralist." He quotes Luce Irigaray, and he knows that the binary concepts of sexuality, as we know them, are social constructions that deserve

Letter Misrepresents Conservative Views

I am writing to object to Brian Burt's '98 suggestion in his April 26 letter to the RECORD that true conservatism conflicts with support for gay rights. Burt's claim that the "conservative community has fallen victim to the deafening cries of the liberal left" is not denouncing homosexuality. As vice-president of the Federalist Society and secretary of the HLS Republicans, I disagree.

If anything, I believe that the libertarian wing of the conservative community has not been clear enough of its support for gay rights. The dominant form of conservatism at HLS — a view that in the 19th century was known as liberalism — involves treating everyone equally regardless of who

As representatives of Lambda, we want to respond to the criticism that has been leveled at Phil Hwang, and by extension at those of us who share some of his concerns regarding the heterosexism of D.S.A.C. advertisements. We emphasize the word "heterosexism," for Phil never once accused D.S.A.C. of being "homophobic" (although the letter was titled by the RECORD editors in that way) — that is, of displaying active signals of a hatred or fear of gay, bisexual or queer people. Instead, he explained that advertising campaigns like D.S.A.C.'s emphasize a norm of heterosexuality by consistently displaying images of men and women in romantic poses, and that in so doing they fail to recognize or acknowledge those of us who are not heterosexual.

Phil's complaint, although repeatedly described as trivial and absurd, nevertheless provoked a torrent of strong reactions from the student body. While a few of us in Lambda may not have felt a sense of urgency about the D.S.A.C. ads in particular, we are all disturbed by the extent and nature of the reactions to Phil's comments. Some students seem to feel that, while it may be tolerable and under-

standable for queer people to fight against active tools of discrimination like sodomy laws or gay-bashing, it is not tolerable or understandable for us to fight for a sense of inclusion in the basic day-to-day symbols of the social institutions in which we live.

The images of opposite-sex couples that pervade our culture inside and outside of HLS seem so generic and harmless to people who are not queer that it seems nothing short of absurd for queer people to challenge their pervasiveness as exclusive or dangerous. Yet, because these images are seen everywhere to the almost total exclusion of images of same sex partners, they represent for queer people a constant confrontation with the knowledge that opposite-sex couples are the only tolerated form of romantic social relations. The sight of these images everywhere to the exclusion of images more familiar to our own lives is not, for us, disconnected from our fear of getting beaten if we hold our lovers' hands in public. It asserts the "normalcy" of heterosexuality and reinforces the notion that queer people and lifestyles are "abnormal." It maintains an environment that is comfortable for people like Brian Burt, who expressed

poster. Well, if society has assigned those people a constructed identity, defined them as the deviant from its norms, denied them the same equal rights other people enjoy, and all based on this trait, the answer would have been yes. But our society is heterosexist, not "twoeyebrowist." So in heterosexist society, the message of the D.S.A.C. poster was: this is one more heterocentric event, the norm for which is going to be "heterosexuality." No more and no less.

I was happy to read that D.S.A.C. President Jeffrey Karish '98 (see RECORD, April 19, 1996, p. 15) regretted that the contested poster was open to an exclusionary interpretation and insisted that everyone is encouraged to attend D.S.A.C. events. It is too bad that homophobia, liberalism and postmodernism, the latter two in very impoverished forms, blinded those writing the responses to Mr. Hwang's letter and prevented them from seeing the exclusionary nature of the poster.

Aeyal M. Gross, S.J.D. '96
April 28, 1996

and *Roe v. Wade*. The Federalist Society view is that these cases are not about gay rights or abortion, but about constitutional interpretation. Whether you agree with Bowers, conservatives such as myself believe, should have nothing to do with your attitudes toward homosexuality. Burt's depiction of a no-holds-barred battle between "the liberal left" and its "true conservative adversaries" only further enshrouds this vital conservative principle. His inflammatory prose makes it only too easy for the liberal majority at HLS to mistakenly believe that conservative legal thought is all politics.

Orin S. Kerr '97
April 27, 1996

in last week's RECORD that he thinks of queer people as standing in opposition to the "morals of American society" and that we should keep our identities and affections "behind closed doors" and allow the heterosexual majority to "enforce its beliefs."

To request that D.S.A.C. and other similar organizations be sensitive to the presence of queer people and others in the Law School community who feel excluded by the persistence of certain images is not the same thing as to require D.S.A.C. or other organizations to create a myriad of images for each and every event, or to ensure that every characteristic represented by individual students be replicated on posters and advertisements. To be queer is not the same thing as to be Hungarian or to have a particular hairstyle, especially in the context of dances and similar social events. As the D.S.A.C. poster itself suggested, events like dances are connected in people's minds to the ideas of romance, dating, love and sex.

As queer people, it is our experiences of these very things that define our difference and subject us to prejudice, and so we have a heightened sense of alienation when our existence is ignored

Gays, Lesbians Seek Equal Protection

After numerous paragraphs of rhetorical musing that would put any televangelist to shame, Brian Burt comes to the heart of his letter in the April 26 RECORD when he states that the gay rights movement "must acknowledge two realities: first, that it represents a minority segment of the population, and secondly, that its true conservative adversaries fight from the heart, not the mind."

I would like to assure Mr. Burt that every lesbian, gay and bisexual student is well aware that he or she is a member of a minority segment of the population, both here at Harvard Law School and in society at large. Not only are we a minority segment of the population, but we are also one which is subject to legal discrimination, frighteningly common instances of violent attack and unparalleled levels of misunderstanding by the general public. In all but nine states, I can be fired from a job without benefit of legal recourse simply because I am gay. In all but nine states, I can be denied service at a restaurant, movie theater or other public accommodation for the same reason. No state will legalize the relationship I share with my partner.

Letters Reveal Emptiness of HLS Community

The numerous vociferous responses to Phil Hwang '96's letter regarding the D.S.A.C. semi-formal posters demonstrate just how empty the phrase "HLS community" is. Many HLS students seem to think that Mr. Hwang is not entitled even to his feelings of marginalization. Instead of trying to understand his concerns, RECORD contributors

The last thing that the gay and lesbian community needs is another self-righteous homophobe telling us that we are a minority segment of the population.

But what is Mr. Burt really trying to say by reminding members of the lesbian and gay community of their status as minorities? I fear that he is suggesting that those of us who are not heterosexual should accept the fact that we live in a heterosexual world, that we should accept the fact that we are subject to discrimination and intolerance, and that we should accept this fate with acquiescence and deference to his values. Mr. Burt will, of course, be disappointed if this is his expectation. The gay and lesbian community has progressed beyond the point where we will be cowed by the familiar rhetoric of the right.

As to Mr. Burt's statement that the opponents of gay rights fight from the heart and not the mind, I am in complete agreement. Far from seeing this as a sign of their resolve, however, I see it as an indication of the frailty of their argument. It is unfortunate that rather than considering the issues rationally, the opponents of gay and lesbian civil

rights instead choose to chant reactionary slogans about the death of family values, the power of the liberal media and the need to protect the "morals of the American community." If Mr. Burt and the other "true conservatives" stopped long enough to listen to the voices of those they claim to represent and protect, they would realize that although they consider themselves the guardians of the "morals of the American community," they are anything but. What single "American community" does Mr. Burt claim to protect? What is moral about a vision of society which embraces discrimination? From what exactly do rational, free-thinking Americans need protection? I encourage Mr. Burt to ask himself these questions, and to reflect on his opposition to the gay rights movement more thoroughly. I hope he will come to the realization that there really is no reason to oppose those who seek to ensure equal protection and opportunities for all Americans, regardless of sexual orientation.

Ross LaJeunesse '98
April 28, 1996

time ignoring a closed door than those who already know they are welcome inside? Taken in isolation, the posters may not have been such a big deal. Taken in the context of a place that obviously has so little time for queers... I can see why Phil felt excluded.

Mark Hickernell '97
April 29, 1996

**Thanks For Writing to the
RECORD and Have a
Great Summer!**

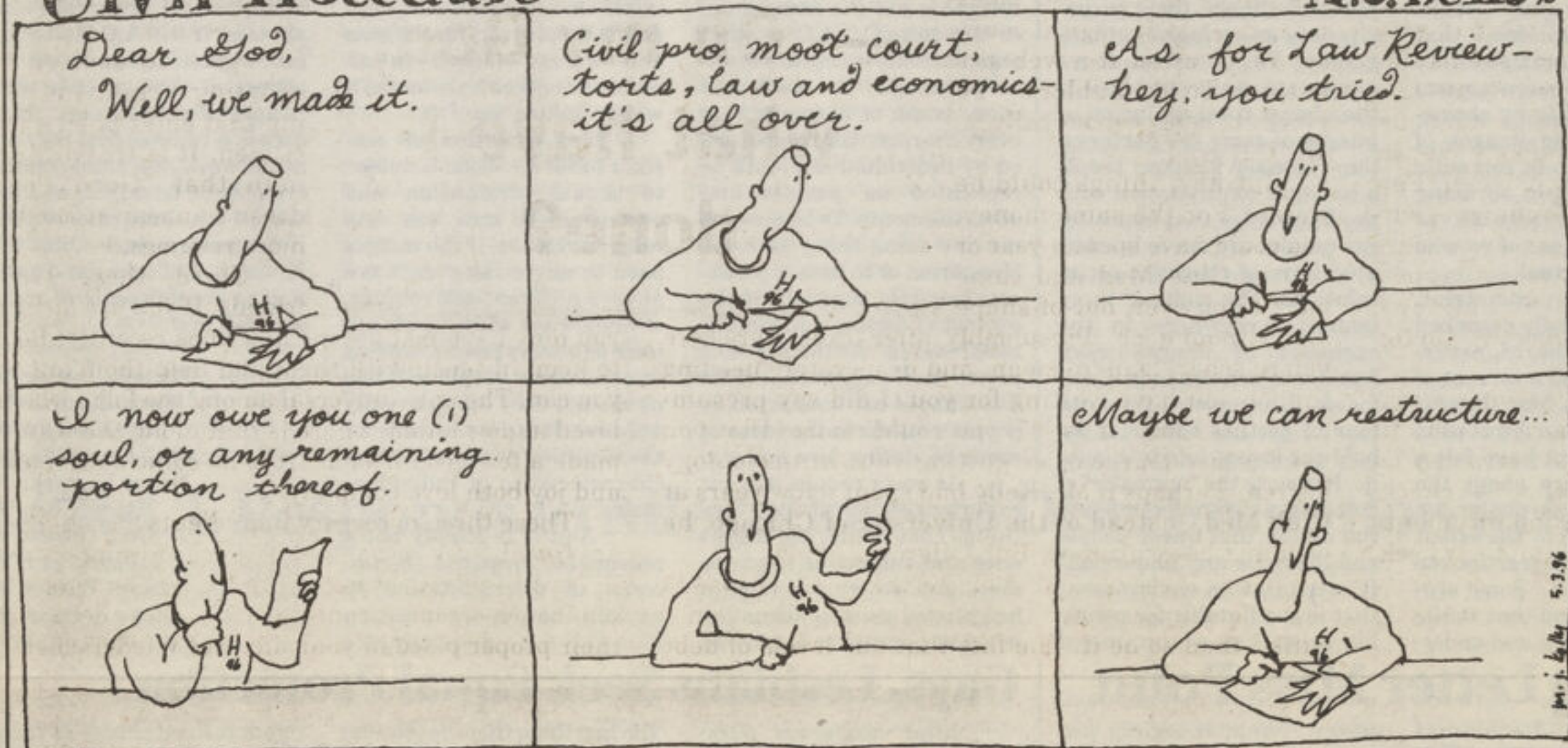
Temporary Insanity

By Sheila Tuller



Civil Procedure

M.J. Kelly



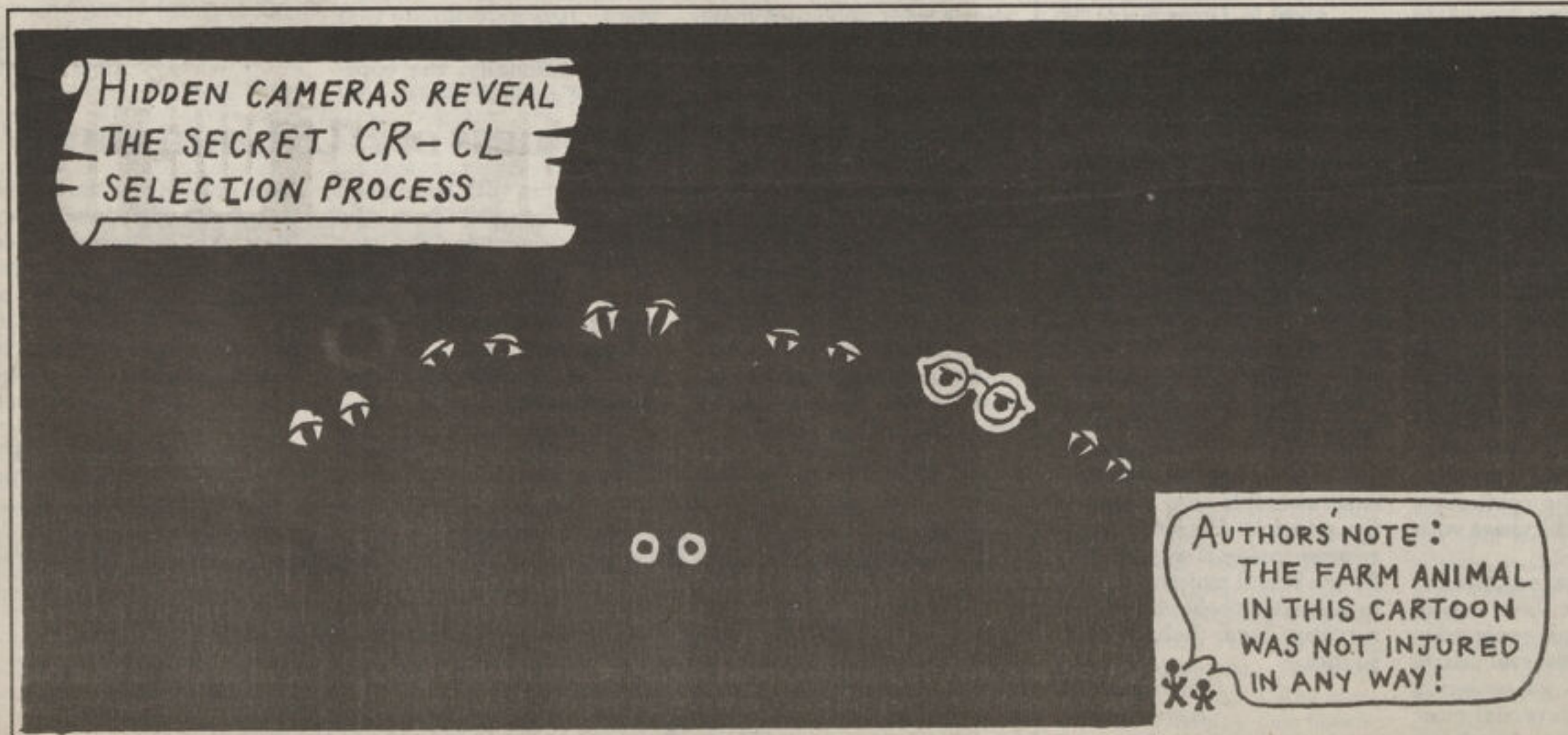
Backbench

By Brian Cheng



Ad Hominem

By Stuart Rees and Bill Zimmerman



CALENDAR

By Colin Meeder

Did anybody else see the article in Time magazine last week, in which it was argued that the current critical backlash against Hootie and the Blowfish is simply another in a long line of racist-elitist arguments against African American artists who dare enter the white-controlled world of rock n' roll? Jimi, Hootie, Bad Brains, Living Colour, Little Richard: all denied of their proper place in rock history — the history of a music invented and sustained by the African American experience.

Well, although you'll get no arguments from me about the existence of racism in rock, you can take Hootie's name right out of that list, as far as I'm concerned. My problem with Hootie isn't that the music isn't "Black" enough for my white liberal taste; it's that that guy just can't sing, and the songs are weak. No, I mean it. The songs may very well have been written deep from within his soul, but if the melodies are bland, the words cliched, and they're consistently song off-pitch, I reserve the right to call it crap without being branded an elitist.

I'm not even going to try for a segue after that and instead will just recommend that you guys go see **Buffalo Tom** tonight (5/2) at Avalon (262-2424). Nothing too special about these guys — they're basically just another Neil Youngish indie-pop rock trio — they just do what they do remarkably well. **Superdrag** and **Solution AD** open.

Friday night (5/3) offers you your biggest variety in this relatively weak week. Exerting only the effort necessary to make your way over to Sanders Theatre (661-1252) will get you the tasteful folkie stylings of **David Wilcox** along with **Dee Carstensen**. If, however, you're feeling slightly more energetic — to the point of encountering some of the most difficult music your ears have ever encountered — hie thee over to the Middle East upstairs (864-EAST) to encounter the Japanese speednoise madness of **Zeni Geva** with **Glazed Baby** and **Today is the Day** opening.

In a slightly more mellow mode is the jazz trombone — and occasional conch shell — of **Steve Turre**, who'll be playing at Scullers (931-2000) Friday and Saturday (5/3) nights.

Anyone for some Canadian hardcore? These guys have been at it so long it's silly, but if you're interested, you can go check out **DOA** at the delightful and charming **Rat** (536-2750) on Saturday night. **Ultra Bide** and **Adversary** will open. Mosh it up, eh?

And speaking of washed-up old punks, why not check out a legendary band who can sell out any club they choose, despite the absence of their most visible member? Dye your hair black, kill your mom, and head on out to the Middle East for the **Misfits** — or a reasonable facsimile thereof, as Glenn Danzig wants nothing to do with these guys. I guess he's too busy pretending he can kick Henry Rollins' ass. The show's on Sunday (5/5).

On Wednesday (5/8), all of you who just can't seem to get enough of that ol' **Anthony Clark** can go see him at the Comedy Connection (248-9700). You ask me, this guy's milking his fifteen minutes for all they're worth.

Well, that's it for the year. I sincerely hope you've enjoyed my ramblings and have actually gone to see some bands I've recommended. Since most of y'all will in fact be rolling in it, allow me to make a humble suggestion: go see a band you've never heard sometime this summer. You may learn something.

No Exit: Interviews and Beyond

By Markus Hartmann '96

On Tuesday, my friend Eulas Boyd '96 (even after the Ted Turner thing) made a very prescient point: HLS should have suicide counselors on hand after the financial aid exit interview. Let's face it, "weaned on 19 percent APRs and deferred payment plans," many of us are, as the National Law Journal points out, "credit-card babies." Soon it will be time to pay the banker, and the anxiety of that task will surely motivate many a grad to make HLS look good by doing well.

After getting the acceptance letter, the next thing most of us find in our little packets is the financial aid information. I'll say one thing about the fine folks up there in the Financial Aid Office, they sure made it all very easy. When you were anxious or confused, it was always great hearing their soothing voices say, "Just sign here." Sure, you'll be paying back that money at a two-to-one ratio, but not now. Now is for contracts and torts, and we hope, the academic study of bankruptcy.

Then you arrive at your firm. Not much of your summer budget is devoted to meals. It seems like those friendly partners and associates are always taking you to lunch. The first paycheck is also a bit surreal. Having studied law at HLS, it's unlikely that we produce useful information for our employers. Few partners really appreciate the policy arguments surrounding F.R.C.P. 45. The clients are even more unlikely to be as impressed as we were with the question, "Can words constrain power?" (Prof. Minow). Despite that, they still pay us gobs of money. Go figure.

Two more years of this process of learning, working and signing carbon copies, and before you know it, you're about to graduate. Name spelled correctly on graduation list in the registrar's office — check. Picture in the yearbook — check. Announcements ordered — check. Hotel for parental units — check. Dinner reservations — check. Third-year paper — extension. Exit interview — oh my God, what have I done?



Right after graduation, PMBR, West and Bar/Bri will be tutoring us with great care as we prepare for, and take, the bar exam. If we pass, those organizations will take credit for having prepared us for the practical part of legal academia: passing the bar. Truth be told, much of the motivation comes from the staggering amount of debt that many of us take on to be able to call ourselves lawyers. Even if your firm foots the bill, the fear of not passing the first time, minus the wealth of John-John, will encourage us to read the materials more than a few times.

During this entire period, money isn't real, it is what Brian Ellner '95 appropriately called "Monopoly money." According to the National Law Journal, if Brian put away the "recommended" level of savings, after loan payments, expenses and taxes, he would have \$300 a month in disposable income. Eulas was right; the notion that a \$70,000 a year job can translate into that amount of disposable income is not a cause for celebration. Perhaps the school should have some financial psychological counselors, or at least a web site listing Todd Zubler's '96 places to live economically as an HLS grad.

But hey, things could be worse. For the same money, you could have spent a year or two at Club Med and came back hung over, out-of-shape and without a job. Presumably, after three years here you're sober, lean-n'-mean, and desperately needing the job you have waiting for you (I did say presumably). Like Mr. Kelly '97, you could realize that you need a law degree *after* getting your anthropology degree. Perhaps if Mr. Kelly had spent a few years at Club Med, instead of the University of Chicago, he wouldn't be so grumpy. But I digress.

If the level of debt that we take on here leads some people to believe that they have "golden handcuffs," then so be it. The fact that our levels of debt

may force us into narrow areas of the law we hadn't anticipated may in fact be a good thing. As far as character development goes, there is much to be said for realizing that we all should expect the unexpected, or in this case, what we should have expected when we applied to HLS. In the words of the timeless rock star Mick Jagger, "You can't always get what you want ... but if you try sometimes, you'll find, you get what you need."

What is needed, even more than Mr. Boyd's counselors, is a little perspective. First, the law we learn here, along with the corresponding occupations, should always be subordinate to the law we carry in our own hearts. The notions of right and wrong that accompanied us as we walked in the door should not be replaced by the 99 percent value-free education bestowed upon us by HLS.

Second, most of us have families which should be given the lion's share of our attention. They come in various shapes and sizes, but they are no doubt there. If you don't have one, start your own. If you find that you are having trouble, check in with Prof. Bartholet

'65. Whatever career heights you may scale, there is no greater gift that you can give to society than adopting a child and teaching that child to be a moral citizen. It is truly unfortunate that "Good Parent" doesn't appear at the top of more resumes.

Third, there are our friends. If you are fortunate, you may have made some new ones recently. Be sure to keep in touch with them and help them out when you can. The only universal among the folks who have loved and/or hated it here is that along the way, they made a few good friends. It is no coincidence; misery and joy both love company.

These three necessary ingredients for a happy life are free. It may cost you a few bucks to support a family and to hang out with friends, but as long as you realize what's important, the job and the debt assume their proper place in your life. Auf Wiedersehen.

— Oh my God, what have I done?



Fenno became aware of an awful smell, worse even than the self-righteous accusations of a schmoozing small-time politico. It was the smell of trouble, the smell of an Editor-in-Chief whose anger no amount of fat-free Chips Ahoy could ever assuage. She was headed his way; Fenno figured that the least he could do was to open an eyelid and feign interest, sipping his margarita more slowly than usual.

"Fenno!" she hollered, "what the hell is this?"

As she said the word "this," she tossed Fenno a piece of paper, upon which was typed Rob Jancu's Letter to the Editor, which appears elsewhere in this issue of the RECORD. We'll pause a moment while you read it.

OK? Let us continue.

"Oh, that," said Fenno, "I was going to say 'worse than a Crit at a Friday afternoon lecture,' but I figured that that particular olfactory image had been done to death. Besides, there's only about one or two Crits left, so I'd be singling them out unfairly when so much else about this place stinks."

"That's no excuse, you freaking moron." (The Editor-in-Chief did not, in fact, say freaking, but something else entirely less savory; for a woman as fond as she is of asterisks, she curses like a sailor.) "The guy says you stink, and I think he has a point. What you wrote was offensive!"

"Of course I stink," responded Fenno, "we all do. Smell is the most subjective of all the senses. To some, the natural odors of the body are offensive; to others, attempts to mask those odors with perfumes and soaps are equally as offensive. To me, hypocrisy and blatant attempts to pander to a constituent group stink like old fish."

"OK, maybe, but if you substitute 'African' for LLM. in that sentence, it's as offensive as hell."

"I see. Do you like ice cream?"

"The hell? No, I don't like ice cream." "Racist," said Fenno, tossing his blender at her.

"What was that about, you gosh-durned melon farmer?" hollered the euphemized Editor-in-Chief, dodging said blender rather deftly.

"Substitute your own ethnicity, race, or religion for 'ice cream.' How does that feel, you fascist?"

"Humph," said the Editor-in-Chief, "What do you make of this, then?"

This second "this" was a copy of the letter written by actual LLM.'s, which also appears elsewhere in this issue. Read it yet? Good.

"Gotta love that grammar," said Fenno. "Besides, I simply used the image of a hygienically challenged graduate student. If the careless reader chooses to add the modifier 'foreign,' he merely betrays his own innate xenophobia, his own assumption that no LLM.'s are North American, or that no North American could smell. Ten minutes in Hemenway would tell you that both assumptions are false and pernicious."

"Stinky Canadians notwithstanding," said the Editor-in-Chief, "You will sit down right now and apologize to the entire student body for your ill-considered remark. I'm not worried about the LLM.'s, who won't be around here to complain anymore in a couple of weeks, but if we don't throw Jancu a bone, he'll never leave us alone. Get to it."

Fenno was mad. Not just that he had to write the apology, which was offensive enough, but that he'd now have to forgo his planned end-of-the-year special column on the repulsive mating habits of the Dutch.

Quote of the Week

"Die' is a euphemism for 'wait.'"

—Prof. William Andrews '55

Sorry, but this is the
last issue of the
RECORD. Thanks for
reading, and we'll
see you next fall!

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Congratulates the Class of 1996

What About the Other Side?

By Judd Serotta '97

RECORD Columnist



INTELLECTUAL diversity is undervalued at Harvard Law School. Anyone who reads the RECORD with some degree of regularity has no doubt heard similar conservative griping. Yet the argument, it strikes me, is unanswerable. The lack of intellectual diversity at Harvard Law School is so systemic and obvious that it is often blithely ignored. What could be a better example than the recent centennial reargument of *Plessy v. Ferguson*?

The event (which was so underpublicized among the Harvard Law School population, I must assume we were not invited) was another one of those HLS extravaganzas. C-Span broadcasted live and on tape delay Profs. Randall Kennedy's and Charles Ogletree's reargument of one of the less glorious episodes in Supreme Court history. Anyone who was anyone was there, it seemed. As the cameras panned the crowd (since I got to see the event only on TV along with 265 million Americans who don't pay \$30,000 to attend this esteemed institution), I was amazed by the luminaries lining the Ames Courtroom. And the panel of judges challenging Ogletree and Kennedy was remarkable: it included eight incredibly esteemed federal judges (among them a U.S. Supreme Court justice) and one state Supreme Court justice. They came from all ethnicities, and there was obviously a concerted effort to include women on the panel. But unsurprisingly, yet nonetheless remarkably, there was nary a conservative or libertarian or Republican to be found. Although I have no information to prove this assertion, I virtually guarantee that neither any of the panel judges nor the post-argument discussion leaders voted for Ronald Reagan or George Bush in any of the past four elections.

So what? you may ask. I do not contend that a token Republican should have been included for purposes of affirmative action, so we can feel good about being "inclusionary." But why is it that educational endeavors at Harvard Law School (and elsewhere) so often turn into mutual admiration societies, where everyone holds varying shades of the same left-of-center beliefs? Would not a few active opponents of affirmative action programs have added a new dimension to the dialogue and the questioning? Would not a black conservative, such as Clarence Thomas or Thomas Sowell or Alan Keyes have added a new dimension to the panel or the discussions? Or even a white conservative, like Orrin Hatch or Charles Fried? One can only assume that the purpose of the event, therefore, was not to examine objectively the problem of race relations in America by looking 100 years into our past. The only plausible conclusion to be drawn is that the event was designed to help left-of-center judges and academics reaffirm their own biases in the spirit of truly un-liberal learning.

Sadly, this event was a golden opportunity to create a dialogue and possibly to develop some novel solutions: there were hundreds of great minds in that room and dozens who spoke publicly. Yet the moment was lost because of the fear that there might be some genuine disagreement among the event's participants. If I were a liberal I might be saddened by that fact, since I would have lost the chance to convert someone to my "correct" position. The failure to include a right-of-center voice not only reduces the quality of an event but also marginalizes it; only academic discus-

I challenge Harvard Law School to build bridges: to expand its intellectual dialogue by encouraging intellectual diversity among its faculty, its students and its programming.

sions which venture across bridges can truly impact society. Those which build taller and taller forts on only one side can be dismissed as irrelevant by those on the other. And even if there were some good ideas expressed there, conservatives will inevitably dismiss the entire affair as another unrepresentative elitist ceremony.

This state of affairs is one of the great challenges to modern liberalism. Liberals who believe their beliefs *must* persuade people and butt heads with those on the other side. And there's a lot of convincing to be done. But for some reason, it has become acceptable for the left to hold public discussions with clones, leaving only the right to listen (perhaps on C-SPAN), react and formulate a battle strategy.

Harvard Law School's faculty remains a quintessential example of this tragedy of post-Great Society liberalism. At a recent Federalist Society dinner, I learned that only *one* member of the faculty is qualified to advise the Federalists and the Republicans, Prof. Hal Scott. Harvard Law School has no other faculty member publicly identified with the Republican Party or the conservative or libertarian movements. One might think that when a liberal or leftist comes up with an idea, he or she might want a conservative to bounce it off of. Well, there is none here to be found. He'll have to call Yale, or Chicago, or Northwestern or Michigan.

Fortunately, the conservative and libertarian side has not fallen into the same trap. All too aware of the incivility of speaking as the only conservative on panels of six or eight, the Federalist Society tries to guarantee each side equal time. During the past two years' Federalist Society student symposia, not only did I (for a change) get to hear esteemed conservative faculty (all of whom teach outside of Cambridge), but I also heard Nadine Strossen, Carol Steiker, Cass Sunstein and numerous other left-of-center voices. Last month, I attended a Federalist Society debate over the constitutionality of school vouchers for religious schools; believe it or not, the speakers held positions 180 degrees apart. In this regard, it is the conservative movement that is building bridges, willing to hear the "enemy" out before deciding whether to condemn him. I challenge Harvard Law School to build bridges: to expand its intellectual dialogue by encouraging intellectual diversity among its faculty, its students and its programming. And the purpose is not to make me or any other conservative feel better (though, I confess that might be a pleasant by-product). Rather, such an effort would make us all more thoughtful, more critical, more well-rounded and more open-minded whatever our political stripe.

THE REASONABLE WOMAN

Women, Politics, and a Good-Bye

By Shannon Liss '96

Guest Columnist



FORTUNATELY, the 1992 Year of the Woman was, in fact, a misnomer.

We do get more than one year. This November, more women than ever are likely to be running for national and state office, and women's votes will be the deciding factor for many races. We don't have an Anita Hill to galvanize us this time, but we do have assaults on affirmative action, dismantling of safety nets for the poor and a Congress bent on undoing many other social programs that particularly affect women.

This year's major campaign themes will revolve around issues that have been a prominent part of the women's movement in recent years, including welfare, workplace security, reproductive rights, health care and the environment. In addition, polls suggest that women's positions will also be especially influential regarding other issues not specifically identified as "women's issues": corporate responsibility, the minimum wage, cuts in government services and the deficit.

Last week, a New York Times/CBS News poll showed a startling gender gap with respect to Congress. While women supported Democratic candidates over Republicans by a 16-point margin (50 percent to 34 percent), men supported Republicans over Democrats by 10 points (47 percent to 37 percent). Both major parties will have to make a special effort to reach out to women voters, Democrats in order to capitalize

For those of us graduating and those continuing on, it's a good time to take stock of what we've done here and where we're going.

on this advantage, and Republicans if they want any chance of catching up.

The power of this gender gap gives women a historic opportunity to play a significant role in the political process this fall. Of course, there is no monolithic consensus among all women on any issue, but a majority of this country's women consistently agree that despite advances in recent decades, women still face obstacles particular to our sex. In a widely publicized Philip Morris poll last fall, 84 percent of women reported feeling that "women still face more restrictions in life than men do," 77 percent found sex discrimination still a "serious problem," and 94 percent believed women need to be paid more for their work.

We still remain far from gender parity in government — which would be an important step toward ensuring that women have an equal voice in policy debates. Women currently occupy eight percent of the Senate, 11 percent of the House, and 21 percent of state legislatures. According to the National Women's Political Caucus, 180 women are now trying to enter races for the House, meaning that if they all succeeded, and all women incumbents were reelected, women could reach a 50 percent composition in the House.

It's a great year to get involved in a political campaign. Why not spend a few hours this summer volunteering for a local candidate? Or register 10 people to vote? Spread the word about the importance of mobilizing women voters this fall. (Even 3Ls. Come on, after what we've been through, is studying for the bar really going to be a *full-time* activity?)

One particular plug: this summer I'll be organizing a project to publicize and encourage women candidates in national and state races to incorporate a "Women's Contract with America" into their campaigns. Sponsored in part by the Women's Environment & Development Organization (WEDO), the goal is to get the non-legally-binding principles articulated at last fall's Beijing women's conference implemented domestically through the political process. The contract, endorsed already by more than 80 women's organizations, contains 12 provisions, including calls for women's equal participation in decision-making, equal sharing of family responsibilities by women and men, economic justice, affordable health care, reproductive rights, workplace rights, educational equity, ending violence against women and protecting the environment. If you are interested in getting involved with the women's contract — perhaps organizing a local event — or have any questions or ideas, please give me a call.

Now comes my chance to wax philosophical for a few paragraphs about the end of law school.

For those of us graduating and those continuing on, it's a good time to take stock of what we've done here and where we're going. Despite all the criticism, or perhaps *because* of the opportunity this school provides for such vigorous debate on so many issues, I have found my years at Harvard Law School invaluable to my understanding of myself, the world at large, and how individuals can affect events.

We will all leave here well-equipped with the tools to have a major influence — to make a difference in whatever areas most concern us. Let's not give in to apathy. Whatever career path we follow, whether we're going into a firm, public interest work, teaching or abandoning the law entirely, let's remember that we each have the power to make the world a fairer and more humane place.

Last week I heard a classmate bemoan the fact that we've passed all the predetermined landmarks. Having reached the pinnacle of our formal education, we've jumped through all the hoops. What is left to look forward to?

This, I believe, for many of us, is in fact where the real action begins. We've cleared the preset hurdles. It's now time to establish our own new goals and work toward achieving them.

At the same time, we should appreciate where we are in the present and take note of what we are accomplishing, and affecting, day by day. At this reflective turning point in my life, I have been reminding myself of the quote I used for my high school senior yearbook. It's an excerpt from the Jewish prayer for the dead: "We find that victory lies not at some high point along the way, but in having made the journey."

Thank you to my classmates, professors, friends, everyone who has contributed to this rich journey. And in the well-put words of a RECORD columnist who came before me, good-bye and good luck.



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Drivers wanted. 

Racists and Antiracists — Both Have a Right to Free Speech

By Prof. Alan M. Dershowitz

How should an advocate of free speech, who also hates racism, feel about the decision by Disney and ABC to fire talk-show host Bob Grant? First, there should be no mistake about who Grant is and what he has stood for over the past several decades. His words — taped by listeners and provided in cassette form to me and others — speak for themselves. As you read the following quotations from Bob Grant, try to imagine how they sound when spoken in a mocking and race-baiting voice:

On Martin Luther King: "If they didn't observe Martin Luther King Day there'd be trouble from the savages." "They're not satisfied with every third street being M.L. King Boulevard .. named after that scumbag Marty." (10/15/93)

On societal decay: "We're dealing with subhumanoid savages ... we're dealing with a lot of people who are much, much farther behind on the evolutionary scale — you understand what I'm saying?" (1/3/94)

On a black caller: "His kind do have that problem [of forming words]. Maybe they weren't intended to speak a civilized language ..." (9/16/93)

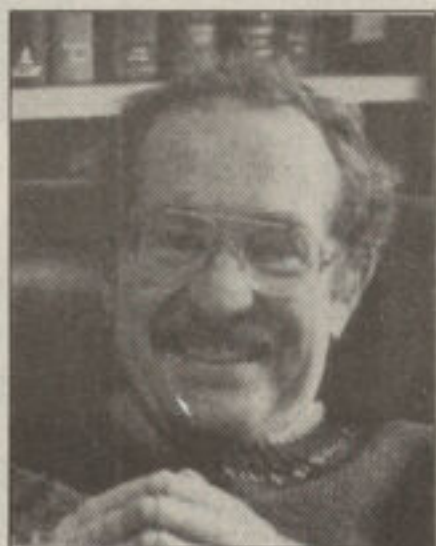
On Magic Johnson: "Why is it taking so long for the HIV to go to full-blown AIDS, for crying out loud. I'm making novenas.... If the guy would go into full-blown AIDS and deteriorate in front of our eyes and croak, then maybe, maybe he could make a contribution." (10/1/92)

On a gay pride parade: "It would have been nice to have a few phalanxes of policemen with machine guns and mow them down." (6/29/94)

On environmentalists: "I'd like to get every environmentalist, put them up against the wall, and shoot them." (5/2/94)

Let there also be no mistake about the status of these revolting words under our Constitution. If any government agency — from the Federal Communications Commission to a state university — sought to punish the expression of such opinions, the First Amendment would serve as a barrier against such censorship. But Bob Grant was fired by the pri-

Alan M. Dershowitz is a professor at Harvard Law School. This piece originally was printed in the *Boston Globe*.



Prof. Alan Dershowitz

vate media company that owns the station on which he had spewed his hate for many years.

That station, WABC in New York, is owned by Capital Cities, the parent company of ABC, which was recently acquired by Disney. Disney, which aspires to become a leader in global communications business, is entitled to decide whether it wishes to be associated with the likes of Bob Grant. It is not obliged to release movies that are inconsistent with its wholesome family image. Nor is it obliged to retain a talk show host whose views are at variance with its multi-racial message. As a matter of law, it is free to hire or fire whomever it chooses, so long as it does not violate antidiscrimination laws.

Beyond the law, however, there remains the question of whether Disney, by acquiring ABC and its lineup of talk shows and news programs, has assumed too much control over the marketplace of ideas. Will it narrow the range of public discourse in order to avoid association with controversial views on both extremes? Is the Bob Grant firing simply an isolated incident involving one talk-show host who exceeded all bounds of propriety by expressing the hope that Ron Brown would not survive the plane crash? Or is it a sign of more firings to come as Disney seeks to leaven its products so that they all reflect its mainstream consumer base?

Disney and ABC have some difficult choices to make. ABC must decide whether to espouse a free-

speech/open-market-of-ideas approach to its talk radio or to adopt a more content-specific monitoring approach. Under the former, it could defend a decision to keep Bob Grant on its station by arguing that it does not censor the content of its talk shows and that it presents varying perspectives.

That argument became unavailable when my talk show was taken off WABC several weeks before the Grant firing because I had characterized Grant as a racist, a bigot and a despicable talk-show host. By censoring the content of my show, ABC precluded itself from making the free-speech argument on behalf of Grant. It had no choice but to defend the content of Grant's show, as it did when the program director of WABC said that Grant's remarks were not racist or bigoted.

That position became indefensible after the tape of Grant's comments were circulated and after Grant

made his statement about Ron Brown. Indeed, as soon as my show was taken off WABC and its program director defended the content of Grant's show, I predicted that Grant's days at ABC were numbered.

The lesson of this entire episode is the very message behind freedom of speech: Censorship cannot be employed selectively; when anyone's freedom of speech is denied, everyone else's is threatened.

Those who want racists like Bob Grant on the air must not remain silent when anti-racists like me are taken off the air. And those who want

people like me to express our antiracism should be troubled by the censorship of people like Grant.

Let there also be no mistake about the status of these revolting words under our Constitution. If any government agency — from the Federal Communications Commission to a state university — sought to punish the expression of such opinions, the First Amendment would serve as a barrier against such censorship.

The Smoking Lounge

By Chi Chi Wu '91

This piece, originally written Jan. 2, 1991, for a class, was submitted as commentary on the pending closing of the smoking lounge.

I am sitting in the smoking lounge of Harvard Law School. It's 8 p.m., and I am waiting. I've been waiting in the lounge for over three hours now, biding my time by doing the reading assignments for class. I have been waiting for Barbara to show up. I haven't seen Barbara for over two weeks, and I miss her. I want to tell Barbara about my horrid Christmas break in California, about how my skiing has improved and about the latest crossword puzzle I've completed. Barbara is one of my best friends in law school, but I wouldn't think of calling her. We have to see each other in the lounge, especially after being away from it for so long. Our friendship centers around the lounge.

There is a place in Harvard Law School that few people know about, and fewer appreciate. It is a place where one can truly feel at home, a place of warmth and friendship and acceptance. When I go to the lounge, I know that I will probably see familiar faces. Even if I don't, the mere fact that I am sitting in the couch that I normally sit in, and that eventually a familiar face will show up, comforts me. Sometimes I



Chi Chi Wu '91

conceived of as creatures of intellect, where we are measured by the quality of our thoughts and arguments and grades and jobs and ideological purity, this is the place where I become a whole person again. I may or may not

feel alienated in any particular law school classroom, but I didn't make my friends in them.

In the lounge, we discuss subjects that Harvard Law School relegates to the trivial. We discuss men. Here we can discuss the pains and pitfalls of our relationships past and present, without feeling as if we were intruding on the pristine asexuality of the Law School environment. Here we can escape the opinions of those who would label us irrelevant for discussing such topics.

We can discuss our families and their dysfunctions, our childhoods, our hopes for the future and the mundane realities of our day-to-day existence. We can discuss clothes, books, music, weight gain, television, sex, movies and food. We discuss the things in life that are important to us, that affect us in concrete and powerful ways.

The lounge is predominately female. The closest of my friends in the lounge are women. The lounge is also heavily women-centered because many occupants are staff members, women clerical workers without offices who have nowhere else to smoke. The predominance of women might explain why the lounge is a warm, nondoctrinal place.

The lounge is also a saga. Our little group has had its

share of new faces, new events and tensions. New people show up to the lounge and are welcomed. Old friends drift away. Some graduate and leave. A former lounge member no longer comes by because we've had too many conflicts with her. Problems

outside the lounge are brought inside, as stories. Year-long tales of relationships with lovers and friends are told, retold, analyzed and advised upon. The lounge can be quite a therapy circle. One occupant commented that the lounge was like a Chekhov play. (So I put up a quote in the lounge — "Help! I'm trapped in a play written by an author I've never read.")

Other people, outsiders, also "visit" the lounge. Some outsiders stare in the window, wondering what's going on. I've been told that the sight of four women with

their heads close together, laughing, has made them pause. Some outsiders poke their noses in to investigate — the smell of smoke usually drives them away. "Outside" friends drop by, say hello, chat and become acquainted with "inside" friends. Sometimes, even nonsmokers start hanging around the lounge. Groups of strangers also come in, usually loud and sit in our spots. When they do, we feel intruded upon and invaded, although doctrinally we have no more claim on this place than anyone else. Sometimes we feel that we should have a sort of adverse possession right to the lounge. The world should recognize that this place is ours, somehow, if only because we spend so much of our lives here.

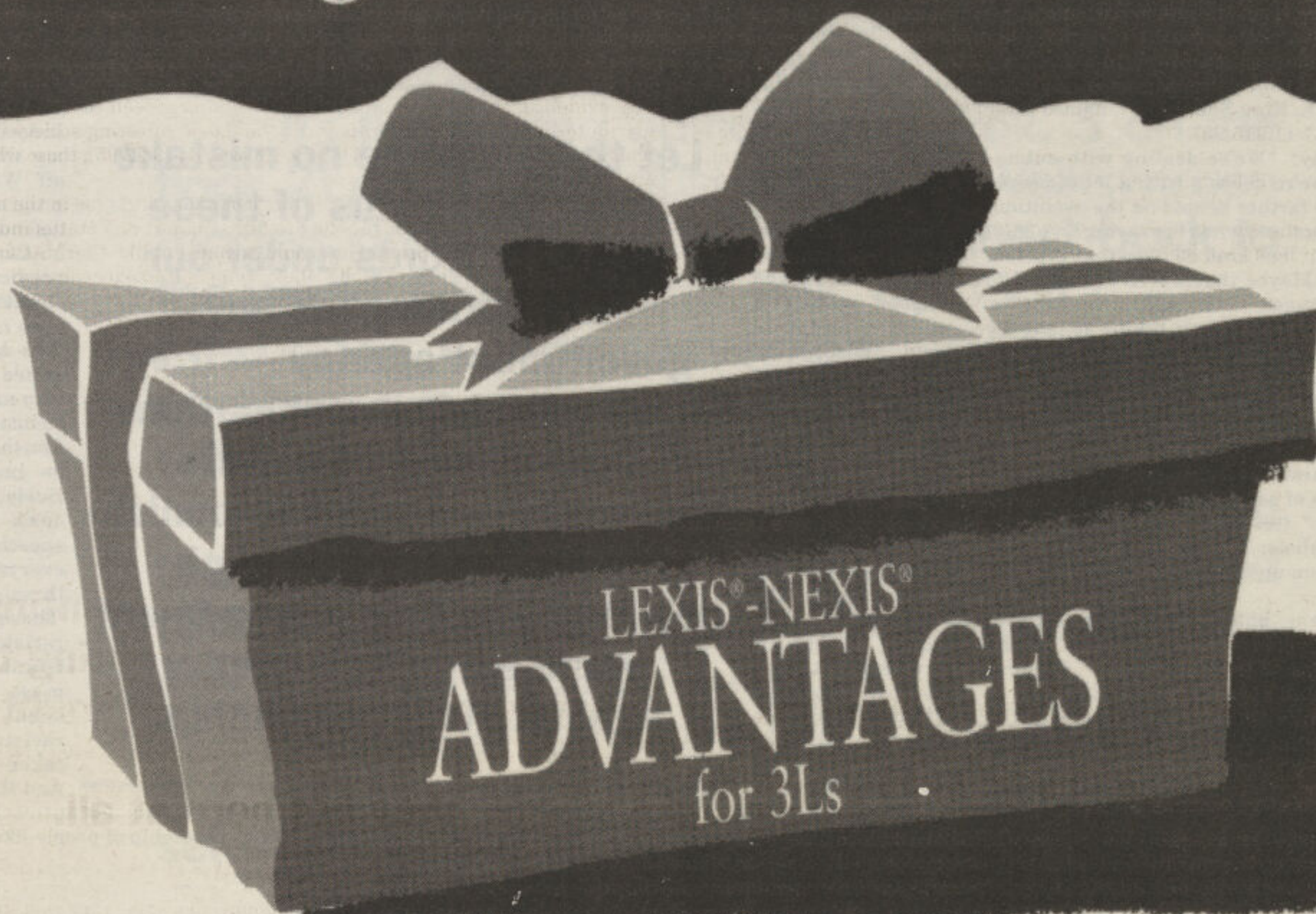
Eventually, our friendships have grown to include "outside" activities. We now go to dinner, movies and each others' apartments. We even have a weekly ritual of watching "Twin Peaks" together. Two of us have become roommates. Our friendships, however, still center around the lounge. I don't know what will happen to our friendships when we graduate, but I do know that of all the things in law school, this is the place I'll remember best.

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DRAWING A BLANK

It Wasn't Very Good, But It's Done



By Matthew Huggins '96
RECORD Columnist

LAST week, Prof. Chirelstein was in town. He's the guy who wrote a hornbook that certainly got through you tax and wrote another one that may have gotten you through contracts. Sometime in the mid '70s, after the end of the Vietnam war, Prof. Chirelstein was a visiting professor here. He said that, at the time, he noticed that students were tremendously disaffected, and had nothing good to say about the Law School, other than that they would be glad to be leaving. This disaffection ran so deep that, apparently, students signed a pact at graduation that they would never give a penny to HLS as alums. We told Prof. Chirelstein that, while there were no pacts being signed, spirits hadn't risen considerably since he had been here. So I thought, this being my last column, what does one say to a large group of graduating disaffected law students? I thought about some of the most memorable commencement speeches that I have heard. Maybe there is something to be gleaned from them.

At my high school graduation, the guest speaker was some local businessman who had graduated from the high school some years before. I remember his speech as being essentially colorless and humorless. But I remember distinctly the phrase of admonishment he left us with. Our goal in college was to "develop marketable skills." At the time, this seemed hopelessly square and philistine. I mean, we all knew we were going to college to expand our minds, think great thoughts, peer into the soul of the universe. We weren't just going to get jobs. Now, of course, to me anyway, this seems like eminently practical advice. Of course, it is advice that is a little too late to give to a bunch of people who have just shelled out somewhere between sixty and a hundred grand to obtain a marketable skill. (Which reminds

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me of when I was a senior in college and went to a talk on career options for language majors. A crazed politically correct anthropologist harangued us for 20 minutes for not having learned Spanish. That harangue might have done a lot more good when we were freshmen than when we had already completed our studies in other languages. She meant well, her timing was just way off.) So maybe an advice-giving speech isn't what we need. Maybe some other speech would be more appropriate.

The invited speaker at my college graduation was the then-Ambassador to the Philippines. This was just after Marcos had been deposed. For what seemed like half an eternity, but which was probably in reality about 20 minutes, he went on explaining United States foreign policy. The U.S., he said, had no right to interfere in the domestic affairs of other nations, even if those happened to be governed by right-wing dictatorships. Of course, he continued, if those nations happened to be governed by *left* wing dictatorships, we not only had the right, we had the *moral duty* to interfere in order to make the world safe for democracy. OK, got it. Authoritarianism is good. Totalitarianism is bad. Got it. We all clapped a little bewilderedly. That was right before they passed out the diplomas, and the dean gave me my diploma calling me by the wrong name. So, you can see, it was a rather confused ceremony altogether, and wouldn't really be appropriate for a Harvard Law School graduation.

There was one bright ray of sunshine in that otherwise cloudy graduation. The valedictorian had been struck with appendicitis the week before graduation. He missed senior week recovering from his emergency appendectomy, convalescing in the college infirmary. He had spent the week watching cartoons on TV, and his speech was about the adventures of Gumby and Pokey. Apparently, Gumby and Pokey normally lived in the Land of Toys, but had their adventures in the Land of Books. His metaphor was that we in college had been having our adventures in the Land of Books, but that now it was time to go back to the reality represented by the Land of Toys. Having seen the knick-knacks and office-toys that law-firm partners and investment bankers and other business-people keep on their desks, I'm convinced that this metaphor is completely accurate. Out of the Land of Books into the Land of Toys. But, unfortunately, he already gave that speech, so it wouldn't be right to give it again.

There was one commencement speech that almost made me laugh out loud in a quiet auditorium. I had come back after my freshman year of college to see my high school's commencement. It was an all-guys school, and students graduated in tuxes. The speaker, the valedictorian or salutatorian, was standing at the podium in his, a white tux-jacket, red rose in the lapel. "Well," he said, the phrase ponderously heavy with meaning, "we're men now." Having just finished a year of college that saw "men" like him drinking beer till they vomited, and engaging in various fraternity pledge antics which were the moral equivalent of swallowing goldfish and stuffing phone booths, I found the notion that high school seniors were now "men" ridiculous enough to warrant a guffaw, which I stifled, however, relatively successfully. (I would also like to point out that if high school boys are not men, neither are high school girls women.) So, let's have no talk about taking on the mantle of responsibility as newly minted responsible men and women coming out of Harvard Law School.

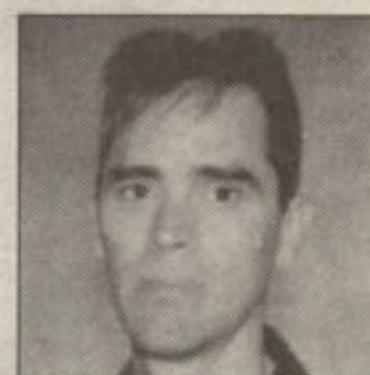
And then, there is the alleged statement by writer Kurt Vonnegut at a college commencement: "Things are going to get unbelievably worse, and they're never going to get better." Great.

After surveying some of the more memorable graduation speeches I've heard, I think, if I had to give a speech as a disaffected law student to a group of disaffected law students, I'd sum up my Harvard Law School experience with the same phrase I and hundreds of my classmates have used to sum up our third-year papers:

It wasn't very good, but it's done.

Hartmann's Fine Whines

By Matt Kelly '97
Guest Columnist



MARKUS Hartmann's '96 unrelenting criticism of those dissatisfied with law and law school is nothing if not consistent. His hard-nosed vision of legal education suffers no idealistic delusions nor romantic expectations. For him, HLS wasn't designed to make you happy or likeable; it was designed to teach you *the law*. His advice to the forlorn is simple — love it or leave it. His world-view is no doubt equally succinct: Life sucks, then you die.

Hartmann's attacks are motivated by a failure to imagine any good reason for being unhappy at HLS. Whether this means there are no good reasons depends on the limits of Hartmann's imagination. If past explanations for such complaints are any evidence, then Hartmann's imagination is indeed limited. In one essay he attributes law school dilettantism to a "malaise" affecting society (10/27/95); elsewhere it is the product of "navel gazing" insecurity (9/22/95); those who complain are simply "whiners."

To Hartmann, criticizing HLS is like looking a gift horse in the mouth. Getting in is a rare opportunity; benefits like wealth, comfort and status inure to its graduates. Discomfort is the price. How could anyone not like that? As for those who do, Hartmann raises his hands in disbelief, crying out in exasperation, "What more do they want?" Ultimately Hartmann cannot figure out just what explains others' dissatisfaction. After all, *he's* happy.

Hartmann himself is unusual in having been out of school for a number of years before coming to HLS. With such experience behind him, one would expect more in terms of understanding. The reasons for coming to law school are as multifarious as the expectations students bring with them. Hartmann's is an instrumental view: Get what you need, get out, and apply it. Judging from his essays, that means make money, make friends who will "watch your back," settle down, be happy. But other students have different aspirations and see the law as a means to other ends: politics, business, public interest. Some students come wanting to teach, others come

Some students come wanting to teach, others come wanting to do academic research. No doubt, too, some come not knowing exactly how they got here at all.

wanting to do academic research. No doubt, too, some come not knowing exactly how they got here at all.

Motivations, like goals, also differ. Many students come with a good sense of the world and where they want to be in it. Others come from a sense of obligation, whether familial, social or personal. Some come, like Hartmann, because they know a gift-horse when they see one. Others make the decision because they, also like Hartmann, are carried along in what everyone else thinks about HLS. Unlike Hartmann, some soon discover that others' aspirations are not their own. And then there are those who arrive straight from college because, well, why not? Should it really come as such a surprise if they later reach a stage at which they question whether law is what they want to do? What Hartmann fails to account for is that his own considerable experience is not everyone else's.

Prof. Joseph Weiler '65, who has taught at many schools, once shared his views on legal education with his students. What matters most about one's time in law school, he said, was not making the grade, but how one chooses to develop his or her own character. Harvard offers a unique community of students, faculty and opportunities for involvement. The law you pick up; some here, more later. Character you build, through exposure to others and to new situations. Law, for Weiler, need not be just a means to an end. It is also an opportunity for personal development. But of this Hartmann has no use.

What is wrong, in the end, with complaining about the way law is taught? What is wrong with refusing to allow one's self to be passively molded? Why *not* engage the Law School itself in a debate over how things are run, if debate is the thing? Hartmann's pragmatism is simply complaisance by another name. He parrots the status quo and derides those who would change it. Hardly an aspirational view. While it says much for his own limitations, it says little enough for his sense of his own capacities.

While Hartmann reacts to dissatisfied students, he fails to respond. Instead he dismisses them as "whiners" and suggests they go elsewhere, taking satisfaction in doing so from pointing out the effect this will have on their future earnings. For Hartmann, it's a size thing. It is also curious to note that the whiners singled out appear always to be women — Laura Putney (9/22/95), Shara Gray (4/19/96), even Justice Ginsburg (11/17/95). Though there certainly appears to be something to discuss, one learns little about it from Hartmann. The idea of discussing student life in anything other than terms of pain and misery no doubt teeters, for Hartmann, on the verge of the emotionally obscene. Though he has no trouble with empirical criticism, the subjective leaves him steaming. Discussing smaller class-sizes, OK; but students' feelings? Absurd.

Hartmann's focus on the pathology of dissatisfaction (excepting his own) obscures what otherwise appear to be real issues for some members of the HLS community. It aggravates such dissatisfaction by deriding it. Like the man who protested too much, however, perhaps there is more to Hartmann's own whining. Be that as it may, one puzzle remains: If law is so concededly miserable, even for Hartmann, can practicing it be so much better? If it can, then maybe the dissatisfied deserve more than derision.

To give him his due, it is of some benefit that Hartmann at least made the effort to engage. Sadly, it comes too late. Had he whined a little louder, a little earlier, some legal boot-camp might have been found to which we could have transferred him, one where the men are men, the books are heavy, and the sheep are scared. As it is, in five years' time, when other HLS alum begin dropping out of the corporate firms, some out of law completely, no doubt Markus Hartmann will be sweating away, eagerly, diligently, resignedly. Imagine that.

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