



Law Review Gender Task Force Stalled

By Michelle A. Jones

Three weeks after the first scheduled meeting of the Law Review's new gender task force, the committee has yet to convene, and there has been no general body meeting on the gender issue. Review editors said this week that they are still in the process of collecting data and insist that the task force remains a priority.

Law Review President David Panton '97 said that the Review was still examining the effects of its new selection process. This past year the Law Review changed its selection process by implementing new recruitment methods targeting women, decreasing the number of people selected based on a 70 percent grades and 30 percent writing competition ratio, and increasing the number of students selected

solely on the writing competition. The gender task force is still in the process of collecting statistical information. "We are interested in the gender breakdown of the people who applied. We are especially interested in [the genders of] those in the top percentiles based on grades and writing, to determine in which area women do better," Panton said.

However, the task force may not receive a complete picture of applicants' grades.

"The registrar's office won't release any grades which might document a grade differential, so we have to rely on the data supplied by the applicants," said Laura Rosenbury '97, a co-chair of the gender task force. Not all applicants chose to release their grades to the Review, Rosenbury said.

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Hi-Tech Experiment to "Bridge" 1L Section Next Year

Venture With Lexis-Nexis to Allow On-Line Casebooks

By Jacob Appel

If revolutions are by definition infrequent events, then revolutions in legal education occur even less frequently than the periodic visits of Halley's comet. The founding of Harvard Law School in 1817 marked one such transformation; the triumph of the Socratic teaching and the case method under HLS Dean

Christopher Columbus Langdell at the end of the 19th century provided a second. The possibility exists that the Harvard Bridge Project — a joint venture between the Law School and Lexis-Nexis — may produce yet another watershed in the history of legal education. "Once every 100 years it is possible to change legal education in a profound way," said Prof. Morton Horwitz '67 at the initiation of the joint venture last November. "This is one of those times."

The purpose of the Bridge Project is to fully integrate computers into the first year curriculum. Connected to both Lexis-Nexis and the World Wide Web, students with notebook computers will be able to call up cases in the classroom. The program will permit students to view cases on one-half of their computer screen and take notes on the other half.

Discussions are currently underway to pilot the Bridge project in one first-year section next fall. If the experiment proves to be a success, all first-year students will eventually use the "folio" method in classes — and case books will go the way of eight tracks and milk bottles.

"The project originated with the [faculty] group that taught the experimental section between 1985 and 1990," Horwitz said. "The basic idea was to have more integration between first year sections... Under ideal circumstances, this may someday substitute for LRA work. Students will learn better by learning substance. They can learn how to use the computer research tools while studying torts or contracts." Horwitz has already introduced computer research into his 45-person torts section.

Horwitz, who will serve as editor-in-chief of the project, will be working with Nicolas Terry, director of legal education at Lexis-Nexis. Also working on the project are Associate Dean Todd Rakoff '75 as well as Profs. Abram Chayes '49, William Fisher '82, Frank Michelman '60, Martha Minow and Charles Nesson '63.

"With such an eminent group of professors authoring electronic course materials, their expertise and participa-

tion in this new approach to the teaching of law will take legal education into the 21st century," said Ron Staudt, a law professor at the Chicago-Kent Law School at the Illinois Institute of Technology and former head of legal education at Lexis-Nexis.

Currently, Chicago-Kent is the only law school that uses an electronic "E-learn" classroom. A report compiled last year by Cornell Law Prof. Peter Martin, co-director of Cornell's

Legal Information Institute, found that many students are resistant to abandoning the printed medium and that most Chicago-Kent students read their cases for the first time in books. However, his study of E-learn indicated that students found the digital format extremely useful in many respects, including pasting critical passages from casebooks into course notes.

According to Terry, the Bridge program is just one facet of the five year Millennium Project currently underway at Lexis-Nexis. "The level of technology we're using in the classroom has fallen well below the pace of the technological tools available," Terry said.

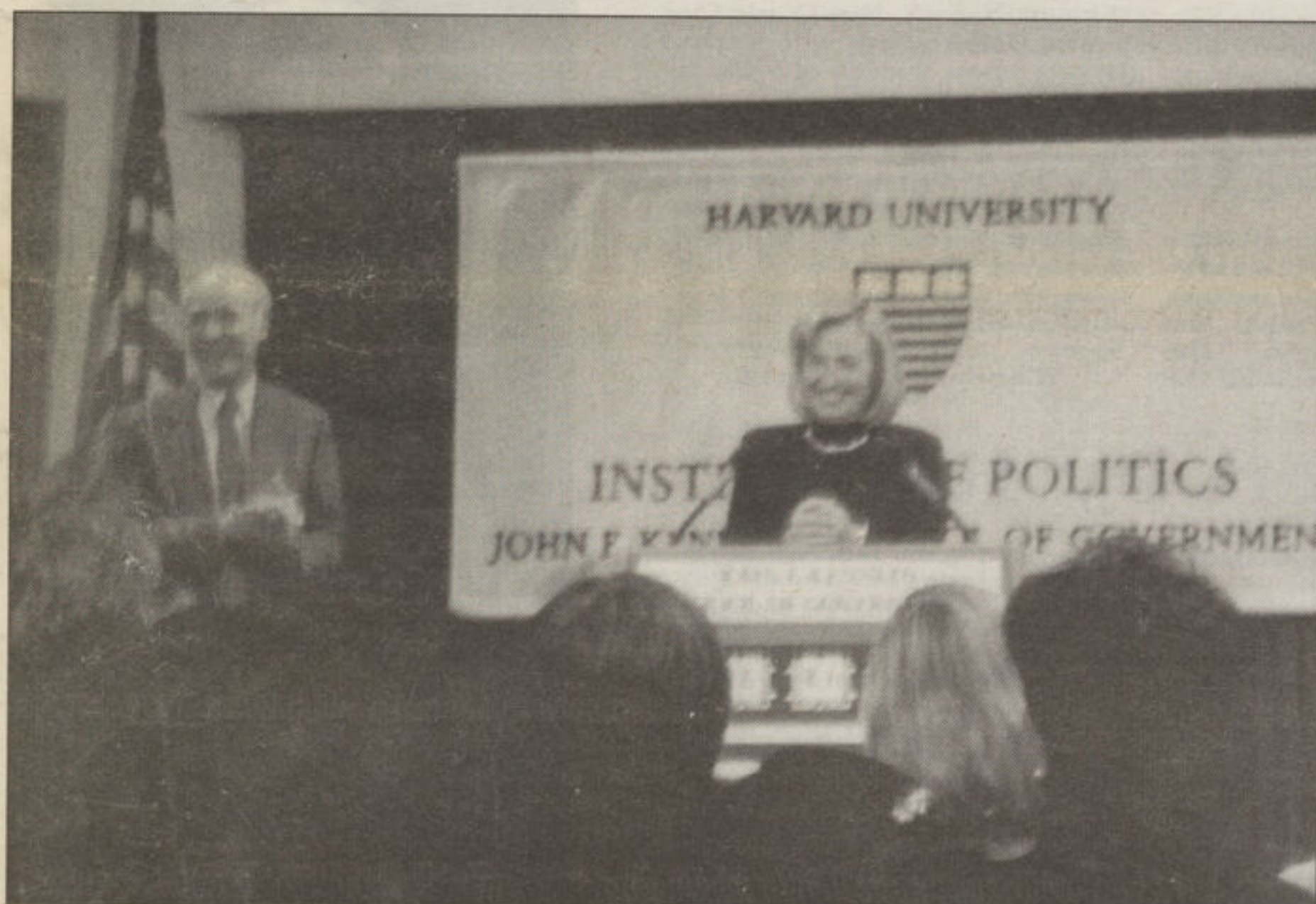
Terry said he believes Lexis-Nexis offers the "finest opportunity for a practicing lawyer to gain access to a complete package" of computerized legal services. The folio software will help train aspiring lawyers to use these tools once they begin the practice of law.

At Harvard, however, the digital classroom may serve the additional purpose of helping to coordinate education in different 1L sections. Horwitz does not foresee much resistance to the initiative from the faculty.

"I don't see this as a turf war," he said. "We no longer have barons of torts or barons of contracts." Horwitz did concede that there might be some difficulty when the program spread to a third or fourth section — but such a prospect is at least a couple of years away.

Horwitz also took pains to emphasize that for the next few years the Law School should be sensitive to the needs of those individuals who arrive here

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Hillary Clinton addressing Harvard last Friday

RECORD Photo / Maria Green

Hillary Clinton Discusses Welfare Bill During Talk at Harvard

By Maria Green

Hillary Rodham Clinton stuck largely to family-related themes during a talk on Friday to a packed audience at the Kennedy School's ARCO Forum. The first sitting First Lady to speak at Harvard, Clinton was greeted with a standing ovation by a crowd of about 850 people, most of whom had obtained tickets through a lottery process held earlier in the week.

One notable moment came during the question period, when Clinton voiced an opinion about the new welfare laws in response to a prepared question from Kennedy School professor and former Health and Human Services Assistant Secretary David Ellwood. The Clinton

administration's recent decision to sign the new legislation into law has been a benchmark issue for both liberals and conservatives around the country.

"On balance," Clinton said, "I believe that this is a very hopeful opportunity."

"The debate over the welfare system has been mind-numbing, if not mind-stopping," she elaborated. "The system has been a conversation stopper... We've removed it as an excuse for not talking about it."

"We have an opportunity for the first time in fifty years to ask the hard questions and get help with the answers," Clinton said. "Everyone who has been criticizing now has to come up with answers."

Referring to how the system could make sure that "there are

no hungry children," Clinton said that "it's been hard to have the argument because we didn't have the data."

Seeming to downplay any notion that the effects of the legislation were already fixed, Clinton began her answer by saying "We have to approach what we are doing with a great dose of humility... We're going to have to be very vigilant in watching the states and local governments" as they implement the law, she said.

"We're going to go through a period of trying to figure out what will be implemented and what will work," Clinton added. For example, she said, "we may end up with [states] coming back and saying 'we need more

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HARVARD LAW RECORD

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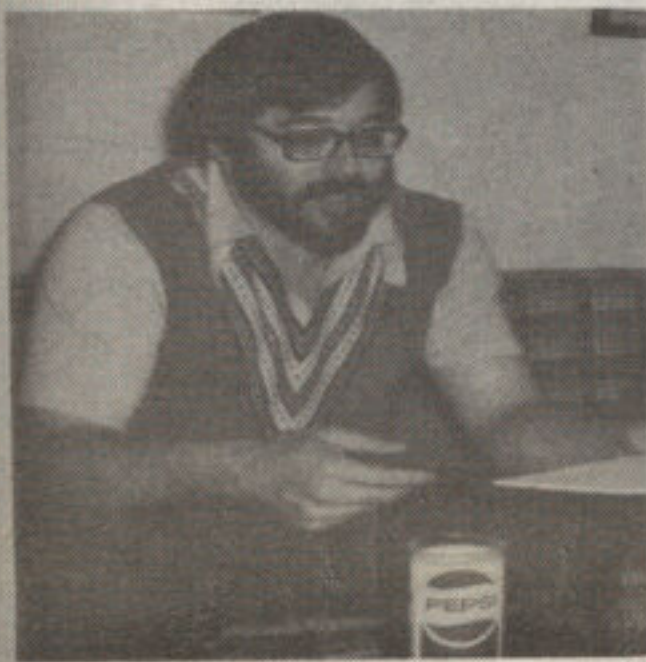
Ph.D. with LSAT of 800 Sues HLS after Rejection

By Bruce Howard

A rejected Law School applicant with an 800 LSAT score and a Harvard Ph.D. has filed suit against the Law School. David Bok (President of Harvard Law School), and others, to force his admission to the Law School.

Using the Harvard law library to research and prepare his case, Kenneth B. Krohn, a 37-year-old Harvard Applied Mathematics Ph.D. and a graduate of MIT, filed suit in U.S. District Court on August 11, claiming that Harvard was a public institution and that it violated his constitutional rights by rejecting him unfairly.

"I suppose if I had been rejected by the English graduate school, I would have written a satirical essay," Krohn said in a



Kenneth B. Krohn, not '78

RECORD interview this week, "but I was applying to the law school, and I believe the punishment should fit the crime."

Krohn is handling the case pro se, and he says the exercise has been very informative. "One way or another," he said, "I'm going to get a legal education from Harvard."

So far the University, represented in the action by two at-

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\$2 Million Asked By Fund-Raisers For 1975-1976

Alumni of the Law School met here last Saturday to prepare for a \$2 million campaign for the Harvard Law School Fund in 1975-76, its 26th year. Dean Albert M. Sacks told the class representatives present about his current concerns with the operation of the Law School.

Sacks discussed the decline in admissions, women at the Law

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Students Will Analyze HLS For Nader-Sponsored Study

By Susan Gillette

Activist lawyer and Harvard Law School graduate Ralph Nader, '58, has recruited five HLS students to spend time this semester researching and writing a book which will explore, analyze, and probably criticize the Law School. Praise will be given if praise is due.

Chosen for their commitment, enthusiasm, independence and writing experience, the students are developing their own topics and an outline of the book. It's clear that Nader, who has criticized the Law School, isn't dictating the content of the book.

"We're not waiting like apostles for guidance," said Bruce Howard, 1L, summing up the writing team's relationship with the sponsors in Washington. "The Nader people will be editing the

book and giving us ideas, but really they're depending on us to design and write the book."

The deadlines established for the book are: completion of research and writing before Christmas; editing in Washington, D.C., during January; distribution of 1,500 copies by Nader in the spring; and possibly eventual publication through Nader's New York City agent. Publication will depend largely upon Nader's attitude toward the book.

Nader's primary input into the book so far was the selection of its writers: Howard; Elizabeth S. Bernstein, 2L; Roger B. Howard, 2L; Lynne A. Bernabei, 2L; and Gail E. Bowman, 2L. They were chosen from students interviewed by Joel Seligman, one of the lawyers in

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Law School Sued by Reject

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torneys in the Boston law firm of Ropes and Gray, has opposed the suit, and moved for its dismissal, solely on the grounds that Harvard is a private institution and not subject to state and federal constitutional provisions.

Judge Frank Friedman is currently considering the University's motion to dismiss Krohn's amended complaint. After a hearing September 4, Judge Friedman denied Krohn's motion for a temporary restraining order, which would have forced the law school to

admit Krohn pending resolution of his suit.

Krohn bases his contention that Harvard is a public institution on the Massachusetts Constitution, which contains provisions indicating state influence over "the government of the said University (Harvard)," and on the founding of the University, which Krohn alleges included making the school accountable to the General Court — that is, the state legislature — of Massachusetts.

Specifically, Krohn alleged that the University violated his rights of "due process of law,"

as provided in the 14th Amendment, by refusing him a hearing to contest the rejection of his application to the law school class of 1978.

Krohn also claims that the University breached a contract by accepting his \$30 application fee, promising to judge the applicant solely on his merits, and then, according to Krohn, not doing so. This section of the suit parallels closely actions brought against other law schools charging they rejected an applicant under inverse discrimination quotas and admission standards.

Krohn feels he was unfairly discriminated against because of his age, his race, his scientific background, and his sex.

Krohn is currently living in Cambridge and unemployed, following the sale of his computer business in Washington, D.C. Once extremely active in the fields of mathematics and computer science, Krohn is nationally known for developing a theory of computer design known as the Krohn-Rhodes decomposition theory, which is commonly taught in computer classes around the country.

Krohn says he first became interested in becoming a lawyer when he was arrested by the Federal Bureau of Investigation for kidnapping, and incarcerated for two months before the charges were dropped.

"I was totally innocent," Krohn said, "but the experience of sitting in the Charles Street jail and being treated like the sole of a guard's shoe made me realize how awful the whole set-up is. At one point I objected to an FBI agent's request that I sign a form waiving certain rights, and he answered, 'If you're innocent, you don't need civil rights.' At about that point I got interested in the law."

As to why Krohn chose Harvard, he explains "Well, I live right near here, and Harvard's a pretty good place, and you know, the old neighborhood school idea."

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21 Years Ago in the RECORD...

A "Bridge" to Connect First-Year Classes

cont. from **BRIDGE**, page 1

without a strong computer background. However, he also noted that with the pandemic spread of computer literacy "we probably won't even need to talk about this in five years."

The exclusive agreement between Lexis-Nexis and the Law School calls for the former to provide the folio programs to Harvard at no cost. Lexis-Nexis is also providing summer grant money to HLS professors to help develop teaching tools.

But Horwitz notes that the future

financial status of the project remains unclear and that there are "all sorts of issues of property" that may need to be addressed once the project is in full swing. Horwitz also noted that when the time arrives for the requirement that all students own a laptop computer, it seems inevitable that the Law School will pick up the bill for those individuals with demonstrated financial hardship.

HLS students and faculty currently familiar with the project appeared to be genuinely excited, but most students seemed to be entirely in the dark regarding the imminent revolution at

their school. Visits to the offices of several deans and the Law School registrar revealed puzzlement that such a program was in the works.

In contrast, Chris Klein wrote in the National Law Journal that the program was already under way in one section and was proving to be a success. This is not yet the case.

"I'm not a 'techie,'" Horwitz pointed out, "but I'm extremely excited." Fisher similarly observed that this venture could "change the character of the first year curriculum." He noted that this was part of an important

effort to "break down traditional boundaries" across the legal curriculum.

Another program is also under development that will be able to guide students through the Socratic method and legal doctrine for their homework reading. But don't throw away your case books just yet. For, like all legal revolutions, the Bridge project will be instituted in stages and only 135 of next year's 540 first year students will be pioneers in the experiment.

Hillary Speaks On Children and Welfare

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protection during economic downturns."

"So I am optimistic," she concluded, "but cautious . . . It will be a number of years before we can actually say we've reformed welfare."

During the main part of the talk — which was also being broadcast to the general voting public via live transmission on C-Span — Clinton generally steered away from controversial or highly politicized issues, stressing the importance of family issues for the future of the country and offering a measured defense of the role of government in dealing with them.

"These issues," Clinton said, "far from being 'soft issues' or 'women's issues,' are among the hardest we face. . . . The U.S. depends on strong and stable families with children who are able to function well. . . . It is not only women who are affected by what we do privately and publicly to support families," she

said.

"Believing that it takes a village [to raise a child] . . . is a self-interested statement," Clinton said, referring to the folk saying that is also the title of her recent book. "No family is immune from the larger influences."

"I don't want my daughter to grow up in an America sharply divided by race, class and religion . . . or to suffer at the hands of someone" who didn't have love and support growing up, she said.

Quoting her husband as having said that "there is not a problem in America that has not been solved in America," Clinton illustrated her theme with a description of the Ford Elementary School in Lynn, Massachusetts, which she had visited that morning. With the assistance of federal, state, and local governments, as well as parents and local businesses, she said, the school had established an expanded program that included after-school and summer school programs and programs for parents. The effect was to "give parents and . . .

the neighborhood a stake" in the school's activities, she said.

Making positive changes, she said, "require[s] the involvement of every section of society," including the media and government, among others.

"[G]overnment is not a solution to every public ill," Clinton said.

"My view of government is an old-fashioned one, of government as an instrument to provide [for] the common good and protect individuals' rights to life, liberty, and the pursuit of happiness," she said.

Clinton said her vision was of "government working side by side with the rest of us." Referring in passing to America as a model for pro-democracy workers elsewhere, she talked also about "water you can drink out of a tap and safe food and free public schools" for girls as well as boys.

"It's important to end the false debate . . . that pits governments against families," she said. "Both personal and mutual responsibility are essential. . . . We need to stop stereotyping governments and individuals."

In an interesting aside about her recent reading, Clinton also mentioned the "epidemic" theory of social behavior, which postulates that "even modest changes" can tip the balance from negative social attitudes to positive ones.

In closing her prepared remarks, Clinton said pointedly that "education is not enough." In Bosnia, she said, "many of those who led the calls for ethnic cleansing were educated people." They had economic means, Clinton said, but "no sense of a broader community."

In a lighter moment during the question period, Clinton, who had been asked about the experience of being married to the President, ended her remarks with "I also feel that the appropriate title is First Mate."

The talk concluded with a second standing ovation from the live audience, which included Harvard President Neil Rudenstine, Radcliffe College President Linda Wilson, KSG Dean Joseph Nye, economist John Kenneth Galbraith, Ethel Kennedy, and other local luminaries.

Students attending the talk came from various schools around the University and offered various responses to the speech.

"I think that she's one of the few people on the national scene who has [stood] up and said 'government has a role,' and that's very important and rarely defended," said Daniel Rosenberg, KSG '98, who had asked a question during the question period.

Marc Diaz, Harvard College '98-99 commented: "I was most impressed with her composure and presentation, and the excitement and vigor she still has, particularly after a tumultuous four years, but it is a shame to see many of her views regarding health care and children watered down due to public policy pressures."

"I really enjoyed her speech and I hope to see her around for four more years," said Jennie (Goldsmith) Rothman '97.

In another Harvard first, the speech was also broadcast live over the internet.

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Law Review

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Last year, the task force determined that the grade differential among male and female participants explained the significant gender disparity that appeared after the selection process. A confidential task force memo last year revealed that the average and median GPAs of women who applied and chose to reveal their grades were lower than men's, and "by comparison, women scored much closer (although still slightly lower than men) on the writing competition," stated the memo.

Grade Confidentiality a Concern

The Law Review's main concern during this process is confidentiality. "We need to be careful with the information, because we tell people when they apply that the information is confidential," said Pantan.

Confidentiality concerns run even greater regarding the eight editors chosen on the Review's discretionary basis.

"How those slots are used is confidential, and the identity of those individuals is only available to the selection committee," said Pantan.

The selection committee consists of

Pantan and two other editors, who determine which applicants are chosen for the discretionary slots. Discretionary slots can be used in the event of ties and for minorities and individuals with exceptional personal statements.

"We must be careful because, through the information collected on the forty-three editors, the composition of those eight can be revealed," said Pantan.

"Thus, the information on those discretionary slots will not be divulged to the public or to the general [Law Review] body," he said.

However, Pantan also said that he "expect[s] that at some point in the future [the Law Review] will make the information public," but that the decision would be made by the committee and general Law Review body.

Pantan said that, once the Law Review completes its fact-finding, the task force will meet to discuss the findings.

"The committee should have the information later this week, and the whole task force will be meeting sometime after that in the next week or two," he said.

As to the delay in convening the task force and addressing the gender disparity issue, Rosenbury said, "It's just the internal dynamics of the Law Review."

BRIEFS



Anker Awarded Governor's Appreciation Award

HLS lecturer Deborah Anker will be one of 10 recipients of the 1996 Governor's New American Appreciation Award for her work in immigration and refugee law.

The award, which was inaugurated last year and is sponsored by the Massachusetts Office for Refugees and Immigrants, recognizes immigrants' contributions to their new home and native-born residents' efforts to help newcomers succeed. Honorees will receive hand-crafted wooden boats.

Anker founded the Immigration and Refugee Law Program at HLS and is the author of the leading practitioner treatise in the field of U.S. asylum law, "The Law of Asylum in the United States." She has been consulted by the U.S. Commission on Immigration Reform on asylum policy reform, and her articles have been cited by the Supreme Court.

Gov. William Weld is scheduled to present the awards in a ceremony on Oct. 21 at the Boston Sheraton. He is also expected to proclaim "New American Appreciation Day in Massachusetts."

—from the Harvard Crimson

Wilkins '54 Appointed Chief Justice of Massachusetts SJC

Herbert P. Wilkins was sworn in as the 23rd Chief Justice of the 304-year Massachusetts Supreme Judicial Court in a private ceremony in the Governor's Office on Oct. 1.

A *magna cum laude* graduate of the Law School and former Law Review editor, Wilkins follows in the footsteps of his father, the late Hon. Raymond Wilkins '15, who served as Chief Justice from 1956 to 1970.

Wilkins has served as an Associate Justice since 1972. In 1991, he was the recipient of the Boston Bar Association's Haskell Cohn Award for Distinguished Judicial Service.

Clark Boosts Alumni Relations in Asia

Dean Clark '72 is on a two-week touring swing in the Far Eastern countries of Thailand, Hong Kong, South Korea, Japan and the Philippines to boost alumni relations and fund-raise, officials said.

Clark departed last Wednesday with Prof. William Alford, an expert on East Asian legal studies, and Prof. Hal Scott, a specialist in international finance, said Michael Chmura of the HLS Communications Dept. They will return Oct. 16.

Clark's arrival in Hong Kong and Thailand will mark the formal establishment of new alumni associations in those countries, said Chmura. In Thailand, the professors also will meet with the Chief Judge of the Supreme Court and the Justice Minister.

In addition, Clark will speak at Seoul National University in South Korea, and visit Japan's HLSA chapter.

School of Public Health Hosts Conference

The Harvard campus was host to over 23 speakers and 31 different panels and seminars this past weekend as part of the second International Conference on Health and Human Rights.

Roughly 500 academics, activists, and students from around the world attended panels with titles like "Genetics, Health and Human Rights," "Women's Health and Human Rights," and "Transnational Corporations: a Health and Human Rights Nexus."

"I went to three panels," said Paul Hunt, a visiting fellow at the Human Rights Program at HLS. "There were people reporting about their particular international, national and community projects, some of which were exciting," said Hunt, who described the conference as "particularly challenging, particularly rewarding." Hunt presented a paper called "The Right to Health: Engaging the International Human Rights System."

The conference was sponsored by the Francois Xavier Bagnoud Center for Health and Human Rights at Harvard.

Harvard Students Protest Abuses in Burma

About 20 Harvard College students joined with students worldwide Monday to protest the arrest of 800 non-violent democracy activists by Burma's military.

The students, who are members of the Harvard Burma Action Group, rallied on the steps of Widener library. Twelve of the students also participated in a two-day fast that ended Wednesday.

Roughly 100 people signed a petition asking the Cambridge City Council to adopt legislation prohibiting the city from purchasing goods and services from corporations with investments in Burma.

"The struggle for democracy in Burma is one of the most crucial struggles today," said Harvard Prof. Cornel West, who teaches American Democracy at the Law School. "Tremendous courage is being exhibited in Burma, and their actions represent what all radical democrats should be fighting for."

—from the Harvard Crimson

Northeastern Law Hosts Immigrants' Rights Conference

About 70 community activists, immigration attorneys, advocates and law students gathered at Northeastern University School of Law last weekend to apply international human rights principles to the plight of domestic immigrants.

The conference, entitled "Putting Human Rights to Work: A Working Conference to Formulate Community Strategies for Change," launched the Immigrant Workers Human Rights Project, which will document human rights abuses against immigrant workers in the Greater Boston area.

Among the speakers at the conference were the Asian Pacific American Legal Center's Julie Su, whose work with Thai garment workers catapulted her to national fame, and HLS lecturer Deborah Anker, who teaches Immigration Law and Asylum and Refugee Law.

"It was not a typical conference where you have academics spouting ideas about the world," said Tae-hui Kim '98. "The speakers included an actual factory worker, an immigrant student and several people from community-based organizations who are doing grassroots work."

"It was a very energizing experience," said Kim.

THIS WEEK IN LEGAL NEWS

State Supreme Court Allows Fear of AIDS Suit

By Hal Poret

Going against the prevailing legal trend, the New Mexico Supreme Court ruled last month that plaintiffs may recover damages for "fear of AIDS" if they are reasonable in believing that they have been exposed to AIDS, even if they fail to allege actual exposure to the virus.

In the case of *Madrid v. Lincoln County Medical Center*, the state high court held that a nurse who feared she might have contracted AIDS when exposed to bloody fluids that she was transporting could sue the medical center for its negligence in putting the fluids in leaky containers.

The court's decision significantly departed from the predominant approach to AIDS-phobia cases in that it failed to require proof of actual exposure to the virus that causes AIDS. On the contrary, it did not even require proof that any of the blood samples being transported had tested positive for HIV or that any of the patients from whom the samples were taken were ever exposed to HIV.

Although the Court acknowledged that virtually every other court has adopted an "actual exposure" test, in which a plaintiff must prove that he or she actually came into contact with the AIDS virus, it felt that the deadly nature of AIDS requires a tort action that will deter the negligent handling of medical samples.

"Sound public policy supports recognition of a cause of action for emotional-distress damages in favor of one who fears that the negligence of another has caused him or her to contract HIV through a medically sound channel of transmission. ... The potential for liability encourages those engaged in conduct that may result in an exposure incident to use reasonable care," the court wrote.

The "medically sound channel of transmission" requirement is tantamount to a reasonableness test, because it ensures that the plaintiff's fear derives from an occurrence that has been medically proven to make possible the transmission of AIDS. In

Fear of AIDS suits have become increasingly common due to the national panic over the spread of the deadly disease.

this case, the plaintiff was able to meet this test by demonstrating that blood came into contact with unhealed paper cuts on her hands.

Fear of AIDS suits have become increasingly common due to the national panic over the spread of the deadly disease. Despite significant governmental efforts directed at increasing AIDS awareness, the staggering victim statistics and the deadly nature of the virus have led to a growing number of "AIDS phobia" lawsuits. Most of these cases, including the case considered by the New Mexico Supreme Court, are based on the tort of negligent infliction of emotional distress.

In such cases, plaintiffs do not allege that they have actually contracted HIV, but rather that they have suffered a legally cognizable harm strictly from the fear of contracting it, usually resulting from medical treatment. The decision to allow recovery in the context of negligence-based "AIDS-phobia" claims almost always hinges on a patient's ability to prove exposure to AIDS.

The rule adopted by New Mexico is rare in that it allows recovery without either actual exposure or physical manifestations of emotional distress. As recently as June of this year, a Georgia appellate court ruled that emotional distress damages suffered when a needle fell and punctured an individual's thigh were too speculative to allow recovery where there was no evidence that the needle was actually contaminated with HIV.

In addition, in September of last year, a Delaware court held that a patient's recovery in a suit against his dentist would be limited to economic damages and could not include mental anguish for "fear of AIDS," absent actual exposure to HIV.

Many courts have even adopted a rule that plaintiffs are entitled to recover only for physical manifestations of fear from negligence leading to contact with HIV contaminated fluids.

Such decisions reflect an increasing hostility to cases involving plaintiffs who claim that they fear they will acquire a disease and demonstrate the significance of the New Mexico court's ruling in providing for fear of AIDS suits.

The *Madrid* decision to go against the traditional approach implicates important policy considerations regarding the best way for the law to handle the medical and legal crises caused by the widespread effect of AIDS. The legal rules that will be applied to these cases are of particular concern to health care workers whose profession frequently brings them into continuous close contact with persons who are infected with HIV.

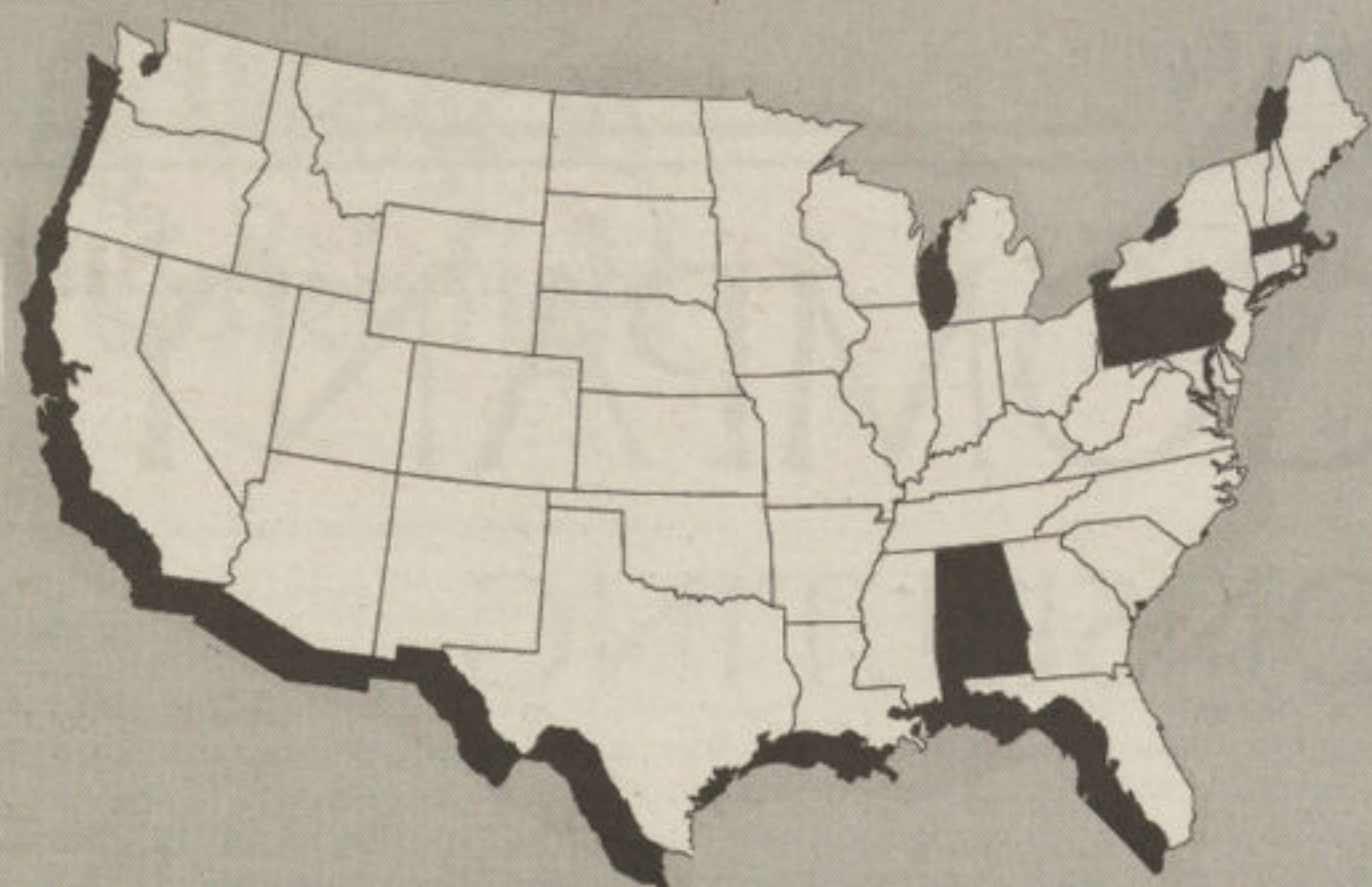
Though Judge Ransom, who authored the *Madrid* opinion, stressed the importance of encouraging medical facilities through harsh liability rules to take great care in the handling of HIV-infected samples, there are other considerations that mitigate against such rules. First, there is concern that allowing more tort actions for fear of AIDS will lead to such an increase in insurance costs that companies would be unable to afford coverage. More suits and higher costs could result in greatly reduced availability of health care services.

Second, as suggested by the defendant medical center in *Madrid*, certain businesses could go bankrupt if forced to pay emotional-distress claims to every patient or worker who fears exposure to AIDS.

The New Mexico Supreme Court rejected similar claims of financial disaster for the health care world, stating that such claims are merely speculative, while the incidents of negligence leading to AIDS exposure are very real and need to be deterred. Judge Ransom also justified the court's decision by pointing out that under current medical knowledge, there is only a six month period following potential exposure in which a plaintiff may suffer emotional distress before finding out that they were not infected.

Other suggestions for dealing with the current problem include establishing a tort for a patient's or medical worker's failure to disclose HIV-positive status if that failure results in fear of HIV-infection. This would arguably allow medical workers to practice at a more finely-tuned level of care because they would usually know when a patient or a certain sample was HIV-positive. However, no court has yet recognized a duty to reveal a person's HIV-positive status, and such a duty would be a necessary element in any such cause of action.

Across the Wire ...



This Week, Reports From the East and South

Prison Rule Blocks Lawyer-Client Meeting; Judge Calls It "Nonsense"

WILLIAMSPORT, Pa. (AP) — He may have ties to the Cali drug cartel and he is in solitary confinement in prison, but Freddie Aguilera-Quinjano still has the right to see his lawyer, U.S. Senior Judge Malcolm Muir said.

Muir was upset last week when Aguilera-Quinjano, through an interpreter, told him in court he had not been able to talk with his lawyer about how to plead at his arraignment on charges of possession and possession with intent to deliver more than 5 kilograms of cocaine.

Bellefonte lawyer Philip M. Masorti explained that after he was appointed, he had his secretary call Allenwood federal penitentiary several days in advance to notify officials he would be coming to see his client.

He said she was told he would not be permitted to see Aguilera-Quinjano without first sending letters to each of the inmate's two counselors. There was not time to send the letters and get the approval to meet with his client before Thursday's court appearance, Masorti said.

Muir frequently orders defense lawyers in criminal cases to give three hours' notice to a prison if they want to visit an inmate client. "I see no reason why three hours' notice is not sufficient," the judge said.

The judge directed Assistant U.S. Attorney Patricia Stewart to find out why Masorti could not see his client and

report back to him.

"We're not going to have counsel sitting and waiting to talk to his client," the judge said. "We simply won't put up with this nonsense."

He suggested to Stewart she go "to the top" at the penitentiary to get the matter resolved. "I want this practice to cease," he said.

A spokesman for the prison was not on duty Sunday to answer questions about the case, an operator said. He referred calls to executive assistant Ron Hamm, during regular business hours.

Aguilera-Quinjano pleaded innocent Thursday, after he had an opportunity to meet with Masorti in a holding cell. His trial is scheduled for December.

The Colombian national, who is related by marriage to a deceased leader of the Cali cartel, is serving two consecutive 30-year sentences in drug cases from Florida and New York.

The charges currently pending stem from cocaine deals involving 17 kilograms of cocaine in northern New Jersey. Authorities say Aguilera-Quinjano brokered the deals from inside the Lewisburg Federal Penitentiary in 1994.

The government charges Aguilera-Quinjano was able to continue his drug business by abusing the prison's telephone and visiting room privileges. Inmates at Lewisburg have unlimited use of the telephones to make collect calls.

Town Considers Checking Coaches, Volunteers Against Sex Offender Registry

MARLBORO, Mass. (AP) — Town officials are debating whether to require kids' sports teams and clubs to run the names of coaches and volunteers through the state's new sex offender registry.

"The world is full of crackpots today, and I don't think we're overreacting," City Councilor Dennis Hunt said.

The law was first proposed by a local soccer coach. It would require groups to do background checks or face a \$100 fine and lose city park and building privileges.

City Council may vote as early as Monday on the proposal, which would apply to both public and private school teams and clubs.

"People are afraid as heck to say anything about it," City Councilor Natalie Lashmit told the Boston Sunday Herald. But Lashmit, who has five children, said she worries the law could mean doing background checks on every mother who volunteers to chaperone a field trip.

"The intent is good," she said, "But is it practical? How do you define these organizations? Does it mean dance schools? Karate schools? And how do you define who needs to be checked out?"

Lashmit said the idea is not popular with some local teams who say they already check out their adults. And she worried the law could discourage volunteers because the state registry also includes people charged with lewd and lascivious behavior.

"What if you were a young teenager

and did something silly like moon somebody?" she asked.

Massachusetts, though the last state to adopt a sex-offender registry, adopted one of the broadest. The state is among only 14 where neighbors may read the local police station's list of sex offenders and anyone can request information about a specific person. Convicted sex offenders who do not register face up to two years in prison.

Critics worry about the effects the availability of information may have on offenders who have led productive lives since being freed from prison.

"I paid the cost," said one Boston-area father of four, who as a teenager raped a woman 15 years ago. He served a total of 10 years for the rape and a later robbery and remains on probation.

"First of all, I've learned that you can't walk around saying, 'Oh well, I was intoxicated.' I accepted the responsibility for my actions as a man, standing up and saying, 'That was a horrendous thing that I did,'" the unidentified man told the Herald.

The man, who has a managerial job, said he lives in fear that his children are going to pay a hefty price if his neighbors, boss or leaders of the youth programs he supports find out about his past.

"My roots go deep, community events to help youth and so forth, providing jobs for young adults, working for seniors," he said. "I'm giving as much as I can, but all of that would be jeopardized."

Convicted Mail Bomber Set for Trial in Judge's Death

BIRMINGHAM, Ala. (AP) — A Georgia man serving life without parole for the 1989 mail bomb death of a federal judge goes on trial this week facing another penalty: death in Alabama's electric chair.

Walter Leroy Moody Jr., who claims to be the innocent victim of a government frameup, has no money to hire a lawyer or present a defense, said Paula Wills, his longtime legal assistant.

But jury selection and pretrial motions are set for Monday, with testimony unlikely to begin before Oct. 14, court officials said.

"He doesn't think he's going to be the next great lawyer and win this case," Ms. Wills said in an interview Friday. "He's very concerned."

The state, meanwhile, has a \$30,000 deal with a Birmingham motel to provide rooms and meals to prosecutors seeking the death penalty for Moody, whose trial could last from one to three months.

"I wish we had just half of that to put on a defense," said Ms. Wills, adding

she has spent thousands of dollars out of her own pocket on Moody's behalf. She said she was last paid in 1994.

The Rex, Ga., man was convicted in 1991 in the December 1989 deaths of U.S. Circuit Judge Robert Vance of Mountain Brook and Savannah, Ga., lawyer Robert Robinson, a city alderman.

A pipe bomb laced with nails exploded when Vance opened a package delivered to his home, and a similar device killed Robinson.

Convicted of 71 counts in all — including threats to kill 17 judges and sending two other mail bombs that were intercepted — Moody was sentenced to seven life terms without parole.

Moody, 61, had been convicted of possessing a pipe bomb in 1972, and prosecutors contend he was obsessed with clearing his record. He retaliated against the court system because of his failure to overturn the case, they argue.

Similarities between the 1972 bomb case and the bombs used in the killings put investigators on the trail of Moody, a self-styled literary consultant who

blamed the murders on the Ku Klux Klan during his federal trial.

The upcoming trial is only for the Vance slaying. Georgia authorities have said they would probably not pursue state charges against Moody if he is sentenced to death in Alabama.

Moody has been without a lawyer since 1994, when he forced court-appointed attorneys off the case by filing a federal lawsuit against them.

Deputy Attorney General Bob Morrow, the chief prosecutor, has described Moody as a "very astute jail-house lawyer."

"He's pretty creative," Morrow said. Moody has filed numerous legal papers since his indictment on state charges in January 1992, and he managed to have courts set aside past trial dates at least twice.

But Ms. Wills, a paralegal secretary who lacks a law degree, said the state is railroading Moody.

Repeated attempts to hire a defense lawyer have failed because of a \$1,000 cap on payments to court-appointed

attorneys, she said, and the state successfully fought to prevent taxpayers from footing the bill for expert witnesses to assist Moody.

"Mr. Moody doesn't know Alabama law. He's not the Clarence Darrow people make him out to be," said Ms. Wills. "I don't know what Mr. Moody will do without an attorney. That is murder. He knows that."

Moody has at least a little going in his favor.

Former FBI explosives expert Fredric J. Whitehurst went public last year with claims that two colleagues in the FBI crime laboratory fabricated evidence in their zeal to convict Moody in the deaths.

The FBI has denied any wrongdoing, but Director Louis Freeh, who prosecuted Moody in federal court, has said he could be called as a witness in the state trial.

Ms. Wills said Freeh has not been subpoenaed, but Moody has been in regular contact with Whitehurst's lawyer. She refused to say whether Whitehurst was assisting in the defense.

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SPORTSGUY

Big Doings at Webster Field

By Todd Stillerman '97

Sports Editor



A slight chill filled the air above Webster Field Sunday morning as Week Four of the HLS Football League brought more thrilling action from its gridiron attorneys-to-be. Still trying to get in touch with their feelings, the Sensitive 90s Men opened the day against Illegal Motion, a squad whose chutzpah is often overlooked due to its record (1-6). Relying on a tenacious defense and the long bomb, Illegal Motion stayed with the bigger (but cuddlier) 90s Men for much of the first half, at one point staking an eight point lead. Reeling from his alma mater's drop in the college football polls to #3 despite a 34-3 whipping of Clemson, Florida State alum and 90s Men quarterback Steve Mudder '98 must have found a way to focus his negative energy. Proving his mettle as a double-threat QB, Mudder ran the option and passed his way to three second half scores as the 90s Men held on for a 32-16 win. Mudder, recently honored as the first Seminole grad to successfully walk and chew gum, noted: "I love the option. We try to initiate the passing game from time to time, but just like the salmon of Capistrano, we always return to the ground game." Like coach Bobby Bowden says, "A mind is a terrible thing."

Last week the SPORTSGUY predicted that the meeting between the Sensitive 90s Men and Rockne Division-leader the Sons of Jor-El might be the game of the week. It turned out to be the game of the year. Easily the two bulkiest squads in the league, these two mounds of man and muscle provided the hardest-hitting, grittiest game of flag football in recent memory. Evoking images of great Nebraska option quarterbacks like Jamelle Holloway and Tommy Frazier, Cornhusker grad John Lammers '97 put the Sons on the board first with an eighty-yard run from scrimmage, leveling the 90s Men's secondary. After the PAT failed, both teams settled in for a defensive struggle. Perhaps a bit stunned by the Sons' quick score, the 90s Men stalled in the red zone on their first possession, despite the help of two defensive penalties. After an uncharacteristic Lammers interception, Mudder somehow willed his team into the end zone to knot the score at 6-6.

Although Lammers and Mudder each directed his offense to two more scores, defense ruled the day. Sons captain Zach Stern '97, no victim of Jimmy Olsen's blues, savaged the 90s Men's offensive line with devastating pass penetration. Ultimately, the game might have turned on the absence of Sons mainstay Pat Rodriguez '97, who spent the game on the sidelines with a broken finger. With panther-quick pass rushes and spirited diving catches, Rodriguez has earned a reputation for big plays. The big play was missing at game's end, as the Sons could not muster a final defensive stop to protect an 18-12 lead. Mudder hit Chris Manning '98 in the corner of the end zone for the winning one-point conversion as the 90s Men prevailed 19-18. Manning, his face bloodied by a first half tussle with notorious bruiser Les "Is More" Yontz '97, expressed relief, "That was good, hard-nosed football. We feel pretty lucky to escape with the win." The Sons loss drops them to 6-2.

The 90s Men attempted a three game sweep in the next match, which featured Freshies, the league's only other undefeated team. Touted as the "Cheesy Two-L Bowl," the match-up failed to match the previous game's excitement. Spurred on by captain Dave Rothenberg's cheers of "Come on, Fresh!" and "Go, Citrus," Freshies jumped to a 6-0 lead and never looked back. Fatigue apparently got the better of the 90s Men, who managed less than three scores for the first time all season. Rothenberg '98, who passed for four touchdowns en route to a 26-16 victory, noted after the game that "while the Sensitive 90s Men may have a grip on their feminine sides, it's Freshies that were in the groove today. I felt a lot of love on this field." Freshies (6-0) completed a two-game sweep by burying Forrest Krump 42-18.

Riding a five-game winning streak into the weekend, Posse Comitatus took on Blur in an inter-division clash. Living up taxpayer his billing by the SPORTSGUY as "the best arm in Cambridge," Posse quarterback Juan "Is the Loneliest Number" Zarate '97 quickly found his favorite target, Chris "Of the Spider Woman" Handy '97, in the end zone for a 6-0 lead. Blur, a predominantly One-L squad, showed vast improvement over the early weeks of the season, giving Posse all it could handle before falling 26-19. Asked for comment on his team's resurgence, Blur captain Mike Tognetti '99 quoted Roy "Tin Cup" McAvoy, "When the defining moment comes along, either the moment defines you, or you define the moment. Think about that for a minute." Posse faces Freshies next Sunday in what is now a match-up of division leaders.

Bouncing back from a disastrous 1-3 start, Who's Your Daddy? evened its record at 4-4 with wins over Blur and Forrest Krump. Defense made for WYD's best offense, as quarterback pressure from Jake "Me Out to the Ball Game" Schwartz '97 stifled the passing game with three sacks and numerous hurries. Mark "My Words" Jensen '97 gets the SPORTSGUY's Pick of the Week for an acrobatic interception and TD return. WYD receiver Mike "Muscle" Beach figures his team is peaking at the right time: "We're ready for the world." Beach, who abdicated to his own team after two years with the Great Danes, will face his old teammates Sunday. Forrest Krump captain Andrew Wong '98 explained why his team (now 1-7) and victories have not been like peas and carrots: "Life is a box of chocolates — you never know what you're gonna get. Lately, we've been picking the ones with coconut centers."

Blitzed & Bombed completed its regular season 1-9 after a league record sixth consecutive forfeit. Team captain Darren "Nowhere Man" Mungerson '98 offered no excuses, instead releasing only the following written statement: "Some of us actually go out on Saturday nights, OK? We suggest that the HLS Football League change its discriminatory policy of playing games before 2:00 p.m. on Sunday afternoons."

A heartfelt apology goes to Steven Rowe '97, who two weeks ago was named to the AGR All No-Conscience Team. The SPORTSGUY erroneously reported that the Alabama Slamma' had recorded his first assist in three years of pick-up basketball earlier this fall. In fact, Rowe had attempted a "give-and-go" with Naim Bulbulia '98, and Bulbulia simply refused to return the pass. Keep shooting, Steven!

HLS Football League Standings

ROCKNE DIVISION

Posse Comitatus	6-1
Sons of Jor-El	6-2
Great Danes	5-3
Chupacabras	4-4
Happy Gilmores	3-5
Illegal Motion	1-6
Blitzed & Bombed	1-9

LOMBARDI DIVISION

Freshies	6-0
Sensitive 90s Men	6-1
Stormin' Mormons	3-3
Who's Your Daddy?	4-4
Blur	2-4
Forrest Krump	1-6

THE VERDICT

Old Bones and Cheap Moans

By Michael Bennett '98

Movie Review



Refreshing is the word that comes to mind when one recollects on John Sayles' Lone Star. The work is very powerful without overtly trying to be. All the various pieces — story, acting, cinematography — although separately mild and concise, coalesce into something far surpassing the individual components.

Firmly planted in a dusty little Texas town, the film is as divergent as an ancient and senile cowboy. But instead of the typical Western fair of a linear and simple story, the viewer is forced to juggle several plots, some unfolding in real movie-time, others almost forty year old memories of the town and the characters. Coupled with its 2 hour plus running time, the film seems like it would severely tax even the most caffeinated viewer. However, to the film's credit, the audience was completely captivated. Continuously conscious, no less. The stories are compelling and well written; the delivery mostly crisp and believable.

The film in a nutshell is all about baggage. How does one deal with diametrically opposed feelings of love and hate for one's parents? How does one approach the history of one's ancestors? And how does one coexist with those who have different ways of thinking and communicating? All these questions are posed in the film and Sayles offers answers to a few of them. But don't approach the film expecting a cheap therapy session — as in non-scripted life, the questions greatly outnumber the answers. Sorry.

Despite this philosophical shortcoming, "Lone Star" is delightfully fresh and complicated but not overly so. The story's evolution is dense but it manages to maintain a fast pace. Sayles conducts the whole affair like an ethics study, laying the problems on the table, letting his students/viewers poke at them, lick them, and see how they interact. Then he paints a contemporary layer on top, sprinkles it with some regurgitated memories and sets things in motion. [Count the mixed metaphors and win big! - ed.]

The actors display several wonderful moments, but the most consistently interesting performance comes from Kris Kristopherson who appears in the guise of a sadistic racist sheriff of the previous generation. His only joy is to plague Blacks and Mexicans; his rewards extorted cash and pure pleasure. Also worth noting is the performance of Miriam Colon as Senora Cruz. Her character's complexity is revealed a bit more slowly than the others occupying the screen, but in the end hers is one of the more compelling roles.

The most beautiful component of the entire work has to be its refusal to follow the typical American movie ending of happiness and nirvana-like bliss. Instead the film leaves one feeling a little disturbed and slightly in need of a shower.

Rating:



Bound

Finally, what you've all been waiting for: a film I really didn't like. The writing and directing Wachowski Brothers really outdid themselves with this one. Part mobster movie, part soft porn, part love story, Bound is bound to send you running for the egress. Quickly.

The main plot of the film concerns Corky (Jennifer Tilly), the girl friend of a mob guy. She's a lesbian, but still manages to make it through at least the mechanics of heterosexual romps — to the great joy of her boyfriend. When Corky sees Violet (Gina Gershon) in the elevator, it's love at first sight, literally and physically.

The ladies get together and hatch a plan to steal a couple of million blood-soaked dollars from the mob. Needless to say, the mob does not go gently.

The dialogue stands out as some of the worst I've heard in a very long time. When the characters are trying to be serious, the crowd is doubled over with laughter. It would make Ed Wood blush.

Equally forgettable was the feminine duo. Gina Gershon is unconvincing as the "man" of the couple. The director goes so far to establish this role that the audience catches a glimpse of the character lying alone in bed dawning men's briefs. Tilly's high-pitched whining is just as unfulfilling. It's difficult to remember even one noteworthy scene.

The most interesting acting work on the screen was Cesar, Corky's boyfriend, played by Joe Pantoliano. His Chicago mobster accent was hilarious at times. But when he wasn't talking in the staccato-speak that only the Chi-Town good guys in movies can deliver, Cesar was just as boring and unbelievable a character as the two ladies.

Even the score was horrible. It was betrayed by a trailer for the newly remastered "Vertigo." The folks in charge of music should not have stolen from such a popular film, especially one that will be screening concurrently. The "Bound" score is a poor facsimile that has the substance of a copy of a copy of a copy...

Essentially, my advice is this: "Bound" is a prime candidate for some heavy editing and a place of among the circumcised films that inhabit the basic cable channels. So just keep your eye on the T.V. guide and save yourself a few bucks.

Rating:



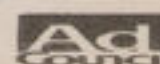
The films are playing at Kendall Square and the Harvard Square Sony, respectively.

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Beyond the Bad and Ugly of Interviewing

Interviewing season has been disrupting things lately. Classes contain fewer students than usual, and students rush in late and out early on account of interviews scheduled too closely to classes. Students have less time for reading and sleeping. Even the RECORD, which publishes through everything — snow, power failures, administrator shadows looming overhead (but not fly-out week) — has been a bit thin lately.

The ugliness of the interviewing process is evident in the gray streaks left by students running by in their business suits — “like drones,” as one RECORD staffer put it.

Then there's the bad. As usual, some firms have chosen not to play by the rules. This week's model of inappropriate behavior is the firm of Troy & Gould of Los Angeles. At least two students have reported being pressured by Troy & Gould interviewers to “turn down” offers. While it's unclear what the firm hopes to achieve by making cold offers to HLS students and then advising them not to accept, the practice should not be tolerated. And, even if Troy & Gould has not violated NALP policy or does not belong to NALP, HLS should put an end to it.

Which brings me to the good part of the interviewing season. HLS can afford to tell firms that don't play by the rules to stay at home because of its privileged position. As Career Services Director June Thompson told the RECORD, “People should keep in mind that Harvard Law Students are much sought after.”

And students can feel that power — the comfort that comes from knowing they have the upper hand on employers. It has led to a kind of community effort involved in the interviewing process that strengthens ties among students.

Perhaps it results partially from the solidarity built from the knowledge that the interviewer is the common enemy. Perhaps it has something to do with the sharp suits that compel strangers to hold open doors and call students “sir” and “miss.”

But hearing a genuine wish of luck from a fellow student — a stranger usually but not when you are both wearing suits — is a signal of how far the School has come. Gone are the days of years past, of cut-throat competition and page-ripping.

Gone are the bad-old days when the RECORD headline read, “Number of Failures Up to 13%” (March 5, 1947). Students may be a bit more complacent than they used to be (for example, the 1991 “Griswold Nine” episode and GQ's February 1993 article entitled, “Beirut on the Hudson”), but there is also a healthy camaraderie among students.

It may take the common enemy of the interviewer to bring out the sense of community at HLS, but it does exist, not far from the surface of hurried October days.

— Friedman

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—First Amendment, US Constitution

• Letters •

A Year Later, Still Waiting for Administrative Action

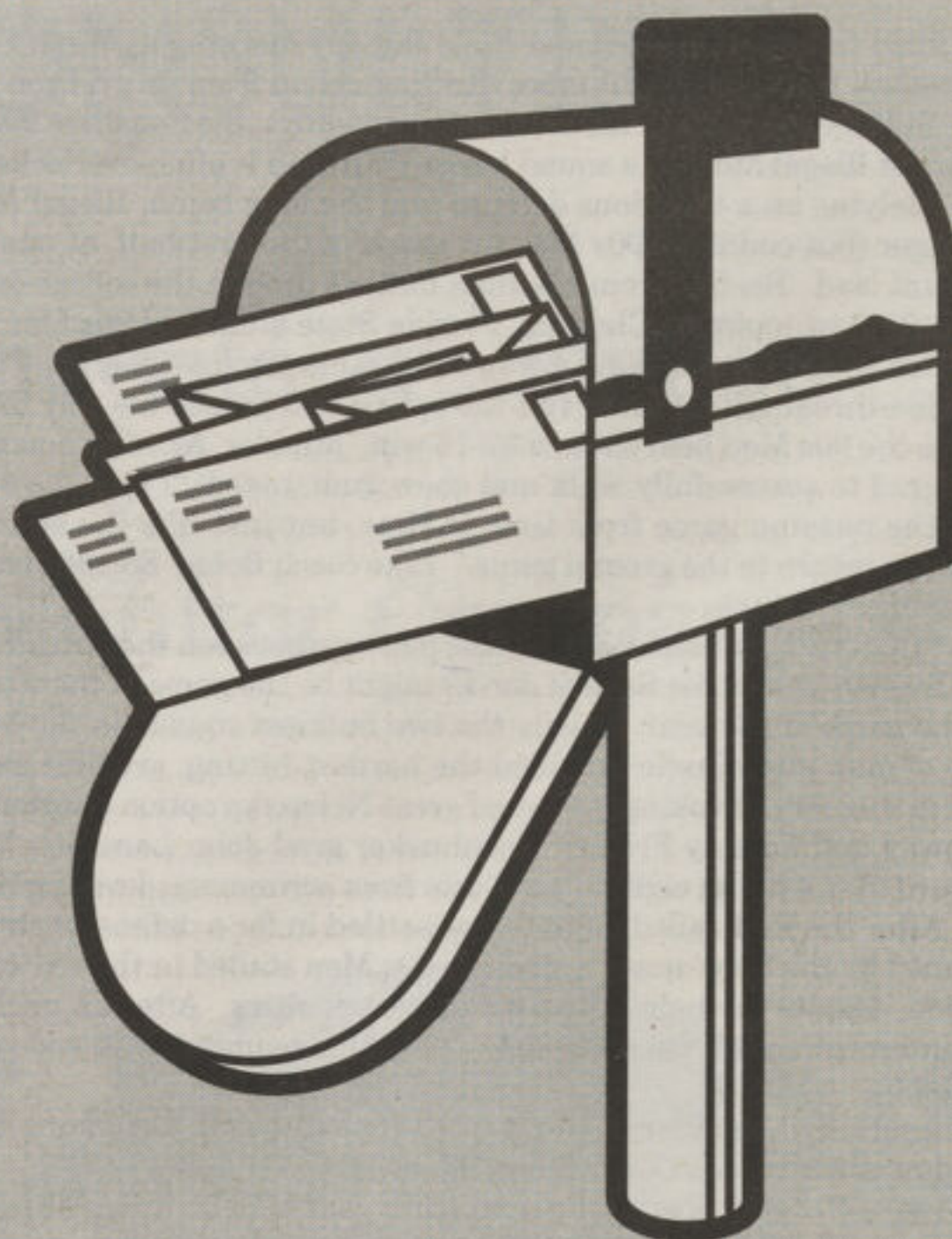
In “Tale of Two Blunders” (Editorial; Oct. 4) Rob Friedman writes that “[i]t is ironic that administrators sat and watched rules infractions take place over a communications network, but never thought of posting a

message themselves explaining the rules.” Unfortunately, it is also not surprising.

One year ago (Sept. 22, 1995), I wrote to the RECORD to publicly ask any member of the information technology staff to explain the bizarre claim in the “Dos and Don'ts”

section of the Information Services Student Handbook that it “[does] not distinguish computer rules from good etiquette.” I am still waiting for a reply.

Jol Silversmith
October 7, 1996



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Giving O.J. the Ball

By Prof. Alan Dershowitz

One year ago the world watched in shock as a Los Angeles jury reached a swift verdict that O.J. Simpson was "not guilty" of a double murder that most people believe he committed. Only a prophet or a fool would try to predict how round two of the Simpson saga will play out. But a professor — especially one who had a close encounter with the criminal case — has an obligation to explore the implications of the possible outcomes of the civil trial on public perceptions of American justice and on racial divisiveness in this country. So here goes.

If Simpson is found liable — the civil analogue to a verdict of "guilty" — many observers will draw the wrong conclusions. Some will say, "See, the first jury must have been wrong." They will not understand how the same defendant could have been found "not guilty" at a criminal trial and "liable" at a civil trial. As even some of my sophisticated friends have put it: "Either he did it or he didn't do it."

The fallacy in this reasoning is that it was not the function of the criminal trial to determine whether or not "he did it." A criminal trial is not a "who-did-it." If it were, the jury would not have been instructed that if it merely finds that the defendant probably did it, it must acquit him. Though "probably" is enough for many decisions we make in our daily lives — such as voting for who would make a better president — it is not enough to put someone in prison. A jury in a criminal case cannot convict unless it concludes that the prosecution's evidence proved the defendant's guilt "beyond a reasonable doubt." Whatever that talismanic phrase means — and the courts are reluctant to be specific — it means a lot more than that he "probably" did it. In a civil case, "probably" is quite enough, since the purpose of a civil trial is to decide whether it is more likely than not that the defendant did it.

So, both juries could be absolutely right, even if one acquits and the other finds liability on precisely the same evidence. Moreover, the evidence will not be the same. The criminal trial was more about the forensic evidence and those who collected and processed it than it was about the defendant. The defense managed to put Dets. Mark Fuhrman and

Philip Vannatter on trial, and that was appropriate, since in a criminal case a defendant has the right to put the state to its proof and not participate in the presentation of evidence. O.J. Simpson invoked the right and did not testify. (Well, maybe a little, when he took advantage of the prosecutor's blunder in having him try on the gloves and spoke directly to the jurors.)

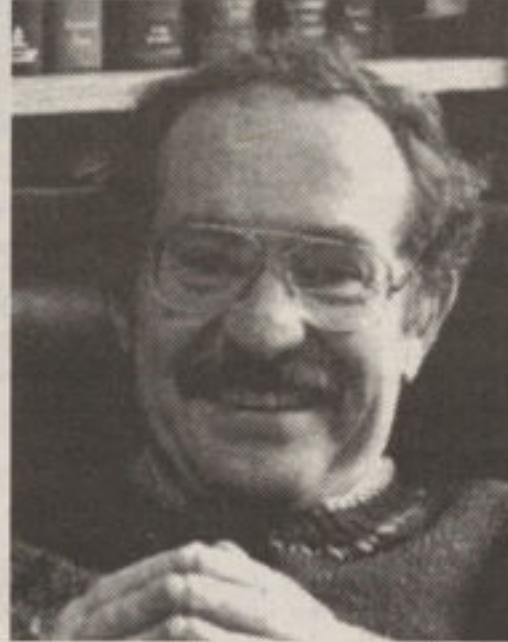
In the civil trial, the specter of Fuhrman's guilty plea to a single count of perjury will be in the air, whether or not he actually testifies. But Fuhrman will take a back seat to Simpson himself, who will be on trial and will have to provide evidence. His testimony will be the centerpiece of the civil case.

If the jury comes back with a verdict against Simpson, many blacks will conclude that this was "white justice" — that it was the plaintiffs who played the race card this time. Many whites will disagree, seeing the verdict as neutral justice. (It is interesting how much easier it is for whites to see the race card played to black jurors than it is for them to see the race card play to white jurors.) This will be especially so if the verdict is divided — all that is needed is nine out of 12 for a civil verdict — along racial lines.

What is the verdict in the civil case comes out in favor of Simpson? That would be a finding that Simpson

didn't do it. Would such a finding change any minds among the 80-plus percent of the public who believe that Simpson did it? Probably not, especially since they will not have seen with their own eyes why the jury found for Simpson. (This trial won't be televised.) It will, of course, depend somewhat on the racial composition of the civil jury and of the final vote.

Another variable at the second trial is Judge Hiroshi Fujisaki. No judge could be more different than Judge Lance Ito. Judge Fujisaki is a no-nonsense, efficiency-oriented jurist who seems determined to move this case along in record time. Some observers fear that his judicial haste may make judicial waste, raising the prospect of an eventual appellate reversal for the losing side and — heaven forbid — yet another round in the case of this century that may extend into the next.



Professor Alan Dershowitz

If I were asked by either side how to prepare for this trial, I would advise focusing on three things: Simpson, Simpson and Simpson. If Simpson is called as a defense witness, the direct examination should include every hard question that is likely to be asked of him on cross-examination, in order to deflect the force of hostile questions from the other side. An effective direct examination makes cross-examination seem

redundant, badgering and irrelevant, since all the hard questions have already been asked and answered. Simpson should be asked on direct about his admitted spousal abuse, as well as about

the other nasty allegations that he disputes. If Marcia Clark had followed this approach in her direct examination of Fuhrman, instead of coddling him by throwing only softballs, F. Lee Bailey's

cross-examination would have been effectively blunted and the racial issue largely defused. It takes guts for a lawyer to be tough with his own client or witness, but Simpson's best chance at the civil trial is to answer tough, even embarrassing questions put by his own lawyer without appearing arrogant, belligerent or defensive.

The tragedy is that the world will not be able to judge for itself whether justice was done, because of the ban on television cameras.

If Simpson is called as a plaintiff's witness — as he can and may well be — his "direct" examination will really be cross-examination, since it will be conducted by the opposing lawyer. This will make it more difficult to blunt the force of hostile questioning.

All of this assumes that 12 Angelenos can be found who have not made up their minds as to whether Simpson did it or not. I have never seen a case where so many — on both sides — believe they know what happened. (My own view is that because of the mishandling of crucial evidence by the police, we may never learn for certain what happened on that tragic night.) But history provides some hope for a fair trial. In 1807 the former vice president of the United States Aaron Burr was placed on trial for treason. President Thomas Jefferson pronounced him guilty and threatened the presiding judge, Chief Justice John Marshall, with impeachment if he "should suffer Burr" to escape justice. Marshall himself declared that "it would be difficult or dangerous for a jury to acquit Burr, however innocent they might think him." And several of the jurors acknowledged before the trial that they believed the defendant to be guilty. Yet Burr accepted these jurors, stating that he would rely on their "integrity and impartiality" in assessing the evidence. In the end, the jurors agreed on an unusual verdict: "We the jury say that Aaron Burr is not proved to be guilty ... by any of the evidence entrusted to us." Burr objected to the form of the verdict, insisting on an outright acquittal. The jury refused to change its precise wording, and the cloud of possible factual guilt hung over Burr for his remaining years.

The American jury is a remarkable institution. If the civil jury in Santa Monica is selected fairly and deliberates fairly on the evidence presented at this trial, it may well be able to render justice, despite the polar divisions with which it will almost certainly begin its difficult task. The tragedy is that the world will not be able to judge for itself whether justice was done, because of the ban on television cameras. And for justice to be done fully, it must also be seen to be done.

Alan Dershowitz is a professor at Harvard Law School. From Newsweek, Oct. 14, 1996, copyright 1996, Newsweek, Inc. All rights reserved. Reprinted by permission.

Make Sure They're Not Watching

By John Myers LL.M. '97

Guest Columnist

Stop! Look around. Can anyone see you reading this column? Hold the paper so that no one can see which page you have. But don't look too interested, or someone might ask what you're looking at. Quick, look at the title of the next article so you can talk about that if they do.

Whatever you do, keep acting naturally. Remember to smile at people normally as they go past. Keep your finger behind the page so you can turn it quickly if anyone looks over your shoulder.

Because if they see what you're reading, they might think that you're gay...

Probably if you're still reading this in public then you are straight and lucky enough to have avoided what I'm talking about, or you're queer and you've already told the world. Most of those that National Coming Out Day is designed to help will have put this column away to read where they won't be seen. (By the same logic, the "N.C.O.D." stickers Lambda is distributing this Friday are sure to be worn by everyone in the Law School but gay people still in the closet).

Every year, thousands of lesbians and gay men, especially teenagers, commit suicide because they are too scared to tell someone who they are, and they can't deal with it alone. Millions more lie and conceal because they are frightened of what will happen if they tell the truth.

Coming out is healthy because it stops the fear that

undermines everyday existence. I went through five years of increasing paranoia. (My friends would say that has nothing to do with sexuality — I just make Oliver Stone look like a naive, trusting innocent). Some of us are lucky and have the courage to say what we are from an early age. No matter who we are, declaring that we are attracted to people of the same gender is difficult.

I have lost a schoolmate of mine, David, who shot himself and told us he was gay in his suicide note; his parents only allowed us see it years later. I have watched someone I loved having his jaw broken because he loved me and not a woman. I have spent years of my life lying to my family, my friends and my colleagues about who I cared for and what I thought, because I didn't know what would happen if they found out. When I told them, they were devastated because I had lived so many years without trusting them enough to let them know who I really was.

Coming out is also good because it helps others. The tragedy has always been invisibility and silence. I was eighteen before I met someone who was openly gay, and it took me a year after that before I could bring myself to speak about my own confusion. Coming out helps anyone in that position to know there are other gay people out there with happy, successful lives, and that there's no need to be afraid.

The more of us who come out, and the more open we are, the less of a problem there will be. I would hold my boyfriend's hand in public if I weren't far too English and repressed for such a blatant show of affection ...

I must admit that I first found the idea of National Coming Out Day funny, along the lines of Second Cousin's Day or National Nasal Hair Week. I had a wild image of someone in the closet going home to dinner with her family on Friday and solemnly standing up before the dessert: "Now that you're all gathered together on National Coming Out Day, I'd like to take this occasion to make an announcement ..."

"Why bother with NCOD? If people want to come out, they will." Ah, but the rub is that so many are too afraid to do so. If coming out of the closet were easy then there would never be 3Ls coming to their first Lambda meeting, and I wouldn't see "straight" people from the Law School in gay bars in Boston. (You know who you are!)

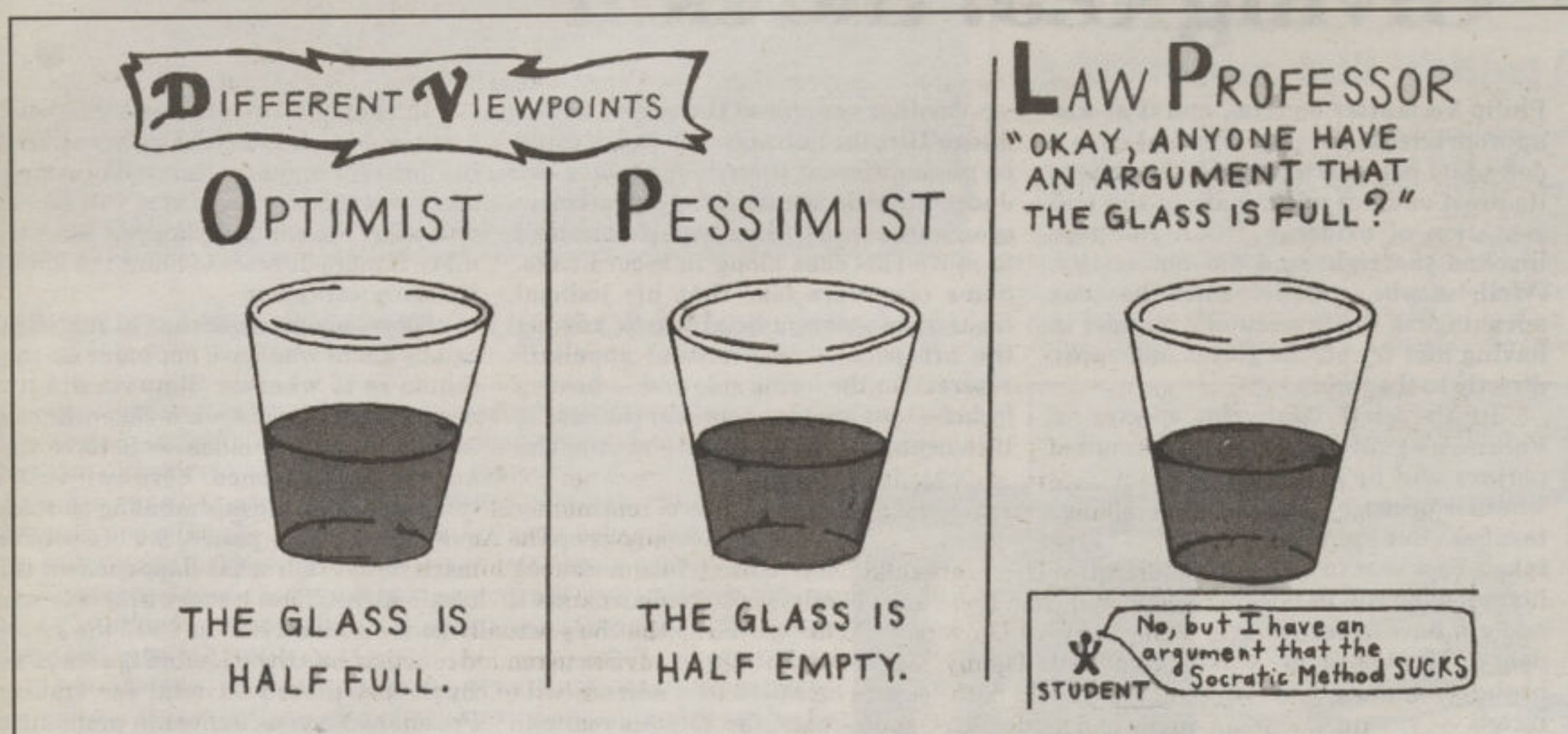
National Coming Out Day was invented to help people who are going through that process to tell their friends, their family or the people they work with. Most of all, it is designed to encourage everyone to say that they have no problem with anyone else's orientation, whatever it may be. The greatest dread about what lurks outside the closet is rejection by people who are held dear. It takes little to show that fear is groundless.

I know that there are many other problems with the world, but this one is so easy to solve. Please, wear the stickers. If you agree with this column, tell someone. If you disagree, I ask you to come and explain why. The only contemptible thing is indifference.

National Coming Out Day is Friday, October 11th.

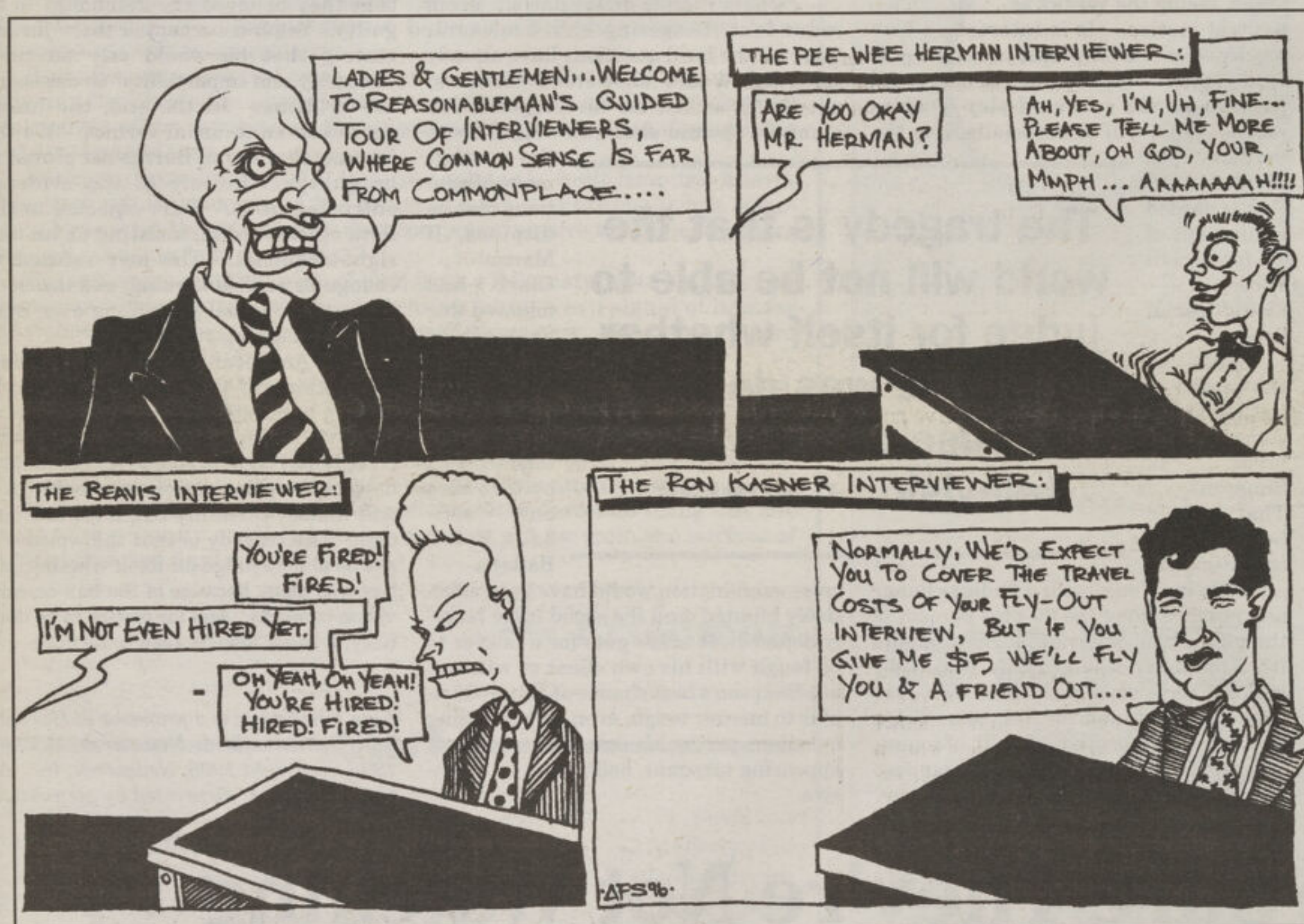
Over the Line

By Stuart Rees and Bill Zimmerman



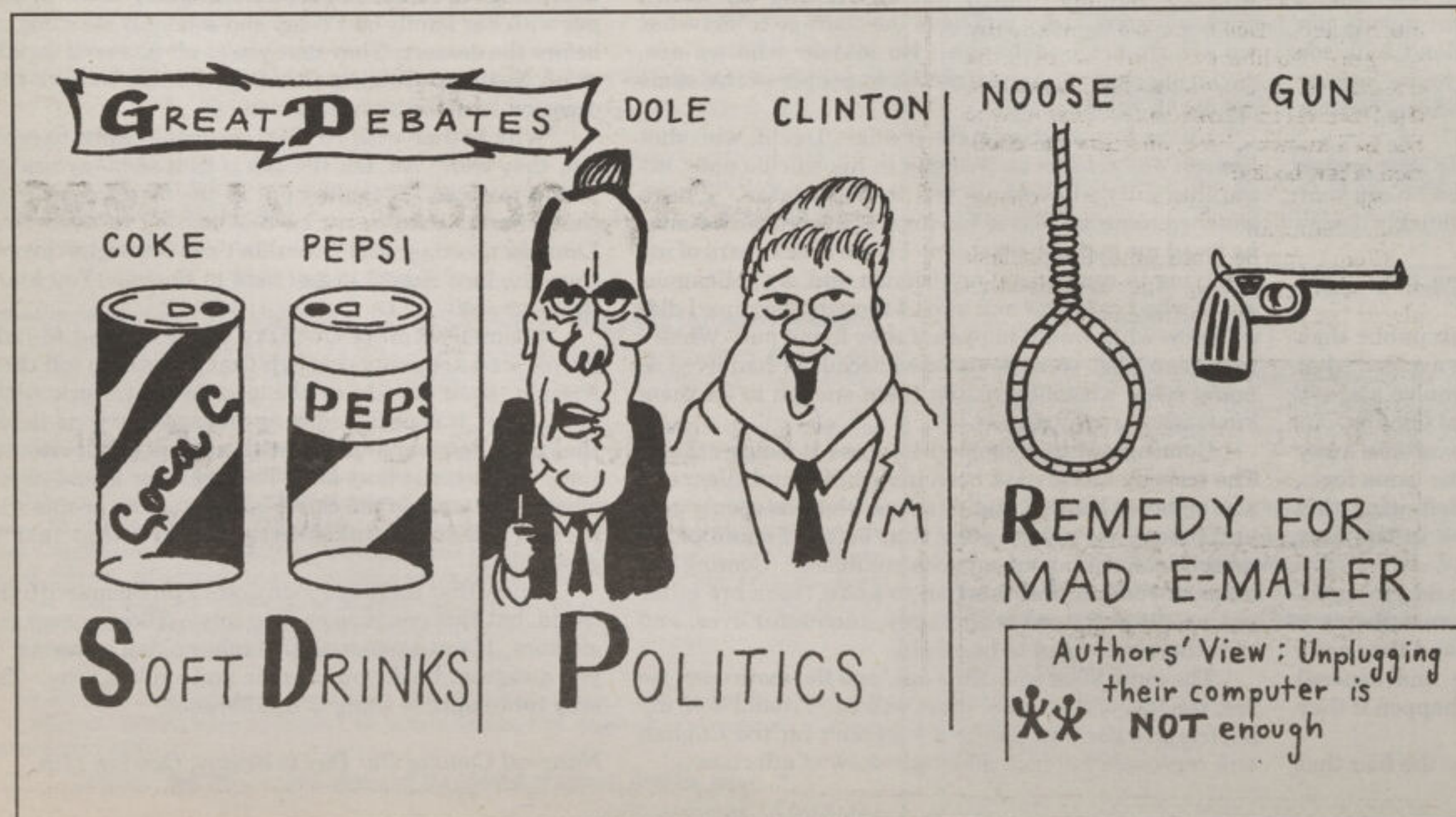
Reasonable Man Strikes Again

By David Steiner, Scott Selby & Ashley Salisbury



Ad Hominem

By Stuart Rees & Bill Zimmerman



CALENDAR

By Colin Meeder

Did I, or did I not, faithful readers, tell y'all that once the bloom was off the rose, it was all going to be goth, ska, and metal shows? Time has, more or less, proven me right. It's a pretty slim week, frankly, but since I am a trained professional, I have been able to slick enough big musical biscuits to make leaving the house potentially worthwhile this week.

But, damn it all, I just have to start off with a "punk-metal" band with a bad name. (To date myself appropriately, it should be said that my gang used to consider Black Flag's "My War" a punk metal album. Oh, how I yearn for those carefree innocent days.) Tonight (10/10), it's **Candy Striper Death Orgy**, from Sweden no less, with **Grave** and **Distrust** at the world famous Rat (536-2750). Slightly more musical are the eternal alterna-folk bridesmaids, **Miracle Legion**, who appear at the Middle East (497-0576) on the same night. **Swizzle**, **Ultra Breakfast**, and **Star Ghost Dog** open.

Friday (10/11) is the big night this week. To begin with, there's the legendary **Jonathan Richman**, who brings his professional amateurism to the Paradise (562-8800) with his former sideman, **Asa Brebner**, opening. Or there's **Come**, whom only critics seem to love, at TT the Bear's (492-0082) with **Bowery Electric**, **ditch croaker**, and **Uma**. Fans of smug, self-righteous and occasionally hilarious Libertarians will run out in droves to catch **Bill Maher** at the Berklee Performance Center (tickets available from the anti-trust violators). Those fond of incomprehensible genre mixing ought to check out the **New Orleans Klezmer All-Stars** at Johnny D's (776-2004). Lah-say matzoh balls rool-ay, or whatever.

Friday is also the first of a three-night stand for the **Ray Brown Trio** along with **Superbass** featuring **Christian McBride** and **John Clayton** at Scullers (931-2000). The collective jazz bass genius contained in that room on those evenings completely boggles the mind.

Saturday night (10/12) is the night when the Boston ska thing is made manifest. Your choices are the just **OK Toasters**, at Mama Kin (351-2525) along with **Beat Soup**; or the crucially crucial if older than the hills **Specials** along with **Schlepprock**, at Avalon (262-2424). Good luck, retro reprobates. Those with an ear to the future will want to check out the terrific country punk (but only in the sense that Mission of Burma was punk, if you get what I'm saying) **Scud Mountain Boys** with **Deep Seven** at the Playhouse at Mama Kin.

Hey, guys: cut off your winkle and be a star! **Psychotica**, a band known primarily for what its singer lacks, will be at Axis (262-2437) on Tuesday night (10/15). **Elevator Drops** and **Impotent Seasnakes** (the booking guy's a card) will open. But there's even better news: **Velocity Girl** is breaking up! See their last Boston show at Mama Kin. Or, better yet, don't.

Coming up: **Harry Connick Jr.** and his **Funk Band**, **Medeski Martin & Wood**, **Michelle Shocked**. Look's like a long cold winter's coming.

Toothless Bytes

By Alexander Boldizar

Polonius: What do you read, my lord?
Hamlet: Words, words, words.

Today, were Hamlet technologically bent, his reply might be "Kibbles and bits, kibbles and bits and bits and bits!" I am not so bent. Beginning this column, I thought I should finally find out what the "e" in e-mail meant, so I looked in the dictionary: it told me "2.71828." The next definition said "missing, absent, not; example: edentulous." Since my dictionary didn't have "e-mail" I applied legal reasoning and concluded that e-mail is "toothless mail."

Judging by the reaction last week by students, ITS, and the Administration, the gummy message sent by "little Timmy" was in fact a big bad bogeyman. Compiling a few of the quotes, the reaction is thus: the "bewildering...message from a serial hate mailer...is a serious offense as far as ITS is concerned...[and] creates a lack of trust that should not be tolerated."

"What cracker is the same that deafs our ears/ With this abundance of superfluous breath?" (King John II, 1). I am not sure whether it is little Timmy or the Administrative Deans who should be equated with Philip the Bastard (the breathing cracker). Mayhap the comment is bicuspid, but I have a feeling Shakespeare would have chosen the latter: "Your silence most offends me, and to be merry best becomes you."

Little Timmy was being merry. Everybody from Mr. Rogers to Cosmopolitan magazine tells us how important communication is to a healthy atmosphere. Is this any less true when the message is transmitted through kibbles and bits rather than ink blotches on paper or loud noises transformed by the art of oratory into seemingly deep thoughts? Perhaps the Deans can't handle so much communication: "The world ain't getting no worse, we've only got better facilities." (Ken Hubbard)

It ails me to admit that there are those out there who would disagree with Mr. Rogers and Cosmopolitan, but in



the interests of fairness — the second criterion after allocational efficiency in analyzing any situation — I acknowledge that the Talmud, for one, says, "If silence is good for the wise, how much better for fools." I must here confess my ignorance of much of the Talmud, but I have always thought of it as a wise book and so I was quite shocked at its disagreement with Cosmo. If there is someone out there who is more familiar with the Talmud than I, please let me know that it does not truly conclude with "little

Timmy shut up." For as Michel de Montaigne said, "No one is exempt from talking nonsense; the misfortune is to do it solemnly."

So, the Administrative Deans are talking nonsense, students are "bewildered" and Rob Jancu is calling the geriatric unit of the Harvard University Police at 3:00 A.M. to tell them that "little Timmy hath multiplied his words without knowledge. He hath sent me his bits!" If the terrorist e-mails had made my computer start ringing at 3:00 A.M., I'd be all for lynching little Timmy, but instead they patiently sat there in whatever it is those toothless e's sit until I was ready to look at them and send them to the transcendental trash can. Maybe that's why they're toothless. But the harassing use of telephone lines, even if it's to the police, is noisy. The flood of ink discussing little Timmy, blotching up this high quality RECORD paper (including this article) wears out eyeballs. That seems worse than a little forged mischief...

Ah, there is that word "forged" there. It sounds like "lie," and makes lawyers shudder. Oscar Wilde probably would think the shudder appropriate. In fact, he thought that liars were "the very basis of civilized society." But I'll write about law firm interviews next week.

Little Timmy pretended he was someone he is not. Shame. Didn't he learn in the first two weeks of law school that here everyone is mask-less, up front, honest, full of integrity? All those mingling parties wasted on him. THAT is much worse than wasting trees on stuffed

pigeon-holes in the Hark. Little Timmy's real sin, in the words of Mark Twain, was that "A wise man does not waste so good a commodity as lying for naught." He should be saving it for the interviews, instead of giving people the idea that even lawyers lie... "Hey Dick, now that you are at the centre of power in the free world, how 'bout passing up the \$200 hookers for a while."

Reading the New Yorker I came to understand not only little Timmy but also the Administrative Deans. The September 23rd issue had the French perspective on the Dick Morris scandal: a Frenchman asks an American why the advisor put the whore on the phone to listen to the President. The American answers that he wanted to show her that he actually spoke to the President. The Frenchman asks that surely she must have known that anyway. The American acknowledges this, but what he cannot bring himself to say is "yes she knew it, but he didn't know it. The President himself still hardly believes that he's actually the President, and he has to pay the advisor to remind him that he's the President, just as the advisor had to pay the prostitute to remind him that he was really the advisor... Everyone sleeps with America now. On the whole, the world — or Europe anyway — is content with this arrangement. They are glad to have us in bed but wish we would stay there, and not keep leaping up to tell them what fabulous sinners we are."

Everyone has their social roles. The Administrative Deans' role is to draft memos expressing their outrage at the sins of little Timmy, to assure students that their addresses are not public knowledge, and to take decisive action so this will never happens again, even if it means the end of mass communication, because sensitive HLS lawyers-to-be would be "bewildered" by such lies and harassment. Liars are the very basis of civilized society. Only Rob Jancu seems to have acted outside his social role, for his reaction was so extreme as to underline the entire absurdity of the "fiasco." Only he and little Timmy are uncivilized.

Since this column, too, seems to be falling into its own criticism, I end with a quote the author of which I don't know: "In biblical days it was considered a miracle for an ass to speak. Now it would be a miracle if one kept quiet."



Fenno lay quietly in his room, which is to say that he was passed out in his clothes on the floor of the broom closet in North where he'd been crashing lately. Draped over him was what remained of his Farrah Fawcett poster, which had been badly damaged during his eviction from his old room after the other evening's post-midnight rendition of the Macarena by himself, several Lesley students, the Somerville chapter of the Hell's Angels and half of Pearl Jam's road crew. Farrah had taken a severe rip extending in a north-easterly direction; she was held together now only by Scotch tape and memories — or was that Scotch, tape and memories?

Whichever it was, Fenno's reverie was soon interrupted by an enthusiastic, youthfully jubilant tap-tap-tap at the door. It was, of course, Skippy, and it didn't wait for an answer. It just burst right in, and woke Fenno.

"Mr. Fenno! Mr. Fenno!" Skippy cried. "I've just received wonderful news!"

Fenno merely grunted and attempted to focus on that which had startled him. He failed in his attempt, and so remained unsure throughout the conversation as to whether he was talking to Skippy or one of George Lucas' lovable Ewok characters. It actually didn't matter much to Fenno.

Skippy held in its hand a copy of the RECORD — the very copy, Dear Reader, which you now hold in your hand. Well, not the very copy, as through circumstances too complicated to relay here that copy would eventually be found in the back pocket of a Shining Path guerrilla captured by government troops. But certainly the same issue.

"Oh, Mr. Fenno," sang Skippy, gleefully, "I'm to be a part of a revolution! Well, I mean, not me directly, but the Law School is moving into the future! I'm ever so excited!"

Fenno snatched the newspaper away from Skippy and tried to figure out what the hell Skippy was so giddy about. His focus had not improved in the few seconds

that had elapsed since he'd awakened, so he asked Skippy what the big deal was. Skippy was referring to the front page article about the Bridge Project. If you've not yet read it, you ought to do so now.

"Sweet Georgia Brown on a popsicle stick, Skippy," said Fenno, "you buying that crap?"

Skippy looked hurt. "What do you mean, Mr. Fenno?" it asked. "Are you saying I shouldn't believe what I read in the RECORD?"

Fenno found that last question so startling that he couldn't speak for a moment. "Not since they became the official press release for Roberts Clark and Jancu, I haven't. Did the article mention what a smashing success the 'experimental' section was?"

"No," said Skippy, looking confused. "What was it?"

"It involved Property professors teaching Torts, Crim professors teaching Contracts, and Civ Pro professors teaching interpretive dance," explained Fenno. "It was an unmitigated disaster."

"But, Mr. Fenno," exclaimed Skippy, "computer connections in the classroom are..."

"Not bloody likely, Skippy," Fenno interrupted. "Don't you see what's really going on? No library, no professors in the classrooms, no classrooms for Chrissakes, the Dean off in Thailand or China or who the hell knows where, and now the abolition of law books?"

Skippy's eyes grew wide in terror. "You don't mean..."

Fenno reached into pants for his flask and took a swig. "Yup. They're closing this place. Lexis-Nexis is downsizing."

Quote of the Week

"Once every 100 years it is possible to change legal education in a profound way."

—Prof. Morton Horwitz on the "Bridge" program.

HOLLEB & COFF

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Chicago, Illinois

We will be interviewing
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during our on-campus interviews
on

Monday, October 21, 1996

at

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The Charles Hotel

innovation

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diversity

Hey, Baby, What's Your Sign?

By William Hall '98

Guest Columnist



I'm into horoscopes. I got into them over the summer, where everybody at work would read them during lunch hour. (Incidentally, it was quite disturbing seeing a bunch of people at a conservative think tank taking part in such a paganistic ritual.) This inspired me to attempt to create the first Harvard Law School horoscope. Unfortunately, in attempting to write it, the going got tough. The final version looked like this:

Libra: Your law school experience will be miserable. You will not have sex.
Scorpio: Your law school experience will be miserable. You will not have sex.
Sagittarius: Your law school experience will be miserable. You will not have sex.
etc. . .

Needless to say, this got extremely redundant and tedious. But, in the painful process, I was able to get a good look at what might be termed the "newspaper horoscope culture." My in-depth research into this incredibly intellectual topic has led me to discover that horoscopes in American newspapers are dominated by three syndicated astrologers:

- Jeane Dixon. Jeane Dixon is the personification of the 1970s-idealist-turned-sell-out. Once at the hub of the 1970s horoscope craze, Ms. Dixon has today become the Astrologer of the Establishment. Her columns appear in progressive newspapers such as The Washington Times. If The Wall Street Journal had a horoscope, she'd write it.

Almost all of her predictions revolve around money issues. An example from this summer: "You will soon see a stock split!" If you see a horoscope with advice such as "You will be involved in an initial public offering" or "With the moon in Gemini, it's time for NASDAQ," you can probably assume it's Ms. Dixon's column.

The disturbing thing is that there is a market for her work. Are the titans of American industry making decisions about the jobs of American workers based on the stars? Did Disney buy ABC because of the placement of Jupiter? Does George Soros call Jeane Dixon's 1-900 number before he plays the foreign exchange market? And you thought the fact that a former president set public policy according to the stars was unsettling.

- Sydney Omarr. Mr. Omarr is America's most popular astrologer, a title he stole from Ms. Dixon during the mid-80s. He has managed to earn this distinction because his column says nothing. His pieces are peppered with predictions such as, "Romance is on the horizon." Really? Boy, that's a startling prediction! How spe-

I have a hunch one of my pieces of advice would not have universal appeal. After all, most women probably do not shave their body every day.

cific! He also has a knack for throwing around phrases like, "Pisces involved." Involved? Involved with what? The Middle East peace process?

It is Mr. Omarr's lack of specificity, though, that makes him so popular. After all, if you make something vague enough, it will apply to everyone. Therefore, inspired by him, I decided to try to write a horoscope with that kind of universal appeal. Though I never finished it, the beginning looked like this:

Libra: You will wake up and, later, go to sleep.
Scorpio: You will eat breakfast, lunch, and dinner. Food involved.
Sagittarius: You will shave today. Haircut on the horizon.
Capricorn: You will not have sex.

For some reason, though, this attempt did not have the stylistic panache that Mr. Omarr's column has. Maybe years of saying nothing gives you an incredible insight on how to say nothing. Also, I have a hunch one of my pieces of advice would not have universal appeal. After all, most women probably do not shave their body every day.

- Jonathan Cainer. It seems Jonathan Cainer is poised to become the spiritual sensei of the '90s. Cainer's horoscope is the fastest growing column in America. The astrologer for London's Daily Mail, his work is now printed in papers such as the New York Post. Simply put, Jonathan is the John Tesh of astrologers. He is the sensitive '90s man. His columns do not provide advice as much as they offer therapy.

For instance, last week's columns were terrific. He walked me through a journey I will never forget. On Monday, he hinted that I might have a problem with something involving others. On Tuesday, he made me wonder why I, as a person, tend to wander from situation to situation without any "firm grounding." On Wednesday, we discovered together what was wrong: I had a fear of commitment! On Thursday, he began making helpful suggestions. And, on Friday. . . the problem was solved! I can't wait to see what we will work on this week.

Jonathan even has a cool Web page. If you check out the address "http://stars.metawire.com," you'll get your daily horoscope, along with some really neat graphics. He's even got a 1-900 number. With all this, who needs an analyst?

You're now wondering, of course. . . what does all this mean? I haven't a clue. But I do find it interesting that astrologers have the uncanny ability to quote stock prices or provide Jungian therapy simply by looking up at the sky. And I have been able to answer a question that's been nagging me for years: "What idiots read those damn horoscopes in the paper, anyway?" Me, that's who!

So, if I ever come up to you in a bar and use the title of this article as a lame come-on line (by the way, I'm a Libra), please do have some pity on me and play along. After all, according to my horoscope for today, "Romance is on the horizon."

Not a 24-Hour-a-Day Job!

By Judd Serotta '97

Record Columnist



Professor David Rosenberg is famous for telling all his green Federal Litigation students come 1L second semester that law has to be a 24-hour-a-day, 7-day-a-week job or else you will be a lousy lawyer. Who am I to contradict such a keen legal mind? I cannot competently speak on the practice of law, since my only knowledge comes from two law firm summers. But having been a Harvard Law student for more than two years now, I can say with confidence that law school does not have to be a 24-hour-a-day, 7-day-a-week job. In fact, I am convinced that the fear that such an approach to law school is necessary has done grave damage to many a Harvard Law student.

No 1L can come to Harvard Law School without being impressed by the backgrounds of his colleagues. Some Harvard Law students were singers, fencers, artists, fiction writers, political activists, and the list goes on. Sadly, I believe, many of these students come to law school and consciously or unconsciously give up pursuits that truly made them happy and provided not only a therapeutic way to relax from work, but that which made them more well-rounded people.

I had a terrific liberal arts education. Dartmouth College introduced me to worlds of thought and gave me interests which—by the time I graduated—became integral to my personality. That is what a good liberal arts education is for: expanding one's horizons and trying new things, learning to be a more well-rounded person. At Dartmouth I honed interests in politics, music, and philosophy, to name a few. While, as will most Dartmouth alumni, I will gladly wax Green at the drop of a hat, I am well aware that virtually all HLS students have backgrounds which provided the same types of opportunities. But when I got to Harvard Law School in August of 1994, for whatever reason,

I had a terrific liberal arts education. Dartmouth College introduced me to worlds of thought and gave me interests which—by the time I graduated—became integral to my personality.

I felt extraordinary pressure to declare my liberal arts background a part of my past. My present sole pursuit was to be LAW. My classwork was supposed to be consuming, and my extra-curriculars were all supposed to be law-related. And those non-legal things that made me happy, well, were just not important anymore. From the beginning I was resentful.

I refused to give in to the pressure. Perhaps my grades would have been a little better if I had, but I doubt it. Perhaps my job prospects would have been better if I had, but I doubt it. Instead, I have begun the process which will hopefully keep my existence sane as I move into the legal world: balancing work with constructive fun.

This summer I met a wide variety of people working at a Philadelphia law firm. And, as is inevitable in any large firm, there were people I really hit it off with and others I did not. Invariably, though, the lawyers who had managed to maintain meaningful non-legal pursuits were content in their legal pursuits. A few even admitted to me that it probably had cost them money to be reading Tolstoy rather than pounding the pavement for new clients. But isn't happiness, or at the very least contentment, what this is all about? And I am firmly convinced that lawyers who pursue outside interests are better lawyers for doing so.

Closer to home turf, I am firmly convinced that law students who are unafraid to maintain their pre-law school interests are better law students for doing so (whether or not their grades reflect it).

Truly, it is more difficult to "get involved" in law school than it was as an undergraduate. Since I came right from Dartmouth to HLS that reality struck me like a bolt of lightning. But if you really want to avoid being a law robot, you certainly can. University organizations are usually happy to accommodate graduate students of all types, and there are community organizations in Boston which provide ample opportunities for virtually any pursuit. For me, it is regrettable that many new HLS students begin to take an apathetic view of their extraordinary achievements before they got here. And I would like to assure 1Ls that it is indeed possible to be a law student and maintain your outside interests at the same time.

Admittedly, my view limits my range of options. If I wanted to go to a large, New York City law firm, I would not then be in a position to continue my pursuit for well-roundedness. So my response now might be "Why postpone the inevitable?" But since, for me, law will not be my life, only my career, I will continue to attempt to carry forward what a good liberal arts education taught me. And if instead of making half a million dollars a year twenty years from now I am only making a few hundred thousand, so be it.

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THE REASONABLE WOMAN

In Defense of Moronic Actions



By Carla A. Halpern '98
RECORD Columnist

Recently, Congress passed D.O.M.A., the Defense of Marriage Act. Briefly, D.O.M.A. provides a federal definition of marriage as the legal union of one man and one woman. Many people have reacted to D.O.M.A. with anger, claiming that it is a clear attack on the civil rights of same-sex couples to engage in marriage. To these people I say that we have a desperate need to protect ourselves from the homosexual menace. But I also worry — does D.O.M.A. go far enough?

Certainly, there are many reasons to promote D.O.M.A. as it is. States should not have to legitimize a deviant lifestyle. There is also the danger that some people who engage in these perverse unions would actually want to raise children. Surely the federal government has a duty to protect innocent children from both the homosexual lifestyle and from the stigma of unnatural parents.

Furthermore, allowing legal recognition of same-sex coupling would endanger marriage as we know it. Homosexuality is just too intriguing and appealing for it not to have an effect on otherwise faithful heterosexual partners. How can I be sure, without the protection of D.O.M.A., that my husband will not leave me for another man? That I will not feel compelled to take up with a woman? The answer is that I can't be certain at all — my sexual desires are so uncontrollable that I need the federal government's help to keep me straight.

But, unfortunately, D.O.M.A. does not go far enough. D.O.M.A. currently only protects marriage from interference by meddling queers. But just as homosexuality is a threat to the traditional family, so is a litany of other evils. For example, I think we ought to begin by reinstituting anti-miscegenation laws. Otherwise, how will I as a white person ever prove exotic enough for my white husband? No, the danger of him leaving me for someone of another race is just too great. Besides, I'm very uncomfortable with these non-traditional mixed-race families. Think of the children — won't they get taunted at school because their parents are... abnormal? I don't care if other people are happy in inter-racial marriages; a federal law will ensure that I can get a white guy to marry me.

Inter-faith marriages are out, by the same reasoning. And while we're at it, let's get rid of Christianity altogether. Let's look at kind of values Christianity represents: a religion whose central figure is the product of some strange kind of artificial insemination and surrogate motherhood, not to mention a conspicuously absent father. All of these deviations are threats to the traditional family structure.

Abortion and contraception clearly must be outlawed again. Menstruation should be viewed with suspicion. A woman's natural role is to produce children, so she better have a darn good reason each month that she's not pregnant. And we can't have women working after they're married — deserting their children and taking all those jobs away from deserving men.

While we're at it, let's legislate names! What's this nonsense about women who refuse to take their husbands' names upon marriage? Or even worse, what about when children are given their mother's maiden name over their father's! Hyphenation? Clearly contrary to public policy! We must never forget that a wife and children are the husband's property. A truly comprehensive federal marriage law would address this by administering severe fines, perhaps the death penalty, for anyone who does not comply with the traditional naming scheme.

And then there's the ultimate evil: adoption. First off, adoption once again raises the threat of mixed-race families and homosexual parents. But, even more importantly, nature didn't intend for parents to raise non-genetically related children. Only suckers do that. No, it's much better that we all fight to insure the preservation of our own genes. That system works much better with capitalism, which of course, is the only way in the free world.

Okay, okay, I'll stop now. Does D.O.M.A. go far enough? Here's the only way it could: crumple up that ridiculous law and toss it across the room into the trash can. Any couple that feels the need to "defend" their marriage by interfering with other people's lives does not have a marriage that is worth defending.

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The Higher They Rise



By Jacob Appel '99
Guest Columnist

Talk of settling unsettles me. As an aspiring lawyer, this realization is particularly unsettling in that the hallowed halls of Harvard Law School echo with aspirations for different forms of settlement. For many students here, the first year of law school is a series of rationalizations and defense mechanisms geared to explaining how they settled on attending the great American default mechanism, baby-sitter and fox-trap to the upwardly mobile, upper-middle class and directionless.

While here, they learn how to settle cases: how to compromise, how to give in, how to uncover the path of least resistance. And when they leave, most graduates inevitably "settle down" to long work weeks and suburban homesteads, cookie-cutter copies of those dads on 1950s sitcoms whose occupations remain a mystery to their children. HLS sets them up to get settled down to the business of settlement.

Now I call upon you to imagine yourself at the age of five. For most of us, hindsight calls to mind images of the moribund Carter administration, a vivid panorama of nuclear threat and stagflation. But at the age of five, only the most mal-adjusted amongst us thought in those terms. At five — I feel it fair to generalize from my own experiences as an archetypal kindergartner — most of us had uncompromising ambitions: we wanted to be ballerinas and astronauts, firemen and fairy princesses, Hollywood stars and major league shortstops. Unwilling to take no for an answer, we were small children in the candy store of life.

Later came the realization that short Jewish south-paws from the suburbs don't play short-stop for the New York Yankees and that the Cincinnati Division of Labor and Unemployment does not make placements for "fairy princesses." But in our youth, in our world where every finger-painting was a Matisse and every day a new adventure, the smell of freshly-cut grass and the warmth of down comforters trampled out any uncertainties for the future.

If you're still with me, digesting my small dose of cynicism over your Corn Flakes (raised by an agro-conglomerate and sprinkled with the fruits of migrant labor), I will call upon you to imagine once again ... only this time, the slightly less secure and dreamy world of you at 15. At 15, if your memories haven't transformed you into the captain of the football team or head cheerleader, you dreamed of driving and falling in love. Imagine yourself in your own imagination, driving your convertible '65 Mustang 120 m.p.h. in the passing lane with a strikingly attractive, unquestioningly devoted member of the opposite sex at your side.

Since this isn't a family paper, we can even get a bit more vivid ... imagine the two of you, side by side under crisp motel sheets, sharing root beer from a can, laughing, exploring, thoroughly enveloped in each other in a world free of isolation and homework and parents — a world of classic cars, the zipless fuck and the Montana sunset. Feel free to fill in member of the same sex, '67 Chevrolet, the dock at Key West, etc., but I'm sure all of you have had romantic teenage dreams; if you haven't, you might try either intensive Jungian therapy or cross-registration at the business school. In any event, I feel it safe to conclude that at 15 few of us considered settling, selling out, wearing a suit and tie, bilking the poor or any of the accoutrements of upper-class adulthood.

If you'll bear with me, I'll ask you to use that creative genius of yours one more time. Imagine yourself at 50. Imagine your urban office, the plastic plant, the musty books, the overwhelming smell of cleaning fluid; imagine yourself writing wills and contracts, arranging for piranha corporations to swallow guppie corporations, prostituting yourself to the highest bidder in a never-ending adventure of work, commute, eat, sleep, work, visit your cardiologist, work, monthly sexual obligation with your spouse, work, and remind the receptionist to order more corrugated envelopes.

This is what many lawyers do. Even Harvard lawyers. And if it is not glamorous or rewarding, it is perfectly understandable and blameless — for there are college tuition to anticipate, mortgages to pay, images to keep up. The neighbors may not know you, but they will esteem you ... the woman whose car is always gone by six a.m., the alleged father of the children who play next door.

There you are, leading a life you know will support a lifestyle you don't enjoy — a settled member of the community, paying school taxes and augmenting property values with your presence. There you are, esquire, attorney-at-law, HLS alum and thoroughly settled down.

Everything will inevitably settle unless it is thoroughly shaken. By definition, attending HLS indicates a plethora of other choices; you needn't spend your life repeatedly prosecuting the same small-time drug dealers or worrying about the liability of Alcoa and International Paper. But unless you have a dream, a vision of the "good life" that you savor in your kangaroo's pouch as you hop through life, you will inevitably end up fulfilling someone else's dream, living someone else's vision, occupying someone else's place in law school. Once your foot is in the trap, once your name is on the letterhead of Dewey Cheatem and Howe, as you struggle to pay off your loans and move to Chappaqua or Saddle River, you may have to gnaw off your other three paws to get out.

So don't settle. Sex and security is not passion. Lawn furniture and aluminum siding is not home. Law is not justice. And a law degree is not an education. (As the Wizard says to the Scarecrow, "We can't give you a brain but we can give you a diploma!") Know why you're here on a daily basis. For a wise fox does not see how close he can get to the trap before it snaps ... and if you listen closely, you may just be able to hear the Law School calling, Tally-Ho!



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