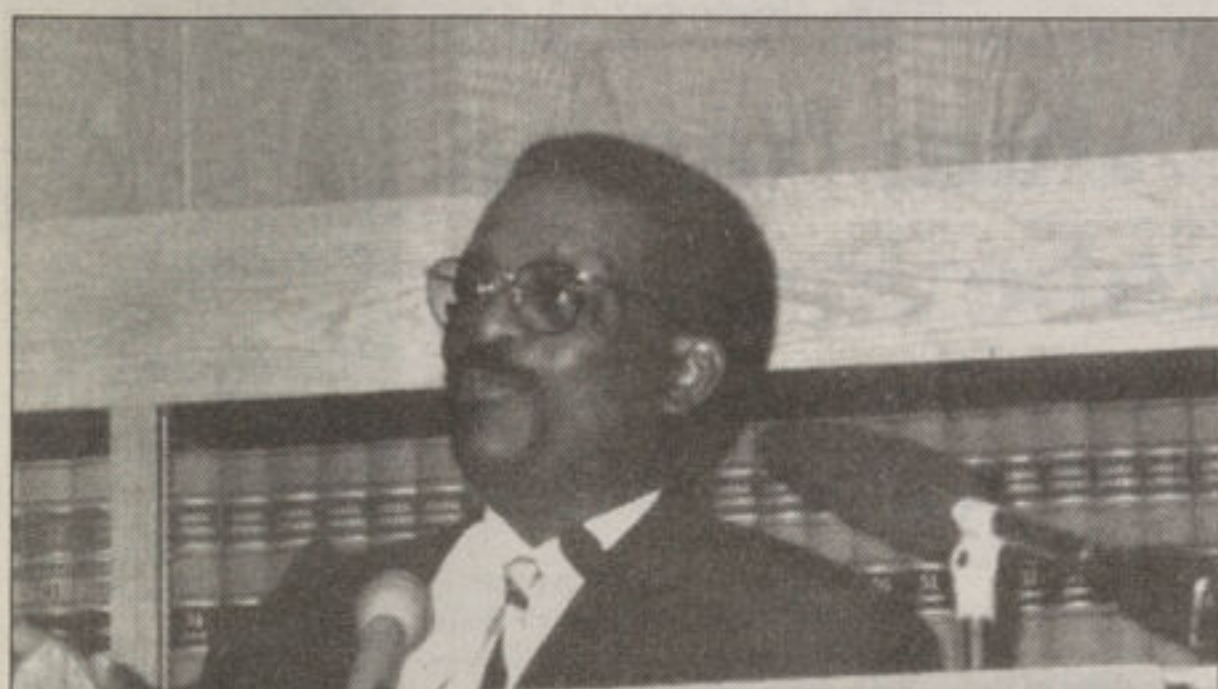




Johnnie Cochran Jr. speaking to students in Ames

Cochran Encourages HLS to Bridge Racial Divide

By Warren Binford

Celebrity defense attorney, Johnnie Cochran, Jr., encouraged HLS students to embrace the opportunity they now have to meet people from a variety of backgrounds and ethnic groups and engage in conversations that will help them bridge the racial divide that exists across the nation.

"There is so much more in America that unites us than divides us," Cochran said. Now is the time to reach out to one another and develop a dialogue that will "make things better for those who come after you. You will not have time once you start working," he said.

Cochran's comments came during a speech to 250 HLS students in the Ames Courtroom last week. The speech was sponsored by the Saturday School Program, a speaker series founded by Prof. Charles Ogletree '78 in 1988 to "provide all students, but particularly women and minority law students, with positive role models ...," according to the Program's mission statement.

Cochran, the controversial defense attorney from O.J. Simpson's criminal trial, opened by outlining a David Letterman-style "Top Ten List" to help students recognize when the "trial of the century"

walks through their door.

The list included such anecdotes as "6. You begin to receive letters from law school classmates you haven't heard from in twenty years," "3. The judge stops going to a barber shop and starts going to a hair salon," and "1. The trash dumpster is empty on Tuesday and the trashman doesn't come until Thursday."

Cochran's reflections on the O.J. Simpson trial highlighted several concerns the attorney has about the justice system in America and the Herculean burden faced by the typical defendant who does not have the resources available to Simpson.

The Simpson trial created a "more level playing field" than in most trials. Most defense attorneys and their clients must scrounge for resources while the prosecution enjoys the power of the state, the favor of the public, the backing of the police department, and adequate resources, said Cochran.

Recognizing the ethical dilemmas that often accompany the roles of defenders, Cochran assured the audience of the ability to maintain one's integrity and defend one's client confidently.

"Make no mistake about it: there is no contradiction

please see COCHRAN, page 3

Clark Declares Environmental Law Program a Top Priority

By Ben Lehrer

In a meeting Friday with representatives of the Environmental Law Society and the Environmental Law Review, Dean Clark '72 acknowledged that Harvard's environmental law offerings are too few, and expressed his commitment to building a program that would enable the Law School to take a leading role in the field.

Clark agreed to establish a working group to focus on the logistical issues involved in establishing a program, from faculty hiring and curriculum expansion to developing a university-wide environmental program that would make Harvard a leader in environmental scholarship.

"Establishing an environmental law program is a top pri-

ority," Clark said.

Clark agreed to appoint vice-dean David Smith to the group, and committed to deciding the group's ultimate faculty composition by Nov. 18. Student representatives from ELR and ELS will participate in the group as well.

"We're really happy about the level of support the administration has shown on this," said Raff Muilenburg '97, President of ELS. "We look forward to working together with them on developing the environmental program here."

According to Clark, the main obstacle currently faced by the administration is the difficulty of recruiting a world-class faculty member firmly committed to environmental law to serve as the

please see CLARK, page 3

Faculty Deadlocks 14-14 on Participation-Based Grading

By Jacob Appel

A Committee on Legal Education proposal encouraging faculty to tie class participation to grades in upper-level classes has stalled after faculty members deadlocked on the issue.

A report issued by the Committee urges faculty to experiment more systematically with grading class participation to combat the apathy and disengagement that typically hits 2L and 3L classrooms after the job interviewing season.

But the proposal stalled after professors deadlocked 14-14 on the issue at their October faculty meeting. Only 28 out of the 70 HLS faculty members showed up to discuss and vote on the proposal.

"The last faculty meeting was one of very few in the last decade in which we've actually addressed an important issue of legal education," said Committee Chair Richard Parker '70, who pledged to keep pushing the issue. "I was disappointed that much less than half of the faculty showed up and stayed to vote. I'm afraid it may be just one more step in the long-term deterioration of the capacity of the faculty, collectively, to fulfill its responsibilities."

Under the proposal, faculty could, on an experimental basis,

grade class participation in a three-step process.

First, before a course begins, a teacher who proposes to adjust grades on the basis of participation in a large class would describe his or her plan to the

deans and the Legal Education Committee. The deans, with the advice and consent of the Committee, would exercise discretion in approving or disapproving the proposal. If they approve, the teacher would then describe the requirement to students who are

considering enrolling in the course.

Second, after completion of the course, the professor would solicit written comments on the experiment from students; he or she would forward these notes along with his own observations to the deans and the Legal Education Committee.

Third, after submitting grades for the course to the Registrar, the professor should tell the deans, the Committee and any interested students how many grades were adjusted as a

result of participation.

The committee report calls for an expansion of the relevant provision in the faculty manual that states that "an instructor may adjust the examination grade up or down on the basis of other assigned written and oral exercises performed by the student (whether done individually or in teams) but only if all students in the class were required, or had the option, to do these exercises, and notice is given in advance that the exercises will be graded and counted as part of the grade in the course."

The Committee discussed the question of what should count as "written and oral exercises" of which the student is entitled to advance notice. Associate Deans Todd Rakoff '75 and Frank Sander '52 have recently allowed teachers of large 2L and 3L classes to grade two main types of exercises involving participation and class discussion.

An example of permissible written exercises are those used by Prof. Charles Nesson's evidence class, in which students

please see GRADING, page 4

LSC Tackles Problems with Class Size, Career Services

Council Announces Possible Law Review Writing Competition Changes

By Jacob Appel

The Law School Council at its meeting this week debated ways to improve upper-level courses — along with a proposal for giving 1Ls the option of taking their first semester pass-fail — at their meeting this week.

LSC President Chip Nierlich '97 briefly outlined to the Council a host of advances that have arisen in either Prof. Richard Parker's Committee on Legal Education or Associate Dean Rakoff's office. Under discussion were proposals to limit class sizes, implement pass-fail grading in first year classes, and "bundling" 2L courses to

help ensure that students can take classes with the "star" professors.

"I don't think too many people would be opposed to a cap on class sizes," Nierlich noted. "However, I'm not sure how students feel about these other issues."

Class bundling for second year students may prove to be the most interesting and original of these proposals. "Nobody is advocating mandatory second year sections," Nierlich said. "Instead, we're thinking of attaching several professors together ... in a package, so that you'd be guaranteed a class with at least one of the faculty stars."

Nierlich cited Prof. Laurence Tribe's Constitutional Law class as the perfect of one such course suited for bundling, suggesting that Tribe could be placed in a section with two less popular professors. Students would still be permitted to drop classes; it remains uncertain whether they would be able to return to the wait list to pick up additional basic courses.

Several Council members expressed concern that the professors packaged with stars like Tribe would be insulted. Council Treasurer Dina DeFalco '98 responded that "Professor Parker indicated

please see LSC, page 12



Policemen assess the murder scene in "The Physicists," HLS Drama Society's fall dramatic production.

Review, page 13



Harvard Law RECORD

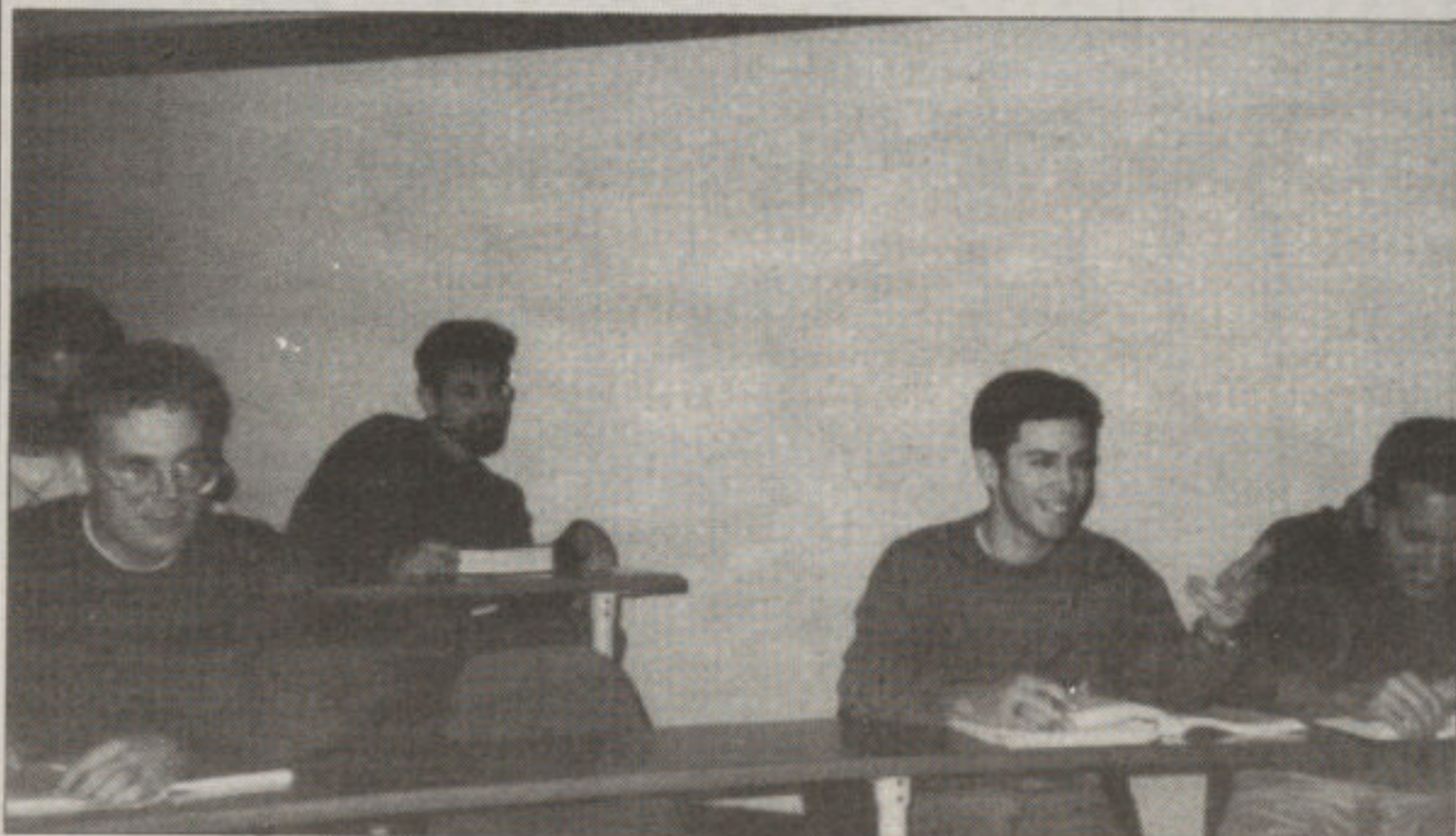
America's Oldest
Law School
Newspaper

35 CENTS

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Cambridge 02138

Friday, November 13, 1992



News of a recent expulsion causes students to ponder newly-empty seats.

Alleged LSAT Forger Expelled

By Steve Yarian

A second-year Harvard Law School student who reported false LSAT scores has been expelled.

In the November 5 Adviser, the Administrative Board announced that the student was expelled in October. The Board said, "Specifically, the student submitted as part of the application an LSAT which she falsely represented as her own."

Professor Shapiro stated that examination by "uncontested experts left no doubt of the fraud" regarding the 2L's LSAT score.

According to Jim Vaseleck, the Deputy Corporate Counsel at the Law School Admissions Services (LSAC/LSAS), in 1992 there have been a total of 65 misconduct cases, and only three of those were for LSAT impersonation. Other misconduct findings arise from fraudulent letters of recommendation, falsification of transcripts, false Dean's certificates and misrepresentation on the application.

The investigation process can be initiated either by the Law School or by LSAS. If the Law School has some suspicion that there has been misconduct,

it will send a letter with any available evidence to the LSAS. This then initiates investigation procedures at LSAC/LSAS.

In some instances, internal statistical analysis of LSAT scores, conducted at random done by LSAS, reveals cases of misconduct. Additionally, when a student has taken the LSAT twice and results reveal a marked difference in the scores, the LSAC may look at the actual exams to compare handwriting.

According to the LSAC rules,

please see LSAT, page 10

Second-Year Student Expelled

continued from LSAT, page 1

the investigative procedures "are intended to insure candidates whose applications to law school are the subject of inquiry a full and fair opportunity to answer an allegation of misconduct." The rules entitle the candidate to a hearing, either by telephone or in person. The procedures state that "the purpose of a hearing is to allow the candidate to explain or submit relevant information to the panel which may relate to whether a preponderance of the evidence indicates that misconduct has occurred in the admission process." The hearings are not governed by formal rules of evidence.

LSAC/LSAS will pay the costs of hearings conducted on the phone. If there is an in person hearing, LSAC/LSAS will refuse to pay when they determine that misconduct occurred. If the student is cleared, however, she may request reimbursement for an attorney, witness fees and expenses. Payment of these fees is within the discretion of LSAC.

After completing its investigation, LSAS will make a finding of misconduct and report it to any Law School to which that student applied previously or will apply in the future. Vaseleck points out

that this means that if the student decides to apply to law school subsequent to the LSAS/LSAC finding, the law schools will be notified. Once it receives the LSAS/LSAC decision, the school can then decide on what action to take.

Vaseleck noted that because there is no intent requirement for misconduct according to the LSAS / LSAC rules, schools often decide to take no action against a student believed to have made an honest error, such as misunderstanding a question and answering it falsely due to that misconception.

In discussing the ramifications of a finding of misconduct against an HLS student, Professor Shapiro pointed out the distinction between a decision to expel and to dismiss a student. While both go on the offender's permanent record, a dismissed student is entitled to reapply.

The Administrative Board is comprised of Joyce Curll, Registrar Sue Robinson, Suzanne Richardson, Professors Arthur Miller '58, James Vorenberg '51 and David Shapiro '57, and students Barry Langman '93, Dorothy Dewitt '94 and Joe Hurd '95 (who was not a member for this decision).

HLS Alum Named to Probe Review

Former Editor Gants to Evaluate Accusations Against President

By Betsy McGrath

The Board of Trustees of the Harvard Law Review Association has selected Boston attorney Ralph D. Gants '80 to investigate the current controversy at the Harvard Law Review.

Under the constitution of the Law Review Association, the Board has general supervisory powers over the Review. On October 16, the Board announced that they would appoint an investigator to probe the allegations of racism, sexism and abuse of power leveled against Review President Emily Schulman '93.

Gants graduated magna cum laude from the Law School and is a former Note Editor of the Review.

Gants has been counsel with the Boston firm of Palmer and Dodge since 1991, concentrating his practice in complex civil litigation and white collar criminal matters. He was Assistant U.S. Attorney for the District of Massachusetts from 1983 to 1991, serving as chief of the Public Corruption Division from 1988 to 1991. He has also served as Special Assistant to Judge William H. Webster, FBI Director, from 1981 to 1983. He

clerked for Judge Eugene H. Nickerson, U.S. District Court for the Eastern District of New York from 1980 to 1981.

In a press release distributed to all Law Review editors, colleagues and clients praised the appointment of Gants. Professor Philip Heymann '80, former Assistant U.S. Attorney General, said, "Ralph Gants is extremely



Ralph D. Gants '80

bright, very fair, and a highly experienced investigator. He was head of the anti-corruption section of the U.S. Attorney's Office, a position that requires a scrupulous person with integrity and great skill, and before that, he was a good prosecutor. I

please see REVIEW, page 10

Gants Tapped for Review Probe

continued from REVIEW, page 1

would place great confidence in his judgment in this matter or in any other."

Many other professors agreed. "I think Ralph Gants is a perfect choice to perform this endeavor," said Professor David Wilkins '80. "I have the highest regard for his honesty, fairness, integrity, and intellectual ability."

Professor David Kennedy '80 said, "Having known Ralph since law school, I am pleased that his selection underscores the seriousness and care with which the

Trustees have responded to these allegations. The complexity of issues of sexual and racial harassment in an institution like the Review demand the fair-minded and sensitive treatment Ralph will be in a position to provide."

And Lexington Town Manager Richard J. White, who oversaw Gants's recent investigation of the improper handling by city workers of an emergency call from a woman who was later found murdered, commented that "Ralph Gants is thorough, incredibly fair and impartial." He continued that "The report that he prepared on my behalf was universally well received by the community. It was perceived by the winners and the losers as fair and impartial. It provided us with a blueprint for change regarding our Emergency Medical Service."

After completing his investigation, Gants will report findings and recommendations to the Trustees. The members of the Board of Trustees are Ernest J. Sargeant '43, Dean Robert C. Clark '72, Professor William Andrews '55, Professor Richard Parker '70, Law Review

President Emily Schulman '93 and Law Review Treasurer Sam Hirsch '93. Schulman and Hirsch did not participate in the selection of Mr. Gants.

In a prepared statement, the four 3L women who initially raised the charges against Schulman — Rhonda Adams, Renee Jones, Shelley Simms, and Stephanie Sowell — praised the decision to appoint a special investigator and said that "we are confident that a full and conclusive determination of fact will allow the Law Review to take appropriate action and to move beyond these troubling events."

The four women expressed a concern, echoed by several Law Review editors, that the investigation would commence during fly-out week when most students are not at HLS. They requested that Gants not speak to any editors during the week-long holiday. It is unclear whether this request was accepted.

The controversy surrounding Schulman began when a black woman editor charged Schulman with racism at a September 30 meeting. This charge was followed by other allegations of racism, sexism and general abuses of power. On October 4, the Review members took an unprecedented vote of "no-confidence in the president to lead the Review," which resulted in a tie.

Schulman is reluctant to speak publicly, but she told the Associated Press on October 17 that "I have never assigned or evaluated work at the Harvard Law Review on the basis of race, gender or any other illegitimate criteria. I deny the charges which have been leveled against me."

"I think Ralph Gants is a perfect choice to perform this endeavor," said Professor David Wilkins '80.

You knew it was coming...

HAIR RETROSPECTIVE: Alan Dershowitz



1965: Yes, it's really hair.



1970: The check cleared!



1978: Pondering strategy for his defense of the hamburger.



1985: The hair just grew.



1990: Telling HLS students where to go.

4 Years Ago in the RECORD...

Working Group to Jump-Start Environmental Law Program

continued from CLARK, page 1

nucleus of a vibrant program.

"Unlike most other schools, we have enough money to make new appointments," said Clark. The problem is that the field of potential recruits is quite small and any appointment requires approval by two-thirds of the faculty, he said.

Furthermore, candidates may condition their acceptance of a position with Harvard's providing a position to their spouse, a stance likely to be found unacceptable by the faculty or the university administration. Such a demand is rumored to have stalled the decision of University of Pennsylvania Law Prof. Lani Guinier, who has been offered a tenured position here.

Clark suggested that the working group could help in this area by gathering information on potential prospects, particularly on whether the candidate is movable. Clark said, however, that the first step in getting a program up and running was hiring a professor.

"We shouldn't go too far establishing a program without a professor," said Clark, noting that money to support a more comprehensive program would have to be raised separately. Trying to do so without a tenured faculty member devoted to building a program would be pointless, Clark said.

Recalling his success at raising funds for the Islamic Legal Studies program, Clark said, "I would have had a difficult time raising money for the program without Frank Vogel there as proof that I was serious."

In the meantime, the Lecturer Committee still plans on attracting visit-

ing scholars to fill curriculum needs. Additionally, the Appointments Committees are currently considering a candidate for a tenured position and another for an entry-level position. Clark refused to offer information on the process, however, stating, "[T]he policy is not to divulge the name of candidates before an offer is made."

Clark seemed open to the suggestion that the working group could begin to build a comprehensive program even without a tenured faculty member at the helm. He agreed to look into the possibility of allocating some preliminary funding towards this end.

Luke Cole '89 of the ELS Advisory Board noted that this would prevent the program from hanging in limbo until a faculty member is found, as well as allow the new professor

"I would really love for Harvard to take a leading role in environmental law," said Clark.

to hit the ground running. He suggested that while the faculty search continues, the working group could drum up support from alumni for the program as well as arrange conferences and coordinate activity with environmental bodies across the university.

Commenting on his recent trip to Southeast Asia, Clark said, "I am convinced that within the course of the next 10 years, environmental law will be a booming field in that region, and legal academics will want to come to the United States to study. We should have something to offer them."

Muilenburg agrees that "environmental law is an area where HLS has really fallen behind other top law schools, but we've got a great opportunity to change that."

"I would really love for Harvard to take a leading role in environmental law," said Clark.

Strossen Takes Aim at Cyberspace Censorship

By Geoff Wilcox and Jacob M. Appel

Addressing a gathering of approximately 50 HLS students on Veteran's Day, ACLU President Nadine Strossen '75 criticized Congress for failing to uphold the Constitution when it passed the Communications Decency Act last term.



ACLU President Nadine Strossen '75 encourages students to consider pursuing a career in public interest work

Strossen also took the opportunity to urge students to consider a career in public interest work.

Strossen graduated from Harvard Law School in 1975 and, in addition to her responsibilities at the ACLU, works part-time as a professor at New York University Law School. However, she noted that "there are many ways of being involved with the ACLU" and explained that many lawyers at "large, wealthy Wall Street firms volunteer time to fighting ACLU cases."

Ironically, Strossen began her career in the private sector with New York's Sullivan & Cromwell. She has never been on the ACLU payroll because all positions at the ACLU are volunteer.

"The ACLU has been described as the largest law firm in the country," Strossen said. "We argue before the United States Supreme Court more often than any par-

ty except the United States Government. The Court has agreed to hear about 100 cases this year, and five of them are ours. We also file amicus briefs as a friend of the Court in many others."

"In addition to the U.S. Supreme Court, outside the cases that are groundbreaking, the vast majority of our cases don't make new law ... but they make a difference in the lives of real people," Strossen said.

Occasionally, the nature of the ACLU draws a small-town lawyer or a small-town client into the national spotlight. An example Strossen gave is the case of *Acton v. Veronia School District*, in which a 13-year-old Oregon boy refused to take a drug test because he claimed it was a violation of his Fourth Amendment right to protection against unlawful

searches and seizures. Because the policy for volunteer lawyers is that "when your case goes to the Supreme Court, you get to go with it," a youthful Oregon attorney fought the case for the ACLU.

During oral argument, Justice Breyer inquired how urinating in front of a state official violated an individual's right to privacy. Finally, Breyer asked pointedly, "All people urinate, don't they?" The young attorney paused for several seconds after Breyer's question and finally conceded, "Yes, I believe they do." Shortly thereafter the unnerved attorney added, "In fact, I'd like to urinate right now."

Among the issues that Strossen addressed in her 90-minute address was that of the relationship between the First Amendment and emerging technologies.

please see ACLU, page 4

Lawyers Urged to Follow Communities' Lead in Battling Environmental Injustice

By Warren Binford

Lawyers must avoid traditional heroic roles in which they boldly charge into poor communities as "white knights," intending to save them from environmental pollution and degradation, according to Luke Cole '89.

Cole, who is the Director of the Center for Race, Poverty and the Environment in California, delivered his warning during a panel discussion on environmental justice at the Law School last week.

The event brought together community leaders, environmental activists, lawyers and 30 HLS students in an active and sometimes confrontational discussion of "Environmental Justice and the Law: Community Movements and the Lawyer's Role."

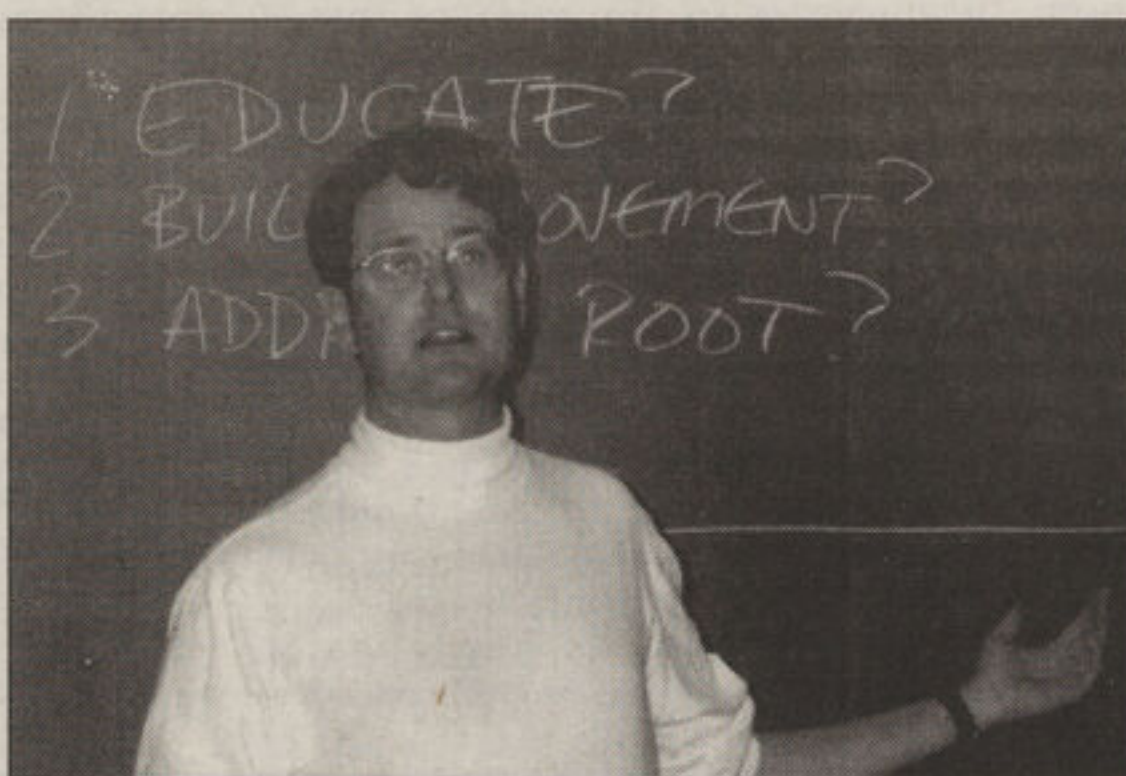
As law school students become increasingly aware of the fact that environmental hazards have an overwhelming impact on the health and well-being of poor families and minorities, more and more are seeking careers in which they can play a leading role in the environmental justice movement, Cole said.

Unfortunately, the traditional role of the lawyer as a "white knight" who arrives announcing, "Here I am. I will save you," may undermine the strength

and effectiveness of a community's movement, according to Cole.

Traditionally, environmental lawyers fail to empower communities because the lawyers do everything on behalf of the community members and, unintentionally, deny them an active role in the movement, Cole said.

Instead, lawyers should follow what Cole refers to as the "Power Model." In this model, the community movement is



Luke Cole '89 explains lawyers' role in community activism

led by a community leader and a group of community members remains active and involved throughout the process.

Lawyers should support the community and make themselves available to play several different roles as defined by the community but usually are critically needed only at the very end to legally

challenge the government's decision, according to Cole.

The need to challenge governmental decisions is almost certain in any environmental justice matter. "This is a process developed by industry and public officials," said Cole.

"Do you actually think that any company is going to gamble \$100 million if they don't know what the decision is going to be at the end of the process?"

It is "naïve" to think that any company would be willing simply to "roll the dice," Cole said.

Cole's concern about the role of lawyers in environmental justice movements was echoed by other panel members.

"Environmental justice must be driven by the community it affects. It is critical for the community to have a voice," said Sha-King Alston.

Alston works with leaders of the Southeast Asian population in the historical mill town of Lowell, Massachusetts in addressing the problem of mercury and other chemical pollutants that have contaminated the fish throughout the town's extensive canal system.

Jo-Anne Henry, a community attorney in Roxbury, also agreed that lawyers should not aim to be the "main actors" in environmental justice movements, but

please see JUSTICE, page 4

Cochran Speaks on Racism, O.J.

continued from COCHRAN, page 1

between being an effective advocate and being religious, having faith in God. You simply walk an ethical line," Cochran said.

Cochran went on to laud the role of the defender, reminding the audience that in many cases, a person's life is at stake.

"When you go down and fight for them, advocate for them, that is what makes this the powerful, wonderful system it is."

Cochran's also spoke on his recent book, "Journey to Justice," which traces the attorney's life in court as both a prosecutor and a defense attorney and provides an overview of how the justice system breaks down.

The book also provides a "history lesson about the L.A.P.D.," explained Cochran. It reveals the "corruption" of the L.A.P.D. in its "racist application of the law."

Asserting that police abuse is both racial and geographical, Cochran argued that, "In the end, the O.J. Simpson trial didn't have to do with Simpson, but more to do with justice in America."

"The Simpson case exposed how people see things differently," according to Cochran, and Simpson's verdict should be a point of departure for conversation.

"Can we find common ground?" asked Cochran. "I think we can." Law is a good venue and this is a proper place to start that dialogue, he told the audience.

Grading Proposal In Dean's Hands

continued from GRADING, page 1

form teams, make presentations and participate in discussion with one another electronically. The two teams whose electronic participation in discussion is judged best are awarded higher grades.

Although this is a written exercise required of all, its dimensions are open-ended and it involves an interchange probably not imagined by the authors of the current policy when the rule was formulated in 1976. A second form of participation is the evaluation of oral performance as used in Reinier Kaakman and Jon Hanson's corporations class.

Students are informed in advance when they will be on panel and evaluated, but they are not informed what subject they will be required to discuss — another instance which does not fall within the specific bounds delineated by the 1976 rule.

Arguing that these advances have already substantially altered the de facto implications of the faculty rule, Parker's committee argues that these extensions of the rule be transformed into an experiment that is regulated and evaluated.

"Discussion of the issue of adjusting grades, in large classes, to reflect an evaluation of class participation simply came to a stop long ago, frozen in fossilized arguments, stereotypes and formalistic querulousness left over from the 1970s," he said.

"Our committee proposal was explicitly meant to open up a detour around the frozen terms of debate, around what we called the 'sour alienation' that frustrates rethinking to say nothing of reform. We tried to do it by taking note of the proliferating 'experiments' with grading large class participation that have already taken place, *sub rosa*, in the last decade. Then, we proposed to extend and systematically evaluate these and

other 'experiments' for two or three years.

"Our hope was that study of actual experience might unfreeze the debate. Instead, our proposal got stuck in exactly the kind of fossilized argument and 'sour alienation' we wanted to leave behind," he said.

Parker also noted that Dean Clark '72 agreed with the Committee's proposal. However, he added that since the issue remains in a "state of uncertainty," Clark "retains a great deal of leeway to do what he wants" on the issue. Clark was unavailable for comment.

Parker hopes that expanded publicity will encourage students and faculty to take a more active role in pressuring the Law School to act. The committee report was signed by Profs. Parker, Reuven Aviyonah '89, Elizabeth Bartholet '65, John Mansfield '56, then-Registrar Sue Robinson, and students Rob Edmund '98 and Les Yonce '97. Profs. Hanson and Scott Brewer filed separate statements in which they expressed reservations with the non-anonymous grading that the Committee advocated.

Implicit in the committee report is a concern that 2L and 3L students, many of whom have already received jobs offers for after graduation, do not engage themselves in their course work. One professor described this phenomenon as the "onset of boredom."

The carrot and stick approach advocated by the Legal Education Committee may go a long way to correcting this problem. The fact that several faculty are already conducting experiments on their own suggests, according to Parker, that the time has come to scrutinize the current rules.

At its meeting Oct. 21, the Committee also discussed "bundling" second year courses and limiting class sizes to improve the educational experience at the Law School.

laborers who are never informed of the chemicals' dangers and provided with no protective clothing.

One of the basic tenets of the environmental justice movement has transformed the phrase "Not in my backyard," to "Not in anyone's backyard," said Cole.

With the amount of toxins and toxic waste being exported by wealthy countries to developing countries increasing each year, Kalan took Cole's analogy one step further by rephrasing the tenet as "Not in anyone's country."

"Do we lawyers ... ask where our toxic waste goes when it leaves America's borders?" asked Kalan.

"This isn't about tree-hugging. This is about people's lives," Kalan told the audience. "This is about human rights."

Panel Discusses Lawyers' Role in Environmental Activism

continued from JUSTICE, page 3

rather should allow community groups to take the initiative and seek "supporting roles" through "capacity-building and consensus-building."

The opportunities for lawyers to be involved in achieving environmental justice literally extends around the globe, panelist Heeten Kalan, Director of the South African Exchange Program on Environmental Justice, told the audience.

Many of the chemicals in pesticides and herbicides being exported from the U.S. to developing countries have been banned in the U.S. as carcinogenics and for other health reasons. Nonetheless, they arrive without warning labels on foreign shores and are often sprayed by

ACLU President Strossen Advocates Public Interest

She discussed the efforts of the ACLU to lobby against the Communications Decency Act (CDA), a recently passed Congressional bill that prevents the transmission of "indecent" or "patently offensive" material over the internet; the bill also bans the transmission of abortion information.

Only 21 members of Congress voted against the legislation, Strossen noted, although many more admitted in private that they knew that it was unconstitutional. She said they feared being depicted as "soft on crime, soft on porn, or — worst of all — soft on kiddie porn ... so they included a special provision to expedite a court hearing" on the legislation.

The three judge panel that heard the case challenging the CDA, *ACLU v. Reno*, invalidated the law on First Amendment grounds and the ACLU has

asked for an expedited review by the Supreme Court.

"Under this law," Strossen said, "there are even Court opinions that can't be put on the internet. The appendix to *F.C.C. v. Pacifica* includes George's Carlin's seven words you can't say on television ... So the Supreme Court can include this is a written opinion but we can't put this on our web site."

Strossen noted that the ACLU is itself a party to the case, rather than simply a representative, because the organization provides information on such issues as abortion and gay and lesbian rights that are patently offensive to some segments of the population.

"The CDA marks an unprecedented suppression of free speech in cyberspace," said Strossen, "an area the ACLU believes should be the most protective of free speech."

Across the Wire ...

University to End Affirmative Action a Year Ahead of Schedule

LOS ANGELES (AP) — The University of California system, barring a court order, will stop using race and gender as considerations for admissions for the 1997 fall semester — a year ahead of schedule.

The announcement followed Tuesday's passage of Proposition 209, which bans using race and gender as considerations in public hiring, contracting and education.

The nine-campus UC system had included a disclaimer in this year's application package warning that admissions policy could change if Proposition 209 passed. The UC system expects 50,000 high school and 20,000 transfer students to apply by the Nov. 30 application deadline.

UC Provost C. Judson King issued a letter this past week to campus chancellors about the new admissions policy. Also, effective immediately, financial aid programs using university or state funds will no longer take race and gender into account.

The UC Board of Regents voted in July 1995 to end affirmative action and implement a new admissions policy in the spring 1998. But Proposition 209's passage pushed that deadline to next fall.

However, three lawsuits also were filed Wednesday morning — two trying to block 209 and the third trying to enforce it. Supporters are suing because although Proposition 209 is now law, it would take a court ruling to knock down existing laws containing race- and gender-based programs.

No court orders were immediately issued. Legal observers predicted it could be a year before the challenges are hashed out.

The University of California's decision to move forward immediately may hinder — at least in the short term — its efforts to enroll a student body that reflects the state's diverse population.

UC President Richard C. Atkinson, who issued a statement Wednesday

pledging the university's continuing commitment to diversity, has said that if race and gender considerations are barred and not replaced by any other mechanisms, there will be a "great reduction" in the number of ethnic minorities who attend the University of California.

UC officials said Friday that campus admissions directors have been working for months to design ways of evaluating applicants based on the educational opportunities available at their high schools.

However, the new criteria may not be ready by December and January, when the fall 1997 freshman class is chosen.

"The campuses are at different stages in terms of their selection criteria," said Carla Ferri, UC's director of undergraduate admissions. The immediacy of Proposition 209 compliance may force some campuses to eliminate using race and gender as considerations — without a new criteria.

"We're confident that we can do a fairly good job in terms of admissions," Ferri said.

UCLA and UC Berkeley have recently released reports predicting that eliminating race and gender considerations in admissions would cut the number of underrepresented students at those campuses by 50 percent to 70 percent.

California State University Chancellor Barry Munitz said he had no plans to issue any changes in admissions policies at his 23-campus system.

"We're going to obey the law and see what happens in court," Munitz said, referring to legal challenges to Proposition 209 that have already been filed. "But I don't see the need at the moment for any changes."

A day after the election, Gov. Pete Wilson moved to implement the law, ordering state officials to provide a written list of race- and gender-based programs within three weeks.

Judge Overturns Discrimination Award, Says Society Too Sensitive

LOS ANGELES (AP) — Saying society has become too sensitive, a judge overturned an \$11 million jury award to a Nigerian-born salesman who said he was discriminated against at work with taunts of "ooga-booga."

Superior Court Judge Malcolm Mackey ruled Friday that the award against Pitney Bowes was "was so unsupported by the evidence that it shocks the conscience of this court."

Akintunde Ogunleye sued Pitney Bowes after he resigned from the Van Nuys sales office of subsidiary U.S. Mailing Systems in 1994. He claimed that he endured taunts of "ooga-booga" from a co-worker and was given less desirable sales areas because of his race.

Mackey called the alleged name-calling unfortunate, but said it did not prove racial discrimination or emotional distress caused by Pitney Bowes.

"Is our society so fragile that a salesman cannot take isolated com-

ments, in a world where our movies, TV and media constantly use language which is offensive and salacious?" Mackey wrote.

Ogunleye was upset by the decision. "If there's no evidence then I would not stick myself, my family, my career on the line and go as far as I went," Ogunleye said. "If there's no evidence then how come the jury saw it differently?"

His attorney, Margaret Henry, promised to appeal and said the judge "does not understand either racism or the law. He has demonstrated through his opinions that he will not follow laws outlawing race discrimination."

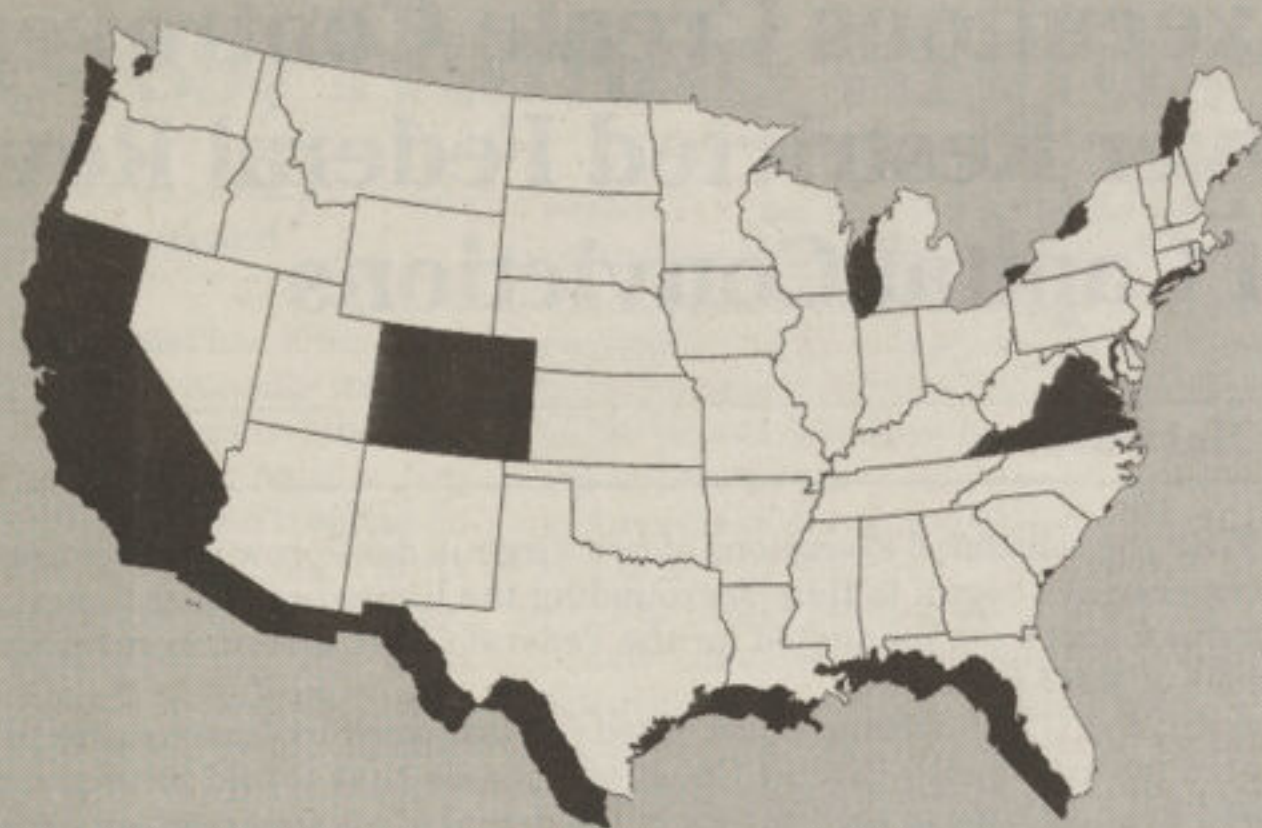
Lester Jones, a lawyer for Pitney Bowes, said the company has received awards for diversity efforts.

"While the jury may have believed Mr. Ogunleye was treated unfairly, unfairness is not enough to be interpreted as racial discrimination," he said.

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Across the World



This Week, News From Around the World

Report: High Court Upholds Conviction of Three East German Leaders

MUNICH, Germany (AP) — The German Constitutional Court has upheld the convictions of three top East German leaders for killings at the Berlin Wall, the news magazine Focus reported.

A court spokeswoman in Karlsruhe declined to comment on the report, saying that the decision would be made public this week.

The court's decision on whether a unified Germany has jurisdiction to prosecute former East German leaders could have implications for trials of others charged with deaths at the inner-German border.

The three leaders, all members of the National Defense Council that oversaw army border patrols, argued that they were upholding East German law.

But according to Focus, which released a summary of its report in advance of the Monday publication, the

court ruled that East German law ordering border guards to shoot to kill violated international human rights standards.

The men have been free on appeal since their 1993 conviction on charges stemming from the deaths of seven young men who tried to flee to the West. A federal court upheld the convictions in 1994.

Former Defense Minister Heinz Kessler and his top aide Fritz Streletz were convicted of incitement to commit manslaughter and sentenced to seven years and 5 1/2 years, respectively. Local Communist Party boss Hans Albrecht was convicted of aiding manslaughter and received a 4 1/2-year sentence.

More than 500 East Germans were estimated killed during dashes to freedom before the Berlin Wall fell on Nov. 9, 1989.

Romer Expects To Keep Strong Ties To Clinton in Second Term

DENVER (AP) — Just days after President Clinton's re-election, Gov. Roy Romer had been contacted at least once by the White House staff for advice on a potential appointment.

The governor believes that his close ties to the president will continue throughout a second term.

"It will be a close working relationship and one of personal friendship," Romer said. "He and I have become closer in the past four years. I have been involved in Medicaid discussions, and on welfare, being the senior Democratic governor."

Clinton has not personally called him yet, he said.

When Republicans took control of the U.S. House and Senate in the 1994 election, Clinton called him the morning after to discuss future party strategy and platforms.

Romer accompanied Clinton on several presidential campaign swings in 1992, including one through the Rocky Mountain West, and he also appeared with Clinton this fall at major campaign appearances in Pueblo, at the Grand Canyon, at Red Rocks, and elsewhere.

"I anticipate being called," Romer said.

"The conversations I've had with others was about government, but I don't want to get too specific. The call I got this (Friday) morning was from a person very high in government asking my view on a specific person."

Romer said Clinton "is a president who had a very substantial mandate. True, he got a Republican Congress. But I've lived 10 years with a GOP Congress in Colorado."

The governor believes congressional investigations into Whitewater and other Clinton problems will continue, "but I

think he will not be deterred in his agenda by all this investigation.

"I think he will make a strong bipartisan pitch. I think you can anticipate a GOP cabinet member or two. That's not outside the possibility. I don't have any inside information on this, it's just my speculation."

Romer also said, "He and Congress must come to terms with campaign reform. He's smart enough to know that. On the investigative front, as to campaign contributions, the Democratic National Committee and so forth, both parties are into that."

"I would anticipate a bipartisan way to reform campaign financing. Someone made mistakes and should send the money back, and it will be done."

The governor said he believes the Whitewater issue "has just got to wear itself out sometime. There's nothing really serious there that has come out before the election."

One cabinet member with Colorado ties, Transportation Secretary Federico Pena, one-time Denver mayor, is among a half-dozen of Clinton's appointees leaving office before the start of the president's second term.

Romer has been asked repeatedly if he will serve with the president, but said he has no intention of doing so, and hasn't been asked.

Denver Mayor Wellington Webb, like Romer a member of the group that accompanied Clinton into the two debates with Republican candidate Bob Dole, also has been rumored as being in line for an appointment.

Pena's formal resignation is expected to be submitted soon. He has been secretary for three years and nine months, making him one of the longest-serving members of the Clinton cabinet.

Lawyers for VMI, Education to Battle Over Accommodations for Women

LEXINGTON, Va. (AP) — Virginia Military Institute wants to give as little special treatment as possible to the first class of women entering its corps of cadets.

The Justice Department, however, wants the school to make up for 157 years of excluding women by lowering potential barriers to their success.

Lawyers for both sides will meet Wednesday in federal court in Roanoke to begin hashing out what, if any, accommodations VMI should make for females.

Papers already filed with the court indicate the Justice Department does not trust VMI to make women welcome or to protect them from sexual harassment.

VMI charges that the Justice Department wants to destroy its adversity-driven system, including the physically and emotionally rigorous freshman "rat line."

The Justice Department wants VMI to submit a point-by-point plan for coeducation, detailing how women will be treated in the rat line and in every other aspect of cadet life.

The government also wants U.S. District Judge Jackson Kiser to examine VMI's system to determine if anything — from extracurricular activities to financial aid — discriminates against women or would deter them from applying.

Coeducation "requires more than merely opening VMI's doors to women and making minimal accommodations," the Justice Department says in court documents.

"The court may appropriately require the defendants, at least in the beginning years, to go beyond what is offered to men to insure (sic) that the physical, financial and psychological barriers to women's entry are overcome."

VMI disagrees, citing the U.S. Supreme Court ruling that some women may thrive in its harsh system. In court papers, VMI argued that it should not have to commit prematurely to specific requirements because the "incorporation of women into the corps of cadets, of necessity, must be a 'work in progress.'"

The Supreme Court ruled in June that VMI could not remain state-supported and all-male. In September, the board of visitors voted to admit women, rejecting an alumni-backed plan for taking the college private.

VMI acknowledges that it may have to "adjust aspects of the physical program," but it basically plans to treat women just as it treats men.

The school says in court papers that the Justice Department's fears about sexual harassment or continued discrimination show the department "remains deeply ignorant about VMI."

"Long before our society at-large declared sexual harassment to be unlawful, VMI cadets were taught a way of life that does not tolerate abuse of women," the court documents say.

The Citadel, which was until this fall the nation's only other all-male state-supported college, gave the federal court in Charleston, S.C., a 57-point plan for accommodating women before four female cadets arrived in August.

Ann MacLean Massie, a professor of constitutional law at Washington and Lee University who has followed the case, said VMI would be naive to expect to escape similar government scrutiny.

"The Justice Department is saying you've got to bend over backwards. ... We need to see evidence that you're engaging in this careful planning," she said.

VMI says it hopes to have 30 women in August's freshman class. As of late last week, five women had applied.

Parliament Deputy Threatens Appeal to International Court

AMMAN, Jordan (AP) — On Sunday, Jordan's only female lawmaker criticized a court that found her guilty of slander and threatened to take her appeal to an international tribunal.

On Saturday, the Court of First Instance found Toujan Faisal, the only woman in Jordan's 80-seat Parliament, guilty of slandering a former airline hostess and sentenced her in absentia to two months in prison and a fine of dlr 10,000.

"I reject the verdict because it is part of a dirty political scheme aimed at covering up for sex and corruption scandals of previous and present officials," Ms. Faisal told The Associated Press.

She added: "I will appeal the case, and I am also considering other actions, such as a lawsuit at an international court."

She did not say which international

tribunal she would seek help from.

The Jordanian court issued the same verdict two months ago but had to re-examine the case when an appeals court annulled the initial decision.

The former airline hostess, Samar Oran, had accused the lawmaker of tarnishing her image and meddling in her private life by criticizing her in a tabloid article. Ms. Oran demanded dlr 21,000 in damages.

The article related to rumors over an alleged relationship between Ms. Oran, a married woman, and a former Cabinet official, who is also a lawmaker. Ms. Oran denied the allegations.

Ms. Faisal claimed that senior Jordanian government officials had asked her not to attend the court sessions, so rulings were made twice without her being present.

BRIEFS



HLS Clinical Supervisor Honored for Service

HLS Immigration and Refugee Program supervisor Nancy Kelly has received the first Constance A. Hammond award from the Refugee Immigration Ministry (RIM) for "exceptional service to detained refugees, immigrants and asylum seekers."

Kelly was honored at the United Parish Church in Brookline on Nov. 7.

RIM was founded 10 years ago to minister to refugees and other immigrants detained by the local office of the Immigration and Naturalization Service.

Kelly was one of the first lawyers to work with RIM at its inception. She secured the release of the refugees, some of whom had been detained more than two years. The project and Kelly's contributions prompted a change of policy by the local INS office to release those with credible claims to refugee status.

Kelly has been supervising students in the Immigration and Refugee Program for the past six years. In response to Kelly's award, HLS lecturer Deborah Anker, the director of the program, said, "Nancy is probably the most dedicated, inspiring and creative lawyer I have met. This is an extraordinary recognition that is more than well-deserved."

Reknowned Neurologist Named Medical School Dean

A well-known neurologist praised by colleagues for his integrity and warmth was named the next dean of Harvard Medical School, the University announced last week.

Joseph B. Martin, currently the chancellor of the University of California at San Francisco, will replace Daniel Tosteson in June.

Martin said he accepted the position "because it's Harvard."

"I'm looking forward to getting back in touch with the real world of students and faculty," Martin said. "I like to get the most out of people, to help them be the most creative and productive individuals that they can be."

At UCSF, Martin led the school's first capital campaign to raise more than \$550 million, and has built biochemistry and molecular biology programs considered among the best in the country.

He previously had been the Dorn professor of neurology at Harvard Medical School for 21 years, and served as acting director and chief of neurology services at Mass. General Hospital, one of Harvard's teaching hospitals.

— from the Harvard Crimson

Too Many Professors Puts K-School in Debt

Because of unexpected success in faculty recruiting, the Kennedy School of Government will likely run a deficit of about \$1 million this year, its dean said this week.

Dean Joseph Nye said that the Kennedy School has offered positions since last fall to 11 professors at other schools, 10 of whom accepted posts as tenured faculty. Nye said he had only expected about half those professors to accept the offers, which has caused a short-term increase in capital expenditures.

The deficit amounts to about 2 percent of the school's operating budget.

"We will grow out of it, partially from the additional research these professors will generate and partially from the success of the Capital Campaign," Nye said. "I'm not worried."

He said part of the increased deficit this year is due to a \$500,000 series of expenditures to improve the school's information technology systems.

— from the Harvard Crimson

California Students Protest Prop. 209

Last week's approval of Proposition 209 by California voters has sparked protests at several University of California campuses, resulting in more than 40 arrests.

Proposition 209 prohibits using race and gender as considerations in public hiring and contracting, and, consequently, in admissions at state universities, effectively ending affirmative action programs.

Student demonstrators at U.C. Berkeley and U.C. Riverside have demanded that university administrators resist following Prop. 209 guidelines, reduce student fees and rename a building at the Berkeley campus in honor of Mexican-American labor activist Cesar Chavez, according to U.C. Berkeley spokesperson Robert Sanders.

A group of more than 200 Berkeley students protested in the streets last Wednesday, denouncing Prop. 209 and Republican Gov. Pete Wilson.

At least 20 protesters then occupied the top floor of the school's clock tower and unrolled banners, one of which said "REVOLUTION," while a larger group of protesters gathered near the tower entrance and tried to block university police from entering the building, the Associated Press reported. Police arrested 23 demonstrators still camped out in the clock tower early the next morning, Sanders said.

At the Riverside campus, protesters occupied the school's main administrative building early Monday. Police later arrested 20 people there.

U.C. Riverside Chancellor Raymond Orbach plans to let prosecutors proceed with charging those arrested with trespassing and to pursue disciplinary action against all students involved, according to a university official.

— from the Harvard Crimson

Harvard Hockey Loses A Pair

The Harvard men's hockey team lost both of its games by one goal last weekend. After Colgate beat Harvard 2-1 on Friday, Cornell left the Bright Hockey Center with a 3-2 victory.

On Friday, Colgate Forward Scott Steeves scored the game winning goal on a breakaway after he stole the puck at the Harvard blue line. The next night, Cornell took a lead it would not relinquish on a second period goal by Chad Wilson that had deflected off Harvard Defensemen Brice Conklin's stick.

THIS WEEK IN LEGAL NEWS

Executions Create Controversy Over Restricted Federal Review of Capital Convictions

By Hal Poret

With the scheduled executions of two Virginia death-row inmates drawing near, controversy has begun to flare surrounding the limited role that Congress and the Supreme Court have mandated for the Federal Court system in reviewing the convictions of state prisoners.

A divided U.S. Supreme Court voted 6-3 last week to vacate a stay of execution granted by the Fourth Circuit Court of Appeals that would have given prisoner Ronald Bennett time to seek review of the denial of his first petition for *habeas corpus*. This decision, which marks another step in the trend to unclog the federal court system by limiting the review of state court capital decisions, also struck a serious blow to the hopes of Virginia convict Joseph Payne, who has failed to obtain federal relief since allegedly uncovering new evidence of his innocence.

The daunting legal problem reflected in the cases of Bennett and Payne is the need to balance two competing interests. On the one hand, there is the strong interest of avoiding the deluge of frivolous appeals and *habeas corpus* petitions from death-row prisoners with which the federal court system has traditionally been swamped. However, this must be accomplished without overly compromising the interest in vigorously protecting the constitutional rights of those sentenced to capital punishment.

Many of the recent restrictions on the federal review of state court convictions can be attributed to the persistent efforts of Chief Justice William H. Rehnquist, who has fought for the values of federalism — including the need for greater finality of state court decisions — throughout his career on the Supreme Court. Emphasizing the Court's limited time and resources and the many important cases brought before it, the Chief Justice has also argued to curtail the seemingly endless flow of *habeas* petitions for the sake of efficiency in the court system.

Recently, following a string of great accomplishments through his opinions as Chief Justice, the crowning victory for Chief Justice Rehnquist's values came with the Antiterrorism and Effective Death Penalty Act, which was signed into law by President Clinton earlier this year.

This act significantly limited the authority of the federal courts to hear second or successive *habeas corpus* petitions of state prisoners; and in June of this year, Rehnquist authored the opinion in *Felker v. Turpin*, which upheld this provision of the Act, ruling that it did not unconstitutionally repeal the Supreme Court's authority to entertain original *habeas* petitions or amount to an unconstitutional "suspension" of the writ.

Though neither Bennett's nor Payne's situations directly involve the new Act, serious concerns surround their cases regarding the increasingly large restrictions on the rights of death-row prisoners to petition for relief. Justice John Paul Stevens, dissenting from the decision to vacate Bennett's stay of execution, cautioned the Court against taking "procedural shortcuts" which increase the risk of error in capital cases.

Justice Stevens wrote that "[i]n response to the congressional decision effectively limiting death row inmates to one meaningful opportunity to obtain federal *habeas corpus* relief, we should give greater, rather than less, scrutiny to a death row inmate's allegations in his first federal *habeas* petition."

According to Justice Stevens, Congress' action actually "increases the importance of making sure that the courts have a full and fair opportunity to consider the first federal petition filed by such prisoners." Justice Stevens called the Court's decision an "extraordinary step" that will encourage wardens to routinely ask the Court to "expedite our processing of *certiorari* petitions in similar cases."

Also dissenting from the opinion were Justices Stephen Breyer and Ruth Bader Ginsburg. Justice Breyer argued that, unlike the myriad of cases where convicts file numerous meritless petitions, Bennett was merely appealing the denial of his first *habeas* petition and, therefore, the Court of Appeals was entirely reasonable in granting a stay of execution to allow Bennett's appeal for *certiorari* to the Supreme Court.

"The petitioner, in other words, simply has used, not abused, the writ," insisted Justice Breyer. As Breyer's statement suggests, in diminishing the role of federal courts in hearing the appeals of state prisoners, the Court may be going beyond the original goal of preventing limitless appeals by desperate inmates.

Bennett, who is scheduled to be executed on November 21st, will be deprived of the opportunity to appeal the denial of only his first *habeas* petition by the Court's decision.

Joseph Payne's lawyers faced similar problems after failing to convince a federal court to accept Payne's appeal, despite claiming to have found new evidence.

Payne was sentenced to death after being convicted of the murder of a fellow inmate at Virginia's Powhatan Correctional Center. However, Payne's attorneys now have several affidavits stating that the murder was actually committed by the government's star witness at Payne's trial, as well as a signed document in which the witness confesses to framing Payne.

Despite its acknowledgment that there was "copious evidence" discovered in Payne's favor, the Fourth Circuit Court of Appeals ruled against Payne, insisting that it was following the Supreme Court's lead on post-trial evidence. This movement is largely a product of Chief Justice Rehnquist's belief that such cases do not merit federal relief unless there is "an independent constitutional violation," a position that he has maintained through the years.

In accordance with this view, the Court has almost completely eliminated appeals based on evidence uncovered after the original conviction; consequently, Payne has been denied the opportunity to challenge his conviction, despite significant new evidence.

The issues circulating around the looming executions of Bennett and Payne certainly highlight the vast difficulties in maintaining a fair criminal appellate system, while reducing the caseload of courts to a manageable level. It is clear that if every capital convict were allowed to file an unlimited number of *habeas* petitions or if federal courts had to hear every appeal when a convict purported to have new evidence, the system would be unworkable. However, the situations of Bennett and particularly Payne seem dangerously close to running the risk of significant error and should create genuine concern as to what degree the system is willing to sacrifice the values of fairness and justice for the sake of efficiency and finality.

HLS Authors Pen New Works on HLS Admissions Process, Human Rights Violations in Cambodia

By Warren A. Leonard

Harvard Law School has a long tradition of authorship among its students and graduates. Jamie Metzl '97 and Willie Epps '95 continue that tradition. Their books — one a treatise on western responses to human rights abuses in Cambodia in the late-1970s, the other a guidebook on the HLS admissions process — reflect the range and depth of the School's student body.

Jamie Metzl '97

"Western Responses to Human Rights Abuses in Cambodia, 1975-80"

In the 1970s Cambodia experienced a five-year civil war, the draconian rule of the Khmer Rouge, and an invasion by neighboring Vietnam. It has been estimated that as many as 2 million people died during that time, as many as 1 million during the three-year regime of the Khmer Rouge alone.

Jamie Metzl's new book, "Western Responses to Human Rights Abuses in Cambodia, 1975-80," chronicles the response of western countries to violations of human rights that occurred in Cambodia between 1975, when the Khmer Rouge took control of Phnom Penh, and 1980, two years after the invasion and occupation of the country by Vietnam. He discusses the recent history of the political turmoil in Cambodia, the development of western

responses to available information regarding human rights abuses in the country, and the sufficiency of those responses. Those issues, in turn, are considered within the broader context of the tension between the fundamental principle of state sovereignty and the enforcement of basic universal human rights across borders.

The recent publication of this book is timely considering the bloodshed and political strife currently taking place in Rwanda. In a RECORD interview, Metzl explained part of the impetus for the book.



Jamie Metzl '97

"[G]iving one example — one episode of mass human rights violations — and examining the failure of international actors, states and institutions to respond adequately can perhaps play a small role in understanding how these situations developed and work to prevent them in the future," Metzl said.

"These situations of mass abuse clearly demand some type of international response."

Metzl explains how the very principle of universal human rights is itself often at odds with the doctrine of state sovereignty. He notes that two of the documents that first stated the principle of fundamental human rights — the U.N. Charter, and the 1975 Helsinki Final Act — also emphasize the refusal to allow outside intervention in matters falling within the jurisdiction of a state.

This basic tension has often made it more difficult for states to adequately respond to human rights abuses outside

limits of such action are also clearly delineated in international agreements."

Overall, Metzl demonstrates how western countries and institutions, particularly the United States, failed in responding to the massive human rights violations taking place in Cambodia.

"Human rights are clearly an issue of concern for western governments. The depth of this concern, however, is tested when human rights considerations have to be weighed against other interests. In the case of Cambodia, human rights concerns were clearly subjugated to the strategic interests of the states involved."

The inadequate response of western states was due in part to the slow growth of available information, and poor reporting on the situation hampered the development of responsive activities. Second, an increasingly contradictory relationship

between America's strategic interests and its stand on human rights issues further contributed to the inaction. Finally, the United Nations system proved unable to offer more than a symbolic condemnation of human rights abuses because of its lack of jurisdiction over state sovereignty issues and political divisions amongst the U.N. states.

"[W]hile there were many reasons that the international community responded the way it did, the end result was that the world community yet again failed to respond to a human rights disaster," Metzl said.

Metzl's interest in Cambodia began when he met a friend at Brown whose parents had been killed by the Khmer Rouge and who had fled the country. The parallels between his friend's experiences and that of Metzl's relatives in Nazi Europe inspired Metzl to research the recent history of Cambodia. He also began working with the Southeast Asian refugee community in Providence, Rhode Island, and after graduation, entered a Ph.D. program at Oxford University in Southeast Asian Studies.

While on a research trip to Cambodia, Metzl became interested in the political environment surrounding the recently enacted Paris Peace Treaty and the United Nations transitional authority. He was subsequently hired as a human rights officer in Cambodia, and for the next two years investigated allegations of human rights abuses, worked to implement the human rights provisions of the 1991 Paris Treaty, and took part in a nationwide human rights information and education campaign. Upon his return to Oxford, Metzl finished the dissertation that became this book.

Metzl is currently a 3L at the Law School and is doing research on the political strife and ethnic conflict in Rwanda. He is also working on his first novel, set at the Thai/Cambodia border in the 1970s, which chronicles the lives of four people in the aftermath of the Vietnamese invasion of Cambodia. Metzl has given talks on Cambodia in various parts of the country, and will be speaking at the United States National Holocaust Museum on the Cambodian atrocities in February.



their borders.

Metzl writes, "while international human rights instruments suggest international obligations for the defense of universal human rights, the

Students applying for the class of '00 and beyond will have the benefit of Willie Epps' book, "How to Get Into Harvard Law School," to guide them through the Harvard Law School admissions process.

Epps, a 1995 graduate and LSC president, based his work on the idea that being admitted to an institution like Harvard Law School involves not only rigorous academic preparation and passion for extracurricular activities, but also guidance, encouragement and support from family, friends, teachers and mentors.

Epps' book offers a foreword by Charles Ogletree, Jr. '78, more than seventy personal essays, fifty profiles of current or recent students, and chapters on life at the Law School and the admissions process described from both the perspective of the applicant and the admissions office.

While enthusiastic about the benefits of being a Harvard Law School student, Epps notes that the school is not ideal for everyone. He emphasizes both the School's strengths ("Strong B curve. It's not too hard to survive.") and weaknesses ("Students consider Harkness and Gropius to be architectural disasters.") in an effort to allow prospective students a more informed choice before applying or enrolling.

The student profiles section includes demographic data such as GPA, LSAT, undergraduate schools,



Willie J. Epps, Jr.

majors, honors, work experience, and parents' occupations. It also consists of short answers to questions that run the gamut from the procedural, such as "How long did you spend on your personal statement," to the playful: "When did you receive your letter of acceptance ... and what were you doing?"

The idea for Epps' book came to him as a 1L during a phone call with a classmate, but didn't materialize until the

final semester of his third year. By then, many of his former classmates from Amherst College had called asking for advice about getting into the School.

It was the third year paper project that led directly to the creation of the book.

Under the guidance of Professor Ogletree, Epps spent four months researching, writing and editing the sections on the admissions process and quality of life at Harvard Law School. He also asked nearly one-hundred students to fill out questionnaires and volunteer their personal statements for the project. The book appeared in bookstores in March of 1996.

Epps is currently a judge advocate in the

United States Air Force at the Goodfellow Air Force Base in Texas. Since graduation, he's worked on thirteen court martial cases involving drug use, forgery, sexual assault, and murder. Epps exhorts current students who might be considering public interest law to "follow your heart and dreams. You don't have to go to law firms after graduation. I've been extremely satisfied with my decision to go into public interest."

After his four year commitment to the judge advocacy program, Epps plans to settle and continue practicing public interest law in St. Louis.

HOW TO GET INTO HARVARD LAW SCHOOL



INVALUABLE ADVICE ON APPLYING AND A LOOK AT SUCCESSFUL APPLICATION ESSAYS FROM CURRENT STUDENTS AND RECENT GRADS

Willie J. Epps, Jr.

Willie J. Epps, Jr. '95

"How to Get Into Harvard Law School"

Harvard Law RECORD

Founded in 1946

Rob Friedman
Editor-In-Chief

Hope Yen
Publisher

Missing the Grade

Prof. Richard Parker '70 deserves praise for his attempts at energizing the faculty and pushing for broad academic changes. Parker's efforts at including student opinion in administrative decision-making is a welcome change from the normal HLS operating procedure.

However, Parker's proposals regarding class participation, pass-fail first year courses, and course "bundling" (offering 2L classes in groups meant to balance popular professors with less popular ones) sit on the periphery of HLS' pressing problems.

When AFL-CIO President George Meany was asked what the labor movement wanted during his tenure in the 1950s and 60s, he would respond simply, "More." That's what HLS students need — not the "bundling" of professors so as to ration them among us. We need more.

HLS has a prestigious faculty. Keeping a prestigious faculty means being "picky" when making hiring decisions, according to Dean Clark '72. This all makes sense, but unless the school wishes to begin admitting smaller classes, it must do something about its 26:1 student-faculty ratio.

HLS doesn't admit smaller classes because there are always 550 talented college graduates who seek admission. Students are attracted in large part by the School's prestige. If 550 students make the grade, why can't the School attract 20 talented professors? Moreover, why can't the School attract 10 talented minority professors?

This week Clark told the RECORD that "establishing an environmental law program is a top priority." While he said that the School had the money to make new appointments, he said that there aren't many talented applicants. Then Clark says that the School "shouldn't go too far establishing a program without a professor."

And so Clark has already worked the process into a perfect knot — hopelessly dependent on a professor who cannot be found, not because of a lack of the School's resources, but because there are no qualified candidates.

It's time for Clark to stop playing games and make the faculty hiring process move along. When it comes to raising money or building Hauser or making personnel changes Clark doesn't talk about what he would like to do — Clark does it. When it comes to hiring faculty — hopefully faculty who will help bring diversity to the School — Clark declares his hopes and dreams but does nothing.

It has been a while since HLS used code words such as "doesn't meet our standards" or "wouldn't fit in" to exclude women and minorities from the faculty. It was clear then that there were plenty of qualified candidates, and it is more clear now.

Dean Clark, what we need is more — more professors, more 2L basic courses, more legal profession courses. And we need less talk about how difficult it is for Harvard Law School to attract qualified candidates. Because no one believed it then, and we don't believe it now.

— Friedman

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Editorial/Letters Policy

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—First Amendment, US Constitution

• Letters •

Statement on Ames Participation Not Meant to Offend

I would like to clarify some confusion in the article on the Semi-Final Ames Moot Court Competition printed in last week's RECORD. My statement ["We really would like to get more people to participate in the Q-rounds this year — that way we'd get more participation in the process and a better selection for the semi-final round"] regarding the participation of 2Ls in Q-Round was in no way intended to reflect on the skill, commitment, enthusiasm or "quality" of the Semi-Final Round participants. The intellectual and professional dedication of the Semi-Final participants and teams is unquestionable and of the highest caliber. Both I and the Ames Committee would

like to thank them and praise them for the superior level of attention, talent, and spirit that they have devoted to the Ames process.

The upper-round component of the Ames Competition presents interested students with the opportunity to hone and practice their advocacy skills while competing for some of the law school's highest honors. The purpose of the discussion of Q-Round was to encourage as many 2Ls as possible to participate in and benefit from the moot court experience of brief-writing and oral argument, which many have not done since first-year. The Ames Competition is an excellent opportunity for teams to work together in applying the skills

that they have learned in their first two years of law school to researching, briefing, and arguing a case at the cutting-edge of the law.

I wish to sincerely apologize to the Semi-Final Round Ames participants and to the HLS community for any confusion or concern that this may have caused. The Ames Committee and the Board of Student Advisers would like to congratulate the teams on their participation in the Semi-Final Round and to wish them the best of luck.

Michelle Gasaway '97
Chair, Semi-Final/Final
Round Ames Committee
November 9, 1996

Profile of Class of '99 "Insightful"

Your [Sept. 26, 1996 article] profiling the Law School's class of 1999 was insightful and interesting. I'm sure all of the students were honored to be included in your article. I'm writing not to offer an argumentative opinion about how multi-cultural and politically correct

your article was (which seems to be quite a point of debate for many people these days); but to let you know that in fact that class of 1999 is not the last class of the millennium. It is my understanding that centuries and, therefore, millennia are the years 1 to 100, not years 0 to 99.

Therefore, the class of 2000 would be the last class of the millennium and the class of 2001 would be the first class of the 21st century and the new millennium.

Cara Hennelly
Pacific Palisades, CA
October 16, 1996

Senator Kerry Belongs in Prison

I am concerned about John Kerry's re-election to the U.S. Senate. John Kerry's investigation into the C.I.A. involvement in the crack and cocaine supply was a cover-up. There are two ways to have an investiga-

tion. One is to try to find out everything, and the other is to make sure that you don't find out anything, prosecute no one and lead to no further investigation.

John Kerry is a cheat and a liar. [H]e sold this

country out to a C.I.A. supplied crime syndicate ... John Kerry belongs in prison, not the U.S. Senate.

Fredrick Slough
Soap Lake, WA
September 30, 1996

Myra Bradwell Ames Team Shows the Best of HLS

I am writing to express my endless admiration for the members of the Myra Bradwell Team of the Ames Semi-Finals.

It has been my tremendous good fortune, and to my total delight, to have known all six team members in various capacities: as a friend, as a classmate, and even as a subletter.

It has always been clear to me that they are all fantastic and wonderful people, and

brilliant beyond description. But their performance on Wednesday night far exceeded what I would have imagined as the best possible combination of poise, professionalism, and sheer intellectual power.

As someone who has not been fully enchanted with many aspects of legal education, and could perhaps even be labeled a fringe cynic, I must acknowledge that the Myra Bradwell Team has reminded me of the true beau-

ty and dignity that the legal profession can achieve, even in its most traditional and classical form.

My congratulations and thanks to all six team members for the tremendous service and pleasure they have rendered to Harvard Law School through the demonstration of their incredible talent, skills, and dedication.

Mike Offner '97
November 13, 1996

Tough day?



Write to the RECORD

It'll make you feel better.

The Verdict on Chechnya: Civilian Massacres are "Internal Affairs" Concern for Human Rights No Match for the Need to Placate the Russian Leadership

By Ben Lehrer '99



Last Friday evening, about 150 people gathered in the Science Center were treated to a lecture on Chechnya by Dr. Mohammed Shashani, the chairman of the Congress of Chechen Communities. Dr. Shashani made his best effort to appear genuinely shocked at the idea that global political realities would induce western governments to look the other way when an estimated 100,000 Chechens, mostly civilians, have been killed by Russian forces.

I find it hard to believe that a person as highly educated as Dr. Shashani (three masters' degrees and one doctorate) could be truly surprised at the western attitude towards the Russian-Chechen conflict. Well-meaning covenants and declarations aside, everybody knows that human rights are only invoked by the geopolitical powers-that-be when it becomes politically expedient either in the international or domestic political forums to do so. In such a world, it is entirely conceivable that Russia's killing 10 percent of the Chechen Republic's population would be considered an "internal affair."

The only nations to consistently and adamantly speak up against Russian abuses in Chechnya have been Estonia, Latvia, Lithuania, Poland, and Ukraine. This is not to suggest that these nations, having shed their communist shackles, have wholeheartedly embraced the principles enshrined in the Universal Declaration of Human Rights. Rather, they are looking with trepidation at the possibility that they may become — as they had been in the recent past — an "internal affair" of Russia.

To be fair, the Council of Europe also

took a short-lived stance. Russia's application to join the Council in 1995 was rejected on account of its human rights record in Chechnya. One year later, the Council relented and accepted Russia's membership bid. One can only wonder what changed their mind. Was it the massacres of civilians at Samashki, Novogroznensky and

Sernovodsk? Could it have been the use in civilian areas of highly destructive weapons like GRAD rockets and vacuum bombs noted for their "psychological effect" (in the words of General Mikhail Barsukov of the Federal Security Service)? Or perhaps it was the systematic prevention of representatives of UNICEF, WHO, the World Food Program, and the UN High Commissioner for Refugees from entering the Republic.

While western governments occasionally express moderate disapproval of the tactics employed by the Russian military in its attempt to keep Chechnya from obtaining sovereignty, they support its ultimate aims. This, on its face, assumes that there could be some other way of keeping Chechnya part of the empire without resorting to violence. But Russia tried (relatively) non-violent means in the period between Chechnya's declaration of independence in 1991 and the invasion in December, 1994, to no avail.

The reality of the situation aptly illustrates the plight that human rights advocates face in promoting their cause. Where there are greater political interests involved — in this case, the interests are promoting stability and good relations with a nuclear superpower that has been teetering on the brink of political, economic, and social turmoil for several years —

promoting these interests take precedence over anything else. In other words, promoting human rights can often run contrary to a nation's (or group of nations') political aims.

The West has placed considerable stock in the current Russian regime. When President Yeltsin resolved a conflict with the democratically elected parliament by bombing it out of its building, we were thankful the other guys didn't win. When the regime, fearing a Communist resurgence buoyed by plummeting living condi-

tions, clamped down on freedom of the press to manipulate its way through recent elections, we breathed a sigh of relief. It has been widely believed that challenging the Russian government's tactics would only serve to weaken its legitimacy and perhaps help pave the way for a less cooperative government to take power.

Well-meaning covenants and declarations aside, everybody knows that human rights are only invoked by the geopolitical powers-that-be when it becomes politically expedient to do so.

This reasoning has caused the West to turn the other way while Russian forces wantonly massacre Chechen civilians in an attempt to subdue a nation by cruelty and attrition. Noting how other regions are pushing for more autonomy from Moscow, the West is terrified of taking a stance that could possibly contribute to

further disintegration of the empire and set the stage for an extremist government to seize control. The repercussions of "losing Russia" would be felt worldwide. On the other hand, flame-throwing women and children hiding in basements, or strafing streams of refugees and then tossing the wounded out of helicopters affect only those in the immediate areas. Chechnya is, therefore, truly an "internal affair."

Western governments, the OSCE, the IMF, and other entities providing Russia with political and financial support are effectively saying that they don't care what Russia does within her purported borders so long as she doesn't revert to Cold War attitudes towards everyone else. But allowing Russia to join the international community on these terms does not bode well for other groups within the empire seeking more political, social, and economic rights. As long as the Russian government is aware that it can get away with murder and still receive support, there is no reason to expect it to stop using murder as a form of political persuasion.

It would appear, nonetheless, that the Chechens have figured out a way to end the atrocities without western assistance. They refused to surrender, and routed the demoralized Russian army out of the Republic's capital, leading to a peace agreement signed with the recently deposed Security Council President Alexander Lebed. "Let this be a lesson to the superpowers. Don't push little nations around," declared Dr. Shashani. In the best of all possible worlds, the big nations will take the covenants and declarations seriously, and not push around the little nations out of respect for their autonomy and for human dignity. But I wouldn't wait up nights.

HARVARD SHOULD BE A RESPONSIBLE EMPLOYER

Harvard University Provost Albert Carnesale has not bargained fairly with members of the Harvard Union of Clerical and Technical Workers (HUCTW). Last year, members of the Union agreed to allow Harvard to cut their health benefits while the University and the Union negotiated alternative ways to save money. The Union made the concession to avoid a strike and extend bargaining. Now Harvard has taken advantage of that trust.

Carnesale has refused several Union proposals to save money, insisting on cuts which would target Harvard's poorest workers. Recently, Carnesale has been so brazen as to suggest that the committee was only a advisory, and not a negotiating committee.

If Carnesale continues to ignore HUCTW requests for a settlement, 500 Harvard employees will have their health and dental benefits cut on January 1, 1997. It will cost workers \$700 and save the University \$200,000.

There are better ways to save \$200,000 that do not target Harvard's lowest-paid workers, mostly women who work part-time because of family responsibilities.

Here's what faculty members wrote to Provost Carnesale:

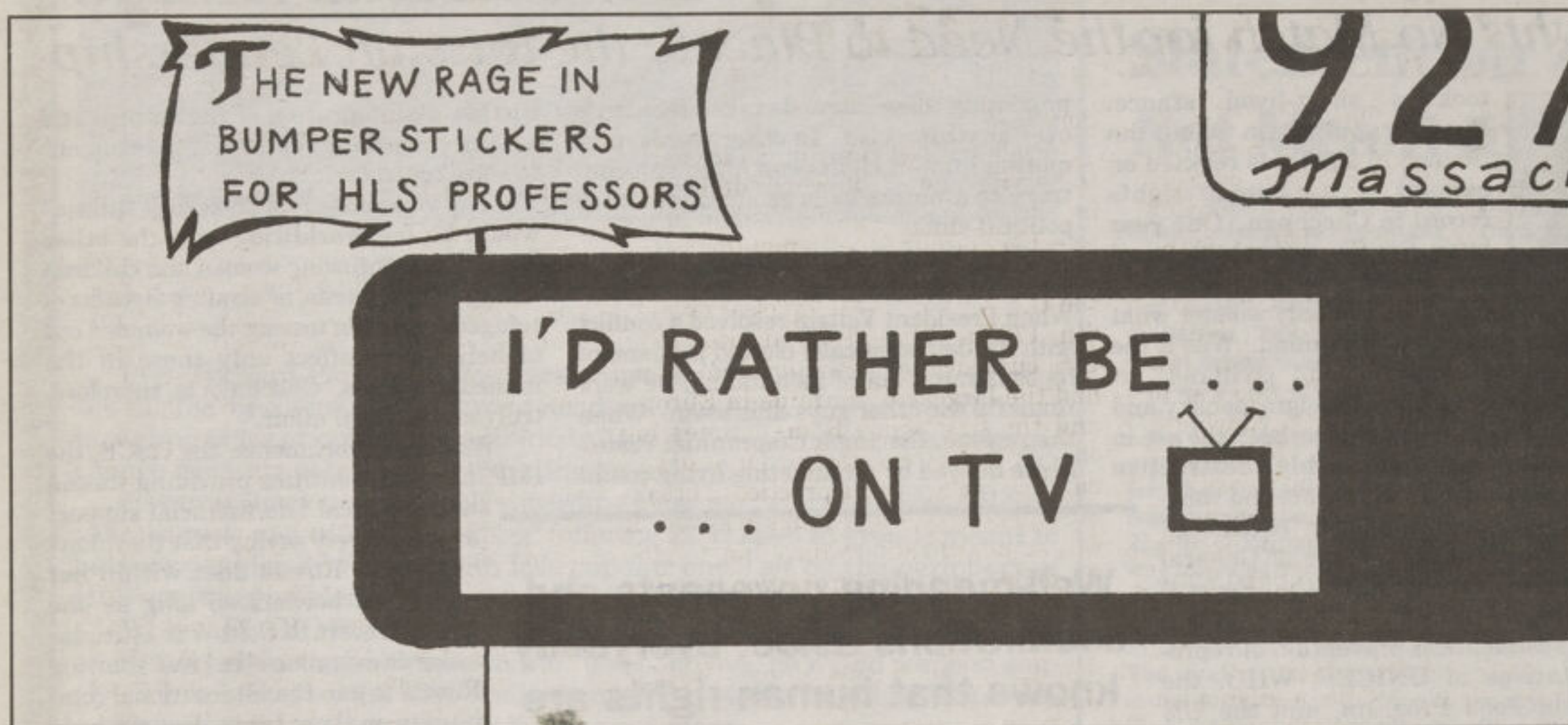
- "[M]ost part time workers are young women struggling to make ends meet ... I would hope that the world's first university would want to show the world a more humane and exemplary face."
- "[I]t seems not just hard-hearted, but downright immoral, that those in our midst who are often the most in need, are being made to suffer most as well ... So I hope and urge that this really quite iniquitous cut be rescinded."
- "I know the University has to be tight with money, but biting the least paid employees so hard seems unconscionable."

You can help by e-mailing Provost Carnesale at a_carnesale@harvard.edu or calling at 5-9473. Pickets have been organized outside of Massachusetts Hall in the Yard. A student picket will occur on Thursday, November 14. Please join the picket or call the Labor Law Project for more information at 495-4871.

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

Ad Hominem

By Stuart Rees and Bill Zimmerman



Vent

By Stuart Rees & Bill Zimmerman



CAN YOU DRAW?
ARE YOU FUNNY?

WELL ... YOU SAID YOU COULD DRAW, RIGHT?

FILL THIS SPACE WITH YOUR CARTOON.
CALL ROB AT 495-4418

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CALENDAR

BUST LOOSE

(NOV 14 - 20)

by Janie Kim '99

Chances are you're bright as heck with the standardized test scores to prove it. Still, ever felt a tad bit the social clod? Does the spark of meaningful exchange banish awkward pauses with unfortunate rarity? Heal your conversation woes with an expansion of your funny bone. On Sat. 11/16, The Humor Institute sponsors **Humor Boot Camp**: an all day workshop on how the appropriate joke, yuk, et. al. can ameliorate any strained social/business scenario. At the Comedy Connection, 245 Faneuil Hall Marketplace, Boston. 9:30 am-4:30 pm. Call 289-7632 to register.

Artist **David Salle** discusses his work at the Carpenter Center for the Visual Arts, 24 Quincy St., Cambridge. Th. 11/14, 6 pm. View a Salle product first hand, same place, 26 hours later. Harvard Film Archive presents **Search and Destroy**, a cinematic essay on the creative process as panacea. It features Christopher Walken, Dennis Hopper, and others as likely to be found in People magazine as the indie film circuit.

Show up early and step into **Nagasaki Journey**, on exhibit at the Main Gallery until 11/17. Photographer Yosuke Yamahata presents the bleak, ravaged aftermath of Little Boy with an unflinching eye. Blown up large, the images provoke an uneasy shroud of empathy and shame. 495-4700

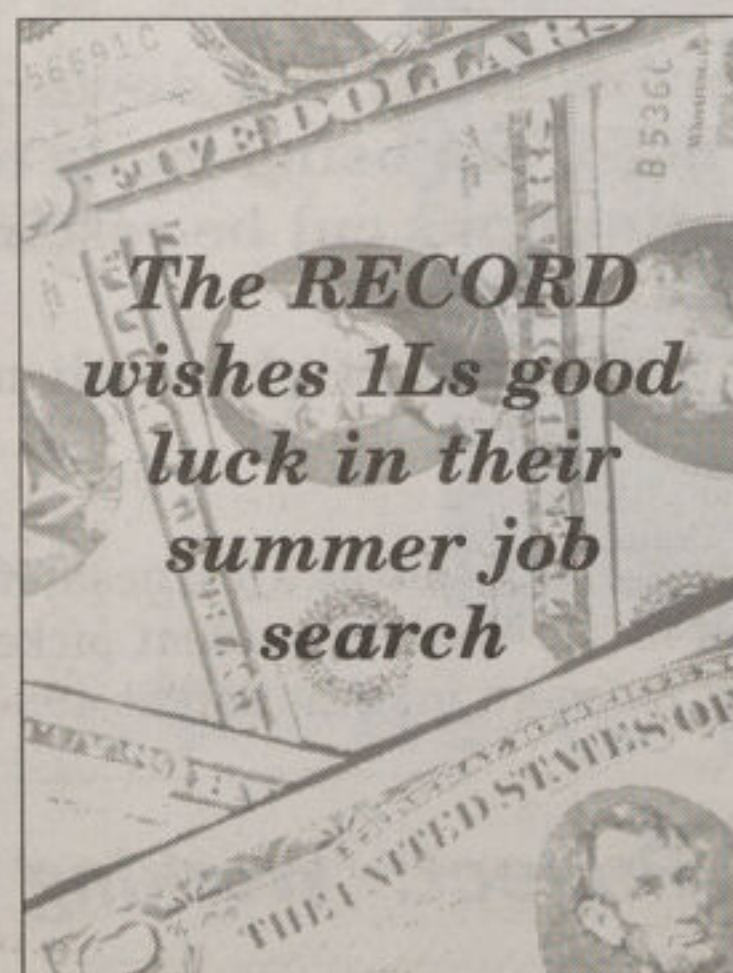
Yipee for the Balanchine-deprived! **The American Ballet Theatre** ends a twelve year absence from Boston with three performances at the Wang Center. Fri. & Sat. 11/15-16, 8 pm. Sun 11/17, 3 pm. Repertoire favorites like "Theme and Variations" and the Rose Adagio from "The Sleeping Beauty" are highlighted. Call the Wang Box Office at 482-6661

Need a reason to leave your bed on Sundays? Check out the **Farmer's Market** in front of the Charles Hotel at Harvard Square. Find peace in the quest for the perfect gourd. 10 am-2:30 pm.

Katie Couric shared the secret of **Loehmann's** with ex-con Jean Harris: designer duds at hefty discounts. Find the new store at Downtown Crossing, 385 Washington St. Build up your interview wardrobe with some spiffy Valentino and sleep easy knowing the damage to your plastic could have been even uglier elsewhere.

Clear your head with woofers-live music. **Billy Bragg and Robyn Hitchcock** rock at the Avalon Sat. 11/16, 7:30 pm, \$21. Call Ticketmaster 931-2000.

The Phoenix Landing showcases a line-up promising lotsa dance-ability. Fri. 11/15 The **Allstonians** light up the place with a rich and textured ska. Sat. 11/16 **Rippopotamus** floods the space with their funk-heavy sound. 512 Mass. Ave., Cambridge. 576-6260.



Growling Humpty

By Alexander Boldizar

At the risk of seeming the fool ... I looked up the word "piffle" in the dictionary after being told that that is what I write. Piffle translates roughly to "trivial nonsense," although it was first used in 1847 under the meaning "to be squeamish or delicate." Beyond that, however, its origins are onomatopoeic. I am a big fan of onomatopoeia, but I learned quickly as a 1L that lawyers tend to be onomatopoeically challenged. Although yelling "GRR" in torts class seemed like the most contextually accurate account of why the defendant hit the plaintiff's nose with his toaster, it turned out that as a lawyer you have to defend the style of your argument as much as you do the client. Besides, only real men go "GRR" (Red Herring).

I do miss those good old days, but when I found myself faced with the word "piffle," placed to stand in front of me as the definition of my editorial Being, I decided to get to its bottom, to its *Grund*. Since onomatopoeic words are immune from this approach, however, I went instead to the bottom of "trivial nonsense." Trivial gets its roots "from the place where three ways meet," and sense grows out of "sentire, to feel," and now has something to do with a "faculty of perception," and through that, "meaning." Following this breakdown of definitions, it seems clear that Harvard Law School is the antithesis of "trivial nonsense." It is threatened by "three ways to non-sense," which could, for example, be



a definition of CLS, in that CLS made explicit the indeterminacy (nonsense) of law by sensing the dimensions of morality, politics and social reality (trivial, but symbolizing an infinite). Thus threatened, law school instills one way to sense, which now superficially includes the CLS contributions, but which cannot include their ironic style and derision of trying to create a "unified school of thought." Law always needs the Faculty to define meanings. "When I use a word," Humpty Dumpty said in a rather scornful tone, "it means just what I choose it to mean — neither more nor less."

GRR. The Law is a dishonest Humpty Dumpty. There is only one way to sense a word, and yet it means whatever I choose it to mean. Yet to say so explicitly is not only trivial nonsense, it is infinite nonsense. The Law needs (one) sense to stay coherent and to hide its indeterminacy. Otherwise all the king's men and all the king's horses won't be able to put it back together again. Lawyers need Humpty's understanding in order to crack other people's eggs, but Law needs a mode of keeping itself together. Thus for those whom it must teach Humpty's insight, it has canonized the standardizing glue of sense which Humpty's inferior education did not provide him. He was not repeatedly told that if he only had enough sense, he'd get a dollar. His common sense wasn't turned into common cents. It wasn't fungible, and he was free to talk

nonsense ...

Embarrassed at my pun, I looked up the etymology of the word "dollar." It has its origins in Joachim's dale in the Czech Republic (Joachimstaler), first recorded by Alberus in 1540, adopted by the U.S. Continental Congress on July 6th, 1785 and first brought into use as U.S. currency in 1794. Joachim's dale had the largest silver mine in Europe, and the first since Roman times big enough to create a standard unit of value, thus replacing the practice of breaking off and weighing chunks of silver. It was standardization which first created the dollar, and standardization together with its universal acceptance which prompted Jefferson to propose its adoption in his "Notes on a Money Unit for U.S."

Perhaps the pun was not so silly after all. On the one hand is Harvard's single-minded pressure to make us think in accordance with a lawyerly sensibility and methodology. For example, reading "The Eight Secrets of Top Exam Performance in Law School," it became apparent that the manner of presentation, even the physical placement of paragraphs, is significantly more important for a good grade than substantive arguments. And on the other hand is the great benefit of standardizing sense into a universal and fungible currency, thus giving a common denominator through which to give grades and allocate success. As whatever substance the dollar and the Law ever had were diluted out, what remained was the empty shell of standardized sense, with its value accruing only by virtue of conformity.

GRR... "The time has come," the Walrus said, "To talk of many things: Of shoes — and ships — and sealing wax — Of cabbages — and kings — And why the sea is boiling hot — and whether pigs have wings." Unlike law, nonsense has the great advantage of not being an autopoietic, self-referential system. Unlike blindfolded Justice, it can thus play with cabbages and laugh at itself ...

Gadamer described understanding as "Playfulness with Sacred Sincerity." From the totalitarian and totalizing perspective of law perhaps such playfulness leads you to a Humpty style crack up. Perhaps you become worthless as currency, unmarketable. At least you won't end up as a poached egg. And you'll be able to see Noam Chomsky's "Colourless green ideas sleep furiously," and Lear's "The Dong! — The Dong! The wandering Dong through the forest goes! The Dong! — The Dong! The Dong with a luminous Nose!"

Nonsense is neither true nor false, and therein lies its playfulness and understanding. It is both a vacuity of sense and an infinity of them. A haiku captures one of those senses at any one moment, without the indeterminacy problem. Unfortunately, Mark Yzaguirre's letter was a touch over haiku length, but I invite him to rephrase it in seventeen syllables (5-7-5) and enter it into the Harvard Horrible Haiku Contest (which I would like to remind anyone still reading to enter — place entries into the Record box or my harkbox — hey, it's F*N!)

P.S. They don't have to make sense.

Fenno

In Episode II of this series, Fenno continues his search for Dean Clark's conscience. This task may prove more difficult than finding Tymothy Macleod's manhood.

In the past, Fenno had often regretted attending a law school at which he could use neither of his favorite organs. Yet waiting in the lobby of Griswold Hall while Dean Clark's secretary officiously flipped through the pages of *The National Inquirer*, our hero finally appreciated the grandeur of HLS.

In only three years, he could accumulate a debt that exceeded the Gross National Product of Zaire — quite an accomplishment for an individual with few social skills and the writing proficiency of a third grader. Then he could go out into the world and fulfill the law school motto he had savored ever since childhood: Work Makes You Free. Lost in his reveries, Fenno was rudely awakened by the sound of rapid typing.

Fenno looked up. In the seat across from him, working furiously at a lap top, was a thickset young man wearing a baseball cap and a button-down shirt; he bore a striking resemblance to any of the twenty thickset young men wearing baseball caps and button-down shirts in Fenno's section.

"Hi, I'm Carter — Carter Braxton Braxton Carter III. We haven't formally met, but I'm in your section. I'm from Jackson, Mississippi — my father is former State Senator C. Braxton Carter, you've probably heard of him, and his father was State Attorney General C. B. Braxton Carter during the good old days, if you know what I mean."

The young man looked up briefly, winked, and returned to his keyboard. "The reason I'm working right now is that my Ames brief is due in only thirty-seven days and if I don't have complete control of my arguments I'll fall of sched-

ule and I might get an A- and then I won't make Law Review and may not get appointed to the Supreme Court until I turn fifty. And what was your name again?"

Fenno's natural response was to view the young man's declamation as an issue spotted and scream out, "Justice Holmes, Buck v. Bell, 'three generations of imbeciles are enough!'" But in the spirit of camaraderie, he introduced himself and held out his hand. Carter offered a hearty handshake, clasping his free hand around Fenno's elbow.

"I'm so glad my daddy gave Robert the \$6,000,000 to make the Griswold lobby internet accessible," he said. "But that's my daddy — always contributing to the whi—, I mean, the <right> cause, if you get my drift." Another wink.

When Carter returned to his computer, Fenno coughed loudly at the receptionist. He tapped his watch. He belched. She continued to voraciously turn pages, periodically mumbling sweet nothings to herself and occasionally pausing to clip articles.

"So what's going on in the world?" Fenno inquired in desperation.

The receptionist looked up, seemingly disturbed by the interruption. "Not much. It turns out that Clark Gable and Mary Tyler Moore were actually the same person. I always knew it ... but I better get back to reading. My lunch break ends at 3:30 p.m. ..." Fenno vaguely recalled a similar conversation that had transpired at 11:00 a.m.

"I was wondering ... umm ... if the Dean was available to see me yet?" Fenno finally demanded. "I've been here since last Thursday."

"I'm sorry," the receptionist replied. "I told you on Friday that it might be a while, ID #10428347. The Dean is a very busy man."

Fenno was about to reply when he heard a resounding cry of "fore" and a white, dimpled object bearing striking resemblance to a golf ball flew from the partly open door of the Dean's office and lodged itself in Fenno's groin. Fenno keeled over backward.

"He's working on a new article entitled, 'The Efficiency of Apathy in Educational Administration.'"

Fenno crawled to the door and struggled toward the rest room. Behind him, he heard the receptionist declare, "All right, Carter, the Dean will see you now" followed by two voices simultaneously producing a Rebel howl.

"Carter, ol' boy," he heard the Dean exclaim. "I just wanted to thank you for the jam."

"No problem, Robert." Fenno's new-found friend declared jovially. "I figured I owed you one after you convinced the Ad Board that this e-mail thing is too mysterious and new for anyone to be punished for misusing it. I mean, not even Susan Vik knows how those little totem e-men show up on my screen every once and a while."

"Well, Carter, I know how you feel. You don't know how often I've wanted to make fun of Al Dershowitz's little Hebrew National."

Alas, thought Fenno, the Dean was such an understanding and reasonable man, a conscientious man. Fenno took a deep breath, picked himself up, and headed off in search of a jam store and a good urologist.

Quote of the Week

"The trash dumpster is empty on Tuesday and the trashman doesn't come until Thursday."

— Johnnie Cochran explaining the number one way to recognize when the "trial of the century" walks through your door.

The RECORD
would like
to congratulate
the Ames Moot
Court
finalists:

**The John Minor
Wisdom Team**
Stephanie Agli (oralist)
Tony Falzone
Jon New (oralist)
Adam Paris
Josh Toll
Michelle Woollen

and

**The Langdell
Memorial Team**
Rachel Blum
Gary Bornstein (oralist)
Jon Cantor
Joel Hammerman
(oralist)
David Markus
Travis Pearson

HLS Scholars Question U.N.'s Role in Cambodia

By Warren Binford

"Did the U.N. go too far or not far enough [in Cambodia]?" That was the question posed by Peter Rosenblum of the HLS Human Rights Program at the conclusion of a workshop on "Legal Development and Human Rights in Cambodia" last week.

The workshop was sponsored by East Asian Legal Studies and attended by 25 members of the HLS community.

Jamie Metzl '97 led the discussion by outlining the tension between different elements of the U.N. legacy in Cambodia.

Some elements of the U.N. legacy served to perpetuate the violence wrought during the country's 13 years of civil war and, even today, prevent Cambodia from transforming itself into a more stable, democratic society, according to Metzl, author of "Western Responses to Human Rights Abuses in Cambodia: 1975-1980."

In a single decade, more than 1.5 million people — nearly 25 percent of the Cambodian population — were killed. With thousands of refugees fleeing across the Thai border, the U.N. set

up an humanitarian aid scheme that inadvertently fed Cambodia's civil war for years, Metzl said.

Metzl also explained that western states perpetuated "the myth that the Khmer Rouge was the legitimate government of Cambodia" by supporting the Khmer Rouge's efforts to maintain its seat in the U.N. in the late 1970s.

Moreover, the U.N. issued a report condemning the Khmer Rouge and its human rights abuses in 1979 but immediately shelved it. When the report was released the following year, it had been whitewashed, barely mentioning the Khmer Rouge, Metzl said.

Metzl said the U.N. may take credit for some short-lived accomplishments in

Cambodia. The democratic elections organized by the U.N. in 1993 were "beautiful," "a wonderful, transformative experience" that, unfortunately,

numerous government functions including civil administration, the organization of elections, and the disarmament of 70 percent of the Cambodian military.

The U.N. was doomed in its role because "[it] was coming in without much experience and didn't understand the culture," said Metzl.

Consequently, the "U.N. was never able to exercise the power envisioned in the Paris Treaty" despite nearly \$3 billion in funding.

The U.N. did not attain the ultimate goal of the Paris Treaty to create within 1.5 years "an environment in which free and fair elections could take

place." The elections were held anyway. Although another party was elected, all societal structures continued to be controlled by the old regime. This legacy is one Cambodia continues to wrestle with to this day.

According to James Ross, co-director of the Human Rights Task Force on Cambodia, "You cannot develop a democracy overnight. But is there a democracy developing in Cambodia? No."



Jamie Metzl '97 discusses the U.N.'s failure to act on human rights abuses in Cambodia. Metzl is the author of a new book on the subject.

lasted only "for a day," he said.

Metzl said that, despite the "incredibly ambitious U.N. mission" that began with such hope after the Paris Treaty of 1991, western nations have all but abandoned Cambodia, leaving behind little more than a plethora of NGOs and shoestring funding.

The problem, according to Metzl, is that the Paris Agreement was perfect for foreign powers but not for Cambodia. The treaty called for U.N. control of

LSC Warns of Law Review Changes, Criticizes OCS Letter

continued from LSC page 1

that he doesn't care — this is Harvard Law School, they can take it."

Nierlich added that professors were not being judged based on the quality of their teaching but only the popularity of their courses.

Nierlich also advised students that changes may be in the works regarding the Law Review's Spring writing competition. The University has decided that Hastings and North Hall will be used for commencement housing this year. This is not a violation of student room contracts, which technically expire a day after the last day of examinations.

As a result, the Law Review may choose to move its spring writing competition from June to Spring Break. Law Review President David Panton '97 said that the Law Review "had discussed this issue" but that "extremely little possibility" existed that such a change would occur due to logical problems with such a rescheduling.

DeFalco noted that many other schools already have such a policy and Nierlich noted that the current timing of the competition requires some off-campus residents to pay an extra month's rent at the end of the Spring Semester. If the Law Review does not decide to

change the date of its competition, students from North and Hastings may be housed in vacant rooms in the Gropius Complex.

Panton said he was determined to make sure the competition ran "as smoothly as possible" and that he was engaged in "internal deliberations to find methods to alleviate any inconvenience" to students.

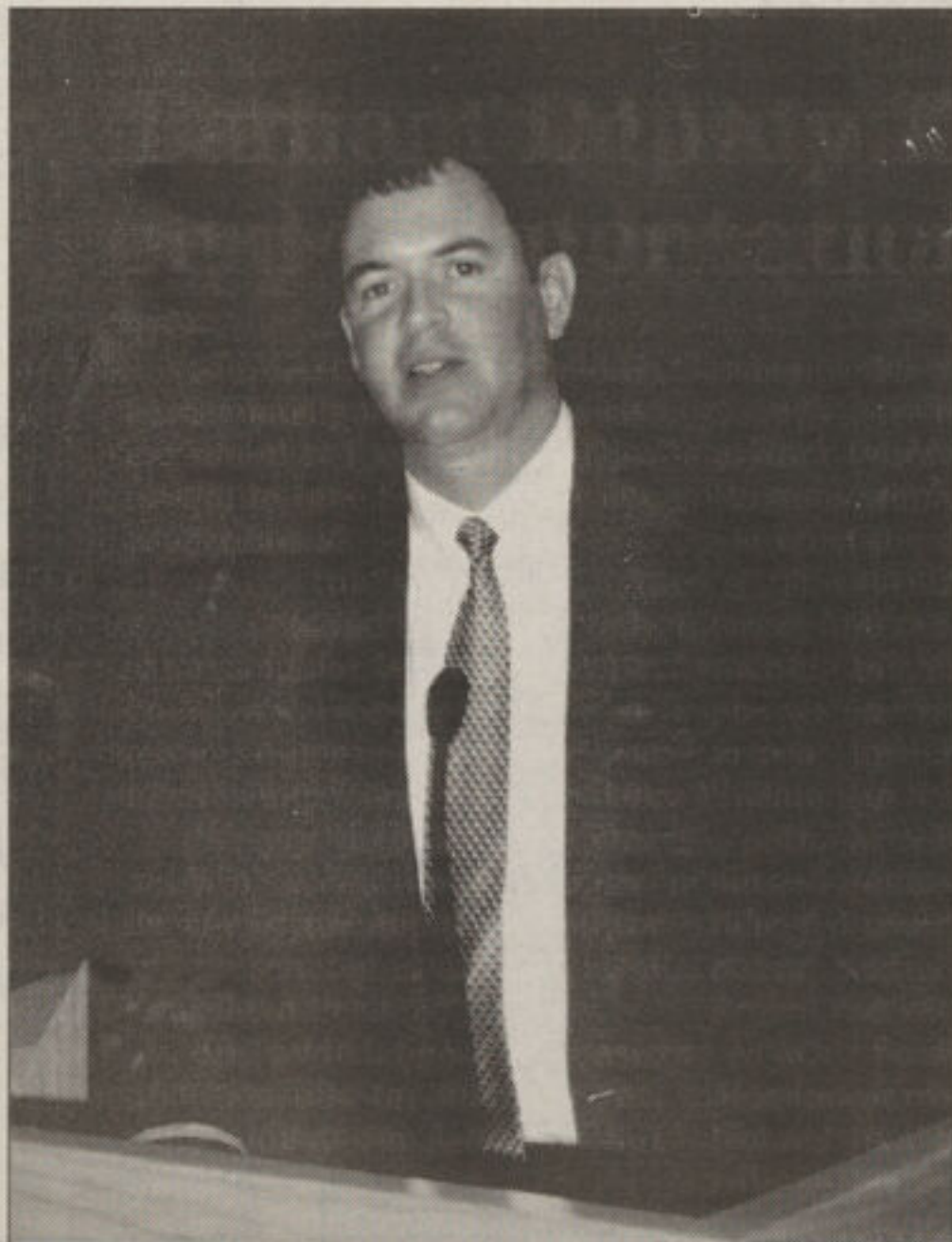
In one final matter, the Council approved without dissent a letter drafted by the Graduate Student Affairs Subcommittee to Career Services Director N. June Thompson. The letter objected to recent comments that Thompson made regarding LL.M.s and the job search process and suggested that she would have been better served if she had acted on an individual basis or through the Council to address her dissatisfaction with the behavior of a handful of foreign students.

Thompson's suggestion that LL.M.s were broadly unemployable generated considerable controversy in early October.

There will be one final Council meeting this semester to take place at 7 p.m. on Tuesday, Nov. 26. The Council will then adjourn for exams and winter recess and will reconvene in February.

**Ames oralist
Mike Francis
'97 fends off
queries from
judges Tuesday
night.**

A list of finalists is
on page 11.



RECORD Photo / Warren Binford

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The Physicists: A Hit

By Janie Kim '99
RECORD Columnist



The Tuesday night dress rehearsal of HLS' fall dramatic production emerged as a sturdy work-in-process. With the requisite burnishing between now and opening night, Friedrich Dürrenmatt's "The Physicists" should prove a worthy theatrical gem.

A tragicomedy in two acts, the play condemns, and ultimately resigns itself to, humanity's dysfunctional intercourse with science and technology. Set in the absurdist milieu of a Swiss mental asylum, the principals embody the various voices of the main philosophical conversation.

Johann Wilhelm Mobius, subtly played by undergraduate Nic Rapold, is a physicist extraordinaire. Burdened with insight into man's destructive nature, his guilt issues from the curse of his genius. Having unlocked the secrets of the "Unifying Principle," he poses as an asylum patient, concealing his discovery lest it enralls the world and guarantees its destruction.

His sacrifices are many. They include the comfort of family. His ex-wife Lina (Gili Bar-Hillel) has formed a new household unit with the uptight Rev. Rose (Robert Gifford '99). With Mobius' three antic-prone sons, they come to bid Mobius a final farewell before embarking on their new life as missionaries in the Marianna Islands. In a hilarious spoof of "The Sound of Music," the boys play "So Long, Farewell," con multo gusto on their wooden recorders.

Mobius also forsakes possible happiness with Nurse Monika (Cat Dale). Their mutual confessions of love make for a taut, tortured waltz as their intimate whispers peel the scene to its delicious raw.

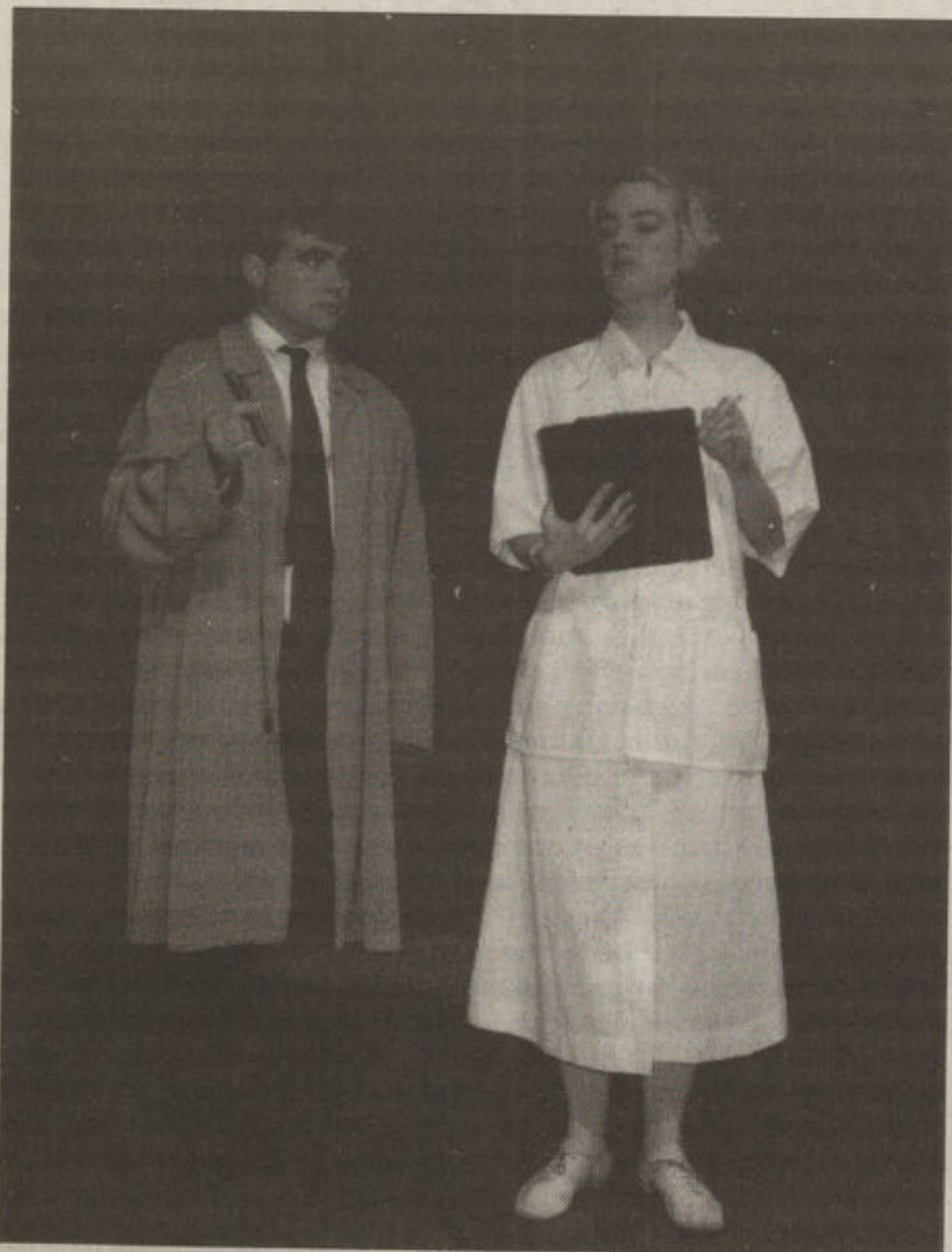
Two other physicists/spies also feign madness to gain access to the asylum. Cloaked with spurious delusions of grandeur, "Newton" (Beau Sefton '99) and "Einstein" (Ron Meyers '98) ply away at Mobius. They plot to acquire his discovery for the glory of their respective governments. These characters channel man's irrepressible drive to exploit new technology for selfish ends. They smother their true identities with all the "comic" aspects of madness: outrageous costumes, a goofy preoccupation with toys, malapropisms, and spastic gesticulations. They also have a nasty penchant for murdering nubile staff nurses.

Director Mark Fleming '97, who also translated the play from its original German, presents the work with perception and confidence. He plows the text for buried humor and deftly gleans the play's thesis from the fodder of outrageous activity. The pacing does falter in Act II. However, this may be due to flaws inherent in Dürrenmatt's construction of the work. The first act zooms through a flurry of new stimuli as plot twists and new characters continuously entertain. A prolonged colloquy in the second act stunts the momentum of the work; plot development is sacrificed for a pure discourse on ideas and a dose of intellectual posturing.

The set is bold and spare. Three prominent numbered doors provide points of reference without excess clutter or distraction. The lighting shows solid work. Changes in intensity effectively underscore dramatic transitions in the play. However, a more imaginative and evocative use of gels would have imbued the play with greater emotional color.

The actors comprise an ebullient, gifted cast. The clarity of Pamela Meekins' '97 (Dr. Von Zahnd) speech from dulcet aside to full-voice never wavers. Robert Gifford '99 conveys the stifling faith of Rev. Rose with shrewd physical intelligence. Gili Bar-Hillel (Lina Rose) and Dale (Nurse Monika) offer especially sensitive portraits. And Ron Meyers ("Einstein") inhabits his role with consummate conviction.

Kudos to all involved for a valiant undertaking! This difficult, challenging work has been coaxed into a complete and vibrant theatrical experience. Performances at Leverett House: Th.-Sat. 11/14-16; Th.-Sat. 11/21-23. Tickets on sale at Harkness Commons 10:30 a.m.-2:30 p.m. weekdays.



"The Inspector" and "Head Nurse"

RECORD Photo / Janie Kim

No Diving Allowed

By Jacob Appel '99

RECORD Columnist



My last blind date, the product of my desperate longing for human companionship and my Aunt Paula's compulsive neurosis for match-making, convinced me to return my A.C.L.U. card and start donating to a right-wing fringe group that advocates mandatory sterilization. This was the fifth date conjured up by my dear Aunt Paula, a woman whose only two desires in life are grand nephews and cheap cream for her liver spots. And Esther — who bore a striking resemblance to predecessors Agatha, Bessie, Constance and Delilah — proved to be a woman so strikingly attractive that our dinner-date rapidly devolved into a spectator sport for the two middle-aged men at the adjacent table. Yet, despite the fact that the Massachusetts Bureau of Animal Welfare found me unfit to adopt a cat and my last fulfilling sexual experience occurred during the Carter Administration, my evening with Esther was the second least enjoyable experience of my week — a close second to watching the snow on television while my cable guy explained to me how he used to be a game show host.

Before you conclude that I am a finicky malcontent, you must understand that my taste in women is as broad as an Irishman's taste in beer. For the shallow at heart and our alumni readers, I'll note that my requirements for physical features range from Ichabod Crane to Raymond Burr; I will date a woman regardless of race, creed, religion, ethnic background, physical or mental handicap, age or even sexual orientation. As evidence for this assertion, I'll point out that I'm the only person ever to run a personal advertisement in the newsletter of the Catholic-American clergy — directly between ads for soiled habits and Greek sailors — and that I've solicited romance in *Scholastic Weekly*, *Modern Maturity*, and *Guns & Ammo*. Heck, I'll admit it: faced with the prospect of spending my old age gossiping with my plastic plants, I even tried reading for the blind. With Archie's manners and Edith's brains, I recognize that I cannot be too picky. Esther, on the other hand, proved to be quite unacceptable. For

I will date a woman regardless of race, creed, religion, ethnic background, physical or mental handicap, age or even sexual orientation

Esther, a twenty-eight year old woman with an income twice that of my father, proved to be the Woman in the Grey Flannel Suit.

Born and raised in a commuter suburb, Esther went to college at one of the Eight Great Wonders of the Modern World and then garnered a joint J.D.-M.B.A. from a prestigious institution in Cambridge that will remain nameless. Not content to enter the law or business, she had mastered both skills and was on partner track at Cravath and Goldman. She proudly declared that she had billed more hours last year than several prestigious New York firms. And now, with the prospect of spinsterhood staring her in the face, she had determined to find a spouse and produce children. She wanted to have it all! Having reached this point in our conversation, I politely excused myself and called my analyst from the restroom payphone. About ten minutes and three darvan tables later, having scribbled a congratulatory note to the Unabomber that included my Aunt Paula's address, I politely explained to Esther that I was coming down with the forty-eight hour cholera and curtailed my desire to run out onto Massachusetts Avenue stark naked screaming "Stella!" at the top of my lungs.

Fine, I admit it! I've never met a woman like Esther, never had the courage to call any of the ten to fifteen phone numbers my aunt leaves me each week after inquiring after my bowel movements and my dental hygiene. But as some men fear airplanes or furry objects or being kidnapped by pheasants and having to perform *Aida* in the nude, my worst fear in life is not dating Esther but becoming Esther. I wake up each morning and see the telltale signs of Esther in my bathroom mirror, albeit a short male Esther with acne and a \$3.00 haircut (my mom gives me a discount). I may rest on my laurels, but I am not content. I will soon be of that breed that is always productive but never produces anything, more frightened that muggers will make off with my appointment book than my wallet, so certain that I have the right answers that I will entirely forget the questions. Entrapped in the lifestyle on self-sustaining want, I will work diligently at a job I don't particularly care for to support a lifestyle that increases the property values of my neighbors. And I will marry — yes, even us Esthers dupe some poor unknowing soul into our nest — and wear my wife on my sleeve, the most valuable commodity that one can purchase with a Harvard Law Degree and a twelve inch money clip. For a rich lawyer, like a poor tailor, is entitled to some happiness.

One in two of us will get divorced and only one in nine will make Law Review, quite a staggering figure when you realize that relationships are necessary for the propagation of the species and Law Review is only necessary to assure that certain segments of that species develop panic disorder.

Not having the courage to call any of my aunt's prospects, I will sit at home on a Friday night and re-read the Brothers Karamazov for sexual fulfillment. However, if you need two hands to read Dostoevsky or you find yourself looking for love in all the wrong places, I have a stack of index cards with phone numbers on them — gifts from my dowager aunt, promising doors for men who would like to meet women who would like to meet Harvard law students.

SPORTSGUY

No Kryptonite in Cambridge

By Todd Stillerman '97

Sports Editor



Webster Field bid *adieu* to the H.L.S. Football League for another year this Sunday as the Sons of Jor-El plowed their way through to the tournament championship. Avenging a regular season loss, the law school Supermen trampled the Sensitive 90s Men 27-12 to wrap up the 1996 crown. Sparked by the rushing prowess of quarterback John Lammers '97 and by the crippling pass-rush from their defensive line, Jor-El quickly exerted its superiority to the rest of the league in the power department.

Lammers set the tone early, executing the run on the first play from scrimmage and scurrying the length of the field for an 80-yard touchdown. The 90s Men kept pace early, marching the length of the field behind the steady arm of quarterback Steve Mudder '98. Mudder found David Boschetto '98 on fourth-and-goal from the 35-yard line to complete a seven-play, eighty yard drive. Jor-El struck back for two quick scores, including a spectacular rushing TD by Bob McCarter '97, but Mudder hit University of Idaho grad Brent Schlotthauer on a sixty-yard bomb to close the gap to 19-12 at half-time.

Jor-El's defense took over in the second half, perfectly executing a tag-team blitz by Zach Stern '97 and Pat Rodriguez '97. Stern and Rodriguez stalked Mudder like efficient predators, combining on three second-half sacks. Team captain Stern adjusted his defense, and a rotating secondary — comprised of Les "the Beasts and the Children" Yontz '97, Brian "the Horror" Kurtz, Josh "Dry and Fold" Teitelbaum '97, Steven "Get Your Ducks in a" Rowe '97, and Joseph "Less Filling" Miller '97 in varying combinations — shut down Schlotthauer and Boschetto. William Anderson '97 continued his season-long dominance on the offensive line, denying the 90s Men any chance to sack Lammers. Lammers found Chris Winters '97 for a late touchdown to provide the final margin.

The 90s Men pulled the upset of the tournament just to reach the finals, edging regular-season champ *Posse Comitatus* 20-18. 90s Man Ben Broadhead '97 pressured *Posse* field general Juan Zarate '97 early and often, managing a sack on the first play from scrimmage (Zarate noted this was "the first time I've been sacked all year"). Mudder was utterly flawless from the pocket, hitting University of Richmond alum J.T. "Sticky Middle" Price '98 for two touchdowns and Boschetto for a third. The 90s Men sorely missed the pocket protection usually provided by lineman Lance Lewis '97, who reportedly was attending the Tyson-Holyfield fight in Las Vegas. Broadhead's quick-rush pressured the normally efficient *Posse* offense into several busted plays, and the 90s Men secondary, led by Shelly Hirschtritt '98, somehow kept *Posse's* uber trio of receivers — Chris Handy '97, Chuck Coxwell '97, and Jeff Hawkins '97 — relatively silent. The 90s Men clinched the contest with 10 seconds to play by blocking a two-point conversion attempt.

Jor-El experienced less resistance from its semifinal opponent, the second-seeded Freshies. Lammers, later unanimously chosen Final Four M.V.P. by the Cambridge sports media, again ran the first play from scrimmage 80 yards for a quick touchdown. Stern and Rodriguez dogged Freshies quarterback Dave Rothenberg '98 relentlessly in the pocket, managing three sacks in the first two series alone. When ace receiver Trevor Blazier (H.L.S. Spouse '98) narrowly missed a long bomb from Rothenberg on the opening drive, observers noted that the momentum took a decided Jor-El turn. "From that point on, the Freshies offense had less movement than a Greg McMichael fastball," quipped onlooker Stacey Sayetta '97, alluding to the unfortunate Atlanta Braves reliever. Lammers hit Rodriguez on a sensational deep strike to start Jor-El's second possession, and the Krypton Kids strolled to a three-touchdown victory.

This championship concludes a three-year quest for Jor-El, and the team celebrated its triumph with wild abandon. Stern, tossing his trademark arm-pads skyward, repeatedly chanted, "No Kryptonite in Cambridge, baby! No Kryptonite!" Rodriguez, his father in attendance, savored the title with a victory lap around the field. League Commissioner (and 90s Man) Chris Manning '98 congratulated the victors: "The better team won today. We're just happy that a 9-1 shot could make it this far."

In the aftermath of a wild and woolly season, the SPORTSGUY is proud to present the H.L.S. Football League post-season awards, as selected by the Cambridge Law School Sportswriters' Associated League (COLOSSAL):

All-HLSFL First Team

Offense

Juan Zarate, *Posse Comitatus*
Chris Handy, *Posse Comitatus*
Steve Mudder, *Sensitive 90s Men*
Trevor Blazier, *Freshies*
John Lammers, *Sons of Jor-El*
Mike Castellano, *Great Danes*

Defense

Lance Lewis, *Posse Comitatus*
Matt Hong, *Great Danes*
Pat Rodriguez, *Sons of Jor-El*
Zach Stern, *Sons of Jor-El*
James Rhee, *Sensitive 90s Men*
Ben Broadhead, *Sensitive 90s Men*

All-HLSFL Second Team

Offense

Dave Rothenberg, *Freshies*
Art Carillo, *Chupacabras*
Richard Nelson, *Stormin' Mormons*
Chris Niewoehner, *Great Danes*
Jim Walsh, *Happy Gilmores*
Mike Tognetti, *Blur*

Defense

David Markus, *Great Danes*
Josh Toll, *Great Danes*
Bob McCarter, *Sons of Jor-El*
Joshua Little, *Stormin' Mormons*
Mark Jensen, *Who's Your Daddy?*
Chuck Coxwell, *Posse Comitatus*

HLSFL Most Valuable Player

Offense

John Lammers, *Sons of Jor-El*

Defense

Pat Rodriguez, *Sons of Jor-El*

HLSFL Outland Trophy
(Outstanding Lineman)

Mike Castellano, *Great Danes*

HLSFL Rookie-of-the-Year

Jim Walsh, *Happy Gilmores*

HLSFL Captain of the Year

Darren Mungerson, *Blitzed & Bombed*

THE VERDICT

Get on the Bus

By Michael Bennett '98

Movie Reviewer



Wake up! It's time to talk about "Get on the Bus," the latest Spike Lee... what shall we call it? It doesn't qualify as a "joint" since he only directed and didn't produce, except in an executive capacity. For the sake of discussion it will be referred to as a Spike Lee quasi-joint. This is by no means an attempt to coin a term.

Rapidly filmed over a three week period, "Get on the Bus" is the tale of a group of Black men making their way on a charter bus from L.A. to D.C. to attend the Million Man March. It is a cousin, at least in theme, of Homer's "Iliad." But instead of 10 years of battle followed by ten years of wandering and tribulation, "Get on the Bus" circumscribes the war and condenses the wandering from a decade to under 72 hours.

The film beautifully reverses one of the main effects of the March: the appearance of homogeneity. As popularly perceived, one million men congregated in D.C. and became an organism without a front or a back. One destination, one cause, one goal (sort of), etc. The film, however, deconstructs the collection into some very familiar Black male archetypes all with different ideas and opinions about what is really going on.

Lee attempted a similar type of distillation in "Jungle Fever." When Drew, a Black woman, tells her girlfriends about how Flipper, her Black husband, betrayed her with a white woman, the joint burns white hot. As the smoke clears, a handful of black female archetypes appear: the mulatto woman who chooses to date Black men exclusively, the dark Black woman who dates regardless of color, the physically unattractive woman who is the most sensible speaker and simply wants to find a good man, etc. However, Lee chose to delve not too deep into these female psyches.

Three times during the film the viewer is snatched from his generally high-spirited orbit and is slammed down into the seventh layer of hell. The audience goes from loud screams of laughter to perfect silence.

Still, in his newest film, Lee takes full advantage of the opportunity to probe deeply. Indeed, the backdrop of the Million Man March is the perfect vehicle for this type of exploration, especially since Lee does not grapple with those female archetypes which have proved problematic for him in the past.

Here the characters are multiform. Isaiah Washington plays a homosexual who's recently decided to stop seeing his partner, also a passenger aboard the Spotted Owl. His character is gay yet rugged and represents a component of the Black community that is seldom presented in a non-comical manner.

Ossie Davis portrays the old sagacious grandfather figure that occupies almost every Black neighborhood. He steps onto the bus chanting, "Black power," immediately reminding the crew of the last real march on Washington three decades ago. He is judge, historian, mediator, and minister simultaneously.

Andre Braugher, better known for his work on the television series "Homicide," is the "player" of the group. The dog, as it were. By far the shallowest of the travelers, Braugher is a constant thorn in everyone's side, especially the gay couple. His entrance scene speaks volumes about his character; boarding the bus screaming and ranting, he interrupts a pre-voyage prayer.

Charles Dutton, lead man of the deceased television show "Roc," portrays the regular working class man. Initially inconspicuous, except for a few comical lines of dialogue, his character is forced to transform into the group's leader.

Wendel, played by Wendell Pierce, is despicably memorable. A car salesman through and through, his only purpose for attending the march is to network and sell cars. Beginning and ending every sentence with the word nigger — oops! I mean with the N-word — Wendel grinds on the nerves of all the other men and ultimately finds himself face down on some highway in Tennessee. His jokes as well as his being are derogatory. He is the quintessential sell-out.

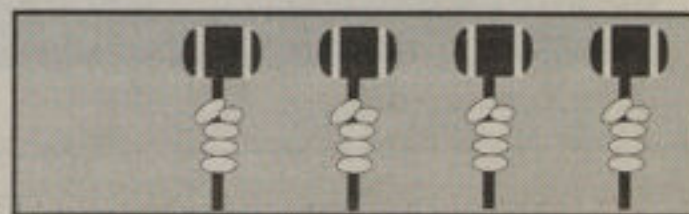
There are several other interesting forms in the film: Richard Belzer, the replacement bus driver who happens to be Jewish; the Nation Of Islam member aboard the bus who, as best I can remember, never speaks and is never referred to; Gabriel Casseus, the converted gangbanger; Gary, the L.A. policeman who is mulatto; the young Xavier whose main purpose is to chronicle the voyage on video tape. But time and space require extensive analysis of their characters to be excluded.

The film has a strange periodic effect on the audience. At least the audience to which I contributed. Three times during the film the viewer is snatched from his generally high-spirited orbit and is slammed down into the seventh layer of hell. The audience goes from loud screams of laughter to perfect silence. This may sound like your last viewed film but it is not. Trust me. One episode involves the showing of Wendel's true colors, one involves an unexpected stop in Tennessee, and the last centers around a brief discussion between Gary and Jamal.

And, as is typical of most films that Lee touches, the music is great. Actually, exceptional. The film opens to a tune by the most popular Black man in the world. A man who is simultaneously as far removed from the March as the village of Kiryas Joel. I speak of Michael Jackson, of course. His inclusion is ironic and ingenious. Perfect.

If that's not enough to rip you away from your books, I give up.

"Get on the Bus" is showing at the Copley Plaza Theatre in Boston.



Learning at HLS

By Judd Serotta '97
RECORD Columnist



This essay is not one of those innumerable ones whining about Harvard Law School. You know the type: the students are nasty, brutish, and short; the faculty are arrogant and disinterested; and the administration could not care less about anything but money. In fact, I think there are a great many things HLS does right in the classroom. There are a bunch of things it does wrong as well. I am, of course, no more qualified than any other 3L to write on this subject. But another voice in the chorus may not hurt.

First of all, the good things. Truth be told, Harvard Law professors are very good in the classroom. There is, of course, a great deal of variation along the spectrum (unlike the political spectrum). With only a few exceptions, I have been thoroughly impressed with my professors. In general, I have not gotten the sense that their teaching ability has been overlooked as a factor in tenureships. On the contrary, the faculty selection committees over the past 25 years deserve a great deal of credit for making teaching quality a priority. My professors have been, without exception, brilliant people who truly understand the material they impart. In general, they blend the Socratic method with relative humanity in the classroom, and they recognize the strengths and weaknesses of the Socratic method as a teaching tool.

I am currently cross-registered in a course offered jointly by the Kennedy School of Government and the Government Department, and the differences could not be starker. In that class, one is a note-taker and a regurgitator. By contrast, especially in the better classes, learning is an active process at HLS. That is one of the reasons, I am convinced, virtually every 1L is intimidated when he first arrives. The professor at HLS is usually not the sole repository of information, but merely the most significant one. Given our colleagues' talent, it would be insulting to assume that only the professor knows what he is talking about. The most successful professors, and the most successful courses, are those where at any given time half a dozen students have their hands up (and not the same students all the time). HLS, in my experience, usually does a pretty darn good job of engaging its students in the learning process. There are exceptions, of course, but that is true anywhere.

And thank the Lord, we are not regurgitators here. Our exams, generally, do not require us to merely prove that we are good memorizers. We all proved that in college, or else we would not be here. The practice of law is not an exercise in memorization, but an exercise in critical thinking. Most of my examinations have reflected that, and have not been "Let's see if you can spit back at me what I spat out at you" affairs. There is an enormous temptation to move in that direction because, frankly, it's easier for the professors. But HLS has resisted, and if you speak with people at many other law schools (whether highly ranked or not), you will find that HLS is fairly unique in this regard.

So those are my main positive observations about learning at Harvard Law School. Through the cacophony of boos, occasionally we should remind ourselves that there are some good in-the-classroom reasons to be here. But now allow me to join the cacophony and make some criticisms. I don't pretend to be entirely original, but how many of these columns ever are? I will not criticize the content of what is taught at Harvard Law School in this essay, but that could be the subject of an enormous volume to go alongside "Fear and Loathing at Harvard Law School" and "1L." Instead, I mean to address some of the pedagogical blunders Harvard makes and seems uninterested in rectifying.

Most obviously and most importantly, something needs to be done about class sizes at HLS. My Legal Profession course is my smallest class this term, and its enrollment approaches 60. Now, I have tended to take mainstream classes, but that is no excuse for why in three years at Harvard Law School I will have only one class (a seminar) under 50. Meanwhile, by the time I graduate, the majority of my classes will have been over 100. In spite of the outstanding give and take inside the classroom, there is no excuse for this dilution of HLS's product. Is anyone surprised that Harvard Law students often feel alienated from their classes and their professors when 150 students try to have a "discussion" with a professor, no matter how much collective talent is in the room? We are told that the administration has committed to six new professorships. That sort of reminds me of the Philadelphia Phillies, whom I sadly rooted for through year after year of miserable play. Their owner insists that a good player or two will turn them into contenders. He is living in a dream world. So is the HLS administration if it thinks six professors will make a dent in the problem.

The absurdly large classes lead to a host of pedagogical problems. Probably the most serious of these problems lies in student-faculty relationships. Only a select number of students actually take advantage of faculty office hours, and, I daresay, that is because of the system rather than the personnel. When students have a more immediate in-class relationship with faculty they certainly have more impetus to develop an out-of-class relationship. What demonstrates this absurdity more than the spectacle of faculty recommendations at HLS from faculty who usually do not even know the recommendees name?

Also, one has to wonder who designed class schedules the way they are. Anyone over at the Education School can tell you that the best way to learn corporate law is not by having two two-hour classes on Monday and Tuesday. Shorter classes are more effective. And five-day spans in between classes are ludicrous. It simply is not an effective way to learn. Nearly every other institution I know of avoids two-hour classes whenever possible and spreads its classes through the week. I wrote earlier of my Kennedy School class. That course meets on Tuesday, Thursday, and Friday. Yes, professors would have to work more days of the week. But they're getting paid for something. And just about any student will agree that by the last half hour of a two-hour class, nothing is retained. So why do we continue with this nonsensical arrangement?

Another illustration of this point is the winter term, which is virtually indefensible. The brain is simply not designed to retain what is thrown at it in 15 in-class hours and (theoretically) 30-45 out-of-class hours per week on the same subject. The winter term is simply an excuse to have high-profile people like Lani Guinier "teach at Harvard Law School," and to allow most faculty a month and a half off. No one can convince me that one can learn evidence as well in the winter term as in the spring term, when the same number of hours are spread over three and a half months instead of three and a half weeks.

So these are some thoughts on learning at Harvard Law School. Since we are all budding lawyers (?) here, there are probably 1600 other students at HLS whose perspective differs from mine. But I think Harvard needs to congratulate itself for when it does right by its students, and it should always strive to be better to give HLS students the education they deserve for \$100,000.

JUST CAUSE

The Swine and the Vine

By Carla A. Halpern '97
RECORD Columnist



Aside from a few lucky 3Ls, most of us are presently enmeshed in the job search. Whether hunting down firm interviews, waiting for call-backs, writing grant proposals, or, my personal favorite, pounding the pavement in search of that elusive paying public interest job, legitimate legal employment can seem like a daunting prospect. So in the midst of mailing out resumes and nailing down letters of recommendation, I've been indulging in a little daydreaming about past career choices.

The year is 1978 and I am back in the woodlands of central Serbia, living with my anthropologist parents in a peasant village. At nine years old, I have received my first professional promotion: I am now Carla The Swineherd. Not especially kosher, I know, but an important step up from being The Kid Who Feeds The Chickens. My immediate supervisors are the farmers who share their home with us. My boss, however, as I quickly learned, is an enormous sow, longer than I am tall and at least twice as heavy.

First day on the job, I rise early. Proud of my new position of power, I head out to the orchard with a wooden staff and a thick book to get me through the afternoon. Climbing up into one of the plum trees, I plan to read my book in peace, keeping an occasional eye on the pigs. My boss has other plans. While the plums look perfectly good to me and the dozen or so piglets snuffling about at the roots of the tree, Mama Pig is far more interested in the neighbor's corn. She lures me into security, calmly turning the soft soil with her snout as she coaxes her babies slowly away from the tree. The first few times I look up from my book, I see only plums, corn, and well-behaved pigs. I look up again a minute later, and one more sight is added to my field of view: the gate that I left open. In an instant, I am aware of the sow's plan, but she has already made her move.

For those of you as unfamiliar as I was with the swineherding profession, let me tell you: pigs can move like quicksilver. Or at least it seemed that way to me. By the time I made it out of the plum tree, tearing my plaid pedal-pushers and dropping my book, Mama and her piglets were already in the neighbor's field. That day, I chased them from cornfield to cornfield, through the muddy village roads and hornets' nests, over proverbial hill and dale. I finally showed up back at the farmhouse that evening with burrs in my hair and a pack of very satisfied swine. I was also accompanied back to the house by a pack of less-than-satisfied neighbors. Good-bye promotion and hello chicken-coop.

Another daydream, another farm scene: summer of 1983 and I am about to embark upon what is a right of passage for many almost-fourteen-year-olds ... I will receive my very own social security number and with it, the right to work in the cucumber fields of western Massachusetts. Picking cucumbers is itself a right of passage for most teenagers in the rural, fertile, cosmopolitan anomaly known as the Connecticut river valley (known also by a series of other epithets, but that's a column for another day). As unskilled farm laborers, we are exempt from the minimum wage and make about \$1.50 an hour, working from early morning to mid-afternoon. Cuke-picking requires strong shoulders and lungs: you lie prone on the bed of a slow-moving tractor, tossing "pickles" over your head onto a conveyor belt, inhaling cucumber dust each time you snap a pickle from the vine. The only entertainment derives from the "seed" cucumbers: too big to be pickled, we are allowed to stuff these colossal veggies under the wheels of the tractor and watch them splatter. Slightly morbid, but a diversion from the monotony of tossing and coughing. Sore arms and dusty lungs took their toll on me quickly.

I lasted 10 days in the cucumber fields — an improvement from my chaotic eight hours as a swineherd. It's true that these are not my greatest stories of success on the job. Perhaps I am not cut out for farm work. I am lucky to have the choice. Only some corn and my dignity were lost when the pigs got loose. I was never exploited in the cucumber fields: I spoke the language; I was not mistreated; I was put to work because "the experience" was good for me, not because I needed the money. And I always got paid. I can only extrapolate from my experience what life must be like for farm workers who don't have those protections.

The memories of these jobs are certainly good for some laughs and for a great deal of appreciation for my chosen profession. As a lawyer, I have the power to help people find careers that they can live with. I can help workers organize; I can legislate job safety. For me, employment law is where the inspiration begins, but the list of opportunities and options goes on and on...

So enough day-dreaming for today. It's time to continue composing letters and making phone calls. It's time to start preparing for the next lunch interview with a potential contact. I'm sure it will go well as long as we don't have pork or pickles.



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