



Harvard Law RECORD

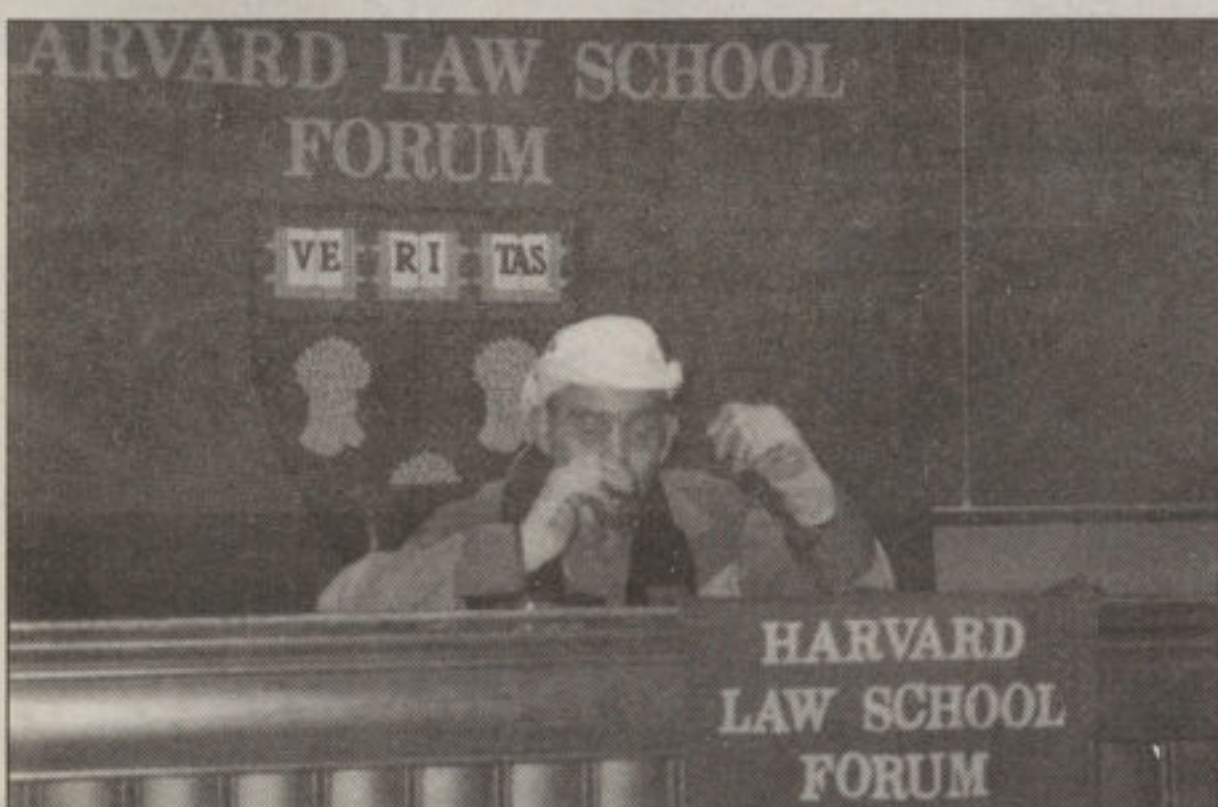
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Friday, November 22, 1996



Hunter S. Thompson prepares to defend his DUI arrest

Thompson Brings Whiskey, Fear and Loathing to HLS

By Warren Binford

A standing-room-only audience quickly emptied out of Austin North during a presentation by Dr. Hunter S. Thompson last Thursday night, when the apparently drunken speaker failed to create a cogent discussion on substantive issues and instead rambled on endlessly about his own tedious legal problems.

Thompson, best known as the father of "gonzo" journalism, arrived 45 minutes late to the HLS Forum event with a half-empty glass of whiskey in one hand and a bottle of Chivas Regal in a paper bag in the other. Throwing his gloves into the audience and kicking his cowboy boots onto the podium, Thompson announced to the 200 audience

members that he had come to HLS seeking free legal advice.

The audience responded enthusiastically. Thompson outlined his case for the crowd. A year ago election night, he was pulled over in his hometown of Aspen, Colorado, for weaving across the center line and administered a breathalyzer test by the local police. He registered .053 and was charged with a misdemeanor.

Rather than pay the \$50 fine, Thompson resolved to fight the charge saying that it was politically motivated and, besides, ".053 is as close to sober as you can get."

"I'm always under arrest," said Thompson, "and I've made a habit of fighting it tooth and nail. This is happening all over the

please see **THOMPSON**, page 3

CLU Charges Financial Aid Office with Buckley Amendment Violations

Unsecured E-Mail and Alumni Records Stored in Hallways

By Jacob Appel

Following up on a controversy earlier this year in which the Office of Financial Aid allegedly left unsecured records in a publicly accessible corridor, Civil Liberties Union (CLU) President Jol Silversmith '98 lambasted the Office of Financial Aid this week for additional violations of Federal privacy protections.

In this most recent incident, Director of Financial Aid Sally Donahue sent an e-mail memo to sixty-six 1Ls informing them that they had to attend a mandatory make-up entrance loan interview. The mass mailing revealed the names of all of the individuals to each of the recipients.

"A common problem about the use of computers and new technology at HLS and Harvard in general has been that problems are dealt with after the fact," Silversmith said. "But the privacy of 66 1Ls has almost certainly violated, not to mention that HLS has almost certainly violated the Buckley

Amendment."

"Nothing HLS can do can restore the privacy of these students — but, to use an over-worked phrase, we must work to see that it never happens again."

The Buckley Amendment, officially known as the Family Education Rights and Privacy Act, prohibits the discussion of students' academic and financial aid records with third parties.

The memo in question was directed to "Select First Year Students" from "Sally Donahue, Director of Financial Aid" under the heading "Mandatory Make-Up Entrance Loan Interview."

It read, "Our records indicate that you did not attend one of the mandatory entrance loan interview sessions scheduled during the months of October and November. Failure to meet this requirement has resulted in a suspension of all cash disbursement services to you, and I am writing to let you know that you will be expected to attend the one make-up session which is scheduled for this Friday, November 22nd, from 5:00 - 6:15 in Pound 101. The Registrar's



Jol Silversmith '98, president of HLS Civil Liberties Union

Clark's Decision on Deadlocked Class Participation Proposal Imminent

Parker to Propose Quorum Requirement for Faculty Meetings

By Jaclyn Liu

The faculty's recent deadlock on whether class participation should be graded in upper-level classes at the Law School has sparked a flurry of activity to better gauge opinion on the issue.

Dean Clark '72 said he will consider during Thanksgiving break what the appropriate policy should be after professors failed to agree on a Legal Education Committee proposal urging faculty to experiment more systematically with participation-based grading.

Meanwhile, Law School Council (LSC) officials said they want to hold an open forum next spring to gauge student views on their educational experience at HLS, including the implications of the grading proposal.

And Prof. Richard Parker '70, chair of the Legal Education Committee, said he wants to propose a quorum requirement before faculty votes on proposals can be taken. Parker was partially reacting to the rampant faculty absences at last month's meeting, where more than 40 professors failed to appear and vote on his Committee's proposal. The faculty deadlocked 14-14 on the

issue.

Clark said he will make a decision in the next few weeks on the matter, with the possibility of a proposal being implemented in the spring.



Dean Robert Clark

Several faculty members want Clark to interpret a 1976 school policy that is ambiguous about whether "written or oral exercises" can be considered as class participation. The policy allows professors in large, upper-division classes to

adjust grades based on student performances on such exercises.

Although Clark reiterated his support of "encouraging class participation — but not in any radical way," he is uncertain about which method of interpretation is most beneficial to the faculty. He said that some older faculty members want him to make a general statement encouraging class participation while others prefer greater specificity in the form of case examples explaining what qualifies under the existing policy and what does not.

But Clark added, "I can't just write a memo and tell the faculty what to do. Changes in educational requirements must be decided by the faculty, but the policy is vague enough for me to

make a favorable interpretation."

According to the anonymous grading policy implemented by faculty members in 1976, instructors "may adjust the examination grade up or down on the basis of other assigned written or oral exercises performed by the student but only if all students in the class were required, or had the option, to do those exercises, and notice is given in advance that the exercises will be graded and counted as part of the grade in the course."

Last Minute Proposal Revision Blamed

According to Associate Dean Frank Sander '52, the class participation proposal was complicated by the perception among some faculty members that the Committee's proposal presented at the October meeting was different from the written proposal sent out to the faculty last May. Sander cited the confusion about the extent of the revision as the source of the deadlock.

"It was a very confusing situation," he said. "This in part explains the inconclusiveness of the vote."

According to Sander, the original written proposal sent out last May outlined three steps required of faculty members who wish to

please see **CLARK**, page 6

Sunstein, Sager Reflect on '95 Supreme Court Term

By David Liu

Close to 200 students packed Austin North Tuesday to hear University of Chicago Law School Prof. Cass Sunstein and New York University Law School Prof. Lawrence Sager butt heads at the Law Review's second annual forum on the year's Supreme Court term.

Sunstein opened the forum by depicting a court divided by a "conflict between justices who are shy and lack confidence and justices who don't want to be adrift" and decisions characterized by "minimalist invalidation — invalidations of laws that are very particularistic and case-specific, and

don't bode much necessarily for the future."

"When people and judges disagree," said Sunstein, "sometimes they try to reach an agreement that is shallow" — the agreement extends to either particular outcomes or particular abstractions, but not both.

"Sometimes," continued Sunstein, "we seek agreements that aren't shallow but are narrow; they are limited to the facts of a specific case as much as possible. These are the decisions that drive Justices Scalia and Thomas crazy."

Sunstein cited *Romer v. Evans*, which struck down

please see **COURT**, page 6



Prof. Cass Sunstein and Lawrence Sager share their views on '95 Supreme Court. Yale Law Prof. Akhil Amar moderated.

28 Years Ago in the RECORD...

HARVARD LAW RECORD

VOL. 47 NO. 8

FOUNDED: 1946

NOVEMBER 21, 1968

(Continued from Page 1)

Draft Loss: 125 Gone, 325 by June

By Kevin Kane

Forty-five students have been added to the group of 80 drop-outs for military and personal reasons last reported in the RECORD. Another 200 students are likely to be drafted by the end of June, according to Walter Reiser, who advises students on draft problems.

Secretary William L. Bruce gave the present total of 125 students breakdown as follows:

1. in Sept., 1968 — 70 2L's for military or military-related reasons; 21 2L's for nonmilitary reasons;

2. by Oct. 27, 1968 — 11 1L's and 5 2L's for military reasons, 10 1L's and 3 2L's for nonmilitary reasons;

3. to the present — 2 1L's and 2 2L's for military reasons, 1 1L for nonmilitary reasons.

While the full impact of the draft is still unclear, Mr. Reiser feels there is a strong chance for students to finish the year. General Hershey sent a directive to all state Selective Service directors on Oct. 24, 1968, which supports that contention:

"When college students are ordered to report for induction during a school term in which they are satisfactorily pursuing full time post baccalaureate courses, consideration should be given on an individual case basis to a postponement of induction until the end of the term (quarter, tri-mester, semester)."

Of course, the problem for law students is to convince directors that a law school "term" or "semester" is a full year.

Mr. Reiser claims, however, that this problem possibly can be

(Continued on Page 10)

avoided. A student who is classified 1-A during the first semester can, by his two guaranteed appeals, postpone an induction notice until Feb. 1969. By that time, the student is into the second semester and he can apply to his state director for postponement of induction to the end of the semester.

Under the federal regulations the state director can postpone induction indefinitely "for good cause." Presumably, Hershey's directive means that finishing a semester is "good cause." State Deputy Director, Col. Paul Feeney, has said Massachusetts will give postponement to the end of the semester. Mr. Reiser pointed out, however, that consideration "should," not "shall," be given to the student's application.

Mr. Reiser feels that age is a key factor which places law students in the prime draft group. If the Pentagon's original estimate of 240,000 draftees for the fiscal year is followed, there remain about 153,000 to be drafted. Thus, although students have a strong chance of finishing the year, Mr. Reiser estimates that about 200 law students will be drafted in June.

Those Who Had to Drop Out

BARTSCH, NOEL
49 Roseland Street, Apt. 2
Cambridge, Mass.
BECK, EDWARD W.
24 Church Street
Watertown, Mass.
BELL, MARSHALL
20 West 87th Street
New York, New York
BLUM, JACOB
1050 Fifth Avenue
New York, New York
BROWN, ROLAND
Peace Corps
c/o American Embassy
Santo Domingo
Dominican Republic
BUSHEY, BRUCE L.
Peace Corps
c/o American Embassy
La Paz, Bolivia
CALLAN, JAMES J.
1500 Highland Drive
Elm Grove, Wisconsin
DITTMAR, JAMES S.
390 Washington Street
Somerville, Mass.
DUGGAN, ROBERT
604 Franklin Street
Cambridge, Mass.
ENGLISH, H. ELWOOD
Box 886, c/o Ottawa Univ.
Ottawa, Kansas
FARBER, STEVEN N.
2775 East 16th Street
Brooklyn, New York
FINKELSTEIN, IRA A.
455 F.D.R. Drive
New York, New York
FELD, DANIEL
405 E. 16th Street
Brooklyn, New York
FOSTER, MARK W.
335 Perkins Avenue
McFarland, California

FRISCH, STUART
Peace Corps
c/o United States Embassy
Santo Domingo
Dominican Republic
GEWIRTZ, JOEL D.
610 Waring Avenue
Bronx, New York
GREENE, EDWARD B.
9 Highland Road
Montvale, New Jersey
GRIMSRUD, RICHARD
141 North 9th Street
Newark, New Jersey
GRISHAM, R. B.
1101 East University, Apt. 8
Marshall, Texas
HETHERINGTON, RICHARD E.
378 Willard Avenue
Toronto 9
Ontario, Canada
HOLFORD, A. DOUGLAS
c/o Mrs. Constance Holford
Box 452
Sugarland, Texas
HUDSON, MICHAEL J.
Pvt. Michael J. Hudson
U.S. 54 566 418
Co. E. 1st Bn. First BCT.
BDE (2 Ptl.)
Fort Polk, Louisiana
JOHNSON, JOEL
917 S. Washington Avenue
Emmett, Idaho
KATZ, LARRY
215-28 47th Avenue
Bayside, New York
KLAPPERMAN, JOEL
70 West 107th Street, Apt. 5B
New York, New York
KNOX, WILLIAM T., JR.
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8-339 Kamimeguro
Meguro-ku
Tokyo, Japan
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Red Bank, New Jersey
MEIR, DENNIS
6211 Silver Hill Court
Apt. 302
Greenbelt, Maryland
MEISER, KENNETH
Episcopal Community Center
538 Broadway
Camden, New Jersey
MORRIS, EDWARD L.
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Columbus, Georgia
NABI, MICHAEL STEPHEN
111 West 30th Street
Jacksonville, Florida
NIEMAN, KENNETH P.
916 Bullitt Avenue, S.E.
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PETRUCCELLY, JEFFREY PAUL
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Cleveland, Ohio
PHILLIPS, THOMAS D.
Miles College
Birmingham, Alabama
POMP, RICHARD D.
30 Speridakis Terrace
Cambridge, Mass.
POWERS, ARTHUR
245 Lancaster Street, S.W.
Aiken, South Carolina
RADETSKY, MICHAEL
c/o Malaria Eradication
Office
Chieng-Rei, Thailand
or 438 Larimer Street
Denver, Colorado

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1914 Fleetwood Drive
Grosse Pointe Woods
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RYAN, MICHAEL
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8 München 13
Habsburgerstr. 3/o
West Deutschland
SCHAPIRO, SAUL A.
P. O. Box "N"
Carmel, New York
SCHMIDT, JOSEPH R.
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1936 North Marianna Avenue
Los Angeles, California
SEE, EDMUND
141 N. 9th Street
Newark, New Jersey
SHAEFFER, HENRY W.
176 Adams Street
Boston, Mass.
SHETTERLY, JOHN A.
Box 4536
Tripoli, Libya
SIEGEL, DONALD J.
3105 - 24th Street, Apt. C5
Rock Island, Illinois
SIEGEL, STEPHEN A.
311 West 95th Street
New York, New York
SIMMONS, JOHN STEWART
2515 Piedmont
Berkeley, California
STEINER, THOMAS D.
29 Essex Street
Cambridge, Mass.
STUDEN, GREG
Middlesex School
Concord, Massachusetts
SNYDER, ALLEN R.
8201 16th Street # 226
Silver Spring, Maryland
or Pvt. Allen R. Snyder
ER 12782045, C-10-5, 4th Ptl.
Fort Knox, Kentucky

STERN, JEFFREY S.
6 Hickory Drive
Maplewood, New Jersey
or Pvt. Jeffrey S. Stern
RA 11628545
C-5-3
Fort Dix, New Jersey
STERN, MIKE
3735 Anza Street
San Francisco, California
STOLZBERG, ROBERT A.
31 Shawnee Avenue
Rockaway, New Jersey
or Peace Corps Training Center
P. O. Box 856
Hilo, Hawaii
WEBB, DAVID F.
Pvt. E-2 David F. Webb
ER 12782049
Co. D, 16th Bn., 4th Bde.
Fort Knox, Kentucky
WILLIAMS, BYARD O.
51 Dana Street
Cambridge, Mass.
or Pvt. Byard O. Williams
ER 11517237
A-4-2
Pt. Leonard Wood, Missouri

11 Days to Register Weapons

The RECORD prints the following news announcement from the Internal Revenue Service as a public service to our readers:

Anyone having an unregistered machine gun, sawed-off shotgun, short-barrelled rifle or other gangster-type weapon, or device such as a bomb, grenade or land mine, may register it with the Internal Revenue Service without penalty from November 2, 1968 through December 1, 1968. . . .

Firearms and devices covered by the registration requirement must be registered by filing Form

4467 in duplicate, with the Director, Alcohol & Tobacco Tax Division of IRS, Washington, D.C. 20224.

Anyone with weapons to register should write or phone his office of the IRS and obtain a copy of Form 4467. Weapons and devices should not be brought to Internal Revenue Service offices for the purpose of registration. . . .

Anyone with a bomb or grenade should make sure it is deactivated. The IRS can make arrangements to have the device inspected and deactivated.

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PLEC Panelists Discuss Zaire Crisis

By Warren Leonard

Last Friday, the Harvard Project on Law and Ethnic Conflict hosted a spirited discussion on the current crisis facing Zaire and Rwanda, inviting three experts to speak on the sociopolitics of the region. This past week saw the departure of hundreds of thousands of Hutu refugees from Zaire's Mugunga camp for their Rwandan homeland and the United Nations Security Council's authorization of a possible multinational humanitarian mission to the region. The panelists considered options for a viable response from the international community, discussing both short and long-term solutions to the refugee crisis.

Panelists included Jane Rocamora, a former U.N. Field Operations Officer in Rwanda; Scott Campbell of the Human Rights Law Group; and Peter Rosenblum, Projects Coordinator for the HLS Human Rights Program.

All three agreed that the media's account of the conflict has often hindered efforts to understand the situation and propose effective solutions.

"Often the media have reduced and oversimplified the situation to a tribal conflict — a Hutu/Tutsi ancient conflict," said Campbell. "This prevents us from looking at longer term solutions and gives the West and the outside world an excuse not to get involved or to get involved in manners that add up to 'Band-Aid' solutions that prolong the problem."

The speakers also agreed that one of the principal causes of the current crisis is the license to outrageous behavior afforded the Zairian government, particularly the military.

"The leaders themselves are subject to absolutely no accountability," said

Campbell. "The military are largely responsible for the civil and political violations; [they] act with complete impunity. The worst punishment a Zairian military will get for rape, looting, execution is being sent to another part of the country."

Rosenblum added "... wherever there is a certain amount of instability or disorder [the Zairian military] seizes the occasion to take whatever they can from whoever they want ... The issue of impunity is one that has itself impacted



Scott Campbell and Peter Rosenblum confer during human rights talk on Zaire sponsored by PLEC

greatly on this situation."

Rosenblum noted that the West's inability to diffuse this culture of privilege stemmed from its failure to clearly list and denounce the names of Rwandan abusers of power from the very start of the conflict.

Campbell said the public should demand a dialogue between the two countries and push for negotiations, while at the same time, advocating an arms embargo against the region. He also supported increasing the funding for human rights monitors and observers.

"Refugees fear three main issues that need to be addressed: security if they return, the lack of a judicial system and prison conditions, and land rights. They need to be addressed among other internal issues in Rwanda for long term solutions," Campbell said.

please see Zaire, page 6

Financial Aid E-Mail Sparks CLU Protest

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lack of familiarity with e-mail on the part of her staff. "We don't plan on e-mail[ing], except to specific students, in the near future."

Donahue took full responsibility for the incident, apologized for any harm that may have resulted, and promised that no such incident will occur again. She welcomed the prospect of a training session on e-mail and privacy for student service staff at HLS.

Silversmith said that "it is not a difficult task to learn how to prevent the recipients of correspondence by e-mail from seeing to whom else the message has been sent."

"Given recent events, both physical and electronic at HLS, the Financial Aid Office — and every other office that deals with private information — should be denied the use of e-mail to send correspondence to students until they can demonstrate that they understand the implications of how the technology works [and] can assure that every reasonable effort will be made to protect information that should remain private."

This is the second allegation of a vio-

lation of the Buckley Amendment that Silversmith has lodged with the Office of Financial Aid this year. Earlier, he revealed that confidential financial aid records from students who graduated last year were temporarily stored in unsecured boxes in a public corridor over the summer. He was able to photocopy a number of the records as proof of his allegation.

The oversight was not the result of any action by the Office of Financial Aid, but instead resulted from an error on the part of building operations in the transportation of the records to an off-campus storage center, Donahue said. Donahue said she the problem has been rectified.

Despite the efforts to remedy past mistakes, the Civil Liberties Union appears less than satisfied. "I am sure that HLS students would like to believe that administrators have our best interests in mind," Silversmith said.

"But that trust has been repeatedly abused, whether by opening and moving lockers without informing students to creating a speech code in the guise of a sexual harassment policy. The cycle must end."



Sally Donahue

Thompson Stumbles Through HLS Talk

continued from THOMPSON, page 1

country. We are living in a punishment era."

In 1990, Thompson founded a non-profit organization called "The Fourth Amendment Foundation" following an arrest for sexual assault and possession of illegal drugs and dynamite. Not surprisingly, Thompson has been the organization's "biggest client so far."

The celebrated but controversial writer struggled to tie his misdemeanor drunk driving charge to his beliefs about law enforcement. Thompson said there is a national crisis in law enforcement integrity that dates back to the reign of J. Edgar Hoover — a "hideous monster" who single-handedly "shaped law enforcement across the country," according to Thompson.

Thompson argued that government officials are trying to exercise an increasing amount of power over Americans by making more acts illegal. "They've made everything illegal," said Thompson. "The more people who are brought into the system, the more power you have over them."

Thompson noted that three times the number of people are in jail than in 1985, mostly as a result of drug-related arrests resulting from the Reagan-Bush war on drugs.

Deriding the "political context of [his own] bust," Thompson emphasized that he was not in favor of "drunkards driving, but that's not the issue here." Instead he said, "The cop indulged himself in selective enforcement" because of Thompson's history of political activism in his community.

Now facing an upcoming jury trial, Thompson is questioning whether he should simply pay the fine or go to trial.

"What should I do?" he asked the audience. "Am I a better citizen if I plead?"

One audience member responded, "Considering your state tonight and the

stories you've described in your writing, I don't think you'll be able to convince any jury that you were sober."

Indeed, Thompson's fame is based as much on his notorious lifestyle as a career substance abuser as on his explosive and irreverent prose. His most famous book, "Fear and Loathing in Las Vegas," opens with the line "We were somewhere around Barstow on the edge of the desert when the drugs began to take hold."

The book was published in 1972 and a 25th Anniversary edition is being published this month in Random House's Modern Library Classics series. Jimmy Buffett's Margaritaville label is scheduled to release "Fear and Loathing" on CD later this year.

Thompson's visit to HLS was the last event in a tour of parties, award ceremonies, and promotional events honoring the 25th anniversary of Thompson's greatest work.

Whereas Thompson has traditionally been admired as the creator of gonzo journalism — a style of writing born on the pages of Rolling Stone that blends fact and fiction with a near-lethal dose of drugs, alcohol, and self-destruction — this year marks his entrance to the hall of American literary giants as his book is placed alongside classics penned by Twain, Hemingway, and Melville.

Despite his newfound prestige, Thompson conceded his own self-doubts raised by his recent drunk-driving charge.

"I could be totally wrong here. I could be an embarrassment to the human race," he said.

However, the 100 or so audience members who made it to the end of his presentation supported Thompson in his defense. When asked how he should proceed in his drunk driving legal battle, the overwhelming majority voted for Thompson to "Fight to the death!"

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BRIEFS



Rep. Frank '77 Speaks at HLS Gay Rights Forum

Activists should use conventional political strategies to advance their cause, rather than employing alienating or violent tactics, said Rep. Barney Frank '77 (D-Mass.) in an address to a gay rights conference at HLS.

Last Saturday's conference, sponsored by the Harvard Civil Rights-Civil Liberties Law Review and HLS Lambda, focused on the legal ramifications of recent Supreme Court rulings, congressional bills, and executive orders relating to gay rights.

More than 50 people attended the conference in Austin Hall, including undergraduates, Law School students and others.

Frank discussed political strategies, citing the National Rifle Association as an organization whose tactics could be copied by the gay rights movement.

"They don't have demonstrations. They don't have marches," Frank said. "The fact that you may have a radical set of aims does not mean that you have to use unconventional political means."

"Conventional politics can be used for very unconventional causes," he said.

Frank also said he was "pleasantly surprised" by the number of representatives who voted against the Defense of Marriage Act, a bill to deny Federal recognition of same-sex marriages signed into law last month.

— from the Harvard Crimson

Harvard Yard Access to Remain Open Despite Attacks

Although the two recent attacks on students near Lamont Library are alarming, the University does not plan to restrict access to Harvard Yard or the Houses anytime soon, said President Neil Rudenstine.

In the past two months, two Harvard students have reported separate attempted armed robberies just outside Lamont's front entrance. On Oct. 26, a Graduate School of Education student reported being robbed at knife-point by two assailants on Quincy Street, next to the library, according to Harvard police. Then, on Nov. 15, a Harvard undergraduate reported that a man with an unidentified weapon in his hand demanded the student's backpack.

Detectives have been unable to make a connection between the two incidents.

Rudenstine said he was worried about the incidents, but had no plans to restrict access to the Yard.

— from the Harvard Crimson

NLRB Rules That Yale TAs Can Unionize

Yale University graduate students are celebrating a federal ruling that may allow them to unionize, hailing it as a "critical defense of academic freedom."

The ruling by the General Counsel of the National Labor Relations Board states that graduate teaching assistants at Yale should be classified as employees, not students, and are entitled to collective bargaining privileges as such.

"This is a tremendous vindication for our members who stood up to unprecedented threats in order to demand the most basic of democratic rights," said Robin Brown, chairperson of the Graduate Employees and Students Organization at Yale.

The NLRB announced last week that it intend to file a formal complaint against Yale for violating federal labor law by intimidating and threatening Yale graduate students.

If Yale does not immediately comply with the demands of the NLRB, the case will be heard before an administrative law judge. Many believe the results of that court proceeding could establish a national precedent.

"This has the potential of being a watershed decision," said Prof. Cary Nelson, who teaches at the University of Illinois at Urbana-Champaign and is an authority on academic labor.

"It can encourage students from across the country to become part of this growing movement," Nelson said.

— from the Harvard Crimson

University's Capital Campaign Reaches \$1.3 Billion

Harvard's five-year, \$2.1 billion capital campaign has now raised \$1,306,000,000 according to figures recently released by the University Development Office.

These figures, representing donations through the end of October, bring the University-wide total to just over 65 percent of its goal and represent a \$200 million increase since April. The Law School has already finished its campaign, exceeding its \$150 million goal by \$25 million.

The Faculty of Arts and Sciences has raised \$610 million of its \$965 million goal, or 63 percent, representing an almost \$130 million increase since the campaign totals were last released in April.

The Graduate School of Design and School of Public Health have both topped 90 percent of their goals, and the Kennedy School of Government and Medical School are now both above 80 percent.

Still, the Business School and Divinity School are lagging slightly behind the other schools, with 45 percent and 55 percent of their goals reached, respectively.

Harvard Beats Brown 2-1

The Harvard men's hockey team ended a four game losing streak with its 2-1 victory over Brown on Tuesday. After last weekend's 2-2 tie to Yale and 6-2 loss to Princeton, Harvard took advantage of goaltender J.R. Prestifilippo's fine performance to beat Brown.

Harvard took a first period lead 13:48 into the game. Rob Millar made a perfect centering pass to Craig MacDonald, whose shot was stopped by Brown netminder Jeff Holowaty. Brett Chodorow pounced on the rebound and scored.

Jamin Kerner used his tremendous speed to give Harvard a 2-0 lead at 5:55 of the second period. Kerner skated down the right wing on a one-on-one before he cut toward the center and launched a perfect shot over Holowaty's right shoulder.

Despite a third period goal by Mike Noble, Brown lost to Harvard for the second time this season.

Musings and Vagaries

The Eye On the Cheese

By Renée Kaplan '99

RECORD Columnist



Since the end of the moratorium on the 1L job search, marked by the ceremonial distribution to the first year congregation of the sacred HLS host, the Employer Directory, tension has thickened palpably. The pace has intensified, goals have sharpened, all outlooks have converged, finally unified, on one purpose: to get a job. All 1Ls as one, determined and resolute. Finally, it's time to get down to business, to try the market, to test the current mettle of this future degree, to actually allocate this dearly acquired capital. Finally reaching Phase One in the 1L production plan affords a definite, if disconcerting, sense of gratification.

The disconcertment stems from an odd sense of process overcoming experience, of synchronic time being wholly subsumed by the perfectly-foreseeable, always-imminent, and essentially-unavoidable diachronic next-stage. What a funny feeling to know, very exactly, what it is that we'll — all 550 of us — be doing around Nov. 1, around Dec. 15, in the beginning of March, at the start of June. What a funny feeling to realize, in fact, that it doesn't really matter — from a practical professional perspective — what we're doing now, but rather just that we get there. It seems that much of the first and second (and third and fourth?) semesters of law school consist of a game of gestures. Much as little girls and boys play house, so we big kids can play law school: you'll be in that section, and I'll be in this section, and then we'll buy outlines, send out some resumes, take some exams — let's pretend like we get B's; easy, see? Okay, let's start, but I call Dersh for Crim, and you can play with the public interest stuff.

But the point of playing house, or cowboys and Indians, was mostly to have fun while you did it; there was no ultimate scope and the game ended when your brother tied you, the evil Iroquois, to the swingset, and left you screaming hysterically to go ride his dirtbike. The point of playing — or, if you will, going — to law school seems to look primarily at the scope, and at the successively marked relays leading to the scope, with little reflection on the substance of the experience itself; you know, law school for law school's sake, hahaha. Just as the reasonable person makes contracts, forms customs, and generally reasons in the famous shadow of the law, so do we seem to operate in a kind of goal-determined shade: in the shadow of being called

Everybody's talking about it — and they always leave you a reminder in your Hark box just in case.

on, in the shadow of the grade, in the shadow of the interview, in the shadow of the job, always in the shadow of some ensuing outcome. And what goes on in the interstices between objectives is certainly not what we spend much time talking about.

The drawback occurs when the objective becomes too distant, or unappealing, or unfocused — all very likely, if not necessary, stages before personal or professional epiphany — and there results an unsettling sense of disembodiment, when you can neither relate to the end (making law review, a summer job, an offer) nor the means (law school itself). It is the feeling of being propelled by structural forces, of being drawn forward by the magnet of system, by a perfectly predetermined set of generic "sample" objectives: commercial outlines, sample resumes, employer directories, mock interviews.

And if the law school experience seems somewhat less reflective than playing house, it also seems a bit less affable. Despite a perfectly displayed and labeled array of 140 members of diverse genders gathered often several times a day, with only the professor to distract from active scoping, there doesn't appear to be much interest. Perhaps high-quality pre-screened pedigree makes not always for hanky-panky. Maybe there's a dearth of attractive and interesting men, perhaps a lack of attractive and interesting women, or just not enough of that furtive cross-classroom eye contact to make you want to look on the web page, check that he's not married or Republican, and take a chance on the strategically noncommittal coffee date. Or perhaps, more likely, there's simply the feeling that this is just not the time or the place, that law school's general purpose, for most of us, lies not in experience, but in product; less in being a student of law, than in getting a J.D. and a job. The advantage of this supremely procedural *modus operandi* lies in the reassurance of not being passed by. There is little risk of the process overtaking you, because it is practically impossible to lose sight of the next relay; everybody's talking about it — and they always leave you a reminder in your Hark box just in case.

So just follow the road signs, no need to stop for directions or a slushee. There are no hidden roadblocks or secret turns, or even dead ends to the very linear law school maze, and the cheese — a job — always awaits at the end. First it's just a little cheese, and most likely an unpaid one, then it's a bigger cheese, perhaps in a bigger city, and finally it's the biggest cheese. And sometimes the bigger cheese was actually a hunk of the biggest one, so you can triumphantly wave away the 3L cheese platter and tell the waiter to bring on dessert: the only thing you have to do now is save room for the petit-fours (after the bar exam). Of course, you must hope that your appetite will hold out — and that you'll still be hungry for cheese at the end of the meal. But really, if you weren't hungry for cheese, you could have gone to the IHOP instead of coming to law school.

Recycle
the
RECORD!



Across the Wire...



This Week, Reports From the East and Mid-West

Texas Officials Fear "Hopwood" Will Force Minority Students Away

COLLEGE STATION, Texas (AP) — Texas A&M University and the University of Texas are fierce foes on the gridiron. But when it comes to addressing an anti-affirmative action ruling, they're on the same team.

Their common adversary: out-of-state schools that may be more attractive to Texas' top minority students because they can consider race as a factor in admissions and financial aid — something Texas schools no longer do under a federal court decision.

The fallout from the lawsuit known as the *Hopwood* case, after lead plaintiff Cheryl Hopwood, is long-term, said Texas A&M President Ray Bowen.

"The recruitment of out-of-state universities in Texas has gone up. ... They know we're at a distinct disadvantage," he said.

Max Sherman, dean of UT's Lyndon B. Johnson School of Public Affairs in Austin, said, "I think for very competitive students, they're going to be aggressively recruited. And if someone offers them a financial package because they are a member of an ethnic minority, then they probably will be tempted to take that."

"If the state of Texas cannot make that offer to them because they are an ethnic minority, then you probably are at a considerable competitive disadvantage."

Both spoke in interviews at a recent Texas A&M conference that drew officials from a number of state universities to discuss dealing with the *Hopwood* decision.

In that case, the 5th U.S. Circuit Court of Appeals in New Orleans struck down the UT School of Law's admissions policy, which was meant to boost enrollment of blacks and Hispanics. *Hopwood* was among four whites who challenged the policy.

The appeals court said the policy discriminated against whites, and the U.S. Supreme Court allowed the ruling to stand.

The decision has resulted in Texas universities' halting the consideration of race as a factor in admissions and financial aid, following advice by state Attorney General Dan Morales '81.

While the 5th Circuit's jurisdiction also includes Louisiana and Mississippi, officials said those states aren't reacting the same way as Texas because of a separate court case.

Outside the 5th Circuit, universities are under a previous U.S. Supreme Court ruling allowing race to be considered as a factor.

That puts Texas at a disadvantage in attracting minority students, which will last until another affirmative action case levels the playing field nationwide, officials say.

Meanwhile, they are looking at ways to avoid losing minority students — such

as a suggestion by state Higher Education Commissioner Kenneth Ashworth that Texas explore whether it's permissible under *Hopwood* to offer preference in admissions and financial aid to any student who gets such an offer from an out-of-state institution.

At Texas A&M, the percentage of black and Hispanic freshmen already has declined, Bowen said. The first *Hopwood* decision by a federal district court was made in 1994.

The percentage of black first-time freshmen enrolled at Texas A&M decreased from 5 percent last fall to 4 percent this fall, while the percentage of Hispanic freshmen dropped from 15 percent to 11 percent. The school's total minority population rose slightly because of transfer and graduate students, Bowen said.

"The cycle leading to the fall '96

admissions was the first one that was dramatically affected by the '94 decision," Bowen said. "But the big test is the fall of '97. Then there'll be no question any more. We'll be able to say precisely what happened. We expect that to be a reduction in minority students."

There also was a slight decrease in first-time freshmen at UT-Austin. The percentage of black freshmen dipped from 4.9 percent to 4.1 percent between 1995 and 1996. The number of Hispanic freshmen fell from 935 to 932 students.

In the worst case, Bowen said, it could be 10 years before a case is decided by the U.S. Supreme Court setting a uniform standard nationwide.

"You're talking about a generation of young men and women that are the most qualified to be successful in the future. ... They will have better financial opportunities out of Texas," he said.

U.S. Still Assessing Need for Military Mission in Zaire

WASHINGTON (AP) — The Clinton administration is reassessing the need to send American troops to Zaire after dramatic changes on the ground sent hundreds of thousands of Rwandan refugees streaming homeward, officials said Sunday.

"The need for humanitarian relief as I see it has not gone away," Defense Secretary William Perry said Sunday on NBC's "Meet the Press."

But he said, "The nature of the need is changing dramatically by this migration of refugees from Zaire into Rwanda."

President Clinton's Friday announcement that the United States agreed "in principle" to supply some 4,000 troops to a multinational force coincided with a massive movement of people out of the camps along the Zaire-Rwandan border.

Madeleine Albright, the U.S. ambassador to the United Nations, said forward troops would not be sent to Rwanda, and the plan to send 1,000 Americans to secure the airport around the Goma, Zaire, camp may be outdated.

"We may just now be able to do only the logistics support to make sure that the humanitarian assistance is given properly," she said on CNN's "Late Edition." She said members of the proposed multinational force are to meet in Germany this week to assess the changing situation.

Perry said no final decision has been made on dispatching American troops. He said 40 military officers are

now in Rwanda, where the government has indicated that it wants aid but considers a military presence unnecessary. Reconnaissance planes are sending back details of population movement.

The secretary said a decision is expected in the next few days and that a few thousand troops, mostly logistics personnel, are ready to leave on a day's notice.

He noted that 1,000 American soldiers were sent into Zaire two years ago during an outbreak of cholera at the camps.

"We have responded when the crisis occurs whenever the military's assistance that was needed was uniquely able to deal with a situation," he said. But he added that "we are not a salvation army" and "there may or may not be a unique need for it now, and we are watching it very closely."

The provisional plan specifies that the United States send 1,000 troops to secure the airport near Goma and provide another 3,000 for logistics support. The Canadian-led mission is to last four months.

The United States also is to donate \$25 million in aid, and Sen. Don Nickles said this is where the emphasis should be.

"I have serious reservations about whether or not we're needed" in the wake of the peaceful return of many refugees, Nickles said on "Fox News Sunday." "I'm not sure we help more by sending troops. We might help more by giving some financial assistance to some of the relief agencies."

Victims' Rights Depend on Lawyers, Judges

RICHMOND (AP) — The Victims' Rights Amendment should make the justice system more responsive to crime victims, but the power to act on it rests largely with the legal system, a member of the Virginia Parole Board said.

"Perceptions need to change in the hearts of judges and attorneys," Linda Pitman told members of Virginians United Against Crime at their annual meeting at the Capitol.

Pitman, the first victim of violent crime to be appointed to the Virginia Parole Board, said the amendment gives crime victims official standing in a system that has often treated them as evidence or nuisances rather than as people who have suffered losses.

The amendment, which becomes law Jan. 1, is designed to force officers of the courts to consider crime victims' needs and feelings. Among other things, the amendment says victims have the right to be kept informed about court dates and the progress of cases; to receive restitution; to be notified if suspects escape or are released from custody; to speak at the sentencing of defendants; and to "be treated with respect, dignity and fairness at all stages of the proceedings."

But Pitman said the amendment is so vague about terms such as dignity and restitution that its impact is sure to vary among localities and courtrooms. She said crime victims need to be aware of their new constitutional rights — which will be printed on cards available from police investigating the crimes — and to insist on receiving them.

Virginians United Against Crime lobbied hard for the victims' rights amendment, which voters approved on Election Day by roughly 83 percent.

The Arlington-based group also lobbied for an amendment to allow prosecutors to appeal acquittals in criminal cases when the reasons for acquittal are unrelated to the defendant's guilt or innocence — as in a case where charges are dismissed because the defendant didn't get a speedy trial. That amendment passed with roughly 70 percent of the vote.

The amendments were the latest in a series of anti-crime measures in Virginia, including the stalking law and the abolishment of parole.

But group members said the system still has room for improvement. Some recalled being hustled out of courtrooms at the request of defense attorneys who didn't want the jury to see their anguish; of being ignored and snubbed by prosecutors; and of taking time off from work to attend court hearings only to find the hearings had been canceled well in advance without their knowledge.

Sander and Parker Quarrel Over Source of Indecisive Vote

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experiment with participation-based grading. First, the instructor would get approval from the Deans and the Legal Education Committee of his or her plans for the experiment. If the plan is subsequently approved, the instructor must describe the modifications in grade evaluation to students before they enroll.

Second, after the course ends, the instructor would solicit written comments on the experiment from the students and submit them along with the instructor's own observations to the Deans and the Committee.

Third, after the submission of the grades to the Registrar, the instructor would tell the Deans, the Committee and any interested students how many grades he or she adjusted on the basis of class participation.

However, at the October meeting, the Committee submitted for faculty vote a revised version of the proposal which omitted the first required step.

Sander asserted that the deletion of the first step and the lack of a written memo explaining the revision left some faculty members speculating about the amount of "discretion" given to individual professors over their proposals since no prior approval by the Associate Deans or the Committee was now required.

"My own interpretation is that lots of questions were raised. There lacked clari-

fication on what kinds of experiments could be made, on what was appropriate under the revised Committee proposal. Does it mean now that any changes a faculty wants to make ... can [be made] in the proposal?" asked Sander.

Moreover, Sander added that "by removing the safeguard — experiments had to be approved by the Associate Deans for following of the spirit and letter of the 1976 statute — we were not sure if this would be undoing the original faculty vote [in 1976]."

As a result, Sander argued that the vote cannot be interpreted as indicative of a "faculty evenly divided about whether to count class participation." He asserted that, given the confusion, this issue "was not even put to the faculty."

Sander said he believes the outcome of the vote was to return the proposal to its original status — including the first requirement — with further discussion of the issues necessary.

Parker responded, "We dropped the first step because we found out that a lot of professors were already adjusting grades according to class participation."

"We did not want to stop de facto experimentation by the professors. To draw any bright line between already existing plans and the new ones is arbitrary."

Parker asserted that the omission does not make a difference in "the real control" of submitted proposals.

"The real bite is not in the approval

stage but the reporting and evaluation stages which are still included in the proposal," he said.

Furthermore, Parker said that Sander's characterization of the vote was "not very credible."

"No one suggested that we return to the old proposal. It was very easy to make a motion to reinstate the approval [requirement]," he added.

LSC to Propose Student Forum

The conflicting perceptions among the faculty regarding various issues affecting students' overall educational experience at HLS illustrates the imperative of student participation and the necessity of their opinions being heard, student leaders said.

Towards that end, the LSC, in a joint effort with the Committee, will hold a student forum early next semester to present the basic issues to the students and get their reactions.

"We don't know yet exactly when the forum will be held," said LSC Treasurer Dina DeFalco '98. "But it will be as early as possible in the next semester."

LSC president Chip Nierlich '97 agreed that a forum encouraging "some feedback" from students is necessary. "[LSC vice president] Rob Jancu '98 surveyed his first year section four class [last year], and everyone was overwhelmingly opposed to including class participation in grade evaluation. But we don't know what 2Ls and 3Ls want."

DeFalco added, however, that "students do seem to want changes. We know that they are unhappy here. Every year students complain. It will all erupt pretty soon."

DeFalco sees the forum as a positive step towards more student participation in the administrative decision-making process.

"Various complaints are brought to the Dean. But it is one person, one voice, and one view. It is sporadic. With the forum, students can make their desires come to life," she said.

Both Parker and Dean Sander encourage the forum. Parker said he believes the forum is especially important in providing student feedback on the Committee's future agendas, such as reducing the size of heavily subscribed upper-level courses.

"There are members of the faculty — and, quite possibly, of the Legal Education Committee — who doubt the size of our large classes is even a problem," said Parker.

"The question ... is whether the size of our large classes should be of serious concern at all and whether we should shift

direction and try to make such classes smaller. We need to know what students have to say about that question."

Parker to Propose Quorum Requirement for Faculty Meetings

Expressing his disappointment at the number of faculty members who voted on the class participation proposal and the general lack of attendance at faculty meetings, Parker will propose a quorum requirement at the next faculty meeting that will mandate that a critical number of faculty members be present before a vote can be taken of any proposal or recommendation.

"I propose tentatively a two-thirds [attendance requirement]," said Parker. "I don't think it is right that a small minority purports to speak for the whole."

Presently, regular faculty meetings are scheduled on Fridays once a month with advance notices given to all the faculty. At the last two meetings, attendance was at 28 and 32, respectively, out of the 70 eligible faculty that could attend, according to Parker.

According to both Clark and Associate Dean Todd Rakoff '75, no official sanctions are doled out to professors who do not attend faculty meetings.

"The general policy is that you ought to come," said Rakoff.

Rakoff said, however, that 10 to 15 professors on any given faculty meeting will not show up due to sabbaticals, being away from campus, or other legitimate reasons.

Rakoff said he believes the 28-person attendance during the October meeting represented "half of the faculty."

Clark characterized attendance at faculty meetings as professors' "citizenship duty." He asserted that attendance varies according to subject matters and time of year. Although there are no official sanctions for missed meeting, Clark said that an unofficial sanction is "the loss of influence among the faculty."

Clark added that there is an unofficial quorum requirement for certain issues. "I certainly would not dream of sending a recommendation on appointment to half of the faculty — although the faculty always show up for that," he said.

"It is ironic that the Legal Education Committee is trying to find ways to fight student apathy and at the same time, if you go to a faculty meeting, you will see apathy among the faculty. It may be an indication of where [the student apathy] is coming from," said Nierlich.

"Corporations have quorums. They give attendees \$100 to \$500. Maybe we can do the same for professors," said Parker, half jokingly.

Sunstein, Sager Debate Court's "Minimalism"

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Colorado's statute prohibiting laws forbidding discrimination on basis of sex orientation, and *United States v. Virginia*, which invalidated the sex discriminatory program at the Virginia Military Institute (VMI), as examples of minimalist invalidation.

In *Romer*, said Sunstein, "the Supreme Court struck down the law as irrational... not because the state legislature belongs in a loony bin... and the law had no plausible connection to a legitimate state interest... but because the law was motivated by animus — its wellspring was irrational and invidious hate and fear."

The invalidation of laws motivated by animus is "a narrow idea and a shallow idea that seems to single out something like very sharp we/they distinctions between classes of human beings in which there is a fear of contamination or contagion," said Sunstein.

In the VMI case, Sunstein noted that Justice Ginsburg's opinion was deep ("she gave an account of what the problem of sex inequality is a problem of") but narrow ("the decision doesn't extend far beyond VMI").

"The problem of sex inequality is a problem of using differences as the basis of unequal opportunity," said Sunstein. "There is no claim that men and women are the same, no claim that sex cannot be used as difference."

Highlighting the narrowness of the decision, Sunstein paraphrased a line from Justice Ginsburg's opinion: "Though we need not decide how same sex institutions should generally be treated, this one's still illegitimate."

Sunstein summed up the 1995 Court as "emphatically minimalist."

Sager offered a dramatically different interpretation of the 1995 term. Starting with an examination of "what Justice Scalia is so angry about," Sager posited that Scalia's frustration with the "terminal silliness" of the "most illiberal Court" was prompted by the fact that "Justice Scalia has lost his own war — the war over our basic understanding of the role of the Court in our affairs."

Sager discussed two models of the Court's function in our society. In the first model, supported by Scalia, "The Court is an instruction-taker. ... [It] must take

instructions from the text of the Constitution, or from traditional practice. ... When it deviates to exercising independent, normative judgment, it's behaving in an illegitimate fashion."

The second model, said Sager, sees "the Court as a partner in making important decisions about fundamental propositions of political justice. We, as members of the popular, constitutional decision-making people, in the liberty-bearing propositions of the Constitution are inclined to speak in very general, abstract, summary terms. The judiciary reduces people's generalities to concrete specifics. This model acknowledges and welcomes the substantial influence of the judiciary's independent judgment."

Sager said that in every major case decided this term "the Court worries about moral abstraction." The one exception was *Loving v. US*, a death penalty case. Here, said Sager, "Kennedy goes into lengthy discussion of pre-constitutional English history, a discussion sufficiently arcane that Justice Scalia himself rejects it as irrelevant."

Sager disputed Sunstein's interpretation of the VMI case.

"The right way to understand Justice Ginsburg's willingness to strike down a single-sex VMI is not minimalism, but that patent injustice in gender areas — the subordination of women as second class citizens — is inherent in institutions that have prominent roles in the local societies of which they are a part."

"Justice Ginsburg is much more unsure about whether there is room for single-sex institutions in other contexts. ... It seems quite plausible that there would be times and places where single-sex academies would not be an affront."

"This was a Court many people thought had drifted far from the core values the Warren Court was famous for protecting, a Court which seemed bent on reducing its own influence on American political life," Sager said.

"Yet this was the Court that decided *Romer v. Evans* and VMI, two landmark cases that are going to be increasingly important for the rights of gays and lesbians on the one hand and women on the other. That, for me, is a source for celebration, not of pain, as it was for Justice Scalia."

Panelists Emphasize Need to Strengthen Public Institutions in Rwanda and Zaire

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Rocamora added that "getting the justice system up and running properly in Rwanda is a major critical issue associated with and having a huge impact on this refugee situation."

Rosenblum also emphasized the importance of addressing the refugees' fears of retribution once they reentered Rwanda and their concerns about the justice system. He proposed putting qualifications in place before people could be arrested.

The United States and others on whom Rwanda is so dependent need to insist on a special regime for returning refugees, and it needs to be a special regime of prearrest. It needs to limit arrest based on certain things being met first before anyone is arrested ... when there is a dispute over property or land, they must go through a special regime, so that ... claims of corruption

in Rwanda right now [are] dealt with."

All the participants emphasized the need for strengthening the public institutions of both Rwanda and Zaire in order to better protect the fundamental rights of each country's populace.

Campbell, who was evacuated from Goma only two weeks ago, summarized the situation in Zaire. "The long term role of the West should be to promote structural change within Zaire. The human rights situation is so grim in Zaire that the basic first step is getting the government accountable for its actions and for this, they need free and fair elections," said Campbell.

He added, "The full weight of the international community needs to be on Zaire in the sense of insisting on a transition to democracy and that free and fair elections happen as soon as possible. This is the only way that Zaire will have a government that can be held accountable for its actions."

LOX POPULI

The Great Escape

By Jamie F. Metz '97

Restaurant Reviewer



I want my music to be a sensual, an almost sexual experience. I want the listener to be overcome with desire.

It had been a rough week. My nagging knee injury was threatening to end my marathon career. My beautiful composer dinner companion was having trouble with an insensitive colleague. But our potent new surroundings were drawing us in.

My first thought was to tell her to forget dinner. Let's go back to the car and listen to your music. But she was an old girlfriend, and I knew better than to tinker with a friendship we had fought so hard to build. I had a column due the next day, and if I didn't review this restaurant, I'd have to write about the hot Grape Nuts with raisins I had for breakfast that morning. Of course, we would stay. We'd both been rushing around so much we'd hardly had time to talk. We needed to slow down, to process what we'd each been going through. We periodically interrupted our discussion for brief glances at the menu.

Salamander is located just behind the Cambridge Athenaeum near MIT. Elegantly designed in earth tones, the spacious restaurant has an intimate feel. The combinations on the menu seemed daring, even if I worried whether it would all be too heavy, and the iron-clad discipline of my marathoner's diet would be shot.

Our shared woes blended with our appetizers. We discussed my MRI and bone scan results over the Asian pear salad with tiny green beans, shitake mushrooms, red onion, peppers, caramelized almonds, and scallops glazed in a pear-ginger sauce (\$12.50), a perfectly proportioned combination which drew out the flavor of each of its many ingredients. Her problems floated over curried spinach and winter squash soup (\$5.50), a wonderful combination with subtle hints of coconut milk, lime, mint, carrot, caramelized onions, cumin, and cardamom, and a dollop of steamed cultured milk on the top. The rosy slices of charred beet around spicy peanut noodles with dots of hot oil (\$9.00), however, began to transport us somewhere new. Even though the noodles were over-saturated with peanut sauce, the lightly seared carpaccio was perfect. The succulent, ultra-rare beef melted in our mouths like butter, artistically accented by the cashew-sesame sauce sprinkled with roasted sesame seeds. That problem sounds really difficult. Oh my god, taste that.

The entrees were a magic carpet of taste. The swordfish (\$22.00) was a superb cut marinated in paprika and cumin and tandoor roasted to perfection. This was only the jewel in a magnificent crown. The fish was topped with a puree of remescu almonds and sweet red bell peppers and rested on a bed of creamy chick-pea mash. The fennel salad reveled in a citrus vinaigrette accompanied by four different types of olives. Long triangular strips of Italian flatbread, flavored with Lemon juice and cooked in the Tandoor oven, vaulted over the aesthetically beautiful dish.

We were entering a world defined by secret tastes, interactions of spices, and glories of ingredients. Are you catching the hint of lime? Feel the texture of this. Moans and groans.

The red snapper fillet wrapped in banana leaves and roasted with rock shrimp and littlenecks in a sweet and sour broth of lemongrass, cilantro, pineapple, ginger, coriander, peanut sauce, and chili pepper (\$24.00) tasted almost like Thai Tom Yam. The clams were cooked just the right amount and the fish was airy and flavorful.

It was the desserts, however, which finally emancipated us from the faint but enduring concerns of the lives we knew waited for us outside the restaurant doors but which seemed less and less relevant. The chocolate Napoleon (\$7.00) balanced two sheets of semi-sweet chocolate between a rich chocolate-macadamia nut brownie and a deliciously moist square of hardened chocolate custard. The spun sugar resting upon a raspberry coulis to the side had the unlikely appearance of steel wool and the delectable taste of caramel. The coup de grace, however, was couscous custard in a phyllo cup with spiced quince compote (\$7.00). The custard had the creamy consistency of tapioca. The phyllo cup was firm enough to hold its contents, but soft enough to flake into the custard at the slightest prompting by our spoons. The tangy compote danced on our tongues.

Suddenly, the world outside was gone. There were no insensitive colleagues, no agonizing discussions before illuminated X-rays with white-coated doctors, no announcements of upcoming marathons arriving in the mail. There was not the discipline of my 6 a.m. workout schedule, nor my no-fat diet preserving my dream of running again. There was nothing but taste and the company sharing it. We felt drunk.

And I realized that maybe the chefs at Salamander had actually done what my date, my dear friend, had aspired to do. We had been taken in through our senses, and the world, for a moment, seemed almost perfect.

SPORTSGUY

Ames Madness!

By Todd Stillerman '97

Sports Editor



Attracting readers to the wide world of sports at Harvard Law School is not always easy. Sure, intramural die-hards anxiously await the SPORTSGUY's weekly chronicles of the misadventures of *Posse Comitatus* or Gooch's Two-Headed Johnson. And the SPORTSGUY dearly appreciates the fact that his grandmother fearlessly plows through the witty insights into Fox40 pea-less whistles or the latest phantom assist from Steven Rowe '97 (Grandma Stillerman may not know HLS intramurals, but she's positive her grandson hung the moon).

Nevertheless, the majority of his classmates probably skip over to the latest Michael Bennett movie review before the first mention of Freshies can even meet the eyes. Small-time law school sports just do not carry significant mass appeal. This week, however, the SPORTSGUY found time to attend the most pure sporting contest known to the legal community — the Ames Moot Court Semi-Finals. Read on, sports fans, because this stuff's got more drama than a Meryl Streep film festival!

In a scene strangely reminiscent of last week's Tyson-Holyfield battle, the Ames court seemed like Caesar's Palace, primed for a championship prize fight. Moot court chair Michelle Gasaway '97 might just as easily have bellowed "let's get ready to rum-uuummm-bbbuuuulllll!" as she welcomed a feisty crowd to the first semifinal match-up between the heavily favored Wild Horses Team and the underdog Langdell Memorial Team.

The wily Langdells had qualified for the semis as the wild card entry after recording the highest overall score for a team not winning its own group. The Horses trotted out to a strong start like championship thoroughbreds on the strength of oralist Narissa McGinn's '97 eloquent advocacy, but Joel Hammerman '97 captivated an ornery panel of judges to seal victory for the Langdells, who were awarded Best Brief and Best Team honors.

The Langdells' upset bid had gathered steam recently due to the kamikaze training regimen dictated by counsel-of-record Rachel Blum '97. "We decided to take a cue from Bob Dole and stay awake for the last 96 hours of the competition. Travis Pearson '97 and I spent four days and nights quizzing Joel and [other oralist] Gary [Bornstein] '97 on the finer points of copyright law."

The 96-Hours-to-Victory strategy nearly went awry when Bornstein argued to Justice Albert M. Rosenblatt that fair use was "good for America. You know it, the American people know it, Gary Bornstein knows it." The Langdells recovered for an overwhelming triumph that permeated all levels of the competition, reaching all the way to the more subtle competition among back benches. The entire team sat rapt with attention, giving the appearance of a team that meant business. "We were heavily sedated," noted Pearson.

Hammerman, named Best Oralist by the panel, managed to engage the panel in a spirited conversation, all the while maintaining a determined tone. "He was the only one that stayed away from the cutesy-pie stuff," observed legendary Philadelphia attorney (and proud papa of the winning counsel-of-record) Howard Blum '66. "He deserved to win."

Hammerman's teammates were somewhat less in awe, notably David Markus '97. "I'm glad Joel eked out the trophy. He was in serious danger of only being remembered as the poor bastard that brought Hunter S. Thompson to the Law School."

An emotionally-drained Hammerman praised his teammates, and offered special thanks to "all the people who made this possible — Kristen from Starbucks, Juan Valdez, Joe Camel, and especially the Marlboro Man."

The SPORTSGUY was impressed with McGinn's poise under pressure for the Horses, particularly when an amazingly inconsiderate photographer blasted three camera-flashes at point-blank range. Mike Francis '97 faced a surly panel on rebuttal, but otherwise performed admirably. The panel afforded special praise to a section of the Langdells' brief authored by Jon Cantor '97, who noted that the fair use doctrine was advocated in an article by Professor Lloyd Weinreb, who teaches at Harvard Law School with Alan Dershowitz, who authored *Reversal of Fortune*, which starred Glenn Close, who appeared in *Mary Reilly* with Julia Roberts, who co-starred in *Flatliners* with Kevin Bacon.

The second semifinal pitted two first-round winners, the petitioner Myra Bradwell Team against the respondent John Minor Wisdom Team. The four able oralists faced a much kinder, gentler panel that seemed genuinely interested in assessing the defendant's rights to self-representation and due process. From the gallery, the SPORTSGUY and his media colleagues had scored the oral argument a draw when the justices retired for consideration. The Bradwells' Laura Rosenbury '97 had led off the argument with clear, assertive explanations of her mythical client's right to a *pro se* defense that subsequently won her the Best Oralist honors. Steady, patient presentations by oralists Jon New '97 and Stephanie Agli '97 and a stronger brief, however, nudged the Wisdoms over the top for Best Team.

Agli surprised both friends and teammates with her firm resolve under fire. Widely known for her gentility and kindness, the Wisdoms' first oralist quickly showed she was up to the challenge. Agli credited teammate Tony Falzone '97 with the transformation "Tony put me on a serious diet and physical conditioning program. I was up to the task." Noted Falzone, "The metamorphosis was amazing. Remember the change in Linda Hamilton from *The Terminator* to *T2: Judgment Day*? Steph was ready to take on Schwarzenegger."

Josh Toll '97 of the Wisdoms was quick to note the overwhelming presence of a particular intramural sports team. "Tony Falzone and I are both members of the Great Danes, as are Rachel Blum, David Markus, and Joel Hammerman [all Langdells]. We all learned how to win from coach Roberto Hernandez '97, and we never looked back." Toll further noted that a conversation with Justice Rosenblatt revealed the existence of a Great Danes squad in the '50s and '60s. "Justice Rosenblatt said that he lived on the first floor of Dane Hall with Professors Bellow and Michelman and Justice Scalia. They won the football championship, but Scalia didn't play much. He preferred to listen to Handel in his room and smoke his pipe." Toll credited the storied tradition of the Great Danes with inspiring him to moot court glory.

The two semifinal winners wasted no time in issuing challenges to their future opponents. Counsel-of-record Michelle Woollen '97 suggested that she could "take out Blum in three rounds, easy." Hammerman wagered that his Langdells could beat the Wisdoms not just in the court room, but any sporting contest. Whatever the case, the SPORTSGUY promises to follow this story to its conclusion. And in the great tradition of Boston College sports, he'll take the Langdells as a 2:1 favorite to beat the Wisdoms come spring.

The RECORD
will be away for
Thanksgiving.
See you one last
time Dec. 6.



Harvard Law RECORD

Founded in 1946

Rob Friedman
Editor-In-Chief

Hope Yen
Publisher

A Plan to End the Class-Size Folly

Dean Clark '72 would like to hire six new professors. The Legal Education Committee would like to reduce class size, increase the quality of the educational experience, and get the faculty more active in educational issues.

These problems will not be solved, however, until we reform the incentive structure. So, with Steven Kerr's management classic, "On the Folly of Rewarding A While Hoping for B" close at hand, here are four RECORD proposals.

Problem #1: Hiring professors is difficult because the faculty is "picky" and the two-thirds requirement for approving candidates leads to purposeful political obstruction.

Proposal: Professors have no incentives to add to their ranks if they face a downside (the effort to meet and confer, sharing the prestige with "less established" professors, and watering down their individual influence). Thus, failing to hire, or even to show up (only 28 professors showed up for the last meeting) has little cost.

Professors should have to teach a courseload commensurate with the number of offered courses. The smaller the faculty, the larger each professor's courseload. This would provide a cost to failing to add professors, and would help bring professors' interests in line with students'.

Problem #2: Large classes hinder class participation.

Proposal: Participation-based grading is not the solution to 2L and 3L apathy. Reducing class size would help create a better environment for discussion. Putting a carrot before students fails to get at the reasons why students choose not to participate, and comes with negative side-effects (i.e. encouraging over-anxious students).

If the School does not wish to reduce the number of admitted applicants, then there should be five 1L sections instead of four, and the second year should involve a "bundling" of professors. 2Ls should be guaranteed slots in second year basic courses and should be able to choose from three categories of professors (categories based on professor popularity) to make up their "bundle."

Problem #3: Brilliant scholars do not always make brilliant teachers.

Proposal: We must accept the reality that some professors are better teachers than others, and that this skill directly relates to professors' popularity. While the School must risk hurting professors' feelings by grouping them, we must actively work to improve professors' teaching skills.

A faculty teaching committee should be created to oversee the training of teaching skills. All non-tenured professors should be required to spend a certain number of hours learning these skills. Additionally, any tenured professor who scores below the average "overall effectiveness" rating on annual student evaluations in three of four consecutive years should be required to take part in training as well.

Problem #4: Professors do not teach their required number of credits.

Proposal. Dean Clark must enforce the rules. Professors are required to teach an average of 10 credits a year. Last year, only 16 professors met the requirement.

Additionally, rules against excessive periods of leave must be enforced. The School should not hire someone like Christine Jolls and count her as a member of the faculty if she has been clerking for the last two years and has only taught one three credit course during her three years "on the faculty."

— Friedman

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

—First Amendment, US Constitution

• Letters •

"Leftist" RECORD Articles Indicative of HLS' Decline

In the sunset years of my life in the law it was disturbing to read recently HLS has predictably bumbled its way to fifth place from being the #1 law school in the English-speaking world.

Why? RECORD editions of Oct. 18 and Oct. 11 reveal a sample of the RECORD's abuse of Amendment I to promote the crackpot theories on diversity, gender balance, affirmative action and leftist

ideas in the fog of international law so popular in the Third World and U.N. to diminish U.S. sovereignty [sic].

For example Mrs. Clinton's welfare [p]roposal, Prof. "muddle-head" Horwitz's Lexis-Nexis project and the article "A Mandate for Faculty Diversity", etc. Bah! Humbug! The RECORD should leave political baffle-gab to others or HLS, under the "Dr. Strangelove" leader-

ship of Dean Clark, will continue its drift to irrelevance [sic] in the Art. III world where "... lawyers are essential to the primary governmental function of administering justice, and have historically been 'officers of the courts.'" (373 US at 383; 95 S.Ct. 2004 (1975).

Carl Shipley '48
Naples, Florida
November 8, 1996

Taking on the Town Clerk

Carla Halpern mentioning[s] [her] difficulty obtaining emergency assistance from the town clerk ("Almost an Island," Sept. 27). In Presque Isle District Court in about 1974 with Donald Fontaine I brought suit against Mona Blanchard, P.I. town clerk ("overseer of the poor" it was then called) for damages for

failing to follow the minimal regs then in force ...

We got several hundred dollars in damages and, for the very reasons you cite, this was more effective than \$10,000 out of Federal Court in Baynor would have been. The judge, opposing council, Mona Blanchard — they were all socially or actually related and

for one of them to publicly to disapprove of another's conduct was helpful in securing better administration of general relief for some time to come ...

Charles Peck
(Pine Tree Legal '71-75)
East Sussex, England
November 10, 1996

Boldizar's Column a "Shear Delight"

Alexander Boldizar's editorial on circumcision (Sept. 27, 1996) was on the cutting edge of journalism, a shear delight.

His column has often pricked my conscience. And again, in drawing the analogy between Harvard's rigid, even penal, control of our lives and male genital mutilation, Boldizar erects a powerful argument.

His penetrating dis-

course counters the knee-jerk ejaculations of those who blindly claim circumcision is natural. All members of society can't help but agree that from circumcising no good can come. To paraphrase Dylan Thomas, "Do not go genital into that good night."

For those who disagree, let me give you a tip: Don't be so cocky! Your own logic cuts both ways, and example of your

hu-briss. What are you people — nuts? Don't be so quick to give Boldizar the shaft.

Boldizar's ruminations are a useful prophylactic to the deadening of our souls that occurs in law school. I predict it will become one of the seminal works in the field.

Rob Rader '94
Beverly Hills, CA
November 12, 1996

Serotta Correct on Quayle's Political Appeal

I am writing to compliment [Judd Serotta] on [his] astute analysis of vice president Quayle (Oct. 25, 1996). [Serotta's] analysis of Quayle's strengths reflects unusual political judgment.

It may also interest you to note Dan Quayle's remarkable history of being well ahead of the political curve (in addition to the "family values" stuff which often generates comment).

In his first speech on the House floor [in 1977], Dan spoke on the need for term limits.

You might recall his attack on the ABA (where he was vehemently booed) and advocacy of legal reform before this was the popular item it now is.

As vice president, Dan headed the Council on Competitiveness championing "regulatory reform" ...

Quayle was the lead defender of the Patriot Missile program when Democrats tried to kill the program ... He also advocated the "flat tax" before Forbes ...

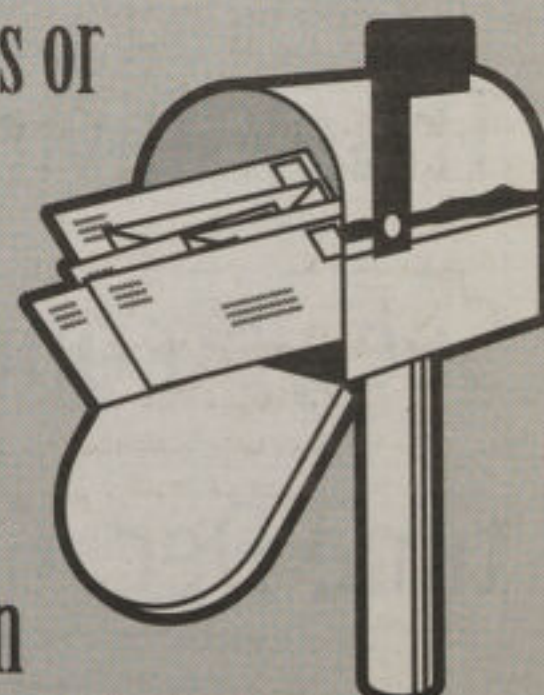
If Quayle had run for president he would have beaten Clinton by at least six percent.

Keith S. Rabois '94
Washington, D.C.
November 14, 1996

Last chance this semester...

WRITE TO THE RECORD!

You can put your letters or comments in the RECORD box next to the 1L mailboxes in the Hark or drop them in the 2L box of Rob Friedman



Goodbye Gonzo

By Ben Lehrer '99
Guest Columnist



They all got what was coming to them. All those pathetically eager acid freaks who thought they could buy Peace and Understanding for three bucks a hit. But their loss and failure is ours, too ... a generation of permanent cripples, failed seekers, who never understood the essential old-mystic fallacy of the Acid Culture: the desperate assumption that somebody — or at least some force — is tending that Light at the end of the tunnel.

The strung-out, mumbling old wino who spoke in Austin North last Thursday was a far cry from the Dr. Hunter S. Thompson, guru of gonzo, we had hoped to see. The controversial author, known for combining piercing insights on the nature of American politics and society with bacchanalian bursts of unrestrained indulgence, brought to mind a carbon-copy of the cliché poorly dressed, foul-mouthed uncle who embarrasses everyone at family reunions.

To listen to Thompson the story, he is a martyr living in a world of nazis and monsters (in Aspen, Colorado no less!) who menacingly plot to keep him from exercising his self-proclaimed sacred right to drink and drive. After his late-night/early morning escapades, he returns to his fortified compound with an inflatable sex doll in the passenger seat, not so he can use the carpool lane, but to convince "them" that he isn't alone. He records his altercations with the police on his answering machine, using his cellular phone as a microphone.

In a closed society where everybody's guilty, the only crime is getting caught. In a world of thieves, the only final sin is stupidity.

Thompson showed up almost forty-five minutes late to his talk at HLS, glass of whiskey in one hand, paper bag over a bottle of Chivas Regal in the other. At the beginning, you could tell that the crowd wanted to believe that they were in for a special treat. They laughed at his repeated use of the epithet "nazi" to describe local law enforcement officials in Aspen, they applauded his commitment to the Fourth Amendment — which has saved his tail more than a few times — and they strained to discern his mumbling, disconnected tirades.

However, patience wore thin and the crowd began trickling out after about 30 minutes of his mindless rambling. Austin was half empty by the time the Forum organizers gave him the signal (or was that a plea) to wrap it up. Quite a contrast to Don King who packed the house and kept it that way for two hours until the organizers were forced to call the lively evening to an end.

Ostensibly, the point of Thompson's disjointed presentation was a plea for free legal advice concerning a misdemeanor drunk-driving charge. Apparently a "nazi" cop, a "proven liar" whose "daughters are sluts" and who's "been on psychiatric leave twice" has had it out for the poor author, and caught him weaving down the highway with a .053 blood alcohol level. Although this is above the .05 threshold necessary to qualify for a misdemeanor charge, according to Thompson, "you can teach elementary school with .053." Careful, Hunter, you'll peak before trial.

But the real point of the evening, whether the good Doctor intended it or not, was to affirm that the era of gonzo is dead. The followers, or at least curious admirers of gonzo, alternatively left early, beseeched Dr. Thompson to talk about

After his late-night/early morning escapades, he returns to his fortified compound with an inflatable sex doll in the passenger seat, not so he can use the carpool lane, but to convince "them" that he isn't alone.

something interesting, or mindlessly affirmed his paranoid suspicions with all the sincerity of President Nixon. One guy — no doubt a veteran of Woodstock II — took the opportunity to hand out brochures promoting 'gonzo-related' merchandise.

The evening did have some humorous moments. Asked why he didn't cover the '96 presidential campaign, he claimed that it was impossible to take Bob Dole seriously, as the only reason he was running for president was because lecture fees for a losing presidential candidate are higher than for an ex-senator.

One young woman asked him if he would be prepared to publicly go clean and sober, as such making a positive statement for the children of this morally impoverished, impressionable, star-struck country. Thompson responded that he was willing to entertain the thought, and then proceeded to pour himself a rather stiff drink from his paper bag.

In all fairness, both sides got what they paid for. Thompson wasn't paid for his lousy lecture, and we weren't paid for our bad legal advice. There were some fringe benefits, though. I got a good contact buzz from the obliterated yahoo cameraman sitting next to me (who could easily have stun a goat with his breath at ten paces). And Dr. Thompson, after feigning exhaustion as an excuse to return to his hotel room early, slipped through the streets of Cambridge and into the House of Blues where he recieved an enthusiastic surprise greeting from the very same squeaky-clean group of HLS students he had tried so hard to evade.

Goodbye, Gonzo. A new era has arrived. The pre-packaged, fat-free 90s has no room for a Homer lying comatose on a trampoline in a trashed hotel room filled with grapefruit rinds. Gonzo journalism, which harkens back to a time before it was hip to say no, has taken its place in the ascan of journalistic history.

Journalism is not a profession or a trade. It is a cheap catch-all for fuckoffs and misfits — a false doorway to the backside of life, a filthy piss-ridden little hole nailed off by the building inspector, but just deep enough for a wino to curl up from the sidewalk and masturbate like a chimp in a zoo-cage.

All quotes are from *Fear & Loathing in Las Vegas*.

THE REASONABLE WOMAN

"The Rules" — Can They Work for You?



By Kristina Hoy '99
RECORD Columnist

"The Rules: Time-tested Secrets for Capturing the Heart of Mr. Right," by Ellen Fein and Sherrie Schneider, has reached top of the New York Times Best Seller List. In case you have missed what The Rules phenomenon is all about, it is a book with 35 rules to follow in dating. The book promises that if you follow The Rules, the result will be an engagement ring. The authors suggest The Rules are necessary because "[n]ineties women simply have not been schooled in the basics — The Rules of finding a husband or at least being very popular with men." The basic idea behind The Rules is best stated when the authors explain, "[t]he purpose of The Rules is to make Mr. Right obsessed with having you as his by making yourself seem unattainable. In plain language, we're talking about playing hard to get!" The Rules do not suggest women desire a husband at the expense of their careers; rather, they suggest that a successful career is better when combined with a husband.

You may expect that from the perspective of a feminist, I think The Rules are an insult to women, or that in the 1990s, it is silly to assume that women's goal in life is to get the ring. Although both of these concerns may have merit, I think that we need to examine the book for its entertainment value, and not take it too seriously. I also believe that there is a reason the book is such a hit, and we should consider its implications.

I personally have a few favorite rules, and a few rules that frighten me. I like Rule 4: "Don't Meet Him Halfway or Go Dutch on a Date" because I think the old-fashioned rules of dating make things less confusing. One of my friends com-

I am not suggesting you tell him about your dysfunctional family on the first date, but it is important that you learn about each other before you get married.

plained last year that she never knew when she was on a first date. When a man casually makes plans to meet for coffee or a beer, it is difficult to know if he wants a date, or if he just wants to hang out. He may want to get together to ask you if your best friend is available. On the first date, if whoever asks picks up the other person, and picks up the tab, there is no debate.

Rule 12: "Stop Dating Him if He Doesn't Buy You a Romantic Gift for Your Birthday or Valentine's Day" is a choice rule. I do not have any practical reasons to like Rule 12 apart from the fact that I enjoy gifts.

Rule 30: "Next! and Other Rules for Dealing with Rejection" is my favorite. Wanting to be with someone who does not want to be with you is never pleasant, but it is silly to spend time thinking how good it could have been. I absolutely hate to hear young people say that they are afraid because they have been hurt before. If we never got hurt, we would marry the first person we played doctor with in third grade, and that would be the end of the story. The roller-coaster is part of finding a significant other, so suck it up.

Some may say that all of The Rules are scary, but a few are particularly troublesome. Rule 5 is a bad one. That rule instructs "Don't Call Him and Rarely Return His Calls." If a guy calls you several times and you do not call him back, he will stop calling. It is hard enough to get up the courage to call someone for the first time. If they call you, you should help them a little, and at least return the call.

Rule 19: "Don't Open Up Too Fast" may sound reasonable, but the basic message is that "too fast" is before you get the ring. The authors suggest that it is none of his business until he tells you he loves you. But does he really love you if he does not know important things about you? I am not suggesting you tell him about your dysfunctional family on the first date, but it is important that you learn about each other before you get married.

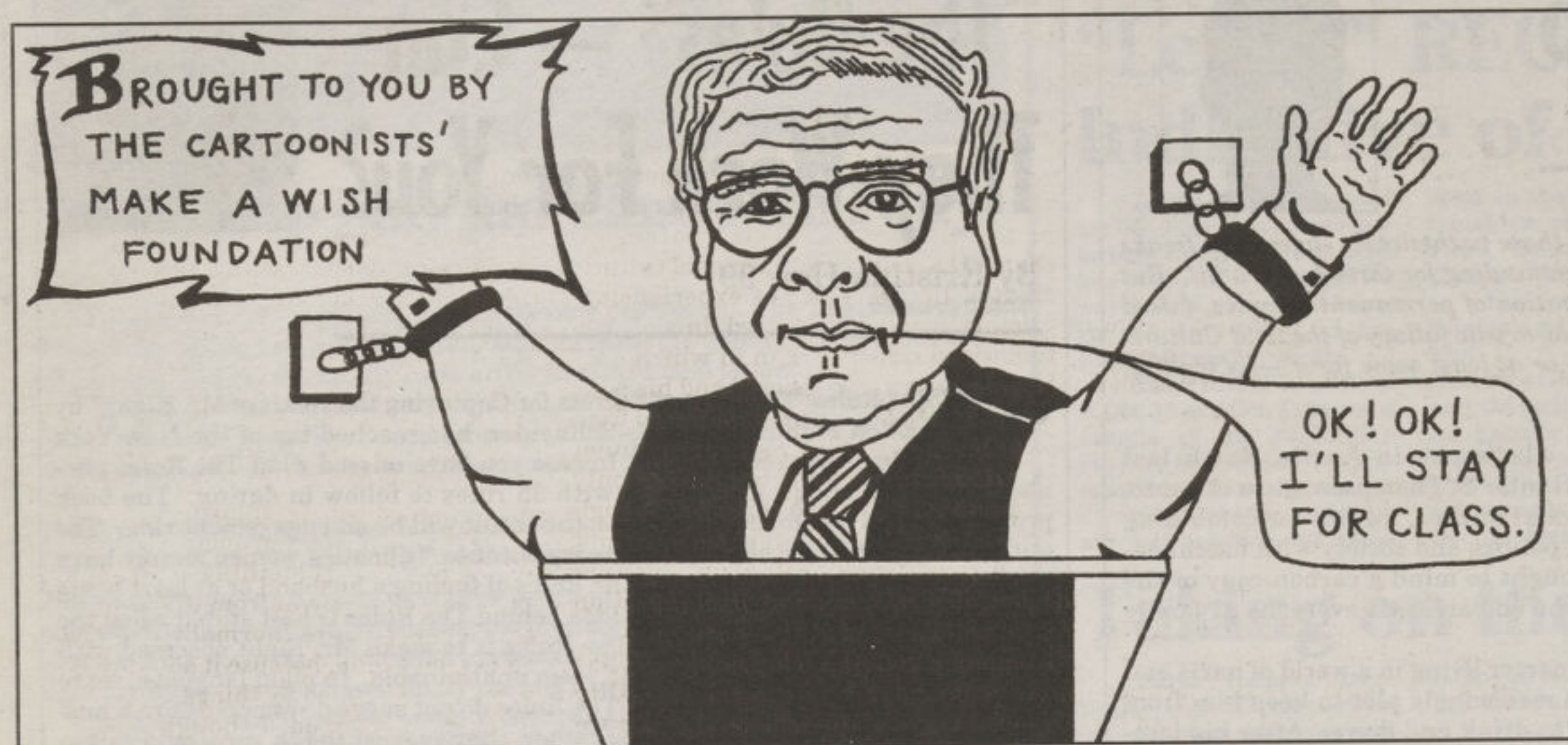
As for Rule 31, "Don't Discuss The Rules With Your Therapist," pretty much anything you are not supposed to tell your therapist is probably bad. It is likely that a woman who fully adheres to The Rules does so because she has self-esteem issues, or takes life a little too seriously. I fully suggest that these issues are resolved with a trained professional.

Why is this book about finding a husband so popular, considering the advances women have made in career opportunities? I propose that as women's opportunities have changed, the rules for relationships have also changed, and nobody knows if they are doing it right anymore. Couples marry later now than ever before, and often begin their careers before a lifetime commitment. Part of waiting is uncertainty as to whether waiting is normal since the generations before us followed a different marriage tradition. I think that staying single for a decade longer than our mothers makes some of us worry if we will actually find somebody during that decade. Personally, I believe everything works itself out, and there is no need to worry. I do not think The Rules will help reduce the anxiety of waiting for Mr. Right.

Undoubtedly, some of The Rules effectively make a man pay more attention to a woman. Isn't it true that the person you least want to date, and unknowingly treat in the fashion The Rules suggest, is the one that pays the most attention to you? However, would you want the ring from one of the guys who called you, even though you never called him back? The Rules may work, but the person you end up with will be the type of person who does not value being treated well, and is obsessed with the image of how he thinks a woman should be, not how you actually are.

Thinking About Miller

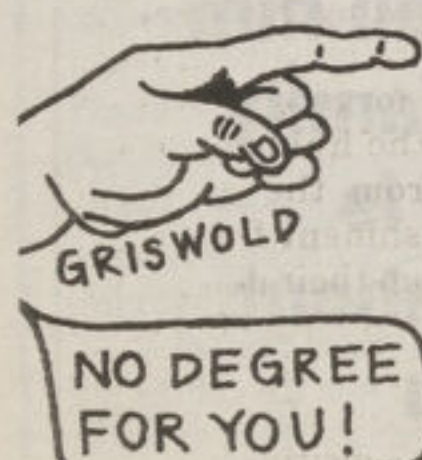
By Stuart Rees and Bill Zimmerman



Ad Hominem

HLS RECONSIDERS

1950'S
GET OUT, AND
STAY OUT...



By Stuart Rees & Bill Zimmerman

1990'S
... UNLESS YOU MAKE THE
SUPREME COURT

WELCOME
"HOME"
DEAN CLARK



WHO LOVES YA
BABY? COME
TO PAPA

Reasonable Man Reads the Bible

By Alfred Steiner and Scott Selby



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CALENDAR

by Janie Kim '99

Friends, many challenges lie ahead. The ambush of final exams, coiled and thirsty for blood, lurks around the corner. Next week, we make the mass pilgrimage home, called by the turkey and dressing of family dysfunction that awaits.

The Calendar is sympathetic to your plight and wants to help. So put down the phone ... no need to call your special psychic friend tonight. The Calendar has a better way. Submit to the forces of procrastination; let the angel of workload avoidance find you trinkets and baubles designed for your distraction and delight.

Freeze your ass for free. The New England Aquarium offers a complimentary half-hour cruise of historic Boston Harbor with every paid admission on Sat.-Sun. 11/23-24. After you've ogled the sharks and jellyfish, rekindle sweet memories of your 1L orientation booze-cruise, as a tour guide highlights scenic points of interest. Call 973-5200 for more info.

Does a death sentence on a subject's head imbue a photograph with special resonance? Find out at **Final Exposure: Portraits from Death Row**, photographs by Lou Jones. At Simmons College, Trustman Art Gallery, 300 The Fenway, Boston. Mon.-Fri. 10 a.m.-4:30 p.m. Through 11/26. 521-2363.

It's **Harvard vs. Yale**. Witness another battle in this 113 year old football rivalry. Come early and help yourself to some barbecue. Don't bring any napkins: finger-licking is permitted, nay, encouraged. At the Harvard Stadium, Sat. 11/23. Call 495-2211 for tix.

The **Sankai Juku** dance troupe comes to the Wang Center Fri.-Sat. 11/22-23, 8 p.m.. A company of five men, bodies shaven and dusted in alabaster white, they contort their instruments into forms evoking the viscera of human suffering. With ethereal, spare sets and music, these pale, hairless dancers serve up a fascinating spectacle. Call 931-2787 for tix.

World music fans rejoice! The **Guitar Trio** descends on Symphony Hall, Boston. Their breathless style melds fusion and flamenco seamlessly, inviting a tasty dose of friction for spice. Call 879-4275 for tix. Sun. 11/24 at 7:30 p.m.

Flex the mental muscles that jive, groove, and wax with insight. Participate or observe the Poetry Slam & Comedy Bang at Ryles, 212 Hampshire St., Cambridge. Sun. 11/24, 5:30-9:30 p.m. Adm. \$5. 628-0288.

There's no cover at the Snug, the live music space at Finnegan's Wake, 2057 Mass. Ave., Porter Square. This weekend's choice bookings include **Happy Bunny** and **Tom Carrol**. 576-2240.

Explore the gothic strains buried deep within you. Fri., 11/22 is **Bondage Night** at ManRay, 21 Brookline St., Central Sq. See live bondage demos; dust off your rubber pants and go for the gold as a contestant in the lash-off. Wide eyed innocents, be warned: this will chafe away avenues from your comfort zone.

Mellow out from this scene with a dose of daylight jazz and an orange mimosa. **Odetta** and the **New Black Eagle Jazz Band** strut their stuff at the Charles Ballroom and Regatta Bar of the Charles Hotel. This Sun. 11/24, 1:30 p.m. performance is billed as their final 25th anniversary Concert. Call 876-7777 for tix.

If you dig the select spoken word stamped out in dramatic form, check out **Speed the Plow** at the Lyric Stage, 140 Clarendon St., Boston. This revival of David Mamet's Pulitzer Prize-baby won the Best Director award from the Boston Theater Critics Association. Through 11/24. Thu. & Fri. 8 p.m. Sat. 5 and 8:30 p.m. 437-7172.

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EURAILPASSES ISSUED ON-THE-SPOT!

Wooden Chairs

By Alexander Boldizar '98

Last week I said "Grr." This week I came home from school, went to my living room, and put my fist through the glass cabinet which held the remains of my bottle of Glenfiddich from Maine, a bottle of Absinthe I'd smuggled in from Czechoslovakia, and some wine. I cut my hand. I yelled and swung my arms in a wide arc and swept the flowers and the knick knacks from my bookshelf. I put my foot into the TV set and calmed down to watch Natural Born Killers, but the TV didn't work...then I wept crocodile tears.

I did all this for the same reasons that I didn't participate in the Law Review competition last year — like the wooden chair in Guillevis's poem which remembered the wind in its branches and the soil at its feet when it once lacked a purpose, but unlike in that I had not yet been a chair so long that I would no longer oppose the imposition of a role and a function. I was read a bedtime story by Juha Varto, which explained that perhaps I just needed to have a dialogue with my TV. It explained the strange understanding that "reality could, after all, be hiding somewhere. It could be behind IT, which has changed into shopping, into the consumer, and into the object of consumption."

In the middle ages, the basis for intersubjectivity, sought for in vain in religion and knowledge, was the flesh of the body. All bodies feel pain. As Foucault describes the execution of Damians, "... the flesh will be torn from his breasts, arms, thighs and calves with red hot pincers ... burnt with sulphur, and, on those places where the flesh will be torn away, poured molten lead, boiling oil, burning resin, wax ... and then his body drawn and quartered ... forced, in order to cut off the wretch's thighs, to sever the sinews and hack at the joint ..." What, besides perhaps an orgasm, could be more intersubjective? Varto summarizes the middle ages with: "I suffer in



my flesh, therefore I am." Then came the Christian era, spread throughout Europe by science and by the thought games of Descartes and Newton which stressed the abstract, the mathematical, the soul as unifying human beings through its identity with God. They substituted objective dreams and nightmares for bodily experiences. "When Newton 'proved' that even Nature is written in the alphabet of mathematics, everything experiential finally lost its meaning for good ... 'I think therefore I am.'" Even execution ceased to be in the realm of the tangible, as Mr. Guillotine invented a machine which, says Foucault, reduced contact between the law and the body of the criminal to a split second.

The modern era has found intersubjectivity through consumerism. Consumerism divorces the consumer from the individual — like the guillotine. The latter can remain whatever he is but without opportunity to engage in dialogue with others, for it is only in his conception as consumer that he is interesting, predictable, manipulable, in which he can be owned, and his actions turned on and off. The modern conception of "I" is bound to consumption. This gives power to the individual through his consumption choices, but also results in a large amount of exchangeable things and utilities. We can now compare "between children with heart conditions, a highway, a ballet, and the national debt" in the same currency. Intersubjectivity is mediated, and existence is defined by "I shop therefore I am." And punishment comes through the ultimate consumer durable: the electric chair.

Along with redefining the consumer,

consumption must also redefine the object of consumption. Everything gains a purpose, a utility and becomes perceived through that purpose as an instrumentality. The wood becomes a chair. The individual's personal culture, created by every act of experiencing, existing, living, is destroyed through systematized consumerism in which only his utility as a professional and his powers of consumption can be conveyed from person to person. A consumer cannot experience or be an actor, he can only consume and produce things. Through "thingification" (and reification) we put our bodies' demands and our spiritual needs into museums, and prostitution becomes prostitution.

Yet everything that we consume has within it the remainders of a reality which makes it more than just pure "thing," and sometimes this reality

"...the flesh will be torn from his breasts, arms, thighs and calves with red hot pincers..."

shows through, as when the chair remembers. At least the origin, the wood, of the chair is still recognizable. But the plastic TV and the glass cabinet have had their nature so violently compressed that the Beingness inside cries out either for help or in anger. Machines, gadgets, ornaments, cars, status take a lot of attention, care, and reassurance — they are not voiceless, pure things — otherwise they break down and remind us of their forced, thingified fate as well as our own.

America wants effective thinking

machines, not scholars, and here is where we are produced and ranked. It is only when the oak and spruce become chairs that one can compare them.

The chairs, like law students, require rendering back into Beings; a return of the human situation and context back to its original state, back into a Beingness which is not determined for something. They require that the TV set be smashed, silenced by being sent back to its undetermined state. "They require the destruction of that what now is." When the blood is splashed on your face, then it shakes you enough to awaken, to feel like something really happened. It keeps you from drowning in public and private "normality," in this society-on-Ridlin, because it allows a dialogue not mediated by things.

When I started, I thought that in this column I would preach the benefits of, and need for, more violence. The only things I can destroy, however, are the things I own, which becomes simply another manner of consumption, uninteresting. It somehow loses the essence of the Rodney King riots, of the still-protesting Belgians and their City Hall dousing firemen, of Mickey Knox in Natural Born Killers, and of the sensitive person, who hears the screams of the Beings because his quaking mind is more in touch with reality, and who forgets that in a world where the human conception comes from the soul and shopping, the punishment for freeing his surroundings from their determination as things is in the form of psychopharmaceuticals through which his contact with reality is cut off — a third guillotine — and the sensitive person is re-thingified so that he wouldn't hear the voice of the Beings within the things. I, however, cannot argue for burning down Harvard because I am not sensitive enough to reach the pleasure and the "strange certainty" of Juha Varto's summary of the present, "I destroy therefore I am." Yet.



In the third and final episode of this series, Fenno makes one last effort to find Dean Clark's conscience.

Fenno climbed the ladder and peered in the window, mastering an art form he had acquired at a Dartmouth sorority house. This time Fenno was in search of a bigger fish, a shark of the utmost proportions.

Fenno climbed in Dean Clark's open window and surveyed his Führer's bedroom. The entire room was exactly as Fenno had imagined, from the detailed map of pre-war Vietnam emblazoned with the words "Us" and "Them" to the autographed picture of George Wallace hanging above one of the two beds.

Fenno stamped out his cigarette on the carpet and jumped onto one of the beds. The bed was dreadfully uncomfortable. A large, hard lump protruded from the mattress. Curious, Fenno reached between the mattress and the bed frame and drew forth a large pile of \$100 bills — the new ones with that long-haired fruitcake on them!

"Public interest funding," a voice boomed out.

"Dean Clark ...?" Fenno spun around.

"I keep 99 percent of the public interest funding under my mattress each year ... but not for selfish reasons,

mind you. This forces those do-gooders to compete with each other for the remaining one percent — it makes them more competitive, heartier, more likely to survive in the marketplace of life! You following me, Fenno?"

"How did you know my name?" Fenno asked.

"At ease, boy!" Dean Clark seated himself on his wife's bed.

"I've had my eyes on you for a while. You have potential. You're white, you're male and you're highly efficient. You're one of that three to five percent that we actually admitted on their merits. You have investment banking, M&A, and corporate tax written all over you."

"Why thank you, your highness ... I mean your deanship ... I mean," Fenno fumbled for words.

"We can be informal, boy. Heil Hitler will do."

"Heil Hitler!" Fenno clicked his heels together and saluted.

"At ease, boy, you're one of us — even if your name does end in a vowel."

"Anyway, Your Deanship, I appreciate the compliments, but I only came here in search of your conscience. I need to borrow some of it so I can get a good firm job this summer."

"Let me tell you something boy," the Dean began, motioning for Fenno to take a seat. "When I was your age, a piddling philosophy student at Columbia, I too thought I needed a conscience to succeed in corporate law. Then one day I climbed into President Lowell's window — I thought it was his daughter's window, you see — and the Old Man gave me some of the best advice I've ever received. I've carried it with me throughout my career."

The Dean removed an index card from his pocket and began to read. "The Hebrew may be in the law school, but he will never be of the law school ... uhm, excuse me ... that was the wrong card ... You must remember President Lowell was a very prolific man, the Ezra Pound of my generation."

Clark searched his pockets and produced another card. "Here we go, boy. 'If you want to succeed in life, remember that the most important place to be is elsewhere. If they can't find you, they can't blame you. Take their money at the door, give 'em a helluva speech, and then kiss their parents' asses when they show up three years later.'

"That's what I've been doing for years now, boy, and I earn more money annually than all of Roxbury." The Dean laughed heartily and lit up a cigar.

"Boy, don't worry so much about having a conscience. Just buy the horn books, remember that you're professors are a horde of flaming homosexuals who I only put up with because they're just confusing enough to sound intelligent, and remember that the meek can't inherit the earth if we contest the will!"

Fenno glowed with enthusiasm. "Now I understand, Your Deanship."

"Now put that money back where it belongs, take out twenty grand for yourself to invest in the futures market and let me show you my collection of human teeth ... all gifts from Multi-Nationals, except for the prize Grandpa brought back from Dachau ..."

It was only November, and our hero had already made his first friend in law school.

Quote of the Week

"[T]he Financial Aid Office — and every other office that deals with private information — should be denied the use of e-mail to send correspondence to students until they can demonstrate that they understand the implications of how the technology works [and] can assure that every reasonable effort will be made to protect information that should remain private."

— Civil Liberties President Jol Silversmith '98 on HLS administrators' utter inability to understand the utilization of e-mail technology.

A GUIDE TO SELECTING A BAR REVIEW COURSE

QUESTIONS EVERY LAW STUDENT SHOULD ASK

QUESTION 1: *How many years has the bar review course been preparing law students for the bar exam?*

QUESTION 2: *How many students from your law school did the bar review course prepare for the bar exam last year? How about the year before?*

QUESTION 3: *Who are the lecturers and how long have they been teaching in a bar review course?*

QUESTION 4: *How many practice essay questions does the bar review course provide? How many have model answers? How many have only student answers containing incorrect law?*

QUESTION 5: *Does the bar review course provide a simulated multistate exam at the actual test site of the bar exam?*

QUESTION 6: *Does the bar review course provide a written post-course study schedule? If yes, does this schedule prioritize your study for you or does it merely tell you to "Read all your notes-Read all your books"?*

QUESTION 7: *Who are the directors and how long has each been administering a bar review course?*

CAVEAT EMPTOR

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