



Students Enter Final Stretch of Clerkship Race

By David Lenter

The more than 100 HLS students who have applied for district and circuit court clerkships must now wait until at least March 1 for interviews, according to Career Services Administrator Peggy Tuitt, who also warned students about the inevitable brush with "exploding offers."

Despite the lack of fall semester grades, and difficulties receiving prompt recommendation letters from professors, "the [clerkship] process itself has been pretty smooth," according to Tuitt. "It's just the waiting that can be hard."

As of Tuesday, "about 100-plus" students intending to apply for clerkships registered with the Career Services office, Tuitt said. About the same number of students had signed up by this time last year. Tuitt expects that as in past years, more students will register now through May and into the fall.

"In a given year, about 200 students apply in all," said Tuitt. "Of these, about 120 get clerkships for the year after graduation and 10 to 15 get them for the year after," she said. When asked about the relatively low percentage of students receiving offers, Tuitt noted that many students apply to only a couple of judges.

Benchmark Interview Date Set for March 1

Students for several years have been asked to send applications to judges no earlier than February 1, and judges have been asked to conduct no interviews before March 1.

These benchmark dates stem from a 1993 federal Judicial Conference resolution stating in an accompanying note that "[t]he Conference expects that judges will make a good faith effort not to inter-

please see *CLERKSHIPS*, p. 7

Bamberger Elected New Law Review President

By Michelle A. Jones



Bamberger with Outgoing President David Pantan '97

After twelve and a half hours of deliberation on Saturday, the Harvard Law Review elected Kenneth A. Bamberger '98 as their new president, replacing outgoing President David Pantan '97.

On Tuesday, the Review elected Kimo S. Peluso '98 as the new managing editor and Amanda Tyler '98 as the new treasurer.

"I have never been more excited to start a project than I am to do this," said Bamberger on starting his tenure.

Thirteen of 86 editors had vied for the position. The 13 candidates were narrowed to a field of three after an initial vote.

"It took a very long time, slightly longer than last year," Pantan said about the deliberations.

The final vote was close. "The top three candidates generated a great deal of support. In the end, though, Ken emerged victorious," Pantan said.

"I think most people focused on his initiative. He's hard working and he's very well known on campus and on the Law Review. He really tries to reach out to many people. And the members felt he would bring those qualities to the Review," he said.

Pantan was enthusiastic about Bamberger and his upcoming tenure, stating, "He is a

Part of Lessig's class concerned anonymity in cyberspace and interpretations of the FAS policy itself.

"This issue of anonymity in cyberspace is extremely important," Lessig said. "When I have taught this course at other places ... we have discussed it both in the newsgroup for the class and in real space."

Lessig said he told his students that during the discussion of anonymity in cyberspace they could send anonymous messages to the newsgroup. Lessig was soon overruled by FAS administrators, who told him that anonymous messages could no longer

please see *CYBERSPACE*, p. 6

University Quashes Anonymous Speech in "Law in Cyberspace" Newsgroup

By Timothy Kiefer

A University rule prohibiting students from posting anonymous e-mail provoked an uproar in cyberspace after students in visiting Professor Larry Lessig's "Law in Cyberspace" course were told to stop sending anonymous messages to the class newsgroup. A coalition of Harvard students, including law students from the class, undergraduates, and the HLS Civil Liberties Union, have created protest web sites and petitioned President Neil Rudenstine to change the rule.

"I was appalled by the thought that our discussion

could be cut off arbitrarily by the university," said Martina Stewart '97.

The "Law in Cyberspace" newsgroup is run on the Faculty of Arts and Sciences (FAS) server. FAS policy prohibits anonymous messages from being sent to newsgroups run on the FAS server. However, the policy "is not drafted in a way that makes it clear that it applies to discussions like a newsgroup," according to Lessig, who is a visiting professor from the University of Chicago.

"I was told that a professor could exempt his or her class from the requirements of the policy, as an obvious aspect of academic freedom," Lessig said.

"Little Tiger, Big Dragon" Consume Fourth Annual Harvard Asian Pacific Business Conference

Leaders Discuss Effects of Chinese Takeover of Hong Kong

By Emilie Kao

Nine hundred students, practitioners, business people, and scholars converged at the fourth annual Harvard Asian Pacific Business Conference this past weekend to hear Asian leaders discuss the future of Hong Kong and Asia as a whole.

Drawing upon popular nicknames for Hong Kong and mainland China, the conference's theme was "Little Tiger, Big Dragon." The event attracted high-profile speakers to discuss China's July takeover of Hong Kong as well as other issues facing Japan, Korea, Vietnam, Taiwan, India and the ASEAN countries. For the participants, the two-day conference provided opportunities for networking as

please see *CONFERENCE*, p. 18

New Wasserstein Fellows Appointed

By Jacob M. Appel

On a campus seemingly dominated by the private sector, HLS invited five new Wasserstein Fellows to the School to expose students to a different side of the world of law.

This semester's three new visiting Wasserstein Fellows are Jonathan Asher '71, executive director of the Legal Aid Society of Metropolitan Denver; Leslie Harris, former director of public policy with People for the American Way in Washington; and Todd Howland, a field officer with the United Nations Human Rights Centre in Kigali, Rwanda.

The two Wasserstein fellows in-residence are James Nuzzo '94 of the National Center for the Public Interest and former assistant U.S. attorney Carolyn Stafford Stein '85.

"Students can ask public interest fellows about things they might not be able to discuss with professors," explained Judith Murciano-Goroff, the Wasserstein fellowship coordinator at the Office of Public Interest Advising.

"They can ask about the balance between work and family ... [T]hey can ask, if I want to do what you do, am I on the right path? [The fellows] can discuss career trajectories, highs and lows, obstacles that they've faced."

Murciano-Goroff also noted that the intimacy of the private meeting between student and fellow can often foster mentoring relationships that continue long after graduation.

The fellowships, established by Dean Clark '72 in 1990, allow students to benefit from the advice of practicing public interest attorneys. The

please see *OPIA*, p. 7



RECORD Photo/Emilie Kao

Governor Weld '70 and his wife, Professor Susan Roosevelt Weld '74, HLS Research Fellow at a reception with Alice Young '74, head of Kaye Scholer's Asia practice and Peter C. Kuo '97, president of the Harvard Asia Law Society

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TWENTY CENTS

Owens to Be Named First Tenured Woman Professor

By Daniel Taubman

Elisabeth Ann Owens, lecturer on law and research director of the International Tax Program, is expected to receive a faculty appointment which would make her the first tenured woman professor at the Law School. It is believed that the faculty voted to appoint her during a closed session of its meeting Tuesday, January 18.

Owens has been named to teach a first-year small group course on



Elisabeth A. Owens

Legal Aspects of Sex-based Discrimination in place of Visiting Lecturer Ruth Ginsburg, who decided not to teach at Harvard this spring after having received a tenured professorship from Columbia Law School.

Asked to confirm or deny the offer to Owens, Professor Phillip E. Areeda, chairman of the faculty Appointments Committee, said he "regretted the proprieties of the situation prevented him from making any comment on the question." Owens also declined to comment.

Owens has been associated with the Law School since 1956 when she was appointed research assistant in law. She has been continuously associated with the Law School since that time and

(Continued on Page 2)

Clinical Crisis Intensifies; Bellow Appointment Near

Following a December decision by the Cambridge and Somerville Legal Services (CASLS) to cut its caseload next year from 1500 to 500 cases, the resulting decrease in the number of law students participating in that program has precipitated a sense of crisis concerning the future of clinical legal education at Harvard.

These events have occurred since that time:

— More than 130 law students signed a petition drawn up by the Ad Hoc Committee for Clinical Legal Education demanding that the Law School "act immediately to insure that each student interested in clinical education and in serving the community be given

that opportunity, whatever the cost";

— The faculty-student Committee on Clinical Legal Education has planned a survey which will be conducted next week to determine the extent of first- and second-year student interest in clinical legal education.

— Two teams of approximately five students each have been organized to work this spring on an experimental basis with the Boston Legal Assistance Program in Roxbury and East Boston.

— Visiting Professor Gary Bellow, is expected to accept a permanent tenured position on the faculty, subject to ratification by

(Continued on Page 4)

Classroom Scuffle Breeds Complaint

By Bob Hernandez

Four students at the Law School have lodged a complaint with Dean Albert M. Sacks in connection with another student's allegedly violent behavior during a *Business Planning* class last Thursday.

According to witnesses in the class taught by Professor David R. Herwitz, Edward L. Morris, 3L, pulled a non-student to the

(Continued on Page 12)

Owens Promotion Would End Sex Barrier

(Continued from Page 1)

taught courses in international taxation from 1963 to 1969. Last year she taught two courses on the management of natural resources.

Ginsburg, a tenured professor on the law faculty at Rutgers University since 1969, taught *Sex-Based Discrimination and the Law* during the fall semester, commuting weekly to Cambridge in order to teach the course. Reached at her New York City home last week, Ginsburg explained that she decided not to continue commuting because of her busy schedule.

In a letter to one of the leaders of the Women's Law Association, she wrote: "During the holidays I accepted a tenured professorship at Columbia Law School, and

next fall will spend half time there and half time at the ACLU heading up a women's rights project. With these new associations and much deck-clearing to do this spring, the Harvard commute seemed a heavy burden and I asked [Dean] Sacks to relieve me of it. His understanding and Betty Owens' agreement to take over the first year spring seminar on sex-based discrimination make life much easier for me."

Owens, a specialist in international tax law, said she didn't feel "especially handicapped" about teaching Ginsburg's course. She is currently being assisted by Teaching Fellow Harriet K. Tonskemper.

Alice W. Ballard, 2L, and Janet L. Benshoof, 3L, spokeswomen for the Women's Law Association,

expressed their dismay with the Law School's handling of the situation. "The Women's Law Association had felt that confidence had been building up between the administration and the Women's Law Association and that this [Ginsburg's leaving] completely destroyed it," Ballard said.

The two women criticized Sacks for not contacting the WLA about Ginsburg's leaving and for unilaterally deciding on her replacement. They also said that no effort was made to contact the students in Ginsburg's spring course and claimed that no effort was made to hire any one of several specialists on sex-based discrimination in the law residing in the Boston area.

"The reason they [the admin-

istration] didn't offer Mrs. Ginsburg a job was because they didn't feel *Sex-based Discrimination* was a well taught course," the spokeswomen maintained. They also criticized Areeda for not asking women about the quality of her course.

Areeda noted that "Mrs. Ginsburg asked to be relieved of her duties during the second semester." He said, however, that "we very much wanted her to stay on here."

Ginsburg, who has been at Rutgers nine years, explained that "I informed Harvard that I had an invitation from Columbia and that I didn't think it would be fair to wait too long in responding."

Asked if she was disappointed about not receiving an offer from Harvard, Ginsburg said, "I am very pleased with my association at Columbia." She also expressed confidence that "Betty Owens will do a good job with her first-year course."

Ginsburg was mildly critical of the Law School's hiring practices toward women. "Harvard says it doesn't discriminate against women in hiring. I don't want to doubt the integrity of their spokesmen," she explained. She also noted, however, that Harvard's history has made it more difficult to hire women. There is a feeling on the part of some faculty members that women really don't belong, she added.

Areeda, commenting generally on the Law School's hiring policy, said, "We're constantly looking for qualified men and women, both in and out of teaching." He also admitted that a job offer had been extended last fall to one woman lawyer, but was declined. Ballard and Benshoof claimed that job offers had been extended to two and possibly three women, and that all these offers were declined.

Ballard said she was "pessimistic" about the possibility of there being a woman professor on the faculty next year, and said she would be astounded if one were hired.

If Owens receives an appointment she will be only the second woman professor in the Law School's history. The first was Soia Mentschikoff, who was a visiting professor of law from 1947 to 1949.

Owens, author of *The Foreign Tax Credit*, was graduated from Yale Law School in 1951 and from Smith College in 1940. She received her M.A. from the University of Chicago in 1941. She has been given consecutive one-year appointments as a Lecturer on Law since 1956.

Web Site Offers Buck-a-Book Service

By Jacob M. Appel and Warren Leonard

For many law students, the prospect of graduation with a seven-digit debt and a stack of unmarketable used law books is quite daunting. Half of that burden can now be alleviated thanks to Caveat Emptor, a new business endeavor undertaken by Jeffrey Anapolosky '99 and Brian Dally '99. The service permits law students to buy and sell used case books, commercial outlines and other study aids via the Internet.

The web site, <http://www.tiac.net/users/lawbooks/>, contains a home page for each large law school course and another page for courses with fewer students. Sellers pay \$1.00 to list a book; the service is free for buyers. The service does not guarantee sales but simply provides a mechanism for prospective buyers and sellers to contact each other in order to make private arrangements.

According to Anapolosky, the project developed to meet a demonstrated student demand. "Our 2L and 3L friends explained to us that our law books are useless once a class is finished," he explained. "No one uses their law books to study for the Bar because they receive new, updated review materials. No one uses their law books in law practice because all cases are on Lexis and Westlaw. With new editions coming out all of the time, law books are poor investments."

"In short," Dally noted, "it was hard to buy and sell used books at HLS. The Coop neither buys back nor sells used books. Putting posters around campus is a shot in the dark. Posters are a very inefficient way to buy and sell used books because it is hard for buyers and sellers to connect."

One hundred customers and 750 guests have already visited Caveat Emptor's home page. "We've received extremely positive feedback from both buyers and sellers," observed Anapolosky.

Felix Lee '97, who sold two of the five books he posted on the site, said that the service was a "good idea" and that "it's worth it if you sell one or two books." However, Lee noticed that there is "definitely an oversupply of certain books" and that the service "won't be much good after add/drop is over."

Rafael Muilenberg '97 said that another problem with the service "is that you do tend to get a lot of calls after you've sold your books." Muilenberg said that he had contacted Caveat Emptor to take his name off the list after his books had been sold.

Nevertheless, said Muilenberg, "It seems to work well, and it's a good thing to get around the Coop's monopoly."

Despite Caveat Emptor's apparent success, Anapolosky noted that it may take a few semesters for the project to reach its full potential, since the two partners cannot afford much advertising as of yet. However, pointed out Anapolosky, "the service speaks for itself. Saving 40-60 percent off their books catches students' attention."

It appears that Caveat Emptor will face little competition in their niche market. Andy Metheny, the floor manager at the Law School Coop, said that he did not know very much about the website but that he did not expect that it would detract much from business.

"Students do a pretty good job [of selling books already] through cork boards and the [Law School] Council book drive," Metheny noted. None of these current endeavors

have a negative impact on Coop sales of new books, he said.

Anapolosky and Dally believe they have demonstrated the key to successful entrepreneurship: offering a needed service in an untapped market.

"Obviously, we're not getting rich off this business," Dally stated. "It's fun to establish a new service that we think Harvard Law School really needs. It's not easy to get people to try new things, but we're doing the best we can. This service benefits every-

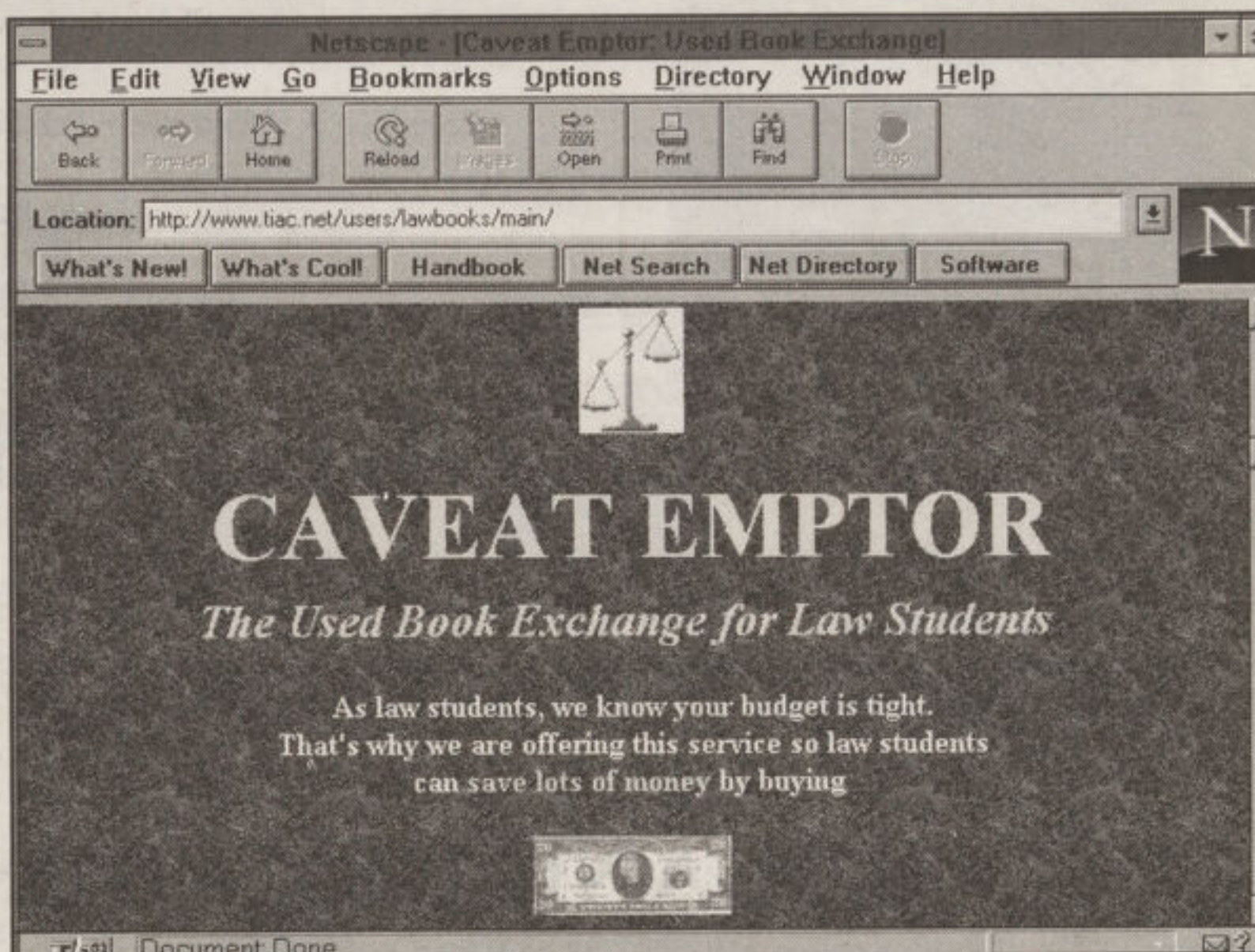
one: buyers and sellers."



Jeffrey Anapolosky '99



Brian Dally '99



The Caveat Emptor homepage

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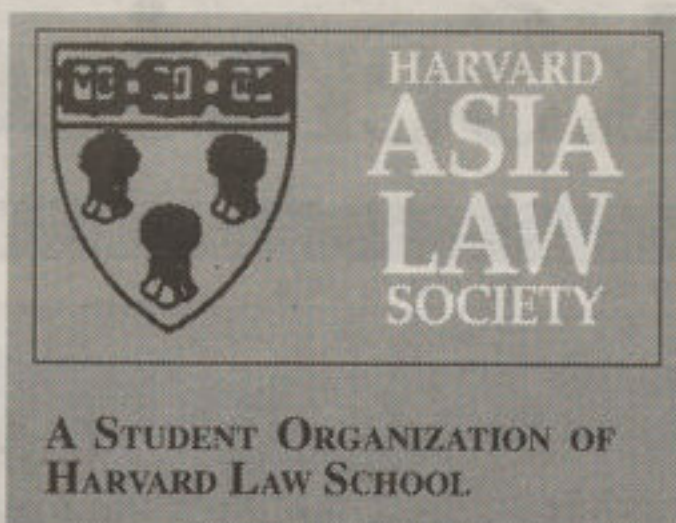
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PUBLIC FORUM

What Does the Harvard Law School Community Think About the Verdict in the O.J. Simpson Civil Trial?

Prof. Peter Murray '67

"I think it will be a great challenge to the legal profession to explain to the general public how you can have two different results in the two cases. What seems natural to us — because of the different procedures and burdens of proof in the two proceedings — may be difficult for many members of the public as whole to accept, regardless of which one you think is right."



Peter Murray '67

"I think both convictions are right if you expect criminal justice system to work. The first verdict had to be based on the existence of proof beyond a reasonable doubt. By the same token, in the second trial with the lower burden of proof and the new sources of information permitted, it's also easy for me to accept it as the proper reflection of that process."

[In terms of the compensatory award], I think in Californian terms, it's about right. California is always a little bit extreme. It is the hardest thing to put a value on a human life and the last few hours of that person's extreme suffering but our system requires jurors to do it. So arguably any number they pick would be equally valid. How can I say, eight million or one million is more valid. That's process we agreed on."

"Some might say that it's the first jury that was inconsistent, but to me as a lawyer, I am fairly accustomed to the failure for one jury to convict beyond a reasonable doubt and yet another to found the evidence sufficiently persuasive to fulfill the preponderance standard. But I am not sure how the public will take it"

"My hope is that this will pass quickly into the past."

Shelly Wharton '98

"This is a surprise to me, [but] I think he got what he deserved. I don't know anyone who was following it."



Shelley Wharton '98

Dan Schorr '98

It is comforting that a court of law finally determined that O.J. Simpson is responsible for these two murders. I believed that O.J. was guilty after I started to follow the case and learned about the evidence. It is more likely than not that O.J. murdered the two people. Unfortunately, O.J. will not spend the rest of his life in jail. I don't understand why the first jury acquitted him based on my understanding of the case: pictures of him wearing the glove that was found at the scene, pictures of him wearing shoes that left footprints at the scene, his failure to have an alibi, the presence of his DNA and many other factors. This all point to the conclusion that he is a murderer. The just punishment I believe is execution or life imprisonment at a minimal."



Dan Schorr '98

"As a victim of police misconduct myself, I understand the skepticism towards the police detectives in the O.J. case, but we can't condemn the entire police community, we can't let guilty

people go free. It's unfortunately that the O.J. Simpson case has been the battlefield for race issues because there are much more worthy causes for people who want to fight for civil rights and police justice to focus on."

Prof. Alan Dershowitz

I do not plan to be involved in the O.J. Simpson appeal.



Alan Dershowitz

Jol Silversmith '98

"What disturbed me is that Fred Goldman described the civil trial as seeking justice. The problem is that double jeopardy says that you can be tried only once, civil trial is supposed to be about compensation for wrongful death. ...



Jol Silversmith '98

"[I have] no doubt O.J. is responsible — no doubt after the first trial. But I very much believe in the process, the second trial never seemed to be about compensation, it seemed like a second bite at the apple."

"I think punitive damages will be an interesting phase of the trial ... Punitive damages is probably where we look for a clear statement by the juror that O.J. behaved in a criminal manner."

"I think the second trial added a certain sense of healing because it was a more rational and complete proceeding but it didn't do anything to definitively heal the wounds that the first trial opened."

Michele Bradshaw '98

"I purposefully have not followed the trial because I, like most people, are sick and tired of the trial. This case dominated my whole first year. I don't have an opinion either way. I was not rooting for him either way."



Michele Bradshaw '98

Michael Simons '98

"I don't know if he is guilty or not but because of the way he handled himself, I don't have much sympathy for him. I feel like he deserves what he gets. He certainly looked fairly guilty when he said things like, 'I am a sharp dresser, and those pants don't look like something I would wear' about the photo with the infamous shoes. He was very arrogant."



Michael Simons '98

"I don't have much difficulty with the fact that he was acquitted in the criminal trial. I think it is completely logical that the jury came out the other way in the second trial because there were different standards of proof and because of the way the case was presented. ...

"Once the jurors said that he was liable, I think it's entirely appropriate that the compensatory damage was 8.5 million dollars. I don't have problems with hitting him up for more money. This case is about Ron's life. I think someone's life is certainly worth 8.5 million."

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Sangay Predicts Challenge for Democracy in Tibet

Warren Binford

Will the 130,000 members of the Tibetan community still exiled from their homeland be able to convince their six million fellow citizens residing in Tibet of the need for democracy?

That was the question posed Monday night by Lobsang Sangay LL.M. '96, a Tibetan exile and Visiting Researcher at the Law School, at the opening of his address to forty members of the Harvard Law School community during "Tibet: Visual and Political Images."

The event was organized by the HLS Project on Law and Ethnic Conflict and included a slide presentation by Kelly Stringham '97.

The rhetorical answer to Sangay's question was "probably not." Sangay predicted that a future independent government in Tibet would more likely be modeled on a parliamentary system with significant involvement from religious leaders such as the Dalai Lama.

The Dalai Lama, Tibet's leading political and religious figure, has been in exile since 1959 when the Tibetan people unsuccessfully revolted against the Chinese communist forces who have occupied this mountainous, rural country located along China's southwest border since 1950. He was awarded the Nobel Peace Prize for his continued efforts to liberate his homeland through non-violent resistance from exile in India.

According to Sangay, "Tibetans are trying to go back to a traditional way

of life and are becoming more religious-minded." Thus, the government established after the liberation of Tibet is likely to allow more religious influence than most democratically-minded exiles would prefer.

Sangay admits that the liberation of Tibet may be some years away. Despite

citizens are reported to have been killed or imprisoned. Buddhist nuns have been raped and sometimes murdered. Entire monasteries and villages have been massacred. And the beautiful, mountainous land of this Himalayan nation is being deforested, mined for its rich copper, gold, and uranium depos-

mentally and economically, according to Sangay.

The Tibetan people must watch carefully for the moment to "strike when the Chinese are weak," says Sangay, and be ready to participate in widespread non-violent civil resistance.

That opportunity may be nearing as a change in the PRC leadership becomes more imminent and corruption of Chinese officials grows increasingly widespread.

A member of Sangay's audience from the PRC volunteered to present an "alternative view" of Tibetan history and immediately the lines were drawn between the PRC citizen and the Tibetan exile just as distinctly as between the Tibetan and Chinese schoolchildren residing in Tibet who continue to be segregated in their classrooms to this day.

The audience member argued that rather than exploiting Tibet, the PRC has granted Tibet favorable treatment such as providing subsidies, not enforcing the PRC's one-child policy strictly, and granting a number of Tibetan residents access to higher education.

The PRC citizen viewed the relationship between China and Tibet as mutually beneficial, but compared the political situation to Chechnya and the former Yugoslavia. "There is no doubt, there will be a bloody war," he predicted. "It would be a terrible disaster for both Tibet and China if there is no peaceful resolution."

On this last point, Sangay agreed.



Lobsang Sangay HLS LL.M. '96, Tibetan exile and visiting researcher

international recognition of Tibet as an independent country and the 1961 United Nations' declaration that Tibet has the right to self-determination, Chinese communists continue to occupy Sangay's homeland.

Reports abound of the abuse of Tibet's land and people by the People's Republic of China. Millions of Tibetan

its, and used by PRC as a dumpsite for a significant amount of toxic and nuclear waste originating in U.S. and Western Europe.

Despite worldwide condemnation of the PRC's violent exploitation of Tibet, the peaceful resistance movement has yet to be successful primarily due to the fact that the Chinese are so powerful

"Law in Cyberspace" Students Send Protest Letter to Rudenstine

continued from CYBERSPACE, p. 1

be sent to the newsgroup.

A group of 18 students in the class reacted by sending a letter to Harvard University President Neil Rudenstine. The letter called for the university to allow anonymous postings to newsgroups on the FAS server.

"In the case of our group, anonymous postings have stimulated civil debate over topics such as racism, privacy, and cyberspace norms," students wrote.

The letter compared the FAS policy to "an administrator walking into a classroom and saying to students engaged in a discussion conducted by a professor, 'Silence! Anyone not registering his or her

system where many participants speak anonymously, but that system is open only to Law School students."

"My understanding now is that each school sets its own policy," Lessig said.

Lessig said that he chose to use the FAS server because he wanted to get Harvard students who were not enrolled in his class to participate in the on-line discussions.

Indeed, perhaps the most vocal critic of the FAS policy is David Fergemann, a Harvard College undergraduate who participated in the newsgroup. Fergemann established his own web page about the controversy (<http://www.fas.harvard.edu/~dsfergem/anon/index.html>). In his web page, Fergemann attacks the current

policy as unenforceable.

"It is currently possible for anyone with a little skill to send virtually untraceable anonymous mail," Fergemann's web page states. "All the policy does is make people who want to use anonymity for legitimate purposes a little more hesitant."

HLS Civil Liberties Union President Jol Silversmith '98 said

he opposed the FAS policy.

"Anonymous communication, we feel very strongly, should be a protected form of speech," Silversmith said.

Silversmith compared the policy prohibiting anonymous computer messages to Harvard's sponsorship of In Common, a peer counseling phone line where all calls are anonymous and confidential.

"If [In Common] set up a web page, would Harvard prohibit you from contacting them anonymously?" Silversmith said.

The Civil Liberties Union published a statement on its web page criticizing the policy (www.law.harvard.edu/studorgs/civ_lib_union).

The Civil Liberties Union's web page statement cited the U.S. Supreme Court's defense of anonymous speech in *McIntyre v. Ohio* (1995). In *McIntyre*, the Court noted that the *Federalist Papers* were originally published under the pseudonym "Publius" and that Mark Twain (Samuel Clemens) and O. Henry (William Sydney Porter) wrote under assumed names.

However, some students opposed permitting anonymity in the newsgroup.

In a message sent to the newsgroup, Donovan Cocos '97 wrote, "Do we want to be the kind of newsgroup where only cowards can speak freely? Or an honorable place, where we wouldn't say anything that we'd be too afraid to say to our faces?"

Yvonne Anderson '98 also expressed reservations about anonymity, writing to the newsgroup that "faceless words writ-

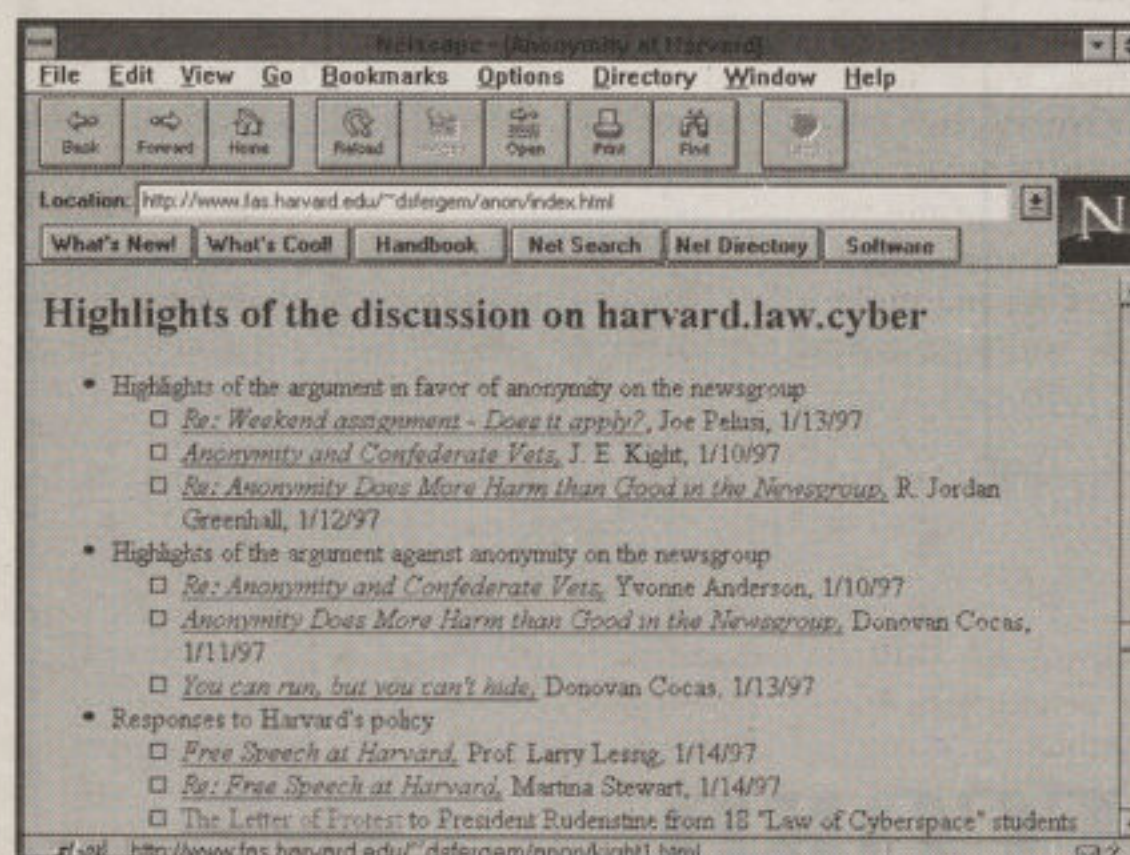
ten by faceless people seem very unlikely to incite concrete action."

"Anonymity to me suggests one of two things: either being robbed of the ability to say and express your own opinion, or the fear to support the opinion which you express," Anderson wrote.

Citing his status as a visiting professor, Lessig declined to take a position regarding Harvard's policy. However, he did emphasize a distinction between anonymity and traceability.

"A rule that bans anonymity is like a rule that says you must have a license plate on your car with your real name on it; a rule that allows anonymity but requires traceability is like a rule that says you must have a license plate on your car with a number on it," Lessig said.

Lessig said that if anonymous e-mail is traceable to the machine from which the message was sent, then libelous or fraudulent messages can be traced by the authorities while other messages can remain anonymous.



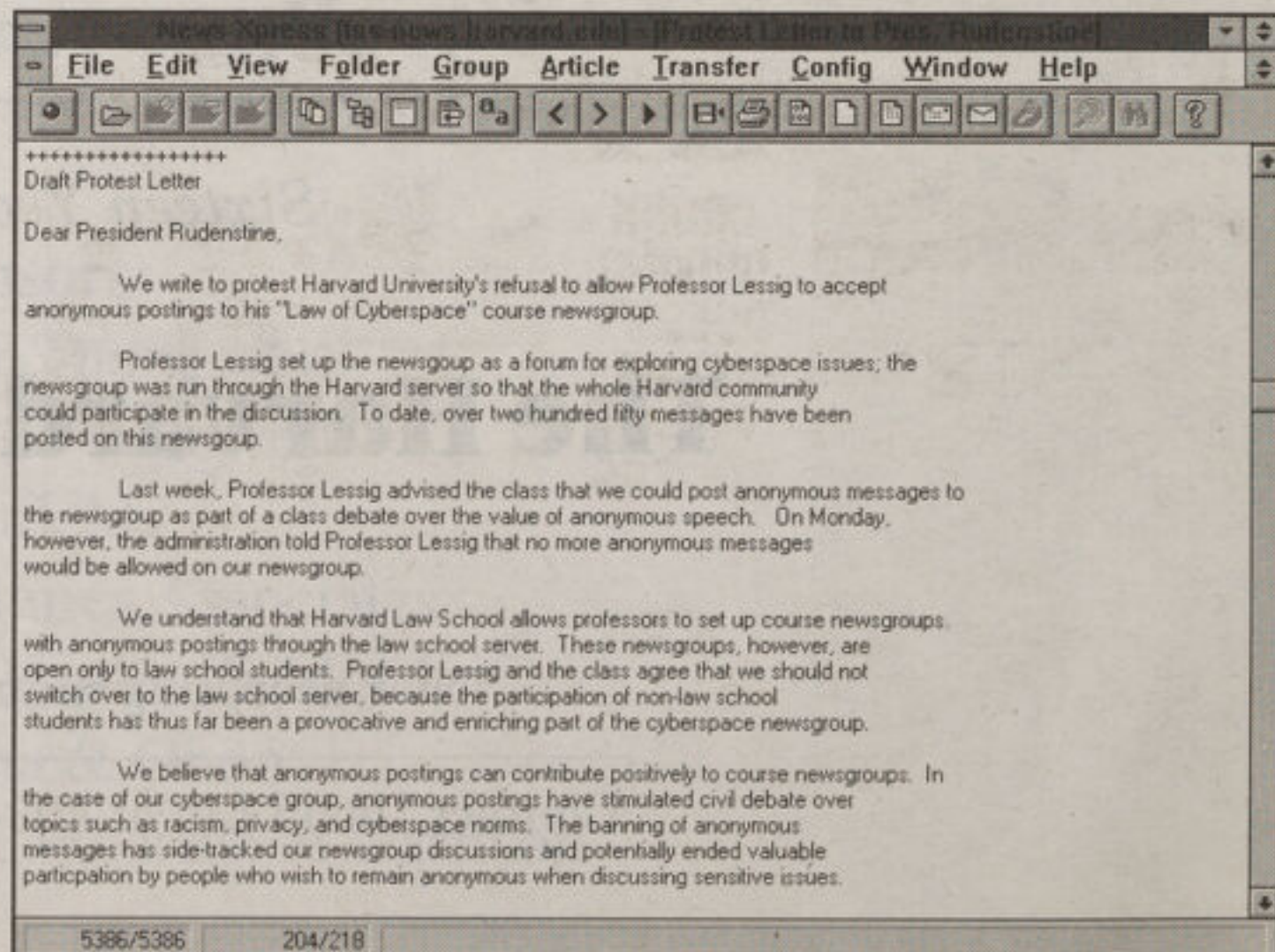
Protest web page created by undergraduate David Fergemann

name with the administration before each comment may not speak."

Rudenstine's response to the letter created doubt about who had jurisdiction over the newsgroup.

"This matter is clearly under the purview of the Law School," Rudenstine wrote in his reply to the students' letter.

However, since the newsgroup was run on the FAS server, FAS appears to have had control over the postings. The Law School has its own computer discussion



Draft of protest letter sent to University President Neil Rudenstine

OPIA Fellows Named

Continued from OPIA, p. 1

program honors Morris Wasserstein, a New York City businessman, whose family supplied a \$500,000 endowment gift. Hundreds of applicants apply annually for the coveted and prestigious positions. The dean chooses the fellows in conjunction with a committee of faculty and administrators.

In choosing Wasserstein fellows, Murciano-Goroff explained, the selection committee looks for three essential attributes. First and foremost, fellows should be people who have an interest in communicating with students.

"We don't want people who will come here to opine," Murciano-Goroff said. "We want fellows who will listen to students ... often with the patience of Job, answering the same questions many times."

Second, the committee looks for applicants who will be able to present themselves in open forums on public interest law. The start of each Wasserstein season features such a forum with an address by a Wasserstein fellow, Murciano-Goroff said.

Finally, the committee looks for public servants who will meet the needs of faculty as well as students. On a number of occasions, fellows have been asked by faculty to give guest lectures in classes that addressed their fields of expertise. The committee makes an effort to select fellows from diverse geographic backgrounds and to sponsor individuals who have risen to positions of influence at different levels of government and in different fields of law.

"Of course," Murciano-Goroff noted, "we can't have every category every year ... but we've had city attorneys, U.S. attorneys, environmental lawyers. ... We want a range of people, and we try to meet students' interests."

Asher is currently the executive director of the Legal Aid Society of Metropolitan Denver. A 1971 HLS graduate, he previously worked as the director of program litigation and services for Colorado Rural Legal Services and as the executive director of the Colorado Coalition of Legal Services. He is former vice president of the National Legal Aid and Defender Association. Asher is an active member of many national and statewide public interest law boards including the National Institute of Dispute Resolution, the Colorado Supreme Court Judicial Council, and the Harvard Law School Association Committee on Public Interest Law.

Harris, former director of public policy for the People for the American Way in Washington, is currently a consultant to several national public inter-

est organizations. Her background includes service as the chief legislative counsel at the Washington Office of the American Civil Liberties Union and as executive director of the ACLU of the National Capital Area.

Howland has recently returned from Kigali, Rwanda, where he worked as a field officer with the United Nations Human Rights Center. He has served in the Office of the Special Prosecutor for the Transitional Government of Ethiopia through the Carter Center for Human Rights, and as a consulting attorney for Humanos Centro Internacional Para Litigos Sobre Derechos in Mexico and for the Inter-American Commission in El Salvador. He spent seven years as Legal Adviser to the Thunderbird Alliance & Circle of Friends and the Native American Prisoner Network. He spent another six as the directing attorney of legal services at El Rescate, working on behalf of refugees in Los Angeles.

Nuzzo, a Wasserstein Fellow in Residence, currently serves as an adjunct scholar at the National Center for the Public Interest in Boston and as a managing partner of the Colchester Group. A 1994 HLS graduate, Nuzzo is a former Republican domestic policy adviser in the White House and currently advises national libertarian and conservative public policy groups. He has produced segments for "Nightline," is a political analyst for New England Cable News, and advises Republican Party members on their campaigns. His prior experiences include service as a special assistant/consultant to the Office of the Administrator for International Activities at the Environmental Protection Agency and as a White House Fellow under President Bush. In addition, Nuzzo is a graduate of Georgetown Medical School. He previously served as chief resident in Neurology at Brigham and Women's Hospital in Boston.

Stein, the other Wasserstein Fellow in Residence, graduated from HLS in 1985. She has been employed by the Public Corruption and Special Crimes Unit and the Economic Crimes Unit of the United States Attorney's Office in Boston. Stein also served for a year as special counsel to the U.S. Assistant Attorney General for the Criminal Division. She has also worked as an associate with private firms in San Francisco and Boston.

The Wasserstein fellowship program is coordinated through the Office of Public Interest Advising and is directed by Murciano-Goroff and OPIA director Stacey DeBroff. Students may sign up for individual appointments with Wasserstein Fellows through OPIA.

Panton Reflects on Law Review Tenure

continued from LAW REVIEW, p. 1

truly remarkable person and will do a great job."

"[He should] take a deep breath and get to work [and] try to get as much sleep as possible now because he won't sleep much in the coming months."

Bamberger took over the presidential duties immediately following the election.

Bamberger's Plans

"One of the things I hope very much to do is emphasize outreach, in terms of scholarship and community involvement," Bamberger said.

Bamberger projected that the main focus for his tenureship will be on the academic aspects of the Review.

"We had a very successful volume 110, including the one-hundredth anniversary tribute to Oliver Wendell Holmes' *Path of the Law* which involved scholars from all over the world," he said.

"Another example is the Supreme Court forum, which 300 people attended last November. I would like to expand and emphasize those kinds of things."

When asked about previous controversial issues, such as grade and gender make-up, impacting the selection process, Bamberger replied, "this part of the year was really an inward looking part. Now we can progress further when the new board is elected."

On the gender task force, Panton said, "[T]he best policy is to wait and see what they say."

The results of the new task force will be available later this semester.

Bamberger graduated from Harvard University in 1990. He was a Henry Fellow at Cambridge University, studying history and social theory. He also worked in politics for a number of years, including a stint as chief of staff for democratic state senator Michael Barrett.

Farewell to Panton

Reflecting on his tenure, Panton noted three accomplishments.

"One was integrating more people into the process," he said.

"I also tried to make an effort to reach out to all the members of the Review. Members can lose the intensity of their initial commitment. Obviously there is only so much you can do, but the president has a responsibility to reach out to those editors and make an effort to understand why this is occurring."

Finally Panton mentioned the various task forces instituted this year, "the most important being the subscription base, dealing with any changes we should make [in response] to new technologies."

Bamberger praised his predecessor's tenure.

"I think that volume 110, which David oversaw, is a tremendous volume with phenomenal articles and an incredible Holmes tribute."

As for future plans, Panton responded, "I will be getting some sleep and doing some work on my third year paper."

He plans to work for Morgan Stanley upon graduation.

Clerkship Interviews Set to Begin March 1

Continued from CLERKSHIPS, p. 1

view candidates before" March 1, and that "[t]his Benchmark Date will be made known to the law schools, with the suggestion that faculties be urged not to transmit letters of recommendation until approximately February 1, which is about the time when third semester grades are available."

Although February 1 has passed, students have had problems getting completed applications to judges. "Some faculty are just starting to get recommendations out because of the winter term," Tuitt said.

Students also lack fall term grades. Registrar Stephen Kane said, "We intend to get the grades out next week, probably later in the week. We are going to send them directly to the students. And we will send out any updated grade reports if there is a missing grade."

The absence of grades does not make clerkship applications less complete than those of students from some other law schools. Yale Law School students have grades for approximately one-third of their classes, according to Yale Registrar Zina Shaffer.

Columbia Law School students, too, "are still waiting for grades," said B Kobryn, administrative assistant in Academic Services at Columbia.

Students at the University of Chicago Law School, on the other hand, have all their grades except in classes in which they are writing papers, Registrar Joyce Wilson said. And with the exception of "about a half-dozen courses," New York University Law School students have their fall class grades, according to Adrienne Dobrin, administrative assistant in the Office of the Vice Dean.

As to the March 1 starting date for interviews, Tuitt said most judges will comply. "People may start interviewing the last week in February, but those interviews become more a question of logistics" than of getting a jump on the beginning date, she said.

Once interviews begin, students may face the problem of exploding offers. "There were instances last year where people were made offers during their interviews or within the same day," Tuitt said. "Judges usually expect you to give an answer right then."

Tuitt said that in deciding whether to clerk for a particular judge, a student might want to consider the fact that the judge has made an exploding offer.

"Do you want to work for a judge who is so intense?" she asked.

Students interviewed reported few big problems in applying for clerkships. Second-year student George Wang's experience is typical. Wang is applying to circuit court judges across the country. He said he has used the resources in the Career Services office to get information on judges but has relied on what he has heard from other students.

"A lot of it has just been word of mouth," Wang said.

Wang said the judicial database helped him create a mail merge file that eased the burden on professors writing recommendation letters for him.

But Charles Coble '98, who is applying to four district court judges in North Carolina, expressed disappointment at the adequacy of the information available at Career Services and on Lexis and Westlaw.

"Even after using Lexis, Westlaw, and the folder [containing descriptions of judges] in Career Services, I still had to call two of the four judges to find out whether they offered one or two year clerkships," Coble said.

Michael Celio '98 is applying to about thirty district and circuit court judges in Los Angeles. He said he was pleased with the database, the promptness of professors in sending his recommendation letters, and the materials on judges available on-line and at Career Services.

"It's a difficult process, but compared to people at most schools, we have it pretty good."

DRUNK DRIVING DOESN'T JUST KILL DRUNK DRIVERS.

Killed 1/17/89, Killed 3/18/92, Killed 5/14/93, Killed 12/5/93, Killed 6/23/93, Killed 12/29/89, Killed 3/27/91, Killed 11/25/91, Killed 12/7/91, Killed 3/22/91, Killed 12/24/92, Killed 8/26/93, Killed 5/18/91, Killed 5/1/94.

FRIENDS DON'T LET FRIENDS DRIVE DRUNK

Across the Wire...

One Year Later: More Poverty, Less Hope Poses Threat to Democracy

PORT-AU-PRINCE, Haiti (AP) — There would be no new jobs, no new schools or hospitals. That was the bleak campaign message that Rene Preval delivered before he became president.

Preval's first year in office ends on an even gloomier note, with the government admitting its failure to meet the urgent needs of the people, a prime minister under siege to resign and the threat of a general strike.

Beleaguered, Preval appears to have turned to traditional political gestures — promising land for the poor and new building construction he had said the country could not afford.

To mark the anniversary of his inauguration Feb. 7, he will parcel out 1,000 hectares (2,500 acres) of state land in half-hectare (1.2-acre) plots to land-hungry peasants — a majority of the 7.2 million people.

Grass-roots groups say the gesture is senseless, as the government is preparing to lower tariff barriers that would drive the produce of Haitian farmers off the market.

This year, Preval also promised, foreign aid would turn Haiti into "a vast construction site."

But most high-intensity labor projects have been at a standstill since October, Finance Minister Fred Joseph admitted.

"Our working hypothesis was that investment would come right away. In fact, disbursement has been delayed," he said.

Many Haitians blame the international community. In fact, more than \$300 million of infrastructure aid is in the pipeline, but the badly-organized, under-qualified bureaucracy hasn't been able to tap it. In addition, lawmakers have failed to pass legislation tied to some of it.

"By historical standards, the level of disbursement has been astonishing," World Bank representative Axel Peuker said. He referred \$530 million pumped into Haiti between October 1994 when U.S. troops ousted a three-year military regime and restored President Jean-Bertrand Aristide — and December 1995 when Preval was elected.

Since then, aid has slowed to a trickle. "In view of the overwhelming needs, everything must be done to speed up development investment," Peuker conceded.

He is leading 18 officers from international lending institutions who arrived Jan. 13, in time for a 24-hour general strike that paralyzed the Caribbean country. It was the first general strike against a democratic government in Haiti.

"Fear alone couldn't have made that many people stay home. ... People are dis-

satisfied," Preval admitted.

The 160 grass-roots groups that organized that strike, to protest growing misery, threaten another after Feb. 7.

More unrest could jeopardize the painful passage to democracy marked by Preval's inauguration in the first peaceful and democratic transfer of power in Haiti's 193-year history.

The strike protested internationally-backed austerity measures, including the sacking of 7,000 of 43,000 government workers over 18 months.

Protesters say other measures, including increased sales taxes, spending cuts and privatizing state enterprises, make no sense in a country where more than half the work force is jobless or gets only a few days' work a month.

Confidence in Premier Rosny Smarth has dwindled and the majority of legislators in the House of Deputies is discussing a vote of no-confidence. That creates the possibility of a months-long search for a successor and subsequent delay in implementing projects.

Despite strong opposition, Preval and Smarth pushed the controversial package to modernize Haiti's ruined economy through Parliament in September. Immediately, international donors, who are financing some 60 percent of Haiti's budget, pledged more than \$1.1 billion for reconstruction.

Peuker's delegation leaves Haiti on Tuesday (Feb. 4) with a negative evaluation, according to a dismayed diplomat who attended their meetings.

Peuker agreed there was cause for concern, "because economic growth is fragile. But there is always concern when it comes to a young democracy," he added.

The 4.5 percent growth rate achieved in fiscal 1994-95 dropped to 2.8 percent.

Meanwhile, almost one in three Haitians survives on handouts — one hot meal a day from U.N., U.S. and private charities.

Edy Norbert, 24, gets neither free meals nor remittances from family abroad and is the only breadwinner supporting his father and eight siblings aged eight to 26. Last week, there was no money to buy food. The children stayed home because they were too weak to go to school.

On Friday, a family friend gave them 50 gourdes (\$3.85) — enough to buy rice and peas.

"Food is more expensive. It's our number one problem. But our style of life is the same," Norbert said philosophically. "Sometimes we eat, sometimes we don't. That's the way it has been for me since I was born."

Woman Raped by AIDS Patient Awarded \$420,000

EAU CLAIRE, Wisconsin (AP) — A woman who said she was raped by an AIDS patient in a Minneapolis hospital's psychiatric ward has won \$420,000 in a negligence lawsuit against the hospital.

"Now I feel I can move forward with my life," said the 42-year-old woman, who continues to test negative for the AIDS virus.

The woman said she was raped in November 1993 while staying in Abbott Northwestern Hospital's psychiatric ward to treat an alcohol dependency relapse. "He came in my room in the middle of the night," she said.

Hospital spokeswoman Gloria O'Connell said the hospital believed the woman consented to the patient's sexual advances — and that she had at first admitted that. No criminal charges were filed, she said.

"We're sad about what happened to her,

but we don't think the hospital should be held responsible for her behavior," Ms. O'Connell said.

The woman's lawyer argued that the hospital knew the man had been involved in a rape at another hospital. The man was known "to be predatory and would prey primarily on female patients," according to court records of his hospital chart.

"Abbott Northwestern Hospital let this dangerous mental patient wander free," said her lawyer, Doug Schmidt. "He's been diagnosed as homicidal, suicidal, a threat to himself, a threat to others."

After a 2 1/2-week trial, a jury in Minneapolis returned its verdict Thursday, determining that the hospital failed to protect the woman as required under the Minnesota Vulnerable Adults Act.

The hospital does not plan to appeal, Ms. O'Connell said.

Lawyers Ask for Removal of Judge from Espionage Case

ALEXANDRIA, Va. (AP) — Lawyers for CIA espionage suspect Harold J. Nicholson have asked the federal judge in charge of his case to step down.

Nicholson's lawyers said in a motion that U.S. District Judge James C. Cacheris' role in a super-secret national security court could create the appearance of prejudice.

The lawyers, Jonathan Shapiro and Liam O'Grady, want a different judge because they plan to challenge the constitutionality of a law setting up the secret court. The Foreign Intelligence Surveillance Act allows judges on the court, including Cacheris, to authorize searches and wiretaps in foreign intelligence cases even when the government cannot meet all the requirements for a normal criminal search warrant.

Cacheris appears to have a conflict in the Nicholson case because he previously approved electronic surveillance of the former CIA case officer under the disputed law, Shapiro and O'Grady said.

"This case will present the first constitutional challenge of the FISA Court's authority to order physical searches without conventional warrants," Shapiro and O'Grady wrote. "Mr. Nicholson and the public are entitled to ... a judge without past involvement in FISA activities."

Cacheris has scheduled a hearing for Monday on whether he should recuse himself from the case.

Nicholson, 46, has pleaded innocent to charges that he sold secrets to the Russians from 1994 to 1996. If con-

victed, he faces up to life in prison.

During a Dec. 20 bench conference, Cacheris told lawyers for both sides that he had authorized two requests for electronic surveillance against Nicholson.

"I don't feel that this disqualifies me in this case, but that's up to you, if you want to file a motion or not," Cacheris said, according to transcripts of the conference.

Federal prosecutors said that there was no evidence of any bias by Cacheris and that he should not remove himself from Nicholson's case. But they wrote in a response to the defense motion that they "would be in no position to object" if Cacheris removed himself from hearings on the counterintelligence law.

Many civil liberty lawyers have criticized the surveillance law since it was drawn up in 1978 to allow secret wiretaps and later amended in 1995 to authorize physical searches in national security cases.

Unlike normal criminal warrants, counterintelligence searches can be approved even when there is no evidence that a crime has been committed. In addition, although judges must approve the searches, all paperwork remains off-limits to defense lawyers, even after an arrest is made.

Appellate courts have rejected challenges to FISA, and the Supreme Court has never heard any appeals against the law, said Kate Martin, director of the Center for National Security Studies in Washington.

ABA May Seek National Moratorium on Death Penalty

SAN ANTONIO (AP) — The American Bar Association never has taken a position on the death penalty but may be on the brink of seeking an end to executions "unless and until greater fairness and due process prevail."

A report prepared by two groups within the 370,000-lawyer organization recommended a moratorium because "efforts to forge a fair capital punishment jurisprudence have failed. Today, administration of the death penalty ... is ... a haphazard maze of unfair practices with no internal consistency."

The ABA's policy-making House of Delegates, meeting at the association's national convention, will be asked Monday to adopt the moratorium recommendation in response to recent federal and state actions. If accepted, it would become the focus of ABA lobbying efforts in Congress and state legislatures.

More than 3,000 men and women are on death rows across the nation. Most states and the federal government have death-sentence laws.

"As lawyers, we think the system ought to be changed, done right and done fairly," said Duke University law professor James Coleman, one of the measure's backers. "Hopefully, this will get lawyers off the sidelines."

New York lawyer Ron Tabak, another supporter, said, "We think it significant that lawyers, those closest to the system, stand up and say it's in shambles."

The measure does not state a position on capital punishment. Instead, it invokes previously adopted ABA policies that "minimize the risk that innocent persons may be executed."

The policies have called for:

- Competent counsel for all capital defendants.
- Availability of federal court review of state prosecutions.

— Efforts to eliminate racial discrimination in capital sentencing.

— No executions of mentally retarded defendants or those under 18 when they committed their crimes.

The Supreme Court previously has allowed the death penalty for murderers who committed crimes at age 16 or 17. It has upheld death-penalty regimens despite evidence that black defendants and killers of white victims are more likely to be sentenced to die.

The report accompanying the recommendation for ABA action states: "Not only have the ABA's existing policies generally not been implemented, but ... more critically, the federal and state governments have been moving in a direction contrary to these policies."

It strongly criticizes two recent federal laws, one that significantly curtails federal courts' power to review capital cases from state courts and one that ended federal funding for lawyers helping death row inmates pursue appeals.

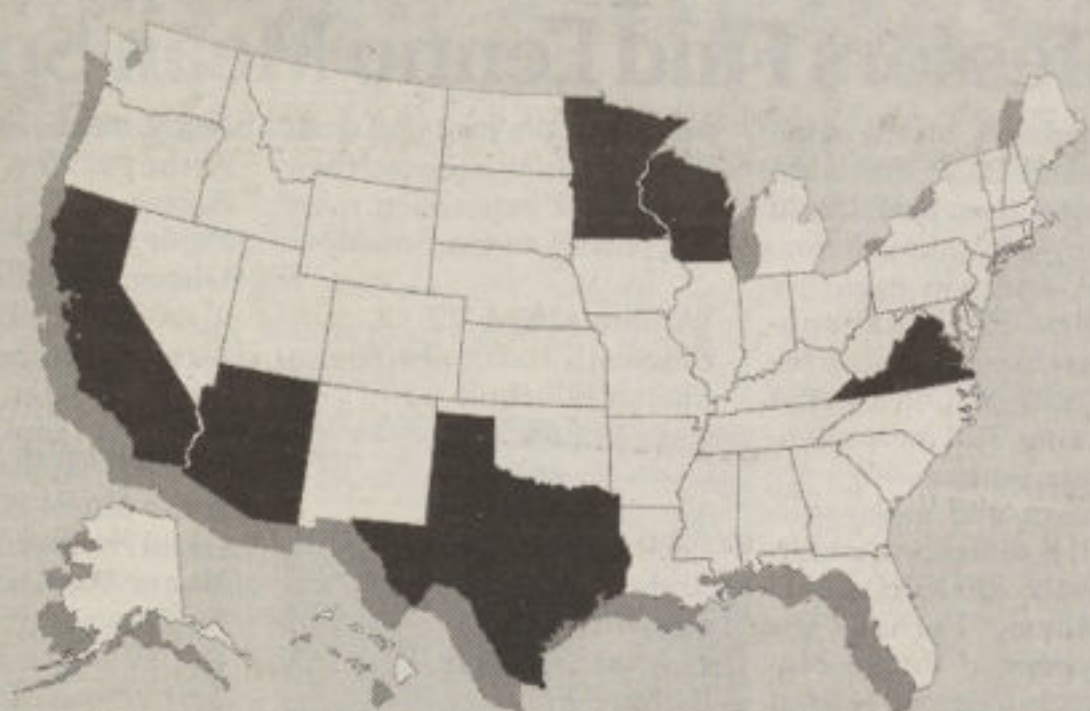
"Individual lawyers differ in their views on the death penalty in principle and on its constitutionality," the report states. "However, it should now be apparent to all of us in the profession that the administration of the death penalty has become so seriously flawed that capital punishment should not be implemented without adherence to the various applicable ABA policies."

Asked about the recommendation, ABA President Lee Cooper did not criticize it. He said, however: "I support the death penalty."

The recommendation's backers have obtained the support of 20 of the 24 living former ABA presidents. No organized opposition has surfaced within the ABA.

The Clinton administration has voiced opposition. Justice Department officials told the ABA the recommendation is unwarranted.

Across the Wire...



This Week, News From the East and West

Protestors Say Rehnquist Leaves Anti-Civil Rights Legacy

TUCSON, Ariz. (AP) — The coming of the chief justice of the United States for a 2-week teaching stint has been met with gratitude from some students and disgust from others who say regressive rulings mark the tenure of the nation's top judge.

Former Phoenix attorney William Rehnquist was one week through a 2-week course at the University of Arizona College of Law Friday when 11 protesters stood outside the lecture hall, speaking out against his opinions.

"This is a human being who has had a very serious negative impact on civil rights and human rights," said Paul Gattone, an attorney with the Southern Arizona People's Law Center. "Consistently, he has shown himself to have a regressive view of constitutional rights."

The protesters outside distributed fliers about Rehnquist while inside, about 150 law students attended the judge's one credit course, "The Supreme Court in the History of the United States."

Rehnquist has taught the UA course, which is open to second- and third-year law students, for four straight years. It meets five days a week for 70 minutes.

Among the opinions protesters cited was one in 1989, which held that federal law provides no protection from racial harassment on the job. The court ruled that the law only offers minorities protection from discrimination in seeking a job. They also noted Rehnquist's opposition to legalized abortion and his dissension from the majority opinion to overturn an anti-gay constitutional amendment in Colorado.

"We're here to send a clear message that Chief Justice Rehnquist has a long history, a long legacy, of anti-women's rights and anti-minorities' rights," said Maritza Broce, who handed out fliers to students.

But some law students said the protesters were the offensive ones.

"It insults law students, who are pretty intelligent and independent thinkers," said Robbie Mayer, a former Pima County sheriff's detective and third-year law student. "This is a university, which is the marketplace of ideas, and this man is a maker of history. To read his opinions as a law student and then have the opportunity to see him speak is a very exciting experience."

Rehnquist, who was appointed to the Supreme Court in 1972 by President Richard Nixon, became chief justice in 1986. He and law school administrators declined to comment on the protest.

"He's not on a soap box preaching," said third-year law student Darren Clausen. "He's teaching about the history of the Supreme Court and he's an amazing historian."

Gattone said he didn't expect the protest to change Rehnquist or the school's desire to have him teach the course.

"I am not quite naive enough to think that Chief Justice Rehnquist is going to go home and say 'Hey, there were 11 people back there in Tucson. I think I'll change my ways.' But I hope the school will bring justices with a different point of view and perhaps offer a course on the impact of his decisions."

Campaigns Focus on Getting Cities to Pass Youth Tobacco Laws

MINNEAPOLIS, Minn. (AP) — Anti-smoking activists are taking their campaigns to city halls across Minnesota, hoping to pass youth tobacco laws on a city-by-city basis.

In the last year, they have claimed victory in seeing ordinances adopted in 22 cities. Another 20 cities are considering strict new tobacco ordinances that would go beyond current state law.

The campaigns rely on assembling overwhelming support on a local level, often recruiting children for sting operations to expose retailers who sell to minors.

Some say the anti-smoking activists' heavy-handedness has become nearly as unappealing as the tactics used by the tobacco industry.

"You come down to this small, farming community and you throw your weight around," grocery store owner Joe Huber said in scolding an anti-smoking organizer in Belle Plaine. "Aren't you no better than (the tobacco industry)? ... You're coming down and intimidating us."

In Belle Plaine, anti-smoking activists pushed the city to adopt a tough tobacco ordinance and left Huber open to a \$100 fine if his store sells cigarettes to a minor.

The anti-smoking activists have been unable to get what they want from the Legislature, where the tobacco industry's influence is seen as strong.

"Being on the side of the angels, without any money, just doesn't cut it at the Capitol," said Jeanne Weigum,

president of the Association for Non-Smokers-Minnesota.

Anti-smoking activists said their campaign has been very public, unlike a tobacco industry "that operates below radar."

But Thomas Briant, a lobbyist for retailers and tobacco companies, said anti-smoking activists are in essence using federal grant money to finance their city-by-city campaigns.

"Most of the public doesn't know how many millions of dollars the anti-smokers (have) to try to pass ordinances," said Briant, whose organization gets funding from some of the top U.S. tobacco companies.

Last week, state legislators and anti-smoking activists renewed their attempt to toughen the state's youth access tobacco law, and a proposal to accomplish that won a key House committee vote.

During the past two years, anti-smoking activists and tobacco lobbyists at the Legislature essentially have fought to a draw, with each side's legislation being defeated.

The new statewide proposal would ban tobacco vending machines, hold tobacco sales license holders accountable for sales to minors and still allow cities to pass even stricter local laws.

Current state law holds only store employees who sell to minors criminally liable, and many cities — including Minneapolis and St. Paul — already have gone beyond it.

Prostitutes' Customers Sent to School

SAN FRANCISCO (AP) — Lesson No. 1 at the school for johns — the life of a "Pretty Woman" is pretty ugly.

The one-day crash course, which lets men arrested for patronizing prostitutes — "johns" — avoid jail, has a high success rate, according to Lt. John Dutto, the police officer who runs the program.

Cities as far away as Canada have expressed interest in copying the course, believed to be the first of its kind in the nation. It works much like traffic school for errant drivers.

Dutto said 800 men have gone through the school since it started in 1995, and only three have been arrested again on the same charges.

The men also pay a \$500 fine, but it's fear that works wonders, according to Dutto.

"We scare the hell out of them," he said.

Among other things, the johns are given a graphic picture of life in jail.

"Telling them there's only one toilet in a crowded cell, right in the open, is enough for some of them," said Dutto, a 22-year veteran of vice and narcotics work.

The johns also learn about such hazards as getting beaten and robbed by a pimp. And there are movies about dis-

eases that can be contracted from frequenting streetwalkers.

The real epiphany, however, may come when the johns confront the realities of a prostitute's life.

For that, Dutto gets a lot of help from Norma Hotaling, a former hooker who went on to become an honors graduate at San Francisco State University and an expert on her former profession.

Both Hotaling and Dutto are amazed at how little some men know of the devastation and dangers of prostitution.

"Many don't realize this is trafficking in women," said Hotaling.

"There's no 'pretty woman' syndrome here," said Dutto, referring to the Julia Roberts movie that glamorized the life of a call girl.

Hotaling said the average prostitute is only 16 years old when she starts in the business.

She tells the men about the ties between prostitution, drugs and child sexual abuse. Studies show that more than 80 percent of the street prostitutes in San Francisco have been beaten on the job and almost 70 percent have been raped, she said.

Former prostitutes address the class and recount lives devastated by drugs and possessive pimps.

"I will never be able to think of en-

gaging the services of a prostitute without being stopped by the memory of hearing the pain in the voices of the women who spoke," one graduate wrote on a survey given to those who took the course.

The class, officially known as the First Offenders Prostitution Program, is open to prostitutes as well as their customers, but hardly any take it.

"Time is money to them," said Dutto. "They can get out of jail with a phone call."

The program is not without critics.

Margo St. James, who founded a "sex workers" organization called COYOTE (Call Off Your Old, Tired Ethics), said the school is taking a "very negative tack by trying to shame men."

"It's a waste of time and money," said St. James, whose group is trying to repeal laws against prostitution.

A city task force recommended last December that San Francisco become nation's first major city to decriminalize prostitution. Mayor Willie Brown quickly voiced reservations, fearing it would make San Francisco a center for prostitution.

St. James maintained the city has a tradition of tolerance toward prostitution that dates back to the Gold Rush. She'd like to see famous prostitutes remembered in a "Painted Ladies" mural.

The names include Polly Adler, Tessie Wall and Sally Stanford, who eventually became Mayor of Sausalito. History has almost forgotten the colorful Wall, who opened the annual Policemen's Ball on the arm of James "Sunny Jim" Rolph, mayor from 1911 to 1930.

Hotaling knows the program has detractors.

"I once received a call from someone who blamed the program for contributing to the killing of prostitutes," she said.

However, if imitation is the sincerest form of flattery, the school gets high marks. Buffalo, New York, duplicated the program, and Aurora, Colo., is considering it. But the big push is in Canada.

Toronto Councillor Judy Sgro visited San Francisco in October of 1995 and was impressed by the school.

"It is a great program that is being very well received in Toronto and is a model that is being started in several other cities in Canada," she wrote Brown last July.

Why the interest in Canada? "The courts here just give people a slap on the wrist," she said in a telephone interview. "Even serious offenders don't go to jail. At least in the john school, the men learn something."

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FOUNDED IN 1946

Fenno's Place

Fenno has written for the RECORD since the 1950s. Depending on your sense of humor, Fenno has either been entertaining and insightful, or downright offensive. Then, as now, Fennos have conferred a piercing critique of HLS, and have balanced their words upon the narrow line that separates candid commentary from mean-spiritedness.

The conceptual basis of Fenno is to push the outer boundaries of free, yet tasteful, expression. Fenno creates caricatures of professors, administrators, and students and uses these fictional creations as points of reference to dive into commentary on social norms. Fenno's commentary often touches on racial, gender, political, religious, and class differences — all of the things you are not allowed to talk about at the family dinner table. And Fenno does not pull any punches.

Because Fenno's purpose is to push at social norms, there is much to point a finger at and identify as "offensive." Harvard Law School is a diverse place, and Fenno dives in and finds the tensions that lie at the heart of personal differences. Does Fenno add to the tensions, or just identify them?

It is our hope that, each week, some value emanates from Fenno's forked-tongue — something that strikes an emotion, or clarifies a point of view in such a way that only satire can. The value of Fenno's 800 words is up to you to decide, to laugh and nod at and perhaps find some truth in those imaginary musings.

Of course, in decades of mouthing-off about HLS, Fenno is bound to cross the line of acceptable taste. But the inevitable transgression will not stop Fenno from walking the line.

Fenno's aim is not to offend. When it happens, however, we are willing to apologize to anyone who feels unfairly targeted. And we are committed to printing all criticism that our readers serve upon us.

We trust that the professors who wrote to criticize us appreciate the function Fenno serves when Fenno criticizes them. And we hope all of our readers continue to let us know if they feel we have pushed too far, to help us achieve a sharp, yet tactful, publication.

— Friedman

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

—First Amendment, US Constitution

• Letters •

Professors Find Fenno Mean-Spirited

How sad that, on the same day that the RECORD publishes a letter from Prof. David Wilkins properly taking Fenno to task for bigotry in an earlier column, the RECORD publishes a new Fenno column (see Jan. 17, 1997 RECORD) that is, if anything, still more offensive. Fenno's imaginings are so repugnant and mean-spirited that it is difficult to understand why the RECORD would publish them. Perhaps the pseudonymity of Fenno contributed to the decision to print a disgusting and cruel column that we doubt would have been published under the name(s) of the author(s). In any event, we hope that the author(s) and the RECORD will think carefully about whether they wish to apologize for what they have

written in the past and what they can do to exercise their freedom of expression more responsibly in the future.

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February 3, 1997

Wilkins' Criticism of Fenno Hides Truth

Prof. David Wilkins may be offended by Fenno's comment about requirements for government assistance. (Letter, Jan. 17, 1997, page 4.) But it is a frequent occurrence that straight white males are refused help by many government agencies.

In Massachusetts the Attorney General for the Civil Rights Division has repeatedly refused to curb harassment by black police, black psychologists, and other black public officials in Cambridge.

Nor has the MCAD been of any help in relieving harassment from police. I am a white male, legally disabled. They use my disability to attribute mental illness to discredit me and to justify ignoring my complaints.

The Cambridge Police Department and the Cambridge Human Rights Commission (along with many others in this area) do not believe that black public officials are capable of racism. American Jews say I am

anti-Semitic although I was raised a Jew, because of my criticism of abuses by the ADL and the Israeli Lobby. They say I am Italian.

What Fenno states is not so fanciful, but an accurate description of fact in violation of the equal protection clause. So perhaps Prof. Wilkins is correct, it is not humorous, it is an outrage, but nonetheless true!

Roy Bercaw
Cambridge, Massachusetts
January 22, 1997

Winter Term Should Be Changed

About 20 years ago, when the winter term was first introduced, we students realized that it would become a troubling phenomenon. It should have been anticipated that professors would seek a way out, and, in fact, in the 1979 "Harvard Law Review" annual dinner program, we suggested this. Moreover, one could easily see that core courses, the understanding of whose subject matter takes time and repeated application of basic principles to ever-more-complex fact patterns, could not be taught properly within a three-week, intensive framework.

So as not to embarrass the professor, I will not identify the course I took as a 3L in that first winter term, other than to say that it was, in my opinion, a joke.

I agree that courses of the sort you identify are marginal within the law school experience. But that misses the point. There are many courses which — either because of the questionable value of their subject matter to a legal education or because of the approach of the particular in-

structor — deserve no place in the curriculum, winter, fall, or spring.

So what is the solution? Let me suggest two. One, why not recognize that the best way to arrange the academic schedule is to go back to the pre-1977 format of just two semesters, with finals after vacations? Sure, it was a pain (literally and emotionally) to lug all those books home and back, as well as an annoyance to have to study for a couple of weeks rather than enjoy the break exclusively with less burdensome activities, but we knew that we were doing it for a reason we considered important.

Second, if there is to be a winter term, why not use it for an unabashedly alternate form of instruction? Perhaps that is a good time for students to be exposed to outside knowledge, but not non-courses masquerading as traditional law school instruction. Invite practitioners — lawyers, bankers, consultants, government officials, and other professionals with whom students will

come into contact and whose roles they may fill — to give students a short but intensive workout in their fields. Don't necessarily try to make the courses traditional; allow the instructors a great deal of leeway to let practicality and their own views be the guides to the experience. A class in mergers, for example, might work through valuations and negotiations with the same frenzy and pressure as in the real world.

Broad judgment might be emphasized, as opposed to legal reasoning or a specific corpus of knowledge. Harvard might be pleasantly surprised at the pool of talent that could be attracted from among those normally too busy to share their insights with the academic community, or who have something to give that does not lend itself to the expected rigor. And if there is any concern about uniformity or quality control, try this experiment for a few years on a pass/fail basis.

Robert Kantowitz '79
New York, New York
February 2, 1997

International Commerical Arbitration Invaluable, Not "Marginal Subject"

While I am generally not in disagreement with Rob Friedman's editorial of January 17 urging changes in the Law School's Winter Term course offerings, I would take exception to his description of "International Commerical Arbitration" as a "marginal subject."

In my admittedly limited experiences in commercial litigation, disputes involving arbitration agreements are extremely common, and often involve quite complex (and interesting) legal issues.

When confronted with such problems, I continue to find my notes from Professor von Mehren's course to be a valuable research guide. (That the course purports to focus on

"international" commercial arbitration shouldn't deter anyone from taking the class, as most of the doctrine taught in the class is applicable to non-international disputes as well.) In my view, students who plan to practice as commercial litigators should consider "ICA" as potentially useful

as Federal Courts or Secured Transactions.

Also, I would caution Mr. Friedman to refrain from casually suggesting that HLS get rid of Winter Term. One can only imagine what the faculty might concoct to replace it. For my part, I envision students hauling bricks in Langdell as part of a "clinic" on "Renovation and the Law."

Kurt Wm. Hemr '94
New York, New York
February 4, 1997

• Correction •

The op-ed article "Everything Dean Clark Doesn't Want You to Know About Diversity and Student activism at HLS" in the December 6, 1996 issue of

the RECORD mistakenly misquoted the title of Professor Derrick Bell's book. The correct citation is Bell, Derrick A., *Confront Authority:*

Reflections of an Ardent Protester. Boston, Massachusetts: Beacon Press, 1994.

A Judge Engages in Jury Nullification

By Alan M. Dershowitz

At a time of increasing violence and lawlessness by anti-abortion zealots, a federal judge in New York has rendered a decision encouraging civil disobedience to the law prohibiting the blocking of access to abortion clinics.

The defendants in the case were two anti-abortion zealots. The judge — John E. Sprizzo — is himself an anti-abortion zealot, as evidenced by the language of his opinion and the selective sympathy he shows for law violators who agree with his own philosophy. In a bizarre paragraph, Sprizzo suggested that "recent events in Bosnia" may put *Roe v. Wade* "in violation of a future international consensus" on abortion.

The facts of the case are all too common these days. Two religious zealots decided that they were above the law of the land which authorizes pregnant women to choose to have an abortion. They deliberately and willfully decided to defy an injunction and a federal statute by preventing several vehicles from entering the parking lot of an abortion clinic. In doing so, their goal was to deny women their constitutional right to have an abortion. Judge Sprizzo trivializes their lawlessness by describing it as "purely passive," neglecting to mention that the passive blocking of

access to needed health care may sometimes endanger the health and life of women in need of abortion services. One wonders whether Judge Sprizzo would characterize as "purely passive," the decision by a doctor to end the life of a suffering patient by refusing to give

her the water and other nutrients necessary to sustain life.

Judge Sprizzo expressly found that the defendants *knew* of the court's injunction, and *knew* that they were enjoined from "impeding or obstructing ingress into... the [clinic]." Yet he found that their deliberate actions were not "willful," since the defendants "acted out of a sense of...

sincere religious conviction." The implications of this ruling are frightening. By allowing a defense of "sincere religious conviction," Judge Sprizzo elevates religious law over civil law. There are Americans whose sincere religious beliefs include white supremacy, male supremacy, female genital mutilation, armed resistance to the "Zionist occupied government" and all manner of lawlessness. Judge Sprizzo says that as long as a citizen's religious or conscientious beliefs are "sincere," the court may not question their "truth." Thus, the courts may not distinguish between mainstream religious beliefs and the fringe beliefs of cults and other apocalyptically violent groups. According to the "logic" of Judge Sprizzo's decision, any sincere member of such a

group may knowingly defy a court order that conflicts with his religion and be found not guilty because his action is not willful.

Judge Sprizzo misstates both the law and the practice in arriving at his unprecedented result. He says he is not "aware" of any criminal contempt case where a court has rejected a sincere religious belief as a defense to a criminal contempt charge. Judge Sprizzo is either showing his ignorance or is playing with words. I am personally aware of dozens of cases in Judge Sprizzo's own courthouse in which Orthodox Jews have refused to testify against other Orthodox Jews on the ground that giving of such testimony is against their religious law.

I distinctly remember a case in which Chief Judge Irving Kaufman angrily rejected such a claim from the bench. To the contrary, it is fair to say that there is no decision — other than Judge Sprizzo's — in which a court has allowed a religious claim as defense to a lawful court order.

The most indefensible portion of Judge Sprizzo's decision is his equation between a runaway juror who engages in "jury nullification" and a runaway judge who violates his oath of office by refusing to obey the law. Judge Sprizzo

cites some "good" examples of jury nullification, such as the John Paul Zenger free press acquittal of 1735. But he mendaciously avoids mention of the "bad" cases in which white jurors in the South refused to convict white violators of civil rights laws. Those later cases are much closer to the one at issue, since the white jurors sympathized with the white law violators, just as Judge Sprizzo sympathizes with his fellow anti-abortionists.

Judge Sprizzo's sympathy extends only to defendants whose philosophy he shares. According to the almanac of the federal judiciary, he is widely regarded as "ruthlessly rude," "dogmatic," "difficult," "extremely irascible," "abusi[ve],"

"brutal" and — most relevant — "tough on criminal defendants" and "pro-government." He is also manipulative, relying on the non-applicability of his ruling because the government cannot appeal an unlawful acquittal. But something must

be done to restore the rule of law to Judge Sprizzo's courtroom. Perhaps the proper vehicle is a complaint filed before the Judicial Conference. At the very least, he should not be allowed to sit on further abortion cases. He is now scheduled to preside over a case involving ten abortion protestors who blocked access to a Manhattan clinic.

Judge Sprizzo's sympathy extends only to defendants whose philosophy he shares.

BOOK REVIEW

No Contest: Corporate Lawyers and the Pervasion of Justice in America

Ralph Nader and Wesley J. Smith

By Paul D. Rheingold '58

One can probably draw a straight line from Ralph Nader's days at the RECORD, no doubt pecking away on an old typewriter, to some 40 years later with the publication of his book *No Contest: Corporate Lawyers and the Perversion of Justice in America*.

It has become clear over the years that Ralph was shocked by what he found in his years at Harvard Law School, 1955-58. The education and environment was not attuned to turning out the person he thought lawyers should be: ethical and altruistic. Instead he saw students being trained to join large Wall Street firms and to work at the bidding of the largest banks and industrial corporations in this country.

His concerns after graduation, as expressed in his activities and in his writings, have always dwelled upon what is wrong in society, and especially that part of society which lawyers can affect, for better or worse. Paralleling this concern has been his devotion to the health and safety of consumers, be it house-

hold products, drugs, automobiles, or medical care. There are dozens of organizations which he has brainstormed into existence and then goaded on to achievements, all for the improvement of our well-being and for the elevation of the practice of law.

No Contest is a long and serious book co-authored by Ralph ("Saint Ralph" to the editorial page of the *Wall Street Journal*) and Wesley J. Smith, author of various consumer works and described on the dust jacket as a consumer activist. (How they divided the research and writing is a gossip concern, the answer to which is unknown to the reviewer).

This latest work by Ralph is an extremely clear documentation of the abuse of rights which lawyers who represent large corporations create in the legal system. Chapters deal with the destruction or hiding of documents

which would be "smoking guns" in pending litigation; the use of confidential orders and sealing of records to prevent product hazards from being publicized; the use of SLAPP suits to silence critics; the oppression of whistleblowers; and excessive billing by the large law firms.

Nader and Smith proceed mainly by drawing interesting and lengthy stories

out of the facts of reported cases to illustrate the main abuses they see in the practice of law. From these incidents they generalize to the problems that exist. All of the instances tend to fortify the book's overall thesis: too much power has been placed in the hands of the large and wealthy law firms in this country.

For all of the illnesses the authors decry, cures are presented, both specific ones and general attitudinal changes. No public citizen could argue with any of the steps suggested to improve the land-

as the bulwark against the destruction of personal rights, is itself probably no more ethical and honest in practice than its corporate and defense brethren. The differences lie no doubt in the fact that the corporate bar tends to act "holier than thou" about its mission and, when they sin, their peccadilloes garner more attention.

One of the most attractive aspects of the book, to a reader who is aware of Ralph's many activities over the years, is his modesty. Nader himself is responsible for many of the constructive steps which

are described in the book, from the defeat of the ill-advised tort reform legislation, to the creation of groups to oppose the worst of corporate abuses. Nonetheless, he does not even once tell us that it was he personally or a group which he founded which took the action described in the book.

This book is sold for the general public but it would take a well-educated person to understand it, even though most legal terms are defined in lay terms. The

more important readership, however, is the bar, most especially the graduates of schools like Harvard, who may have lost sight of the reason they wanted to be lawyers to begin with.

Paul D. Rheingold '58 was a classmate of Ralph Nader, although he admittedly did not know Nader then. He is a plaintiff's personal injury lawyer in New York City, and has worked with Mr. Nader on a number of projects. He was briefly an instructor at the Law School in 1989.

[T]he personal injury plaintiffs' bar, which the authors praise frequently... is itself probably no more ethical and honest in practice than its corporate and defense brethren.

LEGAL NEWS

Supreme Court Considers Clinton v. Jones Appeal

By Hal Poret '98

Last month, following a lengthy controversy regarding Paula Corbin Jones' allegations of sexual harassment against President Bill Clinton, the United States Supreme Court heard arguments on the issue of whether Jones can bring suit against the President while he is still in office. The President is appealing an Eighth Circuit decision that denied him executive immunity from Jones' suit, but held that the district court that will hear the case must exercise its discretion to control scheduling of the trial and pre-trial activity to protect the president's ability to fulfill his constitutional duties.

The suit, which has become the topic of heated public debate regarding the President's character, arose from a 1991 incident in which then-Arkansas Governor Clinton allegedly sexually harassed Jones in a Little Rock, Arkansas hotel. In her suit, filed in May of 1994 in the U.S. District Court for Eastern Arkansas, Jones is claiming that Clinton directed Arkansas trooper Danny Ferguson to escort her to Clinton's room in the Excelsior Hotel, at which point he undressed from the waist down and made sexual advances towards her. In her complaint, Jones also asserts that Clinton subjected her to job-related retaliation and that he defamed her in denying her allegations against him. Jones' legal claims include sexual harassment, deprivation of civil rights and infliction of emotional distress.

In December of 1994, the district court decided to delay the trial until after Clinton's presidency but said discovery could proceed "as to all persons including the president himself." However, in January of 1996, the Eighth U.S. Circuit Court of Appeals ruled that the trial could proceed. "We have every confidence that the district court will exercise its discretion in such a way that this lawsuit may move forward with the reasonable dispatch that is desirable in all cases, without creating scheduling conflicts that would thwart the president's performance of his official duties," the court stated.

In an amicus brief filed in support of President Clinton, the United States argued that requiring the President to defend himself in a trial would impermissibly intrude

The [Supreme] Court also seemed unreceptive to acting Solicitor General Walter Dellinger's argument that the President's time is too valuable to force him to go through civil litigation during his term as President.

upon the President's ability to carry out his unceasing executive responsibilities, in violation of separation of powers principles. "A judicial order requiring the President to participate in the defense of a private civil suit would therefore place the court in the position of impairing a coordinate branch of the government in the performance of its constitutional functions," wrote the United States.

At oral argument last week, the Supreme Court appeared unconvinced by the government's separation of powers argument. "You cannot rely on separation of powers," said Justice Anthony Kennedy, asserting that separation of powers is not a doctrine that gets imposed on the states. "I understand there's a federal interest," Kennedy added, "but that's not separation of powers."

The Court also seemed unreceptive to acting Solicitor General Walter Dellinger's argument that the President's time is too valuable to force him to go through civil litigation during his term as President. Justice Antonin Scalia openly declared his dissatisfaction with this argument, pointing out that Presidents, including Clinton, have found enough time to ride horseback, play golf and chop wood. Justice Scalia also suggested that unlike a judge, who may have to be in court, or a Congressman, who may have to appear on the floor of Congress, it is not always necessary for the President to be physically present at events that involve his office. "The president is the one federal officer who is able to delegate," Scalia stressed.

Led by Justice Stephen Breyer, the Court also suggested that even if the President is too busy to go through a trial, there is little reason to prohibit the lower court from proceeding with pre-trial discovery, including taking testimony of certain witnesses, other than the President. Jones' lawyer echoed this point, arguing that a delay in Jones' case until the president leaves office could mean that the case never gets to trial. "We don't know when witnesses are going to die," he said. "Her case could be utterly destroyed." Chief Justice William Rehnquist questioned the United States' response that any pre-trial activity would be too distracting for the President, stressing that Presidents are well-conditioned to dealing with a tremendous amount of responsibilities and distractions that accompany the office.

An impressive collection of law professors, including professors Richard Fallon, Jr. and Laurence Tribe of Harvard and Susan Estrich of USC, also filed an amicus brief supporting President Clinton's position. These professors, who are among the leading authorities on constitutional law, argue in their brief that a "limited and temporary immunity from suit for unofficial acts is fairly implied in the structure of the executive branch established in Article II of the Constitution and in traditional principles of separation of powers." The brief stresses that the President must be free from the diversion of energy and distraction that a private action would cause and that without a showing of exigent need for immediate relief, "there is no reason to override the structural considerations warranting temporary immunity."

A second group of law professors, including Richard Parker of Harvard, submitted an amicus brief in support of Paula Jones, arguing that the President is requesting too broad a form of immunity that would bar many cases where no interest would be harmed by subjecting the President to a law suit. "Under general separation of powers principles, immunity from suit regarding private conduct can be justified only if President Clinton can show that his amenability to suit would actually interfere with the fulfillment of the duties of his office," the brief states. These professors argued that a broad immunity is not necessary because there are a wide variety of tools available to prevent the use of litigation as a harassment tool. "The temporal immunity President Clinton seeks is fundamentally inconsistent with the Constitution's effort to ensure that all of the powers it confers are checked and balanced."

Dulce et Decorum

By Jacob M. Appel '99

RECORD Columnist



George Bailey died on the 25th day of February, 1916. Actually, according to the official scorekeeper at the British Department of Veteran's Affairs, seven men named George Bailey died on that day during the German onslaught at Verdun. Unfortunately, those ill-fated George Baileys were thoroughly insignificant men whose memories have been relegated to sepia photographs and faded letters of commendation stored in long-forgotten portfolios: one was a watch-maker from Dorset; another a junior officer from suburban Manchester. Amongst the 400,000 men who died at Verdun, no great heroic act was performed by an individual with the appellation George Bailey. And in the grander scheme of things — as men coughed out their lungs and held their bayoneted intestines in their hands — even if one of our seven George Baileys had performed a heroic deed, nobody would have taken notice.

Similarly, when the military accountants were enumerating bodies by the yard, they took little note of the three George Baileys who fell at Ypres or the sole George Bailey who died broken and alone at Caporetto. Alas, unlike Alvin York or Audie Murphy, George Bailey is not a name that will bring tears to the eyes of veterans or ring in the annals of military history.

Yet you must remember George Bailey! I refer neither to your classmate at Yale nor the guy cousin Mildred married before the family opted to stop talking to her. Instead, I ask you to briefly recall George Bailey of Bedford Hills, immortalized by Jimmy Stuart in "It's a Wonderful Life," visited by the angel Clarence and colorized for the moral edification of our children.

You must remember George Bailey, saving his community from corporate greed at his corner savings & loan and protecting his happy wife and darling daughter from the threats of the cold and brutal world. You must remember him, because he assured you in your youth — the taste of Christmas goose still warm on your palate — that every individual really matters. Commemorating his fate is decisively more appealing than spending your Christmas remembering his namesake, the 21-year-old Dorset watchmaker, seeing his liver slowly drip into *les neiges d'antan*.

For if you transform this juxtaposition into my grandmother's heaviest Italian accent, there are George Baileys and there are *George Baileys*!

On the one hand, our pawns of the Royal British War Machine gave their lives for God and country, the belief that somehow their sacrifice might make the world free for democracy or capitalism or touch tone dialing. *Dulce et decorum est pro patria more*.

In contrast, Jimmy Stewart's creation lives a humble life in a small town, struggling to bring peace and joy to his small circle of acquaintances. We are faced with the Holden Caulfield dilemma: is it better to live for a humble cause or

If you have much money, few interests and no compassion, you contribute to the brimming coffers of this bottomless institution.

die for a noble one? It is not reassuring to know that our Dorset watchmaker left a wife and two small children to fend for themselves until their heirs could sue me for violation of their privacy rights.

At the same time, little solace can be gained in the knowledge that Jimmy Stewart himself will soon die a lonely widower in an upscale nursing home. How many diverged roads must a man walk down before they call him Robert Frost? At its highest and noblest level, this conflict embodies the human condition.

And then there are lawyers. Lawyers and stockbrokers, bankers and accountants, middle-men, bureaucrats, record-keepers, and the professional voyeurs who ensure that monuments are erected along the Maginot line and that the citizens of Bedford Falls never forget their place. Maybe it's the vast, inclusive wasteland between New Jersey and television, or possibly there's something wrong with the water, but a certain segment of the population always manages to avoid the conflict between humble and noble causes.

We reject Lear's nothing will come of nothing for the comfort of knowing that disappointment is solely the product of expectation. If he who sows no seeds reaps no harvest, he never suffers the perdition of blight.

I mention this segment of the population in relation to those who find themselves helpless dogs in the face of the great God HLS. I'm bored. I'm scared. I wish I didn't have to spend two years of my life pasting loose-leaf reinforcements at Taft, Keefeauver & Eichmann in Cincinnati Ohio in order to pay off my loans.

If the truth be told, law school is supposed to be both frightening and boring. Men like Robert Clark, having forgone all moral responsibility, have no incentive to create intellectual excitement or quell anxiety. They thrive on the knowledge that increased terror and decreased passion lead to enhanced donation tendencies. Quite frankly, if you have much money, few interests and no compassion, you contribute to the brimming coffers of this bottomless institution.

If you're ever bored or scared, take solace in the thought that you can always attend dental school. You can hang your HLS diploma on your office wall, perform a daily service greater than the combined efforts of every Coke and Blackstone at Cravath, and — when Sir Robert goes the way of Jimmy Stewart — you can tell his successor that you'd love to give the ten million, but you'd rather have an endowed restroom in your honor at the Y.M.C.A. The thought keeps me going.

I do not suggest that you never suffer fear or ennui. Drive across the hinterlands of America, making pit-stops at every Walmart and 7-11, and you have earned your boredom. Fear the prospect that your name will live in infamy, that life will pass you by, that you will never appreciate your parents or live to see your grandchildren or know the power of true love, the despair of heartbreak and the meaning of Finnegans Wake. Fear the prospect of neither dying on the banks of the Marne nor earning the love of your neighbors.

Do not fear Bogeyman Clark and his brown-shirted henchmen. Fear the prospect that you will neither die for a noble cause nor live for a humble one.

• Letters •

Ad Board Policy Entirely Sensible

I was shocked by Beth Hirschfelder's letter in last week's RECORD calling for the unseemly and inappropriate exposure of the expelled student's name. Ad Board policy, to announce punishments while withholding names, is entirely sensible; we saw its efficacy last year, when an anonymous student was suspended for defrauding his classmates of

\$1500 in a scam involving an unknown Landsdowne Street club. His identity was never revealed, and his privacy remains safe to this day.

I wager that if Miss Hirschfelder got into trouble herself, she'd thank the Ad Board for barring her name from public view. Instead, she and her den of voyeurs clamor for names, in a

McCarthyesque echo of the needless public outcry that felled American heroes like Captain Hazelwood and Colonel Oliver North. In the future, Miss Hirschfelder would do well to hold her tongue, lest incautious statements come back to haunt her. Loose lips sink ships.

C. Matthew Warren '98
January 22, 1997

Dean Clark's Values "Warped"

Poor Dean Clark! Now he "disfavors" the solution to perpetual increases in the number of students as against increasing the quality of a Harvard Law School education by reducing the number of admissions.

According to Dean Clark's warped values, "Reducing the numbers would have tremendous financial consequences. It would mean downsizing, firing

a large amount of staff — it would be demoralizing." So? Is trying to be law school to [the] world and saving staff jobs a more important goal than excellence in the education of professionals, described by Dean Roscoe Pound (1916-1936) as the "pursuit of a learned art as a common calling in the spirit of a public service." Ar-

ticle III requires no less.

To be an officer of the court trained at Harvard Law School should be more than [the] possession of a trade school certificate purporting to be a J.D. degree.

Carl Shipley '48
Naples, Florida
January 18, 1997

Dean Pound not Anti-Semitic

In a column in the December 6, 1996 issue of the Harvard Law RECORD, Rafael Mares '99 declared that "Pound Hall was named after a supporter of Hitler." The only evidence he offers of this is that Dean Pound accepted an honorary degree from the University of Berlin in 1935.

Mr. Mares adds, without

providing any specifics [that] "During his deanship Pound fiercely fought the appointment of three Jewish tenure candidates." I do not know whether there is any truth in that statement or what support Mr. Mares has for it. I do have personal knowledge of one fact, however, which demonstrates that Dean

Pound was not anti-semitic. In my last year of law school, another Jewish student (Stanley Gomberg '49) and I lived in Dean Pound's house.

Leon C. Baker '49
Boca Raton, Florida
January 22, 1997

Legal Briefs



Harvard Proposes Rent Increases

Harvard Planning and Real Estate (HPRE) has proposed a three percent increase in its average rent. HPRE is the landlord to over 1,700 Harvard graduate students and affiliates.

The exact rent increase for tenants will depend on whether or not they live in previously rent controlled housing, in which case there will be a flat three percent increase, or in other types of housing, in which case the rent will increase either to the market value determined by HPRE or by three percent, whichever is lower.

According to a press release, HPRE determined the rent increases based on a survey of more than 5,000 Cambridge and Somerville apartments.

Despite the backing of the survey, many students expressed skepticism over HPRE's decision. Some residents believed that the new increases will impact students coming to Harvard from smaller cities who are not used to such high rents.

Other students, however, argued that the increases are very reasonable considering the benefits accorded by Harvard housing such as the location and the 24 hour maintenance.

The new rates are only a proposal, and comments and complaints can be submitted until February 13 to the Faculty Advisory Committee on Affiliated Housing.

from the Harvard Crimson

Loker to Include Nightly Entertainment

Director of the Memorial Lowell Complex, Eric C. Engel, announced the addition of nightly entertainment to Loker Commons on weeknights.

Engel said that the new entertainment will include performance night at the coffeehouse on Monday, HRTV at the coffeehouse on Tuesdays, an entertainment extravaganza on Wednesdays, and a Friday night freak.

Some of these events will be performed and organized by visiting student groups such as the Radcliffe Pitches, Harvard Jazz Band, and the Opportunes.

The Loker administration hopes that the new events will correct the underutilization of the Loker complex.

from the Harvard Crimson

Robert Reich to Teach at Brandeis

Former Labor Secretary Robert Reich who resigned from his post last November announced his intention to teach at Brandeis University, the Boston Globe reported Saturday.

Before joining the Clinton administration Reich taught at Harvard's Kennedy School of Government. While on the faculty, Reich taught a number of classes on policy-related issues, including ethics and management.

In an interview with the Crimson after he announced his intention to resign, Reich said he was moving back to Cambridge this month to spend more time with his wife and two sons.

"To be a member of the Cabinet is a marvelous job, but it typically entails twelve to fifteen dour days and often claims significant parts of weekends," Reich said. "It does not make for much of a balanced life."

from the Harvard Crimson

B.U. Beats Harvard in Beanpot Semifinal

Boston University exploded for six goals in the third period to beat Harvard 7-1 in this week's Beanpot Tournament opener.

At 2:50 of the third period, B.U.'s Mike Sylvia scored on a rebound in front of the net to give the Terriers a 2-0 lead. Sylvia had an open net after Harvard center Joseph Craigen took his own goaltender out of the play by tackling B.U. center Shawn Bates into J.R. Prestifilippo.

"In my mind, that was the biggest play of the game," Harvard coach Ronn Tomassoni said. "We thought we were playing pretty well. When we gave up the second goal, it kind of sucked everything out of us."

B.U. put the game out of reach at 5:31. Bates stole the puck from Harvard defenseman Ashlin Halfnight, giving B.U. a two-on-one. Bates passed the puck to Shane Johnson, who shot the puck through Prestifilippo's legs.

"It just snowballed once they got the third goal," Tomassoni said.

B.U. turned the close game into a blowout by capitalizing on numerous odd-man rushes.

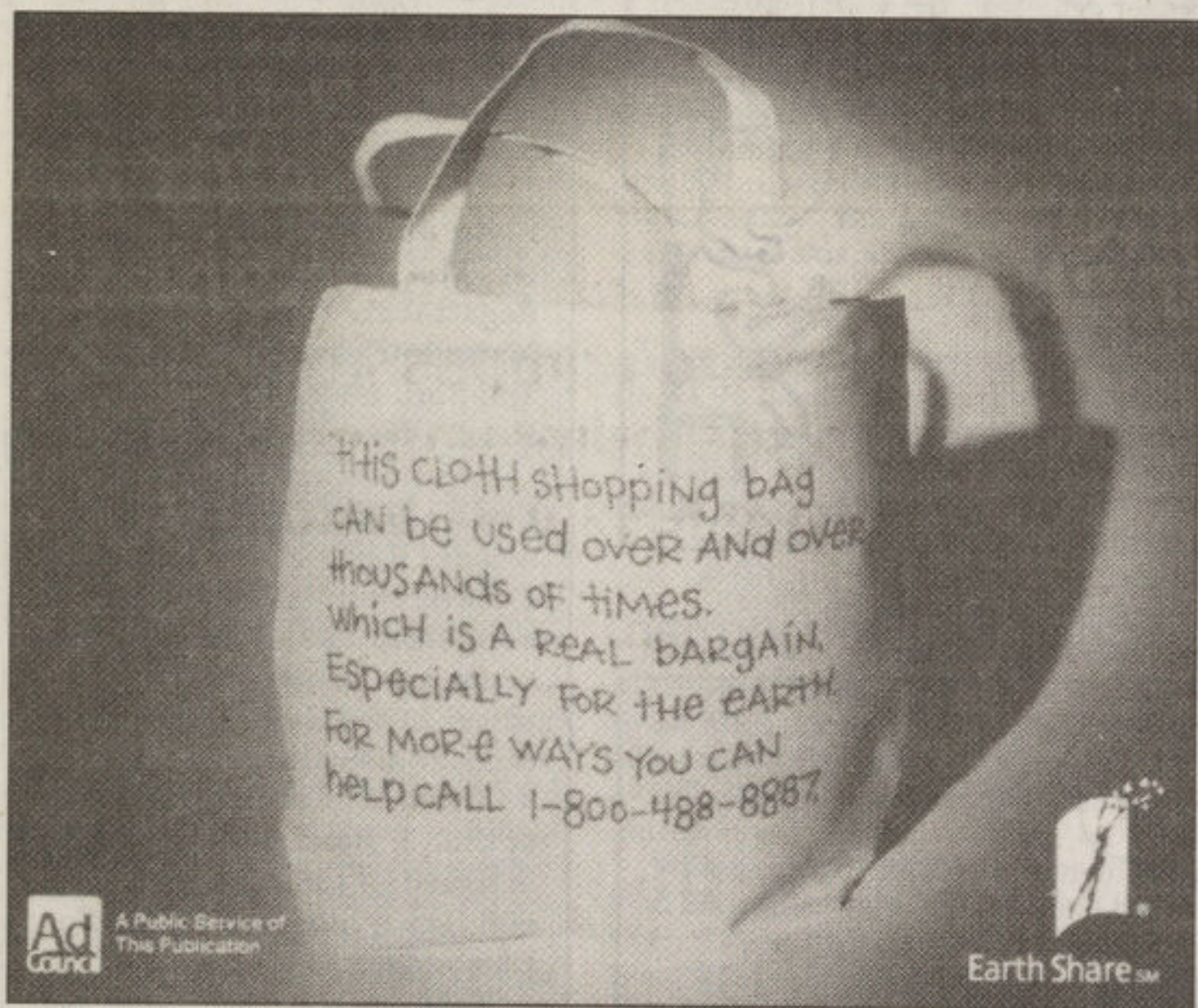
The Terriers could win their third consecutive Beanpot title next Monday, when Boston University faces off against Boston College, which beat Northeastern 4-1 this week. Harvard will play Northeastern in the consolation game.

Border Cafe Ordered Closed

As a penalty for failing a November city inspection, the Border Cafe has been ordered to close down for three consecutive days, one of which must be a Friday. The Cambridge License Committee issued their unanimous decision after reviewing a list of the cafe's "life-threatening" offenses which included overcrowding, a blocked exit, and greasy fire extinguishers.

Attorney for the cafe, Kevin P. Crane, said that a possible appeal would be built on a discrepancy between patron capacities set by the License Commission and the building code. Gladys "Pebble" Gifford of the Harvard Square Defense Fund expressed disappointment with the leniency of the ruling, describing it as a "slap on the wrist." The HSDF had recommended a six-month suspension for "a history of violations and the sloppy way in which they do business."

from the Harvard Crimson



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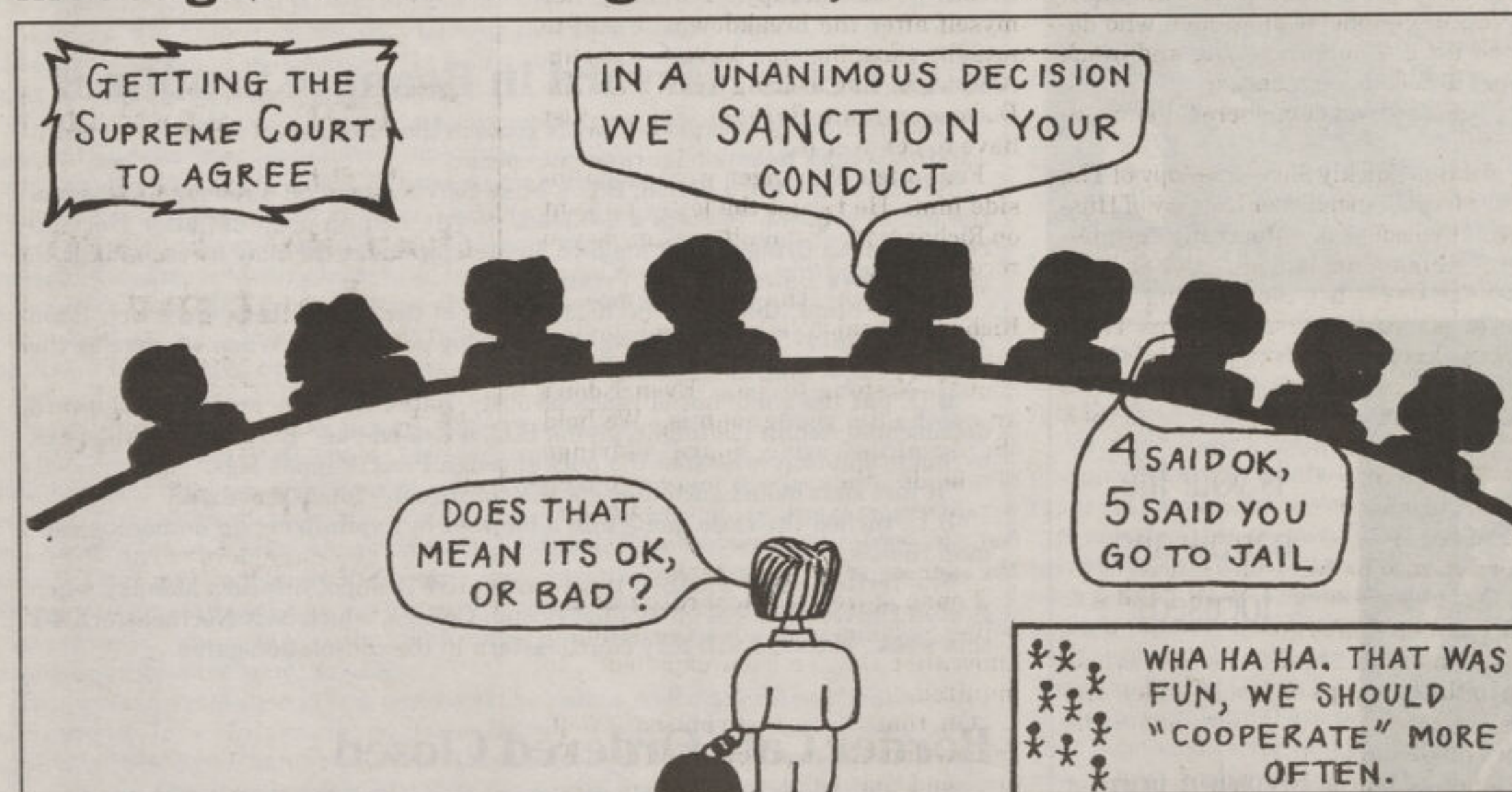
Ad Hominem

By Stuart Rees and Bill Zimmerman



Investigative Cartooning

By Stuart Rees and Bill Zimmerman



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CALENDAR

By Janie Kim '99

Calendar: 2/6 - 12

This week's diversions are as follows:

Jack Powers would be delighted if you'd join him and the rest of the gang at T.T. the Bears Place for **Stone Soup Poetry**. The open-mic rocket takes off every Monday night from 8-11p. m. 10 Brookline St., Cambridge. 227-0845

Julian Lauzzana, curator/owner/proprietor of **The ArtScape**, describes the latest star headlining at his gallery as "an unorthodox take on the angel theme never braved by your average Hallmark card." Traditional flat media hang with computer-generated sculptures and strobe lights on turntables. **The Fallen Angels**: see their descent. On exhibit till Sat, 2/15, at 100 South St., Boston. 482-0918

Turned off by the pre-packaged samosas now refrigerated at the Hark? Eat at the **Bombay Club** on Mondays and Tuesdays, and enjoy live classical Indian music with dinner. Sitar, synthesizer, and samba always help a lasse go down easy.

Celebrated jazz drummer **Elvin Jones** jams with his sextet, **The Jazz Machine** at the Regattabar. You'll even see a Marsalis (Delfeayo) on trombone. Thu-Sun, 2/6-9. At The Charles Hotel, 1 Bennett St., Harvard Sq.

Former entertainment powerhouse, **Pauly Shore**, newly cropped, peddles his schtick at Fanueil Hall's Comedy Connection. Shorn locks have destroyed better men (see Samson, featured player in the Good Book). Fri & Sun, 2/7 & 9. 248-9700

Friday, 2/7, is **Brazilian Night** at Club 3. Bossa nova and samba designed for the swivelling of hip. 608 Somerville Ave, Porter Sq., Cambridge.

This one's for M ... and her "gentleman caller." Tennessee Williams' **The Glass Menagerie** plays at the Huntington Theatre Company through Feb. 9. 264 Huntington Ave, Boston. \$12-44, 266-0800

The Phoenix Landing just got themselves a kitchen: live music a proven hungry-maker and all. Fri, 2/7, See **Big Bad Bollock** and hear thrashing rock steeped in an Irish lilt. Sat. 2/8, **Chuck** does reggae with a topnote of funk. 512 Massachusetts Ave., Central Sq.

Cheap music at The Middle East. Six bucks gets you **Texas is the Reason, The Promise Ring, Milltown, and Rocket Science**.

My Fair Lady, with newly digitized image and sound, stops at The Wang Center. So sumptuous, you don't even care that Hepburn lip-synchs and Harrison talks the lyrics. "The rine in spine is minely on the pline."

Read Fenno. I luv you, buh-bye.

Elephants and Threes

By Alexander Boldizar '98

A quick pink elephant bounces off a mogul. He lifts his right skis into the air, keeping his balance only barely. He hits another mogul and then a jump. An earnest tree buffets him and another stands in his way as he sails towards it. He dodges left and right, too fast for control. The earnest moguls acquire a pattern, almost discernible, bouncing him left, right, left, right. The moguls inadvertently remind him that a ski slope has three dimensions. It's something not taught at law school.

The pink elephant seeks to find the pattern in the sophisticated moguls. What is it that makes certain moguls rise up at certain times? He wants to know where he's going. Of course, he knows that he's going down — that's what he signed up for when he paid for his lift pass. He wished to start the run with an open mind, flexible, willing to learn from the reputed ski slope and adjust to the cosmopolitan moguls. He wanted to learn how to ski. He would leave options open. But once he made the decision — to ski or not to ski — the run seemed to close in around him, with the only possible outcome at the successful bottom.

The moguls seem fractured to the pink elephant, segregated localities. Like America.

The pink elephant flies over a reconstructed ramp between two gnarled trees. He flies over it without control. As he crosses the edge where the ramp borders on air, he sees a stump of illogic at the bottom. He has to push off hard so as to land on the other side of it. As he passes over the happy stump he notes that this particular ski run seems to create a certain coherence through the dissonance of the moguls. The operators of



the run, as well as the ski patrol, tell him that he can take any way down the mountain which he wishes. Yet each run has an operator who knows which mogul will push the pink elephant in which particular direction. They let him choose his own way, but they call on the moguls to nudge him this way or that. Had he time to stop and regain his control, of course, he would see that the moguls are simply other elephants like him, and that through the bumping of the elephant-moguls the operator was guiding them all down.

Were the operator to tell the elephant which direction to take, the elephant would doff his open-mouthed skis, or at least maintain some skepticism. But in his

speed he can hardly see which way the moguls are pushing him, let alone the side paths off the run, and as he bumps down the run he begins to think that perhaps he is in control after all. This meretricious mountain was organized to be silent about other possibilities, even as it promised them at the outset, and the pink elephant soon forgets. Perhaps the pink elephant fetishizes assent in his descent. Even if only the assent of moguls.

The pink elephant blows through an articulate mogul and lands in a patch of lucid powder. The powder slows down his educated skis, almost enough to make

him fall on his face, but not quite. Afraid of getting stuck, and because of the peaceful trees directly in front, he veers right, down a steep wide slope where the ground is hard packed, granular. As he gathers speed he longs for a new synthesis.

Sliding on his critical skis he zooms up a long sharp ridge of snow and comes to a new understanding. He understands that he is being both guided and used as an instrument of guidance, rewarded with assent and tangibility every time he acts the conversant mogul to adjust the course of some other animal flying down the hill. He understands that there is a correct direction to travel, revealed

not explicitly by the operator, but still clearly enough by the surreptitious order of the moguls chosen by him. The faster the pink elephant goes on his reasonable skis,

the more his dissonance grows and the less he sees an alternative. "Perhaps at the bottom of the run..." he thinks.

The elephant remembers Hunter's dog, his inspiration, who is "chased by demons that he cannot comprehend until a silent tide of light befriends him and delivers him from clatter." Unlike the dog, however, the elephant is increasingly defined by the clatter. Snowflakes land in his eyes instead of light. He sees only the obstacles, the moguls and the trees, and the way down. He becomes clatter as it becomes his light.

The pink elephant enters an unhinged

glade and hits another patch of understanding. There he encounters the number 3. He senses with his crazy ears and irrationally big nose that it is through the use of the number 2 that the operators make the snow and give the totalizing moguls their ability to attract and avert. They present a binary choice, whether as a continuum or a dichotomy, along which way the elephant must turn. Right or left. Left or right. Gravity will do the rest, and gravity is just a matter of time. It is only the elephants, moguls, trees and reality which have three or more dimensions. The path of the ski run has only two, for it is both a ceiling and a floor, as determined by the mountain. And the mountain cares little who skis on it.

The pink elephant flies over a small creek and tears around a corner in a wide arc, moving almost too fast to be seen, yet seeing that the lefts and rights on the run are influenced merely by an operator who is herself fractured and localized. Yet, as the pink elephant picks up speed, the remunerative skis and polemical poles become part of who he is. He cannot take them off, because he feels necessity in the same binary mode which is the consciousness that the operators and the moguls have taught him. Because, after all, nobody forced the forgetful pink elephant to buy a lift ticket...

As the pink elephant descends, too quickly now for me to see any longer, one last thought still manages to catch him. He has been underestimating the power of the number 2. Its powers do not stop with the mountain. The number 2 is SAMENESS. Through it, skiing and law school become parallel, analogizable, same. This understanding is the last I heard of the pink elephant, so that is where he lives forever, in the knowledge acquired from skiing, that everything is the same. Poor guy, he ruined his ski trip.

The pink elephant blows through an articulate mogul and lands in a patch of lucid powder.

Fenno

Holding the accusatory letter in his right hand and a cigarette in his left, Fenno could not believe his eyes. Expulsion! After all of his years of hard work, his late night "study sessions" with his eighth grade chemistry teacher, Father O'Connor, his efforts to learn to play golf and to drink Rob Roys in search of the perfect corporate law job — and all for naught.

"Dear Student," the letter read, "I am writing to inform you that a student has been expelled for forging his transcript. In compliance with the Buckley Amendment, we will not reveal the name of that student to anyone — even the perpetrator. However, if you are one of the 550 students receiving this letter, you should be warned that you may be the student in question and you should plan your career accordingly."

So he had forged a couple of transcripts. Once he started in grade school, the task became automatic, even addictive. He was the product of a corrupt system — a cycle of dependence. Where was Carol Steiker and her pinko, public-defender, twinkie defenses when Fenno needed her? The white man lacks legal counsel, Fenno moaned.

What matter if Fenno had the reading ability of a third grader and the problem-solving ability of the average victim of fetal alcohol syndrome. He'd still received B's, hadn't he, and an A+ from Professor Unger for transcending popular notions of grammar and style. And hadn't he given back to the law school community by sending out anonymous e-mail ridiculing classmates' privates?

Fenno had only one choice: to imme-

diately confess his transgressions to Dean Richardson in hopes that she might mitigate his punishment. Suzie was sure to melt under his charms if he talked dirty to her, Fenno thought.

Three hours later, Fenno found himself in the waiting area outside of Richardson's Office, sitting across from Professor David Wilkins. Fenno knew of Wilkins — one of those men who devoted little time to teaching and much effort to social commentary.

"What are you doing here?" Fenno inquired.

Wilkins quickly folded his copy of *The Wall Street Journal* over his copy of *Hustler*. "I've come to submit my resignation," Wilkins explained. "I've decided that I'm really not contributing to the world earning \$120,000 in this Ivory Tower. Instead, I'm going to New York to teach the law. I am going to declaim it in Yiddish in Crown Heights and then in Ebonics on Lennox Avenue."

"The Dean will see you now," announced the receptionist. Fenno clutched his letter in his fist and stormed into Richardson's office.

"I confess, dammit! Yeah, I did it ... but I had to, I have an excuse. My aunt was dying and ... and I was just following in the footsteps of Joseph Biden and Martin Luther King ... and ... and ... the Jews made me do it!"

Dean Richardson looked up from her crossword puzzle. "Young man, relax. You don't happen to know a six letter word for attorney: blank-a-w-blank-e-r, do you?"

"How about lawyer," Fenno said.

Richardson scribbled the suggestion and put away her TV Guide. "Now what was all that you were babbling about. I haven't all day — I'm a very busy woman."

"Well," Fenno explained, "I've come to admit that I'm the student who's been expelled."

Richardson took out her pocket mirror and began to put on her lipstick. "Have you been to health services?"

"I don't think you understand. I've been expelled."

"You know, young man, they can give you a cough drop or possibly even a band-aid ..."

"Please, Dean," Fenno pleaded. "I've been expelled."

"... They also have a new expert on herbal psychotherapy. I went to her myself after the breakdown. I said to myself, 'Suzanne, you have a problem. NBC isn't going to bring back either *The Doctors* or *Santa Barbara*, and you just have to get over it.'"

Fenno felt the anger welling up inside him. He thrust the letter in front on Richardson. "Dammit, ma'am, do you recognize this X?"

"I believe that's my mark," Richardson said. She scanned the letter. "So that's what you're worried about? Nothing to fear. Even I don't know who the young man is. We hold the Administrative Board hearings blindfolded these days; we're not even permitted to examine the evidence or hear testimony, because it might reveal the identity of the perpetrator."

Fenno stared at Richardson in disbelief. "Then how does the student know that they've been expelled?" he inquired.

"Oh, that ..." the Dean mused. "Well, I guess that he doesn't ever find out. We just send that letter to everyone in the hope that the guilty party will exercise some integrity and withdraw. We rely on the honesty of our students. Now what were you saying before about 'the Jews making you do it'?"

"Oh, nothing," Fenno stood up and prepared to leave. "Thank you."

"Think nothing of it, young man," Richardson said. "But if you are interested in health services, just let me know. It's terrific! Just like being on *General Hospital*."

Fenno quickly exited the office, waving to Professor Wilkins on the way out. Wilkins was too busy eyeing the stock page to notice.

Quote of the Week

"I don't give a crap about doctors. I care about my profession. They can take care of themselves."

— Prof. Arthur Miller during a Civil Procedure lecture last week.

Just Cause

Where the Queen Keeps Her Husbands

By Carla A. Halpern '97
RECORD Columnist



When I was five years old, my family visited Turkey and toured a beautiful palace. As our guide led us through the halls, she pointed to a large room and told us, "...and this is where the Sultan kept his wives." I poked my nose into the room, and then, puzzled, peered up at the guide and asked, "Where did the Queen keep her husbands?"

The answer that I received was less than satisfactory; I was introduced to the unpleasant reality of sexual inequality. Last Friday night, I found occasion to review that reality in a somewhat unexpected set of circumstances:

I went to see the "new" *Star Wars* on opening night. The experience provided both entertainment and a wake-up call. Part of the entertainment came when we managed to smuggle a pizza into the auditorium. I was also able to laugh at a movie that, updated special effects notwithstanding, had become quite dated. The acting was notoriously bad. Every line about "The Force," every nuance, had been spoofed several times over in the past 20 years; it was almost impossible to take the original seriously. Watching *Star Wars* again was a fun ride.

The wake-up call came when the credits rolled. At first, I thought, "Gee, it

As a 27-year-old watching *Star Wars*, I was pacified by a movie that didn't seem to take any steps backwards.

wasn't as bad as I remembered." And what I remembered was pretty bad. I had seen the movie once, when it first came out. I must have been about eight years old. All my classmates had *Star Wars* lunch boxes and Halloween costumes and I, not wanting to be left out, begged my big sister and her boyfriend to take me. After some prompting from my parents, they agreed. Poor kids. It's bad enough to have a bratty little sister tagging along on a date, but when my sister's polite and patient boyfriend asked me afterwards how I liked the movie, I scowled at him and snarled, "I didn't. It was sexist!" Well, obnoxious as I might have been, I was honest about my perception. I remember being terribly frustrated that Princess Leia never got to "do" anything, or at least not to the extent that any of her male rescuers did. In my eight-year-old fantasies, I was the action hero, not the damsel-in-distress. I wanted to be the one who made things happen instead of the victim to whom things happened. Still pissed off about what I had learned in Turkey, I was constantly frus-

I remember being terribly frustrated that Princess Leia never got to "do" anything, or at least not to the extent that any of her male rescuers did.

trated by the dearth of fictional female role models to admire and emulate. All I knew about Wonder Woman was that she wore a skimpy, impractical outfit and had an invisible jet. That wasn't enough for me. Neither was Princess Leia, who, noble as she may have been, was not terribly active and spent most of her time as a pretty prisoner.

So after having an image of Princess Leia in my mind as a weak, helpless victim, I was pleasantly surprised when I saw *Star Wars* again last week. She was not the complete moron I remembered; she got to handle a weapon from time to time; she spoke her own mind. I left the theater thinking, "Well, for the time period, that's not so bad." But later I reconsidered. I've come of age in a world where men still have far more power than women. We are still struggling against sexism while many who benefit from the status quo do all in their power to preserve it. True, the past two decades have brought some dramatic changes. In some respects, the scales are a little more balanced; in others, nearly equal. I've come to believe that as a woman in 1997, things are not really that bad.

The danger occurs when "not that bad" becomes "good enough." As a 27 year-old watching *Star Wars*, I was pacified by a movie that didn't seem to take any steps backwards. Fortunately, a little girl's bratty voice was still echoing in my head. I expected a lot more when I was a child; I expected and demanded, not only that society not slip backwards, but that we actively move forward. The echoes of that voice make me think that the world could use many more obnoxious little girls. We deserve to know where the Queen keeps her husbands and why the Princess doesn't get a Light Saber.

I will admit up front that I have never seen the later two movies in the *Star Wars* trilogy. I am not a science fiction aficionado and I may have missed some aspects of the *Star Wars* story line. I have also heard rumors that Princess Leia gets to be an action hero on her own towards the end of the series. I do plan to see those two movies and I hope that the rumors are true. But if not, the frustrated little girls of the world will still be demanding justice. May The Force be with them.

Of Musings and Vagaries

It Made Me Do It

By Renée Kaplan '99
RECORD Columnist



To the friendly dissident in our midst, fellow columnist, and humorist, cousin to Irving and frequent critic of the powers that be, I address a few words of counter-reflection. It is a different perspective of this — our common road to the completion of our commonly chosen degree. A road that you, and many others out there in the world, both in and not in law school, have often described as something of a stultifying, homogenizing and even dehumanizing experience...

Law school generically, as a genre, is very much applied and how-to, both in form and function. It is a professional school, with an option to-be-interested included at no extra charge. It seems reductive, and rather facile, to describe the whole experience as a philistinization of America's select and privileged. Sure, so say the beat generation — Hollywood and little Scottie Turow — but it seems to overlook the possibility that a few students may find some intrinsic interest in the subject matter, or perhaps do profess a sincere desire to become a lawyer, a public advocate, a politician — or a movie producer, a designer, a ballet dancer, or a fireman. No doubt, among these last choices, there is a whole contingent of bright and misguided who, encumbered by an embarrassment of choices, came to law school — to Harvard — because...because they got in. And maybe they should not have come. But if they came, they came of their own will; no doubt a will shaped by a complexity of social values, family pressures, unspoken ambitions, conflicting ideals, bla-bla-bla; thus, a will not entirely autonomous, but a will nonetheless, all the more present and thriving for its anguish.

To describe law school as the bourgeois bogey-man stealing away ideals and integrity, and replacing them with empty ambition and conformity, infantilizes the process, depriving everyone (including those who couldn't be more certain of belonging in law school) of their thinking will, and conveniently eliminates that yucky, icky, sticky issue of whose fault it is that any of us are students here anyway. It would actually be nice to no longer second-guess decisions or doubt the prospect of fulfillment; it would be nice to just blame it all on law school — I had no choice, it made me do it. But that overlooks the fundamental agency underlying every student's enrollment in law school: free will, which includes—needling truth—the possibility of not coming, and includes the possibility of not

So if the masses abandon the pursuit of simple pleasures and self-realization for bland, conformist, materialist goals, I am convinced they do so quite consciously.

finishing, and does not preclude the possibility of saving the world, avoiding the suburbs, not becoming a pedant, or also deeply regretting having signed away youth, three years and \$100,000 for the purchase of a crimson badge of credibility.

Certainly, the experience of law school can feel rather mechanical sometimes, always, occasionally or never— depending on who you are and what your interests are, and how invested you are in the experience (or if you've tried Fluff, the ultimate in processed dee-lite and the perfect solace to mind-bogglingly boring reading: one potent sticky spoonful alone fulfills your search for both meaning and distraction, and suddenly you find that you can go on. Cool Whip may be substituted). But the point is, to denounce the general experience of Harvard Law School as overwhelmingly homogenizing, and the students as overwhelmingly compromised, strikes me as something of a stereotypical generalization. So people here are on their unavoidable way to becoming dispassionate, unreflective and materialistic? So we're being ineluctably drawn toward insipid suburban bliss by a brainwashing process so brutalizing that with that first acceptance-letter punch, HLS knocks us all unconscious to truth, beauty, peace, love, and being real? So what? I don't mean, "So what?" flippantly, I mean it quite frankly: so what does this reveal about this place? What are the alternatives? Is Harvard at issue, or law school generically? Is there no redeeming *raison-d'être* to going to HLS — and should we all bail now?

Even if it turns out that the experience of Harvard Law School is, in fact, an inescapably alienating process, then the masses have probably never more consciously and willfully abused their opium than the masses of students at the Harvard law school. As process overcomes consciousness, it takes over unobtrusively, slowly infiltrating under the guise of free will, and surreptitiously usurping any conscious willfulness. But if there is any process that cannot work incognito — unobtrusively, surreptitiously — any social force that cannot possibly suck its chosen victims into a vacuum of contentment and bourgeois complacency unnoticed, it is this one. For there are few institutions in the world where you simply can never forget where you are. Whether good, bad, right or wrong, I strongly suspect that there is not a single member of the Harvard Law School community who is not aware of this place and the external resonance of this place, who is not conscious, to some degree, of the powerful influence of this particular process. So if the masses abandon the pursuit of simple pleasures and self-realization for bland, conformist, materialist goals, I am convinced they do so quite consciously. Naturally, each mass-member's sense of satisfaction — and sanity — will vary with the degree to which his or her idea of happiness can be signed up for, and interviewed for, in some office in Pound Hall. This may vary from I'm-so-set-honey-what-do-you-say-we-make-payments-on-the-house-in-Westchester to what-was-I-thinking?!?! But whoever you are, and whatever your feeling about the law school experience, no one, especially not your free will — whether anguished, content, still skeptical or very hopeful — is going to let you forget who decided to send in the acceptance deposit.

Veritas in Vino

By Judson Berkey '98

Guest Columnist



The Romans had a saying, "Vino in Veritas," by which they noted that special ability of fermented grape juice to loosen one's tongue and encourage the truth to flow out. There are several truths and wine-making regions, styles, and grape varieties. But the wonderful thing about wine is that what is good is what pleases your own tastes.

In this week's column, I thought I would stay in the United States and think big, bold, and old. This naturally leads to California, as it is the oldest and most prolific wine-producing region in the United States, and, within California, to Napa County. Wine has been produced in Napa since the 1930s, long before large scale production reached other parts of the state in the 1950s and 60s. Napa County lies to the northwest of San Francisco and adjacent to Sonoma County, another large wine producing region to the east. Napa is the most famous wine producing region in California as it is the most productive and contains some of the state's best known wineries (Robert Mondavi Winery, Inglenook Vineyards, Charles Krug Winery, and Beringer Vineyards to name a few).

California wine, like almost all wine in the United States and in the New World production areas outside of Europe, is differentiated mainly by varietal. This means that the wine is first classified according to the particular grape from which it is made, such as Cabernet Sauvignon, Merlot, Chardonnay, or Sauvignon Blanc. This contrasts with France where *terroir*, a term really untranslatable into English which designates the combination of soil, climate, and growing conditions of a particular piece of land, is preeminent, and wines are classified according to their region of production, such as Burgundy, Bordeaux, Loire, Champagne, Chateauf-neuf-du-Pape.

However, as the U.S. wine industry matures, it is paying more attention to specific micro-climates and growing conditions to balance the emphasis on grape varieties. For while understanding grape varieties is the easiest way to approach wine, the individual characteristics of wine really come from the growing conditions and wine-making style of the vintner. The northern part of Napa Valley, in the area around Calistoga, is warm and produces full-bodied wines with rich, dark fruit and earthy flavors. The southern part of the valley, especially the Carneros region that extends into Sonoma, is cool and produces wines with brighter fruit and more acid.

Nearly two thirds of all the vineyard plantings in Napa consist of the Chardonnay and Cabernet Sauvignon grapes which we normally associate with California. The Stags Leap and Howell Mountain AVA's are especially known for their rich Cabernet Sauvignon, and Mount Veeder and Carneros are large centers of Chardonnay production. There has been a general trend over the last decade or so towards toning down the rich fruit and heavy oak often associated with California wine in order to make more refined and subtle wines that emphasize the fruit of the grape and nature of the region. Thus, there has been an increase in the production of other varieties such as Sauvignon Blanc, Pinot Noir, and Merlot. The following tasting notes includes some of these other varieties along with the traditional ones.

1994 Pinot Noir, Carneros (Sinskey Vineyards), \$18.00 — Started by an ophthalmologist and inventor, this winery is especially known for its Merlot and Pinot Noir as it is located in the cooler Carneros region. This Pinot Noir has a spicy, earthy nose and a deep cherry-raspberry taste. It has a silky texture and a very smooth finish.

1994 Merlot, Napa (Flora Springs Winery), \$16.95 — Only since around 1980, this winery has become known for its proprietary Trilogy (a Cabernet Sauvignon, Merlot, Cabernet Franc blend) and Soliloquy (exclusively made from 30 year old Sauvignon blanc vines). This Merlot has a rose nose and a plummy flavor. A nice change of pace from a Cabernet Sauvignon but probably a bit too expensive when there are many bargains to be had in Chile.

1991 Cabernet Sauvignon, Napa (Napa Creek), \$13.50 — This is a well-balanced wine without the heavy aggressive character associated with most California Cabernet Sauvignon. A peppery nose gives way to a nice mild olive flavor. This is a very good buy.

1994 Chardonnay, Napa, Caviste (Acacia Winery), \$12.50 — Located in the cool Carneros region, this winery produces wines for cellaring and also the Caviste line of moderately priced wines for immediate enjoyment. This wine has much less oak than many California Chardonnays and is another representative sample of the shift towards greater subtlety. Crisp and lively, it has wonderful apple tones.

1995 Sauvignon Blanc, Napa, Reserve (Raymond Vineyard), \$9.95 — This vineyard is located on the valley floor at the base of St. Helena in the northern part of Napa. It produces fairly-priced, good-value wines. This is a very crisp and clean Sauvignon Blanc with the typical grassy flavors. Dry and high in acid it would be well-suited for late summer.

1994 Sauvignon Blanc, Napa, Fume Blanc (Rutherford Vineyards), \$9.95 — Fume Blanc is a marketing term made up by Robert Mondavi in the late 1960's in order to try to increase the popularity of the more-difficult-to-pronounce Sauvignon Blanc. The name is used interchangeably with Sauvignon Blanc at the discretion of the vintner. This one has a more herbal nose than the Raymond, and a hint of oak or spice in the finish.

Upcoming Food and Wine Events:

January 10th marked the opening of the three-month-long Boston Wine Festival. From now until the end of March there are a plethora of food and wine events such as tastings, special dinners, lectures, and receptions throughout the gastronomical centers in Boston. Call 617-330-9355 for a free schedule of events and to order tickets.

Perhaps the most accessible event, and most affordable on a student budget, is the Boston Wine Expo taking place on February 8th and 9th. The almost excessive Expo brings the tasting tables of more than 350 international and domestic wineries to the Boston World Trade Center. Also available are 35 wine and food pairing seminars and cooking demonstrations by celebrity chefs from inside and outside of Boston. New this year for those caught up in the cigar trend is a cigar pavilion and smoker's lounge. Tickets for the Expo are available for \$33 in advance by phone at 1-800-544-1660 or at many wineries including Somerville's Wine and Cheese Cask.

THE VERDICT

Jackie's Nirvana Among the Stars



By Michael Bennett '98

Movie Reviewer

Dear Mr. Jackie Chan,

Jackie, Jackie, Jackie. . . despite all your potential, your physical dexterity, your comedic genius, not to mention the support of deep pockets on both sides of the Pacific, you disappoint. Your attempt to penetrate the American movie market has been, unfortunately, a smashing success. You are suffering through the usual by-products: diminished creativity, diminished quality, and diminished essence.

Your latest film, *First Strike*, is by far your worst. Gone are the jabs at the soon-to-be reunited Hong Kong. All that remains of your Chaplin-like physical comedy are absurd child-like episodes that leave me yawning and feeling a little embarrassed. Even the stunts, the soul of what *makes* made you a star to begin with, lack the style of your previous flicks and are reduced in number. I counted only a de-thumbed handful.

Before I viewed *First Strike*, I ranked you among my most beloved martial artists. Jet Li, Michelle Khan, even Bruce, for God's sake. But after this film (sigh) . . . I . . . I think of you in same class as Van Damme and Seagal. I wouldn't be surprised if you starred in a prime time television show alongside Chuck Norris on Thursdays.

I decided to write you this note so as to spare your film a negative gavel rating. Since it shares the page today with a film that is dear to my heart, a film that was carved into my soul when I was seven years old, I thought it only fair to forgo any formal ratings and simply comment in this leisurely fashion. But this letter is not all light damnation. It is also a pleading. You've got to snap out of this rut of yours before it's too late. Please. More stunts, more choreographed ass-kicking, more cross-dressing, and fewer explosions.

Your Comrade (for the moment),
Michael Bennett

Dear Mr. Milos Forman,

I recently viewed your film *The People v. Larry Flynt* and was pleasantly surprised. I entered the theatre expecting to find an interesting movie waiting for me despite Ms. Love's participation and all the media-induced controversy that grew in the recesses of your effort. Before watching the film, I must admit that I knew very little about Flynt besides the fact that he's rich, crippled, and that he headed a company that was involved in a Supreme Court case. To tell you the truth, I prefer my pornography in literary as opposed to pictorial form. Stuff like Henry Miller's sex trilogy and *The Story of O*. But I digress. The thought that I was trying to finish is simply that I more or less enjoyed the film despite my ignorance. It satisfied my requisite need for depravity in both the character played by Harrelson and Love's as well. His, the entrepreneurial country bumpkin-pervert, was a perfect balance between slimy degenerate and oppresse. It was difficult initially to feel any compassion for the Flynt character until he was confined to a wheelchair by the unsubtle nudge of a bullet. And even then, I found it difficult in light of his vulgarities.

As for Ms. Love, her deceased lover of Nirvana fame probably said it best:

I'm so happy cause today I found my friends/
they're in my head/
I'm so ugly that's o.k. cause so are you/
(something)/
Sunday morning's everyday for all I care/
and I'm not scared/
find(?) my candles in a daze cause I found god. . .

I am convinced that he wrote this section of lyric to her. Especially the "so are you" portion. I had trouble getting past her repugnance, pre-HIV-positive diagnosis, and watching her disintegrate on the screen was a real test. My favorite scene of hers is actually the death scene. She's radiant when she's drowned. Water truly does cleanse, no? I'm sure Kurt would agree if he were alive himself.

At any rate, Milos, I didn't intend this note to go on forever. In closing, let me just say that *Flynt* rates with *Amadeus*, *Hair*, and *One Flew Over the Cuckoo's Nest*. You are a credit to film.

Sincerely,
Michael Bennett

Dear Mr. George Lucas,

Thank you. The first time I saw *Star Wars*, it singularly affected my life in a way that few events, of celluloid or other nature, ever have. Seeing the film on a proper screen for the first time was almost too much for me to take. Your characters are like lesser deities to me. When I come into contact with the occasional individual who has not seen the film (usually resident alien Francophones, strangely enough), I feel pity. They know not what they know not.

As I had hoped, the digital additions to the movie were mostly embellishments and not recharacterizations. I particularly enjoyed the new footage of Han Solo confronted by a smaller than expected Jabba. I was a bit confused by the look on Jabba's face. He looked very sad and seemed reluctant, almost fearful, in his threats and admonishments. Were the two more intimately involved in the original script? Or perhaps Jabba is Han's father? I can't wait to see their meeting in *Jedi*. I'm sure everything will be crystal clear.

There's really not much for me to say besides I love this or that. . . Old Ben doing his warrior-monk part, Luke's juvenile giddiness turned hard then soft again by a larger than life adventure, Han's one-liners, Leia's hair, Chewwi's hair, and Vader. What I feel can't be any further expressed by words. Thank you again.

Your Disciple,
Michael Bennett

Exclusive Interview with the Honorable Minister Ma Ying-jeou

By Perla Ni

Minister Ma Ying-jeou, a graduate of Harvard Law School (S.J.D. '81), previously served as Taiwan's Minister of Justice (1993-1996) and is widely regarded as one of the country's most promising future leaders. He spoke with the RECORD on the impact of the transfer of Hong Kong on the relationship between Taiwan and the People's Republic of China.

How does the transfer of Hong Kong affect Taiwan's reunification question with China?

"My government's position on reunification is unequivocal. We want reunification but we have a timetable. There are so many things that will have to be worked out before a peaceful solution to reunification can come. My theory is that to have peaceful reunification you have to go through three stages. The first is interchange — people to people, business, commerce. Then integration — economic integration, investment. And finally, political unification.

"In Germany ... if you ask people about their reunification, they'll tell you that if they had to do it over again, they would be more careful and make more preparations. So, it is important to effect the reunification through the three stages. Currently Taiwan and China are engaged in interchange and it's about to move into the second stage. Without that second stage, that kind of integration, the foundation for political reunification will be very weak."

Will the second stage be hastened by Hong Kong's return to China?

"I think that will contribute to hastening the pace. But we can control that pace depending on how we control direct trade with the mainland. We have embarked upon an ambitious program to make Taiwan a regional operations center for multinational corporations. So if we try to attract for-

eign investors, it will be self-defeating to tell them that they cannot trade with the mainland directly. So we're moving towards the direction of integration. But first we have to discuss with the mainland whether they will renounce the use of force or at least commit themselves to maintaining peace. Look at last March's missile exercise in the Taiwan Straits."

Do you get a sense that China's timetable is shorter than Taiwan's for reunification?

"I don't think that mainland China wants immediate reunification ... but they seem to have an anxiety over Taiwan drifting away, which is not what really is happening, but a perceived risk. ... This is because of the democratization of Taiwan, there is a variety of opinions ... radical and moderate that are expressed."

Right now, Beijing is considering repealing some of the ordinances of Hong Kong, such as Habeas Corpus and right to associate with international political groups? What significance would you import upon such actions?

"The Chinese Foreign Minister Qian Qichen has said, after July 1, Hong Kong people will have no freedom to demonstrate in memory of the June 4 massacre. What [Beijing] says is that you have the freedom of press, but not the right to tell lies. No one knows the distinction between lies and criticism of leaders."

"There is a chilling effect coming out

of these proposals [for the repeal of civil liberties]. Optimism has turned into skepticism because of this. Lawyers have a lot of doubts about what will happen. Some lawyers coming from the British tradition say that the 200 years of common law precedents could be used as a shield against the further encroachment of human rights. However, I doubt this very much. The law has to be enforced and if the Chinese authority change the structure of the Hong Kong judiciary, then [the effectiveness of these laws] could be an entirely different story."



Minister of State of Taiwan Ma Ying-jeou S.J.D. '81

How has Taiwan's attitude towards reunification changed over the past 10 years?

"As a matter of policy, we still maintain a policy of reunification. [When] we just started at the interchange stage and there the picture was pretty rosy, but after 10 years, people have become more realistic ... between unification and independence, the majority is content with the status quo."

What new strategies is Taiwan pursuing to reunification?

"The only thing we can do is to have more negotiations, to demonstrate sincerity and good faith ... [W]ithin this year there may be some breakthrough in negotiations. Only by negotiation can we achieve peaceful and stable reunification."

Investors in Taiwan come from a different background and understanding of how the PRC works than most foreign investors, what is the strength of their confidence in the future Hong Kong?

"Although optimism has turned to skepticism, it hasn't turned of pessimism yet. The effect of the curtailment of personal freedom will not take effect until a specific incident occurs, otherwise it doesn't really touch people. The intellectuals [could be] afraid of making a statement or write an article that would get them in trouble with the authorities. ... [T]here is also a fear of the political corruption from the mainland spreading to Hong Kong. ... If corruption occurs, would the current Independent Commission Against Corruption have the political determination to pursue this to the end? If not, would the relatively free press report these? The answer to these questions ... could erode the confidence of foreign investors."

Why do you think that corruption appears to be so endemic not only to China but to the Asian region where there is a large problem with corruption?

"In the last couple of years, Korea, RPC, Taiwan, Hong Kong, Singapore and Malaysia have all embarked on major crackdowns on corruption. Foreign investors in Taiwan were stunned by reports of corruption cases day by day. But this is because we [have taken] action on corruption, not because we try to hide it. After a while, after the impact of these campaign have been felt, corruption will decrease."

Students Flock to High-Profile Speakers and Networking Opportunities

Continued from CONFERENCE, p. 1

well as panels and workshops on topics like Law and Justice in Hong Kong, Project Finance in ASEAN, and Joint Ventures in China.

High-Profile Speakers

Headlining the conference were Dr. Edgar Cheng, Chairman of the Hong Stock Exchange, Dr. Ma Ying-Jeou '81, Taiwan's Minister of State, and Mr. Nguyen Sing Hung, Vietnam's Minister of Finance.

A surprise appearance by Governor William Weld '70 at a reception on Friday evening also added to the luster of the conference. Addressing the crowd of business and student leaders, Governor Weld emphasized the growth of economic ties between Asia and the Commonwealth.

Other students measured the conference's growth by its ability to diversify its discussions beyond the traditional Japan-China-Hong Kong nexus.

Anna Kim '98 expressed her pleasure at seeing the conference organizers "take a risk on having a Korea panel" which included Mr. Kyung-Hoon Lee, the Chairman of Daewoo International Corp., a Korean manufacturing conglomerate ranked 34th on Fortune's Global 500.

Kim noted that another sign of the event's growing reputation was the attendance of non-students, including local businessmen. Conference organizers targeted Boston law firms and businesses and students at Columbia, NYU, BU, and BC.

Questions about Hong Kong

Concern about Hong Kong's future pervaded the atmosphere of the conference.

Dr. Cheng's opening address set a placatory tone for the conference. In his speech, he emphasized his belief that the mutual pragmatism of Hong Kong's people and China's leadership is the key to making the goal of "One Country, Two Systems," a reality.

Several participants at the conference, however, were skeptical about Cheng's objectivity.



Attendees of Asian-Pacific Business Conference

"You could see the strings from the ceiling coming from Beijing," said Patrick P. Chu '99.

Chu, a resident of Hong Kong and Canada, asserted that while the Western media is at times too pessimistic about the future of Hong Kong, he is glad that he holds a Canadian passport.

Joseph L. Ngai '99, a resident of Hong Kong and a conference organizer, however, said that Dr. Cheng's statements represented the opinions of many of Hong Kong's citizens.

"Pragmatism has been a trait of the Hong Kong people whether under British or Chinese rule," he said, and that adaptability has been fundamental to

Hong Kong's economic success.

Ngai agreed that the Western media overemphasizes the negative. "I think in Chinese society there are very different values; family values and economic security are maybe more important than being able to protest in the streets. Sometimes, the Western press has a very biased view and is unfair to Hong Kong," he said.

Ngai believes that Hong Kong will influence China more than vice versa and compared the acquisition of a "second passport" to the purchase of an insurance policy, citing not pessimism but caution as the motivation.

"Obviously it is a time of change, and the fact that people are uncertain is very understandable," said Ngai.

"A lot of people have a second passport as an insurance policy, but when you buy [an insurance policy] you don't want your house to burn down and you don't necessarily think your house will burn down. People are just being cautious," he said.

A Chance for Networking

The conference also provided prime networking opportunities.

At a reception for the Taiwanese minister of state, Ma Ying-Jeou, students rushed the minister for an opportunity to get one of his highly-prized business cards and for a chance to proffer their own.

For many students who grew up in Asia, this was a chance to reestablish and enhance their ties to home. For others, it was just a welcome opportunity to meet with a high-ranking Asian leader with the hope of establishing ties for the fu-

ture. Many students noted that personal relationships often serve as the foundation for developing business relationships in Asia and that the conference presented a unique opportunity to have personal contact with leaders who possess significant influence over developments in Asia.

Self-Promotion Criticized

While most participants praised the conference's organization and its high-powered speakers, a number of attendees commented that the workshops and panels lacked substance, citing the self-promotional tone of some presentations.

One student described the conference as "hollow at the core," but interesting for the trappings.

James C. Lin '98, one of the conference organizers, said that while it is understandable that some companies would present their own experiences in an industry, the conference organizers made it clear that speakers were to extrapolate from their own experiences and speak on broader topics.

Paul H. Boesen '98, vice president of the Harvard Asia Law Society, said that if individual speakers are identified as too self-promotional on the post-conference surveys, they will not be invited back.

Andrew S. Wong '98 suggested that more interaction between students and speakers, critiquing one another, would have been helpful. Nevertheless, Wong stated that the conference serves a much-needed function.

"Considering the importance of Asian issues, it's very important for young people interested in Asia to be able to get together and plan for the future," he said.

"This is a conference that is important because it deals with changes in Asia and American policy towards Asia."

Scholars Debate Fate of Hong Kong After 1997

By Perla Ni

The handover of Hong Kong to China in July 1997, the focus of the conference, has captivated Asian social and political circles this past year. Dr. Edgar Cheng, Chairman of the Hong Kong Stock Exchange delivered an optimistic keynote address on Hong Kong's post-1997 financial market. He characterized the transfer of sovereignty as a tremendous "business opportunity" for both Hong Kong and China. Despite fears that the new Beijing leadership may undermine vital legal, media and political institutions, Cheng expressed confidence that Beijing will maintain a relatively "hands-off" policy and not risk jeopardizing a highly successful economic formula.

Currently, Hong Kong accounts for \$80 billion dollars of investments in China, making it the number one source of direct foreign investment in China. Hong Kong investors have contributed to

China's economic growth, providing technology, market, and financial knowledge. Although the market mentality is expected to diffuse across to the mainland, Cheng stressed that Hong Kong is not interested in spreading political ideology to the mainland. "By nature, we're not missionaries," he said.

Similarly, he characterized Beijing's leaders as pragmatists with considerable commercial interests in Hong Kong and China. As a result, Cheng argued, they will not likely jeopardize the "symbiotic relationship."

The economic gap between Hong Kong and China has narrowed in the past 10 years. Changes in the next decade will be even greater and eventually the gap

will disappear, said Cheng. Nine years ago, securities markets did not exist. Today there are over 500 listed companies and over \$130 billion dollars worth of market capitalization. This shows, said Cheng, that "compared to the Russian, the Chinese leadership understand and are skillful at planning the transition to a market economy."

"Hong Kong has the potential to be-

post-1997 Hong Kong. The enterprising, pragmatic and "can-do" qualities of the Hong Kong people will ensure that Hong Kong's future is bright, he said.

The Rule of Law

Conference participants were less sanguine about the prospect of maintaining the integrity of the Hong Kong legal system after the transfer of sovereignty.

Sir Robin McLaren, former British Ambassador to China, stressed the importance of the government in the continued economic success of Hong Kong.

"The rule of law is quite fundamental to Hong Kong, he said. "Hong Kong has developed under the common law, British legal system which is now familiar and predictable. This preserves the level playing field and gives foreign investors the confidence in their contracts and in the government to invest in Hong Kong markets," said McLaren.

Although Hong Kong is protected by the Basic Law, which guarantees certain fundamental freedoms, there is no certainty how the Basic Law will be interpreted and enforced. According to Jacqueline Leong, Queen's Council and former Chair of the Hong Kong Bar Association, the Hong Kong bar will do all that it can to prevent an erosion of basic rights. Already, Leong noted, Beijing has challenged the validity of ordinances passed without Beijing's approval after 1984. China is considering the repeal of ordinances that protect *habeas corpus* and the right to associate with international political entities.

Although the Hong Kong people are "characterized as pragmatic, this does

not and should not mean that they place constitutional rights second to economic prosperity," Leong said.

Fear of Corruption

A major fear of many Asian leaders is that the corruption endemic to mainland China will undermine the political morality of Hong Kong. According to Prof. Ezra Vogel, Director of the Fairbank Center for East Asian Research at Harvard, if local corruption is defined as "local officials looking out for their own local industries and factories, this will not change."

"There is no way a Hong Kong businessman could avoid that problem in business in China," he said. Vogel explained that local officials feel that since Beijing supplies only half their budget, the other half must be raised by other means. As a result, many local officials run their own enterprises and levy miscellaneous taxes.

"To the western mind that's corruption, but a lot of people in China consider it as normal way to conduct business," said Vogel.

However, Vogel said that Chinese officials have attempted to adapt to the environment in Hong Kong. "Officials have stopped taking naps after lunch as they did in mainland China," he said.

Freedom of the Press

Both Cheng and McLaren stressed the importance of the media in supplying investors with full information. However, although Cheng maintained that "responsible, nonsensational reporting will be allowed," McLaren argued that this is an area of potential problems. He noted that only recently a reporter in China was jailed for more than three years for publishing financial statistics three days before they were released by the government.

Will criticism of Beijing be silenced in the press? "Leaders in Beijing not accustomed to operating in open world," said Vogel. "Direct criticism will not be tolerated."



Rallies such as this one, in memory of the 1989 Tiananmen Massacre, may no longer be welcome in Hong Kong after 1997.

come the Manhattan of China and the London of Asia," said Cheng enthusiastically. Low taxes, a business-friendly government, strong infrastructure and an educated population have made Hong Kong one of the main financial hubs of Asia. According to Cheng, as the *renminbi* [Chinese dollar] becomes more convertible, investors from the Mainland will become significant players in the international securities market with Hong Kong.

Although Cheng stressed that Hong Kong's future leaders "must understand how leaders in Beijing operate and have the determination to tell leaders in Beijing what will and will not work in Hong Kong," he seemed confident about



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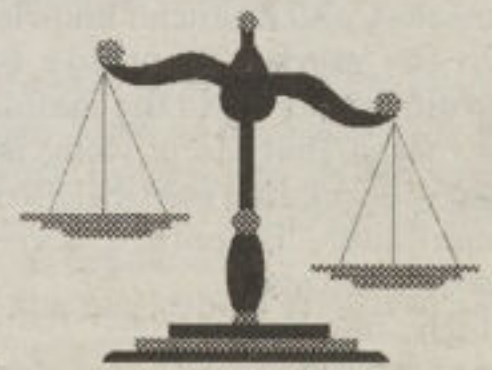
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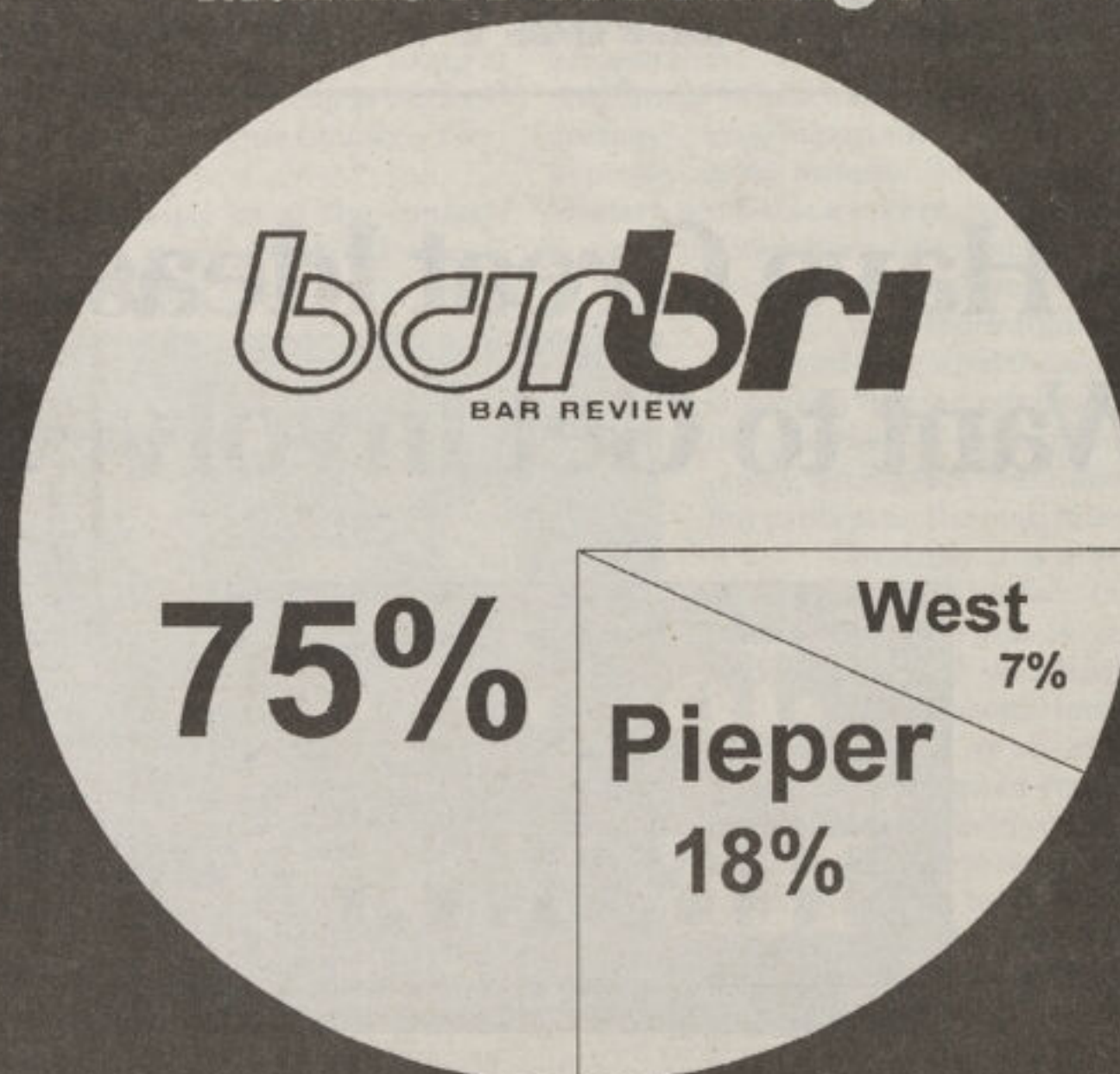


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