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BSA Elects Blum President

Better communication with faculty in the works

By Christopher Edwards

On election platforms urging increased communication with the faculty and better preparation of student instructors, Jennifer Blum '98 and Matthew Stennes '98, were elected president and vice president, respectively, of the Board of Student Advisers on Tuesday.



Jennifer Blum '98

The new BSA leaders were elected out of a field of three candidates, a threefold increase from last year, when only a single member ran for office.

Blum and Stennes said that they foresaw few important changes for next year's Legal Research and Analysis classes. They stressed BSA's progress in recent years in stabilizing and smoothing out teaching methods and class structure.

There are "no big changes in the works," said Blum. "We are happy with the present framework. Any changes will be within this framework; it's a question of fine-tuning."

Prof. Peter Murray '67, one

of the LRA instructors, however, seemed to disagree. "We hope next year to integrate the conceptual and practical parts of LRA. LRA classes will help to integrate 1L academic activity."

In response, Blum said that "[BSA was] not told of any changes." She admitted, though, that professors had mentioned last semester that one 1L section might be integrated, but said BSA had been "given no specifics."

"From the BSA perspective, there are no great changes," she said. "But we will adapt our teaching to any changes," she added.

Both Blum and Stennes emphasized structural cohesion during their campaigns, responding to BSA members' desire to see the organization become more unified and assertive in dealing with faculty members. Members of BSA felt that in the past their decision-making efforts were marginalized by LRA lecturers. They hope that in the future, BSA will play a larger role in shaping the 1L curriculum.

"We need to pool our voices and make the BSA a cohesive unit," said BSA member Peggy Ward '98.

Although the candidates had indicated that one of their long term objectives for the upcoming year was to improve communication with the faculty, Blum said that the new leadership had yet to have a "goal setting session." This session will not occur until next week. At the session, however, Blum said that she hopes to emphasize that "[BSA] is a team along with the faculty and interested students to create the best curriculum for 1L students."

In the short term, Blum plans to focus her attention on organizing and planning for next year's LRA classes and for BSA itself.

"There's a training class in the spring for 2L LRA teachers. We want to try to use the teaching class to do preliminary research and organization for the fall semester," she said.

One criticism Blum had for the past year was that "there were preparations [for the fall semester], but not as much as there could have been."

please see **BSA**, p. 12

Fall Grades Should Arrive in Mailboxes Saturday or Tuesday

Registrar Stephen Kane Reverses "Sadistic" Grade Distribution Policy

By Rob Friedman

Explaining that he didn't "want to subject students" to "finding out their grades in a public forum," Registrar Stephen Kane has reversed the former grade distribution policy that required students to pick up their grades in a single-file line. Grades for all students were to be sent through the U.S. mail system on Thursday and should arrive either this Saturday or Tuesday, Kane said.

Kane, who replaced retiring Registrar Sue Robinson this year, said he decided to make the change after speaking with several faculty members and Associate Deans Todd Rakoff '75 and Frank Sander '52.

"I was surprised at the way [grades] were distributed in the past," Kane said. "Students find out in a public forum. I don't want

to subject students to that."

Kane said students should get their grades by Saturday or Tuesday "depending on how the U.S. mail works." Students who do not receive their grades in the mail by Feb. 19 may go to the Registrar's office and pick up a copy, he said.

Although Kane said grades will be available a week earlier this year than last, he said missing grades from "delinquent faculty" continues to be a problem. Students who receive missing grades on their report will automatically receive a new grade report when the grade becomes available, Kane said.

"It's not fair to students for [some grades] to come in late," Kane said. Although the deadline for faculty to submit grades has passed, Kane said "several courses" remain with missing grades, espe-

please see **GRADES**, p. 3



Registrar Stephen Kane

Grading Controversy Spurs Clinical Debate

Proposed Change Pending Faculty Approval

By Jacob M. Appel

At a law school that touts itself as one of the leaders in clinical education, and as the clinical enrollment at HLS is on the increase, several students have raised the concern that a minority of faculty teaching clinical courses offer no more than lip-service to the courses' clinical component.

According to Supriya Ray '98, who is currently enrolled in two clinical courses, the problem stems from the discretion given to faculty in balancing grades for a course's clinical and classroom portions. "If I take a two credit clinical," she explained, "I ought to get a two credit grade."

The current faculty rules permit professors to weigh the grades in any manner they see fit — occasionally ignoring the clinical evaluation entirely.

"This is an issue of non-disclosure," Ray also noted. "I went to three [introductory clinical] meetings and I was never informed about ... this pertinent piece of information."

A second student, speaking on the condition of anonymity, observed that "most professors don't give a damn about clinical work. It's part of the general

hypocrisy of this place. [We're told that] clinicals are important and then they grade us on exams."

Prof. David Westfall '50, who teaches the Family Law course with a clinical component, responded to student concerns. "I take the clinical grade into account if there is a major discrepancy between the clinical and classroom grades," he observed. "There usually isn't a big effect because there usually isn't a big discrepancy."

Westfall also noted that he believed that student complaints about the lack of notification "may be well taken." In the past, he has been willing to reveal his grading formula to any student who asked; now, he intends to announce his grading procedure on the first day of class. At the same time, he noted that "it would be more helpful to put it in the catalog."

In an effort to resolve the issue, Prof. Gary Bellow '60, former director of Clinical Programs, and Director of Legal Services Jeanne Charn '70 submitted a proposal to the Legal Education Committee last spring that would award clinical and classroom grades separately.

please see **CLINICALS**, p. 12

New Officers at Legal Aid Bureau Promises Renewed Prestige

By David Hyung-tek Lee

The Harvard Legal Aid Bureau, once one of the Law School's three honorary societies, has since become the less prestigious stepsister of the Law Review, with which it shares Gannett House. Newly elected President Andrew O'Toole '98 and Vice President Belinda Lee '98, who began their terms on Monday, hope to change that image.

The new officers laid out a plan of action. O'Toole forwarded, "We want to preserve and strengthen the link between the clinical and educational aspects to increase the prominence of this organization at the Law School."

Lee viewed recruitment as key. "I want to try to emphasize the valuable knowledge and experience gained through working with the Legal Aid Bureau. Students should know about us as an option." She added, "There's a great sense of cooperation here. We're looking forward to enthusiastic 1Ls

signing up to contribute and share in an extremely fulfilling experience."

Established in 1913 and chartered as a Massachusetts charitable corporation the following year, the Harvard Legal

Aid Bureau is the oldest student-run legal services office in the country. Although registration in a clinical is not a requirement, it provides an important opportunity for those enrolled in a clinical program to receive clinical credit.

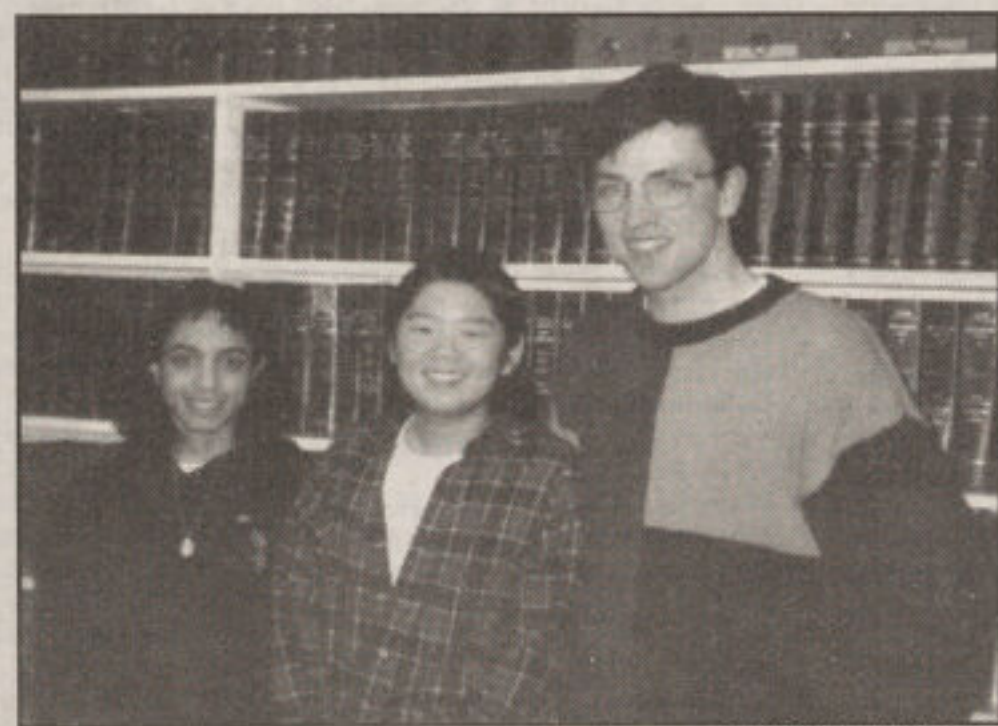
The fifty-six student attorneys at the Bureau, practicing under Supreme Judicial Court Rule 3:03, provide free legal services to low-income clients in Middlesex and Suffolk counties. Cases involve a wide range of areas including child visitation, housing and evictions, employment, and public assistance for entitlements. Referrals come from AIDS practice groups, local hospitals, social workers, housing referrals, and word-of-mouth.

O'Toole stressed, "All aspects of handling cases and litigation is supervised by a bar certified attorney as required by law. So if you go to trial, you appear with your supervisor." There are presently six supervisors who each direct eight to nine students in case work. According to

Lee, there are benefits to be reaped from such a structure. "The Legal Aid Bureau is a different type of learning experience. There's direct, detailed, feedback from your supervisor rather than a single grade from a class."

The Bureau is bound by its charter to keeping a balanced

please see **LEGAL AID**, p. 13



Executive Director Tiffany Lucas '98, Vice President Belinda Lee '98, and Andrew O'Toole '98, the new leadership at the Legal Aid Bureau

23 Years Ago in the RECORD...

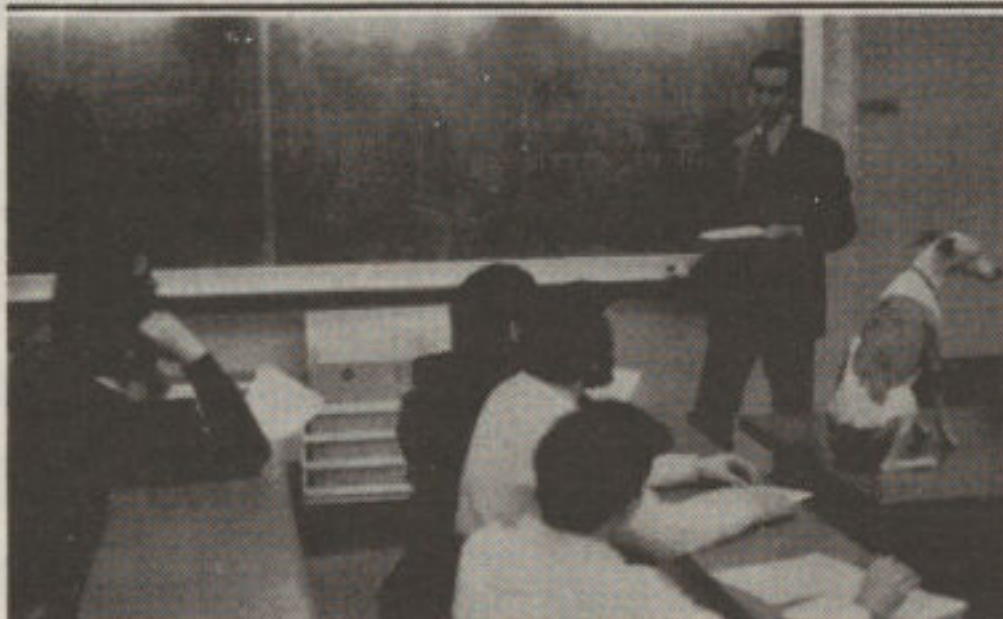
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TWENTY CENTS



Bryan W. Aldridge 2L, describes puts and calls to the Gentlemen's Law Association and his dog, W. W. Whippet. See story, Page 3.

'DeFunis' Court May Hear Cox Oral Argument

If Chicago law professor Philip B. Kurland's petition for time to argue for the appellant is granted, Professor Archibald Cox may argue for the University of Washington in the case of *DeFunis v. Odegaard*.

The challenge to the discretion of universities to accept minority students with lower LSAT scores and grades than other applicants has attracted a flood of amicus briefs, among them Harvard's on the side of the University of Washington. The Harvard brief was prepared by Cox.

Daniel Steiner '54, general counsel to the University, said Tuesday that he offered Professor Cox's services to Assistant Attorney General James B. Wilson, Washington's chief counsel in the case, during a telephone conversation.

(Continued on Page 3)

63 3Ls to Take Clerkship Jobs

(Continued from Page 1)

Burbank, who received the Fay Diploma, resigned from the Review in September, 1971 because "I had other things that I wanted to do."

Wright, who participated in a joint degree program with the Kennedy School of Government, also holds a Master of Public Policy degree.

Nelson is now clerking for Judge Malcolm R. Wilkey and Wright for Judge Harold Leventhal, both of the United States Court of Appeals for the District of Columbia Circuit. Perluss is clerking for Judge Shirley M. Hufstader of the Ninth Circuit Court of Appeals. Burbank is now clerking to Justice Robert Braucher of the Massachusetts Supreme Judicial Court.

Of the 64 others, 22 will work for federal Courts of Appeals, 24 for lower federal courts, 16 for state courts, one for the District of Columbia, and one for American Samoa. Only seven courts attracted more than two clerks: the Second Circuit (with its center in New York) with six, the District of Columbia Circuit and Southern District of New York (which includes Manhattan) with five each, the United States Supreme Court, the First Circuit (with its center in Boston) and the Massachusetts Supreme Judicial Court with four each, and the Eastern District of New York (which includes Brooklyn) with three.

The list of clerks follows, arranged by court and judge. All are third-year students, unless otherwise indicated.

United States Courts of Appeals:
District of Columbia Circuit: Daniel Segal '73, Chief Judge David L. Bazelon; Steven S. Rosenthal, Judge Malcolm R. Wilkey; David C. Patterson, Judge Carl McGowan; Ronald A. Stern, Judge Harold Leventhal; Barry S. Simon, Judge J. Skelly Wright.

1st Circuit: John C. Sims, Chief Judge Frank M. Coffin; E. Joseph Dean, Judge Edward M. McEntee; Boisfeuillet Jones, Jr., Judge Levin H. Campbell; Joel S. Perwin,

INSIDE THIS ISSUE

Betty Friedan.....Page 4
Sam Ervin.....Page 5
Degnan in Profile.....Page 8

Four to Clerk On High Court

Four 1973 graduates of the Law School will clerk for the United States Supreme Court next fall, while 63 members of the graduating class and one other recent alumnus will clerk for other courts throughout the nation.

The four future Supreme Court clerks are Dennis M. Perluss, who will clerk for Justice Potter Stewart; Karen M. Nelson, who will clerk for Justice Harry A. Blackmun; Jay K. Wright, who will clerk for Justice William O. Douglas; and Stephen B. Burbank, who will clerk for Chief Justice Warren E. Burger.

While at the Law School, Perluss, Nelson, and Wright were members of the Law Review; Perluss served as Articles Editor.

(Continued on Page 14)

Faculty Refuses Bid by 1Ls To Restore P/F Option, 25-19

By Daniel M. Taubman

The faculty voted 25-19 last Friday to maintain the Law School's mandatory grading system. The vote represented a rejection of efforts by first-year students and others to restore a pass/fail option in the first year.

The faculty vote came after ten-minute presentations on behalf of the pass/fail option by two students, and an hour of vigorous debate by the faculty.

Much of the debate centered on the question of whether the lack of the pass/fail option represented

resented paternalism by the faculty. Second-year student Patrick Shea, a former member of the Committee on Legal Education, argued in his opening remarks to the faculty that the abolition of the pass/fail option last spring represented "a rather paternalistic attitude" by the faculty.

Several faculty members countered this charge, asserting that the pass/fail option was not sound educational policy, and denying that they were being paternalistic. As one faculty member contended,

(Continued on Page 12)

New Group for Gentlemen Meets at HLS

A new Law School organization seeks to appeal to the nation's largest minority group. The Gentlemen's Law Association was founded December 22, 1973 at an informal meeting in the Pewter Pot on Harvard Square. It will deal with two stereotypical male concerns: high finance and meeting women.

The Association held its first formal meeting last Thursday, February 7. Bryan W. Aldridge, 2L,

the group's president, led a discussion of "Puts, Calls and Arbitrage Operations on the Chicago Board Options Exchange."

Aldridge also announced that the Association would host a dance with Wellesley girls at the Law School on Saturday, March 2.

The next meeting will be held Thursday, February 21 at 7:30 p.m. in Langdell North to discuss "Treasury Bills and Other Short-Term Money Market Instruments."

Men interested in joining the GLA should contact Aldridge in Dane 222 or call 498-4704.

Faculty Rejects Bid To Restore P/F Option

(Continued from Page 1)

"It's not a question of paternalism; it's just a question of telling the truth."

Richard Ziegler, 3L, a member of the Board of Student Advisers, began the meeting, citing three justifications for faculty reconsideration of the pass/fail option:

- Last year's May 31 faculty vote to end the option occurred in the context of the overall proposals for grading reform by the Committee on the First Year and Related Matters. The principal recommendation of that committee — mandatory pass/fail during the first semester of law school — was also rejected last May.

'It's not a question of paternalism; it's just a question of telling the truth.'

- The presence of widespread confusion among students and some faculty members regarding the grading system. Also, he said, "The appearance of justice is as important as the existence of justice itself."

- Res judicata shouldn't apply, since acceptance of this argument would preclude further discussion of pass/fail.

Professor Jerome A. Cohen, chairman of the Committee on the First Year and Related Matters, disagreed with Ziegler's first point, arguing that the committee had "carefully considered" the pass/fail option last year before rejecting it. He also said that the committee had recognized the problem of tension felt by many first-year students, but felt that its possible advantage in reducing tension was outweighed by its detrimental effect on educational policy.

According to Cohen, the semester

terization of *Criminal Law* and *Torts* during the 1972-73 academic year played a more important role than the pass/fail option in reducing tension.

Associate Dean Paul M. Bator, another member of the Cohen committee, spoke out strongly against the pass/fail option. Citing statistics used by the Cohen committee which he said could not be made public, Bator concluded that the option led first-year students choosing pass/fail to underperform during their first year of law school. Students who had chosen pass/fail fared below average during their first year, but did average work during their second year, when they did not have the pass/fail option, Bator stated.

Jamienne S. Studley, 2L, a student representative of the Law School Council, reacted angrily to Bator's assertion that students choosing the pass/fail option "underperform." She said that such students work as hard as those choosing the traditional nine category grading system, and that she knew several people on the *Harvard Law Review* who had chosen pass/fail.

Professor Laurence H. Tribe, another member of the Cohen committee, also criticized Bator's use of statistics. Earlier, however, Tribe announced his intention to vote against the proposal to restore the pass/fail option. He said he believed that it would be a mere curricular palliative which would reduce pressures for adoption of mandatory pass/fail, which he said he favored.

Professor Duncan M. Kennedy, also a proponent of mandatory pass/fail, took a position different from that of Tribe. He said he would vote for the restoration of the pass/fail option because he believed it would contribute to the ultimate adoption of mandatory pass/fail.

The pass/fail option was also favored by Professor Alan M. Dershowitz, but on different grounds. Dershowitz said he was opposed to the adoption of (Continued on Page 15)

Faculty Rejects Bid to Restore P/F

(Continued from Page 12)

either a mandatory pass/fail or a mandatory grading system. Judging the pass/fail proposal on its merits, he said he would vote for the restoration of the grading option.

Several faculty members said they regarded the issue as "a very close question." Associate Dean David L. Shapiro was among them; he noted that his thinking had been influenced by a December petition signed by 413 1L students favoring the reinstatement of the pass/fail option.

Dean Albert M. Sacks presented his own views at the conclusion of the debate, immediately before the vote was taken. Sacks recalled that he had favored the pass/fail option in 1969 when he had been a member of the Keeton Committee, which initially recommended the optional pass/fail system, and that last year he favored the adoption of the Cohen Committee recommendations for mandatory pass/fail during the first year.

He said, however, that the pass/fail option had in his experience not served to reduce tension, but to the contrary had contributed to tension among first-year students. He agreed with Cohen that semesterization of *Criminal Law* and *Torts* last year had gone a long way toward reducing tension.

Seventeen per cent of the present 2L class utilized the pass/fail option last year, according to Shea.

After the faculty voted, Sacks said he would investigate the possibility of providing student transcripts with only second and third-year grades.

At the present time, Law School transcripts contain all grades a student has received. Those students who don't wish to receive grades can only do so by requesting that the Law School withhold release of their transcripts to them.

At the beginning of the meeting, Ziegler criticized the transcript withholding alternative. He said that this option was no different from just tearing up an envelope with grades, what one professor termed "the Paper Chase" option.

The pass/fail alternative which the faculty rejected was slightly different in form from the optional pass/fail system which previously existed. The only modification was that the four category system of reporting (high, satisfactory, low, and fail) was omitted.

The faculty vote came after the recommendation to consider the issue by the Committee on Legal Education. The committee, however, did not take a formal position either favoring or opposing the pass/fail measure.

In its January 30 memorandum to the faculty, the committee recommended that the faculty debate "center upon the merits of the ... proposal as an operating system rather than upon any transitional questions with respect to immediate implementation."

Kane Eliminates "Arcane" Grade Distribution

continued from GRADES, p. 1

cially the larger courses. There are no penalties for faculty members who fail to turn in their grades on time.

Asked about this problem, Sander said he supported Kane's decision, although he admitted problems with missing grades. Sander noted a recent RECORD article in which students leveled criticism upon delinquent professors.

In a Feb. 26, 1993 RECORD article entitled, "HLS Gets an 'F' for Grade Dispatch," then Associate Dean Daniel Meltzer '75 acknowledged the problem. When asked whether the School imposed a penalty upon professors, Meltzer quipped, "We flog them — one stroke for every day they are late."

Law School Council (LSC) President Chip Nierlich '97 said late grades were a problem, but agreed with Kane's decision to mail partial grade reports. At this time two years ago, the Registrar's Office refused to mail any grades until all grades were received, Nierlich said.

Winter grades will be sent out in a subsequent grade report in about two weeks, Kane said.

Mailing the Best Way?

Rakoff said the grade distribution policy has been determined ad hoc in his recent memory. "It's been done a lot of different ways over the course of the history of the Law School," Rakoff said, noting that there was a time when grades were mailed.

Rakoff said the decision is left to the Registrar. "We did not have a formal faculty debate about this," he said. When asked whether anyone had ever sought student opinion, Rakoff replied, "Honestly not."

Rakoff said he believes the new policy is correct. "If you get [grades] at home then, in essence, you get to decide how to react without doing that in public."

While Nierlich said he is generally in agreement with Kane's policy, he noted that "if the administration is seeking the most humane way to get grades to students, talking to students may be a helpful way to glean that information."

The RECORD spoke with dozens of students this week. The majority of students approved of the new policy.

"You really don't need [grade distribution] to be done in a public forum. This isn't ancient Rome," said Mike Kalt '99.

"Having this two-hour period waiting in line lends itself to the evil mystique of Harvard Law School where the grades are distributed in the most fiercely competitive manner possible," Kalt said.

Aaron Maurer '99 agreed. "This system definitely is more convenient than standing in line with 500 classmates," he said.

"People make too big a deal out of grades. Whatever's easiest," said William J. Hawkins '99.

Students who went through the grade distribution in Austin Hall depicted an ugly scene.

"One hundred students waiting on line — it was melodramatic," said Peter Guy '98, calling the affair "the most anxiety-ridden event of anyone's short Harvard life of that time."

"It was awkward — people asking you how you did," said Emily Ryo '98.

"The first thing that struck me was 'why didn't they mail it? were they trying to save money on stamps? tradition? sadism?'" said Wena Poon '98.

Poon said that she experienced nothing like it at Harvard College, and wondered whether the Law School was trying to add to its mystique by maintain-

ing a "Scott Turow notion of an arcane, sadistic Harvard tradition."

Some students said they preferred the old system. "I think it's worse for judicial clerkship applicants to get it in the mail because it's an extra four of five days they have to wait before sending their applications out to judges," said Bob Melson '97, who said that when he applied last year "a lot of the clerkship were offered before I received my grades."

"I live in the dorms and the registrar is two buildings away and I have to wait three days for something I could just walk 50 feet to get?" asked Dan Rosenberg '97.

"I'm afraid we all won't get the grades on the same day," said David M. Stringer '99, noting the Presidents Day holiday will extend the weekend.

Other students suggested alternative procedures, such as posting grades with identification numbers, putting reports in Hark boxes, or sending grades via e-mail.

"The grades should be available online," said Brendan Schulman '99.

But Kane said he believed the mail was the safest route, noting that there is a "security issue" with putting grades in Hark boxes.

Panel Takes Sides in Affirmative Action Debate

By Janie Kim

Affirmative action was the issue flited for debate and dissection on Friday, Feb. 7, at the JFK School of Government's Forum Institute of Politics. Co-sponsored by the Harvard-Radcliffe Black Student Association and advertised by the Harvard Black Law Students Association, the panel discussion was organized in honor of African-American History Month. The panelists expressed views emblematic of the diverse discourse surrounding the issue.

Bob Zelnick, ABC news correspondent and author of *Backfire: A Reporter Looks at Affirmative Action*, and Errol Smith, vice chair of the California Civil Rights Initiative and CEO of Smith Friday Enterprises, spoke against affirmative action, deeming it discrimination and a source of stigmatization for its beneficiaries. Theodore M. Shaw, associate director-counsel, NAACP Legal Defense and Education Fund, and Michael Sandel, professor of government at Harvard University, argued in its favor. Shaw defined affirmative action as a just remedy for society's inequalities; Sandel forwarded race as one of many attributes legitimately included in the calculus of university admissions. Allen Counter, director of the Harvard Foundation and associate professor of neurology/neurophysiology at Harvard University, moderated.

Zelnick rallied his arguments around the maxim, "In war, truth is the first casualty." He produced a litany of instances which he insisted could only be characterized as "discrimination: ... when Cal Berkeley routinely admits minority students with 250 to 300 deficits in test scores compared to white and Asian students who are denied admission... in Alabama, when a white firefighter with the 11th highest test score is rejected in favor of a black applicant who scored 98th... when a bank is compelled to lower credit standards for minority applicants, and the consequential defaults must be subsidized by shareholders and non-minority customers..."

Zelnick warned against "the rationalizations underlying affirmative action." He described these "erroneous twin pillars: that there is no such thing as valid, objective criteria and that race, itself, has legitimacy as an indication of merit..." as pernicious. He predicted disaster should less humane societies ever abuse these precepts. He stated that the elimination of race preferences would direct more energy to the "real problem, namely the ur-

ban underclass whose betterment relies on solutions far more extensive than the ready-made Band-Aid of affirmative action."

Smith related a question frequently posed to him: "Why would someone like you be in favor of doing away with racial preferences? Of course, what they really mean is someone who's black." He explained that he'd take a stand against anything, including racial preferences, which he found "unjust and evil."

Smith claims, "We are irrational on the subject of race... they say we shouldn't consider race in hiring but we should in adoption." He explained his inability to appreciate the reasoning behind affirmative action with, "Maybe I'm simple. Maybe I just don't get it." Still, he stood

action, I wouldn't have gotten into Wesleyan or Columbia. But once I got in, I had to perform. When I got out, I had to pass the bar. Eventually, I had to be judged by my capabilities as an attorney." He advanced that the racial stigmatization often mistaken as a byproduct of affirmative action was in existence long before the policy's inception.

Sandel outlined his support for affirmative action, particularly in university admissions, declaring, "I would like to speak in praise — or at least qualified praise — of discrimination." He stated that admissions offices systemically and routinely discriminate among applicants. SAT scores, GPA, facility with the piano or tuba, athletic ability, status as a legacy, geographic origin, etc. are all used as parameters of discrimination among applicants.

Rather than focusing on affirmative action as a compensatory measure, Sandel treated it as a tool instrumental in forwarding the mission, "the moral and social purposes of an institution." Upon examination of these purposes, "if you find them relevant, important, then that discrimination which furthers the purpose is reasonable and just." Sandel asked, "Is racial diversity relevant to the purpose of a university?" He answered with an unequivocal yes. "A university's sole purpose is not scholarly; schools bear a crucial civic responsibility."

Sandel criticized those who distinguish admission criteria, such as SAT scores and GPA as measures of merit, while discounting race as an unworthy parameter. "No one gets an edge because they're morally deserving. People with [high] SAT scores aren't morally deserving; neither are children of alumni, or people of a certain race or geographic region." He called for "an inducement of humility," forwarding that admission is not a reward of merit but a public office: a responsibility to be carried out.

Zelnick attacked Sandel's analysis. "Race is not just another category like playing the tuba. This nation didn't go through the civil war because boys from Idaho [referring to geographic preferences] were enslaved. The more recognition race officially receives, the worse off a nation becomes. It poisons the will of diversity in the future." He pointed to his daughter Marnie in the audience, stating that she had been denied early admission to Harvard College but was still in the applicant pool. When pressed, he admitted, "No, she doesn't play the tuba, but she does play varsity field

hockey."

Audience interaction gave rise to two principal spheres of discussion: gerrymandering and economic disadvantage as a new basis for affirmative action. Shaw was a strong proponent of gerrymandering as a "temporary solution." As evidence of its necessity, he highlighted Louisiana, where "no African-American had ever been voted to Congress from a majority-white district. If it had been up to the majority of whites in Louisiana, 51%, David Duke would have been elected to office." He charged that "most black folks are represented by white people."

Shaw implied that gerrymandering was in fact a long accepted tradition. "I defy anyone to show me a district that isn't gerrymandered in some way. If you think these fall naturally out of the air... districts do not lie in neat circles and squares." Challenging the validity of opposing arguments, he cited the moderate statistics of the latest district challenged as gerrymandered in the Supreme Court: 53% black, 47% white.

Zelnick disputed Shaw's claims on gerrymandering. "To isolate for the outcome of voting in liberal black legislators could backfire. This increases the likelihood that those remaining white conservatives will elect even more reactionary representatives."

Smith suggested that focusing on the economically disadvantaged would eliminate the problematic notion of race from the equation while helping all who actually needed assistance. Shaw rejected this as a reasonable solution. "This country is not ready for affirmative action based purely on economics." He pointed to the tendency of legislators who deride race as a basis for affirmative action to be as hostile to other measures advancing equal opportunity. Should such a shift in policy actually occur, Shaw forecasted the emergence of all-white institutions. "The majority of this nation's poor are white. There would be little incentive to draw economically disadvantaged applicants from outside this pool."

The event drew a filled-to-capacity crowd. A large section seemed to be students eager to see a former professor flex some intellectual muscle. Undergraduate Chris Kwak said, "Michael Sandel is one of the premiere political scientists around. These days, it seems like affirmative action is dead. As a proponent of affirmative action, I'd like to see what Professor Sandel can do under fire." However, Eric Columbus '99 of the Law School was "disappointed" in Sandel's answers to audience questions. According to Peter Keith '99, "Only Shaw really addressed the question of class-based affirmative action."



ABC's Bob Zelnick, NAACP Counsel Theodore M. Shaw, CEO Errol Smith, and Harvard University Professor Michael Sandel (left to right).



Briefs

Law School Council Elections

Elections for the president, vice president, and treasurer of the LSC will be held on Tuesday, March 4, and Wednesday, March 5, 10 a.m.—2 p.m. Students may run as individuals or as part of a slate. All current students who will be at the Law School next year are eligible to run.

To run, turn in an 8.5" by 11" candidate statement stating your name, the office for which you are a candidate, the slate you are running on (if any), and any other information you deem relevant to your candidacy to the Dean of Students Office, Pound 310, by 4:30p.m. on Friday, February 21. These statements will be posted in the Hark. A meeting for candidates will be held at 4:30p.m. on February 21.

Primetime Drama "One-L" On Hold

The pilot television script for "One-L," co-penned by Michael Chernuchin and Scott Turow (of "Presumed Innocent" fame), has been twice rejected in the last month. NBC dropped development of the series last month after crying lack of space in its 10p.m. time slots, traditionally preserved for hour long dramas such as "One-L." This week, CBS declined to make a firm commitment to the show, choosing instead to put it "on hold." TV parlance for possibly permanent limbo. Chernuchin is already in the process of seeking new projects to develop.

The series was inspired by Turow's non-fiction book of the same title and was promoted as a "law school version of 'ER.'" Although essentially fiction, it would have been situated in the real-life locale of Harvard Law School. With the full support of the Dean's Office, the producers toured the campus and sat through some law classes, hoping to scope out future exterior shots. The disconsolate Chernuchin reported that Turow was also "very upset that this happened."

Albert Lee '97 Wins Marshall Scholarship

Albert Lee '97 was one of eight Harvard students awarded the prestigious Marshall scholarship for study in England next year. Of the eight students, only two were graduate students; in addition to Lee, a Harvard medical school student was also selected for the honor.

Lee, a graduate of the California Institute of Technology, said he plans to study at Cambridge University, "subject to confirmation," where he will pursue a Ph.D. in law. Lee views the Marshall scholarship as "a good opportunity to study abroad to get a different perspective on the law."

Lee said that he intends to specialize in antitrust and comparative constitutional law. Ironically, noted Lee, "I can't get into con law here." Although that fact won't change his plans, Lee remarked that "it's really frustrating."

Undergrad Leaves Harvard to Star in Movie

Derrick N. Ashong is about to add a hefty credit to his acting resume. The president of the Harvard-Radcliffe Black Student Association will take a leave of absence from his undergraduate studies for a leading role in Steven Spielberg's next film, "Amistad." The title refers to an antebellum slave ship in which a group of captive Africans revolted. Until now, Ashong's sole entertainment experience involved a few college productions. Thanks to acing an open audition call in New York this winter, he's Hollywood bound. His one concern is that he be able to walk with his graduating class this June and finish his coursework this fall.

—from the Harvard Crimson

B.U. Wins Beanpot

Boston University roared back from a 2-0 third-period deficit to defeat Boston College 4-2 in this week's Beanpot championship game.

Pierce scored the winning goal on a breakaway at 11:36. B.U. executed a perfect breakout when Chris Heron perfectly tipped Jon Coleman's pass to Pierce, who had skated behind both B.C. defensemen. "The winning goal was a case of miscommunication," B.C. coach Jerry York said.

But less than 15 seconds later, a great pass by Taylor sprung B.C. center Jamie O'Leary on a breakaway. B.U. netminder Tom Noble stacked his pads and made a tremendous glove save. "Tommy came up with the biggest play of the game," B.U. coach Jack Parker said.

Northeastern beat Harvard 2-0 in the consolation game. Scott Campbell and Justin Kearns scored for the Huskies. Harvard generated few quality scoring opportunities, and Marc Robitaille stopped all 39 Crimson shots to earn the shutout.

"We're not able, for whatever reason, to get inside," Harvard coach Ronn Tomassoni said. "We definitely had trouble with getting the second and third shot."

"It wasn't an inspired game," said Harvard right-wing Brett Chodorow. "Next year we'll make sure we're not in the consolation game."

House Delegation Reacts to Japanese Criticism

Rep. Barney Frank '77 last Thursday released a letter to Japanese Prime Minister Hashimoto urging the Japanese to end its opposition to a Massachusetts law denying state contracts to those companies doing business in Myanmar (Burma).

"If the Japanese government chooses to place dollars ahead of human rights, it has that sovereign right," wrote Frank in the letter, which was signed by all the members of the Massachusetts delegation. "[B]ut Japan should not attempt to intimidate Massachusetts into changing the standards it has established for doing business with the state government."

According to a State Department report, the military government in Myanmar is responsible for "severe repression of human rights," raping female members of ethnic minorities, and subjecting civilians into forced labor.

—from press release

LEGAL NEWS

Restoring Religious Freedom

By Hal Poret

While the Supreme Court continues to consider the constitutionality of the Religious Freedom Restoration Act (RFRA), the Court of Appeals for the Seventh Circuit recently dealt with another controversial suit, attempting to invoke the religious protection of the act.

For years, the Supreme Court has struggled to formulate a workable doctrine to deal with the often conflicting objectives of the First Amendment's "Establishment Clause," which generally limits the government's ability to support or "establish" religion and the "Free Exercise Clause," which arguably requires the government to go to certain lengths to accommodate people's religious practices. The Supreme Court has recognized the existence of a difficult set of cases in which the failure to support a certain religious practice may appear to violate people's right to practice religion, while support or accommodation of the religious practices appear to others to violate the Establishment Clause.

Earlier Supreme Court decisions from the 1960's and 1970's, most notably *Sherbert v. Verner* and *Wisconsin v. Yoder*, combined to establish a standard by which the government had to have a "compelling interest" to burden central religious practices without violating the Free Exercise Clause. However, after several changes in the composition of the Court and after facing several cases that demonstrated the difficulty of administering general laws if every religious practice had to be accommodated, the Court ruled in the 1990 case of *Employment Division v. Smith* that the government can regulate in ways that burden religious practices as long as they don't single out religion for prohibition. *Smith* established that neutral, generally applicable laws are not subject to the "compelling interest test" and so the government just needs a "legitimate purpose unrelated to religion" to make regulations. In that case, the Court held that the government did not have to create exceptions to drug laws to accommodate religious peyote users.

RFRA, which President Bill Clinton signed into law in 1993, was Congress' reaction to *Smith* — an attempt to "restore" the religious protection that it saw the Court as taking away. Stressing the country's religious tradition and the framers' recognition of religion as an unalienable right, Congress passed RFRA to change the standard so that any regulation that burdens religion violates the Free Exercise Clause unless it "is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest."

The plaintiff in the Seventh Circuit case of *Helland v. South Bend Community School Corporation*, claimed that he was removed from the public school corporation's list of eligible substitute teachers because of his religious beliefs and practices in violation of RFRA. In this case, several teachers complained that Helland, a substitute teacher, refused to follow the lesson plans drawn up by the regular teachers and proselytized in his classes by reading the Bible aloud to middle and high school students. Helland also allegedly distributed Biblical pamphlets and professed his belief in the Biblical version of creation in a fifth grade science class. After the latter incident, Helland agreed not to give the students an assignment if they agreed not to tell anyone about the discussion. Following numerous warnings, the school notified Helland that it no longer would hire him as a substitute teacher.

In Helland's amended complaint, he argued that by "terminating [him] for refusing to cease from carrying his Bible to work and to cease reading his Bible in privacy during job breaks, [the School Corporation] substantially burdened [his] free exercise of religion," and therefore violated RFRA. The district court granted summary judgment for the School Corporation and the Seventh Circuit affirmed, holding that there is a compelling governmental interest against teaching religion in public schools. The Court stressed that the Establishment Clause of the First Amendment requires governmental agencies to see that state-supported activity is not used for religious indoctrination. Finally, the Court concluded that removing Helland from the substitute teacher list was the least restrictive means of furthering the School Corporation's compelling governmental interest, in satisfaction of RFRA's standards.

The Supreme Court recently denied Helland's appeal for a writ of certiorari while it continues to consider the constitutionality of RFRA in the case of *City of Boerne v. Flores*, in which the Fifth Circuit Court of Appeals held that Congress had the authority to enact RFRA under section five of the Fourteenth Amendment, which gives Congress the power to enforce constitutional violations. This "enforcement clause," is itself the subject of great debate, with some arguing that Congress has the power to go beyond mere "enforcement" and should be allowed to expand the scope of constitutional rights. The Fifth Circuit in *Flores* held that RFRA was enacted to identify and remedy constitutional violations of the Free Exercise Clause that would have survived judicial scrutiny under *Smith* and is therefore justifiable under the enforcement clause.

In its brief to the Supreme Court, the city of Boerne argued that section five extends power to Congress solely to "enforce," not expand, constitutional guarantees and that RFRA's invalidation of every law that incidentally burdens the free exercise of religion creates extra-constitutional rights and therefore exceeds Congress's remedial power. Under this view, Congress would have violated separation of powers and federalism principles by infringing on the judicial function of interpreting the Constitution and forcing the states to provide more religious protection than the Constitution requires.

Petitioners also argued that RFRA violates the Establishment Clause by privileging religion over all other forms of conscience. They argue that RFRA is unconstitutional under the Court's test in *Lemon v. Kurtzman* which requires that statutes have a secular purpose, are neutral in effect, and do not overly entangle church and state. The City asserts that by requiring all governments to become intimately informed on the theological tenets of every religion in the relevant community in order to be able to enact the "least restrictive" laws, RFRA violates the Establishment Clause. Thirteen states and several U.S. Territories have joined in an amicus brief in support of the city's position.

Many amicus briefs have also been filed in support of the respondents in the Fifth Circuit case, including the American Bar Association and the states of Massachusetts, New York, Maryland and Connecticut. Two groups of Congressmen have also submitted amicus briefs in favor of upholding RFRA, including Senators Edward Kennedy, Christopher Dodd, John Kerry, Orrin Hatch, Strom Thurmond and Alfonse D'Amato.

In Memoriam

Elizabeth Moreno '93, RECORD Columnist, Activist, Member of "Griswold Nine" (1966-1997)

By Rebecca L. Eisenberg '93

On Saturday, February 1, 1997, Elizabeth Guinn Moreno, HLS Class of 1993, passed away at the age of 31.

Ms. Moreno, who received a BA in psychology from the University of California at Berkeley, was a leader in the Harvard community. A loyal attendant, organizer, and leader at all campus political events and academic debates, Moreno served as president of the Women's Law Association from 1991-1992, and also served as a member of the Coalition for Civil Rights.

She was a member of the famous "Griswold Nine" — a group of nine law students who were subject to discipline, threatened with suspension, and put on public trial by the Harvard Law School Administrative Board for participating in a silent, peaceful demonstration outside of Dean Clark's office in 1992. The students were protesting the Dean's decision to hire four white male tenured professors — at the exclusion of female or minority professors — in the spring of 1992. All students received a "warning" for their behavior, but none were suspended or otherwise disciplined.

Moreno was undoubtedly most known and loved for her column in the Harvard Law RECORD, which she penned pseudonymously under the name "Alysse MacIntyre" from the fall of 1990 through the spring of 1993.

The "Alysse" columns called into question stereotypes about men and women at the Law School, discussed openly the relationships between sexuality and politics, and made fun of HLS social, academic, political, and extra-curricular life.

Moreno's exploits were chronicled by



Elizabeth Moreno '93

GQ in the magazine's 1992 profile of the turmoil at Harvard Law School, *Beirut on the Charles*. "Of all the writers [Editor-in-Chief] Robert Arnold publishes in the RECORD (HLS's renowned weekly), the pseudonymous Alysse MacIntyre gets more letters

than anyone, he said, 'including myself.' Alysse MacIntyre is a little different. In contrast to the overearnest political sermonizing of most of the other columnists, Alysse writes about the campus race-and-gender wars in a humorous, personal vein that ends up getting a lot closer to the truth. In her candor, she provides a glimpse of the students' inner lives."

After graduation, Moreno took and passed the California Bar Exam, and moved back to her native Los Angeles, where she worked first for White & Case and then for Jones, Day, Reavis & Pogue. She also had recently completed work on a novel which she described as the "Female IL."

Moreno left behind two cats, some goldfish, and a rabbit, as well as a nation and world of fans, admirers, and close friends who loved her dearly.

Moreno was an exceptional student, activist, writer, and friend who shared her brilliance and humor with all who read her columns.

She will be sorely missed.

Moreno has asked that donations in her memory be made to Public Radio, or to a suitable organization that will continue to carry out her missions of eradicating injustices of all kinds, including sexism, racism, and domestic violence.

Dust to Dust: An Essay

By Rebecca L. Eisenberg '93

Last Friday evening in Los Angeles, an exhausted young lawyer sat down.

She thought about her past. She saw the stepfather who had sexually abused her when she was eight, and for many years thereafter. She saw her mother side with him and against her. She saw her grandmother side with her mother and her stepfather.

She saw the years of work and effort, the psychology degree, the counseling work, the feminist activism, the civil rights campaigns, the columns written, the law school courses endured, the bar exam taken and passed, the law firm partners who dismissed her work, the associates who betrayed her. The constant struggle of hiding her omnipresent pain; the constant efforts to change the subject; the constant therapy to prove to everyone but herself that it did not hurt anymore.

She thought about her friends. She apologized to them; she silently screamed for forgiveness.

She thought about her gun, shiny, in the locked drawer in the desk which also held the photo album containing all of the columns she wrote for the RECORD and Boston Magazine, the fan letters from her admirers, the essays about her in *Mirabella* and *GQ*, and her book, still never quite good enough for her or touched by a publisher's eye.

She composed five letters. One to eleven people, and four to four other individuals.

She arranged for her animals to be picked up by the boarders. They were picked up.

She made note of all that she owned, and meticulously assigned each item to a particular person. She selected Public Radio as her recipient of last resort, after her debts were resolved. She checked her email. She lit a cigarette.

She inhaled.

She imagined a family. She saw only darkness.

She imagined a career. She saw only despair.

She imagined a future. She saw only pain.

She was so very tired.

She took a band and cut off the circulation in her neck. She stopped breathing.

And when the phone rang she did not hear it. And when work called, she did not answer. And the following Wednesday, while, from 3000 miles away, and 1000 miles away, and 8000 miles away, and 450 miles away, her friends turned to ice when they heard the news, she lay quietly, still. Because it did not hurt any more.

And somewhere where there was light and hope now lives only sadness regret and confused desperation in a sea of should have could have would have

Elizabeth, I forgive you.

Rebecca L. Eisenberg '93 is a former RECORD writer and columnist. She is now a freelance writer, essayist, and media critic in San Francisco. The preceding essay was a fictionalized account of Elizabeth's last hours, and some poetic license was taken. Comments may be sent to mars@well.com.

Retrospective: The Best of Alysse MacIntyre

April 1, 1991

Harvard Law Record

3

Sex And The Single One-L: A Contradiction

I don't wish to seem unappreciative. I know there are law students across the country that would give their eyeteeth to attend the hallowed tunnels of

by Alysse MacIntyre
Guest Columnist

Harvard Law. But if I had known a year ago as a naive admittee what I know now, I wonder if I would have come here.

I bring this up because I'm having to relive my expectations of one year ago by calling admitted students for Joanne Di Salvo. However, with Joanne continually brushing by me, I rarely get the opportunity to tell them what it's really like here. Fortunately, I do get my chance to tell the whole story to those admittees who have been turning up at DSAC parties and the like. And what do I say? I thought you'd never ask.

No sex. None. Unless you're willing to sleep with one of those horny former frat boys who give a new depth of meaning to the term desperate. Actually, I'm pretty desperate; I'm just not that desperate. And dear lord, please help me if I ever am.

It's not that I haven't had dates. I've had plenty. It's just that I can't find a guy who I like who is willing to go past first base. My big sister assigned to me through the WLA explained it to me.

They make all the decent guys turn in their gonads with their \$50 deposit.

A Harvard Law student was honestly the first man to ever insist I keep my clothes on. No joke. And, no, gentlerader, it's not because I'm a dog. Apparently the problem was that I'm not Jewish. I now know that this is what it means to be one of The Chosen People. I tried everything. I used every stupid line that was ever used on me, and then some. I suggested that we play "Ten Commandments." He could be Moses, I could be the burning bush... He didn't go for it. What do you have to do to get a guy to slip you the Hebrew National? If L.A. Law is such the influence on us that it's purported to be, then why are so few of us getting laid? The perennial question asked by admittees is, of course, "Is it really like One-L?" For me, the distinguishing factor between my 1L experience and Scott Turrow's is that I'm not fortunate enough to have a wife at home to cook and clean for me. And if I did, you could be sure I wouldn't feel as sorry for myself as Scott did. I also don't have a book contract lined up so that I don't have to worry about getting a summer job. You could get the impression from One-L that Scott really spent the year at Leavenworth. What exactly was he whining about? He had his wife to do his laundry and buy his groceries dur-

ing Ames. He didn't have to get in line in order to beg Baker & Botts for a job. If it were me, I don't know what I'd do with all that free time. I'd probably just brood some more about not having sex, I guess.

Naturally, the second most frequently asked question is, "Is it like the Paper Chase?" It is beyond me why anyone ever thought this was such a great movie or lent it any credence. It's probably part of the conspiracy in the lawyering community to keep our fees up. "The law school? Oh yeah, terrible. Throwing up when you get called on in class, being ordered to call your mother and tell her you won't be attending law school next year because you screwed up the statement of the facts in *Hadley v. Baxendale*..." Who's going to fork over an obnoxiously high retainer if they know that the better part of our late nights are spent hunched over *Scorpion* bowls and not casebooks?

My real problem with the Paper Chase, however, is that the guy is such a closet case. Why doesn't he just admit he wants to sleep with Kingsfield? Instead he sleeps with Lindsay Wagner and then in the post-coital afterglow



goes downstairs to Kingsfield's office and fondles his pipes and paperweights and things. Perhaps this is the realistic high point of the movie, but I'm not sure.

So what do I tell the admittee? Get as much as you can now, because HLS is on the top of the Vatican's list of approved methods of birth control.

Across the Wire...

Alabama Lt. Gov. Wants to Fingerprint Welfare Recipients

MONTGOMERY, Ala. (AP) — The state's top Democrat, Lt. Gov. Don Siegelman, is advocating fingerprinting all welfare recipients — an idea first put into action by the Republican Gov. George Pataki of New York.

Siegelman's advocacy of fingerprints comes after his recent endorsement of chemical castration for child molesters — an idea first signed into law last year by Republican Gov. Pete Wilson of California.

Siegelman spokesman Paul Hamrick said the lieutenant governor is not retooling his image with conservative, GOP-like stands in anticipation of the 1998 elections. But James Sasser, the chief of staff for Republican Gov. Fob James, said, "It's obvious."

Siegelman said fingerprinting welfare recipients has proven its worth in New York, where 24,848 welfare recipients — or 3.3 percent of the cases — were taken off the rolls in the first year because they declined to have com-

puter images taken of their fingerprints.

"We are asking welfare recipients to be fingerprinted so if someone uses up their five years of benefits in Greene County, they can't move to Barbour County and take benefits from someone who deserves it," Siegelman said.

James' welfare plan follows the trend of a majority of states in using Social Security numbers to track welfare recipients.

The governor's policy adviser, Michael Ciamarra, said requiring poor people to be fingerprinted "sounds Big Brotherish."

The chairman of the governor's Welfare Reform Task Force, state Rep. Jim Carns, R-Birmingham, said requiring fingerprints "would make some feel like they are criminals, just because they are in a hard spot."

State Sen. Rodger Smitherman, D-Birmingham, said he decided to join Siegelman in advocating fingerprint-

ing after seeing how it had cut down on fraud in New York and other states that have tried it in a few counties, such as New Jersey and California.

"You can get a new Social Security number, but you can't get new fingerprints," he said.

Ciamarra said the states that use fingerprinting have tremendous problems with illegal aliens applying for welfare, but that is not a serious problem in Alabama, where most of the 40,000 families on welfare are long-time Alabama residents.

Kimble Forrister, director of Alabama Arise, a lobbying group for the poor, said he doubted fingerprinting would be cost effective because of Alabama's low benefit rate — \$164 a month for the typical family.

Siegelman spent most of January having dutch-treat town meetings across the state, and he said those meetings showed him that something is needed to restore taxpayers' confidence in the welfare program. He be-

lieves fingerprinting will do that.

"People are really fed up with paying taxes and feeling like the federal government is not doing a good job of making sure that money is going to people who really need it," he said.

Fingerprinting and chemical castration aren't the only ideas Siegelman has had that were inspired by Republican governors' actions.

Siegelman said he has talked to the state Department of Archives and History about using his Capitol office suite to display three Confederate paintings that James removed from the governor's mansion: portraits of Gen. Robert E. Lee and Confederate President Jefferson Davis and a painting of the last reunion of Confederate soldiers at the Capitol.

Siegelman said the historic paintings deserve to be on public display, which his office could provide.

"It would give people who come into the Capitol a chance to see them," he said.

Massachusetts Senate Passes Religious Freedom Bill

BOSTON (AP) — Two senators took their potshots, but the Senate ended up voting overwhelmingly Tuesday to restore protections for people from religious discrimination in the workplace.

The bill needs only two more enactment votes, considered a formality, before it will land on the desk of Gov. William F. Weld, who has promised to sign it.

Only Sens. Robert Creedon, D-Brockton, and Chip Clancy, D-Lynn, spoke against the bill. But both ultimately joined the 39-0 vote supporting it.

The vote was welcomed by Kathleen Pielech, one of two women whose case inspired the bill.

"It was unanimous and I'm absolutely thrilled," said Pielech, when she emerged from the Senate gallery into the glare of the TV cameras.

"I'm surprised it took this long and I am really surprised it was as hard as it was because it was a basic freedom," she said.

Pielech and fellow worker Patricia Reed sued the Raynham-Taunton Greyhound Park racetrack, claiming they were fired for not working on Christmas Day 1992 because of their Roman Catholic beliefs.

The women took their case all the way to the state Supreme Judicial Court. But that court in August struck down the state law.

The proposed law is intended to address the faults found by the high court and continue essentially the same protections provided by the previous law.

"Justice has been served in the Statehouse. Now, we just have to get to the courthouse and hope that justice prevails there somehow," Pielech said.

The bill had drawn wide support. But a handful of lawmakers in both the House and Senate, including several from near the racetrack, threw up roadblocks.

They saved their sharpest attacks for a provision that made the bill retroactive for three years and made it apply to all pending lawsuits or discrimination complaints.

Creedon objected to the bill Monday in an informal Senate session, delaying it for a day, then argued against it Tuesday in the brief debate.

Creedon said he thought the retroactivity clause of the bill was "clearly unconstitutional."

He ultimately voted for the law, saying, "I certainly abhor all forms of discrimination."

After the vote, Creedon acknowledged being friends with racetrack owner George Carney, but shrugged off any suggestion that the friendship played a role in his fighting the bill.

"Every lawyer I've shown this to points out" problems in the retroactivity clause, he said.

Carney didn't return a message seeking comment at his office Tuesday evening.

Proponents said the bill should be retroactive and should revive the 23-year-old law that several dozen people, including Pielech and Reed, have relied upon when filing discrimination complaints or lawsuits.

Federal Judge Upholds Mass. Tobacco-Disclosure Law

BOSTON (AP) — Massachusetts' first-in-the-nation law requiring tobacco companies to disclose the ingredients in cigarettes, snuff and chewing tobacco has withstood its first legal challenge.

U.S. District Judge George O'Toole rejected last Friday tobacco-industry arguments that the measure is preempted by a federal law governing cigarette labeling and advertising.

O'Toole said the Massachusetts law, under which tobacco companies must disclose their products' ingredients to the state Department of Public Health, covers different ground.

State Sen. Warren Tolman, sponsor of the bill, said: "Every smoker knows and every study shows that there are dangerous chemicals in ciga-

rettes. Now the federal court has upheld our right to pass laws that make the cigarette companies release the dirty secrets they have been hiding."

David Remes, an attorney for the cigarette manufacturers, said they will appeal immediately. "We continue to believe the commonwealth may not inject itself into this area, where the federal government has exclusive authority," he said.

The law, enacted last year, requires tobacco companies to report, brand by brand, the additives in their products, as well as the nicotine yield.

Anti-smoking activists have praised the measure, but the tobacco companies fear that product-by-product disclosure could spill trade secrets.

"We have a responsibility to look not only to the future, but also to protect those with pending lawsuits," said Sen. Linda Melconian, D-Springfield.

"We do not want the court decision and subsequent delay in passing this

bill to deprive employees of rights that everyone thought they had," she said.

Leonard Zakim, a spokesman for the Anti-Defamation League, said, "I think they've done the right thing for the right reasons."

ABA Criticized for "Liberal" Agenda

WASHINGTON (AP) — For decades, the American Bar Association was perceived as a collection of fat cats, dominated by stuffy old conservative white men.

Its image began to change in the 1980s. Today, the 370,000-lawyer organization finds itself under attack by conservatives as a left-wing lobbying group no longer worthy of playing an influential role in selecting federal judges.

The criticism intensified this week, after the ABA's House of Delegates urged the federal government and the states to halt executions until systemic fairness can be assured.

"The death-penalty moratorium is only the most recent example of the ABA's self-marginalization and bias," fumed Rep. Christopher Cox, the Californian who is chairman of the House Republican Policy Committee.

He and other Republicans in Congress are out to curtail the ABA's quasi-official role in judicial selection.

Last May, the Senate Judiciary Committee devoted six hours of hearings to questioning ABA leaders about that role, which dates back 45 years.

Committee Chairman Orrin Hatch, R-Utah, called the ABA "an interest group like any other," and said it was fair to question the deference long given to its investigation and rating of people nominated to become federal judges.

The ABA's Standing Committee on the Federal Judiciary is asked to investigate all nominees and rate their professional qualifications. Each nominee is given a rating of well-qualified, qualified or not qualified.

"Judicial nominees rated 'not qualified' by the ABA are almost always withdrawn by their sponsors, giving the ABA a de facto veto power," Cox said. "At the same time, however, the ABA's steady drift leftwards during the last 20 years has increasingly politicized its evaluations."

Not so, responded ABA President Lee Cooper of Birmingham, Ala.

"There's absolutely no connection between any ABA policy and what our Committee on the Federal Judiciary does," Cooper said. "There's an absolute fire wall between them."

Cooper said the judge-rating committee "alternately gets beat up by the left and the right," and noted that nominations by recent Republican presidents fared better than those submitted by President Clinton.

He cites these statistics:

- Of the more than 600 judicial nominations made by Presidents Reagan and Bush, the ABA's committee rated only one not qualified.

- Of the more than 200 nominations made by President Clinton in his first term, four were found to be not qualified. The Senate confirmed three of them anyway.

Leonard Leo of the conservative Federalist Society said it is worth investigating whether the ABA "is simply just another special-interest group advancing a partisan political agenda."

"The ABA is viewed as speaking for the entire legal profession. It's an incredibly important organization with an \$80 million budget and, through its lobbying efforts, enormous impact on the legal system," Leo said.

"It is legitimate to question whether there's a conflict between its judicial-selection role and the positions it takes on legal and social issues," he said.

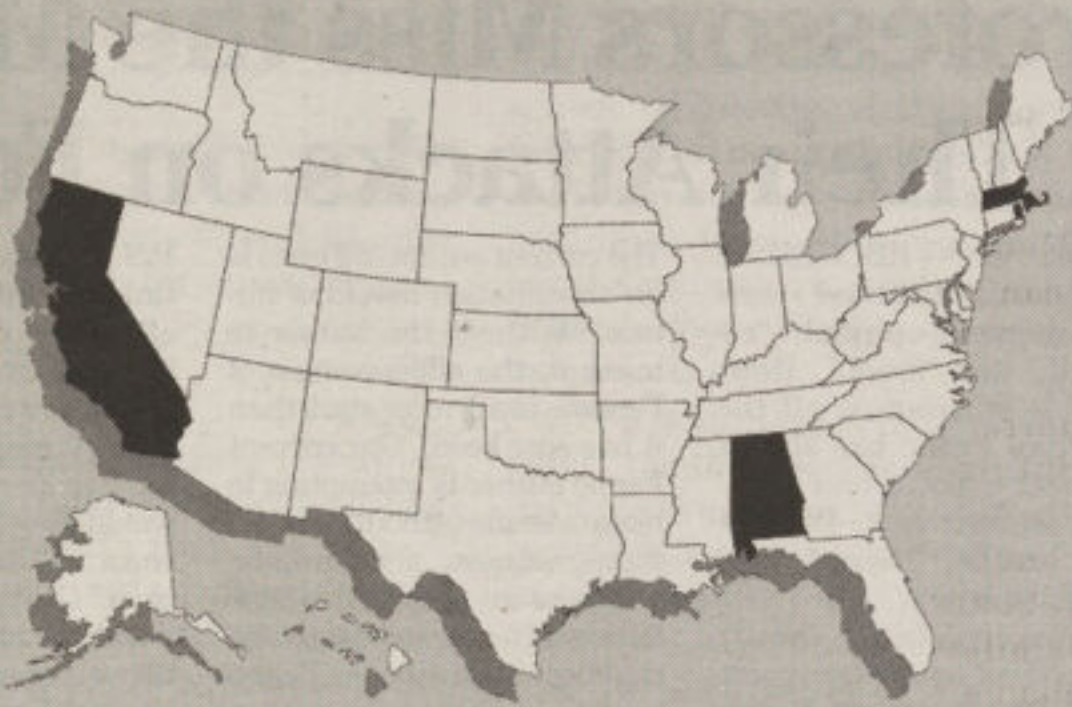
Cox and some fellow Republicans think they have figured out the answer.

"Thanks to the ABA's liberal bias, left-wing judicial activists are routinely favored over nominees who believe judges should interpret the law, not make it," he said.

The lawyers' group has endured such criticism about its judge-picking clout before, such as the storm of protest in the wake of its 1990 endorsement of abortion rights.

"I think everyone recognizes that the ABA makes a very valuable contribution to the judicial-selection process," Cooper said.

Across the Country



This Week, News From the East and West

Brown Student Sues Over Rape Allegation

PROVIDENCE, R.I. (AP) — A Brown University student filed a libel lawsuit against a female student who accused him of rape and the Ivy League school for punishing him for a crime he says he didn't commit.

The federal lawsuit, filed last week by 21-year-old Adam Lack of Nora Springs, Iowa, seeks unspecified compensatory and punitive damages from the school and the female student, a sophomore from New York City who identified herself only as Sara when she spoke out at a campus rally.

"Adam's had a very bad time. He has been a leper on campus," said his lawyer, David Casey.

Lawyers for the woman and the university would not comment, saying they had not reviewed the lawsuit. Sara is accused of libel; Brown of libel, breach of contract, negligence and gender discrimination.

The case has polarized the campus, with Sara's supporters making her a symbol of sexual assault victims and Lack's backers complaining that he was unfairly branded a rapist and persecuted by the school.

Their encounter took place during a party at the Delta Tau fraternity on Feb. 3, 1996. Sara said she drank 10 shots of alcohol and vomited just before Lack brought her to his room. She says she was drunk and does not remember their sexual encounter.

Lack claims they had consensual sex, that she appeared sober and that she asked him to get a condom beforehand. After spending the night, she gave him her phone number and urged him to call, the lawsuit said.

Six weeks later, after she had talked to a women's peer counselor, university police and a dean as part of the school's procedure for handling rape cases, Sara filed a complaint with Brown, choosing

not to go the police.

"It took a while for it to actually set in," Sara explained in an interview with the Providence Journal-Bulletin. "When I got home, I wasn't that upset. The more I thought about it, the more upset I got."

"I had been violated in a situation I had no control to do anything about," she told the paper.

But from Lack's point of view, "She appeared lucid and composed and initiated all aspects of the sexual encounter," Casey said. "There is no reason to believe she does not recall what happened."

A university disciplinary council

found Lack guilty of sexual misconduct and placed him on probation for a year. But in an unusual move, a dean upgraded Lack's punishment to a one-semester suspension.

Lack appealed and Provost James Pomerantz reduced the penalty to probation for two semesters, finding Lack guilty of "flagrant disrespect," a violation of the university code.

Lack claimed in his lawsuit that Brown's disciplinary proceedings were flawed because he was punished for unsubstantiated accusations. He also claimed the university violated federal

civil rights laws against gender bias when it charged Lack with misconduct but failed to charge Sara for violating the university code on underage drinking.

Sara, too, was disappointed with how the university handled the case because Lack never served the suspension and because she had no recourse after his punishment was reduced.

"I would hesitate to encourage another woman to press charges," she said at a rally against rape last fall.

Lack is on leave from Brown this semester but hopes to return to complete his senior year. Sara has remained in school.

Government May File Antitrust Suit Against Credit Card Companies

WASHINGTON (AP) — The Justice Department is investigating complaints of anti-competitive practices in the credit card industry with an eye toward filing an antitrust suit against Visa and MasterCard, government and industry sources said last week.

The case flows from complaints by American Express that its two rivals forbid member banks from issuing any cards but theirs.

Although the Justice Department declined to confirm reports that it would soon file an antitrust suit, public affairs officer Gina Talamona said:

"We're looking at competitive issues involving the prohibition of certain joint ventures in the credit card industry and that investigation is continuing."

American Express said its effort to persuade U.S. banks to issue its cards has been unsuccessful because the

banks, usually Visa and MasterCard members, were barred by restrictions imposed by the two companies.

"We have a view that banks should be able to choose who they do business with," said American Express spokesman Mike O'Neal.

He said American Express has had no such problem overseas where it has been able to issue cards through more than a dozen banks.

Visa and MasterCard said they are ready to challenge any action initiated by the justice Department.

"We are confident that our position is in the best interest of the MasterCard brand, our card holders and our members," said H. Eugene Lockhart, MasterCard chief executive.

But Rep. Charles E. Schumer, D-N.Y., said a successful antitrust action against the two giant credit card companies

"would represent a terrific victory for American consumers."

"I have long believe that Visa and MasterCard have engaged in anti-competitive practices that severely restrict the credit card choices available to the average American," he said.

"And the solution is simple: Banks that issue credit cards should be free to offer any and all products to their customers, opening the market to the widest possible selection at the most competitive prices," Schumer said.

"This Visa-MasterCard bylaw is a flagrant violation of that fundamental principle, and it should be abolished," he said.

Legal experts say that the case could effect joint-venture law, which governs how companies cooperate with each other. The case also could trigger new partnerships in the U.S. credit-card industry.

O.J. Simpson: "This Is Far From Over"

SANTA MONICA, Calif. (AP) — O.J. Simpson declared "this is far from over" Tuesday as the focus in his civil case shifted to how the football great might fend off a crushing \$33.5 million jury award.

In a brief telephone conversation with The Associated Press, Simpson declined to discuss his next move in court or in life, saying: "I don't want to join in this circus atmosphere that's out there at this time."

"It would be premature for me to say anything now," he said. "Obviously, I have feelings. But this is far from over."

Later Tuesday, he went to a local golf course and played 18 holes.

Simpson has played golf nearly every day since a jury unanimously ruled him liable and ordered him to pay \$8.5 million in the 1994 slashing deaths of Nicole Brown Simpson and Ronald Goldman. He even watched TV coverage of Tuesday's \$25 million punitive judgment against him from a golf course bar.

"He's pretty good, not real good," longtime golfer Mark Borish said as he watched Simpson play the public Rancho Park links. "If you play every day, you

ought to get a little better at it."

While Simpson played, his chief lawyer, Robert Baker, also kept his silence about how he will fight the combined \$33.5 million award — which is more than twice as much as even Simpson's accusers say he could ever pay.

Within two weeks, Baker is expected to ask Superior Court Judge Hiroshi Fujisaki to set aside the verdict, order a new trial or reduce the award as excessive.

"The amounts are obviously very high and I would expect the courts to reduce those amounts to something more within the scope of other cases like this," Simpson lawyer Robert Blasier said on NBC's "Today Show."

Asked if Simpson would be able to pay the judgment, Blasier said: "I've been basically living with him for the last year, off and on, and I can tell you that the plaintiff experts who say that he can generate an income stream of \$2 million to \$3 million a year ... on autographs, is just ridiculous."

President Clinton urged Americans to respect the Simpson verdict but said he is worried about the black and white divisions it exposed.

"In terms of the way Americans see the world differently, generally, based on their race, that troubles me," Clinton said. "I think the only answer to that is for us to spend more time listening to each other and try to put ourselves in each other's shoes."

The jurors, meanwhile, went from talk show to talk show all day and said it was the Bruno Magli shoes, the blood drops, the glove, the hand cuts and Simpson's failure to explain them all away that were the deciding factors in the verdict. They all insisted race played no role in their decisions.

"What it was, was about two brutal murders that took place," said Stephen Strati, foreman for the punitive-damage phase of the trial.

Simpson could file for bankruptcy immediately and stave off paying any judgments for perhaps as long as a year. Although bankruptcy would not free him of the debt, it would put the Goldman and Brown families in line behind other creditors for collecting their money.

To protect his assets from being seized while he appeals, Simpson will

have to post a bond equal to 150 percent of the damages — \$50.25 million — or find a bail bondsman willing to post it with collateral of 5 percent to 10 percent.

The value of a bankruptcy or bond is delay.

"It's just postponing the day of reckoning," said civil lawyer Douglas Mirell. "For him that may have value. There may be creative ways of further protecting his assets in the interim."

As for the plaintiffs, lawyers for Goldman's long-divorced parents, Fred Goldman and Sharon Rufo, will meet to work out an agreement on how to split the \$8.5 million in compensatory damages.

On appeal, Simpson could raise issues of alleged jury misconduct based on the dismissal of a black juror during deliberations and on calls received by members of the jury from an agent offering to represent them at trial's end.

But the chance that Fujisaki will grant Simpson a new trial is remote, Loyola University associate dean Laurie Levenson said. "For a new trial, he has to show error that materially prejudiced the proceedings," she said.

Harvard Law RECORD

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Rob Friedman



EDITORS-IN-CHIEF
David Liu
Jaclyn Liu

FOUNDED IN 1946

Not Ready For Gender Equality

Harvard Law School has 71 faculty members. Harvard Law School has seven tenured women professors. Harvard Law School has zero women of color on the faculty.

Harvard Law School admitted its first woman student in 1950 and named Elisabeth Owens its first tenured woman professor in 1972.

The School refused to make an offer to Ruth Bader Ginsburg in 1972 because "they didn't feel Sex-based Discrimination was a well-taught course."

Last week, representatives of the RECORD and Law School Council attempted to enter a faculty meeting on faculty appointments. Dean Clark asked us to leave.

Harvard Law School believes students have no legitimate interest in who their professors are.

Elizabeth Moreno '93 was a member of the "Griswold Nine." She was also the RECORD's staff columnist in 1992 and 1993, writing under the pseudonym "Alysse MacIntyre." She was an activist. She wanted the administration to diversify the faculty.

In March 1992, HLS hired four new professors. All of them were white males. In April 1992, the "Griswold Nine" took over Dean Clark's office. One of them was Elizabeth Moreno.

The world was not ready for Elizabeth Moreno, for her ideas about gender equality. Harvard Law School wasn't even close.

Like most political protest, the student activism of the Griswold Nine built a momentum. It built a momentum while Elizabeth was at HLS. It built a momentum and it flared and it died.

Recently, the RECORD learned that HLS plans to make an offer to J. Mark Ramseyer '82, an expert in Japanese law at the University of Chicago Law School. We don't know who else may be extended offers.

Students don't have a legitimate interest in who their professors are.

And Elizabeth probably knew this would happen, that HLS would be no different in 1997 than it was in 1992. She probably knew she would never see the HLS she envisioned in her lifetime. But she nudged the world.

In her final RECORD column, Elizabeth wrote, "Yes, time heals all wounds, and will certainly heal us after we leave. But will it heal Harvard Law?"

Dean Clark wants a faculty of 78 by the year 2000. Harvard Law School is choosing professors now.

The question — the challenge — is will Clark and the faculty make HLS ready to move forward, to put a more diverse face on this uniquely stubborn place?

— 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 Miss the Mark in Their Attacks on Fenno

In last week's RECORD, 42 of HLS's faculty criticized Fenno for being "mean spirited," "repugnant," and "cruel." However, this criticism is off the mark since Fenno has always been mean-spirited and offensive to the extreme. Without those traits, Fenno just wouldn't be Fenno.

Unfortunately, the faculty failed to mention the legitimate gripe about our current Fenno; namely, he/she/it just isn't funny. And, let's face it, a Fenno without humor is just as bad as a politically correct Fenno would be.

The current author of Fenno is an abomination devoid of humor. Without the humor to mask it, the offensiveness of Fenno is much more stark than it has ever been. Our current Fenno author is attempting to make a souffle without using all the ingredients... and the souffle has come out rancid. It is time for a new writer to take on the challenge of writing the Fenno column; a new writer with a better sense of humor.

Bob Melson '97
February 11, 1997

P.S. I would be remiss if I failed to point out the positive effect our current Fenno has had on the HLS faculty. Specifically, Fenno has caused 42 faculty members to come together in a decision about something. This is 14 more than the number of faculty that thought it would be worthwhile to attend the faculty meeting at which participation-based grading was voted on (and no decision was reached at that meeting because of a 14-14 tie).

Winter Term a Highlight, Not a Burden

It was disappointing to read the editorial in your January 17 issue characterizing "International Commercial Arbitration" among other subjects as a "marginal" course in the Winter Term. Having participated together with many other HLS graduates in cases before the Iran-United States Claims Tribunal and in numerous ad hoc commercial arbitrations, I find your position without support. In the past several decades, there has been an unprecedented growth in the use of arbitration as a means for resolving disputes in transnational trade and investment. The tendency accelerated with the end of the Cold War and the emergence of new participants in the global marketplace. It is no sur-

prise that Harvard students see opportunities in this challenging legal work or in the difficult problems raised by implementation of the North American Free Trade Agreement, which you erroneously also deem unworthy of being taught.

And you regrettably also ignore the benefits of having visiting professors and lecturers teach courses that require first-hand experience with developments of interest to students and scholars. It is no criticism of the faculty to suggest that practitioners — in private firms, government service or international organizations — can contribute to the education of students who want to pursue careers in fields not within the expertise of

a faculty member. Fortunately, Harvard has a renowned expert in international arbitration, Arthur von Mehren, but its students surely benefit from the perspectives that practitioners bring to this and other international courses.

Having graduated before the Winter Term was instituted, I can only remember that my classmates and I spent our December holidays with our books and notes. As I speak with current HLS students, especially LL.M. lawyers from abroad, many describe their Winter Term courses as a highlight of their Cambridge experience.

Peter D. Trooboff '67
Washington, D.C.
February 5, 1997

• Correction •

The article "New Wasserstein Fellows Appointed" in the Feb. 7 issue of the RECORD

incorrectly identified Stacy DeBroff as co-director of the Wasserstein fellowship pro-

gram. The co-director of the program is Alexa Shabecoff.

35 CENTS

Friday, December 6, 1996

Professors Consider Slashing Student Body, Packaging 2L Basics

By Jaclyn Liu

A second more controversial solution is to reduce the number of students admitted to the Law School. According to statistics released by the Registrar's Council, Dine

What do you think?

FORUM ON 2L BASIC COURSES

Thursday February 20

Hauser 104, 4:30 p.m.

All students encouraged to attend



Prof. Todd Rakoff '75



Prof. Richard Parker '70

An Open Letter to the HLS Strategic Planning Group

By Francis D. Fisher '51

The two most common errors in strategic planning are: 1) asking questions that are too narrow; and 2) asking the wrong people for answers.

What Questions?

The Strategic Planning Group of the Law School could address questions that range in breadth from one as narrow as how the salad dressing in Harkness Commons could be improved to a question as broad as: should the Harvard Law School be continued?

It is wasteful to reexamine first principles frequently. The salad dressing problem should be considered without a review of the basic purposes of the Law School. But from time to time — and this is such an occasion — we should challenge assumptions usually taken for granted.

Assumptions

Should we accept as givens to the planning process that there will be no changes in the following:

- number of faculty
- number of students
- length of law school
- proportion of students from the U.S. and abroad
- balance between teaching lawyers before and after they are admitted to practice
- balance between teaching students in residence and students beyond Cambridge
- balance between teaching students preparing for private practice and students preparing for public service
- balance between teaching by means of classrooms and teaching by means of new information technology

If "strategic" planning means anything it means that no assumptions on these subjects should limit the scope of the present effort to design a Harvard Law School of the 21st century. The only limitation that should be accepted is that the resources available to the Harvard Law School should be used to advance justice in the United States and in the world through training and by contributing ideas about law, i.e. education and scholarship.

The following topics suggest some of the rethinking now required.

A World-Wide Outlook

When Harvard was founded it saw its job to be the training of clergy for

the Massachusetts colony. Since then Harvard has developed into a national school. While the study of foreign law for American practitioners is now included in the Law School's curriculum, and many foreigners receive advanced legal training in American law, the School's focus is still very much centered on the U.S.

The planning group should consider whether it is timely to broaden the concern of the school to center on justice throughout the world. Included in this consideration would be such questions as whether fluency in a second language should be required for entry, a requirement that would probably assure that all students have experience a non-American culture in some depth and would have an outlook less limited by nationalism.

A Shift in Focus from Private to Public Concerns

If we listed in order of importance to society the problems to which a lawyer might apply the skills learned at a law school, how far down the list would appear the merger of Blue-Striped Toothpaste Company with Pink-Striped Toothpaste Company in a manner which minimized taxes on shareholders? Or estate planning? Or settling the damages of an automobile accident?

If Harvard Law School is to be redesigned. . . then [practioners, public institutions, students, and clients] should be included in the process.

But read the class reports of HLS graduates now retiring, and consider how many of us have devoted our lives to objectives no greater than protecting the wealth of individuals and corporations. Not a bad thing to do. But neither is protecting them from snow, wind, and leaky pipes. The question is not whether those objectives are valueless, but whether they are the objectives most worthy of the brains and other resources of

the Harvard Law School.

To be sure, our students should have ultimate control over what they do, but in deciding questions of admission to the School, curriculum, and ways in which the School favors private practice, the School must exercise its own judgment of what is most important.

Teaching Lawyers at the Time when the Learning is Most Valuable

In law school we learn how to think like a lawyer and how to learn law. In

addition, in school we learn some of the rules of law itself and the arts of practice. But most of law and practice we learn later, throughout our career. So where should we draw the line between legal learning that precedes

entry into practice and learning thereafter?

Should the Law School join efforts to reduce the years spent in law school before admission to the bar? Law firms now make recruiting decisions after the first two years and much of the third year is spent in "clinical" education of a kind that seems more appropriately learned on the job. Most importantly, the high cost of law school today causes students, deeply indebted after three years of it, to seek jobs in the private sector only for the reason that they need what firms now pay.

Judge Posner's (LL.B. '62) suggestion of limiting law school to two years should be carefully weighed. Or, as he puts it, "let the market decide" — the students and the employers of lawyers — whether the \$100,000 of the third year (tuition and foregone earnings) is found to be worth that much by others than law school professors and deans.

At the same time, how might the Law School use its resources to expand the teaching of practitioners at which it has shown itself proficient? Teaching of specialties may be better done after lawyers have adopted a specialty and at a time when they can afford to pay the full cost of the training.

Taking Advantage of Information Technology

Harvard Law School is to be commended for its vigorous exploration of how computer-based technology can be used for legal education. The Strategic Planning Group must assess how much further this can be pushed, the extent to which capital invested in interactive technology can be substituted for face-to-face interaction, the extent to which technology permits an individual student to work through a Socratic learning experience himself rather than observe it as part of a class of 100.

Today's information networks offer possibilities for more legal education to take place at a distance rather than in classrooms at Cambridge. The contribution of law faculty to knowledge in the field now affected through printed treatises and journal articles will be able to be done by up-to-date databases and interactive information products.

The computer and information networks also invite consideration of totally new ways of sharing effort among law schools, and between schools and practitioners.

Who Should Answer the Questions?

If Harvard Law School is to be redesigned so as to serve better practitioners,

public institutions, students, and clients of all sorts, then persons representing those concerns should be included in the process of determining the strategic plan.

This is not to question the deep interest of our professors in the School's future, but in spite of

their best efforts, it will be hard for them to totally weigh differently their personal interests from the interests of society. Nor should they; they should be expected to advance a faculty position. It is simply that they should not be the only participants in the decision process. Collecting comments from visiting committee members on campus is just the start of the needed broadening of full participation in the planning.

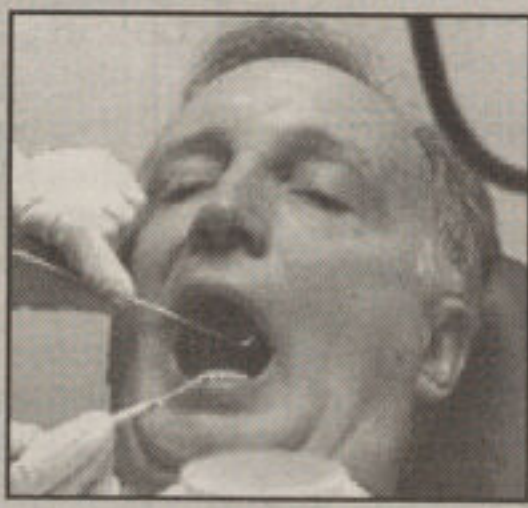
We want the process by which the Harvard Law School strategic plan for the next century is developed to command respect and support from the Harvard Corporation and Board of Overseers and from society as a whole.

Francis Dummer Fisher is a Senior Research Fellow with the Lyndon B. Johnson School of Public Affairs at the University of Texas at Austin.

[H]ow many of us have devoted our lives to objectives no greater than protecting the wealth of individuals and corporations.

[N]o assumptions... should limit the scope of the present effort to design a Harvard Law School of the 21st century.

Know what these guys have in common? . . .



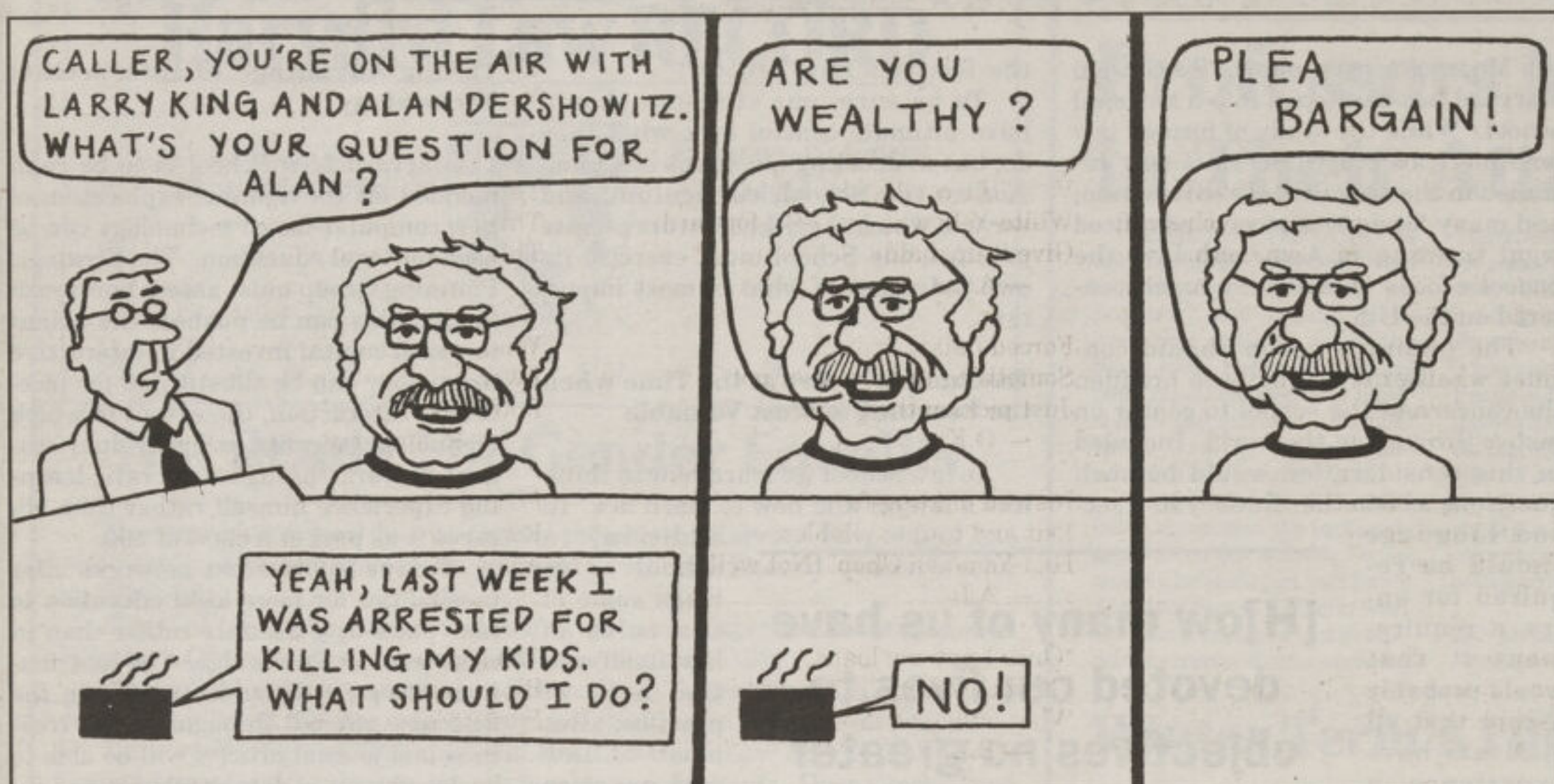
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Now seeking applicants for all positions.
Contact David Liu at 493-9057 for more information.

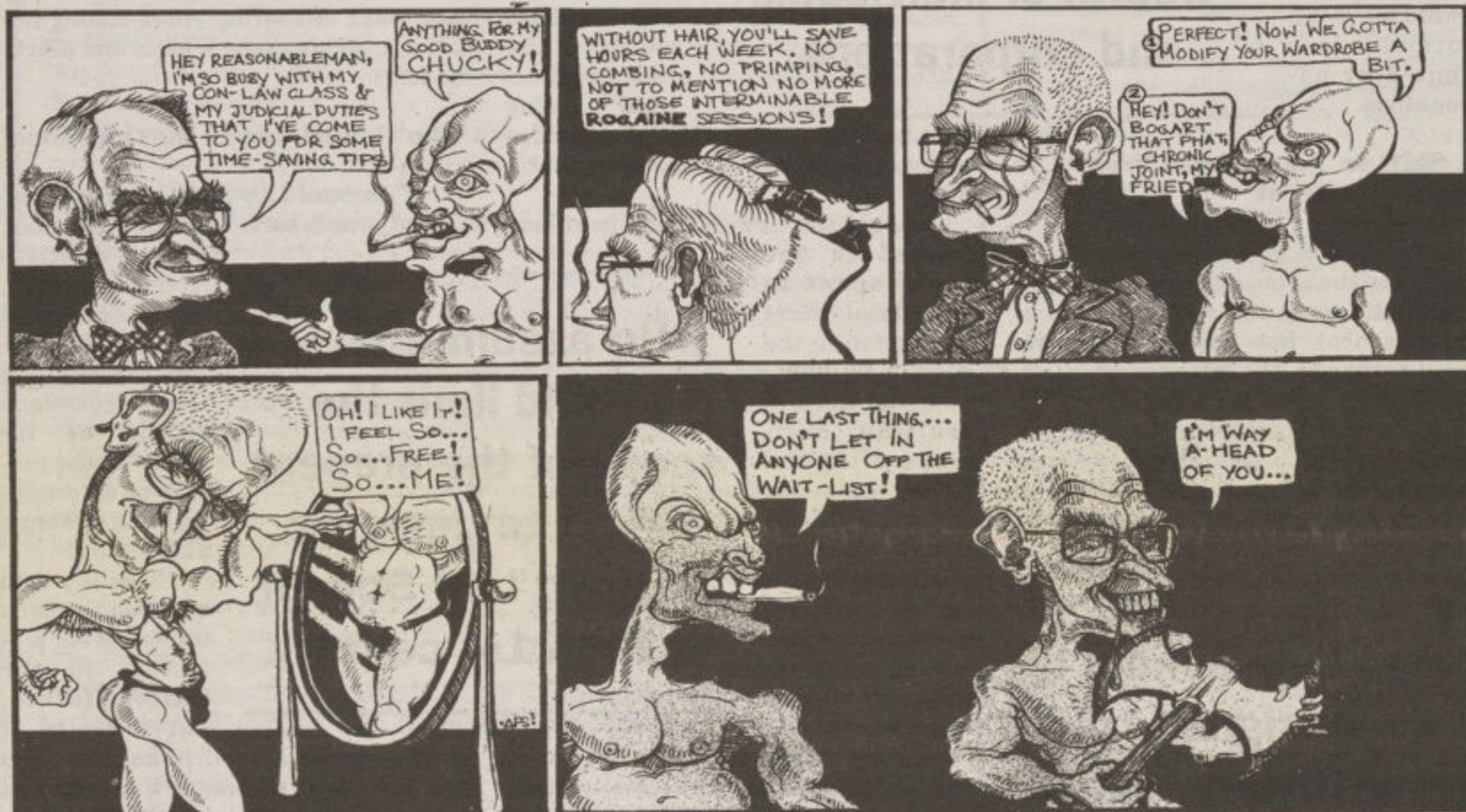
Ad Hominem

By Stuart Rees and Bill Zimmerman



Reasonable Man Helps Fried Save Time

By Alfred Steiner



Investigative Cartooning

By Stuart Rees and Bill Zimmerman



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CALENDAR

By Janie Kim '99

FEB. 13 - 19

A tip for the lovelorn: under activities to share with your object of desire, holding hands under a star-filled night stirs up romance far more pleasantly and effectively than stalking. Invite that special someone to the **Gillian Observatory** for an evening of gazing out at the universe. This Friday the 14th, admission to the roof of the Museum of Science is free. Bring a blanket and share a cuddle in the cold. Science Park, 723-2500.

1997's **Miss Gay Boston** will be crowned this Sat., 2/15. Lovely divas, **Zola** and **Venessa Veil** will show you just how much fun anyone can have in stiletto heels. Track the glamour and festivity, in all its fierceness, at Jacques. 79 Broadway, Boston, behind the Howard Johnson. 426-8902.

What's the name of that giant, hairy, orange creature featured so memorably in all of two Looney Tunes cartoons? For the answer, unscramble this anagram (S-M-O-G-A-R-E-S), or attend select screenings of the **Bugs Bunny Film Fest of the Best '97**. Running from Feb. 14 - 20, the Fri.-Sun., Tue. & Thu. shows feature classic shorts like "A Wild Hare," "What's Opera, Doc?," and "Duck Rabbit Duck." On Mon. and Wed., see Bugs & Daffy mix it up with Taz, Marvin the Martian, and, of course, that big, hairy, orange thing. Sweethearts get a special treat on St. Val's Day: two bonus cartoons starring stinky heartbreaker Pepe LePew. At the Brattle Theatre, 40 Brattle St., Harvard Sq. 876-6837, showtimes: 2,4,6,8,10.

Alan Simpson will speak at the Cambridge Public Library about his new book, *Right in the Old Gazon: Observations in a Lifetime of Scrapping with the Press*. Renowned as much for his sense of humor as for his ornery bite, the retired senator from Wyoming expounds on his own personal clashes with the media. NPR's Nina Totenberg and Gulf War correspondent Peter Arnett will not be present to speak in their defense.

Fun at the Middle East - On Wed. 2/19, enjoy **belly dancing** and **Arabic music** as you sip your Rolling Rock or hot toddy; no cover. Sat. 2/15, the **Throwing Muses** plays alternative tunes with national recognition; \$13 adv. \$15 at the door. The Valentine's Day special sees a happy line-up of indie rock/pop. **Lilys**, **Syrup USA**, **Brilliantine**, and **The Many Moods** light it up on Fri., 2/14; \$7. Call 354-8238 for details. 472-480 Mass. Ave., Cambridge.

Exorcise that mean winter sorrow at the House of Blues. **TaylorMade** pulls out a set on Fri. 2/14, 10p.m. For admission into the venue without a deep-freeze wait, try Wednesday nights. **The Marshall Tucker Band** is slated for two shows on 2/19, at 9 & 11p.m. 96 Winthrop St., Harvard Square.

This weekend, **Renegade Duck** hosts their comrades in improv, **Oui Be Negroes**, an African-American comedy troupe from Chicago. You can't beat manic performance devised in the moment. At the Hong Kong's third floor Comedy Studio. Fri. - Sun., 2/14 - 16, 8p.m. \$8/\$10. 1236 Mass. Ave., Harvard Sq. 628-8428.

The **AIDS Care Project** is in dire need of volunteers. Positions available include clinical assistants, front desk, administrative assistants, and case managers. There's no minimum time commitment, but 4 hours do get you **free acupuncture** by a licensed clinician. So feed your moral self-esteem, and service your ch'i while you're at it. Call Gregory Victorienne at 859-3036 ext. 25 for more details. 140 Clarendon St., 6th fl., Boston.



THE HORRIBLES

By Alexander Boldizar '98

Here they are, the long forgotten first annual Harvard Horrible Haiku contest results. To those who participated, thank you. Some were truly horrible, others made me wonder who exactly was on that admissions committee. I included all those that did not make me physically ill and added some of my own as gap fillers. I also recommend medical help for a number of "Anonymouses" out there...



Man with Law RECORD
Always writing so much stuff;
Scared of his own teeth.
— O.K.

Philosoph-woman
Always insulting my teeth;
Go date a dentist.
— A.B.

Madonna gives birth
Elaborate conception
Tabloid miracle
— T.

Drowning in coffee
I hear screams of revolt from
My aesophagus.
— A.B.

The 3-piece fruitcake;
Made-up, shabby-shoed, coke-nail
Uncontrolled ego.
— Anon

Unhappy zombie
Eyes all sunk and blue. Must be
on Law Review.
— B.L.

Intentional tort:
Making the entire class do
The Macarena.
— B.L.

My bath drain was clogged;
I poured Drano into it
And out leaped Dean Clark.
— A.B.

One, interested
in all but bathroom cleaning
write about Drano?
— Dean Clark*

V***, the combover,
White-Yellow sprigs bent forward
Give it up, baldy.
— Anon

Forced haiku writing
Something to publish or not
Just pick on the Profs!
— O.K.

Instead of kung-fu
I sit and count syllables
Haa-Yaaaaaa Chop! (Not well)
— A.B.

"Once I pay my loans,
I'll work for public interest."
What a load of shit.
— B.L.

Secured-transactions,
Anti-trust; remind one of
Anglo-Saxon sex.
— A.B.

Law School at Harvard
Cruelty to animals
Waste of three good years.
— T.

Loving a puppet:
Why does the man with the string
Always come along?
— A.B.

Soon it will be June,
The lawyers will be free. Oh,
The humanity.
— B.L.

Blue of hue pinstripe
Coke-lines aging glorious
Fragile skeleton.
— Anon

I spy with my eye
Langdell torn and bejewelled
With port-o-potties.
— A.B.

This is a haiku
This is a haiku, really
This was a haiku.
— Z.D.

You inspire me
I worship Satan the Lord
Rob's party is cool.
— Rob's party

Foot on the pedal,
Roar of the engine. I see
A pigeon. Two points
— B.L.

The corporate firms
Blew sugar up my asshole
Fuck public interest.
— B.L.

8 dead halibut
Swim around in Garnett House;
When's the next issue?
— A.B.

Uncouth procedure,
and improper property
wants on Torts, One L
— M.B.

I've become my socks!
My mother said this'd happen
If I didn't change.
— A.B.

* Well, really it was just my housemate. I do, however, often dream about living with Dean Clark in a nice home with a white picket fence, a dog named Tuffy, and a turnip garden out back...not to mention the \$25 M he's got stashed in his lumpy mattress...

Fenno

In this first episode of a two-part series, "Down and Out With Charlie Nesson in Boston and Cambridge," Fenno struggles to recover from accusations of bigotry and insensitivity; he also promises to apologize to those faculty members he has offended as soon as the law school hires an African-American woman.

Fenno stared in awe at the photographs on "Billion Dollar" Charlie's wall. An autographed portrait of the Chicago Seven; a photo of Timothy Leary with the inscription, "to a fellow drop-out;" and a faded daguerreotype of Chief Justice John Marshall, Senator Daniel Webster and Professor Emeritus Clark Byse.

Professor Nesson offered Fenno a Cuban cigar and leaned back in his swivel-chair, swinging his Italian loafers up on the mahogany desk.

"I've invited you here, Fenno, because Professor Dershowitz and I want to defend you against the vitriolic attacks by certain divisive elements in the faculty. We're prepared to file a lawsuit on your behalf."

Nesson looked serious, like a professor who was not Charlie Nesson.

Fenno was puzzled. He lit a cigarette. "But I don't even understand why they're so upset," Fenno said. "And I certainly don't want to file a lawsuit. I'm going to be a lawyer — it just wouldn't be seemly to appear in court."

"I'm sorry, Fenno, but you have no choice in the matter. You're going to be the subject of Dershowitz's next book, *Two Jews Walk into a Concentration Camp and Other Forms of Protected Speech*. And in case you're wondering, I'm in this

for the signing bonus."

"Signing bonus?"

"Yep. Alan offered me thirty grand to help convince you. He's not very good with people, you see. And you're going to do this because thirty grand translates into twelve kilos of powdered cocaine and a ticket to Amsterdam."

Fenno nodded. He knew that Nesson was a mathematical genius, capable of figuring out 33 percent of any number over one million in under a minute, and that Charlie had graduated from HLS with the highest blood-alcohol content since Felix Frankfurter.

"We're meeting Alan at my favorite hang-out in an hour."

Fenno felt excited. He'd been wait-listed for Nesson's Evidence class two years running. Now, with the prospect of having Nesson defend him in court, Fenno felt that he finally had a chance to realize his career goals under the tutelage of an expert: dilettante by day, connoisseur by night.

An hour later, sitting across from Dershowitz and Nesson in a burnt-out Roxbury tenement, Fenno felt resigned to take matters to court. Dershowitz had already explained to him that his case had been chosen because Fenno's brain function was lower than that of Sonny Von Bulow and because a potential existed for personal attacks on Laurence Tribe.

"The reason that these professors are upset about your writing in the RECORD," Dershowitz explained, "is that they don't like having their dirty laundry aired by others. Law professors feel the same embarrassment as they do about sex: they prefer to do it on their own." Nesson lit a joint and nodded in agreement.

"The important thing," Dershowitz continued, "is knowing where to draw the line. For example, if I were to ask, 'Does Professor Jolls still teach here?', that would be protected speech. Or, 'Is Professor Jolls still alive?' or if I said 'I'm glad

Professor Jolls likes teaching so much' or 'I wonder if Professor Jolls plagiarized her doctoral dissertation' or —"

"How about, 'Rumor has it that Professor Jolls has slept with eight members of the Supreme Court in order to stay away from Cambridge,'" Nesson interjected.

"Now that's kosher too," Dershowitz agreed. "Or you can write in the paper that Negro slavery might have been fun or that the Holocaust didn't occur or that the United Nations should investigate Professor Weiler for his war-time activities. You can quote Dean Clark's racist remarks in The Wall Street Journal and juxtapose them with his letter condemning you in the RECORD; you can ask why Professor Minow stopped agitating the University to hire more diverse faculty members as soon as they hired her husband; you can insinuate that Professor Andrews doesn't pay his taxes, that Professor Brewer will receive tenure as part of a conspiracy to demonstrate that colored faculty can't teach, and that Professor Field was a gun-runner for the Weathermen. It's all, kosher. That's what satire is all about. The only two things you cannot do are incite a riot or criticize my clients. So that's why we've taken up your cause."

Fenno took a puff on Nesson's joint and glowed with enthusiasm. "So, for example, I can suggest that Professor Herwitz is pitching his lawyering course because it will enable the University to cut back on clinical offerings, that's okay."

"Unless I represent him," Dershowitz concurred.

Fenno once again found himself under the spell of hero worship. Nesson, who unlike the rest of the faculty, screwed one of his students at a time, and Dershowitz, the Carl Sagan of legal scholarship. To hell with law school, thought Fenno, I'll just be a professional client. Nesson and Fenno then began their long walk home, hoping they might hop on a bus if they spotted an accident.

Quote of the Week

"One of my studies in England will be constitutional law. But I can't get into that here."

— Albert Lee '97,
HLS Marshall scholar

BOOK REVIEW

America's Ever-Elusive Promised Land

By Warren Binford

The traditional image of America as the land of opportunity is shattered in the minds of those who venture into our nation's inner cities. In these hidden pockets of economic and social failure, one cannot escape witnessing the distress that is being sown in the hearts and minds of the children and their families who are forced to live lives burdened with poverty, violence, economic and social alienation, and moral deprivation that pervades our urban communities.

The desire to flee the inner city is easily understood. But to where? Soulless suburbs dominated by strip malls and tract homes populated by residents rushing to get somewhere — almost anywhere — else? And how? Even if America's suburbs were the promised land to some, these same spiritually bankrupt communities have managed to create a system of zoning laws that virtually blocks the racially and economically undesirable at the gates of suburbia.

Regardless of the relative deficiencies of our nation's communities — both

urban and suburban alike — it is difficult to deny that the lines drawn by local zoning ordinances delineate and perpetuate a segregation of race, class, and culture that has burdened America since her inception and may prove to be her downfall unless society's leaders garner the courage necessary to end this social injustice in all of its forms, at all levels of the law.

Unfortunately, residential segregation has no *Brown v. Board of Education* precedent to create an impetus for integration. Unlike school segregation, the United States Supreme Court has yet to address the role that exclusionary zoning laws play in the creation and perpetuation of residential segregation. Without

a landmark case to set a nationwide standard, state judiciaries inherit the responsibility for achieving racial and economic justice by ensuring access to all — rich and poor, black and white — to society's modern-day promised land, wherever it may be found. However, few state judiciaries have yet to fulfill this responsibility and tackle the civil rights issues raised by local zoning laws.

In Charles Haar's '48 *Suburbs Under Siege: Race, Space, and Audacious Judges* (Princeton University Press, 1996), the reader learns of one state's ef-

forts to confront these problems and to bridge the abyss between the haves and the have-nots. It is the story of one woman's legal journey to her own promised land, a suburb in New Jersey, and the path that she and the lawyers and judges involved in her case laid for those who followed.

Haar introduces his readers to the racial implications of exclusionary zoning laws through Ethel Lawrence and her daughter, Thomasene, who sought to move into a low-income garden apartment in Mt. Laurel, New Jersey, in 1969. In pursuit of her dream, Lawrence founded the Springville Action Committee and developed a plan to build 100 low-income housing units in Mount Laurel, a small suburb near Philadelphia.

Unfortunately, Lawrence's efforts were thwarted by the town's minimum acreage zoning ordinance. Rather than allow her family to be relegated to the Mt. Laurel's Springville section, a rural area that served as home to most of the area's African-American population, Lawrence joined forces with young public interest attorneys and brought a class action lawsuit against the town.

Lawrence's suit gave rise to the New Jersey Supreme Court's landmark Mount Laurel decisions and created an opportunity for the New Jersey judiciary to recognize an individual's right "to an appropriate variety and choice of housing" under the state's constitution.

The Mount Laurel judges not only acknowledged the right of New Jersey residents to fair housing in their decisions, they created a system of remediation that ensured there were sufficient legal and economic incentives for the state's legislators and local community leaders to make the changes nec-

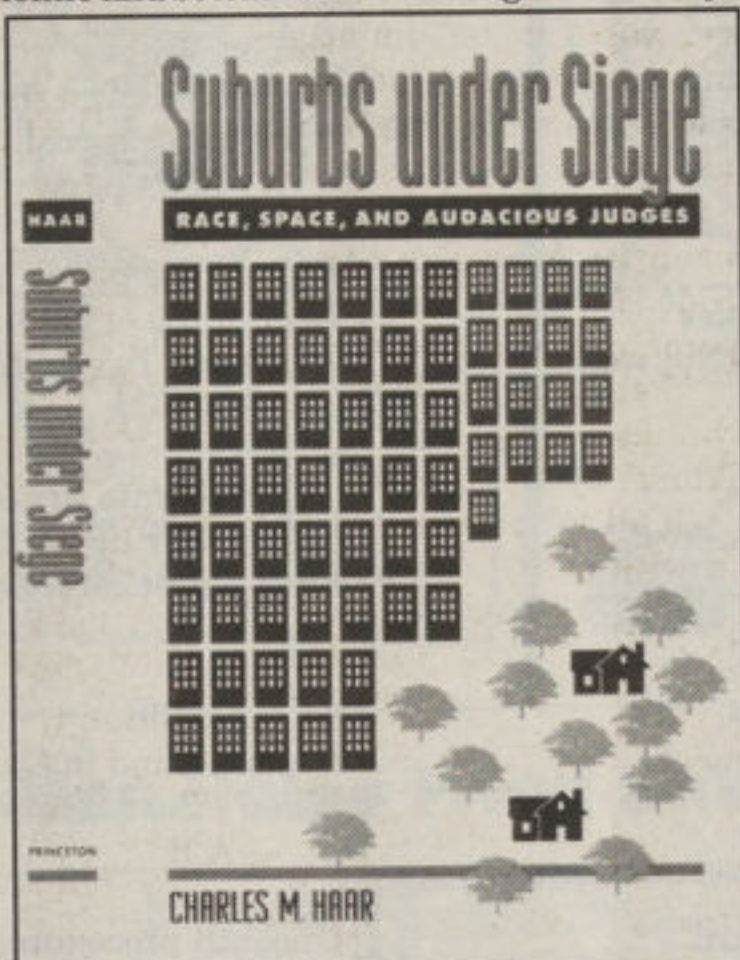
essary to end the fragmentation of society through the polarization of urban and suburban residents.

The judges who issued the trilogy of decisions maintained a commitment to see that the Mount Laurel principles would be applied, not simply enunciated. They recognized the role that judges often play as the architects of society and that societal changes require more than mere blueprints.

In *Suburbs Under Siege*, Haar provides an analytical summary of the Mount Laurel decisions and applauds the activist judiciary who garnered the courage and legal innovation necessary to tackle the constitutional and political issues embedded in local zoning laws.

Haar, who is the Louis D. Brandeis Professor of Law Emeritus at the Law School, is probably best known for his role in the Boston Harbor Clean-Up litigation. A public leader in urban planning and environmental issues, he served under Presidents Johnson and Carter on task forces tackling suburban problems and urban housing challenges and has been active in housing and land development issues at the state level.

Haar's background as a leading activist and eminent legal scholar places him in a prime position to guide idealistic lawyers, politicians, and judges through the creation and legal implications of the Mount Laurel principles. *Suburbs Under Siege* conveys law as a source of immense power to be drawn upon to combat civil rights and social injustice issues. The book celebrates and encourages individuals to use the legal system to achieve rather than simply define justice.



Clinical Grading Proposal Sits on Clark's Desk

Continued from CLINICALS, p. 1

"We wanted disclosure so employers and others can see the relative weights of the clinical and classroom components of the course," said Bellow.

Under this new policy, which Bellow noted keeps "ultimate responsibility" for clinical credit grades in the hands of the faculty member, students' clinical performance would either: 1) be noted as a letter grade on the transcript and weighed in accordance with the credit weight of the clinical component; or 2) be recorded as a pass/fail grade. In accordance with the present recommendation of the clinical committee, the specific grading policy used by the course instructor would be made available to any student at the clinical office and announced at the first class of the semester.

Bellow said that under the first option some faculty members would have to exercise "greater involvement" in the evaluation of the students' clinical performance. He pointed out that under the pass/fail option, students within the system of instructors employed by the Law School would receive pass/fail grades of honors, high pass, pass, low pass, or fail.

In the initial memo distributed to members of the clinical committee last January, Bellow also suggested that "[a]fter some years of experience with faculty choice on this, we might add the opportunity for students to elect 'pass/fail' for their clinical grade."

At present, the policy, which has been endorsed by the Clinical Committee and the Legal Education Committee, is on the desk of Dean Clark '72.

"The dean is trying to think through whether it should involve a faculty discussion on grading or go through separately," said Bellow. "I think, however,

that there has been a general willingness to allow individual members of the faculty to use it."



Prof. Gary Bellow '60

Student sentiment revealed widespread support for the proposal. Ray termed the current discretionary policy as "grossly inappropriate." She believed that weighing the clinical grade or providing a separate grade for it would be much fairer to students.

Although Cheryl Berg Rusk, the director of the Clinical Programs Office, prides herself in the observation that next year's preliminary number of clinical course offerings will be "up from this year," she indicated that her office was aware of some frustration with

the current system.

"Wherever there's discretion," she observed, "someone's bound to end up unhappy."

Yet conversations with several members of the faculty indicated either indifference or mild opposition to the proposal. The major problem faced by those advocating the change does not stem from any opposition to the specific amendment but rather from a general apathy on the part of professors who do not offer clinical courses for the clinical program. In addition, this proposal like other past products of the Legal Education Committee, may falter as the faculty fails to meet the numerical requirements necessary to produce a quorum. A previous effort to provide discretion in the grading of classroom participation was defeated when only 28 members of the faculty bothered to

show up for the vote. Indeed, critics of the proposal and of clinical programs proved reluctant to address their concerns publicly.

Many members of the faculty, however, remain strongly committed to clinical programs. Westfall noted that while an occasional clinical may prove too focused or obscure, some clinical courses are extremely worthwhile. Berg also pointed out that Clark has been extremely supportive of clinical programs in the past.

Yet, student discontent with the relationship between the clinical and classroom experience appears to be on the rise, with students favoring increased emphasis on practical experience. "The clinicals are the only thing that make being here worthwhile," one student noted. "Why don't they [the faculty] realize that?"

LRA to Integrate 1L Activity

Continued from BSA, p. 1

"We want to use the spring semester more effectively than in the past. We want to spread the work we do over both semesters," said Blum.

According to outgoing President John Paschke '97, "Technology will become more and more part of the LRA course. There'll be more available on-line." Modifications of LRA classes will include developing "a true LRA web page."

"This will be part of the overall integration of the first-year curriculum," Murray affirmed.

In response to criticism from students about the lackluster LRA lecture sessions, Blum said that although there is nothing definite, there were a lot of discussions last se-

mester about various ways to improve the lectures.

"I don't know which of those possibilities will be reality, but there will be changes to make the classes more useful for students," said Blum.

Overall, however, Paschke said the LRA classes went "very smoothly." Faculty members who work with BSA members in LRA classes enthusiastically agreed.

"[Paschke] was a terrific president this year. We've hit a plateau as far as class structure and format goes; it's going great," said Prof. Charles Nesson '63.

Murray concurred. "Although we're always working on improvements, this last year was terrific."

Members also praised the BSA's progress. "The BSA has gathered momentum lately — recruiting good

people and developing a strong reputation on campus among students and faculty," said Ward.

For Blum, the past year's success was a major reason for her candidacy.

"I had a great experience this last year. I loved teaching and working with the BSA members, and I wanted to become more involved," she said.

Members generally appeared pleased with the election of Blum and Stennes.

"They will both be excellent, and I look forward to working with them," said Tim Wu '98.

"Both Jen and Matt are idealistic yet realistic; it's hard to get that balance in a person," said Ward. "They both have a vision towards the future but know about the past. They know what BSA priorities should be."

New Bureau Leadership to Emphasize Recruitment

Continued from *LEGAL AID*, p. 1

case load covering many areas. This insures that members will not be inundated with one issue repeatedly. O'Toole stated, "We try to balance our cases to ensure they cover a broad area of poverty-related issues. And we then try to balance exposure so members can develop a broad base of experience."

A poverty issue gaining fast prominence lies in the realm of shelter cases. Lee expressed the Bureau's commitment to meet demand for services in this area while serendipitously advancing educational goals. "We are eager to develop outreach programs for shelter cases since they involve basic procedural and substantive issues," she explained.

Both Lee and O'Toole spoke fondly of their experiences at the Bureau.

Before being elected vice president, Lee was involved in estate planning, free wills, and guardianship issues as they affected indigent clients living with AIDS. Lee testified, "I found that being able to help in concrete and significant

ways was extremely rewarding."

O'Toole added, "The program reinforces classroom learning through clinical experience. It's a perpetual cycle of training."

O'Toole also spoke in glowing terms about the environment created by his peers. "The level of commitment is high," he stressed. With clients and their court dates having priority over other matters, Andrew explained, "We try to balance classes and our commitments to the bureau, and if they conflict we try cover for each other."

Of the officers elected with him, O'Toole stated, "I feel lucky in that our board works together as a team. I know everyone who were elected, and anyone of those people could have filled my position as president. I want to especially thank Betty Allebach, the administrative director, for maintaining a sense of tradition at the bureau."

The Legal Aid Bureau is budgeted from the Law School, and an additional litigation fund is available when going to trial.



RECORD Photo/David Liu

Rachel Brand '98 and Charles Hokanson '98 hold up a cake in honor of former President Ronald Reagan's 86th birthday. Former Congressman and current Kennedy School professor Mickey Edwards spoke at the celebration, which was sponsored by the HLS Republicans.

SPORTSGUY

Basketball is Back!

By Todd Stillerman '97

Sports Editor



Basketball is back, and your friendly neighborhood SPORTSGUY is here for all the action. A record thirty-eight teams will trot the hallowed hardwood of Hemenway Gymnasium attempting to recapture old glory, satisfy a few grudges, and warm up a few aching joints. The SPORTSGUY honed in on the A-League this week, the best that HLS has to offer. Look for more detailed reports on the B- and C- Leagues in the weeks to come:

Black Plague began its A-League title defense with a 59-11 rout of out-matched The Dark Side. Not even the resurrection of Grand Moff Tarkin could have saved the Emperor's men on Friday night, as Plague big men Chris "With the Girls Be" Handy '97 and Damon Jones '97 used the force to grab everything off the boards. Only a lay-up by Trent Taylor '98 with 5:43 to play in the first half prevented a "skunk" by the Plague, who led 33-2 at the half. "I got an excellent chance to see all my guys play," noted team captain Handy. "I was especially impressed with the 3L leadership provided by Ade [Heylinger '97] and Carter [Stewart '97]." Handy also noted that the Plague was missing two starters, a remark Dark Side captain Doug Roberson '99 characterized as "not funny."

The Rainmakers survived a thin bench to edge Alphabet's Soup 47-46 on a buzzer-beater by Brent Schlotthauer '98. The Soup's Jesse Ransom '99 found a seam in the Rainmakers' defense, executing a sweet left-handed lay-up with 0:14 to play in the game, but Schlotthauer grabbed the rebound on a three-point miss by Naim "That Tune" Bulbulia '98 and buried a fifteen-foot turnaround for the final margin. Playing the game without two starters, the Rainmakers got three clutch second-half baskets from Jeff "Pulling Your" Legath '98 and two long threes from Bulbulia to stay in the game. The Soup was led by the relentless offense of point guard Josh Swartz '99, the SPORTSGUY's early pick for Rookie-of-the-Year. Of his errant trifecta in the waning seconds, Rainmakers captain Bulbulia noted, "It was intended as a long pass to Brent off the rim. I get an assist for that, right?"

The final A-League game of the week saw Lil' Penny's Nightmare awake just in time to quash a second-half rally by the Nets, 41-34. The Nightmare jumped to a 33-22 first half lead on the shoulders of scoring machine "Fun" Bobby Chesney and the smooth inside-outside combination of Jake "Eat My" Schwartz '97 and Aaron Tim '98. Bolstered by the three-point shooting of Jim Walsh '99 (back from a business stint in Hong Kong with wife Cindy), the Nets held the Nightmare to a single free throw for 17:40 in the second half. Leading 34-33 with just over two minutes to play, Schwartz iced the game with a put back and several free throws. "We played the entire game with just five players," Schwartz explained, "and we really lost our legs in the second half. I guess everybody was hung over from the Superbowl party with Tyra."

Looking to the rest of the leagues:

Tough Division: The Langdell Division of the B-League is shaping up to be Harvard's version of the NBA Central. Loaded with five of last year's play-off teams, the big boys of this division will probably spend the season beating each other up. The Chupacabras, up 36-22 at the half, could not hold on against the Thirsty Scholars and captain Chad "Wake Me Up Before You Go-" Ho '97. The Short Guys, a quarterfinalist last year, dropped a close game to Killing Zone. Perennial power Sweat Hogs III: Ladies' Last Chance For Some Hog pounded Hotel Gropius 66-11 behind new rebounding wizard Doug Clayton '98. *Flagrante Delicto*, featuring the left-handed magic of Mike "Frank and" Steinig '98, nipped Bye 46-45 in an exciting match. Look for a six-way battle between the 'Hogs, Short Guys, Scholars, Chupas, Bye, and *Flagrante* for four play-off spots.

Rivalries: Trash talk abounded as long time rivals prepared for upcoming match-ups. The Sweathogs David "Jumanji" Markus '97, noting his team's disappointment that the Great Danes were placed in another division, announced that the 'Hogs "look forward to beating the Danes in the playoffs." Replies Danes captain Pat "E-I-E-I" O'Reilly, "Sure, if they get there. Those guys are the Villanova of intramurals." The 'Hogs get a bye this week, while the Danes face a tough Stormin' Mormons squad, undefeated last year in regular season play.

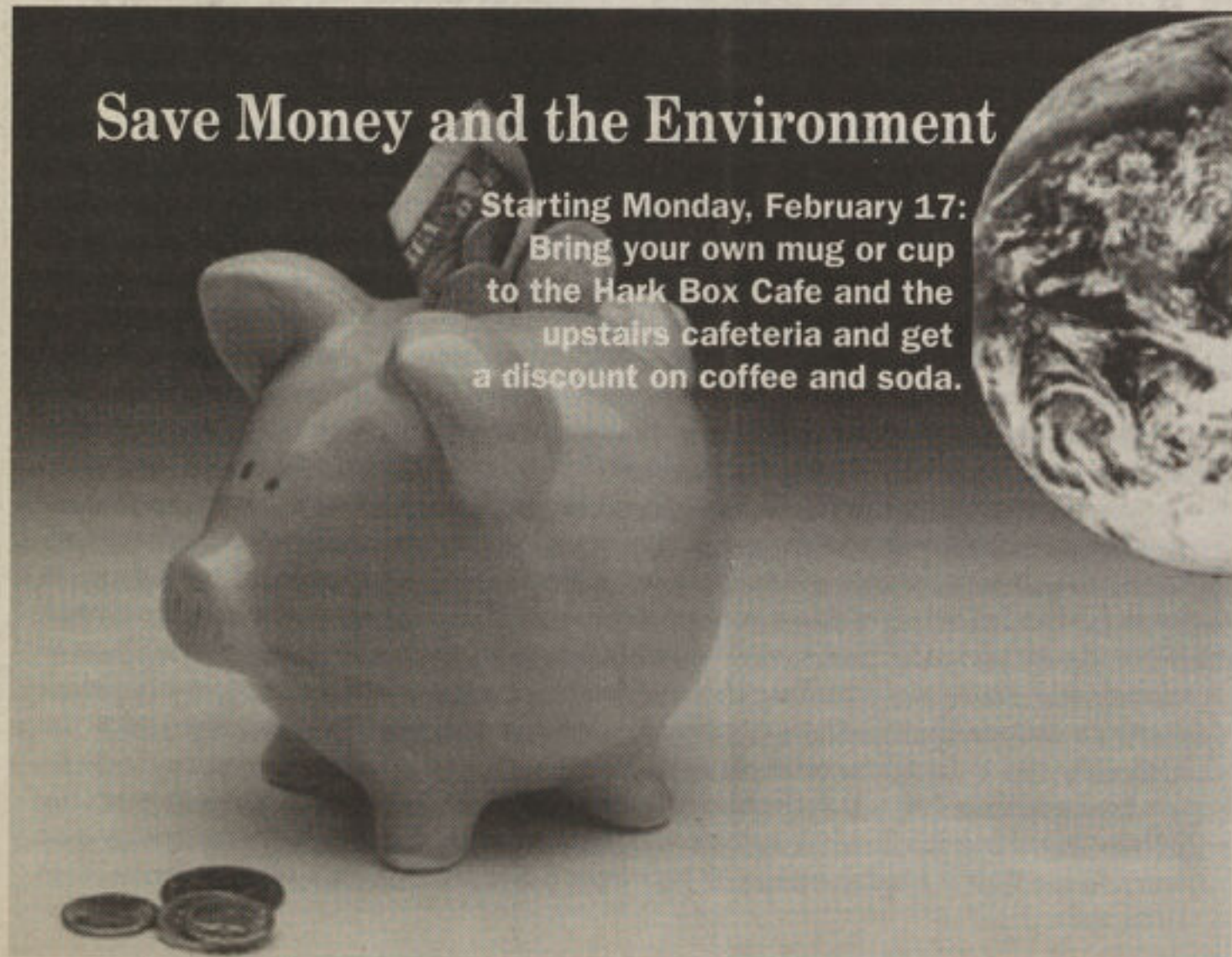
In the C-League: Kicking off the inaugural C-League competition, the Hound Dogs left Show Me The Money all shook up *en route* to a 32-18 win. In a battle of the SPORTSGUY's two favorite team names, Swingers beat C Is For Competition 42-30, proving the Swingers are so money, and they don't even know it.

Time Out? First Chris Webber, then Lawrence Moten, and now Darren Mungerson '98? Already the SPORTSGUY's favorite whipping boy for his forfeiture flair on the football field, Mungerson claimed his place in Hemenway lore by calling a time-out he didn't have in the closing seconds of a one-point loss to the Bob Melsons. Mungerson was unavailable for comment.

What Were You Thinking? In an attempt to improve competition this year, new commissioner Naim Bulbulia created a "C"-League for teams lacking the competitive fervor required for the B-League. Allowing teams to "self-select" their divisions appears to have been a mistake, as Offensive Nonmutual Collateral Estoppel fell 60-29, the Law School Couples' Association lost 52-13, the Happy Coolyances took a 60-17 dinger, and Hotel Gropius managed a paltry eleven points. In perhaps the greatest display of ignorant confidence, the Grizzlers (the Law Review entry) requested B-League status after umpteenth consecutive second division finishes in the B-League. Notwithstanding the pleasure the rest the league takes in humiliating the Law Review, blow-outs are not that much fun. Get off the court, guys, you're holding up traffic!

Save Money and the Environment

Starting Monday, February 17:
Bring your own mug or cup
to the Hark Box Cafe and the
upstairs cafeteria and get
a discount on coffee and soda.



National Treasures for Dems Only

By Judd Serotta '97

RECORD Columnist



In an earlier column in the RECORD, I wrote that Bob Dole deserved to be elected president because the current occupant of the White House invites, even encourages, the American people to undervalue the most noble political office in the world. Now that all of the revelations about Democratic fundraising have come out, I must smugly argue that I did not realize how right I was.

All of us who follow politics have been deluged with a new scandal-a-day, reminiscent of 1993, coming out of this White House. This time, they revolve around — at best — unseemly fundraising tactics and — at worst — massive violations of election law by dozens of Democrats, including the president himself. But there is a lot more at stake here than the violation of election laws.

Congress (both Democrats and Republicans) is considering passing a statute disallowing the president from rewarding political donees by allowing them to spend a night in the Lincoln Bedroom. What could be more sickeningly indicative of a president who does not appreciate the office with which the American people have honored him than Congress interceding on such a matter? And even worse, the president has seemingly managed to convince people that this sort of thing happens all the time. Then he has the chutzpah to decry cynicism in politics!

So far as I know it is virtually undisputed that those who gave \$100,000 to the DNC were honored with a night in the Lincoln Bedroom. This practice is so outrageous that this president should be embarrassed to continue living in the White House. Let me explain why I feel so strongly about this disgusting state of affairs.

In 1789 the United States began an experiment in democracy; it was the first attempt by a Western civilization to elect a non-king who would serve as (1) head of government, à la a Prime Minister, and (2) a head of state, à la King George III. It was clear then, and it is clear now, that the American president has two very distinct jobs. He has significant legislative and executive powers. Also, with the advent of political parties, he is of necessity the head of a political party. Just as important, however, he is a national leader for all people, regardless of party. He is America's ambassador to the world, and he is the figure to whom Americans look in times of crisis. For example, when Iran stormed America's embassy in Tehran and took embassy personnel hostage, President Carter was the leader to whom every American looked for leadership and for national unity. And when the Challenger exploded, all Americans, whether liberal or conservative, looked towards President Reagan to speak for us in a time of American tragedy. These are examples of the president acting as head of state, not as head of government.

It is for events like these, and also less dramatic but similarly nonpolitical events, that we treat our presidents as quasi-monarchy. They are chauffeured everywhere they go; they have personal servants who treat them with a dignity probably approaching that granted to the Queen of England. The White House residence is more than living quarters; it is America's bestowal upon its head of state the highest dignity granted to any family in the nation. And virtually no one, regardless of party, would begrudge the president and his family this treatment. The president, we all agree, really should not be just "one of the people," living in a townhouse in Georgetown and walking across the street for Chinese food. He deserves better than that, for he is *he* leader of the United States of America.

That is why President Clinton's use of the Lincoln Bedroom is so galling. While I did not vote for him, he is *my* president, just as he is the president of those who did vote for him. How can this president possibly feel that it is appropriate to use one of the single most symbolic elements of his status as head of state as a carrot for those who give his political party money? The Lincoln Bedroom is a national treasure: it remains exactly as it was when President Lincoln was killed. There are other such national treasures that deserve to be treated in an entirely nonpartisan fashion. What would we say if the president authorized the burial of major DNC contributors in Arlington National Cemetery, or in the Capitol Rotunda, even though they had never engaged in public service? We would be outraged because such sacred places are not to be used by a head of government for *political* advantage. Rather, they belong to the nation. And in the case of the Lincoln Bedroom, we the people lend it to the occupant of the White House as a symbol of our respect for him as head of state, not because we agree or disagree with his politics. We trust that he will use the White House, a quasi-monarchical residence, in a way that respects and lends dignity to *all* the American people. And how ironic that a president who incessantly talks about "coming together" as a nation, would use one of the nation's most sacred national treasures to benefit his (necessarily) controversial position as head of government.

When any president walks by a military parade, he is saluted whether the soldier is Republican or Democratic. When he speaks in public, he deserves to be treated with respect because he is the *President of the United States*. Indeed, when he walks into the Capitol to give his State of the Union, he is applauded by even his fiercest political foes. This is because the American people have sent a loud, clear message to the entire world that this man is the "First American." For the "First American" to abuse our national treasures to boost his chances for reelection is unspeakably gauche. It speaks to an incredible lack of respect for institutions. Some may respond by retorting, "All presidents have used their position as head of state to boost their status as head of government." I would ask them to find me an example that even approaches the tackiness and offensiveness of renting the Lincoln Bedroom for \$100,000 in contributions to a political party. And, as is so often true of this president, he convinces the American people that they *should* be cynical about their politicians. Never has any public figure so mastered the unfortunate art of, as Daniel Patrick Moynihan wrote many years ago, "defining deviancy down."

Saving Bonnie Franklin

By Jacob M. Appel '99

RECORD Columnist



Since my father's three great passions in life transpire only once every four years, he has developed an appreciation for delayed gratification and accepted the prospect that his son might be slow in adopting his avocations. He has come to terms with the fact that I will never be an Olympic athlete, although every August as a child he painted my face with black make-up and had me run around the municipal track, recreating Jesse Owens' 1936 victory. Similarly, my father understands that I may not share his quadrennial passion for sex; he now relies upon me for a law degree and my brother for grandchildren. However, even my old man's patience ran thin when he realized that I no longer intended to vote in presidential elections.

I can see him pacing the foyer, declaiming about how my Uncle Saul had voted for Richard Daley thirty-two times in three elections; my Aunt Bessie had campaigned door-to-door for both Nixon and Kennedy in 1960, often garnering two free cups of coffee from the same household. And now his very own flesh and blood — his only son except for my brother — planned to abstain from the greatest of civic obligations! I politely responded that each of my three choices in recent elections — Harold Stassen, Gus Hall and Ralph Nader — had failed to break single digits, and besides, it appears that people who don't vote receive *more* attention from politicians than people who do.

The people of Indonesia, for example, have never known a free election and yet President Clinton seems determined that they play an active role in our government. Mr. Clinton also appears determined to serve the people of Paraguay, although most of them failed to vote in the recent victory of the right-wing party over the far right-wing party in that nation's sporadic auction. Similarly, unborn children and death-row inmates are among the most cherished constituencies of the Republican and Democratic parties, respectively, even though few of them took advantage of recent motor-voter registration legislation. In addition, everybody in America seems to want to protect the largest non-voting segment of the population — that precious commodity, our children.

Not only do we want to protect our young ones, but we want to shield them from the most pernicious of vices, and our leaders will stop at no cost to eradicate the monsters under our children's beds. We will soon have rating systems and V-chips to make sure that our daughters remain vestal virgins until they have unlimited Internet access in college. Tobacco advertising, another threat to the stable home and the healthy nuclear family, will soon be relegated to the insides of cigarette cartons. Curfews keep

The teenagers of America, many of whom can't even name the two political parties let alone their presidential candidates, are the best served constituency in America.

our precious babies off the streets at night; "reasonable suspicion" vehicular searches render their vehicles drug free; and tight alcohol laws ensure that if our children drink, they drink in safe places like at wooded rest-stops and on high school playing fields. The teenagers of America, many of whom can't even name the two political parties let alone their presidential candidates, are the best served constituency in America.

Testing out this hypothesis, I recently promised my sixteen year old so-prosecute-me-Pete-Wilson lover a day of good, clean, healthy fun. We started with a wholesome McDonald's dinner, following in the footsteps of the greatest Arkansan since Johnny Cash, and made sure to order the low-fat cheeseburgers. Then we saw the newest popular PG film, Madonna's "Evita," which promoted family values and eliminated any unpleasant suggestions that the protagonist was a prostitute, that she embezzled funds from the poor or that she harbored war criminals (my date and I are now working on a play of our own, a ballet version of the highlights of the Pinochet regime, and I recently sent Disney the script for an animated television show entitled *Salazar's Portugal*). We then attended five o'clock mass, forswore the use of birth control, and ended our evening with a healthy swim in which we pretended we were Wilbur Mills and Fannie Fox. After my degenerate childhood of late-night prowling and wanton inebriation which destined me to Harvard Law School, I had done my small part to ensure that another teenager was protected from the insidious vices of the modern world.

One part of me rejoices in the knowledge that our political leaders serve the segment of the population that was meant to be herded and not heard. Driving education standards down, three successive Education Presidents have ascertained that our children will be incapable of reading invidious literature like the rape scene in "Tess of the D'Urbervilles" or the homoerotic poetry of Walt Whitman. Keeping our children, especially those with painful illnesses, off of marijuana provides more time for them to listen to public radio and watch educationally oriented programming. And hiding those condoms on the back shelf at CVS — right between the prescription drugs and the Duracell batteries — probably humiliates our kids from engaging in sex (and not just kids — why do you think my father waits four years?).

At the same time, our leaders clearly have not gone far enough. For example, the Internet — whose sole useful purpose appears to be the dissemination of free pornography to college students — ought to be restricted to healthy, educational subjects such as the invasion of Martians or simulcasts of professional boxing matches. Mother's Against Drunk Driving should campaign to increase the driving age to twenty-one, thereby preventing thousands of accidents annually. And we should all strive to ensure that each and every child receives all of the constructive personal attention of a Patti Davis or an Amy Carter.

So I explained to my father that I wanted all of the benefits of the non-voting public. He shook his head in despair, noted that he must have raised me poorly, and warned me that if I didn't shape up he might buy a V-chip... or a teenage bride from Indonesia.

THE REASONABLE WOMAN

The "F" Word

By Kristina Hoy '98
RECORD Columnist

FEMINIST. The effect the word has on people reminds me of the scene in *The Lion King*, where one of the hyenas asks the other to repeat the name "Mufasa" because it gives her chills. I have found in writing this column that students at Harvard have a serious misperception of what a feminist is or are deathly afraid of being identified with the label. There are legitimate reasons for both perspectives.

First, let's take a quick quiz. Do you think that men and women should have equal opportunities? If you answered yes, then you are a FEMINIST. Feminism, as a philosophy, means nothing more than the recognition that men and women are entitled to equal opportunities.

So, why are people so afraid of being called a feminist? I believe the simple reason is that there are negative political connotations associated with the word. First, many people believe that to be a feminist, they have to buy into the philosophy of the most radical feminists.

I sympathize with those who share this perception. In November, I wrote a column about the book "The Rules." The point of my column was to examine what the phenomenon was all about, not to pass judgment on the book. Steven Hatch of the Accounting Department wrote a response longer than my original column, basically stating that the fact I found humor in "The Rules" was just plain wrong. Mr. Hatch called me, "Hoy, the self-proclaimed feminist." Although "The Rules" is addressed to women, I wrote about the column in gender neutral terms, ("who-

I am not asking you to put your name on the top of a column with a picture in which you have really bad hair and a weird look on your face.

ever asks for the date should pay"), Mr. Hatch ignored my statements and argued that my position could lead to date rape, which obviously is not funny.

If I were already concerned about the political connotations associated with the label "feminist," Mr. Hatch's comments could make me throw in the towel. Feminists like Mr. Hatch give the perception that there is only one correct way to be a feminist, and if you do not agree with them, you are just plain wrong. Some of these feminists do not seem to have a sense of humor. Fortunately, this is not what it means to be a feminist.

It is true that some feminists are so serious about the cause that they alienate others. However, those of you who believe in gender equality should not be deterred by those few overzealous feminists. There are others, like myself, who seriously believe in the cause of equality and will fight when necessary, but can still have a good laugh over a book like "The Rules," or not believe that I am prostituting myself when I allow a man to pay for dinner.

In addition to the perception that being a feminist means agreeing with the views of the most radical among us, there is additional pressure from non-feminists. Everyone is familiar with Rush Limbaugh's term "femi-nazis," and it is not news that there are people who dislike feminists.

In fact, this winter in the Negotiations Workshop, I had an unfortunate experience with another student as the result of this column. This particular student, I will call him "Rude-man," was particularly difficult during a seven hour negotiation. Rude-man disagreed with anything that came from my mouth, and was personally insulting. In a review of the session, Rude-man admitted that his goal was not to negotiate, but rather to see how hard he could push before my team of negotiators would go home. He later added that one of the reasons he approached the negotiation in the manner he did was that he had heard "disparaging" remarks about how I was a "difficult" person based on the fact that I write this column.

I can find nothing I have written in this column, with the exception of what I have written today, that demonstrates that I am "difficult." The only thing difficult about me for people like Rude-man is that I am not afraid to have my name and picture next to the word feminist. To those people who believe in the fragile notion that one sex is superior to the other, I am sure that I may appear quite threatening. As a feminist, some people who do not believe in gender equality may treat you poorly or not like you because of your views.

So, we have pressure from within feminism, and pressure from anti-feminists. After exploring legitimate reasons people shy away from the label of feminism, why should you reconsider identifying with feminists?

The reason I have not shied away from the label, and am still writing this column, is because I truly believe that men and women should have equal opportunities, and because today they do not. Gender discrimination is real, and if you have not experienced it yet, at some point in your career you will. We are all intelligent enough to recognize that when people or groups make negative associations with a particular group, it is to promote their own agenda. Believing the connotations that anti-feminists associate with the word divides those who truly believe in the cause of gender equality.

Feminists are pro-choice and pro-life. Feminists are attorneys and homemakers. Feminists are vocal and quiet. The point is, if you believe in gender equality, you should be proud of that belief, and exercise it in any manner in which you feel comfortable. You should not be afraid because of a label's negative connotations, or because people who disagree with you may not like you. It is precisely those who make you fear the label of feminist the most that are able to divide those who believe in gender equality and prevent us from furthering the goal of a more equitable society.

I am not asking you to put your name on the top of a column with a picture in which you have really bad hair and a weird look on your face. I ask that if you believe in gender equality, disregard the negative connotations associated with the term feminist, and work within whatever sphere you are comfortable with to encourage a more equitable society with equal opportunities.

LOX POPULI

The Art of Cooking

By Jamie F. Metzl '97
Restaurant Reviewer

As I squeezed in the door of the Cambridge School of Culinary Arts at 8:30 a.m., the ten students seated with their thick notebooks before them eyed me curiously. As the only student not wearing checkered white and black pants and a chef's shirt with my name embroidered on my chest, I was clearly out of place. What's more, this was a ten week course in advanced cooking, and I had only recently mastered garlic toast. I sat and introduced myself.

Roberta Dowling, the founder of the school and a doyenne of the Boston culinary scene, entered with a flair.

"You're the one doing the story?" she asked.

"Yeah. I just want to learn to be a great cook by the end of the day. Don't mind me."

She laughed and began her lecture. My classmates breathed a sigh of relief, confident that there wasn't going to be another pop quiz today.

The day's menu was from the Lazio region of Italy, which includes Rome.

"Romans love the good life," Roberta said, "and they express this with gusto in their trattoria and homes. They are true *mangione*, good eaters." For the next hour, our ears were filled with tales of Lazian delicacies, of pagliata, zuppa di faro, pasta faggiole, of Pope Leo X who threw his silverware into the Tiber after his lavish repasts.

We then zeroed in on today's menu. Roberta had chosen a classic Roman meal, and we split into teams to carry out her vision in the dreamfully bedecked kitchen in the back of the school. I was put in charge of the *tozetti*, rectangular almond and walnut cookies which are baked twice like biscotti. I scoured the kitchen for the requisite nuts, anise seeds, wine, eggs, sambuca, sugar, and vanilla, and plunged in with abandon.

My generous classmates taught me the proper uses of kitchen implements, how to ribbon eggs, and the easiest way to crush nuts. Lotfi, a hospital cook from Morocco, showed me the best way to crack an egg (tap it on the table, don't whack it with a knife). Nora, an accountant/gourmet considering a career change, showed me how to soak the anise seeds in wine. Krista, a pastry chef from St. Louis dreaming of becoming a four star chef in New York, advised on the proper placement of the pan in the oven.

As each of us fiddled purposefully away, I wandered the kitchen, picking up cooking tips and speaking with my classmates. Spices go in at the end. Wine goes in early. Cut along the grain of the meat. They all, I quickly learned,

My tozetti, the simplest of the fare, was a hit, firm and distinctive. There was a chef in me which only needed liberation.

shared a love for cooking and the culture of food. "Kitchen is like art," Lotfi told me. In their white shirts now smudged with butter, tomato sauce, olive oil, and ricotta cheese, they looked like impressionists. Roberta wandered in and out offering cooking tips and insightful pearls of culinary wisdom.

The meal was taking shape. Nora's team had prepared saltimboca, a pan seared veal scalloppini with prosciutto, sage, and butter. Kathleen, a property manager from Lynn, created a mountainous crepe torte, constructed of alternating layers of soft crepes, a ragout of pancetta, onions, garlic, carrots, celery, garlic, beef, tomatoes, and chicken stock, and a filling of ricotta, pecorino romana, and fontina cheeses. With Krista's baked asparagus and Cherise's ricotta souffle with candied lemon peel, we had a meal.

After four hours of cooking, we sat at our nicely set table and dug in. Delicious. The veal was perfectly accented by the prosciutto. The crepes and cheese melted in my mouth. My tozetti, the simplest of the fare, was a hit, firm and distinctive. There was a chef in me which only needed liberation. I turned to Roberta for the full scoop.

Although the school is famous for its ten month course for executive chefs, they also run a panoply of short courses, some just lasting three to four hours, which cater to all levels of cooks. Roberta showed me the exhaustive list of classes on cooking for Thanksgiving, Christmas, and other holidays, breads and cakes, Asian and American regional cooking, pasta and sauces, and a long list of others.

I had a strong feeling that I would be back. After eight hours immersed in the art, I left a changed man, still a *mangione*, but now aspiring to become a culinary master.

The Cambridge School of Culinary Arts (354-3836) is located at 2020 Mass. Ave., near Porter Square. Classes start at \$65.00.

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Ames Courtroom

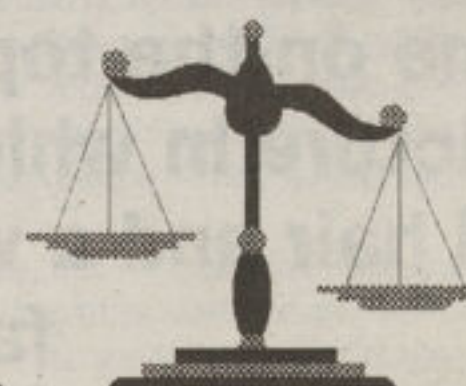
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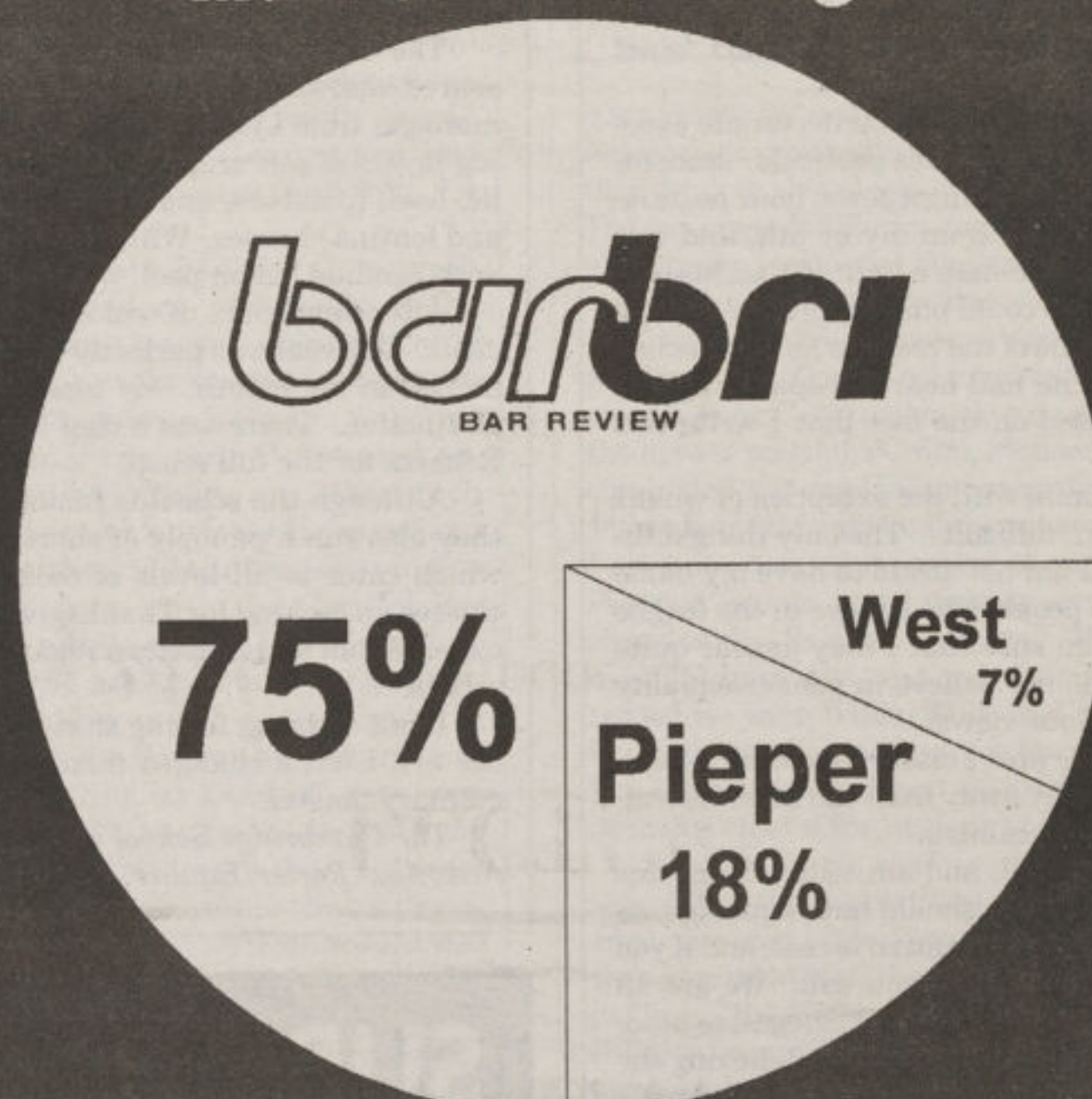


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