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Joe Scully '99, Dina DeFalco '98, and Dan Fridman '99

DeFalco Assumes LSC Leadership

Council to Key on Academic Reforms

By Rob Friedman

Dina DeFalco '98 became Law School Council (LSC) president last Friday when no other student filed a candidacy statement for the position. Vice President Joe Scully '99 and Treasurer Dan Fridman '99 also ran unopposed.

Despite the absence of an election, outgoing LSC President Chip Nierlich '97 said he believes DeFalco has a mandate to continue the Council's work.

"[The lack of competition] is perhaps an expression that people are relatively happy with the progress of this year's Council," Nierlich said, adding that current LSC members knew DeFalco was running and displayed their support by de-

clining to run.

Outgoing LSC Vice President Rob Jancu '98, who was rumored as a possible presidential candidate, said he believed last year's hotly contested election turned off some students.

Jancu said the uncontested election was "understandable" considering "last year we had heard that the prior year was a very easy race [when Rob Simmelkjaer '97 was elected] and perhaps that encouraged more slates than usual last year."

"Last year we had a real blood bath, which in turn may have given a lot of people second thoughts this year about putting themselves through the ordeal," Jancu said.

Both Nierlich and Jancu

please see LSC, p. 3

Forum Provokes Debate on Sections for 2L Basics

Parker, Rakoff Questioned on Faculty Obligations

By Jacob M. Appel

Approximately 50 students participated in a forum to discuss sectioning of 2L basic courses in Hauser Hall last Thursday. Questions ranged from the technical aspects of the proposed "bundling" package under consideration by the Legal Education Committee to the broader question of faculty teaching responsibilities.

The forum, sponsored by Law School Council (LSC) and moderated by LSC President

Chip Nierlich '97, was organized to allow students an opportunity to discuss the proposal that would group second year basic courses — Constitutional Law, Corporations and Taxation — into sections.

"This proposal may help address a perceived falling off ... and dissatisfaction among second and third year students," said Legal Education Committee Chairman Richard Parker '70.

Parker lamented the "decline of the intellectual community" between the first and sec-

ond years of law school and suggested that the proposed reform might address several major problems. He noted that these included "a sense that a lot of 2Ls have been shut out of basic courses" and a "general frustration with the gaming of the course selection process."

Registrar Stephen Kane pointed out that each year spaces remained open in at least one course of each of the basic classes. Yet Parker noted that the issue is "perceived to

please see 2L SECTIONS, p. 4

Task Force Appointed to Investigate Same-Sex Unions at Memorial Church

By Janie Kim

The Board of Ministers, an advisory group at Memorial Church, convened last Friday, moving with deliberate caution toward the possible permission of same-sex union ceremonies at its main chapel.

The Harvard Yard church offers use of its facilities to Harvard students, alumni, faculty, and affiliates. Currently, it has no official policy explicitly banning the performance of same-sex commitment ceremonies.

However, a state-sanctioned

please see VIGIL, p. 4



Organizer Seth Persily '99 and other attendees at Vigil

NLRB Chairman Calls for Quicker Resolution of Labor Disputes

By Rob Friedman

Calling "the passage of time" the greatest impediment to his agency's ability to offer adequate remedies, National Labor Relations Board (NLRB) Chairman William Gould staked out an agenda for labor law reform last Thursday to a crowd of over one hundred in Starr Auditorium at the Kennedy School of Government.

Gould defined his central challenge as "making our administrative procedures more efficient and effective." Since being appointed by President Clinton in 1993, the former Stanford Law professor has managed to lessen the national Board's case backlog to its lowest levels since 1974. There are 380 cases awaiting NLRB adju-

dication today, Gould said, compared to the bottle-neck height of 1,700 in the mid-1980s.

Gould admitted, however, that delay remained a central problem. "There are cases that

has worked to "foster a more cooperative and less acrimonious relationship between labor and management," he said. An advisory panel consisting of union and management lawyers now meets under the purview of the Board to identify common ground.

As for speeding up the adjudicatory process, Gould pointed to several new Board features. First, "settlement judges" may mediate cases in their early stages. Settlement judges "do not have the authority to adjudicate, but do have the authority to settle," Gould said. Gould explained that the goal is to

try to mediate disputes early, before "battle lines are drawn." Approximately 200 cases have been heard by settlement judges

please see LABOR, p. 11



NLRB Chairman William Gould, right, speaks while moderator Prof. Paul Weiler listens

were there when I came in the door [three years ago] and they're still there," Gould said.

Gould outlined the initiatives he has implemented in the last three years. First, the Board

Students Lobby for Animal Law Class

Administration Tells Them it May be Too Late for 1998

By Eddie Grauman

A group of students from the HLS Student Animal Legal Defense Fund (SALDF) is lobbying the administration to offer a course in animal law for the 1998 Winter term. However, members of the faculty Curriculum Committee have indicated that it may already be too late to add the course for next winter.

SALDF believes that "animal law is an important topic of study because of both its jurisprudential complexity and its far-reaching practical effects," according to a letter it sent to the Curriculum Committee. "[It] is of relevance to animal advocates, environmental lawyers, and all persons interested in or dependent upon the use of animals," the letter stated.

As a result, the group has been attempting to get a course added for next January, according to SALDF Co-Chair Piper Hoffman '99. "We have been talking with Prof. [Todd] Rakoff '75 and the Curriculum Committee about getting this course added," said Hoffman. "Unfortunately, there is no official process for getting a new course. The administration is not used to students taking initiative."

The Curriculum Committee — which consists of Dean Clark '72, Rakoff, Prof. Frank Sander '52, and Registrar Stephen Kane — has not yet formally addressed the issue, but members have indicated that the course may have to wait a year. According to Rakoff, "It's very unlikely the course will be offered in the

please see SALDF, p. 15

21 Years Ago in the RECORD...

HARVARD LAW RECORD

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TWENTY CENTS

Large Midwestern Firm Challenged By HLS Student

By Susan Gillette

A black 2L and several campus organizations are waiting to hear what action the Law School will take concerning a formal complaint the student filed against a law firm alleging that its on-campus interviewer made three discriminatory remarks during an interview here, violating Placement Office rules.

The case has tested the ability of the Placement Office complaint system to resolve arguments of fact arising when a student alleges discriminatory remarks and the ac-

(Continued on Page 6)

Woman Heads Review

By Beth Emery



Susan R. Estrich, 2L

A makeshift sign on the Gannett House door says "Under New Management." Inside, Susan R. Estrich, 2L, from Marblehead, Mass., has become the first woman in *Harvard Law Review's* 89-year history to occupy the president's office.

In past years, being elected president of the *Law Review* has meant important, but seldom monumental, changes for the student: things like working 100 rather than 60 hours per week; spending a year of one's life in a private (albeit un-plush) office, rather than amid stacks of law reporters in a Langdell carrell; and, of course, knowing one follows in the footsteps of such notables as Felix Frankfurter and Eliot Richardson.

But to Estrich, sitting beyond the door marked "President" has also meant late-night calls from national wire services; her name in major newspapers; being flown to New York to appear on ABC's "Good Morning, America"; and the constant battle to negate the suspicion lurking in every interviewer's mind — that affirmative action has finally penetrated "what has always been considered a male bastion."

Estrich, and her predecessor, F. Whitten Peters, 3L, have both repeatedly emphasized that the position was awarded on merit, not sex.

"Affirmative action is not the way decisions are made here either for president or for the officers the pres-

ident appoints," Estrich said. "All we look at are the files (containing all *Review* work for that member) and the needs of the magazine."

The election came late Saturday night after a three-round selection process which began earlier that week with self-nominations; continued on February 19 with a narrowing of the field to six by the 3L members; and ended on the 21st with a 12-hour voting session which eliminated nominees one-by-one.

Estrich noted that the time taken was not unusual, since voters spend much of the time examining the nominees' files. Looking at the files is important since the basic criterion for the post is being "very good" at legal writing, and members must examine all of the nominees' work to judge that quality.

A classmate from last year's Section 1, Phillip A. Gelston, was final contender with Estrich for the office. Monday, as Gannett House still buzzed with reporters' calls and photographers taking pictures, Gelston noted good-naturedly that he "made all this possible by losing."

His easy-going attitude seemed indicative of the rest of the 66-member staff who were present at the time. There seems to be general agreement that Estrich won the position on her merits.

Estrich states that she hopes the main significance of her election will be to tell women they can be judged solely on merit and assume traditionally male-dominated positions of leadership.

This is the first time a woman has been elected president although women have been members and (appointed) editors of the *Review* since 1955, one year after the Law School first admitted women.

Noting that "everyone here is excited" over the history-making vote, she did, however note concern for the "incredible amount of publicity." "This is a team effort," Estrich said. "I am

(Continued from Page 7)

not the *Harvard Law Review*. There are 66 of us."

Included in that number are the 2L's Estrich has appointed to various positions they will hold during their third year. They are: Treasurer, Stephen Nightingale; Executive Editor, Claude M. Tusk; Articles Editors, Merrick B. Garland, Kate S. Pressman, William B. Schmalzl and Marc K. Temin; Case Editors, Alan E. Brownstein, Robert N. McDonald and Jerry A. Menikoff; Developments Editors, Richard A. Briffault and David B. Watkiss; Notes Editors, Jonathan B. Dubitzky, Daniel M. Harris, Stuart S. Taylor, Jr. and Peter A. Wald; Supreme Court Editors, Christopher F. Edley, Jr. and Gelston.

Senior Editors are Filiberto Agusti; Brad D. Brian; C. Christopher Cox; Andrew E. Furer; Robinson B. Lacy; Richard M. Lent; Alexander A. Notopoulos, Jr.; Mark L. Perlis; Dinah A. Seiver and George M. von Mehren.

First year students will test their negotiating and drafting skills in the annual Williston Competition March 8-24. Approximately 100 1Ls are expected to vie for Williston honors, including \$750 in cash prizes. Registration forms can be picked up at the Langdell receptionist's desk and deposited in the box nearby.

Recruiting Discrimination Complaint Tests System

(Continued from Page 1)

cused interviewer denies that his remarks had discriminatory intent.

The Placement Committee made a recommendation Monday to the Dean regarding action to be taken on the complaint of Gail M. Bowman. Fol-

Bowman said she filed a formal complaint only after persuasion by Hollis and Mark S. Halperin, 3L, a member of the Committee, that her complaint was a good "test case" and that filing would encourage other students to use the Placement

Interviewer Says Charge Based On Innocent Misunderstanding

lowing its normal procedure in complaint cases, the Committee has made no announcements concerning the matter.

But the basic facts of the incidents and the parties involved have become widely known at the Law School through various students' conversations with Bowman and involvement of the Law School Guild and other organizations.

The firm involved, Kirkland & Ellis of Chicago, was written by Meldon S. Hollis, 2L, representing the Guild, who learned of the interview from Bowman. He sent copies of his letter concerning Bowman's complaint to the heads of several student organizations.

The Kirkland & Ellis interviewer who spoke to Bowman sent copies of his reply to Hollis and all who had received copies of Hollis' letter.

Bowman, apparently irritated by the fact that the Placement Committee had not communicated its recommendation to her after the meeting Monday night, said the Committee was "taking secrecy a little far" and that choosing confidentiality was "not wholly their decision to make."

Bowman, willing to discuss the case, related reports she has had from student members of the Committee that Kirkland & Ellis had withdrawn all financial support from HLS after the Committee began investigating the complaint.

Dean Albert M. Sacks, Assistant Dean Russel A. Simpson, a member of the Committee, and Assistant Dean Wesley E. Bevins, Jr., director of the HLS Fund, all said Tuesday that those rumors about the financial contributions are baseless.

Office complaint procedure.

Acting on the complaint, the Placement Committee has been forced to try to determine whether certain alleged statements were made and whether they were insinuation by Hollis and Mark S. Halperin, 3L, a member of the Committee, that her complaint was a good "test case" and that filing would encourage other students to use the Placement "curate" and said he and the firm "find nothing 'funny' about the employment of our former associates" but are instead "proud of their accomplishments."

Bowman said she has reviewed a letter sent to Simpson (in response to an interrogatory) by a Kirkland & Ellis senior partner who apparently considered her grievance a "grudge complaint by a disgruntled student who didn't get a job," in Bowman's words. She recalled that the partner described the interviewer as a sensitive person whose circle of friends includes blacks.

Hollis' involvement in this matter and resulting student attention came about after Bowman consulted him because she was initially discouraged by Simpson when she attempted to file an informal complaint.

Simpson would not give her an informal complaint form the first time she consulted him, she said, but told her to come back in a week if she still wanted to make a complaint.

During that week Hollis wrote his letter. Bowman then received the form she sought from

(Continued on Page 15)

2L Charges Firm

(Continued from Page 15)

a student on the Committee. She completed the form and hand-delivered it to Simpson. After reading it, he suggested Bowman file a formal complaint instead.

After consulting Halperin and others, Bowman filed a formal complaint in early December, nearly two months after the interview in question.

In an interview Sunday Lenore W. Tucker, 2L, a member of the Placement Committee, said Bowman's case was a "big issue" and there had been "a lot of mismanagement" in handling the complaint.

After Monday's Committee meeting, Tucker declined further comment on the case in order to protect the confidentiality of the firm and interviewer involved. Tucker served on a subcommittee, including Simpson and a Boston lawyer, which investigated Bowman's complaint.

Tuesday, Sacks said he assumed that Bowman would receive a written report of the Committee recommendation as soon as it is made available to him. He said if the committee did not give its recommendation to Bowman he would do so.



United States
Congress

HLS ON THE HILL

Profiles of HLS Alumni in Congress



Pat Schroeder '64



Ted Stevens '50



Spencer Abraham '79



Tom Allen '74



Anthony
Beilenson '57



Jack Reed '82



Kevin W. Quigley '92



Larry Pressler '71



Sander Levin '57



Carl Levin '59



William Jefferson '72



Jane Harman '69

By Rob Friedman

An illustrious petri dish for top government players, HLS has graduated alumni who have come to serve in the federal government's highest echelons.

Four current U.S. Supreme Court justices graduated from HLS: Antonin Scalia '60, Anthony Kennedy '61, Stephen Breyer '64, and David Souter '66. In addition, Ruth Bader Ginsburg studied at HLS from 1956-58.

HLS alumni also have a long history of service on the Supreme Court. The first, Benjamin Robbins Curtis '32 served on the High Court beginning in 1851.

The School has had less success in the executive branch. Only one president, Rutherford B. Hayes '45, was an HLS graduate.

This series, which will run throughout the semester, will focus on HLS alumni in Congress. There are 11 HLS alumni serving in the House of Representatives and 10 in the Senate. They cover 15 states, from Massachusetts (Representative Barney Frank '77) to Alaska (Senator Ted Stevens '50).

Both of Rhode Island's senators are HLS graduates (John Chafee '50 and Jack Reed '82), as are both Michigan senators (Carl Levin '59 and Spencer Abraham '79). Two are brothers: Michigan Senator Carl Levin and Michigan Representative Sander Levin '57.

Nine are Republicans and 12 are Democrats. Three long-time representatives left Congress this year. Pat Schroeder '64 retired, as did Anthony Beilenson '57. Former South Dakota Senator Larry Pressler '71 lost in a close race last year.

Two are freshman this year: Washington Representative Kevin W. Quigley '92 and Maine Representative Tom Allen '74, former mayor of Portland.

This year, Jack Reed made the move from the House to the Senate.

There is currently one alumna in Congress (California Representative Jane Harman '69) and one African-American alumnus (Louisiana Representative William Jefferson '72).

In the following weeks, the RECORD will bring you profiles of these men and women.

Next week: Staff Writer Jacob Appel interviews former South Dakota Senator Larry Pressler.

Scully, Fridman on New LSC Executive Board

Continued from LSC, p. 1

praised DeFalco, who ran with them as treasurer last year. "I'm utterly confident that Dina will do the best conceivable job," Jancu said.

Nierlich described DeFalco as "hard working and friendly," and said the School would benefit from her continued work concerning Legal Education Committee reforms.

"She has all the qualities that a Law School Council president needs — she knows how to talk to administrators; she knows that persistence pays off; [and] she's diplomatic," Jancu said.

DeFalco said academic reforms were the top priority for this year's Council. She described the past year as "a transition year" in which Nierlich "helped the Council reach out more," especially to current 1Ls.

DeFalco said that reforming the registration process was a priority. She had concerns, however, about the administration's purposeful "stonewalling" of student efforts.

"[Administrators] hem and haw and they put us off a lot. That's definitely something I want to change — getting into faculty meetings, understanding why professors are getting tenure, finding out where the money is going," DeFalco said.

"They are so against change here —

you really have to persist," DeFalco said.

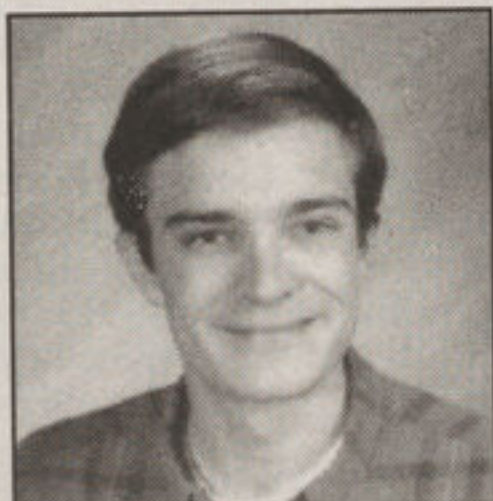
Scully stressed the need for student involvement in academic reforms. He expressed happiness over the strong turnout for the LSC forum on 2L "bundling" and added that it would be "productive if students were involved in the actual sectioning of the [bundles] themselves."

"Having a student present at faculty senate meetings is very important," Scully said. "In the past, it was done frequently. In the future there should always be a student there to keep tabs on what is going on."

Scully also said the School must invest in Hemenway gym. "We work out in a place that is unacceptable and it doesn't look like the School is looking to invest [in Hemenway]," he said.

Fridman, who is currently a member of the Legal Education Committee, said the Council was "trying to focus [its] energies on reforming the academic environment at the Law School." Fridman said he would like to see the School hire more faculty members and reduce class size.

Fridman also advocated on-line add/drop. He said he was hopeful about the possibility of registration reforms next year because of new Registrar Stephen Kane. "He's been outstanding working with us," Fridman said.



Former LSC President
Chip Nierlich '97

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Women of Color Conference Seeks To Combat Stereotypes

By Lori Silver

Last year, the Women of Color Collective organized a conference with the twin goals of asserting their presence on campus and of indirectly pressuring the Law School administration to add women of color to the faculty.

This year, the collective has an even greater agenda.

The "Women of Color and Social Change" conference this Saturday will bring together more than 40 law professors, practitioners, and activists to address the

negative political rhetoric aimed at women of color and to create an action agenda for social change.

"We wanted to figure out ways to respond to what we saw as continuous negative images of women of color in the national political discourse. Much of the thinking about the conference started in response to congressional welfare reform efforts," said Hannah Kilson '97, a member of the collective and conference organizer. "We want to recast those images by showing the work that women of color are doing."

The conference will feature nine panels addressing such topics as women of color and organized labor, health care, the criminal justice system, domestic violence, economic development, primary and secondary education, and professional development.

In addition, Norma V. Cantu '77, assistant secretary for civil rights at the U.S. Department of Education, will deliver the keynote address. Cantu has responsibility for enforcing federal civil rights statutes that prohibit discrimination in any secondary school or university that receives federal funds. She also has served as national director of the

Mexican American Legal Defense and Education Fund's Education Litigation and Advocacy Project.

Students formed the collective about five years ago to bring together some women of various racial and ethnic back-

grounds for academic and social support. Last year, members organized their first conference, taking the collective in a different direction.

"The motivating factor for the conference initially was the dearth of women of color on campus and our desire to respond in a different way to this complete vacuum," Kilson said.

"Another piece of what motivated this was the need to create space on the Law School campus where women of color have a meaningful presence," she said.

Conference organizers hope to build on what they described as the success of last year's conference, which attracted more than 150 participants from across the country.

"This year we didn't want to lose the momentum and good feelings created by the conference," Kilson said. "There was an incredibly positive feeling and energy of being in the presence of so many women of color."

The conference will be held in Austin Hall, with registration beginning at 8 a.m. Panel sessions will run throughout the day, and the conference will conclude with a cocktail reception at 6:15 p.m. The cost for students is \$15, which includes lunch.

Other featured speakers will include Linda Chavez-Thompson, executive vice president of the AFL-CIO; Prof. Dorothy Roberts '80 of Rutgers University Law School; Kim Slote '95, founder of the Women's Rights Network; and Patrice Kunes, attorney for the Mashantucket Pequot Tribal Nation.



Conference Organizer
Hannah Kilson '97

Legal Education Committee to Vote Friday on 2L Sections

Continued from 2L SECTIONS, p. 1

be a big problem here" and expressed his belief that the proposed changes would enable students to maximize their choices.

The proposal that spurred the forum would separate the lotteries for basic and elective courses. Second year students would continue to receive priority for basic courses, and third year students would continue to receive priority for non-basic elective courses. 2Ls could opt to take anywhere from zero to three courses in a given section but they would not be permitted to select courses from another section until all other 2Ls needs are met. In other words, a student could sign up for a section and decide to take Constitutional Law and Taxation in that section while dropping Corporations, but then the student would be last on the waitlist for joining another Corporations class.

"The sections would be constructed by the deans and balanced based on perceived attractiveness to students," Parker explained.

"You're not going to get [Profs.] Kraakman, Tribe, and Warren in the same year," said student representative to the Legal Education Committee Rob Edmund '98. "It's just not going to happen."

Associate Dean Todd Rakoff '75, in response, argued that while "bundling" would distribute faculty talent, all professors teaching basic courses are of high quality.

While Rakoff said that "students perceive certain faculty as being stars," he said differences in faculty quality are in fact minimal.

Associate Dean Frank Sander '52 said that the School had a similar "bundling" system when he was a student at HLS.

"I believe I'm the only person here who went to school under [this] system," Sander said. "This is the system we had until sometime around 1965 [or] 1970. ... The questions raised here didn't occur to us ... but the system worked pretty well."

The forum turned from elucidatory to combative at one point, however, when Parker suggested that in future years the number of sections of each of the basic courses and Evidence might be increased by one. Rakoff followed up by explaining that such an increase would not be possible in the coming year.

Students challenged Rakoff on this claim.

One student asked, "Would you be able to offer the additional courses if the faculty taught their required course-loads, or in some cases taught any courses at all?"

Both Parker and Rakoff insisted that the faculty teach their required course-loads of 10 credits per year with the exception of certain professors who are given dispensations for leave and sabbatical. This observation seemingly contradicts an LSC study last year that found as few as 16 members of the faculty taught the required number of credits the previous year.

The proposal is part of the Legal Education Committee's ongoing effort to address the concerns of second and third year students. The Committee will formally vote on the general concept of "bundling" on Friday, Feb. 28. The details of the proposal will be worked out by the Dean's Office if it passes.

"When we do come up with a proposal," Parker said, "it will be very general. It will be worked through and learned through ... I don't think we can possibly anticipate every detail."

Students Show Support for Same-Sex Unions

Continued from VIGIL, p. 1

marriage license is a prerequisite for anyone wishing to be wed in the church. Since gays and lesbians are not allowed to officially marry in Massachusetts, this installs a convenient barrier to same-sex union ceremonies at Memorial Church.

The Rev. Prof. Thomas Mikelson, chairman of the Board, characterized the Board's confidential proceedings as a "long, thoughtful conversation," resulting in the appointment of a three-member task force. Assigned to explore the intricacies and ramifications of validating same-sex unions in Memorial Church, the task force was mandated to return before the Board in May with a recommendation for specific action.

"The recommendation will be formulated from a subtle combination of feedback and personal feelings," said Mikelson.

Consisting of the Rev. Tom Chittick (a minister of the Lutheran church at the university), the Rev. Rick Chrisman (an associate minister at Old South Church), and a yet-to-be-publicized appointee, the task force plans to engage in a campus-wide discourse on the logistics of extending church marriage facilities to gay and lesbian union ceremonies.

In addition to soliciting input from various factions across the University, the task force plans to conduct a comparative study among other institutions. Checking with other universities, the task force will investigate the motivations and consequences of their respective policies on same-sex unions.

The resulting recommendation will be forwarded by the Board to the actual ministers of Memorial Church, including the senior minister, the Rev. Prof. Peter J. Gomes. They will ultimately adopt or reject the Board's recommendation.

Seth Persily '99 organized a candlelight vigil on the eve of the Board's meeting in support of same-sex union ceremonies at Memorial. Attended by over 50 students and faculty members, including Mikelson and Chittick, the group sang hymns, voiced prayers, and shared testimonials in solidarity with their cause.

Undergraduate Jane Aceitano voiced pleasure at the vigil's success. "It was a wonderful turnout. I think it sends a clear message that students from various backgrounds are in favor of recognizing same-sex marriages," she said.

According to Persily, "This has been an issue for the last three or four years. But it escalated in recent months." He highlighted three pivotal turning points that brought the issue to the forefront.

Approximately four years ago, James Slayton, an alumnus of the College and a current enrollee at the Business School, petitioned to have his commitment ceremony performed at Memorial Church. The church's refusal to accommodate him and his same-sex partner shed light on the problem and laid the groundwork for future activism.

Last semester, undergraduate Sam Spital introduced a resolution, eventually adopted by the Undergraduate Council, urging Memorial Church to recognize the University's non-discriminatory clause. Pointing to the University's explicit proscription against discrimination based on sexual orientation, it asked that the church allow the officiation of all marriages regardless of the couples' gender makeup.

The Harvard Crimson published a strongly worded editorial in support of the UC resolution, providing the movement with wider campus exposure.

Persily pointed to his undergraduate years as planting the seed for his involvement in the cause. "Duke faced a similar question of whether to sanction same-sex unions," he said.

Following the lead of other universities such as Harvard, Duke ultimately declined to permit same-sex unions at its chapel. Persily said, "I kind of swore to myself that if I ever got into this place that I'd do my utmost to change things."

Mikelson was vocal in his support of same-sex unions. "I have people in my family that are gay and lesbian," he said. "My wife and I have friends who are in committed same-sex partnerships, who we love and identify with. We strongly support their just desire to be treated as other people in our culture."

Mikelson also pointed to his Unitarian Universalist faith which has been in solidarity with the gay and lesbian community for over 25 years. He said, "Many religions will begrudgingly allow gay people in their congregation as long as they stay quiet... but our church has been embracing people of all orientations into our ministries since the mid-1970's."

"These gay men and women are my

colleagues. We're enmeshed in the long social struggle to change attitudes."

Vigil attendee and Harvard Divinity student Rob Gregson expressed irony at being able to officiate at weddings while unable to officially marry his own gay partner. "That gay and lesbian religious clergy have the authority to join straight couples in formal unions but are prevented from experiencing that joy with their own mates is painful and awful."

Gregson was guardedly optimistic about the end result of the task force's activity. "I'm hopeful," he said, "but I'm also concerned that they may look to protect their reputation or water down language to the point where the recommendation becomes meaningless."

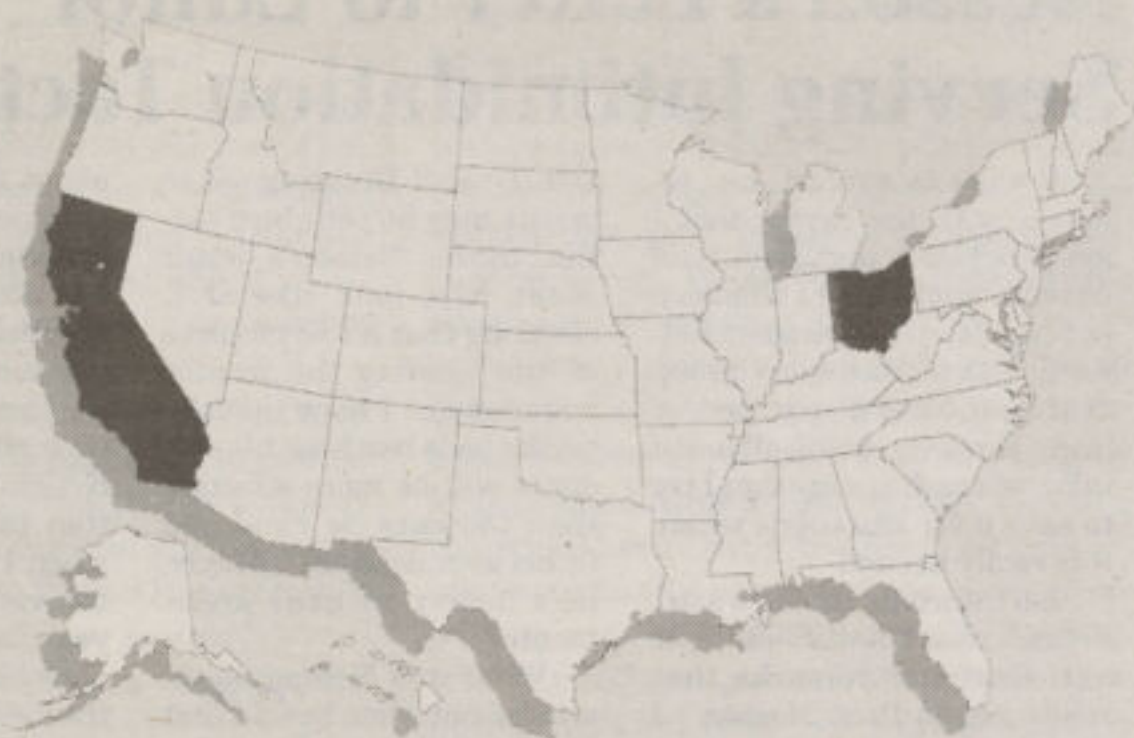
"Maybe they are ready to do this," Gregson continued. "I would have liked to have seen Rev. Gomes at the vigil. Especially as an out gay man and such an important figure in the church, it would have been heartening to have seen him there."

Mikelson asserted that the early stage of the proceedings made it difficult to predict the content of the task force's recommendation.

"From the contact we have received," said Mikelson, "the response has been basically favorable." He did allow for the possibility of silent opposition in the midst of this issue.

Said Mikelson, "As we make it known, there will be some resistance, I'm sure. But we are embarking on a healthy process and will conduct it in good faith."

Across the Wire...



This Week, News From Around the World

Woman Wins Custody of Lover's Sperm Almost Six Years After His Death

LOS ANGELES (AP) - A woman has won custody of her lover's frozen sperm nearly six years after he killed himself, ending a bitter legal struggle with the man's grown children.

Deborah Hecht wants to use the sperm to have Bill Kane's child.

The California Supreme Court refused last month to hear an appeal and on Monday her lawyer carried Kane's legacy from a sperm bank to a laboratory affiliated with Hecht's fertility specialist.

Kane, an author and businessman, committed suicide in 1991 at age 48 after changing his will to include Hecht and making deposits at the sperm bank.

After his death, Kane's children - Everett, 25, and Katie, 23 - became incensed when they learned Hecht had known about their father's suicide plans. They accused her of manipulating him to leave her his estate and unsuccessfully sued her for wrongful death.

The sperm became an issue only after Hecht agreed to give the children 80 percent of Kane's estate.

Under that 80-20 property split, a judge ruled that Hecht should get at least three of the 15 vials of sperm frozen at

the sperm bank.

Two of the vials failed to make Hecht pregnant through artificial insemination, and she fought to obtain the entire sample.

An appellate court supported her claim: "Seldom has this court reviewed a probate case where the decedent evidenced his or her intent so clearly."

And last month the Supreme Court declined to review the decision.

No reason was given for the court's decision. The high court decertified the case, meaning it can't be used as legal precedent in other cases.

"It doesn't mean the court agrees or disagrees with the result," said court spokeswoman Lynn Holton. "There are many reasons for decertification."

Kane's children are disappointed, but are still suing Hecht for intentional infliction of emotional distress.

"The judicial process in this case has been strange and frustrating, and Katie and Everett are glad it's over," said Sandra Irwin, their mother and attorney.

Hecht, who is not married, hopes to have her eggs fertilized with Kane's sperm in the laboratory and implanted on her birthday, March 6.

Lawyer: Netanyahu May Have Been Manipulated

JERUSALEM (AP) — Prime Minister Benjamin Netanyahu may have been manipulated by his justice minister in his administration's influence-trading scandal, his new lawyer suggested in remarks published today.

Netanyahu hired Yaacov Weinroth, one of Israel's top criminal lawyers, over the weekend as concern grew that the scandal could bring down Netanyahu's government.

Police reportedly have warned Netanyahu that he could face criminal charges in connection with the short-lived appointment of a political crony as attorney general. He has denied any wrongdoing.

The affair revolves around Aryeh Deri, leader of the Shas Party. Israel TV has said Deri conspired to get criminal lawyer Roni Bar-On appointed as attorney general.

As part of the deal, Bar-On was to end Deri's corruption trial. And Deri was to deliver two votes that Netanyahu needed to get Cabinet approval of Israel's troop withdrawal from Hebron.

Weinroth said that the prime minister agreed to appoint Bar-On only after his justice minister, Tsahi Hanegbi, led him to believe that the appointment had the backing of the Supreme Court chief justice.

But the chief justice, Aharon Barak, refused to give his blessing to Bar-On's appointment when approached by Hanegbi, Israeli media said last month.

"If his justice minister tells him that the candidate is excellent, and has all the qualifications and all the recommendations, including the blessing of the chief justice, what should he think?" Weinroth asked in an interview with the Haaretz newspaper.

Israel Radio quoted Hanegbi as saying today that, at this stage, he did not feel he needed a lawyer to represent him. Hanegbi also noted that he has filed a libel suit against Israel TV for claiming he misled the government regarding the chief justice's position on Bar-On.

Bar-On resigned last month after just one day in office amid criticism that he had been chosen for his political connections.

Netanyahu said Sunday he was certain he would see his term through to the next scheduled vote in 2000.

"I intend to continue to lead the state of Israel," he said. "I heard the (opposition) is getting ready for new elections. I have good advice for you: 'Wait.'"

However, two members of his Cabinet — Public Security Minister Avigdor Kahalani and Trade Minister Natan Sharansky — said the government should quit if the allegations turned out to be true.

Yossi Sarid, leader of the opposition Meretz Party, has demanded that Netanyahu remove himself from office until the investigation is completed.

Film Director Recalls Controversial "People vs. Larry Flynt" Posters

PARIS (AP) — Rather than face further legal wrangling, director Milos Forman has withdrawn posters for his film, "The People vs. Larry Flynt," which had angered some French Catholics, the movie's lawyer said Monday.

The posters would be taken down "in the spirit of appeasement and to cut short" any efforts by opponents to profit from the controversy, Columbia Pictures attorney Magali Thorne told a French appeals court.

The announcement came minutes before the movie was awarded the prestigious Golden Bear for best film at the Berlin International Film Festival.

A lower court last week had rejected a Catholic group's request to ban the posters, plastered on thousands of kiosks around France. The film opened Feb. 19.

A group of Catholic priests and parishioners, the General Alliance Against Racism and For the French Identity, had argued the posters were an attack on their beliefs and asked the appeals court to reverse the decision.

Forman said in a written statement that he "never had the intention of provoking what this turned into with the

poster of 'Larry Flynt.'"

The poster shows the image of Oscar nominee Woody Harrelson wearing a stars-and-stripes loin cloth and his arms outstretched as if crucified, superimposed on the groin of a bikini-clad woman.

A lawyer for the groups opposed to the poster said they were satisfied with Forman's decision.

"This is not a victory of political correctness but one of human correctness," Michel Tubiana said.

Publicity posters for the film in the United States dodge the blasphemy and flag issues, instead showing Harrelson hugging co-star Courtney Love.

The poster for the Columbia Pictures movie would not have been the first banned. In 1984, a poster for the Martin Scorsese film "Ave Maria," showing a nude woman on a cross, was ordered removed from public view.

Earlier this decade, the Roman Catholic Church succeeded in getting a television commercial for Renault cars banned. The offending ads showed a series of wedding ceremonies — with the same groom showing up each time in a different car with a different bride.

Appeals Court to Allow Same-Sex Harassment Lawsuit

CINCINNATI (AP) - A federal appeals court has ruled that a Tennessee man may sue a male supervisor over alleged sexual harassment. A Louisiana appeals court has ruled the other way in a similar case that may be headed for the U.S. Supreme Court.

The 6th U.S. Circuit Court of Appeals said Monday that the Tennessee man, an employee of Goodwill Industries in Knoxville, could pursue his complaint under Title VII of the Civil Rights Act of 1964.

The 6th Circuit hears appeals from Michigan, Ohio, Kentucky and Tennessee.

The 5th U.S. Circuit Court of Appeals in New Orleans, which hears appeals from Louisiana, Texas and Mississippi, has ruled that same-sex harassment claims are not viable under Title VII.

The Supreme Court in December indicated a willingness to look at the question of whether same-sex harassment violates federal law. The court has asked the U.S. Justice Department for its opinion, and a response could take months.

The court, which previously turned away several appeals raising same-sex sexual harassment claims, won't say whether it will grant full review of the 5th Circuit case until it hears from the government.

In the Tennessee case, a worker claimed that a male supervisor made repeated sexual advances, and that Goodwill managers were aware of the advances.

The case has never been tried. The appeals court's ruling affirmed a U.S. District Court decision that rejected the defendants' attempt to block the case from going to trial.

Harvard Law RECORD

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FOUNDED IN 1946

Spring Renewal

Spring must be near. Last week, the temperature reached 70 degrees. On Monday, Prof. Charles Nesson withdrew his Ad Board charges against the RECORD. This week, Fenno apologizes for past misdeeds. And out from Fenno's manure springs something new at HLS. A thawing of the often cold relations between the RECORD and the faculty has begun.

The School has many problems, the aggregation of which is most concisely demonstrated by the Princeton Review survey last semester that ranked HLS last out of 170 law schools in student satisfaction. But recent efforts by new Registrar Stephen Kane, Prof. Richard Parker, and Associate Dean Todd Rakoff provide hope.

The challenges are enormous. Students cannot get into basic classes and then sit on the floor because professors have already admitted more students than the rooms are designed to seat. Too many professors are off doing their own things and not teaching. Many students still haven't received their grades, the last of which were submitted on Monday.

Who is to blame? At last week's Law School Council forum on the 2L "bundling," Dean Rakoff and Prof. Parker told students that professors were teaching their required number of credits. But a study conducted by LSC Vice President Rob Jancu last year found that, at most, only 24 of 70 faculty members met the 10-credit requirement. We ask that Rakoff and Parker back up their claim with evidence, as Jancu has.

As for professor "moonlighting," the faculty handbook rule states that professors must not spend more than 20 percent of their time on outside activities. In April of last year, Dean Clark told the RECORD that no sanctions exist for professors who break the rule because "the substantive rule is more spiritual and aspirational." Translation: no real requirement exists.

Professors rarely face sanctions for violating "rules." Professors who turn in their grades late hurt students. They face no sanctions. Professors who don't teach their required 10 credits a year hurt students. They face no sanctions. Fenno writes something perceived as offensive to faculty members and the entire RECORD editorial board is before the Ad Board. Double standard?

The faculty's abdication of responsibility leads to a cycle in which classes are too big, which leaves professors with too many papers to grade, so grades are sent late. Teaching basic courses becomes too demanding, so fewer professors teach, so classes become even bigger.

A reporter called the other day from the Boston Globe seeking comment on the Fenno controversy. While the RECORD can empathize with a reporter without a story, we told her the issue was settled, the charges were dropped, the healing had begun. Not the makings of headlines.

—Friedman

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

—First Amendment, US Constitution

• Letters •

Nesson's Letter to Editor "a Self-Serving Intimidation Tactic"

I want to preface my remarks with the caveat that I am part black, part Jewish (of Latvian origin) and I was born in Canada, so I have some connection to almost every group that Fenno has disparaged of late. However, being offended takes so much energy that I try to save it for situations where it is really needed.

Isn't it ironic that it wasn't Fenno's racist, anti-Semitic, or anti-foreigner remarks that really got to Prof. Nesson. I have to wonder why he gets so agitated if Fenno's comments about him are so far off the mark; and whether his real concern is for the "entire law school community." Frankly I had no idea that there was a "grain of truth" in Fenno's Feb. 14, 1997 column until reading Nesson's Feb. 18, 1997 "stung and offended" (dazed and confused) defense. Nesson's attempt at advocacy made a grain of truth look like a grain elevator. Didn't Nesson learn anything from watching the

O.J. Trials? Deciding not to testify may be your best tactical move. Nesson's letter made him look like O.J. claiming that all 30 pictures of him wearing the Brunos were faked. I hope that the tactics he is teaching his students will be more effective than the ones he employed in his own defense. Maybe he's better at oral arguments?

What was Nesson blathering about when he said that faculty-student relationships are being harmed by Fenno's column? Relationships? What relationships? The relationships where the students are running up six figure debts and he is pulling down a six figure income? The relationships where you can't beg, borrow, or steal a professor for a faculty meeting addressing student concerns like 2L basic courses, but there is not an empty seat nor a dry eye (or room for students) in the faculty meeting

about tenure? The relationships where students extol the brilliance of Nesson and never ask what the heck he was doing smoking a "J" even if it was two years ago?

I hope that the Administrative Board sees through Nesson's self-serving intimidation tactics. I am shocked when I reflect on the fact that Nesson's — I'm going to destroy your career if you say things I don't like — tactics are exactly the kind of threats the publishers of a short-lived, underground newspaper at my undergraduate school received. Of course my undergraduate school was East Texas Baptist University, a school where Democrats were evil, the boys wanted to be preachers, and the girls just wanted to be their wives. I had hoped that Harvard Law School would be a little more progressive, but I am beginning to wonder...

Michael Simons '98
February 22, 1997

Ad Board an Inappropriate Forum for Airing Nesson's Grievances

I am writing on behalf of the Harvard Law School Civil Liberties Union to condemn Prof. Charles Nesson's decision to file a complaint with the HLS Administrative Board against the anonymous author of Fenno and the members of the RECORD's Editorial Board, Rob Friedman, David Liu, and Jaclyn Liu.

There can be little doubt that Nesson and other faculty, as well as students, staff, and alumni, have been displeased by Fenno's antics in recent weeks. But there also can be little doubt that Fenno's writings are protected from any government interference by the First Amendment, and that the HLS Administrative Board is an inappropriate forum for a professor to air personal grievances.

After 40 years, Fenno is an established source of parody and criticism; Nesson does not deny that some of Fenno's caricatures are based in fact. Further, Justice Holmes long ago noted that "it would be a dangerous undertaking for persons trained only to the law to constitute themselves final judges of the worth of [a work]," a maxim that the Supreme Court extended to parody in *Luther R. Campbell v. Acuff-Rose Music, Inc.* Indeed, the Court held in *Hustler Magazine v. Falwell* that public figures may not sue for any emotional distress caused by a parody without a showing of *New York Times v. Sullivan* malice.

The fact that the HLS Administrative Board is not bound by rulings of the Supreme Court does not mean that it should not heed them. Six years ago, responding to a

controversy over the Confederate flag, Harvard President Derek Bok wrote that:

"Although it is not clear to what extent the First Amendment is enforceable against private institutions, I have great difficulty understanding why a university such as Harvard should have less free speech than the surrounding society — or than a public university, for that matter. By the nature of their mission, all universities should be at least as concerned with protecting freedom of expression as the rest of society. Like the rest of society, we should also worry about who will draw the lines and how wisely they will be drawn if we begin to restrict the bounds of permissible speech."

Nesson's decision to file a complaint with the HLS Administrative Board is also difficult to reconcile in spirit or fact with the academic community envisioned by the HLS statement on Rights and Responsibilities (p. 194 of the Catalog). The statement in particular notes that "[n]o violation of the rights of members of the University, nor any failure to meet responsibilities, should be interpreted as justifying any violation of the rights of members of the University."

Nesson's filing a complaint with the HLS Administrative Board should be considered just such a violation. If Nesson wishes to have the RECORD Editorial Board defend their judgment before the HLS community,

the confidential proceedings of the Board are an utterly inappropriate vehicle. Indeed, one can only speculate what star chamber-like procedures Nesson would have the Board engage in to determine the identity of and judge the anonymous author of Fenno, given that "[s]tudents have the right to a full disciplinary hearing conducted by the Administrative Board and a right to be represented by counsel." If Nesson truly desires to appeal to the judgment of the HLS community, HLSCLU would be more than happy to organize a forum.

In the meantime, Nesson should withdraw his complaint and apologize to the RECORD, its Editorial Board, Fenno, and the HLS community for confusing his personal and professional roles. It was disturbing enough that only a handful of professors spoke out against HLS adopting a speech code in the guise of a sexual harassment policy. The HLS Administrative Board should not now be made into a cudgel with which to chill the primary forum of news and discussion at HLS, by individuals who are aggrieved — however justifiably — by its content. HLS Drama Society beware.

In the future days, which we seek to make secure, we look forward to a world founded upon four essential human freedoms. The first is freedom of speech and expression everywhere in the world.

—Franklin D. Roosevelt

Jol Silversmith '98
President, HLSCLU
February 24, 1997

Nesson's Response to Fenno Tarnishes His Own Image

Regarding Prof. Charles Nesson's concern that a recent Fenno column tarnished his reputation: the only thing in the RECORD that ever lowered my opinion of Prof. Nesson is his own letter last week announcing his plan to file Ad Board charges against the entire RECORD editorial board in retaliation for the Fenno parody.

It is because of Nesson's own piece in the RECORD,

not Fenno's, that I no longer view him as Harvard's amiable, quirky genius, but as a thin-skinned, vindictive playground wimp who enlists one of the tough kids to beat up the class clown who teases him. The ridiculous Fenno parody poses no real harm to Nesson's reputation; it is, to quote Holmes, a "silly leaflet by an unknown man" that hardly justifies punishing its au-

thor, much less its editors and publisher.

If Charles Nesson is really so concerned about preserving his image as a local demigod in this small but self-important pond, he should realize that it is his own actions and speech, not Fenno's, that present the true threat to that image.

Scott Moss '98
February 22, 1997

Letters Continued on page 10

The Lessons of Crown Heights

By Eric Breindel '82

In the wake of the guilty verdicts in the federal Crown Heights trial, it's tempting for well-meaning New Yorkers — satisfied, now, that justice has been done — to try to put the entire episode behind them.

This would be a mistake; some hard questions remain.

The most obvious is why a second trial was even necessary. What, in other words, is wrong with the criminal justice system? How is that a state jury failed to convict Lemrick Nelson Jr. — Yankel Rosenbaum's murderer — the first time around?

This, after all, wasn't a complicated case.

The August 1991 death of a seven-year-old black child in an auto accident — a Hasidic Jew was at the wheel — created an opportunity for racial arsonists to instigate three days of anti-Semitic rioting in a predominantly black Brooklyn community. (Jews — most of them members of the Lubavitch Hasidic set — comprise less than 20 percent of the Crown Heights population.)

While many Jews were seriously injured in the course of the pogrom — an entirely apt term in that the authorities seemed to turn a blind eye to the anti-Jewish violence — only one neighborhood resident was actually murdered.

Yankel Rosenbaum — a 29-year-old Australian visiting New York to conduct research for his doctoral dissertation — was set upon by a band of black youths just after the accident that took Gavin Cato's life.

Yelling "There's a Jew" and "Get the Jew," a 15-member mob surrounded Rosenbaum — clothed in traditional garb — and began to beat him. One attacker stabbed Rosenbaum in the gut; as he collapsed, the gang dispersed. When police located Nelson a few blocks away — carrying a bloody knife in his pocket —

Rosenbaum was still conscious. And still lying in the street.

In the presence of cops, the young Australian stared at the youth who moments earlier had plunged a knife into him: "Why did you stab me?" Rosenbaum asked. According to Sgt. Brian Wilson, Rosenbaum then spat at Nelson.

Yankel Rosenbaum died hours later in a nearby hospital. At about the same time, Nelson confessed that he had, in fact, stabbed Rosenbaum. As Det. Edward Brown subsequently testified, Nelson — who eventually retracted his confession — was acquitted of murder after a jury trial the following year. The 12-member panel included only two whites, neither of whom was Jewish; eight jurors were black.

After rendering it's not-guilty verdict, a group of jury members feted Nelson — whose actual presence in the anti-Semitic mob was never in dispute — at a local restaurant.

Although his attorneys endeavored to demonstrate that Nelson's confession was coerced — they also raised questions about the manner in which police had handled the knife and other evidence — the prosecution's case was overwhelming.

Acquitting Nelson required the jury either to accept that cops had conspired to frame Nelson — perjurying themselves in the process — or to deliver a verdict that simply ignored the evidence. The later interpretation cannot but mean that the panel was determined to use the case in order to send a larger "political" message.

This phenomenon is neither new nor uncommon. Known as "jury nullification," the syndrome had its heyday in the Jim Crow South during the first half of the 20th century. Ironically, using federal statutes to bring about a measure of justice is a policy that resulted from the continuing refusal of all-white juries — throughout the

South — to convict white defendants of crimes committed against blacks.

The 1992 Nelson trial, like the first O.J. Simpson trial, demonstrated that race-based "jury nullification" is back.

To be sure, disbelieving any and all unwelcome police testimony — as a matter of principle — is a frequent feature of the "jury nullification" phenomenon. But, at essence, the syndrome — which has actually been championed by some black law school professors — turns on using a verdict publicly to protest the ostensibly racist character of the criminal justice system.

Let it not be thought, however, that "jury nullification" is limited to high-profile cases. And examination of the guilty/not-guilty ratio in jury trials all through urban American indicates that the infection is spreading.

Suggestions that state laws be adjusted so that criminal convictions no longer require unanimous jury verdicts indicate a tentative effort to respond to this assault on the American justice system.

In this context, even while celebrating Nelson's federal conviction, it's well to keep in mind an unhappy reality: The larger problem remains unresolved.

It's also worth remembering that when Eastern District U.S. Attorney Zachary Carter declared — after the convictions of Nelson and riot-instigator Charles Price had been announced — that no additional indictments would be sought by his office, Carter was signaling that full justice for the Crown Heights Jewish community will never be realized.

The federal prosecutor alluded to the fact that the statute of limitations on federal civil rights crimes has expired; and, noting the absence of any state statute of limitations in murder cases, he added — accurately — that the investigative trial was ice cold.

In short, most of the beatings — and mugging and burglaries and vandalism —

that took place during the three days and three nights of rioting remain unpunished. Not a happy circumstance for the New York Jewish community in the last decade of the 20th century.

Finally, it's worth contemplating former Mayor David Dinkins' reaction to the verdict. It's no secret that the city's late and hesitant response to the 1991 program was a factor in Dinkins' defeat two years later. The ex-mayor, moreover, remains a defendant in a dereliction-of-duty civil suit filed by the Crown Heights Jewish community.

Nevertheless, Dinkins almost certainly spoke from the heart in commenting on the Nelson conviction: "As we remember Yankel Rosenbaum [whose hand the former mayor recalled holding], let us not forget young Gavin Cato." Dinkins reminded city residents of Cato's father's "anguish" on the night of the accident.

In this crude manifestation of moral equivalence, the former mayor makes it plain that he still doesn't get it.

Gavin Cato died as a result of a car accident — as do many kids, each year, throughout the country; as do many children, each year, in Crown Heights itself. Needless to say, no prior accident set in motion a three-day riot.

Yankel Rosenbaum was lynched. The Crown Heights pogrom was the first such episode in the Western world since 1946. If David Dinkins can't understand the distinction between a car accident and a lynching, so be it.

It remains, however, that New Yorkers of good will have a moral obligation to remember the difference — and bear in mind the ugly August of 1991.

Eric Breindel '82 is senior vice president at News Corporation, the parent company of the New York Post. Breindel, 41, previously worked as the New York Post's editorial page editor.

F I L M R E V I E W

Truth v. Justice: The South Africa Dilemma

By Warren Binford

It seems difficult to believe that it was only a decade ago that we built our shantytown on the student union plaza to protest our university's holdings in South Africa during the reign of apartheid.

We were an innocuous group of squeaky-clean, white privileged Americans with enough idealism and passion to risk being ridiculed, photographed by the university police, and eventually arrested with our "Divest Now" and "Remember Steve Biko" placards tightly grasped in our mutinous fists.

I can still remember the fear and disbelief that shot through me as I watched Shannan Dugan kicking defiantly even with her face smashed against the hood of the patrol car as the fat-bellied, alcohol-red and swollen-faced police officer handcuffed her wrists and dragged her away.

How naïve we were. Not naïve because we believed that a more just and democratic government could be built in South Africa. It was. Not naïve because we believed that one student or even a handful could make a difference in world affairs. They can. But naïve because in our democratic, white, middle-class cocoon, we never learned to fear the power of the police.

The potential for police brutality is powerfully portrayed in "Inside," starring Nigel Hawthorne, Louis Gossett, and Eric Stoltz. "Inside" is Arthur Penn's first feature film in seven years.

Penn, who is the 73-year-old director of "Bonnie & Clyde," "Little Big Man," and "Alice's Restaurant," decided to produce the film in South Africa on a shoe-string budget of \$2.1 million as a labor of love. According to Penn, South Africa "is in a volatile situation. The people are struggling with it. This is about young men who have lost their

youth in silence and internecine warfare."

Many members of the film crew had experienced imprisonment and abuse at the hands of apartheid leaders. They relied on their own recollections of their prison experiences for the film's setting and to ensure that other elements of the film were portrayed truthfully and accurately.

Set in South Africa in 1985, "Inside" centers around the fictional story of Marty Strydom, a young, white, university professor, who is arrested for treason after attending an Amnesty International concert in Zimbabwe.

According to the South African police, the concert was simply a ruse for Strydom to engage in arms-smuggling for the apartheid resistance movement. He is arrested and tortured before he is even charged.

Thrown into solitary confinement, Strydom is forced to experience life through the claustrophobic confines of a windowless cell with cinder block walls (not unlike but, to be fair to South African prisons, somewhat larger than those in Gropius) and a peephole through which he can momentarily witness the other brutally beaten political prisoners being dragged back to their cells following police interrogations.

Throughout Strydom's imprisonment, the police engage in lies and deception to heighten his sense of alienation and to weave a web of guilt and remorse from which he will never escape alive.

Periodically, the film flashes forward to the present where Lou Gossett, Jr., portrays a prosecutor for the Truth and Reconciliation Commission who is investigating Strydom's death in prison. Gossett's character was a political prisoner in the same wing as Strydom and remembers well the young idealist's suffering. However, he withholds his firsthand knowledge until the very end of his non-violent but psychologically piercing interrogation of Kruger (played by Nigel

Hawthorne), the police colonel in charge of Strydom's interrogation and imprisonment.

Until the last moments of the film when Gossett's character reveals that he was an eyewitness to Kruger's abuse of Strydom, Kruger refuses to acknowledge the shift in power that has occurred in South Africa. His language and stance conveys his defiant denial that he is suddenly the mortal prisoner being interrogated.

Kruger's responsibility for Strydom's death is firmly established and it is the revelation of this truth among Gossett's character, the police colonel, and Strydom's father that soothes the fear and anger that has been simmering within each during the past ten years and allows for the process of healing to begin. There is no prosecution or revenge.

In many ways, "Inside" serves as a mirror of the South Africa Truth and Reconciliation Commission whose efforts to unify the country through revelations of truth and granting amnesty to perpetrators of human rights abuses has gathered a national television audience in the millions.

It is the biggest, most expensive, and most powerful truth commission ever devised, dwarfing previous commissions in Chile and Argentina. By granting amnesty in exchange for confessions, the Commission has placed an unprecedented emphasis on truth rather than justice in order to achieve national healing.

The Truth and Reconciliation Commission, which commenced hearings in April, 1996, under the leadership of Nobel Peace Laureate Archbishop Desmond Tutu, is often referred to as the "tears commission" because of the thousands of victims who have lined up to tell their tales of unimaginable abuse, torture, devastation and humiliation at the hands of apartheid police.

The stories told are even more shocking, though, when the officers themselves

come forward to tell their soul-searing tales in exchange for amnesty. They have confessed to kidnapping anti-apartheid activists, beating them to a pulp, shooting them, blowing them up, electrocuting them, suffocating them, strangling them, and crushing their skulls.

To hear stories of unrestrained brutality and then watch the men who committed the atrocities being granted amnesty and walk away free is a painful challenge for all members of the South African community. In fact, many victims of human rights abuses, including Steve Biko's widow, have brought lawsuits to enjoin the Commission from granting amnesty.

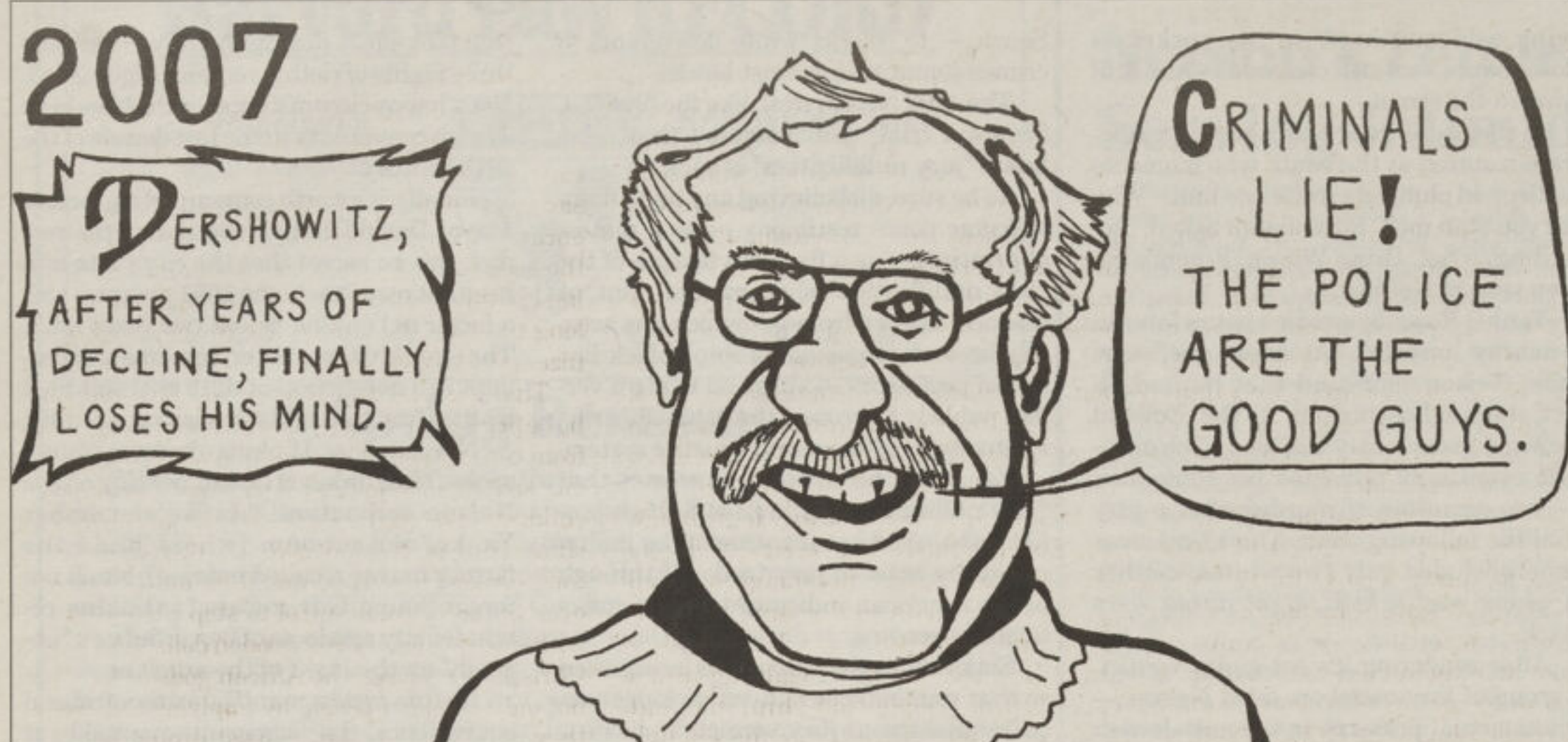
Nonetheless, hearings already held and televised reveal that at least some members of the community welcome the opportunity to confront the past courageously and forgive their tormentors. When one South African Army General confessed to ordering troops to fire on protesters at Bisho and then asked for forgiveness, the audience broke out in applause and Bishop Tutu asked for a moment of silence and reflection.

The desire for truth and healing revealed by such moments conveys South Africa's hunger for catharsis of painful memories. As demonstrated in communities such as Mozambique, Zimbabwe, and Namibia, this can sometimes be achieved by letting go. In others, like the Former Yugoslavia, it appears that nothing less than Old Testament retribution will put the past to rest.

One can hope that through films like "Inside," the people of South Africa will at least be able to know the truth of what occurred within their prison walls, and then decide if that knowledge is powerful enough to free them from the pain of the past and provide the inspiration they need to continue to move forward in their courageous pursuit of healing and democracy.

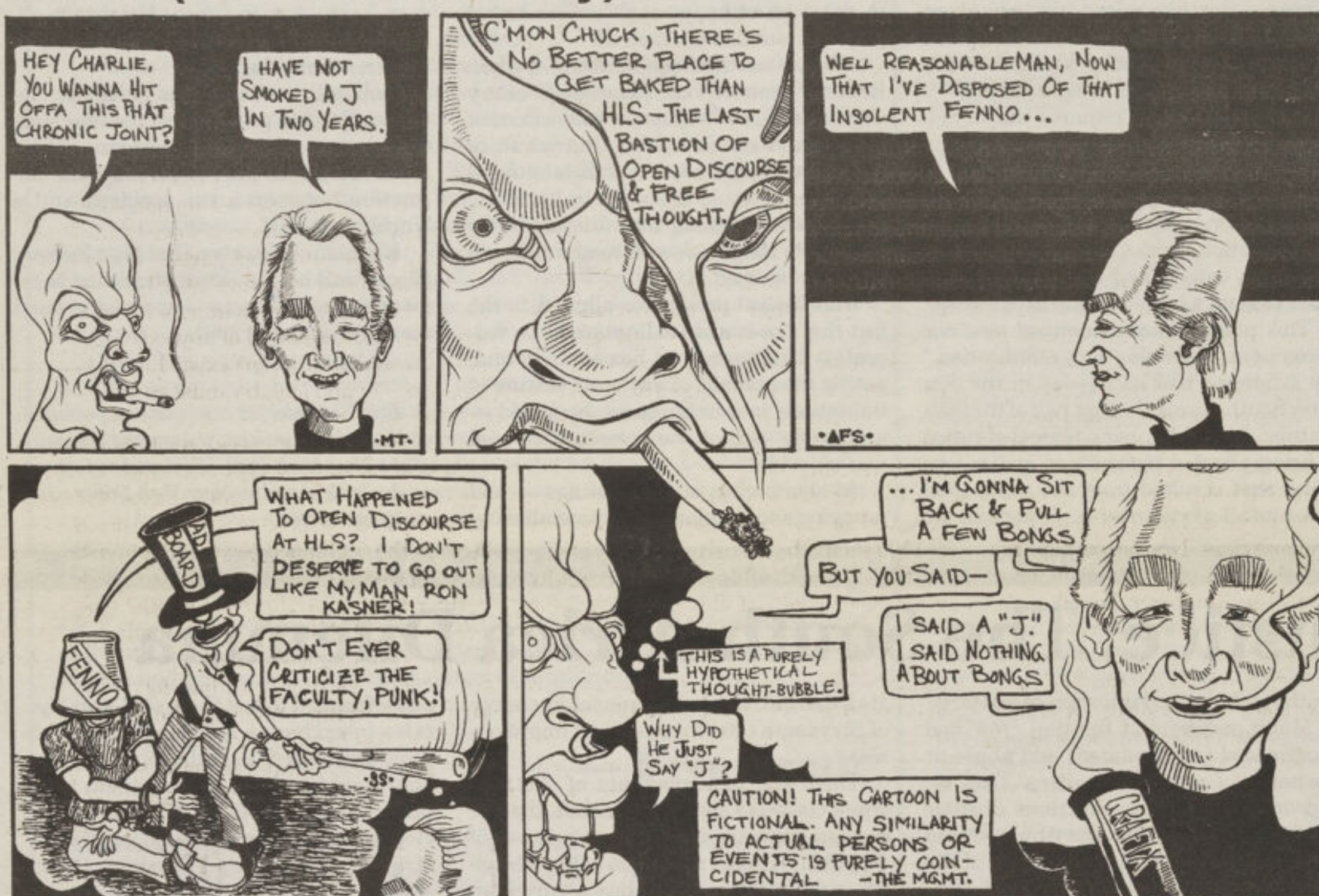
Ad Hominem

By Stuart Rees and Bill Zimmerman



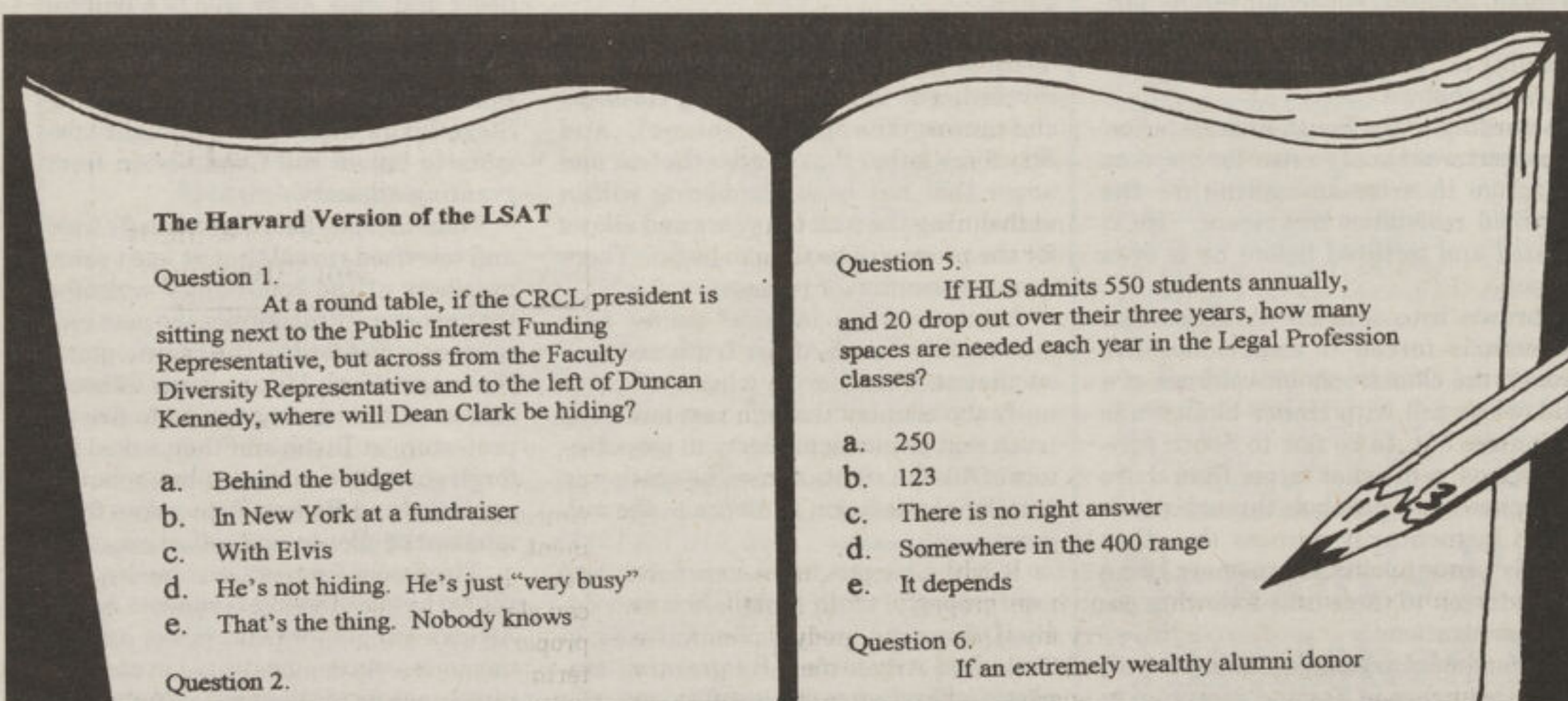
Reasonable Man Chats with Charlie (An Obvious Parody)

By Alfred Steiner and Mark Torre



Investigative Cartooning

By Stuart Rees and Bill Zimmerman



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CALENDAR

By Janie Kim '99

Feb. 27 — Mar 5

Pray for the return of sunshine and warmth. If last weekend's balmy spell sticks, consider communing with the dead. It's a fact, certified by at least three local tea-leaf readers and one Bahamian obeah princess, that the souls of the deceased joyously celebrate the thaw of winter's crust. (There are too few tanning salons on the other side.)

See the spirits frolic at **Mt. Auburn Cemetery**, 580 Mt. Auburn St., Cambridge. 176 acres of idyllic natural/landscaped beauty are whimsically footpathed and mapped for your exploration. Listed on the National Register of Historical Places, the cemetery is a favored destination of bird-watchers and misguided social climbers. Rub the tombstones of such notables as painter Winslow Homer, H.W. Longfellow, candy queen Fanny Farmer, Polaroid-founder Edwin Land, and Sen. Helms' nemesis Robert Mapplethorpe. 547-7105.

And the morbid overtones drip on ... The American Repertory Theatre's world premiere of **The Cabinet of Dr. Caligari** has already picked up a lively buzz. Based on the 1919 German silent film (which will be screened in the lobby after each performance) and the Grand Guignol theatrical tradition (renowned for gory vomit-inducing displays), the multimedia production runs the emotional gamut from humor to fear. Through a hybrid presentation of various theatrical styles, the techno-opera relates the tale of a monk's wacky influence over a somnambulist and the evil mayhem that ensues. In Repertory through 3/22. This week: Thu., 2/27, 8 p.m. Sun, 3/2, 2 & 7 p.m. \$21-50 tix. Or buy \$12 rush tickets 30 minutes before curtain with student ID. At the Loeb Drama Center, 64 Brattle St., Cambridge.

Call 547-8300 for more info about Caligari and its **free symposium** on Mon., 3/3, 8 p.m.

For the most better than decent live music, TT the Bear's is a sure thing. Fri., 2/28, the line-up is **Bim Skala Bim**, **Big D & the Kids Table**, and **Brass Monkey**. Nicely funkalicious stuff. On Sat., 3/1, the schedule's juiced up with **The Blue Route**, **Rhino**, **The Deliriants**, and **Sway**. Find it at 10 Brookline St., Cambridge. 492-BEAR or 831-2000 for tix.

The exhibit, **Leonardo da Vinci: Scientist, Inventor, Artist**, makes its only U.S. stop at Boston's own Museum of Science. Plough through 170 facsimile sketches, 25 working models of invention ideas, 20 CD-ROM stations, and other traces of the proto-Renaissance man.

Get that itch out your stockings; ease on that good feeling that only blues can bring on. Waldo's, 793 Boylston St., Boston, believes that their R&B go best with a Havana and brew. Free cigars and beer tasting every Thursday. On 2/27, **Electric Band Flames** lights up the joint. 424-6652

The one-time Boston appearance of pianist **David Helfgott**, in his first North American tour, happens Tue., 3/4, 8 p.m. His life and times were the inspiration for that little Australian flick-that-could, **Shine**. A brilliant child prodigy, driven to the edge of madness by his authoritarian father, Helfgott ultimately pulls a phoenix. Through love and regular gigs at a provincial piano bar, he resurrects himself from obscurity and a four-pack-a-day habit. At Symphony Hall, 301 Mass. Ave., Boston. 931-200

FYI: **Symphony Hall** offers 200 cheap rush tix for select performances. A good opportunity to enjoy a fine-tuned, world-class orchestra for \$6. Box office opens Fri., 9 a.m. for its same day 2 p.m. matinee; Sat., 5 p.m. for its same day 8 p.m. performance.

OBITUARY

By Alexander Boldizar '98

Fenno, age: 40-something; dead by lobotomy on Tuesday, February 18th; sliced by touchy letter from Prof. Charlie Nesson to the groin area of RECORD editorial staff.



I have shared this page with my underground neighbor, Fenno, for well over a semester now. In that time Fenno has been offensive, dirty, lazy, alcoholic, drug-addicted and sometimes downright not funny. In short, a jerk. He has never had straight A's, he has never had or deserved friends. He does not mingle well. He is everything a Harvard Law Student is not supposed to be. Now, however, the professors have decided that the Devil, if he is to attend HLS even fictionally, is henceforth to be a nice guy who worries about his future law firm career just like the rest of us.

There is nothing wrong with that. They could write nasty letters, they could refuse to speak to the RECORD staff, they could do a variety of things. Of course, if they had any self respect they would never acknowledge that they even read the paper, let alone a juvenile dirty-laundry airing dwarf like Fenno. They would never deem him worthy of a response, especially not one which makes Fenno look sophisticated by comparison.

I used to like the image that Prof. Nesson had at this school. I liked him because he was an oddball and I like oddballs. I liked that he dared to defy, dared to accept an easy-going image about drugs and sex. I used to think that experience with a few "J's," as he calls them, should be compulsory for anyone wishing to teach, practice, or pass laws (including inhalation). How else do you know what it is you're outlawing? How else can you broaden your conception of law?

I also think that there is much to be said for switching from the Socratic method of teaching to the Platonic. Rather than badgering students, professors could nurture them. Of course, the Platonic method would pose a risk of harassment, but what is the Socratic method if not institutionalized ha-

arrassment? The only difference is that it avoids the great American taboo. And yet, there is something wrong with professors sleeping with students. There is a huge power imbalance which the professor could abuse. Like when a professor threatens to destroy the careers of his students for not printing what he wants in the school paper, he might threaten a student's career for not sleeping with him. A very bad thing indeed.

Until we do switch to something like the Platonic method, however, we are for the most part, students, not disciples, and professors have not given enough of themselves to be screaming "That's not the way to treat your master!"

I used to be ambivalent about Fenno. When I passed him in the RECORD office he always stank, never said hello or changed his clothes. What made me most unsure about him was his anonymity. Yet, when I discussed Nesson's letter with fellow students I

got responses like "The professors don't care about anything except how they look. It's so painful!" The student, however, did not want me to use her name. Why? Because unlike Fenno, who these days is stumbling dejectedly along the banks of the Charles, his months-unwashed hair drooping sadly down to his knees, she has a career lying on the other side of these three years, which Nesson has the power to target and destroy. All it takes is a little criticism of ITL or a tarnishment of his image.

The RECORD editors whom Nesson has targeted, however, do have futures. One is in his Evidence class. Nesson, perhaps representing other professors (many of whom would have a much stronger claim than he), has decided that we are not allowed to believe in a dirty little gnome wallowing in the cellars of HLS. Instead of ignoring him, and allowing us to make-believe in the fiction of Fenno, Nesson has decided to elevate an imaginary bogey-man up to the level of

"That's not the way to treat your master!"

abstracted institutional responsibility. There shall be no peccant Peter Pans at Harvard Law School...and those who would create one shall "be forced to defend [their] judgment before the HLS community and in job and clerkship interviews." It's ironic, in several ways, that the "coolest" professor here is about as laid back as Rev. Jerry Falwell — and as far above the Constitution. (See *Hustler Magazine v. Falwell*, or if you prefer the fourth branch of American government (Hollywood), "The People v. Larry Flynt.")

If Nesson's letter has any legitimacy, it is through the human element. If one starts to think that this imaginary evil elf actually exists and roams the hallowed halls of HLS, then I can understand how the feeling of walking into a class full of people and thinking that "somebody out there hates me enough

to write such things" could be more than disconcerting. I received a piece of anonymous hate mail my first semester here, purporting to be from my entire section, and I

remember that it was not a pleasant feeling. I still don't know who its author(s) were because I don't have the power of a professor to extort others into telling me. But unlike anonymous mail, neither Fenno nor his hate exists any more than do the ghosts and goblins acted out by little kids on Halloween, or the witches of certain pagan Easter rituals. If a child's costume scares you on Halloween, do you rip it off and sue her, Prof. Nesson?

Just like one day out of 365 has to be reserved for Halloween, so one student out of 1500 should be offensive. Nobody is saying that Fenno should be the editor, so why treat the editors as if they were Fenno the character himself. Nobody out there hates you Charlie Nesson. Of course, everyone has the right to be offended, but it might help to remember that Fenno is a make-believe scumbag and that HLS students don't really believe in witches any more than

they believe the National Enquirer. What are bad people supposed to be like if they can't say bad things. If everybody has to say good things, how can we tell the difference between good and bad. Perhaps that's the secret of law school, that's what making lawyers is all about. As Lao Tzu said a long time ago, "When all the world recognizes good as good, it becomes evil."

That's why Fenno is necessary, though he be fictional. He used to prevent the school from censoring our imagination as well as our speech. Halloween is *not* merely for children, though the style of the masks be childish. But Nesson, like the Christian missionaries in Africa, would make those over whom he has control to stop playing with their offensive little wooden dolls. The Christians replaced the African gods (who not only offended people by implying that they smoked dope, but caused droughts, deaths, and wars) with One God and general hygiene. Charlie would replace our one fictional incarnation of evil with Opportunism and oral hygiene.

Yet precisely because everyone understands Fenno to be a make-believe mask, rather than simply a name hiding a "poisonous viper" behind it, I tend to agree with the anonymous student above, that the real "pain" to Nesson was the pain of imagining his image tarnished, even though it was only in someone else's imagination, which few read and none believed (until Nesson's letter confirmed parts). Image-mongering is everywhere at HLS, but Nesson has the power to impose his chosen image into the mind of anybody here, even someone who doesn't exist. Like Voodoo, criticism and idolatry must go underground.

It is working: last week's quote of the week was meant to be "I haven't smoked a J in two years." — Prof. Charles Nesson '63." It was replaced by something safe and bland because the frightened powers that aren't, were not willing to risk their futures to stick by their decision. And Fenno himself? Last week, after 40 plus years he has finally become just another law student, opportunistic, modern, lacking intestinal fortitude, afraid of saying or doing the wrong thing...he has become 'good.' That which made him Fenno, the pagan mask, is dead.



In this week's issue, Fenno repents. Fenno's rehabilitation is progressing nicely, as Fenno has not smoked a professor in two weeks. Next week, Fenno faces the Ad Board.

Fenno wishes to publicly apologize for statements that have hurt Fenno's readers, especially among the HLS faculty. Fenno's apology is sincere, and should not be interpreted otherwise. Fenno unconditionally retracts the following utterances:

"... thirty grand translates into twelve kilos of powdered cocaine and a ticket to Amsterdam." From these words, it could be inferred that Prof. Nesson uses cocaine, which is not true. Cocaine use is legal in Amsterdam.

"... Charlie had graduated from HLS with the highest blood-alcohol content since Felix Frankfurter." This statement is not true. It is rumored Prof. Nesson graduated with the highest grade point average since Justice Frankfurter, and that Prof. Nesson is one of a few students to graduate *summa cum laude* from HLS. To graduate *summa cum laude*, a student must have an average over 7.2 (slightly over an A average).

"Nesson, who unlike the rest of the faculty, screwed one of his students at a time ..." This statement is untrue. HLS has a code of speech and conduct that forbids sexual harassment. It consists of 19 pages.

Professors who have sexual relations with students face dismissal. Female students should feel comfortable engaging in normal student-faculty relations with Prof. Nesson.

"Professor Brewer will receive tenure as part of a conspiracy to demonstrate that colored faculty can't teach ..." No such conspiracy exists. Fenno has no knowledge as to the outcome of Prof. Brewer's tenure hearing, which is currently in progress. Statistical results from Prof. Brewer's course evaluations are available from the Board of Student Advisers.

"Wilkins quickly folded his copy of The Wall Street Journal over his copy of Hustler." Many professors at HLS enjoy The Wall Street Journal. Fenno was irresponsible to insinuate that Prof. Wilkins reads Hustler. Hustler legally publishes in the United States. It is protected by the First Amendment.

"There was Randy Kennedy, who looked like a black man but thought like a white man;" Prof. Randall Kennedy is an expert in race relations who is thoughtful. His thoughts can neither be classified as that of a black nor a white person. Given his concerns about the impact of race in America, it was insensitive for Fenno to make such a comment. Prof. Randall Kennedy commented on the book "The Bell Curve" as follows: "We ought to distinguish between work that is usefully controversial because it opens up new avenues of thought and work that is controversial merely because it provides an occasion for shouting about pre-formed views." Prof. Randall Kennedy found "The Bell Curve" to be in the latter category. Recent Fenno columns can be found in the latter category as well.

"Then there was David Kennedy, known

primarily for 'opening up' Gerald and Mary Jo Frug's marriage." This is not true. Fenno regrets making such a statement, especially due to the pain suffered by Prof. Gerald Frug regarding the murder of his wife, a prominent feminist scholar and professor at the New England School of Law. In April 1992, the Harvard Law Review published a parody called "the Revue" in which students satirized Frug's work. Prof. David Kennedy filed an Administrative Board complaint against the students. The complaint was dismissed.

"And then there was Duncan Kennedy, a man whose passion for his female students was only exceeded by his passion for leather." Again, sexual harassment of female students is a serious charge. Fenno regrets insinuating that Prof. Duncan Kennedy harbors meretricious intentions towards his female students. Students often recognize Prof. Duncan Kennedy by his trademark leather jacket.

"That's why Joseph Singer does research on property while Martha's kids carry my [Duncan Kennedy's] genes. He [Prof. Singer] can't raise the revolutionary standard ..." Fenno regrets insinuating that Prof. Duncan Kennedy has fathered Prof. Minow's children. This assertion has no truthful basis. Fenno has no knowledge as to Prof. Singer's impotence, the existence or non-existence of which is a private matter, and an inappropriate subject for humor. Ten to 20 million American men suffer from impotence, most of them over the age of 40.

"... Professor Wilkins was granted a raise on the condition he enroll in an ESL course." Foreign students who have difficulty communicating in English enroll in ESL courses. Fenno did not mean to insinuate that Prof. Wilkins cannot speak perfect English.

Quote of the Week

"HLS Drama Society beware."

— CLU President Jol Silversmith

"[T]he government may only help colored folk and pointy-headed Jews, but God helps those who help themselves." Fenno regrets offending anyone by using the phrase "colored folk" to refer to African-Americans. It is not true that the government only helps African-Americans and Jews. In 1865, four million African-American slaves were freed by the government, propertyless. Referring to Jews with the term "pointy-headed" fosters a harmful, potentially anti-Semitic stereotype. The term "pointy-headed intellectuals" was utilized by George Wallace to leverage popular resentment of intellectuals for political gain. Nazis killed six million Jews. African-Americans and Jews have been specific targets of discrimination throughout history, and at Harvard Law School. Fenno regrets nourishing harmful stereotypes.

This list is meant to retract Fenno's most damaging statements. It in no way is intended to be an exhaustive list. Fenno deeply regrets the harm Fenno has caused. Most of all, Fenno apologizes to all for Fenno's lack of humor.

• Letters •

Open Letter to Charles Nesson

"I smoke pot ... and I inhale" are the words I remember you stating in my 1L Introduction to Lawyering class. For a reason I still can't fathom, you felt obligated to read this and other ruminations from your journal to an entirely captive audience. It remains in my mind because it seemed so out of place. Delivered with a dramatic pause after the first clause, perhaps you were trying to ingratiate yourself to a younger audience. Whatever your reasons, you felt very comfortable proclaiming an illegal activity to a class of new law students.

Brandon Baer '97 did an incredible impression of you at the Law School parody that same year. This image also remains fresh in my mind; Brandon with a glazed look in his eye, staring off into the distance, spouting "acid flashback" non sequiturs with perfectly timed Nesson-like delivery. In all fairness, you were a great sport and made an appearance at the end of the show, dancing on stage with the Dean. We all had a great time.

It is against this background that Fenno wrote his column which included references to you and to drug use. It has always been clear to me that Fenno's is a satirical col-

umn, and that the characters and the occurrences in it are parodical in nature. The column has not always been fair or kind, and those who are the object of Fenno's irreverent and sometimes distasteful observations may have cause to be upset and offended. Nonetheless, this does not give you, or anyone else, the right to trample on basic notions of free speech by bringing both Fenno and the editorial board of the paper in front of the Administrative Board for disciplinary measures. "The art of the cartoonist [and columnist] is often not reasoned or even-handed, but slashing and one-sided." (*Hustler Magazine v. Falwell*). If Larry Flynt, under the full protection of the United States Constitution, can insinuate that Jerry Falwell's first sexual experience was a drunken incestuous rendezvous with his mother in an outhouse, surely Fenno, without fear of retribution, can make some off-color comments which lampoon you.

The most striking irony is that you actively created the persona that was parodied in Fenno's article. As a 1L, I didn't care if you smoked pot. I still don't. Nonetheless, your admission remains one of the dominant memories of my

1L experience with you. I believe that you overreacted and showed poor judgment in your threat of Administrative action. Perhaps after cooling off, you will reconsider. Unfortunately, whether or not you do, the damage is done. Your threat alone is sufficient to chill the discourse, satirical and otherwise, that is the lifeblood of a free society. Unless he or she is willing to be a martyr for the cause of free speech, I am willing to bet that Fenno will back off a bit — and that those who would pick up the reins after Fenno graduates will have second and third thoughts about what they write, and how. And if not the columnists themselves, then the editors will reconsider what to print — to be certain it does not rub you the wrong way. Congratulations, you have won, but we are all that much poorer for it.

I didn't know what I had learned from you in my 1L class. I know now. You have taught me, and probably many others in this institution, how not to behave. Perhaps it would have been wiser to follow President Clinton's lead — and not inhale.

Tim Corriero '97
February 24, 1997

Binford Fails to Appreciate Power of Baptist Revival

I'm writing to take issue with the offhand way that Warren Binford dismissed the power of God within people's lives, particularly within a group known as Baptists, of which I am one. The quote, given in the course of reviewing a book was, "And yet somehow, when the exhilarating read is through, one is left with the alienated morning-after feeling of empty-handed disenchantment following a Friday night Baptist revival. For all the 'Amen!' shouted under the tent, one wakes up mortal in the same world that led one to seek simple answers from above in the first place. There was no great transformation."

The last clause, of course, explains her disenchantment (and she writes as one who has experienced the emptiness). "Therefore if any man be in Christ, he is a new creature: old things are passed away; behold, all things are become new." II Cor. 5:17. This verse, read in context explains that the new birth, which Jesus himself emphasized as necessary to Nicodemus in John 3, changes how you see things. Simply put, Ms. Binford did not receive the new birth, and so, all things were the same.

I don't write this to be obnoxious. I myself felt that empty feeling for years (and I was raised a Baptist and even believed the Bible intellectually). However, I was born again by receiving Jesus as my savior, literally at a "Friday night Baptist revival" between my 1L and 2L years. The fact is that the term "revival" can be a real experience with the Holy Spirit, as I experienced, or an emotional lift that dissipates tomorrow. What I don't want is for Ms. Binford's comment to seem true in an absolute sense. If what you experienced was an emotional lift, then you

should feel as she described. If what you experienced is faith in the son of God who loved you and gave Himself for you, then you will stand in it no matter how you feel because you will see (understand) things differently.

Also, the items she enumerates as reasons for that empty feeling are not items that the new birth will remove from your life. It makes me think that she didn't understand what being born again means. Jesus said, "In the world you will have tribulation." John 16:33. In the next breath he said, "but be of good cheer [anyway, despite tribulation] not because it is removed for I have overcome the world." He was speaking to His disciples who were born again and yet He made clear the world will not change. They were to see it differently because of His victory, and therefore, have peace.

Of course, physical mortality is not removed by the new birth either. "It is appointed unto man once to die, but after this the judgment." Heb. 9:27. "The wages of sin is death, but the gift of God is eternal life through Jesus Christ our Lord." Romans 6:23. The death identified as physical is the result of our sin. The eternal death (separation from God in a place of torment) is described as the second death in Revelation 20. This second death is also the result of sin but it can be avoided because Jesus paid the price for our sin at Calvary. "For he hath made him to be sin for us, who knew no sin; that we might be made the righteousness of God in him." Romans 5:21. This is what is known as eternal life and it is received by faith (in the gospel) which brings about the new birth. "For by grace are ye saved through faith; and that not of yourselves: it is the gift of God: Not of works, lest any man should

boast." Ephesians 2:8,9. Faith is active belief. If you don't actively believe, then of course you will be empty tomorrow because you have nothing to hang onto. "But without faith it is impossible to please him..." Hebrews 11:6.

Ms. Binford's comment rings too true in my ears not to make me sorrow for her. This world is empty and it does drive us to seek answers (simple or not, and if they weren't could only the brilliant be saved?) from above. The sad truth is most people don't want the answer that they are a sinner and must repent (the word repent means to change your mind). In other words, accept God's judgment on you and your life and turn from your sin) and believe the gospel to be saved. I will never forget that wonderful Friday night in 1995 when I repented of my sin and believed the gospel. Thank God for "Friday night Baptist revivals." I have peace, because I can claim the promise of God's Holy Word in faith, "Be careful for nothing [don't worry]; but in every thing by prayer and supplication with thanksgiving let your requests be made known unto God. And the peace of God, which passes all understanding, shall keep your hearts and minds in Christ Jesus." Philippians 4:6,7.

"Moreover, brethren, I declare unto you the gospel...By which also ye are saved, if ye keep in memory what I preached unto you, unless ye have believed in vain [empty belief, not active belief]...how that Christ died for our sins according to the scriptures; and that he was buried, and that he rose again the third day according to the scriptures." I Corinthians 15:1-4.

Kelly Whiting '97
February 24, 1997

Nesson Should Employ Pen, Not Ad Board, to Refute Fenno

I was shocked and dismayed to read Prof. Nesson's letter of February 18, 1997 to the editor, in which he threatens to ask the Administrative Board to impose sanctions upon the editors of our student newspaper. It is my strong belief that such sanctions would effectively prevent the students at the RECORD from engaging in meaningful debate, satire, and other forms of expression. Therefore, I respectfully urge the Administrative Board to take no action on any complaint filed by Prof. Nesson which arises out of statements written by "Fenno" and published in this newspaper.

I believe the law school should not engage in official censorship of student publications for any reason, especially not because it has offended a professor or members of his or her family.

The remedy I would give Prof. Nesson is the one he employed one week ago — his own pen. If you are offended by Fenno's racist, sexist, xenophobic, or otherwise callous remarks, you can write a letter to the editor explaining why Fenno is offensive and expressing your objections to his remarks. Furthermore, if you think Fenno writes nothing but drivel, you are free to let your eyes scan right past him and up to, say, Alexander Boldizar's column.

While I do not know Jaclyn Liu personally, I do know David Liu and Rob Friedman and I can honestly say they are good, hard-working, principled students. They do their best to produce a high quality, award-winning newspaper. They perform an extremely valuable service

for the law school community by stimulating discussion of serious issues. These are not the type of students whom the law school should be disciplining. They should not be thrown in with frauds and embezzlers by being forced to appear in front of the Administrative Board.

I call upon other members of the student body, faculty, and alumni to write in and register their objections to Prof. Nesson's blatant attempt to silence speech here at the law school. I will not let this travesty of justice proceed without raising loud cries of protest. If you are going to silence one person's speech here at the law school, Prof. Nesson, you have to silence this mouth also.

Peter J. Guy '98
February 22, 1997

What the Ad Board Should Do About Fenno

It has been several weeks since the Ad Board had the opportunity to suspend someone, and it's good to have some energy around the campus again. Prof. Nesson's Feb. 21 letter to the RECORD ("Prof. Nesson's 'Stung and Offended' by Fenno") merely summarizes what appears to have been a cumulative faculty distaste for Fenno's fictional encounters with an array of grossly caricatured professors.

While Prof. Nesson deftly turned the issue from legal doctrine ("defamatory innuendo," "slander") to legal philosophy ("responsibilities...rights and privileges"), there remains several unanswered questions about Fenno's column: Is it really more than "failed attempts at humor"? Does it really amount to "defamatory innuendo" and "slanders"? Does Prof. Nesson have a right to drag the editors before the Administrative Board because he feels "stung and offended"? Does the Administrative Board have a right to care?

There are several ways one might approach the Fenno affair. For example, the legally inclined might argue about the standard of defamation which should apply to satire and caricature. The intellectually inclined might dismiss the column as the puerile chemical-dependent fantasies of someone who probably saw Hunter S. stagger through Austin and could only yawn. A few might contend that the column's obvious lack of integrity makes those who take it seriously appear as politically inept as Fenno's failed attempts at humor.

To dwell on any of these modes of analysis would, however, evade the real issue raised by last week's letter. In spite of his bandying use of legal "terms of art" like slander and defamation, and his public denials regarding his past, Prof. Nesson does not appear to be seeking legal redress. He wants to speak before the Administrative Board not the district court, and he wants the Board to address issues of rights and responsibilities not right and wrong. Prof. Nesson seeks to apply social rather than legal norms, and the norms he seems to expound are something like civility and respect.

Under these standards,

the case is open and shut. Fenno and his author have little time for civility and little concern for respect. If the Board had nothing else to consider, it could hold a five minute meeting before drafting a public reprimand over cappuccino at Starbucks.

But the desserts of Fenno and his creators/editors are not clear. Civility and respect are not unilateral and presumed; they are mutual and earned. In a school where the majority of students will work at large impersonal firms in large impersonal cities, it would be a disservice to our training if the Administrative Board asserted that anyone has a unilateral right to this kind of treatment. If the faculty is to command respect from the RECORD's editors in particular and the student body in general, then one would expect that this respect must be earned.

I do not suggest that the Administrative Board should conduct a free-form inquiry into whether a professor has "earned" student respect. Rather, the Board ought to use a suitably objective standard provided by the Law School. For example, the faculty manual states that a full-time member of the faculty is "expected to teach 10 semester hours... during an academic year." A neutral standard could be grounded in this expectation. The Administrative Board might declare that a professor who has publicly demonstrated commitment to students by meeting or exceeding the school's teaching requirements should command fundamental decency and respect from students. The Administrative Board could enforce this policy through a three-tiered analysis. Meeting the threshold teaching requirement would define the middle tier.

I realize that any limit on student conduct might raise free expression concerns among the idealistic masses; however, it is possible to imagine an approach by which students acknowledge the respect professors have earned at the threshold level by adhering to a broad, lenient guideline — a "shocks the conscience" standard, for example. The Administrative Board could use this standard to permit significant expressive liberty while refusing to tolerate recklessly abusive speech (such as

thinly veiled accusations of lechery and drug abuse) which senselessly impugns the integrity of a professor who has treated students respectfully by showing up for 10 credits each year.

One could even imagine a teacher who exceeds the minimum and thus shows himself worthy of a higher-tier standard of civility and respect from his students. For example, a professor might teach 14 credits per year (40% above the minimum). Such a schedule would require an extraordinary one hour, 24 minutes per school day (average) commitment to students in the fall and spring (with winters off). This type of dedication to students is rarely seen on the campus and might be worthy of special deference. The Board might offer such a professor veto power over any public use of his image or likeness.

The lowest tier would apply to a professor who has not met the minimum standard. Such a professor should have no expectation of student respect. In a school where the administration appears to offer students little recourse against professors who violate their ethical, moral and contractual obligations, it seems reasonable for students to have at least this affirmative defense when there is talk of responsibility and accountability.

In the case at board, the application of the respect doctrine is uncertain. According to course catalogues, Prof. Nesson has offered the following courses over the past three years: Two sections of Evidence, ITL (1994-95); two sections of Evidence, Law Information and Technology (co-taught), ITL (1995-96); one section of Evidence, Business and the Internet (co-taught), Torts, the course formerly known as ITL (1996-97).

Excluding ITL and its progeny, and giving full faith to co-taught courses, the credit totals are 6-8-11. Does Professor Nesson's contribution to ITL in its various incarnations bridge the five-credit gap (across the law school careers of 3Ls) between what is and what ought to be?

The standard to which Fenno is held should depend on the answer.

William Haft '98
February 22, 1997

Letters to The RECORD should be dropped off in the RECORD box near the rear entrance of the Hark, or in David Liu's 2L Hark Box.



• Letters •

Its Not Always About Prestige

I was very disappointed by the headline and first paragraph of David Hyung-tek Lee's article on the Harvard Legal Aid Bureau's newly elected officers ("New Officers at Legal Aid Bureau Promise Renewed Prestige," Friday, Feb. 14), which inaccurately claimed that the new officers hoped to improve the Legal Aid Bureau's low-prestige image. It's bad enough that Mr. Lee, without offering any authority to support this, characterized the Legal Aid Bureau as being unprestigious and its officers as having inferiority complexes. (The rest of the article lends no support to this characterization, and the officers interviewed have assured me that they never discussed prestige or how the Legal Aid Bureau ranks in relation to the Law Review or other organizations). But what really depressed me is the reporter's imposition of the issue of prestige on a dis-

cussion that never mentioned it, and that focused on strengthening the prominence of the Legal Aid Bureau as an activity through which its student members gain valuable practical legal experience.

Since the officers interviewed did not discuss prestige, and since the issue of the Legal Aid Bureau's prestige is largely irrelevant to its purpose and to the Bureau members' decisions to join the Bureau, why did Mr. Lee put this spin on the article? I can only guess that Mr. Lee thought (perhaps only subconsciously) that evaluating the prestige of the Legal Aid Bureau, and comparing it to that of the Law Review, would make the article more interesting to its audience of Harvard Law students.

I would be very naive to think that prestige does not play a role, and perhaps a major role, in the decisions of

many of us to come to Harvard Law School and in our subsequent career paths. However, the fact that prestige is, and is assumed to be, so important to Harvard Law students still bothers me, since I try to value people and their work for qualities much deeper than prestige, such as their inherent worth, intellectualism, creativity, and social consciousness. To then find that prestige has been imposed, where it does not already exist, as a value relevant to the Legal Aid Bureau and its members, is too much.

Simply, my clinical work at the Legal Aid Bureau and my membership in that organization are not about prestige, and I don't want them to be. It depresses me that Mr. Lee and many law students may think that it should be.

Amanda Maisels '97
February 24, 1997

Calling Clark "A Nazi" is Indecent

Thanks, Fenno writers, for stimulating so much discussion around HLS dinner tables about the First Amendment. The exercise is valuable and welcome, and rumor has it that we may soon be treated to the didactic spectacle of Prof. Dershowitz defending the free speech rights of RECORD editors before the Ad Board, where Prof. Nesson will pursue charges of slander and defamation against them.

Beyond the debate on Fenno's right to nasty speech is, however, the question of Fenno's decency, corny as that may sound. To take one ex-

ample, Fenno last week labeled Dean Clark as "Nazi," and not for the first time. Some terms, within Fenno's right to utter them, would almost certainly be censored by RECORD editors, out of a sense of decency. "Rapist," "slavecatcher," "Injun killer," and rank profanities are probably outside the ambit of acceptable imputations for Fenno to use, even if they are licit speech.

For whatever reason, however, Fenno's drafters and editors find the epithet "Nazi" not only acceptable but also, presumably, humorous. Let me state the obvious: calling the Dean a mass murderer of Jews

is not funny, and it is indecent in a manner beyond mere profanity. At HLS, there are students, professors, and administrators who lost family to Nazi butchers.

I am confident and hopeful that the Ad Board will determine that the editors of the RECORD are under no obligation to censor Fenno's improprieties. At the same time, I would hope that Fenno's editors, already self-monitoring when it comes to some epithets, would be equally mindful of the offensive nature of certain others.

Rob Jancu '98
February 24, 1997

Don't Suffer Fools Gladly

[Re: Sharon Cohn's column entitled "At the End of the Day" (January 17, 1997)]
The First Amendment does

not require America's oldest law school newspaper to suffer fools gladly.

Richard D. Harburg '54
Philadelphia, PA
February 13, 1997

Cohn's Column is "Blatant Religious Proselytizing"

I am writing to object to your publication of Ms. Sharon Cohn's column in the January 17th edition of the RECORD. While I do not denigrate in any way Ms. Cohn's personal religious journey, I find her story of her spiritual odyssey inappropriate for chronicling in the RECORD. Ms. Cohn's religious journey has nothing to do with law or the law school, and its publication is, at best, disquieting to the Jewish community within and with-

out the law school.

The history of Western civilization is stained with the blood of millions whose personal religious practices failed to conform to the "truth" of the "God" that Ms. Cohn has now discovered, while she abandoned her roots and her heritage. I do not doubt the sincerity of her new found faith. I do question the judgment and insensitivity of your Editorial Board in publishing such blatant religious proselytizing. I

do not believe the pages of the RECORD are an appropriate place for attestations of faith. In the future please leave such pronouncements for the pulpits of our churches, synagogues and mosques. At the end of the day, the Harvard Law Record should focus on Harvard Law School and not on one individual's private religious conversion.

Michael S. Dulberg '78
Phoenix, AZ
February 14, 1997

NLRB Chair Advocates Labor Law Reforms

Continued from LABOR, p. 1

over past two years, 70 percent of which have been settled without need for a Board hearing.

Second, administrative law judges (ALJs) may issue bench decisions in which parties do not file briefs. These cases typically turn on "credibility determination[s]." Bench decisions are issued within 72 hours of the hearing, "knock[ing] four to five months out of the administrative process," Gould said.

Third, "speed teams" consisting of staff attorneys identify cases without legal disputes. These cases are put on a "fast track," and 20 percent are determined within two months. Previously, the process took about a year, Gould said.

Fourth, the Board has increasingly used the 10J injunction in "egregious" cases. Gould said the use of 10J injunctions has risen since the 1994-95 Major League Baseball dispute in which the Board issued an injunction against baseball owners for unilaterally changing conditions of employment during the off-season.

All of these time-saving mechanisms are based on the central premise that "the passage of time will ... erode the effectiveness of our remedy," Gould said. He described the unlawfully dismissed employee as the classic example. Even if an employee prevails after years of litigation, "at the end of the day, many of these individuals cannot even be found, let alone compensated," Gould said.

Reforming a "Convolved" Law

Gould often criticized the National Labor Relations Act (NLRA) for containing "convoluted" provisions. "[The law states that] employers and employees must bargain to impasse," Gould said. "What is impasse? ... How is this consistent with real life process?" he asked.

Gould also commented on the Supreme Court's *Yeshiva* decision, in which university professors were deemed "managers" and without protections under the NLRA. Gould called this a "silly result" because employees who wish to meaningfully participate at their workplaces risk losing legal protections.

Gould criticized the heavy litigation that often grinds organizational elections to a standstill. He proposed a rule modeled after the Canadian system of resolving organizational disputes: "Vote first and litigate later."

Gould advocated several federal labor law reforms. He said that federal courts should have the discretion to reject Board appeals in the same way the Supreme Court controls its docket. "The scope of review ought to be more limited ... so that people are discouraged from challenging our decisions in the courts," he said.

Gould also stressed the need for "the Board [to] have more authority in cases of egregious violations." Gould said the Board should have the power to issue

"double damages" and to "impose the contract terms of one party when ... egregious misbehavior has been engaged in." Current labor law forbids the Board from issuing punitive damages or imposing contract terms when one side breaches its duty to bargain in good faith.

While stressing the need for labor law reform, Gould recognized the law's limited impact on working peoples' lives. "I don't know that the law can level the playing field, frankly," he said.

Gould said he anticipated several issues to dominate the debate on labor law reform in the coming months. He spoke about *Novotel v. 52nd St. Hotel*, a case now pending in the Second Circuit in which an employer charged a union with an unfair labor practice for initiating litigation to recover employees' overtime pay. Gould explained, under current law, employer "benefits and threats are prohibited during the course of an organizational campaign." Here, however, the employer complained that the union was illegally conferring a benefit upon employees. Gould said that this argument should fail because providing benefits to employees is "what unions should be [doing]."

Gould also said that the issues of unions using funds for political activity, and the union practice of "salting" (in which a union staff member applies for a job at workplace to organize a union), are pressing issues for the coming months.

Several strikers in attendance from the Detroit Free Press questioned Gould on the issue of striker replacement. Current law forbids employers from firing employees who strike, but allows employers to "permanently replace" strikers. While Gould refused to comment specifically on the dispute, he stated that he would like to see the law changed.

"There's nothing I can do or the Board can do about what the Supreme Court has said [on striker replacement], no matter how wrong they are," Gould said. "The only way to do something about this is to change the law. And only Congress can change the law."

Gould's talk was part of the "Labor and Worklife Forum" sponsored by the Harvard Trade Union Program. The talk was organized by Trade Union Program Director Elaine Bernard and moderated by Prof. Paul Weiler '65. The next speaker in the series is Richard Bensinger, Director of the AFL-CIO Organizing Department.

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B r i e f s

HLS Top Recipient of Seven-Figure Law Firm Gifts

HLS ranks first in receiving seven-figure donations from law firms, according to a list of law firm donations of \$1 million or more.

According to the list, which was recently published in the *National Law Journal*, 10 firms have made about \$15.4 million in such gifts to HLS. The second-ranking law school for seven-figure law firm donations is New York University School of Law, which has received \$6 million.

New York University also received the single largest gift made by a law firm, a \$5 million donation from Wachtell, Lipton.

Kirkland and Ellis was the most generous firm on the list. The firm made gifts of \$1 million or more to six law schools, including HLS.

"This is an attempt to square a debt," Kirkland and Ellis partner Donald G. Kempf '65 was quoted as saying in the *National Law Journal*.

According to the list, the law firms who have donated \$1 million or more to HLS are: Cleary, Gottlieb, Covington and Burling; Cravath; Davis, Polk; Hale and Dorr; Kirkland and Ellis; Ropes and Gray; Shearman and Sterling; Skadden, Arps; and Sullivan and Cromwell.

— from the *National Law Journal*

Book Thief on \$5,000 Bail

A Middlesex County judge ordered Jose Torres, 35, to be held on \$5,000 bail for allegedly stealing \$750,000 of rare books and bookplates from Harvard libraries.

Most of the books were about Middle Eastern and Islamic architecture. Torres allegedly cut out the pages in some of the books before selling them to art dealers in his hometown of Granada, Spain.

Torres has been indicted on 16 charges of theft and malicious destruction of property.

Torres allegedly stole from Harvard's Fine Arts Library, Widener Library, and the Frances Loeb Library of the School of Design.

Torres has no direct University affiliation. He was granted library privileges because his wife was a Harvard graduate student.

— from the *Harvard Crimson*

Haas '72, Former Telemarketer, Runs for St. Louis Mayor

William C. Haas '72, who until recently worked as a telemarketer for a video-dating service, is running for mayor of St. Louis.

Haas is considered a long-shot candidate in the Democratic primary, which will be held on March 4.

Last fall, Haas ran advertisements for a "financially secure wife" who could help finance his mayoral campaign. His efforts apparently went without success.

Haas' current mayoral bid is his third try for office in St. Louis. In 1993 he ran for mayor. In 1992 he finished last in a seven-candidate Democratic primary for circuit attorney. He temporarily dropped out of the circuit attorney race to search for an alleged serial rapist.

Haas' platform includes doubling St. Louis' population in the next 10 years and hiring the current mayor as a member of his staff. He also wants to recruit low-income individuals, including gang members, to clean up vacant housing.

Haas, a Cleveland native, earned his bachelor's degree at Yale in 1966. He moved to St. Louis from Cleveland in 1988.

Haas said that he recently quit his job with the dating service in order to devote more time to his campaign. He is now employed as a law clerk.

— from the *St. Louis Post-Dispatch*

Halogen Floor Lamps Dangerous, College Officials Say

Harvard College officials will discourage incoming freshmen from using halogen floor lamps in their dorm rooms this fall. The decision was prompted by concerns that the lamps present a fire hazard.

A few months ago, a small fire broke out in a Harvard Yard dorm when residents draped clothing over a halogen lamp. The media have also reported on the potential dangers of these lamps.

"We will tell entering students that halogen floor lamps pose a potential fire hazard and that students need to use incandescent or fluorescent lamps in freshman dormitories," Dean of Freshmen Elizabeth Studley Nathans wrote in an e-mail message.

The lamps have already been banned at Yale University.

"I have seen a fire caused by a halogen lamp, and I'm pretty glad they're prohibited," said Yale freshman Barry M. Fine.

— from the *Harvard Crimson*

L E G A L N E W S

Mass Sex Offender Law Faces Early Challenges

By Hal Poret

Massachusetts' newly-enacted, sex offender registry law recently survived its first constitutional challenge but continues to create great controversy as sex offenders are forced to register with the state and face the possibility of the disclosure of their status to their local communities.

The statute, which is designed to address concerns about repeat sex offenders, was signed into law on Aug. 5 and went into effect on Oct. 1 of last year. The Act established a computer registry of information regarding the state's sex offenders, and a three-tiered system whereby registration information — including an offender's name, home and work addresses, personal characteristics, and photograph — could be distributed to the public.

Under the Act, all sex offenders must furnish the police departments where they reside with any information that "may be useful in identifying the sex offender" or "in assessing the risk of the sex offender to reoffend." Upon receiving such information, the police department transmits the registration data to the state's Criminal History Systems Board which forwards the data to "the police departments where the sex offender works and where the offense was committed and to the Federal Bureau of Investigation." Offenders who intend to move must register in person with the police in the new area prior to establishing a new residence, and when offenders want to change jobs, they must notify the police department in writing to establish a new work address.

The Act also authorizes public disclosure of sex offender registration data. It establishes a Sex Offender Registry Board, which determines sex offenders' level of risk of reoffense (level one, two or three in ascending order of dangerousness) and decides how information will be made available to the public. For example, the members of the public could obtain information on offenders by submitting a request accompanied by an affirmation that they are concerned about protecting themselves or children in their care.

Level two and three offenders also face additional public disclosure regulations. For level two offenders, the police department is required to notify organizations in the community which are likely to encounter the offender, including schools, day care centers, religious and youth organizations, and sports leagues, with information such as the offender's name, home and work addresses, the date and nature of the offense, the offender's age, sex, race, age, height, hair and eye color, and any available photograph. Information regarding a level three offender is distributed not only to affected community organizations, but also to "individual members of the public which are likely to encounter the offender."

With the enactment of the law, Massachusetts joined all 49 other states, which have passed similar versions of "Megan's Law," named after a 7-year old New Jersey girl named Megan Kanka. Such sex offender registries have become popular since Kanka's murder in July 1994 at the hands of a twice-convicted sex offender that moved into her neighborhood. Following the murder, Megan's parents engaged in a nationwide campaign for notification laws that would enable parents to protect their children from sex offenders.

While concerned parents feel safer under the protection of such laws, numerous civil libertarian groups believe that such laws should be struck down as unconstitutional. Soon after the law went into effect, a 19 year-old college student, who at the age of 17 pled guilty to four counts of indecent assault and battery on a child, sued, claiming that the registration and community notification provisions of the law constitute "punishment" and, thus, violate several constitutional clauses.

The plaintiff in *Doe v. Weld* entered a plea of guilty after being advised by his attorney that juvenile records were not available for public inspection without judicial consent. However, after the enactment of "Megan's Law," Doe was informed that he was obligated to register as a sex offender and that information regarding his offense was subject to public disclosure under the new law.

In front of Judge Patti Saris '76 of the United States District Court for Massachusetts, Doe argued that the law violates Article I, section 10 of the U.S. Constitution, which provides that "[n]o State shall... pass any... *ex post facto* law." The *ex post facto* clause is implicated when the government seeks to apply retroactively legislation that "inflicts a greater punishment, than the law annexed to the crime, when committed." Doe also claimed that the law implicates the Constitution's prohibition against Bills of Attainder which forbids "[l]egislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a trial." Doe's other main charge was that the statute violates the double jeopardy clause by punishing him twice for the same offense.

The Court rejected Doe's claims, which were all premised on the idea that the register and community notification constitute "punishment," holding that the law is not punitive, but rather regulatory in that it seeks to prevent harm. However, the Court made clear that its analysis only applied to the narrow situation of level one offenders, who face the least harsh effects of public disclosure.

While the law survived this first challenge, it is sure to face numerous others, including a current suit in Worcester Superior Court by a man convicted 10 years ago of kidnapping a child who was in the back seat of a car he stole. The man, only known as John Doe, is seeking a preliminary injunction to stop the government from forcing him to register, claiming that he has no history of sexual interest in children or violent behavior and that the law is too inclusive and covers crimes committed up to 15 years before the law's enactment.

In addition, a Suffolk Superior Court has already ordered the state to make sure that police do not notify neighborhood organizations of sex offender registry information until certain conditions are satisfied.

While libertarians and public safety advocates continue to debate the issues surrounding the law, controversy also surrounds the question of what effect the law is actually having. According to police estimates, as little as half the offenders that are covered by the law are actually registering in some towns. In addition, by late January, nearly four months after the law went into effect, the state had only received approximately 70 calls asking for sex offender information, including only 17 calls in Boston, the state's largest city. However, recent surges in community interest, which has brought the count up to 750 calls across the state, suggest that neighborhood organizations have merely waited for enough offenders to register before inquiring. As more inquiries come pouring in and more offenders are required to register, the local courts should expect to be busy handling many types of claims in the upcoming months.

REASONABLE WOMAN

Not Just Lip Service

By Ramsey Nganani Beck '99
Guest Columnist

In her Feb. 14 column entitled "The 'F' Word," Kristina Hoy writes in reaction to the stereotype of a castrating, man-hater feminist, given such colorful form by Rush Limbaugh's epithet, "femi-Nazi." She asks us to disregard the negative connotations Limbaugh and his like have attached to the concept of feminism. She then repeats their basic message — if you make people feel uncomfortable, you are less than a woman, and somewhat a monster.

Ms. Hoy's analysis focuses on what she terms the "legitimate reasons" for the common fear of feminism. She calls these reasons "pressure from within feminism and pressure from the anti-feminists." As an example of the latter, Ms. Hoy describes "Rude-man," an anti-feminist in her Negotiations Workshop who pressured her by describing her as "difficult" because "she is not afraid to have her name and picture next to the word 'feminist.'" Ms. Hoy then bends over backwards to accommodate him.

Instead of exposing Rude-man, Limbaugh, and company's vitriol as the mean-spirited and divisive attack it is, she legitimizes it. First, she identifies the wrong kind of feminist. This figure conforms neatly to the femi-Nazi stereotype. She is "so serious about the cause that [she] alienate[s] others." She has no sense of humor. Hoy then distances herself from this type, and reassures her readers that they, too,

Unfortunately, women are very uncomfortable with making people, especially men, uncomfortable.

need not offend: to be a feminist, all you have to do is "believe that men and women should have equal opportunities." She then admonishes us to "feel proud of that belief, and exercise it in whatever manner in which [we] feel comfortable" to "encourage a more equitable society with equal opportunities."

There is nothing difficult about this. No one should feel threatened by such a modest proposal — except feminists. If the founding fathers had stopped at "we hold these truths to be self-evident that all men are created equal," democracy in the U.S. would have met a swift demise. Instead it is protected at great effort and expense by elaborate rules and enforcement mechanisms, designed to help the abstract principle reach its embodiment. It is obvious to most that democracy would wither without active support, but some of us believe that equality of the sexes is so hardy that it can survive on little more than an incantation. Our fore-feminists were more astute than this. They demanded structural and active support for equality. One of their successes was a sensible plan which benefited everyone. It was called affirmative action. It and other feminist achievements are being attacked and hobbled everywhere, yet feminists are asked to feel comfortable.

Social transformation toward equity is a painful process which requires changes in societal structure and in the ways in which people behave. Where people behave in ways that support inequality, the process requires that they be persuaded to change their behavior. Where they refuse to be persuaded, their cooperation must be demanded. Any demand makes people uncomfortable. Unfortunately, women are very uncomfortable with making people, especially men, uncomfortable. We don't feel it is feminine or natural. We are thus especially vulnerable to accusations that we are demanding too much. Femi-Nazism is so broadly defined that it leaves only the narrowest space in which one can avoid the insult, and that space will only accommodate the passivity Hoy prescribes. For instance, Hoy herself points out that all she had to do to become a target was appear next to the word feminism. It is not the term feminism that makes us shiver like Disney's cowardly hyenas, it is the fear of being labeled femi-Nazis, and this fear has almost paralyzed us.

I am not a faithful listener to Rush Limbaugh's selfish, paranoid ramblings, but I'll speculate that he, too, would pay lip-service to the principle of equality. I can say with certainty, though, that he is no feminist. Many real feminists have sacrificed their comfort by taking action for our benefit. All of them are the targets of Limbaughesque venom. Many have withstood hurtful ridicule and isolation, and on top of that have been told to prove their femininity by laughing at their own oppression. When these women get up and vocally defend the rights of all women, the least those of us who stay at home in comfort can do is defend them against the likes of Rush Limbaugh.

SPORTSGUY

Chupacabras Upset No. 4
Flagrante DelictoBy Todd Stillerman '97
Sports Editor

Bouquets and brickbats from your friendly neighborhood SPORTSGUY

Chupa-rific! *Flagrante Delicto* failed to protect its #4 SPORTSGUY ranking, dropping a heartbreaker to Chupacabras, 40-38. After a Matt "King" Hong '97 free throw gave the Chupas a six point lead with under one minute to play, *Flagrante* rallied behind a Chris "Groovy Kind Of" Lovrein '98 power lay-up and a Ryan Scarborough '98 three point play to draw within one. Chupas forward Shahzad Bhatti "Double" '97 converted one of two free throws for the final margin, and a Scarborough three-footer rimmed out at the buzzer. Team captain Art "Appreciation" Carrillo '97 lauded his team's efforts: "Chupacabras are legendary, enigmatic wild beasts that pounce on their less-crafty enemies under the guise of darkness. With fierce claws and cat-like quickness, they rip their prey to shreds with a relentless tenacity. It'd be a real stretch to compare Rick Perez '97 and Sean Johnson '97 to cat-quick predators, but I'm proud of their efforts." *Flagrante* captain Matt "BSA is A-OK" Stennes was reflective in defeat: "It took us a few games to gel as a team last year, too. We'll be there when it counts." *Flagrante* is 2-1 thanks to a Friday dismissal of Hotel Gropius, 43-22. Chupacabras also nipped Short Guys 36-30 on Friday to claim a share of third place in the Langdell Division. The Short Guys (1-2) are tied for fifth with Bye, who downed the winless Ice Weasels by a 39-31 score despite playing the entire game with just four players.

Whole-Hog Goodness Continuing to dominate all comers is Sweathogs III: Ladies Last Chance For Some Hog (2-0). The fifth-ranked Hogs dispatched the #9 Thirsty Scholars 72-52 behind the sweet stroke of Mike "Malibu" Beach '97, who nailed his first six jumpers from behind the three-point arc. The win was especially gratifying for Beach, who endured a steady stream of trash-talk from Scholars player-coach Chad "To The Bone" Ho '97 during Friday's pick-up ball. "Despite Chad's smack-talking and the fact that nearly all of his team's offensive production came from a hired goon, I was pleased that we could squeak out a 20 point nail-biter," said the shy, retiring Hogs captain. Off-season acquisition Doug "Hands of Stone, Feet Of" Clayton '98 was a monster on the offensive boards, and Dan Phelan '97 provided the defensive spark for the Hogs. Adding a half-dozen steals was Hogs guard David "The Answer" Markus, the self-dubbed Allen Iverson of the intramural leagues. Dubious Great Danes quote machine Pat "Spaghetti" O'Reilly '97 took issue with Markus' self-adulation, commenting that the Hogs speedster was indeed "good for a 6-for-19 night. But I think he's really the Charles Smith of the B-League," referring to the former Knicks forward with a penchant for piling up mammoth stats against inferior competition. Next week's game to watch: the Hogs put it on the line against *Flagrante Delicto*.

Insane in the Dane The two-time defending B-League champion Great Danes (3-0) surged to the top of the Austin Division with wins over Soulbucket and the Tarnished Rotunda. The Danes survived a spirited effort by Soulbucket (0-1), led by the three-point shooting team captain Dave Rothenberg '98. The Danes pulled away behind the soft touch of Steve "The Great Explainer" Kelly '97 to win 56-34. The Rotunda (1-1) provided a stiff challenge due largely to the relentless drives of Pat Rodriguez '97. Only the polished free throw shooting of O'Reilly (who hit eleven from the charity stripe) and the inside defense of new Dane Rob "Pinky And The" Brainan '96 allowed the champs to survive 47-34. "My shot was a little off," noted Danes bombardier Andy "B-52" Kincheloe, "but the only way to get through a slump is to keep shooting. I just wish Pat would let me have the ball a little more." The Danes continue their "three-peat" quest next week against the Sacrificial Lambs.

Around the Austin Division Team captain Alan "French and Indian" Warfield '98 has his explosive Unabomber squad running at full speed, as evidenced by this week's whipping of Team Kankos, 50-31. The undefeated Unabombers held ace marksman Darren "Time Out" Mungerson '98 to one three-pointer, pulling to within a half-game of the Danes. The Stormin' Mormons (2-1) rebounded from last week's loss to down the winless Arthritic Dogs, 42-30. In Friday night action, the Rotunda held off a determined Bob Melsons squad, 38-29.

Keeping It In the Family Team captain "Super" Mario Fallone '99 and his upstart Godfathers of Dunk took a giant step toward respectability when they creamed heavily-favored Box-and-One, 62-45. Box captain T.J. Hall praised Fallone's shooting touch: "He probably scored thirty, mostly on fade-away jumpers with a man in his face. These guys are for real." The Godfathers (3-0) were unavailable for comment and referred all media requests to their *consigliere*, Tom Hayden. An unnamed source close to the team says Fallone's silence can be traced to rumors that his brother Fredo was in on the plot to kill Sonny. Details to follow.

The B-Leagured Gropius Division The Flaming Rats (2-0) stayed a half-game behind the Godfathers by trouncing the Happy Couples (0-2), 49-30. Tied with Box-and-One for third at 2-1 are the B-Sharps, who routed the winless Happy Coolyances, 55-41. Hanging tough in fifth at 1-1 are the Grizzlers, the Harvard Law Review's entry. Despite a near-libelous tongue-lashing by the SPORTSGUY two weeks ago, the dribbling nerds managed a 50-31 rout of Capital Offense. Apparently the Grizzlers managed to shoot a few baskets in between line edits.

C is For Coming On Strong Perhaps the most exciting team this year is C-League sensation C Is For Competitive, now 2-1 after a close win over We Need Jordan, 36-29. C features five dynamic female stars and four male team members who are, according to league commissioner "What's My" Naim Bulbulia '98, "not as good as the women." While the SPORTSGUY has no intention of touching that comment, this team is a joy to behold. Check them out next Saturday on the hallowed hardwood of Hemenway Gymnasium. In other C-League action, Show Me The Money kept it real by swatting Fooling Ourselves, 34-25.

SPORTSGUY
INTRAMURAL TOP TEN

(last week's ranking in parentheses)

- | | | |
|-----|---------------------------------------|-----|
| 1. | Black Plague (1) | 3-0 |
| 2. | Rainmakers (2) | 2-0 |
| 3. | Lil' Penny's Nightmare (3) | 2-0 |
| 4. | Sweathogs III: Ladies Last Chance (5) | 2-0 |
| 5. | Alphabet Soup (6) | 1-2 |
| 6. | Great Danes (7) | 3-0 |
| 7. | Godfathers of Dunk (8) | 3-0 |
| 8. | The Killing Zone (10) | 2-0 |
| 9. | Flaming Rats (NR) | 2-0 |
| 10. | Swingers (NR) | 2-0 |

LIVING TO EAT

It May Not Be Legal But It Sure Has Flavor

By Judson Berkey '98

RECORD Columnist



Seafood is king in Boston and the reigning champ, of course, is the Legal Sea Foods chain. However, there are plenty of great seafood restaurants around which provide a nice contrast to the establishment feel of Legal. Case in point: the traditional fare at the Kendall Square Legal vs. the funky flavorful fish dished out at the East Coast Grill in Inman Square. The differences between the two restaurants, both in terms of food and decor, make for a striking dynamic. Ultimately though, a common excellence at achieving unique objectives bridges their dissimilarities.

East Coast Grill was conceived in the mid-1980s as primarily a barbecue joint. While fish was always included on the menu, only founding chef Chris Schlesinger's return fueled the restaurant's reincarnation into star peddler of

The fish was ringed by a flashy row of roasted plum tomatoes, soaked in a flavorful fish broth, and served with a dollop of spicy olive salsa.

fish and seafood. And by combining the strong flavors steeped from the grill with fresh seafood, a fine peddler it is.

The predominantly seafood appetizers at the Grill include buttermilk fried oysters with cool mango and crisp bacon on a bed of nutty arugula (\$7.50) and a spicy West Indian lobster broth with chunky steamed fish and smooth fried plantains (\$5.00). The exciting divergences of these starters from Legal's wonderfully straightforward butter and garlic topped mussels au gratin (\$5.95) and classic creamy clam chowder (\$3.95) provide a hint of the differences to follow.

The main course fish dishes at the Grill (\$17-20) change daily and are written by hand on chalkboards located around the restaurant. Electric blue wooden chairs and tables sit in tight packs next to modern art lamps producing bursts of green and orange light, and an open kitchen features a flaming spit. Fitting with the bright, bold decor of the space, (which contrasts greatly with the stately wood paneled booths, large pottery planters, and airy spacing of Legal) the Grill's dishes are based on strong and unusual flavors often doused with Latin and Asian accents.

A dish of pan-seared, herb-rubbed cod fillets came piled on top of crunchy roasted red potato quarters. The fish was ringed by a flashy row of roasted plum tomatoes, soaked in a flavorful fish broth, and served with a dollop of spicy olive salsa. The flavors were pungent but light and mixed beautifully in the mouth. In fact, East Coast Grill has an impressive, subtle way with unusual and strong flavors (for example, pickled ginger and wasabi on grilled white pepper crusted tuna) to produce dishes with distinction that don't overwhelm the palate.

Another happy habit of the Grill is to serve enormous portions. Take the main course offering of two giant slabs of skatefish rested on a bed of seared greens. On one side of the skate lay a spicy mound of smooth mashed butternut squash which was keenly balanced on the other by crisp, sweet, fried red apple rings. The skate was topped off with a spot of cool maple walnut butter. The mix of hot and cool, sweet and spice, and the general harvest of flavors mixed wonderfully. The dish's one drawback was a rubbery segment of skate. But given the size of the portion, it was a minimal complaint.

However, this minor mishap does illustrate one of the principal differences between ECG and Legal. The latter's emphasis on simply but perfectly prepared fish, plainly presented, would never allow such a slip. At Legal, a Lemon Sole filet (\$14.95) poached and served in a light butter sauce was lean and flaky with the perfect hint of sweetness. The grilled bluefish (\$11.95) was dense and gamy and perfectly complemented by a mild mustard sauce.

The sides at Legal and ECG further showcase the disparities between the two. Legal's main courses come with a choice of the classic baked potato, rice pilaf, or fries. They also experiment with a great vegetable slaw in a tangy citrus vinaigrette and what it calls onion strings (onion rings snipped in half to make a string and then lightly fried to a nice crispness). The Grill, on the other hand, offers a la carte sides (\$1.95-\$2.95) of mashed sweet potatoes, a tart pickled mix of carrots, cucumbers, peppers, and watermelon rind, fried plantains with banana-guava ketchup, and kitchen-appointed "damn good fries."

There may be little room for dessert (\$5.00) at the Grill, but it is still a must. The swirl of flavors closing the meal demands it. The two best offerings were a rich key lime pie topped with several raspberries wearing mint hats and a very tart guava-caramel custard accompanied by fried bananas. While there is also an offering for the truly indulgent — two cookies sandwiched around several large scoops of ice cream from Christina's (the mother parlor of Scoops and Beans in the Square) next door — the acidic fruit desserts seem to work best. At Legal, the sweet and fluffy cheesecake and lemon sorbet always make simple and delicious finishes to the meal.

The wine lists at both restaurants follow a similar pattern. Legal offers a nice standard selection, including a very smooth Pinot Gris and Sauvignon Blanc by the glass (\$5-\$7). East Coast Grill ranges a little further in both varietals and regions. They offer a very nice Chenin Blanc (\$5.95) by the glass that was a good match for the spice of the main courses and some Spanish wines by the bottle. Both restaurants offer wines in a variety of price ranges (\$20-\$40). The Grill also allows you to bring your own bottle but charges a somewhat steep \$15 corkage fee.

Legal Sea Foods or East Coast Grill, white shoes or dancing shoes, opera or rock — it depends on your mood and your dining companions — but either way you can't go wrong.

Farewell Elizabeth Moreno, I Only Wish I Had A Chance to Meet You

By Carlos Manuel Santana '98

Guest Columnist



My Dear Elizabeth:

I just heard the news of your untimely death. I never had the plea sure to meet you, but in a way it seems that I have known you for a long time. This letter is my way of saying hello and good bye to you all at once. But first, please allow me to tell you an old story.

A long time ago, perhaps as long as 25 years, when I was a little child living in Cuba, I knew a girl who used to walk by my house. I don't recall her name. She was taller and older than I, but at that time, almost everyone seemed to be so. She used to walk by and say hello. Sometimes her lips uttered the words; sometimes it was her smile that brightened my day; sometimes it was the sparkle in her eyes that greeted me. I only knew that she lived around, she had an older sister, and they were both beautiful. How old was this mystery girl ... 13, perhaps 14? I am ashamed to admit that I forgot. But I still remember it as if it were yesterday, her quick, self-assured steps: more than disturbing the dust, caressing the pavement on her way home.

One day, my mother told me the news. The mystery girl had committed suicide. The facts were too simple to be real. Her boyfriend broke up with her, and she saw no other solution but to kill herself. She first tried jumping in front of a passing car. The driver, a neighbor, stopped right on the spot and took her to her house. Later that day, while she was unsupervised, she doused herself with alcohol and set herself on fire. She died at the hospital the following day.

My young mind spun wildly after her death. How could a girl so young have ended her life so tragically? Why didn't she see that there is always a solution, albeit sometimes an imperfect one, for each and every one of our problems? How could that beautiful girl, who carried the sun of the tropics on her tanned skin, the freshness of the waters of the Caribbean Sea in her innocent smile, and the sparkle of a million stars in her dark eyes in the frame of her raven hair, have disappeared from my young universe so suddenly and so tragically?

Many times I thought about her. How I wished I were older at the time. Perhaps I could have had the opportunity to actually talk to her, at least just once. I could have told her how pretty I thought she was, and that any man in his right mind would have been honored to be her friend, to talk to her, and to date her. If I had done so, I might have saved her. If I had been the driver of the car, I could have talked to her, I could have understood her problem; I could have saved her. But I was too young — not even a teenager yet — I was not meant to be an actor then. I was only a spectator watching, in horror, a modern Greek tragedy unfold before my eyes.

Hello Elizabeth Moreno, it is my pleasure to meet you. I know that I am late, too late indeed to shake your hand or to give you a peck on the cheek. I hope you understand and forgive my lateness. I did not know of your existence in this universe until I found out that you were gone. It was not my fault I tell you. I tried to come to America in 1980 together with the many Cuban immigrants that came in the Mariel boat flotilla. I was not able to make it at the time. I came to this country in 1985 and it took me eight years to get my green card. This is why I had no money to cover my

I would have listened to you.

tuition, and I had to pay my way through college. This is also why I had to wait two years after I graduated before coming to Harvard Law School. If things had been different, I could have been here earlier. I could have met you, Elizabeth, Oh God, I wish I had.

Moreno was your last name. Did you speak Spanish? Will anyone tell me? If you did, I could have told you many jokes I know that could never be translated into English. I am sure I would have met you at one of the Alianza parties. Can you imagine? How much fun we would have had!

Your article, "Sex and the Single One-L: A Contradiction" made me laugh. Yes, you are right, the people who study at Harvard are sexually repressed. I honestly believe that the sexuality at this place is akin to the quality of our gym facilities. The sexuality at this place is indeed like the gym facilities: out of date, unappealing, and/or simply inadequate. The truth is we don't even have one of our own!

But my dear Elizabeth, I am writing to you for reasons that go way beyond sexual inadequacy at HLS. I just heard the news of the pain that was thrust upon you during your all too brief life. Although I tasted but the tip of the iceberg of your misery, it overwhelmed me. It seems that men were the main reason behind your pain. I am a man and therefore want to apologize to you. Please believe me. We are not all like that. I wish I had the chance to share a part of my life with you. I would have offered my shoulder to you when you felt the need to cry your eyes out and curse at every man that ever crossed your path. I would have listened to you. I would have held you in a tight embrace. I would have reassured you that everything was going to be O.K. But it was not O.K., and in the end, you were like a beautiful flower that withers away and dies alone because it misses a companion to hold on to.

I will remember you for as long as I live: not for your LSAT scores, nor your high grades at HLS, nor your well-paid job which helped push you permanently out of this world. I could care less about the trophies and honors that they bestowed upon you. I believe that, in the end, you did not care for them either. I care for your article. It gave me a glimpse of your beautiful sense of humor and your sensitivity. I care for your photo with your carefree smile. It reminded so much of the dark side of life we keep only for ourselves. I have shed some tears for you. Oh how very sorry I am for your pain.

I have to bid you farewell now. Even better, I wish to say *au revoir*. I hope we meet again. In the meanwhile, I'll light a candle for you and I'll say a brief prayer. Until we meet again, may The Lord have mercy on your soul. To you and to each and every Elizabeth out there who may be listening I just want to say: please forgive me ... I Love You.

Nesson's Going Too Far

By Judd Serotta '97
RECORD Columnist



Most of the RECORD's readers probably took great interest in Prof. Charles Nesson's letter published in last week's issue. In the letter, Prof. Nesson took the extraordinary step of publicly announcing his intention to file a complaint with the Administrative Board against three members of the RECORD's editorial board. He was extremely hurt by a previous edition of Fenno, which jokingly suggested that he is a drug addict who sleeps with his students.

I certainly have no desire to defend Fenno. Whoever Fenno is (and (s)he seems bent on tantalizing anonymity), I find his columns unfunny and frequently tasteless. Past Fennos have realized that it is possible to be anonymously amusing without offending nearly everyone he mentions by name. Certainly Fenno has crossed the line from humor into bad taste on many occasions, at least in my opinion.

Nonetheless, I was surprised by Prof. Nesson's strong reaction to Fenno's column. And I am sure that I am not alone. (Please note: I am currently a student in Nesson's Evidence class, and I am counting on Harvard's anonymous grading and Prof. Nesson's open-mindedness in making these statements.) Prof. Nesson has deliberately cultivated a flamboyant image at Harvard Law School. That proposition is, I feel quite confident in saying, unarguable.

Indeed, although I was not there, in a well-known incident of two years ago, Nesson suddenly revealed to an entire section of 1Ls "I smoke pot. And I inhale!" At least, that is what was recounted to me by several students in the section. (Prof. Nesson just taught me, however, that such a statement on my part is inadmissible hearsay, but . . .) In fact, I am quite certain that I am not the only Harvard Law student who was greeted on campus as a 1L with the rumor that Prof. Nesson was a recovering drug addict. I learned quickly not to believe rumors about *any* professor here, but they usually do not get started about professors who are more low-key.

Nesson also is well-known for his unchanging wardrobe, which he must know has grabbed the attention of a good portion of the student body. In short, it was from the beginning my belief, and I feel it is a reasonable one, that Prof. Nesson enjoyed being thought of as "a little kooky" by his students. That is certainly not to degrade his effectiveness as a teacher or a scholar; it is merely an observation about his public persona. But one need only have witnessed the law school parody of two years ago (where he was portrayed as Prof. Necker Cube) to get that impression.

Against that backdrop it is especially surprising that Prof. Nesson took Fenno's parody so seriously. I do not wish to minimize his heartfelt assertion that Fenno's "slanders hurt me, my family, my relationship with women students, my relationship with all students." These are perfectly reasonable sentiments, but they do surprise because, I suppose, we all — rightly or wrongly — expect that the person who invites jokes will have a thick skin when they arrive. Fenno's portrayal of Nesson probably would have had a similarly painful effect on most any target, and I suspect that in retrospect that never occurred to him because of Nesson's image. But my purpose here is not, as I said, to defend Fenno or his "slanders."

In any case, Prof. Nesson's self-cultivated reputation is merely the "gossipy" part of a more serious story. A professor at Harvard Law School, he has used his right to bring formal charges to the Administrative Board. Since Fenno is anonymous, he has targeted those who "have editorial responsibility for publishing the series," the editorial board of the RECORD. And should the Administrative Board accede to Nesson's proposed "reprimand," those students will have a permanent mark on their records here at the Law School. I have to believe there are more constructive ways to deal with the situation than damaging the potential careers of those who have served the Law School community by pouring hours of labor into one of the best law school newspapers in the country.

Understandably, Prof. Nesson wishes to be publicly vindicated. And, truthfully, who can blame him? Though I, and many others, are surprised by his reaction, he has not "waived" his right to avoid such callous abuse. However, there are countless other ways that "this issue . . . can be resolved." It is unfortunate that a Harvard Law School professor, a celebrity in his own community and outside as well, should elect to permanently damage those who merely made the decision to publish Fenno, which has been a continuing series in the RECORD for decades. Perhaps those students can be faulted for a lapse of judgment, but as the former editor of a college newspaper I know that these things are bound to happen. Had Fenno made the same mockery of a less celebrated professor, it might have been more likely to raise a red flag in the minds of the editors (and, as I argued above, Fenno himself). But can't the damage done to Prof. Nesson be assuaged by a public apology from those editors and, assuming it is possible to acquire, from Fenno himself? Given Nesson's own very notable and very strong response to Fenno, these public apologies, one has to believe, would rectify the damage caused every bit as effectively as Administrative Board sanctions.

One final consideration should also be made. And I would like to note that, although my columns are published frequently in the RECORD, I have not had a substantive conversation with any member of the editorial board about this issue. I am concerned that Administrative Board actions would have a "chilling" effect on the RECORD in the future. Fenno's parodies can be funny, and there is no clear line where his humor will begin to offend, so undoubtedly the column (although not living up to its potential currently) would be damaged. Also, the RECORD has a general policy of printing whatever is submitted to it by members of the Law School community, and I fear that sanctioning its editors will discourage future generations of Harvard Law students from assuming positions of responsibility on the paper. That would truly be a shame. As merely a concerned member of the Harvard Law School community, I would far prefer that Prof. Nesson and the editors reach an "out of court" settlement which would publicly acknowledge (even beyond the statement Nesson has himself made) that he is not a "cocaine addict," and he does not "sleep with his students." As the victim of Fenno's bad taste, it is understandable that he might be out for blood, but hopefully cooler heads can prevail, and the interests of the entire Law School community can be settled in a less confrontational and threatening manner.

Students Encounter Resistance to Winter Term Course Initiative

Continued from SALDF, p. 1

winter of 1998. There are many more openings for 1999."

Similarly, Sander replied, "I want to say that it's never impossible [that the course could be added, but] it's very late in the cycle. The registrar is currently putting together a preliminary catalog that students will receive in March for next year's course schedule." Normally, all decisions on Winter term offerings are made in the fall of the preceding school year, he said.

The Curriculum Committee will discuss the proposal "sometime this spring" and most likely "won't come to any conclusions until next fall," said Sander.

SALDF's Proposal

SALDF, an eighteen-month old animal rights group at HLS, would like to see a general animal law course that combines "a jurisprudential assessment of the current status of animals in American law, consideration of alternative legal frameworks, and discussion of some of the practical dilemmas faced by practitioners working within the present framework," according to its letter.

After approaching Rakoff, the group had to demonstrate that there was sufficient student interest in the course, said Hoffman. The group proceeded to gather signatures in two of the 1L sections.

"We now have 50 signatures of people who said they were strongly interested and that this would be one of their top choices for a winter course — and we haven't even talked to the other two sections yet," she said.

SALDF also came up with a course proposal, a list of potential professors for the class, and a sample bibliography. The group invited the leading scholar in the field, Prof. Gary Francione of Rutgers School of Law, to speak on campus Wednesday, and invited the members of the Curriculum and Legal Edu-

cation committees to attend, said Hoffman.

According to Sander, "They've done some useful work showing how such a course may be a useful addition to the curriculum."

Rakoff agreed, commenting that the students made "a well-presented case" for the course. However, he noted that the course might not be offered next winter because his committee wants to "balance funding between that semester and other semesters." HLS has already committed to certain professors and courses for next winter, and to add another course would be to overcommit monetary resources, he said.

SALDF Increases Activism

The campaign for an animal law course is only one of a number of activities being pursued by SALDF, according to the organization's founder, Michelle Lerner '97. The group also staged a campaign for the November ballot initiative to ban cruel animal traps, and is currently working on a resource guide for students and practitioners interested in animal rights in the law, she said.

In addition, SALDF brings speakers to campus to discuss animal rights issues. In addition to Francione, the group is sponsoring a lecture in March on the issue of standing to sue in animal rights cases, Lerner said. SALDF sponsors these lectures to promote discourse on animal rights, and to show "it is a viable subject for academic legal study," she said.

Although the group has so far gotten negative indications regarding the possibility of getting a course for next winter, they are not giving up yet. They hope that with enough student support, they can convince the administration that the course can and should be offered in 1998. According to Co-Chair Ted Sichelman '99, "We're going to go out and get more signatures, and keep contacting the administration."

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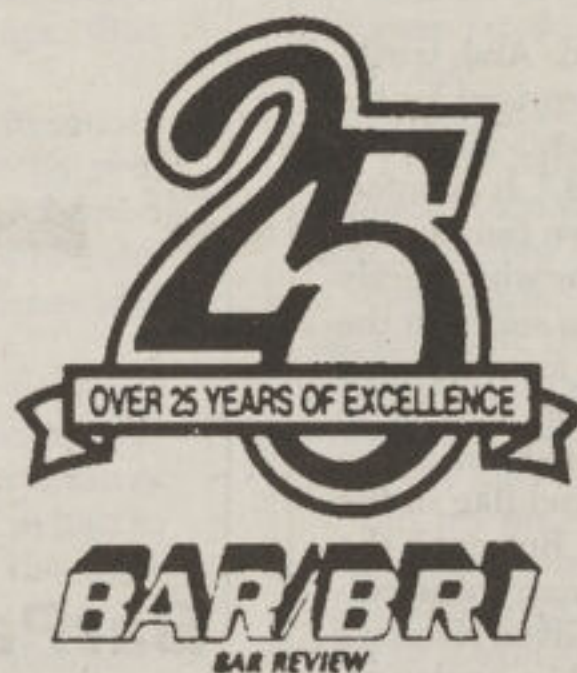
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