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Students Push for More Public Interest Funding

By Holly Handler

About 50 students converged in Pound on Monday night to discuss the state of public interest at HLS. Led by Amy McManus '98 and Christy Ochoa '98, the mostly-1L participants vented their frustration with the administration and debated what tangible steps should be taken in order to build a stronger public interest program.

Much of the discussion, which students characterized as an initial meeting

to get student concerns on the table, focused on summer public interest funding and the Financial Aid Office's Low Income Protection Plan.

"The Law School should really guarantee all students summer funding," said Matt Freedman '99 after the meeting.

"There are a lot of people left on the waiting list." At present, 175 names remain on the summer funding waiting list. In the past, however, everyone who re-

quested funding was granted. "We have made a mistake

Please see **FUNDING**, p. 4



Amy McManus '98



Christiana Ochoa '98

Yale Law School Beats Harvard Again in U.S. News Rankings *Mistake Switches Stanford and Chicago*

By Jacob M. Appel

The U.S. News & World Report released its revised 1997 ranking of America's top law schools Wednesday and once again Harvard Law School ranks second behind Yale.

U.S. News announced Wednesday that the original rankings, which hit newsstands Monday, contained a miscalculation and recalled copies of the "1997 America's Best Graduate Schools" guidebook still on newsstands. The error occurred when data points quantifying the number of unemployed graduates seeking employment were interchanged with the points of unemployed graduates not seeking employment.

"We have made a mistake

and we apologize for the inconvenience this has caused readers and the law schools involved," said U.S. News President and Publisher Tom Evans during a teleconference announcing the recall on Wednesday.

Among the top ten law schools, the rankings of four schools were affected. Stanford University, which was initially ranked fourth, switched places with the University of Chicago, which fell from third place. The University of Virginia, originally in ninth place, swapped positions with the University of California at Berkeley, earlier ranked eighth.

The miscalculation did not affect Harvard's place in the rankings but did cause the School's employment rate to fall from 99 percent to 97.

Negotiations Program Ranked First

Bright spots in this year's rankings included a second-place finish behind New York University in the field of international law and a number one ranking in the new category of dispute resolution.

"While one should not exaggerate the importance of U.S. News & World Report Rankings, it's a delight to be considered number one," said Prof. Robert Mnookin '68, a dispute resolution specialist and director of the Program on Negotiation.

"Harvard Law School devotes considerable resources to negotiations, mediation and dispute resolution. ... One of my own aspirations for the program on negotiations here at Harvard is to develop the next generation of scholars and teachers who will view the field of dispute resolution broadly... Any student interested in negotiations, mediation or dispute resolution would be absolutely right in choosing Harvard."

Please see **US NEWS**, p. 3



Seventeen Percent of Class of 1991 Choose Public Interest

By Eddie Grauman

A quick glance at the career paths of the Class of 1991 shows that more HLS graduates eventually pursue public interest law than initially do upon graduation.

According to Stacy DeBroff of the Office of Public Interest Advising, about 17 percent of that class is currently in public interest, as opposed to only 11 percent at graduation. However, DeBroff noted that this was only a preliminary glance at one year's class, and called on the administration to undertake a

more comprehensive study of alumni career paths.

"This study confirms what we know anecdotally — namely, that the market between public and private sector work is fluid, and that many people transition into public interest a few years out of law school," said DeBroff.

DeBroff did the study in order to debunk the myth that students are forever committed to either private or public sector law depending on their graduation plans. "Most people who want to do public interest but choose firms upon graduation do so because they feel financially

locked in. It feels incredibly validating to see how many of them come into their own," she said.

DeBroff also noted that the study affirms the view that students need to take a long-term conception of their careers. "The public/private dichotomy is really a false one," she said. "It's more like a revolving door."

OPIA's Public Interest Job Search Guide defines public interest work as "public-service oriented work, on behalf of individuals and causes not often served by the for-profit bar,

Please see **OPIA**, p. 4

Faculty Committee Considers Changes to Grading System

By Timothy Kiefer

Two members of the faculty's Legal Education Committee are researching other law schools' grading policies in order to consider possible changes to HLS' grading system. The informal study, which is in its initial stages, will be conducted by Asst. Profs. Jon Hanson and Scott Brewer.

Both Hanson and Brewer are graduates of Yale Law School which uses a grading system significantly different from Harvard's. At Yale, the first semester is entirely pass-fail. For the remaining semesters, students are given grades of

"Credit," "Honors," "Pass," "Low Pass," and "Failure." There is no grading curve and individual class rank is not computed.

"I very much like the Yale system," Hanson said. "But I'm not necessarily in favor of it for Harvard."

Hanson emphasized that no definite changes are being considered.

"I will be calling various law schools to find out from each of them their grading policies so that we can, as a committee, perhaps this year begin thinking about what are the menu of options that Harvard might consider if it considers changing its

Please see **GRADING**, p. 5



Prof. Jon Hanson

Students, Administrators Debate Quality of Life at Law School

Rakoff Attributes Low Marks to High Expectations

By Seth Persily

For the fourth year in a row, a Princeton Review survey ranked Harvard Law School dead last for "quality of life." The study, which involved 11,000 students from 170 ABA-accredited law schools, factored three criteria to arrive at a quality-of-life index: "the degree of competitiveness among students, the 'sense of community' among students, and the quality of relations between students and faculty."

While students had mixed feelings towards the study, many expressed a wide variety of complaints with the Law School which they feel contribute to student dissatisfaction. Two criticisms

which seem to play prominently on the minds of students were administrative responsiveness and minority representation.

According to the Review, "Topping the list of student complaints was the Harvard Law School administration, often described as inflexible and uncaring."

Trent Taylor '98, a member of the Law School Council, felt that resentment towards the administration is partially the fault of the administration and partially the fault of the student body. Citing what he called a "vicious circle," he explained that "The student body is not organized in a way that can put pressure on the administration to change things. The lack of a strong student community leads to an administration which is not responsive to the student body, and the fact that the ad-

ministration is not responsive leads the community to not organize because it's seen as pointless."

However, Jon-Peter Kelly '97 defended the administration. "Harvard students like to bitch and moan more than the average law student. I think [the administration is] uncaring and unresponsive but that's what I expected. So what? No one's going to hold your hand through this place."

Students also complained about the School's lack of diversity.

"Obviously I would like to see a woman of color on the faculty and am unpersuaded by the administration's position that there are few qualified women of color across the

Please see **PRINCETON**, p. 5

50 Years Ago in the RECORD

The Harvard Law School Record

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STRIKERS, CAPITAL BLAMED

Forum Speakers Give Two-sided Picture of Industrial Strife

A wide divergence of opinion marked the addresses of Leo Wolman and Clinton S. Golden at the opening session of the spring term of the Law School Forum.

Mr. Wolman, professor of labor relations at Columbia University, last Friday night contended that the principal cause of strikes was directly traceable to the ambitions of union leaders and their desire for a strategic and tactical advantage over management at all times. On the other hand, Mr. Golden, counsel for the United Steelworkers, indicated that the reasons for strikes were deeply rooted in the psychology of the employees, and that their attitudes were a direct result of the attempt of management to forestall the organization of workers.

Mr. Elton Mayo, moderator of the meeting, cautioned the audience to realize that the whole field of industrial strife and the attitude of men toward the work they do is a comparatively new study, a factor which as yet precludes a definitive answer to the problem.

While deploring the fact that available statistics on the reasons for strikes were both qualitatively and quantitatively inadequate, Mr. Wolman contended that the one thing they did prove was that strikes were not a spontaneous outgrowth of our economic system. If they were natural phenomena, they would take place during the times of prosperity, since in these times strikes would do more damage to the employer and more radically curtail profits; also, the labor market would be tighter during good times. Except for the prosperous decade of the 1920's, when there were only 700 strikes, this has been true in this country, according to Mr. Wolman. However, at that time only 10 per cent of the workers were affiliated with labor unions.

From 1934 up to the present time the number of strikes has increased considerably, and a great many of them have been organizational strikes. Pointing to the strikes of 1946, Mr. Wolman stated that they were different from the types of strikes that took place before 1930 in that they affected every industry in the nation, they shut down whole industries, and they were manifested in entirely new areas such as public utility and government work. Previously in our history, strikes had affected only a few industries such as coal mining, garment making, and railroad, with certain infrequent exceptions. This changed character of the timing and results of strikes, Mr. Wolman attributes to the new powers given to union leaders and their immunity under law. He suggested as the best possible remedy the putting of the risks formerly involved in striking, but since removed by the Wagner Act, back on the workers.

According to Mr. Golden, strikes have come about by the result of historical, psychological, and economic factors. He stated that the natural gregariousness of men has caused them to become members of labor organizations, and historically the attempt of employers to preempt this right an attempt which long met with favorable public opinion, has been the ground for many labor disputes. He quoted a recent speech of Mr. Luckman of Lever Bros. in Chicago, in which speech Mr. Luckman placed the blame for strikes squarely on employers who were opposed to any new measure that offered security.

The psychology of the master-servant relations, embodied in our laws and ways (Continued on page three)

YEARBOOK SUBSCRIPTIONS EXTENDED

The deadline for subscriptions to the 1947 edition of the Harvard Law School Yearbook has been extended by the Committee to March 14.

Those who wish to place an order for the volume can do so at the Yearbook offices in Gannett House. Those who have subscribed but have not paid should do so before March 14, or make arrangements for credit.

The date promised for delivery of the book from the printers is May 15.



Hemmaway Gymnasium, long occupied by the Navy as an experimental laboratory, has finally opened its doors. Not all facilities are available but will be shortly. See story below.

Hocking Delivers First In Series Of Lectures On Legal Philosophy

The William James Lectures in Philosophy are being given in the Spring Term by Professor William Ernest Hocking, Alford Professor of Natural Religion, Moral Philosophy, and Civil Polity on successive Mondays in Room D, Emerson Hall, at 4 p.m. The subject of the lectures is "Issues in Contemporary Philosophy of Law, with special reference to the foundations of International Law." This is the first in a series of articles on the lectures.

In his opening lecture Professor Hocking confined himself to history and definition for the most part. Speaking to what was principally a non-legal audience, his first task was to supply a definition, or at least a working concept of the nature of law. This done, he outlined some of the methods of non-violent settlement of disputes that have been and still are being used. These



WILLIAM E. HOCKING

served to point up "law" as the only satisfactory solution to the problems of peace. After discussing some problems in the philosophy of law, Professor Hocking concluded by listing the problems, common to international and "municipal" law that he plans to discuss in subsequent lectures.

These may be defined briefly as:

1. The non-rational elements of law: to what extent do the empirical aspects of law displace the general and purposive elements?

LAW SQUASH TEAM BEATS YALE 5-0

Although it rarely happens that any decisive result is reached in any controversy between Yale and Harvard Law Schools, last Saturday afternoon the Harvard Law School team settled the question as to which school had the better squash players when it defeated Yale 5-0 in the Payne Whitney gym.

In the closest match of the day F. H. Griffin of Harvard, defeated Waver 15-4, 13-15, 12-15, 15-4, 15-10. Griffin was previously a member of the Princeton team. J. Roussmaniere (former Harvard player) won over Pittman 15-12, 15-13, 12-15, 17-14. In the third match of the day C. A. Lord was the victor over Wainwright in three straight games 15-8, 15-13, 15-13. O. Williams, another former Princeton player, defeated Freeman 15-11, 15-11, 15-15, 15-5. J. King blasted out a win over Olea 15-12, 15-5, 15-13.

This is the first year that these matches have been held, but it is hoped that they will become an annual event and that next year the Yale team will come to Cambridge for a match at Hemmaway.

2. Assuming that law has its goals, to what extent are these goals inconsistent with each other? "In particular, does the typical Kantian (and liberal) interest in individual freedom, characteristic of the nineteenth century, clash in its full development with the necessary concern for the total welfare, and the total community enterprise?"

3. Rights: of what use is the conception today?
4. To what extent can we set up a code for groups, and to what extent can rights and duties be attached to nations?

In defining, or explaining law, Hocking uses Kant's formula as a starting point from which to expand the popular conception of law as a means of settling disputes. Kant's formula is: manage your external behavior in such a way that the free use of volition can coexist with the freedom of everyone else without a general rule. Hocking pointed out that this formula says nothing about limitations of freedom, neither does it tell what the rule is nor say there is only one solution. But, Kant does say that the solution must be general, that is, one solution must be chosen for everybody. And the whole statement, as a master law, is a law that there shall be law. Finally, every man is a cooperator in giving the law to himself, the individual is called on to govern himself. Kant describes a situation in which everyone freely recognizes that there must be a common rule whereas nobody alone can make his own solution a common one. Hence, it requires authoritative selection to give everyone effective freedom. Hocking concludes that, under this definition law gives a complete freedom than no law since it is the anticipatory elimination of conflict through the authoritative imposition of a common pattern for free behavior such as every man wants and cannot alone supply.

However, this picture of law omits two important elements, in Hocking's view: (Continued on page four)

FOOD RELIEF FOR OVERSEAS BEGINS

Through contributions to be solicited tomorrow by the Harvard Food Relief Committee, law students will be given an opportunity to put bread in the mouths of hunger-stricken contemporaries abroad, it was announced yesterday by Richard M. Weissman, sixth term, chairman of the drive in the Law School. The quota for the University is \$25,000, which is enough money to provide food for the support of 1,000 students for one semester.

"For the second time the Harvard Food Relief Committee is making an important appeal to the Harvard Community," said President James B. Conant in a statement issued Monday. "The funds to be raised will go to the needy students at the Universities of Athens, Peiping, Vienna and Warsaw, and the international student rest center at Salzburg. Their plight is desperate; their need is great."

The activity of the Student Committee in this far-sighted humanitarian enterprise is a cause for pride on the part of all those in this institution. The first drive was a great success. Those who are to a position to give must see that this effort does not fail."

Costs of administration are kept to a minimum and care is taken with evident success, to avoid any political use of the food.

NUMBER OF FAILURES UP TO 13%

Over One Fourth Of Men in First Year Get A or B

Out of the 344 first year men who took their examinations for the first time in February, 46 men, or 13.3 per cent failed, according to information released by Dean E. N. Griswold. The percentage of failures was slightly higher than in the class which finished its first year last October, when 11 per cent failed.

The number of men (298) who attained a satisfactory average, when added to the 14 repeaters who made the grade, gives a total of 312 men who advanced to the second year.

Of the 312 men who passed, including repeaters, 20 men or 6.4 per cent had an average of A or above. Sixty-two men, or 19.9 per cent of the 312 made B averages, 160 men (54.2 per cent) made C's, and 61 (19.5 per cent) made D's.

The man with an average of 70 or above stands in the upper one-fourth of the group which advanced to the second year. The middle man in the class has an average of 66 or above, and those with an average of 62 or below are in the lower one-fourth of the group. These divisions are approximate, because a number of men are on the line between each group.

No man out of the group taking the examinations for the first time failed for the reason that he passed all of his courses but failed to make the required average of 58 or above. Eighteen men failed who passed all of their courses but one, but failed to make the average of 59 required in such cases. Twenty-eight men failed for the reason that they received E's in two or more courses.

Of the 40 repeaters (men who failed last October and elected to repeat the second term, with the privilege of taking the examinations over again in February), 5 men passed all of the courses but failed to attain the necessary average. Nine repeaters failed with one E against them, and 12 failed with two or more E's. Twenty-six repeaters failed and 14 passed out of the group of 40.

Thirty-three of the 46 men who failed this time have thus far manifested an election to try again.

HEMENWAY GYM IS OPEN FOR SQUASH

The squash courts in Hemmaway gymnasium are now open for the use of law students, it has been announced, but the opening of the basketball court will be postponed for an indefinite time.

Twelve squash courts are open, but for a short time only six of these will be at the disposal of law students, since the other six are reserved for the use of the Harvard College varsity.

The courts are open from 1 p.m. to 6 p.m., and reservations of courts can be made one day previous to the day of play. Two of the courts have been lined for the use of handball addicts.

Admission to the gym is gained by the use of an athletic ticket, which can be purchased at a cost of \$1.75 per month, or by the payment of a daily fee of 35 cents.

The delay in the opening of the basketball court is caused by the fact that about 50 per cent of the floor must be replaced. The floor was damaged by experimental machinery installed by the Navy, which used the gym as a laboratory during the war.

The athletic association has been promised the material which will be needed for reconstruction of the basketball floor, and the length of time needed to put it in shape will depend on the materialization of these promises and the speed of the construction company.

The work on the basketball court, in addition to the reconstruction of the floor, will entail the application of several coats of paint, plus long drying periods in between. With these factors present, no estimate can be given as to when the court will be ready for the hoopsters.

PICK 28 STUDENTS FOR HONOR GROUPS

Review Takes 15; Board Chooses 5, Legal Aid 8



NORMAN THOMAS

THOMAS URGES GOV'T TO PLAN

Claims Present Actions Will Lead To Depression

Declaring that our economy was now an extraordinary, illogical jumble, Norman Thomas urged a logical theory of action in the face of the facts confronting us, in speaking on "Political Programs for 1948" at the New Lecture Hall Monday night.

The war and its aftermath have thrust upon the United States a far greater responsibility in world affairs than ever anticipated, said Thomas. The defeat of Germany and Japan has left us still with a huge military burden. Nobody seriously believes that prosperity is assured, and thus, insecure ourselves, we are being asked to make the world secure. He asserts that politicians, however astute, will not be able to avoid this background of the '48 issues.

The lack of a general philosophy, or a basic economic theory to cope with our internal problems will prevent intelligent dealing with the next depression, according to Thomas. Even Taft and Hoover no longer support complete laissez-faire, and a reversion to it is politically impossible. Private monopoly and government regulation of business have increased tremendously under war conditions, yet in the 1944 Browder, Roosevelt and Dewey all religiously espoused the doctrine of "free enterprise," which, in America, means all things to all people.

Thomas stated that depression is inevitable as long as people cannot buy back the economical equivalent of what they produce, which is the situation under capitalism. The last depression was never solved, and the most we ever accomplished was the subsidization of unemployment. Democracy will be corrupted by the dole, or made work, the unemployed, rather than subsidizing especially since the war seemed to prove to men that poverty in this country is unnecessary in the face of our great industrial capacity, and they will be unwilling to accept hard times with resignation in the future.

We, a people whose scientists have achieved unbelievable mastery over nature, still grope, socially, without a purpose, declared Thomas. We must (Continued on page three)

Law School Placement Explained; Enlist Aid of Alumni In Job Hunt

What are my chances of getting a job in the city in which I would like to practice? How do I establish contact with law firms who are looking for young lawyers?

Any student who is looking for an answer to such questions (and who isn't?) should know what is being done by the Law School, under the direction of Dean E. N. Griswold, to help place its graduates, and what the student can do individually to help the placement effort.

The "contact man" for the school's placement effort is Harrison S. Dimmitt, Law School Secretary, whose principal duty is to visit all of the larger cities in the United States, find out from

invitations to membership in the three honor groups of Harvard Law School—the Harvard Law Review, Board of Student Advisers, and Legal Aid Bureau—have been sent to 28 men who achieved high scholastic standing in the first year examinations just completed.

Of the group, 15 men with averages of 75.0 and above received the coveted invitations to serve on the Editorial Board of the Law Review. Five men with averages close to 75 were invited to become members of the Board of Student Advisers, and the Legal Aid Bureau invited eight men with averages of 74 and above.

The 15 men chosen for the Law Review, in alphabetical order (with their undergraduate colleges in parenthesis) are as follows:

Burton M. Abrams (CCNY), George A. Blackstone (Nebraska), Murray Cohen (NYU), Fred Fishman (Harvard), Robert F. Fuchs (Wisconsin), Frank T. Gray (Princeton), Robert M. Loeffler (Oklahoma), Charles T. Munger (Michigan).

Walter E. Oberer (Ohio Wesleyan), Sheldon Olinens (Pennsylvania), Irwin Schneiderman (Brooklyn College), Richard L. Solle (Oberlin), Jerome G. Shapiro (NYU), John R. Todd, III (Emory U.), and Harry F. Weyher, Jr. (North Carolina).

The men invited to join the Board of Student Advisers, again in alphabetical order, are:

Judson J. Allgood (Harvard), Eastman Birkett (Dartmouth), Joseph H. Flom (CCNY), Benjamin Forman (CCNY), and John T. McNaughton (Dartmouth).

The alphabetical list of the men chosen by the Legal Aid Bureau follows:

Walter H. Beckham, Jr. (Emory), Theodore A. Bruinma (Washington & Lee), Lewis H. Johnson (Chicago), Alan Falwick (Harvard), C. Gorham Phillips (Williams), Walter M. Robinson, Jr. (Vanderbilt), Herbert L. Sherman, Jr. (Brown), and David I. Wendel (California).

LABOR AND LAW IS NEXT FORUM TOPIC

On Friday, March 7, the second meeting of the Law School Forum devoted to discussing industrial relations will take place in Langdell Court at 4:00 p.m. Mr. Willard Wirtz, chairman of the National Wage Stabilization Board, will discuss "Labor and the Law."

Mr. Wirtz was graduated from Harvard Law School in 1937 and was assistant professor of law at the University of Iowa from 1937 to 1939. Since 1942 he has been a member of various governmental boards created to direct the war effort. Prior to receiving his present position in January 1946, he was chairman of the appeals commission of the Board of Economic Warfare and a public member of the War Labor Board.

The series of discussions on labor-management relations will be concluded March 14, at which time Mr. Donald Ruchberg and Mr. Joss Freiden will evaluate remedies for industrial strikes.

alumni what job opportunities are available, and enlist the aid of these alumni in placing the graduates.

Mr. Dimmitt's assistant on the home front is Louis A. Toepfer, Placement Secretary, whose job consists of advising students as to what positions are available, putting students in touch with the contacts arranged by Mr. Dimmitt, and learning from students where they would like to practice.

Mr. Toepfer's office is located in the basement of the West Wing of Langdell Hall, and it is here that students are urged to take their placement problems. Mr. Toepfer states that he is available to students of every term, and (Continued on page three)

Transgender Students Seek Change in Harvard Policy

By Seth Persily

At a Feb. 23 meeting of the Undergraduate Council, undergraduate Alex Myers spoke of his life and experiences as a transgender person, sparking a University-wide debate that promises to question conceptions of gender, sexuality, and basic notions of tolerance.

"I am a member of the freshman class, and a female to male transgender person," said Myers. "I live as a man and remain biologically and genetically female. To some, this is an offensive state. To me, it is simply who I am, how I was born, what I was intended to be."

Later that evening, the UC passed a resolution in support of the movement to get the phrase "gender identity" written into the non-discrimination clause: a move which would ensure that transgender people could not legally be discriminated against "in admission to, access to, treatment in, or employment in [Harvard University's] programs and activities."

Harvard's non-discrimination clause currently states that the University will not discriminate "against any person on the basis of race, color, national or ethnic origin, age, gender, sexual orientation, marital or parental status, handicap, source of income, or status as a Vietnam-era or disabled veteran." Transgender individuals, which include hermaphrodites as well as people who identify with a sex different from their biological sex, are not included.

"Why do people like Alex have to suffer because of other people's closed minds?" asked John Myers '97.

Along with HLS Lambda member Margie McWilliams '99, John Myers is planning a benefit dance, scheduled for April 11 in the Hark. The proceedings, expected to approximate \$1500, will be used to raise awareness of transgender issues on campus.

"Transgender people face a tremendous amount of discrimination, both within the gay community and without," said McWilliams.

The Debate

Currently, the American Psychiatric Association lists "transgenderism" as a condition referred to as "gender identity disorder," leading many to question why a mental disorder would be included in a non-discrimination clause. Alex Myers notes that insurance carriers cover only two treatments for "gender identity disorder" — electroshock therapy and institutionalization.

"This goes to show how archaic the system is," says Myers.

He recalled that the American Psychiatric Association used to define homosexuality as a disorder as well. This definition was reversed in 1973, and now the American Psychiatric Association is actually a strong supporter of gay and lesbian rights.

Myers contends that psychiatrists are misinformed about transgender issues in much the same way they were misinformed about gay and lesbian issues prior to 1973. There is currently a debate among psychiatrists over whether or not "gender identity disorder" actually exists.

Dan Schorr '98, president of HLS Re-

publicans, offers a different objection to changing the non-discrimination clause.

Schorr said, "I don't see any difference between a person who says she is of a different gender and someone who says she is of a different race than she appears to others. If Harvard recognizes people who believe they are of a different gender in its non-discrimination clause, Harvard will have to grant the same special rights to people who believe they are of a different race, a different ethnicity, a different species, or even a different planet than their biology suggests."

Rudy Reyes '98, co-chair of the HLS Coalition for Civil Rights, questioned Schorr's utilization of "the empty rhetoric of special rights." Reyes asserted that transgender people are not asking for anything more than what everyone else is already promised — the opportunity to attend Harvard free from unwanted discrimination.

He, or she?

While Alex is biologically and genetically female, he lives as a male. Alex wears men's clothing, lives in a male dormitory, uses the men's bathrooms, and thus expects to be addressed using the masculine pronoun.

"People may want to be something very much but that doesn't make them what they want to be," says Schorr. "A white person who wants to be referred to as an Asian person is still a white person, and for the same reasons a female person who wants to be referred to as a male is still a female."

"But," Schorr added, "it's important

that we don't condemn or ostracize her [Alex Myers] for the difficult issues she's confronting."

Myers states, "I feel that people who know that I prefer to be referred to in the masculine and then refer to me in the feminine are discriminating against me to the extent that they are not respecting me as a person."

"I lived for 17 years as a woman and every minute of those 17 years was a lie. Every time somebody referred to me as a 'she' it felt so unbelievably wrong and hurtful."

"Now that I'm living as a man, I desire nothing more than to leave that behind. This is my true identity and referring to me in the feminine only undermines that."

If it's not broken ...

For most transgender people, inclusion in the non-discrimination clause is important to ensure against discrimination in the hiring and admissions processes. Others dispute the necessity of expanding the scope of the clause.

Joyce Curll, HLS associate dean for admissions, states her philosophy that "People are people," and that all people, regardless of their "gender identity" are already treated equally by the admissions committee.

Dean of Students Suzanne Richardson said, "Nobody has ever made a complaint to me regarding [discrimination on the basis of gender identity]."

But Myers contests the notion that transgender people do not face harass-

Please see **TRANSGENDER**, p. 4

Appleseed Foundation Criticizes Survey for Public Interest Snubs

Continued from **US NEWS**, p. 1

Mnookin credited much of the program's success to his colleagues Frank Sander '52, Roger Fisher '48 and Bruce Patton '84.

Harvard's greatest liability in the U.S. News rankings was a fourth place showing in faculty resources, behind Yale, Stanford, and N.Y.U. HLS finished second in student selectivity and placement success and tied for first place reputation among lawyers, judges and academics.

Harvard's overall score of 99.5 placed it slightly behind Yale (100) and ahead of Stanford (98.5), the University of Chicago (98.1), and Columbia (97.9). Rounding out the top-ten overall law schools were N.Y.U., the University of Michigan at Ann Arbor, the University of Virginia, the University of California at Berkeley, and Duke University.

Appleseed Foundation Criticizes Rankings

In a statement released on Monday, the Appleseed Foundation, a Washington-based public interest organization, called the US News rankings "skewed in their failure to measure on essential component of legal education: how schools prepare lawyers to advance the cause of justice."

The four-year-old Appleseed Foundation's directors include noted consumer advocate Ralph Nader '58, Harvard Law School Prof. Arthur Miller '58 and Robert Mundheim '57, General Counsel of Solomon, Inc. and former dean of the University of Pennsylvania School of Law. The Foundation is preparing a report entitled "Law Schools and the Public Interest" which will highlight the "best practices" of law schools in mainstreaming public service and public interest law into their programs.

The Appleseed Foundation uses a markedly different methodology than U.S. News. Among the categories considered by U.S. News are the median starting salaries for law school graduates, the placement success of schools based on the proportion of the class employed after graduation, and the median SAT score of matriculating students.

The alternatives proposed by Appleseed include the financial incentives provided by schools such as loan repayment programs and public service scholarships, the provision of special career services to law students focused on careers in public service, and recognition and rewards for public interest work.

Monroe Freedman, a leading ethics expert and a member of Appleseed's Advisory Council noted that while many law schools are doing far more than what they used to do in the area of public interest, "nevertheless, the legal profession is not serving the needs of a large portion of the American people. Our social and professional resources are skewed toward representing corporations and people with wealth."

Nader commented that the U.S. News and World Report rankings ignore the most important aspect of legal training.

"Since the legal profession is supposed to be a service profession beyond commercial horizons, activities of law schools that expand the opportunities for students to engage in service ideals of the legal profession should be taken into comparative account."

"Legal education is more than the numbers of books or the quality of law school buildings," stated Prof. Miller. "We must take into account, and hold our law schools to account for, training students to be leaders and true public servants."

LAW SCHOOLS: THE TOP 25

1. Yale University
2. Harvard University
3. Stanford University
4. University of Chicago
5. Columbia University
6. New York University
7. University of Michigan-Ann Arbor
8. University of Virginia
9. University of California-Berkeley
10. Duke University
11. University of Pennsylvania
12. Cornell Law School
13. Georgetown University
14. Northwestern University
15. University of Southern California
16. Vanderbilt University
17. UCLA School of Law
18. University of Texas at Austin
19. University of Illinois at Urbana-Champaign
20. University of Minnesota-Twin Cities
21. University of Notre Dame
22. Boston College
23. George Washington University
24. University of Iowa
25. Washington and Lee University

CLINICAL TRAINING

1. Georgetown University
2. New York University
3. American University
4. University of New Mexico
5. Yale University
6. University of Maryland
7. CUNY-Queens College
8. University of California-Los Angeles
9. University of Michigan-Ann Arbor
10. Northwestern University
11. Harvard University

TRIAL ADVOCACY

1. Stetson University
2. Temple University
3. New York University
3. Northwestern University
3. University of Notre Dame
6. Georgetown University
6. William Mitchell College of Law
8. Cumberland-Samford University
9. South Texas College of Law
10. University of Texas at Austin

DISPUTE RESOLUTION

1. Harvard University
2. University of Missouri-Columbia
3. Pepperdine University
4. Ohio State University
5. Willamette University

ENVIRONMENTAL

1. Lewis and Clark College
2. Vermont Law School
3. Pace University
4. University of California-Berkeley
5. University of Colorado-Boulder
6. George Washington University
7. Tulane University
7. University of Maryland
7. University of Oregon
10. Chicago-Kent College of Law

INTERNATIONAL

1. New York University
2. Harvard University
3. Columbia University
4. Yale University
5. Georgetown University
6. University of Michigan-Ann Arbor
7. American University
7. University of California-Berkeley
7. University of Virginia
10. George Washington University

INTELLECTUAL PROPERTY

1. Franklin Pierce Law Center
2. George Washington University
3. University of Houston
4. Columbia University
4. John Marshall Law School
4. University of California-Berkeley
7. New York University
7. Stanford University
9. University of Texas at Austin
10. Cardozo School of Law-Yeshiva University

TAX

1. New York University
2. University of Florida
3. Georgetown University
4. Harvard University
5. University of Virginia
6. University of Texas at Austin
7. Yale University
8. University of Miami
9. Stanford University
10. University of California-Los Angeles
10. University of Southern California

Students Found R. B. Hayes Literary Society

By Christopher Edwards

About ten students met on Feb. 20 in the Morgan Courtroom in Austin for the inaugural meeting of the Hayes Literary and Debate Society.

Co-founded by Eric Black '98 and Joshua Kight '98, the club aims to provide a forum for debate and public speaking.

The club is named for Rutherford B. Hayes '45, the only HLS alumnus to serve as president of the United States. However, politics is just one aspect of the club.

"One reason we founded it was to give an opportunity for people to practice public speaking," Kight said. "An educated person should be able to speak for five minutes extemporaneously on any subject."

"It's a good way to get to know people, and you learn to appreciate the beauty of the English language," Black said. "It's interesting seeing people's talents and abilities come out when they're under pressure."

Literary and debating societies, a widespread 19th century tradition, are

now rarely found north of the Mason-Dixon line. There are societies at the University of North Carolina, the University of Georgia, and Davidson College, among other institutions.



Eric Black '98

Black said he was cautiously optimistic about introducing a genteel Southern tradition to the Northeast's in-your-face culture.

"I think it'll be harder to maintain an air of civility here, but I'm hopeful," Black said.



Joshua Kight '98

While they were students at the University of Georgia, Kight was a member of the Demosthean Society and Black was a member of the Phi Kappa Literary Society.

"At Georgia, each year the Society would celebrate its anniversary. Alumni would come back for an all-night meeting," Kight said.

At Georgia, the Demosthean Society dates from 1803 and Phi Kappa from 1820. The two societies have long been rivals. During the 19th century, the two societies would engage in duels on behalf of their societies.

"There was even a Society cannon outside our window," Kight said.

Transgender Student Discusses Intolerance on Harvard Campus

Continued from *TRANSGENDER*, p. 3

ment or discrimination at Harvard. In the one semester that he has attended the University, he states that other students have called him "repulsive, sick, disordered, a mistake, a Goddamn freak, a sinner against God, and just plain wrong."

He also recalls his personal interview during the admissions process to Harvard College as an instance of discrimination which was narrowly averted.

Said Myers, "When I applied here, I was interviewed by an alumnus and the interview was going extremely well. I was dressed in a coat and tie and signed up for the interview as 'Alex.' I could tell he had a very favorable impression of me until he picked up a sheet from my college counseling office, and the sheet had what was still my legal name, 'Alice,' as well as 'sex: female.'"

"He looked up at me and said, 'I think someone's made an accounting error,' and then he referred to the name 'Alice.' Being someone who doesn't lie, I said that that was my legal name and kind of hoped he would just let it slide, but at that point he seemed visibly uncomfortable and then abruptly concluded the interview."

"I didn't hear anything for a couple of weeks, and then my adviser called me in and said that Harvard wanted to do the interview over again. So I went to my new interview, and it went well and at the end I asked, out of curiosity, why I needed to be reinterviewed. She said that they got the feeling that the first interviewer and I might have clashed ... she said that what he had to write about me was in direct opposition to what everyone else had written about me and that they thought this might have something to do with his age."

Many of those fighting for change in the non-discrimination clause believe that the issue may actually transcend transgender individuals.

According to Myers, "Every person has a gender identity, be it masculine or feminine or some combination of the two, and anyone can be discriminated on the basis of their gender identity."

Myers forwarded an example. "Take a man who has certain effeminate characteristics, be it the way he walks or talks or shakes hands — anything that is going to make an impression on someone who is judging them."

Said Myers, "Even though you wouldn't say this person is transgender, they'd still be discriminated against on the basis of their gender identity — they'd still be a man, but they would be judged because [they would not fit certain preconceived societal notions of gender]."

Myers contends that this helps account for the fact that the gay and lesbian movement is often merged with the transgender rights movement.

"There is a big difference between being transgender and being gay. The gay community is not always the most accepting place for transgender people, but the reason that transgender people are found in the gay community is that by being gay or being lesbian you are breaking gender stereotypes in saying that a man can love another man and still be a man."

"The classical American man sleeps with a lot of women, and when you take that away and say I'm going to sleep with a man, you've just lost a piece of your gender identity. So in that sense, gays and lesbians have issues with their gender identity in that society does not perceive them as being real women and real men in the same way that transgender people are not considered 'real.'"

Students Question Law School's Funding Priorities

Continued from *FUNDING*, p. 1

quested summer funding has received it.

Noting this fact, Freedman remarked that "most people do not have the luxury of waiting until the last minute to decide what jobs to take. As a practical necessity, students have to take private sector jobs when they really would prefer to do public interest."

Some participants suggested setting up a directed fund in which students, alumni and private law firms could donate specifically toward public interest programs.

"A lot of students who hate this place might give to a specific fund for public interest," said Holly Idelson '99.

Although some have suggested that people don't like to give money to public interest, directed funds have been successful for the administration in the past and may be a strong possibility for boosting public interest funds. However, 2Ls at the meeting warned that if such a program were successful, it should not be an excuse for the administration to shift present funds away from public interest.

With regard to LIPP, students noted that Lisa Dealy, director of the program, is now working toward reforming LIPP for future years. Students at the forum suggested changes relating to marriage status, childbirth, imputed parental contributions, asset limits, age and salary raises. Several forum participants shared stories of friends at N.Y.U. Law School, where post-graduate funding is tied to the U.S. Department of Justice pay scale, and where public interest fellowships are also available.

However, students said the fundamental problem with LIPP is its lack of funding.

"In general, people have concerns about some of the fine-tuning of the LIPP program, but there is an acknowledgement that only so much can be done with limited funds," said Freedman. "We need to increase the amount over time, and the most likely way to do this is through an endowment."

"Harvard's capital campaign went \$25 million over [the expected amount]. Students are disappointed that Harvard

didn't use the surplus to endow LIPP. It would have provided a stable, long-term source of funding," he said. The Capital Campaign raised \$175 million.

Even before entering the working world, many students felt that public interest involvement could begin at HLS, in the form of more diverse course offerings, expansion of the clinical program, and involvement on the part of the faculty. One 2L suggested "truth in advertising" with respect to the course catalog distributed to applicants, so as not to mislead prospective students that they could actually take such public interest courses as Child, Family, and State, which have not been offered in recent history.

Among the other topics raised, such as interacting with other Harvard schools' public interest groups, sponsoring more speakers, and recruiting more public interest-minded students, the most compelling seemed to be that of forming a stronger public interest community.

"I think that there are people at this school who are interested in public interest and who are doing good things," said Idelson, "but things here get a little specialized. There are a lot of groups and that's part of the strength of a big school, but that also fractures the public interest community more. We need events and activities that would bring people together across the board."

Students also felt that the School should provide a more supportive system in general. The administration must do more than commend the self-starters who "bust their butt" by pursuing public interest independently of the system, argued McManus.

Monday's forum was a part of a series initiated in part by the Law School's Ad Hoc Public Interest Committee to help gauge student perceptions of Harvard's funding and programs. The committee was set up by Dean Clark '72 last spring in response to faculty and student criticism that too little of the School's Capital Campaign was dedicated to public interest programming.

The discussion of public interest at HLS will continue on Monday, March 17, at 7 p.m. in Pound 107.

DeBroff Calls for Long-Term Survey of Alumni

Continued from *OPIA*, p. 1

which entails financial sacrifice." This includes low income client-oriented work (civil and criminal), policy-oriented litigation and legislative work, government work, and community activism.

The study examined the current employment of the Class of 1991, as reported in its five-year reunion guide. DeBroff chose that class because it was in its 3L year when OPIA opened its doors, and thus was the first to reflect the office's outreach efforts. Of the 528 J.D.s in that class, 91 of them reported working in public interest. In comparison, only 65 reported going into public interest upon

graduation. Moreover, the number working in public interest does not include those who did not list their employment in the guide. Thus, the number is almost certainly higher, said DeBroff.

However, DeBroff cautioned that more work needs to be done by the administration before any firm conclusions can be drawn. "OPIA has never done a long range study of alumni. We simply aren't funded well enough to undertake one," she said. According to DeBroff, a better picture of HLS alumni employment would greatly enhance her advising efforts. "These results make you realize how valuable it would be to have a long term study," she said.



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United States
Congress

HLS ON THE HILL

Profiles of HLS Alumni in Congress



Sen. Larry Pressler '71 of South Dakota

By Jacob M. Appel

Former United States Sen. Larry Pressler '71 believes the same values that helped him thrive at Harvard Law School should be disseminated to the public at large.

Foremost among these attributes is an appreciation for the American work ethic. "I worked pretty hard," he explained. "I think that teaching free enterprise and the value of hard work is extremely important. Harvard Law School should send students into the ghetto to teach the value of hard work and the importance of getting a job and going to work each day ... These so-called legal aid programs would be better off teaching free enterprise."

Pressler was first elected to Congress in 1974, just three years after his graduation from HLS. He was elected to the Senate in 1978, where he served until this year, when he was defeated by Democrat Tim Johnson.

Pressler, a South Dakota Republican, is no stranger to diligent labor. The first Vietnam veteran elected to

the United States Senate, Pressler garnered a Rhodes Scholarship following his graduation from Humboldt University and entered HLS in 1968 already endowed with the credentials that produce future legislators.

Yet his credentials — particularly his wartime service — did not win him the immediate acceptance of his classmates.

"I served but I also thought that the [Vietnam] war was a mistake," Pressler said. "I had a hard time explaining that I wasn't a militaristic type ... and that I often shared [my fellow students'] views of the war."

While at HLS, Pressler served as associate editor and business manager of the RECORD under Editor John York '71.

"I wasn't smart enough to make the Law Review," Pressler joked.

In Pressler's day, HLS was rigid and formal.

"Students still had Saturday classes," he said.

"I didn't get to know my professors

very well. But I had a tremendous amount of respect for Professor Dershowitz ... although I didn't always agree with him."

Pressler termed Dershowitz "bril-

liant" and said that Dershowitz had impacted his way of thinking. The senator also praised Prof. Derek Bok's '54 Labor Law class and a Legal Reasoning class taught by Profs. Charles Nesson '63 and Stephen Breyer '64.

After serving two terms in the House, Pressler was easily

elected to the Senate in 1978 and re-elected by the widest margin in South Dakota history in 1984. In the Senate, Pressler chaired the Commerce, Science & Transportation Committee, focusing on issues that included the development of an outage prevention agency for telecommunications networks, an AM stereo standard, and a law to let citizens stop unwanted telephone solicitations.

Pressler is most frequently associated with the effort to reduce government

funding of the Corporation for Public Broadcasting. Hence, a popular bumper sticker in South Dakota reads: "Let's keep PBS and Privatize Pressler."

Pressler's political career stumbled this fall when he lost a bitter election to moderate Democratic Representative Tim Johnson. Pressler accused Johnson of engaging in character assassination by drawing attention to the book "Washington Babylon" — an expose that portrayed Pressler negatively. Despite Johnson's 51 percent to 49 percent victory, polls indicate that Pressler remains widely popular in his home state.

Pressler urged young lawyers to "engage in stimulative thinking to analyze tax policy and social policy" and emphasized the importance of legal reasoning in the policy arena.

Pressler remains dedicated to the values of diligence and perseverance that helped him during his distinguished political career. He stated that law schools should teach that "free enterprise and hard work are often better than social welfare and do-good programs."



Chmura Calls Student Satisfaction Survey Flawed

Continued from PRINCETON, p. 1

nation aside from Lani Guinier," said Stephanie Barnes Taylor '97, Internal Vice President of the Black Law Student Association. "Diversity brings different viewpoints to how the law is enforced and how legal procedure is administered. I feel that I'm only getting one side."

Lambda Co-Chair Ross LaJeunesse '98 expressed many of the same concerns as Taylor and noted that HLS can be a difficult place for gay and lesbian students. Among the many factors which he felt contributed to student dissatisfaction were that "gay and lesbian issues are virtually absent from the classroom, as are openly gay professors."

"How long can Harvard maintain its prominence in the legal community when it's losing so many students to Stanford and Yale and other schools because of their reputations as more diverse, more progressive institutions which have a better quality of life for their minority students?" he asked.

In his book, "How to Get Into Harvard Law School," Willie Epps '95 observed that one of the negatives of the Law School is the homogeneous faculty. "The Law School's faculty... lags behind other top law schools in terms of racial and gender diversity," he wrote. "No woman of color, no Asian American, no Hispanic, no openly gay person... has ever served as a member of HLS' core faculty."

While administrators recognize that efforts always need to be made to improve HLS, some noted that the size of the Law School presents problems that are difficult to overcome. Most were also quick to question the validity of the study.

Mike Chmura, news director for the Law School, put it in plain terms: "It's a flawed survey that has flawed results."

In response, the Princeton Review, reacting mainly to criticism from Dean Clark '72 two years ago that the survey was "seriously flawed," contends that "this criticism is fair only in part." While the Review concedes that the survey is "decidedly unscientific," they maintain that "the fact remains that our unscientific survey method is equally unscientific for all the law schools we profile. Harvard students had the same opportunity as all others to voice their degree

of satisfaction with their law school. The result: Harvard came out last for the fourth year in a row."

Yet Chmura continues to question how "you have schools that people consider the best rank on the bottom and schools that people consider worse rank on top." He continued, "Basically, if the survey says Harvard, Columbia, and NYU are at the bottom when most think they are on the top, then you must question the validity of the survey. If all these schools are down there and yet these schools thrive, is there something wrong with the schools or something wrong with the survey?"

Associate Dean Todd Rakoff '75 offered a different rationale for questioning the survey's validity. Noting that "99 point something percent of law students have only attended one law school," Rakoff suggested that surveyed students compare their law school not to other schools but to some ideal. Rakoff doubted that "the expectations of people that come to Harvard Law School are the same as [those of] people that go to other law schools," and explained that this may account for Harvard's low ranking.

Students offered mixed reviews and explanations of the survey.

"I think it's a self-fulfilling prophecy," stated Avi Weitzman '99. "We're told when we enter law school that we'll hate it and so after a while we learn to hate it."

"I don't think the problem is with any one huge thing," said Jim Brennan '99, "it's with all the smaller things that add up — whether be it the mail coming three days late, or the Hark closing right at 7, or calling to get your window fixed for your dorm and them never showing up."

Rakoff acknowledged that while he does have doubts about the survey, "I still think we should do the best we can" to improve the quality of life at the Law School. He explained that this issue not only affects students, but faculty as well, who he noted spend a great deal more time at the Law School than most students. "I would like Harvard Law School to be a friendly, exciting, collegial place for students because I would like it to be that way for the faculty too," he said.

He remarked, however, that responsibility for improving the quality of life at the Law School is not solely the responsibility of the administration.

"Some of the responsibility must fall on students. It's a nice question of whether the students should ask the faculty member out to lunch or the faculty member should ask the students out to lunch. I think there are lots of faculty members who would happily go out to lunch more often if their students would ask them," he said.

Nevertheless, after four years as number 170 of the 170 law schools surveyed, some students are starting to ask what more it will take for the administration

to recognize, and significantly address, student dissatisfaction.

"It seems that this university is running on its reputation and doesn't care about student concerns. ... [H]ow long can they do that and still remain competitive?" asked LaJeunesse.

Other students would agree with "Inside the Law Schools": "Whatever its possible drawbacks — pressure, anonymity, snobbery, pervasive success-mindedness — Harvard is still Harvard. For many people, that says it all."

HLS Studies Yale-Like Grading Approach

Continued from GRADING, p. 1

policy," Hanson said. "I hope you get all the conditional statements there."

Brewer did not return phone calls seeking comment.

HLS' grading system has been a perennial source of debate and experimentation. The idea of a faculty committee studying the Law School's grading policy was tried a couple of years ago, but the effort went nowhere.

In early 1995, Dean Clark '72 attempted to put together a faculty committee to study an honors/pass/fail proposal made by the Law Student Council. Like the current study group, the 1995 committee was designed to merely study the issue rather than make any definite changes.

"It is not so much a decision-making group as a systematic way of determining faculty opinion," Clark was quoted as saying in the RECORD in February 1995. "It is not just doing a survey but also gathering arguments pro and con... and presenting them to the faculty as a whole."

However, according to Prof. Martha Field, one of the would-be committee members, that committee never met and never issued a report.

In 1994, Prof. Charles Nesson '63 gave an A to every student but one in his winter term Evidence class. In an

interview with the RECORD, Nesson urged that HLS switch to a pass/fail/honors grading system.

"Grades here have become a crippling, distorting measure that holds this place in a vise grip," Nesson said in 1994.

During the early 1970s, 1Ls could pick between pass-fail grades or a grading system based on the grades High, Satisfactory, Low, and Fail. The experiment was abandoned after a few years, leaving students with essentially the same grading system as exists today.

Scott Turow '78 criticized the end of the pass-fail experiment in his law school memoir "One L."

"[I]n an inexplicable reversal, the faculty had abolished those options a year before we arrived," Turow wrote. "We were left in a system which seemed close to capricious and which was often unavoidably painful when you considered its real-world effects."

In the early decades of the 20th century, admission to the Law School was relatively easy, but about one-third of the class flunked out. This policy continued until the late 1930s, when a more selective admissions policy was instituted. By the mid-1960s, less than one percent of 1Ls failed out, but admission to HLS had become much more difficult.

Across the Wire . . .

Ray Trial Would Produce Little, Former Judge Says

MEMPHIS, Tenn. (AP) — Would a trial for James Earl Ray end the lingering suspicion that Martin Luther King Jr. was the victim of a murder conspiracy, not a lone gunman?

Probably not, say the chief state prosecutor at Memphis and a civil rights leader who is a former judge.

"Like anyone else I would like to get to the truth of it, but I don't see where a criminal trial of James Earl Ray — who says he didn't do it, doesn't know who did it — ... is going to help at all in getting at the truth," said Benjamin Hooks, former director of the National Association for the Advancement of Colored People.

Ray, 68, is serving a 99-year sentence at a Nashville prison on his guilty plea to killing King in 1968 in Memphis. He avoided the possibility of a death penalty with that plea but began trying to take it back almost immediately.

Ray's failing health from liver disease has sparked new interest in his bid for a trial. It has attracted an unlikely coalition that includes Ray's family, King's family, and former King associates who doubt Ray could have pulled off the killing by himself.

King's widow, Coretta Scott King, asked a Memphis judge on Feb. 20 to order a trial for Ray, saying her family and the nation need to know more about her

husband's death.

"I understand the frustrations and the feelings of the family," Hooks said. "(But) I just can't think of anything that could be done under the rules of criminal procedure."

Ray could not be forced to testify and many of the conspiracy claims surrounding King's death would likely be disallowed under the rules of courtroom evidence, said Hooks, who in 1965 became Tennessee's first black state criminal court judge.

"Witnesses are dead. Investigators are dead. You've got paperwork but not people," Hooks said, adding that he, too, believes Ray had help, either before or after the murder.

Ray's guilty plea has been upheld seven times by state and federal courts, and prosecutors say he has exhausted his appeals in Tennessee courts.

A congressional committee concluded in 1978 that Ray killed King.

The committee felt other people may have been involved, but it could not identify other conspirators, even though it was not bound by the rules of evidence that apply in court, Hooks said.

State prosecutor Bill Gibbons said evidence against Ray is overwhelming and his guilt would be unchanged even if other people were involved.

Gibbons said he has written to the

King family offering to meet with them privately to explain the legal issues surrounding Ray's petition for a trial.

"We are available to do that at any time," he said.

At Ray's latest hearing in Memphis, Judge Joe Brown decided that modern scientific tests may be able to say once and for all if a rifle found at the murder scene was the weapon used to kill King.

Ray contends it wasn't and he wants new tests on the gun and the bullet taken from King's body. Ray bought the rifle in Alabama and brought it to Memphis. It had his fingerprints on it.

Brown's decision must be reviewed by a state appeals court before he can rule further on Ray's petition. Whatever the ruling, more appeals are likely.

The FBI and a congressional committee tested the rifle but failed to prove conclusively that it was the murder weapon, though King was killed by the same kind of gun.

Defense lawyer William Pepper contends he has new evidence that could help prove Ray's innocence, but prosecutors say most of Pepper's arguments already have been addressed by various state and federal courts.

And Gibbons said state investigators have found no credible evidence to support Ray's claim of innocence.

"The only open issue is the involvement of other people... We will work with any proper investigative agencies to pursue any leads on anyone else's involvement," he said.

As for hopes that testimony from Ray would help answer lingering questions about King's death, Gibbons asked, "What is there to prevent Mr. Ray from speaking right now and telling all he knows?"

Ray, a career criminal, was an escapee from a Missouri prison when King was killed. He contends he was set up by a shadowy gunrunner he knew only as Raoul to take the blame for the slaying.

Authorities have never established that Raoul actually existed.

A few hours before the slaying, Ray used an assumed name to rent a room at a flophouse across the street from The Lorraine Motel, where King was gunned down on a second-floor balcony.

Ray says he gave his rifle to Raoul and left to run an errand when the fatal shot was fired.

Hooks said he, too, would like to know if Ray had help, but criminal prosecutions must come to an end eventually.

"In the criminal justice system, thousands of people plead guilty, and you can't — unless there are exceptional circumstances — reopen all these cases on theory and speculation," he said.

High Court Drops Dispute Over Official English

WASHINGTON (AP) — Sidestepping a divisive debate swirling around English-only measures, the Supreme Court today said an Arizona dispute over efforts to make English the official state language never should have reached the nation's highest court.

The justices unanimously ruled that the Arizona dispute became moot, or legally irrelevant, years ago when the state employee who challenged an English-only amendment to the state's constitution left her government job.

When the court agreed to hear the Arizona case last year, it had been expected to decide the constitutionality of English-only measures, enacted in 23 states, including Montana. But by the time the justices conducted oral arguments in December, it was clear the potential for an explosive ruling had fizzled.

During arguments in the English-only case, the justices, in questions and comments from the bench, had ignored the constitutional issues to focus exclusively on two arcane procedural issues — mootness and legal standing.

The court's ruling, delivered in a 37-page opinion by Justice Ruth Bader Ginsburg, wiped out lower court rulings in the case.

The net effect: reinstatement of a 1988 measure that made English Arizona's official language and required government actions to be taken in English.

But Ginsburg noted that the English-only measure is the subject of another challenge now before the Arizona Supreme Court. The state court "may now rule definitively on the proper construction" of the 1988 measure, she said.

"Once that court has spoken, adjudication of any remaining federal constitutional question may indeed become greatly simplified," Ginsburg said.

Arizona voters adopted the English-only amendment to their state constitution, but lower courts struck it down. They ruled that the amendment "obstructs the free flow of information and adversely affects the rights of many private persons."

The amendment said English "is the language of the ballot, the public schools and all government functions and actions."

It applied to all government officials and employees on government business and said the state "shall act in English and no other language."

There were exceptions — other languages could be used to help people learn English, teach foreign languages, comply with federal laws, protect public health and safety, or protect the rights of criminal defendants or crime victims.

The amendment was challenged in 1988 by Maria-Kelly Yniguez, then a state employee. In her job, she helped people who had medical malpractice claims. Many of the people she dealt with were far more comfortable speaking Spanish than English.

When Yniguez sued in a bid to keep speaking Spanish on occasion in her job, she named Arizona as a defendant. The state's attorney general already had interpreted the amendment, however, to allow such use of another language.

Then-Gov. Rose Mofford, a critic of the amendment, did not appeal a federal judge's ruling that struck it down.

Arizonans for Official English, a group that had spent a lot of money and time as chief promoter of the amendment, intervened and pursued appeals aimed at reviving it.

Yniguez quit her government job in 1990 for reasons unrelated to the legal fight.

"At that point, it became plain that she lacked a still-vital claim for prospective relief," Ginsburg wrote.

Ginsburg also cited "grave doubts" as to whether AOE or anyone else had the proper legal standing to continue the appeal once Arizona authorities decided not to.

But the court did not definitively resolve the standing question, resting its decision solely on the issue of mootness.

Meanwhile, other disputes over the constitutionality of English-only laws are bound to return to the nation's highest court.

The new Congress will consider a law making English the federal government's official language. Such legislation was passed by the House but not the Senate last year.

The case is *Arizonans for Official English vs. Arizona*, 95-974.

Judge Neel '73 Lenient Toward Robber with Student Loans

DEDHAM, Mass. (AP) — A teary-eyed bank robber who said overdue student loans drove him to commit his crime has been spared a jail sentence.

Dante Harris, 24, of Roxbury pleaded guilty to the Sept. 30 armed robbery of a Milton BayBank. He apologized and promised Judge Stephen Neel '73 that he would not see him again.

"I'm really sorry for what I've done, it was a mistake," Harris said. "I can guarantee I will not be back in court again. I'm going to try and get my life back together in a more positive way."

Neel agreed to give him a chance and ordered him to spend five years on probation, The Patriot Ledger of Quincy reported.

"The goal in sentencing is to punish and to rehabilitate where there is a reasonable possibility of rehabilitation," Neel said. "Mr. Harris does present a reasonable possibility of re-

habilitation and, perhaps a more than reasonable possibility."

Prosecutor Thomas Brennan said Harris got \$4,860 after handing a note to a cashier. "I am armed with a gun, do not push a button or give me dye packs," the note read.

Photos of Harris taken from the bank's videotape were posted in the Milton Police Department. He was caught when two off-duty officers saw him in a Mattapan nightclub.

Harris has been at the Dedham Jail for four months, unable to make the \$25,000 cash bail. He has no previous criminal record.

Harris' lawyer Robert Tutino said Harris went to the bank out of panic over worsening finances, including long-overdue student loans. Until his arrest, he worked at a Boston temporary employment agency.

"This is totally out of character with everything he has been taught," Tutino said.

Minority Parties Decline to Join Mandela's Government

DURBAN, South Africa (AP) — A predominantly white minority political party has refused an offer by President Nelson Mandela to join his unity government.

The leader of the liberal Democratic Party, Tony Leon, praised Mandela's "nation building efforts" Sunday, but told journalists at a briefing that joining the government would compromise his party's role as a "critical opposition."

Cabinet members may criticize government behind closed doors, but are expected to take collective responsibility for all decisions taken.

"The DP has decided to continue making its contribution and strengthening our new democracy outside government, as a constructive, tough, and ever watchful parliamentary opposition," the party said in a statement Sunday.

Since the withdrawal of former President F.W. de Klerk's National Party from government at the end of June, Cabinet has consisted of two predominantly black parties — Mandela's African National Congress and its main rival, the Zulu

nationalist Inkatha Freedom Party.

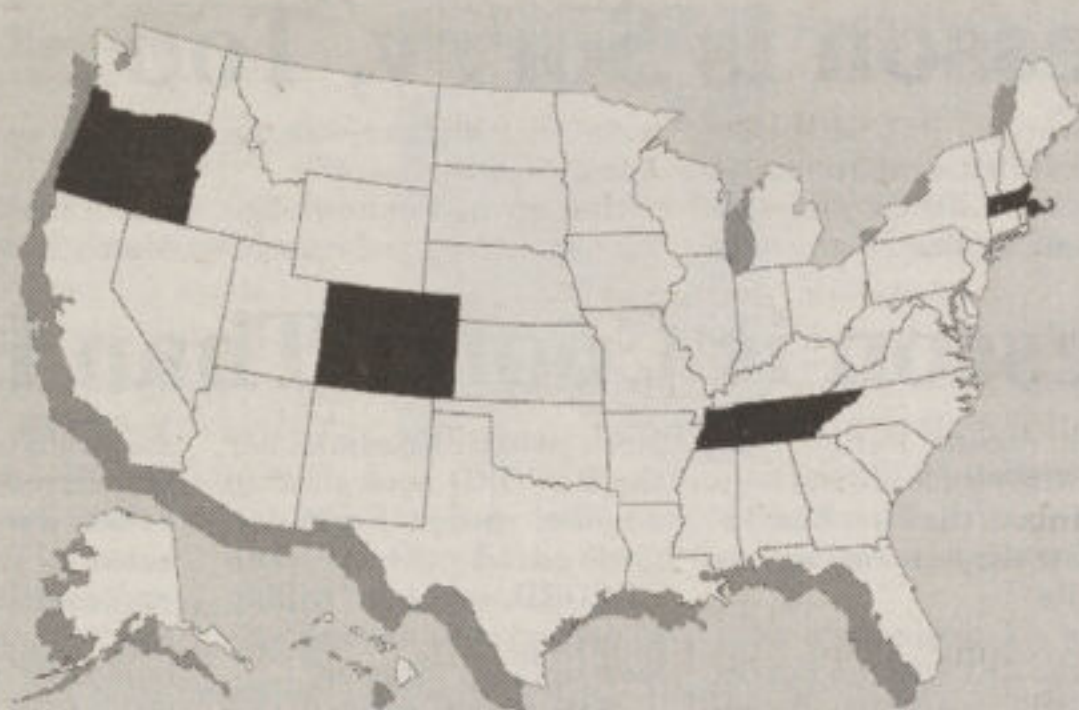
Mandela invited the predominantly white Democratic Party to join his government at the end of January. He also approached the black consciousness-inspired Pan Africanist Congress, but these negotiations appear to have broken down since party leaders made public their misgivings about joining government.

Although Mandela's African National Congress controls more than 60 percent of Parliament's 490 seats, it was obliged under an interim constitution, designed to promote reconciliation after decades of white minority rule, to share power with minority parties.

The new constitution that came into effect on Feb. 1, unlike the interim one, does not require the president to give Cabinet posts to parties that receive at least 10 percent of the vote.

The National Party announced its decision to withdraw from Cabinet the day after the new constitution was adopted by Parliament in May, saying it wanted to become a more effective opposition.

Across the Country



This Week, News From Around the World

McVeigh's Lawyer Charges Newspaper with Stealing Purported Confession

DENVER (AP) — Timothy McVeigh's attorney this week accused The Dallas Morning News of breaking into his computer and stealing files that were the basis for a story containing a purported confession by the Oklahoma City bombing defendant.

Attorney Stephen Jones asked for a federal investigation into the matter and denied that the statement was a confession.

"They knew or should have known that they had stolen documents," Jones said. "They knew or should have known they had no authorized release from Tim McVeigh, Judge Matsch, or myself."

"There is no justification whatever for this criminal act."

Jones also said he would file a complaint with the Texas Supreme Court asking to investigate whether the reporter, Pete Slover, who is also a lawyer, should be disbarred.

A lawyer for the newspaper rejected Jones' charges.

The Morning News used "lawful news gathering techniques," attorney Paul Watler said later in an afternoon news conference in Dallas. "We did not break any laws."

Watler said the newspaper "met the highest ethical standards" and has nothing to retract.

"We have no fear of criminal repercussions," the lawyer told reporters.

Jones said his investigation showed that Morning News lawyers obtained about 25,000 FBI memoranda and interviews with witnesses. By breaking into the defense's computer files, Jones said, the newspaper obtained hundreds of documents for McVeigh and co-defendant Terry Nichols. Jones said the newspaper may have committed "fraud, deception, misrepresentation and theft."

In a story published Friday — the deadline for 1,000 potential jurors to respond to a court questionnaire — the newspaper cited one defense memorandum that said McVeigh admitted to driving the explosives-laden truck that demolished the Alfred P. Murrah Federal Building in April 1995. It said he chose a daytime attack to ensure a "body count."

The bombing killed 168 people and injured more than 500. McVeigh's trial is to begin later this month in federal court here.

Jones told reporters he couldn't disclose precisely what the allegedly stolen documents were, citing Judge Richard Matsch's gag order.

"So the only way that I can tell you an answer to that question is to say, 'One, Mr. McVeigh has pled not guilty, and two, the defense will not present a false defense,'" Jones said.

"I told you Friday and I tell you again today, it is not a legitimate defense memorandum," he said. "It is not a confession of Tim McVeigh."

Jones also said he is considering asking for a 90-day delay in the trial as a "cooling off period." He also said he would seek to have the trial moved if the newspaper published any more stories from the documents. McVeigh's trial was moved from Oklahoma City to Denver because of pretrial publicity.

Before Jones' news conference, Morning News executives filed a statement in court saying they would not report any more information "from material used as the source of the previous articles."

The newspaper said the court would be told that the paper "remains sensitive to the tension between Mr. McVeigh's fair trial rights and the national public interest in this case."

Langer said the statement is to answer concerns about disrupting the trial. He said the information already published by the newspaper was of overriding public significance, but "any further articles based on the defense reports would not rise to the same level of importance."

All copies of the materials were turned over to the newspaper's attorneys for safekeeping, the paper said.

On Friday, Jones said he thought the material was a hoax perpetrated by someone with "a reason to dislike the newspaper, and the source has, in my opinion, used an intermediary and set this newspaper up."

Langer told the NBC "Today" show this week that the paper "researched this story carefully and obviously would not run a story that it was not confident of its information and sources and research and reporting."

"We didn't publish until we had gone through all that process."

McVeigh's trial, scheduled to begin March 31, was moved from Oklahoma City to Denver because of pretrial publicity. Jones had threatened to seek to have the trial moved to Alaska or Hawaii if there are more reports that refer to confidential documents.

Langer said the paper's editors debated at length about what to do with the story and decided it needed to be published.

Larry Pozner, vice president of the National Association of Criminal Defense Lawyers, disagreed. He said the McVeigh conversation, if it took place, is protected by attorney-client privilege.

As for the memo, Pozner said, "The only way you could have it, if it exists, is through a violation of some other citizen's rights."

Sam Archibald, a retired professor of journalism at the University of Colorado, said the newspaper was obliged to print the story.

"If an editor decides the documents are valid he or she should publish it," he said. "Editors are not in the business of withholding information. They are in the business of publishing."

Former CIA Station Chief to Plead Guilty to Spying

WASHINGTON (AP) — Harold J. Nicholson, the highest-ranking CIA official ever to be charged with espionage, is ready to admit guilt in selling secrets to the Russians.

Nicholson's expected guilty plea today in suburban Alexandria, Va., would follow a similar plea bargain last Friday before the same federal court when former FBI supervisor Earl Pitts admitted that he had spied for Russia since 1987.

Nicholson, like Pitts, was seeking to avoid a life sentence by agreeing to plead guilty and cooperate with authorities, attorneys and government officials said.

Prosecutors say Nicholson, 46, whose last job was teaching at the CIA's training facility, gave the Russians the identities of agency recruits he had been working with. CIA officials have expressed concern that information could seriously undermine the effectiveness of, and possibly endanger, those new employees in overseas assignments.

Nicholson was arrested on Nov. 16 at Washington Dulles International Airport as he prepared to leave for Switzerland with what the government says was a packet of secrets for Russian agents. He was charged in a three-count indictment with selling secrets to Moscow for more than \$180,000.

Nicholson, a 16-year CIA veteran, served as the agency's operations officer

at several foreign posts, including Bangkok, Tokyo and Manila, and was station chief in Bucharest, Romania, before returning to Washington to train recruits.

He was the second CIA agent in two years to be arrested in a major espionage case involving the Russians. In 1994, Aldrich Ames pleaded guilty to passing secret documents to the Soviets that resulted in the deaths of 10 Western agents. He was sentenced to life imprisonment.

Both Pitts and Nicholson also could face life behind bars despite their separate agreements to plead guilty. A judge will make that decision.

Pitts, 43, was arrested in December after undercover FBI agents, posing as Russian spies and aided by a former Russian official of the United Nations, lured him into resuming spying activities that prosecutors said began in 1987 when he was assigned to track Russian spies in New York. He was transferred to a less sensitive position in 1992.

On Friday, Pitts pleaded guilty to conspiring and attempting to commit espionage and admitted that the Russians paid him more than \$229,000 for the information he supplied them. Ten other counts against him were dropped.

U.S. Attorney Helen Fahey said plea negotiations with Pitts began after the FBI concluded it could not prove that he had turned over top-secret information.

Crime Victims' Rights Law Goes on Trial

PORTLAND, Ore. (AP) — A state Justice Department lawyer told the Oregon Supreme Court this week that Oregon's new crime victims' rights law should be applied to any pending criminal case, regardless of whether the crime was committed before the law took effect last Dec. 5.

At a special hearing at Lewis & Clark College's Northwestern School of Law, a public defender from Salem argued voters did not intend for it to be applied retroactively.

The law, which voters passed in November as Measure 40, makes it harder to exclude evidence by arguing it was seized illegally.

It lets prosecutors exclude from juries people who have been convicted of felonies or who aren't registered voters. It also allows aggravated murder convictions, carrying a possible death sentence, on less-than-unanimous votes.

Although prosecutors say the law does all those things legitimately, defense attorneys say it runs roughshod over constitutional rights.

The clash between defense attorneys and prosecutors already has led to numerous challenges at the trial court level since the law was passed.

Judges in different counties have voided some parts of the law and upheld others. Many of those decisions, which apply only in the counties in

which they were issued, now are wending their way through the appellate system.

In perhaps the most dramatic decision, a three-judge panel in Crook and Jefferson counties ruled in January the entire law is unconstitutional and could no longer be used in those counties.

In Deschutes County, by contrast, a five-judge panel upheld the law in a Dec. 12 ruling, striking down only a provision that makes it easier to keep defendants in jail before their trial.

Judges in other parts of the state have issued at least a dozen other rulings, according to the Oregon Criminal Defense Lawyers Association.

With such inconsistencies, lawyers for both sides say they are glad the Oregon Supreme Court decided to hear arguments quickly.

"I think the Supreme Court is being real responsible for doing that," said John Bradley, a Multnomah County senior deputy district attorney who helped write the measure. "The sooner they can resolve this, the better, because it affects virtually every criminal case tried in the state."

Bradley said it took the high court more than two years to rule on Measure 11, the Oregon's mandatory minimum sentencing law Oregon passed by voters in 1994.

Harvard Law RECORD

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FOUNDED IN 1946

A Public Interest Mandate

OPIA Director Stacy DeBroff's announcement this week that 17 percent of HLS graduates from the Class of 1991 are currently working in the public interest makes evident something we have known all along — that a significant segment of the School's student body is committed to public interest work.

But given this mandate, Dean Clark has remained steadfast in repudiating the School's institutional responsibility to endorse public interest work by guaranteeing students summer public interest grants.

Last year, Clark refused to guarantee funding, calling the grants "opened entitlements." In Clark's view, the School ought not disrupt the market's hand in allocating summer employment.

When Clark matched the funds raised by the Public Interest Auction last year, he made a calculated appearance at Ames Courtroom, check in hand, as if he were a horseback hero. Someone even had the chutzpah to require students who received the grants to write Clark thank you letters for allocating student tuition money back to students in the form of public interest grants.

If Clark were truly committed to public interest work, he would not allow 150 students to sit for months on a waiting list for funding, to grow increasingly distressed at the prospect of leaving the Dean's "soup kitchen" empty-handed, to wait and hope that the rest of their peers will be sufficiently demoralized and give up. Today students still wait, hoping to be among the surviving few to be handed a "personal" check from Bob.

Clark's welfare check approach to public interest funding must change. Generous alumni like Morris Wasserstein have sustained the summer public interest grant program over the past five years. While students appreciate alumni support, this is an unstable way to fund a program.

The money the School should allocate to public interest summer grants is as important as the millions it funnels into the library each year. And it benefits more than just the students who receive them. One percent of the country's practicing attorneys graduated from Harvard Law School. The School grants students the skills they need to become powerful community leaders and serve their country — not just private interests.

The least Dean Clark can do is provide willing students the means to explore the world beyond the private sector, and open the closefisted hand that feeds them.

— 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 is Sorry, Too

To various RECORD contributors of letters and columns: You know, I think you've all convinced me that I was wrong

to file my complaint with the Administrative Board. So let me acknowledge Fenno's apology and respond

with my own.

Prof. Charles R. Nesson '63
March 2, 1997

Nesson is Cooler Than Fenno

The recent Fenno flap shows that people around here do care about the First Amendment (no surprise) as well as its limits (!).

The 42 professors who wrote the RECORD on February 3, 1997, to condemn Fenno never questioned the author's right to write and the RECORD's right to publish whatever they wanted. Nor did Nesson. This is not a First Amendment issue. It has to do with matters of heart and sound judgment.

Nesson and the other professors called into question the good judgment of Fenno and the RECORD in publishing crude, harsh, and ultimately unredeeming columns. Face it, Fenno ain't funny.

Unfortunately, in the aftermath, Nesson's judgment in bringing an Administrative Board complaint was called into question as well. Both wrongs, however, were rights. Nesson has as much right to lodge a formal complaint as the Editorial Board did to publish stupid, unfunny, mawkish trash masquerading as social "commentary," (the RECORD's laudatory description of Fenno's function).

Maybe Nesson made a mistake in jumping the gun and formally threatening the RECORD's Editorial Board ... But Nesson withdrew his complaint on his own initiative. He has apologized publicly. His professionalism as a professor has been unfairly called into question both in and out of the RECORD.

Maybe students don't like professors throwing their weight around. Yet when the 42 faculty members (not including Nesson) sent the RECORD their exhortation, right next to it ran a Friedman editorial defending Fenno.

Note, neither Friedman nor the RECORD apologized to anyone; rather, Friedman announced that the RECORD would be "willing to apologize to anyone who feels unfairly targeted" ...

Friedman missed the mark: none of the professors, including Nesson, claimed they were unfairly targeted; what troubled them was the dubious caliber of the ammunition Fenno fired at them. Friedman was hollowly willing, but apparently not ready to, apologize. Fenno's noxious chemical warfare attacks were fairly hurtful. Nesson was not the only one who was hurt. The RECORD should not cloud the issue or hide behind the cover of the First Amendment or social commentary, which are both straw men. The point is, we are all part of a community: Fenno too. How we act and what we say reflects on all of us. Charlie Nesson has been one of the coolest entities at this school: Fenno the least cool.

Yeah, Fenno apologized, forked pen stuck firmly in his smarmy cheek. With apologies like that, who needs insults?

Nesson was making a plea for decency, because he is a decent man. He is one of the most caring humans we know, he is real. He often asks students how they are feeling. We are his foremost concern, and he makes us part of his life. How many other professors devote as much time to students?

In criminal terms, Nesson could be charged with assault for what he did, but not battery. We would gladly defend him. To poke fun or to comment is one thing; to humili-

ate people (even professors) for no good reason is deplorable. If Fenno were as funny or talented as Brandon Baer (who understands the art of parody and has a tremendous sense of humor) he might be able to get away with a bit more of his crap. Fenno is not a person. He is a bad joke. Who is laughing?

The tragedy is, it is Nesson, a good and committed member of the faculty, one of the law school's real assets, who is the most hurt by all this. Like most professors he is human. We all err.

But Nesson owned up to it: he clearly cares about this community, about how students felt about the Fenno affair, and he is clearly sensitive to the way professors wield authority and power. Nesson ultimately did the right thing. Did the RECORD?

Nesson fell on his proverbial sword. The RECORD, or at least its Editorial Board, should consider falling on its pen. If they are truly willing to apologize, then we urge them to do so.

Perhaps we can learn from all this: having the right to do something does not necessarily make that the right thing to do. We will remember Nesson because he stands for something, because he cares, and because he is real. It is too bad that Nesson, who does so much that is in fact redeeming for this school is pilloried, while Fenno drags himself and all of us through the mud, only to be deified elevated to his free speech pedestal.

Fenno, meet Larry Flynt.

David Marglin '96
Regina Dekhtyar '97
Kerry Kennedy '97
March 4, 1997

Community Forum, Not Ad Board, Should Discuss Fenno

With respect, I disagree with my colleagues' criticisms of Professor Nesson's response to the Fenno columns. If someone in the HLS community feels aggrieved by the actions of someone else in the community, then an independent, community-based means for addressing those concerns should exist.

Others' responses leave several matters unresolved. The first concerns the place of the RECORD in the HLS community. The RECORD is, I believe, an independent, self-financed organization. Yet it makes use of the School's name and shield. Such nominal association ought in some way make it accountable to the HLS community. Further, the First Amendment arguments raised in its defense

cut both ways: Suppose Nesson had written a response rather than filing a complaint, and the RECORD refused to publish it. What then? Newspapers have a right to refuse such responses. Where would that leave a person in Nesson's position?

It is true that Fenno hoisted Nesson by his own petard; as was noted, Nesson announced to his ITL class his use of pot. This alone is enough, however, to undercut Fenno's claims to a literary defense: One could justifiably argue that suggestions that Nesson engaged in other drug-related activities are not so plainly far-fetched and unbelievable as to clearly be parodic.

What concerns me most,

however, is neither Nesson's right to complain nor the RECORD's right to publish. It is instead the lack of an appropriate means for dealing with such complaints when they arise. The Ad Board is rightly criticized for being heavy-handed, secretive, and biased. It would require a stretch of the imagination to consider it a "community" forum. Rather than become mired in the divisiveness of what rights the various parties may legitimately stake claim to, I would suggest instead that we discuss new means of handling disputes that would, finally, give substance to the notion of community at HLS.

Matthew J. Kelly '97
March 1, 1997

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Rehabilitating Fuhrman

By Alan M. Dershowitz

Now that Mark Fuhrman — with the help of Vincent Bugliosi — is seeking to "rehabilitate his properly tarnished image," the public must hear for itself the infamous "Fuhrman tapes." Only by listening to his racist rantings in context can the public judge for itself whether Fuhrman is the vilified innocent he now claims he is, or the malignant racist he was accused of being.

Fuhrman's new book contains several long, tedious appendices and selected excerpts from his direct and cross-examination. But it studiously avoids any quotations from the tapes. In the book, Fuhrman claims that the excerpts that were quoted by the defense "were never put into context." Fine! I have challenged Fuhrman to release all of the tapes so that they can be published in context and the public afforded an opportunity to judge for itself.

Understandably, he has refused the challenge, preferring to argue — in the abstract and without being specific — that the racist quotations are out of context. I am confident that once the public has heard the tapes, it will conclude — as everyone who has actually heard or read the entirety of the taped conversations, including the prosecutors and Fuhrman's own lawyer — that the speaker is a virulent racist speaking from his own malignant heart rather than playing some character in a pro-



posed screenplay. Here are but a few of Fuhrman's taped statements:

"Commander Hickman . . . should be shot. The police commissioner, and all these niggers

in L.A. City government and all of 'em should be lined up against a wall and fuckin' shot.

"People there don't want niggers in their town. People there don't want Mexicans in their town. They don't want anybody but good people in their town, and anyway you can do to get them out of there that's fine with them. We have no niggers where I grew up.

"We stopped the choke because a bunch of niggers have a bunch of these organizations in the south end, and because all niggers are choked out and killed — 12 in 10 years.

"Go to Wilshire division. Wilshire division is all niggers. All niggers, nigger training officers, niggers . . . with three years on the job."

"Then we've got females . . . and dumb niggers, and all your Mexicans that can't even write the name of the car they drive.

"I used to go to work and practice movements. Niggers. They're easy. I used to practice my kicks.

" . . . anything out of a nigger's mouth for the first five or six sentences is a

fucking lie."

"Did you ever try to find a bruise on nigger? It is pretty tough, huh?"

Nor do these statements stand alone. Without knowing there would be tapes to corroborate her, Katherine Bell described a conversation that took place during the same period in which the tapes were made. In this conversation, Fuhrman was not speaking "in charac-

[W]hy then is this convicted perjurer and chronic liar being coddled by the media?

ter." He was speaking as Mark Fuhrman, police officer. Yet he expressed essentially the same personal racist views to Bell that he expressed on tape:

"Officer Fuhrman said that when he sees a 'nigger' (as he called it) driving with a white woman, he would pull them over. I asked would he, if he didn't have a reason, and he said that he would find one.

"Officer Fuhrman went on to say that he would like nothing more than to see all 'niggers' gathered together and

killed. He said something about burning them or bombing them."

Fuhrman had also used the "N" word in characterizing African Americans to a psychiatrist when he was seeking disability. He was not "in character" when he was talking to the psychiatrist. It is clear therefore that Fuhrman's repeated and malignant referrals to black people as "N's" on the tapes were typical of his attitude and characterizations of African Americans during the period at issue.

Thus when he answered F. Lee Bailey's question whether he had "used that word in the past 10 years" with an unequivocal "No," he was willfully lying. Yet in his book, he "guarantees" his readers that at "no point was I willfully lying to the court." That too is a lie. Indeed on the tapes, Fuhrman says that a good policeman must lie and falsify reports, if that's what it takes to put a criminal in jail.

So why then is this convicted perjurer and chronic liar being coddled by the media? During his dozens of interviews, he was never confronted with his own words. He was treated respectfully, even heroically, by many of the interviewers. That is why the public must now hear the Fuhrman tapes so that they can judge for themselves what sort of person he really is.

Alan Dershowitz is the Felix Frankfurter Professor at Harvard Law School.

Societal Greed and the Public Interest Job Market

By Timothy Kiefer '98

It has become a law school tradition to lament the small number of law students who take public interest jobs upon graduation. "Isn't it a shame that so many graduates sell out to a firm rather than choosing a public interest position," goes the standard complaint.

The problem is the corporate vs. public interest decision, or so we are told. The new lawyer reaches the fork in the road and chooses either the law firm or public interest. Too many take the corporate route, and in response law schools have established public interest advising offices to help convince students to pick public interest.

Let's imagine that those who say "too few are choosing public interest" get exactly what they wish for. Assume that law students across the nation have a collective change of heart and realize that they are dedicated to becoming public interest lawyers. Right now approximately 10 percent of HLS students enter public interest upon graduation. Let's assume that at both HLS and every other law school that number quintuples, to 50 percent.

If the supply of public-interest-oriented lawyers dramatically increased, one effect would be a

drop in salaries. As new lawyers fought bitterly for public interest jobs they would bid down the pay rates. For example, a legal aid society that now pays incoming attorneys \$30,000 a year might reduce its salary to \$25,000. After a certain point salaries might go low enough that only the independently wealthy could then afford to take the jobs. In a sense this has already happened in the public interest summer job market, where the typical salary is zero.

The drop in salaries would create at least some increase in the number of public interest job openings. That same legal aid society might hire six lawyers at \$25,000 a year rather than five law-

yers at \$30,000 a year.

Meanwhile, law firms would be suffering from a dearth of new associates.

Law firm partners would increase salaries in order to compete for the smaller pool of potential associates. The corporate and public interest worlds operate under the same economic principles in setting salaries. In both situations supply and demand interact to produce an equilibrium wage. The only difference is that the equilibrium wage for law firms is much higher than for public interest organizations.

In time the market would again reach equilibrium. Of the 50 percent of new lawyers seeking to enter public interest, most would be unable to find employment that paid a living wage. At the same time the law firms would be increasing their salaries. Unemployment

and school loans would eventually force most of the would-be public interest lawyers back into law firms. Others might leave the legal job market altogether and take jobs in non-law fields.

Therefore, on the aggregate level, merely encouraging law students to choose public interest may do more harm than good.

Although the number of public interest jobs would increase, that increase would be paid for by cuts in already-low public interest salaries. In other words, the public-interest pie would be cut into narrower slices.

The fundamental difference between law firms and public interest organizations is that law firm clients pay their own bills, while public interest organizations need an outside source of funding. Law firm revenue is determined by the number of clients and their willingness to pay. In contrast, public interest "revenue" is dependent on the willingness of third parties to donate funds.



Since the price charged for public interest legal services is zero, the supply of public interest legal services must be determined by an outside factor.

(There is also a gray area of public interest clients who pay their own way. A labor union would be one example. To the extent that public interest clients can pay their own bills they act economically like the clients of regular law firms.)

If we assume that increasing the total number of public interest lawyers is a desirable goal, then we must shift our focus from individual decisionmaking to the legal job market itself. The real obstacle is not law student greed, but rather societal greed: i.e., an unwillingness as a society to pay for the level of public interest legal work that we claim we want. Unless we are willing to accept public interest salary cuts, the only way to increase the number of public interest lawyers is to increase public interest funding.

In his 1992 book "Broken Contract: A Memoir of Harvard Law School," Richard Kahlenberg '89 suggests "a domestic peace corps, aimed at professionals." By providing funding for new public interest lawyers, Kahlenberg's domestic peace corps would alleviate the economic limitation on the number of new public interest lawyers.

"Harvard's Low Income Protection Plan (LIPP), which forgives student loans for those who take low-paying public interest jobs, could serve as the model for a national program of loan forgiveness, so that graduates of schools with-

out Harvard-sized endowments could participate," Kahlenberg writes.

By indirectly subsidizing the salaries of public interest lawyers, the market could absorb more new graduates. A public interest group could lower its salaries without affecting its lawyers' true incomes. This reduction in the payroll cost would then allow the group to hire more attorneys without increasing its total budget.

The basic problem with Kahlenberg's proposal, or any proposal involving the federal government, is that it depends on the federal government establishing an expensive new program — an unlikely and perhaps unwise decision given our federal budget deficit.

Another option, and perhaps a better one, is the private sector. A few law firms have already taken action to increase funding for public interest jobs. Skadden, Arps is well-known for its two-year public interest fellowships. Fried, Frank has established a program in which graduates work for two years at the firm and for two years at a cooperating public interest organization. By funding public interest activities, these law firms get positive publicity (of which this column is an example). More importantly, such programs serve as reminders that law is a profession, not just a business.

The problem isn't that law students lose their idealism and abandon public interest, but rather that there are simply not enough public interest jobs available. Only by increasing the funding that supports public interest law can we increase the number of law students who enter public interest.

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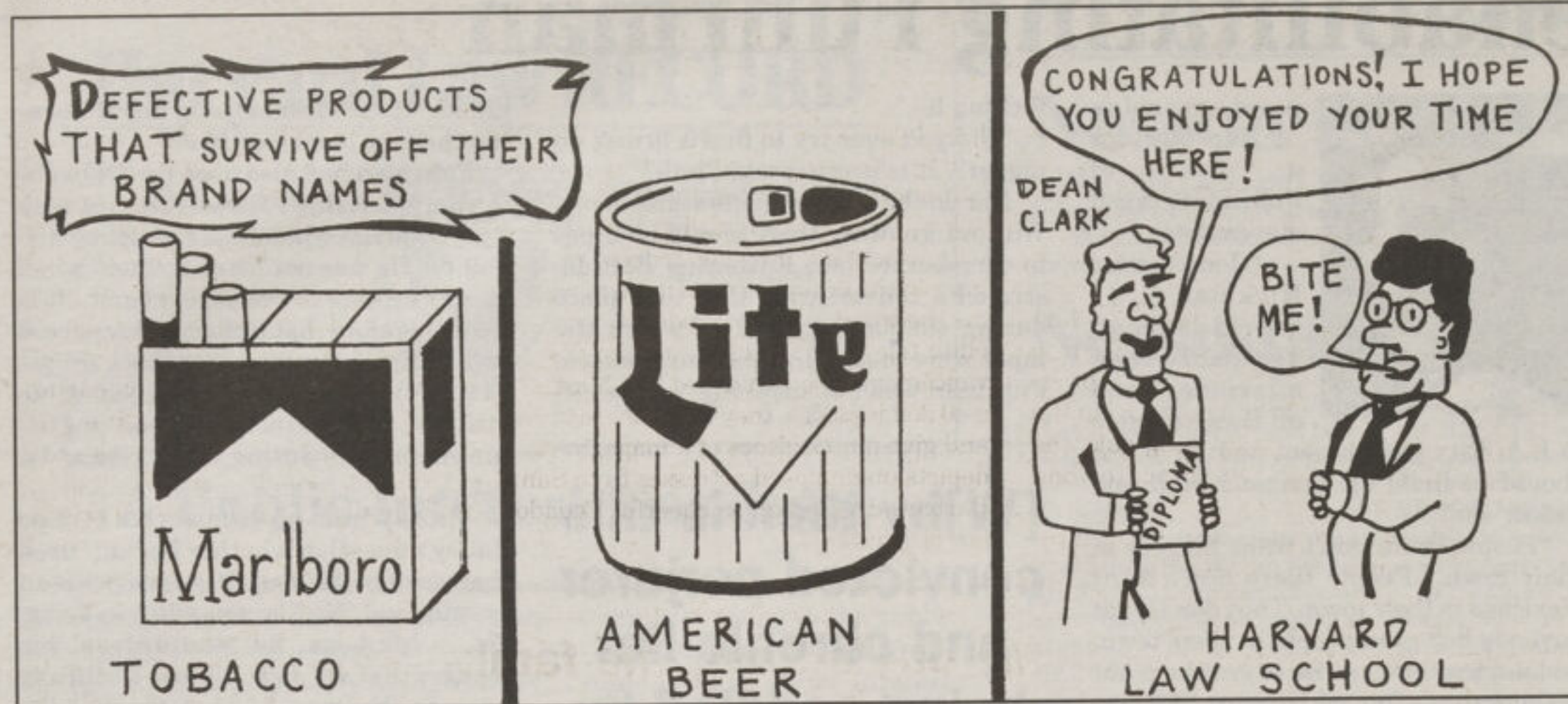
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Ad Hominem

By Stuart Rees and Bill Zimmerman



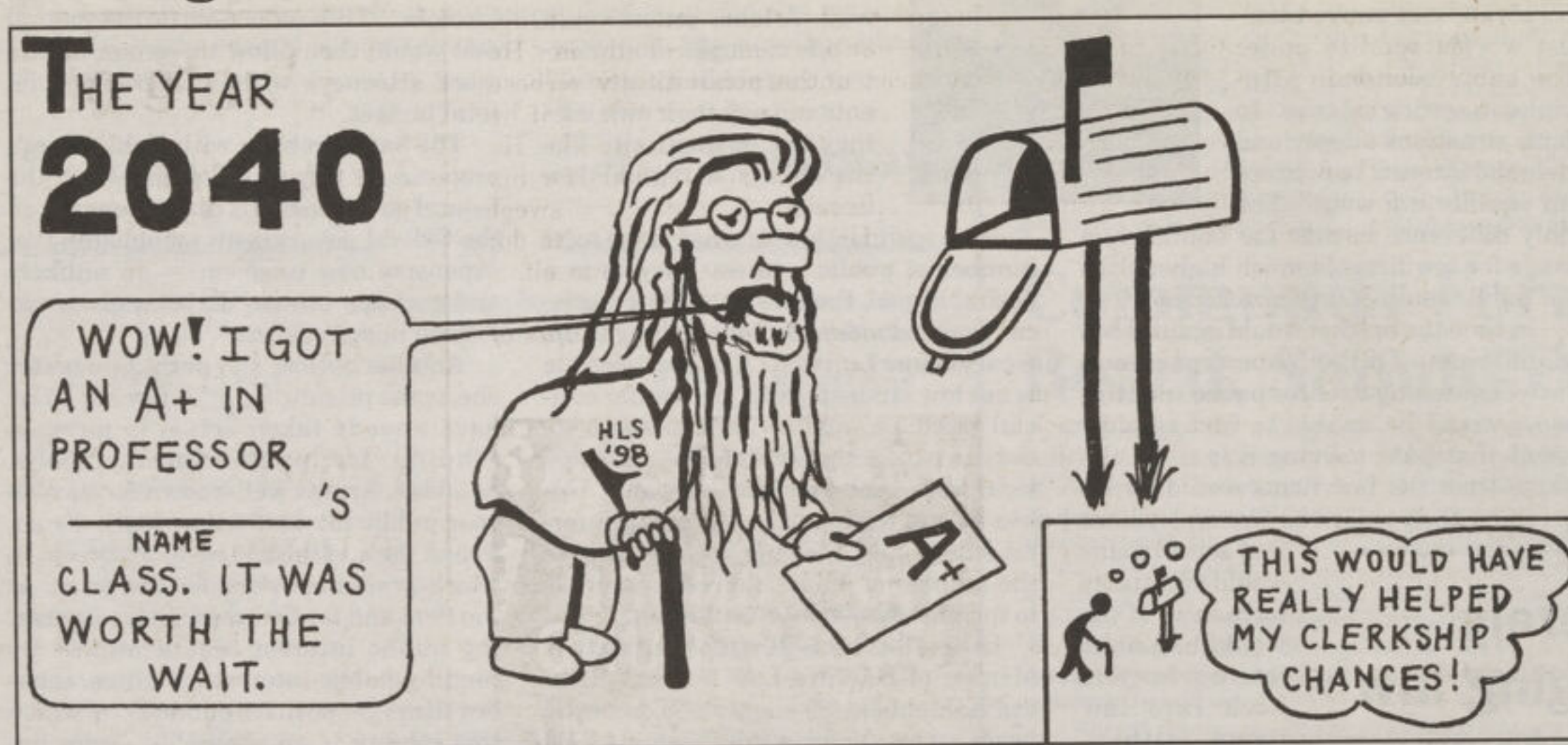
Reasonable Man Gets an Afro

By Alfred Steiner and Mark Torre



Investigative Cartooning

By Stuart Rees and Bill Zimmerman



Blahs

By Margie McWilliams



CALENDAR

By Janie Kim '99

March 7 — 13

Six degrees — or less — of the **Brattle Theatre**. This week, the BT takes on special significance as the center of the HLS free-time universe. Name any recreational pursuit ever devised or discovered, and the Brattle will feature some diversion at least tangentially related. Play along in this derivative rip-off of the Internet game.

Example: guessing which of **Tori Spelling's** body parts are works-in-progress and which are fully-realized silicone wonders —> much of **Tori's** medical care is probably paid for by her mega-producer dad **Aaron** —> in the 80s, **Papa Spelling** had a little TV blockbuster featuring aging divas in catfights —> the show, **Dynasty**, starred silver fox **John Forsythe** as **Blake Carrington** —> **Blake Babies** was the little band that introduced **Juliana Hatfield** onto the scene —> **Juliana Hatfield**, critic's darling and soulful popster, will be playing live at the Brattle Sat., March 8, showtimes: 8 & 10:30. Tix: a paltry \$12. 40 Brattle St., Harvard Sq. 876-6837

The Brattle has dedicated the next several Sundays and Mondays to **Bogie** and **Bacall**, sometimes together, sometimes apart. On March 9 & 10, they screen **Casablanca**. Uncolorized and in 35mm print, the **Bogart/Bergman** classic pays homage to duty and love in all its bittersweet glory.

After the flick, check out its namesake bar downstairs from the theatre. **Casablanca** on Brattle St. is a well-stocked, intimate drinking hole. With a jukebox full of old standards, including *As Time Goes By*, the place hums with good vibes; conversations don't have to be yelled over some toxic blare.

The Spectrum Singers perform songs and anthems from 20th Century England. Nothing by **Lennon**, **McCartney**, nor **Starr**, the concert will focus on classical music of the church and from the heart. Featured will be plenty of **Holst**, **Bairstow**, **Finzi**, and **Vaughan**. It's lovely stuff. Sat., March 8, 8 p.m. at First Congregational Church, 11 Garden St., off Harvard Sq. 321-5823 Tix in advance or at the door: \$18.

At the **Benefit for the Shadow Writing Project**, performance poetry by **Tina D'Elia**, **Eileen Myles**, and **Billy Stanley** will persist side by side with music by **Space Pussy**, 86, and **Jesse Zoldak**. At the Middle East Downstairs, 247 Mass. Ave., Cambridge. Sun., March 9 at 2 p.m. \$7. 487-6341

Black 47 seemed on the verge of serious big-time just a few summers ago. Their sea of fans stay loyal; the Gaelic-zydeco-funk burned up by this Irish-American band calls their followers to the Middle East where they headline on Thu., March 13.

The Wang Center Classic Film Series continues with **West Side Story**. Leonard Bernstein's complex, juicy, beautiful score, Bob Fosse's dynamic, expressive choreography ... it's all good. Even **Natalie Wood's** spackled-on Nuyoricana is passable. Mon., March 10 at 7 p.m. Tix: \$6. 270 Tremont St., Boston 931-2787

Fri., March 7 & Sat., March 8, **Darrell Hammond** of Saturday Night Live fame headlines at Fanueil Hall's Comedy Connection. NBC will either air a re-run or Hammond's dead-on impersonations of **Ted Koppel**, **Jesse Jackson**, and **Bill Clinton** will be a TV no-show.

A Brief Guide To Collectibles

By Jacob M. Appel '99

My one saving grace is that I do not save anything. I lack the patience to spend hours soaking canceled stamps off envelopes or stomping through the Everglades in the hope of spotting an ivory-billed woodpecker and joining the select ranks of the ornithologists who have "seen it all." My attic is devoid of milk-bottles; my mantle-piece sports no heirlooms; the Camel-cash pool table will never be mine!

My grandchildren will never hear my stories of how I gave away Mickey Mantle's rookie card or of the time when my parents incinerated several million dollars in comic books, Star Wars figurines, and Wedgwood china. And if the truth be told — and I hope my rabbi isn't reading this — I never pick up pennies from the sidewalk. I can envision him now, decked out in his long black robe, peering over his greying beard, and reminding me that my ancestors searched the desert for 40 years in search of a quarter.

"Two thousand years of heritage, 30,000 poor families wandering the Sinai for the sake of honor and a free gum-ball ... and you, my son, scoff at picking up pennies!" I can picture him lecturing me, his wrinkled hands on my shoulders, his eyes only inches from mine, and I will cave in and resolve that if I can ever save up the money, I will buy him a pack of breath mints.

I use and discard, have a fetish for plastic and don't even remember the end of the expression that begins "One man's garbage..." All I could come up with is "One man's garbage is another man's sow's ear," and it just doesn't sound right. I save neither money nor wisdom. I resemble the government.



Yet if I do not save anything, to my credit, I do not expect to be saved. I will never know Jesus in the Biblical sense. The Middlesex County Sheriff's Department will not need to rescue me from the upper branches of an alluring oak; the government ought not allocate food stamps for me.

My daily life consists of avoiding situations in which I might need the assistance of others: I have surveyed my neighborhood for open wells, always point out individuals I consider "suspicious looking" at airports and bus terminals, and wear a bullet-proof vest and carry 19 hand-guns and a Messerschmidt whenever I enter a public place. I resemble a Republican.

Possessing no plans to save or be saved, the "world-savers" always puzzle me. They remind me of Winston Churchill's description of fanatics as individuals who can't change their minds and won't change the subject — and they're always crusading for something. They publish how-to books with new age titles like "How to Save the Indigenous Cultures of Bolivia on Five and 10 Dollars a Day." Life, for these individuals, is a very serious matter — not an adventure to be experienced but a problem to be solved.

If you want to truly envision the dichotomy between the "world-savers" and the tired lot of humanity that is trying to avoid being saved, attempt to write the screen-play for "Abbott and Costello meet Enrico Fermi and Robert Fulgram, Jr." The Mormons, the Jehovah's Witnesses, the Sierra Club, the Historical Preserva-

tion Society of Las Vegas, the Boston Nuclear Freeze and Canasta Club, and the National Association for the Advancement of People Just Like You all want to salvage me, protect my progeny, redeem my siblings in the brotherhood of man, and bring me the wonders of the modern world: satellite television, Internet access, and advancement opportunities at Wal-Mart. For a 20 dollar pledge, they will wash my brain and give me 11 issues of a magazine that depicts unemployed actresses from Santa Barbara dressed up as cheerful Ecuadorian peasants.

My uncle Saul, the family pragmatist, once constructed a cappuccino maker from cigarette butts that can be fueled with dryer lint.

I do not question that some things may be worth saving. My uncle Saul, the family pragmatist, once constructed a cappuccino maker from cigarette butts that can be fueled with dryer lint. But maybe the "world-savers" are trying to save a bit too much. They deny me my caffeine, my cholesterol, my salt, my eggs, my butter, my red meat, my daily pound of human flesh — and then they have the nerve to suggest that I have no empathy for the starving children of Mauritania!

I often wonder why the savers don't pool their resources, using the same proselytes for different causes and cutting down overhead. They should. I'd be much happier if, rather than having my

dinner interrupted five times each night, one middle-aged woman called — the type who says drapes and tennis shoes instead of curtains and sneakers — and said "I'm calling from Vandalia, Illinois and was wondering if you had any desire to donate a kidney to a starving family? No? Have you ever considered a vacation to Jonestown, Guyana? Not interested? Would you like to support the cast of the Donna Reed show in their old age? Not really? Then let me tell briefly remind you that you're going to live through nuclear winter, develop rickets and burn through eternity. Thank you for your time and have a good evening." It certainly beats having to pretend I don't have a major credit card and getting hung up on. Some people just need a gallon of thorazine and a hobby.

If I had grown up in the suburbs with a lot of free time on my hands, I have little doubt that thinking globally and acting minimally would be quite appealing. And under other circumstances, saving Canton from the intelligentsia or Krakow from the Jews might be equally enticing. But at a time when the average school child watches six hours of television a night and the majority of college graduates can't name the person depicted on the 10 dollar bill (don't look in your wallet), maybe we should pause to question who really needs salvation.

And yes, for the record, I'd be happier if my school kids could download pornography and the President wasn't starting to resemble Raymond Burr. But I don't ask for much ... just the right to be apathetic to my own indifference. So save me!

Fenno

Fenno burst into the RECORD office with a heart bent on vengeance and a belly full of beer. He had been away too long. His business trip in Guatemala was not as pleasurable as he had anticipated. There were complications: arguments with government officials, bad prison food, slight torture, some clandestine tunneling, and a few days in the hold of a disreputable boat, disguised as a carton of salted cod. Months had passed.

But all that was far away now. The only thing occupying Fenno's mind was the righteous wrath he would rain down on the moron who screwed up his column while he was gone.

Suddenly, from one corner of the office, he heard a vaguely familiar voice, ranting loudly to no one in particular. "They can't scare me!" it said. "I'll write that the Langdell reconstruction is being funded by the LaRouchites! That Prof. Sargentich is a gun runner for the Bosnian Serbs! That Charles Ogletree was spotted in a Southie pub with David Duke! I'll bring this school to its knees!"

It was Skippy, Fenno's little 1L friend, and it was completely out of its mind.

Fenno decided to take the cautious, tactful approach. He whacked Skippy on the side of the head with a copy of the Adviser, whose only useful purpose is whacking the sides of people's heads. "What the hell's the matter with you?" he demanded.

"Oh, Mr. Fenno," exclaimed Skippy, "you're back. Do you like what I've done with the column?"

"Do I ... do I ..."

"you've destroyed me!"

"But Mr. Fenno," protested Skippy, "I simply decided to use your devil-may-care persona as a springboard for my own satirical observations on daily life at Harvard Law School. I'm doing the same stuff you did, only with a little more Nineties attitude, and, if I may say so, a lot more guts."

A small vein in Fenno's forehead began to twitch visibly. Calming himself by exerting extreme pressure on Skippy's neck, Fenno said quietly, "I'm afraid I disagree. Harvard Law School, as I tried to teach you, is a place where dazzling bureaucratic mediocrity meets casual academic treachery; where human passion is exchanged for efficient corporate behavior; where professorships, names of buildings, course offerings, and souls of some of America's brightest young people are daily exchanged for a few pieces of silver. All you bother to write is the uncomprehending rehash of old, incomplete rumors about professors' personal lives."

"Gluk," said Skippy, who was beginning to turn blue.

"I mean, you've missed the point completely," said Fenno. "Charlie ceased being a viable source for satire right about the time he smoked his last J. That joke's been told, and spelling out the punchline for the humor impaired doesn't make it funnier."

"Agh," said Skippy.

"And another thing," said Fenno. "I know that humor is often achieved through exaggeration, but the way you've been writing about the professors is simply going too far. You're showing them sleeping and getting high with students, and in reality, these people lock themselves in their darkened offices to avoid contact with us at any cost."

Skippy said nothing, for it had passed out.

Fenno released his grip on Skippy's throat, for he was calmer now, and didn't want to kill the little fellow. Skippy col-

lapsed to the floor, still breathing. Fenno felt a headache coming on. He had been uncharacteristically verbose and vindictive; in fact, it felt as if he hadn't been himself in a long time. He reached into his jacket pocket for his flask, unscrewed it, and tasted sweet clarity. He knew what he had to do: Fenno had to go in search of himself.

Next week: Fenno visits the Office of Student Life Counseling.

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Quote of the Week

"[T]his university is running on its reputation and doesn't care about student concerns. ... [H]ow long can [it] do that and still remain competitive?"

— Ross LaJeunesse '98



B r i e f s

Rita Himes Is Proud Mother of Samir Benhaddad Himes

Rita Himes, a Boalt Hall exchange student, is the proud mother of Samir Benhaddad Himes, born February 23 at 9:09 a.m. Samir weighed seven pounds 14 ounces and was 19 inches long.

Himes, a student in Prof. Martha Minow's Family Law class, is taking the title of the class literally — she recently brought her newborn son to class with her.

"People have been really supportive," Himes said. "I'm really grateful about that."

Neighbors: Faculty Club Noisy, Smelly, Smoky

The Harvard Faculty Club is noisy, smelly, and smoky, according to a complaint by neighbors.

In testimony before the Cambridge License Commission, Horst and Louise Huber complained that the noise emanating from the popular professors' hang-out forces them to sleep wearing earplugs.

The Hubers said that the noise problems include loud music from evening parties, rooftop ventilation machinery, and early morning delivery trucks.

The Hubers complained that an unpleasant smell emanates from the vent discharge system and that clouds of smoke frequently billow down the block.

Mrs. Huber told the commission that on one occasion she believed the club building was on fire because the smoke was so thick.

Tanya Iatridis, director of project approvals for Harvard Planning and Real Estate, said at the meeting that the university is working to reduce the noise levels. Iatridis denied that the Faculty Club smells bad.

— from the *Harvard Crimson*

Slaughter '85 Appointed First Armstrong Professor

Professor Anne-Marie Slaughter '85 has been appointed the first J. Sinclair Armstrong Professor of International, Foreign, and Comparative Law, Dean Clark '72 announced.

"This chair holds particular meaning for me," Slaughter said. "Globalization, as an economic and cultural phenomenon, is about comparative and foreign law as much as international law. The top lawyers of the 21st century must be global lawyers, familiar with the rudiments of many different legal systems and able to work within international and domestic legal institutions."

J. Sinclair Armstrong '41, for whom the professorship is named, formerly served as chairman of the Securities and Exchange Commission and as Assistant Secretary of the Navy.

Armstrong's wife, Charlotte P. Armstrong '53, is a member of the first HLS graduating class to include women. She is a former president of the HLS alumni association and is currently an Overseer of Harvard University.

Armstrong said that the professorship would have an emphasis on human rights.

"We think the United States Bill of Rights should be just as much an article of export to the rest of the world as the products of our farms, factories, and financial services," he said.

Slaughter holds degrees from Oxford and Princeton in addition to her Harvard JD. She was appointed to the HLS faculty in 1994.

— from the *HLS News Service*

ALI-ABA Celebrates 50th Anniversary

The American Law Institute-American Bar Association Committee on Continuing Professional Education (ALI-ABA) is celebrating its 50th anniversary this year. ALI-ABA is a national nonprofit endeavor providing continuing professional education.

"ALI-ABA has spurred our aspirations as a learned profession, advanced our learning of substantive law, and provided a cohesive, collegial assembly ground for our nation's lawyers," said Jerome Shestack '49, the president of the ABA.

In observance of the anniversary, ALI-ABA has designated 1997 its "Year of Dialogue," a year of open-door discussion on continuing legal education issues. The year will culminate in November with a conference broadcast live via satellite on the American Law Network.

— from a press release

Breyer Talks to Harvard College Students About USSC Life

Associate Justice of the United States Supreme Court Stephen Breyer '64 spoke to about 75 Harvard College students at Hillel on March 3.

Although Breyer did not discuss individual cases before the Court, he did talk about general legal issues and about life as a Supreme Court justice.

Breyer said that as the most junior justice on the Court, he answers the door when the justices are in their private conference and someone knocks on the door. During a question and answer session, Breyer was asked if there are too many lawyers in the United States.

Breyer replied that supply creates demand in the legal profession. He said that the United States' profusion of laws naturally creates a need for many lawyers.

HBS Second in US News Rankings

The Harvard Business School is number two in the nation according to the new US News and World Report ranking. Last year HBS was ranked fifth.

Stanford was ranked first for the second year in a row. Other top-ranked schools were the Massachusetts Institute of Technology's Sloan School, the University of Pennsylvania's Wharton School and Northwestern University's Kellogg School.

— from the *Harvard Crimson*

• Letters •

Former "Fenno" Gives Insight

It's sad to see an institution, such as a column, in decline. It's sad to see a fictional character, one I know well, in decline.

"Fenno" had been a column in the Harvard Law Record for decades before I helped spin out the serial saga — roughly every other column — in 1983 and 1984. I took Fenno to Washington, DC to testify before Congress — his first time out of the Boston area, I proudly thought. Then I learned that Fenno had gone to Vietnam in the '60s. With my help, Fenno studied Zen with Zenno. He attended a Passover seder. Fenno went back to ancient Greece, to be taunted in the Socratic method by Socrates.

"Fenno" columnists receive no guidelines. I set my own. Fenno was immature, but not mean-spirited; he was a naïf savant, not the gonzo figure out of Hunter Thompson that current readers may know. Fenno consumed lots

of beer, but not other intoxicants. He engaged in no cheap sexual innuendoes — only sophisticated ones (or so I hoped). I once described Fenno as having shaggy hair; any other physical description I left to the reader's imagination.

When I maligned a professor, it was the fictional Professor Digressor. When Fenno criticized a real comment by Alan Dershowitz, I called Dershowitz's office to claim the anonymously published criticism. (I think that I left Dershowitz's secretary nonplused. Her reaction: Yes, so? Why is it again that you are calling?)

Am I taking the column too seriously? No. "Fenno" may be a small HLS tradition, but it is a long one. When I wooed my wife, my "Fenno" columns made her laugh out loud. And "Fenno" on my resume got me two job offers. My qualifications were equal to my competi-

tors; my winning edge was being a contributor to a popular column that interviewers remembered fondly from their law school days.

In response to the strife over "Fenno" the column, I'm doing two things. First, I offer assistance to my successor columnists. Call me. I'll share my understanding of Fenno's fictional mind. My insights are reasonably current. In the fall of 1995, when I was a Wasserstein Public Interest Fellow-in-Residence at HLS, the Harvard Law Record published a "Fenno" column that I had written for old times' sake.

Second, I'm removing "Fenno" from my resume, at least until the column bounces back. I don't want to be associated with defamation. As for any footnotes to this letter, I'll spare you.

Kenneth Bresler '84
Newton Centre, MA
February 28, 1997

Beck is the Better Feminist

I am writing in response to Ramsey Nganani Beck's response to my column entitled "The 'F' Word." In my column, I attempted to respond to the men and women who have approached me in the last six months and said, "I really liked your last column, but I am not a feminist."

Many of the people who have made this statement probably believe in the core values of feminism, yet have a misperception of what it means to be a feminist. I attempted to sympathize with the primary fears people have relayed to me in shying away from the label, while at the same time demonstrate that it is only a label, and people should not shy away from advocating equality.

Ms. Beck responded that my message translates into "if you make people feel uncomfortable, you are less than a woman, and somewhat a monster." Although Ms. Beck selected quotes explaining my argument that there are feminists who alienate others, she misses what I was responding to. She implies that I am concerned about alienating others through advocacy. In fact, what I was responding to was a letter criticizing my column that argued strong sentiments including that a real feminist is insulted when a man picks

up the tab for dinner, because it implies she cannot pay. This statement is ludicrous on its face, and was the sort of humorless, zealous advocacy I attempted to assure my readers they need not adopt.

Ms. Beck suggests that active support is necessary to be a feminist. I believe this differs from my suggestions that people should be advocates in whatever sphere they feel comfortable in that they must be active in the sphere that Ms. Beck believes is important, regardless of their personal beliefs or comfort level. Ms. Beck goes back to "there is one right way to be a feminist argument" that I urged my readers to reject.

However, upon reading Ms. Beck's column, I am convinced she has proved herself to be the better feminist... I challenge her to write about issues that women face as students and lawyers in a manner that convinces other students they should consider themselves feminists. Although the goal of feminism is not always recruiting others, I fail to see the purpose in preaching to the choir in *The RECORD*. (No statements about my personal religious beliefs intended.)

I have attempted to raise awareness of gender issues

for six months, and know from some responses that I have succeeded in that goal. However, I do not appreciate the criticism from others who call themselves feminists. Although Ms. Beck argues that feminists must be active advocates and not apologize for making others uncomfortable, I do not think I have ever seen her at a Women's Law Association meeting, and she had somebody else call me to discuss submitting a column, instead of talking to me directly in what might have been an uncomfortable conversation. I am aware that WLA is not for everyone, but the way to unify women at Harvard is to strive to make changes (as Deb Dosantos and others have done all year), not sit back and criticize.

I would much rather read my copy of *The Rules* again and have a good laugh than read one more comment from a fellow feminist telling me that my view is in some way wrong. To those of you who have expressed support, and there are many, thank you. You can be sure I will continue to promote equality in whatever sphere I feel comfortable.

Kristina Hoy '98
March 3, 1997

Some Poetry for Appel

[Re: Dulce et Decorum, Jacob M. Appel, Feb. 7, 1997]

Jake — take a tip from me
While you wax pedantically

In your high anxiety —
Lear's lament — Caulfield's
ennui —
Get a Wake and you will see
There ain't no apostrophe!

Richard D. Harburg '54
Philadelphia, PA
February 28, 1997

SPORTSGUY INTRAMURAL TOP TEN

(last week's ranking in parentheses)

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

SPORTSGUY

Hemenway Happenings

By Todd Stillerman '97

Sports Editor



More bouquets and brickbats from your friendly neighborhood SPORTSGUY ...

A-League Action. The stage was set for a Wednesday showdown between #1 Black Plague and the #2 Rainmakers after both teams moved to 4-0. Black Plague stuffed Lil' Penny's Nightmare 57-42 behind smooth point guard Calvin Gladney '97, while the Rainmakers got the better of Lil' Penny, too, by a 51-43 count. The Rainmakers also held off the Dark Side 71-44 despite an effective box-and-one defense against shooting guard Naim "Of the Rose" Bulbulia '98 that spawned hysterical laughter from teammates "Malibu" Ken Kloner '98 and Brent "The Idaho Avenger" Schlotthauer '98. "As though a little thing like defense is going to keep Naim from shooting," joked Kloner.

In other A-action, the Nets moved into the Top Ten with an upset of Alphabet Soup, 49-46. "We're thinking of changing the team name each week to honor something that looked good on paper but didn't fly in reality," explained Soup guard Jesse "King's" Ransom '99, "like Team Tony Mandarich or Team Dan & Dave." SPORTSGUY likes Team New Coke.

High Threshold For Dane. Playing perhaps their best game since the storybook 1995 season, the two-time defending champion Great Danes vanquished Team Kankos by a 67-34 score before a capacity crowd at Hemenway Gymnasium. Missing the services of team captain and leading scorer Pat "Honey Nut Cheer-i" O'Reilly '97 and swingman Tommy "Knockers" Butler '97, the Danes turned to a dazzling passing game and "spread the wealth" among the remaining seven team members. "Pat takes about 30 shots a game," noted Danes sharpshooter Andy "Justgivemetheball" Kincheloe '97, who lit up the Kankos for six three-pointers. "Spread those shots around, and things are going to happen." Danes center Rob "If I Only Had A" Brainan '96 ruled the boards, keeping Kankos scoring threats Darren "Bewitched" Mungerson '98 and Craig Briskin '98 out of the lane for most of the evening. Proud Danes supporter Stephanie Kalkut '97 summed up the game with an astute observation: "O'Reilly would rather pass a tapeworm than the basketball. I like seeing Johnathan ["Longsnapper" Robertson '97] and Steve [Kelly "Green" '97] get quality touches. Is there still a spot available for Pat on Lil' Penny's Nightmare?" The Danes (4-0) next serious challenge comes April 11 against the upstart Unabomers.

Dogging the Rotunda. Awakening from the dead, the Arthritic Dogs jumped on the Tarnished Rotunda 48-36 for their first victory. The Rotunda (1-3) began the game with a flourish when Bob "Big Mac" McCarter '97 stood up to Dogs captain Stuart Rankin "File" '97 on the opening play: "I'm only going to say this once," explained a vehement McCarter. "I'm five-ten and he's six-two, and I capped the sonofabitch. This is my house." The Dogs had the last laugh, pulling away in the second half as the Rotunda faltered. Rotunda center Zach "To the Future" Stern '97 seemed unconcerned about the loss, taking the opportunity to criticize the SPORTSGUY's choice of Pat "Hot" Rodriguez '97 as intramural football Offensive Player of the Year. "The SPORTSGUY's been out to get me from the very start. I think it's because I'm a Yankees fan," rambled Stern, clearly not afraid of being named Most Offensive Player of the Year. See Stern and his more talented teammates in action next Friday at 9:45 against the Unabomers.

Explosive Offense. Strolling through the Sports Depot in Allston on Saturday, the SPORTSGUY (as though he were ESPN's Dick Vitale) was accosted by an unfamiliar voice that admonished: "The Unabomers are 3-and-oh, baby! When are we going to get some press?" After a convincing 62-57 win over the Stormin' Mormons, the SPORTSGUY is here to sing their praises. Behind the relentless enthusiasm of team captain Alan "Russo-Japanese" Warfield '98, the Unabomers have established themselves as the biggest obstacle in the path of the Great Danes' hopes to three-peat. Also in the Austin Division, the Bob Melsons topped the groovy Soulbucket, 42-27.

Cold Feet? In the fiercely-competitive B-Langdell Division, the best game was not played. Amidst speculation that team captain Mike "Practice What You" Beach '97 was "ducking quality opponents," Sweathogs III: Ladies' Last Chance For Some Hog (2-0) postponed its match-up with highly-touted Flagrant Delicto (2-1). "It's like the guys are scared or something," noted Sweathogs scorekeeper Mona "Lisa" Mitrani '98, who asked not to be identified. Media fallout dropped the Hogs a notch to #5 in the SPORTSGUY rankings. In other division games, the resurgent Chupacabras (3-1) blasted the winless Ice Weasels behind the creative offensive stylings of Brian "The Horror!" Kurtz '97. In the Hogs absence, The Killing Zone (3-0) took over sole possession of first place with a 60-42 drubbing of Bye (1-3), while the Short Guys evened their record at 2-2 by nipping Hotel Gropius, 44-41.

Lost in Gropius. Finding their mouths a little too large for their games were the undefeated Godfathers of Dunk (4-0), who beat up on the Happy Coolyances, otherwise known as the Gropius Division whipping boys. After dispatching the Coolyances 49-28, spectators were aghast to hear the Godfathers suggest that their team deserved a berth in the A-League. "You only beat an oh-and-three team by 21 points, and already you want to play Black Plague? That's insanity," warned Commissioner Bulbulia, who reportedly found a horse's head in his bed Sunday morning. In other division games, Second-place Box-and-One (3-1) ended the title hopes of the Flaming Rats (2-1) with a 54-39 victory, and the Happy Couples (1-3) found their way into the win column by edging winless Capital Offense 37-29 in a defensive battle.

Abuse Your Illusion. The SPORTSGUY has taken a lot of flack this month for slamming the Grizzers, the B-League entry from those wacky academics at the Harvard Law Review. After whipping Offensive Nonmutual Collateral Estoppel 50-38 this week, the suggestion arose that the SPORTSGUY might have to begin eating crow. No chance, baby! The Grizzers have yet to face quality opposition. Although Grizzers captain Karl "Empire of The" Sun '97 claims the addition of A-League juggernaut "Richie" Rich Moberly '97 would make the Grizzers a championship contender, a legal fiction has been created. Their March 13 date with Box-and-One should end the fairy tale.

THE VERDICT

Bleak Views

By Michael Bennett '98

Movie Reviewer



The Empire Strikes Back

1980 A.D. What an interesting year. In the real world, the dark force came to power in this country. Armed with astronomers and dreams of satellite warfare, this force was formidable. In the film world, a different force took center stage. Just as menacing to those under its thumb, the filmic entity combined mysticism and technological warfare as well. Unfortunately, the former lasted twelve years compared to two hours and some odd minutes for the latter. Reagan or Vader for president? Too close to call.

George Lucas' *The Empire Strikes Back* in its original form was, like the period in which it was born, very disturbing. Huge audiences across the country flocked to the theatres and watched as the heroes of *Star Wars* lost battle after battle. Han Solo (Harrison Ford) is frozen solid and sent to pay an old debt with his life. Luke (Mark Hamilton) loses his hand and learns that Darth Vader is his father. Lando Calrissian (Billy Dee Williams) loses Cloud City to the Empire after selling his friends out. These were bad times.

Today, audiences are flocking again to view *Empire*. But this time they have the security of knowing what happens in *Return of the Jedi*. Han is defrosted, Luke gets used to his robotic hand, and Lando redeems himself. Unlike the '97 version of *Star Wars*, *Empire* has not been extensively tinkered with. Some sound enhancements here, digital backgrounds there, a better look at the snow creature that Luke barely escapes in the beginning... the changes are few in number. Actually, the redone soundtrack is due more credit than granted; the volume has been pumped up so that garden variety explosions vibrate the theatre chairs (at the Cheri) and viewers can feel the bass of the force in their chests. It's as if Darth is reaching out of the screen at times.

Unless you're sentimental or bored or paid to watch film, there are only two good reasons to see this one again: Yoda and the costumed freaks that the movie attracts (including a few HLS students). The crowd burst into screams and applause when, in response to Luke's half-hearted attempt at using the force, Yoda gurgles out his classic line "do or do not/ there is no try." Satisfying two of the requisite reasons, I watched and enjoyed the film for probably the 10th time. Sated, I left the theatre feeling only slightly disturbed — I could have sworn that I saw a guy from the Law School dressed as Leia.

Rating:



subURBIA

Richard Linklater's latest addition to his gen-X docudramas is a melancholy tour de non-force. Utterly depressing, the film scans the indescribably nondescript collection of self-replicating homes, swarms of chain stores, and the unique brand (and they are a brand, no doubt) of citizens that occupy the Texas suburb of Burnside (a.k.a. Austin).

If this were a science experiment, it would be a complete failure due to the fact that there is no control group offered as proof of normalcy to the viewer. There is not one moment of fresh air, not one device to make the viewer think, "ahh, this is irregular..." these unfortunate lone star suburbanites are just suffering from some kind of collective psychosis. And in a sense it is a good thing that the work does not pass scientific muster. It chooses rather to trap one in the midst of the sprawl than to allow any antiseptic safe distance sampling. The screen simply serves as all too fragile cage bars separating the viewer from the jaws of a special and deadly breed of American.

The story dwells on the interactions between: a handful of 20-somethings who find themselves trapped in the super-gravity of the place; a high school chum of theirs who physically escaped the 'burbs to make it big as a musician but mentally never left; and a Pakistani couple who run a convenience store, A Food Mart, which serves as a focal point of action for the other characters.

If any one general comment can be made about them as a group, it is that they are deranged. A sense of futility and hopelessness pervades their every action. Jeff, played by Giovanni Ribisi, is a tormented young man who sees himself as the Kerouac of the 'burbs, a bard and a songwriter living among non-thinkers. Actually, he is a pessimistic, immobilized, old man trapped in a barely pubescent body. Ironically, in his opening scene, Jeff is found sitting in a camping tent inside his garage — as if he were on safari in the wild kingdom. He wants to be beyond the sprawl but lacks the momentum. He is the sprawl's organic product-offspring.

As for the other human images that canvas the screen, they have outward subtle differences — why they hate the suburb, a plan of escape that has failed them, a different shade of beige that covers their home — but the same guts. They are fungible just like their environment. Buff (Steve Zahn), the town idiot who, for the most part sparing the living, humps every object in sight while drunk on cheap beer. Sooze (Amie Carey), Jeff's girlfriend, is a female version of Jeff. Tim, played by Nicky Katt, is an impotent ex-Air Force cook who's forgotten that James Dean portrayed an angst-filled teenager in *Rebel Without a Cause*. He assumes the mannerisms and attitude but lacks the juvenile justification. The Pakistani couple, Pakeesa (Samia Shoaib) and Nazeer (Ajay Naidu) don't understand the other characters' motivations or why they flock to the store. Initially sobering elements, they too catch the 'urb infection. The film would have one believe that it is deadly. Perhaps it is.

Rating:



The films are playing at The Kendall and The Cheri theatres, respectively. Films are rated from 0 to 5 gavels.

Why the Balanced Budget Amendment Should Have Passed

By Paul Schnaitter '99

Guest Columnist



I trust everyone has heard that Sen. Robert Torricelli (D-NJ), the swing vote on the balanced budget amendment, voted nay, thereby killing the amendment for this term.

The amendment should have been passed for three reasons: one democratic, one pragmatic, and one conservative. First, the democratic reason:

All the Republicans voted for the amendment, as did 10 Democrats. Torricelli said that it really didn't matter that he voted to strike down the amendment because if he hadn't, then one of the 10 Democrats who voted for it would have switched positions. In other words, most of those 10 Democrats, and Torricelli as well, lied when they told their constituencies that they supported a balanced budget amendment. The 10 who voted for it did so to keep their campaign promises but only because they knew that their votes would be inconsequential. If their votes had mattered, they'd have voted differently.

Here's the problem: We live in a representative democracy. That means that we elect people whom we think will represent our positions. Campaigns allow the candidates to present their positions to the people, and the people vote on that basis. So when congressmen flip-flop on issues after elections, they undermine the democratic system. We might as well toss coins at the ballots.

Put simply, congressmen should keep their campaign promises. Otherwise, they make a farce of democracy. Torricelli didn't keep his promise on the balanced budget amendment. Thus, he made a farce of democracy.

I'm sure this happens all the time. But that doesn't mean that it should happen all the time, or even at all. Everyone knows that an "is" doesn't imply an "ought."

Second, the balanced budget amendment should have been passed on pragmatic grounds. This is an easy analysis. Pragmatists like experimentation. If one thing isn't working, then it's time to try something else. We haven't been able to balance the budget for nearly 30 years. The last time the United States ran a budget surplus was in 1969. Thus, pragmatism compels us to try something new and to see what happens. The balanced budget amendment would serve that purpose.

Finally, the conservative argument for the balanced budget amendment rests on a profound distrust of political motivations. Politicians have a great incentive to run budget deficits because their short-term consequences are generally good. It's the long-term consequences that are deleterious. But long-term consequences don't affect political decision making. Even career politicians aren't hurt by decisions that they made in the distant past. No one really remembers who did what when.

And everyone points his finger at the opposing party. It's their fault, not ours! Thus, without a balanced budget amendment, no effort to balance the budget will ever transcend political rhetoric.

The liberals say that a balanced budget amendment would hurt the country in times of war and economic distress. This is a Keynesian argument. The idea is that when the economy is sluggish, fiscal policy should stimulate economic activity by running a budget deficit. And when the economy is over-heated, fiscal policy should cool it down by running a budget surplus, or less of a budget deficit. Unfortunately for the liberals, the work of many economists, such as those from the Chicago school of economics, has discredited these ideas. No one but dogmatic Democrats (who really can't accept new ideas, despite their rhetoric of change) still adheres to Keynesianism.

But on top of all this, the balanced budget amendment includes an over-ride clause where a three-fifths vote of Congress could suspend it for the year. Thus, if Keynesianism ever were to regain ascendancy, we would still have the means to run deficits. Of course, the Democrats think that this wouldn't work because special-interest politics would control the over-ride vote. In other words, what they're saying is that we shouldn't have a balanced budget amendment because then it would be too hard to run deficits!

The issue boils down to this: The Republicans feel that the good of forcing Congress to balance the budget by means of a balanced budget amendment outweighs the good of being able to run a deficit without a three-fifths vote; the Democrats feel that the good of being able to run a deficit without a three-fifths vote outweighs the good of forcing Congress to balance the budget by means of a balanced budget amendment.

Another argument that the Democrats give for striking down the balanced budget amendment is that deficits aren't bad so long as we invest the money in infrastructure and don't squander it. This might be true. But experience shows that Congress prefers to squander the money. So why do the Democrats think anything will be different in the future?

Here's why: Liberals value reason over tradition. They feel that if we'd just create one more government agency to put the world in order, then all our problems would disappear. Conservatives, on the other hand, are highly suspicious of reason and its close friend progress. Thus, they cling to tradition for their standards.

The Democrats have faith that reason will allow us to progress and balance the budget without the shackles that a balanced budget amendment would impose. The Republicans, on the other hand, reject this notion of reason and progress as naive. Traditionally, good sense led Congress to balance the budget. But due to changes in the political environment, that's no longer possible without imposing some discipline. Thus, we should pass a balanced budget amendment.

Undoubtedly, some people will feel that I've missed the central issue in this debate: Social Security. But on the contrary, I've given it considerable thought. Social Security is doomed whether or not we pass a balanced budget amendment. Thus, it should not be an issue in these deliberations at all, let alone the central issue. The Democrats are only resorting to their tried-and-true tactic of scaring the elderly. Give it a rest. Do what your constituencies want and pass the balanced budget amendment.

JUST CAUSE

The People

By Carla Halpern '97

RECORD Columnist



Now that the publisher of *Hustler* has been made into a hero through Hollywood, the issue of pornography has once again started pounding at my brain and asking for answers. I don't like confronting my thoughts about porn. My views sometimes mark me as, yes, a Conservative. Pornography is probably the biggest issue that has kept me from membership in the American Civil Liberties Union (although the thought of defending the Klan's right to free speech makes me squeamish as well).

For those of you not up on your obscenity law or too caught up in studying to take a break, my condolences and a brief synopsis of "The People vs. Larry Flynt": The movie chronicles parts of Flynt's life and career as the publisher of *Hustler* magazine. Woody Harrleson gets the starring role of America's foremost self-described sleaze-pusher. From the first time I saw the posters of the handsome, charismatic pioneer with the American flag over his mouth, I knew I would never pay to see the movie. Fortunately, I had the opportunity to view it for free and am even more grateful that I did not help to support it.

More gifted scholars than I have spoken on the constitutional issues involved in this movie and the cases on which it is based. But other issues remain. Many newspaper reviews have hailed "The People vs. Larry Flynt" as a balanced portrayal of the brilliance of the American system — that even the person with the most unpopular opinions can speak his mind. Excited reviewers have pointed out that the movie glorifies freedom without glamorizing Flynt or making us like him. Which, I think, is a bunch of horse poop. As portrayed by this movie, Flynt is a classic American hero. He is a clever, charismatic rogue, not a demon. He bucks authority in order to live his life as he wants to. He is a self-made man. Open sexuality is a powerful symbol of freedom and the movie uses it well. Flynt fearlessly fights Repression, aptly symbolized by the Rev. Jerry Falwell. He is independent, not tied down by society, the legal system, or his own family. His is not a life of baseball and apple pie, but it is no less quintessentially American.

[W]e portray sexuality as even worse than violence: you can buy toy guns in every CVS but it is a big deal to purchase an anatomically correct doll.

So what of the real story behind Flynt and *Hustler*? Is it fair to consider Larry Flynt an American hero? Is *Hustler* a forum for unpopular opinions? Is Flynt, in fact, a pioneer against repression? More like a purveyor of oppression. Yes, I do think pornography is a form of oppression, violent in and of itself. It is not just that I am uncomfortable with pornography. I have to ask whether it really is free speech. If you have never asked yourself that question, put down the RECORD and go out and get yourself an issue of *Hustler*. Look at what is portrayed in the pages. What I have seen in the pages of *Hustler* and other porn magazines are images of torture and murder. Women bruised and gagged. Women on meat hooks. Hanged from trees. Bound to the hood of a car, as prey from a "beaver hunting" expedition. And yes, shoved head-first through a meat grinder. It is hard to reconcile these images with the poster of Harrleson as Flynt, "gagged" by an American flag.

One could argue that the images in *Hustler* are mere fantasy. No "official" connection has been drawn between pornography and violence against women. But when many rapes parallel pornography plot lines, I seriously question the accuracy of the lack of findings. You have to question who does the research. And you have to ponder the fact that after the movie "Deep Throat" came out, there was a sudden wave of oral gonorrhea in young girls. I'm betting that there is no coincidence in that correlation. The images in pornography may not be scenes of actual rape (although many former porn stars and their loved ones, including Flynt's own daughter, tell a different story), but the end result is the same. How can we pretend that pornography is mere fiction? I think the more logical answer is that pornography is hate speech, completely capable of inciting violence.

Feminist opposition to pornography is not about sex. "The People vs. Larry Flynt" made a serious error when it portrayed the outrage against *Hustler* as completely obscenity-driven. As recent RECORD columnists have pointed out, much of the backlash against feminism has tried to portray feminists as repressive and humorless. Much is made of the fact that both radical feminists and political Conservatives have made attempts to get rid of pornography. This is true, but it doesn't make the motivation the same. Look at how differently the same two groups tend to view sex education in schools.

There is no justification for the violence that is portrayed in pornography. It sometimes seems prudish to be anti-pornography because we live in a culture that unifies sex and violence. We think of the two as equally taboo and almost, always linked: Protect our children from "sex and violence!" At times, we portray sexuality as even worse than violence: you can buy toy guns in every CVS but it is a big deal to purchase an anatomically correct doll (and we should question why we bother to make anatomically incorrect dolls in the first place). Despite the prevalence of *Hustler*, *Playboy*, *Penthouse*, ad nauseam on the newsstands, we remain a sexually-repressed society. Larry Flynt did not liberate the sexuality of America.

It doesn't have to be this way. I have hopes that we can become a less repressive society without promoting violence and subjugation of women. Perhaps a century down the road, someone will make a film about an ingenious, innovative publisher who glorified sex without hate speech. Then *The People* will have a real American hero and I will gladly pay to see the movie.

CLINICALLY SPEAKING

Bust Out of Class & into the Clinic

By Craig Briskin '98

Guest Columnist



In the spring of my first year of law school, one of my professors dedicated a day of our class to giving us ideas on how to structure our second and third years of legal education. Up until then, almost all of our courses had been chosen for us. What choices should we make in order to get a comprehensive, intellectually stimulating, inspiring, and useful legal education? My classmates and I welcomed our professor's effort — a too rare opportunity to hear from an HLS alum, now on the inside — to help us to make sense of our options.

His advice seemed quite sound: pick two "concentrations" — particular focuses, such as environmental law or legal history; consider bypassing some basic courses, such as administrative law and corporations, for more topic-oriented courses that would offer a cohesive background; and try a "fun" course or two.

As for his opinion of courses with a clinical focus, I remember his advice as more equivocal and not of a kind I was hearing for the first time. While it certainly is important work, he said, and while he wouldn't begrudge anyone this choice, law school is a place to gather a firm academic grounding in as much of the law as you can. You have your whole career, after all, to learn how to practice.

I decided not to wait, and I'm glad I didn't. Don't get me wrong: I took my professor's advice seriously, as should anyone choosing their courses for the next year. Our school offers many varied opportunities for legal learning, many of which will be unavailable once we enter the workforce. By committing to clinical work, you may have to forego certain classroom options. (However, in hindsight, sparing myself coursework I once thought appealing proved a gracious act of self-mercy.) As you consider your course selections and your course priorities in law school, I hope you seriously consider this advice, which I was fortunate to hear from students and professors: clinical legal education at Harvard is inspiring, invaluable learning that you are unlikely to find when you graduate.

Let me come clean: like not a few others I know, I was not incredibly impressed or inspired by my first year at Harvard Law. I know there are many people who enjoyed it more than I did, who probably did not find themselves staring at a computer screen in the wee hours of many mornings, thinking, why did I do this again? I decided to pursue a career in law to help people: people I was not finding in my thick brown textbooks, in lectures, in professors I never met, or in eight-hour take-home exams. And if the 1L experience prepares you for anything, it's for years two and three. The courses you choose may be more to your liking, but the experience is quite similar in most of them. I did learn many interesting and useful things from my classes, but on the whole, I found them quite alienating.

My clinical experience this year is the primary reason I feel that my decision to attend law school was a good one. In my clinical course, The Lawyering Process, and in my clinical placement at the Harvard Legal Aid Bureau, I have

[O]ur clients' urgent needs bring the law out of the books in a way no lecture ever could.

found the inspiration to learn what was so lacking in my first year. In less than six months, I have represented eight clients in courts and in hearings. The day before my final mock trial in Trial Advocacy Workshop, I defended a real client, facing a real eviction from public housing. I inspected and took pictures of another client's apartment and used the evidence to get a better settlement with the slimy opposing counsel. I have spent a good deal of time on the phone, trying to obtain information from hospitals, welfare agencies, and employers. As a member of the AIDS Practice Group at the Bureau, I have received training in estate planning, and have come to understand the challenges facing my clients, who are unfortunate to be both poor and HIV-positive. I also have found a community of peers who care passionately about the work they do. Every day I walk into a classroom that has no seating charts, and everyone knows my name. Perhaps best of all, I have the benefit of regular meetings with my clinical supervisor, who is an experienced practitioner and an inspiring role model. I get feedback on my work — yes, feedback! — on a regular basis.

The education has been invaluable. As a 1L, I learned about *res judicata*, *res ipsa loquitur*, *mens rea*, *ex ante* compensation, and intestate succession. As a 2L, I am learning about AFDC, SSI, housing subsidies, retaliatory eviction, and wage garnishment of deadbeat dads. It seems unlikely that I would have gotten any sort of grounding — academic or otherwise — in welfare and housing law if I had not studied them and put them to use in my clinical placement this year. I don't mean to overemphasize the opposition of classroom study and clinical practice; what I find most fulfilling about the study of law is the connection between the two. Is it in your best interest to wait until after graduation to experience this connection? In the words of my roommate, who worked at the immigration clinic last semester, when you are practicing the law, legal doctrines come alive; our clients' urgent needs bring the law out of the books in a way no lecture ever could. It is learning that involves the heart as well as the mind, which is what I expect out of my education and out of my career.

Clinical education is not for everyone. At the same time, you don't have to have a particular set of professional or ideological reasons to choose it, other than a commitment to the work and to the people you represent. The most fulfilling part of the Bureau for me is that I am not just learning the law, I am caring about it. My first year of law school was not one of the best years of my life. But the second has been, and I look forward to the third and to continuing the work I have learned to do in law school. I urge you to do what I did in my first year: investigate what you can give and receive in clinical courses at Harvard Law School.

MUSINGS AND VAGARIES

Loves Me, Loves Me Not

By Renée Kaplan '99

RECORD Columnist



Are you ever overcome in class — any class, not necessarily a law school class — by the practically physical onset of a boredom so absolute and overbearing, that as hard as your mind might struggle to remain alert against the viscous and weighty drone of the lecture, as superhumanly as your consciousness might attempt to remain afloat in the thickening quagmire of disinterest and confusion, you quite simply cannot pay attention? That feeling of glazed semi-consciousness that creeps in like Novocain — not painfully but unpleasantly — acts a bit like a waking bad dream, devoid of its terror but burdened with the same horribly suffocating inertia that prevents you from screaming in your nightmare: an absolute psychological bar from acting as your rational will might wish and as all your best and most desperate mental efforts might attempt.

In moments like that — say, while delving into the finer nuances of some Restatement Second, 20 minutes into an hour and a half class, late in the morning, with an empty stomach and no change to buy a soda — there simply will be no paying attention. Until you wake from your paralyzing dream — until you hear laptops closing and casebooks slamming — there is no escaping from the merciless quicksand of your irrational mental half. So give up, quit struggling. Since your internal life has taken over, and your willful mind has necessarily become restrained to the momentarily inexorable confines of your subconscious, you may as well sit back and have a looksee; check out what's going on in there. You might well be surprised at the promise that lies within, at just how active and gratifying the mind games and fantasies of internal life can be. Foremost

[T]he human race doesn't really need much more than the physiological basics to stay alive and procreate: food, sex, sex, food.

among these internal pastimes, and highly commendable for its particular wealth of potential, is The Crush.

The Crush does refer to a crush as we all know it, a penchant or an infatuation, but it also includes the clever application of a whole series of other mental faculties. A crush per se is actually a rather uncomplicated refinement of the subconscious's most basic and essential preoccupation — sex; civilized society in general, as Freud would have it, being sex's more sophisticated sublimation. It does seem to get a little primal in there, inside your mind, which seems to know that, despite it all, the human race doesn't really need much more than the physiological basics to stay alive and procreate: food, sex, sex, food. Of course, food fantasies work too, while lost in there in the mental morass of tedium, passively evoking, for example, the last few bites of a Nutella-filled crêpe, after the Nutella has slowly gooshed down beneath the pressure of each progressive bite, gathering in the bottom triangle of the increasingly pregnant crêpe, and making for a last mouthful so gooey and full you can barely chew. But food fantasies are necessarily rather short-lived or too rankling, demanding that you either sate your appetite or renounce it — because, like a simple sexual fantasy, there's only so much distraction to be derived from conjuring the same appetizing image over and over again.

The Crush, on the other hand, is by nature always only an approximation, an only-ever-imagining of possibility whose prospects are entirely unlimited, but — very hypothetically — entirely possible. It is the wild possibility of realization, however remote, which makes The Crush so particular, which creates that ever so tenuous and entirely foolhardy link to external reality. The Crush flirts with reality, germinating, budding, and blooming within the cushy hothouse confines of the mind, bursting with irrational possibility. Anything can happen, really, except that you can't quite have the other person — but really, actually, who's to say that you might never? This last rash hope is the essential element of The Crush, its tiny, vital spinal cord, its claim to feeble, pathetic, but persistent life.

The Crush's very definition is ambiguity and on-the-brinkness, neither fully definable by sheer foolish fantasy or by any objective prospect of actual fulfillment, but always by a little bit of both, in always varying quantities. It all depends on the day, on what you're wearing, on the number of sightings, the degree and kind — the kind is key, though very hard to judge — of eye contact, the potential for any escalation of intimacy or even just the possibility of a mere exchange of words, and all this in relation to the status of affairs with any other crushes; it's a complicated game. To nurture several and many crushes is crucial, proportionally increasing the grist for the mind game and reducing the gravity of any disappointments — like complete and absolute indifference on the part of the crush, foolish ingrate — that might entail the necessary cancellation of said crush.

Such daring, such pathos, such adventure — and it's all inside your head. The Crush permits any number of variations and permutations, relying minimally on fate and maximally on fantasy. It's quite pitiful and fun, perhaps slightly affecting, but otherwise entirely risk-free, and no one ever has to know about it but you and your friendly mind. But, of course, you must pick your crushes carefully, because you wouldn't want — god forbid — to actually realize your fantasy ... what would you do in class then?

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TO PASS THE
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thousands of tuition dollars and your reputation
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