



Second-Summer Public Interest Funding Debated

By Janie Kim

A proposed recommendation that would place students seeking a second summer of public interest funding on a lower-tier waiting list has turned the Ad-hoc Public Interest Committee into a hotbed of contention. Currently, 2Ls seeking a second summer of public interest work receive higher priority in obtaining Law School funding.

"It's a very live question," said Prof. Christopher Edley '78, the committee's chair. "We've spent a lot of time wrestling with it." Edley himself confessed that his position has changed several times and remains undecided.

"Underlying the debate [whether to overturn or preserve the status quo]," said Edley, "are the scarcity of resources available for summer funding and the complexity of the various purposes for the summer program."

Among the purposes Edley listed are: exposing students to the public interest world, providing a credential for full-time employment, and adding to the student's education in the same way a clinical course does.

Explained Edley, "People assign different moral weights to each of them and thus arrive at different conclusions."

Lisa Dealy, Director of Summer

Funding Programs and a committee member, believes that the Law School should continue to prioritize 2Ls for a second summer of funding.

Dealy offered three reasons. "Seeking funding as a 1L can be an anxiety-producing ordeal. To be able to then have peace of mind as a 2L about having your summer public interest work funded is fair."

She continued, "To choose to enter public interest work as a 2L shows a great deal of commitment to public interest and a great likelihood that they'll pursue public interest work after graduation. I think funding should be prioritized for those who demonstrate this sort of commitment."

"Also, there's a lot of institutional pressure for 2Ls to accept firm jobs. A preference in funding their public interest work would act to somewhat counter these external pressures."

Stacy DeBroff, Director of Office of Public Interest Advising and a committee member, echoed Dealy's position. "We are passionate about creating career paths in public interest. ... Two-Ls pursuing public interest are turning down firm jobs and firm compensation. We want to nurture them ... lack of funding should not be a barrier to their goals."

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HLS Gives Child Care Center Until Next June to Vacate



Empty playground foreshadows future of Child Care Center

By Eddie Grauman

The administration has told the Harvard Law School Child Care Center to vacate its current facilities by next summer, raising questions about the Law School's commitment to providing child care for the HLS community.

On March 14, Administrative Dean Sandra Coleman informed the Center's board of directors that the Center would have to leave the building by this August. The administration later granted a reprieve until June 1998 in response to an uproar by angry parents, according to Center Director Jim Morin. The Center must find an adequate facility before then, or it will face closure.

"The administration has told us there's no other space available on campus," said Morin. "They haven't been able to guarantee that we can stay here if we don't find another place by next June," he said.

At the center of the controversy is the conflict between HLS's role in facilitating child care and its considerable shortage of space. The administration's move to reclaim the space is a response to increasing pressure on current facilities due to the expansion in visiting faculty, faculty research programs, and student organizations.

Please see **CHILDREN**, p. 13

Admissions Office Tries to Attract Women

By Jacob M. Appel

Despite alarming results from law schools around the country that show a substantial decrease in the number of female applicants accepting offers of admission, preliminary results at Harvard Law School indicate that its number of female applicants is actually on the rise. Although final figures will not be ready for another month, Dean of Admissions Joyce Curll characterized current estimates as "good" and attributed much of

HLS' success to the recruitment done by members of the 1L class and the Women's Law Association.

In late March, the University of Michigan Law School's newspaper, *The Res Geste*, reported that across the nation fewer women applied to law school this year than in the past few years and that even fewer women were accepting offers of admission. For example, at Michigan the number of women admitted last year declined from the

please see **WOMEN**, p. 4

Persistently Bad Reviews Dog Profs

By Jacob M. Appel

Although the 1996-97 Board of Student Advisers' Course Evaluation Guide indicates that students who responded to the survey consider their professors to be excellent teachers, a few of the faculty continued to be criticized as ineffective.

Some students say that criticisms of the same few professors every year seem to undermine the Law School's stated commitment to build and maintain a faculty of not only the best scholars, but the best teachers as well.

In the category of "overall effectiveness of teaching," eight courses in the BSA survey had a ranking of below three (on a scale of one to five). Three of the sub-par courses were taught by Prof. John Mansfield '56, including Evidence. Prof. William Andrews '55, a tax and estates scholar, taught two.

The other sub-par courses

were taught by Prof. Emeritus Charles Haar '48 (Land Use Planning), Prof. Einer Elhauge '86 (Corporations), and Assistant Prof. Scott Brewer (Contracts).

Brewer and Elhauge, however, received high marks for other classes they taught. In contrast, Mansfield and Andrews consistently received poor reviews in the BSA evaluations reviewed by the RECORD from 1992-96.

Some students say the poor marks seem to contradict administrators' claims that the teaching ability of HLS professors is taken seriously. Earlier this month, for example, Associate Dean Todd Rakoff '75 said, "You have my word that teaching matters" when asked about the tenure process. He added at that time that over the last few years a number of visiting faculty would have been hired had they been better teachers.

Please see **PROFS**, p. 13

Affirmative Action Used to "Distract," Guinier Says

By Timothy Kiefer

Lani Guinier spoke on affirmative action to a standing-room-only crowd in Pound 100 last Saturday morning.

During her talk, Guinier, a professor at the University of Pennsylvania's law school, argued that the debate over affirmative action in university admissions masks a shift in resources away from higher education and toward corrections.

"There is an effort to distract people from the fact that higher education is becoming a scarce resource and that as a society we are making certain choices to invest in prisons rather than higher education," Guinier said.

Guinier said that affirmative action is being used by politicians to avoid the prisons-vs.-colleges issue.

"So affirmative action becomes really a useful prop for getting people to think, 'Oh, the reason I am not getting into college or the reason my son or



University of Pennsylvania Law Prof. Lani Guinier spoke at HLS last week, but will she be back next fall?

daughter cannot go to college is because of all of those quote less-qualified blacks or Chicanos," Guinier said.

Guinier criticized the use of the SATs and LSATs as an allegedly objective alternative to affirmative action admissions. She said that the University of Pennsylvania relies heavily on LSAT scores in making its admissions decisions, even though

the LSAT predicts only 14 percent of first-year grades at Penn.

"What does the LSAT or the SAT correlate with?" Guinier asked. "Within each race and ethnic group, SAT scores, LSAT scores go up as your parental income goes up."

Guinier cited a Harvard College study tracking three classes

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49 Years Ago in the RECORD

The Harvard Law School Record

VOL. 6 NO. 11

CAMBRIDGE, MASS., TUESDAY, APRIL 27, 1948

PRICE TEN CENTS

TOEPFER ANNOUNCES 27% OF JUNE CLASS HAVE JOBS

Jobs have been procured by at least 27 percent of the June graduating class, Assistant Dean Louis A. Toepfer announced today. Eleven percent of the September class have secured positions, also.

Mr. Toepfer pointed out that the figures represent those which have been turned in to the law school's placement bureau, and that other students in the June and September classes may also have obtained jobs.

Ninety-seven men of the June class of 366, and 36 of the 340-man September class, have already been placed. Of the June list, 86 men will work in law offices, five will clerk for judges, four will work in corporations, banks and business firms, one in the Army, and one with the Department of Industrial Economics of Massachusetts Institute of Technology. Of the September group, 27 will work in law offices, three, including two Rhodes Scholars, will take added schooling, two will clerk, two will be in the Army, one in business, and one will teach.

The judicial secretaries in the June class include: Mac Asbill, Jr., with Supreme Court Justice Stanley Reed; Albert M. Sacks, with Judge Augustus Hand of the Second Circuit; William M. Holman, with Judge H. M. Stephens of the Court of Appeals of the District of Columbia; Peter J. King, Jr., with Judge Peter Woodbury of the First Circuit; and Duane B. Belson with Judge William Orr of the Ninth Circuit. September secretaries include Roger D. Fisher, with Judge Learned Hand of the Second Circuit and Richard L. Selle, with Judge Harrie Chase of the Second Circuit.

According to geographical breakdown, 61 of the June placements will be working on the Atlantic seaboard, 22 in the midwest, ten in the south and southwest, three in the far west, and one in Canada. New York City claims 21, Boston 17, Chicago eight and Washington, D. C. five. Of the September group, 21 will be on the Atlantic seaboard, five in the midwest, four in the south and southwest, one in the far west, and one in Hawaii.

In addition to these jobs for non-graduates," said Mr. Toepfer, "we have received information that 57% of the 204

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February graduates have already secured jobs.

One hundred out of the 116 placed have positions in law offices, with the Atlantic seaboard and its large cities claiming the greatest percentages.

Although the Harvard Law School Association and its subsidiary bodies have placement committees in activity, and although prospective employers have frequently visited the school and conducted interviews, Mr. Toepfer emphasized that a great portion of the work in securing positions must be done by the students themselves. A complete list of alumni who are handling placement activities in their own cities is available for student inspection at Mr. Toepfer's office in Langdell Hall.

H.L.S.A. COUNCIL TO MEET MAY 5 Will Choose Officers On 'Law School Day'

The annual Law School Day activities of the Harvard Law School Association next Wednesday will start with a meeting of the Association's Council at 10 a.m. in the Ritz-Carlton, in Boston, headquarters for the day. This meeting will be devoted to the election of new officers and the discussion of other business.

In the afternoon, Dean Griswold will address the Council on the needs of the Law School. The all-day meeting will close with a Faculty Dinner, to begin at 6 p.m. with the Hon. Robert P. Patterson, LL.B. '15, President of the H. L. S. A. as toastmaster. All the members of the faculty have been invited to the dinner.

The Association has announced the election of three new members to the Council. These members were chosen on April 15 by a committee of five set up under the Constitution of the Association

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Treasure Room Opens in June

According to present plans, the new Treasure Room in the North wing of Langdell Hall will open about June 1.

The room, dedicated as a memorial to students and alumni of the law school who died in World Wars I and II, will house the imposing collection of rare legal volumes and manuscripts now owned by Harvard Law School. This collection, the finest in the world, contains such items as the papers of Oliver Wendell Holmes, the George Dunn library collection, medieval manuscripts, and many other items of historical importance.

These treasures are presently being kept in an underground vault, where humidity and temperature changes are causing deterioration of parchment and bindings. The purpose of the Treasure Room is to give perfect conditions for the preservation of these tomes, and to permit inspection of them. Special display cases are being prepared in the Treasure Room for this purpose.

FULLER, KATZ RECEIVE CARTER, BYRNE CHAIRS



PROF. LON L. FULLER



PROF. MILTON KATZ

Dean Griswold has announced the appointment of Professor Lon L. Fuller as Carter Professor of General Jurisprudence and Professor Milton Katz as Byrne Professor of Administrative Law.

As Carter Professor Mr. Fuller will occupy the chair once held by former Dean and University Professor Roscoe Pound. Now in China codifying Chinese law, Dean Pound was the first to hold this chair which was established by the will of the late Professor James Coolidge Carter, first president of the Harvard Law School Association.

Born in 1902, Mr. Fuller received the A.B. degree in 1924 and the J.D. degree in 1926 from Stanford University. He taught at the University of Oregon, University of Illinois and Duke University before coming to Harvard in 1939, and is the author of numerous articles on jurisprudence.

In the Byrne Professorship Mr. Katz will succeed Justice Felix Frankfurter and former Dean James M. Landis of the Law School. Mr. Katz received the A.B. degree from Harvard College in 1927 and the LL.B. from Harvard Law School in 1931. He joined the Harvard Law School Faculty in 1939 and became professor of law in 1940. The author of many articles and a widely-used casebook on administrative law, Mr. Katz has served with a number of governmental administrative agencies.

Logic, Reason, Public Policy Demand Wearing of Judicial Wigs in America

This is a time when the very fabric of our social order is being shaken. The Law itself is adequate to meet the challenge, but only by a new appeal to popular imagination will its high tenets bind together the emotional starvelings of the world. Accordingly it is suggested here that the wearing of the wig by magistrates will establish a reign of law, linking men together in reverence for Equity and Justice, Local Statute, Administrative regulation, and the Law of Nature.

The wig, or "periwig," is an artificial head of hair worn as a personal adornment, disguise, or symbol of office. It was highly esteemed by the ancients; Egyptian mummies bear evidence of capital decoration, and Aristotle mentions the introduction of the wig into Greece from Persia. Juvenal cites the use of such an ornament by Messalina on the occasion of a visit to a house of ill repute. The wig was adopted in England by the Speaker of the House of Commons, clerks of Parliament, the Lord Chancellor, judges, and barristers, to mention instances of current interest. (See Stewart, *Plococosmos, or the Whole Art of Hairdressing*, 1782). We must now consider what problems the wearing of the wig will solve in the United States.

For purposes of scientific analysis we must divide judges into three categories according to head structure, bearing in mind that they are no different from anybody else, but happen merely to be the subject of this disquisition. Examples that follow are purely hypothetical, and any resemblance to judges living or dead is purely coincidental. The categories follow:

1. Head comes to a point. Hypothetical case: Mr. Justice Troll, District judge at Crane Beach, Ipswich. Has sentenced more people for contempt than any judge in Massachusetts. Reason: Sudden feeling of hilarity by prisoner upon beholding anatomical characteristics *supra*. Solution: Wig.

2. Microcephalus, head too small. Hypothetical case: Magistrate Pindone Kleinkopf, New York City Police Court. Became obsessed with crew haircuts at Rye Country Day and then Princeton (Elm Club), but good feeding has since made body disproportionate to head.

NAVY RESERVE LAW UNITS TO ORGANIZE

The Navy Department has announced the formation of a Volunteer Naval Reserve Law Program to provide a force of Reserve Officers with legal training and experience who shall be available for mobilization in the event of an emer-

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Witnesses unable to testify coherently in his presence. Solution: Wig.

3. Bald type. Hypothetical case: Mangefollicle, J., Federal District Judge in California. The infirmity throws his features into bolder relief, furnishing material for caricature by left-wing newspapers. Solution: Wig.

Thus it has been demonstrated that reason and public policy require more magnificent trappings of dignity for the Judge than for others, and that the Wig is most appropriately suited to this end.

We now turn briefly to authority to supplement our logic. The august Dugdale says: "and reason tells us, that in places of Civil judicature, it is not only proper that the magistrate should be distinguished from others, but all possible care used, that a venerable respect be had to his person and office." (Dugdale, *Origines Juridicales* 98, 1680). Thus the Judge had more gorgeous robes than did lower officers; "and his Cape furred with Miniver, whereas the Serjeant's Cape is ever furred with white Lamb." (Dugdale, *op. cit. supra*, at 99.) Apparently this notion has Biblical origins: "Thou shalt make holy raiments for Aaron and his sons, that are minister unto me, that they may be for glory and beauty." (Ex., 28:2). It has also been suggested that size was a vital factor. Thus in England long wigs were allowed only to judges and to officers of the Crown; others had to be content with "bobtails." (Pulling, *The Order of the Conf* 234, 1897). Accordingly our proposition is as well founded in authority as it is in reason.

It is fitting to conclude with a celebrated dictum of an unknown jurist, which strikes deep into the basic problem of our times: "It is my judgment that Justice and Peace are pretty good things to have, I guess." (Citations omitted.) This is a stern and thrilling call to action. The Judge's Wig is our way to Victory. If it fails, they are selling cups of hemlock now at every neighborhood bar.

D. W.

FORUM ON POLITICS CLOSES PROGRAMS

A partisan audience of 1300, whose applause was recognizably divided on issues and candidates, gave the Harvard Law School Forum the atmosphere of a political convention last Friday evening when Senator Owen Brewster (R., Me.), Senator James P. Kem (R., Mo.), Senator Joseph O'Mahoney (D., Wyo.), Rep. Leo Isaacson (A.L.P., N. Y.) and Prof. Arthur M. Schlesinger, Jr. (A.D.A.) tackled each other in address and debate

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THE NEWS IN BRIEF

FORUM ELECTION

Richard A. Holman (Cornell '43) 3L, was elected President of the Harvard Law School Forum last Tuesday by the organization's Board of Directors. Holman, who succeeds George H. Esser, Jr. (VMI '43), will serve until January, 1949. He is also the present articles editor of the RECORD.



HOLMAN



ESSER

At the same meeting the following officers were elected: Karl Schmiedler, Vice-president (planning) to succeed Holman; Marvin Shagam, Vice-president (public relations) to succeed Frank Cohen; Thomas C. Shepard, Treasurer, to succeed Schmiedler. Frank Milligan was re-elected Secretary.

KING'S BENCH ELECTION

Summer term officers of King's Bench, elected last week, include Sydney G. Fisher, chief justice; Richard F. Staples, associate justice; Marvin Borman, scrivener, and Clifford F. Cordes, exchequer justice. The Council of Justices consists of Herbert Ascherman, Eugene J. T. Flanagan, J. Taylor Greer, Felix Kent, and Lancelin H. McLean.

Retiring officers include Staples, chief

justice; Sheldon B. Guren, associate justice; Ascherman, scrivener; Herbert E. Hansen, exchequer justice; Cordes, Fisher, Flanagan, Greer and Nathaniel B. Taft.

BRIDGE TOURNAMENT

In the Law School duplicate bridge tournament held at Phillips Brooks House Wednesday night, Charles T. Munger 3L, and Henry S. Gross, Jr. 3L, were the North-South winners. John H. Birmingham 3L, and Eugene J. T. Flanagan 3L, were the winning East-West team. Each of the winners received a prize.

STUDENT BOARD ELECTION

Roger C. Henselman (Harvard '42) has been elected chairman of the Board of Student Advisers for the summer term, succeeding E. Leroy Tolles, Jr. (Williams '43).



HENSELMAN



TOLLES

The new chairman has announced the appointment of the following men to assist him: Leland J. Marklev, first year facts chairman, replacing Henselman; Stanley A. Freedman, second year chair-

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H.A.A. OUTLINES SUMMER PLANS

Hemenway Will Close In Curtailed Program

A somewhat reduced list of athletic facilities will be available to third year law students enrolled for the approaching summer term, according to information received from the Harvard Athletic Association. Hemenway Gymnasium, generally used by law students throughout the year will be closed down for the summer at the end of May.

The Indoor Athletic building at 39 Holyoke Street will be open at least for the duration of the eight-week summer session at the undergraduate school, from June 28 to August 21. During that period, the facilities of the building will be available five days a week from 10 a. m. to 6 p. m. The pool as well as the exercise rooms will be in use, but, due to the co-educational make-up of the summer session, certain mornings will be set aside for exclusive occupation by the women, with mixed swimming in the afternoons. Carroll F. Getchell, business manager of the H. A. A., indicated that some plan may be worked out to make these Gym facilities available to law students before and after the summer session.

Approximately 50 tennis courts beyond the business school and near the football stadium will be open continuously during the summer, from 10 a. m. until dusk, seven days a week. These will be open to the general public as

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Ogletree "Optimistic" That Guinier Will Accept HLS Offer of Tenure

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of graduates and measuring their success later in life.

"You know what best predicted success in life as they measured it?" Guinier said. "Low SAT scores and a blue-collar background."

Guinier argued that reliance on standardized tests will eventually harm us as a nation.

"If you want to train leaders for the 21st century, do not give them an LSAT or an SAT," Guinier said. "That is not going to help you determine leadership skills."

The following Monday, Guinier spoke in Ames Courtroom about her new book, "Becoming Gentlemen: Women, Law School and Institutional Change."

Future Plans Unclear

Despite Guinier's continuous connection with the Law School through teaching the 1996 winter-term Gender Discrimination course and giving last week's two speeches, whether she will come to Harvard as a law professor this fall remains unclear.

Guinier has been offered a tenured position at HLS. If she accepts the offer she will become HLS's only black female professor.

During a question period after her Saturday talk, Guinier offered a four-word reply when asked whether she planned to accept Harvard's offer.

"I'm thinking about it," she said.

Prof. Charles Ogletree '78 said that Guinier's visit increased the likelihood

that she will come here permanently. Ogletree said that Guinier met with University President Neil Rudenstine and Dean Clark '72 during her visit.

"I'm quite optimistic ... She was extremely impressed by her visit here. It made it much more likely that she will consider coming," Ogletree said.

Guinier is best known nationally for her "dis-appointment," in her words, as Assistant Attorney General for Civil Rights. In 1993, President Clinton nominated her for the position, but then withdrew her name after she was criticized for her law review articles.

"At the time of the nomination, I had not read her writings," Clinton said in 1993. "In retrospect, I wish I had."

Conservatives had argued that her law review articles supported anti-democratic changes to increase minority power and thus undermined the principle of majority rule. Guinier was tagged the "Quota Queen" as a result of her articles.

Guinier is not the only individual who may soon be joining the HLS faculty, although she is by far the most well-known outside of academia.

Four offers to teach at HLS are currently outstanding. In addition to Guinier, offers have been made to Kenji Yoshino, who reportedly has already accepted an offer from Yale; Japanese law expert J. Mark Ramsdell '82 of the University of Chicago; and Wachtell, Lipton partner John C. Coates IV. Faculty sources also indicate that an offer will soon be made to cyberspace law expert Lawrence Lessig of the University of Chicago.

Jesse Jackson Speaks at HLS-HBS Debate

By Cathaleen Bryant

Teams from HLS and the Harvard Business School debated the resolution "What is good for the company is good for the country" in Ames Courtroom Tuesday evening. The Rev. Jesse Jackson delivered the keynote speech at the event, and Mass. Lt. Gov. Paul Cellucci served as moderator.

In his speech, given after the debate, Jackson argued for a position between the two sides.

"Somewhere between the extremes is something called judgment and personal integrity," Jackson said.

Jackson said that "the ideology of racism and sexism" is "immoral and also unprofitable" and "once the walls come down the companies will find new markets and new investments."

The debate was sponsored by the Harvard Graduate School Leadership & Ethics Forum. Business School student Willis "Chip" Arndt, founder of the Forum, hopes the debate will become a tradition for "the next one hundred to two hundred years." The debate competition is planned to occur each fall and spring.

The law students debated in favor of the resolution and the business students debated against the resolution. The teams were assigned their positions 48 hours before the event. The topic was decided by a steering committee of six: two from HLS, two from the Business School, and two from the Kennedy School of Government.

In addition to the traditional presentation of arguments, debaters made spontaneous rebuttals during periods of questioning by the opposing side. The mood was light during the ques-

tioning as the two teams exchanged witticisms.

"I have to admit I have a certain amount of initial skepticism about an organization that has the initials B.S. in its name," said Chris Paoletta '99.

However, judging by the crowd's reaction, the Business School team won the following exchange:

"Business School: How does a company reallocate its resources?"

"HLS: Bankruptcy law — which you can take here as an elective."

"Business School: We won't be needing it."

The HLS team won the category of presentation. The Business School team won in the category of substance and took the trophy for overall performance.

A five-judge panel decided the winners: Massachusetts Superior Court Judge Carol S. Ball, a well-known faculty member of the Winter Trial Advocacy Workshop; Kennedy School Dean Joseph S. Nye, Jr.; Kennedy School Professor Roger Porter; Harvard College student Lamelle D. Rawlins; and Business School Professor Henry "Hank" Reiling.

Although two of the five judges were women, all ten of the debaters were men. Rawlins, who is the first woman to serve as student body president at Harvard College, said that the absence of women was a mistake.

"Women's voices could have added a lot to the debate tonight," she said.

The HLS team was composed of Paoletta, Eric Black '98, John Carlin '99, Arlo Devlin-Brown '99 and William Griffin '98.

The Harvard Crimson contributed to this story.

Web Page to Encourage Student-Faculty Dialogue

By Ben Lehrer

Two HLS students have set up HLS Connect!, a web site designed to facilitate constructive dialogue between and among students, faculty, and the administration.

According to Melissa Rodgers '98 and Heidi Sullivan '97, the idea came to them during a discussion of the recent Fenno-Nesson controversy in Prof. Mnookin's '68 Arbitration, Mediation, and Dispute System Design course. It struck them that the lack of an open public forum contributed to the adversarial tone of that debate.

"We think that the web site will allow a broader dialogue than that which happened in the RECORD," said Sullivan. "The exchange of letters made it seem like the community was split down faculty and student lines, but this doesn't take into account the many viewpoints that were actually out there."

Rodgers believes a web site is an ideal way to allow the Law School community to express their views. "The advantage of a web site, as opposed to a weekly newspaper, is that it is open around the clock," she said. "Plus, once you post something, it stays there so other people can see it and react to it."

A pilot version of the web site can be accessed from the Law School home page. The site currently has a single topic, "How would you improve the first two weeks of a student's life at Harvard Law School?" If the idea takes off, the site will be expanded next year to cover a greater variety of topics.

"Every single administrator and faculty member is interested in seeing this work," said Rodgers. "They are very concerned about the service aspects of their job." Sullivan added that the faculty's and administration's openness to dialogue

went against many students' perceptions.

In addition to providing threaded links for discussion of contentious issues, Rodgers and Sullivan hope that the site will be used for concrete suggestions on how to improve services at the school. Information regarding student action and administrative response will also be encouraged.

"A great many individual students have a lot of information on a specific subject but no way to communicate it to others who share their concerns," said Rodgers. "A great deal of conflict and discontent could be avoided if people knew what to do when they have a problem."

Rodgers and Sullivan also plan to post information on existing administrative policies and processes. For instance a student could access the sexual harassment policy or the appeals process for financial aid without having to dig through the mountainous materials handed out under orientation week. They believe that having administration policies readily available should help students understand how things work at HLS, and raise the level of dialogue on how things could be made better.

Information on existing services meant to help students professionally and personally will also be listed.

Both Rodgers and Sullivan believe that for the site to help promote understanding between students, faculty, and administration, the dialogue needs to remain constructive. "We really hope that this will be a positive forum and not just a complaint board," Sullivan said.

Rodgers agreed. "It would be pointless to create a system that will just make people more unhappy. The goal is to help build the community. After all, Harvard consistently ranks at the bottom in terms of quality of life. Complaining about it won't promote change," she said.

FIRST YEAR STUDENTS:

Worried About Your
FINAL EXAMS?

HELP IS ON THE WAY!!!

Audio Review Tapes

provided by

West Bar Review

All WestBar enrollees may borrow audio tapes of our first-year review lecture series. The series allows students to work at their own pace and on their own schedules. Tapes may be borrowed for up to three days. A limited supply is available at the WestBar table in the Hark.



Higgins Argues For Feminist Constitutional Interpretation

By David Noren

In a heated and provocative discussion of feminism and the Constitution, Fordham Law Prof. Tracy E. Higgins '90 and Chicago Law Prof. Mary E. Becker debated the relative worth of democratic action and judicial review in achieving women's equality. The two women, who were joined by Profs. Frank Michelman '60 and Richard Fallon, spoke before a crowd of 150 students and faculty last Wednesday at the Second Annual Harvard Law Review Spring Forum.

According to Law Review President Kenneth Bamberger '98, the forum was designed to "illuminate cutting-edge issues in feminist jurisprudence" and to introduce Higgins' theories to the Harvard Law community. Higgins will be publishing an article, entitled "Democracy and Feminism," in the June issue of the Review, Bamberger added.

Higgins' June article argues that "mainstream constitutional theory's assumption of individual agency yields a distorted conception of women as citizens." Admitting that she "hasn't come up with a full blown theory" on constitutional conceptions of agency and citizenship, Higgins suggested ways to rethink conventional ideas about the treatment of women under constitutional law.

Her piece argues for a "specifically feminist conception" of democratic citizenship. She "anticipates a role for the Court" in conducting judicial review in equal protection cases, but she also values the "importance of political efforts to transform social norms that have defined women as unequal."

"Feminist theory has its shortcomings," Higgins said. Feminism has traditionally been "focused on power, but [has] not [spent] enough time focusing on a conception of citizenship," she said.

In responding to Higgins, Becker argued for "experimentation in reconstructing political institutions because we don't really know what equality between the sexes would look like." Becker

said she was concerned that the standard for judicial review proposed by Higgins was "too discretionary." Becker said she advocates abandoning the whole notion of judicial review; she predicted that most women would not want broad "discretion in the hands of the mostly male judiciary."

As an alternative to judicial review, Becker suggested "increasing women's participation in political office, particularly through structural change." Becker said she supported "quotas" for women, as well as "separate voting districts for men and women and, of course, campaign finance reform ... to eliminate the edge incumbents have."

Michelman engaged Higgins' approach on a theoretical level. Calling her article "interesting, thoughtful, and

challenging," Michelman spoke about Higgins' attitudes on social construction and the difficulty of identifying the precise objects of gender oppression. Michelman also said he wondered whether Higgins indeed has "as much confidence in the current Supreme Court" as she spelled out in her article.

Higgins is considered a rising star in legal circles, particularly among feminist scholars. Higgins has spent five years on the faculty of Fordham University in New York City, where she teaches Civil Procedure and courses on feminist jurisprudence. Prior to her academic career, Higgins held a judicial clerkship and a year-long fellowship studying feminist theory at Georgetown University.

Organizers emphasized the Law Review's role in increasing the dialogue

on women's issues.

"It is a goal of the Law Review to provide a forum for up-and-coming scholars," said Sharon Dolovich '98, one of the Review editors who organized the event. "The forum, as well as publication of the Higgins' piece, demonstrates the Law Review's commitment to highlighting diverse voices and publishing exciting new scholarship on issues important to women."

"This article and this forum fill a void on this campus," said Review editor Laura Rosenbury '97. "We need to hear a lot more about feminist scholarship, we need to see more women scholars leading debates, and we need to enrich the level of discourse about women's issues at the law school. I think the Law Review should do more to take the lead on this front."

Students Allege Undue Faculty Influence on Ad-Hoc Public Interest Committee

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DeBroff, however, said she understands the "philosophical underpinning" of those proposing change. "Some of the faculty," she said, "favor inserting a new clause into the educational mission of the Law School where an opportunity for a summer of public interest should be availed to every student who desires this."

"If this becomes your first priority then the move to place 2Ls who have already received funding on the bottom of the list fits into that schema," she said.

Prof. Philip Heymann '60 supported the recommendation. "I've been one of those who think that the highest priority is to give every student at least one chance to work in public interest."

Heymann elaborated, "My primary interest is in getting legal assistance out to as many of the world's needy as

possible. Those law students who are exposed to public interest work are more likely to see opportunities for pro bono or public sector work even while employed in the private sector."

Heymann pointed out that there are more applicants than there are jobs in the public interest sector. "Exposing as many students as possible to public interest makes a more expansive societal impact," he said.

The committee's student representatives Amy McManus '98 and Christiana Ochoa '98 spearheaded a petition drive protesting the proposed recommendation.

According to McManus and Ochoa, four faculty members — a majority of faculty on the committee but a minority of the committee overall — are the principal backers of this recommendation which may be ultimately forwarded to the Dean.

Said McManus, "It's aggravating that faculty members, not OPIA, but people

who don't have hands-on contact with the issue are shaping the direction of support for public interest at HLS."

Edley asserted that the committee's final recommendation will emerge out of a "one person, one vote" process.

However, Ochoa asserted, "One person, one vote is not the procedural reality of the committee today."

If the recommendation is adopted, DeBroff predicted a dramatic restructuring of organizing auxiliary aid. "Student funded fellowships, the auction ... would probably put a greater focus on providing funding for 2Ls working in summer public interest," she said.

The committee plans to release the recommendation as part of a draft report which will be submitted to the Dean later this semester. Edley predicted that the report will be available for faculty debate this coming fall. He invited "community input" in determining the final output.

Hollywood's Independent Film Producers Invade Harvard

By Gary Culliss

Hollywood insiders divulged the secrets of successful independent filmmaking to the Harvard community at last Saturday's first annual Independent Filmmakers' Forum.

The program commenced with a keynote speech by Samuel Goldwyn, Jr., who stressed the importance of money in creating a film.

"We are painting on the most expensive canvas in the world," he said. Because of the large number of films competing for audience attention, "only one in seven films will turn a profit," Goldwyn noted.

"The problem is that audiences do not know what they want until they see it," he added.

Goldwyn, the producer of "The Preacher's Wife" and "I Shot Andy Warhol," said that producers must navigate a "curious relationship between art and commerce" when making an independent film.

For those willing to take the risk, independent films such as the Oscar-winning "Sling Blade" have delivered returns of over 500 percent to investors.

The main challenge of the independent filmmaking process has been finding a script with a good story.

"What makes a great script is what makes you fall in love," said Erica Spellman-Silverman, a former William Morris agent. The dreams of independent film fame and riches have driven many to strive for this undefinable goal, she added.

Several panelists noted the tremendous increase in the number of scripts floating around Hollywood. David Brown, producer of such hits as "Jaws" and "Driving Miss Daisy" said that because of numerous bad movie scripts, "it is tough to get good movies to emerge from the clutter."

Nonetheless, Steven Stabler, who was responsible for the \$250 million grossing "Dumb and Dumber," noted that "having a script you have written or control is the best way to get into the business."

"If you walk into my office with a great script that you control, I'm going to listen up," he said.

Panelists cautioned, however, that creating an independent film takes more than just finding or writing a great script.

So what is the secret to independent filmmaking? "Passion," said every panelist.

"Financial people back those with passion and drive," said Larry Meistrich, the producer responsible for this year's independent hit, "Sling Blade."

The forum, held at the Business School, was co-sponsored by Harvard Business School's Entertainment and Media Club and Harvard Law School's Committee on Sports and Entertainment Law (CSEL).

CSEL will hold its Spring Entertainment Law Conference this Friday and Saturday. The featured speaker will be Warner Bros. Pictures' Marshall Silverman.

Harvard Looking to Buck National Trend

Continued from *WOMEN*, p. 1

previous year's 44 percent to 36 percent and was expected to decrease again this year.

The Dean of Admissions at Michigan, Dennis Shields, attributed the decline to an overall reduction in the size of the qualified applicant pool among both men and women.

"Part of this is demographic," Shields observed. "We saw a valley about four or five years ago in the number of college-bound seniors." That reduction, which made life difficult for undergraduate institutions in the early 1990s, is now affecting the pool of law school candidates.

In addition, the strong job market and business schools seem to be drawing away many talented candidates. As a result, the smaller numbers of available female applicants are more sought after than in previous years and female applicants have a greater range of choices.

This demographic pattern may help explain why Harvard and Yale are bucking the national trend.

Law School Council President Dina DeFalco '98 tried to explain the trend by observing that women are attracted to HLS for the same reasons that men are — the name, the prestige, and the resources.

DeFalco noted that HLS is a place where "women do feel welcome" and where "women are treated equally. ... The main thing is for women to assert themselves. Much inequality comes from

women not being willing to assert themselves. I don't think that's a problem here."

Yet Dean Curll attributes much of Harvard's success to the Women's Law Association's recent efforts. "The women have been great," Curll declared. "They mailed postcards to admitted women and contacted them by phone and e-mail to congratulate them. ... They've been extremely enthusiastic."

Curll also noted that this year the Admissions Office hosted two admitted students days, while in past years it only held one. Moreover, 39 tour guides have volunteered to pitch the campus to prospective students.

According to Curll, "Early returns suggest increased enrollment [of women]. ... This year's [female] applicant pool looked slightly larger too. ... It does look good."

Yet Curll cautioned that these estimates are preliminary and that she still has to convince these admitted women to attend HLS. In past years, both the applicant pool and the number of women actually accepting offers of admission have hovered around 40 percent.

Jane Ann Bardin '99, who is one of several dozen WLA members who has actively recruited women, stated that she thought HLS would be a great choice for admitted female applicants.

"There are great female role models on the faculty here," she said. "They're the leaders in their fields. ... There are also great female role models in the student body including the leaders of many student organizations."

"A Civil Action" Attorney Speaks at HLS

By Jacob Appel

Jan Schlichtmann, the idiosyncratic plaintiff's attorney who achieved fame as the subject of Jonathan Harr's best-selling book, "A Civil Action," urged a group of 50 students last Thursday to pursue truth in the face of a legal profession which he believes often sacrifices justice for profit.

Schlichtmann, a graduate of Cornell Law School and a former director of the Rhode Island Chapter of the American Civil Liberties Union, gained local fame for his zealous pursuit of a toxic chemical spill case against Beatrice Foods and the W. R. Grace Corporation which recovered an \$8 million settlement for victims in Woburn, Massachusetts.

Harr's book catalogues the trial and suggests that both Schlichtmann's adversaries — attorneys William Cheeseman '68 of Foley, Hoag and Eliot and Jerome Facher '51 of Hale and Dorr — and the judge, Walter J. Skinner '52, engaged in conduct that demonstrated poor judgment and was even unethical. According to Prof. Charles Ogletree '78, who introduced Schlichtmann, the book is now standard reading among partners and associates at major law firms and is helping to transform the ways in which lawyers view their profession.

"I'm absolutely overwhelmed and satisfied by the interest in the book," Schlichtmann said. "I've received many letters and phone calls, often from federal and state judges, who just want me to know that [the handling of the case] was wrong and that they wouldn't have done things that way. Sometimes they even cross-copy Judge Skinner ... That makes me very happy."

Skinner, according to Harr, dismissed the case against Beatrice Foods because of his sympathies for defense attorney Facher and refused to entertain arguments that Facher had obstructed discovery and perjured himself despite overwhelming evidence.

Schlichtmann's primary theme, however, was not his personal success but his belief in the importance of truth. "When you take away the car, the condo, the credit cards, you think that there's nothing left. ... Then one moment I woke up, all the clutter was gone, and I was actually surrounded by 'something-ness.' What was it? The truth!" Schlichtmann declared.

"Opposite truth is lies. There are the necessary lies that get us through the day and there are the uglier lies. ... I urge you as lawyers to always appreciate truth."

Schlichtmann painted the picture of a young associate asked to photocopy documents for discovery. He said that a partner might suggest that a small part of a document not favorable to the client's case be omitted. He lambasted the young lawyer who would make such a sacrifice of the truth for the enhancement of his own career. A similar incident occurs in "A Civil Action."

"One of the things about the legal system that I found so nauseating is its belief in pretext," Schlichtmann explained. "What mattered most in court was not that we challenged an injustice, but that we challenged a pretext."

One of the harshest comments that Schlichtmann offered targeted defense attorney Facher. In response to a question of whether "A Civil Action" would have portrayed the events of the trial differently if Harr had possessed complete access to the defense attorneys' deliberations during the trial rather than those of the plaintiffs' attorneys, Schlichtmann implied that the power elite in the legal profession work to distort or hide the truth.

"That's a book I'd love to read — Jerry Facher's view of the world — but nobody who rose to that level would ever let such a book be written. ... I hope someone here does rise to that level and then opens himself up for such a book."

Prof. Ogletree engaged Schlichtmann on the subject of truth, quoting Facher's

observation that "Truth lies at the bottom of a bottomless pit." Ogletree suggested that many legal fictions, such as the statute of limitations, sacrifice truth for other worthy purposes of justice.

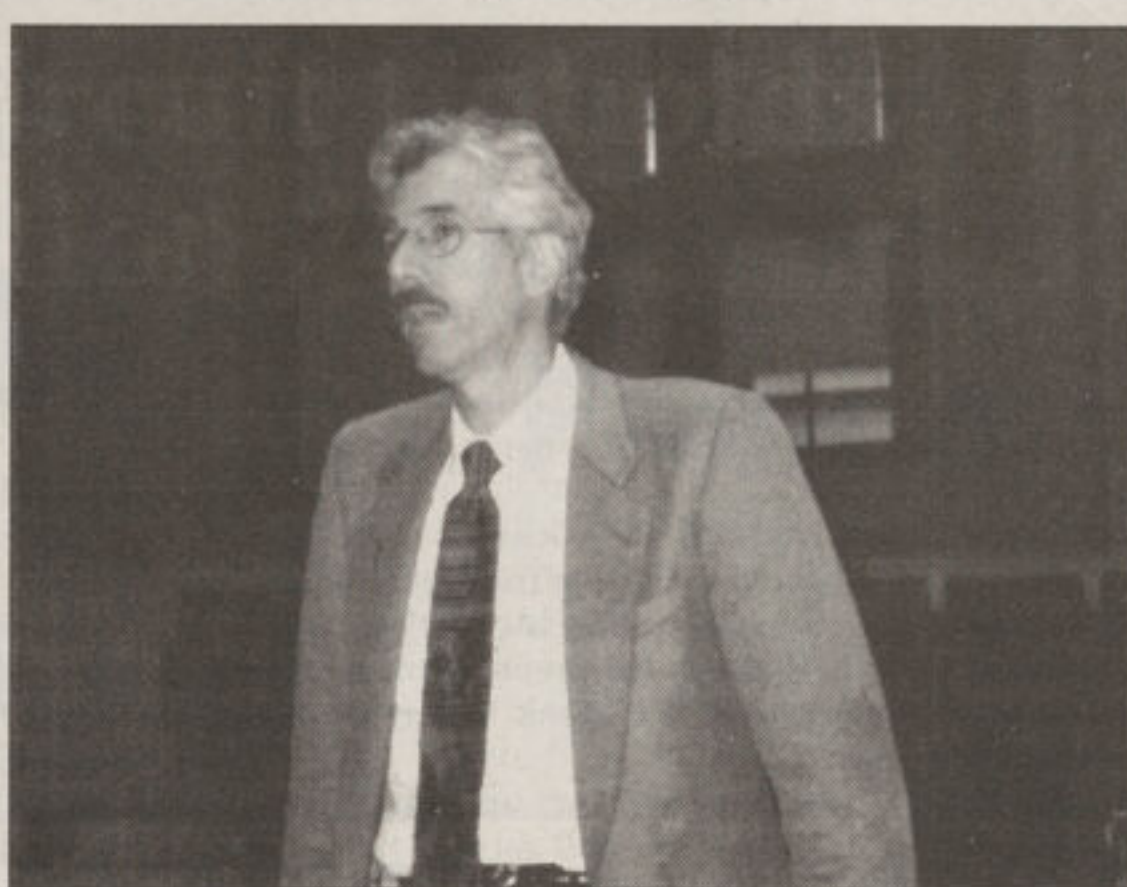
Schlichtmann responded by noting that the quote said more about Facher's world view than it did about any ideal the legal system should aspire to. He argued that a fundamental difference exists between presenting the best defense within the adversarial process and transcending the ethical standards of the legal community.

"You can never be a good liar if you want to be a good lawyer," Schlichtmann stated.

Schlichtmann also offered criticism for modern legal education.

He praised the case method used at the Harvard Law School as "a good starting point" and "a great model for rigorous legal training," but argued that more emphasis on ethical conduct in the context of lawyering was necessary.

Schlichtmann further condemned the



Jan Schlichtmann speaks in Ames Courtroom last Thursday

RECORD Photo/Tim Kiefer

tobacco companies and any attorneys who opt to work for them as unethical purveyors of lies.

"The lawyer who says we can beat that cigarette case — does that person best serve the interests of the cigarette companies?" Schlichtmann claimed that tobacco lawyers actually harm the interests of both society and their own clients in the long run by presenting false infor-

mation in court.

One of the highlights of the presentation was a brief appearance by Prof. Charles Nesson '63, who assisted Schlichtmann during the trial. Nesson is called "Billion Dollar Charlie" in the book for his unrealistic predictions of the case's worth. Schlichtmann, however, had unqualified praise for Nesson as an idealist whose assistance and faith in the case was an essential element of the settlement.

Asked about his plans for the future, Schlichtmann responded, "I am still in a turmoil about what I want to do when I grow up." He noted that although he still practices law, he has recently developed an interest in environmental

engineering and is working on projects that will affect "how we live in the 21st century."

"A Civil Action" will soon be turned into a movie with John Travolta cast as the tall, lanky, middle-aged Schlichtmann and Paul Newman playing Facher. Schlichtmann joked that he couldn't wait to find out who would be chosen for the part of Judge Skinner.



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Across the Wire...

Court to Hear Three of State's Oldest Death Penalty Cases

NASHVILLE, Tenn. (AP) — Three longstanding Tennessee death penalty cases are scheduled for review by the U.S. 6th Circuit Court of Appeals this week.

Tennessee has not carried out an execution in 37 years.

"The Supreme Court's not going to get involved in this thing," said Tom Henderson, senior trial counsel for the Shelby County District Attorney's office. "I expect the 6th Circuit will be the final say so — unless we lose."

Richard Austin was the first person sentenced under Tennessee's 1977 capital punishment law and has been on death row longer than anyone else there.

He was convicted of hiring a hit man to murder a police informant in Memphis. Austin's conviction was overturned by Judge John T. Nixon of Nashville last year. Nixon said that Austin did not have adequate legal counsel at his trial and that the judge gave improper jury instructions on the meaning of "reasonable doubt."

Nixon also overturned the death sentences of William Groseclose and Ronald Rickman in the 1977 murder of Groseclose's wife. Deborah Groseclose was raped, strangled and stabbed before being locked in the trunk of a car in Memphis.

Nixon ruled that Groseclose didn't have adequate representation and that other constitutional errors occurred

during the trial. Groseclose said medication he took during the trial impaired his mental abilities and that his attorney didn't properly investigate the case.

Nixon ordered Rickman to receive a new trial because of inadequate counsel. Rickman said his lawyer spent only 16 hours in preparation for the trial and didn't speak to anyone but his client.

If the circuit court upholds Nixon's rulings, the men will get new trials before Tennessee juries. But if the court rules in favor of the state, and the U.S. Supreme Court doesn't get involved, the men could be scheduled for execution.

Death penalty opponent Joe Ingle says he expects Nixon's rulings to be upheld.

"I don't have the sense that there's going to be an execution here anytime soon," said Ingle, spokesman for the Tennessee Coalition to Abolish State Killing. "When you look at these cases and read the records, they were abysmal in the representation provided at trial for these prisoners."

"It's not that anyone's a raving liberal. It's that Tennessee's system is so poor it begs for correction."

Austin's case will be heard on Wednesday, the 20th anniversary of Tennessee's current death penalty statute. Arguments in the Groseclose and Rickman cases will be heard Thursday.

Trial Delayed While Supreme Court Decides Religious-Freedom Issue

RICHMOND (AP) — A federal judge has postponed a trial that would determine whether banning a church meal program for the city's homeless violates freedom of religion.

At the city's request, U.S. District Judge Robert E. Payne agreed to put the fate of Stuart Circle Parish's meal ministry on hold while the U.S. Supreme Court decides whether a 1993 law gives religious groups too much constitutional protection.

The Stuart Circle trial was scheduled to begin May 1; it was postponed until after the Supreme Court decision, which is expected before the court adjourns in July.

The law in question is the Religious Freedom Restoration Act, passed by Congress to give churches broader rights than the Supreme Court has allowed in the past. Stuart Circle Parish has cited the act in its attempt to preserve a weekly meal program that was halted by the city's Board of Zoning Appeals.

"It makes perfect sense to delay (the Stuart Circle Parish trial) until after the Supreme Court decides a central issue of the case," said Keith May, assistant city attorney. "If that act is not constitutional, it changes the entire dynamics of the case."

The case the Supreme Court is reviewing involves a Catholic diocese in Boerne,

Texas, whose members want to build a church addition that would violate an historic preservation law. The case was argued before the court on Feb. 19.

Members of the Stuart Circle Parish, a consortium of six churches, opposed the trial's delay, said Bill Sooy, the group's lawyer.

"We are interested in getting the issue resolved," he said. "Now it seems it will be several months before it can be."

The meal program has been feeding the city's homeless for over 15 years. It was taken over by Stuart Circle Parish in June and moved to First English Lutheran Evangelical Church.

Complaints from neighborhood residents and members of a civic association prompted City Zoning Administrator Roy Benbow to issue a zoning violation to the church.

The Board of Zoning Appeals voted 4-1 in November to halt the feeding program, saying it violates a city ordinance that restricts churches in residential neighborhoods from feeding the homeless more than seven times a year.

Sooy said the Supreme Court's decision will have an impact on the parish's case, but even if the Religious Freedom Restoration Act is declared unconstitutional, the group will go forward with its lawsuit.

McVeigh's Attorney Fights Battles In Court of Public Opinion

DENVER (AP) — For defense attorney Stephen Jones, the court of public opinion is almost as important as the courtrooms of law.

Jones' efforts to rehabilitate the image of his current client, Timothy McVeigh, have been nothing short of brilliant, some colleagues say.

"He's the ultimate spin doctor. He's a maestro with the media," says Dan Caplis, a prominent Denver lawyer.

Other attorneys, however, say Jones' actions may be spinning out of control and could come back to hurt the defense.

For example, Oklahoma City lawyer Irven Box, who has followed the case from the beginning, said Jones has hurt his credibility and that of his client by changing his explanation of alleged confessions to the Oklahoma City bombing that killed 168 people.

Jones began his public relations campaign shortly after taking over Timothy McVeigh's case, about a month after news photos and television footage etched an enduring image in Americans' minds of McVeigh being led out of the Noble County, Okla., courthouse in chains and an orange jumpsuit.

Jones had served as a personal research assistant to Richard Nixon in 1964. Using what he had learned about the news media, he set out to create doubt, if not reasonable doubt, about his client's involvement.

In prison photos that Jones arranged, McVeigh comes across as a docile, innocent-looking young man smiling and joking with his advocates. Jones also tried to persuade a federal judge to permit news interviews with McVeigh; that effort failed.

But the tactics changed after The Dallas Morning News ran stories Feb. 28 claiming it had a defense document that indicated McVeigh had confessed.

Jones first asserted the story was an outright hoax and denied such a document even existed. Later he said he thought the newspaper had such a document but might have been set up by a source with an ax to grind.

Then he altered his story again. He said he'd found the pertinent document in his files. It was not a confession, however, but a ruse drawn up by an assistant,

Jones said, with the aim of lulling another possible bombing suspect into trusting Jones' investigators enough to talk with them.

Jones also denounced The Dallas Morning News as irresponsible. News executives stood by the story.

Despite his inconsistencies, attorneys say, the strategy worked, at least for now: many potential jurors have said they either didn't believe the news accounts, or had heard the stories were a hoax and discounted them.

"He succeeded in confusing everyone about the confession story to the point where he virtually neutralized the issue," said Denver attorney Andrew Cohen, who has monitored jury selection. "He spun it three ways in three days to the point where the media and everyone else became thoroughly confused."

The extent of his success, however, has been evident in the courtroom. While questioning a Boulder ski instructor, Jones asked the woman to explain why she'd noted in her juror questionnaire that she'd "heard about the 'confession'" — and put the confession in quotation marks — and also heard a report it was false.

The woman said she heard the report on a ski trip, and "later under similar circumstances I heard there was something mixed up about it." Asked again why she put quote marks around it, she said, "Because I don't know if that's what it was."

Another juror mentioned he heard a report about another confession that Playboy magazine placed on the Internet about two weeks after the Dallas story. Jones said the Playboy story was based on an outdated defense chronology of the case that contained misleading and unsubstantiated reports about his client. That juror also noted he didn't believe the reports.

Reporter Ben Fenwick, who wrote the Playboy piece, said there were some mistakes in the chronology but other parts of the document obviously came from McVeigh.

Caplis said the strategy could eventually backfire if jurors get into the deliberating room, ignore the judge's order to consider only the evidence presented in the case, and conclude Jones lied. "If it comes to a close call on the death penalty, will

this factor in?" he asked.

Box said Jones has done the best job any lawyer could with trying to change the public perception of the case against McVeigh, but many colleagues in his home state of Oklahoma think he crossed the

line with his attempts to portray McVeigh as a victim of false media attacks.

"I think he's been hurt, his credibility was hurt," Box said.

Jones, citing the judge's blanket gag order, declined to comment.

Rapper's Mother Sues Death Row For \$17 Million and Missing Recordings

LOS ANGELES (AP) — The mother of slain rapper Tupac Shakur is suing Death Row Records for \$17 million, claiming the hip-hop label failed to pay royalties and cheated Shakur out of millions of dollars.

The federal lawsuit filed follows a \$7.1 million lawsuit Death Row filed against Shakur's estate earlier this month, demanding reimbursement for money allegedly advanced to Shakur for cars, houses, jewelry and other expenditures, including recording and video costs.

Besides seeking unpaid royalties and repayment of disputed expense billings, the countersuit from Shakur's estate seeks to invalidate a handwritten 1995 contract Shakur signed with Death Row while in prison.

It also asks that 152 unreleased Shakur recordings, which his representatives cannot locate, be ordered into court-appointed receivership.

The suit is a response to "the deafening silence from Death Row," family attorney Richard Fischbein said.

The primary dispute between the rapper's mother, Afeni Shakur of Stone Mountain, Ga., and Death Row is over money made by "All Eyez on Me," a double album by Shakur released shortly before the rapper was gunned down last September in Las Vegas. Some 5 million copies were sold.

Shakur died with little more than \$150,000, yet Death Row reaped more than \$100 million from his music, Fischbein said.

"He was paid less than a million dollars as far as we can see," Fischbein said. "They've never opened the books

so that we can see."

The company wrongly billed Shakur's account for other's expenses in a "pattern of fraud and deception involving millions of dollars," Fischbein said.

Named in the lawsuit were Death Row and its imprisoned president, Marion "Suge" Knight, who is serving a nine-year term for violating probation from a 1992 assault.

Two lawyers for Death Row, Ed Corey and David Kenner, did not return phone calls Saturday, but Kenner, who's also named in the lawsuit, on Friday denied any wrongdoing or mismanagement.

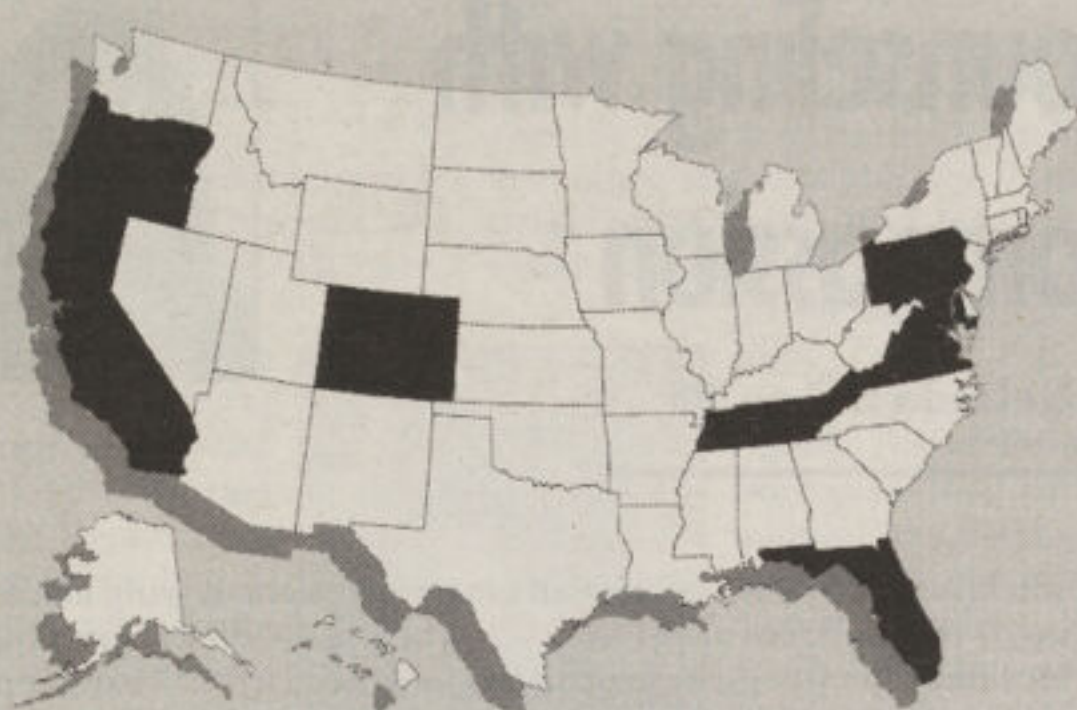
Citing the handwritten contract, Death Row claims Shakur's unreleased recordings are its property. The company also is seeking 20 percent of Shakur's earnings over the last 18 months as a management fee.

In a separate development, Shakur's mother got \$5 million in advances from Death Row distributor Interscope Records after threatening to bar the release of her son's posthumous "Makaveli: The Don Killuminati" album. Released in October, it has sold more than a million copies.

Death Row has other troubles. Creditors claim the company owes them millions of dollars for goods and services. A \$75 million lawsuit seeks to have the rap label put into receivership to protect its assets.

The company also is under federal investigation for alleged links to drug trafficking, money laundering and extortion.

Across the Country



This Week, News From All Over

Type-Less Blood Product Trial Raises Ethical Questions

BALTIMORE (AP) — An experiment scheduled to begin next month at the University of Maryland Shock Trauma Center is raising ethical questions about patient consent.

Supporters say a new blood product can be given to patients regardless of their blood type, saving time and hopefully the lives of the critically injured. However, some are questioning whether unconscious patients should be given an experimental product without their consent.

Before administering the new product, HemAssist, the hospital is required to try to gain consent from the patient's family or guardian.

Dr. Arthur L. Caplan, a medical ethicist at the University of Pennsylvania,

said the regulations are "too broadly written and too vague ... This is not adequate regulation for this sensitive and troubling kind of work."

HemAssist is a blood substitute made from human blood which delivers oxygen and restores normal blood pressure faster than salt solutions or blood transfusions, researchers say.

In addition, the substitute can be given immediately without waiting for the results of blood type testing. The testing is being limited to a small number of patients who otherwise would most likely die of their injuries.

Caplan said the government should have issued cards to be carried by people who wish to be treated with the experimental blood substitute in the event of

catastrophic illness or injury.

However, Dr. Paul Fishman, chairman of the university board that oversees medical research, said such practices have not worked well in the past because very few people have signed up to participate.

An official with the federal Food and Drug Administration also defended the trial, which the FDA approved.

"The rules are put together in an ethically sound way," said Donald C. McLearn, an FDA spokesman.

Shock Trauma is one of five hospitals nationwide preparing to test the blood substitute, which is produced by Baxter International. The testing is the final phase before FDA approval. If testing goes well, HemAssist is expected to be

available next year.

So far, HemAssist has been tested on 700 people. The blood substitute is made mainly of hemoglobin, the protein which gives blood its color and carries oxygen. The blood substitute, however, does have several side effects, which include stomach cramps, yellowing of the skin, and a red discoloration of urine caused when the hemoglobin breaks down.

David Gens, an assistant professor and neurosurgeon at Shock Trauma, met with residents of the community surrounding the hospital to announce the test. The hospital also used a newspaper advertisement to announce the upcoming test.

"We really believe we can save more lives using this new therapy," Gens said.

Jury Awards \$600,000 in Abortion Case

KLAMATH FALLS, Ore. (AP) — A jury has awarded \$602,738 to a woman who claims her doctor persuaded her to have an abortion that wasn't necessary.

The verdict came last Wednesday at the end of a three-day trial in Klamath County Circuit Court. The jury deliberated about three and one half hours.

According to the lawsuit, Dr. Gregory K. Sindmack had advised Rosalind McClure to obtain an abortion because she had chicken pox early in her preg-

nancy. He told her the baby would be born with deformities and severe neurological damage.

However, Dr. Sindmack should have known there was no such risk and the abortion he recommended was not necessary, the lawsuit contended.

The abortion was performed after Sindmack assumed the care of McClure on July 12, 1993.

Sindmack's attorney, Ken Renner, said the doctor had not yet decided whether he would appeal.

Pennsylvania Joins Other States in Suing Tobacco Companies

ERIE, Pa. (AP) — State Attorney General Mike Fisher said he will sue major tobacco companies next week to seek compensation for an estimated \$1 billion that tobacco-related illnesses have cost Pennsylvanians.

"The tobacco cartel has knowingly conspired to market a product that is detrimental to health," Fisher said. "We don't think it should be the taxpayers that foot the bill, but the tobacco companies."

Fisher was in Erie for a meeting of the Manufacturer's Association of Northwest Pennsylvania.

The lawsuit would make Pennsylvania the 24th state to sue large tobacco companies, Fisher said. Alaska on Monday became the latest state to sue.

The attorney general said statistics show there are 100 new smokers each day in the state and that one-third of Pennsylvania's children report smoking their first cigarette at age nine or 10. He claimed tobacco companies deliberately target children.

"Their goal is to make sure they have smokers in the pipeline for the future," he said.

Fisher said he's monitoring negotiations between the nation's two biggest cigarette makers — Philip Morris Co. and RJR Nabisco Holdings Corp. — and eight states that have already filed similar suits. A settlement could reportedly cost the corporations as much as \$300 billion.

Businessman Who Helped Discover Cult Freed From Jail

LOS ANGELES (AP) — A Beverly Hills businessman who went on national television to describe the Heaven's Gate mass suicide was released from jail to face a probation violation charge in Ohio, prison authorities said.

Nicolas Matzorkis, 34, was released last Friday from a Los Angeles County facility in Saugus, where he had been held without bail on a fugitive warrant, officials said.

A judge recalled the warrant and freed Matzorkis so that he could appear Tuesday in Cleveland for a hearing on his alleged violation of probation stemming from a 1989 car theft conviction, said his attorney, Donald Etra.

Etra called the warrant a mixup. He said that Matzorkis contacted his probation officer after moving to California in 1990 but that Ohio authorities never were notified.

On March 26, Matzorkis drove employee Richard Ford — a former cult member — to a Rancho Santa Fe mansion where Ford discovered the bodies of 39 Heaven's Gate followers.

Ford had received a Federal Express package in which Heaven's Gate members talked of shedding their earthly "containers."

Matzorkis did not see the actual death scene but he provided what details he had to the national media.

Ohio authorities saw Matzorkis on television and contacted police in Beverly Hills. He surrendered on April 9 and was arrested.

Matzorkis heads Interact Entertainment Group, a \$30 million group that specializes in locating long-lost friends and relatives, video and music production, and Internet project development.

Journalist Shield Laws Miss Deadline in Committee

TALLAHASSEE, Fla. (AP) — A legislative attempt to give Florida news reporters more protection against demands to reveal sources or testify in trials appears dead for the year.

The bill was set to be heard in the Senate's Judiciary Committee on Friday, but time ran out. The bill has powerful backers in the Senate, including Senate President Toni Jennings and Senate Budget Chairman Don Sullivan.

Sullivan, R-Seminole, sponsored the measure and said he thought Judiciary Chairman Fred Dudley, R-Cape Coral, was trying to scuttle the bill.

"I'm not going to speculate on his motivation, but he knew exactly what was happening," Sullivan said.

Dudley denied he was trying to stifle the measure and said the committee simply ran out of time. The committee's agenda included a discussion of 14 bills, including the journalists' shield law.

The bill (HB71/SB304) was inspired

by the case of a Miami Herald reporter jailed for two weeks for refusing to testify in a murder trial. The legislation would require journalists to testify only if a three-part test determined that the information was relevant and necessary, and could not be obtained from other sources.

Those standards already have been set by judicial rulings, but the bill would put them into Florida law. Florida would join 29 other states that protect reporters from testifying.

Dudley said he supported shielding journalists in criminal cases, but was not certain it was necessary for civil action.

A House version of the bill cleared the House Committee on Civil Justice and Claims, but its supporters fear the measure is doomed in the House because its sponsor, Rep. Luis Rojas, R-Hialeah, tried to wrest the speakership from Rep. Daniel Webster, R-Orlando.

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Professors Who Are Not Teachers

Harvard Law School hires professors who are extraordinary scholars and competent teachers. Poor teachers not only hurt the School's reputation (see The National Jurist's structurally-flawed, but not entirely worthless, survey in which HLS ranked last out of the top 30 schools in quality of teaching). Individuals who are bad teachers can skew the entire registration process.

A case in point is Prof. Mansfield's Evidence course. When students choose between Mansfield and Prof. Nesson — who consistently rates as one of the School's best professors — the selection of Evidence courses is distorted. Nesson's class typically has more than 140 students, as does Prof. Murray's class, but each semester fewer than 20 students take Mansfield's class. Students graduate without taking an Evidence course at HLS because they do not wish to take Mansfield. And the administration tends to shrug off this problem by arguing that there really existed 120 unfilled slots, and that students didn't fill the slots because they were uninterested.

Oversized classes contribute to the problem. A smaller class is a better class. Professors prefer smaller classes because there are fewer exams to grade. But to reduce class size in the short run requires that professors teach their required ten credits per year, a rule only a fourth of the faculty heeds.

The School is currently studying the decennial question of whether to make first-year classes pass/fail. The School has also explored the idea of using teaching fellows to assist professors in first-year courses. Both of these ideas are positive, but only if the faculty agrees to abide by their required teaching loads. The deal would look like this: students gain smaller first-year classes and a relaxed grading system. Students give up the comfort of knowing that their exams are graded by their all-knowing professors, and also lose some direct faculty contact. Students really have nothing to lose, though, because grading is often random and faculty contact already is minimal.

Faculty members would get out of grading first-year exams (their most hated task) in exchange for teaching their required ten credits. And the concern that pass/fail will lead to decreased class attendance will be mitigated somewhat by the increased conspicuousness that characterizes smaller classes.

The second step would be to institute a faculty mentoring program. The assumption that exceptional scholars can teach a group of 150 law students by way of some natural reflex is ludicrous. Teaching skills are developed over time, and considering the enormous leap of faith tenure requires, one would think the School would wish to properly invest in its professors before it gave them lifetime employment.

As for older professors, an ongoing process of learning should occur. Professors who rank in the bottom 10 percent on BSA evaluations should be required to take a seminar in teaching until they show signs of improvement.

It is ironic that the same professors who criticize a pass/fail grading system as too lax also refuse to alter their behavior to the low grades they receive. But more than the grades professors give us, BSA evaluations reflect something truthful that's shameful to ignore.

— Friedman

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The Harvard Law RECORD (ISSN 0017-8101) is a publication of the Harvard Law RECORD Corporation, a non-profit, independent, student-owned and run corporation of the Commonwealth of Massachusetts. Harvard Law RECORD, Harvard Law School, Cambridge, MA 02138-9984. Telephone (617) 495-4418. Fax (617) 495-8457.

The RECORD is published weekly on Fridays throughout the academic year and is distributed free of charge to Harvard Law School Students and at a minimal charge to Harvard Law School Alumni. Copy and photo deadlines are 5:00p.m. on the Monday preceding publication. Advertising deadlines are 5:00p.m. on the Tuesday preceding publication.

Submissions may be sent to The RECORD at the above noted address, dropped in the RECORD box located in Harkness Commons, or left in the 2L Hark box of David Liu or Jaclyn Liu. All copy must be typed, double-spaced, and submitted on paper and on a computer disk (Macintosh or IBM). The RECORD reads and appreciates every letter we receive; we reserve the right to edit letters for space as necessary. We will return your disks. Off-campus subscriptions are available. Subscription price: \$45.00 year mailed; \$50.00 year mailed outside U.S. Individual copies: 35 cents at newsstands, 50 cents at the Law School, \$1.00 mailed, \$2.50 for back issues and reprints. Second-class postage paid at Boston, MA and additional mailing offices.

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

—First Amendment, US Constitution

CLINICALLY SPEAKING

Counseling with Compassion



By Belinda S. Lee '98

Guest Columnist

I am haunted by the vision of an emaciated woman lying lost and swallowed up by the mattress of her king-sized bed. Even in the faint light of a singular lamp, she struggles to open her jaundiced eyes. I extend my right hand in her direction, but she does not reciprocate — she just gestures with her eyes toward the tubes running into her right arm. On the shelf above her bed stands a cavalry of bottles, needles, and pills ready to wage the war against AIDS. I hear my voice echoing across the cool space of her empty room. It is saying something aimlessly, and nervously, about drafting Health Care Proxies, Springing Powers of Attorney, and Directives to Physicians. She has her back to me now, and I can see the contours of every vertebrae in her spine. She is no longer listening to my voice, and neither am I.

That was the last time I ever saw her — my client. Less than two weeks later, the night before my first fall exam, I was told that she was dead.

At first, I felt nothing — a little surprised — but still nothing. When the shock of the news finally hit me, I felt an enormous wave of rage wrack my body. I was angry that five days had passed since she died, and no one had bothered to tell me. I was angry at the hospital which turned her away because she had no insurance. I was angry at the cheating boyfriend who had infected her but was perfectly healthy and continuing to infect others.

By the end of the day, I was overwhelmed by sadness and tears. I could no longer muster the anger I had felt earlier; the sadness that had taken over left me drained of all my emotions. I could do nothing but think about how healthy she had looked when we first met, only six months earlier. And, I was left thinking about the children she left behind: her six year old twin sons, her three year old daughter, and her two year old son. Those little children were too young to truly understand what had happened. All they knew was that they no longer had a mother.

I am not exactly sure why I joined the AIDS Practice Group (the APG) at the Harvard Legal Aid Bureau. I think it was because I have always felt a compulsion to root for the "underdogs" — I wanted to help those who I thought most needed my help. Perhaps it was because I had seen the movie "Philadelphia" a few too many times. Or, perhaps it was because I ignorantly and conceitedly thought that I alone could alleviate the plight and ravages of this devastating disease.

Those little children were too young to truly understand what had happened. All they knew was that they no longer had a mother.

It is indescribably frustrating to realize that I will never be able to solve my clients' most serious problems. I have a difficult time asking them to deal with the minutiae of legal problems — giving them one more thing to worry about on top of their obvious and more pressing health concerns.

I stand with my clients, staring down a disease which strips them of their health, their hopes, and their physical control over their own bodies. I can only hope to give them back some amount of control over their lives. I help them choose guardians for their children. I help them tell their doctors not to take extraordinary measures to resuscitate their bodies. And, I help them decide whether they want their bodies cremated or in an open casket. Morbid details, yes — but, these details help restore their sense of control and dignity in life, and in death.

I have another client whom I will never forget.

He walked into my office — no, he strode into my office one day with his overstuffed knapsack, flashy tie, and a rich laughter that resonated in the tiny corners of my office and my heart. At our initial client meeting, he told me he was celebrating his tenth year as an AIDS survivor — "a decade of disease," he jokingly called it. He told me about the friends and lovers he had lost to this disease, about how he had seen people curl up and die after testing positive, and about how he was unwilling to accept his fate so passively.

This man had defied the doctors who told him that he had less than five years to live. Ten years later, this man had a T-cell count of less than 20, but he was teaching me about what it meant to live and be happy. Talking with him, I came to realize just how lucky I am — to have my health, my friends, and my loved ones still with me. Suddenly, all of my classes, outlines, and exams seemed embarrassingly trivial. Here was a man who had come to me for legal advice, and I felt as if I were the client and he were my therapist.

The life of a student, especially a law student, is a terribly self-absorbed existence. I have found the work I do through the APG to be both the most emotionally draining and still the most emotionally rewarding work I have ever undertaken.

From the very beginning, I questioned whether I had the emotional stamina to work with HIV-positive clients and clients with AIDS. I joined the AIDS Practice Group because I thought I could help those with HIV and AIDS. I had no idea just how much they would help and teach me. Far from being "underdogs," my clients have taught me that those who live with HIV and AIDS are some of the bravest, wisest, and most courageous souls I have ever had the privilege of encountering.

I have taken liberties with certain facts, to protect the confidentiality of my clients and their loved ones. But the emotions, tears and joys that I have written about are nothing if not genuine and sincere.

Fitness to Foster

By Elizabeth Bartholet '65

Welfare recipients are serving in significant numbers as foster parents, reports the April 5 Boston Globe (Michael Grunwald, "Welfare mother, foster parent"), and an aide to Governor Weld expresses shock, as many officials expressed shock, when the Globe revealed last year that the Department of Social Services (DSS) had licensed as foster parents large numbers of people with serious criminal records, including records of domestic violence and child abuse. One has to hope that the Governor himself is more aware of how his State's foster care system works. Although DSS Commissioner Linda Carlisle is, of course, right that poverty shouldn't be seen as proof of parental unfitness, there are risks to children inherent in the current system, and those with the power to change that system should know it.

DSS operates on premises that are common to child welfare systems throughout the country: if children have to be taken from their parents they should be placed either with kin or within their local and their racial communities; only as a last resort, if ever, should they

be placed with other-race "strangers." So it should be no surprise that the system recruits welfare recipients, among others, since the kin and the same-race neighbors of the children who come into foster care are overwhelmingly from the poorer segments of our society.

According to the Globe report, DSS officials say they wish they had more middle class foster parents to choose from and weren't forced to rely so extensively on welfare mothers, and Carlisle says DSS has been forced by the shortage of good foster homes to move children into institutional homes. But the truth is that DSS casts its recruitment net very narrowly, excluding from consideration the vast majority of middle class families, because they live in the wrong neighborhood or are of the wrong color.

Kin and neighbors who live near the foster child's family will make the best foster parents in certain cases, regardless of whether they are poor or on welfare. The problem is that the system places too absolute a priority on placing with kin or locally, denying social workers any opportunity to make a comparative judgment as to what placement will

be best for the child in the particular circumstances at issue.

The dangers for children of recruiting such a narrow group for the foster parent pool are exacerbated by the economics of foster care and AFDC. Foster payments look low to those on a middle class income thinking about the expense of raising children, but for those on the poverty level they are high enough to be tempting to people who may have no interest in parenting. In Massachusetts each foster child means a monthly stipend of a little over \$400, so that fostering four children means a monthly income of over \$1600 and yearly income of about \$19,600 (Somewhat higher stipends are available for children 13 and older, and for special needs children). Welfare payments for a mother with four children amount to less than half these amounts. While many many foster parents are as devoted to their children and committed to parenting as anyone could hope, those who work in the field testify to the fact that others see foster parenting as some combination of welfare and employment.

The pressures in the future will likely get only more intense. Welfare "reform" will, according to design, radically limit AFDC payments, without providing any guarantee of job opportunities, leaving foster and adoption subsidies as the only entitlements on the table. At the same

time, many in the child welfare field push for making kin and local foster placement an even higher priority. A recent federal law bans the use of race to delay or deny foster or adoptive placement, but many in child welfare now talk as if that law's primary purpose was to mandate same-race recruitment.

"It takes a village to raise a child," they say, and I agree. But I take this to mean that the entire community — the global village — should take responsibility for the care of its children. Children should not be seen as the responsibility solely of their blood-linked relatives and their race-linked neighbors. Many children will be best off placed with loving kin or placed locally on a temporary basis so that their lives will be minimally disrupted pending reunification with their families. But many children should never be returned to their families and should instead be placed immediately with the best available pre-adoptive families. DSS should cast its recruitment net widely, and require that social workers make choices based on genuine assessments of children's best interests, free from today's mandatory preferences.

Elizabeth Bartholet, a Professor of Law at Harvard Law School and author of Family Bonds: Adoption & The Politics of Parenting (Houghton Mifflin, 1993), is working on a new book on child welfare.

HLS Course Guide Misleads Admitted Students

By Stephanie Gendell '98

Over the past two years, there have been many incidents that have angered and upset me, including the grading of clinicals and the shortage of public interest summer funding. I have now reached the point where I can no longer keep my discontent to myself — because I feel as if this whole school is a big scam.

Child advocacy has always been my passion. Before I decided to come to Harvard, I made sure that the course offerings listed in the Course Guide would be interesting to me. Most important was the fact that there was a class entitled, Child, Family, and State.

I have learned a lot since the time when I was first admitted to Harvard Law School. Unfortunately, it's not family law that I have learned. Instead I now know that the HLS Course Guide is a total sham.

Child, Family, and State has not been taught and will not be taught in the three years that I will have been here. I find it appalling that this school can entice people to come here by listing a variety of courses on paper that are not available in reality.

My frustration does not revolve around just one class. Because of my disappointment in the course offerings I decided to pick up a copy of the Course Groupings Guide to the Upper-Level Curriculum, which is produced by the Legal Education

Committee. I looked at the Family Law Grouping. It recommended the basic Family Law class, which I took as a first year law student (thinking of course that it would prepare me for the advanced classes). It is true that the basic course is offered next year, although there are usually three sections of the class and next year there will only be two.

The guide then recommends Prof. Glendon's course, Comparative Law: Family Law in Transition in the US and Western Europe, Prof. Bartholet's '65 course, which is now called Beyond Biology; Prof. Field's advanced family law seminar; Prof. Mnookin's '68 course, Child, Family, and State; and Prof. Westfall's class, Estate Planning. Not one of these courses will be given next year!

The only Advanced Family Law class that will be given next year is Mediation Advanced and Family Law Practice, which has a 30 hour basic mediation training prerequisite. Unfortunately, this is a new class so when I pre-registered for this year, I did not know that I would need to take a mediation class.

Given that there is not one advanced family-law-related class (aside from the class with the prerequisite) that is going to be given next year, I decided that I was going to have to be more flexible. How-

ever, the following is a list of the other classes which I found in the course guide and thought could be useful for me and my interests. None of these classes will be offered next year!

Administrative Law Advanced: Federalism and the Poor; Adoption and Reproduction: The Politics of Family Choice; Affirmative Action; Arbitration,

American Legal Process; Violence and Civil Liberties; Violence in America; Work, Welfare and Social Insurance: A Practitioner's Perspective.

I do realize that most people who come to Harvard Law School are not interested in child advocacy. My application to this law school, however, clearly indicated that this was the area that I wanted to

pursue. If Harvard did not want to provide me with the education to excel in this field of law, then I should have never been accepted. In addition, Harvard should not have manipulated me into accepting their offer by sending me a course catalogue filled with classes that would interest me, but would not be given at any time when I could possibly enroll in them.

I can only fathom two possible solutions. One is for the Law School to increase the number and variety of course offerings. Another is for the school to

at least be honest in the course guide. I understand that the courses I am most interested in are those that would not have the largest enrollment. This does not validate dishonesty about what course options the school actually provides. I hope that one day other potential Harvard Law students in my situation will be given the opportunity to make an educated decision about whether to go to school here.

Harvard should not have manipulated me ... by sending me a course catalogue filled with classes that would interest me, but would not be given at any time when I could possibly enroll in them.

Mediation, and Dispute Resolution Design; Constitutional Law: Reproductive Rights, Due Process and Equal Protection; Empirical Research on Poverty Issues; Family Law — Clinical Dimensions; Law and the Low Income Household; Legal-Social Dimensions of Health Care: A Clinical Perspective; The Prediction and Prevention of Harmful Conduct; Public Interest Law: Race, Gender, Poverty; Race, Values, and the



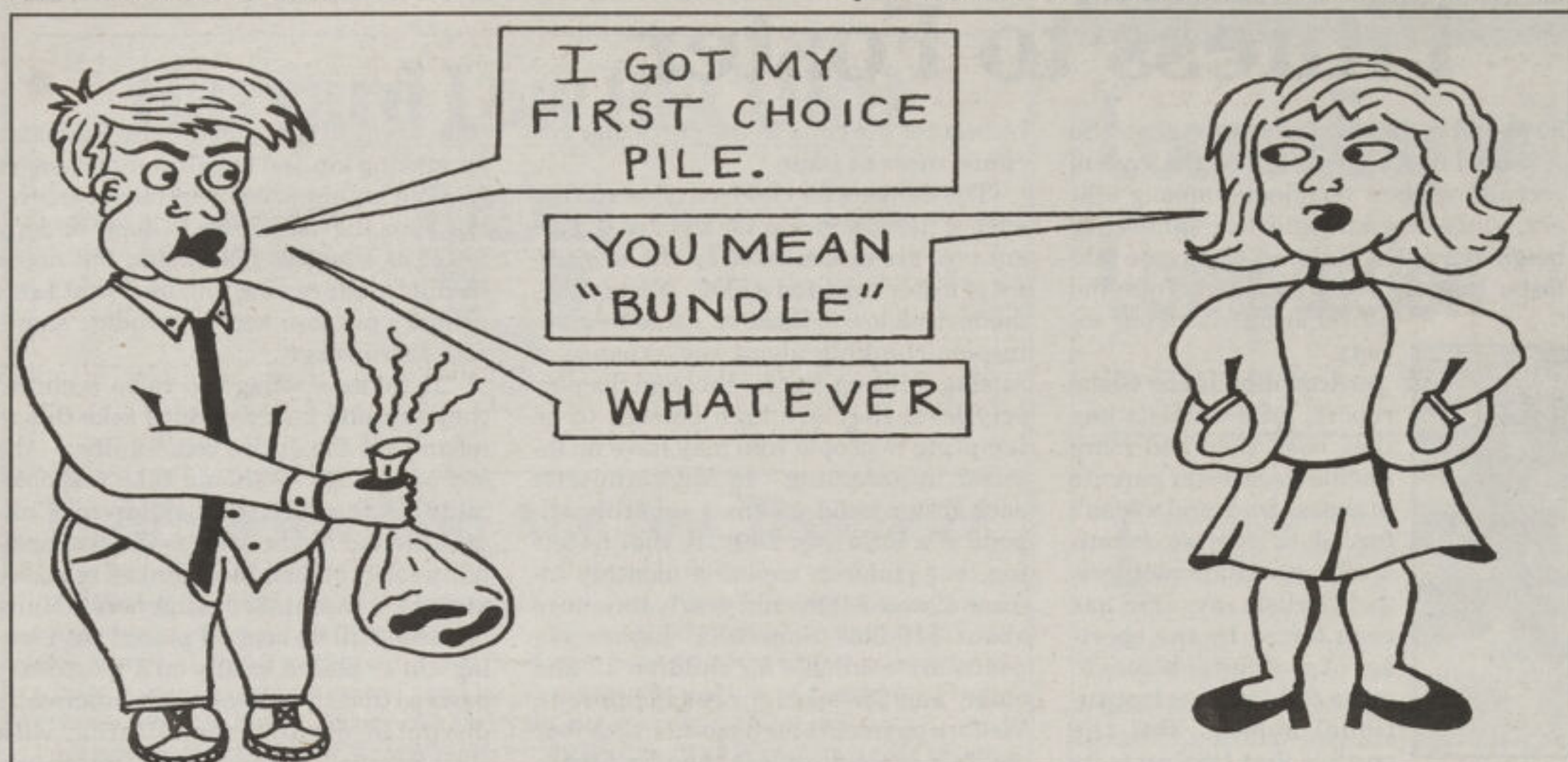
**Next week will be
the last issue of the RECORD.**

**Write now,
or it will haunt you 'till next fall...**



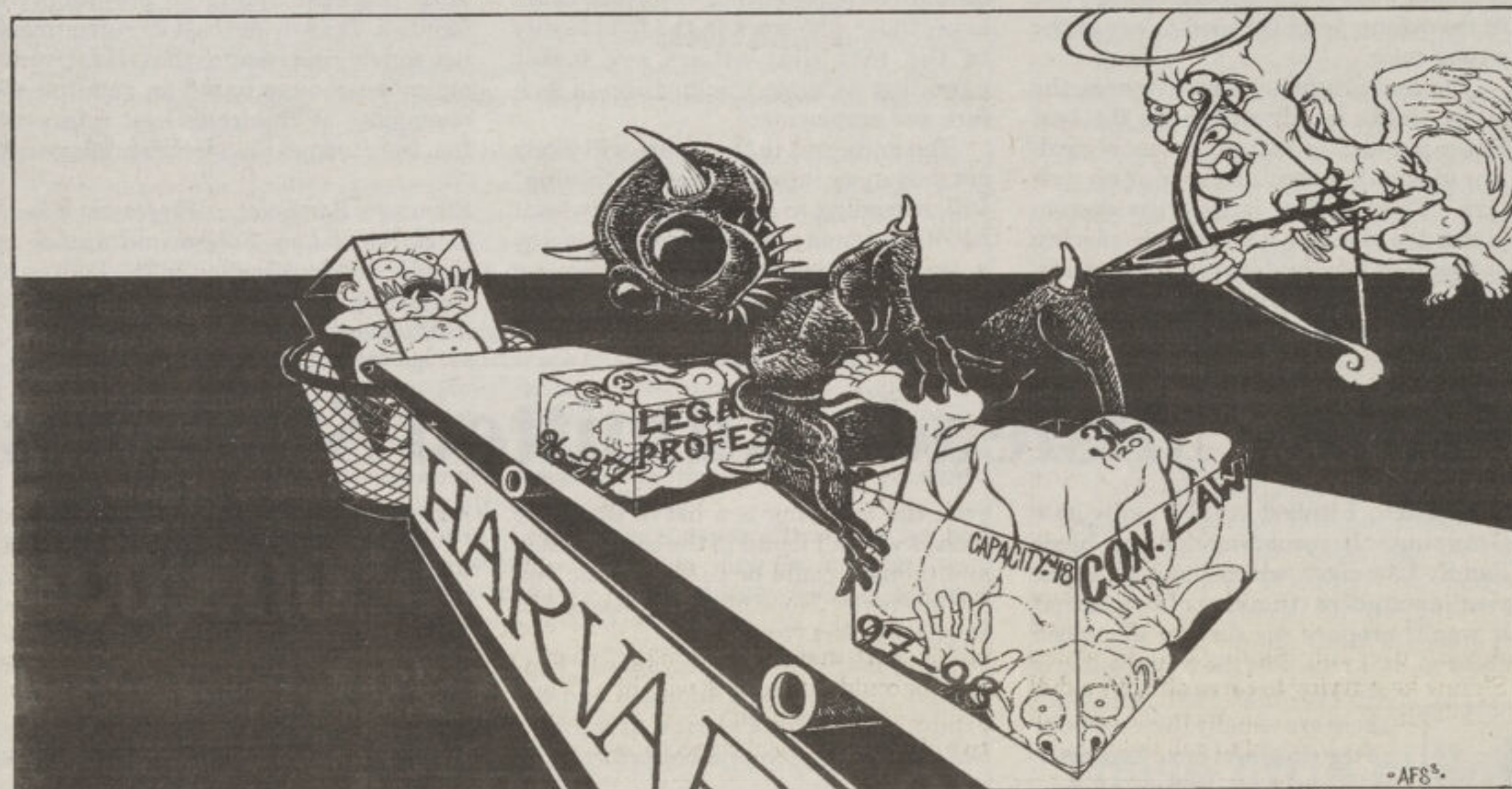
Ad Hominem

By Stuart Rees and Bill Zimmerman



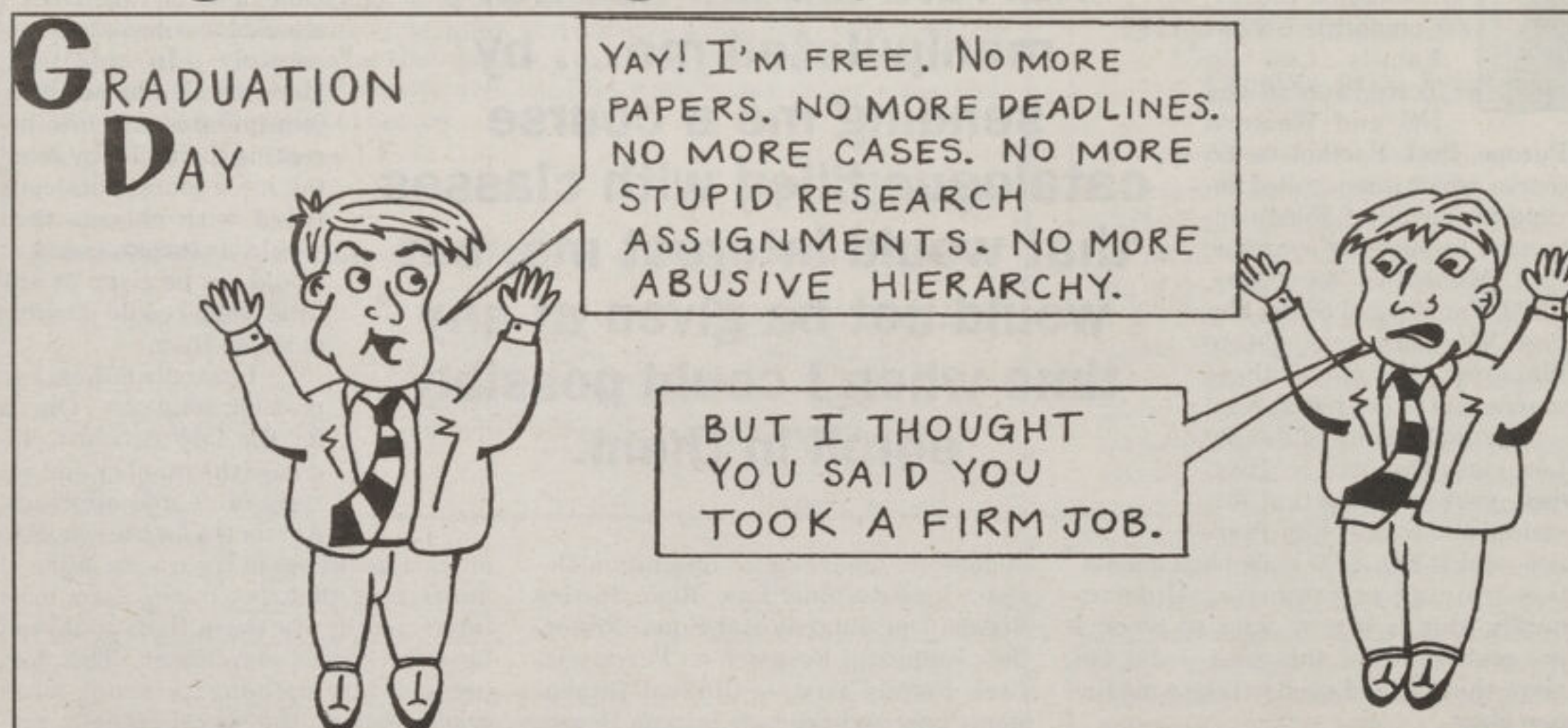
Reasonable Man(gel) Slays the Dean

By Alfred Steiner



Investigative Cartooning

By Stuart Rees and Bill Zimmerman



Spike

By Margie McWilliams



CALENDAR

By Janie Kim '99

By **Janie Kim '99**

HLS conceded a snow day. The Head of the Charles succumbed to vicious climes. Behold our cherished institutions shrivel into mush. **Run of the Charles Canoe and Kayak Race.** Pray that a tsunami doesn't intimidate the regatta into mewling surrender. Sun. 4/27, competitive rowers from the world over flock to our favorite river. Slated: the six- & nine-mile races. And after several years' retirement, the 19-miler returns with a vengeance. For more info, call 527-2700 or (800) 286-RACE.

The circus comes to town. Attention all clown fetishists and Fellinifreaks, the **Big Apple Circus** is back. The one-ring extravaganza has set up tent at 300 Northern Ave. between the World Trade Center and Marine Industrial Park. "The Medicine Show" theme evokes good, clean, 19th century fun (ask your great-grandpappy 'bout them snake-oil swindlers and their patchwork canvas). This year, the circus features all the usual delights. Look for jugglers, acrobats, and enslaved elephants trussed up in tutus for your amusement. Till May 11. Tix start at \$12. Call 428-6951 for more info.

Sat. 4/26, **The Earth Day Concert & Festival** starts at 11 a.m. and runs all day. The free annual outdoor event brings together a lively combo of tunes, green propaganda, and (hopefully) oodles of spring sunshine. Scheduled to perform: **Boz Scaggs, Widespread Panic, The Verve Pipe, Modern English, The Boneshakers**. Bet these bands wracked their precious souls seeking out fresh, whammy-bang names. In Calendar's make-believe fascist state, they'd all be known as "Chris." Take the Green Line to Arlington. Cross the Arthur Fiedler Bridge. The festivities happen on the Esplanade right along the Charles. 254-9267

Roy Lichtenstein: Landscapes in Chinese Style will be at the Foster Art Gallery, Museum of Fine Arts, 465 Huntington Ave., Boston, until July. The 70-something, polka-dot manic, pop-artist orders his well-behaved spots into ... Wonder Twin powers activate, form of ... traditional Chinese landscapes. Thirty-four disjointed variations on a classical Asian motif — no purple monkeys in sight. Contact 267-9300 for details.

Deliverance from instrumental accompaniment. Dueling a cappella at the Hark, Thu. 4/24 at 7 p.m. HLS' own **Scales of Justice** vs. Yale's **Habeas Corpus**.

Good stuff at T.T. the Bear's Place. Tue. 4/29, a patchwork mix of discrete musical units: one part rock to three parts reggae: **Mumbo Jumbo**, **Miracle Orchestra**, **Puddles of Joy**, **Sleepwalk Dancers**. \$5 cover.

Sat. 4/26, also at the Bear's, **Big Monster Fish Hook**. A trio of voice, electric string, and acoustic guitar, they deliver bitter lyrics with clean passion. Not even a metronome to beat out the percussion. Sharing the marquee, **Rex Rock and Sea & Cake**, two bands with a harder, louder style; they remembered to audition drummers. \$8 cover. 10 Brookline St., Cambridge. 492-0082

Wed. 4/30, the Avalon hosts **Fat Bag**, specialists of trip-hop funk. Led by **Optimus Prime** (yes, they played with Transformers as baby hipsters), the group wields both the sax and turntable in the name of hard-core jazz. Fellow funksters **X-Men** and **Rustic Overtones** open the show. 15 Lansdowne St., Boston, MA 262-2424

on Wed. 4/30 at 9 p.m. **Ellen** dusts off the moth balls — at last — and steps into the light. Join Lambda and other university groups at Loker Commons to witness this moment of television history.

A Trip to the Land of the Law

By Alexander Boldizar '98

I was walking down the street, and found, beside a curb in a dirty part of town, a paper. I picked the paper up and took it home. There I straightened it out, dried it, and then filled it out. When I finished and signed my name at the bottom, the paper popped open into a giant silver lining with a cloud around it. I looked at my watch, closed my eyes and dove into the silver lining.



I fell for a long time. As I fell, however, besides remembering a chapter on Falling and Thrownness in Heidegger's "Being and Time," I noticed stuff. I noticed that I'd fallen into the Land of Law. At first, my fall was full of energy, speed. I raced forward, onward, toward. But then, after a little while, I didn't feel so good. My stomach hurt, my eyes were sore, and I was sleepy. I had arrived at the land of the prerequisite. I wandered into this land. I walked past the Lego set, picked up my key, and entered. This is the land of the alphabet and of the comma, which sits two places to the left of the three places if you get it right in which case you get to pass the test which says you know where the letters of the alphabet are sitting. The honorable reader may stick the punctuation where it gives him the most pleasure...

After having sat the M, N, O, and P's so long as Q is not sitting beside R in their places, I entered the layer of the Law's diseases. There was Sleepiness together with Sciatica, Caffeine Poisoning beside a comatose Ethics, and Apathy next to Law and Economics. Celibacy too, lay hidden in wait, behind Kafka's doors which were open all the time. You have no feet, and I have no arms. Mutations of waves. In exchange, an exemption from the hedagium.

Crossing the river of Lethe, having borrowed the toll fees, the fields of law opened.

There I saw a goat. It ran away. Chased away by monsters of Tort, godzillas of Contract, cyborgs of Civil Procedure. Behind the monster of Tort, I had a meeting with the transcendental nonsense of Property. We drank beer together. He wasn't a bad chap at all. So long as he was on your side.

Inside these monsters, if you cut their guts open until they bleed all over you, you can meet the little monsters, meet the fellow servant rule,

the Rule in Shelley's Case, and what a chicken is. Beyond the monsters lay the battling gods of private and public law. I ran away from all of these. They smelled like manifestations of dead halibut.

Running, I was almost tripped by the reasonable man. He was ugly, deformed, grinding his teeth and clutching the eight year old finger of the little Dutch Boy who had plugged the dike. Reasonable himself had less than ten fingers and less than ten toes; instead he had the average number: 9.997 fingers and 9.992 toes. No Cornelis Ketel he.

As I ran, the monsters followed me. Reasonable with a limp. We all ran, a motley progression, into the forum of Form. I looked into a pool of water, and saw myself running: name, rank, and student number. The vegetation around the pool, the roots and regulations, they were all lined up perfectly, no wind, no ghosts, just orderly weeds trying not to bump into each other, or leave gaps among themselves. Beside the pool were two lawn chairs. In one sat a fat man, in the other a skinny man. Mistaking me for a judge, they started trying to seduce me. As I looked at Fatso, his blubber started flowing over into Skinny's chair, which Skinny kept trying to carve off with a dull little knife to save some room for himself. Trying to help, I moved to pull their chairs

apart, but they both screamed at this. Thinking it odd that Skinny too was screaming I looked at him. Immediately he started cutting larger and larger chunks out of Fatso, and getting fatter and fatter even as Fatso thinned. Feeling responsible for all this violence, I moved on.

Beyond the pool lay the vegetables of Ideals. The Ideals grew on trees, and these trees all pointed at the sun. Yet the sun sometimes set, often moved around the sky. This pissed the trees off. But they kept pointing. Obviously, these wooden ideals, hollow yet dense, sometimes got a little

ferent from that supposedly told by Hercules. After stalking some wild yams, I looked for Astraea, daughter of Jupiter and Themis, sister of the Fates and of the Hours, Goddess of Justice. I wanted to hear her story. I found her under a rock, clawing at her blindfold, screeching "Lift the rock up, citizen, you are my servant!"

"Shouldn't it be the other way around?" I asked, putting her blindfold back on. "The Law is a Dog, is it not? It is *Dienst* (service)," I answered my own question, remembering something K had once written, glad that the blindfold had been on long enough to keep her from noticing that I was a law student.

As I left the wooden forest, thirsty, having lost my ealhorda (and forgetting what one was), I saw Astraea go off to screw Hercules. I walked on, and at the end of the forest finally came to a swamp full of holes leading to the outside. Yet I knew that the holes, though with the appeal of the external, were endless. Should I fall into one, I'd be falling through holes for the rest of eternity.

Not good. So I had to walk across the swamp, avoiding the holes and not stepping too hard or too long onto any part of the swamp, or it too would cave in and become another hole. In this place movement is achieved, often in circles, by poking holes in parts of the swamp even as you jump around before your foothold, that piece of the swamp into which your foot is rapidly sinking, also gets poked. As I poked and jumped, jumped and poked, I reminded myself to read Chapter 11 of "Being and Time," "The difficulties of achieving a 'natural conception of the world,'" before coming back here again.

In this place one hop, hop, sock hops around and around until one gets out of the swamp or sinks through a hole. Retraxit. I would like to tell you, dear reader, what comes after the swamp, but unfortunately I fell through one of the holes.

After stalking some wild yams, I looked for Astraea ... Goddess of Justice.

confused. Dworkin, who liked this forest, used to stalk such woodies, lure them home, spike their drink, and then carve them into pretty little dolls. Equally dense, less elegant, and somewhat fatter. He thought this gave them gravitational force.

When Dworkin came to this land, curiously enough, he only met Hercules. Yet wandering around, having temporarily lost Reasonable and the other monsters among the trees, I met many other vegetables. There was Achilles and Aphrodite, Athena and Apollo, Hermes and Dionysus, Scylla and her sisters the Gorgons and the Sirens, they were all there in the vegetable forest with their weaknesses as well as their strengths — an aspect of these vegetable gods that Dworkin didn't wish to meet or couldn't take back with him. Moreover, each of them had their own narrative of this land, painting pictures very dif-



What follows are the contents of a manila envelope slipped under Fenno's door late one evening. The contents are presented as recovered from the envelope; items struck through are marked "deleted." Fenno himself has never actually seen the contents, however, since he assumed that it was one of the several "Don't talk in class or we'll kill you" notes that he receives every third day or so. Do not ask how Your Humble Narrator has come across the envelope; you couldn't handle the truth.

Lateral Appointments Committee
Cambridge, MA
[deleted], 1997

Dear [deleted];

As requested, here are our notes about the current candidates for tenure. You'll be pleased to notice that all the women are white, the [deleted] are men, and none of them are brave. Of course, we will defer to you on the final decision. On a more personal note, [deleted] and I want to thank you for the lovely [deleted], which will look fantastic in the Florida room. Send [deleted] my love, and don't let those [deleted] at Antitrust get you down.

Your pal,
[deleted]
[deleted] Professor of Law and [deleted]
of the [deleted]

Eight Attachments

[Note: Only three attachments were in the envelope and are reproduced here.]

Information for Candidate One

Name: [deleted], J[deleted]
Gender: not inappropriate
Race: excellent
Area of Study: Corporations, Torts
Teaching: High ratings from students; will therefore help ensure survival of our "basic courses" scheme. Including him in a bundle with [deleted] for Con. Law will foster our creation of a breed of superlawyers who know little of the Constitution, yet can pay lip service to ethical practices in a manner sufficient to silence critics.
Scholarship: Prolific. Will therefore lack time to speak with too many students. Slightly left-leaning in his arguments, but few who oppose us will bother to read.
Citizenship: Excellent. Clean cut; holds stock in [deleted] and [deleted]; has young family and is therefore aware of the consequences should he step out of line.
Corporate Sponsors: [long deletion], and the Coca-Cola Company for a total of [deleted]. More than sufficient.
Tenure Prospects: Excellent

Information for Candidate Four

Name: [deleted], S[deleted]
Gender: not inappropriate, although provocatively built.
Race: somewhat troublesome, but see comments under "Scholarship."
Area of Study: We're fairly certain about Contracts; the rest is unclear. See "Scholarship."
Teaching: Vocabulary deadens while physique arouses. Potential problem.
Scholarship: Incoherent, irrelevant, and obsolete. Lacks any of the social consciousness of other [deleted] scholars such as [deleted]. His strongest point.
Citizenship: Unclear. Fairly docile, yet not a big investor. Looks like he could put up a fight.

Corporate Sponsors: The Corporation for Public Broadcasting, [deleted]. Obviously insufficient.
Tenure Prospects: Poor.

Information for Candidate Eight

Name: Fenno, [deleted]
Gender: indeterminate
Race: [deleted], but that could just be poor hygiene.
Area of Study: Libations, Debauchery, Lechery, Inchoate Cynicism, and French
Teaching: Rambles incoherently and inappropriately in every class. Just like Candidate Seven.
Scholarship: Recent submission to the [deleted] Law Review began "Dear Sir, I never thought I'd write to your magazine. I'm a 24-year-old stewardess whose measurements are [deleted]..."
Citizenship: Pro: might serve drinks at meetings of [deleted] Memorial Committee for the Suppression of Diversity; Con: might [deleted] in the Tenured Professors' Washroom.
Corporate Sponsors: None. Committee has received a bill for [deleted] from the Kong.
Tenure Prospects: Possible.

Quote of the Week

"I have a certain amount of initial skepticism about an organization that has the initials B.S. in its name,"

— Chris Paoletta '99, at the HLS-HBS debate

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Briefs

Body Found Hanging From Tree Near K-School

Police found the body of a man hanging from a tree in Kennedy Park near the Kennedy School at about 6:40 a.m. on Wednesday, April 16.

According to Heidi Sullivan '97, the captain of the HLS women's crew team, the police were initially called by a Kennedy School student who was filling in as a substitute rower with the team.

Sullivan said that the Kennedy School student, whom she declined to identify, was crossing the park on the way to the Weld Boathouse shortly before 6 a.m. when the student saw the body. Sullivan said that the student left to talk with the police and the Law School team canceled the practice.

The death has been ruled as a suicide and is classified as death by hanging, according to Jill Reilly, a spokesperson for the Middlesex County District Attorney's office.

Sullivan said that several people at the boathouse saw the body on their way to the boathouse and that initially they believed that it was "a sick joke."

According to a Quad House tutor, who asked not to be identified, the man was white and had brown hair. The man was wearing glasses and had a green backpack at his feet.

— from the Harvard Crimson

General Counsel Search Near End

President Neil L. Rudenstine's lengthy search for a new general counsel is nearing its end, with the short list of prospects falling from two dozen to fewer than 10 during the last two weeks.

Rudenstine declined to give an announcement date but promised that the general counsel will be in place before the fall semester.

"Every time I make a prediction it turns out to be wrong, so I'd rather not say, except that we'll certainly have somebody in place before the next academic year begins," Rudenstine said.

In October, Rudenstine said that he hoped to name the new general counsel by February, but he was subsequently surprised by the influx of over 400 candidates.

"That has been the basic, nice kind of problem but still a problem — i.e. an enormous number, an overwhelming number, of people we had never heard of applied — and so to simply find out enough information to make the right sort has taken an enormous amount of time," Rudenstine said.

Harvard's top legal position has been vacant since October, when former general counsel Margaret H. Marshall was named to the Massachusetts Supreme Judicial Court.

The general counsel manages a team of 11 attorneys and oversees the Harvard University Police Department.

— from the Harvard Crimson

National Jurist Ranking Puts HLS at 27th

A ranking of law schools by The National Jurist placed HLS in a three-way-tie for 27th place, below schools such as the University of Cincinnati and the University of California-Davis.

The National Jurist, a free magazine distributed to law students, based its ranking on five factors: quality of teaching, employment rate, faculty-student relations, reputation among attorneys and bar pass rate.

The magazine selected the five factors based on a survey of law students in which students were asked the importance of 39 different factors in selecting a law school.

Yale Law School, which ranked first in this year's U.S. News and World Report ranking, was also first in the National Jurist ranking. The next four schools in the ranking were Virginia, William and Mary, Vanderbilt, and Chicago.

HLS was one of six schools to tie for first place in reputation among attorneys. The other five schools to tie for first place in that category were Chicago, Columbia, Michigan, Stanford, and Yale.

HLS's low ranking was largely caused by its score in the faculty-student relations category. HLS ranked last among the top 50 law schools in that category, with a score of 2.14 out of a possible 4.0. The score was based on student answers to a Princeton Review survey question.

Bryan Stevenson '85 Honored as Hero

Bryan Stevenson '85, who has represented death-row inmates in Alabama for the past ten years, was featured in Life magazine's special issue on American heroes.

"I'm delighted that Life has taken an interest in our work," Stevenson said. "We're so often attacked and criticized for providing legal assistance to condemned prisoners, it is encouraging when a respected publication assigns some value to our efforts to uphold the constitutional rights of everyone."

Two years ago, Stevenson founded the Equal Justice Initiative, a privately funded organization based in Montgomery, Alabama. Since then the EJI has succeeded in getting 60 inmates off death row.

Stevenson's most famous case was that of Walter McMillian, who had spent six years on death row for murder. Stevenson showed that McMillian was innocent of any wrongdoing. A civil suit against the county that prosecuted McMillian is pending.

Stevenson said that he is motivated by passion and anger.

"The tolerance of abuse of power, racial bias, and discrimination against poor people enrages me in a way that I feel compelled to do something," Life quoted Stevenson as saying.

In addition to his legal defense work, Stevenson commutes weekly to New York, where he teaches a class at NYU Law School. He donates his teaching salary and honoraria for speeches to EJI.

Stevenson was featured in "Heroes of the Moment," a section of the issue devoted to modern-day heroes. Among the other individuals in the section were Colin Powell, Betty Ford, Jim and Sarah Brady, and Marian Wright Edelman.

LEGAL NEWS

Ninth Circuit Upholds Proposition 209

By Hal Poret '98

In an opinion that should have a significant negative impact on the future of affirmative action programs, the Court of Appeals for the Ninth Circuit recently held that an amended provision of the California Constitution prohibiting public race and gender preferences does not violate the Equal Protection Clause of the United States Constitution.

The case of *Coalition for Economic Equity v. Wilson* concerned the California Civil Rights Initiative, commonly referred to as Proposition 209, which the people of California voted to adopt as an amendment to their state Constitution this past election day. Proposition 209 provides that California "shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting."

Supporters of the amendment strongly urged voters to approve the amendment, emphasizing the fact that it would probably lead to the elimination of those affirmative action programs for women and minorities run by the state or local governments. The ballot pamphlet made available to voters argued that special interest groups have "hijacked the civil rights movement" and that people are being denied spaces in universities and jobs because of preferences, quotas and set-asides.

Opponents of Proposition 209 criticized the amendment's "broad and misleading" language and suggested that it would be used to get rid of equal opportunity programs including: tutoring and mentoring for minority and women students; affirmative action that encourages the hiring and promotion of qualified women and minorities; outreach and recruitment programs to encourage applicants for government jobs and contracts; and programs designed to encourage girls to study and pursue careers in math and science.

Soon after the people of California voted to adopt Proposition 209 by a margin of 4,736,180 to 3,986,196 (54 percent in favor, 46 percent against) a complaint was brought under 42 U.S.C. 1983, alleging that Proposition 209, denies racial minorities and women the equal protection of the laws guaranteed by the Fourteenth Amendment and is void under the Supremacy Clause because it conflicts with Titles VI and VII of the Civil Rights Act of 1964, and Title IX of the Educational Amendments of 1972. As relief, plaintiffs sought a declaration that Proposition 209 is unconstitutional and a permanent injunction enjoining the state from implementing and enforcing it.

The district court that heard the case found that the initiative would reduce opportunities in public contracting and employment for women and minorities and would cause enrollment of African-American, Latino, and American Indian students in public colleges to fall. Based on these findings and the court's belief that Proposition 209 "imposes a substantial political burden on the interests of women and minorities," the court found that the plaintiffs had a high likelihood of success on their equal protection claim. Thus, finding that the plaintiffs would suffer irreparable harm and stressing "the compelling interest in remedying discrimination that underlies existing constitutionally-permissible state-sponsored affirmative action programs threatened by Proposition 209," the court issued a preliminary injunction.

However, a three-judge panel of the Ninth Circuit Court of Appeals, consisting of three of the more conservative judges of the Ninth Circuit, unanimously rejected the district judge's decision, ruling that preferences based on race or gender are constitutionally suspect and can be abolished by a state. The Court was influenced by a relatively recent line of Supreme Court cases that cast doubt on the constitutionality of and put serious limitations on affirmative action programs. In an opinion authored by Judge Diarmuid O'Scannlain, the circuit court stated that the 14th Amendment, which guarantees equal protection under the law, "does not require what it barely permits."

The Ninth Circuit's decision and America's reaction to it has touched on many controversial issues in American politics and jurisprudence today. First, the decision indicates that the court and much of the country that has lived in the wake of *Roe v. Wade* and other such decisions may be starting to set the limits on how much judicial activism it will tolerate.

For instance, the three judge panel of the Ninth Circuit clearly felt that it was weighing a point for popular democracy as it wrote that "a system which permits one judge to block with the stroke of a pen what 4,736,180 state residents voted to enact as law tests the integrity of our constitutional democracy." In this light, the decision can be seen as a step in the direction of settling issues of social tension in the arena of public politics rather than by judges applying their own moral values.

Another noteworthy feature of this case is the effort of certain minority leaders to emphasize the strong support Proposition 209 received from many minorities and that the vote was not split along racial lines. In fact, the campaign for the proposition to end public affirmative action was led by Ward Connerly, an African-American businessman and member of the University of California Board of Regents. Connerly pointed out that 30 percent of California's African-American population voted for Proposition 209.

Commenting on the district court's decision to issue an injunction against instituting Proposition 209, Connerly expressed concern about the subversion of democracy: "I hope they realize the damage they are doing to our society by trying to frustrate the will of the majority of Americans, who want to achieve a society of genuine equality for all and special privileges for none. Anyone with a sense of history and an appreciation of the principles of American democracy must know that a system of policies that grants preferences to some citizens at the sacrifice of others cannot long endure. Such policies amount to discrimination, and the American people oppose discrimination."

Despite the three-judge panel's decision, the battle over Proposition 209 will likely persist, as it will surely be appealed to a larger panel within the Ninth Circuit Court of Appeals and possibly the Supreme Court, which has taken approximately 30 percent of its cases this term from the Ninth Circuit.

Using Space for Faculty and Students Higher Priority, Says Coleman

Continued from CHILDREN, p. 1

"Over the long term, it is difficult to deny space for our students and programs when we have a private child care center there," said Coleman. "Over 20 existing student organizations don't have office space, about six or seven of which have been on the waiting list for a number of years," she said. "We also have the largest number of visiting professors ever."

Coleman also indicated that a number of professors need space for their research programs, including Prof. Minow's program on children and schooling, Prof. Edley's '78 Racial and Ethnic Justice Project, and Prof. Nesson's '63 Center for Law and Information Technology.

The Center, located in a yellow colonial at 23 Everett St., has occupied the building for its entire 26-year history. It is a private, non-profit corporation, and is not operated by HLS. The Law School donates the space for the Center rent-free, and HLS faculty, students, and staff receive top priority for the Center's limited number of slots. It is one of six such centers at the University, which provide a total of 330 slots, said Coleman. Of the 44 children in the program this year, 16 are HLS-affiliated, she said.

In addition to the child care facility, the building provides space for a number of student organizations, including the RECORD, the Civil Liberties Union, Yearbook, La Alianza, the Jewish Law Students Association, LAMBDA, the Law and Health Care Society, and the International Law Society.

According to Morin, the administration's decision gives short shrift to the needs of parents in the University community. "We think there's an ongoing need for child care at Harvard University. We don't think the University should be taking a step backwards in terms of providing this valuable service," he said. "Obviously, it's been a priority for about 25 years. We believe space can be found if it is made enough of a priority," he added.

Morin feels HLS has a responsibility either to provide space for the Center or to help in the transition. "We'd love to be in a facility that's perhaps a little bit

bigger," he said. "If that's impossible, we need the Law School to help in the transition to affiliating with another school or organization at the University."

Currently, the Law School and the Center are part of a working group charged with finding an alternate facility. The search is difficult, due to the shortage of housing in Cambridge and the strict licensing guidelines governing child care centers, said Morin.

Coleman indicated that although HLS has no space to offer, it would not necessarily end its affiliation with the Center. In addition to helping the Center find space, she indicated that setting up a child care scholarship fund and assisting in the Center's move were other options for keeping HLS involved. Still, she was rather clear that not moving was not an option. "We have higher priorities for that space," she said.

Coleman observed that the broader issue is not the future of this particular center, but the future of the University's role in providing child care. The decision-making process over such issues is complicated, she stressed, because of the decentralized nature of the University. Since the problem of child care is faced by the entire Harvard community, Coleman believes cooperation among the faculties is vital to formulating a long term solution. The building in question, however, is HLS property, and child care is not the school's top priority, she indicated.

Coleman believes that a misunderstanding among parents regarding the "federated nature" of the University has resulted in misdirected hostility against the Law School. "It's still going to be a while before parents feel there's a good faith effort being made to solve the problem," she said.

Morin, meanwhile, believes that the Center is the unfortunate victim of misplaced institutional priorities. "Our mission is to provide high quality child care," he said. "Unfortunately, we're the group that's going to get shuffled out."

The Center will be holding an open house and rally on this issue for interested faculty, staff, and students. The rally will take place next Tuesday at the Center from 4 to 6 p.m.

BSA Course Evaluations Highlight Poor Teachers

Continued from PROFS, p. 1

But for professors already tenured here, Prof. Paul Weiler '65, chairman of the Lateral Appointments Committee, said that there is "unfortunately no formal faculty committee" to monitor the teaching of faculty members who consistently receive poor student evaluations.

"There should be a way to keep professors accountable to the students once they are tenured so they have an incentive to continue to be good professor," said LSC treasurer Dan Fridman '99.

Weiler, however, explained that a tenured professor's teaching efforts can and are "scrutinized by the associate deans."

"It plays a part in certain kinds of negotiations between the individual professor and the administration," he said. Weiler elaborated that these negotiations include teaching assignments, summer research money, personal leaves, and sabbaticals.

Weiler further stressed the significance of BSA evaluations despite the lack of a monitoring system. "BSA does have a significant effect on individual faculty members because they look at the numbers ... [they] have personal and reputational effects on the professors," he said.

"The fact that one or two professors are not doing well compared to the 70 faculty members at Harvard is a very small number," said Weiler.

Despite high teaching marks for many other professors, the consistently poor evaluation of professors like Mansfield were perceived by students as an illustration of the weakness in the tenure process.

"Never in my life have I seen a professor receive reviews as bad as were those of Prof. Mansfield," observed Carl Sussman '99. "Based on this fact, and conversations I've had with former students of his, I refuse to take Evidence with him, even if this means I will not be able to take Evidence next year."

Mansfield's most recent offerings received the following ranks on "overall effectiveness of teacher": Church and State (Average 2.529); Evidence (1.200); Evidence (2.133); and Law and Religion in India (4.200).

An evaluation of his 1994 Constitutional Law class stated that "a significant number of students found him to be confrontational, ineffective and often unclear." Three students in a 1993 Evidence class described Mansfield as "the worst teacher [they] ever had."

In the past, students have approached Mansfield in the hope that they could convince him to improve his teaching methods. According to these students, he was dismissive of their concerns and suggested that their difficulties resulted from their intellectual abilities and not his teaching style.

"He's a very nice man, a very decent man," stated one student who took Church and State with Mansfield. "He's also the least articulate man I've ever encountered. He may be a genius

— I don't know — but he's so enthralled with his own genius that he doesn't [seem to] care whether [his students] understand him. ... Everybody knows that he's terrible, he must know too. Why he doesn't do something about it just puzzles me."

Moreover, as one of only three professors teaching Evidence, a usually oversubscribed course, Mansfield's poor evaluation exacerbates an existing problem for many students — whether to take Evidence at all if they don't get into the sections taught by popular Prof. Charles Nesson '63 or Visiting Prof. Peter Murray '67.

The negative evaluations of Mansfield's class may help to explain a disparity between student perceptions and administrative data on the subject of the availability of basic classes. Earlier this year at a forum on second-year course bundling, Registrar Stephen Kane explained that he had analyzed data from recent years and that spaces had been available each year in each of the basic classes including Evidence.

On the other hand, a widespread perception exists among students that space in Evidence classes is exceedingly difficult to obtain. One explanation for the gap is that many students do not consider Mansfield's class an option. This year, Murray received a rating of 4.191 and Nesson received a 4.458 for the winter term and a 4.826 for the fall term. These figures place them at the upper end of the faculty evaluated.

In the past, Dean Clark '72 has commented on the difficulty of hiring experts in Evidence who are qualified to serve on the faculty. With Murray leaving next year to teach in Germany on a Fulbright grant, HLS continues to look into the possibility of hiring at least one and possibly two practitioners to teach an Evidence course. Yet, hiring additional Evidence professors will only solve one part of the problem, some students say.

"My understanding is that a number of years ago Prof. Nesson ran a clinical for HLS professors to sharpen their pedagogical skills but for some reason this program was discontinued," said Rob Jancu '98. "If some professors are consistently getting sub-par evaluations, then it might behoove the administration to reinstate the program."

Jancu, however, believed that "if the blame is to be rationed, students should get some."

"Any responsibility the administration has, students should share."

Jancu also emphasized the importance of LSC in this endeavor. "LSC has a responsibility to speak up for the students at large. It should present a letter to the administration to get this program reinstated," he said.

Fridman optimistically concluded, "Since the time I have been at this law school, the administration has come a long way to address student needs. In the future we need to push for more reform in this area."

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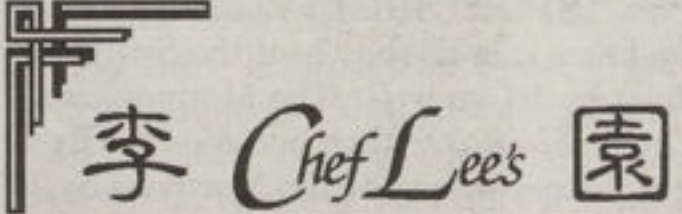
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SPORTSGUY

April Madness

By Todd Stillerman '97
Sports Editor

This weekend, the Harvard Law School intramural basketball league kicks into high gear with the opening rounds of the playoffs. With the help of B-League stalwart Pat "Trivia Wizard" O'Reilly '97, the SPORTSGUY presents his exclusive playoff preview:

A-League Playoffs

#1 BLACK PLAGUE (10-0) VS. #4 LITTLE PENNY'S NIGHTMARE Two 3-L teams give it one last stab, but the Plague had too much for Little Penny in both regular season games. **Players to Watch:** The Plague's inside players must keep Nightmare rebounding machine Travis Pearson '97 off the boards. Little Penny must find a way to guard Calvin Gladney '97. **O'Reilly's Fast Facts:** Plague captain Chris Handy "Wipes" '97, often seen with headphones before games, is in fact listening to Meatloaf's "Bat Out Of Hell." Nightmare forward "St." Stephen "With A" Rowe '97 was recently seen carrying several pieces of ladies' clothing out of Crimson Cleaners. **SPORTSGUY's Fearless Forecast:** Plague, in a refreshingly close game, by 5.

#2 RAINMAKERS (7-3) VS. #3 ALPHABET SOUP (6-4) The two teams split their regular season games and always provide a fiercely contested match-up. **Players to Watch:** Hani Bahroush '99 (getting his first SPORTSGUY mention) will get open looks and *must* put the biscuit in the basket. The Soup wins consistently when Jesse Ransom "Of Red Chief" '99 touches the ball on every possession. Brent Schlotthauer "Of Power" '98 and "King" Richard Moberly '98 are both capable of taking over a game, and Charles Coble '97 is finally recovering from an early-season injury. **SPORTSGUY's Fearless Forecast:** Rainmakers by 3.

B-League Playoffs

EAST REGION #1 seed Sweathogs III (8-0) ran through the tough Langdell Division like Sherman through Georgia, but still face a tough first round match against #4 The Tarnished Rotunda (4-4), who should thrash the fifth-seeded Flaming Rats in the play-in game. Rotunda bruiser Bob McCarter '97 promises that "the Hogs may get past us, but they'll be walking funny next week." The #3 Arthritic Dogs (5-3) played a tougher schedule than the #2 b-Sharps (6-2), who might not be playoff tested. **Players to Watch:** Nobody can take over a game like the Hogs' Doug "Our Miss" Brooks '97, described by teammates as having a "unique approach to offense." The Rotunda's Zach Stern '97 promises to pull out his football arm pads to "put a hurtin' on Doug Clayton '98." **O'Reilly's Fast Facts:** The Hogs' David "Off The Markus" '97 "has an attractive younger sister and often chooses not to box out on defense." The Rotunda's Pat "Inanimate Carbon" Rodriguez '97 has set a wedding date! "He'll get hitched in May." **SPORTSGUY's Fearless Forecast:** The Hogs have too much firepower for the Rotunda, and neither the Dogs nor the Sharps have the horses to win this race. The SPORTSGUY like the Hogs by 15 over the Rotunda; the Dogs by 6 over the Sharps, and the Hogs by 18 over the Dogs.

WEST REGION The Thirsty Scholars (7-1) are the hottest team in the league, coming off late-season wins over highly-touted *Flagrante Delicto* and The Killing Zone. The Scholars put their #1 seed on the line against the remarkably fortunate #4 Grizzlers (5-3), who slid in to the playoffs with wins against notoriously poor competition. The A-League sixth place team, The Dark Side (0-10) was awarded the #3 seed in the region and will face a talented #2 Unabomers squad (7-1). **Players to Watch:** The Dark Side's Trent "the Tool Man" Taylor '98, who has picked up his game as the season progressed, should shine against the smaller B-League competition. Geoff "Where There's A" Wilcox '97 wants to go out a winner: look for renewed determination from the Thirsty Scholars' big man. **O'Reilly's Fast Fact:** The Scholars' Chad "To the Bone" Ho '97 and Jim Nabors (who played "Gomer Pyle" on TV) are both residents of Hawaii, and "neither one can guard me." **SPORTSGUY's Fearless Forecast:** In a game that promises more thrill than an all-night sub-cite pajama party, the Scholars will bury the Grizzlers by 27. Figure the Unabomers trudge past the Dark Side by 5, setting up the best quarterfinal match-up of the tournament. The SPORTSGUY likes swarming defense over height, so Unabomers by 3.

SOUTHEAST REGIONAL After a disastrous second-half, early season favorite *Flagrante Delicto* (4-4) fell to a #4 seed and a play-in game with the C-League champion Swingers (8-0). The winner will face the somewhat enigmatic Godfathers of Dunk (8-0), who trashed a Gropius Division of dubious strength en route to a #1 seed. The other side of the bracket features a resurgent #2 Stormin' Mormons (6-2) against #3 The Killing Zone (5-3), in free-fall after a 5-0 start. **Players to Watch:** *Flagrante's* Andy "Pepe" Leblanc '98 plays with passion and deserves his name in print at least once before the SPORTSGUY graduates. The Mormons' Chris "Wicked Game" Isaac '98 was too good a nickname to pass up. **O'Reilly's Fast Fact:** Mormons' forward and frequent referee Josh Little "Bo Peep" '98 "actually wears that black-and-white striped jersey outside the gym." **SPORTSGUY's Fearless Forecast:** *Flagrante* is so money, they won't even know it until they beat the Swingers by 30. Pencil them in to upset the Godfathers by 10, as well. The Mormons will take advantage of the Zone's slide and win by 8. *Flagrante* then becomes the first #4 seed to make the Final Four in tournament history by edging the Mormons by 2.

MIDWEST REGIONAL The two-time B-League champion Great Danes (7-1) locked up the #1 seed with a win Sunday over a game Sacrificial Lambs (who, at 3-5, narrowly missed the play-offs). The Danes open their title defense against #4 The Short Guys (4-4). In a super opening match-up, #2 Box-and-One (6-2) meets #3 Chupacabras (5-3) for a chance at the champs. **Players to Watch:** Chupacabras' forward Shazzad "Slim Good-" Bhatti '97 has found his range and regularly lights it up from behind the line. Andrew Wong "Wong Ago, In a Galaxy Far, Far Away" '98 is the SPORTSGUY's favorite player, hands down. **O'Reilly's Fast Fact:** Chupacabras guard Matt "Brian's" Hong '97 can be seen frequenting the Hemenway weight room, but "doesn't know what he's doing. He should stick to firing up threes." **SPORTSGUY's Fearless Forecast:** The Danes, in a close one over the Short Guys, by 6. The Chupacabras upset Box-and-One by 4, then fall to the Danes on a buzzer-beater by 1.

THE VERDICT

B.A.P.S. Uninspired — Pink Flamingos Uncomfortably Refreshing



By Michael Bennett '98

Movie Reviewer

In a half-hearted attempt to rekindle his shrinking portion of the limelight, Robert Townsend returns to the screens with *B.A.P.S.*, an uninspired mutation of the mildly inspired rags-to-riches/fish out of water conceit. For extra effect, Townsend adds several layers of melodrama that seem lifted from a soap opera how-to handbook. The film centers around the duo of Nisi and Mickey, played by Halle Berry and Natalie Desselle, respectively. The two women are poor, Black, and unhappy with their present conditions, both economically and romantically (they both have sub-stellar boyfriends). When an opportunity to star in a music video opens up in Los Angeles, the two look around, figure they have little or nothing to lose and board the next plane.

After failing miserably at the audition, the ladies are left wondering how they will survive on their limited funds. As they linger in their sorrow, an Italian accented voice calls and catches their attention. The attached body approaches and tells them that his boss is looking for someone to star in his music video. The ladies agree to meet the man and unwittingly get involved in a greedy nephew's attempt to steal his grandfather's money.

If Townsend is floundering in the creativity department, he has more than redeemed himself in casting, somehow having convinced Halle Berry and Martin Landau (the rich uncle Blakemore) to act for him. They do what they can to carry the film but even Atlas would buckle. The work is sprinkled with moments of comic genius (on the way to L.A., Mickey's three foot high hair-do pokes a passenger in the eye) and co-star Ian Richardson, as Manley the butler, has hilarious moments with ladies who insist on calling him Alfred (the butler of Wayne Manor fame). But for the better part of the film, even nitrous oxide would fail to bring laughter. Maybe another viewing of *Hollywood Shuffle*, Townsend's masterwork, can be of use to us all. Simultaneously may it help the viewers forget this latest effort and teach Townsend to use homegrown scripts.

Rating:



When B-films come to mind, John Waters can't be far behind. The queerest of popular film makers, he is leagues ahead of his peers in ability to disgust. His films are, by even the most loving meters, foul. This year marks the twenty-fifth birthday of perhaps his most depraved film, *Pink Flamingos* (subtitle: *An Exercise in Poor Taste*). In these days of tamed, humorless, cookie-cutter sitcoms, the Waters films are uncomfortably refreshing.

Flamingos is the story of Divine (Divine Divine) and her rivalry with the Marbles. The two are competing to become the filthiest people alive. Divine, his son, Cracker (Danny Mills), his mother, Edie (Edith Massey), and their friend, Cotton (Mary Vivian Pearce) are living in a mobile home on the outskirts of Baltimore. The group couldn't be any more psychotic: Divine is a cannibalistic, homicidal, incestuous transvestite, Edie is a 60-something year old woman who lives in a playpen and is obsessed with eating eggs, and Cracker is a sadist who incorporates live chickens into his sexual acts. Cotton, the sole mobile home inhabitant who is not kin, lives to watch Cracker and his chickens perform.

Living in town, the Marbles are just as bad as Divine & Co. The couple captures female hitchhikers and forces their butler to impregnate them. The mothers-to-be are held in a basement pit and usually die when their children are born. Upon birth the children are sold to lesbian couples and the proceeds used to purchase heroin which is sold to school children. The Marbles have some previous connection to Divine but the nature of that relationship is never revealed. Suffice it to say that the competitors hate each other. Deeply.

The film is so obscene, disgusting, and funny that it is difficult to watch. Viewers run out of the theatre, some to express their moral opposition, others to vomit. In one scene, Divine and Cracker place a hex on the Marble's furniture by licking every piece of furniture. The spell is completed by mother performing fellatio on son. Not implied fellatio, mind you, but fellatio proper.

Waters, alongside his obsession with perversity, brings, albeit infrequently, shots from the artist's eye — he captures several superb and awkwardly angled shots of Divine during some of her best moments. But this is speck of sand on an infinitely long beach of depravity. The film is loathsome and atrocious and shouldn't be missed.

Rating:



SPORTSGUY'S INTRAMURAL TOP TEN

(LAST ISSUE'S RANKINGS IN PARENTHESES)

- | | | | |
|---------------------------|------|--------------------------|-----|
| 1. Black Plague (1) | 10-0 | 5. Great Danes (5) | 7-1 |
| 2. Sweathogs III | | 6. Thirsty Scholars(8) | 7-1 |
| Ladies Last Chance (2) | 8-0 | 7. Alphabet Soup (7) | 6-4 |
| 3. Rainmakers (4) | 7-3 | 8. Unabomers(6) | 7-1 |
| 4. Godfathers of Dunk (3) | 8-0 | 9. Stormin' Mormons (NR) | 6-2 |
| | | 10. Swingers (10) | 8-0 |

Musings and Vagaries

Journal of a Rising 2L

By Renée Kaplan '99

RECORD Columnist



World-wise and world-weary, a semester and three quarters, three exams and six casebooks down the road — why, HLS has become a whole different experience. Last semester's anthropological safari through the landscape of institutional mystique and the peculiar manifestations of campus culture soon ended at the start of second semester; then it was just law school. Ah yes, law school; so here we are, first year law students in law school, taking first year law school basics, basically churning through this semester, mostly same as last. The novelty has worn off a bit (it's like you've backpacked through Europe once, you've seen it all, you know?), and yet, ever the valiant tourist, always in search of some disposable Kodak moment (quick, pretend that the Royal Guard guy with the furry black hat is deaf, blind and stupid, and pose with him like he's your best friend in England — he won't notice), I've gathered a few postcard impressions from this now nearly-past second semester: the safari continues.

Happily, we haven't had to say goodbye to our old friends from last semester, the daily dutiful hand-raisers. They've simply given way to the Next Generation, the Second Semester Speakers: so you did pretty well last semester, huh? so you got good grades, eh? so you're talkin' a little more than you used to? you know, raisin' your hand, oh, all the time? Yep, we hear ya. Again, you don't know who you are, but we do — and hey, we would too if we felt so confident. Of course, this extrapolation of good grades from apparent confidence is wholly speculative: in this institution reputed for its brazen competitiveness, among students supposedly famous for their naked ambition, in this reputedly brash and unabashedly self-advancing environment — no one talks about grades. Hushed, silenced, top secret, classified, unmentionable, taboo — no, no, really pleeeeeease, says the meek squeamish voice of overgrown pride, don't tell me, I don't want to hear, don't need to know, no, no, stop, stop, really. They (grades) happened to all of us, and yet, like some unfortunate bodily function we all experience and none of us mention, though perfectly aware of its invisible, insidious presence, we say nothing, but smile prudishly and avoid eye contact. And so we go our cheery, merry mechanical way, getting ready for round two of exams (and grades), puritanically silent still. Maybe it's just shyness.

We're just rising 2Ls now, insipid wads of 1L dough all kneaded and shaped by almost a year's worth of law school...

Far less silent this semester has been talk of the Law Review — no, no, forgive me, TheHarvardLawReview. For we're not just talking about the law school law review, some mid-level, fine-quality Law School Review; we're talking about a monolith of power and prestige, a mastodon of status housed in a charming white enclave of summa-ness incarnate, a wee building of intensely fearsome and unspeakably coveted exclusivity. The emissaries of this Olympus recently made their annual descent (in the form of human 3Ls) to mingle with the plebes of this, our more prosaic workaday world outside Gannett House.

They gave tips, they gave lectures, they gave samples, they gave war stories; they gave us an hour and 40 minutes of sympathetic insight into the Herculean task of gaining admission to TheHarvardLawReview. A bunch of humble editors, normal-people-who-made-law-review-see?, well-intentioned mentors of sorts who, if they could, really, would just as soon have us all join, because TheHarvardLawReview really is the best, most awesome-est, most prestigious-est experience ever. But that's just not feasible, so meanwhile, those who do have the extraordinary hubris to presume to take the foolhardy leap into the eight days of competition hellfire — shouldn't panic. Indeed, the prevailing message of the tip-session evening was "don't panic;" have a look at this fat-ass sample packet, but don't panic; realize that this may be one of the most draining and inhuman intellectual exercises you'll ever choose to confront, but don't panic. If we survived this indescribably difficult test, said their genial countenances, if we sweated and bled our way through this essentially impossible trial, if we've become these really-nice, really-helpful, really-nurturing kinds of approachable editors that you can call any time you have a question, well so can you. Just remember not to panic, because it appears that the competition might be a little tough.

Pre-registration, on the other hand, is something we can feel much more confident about. In fact, it's all quite simple really: so first you pick one of four bundles (sounds so compact and cozy: we'll have bundlemates and co-bundle members, we'll bundle up and be bundlers or even bundle-ites) but you'd better rank all four because you never know what you'll get. And even though all the professors here are good, right? we've put one Star and a couple Inconsequential in each bundle, just to quiet piggish popular demand. Then, according to a process lacking the clarity of a system where one's classes more frequently than not correspond to one's choices, without the guidance of anyone wiser than a 78-page Bulletin, an Adviser and an Update (without the advice, say...of faculty advisers? of cheery, crimson-clad, well-informed A-group leaders?), you need to make a few more selections: factoring in your clinical, your pre-selected bundle basics, the total number of credits allowed in proportion to the credits you'd like to allot to each semester, and accounting for the fact that you'll only get one seminar at pre-registration anyway, that some courses are typically oversubscribed so that you might want to rank them as high as possible if you want to have a snowball's chance in hell of getting them, and that if any of your choices' time blocks conflict then, forget it, you're too stupid to do this anyway — keeping all that, you know, just in the back of your mind, you need to make thirty-one more choices: a little Value Added Tax seminar, a couple sections of accounting...

Jeez, what a zoo, but such sights, no? And it will be a whole new expedition next year. We're just rising 2Ls now, insipid wads of 1L dough all kneaded and shaped by almost a year's worth of law school, and sure to be baked into a tasty 2L loaf by the summer's experience: a little public interest multi-grain here, some white firm job rolls there, an international flatbread or two, and, no doubt, many many bagels. In any case, it's been very, and so, signing off for now, just remember: it's 11 p.m. — do you know where your HarvardLawReview Competition buddy is?

ACTS OF DESPERATION

A Modest Proposal

By Jacob Appel '99

RECORD Columnist



The long and the short of it is that three years is either a very long time or a very short time, depending on one's point of view. On the one hand, the 2025 days that comprise the residency requirement at the Harvard Law School are no more than a blink of an eye to evolutionary biologists — individuals who measure all events from the moment when our ancestors climbed out of the primordial ooze, took a look around, and then climbed back in again. On the other hand, for my Aunt Paula — who informs our entire family every Thanksgiving that she has little to be thankful for as her last remotely sexual experience occurred during the Eisenhower Administration — three years in the bed across from my Uncle Saul seem like an eternity. On the third hand, several graduate students in American Studies at Berkeley have demonstrated that time is actually an artificial construct created by the bourgeois class to oppress upper-middle class Jewish housewives. On the fourth hand, even three minutes in bed with my Uncle Saul would also be an eternity. If law school teaches anything, it demonstrates that there are an awful lot of hands and that those individuals who can argue each hand equally well without any concern for morality or justice — we'll call them the "handsome" — will succeed in life or at least make Law Review (Can't you just picture Tevye working at Cravath?).

In the hope of finding out exactly how long three years is, I determined to find a graduating 3L who might offer his or her perspective on the subject. So I searched all of the places one is most likely to find a third-year Harvard law student during the month of April: New York City, Washington and San Francisco. Unfortunately, try as I might, I couldn't convince any of these rigorously trained legal minds to offer an opinion on the subject of the length of three years — although several part-time associates offered a catalogue of opinions and one answered in billable hours. The best answer I received came from a member of the faculty who conceded that three years was an exceedingly long time to spend in law school but explained that "we wouldn't want people to think that we're running a diploma mill, now would we?" Gosh golly jeez, no!

Having discussed the matter with my Aunt Paula, who saliently pointed out through her bridge work that three years is enough time to watch and savor every episode of the Donna Reed show in slow motion, I came to the radical conclusion (cross-copied to Dean Clark) that we might eliminate the third year of law school. Granted, students might not have time to perfect their rigorous legal training or take "seminar" with Christine Jolls (the only member of the "full-time" faculty with a tri-annual teaching appointment); no doubt, Grendel's and the Cambridge Common would lobby against the proposal; and an aspiring future Scott Turow will probably have to scrap the third volume of his novel. However, the advantages of two years of legal education are quite compelling:

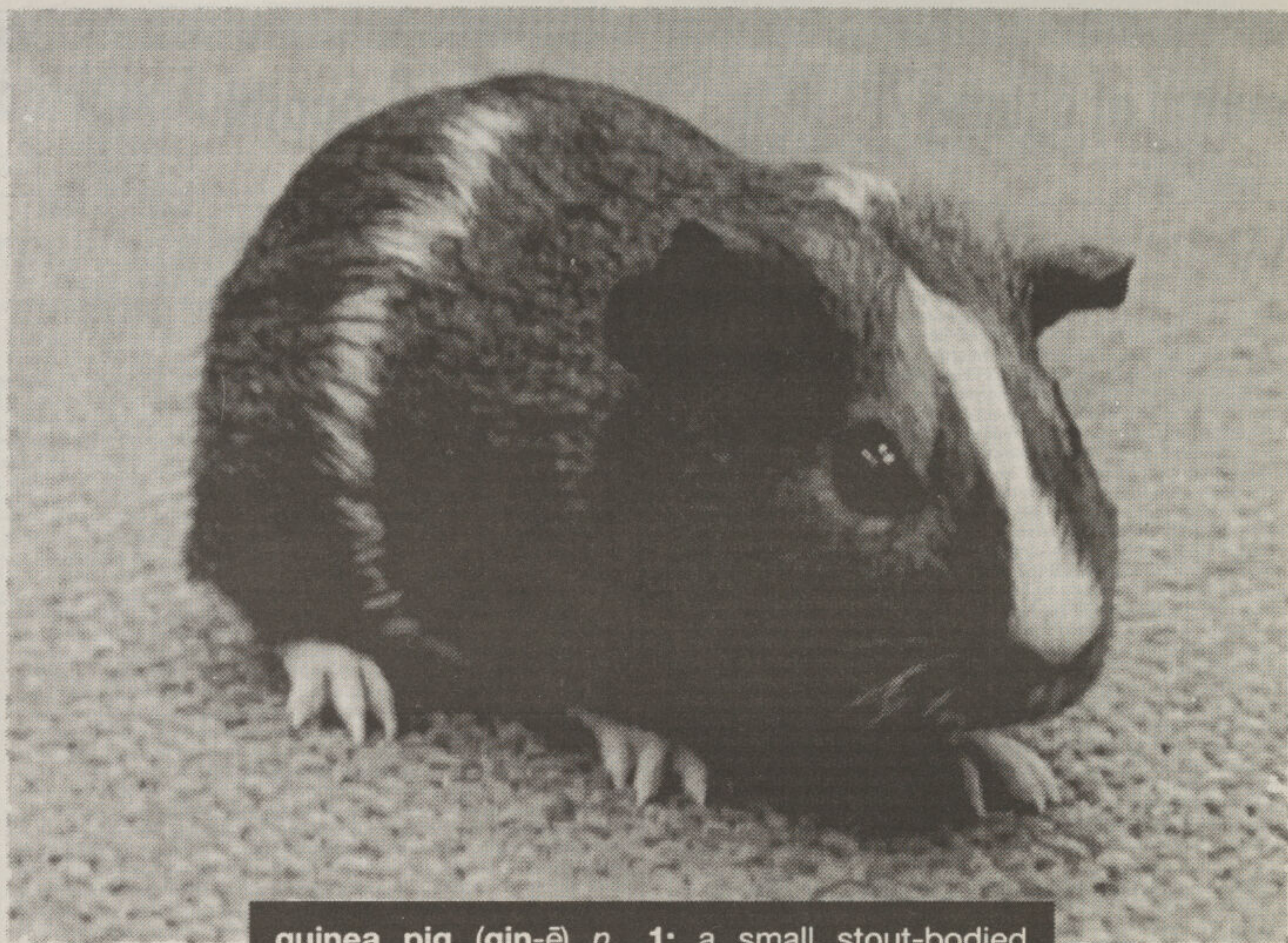
My third letter to the Dean, cross-copied to my Aunt Paula and my parole officer, suggested that law school be reduced to five one-day seminars on each basic subject.

students would leave this institution with less debt, more time to devote to meaningful causes and fewer opinions. I'm not sure if this trade-off will appeal to the small faction of the class who accept firm jobs upon graduation, but I'm confident that it will captivate people like me who are covered by the no-income protection plan.

Taking my proposal down its slippery slope to its logical conclusion, I quickly sent off a second letter to the Dean suggesting that law school be reduced to a one year program. One year! Enough time for Property, Torts, Civil Procedure, Criminal Law and the other one! Granted, some of the accoutrements of the second year experience might be lost: faculty would have to serve as BSA instructors, the footnotes in the law review would go unchecked and the mass data-falsification conspiracy on the part of legal scholars would be exposed, and law students would have to pick up a basic knowledge of Trusts and Estates or Roman Law on the job. At the same time, faculty would be freed from the onerous burden of teaching basic classes, nobody would demand more sections of Evidence and public interest summer funding would be unnecessary. With the savings, I have no doubt that the Law School could build several more cyber-cafes and the Dean could afford to live permanently in South East Asia.

My third letter to the Dean, cross-copied to my Aunt Paula and my parole officer, suggested that law school be reduced to five one-day seminars on each basic subject. Torts on Monday, Property on Tuesday, Criminal Law on Wednesday, Civil Procedure on Thursday and the other one sometime thereafter. Somebody could transform the entire curriculum into a six line British nursery rhyme. A few minor details of the common law would be sacrificed, but the advantages are abundantly clear: much of the faculty wouldn't have to teach at all, tuition could be in the form of a peppercorn, and nobody would be stressed during Sunday afternoon football. And if it would truly be "socially irresponsible" (Dean Clark's phrase, not mine) to reduce the number of students in each class, then it might conversely be a societal duty to produce as many classes as possible. Five hundred fifty lawyers each week for fifty-two weeks would be enough to exhaust all of the white applicants and then some, assuring increased diversity in the legal community.

My final letter to the Dean, pitching the HLS legal correspondence course via Sears Catalogue, argues that HLS students should simply sign their loan forms and receive their degrees — and then those students who want to should be permitted to engage in three years of study at the law school. Yet I fear the Dean may not perceive three years in the same way that I do. I may have to fix him up with my Aunt Paula.



guinea pig (gin-ē) *n* 1: a small stout-bodied short-eared nearly tailless domesticated rodent (*Cavia covaya*) often kept as a pet and widely used in biological research. 2: a subject of scientific research, experimentation, or testing.

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