



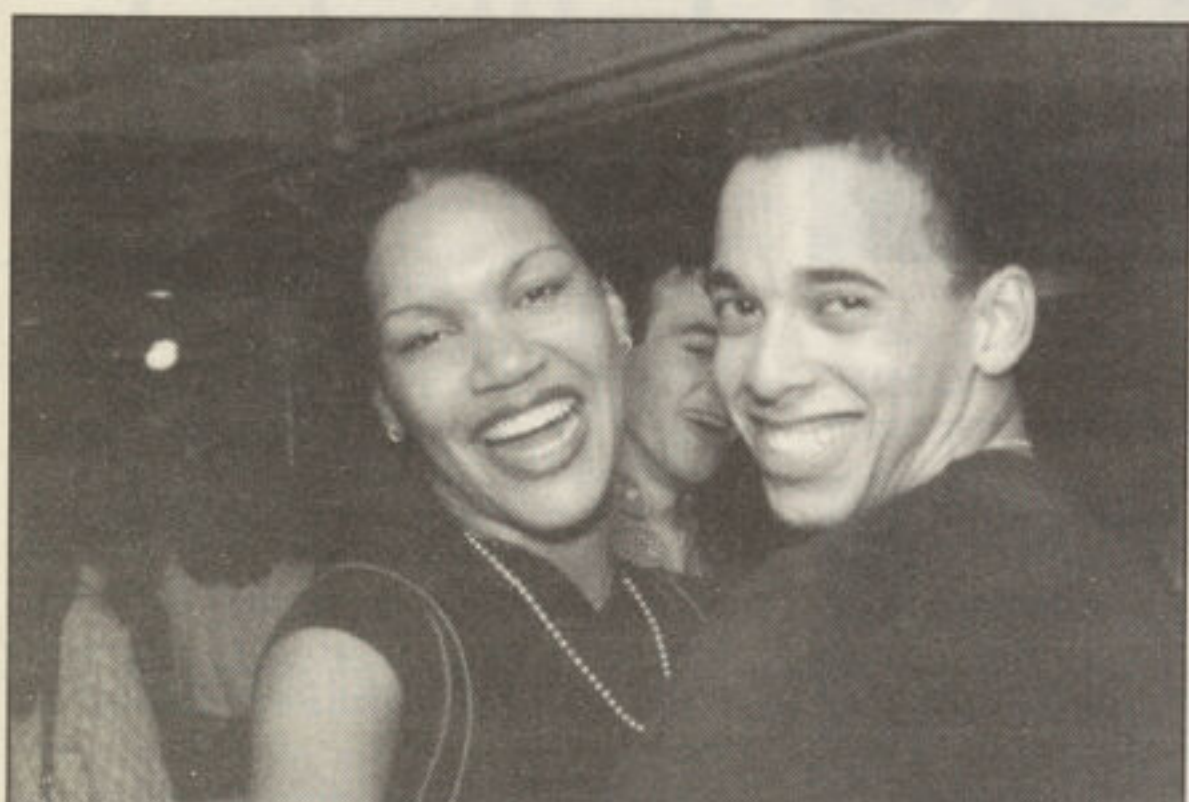
Harvard Law RECORD

America's Oldest
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35 CENTS

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Tamara Thompson '00 and Kevin Boyle '00 Relax at the Annual "Booze Cruise" at the End of 1L Orientation

Students Flock Back to Dorms

18% Increase in Number of 2L/3L Dormies

By Chris Bauman

The number of new faces in the dormitories is lower this year than in years past.

Dan Murphy, HLS Dormitory Operations Officer, confirmed the shift in dorm demographics. "There is a noticeable difference in the number of upperclassmen seeking and receiving dormitory housing this year," he stated.

Two-Ls and 3Ls occupy 270 of the 689 available rooms this year, up from 228 last year. This represents an 18 percent increase in the total number of 2L and 3L dorm residents.

Murphy does not feel that 1Ls or LL.M. students are being deprived of housing due to the shift, however.

"We are overly accommodating, especially during the summer," stated Murphy. "We have received very few complaints about the process."

An informal canvas of several 1L students confirms that most were satisfied with the process.

Jason Lindner '00 described the Dormitory Operations Office as "helpful" and "eminently professional." He received a room even though he applied for housing late in the summer and was placed near the bottom of the waiting list.

The Dormitory Operations Office is not considering any policy changes in response to the demographic shift, said Murphy. However, Murphy said that he is considering altering the language of Dormitory Office literature sent to potential 1Ls next year in order to emphasize the need for timeliness and flexibility.

HLS's dorm room selection policy gives returning upperclassmen first choice of housing. The process for upperclassmen



Dan Murphy

begins in March when they enter a lottery for rooms. Once a certain percentage of the rooms in Hastings Hall and Wyeth

Hall, the two most desired halls, has been filled by upperclassmen, the remaining 2Ls and 3Ls are offered rooms in other dorms. These remaining upperclass students may be placed on a waiting list. One-Ls and LL.M. students occupy whatever rooms are left at the end of

this process.

"I feel the process is very equitable for everyone," Murphy said.

Donahue Appointed New Head of OCS

By Douglas Remillard

This past summer, Sally Donahue, current director of the Financial Aid Office, was appointed by Dean Clark '72 as future head of the Office of Career Services (OCS).

After being interviewed by faculty, students, and the personnel department, Dean Clark named Donahue to replace N. June Thompson, who will be leaving her post shortly after the fall recruiting season.

In a RECORD interview last year, Thompson said the new director would probably be a law firm recruitment coordinator, a member of a law firm hiring committee, or someone with OCS experience at another law school.

While Donahue may not meet these criteria, she does

have a great deal of enthusiasm and weighty administrative credentials: 10 years at HLS in financial aid and admissions; director of Student Financial Services at the Kennedy School; and six years at Harvard College in admissions and financial aid.

The new boss won't be the same as the old boss. Cautious of appearing "arrogant," Donahue would not say if she had concrete ideas for changing the way OCS currently operates, but she did say she may place more emphasis on career counseling.

She also plans more coordination among the other three

offices that deal with career counseling in some capacity (the Office of Student Life Counseling, the Office of Public Interest Advising and LIPP).

She noted the very real problem for many 1Ls who arrive at law school with an interest in both public service and corporate law, and who thus have to keep track of information flowing out of different offices.

"My goal is to streamline the whole process for the students so you don't have to look in three different places to find out what's going on with



Sally Donahue

Please See DONAHUE, p. 3

Copy Prices on the Rise

Lexis and Westlaw Pull the Plug on Free Printing

By Kimberley Isbell

When students arrived back on campus to find a newly renovated library, they also found increases in the cost of making photocopies at Langdell and in the cost of printing material from Lexis and Westlaw terminals.

Photocopies at Langdell and the Lewis Center will now cost 10 cents, up from last year's 5

cents. In addition, Lexis and Westlaw will no longer provide unlimited free printing from their library terminals. Each student will now receive 200 free pages, and after that point each page will cost 5 cents.

The change in printing policy was prompted by separate decisions made by Lexis and Westlaw to discontinue furnishing law schools across the country with equipment and paper

for law students' printouts. Both Lexis and Westlaw made this decision following changes in corporate organization due to recent buyouts.

"They [Lexis and Westlaw] are no longer providing equipment to schools ... It's their corporate decision," said Paul George, Associate Librarian for Research Services at Langdell Library.

"They're now owned by very big companies, ... and they're cutting back nationwide. Some schools are reporting that they don't even have as much help as they used to. They're cutting back in many more areas," George said.

The 200-page limit for free printouts from library computers has been described as only a temporary response by HLS.

"We're just trying to respond as best we can, and meet the needs [of students] and anticipate what they are within reason. We don't consider the current system final. We're still looking for alternatives," said George.

George also stressed that while students can only print out 200 pages on the on-line computers in the library before having to pay 5 cents per copy, there are a number of other options for students seeking to save money.

"Both companies are still providing support for the off-line printers in Pound. How long that will last, I don't know," said George.

"I hope that students will take advantage of that option. We're hoping students will see there is a variety of ways to store the in-

Please See WOMEN, p. 1

Please See COPIES, p. 7

Record Number of Women Chosen for Law Review

By Alyssa Caples

This year, a record 17 out of the 43 new members of the Harvard Law Review are women. For the first time, the percentage of women in the 2L class (40 percent) correlates with the percentage of women admitted to the Law Review (39.5 percent).

In previous years, the numbers were not as close. Last year's new members included only 14 women — or 33 percent of the total — while the percentage of women in the current 3L class as a whole is 42 percent.

In addition, women hold many important posts at the Review, including Treasurer, Articles Chair and a number of article and primary editorial positions.

"We're thrilled with the outcome of seeing the num-

bers go up, and I hope that this strong representation will continue," said Law Review Treasurer Amanda Tyler '98. "It's a strong community, and this will make it that much better."

In an effort to increase the number of women on staff, the Review formed a special task force in 1995 to study the reasons for the underrepresentation of women. Informal studies by the task force found that on average, the grades of women applying to the law review tend to be significantly lower than those of men. Because the data gathered for these studies was incomplete, it is difficult to determine whether or not there is a true gender bias in grading at HLS. Nevertheless, in 1996 the Law Review voted to de-empha-

size grades in the selection process.

Starting with the class of 1998, the number of members selected on a combination of grades (weighted 70%) and performance in the writing competition (weighted 30%) was decreased from 16 to 12, while the number of members selected solely on performance in the writing competition was raised from 16 to 22.

The writing competition was found to generate closer results between men and women, although men still performed slightly better. In addition to these 34 slots, the Review keeps several discre-



Amanda Tyler '98, Law Review Treasurer

11 Years Ago in the RECORD



Harvard Law Record

America's Oldest Law School Newspaper

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25 CENTS

Protestors Stop Alumni Dinner

By Hillary Richard

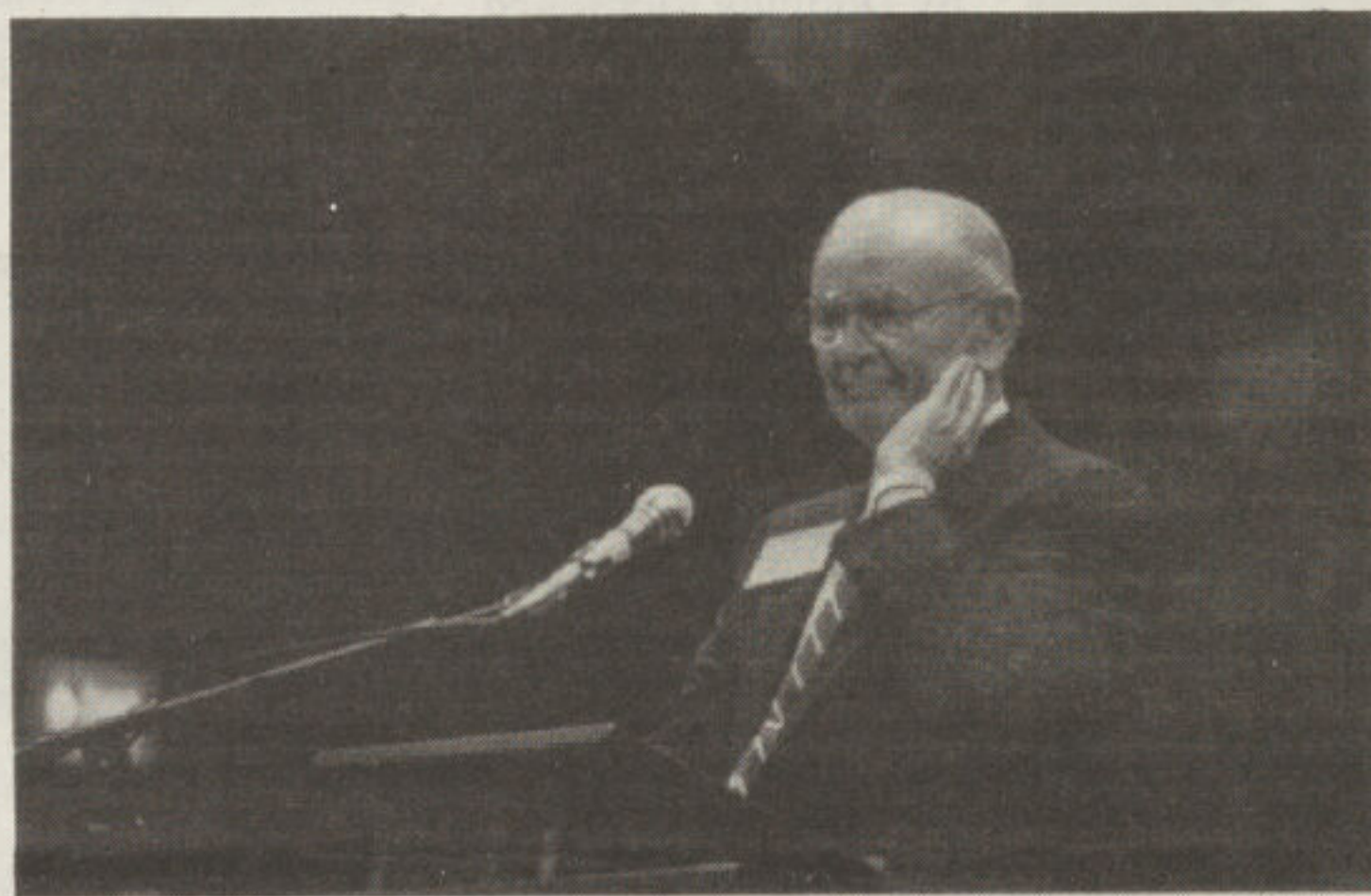
Divestment activists made their first appearance of this academic year by blockading Harvard's 350th Anniversary Dinner at Memorial Hall on Thursday, September 4. Shouting slogans such as, "If you want to digest, you have to divest," a group of approximately 70 people, composed of alumni, labor activists and students, blockaded the entrances to Memorial Hall. Their actions prevented anyone from entering the dinner, as well as preventing those already inside from leaving.

There were no incidents of violence, and although there were many police officers on the scene, no arrests were made. President Bok cancelled the dinner about an hour after the protest had begun. According to the *Crimson*, Bok acted because of his concern that "such a protest at night might be too fluid a situation to control."

The activists were protesting Harvard University's \$417 million investment in companies doing business in South Africa. Harvard has repeatedly refused to divest of all its South Africa connected stock, although it has been faced with student and alumni protest on this issue for years.

Daniel Steiner, vice president and general counsel, issued the following statement: "The University finds the use of force to impose views on others a totally unacceptable form of protest. There were many op-

Continued on Page 7



U.S. Supreme Court Justice William J. Brennan Jr.

Tribe Quits Faculty Journal

By Susan Povich

Heralded last winter as the avenue for cutting-edge legal scholarship, the proposed faculty law journal may be in trouble with the resignation of editor Laurence Tribe, '66. Tribe's departure leaves the fate of the journal in limbo, as no new editor has been chosen. Tribe proposed the journal to the faculty last December, and professors unanimously approved the proposal.

During last year's controversy, which surrounded the actual need for a faculty edited journal and the sufficiency of the *Harvard Law Review*, Tribe asserted that law schools remain alone among graduate schools in relying upon student editing of academic journals. His argument that "students are less able to know a great advance when they see it" rested on the belief that there

was a need for a substantial basis of fundamental knowledge in order to evaluate the importance of new developments.

Tribe added that "the hundreds of footnotes" accompanying student pieces "are often a facade." (RECORD Vol. 81 No. 10 p. 1).

HLS Dean James Vorenberg circulated a memo to the faculty on June 23 in which he announced Tribe's withdrawal, describing it as a "setback." Vorenberg recently stated that "at the moment [the journal] is on hold, while we explore the possibility of finding other faculty." He said that in general, the faculty remains interested in proceeding with the journal, but he would not disclose who had been approached to take over the editorship. However, he said that sev-

Continued on Page 13

Student Speculation On Tribe's Resignation

Continued from Page 1

eral faculty members have been informally approached.

Student speculation surrounding Tribe's departure and the future of the journal, according to Adam Cohen, *Harvard Law Review* president, is due to the failure of the faculty to keep students informed. "The faculty sprung the journal on students during winter exams and they still haven't communicated to students how it will affect our journals," Cohen said. Although student journal editors sent a letter to Vorenberg last year asking that they be kept informed about the progress of the faculty

journal, no such information has been forwarded and no lines of communication have been established.

Tribe explained that he resigned because he felt he did not have time to do the new journal justice. He is currently on research sabbatical, is involved in the Pennzoil litigation, and is working on the second edition of his treatise on constitutional law. In addition, Tribe emphasized that he would like to be available to attend some of the numerous speaking and conference invitations which he receives and he has had to turn down in the past.

Student speculation on the explanation for Tribe's resignation

ranges from those who believe that he wants to develop a higher public profile which would necessitate an active lecture and dinner circuit, to students who believe that he wishes to concentrate on the lucrative Pennzoil litigation, to those who believe that Tribe realized that believe that Tribe realized that running a journal can create enemies.

Cohen suggested that "perhaps one reason why Tribe resigned is that he realizes it may be easier to criticize a publication [the *Law Review*] than it is to run one that makes all people happy."

HLS Activity In Blockade

Continued from Page 1

portunities, including the previous day's rally on Cambridge Common and leafletting in Harvard Square to express dissent peacefully."

The *Crimson* stated that while the exact cost of the dinner had not been determined, one official had placed the loss at about \$20,000. The food was donated to Shelter, Inc., an organization providing shelter and food for the homeless.

Although there was speculation among the students at the law school that the Ad Board was going to take action against some HLS students for their alleged participation in the blockade, no such charges seem to be forthcoming. Professor Frank Sander, Chairman of the Ad Board, explained that the Ad Board would be very concerned if it discovered that students from HLS had actively prevented people from entering or leaving Memorial Hall, but would not act against students merely holding protest signs, or chanting on the sidelines.

Fenno

Fenno was depressed. Here it was, a week before classes began, and he was already in Cambridge. Now, normally Fenno didn't make it into Massachusetts before mid-October, choosing instead to revisit every known American and Canadian brewery, culminating in a two-week pilgrimage to the great shrine of Meister Brau.

This year, however, Fenno had run out of money. He had lined up a great summer with the established New York law firm of Nasty, Brutish and Short, but had been fired after only one month because of an incident involving the senior partner's twin daughters and seven crazed performance artists in SOHO.

Having already spent most of his imputed summer savings on beer, taco sauce, and Ding Dongs, Fenno was broke. He managed to hitchhike back to HLS where he planned to work on his tan during the tail end of Boston's glorious summer weather.

As he got out in the Square, Fenno sensed that something was amiss. Not only was he not instantly badgered for money by representatives of every vegetarian cult known to the world, but Fenno noticed that most of the people around him were either wearing suits or nice dresses and had an average age of 67. Scratching his head, Fenno turned toward the Yard and saw massive banners proclaiming the 350th anniversary of Harvard.

"Three hundred and fifty years," Fenno said to himself, amazed. "Why, that's even longer than the time I've been a student in law school!"

Fenno decided to check out the festivities. He had little else to do, and besides, maybe they were giving away free beer. As he made his way toward one of the gates leading into the Yard, he was stopped by a campus security guard.

"Where d'ya think you're going?"

"I'm going to check out the celebration my school is having," Fenno replied.

"No way," the guard responded. "The celebration is not for students. It's only for people like alumni who can give the school large amounts of money. Besides," the guard snorted, "you're probably one of those pro-divestment pinko-radicals." Stunned, Fenno turned slowly away and began to walk toward the Charles. "This is just like working in New York. I wonder if there are any performance artists around."

Forty Percent of New Law Review Editors are Women

Continued from **WOMEN**, p. 1

tionary slots to be filled through the application of affirmative action policies or in the event of a tie between candidates. Information about the identity of candidates, including gender, is not revealed during the selection process.

Following the lead of the previous year's members, the Law Review made a conscious effort to reach out to women and other various groups on campus. Through information sessions co-sponsored with such student organizations as the WLA, BLSA, APALSA, and Federalist Society, the publication has sought to, as Tyler explained, "put much more of a human face on the Review."

Donahue to Replace Thompson

Continued from **DONAHUE**, p. 1

career counseling offerings. I'd like to see more coordination between the various student service offices because it's important to work out a schedule for you guys that has a logical order and doesn't conflict."

Because her previous experience has been with students and administrators, one new area of challenge for Donahue will be establishing and maintaining links with law firms. She mentioned, however, that as a current member of the National Financial Assistance Association she handles public relations work and establishes relationships with outside organizations to improve student services.

To help smooth the transition from Thompson to Donahue, the two meet al-

"It's extremely important to have a community on law review that mirrors the diversity of voices in the law school in general," said Law Review President Ken Bamberger '98. "We hope to continue our efforts to make sure that everyone who has an interest in Law Review feels comfortable coming out and taking the competition."

But not everyone is as optimistic. On learning of the increase in the number of women editors, former Law Review President, Prof. Carol Steiker '86 provided a note of caution. "I think it's great. But time will tell. There have been some lean years and some better ones, but hopefully this is not a statistical glitch."

most every day and Donahue attends the more important OCS meetings.

Commenting on how the new job will affect her personal life, she noted that the longer work hours that will be needed to settle into the new position will not be an imposition since her youngest of two children just left for college. "I usually wanted to be home with the kids so not having that responsibility will make it easier this year," she said.

Donahue will officially assume her new employment on January 1, 1998.

A replacement for Donahue has not yet been named. "The search is just beginning," said administrative dean Sandra Coleman. "The position has recently been posted... The expectation is that it will be filled no later than the first of the year (1998) and probably much sooner."

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HERE'S WHAT THREE OF OUR 1997 SUMMER ASSOCIATES SAID ABOUT OUR FIRM:



This summer has exceeded my expectations. It was a great mix of interesting, challenging work, and fun social opportunities to meet the other summer associates and the attorneys. The rotation system was a great opportunity to observe a large and diverse combination of the various practice areas. One particularly unique aspect of the program is the *pro bono* week.

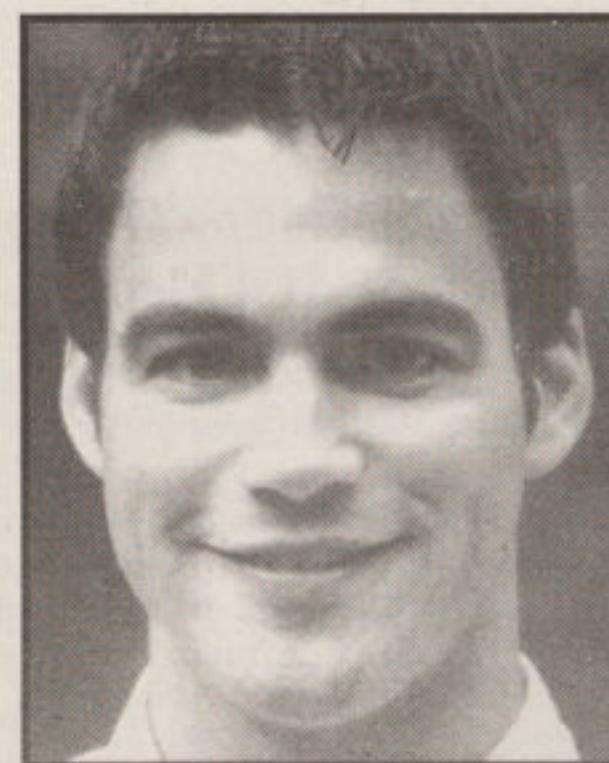
Marci Skolnick, Harvard '98

I chose Schulte for two chief reasons: its steady and continuing growth and the quality of its lawyers. The firm's growth over the years to more than 200 attorneys today means Schulte has a practice that is broad and sophisticated. But since the firm is relatively young and still growing, it remains a dynamic place at which associates have a strong sense of opportunity. Lawyers here take their work seriously, but they also are friendly people who treat one another with respect.

David Lenter, Harvard '98

Two critical factors distinguish SR&Z from the other top-tier New York law firms: the opportunities and the people. SR&Z is a young firm which is growing rapidly. With that growth comes exceptional opportunities for early responsibility and advancement. Additionally, the growth creates an entrepreneurial atmosphere which measures contribution by value-added, not hours-added. The people whom I have met at SR&Z have personified this attitude; they are energetic, industrious, and yet very loose. This combination of dynamic peers and real opportunity sets SR&Z apart from other firms.

Keith Lieberthal, Harvard '99



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Harvard Law School 2Ls and 3Ls

Resume due by Monday, October 6, 1997

at the Career Services Office

Interviews are scheduled for Monday, October 20 at The Charles Hotel, Cambridge

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Briefs

Hannan '47 Receives Long-Overdue Medal

Daniel Edward Hannan Jr. '47 was awarded the Distinguished Flying Cross in August — 52 years after he saved the life of his plane's nose gunner in an air battle over Europe.

The 78-year-old retiree received the award at the Iowa care center where he now resides. Hannan might have received the award sooner but some of the relevant documents were destroyed in a fire at a government office.

Hannan was originally a member of the Class of 1943, but he left during his 3L year to serve in the war. He returned after the war to complete his degree.

Hannan's decoration was based on his bravery on a March 1945 bombing mission. Hannan was the pilot of a B-17 Flying Fortress bomber. The plane had a crew of nine, of whom Hannan, 25, was the oldest.

The plane's target was the oil supply facility at Zietz, Germany.

As the plane went over the target area, it was hit by anti-aircraft fire. The nose gunner, William R Houchins, was hit in the right shoulder.

Hannan turned the controls over to the co-pilot, crawled to Houchins' location, and performed first aid on the wounded crew member. Doctors said that Houchins would have died if not for Hannan's efforts.

"Hannan took control of the situation under the most adverse conditions and did such a professional job," Houchins wrote in a letter about the incident. "[He] possibly saved my life single-handed."

For the past year and a half, Hannan's daughter and Houchins, Kyle Hannan Smith, worked nonstop to get the proper documentation and paperwork so that Hannan could receive the award.

— From The Des Moines Register

Fellowship Program to Bring Prominent Alumnae to Campus

Starting this month with the arrival of Anne Libbin '75, the HLS Three Guineas Fellowship Alumnae-in-Residence Program will educate women law students about the lives of women lawyers.

The fellowship program will bring three distinguished alumnae to campus each year to share their professional experiences and their personal reflections on the issues confronting women in the legal profession. Fellows will spend several days on campus and will meet formally and informally with students.

This year's fellows are Libbin, partner in the San Francisco office of Pillsbury, Madison and Sutro (September 24-26); Jamie Gorelick '75, former U.S. Deputy Attorney General and current Fannie Mae Corporation Vice Chair (October 22-24); and Verna Myers '85, Massachusetts Attorney General Deputy Chief of Staff (November 7, 14, and 21).

The program is supported for three years by a \$15,000 gift from the Three Guineas Fund and a matching gift from the Celebration 40 Fund, which was established by HLS alumnae to celebrate 40 years of women graduates at HLS. The program will be administered by the Office of Student Life Counseling.

Mary Robinson LL.M. '68 Steps Down as Irish President

Mary Robinson LL.M. '68 left her position as president of Ireland on Sept. 12 and moved to a new job as United Nations High Commissioner for Human Rights.

Robinson served as president for a seven-year term. An election to replace her is scheduled for October 30.

Robinson, 52, was the first woman to occupy the presidency. She was known as the "People's President" and is remembered for her promise that "the hand that rocks the cradle can rock the system."

Prior to Robinson's tenure, the presidency was seen as a position having little political significance. It had traditionally been filled by politicians heading toward retirement.

Robinson visited Northern Ireland and Britain regularly. During her travels she met with Queen Elizabeth II and Sinn Féin leader Gerry Adams.

After graduating from HLS, Robinson became a successful lawyer. Prior to her move to the UN post, many had predicted that she would serve as a senior judge.

Zeglis '72 May Become AT&T CEO

John D. Zeglis '72 has emerged as the leading candidate to become AT&T's new chairman and chief executive, according to a report in the Wall Street Journal.

Zeglis, 50, has been AT&T's general counsel since the mid-1980s. He was recently elevated to vice chairman and operating chief.

Zeglis drafted the 1982 plan that broke up the Bell system. Two years ago, Zeglis devised AT&T's second breakup, spinning off Lucent Technologies and NCR Corp.

Zeglis, a native of a small town in Illinois, earned his undergraduate degree at the University of Illinois. His high draft number allowed him to avoid military service, and so he went directly to HLS. Zeglis became a senior editor at the Law Review and graduated *magna cum laude*.

After graduation, Zeglis went to the Chicago law firm of Sidley and Austin. He was made partner at Sidley in 1978.

THE FAMILY FORUM

In Defense of Faith and Family

By Brian J. Burt '98

Guest Columnist



Law generates and maintains civil order. The contour of that order is defined by societal conceptions of morality. As such, law acts upon not just the body, but also upon the mind and spirit, impeding or empowering thought and belief, as well as physical action. That reality prescribes a legislative hand guided by a search for transcendent truth, for a paradigm of order that can sustain the health of the body politic and its familial building blocks. Law's silences often speak as loudly as its words, so that an inactive pen can be just as dangerous as an errant one. This column shall explore the social forces vying for the opportunity to pilot that hand and write the history of the family that is yet to come.

For years, a new form of radical liberalism has slowly worked its way into our nation's most critical institutions — the schools, the media, the judiciary, and the academy, to name just a few. Carrying the banner of deconstruction, this movement has jettisoned its predecessor's intellectual grounding, trading reason and rationality for impassioned propaganda. While this modern liberalism manifests itself in a host of seemingly separate constituencies, they are all driven by a common love of moral nihilism and the unfettered hedonism that it cultivates. Once politicized as a quest for individual liberty and self-determination, liberalism's true nature has begun to surface, for its participants have finally erased all limits formerly restraining behavior in the private sphere.

The public arena has recently been revealed as the ultimate target. As the battle has moved from the private to the public, the political dialogue has necessarily shifted. For moral nihilism to triumph in the public sphere "tolerance" is simply insufficient. Cultural "affirmation" and "sanction" are the keys to victory. Such perverse victory cannot be captured unless and until the traditional barriers holding our nation back from the moral abyss are eroded and destroyed — faith and family.

This nation was conceived under and its prosperity rests upon the grace of God. The Constitution did not consecrate a theocracy. On the other hand, its confidence in the common man did not inaugurate a reign of secular humanism. Adherence to the Establishment Clause does not require its Free Exercise counterpart to be excised from the First Amendment. And we can avoid the creation of a state church without decoupling law from morality, and morality from its spiritual origins. Fidelity to the Constitution does not require state and national legislators to check their Judeo-Christian ethic at the door. And no matter how long one surveys the words of our Founding Fathers, he will find no mandate for the ACLU-sponsored purge of religion from public life. Abandonment of our country's spiritual roots is a crucial component of the modern liberal agenda for two important reasons.

First, the transcendent nature of faith-based morality arrests the advance of nihilism. Religion, at its best, sets up a moral paradigm forged in the Word of God. A legal system informed by that paradigm may undergo evolution and

In any civil state, the family is the single most important social institution.

refinement throughout the decades, but the values embodied in its laws remain fixed. Second, a nation that looks to God for the ultimate Truth will not be seduced by humanism and the destructive and arrogant elitism that it fosters. Law will cease to simply mirror the voice of the popular culture. Fidelity to the law will be inspired by its divine source, rather than by a cost-benefit analysis that focuses merely on the likelihood and severity of the attached sanction. Order will be the product not of coercion, but of love of God and neighbor.

In any civil state, the family is the single most important social institution. It is the institution responsible for conceiving, nurturing, and educating the children of the next generation. It is the institution which facilitates transmission of moral value and development of a viable conscience. It is the institution which provides the physical, emotional, psychological, spiritual, and economic stability and continuity necessary for proper maturation of a marital relationship and the children it will produce. It is the institution upon which the health of any nation rests. It is also an institution under siege.

Hedonistic individualism cannot survive within the walls of the traditional home — a place where a sole emphasis on the "I" is incompatible with the network of interdependent relationships that comprise the family unit. The family is not simply a random collection of individuals, leading separate but occasionally dovetailing lives. And it is certainly not a product of political engineering designed to advance some imagined agenda of oppression and patriarchy.

In the coming weeks and months, this column will examine those liberal forces which are eroding the foundations of this once great nation, and hastening our journey down the path of decadence and degeneration. Homosexuality, abortion, illegitimacy, education, religion, divorce, pornography, and welfare are just a few of the planned topics. This column will provide an alternative to the liberal propaganda machine at work in the Harvard community. It will provide the individual with a means to lift the veil of hypocrisy that conveniently shields the truth behind the rhetoric and politics of deception.

We are a country in crisis. There are those who decry attempts by conservatives, let alone religious conservatives, to usher in a spiritual renaissance as a tyrannical imposition of morality. Common sense, however, reveals that all political participants compete for the majority's embrace. Even so, modern liberalism has often stepped far beyond the sphere of legitimacy in its quest for ascendancy. State and federal judges perform daily magic shows as they transform their gavels into legislative pens and pull fabricated rights from the text of the Constitution. Our so-called President prostitutes the White House for personal and party gain. Interest groups utilize the media to propagate their staged victimization and silence opposition with manufactured shame. Teachers and professors at all academic levels turn classrooms into social laboratories.

Listen carefully, the silent majority is about to speak.

SPORTSGUY

Let the Games Begin

By Chris Manning '98
Sports Editor



NOTE TO READER: Intelligent sports journalism takes a vacation this week so that we may bring you the 1997 HLSFL (Harvard Law School Flag Football League) preview.

Like the Pacific salmon, they are instinctively drawn to Webster Field. They can't explain why — maybe it's the position of the stars, the smell of cut grass, the turning of the leaves (or maybe my announcement in the Adviser), but they know it's time for football. HLSFL football.

For the uninitiated, the HLSFL is flag football — not quite tackle (unless you're Shelly "Don't Call Me Skippy" Hirshtritt '98), but not quite touch. Players are "tackled" when one of two flags attached to a belt on their waist are pulled off by a member of the opposing team.

This year's HLSFL features fourteen teams contending for the league title. Fourteen teams with fourteen different stories, none of them very good ones.

But enough about that, here are the previews . . .

EASTERN DIVISION: This year's Eastern Division favorite comes as no surprise. **The Freshies** (2-0) have contended for the HLSFL crown each season, and their quick 2-0 start suggests that this season will be no different. Strengths include the arm of quarterback Dave "Nothing Rhymes With" Rothenberg '98, as well as a vastly improved pass defense. Their only weaknesses are their groovy retro tie-dyed uniforms, which, while really trippy, are just too out of place in this decade. Their combination of talent and experience, however, should put The Freshies into the finals this year.

My sleeper pick for the Eastern Division, however, is **The Penal Battalion** (1-2). Don't let their 1-2 start fool you. Both of their losses came at the hands of perennial contenders Delta House and the Freshies, by a combined total of five points. These guys are good, and they're not afraid to air it out.

The Stormin' Mormons (1-0) run-and-gun style nearly got them to the semi-finals last year, and while quarterback Richard "Half" Nelson '98 has always been an asset, the vastly improved play of Dean "I'm So" Leckie '98 as both linebacker and receiver could prove the difference for their playoff chances this year.

Capital Punishment (the team formerly known as Blur) (1-1) remains an unknown quantity, which is just the way captain Chris Matarese '99 wants it. "I want us to remain an unknown quantity," Matarese said. What we do know about Capital Punishment is this: they shook off a two-point loss to The Penal Battalion with a 32-6 victory over Lovers Not Fighters; they've got a solid offense; and they have a tenacious defense. Don't expect this team to go quietly into that good night.

After an easy victory over Whiplash, **The Rookies** (1-1) got a harsh look at reality in the HLSFL, in the form of a 36-6 loss to The Freshies. With upcoming games against The Penal Battalion and Stormin' Mormons, captain Scott Strusiner '00 has his work cut out for him this week, lest The Rookies drop to 1-3.

Not yet having played any games, **The Inn Zone** (0-0) is an enigma. But critical tests against the Stormin' Mormons and Capital Punishment will swiftly determine whether Doug "Cassius" Clay's '98 team is a contender or a pretender.

The Harvard Law Couples Association team, **Lovers Not Fighters** (0-2), features the league's first husband and wife tandem in Wade and Susan Huntsman '99. But don't let the novelty fool you. Susan has already registered her first sack of the season. The Huntsmans' aggressive play, coupled with the natural exuberance that all Lovers share, should be good for some wins this year.

WESTERN DIVISION: This year's odds-on favorite to win the West is **Delta House** (the team formerly known as Prince) (2-0), but chances are, they won't win it cleanly. These guys give new meaning to the phrase "cheap bastards." Quarterback Steve "One Bad" Mudder '98 has the best arm in the league, although given the talent level in the HLSFL, it's not like Canton's reserving a spot for him or anything. In addition, the defensive secondary of James "Dear Dia" Rhee '98 and Will "Need for Speed" Griffin '98 is one of the league's best. Delta House's offense exploded for 69 points (coincidence?) in their first two games. "Our preseason two-a-days are starting to pay off," Mudder said.

Close behind Delta House in the West are the **Happy Gilmores** (1-0-1). The Gilmores seemed to be having trouble putting points on the board in an opening day tie to Cruel & Unusual Punishment, but followed with 28 points in their second game against L.C. United. The experience of Doug "Are You Trying to Seduce Me, Mrs." Roberson '99 and Raj "Apple" Pai '99 should ensure a second consecutive playoff bid. We can only hope that they'll actually decide to accept it this time.

Cruel & Unusual Punishment (1-0-1) couldn't break out of its offensive slump this week, but its defense has risen to the challenge, holding Who's Your Daddy to one score in a 14-8 nail-biter. Memo to captain Josh Wolson '99: You can't rely on defense alone in the HLSFL, buddy, because unlike the NFL, offense wins championships here.

Although a great offense helps, you can never bet against experience in the HLSFL either, so don't rule out the 3Ls of **Who's Your Daddy** (1-1). Mike "Last of the Danes" Castellano '98 has put together a strong offense, highlighted by the receiving ability of David Harbach '98, and an impressive defense. An uncharacteristic inability to score against Cruel & Unusual Punishment accounts for their only loss thus far.

It took a season opening loss to The Rookies to teach **Whiplash** (1-1) how to win in this league: combine the running of Stephanie Hunter '00, the passing of Trevor "Mr. Jones and Me" '00, add an interception or two from Richard "Swiss Family" Robinson '00 and you've got a winning combination.

L.C. United (0-2) and **Law & Order** (0-2), two predominantly 1L teams, are still having some growing pains adjusting to life in the HLSFL. Both teams have the potential to contend for a playoff spot, however. Only time will tell.

SPORTSGUY predicts that the Vols are Gator-bait this week in Gainesville, despite the best efforts of Peyton "No Relation" Manning.

An LL.M. Experience

By Luigi Malferrari LL.M. '98
Guest Columnist



LLL.M. is one of the many acronyms that one needs to know in order to survive at Harvard Law School. It stands for Master of Laws and it is one of the two graduate degrees (the other is the S.J.D., Doctor of Juridical Science) that Harvard Law School awards to foreign as well as domestic law graduates. The LL.M. program brings together 152 lawyers from over fifty different countries, and it is by far the biggest law graduate program in the country.

During our first few weeks here, LL.M.s have had a tremendous amount of new experiences. Things have sometimes gone at a furious pace. This article is an attempt to summarize some of the impressions that I have had and, at least partially, shared with other LL.M.s.

Especially for those of us who had not been extensively exposed to the U.S. culture before, the beginning must have been a little difficult. Apart from the jet lag and (in many cases) the new language, some of us were a little surprised by the tendency of Americans to inquire after our health on meeting us and then run away without waiting for the answer.

On top of that, those of us who spent orientation looking for a room had remarkable, sometimes dreadful experiences. Some of us visited apartments that looked like the perfect setting for a horror movie. People were occasionally subjected to the sort of inquiry that under normal circumstances would have entitled them to say, "I have the right to make a phone call to my lawyer." Despite this, after one said one was a student at Harvard, the suspicious lessor gazed down upon him and said smiling: "Wow, ya go t' Haaved, ya must be wicked smaati!"

In the official speeches during orientation, Prof. Anne-Marie Slaughter told us that we are the best lawyers from our respective countries (boy, they must have made a mistake when they picked my application!). Also, Dean Clark reassured us that the foreigners who had been to Harvard Law School had become very eminent people after they went back to their home countries. This sounds terrific!

The only problem, however, is that our fellow countrymen, who will be our future employers, do not know it. Perhaps a series of seminars could be organized all over the world to convince them that we must become very important people. At any rate, it is not unpleasant to hear how talented, and smart, and unique etc. we are. This is certainly one of the positive things about attending Harvard: afterwards you'll never suffer from excessive modesty.

It seems to me that some of us have had difficulties meeting the J.D.s (the name itself sounds quite intimidating). Some J.D.s have (maybe) thought that the LL.M.s are snotty foreigners. Maybe some LL.M.s have thought that the J.D.s are just too stressed out to socialize. But I figure it is just a matter of time and willingness.

You might consider the following two tips. For the LL.M.s: if an American J.D. walks up to you and says "Howdy!", do not freak out: this person is just being friendly. To the J.D.s: if an LL.M. addresses you with "Hey girls ..." or "Hey dudes ...", he or she is probably not trying to pick you up in a sleazy way (although it depends on the LL.M.); he or she probably just heard this expression somewhere and thinks it is the proper way to approach strangers.

Now classes have started, and things of course are not as sweet as they were during the first two weeks. Many of us have begun to complain that the workload is terrible and there is too much reading to do. We should probably learn from our American colleagues that no one really does all the reading. The trick is to skip it and still look smart in class.

If you are an LL.M., you may be sure, however, that the first time you try out this new technique, the professor will pick on you and ask you exceedingly detailed questions. Murphy's law does not always work, but it works often enough.

Some of us are in the midst of the Sisyphean travail of trying to find a job in the U.S. I guess the dream of having a fancy office in New York with a view of Central Park on one side and an attractive and smiling secretary on the other side is irresistible. This is especially true if one lives in Gropius.

Anyway — and in all seriousness — Harvard is really a great place to be. The number of extracurricular activities offered is amazing, the variety of courses is extraordinary and we have lucked out with the newly renovated Langdell. The LL.M. program is also a unique opportunity to meet many extremely interesting people. The personal contact and friendships between the LL.M.s are, in my opinion, the most valuable aspect of the Program. It is true that there are individuals from very different cultures and backgrounds. At the same time, despite these differences, the LL.M.s are bound by a community based on the fact that we share a remarkably similar mentality and value system.

Special mention should be made of the persons who work on the Graduate Office staff. Having written, faxed and called each of them about fifty times before coming here, we have all had the opportunity to trouble them in person upon our arrival and thereafter.

This is probably not what Ms. Gail Hupper meant when she said that it was a treat to finally meet all of us. I just hope they will be able to stand the sight of us until the end of the year.

Gail Hupper told us that it will be a great year for the LL.M.s. I bet she is right.

Standings (as of 9/15/97)

<i>Eastern Division</i>	<i>W</i>	<i>L</i>	<i>T</i>	<i>PF</i>	<i>PA</i>	<i>Div.</i>
Freshies	2	0	0	62	30	2-0-0
Stormin' Mormons	1	0	0	21	16	1-0-0
Capital Punishment	1	1	0	52	28	1-0-0
Rookies	1	1	0	34	42	0-0-0
Penal Battalion	1	2	0	76	79	1-1-0
Inn Zone	0	0	0	0	0	0-0-0
Lovers Not Fighters	0	2	0	22	53	0-2-0
<i>Western Division</i>	<i>W</i>	<i>L</i>	<i>T</i>	<i>PF</i>	<i>PA</i>	<i>Div.</i>
Delta House	2	0	0	69	30	1-0-0
Happy Gilmores	1	0	1	40	19	1-0-1
Cruel & Unusual Punishment	1	0	1	26	20	1-0-1
Who's Your Daddy	1	1	0	35	26	1-1-0
Whiplash	1	1	0	26	41	1-0-0
L.C. United	0	2	0	19	55	0-2-0
Law & Order	0	2	0	13	56	0-2-0

New Copy Prices Upset Students

Continued from **COPIES**, p. 1

formation," including printing to the off-line printers at 2 cents a page, downloading articles to disks and printing them out at home, or, for Westlaw and Hollis records, e-mailing them to yourself.

"We're having classes about the network and how to use it, the most effective way to do your research given what's available. People are already starting to sign up for those sessions," said George.

Two Hundred Pages Won't Go Far

"I think it's ridiculous. If you research even to a limited extent, you'll have to print out lots of pages, so 200 pages won't go far," said Erika Esterbrook '99.

"Is it too much to ask with the exorbitant tuition that we pay here for the library to suck up the cost of printing? I've

talked to friends at two other law schools and printing continues to be free for them."

George explained that the five cent increase for photocopies reflected a return to the status quo after the price was lowered two or three years ago.

"Copies used to be 10 cents," said George. "[The price drop to five cents] was anticipating the renovation [of the library], knowing that there would be fewer materials available, and that materials would have to be recalled and sent back right away. It was an attempt to prevent further inconveniences to the students."

While the rate increase means higher costs to students for intensive research projects like third year papers, George stated that rate "is still subsidized at ten cents."

"Ten cents doesn't cover the costs [of printing]. The cost per copy for use of

the machine is about 6 to 7 cents, plus the cost of paper," said George.

Reaction among students ranged from apathy to antipathy. Many students had similar reactions to Marc Williams '98 who said that he "wasn't aware that there was an increase in prices."

Peter Binas '00 said he would look elsewhere to make copies.

"It makes it a lot less likely that we'll be making photocopies using Harvard facilities," he said.

While the price increase will eventually affect all copiers in Langdell and the Lewis Center, prices at the Distribution Center in Pound Hall will remain 5 cents when students pay with a copy card. Copy cards can be purchased at the Distribution Center for \$1.00, and any amount a student wishes can be placed on the card. Upon return of the card the \$1.00 is refundable, although any remaining money on the card is not.

Langdell's new ten cent copying price is higher than the local private average, although not out of line with nearby academic institutions.

The 10 cent rate at Langdell falls somewhere in the middle of our sample of area academic libraries. The library at the Harvard Medical School charges the lowest of those schools surveyed, at 5 cents for students at the medical school, public health school, and other affiliated schools.

Most other schools fall between 8 and 10 cents, with Boston College and the undergraduate library at Harvard charging the most at 15 cents per copy when paid in cash.

Langdell's price is high compared to prices at area commercial copy centers. Most local copy centers charge between 6 and 7 cents per page.

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Location	Cost
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Boston College	0.06*
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Gnomon	0.07**
Pip	0.07
Mailboxes, Etc.	0.07
Kwick Kopy	0.07
M.I.T.	0.09***
Boston University	0.10
Harvard College — Crimson Cash Card	0.10
Harvard College — Cash	0.15

* Comparisons based on 100 copies, plain white, single-sided.

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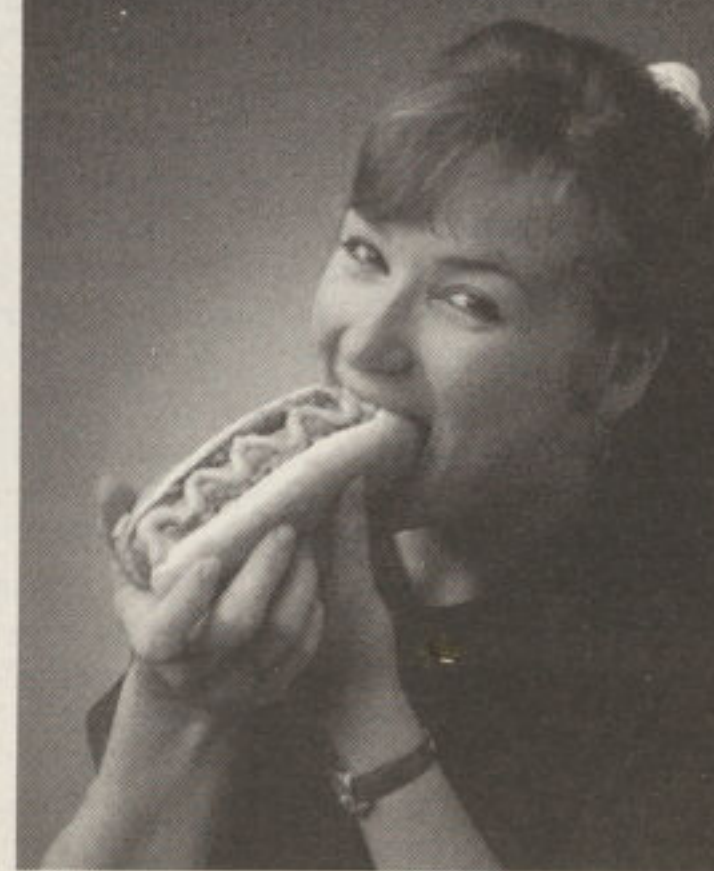
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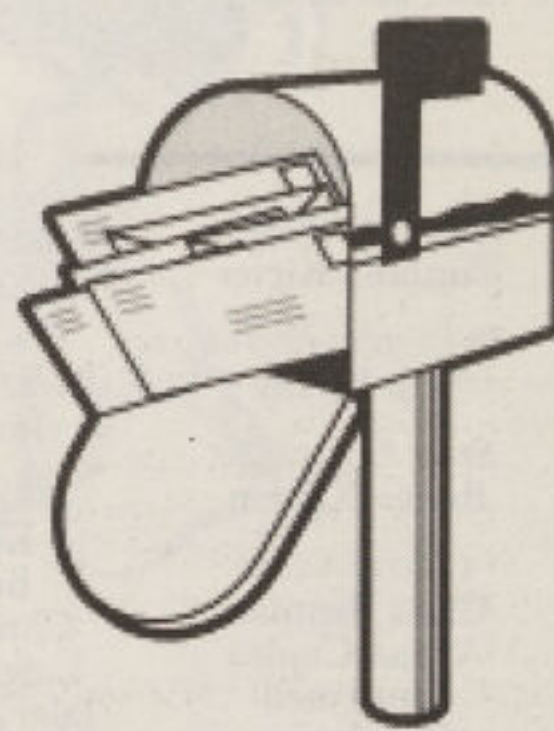
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Death of Activism at HLS?

The rumor that the admissions office is purposely ferreting out HLS applicants with activist backgrounds has been bounding around campus "for years," according to an unnamed source in the Dean's Office. Granted it's never come close to being substantiated.

Absent any evidence, the alleged conspiracy in Pound 300 is probably just one attempt to explain the pea soup apathy that seems to pervade much of our community.

Of course most students have private or micro-concerns that they passionately tend to — and legitimately so. Class assignments, panel dates, subcites, the job search, extracurricular affiliations, clinicals: these are not trivial responsibilities and require dedicated attention.

But why the lack of large-scale activism on campus? Where are the periodic rallies around the maypole by students intoxicated by sign paint and a CAUSE?

Perhaps this reflects a new era of blessedness and contentment at HLS. There may very well be no large-scale platforms to raise nor pressing issues to highlight. The status quo is ideal; this is the best of all possible law schools; nothing to get too hot and bothered over... Welcome to Stepford.

Or is the relative lack of protest and challenge a consequence of the type of person that is drawn to HLS in the first place (a matter distinct from any unproven hokey at the admissions office)?

You know what we are (right?): straight-laced, slightly obsequious, high-need achievers who've always done the right thing for that fellowship or pat on the head. We aren't about to do anything to rock the boat or upset things unduly.

I mean look at the uniformity in student hairstyles. Rarely does one of us violate the unwritten grooming code at HLS — for men, locks shorn close to the skull, faded towards the nape; for women, a classic bob a few inches above or below the shoulder.

Maybe we're getting old.

Or maybe it's just that our mamas didn't raise no fools.

As rational players in legal education, we know when the odds are overwhelmingly stacked against us. With inadequate mechanisms for effecting change — or even having some say in the process — we aren't about to engage in hopeless kamikaze antics.

Most initiatives to foment change wither somewhere in the third bureaucratic tier. Committees must be organized, closed-door meetings conducted, reports compiled. The largeness of our school can only be managed with formal procedures. But too often that labyrinth provides convenient nooks for delays and passing the buck.

For instance, where is the draft report promised by the ad-hoc Public Interest Committee last semester? The report was slated to contain a host of recommendations relating to matters of summer funding (who'll receive it and in what amounts?), LIPP restructuring, a new fellowship.

And let's not forget the harsh treatment a certain nonet of protesters received in the late eighties. Organize a little sit-in to demand greater faculty diversity... get ad-boarded and threatened with expulsion.

My best bet for the lack of activism at HLS is good old student disenfranchisement. After all, the gig's only three years. Why bang our heads against the wall?

— Janie Kim

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—First Amendment, US Constitution

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WRITE TO THE RECORD.

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• Editor's Note •

Retrospective Update:
The Sept. 12 issue of the RECORD reprinted a 1963 article titled "Third-Year Student Faces Jail." The article stated that Fred L. Wallace '64 had been charged with felonious as-

sault in Farmville, Virginia after being arrested in the wake of a civil rights demonstration. The charge was eventually reduced to a misdemeanor.

After graduation,

Wallace worked as an NAACP attorney. He is now in private practice in New York. "I wear my arrest as a badge of honor," said Wallace in a recent conversation with the RECORD.

Response to "The New Harvard Law School" by Profs. Bellows and David Kennedy: No Going Back to the Old HLS

By Rob Jancu '98

Profs. Bellow '60 and Kennedy '80 hoped in their Sept. 12 Op-Ed to open a school-wide dialogue about institutional and academic culture at HLS. I write in response to their invitation.

Their core observation, as I understand it, is that since 1989, collective engagement with broader philosophical and political questions about law has eroded at HLS. In its stead, we have an increasingly specialized curriculum, proliferating niche extra-curricular activities, and professors pursuing outside endeavors without promoting internal HLS discourse about their projects. The result is a fragmented community and a degraded legal education: vocationally and intellectually listless.

While I agree with several of the causes to which Profs. Bellow and Kennedy point, especially the rise of specialization in the actual practice of law (though I see nothing normatively wrong about this), I do take issue with others. Specifically, I do not agree that niche academic programs and narrow extracurricular activities, and the "routinization" in curricular and administrative responses of the "institution's interest in gender and race" are causes of intellectual stultification here. Rather, they seem to be serviceable solutions to precisely the problems which the professors identify.

Niche programs and activities are a vital response to past calls by professors and students for increased avenues for legal exploration, creativity, and participation. In so large an institution as HLS, with its 26:1 student-faculty ratio (pathetic when compared to Yale and Stanford's 13:1 ratio, University of Chicago and Duke's 16:1, Cornell and Columbia's 18:1, and Michigan and NYU's 19:1), there is an especially dire need for a wide variety of journals, law societies, and advocacy organizations, in which students can engage legal issues in smaller, more intensive settings.

Of course, bigness has its advantages, too: the nation's largest law library (with twice as many volumes as its nearest competitors), three times as many courses and clinics to choose from as at Yale or Stanford, the diversifying presence of so many international LL.M. students, and the most extensive alumnae-professional network after graduation, for starters. If we choose to attend and to teach at HLS because of the advantages of its bigness, we must accept that the sense of community and the ease of discourse which a smaller institutional setting fosters can never be fully duplicated here, revisionist descriptions of a golden age of HLS community notwithstanding. In the HLS context, the value of niche activities far outweighs the "isolating" downside which Profs. Bellow and Kennedy bemoan.

Moreover, the present curricular and administrative institutionalization of issues of gender, ethnic, and racial diversity seems to be a victory for those who, in the late 1980s and early '90s, rightfully demanded greater attention to these matters. I can assure Profs. Bellow and Kennedy that students still discuss these and other issues of politics and law. We simply no longer stage sit-ins over them, precisely because the goals of the "Griswold Nine" and the "Fried Four" have become academic and administrative priorities. Although at least one heatedly-contested issue of the late 1980s and early '90s has yet to be resolved — the lack of a tenured African-American woman on the HLS faculty — the Harvard Law RECORD has noted progress in the faculty-search committee's negotiations with African-American women and other minority candidates.

Beyond these demurrals from the professors' analysis of stagnant legal discourse at HLS, I must admit to being troubled by the way they frame an erst-

while intellectual engagement for which they harbor "nostalgia." Quixotically, they describe a former "gentlemanly faculty culture" of "civility" as marked by an "institution-wide intellectual struggle"; tellingly, they lament the present as a period of "timid mutual courtesies" that has "lost its edge." As Eleanor Kerlow documents in her 1994 book "Poisoned Ivy: How Egos, Ideology, and Power Politics Almost Ruined Harvard Law School," the hybrid gentlemanly culture-cum-struggle of the late 1980s and early '90s which the professors would revive culminated in waves of student protest, Ad Board charges, public hearings, a student lawsuit against the school, a counter-motion by other students against the first group, and a \$260,000 settlement in a suit brought by a professor charging bias in her denial of tenure. As Prof. Edley '78 said at a 1992 school-wide forum to discuss the debacle, "I don't feel that Harvard Law School is a community. It's a job. I don't like being here, and I spend as much time as possible away from Harvard Law School, a privilege Harvard law students don't have." The "struggle" with an "edge," therefore, is directly responsible for the erosion of community at HLS; it is not, as Profs. Bellow and Kennedy claim, a remedy for it! The professors concede that "[t]he ideas and methods of that time are no longer possible or appropriate," but then I would question their choice of agonistic terms to describe the sort of "engagement" they endorse.

Similarly, I do not share the professors' assumption that faculty hiring based on "demonstrated mastery in a defined field" excludes professors with "strong, even idiosyncratic intellectual positions." Rather, I assume that every scholar who has dedicated his or her life to legal research and pedagogy has a strong, individual perspective. Of course, all law is political and contested. I have yet to take a course at HLS in which the professor does not challenge the class with policy discussions. Thankfully, though, most professors have had enough professional discretion to refrain from personally espousing particular policies and indulging in partisan advocacy before the class.

Profs. Bellow and Kennedy rightfully propose that faculty and students have greater contact outside the classroom to promote a more comprehensive dialogue. Indeed, in these informal settings, I have had many edifying conversations about politics, philosophy and law with HLS faculty. To politicize hiring, by insisting on outspoken advocates, and consequently to politicize the classroom, would revive the bitter polarization which has been the bane of community here.

I suspect that Profs. Bellow and Kennedy, who self-identify as "on the left," would still oppose conservative appointments to the faculty as they did in the late '80s and early '90s, using the slogan "diversity" as a wedge to consolidate a faculty conformity in their own image. As Prof. Dershowitz observed in his 1992 column, "Free Speech for Me," "I don't think anybody genuinely wants diversity. The true test of diversity for me is whether people on the left would vote for a really bright evangelical Christian who was a brilliant and articulate spokesperson for the right to life, the right to own guns, non-intervention in South Africa, anti-gay approaches to life, anti-feminist views? Would there be a push to get such a person on the faculty? Now, such a person would really diversify this place." Hopefully, collective memory of the controversies to which Prof. Dershowitz's column responded are still fresh enough among the faculty to dissuade it from again mixing political with merit-based criteria in tenure decisions.

Rather than renew the discursive struggle which, by some accounts, prompted the departure of Prof. Kathleen Sullivan for Stanford and caused Profs. Carol Rose and Henry Hansmann to de-

cline offers of tenure at HLS, I offer two less ambitious recommendations.

First, while active student participation in Faculty Senate meetings might be unwieldy, students should be permitted to observe those meetings that do not involve tenure considerations. Students should do this not only to stay maximally informed of the procedures and substantive decisions of faculty governance, but also to help the faculty maintain a civil, more productive discourse. In the spring of 1996, as an officer of Law School Council (LSC), I was permitted to attend a Faculty Senate meeting with two other LSC members. We sat invisibly in the back of the room, behind the back row. I was mortified at the acerbic tone of discussion. Recriminations were rife. Two professors called each other's ideas "idiotic." One professor, a favorite among students, called her HLS charges "disgustingly overprivileged." What Kerlow had described in her 1994 work as faculty "[g]randstanding, name-calling, and score-settling" seemed to continue apace. In the spring of 1997, I again attended a Faculty Senate meeting, this time with six other LSC members. We sat in the rows among the professors. The tone at this meeting was courteous to a fault. I surmise cause-and-effect. As a favor to professors — to facilitate constructive discourse and a collegial sense of community among them — students should chaperone Faculty Senate meetings!

Second, and more important, to combat intellectual malaise among students, I would suggest the introduction



of a 1L class in Jurisprudence. As a freshman at Stanford, I attended a mandatory year-long interdisciplinary program in Humanities which exposed students to the range of ideological schools, movements of dissent, historiographic methods, and challenges to great religious and political ideas which

constitute the highlights of Western, Asian, and African civilization. This program gave me the tools to process ideas presented in subsequent undergraduate courses as palimpsests bearing the traces of generations of competing traditions, interests, and factions.

In my post-freshman summer, I attended an Oxford University program in Law. Among my courses was Jurisprudence. We read Hart's "The Concept of Law," Dworkin's "Taking Rights Seriously," Rawls's "A Theory of Justice," Mackie's "Ethics," and selections from Plato, Aquinas, Spinoza, Locke, Kant, Hegel, Bentham, Hans Kuhn, and Michael Walzer. This summer course in Oxford is the reason I came to law school. It also gave me the tools to assimilate ideas I encounter at HLS into a larger philosophical framework that deepens my appreciation of the law. It has done for my legal education what my freshman interdisciplinary Humanities program did for my undergraduate education. The lack of such a foundational course in the "big picture" for 1Ls greatly impoverishes legal education here and permits intellectual numbness to set in once first-year adrenaline and novelty are insufficient to sustain excitement and interest in one's studies.



The Aesthetic Lawyer's Paradise

By Jake Zimmerman '00

Guest Columnist

I'm told that people come to HLS for many different reasons. Some doubtless are here because of the prestige and honor this place provides. Others come for the money. Many of you are here because of the unparalleled academics.

Not me. Money, power, fame, and the eventual opportunity to be a full-fledged oppressor? No, sir. I'm here for one reason, and one reason only: the stunning modern architecture.

Frankly, I couldn't care less about the law. Torts, *shmorts*. But let me tell you something, folks. When I walk into my dorm every night, and realize that I'm living in a structure designed by the Walter Gropius — well, there's just no feeling quite like it. (The same, of course, could be said for the feeling induced by eating too many White Castle hamburgers. But that's another matter.)

While we all realize that Harvard's Gropius complex is a masterpiece of modern design, some might not be aware of just what an honor it is to live in one of his buildings. So, as a public service, I'd like to use the remainder of this column to give the HLS community a brief les-

son about this genius to whom we owe so much.

Born in Vienna, the young Walter Gropius had a normal childhood until he suffered a near fatal disease brought on by eating too many of those canned "Vienna sausages." Gropius's parents sent him to a German boarding school, in the hope that the rigorous discipline would help him recover. Fortunately, he took very well to the new environment, where he was trained in all the traditional German virtues: order, efficiency, obedience, and occasionally invading France.

Young Walter first decided to become an architect after an ill-fated trip to Italy. He toured the Vatican and was shocked and appalled from the very moment he entered St. Peter's Basilica. The great domes, frescoed walls, and massive amounts of open space were — to him — the very antithesis of Christianity. He promptly began making sketches for a proposed alternative: "St. Giuseppe's Poorly-Lit Fallout Shelter." Sadly, Gropius's visionary idea was a few years before its time, and he was forced to flee Rome in order to avoid being hung by his heels.

Fortunately for posterity, Walter Gropius was a persistent man, and he continued his quest to reshape the face

of religious architecture. He eventually persuaded some monks in Cincinnati to accept his plans for a whole new type of shrine which would emphasize function over frills. (There is still some debate as to whether they actually agreed to the idea, but the court held that their silence could be taken as assent.) Though it was his first work, "Our Lady of Perpetual Claustrophobia" is still regarded as a masterpiece, and the shrine is visited by tens of pilgrims every year.

Having made his point to the church, Gropius would now proceed to even greater secular heights. This was perhaps his most prolific period, in which he created hundreds of army barracks, tax collection offices, labor camps, and other structures that fit into his vision of the perfectly designed society. This phase came to a screeching halt, however, as a result of personal tragedy: the dissolution of his marriage after the discovery that his wife, Alma, had been sleeping with nearly every other major intellectual figure of the day. (This, incidentally, is the only part of today's column which can in any way be documented. See Tom Lehrer's excellent bi-



ography of Alma for the story of this most fascinating woman.)

Gropius spent several years in a deep funk. He never left his house, and wasted most of his savings by hiring a succession of young men to beat each other with large sticks for his amusement. This was a difficult time for Gropius, and were it not for the intercession of Harvard Law School, he might never have designed again.

The exact reason why Gropius was chosen to design Harvard's main law school dorms remains unclear. Recent study of old records seems to indicate, however, that cost was a main factor. So desperate was Gropius for work that he agreed to draft the blueprints in exchange for "payment in the form of four bananas, a crust of moldy bread, 34 cents, and one used bullwhip." Much like the early settlers who purchased Manhattan for beads ... HLS got what it paid for.

Gropius's design was centered around a simple — yet brilliant — theory: law school dorms should be more uncomfortable than classrooms in order to encourage students to spend more time in class. Sadly, the full scope of Walter's plan was never fully realized. Because of cost concerns, the school was forced to abandon his most ingenious proposal: the installation of electrodes in each room which would deliver periodic shocks to the unsuspecting residents.

The HLS commission proved to be the resurrection of Gropius's career. He went on to build several classic structures. Most notable among these are "The Spread-Eagled Tower of Milan," the Millard Fillmore Monument in Washington's Anacostia district, and, of course, the world-famous headquarters of the American Proctology Society. It was a happy time both for Gropius and for lovers of great architecture everywhere.

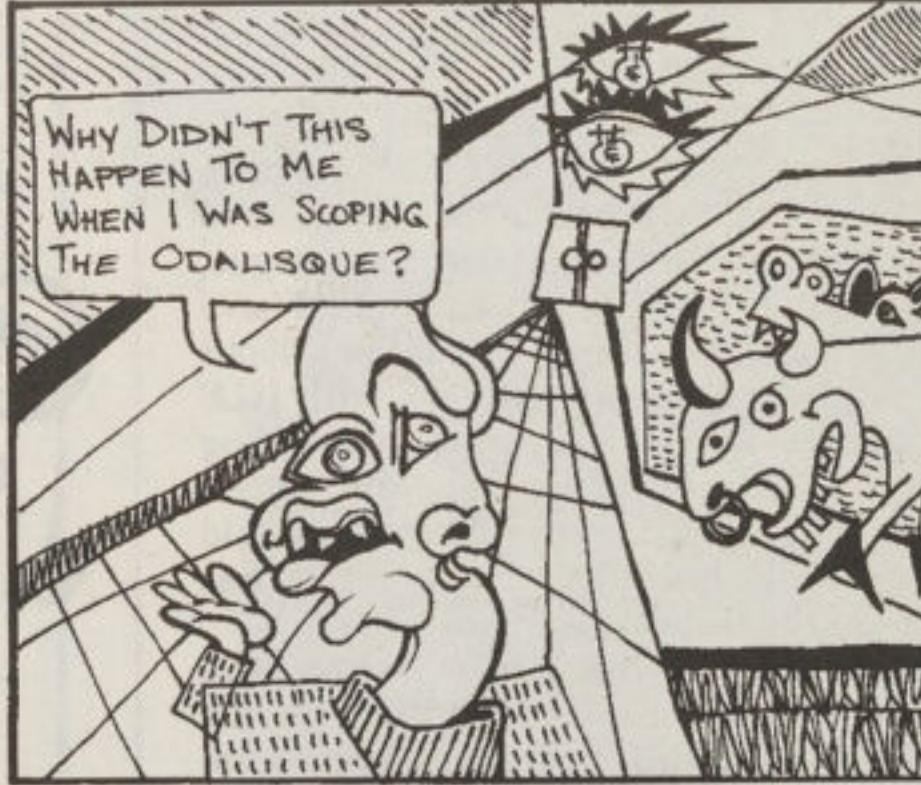
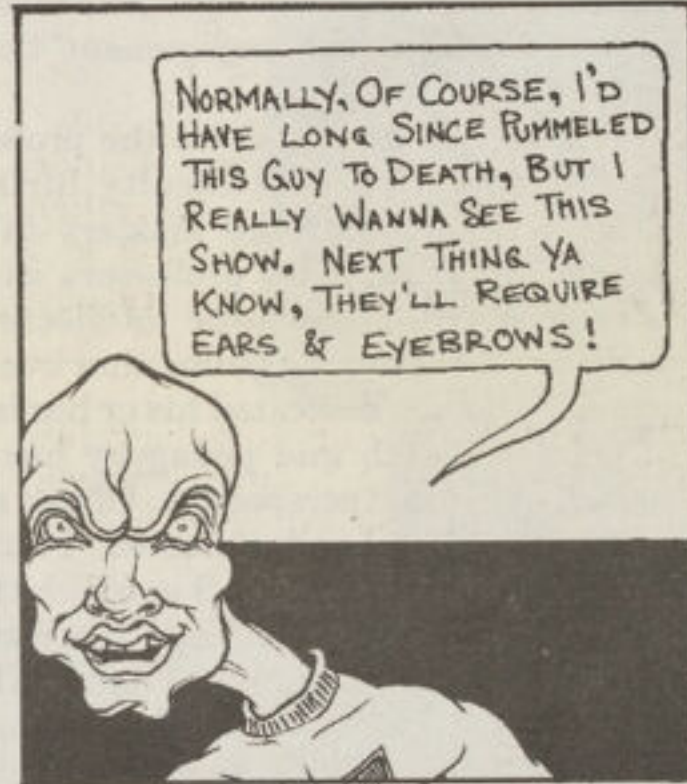
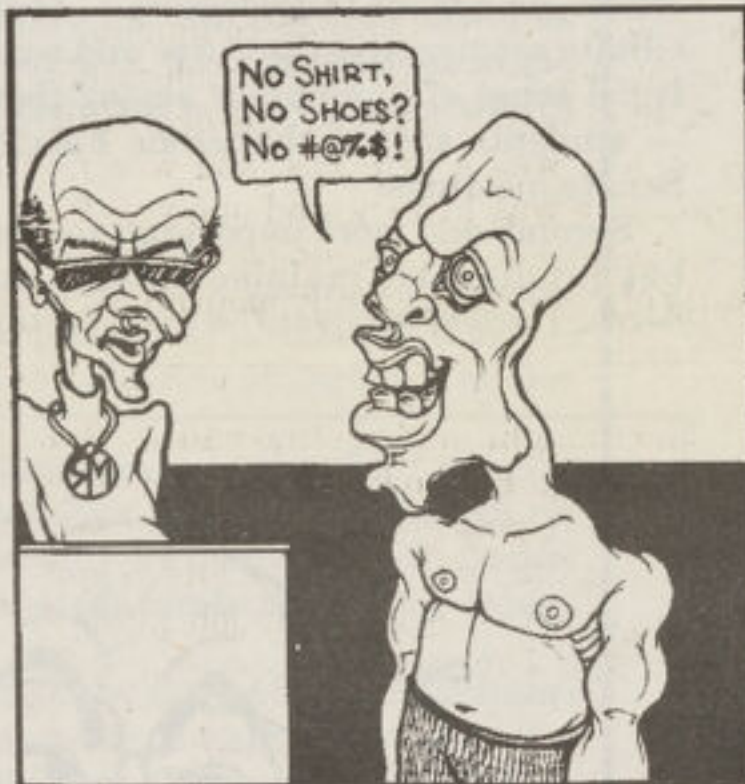
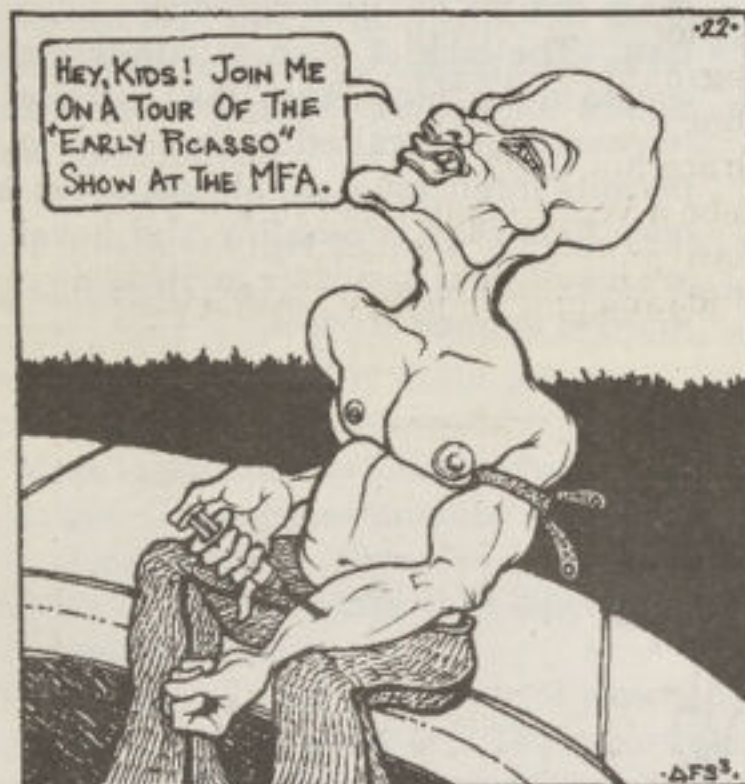
There were, of course, failures as well. We all know Eero Saarinen's St. Louis Gateway Arch, but few now remember Gropius's original plan for the "Gateway Trapezoid." (It was later revealed that Saarinen only won the contract because of a kickback scheme with the St. Louis chapter of the Silly Name Society.) And wherever Walter went, he never escaped the modern-era Philistines who so reviled his work. "Ugly," "uncomfortable," "gloomy," "boring," and "did we mention that it was really damn ugly?" were labels that he was never fully able to escape.

Fortunately for the world, Gropius always kept his head high, his chin straight, and his goose-step jaunty. He never let the critics get him down, and kept designing innovative structures until the very day of his mysterious death. (The police ruled it a "freak boating accident," but many questions are still unanswered.)

So when you go home tonight, as you open the 19,000 locked doors between the entrance and your room, I hope you'll take a moment to reflect on the greatness that surrounds you. The law is fleeting and ephemeral. Great architecture — like a diamond, or a worldwide diamond cartel — is forever.

Reasonable Man Meets Picasso

By Alfred Steiner



Spike

By Margie McWilliams



Get a Job!

Read the RECORD
Career Guide

The Princess Died

By Renée Kaplan
RECORD Staff Columnist

A few words, of course, about Princess Diana. Because really who am I not to memorialize her? She has graced the cover of every weekly magazine every week since her death, each issue complete with special photo inserts, gratuitous "updates" ("Specialists Think Wine That Driver of Di's Car Imbibed Was 1973 Château-Grand-Puy-Lacoste; Good Year"), a slew of mournful reminiscences, and the text of Earl Spencer's eulogy — not to mention the headlined promise of a soon-to-follow commemorative issue (you may call 1-800-blablabla to order...or send a check or money order...) devoted *truly* entirely to Di, sans advertisements or anything but just pictures, pictures, pictures, of grinning, good-girl Di. Diana did have a great job and she had great hair (*nobody*, not Heather Locklear, not Cheryl Tiegs, not even Blair on *The Facts of Life* could beat young Di's ultra-80s ultra-feathered hair), she had a cheesy — though ample — wardrobe, and a cheesy — though royal — husband. She had the expense account of the century, more than her fair share of ski vacations, and enough grace, good manners, and good curves to carry it off as per script and decorum, without seeming as frivolous as Imelda or as old school as her mother-in-law, despite the many, many stupid matching hats.

But how hard is it, really, not to own as many shoes as the Filipino empress, and how hard is it to look young and

attractive when you *are* young and attractive—and wealthy and frequently, professionally groomed? How hard was it, really, to be Di, sweet Di, uncommonly photogenic and trendy Di? No doubt it is hard to be famous and tracked, to suffer the unkindly scrutiny of the limelight, and to suffer constant intrusions of privacy. But Princess Di is not praised for managing her prominence well, for being any better than other famous people at dealing with the rigors of fame. She is praised, by the *Boston Globe* for example, for "both her charity work and her sense of style." She is praised as though these were her own exceptional traits, particular to her person, characteristics that made up her natural, individual whole. Yet they are so dissonant in their quality as to seem absurd and satirical paired together, as to undermine any sense of true merit or exceptionality, as to seem obviously formalistic. And both of those qualities are so directly, so obviously products of her formal circumstances, of the demand of her professional duties, and of the great deal of income at her disposal. It doesn't take much more than press coverage to support a cause, and it doesn't take much more than money to acquire what's in the store windows that season.

Diana's life wasn't actually so polished or fabulous as to be exceptional for little more than the externally polished circumstances in which she lived her extremely normal story. She assumed a sort of fill-in-the-blank role (Charles's personal ad might have read "British prince seeks well-bred woman not altogether unattractive to him, and not altogether unwilling to perhaps be Queen of England"), and her great personal tragedy

seems to have been the difficulty of filling in according to the predetermined manners and measures of that blank (many of us feel the same way about being, say, law students). Pretty girl from good family with divorced parents leads nice life, marries well, has bad marriage, suffers eating disorders, consults psychic, confronts marital infidelity, gets divorce, finds great hair colorist, joins gym and finally triumphs over the typical travails of that generation's innumerable single-mother-divorcées, to find happiness again, or finally, or whatever. Good for her. Diana overcame, and that's nice, but it's nice for anyone really, and rather embarrassingly ordinary. Perhaps that's why she was known as the people's princess.

George Will harshly criticized the oxymoronic notion of a "people's princess" and, on the whole, displayed a squeamish derision for this whole grief thing about Diana's death thing, which he thought revealed more about viewers' general emotional vacuity than about Diana's significance. Mr. Will is an insightful man, with clearly expressed and most withering views, but he overlooks the essential key to the Di grief thing: the overwhelming banality of her personal life and her person, the Chaka Khan and Elton John side of Diana, her pop-ish commonality and mainstream nature that made us not hate her even though she was beautiful. Sure, she was a princess, she was famous, she was history, and she was for the most part a total stranger to the majority of masses apparently mourning her



— but she really was also every woman, as much as any woman might struggle with her weight, not like her job, be trapped in a bad marriage, suffer through public scenes, and spill it all on Oprah or Ricki if she gets the chance. Diana was a candle in the wind,

England's rose, cheesy, accessible, sentimental, confessional, unthreatening, likable.

The grief over Princess Diana's death is more basic and human, more ugly. Death is ugly and unexpected, and violent death is even uglier and more painful. No one deserves to die, but somehow the injustice seems all the more brutal and incomprehensible — the victim seems to have deserved especially to live — when she was young, personable and innocent of her circumstances. This exaggerated glorification of Diana's life, this hyperbolic and gushing eulogy to the princess role she simply stepped into actually avoids asking the much uglier and unanswerable question of why anyone who seems so undeserving has to die. Ultimately, I think, the lessons to draw from Lady Di's death are few and simple: take a taxi home from the Ritz after dinner or avoid the place altogether; avoid having a Hermès or Dior bag named after you (seems to have done a horrible bit of no good for both Grace and Di); and never ever agree to be a Versace muse, because it's two down and two to go for that whole clan. Madonna and Courtney Love beware.

Fenno

Fenno awoke with a pounding headache. Clouded visions of kamikazes, gin and tonics, and a punchy waiter named Rita bounced around in her head. Another night like that at Grendel's, and they were going to have to reserve a permanent barstool for her liver.

Fenno was in the dumps. The job with Sullivan and Cromwell was lost and Fenno's reputation was tarnished by the vicious lies that were being spread: that Fenno had flirted with the spouse of an S & C partner; that Fenno couldn't hack the fast lane; that Fenno had a fetish for flying first class.

But the rumor that hurt the most was that Fenno, the venerable HLS icon of good humor and taste, had become irrelevant. Fenno overheard snotty 3Ls snickering about "the artist formerly known as Fenno."

I'll show them, Fenno thought. Raise the ladder and then crush them all, Fenno thought. Just like Chip Nierlich.

But, standing over the copy machine in Pound running off 1L Section Rep. campaign flyers at the bargain rate of five cents, Fenno came to her senses.

What the hell am I doing, Fenno thought. I don't care to embezzle funds (too complicated) or sit on the Library Rare Collections Endust Committee (too boring) or stoop to writing a regular column in the RECORD (too demeaning).

No, Fenno was going to do the noble thing. Fenno would follow Tolstoy's sage advice: just try getting a job with a different law firm, stupid.

Fenno walked up the Pound staircase. (The elevator was too close to Health Services, and ever since the crabs incident Fenno avoided that place like Larry Tribe avoided the produce section.)

First floor: bright orange block letters. Second floor: lime green. Third floor:

mustard yellow. Fenno passed many fictional characters that hadn't been seen since the '70s: Marcia Brady walked by in a short-cut Polly-Ester's T-shirt; Arnold Horschack with teased hair; Chrissie Jolls in curls.

Fenno slithered past the Public Interest Office. On the outside of the door frame Fenno noticed the geographic report of HLS grads working in public interest jobs. There were multi-colored pins gathered around New York and Southern California and a few scattered across the map. And one big clump sat right below Miami.

"Send my regards to Havana, pinko bastards," Fenno muttered. Then Fenno thought of the embargo and the exchange rate and bombed-out markets and smiled.

She peaked inside the office, hoping to get a view of the poor, huddled masses. Maybe I'll see something really seedy, like a drug deal or something, Fenno thought. But Fenno saw nothing.

Fenno drifted down the hall into the Career Services office.

"Hello, darling," the woman at the front desk smiled in Fenno's direction.

"Where is this year's employer directory?" Fenno said bluntly.

"They're over in the back room, sweetheart. But what's your hurry? Stop and chat a while."

Fenno marched into the back, wading through a frenzied crowd of 2Ls swarming the desk in an attempt to grab their copy. It looked a little like the HLSFL flag football league, except no punches were thrown.

Fenno could hear the inane chatter like schoolchildren reading their older siblings' diaries. The information was juicy, unknown, often titillating.

"Jones, Day, Evenings and Weekends now pays \$82,000 — in Cleveland!" one of them said.

"Sidley and Austin has two openly heterosexual associates!" said another.

"Skadden gives twelve and a half weeks maternity leave," Fenno yelled, and listened as the pages quickly turned.

It was then that Fenno realized that each, in his own way, had found his Bible.

The thought made Fenno pause. But not for long. Fenno knocked a couple of 2Ls down to get closer to the table.

"I hear the Public Interest Office just issued the errata for their job guide," Fenno said loudly above the crowd.

Two-Ls stampeded out of the office, one of them running so hard that he tripped and landed face first against the side of the table. A two-inch splinter of wood protruded out of the bridge of his nose.

But Fenno noticed the poor clod's red book had opened to the exact page that held the scoop on Cravath, Swine & More, the New York firm that led the magical island of Manhattan in associate pay and per capita Pinot Noir consumption.

The student looked dazed but unharmed, and laid, semi-conscious, groping the page and laughing — hysterically laughing!

"Lucky klutz," Fenno said under her breath.

"Today must be your birthday."

Quote of the Week

**"F * * * ing birds!
I want to shoot
you all."**

— Construction worker
outside of Langdell,
another victim of an
accurate avian.

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THESE HALLOWED HALLS

Crimson Culture

By Kate Arms '97

Guest Columnist



The resources of Harvard University outside the Law School provide me with many of my happiest hours in Cambridge. I was saddened at the end of my first year to learn that many of the 2Ls and 3Ls I knew had never ventured into any of the buildings in Harvard Yard. Since then, I have been learning more and more about what is available to me if I leave the law school campus in search of the rest of Harvard. Most important to me have been the cultural events taking place all year long. I hope to use this column to share some of what I have found.

The semester is just getting started, so many of the student-run organizations will not be performing for some time, but the art museums and the Film Archive are fully active. First, a little taste of what will be coming to campus this semester. And then, a look at what is already here.

One of the great performance spaces on campus is Sanders Theatre. Not only is the space itself an elegant, intimate space, but the range of performances in the space is tremendous. This semester's calendar includes the Boston Philharmonic; the Boston Chamber Music Society; the Bulgarian Women's Choir with the Throat Singers of Tuva; Ondekoza, the demon drummers from Japan; The Back Bay Chorale performing Carmina Burana; and concerts by many of the Harvard-Radcliffe musical groups. The schedule is available on the web at www.fas.harvard.edu/~memhall.

Some of the Sanders Theatre shows cost more than a student budget can usually afford. If you need cheaper fare, watch for student-produced theater occurring all over campus. Once the season gets under way in October, there will be something to see for less than \$5 a ticket every weekend. What we can expect this semester includes *Macbeth* and *Angels in America* on the mainstage at the Loeb Drama Center and *The Mikado* at the Agassiz Theater in Radcliffe Yard. And, of course, there will be our own HLS Drama Society.

So, that's a taste of what's coming. Next, a look at what is already here. There is always something playing at the Harvard Film Archive — often films which cannot be seen elsewhere. This weekend, September 19-20, for instance, there are four films by Abbas Kiarostami, one of Iran's foremost directors. Kiarostami himself will be at the screenings. His most recent film, *The Taste of Cherries*, shared the Palm D'Or at the Cannes Film Festival this year. This is a rare opportunity to see these films. Next week features the classic films *Battleship Potemkin* and *Metropolis*.

But, if all this seems too elitist, Tuesday, September 23 features the sci-fi cult film *Blade Runner*. Tickets are \$5 for students and show times vary. The detailed schedule can be found at the Film Archive, downstairs in the Carpenter Center for the Visual Arts on Quincy Street.

Also on Quincy Street is the Fogg Art Museum. The Fogg functions as a teaching museum and has ongoing exhibits covering art history as well as special exhibits with more focused coverage. Entrance is free with a Harvard ID. Special exhibits this semester include images of Rome and New York, African sculpture, and Greek vases.

About Face: Artist's Portraits in Photography will be at the Fogg until October 19. It is a small exhibit — just two rooms — and well worth a visit. Although photographic portraits by artists are the focus of the exhibit, many of the works in this specific exhibit are actually portraits of artists, including portraits of Max Engst, Jean Cocteau, Jasper Johns, James McNeill Whistler, and George Frederick Watts, as well as self-portraits of Marcel DuChamp, Edgar Degas, Joseph Beuys, and Kiki Smith.

The exhibit opens with a quote from Roland Barthes inviting the visitor to reflect upon the relationship between the artist and the sitter, mediated by the lenses of the camera. The questions of identity and relationship provoked by the exhibit are doubly intriguing when the photographer and the photographed have a relationship which is known to the viewer. There is information on both the artist and the sitter for most of the portraits in the exhibit.

Arranged in chronological order, the exhibit leads the viewer through the history of portraiture from early daguerreotypes to contemporary work.

The historical development proceeds from simple re-creation of painted portraits in the grand style of old wealthy families to works which use the special nature of photography to pose questions of identity.

A remarkable moment in the exhibit is the self-portrait of Edgar Degas taken in the 1870s. The use of prolonged exposure creates a gleaming, almost sinister face reaching out from the darkness of the picture. This is balanced by a ghostly hand in the lower foreground holding him within the frame. The intensity of the portrait reveals a complexity in the man which is not always clear from the painted and sculpted ballet dancers for whom he is famous. Coming as it does in the midst of a series of posed but otherwise naturalistic pictures, this self-portrait reveals the lies the camera can tell.

The second room is full of portraits which raise more questions than they answer, starting with Nicholas Nixon's close-ups of parts of his body — his eyes, his palm, his nose, and mouth. These manage to evoke one specific personality and the universality of humanity by focusing on a single feature without revealing the complete person beyond the frame.

Joseph Beuys' *3-Ton Edition* is composed of images of himself taken by other people but painted on by himself. These pose questions about the artist's relation to himself and to other artists while at the same time asking what a self-portrait is.

This exhibit is a good introduction to the Harvard art museums. A fun trip is to see this exhibit and then go upstairs to the ongoing exhibits, looking to see which of the artists portrayed in *About Face* have works on display.

Living to Eat

Grill to Order Sparks Up the Square



By Judson Berkey '98

Entertainment Editor

The latest addition to Harvard Square's eclectic group of restaurants is probably the most unique. Fire+Ice, billing itself as an improvisational grill, serves what is known elsewhere as Mongolian Barbecue. Before you allow this description to scare you away with visions of bizarre ingredients and unknown flavors, rest assured that this is actually a finicky eater's dream come true. In fact, Fire+Ice is the restaurant for the creative that is capable of re-igniting a culinary imagination dulled by routine monotony.

The basic concept works as follows. The center of the restaurant contains a circular metal grill eight feet in diameter. This sizzling and steaming cylinder is attended by four chefs who cook right in front of the diner's eyes. Where does the food come from? That is the fun and exciting part of this concept. Diners create their own meals out of the meats, vegetables, and sauces provided at three different stations which surround the grill in a broad semicircle.

Indeed, at Fire+Ice the diner is allowed to become a true artist. Given a white plastic pallet, one fills a large ceramic bowl with any combination of meats and vegetables desired. Proceeding to the sauces, one fills a smaller bowl with as much or as little of any of several sauces. After this, choose your favorite chef, strike up a conversation with a neighbor while hanging out around the grill, and in just a few minutes your cooked-to-order meal is ready. This is fun and healthy food which puts the diner in control. What could be more satisfying than that?

Fire+Ice changes the ingredients available daily to reflect what is in-season and what was bought fresh that day. On one night, the vegetable station contained bell peppers, onions, broccoli, cauliflower, sliced carrots, button mushrooms, portabella mushrooms, zucchini, yellow squash, and tofu. The meat station contained white and dark meat chicken, turkey, pork, sirloin tips, beef, shrimp, swordfish, scallops, and calamari. Diners are free to mix and match these foods with reckless abandon, creating whatever bizarre combination that satisfies their most secret food desire.

Feeling a bit like a carnivore? Fill your bowl with three kinds of red meat. Just come in from the Cape? Make your own mixed seafood grill. Missed your veggies yesterday? Go for an all vegetarian bowl (the grill actually contains a specially marked section for grilling all vegetarian dishes so they don't get mixed with any meats). As one diner put it, "This is Kramer's make-your-own-pizza concept realized, except without the cucumbers." One never knows though — next time the vegetable station just may contain those missing cukes.

The sauce station is where things really get fun. The menu lists eleven different sauces that may be available on any one day. These sauces range all around the world in style and flavor, covering tastes from sweet to sour, spicy to savory. Among those available one night were a zesty Asian Garlic-Ginger, a spicy Ancho Chile, a rich Mango Black Bean, a thick Jamaican Jerk, and a clas-

The sauce station is where things really get fun.

sically balanced Teriyaki. One should not get one's heart set on any particular sauce when looking over the menu at the table, however, as they do change daily. On our night, one diner suffered disappointment that the sauce station did not contain the signature Fire+Ice Caribbean BBQ sauce. However, there was still enough of a selection to satisfy most any desire.

Although not really recommended, mixing sauces is a possibility and can turn out to be a surprising success. One diner mixed the Black Bean and Jamaican Jerk to create a rich sauce with some kick that lacked the typical pasty feel of a black bean sauce. Grilled over a combination of beef, broccoli, onions and peppers, it was a real winner. However, keeping things simple is probably the best bet. The cool part about Fire+Ice is that if you can take the white hot pressure of making such choices, no one is going to stop you.

The other great thing about Fire+Ice is that at both lunch and dinner one price buys an unlimited number of trips to the grill. For a flat \$7.75 lunch and \$13.75 dinner, one can have as many bowls filled with as many combinations as one likes. Thus, it really is advisable to keep things simple and not overload on the first trip. Once the imagination gets rolling, there will be more combinations you will want to try than can actually be eaten at any one sitting.

In order to spark the imagination initially, Fire+Ice provides signature postcards at the table which contain suggested combinations, such as sweet and sour shrimp with peppers and water chestnuts or mixed vegetables with black bean sauce and sprouts. The meal also comes with bowls of warm tortillas and rice which are delivered to the table and over which the grilled mix can be served.

The price of the meal also includes a salad bar which is stocked with three different salads — mixed greens, tomato and blue cheese, and caesar. The salad bar also contains a rather chewy focaccia which is probably not worth wasting your time on. After all, the action is at the grill.

The space at Fire+Ice reflects the fun and creative flair of the restaurant. With an entrance next to Brew Moon on Church Street, the restaurant actually extends down below the office building in which Brew Moon sits. Done in an avant-garde style with a kaleidoscope of colors, the decor begins to spark the imagination from the very first footsteps inside the restaurant. Three seating areas extend out from the circular grill like spokes around the hub of a wheel.

One of these is a nice little outdoor brick patio which one would never expect to find anywhere in the Square. The patio, containing plantings of bamboo and fir trees and bounded on one side by a corrugated metal wall, really reflects the cross-cultural spirit of Fire+Ice. This truly is a world restaurant with accents taken from Asia, Latin American, and the Caribbean. You can hardly go wrong here, and if you do then there is no one to blame but yourself. After all, if you can't take the heat, you better avoid Fire+Ice.

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The Vanishing Jewish Lawyer

Will the Assimilation of Jews Affect the Social Conscience of the Legal Profession?

By Alan M. Dershowitz

Why are there so many Jewish lawyers? Why not? Do you have a problem with that? Jews are quarrelsome people. Even God called us stiff-necked. We argue with everybody. And why shouldn't we, considering our heritage? In Genesis 17, God selects Abraham to become the father of his people, and by Genesis 18 Abraham is already arguing with God over God's plan to destroy the evil city of Sodom. "Far be it from you ... to kill the righteous with the wicked," Abraham challenges God, displaying characteristic Jewish chutzpah and becoming the first lawyer in recorded history.

Our Torah commands us to pursue justice. Our Talmud is the first preserved record of legal arguments. Even our jokes reflect our contentiousness, as in the one about the Jew who was finally rescued from a desert island after ten years of solitude. The rescuers notice that he has built two synagogues. When they ask why, he replies, "That one I pray in; the other one I don't get along with."

In light of this long tradition of contentiousness, it is not surprising that today's Jews — who make up 2 percent of the population of the United States and a fraction of a percent worldwide — have become a dominant force in the legal profession.

There are no reliable statistics on precisely how many Jewish lawyers practice in the United States, though some observers say the figure might exceed 20 percent of the total. Indeed, there is even a dispute — not surprisingly, among Jewish law professors — over exactly who qualifies as a Jewish lawyer.

Is "Jonathan Goldberg" — whose father is Jewish but whose mother is not and who never attends religious services but who considers himself Jewish — a Jew? Is that same "Jonathan Goldberg" — who graduated from law school, passed the bar, but now works as an investment banker — even a lawyer?

In one respect, of course, anyone named Dershowitz or Goldberg who graduated from law school is a Jewish lawyer. Back in the first quarter of this century, when Jews began to attend law school in significant numbers, the established bar knew who was a Jew and tried desperately to keep them from becoming lawyers.

The elite of the bar might have had difficulty defining a Jewish lawyer, but they certainly knew one when they saw one. Columbia Law School dean Harlan F. Stone described us as exhibiting "racial tendencies toward study by memorization." Others wrote of "Jewy" attitudes and Jewish "acquisitive tendencies."

According to Jerold S. Auerbach's book, "Unequal Justice," local bar associations conducted discriminatory "character" exams, designed for the explicit purpose of keeping Jews and other undesirables out of the legal profession. Consequently, during the 1920s and early 1930s, the number of Jewish lawyers admitted to practice went down precipitously.

Many law schools cooperated as well, establishing Jewish quotas, accepting the established practices of the elite law firms' refusal to hire Jewish graduates, and steering their own Jewish graduates to the Jewish law firms that had emerged in response to this discrimination.

Even as late as the 1960s, when I graduated from Yale Law School, apartheid was alive and well in many big city law firms. During my second year at Yale, I was first in my class, editor in chief of the law journal, and on my way to a Supreme Court clerkship. I applied to more than 25 law firms for a summer job, but I was turned down by every one of the WASP firms and ended up working in a Jewish firm.

By the mid-1960s the barriers against Jewish lawyers crumbled, and by the 1980s Jews had become members of most of the major law firms that had previously been restricted. Jews had moved from pariahs to partners in one generation.

Today there are no barriers to Jewish lawyers. Without trying to count the numbers with any precision, it is fair to say that there are more Jews, in proportion to their numbers in the general population, in positions of power in the legal profession than any other group.

In light of the history of Jewish victimization, it is not surprising that Jewish lawyers have long been among the leaders in the civil rights movement, in the quest for international human rights, in the women's movement, in gay rights, in environmental protection, and in the provision of legal aid to indigents. But Jews are also active in conservative legal causes, such as the Federalist Society.

We have become the legal establishment while also remaining its dissidents. But as quickly as Jewish lawyers moved from second- to first-class status in the legal profession, we may vanish altogether from the American legal scene. This is because American Jews as a whole — at least those kinds of American Jews who become lawyers — are beginning a decline that may bring a virtual end to the Jewish presence in the country by the middle of the coming century.

The statistics are daunting. We were 4 percent of the U.S. population in 1937. We are 2 percent today, and we are shrinking rapidly. We have lower birth rates, higher intermarriage rates, and a higher level of assimilation than ever before.

When I was a youngster, nobody wanted to marry a Jew. Today everyone wants to marry a Jew — except, apparently, other Jews. When Jews were persecuted, discriminated against, and marginalized, they tended to circle the wagons and stick together.

Today, Jews live in what I call "the post-persecution era of Jewish history." We do not feel the need for religious or ethnic cohesiveness as much as we did when we were ostracized. Today's Jewish lawyers live among non-Jews, go to school with non-Jews, work with non-Jews, and, not surprisingly, often marry non-Jews and raise their children and grandchildren as non-Jews. The primary cause of our assimilation today is not hate, as it was in prior generations, but rather love. And it is difficult and futile to fight against love.

The bottom line, therefore, is that the number and percentage of Jewish lawyers by the second half of the next century will be considerably lower than the number and percentage now.

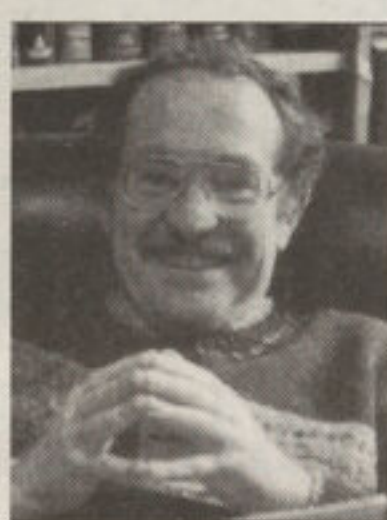
There can be little doubt that the influx of Jews into the legal mainstream over the past 30 years has changed the nature of law practice. Competition increased, the practice became less conservative, and the integration of other excluded groups — women, Hispanics, people who are openly gay — moved more quickly once Jews entered the profession.

Some critics argue that law has become more of a "business" and less of a "learned profession" since the days of a legal apartheid. I believe these changes have been largely for the better because they have made things more honest. After all, the practice of law is a business as well as a profession.

It does not follow, of course, that the diminution in the number and percentage of Jewish lawyers during the next century will have a comparable impact. That will depend on several complex factors.

First, is there a uniquely Jewish way of being a lawyer? In his essay "Identifying the Jewish Lawyer," Sanford Levinson makes an intriguing analogy between law and baseball. He asks whether Sandy Koufax, the great Brooklyn (and, to my everlasting regret, Los Angeles) Dodger was a "Jewish ballplayer."

Levinson says: "It is crucial to recognize the limited nature of Koufax's status as a Jewish pitcher. That identity comes from his refusal to pitch on Yom Kippur. Yet what about those days he did pitch?



Could anyone looking at his behavior as a pitcher — the choice of pitches, his particular pitching 'style' — argue that this had anything to do with his being Jewish?"

But being a lawyer is different from being a pitcher. For me, my Jewish heritage greatly influences my life. I think Jewishly. I teach and practice law. My family life is Jewish and my politics are Jewishly inspired. Even my agnosticism is Jewish, since the God whose existence I wonder about is the Jewish God.

When I confront a personal or professional problem, I consult Jewish sources as well as contemporary American sources. I do not feel compelled to obey the Jewish answers, but I consult the Jewish sources because I value their wisdom. They provide a world view that reflects an ancient tradition of which I am a part.

Just as there is no one way of being a Jew, there is no one way of practicing law Jewishly. But just as there is a common core of being a Jew, there is a common core of being a Jewish lawyer. The bigots of the bar associated Jewish lawyers with greed, aggressiveness, and shoddy ethics. In fact, Jewish lawyers have been involved disproportionately in pro bono representation, cause-oriented litigation, government service, human rights, and civil rights work, constitutional protection, and other public interest activities. Among the concepts that have characterized many Jewish lawyers have been "thou shall not stand idly by," "repair the world," "compassion for the downtrodden," and the difficult search for justice.

A June issue of The New York Times Magazine had an article about John Rosenberg, a Jewish immigrant from Nazi Germany, who made his life in the most un-Jewish of places — rural Kentucky — trying to bring justice to the poor. Although the title of the piece, "What Is a Nice Jewish Lawyer Like John Rosenberg Doing in Appalachia?" tried to make this unusual, it is not.

This does not mean, of course, that non-Jews cannot arrive at the same point by consulting Christian sources, or that Jews make better lawyers than non-Jews. It does suggest that we are all the products of our experiences, personal and historical, and that these experiences may inform the manner in which we practice our profession and live our lives. I know that I chose to become a criminal defense lawyer at least in part because I am Jewish. I was taught from the earliest age that Jews must always remember that they were persecuted, and that we must stand up for those who now face persecution. I recall vividly a class in Talmud in which I learned that a Jewish Sanhedrin that had imposed the death penalty by a unanimous vote could not carry out the sentence, since unanimity meant that the accused did not have a zealous advocate presenting his arguments within the tribunal.

I believe that many other Jewish lawyers are influenced by their Jewish heri-

tage in the way they practice law, teach law, or judge. So the dwindling of Jewish lawyers during the next century may well have a profound impact on the general practice of law in America, and on the social conscience of the law in particular.

But it is also possible that the Jewish influence on the law has become so pervasive that it will continue even in the absence of large numbers of Jewish lawyers.

The influence of Jewish lawyers has become an important part of the American legal system. The privilege against self-incrimination, the idea that it is better that ten guilty go free than one innocent be confined, the concept of equal protection for all, and the idea of proportionality between a crime and its punishment all have roots in Jewish law. Even without the continuing presence of Jewish lawyers to nurture this influence, it is likely to continue.

Moreover there will still be many lawyers — indeed even more than there are today — who reflect a partial Jewish heritage. There is every reason to believe that lawyers of partial Jewish heritage will continue to practice law in a somewhat Jewish manner, even as they go into synagogues less often or identify less with an exclusively Jewish heritage.

Tomorrow's Jewish lawyers who are children of the high, mighty, and wealthy, may act like other children of the high, mighty, and wealthy. Experience does not suggest that this will happen though. As one sociologist put it, "Jews love like Episcopalians but vote like Puerto Ricans." The recent referendum on Proposition 209 in California confirms this, where a significant majority of Jewish Californians — many of whom have been disadvantaged by race-based affirmative action — voted to preserve such programs.

The Talmud teaches that since the destruction of the second Temple in Jerusalem, prophecy has been limited to fools. I hope that the Jewish legacy in law will persist, but there are no guarantees. An America without Jews will be a less exciting, innovative, progressive, compassionate place. (Just as an America without blacks, Hispanics, gays, women, Asians, Greeks, Irish, Italians, and — hard as it is to imagine — WASPs, would be a less interesting place.)

It may be difficult to remember the days during the first part of this century when there were more Jewish athletes and gangsters than lawyers and journalists. As Ecclesiastes said, "To everything there is a season." Perhaps we will soon witness the end of the brief Jewish season in the American courtroom and law firm. We have left our mark. We will continue to leave a mark, but we will be different and the mark we leave will be different. That has always been the nature of Jewish life, wherever we have lived. But just as an America with far fewer Jews will be a less creative and compassionate place, an American legal profession with far fewer Jewish lawyers will be a less creative and compassionate profession.

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