



Suited-up students await interviews at the Charles Hotel

Law School Council Election Cancelled

2L, 3L Positions to be Appointed

By Alyssa Caples

Because of a lack of candidates, Law School Council elections scheduled for Sept. 30 and Oct. 1 were not held for 2L and 3L representatives. All of the 2L and 3L candidates who filed papers were automatically elected.

Apathy was highest among the 2Ls, where only six candidates ran for the nine spots. In the 3L class, the nine spots on the council were filled with the only nine candidates running.

Elections were held for 12 1L

positions — eight section representatives and four at-large representatives. The 1L races were all contested except for section three, where there were two candidates for two positions.

Many were disappointed by the lack of candidates.

"I really think it's sad that there's so little interest in student government. On the other hand, everyone is so pressed for time," said Melanie Schneck '99.

The elections had been scheduled for the week of September 22, but were postponed

Please see LSC, p. 5

Students at HLS Legal Aid Bureau Thwart Thief

By Janie Kim

Tuesday, Oct. 7, Kevin Harrington '99 and Warren Leonard '99, both members of the Legal Aid Bureau, helped apprehend a fleeing thief who had stolen a 3L's wallet and money from Gannett House.

At around 2:30 p.m., Nicholas Hallas, age 37, of 784 Mass. Ave., Boston, entered the Legal Aid Bureau offices in Gannett House and asked the 3L for information about the Law School, according to Harvard University Police Department spokesperson Peggy McNamara.

After stepping momentarily out of the room, the student returned to find her bag open, her wallet missing, and Hallas nowhere in sight. "[The 3L] started yelling that this man had taken her money," said Leonard. "We all ran outside and saw this figure moving across Cambridge Common."

Leonard and Harrington promptly started after the suspect.

"I just saw the guy and thought I could catch him," said Harrington, who chased Hallas while dressed in an interview suit and dress shoes.

The chase lasted "a few min-

utes," according to Harrington and ended towards the Garden St. boundary of the park.

When they caught up to him, "Kevin grabbed him from be-

Three pedestrians intercepted Hallas's second attempted getaway, he said.

"They really pounced on him," said Leonard. "One guy had him in this wrestler's hold."

Both the Cambridge and Harvard University police departments responded to the incident. The HUPD took Hallas into custody.

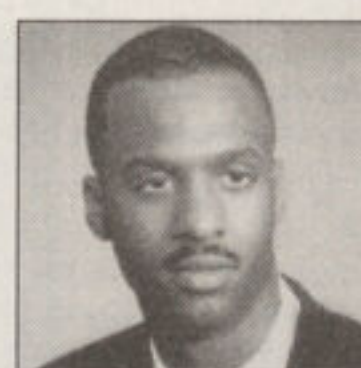
Hallas was arraigned on Oct. 8 and charged with one count

of larceny in a building.

"I'd never seen [Hallas] before," said Harrington, "but there wasn't any reason to suspect anyone. We have lots of clients going through here who aren't students."

The doors to Gannett House are generally not locked during business hours, said Harrington.

"Because of the valiant efforts of Kevin and Warren, the student recovered her money and the police got their man," said Tonya Robinson '98 of the Legal Aid Bureau. "They're heroes and still made it to their interviews on time."



Kevin Harrington '99



Warren Leonard '99

hind. I was pretty upset and was yelling at him to give back the money," said Leonard.

Hallas had thrown the wallet into a bush and was pleading to be released, said Harrington.

"He offered us \$20 to let him go," said Leonard.

"He didn't want us to get the police," said Harrington. "And he kept throwing us more and more money."

While en route back to Gannett House to ensure that all the 3L's money would be recovered, the suspect "started taking off," according to Leonard.

Recycled Paper Plan Remains Stalled

By Suzanne Carter

Despite Dean Clark's '72 statement to students last month that HLS was utilizing recycled paper at the Distribution Center and in Law School copy machines, the recycling plan has yet to be instituted.

HLS staff members are perplexed by the plan's failure, which apparently was caused by poor communication.

"We were really surprised that [recycling] wasn't in effect," said Frank Lamentea, Director of Building Operations.

"This was ... a case of communication failure and just that [Harvard Printing and Publications Services (HPPS)] didn't get their act together," Lamentea said.

Dean Clark's spokesman, Mike Chmura, said that the recycling issue was not important enough to warrant comment by the administration.

"Do you want to get quotes based on every little story or do you want to get quotes on things that matter?" said Chmura, the director of the HLS News Office.

In September, Dean Clark wrote a letter responding to student concerns, including recycling at the School. The letter was distributed to student Hark boxes.

Among the issues Clark addressed was the lack of recycled

paper in the Distribution Center and the HLS copy machines. Clark promised that most HLS course materials would be printed on recycled paper.

But, as of early September, when the majority of course materials were printed, employees at the Distribution Center had no knowledge of the recycling plan.

Early this week, Christian

Please see RECYCLING, p. 5

Dr. Kevorkian's Attorney Defends Right to Die

By Keith Johnson

Dr. Jack Kevorkian's attorney, Geoffrey Fieger, denounced the Supreme Court, the American Medical Association, Prof. Laurence Tribe '66 and his audience in an Oct. 3 speech in Pound Hall. Kevorkian, a Michigan physician, has assisted in the suicides of a number of terminally ill individuals.

Fieger blasted the Supreme Court as "nine numbskulls [who] have my utter disrespect because of their moral bankruptcy." Fieger was particularly critical of Justice Clarence Thomas, whom he referred to as a "snake."

In *Vacco v. Quill*, 117 S. Ct. 2293 (1997), decided this past summer, the Supreme Court declined to recognize a constitutional right to die. Fieger said that Tribe, who represented Quill, made "the most sniveling, ridiculous constitutional argument that I have ever heard in my entire life ... that there is a constitutional right [to die], but it only envisions people who are six months terminally ill. Ha!"

Fieger pointed to this limitation as well as other "hoops that

nobody who came up with the Constitution ever thought of [as] literally the theory of some lunatic statutory scheme."

"You can't argue that," he said. "That's stupid."

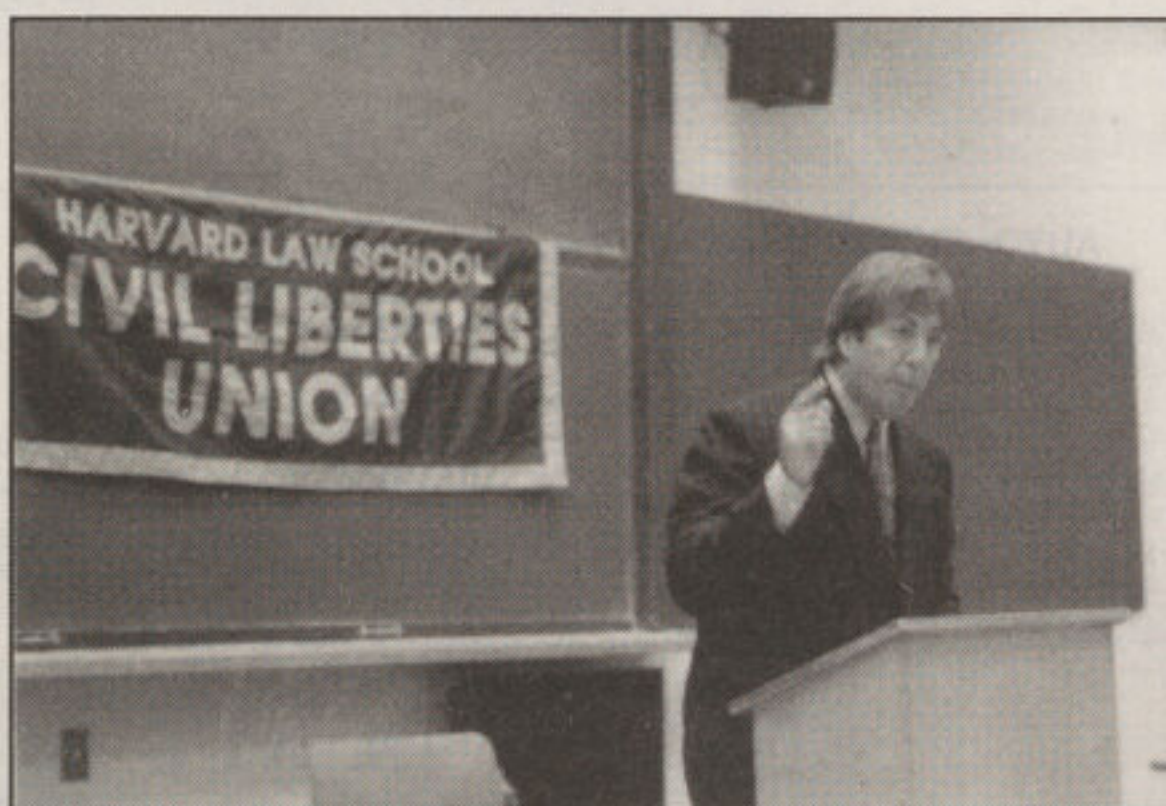
"There isn't a medical school in this country that could teach anybody to determine if anybody is six minutes, six months, or six years terminally ill, but you've got one of your law professors going up to the Supreme Court to argue this," said Fieger.

Fieger later asked, "Is Tribe

here even? No. You think the guy would want to learn from the person who has done this for the past seven years." Tribe was teaching his Constitutional Law class during part of Fieger's talk.

Fieger continued, "Of course [Tribe] lost nine to nothing because he didn't have the guts to say, 'To hell with you, you will never tell any of us what to do with our bodies. I don't have to

Please see KEVORKIAN, p. 6



Geoffrey Fieger discusses "civil rights issue of our generation"

INSIDE THIS ISSUE

Booming Job Market	3
Ames Semifinal Preview	3
Kennedy & Bellow: The Series Continues	9
LaPucki's Credit Woes	15

Also:
Movie Review, Comics, the 2L Experience, and, of course, Fenno.

44 Years Ago in the RECORD

The Harvard Law School Record

VOL. 17 NO. 2

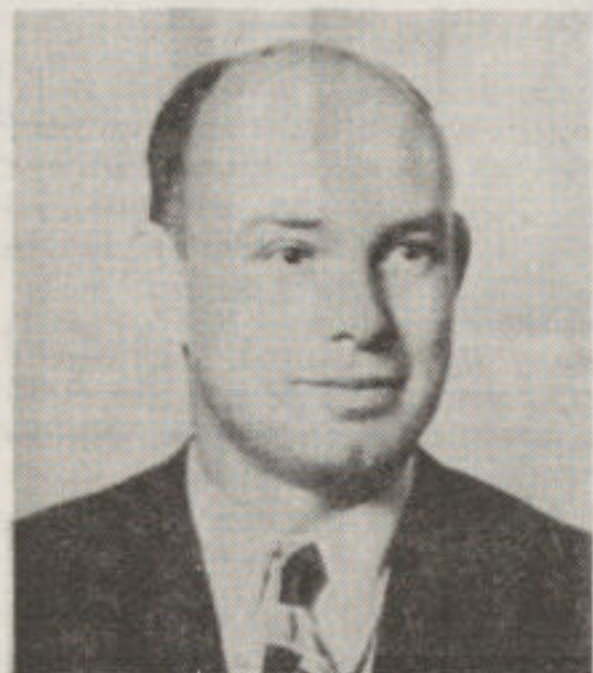
CAMBRIDGE, MASS., THURSDAY, OCTOBER 8, 1953

PRICE TEN CENTS

Toepfer Releases Statistics; Reveals 1952 Job Breakdown

The following article is a slightly revised version of the Report of the Placement Activities of the Harvard Law School, from the period June 1, 1952 to June 1, 1953. The report was prepared by Assistant Dean Louis A. Toepfer.

The various appendices to the report



Louis A. Toepfer

"Defenders" Seek Second Year Men

New members of the Harvard Voluntary Defenders will be selected from among those present at a meeting in Langdell South Middle at 4:30 today. The Defenders, which operated during the summer months for the first time this year, will select 13 men from the second-year class interested in the Voluntary Defenders. President Charles Weiss, 3L of Philadelphia, will explain the operations of the group and answer questions. Secretary Jack Copper, 3L of Philadelphia, will tell of some typical cases and will read the facts of a sample case on which each prospective member will be expected to write a memorandum as a sample to be judged by the group's membership committee.

Grades Secondary

Those who hand in satisfactory memoranda will be given personal interviews and the new members will be announced about Nov. 1. Weiss and Cooper stress the point that interest and ability in fact analysis are the primary qualities the group is seeking and that grades will be consulted only for border-line cases.

Secretary Cooper, reporting on the first summer operations in the history of

(See DEFENDERS on page four)

covering a list of business and legal offices from whom interviews were scheduled, a complete picture of the location and type of opportunity taken by the graduates of the class of 1952, copies of information prepared for distribution to third-year students, and samples of each type of form used by the Placement Office during the reported year, are omitted. A complete copy of the report and appendices may be examined at the Placement Office at 23 Everett Street.

—Ed.

During the year following June 1, 1952 the volume of placement activity reached a new high. Before the year was up, virtually all of the 1952 class reported success in locating employment. Of the 438 students in that class only 18 were known to be seeking positions on June 1, 1953. Of course, it must be borne in mind that 82 men from the group entered military service following their graduation from law school.

485 New Opportunities

Information about 485 new opportunities was received. Two hundred and eighty offices wrote to tell about their interest in members of the graduating class, while another 60 firms sought help from the office in recruiting experienced lawyers. In addition, 115 offices sent representatives to the Placement Office to meet and talk with second- and third-year students.

The 404 students who received degrees in 1952 and whose employment is known took positions pretty much according to the pattern established by other recent classes. The trend away

(See PLACEMENT on page four)

Legislative Research Bureau's Assistance Enables Passage Of Mass. Amendment

The Student Legislative Research Bureau has announced that for the first time one of the bills on which it has worked has been enacted into law. Two members of the Bureau, John O'Reilly and Edward Sack, assisted in the drafting of Chapter 647 of the Massachusetts Acts of 1953, an amendment to the urban redevelopment law, which the General Court approved on July 2.

The Research Bureau was organized last winter to assist public organizations in drafting proposed legislation. The group started work on projects early in the spring, and this was one of its first to reach completion.

The problem presented in this project

was the revision of a law designed to encourage private investors to undertake large scale slum clearance and housing projects. The investors received public aid in the form of a tax exemption and the use of eminent domain in land assembly and were limited to a 6 per cent return. Although the law had existed for a number of years, nothing had been built under it.

Persons interested in the revision formed a committee to draft an amendment. The committee included representatives of insurance companies, investment companies, and builders. Representing the public interest was the Housing Association of Metropolitan Boston. It had called upon Professor Charles M. Haar for assistance, and O'Reilly and Sack worked as assistants to Professor Haar and to the committee.

Two Members Help

The two students attended the meetings of the committee of lawyers that worked on the draft of the amendment. They found this project particularly interesting because of the opportunity it provided to do special work with a professor and to observe lawyers in action solving the practical problems of draftsmanhip.

Henry Wise, chairman of the Housing Association, said in a letter to Dean Griswold on the work of the two Bureau members. "This service and especially with relation to all the details that come in the drafting of a bill 26 pages long is

AUTO REGISTRATION

Oct. 9 is the deadline for registration of students' cars, the University police have announced. After that date, owners of unregistered cars will be fined a maximum of \$10. Law students who have been assigned reserved spaces must not park in other University spaces, under penalty of fine.

Reaction by Law School faculty members to the appointment of Governor Earl Warren of California as Chief Justice of the United States was generally favorable, but many of the professors were dissatisfied with the recess appointment, as shown by their recent comments.

In a letter to the Harvard Crimson, Prof. Henry M. Hart L.L.B. '30, expressed concern over the reaction to cases



Henry M. Hart



Benjamin Kaplan

Prof. Scott Tells Coffee Hour Gathering About The Law School's Development

Professor Austin W. Scott, Dane Professor of Law, spoke on "The Harvard Law School, Past and Present" to an overflow crowd at the Coffee Hour in Harkness Commons last Tuesday.

The Harvard Law School was set up from the \$7,500 bequest left Harvard College in 1781 by Isaac Royall in his will. The first Royall Professor was Chief

Justice Parker of Massachusetts, but a separate law school was not created until 1817 when the Corporation voted Asabell Stearns "University Professor of Law," who was to live in Cambridge and "open and keep a school."

Both Parker and Stearns, the latter a distant cousin of Professor Scott's, were fired and it was not until 1830 that the School entered its "bright dawn." Nathan Dane had left the School \$10,000 on the condition that Justice Story join its faculty, "and although approached previously, when Story saw that his refusal would cost the School \$10,000, he joined." Story and Greenleaf carried through the next 20 years and Professor Scott says it is they who must be credited with building the foundation of the present institution.

Professor Scott described the next 20 years of the School's history as a "bare afternoon." Under Parker, Parsons, and Washburn the School's curriculum became stereotyped and the students were neither required to attend lectures nor to take exams. "Consequently," said Professor Scott, "there were no students who failed. This is a defect which we have now remedied."

Then in 1870 Christopher C. Lang-

(See SCOTT on page three)

Harvard Law Wives Begin Fall Activities

The Harvard Law Wives will open this year's activities with a tea given by Mrs. Erwin Griswold in the Meeting Room of the Harkness Commons from 4:30 to 6:30 p.m., Wednesday, Oct. 14.

Law wives, women law students, wives of graduate law students, and wives of faculty members are invited to attend. Wives of the second and third year law students will assist as hostesses. Mrs. Griswold will welcome the guests with a short talk on the purpose and functions of the Law Wives' organization.

The first regular meeting of the Harvard Law Wives will be held on October 21 at 8 p.m. in the Meeting Room of Harkness Commons. Officers for the current year are: President, Mrs. Robert Frantz; Vice President and Program Chairman, Mrs. Phiroze Irani; Corresponding Secretary, Mrs. William Erickson; Recording Secretary, Mrs. William Walsh; Treasurer, Mrs. Champe Fisher; Social Chairman, Mrs. John Zech; Hospitality Chairman, Mrs. Sheldon Karon; Public Relations Officer, Mrs. Fred Wyle.

where "the decisive vote is cast by a Chief Justice whose job depends, among other things, on his surviving thereafter the raking fire of confirmation, hearings Prof. Paul A. Freund, L.L.B. '41, also expressed misgivings over the recess appointment, which has a Federal judge sitting, as he termed it, "with one eye over his shoulder on Congress." Prof. Freund was quick to point out that this was no reflection on Mr. Warren, but he thought it unfair of President Eisenhower to ask him to sit prior to action by the Senate.

On the other hand Prof. Robert Braucher, L.L.B. '39, expressed relatively little concern over this problem. He was of the opinion that Warren's confirmation will not turn on how he votes from now until January, nor will the former Vice-Presidential candidate be swayed one way or the other by the thought of his confirmation.

Other faculty members were more concerned over the imprudence of the administration in allowing the possibility of judicial impropriety to be so raised. Prof. Benjamin Kaplan made the following statement on this subject to the Record:

Kaplan's Statement

"Entirely apart from the question of legal validity, the appointment of a Chief Justice during a recess of the Senate does

(See FACULTY on page three)

Nazi Arms Makers Might Aid Soviets

The Devil's Chemists. By Josiah E. DuBois, Jr., in collaboration with Edward Johnson. Boston, Mass. The Beacon Press, 1952. \$3.75. 374 pp.

This is a story of the manner in which modern wars are fought. The participants are not soldiers, their names are never in the headlines, they wear no uniforms and carry no guns. Yet by virtue of their knowledge and power they have exerted a greater influence on history than did any field marshal or Hitler's General Staff. Without these men, not one German soldier would have marched across the Polish border in 1939. There would have been no World War II. These are the men of I. G. Farbenindustrie, who built and maintained the German war machine.

For their role in "... the preparation and waging of aggressive war; ... the plunder and spoliation of the industries and economies of other countries; ... the enslavement, mistreatment, and murder of human beings, including medical experimentation upon enslaved persons ... they were indicted and brought to trial.

"The Devil's Chemists" is the history of Crimes Trial No. 6, as narrated by Josiah E. DuBois, Jr., chief of the prosecution staff, whose conclusion have been summarized above. DuBois purpose in writing this book has been twofold: first, to bring to light the role of I. G. Farben in the build-up of the German war machine, and, second, to warn the free world of the capabilities and propensities of the Farben directors who, he believes, would not hesitate to lend their talents to Communist aggression should that course seem to them to be most profitable.

The 24 defendants in this trial were men with impeccable scientific reputations. Their numbers included a Nobel Prize winner, as well as the world's foremost authorities on synthetic fuel and synthetic rubber.

(See REVIEW on page three)

AMERICAN TRIAL LAWYERS SCHOLARSHIP



At a dinner sponsored by the American College of Trial Lawyers on August 26, 1953 at the Parker House, Boston, Cody Fowler, second right, former President of the American Bar Association, and President of the American College of Trial Lawyers, presented the Harvard Law School a check for \$500 to be applied toward a student scholarship. Dean Erwin N. Griswold, left, accepted the award for the School. Joining in the ceremony were Herbert Brownell, second left, Attorney General of the United States, and Robert Jackson, right, Associate Justice of the Supreme Court of the United States.

Ames Heads Into Semi-Final Round

By Douglas Remillard

In the spring of 1993, a lesbian 3L in Georgia was offered a position with the state's attorney general's office. She accepted but over the summer she married her partner and the attorney general fired her.

Does the attorney general have grounds to fire her because sodomy is illegal in Georgia and Georgians could lose faith in an attorney general's office employing a "married" lesbian? Or does her right to intimate association protect her?

This is one of the two cases that will be argued by four teams, selected from over 20 in last year's qualifying round, in the upcoming semi-final round of the historic Ames Moot Court Competition.

The modern Ames competition is derived from mock trials known as "moots." The HLS archives have records of moots dating back to February 1820. The competition is now named for James Barr Ames, who graduated from HLS in 1872 and who served as dean of the Law School at the turn of the century.

Seth Carnathan, the Ames Fellow primarily responsible for putting the cases together, said that the Georgia case was decided on appeal this summer in favor of the attorney general, but the decision was en banc, and there were six dissents.

"No one agreed on how it should come out and why," said Carnathan.

The other case concerns discrimination on the basis of genetic history and the generalized right of insurance companies to amend coverage plans. In the hypothetical case, a woman's medical plan discovers that the client has Huntington's Disease and shortly thereafter stops covering expenses for that disease.

Although the case may seem obviously discriminatory, Carnathan said there have been similar AIDS cases in which insurance companies have won.

While constructing the cases, Carnathan had to consult with the Ames Committee, made up of Vice-Dean David Smith and professors Todd Rakoff '75, Charles Nesson '63 and Peter Murray '67.

Although some proposed cases were nixed for various reasons — in one case the facts were "too unpleasant" — the hardest task was finding cases which have two strong issues in them leading to balanced arguments on each side.

"The arguments need to be separable enough so they don't overlap," said Carnathan. "And you also don't want the first issue to be great and the second issue so weak that people are plodding through some obviously secondary issue."

Team members generally feel that the pair of issues in the cases are both relevant and equally compelling.

"We feel that the case is very well-balanced," said team leader Kannon Shanmugam '98.

Ryan Goldstein '98, another team leader, added that he felt the Ames fellow had "obviously worked very hard on the cases."

Each case will be decided by a panel of three judges. Merrick Garland '77 of the D.C. Circuit of

Appeals and Jerry Smith from the Fifth Circuit of Appeals will be the chief justices for each team.

Even if these judges rule against them, the teams will take away some valuable experience. "The best thing about the competition is getting to work with such a good group of people. It's really exciting to watch a brief come together and I think all of us get a kick out of doing it," said Shanmugam.

Team leader Jonathan Perry '98 said that the value of the competition comes from it being so unstructured. "It forces us to do our own thinking. While that is exciting and challenging, it's also nerve-racking."

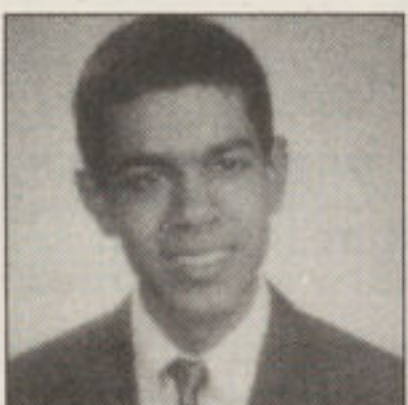
Goldstein had another take on the event: "This Ames competition is a vital link in our continuing effort to procrastinate writing our third-year papers."



Ryan Goldstein '98



Jonathan Perry '98



Kannon Shanmugam '98

Job Market Strong

More 3Ls participate in OCS interviews

By Suzanne Carter

The interview sign-up sessions are busier this year than most, thanks in part to an especially strong job market, said N. June Thompson, head of the Office of Career Services (OCS). Thompson estimated that almost 100 percent of 2Ls and approximately 50 percent of 3Ls will participate in on-campus interviews.

Thompson said that the level of 3L participation is expected to be greater this fall than in recent years.

"As the market gets better and [the 3Ls] are feeling better about the market, they may come back and look for another job rather than stay with the firms where they worked as summer associates where they may have offers."

According to Thompson, the three most popular cities for job placement among HLS students are San Francisco, Washington, and New York. However, students are most likely to receive offers from Washington, New York, or Boston firms. Thompson said that this is difference is a result of geography and market size. Although San Francisco and Boston are small markets relative to Washington and New York, only large San Francisco firms can expend the time and money to travel to Cambridge, whereas Boston firms face no such distance-related obstacles.

The strong market is expected to help 1Ls as well, said Thompson.

"We are encouraging [1Ls] to do interviewing over their winter breaks,"

Thompson said, although there will be on-campus interviewing in April geared toward 1Ls.

Last year, OCS attempted to establish an online sign-up process as an alternative to the paper forms. The online sign-up system did not initially work as planned, and OCS drew criticism for the failure.

Thompson said that the online system was expected to work better this year, and that last year was not the fiasco that critics claimed it was.

"No one remembers the three weeks that it worked fine," Thompson said. "We hope that as more people have their own computers that more and more can do the sign-up process [online] from home. That is my far and distant dream."

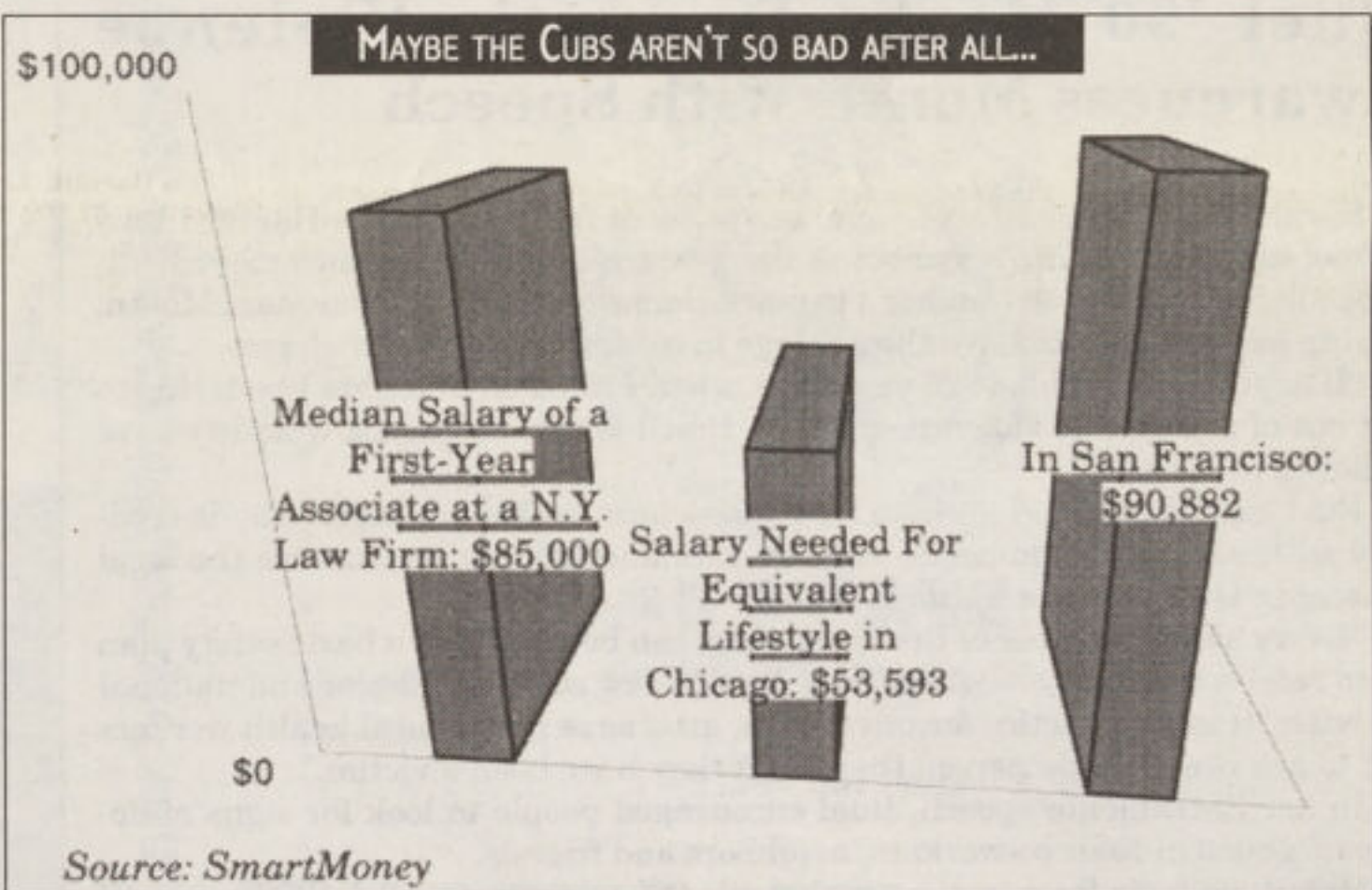
Thompson said that HLS has inherent logistical problems in constructing an effective interview sign-up process.

"One of the problems that we face is the size of the student body ... when you have 550 in each class, rather than Yale's 175, it makes everything more difficult." Thompson, who is retiring at the end of the fall term, said she has confidence in her successor as director of OCS, Sally Donahue, and cannot foresee any disruption in the workings of the office.

"We talk all the time—I drag her to meetings with me," said Thompson of Donahue.

Thompson said that Donahue's previous experience as the director of the HLS financial aid office would be a plus in her new position.

"I think Sally Donahue is going to be great because she knows the students and the school," Thompson said.

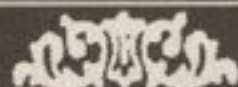


Cost-of-living comparison between New York and two other popular work destinations

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The Boston Consulting Group invites all 2Ls and 3Ls to a Case Interview Workshop

- Learn more about consulting
- Demystifying the "case" interview
- Review practical tips for interview preparation

October 15, 1997 from 4:00 to 6:00 p.m. in Langdell South



Recycle the RECORD



Briefs

Coop to Give First Rebate In Three Years

For the first time in three years, the Harvard Coop will pay students a rebate on merchandise purchased during the last academic year.

The 3.5 percent rebate represents the Coop's first profitable season in many years. All students who held a Coop account number for the 1996-97 school year will be able to receive their checks beginning October 20.

"There was a profit earned in that period that allowed us to return some of it to students," said General Manager Allan E. Powell.

Coop President Jeremiah P. Murphy said that he hopes this represents an upswing for the Coop which will allow it to generate profits and pay student rebates in upcoming years.

"We're anticipating staying profitable for the next few years and hopefully adding to the rebate," Murphy said. "We want to make sure the members feel valued. We want students to feel it's worth their dollar to be a member."

— The Harvard Crimson

Harvard Freshman's Wheelchair Stolen

A wheelchair belonging to Harvard College freshman Roel Saldivar was stolen from outside Saldivar's Harvard Yard dormitory on October 5.

Saldivar's dorm is not wheelchair-accessible, so Saldivar had left the wheelchair outside and entered the dorm using crutches.

Saldivar said that he had assumed that the wheelchair would be safe left unguarded.

"I never figured I'd need a lock," Saldivar said.

Saldivar's bad luck began when he broke his ankle shortly before arriving for freshman orientation.

He called College officials to request a wheelchair in addition to the crutches he had at home in Houston. However, when he arrived on campus, he discovered that the wheelchair the College had given him had a flat tire. College officials replaced that wheelchair with the one that was later stolen.

Saldivar is now on his third wheelchair, which he protects with a chain lock.

— The Harvard Crimson

Buel '90 Marks Domestic Violence Awareness Month With Speech

Sarah Buel '90, a battered woman who went from welfare to Harvard Law School and has become a symbol of the modern domestic violence movement, spoke in Sacramento on October 4 to mark Domestic Violence Awareness Month, urging her audience to have the courage to confront evidence of abuse.

"If anybody had told me 20 years ago, when I stood on a welfare line trying to get out of a domestic violence situation that I would be here, I wouldn't have believed it," Buel said.

Buel gained national acclaim as a prosecutor in Quincy, Mass. She is credited with cutting the domestic violence rate and helping restructure the legal system in Quincy into a national model.

"Every single member of the community can be taught do a basic safety plan — to refer a victim to a shelter," said Buel, a law school professor and national activist. "It is malpractice for physicians, attorneys and mental health workers not to ask every single person they see if they have been a victim."

In her Sacramento speech, Buel encouraged people to look for signs of domestic abuse in their co-workers, neighbors and friends.

"What we hear from victims is that it's OK to push a little," Buel said. "If you're really scared for someone, just tell them that."

— The Sacramento Bee

Kerry Names Kanovsky '76 Chief of Staff

Massachusetts U.S. Senator John F. Kerry appointed Helen R. Kanovsky '76 as his new chief of staff on September 26.

Before joining Kerry's office, Kanovsky was general counsel for the AFL-CIO Housing Investment Trust. Prior to the AFL-CIO she worked at G.E. Capital Asset Management Corp.

During his 1996 reelection campaign against then-Gov. William Weld '70, Kerry's Senate office staff drew sharp criticism. Kerry had promised to make substantial changes to his staff.

Kanovsky was Kerry's fourth significant staff appointment this year. Other new hires include the chief of Kerry's Massachusetts office; the Democratic staff counsel for the Small Business Committee, where Kerry is the ranking Democrat; and Kerry's top staffer on the Senate Democratic steering and policy committee.

Cox '37 to be Honored at JFK Library

The John F. Kennedy Library and Museum will host "An Evening with Archibald Cox: Harvard Law Professor, Solicitor General, Watergate Special Prosecutor, and Distinguished Citizen," on October 22 from 5:30 to 7:15 p.m. Speakers will include Philip B. Heymann '60, Anthony Lewis '56-'57, John Kenneth Galbraith and Paul Samuelson. The moderator will be Cox biographer Ken Gormley.

Cox served as special prosecutor investigating the Watergate break-in. In October 1973, Cox was fired by President Nixon after he insisted that the White House release tapes of important conversations. The public's reaction against Cox's firing helped lead to Nixon's later resignation.

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Recycling on Hold

Continued from *RECYCLING*, p. 1

Thompson of HPPS said that he was confident that the Distribution Center was using recycled paper, but was unable to provide a rough estimate as to how much.

"I know we haven't been using it 100 percent," Thompson stated.

Lamentea said HPPS was instructed to use recycled paper.

"All copying under HLS control will be on recycled paper ... That should be in effect now. It's supposed to happen automatically," Lamentea said.

Members of the Environmental Law Society (ELS), which catalyzed the recycling issue last spring by organizing a School-wide petition drive, are upset with the School's slow progress on recycling.

"I think it's significant that statements are emanating from the Dean's office without verification," said ELS member Ted Sichelman '99.

Sichelman said the administration has failed to make recycling a top priority.

"There are no recycling bins in the

entire library," he said, "and recycled paper is not available in copier machines" for student use.

Sichelman said the typical response of staff at Langdell was that recycled paper could not be used in the School's copy machines. Sichelman said this belief stems from a failed experiment in the early 1990s, after which HLS abandoned its recycling initiatives.

Sichelman said recycled paper should not pose such problems today.

Despite problems with implementing a plan to use recycled paper, Lamentea said, HLS was the first part of the University to mandate recycling. In addition, Lamentea said students can request recycled paper for their own copying use at the Distribution Center for an additional \$.01 per page, an option Lamentea said the Distribution Center is "supposed to be pushing."

"We want [everyone] to encourage classmates to use less paper as well as to request recycled paper when they use the Distribution Center. The paper waste at the law school is ridiculous," Lamentea said.

Apathy Thins LSC Candidate Ranks

Continued from *LSC*, page 1

by the Independent Elections Committee to allow the LSC time to encourage additional candidates to run. The extra time did induce some 1L candidates to throw their hats into the ring, but it was still not enough to fill all of the 2L spots.

"You can't make people run if they don't want to," IEC chair Jane Ann Bardin '99 said.

According to the LSC election guidelines, "remaining vacancies shall be filled as provided by the council." This means that the LSC will fill the three empty 2L slots by appointment at a future council meeting. Potential 2L reps can contact an LSC officer to express interest in a position.

According to LSC Treasurer Dan Fridman '99, these positions may be "filled as early as the next meeting, which will be in two weeks."

A lack of interested candidates is not an unusual occurrence with the LSC. Last year, the candidates for the three LSC officer positions — president, vice-president and treasurer — all ran unopposed.

"For the 2Ls and 3Ls, it's a very busy time right now with interviews and all these things," said Fridman. "The prospect of going through an election can be discouraging. But we are very pleased

with the composition of the council this year; we've got some very qualified people."

Even though there were few candidates, voter turnout among the 1L class was much higher this year compared with the previous year. According to Bardin, the high participation rate is evidence that students do care about law school government.

"Voter turnout was up this year, and I think this shows that people are interested in student government," Bardin said. Bardin said that even in section three, where the candidates ran unopposed, students still voted.

Although short-staffed, the LSC did get underway with its first meeting of the year on Oct. 6. Committee heads for the committees on academic affairs, student services and facilities were all elected. The Council expressed its desire to continue working with Legal Education Committee advisor Prof. Richard Parker '70 and Registrar Stephen Kane on the academic reforms started last year with the 2L bundling of classes and plans for future on-line registration.

Other plans include improvements at Hemenway Gymnasium. Tentative plans are under way for a 1L class party funded with the \$150 allotted to each 1L section by the Council and the creation of an outline bank for 1Ls.

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**THERE'S
 NO USE HIDING**

Kevorkian's Attorney Slams Court, AMA, Tribe

Continued from KEVORKIAN, p. 1

petition you for the right not to suffer. And any law that you say is constitutional we will defy because it is intrinsically wrong, it's immoral. If you own anything in this country, you own your body."

Fieger suggested arguing that physician assisted suicide was an absolute right because it had to do with "a fundamental function of the human body: dying. It's as natural as going to the bathroom. Could you imagine ... if we had a law that tells you when you could take a piss?"

Fieger said that Kevorkian's most recent assisted suicide was that of John Zdanowitz on Oct. 25. Police found Zdanowitz's body in a motel room along with a note to call Fieger. This was the ninth such discovery this year connected to Kevorkian.

According to Fieger, Zdanowitz suffered from Lou Gehrig's disease, a neuromuscular disorder that is almost always fatal and in which death usually results from suffocation. The brain, however, is not itself impaired, leaving the person fully aware of what is happening.

Fieger suggested that advocates of palliative care be pressed to name an injection capable of relieving that kind of psychological terror and stated that none could do so.

"Any mentally competent American should have the right to decide how much suffering to undergo before they die," he said, "and even though ending breathing will end life, it will also end suffering."

Fieger lamented that Kevorkian's cause had not stirred more Generation-Xers to action.

"This is the civil rights issue of your generation...[but] you're entirely apathetic," said Fieger. "The bigots of the 1950s and '60s prayed for people like you. ... The only thing that really educates people is when it happens to you or someone in your family."

Fieger mocked medical ethicists as "medical Merlins, lunatics, and witch

doctors who justify their meaning to themselves." He decried their distinction between active and passive euthanasia. They prefer suffocation or starvation to "a quick injection," he said.

Fieger criticized the American Medical Association, which opposes doctor-assisted suicide. He said that at various times during the 20th century the AMA opposed all of the following as unethical: abortion; disseminating birth control information; group practice; and Medicare and Medicaid, which the AMA deemed "a communist plot."

Fieger described Kevorkian, a retired pathologist, as "a true American hero ... who will be remembered one hundred years from now and has stood up for every single one of you."

Kevorkian's criteria for aiding the death of a patient include that the patient have an objective incurable and irremediable medical condition, have discussed her decision with her family and have their concurrence, be mentally competent, and have the support of her religious counselor.

In addition, Fieger said, if at any time a patient changes her mind, Kevorkian will immediately cease to aid that patient and never return, because that would indicate indecision. Kevorkian gives people an option, and "often gives people the strength to go on [living] knowing he is there if things go wrong," Fieger said.

Responding to the slippery slope argument that euthanasia may result in coercive killing, Fieger pointed out that, unlike most doctors who make life and death decisions every day, Kevorkian does not have a profit motive.

The more likely scenario is that doctors and family members coerce someone to go on suffering for their own selfish reasons, he said.

Citing the example of a wealthy Mickey Mantle receiving a liver transplant when his body was riddled with cancer, he noted that someone else who needed a liver and did not have as much

wealth or influence died as a result. Mantle's quick subsequent death was an effective waste of that liver, said Fieger.

"Any freedom can be abused. Does that mean that you ban the freedom because of the potential for abuse?" he asked. Fieger pointed out that cars and guns are both legal even though they kill thousands of Americans every year.

An audience member, Edward Schwartz, asked Fieger whether any attempt had been made to prosecute Michigan jurors who had acquitted Kevorkian

of charges relating to his assisting in suicides. The following exchange occurred:

Fieger: "Are you Jewish?"

Schwartz: "Yes. Is that relevant?"

Fieger: "Of course it is. So am I. In 1946, in Nuremberg, we tried a bunch of people whose defense was that laws allowed them to do what they did. We said, 'To hell with that, there's a higher moral law,' and we hanged them. Don't ever forget it."

Fieger's speech was sponsored by the Civil Liberties Union. About fifty students attended.

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Across the Country



News From the East, South, and Mid-West

Supreme Court to Look into Law Clinic Operations

NEW ORLEANS (AP) — Complaints by business leaders over the legal handling of the Shintech plant in St. James Parish has prompted the Louisiana Supreme Court to look into how the state's law school clinics and law students operate, a court official said on October 2.

The high court has received three letters from business groups. The latest complaint — a letter from the Louisiana Association of Business and Industry — took the Tulane Environmental Law Clinic to task for its role in representing opponents to the proposed chemical plant.

In a letter to Chief Justice Pascal Calogero Jr., LABI president Dan Juneau said the law clinic "has repeatedly exceeded the bounds" of its role to provide legal services to those who cannot afford them.

The clinic has been aggressively representing people opposing Shintech's proposal for a \$700 million polyvinyl chloride plant in a rural area populated by poor people, most of whom are black.

LABI, the state's largest business lobby, asked the high court to put tighter restrictions on law school clinics and law students.

"It is clearly an attempt to roll back or restrict the opportunity of citizens to get representation," Robert Kuehn, clinic director for the Tulane Environmental Law Clinic, said.

The LABI letter comes on the heels of similar letters sent to the court in July by the Business Council of New Orleans and the Chamber of Commerce in New Orleans.

Considering the three complaints, and the fact that the rule governing law clinics was first instituted 26 years ago, the justices authorized Calogero to make inquiries into the operations of the three law schools in Louisiana which have law clinics, said Kim Sport, community relations director for the Supreme Court.

Calogero has sent letters to the deans of law schools at Tulane, Loyola and Southern universities informing them

that two deputy judicial administrators will be visiting the schools to meet with officials and the clinics and reporting back to the court.

"Although one of the complaints, and perhaps all of them, are directed toward the activities of the Tulane Environmental Law Clinic, the Conference (all eight justices) has decided to procure information concerning the operations of all law school clinics that utilize student practitioners....," according to Calogero's letter.

Kuehn said LABI's letter doesn't raise a single activity by the clinic which would violate Supreme Court rules on law clinics.

"The Supreme Court's letter to the dean of the law school is very telling," Kuehn said. "It says nothing wrong. It doesn't even say it is going to investigate. It just says they are going to procure information from all law school clinics."

It is not the first time supporters of the chemical plant attacked the law clinic for representing the other side.

The first two letters to the Supreme Court came just days after Gov. Mike Foster spoke to the Business Council of New Orleans.

Foster has claimed that the clinic is hampering industrial development and going against "public will." The governor threatened to go after Tulane's tax breaks and to ask supporters to reconsider their financial contributions because of the clinic's activities.

Foster has said the clinic overstepped its boundaries in challenging the Shintech plant's permits and in claiming environmental racism played a role in putting the plant in St. James Parish.

"It has been very disappointing public officials have been so openly hostile to the idea students might help citizens," Kuehn said.

Juneau said the clinic is violating a Supreme Court rule that provides a means of providing legal assistance to someone or a community organization that cannot afford an attorney.

In the Shintech case, the Tulane clinic represents a group of people called St. James Parish Citizens for Jobs and the Environment, which opposes the plant.

"Louisiana's business community understands that there is a role for law clinics to play, both here and in other states," Juneau said in the letter. "Our concern is that the law clinic has repeatedly exceeded the bounds of that proper role under the provisions (of the rule)."

Juneau said LABI is not trying to have the clinic abolished.

Among the changes proposed by LABI is one requiring "balanced representation" of government, small business and environmental interests by law students and law school clinics.

LABI also said the university or a panel of attorneys should screen proposed cases to determine whether it would be appropriate for law students and law clinics to handle them.

Judge Orders Transfusion for Infant Over Parents' Religious Objections

SYRACUSE, N.Y. (AP) — Doctors at Crouse Hospital, planning lifesaving surgery for a newborn baby, obtained a court order to give blood to the boy over his parents' religious objections.

Supreme Court Justice Thomas Murphy last week authorized the hospital to transfuse blood into the baby during the operation and recovery period.

A hospital spokesman said that because of patient confidentiality rules, he could not reveal whether the surgery was performed, or disclose the baby's condition.

The baby's parents are Jehovah's Witnesses. They objected to blood transfu-

sions because they believe the procedure goes against the teachings of the Bible to not take another person's blood.

The baby, who was not identified in court papers, was born a week ago with a congenital diaphragmatic hernia, according to an affidavit from his pediatrician, Dr. Linda Nicolette.

She described him as seriously ill, suffering from pulmonary hypertension. Because the hernia has inhibited the growth of his lungs, he needs a ventilator to help him breathe, Nicolette wrote. The boy's condition was life-threatening, she wrote.

The boy's parents consented to the surgery, but not the blood transfusion,

Nicolette said.

Murphy's order allowed doctors to transfuse blood into the child during surgery and during his recovery. But that authority will end when the child is discharged from the hospital, the judge said.

The case was not the first time that Crouse Hospital had to go to court to fight for a blood transfusion over the objections of parents who were Jehovah's Witnesses.

In 1991, a state Supreme Court judge granted the hospital's request for a court order allowing doctors to give blood to a 14-month-old cancer patient over his parents' religious objections.

Judge Upholds Chicago Domestic Partners Law

CHICAGO (AP) — A Cook County judge has upheld a new ordinance that gives health benefits to the domestic partners of city workers, and said there would be a special place in hell for the people who sent him nasty letters about the law.

Judge Thomas Durkin announced his ruling to a packed courtroom Sept. 16. He then addressed the dozen or so anonymous letter writers who lobbied him to rule against the ordinance.

"I have been described as being on a slippery slope to perdition for doing what I believe to be my job," Durkin said. "I am quite certain that if they are right, and I am condemned to hell, I will meet a goodly amount of them there because their attitude certainly shows a lack of a basic element — personal charity toward others."

At least 13 city workers have been granted benefits for their partners since

the ordinance took effect May 16, a city spokeswoman said.

Hiram Crawford, Jr., the Rev. Hiram Crawford Sr. and three other South Side residents filed a lawsuit to challenge the law shortly after it took effect. They first sought a temporary restraining order to stop benefits from being offered, but Durkin denied that request in May.

Durkin denied the group's request for a preliminary injunction. The group's lawyer, Jordan Lorence, said his clients had nothing to do with the hate mail.

"I am shocked and dismayed that anyone would do that, and I fear it may have harmed the way the judge viewed our legal arguments," Lorence said.

He said he will next file for a permanent injunction, which he also expects will be denied by Durkin. From there he can bring the case to the Illinois Appellate Court.

Federal Regulations to Catch Deadbeat Parents

CONCORD, N.H. (AP) — A new federal law aimed at making it easier to catch deadbeat parents goes into effect Oct. 1 across the country.

When people get new jobs, their names, addresses, Social Security numbers and other employment information already must be sent to the state Department of Employment Security within 20 days by the employer. That information then is provided to the state Department of Health and Human Services, which can match it against child support records.

Under the new regulations, employers must report more quickly, the information will be cross-checked more quickly and it will be sent to the National Directory of New Hires. There it will be matched against child-support records throughout the country.

New Hampshire has few ways to track a parent who owes money and moves out of state. Now the federal

Office of Child Support Enforcement will help states locate parents in other states.

Frank Nachman, legal counsel for Health and Human Services, estimated cross-checking 250,000 names a year nationwide and finding about 2,500 child support cases.

"It's going to be a very valuable tool in establishing and collecting child support for the families that need it," he said.

He said states already doing cross-checking get back \$20 for every \$1 invested in the program.

The new law was criticized in New Hampshire and elsewhere as burdensome to businesses and an intrusion on privacy. But it was adopted in New Hampshire and other states because they otherwise faced substantial losses in federal funds. New Hampshire would have lost \$2 million in federal funds for Health and Human Services.

Harvard Law RECORD

PUBLISHER
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Support National Coming Out Day

Despite all the misconceptions about "special rights" and "recruiting" and "nature" and God, the truth is that gay men and lesbians are only asking for two simple things: equality and respect.

Yet this not-so-radical notion, that discrimination is wrong and that homosexuals and heterosexuals should be treated as equals, is sadly not one that many Americans take to heart. In a society where people are brought up to think that queers are promiscuous child-molesters and a danger to American Family Values, it should be no surprise to learn that the Department of Justice reports that gay men, lesbians and bisexuals are the most frequent victims of hate crime in America today.

And so it continues that for so many, to be gay is to walk in fear whenever you are with your lover because there are those who would beat you, kill you — because they do not understand you. For so many, to be gay is to have your identity devalued through laws which say that you must love someone of the opposite gender to reap the rewards of marriage. For so many, to be gay is to be forced to lie about your true identity to family, friends, professors and employers. For so many, to be gay is to be kept out of the military, banned from the Boys Scouts of America, excluded from the Saint Patrick's Day Parade and denied the opportunity to donate blood to the American Red Cross.

That in 1997 we still have second class citizens is an embarrassment to our country and our culture. Yet even more embarrassing is that so few have the courage to say or do anything about it.

This Thursday, October 9, is National Coming Out Day, a time not only for closeted gay men and lesbians to come out and affirm themselves, but also a day for all people of conscience to come out and say that the status quo is no longer acceptable.

Especially in light of the recent hateful campus events directed towards gays, it should be a day to question whether HLS is truly the supportive environment it claims to be. Think about why there are no openly gay professors here. Think about why there are no openly gay upper-level administrators here. Think about why legal issues of concern to gays and lesbians are so seldom discussed in the classroom.

Homophobia has been called the last acceptable prejudice of this century. And it will continue to be socially and politically acceptable until enough good people, gay and straight, gain the courage to speak out against it.

— Seth Persily

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The Harvard Law RECORD (ISSN 0017-8101) is a publication of the Harvard Law RECORD Corporation, a non-profit, independent, student-owned and run corporation of the Commonwealth of Massachusetts.

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

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• Letters •

SLLR's Hypocrisy Distracts Debate

I am reluctant to enter this debate surrounding the SLLR, the "Coming Out of Homosexuality Day," and the defacement of posters because it is so fundamentally difficult and irresolvable. Is homosexuality nature or nurture? I might be willing to listen, with a skeptical ear, to SLLR's evidence for the sake of open discussion. However, before doing so, I would ask the members of SLLR if they would do the same. If I was able to present convincing and verifiable evidence that homosexuality was a biological trait, would any of them renounce their membership in SLLR and join Lambda? An interesting question, and one whose probable answer undercuts Brian Burt's call for open debate.

But this is not the problem. What concerns me most about this discussion is the way that SLLR has positioned itself. "We are the victimized," their editorials cry, "We are the minority! We are the oppressed!" This appears to be hyperbole. Their controversial posters were still flying high on bulletin boards. They are still scheduled for their event in Ames Courtroom. And the publicity they have gotten from the RECORD is amazing: Brian Burt received copious coverage in the article discuss-

ing the controversy, and the top of an entire page (as one installment of a regular column) to hold forth. Another member of SLLR got several columns of his own for a letter. In contrast, Lambda co-chair Margie McWilliams got a letter and an editorial cartoon. This is oppressed?

The SLLR has adopted for themselves a standard tactic exploited by the right wing in public debate. The premise is that society is so concerned with protecting minority expression that we stifle or censor views of majority members. At the root, Mr. Burt may have a point. Society is especially sensitive to minority viewpoints, be they sexual, racial, or religious. However, it is important to see why. Not because of political correctness or arbitrariness, but because majority viewpoints still dominate and without a guarantee that minority viewpoints would be protected, they would be all but drowned out. If debate is to have more than one side, to be truly open, protection must be provided to the lesser. The majority does not get the conspicuous protection minorities may receive because there are more of them. They simply do not need it; "majority" means what it says.

This is why Mr. Burt's cries of censorship ring especially false: despite his rhetoric, he represents the majority, while gays and lesbians are still a distinct minority, excluded from the mainstream. Though gaining acceptance steadily, gays and lesbians are still seen as alternative cultures, different and segregated from "normal" life and subject to stigmatization, hatred, and prejudice. And as to Mr. Burt's discussion of what is "celebrated," it is clear that the opposite is true. Turn on the TV; go to the movies. Straight life is obviously championed, advocated, and endorsed by the popular culture he claims to deride. The hero still walks away with the girl at the end.

The principles of open debate within a free society demand that all sides be permitted to express themselves. However, they also demand truthfulness, fairness, and equivalence if views are to be considered, weighed, and adopted. SLLR may contribute in some way through its activities, but its vociferous claims of censorship and hypocrisy distract and detract from a truly open and worthwhile discussion.

Burke Kappler '99
October 3, 1997

Where are Burt's Facts?

Having just read Brian Burt's column in the Oct. 5 issue of the RECORD, I now understand why it was entitled the "Politics of Hypocrisy." How hypocritical it is, indeed, to demand that the community respond to his article with facts when Mr. Burt's own column is nothing but the same second-rate preaching for which Mr. Burt has become justly infamous as HLS's very own Pat Robertson.

Here are some facts for Mr. Burt to ponder:

According to a Fact Sheet published by the American Psychiatric Association in 1994, the association voted in 1973 to delete homosexuality from its official listing of mental disorders following a review of the scientific literature and consultation with experts in the field. As part of this same fact sheet, the association stated, "There is no evidence that any treatment can change a homosexual person's deep seated sexual feelings for others of the same sex. Clinical experience suggests that any person who seeks conversion therapy may be doing so because of social bias that has resulted in internalized homophobia, and that gay men and lesbians who have accepted their sexual orientation are better adjusted than those who have not done so."

The American Psychological Association passed a resolution on August 14, 1997, reaffirming its earlier decision that homosexuality is not a mental disorder and stating that it opposes all portrayals of lesbian, gay, and bisexual people as mentally ill and in need of treatment due to their sexual orientation.

Dr. Gerald Davison, a former president of the Association for the Advancement of Behavior Therapy, stated in 1991 that programs which seek to change a person's sexual orientation are "ethically improper," should be eliminated, and that their availability only confirms professional and societal biases against homosexuality.

Dr. Bryant Welch, former Executive Director for Professional Practice of the American Psychological Association,

stated in 1990 that "no scientific evidence exists to support the effectiveness of any of the conversion therapies that try to change one's sexual orientation," and that "research findings suggest that efforts to 'repair' homosexuals are nothing more than social prejudice garbed in psychological accouterments."

In a pastoral letter released just last week on October 1, 1997, the National Conference of Catholic Bishops stated, "Generally, homosexual orientation is experienced as a given, not as something freely chosen," and continued, "[A] homosexual orientation cannot be considered sinful, for morality presumes the freedom to choose."

An article published by the Universal Fellowship of Metropolitan Community Churches discussed the "ex-gay" movement with Michael Bussee, who was a co-founder of Exodus International, one of the largest organizations dedicated to the conversion of gays to heterosexuality. Mr. Bussee stated in the 1990 article that "after dealing with hundreds of people," he hadn't "met one who went from gay to straight." He goes on to state, "Even if you manage to alter someone's sexual behavior, you cannot change their true sexual orientation."

But where are Mr. Burt's facts? How does he propose to justify his ridiculous charge that an individual can change his or her sexual orientation? How does he respond to statements from the American Psychological Association disavowing those who attempt to alter an individual's sexual orientation? Not with facts. In a related article in last week's RECORD, Mr. Burt instead resorts to labeling the American Psychological Association, which comprises over 151,000 researchers, educators, and clinicians, a "partisan organization." It seems any individual or organization in disagreement with Mr. Burt and his conserva-

tive agenda is labeled a pawn of the gay rights movement, regardless of reputation or credentials.

Individuals who are undergoing the difficult process of coming to terms with their sexual orientation in a hostile world deserve support and affirmation, not lies and misleading promises of being able to simply walk away from their true identity. It is not a "compassionate message of hope" to delude these individuals into believing that they can find "salvation" through prayer or pseudo-therapy. It is irresponsible and an insidious form of hatred. There is no easy way of avoiding discrimination for those of us who are lesbian, gay, or bisexual. There is merely the choice to hide or to live. The choice is that simple. One can either lead an existence of deceit, repression, and self-hatred for the sake of those in society who are uncomfortable or unaccepting, or one can choose to live with dignity, self-worth, and acceptance of the fact that certain members of society will hate you for who you are. I have tried both types of existence during my lifetime, and I have no regrets that I have chosen the latter.

I resent Mr. Burt's assumption that I can change my sexual orientation, and I especially resent the suggestion that those of us who are lesbian, gay, or bisexual should try to change our sexual orientation. Why should we? To make Mr. Burt and the other homophobes feel more comfortable? To conform with Mr. Burt's idea of what society should look like? To meet the entrance requirements to Mr. Burt's Heaven?

I think it is time for Mr. Burt to provide the HLS community with facts, rather than the same old rhetoric. In particular, I would like to know exactly what Mr. Burt thinks is wrong or destructive about living life as an openly gay, lesbian, or bisexual individual. I challenge Mr. Burt to participate in a reasoned, public debate with me concerning this issue.

Ross LaJeunesse '98
October 6, 1997

FROM WHERE WE STAND

By Gary Bellow '60 and David Kennedy '80

Faculty Governance Part II: The Appointments Process

Our appointments process affects the substantive direction of our efforts to enlarge the faculty. Should we have more historians, economists, practicing lawyers, policy analysts, theoreticians? What mix of younger scholars and established experts? What sorts of appointments would build diversity? Whatever our different answers, any sequence of appointments is more than the addition of well regarded individuals or a simple reflection of the status of forces in faculty politics. Appointments crystallize decisions about law and legal education — directions and visions for the school and legal culture. By making appointments solely on a case by case basis, we deprive ourselves of a collective discussion about the directions, priorities and choices such appointments embody in the aggregate. Over time, we alter the meaning of law taught at the school almost by accident.

Some of our current problems result from a best in every field/pin in every map model of law school excellence which eschews collective direction and undervalues additions to the faculty which might create collegial teams among faculty members with similar or synergistic interests. Some are a result of deep substantive divisions among us. Many are structural and illustrate the need for agenda setting, transparency and structural innovation which we described in our last essay.

We appoint people for different types of teaching positions, with different terms, degrees of responsibility and commitments from the school. Although no one reform would be appropriate for junior faculty, lateral appointments, lecturers, etc. or for the different committees that deal with them, a few general points can be made.

The Relationship of the Appointments Process to the Faculty

The most serious structural defect in our current process is the way we delegate search and selection functions to our several appointments committees, leaving the faculty to act only in a final moment of approval or disapproval. This is not to say that individual faculty members don't provide a good deal of input. Nor that the committees don't work hard or seriously in the tasks they perform. The problem is that their primary work is not understood as facilitating a discussion among heterogeneous participants about the direction of the school. What is needed is the slow, deliberate development of a mandate to pursue certain legal fields, to seek certain mixes of appointments, to value particular credentials. A mandate is created by a vision, not by workload; by articulating choices, not by lists of technical fields in which someone assures us we have needs.

Should we add to our strengths in law and economics, or should we explore what a range of other disciplines have to offer the study of law: literature, sociology, anthropology, history, political science, philosophy? Should we only appoint lawyers? How important is what sort of practical experience? What are we missing by having no woman of color or no Hispanic member of the faculty? Should we think of law as a series of specializations, or as a domain of general knowledge?

The difficulty is not that such issues are not discussed — they are. But only in formats and settings which prevent their orderly translation into a mandate for appointments: corridor chat, agendaless open meetings designed to blow off steam rather than to make decisions as a group, in the context of specific cases which in some random way become symbolic for one position or another.

Rather than seeing their role as one of presenting the best candidate for ratification, the committees should screen

candidates, offer advice, and present choices. They should frame issues for discussion and decision, allowing the school's needs and direction to be set by deliberation rather than administrative necessity.

It would be perfectly appropriate, for example, for the juniors committee, before they read countless resumes, to articulate what they intend to look for and ask for faculty approval.

Asking the Associate Deans to present their vision of curricular needs for faculty approval at the start of every year would strengthen the committees' mandates and reduce the manipulation of needs in later discussions of particular candidates. Faculty debate and approval of the visitor list from which the pipeline of future lateral appointments is developed, of the lecturer list, or of the list of junior candidates whom the committee wishes to invite for presentations would force articulation of the vision behind the committee's range of choices. The point of these discussions would not be to strike or add particular individuals, but to debate and approve broad direction, insist on alternative priorities, etc.

It might also be helpful to select a moderator for appointments discussions who could adopt a neutral stance toward the outcome and would see his or her role as facilitating a discussion that moves easily between consideration of the individual and the longer range concerns of the faculty as a whole. In many cases, we would also benefit from a two meeting discussion with some informally enforced obligation for faculty to attend both sessions. The point is to make appointments with a continuing eye on the sort of institutional future we seek to create.

The Acceptance of Conflict

Hopefully, the process we have in mind will surface discussion among us in an atmosphere that honestly searches for common ground. Too often, appointments are discussed by faculty backstage with endless speculation about whether one or another opinion leader will go for it. A more open and incremental process of discussion would help smoke out and test these hidden, and possibly imaginary, vetoes.

Particularly in its early years, the same process will also sometimes slip into dysfunctional quarreling or personal bickering. We need to develop our skill in disagreeing with each other and our willingness to hear judgment and criticism without assuming that a personal insult lies behind it. The dominant problem in the current appointments process, however, is not excessive conflict but its suppression.

Each of our appointments committees fosters numerous formal and informal discussions and innumerable requests for faculty input. But too often such pleas for faculty participation early on, coming to presentations, filing memos, have been used to ensure that actually faculty deliberation can be effectively pre-channeled by the committee in specific cases. This is the consequence, not of some Machiavellian committee scheme, but of a constant fear that a less controlled process will degenerate into bitter contention. Any given appointment may well be a good one, but it is not good governance to ensure that nothing happens when an appointment is presented to the faculty.

Indeed, the net effect of such efforts to avoid conflict is to foster a widespread belief that all the activity surrounding input is smoke and mirrors, with the real decisions being made offstage. Reaction to being so controlled inevitably oscillates between passivity and rebellious rejection of individual cases. Rarely does it result in respectful disagreement or a genuine deliberative process.

The Place of Deference in the Process

We believe a process in which the faculty has greater responsibility for all facets of appointments work will increase the deference given the committees' recommendations. The days when committees did a great deal of work and received a great deal of deference are long gone. Our appointments committees now do more work than ever and receive far less deference. A redefinition of the committees' roles and a renewed willingness to provide clear guidance creates an environment in which the questions of deference can be revisited.

Such a discussion offers rich possibilities for institutional change. We both have long favored an elected appointments committee, not only as a way of ensuring its representative composition, but as an important step in reinvesting confidence in the inevitable judgements and rejections appointments work at the committee level entails. We have also long favored presentation by the committees of slates of candidates to be voted on individually but to be collectively considered.

We recognize, of course, that both suggestions would require some level of give and take among faculty and between faculty and committees. Such deference seems to us necessary, healthy and critical to the maintenance of a deliberating community. The problem is that such forms of compromise and interchange have always been characterized at this institution as a choice between decisions on the merits and deals.

Indeed, we act as if the only significant question about our appointments process is whether we rely on individual merits or are making political deals. In our view, this is simply not a helpful question. We now have a system in which deliberations are only possible in the language of individual cases, but which emerge from a pipeline managed by administrative fiat and are sent to the faculty after lengthy, if backstage, bargaining among powerful members of the faculty. Neither the timid meritocratic terms we use in public nor the bravado political terms we use in private help us to understand either the real ideas and potentials of the people we appoint or the direction their appointment will take the school.

Groups of candidates might be presented for collective consideration and individual vote in ways disconnected from imagined faculty constituencies. A slate might package similar candidates representing a direction for the school. Committees might present lists of ranked but all acceptable choices implicating different directions for the school or field, allowing the faculty to deliberate openly about vision. The point would be to encourage broader debate about the vision of legal education implicit in our appointments mix than is possible in the serial structure.

We both favor a climate in which the politics of maintaining and increasing the faculty's heterogeneity can be openly debated. Forcing all public discussion into the language of individual merit makes us hypocritical and prevents us from seizing upon a direction and pursuing it. More importantly, splitting individual merits from everything else imperils our ability to build faculty diversity.

The Role of Students

Students are largely excluded from the appointments process, except as they may react to particular decisions in ways which force the administration to respond. When it comes to appointments, we think of students not as colleagues, but as a peculiar brand of customer. If we are to discuss the impact of our overall appointments mix on the school's direction, academic vision, connection to the legal profession, we should include a



randomly selected group of students in the discussion. Virtually any student constituency can now demand, and will likely get, a specialized seminar or course on the topic of their choice. At the same time, however, students will have no input into the perspectives or range of materials which will be addressed within that subject matter area. Indeed, as ever more courses are listed to respond to student demand, and faculty participation in the selection of lecturers and visitors diminishes, we have narrowed significantly the range of intellectual and political approaches to law available within our burgeoning smorgasbord of specialized offerings.

The one role students-as-consumers do play in the appointments process is filling out teaching evaluations. Unfortunately, it would be hard to imagine a contribution more disconnected from the candidate's intellectual contribution, ideas, perspective, or scholarly contribution. What the evaluations measure as teaching may well be important, but it is hardly the best leg on which to build a broader student participation in the appointment of faculty.

We do not think students realize how their input is typically used. It is hard to remember positive student evaluations being given anything but lip service in the appointments process; even then, such acknowledgments often come with an undercurrent of suggestion that the candidate must have pandered. Negative evaluations, on the other hand, whether grounded in personality or performance, can significantly wound a candidate's chances — or at least insure that the process is a lengthy and humiliating one. These evaluations may play an important role in feedback to faculty, or in course selection. In our experience, however, students often fill them out in a moment of frustration with the course, or with the school, the anonymous format making it easy to avoid taking responsibility for the impact one might have on a candidate's career, or the effect such a process might have on the way the same course is taught in the future.

If we are to engage students in the appointments process, we must find ways to do so which encourage responsible participation. If we are interested in student views on a candidate's teaching, why not ask a group of students to participate in a serious, extended discussion with the committee or the faculty on the specific points of concern rather than relying on random personal contacts and anonymous questionnaires?

We may differ as a faculty about how directly students should be involved in setting priorities for faculty expansion or evaluating candidates. But is it too much to ask that we stop bending over backward to canvass, and pretend to respect, precisely the student views furthest from an ideas-focused evaluation? When we speak with students about governing the nation we ask that they imagine themselves judges, statesmen, legislators, attorneys. Would it be impossible to speak with them candidly in some venue about the intellectual and political issues we feel at stake in law teaching and scholarship?

Appointments to the faculty are the most significant long-term means to set the school's intellectual and institutional future. The current process provides no structured opportunity to articulate, debate and determine that direction. We could ignore, tinker with, or alter it. What we can't do, is to deny responsibility for its form or its consequences.

As usual, we look forward to your response — at dkennedy@law.harvard.edu or bellow@law.harvard.edu. Next column: placement.

THE VERDICT

THE EDGE

By Michael Bennett '98
Movie Reviewer

The action film routinely gets a bad rap in the upper crust critical circles of film folk. Its violence on screen is often admonished without a second glance to its context. Somehow nebulous distinctions are made between expositions of brutality and destruction that are visually equivalent. "The Godfather" is a masterpiece, "Robocop" is a deep parody, but "Natural Born Killers" and "Total Recall" are abhorrent. Violence has flavors but they're invisible except to certain discriminating palates.

Action films, the main purveyors of violence, are most often branded as sources of the abhorrent type. The champions of this style of film — Peckinpah, Woo, Cameron, Kurosawa, Tarantino, Scorsese — are anomalous masters who

have somehow worked their cinematic spell over the pop culture critics and avoided the branding iron with their veils of high, intellectual, and real violence. Woo's summer time special, "Face Off," is a perfect example. Ultra-violence and blood-lusty characters rolled up in techno-savvy, sci-fi-ish, mildly intellectual cloth with latent homoerotic stuff sprinkled on top.

With "The Edge," director Tamahori and playwright-gone-scripter David Mamet attempt to work their way into that coveted space of acceptable violence, that realm of Corleone, Travis Bickle the taxi driver, and Sanjuro Kuwabatake the seventh samurai. Ultimately they fail. The film, for all its industrial strength actors, high-powered writer, and interest-

ing plot premise, is hollow and lacks any resonance. It cannot leave the theater, lasting only as long as its roughly two-hour running time.

First the good stuff. The story is a well thought-out and interesting one. Essentially a mixture of standard action stuff, it mixes in noirish bits as well as doses of mysticism. Charles the billionaire (Anthony Hopkins) is a man of theoretical knowledge. His life is sterile and he is obviously bored. He is self-admittedly incapable of applying the wealth of facts he has stored in his head to any good use. Mickey (Elle Macpherson), his wife, is a fashion model, mildly giddy, and constantly encouraging Hopkins in



one or another direction. Alec Baldwin's character, Robert Green, is a photographer who Charles thinks is after his wife. The three of them head to the wilds of the Canadian outback to celebrate Charles's birthday and com-

plete a short shoot. Unbeknownst to Charles, Green plans to kill him while on location. Unbeknownst to either of them, the outback plans to kill them both. This genre mix, a mutated mixture of noir thriller and action survival flick feels like "Double Indemnity" ripped open and filled with "Predator" and "Robinson Crusoe."

Hopkins's weathered features in addition to his thespian abilities add much credibility to the film. His character's neurotic and continuous spouting of survival trivia is betrayed by the wisdom of his face, bearded after movie weeks in the movie wilderness. But even Hopkins can only do so much between the lines and in the silence. Mamet's script is barely satisfactory in some spots, a deficiency that could be remedied by an astute director. Unfortunately, the film lacked that critical element and instead had Tamahori and his silly search for meaning too often under the bellies of planes, too seldom in the eyes of Hopkins or the sporadically and spasmodically viewed expanses of green and mountain.

The work operated best when it was exploring the edge of the pale, that space right outside civilization where the cement stops and wilderness starts. Once we enter this restricted zone, we can see it. It is practically devoid of animal life, except of course for the man-killing bear, a handful of fish, and a couple of human warden types whose purpose it is to warn the newcomers of what's waiting for them on the other side, not much unlike Dorothy's munchkin welcoming crew. Director Tamahori tried his best to milk this aspect of the film but lacked the necessary tools.

He portrays Elle Macpherson's character as a 'Helen of Troy'-like contributory instigator. It is implied that she has convinced Charles to take this birthday trip; it is she who inspires Bob to try to kill Charles; and it is she who is wise enough not to venture further into nature, further from the pale for a photograph. Her time on screen is minimal, contained to the first and the last ten minutes, more or less, but her presence covers everything. Her photo shot garb-faux animal hide, feathers, face paint-point to her true affiliation. Like the bear, she's an agent of nature, waiting to strip away whatever remains of the survivors who manage to crawl out of the extra-pale space. She is an omnipresent object, but still an object.

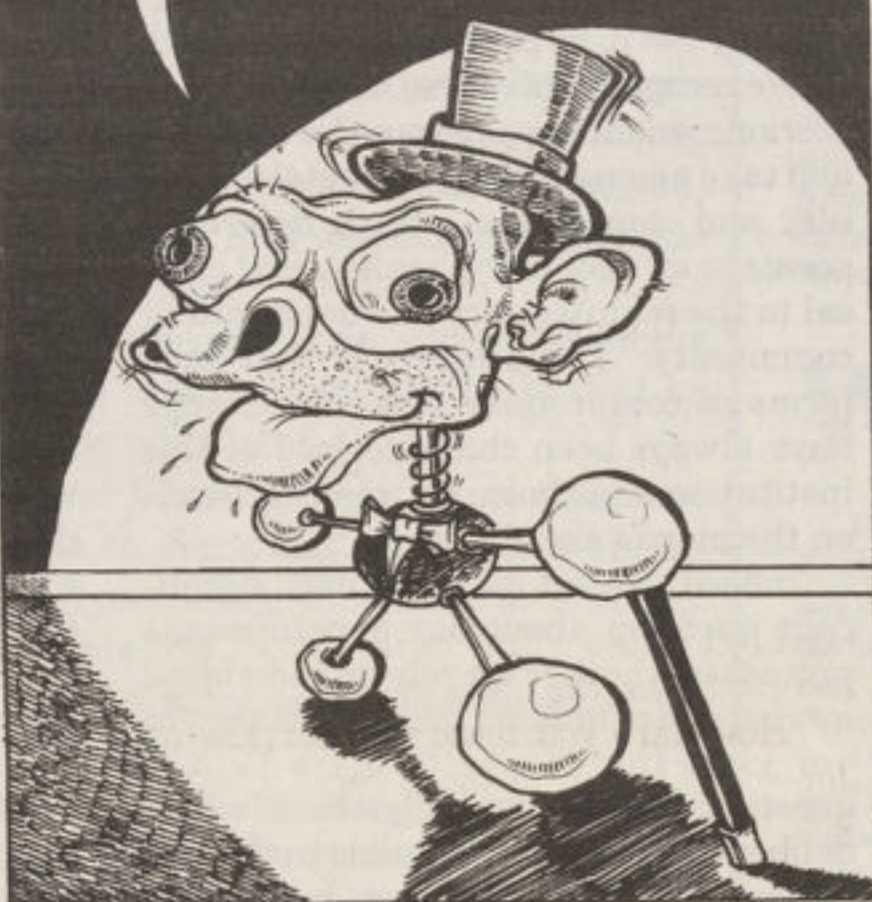
Ultimately, Mamet is a good playwright and an average scripter, Hopkins is aging well, Baldwin is finally daring to show a little of his soul, and "The Edge" is very missable.

Reasonable Man Misquotes Bismarck

IF THERE'S ONE THING I'VE LEARNED IN LAW SCHOOL IT'S THAT OTTO VON BISMARCK WAS RIGHT: LAWS ARE LIKE SAUSAGES...



YOU MEAN, IN THE SENSE THAT IT'S BETTER NOT TO SEE THEM BEING MADE?



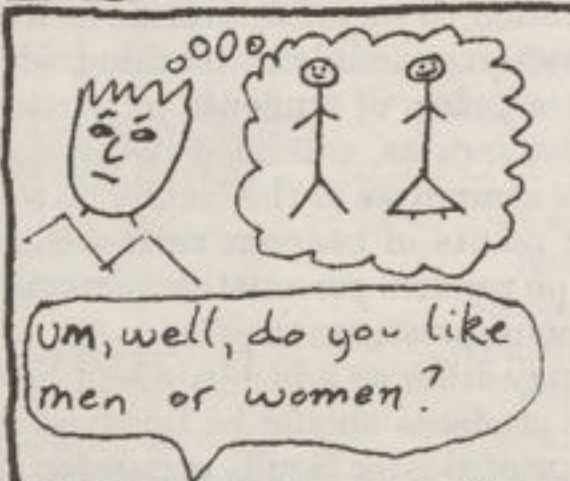
By Alfred Steiner

CERTAINLY NOT, FOOLISH PUPPET! WHAT I MEAN IS THAT VEGETARIANS DON'T EAT THEM!



Spike

WHEREVER
you
ARE



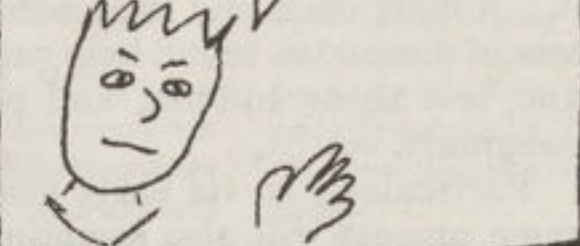
hey, spike, are you going to come out for coming out day?



WELL, MAYBE, BUT I'M NOT SURE WHAT I SHOULD COME OUT AS.



I MEAN, YOU'VE NEVER DRAWN ME A SIGNIFICANT OTHER, SO HOW AM I SUPPOSED TO KNOW?



ACTUALLY, I LIKE A LITTLE OF BOTH.



hmmm... i have an idea...



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REVIEW

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Musings and Vagaries

By Renée Kaplan '99
Staff Columnist

THE BROTHEL AT THE CHARLES

It's that special opening season again: Indian summer sunshine, bright fall leaves, cool evenings — and suits. They're out once again en masse, trotting along busily, their dark-toned crêpe-ness all a-creased with purpose, dry cleaning, and the novelty of the first week of interviewing. It's quite a chorus of crisp whiteness and pantyhose, of navy blue, black, and gray, of lipstick and leather portfolios, of firm handshakes and big smiles. It's as though the campus curtain has suddenly risen on this impromptu performance of simple old 2Ls and 3Ls playing the besuited and bemannered role of bright and marketable J.D. candidates. Performances in this big game of dress-up seem impressively convincing, played with just the right balance of self-conscious aw-shucksness (we're all just kids in suits really, right?) and impressively precise adhesion to the conventions of this little home-made drama (aw shucks all you want, but we all want that call back).

Despite its novice actors it really comes off as quite a professional production. "Interviewing," an Andrew Wendell Holmes Webber Production of Scott Turow's latest hit, adapted for the theater by the Office of Career Services, and staged in our very own New England Ivy League setting. Costume Design: Joseph Banks; Choreography: rushed between hotels; Lighting Design: 60-Watt frosted bulbs in floor lamps, assisted by fluorescent lobby lighting; Comestibles: excellent macadamia white chocolate chip cookies, crunchy veggies, and coffee in fancy hot

pots that no one drinks. There are, of course, the exchanges of sheepish grins and the nervous laughs as we pass each other in the dimly-lit, padded hallways of hotels, as though milling about backstage in silly zoot-suit costumes, just before the big show. We're all suspending our disbelief here, and the point is to make it seem like no one really knows: if you're playing dress-up, you gotta play along. There's some very subtle dramaturgy involved here, so a little stage fright is natural.

Act One opens up in the hospitality suite, decked out like a classy bordello's ante-chamber, where the recruiting madam and the more nubile of her mademoiselles — young HLS alum associates dressed in deceptively casual garb — stand in attendance, keeping you attentive and intrigued, rather lured by the congenial, perhaps even collegial atmosphere they create (women in pantsuits, a playful bunch of colleagues, San Pellegrino and great finger food — you could work for this place). The sweet Misses might even offer you a few catered trifles to excite the palate, as you wait to pass into your scheduled salon, with your very own mademoiselle: a recruiting partner. Naturally, this last is much less fresh-faced than those others; after all, she has been in the business for a while, not to mention the traffic of customers she's had that day alone.

And though you may feel a small surge of something special during your brief rendezvous, it is important to recall that each of us is just one of dozens of that regal lady's clients that day. Nothing personal,

but it's just a game, remember?

And our little moment of staged exchange, of purchased pleasure, is just a 20-minute trick during which your well-practiced mademoiselle's job is to try to pretend like she's selling this john the firm. It's a promiscuous moment of fictional parity between two impromptu lovers in a hotel room where the little 2L loverboy or lovergirl tries to forget that the mademoiselle has just about 200 other lovers waiting outside the door in similar suits, with similar smiles, and all the same kinky fantasies of summer wining-and-dining and future employment. The drama is heart-wrenching, and the first scene comes to a poignant close with a handshake and a "thank you" as the bedazzled and barely sated 2L customer exits the bedroom, only to bump into the next john and come to the harsh recollection that he's still in a brothel, and that the lady-friend/lover may already have forgotten about him or her.

"Interviewing," it seems, turns out to be quite a steamy production full of scenes of guile, seduction, and the explicit talk of sexy stuff: sexy work (multi-billion dollar financing, privatization), sexy phrases (at the end of the day, it's all about), sexy law firms (Davis Polk, Schulte Roth, Kramer Levin), sexy classes (negotiation, intellectual property) and, of course, sexy costumes. Dark suits and white stockings, all-season wool and white shirts, trustworthy ties and somber pumps, and absolutely nothing too conspicuous — not,



at least, in these first few scenes of "Interviewing." Conventions of sobriety that we all observe reflexively as conventions of sobriety that act as nothing more than conventions of sobriety in order to create an atmosphere in which the ad-

missible and the admitted are defined, in part, by their adhesion to the conventions of sobriety — brilliant staging. As such, the conventions of sobriety become nothing more than some arbitrary standard of admissibility, that have happened by chance to become meaningful and necessary (like ties — why a sheath of colored silk knotted uncomfortably about the neck?), and thoroughly indispensable to the modern professional. Again, a whole performance of brilliant staging and genuine acting, extraordinarily well-synchronized choreographies, a unified and dazzling kick-line of johns each indistinguishable from the other. Solid theater, a good show.

In the end, there is the slim chance that the recruiting partner mademoiselle won't forget about the 2L john, that somehow their exchange will have been more meaningful than the others, more than just another trick, just another weary performance in the life of professional pandering and high-class social prostitution. She may be persuaded that she's fallen in love, that it's time to abandon the abject job of interviewing. She may even hire the innocent, redemptive 2L, her lover and savior. But of course we won't know until the very final act.



This week: Fenno continues his job search.

Fenno was a sweaty mess and so was his pinstriped Perry Ellis three-piece from the Arthur Miller collection.

"Freaking El Niño," Fenno muttered as he wiped his brow.

Fenno hated running back and forth across campus for interviews. Why can't they have them all in the same place, like the martyrs in Rome or Little Big Horn, Fenno thought. It would make the whole thing a lot more painless and humane.

Worst of all, Fenno was down to the last copy of his résumé. He had tried to make copies at Langdell, but every machine he tried was jammed.

"Damn enviro-weenies," Fenno muttered. "In the good old days you used paper once and then wiped your ass with it."

Fenno was rushing back to the Charles Hotel from his interview at a Norton Holiday Inn. He glanced at his

watch. He had less than five minutes to make it.

Fenno instinctively walked up to the bike rack in front of Gannett and did a little trick on the Kryptonite lock he had learned as a hobby in Sheephead Bay.

"Hey — that's my bike!" Fenno heard screamed from a second floor window. But Fenno was too fast for the vigilante Gannett House dwellers. Two members of the Law Review came running down the stairs, but retreated when the light hit their eyes.

Several Legal Aid members put up a decent chase, but were held up in the Square as they searched their pockets for loose change to give to the bums in front of the cemetery, Store 24, the T, Coop, Tasty, and CVS.

Larry Tribe joined the chase as Fenno pedaled past Au Bon Pain, where the renowned professor was enjoying a cheese Danish. Tribe wasn't as lithe as he used to be, however, and by the end of the block he was lying on the sidewalk, gasping for breath.

Kevorkian's lawyer hovered overhead, salivating.

Fenno found the hotel room just in time to down three crumpets and a Heineken on his way in. He knocked on the door.

"Be with you in a minute," the voice yelled from inside.

The door opened. A frightened 2L in

tan khakis and a blue button-down was escorted from the room.

"How dare you come to interview at Jones & Armani in those rags!" the interviewer exclaimed.

"But your firm résumé said you had casual Fridays and —"

"Don't be so naïve, kid," the interviewer snarled. "We can say whatever the hell we want. You think we really have two gay partners? They're just guys we caught one day in the storage room listening to 'It's Raining Men.'"

"Next!" The interviewer said, looking down at Fenno.

"Um, I believe I'm next Mr. ... umm ..."

Fenno looked down at the firm résumé and wiped away the spicy peanut sauce he had spattered on it.

"Mr. Merville, sir," Fenno stammered.

"That's Melville — like the author," the interviewer replied.

Fenno looked blankly.

"Please sit down," the interviewer snarled.

"You have quite an impressive résumé here. Tell me, how did you enjoy your time as ambassador to France, Mr. Fenno?"

"Oh, it was good, um, bon merci. I put on twelve pounds," Fenno said with a sheepish smile.

"And the Nobel Prize you won last year for humanitarian work, tell me about that."

"Oh it was nothing," Fenno said nervously. "I mean, nothing that you wouldn't expect from top notch associates at," Fenno looked back at the firm résumé, "Crevice, Swine & More, sir."

Fenno smiled. This is really going well, he thought. I've got a shot at this one.

"Oh my!" the interviewer exclaimed.

"Sir?" Fenno said, leaning over to take a look at the line of the résumé.

"It says here you're a 42L. Mr. Fenno, you're quite qualified but firm policy is only to interview 2Ls for summer positions."

Fenno was dejected. He hung his head as he walked down the hall to the elevator, and didn't even look up as he stuffed a platter of miniature quiches in his pockets.

Fenno walked outside and instantly started sweating again in the day's heat.

He had a 2:30 interview at the Sheraton in downtown Providence and 10 minutes to get there.

Next Week: Fenno's second week of interviewing brings him face to face with a famous 1L.

Quote of the Week

"This Ames competition is a vital link in our continuing effort to procrastinate writing our third-year papers."

— Ryan Goldstein '98,
Ames Moot Court
semi-finalist

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AND
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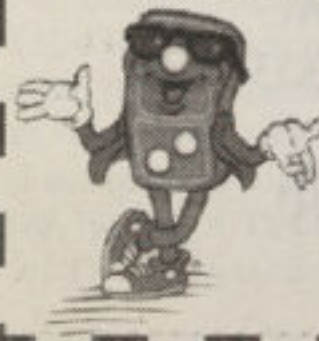
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TONGUE IMPLANTED FIRMLY IN CHEEK

By William Hall '98

Guest Columnist

COME ON OUT!

CAMBRIDGE, MA, OCTOBER 10, 1998 — First there was "Coming Out Day," a good idea. Then along came what could best be described as "Coming Out of Coming Out Day," sponsored by Harvard's own Society for Law, Life, Religion, and Self-Promotion: an idea the sensibility of which I won't comment on. In the ensuing conflagration caused by these two "events" and chronicled by this newspaper (which was desperate for something to print so it won't have to put articles about pot rallies on the front page again), various student leaders around the campus came up with a great idea:

Why not have a "Coming Out Day" of their own and get their names on the front page? Why not get Dean Clark to write letters to students on their behalf? Why not create campus hoopla that they can tell the folks at the ACLU and the Christian Coalition about and, in doing so, insult the intelligence of their schoolmates by using them as pawns?

At the beginning, the use of this new "promotional weapon" by Harvard student organizations seemed a novel idea. Unfortunately, so many people thought the idea of a "Coming Out Day" was terrific that it became overused and clichéd. A timeline of last school year's "Coming Out" events:

• **October 20, 1997:** "Coming Out of Law Day." The Harvard Society That Knows Law Is Unintelligible Crap sponsored this event, which featured an intriguing panel of speakers, including Marv Albert, Alan Dershowitz, Ralph Nader, Kato Kaelin, and Marisa Tomei (from the movie "My Cousin Vinny"). Professor Richard Parker gave the key-

note address, entitled "Please Note That Every Word in This Speech Is Surrounded By Quotation Marks."

• **November 4, 1997:** "Coming Out of Sodexo Day." This rally, organized by Harvard Against Rancid Kitchens (HARK), featured an array of intriguing speeches by campus activists. Oration topics included, "The Cheese on Hark Pizzas Isn't Real," "Sodexo Orders Stuff From Hudson Beef," "Sodexo Is Run by Kathie Lee Gifford," and "You Don't Wanna Know What's in the Hark Soup." Violence erupted when a counter-rally sponsored by Harvard Loves Hark Food (HLHF) was squelched by the HARK protesters. HARK activists threw Sodexo-made sushi at the counter-ralliers and shouted, "That's not real fish in the Hark sushi!" Further campus hoopla erupted when the RECORD exposed that the HLHF counter-protesters were, in fact, relatives of Dean Clark.

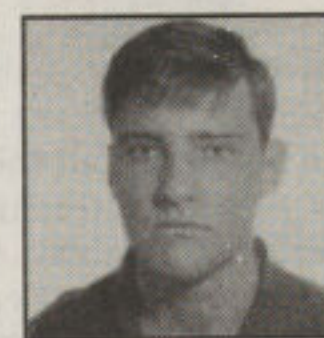
• **December 3, 1997:** "Coming Out of Alex Boldizar's Penis Day." The Harvard Society Against Maleness (HSAM) sponsored this event. Ima Campusfeminist, leader of the HSAM, said that the "Coming Out Day" was organized to bring together campus women offended by Boldizar's columns in the RECORD during 1996-97. Campusfeminist commented, "Women at Harvard Law were horrified and offended by Boldizar's columns. He used his penis like a weapon designed to subjugate females everywhere. We are here to tell Boldizar that if he decides to write such columns in the RECORD again when he returns to campus, he will live in fear of being Bobbittized." Boldizar, on a year-long sabbatical, submitted a

response to the RECORD stating, "I like my penis very much, and I hope Harvard does as well."

• **January 25, 1998:** "Coming Out of Celebrity Game Shows Day." Nudge Martindale, 1L son of game show host Wink Martindale, organized the Harvard Society Against Game Show Brutality in order to put on this event. Martindale says the idea was sparked when he went home to California for Christmas break. "I was reading the newspaper one day, and I saw an advertisement for the opening of a new Wal-Mart in Fresno," explained Martindale. "Jim J. Bullock, formerly a celebrity panelist on 'Hollywood Squares,' was going to be in Fresno for the Wal-Mart's ribbon-cutting ceremony. I thought that it was so unfair how we treat our game show celebrities. One day, you're on with John Davidson and Shadoc Stevens; the next minute, you're at a Wal-Mart in Fresno. We lawyers have to do something about this."

Charles Nelson Reilly gave the event's keynote address, entitled "How to Live Your Life After 'Hollywood Squares' and Get a Guest Appearance on The X-Files." Several former game show celebrities were in attendance, including Bullock, J.P. Morgan, and the Unknown Comic. John Davidson could not attend, explaining that the "Coming Out" festivities conflicted with his lounge act appearances in Reno.

• **March 10, 1998:** "Coming Out of Bubble Gum Cigarettes Day." The Harvard Society Against Bubble Gum Death (HSABGD) organized this event.



Jonathan Zippo, President of HSABGD, explained that he was inspired to put together the "Coming Out Day" by his work as a research assistant for Professor Tribe on the recently-concluded tobacco litigation. "I saw how Professor

Tribe was working so hard to keep real cigarettes from our children, and I thought that I had to take the next logical step. We will not suffocate our children in a blanket of chewing-gum ruin."

The HSABGD protesters met in the Hark and then proceeded to go into local candy stores. Once entering the stores, they chained themselves to the candy racks until the proprietors removed bubble gum cigarettes from the shelves. Several of the protesters, including Zippo, were arrested by Cambridge police.

"I have no regrets," commented Zippo. "This is what Gandhi and Martin Luther King were talking about when they spoke of peaceful resistance. This is the kind of thing we lawyers have to stand up and fight for."

• **May 20, 1998:** "Coming Out of Coming Out of Coming Out Day." After a year of "Coming Out" days and campus controversy, Harvard Law students seemingly returned to their natural state — bored and politically disinterested. Nobody attended this event. In an editorial, the RECORD chastized the student body, asserting, "It is truly a shame that, after a year of important campus activism rivaling the heyday of the late 1960s, Harvard students have returned to a state of political disinterest like a turtle returns to its shell."

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Brooklyn Bridged

By Aharon Friedman '00
Guest ColumnistAMIDST SUICIDE BOMBERS AND OTHER ENEMIES OF PEACE:
MR. ROSS COMES TO CAMBRIDGE

"...Oh Muslims, we must raise our voices against America, its ally Britain and all the infidel nations and say that Israel is stealing our land and establishing illegal settlements. Why does America support settlements in Israel? Are their settlements not terrorism? And therefore America is the chief of the terrorists. Oh Allah, destroy America her agents and her allies. Cast them into their own traps and cover the White House with black... Oh Allah, destroy America her agents and her allies. Allah raise the flag of Islam over the Al Aksa mosque, Jerusalem and Palestine..."

— Ikrama Sabri, September 12, 1997.

Despite her declarations to the contrary, Secretary Albright is treating similarly the building of housing by Israel and suicide bombings by Arab terrorists directed at Israeli civilians.

The scene at Foggy Bottom, as the Clinton team formulates Mid-East policy, probably resembles my Contracts class: on the one hand, Israel is building over the Green Line; on the other hand, the Palestinian Authority gives the green light to suicide bombers. On the one hand building settlements, on the other hand suicide bombings. Building houses. Bombing civilians' houses. Bombs. Bricks and blood. BARGAIN. Both sides are equally at fault for the breakdown in the Oslo process.

Israel, under the government of Ben-

jamin Netanyahu, has kept its basic commitments under Oslo. Most recently, it has withdrawn from Hebron, released prisoners, and was ready to carry out the first further redeployment.

Unfortunately, Arafat still refuses to honor his basic commitments under Oslo. Arafat's basic obligation under Oslo was quite simple. Israel was giving him territory. All he had to do was attempt to prevent it from becoming a base for terrorists attacking Israel. Instead, Arafat has included violence and the threat of violence as part of his negotiating strategy.

Clinton is demanding that Israel go way beyond its commitments under Oslo while at the same time not holding the Palestinian Authority to anything even close to its Oslo obligations.

At the same time the Clinton Administration is demanding that Israel refrain from "unilateral actions" that upset the Palestinian Authority. This includes, but is not limited to, building houses in Jewish communities over the Green Line. That nothing in Oslo prohibits Israel from expanding existing communities, or even building new ones, does not matter. It disturbs Arafat, so Israel must not do it. The Clinton team is demanding that Israel go beyond Oslo while not even holding the PA to Oslo itself.

After one such "unilateral action," the opening of the exit to an archaeological tunnel in Jerusalem, Arafat launched a

campaign of deadly violence against Israel, including having his "police force" open automatic fire on Israeli soldiers. By inviting Yasser Arafat to the White House, the Clinton Administration put the blame equally on both sides. This has just taught Arafat that he can continue to engage in violence and yet remain a "friend of peace."

Under the Clinton Rules of Oslo, Yasser Arafat is allowed to encourage violent attacks against Israel whenever it does something he doesn't like. Israel cannot demand that he rein in the terrorists because then Israel would be conceding defeat to the "enemies of peace."

Perhaps Dennis Ross, when he comes to Cambridge next week, can explain why the aforementioned Sheikh Sabri, the Mufti (highest appointed religious figure) of the Palestinian Authority, whose speech from Al-Aksa mosque was broadcast on PA Radio immediately following the broadcast of a speech by Madeline Albright, doesn't qualify as an "enemy of peace."

Maybe Mr. Ross will be able to explain why the following official statement issued by the PA Cabinet after the Ben Yehuda bombing doesn't qualify its authors as "enemies of peace" in the Clinton lexicon: "The attack in Jerusalem was committed by Jewish extremists against the peace process and they received help from around the world and from within



Israel. The Netanyahu Government is deceiving the nation in hiding such information from them. Rather than say the truth Netanyahu prefers to place the responsibility on Arafat."

Maybe the Clinton team believes this charge even after it was revealed that the bombers were terrorists wanted by Israel who had "escaped" PA custody while on "furlough." Where I come from we call it a blood libel.

Will Mr. Ross explain why the Clinton team is satisfied with Arafat's efforts against terror after Mohamad Dahlan, Arafat's security chief in Gaza, recently said, "Our corroboration with Israel on security matters is simply a diplomatic tactic that conforms to American [demands], while at the same time preserving our rights. We have effectively removed Israel's ability to attain security cooperation within the autonomous areas."

Mr. Ross never answered the frightening question posed to him by George Will on This Week: What is it about the combination of Arafat's behavior and his constant calls for jihad and declarations that Oslo is part of his plan to destroy Israel that so convinces the Clinton administration that he is seeking peace and not, as the map in his office shows, a Middle East with Palestine in place of Israel?

The View From Below

By Neal Higgins '00
Guest Columnist

TEARING DOWN THE NEO-CONSERVATIVE "TRUTH"

On its face, last week's Great Flyer Flap looked like another tempest in a teapot. Zealous conservatives, angry liberals, cautious Dean — just the kind of story to fill the "Letters to the Editor" page at any respectable campus rag.

In truth, however, the posters plastered around the Law School by the Society for Law, Life, and Religion may be more akin to the tip of the proverbial iceberg. The SLLR, as the group has become so affectionately known, is but one of a wave of conservative student organizations that have sprung up on Ivy League campuses over the last ten years. With the Western Canon as their ally and institutional support for gays and lesbians as their foe, the youngest members of America's political right reclaim the language of the minority, network through privately funded intercollegiate organizations, and intimidate administrators afraid of being dubbed intolerant of anyone. The Great Flyer Flap helps illustrate the point.

Last night I spoke briefly with Brian Burt '98, president of SLLR and author of "The Family Forum," which appears on these very pages. He returned my call promptly, tried to answer my questions, and was generally very polite. I most likely disagree with 99 percent of what the man has to say and undoubtedly find many of his views morally indefensible, but at least he was willing to talk. To a limited degree I can even sympathize with the guy: having spent almost as many hours in the last week putting up flyers as I have reading cases, I can imagine how frustrating it must be to suspect that someone is out there tearing them down. Of course, none of my flyers questioned the legitimacy of fellow students' identities, none of them tried to dissuade anyone from their present lifestyle (unless, of course, that lifestyle precluded a drink or two on a Thursday night), and none of them spawned two awkward

mass mailings from the Dean of Harvard Law School. And that is where I must take Mr. Burt to task.

When asked for comment on the Great Flyer Flap, Mr. Burt told the RECORD that he strongly suspected Lambda of the mischievous removal, pointing out that their "Stop the Hate" flyers in the Hark were suspiciously located where the SLLR flyers once hung — like by the 1L Harkboxes and on the message board across from the bathrooms, where the Lambda flyers had been for at least a week before the SLLR flyers ever hit the walls. When Lambda's own flyers were torn down at one point last year — all too common a fate for posters advertising gay, lesbian, or bisexual events — the administration expressed concern, but according to Lambda's past president, a mass mailing from Dean Clark was never in the offing. Makes you wonder who's using the "twin tactics of intimidation and victimization" that Mr. Burt assigned to the gay rights movement in his column last week.

All of which brings us to Dean Clark's famous letters. Taken as a coherent whole — which they weren't — the letters raised three objections to the incident. First, the "parody" flyers were pointedly offensive. Second, flyers shouldn't be torn down. Third, the Student Organizations Handbook prohibits the posting of anonymous flyers by student organizations. All three claims are true. None of them, however, justified the removal of the parody flyers.

To begin, free speech includes the right to be offensive. Dean Clark acknowledged as much in his second letter. There is no proof that whoever posted the parody flyers tore down the SLLR's originals. In fact, most of the parody flyers were juxtaposed with the originals to increase their effect. Furthermore, it's not even clear how many flyers were maliciously torn down and how many were simply removed by custodial staff,

the ultimate fate of every flyer at HLS. Finally — and most importantly for those concerned with civil liberties — there is no reason to believe that the parody flyers were posted by a student organization rather than an individual. But down they went regardless. No time for due process when studying the law.

Dean Clark might be forgiven his role in the incident: the parody flyers were intentionally offensive, rules were broken, and conservative students were no doubt clamoring for official condemnation. His predicament was one now facing many educators. In the last ten years, grants to conservative student groups and newspapers from right-wing philanthropists and foundations like Richard Mellon Scaife, the Adolph Coors foundation, the John M. Olin Foundation, and the Lynde and Harry Bradley Foundation have grown in size and number, reaching well into the millions. To facilitate the effort to win the campus culture wars, former Reagan administration policy guru T. Kenneth Cribb Jr. and his ideological allies run groups like the Intercollegiate Studies Institute (ISI), a right-wing think-tank that channels funds to conservative student groups and newspapers, advises conservative alumni to donate to the Institute rather than untrustworthy university administrators, and finds right-wing students jobs in Washington and elsewhere.

Lest this sound like an Oliver Stone script, check out Thomas Toch's article in the November 1996 issue of Washington Monthly. Better still, check out the ISI's own website, www.isi.org. The efforts of Cribb and his colleagues are undoubtedly having an effect. An article in an ISI-sponsored paper at Yale, "The Light and the Truth," led Texas oil billionaire Lee Bass to demand the return of a \$20 million gift for the study of Western Civilization,



money that the university was allegedly mispending. Likewise, pressure from conservative alumni and the editors of the ISI-sponsored paper at Princeton nearly led to the censure of the Dean of Student Life, who had criticized a first-year student for publishing homophobic remarks in the campus daily. Money talks, especially at private universities that treasure their alumni rolls. Harvard is no exception.

Admittedly, conservative alums aren't the only ones using greenbacks to gain influence over their alma maters. A group of Harvard-Radcliffe grads is doing the same to pressure the university to tenure more female faculty. But they're the exception. Far more common are groups like the ISI, Ivy Leaguers for Freedom, and other neo-conservative organizations pushing for the study of Western classics and the defense of "Judeo-Christian" norms. The risk is that such efforts will make money even more of a deciding factor in campus debate and intellectual discourse. Under such conditions honest discussion of the issues will be nearly impossible, restricted by the influence the almighty dollar holds over the administration and faculty. And honest discussion is, after all, the point.

Maybe the grander politics of campus neo-conservatism played no part in the Great Flyer Flap, but when someone who describes a fellow student's homosexual identity as "self-destructive behavior" comparable to "drug addiction" can convince the administration to bend the rules to protect his message against "the twin tactics of intimidation and victimization," one can only but wonder. Are Burt and his fellow members of SLLR — who claim their message "is not one of hate or intolerance" nor a statement "that homosexuality is wrong" — really the ones in need of Dean Clark's protection? You make the call.

Here and There

By Sharon McGowan '00
Guest ColumnistSTUDENT HUNGER STRIKE IN THE
VERY REAL TOWN OF AMES

Throughout the first year of law school, students at HLS are asked to address issues arising in the "mythical state of Ames." This week, however, I had the chance to think about the events in real-life Ames. The Ames I am referring to is Ames, Iowa, home to Iowa State University. On September 22, 1997, Allan Nosworthy, a student of African and Latino descent, began a hunger strike. Motivating his drastic course of action was the perceived obstinacy of the administration concerning issues relating to minority and traditionally under-represented students.

Pivotal to the tension between the students and the administration was the recent re-naming of an historic building on campus to honor female suffragist Carrie Chapman Catt. Catt utilized the fear of diminished white power in society to argue that the right to vote should be extended to women. White women could counteract the negative impact of the "ignorant foreign vote." In an 1894 speech to an Iowa suffrage meeting, Catt prophesied that "the hoodlums of Chicago gave us a forecast of their intent to reproduce the horrors of the Old World when their numbers are sufficiently increased, and every ship load of foreigners brings them nearer to their object." She denigrated

the "riffraff and illiterate negroes" and the "murdering scalping Indians." Yet, Iowa State decided to honor her memory with the designation of Catt Hall. Student outrage with this decision led to marches, protests and other public demonstrations.

But Allan Nosworthy took it one step further. Feeling overcome with futility in the face of the administrative response (or lack thereof) to these and other concerns, he began his hunger strike on September 22. In his public statement, Nosworthy reached beyond simply the Catt Hall controversy. In addition to the reopening of the process by which buildings are named, he demanded adequate funding of the various cultural studies programs (including Native American Studies) sponsored at ISU, the creation of an Asian-American studies program, the recruitment of low income, first-generation, and minority students, the hiring of adequate staff support to meet the needs of minority students (particularly, the upgrading of the staff position in Lesbian, Gay, Bisexual, Transgender Student Services to that of a full-time director), and the recruitment and retention of minority and openly gay faculty.

The turn of events in Ames, Iowa should be recognized as simply another

manifestation of the ongoing debate about the level of responsibility university administrators have to promote a safe and supportive environment for all of its students. The "Coming Out of Homosexuality" debate is the HLS version of the same phenomenon. For those of you who think that what is currently happening at Iowa State could never happen here, and on the eve of National Coming Out Day, I would share these thoughts:

The gay and lesbian students at HLS do not have a single "out" faculty member to whom they can turn for support. Even if there are members of the faculty who identify as queer, what does it mean that they cannot or will not come out? A complementary question is, why are issues concerning sexuality and the law usually taught by visiting professors? Every week there are new cases being filed in courts around the country concerning issues impacting sexual rights (e.g. the rights of gay student groups to organize, the Megan's Law requirement that gay men convicted for consensual sex under sodomy laws register as sexual offenders). How can the University justify this gap in its curriculum?

Lesbian and gay rights at Harvard



Law School are by no means the only issue which could lead to a breakdown in the legitimacy of the administration: to my knowledge, there are no women of color on the faculty. What are the implications for African-American or Hispanic women looking to

foster mentor relationships? Do students of Asian descent feel as though they are adequately represented in the faculty and administrative pool?

In light of the troubling news coming to us from Iowa, my hope is that this administration will renew its commitment (followed by meaningful action) to rectifying these inadequacies. Hopefully HLS will address these issues now, before the trust between the students and the administration deteriorates to the level that we now see at Iowa State. I also encourage students here at Harvard Law School to inform themselves about the events in Iowa and to express their support for the courage and the cause motivating Allan Nosworthy.

For more information about the Iowa State controversy:

<http://www.daily.iastate.edu/volumes/fal97/Sep-22-1997/op2.html>

<http://www.public.iastate.edu/~nyne/september29/cattmarq.html>

SPORTSGUY

By Chris Manning '98

Sports Editor

SOFTBALL TAKES FOURTH AT BU;
FOOTBALL RUSHES TO CLIMAX

HLS sent its two best softball teams to this weekend's BU Law School Softball Tournament, a fall tuneup for next spring's National Law School Softball Tournament at the University of Virginia. In what turned out to be an exciting weekend for both teams, the A-Team took fourth place out of twelve teams, the best overall finish for an HLS team in 3 years.

In Saturday's preliminary games, the A-Team wreaked havoc on the competition, downing Franklin Pierce Law School, 9-1, and Suffolk Law School, 16-1. Pitchers Mike "Stingy" Waterstone '99 and Perham "Ebenezer" Gorji '98 held their opponents to a total of two runs, while homers by Jeff "Thunder" Legath '98 and Dan "Lightning" Glazer '98 provided a big offensive punch. Catcher Beth "Sparky" Collins '00 played the role of spoiler at home plate, surviving several tooth-rattling collisions with opposing runners to tag them out.

On Sunday, the A-team again defeated Franklin Pierce, 10-5, but dropped two close games, one to last year's champion, a team comprised of BU Law alums, 3-1, and the other to another team of BU Law alums, 11-7. This, however, was enough to take fourth place and give the team some momentum heading into winter ball in Sarasota.

The real strength for this team has to be the pitching. Waterstone and Gorji together only gave up 21 runs in 6 games and had a combined ERA of 2.67. Those are numbers any major league pitcher would covet.

The B-Team had a tough draw, also having to play last year's champion BU Law Alum team. Despite the matchup, the Killer B's weren't intimidated, turning a triple play with runners on first and second. Pitcher Jeff "The Not-So-Big Unit" Manghillis '00 fielded the ground ball, turned and fired to shortstop Henry "Speedy" Gonzalez '99 for the force at second. Gonzalez turned the double, sending a rocket to first baseman Steve "Body Double" Matays '00. Matays, see-

ing the runner from second being waved home, gunned a throw to catcher Neal "The Runner Stops Here" Kaplan '98, who applied the tag for the final out. Unfortunately, the B's couldn't turn that into offensive production, falling 14-2. In their other games, the B-Team lost to BU Law, 16-6, and to another BU Law alum team, 15-5.

Congratulations to the teams, and best of luck training for Charlottesville!

— ♦ —

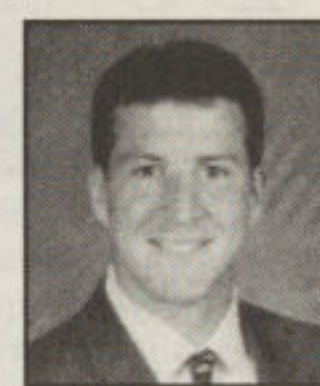
The HLSFL Game of the Week turned out to be a classic, a mid-week battle for Eastern Division dominance between Capital Punishment and Freshies. Despite big special teams plays by Freshies, Capital Punishment emerged victorious, 34-21. There was little mystery to Capital Punishment's success: dominant offensive line play. The stellar blocking of Willie "Brick House" Matthews '99 and "Iron" Mike Waterstone '99 enabled the offense to work at will against Freshies. When they weren't creating holes for Capital Punishment's option game, they were providing generous time for quarterback "Gentleman" Jim Walsh '99 to find open receivers. And when the Freshies' defense applied the proper pass coverage, Walsh used his tremendous scrambling ability to gallop for easy yards. Freshies

looked tough early, but fizzled late, enabling Capital Punishment to cushion its slim lead and take the win.

Don't let the standings fool you: after winning this crucial head-to-head matchup, Capital Punishment is in the driver's seat in the race for the Eastern Division crown.

Another big story this week has been the sensational rise of L.C. United. This team was becoming accustomed to life in the Western Division cellar, until captain Kris "Resistance Is Futile" Borg-Olivier '00 lit a fire under his players. The result was three wins this week, including an upset victory over previously undefeated Stormin' Mormons, 20-18. All of a sudden, L.C. United is challenging both the Mormons and Who's Your Daddy for one of the final playoff spots. Receiver Rhett Laurens '00 is catching everything thrown his way, and the L.C. United offensive machine is rolling. Ironically, L.C. United's path to the playoffs goes back through Provo, as they get a rematch with the Mormons this Friday. Stay tuned.

In other action, Law & Order gave a scare to Who's Your Daddy despite going the entire game with only five players. The Matays brothers, Steve '00 and Mike '00, combined for Law & Order's points, keeping the game close until the final



minutes. Ultimately, however, the Daddies depth overwhelmed Law & Order, 37-22.

The Inn Zone also stunned Who's Your Daddy with its aggressive vertical game. Zoner Andy "So Very" Barry '98 found the seams in the Daddies' zone for big

points. To complicate matters, a controversial encroachment penalty called against "Big Daddy" Mike Castellano '98 nullified an interception return for a touchdown. In what resulted in a tie game, 26-26, that touchdown could have been the difference.

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If it's October, it must be time for the HLSFL Playoffs! Eight of the league's fourteen teams get a shot at the title. Pairings will be set once the final game is completed this Sunday. My predictions for the berths:

Division Champs: Delta House, Capital Punishment. Only a complete collapse would knock these teams out of the top spots, and Hemenway Gymnasium will collapse before these two. OK, bad metaphor.

Locks: Freshies, Happy Gilmores. Both are guaranteed a spot among the Eight, and each has the ability – and the experience – to get to the final game. Just ask Raj "Key Lime" Pai '99.

Jockeying: Penal Battalion, Cruel & Unusual Punishment. These teams are virtually assured to get in, but each has plenty of games left to determine where they enter.

Bubble Dwellers: Stormin' Mormons, Who's Your Daddy, L.C. United. One of these three is not going to the playoffs. Right now, that one seems to be L.C. United, but 5-5 may be good enough to get in if the Daddies and the Mormons start losing.

SPORTSGUY's picks for the World Series: Florida vs. Baltimore. Birds win in six.

STANDINGS (AS OF 10/6/97)

Eastern Division							Western Division						
	W	L	T	PF	PA	Div.		W	L	T	PF	PA	Div.
x-Freshies	6	1	0	184	95	4-1-0	x-Delta House	6	0	0	193	82	5-0-0
x-Capital Punishment	5	1	0	207	81	4-1-0	x-Happy Gilmores	6	1	1	118	47	4-1-1
Penal Battalion	4	2	0	139	107	4-1-0	Cruel & Unusual	4	0	1	137	38	4-0-1
Stormin' Mormons	3	2	0	115	78	3-1-0	Punishment						
Lovers Not Fighters	2	6	0	69	98	1-5-0	Who's Your Daddy?	3	3	1	113	105	3-3-0
Rookies	2	7	0	105	235	1-5-0	L.C. United	3	5	0	99	149	1-5-0
Inn Zone	1	4	1	65	141	1-4-0	Law & Order	1	7	0	55	219	1-5-0
							Whiplash	1	8	0	94	229	1-5-0

x = clinched playoff berth

Privacy Means Only They Get Information

By Lynn Lopucki LL.M. '70

In the midst of my buying frenzy at Saks Fifth Avenue — around the \$2500 mark on my way to \$5,000 — the clerk told me I could get a 10% discount by opening a Saks charge account. I didn't want an account, but I did want the \$500 discount, so I filled out the application.

When I returned from lunch, the clerks were looking at me askance. "Declined? Impossible!" I told them. "Let me talk to them."

All the Saks guy in Dallas would tell me was that the problem was "major." "Privacy," he said knowingly, suggesting that I might not be me, so they had to be careful. He gave me the phone number for Equifax, one of the two consumer reporting agencies that had trashed me.

The Equifax phone system ((800) 685-1111 — try it) was entirely automated — no humans to scream at. I listened to the instructions. I punched in the answers and the system switched me from place to place. I entered my social security number, my year of birth, my gender, my current address and zip code. (This is privacy?) Ten minutes into the "conversation" the machine told me that I had not entered the correct address (according to it), so I couldn't have a copy of the report. Click.

The next business day, I tried again from my phone, entering every mailing address I had ever had, in different ways. No luck. From another Equifax number

I found in the local directory, I eventually reached a human being. The conversation went much as it had with the machine. Could I name two of my accounts? I dumped the cards from my wallet, and read off the names. "Not good enough," she said, agreeing with the machine that I still might not be me. She invited me to write for my free copy of the report, but I would have to include a copy of my driver's license, my social security card, a statement of an account, a pay stub, and the first page of my income tax return. (A strange sort of privacy.)

But now — with a human being on the line — I could scream. "SAKS GOT A COPY OF MY CREDIT REPORT IN FIVE MINUTES WITH NOTHING BUT INFORMATION THEY GOT FROM ME! WHY CAN'T I GET A COPY WITH THE SAME INFORMATION?"

"They are a business, sir," she said smugly.

"HAVE YOU EVER HEARD OF THE HARVARD LAW SCHOOL," I screamed. "THEY ARE A BUSINESS. CALL THEM AND THEY WILL TELL YOU I WORK HERE, I AM ME, AND THIS IS MY ADDRESS."

"I'm sorry sir, that's not the proper procedure."

An hour of phone calls later, I wrangled the names of the complaining creditors from a careless Equifax employee. Two collection agencies. One represented an



emergency room billing service that sent a total of \$349 in medical bills to a wrong address. I called Blue Cross, who promptly acknowledged their error in not paying \$299 of it. The other collection agency represented M & I Bank, who wanted \$250 in service charges on an account I hadn't used in four years.

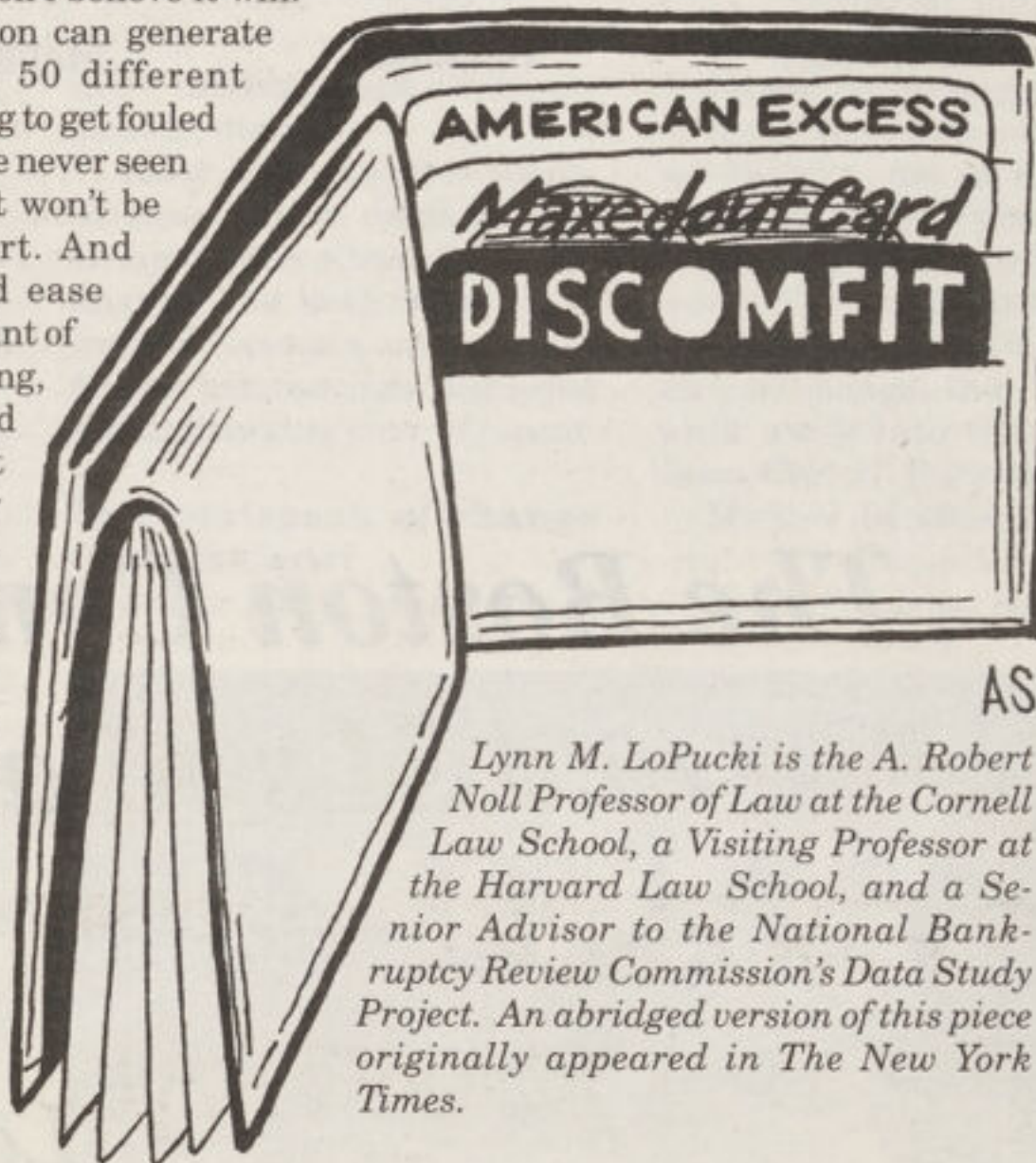
(This is "major?") None of these creditors — nor their collection agencies — had ever sent a bill that reached me. By law, they didn't have to.

I have sent letters to Equifax and Experian (the other reporting agency that trashed me) pleading for copies of my credit report. I hope one day my credit will be good again, but I don't believe it will. A single hospitalization can generate billings from 25 to 50 different sources. Some are going to get fouled up. Just because you've never seen a bill, doesn't mean it won't be on your credit report. And given the power and ease (from the creditor's point of view) of credit reporting, why should they send you a bill you might dispute? You will likely learn of their bad report only when credit is denied — while buying a home or car, or renting an apartment. Time will be of the essence, and you will be at their mercy.

Ironically, there is a problem in the debtor-creditor law casebook by Elizabeth Warren and Jay Westbrook that is almost like mine.

The Teacher's Manual opines that the debtor should pay the debt, even if he or she does not owe it. But the Manual also notes two weaknesses in that solution. First, paying after a bad credit report doesn't make your credit good. Second, if the creditor takes your money and doesn't correct the report, there's probably nothing you can do about it.

Four weeks later, despite the copies of my driver's license and passport I sent them, Equifax is still in official denial that I am me and Experian says they are "unable to locate a credit profile" (leaving me to guess whether the profile they are unable to locate relates to me). Both have sent me forms asking for more information.



AS

Lynn M. LoPucki is the A. Robert Noll Professor of Law at the Cornell Law School, a Visiting Professor at the Harvard Law School, and a Senior Advisor to the National Bankruptcy Review Commission's Data Study Project. An abridged version of this piece originally appeared in *The New York Times*.

THESE HALLOWED HALLS

By Kate Arms '98

RECORD Columnist

CURTAIN'S UP

What could be more appropriate for the weeks including Rosh Hashanah and National Coming Out Day than the coming out story of a Jewish gay man? The student-produced theater season at Harvard opened this week at the Loeb Experimental Theater on Brattle Street with a delightful production of William Finn's *In Trousers*.

In Trousers is the first of the trilogy of "Marvin musicals" which culminated with *Falsettos*. Written immediately after William Finn graduated from college, *In Trousers* is honest and direct. The plot, such as it is, revolves around Marvin's process of coming out, divorcing his wife, finding love with another man and his relationships with his wife, his son, his high school sweetheart and one of his teachers. Stylistically, the show ranges from simple poignancy to camp.

This production may be the best thing done by Harvard undergraduates this season. Technically, the show is strong, and all four performances are solid. Ryan Shrimme, as Marvin, especially shines in the scenes which flash back to his school years. Jessica Jackson, as Marvin's wife, gives a stellar performance. Her command of both the humor and serious demands of *In Trousers* is excellent.

Possibly the funniest sequence of the evening is "The Rape of Ms. Goldberg." Adolescent Marvin, dressed as a masked bandit, attempts to seduce his teacher. Seen from Marvin's perspective, Ms. Goldberg, played by Laurie Sheflin, is alternately seductive and disturbed by Marvin's advances. Campy to the extreme, the sequence succeeds because Sheflin and Shrimme are willing to risk the absurdity of Marvin's vision, including the masturbatory climax.

The one real weakness in the show is the lighting. The opening and closing images use backlighting to create fabulous projections of shadows on a screen behind Marvin. Unfortunately, the rest of the lighting doesn't match the quality of the effects. In one scene, the two backup singers are brightly lit while



Marvin and Ms. Goldberg are in virtual darkness. The most prevalent problem with the lights is that too often there is a noticeable break between lighting areas, and the actors are forced into darkness as they cross between them.

With the one exception of the lighting, however, the show is excellent. The music is solid throughout. The choreography is fun and appropriate. Most impressively, the staging effectively uses the space involving all three sections of audience seating.

On opening night, the audience was small but appreciative. The laughter throughout the show revealed that the audience was enjoying itself. The show is sung-through, but both Sheflin and Jackson performed individual numbers which resulted in show stopping applause. Jackson's performance in "I'm Breaking Down" was the high point of the evening.

Word of mouth is likely to pack the house for the rest of the run. Performances are October 9, 10, 11 at 7:30 and October 10, 11 at 9:30 at the Loeb Experimental Theater. Tickets are free, but call ahead, 547-8300, for reservations.

Coming October 16-18 to the Loeb Ex is a student-written production, *Groundlings*. *Groundlings* is a courtroom comedy with a play within a play. The central trial results from an on-stage death witnessed by an audience member during a performance of *Hamlet*. What has been seen of the script so far is quite silly. Also, the Loeb mainstage production of *Macbeth* performs October 17-19 and 23-25.

Slightly further off, dates to mark on your calendar are November 13-15. That weekend will see the HLS Drama Society production of David Ives's *All in the Timing* in Ropes-Gray. If you don't know David Ives's work, you should. His short plays are among the funniest contemporary comedies. *All in the Timing* consists of six short plays filled with word play, monkeys, love, and sex. All in all, it promises to be a pleasant break from the drudgery of studies. Watch for tickets on sale in the Hark.

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