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Profs. Approve Stricter Attendance Policy

Half of Faculty Absent From Meeting

By Suzanne Carter

A rule change eliminating the written notice requirement when dropping students from a course for nonattendance passed with 78 percent of the vote at a faculty meeting last Friday. Ironically, approximately half of the faculty did not attend the meeting.

"In one word, I was disgusted," stated Law School Council (LSC) President Dina DeFalco '98, who was present at the meeting. "This was a complete slap in the face to what is overwhelming student opposition to this policy. The vote was rushed through, unnecessarily so."

The final vote occurred approximately two hours into the meeting, after Dean Clark '72 announced that the meeting had to end so that he could attend a reception.

A motion to table the proposal until April was voted down, as was an amendment that would have required professors to notify students if they would enforce the rule.

The new rule allows professors to require students with "substantial delinquency in attendance" to withdraw from the course. It eliminates the old rule's requirement that an absent student be given written notice before any disciplinary action is taken.

The rule change will take effect this fall.

Soon after the beginning of the meeting, the faculty voted to admit the half-dozen student protesters peering in the windows of Hauser 102, where the meeting was being held.

"What's going on outside?" asked Professor Frank Michelman '60. "Is there a group of people outside who should be coming in?"

"Those are students voicing their opposition to the proposal,"

Please see **POLICY**, p. 7

Grades Canceled in LL.M. Cheating Controversy

Students May Have Had Exam Question Ahead of Time

By Eric Johnson

Canceled grades, a compromised final exam and accusations of cheating have sharply divided the HLS class of international LL.M. students, and at a Feb. 9 Law School Council meeting, a graduate representative announced the resignation of three LL.M. councilmembers, apparently in connection with the ensuing controversy.

The accusations arose regarding the final exam for Prof. Abram Chayes's '49 Introduction to the American Legal System, a course for foreign students highlighting the institutions and traditions of U.S. law. Students had their choice of one of two days to complete the 8-hour take-home exam: Tuesday, Nov. 25, or Wednesday, Nov. 26.

As many as 20 students who took the exam on the Wednesday date may have gained advance knowledge about the

exam's subject matter from students who took the exam on Tuesday.

To protect the integrity of the exam, the administration is wiping letter grades from some students' records and replacing them with "P" or "F" notations, designating "pass" or "fail." The exam-grade constitutes 100 percent of the grading for the course.

Chayes was out of town and could not be reached for comment.

Prof. Anne-Marie Slaughter '85, co-director of the graduate program and director of academic affairs at HLS, sought student opinion about possible solutions through several e-mail memos and a "town meeting" since word of possible exam irregularities leaked out in December.

In January, Slaughter announced that the Graduate Committee, of which she is a member, decided that while Tuesday exam-takers would receive their original grades, letter grades would not be awarded based on exams completed on Wednesday.

"People who took the exam on Wednesday have the option of re-taking the exam or of taking a pass/fail," Slaughter said.

The decision met with con-

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LSC Considers Impeachment of LEC Members for Attendance Policy Vote

LEC Rep. Edmund '98 Says He Would Not Resist Removal

By Eric Johnson

At its Monday, Feb. 9 meeting, the Law School Council held talks on whether to impeach three student members of the Legal Education Committee (LEC) who voted for a proposed change to the attendance policy.

The LEC is a faculty committee — with three student members — that passes recommendations on issues such as attendance to the faculty at large. While student members of the LEC are not members of LSC,

it is LSC who selects them and places them on the LEC.

At least some LSC representatives believe the LEC student members are on the committee to represent the desires of the student body.

"Many feel they are accountable to us," said LSC representative Rob Jancu '98. "We did give them a letter two months ago or so stating our opposition and they ignored it. And as a matter of fact, one of them came before us at that time and said he would vote against it, and then he voted for it."

Rob Edmund '98, an LEC rep and possible target of impeachment protested against the "purely political motivations" behind LSC's actions, but said, "If the council voted to impeach, I would not resist it."

No vote on impeachment was held during the Nov. 9 meeting. The vote is pending a constitutional investigation by Jancu and LSC Rules & Procedures chair Jake Zimmerman '00 who will look into the power and mandate of the LSC to remove

Pound Flakes Again Cancels Class via Voice Mail

By Janie Kim

Lecturer John Pound left an abrupt message on Registrar Stephen Kane's voice mail last Tuesday, canceling his class Corporate Finance, Corporate Governance, Corporate Control one day before the class's first scheduled meeting. The sudden elimination of the three-credit course left students and administrators scrambling to fill the gap in their schedules.

"[Pound's] voice mail said that he could not teach the class due to other obligations related to his professional life," said Kane. Pound has not communicated with the Law School administration since that message and has provided no further explanation for his actions.

"I got a sense from the message that I wouldn't be able to reach him — and I

couldn't," said Kane.

In the 1997-98 catalog of HLS faculty, Pound is described only as an "[a]dviser to large corporations and investors." According to Director of Academic Affairs Alan Ray, the catalog's descriptions are provided by the lecturers themselves.

This is the second time Pound has reneged on a class commitment to the Law School. Last fall, Pound

informed the Registrar's Office three days before his class's first meeting that he would be unable to teach the course that semester. He cited personal reasons for that cancellation.

Pound's latest behavior drew harsh criticism from administrators and students. "I was absolutely furious," said Kane. "It's reprehensible."

"Obviously, things hap-

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John Pound

Ramseyer Leaves Chicago for Spot On HLS Faculty

By Timothy Kiefer

J. Mark Ramseyer '82, currently a professor at the University of Chicago Law School, has been hired as the Mitsubishi Professor of Japanese Legal Studies. Ramseyer will join the faculty with tenure next fall.

"Harvard University has a long history of fostering path-breaking research relating to Japan," Ramseyer said. "I hope I can contribute."

Ramseyer will be the second professor HLS has hired from the University of Chicago in the past two years. This past fall, Prof. Larry Lessig left Hyde Park to teach at HLS.

The Mitsubishi Group of Japan's affiliation with HLS dates to 1972, when the company donated \$1 million to establish the professorship that Ramseyer will hold. The gift, unusual for a Japanese corporate group of that time, was made on the 50th anniversary

of a similar gift to Tokyo University Law School by A. Barton Hepburn, an American businessman.

While a student at HLS, Ramseyer served on the editorial board of the Harvard Law Review and was a member of the East Asian Legal Studies program. He received a National Resource Fellowship (1980-81) and a Foreign Language Studies Fellowship (1981-82).

Ramseyer received his bachelor's degree in history from Goshen College in Goshen, Indiana in 1976. He received a master's degree in Japanese Studies in 1978 from the University of Michigan. During 1985-86, Ramseyer was a Fulbright fellow at the law faculty of the University of Tokyo.

At Chicago, Ramseyer is co-editor of the Journal of Legal Studies. He is also co-editor of Studies and Law and Economics, a book series with The Uni-

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J. Mark Ramseyer in 1982

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25 Years Ago in the RECORD

HARVARD LAW RECORD

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TWENTY CENTS



Hemenway Gym: A shower of protest

Charles Suberman

Women Ask Equal Facilities, Hit Bias at Hemenway Gym

By David J. Cocke

In response to a petition signed by about 100 women law students complaining of the lack of showers and lockers for women at Hemenway Gym, Dean William L. Bruce, accompanied by four members of the Women's Law Association, toured the facility last week to see what could be done to remedy the problem. Bruce said he would forward his suggestions for possible structural changes in the gym to the University's Athletic Department, which manages the facility.

Eric Cutler, Associate Director of Athletics, said his department

was "hoping to be able to correct the situation" at Hemenway and other University gyms but that final approval had to come from the Faculty of Arts and Sciences of which the Department of Athletics is a part. "Right now the

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Three to Clerk On High Court

By Paul Weiner

Two Harvard Law School '72 graduates and one third-year student will clerk for the United States Supreme Court next year while 42 third-year students and two '72 graduates have accepted various other clerkships around the country.

These figures, based on reports received each year up to the beginning of February by Assistant Dean Stephen M. Bernardi, show a total decline in clerkships accepted by students and graduates from 71 in 1971, to 62 in 1972, to only 47 this year. Supreme Court clerkships declined even more drastically, from eight in 1971, to six in 1972, to three this year.

Bernardi attributed this decline to "fashions coming and going," noting that he had re-

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HLS Receives Fellowship Grant

A common complaint around this and other law schools is that professors are habitually concerned only with the mechanistic details of every case and treat their course materials as a great mass of "the law" completely divorced from "the real world."

Though the current student body probably won't be around to feel the difference, things may eventually get better as a result of a \$337,000 grant received by

the Law School. The money will be used to create a new program of 12 fellowships for young law professors interested in enriching their course materials with "insights and perspectives derived from a study of the humanities."

The grant, to be used for the 1973-74 academic year, is being funded by the National Endow-

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WLA Seeks Hemenway Facilities

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money to make these changes is not in the department," he said.

Jamie Gorelick, LL, one of the complainants who toured Hemenway with Bruce, maintained that the Athletic Department had been "just terrible, awful" in responding to the needs of women. "The only way anything will happen," she said, "is for the Law School itself to take a position." Gorelick said she had faced repeated opposition to change from the Athletic Department while she was a student at Radcliffe and once had to lobby for free football tickets for women. "They couldn't understand why women would want to attend the games," she noted.

The women's complaints center on the fact that while Hemenway is open to women who pay the regular \$20 special fee, it does not provide locker or shower facilities for them. "We were told to use the showers in Hastings Hall," adjacent to the gym, she explained.

The women argue that many more women would use the gym if proper facilities were available to them. "I almost didn't pay the

fee," said Gorelick, "because I couldn't see myself running out in the cold after a squash match to use the shower." Gorelick predicts that at least 150 women from the Law and Graduate Schools would take advantage of the gym if showers and lockers were available. Most of the women would probably be interested in the squash courts, she said.

Two possible changes in Hemenway were mentioned by Bruce in an interview with the RECORD earlier this week. One would be the rearranging of some of the lockers now available to men and the partitioning off of a section of the existing showers. Another would be providing shower facilities in the basement of the gym. Bruce described the latter approach as the simplest and most realistic but "quite expensive."

Gorelick noted that an additional possibility would be to reduce the size of the coach's office and use that space for women's lockers and showers.

Bruce felt that it was "better to get started with a fairly basic system that provides hot, decent

showers and a private and warm locker room" and worry about refinements later. "We could see what the demand [for women's facilities] is," he said, before going further.

Bruce was quick to point out that the Law School had no direct control over the gym. "We always kept the athletic fee sepa-

rate," he said, "choosing not to finance the program with tuition funds. As a result we gave up a certain amount of institutional leverage." He did note that he had a good personal relationship with the Athletic Department and expected a positive response to his suggestions.

Dean Ends Greetings After 25 Christmases

A 25-year-old tradition came to an end last year when Dean Albert M. Sacks abolished the mailing of Christmas greeting cards to students and alumni. He cited increased costs and manpower burden as the reasons for the move. In 1971 12,500 cards had been sent out at a cost of over \$4500.

According to Mary Conlan, administrative assistant to Sacks, the \$4500 figure did not include the cost of hours spent by members of the administrative staff in exhaustively checking and correcting addresses of alumni who move from one year to the next. With the number of alumni growing every year, Conlan said, "it was becoming more and more onerous every year and we just couldn't handle it any more."

The annual Christmas greeting was begun by former Dean Erwin N. Griswold in 1947, as part of his effort to organize alumni relations. In that year 3650 cards were sent at a cost of under \$500. In the intervening quarter decade, printing costs increased 13 times, and mailing costs and the expense of hired labor to address the cards both doubled.

Sacks noted that he had consulted alumni, faculty, and "a few" students before making the decision. He stressed that the move did not reflect a change of attitude by the School toward its alumni, and added that he hoped alumni relations would be closer than ever.

On the administrative staff, the decision was greeted with relief. One person who had been involved in the yearly ritual said, "Thank God. All of us were sick of Christmas cards."

THE HARVARD INTERNATIONAL LAW SOCIETY

Will Present A Conference On:

THE LEGAL FRAMEWORK OF U.S. TRADE WITH COMMUNIST COUNTRIES

February 23-24, 1973, Harvard Law School, Cambridge, Massachusetts

SCHEDULE

Friday, February 23, 1973

5:30-7:00 P.M. — Registration

7:00-7:30 P.M. — Introduction and Keynote

Speech by Prof. Harold J. Berman

8:00-10:00 P.M. — Panel I — Congressional

Restrictions on Trade with Communist Coun-

tries: Past & Future

Saturday, February 24, 1973

10:00 A.M.-12 noon — Panel II — The New

Role of the Executive Branch in East-West

Trade

12:30-2:00 P.M. — Lunch — Major Address by

former Senator Fred Harris, Director,

East-West Trade Center, Washington, D.C.

2:30-4:30 P.M. — Panel III — The Legal

Dimensions of Business Negotiating

Techniques with Communist Countries

For more information contact: Harvard International Law Society
Harvard Law School, Cambridge, Mass. 02138 Tel. (617)354-5581

Students Condemn Change in Attendance Policy

By Suzanne Carter

Students voiced overwhelming discontent with the proposed attendance policy change at an LSC-sponsored student forum this past Thursday.

"Thanks for coming to show your enthusiastic support for this proposal; it's very much appreciated," joked Prof. Richard Parker '70, the head of the Legal Education Committee, which was responsible for writing and advocating the rule change.

Not one of the 68 students present at the forum made a positive comment regarding the rule change. Nevertheless, Parker and other LEC members stood by the proposal.

"Many of us believe HLS has a problem that it hasn't addressed with sufficient seriousness," Parker stated. "It's a problem having to do with our educational culture, with the quality of the classroom. It's a problem we haven't done a great deal about. I think it's a real decay that's setting in. It's a problem of sour alienation — faculty alienated from one another, students alienated from one another, faculty and students alienated from each other."

"Our ultimate goal is to improve the quality of the classroom, to improve educational culture. So I see this as largely a pro-student move," Parker stated. Some students in the audience responded with laughter.

"We had a couple of cases this past year where someone went home for a period of

time and didn't tell anyone. I think in those cases it's appropriate someone notifies the faculty and the administrator as well. I think it protects the individual," stated Registrar Stephen Kane, an LEC member.

Some students doubted the proposal would further student welfare.

"The road to hell is paved with good intentions," Jol Silversmith '98 stated. "You seem to be saying, 'if you have a problem, come to us, we're not going to reach out to you.'"

"It seems to me if you're interested in the welfare of the student, you're interested in finding out the facts, and the way to find out those facts is to give students a written warning so they can explain the facts," stated Jake Zimmerman '00.

LEC member Prof. Gerald Frug '63 stated, "The notice is the rule. If you have a reason you're missing class, you talk to the professor. In my classes first semester, if people missed one class they routinely would write me a note stating 'gee, I'm awfully sorry.' it's not an uncommon thing to talk to the professor about absences."

Many students noted that the policy was not the best way to go about solving student apathy.

"There's no reason to go to class when everything in the class can be gleaned from a horn book or commercial outline. Nonattendance should be viewed as a reflection of the quality of education offered by this institution. Nonattendance is one of the few venues left to students who

want to protest and express dissatisfaction with their education," said Ken Murata '00, whose statement was applauded by many of the students.

"I think there is an element of consumerism in that all of us are spending a lot of money, racking up a lot of debt to receive an education," noted Mirna Adjami '00. "I feel that this year as a 1L my freedom of choice has been robbed of me. We've been assigned to bundles and professors without being asked what we wanted. So when we're paying a lot for an education, I think consumerism is very significant in terms of the academic learning environment created," Adjami stated.

Prof. Frank Sander '52 stated, "If I had just dropped in here from Mars, I would be a little bit surprised at this conversation. I sort of wonder, why did you people come here? There are people beating down the door to come to HLS. Why are you here? You should have gone to Yale, where the people don't have to go to class." (Yale Law School has no attendance policy.)

One of LEC's student members, David Stringer '99, stressed balancing freedom with responsibility. "It's our responsibility to fulfill our obligation to attend school," Stringer said. "When you're looking at a large class, for example a corporations class, the threshold is perhaps 11-12 classes. That's a substantial number of classes."

Parker stated that he realized "getting everyone into the classroom is a starting move, but it's not a solution."

"I once had a class where a student came to class every day, but he refused to face me. He turned around and had his back to me. That didn't help either of us at all," Parker said.

Law School Council President Dina DeFalco apologized for the timing of the forum, which was held one day before the faculty vote on the proposed change. "The final proposal from LEC came at the end of December, and we couldn't hold a forum on the issue until everyone came back from winter break," she said.

"I was very pleased with the forum overall," DeFalco stated after Friday's faculty meeting. "Sixty or 70 students is a very good turnout for a forum. I think it succeeded in its purpose [and] made it clear that the students were against it. LSC appreciated that LEC came out to hear student opinion, but even though they did, they completely ignored the student response."

One of the LEC student members, Brian Fitzpatrick '00 was "a little surprised that the students were in such angry disagreement with the proposal."

"I think all the faculty members were a little surprised by it, too," Fitzpatrick said.

LSC Debates Impeachment

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the students from their posts.

"Since we have the power to impeach them, I think that implies in the constitution that we have a regulatory, supervisory role," Jancu said.

"We feel that 89 percent of the student body is against what they did and we told them that as forcefully as we could have, and we were in constant contact with them telling them what our position was, and they still voted contrary to our position."

There has been some talk among faculty members that the administration may restore the committee seats to the student LEC members if they are impeached and removed by LSC.

The attendance policy, approved by the faculty last Friday, makes it easier for professors to drop students from their courses after sustained absences, partially by eliminating or loosening the requirement of notifying the student in advance of any action.

"We're spending a week thinking about it, and looking at the constitution," Jancu said. The LSC plans to vote on the matter Tuesday, Feb. 17. The meeting's location has not yet been announced.

Jancu said if the LEC student members were impeached, it would send a message to future members: "They have to be responsive to us."

Faculty Admit Stranded Students to Oversubscribed Courses

Continued from POUND, p. 1

pen. Sometimes we've had health problems and other emergencies, where we've tried our best to accommodate them. But something like this, on such short notice, it's unacceptable. I've never seen anything as unprofessional as this."

"I was so frustrated," said Hong Lee '99. "This is the second time he did this to us. I had structured my clinical and all my other classes to fit around this one course. The week had already started, and this forced me to scramble to rearrange everything."

According to Ray, the Law School severed all ties with Pound that afternoon.

"[Dean Clark '72] formally terminated Pound's appointment in writing," said Ray, "and expressed that he was very disappointed with the way [Pound] had handled things."

Pound's unexpected cancellation forced the administration to promptly devise a solution.

"We had to ask ourselves: how do we

cover this very popular course in the curriculum?" said Ray, "... since John was obviously not going to teach it."

Within 24 hours of receiving Pound's voice mail message, said Ray, the Law School established two new courses: Corporate Finance for two credits with Prof. Lucian Bebchuk LL.M. '80, S.J.D. '84 and Model Finance, Model Governance for one credit with Visiting Prof. Henry Hu. The combined curricula aim to approximate the substance of Pound's now cancelled class.

"We believe these new additions provide the essence of the course John would have taught," said Ray.

Students who showed up for the first day of Corporate Finance, Corporate Governance, Corporate Control — unaware of Pound's cancellation — were greeted by Kane.

"I went to the class," said Kane, "and met with the students — who were very

considerate — and explained the nature of the situation to them."

"The students had the option of registering for the new courses offered [by Bebchuk and Hu], or we would place them in a course of their choice."

Kane commended the faculty's flexibility and cooperative spirit in the wake of "this crisis."

"Bebchuk was supposed to be on leave this semester before he agreed to take on this class," said Kane.

Professors opened their already oversubscribed classes to students stranded by Pound's non-appearance.

Prof. Richard Fallon expanded the size of his Con Law class. To accommodate the larger enrollment in his course Race Relations and the Law, Prof. Randall Kennedy moved the class to Austin North.

"By and large, this has worked out rather well," said Kane. "Still, I hope it never happens again, and I'm very happy [Pound] won't be coming back to the Law School."



Stephen Kane



Japan Law Expert to Join Faculty in Fall

Continued from RAMSEYER, p. 1

versity of Chicago Press. He has served as chair of the University's Committee on Japanese Studies.

Ramseyer was a visiting professor at HLS in 1991. He has also worked as a law professor at UCLA, an associate at Sidley and Austin in Chicago, and an adjunct professor of law at Tohoku University and Hitotsubashi University.

Ramseyer's books include:

- "Odd Markets in Japanese History: Law and Economic Growth," an exploration of the impact of law on various markets in Japanese history and the effect

that those markets had on economic growth.

- "The Politics of Oligarchy: Institutional Choice in Imperial Japan" (with Frances McCall Rosenbluth), the winner of the Luebbert Award for the best book in comparative politics at the 1997 meetings of the American Political Science Association.

- "Japan's Political Marketplace" (with Frances McCall Rosenbluth), an application of rational-choice theory to Japanese politics.

- "Law and Investment in Japan: Cases and Materials" (with Yukio Yanagida, et al., editors).



Briefs

Reno '60 May Seek Independent Counsel for Babbitt '65

Attorney General Janet Reno '60 is being advised by top aides to seek an independent counsel to investigate Interior Secretary Bruce Babbitt '65, officials say.

If Reno agrees, this would be the fourth independent counsel currently investigating Clinton administration officials and the first looking into a matter arising from campaign fund raising before the 1996 elections.

She has rejected numerous Republican appeals for a counsel to probe other campaign finance matters that remain under investigation by a department task force. Reno has followed her top aides' advice so far.

The task force was unable to resolve allegations that Babbitt perjured himself in Senate testimony, Justice officials who requested anonymity, said Monday. Babbitt's sworn Senate testimony was directly contradicted by a lawyer, who had been a partner and close friend of his.

Babbitt has denied any impropriety.

The department's preliminary inquiry found no evidence Babbitt or other Interior officials rejected a license for a Wisconsin Indian casino in return for campaign contributions from other tribes that opposed it, these officials said.

—The Associated Press

Harvard Undergrad Charged With Rape Must Stay Off Campus

A Harvard undergraduate charged with raping and assaulting a fellow student must remain off campus until criminal proceedings against him are resolved.

Joshua M. Elster, 19, was released Tuesday from the Middlesex County jail on \$10,000 bail. He was arrested Saturday after the alleged victim sought medical attention.

Elster was arraigned on three counts of rape and two counts of assault and battery, Harvard University police said.

Elster's lawyer, Kenneth D'Arcy, said the couple had dated and, if they had sex, it was consensual.

—The Associated Press

Green '70, Schumer '74 Enter Race for New York Senate Nomination

New York City Public Advocate Mark Green '70 and U.S. Rep. Chuck Schumer '74 have entered the race for the U.S. Senate in New York, challenging 1984 Democratic Party vice-presidential nominee Geraldine Ferraro for the state's Democratic nomination.

Green, whose record includes stints with Ralph Nader's '58 lobbying group and various other consumer-rights organizations, ran unsuccessfully against Republican incumbent Al D'Amato in 1986. Green's platform includes affordable child care, a pro-consumer HMO "bill of rights," and a "clean money bill" to check the power of special interest groups.

Schumer, who worked on Sen. Claiborne Pell's 1972 re-election campaign while a student at HLS, is known in the House as a staunch advocate of gun-control and reproductive rights. Though Schumer, like Green, trails Ferraro in early polls, he remains optimistic about capturing the Democratic nomination and facing D'Amato.

"He's a bully," Schumer was quoted as saying in the Providence Journal-Bulletin, "and if you show weakness, he pounces. But if you show strength, he takes a step back ... I can deal with bullies."

Harman '69 to Run for Governor of California

Rep. Jane Harman '69 entered the California gubernatorial race last week, just hours after Richard Riordan, Republican mayor of Los Angeles, announced his intentions not to run.

Harman, 52, who represents a Los Angeles district and is serving a third term, said supporters of Sen. Dianne Feinstein had urged her to run for governor after Feinstein decided not to seek the office herself.

Both Riordan and Harman waited until the last day to announce their intentions. The filing deadline for candidates was 5 p.m. on Feb. 4.

Republican Gov. Pete Wilson, who is serving his second four-year term, cannot run again because of the state's term limits.

Weaver Named Woman of the Year by Pudding

Outrageous period costumes, big wigs and men caked in makeup were all in a day's work Feb. 9 for the Hasty Pudding Theatricals company's annual Woman of the Year celebration.

This year, the Pudding's 150th anniversary, the group honored actress Sigourney Weaver of "Alien" fame.

The event included a parade, a ceremony where Weaver was given the traditional Pudding Pot and a preview of the Pudding's 150th production, "Paradise Lost and Found."

A carnival atmosphere pervaded Harvard Square Monday afternoon, the streets teeming with people anxious to catch a glimpse of Weaver as she led her parade to the Pudding Theater.

To the tune of the Harvard Band's rendition of "Ten Thousand Men of Harvard," Weaver rode down Massachusetts Ave. accompanied by assorted College dance and comedy groups, each striving to outdo the other in flamboyance.

"It's silly, it's fun ... it's good for people to get silly," said College sophomore Alex Graff, who appeared at the event splattered in fake blood.

—The Harvard Crimson

Berkman Center Offers Free, On-Line Course to Public

By Janie Kim

Harvard Law School's Berkman Center for Internet and Society is offering its first experimental on-line course scheduled to begin later this month. Free and open to the public, Privacy in Cyberspace will be led by Prof. Arthur Miller '58 and will not offer any credit to its enrollees.

Miller, who is otherwise on a leave of absence from the Law School this semester, will not receive any teaching credits from the Law School for moderating this course.

"The course will examine privacy issues on the Internet," said Molly Shaffer Van Houweling '98, coordinator of the course.

Possible questions for discussion, according to Van Houweling include: Who has access to your medical records over the Net? Can your employer monitor your use of the Internet at work?

Van Houweling highlights encryption, the securing of messages in code largely indecipherable by outside parties, as a particularly heated topic.

"The government would like a key to everyone's encryption code," she says. "Right now, the government can tap your phone with a warrant. They claim they should have an analogous power to access your communications in cyberspace when necessary and allowed."

Van Houweling and about 15 other teaching assistants, all HLS students, advised Miller on structuring the content and form of the course.

The on-line class will be divided into smaller, more manageable threaded discussion groups, which will be moderated by the HLS teaching assistants.

"Each week, Miller will introduce a hypo," said Van Houweling, "which will be hashed out in the various discussion

groups. Then, once a week, Miller will moderate a live, real-time Internet dialogue involving the entire class."

The class will never meet in person, says Van Houweling. There will be a limit on the size of the class, but "[the Center] doesn't want to go public on the ceiling for the course," said Van Houweling.

As of Monday night, over 300 people from around the world, including Denmark, Australia, and Brazil had enrolled in the on-line course. "Right now, we have lawyers, law students, high school students, homemakers, people from all walks of life," said Van Houweling.

"Students [in the cybercourse] have to have a sense of adventure," said Prof. Jonathan Zittrain. "It's not for credit and it's open to anyone; there are no first order restrictions."

"The course aims to learn how to teach something over the Internet," said Zittrain. "It's the kind of public service exercise where we're trying to give something back to the community-at-large while modeling a basis for a generic course in cyberspace."

The experimental on-line course advances the Center's larger objectives: to chart and occasionally shape the explosive development of the globally networked environment.

"One of the animating principles of the Center is to try to understand how the Internet works," said Zittrain. "Part of that is to actually build on it and then visit with the consequences of that ... see what issues arise."

Prof. Charles Nesson '63, Director of the Center, hopes that this experimental endeavor will eventually lead to "the development of a rich catalog of cybercourses."

The course Web Site, designed by Wendy Seltzer '99, is at <http://cyber.harvard.edu/metaschool/>

Payroll Office Changes to Direct Deposit System

By Alyssa Caples

While many HLS students bemoan the waste of paper that comes with the stuffing of Hark boxes, at least one branch of the university is trying to cut down on paper use. Late last October, the Harvard University Payroll Office switched from issuing paychecks for all staff and hourly employees to a direct deposit system.

According to Jacqueline Matthews, Director for Personnel Services at the Law School, HLS had encouraged people to use the direct deposit system long before the mandated switch. "It makes a lot of sense in getting access to your money faster," said Matthews. "If you can't get to the bank on payday, your money is still deposited ... and you can't lose your checks."

People without checking accounts can still get paper checks, although they are encouraged to set up checking accounts as soon as possible. As an added incentive for employees to establish checking accounts, many area banks offer free checking to direct deposit users. Those who do not wish to use direct deposit may fill out a request form to get paper checks.

Not only does the move to direct deposit lessen the amount of paper used and add convenience for staff members, it also saves the university postage costs. Along with the move to direct deposit, the university has switched from sending out pay-stub advices at home addresses to office addresses using inter-campus mail. In a memo to all staff members, the Harvard Payroll Office states that, "[a]s a result of this change, Harvard will save a substantial amount of postage costs each year."

"From the Law School point of view, [direct deposit] has been a wash," said Matthews. "Advices now come to office addresses and there's been no problem with the distribution of the advices. It's been pretty much a non-event."

Employees seem to like the system. "I'm from Connecticut and I already had a checking account there. Direct deposit saved me the hassle of getting a new account up here," said Jennifer Dohan, an Education Technology staff member.

Direct deposit is a system by which funds are electronically wired from the payer's account into the payee's checking account. It is widely used both in private industry and by the US government.

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D.C. Circuit Suspends Lessig's Work on Microsoft Case

By Rob Friedman

A three-judge panel of the U.S. Court of Appeals for the District of Columbia issued a stay last week of U.S. District Judge Thomas Penfield Jackson's decision to have Prof. Lawrence Lessig serve as special master in *U.S. v. Microsoft*.

The one-page order, issued by circuit judges Laurence H. Silberman, Stephen F. Williams, and A. Raymond Randolph, offered no reasoning for the decision.

The unanimous appeals court ruling came last Monday, one day after briefing was concluded on Microsoft's appeal of Judge Jackson's Dec. 11 decision to appoint Lessig as special master. On April 21, the appeals court will hear oral argument on both issues regarding the appropriateness of Judge Jackson's preliminary injunction against Microsoft, as well as whether Lessig should be permanently removed from his duties.

The injunction ordered Microsoft to separate its Internet Explorer browser from Windows 95. Last month, Microsoft and the Department of Justice agreed to a temporary settlement of contempt charges against Microsoft. The software giant agreed to let personal computer makers block access to the browser in the current version of Windows 95 while it appeals Jackson's decision.

Microsoft's victory in the D.C. Circuit comes after a series of allegations made by the software-maker in court papers

and in the press that Lessig harbors a bias against the company. Microsoft appeared to have made a miscalculation in attacking Lessig after Judge Jackson defended Lessig in a scolding ruling last month that referred to Microsoft's filing as "defamatory," and its argument "trivial and altogether non-probative."

Microsoft argued in front of the D.C. Circuit that Lessig's work should be suspended because the District Court had inappropriately delegated its judicial authority. The company's Jan. 30 reply brief argued, "Professor Lessig should not be discharging the judicial power of the United States."

The company tied the improper delegation argument to its on-going contention that Lessig is biased.

"Far from advancing an 'orderly' determination of 'relevant' legal issues, Professor Lessig has injected unnecessary complexity into a relatively straightforward proceeding," Microsoft lawyers argued.

Microsoft bolstered its argument that Lessig's appointment as special master is an improper delegation of authority by citing a Jan. 2 letter Lessig sent to the parties. In the letter, Lessig allegedly apologized "if the proceeding he is conducting appears to be something from the 'Civil Code.'"

Microsoft suggested in its reply brief that "Lessig apparently regards his role as the equivalent of an investigating magistrate in a Continental legal system

— as opposed to a neutral judicial officer in an adversary proceeding."

The references to the "Civil Code" and "Continental legal system" apparently are designed to analogize Lessig's broad authority to that of a magistrate in the European legal process. In Europe, magistrates are more active in investigating cases than are their counterparts in the U.S.

Lessig's Future Role Unclear

Judge Jackson must now decide whether to await the D.C. Circuit's decision on April 21 or to take interim action. Jackson could withdraw his appointment of Lessig and continue the adjudication of the case without a special master. Alternatively, Jackson could withdraw Lessig's appointment and designate a new special master, possibly one with more limited powers.

Lessig might find ample time on his hands due to a lack of teaching duties this semester. Before the appeals court decision to suspend his special master duties, Lessig convinced Dean Clark '72 to cancel his spring-semester advanced constitutional law seminar.

Lessig, reached this week in Florida, said that he made the decision to cancel the class due to an "extraordinarily heavy burden of work" on the Microsoft case. Lessig said that because this would have been his first time teaching the course, "to do it justice was going to require more of my time that I would [have had]."

Lessig said that he decided it would be best to move the class to next fall. He said Clark agreed to allow him to move the class as long as Lessig minimized the harm to students who were disadvantaged by the last minute cancellation.

According to Registrar Stephen Kane, 15 students were enrolled in the seminar, six of whom were 3Ls. Kane said that 2Ls who were enrolled would be guaranteed a slot in the fall course. He said 3Ls would be allowed to "get into another course of their choosing."

Lessig said he sent a letter to the 15 students enrolled in the class promising them he would supervise independent study projects or "do whatever else I could do for anyone specifically harmed by [the cancellation]." Lessig said that he has so far received one request to supervise a third-year paper.

New Law Review President Elected After Long Debate

By Alyssa Caples

On Sunday, after an intense 15-hour debate and three rounds of voting, Katie Mayer Christensen '99 was elected as the 112th president of the Harvard Law Review, succeeding outgoing president Kenneth Bamberger '98.

"We are all so excited. Katie brings a very unique combination of intellectual focus and managerial talent to the position. These, combined with her personal ability to make others feel as if they are part of an open and welcoming community, should make the Review a very special place to spend the next year," said Bamberger.

Christensen intends to further the three goals set by Bamberger during his tenure: high-quality scholarship, community involvement, and inclusiveness at the Review. "My vision is largely to continue the tradition that people like Kenny have laid down, to ensure that the journal continues to be of the highest quality and to continue to challenge legal scholarship," said Christensen.

Christensen's election marks only the fourth time that a woman has held the



New Law Review president Katie Mayer Christensen and outgoing president Kenny Bamberger

post of Law Review president. "I plan to do this job as myself, not as 'a woman'... I feel honored to be the fourth woman president and feel that it is my responsibility to carry on that tradition with pride," said Christensen.

Prof. Lessig Defends E-Mail Statements

The following are excerpts from Prof. Lawrence Lessig's affidavit executed Jan. 14 to the U.S. Court of Appeals for the District of Columbia. The declaration was filed in connection with Microsoft's motion to revoke the U.S. District Court's appointment of Lessig as special master in *U.S. v. Microsoft*.

1. Microsoft has offered readings of my writings, and speculations about my behavior, predating my appointment in this case, that it believes suggest bias. In context, they do not.

2. Microsoft alleges an email that I sent to Mr. Peter Harter at Netscape Corporation evinces "actual bias" against Microsoft. It claims the email "compares installing a Microsoft product ... to selling [my] soul, presumably equating Microsoft with the devil." Reply Mem. at 13. It also states that the email "refers to a discussion with a Harvard Law School colleague about the possibility of filing a lawsuit against Microsoft." Id. These characterizations are misleading.

3. The email in question is one of at least 4000 emails that I have sent to various people over the course of the last 11 months ... The relevant portion of the email states as follows: "OK, now this is making me really angry, and Charlie Nesson thinks we should file a law suit. But please tell me whether this is true. When I installed Internet Explorer 3.0 on my Mac system (only because I wanted to be entered into the contest to win a 3400) ('sold my soul, and nothing happened'), the next time I went into Netscape, all my bookmarks were screwed up. Did IE do this?"

4. The purpose in my sending the email was to ask a question: Whether Netscape knew whether IE interfered with Netscape bookmarks when installed on a Macintosh. I asked it of a friend who I thought was in a good position to know. The message does refer to Charles Nesson's view about how to proceed, assuming IE did interfere

with Netscape. But that was his view. My aim was to ask. Subsequent to this email, both because Netscape did not claim that IE interfered with Netscape, and because I was later able to install IE on a research assistant's computer without trouble, I concluded that IE did not interfere with Netscape bookmarks. . .

6. The email also contained two parenthetical references (quoted above), the second of which Microsoft interprets as revealing bias against Microsoft. Microsoft simply misses the reference. The email was sent to a friend at Netscape who I expected would tease me for installing a competitor's browser. The first parenthetical therefore explained my motive (to enter a Microsoft contest to win a Macintosh PowerBook). The second simply continued the tease. The statement in that parenthetical is in quotes. The words are from the lyrics of a song by Jill Sobule titled "Sold My Soul." Its meaning in context was not the confession of some profound "Faustian bargain." . .

14. The two specific references to Microsoft contained within articles that I have published have been taken out of context in Microsoft's Motion. In one, I state "as it is, the architecture is the product of private interests — whether the relatively open Internet Engineering Task Force or the absolutely closed Microsoft Corporation." Contrary to Microsoft's representation, this reference was not intended to suggest that Microsoft "is a threat to political freedom." Motion to Revoke, at 8. My claim was meant equally to refer to open organizations as well as closed. In the second reference, in a footnote, I write that Windows 3.1 was (in January, 1995) the "operating system of the more recent (and futile) efforts of Microsoft to mimic the Apple Macintosh." The aim of this footnote was to explain the meaning of an operating system. Its evoking of a then-present rivalry was meant, and I believe was understood, to be playful, not damning. . .

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NATIONAL URBAN LEAGUE

LL.M. Community Divided By Cheating Scandal

Continued from *CHEATING*, p. 1

siderable opposition from international students, who considered the action to constitute a collective punishment against all students who took the exam on Wednesday — about half of the class of 150 — regardless of whether they were innocent or guilty.

"It was our opinion, the staff's opinion and mine," Slaughter said, "that there was a substantial enough likelihood that they were tainted that we had to take protective action."

Slaughter said that she couldn't estimate how many people had advance knowledge of the exam question, but she said it was "more than a couple isolated incidents."

"If we thought this had been one or two cases, we would not have taken action [to change the grades to pass/fail]," she said.

One LL.M. student said that perhaps 20 students had improper advance knowledge, and that the administration might have the names of four or five.

Many LL.M. students seemed to think the pass/fail decision was the administration's final solution to the cheating matter. Slaughter, however, said that the pass/fail move was made only to protect the integrity of the grades, and that disciplinary action, if it were to be pursued, would operate through the Administrative Board.

The Law School's Ad Board, the organ ultimately responsible for "trying" students formally accused of academic dishonesty, operates under a strict veil of secrecy. Dean of Students Suzanne Richardson and Prof. Lloyd Weinreb '62, members of the Ad Board, did not return phone calls on Tuesday requesting an interview.

Asked if disciplinary proceedings were going forward, Slaughter said, "I can't talk about any Ad Board proceedings of any kind."

"It's completely confidential," she said. "The school has very strict rules about anything related to the Ad Board at all."

Although it is not known whether charges are pending against any individuals for academic dishonesty in connection with Chayes's class, Slaughter said in her Jan. 14 e-mail message to LL.M. students that names of individuals had been brought to her attention, and that an investigation was proceeding to determine the truth of the allegations. While Slaughter's memo said that the investigation could lead to disciplinary proceedings, she seemed to indicate that HLS's more serious punishments were not on the horizon for anyone involved.

"[W]hile any such proceedings would be a matter for the Administrative Board, and the Board could decide to impose sanctions," Slaughter wrote, "there is no reason at this point to believe that such sanctions would include suspension or expulsion."

Exam Warned Students Not to Share Information

The subject matter of Chayes's American Legal System exam involved a hypothetical civil liberties case in which the U.S. Supreme Court would overrule *Bowers v. Hardwick*, a real 1986 decision in which the Court upheld Georgia state sodomy laws.

For the exam, students were asked to draft a majority opinion for the Court and a separate memorandum discussing sources and theories behind the arguments. The exam was limited to a length of about 1600 words.

Because the exam emphasized the importance of citing legal writings and judicial decisions, a student who knew the subject the day before the exam could have carefully compiled a comprehensive list of such sources, which presumably could have led to a better grade on the

exam.

The exam also referred to the *Bowers v. Hardwick* Supreme Court decision in the course materials. Someone with advance knowledge of this could have used the time to thoroughly review that case.

And of course, if students knew enough about the exam question, they could have written the response ahead of time.

Bold lettering on the cover sheet of the exam read: "You may consult any written, printed or electronic materials you wish, including your notes, but you may not discuss the examination with anyone, either while you are taking it or thereafter until after 4:30 P.M. on November 26 [Wednesday, the second day the exam could be taken]."

Because the exam was graded on a curve, the enhanced performance of

students who prepared in advance could have negatively affected the grades of other students.

Word of Alleged Cheating Breaks Out

Eric Van Gelderen LL.M. '98 and Cecile Menu LL.M. '98 — both program representatives to the Law School Council — went to the graduate program office to discuss the incident, Menu said, hoping that a statement from the administration about exam policies might keep this sort of academic dishonesty from happening again.

Menu and Van Gelderen did not reveal to the graduate program the names of those whom they suspected of cheating.

"I didn't want the cheaters to be punished. I just wanted an official reminder," Menu said.

Menu said she hoped for a statement from the administration "that something's gone wrong, and it should not happen again, and that next time you have to know the rules and apply the rules and respect the rules."

"But the graduate office took it very seriously, and wanted to punish people," Menu said. "I don't know what happened exactly, but they did not punish individuals, they punished half the class. They punished everyone who took the exam on Wednesday."

"What is not fair is that people put the blame on me and Eric, because they feel that we should have never talked, and we should have hid the real story and never said anything," Menu said.

"But other LL.M. students were shocked, and some people talked on their own. So we had to do something. I think it was our duty to do something as representatives," said Menu, who has resigned from LSC.

Menu said she was also motivated to talk because she thought advance knowledge of the exam question was unfair to other students since the exam was graded on a curve.

LSC Members Resign

After some students called for a no-confidence vote, Menu resigned her post with LSC. On Feb. 9, Van Gelderen announced that Menu, along with Talita Tsekoura LL.M. '98 and Philippe Dechamps LL.M. '98 had resigned their positions as LL.M. representatives to the council. Van Gelderen stepped down as chair of LSC's Graduate Affairs Committee, but did not resign his representative seat.

Van Gelderen refused to answer most questions about the matter.

"I feel it is my duty not to reveal any information more than I already have within the class. And we don't want this to be like a negative thing for all the LL.M.s as a group," Van Gelderen said.

Asked about the student actions and the administration's response, Van Gelderen — perhaps stung by the ill-will that has proliferated among LL.M.s —

answered virtually all questions with, "I have no comment about that."

Van Gelderen said that in his capacity as representative, he has not proposed any course of action to LSC, and did not currently have plans to do so.

"Cecile and Eric strongly believed that as Law School Council representatives, it was their duty to protect the curve," LSC's Rob Jancu '98 said.

Grades can be especially important to those LL.M.s hoping to gain admission to Harvard's doctorate-granting S.J.D. program, Jancu said.

Dechamps declined to comment, and Tsekoura could not be reached for comment.

Students Want to Put Scandal Behind Them

Woo-Jin Kim, LL.M. '98 took the exam on Wednesday, and will be receiving either a pass or a fail grade on his transcript.

Like many students, Kim felt that the differential treatment of Tuesday and Wednesday exam-takers was unfair.

"I think that the administration should grade pass-or-fail to all students or grade alphabetically to all students," said Kim, who is from Seoul, Korea.

But he won't protest the Graduate Committee's decision. "I have no choice to accept the pass/fail grade," he said. "I don't have any intent to retake the exam."

Hiroshi Uchinda, LL.M. '98, will also be receiving a pass/fail grade because he took the exam on Wednesday.

"The basic thing people said, and I agree with it, is that the people who did not cheat must not be punished by that treatment [the pass/fail grades]."

Reflecting the sentiment of many LL.M.s, Uchinda, who is from Tokyo, just wanted to put the American Legal System class behind him. "I'm not very happy with that pass/fail grade," Uchinda said. "But I don't want to think about it anymore, to be honest."

Gabriela Rojas LL.M. '98 student from Mexico City had similar feelings.

"I just kept out of this problem, because I think all the rumors that have been going around on this subject are just like creating bad feelings in our class," the Mexico City native said. "So I've been out of this problem and I wish to stay

that way."

Still other students indicated that any alleged cheating was simply not that important. Many students seemed to believe the most important aspect of Harvard's LL.M. program was enjoying life and meeting people.

One student's e-mail message to fellow LL.M.s called the American Legal System course "silly," and said: "Let's get over this controversy and get back to focusing on those really important things in life that have brought us all here, namely drinking all the subsidized beer we can get our hands on."

Another student said academic aspects of the LL.M. program take a back seat in the minds of many students, saying they are drawn to Harvard primarily to create a network with other lawyers and to build their address book.

Has Exam and Course Integrity Been Protected?

While awarding pass/fail notations to second-day exam-takers might protect the grading curve, the question remains whether the decision ensures the more basic issue of making sure students even deserved to get credit for the course at all.

In a telephone interview, Slaughter was asked if it would be possible that a person on the verge of failing the course might have been able to pass only because of obtaining advance information about the exam.

"It would. But we've had a long conversation with Prof. Chayes who's been giving this exam for any number of years, and he felt strongly that it was so rare that somebody was actually going to be in that position that based on the information that we had, he thought — although it's quite possible that it would affect where you were on the curve — it was so unlikely that it would effect a pass/fail, that it would be enough to allow people the pass/fail option," Slaughter said. "That scenario is just very unlikely."

Asked if information-sharing could be taking place on J.D. or on other LL.M. take-home exams, but not coming to the attention of the administration, Slaughter said, "It certainly could be, but I have no basis for thinking that it is. I presume integrity."



Prof. Slaughter '85,
co-director of the
graduate program

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DeFalco Calls Vote "Slap in the Face" to Students

Continued from *POLICY*, p. 1

Dean Clark '72 responded.

"Are they just going to stand outside?" Michelman said.

"The normal practice is that we invite a limited number of students in, in this case the LSC student representatives, and the rest remain outside," Clark said.

The students remained outside while Prof. Richard Parker '70 described the proposal. However, the discussion soon returned to the subject of the students huddled outside the closed doors.

Prof. John Mansfield '56 said, "I'm left very uncomfortable with having students outside with their ears pressed to the door. It seems that we should either ask them to step out or come in."

"I personally think that we should politely suggest that they don't really want to be eavesdropping on a meeting in which they weren't invited," Mansfield said. "We need faculty meetings sometimes."

The faculty voted 19 to 14 to allow the student protesters in over Parker's objections. Parker, who characterized himself as "someone with long experience as a student protester," implored that the faculty "not be totally pathetic."

"If we let the student protesters in, I think we should immediately send out Paul Revere to give all other students notice that they can come, too," Parker said.

In describing the proposal, Parker outlined two contrasting problems with the existing rule. First, "the administration of a long-standing rule requiring class attendance was stymied by excessive formalism in the prior notice requirements."

Second, Parker said, "there was a growing concern that the administration of the rule was too informal, unguided, and unchecked. A professor would just send a note to the registrar saying, 'this student's out.'"

"Bar Review Mentality" at HLS

Rule change supporters criticized what Prof. Gerald Frug '63 characterized as a "bar review mentality" at HLS which overemphasizes the importance of the final grade in a given course.

"If you read the outline and write the exam, you can get a B+, and the B+ is the 'real,' there is no more to education," Frug stated. "This changes the background assumption that class attendance is important. For me, it's important because the person who reads the canned

outline and writes the exam doesn't teach me anything about my subject."

"I actually learn things from students in my class," Frug said. "I think class discussion is central to the idea of what education is, and I think it should be the central feature of law school."

LSC Vice President Joe Scully '98 responded to Frug, "I don't want to have to sit next to a person in class who doesn't want to be there and is not going to add to the classroom discussion."

Prof. Bruce Hay '88, while supporting the rule change, voiced a similar concern. "The only response I got that gave me serious pause [when soliciting student opinion on the attendance proposal] was when somebody pointed out that classroom attendance at HLS is not necessarily good in classes that have 150 students in them. Those who don't show up are providing a service for the remainder to have a decent discussion."

Several professors worried that HLS could become, in the words of Professor Lloyd Weinreb '62, a "degree mill" were the current attendance policy to remain in place.

"The cases that seem to me not to have been dealt with under the current system are cases of students who have no intention of attending any class, cases in which a student is 3000 miles away for most of the semester," Weinreb stated. "I think the issue is whether the law school has enough self-respect not to allow someone to obtain a degree without attending courses."

Charles Hokanson '98, chair of LSC's Academic Affairs Committee, said, "If students who just disappear for an entire semester are a real concern, it seems to me there must be some way through the residential program or perhaps through faculty advisers, that we can keep those students in class without developing this plan."

Several professors took issue with the elimination of the notice requirement. Prof. Anne-Marie Slaughter '85 said, "I couldn't justify the lack of notice to a civil procedure class."

"I really feel that you have to give notice," Slaughter said. "If a student's not attending, I either e-mail or call the student, or I call on the student in class when the student's absent. It's amazing how quickly that gets back to the student, and the student starts attending."

"If we're asking the students to be sufficiently engaged and to participate, then I don't think it's a problem to ask the faculty to be sufficiently engaged to

know which students are attending," Slaughter said.

Prof. Charles Ogletree '78 opposed the rule as well. "It may feel awkward to set up your own attendance requirements in class, but that's our job. Most students attend most classes most of the time, and all of us have had experiences calling students in to attend class. It seems to me that we should exercise that responsibility, and I don't think that passing this proposed rule is a good idea."

"I don't think we should create rules for symbolic reasons, and I think this is a symbolic rule," Ogletree said.

Prof. Duncan Kennedy proposed a motion to amend the proposal so that professors adhering to the rule would be required to notify their students before the add/drop period ends. Under the rule change, professors are asked to notify their students only if they deviate from the default assumption that missing more than 25-30 percent of classes will result in being dropped from the course. Kennedy's motion failed nine to 24.

Profs. Attack Rule's Punitive Nature

Prof. Morton Horwitz '67 attacked what he saw as the punitive and arbitrary nature of the rule change.

"I think this is a growing trend towards a punitive view on legal education. It seems to me it's not a student-friendly way to go," he stated. "The way it will work is a few faculty prima donnas are going to enforce it; the rest are going to look the other way."

"I could imagine some professor pulling the rule out of his hat, having had a fight with his spouse before school, thinking 'you students don't like me enough' and deciding to enforce it," Horwitz stated.

"I personally believe the students who say, 'if a class is boring, if I can learn it all outside of class, why force me to go?' are right," Horwitz said.

Kennedy had a similar reaction. "When I was a student, I felt the overwhelming majority of courses were useless. Frankly, I still think that's the case."

Slaughter was sympathetic to student concerns as well. "I would have trouble enforcing this now standing on one side of the podium when I know I had a very different perspective when I was on the other side of the podium," she said.

Several LSC members present at the meeting voiced their collective belief that the proposal did not effectively address the roots of student apathy.

"If the purpose of the proposal is to

really focus on the quality of legal education here," Hokanson stated, "we should basically have a prolonged study to find out why there are some students who regularly decide not to attend class. We should refit the classroom experience so it makes the students want to attend. There certainly is a problem with apathy here, whether people are attending or not."

Scully said, "There's a large portion of the student population that suffers from an almost paranoid fear of professors. But who's at fault for that sense in the student body? I think it's the faculty, and I think you should address that before you require student attendance. Until the faculty addresses the issue of alienation, they should not pass this proposal."

"There are a lot of things the faculty has not delivered on — many faculty members don't get their grades in on time and don't teach anything new," Scully said.

Motion to Table Fails 17 to 21

At the beginning of the meeting, Clark had announced that the meeting would be limited to two hours so that he could attend a reception. As Clark's two-hour deadline approached, Prof. Jon Hanson, a member of the committee that wrote the rule change, proposed that the faculty table the vote until April.

Several of the other committee members echoed his support for tabling the vote.

Brian Fitzpatrick '00, one of the committee's student members, said, "I can see how waiting for more dialogue with the students would be very persuasive right now given the very strong collective of student opinion."

"I don't think tabling is the defeat of the idea," said Frug.

Parker opposed the motion to table. "It seems to me reasonable for us to vote on this now, given the scarcity of faculty meeting time," he stated.

The motion to table failed 17 to 21.

The faculty subsequently affirmed the attendance rule change 28 to eight.

Tim Wu '98, one of the student protesters allowed in the meeting, called the vote "a disappointment to the entire student body — not necessarily because of the substance of attending class, but because of the withdrawal of procedural fairness."

"All this does is withdraw procedural protections from students, and I think it sends the wrong message," Wu stated.



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A Plea for the "LEC Three"

The RECORD greets the move to impeach the three LEC student reps with a wary and suspicious eye. As students recoil from the campus-wide slap in the face that was the attendance policy change, the temptation to impulsively lash out at the perceived turncoats is strong but may prove unproductive in the long run. Scapegoating is a pitiful exercise — a last resort attempt for the impotent and desperate to seize what little power remains in their control and unleash it on those still vulnerable. The quickness and heat with which certain factions in LSC have embraced the call for impeachment reeks of this.

Last Friday's faculty vote clearly left students outraged and in disbelief, as the faculty unequivocally demonstrated the *particular* esteem with which they regard student opinion. It was a cold diss and a harsh reminder of our station at HLS.

But surely we can do better than expend energy to burn three misguided but well-intentioned students at the stake. The rules and procedures for such actions must be investigated, the LSC Constitution pored over, endless discourse on the fate of the "LEC three" conducted. Precious resources are being diverted here.

Or maybe this is the best we can do. Does persecuting the LEC reps signify that all other avenues are closed? Is this how we acquiesce — let the faculty and administration off the hook, only to resort to bitter in-fighting?

The Law School Council meets this Tuesday to decide whether the motion to impeach should proceed. The RECORD urges students to wield restraint and reason before hurling their energies in support of impeachment. Surely, there are solutions more deserving of student attention.

Let's start with a critique of the faculty. Only half of them managed to make it to the last faculty meeting. And remember, too few profs fulfill their duty to teach ten credits per year. Perhaps Dean Clark should impose some mandatory rules to force faculty to be more conscientious of their obligations — it would be for their own benefit, of course.

Janie Kim

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—First Amendment, U.S. Constitution

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• Letters •

Students' Exit a "Means of Voice"

Ironies abounded at last Friday's faculty meeting. Student leaders spoke eloquently about their lack of voice at the Law School. Professors spun out visions of HLS classrooms as vibrant learning communities, in which the educational process would be diminished by anyone's absence. And many speakers decried the alienation that supposedly hangs over the Harvard Law School like fog.

After the speeches were over, the faculty endorsed a measure that was almost unanimously opposed by organized groups of students. For many faculty, the vote affirmed our bottom-line duty, as teachers, to make the HLS classroom worthy of students' time. For many students, on the other hand, the vote signaled a faculty decision to

block their use of exit from the classroom as a means of voice.

Each year many HLS students exit from the classroom, in varying degrees. Only a few of these students exit fully, by removing their bodies from their classes for whole semesters at a time. Some of this small group of absent students are coping with personal troubles. Others — that criminal element — have found more lucrative ways to spend their time. But many other students withdraw their passions from the classroom, especially in their second and third years. As we all know, these students continue to occupy their seats, and scribble notes, and respond to their professors' questions, while investing their intel-

lectual energies elsewhere.

Today many faculty and students are declaring our mutual loyalty to a larger, shared goal of meaningful educational reform. Alienation, after all, undermines everyone in an educational institution, teachers and students, and history can't be undone. Perhaps a next move, for us as faculty, can be to listen more closely to what our students can tell us through the many forms of exit that they practice so well. Perhaps we can learn something new about "good learning" by looking more closely at the many projects that students have designed for themselves at the Law School, on the margins of the classrooms we control.

Prof. Lucie White '81
February 10, 1998

Skadden Article Suffers from Lack of Substantive Coverage

We were pleased to read on February 6 that "HLS Wins Six Skaddens" and that "Stanford Receives None," but were concerned that the RECORD failed to inform us of how many other ABA-accredited law schools also received no Skaddens. It was cathartic to be informed that six of us had decided not to sell out

to the man. Still more important, more of us didn't sell out than at any other law school. We were saddened, however, to note that as the article continued on page 11, it devoted precious space (one sentence per student) to identifying individual students and their projects.

There were so many com-

elling law school comparisons left unmade. To wit, how does our toilet paper consumption compare to Yale's? It would be interesting to find out once and for all who is the most full of shit.

Roger Bearden '98
William Haft '98
Lara Schwartz '98
February 10, 1998

Law School's Response to Pound's Class Cancellation Appreciated

Special thanks go to Dean Clark '72, Registrar Stephen Kane, Prof. Lucian Bebchuk LL.M. '80, S.J.D. '84, Visiting Prof. Henry Hu, and whoever else worked so diligently to remedy the difficult situation with respect to Mr. Pound's Corporate Finance, Governance, and Control class that was unexpectedly terminated for the second consecutive semester.

The cancellation left many students — especially 3Ls —

disappointed, not to mention out to dry with respect to credit requirements. After being informed of the cancellation exactly one day before the class was supposed to begin, the administration subsequently pulled together two courses (a one-credit course taught by Visiting Professor Hu, and a separate two-credit course taught by Professor Bebchuk) within approximately 48 hours in order

that students could still take finance courses at the Law School. In addition, I admire the administration taking the position to sever all further working relations with Mr. Pound. During a relatively chaotic period, it's relieving to know that the administration admirably and efficiently defended student concerns and created a workable solution.

Philip M. Garthe '98
February 9, 1998

Law School Should Remain Three Year Sentence

I read with considerable disquiet Judge Posner's article (Jan. 16, 1998) which promotes the proposition that the J.D. curriculum be condensed into two years of graduate study. He advances as support of the idea that it would reduce the cost of law training which I interpret as an effort to reduce the price of the product by the abatement of its quality.

It is particularly puzzling that such an educational curtailment should be proposed in the present era which is characterized by a tremendous growth of the law to be learned. Entirely new fields of jurisprudence have come in large numbers to tax the knowledge and skill of the legal profession, the mastery of each of which is of a

scope to claim the full time of a specialist.

Further evidence of the demand for law school time lies in the fact that Harvard Law School students publish eleven journals in addition to the Law Review and the RECORD. A total of some 900 students are involved in these publication activities, not to mention many more who are active in Ames Competition and Legal Aid. Reduction of law school to two years would necessarily demolish many of these enriching student opportunities.

Another consideration to be taken into account is the value to the student of the maturity which accrues in the third year of law school

and which contributes materially to preparation and qualification for admission to the bar. It is true that the Business School's program is compressed into two years, but it must be added that its applicants are urged, if not required, to have some degree of maturing experience before matriculation.

The cost of legal education (which seems to be Judge Posner's chief target) could be largely eliminated by return to the apprentice system which served Daniel Webster in his very different legal day. Would we want to take this step?

H. Ober Hess '36
February 4, 1998

Be Heard! Send us a letter.

Place them in the RECORD box next to the 1L Hark Boxes. Or send them to

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Harvard Law School
Cambridge, MA 02138
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An Open Letter to the Visiting Committee of the Harvard University Board of Overseers

By Robert Jancu '98

With respect to your solicitation of student suggestions on the occasion of your inspection of the HLS dormitories, Harkness Commons, and Hemenway Gymnasium, I would like to note the following.

Dormitories:

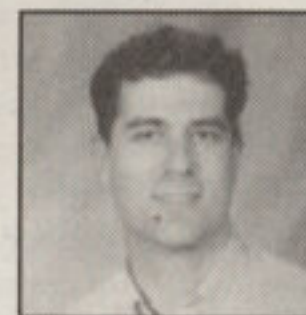
In the Gropius Complex, approximately 44 students share each kitchen. Each kitchen is the size of a water closet. There is little or no shelving; cooking utensils and foodstuffs are arranged in improbable piles that make the kitchens resemble the overloaded wagons of Okies escaping Depression-era dust bowls. The refrigerators are full to bursting. Stovetop and sink conditions are chronically filthy, and necessarily so, with so many sharing so little space. This probably accounts for the mice that have taken up rent-free residence in Gropius's Shaw Hall. Beyond the inconvenience and the lack of sanitation, the kitchens are not especially safe, with hot oil and boiling water carried about in such cramped quarters. I propose that a dorm room adjacent to each Gropius kitchen have its abutting wall removed and the kitchen space be accordingly expanded to serviceable dimensions. This would make Gropius kitchens about the size of those at Wyeth (where each kitchen serves 15 students). Kitchen shelves and cabinets — a "luxury" enjoyed by Wyeth, Hastings, and North Hall residents — wouldn't hurt either. Gropius will lose a few living units, but the benefit in improved quality of life should more than offset this cost.

Also, the bookshelves in Gropius dorm rooms occasionally topple as their flimsy wall attachments break. I know of one instance in which a bookshelf landed on

the head of a student sleeping beneath it. She required emergency medical care.

In Hastings, hallway closets that contain trash receptacles are labeled "Recycling Centers." There are no recycling bins inside, however. I presume that the signs are part of an HLS publicity campaign that trumpets the school's commit-

Ideally, Langdell Library should remain open later or even all night. Langdell is beyond your jurisdiction, however, and even if Langdell were to remain open later, there would still be a demand for a late-night social and group-



seeable mishaps. One cannot lift or lower a barbell in the dungeonlike free-weights chamber without checking whether another's head or appendage already occupies that space. Yet right next to the free-weights room is a storage

area that currently houses decaying athletic equipment last used by the Harvard croquet squad of '21 (1821, that is). Perhaps we can give these relics a decent burial and make the storage room available for us, the living.

Like the free weights room, the basketball court sees heavy traffic and is no less of a health hazard. The floorboards lack any trace of the coating that once provided traction; Air Jordans are as useless on them as patent leather. I have seen students slip and sustain injuries to their backs, hips, knees, and elbows. I'm sure that once someone cracks his or her skull open, the floor will get its coating. Why not coat it now and avoid the lawsuit?

For the last three years, I have asked administrators at both HLS and the University for these safety measures at Hemenway. Although administrators concede their necessity, neither the University nor HLS will invest in implementing them, since the University might divest itself of Hemenway in a few years, and HLS might not buy it. You, the Visiting Committee, as an HLS/HU nexus, presumably have the power to assign joint and several responsibility on HLS/HU, and put a stop to their embarrassing buck-passing on safety at the gym.

The other suggestions I've made here won't do much to lift HLS out of its consistent last-place ranking in student satisfaction among American law schools. But the Rudy Giuliani approach is worth trying: attend to long-neglected quality-of-life details, and the effect on overall morale might be greater than expected.

Rob Jancu has served on Law School Council for three years and is its former Vice-President

Stovetop and sink conditions are chronically filthy ... This probably accounts for the mice that have taken up rent-free residence in Gropius's Shaw Hall.

ment to recycling; after all, the RECORD reported several weeks ago that HLS administrators boast of Langdell Library- and Copy Center-recycling programs that do not actually exist. Please see to it that either Hastings gets a recycling program or that the signs purporting such be removed.

All dormitories lack adequate laundry facilities. Wyeth has three washing machines for 87 students, Gropius has eight for 364 students, North has four for 142 students, and Hastings has three for 96 students. This works out to a ratio of 29 students per washer in Wyeth, 32 students per washer in Hastings, 35.5 students per washer in North, and an egregious ratio of 45.5 students per washer in Gropius, where students regularly resort to doing their laundry at 4:00 a.m. Moreover, none of the laundry rooms contain change machines. Some students optimistically insert dollar bills into nearby candy vending machines, buying unwanted Cheez-Its and Sourdough Nibblers, hoping to reap in change the occasional quarter amid unwanted dimes and nickels.

Harkness Commons: HLS has no 24-hour or even late-night study space.

ers by keeping the Hark doors locked but issuing keys to students. Alternatively, one can outfit the doors to the Hark with student card-ID locks along the lines of the machines in place at the turnstiles before the Langdell Library stacks. I presume that the potential for vandalism or theft by HLS students is not a reason to keep the Hark locked to us at night. Hundreds of students currently carry keys to the Publications Center if they work on certain journals, to Areeda Hall if they are members of BSA, and to Pound Hall if they are members of certain other journals. The Publications Center, Areeda, and Pound are infinitely more sensitive than the Hark in terms of the faculty property, administrative materials, and technological hardware they contain. Giving students access to the Hark at night is all upside, no downside.

Hemenway Gymnasium: Conditions in the free-weights room in Hemenway's basement are scandalously dangerous. Although Hemenway is owned by Harvard University rather than the law school, one would think that given the primary community it serves — HLS — there would be more attention to the liability that could arise from easily fore-

1998 LSC STUDENT CONTACT LIST

The following list of LSC members and students appointed to student-faculty committees is being provided so that students will be able to directly communicate with those representatives with the most knowledge of a given area at the Law School. You should feel free to contact representatives with any questions or comments you may have, but please use discretion when determining who you are calling, what time of day it is, and the purpose for your call. This list will also be published in next week's Advisor for further reference.

STUDENT-FACULTY COMMITTEE REPRESENTATIVES

Clinical Committee:

Christopher Bauman, 1L	493-9427	cbauman
Christina Collins, 2L	493-9448	ccollins
Brian Trackman, 2L	493-9416	btrackma
Andrew O'Toole, 3L	628-0878	otoole

Financial Aid Committee:

Amy Oliver, 1L	661-9249	aoliver
David Lancz, 2L	493-9120	diancz
Perla Ni, 3L	876-1792	ni

Food Services:

Scott Janoe, 2L	576-0371	jjanoe
Dan Fridman, 2L	493-9219	dfridman
Eric van Gelderen, LL.M.	493-9291	evangel

Information Technology Policy Committee:

Sam Ozeck, 2L	497-9087	sozeck
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Legal Education Committee:

Brian Fitzpatrick, 1L	493-9216	bfitzpat
David Stringer, 2L	491-0116	dstringe
Rob Edmund, 3L	627-9206	edmund

Library Committee:

Alyssa Caples, 1L	493-9134	acaples
Brook Coleman, 2L	625-1349	bcoleman
Evan Jeremy Paki, LL.M.	492-1895	epaki

Placement Committee:

Michol McMillian, 1L	493-9367	mmcmilli
David Lancz, 2L	493-9120	diancz

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Joe Scully, Vice-President	491-0737	jscully
Dan Fridman, Treasurer	493-9219	dfridman
Betsy Rosenblatt, Secretary	493-9347	erosenbl
Peter Guy, Student Services Center Manager	666-7951	pguy

1L Representatives:

\$1: Dan Markel	868-3663	dmarkel
Jake Zimmerman (Rules & Procedures Chair)	493-9277	jzimmer
\$2: Eric Cesnik (Facilities & Services Chair)	497-7314	ecesnik
Raj Goyle	441-0048	rgoyle
Heidi Mitza	493-9870	hmitza
Ashley Morgan (Programming & Public Services Chair)	493-9673	amorgan
\$3: Jonathan Kilman	625-0409	jkilman
Jennine Lunceford	493-9915	jluncefo
\$4: Divakar Gupta	441-0476	dgupta
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2L Representatives:

Michael Brown	497-5059	mbrown
Joe Fazioli	497-2652	jfazioli
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Dan Juceam, "Juice"	493-9144	juceam
Jennifer Yates	661-7787	yyates

3L Representatives:

Ada Dekhtyar	493-9104	adekhtya
Charles Hokanson (Academic Affairs Chair)	493-9107	hokanson
Rob Jancu	493-9328	jancu
Lilyanna Peyser	493-9359	peyser
Ezra Reinstein		reinstei
Jol Silversmith	493-9143	silversm
Laura Stout	493-9880	stout
Trent Taylor	493-9097	rtaylor

LL.M. Representatives:

Eric van Gelderen	493-9291	evangel
Benjamin Van Oudenhove	493-9830	bvanoude

THESE HALLOWED HALLS

By Kate Arms '98
RECORD Columnist

BODIES IN ALL FORMS

The Carpenter Center for the Visual Arts on Quincy Street has been hosting a series of discussions, films, and talks on "The Body/The Figure" over the course of this year and will continue this series in the spring. The series is designed to support the curriculum of the Visual and Environmental Studies department, but most of the events are open to the general public.

Currently in the Carpenter Center lobby is "Five Artists: The Body/The Figure" featuring a single piece by each of the artists who is giving a talk in the series. Two of the pieces in the exhibit are particularly striking.

Bruce Nauman's untitled white bronze sculpture is a representation of two linked hands. The piece uses a combination of extreme realism and selectivity to comment on figuration, humanity, and identity. The hands themselves are sculpted with precise detailing which is abruptly cut off at the wrists. Mounted on a harsh white pedestal, the hands stand on one wrist, with the other wrist rising to the ceiling.

The realism of the details intrigues and draws the viewer in. At the same time, the vertical alignment of the hands emphasizes the artifice of art. The wrist stump rising towards the viewer is an abrupt reminder of the missing parts of

the body raising questions of whether these are hands or merely objects. From one side, the rough edges of the wrist stumps suggest sleeves indicating continuity with a body, but from another angle there is no such illusion, rather the viewer is made more conscious of the lack of connection to a body.

The hands are so realistically sculpted to stimulate admiration for Nauman's

of the heads are vertically oriented, one is upside down and another is tilted. The overall effect is of disembodied ghosts. Faces are so closely tied to individuality that the abstraction of disembodied faces raises questions about identity and personality. Rothenberg will be speaking on March 3rd at 8 p.m. in the Carpenter Center Film Screening room.

Next door in the Fogg Museum is a contrasting exhibit also featuring bodies. "Matthew Brody's Portraits: Images as History — Photography as Art" in the Strauss Gallery was organized by the National Portrait Gallery, Smithsonian Institution. On the second floor of the Fogg is a complementary exhibit of Brady's work from the Harvard Collection.

Brady was a portrait photographer who is best known for his Civil War images. His sitters included Lincoln, Sherman, Lee, Grant, Clara Barton, and Harriet Beecher Stowe.

One compelling daguerreotype is of the painter George Peter Alexander Healy. This portrait reveals the deep details that could be captured by the medium. Through the subtle variations of gray, not only does the viewer see the soft, fine hair on his head, the crease in



his cravat and the crisp, starched form of his tuxedo shirt, but even the spaces between the pleats of his shirt stand out distinctly.

Most of the images are "Brady Imperials," photographic prints made from negatives that were 20 inches

high and 17 inches wide, sometimes enhanced by ink, chalk, oil, or watercolor additions after printing. These portraits use drapes, pillars, furniture, and appropriate lighting and poses to turn human beings into heroes.

The exhibit will be open until April 19th. It is a compelling visual history of an important part of the past and well worth a visit.

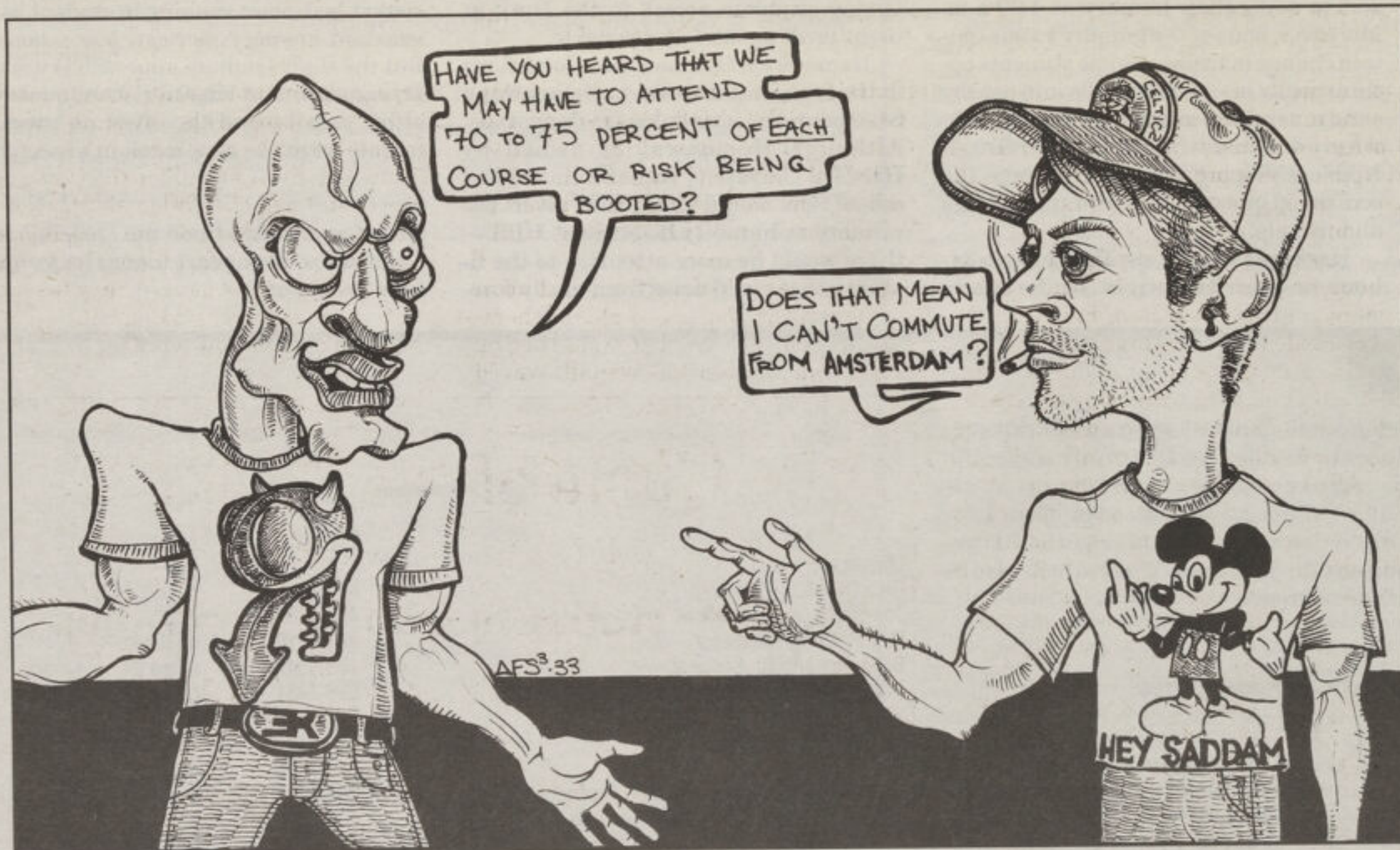
Faces are so closely tied to individuality that the abstraction of disembodied faces raises questions about identity and personality.

skill while at the same time triggering questions about the relation of these hands to a greater reality. Nauman will be speaking on March 2 at 5 p.m. in the Carpenter Center Film Screening room.

Susan Rothenberg's oil painting "Las Blancas" stimulates questions through a different technique. The painting is an image of abstract, hairless, white heads floating in a gray field. Features are clearly recognizable, but not as any form of identifiable individual. Although most

Reasonable Man Discusses the Proposed Attendance Policy

By Alfred Steiner



Spike

By Margie McWilliams



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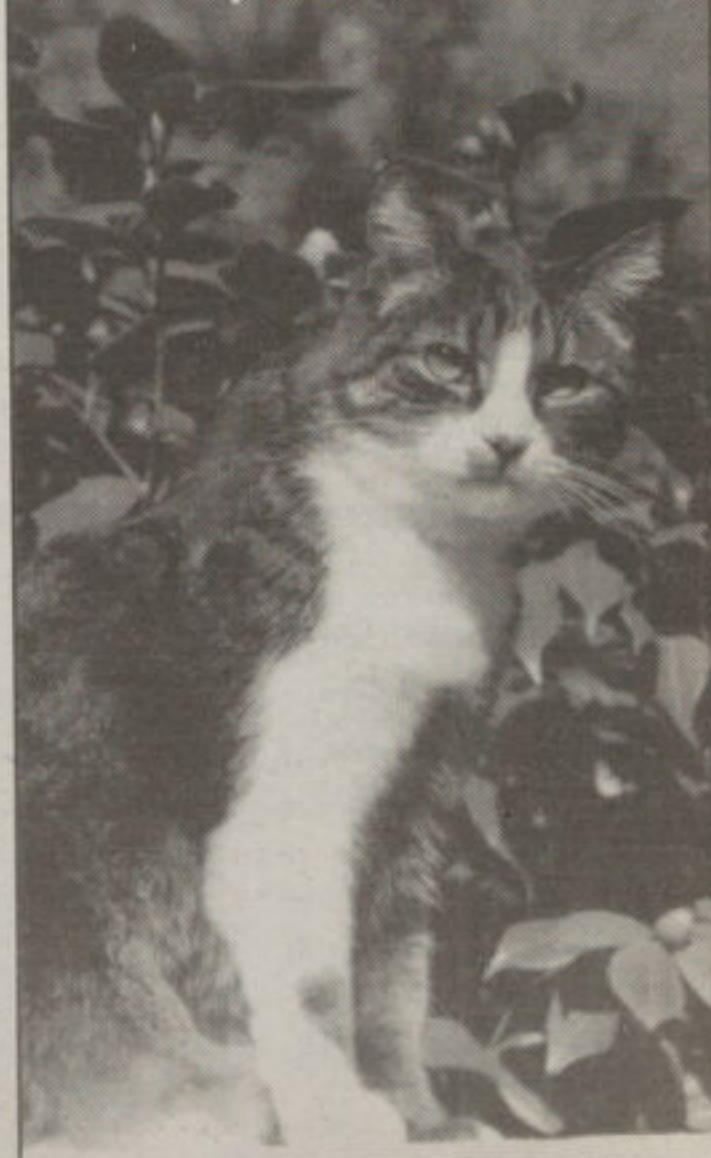
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Would You Be Mine?

In the spirit of this rosy-pink, translucent-red, heart-shaped season of love, loove, loove — I thought we'd talk about commitment. Certainly a timely topic in this reservation-panicked, bouquet-burdened, token-gift giving moment of nationally coordinated demonstrations of, well, commitment. Commitment comes in all different shades and variations on Valentine's Day, like it or not, simply because it gently and commercially coerces some form of acknowledgment, actual or mental, of some status in human relations — there's just no not thinking about the stuff on Valentine's Day.

Valentine's Day forces you to commit at least a thought, perhaps a sentiment or two, and maybe even a bit of yourself: perhaps you mutually commit to rather liking each other, perhaps you commit to loathing yourself, perhaps you commit to openly admiring that special Valentine, or perhaps you commit to a cheap Russell Stover fix in glutinous disregard of the convention of giving the chocolate to someone else.

For those 24 crimson hours, every gesture (or absence thereof) means something, every and any event (and its absence) becomes briefly frozen in a glare of heartfelt or contrived meaningfulness. Perhaps touching, perhaps chilling, either way everyone necessarily becomes mentally or outwardly committed to recognizing whatever is their current, uh, state of affairs — and most of us, of course, would tend to prefer a heartfelt gesture of actual and outward commitment. Well

look no further, lovelorn lawyers: our very own *Veritas*, it turns out, is our most special Valentine of all, because *no one* knows commitment like law school.

First of all, there's no commitment like a big red, white and blue, no-holds-barred, Priority Mail invitation to become involved: clearly she likes you, and she has no problem saying so — very attractive. Obviously all of us found her pretty much irresistible, and before we knew it, we'd committed right back, sending her a little card with a big yes. And that's the special magic of this Valentine's love potion, for with every gesture, she sagely extracts a reciproc-

But she is as nurturing as she is seductive, our Valentine. She knows how to build a lasting relationship, and is far too wise to let us commit too much, too soon, guiding us down a longer, slower, much more irreversible road to responsibility. She wouldn't even let us think of committing to a job before December in our first year. Eeeaaasy, greenhorn, whoooo there, cowboy, reign that lust in: it's just your 1L year. Look around, study some, learn a little, maybe start to outline, and then send out a massive mail merge sweep of letters begging law firms for a commitment. And well aware of the power of her own guile and the vulnerability of her poor 1L prey, she certainly wouldn't let employers on campus until March or April, protecting her Valentine victims from their own suddenly discovered urge to profess, avouch and commit.

Before we knew it, with her simple initial display of unmitigated interest, with just her very first forthright Valentine, she'd drawn us into a trance of constant obligation, undertaking and engagement. By January, we've already pledged our financial information for the next academic year, and by February, we've already committed to classes and credits two whole semesters away. By March we've already bound ourselves to leases for the next summer and maybe even the next two years, and by May, if you're a 2L, you could be working for the firm — to which you committed the December before — where you'll spend the



next year, or two, or twenty.

Law school teases out commitment at every turn, transforming all us free-agent suckers into regular ol' balls and chains, always thinking ahead, investing, planning. You might want to cross-register, but do think about the New York State Bar's minimum law school class credit requirement; you want to take that seminar, but you really ought to work in that legal profession class now; you'd just as soon be done with the paper, but shouldn't you think ahead to the 3L writing requirement? Oh, and you think you'd like to clerk in the Southern District of New York, but your significant other and maybe fiancé(e) may want to go to business school then — two years from now — and what if he or she gets into Stanford and Chicago but not Columbia, so shouldn't you interview now with law firms in all three cities, just in case, and maybe split the summer, and also, if you don't get a clerkship there, or in the Bay area, or anywhere, or in case he or she decides that they just want to transfer somewhere because it's all just too much damn pressure right now, wouldn't you rather raise kids, down the road that is, in San Francisco — oh, and, but what if things don't work out between you anyway? Then you're back to square one with Russell Stover.

There really is nothing like our crimson *Veritas* Valentine to teach us all a little something about commitment. Perhaps touching or perhaps chilling, perhaps heartfelt or perhaps contrived, law school, in any case, does constitute a most committal kind of gesture — and what better time than Valentine's Day to acknowledge such a solid and binding relationship?



Fenno had never believed in God, at least not while sober. But Fenno did believe in God-given rights. And the law school was about to take away the liberty that Fenno held nearest and dearest to his heart: the inalienable right to ditch class.

Fenno was mad as hell, and he wasn't going to take it anymore. For the first time in months, Fenno actually set his alarm clock. He had to get up. He had a mission.

Jaws dropped and copy editors froze in shock when Fenno woke up and left his office hideaway while the sun was still in the sky. They knew this was big. Ordinarily, even a heavy-breathing phone call from Christine Jolls wouldn't have been enough to get Fenno awake at 3:00 in the afternoon.

It pained him to do it. His head was pounding and he could feel the sun's rays doing strange things to his skin. He wanted, more than anything, to be back on his couch in blissful unconsciousness, dreaming of sugarplum fairies and dancing elves performing strange tortures on David Rosenberg's supine body. Fenno faltered. Surely, he thought, he wasn't really needed at the attendance forum. Maybe he'd make a better statement by skipping. After all, if everyone ditched the meeting to protest the attendance policy, wouldn't that be a grand statement of civil disobedience that highlighted the importance of cutting class?

Fenno had almost persuaded himself. But as he was turning around, he had a sudden mental image of himself bolted to a chair in Mansfield's evidence class, forced to actually sit there, day after gut-wrenching day. Fenno took a deep breath, steeled himself, and trudged on

to the meeting.

By the time he got there, Fenno could already see that it wasn't going well. A bunch of smug professors were clustered near some guy who looked like nothing so much as an overfed weasel. Weasel-boy was pontificating about how the new policy was really a cleverly-disguised attempt to protect students. Fenno stared at the rodent-like features, trying to figure out who this strange man was. Suddenly, Fenno's face turned deathly pale, for Fenno had just realized who it was that he faced: the registrar himself!

All of Fenno's instincts begged him to dive for cover and flee to the hills, lest Kane suddenly decide to ask about those 12 credits of undergraduate basket-weaving courses that Fenno had filled his schedule with. But Fenno fought down his nausea, for he could see that Kane was far too busy convincing himself of his own rationalizations to actually notice any of the students in the room.

Fenno knew why he had come, and it was time to fulfill his mission. He needed to jolt the committee out of their complacency and make them see the light. No one else seemed able to do it — even one student's tear-jerking story about how an attendance policy had killed his uncle left Dick Parker unfazed. No, Fenno knew that the burden fell upon him. Only he could save HLS from the horrible pain that was about to be inflicted.

Fenno raised his hand (straining at least three muscles that hadn't gotten a workout in years). After what seemed like an eternity, Gerry Frug pointed his way. Fenno began with a rhetorical flourish: "Friends, let me ask you: why are we really here today?" Fenno was about to launch into the grandest oratory of his life, when suddenly Jol Silversmith leapt in front of him and started yelling at Parker: "ANSWER THE QUESTION!" Fenno tried to push Silversmith out of the way, but he might as well have been trying to keep Gilbert Brown from a cheeseburger.

There was no stopping the king of civil

liberties — he was on a roll. "GODDAMNIT, YOU PATHETIC EXCUSE FOR A PROFESSOR! WHY WON'T YOU ANSWER THE BLOODY QUESTION ALREADY? YOU'RE NOT WORTHY ENOUGH FOR ME TO SPIT ON!"

The professors quickly huddled up in a defensive formation to shield themselves from the eardrum-shattering noise. Dina DeFalco ineffectually waved

her hands and called for order. And Fenno quietly made his way for the door. No one could fault him for not trying. Fenno had given his all for the cause of justice, and had still fallen short. Now there was nothing to do but depend on the good will of the faculty or the vigorous protests of his elected representatives on the Law School Council.

Fenno didn't know whether to laugh or cry.

Quote of the Week

"In fact, students who go to all their classes strike me as pathetic wimps."

— Prof. Duncan Kennedy, who freely admitted he was "pandering to the student audience" at last Friday's faculty meeting



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SPORTSGUY

LET THE GAMES BEGIN

By Naim Bulbulia '98
and Josh Swartz '99
RECORD Columnists

As promised last week, here is a B-League preview. With 3L captain **Josh Little '98** "Man Tate," big man **Rick Patterson '98** "of Sam" '99, and the additions of guard **Jared "rum redrum" Richardson '98** and big man **Ryan Baker "s Dozen" '00**, the Stormin' Mormons are the favorites to take it all this year. Their chief competition for the title will come from **Flagrante Delicto**, **Heartland**, the **Flaming Rats**, the **Godfathers of Dunk**, and **Boomin' Fat**.

Flagrante Delicto is led by **Chris "Tunnel of" Lovrien '98**, **Matt Stennes "elbow" '98**, and **Mike "Rodgers and Hammer" Steinig '98**. They've come close in the past and this year have one final shot at the coveted championship.

Heartland is comprised of three former A-League players who hope that dropping themselves a division will lead to a quick championship. Beware the long-range bombs of **"The Six Million Dollar Man" Matt Austin '98** and the post moves of **Jason "Micah" Markham '98**. These guys are for real.

The outside shooting of **Micah "Markham" Burch '98**, the suffocating defense of **Chris "Grace" Kelly '98**, and the inside play of **Ofer Elitzur '98** leads the **Flaming Rats** who hope that their second year together will spell success.

The **Godfathers of Dunk** return with their entire squad this year and hope that the guard play of **Matt "I can see for" Giles "and Miles" '98** and **Matt O'Shea "Stadium" '98**, combined with big man **Billy "Vanilli" Hawkins '98** will be enough to hold off the **Mormons** and take the title.

The long shot to win it all is **Boomin' Fat**. This team is a combination of 3L A-League and B-League misfits who have banded together for a title run. **Regis Jeff Legath '98**, **Mike "I'm funnier than Adam" Sandler '98**, and **"Green eggs and" Perham Gorji '98** lead this squad.

Two 3L teams which will probably go nowhere this year but deserve some mention are **Soul Bucket** and the **Psychological Boys**. The all around play of **David "and Goliath" Rothenberg '98** leads **Soul Bucket** who was weakened by the off season loss of **Samantha "War" Power '98**. Pacing the **Psychological Boys' attack** are **Thomas Jedidiah "Kids in the" Hall '98** and **Mike "It's Good to Be" King '98**.

My apologies in advance to the 1L teams that I know nothing about, and any 2L and 3L teams that I have snubbed: let your playing do the talking and soon you will find yourselves in print. A quick note before turning to the C-League, my pick for coolest team name this year is the **HLS Couples Association** team named **Ball and Chain**.

In the C-League this year, returning champions the **Prom Court** (formerly **C** is for **Competitive**), have added a couple of A-League ringers to ensure that they retain the title. But returners **Jenny "Hardaway" Brosnahan '98**, **Erin "Lake and" Palmer '98**, **"Malibu" Stacy Sins '98**, and **Angela Riley "Coyote" '98** vow that they will not let these new hotshots take over the team. Brosnahan was



quoted as saying "Moberly and Bulbulia can't win in the A-League and we're not going to let them bring us down."

The CRC-Hellers appear to be the Chief Competition to the Prom Court this year. A-League players **Alvin "Simon and Theodore" Bragg '98** and **Jim "please don't call me Brandon" Walsh '98** lead this talented squad. Bragg, always quotable, says "This is the most talented team I've played with at HLS."

Rounding out the C-League are **They Killed Kenny!**, **El Niño**, **Monster Mash**, and **Smoke and Mirrors**. Due to space limitations I can not say more about these teams right now, but the C-League will be featured in the weeks to come.

.....

A-League action began last week with **Serenity Now** and the **Rainmakers** cruising to relatively easy victories, while **En Fuego**, the 1L wonders, scored an upset over a disorganized **Black Plague** squad.



Leading **En Fuego's** attack were "The Russian space station" **Amir Arbabi '00** (who went off for at least 25 points), the all around hustle and hardwork of **Glenn**

"Don't Make Fun of My Hair" **Brown '00**, the defense of **Jay "Charlotte's" Webber '00**, and the post play, clutch free throw shooting, and defense of **Jeremy "Mugsy" Hogue '00** (my apologies for

leaving you out of the A League preview — you're a force). When news of the loss reached Chicago, **Chris "With the Girls Be" Handy** was quoted as saying "We lost to who? Am I going to have to bail these guys out again?"

.....

Low-light of the week: **Rylan** "there's no D" **Rawlins '98** poised to shoot a three, warned his defensive assignment "You can't give me this much space" before promptly throwing up an air ball.

A-League Rankings

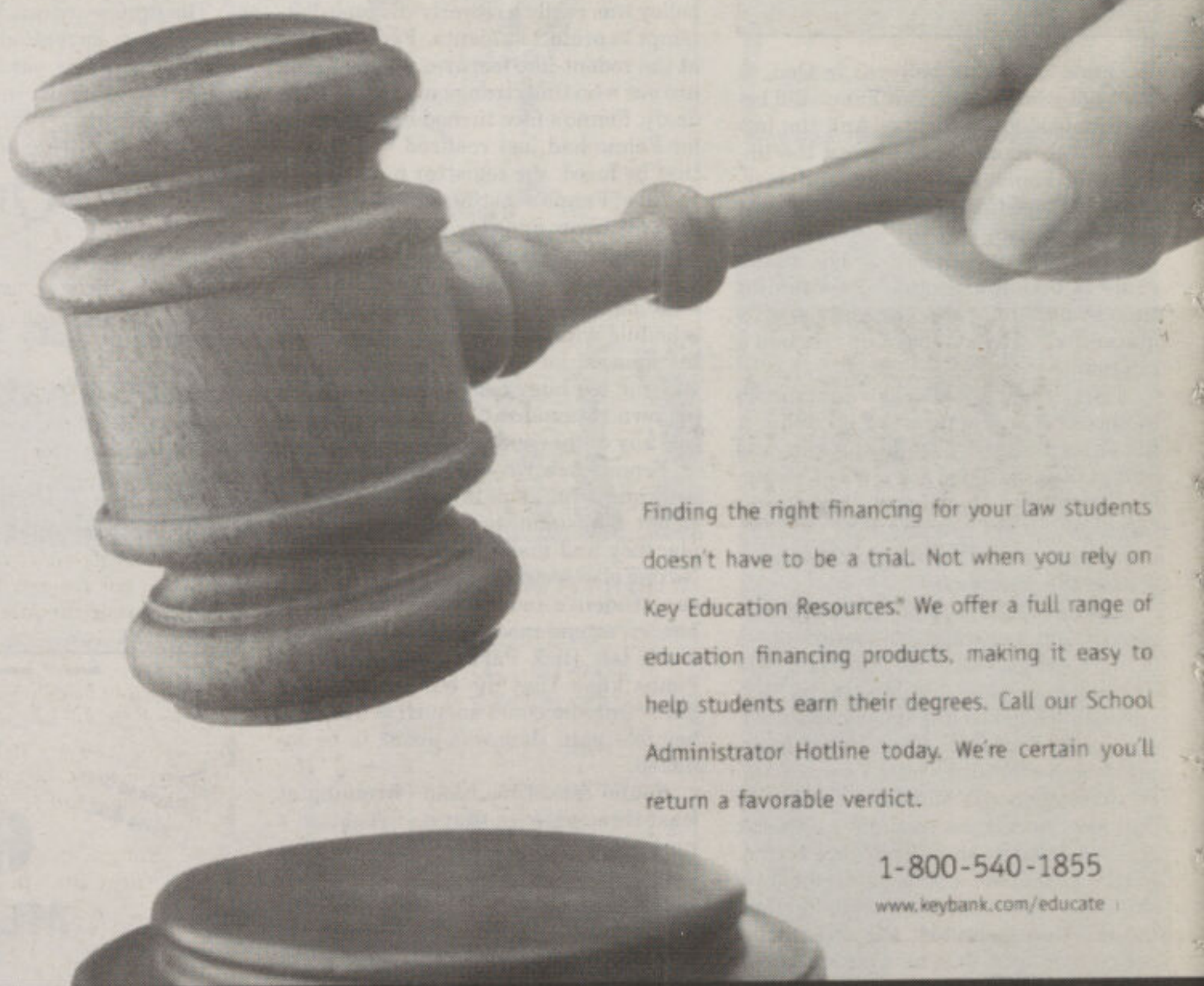
- #1 Serenity Now (1-0)
- #2 The Rainmakers (1-0)
- #3 En Fuego (1-0)
- #4 Black Plague (0-1)
- #5 B League's Best (0-1)
- #6 The Leftovers (0-1)

B-League Rankings

- #1 Stormin' Mormons
- #2 Heartland
- #3 The Godfathers of Dunk
- #4 Flagrante Delicto
- #5 The Flaming Rats



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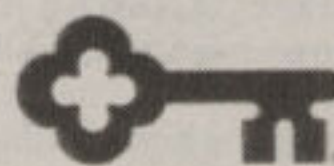


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THE VERDICT

MA VIE EN ROSE

By Michael Bennett '98

Movie Reviewer

"Ma Vie En Rose" is a film that testifies to the pain of the norm breaker. The high price of stepping outside the pale is captured in the amazingly effective, though at times milque-toasty, tool of the young Ludovic, a little boy who wants to be a girl. Ludovic innocently employs his crisply refined child logic to his predicament and determines that in order to marry Leo, another little boy, Ludovic must transform himself. He's not silly; he knows that little boys cannot marry little boys. Boys marry girls — most of the time.

Ludovic's dilemma is compounded Shylock-style when his internal struggle bleeds out into his family life and interaction with his community. Leo's father is the boss of Ludovic's father, and when he finds that his son is being pursued by the effeminate "boy-girl," he pushes the father into that most tempestuous and unsettling of maelstroms, unemployment. Ludovic's mother, primarily

a live-in care-giver to her family, contains herself as best she can until the family is forced to move to a lesser home on the outskirts of town. Her blasts of frustration are crippling and violent. The children seem often to be much better prepared to deal with Ludovic than the adults.

at its core, the film is intimately concerned with the high price of atypical existence. A confectionery chocolate cover shrouding a core of cod liver and castor oils.

Berliner, writer and director, sagaciously probes the most



ily, his family in turn, maimed and rejected by the community. Economically erased and physically removed, they turn inward and focus their shame on the "boy-girl."

It is implied that Ludovic and his family have been moving since he began displaying his affinity for cross-dressing. At the start of the film, the family is just moving into a nice neighborhood. Ludovic introduces himself to his new neighbors in a dress, lipstick with earrings dangling. When the family flees, they end up in a lesser area that is inhabited by another social aberrant. Another child testing the permeability factor of the social fabric finds Ludovic. A girl, this dissenter is crossing a less treacherous course — the well-trodden tomboy path. Ludovic's plight is contrasted and emphasized. He is a community of one; no ideological sisters or brothers.

The film is tightly written but visually decadent, overly confectionized for its subject. The fact that the protagonist is a child is prevalent enough to spare the audience the repeated lapses into smurfish, cotton candy-like sweetness. This technique is interesting initially but becomes annoying roughly half-way through. The effect is similar to the infantile tactic of overacting when he finds that grown-ups are delighted. This must've seemed like a good idea in the making, and perhaps in small doses I would agree, but projected into the augmented theatre eye, it's almost too much.

In the end, the work is o.k. Interestingly, despite its thumbless handful of snide remarks about Americans, the film seems targeted to us. The intrinsic ability of Americans to transform and recycle themselves, to transcend local circumstances through will power and the juggernaut-like formidability of an army of one — perhaps the best American identity has to offer — these traits are immobilized too often by sexual identity experiments. In that vein, the film is quite revelatory. In a Hanna-Barbera kind of way.

Candy-coated might be more like it, for, at its core, the film is intimately concerned with the high price of atypical existence.

"Ma Vie En Rose" is an entertaining film and surprisingly not as heavy as its subject matter might indicate. Cartoonish, frothy, filmed in Technicolor tones reminiscent of 1950s American animation, the movie is actually cute. Candy-coated might be more like it, for,

popular band-aids our world has to offer to the deviant: commercialism, religion, science, and psychology. As quickly as they are proposed, they melt into vapor. Berliner pierces them like a Sherman tank rolling over the obstacles of a miniature golf course. They are a waste of time to him. Ludovic's first choice of treatment, Pam & Ben, the French (or perhaps Belgian) version of Barbie and Ken, is a partially and momentarily effective effort. Ludovic's frequent slips into his fabricated world of pink houses and child weddings shield him from society's realities but only in the double privacy of his own secluded space and his own mind. It is a fragile barricade.

In an interesting double casting, religion and science mix to form a possible solution. Ludovic learns the basics of biology and figures that his problem is that God simply screwed up and forgot his second X chromosome. After a particularly bruising day among some fantastically brutal children, Ludovic returns home to place himself in a large freezer with a giant cross. This scene brings to mind a sanctified cryogenic hibernation. Failure.

A last-ditch attempt is made to correct Ludovic's mind by enlisting the aid of a psychiatrist. The doctor is blocked by the child at every turn and finally concedes defeat when he refuses to speak to her. All the fabricated partial solutions are dismissed as a vile and pestilent congregation of vapors. Unreal and unsatisfactory. The candy melts away and we are left only with the sour core of punishment. Law and its saber, force, are humbled by the almost infinite power of social norms. Ludovic is castigated by friends and fam-

"OFF THE RECORD"

By Eric Johnson '00

RECORD Columnist

EXAMS ARE EASY, EVEN WITHOUT STUDYING

Instead of being the typical ultra-competitive backstabbing Harvard Law student, I've decided to share the fruits of my labors in order to unselfishly help my classmates. Here (reprinted in their entirety, except for Criminal Law) are my exam responses for my first-semester classes.

Indeed, one of my strategies was to keep exam responses short, in part because of my terror of inadvertently including knowledge not covered in class and therefore betraying the fact that I used commercial outlines.

For you library-bound gunners, I think you ought to know I did very little of the assigned reading during the semester. Warning: You may feel like a fool if you wasted any time going to class and briefing cases after you read these ...

Contracts (Frug)

JJ might argue that the contract is unenforceable because he crossed his fingers while signing it. Finger crossing voids all promises. LL could counter, however, that JJ had two fingers crossed, which would erase the effect of the original crossed fingers, and LL could enforce the contract. But if JJ crossed his legs as well as crossing fingers on both hands, then the contract would be invalidly held as invalidly invalid, and JJ would not be bound. (I think.)

Alternatively, LL could contend that



he said out-loud "no crossies" while JJ was signing the contract. This would invoke the parole evidence rule. The key thing to remember about the parole evidence rule is that it has nothing to do with "parole" and therefore would probably be inapplicable in this case.

Alternately, JJ could simply wait until next Tuesday and say it's "Tuesday Take-Back Day." He could then "take back" the contract. Unlike the crossies, there is really nothing LL can do to defend against Tuesday Take-Back Day, which is why LL is likely to try and "settle the case" before next Tuesday.

Criminal Law (Parker)
... [O]ne thing I learned in this class is that the law is "foggy, fluid, conflicted and confused" — it's an incoherent cloud of conflicting doctrines and meaningless inflammatory rhetoric. Therefore, the foregoing essay is intended to be a demonstration of that ...

Civil Procedure (Desan)

Duh.
REMANDED to the trial court for proceedings not inconsistent with this opinion.

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Be Bold!

Write for the RECORD

The Listening Room

By Darren "Huggy Bear" Fried '99

Music Reviewer

HUGGY BEAR'S GRAMMY PREVIEW

Does anyone care about the Grammy Awards anymore? No—where near as big as the Oscars or even the Golden Globes (rock stars are definitely below movie stars on the food chain), they don't have the flash of the MTV awards, and even the lowly Billboard Awards give the Grammys a run for their money. And can you really trust the Grammys when the Spice Girls were totally shut out this year? I don't think so. For the seven of you that are gonna watch it (Feb. 25th on CBS), here's your very own Huggy Bear Grammy preview.

Record of the Year: Paula Cole — Where Have All the Cowboys Gone; Shawn Colvin — Sunny Came Home; Sheryl Crow — Everyday is a Winding Road; Hanson — MMBop; R. Kelly — I Believe I Can Fly. I think the old folks making the decisions about the Grammys fell in love with what they think is a return to the good old days of men being men and women doing the dishes, failing to perceive even the slightest bit of irony in the song, so my guess is Paula for this category, although I'd love to see Hanson, all sleepy-eyed from staying up late, sipping on Shirley Temples and dressed in their Sunday best, walk on stage.

Album of the Year: Babyface — The Day; Paula Cole — This Fire; Bob Dylan — Time Out of Mind; Paul McCartney — Flaming Pie; Radiohead — OK Computer. Hmm... Babyface has made so much money for everyone he's hard to ignore, and Paula Cole is just so darn pleasant. Radiohead would be a nice and easy way for the

Grammys to pretend they're still relevant, but I think it's gonna come down to a battle of the ancients. Dylan and McCartney put out albums that critics loved and the public ignored, but Dylan almost kicked the bucket last summer, so I think he gets the prize.

Best New Artist: Fiona Apple, Erykah Badu, Paula Cole, Puff Daddy, Hanson. I'd like to see Fiona get it, just to see another rambling, incoherent, vodka-fueled speech like the one she gave on the MTV Awards, but it probably won't happen. Erykah showed you can actually still sing soul and use a band instead of computers so she gets my vote,

ex-hubby Tommy Mottola doesn't kill it behind the scenes. Shawn, Jewel, and Sarah all have a good shot. It's a toss-up.

Best Male Pop: Babyface — Everytime I Close My Eyes; Elton John — Candle in the Wind-1997; Maxwell — Whenever Wherever Whatever; Seal — Fly Like an Eagle; Duncan Sheik — Barely Breathing. Every award show goes crazy for any kind of tragic connection to a nominee (see: Eric Clapton's "Tears in Heaven", or *Il Postino*), so Elton's weepy 25-year-old song redone for Princess Di's funeral has this one locked up.

Best Female Rock: Ani DiFranco — Shy; Fiona Apple — Criminal; Meredith Brooks — Bitch; Abra Moore — Four Leaf Clover; Patti Smith — 1959. If you know me, you know my vote goes for the little folk singer, Ani D. But Patti rocks too, and she might

get it as kind of a lifetime achievement award. Abra doesn't have a shot in hell, but Meredith does, just 'cause of the "she said bitch, heh heh heh" Beavis factor. My guess is that Fiona's bluesy ode to Anthony Mason wins out.

Best Male Rock: David Bowie — Dead Man Walking; Bob Dylan — Cold Irons Bound; John Fogerty — Blueboy; John Mellencamp — Just Another Day; Bruce Springsteen — Thunder Road. I'm all about Bruce, but the song is 23 years old and this version of it is from three years ago. It's nonsense like this nomination that gives the Grammys their bad reputation, and the funny thing is, Bruce'll probably win, too.

The rest of the pack ... Do you give best



rap single to Busta Rhymes, Missy Elliott, LL Cool J, Notorious B.I.G., or Will Smith? Busta or Missy deserve it, but LL's one of the few rap acts with staying power. Will Smith is the biggest star, but you have to give it to Biggie Smalls since he's all dead and whatnot. For

best rap album, you have to decide between Missy, Wu-Tang Clan (who suffered from the Guns 'n' Roses two albums are not better than one syndrome), Wyclef Jean (who suffered from the sucky solo album syndrome), B.I.G. and Puffy. It's between Biggie and Puffy, and your guess is as good as mine. **Alternative:** Björk should win, but Radiohead probably will. **Hard Rock:** Look for the Smashing Pumpkins to take this one, and Donna Summer and Giorgio Moroder to take Best Dance. **Fleetwood Mac** will grab best Pop vocal by a duo or a group. Most important of all, who will win Best Spoken Word? Will it be Charles Kuralt, whose got a leg up since he's dead, Walter Cronkite (almost dead), Jimmy Carter (not dead yet), Jodie Foster, or Maya Angelou? Go with Jodie and her rendition of Contact. She's got the most star power. Get it? Ha ha.

In a new feature ripped off of *Pulse*, the free rag you get at Tower, we'll print the Desert Island Discs of one wacky law student each column. This week the lucky winner is Dan "Mr. Bigglesworth" Glazer '98. His selections to play as he stares at the sun and finishes 400 cases of Woodchuck Cider are: **Shaft** soundtrack, **Guns 'n' Roses** — Appetite For Destruction, **Enya** — Watermark, **John Coltrane** — My Favorite Things, **Prodigy** — Fat of the Land, **Alice in Chains** — Jar of Flies, **Seal** — second self-titled album, **Singles** Soundtrack, **Soundgarden** — Badmotorfinger, and **Bob Mould** — Workbook. Next week look for the DID's of Alex Rabb '00.

Unless the Grammy committee is smoking more crack than Daniel Baldwin, Puff Daddy runs away with this one.

but has anyone made more of an impact on music in 1997 than Sean "Puffy" Combs? You couldn't turn on the radio without hearing something he either played on or produced. Unless the Grammy committee is smoking more crack than Daniel Baldwin, Puff Daddy runs away with this one.

Best Female Pop: Mariah Carey — Butterfly; Paula Cole — Where Have All the Cowboys Gone; Shawn Colvin — Sunny Came Home; Jewel — Foolish Games; Sarah McLachlan — Building A Mystery. One of the toughest categories, there are no clear favorites, but if Paula Cole wins anything else, look for her to win this one too. Industry fave Mariah has a good shot if

FOOD FOR THOUGHT

VIGNETTES FROM THE NEW ORDER

By Paul Gowder '00

RECORD Columnist

Teacher? TEEEEACHER?! Can I go to the potty?

No. Now answer the question. But teacher! I have to go to the potty! Listen you stupid kid. If I've told you brats once, I've told you a thousand times: we raise our hands to go to the bathroom.

But you called on me! And I really have to go really bad!

OK, just this once, I'll let you off. Let's check the chart, shall we? *Consults giant chart on the wall.* Well, you've gone to the bathroom 3 out of 16 classes — I guess you can get away with one more. Go to the dean of students to get a hall pass.

.....

Yes? You wanted something?

Teacher told me to get a hall pass from you to go to the bathroom.

First you have to show me your ID card, fill out form 1040, give a blood sample for DNA testing ... do you have an affidavit from your professor concerning your in-class percentage, or a waiver from the administrative board?

.....

Come on ... does anybody have an opinion?

Student leaps out of seat, bouncing up and down and waving hand around. Ooh! Ooh! Me! Pick me! I know the answer!

Yes, Jimmy?

Does this have anything to do with Clinton v. Clinton, suit for divorce on grounds of adultery?

No! This is criminal law! Go stand in the corner. Here, wear this dunce hat.

Can I just put my head down on the desk like Willy when he brought up the

Erie doctrine?

No! Come here and get three lashes for disagreeing with me!

Professor begins to vigorously beat student with a tire iron.

.....

Today we will be talking about due process. In the "Fifth Amendment regime," things like formal charges and adequate notice were required before the group could inflict penalties on the individual. Today we have a new policy. Thanks to the brave leadership of Harvard Law School, the official government line (which the Supreme Court recently allowed to stand) is "The slam is better than a damn."

What happens if you're convicted of at least 25 percent of your arrests? (Less if previously announced.)

You're executed. Society, after all, has a right to expel people who don't obey the rules. We use cyanide capsules. After all, "a gramme is better than the slam."

Does this apply even when there's an excuse, like when the guy got a speeding ticket to get to an interview? Yes.

.....

Dorm room. Poster on the wall: "Big" Dean is watching you. Student is staring intently into his computer at some LRA assignment. Come on! Number 2513254! Analyze those fact patterns!

Student walks out of door, down hallway. I understand it all now! I believe in the Coase theorem! Student dies from bullet in back of the head

.....

Today is the beginning of a new era in classroom attendance!

Yes! From now on, we'll be able to watch the students to make sure they attend classes, and chuck them out if they don't!

But how shall we make sure we don't miss any? Do we just look for the obvious ones in our hundred person classes?

Naah. Lets install those little punch-cards like they have at factories and Congress to mark attendance.

(My sincerest apologies to Huxley and Orwell. They're probably both doing some



"teacup ride" action in their graves right now. Actually, maybe not: they probably wouldn't mind. Pound, though, he's doing loop-de-loops in hell. Bet you couldn't keep women out of there either, huh?)

To our professors: If this is your view of the student body of Harvard Law School, if you really think we need "you're booted out of the class with no warning" rules to enforce attendance, maybe you should spend a day in a kindergarten or a despotism — there are many differences between HLS students, children, and oppressed masses. Lets keep it that way, hmm?

Happy Valentine's Day! Go wild!



OPINION

By Dina DeFalco '98
and Dan Fridman '99

Here, the Faculty Rule

Mandatory Attendance Requires Mandatory Response

We want to make clear from the outset that the views in this article are our own and not necessarily representative of the entire Law School Council. However, it is through our positions on the LSC that we have had the opportunity to become familiar with the administrative procedures of the law school, as well as the faculty who govern them. And until the new mandatory attendance plan was proposed by the Legal Education Committee, we were one of the few holdouts at HLS who actually believed in these procedures. We were mistaken. We are, of course, referring to the faculty decision made last Friday to vote in favor of mandatory attendance despite the strong student sentiment against it.

We will begin by giving you a brief history of how the faculty worked to push the attendance policy through with minimum student resistance. In doing so, we will "call out" particular professors who supported the students throughout the process and the ones who stood solidly against us. We will conclude with our assessment of what this plan, and the process followed to pass it, means to the HLS student community.

The Legal Education Committee is composed of eight members. Five are Professors (Hanson, Mansfield, Frug, and J. Weiler, with Parker as Chair); three are students (Rob Edmund, David Stringer, and Brian Fitzpatrick). Professor Parker also allowed a non-voting Law School Council representative to attend Committee meetings — Dan Fridman in the early Fall and Charles Hokanson for the remainder of the year. At all times, the two LSC representatives opposed the plan for mandatory attendance and expressed strong student concerns about the dubious procedural protections it offered. Despite this, the Committee unanimously passed the plan at the end of December — *at the exact same time 1Ls were leaving and 2Ls and 3Ls were taking exams*. In addition, it was not until this time that the LSC received the final language for the plan. The Committee had intended to present the proposal to the Faculty Senate during the winter term *when 1Ls were away and when 2 and 3Ls were on an irregular schedule*. Because of time constraints, presentation of the proposal was pushed to Friday, February 6, the first week all

students had returned for spring classes. In an effort to mobilize student opinion, the LSC held a Student Forum on Thursday, February 5.

The overwhelming reaction by students at the Student Forum was one of anger and resentment; it is easy to see why. The new attendance policy not only fails to address the real causes of student malaise, but it effectively places the blame

for HLS's problems squarely on our shoulders. The Legal Education Committee deftly sidesteps the issue of faculty reform by claiming that mandatory attendance is just one step in a long process of reforms that are aimed to curtail student apathy. Among those reforms are alleged plans to address faculty incompetence and the grading

system. But what indications does the student body have that the faculty will eventually be held accountable? Dean Clark can't even make the faculty get their grades in on time, despite his repeated requests. Should students be so naive as to think the faculty will suddenly change

rooms with disinterested students who are playing solitaire on their computers is not the answer. Does mandatory attendance merely require physical presence but not mental presence? The problems at HLS lie deeper than attendance statistics — the policy addresses the symptoms of student apathy, but its result is nowhere near the cure.

Let us be clear. Our opposition to this plan is not based on the juvenile justification that students should not have to attend class. We oppose this policy for two reasons: 1) It contains dangerously inadequate procedural protections for students; and 2) The manner in which the faculty completely disregarded the massive student opposition to the plan is an offensive devaluation of student status at HLS.

First, the policy takes away the written notice to students required under the present attendance rule. Now, students (if they are lucky) will get one notice in the Advisor at the beginning of each academic year explaining that they must be in class 75% of the time, unless otherwise specified by a professor. Once a professor gets an impression that a student has missed more than the allotted 25% for each course, this will count as "substantial delinquency" and the student will automatically be withdrawn from the course. No notice to the

student, no phone call; the only thing the professor has to do is pick up the phone and call the Registrar's Office. Do the words "due process" mean anything to the Committee? Is it too much to ask a professor to notify a student, warning him or her of substantial delinquency, as is currently required? The Committee's description of such written notice as "excessive formalism," flies in the face of its purported goal of "mutual" student-teacher cooperation.

Once a student is withdrawn from a course, he or she has the additional responsibility of appealing the decision to potentially three administrative levels to prove non-delinquency. The student must first go to the Registrar. If the issue is not resolved, he or she must then go to an Associate Dean. If the issue still remains, the Administrative Board must be petitioned. The professor, on the other hand, has no duty under the new policy to provide evidence. He or she must merely sit back and wait for an answer — which points to a third problem in the policy. What procedures are faculty supposed to use to enforce attendance? We don't envision many professors having the desire or the patience to take roll every class (in fact, one professor on the Committee claimed it would be "demeaning" to have to take roll). Given the Committee's stance, perhaps taking roll would be "excessive formalism" anyway. The most disturbing part of this policy is that professors are not required to present any proof that you have missed class — a simple impression that you were absent is enough. The presumption is against the student. It seems like your only real protection is to have your professor sign and date a piece of paper for you every class stating that you were

present.

We could go on, but the point is clear. And the point was clear to the Committee before it finalized the proposal. The point was clear to the Committee before it rushed the proposal to their Senate. The point was clear to the entire Faculty Senate before they voted and passed mandatory attendance. When we consider that the Faculty Senate that passed mandatory attendance had barely half its own members present — the point is very clear.

We were two of only four students invited to speak on the student body's behalf at the faculty meeting. Several more students stood outside the door in Hauser 102 with their faces pressed up against the glass, in a show of opposition to the attendance plan. When the professors became visibly nervous at the sight of the unwanted guests, they actually *voted* to decide whether to let the students in or to send them away. The vote was extremely close (a margin of about 3 votes), but the students prevailed thanks to professors such as Singer, Nesson, Duncan Kennedy, and Horwitz. Professor Parker, the revolutionary student rights activist of his day, betrayed his own roots by voting with the Establishment. It was an obvious indication by him, and many more of the professors, that here at HLS, "the faculty rule."

And in the end, that is exactly what happened. We don't even know why any students, including the original four, were invited to attend the meeting. Despite the overwhelming negative student response to the policy, and the insistent urging by the students at the faculty meeting to at least table the issue, the Committee presented its proposal and the faculty passed it. In doing so, the faculty continuously commended the Committee for the hard

work it had done. Perhaps kudos should go to the Committee members for their hard work. We know they spent a lot of time putting the proposal together, and

we believe they started out with good intentions. But the result of their efforts is just another paternalistic blow to the quality of student life at HLS. By the end of the meeting, we were disgusted and amazed at how the faculty could so easily vote for a policy that the students so obviously didn't want.

On February 18, Princeton Review surveys will be randomly distributed to students in the Hark to update the Review's assessment of student satisfaction at HLS. Students should remember the effects of this new policy as they fill out their forms. By instituting mandatory attendance, the faculty has sent a loud and clear signal of exactly what they think about student concerns. Ironically, the actions by the faculty and the Legal Education Committee only serve to increase the apathy and alienation at this school. We have now learned that student opinions do not matter in the academic policy arena. Can we still reasonably expect our views to matter in the classroom? If this is the first in a long series of Committee "solutions," we can't wait to see what other draconian measures it comes up with to "improve the atmosphere of apathy." Please join us in the next few weeks as we address the real problems HLS has and propose real solutions. We, the students, must no longer remain silent.



Dina DeFalco '98



Dan Fridman '99

[F]orcibly filling classrooms with disinterested students who are playing solitaire on their computers is not the answer.

their apathetic tendencies and take student interests into consideration? Given that the Legal Education Committee took five months to come up with this brilliant plan, it is certainly reasonable to doubt the Committee's competence to expediently address the real problems HLS faces.

In addition, it is insulting to the student body that one of the first "steps" the Committee is taking to improve the "academic culture" at HLS is a *punitive* mandatory attendance policy. The Committee could have easily focused on a more valid cause of student apathy — such as the nonexistent relationship between class attendance and final exam performance — before it considered mandatory attendance. The primacy of this proposal suggests that student absenteeism is the principal cause of apathy. We are not denying that students have some responsibility to contribute to the learning environment. However, forcibly filling class-

Do the words "due process" mean anything to the Committee?

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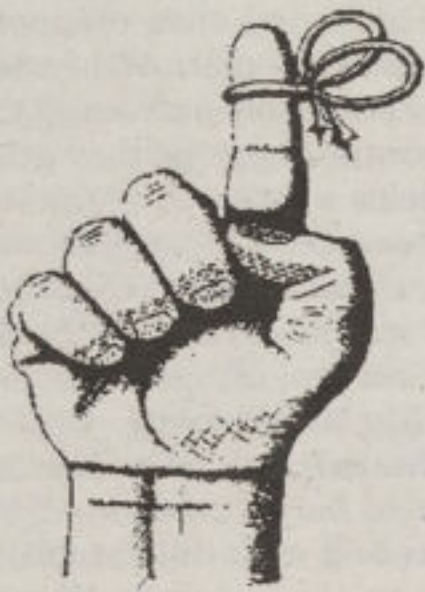
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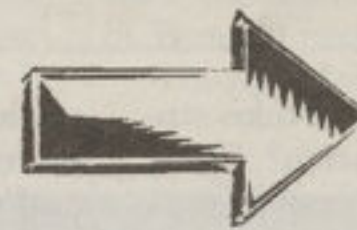
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