



Chez Che: La Revolución vive en Cuba, and Harvard students revel in it. See story, p. 15.

Oil Money, Academia Mix in HLS Scholarship

By Klaus Hamm

Facing a \$5 billion punitive damage judgment, Exxon Corporation has hired plenty of top lawyers to fight the ruling in court. But its battle against punitive damages hasn't stopped there. It has also hired top legal scholars from around the country to take up the issue in a much different forum: the pages of academic journals.

In the last 14 months, Profs. Steven Shavell and Kip Viscusi both have published law review articles critical of punitive damages. Both received financial support from Exxon, both disclosed this fact in a footnote at the beginning of their articles and both said they retained editorial freedom in producing them.

Not surprisingly, the two professors defend their decision to

accept money from Exxon and the integrity of their scholarship. "I don't think that you've gotten money from anybody is ever an issue unless it's a hate group or something," Viscusi said.

Please see **EXXON**, p. 4

Housing Lottery Causes Confusion, Consternation

By Tanya D. Marsh

The 1999-2000 housing lottery, plagued by confusion and frustration over a new distribution plan, was abruptly cancelled on Tuesday after resident assistants took student concerns to the administration. The 70 students who chose rooms before the lottery was cut short have had their picks nullified and the en-

tire process is scheduled to start anew on Tuesday, April 20. Appointment times and priority numbers will remain the same.

Problems arose when students realized that the familiar system, in which a set percentage of space was set aside for each dormitory hall, had been supplanted. Instead, according to Law School Council President

Please see **HOUSED**, p. 3

The LIPP Reform Movement: Been There, Done That

Lessons in How to Kill a Student Movement

By Ben Lehrer

As the student push to reform the Low Income Protection Plan found its way onto the agenda of last week's faculty meeting, a number of professors must have had a sense of déjà vu.

For these professors, LIPP, which was inaugurated in 1979, is not a new subject. In the fall of 1995, intense student protests over the Law School's inadequate support of public interest led Dean Clark '72 to create the Ad Hoc Public Interest Committee to discuss issues raised by the students. Overhauling LIPP was a main focus of the committee.

Yet two years of meetings

produced few results. A draft report meant for the Dean was never completed. Untold hours of work by the administrators, professors and students on the committee essentially came to nothing.

RECORD Feature

The committee's coffin was nailed shut when its chairman Prof. Chris Edley '78 went on sabbatical in the Fall of 1997 to work in the Clinton Administration. Edley says he requested that Clark name someone else to chair the committee, although no appointment was made. Edley did schedule a meeting for the spring of 1998, but it was canceled, and the committee was never heard from again.

It Didn't Add Up
The student protests that resulted in the creation of the Public Interest Committee arose on the heels of the Law School's successful capital campaign which ended in 1995. That campaign, which raised funds for several new professorships and for the renovation of Langdell, overshot its target of \$150 million by \$25 million.

In the Fall of 1995, a group of students began "Campaign 25" to try and pressure the Dean to allocate the surplus funds toward improving and endowing the Law School's public interest programs.

The year before, NYU made

Please see **FUTILE**, p. 6

Faculty Gather to Learn Nuts and Bolts of LIPP

Dean Proclaims Enthusiasm for Increasing Funding

By Francesco Barbera

In the latest sign that the movement to reform the Low Income Protection Program (LIPP) is gaining momentum, Dean Clark '72 convened a faculty meeting last Friday designed to explain the mechanisms of the program.

The session, which lasted well over two hours, was organized and presented by Prof. Louis Kaplow '81, head of the Law School's Financial Aid Committee, and was attended by about 40 faculty members, administrators and students.

A group of students organized by the HLS Student Public Interest Network (SPIN) gathered outside of Hauser prior to the

meeting to demonstrate their support for LIPP reform. The students handed meeting attendees a booklet of LIPP policy recommendations that had been put together by SPIN officers Nicholas Walsh '00 and Ayn Ducao '01.

The meeting came in the wake of a wave of campus activism directed towards reforming LIPP. In March, LIPP was the focus of a school-wide town meeting at which students called upon the Dean to permanently increase LIPP funding. Last week, a group of 26 faculty members wrote a letter to Dean Clark '72 urging him "to make raising

money for LIPP a major priority." The letter cites the decline in the number of graduating students entering the public sector and the increasing generosity of comparable programs at other leading law schools.

These efforts now appear to be bearing fruit. In an interview on Tuesday, Clark expressed strong support for broadening LIPP coverage. Clark said that, while next year's budget has not received final approval, he has authorized several changes to the current LIPP program.

First, parental leave time has

Please see **LIPP**, p. 2



Profs. Carole Steiker gets some expert help from her daughter last week at the Public Interest Auction.

Public Interest Auction Rocks the Law School

By RECORD Staff

In an annual HLS rite of spring, the Sixth Annual Public Interest Auction drew a packed house of faculty and students vying to empty their wallets in the name of public interest funding last week.

Between an hour-long Silent Auction and a Live Auction lasting more than two hours, the evening's festivities raised more than \$65,000 to help fund students working in public interest jobs this summer.

The evening's events represented the culmination of many hours of work by more than 200 students and other members of the HLS community.

"Since 1Ls run it every year, it is impossible for us to tell how it compares to previous auctions, but I thought it was fantastic—a real community building event," said Auction Co-Chair Sarah Szalavitz '01.

"So much of the law school community pitched in, from spouses that baked food, to people that came and bought stuff, to people who planned and coordinated the day," said

Ramesh Kumar '01, who helped staff the concession booth. "It was just great to see so many students and staff together to

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Hanson and Hollywood, American hypocrisy, and, *bien-sûr*, Fenno.

Key to LIPP Reform: Increasing, not Reslicing the Pie

Continued from LIPP, p. 1

been extended from three to six months. Second, the income ceiling has been raised from \$49,500 to \$51,000. Finally, the proportion of pay increases which must be allocated to loan repayment for LIPP participants earning more than \$39,001 has been reduced from 60 percent to 50 percent.

The Dean also emphasized that LIPP will be an important part of the Law School longer-term development. "LIPP must be an important element of the overall long-range plan that our committees are developing," said Clark. "It will need to receive a lot more attention during our next fundraising effort."

Fixing LIPP

Although the announced changes represent an improvement in LIPP coverage, the faculty meeting focused on more structural inadequacies in the program and on the difficult policy choices involved in correcting them.

For example, Kaplow pointed out the remarkably flat growth in disposable income for LIPP participants over time. Because LIPP participants are required to allocate an increasing proportion of any pay increase to their loans, take-home pay for participants remains virtually flat. Thus, under the current program, a \$35,000 salary yields \$23,500 in disposable income, while a \$60,000 salary yields

just \$26,500.

Several faculty members acknowledged the inadequacy of such funding levels.

"The limit on disposable income makes it all too difficult for one of our graduates to stay in the public sector for more than a few years," said Prof. Christine Desan. "The first ten years out are, after all, the decade in which most of us want to start families and buy homes. The result is, I fear, that HLS grads aren't staying in the public sector for long and aren't exerting the kind of lawyering power and leadership that they could there."

Josie Sandler '01, a student member of the Financial Aid Committee, noted that the faculty was struck by the fact that take-home pay for LIPP recipients remains essentially stuck at \$25,000 per year. "It's hard to get married, raise a family, and save for retirement on that," she said.

Kaplow divided proposed changes to LIPP into "inexpensive" and "expensive" categories. The latter includes raising the income ceiling, substantially reducing the rate at which students must contribute increases in earnings to their loan repayments and changing current policy regarding student loans which replace parental contributions.

Kaplow remarked that the difficulty in implementing big-ticket changes is the uncertainty surrounding their cost. As an example, Kaplow noted the lack of data indicating how many graduates will be swept into the LIPP program if the cur-

rent income ceiling is increased. "We could get dozens or maybe hundreds of lawyers practicing in more rural states," he explained. "Each might only be eligible to receive \$1,000, but if you multiply that enough times, it gets expensive."

Without endorsing any particular approach, Kaplow touched on a couple of potential sources of funding for LIPP reform. He noted, for instance, that because far fewer students enroll in LIPP than receive financial aid grants, shifting grant funds to LIPP might generate "more bang for the buck." Another option discussed was raising tuition, in essence spreading the cost of LIPP to the entire student body.

Reaction to these approaches were mixed.

"The notion of taking from grants to give to LIPP struck me as imprudent," said Desan. "I'd like to keep the students who need grant money to come to Harvard coming to Harvard, regardless of what they do after they graduate."

Lisa Dealy, Director of LIPP and Summer Funding, was also critical of this plan.

"There are people, particularly from lower income backgrounds, who are psychologically adverse to taking on the amount of debt that we expect students to take on," she said.

Donations, Donations, Donations

According to the Dean, one of the major obstacles to funding expansions in LIPP coverage is that most endowment

funds earmarked for financial aid contain restrictions limiting their use to traditional forms of financial aid, such as grants.

Clark wrote in a letter to SPIN that because of these restrictions on existing funds, "increased donations are the most viable means of increasing resources available to the LIPP program."

According to Sandler, the Financial Aid Committee does not have the authority to allocate more money for LIPP, and may make only minor alterations, such as the allowance of extra parental leave time.

Due to these restrictions, improving LIPP may require persuading big-time donors to dedicate their contributions to the program during the next major capital campaign.

Clark was unable to say with certainty when the next capital campaign would begin.

"I'm hoping within a few years but I really can't say for sure," he said. "A lot will depend on what the University allows us to do."

Clark said that he continually seeks funding to augment LIPP, independent of a capital campaign.

"The fact that we don't have a campaign doesn't mean we can't run around asking for money," he said. "In fact, right now we have some positive leads and we are pursuing them."

Where's The Beef?

Students who attended the meeting said that it was effective in increasing awareness of the problems with LIPP but that the problems remain to be solved.

"While these steps have been very important, nothing short of concrete changes that turn LIPP into the kind of program it is touted as being will suffice as a response," said Nick Lundgren '00, who has been active in the effort to reform LIPP. "The point is not simply to raise awareness, but to ensure that we have real change that students, alumni and faculty can assess and monitor."

"I think it raised consciousness about the problems," said Sean Flynn '99. "When you put '\$25,000' under a \$60,000 income and say that's what you get on LIPP, it doesn't take a Harvard Law Professor to figure out why the number of students entering public sector careers is falling."

"If Harvard wants to offer real freedom of career choice to graduates, it needs to make LIPP a priority and fund it properly," said Sandler. "That's the decision that we hope will come out of the faculty meeting and this campus-wide examination of the LIPP program."

Wall Street and Sunset Boulevard Cross in Hanson's Corps Class

By Alyssa Caples

Look out Dreamworks and MGM, there's a new entrant in the film industry — Class Action, Inc.

Students in Prof. Jon Hanson's Corporations class are putting their new-found knowledge to use and have formed their own corporation. Not only is the corporate structure real, but so is the process that created Class Action itself, right down to its official incorporation in Delaware and an IPO underwritten by Goldman, Sachs & Co.

In addition, the production side of the company is authentic. The students are now in the final stages of developing a movie, "Harvard Does Hollywood," which intersperses clips of HLS as depicted in popular films with interviews of real HLS students.

"We created an entrepreneurial committee to develop product ideas. The class chose between the two final projects, an outline bank and a movie. While the outline bank was considered a bigger money-

maker, the class chose the project that they believed [to be] a community builder," said CEO Heather Thompson '00.

The corporation's legal counsel is Fried, Frank, its accountants are Deloitte & Touche and the investment bankers are from Goldman, Sachs. All donated their services to the project.

"The level of interest there is outside of the class is amazing," said Prof. Hanson. "We had a charter committee to work with the lawyers and our CEO has had numerous meetings with our accountants, and they've come up with some pretty elaborate business plans."

According to Hanson, the outside help adds to the level of enthusiasm. "The lawyers are really into it. I got a call at 1:30 in the morning from one lawyer who was working the deal," said Hanson.

The group also got help from the SEC, which granted a waiver for compliance with some securities laws because of the educational and limited nature of the deal.

Company shareholders are students in the class, who bid \$4 per share of stock and received real stock certificates for

their shares.

Although participation in the corporation is completely voluntary and the students have received no extra credit for their efforts, many in the corporation's "management" have devoted tireless hours to the project, which has become a labor of love.

"Once I realized the amount of work that would be involved, I was happy to chip in. The commitment has snowballed a bit, but I'm still really happy to be involved," said Vice President Michelle Matt '00. "And besides, the videos will make great Christmas presents — a welcome alternative to the hackneyed Harvard sweatshirt!"

The experience has also helped develop a sense of community in the class. "We've pulled this together in about four or five weeks. People have been working really hard," said Thompson. "But it's been really great in the sense of both learning about the law and the community atmosphere."

"The whole experience has been a refreshing contrast to the student apathy found in most upper-level classes," added Matt.

The movie premieres next Tuesday. "As part of the advertising for the movie, women are going to be dressed up in gowns and men are going to be in tuxes. We want to have a Hollywood premiere kind of feel to it," said Thompson.

All profits from ticket sales, concession sales and videotape sales will be donated to Public Interest Summer Fellowships. At the end of the semester, the corporation will be dissolved. Last year, Prof. Hanson's class set up a corporation, but this is the first year that the students have actually gotten involved with developing a product.

"It's exceeded my expectations in two ways," said Prof. Hanson, "first, in terms of the amount of work, and second, in terms of the reward. Ten or 12 students have been quite active and put in a significant effort to make this work, and it's been a joy to see."

Tickets to the Tuesday evening premiere of *Harvard Does Hollywood* will be sold Monday and Tuesday in the Hark.

Subciting: The Road Heavily Trodden Upon
By the Down-Trodden

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Former Mayor Inspires Campus Conservatives

By Justin Herdman

Former Boston Mayor Ray Flynn may be a Democrat, but he drew a mostly conservative audience when he spoke at Harvard Law School this week.

Held in the Ames Courtroom, the Society for Law, Life and Religion's (SLLR) Spring symposium was entitled "The Moral Purpose of the American Founding."

Following an introduction by Prof. Mary Ann Glendon, Flynn appeared as the conference's first speaker. Flynn, a devout Catholic who acted as United States Ambassador to the Vatican, is currently the president of the Catholic Alliance, a religious advocacy group based in Washington, D.C. And Flynn is one of a hand-

ful of Democrats who declares himself "pro-life."

Flynn takes precautions to distinguish himself from other social conservatives, especially those Republicans who define themselves as being both pro-life and "pro-growth." Distancing himself from Gary Bauer, a recent guest on Flynn's radio show, Flynn pointed to an example of his "pro-poor" stance. "There are differences in health care [approaches]," said Flynn.

Citing his service to the Holy See, Flynn expressed his frustration with what he perceives as governmental indifference toward human rights. While in Rome, Flynn often met with Christian missionaries who had experienced religious persecution firsthand. "I would cable our government, and pass on these atrocious

stories," said Flynn.

When these tales were contrasted with the recent visit of Chinese Prime Minister Zhu Rongji, "It became so troubling to me that the United States would be rolling out the red carpet for the Prime Minister of [this country]," Flynn said.

This led Flynn to conclude that "our government talks a good game [regarding human rights], but our foreign policy is ultimately driven by trade."

True defense of human rights, notwithstanding the recent NATO intervention in Kosovo, is therefore subject to other demands, Flynn said. "There are only so many balls you can juggle."

As would be expected at an SLLR function, Flynn also pounced on the issue of abortion. He voiced displeasure with poli-

ticians such as Republican presidential candidate Elizabeth Dole, who recently defined her stance on abortion as "pro-life" while simultaneously admitting the futility of an anti-abortion constitutional amendment effort.

"What does the centrism in abortion politics mean?" Flynn asked, offering a challenge to the audience. Answering his own question, Flynn said, "You have to take the gloves off, you have to be sure that when people say they're supporting you, that they will."

Flynn also struck a somber tone with the assembled, many of whom are likely considering a future in conservative politics.

"If you don't have money, and if you don't have the media with you, you won't get elected," said Flynn.

Profs. Toss Their Salaries Around at Auction

Please see AUCTION, p. 1

have a fun time without having it feel formal."

The evening began with the Silent Auction, housed in Austin North and West. The hour-long Silent Auction gave students the opportunity to bid on more than 500 items, including a day sailing on the San Francisco Bay this summer, tickets to a taping of the Rosie O'Donnell show, a poster autographed by Mayor Marion Barry, and a pair of mittens knitted in class by Becca Nesson '01.

Shortly after 8:00 p.m., the evening's main attraction, the Live Auction, commenced before an overflow crowd in the Ames Courtroom. Emceed by Profs. Carol Steiker '86 and Phil Heymann '60, the auction was introduced with a call for bids for an evening of candlepin bowling, pizza and beer with Prof. Jon Hanson and his daughter Emily. Prof. Charles Ogletree '78 conducted a fierce bidding war against himself, increasing his cost for the evening from \$350 to \$500.

Next came Prof. Elizabeth Warren's "punt, pass or play." This item entitled the victor, when cold-called in class, to punt the question to another student, to pass on the question or to play by responding. In past years, the right was transferable to any other class at the Law School and professors often would bid to remove it from circulation.

To demonstrate how the game works, Warren pretended Steiker and Ogletree were in class. When asked about the main issue in *Hawkins v. McGee*, Steiker punted to Ogletree, who said, "it depends."

"What does the case remind you of?" Warren then asked Ogletree.

"Of why I don't go to the Law School,"

he replied.

This demonstration kicked off a rapid bidding war among professors, with the successful bidder, Prof. Robert Mnookin '68, paying \$300 only later to re-auction it in Warren's Contracts class for an additional \$400. Mnookin donated the added proceeds to the auction.

Following auctions of a vacation at Prof. David Shapiro's '57 guest home and a historical issue of *Life* magazine, Steiker introduced her three-year-old daughter to the crowd.

"How much do you think a tea with mommy is worth?" Steiker asked. "\$102," the little girl replied.

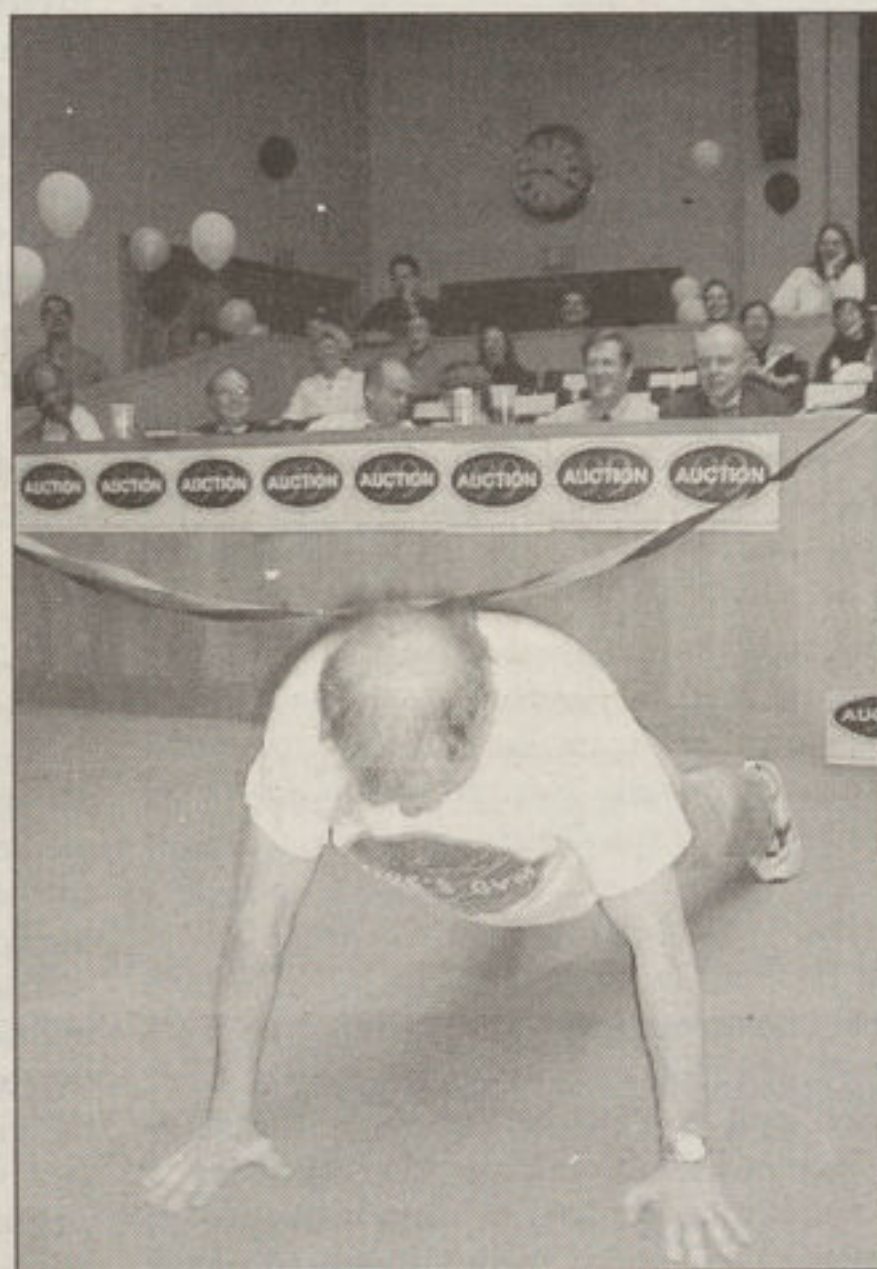
Indeed, high tea at the Ritz Carlton with Profs. Christine Desan and Steiker was the object of fierce faculty bidding. Despite hisses from some in the audience, Prof. Frank Michelman '60 and the bidding duo of Profs. Elizabeth Warren and Margo Schlanger continuously topped student bidders. Steiker defended the aggressive faculty bidding, saying, "It's hard for faculty members to get together." Nevertheless, Erin Murphy '99 eventually came out on top in the bidding war by offering \$550, quipping, "Is this covered by LIPP?"

Next, one of two auction volunteers at the front of the courtroom, Jordan Goldstein '01, won a lunch with Mario Cuomo (\$750). He later demonstrated his bipartisan stripes, successfully vying for lunch with Bob Dole (\$800).

Other items included a private party session with the parody band, which was sold to Prof. Bruce Hay '88 for \$600.

The highest-ticket item, however, went to Prof. Charles Nesson's '63 daughter,

Becca Nesson '01. She paid \$1900 for two days of high-performance driving for two in Arizona. Once again, Prof. Warren was



Prof. Weinreb '62 displays his physical prowess as the visiting committee looks on.

booed during this auction for engaging in a bidding war with students.

An autographed photo of Michael Jordan's game winning shot in last year's NBA championship, depicting his last shot as a pro, sold for a measly \$500. But a book by Robert F. Kennedy inscribed to Prof. Archibald Cox '37 went for \$1000.

Another Cox donation, several tapes of him arguing the landmark voting rights case *Baker v. Carr* fetched \$750. Faring worse than Jordan's picture, a signed basketball by former NBA star and Sen. Bill Bradley earned \$300.

After auctioning off a guided tour of the White House's West Wing by Prof. Chris Edley '78, Steiker and Heymann ushered in the HLS singing group, the Scales of Justice. In what has become a yearly tradition, Dean Clark '72 engaged in a vigorous bidding war with a member of the recently-arrived Visiting Committee for a private performance, eventually striking a deal whereby the group would provide separate performances for both bidders, who each paid \$1000 for the privilege.

Perhaps the most animated bidding involved Prof. Lloyd Weinreb's '62 offer of "Vince the Trainer," his personal trainer at Mike's Gym. Weinreb did 10 expert, shoulder-length push-ups for every \$100 in bids. The climax came when Dean Clark '72 and a member of the Visiting Committee joined in a gymnastic *ménage-à-trois*, eventually earning \$800.

Other auctioned items included golf passes, dinners, and owning Law Review President Michael Leiter '00 for one day as an indentured laborer. The bidding rose, prompting Leiter to include Law Review Secretary Kathleen Hartnett '00. Leiter, showing the form that kept him in shape during six years in the bowels of an aircraft carrier, did 50 pushups at once, fetching \$1400 for public interest.

Brave New Room Plan Scrapped in Thirteenth Hour

Continued from HOUSED, p. 1

Manoj Mate '00, who was present Tuesday to select his own room for next year, specific rooms and floors were set aside for entering students and those rooms which were available for 2- and 3Ls were further restricted by gender. As a result, students who attempted to return to their current rooms or secure space near their friends found they had severely limited options. Even those with the choicest priority numbers were unable to get the room they wanted.

Resident assistants, who reportedly recognized the flaws in the new system and pleaded with John Sarno, the new Director of Building Operations, to loosen restrictions were able to halt the lottery after appealing to the Dean of Students. Sarno did not return RECORD phone calls requesting a comment.

At a Wednesday morning meeting, adjustments were made to the process which

will give 2Ls and 3Ls greater flexibility in choosing individual rooms but will still reserve healthy percentages of each building for entering students. R.A. Eilish Cahalan '00 expressed appreciation for the Housing Office's response to student frustration: "I am pretty pleased that people were willing to fix something when they realized how upset students were. I am pleased that the administration did listen to student concerns."

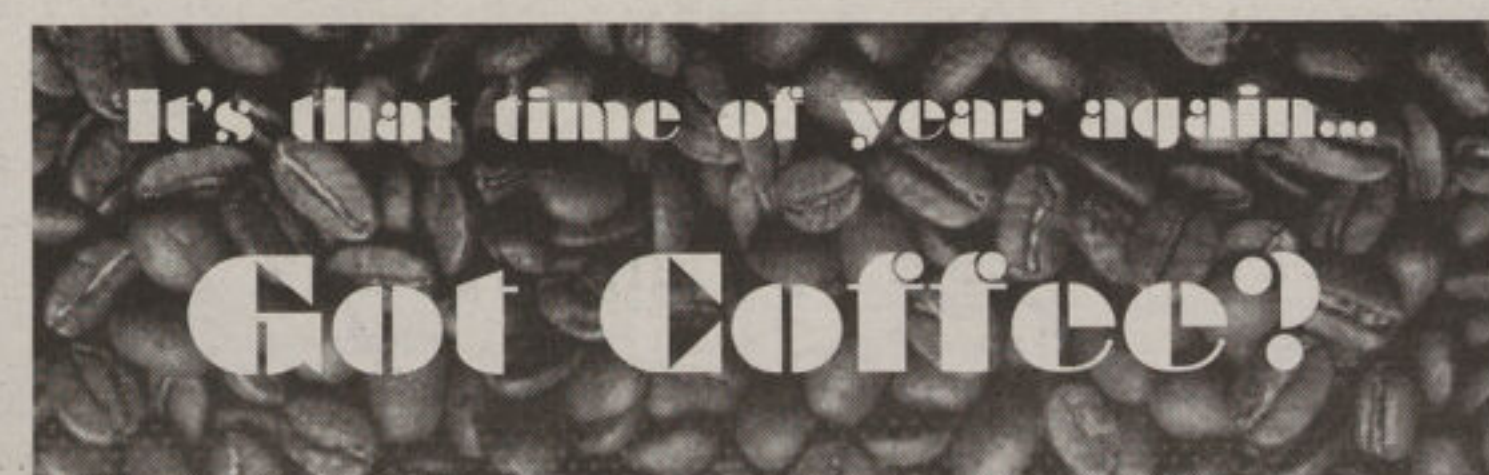
Although the students who had completed the process have been inconvenienced by the lottery's postponement, Cahalan stressed that starting from scratch "seems to be the most fair way to handle it."

Sources say that one inspiration for the new distribution plan was a RECORD report that many LLMs were forced to live in the expensive North dormitory because a large number of rooms in more desirable buildings went to returning students. In years past, 60% of Wyeth and Hastings

have been set aside for 2Ls and 3Ls. This year, Sarno tried to cut off returning students' access to those buildings after each was 40% filled by the lottery, the remaining rooms to be reserved for 1Ls and LLMs. That proved to be a highly unpopular move, and when the lottery begins again on Tuesday, returning students' larger percentage will be restored.

One holdover from the new plan is an attempt to make co-ed floors true to their name. In previous years, floors designated as co-ed could be heavily weighted to-

wards one gender. This year, explains Cahalan, on a co-ed floor of 28 students, for example, after 18 people of one gender have elected to live there, the remaining rooms will only be available to the other gender. The logic behind this change, a desire to ensure a better mixture on floors and in stairwells, was the motivation behind the entire new distribution plan. "I think the problem we ran into is that on paper we were trying to give even distributions, but it just wasn't going to work," she said.





Briefs

Indiana Judge Doesn't Buy "Castration for Humanity" Argument

Edward Bodkin had altruistic intentions when he performed surgical castrations on several men, he said at his sentencing Monday.

Circuit Judge Mark McIntosh sentenced Bodkin to four years in jail, with two and one-half years of the sentence suspended. Bodkin also was credited with 69 days served. He also faces two and one-half years of probation for practicing medicine without a license, a Class C felony.

During his sentencing Monday, Bodkin read a four-page statement that offered some insight into his motivations. In it, Bodkin asked the judge for leniency, stating that his crime had no victims and that he was helping people. He said he surgically removed men's testicles because of "caring, humanistic ideals toward my fellow man." However, he did say he wouldn't do it again.

Bodkin also explained why he pleaded guilty to the charge. "In view of the physical evidence to support these charges, I felt it prudent to spare the court unnecessary time considerations and graphic details regarding this case," he said. "Such details might be repugnant to some and a source of folly for others."

Searches of Bodkin's apartment and a rented storage locker produced videotapes of at least three castrations that Bodkin had performed. Initials and dates on the videotapes matched some of those on nine jars of preserved testicles found at his Huntington apartment.

He said he did the surgeries after people requested them "to absolve emotional, psychological or physical needs ... and not merely the spurious fancy of some alternate lifestyle."

Prosecutor John Branham praised Bodkin's cooperation with his office and he asked for the standard sentence of four years.

—Indianapolis Star

High Schoolers, Melrose Place Star Converge on HLS

Despite optimistic signals from Prof. Hanson's Corporations class, HLS is not yet the East Coast's answer to Tinsel Town, but when Melrose Place star Andrew Shue visited recently, the blurring of Harvard and Hollywood was quite apparent. Along with two hundred students and administrators from the Madison Park Technical Vocational High School, the actor's enigmatic presence on campus was explained by the Deliberative Forum, which received sponsorship from Do Something, an organization co-founded by Shue and Michael Sanchez in 1993.

Jennifer Harvey '00, organizer of the Deliberative Forum, described Do Something as a "community enrichment organization which seeks to get youth involved in the community, and to give them a sense of the positive effect they can have on their community."

Professor Lawrence Lessig was approached by Do Something earlier this year and asked to conduct the forum, hosted at HLS on Tuesday. Lessig, who needed moderators and help setting up the event, then got Harvey and 54 other HLS students involved in the project.

The event sought to build on a community clean-up effort in Roxbury, initiated earlier in the year by the Class of 2001's Section Two. "Community service isn't about picking up garbage once, it's about building relationships," said Harvey.

The Do Something event provided the perfect avenue to begin building those relationships, according to Harvey.

The forum was based upon the research of Professor James Fishkin, who has invented a technique of deliberative polling to get more informed opinions than can ordinarily be achieved through random phone sampling. Bringing together students and administrators from the Roxbury high school, the Deliberative Forum encouraged its participants to meet in small groups to discuss "fairness and justice in the context of school rules," said Harvey. Three discreet school rules at the forefront of debates about regulational priorities at Madison Park were discussed with focus groups consisting of students and administrators.

The Tuesday event won't be the end of HLS's involvement with the Madison Park community. Plans are currently underway to prepare a presentation by Forum participants this summer to the Boston Board of Education, since many of the rules discussed during the Deliberative Forum are city-wide.

Langdell Announces Restricted Access

In response to student concerns about undergraduates taking over Langdell Hall during first semester exams, Paul George, Associate Librarian for Research Services, recently announced that use of library facilities will be restricted for non-law school students during the up-coming exam period.

"As you know, the renovation of Langdell Hall has been successful to the point that it is difficult to find a seat immediately before and during the Law School reading and examination period," said George. The restrictions were put into place "because the library wishes to insure sufficient quiet study space for law students during May."

The restricted access period will begin Monday, May 3 and last until Wednesday, May 26. During this period, those without a valid law school ID will only be admitted access to Langdell if they need to use the library's collections for research.

Prof. Kaufman '54 Concerned by Made-to-Order Scholarship

Continued from *EXXON*, p. 1

But not everyone agrees. The Multinational Monitor, a public interest group based in Washington, D.C. and associated with Ralph Nader '58, has taken shots at Viscusi for not disclosing the amount he received from Exxon.

Matthew Freedman '99, president of the Environmental Law Society, is also critical.

"I'm disappointed that professors at Harvard Law School would allow themselves to be rented to the highest bidder," he said.

Exxon's interest in punitive damages stems, at least in part, from a \$5 billion jury verdict assessed against it in 1994. The verdict followed the 1989 grounding of the Exxon Valdez oil tanker in the Gulf of Alaska, the largest environmental disaster in American history. Although the oil company has paid \$3 billion in clean-up costs and another \$900 million in direct damages, it has yet to pay a penny of the \$5 billion in punitive damages.

Since the verdict, Exxon has hired some of the country's top law, economics and psychology professors to write scholarly works about punitive damages. Eventually many of these pieces will find their way into a book to be edited by Yale Law School professor George Priest, Viscusi said.

"I think [Exxon is] trying to encourage academics to keep this whole discussion of punitive damages alive," Viscusi said.

Exxon did not return phone calls seeking comment.

Shavell credits the company with making his study of punitive damages possible. Co-authored by Stanford Law professor A. Mitchell Polinsky, Shavell's article was published in the Harvard Law Review last year.

"We insisted that there would be no strings attached," Shavell said. "Who would put credence in an article in which the authors are working for an interested party and don't have editorial control?"

Shavell considered the task of overcoming reader suspicion about the source of the funding "a real hurdle to surpass," but he thinks his piece succeeded.

"My hope is that because the article is written very clearly, all the assumptions are laid out so that readers can understand the point of the article and that because there is a disclosure statement ... they can be made aware about arguments that would favor Exxon if that's a concern of theirs," he said.

Viscusi too feels a disclosure statement is important, although not all academics make them when publishing their work, he said. Often foundation funding of law professors' work goes unmentioned and, even more frequently, a law professor will neglect to mention that a writing has grown out of past consulting work.

No clear standards exist to guide law professors in deciding when to accept or decline money from corporations or non-profit foundations. Some have proposed guidelines that impose disclosure requirements, but not even these have been adopted by the legal academic community.

Viscusi's article was published in the Georgetown Law Journal last November. Entitled "The Social Costs of Punitive Damages Against Corporations in Environmental and Safety Torts," the article is heavily laden with data and statistical analysis.

"The beauty of what I do is that it's empirical research," he said. "If I don't do it accurately and honestly people can take the same data and show that I'm wrong."

Viscusi further pointed out that the Department of Justice once hired him to oppose Exxon.

But despite Viscusi and Shavell's claims of academic honesty, Freedman wonders if it's possible for professors to remain unbiased indefinitely. Professors know that if their work angers the corporation supporting them, their funding will soon dry up, he said.

"It makes these individuals dependent on them," he said. "There is pressure on the academic to make sure that the work they publish does not conflict with Exxon's views."

And Freedman worries that more than the individual professor's reputation is at stake.

"I think it diminishes the legitimacy of their work and I think it taints the institution to see it associated with the agenda of specific corporate entities," he said. "It brings into question the independence, autonomy and scholarly integrity of Harvard Law School."

Although he did not comment on the propriety of his colleagues' work, Prof. Andrew Kaufman '54 shares some of Freedman's concerns. An expert in professional responsibility, Kaufman believes a professor's credibility can be affected by accepting money from an organization, and this can be particularly true when a teacher steps to the front of a classroom. When making a point to a class, professors should treat students with respect by at least indicating in some way where and how their interests lie, he said.

For his part, Kaufman has little difficulty in explaining the financial interests he has in his own work.

"I don't do anything for money in the fields in which I teach. I don't represent clients, I don't testify as an expert witness for money," he said. "I used to be a practicing lawyer and I just knew when I came to the faculty that when you represent somebody and somebody's paying you, you're arguing their position and it affects your view ... I just didn't want money to affect it."

HBS, KSG Host International Development Conference

"Sharing Responsibility: Public, Private, and Civil Society," the fifth annual Harvard International Development Conference, will take place this weekend, April 16th and 17th. Featuring over 40 panelists, including business leaders, scholars, government officials, and development professionals, the two day conference will involve panel discussions of topics such as Corporate Responsibility, the Role of Private Equity, Poverty Alleviation, the Role of Civil Society, and Sustainable Development.

Keynote speeches by Carol Bellamy, Executive Director of UNICEF, and Michael Fairbanks from Monitor Company's Managing Country Competitiveness Practices, will top off the events.

More information on the event can be obtained by visiting the conference's website at <<http://www.ksg.harvard.edu/hidc>>

Is this what you're seeing in the mirror after Spring Break?

Moisturize.

RECORD SPOTLIGHT

Professor David Wilkins '80

Prof. David Wilkins '80 Discusses Firm Life

Interview by Doug Sims

Last week the RECORD ran two articles related to "The Good Black," a new book by Paul Barrett '87. The book tells the story of the employment discrimination suit filed by Larry Mungin '86, against his former firm, Chicago's Katten, Munchin & Zavis. This week we asked David Wilkins '80, Kirkland & Ellis Professor of Law, to contextualize Mungin's experience by speaking generally about the evolution and structure of large firms. Professor Wilkins elaborates many of these issues in an article which will appear in the June 1999 issue of the Harvard Law Review.

Great Expectations:
HLS Class of 1980

[My graduating class was] expecting that if you did what you [were] supposed to do and worked hard, you would be able to make partner. The difference between now and then is back in the '70s, the law firms still told you when you interviewed, "We only hire people who we consider to be partnership quality....Those people who come here and work hard and distinguish themselves become partners. We're looking for somebody who's going to make a long-term commitment to the firm."

[Because I did two clerkships] I had the benefit of seeing lots of different lawyers practice and I got to see one of the big lies or myths of law school being dismissed, which is that the only good law is practiced in big law firms.

Some of the worst briefs and oral arguments that I ever saw were from some of the biggest law firms. So that began to free me from the idea that if you wanted to get quality law practice you had to go to a large law firm.

It used to be, prior to the 1980's, that there was a clear distinction between firms in New York City and firms outside of New York City. The New York firms were always highly leveraged, and it was also true that most of the largest firms were in New York and only New York firms were in New York City. [Outside of New York] the firms were more like 1 to 1 partner and associate, or 1 to 1.5, or maybe 1 to 2. But you didn't have 1 to 3, 1 to 4 like you had in New York.

The big change is that the rest of the country has become much more like New York. Partnership has become a much less realistic option. Moreover, partnership is a much less attractive option today than it was 20 years ago because most firms in the '70s were on some sort of lockstep compensation system and partnership was, roughly speaking, the equivalent of tenure.

Today neither of those things is true. Partners have to compete for clients from the outside and for referrals from the inside. The competition is based on partner productivity. If you don't bring in enough business or find a way to make yourself useful or profitable, firms have no hesitation to fire partners. It happens all the time.

Life in a Legal Sweatshop

Law firms today have become more like businesses and have [had] to become more like businesses to survive. The problem is the model of the business that the law firms have adopted is basically a 19th-century sweatshop-capitalism model. If you look at business in general, most businesses have rejected that very model and in fact have moved to a model that pays much more attention to developing employees and employee satisfaction, rather than hierarchical management structures.

I think that law firms need to become better-managed businesses. That would help, but not eliminate many of the prob-

lems that they're now going through.

Law firms and lawyers can never just be businesses if we mean that the law firm has no other responsibility than to maximize shareholder value or the value of ownership. That can't be true because lawyers as professionals have been given by society unique opportunities and entrusted with some of our most important values and assets. The legal structure after all supports the market, the democracy and everything else that we know. Lawyers are the keepers of the structure in some fundamental way and we have special privileges — we get to do things other people don't get to do.

The Road to Nowhere

Flatlining is when your marginal productivity to the firm in terms of work you can do for them flattens out but your billing rate continues to go up. When you get paid more than you're bringing in to the firm, that's when you get fired.

People who get hired at very high salaries have very few of the skills and knowledge and dispositions that it takes to become a good lawyer....If you're going to succeed in that setting you have to learn on the job. That means people have to invest in your training and development by giving you good work and supervising you in way that allows you to develop and grow.

The problem is that's expensive for law firms....It involves senior associate and partner time, most of which cannot be charged to clients, so it's a cost to the law firm. Law firms therefore have an incentive to husband those scarce training resources by giving them to people who they predict will have long-term careers at the firm. And the more training you get the more firms have an incentive to give you more training.

People who don't get training continue to do the work that doesn't require training until they get too senior to be billed out to clients for only doing junior associate work.

So you want to be a partner...

Think strategically about how to operate within this kind of system. Be aware that you have a career and it's yours to manage.

The key to being successful in a law firm is to get access to good work and someone who can train you to do that work. If you don't get access to good work, you could be the smartest, most efficient, best document-retrieval person and you're not going to become a partner....

You've got to begin to build a network of relationships inside the partnership, which means having not just one partner who's a mentor, because having only one partner as a mentor is dangerous. I call it the "side-kick" phenomenon. You tie your fortunes to one person but if that person's star begins to fade, you fade with them.

You need to begin to build what's called a portfolio of mentors. You need to pay attention to whether you're progressing in terms of responsibility on projects.

Pay attention to the firm's overall economics. You may be the best civil aeronautics lawyer in the country but when they eliminate the aeronautics board, you're not going to become a partner.

Where are the dollars in this firm coming from? You have to make sure there are enough dollars in your area to support making a new partner.

You've got to be smart about the economy and take a look — where do you think the growth areas are in the economy? Right now, today — technology. You want to be a partner at a law firm today you take every intellectual property course — not just the ones Harvard has, which are a paltry few — but all that you can take at any other school in the Boston area because that's where the money is.

Build a public profile outside of the firm. Because one of the best protections against being ignored or undervalued on the inside is if you have a public presence outside. And sometimes that can be done by building networks with your community. Pay attention to who your classmates are and keep up with them because I guarantee your classmates are going to be in a position to help your career one day. And they're more likely to help your career if you're somebody who they know and they remember and they like.

Saving Larry Mungin: Lessons from "The Good Black"

There are three lessons about large law firms that everyone can learn from Mungin's experience.

First, moving laterally among law firms is both a benefit to young lawyers in the sense that you can get yourself out of a bad situation and firms like lateral senior associates because they get a senior associate that's been trained by somebody else — so they get the benefit of the training without investing in it.

But it's also dangerous. It's dangerous particularly as you become more senior because when you come in as lateral, you don't know anything about the culture of the firm and you don't have any relationships with people in the firm. Ultimately, if you want to become a partner you're competing with people who've been at the firm...who have deep relationships with the other partners.

Second, [branch offices] often are not self-supporting, [they're] away from the center of power. Even if [the branch office is] not fully dependent on the lawyers at the center of power, there may be some antagonism or jealousy between the lawyers in the branch and the lawyers in the home office. That certainly happened in Mungin's case, where the partners in Chicago all hated the partner in Washington that Mungin was working for. It was OK

when that guy was making tons of money, but the moment it started to falter all

the power was in Chicago and Mungin didn't know anybody in Chicago — he only knew the people in the branch office.

I think students need to be much more critical about going to work in a branch office and finding out whether the branch office is self-sufficient. Even if it is, what power do the people in the home office have over the branch office in terms of partnership decisions and resource allocations? What commitment does the home office have to keep the branch office going if the branch office runs into hard times?

People are taught to think that it's all just one firm and it really doesn't matter, or the branch offices are so big that many of them are just branch offices on their own.

Finally, [Mungin] needed a mentor and he thought, "That's it — he's my guy, he's the most powerful person." But when that guy started to go down, it was very hard for Mungin to separate his career from the failure of the other guy's.

Measuring Misery: Large Firms in the New Millennium

When asked what would have happened to him [if it hadn't been necessary to file the law suit], Mungin replied "I'd just be an unhappy junior partner like everybody else." I think there's something quite deep in that. I think this has to do with the overall misery index, which is pretty high if you look at this part of the workforce.

The advantage that your generation has over my generation is that this is right out there, you see it, there's no hiding from it. Most of you don't have many illusions about the life at a large law firm or even what being a partner at a large law firm is like. We had all our illusions.

This doesn't mean in my view that being a partner in large firm has to be a bad job, or that you can't build a very rewarding and challenging life in a large law firm. It is to say that it's more difficult.

Unfortunately, the one thing that's the same about my generation and your generation is the level of knowledge and the level of discussions about how these institutions work and how to succeed in them....

It's remarkable how little we actually convey and how little we actually know about the profession in operation in any of its many sectors. To make good choices, you have to have good information.



FROM THE WIRE

If You're a Crook, the SJC Wants to Suck Your Blood

BOSTON (AP) — Massachusetts's highest court ruled this morning that a database of DNA "fingerprints" from convicts is constitutional.

The Supreme Judicial Court ruled that a 1997 state law requires taking genetic samples from those convicted of 33 specific crimes or convicted of attempting or conspiring to commit those crimes.

The law also allows police and jail guards to use, in the law's terms, "reasonable force" to get the samples.

The SJC said, in a 27-page opinion written by Justice John Greaney that "the minor intrusion of a blood test is outweighed by the strong state inter-

est" in getting the samples to solve past and future crimes.

Traces of DNA provide a genetic "fingerprint" and can link people to crimes in cases that once couldn't be solved.

The court rejected arguments by the plaintiffs that the creation of the database constituted an "unreasonable search and seizure" and was unconstitutional.

The court, ruling in *Donald E. Landry v. Attorney General*, noted that all 50 states have enacted statutes creating DNA databases.

The court noted that appellate courts in other states have uniformly rejected challenges to the law.

Travelogue

GLORIOUS HOMECOMING, LONG OVERDUE

By Darin E.W. Johnson '00
RECORD Columnist

This spring break, the Harvard Black Law Students Association (BLSA) sponsored the First Annual African Summit to the West African nation of Ghana. I had the honor of serving as one of fourteen delegates on this memorable trip.

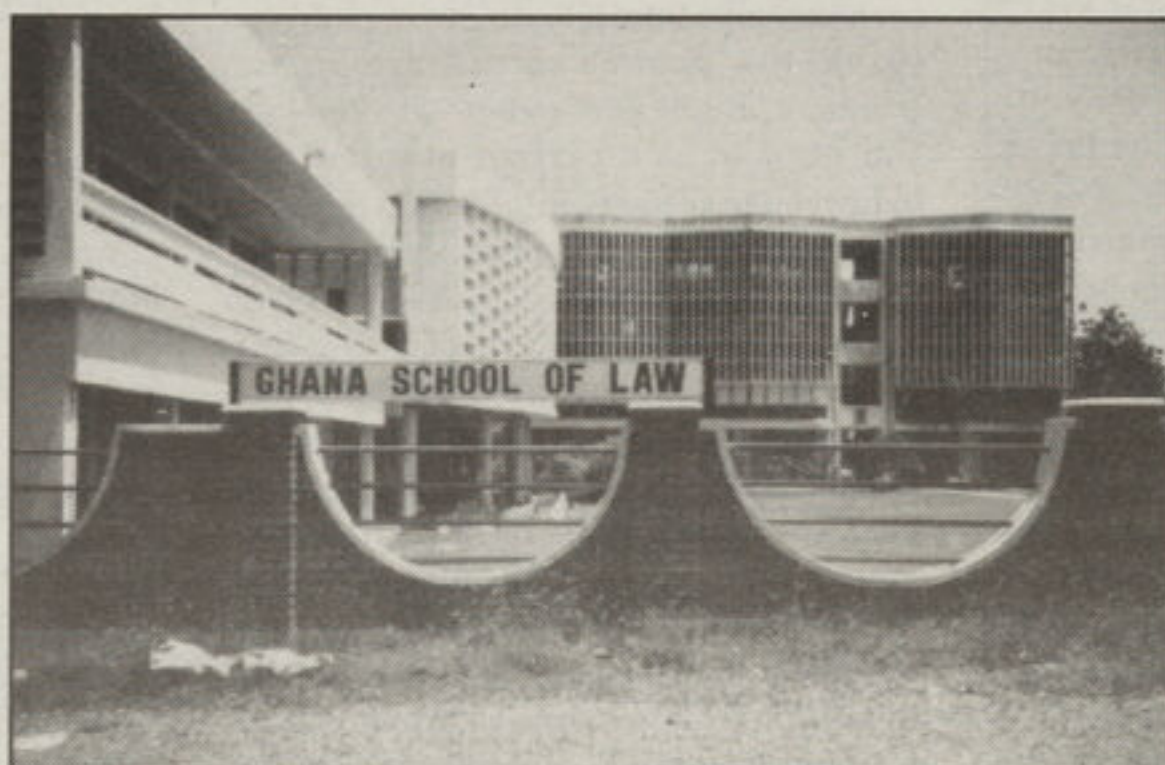
After a year of hard work, BLSA was able to raise the funds necessary to support this venture. The idea for the trip originated last spring when Summit Chair Daisy Bygrave '00 and BLSA President T.J. Stevenson '00 acknowledged the importance of establishing a connection with West Africa.

For some, this was the first time in Africa, while others had been to various African countries. Regardless of previous travel, the summit was a fantastic opportunity to witness the rich, and at times tragic, cultural history of Ghana firsthand.

On the first night in Accra, Ghana's capital, we were welcomed with a reception by the Ghanaian Bar Association. Sam Okudzeto, presi-

dent of the Ghanaian Bar Association, welcomed us and provided an overview of the legal challenges facing Ghana.

Okudzeto spoke of Ghana's past human rights record. He also talked about the increasing pressure from the public and legal community to redress these human rights violations.



BLSA summit delegates visited the University of Ghana School of Law and attended a class.

Courtesy Darin E.W. Johnson

The discussion also touched upon the progressive nature of Ghana's new repub-

lic. In 1957, Ghana became the first African country to gain its independence. More recently, after 11 years of military rule, an elected government was elected in 1992, establishing constitutional rule and a multi-party parliamentary system.

To emphasize the liberalized atmosphere in Ghana, Okudzeto lauded the nation for appointing a female justice to its first Supreme Court. Additionally, he noted the challenge of ensuring that highly-educated Ghanaians remain within the country.

After Okudzeto's address, The Honorable K. Apraku, Ghana's minority spokesman of finance, discussed the economic and political challenges facing Ghana. Stringent libel laws serve as barriers to the political discourse of journalists. This legal barrier to journalistic freedom, coupled with a state-run media, has impeded the check on government that a free press provides.

After our reception, we attended a performance of traditional African drumming

and dancing. The performers impressed and amazed us with the intricacy of their dances and drumbeats. As the performance came to a close, members of our delegation took to the stage and added our own versions to the traditional African dances. The performance was a perfect close to our first day in Ghana.

The delegation also toured the Ghanaian Supreme Court. At a High Court proceeding, the presiding judge allowed a brief recess to provide a background of jurisprudence in Ghana.

As a result of its colonization by England, Ghana's legal system is based upon British common law. Jurists can also draw from the case law of other nations with common law systems, such as the United States, Canada, and Australia.

During the High Court proceedings, a debate over attorneys' legal fees was observed. This debate highlighted both similarities and disparities between the Ghanaian and American legal systems.

HLS students also visited representatives of the United States Information Agency, part of the State Department presence in Ghana, who discussed America's post-Cold War foreign policy

Please see *BLSA*, p. 14

Prior LIPP Movement Ended With a Whimper

Continued from *FUTILE*, p. 1

national headlines by announcing a \$10 million expansion of its public interest programs, \$5 million of which came from a donor and \$5 million matched by the school. The students argued that as Harvard's student body was considerably larger and the school wealthier, it should have a program at least comparable to that of NYU.

Dean Clark, however, resisted the demands. In an open letter to the Law School community, he wrote that \$138 million of the \$175 million had been earmarked by the donors for particular objectives, and the remaining \$37 million in unrestricted funds had been spent to cover operational expenses and small capital projects, such as new windows in the Gropius dorms.

Clark noted that donors earmarked only around \$2 million for LIPP. The students, however, questioned whether serious effort was put into raising money for the program. They noted that in 1989, just as the capital campaign was about to begin, the faculty voted to allocate \$15 million of the targeted \$150 million to endow LIPP.

Students were told during alumni weekend events by Bernie Koteen '40 that Clark, in the presence of former dean Erwin Griswold '28 and retired Supreme Court Justice Lewis Powell '32, said that he would commit at least 10 per cent of the \$150 million campaign to LIPP.

In a recent interview with *The RECORD*, Prof. James Vorenberg '51, who was Dean of the Law School from 1980 until 1989, said that LIPP was a popular program among alumni. "It has always been my impression that there is a fairly large group of alumni who are willing to give for this program," said Vorenberg. "It's a question of what the school says it needs and wants."

"I got a very warm reception from alumni when I traveled around the year after LIPP was announced," said Vorenberg. "The program really made sense to them."

"Campaign 25" stepped up the pressure on Clark by holding rallies, flooding the Dean's office with postcards and soliciting famous alumni, including Ralph Nader '58, to join in their efforts. Twenty professors, together with 17 clinical advisors, sent a letter to Clark urging him to

devote more funds towards public interest.

Death by Committee

Clark soon responded by forming the Ad Hoc Public Interest Committee. The committee was composed of three student representatives, a handful of administrators and a number of professors with a commitment to public interest.

The committee discussed a range of issues in addition to LIPP, including summer public interest funding, alumni tracking, expansion of the clinical program and increasing resources for the Office of Public Interest Advising.

The committee's sole success came midway through its second year, in the form of a unanimous recommendation to the Dean to increase funding for students taking public interest summer jobs. Two years ago, Clark matched the funds raised by the Public Interest Auction, and last year allocated a slightly larger amount up front before the auction.

But the discussions on LIPP and other proposals never resulted in any concrete actions. Prof. Edley began drafting a report in the Spring of 1997, but the report was never completed.

According to Edley, the committee was too divided to come to a consensus on how to reform LIPP. "I could have completed a report and gotten a sharply divided committee vote on it, which would have killed any near-term possibility for change," he said. "It was clear that we were far from coming to any kind of consensus that would command the Dean's respect."

Amy McManus '98, who sat on the committee while a student and currently works with Chris Edley on his Civil Rights Project, agrees with this assessment.

"While there was consensus on a number of things we discussed, when it came to talking about LIPP we spent a lot of time on the justifications for its existence and that made it hard to focus on change," she said.

Other committee members remember things differently.

"I think the committee was pretty united in supporting a variety of efforts to have the Law School support public interest and LIPP in particular," said Prof. Elizabeth Bartholet '65. "There was a lot of consensus about the general expansion

of LIPP as well as on some of the specific proposals we discussed. The committee waited for a draft report, but never received one."

Co-directors of OPIA Alexa Shabecoff and Stacy DeBroff also recall progress on LIPP. DeBroff said that there was "unanimous consensus" supporting the allocation of additional resources to augment LIPP. Shabecoff said that "we came up with a series of recommendations reached by consensus to take to the Financial Aid Committee on LIPP, but I don't know if they were ever written up."

DeBroff admitted, however, that some committee members felt constrained by their sense that Clark would not spend money on LIPP. This in turn led the committee to discussions on how it might reallocate existing resources to make LIPP more effective, and on this the members had a harder time coming to agreement.

Stacking the Deck

One of the students who spearheaded "Campaign 25" said that the formation of the committee spelled the death of the movement.

"Clark did what he usually does in the face of a student movement, which is set up a large bureaucratic committee that was so unwieldy it couldn't accomplish anything," said Shannon Liss '96. "Forming a committee was a way of making it look like something was being done when really nothing was."

Liss said that the committee members could not agree on how to go about addressing the issue of LIPP reform. "There was quite a diversity of viewpoints on the committee, including on what the purpose of the committee was. It was so big and unwieldy and the discussions went all over the place. Chris [Edley] tried to keep its focus but it was impossible."

DeBroff called the committee's tenure "an exercise in futility."

"The experience of the Public Interest Committee reflects the inherent breakdown of the ability of committees to affect change at the Law School," said DeBroff. "This committee was like a large stage playing of 'Waiting for Godot.' The faculty members became disenchanted and [they] dispersed, the students graduated and we effectively provided a side bar space to table these very important discussions

about public interest funding."

Edley called the committee's work "a forlorn enterprise."

"There was a clear constitutional problem in that the Dean has all the power, and the Financial Aid Committee was the standing committee with jurisdiction over LIPP," said Edley. "Anything we had to say on LIPP was doubly advisory."

In addition, the committee met while a new strategic planning process was beginning to map out the next capital campaign. "A cynic would say that we would repeat the experience of the last capital campaign when the faculty said that LIPP was a priority and should be endowed and nothing came of it," he said.

The Light of Day

The death of the committee means that much of the work that was done and many of the proposals that were discussed will never see the light of day.

For example, OPIA supervised work-study students hired to research other schools' loan forgiveness programs. These students produced a confidential report that looked at the Law School's performance against its top competitors, including Yale, NYU, Berkeley, Stanford and Chicago.

McManus also produced a 20-page report comparing the financial ramifications of providing up-front grants (as NYU does with its Root-Tilden Fellowships) versus back-end loan forgiveness.

Outside of the LIPP arena, the committee unanimously approved a proposal for a new clinical made by Jim Flug '63, the chair of the Alumni Association Public Interest Committee. According to Shabecoff, the Flug proposal "flew through the committee unanimously." This approval never got translated into a written report, however.

The clinical, an "impact litigation and policy advocacy clearinghouse," would match students with non-profit organizations that needed help with research, policy proposals or litigation.

"This idea hasn't died," said Shabecoff. "It's still floating out there as a possible addition to the clinical program."

But until someone digs up these reports and proposals, they will have effectively died together with the Ad Hoc Public Interest Committee.

Senator Larry Pressler '71 Phones Home

By Justin Herdman

It cost him his Senate seat and has drawn increasing criticism, but former Sen. Larry Pressler '71 still stands by the controversial Telecommunications Act of 1996.

In an exclusive RECORD interview, Pressler recently discussed his career in Congress, where he served as a Republican from South Dakota for 22 years. The former legislator will be on the HLS campus this weekend, as part of a panel discussion at the Journal of Law and Technology's (JOLT) symposium on telecommunications law.

Pressler is uniquely qualified to discuss the impact of politics and law upon the development of technology. As Chairman of the Senate Commerce Committee, Pressler shepherded the Telecommunications Act of 1996 across various legislative pitfalls.

The passage of the act was a highlight of Pressler's Congressional career, and he still considers the law an impressive accomplishment.

"I spent about two years every week and weekend, dedicated to this effort," said Pressler.

Congress as Camelot

Much of the effort expended by Pressler was to reconcile the views of myriad competing interests.

"It was very hard to pass, because there are at least 11 groups that have a veto power over the legislation," said Pressler.

According to Pressler, these forces included long-distance and regional telephone companies, labor, cable companies, broadcasters, and even burglar alarm retailers. The 'veto power' that Pressler spoke of is lobbying money, though the former Senator attests that "traditionally telecom companies don't spend as much, or don't give as much in political campaigns, as other groups."

This fact made the Telecommunications

Act somewhat of an anomaly, with computer gurus from Silicon Valley forced to press an older generation for concessions.

"People in the telecom industry are usually allergic to politics," said Pressler. "They really don't like politics because they're averse to the slowness of government, and consider themselves above government in a lot of ways."

The task was made more difficult by the unavoidable political push and pull of Pressler's colleagues in Congress. "On Saturdays and Sundays, I'd have a team of staffers in, and we would work through language, and call members of the House or Senate who had problems with this or that," recounts Pressler.

At the end of the hectic cheerleading period, however, "We finally had a moment of Camelot and got it passed."

Act Cleaned Out The Attic

The Act was originally met with widespread bipartisan support. The federal government had previously based its authority on the Telecommunications Act of 1934, so as Pressler explains, "There was really a need to modernize telecom law."

The Telecommunications Act effectively deregulated the industry by allowing telephone companies to compete on a regional and local level. Since this often leads to companies sharing or renting wires from each other, Pressler says that the Act is "kind of a bundle of contradictions."

"The purpose of the bill was to be deregulatory, to get everybody into everybody else's business, but to maintain universal service, which is a very tricky thing to do," said Pressler.

The Act officially recognized the concept of "universal service," which is designed to insure that rural and poor areas are granted access to less expensive long-distance service. By creating a "universal service" fund, the phone companies are able to subsidize these areas "so that a long-distance call from anywhere in the U.S. costs the same," Pressler said.

In order to stimulate competition, the Act instituted an appeal process for small,

start-up telecom companies. Overcoming resistance from established telecommunications firms was difficult enough, but the magnitude of the bill's overhaul was on an unprecedented scale.

"[The Telecom Act has] been called the largest industrial, restructuring piece of legislation in history," Pressler said.

Since new entrants must pay access fees to the regional Bells, the inclusion of the Federal Communications Commission (FCC) was seen as paramount to a deregulatory effort. The FCC has "done the best they can do, but they are struggling with a very big order," said Pressler.

Despite his parental attitude toward the legislation — "I am the principal author of the Telecommunications Act of 1996," Pressler says — he was forced to compromise in the bill's final language.

"Even more deregulation, that's what I would like to see, where there is competition in urban areas and in densely populated areas," said Pressler.

Since its inception, the Telecommunications Act of 1996 has been greeted with more tepid enthusiasm. Particularly in rural areas, like Pressler's native South Dakota, the anticipated reductions in cost for local service have not happened.

"In rural areas, and I come from one, there never will be the kind of competition that there is in cities," Pressler said.

Citing an example in the airline industry, Pressler continued, "There are no flights to Humboldt, South Dakota. There's no competition at all."

Unlike metropolitan areas, rural parts of the nation are left out of the scramble for large-market money. "There are just not enough customers in Humboldt to have two telephone companies," Pressler explained.

It's all Greek, says Diogenes

Though Pressler is quick to praise the Telecom Act, the law had a profound effect upon his ill-fated senatorial campaign in 1996. That year, Pressler was the only incumbent senator to lose his seat, succumbing to former U.S. Representative

Tim Johnson in an extremely tight race.

Johnson, a Democrat, portrayed his opponent as out of touch by, in part, striking at Pressler's attachment to the arcane Telecommunications Act.

"You don't get anything politically out of telecom legislation, [because] the general public doesn't fully comprehend it. You read the bill, and it's like Greek," Pressler said.

"I think that I lost votes, and I knew that would happen," said Pressler. "I don't know how many, but that wasn't the only factor in my election."

Pressler insists that though the political fallout was toxic to his career, he does not regret his role in passing the Telecom Act of 1996.

"I feel very good about it, because it was a tough bill to pass, and generally speaking a good bill, [although] not perfect," Pressler concluded.

During his appearance at the JOLT symposium, Pressler will focus on the burgeoning field of telecommunications law, using the Telecom Act as an example. "I will discuss how telecom legislation is made in Washington," Pressler explained.

Pressler's talk will also touch upon careers in telecommunications law, narrowing the discussion to his own peculiar public interest background. "I will talk about what opportunities there will be for lawyers to serve the public, because I think a lot of people want to make money and serve the public at the same time," said Pressler.

The visit to HLS will be a homecoming for Pressler, who embarked upon a career in public service upon his graduation in 1971. Before his entrance into the arena of telecommunications law, Pressler was perhaps best-known as America's "modern day Diogenes," a sobriquet stemming from his flat-out refusal of a bribe during the Abscam sting operation in 1980.

Pressler credits Prof. Alan Dershowitz with thrusting him into the spotlight as a rare example of the honest politician. "He made sort of a hero out of me," Pressler said.



This year marks the fifty-second year of the **HARVARD LAW SCHOOL FORUM's** efforts to bring noteworthy individuals to the HLS campus. The Forum wishes to thank all those who took part in the 1998-99 lecture series.

Senator John Kerry

Public Service, Citizenship, and the Law

Charlton Heston

Winning the Cultural War

Seymour Hersh

The Missiles of August

Congressman Asa Hutchinson

*Prosecuting the President:
Reflections of a House Manager*

Fred Gray

*Historical Perspective of the
Civil Rights Movement*

Harvey Silverglate

*Why All Campus Speech Codes
Should be Abolished*

Mario Cuomo

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Zig Ziglar

Does Character Count?

Vince McMahon

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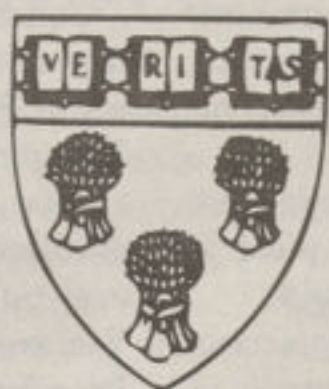
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Harvard Law RECORD

PUBLISHER
Stephen V. Scali



EDITOR-IN-CHIEF
Ben Lehrer

FOUNDED IN 1946

Of Student Movements and Institutional Memory

As we begin to wind down another publishing year here at the RECORD, it is a time for reflection on where we've been, both as a paper and as a school. A brief survey of the past year's issues, coming as it does soon after I finished reading *Poisoned Ivy*, a book about the tumultuous events at the Law School during the early 1990s, has lead me to some conclusions about the nature of student activism here at HLS.

The one fact that has become glaringly clear is this: the period of student life here is only a short three years, much of which is spent either worrying about getting good enough grades to make Law Review, desperately trying to convince a New York law firm to cough up \$1500 a week during the summer, or frantically searching for an advisor and a third year paper topic before graduation arrives. There is little time to build and transmit an institutional memory about past activities and tactics, or to build a network of activist alumni that current students can call upon for advice and support. How many members of SPIN, who have been so devoted to LIPP reform over the past year, knew all the details of the Ad Hoc Public Interest Committee? How many of us even know the names of the Griswold Nine and the Fried Four, let alone how to contact them to learn from their experiences?

Student groups urging change face this lack of knowledge about events which occurred just four years ago, just one in a long list of disadvantages from which the administration is exempt. It is also one of the most crucial, for without such institutionalized memory, student movements must continuously re-invent the wheel, unable to build upon the past successes of organized student protest, perpetually falling into the same traps their predecessors did.

Many individual student groups have attempted to remedy such concerns within their own groups, with varying success — scattered around campus are more or less extensive lists of past alumni, records of student protests, memories preserved in the minds of professors and the decaying pages of the RECORD. To build a successful engine for change, so that we can finally achieve the better HLS "community" that so many students, faculty members, and administrators pay lip service to, we need to begin the process of collecting these disparate, fragmentary records of the past. Or be doomed to repeat it.

—Kimberley Isbell

This week heralds a new Publisher for the 1999-2000 academic year. The reins of power have transferred from Seth Persily '99 to myself. Seth insists on graduating. Thank you, Seth, for all your hard work and dedication to the RECORD over the past three years. I look forward to serving the Law School to the utmost of my abilities.

—Stephen V. Scali

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Main office — Harvard Law RECORD, Harvard Law School, Cambridge, MA 02138-9984
Telephone: (617) 495-4418 • Fax (617) 495-8457 • E-mail: RECORD@law.harvard.edu

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

—First Amendment, U.S. Constitution

• Letters •

Raustalia '99 Toasts Clarkson

I am surprised that Gavin Clarkson '01 found the time to write such an extensive and vitriolic commentary, given his high-profile speaking engagement at a conference on indigenous peoples and his development of a fascinating toaster-based Web forum. I only wish he'd found the time to think a little more deeply about why the members of RFP acted as they did.

The critical issue in RFP's actions is one that appears nowhere in Clarkson's letter: disclosure. I do not believe any RFP members sought to "silence viewpoints." Rather, RFP's chief goal was to ensure that Culture Shock was indeed what SLLR publicly claimed it to be, and that the information that SLLR gave out was accurate and placed in context. On both scores, SLLR failed spectacularly.

RFP members sabotaged nothing. Instead, SLLR sabotaged itself — by not being honest and forthright in the first place with the restaurants it approached for support. RFP members informed restaurant owners of the reality of the activities undertaken by "A Woman's Concern" — a self-described pro-life pregnancy crisis center. The restaurants that pulled out of Culture Shock did so of their own volition. That they chose to withdraw testifies to the lack of full disclosure on the part of SLLR. The owner of at least one restaurant, Café Celador, said he was told only about the battered women's shelter, and nothing about AWC — hardly full disclosure on the part of SLLR members. (In the interest of full disclosure

I should note that though I played no role in these events, I was present when some of the phone calls were made).

To compare those who seek full disclosure in a public forum with bombers and terrorists defies reason. I believe the actions of RFP members — and I am not one — exemplify values of transparency, honesty and disclosure; values that are central in a pluralistic and democratic society. To vilify RFP members for seeking and airing the truth is the very opposite of the civilized behavior Clarkson claims to endorse. Undoubtedly the tone of Clarkson's "letter" already made this point in abundance, but it is he — not RFP — who needs to grow up.

Kal Raustalia '99
April 12, 1999

RECORD's Head Stuck in the...

I would like to express my profound disappointment with your decision to publish the actual voting totals for each candidate in the class marshal election.

What possible purpose can this serve, other than to have a chilling effect in the future on prospective candidates for

such elective posts?

Virtually all the candidates campaigned with energy, imagination and a healthy sense of humor. And as bizarre as the grading/evaluation system at HLS has been and continues to be, at least the administration had the minimal good

sense to eliminate public posting of class rankings DECADES ago. Pull your head out of the past, RECORD! I believe you owe all the class marshal candidates an apology.

Bill McCants '00
April 9, 1999

Don't Knock Free Candy

Last week I noticed a lot of disparagement of the election tactics of the class marshal candidates. For the record, I'd like to say that I enjoyed hearing music and getting lemonade outside the Hark, dancing with the chicken and even getting e-mails from people I haven't talked to in a while.

Call me naive, but what I really enjoyed was the unusual enthusiasm that pervaded this campus for a week — even if it was for an election.

Until election day I hadn't seen so many of my classmates laughing and talking around the Hark to-

gether since some time in our first year. I found it refreshing, and I hope that the marshals elected can bring some of that enthusiasm and friendliness back into our 3L year.

Sashi Bach '00
April 10, 1999

Survey, Shmurvey — We're #1

The only thing more pathetic than the annual U.S. News survey is the annual gnashing of teeth over said survey by the Administration. Ever heard of sour grapes, guys? Get over it. Anyone

nutty enough to spend three years in New Haven ain't someone we want around here, except maybe as a professor.

No matter what, Harvard Law School will always be

the Best Law School Accessible by Red Line, and what else really matters?

Greg "Teranimal" Teran '99
April 10, 1999

• Correction •

In the article "Marshal Elections Bring End to Heated Campaign" last week's issue of the RECORD, Brent Justus '00 was mistakenly referred to as Brian Justus '00. The RECORD regrets the error.

Something on Your Mind?

We've only got two issues left this year...
write now, or forever hold your piece
(or at least until next year)

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PERSPECTIVE

By Dmitri Evseev '01

Bombs, Hypocrisy and New World Order

The current propaganda line of the United States Government is that we are witnessing the greatest human catastrophe since WWII in the flight from Kosovo. But we all know what the greatest human catastrophe since WWII is. It's U.S. foreign policy."

These fiery words did not come from Slobodan Milosevic or one of his supporters, but from former U.S. Attorney General Ramsey Clark, who recently returned from a visit to Yugoslavia. While the BBC devoted a quick summary to Clark's speech, not one major newspaper or network in the U.S. chose to report on it, which is not surprising since the mainstream media has lately been falling all over itself to become a mirror image of Radio Television Serbia.

Current debate in the media, to the extent that it exists, tends to focus our attention on non-issues and away from the important questions we must ask about NATO involvement in Kosovo. Since these non-issues are at the forefront of everyone's mind, it is necessary to explain why they are irrelevant, as well as to attempt to answer the more appropriate questions concerning U.S. motivations and possible alternative approaches to the crisis.

Pundits debate whether we have a moral obligation to stop Milosevic, who is portrayed as a second Hitler. This question, however, rests upon a whole series of faulty assumptions.

First, there is an assumption of parity between Nazi atrocities and the atrocities committed by Serbs in Kosovo. This comparison is a tremendous distortion of reality. NATO sources put the pre-bombing death toll in Kosovo at 2000 over the past year. Terrible as it is, it does not rank too highly on the modern scale of human rights violations. An equal number of people have been killed in Colombia over the past year (largely by government-supported paramilitary death squads), while 300,000 people became refugees, adding to the one million Colombians who have fled their homes in previous years. Turkey has been engaged in ethnic cleansing of its Kurdish population for years, creating over a million refugees and engaging in the most terrifying atrocities. All this occurred not only with barely any attention from the U.S. media, but with full support of the Clinton administration in the

form of massive military aid.

Amnesty International and Human Rights Watch have rightly condemned the actions of Milosevic in Kosovo, but have repeatedly pointed out that mass expulsions of civilians does not constitute genocide. While Bosnia proved that Milosevic is a monster capable of genocide, the situation in Kosovo on the eve of NATO intervention was nowhere near genocidal range. Incidentally, Serb atrocities have intensified drastically in response to the NATO airstrikes, just as U.S. commanders knew they would. Thus, the justification for intervention could not have been to prevent an escalation of the conflict.

A second, more basic and even more problematic assumption underlying the moral argument is that the United States and NATO are primarily motivated by human rights concerns in bombing Kosovo and Serbia. Since human rights are often used as a pretext for intervention — the Japanese used it in Manchuria, Mussolini in Ethiopia and the U.S. in Nicaragua — we must carefully examine the record of those who offer this justification.

Of the 21 times the United States has bombed other countries since WWII, few could term them "humanitarian interventions" with a straight face. If the United States has suddenly had a change of foreign policy in favor of human rights, it could demonstrate this more simply by cutting military aid to Indonesia, Colombia, Turkey or Israel, all states guilty of massive acts of repression, according to the United Nations.

Many U.S. liberals argue that although the present NATO action is a very selective application of human rights norms, it is better than doing nothing. The position of defending human rights when it suits the United States is not very high moral ground, however, and also leaves open the question of why it suits the United States and NATO to intervene in this particular case.

In addition, doing something is only better than doing nothing if it improves the human rights situation. If it worsens the humanitarian conditions, as the bombing has clearly done so far, we should prefer to do nothing if our true concern is human rights. Moreover, bombing, as with any blunt exercise of force, predictably has the effects of narrowing diplomatic op-

tions, uniting the opposing side and causing a great deal of needless suffering.

The standard response here is that if NATO ceased the bombing, it would lose international credibility, i.e. states would not fear it to an appropriate degree. This argument starts to give us a hint as to what the whole intervention is really about. It is as much about helping the Kosovars as the Vietnam War was about helping the Vietnamese. The U.S. has much larger geo-political interests at stake than that.

To understand these interests we must ask ourselves, "What role does NATO have to play in a post-Cold War Europe?" Without a credible threat from the outside, an alliance armed to the teeth and under the protection of a nuclear umbrella can no longer style itself as a defensive coalition. Abolishing it is not a consideration, since it is one of the few remaining means for the United States to exert its power over Europe. Thus, NATO, under the leadership of the United States, must remake itself into a regional police force. The Yugoslavian crisis, on NATO's doorstep, presents a perfect opportunity to step into this new role.

Another relevant element of U.S. foreign policy comes to light when we consider the role, or lack thereof, of the United Nations in the conflict. According to the U.N. Charter, the use of force against a sovereign state may only be exercised in self-defense or by authorization of the Security Council. Without such authorization, NATO's hostilities are in clear violation of well-established international law. But while pronouncements of international law have little effect on U.S. behavior, U.S. behavior has an important impact on the framework of international law. By acting internationally in such a way as to marginalize the only existing framework for world cooperation, the United States makes itself into what Harvard's own Samuel Huntington has recently called a "rogue superpower." In light of this description it is interesting to note that the United States



was the sole vote against a recent Security Council resolution calling on member states to respect international law.

Yugoslavia provides a good occasion for the United States to proclaim its contempt for international institutions it does not control. Milosevic, like Saddam Hussein and Osama Bin Laden,

is a convenient bad guy, and the streams of Albanian refugees provide excellent footage in support of the U.S. agenda. The need for such public relations material was highlighted by a recent remark in *The Washington Post* by the Joint Chiefs of Staff, who complained that the American public has not been sufficiently prepared to accept a prolonged air campaign.

U.S. hypocrisy towards human rights notwithstanding, major atrocities are now taking place in Kosovo and call for immediate international attention. The first step to implementing any sort of a solution, short of a complete de-population of Kosovo or destruction of Serbia, however, requires an end to the bombing. Despite U.S. assertions to the contrary, diplomacy is never at an end, although the prospects for a constructive approach have probably been severely damaged by the bombings. As Steven Erlanger reported in *The New York Times* on April 8th, "In a resolution of the Serbian Parliament just before the bombing, when that body rejected NATO troops in Kosovo, it also supported the idea of United Nations forces to monitor a political settlement there." If the report is true, and if the Serbs still support the idea of a U.N.-overseen settlement, that might be the best approach for the international community to endorse.

It is true that Milosevic cannot be trusted to abide by international agreements. The same, however, is also true of many other countries — including the United States — which have a poor record of performing their treaty obligations. In spite of this, we must seek a diplomatic solution, since parties to a conflict can never be forced to coexist peacefully by means of large explosive devices dropped out of airplanes.

PERSPECTIVE

By Tori Jueds '01

Address at Culture Shock

Seven weeks and six days ago the Reproductive Freedom Project brought forth in the Ropes-Gray Room, a demonstration, conceived in freedom of speech, and dedicated to the proposition that all students should know what Culture Shock was all about.

Now we are at the epicenter of a great wave of editorial hot air, testing whether our demonstration or any demonstration so conceived and so dedicated will long be tolerated. We are met on the pages of the RECORD. We have written to dispute certain submissions to that paper, wherein it has been suggested that those who once gave up their Saturday afternoon that the community might know what a "crisis pregnancy center" really is, should be subject to Ad Board review. It is altogether amusing and ridiculous that we should have to do this.

But, in an ironic sense, we would not dispute — we would not deny — we would not disavow — this demonstration. The RFP members, pro-choice and well-intentioned, who labored that day, contributed a valid perspective to a controversial fundraiser by means of legitimate and — come on, people! — small-scale activities. The campus will little heed (nor can I much longer stomach) what hyperbole and what pontifications may ensue from Culture Shock, but it can never forget what they



did that day. It is for us, the politically active, rather to be dedicated hereafter to the task of reminding this student body that political protest (conducted, as it

was in this case, with restraint and civility) is a good thing. It is rather for us to be hereafter dedicated to the great task remaining before us — that from RFP we take increased devotion to our responsibility to inform and educate, for the sake of which they politely notified Pizzeria Uno that Culture Shock was to benefit an anti-choice organization as well as a battered women's shelter; that while this will be my last contribution to a debate that has already dragged on too long, we here highly resolve that political speech shall not be confused with "terrorism, subterfuge, and sabotage"; that this school of law shall remember that clinic bombers plant bombs, while student activists hand out flyers; and that political activism by RFP, of SLLR, or for Krups, Inc. (those nonpartisan manufacturers of quality toaster ovens) shall not perish from this campus.

Tori Jueds '01 is the Chair of the Reproductive Freedom Project.

FROM THE WIRE

Thou Shalt Not Incorporate This Town

DECATUR, Ala. (AP) — A judge Tuesday rejected a bid to form a town whose only laws would be the Ten Commandments and the teachings of Jesus.

Following a brief hearing in which no one showed up to support the formation of the new city of Brooksville, Probate Judge Bobby Day ruled that the organizers failed to lay the groundwork required by state law for an incorporation vote.

He was not asked to address the question of whether a city could use the Bible for its laws.

The community of Brooksville, much of which already is in the city of Priceville, is little more than a few dozen houses and mobile homes situated around two intersections with gas stations. Dump trucks rumble along the main highway, a two-lane blacktop.

Evangelist James R. Henderson and others wanted to form a new town that would use the Ten Commandments and Jesus' teachings as laws, with citizens providing their own police protection through a community watch.

The only officeholder would be a volunteer mayor, and each of the town's 600 residents would serve on the City Council.

Jesse Campbell said he fears the community will be swallowed up by Decatur, five miles away. "We want to be a Christian town where everyone knows everyone. We don't want no beer store on that corner," he said, pointing across the highway.

While 160 people signed a petition in favor of forming the town, 380 signed petitions against it.

"The Bible rules are great, but you can't live by them alone," said Dot Brinkley, one of about 20 opponents who attended the hearing. "They're just telling us to get a gun and protect ourselves. We've got to have other things and sewer mains."

Priceville Mayor Melvin Duran said disputes over zoning restrictions and guns were at the heart of the incorporation effort.

"One of their big issues is that we won't let them shoot guns off their back porch," he said.

Spike

By Margie McWilliams



PERSPECTIVE

By Ben Lehrer '99

Clinicals: Don't Miss the Chance

Classes...panels...outlines...exams. Three years and out.

Sound familiar? That's the lion's share of legal education. In fact, for many students it's the entire picture.

Now imagine getting a driver's license without ever having driven before. Furthermore, imagine that everyone else drives like they've lived in Boston for decades. You'd have to be insane to plunge into that kind of chaos.

O.K., maybe this analogy isn't entirely accurate. Going through three years of law school without doing a clinical is not insane. Lots of people do it. And they're missing out on a tremendous opportunity.

In the classroom, we focus on various substantive areas of law, learning fascinating and challenging doctrines and theories from gifted academics. But for the most part, we don't learn diddley-squat about what it means to actually practice law.

Clinicals fill the gap by providing students with practical experience in a pedagogical setting. Unlike a summer job, where the pressures to produce (or not to, in the case of many law firms) overshadow the learning experience, clinicals educate through supervised practice, much like a teaching hospital for medical students. At no other point in a lawyer's professional career will there be time for the kind of reflection and review that clinicals provide. In my nearly three years of academic study and two summer jobs, clinicals have been the only place where I have received comprehensive feedback on my work. Thanks to this feedback, I have some idea of what will be expected of me when I enter the working world, as well as my relative strengths and weaknesses.

Clinicals also let students work directly with clients, something that in a law firm does not usually come until several years down the line. Extensive client contact not only builds a student's sense of responsibility, it also humanizes the law, in stark

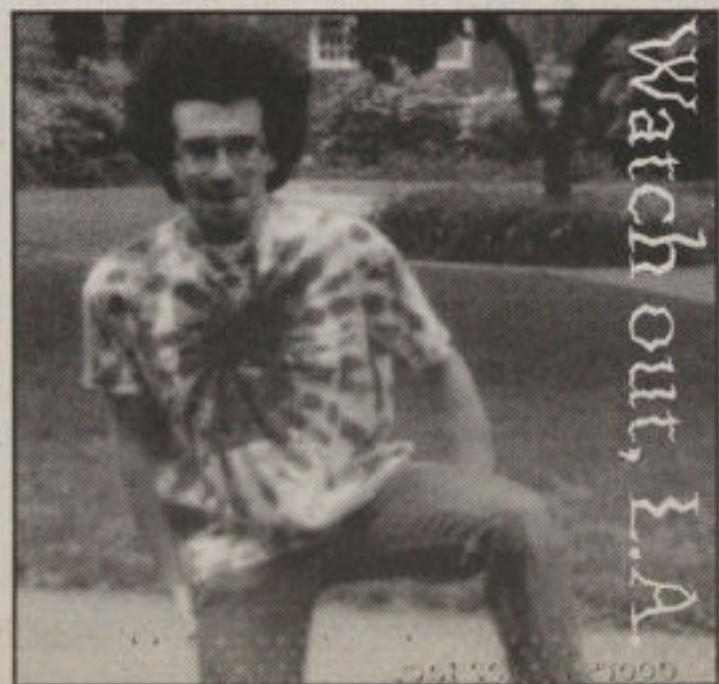


contrast to the rather abstract doctrinal training that occurs within the four walls of the classroom. We learn professional responsibility by doing, not by studying rules, discussing hypothetical dilemmas and then taking the MPRE, a ridiculously easy standardized test with a grading curve more inflated than the Goodyear Blimp.

Some might question the relation between the time commitment and the credits received (five hours per credit). Compared to a first-year five credit course, clinicals do seem like a heavy cost (in terms of time) in exchange for minimal benefits (in terms of credits). But clinicals don't easily compare to classroom courses because the experiences are complementary rather than parallel. Besides, the benefits go far beyond the number of credits you receive. While I think that HLS under-values clinicals in terms of credits, HLS has a lot of screwy priorities that students shouldn't internalize as their own. Don't get me started.

Another misconception is that clinicals are inexorably linked with public interest, and that people planning on going to work for law firms don't need to do one. A quick glance at Harvard's clinical curriculum dispels this myth. In fact, I would strongly advise would-be corporate lawyers to do one of the transactional clinicals, such as the Community Economic Development clinical or the Recording Artists Project at the Hale & Dorr Legal Services Center. These clinicals provide students with hands-on experience forming and registering companies, negotiating contracts, managing transactions and a variety of other matters that will give them an advantage in the future firm setting. The more experience you bring to the table, the better the work your employer will give you. And that means faster advancement, less menial garbage (think long nights at warehouses and printers) and better prospects in the crucial race towards the top.

Harvard's clinical curriculum is quite broad and has something for everyone. From the highly structured and well-supervised clinicals at the Hale & Dorr Legal Services Center to individualized placements with local not-for-profit organizations, opportunities for personal and educational enrichment abound. I highly urge students to break out of the classroom routine and take advantage of this tremendous opportunity to serve both themselves and the community by registering for a clinical at some point in their educational career.



3L Superlatives

as voted by the class of '99

Most Likely to Clerk for Judge Judy
John "Quest for Fire" Cranley

Most Likely to Skip the Last Two Months of Classes
Raj "Puppet Boy" Pai

First Person to be Spoofed by Jay Leno
Aaron "Crossdressing Doesn't Make Me a Liberal" Goach

Most Likely to Have a Celebrity Spouse
Ed "Meet My Snake" Prince

Most Likely to Spike the Punch at the 3L Prom
Harold "Wanna Lei" Hope

Most Likely to Name His Kids After Supreme Court Justices
Julian "Treetop Lover" Poon

Most Likely to Name Their Kids After Jerry Springer Guests
Will "Snoopy" Kuhn and Jane Ann "Pooky" Bardin

Most Likely to be President
Jefferson "Big Willie Style" Smith

Most Likely to Impeach the President
Doug "Know Your Fire Chief" Roberson

Most Likely to be Caught with an Intern
Eric "She Looked 18" Hall

Most Likely to Have his Nomination Scuttled by Things Done While at HLS
Dave "Funnel Boy" McCarthy

Most Likely to Take Over Dean Clark's Job
Tie: Dan "I Feel Your Pain" Fridman & Bill "I'm Here With Emily" Mone

Most Likely to Take Over Peg Tuitt's Job
Susan "Marathon Woman" Meine

The True Inspiration for Ally McBeal
Kristin "Glamor Girl" McKeever

Most Likely Not to Wear Anything Under his Graduation Gown
Austin "Eskimo Pie" Barron

Of Bulldozers and Butterflies

By Alex Boldizar '99
Staff Columnist

LEX EST SUMMA RATIO IN EXERPTIUM POOHBIUM

If Harvard wished to teach me truths, I could learn them. But this was the reflection speaking again, speaking in names. My face, but not my own — a dangerous mask without borders or mechanism for determining whether it was shaped from the outside or inside. I had come here thinking I could learn something, but what I wished to learn was not the sort of thing which could be reflected. What I needed was a window with a crack in it, one that did not reflect such a flat mocking face.

A sudden intuition chased me out of the dorm across Jarvis Field, Holmes Field, towards the Science Center. As I crossed the fields along the crisscrossing paths, I noticed that we were well into autumn. The grass was covered in leaves, but, almost no leaves could be found on the paths. Odd. How did they know where to fall?

I stopped in front of the little cadmium red door and knocked. No response. I knocked harder.

"Who are you?" Pooh asked in a languid, sleepy voice, sticking his head out the window. He was smoking a little pipe.

This wasn't an encouraging opening for a conversation. I replied, somewhat haltingly. "I-I'm not sure just at present — at least I know who I was when I last met you, when I first came to this school, but I think I must have changed several times since."

"Whatcha mean by dat?" said Pooh, sternly. "Explain yasself!"

"I can't explain myself, because I'm not myself, you see. I'm Alice in Wonderland."

"Eh? If you don't even knows yasself, then the best ya can do is win one and lose one. If ya knows yasself and you

knows Wonderland, ya ain't gonna be imperiled in a hundred battles; if ya don't knows yasself and ya don't knows Wonderland, ya'll be imperiled in every single battle."

"I've read Sun Tzu. What he forgot to say was how difficult knowing both is. To learn from your enemy requires a mask, and that mask makes you forget yourself."

"That depends on how ya define yasself." He waited while I thought. "Well?"

"I don't have a definition. Nor do I want to."

"Then ya must not know what ya's searchin' foah. But ya used a word, actually two now, which show maybe ya have defined yasself."

"I want to see into the crack in the chamber of consciousness." At this, Pooh stared at me for a long time. Although his fur was a pale cerulean blue, his eyes were a much deeper phthalo blue with a shade of red.

"Like I said, ya don't knows what ya wants. That's why nothing makes sense anymoah, nothing is what is seems. Ya need to pick a target, a clearly defined goal which ya can allow to recede into the future, into abstraction, if lucky even into unattainability. Ya can then stop thinking and focus on the means to attain whatever da goal is. A goal crystallizes da world into truths and lies, good and evil, see? Then ya could divert all yoah attentions to moah elaborate, moah complex means, until ya' forgotten the original ends, without ever really needing to face da fact that da grounds on which ya'd built that goal were not sound. Finally, then, ya could throw away da key, dat fatal curiosity with the power to peer out and through dat

crack in the columbarium of consciousness that is bothering ya so. And ya's cured."

I felt very sad. That is not what I had wanted when I came here. "You're mocking me like my window did."

"What d'ya expect? Ya create Harvard in the abstract, superimposing on it yas hopes — kind'a naïve, don't ya think? — and now you's complaining that it's not da holy grail ya thought it would turn out to be. Ya didn't even know what ya was looking foah, allowing the name to stand in place of that around which ya couldn't wrap yoah brain."

"So which way do I go from here?"

"That depends a good deal on where ya want to get to. Pick a direction and they," he pointed at the charred southern wall of Landgell behind me, "will tell ya which way is left and which way is right. They will give ya a compass, and dat compass will give ya the rest of the directions ya'll ever need. And it's a special compass, it'll even make that goal to recede for ya, so yah don't need to keep choosing new ones. It'll guide ya wherever ya want, so ya don't hav'ta bother me no more."

"Hm. I want to go up," I said, and after thinking a little, added, "or down."

Pooh looked up at the branches of his tree, and down where the roots began to dig into the ground. Then back at me again. As best as I could make out in the dark, his eyes were the color of green gold. When...? "Ya can't do dat. Compasses don't go dat way."

"But the alternative is a choice between the March Hare and the Mad Hatter, and they are always at the same tea party, are



they not?"

"Yes, but ya can't help ending up there. We's all mad here. I'm mad. You's mad."

"How do you know I'm mad?"

"Ya must be," said Pooh, "or ya wouldn't have come here. Ya still can't recognize yasself? Which one did I spit on last time?" he pointed to my boots.

"Um, the right one, I think."

He nodded his head, and spat on my left boot. "Now go away fool, ya've made me sad. Just when I was about to eat me a little Piglet."

"Wait! Pooh."

"What?"

"How-do all the leaves know where to fall? On the grass, I mean, and not on the paths?" I pointed to the path leading up to his door.

Pooh looked at me. I thought he was thinking. "The gardeners blow them off. With expressed air. Now leave me be."

I went back home dejected, lay down on my bed, and masturbated. It made falling asleep easier.

[The preceding was an excerpt from my upcoming novel, look for it in fine stores sometime next millennium. I know, I know, but it's crunch time, and CRUNCH, MUNCH, food ain't gonna do it any more — I need some sleep! It was either this or imitate Ronald McDonald and spill my socks all over the page, slippity-sloppity (or worse, write about politics). Anyway, I have given up on trying to sleep with a Professor, but if anybody knows a good literary agent with bad eyesight...]



Fenno stood in line next to the CyberCafe, clutching her single-digit room draw number tightly to her chest. She knew it was irrational to be so pleased with her selection priority; it wasn't like she spent that much time in the dorms. (Most evenings, she just slept in Chris Edley's office, the one place on campus where she could be sure the rightful occupant would never come in to disturb her.)

But Fenno was still excited to have a low draw number. It had been ridiculously easy, really. Fenno had never realized she could get SAC credit for spending five whole minutes pumping the keg during "Jesse" on Thursday night. Fenno couldn't resist letting out a little excitement at her good fortune: "Hoo-WEE, what a scam!" Pass the hummos, Mary Claire!

Fenno got to the head of the line, feeling better than a college kid partying in Jamaica. And then she looked down at the housing charts in front of her, and did a double take. Fenno's spirits sank and she began to feel more like a really drunk frat boy in Jamaica who's just realized that his friends have all left the bar and he's dancing cheek-to-cheek with Liz Falk.

Fenno looked up at the somber faces of Eilish Cahalan and Justin Rhoades, hoping that they could offer some solace, but all they did was shake their heads sadly. Fenno scanned the charts, desperately hoping to find a room in a decent dorm still open for her to draw into. Finally, she found one: a basement closet in Hastings, crammed in between the laundry room and the office of the Journal For Second-Rate Legal Scholarship. She pointed re-

signedly and said, "I'll take that one."

Before she could say anything more, an intense-looking gray-haired man grabbed her outstretched arm and yanked her away from the charts. "No, you fool, you can't have that one! See that fuchsia dot? That clearly indicates that this room is reserved for transgendered LLM's with LSAT scores higher than 168."

Fenno sputtered with rage. "So there's nothing?!?!? But look at all these empty rooms! Did the cockroaches start annexing entire floors? And who the hell are you, anyway?"

The grim man smiled patronizingly. "My name is John Sarno, and I'm the new director of the Housing Office. This is all part of my master plan to make life better for you, the student. Please understand that I'm acting in your best interest, ensuring that all students can mix together in a peaceful, harmonious, diverse community of love."

Fenno blinked. "So explain to me why this means I can't live in Wyeth?"

Sarno clucked his tongue. "Because you're a female returning student. All of those rooms are reserved for 1L men who don't have girlfriends. Have to maintain the appropriate testosterone ratio, you know."

"This bullshit is happening just because I'm female?" Fenno paused for a moment to utter a silent curse at a certain politically correct idiot in the RECORD office. "This would never have been a problem for me two years ago."

Sarno's grip tightened. "All right, enough out of you. What do you think we're here for? Student service? You should be thankful you don't have to sleep in the street, like the people with draw numbers below 200. It gets cold in Boston. So let's just put you in this nice, warm room in North, and you can count your blessings."

Fenno was outraged. "What the hell kind of moron are you? Didn't you think that maybe it was a wee bit odd that EV-

Quote of the Week

"The beauty of what I do is that it's empirical research."

— Prof. Kip Viscusi, describing his Exxon-funded Law Review piece laying out a theory against punitive damages.

ERY GODDAMN R.A. was telling you a week ago that this wouldn't work? I mean, Jesus! It's not like these people actually do anything else to earn their salary the rest of the year. The one time they do something useful, and you ignore them!"

Sarno had heard enough. "Rocco! Get this sniveling creature out of my sight!"

He clapped his hands, and a weaselly little henchman appeared. The fluorescent lights glinted off Rocco's shiny bald head, and a nasty little smirk appeared on his face. Fenno shook her head in disgust. With Sarno, at least she'd thought she had a chance. But when Rocco Forgione got involved, she knew all hope was lost.

Rocco grabbed her and began shoving her to the door. "Say," Fenno muttered, unable to leave without one last jab, "has

anyone ever told you that you are the rudest and least helpful person at this entire law school?"

Rocco smiled. "Thanks. I appreciate that. But it ain't gonna getcha a dorm room. Now, git!"

As Rocco pushed her the final few steps, Fenno heard the distinctive whiny voice of Manoj Mate from across the room. "Don't worry, Fenno, I will fight the fight for you! I will not rest until justice is done!"

Fenno called back over her shoulder, "No, you won't. But I bet you'll bitch a lot about your own dorm room, and then you'll try to take all the credit if the R.A.s get Sarno to change his mind."

"Thanks, Fenno! That's a great id—"

That was the last Fenno heard, as Rocco slammed the giant, handicapped-proof doors in her face.

Rude Awakening

FREE YOUR MIND

By Elizabeth Falk '00
RECORD Columnist

I just returned from Jamaica. Not just any Jamaica, but Negril, Jamaica, the MTV-declared ultimate Spring Break party destination of 1998. I hadn't been on a "party" themed spring break since early college and in January it seemed like the perfect antidote to the stressed-out existence I was leading here. I was pretty sure in January that I still "had it in me," the ability to drink and dance and swim naked in the ocean at four in the morning with some boy whose name I hadn't bothered to find out. I am only 24, after all.

We were a bit of an odd trio, the "ladies in the house from Harvard Law." People certainly expressed surprise at our "college" during the College Olympics and Giant Beer brawl party. Not that we weren't getting drunk and silly, of course. But the expectations and stereotypes of law students were apparent. "What are you doing down here?" one boy asked me. "Aren't you supposed to be studying or something? How did you find time for this?" Oh, if people only knew!

Three women got completely naked during the "wet tee-shirt competition" which was actually the "Ms. Stripper 1999" pageant in disguise. Men howled in approval as one woman laid down on the stage and straddled their legs. The next night, four women hiked up their skirts, bent over and waved thong-clad rear ends to music in an attempt to win the "booty shaking competition." One of my Harvard

College Women's Studies students found me in the crowd and we discussed with great disgust how these women couldn't even begin to grasp the roots of their own subjugation by a dominant patriarchal hierarchy that perpetuated the enslavement of female sexuality through the power of male affirmation. Satisfied, she moved on into the night.

I didn't do any naked swimming. It seemed a little contradictory to be reading and trying to draft a paper about the notions of force, consent, and victim accountability in acquaintance rape situations by day and then thrust myself into the very situations I was wrestling with at night. I almost made one exception with another law student from Tulane who wanted to show me "the running of the crabs" at the north part of the beach. When we got there and, surprise, surprise, the "crabs must have gone in for the night," I left immediately, rapidly and firmly. Clear and forceful message of nonconsent. Safety first. And honestly, what is the point of a one night stand in Jamaica anyway?

In fact, I found myself asking that question a lot. There didn't seem to be a point, or a reason, for much of anything that anyone was doing. Most of the time, there was much more direct evidence that the wiser and more logical mind would reason against the things that were going on. It was almost comforting to realize that at the end of the week, I had so much to return to, a life that was the complete

antithesis of Spring Break 1999, a life of making a difference, academic stimulation, charged motivation and exciting career opportunity.

Maybe that's why I was surprised when my friend confided in me a strange sort of jealousy for Matt and Louie, two Kennedy airport employees whose sole purpose in life (as expressed by their 20-something selves) was to go clubbing until they dropped to the ground. "Surely you can't be serious," I said.

But for them, she explained, the promise of fun never ends. And in five years, when I'm slaving away at a law firm and attending nice elegant cocktail parties on the weekend hours that I have off, wondering when life is going to get fun again, they've never stopped believing that life is fun.

In all two years here, I have always marveled at the incredible insights that a legal education has brought to my world. Through teaching at the College, I have been especially enlightened through an advanced study of feminism while searching for ways to make that "level of enlightenment" about the oppressions of mainstream culture available to others. Education has been my armor and my security. I had never realized until that moment that advanced education, like everything else, has its costs.

Call it the cost of spontaneity, of youthful revelry, of the joy of impromptu, risk-



seeking behavior. Call it the cost, to a certain extent, of adventure. Or perhaps, the cost of those moments where one doesn't want to think and doesn't feel the requirement to think, but just acts under a strange, unidentifiable desire to be admired or longed after,

to test the unrealistic limits of her body, or just plain go crazy beyond the rational mind. To a certain extent, the ability to do all of these things is freedom. And while, to a large extent, I believe my education has set my mind free, the freedom of those booty-shaking women on stage is a freedom and a sense of power that I will never again enjoy. And never again will I be able to go clubbing without wondering, or hoping, that maybe there wasn't a better and more productive way that I could have spent my evening.

Many of you will designate that sort of freedom as a false entity. I would agree, but I also must wonder if that really matters as long as one isn't aware of the falseness of the freedom. I also must wonder, in the grand scheme of things, who will be happier in the end; the incredibly subjugated, oppressed and completely naked size 36D winner of an all-expenses paid return trip to Jamaica for Spring Break 2000, or my highly educated and respectable 3L female friends who will spend Spring Break 2000 in a copy room. I think I know. Or perhaps, it's that I hope I know.

BOOK REVIEW

By Francesco Barbera '01

A Defiant Life: Thurgood Marshall & the Persistence of Racism in America

By Howard Ball
448 pp.
\$27.50
Crown
January 1999

In the closing chapter of this biography, Howard Ball recounts an anecdote of an elderly Thurgood Marshall, in the waning years of his tenure on the Supreme Court, making his way haltingly through a hotel lobby in Washington, D.C. "Black bellhops and maids and doormen freeze in place pointing... Elderly black people, some with tears in their eyes, stand on tiptoes to see better and wave." Thurgood Marshall inspired reverence.

Nowhere is this reverence more apparent than in Howard Ball's scholarly tribute to the late Supreme Court justice.

"A Defiant Life: Thurgood Marshall & The Persistence of Racism in America" is a sweeping celebration of one of this century's most influential legal figures. As such, the biography does a masterful job in carrying us through the maelstrom of activity which made Marshall one of the most successful advocates in American history. But in his effort to capture all of Marshall's greatness, Ball tends to leave out some of the humanity. Ultimately, he paints a portrait of a man whose importance in American history cannot be disputed, but it is a portrait which feels oddly one-dimensional.

Ball's narrative begins with a brief history Marshall's middle-class upbringing in Jim Crow Baltimore — a city more segregated than "any other in the country, including Jackson, Mississippi" — and the nearly concurrent rise of the NAACP, founded in 1910. He vividly describes the work of Charles H. "Charlie" Houston '22, who as dean of Howard Law School, Marshall's alma mater, transformed that institution into the "West Point of the civil rights movement in America." As the NAACP's first full-time lawyer, Houston

inspired the young Marshall, then a rowdy, cantankerous law student, to become one of his "social engineers" — lawyers trained not just to win, but to transform society in the process. In 1936, sold by his former student's intelligence and grit, Houston hired Marshall to assist with civil rights litigation. Just two years later, at the age of 30, Marshall became Special Counsel to the NAACP, the senior lawyer directing all of the group's litigation.

On a bewildering array of fronts, Marshall and his colleagues represented the front lines of resistance to virulent racist sentiments that permeated virtually every aspect of American life. In the chapters covering this work, Ball speaks eloquently of Marshall's frenzied daily schedules, his struggles to find willing plaintiffs and his nights in the deep South where local supporters would stand guard against lynching mobs.

In equally rich detail, Ball describes the NAACP's legal strategy against segregation during that time. Rather than challenge *Plessy v. Ferguson* directly, the NAACP brought educational equality suits that challenged states to live up to the "separate but equal" principle. The strategy, inspired by Houston's firm belief in the rule of law — a belief eventually adopted by Marshall himself — paved the way for *Brown v. Board of Education* (1954).

Several decades after *Brown* was decided, Marshall acknowledged that the decision represented the high point of his career, and Ball's narrative makes it painfully clear why. The biography does a masterful job recounting the virulent public resistance to the Supreme Court's desegregation command. Particularly disturbing is Ball's account of the White Citizens Council, an upscale Ku Klux Klan formed in the wake of *Brown*, whose self-professed mission was "to see that no Negro who believes in equality has a job, gets credit or is able to exist in our communities."

Ball's discussion of Marshall's Supreme Court jurisprudence is, in accordance with the race-focused theme of the book, concentrated on areas pertaining to civil

rights and civil liberties. Separate chapters are dedicated to the Fourteenth Amendment, affirmative action, criminal procedure, the First Amendment and "new rights" such as the right to privacy. In these pages, Ball adeptly brings the reader into the inner workings of the Court. His discussion of key cases such as *Regents of the University of California v. Bakke* (1978) (narrowly upholding the constitutionality of race-based affirmative action programs) and *McCleskey v. Kemp* (1987) (rejecting statistical evidence to demonstrate inequitable application of the death penalty) delves into the politics of opinion-writing assignments, the flurries of internal memoranda preceding decisions and the heated discussions at Court conferences, in which justices exchange thoughts and conduct informal ballots.

In all of these chapters we find Marshall, the stalwart liberal, pitted against "the Nixon Quartet": Justices Powell, Douglas, Rehnquist and Chief Justice Burger. Indeed, in many ways, the biography's form — divided roughly equally between Marshall's career with the NAACP and on the Supreme Court — brings into poignant relief one of the great ironies of Marshall's career. Marshall achieved his greatest successes in civil rights as a down-and-out lawyer for the poor. By the time he reached the height of power as a Supreme Court justice, the political tides had turned against him. Surrounded by Nixon and Reagan appointees, Marshall was condemned to watch as his conservative brethren worked to frustrate the victories for which he had fought with the NAACP.

Although the author's discussion of Marshall's Supreme Court tenure is thorough, Ball has a tendency to demonize Marshall's adversaries on the Court, particularly Rehnquist. While perhaps intended for dramatic effect — the hero's struggle against villains — the simplistic characterization ultimately dilutes the persuasiveness of the book. Both stylistically and rhetorically, a more detached



analysis of the Court's jurisprudence would have done more to convey the values and principles which Marshall defended.

In other areas as well, Ball's admiration for Marshall seems to prevent him for exploring some of the more complex as-

pects of the Justice's character. For one, Ball seems reluctant to explore the divisions which arose between Marshall and other civil rights leaders, particularly Martin Luther King Jr. In the mid- and late-1950s, civil rights groups such as the SNCC and SCLC began to grow impatient with the NAACP's legalistic and technical approach and, instead, began to mobilize citizens for mass protests. As Ball notes, Marshall — by that time a firm believer in the rule of law — vehemently opposed the non-violent protest strategy as being dangerous and, ultimately, counter-productive. Yet, Ball's discussion of these important rifts is so truncated that one feels something essential has been left out. Indeed, when Ball recounts Marshall's resignation from the NAACP in 1961, the reader is left wondering whether Marshall was pushed or pulled out of that position.

After William Brennan retired in 1990, Marshall was virtually alone on the Supreme Court, the last holdover from the bygone era of the Warren Court. With Rehnquist at long last in the conservative majority, the 1989 and 1990 terms were the "most frustrating, angry and disillusioning years of Marshall's entire legal life."

Yet, to the end, Marshall was defiant. "This Court has gone to pot; that's for sure," he said of those waning years. Speaking of his upper-class brethren, he asked, "How can you understand poor people if you've never known any except servants?" His final opinion for the Court was, appropriately, a dissent: "Power, not reason, is the new currency of this Court's decision-making," he thundered.

But apart from his progressive jurisprudence, it was the entire panorama of Marshall's life that set him apart. "A Defiant Life" does an admirable job showing us how.

The Buzz

By Tanya Marsh '00
RECORD Columnist

BUFFY AND THE SCOOPY GANG IN SUNNYDALE

I must confess: I am a television junkie. Honestly, I am one of those people who can tell you the cast and plot of nearly every show on television, including the daytime soaps. I am not particularly proud of this fact, and I share it with you only to emphasize that I know what I'm talking about when I tell you that the best show on television is **Buffy the Vampire Slayer**.

To those of you who have hesitated to watch *Buffy* because of unfortunate memories of the 1992 movie starring Kristy Swanson and Luke Perry, rest assured that even though they both feature a blond teenage girl kicking some serious vampire butt, the similarities end there. The movie was a spoof of a horror movie, or maybe a spoof of a spoof of a horror movie. Whatever. It was bad. Joss Whedon (*Toy Story*, *Speed*) penned the original screenplay but was then shut out of the production. (He's still bitter.) The series gave complete creative control back to Joss and he has used it to reinvigorate his original vision: a fresh and bitingly funny look at the horrors of high school with vampires, werewolves and sundry other creatures of the night acting as metaphors for teen angst.

When it all began, Buffy Summers (Sarah Michelle Gellar) and her mother Joyce (Kristine Sutherland) moved to Sunnydale, California from L.A. after Buffy was expelled from school for fighting and her parents divorced. Joyce struggled to understand her daughter's transformation from a sprightly airhead cheerleader into a girl who seems to have the weight of the world on her shoulders.

She couldn't have guessed the truth: Buffy is the Slayer. Once in a generation, a girl is born with the strength and skill to hunt vampires. When one Slayer dies (as they all inevitably do), the next is "called" and trained by a Watcher, a person with a deep knowledge of all the things that go bump in the night. Buffy's first Watcher was killed by vampires in L.A. and when she arrived in Sunnydale, she believed she could escape her destiny.

Think again, girlfriend. The timeless battle between good and evil is bigger than one 16-year-old girl. Buffy's new Watcher, school librarian Rupert Giles (Anthony Stewart Head) has that stiff-upper-lip English attitude towards duty which is in constant conflict with Buffy's understandable desire for a normal life. Buffy's struggle to come to terms with her destiny as Slayer, its dangers, responsibilities and rewards, is one of the overarching themes of the show. It is also the first of many themes that ring true with everyone's experience. How do we reconcile others' expectations of us with our own selfish desires? How do we balance what is good for us as individuals with what is good for our family, our community, the world?

Although a Slayer is supposed to keep her identity a secret, Buffy soon accumulated an odd group of friends who shall be known in fandom and beyond as the Scooby Gang. Willow Rosenberg (Alyson Hannigan) is the brilliant but shy girl with a long-standing crush on childhood friend Xander Harris (Nicholas Brendon), a goofball slacker who can always be counted on for a witty, but often clueless, comeback. Buffy, Willow, Xander, and

Giles are at the core of the show, although a gaggle of other characters have clustered around them in the past two years including Jenny Calendar (Robia la Motta), Oz (Seth Green) and Cordelia Chase (Charisma Carpenter).

And then there is Angel (David Boreanaz). Soon after Buffy arrived in Sunnydale, she met Angel, a dark, handsome stranger in black leather who quietly shadowed her and warned of impending doom. Halfway through the first season, after they both had begun to fall in love, Angel revealed that he is a vampire.

If I may interrupt for one moment, it is important to know the characteristics of vampires in *Buffy's* world. As we all know, vampires are immortal creatures who must drink blood to live, and are burned by the sunlight. Beyond that baseline, the mythology of vampires differs from author to author. According to Joss, vampires are completely inhuman and irredeemable, unlike Anne Rice's Lestat and Louis (*Interview with a Vampire*).

Or so we think. It turns out that Angel, who once roamed Europe as the cruel and vicious Angelus, killed a beloved daughter of the Romany people and was given back his soul (and thus his conscience) as the ultimate act of revenge. After 90 years of pointless wanderings and rat dinners, Angel came to Sunnydale to protect and help Buffy. Angel carries a lot of baggage, but he is beautiful and angst-filled, and what teenage girl doesn't yearn for a bad boy that she can save? Why Angel loves Buffy makes less sense, but she is beautiful and intelligent and yet vulnerable, and he needs to believe that he is worth saving. So we are introduced to the second of Joss's great themes: what do we do when the one we love is the completely wrong person for us? In Buffydom, the answer is: we suffer a lot of angst.

To make matters worse, halfway through the second season, on Buffy's seventeenth birthday, she and Angel finally consummated their relationship. Unfortunately, one little known feature of the Romany curse was that if Angel experienced "one moment of true happiness" (you would not believe the arguments among Buffy-fans over the meaning of that phrase!), he would lose his soul. So Angel turned back into Angelus and the demon hated the Slayer for making the man feel love. Hilarity ensued. No, actually a lot of bloodshed ensued while Buffy tried to accept that her true love had become her worst enemy and she had to kill him.

At the culmination of season two, Angelus conspired with Spike (James Marsters) and Drusilla (Juliet Landau) to reawaken a demon who would suck the world into hell. The only way Buffy could close the portal and save the world was to kill Angelus. Unbeknownst to Buffy, Willow, who had been dabbling in the black arts, found the lost curse and restored Angel's soul just before Buffy was



forced to kill him. Unable to accept all that had happened, Buffy ran away.

Fastforward. We are now five episodes away from the end of season three. Buffy has once again reconciled to her destiny as the Slayer and returned to Sunnydale. Angel (with a soul)

is back from hell and he and Buffy are still struggling to reconcile their feelings for one another with the realities of their situation. Sex has some pretty nasty consequences for these two. Their final breakup is inevitable since the WB has greenlighted at least 13 episodes of a new Joss Whedon show called *Angel* for next season. It promises to be darker than *Buffy* with more adult themes.

I really shouldn't have dwelled so long on the Buffy/Angel storyline, because they are only one thread in a rich plot history. The various relationships between the characters are uniformly well-written and reflect the realities and complexities of life. For example, the love quadrangle of Willow/Xander/Cordelia/Oz could have easily been cheapened à la *90210*. But Joss cares about these characters and so their emotions are true and there are no unrealistically easy answers. Likewise, the evolution of Faith, the second Slayer, into a minion of the dark side is a compelling metaphor for decent kids who make bad choices, get out of control, and risk losing their grasp on the difference between good and evil.

But the real reason to watch *Buffy the Vampire Slayer* is the original, sarcastic, and self-aware dialogue. For example, in "The Puppet Show," there are mysterious slayings and the gang's chief suspect is a ventriloquist dummy who protests his innocence. "Xander: So, the dummy tells us that he's a demon hunter. And we're, like, fine, la la la la. He takes off, and now there's a brain. Does anybody else feel like they've been Keyser Soze'd?" *Buffy's* humor isn't rooted in one-liners that can be cut out of context and planted on any laugh track. The dialogue is uniquely good because it is incredibly clever and every word helps us understand these characters a little better. Every word rings true to all the words that each character has spoken thus far. The *X-Files*, my second favorite show, is horribly guilty of forgetting what happened the week or year before. *Buffy* never forgets and rarely shortchanges the characters. That kind of integrity to the story, the characters and the audience is what makes really good television.

Buffy the Vampire Slayer currently airs on Tuesday nights at 8 p.m. on the WB network. Beginning on April 27, the last of the new episodes this third season will be aired over five consecutive Tuesdays. If you want to familiarize yourself with the backstory before then, check out the episode summaries on the official website (<http://www.buffy.com>) or talk to me. There are a few of us here with every episode on tape and if you are really, really nice, we might share.

THE OLIVER
WENDELL
HOLMES
LECTURE

The Last

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BLSA DELEGATION TRAVELS TO GHANA

Continued from *BLSA*, p. 6

towards Ghana. Their briefing emphasized economic development and trade, along with regional security. An extensive discussion about the African Growth and Opportunity Act arose. The bill, currently before Congress, would establish a free-trade relationship with Africa.

Opposition to the bill has emerged among some high-profile African-Americans, including Congressman Jesse Jackson, Jr. and TransAfrica President Randall Robinson '70. Their concern centers around the bill's exclusion of foreign aid, as well as the destabilizing economic effects of a free trade relationship between the United States and Africa's developing nations.

A panel discussion on legal education in Ghana was particularly enlightening. Panelists included a University of Ghana law student, the Ghanaian Bar Association President, and the Registrar of the University of Ghana Law School. The law student, Nana Serwaa Acheampong, discussed her experiences at the University of Ghana, the nation's only school of legal education. While she enjoys life as a law student, Nana is frustrated with the lack of resources at the law school. For instance, she often finds that the contains only one outdated casebook on a particular subject. Students must rely on professors, Xeroxed handouts and lectures to gain the bulk of their information. Furthermore, the law school has few computers with Internet access.

Hearing the difficulties that students at the University of Ghana Law School face helped me to appreciate the ease with which we are able to access needed legal resources at Harvard. The complaints of Harvard Law students about 'quality of life' struck me as petty in light of the challenges faced by our Ghanaian peers. Despite the obstacles placed in their way, they remain committed to learning the law, committed to becoming the legal scholars and leaders of their nation.

An opportunity to visit the University of Ghana Law School helped to impress this feeling upon the delegation. Sitting in on a trial advocacy class, we observed the professor demonstrate how to cross-examine argumentative and evasive witnesses, as well as conduct redirect examinations. The lecture was similar to one that I had attended in the Winter Trial Advocacy Workshop class at HLS.

After the class ended, we had the opportunity to speak with students and get their perspectives on several issues. We discussed their opinions of law school — much like their American counterparts, they often felt overworked.

We also conversed about numerous political and economic issues, including the students' perspectives on the African Growth and Opportunity Act. One student acknowledged that while he, like many Ghanaians, was excited about the prospect of an economic relationship between the United States and Ghana, he was cautious about the extent and parameters of that relationship. Another student, who had studied in the United States, discussed his amazement with America's lack of general knowledge about Africa. He believed that American schools should include more instruction on the global significance of Africa. We also met two students who will be L.L.M.s at HLS next year.

A visit to the Cape Coast and Elmina, known for the slave castles that still stand along their coasts, impressed us by illuminating the tragic aspects of the United States' historical relationship with Ghana. These ominous monuments to the "peculiar institution" of slavery are evidence of past battles between European powers and the mighty Ashanti empire for control of Ghana's vast mineral riches, not to mention its unwilling human resources. Eventually, Ghana became a focal point of the gold and slave trade.

Two colossal remnants of that sorrowful legacy — the Cape Coast Slave Castle and the Elmina Slave Castle — were built

by English and Dutch slave traders, respectively. For centuries, Europeans directed the West African slave trade from these castles. Men, women, and children were kept in wretchedly inhumane conditions. Death from disease, abuse, and malnutrition was rampant. Those individuals who survived their imprisonment in the castles were then whisked through the "Door of No Return" to waiting slave ships, which transported the survivors across the Atlantic Ocean into a life of chattel slavery. Tens of millions of Africans did not survive the Middle Passage, thus making the tour of these slave castles one of the most powerful, yet somber aspects, of our week in Ghana.

There were numerous other memorable aspects of the trip: traveling across the Canopy Walk, an eerily oscillating wooden bridge about 7 km above the rainforest of Kakum National Park; visiting the W.E.B. DuBois Center, DuBois's former home in Ghana where he lived as he helped organize the Pan-African

Movement; and visiting the grand mausoleum of Ghana's first independent president, Kwame Nkrumah. Every experience sparked impromptu insight and debate amongst our delegation. The merits of the African Growth and Opportunity Act, the economic impact of Ghana's privatization, the challenging reforms of Ghana's public education system, and the growing problem of homeless street children in Accra were just a few of the topics discussed.

The First Annual BLSA African Summit was a wonderful success. The Ghanaian people were extremely hospitable and welcoming. We learned a great deal about Ghana's legal, political, and economic systems, and established connections with many of Ghana's leaders. Hopefully, next year's BLSA African Summit will continue the tradition, providing even more students with the opportunity to learn about Africa. The entire experience can best be described as a glorious homecoming, long overdue.



Courtesy Medina Senghor '01

BLSA summit delegates toured the Cape Coast Slave Castle in Cape Coast, Ghana, the focal point of the British slave trade for several centuries.

SPORTSGUY

BEASTS, PLAGUE RUN THROUGH I.M. HOOPS

By Josh Swartz '01
RECORD Columnist

Judging from the bizarre events in recent weeks, graduation must be right around the corner. The dreary Cambridge winter seems to have warped the judgment of some of our most dignified and level-headed classmates. Our own March Madness (currently not sponsored by Nike, although negotiations are underway) in Hemenway has produced some fantastic finishes and some forgettable fights. Here's a look at the best and the worst we saw in the month of March.

Consensus #1, The Booties and the Beasts (5-0) continued their machine-like procession through the C-League with a 64-39 drubbing of previously undefeated Legacy of Conquest (3-1). The game did not live up to its huge media buildup, as the Legacy began to resemble the vanquished two minutes into the game. The Beasts vowed to keep the trash-talking, fist-pumping Legacy mascot/guard Seth peroxide Blonder '00 scoreless. Alas, Blonder made liars out of the Beasts, putting up five points on 2 for 11 shooting, but it just wasn't quite enough to keep the Legacy close. The Booties also did their part, led by 18 points from star forward Caryn Groce Point Blank '99, three steals from reserve guard Christiana grande, non-fat, skim Adjalatte '99 and 10 points from center Tracy Mile High Club '99. The game was delayed for 20 minutes in the second half when Beast Morning Woodie Dixon '99 almost tore the backboard down with an ill-fated "don't try this at home" dunk attempt. One spectator in the paid attendance of 15 described the incident as "sad, very sad." Earlier in the week, the Beasts disposed

of #3 ranked Twisted Sister (4-1) 60-49 and #4 ranked The Oat Sma (2-2) 64-55. The battle in the C-League seems to be for second place. Undaunted and unimintimidated, Legacy dispatched El Niño (1-3) 47-45, behind the heroics of power forward Monica the Bickert the Better '00, who outscored El Niño's intrepid leader, Alan Kellman of the People '99 down the stretch.

In the game of the week in the C-League, the Oat Sma snuck by Erica's BSA Ballers (2-2) 37-32. An otherwise lethargic affair, the game was spiced up by a scramble for a loose ball, when all four girls on the court battled on the floor for possession. Baller Natasha sugar Kohne '00 (who has failed to duplicate her 25-point opening night performance) commented after the game, "We were on the bottom of that pile, and we liked it." Teammate Jen and Tonic Harvey '00 proposed an amendment to the C-League rules, suggesting that the league put up the money for a wet bar at half court. The Commissioner seemed responsive, although rumor has it that Dean Clark is set to put the kibosh on that idea. In other action, El Niño beat the Mixed Briefs (1-4) 42-38 in a surprisingly well-played game; Twisted Sister downed both CR-CL, 32-24, and The Hype (0-3), 42-26; The Monster Mash (2-1) downed The Hype (2-3) 27-22, again stirring up renewed calls for the 24-second shot clock.

The A-league pecking order seems to be sorting itself out, as Black Plague (4-1) has risen to the top on the strength of

three straight victories. The Plague downed Washburn High (3-2), 44-33, with the help of star guard Jamaal Lesane in the membrane '01, who poured in a team-high 15 points. Washburn looked lethargic all game, turning the ball over on seemingly every critical possession. The Plague then K.O.'d The Supreme Court (3-2), 65-53, in the feel-good game of the week. Plague Coach Life of Brian Anderson '99 commented, "This type of game is the precise reason why I've been advocating those anti-trash talking rules at the league meetings every year." The Court bounced back and downed the History & Literature Dept. (2-3), 71-46, behind the hot shooting of Dan Last Williams and Testament '01, who poured in 19 and S&P 500 leader Johnson and Johnston



(Lars and Fletch, both '01) who both recorded double-doubles. The History bunch rebounded to beat Chocolate Thunder 55-38, despite 29 points from Satanic Verses author Mike Salman Rishty '01.

The Irrationals (3-2) continued their enigmatic ways, demolishing Chocolate Thunder (1-4), 60-43. Gillette Razor Mach III Millet '00 paced the Irrationals with 17 points and all-star point guard Matt J. Giles Band '99 put in 22. Washburn High returned to beat the Irrationals 62-51. The Irrationals played without all-league forward Amir I'm Arbabi girl living in a Barbie world '00, who missed the game with a sprained ankle.

B-Leaguers, don't despair, there's three weeks' worth of B-League action to come in next week's edition.

A- League Rankings

- #1 Black Plague (4-1)
- #2 Washburn High (3-2)
- #3 The Irrationals (3-2)
- #4 Supreme Court (2-3)
- #5 History & Lit. Dept. (2-3)
- #6 Chocolate Thunder (1-4)

Tough as Nails
Old Guys Still Fighting
Great When Healthy
Early Season Surprise
How do these guys win?
Cellar Dwellers

C- League Rankings

- #1 Booties and the Beasts (5-0)
- #2 Twisted Sister (4-1)
- #3 Legacy of Conquest (3-1)
- #4 The Oat Sma (2-2)
- #5 Erica's BSA Ballers (2-3)

Beat them to win
A distant second
Humbled by the Beasts
Starting to gel
Where's Erica?

Can You Spare a Razor Blade?

CARIBBEAN INTERLUDE

By Dusan Stojkovic '00
RECORD Columnist

As the kitsch-infested charter plane descended just after 3 a.m. local time, the first signs of life on the tropical island emerged as sporadic low-watt light bulbs gleamed near the shoreline. Had I ever been in the Caribbean before, I surely would have found the resort airport typical for the region. Tourist propaganda blasted from the monitors as members of the group huddled together waiting their turn in the passport inspection line. It was not until I sighted the vaguely familiar insignia (vaguely familiar because they were not dissimilar to the symbols on my own aging passport) on the security officers' olive-green uniforms that it dawned on me that we were finally in the airport of the plush tourist town of Varadero, located smack-dab on the North shore of socialist Cuba. Three hours later, we reached our ultimate goal, a relatively cheap hotel on the Prado (a.k.a. Paseo José Martí) in Central Havana and fell into a deep slumber.

Our group of intrepid travelers comprised 30 graduate students from Harvard University, joined together under the auspices of a "Spring Break Study Trip" organized by students at the Kennedy School of Government. Each student was doing research for academic work on a wide array of topics ranging from Urban Housing to Human Rights Violations to Cuban Law in Transition (yup, yours truly as the sole Law School student there had to think up a really original topic). Kudos are in order to Dean Nye for the tremendous support he has accorded this endeavor. What are you, new here?!

"Mmmmh, quite. Cuba is the place to be seen this season," my Tobagonian friend who lives in London with her Swedish boyfriend (what with that on her curriculum vitae, she's a sure bet for a place at the K-School one of these years) said to me when I had informed her of my impending trip. That should have tipped me off that contemporary Cuba is replete with major tourist traps. That and the fact that our charter plane from Mirabel (which is really closer to southern Nunavut than to Montréal but has a Harvey's!) was packed with upwards of 400 sun-deprived passengers.

Nevertheless, I was startled by the brooding presence of tourism in Cuba. For all intents and purposes, the country functions on a slightly schizophrenic dual-economy system: the locals live in a tightly controlled command-market peso

economy while the visitors from abroad are the funding source for a harshly capitalistic U.S. dollar economy. The proverbial value of the dollar is perhaps truer in Cuba than anywhere else in the world: residents of Havana undertake everything they can to amass as much of the greenback as possible.

The opening of the Cuban money market is officially viewed as a transitional emergency measure which ought to stabilize the economy during the so-called "special period," which started with the collapse of the Soviet Union in 1989. Up until that point, Cuba was heavily subsidized by and conducted most of its trade

slowly but surely rearing its ugly head: racism.

Before the 1959 socialist revolution, Cuba was one of the most racially segregated societies in this hemisphere, right up there with the United States. A key positive achievement of the Castro regime has been erasing racial distinctions. Perchance ironically, Dr. King's dream segment of white and black children playing together is a reality in the run-down streets of Havana. Evidently the fact that nearly everyone is poor makes it easier to get along.

"This term means nothing to me," our group was told time and again by functionaries of color when students in the group referred to them as Afro-Cuban. "I may be black, but above all else, I am Cuban."

But racial divisions are clearly becoming more salient with the advent of foreign tourists with racial preferences, which are bound to influence employment practices in the tourism sector. Here's a tangentially related case in point. During our free day, I decided to crash the swimming pool at the five-star

Melía Cahiba hotel on the Malecón. (Hmmm, do I need to divulge this in my bar applications? Nah...) I encountered no problems and garnered some well-deserved rest and relaxation. It was only when I rejoined our group that evening that I discovered that a black woman from our group had been asked for her



This should not deter those who can do so from vacationing in the Cahiba and comparable resorts. Not to sound too much like Castro's Chamber of Commerce (that is, if he had one) but the natural splendor of Cuba is something everyone should behold. Under current

regulations restricting trade with Cuba, popularly known in Cuba as *el Bloqueo*, U.S. citizens are not prohibited from physically going to Cuba, but rather from spending any funds on the island. The main exceptions are for persons conducting academic research (our group traveled on precisely such a license), journalists and persons with family exigencies.

Even more than its natural beauty, what impressed me most about Cuba was its people — affable yet resilient, proud yet approachable. Be they dissidents or revolutionaries, they were invariably impassioned. Although the pesky *jinetes* in the streets tested my patience by the end of my sojourn, I felt on a common wavelength with the people I met, and the fact that I can't wink to save my life — Cubans use the wink as a more intimate form of waving — detracted from that profound connection only slightly.

And naturally they were intrigued by me; who can blame them?

"So you're from Yugoslavia? There's a war there..."

"Yeah," I answered. "There have been many casualties in the Kosovo conflict, even more displaced people." Of course, the sarcasm hadn't melted in the hot weather. "And the NATO aggression is supposed to help by killing civilians."

The inevitable question followed, "But you live in America?"

"Uh huh, but I'm not paying taxes this year, so my conscience is clear."

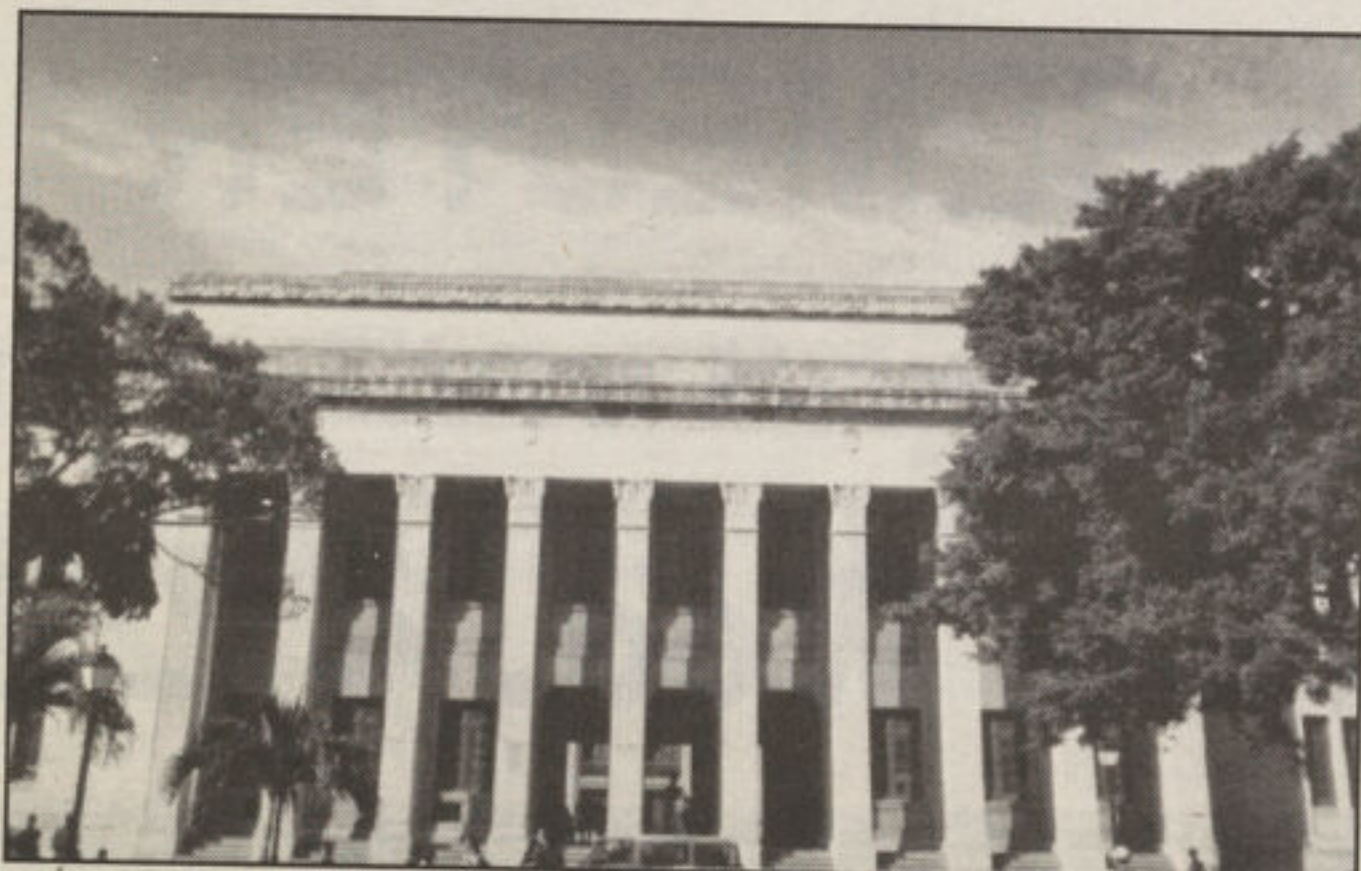
Even though the Florida Keys are only about 90 kilometers away, North America seems a world apart, and people in Cuba are incredibly curious to find out more about it.

"We know more about you than you know about us," a family who had invited a group of us to their apartment in the huge Soviet-style housing project in Alamar reminded us, as they flipped between two poorly received Miami television stations.

The person I'll remember longest was a senior citizen passing by in a local hospital while our group was visiting the humble health care institution. "Viva la Cuba libre y soberana!"

she proclaimed loudly amid mumbling to herself in a soft whisper.

Defiant, dignified and only slightly batty, the elderly lady reminded me of Serbia, and I loved her.



The library at the University of Havana.

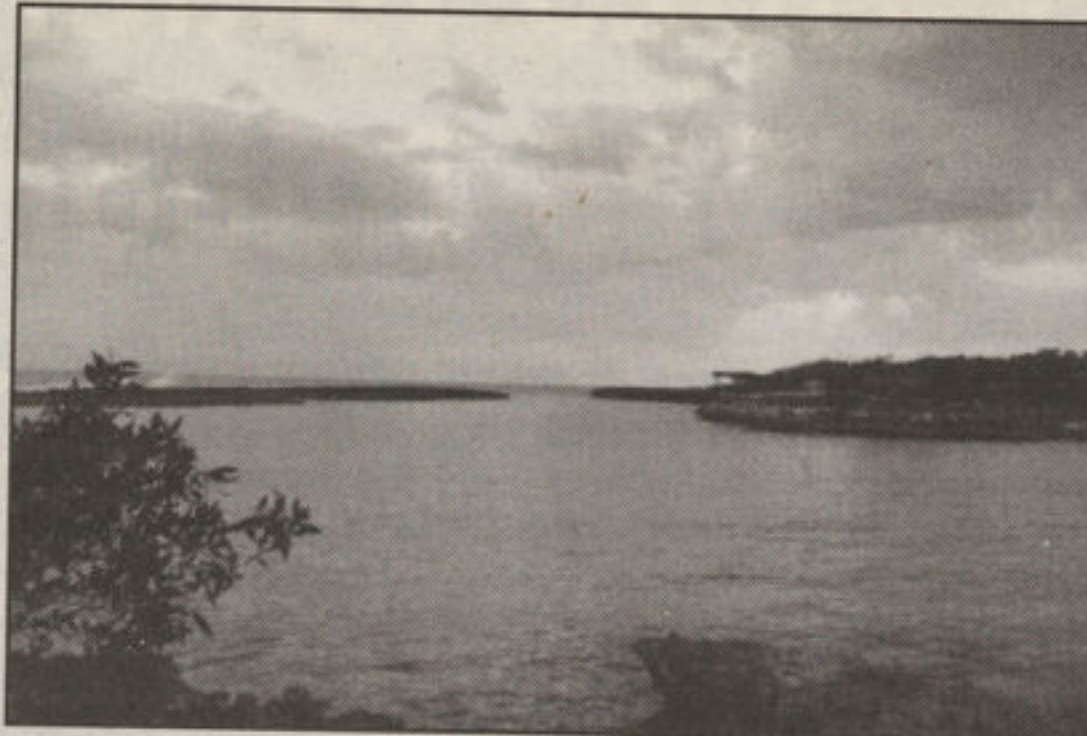
RECORD Photo

with the communistically-inclined block of Eastern European nations, particularly the U.S.S.R.

And with the arrival of the benjies, the ills of capitalism are quickly swarming the developing Caribbean nation. Crime and prostitution have sharply increased over the past year, as Western European, Canadian and Latin American tourists come to bait local thieves. During our recent trip, one of the student organizers had her purse snatched by two youngsters on a bicycle in the middle of Old Havana. The travel documents had been retrieved by the time she reached the police station, but the cash was already gone. Can you say police collusion?

Although the Cuban government recently announced a major socialist-style crack-down on crime, which included a 100 per cent hike in police officers' wages, tourists are still beleaguered on every street corner by locals offering everything from homegrown tobacco cigars to comparatively priceworthy prostitutes.

Unfortunately, with the expansion of the partial free market, another evil is



View overlooking the Bay of Pigs, now a prime snorkeling site.

RECORD photo

room number and kicked out of the pool area when she had attempted to do the same thing. The Cahiba is wholly Cuban-owned but jointly managed by a Spanish corporation.

Catch Cuba Fever



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