



Photo courtesy Richard Chase

Former Dean James Vorenberg '51 (center) at the dedication of the Vorenberg classroom in Langdell Hall on Oct. 22, 1999. The event, attended by many members of the faculty and cybercast by the Berkman Center for Internet and Society, featured remarks by Dean Clark '72, Hale and Dorr partner Jerome Facher '51 and New York Times columnist Anthony Lewis, among others.

Nader '58 versus The Man

by Kimberley Isbell

As 2Ls and 3Ls prepared to scatter to the four corners of the country for callback interviews, consumer activist and former Green Party Presidential candidate Ralph Nader '58 addressed a standing-room-only crowd in Ames Courtroom, where he encouraged students to help "turn this giant ship of Harvard Law School around so that it can go down in history as one of the greatest instruments of justice and systemic stamina and institution building of any group in the United States."

"It will not be done without a critical mass of students doing it," Nader told the audience October 29.

Throughout his talk and the question-and-answer period that followed, Nader encouraged students to look at HLS and their future corporate employers critically.

What does HLS Stand For?

Recalling a speech he attended while a student at HLS, Nader challenged the audience to answer the question "What does Harvard Law School stand for?"

"When I was here I saw the Harvard Law School as an item of immense legal resources in an urban setting of decay and injustice," Nader said. Expressing his view of the potential of HLS and what it could stand for, Nader continued, "Let's make sure that in the future the Law School becomes the luminous source of enlightenment and gives proper attention to priorities to build structures of justice."

To reach this goal, though, HLS would have to overcome inertia and a school culture only nominally different than when Nader attended. Currently, HLS is an automated assembly line, churning out graduates to grease the wheels of the corporate machinery rather than a workshop designed to craft members of a profession dedicated to the pursuit of justice, Nader said.

Nader laid the blame for this at the feet of increasingly high debt loads and a curriculum geared towards the specialized skills needed to serve the interests of corporate clients over the generalized skills that could be used to improve the situation of the masses.

Echoing the concerns of students fighting for LIPP reform, Nader asked, "What happens to a generation of law students when they are ready to take a pioneering leap, when they still have a residue of idealism, but are forced to drop it to go to work for some huge firm in order to pay off their debt?"

Is this 1999 or 1958?

To support his contention that the

curriculum contributes to the corporatization of law students, Nader offered a few anecdotes and observations about his time at HLS.

"When I took Property One here at Harvard, we started with an estate called the Black estate. It was a prototype estate worth \$1 million, big money in those days, and because it was a \$1 million estate it had a lot of complexities to it, and that's what we cut our teeth on," Nader recounted, "We went through that entire course, took the exam, and went on to other things without knowing a single thing about the probate system, which was maladministered, looted, gouged, in terms of small estates. That is, we learned how to construct an estate plan for the rich, and who cares about the 95 percent of the rest of the people?"

According to Nader, the effects of this kind of education were undesirable. "We were taught to become smart by becoming narrow. It demeaned the whole tradition of the law," he said, continuing, "We were never accused of showing foresight, probably because we couldn't footnote it."

After three years of the narrowing effect of a curriculum geared towards the needs of the elite, students left HLS ready to join the ranks of large corporate law firms. "It was the triumph of narrow expectation levels, as Harvard Law School measured success by what big law firm we were recruited by," Nader said.

After Graduation

Nader warned the law students in the audience not to allow their consciences and senses of social justice to be dimmed by their experiences at HLS, and encouraged them to consider careers in the public service.

"When you go into your law firm, you want to ask yourself, are you going to be able to say no to clients

Please see NADER, p. 4

Berkman Center rebuffed

Copyright case dismissed by District Court

by Francesco R. Barbera

In a brusque seven-page opinion, a federal judge dismissed a lawsuit challenging the constitutionality of copyright legislation enacted by Congress in 1998. The suit was filed with the assistance of the Law School's Berkman Center for Internet & Society.

The suit, *Eldred v. Reno*, was brought by several publishing-related organizations to challenge the Sonny Bono Copyright Term Extension Act (CTEA), which retroactively and prospectively extends copyrights for 20 years. The act covers every copyrighted work not yet in the public domain, a category which includes most works copyrighted in 1923 and renewed in the 1950s.

The complaint, submitted by Profs. Charles Nesson '63 and Lawrence Lessig and Lecturer Jonathan Zittrain '95 together with attorneys at Hale & Dorr LLP, alleged that the law infringes plaintiffs' First Amendment rights. It also asserted that retroactive copyright extension is beyond Congress's enumerated powers and violates the public interest doctrine.

In her memorandum opinion, Judge June L. Green of the United States District Court for the District of Columbia rejected these claims and granted the government's motion for judgment on the pleadings.

In a statement to the RECORD, Lessig criticized the opinion for failing to address plaintiffs' claims. "She did not engage the argument, and her statements about the First Amendment in particular just cannot be correct," he said.

Judge Green dispensed with the plaintiffs' First Amendment argument in three sentences, noting simply that "there are no First Amendment rights to use the copyrighted works of others."

The judge likewise rejected the plaintiffs' enumerated powers argument, finding that the law fell within the broad discretion

granted Congress under the Constitution's copyright clause, as well as Supreme Court precedent. The plaintiffs had argued that the law's retrospective application violated both the "limited times" and the "to authors" phrases of the copyright clause.

The plaintiffs' final and most innovative claim was that the CTEA violated the "Public Trust Doctrine" which, according to their second amended complaint, "holds that government may not transfer the public property of a commons into private hands in the absence of any public benefit in exchange." The plaintiffs' argued for an extension of this principle from its traditional application in the area of public lands to "the reallocation of public rights in intangible property, such as copyright."

Judge Green refused to take the bait. She disposed of the claim by holding that the doctrine is only applicable to state title over navigable waters.

Lessig affirmed that the Berkman Center is already gearing up for an appeal. "The great virtue of the opinion is that it is short, and came out quickly. That means we get to the Court of Appeals quickly," he said.

Ashley Morgan '00, co-chair of the Copyright's Commons — a coalition which advocates for the public domain and a plaintiff in the case — said the opinion "was not that surprising."

"We were asking her to say that the act is unconstitutional — and it was unlikely that she was going to make such a dramatic decision," said Morgan. "On to the appeals court."

Though Judge Green's legal interpretations might be construed as less than daring, the same cannot be said for the Berkman Center's approach to lawyering in *Eldred*. In its preparation for the case, the Berkman Center established a website at www.openlaw.org which gave the public access to drafts of briefs and established discussion groups for people to hash out

ideas and thoughts on the case.

According to Lessig, the open discussion groups were used extensively at the early stages of outlining briefs in the case. "We got many ideas from that conversation, and saw many mistakes," he said.

When it came time to writing the briefs, drafts were circulated among 25 participants who had expressed interest in helping with the process.

"Both parts of the process were extremely helpful," said Lessig, while noting that there are still some "bugs" in the system which need to be worked out.

Lessig noted that the open law experiment reflects the general philosophical mission of the Berkman Center. "Much of our work has been to emphasize the power of the open process," he said. "We hope that this process can be used by others with similar suits, enabled by technology that makes it possible to litigate through open processes."

NEWS COMMENTARY

Named gifts cost a pretty penny

Rename Langdell library for low, low \$50 million

by Justin Herdman

Money talks. It is a simple proverb, and one evinced time and again in the law school classroom, from discussions of high-priced defense attorneys to debates on independent counsels with bottomless coffers.

And now proving that even the lofty realm of academia is addicted to cash-laced come-ons, HLS has announced on its website a menu of "Named Giving Opportunities" which offer alumni eternal campus renown in exchange for a pocketful of greenbacks. From Langdell Library to a book preservation fund, alumni can pay to have their names carved into just about any non-living entity on the Law School's campus.

The sexiest item on the list is

the opportunity to rename the Harvard Law Library. With the pricetag set at a cool \$50 million, the honor has apparently been reserved for someone not practicing law.

The next level of named gifts will set a charitable alum back \$25 million. With the rare opportunity to rename the International Graduate Student Fellowship Program or the Low Income Protection Plan Program, many graduates could feel compelled to cough up such a massive chunk of dough.

Other multi-million dollar billboards include the Library's Reading Room (\$10 million), an Academic Research Center (\$10 million), the Faculty Law Library (\$5 million), and Professorships (\$3 million a pop). Assuming that a "Student Residence Center" is a dormitory building, even a hall in Gropius Complex could be re-

named for \$5 million. Just imagine the lifestyle changes that would flow from living in Bill Bennett [71] Hall.

Relative bargains on the list include \$50,000 for naming a Study Room, or a mere \$10,000 to affix a title to a Book Preservation Fund.

The web page is clear to point out that contributions need not represent an act of narcissistic self-love. "Named gifts may... honor a spouse or other family member, a colleague, a favorite professor, a firm, or other persons or organizations deserving recognition."

Lest concerned students fear spending long hours deep within the bowels of the Dershowitz Library, the page notes that "The specific terms of these gifts are determined in consultation with the Dean."

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FOUNDED IN 1946

For Sale to the highest bidder?

Well, interviewing season is now over. No more 20 minute quickies in the Charles Hotel, no more extended courtships in distant cities over dinner and wine. It's time to return to the day-to-day minutiae of law school life, and try to forget how close to home some of Ralph Nader's words cut.

If the last month and a half hasn't been enough to teach all of us the power of the almighty dollar, the school is apparently looking for a Daddy Warbucks to teach us.

It seems, for the low price of \$50 million, even Langdell is for sale. You got it. The library that's the architectural and academic pride of the Law School, currently named after the famed Christopher Columbus Langdell who saved HLS from going the way of the Princeton Law School, is up for grabs. If the guys over in Baker House have their way, we could all be spending inordinate amounts of time subciting in the Redstone or the Sullivan & Cromwell Library.

Sure, signs of fawning gratitude to big money donors surround us already. After all, we have the Ropes & Gray Room, the Olin Center for Law and Economics, the Kirkland & Ellis Professor of Law. If Holmes can lose out on his chance to be immortalized in brick and mortar after the Hausers cut HLS a sizable check, why shouldn't \$50 million buy Langdell?

Perhaps it's only natural that the academic heroes of yesterday get displaced by the economic heroes of today. Ronald Coase would be proud. Wouldn't he?

—Kimberley Isbell

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

—First Amendment, U.S. Constitution

• Letters •

Wyzanski '44 showed courage

Professor Bruce Hay '88 was right to recognize in his Sept. 24 Harvard Law RECORD article the moral courage of my late friend and colleague, Judge W. Arthur Garrity Jr. '44. He was simply wrong to suggest, however, that my late friend and colleague, Judge Charles E. Wyzanski, Jr. '30, lacked comparable courage and willingness to sacrifice his prospects for his principles.

In his letter to the editor published on Oct. 22, Charles M. Wyzanski accurately and ably recounts many of his father's courageous judicial decisions. The current generation of Harvard Law School students, among others, should also find instructive the following earlier examples of Wyzanski's courage, which I described more fully, with citations to the historical record, in my 1989 article "Few Are Chosen: The Judicial Appointments of Oliver Wendell Holmes Jr. and Charles E. Wyzanski Jr.," 74 Mass. Law Review 221 (1989).

In 1932, the 26-year-old Wyzanski was an associate at Ropes, Gray, Boyden & Perkins. A partner asked Wyzanski to draft a brief arguing the unconstitutionality of proposed Massachusetts legislation modeled on the Norris-LaGuardia bill then pending in Congress. Wyzanski, however, informed his senior colleague that while an excellent argument could be made against the constitutionality of the proposed legislation, he personally favored it, and hoped that it would be enacted and ultimately upheld by the Supreme Court. Thus, Wyzanski declined to do anything to defeat the Massachusetts bill.

In 1933, Wyzanski became

the Solicitor of the Department of Labor. Working closely with President Franklin D. Roosevelt, he drafted vital New Deal legislation. He then worked for its passage while on loan as a Senate staff member. In 1935, Wyzanski joined the Solicitor General's office to litigate the constitutionality of legislation he had participated in drafting, including the Wagner Act and the Social Security Act.

By 1937, the 31-year-old Wyzanski had already been discussed as a possible United States Attorney and as a United States District Judge; however, when he learned of Roosevelt's proposal to expand and pack the Supreme Court to assure that New Deal legislation would be upheld, Wyzanski wrote to the President of the Boston Bar Association, urging the organization to oppose the court-packing plan and offering to contribute financially to that effort. Then, after successfully arguing the constitutionality of the Social Security Act cases in the Supreme Court, Wyzanski resigned his office as a private protest of the court-packing proposal. It was an act of conscience which others in high office, then and since, have found excuses to avoid.

After being considered but not appointed to the United States District Court, and the Courts of Appeal for the First Circuit and for the District of Columbia, in 1941 Wyzanski returned to public service as a member of the National Defense Mediation Board (the "NDMB"), which had been established to decide labor disputes that af-

fected the nation's capacity to prepare for possible war. In October 1941, Wyzanski was told by Attorney General Francis Biddle that he had been tentatively selected to be nominated for a district judgeship. Immediately thereafter, however, a difficult coal strike case was sent to the NDMB. Wyzanski felt that he should participate in deciding the case, but believed that it would cost him his appointment. He wrote in a letter at the time:

I shall be surprised if I do not commit political suicide. I shall vote my convictions whatever they are. But the vote is bound to antagonize political forces. And that will make it difficult to nominate or confirm me as a judge.

Wyzanski did vote his conscience in that case, writing a concurring opinion in which he joined the majority of the NDMB in holding that coal miners did not have to be members of John L. Lewis's United Mine Workers Union. As Wyzanski anticipated, the decision was controversial, provoking a strike that resulted in the demise of the NDMB. Wyzanski's role in the case did not, however, fatally affect his appointment to the United States District Court on which he served with distinction for 45 years.

The United States District Court for the District of Massachusetts is fortunate to have in its history both W. Arthur Garrity Jr. and Charles E. Wyzanski Jr. They each set standards for courage that their successors remember and strive to sustain.

Hon. Mark L. Wolf '71
Nov. 2, 1999

Nephew takes issue with Hay '88

I read with astonishment a piece by Harvard Law School Professor Bruce Hay '88 in The Harvard Law RECORD in which, while praising the late and praiseworthy Judge W. Arthur Garrity '44, he repeatedly attacks and tries to damage — in my view most unfairly — the reputation of my late uncle, Judge Charles E. Wyzanski Jr. '30.

Hay says Wyzanski was "openly contemptuous" of his colleague Garrity. Not in front of me or anyone I know he wasn't. In the years they sat on the bench as colleagues, I never heard of Wyzanski criticizing Garrity either publicly or privately. Hay cites no authority for his assertion, so I would like to ask him to name a source. I'll bet a dinner he can't and won't.

Hay also clearly suggests that Wyzanski was cowardly (he says among other things that Wyzanski "breathed a sigh of relief" when Garrity and not Wyzanski was assigned the school desegregation case). But this was not cowardice — it was the understanding that I believe many in Boston shared at the time, in my view correctly, that any decision to desegregate the Boston schools would obviously go down very hard in some neighborhoods and that it would be less painful and less hard for many of those most affected to accept the decision from a Boston Irish

Catholic judge than a Jewish judge from Cambridge.

Anyone who knew Wyzanski knows he never ducked a fight in his life. It was just the opposite — he knew, and others told him frequently, that he should have been more cautious about the fights he entered. Someone with a more "judicious" temperament would not have taken on the entire Massachusetts political establishment by pressuring Thomas Worcester to name corrupt state officials, nor would he have challenged the legitimacy of the Vietnam War (Sisson), nor would he have enraged Federal prosecutors by demanding that any prosecutor who brought a marijuana case in his court sign an affidavit that he or she had personally never used the drug.

Anybody who was lacking in courage would not have done as Wyzanski did when, as President of the Harvard Board of Overseers, he publicly led the fight against McCarthyism when it was at its most virulent, nor would he have taken on the entire Kennedy clan as Wyzanski did when, alone, he opposed the appointment of the Kennedy family loyalist Francis X. Morrissey, a man with no discernible judicial qualifications, to the Federal Bench.

Can anyone doubt the courage of a sitting Federal judge who, as anti-Communist fever gripped the country, walked into a courtroom to testify as a character witness for his old friend Alger Hiss '29? Wyzanski did that.

From his earliest days in the law, when as a junior lawyer at Ropes, Gray he refused an assignment to work for a most important client of the firm on a matter he thought was unfairly anti-labor ... to his resignation from Roosevelt's Administration at least in part because of his objections to FDR's court-packing scheme ... to his public admission in the *Atlantic* that he had been wrong in earlier writing that the Nuremberg trials were improper, and on and on ... Wyzanski demonstrated character and courage enough for any man.

Hay says that among the many tributes to Wyzanski on his death "about how learned and brilliant he was ... notably absent are references to any acts of real courage by Wyzanski, any acts of personal sacrifice." I'm not sure what Prof. Hay considers an act of real courage. It certainly can't be writing this kind of untrue, undocumented, uninformed nonsense about a brave man who died 13 years ago.

David W. Rintels
Nov. 2, 1999

For more letters, please see p. 4.

• Correction •

In the Oct. 22 issue, the last name of Charles Wyzanski

was misspelled in the headline accompanying his letter

to the editor. The RECORD regrets this error.

PERSPECTIVE

By Yishai Blank SJD '03, Hani Sayed SJD '01, Amr Shalakany SJD '00, Dori Spivak LL.M. '00

Beyond good and evil

The last edition of the RECORD extensively covered the screening of Steven Emerson's film "Jihad in America," co-sponsored by the HLS Jewish Law Students Association (JLSA). A letter to the editors ("Jihad Story Misleading" by Avi Bell) and two op-ed columns ("Jihad in America" by Aharon Friedman and "Why we Sponsored Jihad in America" by Shoshana Lopatin and Aharon Friedman) stressed the importance of the screening of the film, and criticized both the article that was published in the RECORD following the screening and the actions of some students who distributed handouts that attempted to counter some of the factual claims that were presented in the film. The op-ed published by JLSA ("Why we Sponsored Jihad in America") went in length to justify the decision to screen the film, while admitting that JLSA might have made a mistake by not contacting Muslim student organizations in advance of the event. Yet, no real apologies or any regrets were expressed by JLSA on this matter.

We are Arabs and Israelis. We come from an area that knows a lot about hatred, stereotypes, prejudices and role-playing of victims and victimizers. The death of Alisa Flatow, in whose memory the JLSA lecture was dedicated, is not a

distant event in some strange part of the world. It is part of our everyday reality. Our generation grew up with violence, terror, occupation and injustice, and is now learning how to make sense of these realities. During our stay here, we strove to move beyond our hurdles. We have struggled to talk and to listen, to try not to retreat to stigmatizing and insulting, we have made — and still do — a constant effort to build bridges and to create bonds that will transcend beyond the "politics" of accusations and counter-accusations as we all know them. It required us to let go of the regular way of talking about terror, occupation, violence and retribution, and to be extremely careful when stereotypes and stigmas are triggered.

It is in this spirit that we feel that JLSA's decision to screen Mr. Emerson's documentary was both destructive and politically slanted. We are angry and frustrated with both the screening event as well as JLSA's elaborately evasive response which ensued. The film involves a repeated reproduction of stereotypes of Muslims as terrorists, of Arabs as extremist Muslims, and of Palestinians as the epitome of this phantasm. All of this should not have come as a surprise to JLSA. Mr. Emerson's journalism is not only notorious in the Arab-American community as biased, it has also

been discredited by major English-language newspapers as unprofessional; for example, Mr. Emerson's 1991 book "Terrorist" was described by the New York Times Book Review as "marred by factual errors ... that betray an unfamiliarity with the Middle East and a pervasive anti-Arab and anti-Palestinian bias." To our mind, JLSA was not only after sensation; more dangerously, it was careless about the effects its actions might have on people like us, trying to build bridges, make peace, and talk. To make matters worse, JLSA was not willing to admit its mistake, and that it instead should have directed its efforts to fighting stereotypes and collective accusations, as much as fighting the horrors of terrorism.

But the writers of this op-ed are not just Arabs and Israelis obsessed with Middle Eastern politics. What brings us together is a shared concern over the conservative tone that this debate has taken. More specifically, we are disturbed that during this whole episode (the decision of the JLSA to invite Emerson, the protests and the RECORD coverage, as well as the many long articles written by our colleagues who are associated with JLSA), all the different positions were articulated from a Muslim v. Jewish angle, thus masking the larger implications at stake in this debate.

If we can bracket for a moment the Muslim v. Jewish dimension, we can easily read this debate as typical of a particular stance of dealing with similar issues that constitute the bread and butter of American political culture. If we manage to make this move, then terrorism as it is addressed in Emerson's movie seems exemplary of the way race and violence in American cities are often thought of. Arguments like those used by Mr. Emerson are used over and over again to justify racial profiling by the police. Accordingly, for us the danger is as follows: When someone talks about terror and Islam in the way Emerson and JLSA did, this person is inherently making the same rhetorical moves as people who "naively" tie race and violence. Thus, it would be an illusory position to maintain the distinction between this debate and its practical implications for the daily lives of all minorities in America.

As we said earlier, as Arabs and Israelis, we could teach everyone a lesson in accusing, blaming and role-playing, but the more important lesson that we have to teach is about how to avoid doing all that, and how to proceed, with caution, toward a real and productive dialogue. This lesson was missed by JLSA and this is the reason we are not only sad but also angry. Very angry.

OPINION

By Asifa Quraishi SJD and Nilufer Shaikh '02

Why was JLSA surprised?

Thanks to the JLSA for expounding on "Why [They] Sponsored 'Jihad in America,'" but it really wasn't necessary. We already knew why. What's interesting is that even after their soul-searching and more than two pages of RECORD newspaper, the JLSA and its Board still don't seem to understand why we're concerned. Until they do, the future dialogue in which they assert an interest will look more like a series of monologues.

Acknowledging that we speak from an unfamiliar and under-publicized perspective to most Americans, we will try to more carefully explain what brought students from all over Boston to protest Steven Emerson's work. It is not just the personal "offense," as the JLSA puts it, that many Muslims and non-Muslims feel from the title and tone of Emerson's broad-brushed links between Islam and terrorism. Yes, we bristle every time (and it is, unfortunately, often) we see images of Muslim prayer side-by-side with military maneuvers, or Arabic — the Muslim language of prayer — translated (always into heavily accented English) only when it is used in exhortations to violence.

We bristle because each image (whatever the underlying purpose) contributes to the overall American perception of

Muslims as essentially foreign, different, dangerous, and somehow lacking in moral and rational character. While the individual Muslim may be accepted as an exception to this rule, the "othering" of any ethnic or religious minority is always dangerous to the future of civil society — a danger we surely shouldn't have to explain to a Jewish organization.

But the motivating concern that brought us out of our mid-semester cocoons last month is something much more profound than mere offense at the now-familiar "shallowing" of Islam. Emerson's work does more than offend us: it eliminates us. He directly and aggressively tries to take most of us completely out of the public discourse on issues of militancy, terrorism, and Islam. Despite disclaimers that the "majority of Muslims are not militant," in his publications Emerson paints nearly every local and national Muslim organization and charity as militant or clandestine supporters of militant Islam. He seems to see ghosts of terrorism in even the most mundane and moderate landmarks of an emerging American Muslim public voice.

Two brief examples: his description of the first-ever White House Eid holiday celebration as "Friends of Hamas in the

White House," and condemnation of the first and only American Muslims appointed to the National Commission on Terrorism and the U.S. Commission on International Religious Freedom, both nominees nationally supported as fair and moderate American Muslims (including by several American Jewish leaders). (Significant to the discussion here, House Minority Leader Richard Gephardt eventually bowed to the strained "terrorist-supporter" claims and withdrew the Terrorism Commission appointment.)

Emerson has typed nearly every American Muslim group and leader as being "extremist," causing Muslims who know them to seriously question whether Emerson has lost the basic ability to distinguish between what is and is not a threat. But when we contest his characterizations (as after his presentation), Emerson labels us apologists of terrorism and defenders of violent Muslims allegedly hiding behind our ranks. Who can win such a name game? Moreover, when a minority group is denied the right to define itself and its own members, what are the chances for American pluralism? We protest Emerson's boogeyman approach to identifying Muslim terrorist threats because we refuse to submit to his or anyone else's contrived litmus test of our morality and our patriotism.

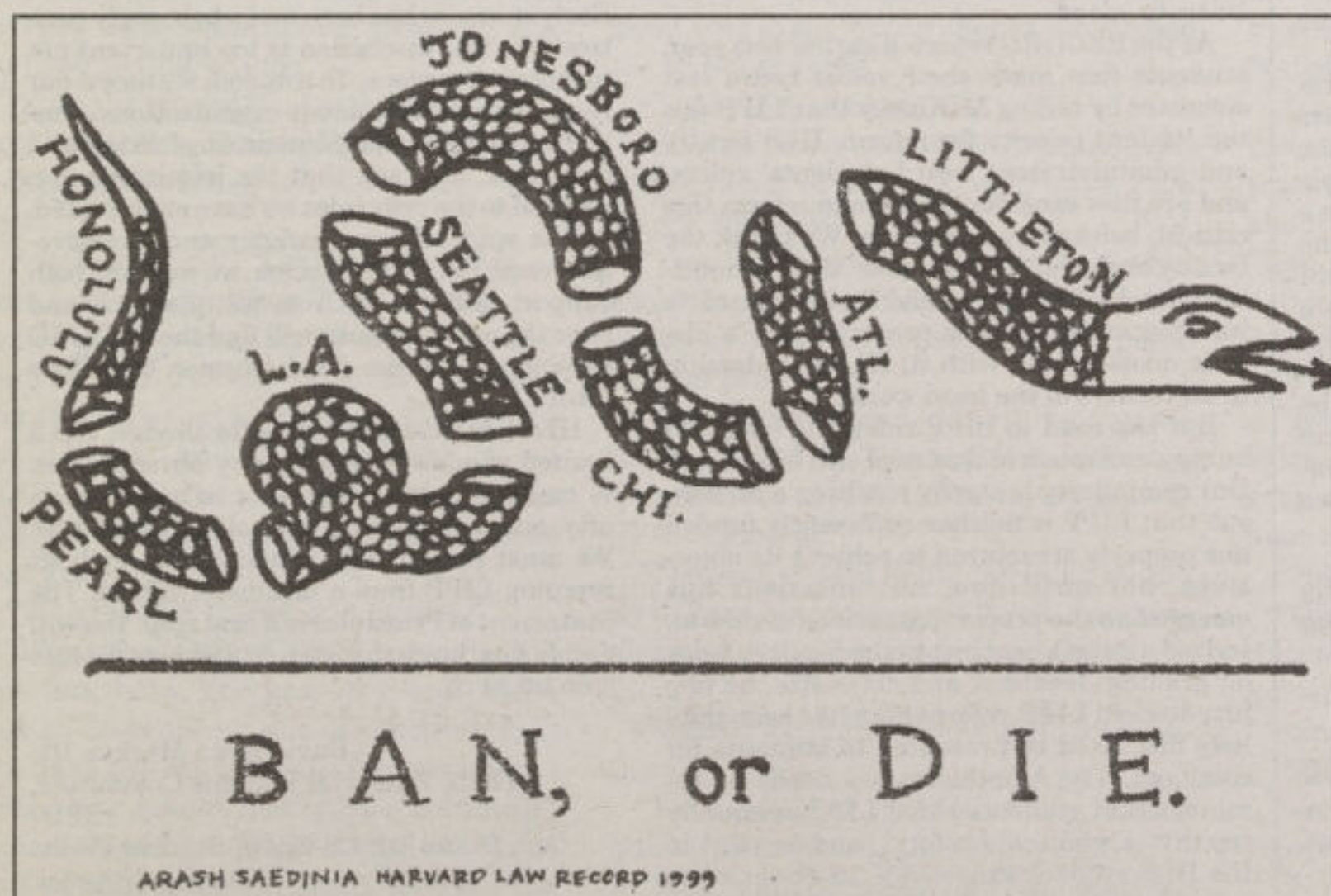
But what does all this have to do with law? Our answer: a serious erosion of civil liberties. In his JLSA talk, Emerson denied having any specific legal suggestions for what to do to combat the "global Islamic terrorist threat" laid out in his film, but in newspaper articles and television appearances, Emerson has supported sweeping anti-terrorist legislation, ultimately passed in Congress after the Oklahoma City tragedy. (A Nexis search will pull up the cites.) This new legislation is the basis of the unjust 19-month detention of Palestinian immigrant Hany Kiardeeen, finally released last month with a federal court's declaration that the Act's provisions on secret evidence are

unconstitutional. So we disagree with the JLSA when it dismisses this "troubling case" of "an unfortunate Palestinian man" as unrelated to Emerson's speech or film.

On the contrary, Emerson's support of such legislation in his fervor to combat terrorism at the expense of individual civil rights is exactly the sort of issue we had hoped an HLS forum on counter-terrorism would focus on. Fortunately, there will be other chances, and it needn't wait until another JLSA lecture. One of Kiardeeen's attorneys will be here at HLS this week — Georgetown Professor David Cole is the Saturday School speaker this Thursday (speaking on "Beyond Racial Profiling"). There is also a course on terrorism right here on campus, through the Harvard Government Department, showing that there are serious efforts to carefully study and contextualize terrorism beyond religious and ethnic stereotyping so that we can effectively fight against it.

It is the overall danger of Emerson's work (not the JLSA's attention to terrorism as a topic, or to controversial speakers in general) that led to high attendance by Muslims and Arabs in Langdell South last month. The JLSA members say they wanted dialogue, and they got it — in the form of polite, silent distribution of alternative perspectives on the topic, articulate questions in the following discussion, and RECORD coverage of the event.

But JLSA members' overwhelming efforts to justify themselves leaves an Emerson air of condescension and minimization of the real impact of this issue on the Muslim minority, both nationally and here at Harvard, a reality exacerbated by Friedman's demonization of Harvard Muslims with his insinuation that the Harvard Islamic Society (mistakenly called the "Muslim Student Association") supports terrorism. Friedman says he was "a bit surprised" that some at Harvard were disturbed at Emerson's invitation. What basic awareness of American Muslims is missing here? RECORD readers would benefit from considering not "Why the JLSA sponsored 'Jihad in America,'" but, rather, "Why were they surprised at our response?"



Nader '58 urges students to seek justice

Continued from NADER, p. 1

that corrode and demean your conscience ... or are you going to get along by going along because that's the sycophant way up toward the partner ladder?" Nader asked.

Illustrating the many temptations that face associates working for corporate firms, Nader asked, "Would you say 'yes' if they said to represent the tobacco industry in further extending their hegemony as the most powerful drug dealers in America? Would you say yes to companies that ask you to draft a binding arbitration provision that no one can understand or see ... that take away their Constitutional rights for their day in court?"

"How far would you go? When would you say no? At what time would you think you had other alternatives?"

"I suggest that there is a broad dimension of public interest law and civic institutions who would never have to confront those choices, because you'd have other choices [of ways] in which to deploy your time, talent, and conscience."

Life Outside the Firm

Nader regaled the audience with statistics about the hardships and injustices in the world, questioning the priorities of our increasingly corporate society. "Three hundred and fifty of the wealthiest people on this planet have assets equal to the bottom 3 billion. Eight thousand people a day die from tuberculosis and malaria; the former was curable in the 1950s. It takes \$30 in medicines to cure tuberculosis in the Third World. It's not being done," Nader said.

"We could eliminate tuberculosis in 20 years, which is killing 2 million people a year, for the amount of money needed to build two B2 bombers out of the 10 that Congress has appropriated which the Pentagon no longer wants," he said. "In terms of the minimal resources to provide clean drinking water, adequate nutrition, shelter, and health care, it's less than one month's expenditures on arms, in the world, for everyone who needs it in the world."

Great Things From Small Seeds

Nader encouraged the audience to try

to solve these and other societal problems.

Acknowledging that many of these problems seem daunting, Nader nevertheless urged his audience to tackle them, saying, "Many of you have demoralized yourselves from taking on big challenges. 'What's the use? You can't change it. It's too overwhelming.'"

"If law students are overwhelmed, what do you think other students are going to be?" he asked.

As an example of how to begin to address these issues, Nader recounted the origins of the Appleseed Foundation at the class of 1958's 35th reunion.

Describing the mood among his classmates, Nader recounted, "As these corporate lawyers reach their 60s and 70s, they look at their grandchildren sitting on their knee, ask[ing] them what they did for a living... That's when they realize they missed the justice bandwagon."

To counteract this feeling, Nader and his classmates formed the Appleseed Foundation, whose mission Nader described as "attacking the causes of injus-

tice and patterns of abuse in order to strengthen justice and make democracy more productive."

Revolution Begins at Home

Nader urged students to begin their efforts at making the world more just by first tackling Harvard Law School itself.

"Examine the resources of the Law School to see how they can begin with other law schools ... in establishing institutions of justice in one unpioneered area ... after another," he exhorted, emphasizing the resources available to HLS.

"As of June 30, 1999, the HLS endowment was worth \$713,487,420.52," he said.

"I think we have to raise the ante in terms of what is possible. The Law School has never been richer, it has never been fuller of facilities, it's never had more alumni willing to do something else than send a check, willing to have their intelligence tapped to collaborate with faculty, teachers and themselves," Nader said, "Let's see how you respond. You are the acorn for the oak tree."

• Letters •

Heed Nader's ['58] wise words

Over 25 years ago Scott Turow wrote in *One-L* how Ralph Nader came to speak at his alma mater, reminding young students that there is life outside of the traditional corporate track after law school. Well, on Friday, Oct. 29, Mr. Nader once again came to Harvard to deliver another stirring message about life beyond law school. The greatest irony of that night was that at the same time Nader was warning about the excesses of the corporate mentality, he was speaking mostly to 1Ls because most 2Ls and 3Ls were already at exotic cities, like New York, Houston, and San Francisco, interviewing.

Mr. Nader's talk was of great pleasure to me because he pinpointed what was really bothering me about Harvard Law School specifically, and the law practice in this country generally. While Harvard has other problems — a lack of diversity, a disinterested faculty, and big classes — Nader identified one that explains many of our fundamental problems: Harvard's corporate culture.

Thanks to the large debt we collect in law school and the normative assumption that prestige is based on which New York firm recruits you, people leave this place with a narrow vision of what to do after graduation. In other words, the pursuit of justice that was among the founding motivations of this place is easily forgotten and replaced by a pursuit of coveted firm positions. Even the most idealistic or public-minded students do not question working for a firm upon graduating. The necessary consequence of this is that we enter HLS as 550 different individuals with a rich array of backgrounds and experiences, and graduate as indistinguishable automata.

If you are incredulous at the suggestions that Harvard is corporate, and becoming even more so, ponder this: Why were admitted students, and now 1Ls, taken to a reception at Ropes & Gray, Boston's most prestigious firm,

and greeted by the firm's Hiring Partner? Can you imagine if these same students were taken to the ACLU or NAACP or Greater Boston Legal Services? And for those who doubt that the pursuit of justice is a laudable goal, we only need to look at Nader himself, and countless other lawyers who have given their blood, sweat, and tears to addressing the inequities in the very fabric of our society.

So let us take Nader's speech as the catalyst for discussions about how to improve HLS and figure out what it is about Harvard that makes otherwise spirited, energetic 1Ls appear like the walking dead by the time they're 3Ls. Mr. Nader posed a question few of us really tackle: In essence, what is the purpose of Harvard Law School? If you did not know any better, you would think it was an intellectual factory for the likes of Cravath and Wachtell.

Fortunately, many of us feel that Harvard has a purpose that is greater than many people would like you to believe. Moreover, we are willing to question how this school is operated and question how it prepares the best and brightest for only a narrow area of practice. For example, why are more students unhappy here than at any other law school in the country? How is the endowment spent?

These are just the beginning of an inquiry that I hope many of us are willing to make into the very essence of Harvard Law School. Nader's parting words were quite apt on this point: "We're going to turn this giant ship of Harvard Law School around, so that it can go down in history as one of the greatest instruments of justice and institution building in the United States." I know, from the two standing ovations Nader received, and from the over a hundred signatures at the end of his speech, that there are students prepared to work on this. Let's get started!

Sozi T. Sozinho '01
Nov. 9, 1999

Public interest short-shrifted

As the LIPP reform debate begins full swing, I wanted to add my own small observations in support of the reform. I do not plan to use LIPP. Whether or not the reform effort succeeds, I most likely will not be affected. But I am very glad that I didn't come to this university with my heart set on public interest, or I would be sorely disappointed.

Like one of my friends, I, too, may have walked out disgusted from an OPIA event after hearing about the limitations on assets and salary dictated by the current LIPP program. Luckily, I don't have the higher ideals to clerk, work for the EPA or do society a heck of a lot more good as a poor advocate for a good cause.

Even though my interests lie elsewhere, I believe strongly that other people should be able to rely on LIPP so that they can pursue visionary goals that do not quite offer the compensation deserved. I don't know if LIPP reform will encourage more people to go into

under-served areas of the law. Frankly, I don't think that should be a consideration for the University.

A cost-benefit analysis of how much reform will cost compared to how many more converts to public interest there will be because of the reform seems heartless. In the name of simple fairness, and given the price tag attached to a Harvard Law School degree, students who choose public service need a program of debt forgiveness that works and allows them a measure of stability despite their lower salaries. By taking the "high road," Harvard students who need to rely on LIPP, shouldn't be given the short end of the stick. LIPP reform should be made a priority of the administration for the sake of every student who chooses a different career path.

Jamaica Potts '02
Nov. 10, 1999

SPIN should avoid LIPP haste

In its admirable efforts to reform the Low Income Protection Plan, the Student Public Interest Network should take care not to preclude transformative change. If we are to discuss first principles, they should be first principles of career institutional placement, not merely those of LIPP reform. For example, I

understand that one highly selective law school is considering proposals to volunteer tuition. We should not take options like that off the table.

Ben Glassman '00
Nov. 1, 1999

Alum's advice to LIPP critics

I have recently read a number of letters from current students regarding the underfunding of the Low Income Protection Plan. As an HLS alumnus and LIPP participant, I can attest to the truth of the problems described in the previous letters (inability to live in a large city, inability to afford to have children or own a home, etc.). Assuming that LIPP funding remains at its current level, my advice to public-interest-oriented students is

to take one of the following three options: (1) drop out now, before your debt load gets any bigger, and find a public interest job that doesn't have a \$100,000 entry fee; (2) transfer to a law school with a better-funded LIPP program (e.g., Yale); or (3) throw in the towel and go work at a large law firm.

Timothy Kiefer '98
Nov. 10, 1999

Enough of your LIPP, already!

As one of the founders of the Law School's Low-Income Protection Plan (LIPP) when I was an Assistant Dean several years ago, I am troubled by its "activist" supporters so prominent in your recent news coverage.

What the "activists" want is clear: they want to be able to participate in what they believe to be socially useful activities after graduation and, at the same time, they want to be able to live on a financial scale not much different from their classmates who choose more commercial employment opportunities.

Of course there is nothing wrong with what the activists want. What is troubling is the underlying sense of entitlement they display as well as their apparent unwillingness to come to grips with some of the really hard questions such as who should subsidize these activities, what activities should be subsidized, and what financial living standard should be subsidized.

Two brief examples illustrate the problems:

1. LIPP currently subsidizes graduates earning roughly twice the median national income for a family of four.
2. Students who believe LIPP should cover any position, regardless of its relationship to the law or to the Law School, should consider why HLS alumni should support such broad coverage.

LIPP appears to need some revision together with a strong effort to obtain a reasonable base of alumni support. I believe a good case can be made for a lot of what the students want. But that case must be made thoughtfully, addressing all the issues, and a lot of whining by students who are not going to get everything they want when they want it is unlikely to be helpful.

Russell A. Simpson '65
Nov. 6, 1999

Open letter urges HLS students to support new SPIN proposals

We are writing to urge all student organizations to ratify the Statement of Principles on reforming the Low Income Protection Plan ("LIPP") this week, and urge the Administration to release a LIPP-reform proposal for public discussion with all deliberate speed.

As the RECORD reported earlier this year, students first made their voices heard last semester by telling McKinsey that LIPP is a top student priority for reform. HLS faculty and administrators heard students' voices, and are now considering ways to reform this critical, beleaguered program. We thank the faculty and administration for their commitment to LIPP reform, and look forward to working as partners to preserve LIPP's historic mission and, with it, HLS's leadership in all corners of the legal world.

But the road to LIPP reform is long and bumpy, and much of that road still lies ahead. Our community is slowly reaching a consensus that LIPP is neither sufficiently funded nor properly structured to achieve its objectives, but until now, no consensus has emerged on the proper dimensions of reform. Indeed, in stark contrast to the faculty's work on grading, feedback and class size, no faculty-backed LIPP-reform plan has been publicly discussed or presented to students for comment. The Administration needs no reminder that students rated LIPP as equally worthy of wholesale reform, and as vital to the HLS student experience, as these other important objectives. We hope a LIPP-reform framework is released promptly, and sets the stage for the meaningful public dialogue and

lasting change students and alumni desire and deserve.

To get the ball rolling, last month SPIN issued a Statement of Principles that we hope reflects a consensus vision of what a realistic, effective LIPP-reform scheme must look like. Early response has been overwhelmingly positive, but this discussion is too important not to include everyone. To this end, we renew our request that all student organizations complete debate on the Statement of Principles this week, and ask that the administration respond to the principles we have enumerated. In the spirit of transparency and inclusiveness essential to this process, we welcome both support and debate from all quarters, and hope the coming weeks will find the RECORD serving as a forum for discussion on LIPP's future.

HLS has a clear mandate for change, and a limited window of opportunity during which to make lasting investments in our community, our careers, and our collective futures. We must not let that window close without rescuing LIPP from a lackluster future. The Statement of Principles is a first step. You will decide how large this step is, and how far this step takes us.

David Evan Markus '01,
Chair, Financial Reforms Committee,
SPIN
Ayn Ducao '01, Co-Chair, Student Public
Interest Network
Jonathan Freimann '01, Co-Chair,
Student Public Interest Network
Nov. 8, 1999

Rude Awakening

DING DONG, THE EGO'S DEAD

By Elizabeth Falk '00
RECORD Columnist

Before the phenomenon called "HLS Corporate Recruiting" entered my life last fall, I have to say, I wasn't really used to rejection. I mean, if I got to HLS, I must have been doing pretty well in life. Back then, I took rejection personally; I recall losing one internship and sitting around for hours wondering who's resume could have been more compelling than mine. And laughably enough, being pissed off about it.

My recent "ding" letter from a San Francisco law firm called McCutchen Doyle has shown me how far I've progressed in my analysis of rejection, specifically, law-based rejection. After reading the standard "I really enjoyed meeting you and found our conversation compelling," I looked at the letterhead and thought, "Nice."

But I never even interviewed with McCutchen Doyle. I was rejected for a job I had not applied for and told how compelling I was by a man I'd never met.

This is the best rejection letter I have ever received. While reading it several times and absorbing the absurdity of the situation, I realized that I held proof of the level of artificiality and ridiculousness that is every 2L and 3L's October existence. Following which, I more seriously and sadly realized that if this process, the supposed culmination of our tenures, is so artificial, why in the hell am I participating? Did I go to HLS to have what makes or breaks me come down to decisions made by people who reject applicants they've never seen?

This rejection shed light on two more "ding" realities concerning the meaning of my education and my future.

As I sat down to face a powerful partner at a large LA firm, I quickly saw that I had been "dinged" before I entered the room. Middle-aged, enormous, with a mouthful of shiny golden teeth, Frank was obviously enamored with his important self. After spending a few minutes trashing the firm I worked at last summer, he began to tell me of his conversation with

the HLS recruit he interviewed at 1:30 p.m., with whom he had obviously been far more impressed. "Yeah, _____ worked, you know, at a branch office of your firm, and he thought the litigation there was NOTHING!" Undaunted by the impropriety of this conversation, Frank relayed the entire content of his old-boy's club bonding with my colleague _____. At the 12-minute mark, he abruptly ceased, smiled and said, "So, whatya wanna know about us?"

I was out of there at 13 minutes, flat.

As I rode down on the Charles Hotel elevator, fuming that I hadn't had the guts to tell Frank exactly what I thought of him, the elevator stopped and another person got in. I immediately recognized him as "Joe," a partner with whom I had interviewed last year. He had given me an on-the-spot callback, but I ended up getting dinged after the second interview. (For 1Ls who don't know, getting a ding after getting called back can be read no other way than, "Dear Ms. Falk, We thought you were good enough to fly your ass across the coast, but upon meeting you, we realized that your personality sucks so much that not even half of our personality-deprived associates could put up with you every day. Sincerely, The Firm.")

I was going to ignore Joe to save both of us the pain of an embarrassing interaction, but he recognized me, too. "Liz," he said, "I really feel bad about what happened last year. Why don't we go to dinner so I can explain?" Needless to say, I was shocked. Why did he care?

Ten minutes later, over sushi, Joe told me about an apparently brutal recruiting-committee meeting in which he watched his colleagues cut me up. With unabashed honesty, he said the people I met thought I was too aggressive, too confident, too forward and too happy to be recruited. "I had never realized before that meeting how completely mediocre the people I work with are, that they could read youthful optimism, excitement and pride, everything I thought was great about you,

as something to be denigrated. If you ever turn into one of them, I'm going to have to come find you and knock you over the head."

He paid the bill and left me sitting there, twiddling my chopsticks, dumbfounded.

And as I stood in my kitchen and looked again at that ghosting letter, I realized I had been given a unique gift. Through perfect elevator timing (Joe), a fortuitous interviewer (Frank) and someone named Geoffrey who had memory issues, I had been given incredible insight into the entities from which I had been rejected.

More important, I realized that in 20 years, a good percentage of my colleagues would be Franks, Joes or Geoffreys, and that this ridiculous recruitment process does its best to define who we are.

As 2Ls, those of us who have "earned" our As get offers with Cravath, Wachtell or Latham. Aside from Law Review, these offers are the only way 2Ls can fit themselves into the hierarchy we're all comfortable existing in. It's the only way to give meaning to why we studied our asses off. We want those grades to mean more than they do, so we strive to get the best offer. Nobody ever stops to think about, "Hmm, pretty cool: I get to work 12-hour days at Cravath while my friend has to work 12-hour days at Skadden." Instead, we have to admit that where one gets an offer is a real measure of one's self-worth in a place like HLS, where no alternative mechanisms of measuring self-worth are encouraged.

And if you're Frank, you're taking too much pleasure in disrespecting hard-working students by ignoring their accomplishments. I can't understand why a 50-year-old man like Frank would interview the way he did, except that he must enjoy making it obvious that I wasn't good enough for his firm. In essence, that level of rudeness indicates a need to reject people to reaffirm one's own self-impor-



tance, to give meaning to artificial firm hierarchy as an indicator of his own self-worth.

And if you're Joe and can see in hindsight past the fallacy that you are who your firm is, rejection simply illuminates the sad reality that an HLS acceptance letter can muster no more than work at a corporate firm. In other words, once you lose the sense that "Harvard got me to Cravath" and start wondering about what it means to be successful at Cravath, to be "accepted" at Cravath and what elements of humanity Cravath rewards, you inevitably become depressed. Once you're no longer a Frank, with your aggrandized head in the clouds, can you operate happily in that environment? Is it true that the more you seek meaning in human relationships and the human spirit, the more depressed you become at a law firm?

And if you're Geoffrey, too tired and overworked to care whom in the hell you're rejecting, I must borrow words from my dear friend Raj Goyle: "The Factory doesn't end here. It goes on and on with every rubber stamp of your signature your secretary makes."

I'm still not sure what the privilege of this education means to me. It's something I constantly ponder; despite my denigrations of this place, I realize the magnitude of the gift and need to reassess it continuously, lest it be cheapened. But far more than any acceptance I ever received, I now realize that, in setting ego aside, meaning does exist in those ding letters I have had the pleasure of receiving over the last two years. For through these dings, I have at least formulated a measure of what I don't want my life to be. I am lucky to have been shown that there's meaning behind every last ridiculous one. And it is only those of us who are lucky enough to understand the meaning of dings, rather than revel in the glory of acceptance, who have the potential to find the promise of happiness behind the HLS degree.



Fenno had a faculty directory, a phone and 30 minutes to kill before his date with a bottle of Grey Goose. It was a deadly combination. Fenno grabbed the receiver and with a mischievous grin on his face dialed Bob Clark's number.

"Dean's Office, this is Joan."

Fenno knew better than to admit his real name; after all, he actually wanted to talk to the Dean. "Hey, Joanie, sweetheart, this is Scott Nichols. Tell El Deano I've got a big fundraising prospect, and we need to talk pronto."

In a split second (faster than you could say "resuscitate Detlev Vagts"), there was a click on the other end of the line. "Bob here."

Fenno smirked. "Clark-O, get this — have I got a proposition for you. You're not gonna get any bites on 50 mil to rename that library. No one with that kind of money ever spent any time in the library, you get me? And 25 megabucks to get LIPP named after you? Honestly, do you really think Ayn Ducao's ever gonna make that kind of cash?"

"Who is this? Is this a ... student?"

"Whoa there, tiger. Don't hang up. Tell ya what, baby. For just 20 grand and a case of Löwenbrau, one of your rich kids can have the world's most famous anonymous law school newspaper columnist named after him. What better way to be part of HLS tradition, huh? We split the difference, I change my name, everyone's happy."

Fenno sighed as he noticed the dead silence on the other end of the line. Clark had obviously lost interest the second he realized he was talking to an actual student. Fenno still had plenty of time to kill, so he dialed another number from the directory.

"Dersh's office, this is Dersh, how can Dersh help you?"

Fenno decided to emulate his RECORD colleagues, and pretend to be an actual reporter. "Ah, yes, Mr. Dershowitz, this is Jim RosenRosen calling from the *New York Times*. I just wanted to quickly ask you to respond to the quote about you from Posner's book."

"What, the one where he said that the undertone of my analysis of the impeachment was that Clinton should have hired me as his lawyer?"

"Yeah, that's the one."

"Couldn't have said it better myself. No, scratch that, of course I could have. I am Dersh, after all."

"Yes, Mr. Dershowitz, I see. Now, what can you tell me about the \$1,000 you recently contributed to Orrin Hatch's presidential campaign?"

"Oh, well, you know, anything to get a little airtime in front of the Judiciary Committee, right? Gotta love them C-SPAN cameras."

"Naturally," said Fenno, striving mightily to keep his composure. "Well, anything else about you our readers might like to know?"

"Well, my childhood was quite interesting ..."

"Let's save that for another day," Fenno quickly interjected. "Anything current?"

"Well, did you hear that I'm doing the voice-over for Turkey Lurkey in the upcoming animated version of the Chicken

Little story?"

Fenno collapsed in helpless laughter. Truth really was stranger than fiction. While Fenno rolled on the floor, he could still hear Dersh's voice coming out of the receiver, oblivious to the fact that his audience was no longer listening. Fenno hung up the phone, secure in the knowledge that Dersh would continue talking for at least another half hour.

Fenno looked at his watch. Still a little too early to start boozing it up (it was only 10:45 a.m., and he really should have still been in bed). Besides, he was having too much fun. And with his luck getting through to those two, Fenno decided it was time for a real challenge. Fenno took a few deep breaths, then, lifting the phone like it was a delicate piece of China, he dialed Scott Brewer's number.

The phone rang for a long time. Naturally, there was no answer. Fenno knew the drill and kept waiting. Finally, after about 50 rings, the other end picked up. "Veni, vidi, vici."

"Hey, Brewmeister, Fenno here! How ya doin', buddy?"

"I'm sorry, I don't speak with students."

"Aww, don't be such a spoilsport. Besides, I'm not just any student. I know I've got a special place in your heart. In fact, I hear that you ... like me."

"Nonsense."

"Oh, sure, then how come you read my columns aloud to your class like kindergarten storytime? I think you're secretly fascinated by the attention."

"Piffle. I am merely showing my inferior, students what rubbish passes for reporting these days."

"Rubbish, huh? So you don't think I've been fair to you?"

"Ah, but what does 'fair' mean? Such a

tricky question, really. Unless you prefer to take a simple view of the problem. But, then, we could talk for an hour and half about what 'unless' means, couldn't we?"

"Um, no, Scott. You could talk for hours about it. We couldn't. But, come on, bucko. Are you honestly trying to tell me that you don't think that you're a rotten professor?"

"But what does 'rotten' mean?"

Fenno rolled his eyes. "Oh, I don't know. Maybe it means slamming your door in students' faces when they come to ask you for help. Or possibly it has something to do with hiding in your office and pretending not to be around when people come calling. Maybe it relates to releasing your grades late, consistently, every damn year, thereby screwing your students over. Or might it have something to do with just being a world-class bastard who treats students with condescension and disdain?"

"But what do such things matter when you are brilliant, as I am?"

"Brilliant, Brewskie? Well, you did manage to make a hero out of Scott Strusiner. No one ever thought that was possible. But beyond that, come on. Isn't it time to stop basking in the reflection of your own narcissistic glow and start behaving like an actual member of your community?"

There was a long silence on the other end.

"What, Scott, don't you have anything to say?"

There was an even longer pause. Then, from the other end, there came only these cryptic words: "*Catapultum habeo. Nisi pecuniam omnem.*"

Fenno groaned and hung up the phone. Prank calling just wasn't as much fun as it used to be.

The Buzz

By Tanya Marsh '00
RECORD Columnist

MR. CROWE: THE ACADEMY IS CALLING

Faithful readers of the Buzz should have picked up on the fact that I think Kevin Spacey is the greatest American actor working today. You may not know that I qualify his superlatives by nationality only to leave room for the incomparable New Zealander Russell Crowe.

I "discovered" Russell Crowe in 1992, after he starred as a tragically charismatic skinhead leader in the Australian film *Romper Stomper*. The next year, showing incredible range, he starred opposite Jack Thompson in the touching Australian comedy *The Sum of Us*, the story of a young gay man and his widowed father, each trying to understand the game of love. (Other notable early performances worth checking out on video include Bravo channel favorite *Proof* (1991), romantic WWII era *For the Moment* (1992) and 1990's *The Crossing*.)

I wasn't the only American woman completely captivated by Crowe's mesmerizing performance as Hando in *Romper Stomper*. Sharon Stone saw the picture too, and when it came time to cast her love interest in Sam Raimi's *The Quick and the Dead* (1995) she insisted on Crowe. He hopped over the big pond for his American cinematic debut and has since been featured in a string of uneven movies including 1995's *Virtuosity* (with Denzel Washington), and what I still insist was the best picture of 1997, *L.A. Confidential* (co-starring Kevin Spacey!).

It was for his performance as Officer Bud White that Crowe finally hit the radar of American filmmakers, which led to his roles in four new and upcoming movies: David E. Kelley's *Mystery, Alaska*, Michael Mann's *The Insider*, Ridley Scott's *Gladiator*, and *Proof of Life* (set to start filming in February, co-starring Meg

Ryan). We have to wait until next summer for *Gladiator*, but you can currently catch *Mystery, Alaska* and *The Insider* on the big screen. The combination of these four very different roles should give American audiences a hint of what Australia has known for a decade — there is nobody like Russell Crowe. He has the range and talent of the great character actors combined with the strength and presence of an action star.

Mystery, Alaska

Mystery, Alaska is the story of a small hockey-obsessed Alaskan town, turned upside down when it plays host to the New York Rangers. Written by David E. Kelley (*Ally McBeal*, *The Practice*), the characters in *Mystery, Alaska* are eerily reminiscent of Kelley's outstanding series *Picket Fences* — the sheriff is a well-respected family man, the judge is a prickly outsider and the lawyer is a slightly loony but lovable character. But *Mystery, Alaska* is a hockey movie, so the action revolves around the local team, their struggle to maintain their self-respect against the Rangers, and their relationships with other townspeople. *Mystery* isn't destined to be a classic, but it is a layered and enjoyable story. The characters are rich and engaging and I left the theater wishing that Kelley would create a television spin-off. (Maybe I just miss *Picket Fences* too much.)

Russell Crowe plays John Biebe, the sheriff and leader of the Saturday hockey players. He is in his mid-thirties, isn't as fast on the ice as he used to be, and has to face the reality that he is about to be replaced by a 17-year-old hockey prodigy. He also has to deal with the arrival of his wife's high school sweetheart (played by Hank Azaria) who fled the confines of *Mystery*

for a successful career in New York. John knows that *Mystery* is a hard town for women and irrationally fears that his wife, Donna (Mary McCormack), may leave him for the excitement of the big city. But as in all David E. Kelley stories, true love prevails. While there are dozens of named characters in *Mystery, Alaska*, this is Crowe's movie and he is given the opportunity to demonstrate his deep emotional range. It may be too late to catch *Mystery* in the theaters, but absolutely don't miss it on video.

The Insider

The Insider is the story of two men of integrity, tobacco insider Jeffrey Wigand (Russell Crowe) and 60 Minutes producer Lowell Bergman (Al Pacino) trapped between their consciences and the personal and professional costs of telling the truth. *The Insider* tells the now familiar story of Wigand, a vice president at Brown & Williamson who blew the whistle on an industry which was, in his words, "in the nicotine delivery business." Corporate confidentiality agreements and the fear of retribution complicated Wigand's decision to go public, but in the end he consented to an interview with Mike Wallace,



The many faces of Russell Crowe. Clockwise from top left: as Jeffrey Wigand in *The Insider*, as Maximus in *The Gladiator*, as Hando in *Romper Stomper*, and as John Biebe in *Mystery, Alaska*.

sacrificing his family and his peace of mind in the process.

Russell Crowe is absolutely amazing in the role of Jeffrey Wigand. He gained 50 pounds to tackle the role and transformed from the muscular 35-year-old we saw in *Mystery, Alaska* to a flabby 53-year-old man with what I'm told is a convincing New Jersey accent. Crowe's Wigand is a mass of contradictions — a loving, gentle father and gifted teacher who refuses to confide in his wife, appears to have no friends and displays a quick and violent temper. He is an ordinary man under extraordinary pressure, as Bergman observes, and displays neither grace nor consistency. In other words, he is entirely human. *The Insider* isn't afraid to give its hero flaws, and Crowe portrays this conflicted man perfectly. (At this point, the Best Actor Oscar should belong to either Kevin Spacey for *American Beauty* or Russell Crowe — just the way I like it.)

Unfortunately, Bergman's character isn't nearly as complex or interesting. Pacino is great, as always, but his performance is less of a revelation than Crowe's because we are so used to see Pacino raging with righteous indignation. Bergman is tauntingly described as a "First Amendment martyr" and he is painted in the broad strokes of a saint. A man of journalistic and personal integrity, Bergman sacrifices his career in order to correct the injustice done to Wigand by the corporate lackeys at CBS.

Christopher Plummer turns in a memorable performance as Mike Wallace, a legend nearing the end of his career who is torn between loyalty to his legacy and dedication to the journalistic tradition of Edward R. Murrow. Wallace desperately doesn't want to be remembered as the man whose interview with Wigand resulted in the destruction of CBS. In the end, Wallace makes the "right" decision, but it is perhaps because *The Insider* shows his vacillation that the real Wallace is reportedly very upset with his depiction in the movie.

The Insider is a long movie — 160 minutes. The second time I saw it, I looked for places where director Michael Mann could have trimmed a bit away. I think he could have taken out at least 30 to 40 minutes without missing it, but hey, that's why I'm a critic and not a big Hollywood director. Despite its unnecessary length, *The Insider* is a well written, creatively directed, and brilliantly acted movie. It will be very competitive come Oscar time and should cement Russell Crowe's reputation as one of the greatest actors working today.

The Buzz Review of Dogma

Kevin Smith's Open Letter to the Church

Dogma has traveled a rocky road to arrive in your local cineplex. Developed by Disney subsidiary Miramax, *Dogma's* fate was threatened when religious groups were tipped off that this raunchy satire found nothing sacred. Reportedly disturbed by a few choice scenes, Disney chief Michael Eisner "suggested" that Miramax cut their ties to the completed film. Miramax co-chairs Harvey and Bob Weinstein put up \$12 million of their own cash to buy the negative from their own company, and finally signed a deal with Lions Gate Films to distribute the flick. *Dogma* was well worth the wait. It is a thought-provoking meditation on faith and organized religion, but it is also a Kevin Smith movie, which means that it is peppered with absurdity, profanity, and verbal acrobatics.

The premise of *Dogma* is that after the destruction of Sodom and Gomorrah, Loki, the Angel of Death, and his buddy Bartleby kicked back over a few too many pints. Bartleby, troubled by Loki's gleeful exercise of God's vengeance, convinced his friend to have compassion for the mortals below. Loki marched up to God, resigned his post and gave him the finger. Two events resulted: angels were forbidden from drinking alcohol and Loki and Bartleby were eternally exiled to Wisconsin. After a few millennia in the Midwest, Loki and Bartleby have been tipped off to a loophole in Catholic dogma which will allow them to subvert God's decree and return to Heaven. The only problem? Since we live in a world based on the belief that God is infallible, if Loki and Bartleby are successful, the universe will reason itself out of existence.

On one level, *Dogma* is simply a Kevin Smith buddy movie with Loki (Matt

Damon) and Bartleby (Ben Affleck) as the central duo. But *Dogma*, the most ambitious movie ever attempted by Smith, is much more than that. Heaven dispatches a woman named Bethany (Linda Fiorentino), a hitherto unknown thirteenth apostle (Chris Rock), a muse (Salma Hayek) and a pair of unlikely prophets, Silent Bob (Kevin Smith) and Jay (Jason Mewes) to stop Loki and Bartleby. Opposing this rag tag team of humans and celestial beings is a disgruntled demon named Azrael (Jason Lee) and the hockey stick wielding Stygian Triplets.

Smith put together an amazing cast for *Dogma*, including Alan Rickman as Metatron, the Voice of God, and George Carlin as Cardinal Glick. Everyone is solid in this movie, but Affleck's character of Bartleby is the linchpin and he gives a subtle, expressive performance. There is a distinct rhythm to Kevin Smith's dialogue and, unlike his earlier films, everyone delivers their lines naturally. That's one of the benefits, I suppose, of finally hiring an entire cast of professional actors. In this seasoned cast of veterans, there are three exceptions. Jason Mewes reprises the only role he has ever played: Silent Bob's verbose "hetero life partner" Jay. You never really know if the unpredictable Mewes, a childhood friend of Smith, is speaking written lines or just making it up as he goes along. In *Dogma*, he is given a lot of screen time and more than lives up to the challenge. As a reward to fans of *Clerks*, both Brian O'Halloran and Jeff Anderson have small roles in this film. The best part is, in Smith's Faulkner-like New Jersey universe, both could be playing the same characters they portrayed in *Clerks*.

When Loki and Bartleby walk into the Mooby corporate headquarters to enforce

what they imagine to be God's vengeance, it's pretty clear why Disney didn't want to distribute this movie. Smith isn't exactly subtle in his portrayal of a grasping multimedia conglomerate built on a cartoon character. Golden calf, Mickey Mouse, what's the dif? *Dogma* is an indictment of America's misguided worship on the altar of materialism, a viewpoint which wouldn't exactly endear it to Eisner and company. Cardinal Glick's sincere but extremely disturbing "Catholicism Wow!" campaign is also a comment on America's spiritual decadence. His effort to replace the "depressing" crucifix with a jazzed-up "Buddy Christ" reflects a society that has replaced religion with commerce, faith with self-help books.

Kevin Smith is a Catholic, and *Dogma* is his attempt to deal with his own questions of faith. While it is true that Smith blasts open very sensitive issues, *Dogma* is less an attack on the Catholic Church than an open letter to the American Catholic community, provoking discussion. Smith raises questions but doesn't provide neat answers. In the end, those who experienced crises of faith are renewed and those who felt betrayed by God receive forgiveness. Smith's observations, as expressed through a number of characters, are typical of a large number of American Catholics who still love the Church but feel that it has lost touch with their lives. Conservative Catholic groups protested at the New York premiere of *Dogma* and a boycott is brewing. That's a shame. *Dogma* sends a strong positive message to a society which has confused cynicism with enlightenment. Ultimately, despite its irreverence and profanity, *Dogma* is about the power of faith and the relevance of God. Regardless of the packaging, those are messages everybody can use.

Vino & Veritas

No, NOT MERLOT!!

By Justin Dillon '02

You're at Harvard Law School. You're probably up on current events, think you know what's going on in the world. Truth is, you probably do. So when you hear the acronym ABM, what do you think of? Anti-ballistic missiles? Sure you do. You're at Harvard. You think big thoughts.

Enough of that. Think smaller thoughts. Think good thoughts. Think about wine.

Start with that acronym — ABM. You thought, *New York Times*-reading, Kennedy School joint-degree candidate that you are, that ABM is about nuclear deterrence and things of that nature. Some of you might have even thought of Joe Nye, or maybe some think-tank, Brookingsesque guru in D.C.

You people are too smart. This is a wine column. ABM has no such lofty aspirations. ABM wants to help you buy good wine and not get robbed in the process.

ABM means Anything But Merlot.

"What?" you say. "Anything but Merlot?" (Or perhaps you just said, "What the hell is Merlot? I'm outta here. Where's Liz Falk's column?")

That's right — anything but Merlot. The first thing to know when you walk into a wine store to buy wine for yourself, for a friend, for a party to which you've been invited, is this: If you want to spend less than \$20 and you want to buy something worth drinking, don't buy Merlot. Any Merlot. No matter what the salesman says. He's probably wrong.

Let me explain. Back in the 1980s, when Americans who didn't work for investment banks were starting to drink wine, they started with White Zinfandel. You remember White Zin — the misnamed wine that was actually pink and that tasted like Kool Aid, except not as complex. A wine writer once said that most Americans' first experience with White Zin was when they threw it up in their high school parking lots. I think he was right.

In the '80s, White Zin was the "starter"

wine; it was sweet, it was easy, and it didn't ask you to think about it. (Kind of like my first college girlfriend.) But then people started to want something more. They knew what Cabernet Sauvignon was and they thought it a bit too harsh, too tannic, too overpowering for people just starting to get into wine. So the wine makers had an idea: they would make a trend of Merlot.

Merlot is used, often alongside other grapes, to make some of the finest wines in the world. In France, it can constitute up to 100 percent of the finest Bordeaux. Same goes for high-end Merlots in America (although French Bordeaux that are Merlot-dominated are usually better). Merlot is a grape (just like Cabernet Sauvignon is a grape) that produces a soft, supple wine that most people would call "smooth." It lacks the hard, tannic edge of Cabernet and doesn't have the complexity and depth of a good Cab.

That, then, is why wine makers thought they were on to something. They thought that people who were just starting to drink wine — and who wanted to move beyond White Zin — would go for it. They were right. Merlot production skyrocketed in the '90s. Merlot became — and remains — the hip wine to order when you're just starting to get into wine. Plus, people who ordered it could sound like they knew something about wine, since at least they

were saying something besides Cabernet, which everyone already knew.

That was the genesis of the Merlot craze. Once they had started a trend, producers knew they could drastically overcharge for bad Merlot, and most people — because they were just starting to drink wine — wouldn't know any better. That is unfortunate, because when done right, Merlot makes a wonderful wine — and not just in Bordeaux. The problem is that to get a good one these days, you almost always have to spend upwards of \$20 or more, which most readers of this column — and most burgeoning wine drinkers — will not want to do.

So, the moral: ABM. Anything But Merlot. As you start to visit more wine shops and buy more wine — which I hope you will — don't let a salesman bamboozle you into trying a \$12 Merlot that, while it may not offend you, will certainly not please you. Spend the same amount on something different, and you'll get far more bang for the buck.

Part of the fun of getting into wine is learning how to spot the good wines before they become trends — and before they grow out of your price range. Get to the good stuff before the *Zeitgeist*-molding wine publicists do, and you'll have a tasty bargain on your hands. (Hint: The Next Big Thing in California wines is going to

be Sangiovese. Give it a year or two.)

Tasting notes:

Last time, I mentioned the Lot 23 field blend from **Marietta Cellars** and named it a consistent winner in the bargain wine category. Well, **Lot 24** has just been released and it once again meets Marietta's high standards. A bit more tart and acidic than Lot 23 — and thus slightly less accessible to folks used to Merlot — Lot 24 is still one of the best **\$10.99** wines around, and you can find plenty of it at the University Wine Shop.

A middling quaffer for the daring is the **KWV Pinotage 1998**, which sells for **\$9.99** at the University Wine Shop and should be widely available elsewhere. Pinotage, a South African grape, is a blend between Pinot Noir and Cinsault. The KWV is earthier than the Marietta — it might remind you of something from the Rhone Valley and could take a bit of getting used to. It smells of purple grapes and has a grapey, slightly cherry taste that is somewhat bitter on the finish, though not overwhelmingly so. I found it okay but, given the options, am not inclined to drink it again. Odds are, however, that it will be unlike any wine you've had before. Try it if you're in the mood to be adventuresome.

Next time: *The glory of Zin.*

Can You Spare a Razor Blade?

By Dusan Stojkovic '00

RECORD Columnist

Boys Will Be...

Lacking its highly impressive cast, "Boys Don't Cry" would have been a standard girl-meets-boy (who's biologically a girl) flick, if films tackling transsexual themes were standard in the first place.

Relating the tale of Brandon Teena/Teena Brandon (Hilary Swank), Kimberly

Peirce's direction is as sloppy and unimaginative as debut indie directors can get. Pan shots of cold exteriors and close studies of electrical power lines get old early on in this 116-minute film. The symbolism loses even its symbolic value.

The film's script, co-written by Peirce and Andy Bienen, manages to weave together elements of agony and ecstasy into an appropriately tragicomic yarn, but ultimately fails by insisting that the majority of the characters portrayed in the film be hopelessly one-dimensional.

Although an independent production, the script falls into a common Hollywood trap by truncating the real-life story for purported dramatic effect. For instance, the screen writers dramatize the way Brandon's killers discover her whereabouts at the end of the movie; according to media reports, it was the town sheriff who tipped them off.

Particularly disappointing is the oversimplified way in which Falls City, Nebraska and its inhabitants are depicted. Given that half of the family of the RECORD's own Tanya Marsh is from around there, they can't all be bigoted ignoramuses. Most of the film is set in the rural town, to which Brandon moves from Lincoln, and promptly falls for the troubled Lana (Chloë Sevigny), conveniently forgetting to mention that he is not precisely a he.

The heavy-handed direction assures that even the densest viewer can see that the romance between Brandon and Lana is ill-fated. One can almost hear the writer/director whimpering to herself, "Oh, this is all so tragic, but these people really couldn't know better; I went to U of Chicago and the film school at Columbia, and can patronize these poor redneck souls all I want." This haughty attitude robs the film of much-needed realism.

Equally aggravating is the romanticized way in which the main character's run-ins with the law are portrayed; painting Brandon as Robin Hood just doesn't cut it and sexual identity crisis is not a valid criminal defense anywhere, not even in Prof. Parkerland. A more balanced rendition of the protagonist would have made the movie much stronger, and its message

of tolerance all the more poignant.

Nevertheless, Swank salvages that message with a shockingly stellar performance that most prominently brings home the intrinsic humanity of the feelings motivating her character. The quality of Swank's acting is mainly surprising because the roles she has taken on in the past have hardly been as challenging. Prior to this, she was the lead in "The Next Karate Kid" and played Kimberly in the cinematic incarnation of "Buffy, the Vampire Slayer." And, of course, who could forget her as Carly Reynolds on the ever-inspiring TV show "Beverly Hills 90210"? Well, maybe my dad, who loved that series, still remembers that obscure character. But nobody else.

Just as unmemorable was Savigny's work as Jennie, generic teen floozie number three (the Caucasian one) in "Kids." Unlike playing Jennie, this role was hard. Just keeping the internal motivation must have been a Herculean task: "Okay, I'm in love with a guy who's got nothing more than sock in his crotch but I don't know it yet, but the love is so deep I won't care when I find out." What could have been messed up with great ease turns into a subtly forceful statement about the (probably confused) reverence of love as salvation from mundane everyday existence. Also, Lana appears topless in most of her screen time, which compellingly attests to Savigny's talent. Bonus, dude.

Of the other cast members, the most recognizable is Alicia Goranson, better known as the first (and better) Becky on "Roseanne." The much less recognizable TV-veteran Jeanetta Arnette turns in a shining performance as Lana's mom, the unwitting Iago of the impending tragedy.

"Boys Don't Cry," which includes a grungy cover version of the equinomial Cure tune on its soundtrack, certainly breaks new ground by virtue of the emotional landscape it explores and is well worth seeing for that reason alone. But the novelty of theme and approach cannot cosmetically mask the film's shortcomings. "Boys Don't Cry" is currently showing at the Kendall, at 2:15 p.m., 4:45 p.m., 7:20 p.m. and 9:55 p.m. It is also playing at the Nickelodeon, at 1:30 p.m., 4:30 p.m., 7:15 p.m. and 9:40 p.m.



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