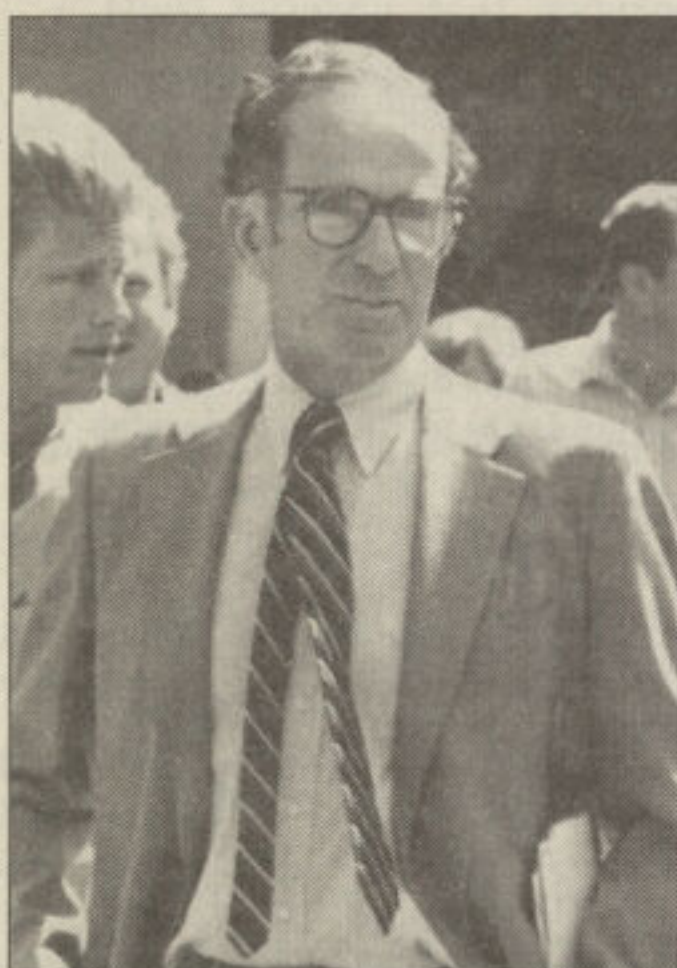




Former Dean Vorenberg '51 dies at age 72

by Justin Cooper

Roscoe Pound Prof. of Law James Vorenberg '51 passed away on Wednesday at 4 p.m. He had taught his last class, Legal Profession, on Monday morning. On Monday afternoon, Vorenberg suffered a heart attack and was admitted to Massachusetts General Hospital.

"He was my mentor and my hero," said Prof. Charles Ogletree '78, who described Vorenberg's passing as "a loss of a legend in terms of legal professionalism, clinical education and public interest law. He will be in my prayers and thoughts."

Professors uniformly expressed their extremely high regard for Vorenberg as a colleague, as a friend, and as a great contributor to HLS. "He was a caring friend and a person with a great deal of patience," said Prof. Bernard Wolfman, who has counted Vorenberg as a friend for over 35 years. "His devotion to the law school was constant and remarkable. No one had greater devotion."

Vorenberg was dean of the law school from 1981 to 1989, when current Dean Robert Clark '72 took the helm. During that time, he impressed many people with his integrity and his commitment to excellence. "He was determined that the world and the students would find

excellence at his law school," said Wolfman.

Prof. Frank Michelman '60 also noted Vorenberg's commitment to excellence in anything and everything he undertook. "He took on a task and he gave it his absolute best. He gave every last ounce to everything he did," said Michelman. When asked to describe Vorenberg as a person, Michelman said he thought of "loyalty and devotion, along with integrity and gameness—an awkward word, but the English language has it, and it seems invented for James Vorenberg."

Please see *DEAN*, p. 10

Auction 2000 breaks fund-raising records

By RECORD Staff

Maybe it was the salary bump. Last Thursday's Public Interest Auction, a tradition at the Law School since 1993, raised a record-shattering \$108,000 to support students who work in the public interest sector during the summer.

Featuring a rock band, an *a cappella* performance by the Scales of Justice, and video clips starring the Rev. Al Sharpton, the auction was a multimedia event. And in a delayed climax to the evening, auction organizers announced this week that this year's haul almost doubled last year's \$65,000. The final tally includes money raised through both the silent and live auctions, as well as more than \$50,000 in corporate sponsorships.

The live portion of the auction, one of the most well-attended events of the academic year, raised more than \$30,000, according to RECORD estimates. Items that attracted outrageous bids included a lunch for four in the company of Al Sharpton, Ed Koch and Prof. Charles Ogletree '78. To stir up interest among bidders, Ogletree described the lunch as "an afternoon with America's most controversial figures, and America's greatest moderator." The lunch sold for \$1,400. A fly-fishing trip to Montana inspired surprisingly heated bidding, sending the price spiraling to \$2,400. An all-inclu-

Please see *AUCTION*, p. 8

Grade reform plans throw profs a curve ball

by Justin Herdman

Future entering classes at HLS may no longer be greeted with the maxim, "Oh, don't bother reading, everyone gets B's anyway." Instead, they may be told to expect a Pass.

The Strategic Planning Process of Dean Clark '72 has come up with two different solutions to student demands for grade reform. And while the plans are similar in several aspects, they differ in how radically to alter the current eight-steps of grade classifications.

The Steering Committee, chaired by Prof. Dan Meltzer '75, has received the two different proposals, which were written by two different strategic planning committees, to change the current grading system. The Steering Committee is in the process of writing a memo comparing and contrasting the two proposals and explaining the rationales behind each plan. This memo will then be presented to the entire faculty for consideration.

While Meltzer said that a faculty vote on grade reform will probably not be held this month, the faculty will begin to assess the options presented in the two plans. "The purpose of vetting this to the faculty is to see if people have reactions or ideas that we haven't thought of," said Meltzer.

The finalized grade reform proposal will be a product of faculty reaction to the two proposals. Meltzer explained, "We couldn't just go ahead and make a decision on [grade reform], as part of it depends on the faculty discussion."

The Academic Development Committee, chaired by J.D. Dean Todd Rakoff '75, has set forth a plan that would institute a mandatory curve among five grading classifications. The current system has eight different gradations.

Under Rakoff's proposed grading system, almost three-quarters of students would receive grades of A-, B+, and B, to be re-named Honors, Honors/Pass, and Pass, respectively. The current grades of A+ and A would be collapsed into one grade, High Honors, to be given out to 16% of students. Less than 10-percent of students would be given a grade corresponding to B- through D, all of which would be known as Low Pass. Failing grades would still exist, but would be used only when necessary.

The Institutional Life Committee, chaired by Prof. Elizabeth Warren, has proposed a three tier grading system. Abolishing the current grade distinctions, Warren's plan instead groups student performance into High Honors (which 20-percent of students will receive), Honors (70-percent), and Pass (10-percent). Again, failing grades would be given only when necessary, and would not be part of the curve.

Meltzer also explained the decision to assign the issue of grade reform to two different committees. "We have two different committees working on the proposals because they come at it from slightly different angles," Meltzer said.

Last spring's survey by McKinsey &

Proposals at a glance

Academic Development Committee

High Honors (A+/A) 16%
Honors (A-) 22%
Honors/Pass (B+) 32%
Pass (B) 22%
Low Pass (B-, C, D) 8%

Institutional Life Committee

High Honors 20%
Honors 70%
Pass 10%

Co. revealed a high level of student concern with the current system. For that reason, the Institutional Life Committee felt obliged to address the issue. "We had a sense from the beginning that grading is an important part of institutional life," Warren said, "And our grading proposals will help define the atmosphere of institutional life at HLS."

The existence of two separate grading proposals, which have emerged from two separate strategic planning committees, is somewhat unusual. "We've tried in general to have issues pursued by a single committee," Meltzer said.

And Meltzer said that both committees approached the issue of grade reform from "quite different perspectives." Therefore, Meltzer felt that "the appropriate thing to do was to give the faculty the benefit of both points of

Please see *GRADES*, p. 11

NEWS ANALYSIS: SUPREME COURT UPDATE

Justices to decide fate of Miranda warnings

HLS profs sound off on future of decision

by Francesco R. Barbera

The Supreme Court will hear a case next week that threatens the viability of the Warren Court's landmark decision in *Miranda v. Arizona*. The case, easily among the most controversial of the Term, has the nation's eyes trained on the justices as they consider whether a federal law passed in 1968 effectively overturned the now-famous *Miranda* warnings.

The fractious dispute comes from the Fourth Circuit, which revived the obscure federal statute to hold that a defendant's voluntary

confession is admissible at trial even though it was obtained in violation of *Miranda*. The law, 18 U.S.C. § 3501, passed just two years after Chief Justice Earl Warren's opinion, mandates that confessions are admissible so long as they are "voluntary." The law does not require officers to issue *Miranda* warnings before interrogations, but says that the warnings are factors for a court to consider in determining whether a defendant's statement was made voluntarily.

Despite its passage over thirty years ago, the law has never been enforced. A Justice Department report prepared in 1986 characterized it as "abortive," and in 1997 Attorney General Janet Reno '63 informed Congress that she would

refuse to defend the statute in court.

But in recent years conservative groups have become more insistent in calling for the abolition of *Miranda* and a reawakening of the dormant statute. When federal prosecutors refused to invoke § 3501 in a 1997 appeal to the Fourth Circuit, Republican senators filed an amicus brief urging the court to consider the statute in its holding. A few months later, in a separate case, the Safe Streets Coalition joined the Washington Legal Foundation as amici, again calling upon the Fourth Circuit to revive the statute.

In February 1999, the Fourth Circuit finally obliged, holding in *United States v. Dickerson* — the

Please see *COURT*, p. 3

Go West, Young Man



Photo by Murad Kalam

Profs. Cornel West and Henry Louis Gates Jr. skeptically field a question at the HLS Black Law Students Association's annual symposium last weekend.

• Briefs •

Teen students argue cases in Ames

Local middle school students argued legal cases this week before a moot court composed of Harvard Law School professors as part of HLS' Kids in the Court Program. The program involves more than 150 students at three Cambridge schools and one Malden school. The students represented fictional plaintiffs who have been disciplined for giving inappropriate speeches and breaking other school rules.

To help introduce students to the legal system, teams of four to six HLS students have been vis-

iting the schools on a weekly basis. The 50 participating law students then assigned each participant a role in the trial and helped them prepare opening and closing statements and questions for witnesses. The seven-week program culminated in mock trials, which took place at Harvard Law School's Ames Courtroom April 10 and 11.

"I've been stunned at how excited the kids are about the program," said Maria Sanders '01, a Kids in the Court coordinator. "It's truly a blast to work with them."

Thief slips away with gym weight

The newly renovated Hemenway Gym recently experienced a weight heist. While full details were not forthcoming, some lighter dumbbells have been reported missing from the downstairs equipment area.

The recent thefts come in the wake of Hemenway's re-opening last week, when \$100,000 worth of new equipment was unveiled. To combat the exodus of equipment, desk monitors were asked to check people's bags as they left the gym. Even this gap-stopping measure may not continue, however, as LSC was

recently informed that this practice must stop.

In order to insure the safety of the equipment, a recent email from LSC requested that the community police itself. Students using the gym have been asked to watch their fellow weight-lifters and keep them from taking the weights out of the work-out area. Herschel Hamner '01 was involved in acquiring the equipment. "We are encouraging students to keep an eye out to make sure that no weights leave the weight room to prevent theft," Hamner said.

• In Memorium •

Reel '31, defended WWII general

Adolph Frank Reel '31, who served as a government-appointed defense counsel in a crucial Japanese war-crimes trial after World War II, died last week. He later denounced the proceedings as a sham.

Reel, a former labor lawyer in Boston, was assigned to defend Gen. Tomoyuki Yamashita, the conqueror of Malaya and the Philippines and wartime commander in Manila. General Yamashita was tried in Manila in October before a military commission of five generals, none of whom were trained in the law. He was found guilty of failing to prevent atrocities

committed by troops under his command and hanged.

A captain in the Army's Claims Division in the Pacific, Reel was assigned to the general's defense. He recounted his experience in the 1949 book "The Case of General Yamashita."

In the book, Reel said the general had no connection with the specified atrocities, committed mostly by Japanese naval troops whose commander ignored General Yamashita's orders. Later, Reel and an ABC documentary in 1974 asserted that General MacArthur had scripted the trial, including the verdict.

Lester '48, Superior Court judge

Sherwin D. Lester '48, a retired judge and former prosecutor, died Saturday. He was 73.

Lester served 14 years as a Superior Court judge in the New Jersey counties of Bergen and Passaic.

Lester was born in Jersey City and graduated from Lincoln High School in 1942. He received his undergraduate degree in civil engineering in 1945 from Cornell University before graduating from HLS.

Conway '53, Republican activist

Frank H. Conway '53, a Wellesley lawyer and co-chairman of the Reagan-Bush campaigns in Massachusetts in 1980 and 1984, died Wednesday in Needham at the age of 86.

Conway worked with New England Telephone and Telegraph before joining the Army during World War II. After returning, he held numerous management posts with Nynex. After retiring, he practiced law in Boston and was later associated with the firm of Locke Fullerton & Lundwall in

Wellesley.

Conway was appointed by President Ronald Reagan to head the state's Federal Advisory Committee, Republican committee that recommends people for presidential appointments, during the early 1980s. He later served as a commissioner on the Foreign Claims Settlement Commission in Washington.

He was a delegate to the Republican national conventions in 1976, 1980, 1984 and 1988.

Biotech course to educate students

by Phil Barengolts

While many law students tend to shy away from science, 50 members of the Law School community will soon be getting a crash course in all things bio-tech. The Ethics, Law, and Biotechnology (E.LaB) group is offering a short mini-course in order to learn more about the burgeoning field of bioscience. The course will cover topics ranging from basic biology to cutting edge techniques in gene therapy and drug discovery.

David Winickoff '02, the founder of E.LaB, is not unfamiliar with the sciences. Winickoff studied the History of Science at Yale University. In conjunction with the Berkman Center, he hopes to educate ethicists, lawmakers, and business leaders about the science underlying biotechnology. "It is part of E.LaB's mission to bring scientists, lawyers, politicians, and ethicists into closer contact," said Winickoff.

In order to provide students with the most current information, E.LaB has assembled a team of instructors from Harvard Medical School, including Kim Seth, a Ph.D. candidate in neuroscience and Carlo Rizzuto, a post-doctoral research fellow who already has a Ph.D. in virology.

The potential for economic growth in the biotech industry will no doubt result in a demand for lawyers conversant in science.

"We're aiming to remove some of the mystery from biotechnology. Many of the issues being debated in the public arena require at least a basic understanding of the science and technologies that underlie them," explained Seth.

HLS students are attending the course in anticipation of future careers in patent law, or are simply preparing to work with companies that have biotechnology as a component of their affairs. Although science is playing an increasing role in the business world, the Law School does not offer courses to educate students about these developments.

Charles Haisch '01, who will be attending the E.LaB seminar, added that such courses may be beneficial for law students. "I think that mini-courses like that presented by the E.LaB may provide the best opportunity for law students to enjoy at least a basic understanding of the principles of biotechnology, ... empowering us to learn the details in whatever specific areas we find ourselves involved in the future," said Haisch.

Not all students will be attending the course with an eye towards working in patent law. "I am just interested in getting some basic ideas of biotechnology, which might be helpful in reading magazines or newspapers," explains Samantha Lee LL.M. '00.

Committee asks, 'Where's the beef?'

by Justin Cooper

If Prof. Frank Sander '52 has his way, law students with complaints will no longer need to submit letters to the RECORD. Instead, they will forward their beefs to the Student Concerns Committee.

Associate Dean Frank Sander '52, who chairs the Student Concerns Committee, compares the functioning of his committee to the "question period" in the British House of Commons. "There's no fixed agenda," said Sander, "We go around the room and anyone raises questions or concerns."

The committee addresses diverse issues that relate to everything from the dormitories and Hemenway gym to library hours and registration. Anything that is of concern to students may be discussed if it is brought up by one of the committee members.

According to Sander, most of the Committee's issues are "things that are not on Dean Clark's [72] plate." While Clark tends to address large, strategic issues at the law school, the Student Concerns Committee focuses on everyday problems. "If people have some gripe, it gets responded to," said Sander.

The Student Concerns Committee is made up of Sander, Administrative Dean Sandra Coleman, Associate Librarian for Research Services Paul George, Registrar Steve Kane, Director of Building Operations John Sarno, and HLS students Manoj Mate '00, Frank Rossi '01, and Justin Rhoades '00. Next year, Mate's seat on the committee will be filled by Law School Council Student Advocate Mike French '02.

Mate said that the committee has been effective in coming up with solutions to students' issues this year, citing the installation of additional dryers in Gropius and the implementation of on-line registration as two positive developments that spun out of discussions in the Student Concerns Committee.

Nonetheless, Mate said that the student body has not made as much use of the Student Concerns Committee as they might have. Relatively few students have contacted the committee to have issues addressed.

Mate suggested that a formal link between students and the committee, beyond the appointment of student representatives, might help make student voices heard. He mentioned the possibility that student comments to the "Sound-Off Board" in the Harkness Commons could be

used to direct the agenda of the Committee. "I think that would really work well," said Mate, "if students knew that what was on the Sound-Off Board drove the agenda."

Sander also expressed a desire to see student opinions represented in the committee's meetings. He said that students should feel free to contact their student representatives or to e-mail them directly if issues arise that the committee should address. He added, however, that the lunchtime meetings are not completely open, nor are they publicized in the Adviser, because "it would make the whole thing more cumbersome if 20 people showed up." Sander explained, "It's better to funnel concerns through the LSC or through me."

The Student Concerns Committee came into existence four years ago, when the HLS Library was being renovated. The committee was created, with then-Associate Dean Todd Rakoff '75 as its chair, in order to serve as a troubleshooting mechanism. It was designed both to anticipate and to respond to any problems that might result from closing the library and setting up a temporary library in the Ropes-Gray room.

Sander said that he thought the committee was very effective during the Langdell renovation period.

Rakoff agreed. "Inevitably some of the problems were not related to Langdell, but it turned out to be a good way to get things done quickly," Rakoff said. When the Langdell renovations were completed, the committee was left in place.

As the newly-appointed J.D. Dean, Rakoff may take over next year for Sander, who is stepping down as chair of the Student Concerns Committee.

Rakoff said that he thinks the committee can be used to handle problems efficiently, and that when this happens, it can give students confidence that the administration is responsive to their needs. "The school often appears to students as rigid, and part of that is legitimate," said Rakoff. "We are a school that has standards and that believes in standards. The illegitimate part is where you go to one office with a problem and they send you to another office and so on." Rakoff said that the committee can help to limit such a bureaucratic run-around.

The Student Concerns Committee does not have a specific agenda for next year, but Sander expressed hope that it would "continue in its low-key, hopefully helpful, way."

Klein '71 discusses DOJ victory in Microsoft antitrust lawsuit

by RECORD staff

Joel Klein '71, the anti-trust lawyer who brought the mighty Bill Gates to his knees, regaled students with a first-person account of the government's landmark victory in a speech organized by the Harvard Law School Forum. Klein, the Assistant Attorney General in charge of the Justice Department's Antitrust Division, has been the focus of intense media scrutiny in recent months. As the head attorney in the Justice Department's crusade against Microsoft, Klein's name is no longer mentioned by only legal scholars.

Professor Kip Viscusi introduced Klein by quipping that when the Department of Justice first brought suit against the software giant, the question looming ominously before the public was, "Could anyone take on Bill Gates?" Klein clarified the answer last month, when Judge Thomas Penfield Jackson '64 held that Microsoft had violated the nation's anti-trust laws.

"I don't want to come up here and be a naysayer," Klein said, suggesting that the capitalist economic model is unquestionably dominant in today's world, and that "the U.S. economy is the envy of the world."

But Klein said he was concerned about another postulate which often accompanies capitalist rhetoric, namely "that government should get out of the way, and things will get better and better," he said, adding, "The success of the free market depends on markets remaining competitive."

"Business today has every incentive to collude, not compete. If government steps aside, that's what will happen," Klein warned. That "concern is at the heart of antitrust."

Klein was critical of scholars who advocate abolition of the antitrust laws, the result of which would be "to increase the profit of business at the expense of consumers."

Klein spoke of a major case several years ago in which the government cracked a commodities cartel which fixed prices for food additives. The government clandestinely taped some of the cartel meetings, and obtained

other evidence that resulted in the incarceration of several senior executives.

"We've cracked several other major cartels," Klein said. "The antitrust division had a \$100 million budget last year, and brought in \$1.2 billion in fines."

Klein also took aim at columnists who find fault with government prosecution of antitrust violations, including one who claimed that "price fixing was not a big deal."

"I agree that cartel behavior is between consenting adults," Klein explained. "The people being screwed are the public." "Cartels are very enduring. One we cracked last year was 17 years old," he said.

Klein explained that cartels are anathema to good business practices, claiming that the motto of one company was "our competitors are our friends, our customers are our enemies." Klein explained that the price-fixing meetings are accompanied by dummy agendas and other documentation designed to mask their true purpose.

Klein showed the audience portions of a video which showed members of a commodities cartel caught in the act of price fixing. "It's remarkable in terms of the brazenness and sophistication of these participants," Klein commented.

Some of the cartel's tactics to avoid detection included referring to themselves as a trade association and staggering the entry of cartel members into the meeting.

In the video, the official of a colluding company, located in Japan, expressed concern at coming to the United States for a price-fixing meeting. "These people know the U.S. is aggressive," he said. "They don't want to come to the U.S., they know the penalties are severe." Nonetheless, the cartel met in Hawaii in 1994, under the guise of setting up a new association. The video showed executives debating the new level at which to fix their prices.

"What I want to emphasize is that what you were watching took place by people who knew their behavior was illegal and were facing big penalties,"

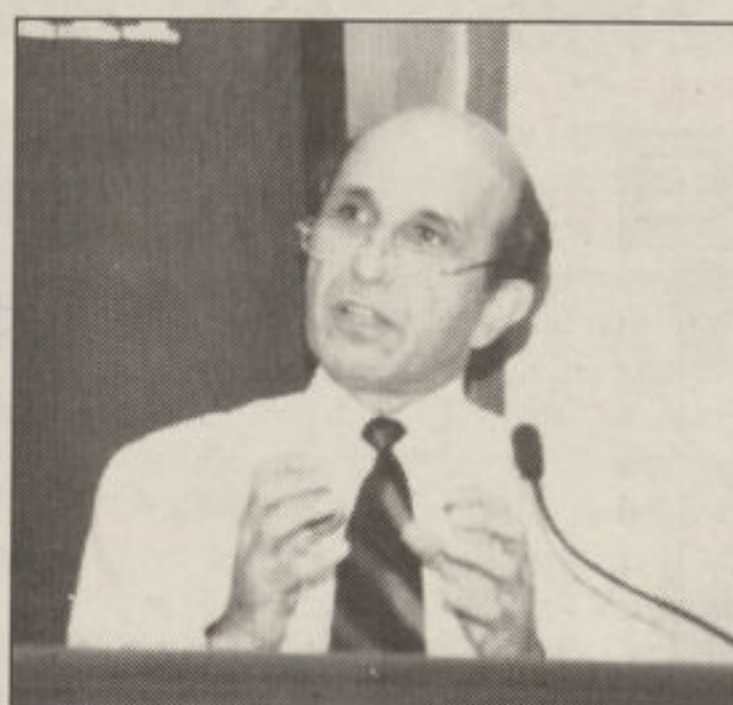


Photo by Murad Kalam

Joel Klein '71 regales HLS students at his Forum speech.

Klein said.

Klein began his discussion of the Microsoft case by noting that market share is a highly-prized commodity in the new economy. "Dominance can be leveraged into adjacent markets," Klein said. "Market power, how it is acquired and abused, is at the heart of the competitive economy."

Klein applauded the adaptability of antitrust theory, and its ready application to the facts of current economy: "The [Microsoft] court heard all about market power, with 78 days of testimony and thousands of pages of depositions."

"The Microsoft monopoly is based on 90% market share," Klein said. "New entrants face substantial barriers because of network effects and feedback loops."

Klein said that Gates knew that "Netscape was trying to develop a cross-platform. Gates says, 'Our core asset is at stake.'"

Klein described Microsoft's browser-related practices as "classic predatory antitrust acts." The tactics allegedly included "exclusive dealings, predatory pricing and operations to protect the monopoly."

Klein noted that, at one point, Microsoft had "put the word out" among its distribution channels not to load one of Intel's products. "This is straightforward intimidation," Klein said. "Browser share was No. 1 at

Microsoft, a no revenue product. Why was it No. 1? Why spend all that money to develop it?" he asked. "Because they knew if the browser market took hold, it would be a platform to commodify Windows."

Klein said such practices cause serious harm by deterring innovation. "Companies won't take the risk of what happened to Netscape," he explained.

"The argument in the press that technical issues move so fast misses the point," Klein said. "The important point is Microsoft's dominance on the desktop is every bit as real today as it was five years ago."

"If Microsoft is allowed to continue the same tactics, for example, in voice recognition, innovation will be stifled," Klein said.

"This case is not over. Microsoft said they intend to appeal," Klein said. "I look forward to expeditious resolution at the appellate level."

Klein ended his talk by tying his work to broader issues of justice and social welfare. "What concerns me is the current preoccupation with wealth creation," he said. "Wealth creation is important for societal goals, but I'm worried." Klein said "The most troubling thing is that despite the enormous wealth creation, the gap between the haves and the have-nots is growing," he said. "We don't seem terribly concerned, and are not prepared to address it. But if we are not prepared to address it now, when will we be?"

"If our culture becomes so awash in wealth, we will end up being poor in the things that matter most," he said.

After graduating from Harvard Law School in 1971, Klein clerked on the D.C. Circuit and for Justice Powell on the U.S. Supreme Court. After the clerkship, he worked at a public interest law firm where he litigated a number of notable law reform cases on behalf of the mentally ill and mentally challenged. Mr. Klein then served as an associate and partner at a litigation boutique, and subsequently co-founded a law firm specializing in appellate advocacy.

Prior to assuming his current post, Klein acted as Deputy Counsel to President Bill Clinton.

COURT

Continued from page 1

case now before the Court — that Congress had the authority to supplant the "prophylactic" rules announced in *Miranda* in favor of the "voluntary" standard of § 3501. The issue arose when a trial court judge, presiding over a federal bank robbery prosecution, suppressed a defendant's statement which, though voluntary under the Due Process Clause, was nevertheless obtained in violation of *Miranda*. The defendant in the case, Charles T. Dickerson, had confessed to participating in several robberies, but the trial court found that police officers had failed to issue the *Miranda* warnings prior to the interrogation. In their brief to the trial court arguing for a rehearing, prosecutors actually invoked § 3501. But in their subsequent appeal to the Fourth Circuit, Justice officials intervened and ordered them to abandon the § 3501 argument altogether.

In her opinion for the circuit court, Judge Karen Johnson Williams chastised the D.O.J. for "elevating politics over law" in its refusal to enforce the statute. "Fortunately, we are a court of law and not politics," Williams wrote, defending the court's decision to raise the issue on its own initiative. "Thus, the Department of Justice cannot prevent us from deciding this case under the governing law simply by refusing to argue it."

After concluding that the issue was "properly before the panel," the court proceeded to consider whether Congress had the authority to supercede *Miranda* in passing the statute. In its analysis, the court drew a distinction

between Supreme Court decisions "construing the Constitution" — which Congress may not supercede — and decisions creating "procedural rules not required by the Constitution." Noting that Congress can legitimately overrule the latter, the court examined the *Miranda* decision and its progeny, concluding finally that "just as the [Supreme] Court was free to create an irrebuttable presumption that statements obtained without certain procedural safeguards are involuntary, Congress was free to overrule that judicially created rule."

"No longer will criminals who have voluntarily confessed their crimes be released on mere technicalities," Judge Williams said.

The heated debate surrounding the ruling has resulted in a number of amicus briefs filed with the Court, most of which argue in favor of affirming *Miranda*. Most prominently, the Department of Justice, in keeping with its long-standing policy, filed a brief urging the justices to overrule the Fourth Circuit. The brief argues that the *Miranda* warnings are grounded in the Constitution and cannot be overruled by Congressional legislation.

Commentators have noted that, until this case arose, most law enforcement agencies had grown largely accustomed to *Miranda*. "I've been speaking to police groups for a long time and I know of no reason to believe that there is any groundswell of opposition to *Miranda* among the police," said Prof. William Stuntz, who lectures frequently at the F.B.I. Academy in Virginia. "Police find *Miranda* easy to live with; and they find it's still easy to get confessions."

Prof. Philip Heymann '60, a former deputy attorney general under Ms. Reno, said, "I

think the Court will sustain *Miranda*, first, because it would be embarrassing to overrule it and, second, because law enforcement people want it. Law enforcement is generally supportive of *Miranda*."

Notwithstanding the general support, a coalition of law enforcement organizations filed a brief supporting neither party in the case, but urging the Court to affirm the holding that the *Miranda* rule is not required by the Constitution. While affirming that "law enforcement officers and officials have well-assimilated the *Miranda* rules into their policies and procedures," the brief supports § 3501 as a "sophisticated, well-thought-out approach" that will encourage experimentation and "exclusionary rule reform" in multiple areas of constitutional law, notably the Fourth Amendment.

As oral arguments in the case approach, the Fourth Circuit's interpretation of *Miranda* has come under increasing, and often harsh, scrutiny. "The Fourth Circuit's decision is somewhere between wrong and ridiculous," Stuntz said. "I think there are serious arguments for doing away with *Miranda* — that's not an easy call. But I don't think there's a serious argument for the conclusion that *Miranda* and § 3501 are both good law."

In his landmark 1966 decision, Chief Justice Earl Warren stated numerous times that some form of procedural safeguards are necessary to preserve the Fifth Amendment's privilege against self-incrimination in custodial interrogations. Early in the decision, Warren summed up its holding by stating simply that "the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of

the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination."

Although Warren encouraged Congress and the states to experiment with other methods of preserving Fifth Amendment rights, he stated "unless we are shown other procedures which are at least as effective in apprising accused persons of their right of silence and in assuring a continuous opportunity to exercise it, the... safeguards [announced in this decision] must be observed."

"The Supreme Court does say that the Fifth Amendment protections can be varied, that the precise protections are not required," Stuntz said. "But though *Miranda* does not state a constitutional rule, it does define a constitutionally-required level of protection. Section 3501 undoes *Miranda* and puts nothing in its place."

In characterizing the *Miranda* rule as a "prophylactic," the Fourth Circuit relied not only Warren's invitation to Congress and the states, but on subsequent Court decisions which carve exceptions out of *Miranda* or limit its reach in criminal proceedings. In those decisions, the Court has referred to the warnings as "procedural safeguards" and as "not required by the Constitution."

But according to Heymann, those precedents were not intended to undermine *Miranda*'s central holding. "The exceptions to *Miranda* have made the rule more liveable for law enforcement," he said. "The characterizations of the rule were intended to give the justices room to play with *Miranda*. I don't think they were fishing for § 3501."

Oral arguments in the case will be held on April 19.

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FOUNDED IN 1946

Spring Cleaning

This issue marks the RECORD's penultimate appearance for the academic year. And while the exam period is still far enough away to stifle grade anxiety, we felt it appropriate to issue the year-end evaluations of campus notables at this early date. In the spirit of grade reform, we have reverted to a five-tier system. Under no circumstances, however, should the adoption of this variation be viewed as passing judgment on either of the two proposals currently under consideration (we'll save that for next week).

U.S. News & World Report: Your rankings fit the small fries like a glove. Come on, let's add some legit criteria like course selection. Oh, yeah, and considering student satisfaction might not be a bad idea, either. **Low Pass**

Law Student Council: We've sensed a second wind. While you guys kept a low-profile at the beginning of the year, the LSC's work with Strategic Planning has begun to bear some juicy fruit. Frenchie and Hamnertime made the Gym a place to be seen, and here's to Ashley for keepin' it real. **High Honors**

Strategic Planning Process: The "process" is just what you'd expect from lawyers. Memos here, reports there, proposals forwarded all over the campus. But in the midst of all this red tape, we see hope for substantive change. Let's just make sure this doesn't dissipate into another fundraising ploy. **Honors**

Calendar Committee: Exams after the Christmas break? Come on!!! It's great for 1L boot camp, but no way will second- and third-year students swallow this bitter pill. And here's a news flash — winter term is the greatest invention since flyout week. **Low Pass**

SPIN: What the hell happened to you guys? First semester, we couldn't get enough of your LIPP, and now we may be forced to write "While Dave Markus Slept." LIPP-Fest has the potential to be more than just Woodstock in pinstripe suits, so the verdict's still out. **Pass**

The Faculty: Reform is now an injured robin in the palm of your meaty hand. Don't squeeze too hard, we beg. Consider the Strategic Planning Process your third-year paper, and the RECORD as your advisor — and we ain't no Dick Parker. Our expectation: a masterpiece. **Incomplete**

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—First Amendment, U.S. Constitution

• Letters •

Sturdy tradition of pioneering social justice

Dropping to number three in U.S. News does not bother me very much, and very few members of the HLS community care to bestow much weight on the survey. But it does seem to be yet another sign that Harvard's reputation is indeed slipping. Our footing in technology law was knocked off balance by the loss of Prof. Lawrence Lessig. No leading environmental professors have been attracted to our institution. Perhaps most striking, admitted students visit campus with a critical eye — the word is out that HLS has problems, but the word is not out that HLS remains the premier law school in the country. Enhancing the image of HLS requires the active leadership of the administration, and we are thus in need of a plan of action led by Dean Clark.

Sensing that his ship had leaks, Dean Clark last year spent what would have been nearly enough money to endow a new faculty chair on an expert, independent analysis from McKinsey. The results confirmed his hypothesis and, to put it mildly, we are lucky that student satisfaction is not among the categories considered by U.S. News. McKinsey found that on a scale of one to seven, overall student satisfaction with

the institution is a mediocre 4.7. Intellectual life garnered a neutral 4.3, and the students' overall feeling that their self-worth had improved scored a sub-par 3.5. These scores are fair indicators that at HLS exceptional minds are not being fully engaged.

What can be done? The McKinsey survey compiled a list of the students' main concerns, many of which were repeated in the LSC's Student Bill of Expectations. In keeping with the administration's low scores on responsiveness, however, the most critical issues (such as class size) remain untouched. Revamping Hemenway is a good start, but stairmasters alone will restore neither Harvard's reputation nor students' sense of possibility.

Dean Clark's consistent, predictable response to these concerns is cash: "Once we get going on fundraising, in a big way, there's no other school that can keep up," he is quoted as saying in last week's RECORD. [April 7 issue] Thus, rather than focus on the way HLS was packaged to admitted students, for example, Dean Clark instead let alumni receptions occur at Hale & Dorr, a leading firm contributor to the school. Decisions like these have enabled our

Dean to become a very able fundraiser, but raising funds is not his only job. HLS presently needs a Dean with vision. Perhaps it is time, as Dean Clark suggests, to "spend our rivals into dissolution" by restoring the prestige of HLS.

The prevailing perceptions are that Yale graduates philosophers and Stanford Silicon Valley lawyers (particularly now that they have Lessig). What is the sound bite on HLS? What is at our core? Catalyst offers one suggestion: Harvard Law School has a fantastic tradition of producing pioneers of social justice. Our faculty and alumni ranks are stocked with impressive individuals like Charles Hamilton Houston, Louis Brandeis, Archibald Cox and Oliver Wendell Holmes. Our size, and the breadth of courses and activities that it supports, makes HLS a fertile ground for entrepreneurial lawyers finding creative solutions to injustice. In a speech in Rome, Dean Clark recognized this tradition when he told the Pope that HLS seeks to "promote the common good and bring justice to all persons." Why not, Dean Clark, nurture this tradition? Why not let it be known?

Andrew Michaelson '02
Catalyst
April 10, 2000

• Editor's Note •

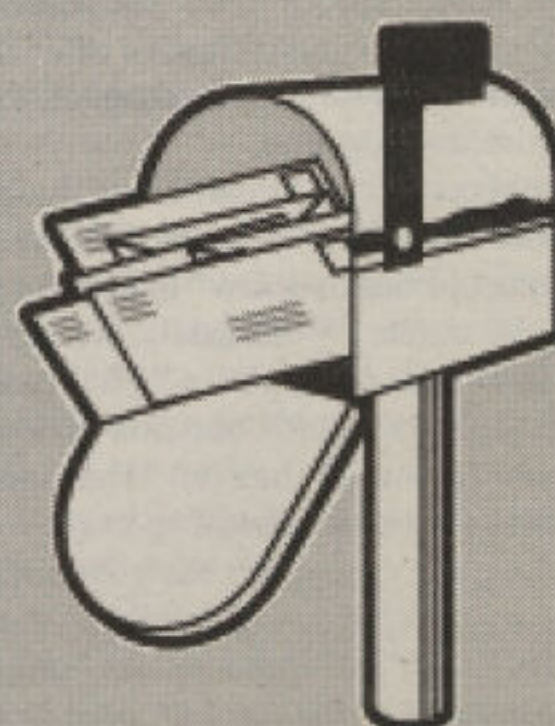
In last week's issue, Jordan Malz '00 stated in a letter to the editor ["Rose misrepresents letter, chills free speech"] that Jon Rose '00 had written the headline "Shame on Jordan Malz and Censorship." [March 17] The RECORD had mistakenly informed Malz that Rose had personally written the headline, but, in fact, it was an edited version of the op-ed's opening line.

**Something on your mind?
Write us a letter!**

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PERSPECTIVE

By Jay Munir '01, LSC President

Work yet to be done in strategic planning

One hears the phrase "strategic planning" with regularity at HLS these days. Administrators and faculty use the words when opening town hall meetings with students, candidates for the Law School Council (LSC) feature them prominently on campaign flyers, and six student-faculty committees labor on in the name of a process meant to improve an already first-rate school. What isn't often clear to students, however, is how the strategic planning process began and where it is going.

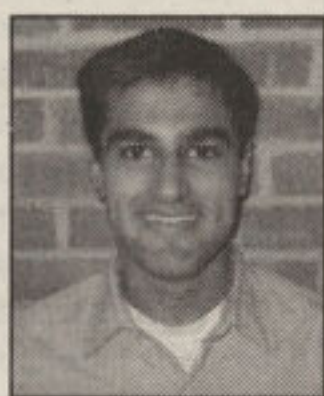
As the school year draws to a close, a process that has consumed much of the past two years moves toward a conclusion, as well. Unfortunately, in my conversations with students, few are aware that proposals that may significantly affect the way students at HLS are educated in the 21st century are now being readied for faculty vote by these strategic planning committees.

The strategic planning process has its roots in student demands for reform. In the fall of 1998, the LSC Academic Affairs Committee, concerned with persistent student concerns about quality of life at HLS, called a town hall meeting with students, faculty, and administrators to gather student input on issues ranging from class size to faculty diversity to the grading process. The LSC collected surveys to gauge student opinion on the challenges facing the school. The results were striking. Students ranked the need for additional smaller classes, a stronger advising system, exam feedback, and grade reform as priorities for change. Hemenway improvement, LIPP reform, and diversity issues were important student concerns, as well.

Armed with this information, the LSC drafted and passed its Community 2000 Academic Reform Proposal. Community 2000 was the most ambitious agenda for academic improvement HLS had seen for some time. The document laid out proposals to make large 1L courses more personal, improve the quality of exam preparation and feedback, and create a new faculty advising process. In addition, Community 2000 included a diversity resolution to refocus HLS on celebrating our community's diversity and creating a more unified school.

Around the same time Community 2000 was presented to Dean Clark and the standing faculty committees, HLS announced it had hired McKinsey consultants to survey student opinion on how to proceed with a strategic planning process that would direct the law school into the next century. After months of student focus groups and scientific study, the McKinsey findings were compiled into a report reaffirming student dissatisfaction with key components of their educational experience. While students affirmed their faith in our institution by declaring they would still come to HLS if they were to make the choice again, class size, advising, diversity issues, facilities improvement, and the grading system were persistent areas of concern for many students.

This year, the professors and administrators driving the strategic planning process have worked hard to ensure that student opinion is represented as the process moves forward.



For example, the student-faculty strategic planning committees have joined with the LSC to sponsor town hall meetings that have addressed topics like grade reform and class size. In September, the Dean wrote a memorandum to the student body informing us of the process' progress. The administration is to be commended for its strong support of strategic planning, and Dean Clark has publicly expressed his desire that the process come to a successful conclusion this year.

Student organizations have also jumped in the fray. SPIN and Catalyst have mounted effective drives to mobilize student opinion and raise awareness to support LIPP and grade reform, respectively. The LSC, which appointed all the student representatives to the strategic planning committees after soliciting applications from the student body, has worked closely with the committees and offered our advice where necessary. The LSC Academic Affairs Committee has periodically placed updates on the process in Hark boxes.

Now, after months of talking, surveying, and thinking, the strategic planning process moves towards a conclusion and significant proposals are being readied in committees for final faculty votes. The proposals being considered include changing the size of 1L classes, enhancing support for LIPP and financial aid, altering the academic calendar, changing the grading system, modifying the 3L paper requirement, adding a pro bono requirement, and reforming the 1L curriculum.

In the final stages of the process, the LSC remains committed to ensuring that student opinion influences

the ultimate product of strategic planning. In March, hundreds of students signed the Student Bill of Expectations, which called for better exam "feedforward" and feedback, additional smaller classes, stronger advising, and grade reform. We are presenting the contents of the Bill of Expectations to Dean Clark, individual faculty members, and committees. In the next two weeks, LSC Vice-President Justin Cooper is calling all student members of strategic planning committees before the Council to report on their committees' progress, and inviting them to hear input from LSC representatives.

More can be done. Students can become directly involved in the process. Speak with your favorite professors and weigh in on the debate. Become involved in the efforts of student groups like SPIN and Catalyst. Talk to your LSC representatives and ask them to communicate your thoughts to committee members. Write letters to the Record. Post your opinions on the Sound-Off Board, and the LSC will ensure they are passed on to the appropriate administrators. The administration and faculty have invited students to take part in this discussion, and now it's our collective responsibility to ensure that the products of strategic planning reflect as many student voices as possible.

This is an exciting time to be a Harvard Law student. The past two years have afforded us the opportunity to be part of a process of change not seen here for some time. Our school is poised to enter another century as America's leading law school, and laying the groundwork for a stronger community of legal scholars can constitute our legacy to this special place.

Politics

Father knows best

by Matt Wood

There's something touching about a son continuing a father's political legacy — the wisdom of the elder statesman fertilizing the mind of the child who follows behind. Think of John Adams and John Quincy Adams. John's moral courage and savvy leadership style (see Sedition Act) molded the wet clay of his young son's mushy thoughts. Dare we speculate on how much less remarkable John Q.'s single term in the White House might have been if he'd not had such a star to steer by? Persistent, or even obsessive, use of a middle name to differentiate one from the other cannot hide the link. The strong bond between child and parent, teacher and student, presidential sire and presidential scion, remains intact.

One can only imagine the pearls of wisdom that George Herbert Walker Bush has cast before his pride and joy, George Walker Bush, for lo' these many years. Few would question the breadth of ex-President Bush's political life; fewer still would refuse to acknowledge the depths to which he's gone. Still, it's especially gratifying to watch Dubya learn from Daddy's years of experience in covert operations and political buck-passing. Those are skills that any kid could put to good use.

That kind of expertise is especially handy when the kid runs for president himself. Dubya's father wasn't head of the CIA for nothing. No sir. If there's one thing they teach you down there, it's to make sure that you keep your intelligence a secret. George W. Bush does a fantastic job keeping any intelligence that he might possess very well hidden indeed.

But that's just a cheap shot, and a really unnecessary one too. He's learned so much from his pa that we hardly need dwell on such fundamental lessons as how to affect a certain dumbness (the blank stare is key), or how to color yourself as an outsider despite having been born with a silver spoon in your mouth. Who could forget the '88 campaign? How could Joe Lunchpail vote for a pointy-headed, brie-tasting, Chardonnay-sipping HLS elitist like Dukakis when an ordinary guy like George Bush was on the ballot? All that "skull and bones" claptrap was just so much nonsense — George Bush is a red-blooded Texan through and through. Boola Boola.

But we're not here to talk about history for its own sake, as amusing as it may be. We're here to talk about repeating the mistakes of the past. Let's move past the basics in diversionary tactics that Dubya learned from Daddy, and look at some of the more

subtle maneuvers that the President has taught the Gub'ner.

First of all, you should always work on a "need to know" basis. For instance, why would a Presidential candidate "need to know" the names of all those foreign dignitaries or national leaders? After all, the Commander-in-Chief is not a Jeopardy! contestant. He's just in charge of U.S. foreign policy, that's all.

By ignoring certain facts, and failing to supervise the deeds of your underlings, you preserve the deniability so important for surviving scandals. If Dubya's campaign is conducting "push polls" in South Carolina, how on earth is he supposed to know about it? If Pat Robertson is attacking Warren Rudman in Michigan via the phone, what's that got to do with George W. Bush and his message of unity? Yes, it's good to see that the mists of history did not cloud over the lessons of the Iran-Contra affair. Remember, when faced with the choice between seeming incompetence and getting caught with your hand in the cookie jar, go for incompetent every time. Just be sure to accuse the other guy of negative campaigning along the way, for good measure.

Finally, know your enemy. Now to claim that George W. Bush is "twisting the truth like Clinton" is preposterous. He's obviously twisting the truth just as any self-respecting Bush would. But

to be fair, Dubya has learned a thing or two from President Bill. First and foremost, he's learned that a good apology is worth a thousand misdeeds. This lesson came better late than never for young Mr. Bush. (Maybe he could've admitted he tried cocaine, but explained that he never inhaled it?) Whatever his initial failings in the insincere regret department, however, he's got it down pat now.

For instance, say you're Bob Jones-ing for a way to appeal to the Christian Right. How can you score some fundamentalist support without cutting your main stash of votes too much, and thereby jeopardizing your popularity? It turns out that it's really pretty easy to maintain an appearance of purity, as long as you weigh all your options up front. You can keep the speaking engagement and just apologize for it later. Problem solved. Everybody's happy.

I saw a bumper sticker last week that asked that age-old question "GWBush: How stupid is too stupid?" Stupid or not, maybe we should answer another question first: how shrewd is too clever by half?

Just don't ask Dubya himself. He can't be bothered with math homework tonight. He's already got too much on his plate, what with trying to memorize all those state capitals.

The RECORD will not appear next week. It will not be in your Hark box, so don't look for it. You will survive. It'll be OK.

PERSPECTIVE

By Reese Pecot '02

Private Accountability, Public Shame

On Monday afternoon, Bryan Stevenson, an attorney advocate for death row inmates, told the story of a boy to a group of Harvard Law students. He spoke about a 13-year-old boy from Alabama who grew up watching his father beat his mother. These beatings were repeated and savage. They left the child's mother bruised and scarred. Once, these beatings left her partially dismembered, a portion of a toe lost as homage to her husband's cruelty. One night, after watching his father beat his mother unconscious, the boy, with a gun in hand, came upon his sleeping father and shot him point blank, killing him.

The dead man happened to be a country deputy, making the child's offense eligible for capital punishment and subjecting him to stand trial as an adult. Bryan Stevenson met the boy in the adult correctional facility in which he was being held. Although Stevenson explained that he could not help him unless he spoke freely and cooperated with him, the boy remained silent. Repeatedly, Stevenson admonished the boy to speak to him, but received only silence in response. When the child finally tried to respond, he cried uncontrollably. As Stevenson held the child in his arms, the boy spoke of being repeatedly sexually assaulted ever since his first night in the facility. By the third night, he could no longer count how many times he had been sodomized or how many men had violated him.

People often speak of a moral crisis in this country. The modern Religious Right, for example, has spent the last 30 years decrying a national decline in family and personal values. Dr. James Dobson, head of the Focus on Family

Ministry and a central figure in the Christian Right, said in 1998, in response to the Clinton-Lewinsky scandal: "We are facing a profound moral crisis — not only because one man has disgraced us — but because our people no longer recognize the nature of evil. And when a nation reaches that state of depravity — judgment is a certainty."

Just as Dobson decries the acts of a single man as signaling the downfall of our civilization, the moral crisis as popularly defined is about our private morality. The Religious Right's obsession with the private is best exemplified by focused outrage at acts of "sodomy" by homosexuals in the privacy of their homes, or a woman's exercise of her right to choose. These, however, are extreme and demagogic points of view. This focus on the private is often not restricted by ideology. Both George W. Bush and Al Gore have made personal responsibility and accountability central messages in their campaigns. Bush declares that a strong America is not just an economically viable America, but also a nation of "accountable, responsible individuals." Gore touts practically the same line. Now that our economic ducks are in order, he tells us, "the issue is not only our standard of living, but our standards in life."

Noble as it seems on its face, the national obsession with private morality is fundamentally misguided and hypocritical. Stevenson's story of the



13-year-old Alabama boy reveals this. We often obsess about private morality at the expense of public morality. This boy did a terrible thing. He killed another human being. But why did we as a society match his moral shortcomings with our own?

In our rush to be tough on crime and to hold him to our standards of private morality, the criminal justice system chose to treat him as an adult by handing him over to a pack of sexual predators. This was a publicly immoral act. And it was a barbaric and shameful act.

Ironically, when an individual harms another capriciously or due to prejudice, we morally condemn him. But when public institutions do the same, we swallow our condemnation. This is what the U.S. Supreme Court did when it upheld *McCleskey v. Kemp*, thereby tolerating racial prejudice and capriciousness in dispensation of the death penalty. Since when should a society be held to a different level of accountability and responsibility than its individuals?

Public immorality exists on a wide scale. It exists when we under-educate poor and disproportionately minority children. It exists when one in eight American children go to bed hungry. And whether or not one believes that the death penalty is theoretically correct (for example, based on "eye-for-an-eye" or "tooth-for-a-tooth" reasoning), in reality, it functions in a prejudicial manner. The result is minorities and the poor are too often wrongfully convicted or receive sentences wildly disproportionate to their crimes.

From a policy perspective, it is infinitely more comfortable to focus on private morality. When George Bush or Al

Gore calls for personal accountability, it's not really directed at us as individuals. Who among us believes ourselves personally unaccountable? Instead, we think of "the other": the welfare mother who does not inculcate her children with the true American work ethic, the prison inmate who blamed the system instead of getting a job, the latchkey parents whose children are overexposed to media violence.

Focusing on how we as a society care for and treat individuals is threatening. It draws us away from obsessing about the personal choices of welfare mothers, prison inmates and latchkey parents. It challenges us to question the integrity of our education, health, welfare and criminal justice systems. It raises difficult questions of economic distribution and policy. This is why the cry for justice that activists like Bryan Stevenson raise is not one we often hear from our politicians. For example, providing quality education for all children, rich and poor, or equal justice for all people, black or white, holds us all to a level of direct accountability with real consequences — consequences that often touch our pocketbooks.

To get philosophical (as I am wont to do), Immanuel Kant believed that nature gave man reason instead of instinct, not just so that individuals would have the capacity to act morally, but so that society itself would function in an ethical manner. Kant's notion of ethical realization was evolutionary. He imagined man achieving full development over the course of generations. His famous categorical imperative urged, "Act only on that maxim whereby thou canst at the same time will that it should become a universal law." The important part of this dictate, is that while the mechanism towards ethical realization begins in the individual choices we all make, the greater good achieved is universal — a societal triumph.

A narrow view of Kantian philosophy or other moral postulates such as the "Golden Rule" leads us into a familiar trap, namely the notion that our politics must focus on the rhetoric of private morality because it forms the basis of public morality. This conundrum ignores the distinction between individuals and civilizations.

Each individual has a definite life span. Each person progresses through his or her own moral evolution, for better or for worse. How many of us have lied? How many of us stolen a pack of bubble gum or a candy bar as a child? How many of us have betrayed the trust of a loved one?

Above all what endures is civilization. Society's ability to act accountably is the true watermark of progress. We as a nation have made powerful progress technologically, economically and, yes, morally, too. But the story that Stevenson told was one of a society with moral and ethical strides yet to make. A truth one hopes we all remember even while our public leaders retreat to songs of private accountability at the expense of conversations about justice.

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Carpe Pollo

A LITTLE RECOGNITION

By Jake Zimmerman '00

RECORD Staff Columnist

So have you heard these incessant ads for the radio about the "Law School Preparation Forum"? Yup, our own Arthur Miller ("from ABC's Good Morning America and Harvard Law School," in that order) is apparently the big selling point for this otherwise mundane event. Apparently, the people putting it together think that no one really wants to go to law school, so they need the inducement of a big name celebrity to get prospective 1Ls to show up for the info session. You know, someone with real star power. A teen love idol like our beloved Artie.

This idea of Miller as celebrity icon inspires wonderful mental images. Can you picture Artie Groupies? In my mind's eye, I can see a bunch of 14-year-old girls dashing up to him at the law school forum and then quickly running back, giggling all the while, to the safety of their huddle.

"I touched his vest," screams one, her excitement getting the better of her. Another admires him from a distance and coos longingly: "He's dreeeeaaaaamy."

It's a wonderful concept. But even without the screaming adolescents, there's still something intriguing about this. Imagine it: hundreds of bright young people, eagerly lining up for the privilege of listening to an HLS professor pontificate. I bet they take notes on their laptops, too, instead of playing solitaire.

(Not, of course, that I have any reason to believe that students here would ever use their laptops for anything other than purely intellectual purposes. Really, Professor Singer. Trust me.)

Anyway, it's easy to make fun of these poor young souls who don't yet understand that professors are meant to be avoided at all times, and especially when lecturing. But, hey, they'll learn soon enough. What impresses me is all the attention and acclaim that

this gets for our man Miller.

And that got me thinking... if Miller gets all this attention and idolization, then what about all the other people at this law school? You know who I'm talking about: those people who enrich our lives on a daily basis and help make HLS a better place to inhabit. These are the unsung heroes of Harvard. The people who, too often, don't get the respect and credit that they deserve.

Well, today I'd like to take a step toward rectifying that imbalance of accolades. So let's all take a moment to recognize a student who may not always be in the limelight, but always has a kind word for others and really makes a difference here. This is a guy who surely deserves some praise and attention, so I say we give it to him. Who is this special member of our community?

Well, me, of course.

Like, DUH. It's not like it takes a rocket scientist to figure this out. Who better exemplifies the spirit of humble decency than me? Who does more good for every last ungrateful one of you on a daily basis? Who, in short, could possibly compare with ME? (Note: these are rhetorical questions. This means that the snide answer you're about to give is inherently incorrect. So sorry.)

No, it's obvious: I am in desperate need of some sweet ego-boosting lovin' from all of you idiots. So cough it up, already. It's time to start cramming my Harkbox with painstakingly calligraphic thank-you-notes. Gather outside my door to serenade me with Britney Spears medleys. Bring on the flowers, chocolates and generous offers to write my third-year-paper for me. (Okay, so maybe I should prioritize. Realistically, we can skip the cards, singing, flowers and chocolates.)

Just consider all I've done for you! Remember, for instance, the time when I stood in between Dean Clark and the

pack of rabid wolves that would otherwise have gleefully devoured him (thus depriving us forever of his immense acting talent). Or think back to when you were so drunk that you blacked out, and I saved you from that awful biker gang. (I realize that you don't remember this. That's because you were blacked out, silly! So you'll just have to trust me when I say that I saved you from being carried away in Bubba's sidecar. Yes, all of you. Even those of you who don't drink. Needless to say, it was a busy night.)

The facts are plain to see: you owe me. And what better way to recognize your giant community debt than at the upcoming Class of 2000 awards ceremony? (If you don't know about it, this is the law school's new brilliant plan to recognize the achievements of 30 graduating students by presenting each of



them with something very special: a laser-printed piece of paper reading "award.")

There's really only one way that HLS can fully make good on its obligation to me: at the ceremony, give me all 30 awards. Are you reading this, Dean Richardson? Oh, sure, you give them different names if you want, for the sake of variety. I'm happy to be declared "Miss Congeniality" or "Best New Artist," if that'll make the event more interesting. See? I'm all about pleasing the people.

And, really, is it so much I ask? Arthur Miller gets TV time and the pleasure of having his advertisement sandwiched between Korn and Limp Bizkit on WFNX; all I need is a little respect. Well, that and some therapy. And a ghostwriter for this #\$\$!& paper. And a nice cup of warm cocoa. And a pony. Definitely a pony.

Why are you still reading? Why haven't you gone out to get my pony? I WANT A PONY! WAAAAAAAAAAAA!

Quote of the Week

'He's out of control.'

—Brian Fitzpatrick '00,
commenting on his
Professional Responsibility
professor, Alan Dershowitz,
during a class
in which Harvey Silverglate
'67 substituted.

Fenno

The blaring techno music hit Fenno as soon as he walked off the elevator.

Fenno stepped out, turned left and checked himself in the mirror. His wide yellow tie was slightly askew over his light blue shirt, and his navy blazer was just slightly too tight in the shoulders. Still, Fenno thought as he turned to check his profile, *I look goood.*

Nothing like old-school fashion to drive the ladies wild.

The annual semiformal was one of Fenno's favorite law school events. How often, he thought, did law students dress up together and do something besides compete for jobs? Granted, people's fashion sense had waned slightly since the heydays of the 70s and 80s. Most of the guys had gone Philbin-esequely monochromatic, and most of the girls tended to think short and black the height of fashion—Gary Coleman meets Donna Karan.

Still, Fenno thought, he had to come, if only to see some of Harvard's finest cut loose a little. He walked into the ballroom to see what was happening.

Straight ahead, grinding with some guy Fenno didn't recognize, was Arlene Delgado, the best thing to leave Florida since the American flag.

Fenno grinned. He didn't know if you could call her tan outfit a "dress." It was more like a sports bra pulled barely over her hips.

Fenno shook his head and thought back to the 60s, when the whole

women's lib movement had started. Fenno had always been for equal rights, but he could take the idea only so far. Voting? Fine. Equal pay for equal work? No problem. But trading dresses for sweatpants and jeans? That, Fenno had thought, was going too far.

Still, Fenno had known that things would eventually come full circle and that at some point, women would begin to define feminism as the ability to wear anything they wanted—even things that made them look like hookers. ¡Viva la liberación! Fenno thought. ¡Viva Arlene Delgado!

Fenno decided to work the crowd. But first he needed a drink. He pulled out his measly two drink tickets and belted up to the bar.

"Tequila. Two shots."

"Sorry, sir, we don't have tequila."

Fenno shuddered.

"Wild Rose?"

"Sorry."

Fenno sighed.

"Gin, then."

Fenno downed his drinks, and, with a toasty feeling in his stomach, wandered through the dance floor. Two couples were forgoing suspense for immediate gratification, attached at the mouth with an almost desperate voracity. New relationships, Fenno thought. He'd seen the same ferocity among recently released convicts and,

come to think of it, at every social event thrown at HLS.

Sometimes—there's love—so quickly! Fenno thought. Feeling poetic, he almost said it aloud, until he realized that no one would get the reference.

Fenno checked his watch. He'd only been there five minutes and already he was bored.

He headed over to the bar and bought two more cups of gin. Failing to come up with anything better to do, he decided to go with the old standby—checking the men's bathroom. By this time, someone was usually either puking or crying. Ever the optimist, Fenno hoped for both.

He swung open the door to the men's room and almost tripped across Steve Herbes, who was lying in an enormous pool of what seemed to be his own vomit. No one else was around.

Fenno smiled. He smelled an opportunity. And vomit.

"Hey, Steve..."

Herbes mumbled something that Fenno couldn't make out.

Fenno spoke quietly, almost under his breath.

"Steve! Hey! I've got something for you. C'mere. That's right, get up. You're good. Yeah, man, you're fine. Drink this. It's water. You'll feel better in the morning. Trust me."

Fenno finished pouring all the gin

into one cup just as Herbes reached up with a trembling hand.

"That's right, man. Drink it all at once. That helps with the headache."

Eyes barely open, Herbes sat up and smiled weakly. He downed the cup in one swallow.

Fenno's eyes twinkled as Herbes's grew wide. The little guy was starting to realize what had happened.

Finding a clean spot on the floor, Fenno got down on one knee and looked Herbes in the eye.

"Next time you want to get piss-drunk and puke on the floor, Steve, do it somewhere other than a semiformal. These people—they don't get out much. They're trying to have a nice time, and you've gone and made a mess of the bathroom. Now there's gonna be an ambulance, people are gonna stare, Harvard students are gonna look even more self-centered and absurd.... You've seen 'The Godfather,' right, Steve? *Keep it in the family, Steve. Keep it in the family.*"

Fenno walked out the door as Herbes collapsed again. He dialed 911.

"Yeah, hi, no, it's not really an emergency. We've got a drunk guy. What? Oh, Harvard Law School semiformal. Yeah, that's right. No, seriously, we have them. You'll send it? Good. Thanks. My name? Oh, right. Fenno. Yeah, long time no see to you, too. Anyway, thanks. Right. He'll be here."

Fenno walked back into the dance. They were still playing techno, and most people looked confused.

It was going to be a long night. He needed something to pass the time. He needed to talk to someone interesting.

He gritted his teeth and headed straight for Liz Falk.

Most of the girls
tended to think
short and black
the height of
fashion — Gary
Coleman meets
Donna Karan.

THE BUZZ

A SWIFTIAN SOCIAL SATIRE

By Tanya Marsh '00
RECORD Columnist

If 19th-century satirist Jonathan Swift (*Gulliver's Travels*, *A Modest Proposal*) had written a novel about New York yuppies in the late 1980s, it might have looked something like *American Psycho*. I refer not to the ultra-violent novel by Bret Easton Ellis, but the new film adaptation directed by Mary Harron (*I Shot Andy Warhol*) starring Christian Bale as Patrick Bateman, the 27-year-old Harvard Business School graduate who stands as a metaphor for the glossy emptiness of the "me decade."

The novel stirred up a great deal of controversy when it was released in 1991. Critics rightly found the book to be both horribly violent and misogynistic. But Mary Harron's version of *American Psycho* has pushed the graphic violence to the background, stylized it and concentrated instead on the macabre humor and searing social commentary that was perhaps the whole point of the novel. For those of us who remember the unabashed materialism and vapidness of the 1980s, the satire in *American Psycho* is very effective, even if it hits too close to home every once in a while. For while *American Psycho* is set in 1987 Manhattan and revels in that time and place, it is easy to see it as a pointed commentary on America in the year 2000, flush with economic prosperity and all the luxurious banality that money can buy.

While Patrick Bateman is the main character, he is one of a herd of privileged and narcissistic young men in the story who spend their days on Wall Street and their evenings at the trendiest Manhattan restaurants, desperately trying to one-up each other with the most expensive suit, the snazziest business card, an apartment with the nicest view of the Park. With their \$1,000 Valentino suits, Oliver Peoples glasses and slicked-back hair, the yuppie automatons are indistinguishable from one another, a point which is underscored when they continuously mistake one for another.

In their conformity, they are essentially anonymous. No one knows this better than Patrick Bateman, a man who asserts at the outset that his perfect face and body, his fetishistic white

apartment, his platinum credit card and expensive tastes are merely masks that cover an empty void. "I have all the characteristics of a human," Bateman coldly informs the audience, "but not a single identifiable emotion besides rage and greed. There simply isn't anything there."

The technical protagonist of *American Psycho* is Patrick Bateman and it is difficult to feel any sympathy at all for a man who so gleefully murders the homeless, prostitutes and offending colleagues. (I could perhaps forgive the murders of human beings, but when he stomped that poor doggie, he just pushed me too far.) In fact, *American Psycho* is not so much a story as it is a character study, and since the character is meant to symbolize the extravagance, decadence and violence of America in the 1980s, it is essentially a social satire.

Most of the time, Bateman is able to keep his mask of sanity in place. It is only in a few moments of abandon — when he is engaged in a murderous frenzy or admiring his biceps in the mirror as he has sex with a prostitute — that the mask slips and emotion emerges. Of course, the only emotions that Bateman is capable of feeling are negative — rage, envy, lust. As the movie continues, Bateman's ability to restrain himself weakens and his need to connect with the world in a real way grows (although, admittedly, his idea of "connection" invariably involves bloodshed).

Have I mentioned yet that *American Psycho* is very funny? The first two-thirds of the film in particular are deviously comical. Even Bateman's murders induce unwilling laughter because Harron creates such absurd juxtaposition. In an early scene, Bateman uses an axe to eliminate a rival over his carefully covered parquet floor while methodically analyzing the appeal of Huey Lewis and the News. Part of the reason that the humor in *American Psycho* works is due to the marvelously deadpan performance of the Welsh-born Christian Bale, sporting an impeccable American accent. Everything about Bale's portrayal of Bateman is controlled, from the timbre of his voice to the muscles in his face. Although his mask is one of calm, we



Photo courtesy of www.americanpsycho.com

Christian Bale gives a disturbingly deadpan performance as Patrick Bateman, the *American psycho*.

can feel the deadly turmoil beneath the surface even when those who surround him cannot — that is the beauty of Bale's subtle performance.

You may remember Christian Bale from his starring role as Jamie in Steven Spielberg's *Empire of the Sun*. As a boy, Bale also appeared in the great Kenneth Branagh's first film, 1989's *Henry V*. In the past decade, Bale has regularly resided in indie films like *Metroland* and *Velvet Goldmine*, although he starred opposite Winona Ryder in *Little Women* and with Nicole Kidman in Jane Campion's *The Portrait of a Lady*. Bale is one of the finest 20-something actors in Hollywood today and hopefully his performance in *American Psycho* will give him the breakthrough he richly deserves.

There is much more to be said about *American Psycho* (the crisp cinematography and the amusing directorial mind games) but I shall leave with this: the first two-thirds of this film are splendid social satire, the last third was a bit of a let down. It reminded me of a David Fincher movie (*Seven*, *The Game*) because it failed to live up to the absolutely brilliant promise of the beginning or to offer a satisfying resolution. Despite the shortcomings of the final segment, *American Psycho* will definitely prove to be one of the most interesting, thought-provoking, and funny movies of 2000.

Duchovny smiles!

Generally, I am not a big fan of romantic comedies. I like movies that have something important to say, movies that enlighten and enrich, or movies that are undeniably cool. With that in mind, I really enjoyed *Return to Me*. Starring David Duchovny (he'll always be Fox Mulder to me) and Minnie Driver as a couple who may have been brought together by destiny, *Return to Me* was directed by gifted comedienne Bonnie Hunt (*Beethoven*, *Jerry Maguire*). Hunt's dryly humorous performances have always appealed to me and I am happy to report that her directorial style matches her own comedic sensibilities — self-aware and knowing but sweet. In fact, Hunt's own supporting role opposite James Belushi provided some of the most engaging and satisfying moments in the flick.

David Duchovny is not a man known for his great comedic talents. For the past seven years he has invaded millions of American households as the sardonic, sarcastic and deadpan Agent Fox Mulder on *The X-Files*. He has appeared in a number of movies, including some early comedies he would probably rather forget, as well as the haunting *Kalifornia* (opposite Brad Pitt and Juliette Lewis) and the flat *Playing God* (with Timothy Hutton and Angelina Jolie).

But in *Return to Me*, as widower Bob Rueford, Duchovny is charming and adorable and sweet and just plain lovable. In one scene, he even EMOTES. No kidding! Mulder, I never knew you had it in you. Duchovny's solid performance has a negative flip side, however. A candidate for a Ph.D. from Yale in English Literature, Duchovny's real talent lies in writing, as he demonstrated last year with his beautiful and layered script for "The Unnatural," an episode of *The X-Files*. I'm afraid if *Return to Me* is successful, Duchovny will be encouraged to continue to pursue an acting career. While I like looking at his mug on the big screen, there are a lot of decent actors in Hollywood, but not many truly gifted writers. Quit your day job David and pick up a pen. We need you writing scripts.

Speaking of scripts, *Return to Me* was co-written by Bonnie Hunt (she does it all!) and Don Lake, who has a quick and funny cameo in the film as a hair transplant survivor. They have done a marvelous job. All of the supporting characters in *Return to Me* are well-drawn and interesting. The casting is also quite good and the supporting actors and actresses add depth to the central love story between Bob (Duchovny) and Grace (Minnie Driver).

Return to Me won't change the world, but it made mine brighter for a few hours. It is a sweet, funny little film and I would recommend it to anyone.

They Didn't Drink the Water



In the courtyard of the National Congressional Building, the HLS Latin American Society delegation poses for a picture with during its official visit to Mexico City. Kyle Cauthron '02, Aaron Olsen '01, Matthew Evans '01 (back); Ryan Benson '01, Aaron Brown '00, Mariana Hernandez Crespo LL.M. '99, Rebekah Grover '01, Mexican Senator Salvador Rocha Diaz, Jacqueline Flores from the Mexico City's Procurador General de Justicia, Sara Sotelo LL.M. '00, Jose Talavera '02, and Jorge de Presno, also of Mexico City's Procurador General de Justicia (back). Not pictured is Sabrina Feve '02.

AUCTION

Continued from page 1

sive trip to London went for \$1,500, and a stay with a Ghana Supreme Court Judge sold for \$900.

Hundreds of students and faculty members crammed into the Ames Courtroom to watch Profs. Carol Steiker '86 and Phil Heymann '60 coordinate the bidding. Heymann kicked off the event by putting on the auction block a lunch with Prof. Laurence Tribe '66 at Grendel's Den, the Harvard Square bar and restaurant which Tribe successfully defended before the Supreme Court in 1982.

When bidding faltered at around \$250, Heymann quipped, "Do you know how much that man gets paid an hour!" The lunch eventually went for \$400.

The crowd was also treated to live entertainment by the Parody band, led by vocalist Adam Hootnick '01, and an a cappella performance by the Law School's Scales of Justice. The Scales, conducted by David Marcus '01, donated four performances to the auction, which alone raised over \$6,000.

Public Interest Auction 2000, as the event was dubbed, was chaired by Dan Bahar '01, Joy Radice '01, and Kerri Sherlock '01.

Can You Spare a Razor Blade?

By Dusan Stojkovic '00
RECORD Columnist

'RUMBLE' WITH OLD-FASHIONED BUTT JOKES

There's a fine line between run-of-the-mill bathroom humor and public-toilet humor. The forthcoming *Ready to Rumble*, starring David Arquette and Oliver Platt, more often than not falls on the wrong side of that divide. But that's beside the point: watching this movie was never meant to be an exercise in prudishness, but rather a celebration of free speech and out-and-out raunchiness. As an added bonus, there's a healthy amount of poignant social satire à la "Married...With Children," "Beavis and Butthead," or, as Tanya would posit, "South Park."

Ready to Rumble follows the travails of Gordie (a somewhat doofy Arquette) and his pal Sean (Scott Caan), two slacker losers who work for a raw sewage transportation outfit (hello, potential for cheap laughs, make yourself at home...) and harbor a fanatic enthusiasm for professional wrestling. The raw sewage hits the fan when their idol, Jimmy King (a very good Platt) is cheated out of his world championship title and the two friends decide to cross the country in a quest to help "The King" regain his throne.

The screenplay, penned by Steven Brill whose prior writing credits mostly comprise films from the "Mighty Ducks" trilogy, is astonishingly funny. Perhaps the best scene comes when Sean asks Gordie, "Why does it look like your finger's in your butt?" and Gordie offstandishly responds, "Because it is!" Ah, you had to be there...

And much of the humor is downright deep, by American standards. "It's really sad Billy [Goldberg] lost a nut in Nam. I think it's his right nut," Gordie laments.

"Yeah, man," Sean replies, "having one nut bites. But I have a question... if it's your left nut that's left... do you still call it your left nut?" I reflect upon such issues daily.

The cast fits together rather well under Brian Robbins's direction and the outtakes shown during



Photo courtesy of www.readytorumble.com

Sean (Scott Caan) and Gordie (David Arquette), just working for the man.

end credits reveal that production must have been a lot of fun. The hands-down best performance comes from veteran actor Martin Landau in the role of Salamander, an old-school wrestler who tries to whip the flabby Jimmy King into shape.

The scenes actually depicting wrestling are a few minutes too long and get boring early on, but it's less about the wrestling than the real die-hard fans.

The film satirizes the wrestling industry fairly well. There are loads of references to the notoriously rigged and staged matches, the homophobia-bordering-on-homosexuality issue, and good old American

commercialism run amok. And yet, the film miserably fails to take issue with two other social issues veering at the industry's underbelly: sexism and racism. All the women portrayed in the film are either unintelligent floozies or maniacal fans. The wrestling industry is not taken to task for its instrumentalization of women, and black extras portraying wrestling aficionados don't

believe the fact that the "performers" and audiences at wrestling events are predominantly (truth be told, almost exclusively) white.

In a nutshell, "Ready to Rumble" is a fun movie that won't change the world but might help you laugh away its troubles for a couple of hours. Expecting more from Hollywood? Get a friggin' clue!

Plus it may be the perfect thing for a first date. If your companion laughs a little too loud at the most tasteless jibs or starts rooting for the wrestlers with a slight excess of fervor, it may well be for the best to make Splitsville the next stop after the film.

HER INDIE WORLD

By Suzanne Carter '00
RECORD Columnist

GROWING PAINS

Eels

Daisies of the Galaxy

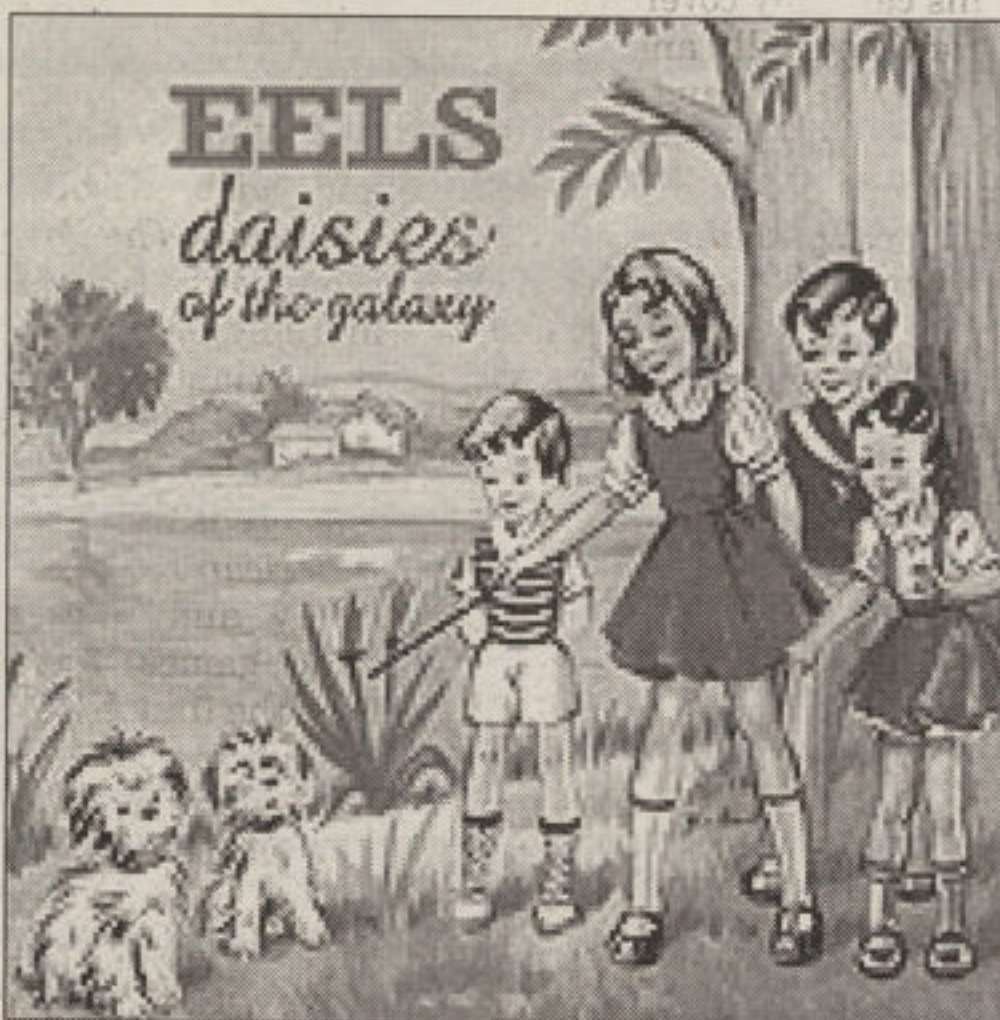
Dreamworks 2000

Travis

The Man Who

Sony Epic

1999 (U.K. release), 2000 (U.S.)



I could go on and on about "Daisies of the Galaxy," my favorite album of the year so far. From the opening ompah loompahs of a brass section, I knew I was in for a special treat from songwriter/guitarist E and drummer Butch, the duo who call themselves the Eels. The Eels are best known for their mid-'90s novelty-ish track "Novocaine for the Soul." Now please forget that promptly, because, though I liked "Novocaine," it doesn't come close to anything off this brilliant, ambitious and ultimately enchanting concept album.

The concept here is how children's fragile psyches are fascinated equally by forces of light and darkness, and so E's lyrics often sound as though he's stepped into a precocious seven-year-old's mind and had her dictate every perception to him. She lives in a world where scenes like the album's cover art (in which four children with unclear motives point a stick at two adorable puppies) exist, and they simultaneously disturb and bewitch her.

The dichotomy there is nicely mirrored in the dichotomy between E's gruff voice, which sounds like Bruce Springsteen after too many shots and cigarettes (though his tone makes clear that Willie Nelson and he are definite musical kin), and the delicate music, which sounds as though it were played by an elementary school music class (but a very proficient one, at that). The songs are universally, heartbreakingly lovely, with lyrics to match, because of their stream-of-consciousness construction. "Something is Sacred" begins with the image of a bum and moves to a typically childlike observation: "people look funny when they cry/cause they just can't let it hide/typing into your little box/press the cry button/it unlocks." The song then turns stunningly sweet: "On a rainy day/and as the world will blow to bits/I'll cradle you and hold you tight."

Ah, but you want to hear about the disturbing parts. The truly Beckian "Flyswatter," for one, would

be humorous if it weren't so creepy (much like the worm-eating in that Bloodhound Gang video): "field mice, head lice/spiders in the kitchen/don't think twice 'bout/whatever keeps you itchin'." Then there's "Estate Sale," co-written by one of my favorites, R.E.M.'s Peter Buck (who plays guitar throughout) and containing one line: "these are the sounds of days that are past." How delectably bizarre!

"Daisies of the Galaxy" is the album I was hoping for from Beck after "Mutations." Very few musicians would be able to pull off a chorus like that in "I Like Birds"—"if you're small and on a search/I've got a feeder for you to perch on"—with nary a hint of irony, but the Eels do it. And they're so good, they don't have to ask you to suspend your irony-meter while listening, because by the time E sings "your crystal ball—you keep it hid" in the first track, "Grace Kelly Blues," the duo has cast a mental spell at you to leave all the baggage you've accumulated since third grade at the door.

The new Travis album certainly pales by comparison — a rather depressing fact, given that, if the pre-release hype is any indication, it will outsell "Daisies" by tens.

It's not that "The Man Who" is a bad album, it's just

that it sounds like so many of its ground-breaking Brit-pop predecessors that it isn't at all memorable.

The Scottish quartet gets its cutesy anti-Oasis throwaway on the first track, where lead singer Fran Healy sings, "what's a wonderwall, anyway?" Oh, how clever. Those who resort to waxing philosophical about pieces of wood (I'm not making this up; check out the cliché-ridden atrocity that is "Driftwood") shouldn't be so catty about their forebearers, particularly when about a third of the album consists of Oasis knock-offs.

But, lest the Oasis fans not line up for Travis, there are Radiohead knock-offs a-plenty. "As You Are," a hypnotic, piano-led ballad, is good enough to have been a b-side from "The Bends," mainly because Healy sounds a lot like Radiohead's Thom Yorke on it. (On the rest of the album, he sounds like the bastard child of Yorke and Semisonic's Dan Wilson, but hey, there are far worse parents one could choose).

And then there's "The Fear," which has exactly the same slow-grinding vibe to it as a Pulp song, "This Fear." Coincidence?

Travis even co-opt formal-dance power ballads with "Turn," which creates the less-than-revelatory refrain, "if we turn, we will learn." It's fitting that this song reminds Justin Herdman of a high school crush, since it sounds like a bad prom theme.

I wouldn't be this negative about this record if it weren't for the fact that the British music press has deified Travis, much like they deified their influences, as well as a score of hopelessly inferior bands from Teenage Fanclub to the Lightning Seeds. Travis deserve tentative, conditional praise, not credit with Changing the Face of Music Today.

So here's my conditional praise: Travis are quite good instrumentalists, and they have a penchant for writing quirky, catchy melodies. Healy could grow up to be a great singer, à la Yorke. The album's debut single, "Why Does It Is Always Rain on Me" is a sing-along delight. If they brush up on their lyric-writing skills and develop a more recognizable style, Travis's next release has potential to measure up to the best of their precursors.

More hype: If you enjoy this column, check it out online at <http://www.the-buzz.com>. And if you don't like it, you should check it out anyway, because it's much better if you read it on a computer.

Legal Lexicon

By Tamara Piety '00

RECORD Columnist

CAREER TIPS FOR SUMMERS AT BIG FIRMS

It is an oft heard complaint that students come into Harvard Law School wanting to do good, right wrongs and generally make the world a better place and that somehow, over the course of three years, they find themselves mysteriously and inexorably drawn into work with one of the big firms. It's as if corporate practice is a black hole sucking in everything in its path. Or maybe it is more like the island of the sirens, luring hapless law students onto the rocks of practice in a large firm with a song about dazzling salaries and beautiful offices, "important" cases and, "We're not a sweat shop." (The firms that brag about being a sweat shop are hopeless cases and should be avoided at all costs.)

So, did you agonize over the number of call-backs you received, or whether you've accepted the right offer? Having difficulty telling the firms apart? Don't sweat it. The truth is there really isn't that much difference between them. Yes, you should ask about the length of the partnership track. Yes, you should scrutinize whether the firm's "commitment to diversity" translates into a diverse set of partners. Yes, shower facilities in the office are a bad sign. Beyond that, everything you need to know about life at a big firm can be found in Cameron Stracher's book "Double Billing." It mostly isn't pretty, but if you feel you must go this route, here are a few things you need to know:

1. Make friends with the secretaries

1A. — Why

It is amazing how often young associates come into the office environment as a first job, never having worked in their lives, and thus unaware of the first rule of the corporate environment — secretaries RULE! Memorize that. Live it! A secretary (or other support person by any other name) CAN and WILL make

or break you. When you're not in your office they can respond to a partner's inquiry in any number of ways including, "Oh, him? I don't know where he is. He never tells me where he's going." "He just stepped into the mens' room" "He was called into a urgent meeting with (name of another partner)." "I'm sure you'll find her in the library. She's ALWAYS in the library."

1B. — How

Learn people's names. Find out about their families. Say good morning. Chat from time to time. Go for lunch a time or two. Most important, say those two magic words — thank you — for anything done for you.

1C. — Don'ts

Don't suck up. While this may seem to conflict with rule 1B above, it doesn't. What I am talking about in 1B is basic human decency that just appears to be sucking up because of its relative rarity. True sucking up involves excessive flattery, buying lunch everyday (also known as bribery), insincerity and the like. Also, in a related injunction, while mild flirting may be alright, dropping the "H-bomb," "scoring," talking about "scoring" and all of those related areas will not win you friends and influence people. First, the secretaries are not as impressed by the "H-bomb" as those women of your previous experience may have been. They may not even like you very much. You make a lot more money than they do, and damned if they can tell what you do to deserve it. So cool it.

2. Don't sleep with the supervising associate or partner.

This seems so obvious it goes without saying. Nevertheless, many neophytes in all professions make this mistake. One hopes that it is not out of calculation but just because they get caught up

in the thrill of it all — the special thrill of sharing that late night take-out. It is easy to do when you spend as much time with your coworkers as lawyers do. And especially easy to do when the thrill of the end of the day in court is followed by riotous drinking. (See No. 3 below.) But it is never a good idea.

3. Do something for fun besides drink.

This is, I know, a tough one. Probably most of the folks you will be working with won't have much in the way of ideas for a good time but drinking, either.

4. Get to know the partners.

Do your homework. Ask your friends the secretaries about them. Ask other associates. But be circumspect. You are gathering information, not giving it out (unless it is information that you want to be working for a particular person). Find out about their work habits, how much responsibility they give to the associates under them. Do they give feedback? What kind of cases do they work on? How are they viewed by others in the firm? Do the associates working with them seem relatively happy? Once you've done some background, you might then steel yourself to actually strike up a conversation. In doing so the best advice I can give you is to ask for advice. Everyone loves to give advice. (Why do you think I do this column?) Moreover, they are often pleased with your astuteness and powers of observation that you have come to them for advice. It is flattering to be asked for advice. But again, beware: Do not suck up. This might seem to conflict with all of the previous advice, but that conflict is only apparent, not real. What I mean is, you want to ask questions based on your genuine interests. Don't make up an interest in fly-fishing. Best case, you will reveal your

ignorance or lack of genuine interest at some point and undo all your good bonding efforts, being revealed for the unmitigated sycophant that you are. Worst case: You will lose your soul and forget what your true interests are and will need to check with the partners before you have any opinions on anything, no matter how trivial.

5. Get to know the associates.

This is another big "duh" but you'd be surprised how quickly competition dissolves solidarity. You are all in the same boat. And those associates above you on the food chain are precious resources for the inside scoop. Now granted, you may hear different things from different people. So take everything you hear with a grain of salt, but take it nonetheless because these people have more experience than you do. Their truth doesn't have to be your truth, so don't be too discouraged by the "burnt out" cases. But even if you think you'll be different, listen to see if you can avoid the more obvious pitfalls.

6. Ask for work.

This piece of advice might seem down right suicidal given what you've heard about the amount of work you'll be expected to do, but hear me out. Very often when you first get to a firm, or from time to time after you arrive, there will be lulls, times when there isn't much work. If you have gotten to know the people who handle the kind of work you want to do (see 4 and 5 above) and you are currently not doing any work for them, volunteer. Especially as a summer associate, volunteering for work and being seen working hard endears you to the partners. You are exactly the kind of hard-working, good "doober" they want to hire! Sometimes you have to be proactive to get into the group you want to work with.

DEAN

Continued from page 1

Many of Vorenberg's colleagues mentioned that he was dean of HLS during a time of conflict within the institution, but that he managed to maintain the respect and trust of all members of the community even during this difficult period. Former President of Harvard University Derek Bok '54, Vorenberg's close friend and tennis partner, and also the man who appointed him Dean of the law school, said, "He was exceptional because of his commitment to principle and to being fair and just and decent in everything he did, even under pressure. He showed patience and understanding during a tough time at the law school. The key [to his success] was his unimpeachable character."

About Vorenberg's tenure as Dean, Michelman said, "Jim was no shrinking violet about conflict at HLS, but there was always a sense that what he was after was the good of the institution." Michelman, like almost all of his colleagues, mentioned Vorenberg's "unflagging courage" as one of his most salient qualities.

Associate Dean Frank Sander '52 commended Vorenberg, who suffered from Parkinson's disease, for his courage in facing physical adversity, as did Tom Snider '00, who took Vorenberg's criminal law class in the fall of 1997. Snider said, "At certain points in the class it was kind of tough, because of his illness, but I really admired him, and I know that others did, too, for having the courage to continue."

Vorenberg will always be remem-

bered as a great student, scholar, practitioner and administrator, among other things. He will also be known for his pioneering efforts to make the HLS faculty more ethnically diverse.

David Wilkins '80 said, "He did more to bring diversity to the faculty and student body [at HLS] than any dean in the law school's history. He was a tireless advocate for opening up doors to HLS." Michelman agreed, as did Ogletree and J.D. Dean Todd Rakoff '75. "He made a real effort in that area, and the school is better for it," Rakoff said.

Wilkins and Ogletree both noted that Vorenberg was responsible, more so than any other person, for their decisions to become HLS professors. Having first met Vorenberg when he was a sophomore at Harvard College, Wilkins had maintained a close relationship with him ever since. Vorenberg "shepherded" Wilkins through HLS, and continued to call him regularly on the phone afterwards when Wilkins was in private practice. Wilkins said, "He was a real mentor in every sense of the word, and he was a remarkable man. This is a sad day."

Ogletree added that while most recognize Vorenberg for having brought ethnic diversity to HLS, few people know that he was actually following in his father's footsteps in this respect. Vorenberg's father was a Boston merchant who ran a department store called Gilcrest. The elder Vorenberg was known, said Ogletree, for "Having no reluctance to hire African-Americans to work in his store, at a time when that was not popular, in the last century."

Many of Vorenberg's colleagues emphasized their great professional

respect for him. Vorenberg, who as a student was President of the Harvard Law Review, served as a clerk to Justice Felix Frankfurter '06. Vorenberg was also a partner at the law firm of Ropes and Gray. As a scholar, he did groundbreaking work in criminal law, in the study of the legal profession, and in human rights, particularly in South Africa. In practice, he was known for working to promote sound ethics in government, including working with Special Prosecutor Archibald Cox '37 during the Watergate investigation. Wolfman described this as "work of critical importance."

Prof. Clark Byse, a long-time friend of Vorenberg's, said "He combined great scholarship and practical legal experience with dedication to public interest." Byse added, "There are a lot of very able people at Harvard Law School, but not a lot who combine the qualities that Jim Vorenberg had. He was not only a scholar; he was a lawyer. He had a conscience and he served the public."

Bok also mentioned Vorenberg's commitment to public interest, saying "He had a great desire to lead a life of contributing. And of course, he succeeded."

In serving the public, Vorenberg contributed greatly to the Civil Rights Movement. As Michelman put it, "He was up to his elbows in the Civil Rights Movement." Vorenberg was also known for fighting for human rights all over the world, as well as for being an avid traveler. Ogletree said that this commitment to international human rights influenced his work as Dean. "He had a vision of creating a law school with a great international repu-

tation," said Ogletree.

Everyone who spoke about Vorenberg also mentioned his compassion and his unique ability to connect with people. Prof. Christine Desan said, "He had a great sense of humanity and there was a great deal of affection for him." Rakoff agreed, saying, "He was terrific at seeing that the institution was made up of individual people, terrific at handling the people in the institution."

Michelman also described Vorenberg as able to connect with people on a personal level, and added that "It was very evident that he had common sense about things; he was very down-to-earth." Michelman described "An enormous effort on [Vorenberg's] part to become the 'Dean of All the People.'"

Byse told a story about Vorenberg inviting all of the Professors Emeriti to a meeting with him during his tenure as dean. He began the meeting by telling the professors that his only reason for calling the meeting was to find out from them if there was anything the law school could do to make their lives better. Byse described Vorenberg as "a humane and caring person."

Amy Oliver '00, who took Criminal Law from Vorenberg in the fall of 1997, remarked, "I think he was one of the genuinely nice guys here. He was really concerned about students, and he wanted to know us on a personal level."

Vorenberg was known for loving travel and sports, including sailing at Martha's Vineyard. He was also known for his skill in the kitchen, demonstrated by the cookbook he co-authored "Dean Cuisine, Or, the Liberated Man's Guide to Fine Cooking." Vorenberg is survived by his wife Elizabeth and his five children. He was 72.

COWLED MICE

By Phil Barengolts '01
RECORD Columnist

DEAD RAT HAS SUMPIN' TO SAY

My thought-provoking turd having been taken away from me by an indiscriminate flush of the toilet, I searched out new inspiration in the halls of that ugly Geo-Chem-Bio-Freak Genetic Mutation building. I met a dying lab rat deep within the bowels of that dungeon. His glazed pink eyes and tumortrewn back spoke of a nobler calling than I've ever aspired to, so I dedicate the following message to that rat, who I have decided to name Robespierre.

Robby is a white rat. His family has all the privileges associated with white rats. So when it comes time for Robby to go to college, his father has legacy, and his grandparents have money to donate. Money those Grandrats earned exploiting rats of different colors, who worked the fields for a little piece of the cheese 'cause the Grandrats kept them out of more lucrative jobs through intimidation and Jim Rat laws.

Recently, the college Robby wants to attend questioned its policy of giving consideration to the color of a rat's fur in the admission process. Robby's parents thought that policy was unfair to their son. Affirmative action, as it was called in the world of the lab rats, was supposed to equalize opportunities. Robby's parents believed that legacy and donations were legitimate means of getting their stupid kid into a good school. Color of a rat's fur, though? Why, that just wasn't fair.

So what if non-white rats could not rely on policies such as legacy and the wealth of their ratfathers. While they would never admit it, deep down Robby's family simply believes that rats who get into good schools with the help of affirmative action did not earn

it.

Unfortunately, Robby made his way to the wrong part of this university, and would have met the same fate as his namesake if it weren't for a chance encounter with yours truly. Not all victims of society's needs have benefactors, and as it is, Robby took his last breaths in the pocket of my trench coat as I was exiting that dark hole of a lab.

The death of affirmative action is a loss to all of us, non-white or not. Diversity at educational institutions produces graduates better able to understand the situation of other people in their community, which, especially in the law, is fundamental to making good decisions. Part of a good education is not simply learning what the books tell you, it is learning about different views on the issues raised in the books and in our society.

For those wanting to argue that lumping people of diverse views but similar skin color into a collective group is dangerous, I offer the following: If you were same person in every aspect of your life except for your skin color would you view society differently? Would you view the Diallo shooting differently? How about the policeman in Providence? How would those events affect your perception about your society and how it viewed you? If you do not get the point, picture the same events happening in '30s Germany to Jewish citizens.

While the demise of affirmative action seems inevitable at this point, I have a few suggestions for what should take its place, divined to me by Robby, the dead lab rat to whom I have a built a shrine in my apartment.

First, we shift from race-based to income-based consideration in the context of university admissions policy. The theory goes something like this — Michael Jordan's kid has more opportunities than a poor kid from Appalachia because of Jordan's position in society. Thus, institutions should begin considering lack of economic opportunity as a factor in admissions that weighs in favor of potential candidates, otherwise known as economic affirmative action. We do not stop there, though. In addition to economic affirmative action we also institute "negative" action. We eliminate legacy and contributions as positive factors (i.e., George W. Bush goes to DeVry), and on top of that punish rich kids who failed to have proportionally better qualifications than students of average income. Presumably, rich kids could have used their family's resources to attend a private school in New England, take a Kaplan course, and donate funds to prospective colleges, not to mention the many other advantages that come with simply having money. So, if after all those advantages, the wealthy kid could not achieve a little more than the kid who went to public school in inner-city Chicago, then he should not be considered on the same playing field. He should be punished for failing to take advantage of the benefits society has bestowed on him.

Robby's death offered me some more insight into the Harvard Law School experience. Coupled with a brief editorial in the pages of the RECORD on the lack of a forensic evidence class at this school, I realized that members of this

community live with intellectual blinders on their heads. We all consider ourselves on top of the intellectual world, but quite honestly, we are quite limited in the field of knowledge. Who were the smartest people in history? Almost everyone I asked came up with Einstein. A little unfair since his name is practically a synonym for intelligence these days. Some other names that came up often were Newton, Bill Gates (which upset me), Galileo, Stephen Hawking and Darwin. What do all those people have in common? All were scientists of one kind or another. Of all the people I asked, about 20, with a number from the law school, not one person mentioned a politician or legal scholar, except for FDR.

Legal scholars are not well known, so I understand the point of view of those outside of the law school, but for those inside the answers could have been, and I frankly expected them to be, figures in the law. No such luck. All that told me was that what we do here is learn a profession. So we, as good law students, will probably make good lawyers, but poor intellectuals, much as a good medical student ends up a good doctor. Though if I had to guess, more people would know of Jonas Salk than H.L.A. Hart. Quite honestly, if we took Ph.D. students in any hard science and put them in the law school I think they would do just fine, but take most law students and put them in a Ph.D. program in the sciences and they will likely fail. Perhaps Robby the lab rat has learned more of the world than we ever could while enduring tests upon his little body, but he's dead now, with no one to speak for him.

GRADES

Continued from page 1

view."

Despite the differences between the two plans, Meltzer pointed out that there are "points of overlap and agreement" between the proposals.

One of these appears to be the mandatory grading curve. Both proposals require professors to assess students according to a rather rigid curve, though each allows for a slight variation from the curve of two percent or five percent.

Regarding the curve, Rakoff said, "The difference in grading practices among professors is extreme. It didn't seem to [the Academic Development Committee] that there was any rational justification for that." According to Rakoff, the move towards a consistent curve is justified both in terms of fairness and student perception.

Prof. Christine Jolls '93, who serves with Rakoff on the Academic Development Committee, conducted an empirical study of grading at HLS. Jolls said that she found a "tremendous amount of dispersion across classes," with some professors giving 80 percent of students an A and other professors awarding only 18 percent of students an A. Such a result is "unconscionable," said Jolls, and the move toward a mandatory curve will witness a system that exerts "some discipline on professors."

Warren said that her committee's proposal "gives a consistent view of top and bottom." Right now, Warren said that with careful selection of professors, a student could end up with a substantially higher grade average. "That shouldn't occur," she said.

Under her proposal, each professor will give High Honors "to about the same proportion of students," Warren said.

Another source of agreement between the plans is the need to de-emphasize the importance placed on letter grades. Warren said that her plan strives to eliminate this aspect of life at HLS. "The Institutional Life Committee has the optimistic view that if there are not so many grade distinctions, we can focus on our intellectual mission, and not on a series of labels," said Warren, "I hope we get a chance to try."

Rakoff also acknowledged the psychological effect of grades. "Under our current system, we're giving Bs and B+s to people who in the world at large have always gotten As," Rakoff said, "Changing the names of grades will help emphasize that we're talking about Harvard Law School's grades."

Jolls agreed. "The letter B has a social meaning to people," she said, "It's not a grade that people are happy to receive." Moving away from a letter grading system will better reflect the exceptional nature of students at HLS, Jolls said.

While the two proposals do have a number of common features, the committees differed on the number of classifications to be used. Rakoff said that his committee ultimately settled on 5 categories, plus a failing grade, because "it was better than either 4 or 3" categories.

Warren's committee, however, has proposed a three-tier system. Under the current system, Warren said that the most accurate grades tend to be at the very top and the very bottom of the grading scale. The Institutional Life Committee's plan "reduces error by not forcing the faculty to make substantive decisions in the middle that are most fraught with ambiguity," Warren said.

"These grades in the middle are the ones for which most [professors] have the least confidence that if graded a second time, the grades would be precisely the same," Warren said. The plan seeks to "identify the ones where the professor is most confident, and leave the others together," said Warren.

In response, Rakoff said that the three-tier system "has too little information in it." One of the potential consequences of the Warren proposal would be that "a great many students will get eternally the same grade," Rakoff said. Under such a system, which Rakoff said was "not terrific," there would be less correlation

between a student's academic exertions and final evaluation.

Additionally, Rakoff felt that employers will be forced to look at "substantive information that is much worse than what a transcript

might provide." Employers would be forced to look at a student's undergraduate institution or the recommendations of professors, a prospect that Rakoff deemed "exceptionally dicey." This system would result in the precise outcomes that "blind grading is designed to prevent," said Rakoff.

Ashley Morgan '00, who is a student representative on Rakoff's Academic Development Committee, agreed with Rakoff's assessment. Having employers evaluate students on the basis of undergraduate school would mean that "people who didn't go to Ivy League colleges are automatically going to look like they're less qualified," Morgan said.

Amy Oliver '00, one of two student members of the Institutional Life

Committee, responded to these fears. "Our committee didn't feel like it was the job of Harvard Law professors to segregate students on behalf of employers," said Oliver. Additionally, Oliver said that the Institutional Life Committee's proposal would force employers to look at extracurricular activities and community service, qualities that she said are "better representative of a student than just a grade on a transcript."

Warren insisted that her committee is serious about soliciting student opinions on the issue of grade reform. In regard to the timing of a faculty vote on grade reform, Warren said that student responses could be critical. "If there's a proposal that students strongly support, I'd like to see it go forward immediately," she said, "If there's indifference or disagreement, it might be better to wait."

Rakoff would like to see the matter concluded before the summer. "I'd like to see it considered this year," he said.

One earlier indicator of support for grade reform emerged earlier this year, when the Law Student Council (LSC) helped to gauge student sentiment by collecting nearly 500 signatures in favor of the Student Bill of Expectations. "The LSC wants to see movement towards grade reform," said LSC President Jay Munir '01. But Munir said that LSC has not come down in favor of either of the two proposals. "We are flexible on the details as we await the results of the proposals from the strategic planning committees," Munir said, adding that LSC would be working closely with the committees as they finalize a plan.

Oliver is also working to garner student feelings on grade reform. Oliver said that she has written an email that "describes the two current proposals for grade reform and asks for student comment." Oliver expects to "relay student opinion on the matter."

*'The letter B ...
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