



Ivory tower troops enter election fray

HLS profs battle over Florida election results

by Zachary Price

Bush or Gore? Machine tally, hand tally? Electoral vote, popular vote? As voters across the nation ponder these questions, several Harvard Law School professors have been making their opinions count.

Two of Harvard's best-known legal personalities, Prof. Laurence Tribe '66 and Prof. Alan Dershowitz, were in Federal District Court on Monday arguing that the hand-counting of ballots in

four Florida counties should continue. Tribe was there at the request of Vice President Al Gore, while Dershowitz was representing West Palm Beach voters who feel that a controversial ballot design led them to vote mistakenly for Reform Party candidate Pat Buchanan rather than Gore.

The campaign of Texas Gov. George W. Bush had sought a federal injunction to stop the manual count, which is taking place in traditionally Democratic counties at the request of the Gore campaign. Bush's lawyers argued that Florida's election process amounts to "disparate and unconstitutional treatment," since it has counted

votes in different counties by different methods.

In his brief, Tribe countered that the manual recount "reflects an electoral practice — the hand counting of ballots — in effect throughout the country since the nation's founding," whereas Bush's claims rely on "speculations that humans are inherently inferior to machines in the matter of counting votes." Tribe argued that the matter should be determined by state, and not federal, courts. He wrote that "the state's method of appointing its presidential electors is indisputably and fundamentally a state law issue."

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Strategic Plan lays out future look of HLS

Financial aid, faculty and facilities top the list.

by Justin Herdman

The planning is over. Now it's time for the fundraising.

Pending an upcoming faculty vote, the Strategic Planning Process will shortly come to an end. The effort to develop long-term, lasting reform at HLS was begun in earnest more than three years ago at the behest of Dean Clark '72. After November 17 — when the faculty may vote on a recently completed Strategic Plan — the proposing will officially end and the drive for money commence.

The 70-page Strategic Plan embodies the results of this lengthy discussion about the future of Harvard Law School. Its goal, as admitted within the text of the Plan, is "to improve our students' sense of community, their connections to the faculty, their sense of collective engagement in legal education, and their overall satisfaction with their time at Harvard Law School."

The Plan was approved by the Steering Committee, chaired by Prof. Dan Meltzer '75. While the Plan proposes a broad set of improvements at HLS, such reform will not come cheaply. Using a rule of thumb that full endowment of any program

requires a sum 20 times larger than the expected annual outlay, the Plan recommends \$338.5 million in endowed funding. Such a request fits within estimates made by the HLS Development Office that "the maximum that a fund-raising campaign could raise is \$400 million over a five-year period."

Any fundraising will be even more ambitious than the last round of strategic planning, which ended in 1989. That round of fundraising targeted improvements to the library and the construction of Hauser Hall. According to the recently issued Strategic Plan, the HLS endowment increased from \$190 million in 1989 to over \$920 million at the end of June, 2000.

The Plan covers nine general topics, from internationalization to research to information technology. While many of the recommendations are aspirational, there are a few calls for substantial cash outlays.

Grants, Loans, and LIPP

One of these areas is financial aid. The Strategic Plan acknowledges three primary components of financial aid for J.D. students — grants, loans and the Low Income Protection Program

(LIPP). Both grants and LIPP receive attention in the Plan. Since loans are mostly funded by outside sources, the Plan does not discuss them at length.

The Plan points out that financial aid at HLS is weighted more towards loans than grants. This emphasis is based on the presumption that highly paid graduates will be able to repay loans, while those who choose to take lower-paying jobs will rely on LIPP's loan forgiveness. Yet the Plan recommends boosting funding for J.D. grants, seeking an additional endowment amount of \$30 million. The plan's authors felt that a more generous grant program would reduce the "sticker shock" associated with an HLS education. Additionally, grants are seen as a potential area to create a lasting sense of gratitude between students and the school. Finally, an increase would make Harvard Law's grant assistance more competitive with the financial aid packages at other top law schools.

The Plan also recommends many changes to the LIPP program. Among the less ambitious requests are an improvement in access to LIPP-related information, including a Web-based system to determine eligibility. Also, a long-term goal of the Plan would be seeking to eliminate LIPP's

Please see **PLANNING**, p. 2

For a primer
on the Strategic
Plan, see p. 2.

First-years split on firm work, public interest possibilities

While most HLS graduates take their first job with a law firm, a RECORD poll conducted of the first year class indicates that nearly half of 1L respondents will pursue a public interest job this summer. While the numbers are tentative, given that many first year students have not finalized their plans, the class was roughly split down the middle between those seeking firm jobs and those looking for work in the public sector.

The reasons are diverse, but the monetary call of the big law firm looms large. "All of the places that HLS alums can aspire to working at require three to five years of big law firm experience, and now is as good a time as any to sample that," John Prezas '03 said.

While the vast majority of HLS

graduates do end up working at firms, the summer after first year tends to be a time for experimenting. "I see this summer as an opportunity to explore an area of practice with which I don't have as much familiarity," said Lisa Giroux '03, who hopes to work for a prosecutor.

Austin Bramwell '03 announced his intention to work for a "right-wing non-profit" this summer, like the Center For Individual Rights. "I'd like to balance my interest in

public service [with] the rapacious pursuit of Mammon," Bramwell said, tempering his enthusiasm for public service with the eventual financial call of firm life.

For many students, big firms paradoxically represent the best way to make the move out of legal profession, yet some first-years apparently cannot wait that long. Five percent of 1Ls who responded to the poll say that they expect to work outside the law this summer.

RECORD Poll		
Do you think that it is more likely that you will work at —		
	Responses (out of 83)	Percentage
Law Firm	39	47%
Government Agency	13	16%
Public Interest Org.	27	32%
Non-Legal Employer	4	5%

O'Reilly factors in — Amass your wealth, but don't be a scrooge

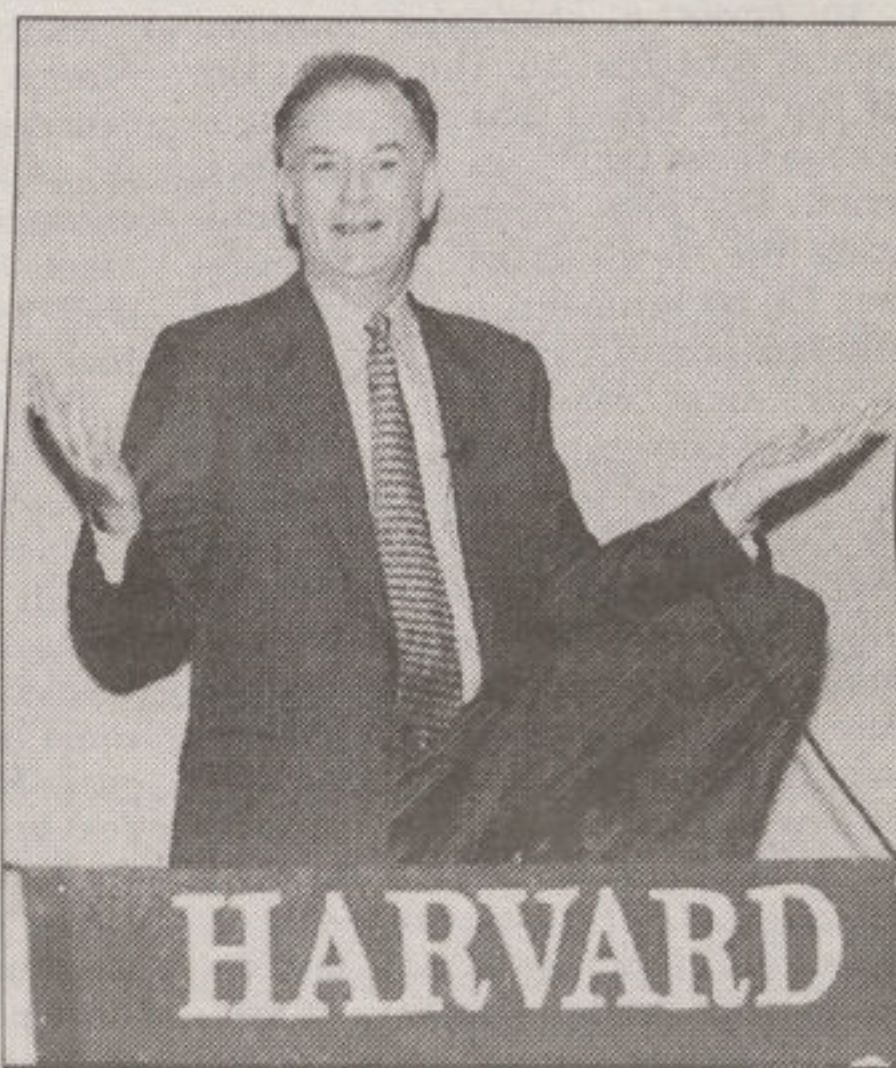


Photo by Murad Kalam

Fox news firebrand Bill O'Reilly weighs competing factors at play in the Florida election debacle.

by Juan Pablo Alban

Bill O'Reilly, executive producer and anchor of *The O'Reilly Factor* on the Fox News Channel, spoke to a full Ames Courtroom as a guest of the HLS Forum. O'Reilly, whose program is regarded as a politically conservative, told Harvard Law students should use their extraordinary career opportunities not just to amass personal wealth, but to help others.

At least some in the audience thought it dubious advice from perhaps one of the most egocentric TV personalities today. O'Reilly unabashedly made sure that the audience knew that his show ranks at the top in prime time cable and that his book — "The O'Reilly Factor" — tops the current New York Times bestseller list.

The speech, which was co-sponsored by the Society for Life, Law and Religion, led to some controversy. In a somewhat belligerent tone, one student asked O'Reilly not only what he thought of HLS's proposed pro-bono requirement, but what community service he had done in the past year. O'Reilly did not think the school should require anyone to do good deeds, though he added that written work plus classroom credit for the whole project was appealing. To answer the second part of the hardball question, he added that he participates in the Big Brother program for three children.

Despite the attempted diversion, O'Reilly persisted with his message. "We're in a selfish society," he said, "and it reflects in the political choices that we have." He sees a dearth of true leaders in the nation today, and observed that "spinmeisters" control and corrupt most politicians. "If even [the weekend before the election] either Gore or Bush would have said honestly who they were, that person would have won," he said. According to O'Reilly, his own show represents a quest to monitor all wrong-doers and reduce corruption.

Encouraging the law school crowd to enter politics in their own communities, he mentioned that "a low bar can be a good motivator." When pressed as to why he does not himself enter politics if he sees such a vacuum of leadership, he responded that he "doesn't want to get caught up in the game where he needs money, but has to promise things in order to get it." O'Reilly left largely unanswered the question of how law students should avoid compromising their values in making those promises.

A few other tense moments arose throughout

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PLANNING

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salary cap for program participants, which is currently set at \$72,000. The plan would also ask HLS to guarantee a stream of LIPP funding for each entering class at the school.

Two more difficult topics addressed by the Plan would lead to a substantial overhaul of the current system. First, the plan asks for a softening of the distinction between need-based borrowing and loans that are extended to cover a student's imputed parental contribution. Harvard is the only top law school that distinguishes between these two types of assistance. Second, the plan recommends eliminating the "law-related" job requirement for government, non-profit, and academic jobs. Currently, LIPP-eligible jobs must "require the use of distinctive intellectual skills acquired in legal education" and "be ones that it is not unusual for members of the legal profession to hold." The plan regretfully notes that this restriction precludes jobs at economic development organizations and charitable foundations, as well as academic positions in non-law faculties.

In order to meet the recommended changes to LIPP, the plan asks for endowment funding of \$15 million. This amount would allow for a 50 percent increase in annual spending for LIPP.

The Faculty: Not just a horror movie

A recommendation to increase the size of the faculty has been integral to the Strategic Planning Process since the beginning. As early as September of 1999, Clark admitted to the RECORD that a larger faculty was necessary to the future of HLS. "We gotta have more bodies," he said then.

The Strategic Plan responds by calling for the net addition of 15 faculty members. When compounded with the projected retirement of up to 20 faculty members over the next decade, this recommendation will mean that future faculty meetings may be peppered with questions like, "Who are you again?"

Yet, like all good lawyers, the Strategic Plan's authors fall back on precedent. In the spring of 1989, the faculty voted to hire ten new professors in the 1990s. This goal was not only met but exceeded, according to the Plan.

As the faculty has already voted to reduce the enrollment of first-year courses, the need for extra instructors is profound. The Strategic Plan encourages the hiring of faculty to teach in these first-year courses, as well as for under-emphasized areas like international law.

The Plan acknowledges that 15 faculty members may not be quite enough. "Indeed, if one takes a look at the number of subject matter areas in which we could use additional resources and the need for more teachers in the first-year, the case could be made that 15 is too modest a goal. However, we have chosen that goal because we believe it is a realistic one," the Plan reads.

In a dissenting note, Prof. Andrew Kaufman '54 refused to join the Plan's call for more faculty members. In his statement, Kaufman feared that a faculty with 15 more members would have reached a "point when, among other things, we barely know who some of our colleagues are." Kaufman opposed the idea of committing HLS to hiring 15 new professors. He also called for hiring new professors on a year-by-year basis, thereby allowing for an annual assessment of a large faculty's impact on the workings of the school.

Let's get physical

Another big-ticket item is a plan to improve the physical spaces at Harvard Law School. Acknowledging the need to meet current and future needs for academic space and housing, the school retained Polshek Partnership — an architectural firm — to create a Master Plan in order to guide future development at HLS.

The conclusions of the Master Plan, which projected HLS's space needs over the next twenty years, were threefold. First, it suggests that the physical requirements raised by the Strategic Plan goals could be satisfied on the school's current campus. Thus, visions of Harvard Law School moving across the river to Allston may be premature. Second, the Master Plan identifies existing needs for physical space. Finally, it provides a guideline for fulfilling those immediate space needs and projects an "attractive development" of the HLS campus as future spacing needs are met.

The present needs for academic space are numerous, according to the Master Plan. Additional spaces for student organizations and journals, faculty and staff offices, and classrooms are all currently needed. Polshek estimated that just to meet existing space needs, the school will need an additional 114,000 gross square feet. By comparison, Pound Hall is 105,000 gross square feet.

Future needs will be even more pressing. With the Strategic Plan calling for the hiring of at least 15 additional faculty members, the demand for office space will be particularly acute. The Master Plan also envisioned the construction of a student center to "enliven the Law School and improve student satisfaction." In light of rising rent costs in Cambridge, housing was also considered an important topic.

Polshek concluded that an additional 361,000 gross square feet of additional academic space would be required, including the 114,000 gross square feet of space needed to meet existing needs.

Furthermore, the Master Plan calls for 174,000 gross square feet of non-academic space for housing and athletics. The Strategic Plan, however, notes that "those estimates are based on a wish list assembled from all those whom Polshek interviewed; that wish list has not been endorsed by any committee."

The central feature of the future HLS campus will be what the Master Plan has deemed the Northwest Yard. To be located between Pound Hall and Everett Street, this new area would displace the parking lot that currently occupies that space. The Northwest Yard plan would increase academic and student space by 237,000 gross square feet. Nearly 150,000 gross square feet of academic and housing space would be added by converting Hastings Hall and the Gropius complex.

The adoption of the Master Plan would require an estimated \$157 million in "hard costs." This figure does not include "soft costs" — such as fees, moving expenses and furnishings — that could reach \$50 million. And acquiring the Everett Street lot would incur an additional cost, since it currently belongs to another part of Harvard University. Additionally, any change to the HLS campus would require the approval of University and Cambridge officials.

The Strategic Plan recommends the allocation of \$100 million to start down the path paved by Polshek's Master Plan. The Strategic Plan believes that this amount will allow for the construction of buildings needed to meet the law school's short and intermediate term needs.

FINANCIAL AID

- \$30 million endowment to fund increased J.D. grants.
- Future fundraising to be "general" (i.e., not for a particular program, like LIPP).
- Investment in studies to effectively use financial aid resources.
- Financial aid for LL.M. students — \$10 million in endowment funds.
- Financial aid for S.J.D. students — \$6.5 million in endowment funds.

LIPP

- \$15 million endowment to fund 50-percent increase in annual LIPP spending.
- Elimination of salary cap.
- Soften distinction between ordinary borrowing and "imputed parental contribution" loans.
- Guarantee of LIPP assistance to each incoming class.
- Eliminate "law-related" job requirement for government, non-profit, and academic careers.
- Improve LIPP outreach and information.

STUDENT AND FACULTY ENGAGEMENT

- Move regular faculty meetings from Friday afternoon to mid-week.
- Faculty participation in formulation of the HLS budget.
- Consider devotion of more resources for administrative and student services, including an evaluation of the hiring freeze on administrative personnel.
- Commission a comparative study of the ways that administrative and student services are delivered.
- \$1.5 million endowment to create organized program of events to promote intellectual engagement between students and faculty members.

PHYSICAL PLANNING

- \$100 million to plan and construct buildings to address current and future space needs.
- Northwest Yard area between Pound Hall and Everett Street could replace parking lots.

STRATEGIC PLANNING RECOMMENDATIONS

TECHNOLOGY

- \$20 million endowment to fund.
- Install a curricular intranet to allow tracking of schedules, enrollments, syllabi, and assignments.
- Install common administrative database.
- Create centralized faculty file server.
- Upgraded intranet and Internet systems Digital Library: Develop system to allow faculty and students to digitize written work; explore methods of converting already written text into digital format.
- Establish a "Fund for Technological Innovation" to support decentralized centers for technological innovation.

FACULTY RESOURCES

- \$75 million endowment to seek a net increase of 15 faculty members over a ten year period.
- New faculty members should be matched with needs of HLS, especially in the instruction of first-year courses and international law.
- Ensure that the adequacy of faculty compensation is given close attention.

INTERNATIONAL

- Appoint qualified teaching candidates in underrepresented international areas.
- \$15 million of endowment funding for expanded use of visiting foreign scholars.
- Amend HLS catalog to recommend that students take at least one course in international legal studies.
- LL.M. Improvements: a) active LL.M. recruitment; b) strengthen introductory program for LL.M. students; c) allow concentrations for LL.M. students.
- \$1.5 million in endowment funding to set up a selective fellowship for up to five LL.M. students to spend a second year at HLS.

CURRICULUM AND TEACHING

- \$3 million endowment to fund faculty efforts at curricular improvement.
- \$10 million endowment to create new fellowship program for recent graduates wishing to pursue a career in law teaching.
- Establish a joint J.D./Ph.D. program with the Faculty of Arts and Sciences.
- Develop a set of courses for students interested in careers as law-trained leaders in government and business.
- \$2 million endowment to support a teaching workshop.

- Increased allowance for hiring student research assistants from \$4,000 to \$7,000.
- Make research programs accountable to HLS by requiring reports to the Legal Education Committee or an Associate Dean for Research.
- New annual faculty allowance of \$2,000 to support expenses other than student assistants (i.e. travel or software purchases).
- Creation of a general program for larger research grants up to \$25,000.
- \$12 million endowment to support research in three areas: international and comparative law; empirical legal studies; and the impact of law on the disadvantaged.
- \$5 million endowment to fund general faculty research without regard to subject matter
- \$22 million endowment to support HLS's 18 existing research programs.
- Create administrative position of "sponsored-research officer."

RESEARCH

CAREER SERVICES

- Reinvigorate the Program on the Legal Profession through general funding for research.
- \$5 million endowment to emphasize career counseling and professional options, rather than job placement and recruitment.
- Formation of standing committee to coordinate and enhance ongoing career service activities
- \$5 million endowment to establish program of career services for HLS graduates.

ELECTION

Continued from page 1

Judge Donald Middlebrooks, who was appointed four years ago by President Clinton, sided with Tribe and Dershowitz. He refused to enjoin the manual count, noting that "federal courts should tread cautiously in the traditional state province of electoral procedures and tabulations."

Some commentators observed that the case involved something of a role reversal for Democrats and Republicans. Dershowitz told reporters that Bush was a "hypocrite squared" for bringing a federal suit after touting states' rights during the campaign. Meanwhile Tribe, who has often argued for broad federal power, told the judge that the Republican argument was pointless "unless we abolish the whole system of local government."

Tribe acknowledged even more ironies in an op-ed he published in The New York Times on Sunday. "Many who today call for avoiding a protracted presidential contest not long ago insisted that an even more protracted struggle to impeach and remove our head of state was more than worth the resulting uncertainty and instability," Tribe wrote. "And many who today call for letting the process work its will not long ago argued that the impeachment process was too costly for the nation to endure — even if its target had indeed committed perjury and thereby undermined the integrity of the judicial branch of government."

Tribe advocates a carefully designed revote to resolve the dispute in Florida. "There are precedents in Florida law for revising the results of elections found to be unfair or illegal, even without fault by election officials," he wrote. He pro-

posed that the election could be limited to citizens who voted last week, with voters pledging in sworn affidavits not to change their vote. He also suggested that a court could impose "counting rules designed to correct no more than the precise violation that the court found had misled some Gore voters into voting for Pat Buchanan instead."

Prof. Philip Heymann '60, a former Clinton administration Deputy Attorney General, has also called for a revote in an op-ed piece. Writing in the Washington Post on November 10, Heymann argued that the allegedly confusing ballot "flatly violated" Florida law. Whereas the punch holes on the controversial ballot were placed between candidates' names listed on either side, Heymann cited Florida statutes indicating that voter choices should be marked to the right of the candidate's name on paper ballots, and that "an electronic or electromagnetical voting system" should organize information "as far as practicable" in "the order or arrangement provided for paper ballots."

Since thousands of voters appear to have voted incorrectly, Heymann observed, "there is little dispute that the results of an illegal ballot form were (1) exactly what the Florida statute was designed to prevent, and (2) likely to have determined the Florida and national election." Heymann argued that a new vote should be held in Palm Beach County. "The supporters of Gov. George W. Bush will, of course, object that in the interest of finality, a candidate must be allowed to enjoy the advantages of even an illegally designed, confusing ballot," he wrote. "But whoever loses or wins, in the end, the offense to our belief in orderly but democratic choice will be far less."

Since it appears that Gore won the nationwide popular vote with or without Florida, some analysts have wondered

why the clear democratic choice should not be for him, notwithstanding the Electoral College. Prof. Charles Fried, a former Solicitor General for the United States, argues that this would be a mistake.

In a New York Times op-ed on November 11, Fried observed that "the Electoral College is one of the political safeguards of federalism: those structural features of our constitutional system ... that of their own force and without court intervention assure that the states count as distinct political entities, not merely administrative units of

Dershowitz told reporters that Bush was a 'hypocrite squared' for bringing a federal suit.

one central government."

Fried noted that the current system requires candidates to "persuade the voters state by state." A system based exclusively on the popular vote, he wrote, "would lead to a further Starbucks-ification of our political life, where every locality and region would slowly homogenize with every other into one undifferentiated mass," allowing powerful special interests to crowd out local concerns.

Prof. Heather Gerken, who specializes in election law, told CNN on November 10 that popular opinion may play a role in determining the outcome, even under the current system. Referring to the controversy in Florida,

Gerken said, "I think that what really is needed here is a sense of what the American people feel You could imagine, for example, that Americans think that George Bush won this election fair and square, in which case Gore should step away and act in a presidential fashion and not file suit. However, it also may be that the American people think that Gore won the popular vote, [and that] but for this mistake, he would have won the vote in Florida as well. And in that circumstance, the Bush administration should be the party that steps aside and acts in a presidential fashion."

When asked about the legal standard for judicial intervention, Gerken observed, "the standard for obtaining a change in an election result is extremely high in both the state and federal courts. The court's view on this is that is not their job. This is the job of the legislature and the state."

As the court battles and vote tallies continue in Florida, many Americans may wonder how there could be so much imprecision in this age of high technology. Couldn't we have a computerized voting system?

Prof. Jonathan Zittrain '95, who specializes in Internet law, told the Boston Globe that a high-tech voting system could have disadvantages. For one, hackers might sabotage an electronic system. For another, Zittrain speculated that interaction on the way to the voting booth may play a key role in many voters' decisions. "If we move to a system in which people can vote from the privacy of their home," he said, "you may really lose that opportunity to interact."

Still, given this year's confusion, an electronic system might not be so bad. After all, Zittrain observed, "you don't have to shoot for perfection We just want to shoot for something better than what we have."

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The Devil's in the Details

Seventy pages. Nine broad areas of recommended change. Twelve ounces. Two dissents. And \$337.5 million in proposed endowment funds.

That's the Strategic Plan. After three years of RECORD coverage, committee meetings, town hall presentations, and student letters, it's all over. Finally, blessedly done. Except for the counting (of dollars), of course.

While the Plan does discuss the elements that were considered individually by the faculty — the pro bono proposal, changes to the first year curriculum, and grade reform — it does not seek final faculty approval for every item in the document. Thus, the Steering Committee — the body charged with authoring the Strategic Plan and forwarding it to the faculty — recommends changes. Nothing in the Strategic Plan is mandated, save the changed curriculum and pro bono requirement, both of which have already passed through the faculty. So a faculty vote will not give an official stamp of approval to any of the Strategic Plan initiatives. A resounding "yes" will not mean that LIPP walks away with a firm commitment to a \$15 million endowment, or that a faculty of 85 becomes an instant reality, or that a new student center ever gets planned, let alone built.

Of course, much of this is what strategic planning is all about. It's long-term. And to paraphrase economists, in the long-term we're all graduates.

That is an acceptable result in the sense that those who will be here the longest — the faculty, administration, and staff — will be on hand to preside over the implementation of the plan. This year's 3Ls will be on the cusp of law firm partnership by the time Harvard Law's campus bears all of the fruit promised by the Strategic Plan.

So how do those current students — not to mention recent HLS graduates — who toiled for the Strategic Plan console themselves? Is the answer to be found in the document's fleeting call for career counseling to alumni? No, definitely not. Like much of what is learned at law school, the lesson of the Strategic Plan is not to be found in the final result. What is there is not for us, the current crop of Harvard Law students. What is there will be fleshed out by future HLS classes in a piecemeal fashion, with the ever-present guiding hand of the Dean and faculty there to steer things along.

Instead, the Strategic Plan's most endearing lesson to students can be found in the process that created it. Compromise is a necessity, and political realities can never be dismissed. Change is difficult, and it's scary to many, but it always happens. A fitting morale to those students who are already writing their final chapter at Harvard Law.

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—First Amendment, U.S. Constitution

• Letters •

Prof. Charny '82 remembered as friend

Reading about the death of David Charny just made me remember going to his class to learn with him and have fun with him, as he bounded about the room in his own Socratic style like a lion playfully batting at a ball of string. He was an intellectual giant for sure, yet, after class, he was a friend to

me and a throwback to the time (was there ever such a time at HLS?) when professors did not look at approaching students with fear in their eyes, but saw them as friends, too.

Rob Friedman '98
November 14, 2000

Student takes a look at electoral college

Time has proven the American Constitution to be an astounding document. It has withstood the phenomenal changes of our society and has shone brightly throughout the world as an example. However, there is growing concern that the manner in which the Constitution provides for the election of our presidents is archaic and needs to be changed. Skepticism of the Electoral College has skyrocketed as its workings have been brought home to American public with a battle between Bush and Gore looming on the horizon. However, there are some key points our nation needs to remember before advocating setting aside the present system.

The popular vote is not reflective of the candidates' potential national popularity. Candidates base their campaigns on the present system. This greatly affects their campaign strategies and as a result their percentage of the popular vote. For instance, Bush did not spend much time in New York or Los Angeles, and Gore did not invest a large effort in Atlanta or Houston because their advisors knew they had little chance of winning a majority in those places. Had the candidates been trying to win the popular vote, Bush would have invested more time in parts of New York and Los Angeles and Gore would have visited parts of Atlanta and Houston. It would be interesting to see who would have won the popular vote had both candidates focused on reaching the most voters, but they didn't. Bush's campaign strategist, Carl Rove, apparently focused on compiling states that did not have a large number of electorates. Gore's team made sure they snared the big ones, New York and California. As a result, judging the candidates on their percentage of the popular vote is careless when you consider where each candidate spent their resources and the difference in population of California and Georgia.

The present system is better than one based on popular vote. If the Electoral College were replaced by a system based on popular vote, campaigns would change drastically. It is true that there would be some benefits of such a system. Perhaps greatest would be the incentive it would give states to encourage voter turnout because the more voters that show in each state would give that state more of a voice in the election. However, the negative consequences would far outweigh the marginal benefits of switching. In an election based simply on the popular vote, the heavily populated states would be king. Candidates

would not only focus on New York, California, Texas, etc., but would focus on the large urban areas therein. While this is already true to some extent, candidates still work to gain the support of many smaller states. This means that Wisconsin and Massachusetts still have a voice in the presidential nominations and election. In a purely popular-vote world, a candidate could focus on winning a high percentage in a couple of key metropolitan areas, thus effectively increasing the weight of individuals voting in those areas. The present system helps insure that all states are still valued by the candidates, which obviously affects their policies and platforms.

There may be a middle ground. If there is still popular opposition to the present system, a possible compromise may be to divide the electorates by congressional district. This could have the effect of narrowing any potential gap between electorates and percentage of popular vote, although there would still be a possibility of having an extremely close election such as this one where the winner in electorates was not the overall winner in popular vote. It would also still produce an incentive for candidates to focus on the large metropolitan areas. Admittedly, this may not be an undesirable result in the minds of many that feel those in rural areas and states have too large of an impact on the present system. A system based on congressional districts would also not allow candidates to bypass states where they know they will get at least 51 percent of the vote. If Bush had to worry about Gore picking up a few electorate votes in his home state, he would have had to campaign there also. Changing the present system to one based on congressional districts would produce some advantages over the current system, but would also carry with it some of the disadvantages of a purely popular vote system.

In conclusion, regardless of what our nation does for the election system of the future, we should realize that the present candidates ran their campaigns under the structures of the Electoral College. Any retroactive grief one feels looking at the apparently anomalous result between Gore and Bush should be tempered by the knowledge that they were not competing for percentage of popular vote, but for electors. It is the present system, and therefore, the candidate collecting 270 electoral votes wins.

Joe Gulley '01
November 11, 2000

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PERSPECTIVE

by Murad Kalam '02

Why We Don't Consider the Palestinian Side, and Why We Should

Like many, I was distressed by the November 10, 2000, RECORD, which published four "responses" (some near full-page in length) to a four-inch letter to the editor by Prof. Duncan Kennedy and Mr. Hani Sayed ("Kennedy, student comment on Middle East"; October 20, 2000) requesting more campus debate about the Palestinian/Israeli conflict. Ironically, the reactions only furthered the "limited character of the public discussion," Sayed and Kennedy decried.

While I understand that the RECORD has a policy to print all student letters, the torrent of letters

taken as a whole are excessive and redundant, not so much reactions to the substance of the Kennedy/Sayed letter as bet-the-farm attempts to defend the Israeli position in the current conflict at all costs. Most disturbing, each writer ignored the fundamental ongoing reality of Palestinian suffering, a reality that has never had much traction in the American media because of the very (often subtly racist) arguments propounded in the four letters.

Mr. Bell offers Israel as democracy in "Peace Solution Requires Respect for All." I laud his consideration of all the people involved, though he goes on to argue in essence the need to crush the "guerillas" whatever the civilian cost. His democracy argument is a more refined version of the traditional Israeli-democracy-in-the-wilderness argument, which plays upon Arab stereotypes and does not always hold up to reality. The Israel-as-democracy argument masks the reality that Israel may be a democracy for Israeli Jews, but it is something quite different for the 18 percent Israeli Arabs, who since 1948 have been ghettoized and relegated to second-class status.

Jews by mere birth have more rights than do their Arab countrymen, whose per capita income is less than half of their own. In this democracy, of Israel's 61 most impoverished towns, 48 are Arab. Israel systematically denies Arab communities the right to expand beyond their 1948 boundaries. Only 3.7 percent of Israeli federal employees are Arabs. In 1990 a State Department survey found that Israeli Arabs are essentially second-class citizens, having less access than other Israelis to social and economic benefits like housing and new-household subsidies, and government or security-related industrial employment, etc. This democracy resembles more of the Jim Crow South than our own modern democracy. (Is it any coincidence that American blacks have historically sided with the Palestinians?) This is to say nothing of Israel's racist attitudes towards its own Sephardic Jews.

Nothing excuses anti-Semitism. Nothing excuses oppression. The attempts by Mr. Scheer to justify the oppression of Palestinians by pointing to Palestinian anti-Semitism is of a lineage of Zionist arguments which

portray Palestinians as hate-mongers incapable of democracy (if not civilization) while at the same time touting Israel as the only country in the region devoid of prejudice and capable of living up to Western mores. This is an understated yet also an old, racist tune because it plays upon Western stereotypes of Arabs and Islam, which persist to this day.

This is an understated, but old, racist tune because it plays upon Western stereotypes of Arabs and Islam.

I won't justify anti-Semitism anywhere, nor the popularity of Holocaust-denial and the publication of *Mien Kampf* among Palestinians.

Perhaps, Israeli textbooks teach a subtler, more nuanced form of anti-Arab racism.

A recent survey of Israeli textbooks finds Arabs portrayed as "murderers," "rioters" and "suspicious," and as generally backward and unproductive. It comes as no surprise that a 1998 survey of Israeli youths from 13 to 18 found that 44 percent of Jewish youth believe Arab citizens should be deprived of at least some of their rights. In 1988, 39 percent of surveyed children from 13 to 18 said they hated Arabs. A recent survey of a group of fourth to sixth graders in Haifa found that 75 percent described Arabs as murderers and people who kidnap children. Eighty percent said they saw the Arab as someone with a "dirty and terrifying face."

The attention Mr. Scheer and Mr. Belosa pay to Palestinian anti-Semitic rhetoric implies that Palestinians are not deserving of our humanistic consideration because they are anti-Semitic. They equate despicable rhetoric with despicable conduct, words and thoughts with civilian killings and occupation, and, by extension, rocks with bullets, adolescent boys with soldiers. Both fail to consider the obvious: that this sentiment is (albeit disturbing and beyond justification) a reaction to a far more pernicious racism, the implemented Israeli racism (Zionism) which denies Palestinians basic rights of self-determination, basic due procedure, subjects them to forced confinement, regular prison torture, racial profiling, an ideology which is itself founded on racist and religiously bigoted ideas about the Arabs and "the Orient" (e.g., Weizmann's racist anti-Arab letters to Balfour).

Anti-Semitic Palestinian gestures are desperate attempts to dehumanize Israelis and suggest frustration with 50 years dispossession and its effects. Paradoxically, the introduction of Palestinian Holocaust denial ignores a larger, if ironic, reality: If Israelis refuse to acknowledge the suffering of Palestinians, why should we be surprised to find Palestinians refusing to acknowledge the suffering of the Israelis? Like everyone, I find it disturbing to discover racist sentiment or Holocaust denial anywhere. Yet, are Mr. Scheer and others really surprised to discover that people who consider themselves the victims of oppression hate their oppressors? Is the Palestinian reaction, however crude in this case, not commensurate with the systematic violence, bigotry and wholesale degeneration that engendered it? What is the politically

correct response to 52 years of dispossession? Zionism is itself couched in a more destructive racism in its power to subjugate innocent people by playing upon racist stereotypes. To quote Edward Said: "The Arabs and Islam represent viciousness, veniality, degenerate vice, lechery, stupidity in popular and scholarly discourse. On this collective representation of the Arabs and Islam, Zionism, like its Western ideological parents, drew."

Whatever the case, the Palestinians' racist sentiment toward Israelis is irrelevant to the fundamental question of Palestinians' right to exist and to have self-determination, however much we find anti-Semitism repugnant. To be certain, racist sentiment does not justify the killing of 100 plus innocent civilians — unarmed demonstrators, children. When is the last time you remember American police officers turning M-16s on demonstrators? When is the last time you remember such an unacceptably high number of innocent casualties in any American demonstration — even in situations where police were fired upon?

Mr. Belosa offers the conventional Israeli version of the violent de-Arabization of West Jerusalem, of a Jewish community forced to defend itself against marauding Arab and Palestinian armies. Not surprisingly, Mr. Belosa claims that wealthy Palestinian families merely sold their land, not that Haganah militia raided Arab neighborhoods, severing phone lines and electric wires, throwing hand grenades, blowing up hotels, killing civilians while quickly settling Jews in Palestinian homes. Mr. Belosa further ignores incidents like the Dayr Yasin massacre in which Haganah militiamen killed unarmed Arab civilians after their surrender, including, according to British investigators, numerous instances of savage rape and sexual molestation. Mr. Belosa ignores the fact that even before the first cease-fire, Israeli Jews were settled in upscale Palestinian neighborhoods like Qatamon.

Mr. Belosa's kudos to the Israeli military's restraint is most distressing.

More than 100 dead civilians, many of them children, many innocent demonstrators, hardly constitutes restraint. His approval of the current catastrophe betrays his indifference to the value of Arab life and in that, yes, a subtle bigotry. Unfortunately, it is not out of step with the general callous disregard for Arab life exhibited by Israelis.

Let us return to Prof. Kennedy's and Mr. Sayed's appeal to discourse. Is it so outrageous in a preeminent American law school to invite debate about an enduring international conflict? Is it so much to even state a Palestinian position? Nothing Prof. Kennedy and Mr. Sayed said begged that we take the Palestinian side so much as we enter into discourse about the issue. Both men condemned the violence on both sides of the conflict (as do I). In this light, the torrent of letters becomes all the more alarming: The mere mention of debate is

controversy in the eyes of Messrs. Bell, Scheer, Friedman and Belosa.

What do they fear? The Palestinian struggle for freedom (unlike the black freedom struggles in American and South Africa to offer examples) has never had much resonance with Americans. This is due in large part to the Palestinians' use of violence and failure to capture the American imagination on moral terms — to simply "tell their story" (as Jimmy Carter once entreated Yassir Arafat). It is also because those who sympathize with Israel have so faultlessly played upon those Orientalist stereotypes of Arabs that brim with pathologies, such as Islam and the Western suspicions and prejudices it generates. For this reason, real and equitable conversations about the Palestinian/Israeli conflict have been a rarity in America.

Rarely has the Palestinian side been genuinely considered in America (save for circles of the far-left) because the Palestinians are (1) Arab and (2) prominently Muslim. Popular media suggests that to this day the only politically correct stereotype is the seedy Arab, the only religion left safe to ridicule is Islam. As a recent editorial in Britain's *Observer* remarked: "If Palestinians were black, Israel would now be a pariah state subject to economic sanctions led by the United States. Its development and settlement of the West Bank would be seen as a system of apartheid, in which the indigenous population was allowed to live in a tiny fraction of its own country in self-administered 'bantustans,' with 'whites' monopolizing the supply of water and electricity."

Not only would Mr. Scheer and Mr. Belosa deny historical Palestinian sovereignty of their own land (a la Mr. Belosa's regurgitation of the Israeli justification for dispossessing the

Palestinians, which in essence echoes the historical quotation "a land without a people for a people without a land").

They would so dehumanize the Palestinians in our minds that American notions of fair-play, fundamental human rights, and sym-

pathy for the underdog would be extinguished from our conscience. Student sanctimoniousness (in no short supply in law school) seems to be lost on the Palestinian cause. Given this, one wonders, then, why the mere suggestion of discourse about a conflict in which so much is at stake, in which both sides might have (and will again) come so close to resolution, provokes such controversy.

I wholly agree with Mr. Friedman that both parties return to the negotiating table before even more is lost. Nothing good can be gained from this conflagration.

If there is to be real student discourse on the conflict, hopefully we might consider the conflict while being terribly conscious of the fact that neither side is blameless and in terms that seek out the most amount of justice and the least amount of human misery.

A survey of Israeli textbooks finds Arabs portrayed as 'murderers,' 'rioters' and as 'suspicious.'

Write for the RECORD. (Our news, not your opinions.)

VIEWPOINTS

THE CONSERVATIVE

GORONS! DOH!

It doesn't seem fair to write a satirical political column when there is so much wide-spread stupidity. Saturday Night Live doesn't need to write new material. They can simply quote people from The New York Times. In a campaign full of "Gorisms," we have a new type of person; they are Gore's Morons (a.k.a. "Gorons"). To be considered a Goron, you have to be more than just a moron. After all, everyone makes mistakes. Gorons are those Democrats who pretend to play dumb while they are blatantly lying.

As of Tuesday, November 14, 2000, here are some of my favorite Gorons:



Aaron Olsen

1) **The 30,000 people who as of November 14, 2000, claim they voted for Pat Buchanan.**

Hmm ... is there anything suspect about 30,000 Palm Beach voters willing to testify that they voted for Pat Buchanan? Of course the number is not surprising when Democrats hire a telemarketing firm to call a bunch of elderly voters and plant the seeds of doubt in their minds. Democrats using scare tactics on the elderly? Now there is something new.

The standout Gorons in this group include a 30-year-old business executive who said it was impossible to tell whom he was voting for since the arrows were so confusing. I don't expect his company will be going public anytime soon. Then there is the 40-year-old woman who proclaimed that she had a doctorate and yet she couldn't figure the ballot out. I wonder how many cereal box tops she had to mail in for her degree. Finally, there is the man who went around proclaiming his confusion until it was discovered he was a Democratic activist and has been convicted of health care fraud.

2) **Jessie Jackson.**

Where should I start with him? You have to give him some credit — when his protests stall he buses in people to cause a ruckus. But he sealed his position on the list of Gorons when he told Chris Matthews that the voters in Palm Beach were still confused by the butterfly ballots, despite receiving copies in the mail, since the copies did not have holes in them. DID NOT HAVE HOLES IN THEM? I couldn't believe he really said that. But he didn't stop there. He explained that the evidence shows that Gore really won Florida since "the networks got it right when they called it based on exit poll data." When I heard that I literally fell off my chair laughing. In Jessie's world, not only do we have networks calling elections before they are over, but the exit poll is also the final arbitrator. A recent CNN poll found that 75 percent of Americans claimed to have voted in this election. I presume Jessie's next cause will be to track down all of them, since there is no way the poll data could be wrong.

3) **Warren Christopher.**

He is quickly becoming my favorite comedian. In today's New York Times he says that he wants to emphasize three crucial points: Gore is leading in the popular vote and in the electoral college, and, deep down, the will of the people in Florida was to vote for Gore. His first two points are funny enough by themselves. Does he think either of them really matter based on our Constitution? But his last point must demonstrate his desire to join 1-900-PSYCHIC when this is all over. I have an even better idea: Why don't we compare the two candidate's horoscopes and make the decision based on that?

4) **William Daley (a.k.a. the Henchman) and the Democrat Congressional Cronies.**

Daley has engaged in the most obvious disinformation campaign. (Hey, it got them this far. Why not go all the way?) The first couple of days he led the charge claiming that the butterfly ballot was illegal and even suggested that there should be a re-vote. Other Democratic minions followed the script. They claimed that it was impossible that Buchanan received those votes. Whether Buchanan really received that many votes will never be known, since although Buchanan received an abnormally high number of votes in Palm Beach, the Reform Party candidate for Congress received 2,651 votes in Palm Beach County, and his district only covered a third of the county. What was even more Goronic was the way he proclaimed the ballot to be illegal since the box was not to the right of the candidate's name (a requirement of paper ballots). It took me a whopping twenty minutes to look up the relevant Florida statute, which clearly states, "Voting squares may be placed in front of or in back of the names of candidates." This statute applies to electro-mechanical ballots that include ballots that use a device to pierce paper ballots. (I am sure that this is old news by now, but if you want to look it up yourself go to Florida Statutes 101.5609 and 101.5603). So why did Daley and other Democrats go around proclaiming the ballots to be clearly illegal? Either they didn't look it up (no wonder they always think there is no controlling legal authority), or at the behest of Mr. Goron himself they were instructed to go out and cause confusion and spread misinformation.

By the time this is published, hopefully everything will be resolved. If it isn't, I encourage everyone to be on the watch for more Gorons.

THE LIBERAL

BETTER A SNAKE CHARMER THAN A (SUPPOSEDLY) CHARMING SNAKE

So should I even bother with the election? With the media affording topics like ballot design and punch-card technology the level of coverage normally reserved for O.J. trials and celebrity plane crashes, one wonders what a school paper columnist like me can add.

I also don't like writing about current events in this format, although it's nice of them to put the election on hold. I expected to be writing in the afterglow of Al Gore's unlikely triumph, or pondering the tragic mistake of electing George W. Bush to lead the nation. I didn't anticipate the opportunity to speculate on the election's outcome a full ten days after the first Tuesday in November.

Still, I don't feel comfortable talking about Palm Beach just yet. As rapidly as the situation changes, anything I say will be obsolete after an hour anyway. How does the old joke go? If you don't like your vote totals, wait five minutes?

Furthermore, it is obvious that Larry Tribe, that tireless champion for states' rights, needs no help from this corner to defend Florida's sovereign right to choose its electors. It is hard to swallow the Republicans' attempt to once again cram big, Washington-style government down our throats; but just because we can't trust the Florida elections board to know what it's doing, does that mean that we should let the federal judiciary decide who will ultimately assume the presidency? Never!

Even as I write this, I'm struck by the fact that there are basically two things allowing me to poke fun at Professor Tribe's efforts. The first, and perhaps most important of these, is blind grading. The second is blind faith in the Democratic party. As you may have noticed, I'm not above a little partisanship myself, and I am in fact down with the litigation strategy. Let's get federalist on their asses, man!

Maybe that's not a totally non-objective position though. Maybe there is a difference between allowing states to run their elections, on the one hand, and giving states a "get-out-of-jail-free" card on the other.

I'm also able to make light of the situation because I'm no longer upset with the key players. I'm not angry with Al Gore now. Sure he could have run a better campaign, making those 25 electoral votes a whole lot less important by, say, I don't know, winning his home state. Still, I can't fault him for his performance since election day.

I also have little anger left for Bush. I'm pretty much resigned to the fact that he'll emerge from this mess the winner, if in fact anyone can truly win an election like this. George looks more pathetic than evil right now: his gigantic Band-Aid flapping in the breeze back at the ranch; his typically befuddled-but-happy countenance becoming a glum-but-befuddled mask; his coming to terms with the fact that there'll always be a cloud over his misbegotten presidency, should he even get that far. Remember those 1992-era bumper stickers that said "Don't blame me — I voted for Bush!" I can't wait for the next round of stickers that will adorn the rear-ends of so many Americans: "Don't blame me — I voted for Gore ... as did most other people, come to think of it."

So how could I harbor any ill feelings toward Prof. Tribe himself? If he has to be in Florida to save the country and can't get back in time to teach class this week, I'm willing to make that sacrifice.

I guess that the only person I'm still angry with is Ralph Nader, and that despite the fact that I'd have to search long and hard for a plank in the Green party platform that I don't like.

I fault Nader only for his short-sightedness — though in a curious sort of way, his short-sightedness is rather forward-thinking. The shock of losing, should Florida's allegedly neutral governor and secretary of state certify the current results, may move the Democratic party back to the left for 2002, 2004 and beyond. (Whether this would be a winning strategy is another question, though. Anyone remember Dukakis?)

What I worry about is what happens in the interim. It's sensible to think that four years of Bush may be a good thing if it jolts the American people into wakefulness. Noble though Nader's motives may be, however, I question the wisdom of martyring the fruits of his life's work in order to achieve a potential long-term benefit. I don't know about you, but I was hoping to breathe cleaner air and drink cleaner water in 2001 and 2003 too, the absence of federal elections notwithstanding. What's more, if I had exploding Firestone tires on my car, I'd rather not wait until 1/1/05 for the federal government to give a damn about it again.

If Mr. Nader thinks that having Democrats in the White House is the functional equivalent of having the GOP mind the store, I can only ask where he was during the reigns of Reagan and Bush the Elder. Or does Nader really think that the EPA does nothing to protect the environment or that the Department of Labor is not crucial for the enforcement of Title VII and federal workplace safety regulations?

I've very little doubt that George W. Bush will shortly take his place in the Pantheon of single-term Republicans who squeaked out victories in the electoral college despite losing the popular vote. The comparisons to Rutherford B. Hayes and Benjamin Harrison are inevitable. Ralph Nader's candidacy is not without its historical precedent though. By enabling another Bush administration, Nader will have done for the environment and the rights of the individual versus the corporation what John C. Breckenridge did for slavery in 1860.

Nader has effectively hung a "closed for the duration" sign on the doors of the EPA and the DOL, and may have sentenced the Department of Education and several other agencies and programs to death. He seems to think it chic to paint Clinton and Gore as the "centrist snake charmers" of the Democratic Party. As for me, I'd rather have a snake charmer in the Oval Office than a snake like Bush, or a snake of an oil salesman like Dick Cheney.



Matt Wood

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ELECTION

by Adam Hirsch '01

Let's Usher American Elections into the Modern Era

"The problem was to find that mode of election which, while expressing the real will of the people, would least arouse their passions and leave them least in suspense. It was first of all agreed that a simple majority should decide the point. But it was still a matter of great difficulty to ascertain that majority without fear of those delays which were most important to avoid."

— Alexis De Toqueville,
Democracy in America.

It looks like the first American political pundit had it right. Of course, he wasn't forced to make such statements under klieg lights at four in the morning on election night. Nevertheless, the manner in which we elect our President troubled Toqueville as it troubles us now. Yet in all the bloviations of the bloviators, the root problem goes unmentioned: America's voting infrastructure stinks. How we vote, the ultimate expression of our democratic being, has been left to a mishmash of Depression-era voting machines, punch cards, and volunteer staffers. Voting machines, the counters of the popular will, have been allowed to operate with 2 to 5 percent margins of error.

We've been lucky so far. Our democracy has been sloppy for a long time, and it didn't catch up with us until November 7, 2000.

It comes as no surprise that it took a Presidential election to bring this situation to light. Thanks to Kafkaesque campaign finance laws, Congressional races have ceased to be competitive or interesting. Last week, 388 of the 390 incumbent members of the House who stood for reelection won. When races aren't competitive, voters become disengaged. And why would a disengaged voter care about punch ballot chads or long lines? Who cares about waiting in line to send what's-his-name back for

an eighth term?

But, even the staggering boredom of this year's Presidential election gave way in the last week of the campaign. As the candidates criss-crossed the country (or at least criss-crossed Missouri, Wisconsin, Pennsylvania and Florida), they drew big crowds. They stumped themselves hoarse. Phone banks hummed and neighborhoods were canvassed. Millions of pieces of mail were sent and more millions of flyers were dropped. On election day, thousands of volunteers woke up before dawn and got busy calling voters and driving people to the polls. The condescending boredom of the punditocracy could not deter at least some outpouring of patriotism on Election Day. For a great many people, the presidential election *mattered*. Who won *mattered*.

Except that no one won. This was unprecedented. (By unprecedented, I mean it hadn't happened on CNN before). This is America. We hate ties. But alas, on election night, and even now, we have no winner. We don't know what to do with ourselves.

Why? Because our election system failed. Of course, this is nothing new. Our election system fails every time it is used. Except now, it *matters*. What happened in Florida was not unusual. What was unusual was that it actually affected the outcome. The events of last Tuesday were remarkable not for the alleged irregularities but for the closeness of the race. In a sick twist of fate, an uninspiring election and a mind-numbing race could end up serving a vital civic purpose.

Old voting machines that were, well, good enough for government work suddenly weren't. Democrats complain about the 19,000 ballots cast but discounted in Palm Beach County. Republicans respond that over 15,000 ballots were discounted in 1996 in the

same county. These two parties will no doubt fight to the last billable hour over this year's ballots, but where were they four years ago? Why did those 15,000 ballots not matter then? The easy answer is because Bob Dole couldn't have beaten Bill Clinton even if Clinton had told all on "Taxicab Confessions" the week before the election. The harder answer is that we didn't care. The old refrain of "My vote doesn't matter" allowed us to ignore rampant voting irregularities.

Last Tuesday, conversely, every vote mattered. Just ask the four people in New Mexico who decided that it just wasn't worth the trip to the polls. The unbelievable closeness of the tally brought our ordinary fallibilities to prime-time light. The historic beauty of our political ideals came crashing down in a litigious cascade of butterfly ballots and missing ballot boxes.

For some unknown reason, we have not considered our elections worth modernizing. Why? Our military is capable of dropping bombs down air-conditioner shafts on the other side of the globe. We can download the works of Shakespeare in minutes. Yet we still vote by punchcards.

America has much to be proud of this week. Our system is holding together. The election will be resolved, and someone will be sworn in after New Year's. No one has taken up arms against the government, and all expressions of protest have been peaceful. A healthy debate over the merits of the Electoral College has begun, and many of us have re-embraced our democracy.

Our pride, however, must be tempered with realism. The voting irregularities that have dominated the news are commonplace. In fact, they are mild examples of the pseudo-democracy our country has produced in prior

elections. The interminable and gut-wrenching fight of minorities to gain the vote continues. Though violent suppression of the vote has ended, stories of mysteriously closed polls in minority neighborhoods still surface. American voters who don't speak English often find it hard to find a translator at the polls. Too many of our citizens have to work to vote.

So where do we go from here? The current election will be resolved in the courts of law and of public opinion, but time marches on. We have another national election in two years and another Presidential election in four years. We should undertake a nationwide initiative to modernize our voting processes and to fully support the infrastructure of our democracy. Voting "irregularities" such as those occurring in Palm Beach should not be tolerated in this country. Fiscal conservatives may object to spending money on such an effort. Some realpolitik Republicans will fight it because when more people vote, Republicans usually lose.

Such modernization, however, is necessary. How can we afford not to? How can we put a price tag on democracy? Opponents of modernization now have the burden of justifying their inaction. The United States government should take immediate action to support local actions to improve how we vote and how those votes are counted. The Appleseed Center for Electoral Reform will work hard to improve our election processes, and we welcome anyone who wishes to join us in this effort.

Either that, or you can trust that James Baker and Warren Christopher will always be around to sort things out.

Adam Hirsch is president of the Appleseed Center for Electoral Reform.

PERSPECTIVE

by Reese Pect '02

Let's Give Them Something to Talk About

Come on, admit it. Weren't you bored before this whole election fiasco got started? After all, it's been five years since the OJ Simpson debacle, and almost two years since Monica Lewinsky and the president got busy. America loves a good scandal, and this is a fine one we've gotten ourselves into.

In Greek mythology, the Gods create Pandora as a punishment to man. Although warned not to open the box that sits on a shelf in Epimetheus' home, her curiosity drives her to open it and a bunch of nasty vices and ills fly out into the world. At times, it seems like we are living with Pandora's Box. Every few years, something crazy flies out and gets our nation riled up. But some might argue that the riling comes less from the events themselves and more from an overzealous media's spin on things.

For the past week, we've been tuning our dials to NPR and our TVs to CNN (or, more regrettably, that bastion of "unbiased" reporting, the Fox News Network) to learn about the latest twists and turns, about ballots, tits and tats and chads. Partisans and attention-mongers continuously take their turns at the microphones of eager reporters. They pretend to be non-partisan, accusing the other side of foul play and threatening that democratic legitimacy will be lost unless the other side stops being duplicitous and manipulative.

Day after day, Americans watch the same reporters give basically the same

reports, but somehow they stay tuned. Why? Americans claim that they don't even like the media. The media is sensationalistic, biased, and irresponsible. Americans shout. According to a CNN-Time Poll, nearly eight in ten people said the TV news media acted irresponsibly on election night by broadcasting projected winners based on exit polls. Eighty-seven percent of those polled thought the media was "more interested in getting out results first, rather than in getting them right." Thus, we criticize. But then we turn on the tube, our ears preened in hopes of hearing another particularly juicy, and possibly unconfirmed, piece of information.

Do we listen because we have no choice? After all, where else are we supposed to get our news — by word of mouth? Do we listen because we're truly curious about who our next president will be? (Come on. This is Al Gore and George Bush we're talking about. Yawn.) Or are we secretly hoping to hear about another ballot box being mysteriously unearthed from the bowels of a church? Or that Al Gore has bribed senior ballot counters with lifetime supplies of polydental grip if they call those two-gornered ballot chads for him? Maybe we're just hoping to find out that OJ had something to do with it.

The truth is that the media has an incentive to verify that information is substantially accurate. If they don't, they can get sued and/or lose credibility. But should the media rise above our

predilections and act more like a principled profession rather than gossip central? Did we really need to hear all of the dirt behind OJ Simpson's marriage to Nicole? Or the blue dress and the cigar? Do we really even want to hear every bit of partisan wrangling that has muddied this ballot-recounting process?

Irresponsible, sensationalistic or even excessive reporting, when it happens, can have drastic consequences. People's personal lives may be damaged. In reference to the elections, many argue that prematurely forecasting election outcomes skews the actual results. For example, Democratic voters in the Western states may have cast their votes for Ralph Nader, or not voted at all, because the media prematurely reported that the presidency had gone to Bush. Granted, the psychological effect of early forecasting can be strong, but is this the media's responsibility, or the voters'?

Despite claims to the contrary, it's dubious to presume that Americans would even want a media that acted less like gossip central. The concept of trading in verified, non-sensational information violates the more salacious and curious side of human nature.

For example, take a look at the gossip-"philic" behavior evinced by a respectable, ostensibly intelligent group of people. Fine specimens of humanity, if they may say so themselves — yes, I'm talking about Harvard Law School students. Take

Mike Naft's party last Friday night. The rumors are already in full swing. Tales of party-goers swinging from ceiling beams, late night debauchery set against Michael Jackson crooning "The Girl is Mine," and whispers regarding who-went-home-with-whom circulated madly this weekend and show no signs of being put to rest soon. Or how many times have you heard something about yourself before even you knew it and bemoaned what a small world a community of 1600 students could be?

Yet, you ask, what does the smack-talking of a bunch of law students have to do with media responsibilities? The answer is that the good comes with the bad. It's human to consume and pass on information. National well-reported scandals give Americans something to talk about, and perhaps, in the present instance, enliven our democracy. It's desirable to have a robust "marketplace of ideas." Daily gossip spices up our lives and illuminates our social existence. But there are tradeoffs; information gets out there that probably should not. Issues become distorted and over-sensationalized. Individuals may pay a personal cost in having their private lives exposed. Elections may get skewed. And then there is the fatigue factor, just like that aunt who won't stop talking about so-and-so and such-and-such, sometimes we just get tired of hearing about it all. So on that note ... will someone turn off CNN and pop in that Michael Jackson CD?

Sportsguy

PLAYOFF PICTURE ALL CLEAR

by Phillip Barengolts '01
RECORD Columnist

The HLS Gridders had playoff hopes in the balance on Sunday as valiant performances were turned in by winners and losers alike in the struggle for the postseason.

In the 8 a.m. hangover specials, the Law Dawgz took on the Second Plague while the Fighting Peilins battled with Mr. Sparkle. The Law Dawgz needed a victory over the favored Second Plague in order to have any chance of making the playoffs. **Jeff Chico** and the **Mandelbaum '03** ran one touchdown from end zone to end zone and threw for three more to provide nearly all of the offense for the Dawgz, but it was their defense that made the difference. **Jim World B. Freeman '03** made a momentum-changing interception and **Mike Where There's A Scoville There's A Way '03** prevented a game-tying touchdown in the final minutes to preserve the Dawgz 33-26 victory. The Second Plague received an offensive spark from the sure hands of **Adam We Always Hirsch The Ones We Love '01** and **Matthew The Lord is My Shepherd '01**, but the Plague could not complete the comeback. The Fighting Peilins began their day undefeated and would continue to be so through their first game — even though they failed to win — by playing Mr. Sparkle to an 18-18 tie. Mr. Sparkle was led by the running attack of **Steve I Wish I Were In Dixon '02** who gave Mr. Sparkle a six-point lead late in the game despite the defensive fury of the Peilins' **Justin Please Hammer Don't Herdman '01**. While **Morgan Ricks Are For Kids '01** made a sensational back of the end zone grab to tie it on

the last play of the game, **Ian Hummel Me a Few Bars '02** batted down the potential game-winning extra point to preserve the tie.

The Peilins squared off with the Second Plague in a battle for division supremacy. The game lived up to its billing as **Casey And The Sunshine Band Westover '01** clinched the Plagues 36-26 victory with one minute left on the clock by pulling down a one-handed snag in the corner of the end zone. If I Were A **Rich Man From '01** gave the Peilins most of their offense, catching two touchdown throws from **O'Kelly Dokely Huffman '01**. While the Plague offense had its moments, it was the defense of **Dave Make A Run For The Borders Jr. '01** that made the difference. He not only made a clutch tackle to prevent a first down, but he also ran an INT back for two points to help ice the outcome.

The tired and beaten Peilins faced a fresh Astro Gliders squad in their final game of the day. Despite the Herculean efforts of **Joe Jonathan Livingston Sea-Gulley '01**, the Peilins could only muster two scores against the Gliders stifling defense. **Ben Down The Hatch '02** had two interceptions and **Pastrami On Ryan Kane '02** scored the back breaker to keep the Gliders' playoff hopes alive. **Dave I'm A Pimp, You Can Nemecek My Stats '02** provided the only other offense to speak of on a short touchdown reception in the Gliders 15-14 victory.

In what amounted to a playoff game for Andy's Team and the Astro Gliders, the two squads gave a tremendous effort only to both come up short of obtaining the final spot. **Jerry Ling My Bell '03** caught two

touchdowns, going high above the defense for the grabs, and **Ryan Cobb Salad '02** gave his usual all out effort to fuel Andy's offense. The Astro Gliders were led by **Brian Lutz Of The Irish '02**, who relentlessly drove his team down the field, and the spirited line play of **Evan To Drink Your Blood Belosa '02**, who provided Lutz with enough time to throw for four touchdowns. But it was **Steve Skee-Locher '03** who nabbed a touchdown for Andy's Team in the final seconds and gave them a 41-35 victory that sent the Gliders home for the winter.

In a matchup of unbeaten, Aaron's Team squared off with Aaron's Mom, who gave it up too easily as Aaron's Team won 34-12. **Eric Another Brick in The Wall '02** made a number of key grabs and **The Sashi My Father Wore Brown '02** hauled in an amazing one-handed sideline interception to keep Aaron's Team ahead throughout. Buy Low **Ansel High Brown '02** provided Aaron's Mom with solid quarterback play, but it was not enough against Aaron's Team.

Aaron's Mom would come back to defeat Herwitz' Heroes in their second game 34-27 to get back on track. **Aaron Every Rosenberg Has Its Thorn '02** and **Mike Give Minahan With This '02** caught two touchdowns each to lead Mom's attack. The Heroes got most of their offense from **Jarod Give The Dog A Bona '01**, who scored three times. **Ian Downes On The Farm '01** threw for two scores, connecting with **Jeremy So Horny Anderson '03** on nifty score in the first half, but it was not enough to overcome the loaded Mom.

In the biggest shootout of the day,

The Frightened Turtles defeated Aaron's Mom on the last play of the game by a tally of 45-40. The wild ending started off with **Shawn McDonald Trump '02** making an incredible reception with defenders hanging all over him to give Mom a one point lead. Not to be outdone, the Turtles set up for the Hail Mary on their final play. Lineman **Larry Scheer The Wealth '01** hunkered down and provided the QB with excellent protection. The ball was launched into the end zone and brought down by **Rob There's Something A-Mishev**, who skied over all of Mom's defenders to bring it in and win the game. While the play was spectacular, it would have been a moot point if not for the unheralded play of **Eric Zacks A Lego Maniac '02**, who caught two touchdowns and made a crucial pick to stymie Mom.

The final game of the day was no less exciting as Casey Westover came down with the winning reception on the last play of the second half. **Craig Cronheim Gonna Get You Sucka '01** threw it up for grabs and the 5'9" Westover went up among the trees of Dicken's Cider to win it. Just prior to the Second Plague's winning moment, it looked as though Dicken's Cider had the game in their grasp as the result of a fluke play on a Plague extra point attempt. **Kevin Built Like A Brick Vick-House '01** tipped a Cronheim pass in the air and it came down in the hands of **Jeremy Stamelman Overboard '01**, who ran it all the way back for two points and a one point Cider lead. But Westover's last second grab gave the Plague a victory and momentum going into the playoffs.

THE CASTING COUCH

by Jim Greeley '01
RECORD Columnist

STILLER FILM A COMIC ROMP THROUGH PREMARITAL DISCOMFORT

Meet the Parents, Ben Stiller's new comedy co-starring Robert Deniro, does not equal his 1998 masterpiece *There's Something About Mary*, but it remains one of the funniest films you will see this year. The brand of humor is very similar in the two movies, as are the main characters — both ill-fated losers played by Ben Stiller. Two elements that distinguish *Meet the Parents* are the fine performances turned in by DeNiro and Owen Wilson. Coupled with Stiller's considerable talents and a fittingly zany script, *Meet the Parents* is an absurdly entertaining film despite its similarities to Stiller's previous work and my own high expectations.

Stiller portrays a male nurse from Chicago by the name of Greg Focker. He is dating Deniro's daughter, a schoolteacher named Pam portrayed by talented newcomer Teri Polo. Stiller devises a romantic plan to ask for Pam's hand in marriage, but before he can propose, she unknowingly mentions the necessity of requesting her father's permission beforehand. Stiller quickly scraps his proposal and heads to Long Island with Pam for her sister's wedding, all in the hopes of gaining her father's blessing.

As one might imagine, DeNiro, who is instinctively disapproving of all of his daughter's beaux, does not quite hit it off with a guy named Focker who happens to be a nurse. Stiller does not help his cause. Believing DeNiro to be

a retired florist, Stiller presents him with a rare potted flower. In fact, DeNiro is an ex-CIA operative who never cultivated a plant in his life, and only used the flower business as a cover.

DeNiro's disdain for Stiller grows as the would-be suitor attempts to ingratiate himself. A master at interrogation, the constant queries DeNiro poses put Stiller in a variety of hilariously awkward situations. Never wanting to give the wrong answer, Stiller tells a series of small lies. Aware of these white lies, DeNiro presses Stiller, forcing him to cover with complex fabrications. One particularly amusing example occurs when Stiller spots DeNiro conducting a secretive transaction in the parking lot of a convenience store. In an effort to appear casual, Stiller pretends to be reading a magazine. When the suspicious DeNiro finishes his dealings and approaches, he asks Stiller what he is reading. Unaware that he has opened a copy of Brides and New Mothers to an advertisement for breast pumps, Stiller replies, "Oh, I was just, ah ... reading about breast pumps — I grew up on a farm, so I have done a lot of milking of the ... farm animals." Later that evening at dinner, DeNiro brings up the fact that Stiller grew up on a farm. Pam says, "What? Greg grew up in Detroit." Stiller is forced to launch into a clumsy explanation of how it was not actually a farm he grew up on but rather

that his home in Detroit was modeled after a colonial farmhouse. Furthermore, when he said he had milked animals he was referring to the family cat that had recently had a litter of kittens, the smallest of which could not reach the teats of his mother. Stiller demonstrates with his fingertips how he manipulated the teat of the cat while Pam and her parents cease eating and meagerly feign horrified interest.

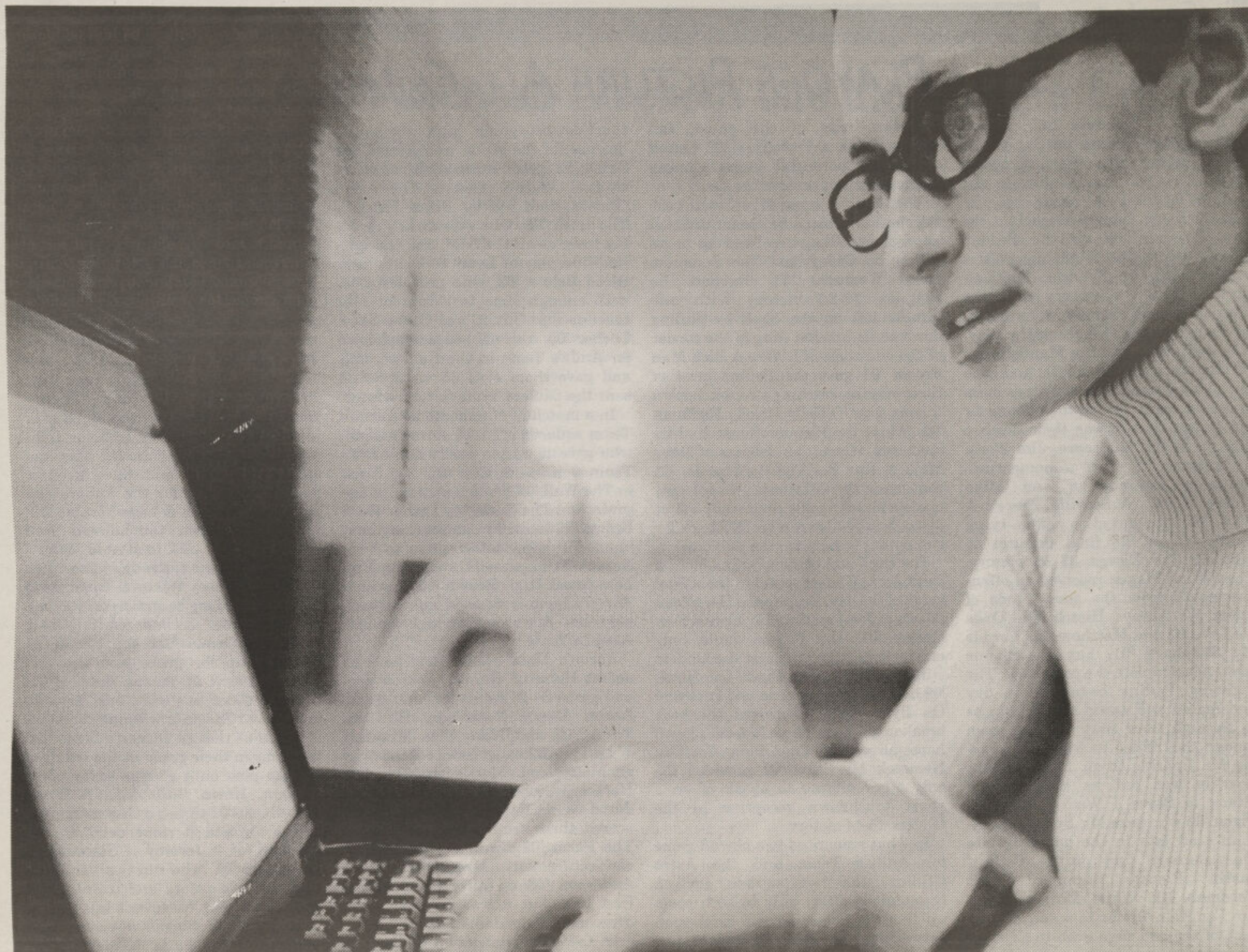
This is just the beginning. Everything that can go wrong for Focker does. If you are easily embarrassed by the misfortunes of others, you will probably have to leave the theater at various points during the film. Stiller is the master at creating horribly uncomfortable situations brought on by his nervous clumsiness. In this film, DeNiro makes it especially easy for him. Eager to demonstrate Stiller's inadequacies to his daughter, DeNiro cruelly tears him down at every turn. At one point, he says outright, "I'm going to bring you down, Focker." Stiller's attempts to enter DeNiro's "circle of trust" only serve to increase DeNiro's disdain. When Stiller loses DeNiro's prized cat, he goes to the pound and spray paints a stray to look like the family pet. DeNiro is momentarily pleased until the cat destroys the house. It is all very reminiscent of the prom scene in *There's Something About Mary* when Stiller attempts to give Mary's brother a baseball. In that film, not only is

Stiller physically assaulted for his intended good will, but he is scorned by Mary's family and called a "son of a bitch" by her stepfather.

As if Focker's situation was not stressful enough, Pam's ex-boyfriend happens to be a wildly successful Renaissance man played by the brilliant Owen Wilson. (If you have yet to see *Bottle Rocket*, go out and rent it). Wilson is the only boyfriend of whom DeNiro has ever approved, and DeNiro takes excessive joy in comparing the shortcomings of Stiller to Wilson's achievements. After a tour of Wilson's palatial mansion, DeNiro informs Stiller that Wilson is a self-made Wall Street prodigy. Wilson, in typical fashion, responds, "Well, I don't like to be painted with that brush. What I really love is my art." He then exhibits the hand-sculpted altar he has constructed for the wedding of Pam's sister. With impeccable timing, DeNiro follows up Wilson's impressive display of credentials by informing him that "Greg is a male nurse."

The plot of *Meet the Parents* is a bit formulaic, and the happy Hollywood ending seems like it was tacked on by the same screenwriters that wrote the Ernest movies. Apart from those criticisms, the film was very solid, with some memorably sidesplitting moments. Frankly, with an array of comedic talent like Stiller and Wilson, and the amazing range of Robert DeNiro, every scene could have been improvised and still emerged golden.

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Fenno

After another late night at the Inn, Fenno was on his way to pick up Charles Fried's dry cleaning. Mondays were his day to do a little work for Fried — dust off forensics trophies, type out a letter or two, and generally do his bidding. Fenno did this not for the prestige or to make that conservative Megan Leef jealous. In fact, since Fenno was working on parlaying his job at the oldest law school newspaper in the country into a gig on CNN, he figured working for the HLS faculty would be a fast-track to inside information on shameless self-promotion.

Humming as he entered Crimson Cleaners to pick up Fried's dry cleaning, Fenno realized that he had lost the claim slip for Fried's overcoat. He explained to the gentleman behind the counter that he was here to pick up a garment for his boss, but that he had lost the receipt.

"Can you describe the garment for me?"

"Yeah, it's a black overcoat, about 8 feet long, Size 44 Triple Tall, looks like it belongs to a vampire..."

"Oh sure! I have it right here!"

With the overcoat folded under his arm, Fenno set out for Fried's house. Before entering, Fenno wiped his feet on Fried's welcome mat, a wrought iron number that read, *If you must solicit, make it general.*

Fried was never a cheerful or chummy man, but Fenno found him in a singularly foul mood this afternoon. "Hello, Arthur," he said. Fried tended to call Fenno *Arthur*, especially when he was in a bad mood.

"How are you today, sir?" said Fenno.

"Just fine, thank you. I am watching the television, and I see that my colleagues, Messrs. Tribe and Dershowitz, have both found prominent roles for themselves in this whole election bugaboo. Apparently, Mr. Tribe became involved after receiving an unsolicited call from the Gore campaign this weekend. I expect I shall similarly be called to duty by the Bush campaign any minute now."

"Any minute now, indeed, sir," said Fenno.

"In fact, Arthur, I wish for you to avoid using the telephone apparatus at all costs this afternoon; I should feel terribly guilty if I were to miss the inevitable call for help from the Bush camp. They will be needing my assistance very soon, I fear."

"As do I, sir."

Fenno went off to polish Fried's collection of blunderbusses. When that was done, he fed the hounds, restocked Fried's bar with the latest shipment of South African apple brandy, and vigorously scrubbed the professor's toilet.

About three hours later, Fenno rejoined Fried in his study and noticed that his mood had further deteriorated. Apparently, the Governor had not called. "Arthur," Fried said sharply, "I think we will have to take some corrective measures here, and risk missing the call from the Bush people in the process. Could you dial the usual number?"

"Of course, sir," Fenno dialed the Harvard House of Pizza, which he now knew by heart, and dutifully ordered up 20 pizzas to both Tribe's and Dershowitz's houses. *Anchovies only.* He knew he'd end up toilet-papering their lawns before the evening was over, too, and there might even be a banana in a tailpipe before it was all said and done, depending on how put off Fried really was. Fenno put down the receiver and found Fried ranting wildly about all the things he had done to deserve inclusion in this time of national debate, all his accomplishments as a conservative.

"Don't they know that I fought the pro bono requirement, Arthur?! Don't they know that I have worked tirelessly to keep environmental law away from Harvard Law School? I'm a big shot, Arthur. A BIG SHOT! Do you hear me, Arthur?!!!"

"Sir, my name is Fenno." *Here it comes*, thought Fenno. *Why couldn't I just keep my mouth shut?*

"Now hold on here, you just picked up my dry cleaning, did you not?" said Fried. "And you just finished polishing my antique firearms, not to mention cleaning my toilet, did you not? And I am telling you that the man who picks up Charles Fried's dry cleaning and the man who washes Charles Fried's toilet is named Arthur Miller, and that's FINAL!"

Fenno nodded in agreement and shuffled out of the room. *Jealous freak*, he thought to himself. Fenno moped into Fried's kitchen, opened a bottle of cognac, and took a stiff swig. Only a few seconds later, he heard the doorbell ring.

When Fenno swung the door open, he had to blink twice. Because right there before Fenno's eyes was the entire Harvard Law faculty.

Fenno looked on in fear as they elbowed their way into Fried's auxiliary anteroom. All 79 of them, from Alford to Wolfman. Lani and Einer and Bagenstos, oh my. *Wait a second*, Fenno considered, *Where's Larry Tribe? And Dersh? Where's he?*

Fenno dashed back into the house, where the faculty had congregated in

Fried's study. Duncan Kennedy was standing on the coffee table, ranting about how "that houseboy was totally lacking in Bohemian flair!"

Dunc was cut off by an equally agitated David Rosenberg. "Enough of your crap, commie," Rosey growled, "Let's cut to the chase. Here's our core theory, plain and simple: we want media coverage. When the cameras start rolling in front of a courtroom, Dersh and Larry get those microphones in their faces. We want *mikes*, Charles, whole podiums bristling with *mikes*..." Rosenberg wiped a line of drool from his face and awaited the verdict.

Fried harrumphed once, twice, and then thrice. He put his hands together, stared at the ceiling, and tapped his forefingers together. "Excellent," he hissed, "Smithers!" Fried shot a glaring look at Fenno.

"Muh...muh...me? Arthur?" Fenno asked.

"Yes you, Smithers! Wake up, dullard! And please do wipe that blend of self-aggrandizement and mortification from your face; it is making me ill." Fried gave a fleeting smile and looked back at Rosenberg, "Tell me, David, just what you would discuss before one of these 'microphone' devices?"

Rosenberg gesticulated wildly, the fraying ends of his jacket making him look like Gerry Spence in denim. "Levis, Chaz! Levis Strauss & Company. Manufacturers of the finest mass consumer fashion material since some Roman guy draped himself in a curtain. I'd be the biggest thing since acid-washed, baby."

Fried peered about the room. "You, Charles Donahue. What is your area of expertise, for the purpose of media calls?"

Donahue cackled maniacally, "Once I fielded a press inquiry from Scholastic News about the prevalence of *ferae naturae* in elementary school hamburgers. But generally I'm available to discuss horizontal privity as a precondition to an easement appurtenant, assuming that the Rule in Shelley's Case is in effect, unless of course the statute *de donis*..."

"Silence!" Fried slammed his hand down like a two-ton gavel. "Let's do this my way," he demanded. The faculty then rattled off their credentials with rambling efficiency. There was Scott Brewer's formalist critique of Derrida's linguistic frivolity. Lucian Bebchuk sounded off on negative expected value suits. Howell Jackson pointed with pride to his paper entitled "The Selective Incorporation of Foreign Legal Systems to Promote Nepal as an International Financial Services Center." Fried chuckled at that one. "Catchy title, Howell, but it's certainly

no *Sexual McCarthyism*," he said.

Fried gestured to the faculty. "You — all of you together — constitute an intellectual *tour de force* rivaled only by the late Burger Court," Fried said, "but who among you has media experience?"

Randall Kennedy stepped forward. "Ahem. I have been a guest on National Public Radio's 'Fresh Air' on at least a dozen occasions. That would be more than Larry and Alan combined. I also teach a 5-credit class in front of nearly 200 students every week..."

Fried interrupted. "I am loathe to be critical, dear Randall, but let us be honest. That you have 200 enrolled does not mean they all attend."

With that, Fried bent his imposing frame towards the floor. When he came back up, Fenno could see that he was holding a copy of Tuesday's Boston Globe. "Have you seen this, perchance, dear colleagues?" Fried asked. "I was struck by this engaging letter, signed Edward K. Cheng, Harvard Law Review. This delightful effort to win the hearts and minds of the Florida state courts — printed in a New England newspaper — is surely the proper method for swaying public opinion."

Perhaps letters to the editor were the answer. They all agreed, to their infinite consternation, that this was one of those rare, sticky problems for which a law review article wouldn't do the trick. In this crowd, a law review article was usually just the thing for most any problem. War in the Middle East: law review article. Intractable racial tension in America: law review article. Global warming and the prospect of environmental annihilation: law review article. Toothache: law review article.

But this case was different — reputations were at stake. So it was decided; they would write letters to the editors of papers across the nation. Duncan Kennedy had already penned a thesis sentence for his forthcoming letter to *The Village Voice*, "Trying to inject a Constitutional scholar like Tribe into an intrinsically political process is, like, totally Procrustean, man!" Frank Michelman had a contact on the Toledo Blade, Lewis Sargentich a cousin who worked in the mailroom of the Sheboygan Star Register. "We'll blanket the country with invective," they cheered.

As they left in clusters, Fried pulled Fenno aside. "Smithers," he murmured, "I'll be writing a little piece for the Times. *The...New...York...Times*." Giving Fenno a pat on the shoulder, he stared into the red hot coals of the study's fireplace. "Get the hansom cab ready, lad. I have a feeling that we shall soon be leaving the trees behind and heading for the Bushes."

Letter

Students applaud Strategic Plan's LIPP focus

On behalf of the Student Public Interest Network (SPIN), we wish to congratulate the Steering Committee on compiling a Plan that could greatly enhance the educational experience and career opportunities of all HLS students. While the entire plan deserves students' attention, we limit our comments at this time to the Plan's LIPP reform proposals.

We wholeheartedly support the recommendations to: (1) eliminate the arbitrary salary cap; (2) guarantee LIPP availability to incoming students; (3) eliminate the law-related job requirement for government, non-profit and academic jobs; and (4) improve LIPP outreach and information.

Eliminating LIPP's arbitrary salary cap will ensure that graduates do not end up earning less as the result of

incremental increases in their salaries. Guaranteeing incoming students that LIPP will be available to them could not only be used as a valuable recruiting tool, but would also encourage students to pursue public interest work. Ending the "law-related" job requirement for government, non-profit, and academic jobs will allow graduates to assume cutting-edge roles and use their skills in a broader range of worthy professions. Finally, improving LIPP outreach and information will help make the program more accessible to those considering using it, serve as a valuable recruiting tool, and make the program easier to administer by allowing students to answer many of their questions on their own.

While the committee recommends that the distinction between ordinary

and parental contribution replacement loans be softened, we believe that this change does not go far enough. Currently, if graduates leave the LIPP program within ten years, they are required to repay the portion of their debt for which the financial aid office declared their parents responsible. This formulation, which is unique to HLS, is based on the faulty assumption that all students may call upon their parents to contribute, relies on the financial aid office's often unrealistically high calculations of parents' ability to pay, and makes the program difficult to administer. This problematic distinction should be eliminated altogether. In sum, the Committee's recommendations, although generally quite good, could be greatly enhanced by eliminating the distinction between ordinary and parental contribution replacement loans.

[...]

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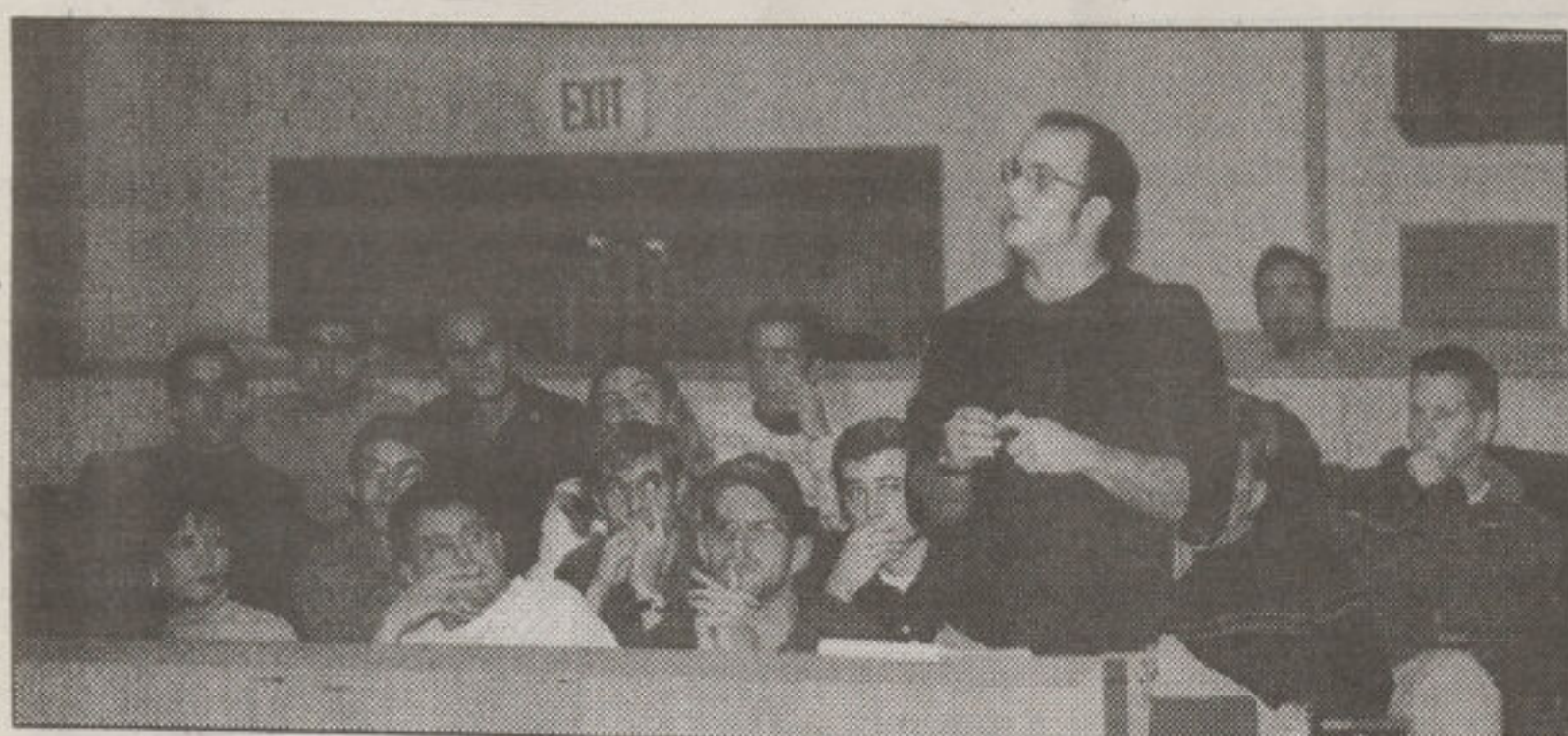


Photo by Murad Kalam

Budding RECORD reporter Juan Pablo Albain '01 challenges O'Reilly to elaborate on his theories about racial conflict.

O'REILLY

Continued from page 1

the evening — not surprising given O'Reilly's controversial personality. One curt student asked: "Do you think abortion is murder?" Surprised at the question, O'Reilly called it "the most vexing problem in our society." He condemned the extreme "ideologues" on either side of the complicated question, and thought it shameful that the issue has become so politicized and not sufficiently "humanized." While he believes that it would be "for the best if the procedure of abortion did not exist at all," he did not think that either states or the federal government should make it illegal. Rather, he felt that the government should step up efforts to cut down its use, especially as a method of birth control.

Several questions from the audience focused on his opinions about the plight of American minorities and the overwhelming support that Gore received among African Americans. He blamed the Republican Party for basically conceding the black vote and offering them nothing except for theoretically faulty trickle-down policies. O'Reilly once asked Dick Cheney, "Why would any black man vote for you?"

He sees signs of class warfare growing in America — not because different peo-

ple necessarily feel as divided as the 2000 election reflects, but because politicians "like Hillary Clinton" notice the vote disparity and try to incite differences in order to gain advantage. He mainly blamed the poverty among minorities on a severe "lack of discipline" in all aspects of America's inner-city societies, from the home to schools to the police departments. The Republican Party should "offer a structure to instill order," he said. Much of the crowd did not agree with him and pressed him on the point. O'Reilly did not touch upon widely perceived causes of disparity, such as racism or unequal local tax funding in schools as part of the problem.

Not surprisingly, O'Reilly sounded off on the current Presidential election and the situation in Florida. He predicted that someone would concede on Saturday after the absentee ballots were counted. Also, O'Reilly opined that neither candidate will get much done in the first year in office, both because they are poor leaders and because neither will have much of a mandate. The two candidates are "neither big problem solvers nor creative," he said. He called Trent Lott the most powerful man in Washington, but expressed regret that he was too focused on party power. His other views included one-liners such as "hired guns like Tribe and Dershowitz ought to shut up," and that "morons [who] can't do a butterfly ballot" should not get a chance to revote.

LSC update

This week, the faculty may be considering a proposal to decrease the size of the HLS student body. After collecting student opinion and debating the issue, the Law School Council issues the following statement to the HLS community:

The Law School Council opposes any proposal to decrease the size of the student body at Harvard Law School. This institution has thrived as both one of the top law schools and one of the largest law schools in the country. The size of the student body is necessary to support the many important organizations and journals that thrive here, to perpetuate the national and international network of HLS alumni, and to provide the school with financial assistance for building renovations and financial aid, among other things. HLS is fortunate to boast a diverse student body, represented by a wide range of undergraduate institutions. We fear that efforts to reduce the student body will result in a decrease in the representation of schools outside the Ivy League. If the faculty would like to reduce the student-faculty ratio and make the school a better place, we suggest that additional professors be hired rather than cutting the number of students. We applaud the ongoing efforts of the faculty to address problems at Harvard Law School, such as changes to the 1L curriculum, advising system, and class size in the Strategic Plan, but the LSC urges the faculty to choose a long-term solution rather than a quick fix to the student-faculty ratio issue.

Write for the RECORD,
and choose what you read
about each week.
Isn't it time to take
a little control of your life?
If you don't, we will.
We promise.

• Letter •

An impure and lasting peace

I am writing this in response to the plethora of opinions expressed in last week's RECORD [Nov. 10, 2000] regarding the conflict in Palestine/Israel and out of frustration over the shortsightedness and parochial views of the leaders on both sides of the conflict. Whether it was their intent or not, the pro-Israeli writers who expressed their opinion last week exoticized and fetishized the Palestinians as a monolithic, hate-mongering, irrational group of people that are intent on destroying Jews. As a Palestinian, I take issue with such portrayals of the Palestinian cause and people as one-dimensional, hate-based phenomena. But my real reason for writing is my complete and utter frustration with the events in Israel/Palestine and with the competing, unproductive narratives being used to describe and characterize those events. As a result, while this piece intends to be highly polemical, it is not a direct response to, although it was motivated by, the pieces in last week's RECORD.

The collapse of the present peace process, within its Oslo parameters, was inevitable. The Oslo process was untenable because it sought peace within the very paradigm — the ethnic nation state — that has led to the half century of conflict over the land that is meant to symbolize peace. The nation-state has been the prototypical political paradigm in the twentieth century. The nation-state, like so many of modernity's ideas, has its roots in Western Europe and rests on an absurd, imaginary notion of purity. The nationalistic desire for a nation-state assumes that ethnic/national groups are discrete units with singular identities that can only achieve freedom and fulfillment through political autonomy over a parcel of land. There are two fundamental problems with ethnic nationalism's desire for purity that make a true peace process within the current framework undesirable and, indeed, impossible.

First, ethnic nationalism ignores the fact that people have many identities outside their ethnic ones that deserve political expression. People are not singular subjects who have monolithic identities. By claiming that ethnic identity is paramount, Israeli and Palestinian nationalism make sexual, non-ethnic political, and artistic identities — to name just a few — secondary or tertiary, thereby doing violence to the complexity of both Palestinians and Israelis. To be clear: I do not mean to minimize the importance of Palestinian and Jewish identities. They deserve strong communal expression, but they need not be the end-all and be-all of our political identities.

Second, ethnic nationalism falsely believes that ethnic groups are pure and have always existed through time. Ethnic nationalism ignores the historic mutability and overlap of identities, and it fabricates myths of eternal national existence. Because both are Semitic, Arab and Jewish identities have often overlapped and are inextricably connected. Islam and Christianity arose out of Judaism. At the same time, medieval Muslim thinkers heavily influenced the greatest medieval Jewish thinker, Maimonides, who profoundly influences modern Jewish thought. Furthermore, before the creation of Israel, Arab-

speaking Jews were considered as Arabic as Arab Christians. In other words, these identities are not discrete; in the end, Jewish life is Arab life and vice versa because each depends on the other for its very existence and historical definition.

Because of these problems inherent to nationalism's self-conception, a true peace process cannot emerge within the ethnic nation-state framework. Ethnic nationalism is jealous and demands that it be the only identity that is given any legitimate political credence. In order to assert this dominant position despite the fabricated purity described above, Israeli and Palestinian nationalisms must do theoretical violence to the complexity of their and the other's identities by asserting that there is a singular truth in Israeli Jewish or Palestinian Arab identity. In the process, each side must claim that the other side does not have an equal or legitimate position. This enables and justifies the physical violence that seems to be endless.

After all, the current peace process is operating within the nation-state paradigm. During Barak's election campaign, he stated that he envisions the peace process as a separation of peoples. Yet, eighteen percent of the Israeli population is Palestinian-Arab and growing because of high birth rates. Arafat, on the other hand, continues to use the now-corrupt language of Arab nationalism and strength to state that there will be a truly independent Palestinian state. Yet, any Palestinian state must have its economy intimately tied with and reliant upon the Israeli economy or it will be a disaster. Additionally, the people cannot separate because, as mentioned above, they are not discrete units. If both sides continue to conceptualize the conflict in traditional terms, violence is the only way that they will be able to enforce their singular conception on, and maintain their rhetoric in, such a complex, ambiguous world. If, however, Palestinians and Israelis do recognize that their claims come from overlapping, interconnected, non-singular identities, then the Oslo peace process and all its disasters will simply exit the radar screen and a bold, true peace process can possibly emerge in its place.

A true peace process would attempt to move beyond the purity-seeking paradigm that got us into this quagmire. A true peace process would attempt to break down imaginary walls. A true peace process would realize that although moving beyond the nation-state paradigm may sound quixotic, it can only be conceptualized and become practical if people begin talking about it as a possibility. A true peace process would recognize that security comes when the conflict is no longer seen as a zero sum game. A true peace process would recognize that Israeli Jews and Palestinian Arabs have more than one identity that needs to be expressed politically. As stable as this paradigm attempts to be, a true peace process would attempt to destabilize old methods of thinking and would recognize the ambiguity in the world. A true peace process would be an impure peace process.

Najeeb Nabil Khoury '02
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