



Faculty rejects smaller student body

Measure to decrease HLS enrollment fails

Size still matters, at least when the student body at Harvard Law is at stake.

A recent faculty vote ensured that the size of incoming 1L classes will remain at approximately 550 students. The proposal considered by the faculty would have required an overall reduction in the student body of 240 students, to be accomplished in piecemeal fashion by

decreasing the size of the next three incoming classes by 80 students. Additionally, the measure proposed a modest increase in faculty size by requesting the appointment of five additional professors. The faculty rejected the initiative by a vote of 39 nays, 11 yeas, and 1 abstention.

The measure was strongly opposed by the Law School Council (LSC). In a statement to the RECORD published on November 17, the LSC decried what it saw as a plan that

would "result in a decrease in the representation of schools outside the Ivy League."

The faculty will now move on to consider the Strategic Plan, which also includes a measure designed to reduce the student/faculty ratio. This portion of the Plan would hold student enrollment steady, but would ask for a net increase of 15 faculty members over the next decade.

A final faculty vote on the entire Strategic Plan is expected on Friday, December 1.

HLS, Boston firm exhume innocence

by Doug Sims

Barry Scheck and Peter Neufeld made both headlines and history last year with the publication of "Actual Innocence," a book which chronicles the efforts of the New York-based Innocence Project to exonerate prisoners convicted for crimes they did not commit.

Now the Innocence Project has arrived in Boston. Attorneys and students from HLS, along with other area schools, have picked up the gauntlet thrown down by Scheck and Neufeld in New York. Further inspiration has been provided by journalism students in Illinois, where reinvestigations have led to the exoneration of several death row inmates and to a declaration of a death penalty moratorium by that state's pro-death penalty governor.

Joe Savage, a partner at Boston's Testa, Hurwitz and Thibault, became interested in the Project after hearing Scheck speak at a meeting of the Massachusetts Association of Criminal Defense Lawyers. A small operation was soon set up in Savage's firm to handle the regional overflow from the New York chapter. Ultimately the demand from prisoners

was great enough to justify the founding of a local affiliate, now dubbed the New England Innocence Project.

"This firm has a huge commitment to pro bono, so it was a perfect fit for us," said Savage, who has spent his entire career as either a prosecutor or defense attorney. "We aim to put together a loosely-associated group of folks in a bricks and mortar kind of operation where lawyers and students can meet and look at these cases."

The Project scored a local victory in May of this year when Neil Miller, who was convicted of rape in 1990, was exonerated by DNA testing and released from prison by the Suffolk County Superior Court. The Project acted as co-counsel for Mr. Miller, who had been wrongly convicted on the basis of a victim identification that had been suggestively staged by the police. DNA testing of a stained sheet that was not pursued by police and prosecutors decisively excluded Miller as a perpetrator of the crime.

Reconstructing the Scene of the Trial

When reviewing a prisoner's request for assistance, the Project reviews the trial

record to determine whether exculpatory evidence exists and, if so, to what degree it is probative of innocence. When a case is selected, the attorneys generally file motions to get access to and preserve evidence as a precursor for a motion to order testing. Assuming the motions are granted and the tests are probative of innocence, a new trial may be requested as a remedy. The problem at this stage, said Stephanie Denton '02, an intern at the Project, is that in some cases there is no appropriate "judicial vehicle" to bring exculpatory evidence to light. For this reason, Innocence Projects around the nation work for legislative reform that will rationalize the process.

To this end, Sen. Patrick Leahy (D-VT) has introduced the Innocence Protection Act into Congress. The bill would establish rules to govern the use of DNA evidence to exonerate convicts serving time in federal prisons. The Act would require three preconditions to be met before such DNA evidence would be introduced. First, the evidence must be related to the investigation that resulted in the prisoner's

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Crimson v. Bulldogs



Photo by Murad Kalam

Fair-weather Harvard fans put it all on the line for some beer and hot dogs.

Distinguished alumni Reno, Breyer address DNA forum

by Justin Herdman

The national debate over the use of DNA evidence to exonerate the wrongly convicted is not a subject that is only of importance to the incarcerated. As demonstrated by recent appearances at Harvard, the subject has also garnered the attention of an attorney general and a Supreme Court justice.

At last week's conference entitled "DNA and the Criminal Justice System," Attorney General Janet Reno '63 acknowledged that technology's impact has already been felt in the courtroom. "DNA has forever changed the landscape of the criminal justice system," Reno said.

One important use of DNA evidence, according to Reno,

is that it can be used to close ongoing investigations. "We must recognize that information is the lifeblood of law enforcement," she said. Yet just as important to the criminal justice system is the use of DNA evidence to exonerate the wrongfully convicted. "We must not let another day go by if we have innocent people sitting in jail that could be freed by DNA testing," Reno said.

While Reno said that privacy was a vital concern in the realm of genetic testing, she also called for the development of DNA databases that would reduce "the number of crimes and the number of future victims." Such databases have been criticized for

Please see **DNA**, p. 4

Legal pundits debate theories of interpretation

by Mike Wiser

Two academic heavyweights sparred over the interpretation of the Constitution last week, and HLS was on hand to watch.

Students sat on the floor and spilled out of the doors of Langdell South last Monday night for the annual Supreme Court Forum. The event, moderated by Prof. Richard Fallon, featured two divergent views of the Constitution and the role of the courts as presented by University of Michigan Prof. Catharine MacKinnon and Prof. Akhil Amar of Yale. The forum was sponsored by the Harvard Law Review.

While Amar argued for a renewed focus on the Constitution itself, MacKinnon argued that this "just read it" approach to the Constitution

ignores substantive issues actually raised by court cases.

Amar's Documentarianism

Amar, introduced by Fallon as having recently become an expert on Florida election law, presented a view of the Constitution that he called "documentarian." According to Amar, the Constitution itself is far more imposing than the Supreme Court, which he said had made rather disappointing decisions and were generally composed of "well-fed folks."

Amar argued that American judges have historically failed to recognize parts of the Constitution that have always been there. While many hail the recent decisions of the Court in important cases, Amar argued that past mistakes should not be forgotten. "Part of the problem,"

he asked, "is what took [the Justices] so long? Why did the judges wait so long to do things that really are in the document?"

"Don't think about *Brown*. What the heck were they thinking about in *Plessy*?" Amar asked. Amar also pointed to the early Court that upheld the Sedition Act despite First Amendment protections designed to protect freedom of speech.

Later Courts, Amar argued, similarly ignored parts of the Constitution. "The Nineteenth Amendment is one of the most epic events in American history. There was a sixty, seventy, eighty year struggle, and you would not know that from reading United States Reports, which utterly trivializes this mass

Please see **COURT**, p. 4

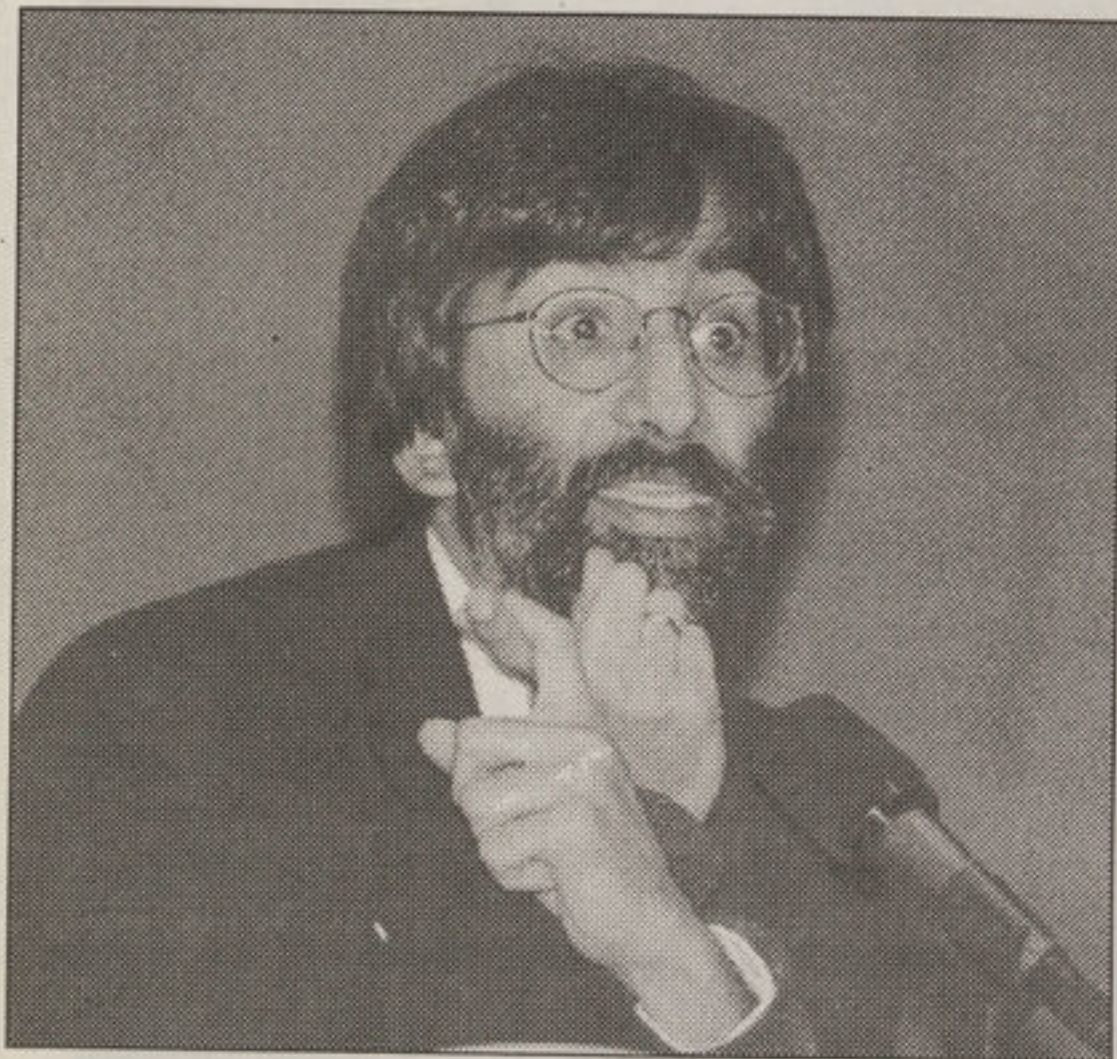


Photo by Murad Kalam

Yale Prof. Akhil Amar, undeniably passionate about his views, argues for studious examination of the Constitution itself.



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COURT

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movement in which half of the political community is enfranchised after much labor and struggle," Amar said.

In general, he said, the courts should not ignore the history that is an integral part of the document and that shows how it developed over time to become a more egalitarian document.

But Amar did not focus his criticism solely on Courts of the past. In particular, he criticized contemporary originalists, which he said focus too heavily on the founders — whom Amar dubbed "all the dead white men" — but ignore the role of suffragettes, abolitionists and progressives.

Even the Court today, Amar argued, fails to look at the mosaic of the Constitution and the history behind the entire document. If you want wisdom, he said, "don't look to U.S. Reports!"

Amar held out little hope that the current court would change its ways. He encouraged students to take a new approach to the Constitution. Amar suggested an alternative model, one in which students would study history in order to understand the history of the people that shaped it.

MacKinnon's Substantive Analysis

MacKinnon began her presentation by discussing the Supreme Court's recent decision in *United States v. Morrison* to invalidate the civil remedy provision of the Violence Against Women Act. In the case, the Court found that Congress lacked Constitutional authority under the commerce clause and the Fourteenth Amendment's enforcement clause to



Photo by Murad Kalam

University of Michigan
Prof. Catherine MacKinnon

create a law allowing female victims of violence to sue in federal and state court. "It pretty much sent shock waves through the civil rights community, because of the safe harbor that the commerce clause has provided for anti-discrimination legislation in this country," MacKinnon said.

MacKinnon challenged the claim that violence against women is a private act and that there was not sufficient economic justification for Congress to get involved. However, MacKinnon quickly put aside her analysis of *Morrison* in order to directly address Amar's doctrinal approach.

"Constitutional interpretation is substantive first," MacKinnon argued. "Substance determines positions, outcomes and everything," she told the audience. MacKinnon explained, "By substance I mean a theory that turns on the particularities of power divisions in society." MacKinnon said that concrete social content such as class, race, age, gender and sexual orientation deter-

mine the doctrinal interpretations that courts and scholars apply.

She argued that theorists should talk about the way a person's view on such substantive issues determines their view on cases. "If one is for or against male dominance, that will determine how you decide a federalism case like *Morrison*. If you are for or against white supremacy, that will determine how you will decide an affirmative action case . . . [This] federalism business is abstraction, and what really determines the outcome is substance," she said.

MacKinnon said that her critique is not new to the legal profession, but that it has always been considered a disreputable part of constitutional interpretation. "It's what lawyers talk about when they talk strategy," she emphasized.

For MacKinnon, any discussion of legal theories is actually a consideration of substantive realities. For example, she argued, "The word speech is code for sex and money." For MacKinnon, the positions that people take on free speech will be related to the views that they hold on sex and money.

Amar, according to MacKinnon, is a "born-again originalist." While largely agreeing with Amar's view on the desired outcome of cases, MacKinnon argued that Amar is not finding his views in the Constitution itself. "I don't think that what he knows is in the document itself," she said.

Amar, however, challenged the idea that his thoughts were defined by substantive views. "I can report to you that I've learned a lot by reading history and learning from it. Many of the things that I now believe are not things that I antecedently thought and am just imposing on a text, but things that I'm actually learning from the real life narratives of these people," Amar said.

existing, and mature, public debate," Breyer said.

Breyer illustrated three examples of difficult scientific issues. The first was the subject of the conference — the interplay of DNA evidence and the criminal process. A second set of issues surrounds genetic technology that allows forecasting of certain illnesses. Third, there are a host of questions that will emerge in the field of patent law. Of this latter category, Breyer said: "The most difficult question is deciding when these or other products of genetic research reflect only discovery of an existing aspect of nature, like Einstein's discovery of the principles of relativity, and when they amount to a protectable invention or useful device." Breyer likened the role of the courts in these cases to "late-Victorians asked to predict the social consequences of the automobile."

Breyer outlined the traditional model of interaction between courts, legislatures and scientists as one that "looks at the policy making process as if it consisted of powerful decision-makers limited to the choice of permitting or forbidding certain conduct."

Yet this model is not helpful where the issue of genetic research is at stake, according to Breyer. Therefore, the Justice presented a different model whereby scientists, legislators and judges engage in ongoing policy debate outside of the courts or capitol buildings. As an example, Breyer pointed to the National Commission on the Future of DNA Evidence, which also helped to sponsor the symposium. In such a model, courts would continue to "ride the coattails" of the public debate. "The courts cannot lead such conversations, though sometimes judges may participate. Rather, courts are more likely ultimately to determine the statutory or constitutional 'reasonableness' or solutions proposed by others," Breyer said.

The Harvard Crimson contributed to this report.

PROJECT

Continued from page 1

conviction. Second, the evidence must be in the government's possession. Finally, the evidence must not have been subjected to DNA testing, or to methods of DNA analysis currently available. The Act would further prevent the government from destroying any DNA evidence in federal cases without providing notice to the incarcerated individual.

Other sections of the Act would allot federal funding to state systems of court-appointed counsel, make more money available to state and local defense counsel for adequate capital case representation and would create a system of compensation for those unjustly convicted of crimes in both the federal and state systems. Additionally, the Act invokes Article 5 of the Fourteenth Amendment to prohibit states from denying its inmates access to potentially exculpatory DNA tests.

Testa Hurwitz has given associates Amanda Metts and Rob Feldman and paralegal Kristen Cronin the responsibility of evaluating requests from prisoners to review their cases. In addition, the Project has selected one intern from each of several area law schools to train in the vetting of cases, with the goal that they will eventually work with the attorneys. Evan Norris '02, Andrew Michaelson '02, Michelle Drake '01 and Jennifer Daskal '01 were among the students who were involved in getting the Project off the ground at HLS. The first HLS participant is Denton.

Currently, the Project is investigating what Feldman called "a high profile case," in which an individual was convicted on purely circumstantial evidence with "no physical evidence tying him to crime scene." The Project believes that there is physical evidence in the form of blood stains that would not exonerate their client but perhaps identify the actual murderer.

Beyond DNA

Out of practicality and necessity, Innocence Projects have focused on taking advantage of breakthroughs in DNA technology to reexamine biological evidence, mainly in capital cases. So far the effort has been overwhelmingly popular, since it is hard to be opposed to the liberation of the unjustly incarcerated.

Louis Michael Seidman, who is a capital punishment expert and professor at Georgetown Law School, is a strong supporter of the Project and advises an affiliate at Georgetown. He pointed out, however, that only a certain number of cases will involve biological evidence. Among these cases, the evidence will often have lost its integrity with the passage of time. Wrongful convictions that do not fall into this narrow category are difficult to locate.

There is a risk that the attention given to this subset of cases will "drain political energy" for larger issues of systemic reform, he said.

Seidman suggested that the focus on exonerating those whose innocence is provable by science may make the guilt of those whose cases lack such evidence seem more certain.

Seidman stressed that, statistically, erroneous executions will always occur. "If we have a 99% accuracy rate, 1 out of 100 is a mistake. Out of 300 or 400 they'll be three or four mistaken convictions. Maybe the system is more accurate than that, but over ten years there will certainly be some mistakes . . . [t]he people who favor the death penalty, must come to grips with the fact that, no matter what, innocent people will be killed," Seidman said.

DNA

Continued from page 1

implications of privacy that might potentially violate the Constitution. Reno seemed to dismiss these arguments in favor of the potential benefits of a nationwide database. "The bad guys are going to find that there are no safe places to hide," she said.

Reno created the National Commission on the Future of DNA Evidence, a group that explores the ethical and legal issues involved with DNA testing and the criminal justice system. With a nod to the group, Reno said that there is still much progress to be made in these areas. "We must work with Congress to enable them to understand how critical [DNA testing] is in terms of protecting the innocent and ensuring public safety," she said.

Justice Stephen Breyer '64 delivered the closing address to the symposium, which was sponsored by the Center for Business and Government at the Kennedy School of Government. Breyer's speech focused on this question: "How can legal institutions — which must give answers — interact with science — which so often poses difficult questions?"

Breyer advocated for a legal system where courts render decisions on difficult scientific issues only after a prolonged period of policy development and debate. "To act coherently, we in the law must be able to have a sense of the likely social and economic impacts of our choices before we act, so that our decisions are grounded in realistic predictions of what science will do, and not fanciful prediction of what science might do," Breyer said.

The field of genetics poses the possibility of many changes to the existing legal system. Breyer pointed to the legal areas of criminal law, family law, patent law, privacy and insurance, among others, as fields that will bear

the brunt of genetic advances. When combined with the complexity of law, and the relative reluctance of legal institutions to change, Breyer noted that many observers of the Court have questioned the body's ability to make qualified decisions on science-related cases. "Since the implications of our decisions in the real world often can and should play a role in our legal decisions, the clearer our understanding of the relevant science, the better. But, I repeat, we are not scientists; hence the dilemma," he said.

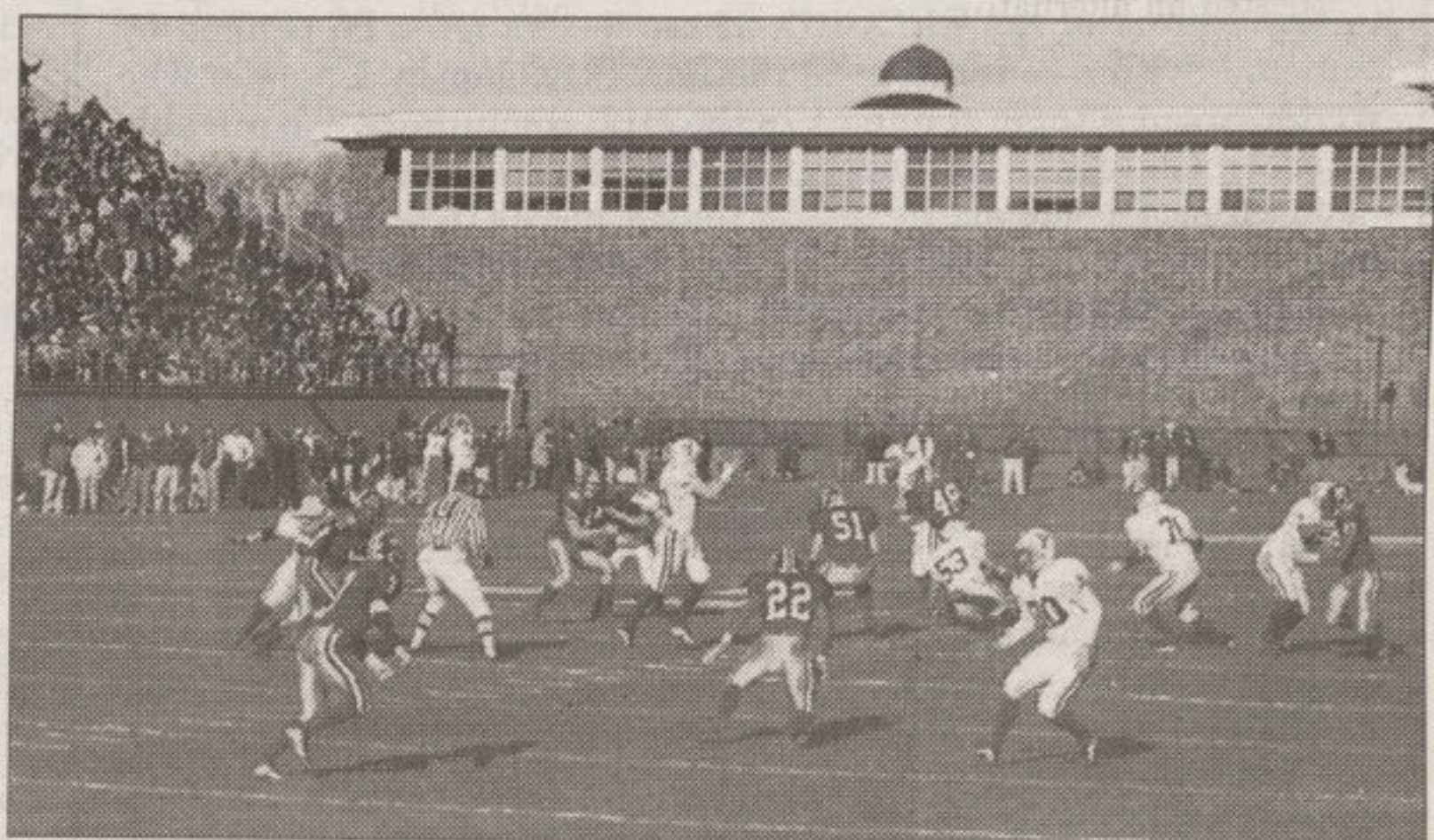
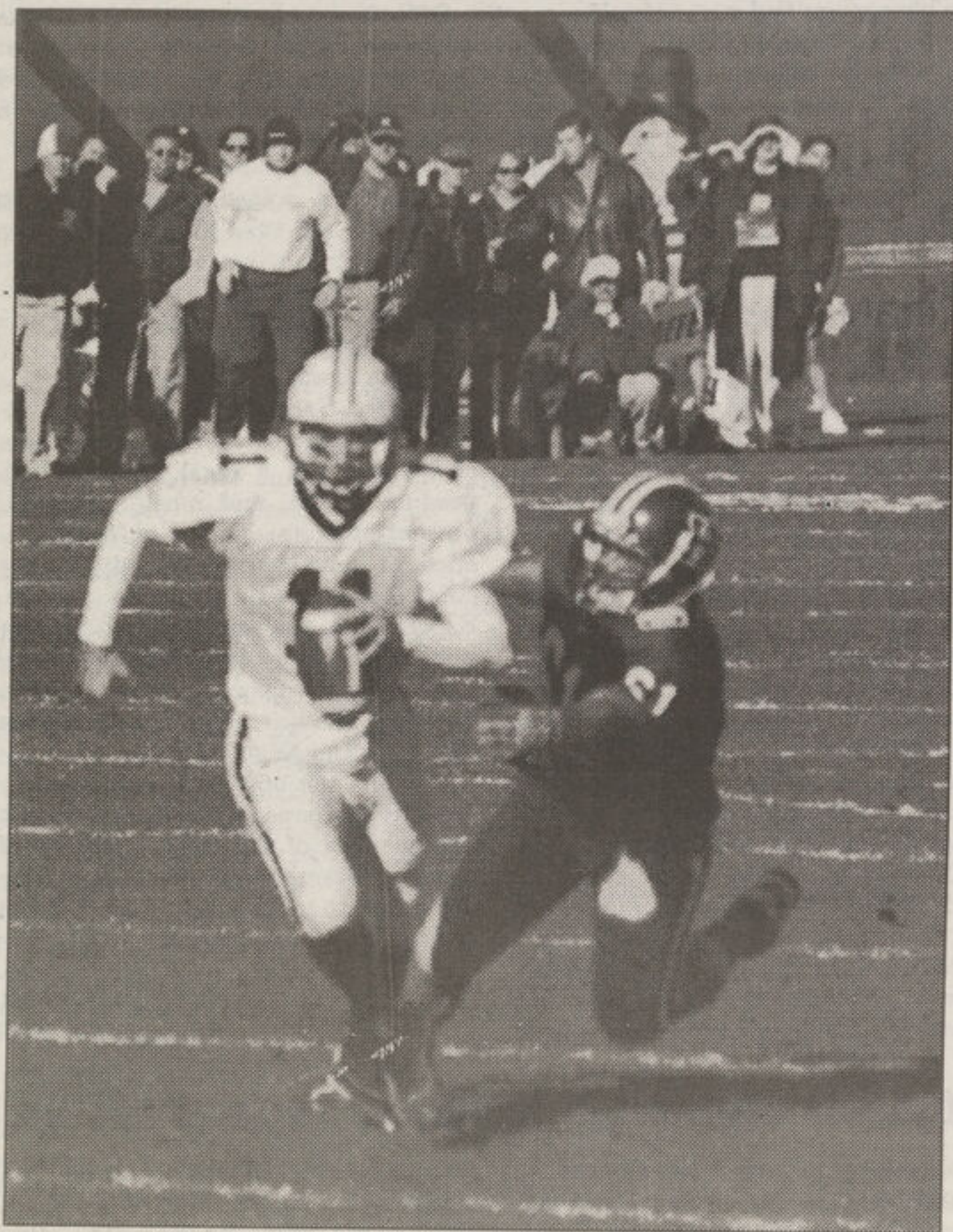
Breyer said that the Court learns about scientific issues through a variety of methods. Chief among these are briefs, most of them amicus curiae briefs. When the Court considered the "right to die" issue four years ago, over 70 amicus curiae briefs were submitted. Breyer said: "The amicus briefs were not repetitive . . . They presented the kind of predictions of consequence that, in my view, we need."

The timing of these amicus submissions was the most important factor, Breyer added. "The 'right to die' issue did not come to us at the first sign of controversy. It came after many groups and individuals had reflected carefully upon the implications and impact of the legal issue."

Where public debate precedes the legal system's consideration, according to Breyer, the Court tends to "ride the coat-tails" of that discussion. While, in the "right to die" case, the public debate did not result in consensus, Breyer was not dismayed by the lack of a concrete answer to the question. "The result of the earlier discussion and debate was not agreement about the proper result; but it was agreement about the nature of the question and upon many of the relevant parameters," he said.

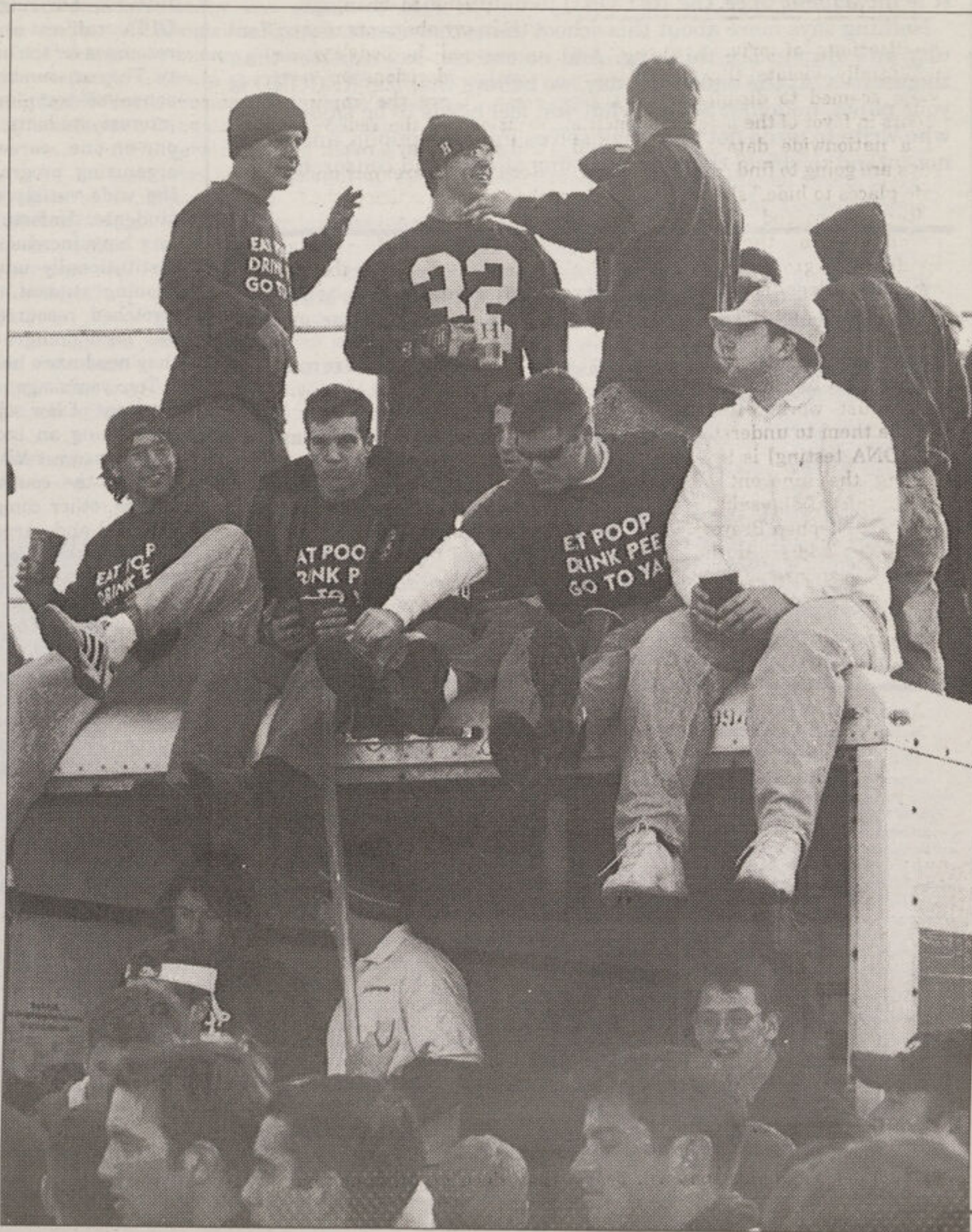
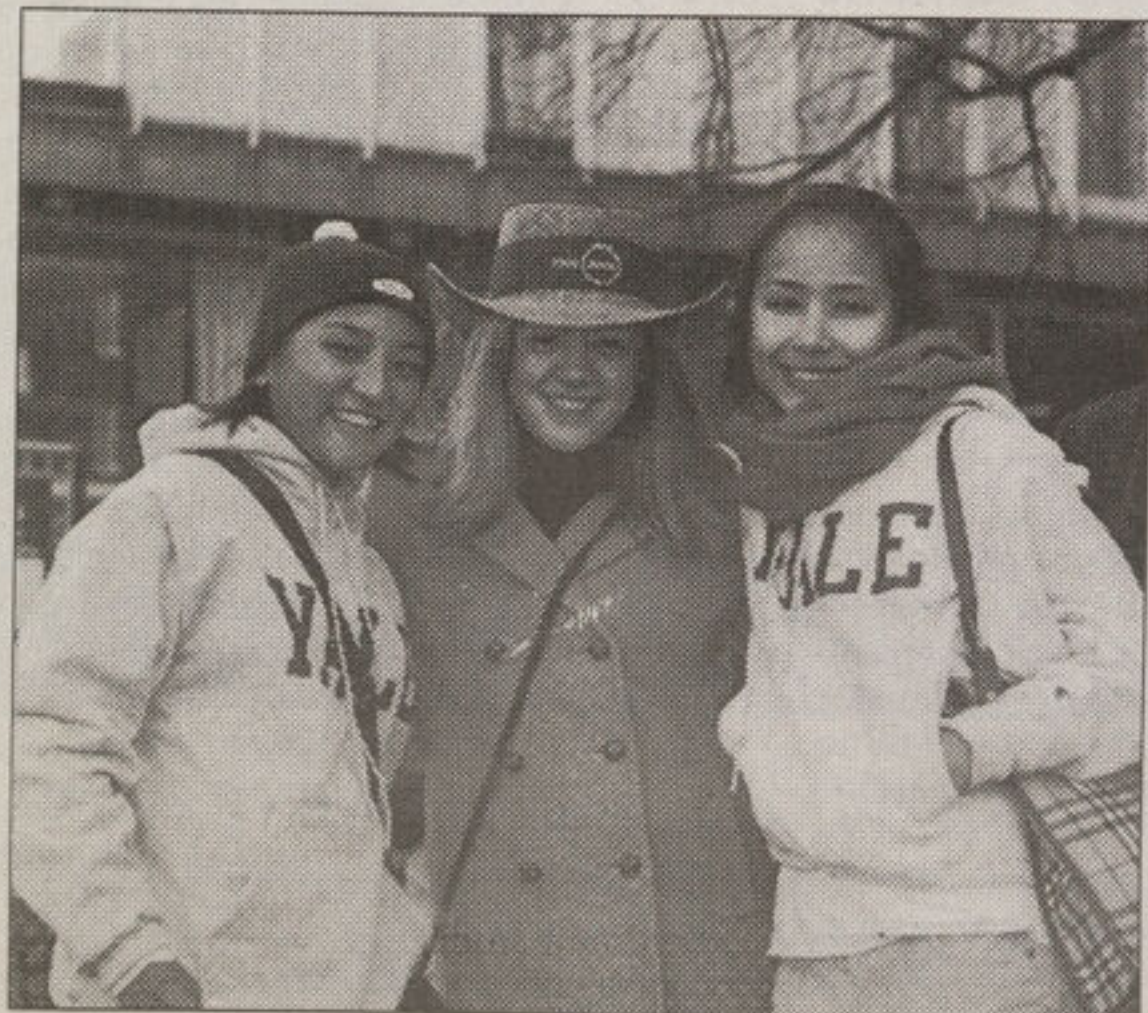
In the "right to die" case, Breyer suggested that the Court was able to effectively weed-out those arguments that were patently wrong. "Our Court was adequately informed and prepared for that decision; thanks mainly to an

HARVARD (loses to) YALE



On Saturday, Nov. 18, Harvard students painted themselves red and migrated across the Charles to eat, drink and be merry. A sober minority watched the Crimson lose for the second year in a row.

Photos by Murad Kalam



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Don't Shoot the Messenger

Regular readers of the RECORD know that we tend to publish a number of letters and op-ed essays submitted to us from the HLS community at large. These are not written by members of the staff. Rather, they are submitted by readers of this newspaper who are compelled to express a wide range of emotions — from disagreement to disgust, celebration to criticism.

Our editorial policy is, in general, to print every letter addressed to the editors of the RECORD. These letters must be penned by someone with a connection to the Law School or by a person who writes about a topic of import to the HLS community. We are able to accommodate a large number of responses of varying length in each issue. Op-eds are generally longer pieces that expound upon an issue of interest to RECORD readers. In rare cases where letters or op-eds may be potentially libelous, the editorial board will contact the author to work out an alternative version of the submission.

The RECORD staff does not agree with every position that is put forth on the pages of this newspaper. Indeed, such universal accord would be both hypocritical and impossible.

Yet no matter what we think of the opinions expressed in submissions, refusing to publish controversial, politically incorrect or even blatantly insensitive pieces would ultimately be a disservice to the Harvard Law community. When members of that community decide to offer their opinions for publication, thereby acknowledging that such perspectives are alive and well at HLS, it is incumbent upon the RECORD to deliver that message.

Nothing says more about this school than what its students, faculty and alumni are thinking. And no one can say it better than themselves. At the end of the day, we believe that the RECORD is your paper, not ours. So say what you feel needs to be said. Those who write to us do not hide themselves from the public, and we do not intend to shield them by imposing silence and censorship.

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—First Amendment, U.S. Constitution

• Letters •

Harvard's past not as diverse as it may seem

Cheers to the RECORD for publishing "A History of Blacks at Harvard Law." [October 20, 2000]. To be sure, many others should have been included but those discussed are certainly figures who have magnified our profession.

But the accolade of Prof. Coquillette that black history runs through Harvard's arteries and veins is at best fanciful. Black history's run through Harvard Law has been at a snail's pace, considering how few black law students were at Harvard even many

years after World War II. And HLS admission of women was miserably late. Harvard was also late and is still meager in enlisting minority members for its faculty and administration.

Still, I suppose one should hail the advances rather than hurl lances at the past. Let's hope that Harvard Law leadership will continue to advance in the domain of diversity.

Jerome J. Shestack '49
November 6, 2000

Tobacco letter dismayed this HLS alumnus

No matter what one thinks of representing tobacco companies, Jacob Appel's October 5 letter to the RECORD is — how shall I put this gingerly — insensitive and illogical. Words like stupid and dogmatic also come to mind.

Personal attacks aside, I take exception with Appel's false analogy of comparing tobacco lawyers to Nazis. As he wrote and queried: "Would you defend Nazi war criminals if you knew that your defense would permit them to continue murdering millions of people? Because that's quite what you're doing if you defend tobacco companies."

Even though most grade schoolers understand the distinction, I'll flesh it out for Appel. First, the Nazis murdered specific people — principally Jews — because they were Jews. In contrast, tobacco companies target

everyone (some with more success) as customers. Second, the Nazis committed a war crime whereas the tobacco companies sell a legal, even if evil, product. Third, and most important, no matter one's opinion on the influence of advertising, nobody makes (that is, forces) someone smoke. Especially in the year 2000 with ample information as to smoking's ill effects, smoking is a choice. Unfortunately, in contrast, the gas chambers weren't a choice for the Nazis' victims.

All said, not only is Appel's analogy false, it is disrespectful and cheapens the memory of the Nazis' millions of victims. Shame on him for being more dogmatic than the big, bad tobacco companies he so disdains.

Bill Choslovsky '94
November 16, 2000

Students urge HLS faculty to support OPIA

We write to urge the Faculty to expand funding, staffing and information technology for the Office of Public Interest Advising ("OPIA"). Present OPIA staff are essential and valuable resources for the entire HLS community. They are fundamental to creating a sense of community among public interest students, providing in-depth one-on-one career counseling and organizing programming to cater to the wide variety of interests of HLS students. Unfortunately, several factors have increasingly rendered OPIA institutionally unable to satisfy burgeoning student demand for OPIA's stretched resources. In short, OPIA has been doing an amazing job, but they need more help.

Ten years ago, HLS moved to the forefront of law school career advising by forming an independent Office of Public Interest Advising, the first of its kind in the country. In the ensuing decade, other competitor schools have matched and surpassed OPIA's example even as HLS demand for OPIA's services has exploded. Presently, OPIA has two full-time equivalent ("FTE") staff, while NYU — a smaller school with comparably smaller demand for public interest resources — budgets eight FTEs to their public interest law center. HLS staffing for public interest advising also compares poorly to other competitor schools (e.g., Columbia, Georgetown, Michigan, Virginia), all of which are smaller than HLS but budget more public interest FTEs (both absolutely and per student). Unfortunately, because OPIA has not been provided sufficient resources, HLS has failed to maintain its competitive edge in public interest advising.

OPIA's current resource levels are significantly below the Faculty's initial recommendations when starting OPIA. In 1990, the Dean's advisory committee originally recommended no less than three FTEs (two profession-

als and a staff assistant) to advise HLS students on public interest work. In 1997, recognizing again that a single advisor was unable to meet students advising needs, the advisory committee urged the faculty to approve another FTE. To this day, despite a drastic increase in the number of students seeking public interest advising, OPIA still has only one full-time advisor.

No one person can satisfy the needs of the burgeoning HLS public-interest community, and students are paying the price. More students are seeking individual advising. Additionally, because of the increasing pay differential, they are looking for long term planning for making the switch between the private and public sectors. Students seeking advising appointments at OPIA currently face waits of over three weeks. OPIA's technology lags behind the 21st century as records remain bound in loose leaf notebooks because OPIA has insufficient staff to computerize them. Other administrative services have a suite of offices, but OPIA is so squeezed for space that basic OPIA resources have spilled into the hallway, and advising appointments sometimes happen in telephone closets.

We applaud the interest that the Strategic Planning Process has taken in public interest work. However, unless the Faculty takes prompt steps to alleviate OPIA's resource crunch, the counseling and mentoring needs of HLS students, and particularly the public interest community, will grow increasingly unmet.

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PERSPECTIVE

by Clifford Ginn '03

Voting for the Lesser Evil

I found Matt Wood's RECORD column [November 17, 2000] proclaiming his anger at Ralph Nader's "short-sightedness" in "martyring the fruits of his life's work," distressing and, for the most part, misleading. The column refers to the need for cleaner air and water over the next four years, continued regulation by the EPA and DOL, and government response to the Firestone debacle, as well as the possibility that 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," as if the Clinton/Gore administration had been a "liberal" administration. These statements display an ignorance of current and historical events.

Ralph Nader did not run for president because the Democrats are "not quite so liberal as he would like them to be." He ran because the Democrats are now actively cooperating with the Republicans in spoiling "the fruits of [Nader's] life work," and the two major parties are increasingly becoming one corporate party with two heads. Clinton and Gore have taken significant steps to dismantle virtually every progressive accomplishment of the last half-century. The two major parties are offering Americans a choice: "Do you want the disintegration of the social contract and the erosion of democratic institutions to happen quickly, or very quickly?" I for one do not fault Ralph Nader for refusing to accept this choice.

In the last eight years, Clinton and Gore have waged war against environmental protection, social welfare, labor rights, civil liberties, civil rights, economic fairness, consumer protection and the fundamental institutions of our civil society. They have consistently done the bidding of their corporate employers and have forced members of their party to do the same. They have bombed sovereign countries and initiated deadly sanctions against innocent citizens for political gain. They have actively encouraged economic trends that ossify and exacerbate gross income disparities within and between nations. Such trends also accelerate the destruction of the natural environment. Under Clinton and Gore, the Democrats have forgotten their historical identity as a party of the people — I see no evidence that any internal efforts can jog their memory in the near future.

Pretend for a moment that you do not know Clinton or Gore's party affiliation, and see if you can figure it out

from the following list of achievements.

Corporate power.

- Spearheaded economic deregulation that led to more corporate megamergers than under Reagan and Bush, particularly in the military, telecommunications and financial industries.

- Lobbied aggressively for passage of NAFTA, a treaty which has diminished the strength of labor in this country, eroded national sovereignty, encouraged decreased social spending in Canada and Mexico, and initiated between the three nations a "race to the bottom" in environmental protection.

- Lobbied aggressively for passage of the GATT Uruguay Rounds, which created the WTO. Under this agreement, unelected bureaucrats in Geneva can impose sanctions on the U.S. for enacting environmental and labor protections laws.

- Opened permanent normal trade relations with China, rewarding its government for extensive human rights violations and diminishing the strength of domestic labor.

- Engineered bailout of wealthy investors in the Long-Term Capital Management (LTCM) hedge fund and taxpayer-funded bailouts for investors in various IMF-funded debacles.

- Continued an economic policy that increases interest rates (and unemployment), anytime unemployment approaches 5 percent. Maintaining a baseline unemployment rate guarantees corporate bargaining power in disagreements with labor.

- At Wall Street's behest, supported repeal of the Glass-Steagall Act, which separated the commercial banking, investment banking and insurance industries. This is already leading to the concentration of world financial power in the hands of a few corporate giants, all too big to fail and eligible for LTCM-style bailouts at taxpayer expense.

Environmental Protection

- Through cutbacks and intimidation, decreased the number and the success rate of prosecutions of environmental crimes, amassing a record worse than George H. W. Bush's.

- Delisted numerous endangered species, exposing them to the same extinction threats that placed them on the endangered species list in the first place.

- Gave enormous quantities of tax-

payer money to the auto industry (Partnership for a New Generation of Vehicles), and simultaneously slowed improvement in fuel efficiency standards.

- Allowed sugar growers and land developers, including a number of campaign contributors, to dump polluted water in the Everglades

- Opened up federal land for oil drilling, largely to the benefit of Occidental Petroleum, a corporation in which Gore's family owns \$500,000 of stock.

Civil Rights

- Scaled back affirmative action in federal government hiring.

- Signed the Defense of Marriage Act, barring states from recognizing gay marriages.

- Pressed the Congressional Black Caucus to drop from the 1994 crime bill a "Racial Justice Act" that required assurances that the death penalty would be administered in a racially discriminatory manner.

Civil Liberties

- Restricted access to habeas corpus appeals.

- Fought aggressively against release of FBI files, documenting illegal surveillance and harassment (and worse) of American citizens.

- Signed into law provisions that allow some suspects to be arrested, charged and convicted based on "secret testimony" that the defendant's lawyer can't challenge.

- Signed into law provisions allowing prosecution of Americans for raising money for organizations the government considers to be "terrorist." Dick Cheney has explained that Nelson Mandela's African National Congress was considered a "terrorist" organization in the 1980's. The FBI considers environmental groups to be the number two domestic threat to order (i.e., likely source of terrorism). We still haven't quite caught up with the neo-Nazis.

- Signed into law provisions that have led to arrest and deportation of hundreds of legal immigrants, all of them residents for several years, when immigration officials discovered evidence of past conviction for petty crimes.

- Created a provision allowing an entire family to be ejected from public housing on the mere suspicion that one family member might be using drugs.

Social Welfare

- Signed a draconian "welfare reform" act. It is worth noting that the above-mentioned unemployment policy requires that a certain number of people must be "extraneous" in our economy. As the welfare rolls have decreased, the prison population has increased. Administration officials estimate that welfare reform will throw an additional one to three million children into poverty. Dramatic increases in demands for food assistance and emergency shelter have also resulted.

Labor Rights

- Used the 1926 Railway Labor Act to outlaw an American pilots' strike.

- Dramatically decreased OSHA inspections, and the percentage of complaints dismissed is at its highest level since the Agency was created in 1973.

- Broke campaign promise to repeal certain provisions of the Taft-Hartley Act, a law that significantly restricts the right of working people to organize.

Consumer Protection

- Gutted FDA enforcement, leading to a dramatic increase in drug recalls

(as well as deaths from undertested drugs).

- Allowed incomplete review of such products as genetically modified foods and milk with bovine growth hormone to proceed to market without appropriate testing. The woman in charge of approving bovine growth hormone (RbGH, a product of the Monsanto corporation) was a former Monsanto employee, and shortly thereafter went back to work for the company, with a substantial pay increase.

Income Disparity

- The rising tide of Clinton/Gore's new economy is indeed lifting all yachts, while real wages for most Americans have stagnated since the 1970's.

- Globalization, as it is currently practiced, locks third world countries into a role as suppliers of raw materials to the west. With restrictions on international capital flight all but removed, investment will naturally travel to the country most willing to cut its education and social spending, and to stripmine whatever natural resources it may have.

Military

- Increased the military budget beyond what George H.W. Bush spent or even intended to spend had he been elected in 1992.

- Made Colombia, a country whose military systematically executes peasants, labor organizers, human rights activists and priests, the number one recipient of U.S. military aid (leaving aside the complexities of determining which aid to Israel is military). Turkey, another notorious human rights violator, rounds out the big three. Curiously, all three countries are located next to considerable oil resources.

For reasons of space constraint, I will cut the list short here. To be fair, Clinton and Gore passed some progressive legislation as well. They passed the Family Leave Act, proposed closing off roadless areas in national forests to logging and increased the Earned Income Tax Credit. However, these provisions, and a number of token gestures undertaken by the administration, cannot possibly countervail the extraordinary rollback of the social contract that has occurred in the last eight years. Blaming this rollback on a relatively narrow Republican majority obligates the claimant to lay the reactionary policies of the 1980's on the Democratic majorities in Congress, an unreasonable conclusion.

Mr. Wood's choice of the 1860 election as an analogy for this one may be appropriate for reasons other than those intended. In both cases, the country had to face a fundamental threat to American institutions and ideals, one which could only be defeated by the struggle of a great mass of men, fighting for principles they cherished. However, I consider the rise of Progressivism more instructive. At the turn of the century, corporate infiltration into political affairs had reduced presidential elections to tweedledee/tweedledum contests between indistinguishable laissez-faire candidates, struggling for the votes of a few "battleground states." Hayes and Harrison were both elected during this period, when neither corporate party could cultivate a clear mandate from the people they refused to represent. It took a new grassroots progressive political movement to make government responsible to the needs of the people and communities then, and the same kind of movement is needed now.

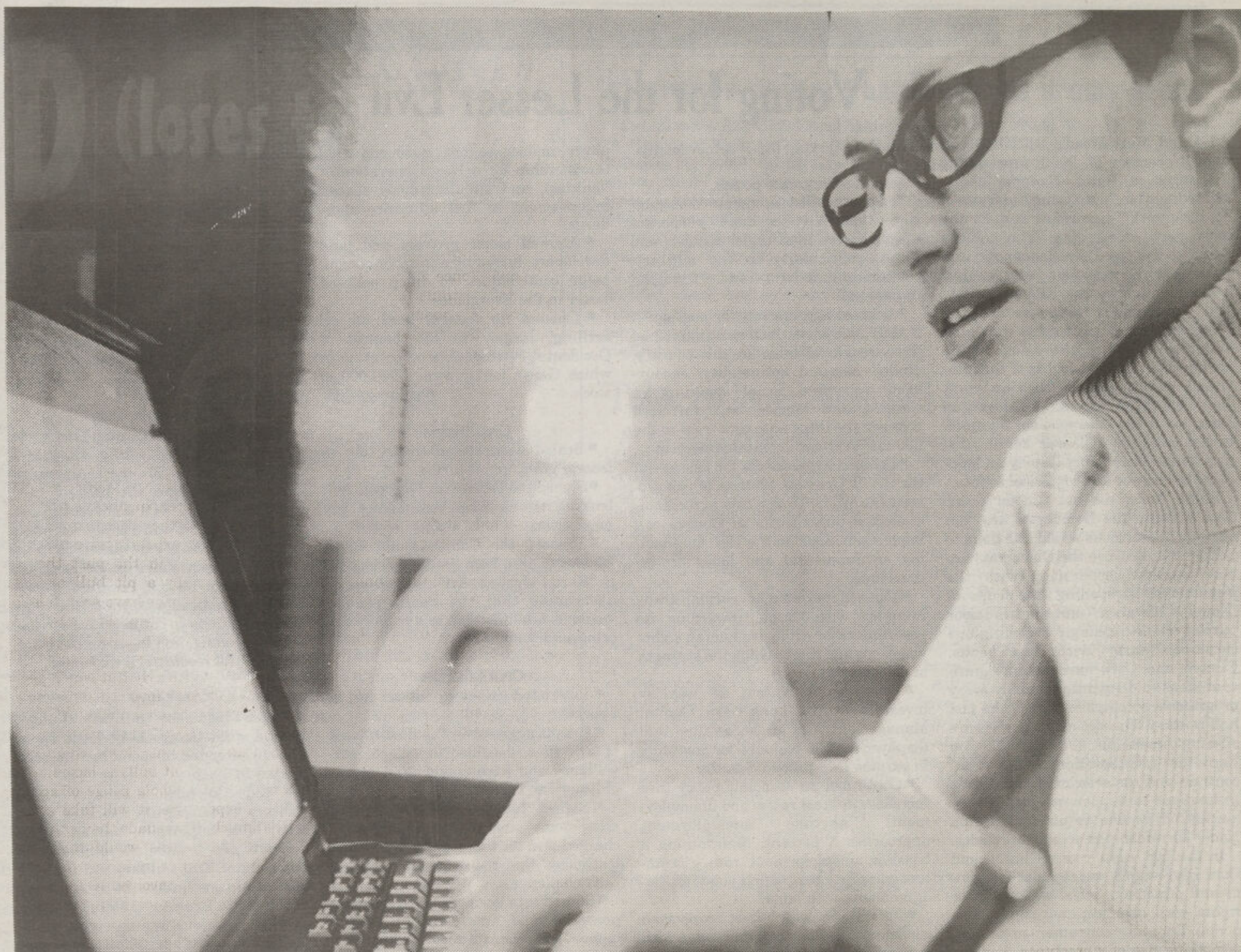
Clifford Green is President of the HLS Greens.

Not Quite 60 Minutes



Photo by Murad Kalam

Andy Rooney decries the increasing illiteracy of young Americans. He also urged the crowd to pick up a copy of his new book, *My War*.



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PERSPECTIVE

by Jeremy Fielding '03

One-L Says Eliminating Stereotypes Requires Change

In a number of my classes this semester, the concept of racial stereotypes has come up. Whenever they are mentioned, they are always soundly condemned as irrational and misguided manifestations of latent racism, the implication being that people who would dare to harbor such perceptions are somehow racist themselves. I believe, however, that such an approach is overstated and oversimplistic and that it trivializes what racism really is. The truth about racial stereotypes is at once more complex and more benign.

Those who simplistically chalk racial stereotypes up as proof of invidious and overarching societal racism are really missing the point about what stereotypes are. In a general sense, stereotyping refers to the (usually) unconscious practice of applying broadly assumed categorical facts to specific situations. As human beings, we are constantly encountering new phenomena which we know very little in specific about. Stereotypes allow us to draw conclusions about how we should react to these phenomena based upon our experience with similar things we have encountered before. It would be truly impossible for us to live our lives "free" from stereotypes. We simply cannot; they form the very essence of our ability to make sense of the world around us; not only is it impossible to "avoid" or "destroy" stereotypes, we cannot function rationally without them. Stereotypes are part of a natural system of self-preservation that helps us to react to and cope with the things we encounter in the world around us.

As human beings, we are *constantly* making use of stereotypes. For example, when I approach a door that I have never gone through before, I assume several things about that door because I recognize that it is a door (i.e., that it will open, it will go to somewhere, etc). Though I have never used that specific door before, I can rationally draw this conclusion based upon my experiences and knowledge about other, similar doors. Similarly, if I am walking down the street and happen to bump into a growling pit bull, I will keep my distance from him. I may have never had any experiences with this specific pit bull before but based upon my knowledge of my own or other's experiences with growling pit bulls *in general*, I will rationally conclude that it would be best for me to avoid this growling pit bull. Perhaps it was unfair of me to label *this* growling pit bull a threat; perhaps this particular pit bull growled when he was excited to see someone, and I was thus unfairly judging him. In a very real sense, I was

"discriminating" against this dog. However, to assume that I or anyone else would behave any differently in this situation would be ridiculous. This is the way that human beings handle new phenomena.

Extrapolating this analysis to a more applicable example of racial stereotypes, let us examine the popularly cited anecdote of the white couple walking down the street who, when approached by a young black man dressed in a particular "gangster-style" way, cross to the other side of the street to avoid having to walk past him. This example, many argue, proves that "racism" still exists in America today. However, I think that feelings of racial superiority or hatred had very little, if anything, to do with why the white couple crossed the street. I think their decision is better explained as an example of humans acting in their own perceived best interest on the basis of the best evidence available to them. It was rational calculation within the context of their personally-drawn stereotypes and prejudices — stereotypes drawn from facts both real and imagined but, nevertheless, rationally drawn. Furthermore, I think that any person in the same situation, including a black person (Jesse Jackson himself has admitted such in comments I'm sure he regrets making), would behave similarly.

To assert that actors in this situation are racist trivializes what an awful thing racism really is. Racists are people who detest others of a different skin color, who think that they are somehow superior to others on account of their race, who view those racially different from them in a contemptible way. Racists are people who don't hire someone because they don't like his skin color. Racists are people who refuse to use the same drinking fountain or eat at the same table as someone of another group. Racists are *not* cab drivers — many of them African-American — who choose not to pick up blacks because they are aware of statistics suggesting that in doing so, their likelihood of being robbed is increased. Racists are *not* employees who refuse to deliver pizzas in inner-city, heavily black areas because they fear for their lives. In my view, calling the latter group racists inappropriately puts them in the same camp as the former, when, in fact, their actions and motivations are clearly distinguishable.

Thus, it appears that the problem in this example is not blatant racism so much as it is the perception that a type of person (black youth) dressed in a particular way ("gangster-style") is more likely to commit criminal acts.

Talk about racism and discrimination alone only serves to obfuscate an equally important issue at play — in this case, perceived criminal propensities in the black community. Simply labeling such an incident as a "racist act" may make us feel better, but it doesn't even address the fact that many people (once again, including many blacks) continue to harbor negative assumptions about the perceived criminality of black males — which is the very root of why this stereotype was drawn in the first place. And because these generalizations about black males form the basis for such behavior, to ignore the reason as to why these generalizations are drawn is to ensure a world free of such unfair stereotypes is just as far away as it ever was.

I want to make it clear that in arguing this position, in no way do I wish to give legitimacy to negative racial stereotyping; I personally cannot imagine how mentally and emotionally exhausting it must become at times for African-Americans to face the kind of assumptive stereotyping and ostracization they must regularly encounter. Regardless of how psychologically explainable group generalization may be, it doesn't make it any more fair or permissible; furthermore, the rationality of an act is little comfort to those persons being slighted. While it seems clear that stereotyping is acceptable when dealing with non-persons like doors and pit bulls, there is something particularly repugnant about applying the same logic to a human being. Knowing that each individual is his own unique person with his own independent will and a soul which is infinitely precious in the eyes of God requires that we treat them without bias and prejudice. For these reasons, this must incontestably be the ideal to which we strive.

My purpose is simply to point out that the underlying cause of negative racial stereotypes is more than just "racism." This is important because if our goal is to overcome them, and I assume that nearly all would agree that it is, we must identify the cause. If we are wrong about the cause and direct our efforts elsewhere, then they will most likely be in vain. The question then becomes: How do we work towards realizing this ideal in the context of the real, practical world around us?

A common claim of many is that better education will "break down" unfair stereotypes. This seems to be the driving principle behind multicultural education which claims that if only we can educate people about other cultures and ethnicities, they will stop harboring unfair stereotypes about them.

There is more than an element of truth to this. For sure, the less we know about something, the more likely it is that we will draw unfair generalizations about it. Through the education process, the "unknown" becomes the "known," and most inaccuracies will melt away.

It is important to note however, that education can never hope to remove stereotypes — only to make them more accurate. This is precisely because stereotypes are not something consciously drawn or maliciously created — they are the inevitable products of our accumulated personal experiences and knowledge. This makes them very stubborn opponents. People don't believe that pit bulls bite because they *will* themselves to. They believe it because their experiences demand that they do, and they recognize that they ignore these experiences at their own peril; perhaps in the past they have been bitten by a pit bull or have a friend that has or have seen television programs about the viciousness of pit bulls. If someone has been thus exposed to such experiences with pit bulls — particularly if it was a personal experience or involved someone they knew — convincing them to the contrary will require much more than just "educating" them. Since their initial stereotype of pit bulls is based on and verified by a whole range of accumulated experience, it will take at least that much to persuade them otherwise. Significantly, this would require not only open-mindedness on the part of the individual involved in the reshaping but also requires that the pit bulls stop biting people.

With respect to unfair racial stereotypes, the same holds true. Overcoming them requires not only openness on the part of whites to fight the instinct to make unfair group generalizations, it also requires soul-searching and self-introspection on the part of slighted minority communities to discover what, if anything, they are doing as a community to perpetuate unfavorable stereotypes. In other words, not only must the whites be open to the obvious idea that not all blacks are criminals, blacks must realize that a disproportionate number of their people *are* and be willing to take whatever steps necessary to remedy this problem. This way, both the cause (perceptions of black criminal activity) and the effects (unfair stereotyping) of the problem can be overcome. Indeed, it is only as whites strive to open their minds to perceptions about blacks and black communities concurrently strive to modify the behavior which drives and sustains these perceptions that unfair stereotypes will be overcome.

LSC update

The Law School Council's (LSC) final "Issue of the Week" of the semester addresses student concerns over technology at the law school. Please return student technology surveys to LSC Secretary Taryn Fielder (tfielder).

ITS. The LSC has been working with ITS to address student concerns regarding the Open Mail email system. Although a permanent solution has not yet been adopted, several steps that will improve the system are in the process of being implemented. Technical changes are being made to Open Mail that will speed up the loading of the program and

shorten the delay when opening pages within the system. Computers in the library are also being reconfigured to allow the use of Open Mail on Internet Explorer, which should ease the opening of attachments within the program. Further, instructions for using attachments in Open Mail can be easily accessed on the Open Mail version selection window. Finally, the LSC is continuing to work with ITS on one of the most oft-cited student concerns — expanding the 4MB storage limit for personal emails. Please direct questions to LSC Student Advocate Mike French (mfrench).

New Toys. ITS has approved three additional iMac workstations for the Hark computer area. Look for free coffee during finals, provided by Dean of Students Richardson. And get ready for some foosball and pool in the Hark ...

Winter Recess. The LSC is on recess during upperclass exams in December and 1L exams in January. During this time, please direct concerns and suggestions to President Jay Munir (jmunir), and complaints to Vice President Justin Cooper (jcooper).

Sportsguy

by Phillip Barengolts '01
RECORD Columnist

AARON'S PARENTS RUN WILD IN CHAMPIONSHIP GAME

The flag football playoffs provided some close calls, upsets and a family gathering as the HLS gridgers fought for supremacy last Sunday.

The day began with Aaron's Dad, the number one seed, playing the Law Dawgz. The Law Dawgz got all of their first half offense from **Jorge Elorza** Have Mercy '03 when he pulled down a scoring strike on the opening drive. The defense also provided the Dawgz with a lift as **Michael Eine Kleinman** Nacht Musik '03 sacked Dad's QB at the end of the half to keep the Dawgz close. But Dad's **Darien** My Left **Futrell** '01 had three touchdown receptions by the end of regulation, while **George** You Don't Bring Me **Flowers** '01 proved too strong on the line as Dad beat up on the Dawgz 25-12.

The other early game featured Herwitz' Heroes versus the 9-1 Second Plague, who were also the second seed. The heavily favored Plague came out firing. The Goose That Laid The Golden **Craig Cronheim** '01 threw a touchdown pass to **Casey Mae Westover** '01 that got the action going, but the Heroes responded with **Brent** Ten Things I **Haden** About You '02 as he roped in a catch for a touchdown lead going into halftime. The Plague tied it up early in the second half when **Pat Urda** In the First '01 helped the Plague drive the ball down the field for a **Dave** Make a Run for the **Borders Jr.** '01 touchdown catch. The Heroes would not back down. **John Gonsoulin** With The Wind '01 caught the game winning score on a nifty slant pattern for the 20-13 final victory.

The 3 vs. 6 and 4 vs. 5 games proved to be as close as their billing. The Fighting Peilins battled with Aaron's Mom — the winner would move on to the semifinals. On the Peilins' first possession, **Armen** At Work **Meyer** '01 laid out to make a spectacular diving touchdown grab on fourth down. Mom responded with some strategic trick-

Post-season Awards	
Offense	
Wide Receivers:	Casey Westover '01 Ansel Brown '02 Ryan Cobb '02 Corey Wilson '01 Dominic Lanza '02 Matt Kluszewski
All-Purpose:	
Lineman:	
Quarterback:	
Defense	
Safeties:	Darien Futrell '01 Dave Borders Jr. '01 Kelly Huffman '01 Shawn McDonald '02 Joe Rose '01 George Flowers '01
Lineman:	
Rookie of the Year:	Jeff Mandelbaum '03
Most Valuable Player:	Darien Futrell '01

ery, unleashing **Ansel** You're a Good Man, **Charlie Brown** '02 on a hook and ladder play to tie up the game. After a tight first half, the Peilins found themselves down by six with a minute left. **Kelly Huffman** Puffman Blow Your House Down '01 willed his team down the field until finally connecting with **Joe** Flock of Sea **Gulley** '01 for the tying score. Aaron's Mom had one last chance to win the game in regulation when **Scott Mayne** Attraction '02 lofted a pass to the back of the end-zone. Miraculously, **Californica-Shawn McDonald** '02 brought it in, and after some deliberation, the referees ruled that he got one foot down in bounds.

Thus, Mom moved on with a 26-20 victory.

The Frightened Turtles faced Dicken's Cider for the last spot in the final four. Cider got three touchdown passes from **Matt** Get a **Kluszewski**, all of them going to Mission To **Lars Johnson** '01. The Turtles were led by **Dan** Always **Bennet** on Black '02, who threw four touchdowns passes, two of which found **Matt** Reap What You **Zisow** '03. **Farzin** Don't Ask **Firooznia** the Bell Tolls '01 gave Cider one last chance to tie the game with his defensive effort, but **Rob Mishev** Impossible batted down Cider's last chance to seal the deal for the Turtles, 28-22.

The semifinals featured games that were over a little earlier than the final whistle. The Frightened Turtles started off on the right foot in their game with Aaron's Mom. **Justin** Golden **Tichauer** '03 caught the first touchdown pass for the Turtles and **Joe** The Name of the **Rose** '01 made an impressive run after the catch for the second score early on. But Aaron's Mom was firing on all cylinders behind the arm of Mayne. Though it was **Mike** The Dishes Are **Dunne** '02 who ultimately made the difference, picking off three passes and running two back for scores to give Mom the lopsided 44-21 victory.

Aaron's Dad defeated Herwitz' Heroes in the other semifinal game. **Aaron** Jabba the **Hutman** '01 caught the score that put the Heroes away while **Dave** **Morica** Suave '02 provided the defensive spark. The Heroes did not go down without a fight. **Ian** Churchill **Downes** '01 threw for three touchdowns, one to **Mike** When I Get that Feeling, I Want Sexual **Healy** '03 and another to **Matt** **Marinelli** Sparkling Cider '01, who caught the pass while nursing a broken hand. His effort, while impressive, was not enough to put the Heroes in the championship, as Aaron's Dad moved on by a 27-22 score.

The championship game was a fight between Aaron's Dad and Aaron's Mom (no relation). The game started off close with the teams trading scores. Dad started with a touchdown catch from **Eric** Another Brick in the **Wall** '02 to start the game, while Mom's Brown juiced his way into the end-zone for a fifty yard score. The game would get out of hand when Mom lost control of Dad QB **Corey** Where There's a **Wilson**, There's a Way '01, who connected with all of his receivers for TDs and ran in a score for good measure. Early in the second half, **Futrell** nabbed a pick to close the door on Mom, the season and a 36-21 win.

Letter

Call for equality, fairness in Middle East

We are Palestinian-American and Jewish-American law students concerned with the current conflict in the Middle East and disheartened by the anti-Palestinian sentiment expressed on this campus.

First, we would like to emphasize that the views expressed by some of the writers in the RECORD do not represent the opinions of all Jews. Since recent fighting began, Jewish activists worldwide have protested against Israeli violence and have urged Israel to end its institutionalized system of discrimination against Palestinians. From protest marches to open letters to the media, Jewish supporters of peace and equal rights have made their voices heard. We regret, however, that more Jews do not speak out against Israeli wrongdoing and that more moderate viewpoints are sometimes drowned out by extremist rhetoric. Jewish supporters of Palestinian rights are not sell-outs and are not traitors. To protest excessive force against Palestinians and to support Palestinian self-determination in fact accords with the commitment to justice embodied within Judaism. We believe Jews should support Palestinian rights not in spite of their Judaism but because of it.

We do not take a one-sided stance. We believe neither side is free from blame, and we recognize and deplore

the virulent anti-Jewish sentiments expressed by some Palestinians. On this issue, we have two points. First, we recognize that anti-Semitism remains a serious problem. One need only look to recent shooting rampages at Jewish synagogues and community centers, the desecration of Jewish cemeteries in Europe and the proliferation of hate-filled Internet sites to realize that anti-Semitism continues to threaten Jews worldwide. However, while we actively fight against anti-Semitism, we do not believe that being or having been victimized legitimates victimizing others. Second, while we condemn the bigotry and hatred that exists on both sides, we urge that Palestinian viewpoints be understood within the context of events of the past fifty years. As **Murad Kalam** insightfully inquired in a recent issue of the RECORD, "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?" [November 17, 2000]

General anti-Palestinian sentiment has prevented a fair evaluation of recent events. Over the past several weeks, we have heard a great deal about **Yasser Arafat's** "intransigence" in the face of **Ehud Barak's** "generous" offers at Camp David. We have heard **Madeleine Albright** say that the

Palestinians have placed Israel "under siege." We have heard U.S. government officials and media pundits, under the guise of objectivity, call on "both sides" to end the violence. None of what we have heard has explored the harsh reality of life under military occupation. None of what we have heard has exposed Israel's policy of expanding Jewish-only settlements and roads in the Occupied Territories. The peace process has been going on for seven years now, and the Palestinians living in the Occupied Territories have seen little progress. For them, there is little evidence that the Israeli government's participation in the process has been in good faith.

The continuing occupation is the core explanation of the tragic violence engulfing the region today. Until Americans and Israelis seek to understand the Palestinians' frustration with a peace process that produces no results, we will not find a solution. Instead of such understanding, we have heard startling and callous accusations that it is the Palestinians who are responsible for the deaths of their children in their streets. We have heard the accusation that Palestinians send their children to die for media attention. The suggestion that Palestinians do not love their children is outrageous and bigoted. Those who make this suggestion forget that in 1948, Jewish youths participated in the war that established the state of Israel. The Palestinians are engaged in

a struggle for their homes, for their human rights and for their self-determination. It is tragic that thirteen-year-old boys are dying in this struggle, but it is the Israeli army who is killing them.

Whether Barak's offers at Camp David were more generous than Israel's previous offers is of no relevance. The fact that the Palestinians are the weaker party does not mean that they should take whatever they can get. They are under no obligation to accept a patchwork state with no chance of viability on its own. As long as Israel views the peace process with the unstated premise that might makes right, there will be no peace.

We urge our community to probe more deeply into the roots of the conflict in Israel-Palestine. We believe that, as Americans, we have a special responsibility to do so. Our government gives Israel, which is far wealthier than any of its neighbors, enormous military and economic support, and we have been the chief sponsor of the recent failed peace negotiations. The only way to promote peace in the Middle East is by insisting on an agreement based on equal rights and mutual respect that will be accepted as fair not only by the Israelis but also by the Palestinians.

Layla Aksakal '03
Kara Miriam Wortman '03
November 28, 2000

Fenno

Fenno picked up the receiver on the second ring and heard a strange voice on the line. It sounded like the voice of a soulless bureaucrat who had spent decades pushing papers in a drab underground office and given up all hope. She suspected it was Paul Upson, the Dean's calculator-wielding enforcer. Like Odd Job with a slide rule.

"Please hold while you are transferred to a secure line," said the voice.

Click. "Hello, Fenno" warbled the unmistakable baritone of Dan Meltzer. "This is a top secret call, so please make sure no one is listening. We have a problem here, Fenno, that may just fall within your bailiwick. Quite frankly, we need your help..."

Meltzer went on to explain that the faculty was going to vote on the entire Strategic Plan this week, but, before that could happen, they needed to convene one final Steering Committee meeting to put the finishing touches on the plan. Unfortunately, Jay Munir, who usually represented students on the Steering Committee, could not make it. Apparently, Munir's unflagging patriotism and stalwart support for the Detroit Lions had led him into a dangerous Thanksgiving mishap. In his zeal, Munir had consumed one and a half turkeys in six hours and then collapsed into a tryptophan-induced coma.

"He still hasn't woken up," said Meltzer. "The doctors say it takes about 10 days to get the turkey completely out of the system. So that's where you come in, Fenno. Would you be willing to represent students at the final Steering Committee Meeting, Fenno? This is a big honor, you know."

"Yeah, Dan, I'd love to. Seriously. But I've got about six hundred abortion refund slips to get through...that kinda money only rolls around once a year, you know."

Meltzer emitted a low-pitched warble, a sound that reminded Fenno of those humpback whales from Star Trek IV. "Mwharh, well Fenno...You know there will be certain libations at the meeting."

Fenno graciously accepted the invitation. Free sherry was nothing to sneeze at, and, if nothing else, she was excited to see what these Steering Committee meetings were actually like. And besides, maybe she would even get to put in a few words on behalf of students. A creative suggestion or two might be just the thing to turn the school around, right? Yes,

that's it! Fenno thought. Enough cynicism and complaining, she was going to make a difference! She could see it now — working photocopiers, food that wouldn't give you diarrhea, smaller classes, professors more interested in students than getting on TV, post-1920s pedagogy! A laptop at every desk and wrist-braces on every wrist!

Fenno rode a cloud of optimism to the meeting, breezing past another Traphagen Distinguished Alumni Luncheon. No booze there, she thought, just Mike Dukakis and a roomful of brown-nosing policy wonks. As she patiently waited for the Hauser elevator to arrive, she overheard Dukakis asking if anyone had tickets to the Scales of Justice holiday concert. The elevator doors finally slid open, and before they slammed shut, Dave Markus could be heard haggling with the ex-Governor over a pair of "bitchin' hot seats."

In the Steering Committee conference room, Fenno waited breathlessly for the proceedings to begin. There was a high-backed chair at the end of the oaken table; at the appointed time, it swung around slowly.

Fenno gasped. There staring back at her, and the entire Steering Committee, was Dan Meltzer. The esteemed Chairman was wearing a sharkskin Nehru jacket. He glared at the committee through a rose-tinted monocle, his left hand clutching a crimson and white remote control. Meltzer pushed a button, and next to him popped up a high-chair containing a small man in a gold jumpsuit, with Meltzer's hair and features... it was Mini-Meltzer!

"There he is, pure concentrated Meltzer. All the knowledge of federal jurisdiction at one-eighth the billing rate," Mary Ann Glendon whispered over Fenno's shoulder.

Finally, Meltzer spoke: "The plan is dead. Long live the plan."

"Yes, comrades," he continued, "the plan has reached the point of final adjudication. All collateral attacks have been exhausted. We've taken out grade reform and anything else the students wanted, so it's sure to pass the faculty by a wide margin on Friday. So now we get down to the real business — fundraising."

Over the course of the next half hour, Fenno learned to her surprise and horror that the whole strategic planning process had been nothing more than a show trial, a drama consciously fabricated as a pre-cursor to the biggest fundraising drive in HLS history. Over the next ten years, the administration and the faculty would raise — mostly from alumni — \$75 million for new faculty members, \$100 million for new buildings, \$15 million for more foreign scholars and many more millions for miscellaneous

items, including a new jumpsuit and sparkling "bailiwick wand" for Mini-Meltzer. The grand total was a staggering \$350 million.

Meltzer explained that the alumni are fickle creatures of sub-professorial intellect. Their "un-nuanced and untextured" worldview causes, according to Meltzer, were a particular, quirky behavior — they won't give money unless they think something useful is going to be done with it. So the faculty came up with strategic planning as a way to counteract this "cognitive imperfection" on the part of the big donors. With a glossy copy of the entire plan in hand, accompanied by tales of the months of public deliberation and hard work that went into it, the donors would find themselves reaching helplessly into their wallets to fork over the big dough.

Fenno felt sick. She had to speak up. "This is all wrong!" she interjected. She looked around and saw only blank faces. Dean Clark and Elizabeth Warren were staring at their shoes. Todd Rakoff was stroking his beard and looking at the ceiling. Mini-Meltzer was banging Andy Kaufman on the knee and chirping "Do Latka, do Latka!" Frank Sander was asleep, and Charlie Donahue was whistling an Armenian folk tune. They had all been turned long ago. She went on shouting about the injustice of it all, but Fenno could see that they weren't even listening.

Meltzer waited the tirade out, paused and then spoke. "Thank you for your input, Comrade Fenno. However, please try to control your language in the future. Remember,

Quote of the Week

'This is very close, as close as we've ever come, not to a military coup, nothing like that, but to a political coup d'etat in violation of the rule of law.'

—Prof. Alan Dershowitz, remarking to Geraldo Rivera on a Republican election victory

things are never bad at HLS, they are only sub-optimal, and no one is evil, they are just improperly incentivized. So, group, please take note that Comrade Fenno has expressed her concern that the plan is improperly incentivized and that it may have sub-optimal outcomes. Now, on to more pressing matters."

Meltzer was appointing people to positions on the fundraising team. "Comrade Warren will be Minister of Propaganda. Your job, Comrade Warren, is to talk this thing up to anyone who will listen and never admit to any flaws in the plan. You must deflect all criticism, while giving the outward appearance of being sympathetic to criticism. I know you can do it."

Meltzer named Rakoff and Dean Clark to head up the road show. "Comrade Rakoff, I want you to shave that beard and buy a couple of blue blazers. The alumni aren't into tweed. And Comrade Clark, your job, as always, is just to stand there and look good. Speak when spoken to, Comrade Clark."

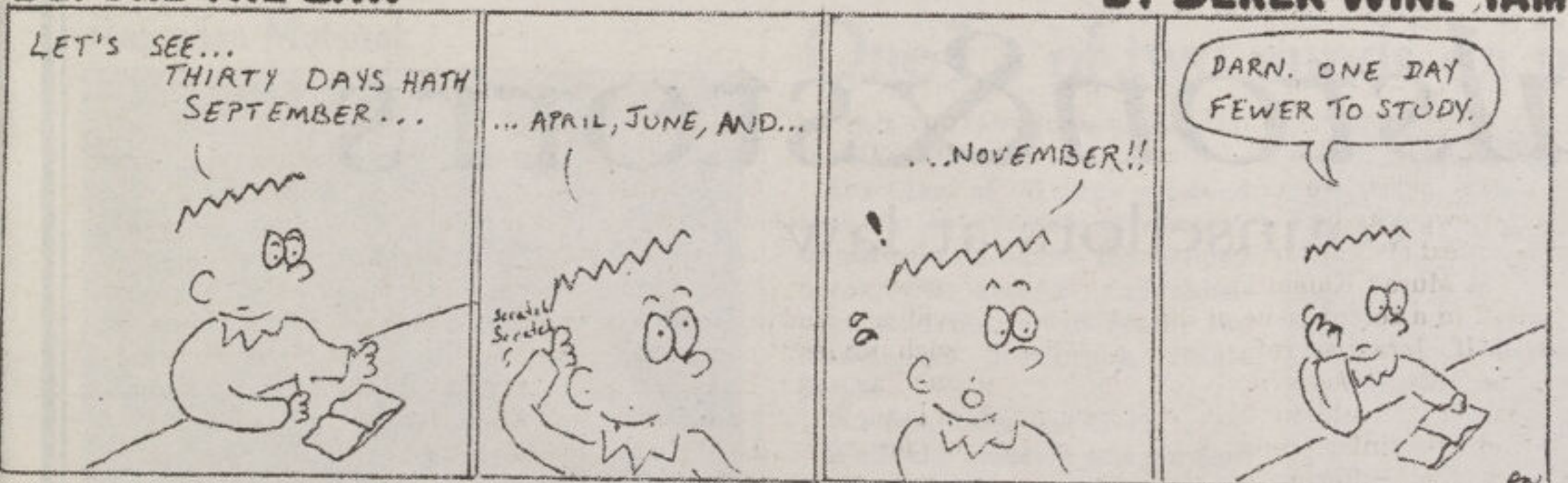
"Can I have some candy now?" said Dean Clark.

"It's on the chair next to you, Bob. Try not to smudge," said Meltzer.

And with that, the meeting abruptly adjourned. Apparently, there was nothing left to be said, just money to be raised.

As the faculty members filed out in step, Fenno's eyes met Mini-Meltzer's. They were both thinking the same thing — go for the booze. At least someone else here had their priorities straight.

BEFORE THE LAW



BY DEREK WINICK

Write for the RECORD. We take all kinds. Write for the RECORD. We take all kinds. Write for the RECORD. We take all kinds. Write for the RECORD. We take all kinds.

Letter

Op-ed offered insight into Middle East crisis

Thank you for publishing Mr. Kalam's thoughtful perspective, "Why We Don't Consider the Palestinian Side, and Why We Should," [November 17, 2000] which illuminated the critical student responses to the Kennedy/ Sayed letter [October 20, 2000]. Kalam reminded us that whether anti-Semitic, anti-Arabic, Palestinian activist or Zionist, one who fails to see the gas chamber a few paces away from the ghetto embraces Holocaust-denial.

Julia Tomassetti '02
November 20, 2000

ATTENTION: HARVARD 1L's and 2L's

*Take a break from case books and join us
on Tuesday, December 5
6:00 – 8:30 P.M.*

Goulston & Storrs, a 150-lawyer Boston firm, is pleased to invite you to meet with us to discuss:

- job searching and interviewing tips
- summer programs
- practice area specifics
- life at a law firm and how to succeed

Cocktails, Buffet and Roundtrip Transportation provided

Meet the Boston Coach bus at 5:00 at the corner of Oxford and Kirkland Streets or take the MBTA Red Line to South Station and walk 3 blocks North to 400 Atlantic Avenue (next to the Boston Harbor Hotel)

The reception will be held in our first floor waterfront Conference Center

RSVP by Friday, December 1 to Jennifer Smith at 574-4072
(or email: jsmith@goulstonstorrs.com)

We look forward to meeting you at the reception
on Tuesday, December 5.

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For further information regarding Goulston & Storrs, visit our website at www.goulstonstorrs.com, or contact Nancy Needle, Director of Legal Recruitment at 574-6447 (or email: nneedle@goulstonstorrs.com).

Casual attire acceptable