



Students, staff snowed out of school

Old Man Winter deals Harvard Law an icy hand

by Randall Jackson

The Blizzard of 2001 left more than a foot of snow in the Boston area. But for the first time since 1978, it left something else in its wake — cancelled classes at HLS.

On Monday night, a mixture of shock and exuberance descended over the Gropius dormitories as word of the cancellation spread. The law school was informed of the decision via an email sent from Dean Clark '72, which read simply, "Due to current and anticipated weather conditions, Harvard Law School will be closed on Tuesday, March 6. All classes, events, and lectures will be cancelled." The email also provided a phone number (496-SNOW) that students could call for updates.

Some students registered surprise that the school was willing to shut



Photo by Murad Kalam

Students took an unorthodox approach to intentional torts during a snowball fight Tuesday.

its doors for even a day.

"I read the email from Dean Clark, and my first thought was that someone was somehow playing a trick on me. In the weather, I never really

believed that the school would close," said Joe Thomas '03.

Many students took the snow day as an opportunity for activities of their child-

hood. Shortly after the announcement, signs appeared around the campus announcing a snowball fight — sponsored by a mysterious group calling themselves the "Law School Slackers" — that was scheduled for the following day on Jarvis Field.

"I thought it was a cool idea, but how much of an indication is it of where we've arrived as Harvard Law School students when we're scheduling something as inherently spontaneous as a snowball fight?" pondered Brooke Richie '03.

Along the streets surrounding the HLS, children and adults were noticeably involved in snowman construction. A number of people could be seen engaging in the back-freezing formation of snow angels. One woman even donned cross-country skis as she whizzed past the Three Aces restaurant.

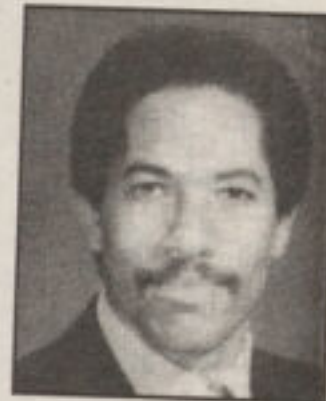
Still, the winter weather didn't produce a unanimous feeling of joy. "They towed my car even though

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Boyd '84 nominated to head Justice Dept. Civil Rights Division

by Justin Herdman

The Department of Justice, Civil Rights Division, might soon have an HLS grad at its helm. Before that happens, however, Ralph Boyd '84, Pres. George Bush's nominee for the post, will almost certainly have to navigate a minefield of partisan squabbles during Senate confirmation proceedings.



Boyd

Tuesday Pres. Bush announced Boyd's nomination to the post of Assistant Attorney General in charge of civil rights enforcement. In early conversations with the media, the nominee displayed a caution and shrewdness that may serve him well in a confirmation battle. "I just can't comment, but I appreciate your good wishes," Boyd told CNN. "I'm not Washington savvy, but I do have some friends that are." Boyd did not return a RECORD phone call to his office Wednesday.

Prof. Charles Ogletree '78 spoke to the RECORD about Boyd, with whom he worked in urging the administration of Gov. Paul Cellucci to diversify the Massachusetts state government. Boyd, who is also a Harvard

Please see BOYD, p. 6

Bull-Moose Republicans aim to enlarge party's reach

by Trevor Gardner

More than seven years after the presumed Republican Revolution of 1994, graduate students at Harvard University are plotting a new conservative movement, one that envisions an all-inclusive GOP intended to counter widely-held notions about the party's lack of diversity. The vehicle created to spawn this change is the Bull Moose Republicans, an organization founded at Harvard University.

While pondering the future of the Republican Party with a group of friends at the Bull & Finch pub in downtown Boston, Jonathan Freimann '01 brainstormed the idea of giving a facelift to the GOP. He and a friend scribbled a few notes on the back of a cocktail napkin, which eventually led to the formation of the first Bull Moose Republicans chapter. The group is now rooted in 33 states. It has attracted the interest of numerous student groups, the GOP faithful and more than a few U.S. Congressmen.

On February 27, the Harvard Bull Moose Republicans met for a happy hour at The House of Blues in Harvard Square. The group included graduate students

from HLS, the Kennedy School and undergraduates from Harvard College.

Heather Thompson '01, the Bull Moose's director of election reform, maintains that the organization doesn't intend to shape the political ideology of the GOP.

"We support the ideals of the Republican Party, but we think it's not representative of the conservative population in the United States. We essentially see the party growing and changing, but [right now] the conservative message is not getting out," Thompson said.

Thompson suggested that part of the problem can be attributed to the Republican National Convention policy where states that have a high percentage of minorities, like Michigan and New York, aren't allowed the same delegate representation as racially homogeneous states like Montana, Idaho and Utah.

According to Freimann, this bias was institutionalized in 1920 through Rule 31 of the Republican Party platform. Moreover, the provision was specifically intended to diminish the participation of minority delegates, Freimann said. Presently, states

Please see PARTY, p. 3

Kalam '02 sets sights on writing life

O. Henry award for short story is just the first step

by Jankhana Desai

Ernest Hemingway won one in 1927. In 1920, F. Scott Fitzgerald. This year, it was Murad Kalam '02.

Kalam, an aspiring novelist and second year student at HLS, won an O. Henry award last month for his short story, "Bow Down," that was published in Harper's Magazine last October.

The O. Henry awards are an annual collection of the year's best stories published in American and Canadian magazines and written by American or Canadian authors. The series editor, currently Larry Dark, selects 20 stories from among the 2,500 to 3,000 published in the 240 or so magazines consulted for the series.

"I was completely shocked," Kalam exclaimed. "When I was talking to the editor, I made a complete fool of myself... I was a blubbing idiot because I was shocked."

Kalam's story, which was about a young boy who fights to hold onto a house, was the very first piece he had published. If everything goes as planned, it won't be the last.

Kalam is currently in the finishing stages of a 350-page



Photo by Nilufer Shaikh

Murad Kalam '02 hopes to see his novel, "Night Journey," at a Barnes & Noble near you.

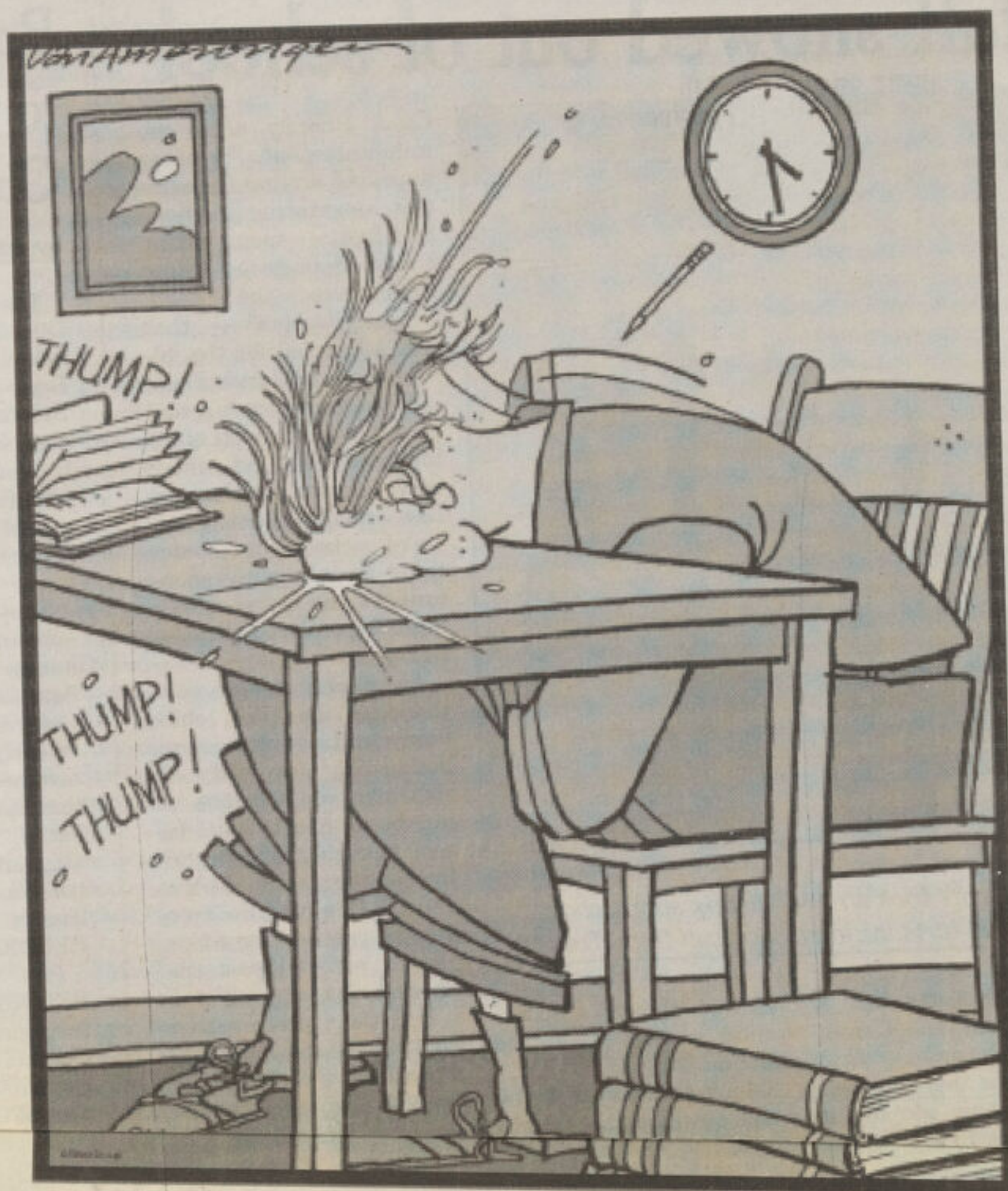
novel. Kalam began his novel, "Night Journey," during his senior year in college. After graduating from Harvard University magna cum laude with a bachelor's degree in English, Kalam decided to continue working on his novel. He moved back to Mesa, Arizona, in the Phoenix metropolitan area, where he had spent most of his childhood years and where the novel takes place. Kalam spent three years in Mesa, working for his father's medical practice as the office manager. It was there that he was able to put the detailed touches on his story, a story about a boxer.

"Because I was home, I really got to see Phoenix, and I got

a sense of it for the book," explained Kalam. "Living there as an adult for three years, I saw all the sort of nuances that take place. I got to drive through the back roads... a lot of things that I was able to put into my book."

Joshua Bloodworth '03, who went to college with Kalam, said it is details like these that make Kalam such a gifted writer. "I think he is very insightful at pulling [out] subtle differences that have lots of meaning," explained Bloodworth. "He is able to take ordinary people and show the extraordinary aspects of their lives without being facetious or

Please see AWARD, p. 7



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A THOMSON COMPANY

Workshop gives students a new perspective on police conduct

by Mike Wiser

For a small group of HLS graduate students, a three-month workshop on police corruption has been an opportunity to explore the causes of and solutions to police misconduct. Yet, for the organizer of the workshop, the topic is part of a life's work.

Sanja Kutnjak Ivkovich S.J.D. designed the "Police Misconduct Workshop" as part of her ongoing examination of police corruption. The workshop is a chance to bring together students from around the world to examine multidisciplinary approaches to dealing with police who step over the line.

The first half of the workshop, which began in February, focused on the police, their culture and police misconduct. In the second half, participants will begin to examine how police misconduct can be subjected to both internal and external controls.

In the first workshop, the group examined the problem of defining a police agency. For Kutnjak Ivkovich and the participants, if police agencies are defined by the role they play, then important police agencies, which should be included, may be left out. In her proposal for the workshop, she pointed to the difficulty of finding a definition that includes "slave patrols in the South in the 1800s, the police of the East India Trading Company in the 18th century, Sir Robert Peel's 'Bobbies' in the United Kingdom and militia in the communist regimes in the 20th century." For Kutnjak

Ivkovich, the best way to understand police is by looking at what they are allowed to do, namely the legitimate use of force.

This broader, non-legal definition of a police agency reflects the interdisciplinary orientation of the workshop. "I hope that [the participants] think about police misconduct from an interdisciplinary perspective, not just as lawyers," Kutnjak Ivkovich told the RECORD.

Carl Klockars, a guest speaker at the workshop and a professor at the University of Delaware, agreed that part of the value of the workshop is to expose lawyers to other ways of understanding police misconduct. "Typically, law students are interested in the problem of excessive force and its definition, [or] corruption and its definition. Each of those problems can be approached from a different angle," he said. In his lecture, Klockars offered an organizational perspective on misconduct that lawyers might not necessarily consider in their lives as prosecutors or defense attorneys.

In the second workshop, the class examined how the quasi-military structure of most police agencies puts officers into an "us/them" mentality. Furthermore, a complex set of rules puts every officer into the position of having broken some rule at some time.

For the LL.M. and S.J.D. students involved, the workshop also offers a chance to exchange different perspectives on police misconduct. "I would like to learn about others' cultures and police forces and what they do to con-

trol police misconduct," Kutnjak Ivkovich said.

One of the participants, who is taking the workshop for credit, is a Pakistani police supervisor. Another is a former journalist from Argentina who offers thoughts on South American policing traditions. And some of the participants, like an Indian LL.M. who will also return to a position as a police supervisor, see the workshop as an opportunity to learn techniques that they can apply when they return home.

Kutnjak Ivkovich, who holds a Ph.D. in Criminology from the University of Delaware, first became interested in police misconduct when she was teaching a course at Delaware on the subject. After visiting the library, she found that there was a dearth of empirical articles on police misconduct. Along with Klockars, Kutnjak Ivkovich put together a study that surveyed the attitudes of 3,235 police officers in 30 agencies towards police misconduct. The key innovation of the study, Kutnjak Ivkovich said, was that instead of surveying actual misconduct (something officers often won't talk about) they asked them about their attitudes towards certain types of police corruption.

While the study focused on the narrower problem of police corruption, Kutnjak Ivkovich has integrated some of the study's findings and methods into the class. In particular, she said that the method adopted in the study could be used by agency supervisors to gauge their department's attitude

towards corruption and misconduct.

The survey found that perspectives on corruption varied dramatically between some agencies. When confronted with eleven examples of varying police misconduct (for example, an officer who accepts a bribe from a motorist), officers in one agency reported that they and their colleagues would report the described behavior in seven of the cases, while officers in another agency said that they would not report the misbehavior of a colleague in any of the situations.

As part of the \$880,000 study, which was funded by the Department of Justice's National Institute of Justice, Kutnjak Ivkovich examined what distinguished the three agencies with the highest levels of integrity. For her dissertation, she is focusing on the opposite end of the spectrum — examining reports that were issued about three police departments that witnessed corruption scandals.

The workshop is open to all students and will be meeting through the end of April. The next meeting is on March 22, when Philadelphia's Deputy Police Commissioner John Norris will be speaking about internal control of police agencies.

The workshop was part of Kutnjak Ivkovich's Byse Fellowship, which is designed to give fellows the opportunity to gain teaching experience. While the workshop was organized by Kutnjak Ivkovich, Prof. Philip Heymann '60 has been advising and overseeing work done by students who wish to receive credit for the course.

PARTY

Continued from page 1

considered Republican strongholds receive one delegate for every 3,000 votes, while swing states, which generally have more minorities, receive one delegate for every 30,000 votes. Freimann insisted that the rule remains in place because party members are ignorant of its historical significance. He also cited the rule as the primary reason the audience of the 2000 Republican convention appeared "white washed" despite the racially diverse speakers on stage.

President Bush fought for the image of a diverse GOP for the 2000 convention in Philadelphia; the Bull Moose Republicans hope to realize this vision of the party. Many critics dismissed the convention's attempt at a new image as a shameless, but necessary, attempt to attract new votes from previously unresponsive circles. Freimann views the party's new mantra of inclusiveness with far less skepticism. "It's an idea whose time has come," Freimann said. "We want to be able to hold our majority, considering the [present] demographics, and it's generally the right thing to do."

The Bull Moose Republicans are confident that President Bush is the right man to lead the party's transformation. Yet despite predictions that he would garner more minority votes than any Republican before him, minority support for Bush fell substantially below party projections. Freimann believes that minority distrust of the Republican Party cannot be overcome in a single election. "Skepticism has been building for decades," Freimann said.

During the 2000 campaign, the NAACP ran an ad opposing Bush's candidacy, narrated by the daughter of James Byrd, a man killed in a Texas hate-crime. "The NAACP ad was disgusting and played to the worst in people. It didn't help, but it wasn't the



Photo by Photo Grapher

Jonathan Freimann '01, shown here chatting up Sen. John McCain, is working for a more diverse Republican Party.

cause for the failure," Freimann said, referring to the lack of minority support for Bush's candidacy.

The NAACP ad is merely a recent example of the long-standing rift between the Republican Party and minority communities, particularly minority organizations. Ties between the two sides have been less contentious as conservatives recognize America's changing racial demographic and as minorities become disillusioned with the Democratic Party. To find common ground, Freimann calls on the GOP to be consistent in its message. "The Republican Party has to realize that this can't just be something we advocate during the election cycle. We have to make [the effort] genuinely, and we have to make it 'round the clock,'" Freimann said.

The rewards of the Bull Moose effort will likely depend on either the receptiveness of "communities traditionally not reached by the Republican message" — as the organization states on a

flier — or the GOP's willingness to adopt views not generally perceived to be within the scope of traditional conservative ideology.

Freimann insisted that Bull Moose is an umbrella Republican group with no intention of being perceived as a group of moderate conservatives or liberal Republicans. For Bull Moose, the primary goal is to stamp out any hint of exclusion. "We oppose people who want to exclude individuals based on the groups they belong to," he said.

The looming question is whether homogeneity in the Republican Party can be attributed to the party's failure to extend its conservative message to all Americans, or whether it is simply a prevailing lack of receptiveness to that message by groups at America's cultural margins. Freimann is banking on the former.

"I believe that, in the marketplace of ideas, the Republican Party's ideas will win. The issues we are bringing people are Republican ideas," he said.

SNOW

Continued from page 1

sign saying that people couldn't park there during a snow emergency. I had make my way through all of this snow to the other side of town, and when I got there and asked for an explanation, the manager of the company just said that during a snow emergency they could tow whether there was a sign or not," said Lacey Schwartz '03.

Some on-campus interviews were cancelled due to the inclement weather, as were several receptions held by law firms. One firm, Reboul MacMurray, decided to pay for the reception and encourage students to attend on Tuesday night, even though none of the attorneys would be able to make their flights into Boston.

Due to heavy preparation on the part of municipal authorities and misreads by meteorologists, snow conditions were actually much less severe than were anticipated, leading some to suggest that the cancellation of school was unnecessary. Still, among students who enjoyed the day off, there was little discontent about the situation.

Said Brian MacDonald '03, "It gave me some extra time to work on Ames and to sleep. I have no complaints."

Crossword Solution

GO WITH THE FLOW

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Harvard Law RECORD

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FOUNDED IN 1946

Paper tiger

There are two bookends to life at Harvard Law. One occurs at the very outset of law school, a gushing week long lovefest known as Orientation. Lunches are followed by speeches which become interminable tours of the Langdell labyrinth, all with one enduring theme ... we few, we happy few at Harvard Law.

The second bookend has already descended on 3Ls. Known officially by its sanitized name — "The Written Work Requirement" — the 3L paper serves a purpose as varied as its creators. As befits the scattered HLS experience, some will struggle mightily to craft a product worthy of this venerable institution's esteem, while others will whip something up at the last moment, standing on the shoulders of the giants who preceded them (namely, other students). Yet another faction will laughingly pass off alternative "papers" as the real deal.

This whole enterprise would make more sense if the 3L paper somehow accorded with HLS's apparent mission as a professional school. Paradoxically, however, this professional training ground insists on finding and nurturing the inner academic within every student, regardless of that student's own wishes. As a result, the written work requirement stands as a beacon of opportunity to some and a blaring klaxon to others, depending upon their devotion to the scholastic path.

Furthermore, if the rationale for the requirement is to hone a student's legal writing skills, then the 3L paper is a farce. Most 3L paper-writers are offered little or no tutelage by their advisors beyond the occasional mark-up of a draft. We have all seen the obvious flaws in HLS's first year writing instruction — witness the attempts to revamp the LRA program. The 3L paper is no better. It requires a completely different set of skills from those needed to succeed in other classes. Unlike exams, this writing does not require eight hours of fast typing; rather, it takes countless months of thought and deep research to meet the lofty ideals of what the 3L paper should be.

For students who want to cultivate the inner scholar, the 3L paper should be an option that is highly incentivized through extra credit, travel and expense grants, and intense supervision. But for that wider portion of the student body who see a future outside the Ivory Tower, it should be nothing more than an option.

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• Letter •

Law Review salutes Bureau, infra

I write to salute the members of the Harvard Legal Aid Bureau. The Law Review and the Legal Aid Bureau share Gannett House as equals, but we at the Law Review must admit to being far from equal in athletic competition. During my recently concluded tenure as president of the Harvard Law Review, the Legal Aid Bureau defeated us in every sporting event in which we faced them, including our annual Gannett House Flag Football Game held earlier this fall. Through it all, the members of the Legal Aid Bureau displayed class, sportsmanship and remarkable team spirit. Bravo!

It is clear that the Legal Aid Bureau makes our campus and our community better places. Thank you Legal Aid Bureau! The Bureau celebrates its 87th anniversary this year, and its tradition of service and overall excellence is stronger than ever. The members of the Legal Aid Bureau provide assis-

tance to those who are desperately in need, while sharpening their own legal advocacy skills. They are also part of one of the most diverse, fun and close-knit communities at Harvard Law School. I encourage all 1Ls to consider applying for membership in this fine organization.

When someone asks me where to go to see generous, well-rounded, fun and good-looking people at the law school, I tell them (and you should as well) to go to the Harvard Legal Aid Bureau. The editors of the Law Review and our new president look forward to continued camaraderie within Gannett House, as well as a rematch on the flag football field next fall and on the intramural basketball court on April 8!

Anne K. Small '01
President, Volume 114
Harvard Law Review
February 26, 2001

• Briefs •

Death penalty foes flinch in terrorism cases

For some Americans the death penalty is bad, but terrorism is worse. According to a survey conducted by DecisionQuest, a Los Angeles jury and trial consulting firm, 24.5 percent of respondents who opposed the death penalty would sentence to death an American who killed someone during a terrorist act.

Of the 20 percent of respondents that opposed the death penalty, 19.4 percent also indicated they would support the death penalty for a foreign terrorist who murdered an American, 18.3 percent for an American who murdered foreigners and 15.1 percent for a foreigner who killed other foreigners.

The survey also found that 12.1 percent of the 1,000 participants believed

that a murder as part of a terrorist attack was more deserving of the death penalty. The survey had a margin of error of plus or minus 3 percent.

Dr. David Davis, a vice president at DecisionQuest, told Reuters, "The closer to home it is, the more likely they are going to change their mind. Terrorism evokes a strong punitive response in people."

The survey was released after Timothy McVeigh, the Oklahoma City bomber, was condemned to death for the 1995 bombing that killed 168. A federal trial court in Manhattan is also hearing testimony in the trial of four individuals accused of conspiring to bomb U.S. embassies in Dar es Salaam, Tanzania, and Nairobi, Kenya.

Jury deflates Anna Nicole Smith's claims

A jury in Texas on Wednesday decided that Anna Nicole Smith, a former Playboy Playmate, had no claim to the estate of J. Howard Marshall II, her late husband. The jury decided that the multi-millionaire oilman had named his son E. Pierce Marshall as his sole heir.

Earlier in the trial Smith abandoned her claim to Marshall's estate after a federal bankruptcy judge in California awarded Smith \$475. The Texas verdict could affect the bankruptcy judgment, which is now being appealed.

According to Tom Cunningham, Smith's lawyer, the jury's decision was flawed, because it was made without Smith being represented. Smith, however, did testify at the trial. During her testimony Smith said that her husband had promised her half of his estate when he died. On February 14th she appeared in court wearing a top

which had the word "Spoiled" written across her chest in rhinestones. She told the court that her late husband would spoil her on Valentine's Day.

Smith met her late husband while working as a stripper in Huston. She married the 89 year old three years later when she was 26. Only 14 months later he died.

After Smith dropped her claim to the estate, the trial focused on a clash between Marshall's two sons. The older son J. Howard Marshall III, a Los Angeles business man, claimed that his father made an oral agreement with him to receive part of Marshall II's estate. The jury rejected Marshall III's claim to the estate as well as Smith's.

Additionally, the jury also found the older son had interfered with his family members inheritance rights. Marshall III was ordered to pay \$30 million in damages to his family.

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PERSPECTIVE

Sharon Not a Guardian of Peace

We, the undersigned Harvard Law students who support justice for Palestine, would like to laud Ariel Sharon and the Israeli voters that brought him to power.

To our elation, the man affectionately known as the "Butcher of Beirut" will now be heading the Israeli government. How could we not be enamored with this gentle, peace-loving man? Let us review his record for you so you may join us in praise ...

During his early years, he mastered terrorism as the general commander of Unit 101 and established his notoriety in 1953 with the slaughter in Qibya — 45 houses deliberately blown up and 69 civilians inside the houses, mostly women and children, killed (according to Israeli historian, Avi Shlaim). He worked hard to maintain his reputation in the 1970s as the head of the Southern Command of the IDF. His success is evident in his ability to "purge" Palestinian villages — in one month alone (August 1971), he achieved the destruction of 2,000 homes, uprooting about 16,000 Palestinians. But the 1980s proved even more triumphant for him. Against orders, he orchestrated the invasion of Lebanon in 1982, which ended up costing over 20,000 Palestinian and Lebanese lives and more than 1,000 Israeli soldiers. In 1983, an independent Israeli Commission held him indirectly responsible for the willful slaughter of thousands of Palestinian refugees in Lebanon (Sabra and Shatila). And, of course, he was one of the architects of Israel's illegal settlement movement, which not only guaranteed to complicate any future peace agreement with the Palestinians, but also ensured that any such agreement

would lack justice.

We are ecstatic and grateful because Sharon's record indicates that he will courageously and gallantly shoulder the Israeli Man's burden. As Sharon himself says, he knows how to deal with the Arabs and that is by being a stern, tough, parental figure not afraid to use deadly corporal punishment when the kids, i.e., the Arabs, misbehave. Dealing with the immature Arabs includes Sharon's proposal to destroy Palestinian houses, row after row, until the Palestinians cease their protests.

Many Israelis disagree with Sharon's stern, yet loving, parental maneuvers but agree with his assessment of Palestinian immaturity. Even defeated Prime Minister Barak referred to the Palestinians as adolescents. It is this widespread and perceptive view of the brown Arab's childishness that explains the Israeli electorate's brilliant choice of Sharon.

Throughout the election, many Israelis said that they were voting for Sharon because Barak conceded too much to the Palestinians who, like a child treated too liberally, became spoiled and just responded to the concessions with violence. The Palestinians, these Israelis said, need a tough parent, e.g., Sharon, and not one that lets them run wild, e.g., Barak.

Never mind that the violence started when Sharon, the right-wing hawk with a great deal of Palestinian blood on his hands, descended to a holy site, the Haram-al-Shariff/Temple-Mount, with a veritable army of security officers to assert eternal Israeli control of Jerusalem. Never mind that the violence escalated when Palestinian protesters to Sharon's visit were met with

live sniper fire. Never mind that Israel is waging a war with its sophisticated and fanciful array of lethal weapons, including U.S.-made Apache attack helicopters, laser guided missiles, tanks using "concrete busters" or armor piercing bullets, along with high velocity bullets for M-16 machine guns and rubber coated steel bullets. Never mind that Israeli soldiers have deliberately targeted children, particularly in their eyes and heads. Never mind that such an anti-Zionist, pro-Palestinian publication as *The Economist* says: "Quite apart from the shooting to kill (half the Palestinian were shot in the head or neck), the economic strangulation of the territories, and the harassment of people trying to go about normal business, is creating lasting resentment." Never mind that Israel is choking the general Palestinian population by imposing closures and roadblocks and severely limiting the inflow of gas, water, food and medicine into the territories. Never mind that settlements continue to be illegally erected while Palestinian homes demolished. Never mind that since the Oslo peace accords were signed in 1993, Israel, in the name of peace, has reified its apartheid system, and as a result, Palestinian GDP, unemployment and health statistics have all deteriorated.

Never mind that all this happened under Barak's splendidly "dovish" regime, just as it happened under preceding Labor governments. Never mind that even liberal Labor cannot contemplate reforming Israel from a state for the Jews to a democratic state for its citizens (besides the Palestinians in the West Bank and Gaza, about 20% of Israel's citizens are

Palestinians, facing legal and institutional discrimination designed to segregate and exclude them, making it no wonder that Israeli Palestinian municipalities receive far less money, their education is poorer, their unemployment rate is far higher, and their ability to purchase or substantively use land is severely limited).

Never mind the preceding two paragraphs for, as many in the Israeli electorate rightly believe, the Palestinian uprising was a result of Barak's negotiation concessions and not a result of the daily degradation, humiliation and de-humanization of "immature, adolescent" Palestinians. When will the Palestinians finally learn? We can all rest easy now that Sharon is here to deal with them in his special, experienced way. We, especially the Brown Arab signatories to this piece, know that true peace will not come by treating Palestinians as equals but by recognizing them for what they are: inferior adolescents who need Sharon's righteously murderous hands to deal with them. While over a million Israelis demonstrated against Sharon's actions in 1983, it is good to know that some of these same Israelis, and their progeny, have finally found the good sense to vote this decorated man back into office. Sharon and Israel, we thank you for your wisdom, courage, humanness, magnanimity and insights. Who could ask for better guardians?

Aneelah Afzali '02
Ahmed el-Gaili '03
Shirley Jean '03
Najeeb Khoury '02
Hani Sayed S.J.D.
Zeinah Salahi '01

PERSPECTIVE

by David Min '02

Supercapitalism Is Undermining the Moral Foundations

Capitalism is an incredible system, obviously, with the capacity to generate extraordinary economic growth and innovation for any society in which it operates. Free trade and open capital markets have fueled enormous increases in productivity, which have led to concomitant increases in the world's wealth, in terms of material goods to satisfy our material needs. Malthus perhaps is very restless right now in his grave at the thought of 2001, where the world can produce not only enough food and other basic necessities for a population of 6 billion, but luxury goods and services for the convenience and entertainment of a significant portion of that population. Capitalism, in large part, has made this possible.

But with the undisputed victory of capitalism as an economic system has come a sharp rise in the rhetoric surrounding capitalism and economics. Economic principles are now prevalent in discussions of law, philosophy, politics and science. This supercapitalism, or extension of capitalist ideology beyond the economic sphere and into our core belief system, is troubling at the very least.

What is the role of capitalism, or any economic system, in the larger context of society and government? What is the role of society and government, for that matter? If we assume that a democratic government, on some level, exists to reflect the preferences of its citizenry, then it would appear clear that capitalism exists within that framework as well. While

there are a few arguments for the notion that capitalism is itself a moral system, which I will go into, I would argue that the main reason capitalism has been so successful in modern society is because a basic preference among all people is to achieve material comfort, for themselves and others, and capitalism simply does a better job of creating the material wealth that can provide material comfort. Virtually no one wants to be poor, starving and wretched. Virtually no one wants their fellow citizens to be poor, starving and wretched. Virtually everyone enjoys comfort and leisure. Insofar as capitalism's results coincide with these democratic preferences, and insofar as democratic preferences are considered a justifiable moral foundation for law and policy, capitalism is clearly a desirable economic system.

But should capitalism itself be considered a proper moral foundation for our system of justice? Economic libertarians often argue that capitalism is a proper moral system, because, in theory, it protects contract rights and property rights absolutely. While contract rights and property rights are certainly important, I would hope that everyone agrees that there are other rights that are just as, or more, important, and that an absolute right to property or to contract is morally untenable, to the extent that these rights must and do conflict with other rights. If you take the idea of absolute property and contract rights to their ultimate conclusion, you end up with

results that are abhorrent to our moral sensibilities, such as the argument that the right to contract should include the right to contract into slavery.

But, increasingly, it has become apparent that the success of capitalism as an economic system has led to an increased acceptance of capitalist ideology as a legitimate metaeconomic philosophy. People, a lot of them, now discuss efficiency and wealth maximization as independent bases of justice. Missing the forest for the trees, they use capitalist doctrine as a normative guideline. When something is efficient, it is right. When something is wealth maximizing, it is good.

Hey, I've got nothing against efficiency and wealth maximization. For the aforementioned reasons, I think they're pretty good objectives. I just happen to think that they're not independent moral justifications for doing something. I think these are economic objectives and should be considered in such light. I think that when these economic objectives conflict with our noneconomic moral principles, these economic objectives should defer. And I think that most people, if they think about it, would agree with me.

The economist Edward Luttwak states this principle simply: "I believe that one ought to have only as much market efficiency as one needs, because everything that we value in human life is within the realm of inefficiency — love, family, attachment, community, culture, old habits, comfortable old shoes."

But too often, these days, it seems that people aren't thinking about the role of capitalism in the larger context of society, and instead are blithely accepting the notion that efficiency and economic growth are somehow overriding justifications. Much of the new Federalism argumentation is based on the idea that local control is a more efficient method of government than central government. Coincidentally, a rise in Federalist jurisprudence has resulted in de facto reduction of equal protection of the laws. Many proponents of tort reform, including our current President, argue that the current system is administratively inefficient and have proposed closing off access to the courts for many classes of lawsuits. A large number of States have found that funding indigent defense counsel is an inefficient use of scarce budgetary resources and have scaled back to arguably sub-minimal levels, resulting in wholesale violations of the Sixth Amendment right to counsel. Whether you agree with these particular outcomes or not, the fact that part or all of the justification for these policies is based in economics might be disconcerting.

Ultimately, democracy itself is an inefficient system of governance, which is why corporations aren't run democratically. At some level, it seems clear that the goals and principles of capitalism must defer to the goals and principles of our democratic society, and to other principles that we hold dear. Clear to me, at least.

Fenno

If you cancel school and no one is there to notice, does it really happen? Fenno wondered. Not having been to class in more than a month, Fenno didn't expect that Tuesday's closure would affect him too much. He planned to just stay at home and stick pins in his Carol Steiker doll, same as every other day. Fenno liked to hold up the doll and chirp stridently, "I was on Law Review! I'm really smart! Love me!" and then stick a needle through the doll's head. Fenno's therapist was concerned.

But then Fenno heard that the HLS Taliban Club had been blowing up snowmen all over campus, and he decided he had to see that. Besides, Fenno wanted to do a little detective work; he had to find something out about this mysterious *marmini* character that had e-mailed everyone about a *Visiting Committee*. Who is *marmini*? What is a *Visiting Committee*? What do these things mean?! *Marmini* had said in her/his e-mail to send complaints about HLS to *viscom@law*. Fenno hoped *viscom* liked Anna Kournikova files!

By the time Fenno got to school, his feet were wet, and his nose had begun to sting. Despite the inclement conditions, Fenno discovered that being on campus with no one else around was really a wonderful experience. Usually when Fenno set foot on campus he ran into a whole assortment of people he didn't want to see: people who remembered and recounted his drunken escapades in excruciating detail; past hook-ups who were now gay; random classmates he hadn't seen since 1L year and still owed for a tequila shot at the Bow; or worst of all, class marshals. But today, he was free from such aggravations.

Fenno was happily racing up and down the halls of Areeda, spinning wildly like a parody dancer, when he ran into Paul Weiler. Weiler looked even more confused and unhappy than usual.

"What's wrong, Big P?" Fenno panted breathlessly.

Weiler looked at Fenno with anguish in his eyes. "Well, you see, I'm writing this book ... and ... um ..." At this point, Weiler's speech trailed off into a sustained, nervous laugh.

"A book?" Fenno asked. "Like the hundred-page 3L papers that you require?"

Weiler was on the verge of tears, but Fenno coaxed him through his story and eventually found out what had happened. Weiler was writing a casebook, and he had to turn in a chapter to the publisher at the end of the week. This would have been no problem, since he had been getting his *Entertainment, Media and the Law* class to do all his work for him, but with school cancelled, he was facing the deadline by himself.

Fenno tried to reassure him, "Hey, you can just edit this chapter yourself, and then the class will be back next week and they can do the rest of them for you."

Weiler laughed mirthlessly. "Are you kidding? I don't even know what the book is about. I haven't read or written anything of my own in twenty years."

Fenno was on the verge of striking a highly profitable deal with the professor — 1000 bucks and that pair of panties Elisabeth Shue had left in Weiler's dryer seemed like a fair price for a little last-minute editing — when Weiler suddenly turned pale and ran off in terror.

Fenno turned around quickly to see a tall man in a black leather jumpsuit and sunglasses standing right behind him.

The man spoke softly, "Hello, Fenno. I am *Marmini*."

Ah ha! Fenno thought. "I've been wondering about you, *Marmini*. Listen, can you tell me anything about this *Visiting Committee*?"

Marmini drew in a long breath. "Unfortunately, Fenno, no one can be told about the *Visiting Committee*. You have to experience it for yourself."

Marmini proceeded to withdraw from his pockets two triangular highlighters, one marked *Lexis* and the other marked *Westlaw*. "You use the *Lexis* pen, and you continue with your life as you know it," *Marmini* said gravely. "You write with the *Westlaw* pen, and I show you the truth. But first you must know, Fenno, that things here at HLS are not as they seem. Learning about the *Visiting Committee* will mean completely re-ordering your understanding of law school. Think about it."

Fenno's mind raced at the thought of what *Marmini* could show him, if only he had the courage to use the *Westlaw* pen. What did *Marmini* mean, that things are not as they seem?

Fenno's hand quivered as he wrote "Holmes Sweet Holmes" in neon yellow down *Marmini*'s arm. The world went black ...

When Fenno regained consciousness, he found himself thrashing wildly in a blinding sea of hot cream. Gasping as he

Quote of the Week

'All of them.'

—Sen. Strom Thurmond (R-S.C.),
when asked how many inaugurations
he has attended

broke the surface of the liquid, Fenno reached out desperately in all directions, finally stabilizing himself against some sort of metal railing. When he looked up, Fenno realized he was at the edge of a 4000-gallon vat of Legal Seafoods clam chowder. Breathing heavily and shaking chunks of mollusk from his hair, Fenno looked in horror at his surroundings. Here, in the back of the Hark cafeteria, were miles and miles of similar vats, extending in all directions. This was enough clam chowder to cater every Traphagen lunch from now until the end of history.

Fenno heard a curious crumbling noise to his left. He turned to see *Marmini* gleefully dipping oyster crackers in the chowder. Fenno blinked twice. "What's wrong with my eyes, *Marmini*?"

"You've got some chowder in them, let me get that for you," *Marmini* said, swiping at Fenno's face with a cracker.

Fenno slipped down from the vat and followed *Marmini* past a short-order omelette cook snoring peacefully. They walked through the cafeteria and past the dishwashing window. The door at the top of the stairs was barely cracked, allowing the merest glimpse into a room of flickering electronic lights. "Hey," Fenno said, "This is that mystery room where people are always typing."

"No, Fenno. This is the *Visiting Committee*." *Marmini*'s voice downshifted into a sinister tone as he brushed the door open.

Marmini led Fenno inside where they stood before an enormous supercomputer. "We don't know when or how the *Visiting Committee* got here, but we do know what it does," *Marmini* said, gesturing to the computer. *Marmini* explained that whenever a student matriculates at HLS, his or her name is entered into the *Visiting Committee*. Over the course of the student's career, the *Visiting Committee* then randomly

awards grades, financial aid packages, job interviews and other benefits or punishments to the student. "Even selection to BSA and Law Review are handled by the *Visiting Committee*, Fenno. It is the wool that has been pulled over your blindly ambitious eyes."

Marmini went on, "Most students never have a problem with the *Visiting Committee*, Fenno. The sedatives and serotonin-stimulators in the chowder keep them under control — they don't question the system, but the administration is vigilant about testing for troublemakers. That's why they set up the *viscom@law* account. Anyone who sends a message to that account can expect prompt retaliation from the *Visiting Committee*. They usually start by sticking you with *Sargentich* for Torts, and it gets worse from there."

"No! NO! I don't believe it! It's not true! It can't be!" Fenno screamed in disbelief. "The *Visiting Committee* is our friend. They're those kindly old men that enslave the Law Review Editors at the Public Interest Auction."

Fenno continued stammering. "And what about that hot little Kimba Wood? Don't tell me that dear Kimba is just a cover-up for this ..."

Fenno was reeling, on the verge of being ill. *Marmini* stepped in at just the right moment with a shot of tequila. The liquor calmed Fenno down.

"Please, *Marmini*," he begged. "Send me back. Give me that *Lexis* highlighter, and send me back to my happy little HLS. I promise to eat all the chowder in sight!"

He looked up to meet *Marmini*'s eyes, but it was too late. The strange man in the leather jumpsuit was gone. Fenno was in the fetal position, the hard carpet of Harkness cafeteria beneath him. Shaking uncontrollably, Fenno whined to himself, "Just a little chowder, and everything will be alright."

BOYD

Continued from page 1

(TAW) at Harvard Law School. "Based upon what I know of him over 15 years, including his role as a volunteer in TAW and on the diversity advisory group, I'm optimistic about his role as the assistant attorney general for civil rights," Ogletree said.

If Boyd were confirmed by the Senate, he would be the third African-American appointed by Bush to the Justice Department. The selection of Boyd, who would work closely with Attorney General John Ashcroft, may serve to alleviate concerns raised by Democrats regarding Ashcroft's alleged racial insensitivity. The Justice Department's Civil Rights Division enforces federal anti-discrimination laws, voting rights cases and school desegregation. The office will also play a central role in congressional redistricting.

In recent years, nominations to the DOJ's Civil Rights post have witnessed rancorous partisan debate. President Clinton's tapping of Prof. Lani Guinier for the position resulted in a bitter confirmation battle, one that Clinton and Guinier eventually lost.

If confirmed, Boyd's office would be responsible for an enhanced role in the enforcement of voting laws. At a press

conference Wednesday, Ashcroft announced a set of voting rights initiatives that would place Boyd at the forefront of a concerted effort to enforce federal election law. Ashcroft dubbed Boyd a "well-known federal prosecutor and strong advocate for civil rights in urban America." Ashcroft pointed to Boyd's prosecution of inner city violent crime as but one indicator of a commitment to civil rights. Ashcroft also cited Boyd's service as an editor on the HLS Civil Rights/Civil Liberties Law Review.

Boyd's history of pro bono representation was also pointed to by Ashcroft as evidence of a civil rights record. "Before going to the U.S. Attorney's office, [Boyd] routinely took cases on behalf of indigent tenants whom he defended in the Boston Housing Court in eviction proceedings," Ashcroft said, pointing to but one in a series of cases.

Boyd has been a partner in the litigation department of Goodwin Procter Hoar LLP since March of 1997. He has also served as Assistant United States Attorney in Boston. During six years as a federal prosecutor, Boyd investigated and prosecuted bank fraud, firearms offenses, homicide, bombing, narcotics trafficking, and bank robbery cases, as well as several high profile cases involving gang violence. The Associated Press reported that Boyd's reputation was that of a determined investigator willing to work late nights on certain cases.

While at the U.S. Attorney's office, Boyd administered "Operation Triggerlock", a national firearms prosecution initiative of the United States Department of Justice. He also served on the Justice Department's Urban Anti-Violent Crime Initiative Team, the Mayor's Anti-Crime Council, and the Cease Fire Group — a Boston anti-violence campaign involving local, state, and federal law enforcement agencies, courts, and the Boston Public Schools. Boyd also argued numerous appeals on behalf of the United States in the U.S. Court of Appeals for the First Circuit.

Such a reputation may help insulate Boyd from attacks by Democrats who see the Civil Rights post as a symbol of Bush's resolve to foster bipartisanship. Sen. John Kerry (D-Mass.) told CNN that he is familiar with Boyd's record, but said that he wants to "judiciously" consider the nomination. Kerry said that Boyd's qualifications need to be "examined thoughtfully and carefully."

An aide to a Democratic Senator told the Boston Globe that Boyd's lack of civil rights experience may be a plus. "He's got a very good reputation, but he has basically no record on civil rights. Judging from some of the Justice nominees so far, perhaps no record is better than a record," the aide said.

Conservatives were more effusive in praising Boyd's nomination. Clint Bolick, who is the vice president of the

conservative Institute for Justice, told CNN that Boyd is highly qualified for the position. "Boyd is a former prosecutor with a very distinguished record in law enforcement and is an outstanding nominee," Bolick said.

"I'm hopeful that he will return a sense of purpose to a civil rights division that has gone adrift on ideological crusades over the last eight years," Bolick later told the Boston Globe.

Boyd graduated from Haverford College in 1979. Following HLS, he served as law clerk to the Honorable Joseph H. Young, United States District Judge for the District of Maryland. Boyd then litigated civil cases during five years of private practice. In March 1996, he was appointed by then Governor William F. Weld to the Executive Committee of the Judicial Nominating Council. In 1997, Mr. Boyd was appointed to serve on the U.S. Magistrate Judge Selection and Review Panel by the judges of the U.S. District Court for the District of Massachusetts.

While in law school, Boyd was a member of Harvard Defenders, the Black Law Students Association and the Civil Rights/Civil Liberties Law Review. During one summer, Boyd served as an intern at the Southern Poverty Law Center in Montgomery, Alabama. Boyd has since served as an advisor to the Trial Advocacy Workshop at Harvard.

AWARD

Continued from page 1

dealing in stereotypes."

Bloodworth read Kalam's award-winning piece and parts of his novel. "I think it's really excellent," said Bloodworth. "He is able to highlight subtle things that really makes a character's personality."

Kalam, who says writing is "definitely in (my) blood," began his journey as a writer many years ago when he was only 11 years old. It was then that he sat in his mother's study and started to write.

"My mother was into writing, and my great uncle was a writer," said Kalam. "On my father's side there is a long lineage of story tellers: They have the art of talking and keeping people in trance, telling them a story."

But there is something else that also inspires Kalam. "The thing that really inspired me to write was actually that my father had a medical practice in Amarillo, Texas and there was a lot of racism there," said Kalam. "It gave me a lot of rage and this desire to write."

Kalam's father, who holds an M.D. and Ph.D. from the University of Washington, is a Jamaican immigrant who came to United States in 1959.

"My father was run out of town because he was black," said Kalam. "It was really eye-opening for me because there was such pernicious racism, and it made me so angry and gave me the urgency to write. After that, I was always writing."

At the time, Kalam was very young. But his sense of the South as he saw it stayed with him.

"There are vestiges of the South that you feel in my writing," said Kalam. "I wrote a lot of stories about racism in college."

In college, Kalam continued to develop his skills as a writer. He won second place in a fiction contest for the Harvard Advocate in 1993. He also wrote a creative senior thesis, which won summa cum laude. According to Kalam, he also worked and still works with Jamaica Kincaid, a novelist who used to write for the New Yorker.

Harbour Fraser Hodder, with whom Kalam took a Sophomore Seminar in English and who was Kalam's adviser, discovered Kalam's talents early on. "He, very early on, displayed a commitment to language and conveyed ideas and feelings very articulately in language," Hodder said.

"I also had a chance to see some of his short stories as his adviser, and those stood out as being original and fascinating and had a different voice than I had ever seen before," Hodder explained. "He wasn't copying other people."

Hodder, who is currently a contributing editor at Harvard Magazine and a

former lecturer at Harvard, describes Kalam as a "brilliant writer." "His writing is really very moving ... It's very authentic," said Hodder. "He creates these amazing characters."

"He is going to be somebody who will probably make a name for himself in many different ways," said Hodder.

Bloodworth echoed the same sentiments. "If talent is the only requirement to be rich and famous, then he will be," explained Bloodworth.

So why law school then? Well, Kalam said he came to law school to "be out of (his) element."

"I didn't want to follow the normal course of things ... and get a Ph.D. or a Masters in Fine Arts and sit in a room and workshop my fiction with a bunch of aspiring novelists," explained Kalam. "Writing cannot be taught. Either you have it or you don't. I liked the old school way of writing, which is to work a nine-to-five job and write at night, and to be 'in the world' so to speak."

"At HLS I'm certainly out of my element because everyone is so pragmatic, but I like that," said Kalam. "Law provides excellent balance to the creative life."

Kalam will be working for Covington & Burling in Washington, D.C., this summer and wants to practice law after graduation.

"As a writer, you have no colleagues, no sense of community," Kalam explained. "It is a very lonely profession. For this reason, I wanted something to balance that."

Kalam writes two to three hours a day. He is already

working toward his next goal.

"I am working very hard to get my novel submitted to get published and keeping my fingers crossed," said Kalam. "That is the biggest thing for me right now."

Besides writing, one of the other loves of Kalam's life is photography, a hobby he developed from his father. "He would give me his old cameras and let me take pictures with those and so I really got into it that way," explained Kalam.

"When I am writing, the stakes are really high. I am very competitive, and I have to be the best, but nothing is at risk when I am taking pictures," said Kalam, who takes pictures for the RECORD. "The stakes aren't so high so it is just pure enjoyment."

Kalam's other passions are jazz, coffee and, of course, his fiancée — Rashann Duvall '02.

As for Kalam's future ... Ernest Hemingway went on to win the Pulitzer. And although Kalam's doesn't talk much about awards, he does speak of achieving great heights.

"I want to be a great writer someday ... I want to be like the people I admire," said Kalam. "Being a great writer means being acknowledged as one of the great ones."

SURVIVOR UPDATE

Ahhh ... nothin' like the smell of bacon in the afternoon. Oh, no, wait, that was chicken feed.

Nick was featured prominently in last week's episode, leaving viewers to ponder his future as a spokesman for the real Out-



Nick Brown '02

back. "Hi, I'm Nick Brown, star of Survivor. And just like I did with my teammates in Kucha, I'd like to direct you by the sound of my voice. Hear me? That's right, I'm here at the Outback restaurant. Just down the road, stop by for a bloomin' onion."

The members of Kucha were able to guess the substance of the reward challenge. In fact, so did Ogakor, but they chose to spend their spare time ruminating on sex and chocolate. Little did the two tribes realize, how-

ever, that the promised "picnic" consisted solely of Survivor-sponsors Doritos and Mountain Dew. Good thing Summer's Eve has a smaller marketing budget than Pepsi ...

All of this rigmarole was just a prelude to the inevitable landing of the black helicopter. Having concluded that even the merest suggestion of serious bodily injury would send ratings into the stratosphere, Survivor's creators were clever enough to deliver on their promise. Michael, proving the wisdom of Bill Clinton's prohibition on inhaling, sucked in a lungfull of smoke and passed out in the Kucha campfire. What followed was a truly agonizing glimpse at a man in severe pain — not television for sissies, folks. When Michael, drifting on a cloud of morphine-woven cotton candy, was finally loaded into the chopper, the tears flowing across America were real.

Stay tuned this week. The tribes have merged. If Kucha can stay tight, they should be able to draw off a disaffected member of Ogakor (read: Jerri). Otherwise, the young and able Nick may be a target at this week's tribal council. Go Nick! Get that wooden dolly!

LSC update

Strategic Planning Town Hall Meeting: On Tuesday, March 20 at 3:30 p.m. in the Hark South Dining Room, Dean Rakoff and Professor Meltzer will lead a question-and-answer session on "Strategic Planning: What Happens Next?" This will be an excellent opportunity for students, particularly 1Ls, 2Ls and returning graduate students, to learn about important upcoming changes affecting our community. Please direct questions to LSC Academic Affairs Chair Jeremy Paris (jparis).

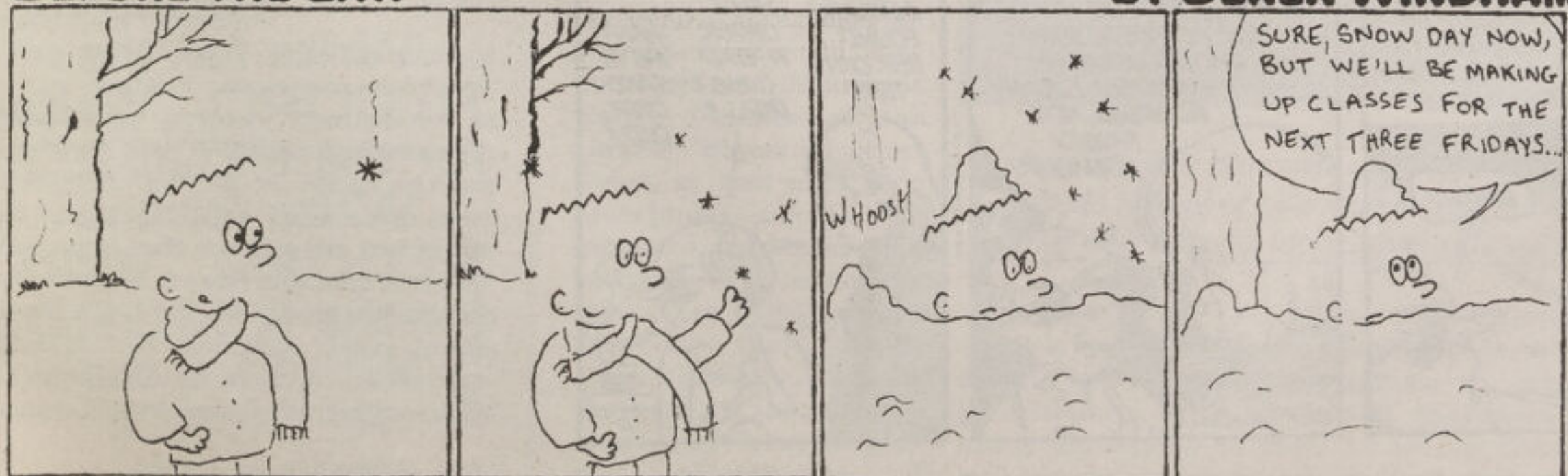
Hemenway Improvements: The LSC is purchasing several items to make additional improvements to Hemenway Gymnasium. Please direct questions regarding Hemenway to LSC Facilities Co-Chair Herschel Hamner (hhamner) and Student Advocate Michael French (mfrench).

1L Writing: The Board of Student Advisors (BSA) is currently engaged in important changes to the 1L writing program. 1L LSC representatives have discussed these changes with BSA in an attempt to provide them with additional assistance. Please direct questions to LSC 1L Reps. Bill Dance (wdance), Lowell Plotkin (lplotkin), Greg Parets (gparets) or BSA President Erin Hoffman (ehoffman).

HLS Visiting Committee: The HLS Visiting Committee, an external group of professionals, academics and alumni, will be having its annual meeting on campus in April. During their time here, they will meet with students, administrators and faculty. An e-mail account has been created for students to send the committee messages regarding student concerns. Send your messages to viscom@law.harvard.edu.

New Elections: New elections will be held on Wednesday, March 14 and Thursday, March 15 for LSC officers and the class marshals for the Class of 2002. Please see the "Adviser" for details, and direct questions to outgoing Independent Elections Commissioner Mike Adams (madams). The last meeting of the Munir/Cooper/Anderson/French administration will take place on Tues., March 20.

BEFORE THE LAW



BY DEREK WINDHAM

Don't let school drown your creative genius. Write for the RECORD. About anything. We're easily entertained. Write for the RECORD.

[illegible]