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Flynt attracts controversy, crowd

by Jonas Blank

When Larry Flynt first began publishing *Hustler* magazine almost 30 years ago, he probably had no idea that it would one day qualify him to speak at Harvard Law School.

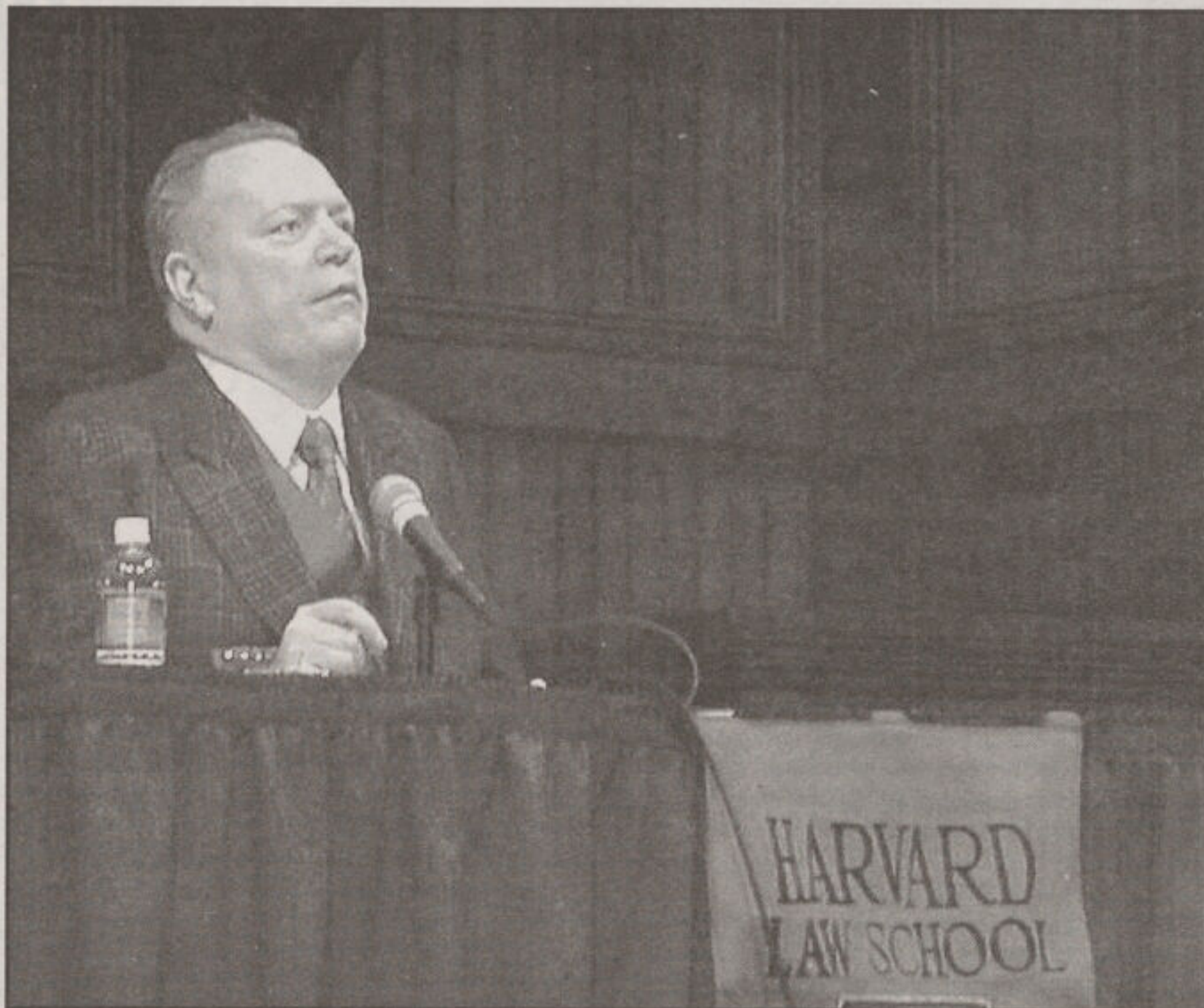
But if the fame and notoriety were unexpected, he sure didn't show it last night at Sanders Theater in Memorial Hall.

"Thank you very much," Flynt began. "I've been waiting for this invitation for over 27 years." And that was the last time last night that the idiosyncratic adult magazine publisher — whose First Amendment battles have gone all the way to the Supreme Court — showed even a hint of humility.

True to his public image, Flynt's speech was as unabashed and unapologetic as it was rambling and eccentric. Amid his vehement defense of the First Amendment was an unmistakable bravado, a penchant for self-congratulation and a healthy dose of often-offensive humor. But even in his most inarticulate moments, Flynt — speaking from his gold-plated wheelchair — demonstrated why he has become such a powerful and controversial figure in the battle for First Amendment rights.

Flynt, who has often used *Hustler* to promote his political beliefs, began by launching into a lengthy political screed that began with Thomas Paine and the framers of the Constitution and ended with Osama bin Laden and George W. Bush.

After calling *Bush v. Gore* "the most frightening abuse" of the



Erin Bernstein/RECORD

Larry Flynt addresses a packed crowd Wednesday night.

Constitution in history, Flynt predicted that Bush would be a one-term president. Calling Bush an extremist "to the right of Attila the Hun," Flynt decried the president as the result of fortunate parenthood, Ralph Nader's campaign and Al Gore's bumbling. As for the president's high approval ratings, he said that, "In the wake of 9/11, people would have rallied around Ronald McDonald." Flynt

spared no harsh words for terrorists, either, saying, "they should be hunted down and exterminated."

Before ending his talk of politics, Flynt highlighted his role in the 1998 Clinton impeachment proceedings. During the impeachment, Flynt purchased a full-page advertisement in the Washington Post offering up to \$1 million to anyone who could prove that they had been

engaged in an adulterous affair with a member of Congress. He got several affirmative responses.

"My motive was to expose hypocrisy," Flynt said, noting that his campaign eventually forced Rep. Bob Livingston — who was the Speaker-elect of the House at the time — to step down. Flynt described a *New*

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HLS protestors issued unique penalty

by Trevor Gardner

After choosing to participate in a sit-in at Massachusetts Hall near former President Neil Rudenstien's office with other Harvard students, four law students received a disciplinary sanction very different from that of their fellow protesters. As a result of the decision, Ashwini Sukthankar, Fatma Marouf, Faisal Chaudhry and Aaron Bartley now face the prospect of having to explain a "reprimand" notice placed on their transcript, which will likely be reviewed by the Board of Bar Examiners in whatever state they seek bar certification.

The Law School expressly addressed the issue of civil disobedience in its 2001-2002 Catalog, mentioning the 2001 sit-in specifically. The section states that the school's Administrative Board "imposed the sanction of a 'reprimand'" in response to the protestor's actions. The catalog outlines each law student's right to a full disciplinary hearing in front of the Administrative Board and his or her right to be represented by counsel at such a hearing. Prof. Lani Guineer and John Fitzpatrick, supervisor for the Prison Legal Assistance Project, represented the law students. The Administrative Board guidelines allow the body to choose from four forms of punishment: Reprimand, Suspension, Dismissal and Expulsion.

During the final week of May, which coin-

cided with exam week, the Board reached the decision to hold a hearing to consider disciplinary action for the student protesters. The hearing took place on June 1, well after most students left campus.

The punishment levied by the Administrative Board was the least severe of the four disciplinary actions at its disposal.

Approximately 80 Harvard students actively participated in organizing the action.

However, the punishment is distinguished from those passed down by the Kennedy School of Government, the Graduate School of Arts and Science, and Harvard College in its impact on the affected students' career aspirations and earning potential. The Kennedy School and GSAS refrained from giving a punishment, while Harvard College issued a formal warning.

Harvard College student Matthew Skomarovsky disagreed with the law school's handling of the disciplinary proceedings.

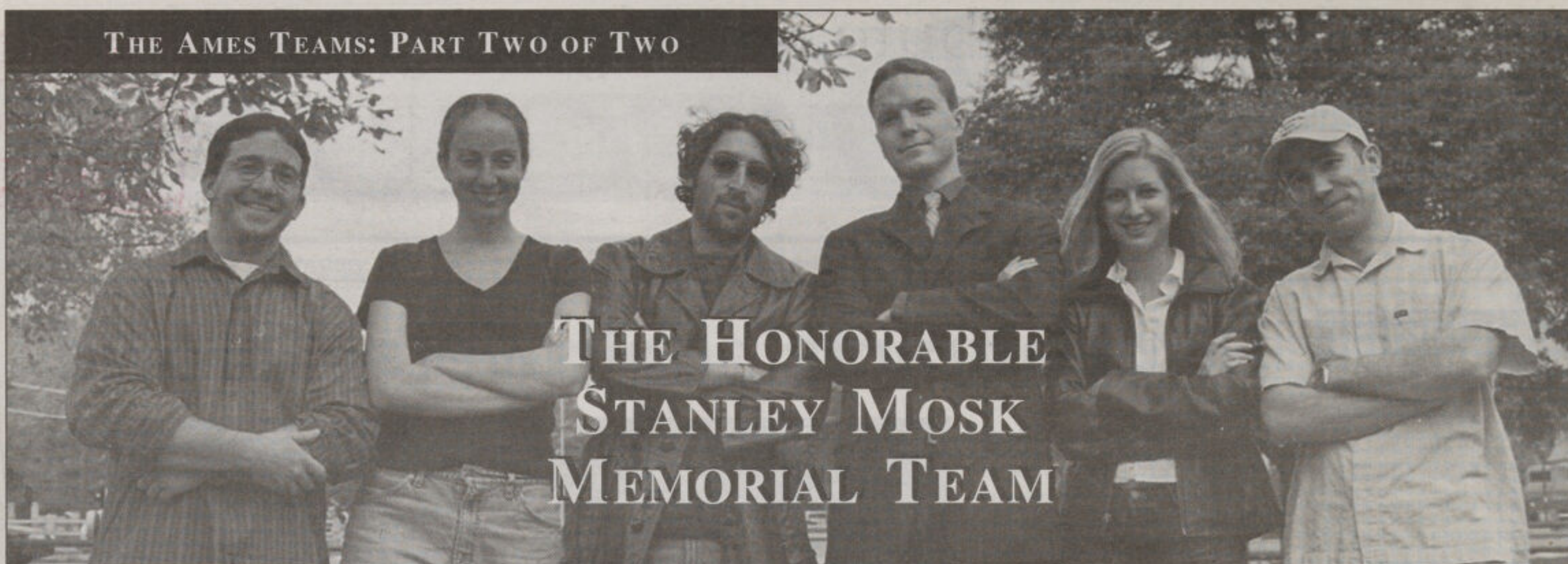
"I think the way the law school dealt with the disciplinary proceedings was ridiculous, hiring an investigator to go after the four law school students who sat in while hardly anyone was around campus to notice. [I] think their punishment was excessive [and] unfair, especially since it was much harsher than that given to the undergraduates, and other graduates were not punished at all," said Skomarovsky.

Approximately 80 Harvard students actively participated in organizing the action. Initially, 46 students occupied Massachusetts Hall, 24 of whom remained in the hall during the entire three-week period.

According to *The Harvard Crimson*, the law school Administrative Board asked Janet Katz, Law School senior reference librarian, to investigate the defendants' culpability. The law student protestors objected to Katz's role in the disciplinary process, specifically her testimony reflecting interviews she said she conducted with Harvard staff members. In recalling the conversations during testimony, Katz mentioned allegations of student misconduct ranging from shouts of "shame on you" directed toward university staff to their circulation of offensive body odors. The *Crimson* also reported the testimony of Elizabeth Guerrero, assistant to the vice president of Government, Community and Public Affairs, who claimed

Please see WAGE, p. 3

THE AMES TEAMS: PART TWO OF TWO



Sarah McGonigle/RECORD

Mosk Memorial Team is putting in the hours — by a Vegas pool?

by Sarah McGonigle

As this year's Ames Competition draws near, visions of suit-clad, carefully groomed podium jockeys come readily to mind. And the sense of delicious drama in the air is equally memorable — how often does a rowdy, beer-swilling crowd of hundreds approach silence to catch every word of a fellow classmate? Whether a partisan for one team or simply a disinterested observer, it is impossible to attend the competition and not root for fellow students, hoping ... well, hoping that they won't screw up.

Calm, Cool, Collected

But although the Ames competition comes down to one dramatic evening in November, the members of this year's Honorable Stanley Mosk Memorial Team have worked well over one year to get to the final round on November 15, and they say that the oral presentation is actually one of the more predictable and manageable elements of the entire competition.

One of the team's oralists, Ben Hatch, says that preparing the team brief is actually more stressful for him, and that a completed brief and a feeling that it is solid greatly reduces the stress of orals.

"It just gives you so much more confidence when you feel that your brief is complete in its theory — orals is just about filling that out," Hatch says.

His friend and co-oralist Dan Geyser agrees: "You literally just feel like you're talking to three people."

"Right when you're up there you're just engaged in what you're doing," he says, and the rest melts into the scenery.

Though it's hard to believe it's that simple, the pair apparently know what they're talking about: Hatch won Best Oralist and the two brought home the award for Best Team (based largely on the best overall oral presentation) in their semi-final round. Their cohorts behind the podium are the team's captain, Justin Dillon, and Danielle Rolfes, Ben Souede and Kelly Jaske.

Souede insists that it is incredibly difficult to sit helpless when a difficult question is posed.

"There's nothing more painful than sitting there when a tough question is asked," he says.

Jaske chimes in: "You hope they'll say what you would say."

Indeed, the whole team works hard to ensure that that is the case. They prepare for the orals thoroughly — so much so, in fact, that in their semi-final round the oralists did not face a single question they had not prepared, Geyser says.

And as for those hard questions that the team would prefer weren't asked at all? Hatch says the whole team brainstorms to reach the perfect answer. Before the final round, the team is headed en masse to Las Vegas, and according to Dillon they will "do orals prep by the pool."

Honorable Stanley Mosk Memorial Team is serious about Ames.

"We probably spend at least like three to five hours a day any given day working on the competition," Hatch says.

Geyser adds: "In the last week [before the team brief was due] we probably put in 70 to 100 hours."

Hatch says he agrees. "Yeah, and that last 'day' is more like a 30- to 35-hour day."

When asked to join the team, Ben Souede was earnestly warned about the hard work. But in addition to emphasizing the long hours, the team also stressed a desire to win.

"I think the words Dillon used were: 'Understand that we're in it to win it, so don't say yes if you don't agree,'" Souede recalls.

Team members also point to synergy, friendship and understanding as elements of their success. Jaske says that when she and Souede worked together late one night, "We were literally finishing each other's sentences."

Dillon agrees that friendship is "definitely" a key to success. He explains: "You have to want to hang out with these people a lot." That is even more the case because the team members are also all members of the *Harvard Law Review*.

Does that make things more complicated? Hatch adopts a diplomatic tone: "Having a team where all six members have a significant commitment makes it challenging." But Souede suggests that it helps that all of the team members understand and share the commitment to the *Law Review*.

One other factor seems relevant to the team's success: They all seem to enjoy the game immensely. Asked how much of the competition is pleasure and how much pain, Dillon quickly says that it is 80 percent pleasure and 20 percent pain. And though Geyser quips, "But it's not a dull pain, it's a sharp stinging pain," the team unanimously agrees that the experience is more than worthwhile. Indeed team members had trouble identifying the low point of the experience until Souede decided, "The high point was winning at the semi-final round; the low point was the thirty seconds [of uncertainty] prior to that."

The team's next period of painfully dramatic uncertainty? November 15, Ames Courtroom.



Sarah McGonigle/RECORD

THE HONORABLE STANLEY MOSK MEMORIAL TEAM

The line-up

Justin Dillon

Justin wears many hats on the Honorable Stanley Mosk Memorial Team. He is the team captain and founding member of the original team of four. He dubs himself the team's Poet Laureate for his love of brief writing and attention to turns of phrase, but it is also clear that Dillon provides the team with ample desire to win. Though he won't be seen at the podium itself, he is a motive force behind the team's determination and success.



Danielle Rolfes

Danielle was an original member of the Honorable Stanley Mosk Memorial Team chosen, understandably enough, because team organizers thought she was "smart." The team's opinion today? She's wicked smart — Geyser says her role is "To learn stuff. And by 'stuff' I mean any area of substantive law whether she has or hasn't had a class in it. Think: total field occupation."



Ben Hatch

Ben seems to be the team's Rock — that is, the "Rock" of the biblical, steady-as-she-goes kind rather than WWF kind. The team says their winning semi-final oralist "sets the deadlines." And since Hatch patiently keeps his team focused and responsive at their RECORD interview, it is not hard to imagine his steady hand at work in everything the team does. Look for Ben at the podium on Ames night.



Dan Geyser

If Ben Hatch sets the team's deadlines, Geyser's role is to break them, according to the team. Geyser works to the beat of his own drummer; he is a notoriously late worker and addicted to Starbucks, but for all his antics, the team seems incredibly affectionate toward their deadline-breaker. They clearly respect Geyser's quick mind since they selected him as an oralist for the final round.



Ben Souede

The team declares that Ben's only role is to "drive the van." But Souede isn't your typical soccer mom. He is also apparently a "pit bull" during practice for the orals. He says that the sweetest challenge in Ames for him is "trying to think outside yourself, having to take an idea and look at it in three dimensions."



Kelly Jaske

Kelly says her team role is "riding in the van." What is this van? Clearly these people have spent too much time together somewhere. Jaske rode in another van recently — her father used one to transport Kelly and several other HLS students along a 200 mile relay course, just as Kelly was in the middle of preparing her team's Ames brief. Not bad for a day's work.



Recipe for Success

Vegas trips or not, it is clear that the **The oralists Geyser (left) and Hatch.**

Anita Hill pays tribute to Judge Higginbotham

by Mike Wiser

The crowd that packed into Langdell North on Monday night had gathered to hear Brandeis' Prof. Anita Hill. What they heard was not a rehash of the Clarence Thomas nomination controversy, but a tribute to Judge A. Leon Higginbotham, Jr., one of the nation's first African-American judges and a leader in getting the law to become conscious of race.

Before Hill even reached the platform, Charles Ogletree '78 invited Harvard history Prof. Evelyn Brooks Higginbotham to speak of her late husband's memoirs, which she is compiling into a book. For many in the audience this was their first introduction

The hearings, Hill said, changed the way that people thought about race and gender.

to Judge Higginbotham, a Yale Law School graduate who began life as a district attorney after all white law firms rejected him because of his race. It was not long before Higginbotham was appointed by Johnson to the District Court in the Eastern District of Pennsylvania and later the Court of Appeals for the Third Circuit. Throughout his life Higginbotham was a strong advocate for affirmative action and civil rights.

Higginbotham's real legacy, Hill told the audience, was the "intellectual courage" with which he wrote books on American colonial law and law in the antebellum South. He didn't, Hill said, adopt the detached perspective of the impartial academic by simply arranging facts. He used the history to show how understandings of

race permeated the law. He saw his job as a lawyer and a judge to challenge those understandings, she said.

Hill was introduced to Higginbotham the way that the rest of the world was introduced to Anita Hill — through the Clarence Thomas confirmation hearings. There, Higginbotham was interested not only in the racial aspects of the controversy but in what it said about the relationship between the sexes. Higginbotham found the attitudes in the hearings not unlike those that he had studied in the antebellum South — black women were dominated by white men and by black men.

"I came in sort of with a gender, and he came in to represent the race," Hill said. No other combination of race and gender, she said, would have led to Thomas' confirmation.

"Would Sen. Jesse Helms, given his constituency, have rushed to impugn the integrity of a white woman who had worked for the Reagan administration and taught at Oral Roberts University?" she asked. "Would the leaders of the black community have embraced a white nominee accused of harassing a black female? And, finally, would the 90-year-old Strom Thurmond, veteran of Southern politics, have actually fully and physically embraced a Southern black man whose accuser was blond-haired, blue eyes and white?"

The answers, she said, wouldn't be comforting.

"According to Higginbotham, had the senators been interested in the question of why Hill was sexually harassed they would have been forced to face immediately and directly the history and present day reality of how black women have been dominated and denigrated by white males and black males in the society," she said.

The hearings, Hill said, changed the way that people thought about race and gender. In the ten years after she claimed that Thomas sexually harassed her, she has seen an explosion of claims of sexual harassment, improved treatment of such cases in the



Nilufer Shaikh/RECORD

Anita Hill speaks of the real legacy of Judge Higginbotham.

courts, and companies trying to establish strong policies for dealing with alleged sexual harassment.

Still, Hill said that she didn't choose to testify just to make a point.

"It was, for me, about integrity," she said.

For her, that integrity includes not just the integrity of Thomas, but also the right of women to tell about their own experiences.

Higginbotham would have something to say about September 11, Hill told the audience. At a time when even many blacks support racial profiling of terrorists, Hill said

that Higginbotham would turn to history. He would remind people of the treatment of the Japanese during World War II. He would also, she said, remind people of the way that a string of arsons in 17th century New York were considered acts of treason because some of the perpetrators may have been black and the city feared a slave revolt.

The legacy of Higginbotham for Hill is his understanding of race, history and the law. "In our legal system it is race — real, not imagined — that illuminates and gives richer meaning to our legal texts."

WAGE

Continued from page 1

to be affected by an affliction very similar to post-traumatic stress order as a result of her exposure to the protestors, reportedly saying, "I experienced sleeplessness, stomach aches and frequent headaches."

The law school was confronted with the similar question of how to discipline law students for civil disobedience in May of 1992 when eight law students, dissatisfied with the level of minority and female representation on the law school faculty, conducted a sit-in in Dean Clark's office. The Living Wage protestors claim the '92 protestors were given a less severe penalty.

Dean Richardson declined comment on the matter, stating that, as a policy, the law school administration does not discuss individual cases of disciplinary action. The Dean of Harvard College, Harry Lewis, offered a similar response, saying that it would be inappropriate for him to discuss cases that had been presented to the college's administrative board.

Skomarovsky said that the penalty against the protestors should have been uniform.

"Students at the College made it clear to our ad board that we expected to receive the same punishment because we participated as equals in the sit-in," he said. "The same goes for everyone who sat in."

The law school's unique reaction to the civil disobedience action raises unanswered questions of whether the law school administration deems law students especially culpable for participation in civil disobedience actions because of a special duty to uphold rules and regulations given the nature of their field of study.



Nilufer Shaikh/RECORD

Batts portrait unveiled in Langdell

At a ceremony Saturday, a portrait of U.S. District Judge Deborah Batts '72 commissioned by the Gay, Lesbian, Bisexual Alumni/ae Committee was hung in the Caspersen Room of Langdell Hall. Batts, a former professor at the Fordham School of Law, was appointed to the bench by President Clinton in 1994. Her nomination and unanimous confirmation in the Senate marked the first and only time that an openly gay, lesbian or bisexual American has joined the federal judiciary. "The Law School is pleased and honored to accept the portrait, which will be a superb tribute to this distinguished member of the bench," Dean Robert C. Clark '72 said in a press release. Simmie Knox, who is working on the official portrait for President Clinton, painted the portrait. Batts herself said she was overcome by the gesture. "I am so touched and amazed that anyone would do this. In fact, I am as embarrassed as I am pleased," she told the school's press office.

'Challenging' market forces flexibility in hiring

by Meredith McKee

Well into fall interviewing season, law students are expressing concerns about their chances of finding jobs in a weakening legal market, especially in cities like Washington, D.C., San Francisco and Los Angeles.

While discounting many rumors about the weaknesses of particular practice areas, cities and firms, Mark Weber, director of the Office of Career Services, urged students to approach interviews with "cautious optimism" and to view on-campus interviewing as only one method for finding a job.

"We were hearing a lot of concern," Weber said, explaining his decision to address the hiring situation in an email distributed to students on the Friday before Fly-Out Week. "It was a tough memo to write: 'Hey, don't be concerned, but at the same time, this is what's going on out there, so here's some of the information you need to know.'"

Weber wrote the email after OCS' peer advisors and staff reported hearing of concerns and rumors about the job market from the students they had been talking with.

"I'm hearing crazy rumors about how only one-fourth of the students called back in D.C. will get summer offers, and other unsubstantiated and often implausible worries," said Hanna Stotland, a 3L peer advisor.

"Some 2L students are expressing envy that it was so much easier for the class of '02 when we were 2Ls, but on the other hand, there are a number of people in '02 who are stuck without offers because some firms hired such big summer classes," she added.

Though most are groundless, Stotland and Weber agree that "some rumors are true."

"The market seems a lot tighter, especially in D.C. and California," Stotland said.

"Many firms that interviewed 2Ls and pre-clerks last year are saying '2Ls only' this year."

Hiring has been most affected in coastal areas like New York, Washington, D.C., San Francisco and Silicon Valley, and Los Angeles, Weber said.

"A lot of it is in the nature of the clientele," he said. "They weren't doing as much of the IPOs and start-up work in cities like Chicago. They were doing that on the coasts and are feeling it a little bit more."

"When things were booming they couldn't find enough lawyers in San Francisco or D.C., so they are getting hit the hardest," he added. "But other areas, because of the clients they had or the type of work they were doing, didn't have the same impact."

Students interested in entering the public sector face fewer challenges, said Alexa Shabecoff, director of the Office of Public Interest Advising.

"I don't think the economy has impacted the jobs in the public sector as much as the private sector," Shabecoff said. "Over the past five years, a lot of wealth trickled down to the private sector in fellowships and awards, creating a lot of additional [public interest] positions."

Still, she said, increased competition for

public interest jobs may occur as 1Ls who are unable to find firm jobs turn to the public sector.

"I do think that people who want to do public interest for the summer should be strategic about when they apply and how they apply, more so this year than last," Shabecoff said.

"I wouldn't want people to wait too late into the year to apply for jobs in case the market does get saturated. I'd also suggest that 1Ls may want to cover their bases."

Students might consider expanding their job searches to cities in the South and Midwest, Weber

suggested, or less popular coastal cities.

"It means that if your heart was set on Boston, by all means, apply in Boston, but you should also say, 'What about Providence?'" he said.

Stotland advised that students approach the hiring process calmly.

"Panic is never helpful, and anticipatory panic is destructive and a big waste of time," she said. "Cross the no-offers bridge if and when you come to it."

Stotland echoed Weber's advice that students expand their thinking about summer options.

"Think outside the box," she said. "Consider some additional cities. Look at less sexy fields that are still begging for

bodies, like bankruptcy. Think about whether you might like to spend the summer doing legal work for a sports team, a corporation or a media outlet instead of a firm."

For students who are interested in work in the legal sector but do not want to work for a firm, Shabecoff suggested they investigate research positions with HLS professors or summer jobs with Law School organizations like the Prison Legal Assistance Project and Legal Aid.

One-L hiring also will be tougher this year, Weber said, since firms are making cutbacks across the board.

But Weber is optimistic about the outlook for 1Ls, saying, "Would you rather be a 1L or a 3L in this market?" By the time 1Ls are ready to enter the legal market in 2004, he said, "these issues will have been long-gone."

"Just turn the clock back a year ago and look at what the second-years thought last year — it was a thriving market, the economy was booming, and if you had any money in the stock market, you were doing very well," Weber said. "And now we fast-forward a year and it's a much different picture."

For the summer of 2002, 1Ls should focus on gaining experience, Weber said.

"What we are telling first-years is to be flexible," he said. "Just like you would tell any investor to diversify, we would tell any individual approaching the job search not to put all their eggs in one basket."

For example, Weber said, students who want to work in the private sector should investigate medium and small firms that don't recruit on campus.

Although, Weber observed, "this too shall pass," "it's certainly no fun for anyone who is directly impacted by it."

"If your heart was set on Boston, by all means, apply in Boston, but you should also say, 'what about Providence?'"

—Mark Weber, Director of Career Services

Community building?



One-Ls from all sections gathered on campus Saturday afternoon to battle for section supremacy in "Dungeon Ball," three-legged races and an orange pass, among other games. Though the presence of four kegs meant many 1Ls couldn't remember which section actually won, well over 100 students enjoyed the HL Central-sponsored "field day."

PROFESSOR'S DISPUTE MAKES THE BIG TIME

The *Washington Post's* Lloyd Grove poked fun Monday and Tuesday at the email dispute between Harvard Law Profs. Charles Nesson, Alvin Warren and Charles Ogletree in his "The Reliable Source" column, calling the exchange a "no less vicious but lots more trivial" war than that in Afghanistan.

Grove quoted juicy excerpts from the now infamous email exchange, the complete text of which is available at <http://cyber.law.harvard.edu/nesson/evidence/ogletree-warren.html>. The now-infamous dispute began when Warren complained about the scheduling of Rev. Jesse Jackson's speech during class hours.

Nesson inserted himself into the exchange after he accidentally received a copy of Warren's original message. According to Grove, Nesson said he shared the exchange with his evidence class to teach them about privilege and privacy, but also said he was "frankly insulted" by Warren's responses to Ogletree. Nesson, who Grove said "may not be fatally addicted to publicity but may want to enroll himself in a 12-step program," also admitted to his "love of a little mischief."

In the column, Grove quotes Ogletree as saying, "I appreciate Charles Nesson's chivalry but I don't need him to be my advocate."

Warren declined to comment on the exchange, Grove said.

Grove learned of the HLS dispute from his coworker on the column, Barbara Martinez. Martinez, a Harvard alum, had received one of the many emails relating the exchange that has been zipping around the Internet during the past few weeks.

After interviewing Warren, Ogletree and Nesson, Martinez brought the matter to Grove's attention, who called Rev. Jackson for his comment. Jackson's response? "I hope the esprit de corps at Harvard Law School will be maintained."

Grove describes "The Reliable Source" as the *Post's* "people" column.

Explaining his decision to devote two days' efforts to Warren, Ogletree and Nesson's dispute, Grove said: "I just thought it was amusing. It was a typical academic bloodbath that I'm a sucker for."

— RECORD Staff

FLYNT

Continued from page 1

York Times interview in which Livingston called him a "bottom feeder." When called for comment, Flynt replied, "Yes, and look what I found down there." Though he stopped short of taking credit for saving Clinton's presidency, Flynt said that after Livingston's exposure, the whole tenor of the impeachment changed.

"Clinton's my man," Flynt leered. "He knew what to do with that desk in the Oval Office."

But it was when the topic turned to First Amendment rights that Flynt found his often-offensive stride.

"The Founding Fathers weren't thinking about *Hustler* magazine when they were making the Constitution," Flynt said. "But what they did think about was the unrestricted right of free choice. That's where the First Amendment gets its vitality and meaning from."

Arguing that Americans have begun to take their civil liberties for granted, Flynt portrayed pornography as the first line of defense against tyranny, citing what he described as the gradual erosion of speech freedoms that occurred under Nazism: "Freedom is lost a book at a time, a movie at a time, a magazine at a time."

According to Flynt, *Hustler* magazine is a perfect example of the need for First Amendment rights.

"The 1st Amendment is freedom for the thought you hate the most," Flynt said. "If you're not going to offend anyone, you don't need First Amendment protection." After all, he said, the mainstream media rarely offends anyone other than O.J. Simpson and Gary Condit.

There was little chance that no one would walk away offended last night. Flynt attacked what he called the nation's "screwed up priorities," which, he said, allow pictures of mutilated bodies to appear in newspapers but regulate explicit depictions of sex.

"The church has had its hand on our crotch for over 2,000 years," Flynt said, calling right-wing critics such as Jerry Falwell and Pat Robertson "just the flip side of Osama bin Laden." He was even less generous with what he termed "radical feminist" critics like Gloria Steinem and Andrea Dworkin. Though Flynt said that he supports the women's movement — and claimed that his company has more female executives than any other company of its size in Los Angeles — he described Steinem and Dworkin's sole accomplishment as "getting a bunch of ugly women to march." He then went on to make a lewd joke about how both women must be angry "because they still have to sleep on the wet spot."

Flynt took several controversial stands on the role of pornography, arguing that "one man's porn is another man's art" and calling for virtually unlimited access to all forms of pornography other than those directly involving minors. Rather than objectify women, he argued, "porn frees you up and allows you to be less inhibited." Flynt added that women do not need to be told how to think, act or react to his materi-



Erin Bernstein/RECORD

Protesters outside Flynt's speech to the Harvard Law Forum.

al. Rather than exploiting themselves for pay, he reasoned that women model for his magazine to preserve their appearance for posterity: "A girl gets up one morning and looks in the mirror and she says, 'Damn, I'm hot. And I'm not going to look like this forever.'" Several former *Hustler* models have gone on to become executives in the company, including Flynt's now-deceased wife, Althea.

Still, Flynt did not fail to draw controversy. In fact, a group of protesters gathered outside the auditorium prior to Flynt's speech to distribute literature and express their disapproval for *Hustler* magazine.

"The protest was not at all to oppose his freedom to use the First Amendment," said LL Anne Robinson, who participated in the protest. "We just thought as a female community that there were far better people to speak on First Amendment rights than Larry Flynt — he's not an academic. He contributes to the degradation of women by combining violence with sex."

Several audience members also challenged Flynt, citing what they described as a causal link between pornography and violence. He would have none of it, stating that the sexual acts his magazine promotes are consensual and that it is sexual inhibition, rather than sexual freedom, that leads to violence against women. "I don't think that pornography promotes rape," he said. "I think the lack of pornography promotes rape." When some female audience members — some of them protesters who had entered the auditorium — tried to push

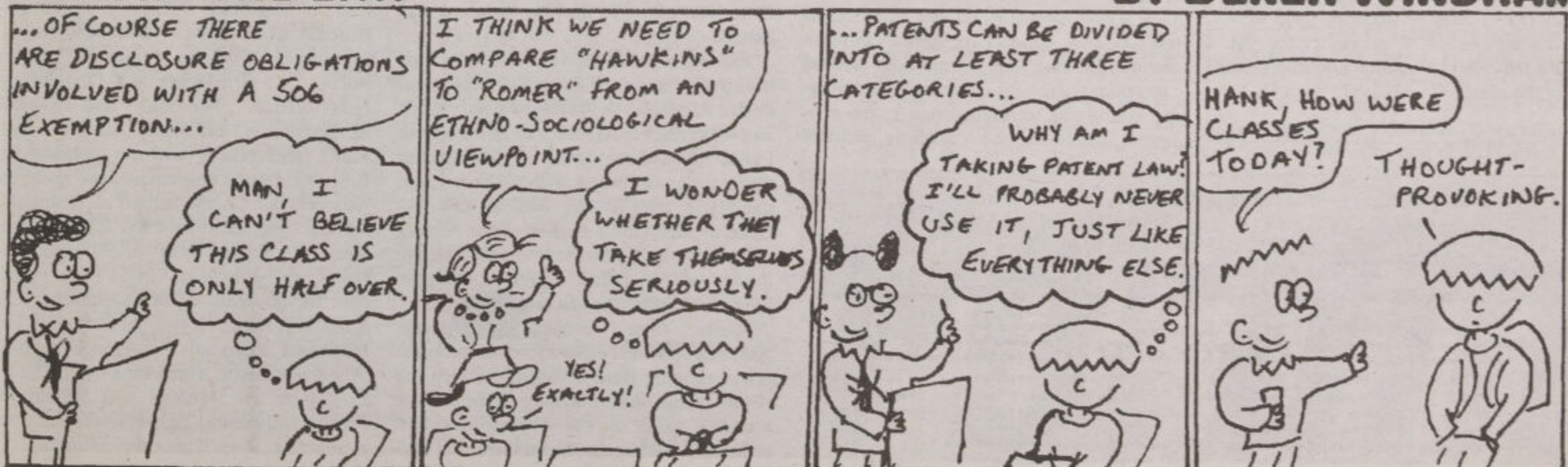
Flynt further, they were shouted down by an increasingly raucous audience. One woman professed her support for pornography. Another asked Flynt about the effect of pornography on her sex life. When asked the best way to educate children about sex, Flynt replied — only half-jokingly — "give them a subscription to *Hustler*."

Flynt's no-holds-barred approach makes him both a difficult and appropriate First Amendment figure. As he says, "The price of freedom is tolerating things we don't necessarily like." Flynt's name invites all the most unpleasant adjectives. He has been shot, he has been vilified in the press, he has been scorned and hated.

Flynt would have audiences believe he is a crusader; his opponents prefer to view him as no more than an incoherent smut peddler pimping offensive images for profit. If his speech last night is any guide, the truth of the man lies somewhere in between. By virtue of his personality and in spite of it, Flynt has become an unlikely but acceptable symbol for free speech. He is a complicated example of a right whose application is often messy, whose most difficult battles rarely come without intense controversy. As he joins John F. Kennedy, Martin Luther King, Jr., Oliver Stone, Rudolph Giuliani and even his nemesis Jerry Falwell among the HLS Forum's distinguished roster of past speakers, Flynt has perhaps earned the ultimate approval from a society that has largely spurned him. History will have to decide whether he deserved it or not.

BEFORE THE LAW

BY DEREK WINDHAM



For the RECORD

Technical difficulties

Revolutions aren't easy. At Harvard Law School, the electronic revolution has been particularly difficult. The administration's heart is in the right place. It knows that it's time to enter the 21st Century, but it's taken a while for administrators to figure out the right way to move forward.

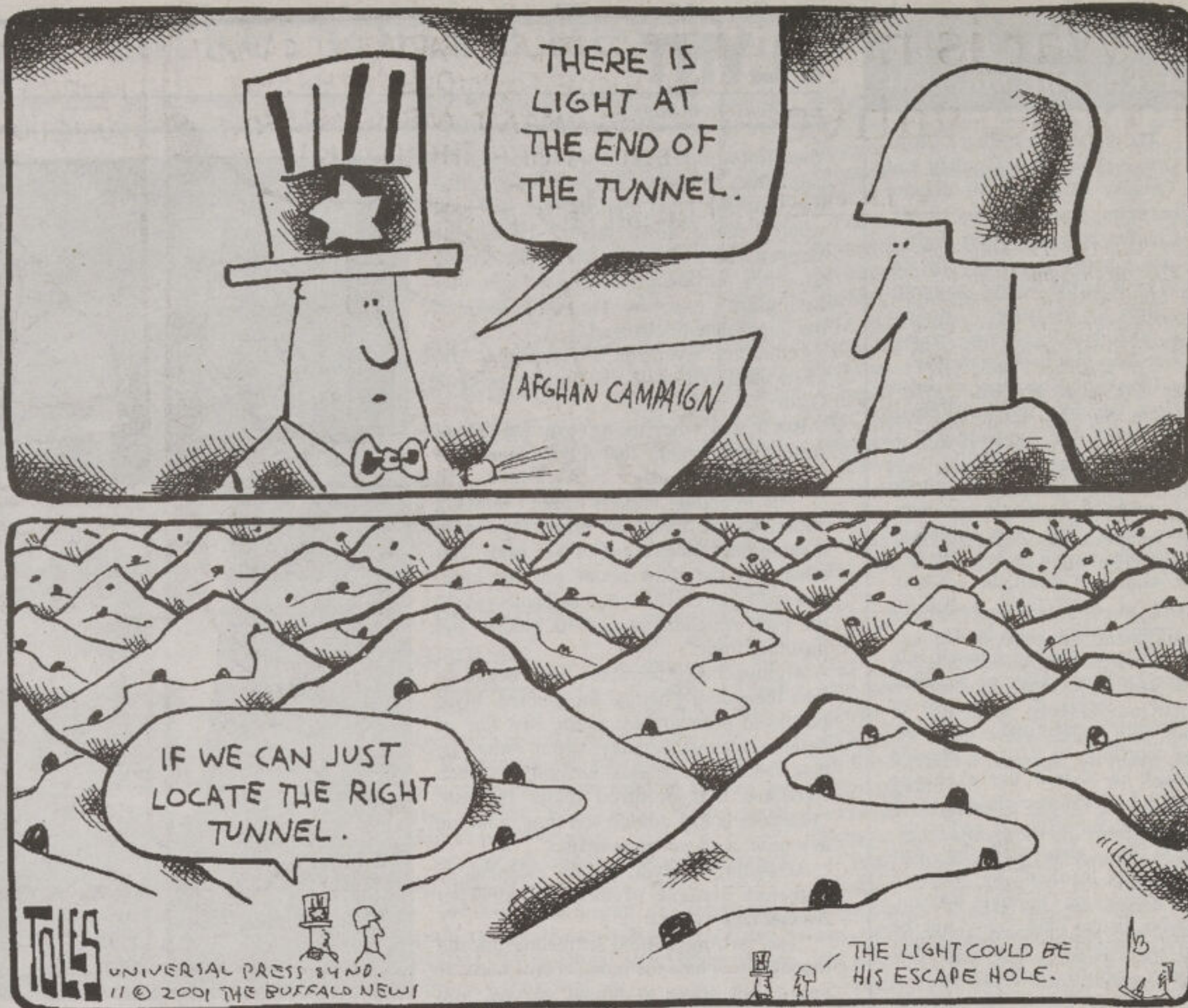
Case in point: the registration process. While the process has been made easier with online bidding, the administration failed to bring the project to its proper completion by moving the add/drop process online. Aside from the insanity of having to activate wait-list numbers in the first place, why do we have to fill out little bubble forms to do it? The process could be done using basically the same program as online bidding and save the school the expense of having to buy all of those golf pencils.

At some point the faculty must have been told that the wave of the future included a website hosted by Blackboard. The problem, it seems, is that professors weren't exactly sure what they were supposed to put on the site. While some professors have taken advantage of the site's capabilities, many have left their students with a website that has little more than a syllabus and a copy of their office hours.

The school knew that students were seriously unhappy with the quality of OpenMail 6.0, so they undertook a project to redesign the program. The result was the much anticipated and even more hyped OpenMail 6 Redux. The elimination of the indecipherable symbols of version 6.0 was a major improvement, but it came at the price of functionality. Deleting a message takes the user to a confirmation screen, which only offers the student the option of returning to her inbox to find her next unread message. If you mistakenly delete a message while in OpenMail, forget about recovering it to your inbox. You can read it in your trash can, but it's going to stay there.

When the school does decide it's time to move ahead, administrator's attempts are often a bit unrealistic. To discourage reliance on the paper version of *The Advisor*, they cut down on the number of copies printed. Instead of flocking to the web version, students just steered away from *The Advisor*. That's hardly surprising considering that the online version is just a minimally formatted web page that seems to go on forever. Printing out the November 8 edition will leave you with a nearly unreadable twenty-two pages.

One place where the school has made advances is in its mass email policy. The decision to combine the barrage of daily emails into one daily "flashmod" was nothing short of genius. Unfortunately, the worst spammer of them all has somehow managed to work around flashmod and continues to flood students with emails daily. Some students may need up-to-the-minute updates on when the OCS website last crashed. Speaking for the rest, the RECORD would choose to opt-out of the electronic onslaught from OCS.



Democracy rising in Boston

by Clifford Ginn

Ralph Nader's "People Have the Power" tour is coming to Boston this Saturday, November 10, 7:30 p.m., at the Orpheum Theater. The tour is sponsored partly by Democracy Rising, an organization that Nader founded earlier this year to "educate and empower citizens throughout the country."

Nader's speech will address such issues as racism, immigrant and minority rights, militarization, labor, the environment and corporate globalization. In an earlier speech in San Francisco, he gave particular attention to our response to the September 11 attack, as well as to the new dangers to security, democracy and social welfare that are rising in its aftermath. After noting the importance of open discussion and careful protection of civil liberties as prerequisites for an informed democratic response, he asked how we can best honor the memory of the heroes and victims from that fateful day. He called for bringing the responsible criminals to justice, and trying them as we did the Nazi war criminals in World War II. Second, he called for emphasis on human intelligence in intelligence reform. Third, he urged that we should neither sacrifice our cherished freedoms, endanger our future security through mistakes abroad, nor scuttle our commitments to domestic programs in such areas as health care, safety and the environment.

Nader then discussed the impact that U.S. policy toward Israel and Palestine, as well as U.S. support for dictatorships in the middle east, has on attitudes toward our country. He also compared the emerging conditions in Afghanistan to the economic sanctions we currently enforce

against Iraq, which lead to about 5,000 civilian deaths per month. He expressed skepticism about bombing "military" targets — during the Gulf War, he said, we knowingly bombed a shelter with 2,000 Iraqi civilians in it. We also destroyed Iraq's water infrastructure, an act which, combined with our sanctions regime's boycott against chlorine export, has led to an epidemic of cholera, typhoid, dysentery

7.5 million people in Afghanistan live on the verge of starvation. Knocking out electricity means knocking out water purification.

and other preventable diseases among Iraq's children. According to the U.N., 7.5 million people in Afghanistan live on the verge of starvation. In a country like Afghanistan, knocking out the electricity means knocking out water purification, as we did in Iraq. The snacks we are dropping, many of them over the minefields of Hindu Kush, can hardly substitute for the U.N. food convoys that the bombing has halted.

Nader compared the U.S.'s Middle East policy dilemma with France's decolonization of Algeria in the 1960s, which brought an end to riots in Algeria and bombings in Paris. He also approved of the restraint that we demonstrated with Germany and the Nazis after World War II, and that General MacArthur used in Japan. Nader compared this with the more retributive Treaty of Versailles, which sowed the seeds for Hitler's rise to power.

Nader then discussed corporate America's cynical efforts to cash in on the crisis, ranging from demands to open the Arctic refuge for oil drilling to the call for a capital gains tax cut. The airlines' \$15 billion aid package came on the tail of lay-

offs of some 85,000 workers (all of whom Congress and the president considered beneath their notice). Corporations are blaming bin Laden for everything imaginable in calling for bailouts, subsidies, deregulation and immunity from liability. And only two members of Congress, Republicans Chris Shays and Frank Wolfe, post their voting records on the Web.

As he has done all his life, Nader calls us to respond through civic engagement, which he considers a patriotic obligation. Democracy Rising seeks to advance a ten-point platform through local activism. These points include: broad electoral reforms, including public financing of campaigns; enactment of Living Wage laws and other protections for worker health, safety and collective bargaining rights; stronger environmental laws and emphasis on renewable energy; full Medicare coverage for all Americans, as well as disease- and trauma-prevention programs; a "war on poverty" modeled on those of other Western democracies; a foreign policy that prevents violence, disease and wasteful defense spending; democratization of NAFTA and GATT; elimination of the criminal justice system's gross racial and economic discrimination; strengthening of the civil justice system and application of criminal laws to corporate crime; and an end to corporate welfare and political dominance.

Support for the rally also comes from the Campus Greens, a national organization of students who embrace the Green Party's Ten Key Values: Community-Based Economics, Decentralization, Ecological Wisdom, Feminism, Future Focus, Grassroots Democracy, Nonviolence, Personal and Global Responsibility, and Social Justice. Patti Smith and others will be performing. Barry Crimmins will emcee, and speakers will include: Chuck Turner, a community activist and Boston City Councilman; Amy Goodman, host of "Democracy Now"; and Jill Stein, Green Party candidate for governor of Massachusetts. The Rally will occur in conjunction with The Northeast Regional Conference Against War and Racism, which runs from 10 a.m. to 6 p.m. on Saturday and Sunday, at Boston University. Tickets to the rally are available at www.democracyrising.org.

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War is not conservative

by J.R. Parker

TURNING and turning in the widening gyre
The falcon cannot hear the falconer;
Things fall apart; the centre cannot hold;
Mere anarchy is loosed upon the world,
The blood-dimmed tide is loosed, and everywhere

The ceremony of innocence is drowned;
The best lack all conviction, while the worst
Are full of passionate intensity.

—W.B. Yeats, from "The Second Coming"

While Mr. Min is using his space in the RECORD this week to bemoan the failure of the Left to maintain its identity and resist a creeping drift to a more "conservative" ideology, I'm taking a different tack. I'm fully convinced of the prescience of Yeats's apocalyptic vision of the 20th Century and believe things are certainly not getting any better in the 21st. Although the center may not hold in "The Second Coming," it has triumphed over any trace of a meaningful conservative movement in the United States.

By 1870, the Republican Party had no reason to exist. Reconstruction was over and the Southern states had been reabsorbed into Lincoln's radical vision of Unionist state-worship. Nevertheless, this redundant entity remained and has always lacked a consistent vision of its own destiny since it accomplished that which it had been conceived to effect. It had the opportunity to combat FDR's Constitution-shredding imposition of the New Deal's managerial administrative state, but it failed. It had the opportunity to make sure that the Cold War wouldn't force an already bloated military-industry-government agency complex into unprecedented expansion, but it failed. Today it would have the opportunity to call out the utterly retarded "War on Terrorism ®" as a wasteful and dangerous exercise of imperialist muscle-flexing, but it has failed so much in the past hundred years that we should hardly be surprised.

None of this is a coincidence. So-called "conservatives" in this country have lurched so far to the left (and, as Mr. Min points out, "liberals" have similarly abandoned most of their foundational principles) that the two-party system has become a scary joke. Both sides of the aisle now want to expand global "democracy" and convert the entire world to their vision of global corporate capitalism and to forget about that whole national sovereignty issue, much less that whole "constitutionally limited government" business that conservatives occasionally used to reference. We have a president who's lauded for pouring billions into an unconstitutional Department of Education and for carpet-bombing civilians. Tune into the Benevolent Global Hegemony News Network (also known as CNN), and it becomes quite clear that the traditional labels of conservative and liberal have become meaningless. Real conservatives and liberals, figures like Joe Sobran on the Right or Howard Zinn on the Left, and their hard-nosed analysis and critiques of, for example, the "War on Terrorism ®" have no place when it's time to expand the influence of big business and big government. Ever since the Conservative movement sacrificed limited government on the altar of the Cold War, there has been little chance of turning back.

Conservatives should be smart enough to realize that they have no particular reason to support war-mongering for its own sake. War is the health of the state. Any conservative who quite rightly fears the coercive power of government and believes that it exists to serve the people (not to demand their loyalty and take away their freedom) should reconsider the garishly false patriotism this so-called "war" has provoked and start questioning the global warfare-welfare (naturally of both the corporate and social variety) empire "conservatives" have left us.



Values, not results, are key to political high ground

by David Min

Let each new hero come
Seeking the golden apples and Atlas.
He must wrestle with me before he pass
Into that realm of fame
Among sky-born and royal:
He may well throw me and renew my birth
But let him not plan, lifting me off the earth,
My elevation, my fall.
—Seamus Heaney, from "Antaeus"

The facts are in, ladies and gentlemen, and they are these. Conservatives are kicking the collective asses of liberals. On virtually every issue, the country is more conservative than it was ten years ago, than it was 20 years ago. The federal government is now seen almost universally as at least a quagmire of inefficiency and bureaucracy, if not a fountain of oppressive evil. In every arena of governance, whether federal or state, legislative or judicial, conservative ideas dominate the debate. Movements to bring our society into a new era of equality and fairness are all on the defensive, struggling mightily even to define their basic motives and purposes.

And this is precisely the problem with the liberal movement. We have lost our way, and lost the ability to understand and communicate a coherent and engaging message. What does it mean to be a liberal these days? What does it mean to be progressive? Other than certain predictable positions on a variety of issues ranging from abortion to welfare, and a definitive antagonism to conservative positions, the term "liberal" seems to have no meaning, and thus no inherent appeal.

When one looks at the liberal movement over the last 20 years (20 being the operative number, because that's about as far back as I can remember),

one notes a marked lack of coherence in any set of motivating principles. The liberal movement has been characterized as one of convenient bedfellows working together to achieve some set results. While one might certainly make a similar claim about the unholy alliance between the corporate welfarists and religious fundamentalists that is central to the current conservative movement, there is at least one key difference that helps to explain the suc-

As liberals, we have lost our way, and lost the ability to communicate a coherent and engaging message.

cess of the Republican party vis-à-vis the Democratic one: the idea of foundational motivating principles. Ask ten conservative what conservative principles are, and you'll hear certain common themes: libertarianism, distrust of big government (read: federal), belief in local communities. Even in the supposedly erudite area of law, certain key precepts are consistent among virtually

all conservatives: strict constructionism, states' rights, judicial restraint.

Ask ten liberals what liberal or progressive principles are, and you'll probably end up with a fractured cacophony of issues. Again, ask about what liberal or progressive principles in the law are, and you'll likely hear a litany of issues. This is the key to the demise of modern progressivism. We have lost any sense of moral foundation, and have focused myopically on certain key results without any real defense of their basic purposes. The liberal movement has become the movement of abortion, affirmative action and welfare, rather than the movement of civil liberties, civil rights and equality of opportunity. If the current liberal movement is to survive, it must reassess and reclaim its core values, which may even necessitate a reexamination of some of its core issues.

At some point in the last 15 years, the conservative branch of the Republican party claimed the moral high ground, and has brandished it ever since. If liberals make a concerted effort to reestablish their moral foundation, I find it hard to believe that an ideology which is essentially based in the disenfranchisement of the poor, a plundering of public pecuniary and natural assets for the rich, and a reckless disregard for the future of our country would somehow stand its ground against an ethos rooted in such values as equality of opportunity, social welfare and stability, and civil liberty.

Forum

The illusory zero-sum of U.S.-Israel relations

by Sam Foster Halabi
Wendy Pearlman

The events of the last two months have shaken many Americans into an awareness of our international position that, to some extent, has been left unappreciated. Prof. Yehuda Lukacs has referred to part of this new awareness as "the cost of the relationship with Israel." Whether inspired by the crazed ranting of Osama bin Laden about U.S. support for Israel or about the cool relations between Ariel Sharon and George W. Bush, the statement is a dangerous one. It implies that there is some zero-sum choice between the American relationship with Israel and commitment from one democracy to another to demand that its practices live up to the democratic ideals that they both claim to venerate.

The issue is a dizzyingly complex one. And we are not anti-Israeli, pro-PA polemicists. Arafat's regime is guilty of penetrating corruption, suppression of basic freedoms and mismanagement of the peace process. Israel is a democracy with strong civil institutions and a state valuable as a democratic ally of America. But until it ends the military occupation of the Occupied Territories and acknowledges its responsibility for the creation of the largest refugee community in the world, there will always be a shadow cast upon it. More importantly, there will be reasons for Americans, all Americans, to demand that Israel renounce its current policy of colonization, geographic and economic strangulation of the Palestinians. We write this as a plea for all Americans to demand that Israel stop what amounts to an apartheid policy of creating Palestinian "bantustans," suppressing the Palestinian right to self-determination. We agree with Prof. Ogletree's October 16th speech on the U.N. Conference on Racism regarding one issue: We do not believe determining whether "Zionism is racism" to be of any use whatsoever. But, we hope Prof. Ogletree can see the similarity in policy between apartheid South Africa and that of Israel in the Occupied Territories. We are not motivated only by an issue of justice, but what we believe will benefit Israel, Palestine and the United States.

Historical perspectives play a crucial role in viewing the conflict between Palestinians and Israelis. Uri Avineri, an Israeli peace activist, describes how this history is deeply connected to the parties'

current dealing. The Israeli historical narrative emphasizes the persecution of Jews in Europe who needed to establish their own state and moved to the "empty" country of Palestine for its "historical and religious memories." Out of nowhere, the Palestinians attacked them and they must defend themselves. The Palestinian perspective is one of a people living for thousands of years in peace until European Jews started mass immigration and talked peace until they were militarily strong at which time they took 78 percent of Palestine and occupied the rest in 1967. The Palestinians must fight until the Israelis "leave them in peace."

On the one hand, it is easy to see how the Israeli perspective encourages a hostile view of Palestinians. This perspective has led to what Edward Said calls the bizarre phenomenon of "blaming the victims" — assuming that Palestinian resistance is explained as not motivated by a situation of military occupation and forceful dispossession, but by an "irrational" hatred of Israel, who just happens to be the occupier.

On the other hand is the Palestinian perspective. Many see the Palestinian/Israeli conflict as one of religion, or of anti-Jewishness. It is not. When Jewish immigrants arrived on the shores of Palestine in the first part of last century, it was far more disconcerting that the new arrivals were yet another wave of Europeans colonizers settling on indigenous land. It was an old story. It happened in South Africa. It happened in Northern Ireland. It happened all over what many now call "the developing world." Nor was it an unreasonable perspective: The Israeli legacy replicating questionable European ideas about indigenous peoples is undeniable (for example, delousing "Oriental Jews" with DDT). The Palestinian perspective has always been one of resisting a colonial power, first Britain, then the Zionists, then Israel.

After 1967, a far more radical movement established dozens of illegal settlements on the West Bank. These eventually received the official green light from Israeli govern-

ments, especially right-wing governments. Even today, houses of Palestinians are demolished while against the view of poverty that characterizes the Arab-populated West Bank and Gaza are gleaming white, swimming-pool dotted settlements built on hilltops and often inhabited by extreme elements of Israeli society. All of this is done against the clear mandates of international law (ignored even in the most open-minded conversations) and against the specific expressions of American presi-

dents and foreign-policy makers including, most recently, George Mitchell. It is a policy of colonization that is intentionally orchestrated to separate the West Bank into non-contiguous clusters of population separated by roads used only by Israelis connecting the Israeli settlements together in the West Bank and to

Jerusalem. The current plan for the building of roads, considered "extra-territorial" and under total Israeli sovereignty, amounts to 250 miles of road at a cost of \$3 billion, roughly equal to official U.S. aid to Israel annually. Israel remains the only country in the world to refuse to declare its international borders.

The Israeli Supreme Court has determined that settlements may only be used as a security apparatus. Unless the definition of Israeli security means the indefinite imprisonment of more than two million people, then any authority would have a difficult time explaining the vast and increasing network of settlements. The findings of the Israeli Supreme Court seem to reject the claims of followers of the Gush Emunim movement, that Jews have a right to all of historical "Judea and Samaria" (the West Bank). Those people really believe in the idea of "transferring" Palestinians out of the West Bank, or just disposing of them in more brutal ways (as in Baruch Goldstein's massacre of 30 Palestinians praying in the mosque in Hebron). We admit we are unable to conceive how anyone thinks this is a justifiable idea. Even the Israeli high court has recognized the secular, democratic restraints on

the assertions of the national movement.

Incidentally, we have always found the argument of Israeli security as a justification for the occupation and settlement of Palestinian land flagrantly absurd. In the first place, unless we have missed something, the occupation has not resulted in increased Israeli security whatsoever. It rather has had the self-defeating tendency to make fanatical groups and their tactics look more credible because they refused to deal with Israel in the first place. Israelis have every right to live in peace and security — we just cannot see how placing a country in military occupation of the Palestinians and refusing them the ability to build a state and economy prevents the horrifying prospect of suicide bombers. We would argue it increases the numbers of disenchanted youths who seek such drastic and sad measures. The way we combat fanaticism is to build a sound economy and strengthen civil institutions — the agenda Israel has successfully and admirably pursued. Second, not inconsequentially, Israel is the most powerful military between France and India with unparalleled access to American military technology. The fact that Israel has used American military equipment against civilians, illegal under all terms of sale by the United States, should not be forgotten.

It is easy to turn this issue into a mindless game of finger-pointing. Even now, we wonder if this case will strike readers as just another irrational, groundless accusation against "the Middle East's only democracy." That judgment, we suppose, will come through in responses. But if the reader's judgment finds this case convincing, we pray he or she will speak out. The issue of Israel's occupation and settlement of Palestinian lands is not related to the bloodthirsty distortions of Al Qaeda; their rhetoric is no different than that of other Middle East dictators who hug Arafat when they need to boost legitimacy at home. No, the issue of Israeli occupation and settlement beats close to American values that reject colonialism and embrace self-determination. The United States, for all of its sometime questionable judgment, is a place where "emancipation" is a powerful and meaningful part of political consciousness. If this is true, and we will believe it for the rest of our lives, then it is the responsibility of the United States, of all Americans, to demand the same of even our closest friends.

Until Israel ends the military occupation of the Occupied Territories, there will always be a shadow cast upon it.

'Moral consistency' can't sustain war

by Faisal Chaudhry

In an article that teaches much about the constraints education imposes upon thought so as to bring it into sufficient conformity with the commands of the powerful ("The fog of war in law," Oct. 25), Arkadi Gerney demonstrates the rather perverse limits within which the ostensibly skeptical and concerned are to allow themselves to operate should they want to participate in the esteemed "debate" about our choice to condemn what knowledgeable observers suggest could be upwards of several million Afghans to death.

Thus, while Gerney counsels us to utilize "some measure of moral consistency" as we "go forward making policy that leads to death in criminal law" and war alike, he reassures us that despite the fact that "[e]very day now we are killing people in Afghanistan" he "basically support[s] our actions." Sadly, since his view of the "killing" we are now doing every day properly confines itself to the relative marginalia (such as our smart bombs "go[ing] astray") that military and intellectual planners would have us focus upon, he fails to reckon with the more harrowing implications his would-be "principled" stance might otherwise likely hold for pledging allegiance to our cruel and illegal

terrorist war. ("Terrorist," of course, only if we adopt the State Department's common definition; "illegal" if we deem the U.N. Charter to have any normative force.)

If, as Gerney suggests, however, that "[c]ontext matters," perhaps he too would concur that deliberately intensifying humanitarian catastrophe to the point of terminal cataclysm for who knows how many people bespeaks a crime far more serious than any deriving from the inevitable "mistakes" made in the course of "search[ing] for the ideal ratio" of smart bomb target precision. As the president

of Oxfam America noted nearly three weeks ago, "We just don't know how many people may die if the bombing is not suspended and the aid effort assured." "[I]f nothing changes," he continued, "we fear there will be huge loss of life and unspeakable suffering this winter." Further readily available Oxfam statements fill out this bit of context even more forebodingly, as they specify that the

"huge loss" would likely include some 400,000 Afghans already suffering from acute food shortages as well as a half-million others who will likely be cut off by snow as of mid-November. Though the "exact scale of deaths that would result is difficult to predict," it is clear that "millions will face avoidable hunger and suffering," with the operative word, of course, being avoidable.

Needless to say, such nuances of context may still be unlikely to quell the "basic support" the highly educated are expected to extend to our leaders in their war on the civilian population of Afghanistan, as they are sure gizzically to protest that the drought and famine had long previously been threatening millions of Afghans prior to our noble advent. Even putting aside additional comment that might be made on other relevant aspects of context (for example, the devastating consequences of purposely razing an already war-ravaged country's "dual use" infra-

structure), by way of more narrow response we might revitalize Gerney's own framework and observe that "the fog of war in law" should hardly obscure that "culpability" need not necessarily be taken as exclusively synonymous with outright intention.

Though embarrassingly obvious (if at the same time irresponsibly generous in its view of our leaders' motives), that such a formulation can unfortunately go unseen by those striving for what passes for skepticism should give us ample reason to pause. During the momentary silence, rather than simply meditating upon our "responsibilities" as future members of the ruling elite, we might instead reflect upon the distance over which our culpability extends (whether deriving from intention, recklessness, depraved indifference or whatever else), and whether it might not also reach our own selves. In so doing, we might even reflect upon whether as decent human beings rather than "future policy makers of America" we are required not only to think with moral consistency, but also to act with it as well — which in this case might require us unconditionally to object and seek to terminate the egregious crimes being done in our name in Afghanistan rather than continuing in our "basic support" of them.

Intensifying humanitarian catastrophe bespeaks a crime far more serious than 'mistakes' made in 'smart bombing.'

Letters

Value in informed debate

I would like to express my gratitude to Kelly Hartline and to the RECORD staff for fostering a frank and open dialogue concerning homosexuality. Kelly deserves great respect and support for sharing a message of hope with people struggling with homosexuality. I agree with her that homosexual behavior is incompatible with Christian faith, and I am encouraged that she identified programs that can help people address their homosexual feelings. No one should be forced to hide their struggles and to bear their pain alone.

I also congratulate the RECORD on publishing Kelly's column despite the animosity with which their action was met. It is disturbing that such vituperative objections should be raised to her informing those unhappy with a homosexual lifestyle that there are people who want to help them. The purpose of a free press is expressly to inform the public and to challenge assumptions by a full and fair presentation of fact and opinion. This trust cannot be fulfilled if one group is given control of the discourse and arguments to the contrary are suppressed.

The quality of legal scholarship at Harvard has been put in doubt by this controversy, but not because of any sources that Kelly used. What is alarming instead is that the basic constitutional rights of freedom of speech, belief and the press, even when referred to by those responding to Kelly, are dismissed as trite and insufficient to justify the RECORD's publication of her column. These detractors seem to believe that such rights ought to be dispensed with if they dislike what is expressed.

Thomas Paine wrote, "He that would make his own liberty secure, must guard even his enemy from oppression; for if he violates this duty, he

establishes a precedent that will reach to himself." It may seem a small and harmless thing to treat with contempt the mere expression of a belief that opposes your own, but that is exactly the attitude that has precipitated each and every fascist regime. That's something you ought to understand even before you take FYL. As Cicero said, "To be ignorant of what occurred before you were born is to remain always a child."

Fortunately, the reactions to Kelly's column do demonstrate that members of the HLS community are serious about their beliefs. This is a good thing, although it doesn't justify intolerance, because the opposite extreme from intolerance is a relativist ambivalence in which each person's beliefs are considered equally true. To openly consider a belief which contradicts your own beliefs as equally accurate is absurdity. We must endeavor to protect a rational balance in our community which allows each person to hold their own beliefs deeply while still permitting anyone else to express theirs.

This intellectual discourse is one of the reasons that we are living in the United States of America. When the press avoids printing ideas or facts because of pressure from certain groups, the press has effectively ceased to be free and we have lost the core of what makes this country great. If you have any doubt about that, ask any immigrant or refugee how precious the Bill of Rights is to them. Their response should be enough to convince you that Kelly Hartline and the RECORD staff have done exactly what they should have, and that it is important for all of us that they continue to do it.

Anthony Bushnell

Hypocrisy abounds

In his restaurant review cum personal attack, Mr. Bitkower not only wrote about small-minded intolerance, he exemplified it. He was, I think, funnier than he intended to be.

No one has a monopoly on hypocrisy. We already knew that, but the recent discussion on homosexuality elucidates the point. Not those who seek repentance and forgiveness for transgressions while disdaining others for their struggles. Not those who promote tolerance and diversity while spewing vitriol and seeking homogeneity. Not those who implicitly advocate censorship while preparing to be outraged if the same forum doesn't air their retorts in full. And call me both weak-minded and morally improv-

erished if it makes you feel better, for I confess that throughout my life I have been guilty of these and many other inconsistencies.

Perhaps it is not possible to have any opinions or convictions — even nihilistic ones — unaccompanied by at least a few hypocrisies. But we can certainly do our best to minimize them. I applaud Adam Teicholz and Scott Levin for supplying two responses that — for the most part — sought to avoid these pitfalls. As a result, each furthered his cause with at least this reader, something others that responded, despite their sometimes wittiness, failed to do.

Michael Nunnolley

Finding LIPP

I was pleased to see your editorial advising students to find out the facts about HLS's greatly improved loan forgiveness program, the Low Income Protection Plan (LIPP). I would like to suggest, though, that students who really want to know how LIPP will work for them go to see Lisa Dealy, the Director of LIPP and Summer Funding, rather than me. Lisa works in the Financial Aid Office but we work as a team to try to help students pursue their career interests. Lisa is the real expert on LIPP

and is in fact one of the foremost experts in the country on loan repayment programs. She was also a major force behind the changes to LIPP. I encourage all students contemplating public service, or other relatively lower paying positions, upon graduation to talk to Lisa about debt management during law school and to get the facts about LIPP.

Alexa Shabecoff
Director, Office of Public Interest
Advising

Flushing Clean Elections?

We like to think that the U.S. stands as a symbol of freedom, but the citizens of Massachusetts do not enjoy the basic freedom to choose their representatives in the state legislature. Massachusetts ranked dead last in the nation in competitive elections in 1998 and 2000. Almost 60 percent of the general races in the last election cycle had only one major party candidate and the primaries were even less uncompetitive.

In 1998 the voters of Massachusetts, by a 2-1 margin, passed by referendum a public financing statute called the Massachusetts Clean Elections Law. This law would help improve the state's electoral system by making it easier for challengers to overcome the fundraising advantage enjoyed by incumbents. Candidates can opt-in to the public financing system by gaining a set number of small campaign contributions. Under the law, Clean Elections candidates receive a set amount of public funds depending on the

office they are running for, and an additional dollar for every dollar their opponent spends, up to twice the original amount of public money.

For the past three years, the Massachusetts legislature has repeatedly tried to thwart the voters' clearly expressed will that the state's elections not be determined primarily by fundraising ability. The chief culprit in this undemocratic defense against the public has been Speaker of the House Thomas Finneran, who has:

- 1) Penalized legislators who support the law by cutting off funding to their districts;
- 2) Retaliated against Clean Elections supporter Rep. Douglas Peterson by removing his position as chair of the Natural Resources Committee;
- 3) Traded increased funding in their districts to some legislators for opposi-

tion to the law, even though the legislator's constituents overwhelmingly supported the law.

Currently, \$22.4 million has been earmarked for Clean Elections funding over the past two years, but the legislature is close to killing the law. The money already set aside has not been appropriated to the necessary agency and the current house bill that would appropriate this money eviscerates the law by making future funding depend on taxpayers voluntarily contributing to a Clean Elections fund. This directly contravenes the will of over two-thirds of the voters, who demanded that every citizen be bound to support public financing just as they are bound to fund all other state expenditures.

Should the current budget negotiations, expected to be released by November 9, not allocate funds, the hopes of potential Clean Elections candidates and the citizens of Massachusetts will rest on a lawsuit pending before the Supreme Judicial

Court. The suit alleges that the state Office of Campaign and Political Finance and the Secretary of State violated Article 48 of the Amendments to the Massachusetts Constitution, which requires that the Commonwealth either appropriate enough money to fund a referendum or repeal the law. The legislature has tried to sit on the fence for three years by neither incurring the public's wrath by voting down the Clean Elections Law or jeopardizing their incumbency by funding it. It is time to do what the citizens of Massachusetts demanded in 1998. As citizens of Massachusetts, please contact your representatives and tell them that it is time to fund the Clean Elections Law.

Matt Marinelli
Appleseed Center for Electoral
Reform

No debate

I regard Kelly Hartline as a personal friend. We probably have different views on homosexuality, but we have a good relationship because it is respectful, tolerant and kind. I agree that the response to her article on Exodus was not very 'loving,' and perhaps excessive given that it's just a drop in the bucket when you think about all the social forces that are arrayed against homosexuals.

However, the subsequent letters criticizing this response 'missed the point.' You can only oppress people for so long before you get a strong, emotional response. Maybe not one article, maybe not one insensitive comment, but when you read article after article ... after article (and don't pretend this isn't the case) ... then BOOM! and they snap and tell you where to stick it. The road to hell is paved with good intentions, but it's a weak morality that discriminates against people who are different, subtly tries to undercut their public support, plays against their self-esteem ... or merely fails to take a stand and steps back, sits on their holier-than-thou Harvard tush, and with

the condescending tone of an benevolent courtroom judge 'encourages discussion' (as if you would really be so open to having a debate on the merits of heterosexual rights or the validity of your sexuality in general). In your attempt to appear objective and tolerant, I fear you display your cowardice and heterosexual privilege. (I notice you didn't criticize Austin Bramwell who felt it his place to monitor what type of sex everyone is having and provide recommendations). Don't worry, though. The downtrodden don't count on you, you've never been very useful on the front lines. I love Kelly, but was it so unreasonable to think her efforts a little misguided? Wasn't this like bringing up abortion? I mean, didn't we all sort of form our opinions back in eighth grade? If anything, these debates are just boring because it's the same old arguments. In short, you don't have to think homosexuality is 'OK.' Just don't bring the debate to my door and then get mad when I slam it in your face.

Lee Payne

Let's not let our flag be a fad

by Nathan Daschle

On the morning of September 12, I began my search for an American flag. Like most Americans, I felt helpless in the aftermath of the attacks and proudly displaying the Star-Spangled Banner was about the only thing I knew to do. Finding an American flag was much harder than I had expected. After having watched 96-straight hours of CNN, I first suspected that the flag shortage was because all of our flags were being burned in Pakistan. But, after walking around the law school and elsewhere, I soon realized that something more profound was happening — we were rediscovering patriotism.

Patriotism is now everywhere. American flags are hanging proudly in dorm windows, on cars, on bikes and just about everywhere else. Conscientious student groups have been handing out red-white-and-blue ribbons in the Hark. What's more, there is an unprecedented feeling of pride in our country, our history, our struggles and our achievements.

As pride in the flag grew, so too did a deep respect for firefighters, police officers and other public safety personnel. What began as compassion for those who were lost in the collapse of the WTC towers quickly became a sincere appreciation for public servants around the nation. Not just celebrities and the New York Yankees, but Americans all over were

To the extent that it was trendy to disdain the police or others in the "establishment," our view should be forever altered.

donning NYPD and FDNY baseball hats. The question that remains is whether this patriotic surge is a passing emotional reaction to the September 11th attacks or a fundamental change in how we view our country and those who serve it.

Though the hats don't need to stay, the deep respect for our country and those who serve it should. The wonders of our democratic experiment and the bravery and loyalty of our public servants is not new. The men and women in uniform have been protecting our country and its ideals for a long, long time. That we were able to slip into a blissfully ignorant ease in the everyday manner in which we carried on our lives before September 11 is evidence of both the sacrifice and the success of our public servants.

As we learn how to navigate through our new world, we should not lose sight

of the many reasons for being proud of America. We must not forget that we are the world's most successful democracy because of the people who serve us — not just in a time of national emergency, but everyday. Some of us have long viewed law enforcement officers with an immediate suspicion. Anecdotal evidence of police corruption and a Hollywood image of testosterone-filled brutes got the best of our imagination. To the extent that it was trendy to disdain the police or others in the "establishment," our view should be forever altered. While we should always keep an eye out for the bad forces in our ranks, we should remember that on the whole, police, firefighters and other public safety officers are the most patriotic of Americans who love our country and are willing to die for our safety. Let us never forget that as the police officers and firefighters of New York gave their lives on September 11th, they saved many, many more.

Nothing will be lost when the NYPD and FDNY hats fade away and lose their popular appeal. But everything will be lost if we forget this newfound respect for our country and the men and women who serve it. Patriotism and respect for our public safety officers need not be just a reaction to a national tragedy; it can be a way of life. I've got a flag now and I'm going to keep it up. I hope you will do the same. Let's not let our flag be a fad.

Fenno

Fenno ran as fast as he could and clenched his hands. He was afraid to open his eyes but could hear the great swoosh of water behind him.

"Almost there!" said Austin Bramwell. Fenno tried to believe in the confident voice and tried to make his legs move even faster.

"We're safe now, Fenno. You can open your eyes," said a sweet, consolingly feminine voice. He opened them. In front of him stood a smiling Kelly Hartline, and to her left was Bramwell, looking even more self-satisfied than he usually did. How can he smile like that with that ridiculous pipe in his mouth? thought Fenno.

Suddenly, Fenno realized that he had escaped near peril. He quickly turned around to see where he had come from. There were dozens of chariots charging through the gap in the Charles River that had formed as Fenno, Hartline and Bramwell had run towards it. Most of the chariots appeared to have rainbow colored stickers affixed to them.

"They're still coming!" yelled Hartline. Bramwell laughed and took the pipe out of his mouth.

"Not for long. This is the last time

they'll ever come, thank God" said Austin. He waved the pipe above his head and immediate the great pathway in the water crashed on the chariots. The sounds of horses and men drowning could be heard.

"Yuk!" said Bramwell. Hartline began clapping in a manner reminiscent of Mama Klump in "The Nutty Professor."

Fenno turned to Bramwell and Hartline and thanked them, shaking their hands.

"So I'm ... morally straight now for sure?" asked Fenno. Hartline shook her head yes. Bramwell stroked his chin, looking unsure.

"Well Fenno, you're probably clean, but the only way to really find out would be to test your yuk reflexes," said Bramwell.

Fenno ran as fast as he could away from Hartline and Bramwell. It wasn't his sexuality he needed to escape after all. It was the entire multitude of insane people at HLS. It was every lawyer he had ever met. Fenno looked around nervously at the people on the street. He needed to escape the law.

The No. 16 bus pulled up as Fenno contemplated an escape strategy. It looked good. Surely the law would never find him on a Cambridge bus. He hopped on and ran to the back. Fenno climbed into a seat. Fenno jumped up startled to discover that he was sitting next to Dean Robert Clark.

"Clark! What are you doing here?" said Fenno. Clark smiled faintly.

"I'm escaping, Fenno," said Clark.

"You can't escape! You're the establishment!" yelled Fenno. He hopped up to leave his seat, but Clark grasped his arm and pulled him back down with a strength that was almost inhuman.

"You see, Fenno, after a lifetime of doubt I realize now that there is a God. His name is Bob Mnookin," said Clark. Fenno jumped. The idea was horrifying.

"Mnookin! God? How is that possible?" said Fenno. Clark looked pensive.

"I talked with him today, Fenno, and after three hours, he got me to agree that economics was essentially the study of Jello, and that I am the boy from the Jungle Book." Clark was staring at the headrest less than six inches in front of him, but his eyes were looking a thousand yards away.

As the Dean drifted in a trance, Fenno touched the stop strip on the bus. He hopped out and looked around. Somehow after the long ride he was right back on Mass Ave. in front of Austin Hall. Fenno stared for a moment at the "Ve Ri Tas" etched into the stone on the side of the building. As he realized the truth, he walked back inside the law school. It was then, as Fenno tapped his foot to the driving beats of *NSYNC playing on his Walkman, that he recalled an obscure tenet of Christian philosophy. It had something to do with that which you most fear and doing something unto others. But that didn't seem to matter anymore. He knew the truth.

VOICEBOX

Should HLS move across the river to Allston? Why or why not?

"No. I think moving to Allston would deprive the law school community of ready access on a regular basis to



Obiorah

the academic resources and libraries of the College and professional schools. We would be geographically and socially isolated."

—Ndubisi Obiorah LL.M.



Krieger

"Yes. Because if HLS is unable to resolve the housing situation and the space situation on this side of the

river, then the other side might solve a lot of problems. Just move Langdell there as well; everything else can stay."

—Paul Krieger '03

"NO! What, you're going to move all of Langdell? That building is why I'm here!"

—Robert E. Clark '02

"No. It's a longer walk to Three Aces."

—Joseph Martin '02

"Yes. It will provide space for a modern campus with first-rate dorms, student center, gym, etc."

—anonymous

"Absolutely not. Our history is here."

—anonymous

"No. What are you going to do with this beautiful \$100 million library? Can you move it to Allston?"

—Sanket Bulsara '02

"No. It would be inconvenient to Harvard Square."

—Jonas Blank '04



Chaudhry

"No. There is a saving grace to being at law school within a total university environment."

—Faisal Chaudhry '02

UPSCALE REPLACEMENT

Red Line, a restaurant and bar, will open its doors in November as the successor to the Crimson Sports Grille, a Harvard legend that closed its doors last May after serving alcohol to minors, the *Crimson* reports.

Red Line will feature a private dining room, patio seating, a public dining room and a medium-sized bar. The restaurant will serve casual American fare. Red Line will work to recapture the "former Grafton Street crowd," the *Crimson* reports, referring to another Mass Ave. establishment that closed last spring. Grafton Street catered to many Harvard graduate students and young Cambridge professionals. The Crimson Grille, on the other hand, was a popular undergraduate drinking hole.

Eventually, Grafton, Inc. plans to open a new Grafton Street at 1230 Mass Ave., where The Bow and Arrow Pub used to be.

Red Line will attract patrons with live music and deejays on the weekends, and may offer karaoke, billiards and darts, according to the *Crimson*. More important for many, Red Line will stay open until 2 a.m.

WRITE FOR THE
RECORD AND INTER-
VIEW SUCH LUMINARIES
AS LARRY SUMMERS
AND LARRY FLYNT.
WE KNOW YOU'RE
TEMPTED.
RECORD@LAW.HARVARD.EDU

The 'Beautiful People' at Sonsie, the fun ones at ManRay

by Dominique Castro

I bet that a fair number of guys wonder what girls talk about when they go to the bathroom in groups. I suppose it can be unnerving to wonder if "the girls" are getting a debrief of your date's real feelings for you. Well, guys, unfortunately I'm not here to divulge the secret conversations and private deals that are negotiated in our ultra-secret society. Suffice it to say, however, that the conversation I had in the ladies room at Sonsie (327 Newbury St.) on October 19 was not at all typical. I share this story only because the encounter is better than any description I can come

She might not otherwise have spoken to me, but her ears perked up when I said a word in her language: 'valet.'



The bar at ManRay, "a gothic/leather/gay/bisexual" nightclub, depending on the night.

up with of this hip, ultra-trendy hangout. So, I'm cramped in line, No Exit style, in the impossibly small ladies room, and I mention to my friend that my husband has closed out our tab and was getting the car from the valet. Standing next to me is a future Boston socialite, now in the social climber stage of her development. She might not otherwise have spoken to me, but her ears perked up when I said a word in her language: "valet." Without missing a beat she turned to me and asked point-blank what kind of car I drive. "I beg your pardon?" I said, bewildered that she felt entitled to make such a query. "Car," she said impatiently, "what kind of car do you drive?" It was one of those instances, sort of like in my Contracts class, where after I've answered the question, I can think of millions of witty things I could have said. Instead, I just answered the question. She then looks me up and down tells me that I should venture down to the Red Room, the downstairs club/bar area of Sonsie, where, as she said, "all the beautiful people" hang out. Why on earth would I be getting invited to hang with "the beautiful people" of Boston? Mind you, I've been told I resemble the transsexual from 'The Crying Game' and the little troll fig-

urines with the big afros. My only guess is that she was blinded by the Swarovski-esque crystals draping her lithe frame. She then proceeds to launch such an aggressive name-dropping campaign that I'm tempted to ask if she works with Alan Dershowitz, since they both seem to be chummy with the same ilk of high-rollers. She regaled me with stories of partying with none other than P. Diddy, and the more enigmatic "guy from that movie Can't Hardly Wait." OK, well, the only famous person I've run into recently was MTV's Julie Brown (the white one, not the somewhat more interesting black one) at the Newark International Airport, so I keep my mouth shut, and decide that perhaps I'm not quite fabulous enough to lounge about the Red Room ... I in no way mean to throw dirt on Sonsie or its clientele. For those seeking a modicum of hauteur when they hit the town, this is, to be sure, the place to see and be seen. My risotto with autumn squash was delectable. The highly suggestive artwork and dark wood decor makes you feel a bit naughty as you sip decadently on expensive red wine and flick a cigarette seductively over the ashtray. You can watch the game at the bar, and rub elbows that are certainly not

clothed in (gasp!) last season's Prada. With a great view of Newbury Street and proximity to other nightspots, Sonsie is the place to go for dinner and drinks before hitting the town. As we left, Sonsie, however, I felt a draw to a scene altogether grittier in nature. Somehow I ended up at ManRay (21 Brookline St.), a gothic/leather/gay/bisexual (depending on the night) nightclub in Central Square. As we approach the door, the bouncers stop us, not to pat us down and check for contraband, but to unzip our jackets to check for compliance with the dress code. Apparently, all black was the order of the night. Once it was determined that our duds were legit, we were ushered inside. We paid a higher cover charge than I was expecting (\$12/person), but the experiences that awaited us inside more than made up for it. ManRay is not a place for the conservative yuppie. A man dressed as Jim Carrey's Vera de Milo character paraded about the dance floor. We were treated to a vinyl/latex fashion show, a bondage show and an endless barrage of freaky-but-friendly patrons gyrating about in various stages of undress. The music was dark: gothic and industrial techno-rock reverber-

ated from the sound system, but then turned almost campy at times, with dancers painted to resemble witch doctors shaking to "Groove is in the Heart" by Dee-Lite. Trust me, if you have anything even remotely approaching a gothic ensemble, you want to get down to ManRay on Friday nights for unparalleled people watching. I decided to have a tarot card reading (\$5), thinking that the cards might resolve my current dilemma about whether my professional destiny lies in the private or the public sector. Needless to say, I was thrilled when the "Success" card was placed on the table before me. I was slightly less amused to have the "Death" card plunked down next to it. (Note to self: call Miss Cleo for a second opinion.). As for the ladies room, I don't get the impression that ManRay emphasizes as strict a male/female dichotomy as Sonsie. Its more of a continuum: if you need to borrow black eyeliner, for example, you're just as likely to find it either the men's or the ladies' room. While ManRay may not be the venue of our next section outing, it is undoubtedly a bastion of tolerance, where it doesn't matter what kind of car you drive as long as you're dressed in black and ready to have fun.



SEEING RED

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U2's relevant celebration

by H.L. Rogers

Straight from Ground Zero via Madison Square Garden the boys from Dublin burst onto the stage with a message. Their customary opener "Elevation" had a different ending: This should be a "celebration, jubilation, celebration, celebration." In a "Bad"-esque move Bono informed the crowd that tonight would be different. Tonight Providence wouldn't rock just to rock. Tonight we were celebrating freedom and peace. Edge burst out in a Yankee's shirt and Bono told us "No more! Wipe those tears away" in a rendition of "Sunday Bloody Sunday" that had a lot more to do with a certain Tuesday than the significant Sunday so many years ago. His voice wavered and he bowed his head, "no more, sing it no more." From the audience he pulled an American flag (significant that he pulled the American flag out of a sea of Irish). He held it close, hugged it and sang "no more."

U2 had a lot to celebrate. First, it was Larry's birthday. The lead singer lead the audience in "Happy Birthday to You" and Larry walked to the front of the stage. "What is amazing is that it has taken me 40 years to stand out here and I really like it," he said. "Good news is Bono can't play the drums." The band had just come from a concert where Irish-American and other New York firefighters rushed the stage. And Bono was amazed as he announced that 10,000 people a day had been calling the treasury secretary to plead for third-world debt relief. "That's incredible after all you have been through in America that you still care about debt relief. And it's smart because monsters like bin Laden feed off the lie that we don't give a shit about Africa."

The band also celebrated their place on stage. "It's a thrill for us to be on tour in America at this point in time," Bono declared. "People pulled together in New York and they pulled together across America." So Bono returned the



honor. He and Edge strode to the end of the heart ramp and delivered an acoustic version of "Please" dedicated to "wealthy revolutionaries — you know who I'm talking about. Those who think their ideas are more important than people." As the song wound down they added new lyrics: "Please get up

As Bono and the Edge played an extended ending to "One," the firefighters' names were listed — and the list just kept rolling

off your knees. September flying over, buildings charred to the ground, falling to the ground — and he only cares about himself." Please, Bono begged all of us.

He had a message he wanted to deliver and the Providence Civic Center was the place he wanted to declare it. The small, 10,000-seat college hockey arena gave the band a chance to express themselves in a way that they haven't in America for 20 years. The venue was so perfect they played an extra 40 min-

utes and Bono strode out into the crowd. The music, the concert and the celebration culminated with the second encore. The non-Fly, wearing a NYFD shirt, dedicated the song to a firefighter who lost his life. As the first chords of "One" wept from Edge's revamped guitar solo, a screen rose behind the band and listed all the people who lost their lives on the airplanes, all the police officers who died. And finally, as Bono and the Edge played a five-minute, extended, acoustic ending to "One," all the firefighters' names were listed — and the list just kept rolling. With every name that passed before our eyes the crowd grew more hushed. As silence reigned Bono demanded, "Don't forget."

And no one will. The band seemed to lose their relevancy in the '90s when money ruled and an American-isolationist peace prevailed. The band kept singing of the violence in their country so far away. They regained their meaning last night. Finally we understood what the world was feeling — fear. But U2 didn't play to our fears, they played to hope — they played a celebration.

THE 1L EXPERIENCE

■ Section VI is reported to be the most tightly knit group thus far as well as the "hottest" on average.

by David Baharvar

Many non-1Ls seem curious to know whether there is a more familial feeling within the 1L sections now that they are so much smaller than before. As a 1L, of course, I have little to compare the present system to, but certain new developments this year indicate that the answer is yes.

The administration made some mild attempts to promote friendly competition between the seven 1L sections (each of which has roughly 80 students). An outdoor competition between all the sections last Saturday, involving a tug-of-war and various other physical challenges, was poorly attended but seems to have been enjoyable for those who participated. Other than this, the extent of comparison drawn between sections seems to be through offhand remarks by professors, administrators or fellow students. For instance, Dean Clark made a point of joking at a reception for Sections III and IV (all of the sections had a reception with the Dean) that someone in Section IV told him that Section III would rather spend its time "over by the bar" than socializing with the Dean and others. I imagine the Dean made similar attempts to incite rivalry at other receptions. In my section (Section III, the BEST section) we acknowledge anyone's birthday as a group, often by writing "Happy Birthday _____" on the blackboard or singing it to the person. There is an emerging sense of identification within my section at least, and even a "reputation" of sorts for some other sections. For example, Section VI is reported to be the most tightly knit group thus far as well as the "hottest" on average. But, all in all, as 1Ls our own sections are all that we really know about; and we have little to no clue about how life is for any other sections. Most of us, I think, would welcome more events to bring the various sections together. After all, one of the reasons that I'm sure many of us chose to come to HLS over other schools was the opportunity to network with more fellow students than most other schools can offer. We are beginning to wonder: Where are these opportunities?

If anything is going to bring us together more as sections, it will be our shared anxiety over two things: the prospect of exams and job applications. I have not yet seen these worries bloom on a noticeable scale within the 1L population, but the seeds are being sown: Our sections had our first exam preparation group sessions this week, as well as "job search" advising lectures from OCS and OPIA. As far as some of the exam prep sessions, it was great to have 2Ls and 3Ls who had our same professors walking us through the kind of analysis that we'll be expected to do for finals. Many of us feel more comfortable asking them the "stupid," basic questions about what is expected of us. We feel relieved to have some more clue of what exams will be like than students before us did. But these sessions also seem to be raising as many questions as they answer, which makes us a little worried. For instance, most people I talk to are wondering if they've been taking notes the "right" way all semester, or if their notes will really help them at all, come exam time.

More so than a feeling of happy togetherness, people seem to be getting a little tired of the grind — the workload which seems to have gotten heavier, and the fact that, in most classes, 1Ls aren't able quickly to figure out what the professor is looking for, even if they have done all the reading twice over. Most professors seem to have their own "song and dance" of sorts that we have to adapt our thinking and our answers in order to satisfy, and after a while, most of us are getting tired of dealing with unnecessary "quirks" of how they have to state things. Most of us have given up the idea that we will come out of class on any given day with any concrete answers to "what the law is" and have realized that our professors will rarely ask us questions that we can simply answer from looking at our notes. We've accepted that we're going to be stumped much of the time and just plain in the dark some of the time.

One funny thing we can always come together around is that legal lingo has begun to infuse our everyday vocabulary. For example, pick-up basketball games at Hemenway gym may include such utterances as, "Come on, that's hardly a formally realizable rule!" in arguments over fouls; friends at a bar tease each other with lines like "That's battery!" while playing darts at a bar; to offhand remarks like, "I'll call you tonight," one might joke in reply, "Is that a promise?" Would our jokes seem cheesy and annoying to anyone not studying these concepts in depth? Probably.

JOLT and The Berkman Center co-sponsor

Inside Cyberlaw: Advising and defending Internet-related organizations and individuals

Monday, 11/5 at 7:00 p.m., Hauser 104

Often dubbed cyberlawyers, Jeffrey Cunard and Bruce Keller have been representing clients in connection with many of the most significant digital rights issues of the last 15 years. Co-instructors of Harvard Law School's Counsel to the Internet Client seminar, they are leaders in their field who — in addition to representing their clients — help shape the evolution of law in response to technological innovation through litigation, direct involvement in the drafting of legislation and academic publications.

They will discuss the increasingly complex digital rights issues that face their clients and the unique aspects of their practices. Additionally, they will offer advice to those seeking careers in the field.

Coen brothers pull off *film noir* in 'Man Who Wasn't There'

by Ken Walczak

Two years ago, a man named Scott King won a special jury prize at Sundance for "Treasure Island," a movie he wrote, directed and photographed. Ostensibly, the movie was about code-breaking, espionage and West Coast racial prejudice during World War II. More to the point, it was also a painstaking retread of gritty, no-nonsense American filmmaking in black and white.

Unfortunately, "Treasure Island" was not a good movie. Its preoccupation with psychosexual hang-ups and its predilection for withered private parts (of both genders, on display wantonly though not at all erotically) quickly overshadowed anything King had to offer in terms of plot, dialogue or characterization. More crucially, the film's revisionist politics and frontal nudity broke the otherwise charming spell cast by its unique visual approach. King seemed to have succeeded, if at all, only in making his audience feel icky, a trick he could easily have pulled off in color.

Which is where the Coen Brothers come in. Having just recently dragged Homer's *Odyssey* riotously through the mud, and unleashed upon the world of bluegrass music a sensation of force majeure proportions, America's favorite quirkmongers were primed to try something a little more serious. Why not follow a road movie with a film noir?

Enter "The Man Who Wasn't There," lovingly rendered in black and white, though eschewing "Treasure Island's" fake film-aging, and shot in the more modern 1.85:1 aspect ratio. Cinematographer Roger Deakins (*Thirteen Days*, a bevy of other Coen works) takes a far higher road than King, opting for mid-level expressionism over pitch-black psychosis. To this end he



surrounds J. & E. Coen's characters with a splendid array of dark gray tones, plunging them into the inky depths at the corners of his frame only when absolutely necessary. This really shouldn't work — it's a less ambitious tack than King's and one that seems destined to appear halfhearted or wishy-washy — but it does work, and splendidly.

The acting is in a similar vein. Billy Bob Thornton's Ed Crane comes off like Bogart brooding his way through a recast Ministry of Fear. Again, not exactly a recipe for thespian greatness.

Yet Thornton's is a flawless performance, worthy of its description by the Brattle Theatre (or whomever writes their calendar descriptions) as "note-perfect." The Coens' script gives Thornton an eternity of gilded silence to work with, and he uses every moment to his advantage, evoking pathos while maintaining our unflinching respect. It is the kind of per-

formance that is convincing in the best sense of the word. We leave with the distinct impression that Thornton/Crane possesses perfect economy of expression in a word-drunk

The Coens deserve praise for avoiding both nauseating nostalgia and backward-looking critique, two sides of a single, obnoxious coin.

world, and experience none of the bitter aftertaste of Stanislavsky that so often sullies such impressions.

Frances McDormand is again excellent, her off-kilter beauty and quizzical glances evoking menace à la "Blood Simple" (though with less innocence, frankly, which is saying something considering the real existential ambivalence of her character in the earlier film. Maybe

this shows just how far the Coens have advanced as filmmakers; or maybe it's just something inherent in the genre and era they've so successfully evoked this time around). And James Gandolfini plays Tony Soprano playing the Coen type usually represented by John Goodman — in other words, a gregarious thug with no Italian accent, or something very close to what one imagines Gandolfini is like in person.

And there's more. In true '40s fashion, "The Man Who Wasn't There" is presented as a hard-drinking (everyone but Ed), chain-smoking (especially Ed) cavalcade into the abyss. It's clear from the beginning that Ed is doomed; he's too noble for his world. As the strong, silent type in a language-drenched town, his prospects are seriously bleak — think Tyrone Power in "Nightmare Alley," if you've had the pleasure of seeing it.

As an account of one man's life, the film is engrossing,

engaging, humbling. Its storytelling falters only in scope, as many key events seem elbowed hurriedly into the denouement, throwing off the pace and balance of the movie. For similar reasons, the viewer is also asked to grapple with a lot of voice-over, though this is handled pleasantly enough.

Really, though, the most impressive thing about "The Man Who Wasn't There" is its attitude toward the era it recreates. The Coens deserve high praise for avoiding the temptation of both nauseating nostalgia ("American Graffiti") and backward-looking critique ("Treasure Island"), the two sides of a single, obnoxious coin. Neither technique shows any respect for the past. Neither does the present any service, and neither makes for good filmmaking.

Their keen grasp of this truth must be what allows the Coen brothers a leg up on any competition in this specialized field. With the proper reverence for American film at the height of the studio system, they are able to create a picture that succeeds in unlikely ways, a mainstream drama that bears witness as it entertains ... essentially, "Treasure Island" done right.



'Waking Life': Visually interesting, but no masterpiece

■ *The dreamlike visual quality of the film lends a trippy, hypnotic feel to what would otherwise be a painfully slow succession of people rehashing Philosophy 101.*

by Lynn Y. Lee

"Waking Life," Richard Linklater's latest excursion into the dream world of talky philosophizing types, isn't the masterpiece some critics have been calling it. There is, however, reason behind the raves. Part of it is the lack of good movies playing these days; part of it may be that the questions the film deals with are the big ones — life, death, dreaming and reality, individual and collective consciousness — that have gained extra poignancy since September 11. But a big part of it is simply the way this film looks. Shot originally on live-action video and then "colored over" with digital animation by computer artists, this is like no cartoon you've ever seen before. It's at once surreal and hyper-real. Everything ripples and wavers; figures bob up and down slightly, and sometimes levitate; a face looks one moment like a flat construction paper cut-



and-paste, the next like a video-cam recording with the hues wildly altered.

The dreamlike visual quality of the film lends a trippy, hypnotic feel to what would otherwise be a painfully slow succession of people rehashing Philosophy 101 with varying degrees of intelligence and eloquence. As it is, "Waking Life," without being at all long, is still pretty slow. It's vaguely centered in the perspective of a young man of no fixed identity or occupation, who spends the entire movie trying to figure out whether he is awake or dreaming, or even dead. He wanders from person to person, listening attentively to what each has to say about the human condition, and is treated to earnest

and extended monologues (which could stand some more cutting) on, among other things, love, existentialism, determinism and, not surprisingly, cinematic illusion. Some of the speakers are unexpectedly compelling, some ridiculous, others merely tedious. The pithiest punctuates his statement by pouring gasoline on himself and setting himself on fire. The most haunting, as well as final, word comes — surprise, surprise — from the director himself (the animated version, of course) who offers his take on existence over a pinball machine. (Get it?)

In between these random encounters, Linklater intersperses even more random,

disjointed scenes of conversation which don't involve the protagonist but seem to be part of his dream-consciousness. These episodes have more punch than those in which he is visibly but passively listening. A chamber music group breezily tackles a composer's new work in progress (this part is so "real" you can almost see through the CG to the original video); a psychopathic criminal, tinted lurid red, spews out even more lurid threats at the people who have put him behind bars; a sensational shooting story, told to a bartender, abruptly turns into a jarring shootout. Ethan Hawke and Julie Delpy, reprising their roles from Linklater's "Before Sunrise," only this time resembling figures from a Roy Lichtenstein canvas, have a yawner of a conversation about reincarnation. Through it all, the main character, not unlike the hero of "The Matrix," keeps awakening from these sequences only to find himself in what appears to be another dream.

In the end, it's hard to care whether he finally escapes or not, or whether there really is any firm line between waking and sleeping. Dramatic tension is not the driving force behind "Waking Life." Intermittently thought-provoking, often quite funny, it floats — or sleepwalks — from thought to thought and image to image, the images tending to be infinitely more interesting than the thoughts. Occasionally, however, there's real synergy between word and image, and it's these moments that make the movie a visionary experience.

November Concert Calendar

by Jeff Leven

Just when you thought you might dig in and work a little, the beginning of winter brings with it the warmth of buzzing amplifiers, over-packed clubs and an absolute embarrassment of musical riches. Here is some of the best Beantown has to offer in November:

November 8 — Alien Ant Farm (Axis) and Better Than Ezra (Avalon): Treat yourself to some good 'ole pop rock! While it's been a while since "Good" brought them mass airplay, Better Than Ezra has kept on keeping on, making great records without all the old hype. If your pop tastes are a little crunchier, opt for Alien Ant Farm, whose punchy, kinetic take on Michael Jackson's "Smooth Criminal" has been dominating the airwaves of late.

November 9 — Social Distortion (Axis): While a geriatric Iggy Pop is playing across town at the Avalon tonight, those seeking a true punk experience would do well to check out the rebirth of Mike Ness and Social Distortion. Having come to terms with a grim legacy of addiction and the death of Dennis Dannel, Social D is back to push their brand of rootsy, honest, ripping punk rock. They play the Paradise on the 10th and 11th, as well, but best to catch them in the smaller venue of the Axis if possible.

November 11 — Rahzel (Middle East): In the midst of all the shameless bling-bling and P. Diddy absurdity, the Roots are some of hip hop's true messengers, due in no small part to the talents of Rahzel, whose solo work carries on in the same creatively soulful vein.

November 13 — Taj Mahal (Roxy): Blues, folk, calypso, country, jazz — he's played it all. A musical encyclopedia for the ages, Taj has been there, done that, and only gotten better for it.

November 14 — Cake (Orpheum): One of California's coolest musical exports, Cake mixes scratchy guitars, dead-pan vocals and the odd trumpet (or, in the case of "The Distance," toy whistle) to create the ultimate slacker-lounge-garage extravaganza. Witty covers, tasteful sarcasm and an enduring sense of vibe round out the package. Hip, hot and just so much fun.

November 17 — Jack Johnson (Paradise Rock Club): If you like the college acoustica of Dave Matthews or Ben Harper or the wit and angularity of Elliot Smith, you will absolutely love Jack Johnson. One of Hawaii's best-kept musical secrets, Jack Johnson could well be the find of the year. His debut album *Brushfire Fairytales* is, quite simply, a masterpiece of smooth songwriting, impeccable guitar and Sunday afternoon tranquility.

November 18 — Pernice Brothers (Paradise Rock Club): Also on the list of bands-you've-never-heard-of that I can't stress enough are the Pernice Brothers. Having graduated from the earlier alt. country of the Scud Mountain Boys, Boston's Pernices have become modern music's foremost purveyors of lush, note-perfect, gorgeous power-pop. Their most recent album, *The World Won't End*, is, quite simply, a revelation — all love and jangly guitars, tinged with just a touch of morbid humor that might

'Contemplating suicide or a graduate degree ...' sings Joe Pernice on 'Working Girls.' Hmm ...

unsettle the would-be law student. "Contemplating suicide or a graduate degree ..." sings Joe Pernice on "Working Girls," a song about an overworked office temp. Hmm ...

November 20 — Psychedelic Furs, Echo and the Bunnymen (Avalon) or Queensryche (Orpheum): Another tough toss-up. On the one hand you have the Furs, who realized that the advent of the synthesizer need



Bob Dylan will play the Fleet Center on November 24.

not kill the guitar as we know it in the 80s when that was still very much in question. On the other hand you have Queensryche, who transcended hair metal and kept prog rock alive when that was still very much in question. The Furs wrote "Heartbreak Beat," which was absolutely sublime. Queensryche's "Silent Lucidity" isn't bad either. Perhaps Echo and the Bunnymen, titans in their own right, could be the tie-breaker?

November 24 — Bob Dylan (Fleet Center): Need I explain? And, for the record (no pun intended), even these days his live show, featuring one of his best touring bands since the Hawks, has the potential to overwhelm the most jaded Bob-o-phile. Just go and give yourself a little something extra to be thankful for.

November 30 — Dixie Dregs (Paradise Rock Club): More than just a vehicle for uber-guitarist Steve Morse, the Dregs are an overwhelming example of the proposition that jazz and Southern rock need not be polar opposites. Oh, and while we're at it, Steve Morse is amazing.



Alien Ant Farm plays Axis on November 8.

Letters from Berkeley

ALLISON MARGOLIN

■ Harvard humbled me and at the same time made me realize that life has much more to offer than getting straight As.

I never took off a weekend from studying in college. Not one weekend! I didn't need to find fun on the weekends because I could see no alternative where the enjoyment of the activity would outweigh my stress over not doing work. If there was a night that I did not do work, it was only because I had just taken an exam or turned in a paper.

Ironically, that way of life changed in law school. It wasn't until this past week when I realized the extent of that change, and paradoxically, the extent to which my old habit and anxieties are still a part of me.

During fly-back week, I traveled to South Carolina to see Steve, my boyfriend. Steve learned he would have to undergo a relatively minor surgery on the day I was supposed to arrive. I was happy that I could be there for him, figuring he would be fine by Tuesday, the day I was scheduled to come back to Berkeley.

By the time Tuesday morning rolled around, I was sad to leave but excited to get back to school. However, Steve had some complications from his surgery and had hinted that he wanted me to stay longer. At first, I thought he was kidding.

Realizing he was serious and fearing he might be upset if I left, I decided I could stay at least a one-day longer. No problem, right? I knew I could do my work in Columbia and be just as productive as I would have been in class.

I went back to sleep for a few hours only to wake up in a panic. I had work to do. Even though I had brought my books with me, the idea of missing class irked me. But despite my obsessing, I spent the next two days thinking that if I left, I would regret going back more than I would staying there.

And then it hit me. All of a sudden, I realized that going to class did not mean what it once did to me. I think the reason why school isn't important to me now stems from my first year at Harvard when I was rudely awakened to the "harsh" reality of the Harvard grading system. Yet the aftermath of learning to deal with life as an "average" person has helped put my life in perspective. Had I been here at Boalt, for instance, I wouldn't have had to deal with the Harvard reality of Bs and B-s as Boalt has a four-tier grading system, in which students receive variations of passing, and 60 percent of students get a plain Pass. Harvard humbled me and at the same time made me realize that life has much more to offer than getting straight As.

By Thursday morning, I had finally decided to chill out and let go. I realized that by staying, I was letting go of what is perhaps my most consistent yet irrational attachment. As important as school and work is to me, I now realize they are not everything. Neither my books nor my classes could console me if I had my own surgery to deal with, for instance. I am embarrassed to admit it took me so long to rearrange my priorities, but I guess that's what happens when we are under the misconception that life can be lived for a letter grade.

By the end of the trip, I was sad to leave. I had not completely escaped my obsessing or worrying, but it had subsided considerably. I have come to view this latest experience as a challenge, another psychological conquest over myself. At the heart of my resistance to staying with Steve was my desire to always have to know exactly what was going on in class. Yet now I know I've come to value things that are more important to me than school; paradoxically, Harvard Law School helped me reach this conclusion.

I am happy to say that in the end, I stopped weighing Steve's need for my presence with the benefits I would have received from going to class, and I just trusted that I was doing the right thing. He wanted me there, whether or not I could really understand why.

I guess that's my next obstacle — learning to appreciate the things in life that can't be articulated in words. It's an especially hard task to do considering our value as lawyers is so caught up in our ability to articulate what others can not do themselves. I guess that's one of the lessons I've learned in the past few weeks. Needs and desires exist even if they can't be spoken or written. The challenge is to let go of that which makes us valuable commodities, to let go of thinking like a lawyer when not in our roles. Having personally been raised by two lawyers, that's going to be formidable, but I'm looking forward to it.

Venues

Avalon, 262-2424, 15 Lansdowne St.

Axis, 262-2437, 13 Lansdowne St.

Fleet Center, 624-1050, 1 Fleet Ctr.

Harper's Ferry, 254-9743, 158 Brighton Ave.

Karma Club, 421-9595, 9 Lansdowne St.

Middle East, 497-0576, 472 Mass Ave., Central Square

Orpheum Theatre, 679-0810, 1 Hamilton Place

Paradise Rock Club, 562-8800, 969 Commonwealth Ave.

Roxy, 338-7699, 279 Tremont St.

Somerville Theater, 625-5700, 55 Davis Square

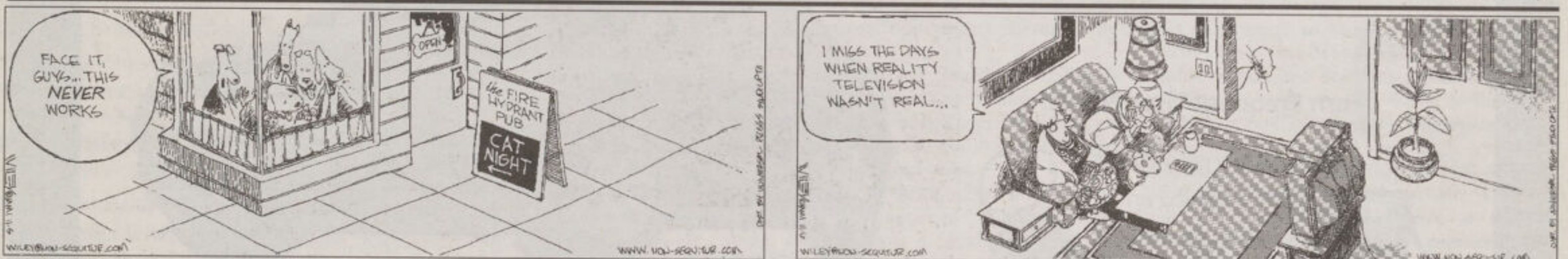
Doonesbury

by Garry Trudeau



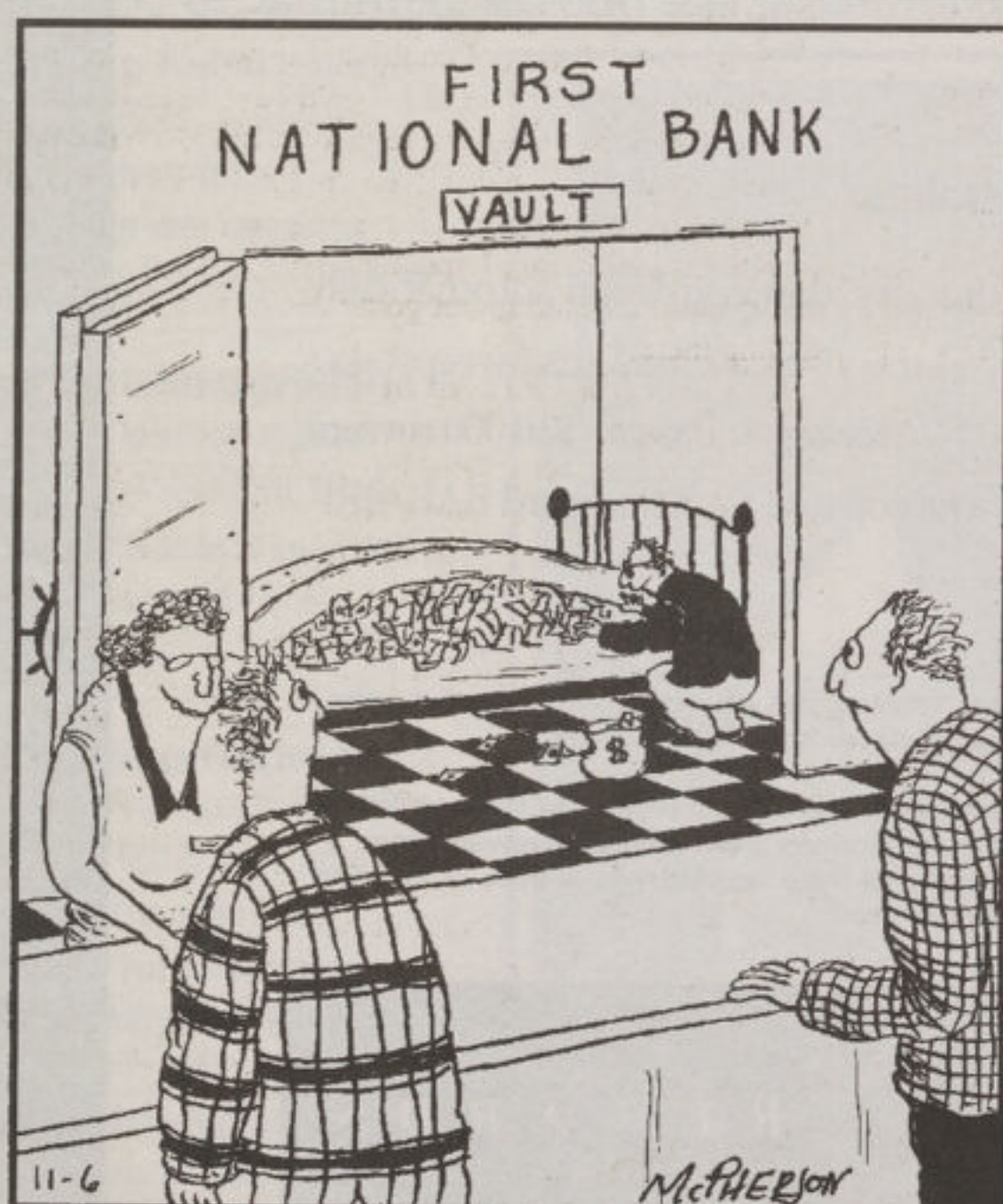
Non Sequitur

by Wiley



Close to Home

by John McPherson



Crossword 101

By Ed Canty

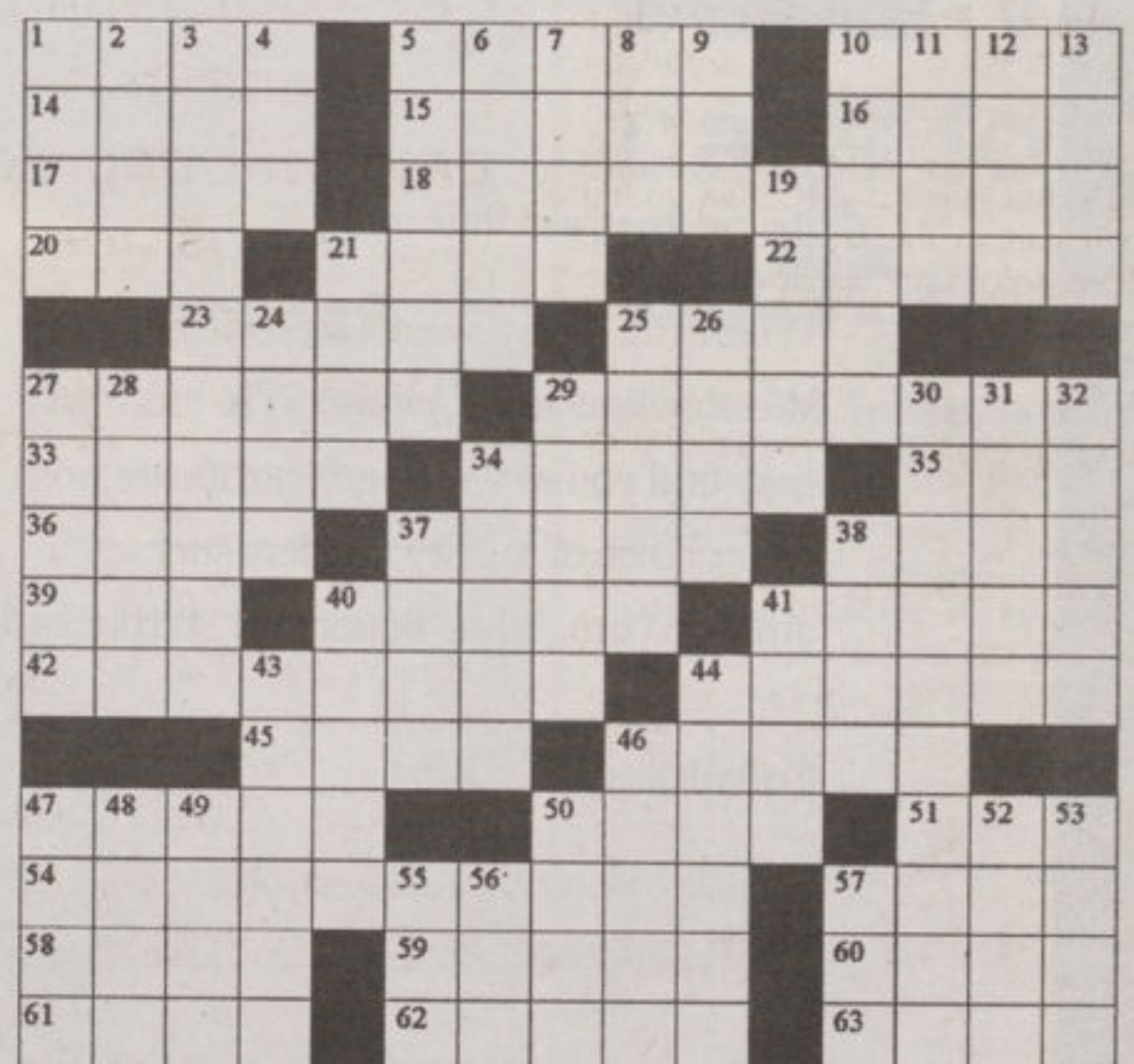
"Seeing Red"

ACROSS

- 1 Steak order
- 5 Kenton & Musial
- 10 Precedes room
- 14 Jeopardy's Trebek
- 15 Placido Domingo, e.g.
- 16 Buffalo's lake
- 17 Covers with grass
- 18 Place to sleep
- 20 Pill or talk
- 21 ATM nmbrs.
- 22 Peculiar people (with odd)
- 23 Good Gosh!
- 25 Observes
- 27 Lassie, for one
- 29 Traded goods
- 33 Surrender cry
- 34 Asian fruits
- 35 Mr. Whitney
- 36 Work hard
- 37 Compare
- 38 Insures bank depositors
- 39 Building wing
- 40 Disappeared gradually
- 41 Authored a paper
- 42 Replies
- 44 A stimulating drink
- 45 Computer command
- 46 Sen. Lott
- 47 Declaration of faith
- 50 Unkind
- 51 Paddle
- 54 Comedian
- 57 Can do
- 58 October birthstone
- 59 French city
- 60 Anglers tool
- 61 Italian lake
- 62 Reverence to God
- 63 Card

DOWN

- 1 Coarse file
- 2 Cosmetic ingredient
- 3 Editors' tools
- 4 Former partners



- 5 Pace
- 6 H. S. students, e.g.
- 7 & &
- 8 Neither relative
- 9 Angel's happy sign
- 10 Garbage
- 11 Mr. Clapton
- 12 Kitchen convenience
- 13 Wallet stuffers
- 19 "Waiting for Lefty" playwright
- 21 Window part
- 24 Fish respiratory organ
- 25 Cut the two by four
- 26 Emerald Isle
- 27 More appealing
- 28 American chameleon
- 29 Treks, e.g.
- 30 Clancy's ship
- 31 Chosen few
- 32 Chopper
- 34 Pal: slang
- 37 Terra firma

- 38 NFL's Tarkenton
- 40 Hot cheese dish
- 41 Songbird
- 43 Adobe dweller
- 44 Trumpets and saxes, e.g.
- 46 Doctrine
- 47 Alligator
- 48 Take back
- 49 Dutch treat
- 50 Lawn pest
- 52 Away from the wind
- 53 Count on
- 55 Pub need
- 56 Numerical prefix
- 57 Garfunkel, for one

Quotable Quote

"Common looking people are the best in the world: that is the reason the Lord made so many of them."

... Abraham Lincoln

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For this week's solution please, see p. 8

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