



They'd rather row than wade: The Law School sent both a men's and women's team to the Head of the Charles Sunday.

Students Counter Society's Position on Abortion Rebate

By Greg Stohr

The Society for Law, Life, and Religion's promotion of a University Health Services policy of providing a rebate to students opposed to abortion funding has drawn fire from another group of students.

The second group — led by Cindy Chandler '95, Catherine Caporusso '95, and Kim Christensen '95 — is calling for either rescission of the policy or a rebate of the portion of their tuition that funds the anti-abortion student organization.

The three SLs say they object to contributing to the "death and suffering" of women by helping to fund a group that is working to restrict legal abortion. They compare their moral opposition to "femicide" to SLLR's moral objection to abortion funding.

"We don't have a great expectation that the administration is going to give us the money back," Caporusso said. "We just wanted

to make the point that the University should be fair to students who are similarly situated."

As of Wednesday, the three students say they have received more than 100 favorable responses — about half from men — to a flyer they stuffed in Hark boxes early this week. The flyer asks students to demand either a partial tuition rebate or the elimination of the rebate option.

The students say they were using the flyer to gauge student views, and they now plan to circulate a petition and approach Dean of Students Suzanne Richardson with their concerns.

The effort comes two weeks after SLLR stuffed Hark boxes with flyers encouraging students to take advantage of the Health Services rebate policy.

Vernadette Ramirez '95, litigation projects director for SLLR, objected to the suggestion that the organization was not con-

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Controversial Speakers Address HLS Audiences

MacKinnon: Rape in Ethnic Conflict Akin to Genocide

By Frank Morrow

Catharine MacKinnon told a crowd of more than 300 people last Friday that rape can be genocide.

MacKinnon, a law professor at the University of Michigan Law School, spoke in Langdell North Middle at the invitation of Prof. Charles Ogletree '78, director of Saturday School.

She compared the Holocaust to the conflict in Bosnia-Herzegovina. Both tragedies were genocides, or the destruction of a people because of their ethnicity and religion, she said.

MacKinnon said the startling difference between Nazi Germany and Bosnia is the reported instances of rape. Few cases of rape were reported at the Nuremberg trials, the current model for the legal vindication of human rights, she said.

In Bosnia, however, "crimes to the humanity of women are as up front as crimes against humanity," MacKinnon said. "They may even be seen as crimes against a people, as genocide."

Current notions of genocide exclude women, MacKinnon said. "Women are a people," she said. "The law of genocide doesn't understand this at all."

MacKinnon criticized the historic definition of genocide for excluding rape.

"If they're gender attacks, they're not ethnic. If they're ethnic attacks, they're not gender," she said. "One cancels out the other."

please see **MacKINNON**, page 2

Discussion of Racial Bias Implicates HLS

By April L. Rockstead

Pointing to the lack of diversity on the faculty as an example of widespread race- and gender-based exclusion, a Saturday School participant said the societal ills discussed by another speaker are evident at the Law School.

Georgetown University Law Prof. Mari Matsuda leveled some pointed questions during brief remarks that followed a talk given by her colleague and husband, Georgetown University Law Prof. Charles Lawrence, before an audience of about 50 people in Pound Hall Saturday.

"Why is it that people like Professor [Catharine] MacKinnon and Professor Lawrence are invited to visit, invited to lecture, but not invited onto the [HLS] permanent faculty? I think there's a message there," she said.

"Why is it that [HLS] can have an integrated student body, but not an integrated faculty? What is the message there — the message about who belongs in the front of the room, who should be listening and taking notes?"

Matsuda's comments built on Lawrence's lecture, which combined anecdotes and analysis to illustrate his theory about a pernicious and pervasive "color blindness" phenomenon that at once allows society to perpetuate and deny racism.

The "color-blind" principle was first articulated by Justice Harlan in his dissent in *Plessy v. Ferguson* and later became the

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Nader Tells Students to Pursue Justice

By Victoria Kuohung

As they interview for corporate jobs, most law students aren't thinking about how the United States ranks 18th highest in infant mortality rates, or how American joint ventures dumped 100,000 tons of mine tailings daily to kill 200 miles of river in New Guinea.

And as they fly out for call-backs, neither are students thinking about how 3 million people will die from smoking-related causes by the year 2000, or how the United States stands first in the world in the increase in the number of prisoners per capita.

But, says Ralph Nader '58, that's exactly what students should be thinking about.

Hosted by the Harvard Law School Forum, Nader — whom *Time Magazine* has called the "U.S.'s toughest customer" — spoke last Friday to an audience of more than 200 people, urging them to investigate public interest jobs as a way of halting the "physical, political, and economic deterioration of our society" while also "practic[ing] law so as to let their conscience work."

Nader asserted that many graduates take corporate jobs because law school "narrows the range of their horizons" by instilling a "pragmatic cultural cynicism" through its approach of teaching subjects as a reflection of the job market. He recalled his own HLS experience as "uninspiring, much like today . . . very bizarre and very cold." HLS was, he said, "an

please see **NADER**, page 2

Disclosure to Judge Ito was Adequate, Prof. Nesson Says

By Greg Stohr

In his memo to Judge Lance Ito about camera coverage of O.J. Simpson trial, Prof. Charles Nesson '63 did not specifically disclose that until last year Nesson was receiving royalty payments from Court TV or that Nesson had asked the network to buy 150 laptop computers for the Law School.

But Nesson said his disclosure about his relationship with Court TV President Steven Brill was adequate, and Prof. David Shapiro '57, who advised Nesson on ethical considerations in the matter, said that "on the facts as I understand them, I don't see any impropriety."

"I don't even think there's

an appearance [of impropriety] here," said Nesson, who openly discussed his relationship with Court TV in a RECORD interview this week.

The California Code of Judicial Conduct generally forbids judges from considering communications made outside the presence of the parties but makes an exception for legal advice from a "disinterested expert."

In his memo, Nesson wrote, "I have been exploring with Steven Brill the possibility of providing educational integrated media from and for the shared benefit of Harvard Law

School." He made no other disclosure concerning Court TV.

Court TV is considered a party to the question of whether

Ito will permit cameras in the courtroom during the Simpson trial. A hearing on the issue is scheduled for November 7.

Nesson estimated he had received a total of about \$6,000 in royalty payments from Court TV over several years for appearing on a series of educational videos. He said he received the final payments in the summer of 1993.

please see **ITO**, page 3



Charles Nesson

Master Keys Being Returned to RAs

By David Weiss

Responding to safety concerns and to student complaints about long waits for assistance during lock-outs, the HLS Dormitory Operations Office has decided to return master keys to resident advisors in the Gropius Complex.

"There were enough people in favor of it, and it seems to make sense, and I was not going to stand in the way," said Frank Lamentea, director of building operations, who said the recommendation to return the master keys came from the Dean of Students Office.

The master keys were tak-

en away from RAs in September after a backpack containing a set of master keys was stolen from an RA in Harvard Square. Since then, Gropius residents who have been locked out of their rooms after business hours have had to call campus security and wait for Law School guards to arrive and let them into their rooms. Some students have reported waiting over a half hour for assistance after a lock-out.

The extended wait, according to Lamentea, was due to the fact that the guards often had to attend to other official matters first. "There is always some wait, but not too long," said Lamentea.

please see **KEYS**, page 3

Law Professors Debate Barry's Fitness for Mayor

By April Rockstead

A debate between two Law School professors about whether former Washington, D.C., Mayor Marion Barry should be restored to that post in next month's elections yielded little common ground, but it did give the approximately 75 students who watched in Austin Hall Tuesday night a chance to interact with the professors in a relatively informal setting.

Prof. Randall Kennedy, who spoke first in the debate, consistently maintained that Barry is unfit morally and as a public servant to hold the position, sometimes interrupting Prof. Charles Ogletree '78, who dis-



Randall Kennedy

agreed.

"For this person to be elected mayor in any city — much less the District of Columbia — is an outrage," Kennedy said, pointing to accounts of Barry's problems with women and his use of crack cocaine.

But Ogletree said Kennedy gave an "unflattering" and "largely inaccurate" portrayal of Barry's record.

"He certainly is not a bad mayor compared to any other mayor nationally, in terms of what he's been able to do for the residents of the District of Columbia," Ogletree said.

Although Ogletree said Barry's drug use was a problem, he indicated that he did not think past indiscretions necessarily disqualify Barry from serving as may-

or if the people support him.

"Is [the drug use] acceptable? No, it's pathetic," Ogletree said. "But he is no different from a long line of other people who have been elected to office."

While Ogletree pointed to the support Washington, D.C., residents have shown for Barry to buttress his argument, Kennedy repeatedly said the issue was irrelevant.

"I wouldn't care if Marion Barry swept 100 percent of the vote," Kennedy said. "What does that have to do with the normative issue?"

Kennedy said he would vote for Barry's opponent, Republican candidate Carol Schwartz, over Barry, despite his normally "left-liberal" politics, not only because of Barry's moral failings,

but because he has taken credit for fits he never delivered to D.C. residents.

However, Kennedy said he would vote for U.S. Senator Ted Kennedy, though the senator also has a somewhat checkered past.

"As bad a record as Kennedy has with respect to certain things, I don't think he has violated the trust in the same way as Barry," Kennedy said.

Ogletree said he would vote for both Barry and Kennedy as the best of alternatives.

The debate was first in a series, with ongoing installments expected to feature the same professors debating issues such as criminal laws that disproportionately affect African-Americans.



Charles Ogletree

200 Attend Nader Speech

continued from NADER, page 1

island of indifference and isolated from Cambridge and Boston."

Because people are not taught to see themselves in their civic roles as taxpayers, voters, shareholders, and consumers in a political economy, "law students don't have a high enough estimation of [their potential effect on society] and by and large, opt for lucrative cul-de-sacs, sinecures, and careers," said Nader. He cited surveys by American Lawyer and the National Law Journal that found the majority of corporate attorneys unexcited by their work.

"As the top one percent [of law students], you have a moral imperative on your back to increase your aspirations," he said. "Thinking about public interest law now is to engage in true foresight and planning, and to increase the estimate of your impact."

"You are living in a society and world where you are not running out of injustice. There has never been a time with more threats to the ecology of the world, or a greater sapping of human potential," said Nader. At the same time, he said, "there's never been a time that you've had the tools to turn it around."

The real intellectual challenge,

Nader said, lies with public interest law groups that "grapple with the great social issues of the day."

"There are only 300 to 500 full-time public interest lawyers in organizations like the NAACP Legal Defense Fund and the Sierra Club Legal Defense Fund. But just look at what they've done in the past few years," said Nader, pointing to nuclear industry regulations and the installation of airbags in cars.



Ralph Nader

"If that is the first generation, what do you think [is] the impact second and third generations of public interest lawyers can have?"

"What are you looking for in life?" he asked. "The greatest happiness is the ability to pursue justice and achieve it. It keeps down your Valium prescription."

Since his 1965 book "Unsafe at Any Speed," which exposed how the auto industry ignored consumer safety, Nader has built a network of citizen watchdog groups including the Center for Study of Responsive Law, the Aviation Consumer Action Project, the Center for Auto Safety, the Clean Water Action Project, the Freedom of Information Clearinghouse, the National Insurance Consumer Organization, and Public Citizen.

MacKinnon: Rape Can Be a Form of Genocide

continued from MacKINNON, page 1

Serbian soldiers have been under orders to take Muslim and Croatian women to so-called "rape death camps," in open fields and abandoned schools and factories, where they systematically rape and kill their victims, sometimes to ugly nationalistic chants, MacKinnon said.

In addition, she said there is a "passive respect" for the Bosnian Serbs, whose systematic raping of women is a common "nation-building strategy."

"How do you build a nation?" MacKinnon asked. "You rape women."

Invoking the Holocaust, MacKinnon questioned the resolve of the world community to stop the conflict in Bosnia.



Catharine MacKinnon

"If the world had really known [about Nazi Germany], would it have been allowed to go on?" she asked. "This genocide goes on as the world watches."

After her speech, one listener questioned MacKinnon's definition of genocide, which does not necessarily include killing. The listener asked whether the forced relocation of a people from one country to another, without killing, is genocide.

"I don't deal with hypotheticals," MacKinnon responded.

MacKinnon is the author of the controversial book "Only Words." Last year, she failed to receive the two-thirds faculty vote needed for a grant of tenure at HLS.

Nader Touts Public Interest Law Centers

By Victoria Kuohung

Ralph Nader's 35th reunion of his 1958 HLS class was more than just a day of bleary hugs, toasts and remembrances. Like at his 35th reunion of his 1955 Princeton class, where he launched the Princeton Project for public service internships, Nader was back in the halls of Langdell promoting an idea for civic service.

His plea for classmates to take up the public interest cause as well as take out their checkbooks led to last February's establishment of the Applesseed Foundation, an organization dedicated to founding Centers for Law in the Public Interest nationwide.

"The goal of the Applesseed

Foundation is not traditional legal services," said Nader at his speech Friday. "It is to hire young lawyers to develop systemic approaches to systemic problems."

Opened this past summer, the profit Massachusetts Applesseed Center is the first such office and is based at the Law School's Hale and Dorr Services Center building in Plain. With its first priorities being consumer protection, corporate accountability, family law, and education, Applesseed Center will work closely with the HLS Criminal Justice Institute as well as other clinical courses.

Offices in Washington, D.C., and New Jersey are scheduled to open next year.

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"Sweeney Todd" Coming to a Barbershop Near You

The HLS Drama Society, in its second fall production, will stage Stephen Sondheim's bloodcurdling musical "Sweeney Todd: The Demon Barber of Fleet Street" — just in time for the Halloween season.

Sweeney Todd (played by Onnig Balagalian '95) is banished to Australia on trumped-up charges by Judge Turpin (played by Andrew Linderich '95), who wants to steal away Sweeney's wife. Sweeney escapes from Australia and returns to London, where he learns that his wife has poisoned herself and his daughter Johanna (played by Victoria Weinstein '96) has been taken in as a victim by Judge Turpin.

Soon after his return, Sweeney escapes into his neighbor Mrs. Lovett's room above Mrs. Lovett's meat pie shop. Plotting his revenge against Judge Turpin, Sweeney slips closer into insanity and kills various people who come to him for a shave. Inspired, Mrs. Lovett bakes the bodies into her new-and-improved meat pies.

The musical also features Brandon Baer '97 as Tobias, Mark Fleming '97 as Anthony, and Susan Nolan '95 as the Beggar Woman. A string, brass, and woodwind orchestra will accompany the players.

The production, directed by Julie Cromer '96 and produced by Dan Fiore '95, will be held at 8 p.m. from Thursday, November 10 to Saturday, November 12 in Pound Hall's Ropes-Gray Room. Tickets are currently on sale in the Hark.

Would you get a trim from this man? Sweeney Todd gives a "close shave" to one of his victims.



RECORD Photo: Gene Rhough
Would you get a trim from this man? Sweeney Todd gives a "close shave" to one of his victims.

Nesson: Disclosure Adequate

continued from ITO, page 1

Nesson would not exclude the possibility that he would receive future payments from Court TV for other projects in the future.

Nesson said that "something that happened back when my hair was brown and anything that currently has any lasting effect either in fact or appearance."

"We're not talking big money," he said. "If I had gotten paid by the hour, I would have been a hell of a lot more than that."

Nesson said Brill recently rejected a request for laptops. Previously, however, Court TV made a \$10,000 grant to the Law School to cover computer costs for Nesson's Evidence class last winter.

Even with disclosure, says Northwestern Law Prof. Steven Lubet, a leading scholar on judicial ethics, the literal language of the rule creates an issue for a person with an interest in the case.

The "hyper-strict" language of the code seems to preclude any outside communications with interested persons, unless the parties consent prior to the receipt of the expert's report, he said.

According to Lubet, the Alaska Commission on Judicial Conduct, the only body that has interpreted a similar code, has interpreted the provision to require that a person have no connection with a party or participant in the suit.

"It doesn't say 'disinterested unless the interest is disclosed,'" Lubet said. "Disclosure [after the fact] doesn't cure it."

"A technical reading of the rule would caution an earlier disclosure," he said.

Nonetheless, Lubet said, full disclosure at the time of the expert's report protects against any actual prejudice or impropriety. "It is likely more a matter of form than substance," he said.

"There's certainly no suggestion of actual impropriety [here]," Lubet added.

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RAs Getting Back Master Keys to Dorms

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"The guards tried to get there as fast as they could."

Residents' safety was the other motivating factor behind the change in policy, according to Dean of Students Suzanne Richardson. She said some students were making duplicate copies of their keys and giving them to friends to protect against locking themselves out.

"We do not want people to make duplicate copies of their keys," she said. "It's not a safe practice."

Richardson indicated she was also concerned that if RA's did not have master keys and a student was seriously ill in his room, time would be wasted in waiting for a guard to arrive to let people into the room to help the student.

Students have also complained about the rudeness of the phone attendants at the Harvard University Police, according to RA Michael Bennett '96.

Campus security will still have master keys and will continue to respond to lock-out calls in cases where an RA is not available, according to Lamentea. He also said that during business hours, locked-out students can get assistance from the dormitory mail service, which has copies of master keys.

The Dormitory Operations Office plans to look into other security measures for the dorms, like encoded cards and combination locks, to replace the existing key system, Lamentea said.

"We haven't looked at (other options) seriously for a couple of years, and it is time to look at them again," he said.

Lamentea expects a decision will be made by the end of the school year, with any necessary changes being made during the summer of 1995.



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BRIEFS



Council Probes Registration Complaints

The Registrar's Office will "look into" informal student complaints about mix-ups during registration that resulted in some students having time-conflicting courses on their schedules, according to John Bates '95, chair of the Law School Council's Academic Affairs Committee.

"They don't believe that the problem was very extensive," Bates said, but he added that the Registrar's Office was "very helpful" in conversations about the issue.

The problem was particularly acute for 3Ls, he said, some of whom were stuck with time conflicts between their first-choice courses and required professional responsibility classes. Since the professional responsibility classes all filled up, the students had no choice but to drop their first-choice classes, he said.

Another category of student complaints involved the question of whether 3Ls should receive priority over 2Ls on seminar wait lists. Currently, 2Ls are "bumped" in favor of 3Ls when the computer program initially admits students into seminars; but once bumped, the 2Ls retain priority on the wait lists over 3Ls who were not admitted. Therefore, some 3Ls who list seminar courses first on their registration forms may wind up with a lower wait-list number than some 2Ls.

According to Bates, the council negotiated with the Registrar's Office to make sure the computer program would not subordinate 2Ls to 3Ls on seminar wait lists as compensation for giving 3Ls priority in the initial draw for the courses.

"The argument that's being made now is maybe 3Ls should also have priority on the wait list," Bates said.

Sale Leaves Backlog of Books, Money

The Law School Council is sitting on somewhere between \$2,000 to \$4,000 of book sale proceeds that students simply have not claimed, according to Spencer Levy '95, who organized the sale this semester.

However, the council will not declare that students who have not picked up, their money will forfeit it, he said, thanks to a small claims court decision last spring that ordered the council to pay a student for books she never picked up despite Adviser notices that had warned students to retrieve their books or cede ownership to the council.

"Apparently, the court didn't buy that argument, and I'm not going to make it," Levy said.

In addition to the cash and checks the council is holding for students and graduates, the council is also in possession of many out-of-date books that will have to be either redistributed or donated, depending on individual student wishes.

Levy said the council would be contacting students to determine individual preferences for handling the books after he and a team of assistants sort through the books to determine which ones belong to whom.

The council will "use every notice provision in its power" to reach students, Levy said, since sheets previously distributed to Hark boxes that allowed students to inform the council of their preference for disposing of the books were "mixed up" in the frenzy of the book sale.

Paula Garvin's Bike Woes Over

The interviewing season doesn't just take a toll on students; it takes a toll on bikes, too — specifically, on Office of Career Services Administrative Assistant Paula Garvin's bikes.

Twice in the last month Garvin's bikes were stolen from the HLS campus, and several students decided to do something about it. Janet Viggiani '96 teamed up with Katrina Campbell '96 to stuff 2L and 3L Hark boxes with a plea for donations to buy Garvin a new bike. "So many people came up to us and said, 'Paula is great — we really appreciate her and we want to do something to help,'" said Viggiani.

Although Garvin has already bought yet another bike, students were planning to give their donations to her Thursday to cover the cost of replacing the stolen bikes. As of publication, the bike-fund organizers did not have an exact figure of how much was collected.

Crime Hits HLS

A VCR that was locked in a cabinet in the Back Bench Pub of the Hark was stolen on Tuesday, October 18. It was valued at \$274.

A camcorder left in an unlocked office was stolen on Friday, October 21. It was valued at \$900.

HLS to Host Haitian Conference

Harvard Immigration and Refugee Program, HAITIwomen, Oxfam America, and several Haiti support groups will host a conference on post-Cedras Haiti Saturday at Pound Hall.

"This gathering is an early and important response of Haitian women to the return of President Aristide and the responsibility they accept for Haiti," said former Haitian Ambassador to the United States Dessima Williams.

"Ending Violence in Haiti: Towards Democratic Recovery" will feature a dozen prominent Haitian women who are traveling from Haiti to Boston to participate. Speakers include Dr. Suzy Castor, a leading sociologist and co-director of a Haitian research institute; Dr. Myrtho Celestin, who served as President Aristide's director of the Ministry of Education in 1991; Dr. Marie Andrine Constant, Haitian vice-consul and a physician who worked with Haitian women's rights groups; and Haiti Democratic Resistance member Myrtha Dupoux.

Citizenship Can't Be Taken for Granted, Yale Professor Says

By Justin K. Weiss

Most Americans rarely ponder their status as citizens. But as Yale history professor Nancy F. Cott asserts, citizenship — especially for women and people of color — could hardly be taken for granted for much of this country's history.

Cott, who was a liberal arts fellow in law at HLS last year, gave the 1994 John Dewey Lecture in the Philosophy of Law this past Monday to an audience of about 60.

Cott drew laughter when she quoted a congressman's defense of gender-biased legislation passed well after women won the right to vote: "The man has always had his right of citizenship. The man has dominated the thing from the beginning."

True citizenship, Cott said, includes the notion of "capacity" to participate in the political life of one's country, to better one's status in society, and to acquire possessions. She contended that women were denied this "capacity" well into the

20th century and were instead seen as a special type of property male citizens could acquire.

To illustrate what she called the "cursive gendering" of citizenship, Cott described past laws which granted citizenship to foreign wives of Americans but not to foreign husbands of American women. Foreign wives, however, still had to be white to become citizens, said Cott.

Cott contended that by extending citizenship only to certain marriages, the laws were designed to ensure future generations of "true" Americans would continue to be racially homogeneous. As gender-based laws, she said, were for "sculpting the body politic."

Cott had worked with Catherine MacKinnon, now a University of Michigan law professor, to establish women's studies department at Yale in the late 1970s.

"I'm glad we got to hear one of the original crafters of the field of women's history," said Prof. Martha Minow, who graduated from Yale Law School in 1974 but who had not met Cott before.

Students Respond to Abortion Rebate Option

continued from ABORTION, page 1

cerned about the well-being of pregnant women.

"That could not be further from the truth," she said. "We feel like what we do, ideologically and practically, is in the best interests of women. We feel that abortions hurt both mother and child."

Ramirez was among a group of five SLLR women who submitted a letter to the editor to the RECORD this week. The letter appears in its entirety on page six.

Chandler said the three women are not trying to prevent SLLR from advocating its views on abortion. Even if the Law School were to agree to a partial rebate, Chandler said, she expects SLLR would continue to receive full funding from the Law School.

"We didn't do this to say that they had no right to put a flyer out," she said. "We think they have a right to speak. We think they have a right to organize."

"We're not advocating that the society get less money," Chandler added. "We expect that if they're treated similarly to the whole abortion situation, they will con-

tinue to get their money.

"If I thought that they wouldn't continue to get their funds, then I wouldn't endorse this."

Chandler also said the timing of the effort — less than two weeks after the flyer was distributed — did not reflect an attempt to suppress speech rights. SLLR distributed the flyer, she said, three women who had not been on the organization's list.

The three women have received a handful of responses, and have primarily been from fellow abortion rights advocates questioning the tactics.

"It's been quite positive," Caporusso said. "I expected to get a lot more negative comments than we have. We were sort of prepared to be bombarded."

Although the three students say their ultimate goal is to end the rebate, they say they are satisfied to have highlighted the moral nature of access to abortion services.

"It's totally a matter of principle," Christensen said.

"If I thought that they wouldn't continue to get their funds, then I wouldn't endorse this," said Chandler.

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HEAVY ROTATION

My Name Is Lucifer, Please Take My Hand

By Jeff Bucholtz '95

Music Editor



"Sabbath was everything that the 60s weren't. Their music was so cool because it was completely anti-hippie. I hated the Beatles, Jethro Tull, Love, and all that other happy shit."

—James Hetfield, Metallica singer/guitarist

THE 1994 version of Black Sabbath doesn't deserve the name — the spectacle of the original heavy metal band recording a ballad called "Dying for Love" is such an atrocity that it defies words. But thanks to a new tribute compilation called *Nativity in Black*, their early 70s classics live on, as interpreted by an impressive roster of loud-rock luminaries.

Brooklyn's hardcore metal-rap innovators Biohazard contribute a searing version of 1971's "After Forever," a song noteworthy as ammo to use against those fascists, of either the Big Mother/nanny state or self-appointed divine agent stripe, who want to ban Sabbath. It asks, "Would you like to see the Pope on a rope? Do you think he's a fool?" and actually disses people who think so, concluding "they should realize before they criticize that god is the only way to love." Whether Ozzy was kidding, on the wrong drugs, or totally out of his mind, is a topic for another column, but I'm not making this up.



Ministry/Nine-Inch Nails side project 1,000 Homo DJs's machine-enhanced take on "Supernaut" sports even more powerful drums and more jarring guitars than the original. "Supernaut" is a better song than anything Ministry's ever written, and this recording is heavier and meaner than the Volume 4 -vintage classic. If you're into Sabbath and Ministry, have a change of pants nearby when you play this for the first time, and don't say I didn't warn you.

Metal legends Bruce Dickinson (ex-Iron Maiden) and Rob Halford (ex-Judas Priest, now with Fight) mark a return to form on "Sabbath Bloody Sabbath" and "The Wizard," respectively, as Halford is joined by Sabbath's original rhythm section of Geezer (by now, I suppose he deserves his name) Butler and Bill Ward.

Even Ozzy Osbourne manages to exorcise the demon that's been releasing pathetic commercial ballads ("Mama I'm Coming Home") through the once and future madman in recent years. He sounds stronger on "Iron Man" than he has in years (the outstanding Therapy? back up the Ozz musically).

I won't dwell on the obvious complaint about Ugly Poseur Joe's utterly inexplicable lame presence on this otherwise-godlike disc, because I'm in a good mood and want to stay in a good mood, and I can't think of anything to say that could be more on-point than Ministry's Al Jourgensen's pithy liner note, about which he would certainly know: "Black Sabbath: more addictive than heroin."

On a completely different musical tip, the new techno compilation *A Mission into Drums* bridges the gap between ambient and trance. Most non-technoheads think Frankfurt is a boring financial center, but for some reason, it has become the center of the global techno scene, and its pace-setting trance label Eye Q (who originally released *Mission*) has finally been licensed in the U.S.

"The Closed Eye View" hasn't left my CD player in three days. Its 10-plus minutes of electronic heaven should silence the Luddites who say techno can't be music: the electronic pulse builds gradually, through swirls of soothing keyboard washes, trance-out bleeps, and snarling squalls of acid, into a precision-crafted headphone masterpiece that is both gentle and powerful.

While not every track is as distinctive, the rest of the disc mines a similar vein, and avoids ambient-trance's dual pitfalls of aimless new-age noodling and simplistic repetition. *Mission* was worth it for the import price, and is a steal at its new domestic price.

Another worthy new electro release is *Millennium*, the eighth album from Vancouver's Front Line Assembly, and their first to incorporate guitars. Most so-called industrial bands jumped on the guitar bandwagon after Ministry's epochal 1988 disc *The Land of Rape and Honey*, but FLA held out until 1994 before sampling their first Slayer riff ("Division of Mind").

Millennium doesn't stray too far from FLA's formula of hard beats, distorted vocals, and menacing electronic effects, and the addition of guitars provides welcome new muscle on powerful and danceable cyberthrash workouts like "Vigilante" and the title track.

FLA's experiment with rap on "Victim of a Criminal" succeeds surprisingly well, and further helps them avoid falling into a same-sounding rut. Still, the communist claptrap spouted by guest rapper Che is downright embarrassing; someone should remind this guy what decade it is, or at least get him a job on Harvard's faculty.

On their new disc *No Goats, No Glory*, Philadelphia rappers The Goats' political focus seems to have vanished in a thick cloud of doobage. The Goats spice up their hip-hop rhythms with Beastie Boys-style live instruments, like on the guitar-propelled "Rumblefish" and "Philly Blunts," but also throw in a jazzy instrumental ("Lincoln Drive").

The Goats let you know up front what's on their minds: The funky "Wake and Bake" kicks off the disc with lines like "I rise with the sun and I don't mean just wake up/I get baked 'til my eyes get caked up." In case you didn't get the message, they lower "The Boom," a manic tale of (mostly unprintable) blunted goings-on in their "smoke-filled room."

Cypress Hill and others may have developed the style, but the Goats' twist of live guitar, bass, and drums makes for a tougher, more aggressive sound, and their rappers are smooth and often hilarious.

Plus, the Goats offer an innovative take on the guns 'n gangstas issue in "Mutiny," in lieu of Sister Souljah's oft-cited proposal that blacks stop killing each other and devote a week to killing white people instead, the Goats suggest that "you only need a gun if you're going to kill a politician." As Beavis would say, I'm there, dude. 2

FOOD - O - RAMA

Power Hosting 101



By Ted Cohen '95 and Jonathan Goldstein '95

It should be clear to most of you by now that being in law school means much more than merely learning the mechanics of advocacy. While "thinking like a lawyer" is an essential part of lawyering, it is only the beginning. For in order to succeed in this cutthroat field, one must also be skilled in the art of entertaining. And few events will advance your career more than the successful dinner party. Imagine the look on the managing partner's face as she sinks her teeth into your osso buco. Picture the discussions at the water cooler the next day as word spreads of your culinary and entertaining prowess. For it is no mere maxim that the surest path to the heart is through the stomach.

So, what follows is an edited transcript of a recent fete hosted by Ted and attended by some of the brightest lights in the Boston cultural spectrum. (For the sake of brevity, these lights shall be combined into a composite called "Jonathan.")

Scene: Evening. A well-appointed dining room. Ted wears a Betty Crocker-style apron, wide-wale cords, a beige chemise, and hush-puppies. In one hand he holds a turkey baster. Jonathan enters.

Jonathan (JG): Everything looks lovely, Ted. I brought some wine.

Ted (TC): Thank you, Jon. Oh, this is different — canned wine.

JG: They told me it was very good. And I figured at \$4.50 a six-pack, you can't go wrong.

TC: Listen, I've gotta check the bird. Why don't you watch some TV for a minute? I think "The X-Files" is on.

JG: Oh, great! Did you see that one where some aliens cause trouble in a desolate, rural area?

TC: (from the kitchen) No, but I did see the one where some aliens cause trouble in a desolate, rural area.

JG: Mmm. Hey, T-man, what's this spread you made for the bread?

In order to succeed in this cutthroat field, one must also be skilled in the art of entertaining. And few events will advance your career more than the successful dinner party.

TC: (coming back) Oh, don't eat that. That's bacitracin ointment. Try this instead.

JG: OK. What is it?

TC: It's a spread of toasted walnuts, garlic, olive oil, and parmesan.

JG: Wow. This is even better than the bacitracin. (Pause.) Hey, are you having trouble breathing?

TC: I am having a little trouble with the thermometer in the chicken. It won't pop up.

JG: Oh, let's not worry about technicalities. Besides, I think this "salmonella" thing is just a big hoax.

TC: All right. Here, come in the kitchen and help me.

JG: (entering the kitchen) Sure smells good. Say, what's the orange-ish stuff in this pan?

TC: That'd be the roasted garlic mashed potato-carrot purée.

JG: Lemme get this straight. You've combined two vegetables in one dish? Can you do that?

TC: I think it's okay with root vegetables because they're able to give informed consent.

JG: Huh. So far, this has been a night of surprises.

TC: Jon, check inside the chicken's cavity. I think you'll find another surprise.

JG: Oh my gosh! All its guts have been removed, and in their place is a delightful couscous stuffing with currants, caramelized apples and pears, and curry.

TC: Why don't you pour yourself a can of wine and take a seat?

JG: Oh, boy. Sometimes I just have to thank God for putting me on this earth.

TC: (bringing in a plate piled with food) Sorry. I couldn't hear what you said. I had my head in the oven.

JG: I was just saying that I really like "The X-Files". I mean, as a show.

TC: Yes, well, dig in.

JG: Boy, this all melts in your mouth. A panoply of flavors. Where did you learn to cook so good?

TC: So well.

JG: Soon Yi?

TC: Oops! Look at the time! Jon, you'll have to go.

JG: (mouth stuffed with food) Mmph!

TC: Yes, that's true. The world is a different place today. But at least we still have "The X-Files." And "Baywatch!"

Needless to say, Ted's effortless banter and dexterity in the kitchen landed him a plum promotion at "Jonathan's" personal injury firm. You too can go far in the corporate world!

Harvard Law RECORD

Founded in 1946

Greg Stohr
Editor-In-Chief

The Right Cause, the Wrong Tactic

In the past two weeks, students have been encouraged to ask for some of their money back. The Society for Law, Life, and Religion has encouraged students to take advantage of an existing University policy that allows them to get a rebate of their money used toward securing elective abortions through University Health Services. In response, three third-year students are demanding either a rebate of the portion of their tuition that funds SLLR, or a revocation of the abortion rebate.

Access to safe abortions is a fundamental constitutional right which should be maintained. But by "demand[ing] equal protection under Harvard policy," these three students attempt to equate direct funding for killing fetuses via abortion with the direct funding of killing and maiming women via anti-abortion groups' activities. In reality, they are fallaciously equating funding an abortion with funding speech about whether women should be able to have one.

Put another way: what the three students are really saying is that they refuse to give money to a student organization with which they simply disagree.

Such an approach has two possible monetary consequences: First, it could lead to a reduction in the total amount of money SLLR receives from the Law School. In this case, the result would be to penalize an organization simply for advocating its views. Such penalization would lead to a chilling of speech. Penalizing speech is unacceptable, and at least one of the three students has been quick to point out that this is a result she does not want to achieve.

Second, SLLR might still receive the same amount of money because Harvard would make up the difference. At first thought, such a result may seem unproblematic and fair. After all, why should these three students support an organization with which they do not agree?

One problem is that the students' position is so easy, too easy, to replicate. Under their reasoning, anyone who opposes the views of any student organization should be able to get a rebate of their money used to support it. A Federalist Society member might demand a rebate of money supporting CCR. Someone who opposed affirmative action may object to her money going to the Law Review, which employs an affirmative action policy in choosing members. The list is endless.

Aside from the situation becoming an administrative mess, it is unrealistic to think that all organizations will still receive the same amount of money. To maintain the same funding levels, the Law School would have to subsidize unpopular organization by pulling funding from other sources — an uncertain and uncomfortable prospect. The result eventually could be that funding would be decreased for all organizations, with the most popular organizations getting the largest pieces of the pie. This is an undesirable result, especially at a university. The reason part of students' tuition goes toward funding student organizations in the first place is to foster debate on issues. Harvard should maintain such debate, and not allow it to be hindered by disagreement over those exact issues.

The students have stated that their real goal is not to secure a rebate for themselves, but to eliminate the abortion rebate option. If so, a better approach would have been to state that goal simply and directly, instead of half-heartedly advocating an unwise practice. I suspect many students support the second half of the students' demands — that the rebate option be rescinded — but disagree with the tit-for-tat approach the students employed.

-Politis

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"Congress shall make no law...abridging the freedom of speech, or of the press;..."

—First Amendment, US Constitution

• Letters •

Call for Tuition Rebate Inappropriate

The following letter is in response to Monday's flyer demanding "a rebate of HLS funds used to support the Harvard Law School Society for Law, Life, and Religion" (SLLR).

No moral equivalence exists between an abortion itself and the debate about whether one should be performed. The authors of the flyer claim a moral objection to contributing to SLLR, one of many official student groups whose speech is subsidized by the University. This is a far cry from the moral objection of those who do not wish to subsidize the actual practice of abortion via their student health fees. Harvard recognizes this distinction by drawing the rebate line at the level of action.

Tuition from all HLS students is used to fund

diverse student groups. Though none of these have unanimous support, we do not seek selective rebates because we value free debate in our academic community and support the expression of unpopular, and even controversial, views. Would you have it otherwise? Should the Law School Republicans be able to get refunds for the money used to support the Democrats, and vice versa? Should those who oppose homosexuality be able to withdraw funding from Lambda? Is this the price we must pay for the free exchange of ideas?

Lastly, as pro-life women, we resent the accusation that we are in any way "working toward depriving women of life and health." Women who undergo surgical abortion procedures can suf-

fer cervical lacerations, pelvic inflammatory disease, perforated uterus, clinical depression, and even death. Even pro-choice advocates complain that abortionists persistently violate women's rights to be fully informed of the risks that abortion poses to their physical and emotional health. The abortion culture has left many women feeling that relinquishing the life of their children is the best of the only, alternative options. In contrast, we and other pro-life advocates care deeply for both the mother and the child in the midst of crisis pregnancies.

Louisa Oliver
Wendy Stone
Vernadette Ramirez
Hilary Getman
Laura I.
October 28, 1994

No Easy Answers in PC Debate

I feel compelled to address the series of letters that have recently appeared in the RECORD on the topic of political correctness. "Free expression," "censorship," and "intellectual curiosity" are concepts that have littered this debate. I believe in these concepts. I believe in truth, equality, and justice. Yet, I do not believe that the answers are as simple as the opponents of political correctness might suggest.

Not all ideas are equal. I don't think the Constitution ever imagined that all ideas were equal. The First Amendment is littered with exceptions — libel, obscenity, yelling "Fire" in a crowded movie theater, etc. Courts seem to acknowledge the concept of "harm," at least in the

context of property damage and reputations, as an exception to free speech principles. But what about other harms? Maybe if I were a neutral actor in a neutral marketplace of ideas, I wouldn't feel harmed by ill- or well-intentioned comments about my race or sexual orientation. The reality is that I live in America, and when your academic curiosity touches upon topics of race or sexual orientation, you're not talking about hypothetical topics. You're talking about my life. My fears. My reality.

I know the dangers of subjectivism. And objectivism. Words can silence. Like "Nigger." "Cunt." "Fag." "Racist." "Sexist." "Homophobe." And "Politically Correct." There are no easy answers.

I continue to struggle with all that I can come up with is to live by my principles and conscience, the best that I can. I will make mistakes. I will misunderstand the meanings of "truth," "equality," and "justice." But, it is false to think that one's principles will never be called into question, that one can live free without ever choosing. I may err. But at least I will have taken what I understand to be a stand against racism. Sexism. Homophobia. And I will have questioned how reasonable it is to sympathize with the "gay man who lives in the street, holding hands with his lover, he might be killed."

Philip Hwang
October 24, 1994

Politics and Religion Don't Mix

Should religious communities be able to explore their faith on Harvard Law School's campus without fear of censorship by the P.C. thought police? Some would have you believe that any person who makes a public position statement on an issue is thereafter subject to protest during religious meetings — indeed, that religious groups should not bring a speaker to campus at all if the speaker has previously supported non-P.C. positions. This fundamental misunderstanding of the role of religion in this country threatens to chill the right we all have to believe in whatever creed we choose. An event sponsored by a religious group for the express purpose of exploring the implications of their faith should be off limits to protesters.

Homosexual groups have been attempting to blur the distinction between public positions, open to protest in the proper forum, and religious beliefs, which should not be challenged. I believe that homosexual acts are morally wrong. Sodomy, for example, is wrong like stealing is wrong; it is wrong like wife-beating is wrong. Therefore I will oppose any suggestion that homosexuals, that is people who profess a tendency to perform homosexual acts, should receive any sort of special treatment under the law.

This does not mean that I condemn the homosexual as a person. Rather, I condemn the acts that he (or she) performs. Whether or not a homosexual is somehow genetically predisposed to sodomy (the evidence tends to suggest not), there is no doubt that he could refrain from sodomy if he chose to.

In this sense homosexual acts are no different from heterosexual premarital and extramarital sex, which I also think are morally wrong and undeserving of special protection. Those of my friends who engage in these practices are not necessarily bad people, but the acts are wrong and those who would like to engage in them should, for their own good and that of society, refrain.

All this seems to me fairly reasonable. I am not advocating campaigns of terror or harassment, and I am certainly not advocating any violence directed against people who profess to be homosexuals. But I will protest any program that offers special prerogatives for these individuals; I do not believe any special rights should attach to the practice of fundamentally wrong acts.

I do not intend to hide behind my religion on this issue. My beliefs have implications and may be disputed in the normal channels of public discourse. Instead of the normal channels, however, I and those like me (my co-religionists to begin with) find that we are made the subject of personal attacks. We are commonly grouped together with those twisted individuals who decide it is a fun thing to go "gay bashing," though I have never heard of any gay basher who subscribed to the above beliefs. We are called "hate-mongers" and "homophobes," though we do not hate and I never have understood what phobia is involved. Worse, homosexual groups have taken the lead in making attacks directly against our religions.

For example, last spring Lambda suggested the Catholic Students Association should not have brought

noted scholar Professor John Finnis to speak on natural law because of his position on homosexual rights. I hate to break it to Lambda, but they might as well protest every Catholic event, including Sunday Mass, because Catholic doctrine finds homosexuality to be morally offensive. This is, not coincidentally, exactly the tack chosen by Act Up some years ago when they decided to protest during Mass at St. Patrick's Cathedral in New York — by chaining themselves to pews and by committing sacrilege during communion.

Lambda's protest of Finnis was (mostly) peaceful and minimally intrusive, was, however, improper, and it indicates a disrespect for religion that has reaching consequences. The protest of a political issue should not become a protest of the religious beliefs that inform the political act. The extent a protest is made at a church function, of a religious group's choice of speakers on religious issues, it can be conceived of as protest directly against religious beliefs. Any such formulation would be a violation of the First Amendment.

Lambda protesters in theology class. I fully expect we intended to disagree with my political positions, but to dispute my logic or conclusions in person, in print, through other media, to draw the line when I tell me who I should or should not bring to campus, to instruct me in my religion, that is tantamount to telling me what I may or may not believe.

Patrick Lamm
October 26, 1994

A Royal "Abuse Excuse"

Alan Dershowitz

Just returned from a short visit to England, where I appeared on a television talk show to discuss the "abuse excuse," a subject on which I have just published a book. Made famous by such cases as the Menendez brothers, Lorena Bobbitt, and Tonya Harding, the "abuse excuse" is the attempt to evade responsibility for one's actions by claiming to be a victim of abuse. Whenever I have discussed the abuse excuse with Brits, the common theme has been that this is a uniquely American phenomenon. As one member of the aristocracy put it, "Englishmen are bred not to make excuses."

Now the most prominent Englishman of all — Prince Charles, heir to the British throne — has made an abuse excuse in an attempt to evade responsibility for his marriage to Princess Diana. A recently published biography of the Prince of Wales — authored by Charles — claims that Charles' parents, the Duke and Princess Philip, emotionally abused their son, that he was physically and psychologically abusive to Diana, and denied him the love and affection of a normal childhood. Moreover, Charles' father made him marry Princess Diana, a woman he did not love, by giving her an ultimatum.

In the United States, the public is divided about those sympathetic to the prince's abuse excuse and those who doubly condemn him — first, for his marital discord and, second, for his attempt to blame his parents for the decision he made as a mature adult. Complicated matters even further, there are those who argue that the prince may be right about the substance of his excuse, but that one of the burdens of roy-



alty is to suffer in silence. As Prince Philip put it, "I've never made any comment about any member of the family in 40 years and I'm not going to start now."

Obviously, Prince Charles would have preferred to remain silent as his predecessors had done for centuries, but he recognizes that he lives in a different age — an age in which there are no secrets. Several books have already been published presenting Princess Diana's version of the royal breakup, in which Charles is presented as a cold and distant adulterer. Silence was not serving the prince well. He needed his own spin doctor to retrieve his dignity, and so he authorized both a biographical television film and book to present his side of the story.

What is significant is the nature of the defense he chose to present, namely that he was the victim of cold, aloof parents and that the loveless marriage was forced upon him. This royal version of "my abusive daddy made me do it" sounds like the daily fare of TV shows that infest America. They obviously infest England too, as evidenced by an editorial cartoon in the London Times showing a telephone hot-line on which a disturbed caller — obviously the prince — is complaining about his parents. One distinguished English commentator put it this way: "The prince subscribes to the culture of complaint and is laying claim to his right of victimhood . . . Californians would call [it] a significant step in the prince's personal development."

Despite its American pedigree, I do not believe that

we can be blamed entirely for the spread of the abuse excuse across the Atlantic. Trying to justify wrongful behavior by blaming others is as old as Adam and Eve's attempt to blame the serpent and as universal as the child's cry, "I didn't mean to do it." Excuses are a part of everyday life all over the world, and there is no evidence they are abating.

What is changing is our apparent willingness to accept excuses without considering the moral implications of such acceptance. It may well be true, as a matter of fact, that Prince Charles married Princess Diana because of his father's ultimatum (though decisions of this kind are obviously caused by multiple factors). Even so, that should not allow Prince Charles to evade responsibility for his act. His father was not holding a gun to his head. He always had the option of abdicating his royal role, as his great-uncle did for the love of a woman.

Just as the Menendez brothers, Lorena Bobbitt, and Tonya Harding had options other than the violent ones they chose, so too, Prince Charles had options other than the marital one he chose. To understand an action by reference to its causal elements is not necessarily to justify that action. Everyone has a reason for what he/she has done, and in today's culture of complaint, every reason becomes an excuse.

So now the debate over the abuse excuse is raging on both sides of the Atlantic. At least the Brits will no longer be able to point to America as the land of excuses. Let us keep a watchful eye on how our English-speaking sister nation deals with its royal abuse excuse.

At least the Brits will no longer be able to point to America as the land of excuses.

• Letters (cont.) •

ITLs Not Just Romping through Cyberland

As two first-year students involved in the ITL course which Joshua Sternoff is teaching (RECORD, Oct. 21), we would like to take this opportunity to offer a defense of our experience.

The law is dependent on the exchange of information. Technology is currently in the process of revolutionizing the way information can be shared. The nature of such technology should be viewed as a benefit to our society, not a threat. As with any new technology, the undertaking must be fine-tuned to practice and application.

Mr. Sternoff seems to be of the opinion that our exposure to technology has

detracted from the teaching of basic lawyering skills. In fact, such exposure only enhances our experience by offering us new tools with which to work and grow. As students in the course, we do not feel as if we have been short-changed in terms of basic research and writing skills. In the course, we have written a legal research memo for which all the research was self-generated, have written a brief, and in the future will write another brief as well as participate in oral arguments. We are not merely romping through some cyber-playground as Mr. Sternoff seems to suggest, but rather have had the opportunity to augment our basic instruction with exciting new resources.

We would like to join Mr. Sternoff in complimenting the student workshop

leaders who have been so focused and effective in helping our class learn the basics of legal research and writing. But we would also like to point out that Profs. Nesson and Murray are attempting to take us further than that. In addition to teaching us the necessary basics, they want to give us tools which were unavailable to classes before us. Such forward thinking often meets with opposition from those who would rather maintain the comfortable and familiar status quo. The course has been unnerving and frustrating at times, but this is only because we are being pushed in a new and unfamiliar direction, a direction that has brought exciting results for these two students.

Michael Castellano '97
Anthony Falzone '97
October 25, 1994

ITL Reaction Shows Resistance to Change

The current Introduction to Lawyering course has generated perhaps more than its share of controversy. This is in some ways, to be expected. The case being made for teaching research and writing skills is the most controversial issue in recent memory. Because the controversies have arisen around the teaching of this course, those who oppose the

There's a curious resistance to change here at the Law School. When professors a number of years ago passed a proposal to have class participation count somewhat towards grades, it was the students who shot the idea down. Whether it's the students or the faculty that seeks to resist change, the only way to counteract that frightening tendency of wanting to preserve the status quo is for someone actually to go about changing things. ITL represents a change, and a change for the better at that. The ITLs will get the legal skills they need, but they'll get far more than that out of this class. They'll get a chance to look at issues of the law that mean something beyond pure doctrine,

beyond even what can be learned in books. They're seeing the human side of things, learning to think and learn with a far greater range of tools than HLS could ever make available before this year.

Maybe Nesson has "hijacked" the ITL program, but he has not hurt anybody or anything in the process. He seems to have a destination in mind, and to have the students' best interests as our first priority. Those who think otherwise should be able to challenge the course from a principled and well-reasoned position. But to resort to name-calling and innuendo does everyone a disservice.

Dave Marglin '96
October 26, 1994

MELSA Condemns Recent Bombing

The Middle Eastern Students Association of Harvard Law School severely condemns the terrorist bombing which killed 21 Israelis and injured many others in Tel Aviv last week. We extend condolences to the families of the victims and wish complete recovery to those injured. This recent act of terror,

as other terrorist acts committed on both sides of the Palestinian-Israeli conflict, serves only to entrench hatred. As MELSA did in the wake of the massacre in Hebron last spring, we support the position that the best response to such acts is to continue the peace process. We believe that peace is the

only way to curtail the bloodshed in the Middle East. Discontinuing the peace process would only play into the hands of those who oppose peace and use terror in the hope of derailing it.

Middle Eastern Law Students Association
October 21, 1994

Nesson and Murray Explain Context, Class

Half Truth: Issue Presented: When Nesson spoke to the New Yorker (resulting in the Talk of the Town piece saying ITL students had written legal memos on the Ito Camera Ban), was he misrepresenting the truth, purposefully telling falsehood, at least purposefully stretching in his quest to gain publicity for himself and his course? Fact: ITL students had not yet written their legal research memos.

Here was my context. At the time back when I spoke to Toobin (author of the New Yorker piece) we had succeeded in getting the ITL class up on E-mail. I was still struggling to send messages out to the class as a whole. Two of my section address lists worked (but left a huge wad of addresses at the top of a message sent to all students) and two section lists didn't work at all. I had requested personal responses (bio, journal, most interesting experience) and responses to a legal question: "To all ITL students: Judge Ito is considering barring cameras and radio from the Simpson trial. Should he do so? Please make a judgment and briefly state your reasons." Responsive E-mail had flooded back. This I described to Toobin, accurately. I used "legal" in distinction to "personal" to describe the Ito Ban

memos that had come back to me. I had no intention whatever to mislead.

The New Yorker came out a week or so later, contemporaneous with our ITL lectures on the Legal Research Memo. In the context of this lecture students saw a legal memo as ten pages long, with argument headings and library research. Many students who never received my request for response on the Ito Ban undoubtedly read the New Yorker piece and said, "That's not so. We haven't written legal memos yet. That assignment isn't even due yet." Perhaps also many who had written Ito Ban E-mail memos and who were then at work on their legal research memos thought that the E-mail memos were not legal memos.

The ambiguity in the New Yorker piece is evident in retrospect but was entirely unintended. I clarified the ambiguity to Judge Ito's law clerk when she first called me to ask for the best of the student memos, and did so again in the first correspondence to Judge Ito from Peter Murray and me.

I hope this explanation of context will allay student concern on the misrepresentation question.

The deeper question raised about ITL is one of

mission: What is our vision for the course? We speak here together, Peter Murray and Charles Nesson, in Peter's words:

In this course, we are trying to teach what we consider to be the essence of lawyering — the ability to understand and analyze facts, the ability to discern, develop and communicate an argument leading to a legal conclusion. Development of this ability involves several skills of mind and practice. Through lectures, workshop meetings, and in the exercises assigned we hope the students will learn not only how to research legal rules and how to write memos and brief, but also how to give those memos and briefs substantive content in the most powerful way.

The electronic emphasis of the course is part and parcel of learning effective lawyering. Electronic space is the environment in which our students will be working as lawyers. Learning how to use electronic tools enables our students to leverage their research, information management and communications skills in this new lawyering environment.

Charles Nesson '63 (Eon)
Peter Murray '67
(MURRAY2)
October 25, 1994

Headline Misrepresented South Africa Speech

Recently, I spoke at Harvard on South Africa's progress since the April 1994 election as part of this year's Edward A. Smith fellowship program. During my speech, I presented an optimistic, yet very realistic picture of the developments in that country since the election as well as potential problems that the Government of National Unity must address. While, I believe, I presented a balanced view on the political and social situations in South Africa, I strongly object to the headline which accompanied your October 14, 1994, article on my speech ("Election Commissioner: South Africa

Still on the Brink of Disaster.") It was incendiary and did not accurately reflect the spirit of my discussion.

The headline failed to place my comments in a fair context. During my talk, I discussed the anticipation and relative peace that surrounded the elections and the early phase of South Africa's transition to a democratic state. In addition, I noted that the new Government of National Unity (GNU) is now faced with the practical aspects of dismantling the mechanisms of apartheid and replacing them with nonracial constructs. One area on which the government has had to focus is the South

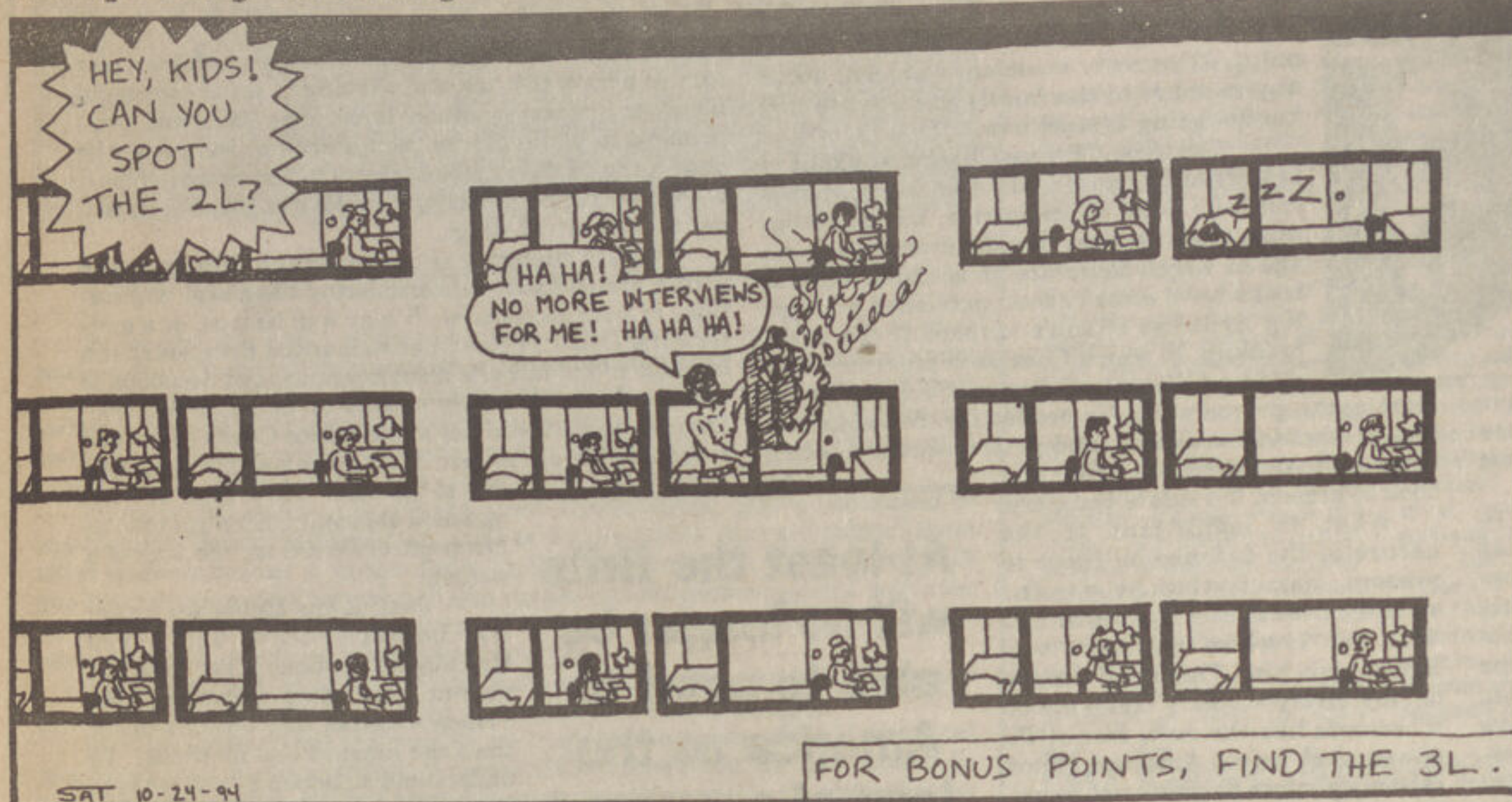
African majority's need to see the effects of the transition to democracy manifested in their lives on a basic level through job production, and improved wages and working conditions. While I stressed the importance of South Africa's economic growth to realize these changes, I believe that my comments, taken in their totality, paint a more encouraging view of the strides that the GNU has made and, consequently, South Africa's chances of continuing its peaceful and historic transition to democracy.

Gay J. McDougall
October 20, 1994

Please see additional letters on page 9.

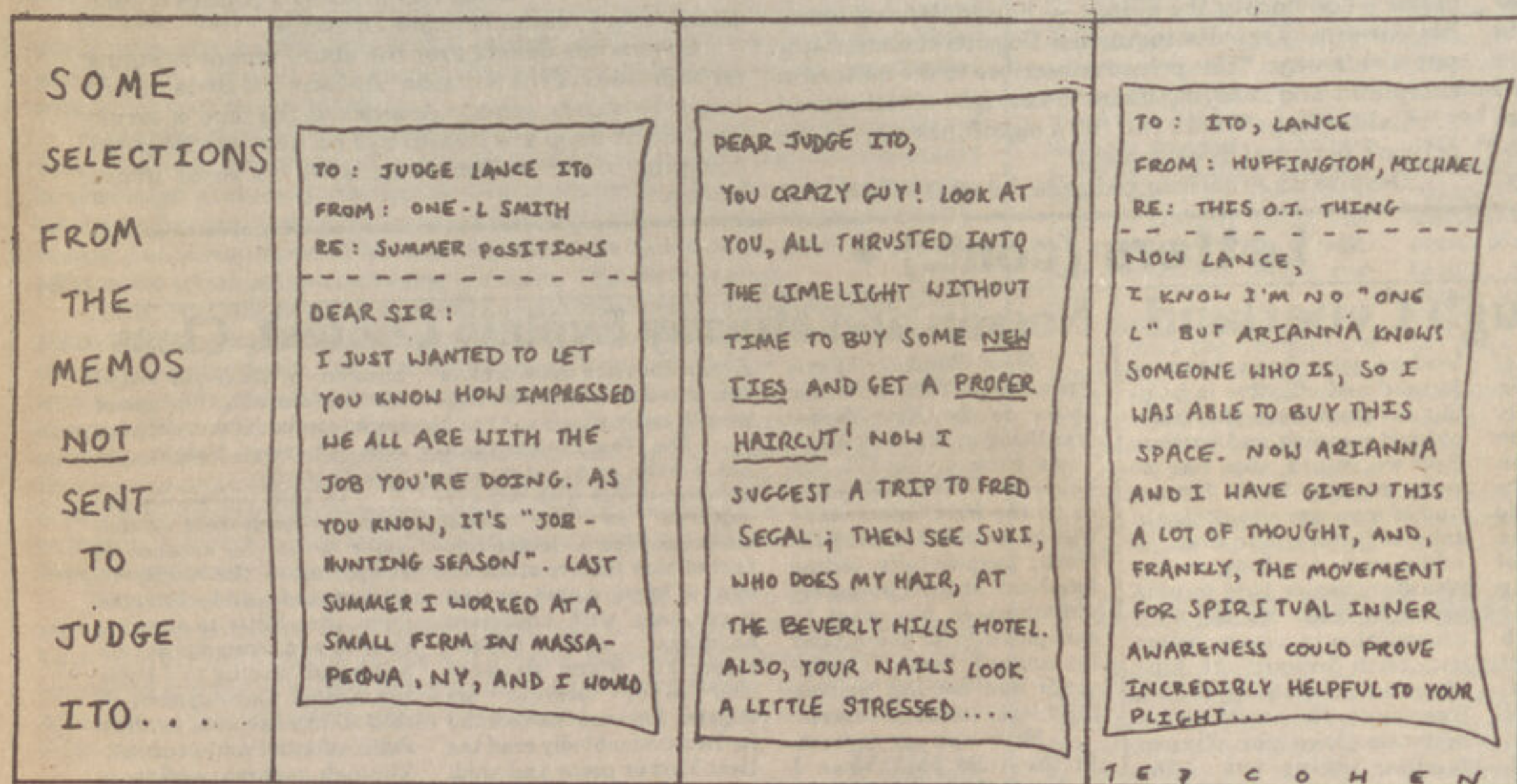
Temporary Insanity

By Sheila Tuller



Res Ipsa Loquitur

By Ted Cohen



Guide to Legal Terminology

By Sean Kanuck & Matthew Queler

<u>Paramount title:</u> e.g., "The Naked Gun", "Ferris Bueller's Day Off", etc.
<u>arm's length agreement:</u> a long corporate law document
<u>derivative work:</u> a mathematics assignment requiring the use of calculus
<u>specific performance:</u> a particular showing of a movie or play

Koby Antupit

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CALENDAR

Why Can't I Get Just One...Offer?

By Jeff Bucholtz

Kiwi folksters Frenel achieved some stateside alternative notoriety when they took New Order's "Bizarre Love Triangle," a dance track with moronic lyrics and almost no melody, and in a fit of true inspiration got rid of the dance beat. Tori Amos' cover of "Smells Like Teen Spirit" was just as incongruous, but at least she can sing. Frenel play the Paradise (351-2526) tonight (10/28).

Tomorrow night (10/29), local B&D legends Sleep Chamber risk arrest at the Middle East (497-0578). Their trippy electro-industrial is pretty cool, but something tells me the show's going to be the main attraction.

This month's slacker trilogy concludes tomorrow as Dinosaur Jr. follow ex-bandmate Lou Barlow's Sebadoh and Pavement into Boston. Amherst-bred J. Mascis' focus has evolved from blaring punk to brooding pop, but his continuing feud with Barlow shows his personality hasn't mellowed with his music. The ultra-heavy barbiturate metal of Kyuss kicks off the show at the Orpheum (931-2000).

The WAAF Halloween Bash on Sunday night (10/30) at the Ritz features the bluey hard rock of Tada (imagine the Black Crowes with slightly louder guitars and slightly—but only slightly—fewer drugs) and Collective Soul, the Atlanta band responsible for last spring's can't-get-out-of-your-head hit "Shine."

From listening to them, I can't figure out why they took their name from Ayn Rand's "The Fountainhead," but it's a catchy tune if nothing else. You have to listen to AAF (107.3) for tickets, since they're not for sale.

Since we at the RECORD will be flying out to visit friends, uh, I mean, interview with firms, next week, this week's calendar packs two weeks' worth of nightlife into one handy column. (A tip for all you die at the end of fly-out week, when the thought of another glutinous bowl with unpronounceable food in undigestible quantities makes you reach for a bucket, take your absurdly high meal allowance to the corner deli and treat yourself to true luxury—a sandwich and a case of beer. You'll get an entirely new perspective on interviewing.)

Sunday, Nov. 6, Michael (and Matthew) Sweet, who is actually advertising the fact that he used to sing for Stryper, gets a weekend pass from Hell in order to spread the gospel of all that which sucks. Maybe if he prays hard enough, he'll get an ad deal for Clairol, but he sure isn't getting a record deal. At the Paradise.

Seal brings his mellow, sensuous pop ("Crazy," "A Prayer for the Dying") to the Orpheum on Sunday (11/6), and the Cranberries try out their newfound aggressive sound ("Zombie" sounds more like Hole than "Linger") at the Orpheum the following night (11/7).

The Violent Femmes, who are neither women nor the slightest bit violent, continue their comeback at Avalon (931-2000) on Nov. 9. Their new tunes reveal an edge not heard from the Femmes since their puberty-era anthem "Add it Up" asked the \$100,000 question, heard—in both versions—all too often around H.L.S. "Why can't I get just one [offer]?" If you have to ask...

Black and Right

By Debra Dickerson '95

RECORD Columnist

My first awareness of politics came when I was 7 or 8. While my mother ironed, I asked her what Democrats and Republicans were. She said, "Democrat is what you are. Democrats'll let the little man have somethin'. Cain't have much as the white man, naturally, but they will let us ordinary folk get somewhere." She sprinkled water on a shirt and set it sizzling under the hot iron. "Republicans don't want nobody else to have nothin'."

Twenty-seven years and two political science degrees later, I still find Mama's explanation useful. So does she.

In my working-class family of migrated sharecroppers, we were all unthinking Democrats. In content, though, our politics were conservative. My father called civil rights protesters "knuckleheads" who should get jobs. My mother opposed busing because children should go to school close by. They opposed abortion, supported capital (and corporal) punishment, kept guns, disapproved of welfare, illegitimacy, and the unemployed. If anything, my mother's politics are even more conservative in these days of social disintegration. But she's still a Democrat.

In the latest New Yorker, Skip Gates writes that, "... most blacks favored the death penalty and prayer in public schools, while most black leaders opposed both; ... most blacks opposed school busing, while most black leaders favored it; and ... the percentage of blacks who favored banning abortions was three times that of black leaders who did. On many key issues, it appears, blacks are more conservative than whites." So why are most of us still Democrats?

Unlike most, I was very conservative when young. Timid and a good student, I was constantly harassed. I hit the bottom step of the special bus that brought me from gifted school every day at a dead run because a gon squad was waiting for me. That is, until my mother locked me out and made me face them. Back then, knowing someone's neighborhood told you everything you needed to know about them. My going to school in



white south St. Louis made me strange. I was left out of local goings-on, ostracized for "talkin' all proper" and for "likin' them white boys." I was a "tom," an "oreo," for liking school.

Years later, of course, I understood (rejecting before one can be rejected), but then all I knew was that I had been disowned. I resisted the pressure to under-achieve, but as I swam upstream, the first layer of resentment and conservatism was

formed. I grew somewhat wary of blacks and stubbornly nurtured that which was the source of my problems. During my many fist fights, I'd rank on my opponent in French or with names from Greco-Roman mythology. Gobbledygook for the most part, but it served the purpose.

As a teenager, I witnessed real decline. All around me, people quit school, used drugs, committed crimes, and of course, there was the relentless tide of illegitimate babies. It baffled me. The people who spent the most time railing against "the man" lived in their mother's basements watching television all day on huge TVs rented at astronomical rates. Logic told me that racism was not their biggest problem. Eventually, I decided that poor people brought most of their problems on themselves. Oppression is a real force in our lives, but surely, I thought, this is not the answer. When faced with hard times the answer is to work hard, be smart. Like me.

I remain opposed to Clarence Thomas' presence on the court but I must say I recognize a kindred spirit in him. I was well on my way to being him in the 1980s. We have a lot in common: a strong work ethic honed in disadvantaged childhoods, southern roots, and a determination to succeed through education and discipline. We were both diamonds in the rough. With lots of assistance, we both made it out and we both see others' failure to do the same as their choice. Or at least I used to. I also recognize in him the same spirit of moralistic

punitiveness I know I felt then.

Life taught me, though, and my attitudes evolved. While I still feel that poor choices lead to a lot of our immediate problems, I also know that there are historically-based reasons for and constraints on those choices. Conservative refusal to acknowledge societal input into those behaviors was, at first, baffling, then disgusting to me. If we're all hard-headed realists, I thought, why do we pretend to recognize no connection between social pathology and injustice? I could only conclude that we (conservatives) preferred denying

responsibility for past and present race/class injustice, preferred having readily identifiable groups to feel superior to, to solving our problems. I became a liberal and, apparently, out of touch.

For the 10 years that I've called myself a liberal/Democrat, I know it's more a rejection of conservative/Republicanism than an affirmative embrace. I never thought the power structure (yes, I believe there is one) was either all powerful, all bad, or mono-

lithic in ideology. Nor did I ever think that liberals et al. were all good (nor that we're not part of the power structure). But like my mother, I associate "Republican" with "conservative" and the worst that has always stood for. Though I realize I toss these words and concepts around in a symbolic jumble to which my reactions are largely visceral, still, the psychic connection to the party of the civil rights movement can not be easily broken.

The rejection of Republicanism, and its symbolism, is, I think, the tie that binds us to the Democratic party and to leaders who disappoint us.

I remain opposed to Clarence Thomas' presence on the court but I must say I recognize a kindred spirit in him. I was well on my way to being him in the 1980s.

• Letters (cont.) •

Different Paths, Different Rewards

As I am one of the approximately 35 third-year students planning to do public interest work immediately upon graduation, I wanted to respond to Dean Newton's [October 14, 1994] column on "Big, Bad Firms."

I was quite pleased to hear that I and other public interest-minded students may be having an impact on this year's LLs. I doubt, however, that there is any need for Dean to panic. As Terri Gerstein '95 and Rob Weisman '95 have pointed out in other issues of the RECORD, the forces channeling students into firm jobs are incredibly strong. For most students, public interest advocacy will not inspire a change of career, but it may produce some guilt.

This second possibility seems to have led Dean to condemn generalizations about "evil firms," yet make generalizations of his own about "limousine liberals." I would like to assure the

reader that I am not one of the "many" public interest students with an "expensive car" and a "lavish home." In fact, I don't know a single one of these "self-righteous hypocrites."

I will be working in the public interest because I care deeply about the rights of women, particularly the right to abortion. Working on these issues is, frankly, the only use of my law degree that I would find fulfilling. The public interest students that I speak to are enthusiastically committed to a broad range of other causes, both liberal and conservative, from legal services to impact litigation to criminal prosecution. We are not pursuing such work because of a belief that it is somehow more "noble" than firm work — it is simply what makes us happy.

The responses of public interest students to the questions, "How was your summer?" and "What will you be doing next year?" are

strikingly different from the responses I receive from those who have chosen to work at firms. I firmly believe, and several surveys show, that many will not be satisfied with their firm jobs. This is what leads me to encourage students to speak to the Office of Public Interest Advising, to ask about the Low Income Protection Plan Program, to use their law degree in an area that they feel passionately about.

Of course, as Dean says, firm jobs can be financially "rewarding." But are they personally rewarding for everyone who takes them? I am sure that they are for some. Those who will not find happiness in their work must ask themselves if the salary makes it worth the sacrifice. I have decided that, for me, it does not.

Catherine Caporusso '95
Co-Chair, Student Public Interest Network
October 25, 1994



Fenno hated flying, but, oh, was he good at it. He had long ago perfected the fool-free sleeping position — all without using the super-absorbent sanitary napkins you can get in the lavatories. Fenno also knew how to disable the reclining mechanism in the seat in front of him so that he didn't have to eat his in-flight meals through the hair of the passenger in front of him. Most recently, Fenno had learned that if he plugged his Nintendo Game-Boy into the armrest stereo jack he could partially steer the plane.

The trip was to be a short one. Fenno was only going down to New York for the day, for a call-back interview. The firm was called Shea & Gould; Fenno remembered having heard some negative news about them awhile back — about a bad closing or closure or something like that — but had dismissed it as rampant speculation. After all, some deals just naturally go sour. Besides, Fenno knew that everything would work out, for he had taken the HLS Christian Coalition up on its offer and had made the group promise to pray a special prayer for him during his interview.

With God on his side, Fenno worked his way slowly down the aisle. Because the Shuttle eschews pre-assigned seating, Fenno was free to pick his own spot. But such seat selection called upon all of Fenno's flying knowledge: a bad choice could doom him to a flight of misery. And so he cruised by the charming old lady quietly doing the Dell Word Search, seeing through her ruse and knowing that the moment the wheels left the ground, the Word Search would disappear and she would turn upon her seatmate for an hour-long discourse on her thirteen grandkids.

Fenno also declined to take a seat near Prof. Charlie "Moonbeam" Nesson, who was flying to New York to film a segment with Geraldo on the issue of whether or not O.J. was the second trigger man in the JFK assassination. With his eyes closed,

head bouncing up and down to the beat of the Eon Song, Nesson was wearing a t-shirt reading "Ghost Rider of the Infobahn". Fenno could only shake his head and move on, wondering about the true meaning of tenure.

Finally, Fenno spotted the ideal seat: in an exit row (plenty of room for stretching) with a buxom brunette seated across the aisle (plenty of room for ogling). He settled in, scattered his belongings on the adjacent seat to deter newcomers, and feigned sleep.

He was in the midst of a daydream about how he was going to use Shea & Gould's expense account to entertain the pretty little number seated across from him when he felt a clammy hand press on his forehead. "Hey Mister, you're in my seat." Fenno opened his eyes to find a little boy staring at him and the brunette helping a young girl into the seat next to her. She then turned to Fenno and said, "I'm sorry. My children were just in the lavatory. They always vomit when they fly, but I'm beginning to get them to use the airsickness bags. I hope you don't mind sitting with my boy."

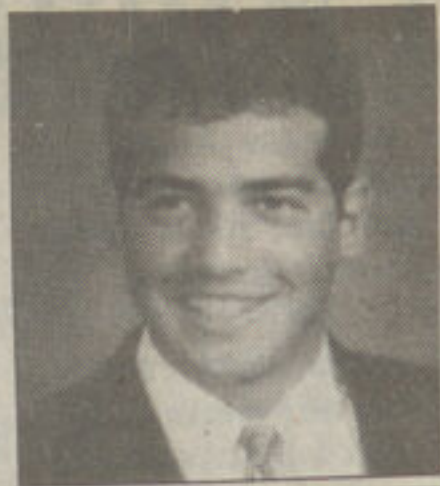
The prayers must not have started yet.

NEXT WEEK: Fenno is on break for two weeks, along with the rest of the RECORD staff.

We'll miss you!
The next RECORD will be published on Nov. 18!

Just Another Stolen Bike?

By Spencer G. Levy '95
RECORD Columnist



PAULA Garvin, one of the HLS interview week coordinators (and one of the nicest people you will ever meet), got her bicycle stolen last month outside Pound Hall. Two HLS students, with the best of intentions, sent around a memo to our Hark boxes asking for donations to buy Paula a new bike. I like Paula, and I'll probably end up giving some money for a new bike after all, but I don't want to.

It's not that I'm cruel and heartless. I don't want to give money for a new bike because I'm tired and I'm pissed. How many of you have had your bikes stolen at HLS? I know people who have. Anybody get their car stolen lately? I have. I inevitably got it back, after paying \$150 in towing in addition to the damages to the vehicle (no, not all of it was covered by insurance). Anybody get anything else stolen lately? I did, I got my backpack stolen not long ago (in addition to my wallet, my microwave oven, and my CDs on separate occasions). My mother gets her car vandalized all the time, my sister hasn't had hubcaps on her car in years, and I'm glad my grandparents don't drive much anymore because their radio has been lifted about three times from the parking lot in back of their building.

What do all of these crimes have in common? They're all small-scale property crimes. Nobody got hurt (thank God), but none of these crimes were ever solved. The police didn't even bother fingerprinting my car when it was returned. They told me that it was probably just a couple of kids and that if they caught them, there was nothing they could do to them anyway. I don't bother filing police reports when I get things stolen any more.

These are the small-scale crimes, the crimes that don't make it onto the evening news. It's not drug-related crime, murder, rape, or armed robbery, and they are not subject to "three strikes and you're out." These crimes do not stir national debates, so nobody really thinks about them too much... until it happens to them. Since it has happened to me, my friends and my family all too often, I have had plenty of time to think about it.

The police didn't even bother fingerprinting my car when it was returned. They told me that it was probably just a couple of kids and that if they caught them, there was nothing they could do to them anyway.

The problem is that the police do not have the resources to defend against these crimes or seek out those who have committed them. If we are interested in preventing these crimes, the question becomes, "What rights do I have to protect my property if the state does not have the resources to do so?" This is a serious question whose ramifications stretch far beyond small-scale property crimes.

The law relating to individual intervention against crimes is fairly clear: We cannot kill somebody who is fleeing with our stuff (except in Texas where you can use lethal force against someone attempting to steal your car); we cannot set a lethal "trap" to protect our stuff; we can make a citizen's arrest if someone is committing a felony, but we have to flee if the opportunity is available when faced with a potentially violent confrontation (except from our own homes).

We can argue until we are all blue in the face about what causes people to commit these small-scale crimes (poverty, disillusionment, the desire to ingratiate oneself with one's friends), but right now I'm not interested in them. I don't want to wait five, 10 or 20 years to cure our societal ills so that my bike will finally be secure. I don't want my bike stolen today. This does not preclude worrying about the root causes of small-scale crime or devoting resources to them; it simply means that we all have an indisputable interest in being free from small-scale property crimes today, and this concern needs to be taken seriously. What should we do?

All the locks and chains in the world will not prevent our possessions from being stolen. As the technology improves to protect our things, so does the technology to take it. There will always be a corner that is not well-lit, a person who forgets to lock up his or her stuff, and a criminal brazen enough to take things in broad daylight. I am not satisfied with saying there is no solution; I don't think it's sound policy to wait until a non-violent property crime turns violent before the police will apprehend a suspect; and I think it is preposterous if we think that the only solution is to pour more money into the "root causes" to prevent such crimes in the distant future. Yet, I also fear the consequences of vigilantism.

Regrettably, I have more questions than answers. Could the solution lie in a form of community policing, sanctioned by the state, where certain citizens have the broad powers to make arrests for property-related crimes? Could we have an old-fashioned stake-out by the bicycle racks and tackle anybody who is stealing our bicycles? Should we all just give up and use public transportation?

Major crime is rampant in this country and clearly deserves the greatest part of our attention and resources. Unfortunately, too little has been left for the day-to-day thefts, which are more than just a hassle or annoyance. They have drastically reduced our quality of life and our liberty. They have also made us lose faith in our society, our justice system, and our fellow citizens. We have become a cynical and untrusting community. How many more bicycles can we afford to buy?

Lawrence, Matsuda Discuss "Color-Blindness"

continued from LAWRENCE, page 1

foundation for *Brown v. Board of Education*, Lawrence said. However, the principle was transformed from a "healing prescription" to cure racial inequality into "the carrier of disease itself" when it was adopted by the reverse discrimination movement as a means of denying the existence of racism, he said.

The assumption of those who are "color-blind" is that we have already achieved racial equality in society, Lawrence said, so that Harlan's proposition that the Constitution is color-blind is confused with the assertion that society is already color-blind.

"The cultural practice which enables and sustains this denial is a societal taboo against honest talk about what we see, feel and know about racism," Lawrence said.

President Clinton's withdrawal of support for University of Pennsylvania Law Prof. Lani Guinier, after he had nominated her for assistant attorney general for civil rights, is an example of the fate that befalls those who dare to break the taboo, Lawrence said.

"Professor Guinier's work embraced the ideal of color blindness where that

ideal means full recognition of our shared humanity," Lawrence said, "but she refused to ignore the continuing presence of racial subordination."

"She broke the taboo."

Another symptom of "color blindness" is the temptation to vilify popular symbols of racism while denying that the sentiments they convey are often shared by others in the larger community.

"I'm not saying we should not condemn the self-professed bigot, and hold him responsible for his actions," Lawrence said. "I'm saying that is not enough."

Rather, Lawrence said, "We must be brave enough to recognize our own infection. We must engage in honest public talk about what we know and see."

Matsuda appealed to students to follow that advice here at the Law School.

"Students often don't recognize the power that they have to change the institution, because there's so much of what we do in legal education that makes students feel powerless," she said. "The change has to come from within the institution — from the students, who aren't getting their paychecks, but are indeed paying the salaries, of the dean and the faculty."

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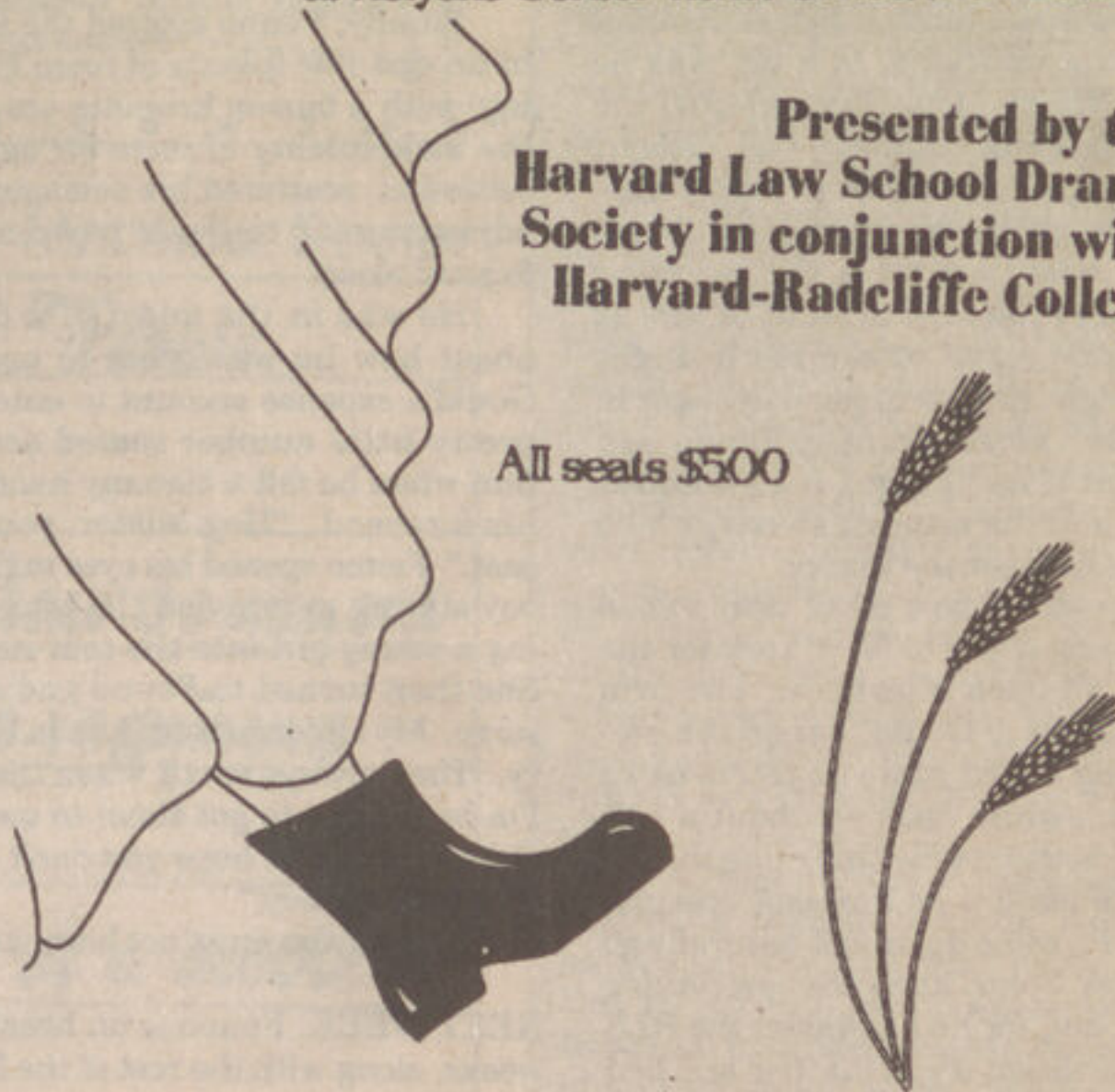
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NO MSG!

Law School and the English Language

By David S. Clancy '95

RECORD Columnist



In a 1946 essay called "Politics and the English Language," social commentator George Orwell diagnosed the political ailments of his era — the rise of fascism, the Russian purges — in an unusual way. He blamed them on what he called "the decadence of our language," a decadence exemplified by the sloppy, unthinking use of "Dying Metaphors," "Verbal False Limbs," "Pretentious Diction," and "Meaningless Words." Corrupt language, claimed Orwell, is both a symptom and a cause of corrupt thought, and ultimately fatal to constructive political debate.

The image Orwell used to convey this idea is familiar but gripping, and might be called "The Blank Disc Syndrome." "When one watches some tired hack on the platform mechanically repeating the familiar phrases, one often has a curious feeling that one is watching not a live human being but some kind of dummy: a feeling which suddenly becomes stronger at moments when the light catches the speaker's spectacles and turns them into blank discs which seem to have no eyes behind them.

"And this is not altogether fanciful," continued Orwell. "A speaker who uses that kind of phraseology has gone some distance towards turning himself into a machine. The appropriate noises are coming out of his larynx, but his brain is not as involved as it would be if he were choosing words for himself."

Blank Disc Syndrome plagues both President Bush and President Clinton. Clinton's lack of mental involvement is less discernible, though, because of his eerie, almost preternatural, glibness. Clinton is like a verbal Jackson Pollock, in the sense that he can just toss words into the void and have them land in an arrangement that pleases people even though it makes little sense.

At a recent press conference Clinton was asked for his opinion on the controversial new book "The Bell Curve," a sociological analysis of intelligence. He said he "just disagreed" with the idea "that there are factors out there preventing all people in our society from reaching their full potential." Unfortunately this smooth pronouncement had nothing to do with either the book or even the concept of IQ in general, both of which deal not with differences in ability to reach individual potential, but instead with differences in individual potential itself. Clinton let a harmonious arrangement of familiar and fuzzy phrases such as "full potential" and "our society" substitute for thought, and lost a chance to add to the ongoing debate about the book.

This is only one example of a widespread problem. Because of reluctance or inability to think, political debate in America is literally a war of words, not of developed ideas. People have generalized opinions on complicated issues (i.e. pro-choice v. pro-life), and signal those opinions with certain question-begging stock phrases ("it is a woman's right to have an abortion" v. "abortion is immoral"). Opposing sides employ various permutations and combinations of these stock phrases repeatedly, endlessly, fruitlessly, in a form of debate by semaphore.

This style of debate takes root easily in the culture of law school, a culture in which a premium is placed on polysyllabic words, on the sound and style of abstruse verbal argument, on rapid reference to statutory or common-law language. Law school trains students to defeat the opposition with words — they begin to see words and phrases as ends in and of themselves, as arguments in their own right. Prickly issues of public policy are discussed using phrases two or three times removed from the considerations and meanings which underlie them. Sometimes entire debates occur exclusively on the level of language, like some kind of high-IQ parlor game — a game in which phrases of constitutional derivation, unaccompanied by deeper reasoning, are mysteriously effective trump cards. Abortion should not be limited because of a "constitutional right to privacy." Assault weapons should not be banned because of a "constitutional right to keep and bear arms." Mitt Romney should not be asked about religion because of the "separation of church and state."

This unique law school culture makes it easy for people to slip into the style identified by Orwell, a style in which lazy or nonexistent thought is covered up with "prefabricated" phrases. On the opinion pages of this newspaper, for example, a "Meaningless Words" and "Dying Metaphors" conglomerate enjoys a monopoly. Columns purporting to justify a position on an issue are often just a collage of clichés in which the writer mistakes a grammatically correct arrangement of political boilerplate (with words like "diversity," "intolerance," "racism," "politically correct," "immoral," etc.) for an argument. Orwell writes about "gumming together long strips of words which have already been set in order by someone else, and making the results presentable by sheer humbug."

In the classroom the device of "Pretentious Diction" is popular. This is a variant style in which "a mass of Latinized words falls upon the facts like soft snow." Orwell demonstrates by translating into "Pretentious Diction" Ecclesiastes' famous verse about how "the race is not to the swift, nor the battle to the strong": "Objective consideration of contemporary phenomena compels the conclusion that success or failure in competitive activities exhibits no tendency to be commensurate with innate capacity."

The practical consequences of such a manner of communication can be severe. Assumptions are unexamined. People say things without thinking about them. Finer points are missed or simply ignored. Concreteness gives way to vagueness, "pure wind is given the appearance of solidity." Political conformities harden, and conflicts persist. As poet Matthew Arnold wrote, "ignorant armies clash by night."

Years of debate on the question of "faculty diversity," for example, have yielded nothing close to a resolution of any facet of the problem. Each year, the debate begins anew, and each year "the words, like cavalry horses answering the bugle, group themselves automatically into the familiar dreary pattern." "The ready-made phrases come crowding in": "diversity," "old-boys network," "sense of community," "town meeting." Both sides suffer from a "reduced state of consciousness," and indeed do seem sluggish, even detached. New and constructive ideas of how to deal with the problem — despite all the talk — elude us.

Orwell says that "one ought to recognize that the present political chaos is connected with the decay of language, and that one can probably bring about some improvement by starting at the verbal end." He recommends that people strive for fresh thoughts and concrete ideas, making a conscious effort to avoid "existing dialect." These lessons are so relevant to Harvard Law School that the administration should make "Politics and the English Language" available to all students free of charge at the Distribution Center.

THE REASONABLE WOMAN

The Enemy is Us

By Linn Brady '95

RECORD Columnist



A week before the fall interviewing process began, two friends asked me if they should wear their wedding rings to their interviews. One feared that if a firm found out she and her spouse were uncertain about their eventual location, she would be dismissed as a callback candidate before the interview began. The other feared her ring was a sign she would ask for maternity leave in the future, and as a result, no firm would hire her.

After the interviews began, another friend told me that a female interviewer questioned her about her work on the Women's Law Journal, particularly on an article on gender discrimination in the granting of political asylum. As if in an effort to prove that she was open-minded and not a "feminist," the interviewer asked if only women could benefit from gender-based asylum or whether such a policy could "work in reverse." She then asked my friend if she could name a situation in which a male would be granted asylum based on gender. That question contained an unspoken threat: It made clear to my friend that this firm would not hire a woman who believed women should be granted special preferences, regardless of context.

Two seemingly unrelated stories, both offering disturbing views of the future of women in the law. The former may derive from vestiges of the old-boy network, from socio-economic realities, or from some combination of the two. The latter, however, reveals a more surprising and subtle barrier: Without communication and much introspection on the part of women lawyers, women might find that the most challenging obstacles to advancement in the law could come from each other.

In thinking about the whole interviewing process, I recognized that the problems of my two married friends still existed. While I advised them to wear their rings because I knew they would never be happy at firms that would make a hiring decision on that basis, I could not tell them that their fears of being rejected because they were married were unfounded. Whether a relic of discrimination, or a function of the harsh economic choice that firms face in hiring someone who may take a substantial amount of time off, it was a type of "ceiling" that I had been conditioned to expect.

Indeed, it barely came as a surprise to me when, after I mentioned I wanted to write a note on sexual harassment, an interviewer raised his eyebrows and asked me

How women relate to one another professionally — as competitor or friend — is crucial to the realization of one of the central goals of the women's movement: success for all women.

if I thought that the recent \$7 million verdict in the Baker and McKenzie suit was appropriate. He prefaced his question with the words "I know I shouldn't ask this." The underlying subtext of that question was "are you the type of person that would sue us for discrimination?" I could tell that the interviewer would adjust his response according to my answer, but I could also sense his disapproval of the verdict. To test this notion, I responded, cautiously, that I thought that the damages had been far too large. Nodding his head in vigorous agreement, he replied that, for that amount, he would be willing to be sexually harassed every day of his life.

However, as my interviews progressed, I found that another, more subtle type of "ceiling" existed. To my great dismay, I found that I had greater difficulty interviewing with women than with men. I had assumed it would be easier to interview with a woman, perhaps because I believed that we would have so many things in common that the awkwardness of the opening moments would be replaced by an easygoing camaraderie. But I found these interviews frustrating and difficult. On what level was I to relate to these women? Was I to take an attitude of deference or would I be able to see these women as allies and friends? Would our shared gender make no difference at all?

During my interviews with women there sometimes was a barrier so pronounced that it could not be breached. This separateness seemed partially to be a function of the need to establish quickly a tone of superiority. Yet I also felt that it was based on the interviewer's need both to prove herself and to have me acknowledge her success as earned and legitimate. In return, I felt challenged to prove myself more here than in my other interviews.

For example, when I described my participation in WLA, I felt I had to be particularly careful, simply because of the varying views that women hold about the movement. If I was too enthusiastic about my membership with a woman who views feminism as strident and politically undesirable, I would be branded as a troublemaker. If my response was too dispassionate, I was not being a good feminist. Either way, I felt called upon to hide my true views in order to please the interviewer.

In the unreal world of the 20-minute interview, two people are forced to conduct the social get-to-know-you process at warp speed. Perhaps it is only natural that we fall back into stereotypically defined roles or ways of relating. Yet the dynamics of the 20-minute interview expose one of the problems that face women as we garner more and more success. How women relate to one another professionally — as competitor or friend — is crucial to the realization of one of the central goals of the women's movement: success for all women. Disappointingly, economic reality can force women to view each other as adversaries or opponents. This result may be inevitable. Indeed, it may be that the true error lay in my expectation that women's responses to one another should be any different. Do women carry a special burden to sublimate any conflict between one another?

It is easy to say that one day women will not have to fear that the band on their finger will be endanger their job prospects. But it is far more difficult, and controversial, to conclude that because women's views of feminism and of each other are so different, women can create "ceilings" for one another. It is this subtle barrier that creates one of the most challenging obstacles for women.

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