



Guinier "rethinks" traditional power structure at Harvard University's Lecture Series on Human Values. See story, p.3.

Students, Faculty Mull Over Academic Reform

By Francesco Barbera

Over 50 students began a dialogue on academic reform with Law School faculty members at a forum organized by the LSC Academic Affairs Committee on Tuesday evening. Profs. Frank Michelman '60, Carol Steiker '86 and Bruce Hay '88 addressed student concerns on issues ranging from long-term, systematic

reforms such as reducing the size of the Law School, to more immediate matters such as improving the feedback to students.

"The forum was a one of many needed steps towards an understanding of what students want and need from the academic reform process," said Betsy Rosenblatt '99, Secretary of LSC and a member of the Academic Affairs Committee. "The reform process is a two-way street: students need to understand professors, professors need to understand students and the whole process needs clarification."

The early parts of the forum revolved around the quality of teaching at the Law School and methods to improve faculty accountability. Participants discussed a proposal currently un-

der consideration by the LSC to institute mid-semester course evaluations. According to Dan Fridman '99, president of the LSC, under a system of mid-semester feedback, "professors will know if the students are disengaged and can respond to student concerns to help make the course a more successful experience."

The faculty panelists reacted positively to the idea, emphasizing that most professors are actively concerned with the quality of their teaching.

"I would think professors would welcome constructive things they could do to improve their courses," said Steiker. "Professors want to know what you are thinking about their classes,

Please see LSC, p. 2

Law School Gets Inside Peek at South African Commission

By Justin Herdman

A panel including two former staff members of South Africa's Truth and Reconciliation Committee (TRC) addressed a standing-room-only audience at HLS on Monday evening.

The talk coincided with the TRC's recent release of its final report, which concluded that the bulk of apartheid-era atrocities were committed by South Africa's white governments. In a controversial footnote, however, the report also confirmed that the African National Congress, led by Nelson Mandela, cannot be completely absolved of guilt.

The discussion was moderated by Prof. Martha Minow, who recently published a book entitled "Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence." In addition to the TRC members, Minow was joined by two Ameri-

can academics, Father Bryan Hehir and Charles Maier, both of whom lent an external perspective to the TRC's work.

Attendees stated that they were most captivated, however, by the observations of the two South African panelists.

TRC Defined Justice, Says Panelist

Paul van Zyl served as the TRC's executive secretary and participated in all of the commission's full plenary meetings. Van Zyl sought to validate the TRC's role within South Africa's overall transition to democracy.

Much of van Zyl's presentation was spent in outlining his definition of justice. Encompassing a broad range of ideals, from reparation to non-repetition of the previous regime's policies, van Zyl stressed the complementary role played by corrective measures.

"Punishment can only ever be a part of justice," he said.

Acknowledging that a truth commission is not the perfect alternative, van Zyl insisted that it was the only option available to South Africa. "People that give you simple answers to human rights problems are either fools or demagogues," he said.

In retrospect, van Zyl explained that the TRC had perhaps been hamstrung by its own ambitious goals. "We had to conclude that there was a moral equivalence between fighting for and against apartheid," said van Zyl.

Amnesty Enables Accountability

John Daniel, who researched and wrote portions of the TRC's final report, said the possibility for a Nuremberg-style trial in South Africa was nonexistent.

Please see TRC, p. 3

1Ls Attempt Class Action Against Prof. Rosenberg

By RECORD Staff

A group of Section III 1Ls have initiated what they call a "Torts Movement" in order to persuade Prof. David Rosenberg to adopt a more orthodox teaching style in his 1L Torts class.

The students, who will not study Torts until next spring, have launched the movement in anticipation of Rosenberg's methods of instruction.

Josie Sandler '01, has assumed the leadership of the group by

circulating a plan of action to her section.

Sandler spoke of the importance of Torts in a law school education.

"One day we were sitting around talking about being really worried because we wouldn't learn Torts, and all that implied for our legal education," she said.

"We came here to learn Torts," Sandler said. "We're all paying a lot of money or borrowing a lot of money to get a good legal education."

Please see TORTS, p. 5



Prof. David Rosenberg

Workers of Harvard Law School, Unite

By Aaron Bartley

After decades of turmoil, the Harvard Union of Clerical and Technical Workers (HUCTW) has reached an uneasy peace with the University. Union

leaders and members view this period of relative stability as an opportunity to improve HUCTW's internal structure and to address issues like outsourcing and employee reclassification which threaten to diminish the union's power.

Beginning in the mid-1970s, Harvard secretaries, library staffers and other technical workers struggled tirelessly to establish their own union. The campaign to gain recognition and collective bargaining rights was lengthy, acrimonious and at times downright nasty.

Dedicated rank-and-file organizers faced a hostile Harvard Corporation and President willing to use vicious anti-union propaganda and hardball tactics to defeat

the union movement. The employees' struggle for union recognition, finally achieved in 1985, was documented in a book by John Hoerr entitled "We Can't Eat Prestige."

The relationship between the Corporation and HUCTW remains uneasy. Wages, benefits and the trend towards part-time labor have been sources of dispute. As recently as 1996, the parties were engaged in a protracted battle over the University's attempt to curtail health benefits for part-time employees. The union averted the cuts only

Please see HUCTW, p. 5

Principles Intact, Feingold '79 Heads Back to Washington

By Suzanne Carter

He told people he'd rather lose than compromise his idealistic opposition to runaway campaign spending, but as it turned out, he didn't have to do either. Contrary to pundits, predictions and pre-election polls forecasting his defeat, Wisconsin Sen. Russell Feingold '79 was reelected to a second term in the United States Senate by a mere 35,000 vote margin.

Co-author of the failed McCain-Feingold Campaign Finance Reform Bill, Feingold pledged to spend no more than \$3.8 million on his campaign: \$1 for each Wisconsin resident. Additionally, Feingold refused to take campaign donations from out-of-state sources and asked that the Democratic Party and special-interest groups not spend unregulated "soft money" on his behalf.

Despite Feingold's admoni-

tions, labor and environmental groups, as well as the Democratic National Committee ran television advertisements attacking the Senator's Republican opponent.

Feingold responded by publicly deploring the ads. "These ads that I saw running on TV are offensive to me," he stated during a televised political debate. "They're not well done, they're negative and they don't fit anything I believe in." At the Senator's request, the advertisements were soon pulled by their funders.

Proclaiming victory, the 45-year-old Senator stated that he wanted "to congratulate my opponent on a hard-fought race. You know who I'm talking about — Sens. [Trent] Lott and [Mitch] McConnell. My thought was that if I limited my spending, you would take control, and you did," Feingold told a cheering crowd.

As Senate Majority Whip, Mississippi Sen. Trent Lott was in-

strumental in McCain-Feingold's defeat.

Kentucky's Mitch McConnell was the chief opponent of the bill,

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Bax Waxes, Jake Flakes, and that wacky funster Fenno.

Professors Urge Students to Get Involved

Continued from LSC, p. 1

but the way in which these thoughts are presented will make all the difference in terms of how they are perceived." To increase responsiveness to the feedback, she suggested a revision of the BSA evaluations which would highlight concrete suggestions and the degree of student support for those suggestions.

Students also raised concerns regarding the quality of feedback they receive on their work. One student, noting that "the biggest impression I've made at the law school is on my mattress," lamented that he is unsure what mediocre exam grades signify in terms of ability and knowledge of the material.

"Realistically, there isn't much hope for greatly enriched feedback from profes-

sors," responded Michelman. "We teach large classes and we spend many weeks a year doing the grading that we do. Unless and until the recipients of the information that we provide will accept that information from sources other than a professor, generally upper-level law students who have qualified themselves, we will not be able to do much. We can try various things, but there will not be a general cure until students are willing to let professors off the hook."

Steiker stated that a simplification of the grading system, along the lines of the Yale Law School model, might free up the faculty to address more substantive concerns. Students at Yale are graded on a general three-tiered scale.

"I would personally favor changing our grading system to something along those

lines," she said, adding that there seems to be substantial agreement among the faculty that such a change would be desirable.

Although students touched on a broad range of issues, Steiker noted that it is the size of the entering class that "drives a lot of the dynamics about which students are concerned."

"If there's one thing everyone would welcome, it's a school with smaller classes," said Michelman. "But trying to proceed that way is perennially controversial because there are policy questions involved. There is a debate, even though from a selfish point of view every one of us would welcome that."

The administration's general response to the notion of reducing class size is twofold: it asserts that the Law School can-

not afford it, and that, by admitting more students, it is able to charge lower tuition.

Hay stated that he was unsure why Chicago, Yale and Stanford are all able to afford smaller class sizes, but Harvard is not. "It's not like we're spending the money on a gym," he said.

One student noted that although the Law School is smaller than many undergraduate colleges, students still tend to regard it as an amorphous and un navigable institution. She suggested that academic departments within the Law School might help to alleviate students' sense of disconnection.

Michelman responded that similar proposals had been evaluated in the past and are still being considered among the faculty and administration. "That kind of thing will be one major focus of the Academic Affairs Subcommittee," he said. "Some movement in that direction, as a way of strengthening ties and mentoring relationships among faculty and students, is a set of possibilities that are real and need to be investigated."

A number of students also expressed concern at the lack of student and faculty diversity.

"There are any number of problems where consciousness raising would be important, but this question is not among them," said Michelman, addressing the lack of diversity on the faculty. "For all I understand, everyone here thinks that the level of achievement is far from satisfactory. This issue has been a source of concern and a bone of contention, and it remains a source of concern and a bone of contention."

Hay echoed the remarks, stating that diversity "is regarded as a matter of tremendous urgency by a lot more people than you would think."

The faculty participants underscored the timeliness of the student reform efforts, noting that the Law School is entering a period of critical self-examination.

"This is a fluid moment at the Law School," said Steiker. "Things are happening."

This year Dean Clark '72 formed a series of strategic planning committees focused on issues such as Academic Affairs and Internationalization.

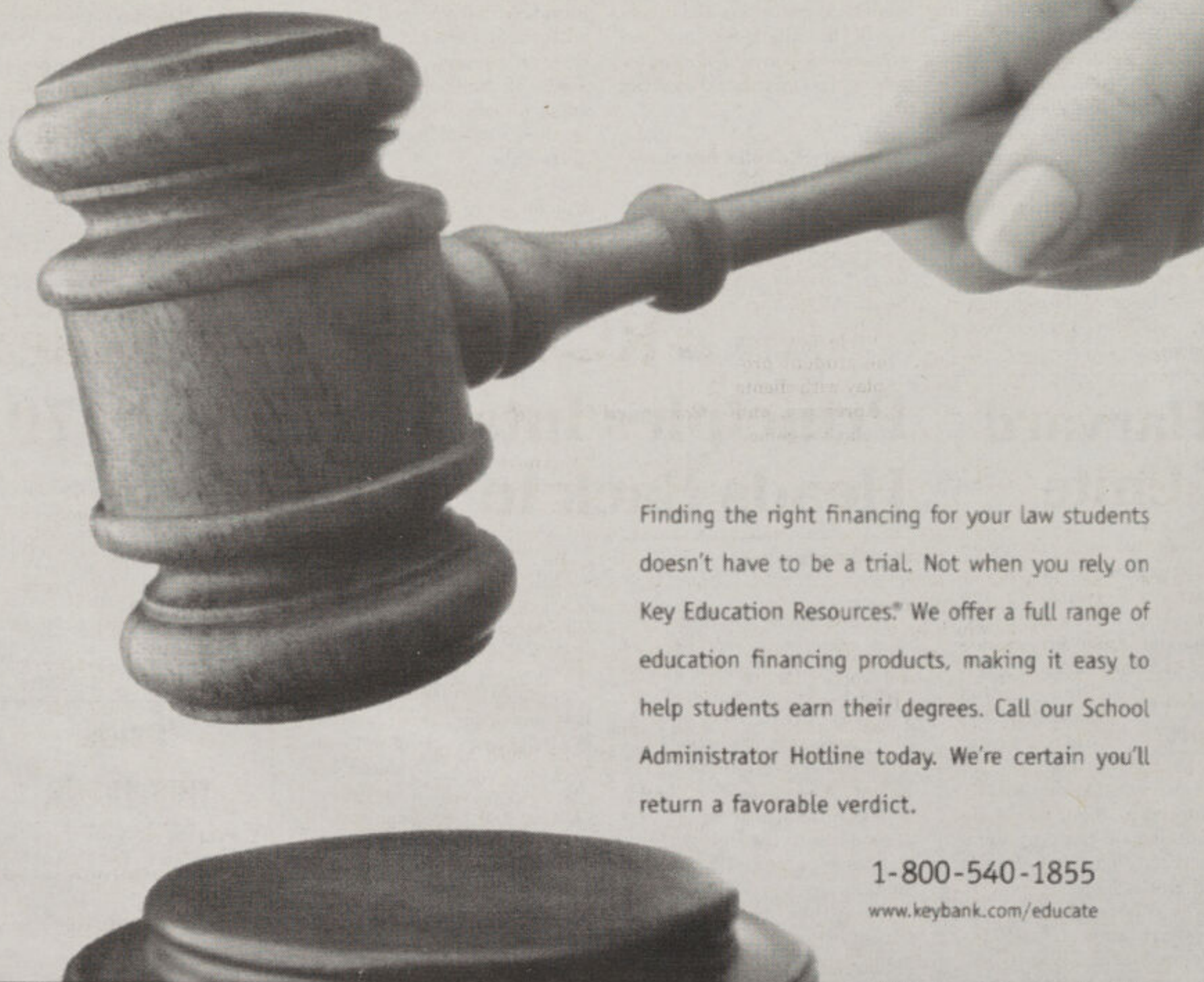
"If I were a student activist, I would demand to be heard at one or more of these committees," said Prof. Hay.

According to Dan Fridman, president of the LSC, the forum represents the first phase of a "proactive strategy to create and propose academic reforms that will benefit the entire school." Moving forward, the LSC intends to draft a full set of academic reform proposals which will ultimately be presented at either a faculty meeting, or to one of the Dean Clark's strategic planning committees.

In part, this approach is a response to frustrations stemming from the mandatory attendance policy, which was approved by the Legal Education Committee last year despite widespread student opposition.

"We are seeking to lead the discussion rather than have the issues delegated to us," said Manoj Mate '00, chair of the LSC Academic Affairs Committee.

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Guinier Rethinks Power

By Dmitri Evseev

Addressing a standing-room-only audience at Sanders Theatre last week, Prof. Lani Guinier called for a departure from traditional power structures, which she called "zero-sum" games. Guinier's two-part lecture "Rethinking Power" was part of Harvard University's "Human Values" series and touched on political issues of voting, affirmative action, and community activism.

Guinier offered a new model for organizational power, which she said was "incipient" and "rudimentary" but might prove useful as a first step toward refashioning the status quo to transcend traditional boundaries.

Guinier related an interchange between Prof. Martha Minow and an unnamed HLS Dean during a Law School faculty meeting. After the Dean explained the advisory function of faculty committees, Minow asked why the faculty should bother "playing the game" and join committees which would have little impact on final decisions. This question was dismissed with the comment, "I know you are a Process person." To this Minow retorted, "I am a Power person."

Guinier intertwined power with process, explaining that those who shape the process may often determine the outcome. Guinier outlined three levels of power, using the example of elections to illustrate her point.

Voting itself constitutes the first level of power in elections is the voting. The act's result is observable, but also inseparable from the process.

The second level of power is held by those who shape the agenda, meaning people who determine district lines and who control how the elections are con-

ducted. Guinier's opinion is that many people do not show up to vote because they feel the outcome has been pre-determined by these factors.

Guinier's third level of power is the power to convince the powerless that they have power. Elections serve this role by creating a ritual of participation, which has been emptied of meaning within the current framework.

This non-traditional understanding of power also informed Guinier's view of affirmative action policies. She argued that by focusing strictly on the number of minorities in upper levels of the hierarchy progressives are forgetting to challenge the power hierarchy itself. As a matter of fact, she suggested that the legitimating effect of seeing minorities within the hierarchy undermines the will to oppose the structure of power.

Without engaging ideological opponents from the right of the political spectrum, Guinier instead engaged in a type of soul-searching within the left. Some students in attendance were surprised at the political rather than academic nature of her discourse.

A few members of the audience were clearly not persuaded by Guinier's arguments, since they used question-and-answer session at the end to criticize and challenge her message in a confrontational manner. In the democratic spirit, however, Guinier was generous in setting aside an extensive amount of time for these interactive portions of her speeches.

Reactions of law school students to Guinier's speech were mixed. Several enjoyed the talk, but perceived a disconnect between Guinier's criticism and her solutions. "She offered some great 'shouldn't's,'" noted John Bartlett '01, "but I'm still trying to figure out what the 'shoulds' are."

Class of 2001 to Alumnae, Law School: Hear Us Roar

By Alyssa Caples

A group of three 1Ls launched a campaign this week to challenge the law school administration to increase the number of women students in the class of 2002 to 45 percent. The 45 number is a symbolic commemoration of the 45th anniversary of the admission of women to HLS. Spearheaded by Amelie von Briesen '01, Charlene Morriseau '01, and Sarah Szalavitz '01, the group set up a table in the Hark this week to get signatures on a petition they will present to the alumnae gathering this weekend for Celebration 45, an event celebrating the achievements of women at HLS. As of Tuesday, the threesome had amassed close to 200 signatures from 1Ls and another 50 from upperclasspersons.

According to the group, HLS is lagging behind in the number of female students. Women constitute 47 percent Yale Law School's class of 2001 and 45 percent of Columbia Law School's class, while only 42 percent of members of the HLS classes of 2000 and 2001 are women.

In a letter to be presented to the alumnae along with the petition, the students urge the alumnae to join in the 45 percent challenge they present to the administration.

"We noticed that the alumnae were coming to campus this weekend, and we needed to point out that the law school could still accomplish more in the area of enrolling women," said von Briesen. "We wanted to open the dialog to find out why the number of women is so low. It's possible that women are not applying, and if so, we need to find out why."

"It's also possible that women are choosing not to come," von Briesen continued. "If this is the case, there are several tar-

geted outreach programs to encourage women to enroll. The University of Chicago sends out a letter to women with high LSAT scores and Columbia has a pamphlet detailing everything from the number of women faculty members to available day care facilities."

The initiative by the students comes on the heels of the recent student activism rallies that have occurred in part to lend support to student activists at the University of California at Berkeley. "I think there needs to be more student activism. We need to show that we are willing to help and that we have a collective voice," said Morriseau.

The admissions office would like to see more women at the law school as well. "I think it would be great. Why not even 50 percent?" asked Joyce Curll, Assistant Dean of Admissions and Financial Aid. "We have had 45 percent women in the past — 1989. So it's been a while, and it's time to get those numbers back up."

According to Curll, the ratio of women in the application pool has varied over the last 2-3 years, but it tends to be in the 40 to 43 percent range. "The makeup of the student body tends to be a function of the applicant pool, and the admissions committee tries to recruit students from all groups."

"We try to reach out to everybody who we would like to come here. The WLA writes postcards to admitted female students and sends a letter and has mentors for enrolling students," she noted.

Curll is optimistic that the numbers will rise. "One of the things that's happened is the number of women faculty has increased. Also, the Dean has indicated that there will be additional sources of financial aid. Women tend to be more risk adverse when it comes to taking on debt for school, so this may help," said Curll.

Long-Haired Freaky Tattooes Need Not Apply

By Steve Scali

Visible tattoos, Crystal Gayle 'dos and other physical characteristics which are anomalous at the Law School will hardly help students hoping to work at a firm next summer.

"Firms don't like long hair, probably because of the image thing. They might have one token long hair, an alternative guy who has been a partner for 20 years or, as a gimmick," said a student who asked that his name not be revealed.

"Everything in life forces you to abandon something," he continued. "It's your choice — you can keep your long hair or work."

This student thinks HLS attracts a disproportionate number of conventional individuals. "These people tend to dislike chaos and like things that come in standard, neat packages," he said.

There are no official HLS statistics on individuals with tattoos or men with long hair.

One female student who requested anonymity revealed that when she wears a skirt, depending on the nylons she wears, her tattoo resembling a bracelet can be somewhat visible to the intrepid observer. While applying for jobs as a 1L and 2L, she wore dark nylons and sometimes covered up the tattoo with makeup. In the beginning she was concerned that interviewers would see it, but so far none apparently has.

"On one hand, I didn't want to cover anything and it frustrated me a lot, but I desperately needed employment, so it's like...whatever," she said.

The student's moral dilemma could be considered a crime of socially constructed gender. Dusan Stojkovic '00 has a tattoo of a zen symbol on his calf but admits that

"tattoos in places like that are not a problem unless you're a woman wearing a skirt, or a man wearing a skirt."

"I think a visible tattoo would be used as a screening device. The problem is, as an initial screen, I don't think that's a very good way of screening people," one admittedly biased tattooee noted.

"I can understand why people hide things like tattoos," the student proceeded. "It's a game you play with clients regarding the proper impression, and showing you know how to play the game."

Twisted Sister Locks a Corporate No-No

Darren Schlanger '00 says he thinks that men with long hair might be at a disadvantage in an interview for a firm job. He had very long hair reaching the middle of his back, which he put in a manageable ponytail. Last summer, he applied for public-interest jobs and worked for the U.S. Attorney's Office. He did not have to meet with clients and was primarily involved in writing memos and briefs.

"You can have long hair, but if you shave and are relatively kempt, it's not terribly different from having short hair," said Schlanger. He added that "if you're representing a large corporation and you have long hair, they might get scared." Describing himself as eager for a change of pace, Schlanger cut his hair over the summer. He admits, however, that he might have done so anyway before interviewing with firms.

Nevertheless, Schlanger noted that individualistic firm-directed students were not without their options. "It's not like you have to work in a firm that requires short hair. You can find one that doesn't."

Another student noted that the decision made may have to be geographical. "Maybe for California firms or human

rights law, long hair would not be the end of the world, but for corporate jobs, it's a big no-no," another student said.

Still a third student advised interviewees to consider the trade-offs integral to all life's tough decisions.

TRC Report Discussed

Continued from TRC, p. 1

Because there was no clear-cut conqueror in the post-apartheid era, Daniel said, "in that context, you cannot have war crimes trials, but you can have silence."

By arming the TRC with amnesty power, Daniel concluded that South Africa had made a sound decision. Coaxing forth testimony with the carrot of immunity allowed for "accountability [so that] the perpetrators could tell what they did, and who told them to do it," said Daniel.

Daniel, a white South African, spoke about the long-lasting consequences of the TRC on his community. "We have created an instrument that confronted white society with the reality of what was done in its name," he said.

2L Deserves Credit for Event

Raj Goyle '00, who spent eleven weeks this past summer in South Africa, was responsible for assembling the distinguished panel.

As an intern with the TRC, Goyle was

tasked with researching the psychology of perpetrators for the commission's final report.

During his tenure with the TRC, Goyle developed the idea for Monday evening's discussion. "At Harvard, the interest in the TRC and South Africa is immense, and I figured that we should have something," said Goyle.

In response to criticism that a black voice was lacking from the discussion, Goyle defended the panel's composition. "For what it's worth, I think [the criticism] has a valid point. But this was an analysis, not a charged opinion about the commission," Goyle said.

Goyle pointed out that the selection of van Zyl and Daniel, who are both white South Africans, was partially a matter of convenience. "I wanted to invite John and Paul because they were the two guys I knew. It was [also] a creature of who was in the area," said Goyle.

Daniel's visit to Cambridge coincided with a conference on African studies, while van Zyl is currently an LL.M. candidate at New York University.

Welcome Back, 2 and 3Ls



Briefs

Fried May Return to HLS Faculty

After three years on the Massachusetts Supreme Judicial Court, conservative firebrand and former Harvard Law School professor Charles Fried may soon be returning to a full-time teaching post. The Harvard Crimson reported that sources at the Law School said that Fried, 63, recently asked to be reinstated as a member of the Law School faculty.

Prof. Fried declined to comment on the story.

Fried left his position as Carter professor of general jurisprudence in 1995, when his former student, then-Governor William F. Weld '70, appointed him to the seven-member court. One of the most controversial appointments in years to Massachusetts's highest court, Fried has received credit for adding both to its conservatism and its intellectual level.

Fried underwent a heart valve operation in 1997, and sources say health concerns are motivating his departure from the bench.

Before joining the court in 1995, Fried taught 30 years at the Law School and served a four-year stint as U.S. solicitor general under President Reagan ending in 1989. Fried's return would add a strong conservative to HLS.

While scholars often battle over the definition of legal conservatives, few doubt that Fried falls within their ranks. "There are a range of litmus test issues," said Professor of Law

Richard H. Fallon Jr., a 17-year veteran at the Law School. "He has been insistent that the executive branch be subject to the unitary control of the president. With respect to free speech issues, he has been very skeptical of the notion that it is permissible to restrain hate speech or sexually harassing speech without infringing on the First Amendment."

While solicitor general, Fried spearheaded the Reagan administration's assault on the *Roe v. Wade* decision. He vociferously opposes affirmative action programs.

Fried currently has emeritus status at the Law School, which allows him to teach a reduced course load. While on the court, he remained a presence at the Law School, teaching constitutional law last year until surgery required him to hand over the class to Prof. Richard Parker '70.

The Law School enforces a "two-year rule" under which professors relinquish their chairs after two years of leave. In order to return to his original position, Fried must go through a reinstatement process. In keeping with a school policy not to publicly speculate on faculty appointments, HLS spokesman Mike Chmura would not comment on Fried's possible reappointment. He did say, however, that professors who want to return to HLS are almost always allowed to. Fried, in fact, took advantage of this unwritten policy in 1989 when he returned to HLS after his four year stint in Washington as solicitor general.

Harvard Leads in Scholarly Citations

When it comes to meaningful research, Harvard is again at the top.

According to this week's Chronicle of Higher Education, Harvard heads the newsletter Science Watch's list of "high impact" research universities.

The rankings are based on the frequency that the articles of a university's professors are cited in scholarly journals.

While Harvard and other universities across the country tend to dismiss rankings such as those published in US News and World Report, which are partially based on opinion, universities take Science Watch's study seriously.

"This is something to be proud of," said University Spokesperson Alex Huppe.

"This is a different kind of ranking because it's data-based," Huppe said. "It is one measure — and a pretty good measure — of a faculty's significance within scientific circles."

The five-year study was last published in 1992, when Harvard was ranked second to Stanford.

Science Watch tabulators searched for references in journals of 21 fields across the science and social science fields in order to create the ranking.

Harvard also placed first in some of the several independent field categories.

Stanford University and the California Institute of Technology ranked second and third respectively this year.

Professors say the research achievements are attributable to Harvard's superior faculty, not to systems which may provide financial or tenure incentives.

"We do try to bring the best here and help them be as successful as possible," said Dean of the Faculty of Medicine Joseph B. Martin.

— The Harvard Crimson

Historian Questions Jefferson Study

NEW YORK (AP) — Don't be so quick to assume Thomas Jefferson fathered a child by his slave, says an amateur historian who assisted a genetic study about Jefferson that made headlines this week.

The real father of Eston Hemings, the last son of Jefferson's slave Sally Hemings, might have been the president's brother Randolph or one of Randolph's six sons, said Herbert Barger.

But the author of a book on the topic doubts that hypothesis.

The DNA study was done because of old charges that Thomas Jefferson had fathered children by Hemings. But its result indicates only that Eston Hemings' father was a Jefferson, not necessarily Thomas, Barger said Thursday in a telephone interview.

"We just cannot pin anyone down, because once you get into that DNA, Jefferson blood is Jefferson blood," Barger said. "We still can't pin it on Thomas Jefferson."

Barger, a retiree in Fort Washington, Md., has studied the Jefferson family for 25 years as a hobby. His wife Evelyn is Thomas Jefferson's first cousin, six generations removed.

Dr. Eugene Foster of Charlottesville, Va., who organized the study reported this week in the journal *Nature*, agreed that his study itself indicated only that a Jefferson was the father. But given the available historical evidence, the simplest explanation pointed to Thomas Jefferson, he said.

Annette Gordon-Reed, law professor and author of "Thomas Jefferson and Sally Hemings: An American Controversy," said Thursday she doubted that any of Barger's suspects was responsible. The historical evidence implicating Thomas Jefferson is far more persuasive than simply the possibility any of them was involved, she said.

—Associated Press

"Wine Drinkers" Make the Call in Cheese State

Please see FEINGOLD, p. 1

and he controlled the Republican National Committee's campaign kitty, using it to punish reform-minded candidates. In Washington state, McConnell refused money to fellow Republican Linda Smith, an advocate of campaign finance reform. By contrast, in Wisconsin, McConnell spent more than \$1 million in soft money to defeat Feingold.

Feingold's Republican opponent, Representative Mark Neumann, was buoyed by support from religious conservatives as well as McConnell's filtering of soft money. The Wisconsin race was one of the last to be declared by CNN, which did not predict Feingold the victor until 12:13 a.m. EST, more than three hours after Wisconsin polls closed. As the night wore on, Neumann asked his supporters to "say a little extra prayer" for his victory.

Neumann then waived a calculator in the air, stating that he refused to believe network predictions. "You have to convince the math teacher before the math teacher says anything more," said Neumann, who taught high school math before starting a home construction business.

Neumann waited until 1:45 a.m. to concede, at which point he said, "you know what? Dane County elected Russ Feingold to be senator for the next six years. Forty-seven counties went our way out of seventy-two."

The densely populated Dane County, which is home to the state capital and the enormous University of Wisconsin-Madison campus, is known as one of the last remaining liberal hotbeds in America. Indeed, Dane County voters swung heavily in Feingold's favor, enabling the senator to carry the county by a margin of 56,000 votes.

Neumann ran particularly well in the Green Bay region, leading his campaign strategist to quip that perhaps his candidate lost because there were "more wine drinkers in Madison than beer drinkers in Green Bay."

Neumann also carried the male vote and the Protestant vote, while Feingold won among women, Catholics and mi-

norities.

Neumann characterized his movement as one aimed at "restoring values."

"It's perfectly all right to have faith in God, and these are the principles that should be used as a basis to govern the land. It's OK to have commitment to your family," Neumann noted in his concession speech.

Asked what he would do having lost the election, Neumann responded, "I'm going deer hunting with my son."

Neumann focused his campaign on such issues as abortion and flag-burning, which actually may have contributed to his defeat. Jo Muster, the Republican nominee for the Dane County seat in the U.S. House of Representatives, told reporters that she didn't know if she could vote for Neumann. "Mark Neumann and I disagree on a number of things, particularly partial-birth abortion," she stated.

Similarly, Marquette University political science professor Father Timothy O'Brien termed Neumann's strident opposition to a recent Wisconsin State Supreme Court decision legalizing flag-burning a "turnoff."

"I think there was a turnoff in some Wisconsin voters who were in that kind of independent category. And I think the independents sided with Feingold," O'Brien said.

Feingold's wife, Mary, said she never doubted that her husband, a former Rhodes Scholar who graduated cum laude from HLS, would prevail.

"I know Russ Feingold. I know the people of this state," she said. "We might not be flashy about our insight and intelligence, but we have it."

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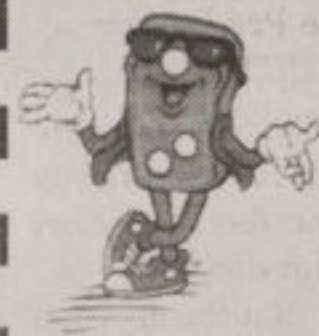
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"Torts Movement" Seeks Reformation Ex-Ante

Continued from *TORTS*, p. 1

Other students echoed Sandler's concern, but were highly pragmatic in discussing prospective solutions. "The next logical step is to talk to Rosenberg," added one Section III student. "We should recognize that it would be best to at least attempt a working relationship with him over one based on antagonism and resentment."

Sandler said she did not know whether Rosenberg would be willing to discuss his pedagogy with future students, but "at this point that's premature."

BSA, Word-of-Mouth and Clark '72 Dis Rosenberg

When asked how she knew that Rosenberg would not adequately teach Torts, Sandler responded that the course evaluations published on the Internet by HLS's Board of Student Advisers (BSA) indicated that many of Rosenberg's former Torts students found him to be "hopelessly disorganized and incoherent."

"A lot of them said, 'I didn't learn anything about Torts,'" Sandler noted. "I just have heard that he tends to jump in at a very high level."

Sandler cited the BSA evaluations as further evidence of Rosenberg's ineptitude. On a scale of 5, "Professor Rosenberg received a 1.7 for Clarity of Presentation and a 1.9 for Organization. His overall effectiveness rating was a 2.7," said Sandler.

Finally, Sandler and her colleagues were disturbed by a comment Dean Clark '72 made during a reception thrown in honor of Section III students.

"He said, 'Oh yeah, you have Rosenberg for Torts. At least that's what the class is called,'" Sandler recalled.

"We're really concerned about our legal education," Sandler noted. "All we're doing is trying to find out if all these allegations are true."

Asked how she and her cohorts planned to determine the truthfulness of the claims against Rosenberg, Sandler was vague.

"I really don't want to give that information out, because I don't want to put 2Ls and 3Ls on the spot," Sandler said, adding that many students feared endorsing the movement publicly.

Sandler insists, though, that the movement will proceed with fairness. "No effort can go forward if it is only substantiated by hearsay and innuendo," she said.

Sandler stated that, while the movement was not her idea, her fearlessness made her an apt candidate for its leadership.

"I'm the only person willing to publicly say that we're doing this. There are a lot of people who feel this way, and I'm the only one willing to come out and say it and be visible and serve as the channel for the organization."

Among HLS Profs, Rosey's Right in Line

A survey of the BSA Web pages demonstrates that Torts professors often prove controversial.

Prof. Duncan Kennedy, for example, while described by students enrolled in his Fall 1997 Torts course as brilliant, interesting and insightful, was also labeled unclear, frustrating and disorganized. In addition, students felt the course was too focused on economic policy with too little attention paid to doctrine.

Similarly, Prof. Charles Nesson '63 garnered mixed reviews from his Fall 1997 Torts students. Some called him "witty and hysterically funny," and while an-

other stated that Nesson "changed my outlook on life." One student, however, said Nesson "scared me," while others called him disorganized, disruptive and offensive.

Another first-year Torts teacher, Prof. Jon Hanson, got overwhelmingly positive feedback from his Fall 1996 Torts students, yet even in his course there were some dissenters. While most thought he was caring and humorous, a small minority of students stated he was unclear and overly theoretical. And again, a number of Hanson's students who had not taken economics felt they were at a disadvantage.

Bearing these comments in mind, Rosenberg seems to fit right in among HLS Torts professors. Some students thought he was entertaining, thought-provoking, challenging and readily available during office hours, while others criticized him for being unclear and disorganized. Like students taking Torts with Kennedy and Hanson, Rosenberg's students thought that a background in economics would aid them in their understanding of the subject matter.

No comments related to whether or not Rosenberg's 1997 Torts students actually learned Torts were included in the Online course evaluation.

"Torts Movement" Not Inclusive

Sandler's "Torts Movement" is not by any means endorsed by all Section III students.

"I just want to express how angry I am that this is happening at all," Dimple Gupta '01 said, chastising the "egomania and selfishness" which have run rampant in her home section.

"These are students who've been in law school for seven weeks and admittedly

know nothing about the law, and yet they think they're more qualified to teach the law than Prof. Rosenberg," Gupta said.

"Maybe based on their hunt, Rosenberg isn't a good teacher, but that doesn't mean they have the right to deprive those of us who look forward to taking his class of that opportunity," Gupta concluded.

Jonathan Freimann '01 was another student who felt he would be missing out if deprived of the chance to have Rosenberg.

"I've heard Rosenberg is conservative or libertarian — I'm not sure where he stands on the political dial, but I know he's not as homogeneously liberal as the other Section III professors. Without him, we would only have liberal professors," Freimann stated.

Freimann also pondered how the "Torts Movement" would be judged outside Section III.

"These are the actions of just a few self-appointed students, but they make our whole section look naive and silly as if we know better than Prof. Rosenberg about what's best for our legal education."

Overall, though, Freimann would just like the opportunity to take a course with the man he calls "one of the most esteemed litigators in the country."

"We can learn black-letter law from a book or while studying for the bar," Freimann noted. "What we can't learn is how someone as brilliant as Rosenberg approaches litigation and the law."

According to the musings of another Section III student, the solution may be a mere bar tab away. "I think that we should invite Rosenberg to engage in a drinking contest against our section's best. If he wins, we should embrace his teaching [style]," the student said.

Employees Label HLS Relatively "Worker-Friendly"

Continued from *HUCTW*, p. 1

after holding a series of public demonstrations to bring attention to the matter.

With the approval of an extension contract running through June 30, 2001, all major points of contention have been resolved, at least for the time being.

Union Leaders Cite HLS Success

Donene Williams, HUCTW's President and a former secretary at HLS, speaks proudly of the union's accomplishments. "After four or five years of struggle over benefits, we have finally come out of the storm. Employees covered by HUCTW's agreements have made significant gains on wage and benefit issues and our relationship with the Law School in particular has steadily improved," Williams said.

Although HUCTW negotiates contracts for its employees University-wide, each school in the University has its own human resources department. "We have a different relationship with each school," Williams noted. "HLS is one place where we've had a certain amount of success in addressing workplace issues and giving the employees who contribute so much to the Law School a voice to improve not only wages and benefits but also the work environment."

Williams pointed to the 4.5 percent annual raise which HUCTW members will get in each of the next two years, more substantial rewards for employees with many years of service and the fact that more than half of those in the union make over \$30,000 as tangible evidence of the benefits the union provides.

Marilyn Burns, a longtime HUCTW member and administrative assistant to Prof. Christopher Edley '78, echoed Williams's comments about the general state of labor relations at HLS. "My involvement with the union began in 1982, and I am very much satisfied with what

the union has become." As one who experienced the transition from a non-union environment to HUCTW representation, Burns emphasizes that the union fundamentally changed the position of administrative workers at Harvard.

With contract agreements in place through the year 2001 for both HUCTW members and dining service workers — represented by Local 26 of the Hotel Employees, Restaurant Employees — the vast majority of organized workers at Harvard are at peace with the Corporation.

Fraction Leader Calls for More Democracy

Tom Potter, an HLS administrative assistant and HUCTW member, suggests that the union should work to renew its own democratic procedures and examine its negotiating strategies. "I have a strong commitment to this union and it's accomplished quite a bit in the twelve years I've been here, but I'm also a critic of the prevailing strategy of the HUCTW leadership which is 'jointness' and labor peace."

"Too often, HUCTW takes the easy way out when it should be pressing for more democratic reforms, more benefits and a better pension plan," said Potter. By approving an extension of a previous contract rather than presenting a new set of demands and by failing to elect lead negotiators as was the practice in previous years, HUCTW shied away from what could have been a fruitful, albeit contentious, contract struggle with the University, he said.

Potter, a leader of the Pro-Democracy reform caucus within HUCTW, criticized the system of "joint councils" which exist throughout the University. Each joint council is comprised by members of both labor and management. "Too often the councils just become a forum for the union to appease the University. It's a classic 'jointism' tactic," Potter called for

HUCTW to strengthen its internal democracy by creating a regular newsletter and holding more regular meetings where matters of substance are discussed.

HUCTW President Williams also sees room for improvement on several fronts. "We can never stop focusing on ways to make the workplace more democratic. This takes faculty involvement and we need to do a better job getting professors at the Law School to work with us."

While several HUCTW members said that the workload problems are not as pressing as they were in past years during a hiring freeze at the law school, all agreed that the union should be vigilant with respect to the amount of work heaped on HUCTW members.

An additional issue raised by Ms. Williams and Mr. Potter is the University's classification of an increasing number of workers as "casual," a status which denies them the benefits of HUCTW membership.

"HLS and others are using more students and others to do work formerly done by full or part-time HUCTW members," Potter said. He cites this classification system as the reason why HUCTW membership has fallen in recent years. "We can't afford to let the University classify workers as 'casual' just so it can save a few nickels and dimes. At some point we've got to stand up to the 'bean counters' in management," he said.

Outsourcing to the Unorganized

Besides the clerical and technical workers, HLS students, faculty and staff benefit from the labor of nonunion dining service workers at the Hark. HLS contracts out its dining services to Sodexo, which recently merged with Marriott to create the largest catering and dining services company in the world.

Sodexo workers have no union representation and are paid far less than other categories of employees on campus. Many Sodexo workers, unable to afford decon-

trolled and skyrocketing Cambridge rents, commute long distances to work at the Hark.

Robin Kelley, Food Service Director for Sodexo, had kind words for the employees who work under her. "We have a very diverse group of people and they all work very hard. We've recently implemented an employee incentive program designed to reward loyal workers," she commented.

When asked about wages paid to dining service workers, Kelly would say only that they are "average for salaries in this market."

The major unions at Harvard are at a crossroads. With contract negotiations out of the way, the consensus is that the unions should now focus on secondary, but nonetheless important, issues facing working people on campus. From her days as an organizer, Williams knows that labor can never afford to stand still. "We can't ever stop building our power base. There are just too many forces working against us."

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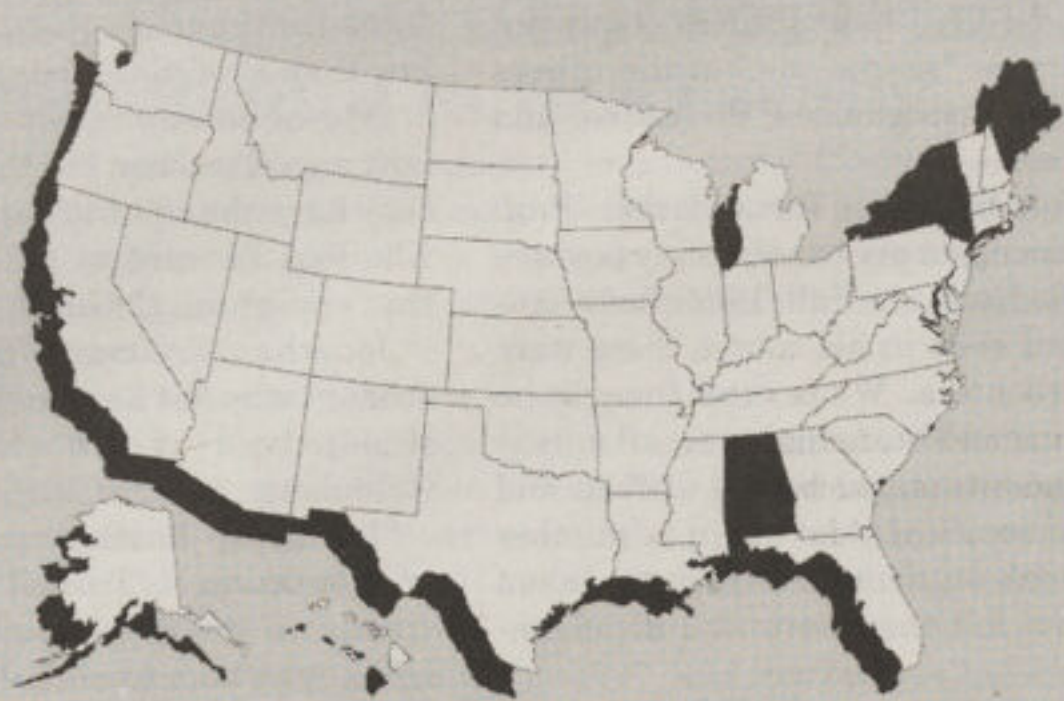
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Across the Wire



News from the East, West, and Mid-West

Death Row Survivors Make Case for Abolition

MONROEVILLE, Ala. (AP) — When Sheriff Thomas Tate bumps into Walter McMillian on the street, he'll ask how he's doing.

"I just say I'm doing pretty good," McMillian says, with a sad-eyed smile. The 57-year old junkyard owner spent six years on death row. He believes the sheriff framed him for the murder that put him there.

In 1993 the state of Alabama acknowledged McMillian's innocence and freed him. Now he's back home in Monroeville, and Tate is still Monroe County's sheriff — neighbors again in the community that celebrates itself as the setting of "To Kill a Mockingbird," the classic novel of Southern childhood in which a black man is wrongly convicted of raping a white woman.

There was no question McMillian would come back to claim his share of the family land among the pine woods and cotton fields of southwest Alabama. "I'm an innocent man. I don't see no reason not to. The truth's been told," he said.

And it will be told again this week. McMillian is among more than 30 Americans who have been freed from death row and are planning to gather in Chicago for the first National Conference on Wrongful Convictions and the Death Penalty, sponsored by the Northwestern University School of Law.

They represent perhaps the greatest challenge to use of the death penalty: The risk that imposing capital punishment may kill an innocent human being.

Conference organizers identified 73 men and two women who have been released from death row since the 1970s, when the death penalty got an overhaul. In 1972, the U.S. Supreme Court ruled execution was unconstitutionally "cruel and unusual" because states used it in arbitrary and capricious ways. In response states made their laws more specific, and capital punishment was reinstated in 1976. Today, 38 states, the federal government and the military have the death penalty, and the nation's death row population was 3,517 as of Oct. 1, according to the NAACP Legal Defense and Educational Fund.

Among those convicted and cleared in the past three decades, at least eight are in prison, and conference organizers say nine have died and six could not be found.

Randall Dale Adams is expected at the gathering. Convicted in 1977 of killing a Dallas police officer, Adams was 72 hours from execution when the Texas Supreme Court spared his life because of improper jury selection. He was finally freed from prison in 1989 after his accuser recanted.

Sabrina Butler-Porter was a 19-year-old on welfare in Mississippi when convicted in 1990 of killing her 9-month-old son. In 1992 the state Supreme Court overturned her conviction; the prosecutor made improper remarks to the jury about Mrs. Butler-Porter's failure to testify. She was retried and acquitted.

Wilbert Lee and Freddie Pitts are among nearly 20 on the list who were tried in Florida. Lee and Pitts were twice con-

victed and then sent to Florida's death row in 1963 for the murder of two gas station attendants. Another man confessed, but his statement was ruled inadmissible.

In 1975, Lee and Pitts received full pardons from Gov. Reubin Askew, who cited strong doubt about their guilt. This year the state awarded each of them \$500,000 in compensation.

McMillian is suing Sheriff Tate for \$7.2 million, claiming civil rights violations. (The lawsuit originally sought \$14.2 million and named other local and state officials. Some reached a small monetary settlement and others were dropped from the case.) Citing the lawsuit, Tate declined to be interviewed, but his lawyer, Daryl Masters, denied McMillian's claims. "Sheriff Tate committed no wrongful act of any kind and should be commended for the way he conducted the case," he said.

The Nov. 13-15 conference is being organized by Northwestern law Professor Lawrence Marshall who helped win reversals in three capital penalty cases. At a time when most Americans support the death penalty, Marshall said, "there is a grave danger of wrongful convictions, and wrongful executions."

No physical evidence, no eyewitness, a jail-house snitch, claims of a confession but no record of one, investigators using weak or suspect "science": these are hallmarks of wrongful convictions, Marshall said. Individuals caught in this deadly net also are apt to be from society's fringes: poor, minority and criminal. Typically,

their lawyers do a poor job. Reversals usually come from new evidence pointing to the real killer, a recanting witness, and, less often, DNA testing.

This is no reason to discard the death penalty, proponents say. Even one innocent person wrongly executed is terrible, said Robert Bork, a former federal judge now at the American Enterprise Institute in Washington. "But the question is, if you do away with it, have you condemned other people to death?"

Bork, who as U.S. solicitor general successfully argued before the U.S. Supreme Court for the death penalty's reinstatement in 1976, said the death penalty deters crime as well as incapacitating those who might kill again. And it's morally satisfying, Bork said.

"That's one way of vindicating the community," Bork said, "relieving the community's need to express itself, for retribution, in particular for horrible acts."

Ted Pearson, who prosecuted McMillian and is now an assistant district attorney in Mobile, says he did his job properly. "I thought he was guilty," Pearson said. "I did what I was supposed to do. The grand jury thought he was guilty. And the jury convicted him."

McMillian's exoneration shows the system works, Pearson said.

Indeed, it took a death sentence to set McMillian free. As his 32-year-old son, James McMillian, said: "If they had got a life sentence, he probably would never have got out, because people would have probably given up."

Maine OKs Topless Mowing

One woman wants to mow the lawn topless. A neighbor doesn't like it. Solution: Let the voters decide.

With a vote Tuesday of 775-283, Newport residents nixed plans for an ordinance to punish women for displaying their breasts in public.

It all boiled over on Martin Stream Road a few months ago. During a visit to her mother's house, Desiree Davis, 34, cut the grass without a shirt. A neighbor, Mary Thompson, called authorities and complained. Topless lawn mowing, she said, was indecent.

Besides, she warned, passing motorists might get distracted and cause an accident.

The law in Maine prohibits the display of genitalia or the committing of sexual acts in public. But Town Manager Ken-

neth Knight noted that breasts are not genitalia, and lawn mowing not a sexual act. No crime here, he reasoned.

So Thompson launched a petition drive to have the town's Board of Selectmen craft a law to stop topless lawn-mowing women. She rounded up 125 signatures to get the matter on Tuesday's ballot.

In the meantime, Shirley Davis, Desiree's mother, had a company design and print T-shirts for "official members" of the fictitious Topless Lawn Mowers Club. More than 100 sold in the first week. Two downtown businesses selling them have placed orders for more.

Davis says her daughter doesn't plan on changing her mowing habits for next summer.

"She likes a nice tan," Davis says, "and I have a large lawn."

New York Strip Club Targeting Children

NEW YORK (AP) — Mayor Rudolph Giuliani thought he found a sure-fire way to decimate the skin trade soiling the city by banishing all "adult" clubs in most neighborhoods.

But one enterprising club and its lawyer may have found a loophole in the new rule: put the welcome mat out for children.

Ten's World Class Cabaret in Manhattan did just that, and state Supreme Court Justice Stephen Crane ruled Thursday that Ten's "cannot be defined as an adult eating and drinking establishment if it does not exclude minors."

"You could take your 15-year-old son to see the movie 'Striptease.' Why can't you take him to see a striptease?" asked Ten's lawyer, Mark J. Alonso.

The mayor did not share Alonso's logic. "I would suggest that if a parent was bringing a kid into a place like that, we should question whether the parent should have custody of the kid," Giuliani said Friday.

Since opening its doors for children last year, Ten's has had only one minor customer — a 14-year-old boy who came

in with his parents, all tourists from South America, Alonso said. Because of liquor laws, minors must be accompanied by a parent.

Giuliani called the court decision "one of the jerkiest rulings I've seen" and accused the judge of ignoring the intent of the law, which prohibits sex-oriented theaters, bookstores and dance clubs from operating within 500 feet of homes, day-care centers, houses of worship, schools or one another.

The city will appeal.

The adults-only language was included in the law so as not to interfere with what city lawyers called "legitimate theatrical performances and films including nudity or having a sexual theme."

The loophole could open the way for other clubs to reopen or avoid closing, said Herald Price Fahringer, an attorney who represents more than 100 of the clubs and X-rated stores.

"This is, like, nuts," the mayor bemoaned. "These are sick, perverted places. What do you want kids in there for?"

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Supreme Court Roundup

High Court Turns Away School Voucher Dispute

WASHINGTON (AP) — The Supreme Court will let Wisconsin continue providing financial help for families whose children attend religious or other private schools, a move sure to encourage similar efforts in other states.

Supporters say such tuition vouchers can give low-income children the same educational choices as richer ones, but critics see nothing less than a movement to abandon the public schools.

"I think as an association we're disappointed that the court did not choose to hear the case in its entirety. We were looking forward to the chance to argue on behalf of public schools," said Michigan Education Association consultant Margaret Trimer-Hartley.

"We're just saddened that now the children in the Milwaukee Public Schools will continue to lose money and resources while this experiment continues. We've not seen any real proof in the Milwaukee plan that it's working."

Supporters of vouchers in Michigan, however, were pleased with the ruling. They say it will help them in their drive to put school vouchers on the state ballot in 2000. Michigan's constitution bans spending public money on parochial schools, through vouchers or any other means, but a ballot vote could change the constitution.

The justices on Monday left intact a Wisconsin program providing vouchers — good for up to \$5,000 a year per child — for students of poor families who attend private schools in Milwaukee. Because most of those schools are religious, the state's plan had been challenged as a violation of the constitutionally required separation of church and state.

Monday's action, an 8-1 vote to deny review to the challenge, was not a decision and therefore set no national precedent. But participants in the raging national debate were quick to react.

Clint Bolick of the pro-voucher Institute for Justice said the court's action "provides a green light for other states to proceed with the most promising education reform on the horizon."

Wisconsin Gov. Tommy Thompson, a Republican, praised the court for clearing the way "for impoverished families who want a better life for their children to

choose schools that make the most sense to them. It's a victory for hope."

But Barry Lynn of anti-voucher Americans United for Separation of Church and State said the court action did not amount to "a high court blessing of tax aid to religious schools."

"Sooner or later, the Supreme Court will have to deal with the issue of vouchers," Lynn said. "The justices took a pass today, but they cannot dodge the issue forever."

The National School Boards Association had supported the challenge to Wisconsin's program, saying, "Vouchers are not an educational panacea. In fact, proponents of vouchers are asking us to abandon the public schools."

Under the state's plan, money paid for private school tuitions is taken from

money that otherwise would be spent on public schools.

Trimer-Hartley said the MEA feels the money would be better spent on lowering the class size for all children in Milwaukee public schools, something that is proven to work. She hopes those kinds of efforts are made in Michigan, rather than trying to institute vouchers.

Congress is considering a national voucher program, and legislatures in about half the states have considered such programs in recent years.

Legal fights over tuition vouchers are being waged in Arizona, Maine, New Jersey, Ohio, Pennsylvania and Vermont.

The Wisconsin Supreme Court had upheld the state Legislature's multimillion-dollar program for Milwaukee. Under it,

poor families of as many as 15,000 students who attend religious and other private schools can receive financial aid. About three-fourths of the private schools in the city are religiously affiliated.

More than 6,000 students are participating in the program this school year.

Recent Supreme Court rulings have cast doubt on the continued vitality of a 1973 Supreme Court decision that struck down a school voucher program because some public money was used to "subsidize and advance the religious mission of sectarian schools."

But Monday's action did not supplant the 25-year-old ruling, which remains law.

Only U.S. Supreme Court Justice Stephen G. Breyer voted to fully study the Wisconsin dispute.

Care for Disabled Students Reviewed

WASHINGTON (AP) — Hearing the case of a quadriplegic Iowa teen-ager who needs full-time care, the Supreme Court struggled over how much health care schools must provide to ensure disabled children's right to a public education.

"A nurse just for you? Certainly there can be a line drawn there" to say a school shouldn't have to pay for it, Susan L. Seitz, the lawyer for the Cedar Rapids Community School District, told the justices Wednesday.

But the lawyer for 16-year-old Garret Frey said federal law does not let schools avoid providing care simply by arguing it is too expensive.

"Cost is just not a factor in how you define" health services that must be provided to help disabled students stay in class, said Frey's lawyer, Douglas R. Oelschlaeger. He asked the justices to uphold a lower court ruling that said the school must pay for Garret's care because it did not involve a physician's help.

The high court must decide by July how much health care schools must provide disabled students under the Individuals With Disabilities Education Act.

The law guarantees all disabled children a "free appropriate public education." School districts must provide various "special education and related services," but most forms of medical care are excluded.

"I guess keeping (Garret) alive would assist him to benefit from special education, but I don't think that was what was meant by related services," said Justice Antonin Scalia '60.

But he and Justice Sandra Day O'Connor expressed frustration with Seitz's contention that Garret's continuous care should not have to be school-financed even if some of the health-care functions he needs might be handled by the school individually.

The Supreme Court ruled in 1984 that a public school had to pay for catheterization for a disabled child — one of the services Garret needs.

Seitz said the difference with Garret "is that he needs continuous monitoring and assessment to make sure that he is not in respiratory distress."

"That's a very hard line to draw," O'Connor said. "I don't think it's going to work. Do you have a fallback position?"

Scalia added, "I hate multi-factor tests. Can you give us any other clearer line?"

O'Connor also pressed Oelschlaeger on how much non-physician care a school district could be required to give. If a child needed full-time care by a registered nurse and an ambulance on standby, she wondered whether a school would have to provide it.

"I want to know how far your argument takes us," she said.

"You do have to go on a case-by-case basis," Oelschlaeger responded.

He noted that the federal law prefers "mainstreaming" disabled children into schools, but placement in an institution or home instruction are alternatives in cases where a child could not benefit from attending school.

Injured in a motorcycle accident at age 4, Garret is paralyzed from the neck down and depends on a ventilator to breathe.

His daily health-care needs include urinary catheterization, suctioning his tracheotomy, providing him food and drink, positioning him in his wheelchair, monitoring his blood pressure and the alarms on his ventilator.

Garret needs some of those services only once or twice a day, Oelschlaeger said, and for the rest of the time "all he needs is someone within earshot," not necessarily a nurse.

Through most of his schooling, Garret has been assisted by a licensed practical nurse, paid through an insurance policy and funds from the \$1.3 million settlement with the motorcycle company involved in the accident.

In 1993, Garret's mother, Charlene Frey, invoked the federal law in asking the school district to pay for an attendant. A federal trial judge and the 8th U.S. Circuit Court of Appeals ruled for Garret and against the school district.

Reverse-Discrimination Case Won't Be Heard

WASHINGTON (AP) — Nine white Chicago firefighters who say they unlawfully were passed over for promotion in favor of blacks and Hispanics lost a Supreme Court appeal today.

The court, without comment, refused to revive a reverse-discrimination lawsuit in which the firefighters challenged as unjustified the city's affirmative-action plan.

The dispute dates to 1973, when the federal government sued Chicago over allegedly discriminatory hiring and promotion in the city's fire department. At the time, blacks and Hispanics made up fewer than 5 percent of the department's uniformed employees.

A pair of out-of-court settlements followed. Although the number of blacks and Hispanics in lower-ranking positions grew, blacks comprised only 2.6 percent of the captains by 1986, and Hispanics only 1 percent.

In 1992, the fire department promoted 161 lieutenants to captain, including 31 blacks and nine Hispanics. Of those, 20 blacks and five Hispanics would have been promoted anyway by following promotion exam results. The other 11 blacks and four Hispanics were promoted through affirmative action.

Nine white lieutenants sued the city,

saying they were denied promotion in favor of minorities who scored lower on the exam. Three of those lieutenants were promoted a year later.

The Supreme Court has sharply limited use of affirmative action in recent years, starting with a 1989 ruling that said set-asides in state and local public works projects must be "narrowly tailored to remedy the effects of prior discrimination."

In the Chicago case, a federal judge and the 7th U.S. Circuit Court of Appeals ruled against the white firefighters.

There was "direct evidence of racial discrimination in the Chicago Fire Department up to and into the 1980s," including racial policies of senior department officials, the appeals court said.

The 1992 promotions boosted the share of minority captains to 14.4 percent, still far below the 29 percent of minorities in lower-ranking positions, the appeals court said.

In the appeal acted on today, the white firefighters said "isolated incidents of uncongeniality" were not enough to justify the use of quotas years later. The city should have used race-neutral ways to boost the number of minority captains, such as giving promotion exams more often and having an early-retirement program.

'Louie, Louie' Singers Finally Get Their Due

WASHINGTON (AP) — For more than 30 years, the Kingsmen got no royalties from their classic recording of the garage-band standard "Louie, Louie." Monday, the Supreme Court let stand a ruling that finally let them collect.

The court, without comment, rejected an appeal by two companies that held the rights to the recording and admitted they paid no royalties to the Seattle band.

The Kingsmen's 1963 version was not the first recording of "Louie, Louie," and it wasn't exactly the most on-key — but it was a massive hit and has been a party favorite ever since.

Federal officials launched an obscenity investigation of the band's recording but finally declared it "unintelligible at any speed."

The band signed a contract in 1968 that was supposed to pay its members 9 percent of the profits or licensing fees from the record. But the Kingsmen got nothing, and in 1993 they sued Gusto Records and GML, which owned the rights to the recording.

After the companies' lawyer acknowledged they paid "not a single dime for 30 years," a federal judge canceled the 1968 contract and granted the musicians the right to all royalties from the time they sued.

The judge also held the companies in contempt when they refused to surrender the master recording.

The 9th U.S. Circuit Court of Appeals upheld those rulings last April.

The companies subsequently turned over the master recording and paid overdue royalties of roughly a few hundred thousand dollars, said Kingsmen's lawyer Scott Edelman.

The band members, most of whom live in the Seattle area and who still go on tour, "are delighted to finally have the masters back in their control after not getting any royalties and getting the run-around," Edelman said in an interview.

In the appeal acted on today, the Nashville-based companies' lawyers argued that the case did not belong in a California court. The fact that the companies signed licensing agreements for "Louie, Louie" with California-based firms was not enough to justify having the case heard in that state, the appeal said.

"Louie, Louie" was written in the 1950s by Richard Berry, who sold it for a small sum. In 1986, an artists' rights group helped Berry collect about \$2 million in royalties.

The case is Gusto Records vs. Peterson, 98-449.

Harvard Law RECORD

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Seth Persily



EDITOR-IN-CHIEF
Ben Lehrer

FOUNDED IN 1946

Choosing Your Battles

Three weeks ago, Prof. Duncan Kennedy predicted that a wave of activism would sweep the HLS student body. Since then, events have shown that Dunc's intuition was uncannily accurate.

Coming off a year where enthusiasm was harder to track down than the elusive sasquatch, it is refreshing to see that students believe that they can make a difference in the educational and social climate of the school and translate these beliefs into direct action.

Action, naturally, spurs reaction. Witness the protests over declining minority student enrollment. The administration has reacted strongly to the claims made by a coalition of student groups that minority student enrollment has inexcusably slid. Faculty members have reached out to students as well as put the issue on the agenda for this week's faculty meeting. In addition, Joyce Curll and Todd Morton of the Admissions Office express a desire to work with students in increasing student diversity at the Law School. Hopefully, their claim that the Coalition for Diversity's statistics on minority enrollment were inaccurate and misleading won't shut the door on the valuable discussion and concrete action that lies ahead.

I must admit, however, that I am bewildered by a separate bout of activism orchestrated by some 1Ls concerned that they may not learn black letter law in one of their classes. The horror! While it may be true that some professors are more equal than other professors, to sit in judgment on Prof. Rosenberg before hearing a single lecture strikes me as misguided and insulting.

Tom Lehrer once said, "Life is like a sewer: what you get out of it depends on what you put into it." The same applies to our legal education. There's certainly no harm in approaching a class and a novel teaching style with an open mind.

There are no professors that teach mainstream black letter torts at Harvard. I like to think that this is because they respect our minds enough to provide more than just vocational training to a horde of would-be ambulance chasers. Certainly they deserve at least the same amount of respect.

Students should be concerned about the state of legal education here. There is certainly room for improvement in a number of areas. But in order not to clog up the sewer that is our Law School, we should choose our battles wisely.

— Ben Lehrer

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The Harvard Law RECORD (ISSN 0017-8101) is a publication of the Harvard Law RECORD Corporation, a non-profit, independent, student-owned and run corporation of the Commonwealth of Massachusetts.

The RECORD is published weekly on Fridays throughout the academic year and is distributed free of charge to Harvard Law School students and at a minimal charge to Harvard Law School alumni. Copy and photo deadlines are 5:00 p.m. on the Monday preceding publication. Advertising deadlines are 5:00 p.m. on the Tuesday preceding publication.

Submissions may be sent to The RECORD at the above noted address, dropped in the RECORD box located in Harkness Commons, or left in the 3L Hark box of Ben Lehrer. All copy must be typed, double-spaced, and submitted on paper and on a computer disk or by e-mail. The RECORD reads and appreciates every letter we receive: we reserve the right to edit letters and submissions for space as necessary. We will return your disks. Off-campus subscriptions are available. Subscription price: \$45.00/year mailed; \$50.00/year mailed outside the U.S. Individual copies: 35 cents at newsstands, 50 cents at the Law School, \$1.00 mailed, \$2.50 for back issues. Second-class periodical paid at Boston, MA and additional mailing offices.

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

—First Amendment, U.S. Constitution

• Letters •

Diversity Beside the Point for Indigenous Students

On behalf of the Native American Law Students Association, we are writing to share NALSA's perspectives on the current wave of activism surrounding minority admissions, as we believe the voices of Native American students at HLS have been usurped by the zeal of some eager students rushing to action.

The Oct. 30 article, "Students Take Protest Against Dwindling Diversity to Alumni," recounted the recent demonstration before alumni at which a group of students presented the alumni with leaflets decrying declining minority enrollment. The fliers reported a 25 percent drop in Native American enrollment. Earlier chalking on campus walkways emphasized this same information.

Prof. Duncan Kennedy's Oct. 22 student activism session inspired certain students to immediate action. These students chose to become advocates for diversity on campus. In the wee hours of the following morning, these students called the leaders of minority student organizations on campus to obtain information about admissions/enrollment statistics.

We were awakened at our home at about 12:30 a.m. with a call from the offices of the RECORD. The call was not about a deadline article, but was instead an urgent inquiry seeking verification for a story these students had decided they wanted to tell.

The voice on the other end of the line started, "Hi, how many Native American students are there at HLS?" The caller professed to understand our predicament, understanding that "Native American admissions have declined dramatically in recent years." The caller said she was part of a group trying to generate activism on campus, but did not tell us what the information was to be used for and certainly did not ask us for our thoughts on

the matter.

NALSA informed the caller that in fact, the number of Native American admissions has increased at HLS in recent years. The number of enrolled Native American students did decline this year. There are four Native Americans in both the 3L and 2L classes and only three in the 1L class. The drop reflects the tragic death of Angela Cowen, a Native American student from Michigan who died this summer before she could join her class at HLS. Her death is a deep loss to our small but active and close-knit organization.

Factually speaking, there was a 25 percent decline in Native American enrollment this year. However, NALSA feels this statistic alone mischaracterizes the nature of the problems with Native American enrollment at HLS. The problem is not in the loss of one student; the problem lies in the persistently low number of Native students admitted and enrolled each year. The emphasis on percentages misled visiting alumni and others in the HLS community into believing that there once was some critical mass of Native students on campus.

NALSA voiced these concerns to the late-night caller and repeated them the following morning as the percentages were being chalked for all to see. Despite NALSA's verbal objection, the inspired activists continued chalking, not caring about the opinion of those whom they were presuming to speak for. NALSA called the offices of the RECORD to again voice these concerns when the student activists announced their intention to distribute "informational" materials to alumni. These concerns were ignored and the student activists tried to

force Native American enrollment to fit the pattern they were attempting to illustrate before alumni.

Contrary to what some students might think, student activism regarding minority enrollment is not new at Harvard Law School. In fact, NALSA has a long history of proactively working with the Admissions Office to foster increased Native American applications, admissions and enrollment. In recent years, the staff at the Admissions Office has worked cooperatively with NALSA on recruitment and matriculation of prospective students. NALSA members have gone on various recruitment trips, drafted texts for recruitment brochures and other materials and worked with the office to reach out to admitted students. NALSA, with the Harvard University Native American Program, has endeavored to inform the Admissions Committee and staff about the specific challenges, considerations and aspirations of Native American applicants.

We are not writing to attack the ideas driving the recent surge of activism. NALSA firmly believes in the value of a diverse campus. We believe in the positive potential of a campus-wide effort to increase diversity. We believe that with proactive steps, planning and a greater effort at consensus-building, students at HLS have the wherewithal to make concrete gains in developing an admissions process that will ensure greater diversity at HLS.

We do not believe there is much to be gained from flurries of idealism that proceed without a sense of context or history, all the while deaf to the voices they seek to represent.

Jennifer Harvey '00
and Wenona Singel '99
Chair and Vice Chair of
NALSA
Nov. 9, 1998

Falk Misrepresents Student Body

Wading through the absurd commentary about student life to be found every week in the RECORD's column "Rude Awakenings," I find myself torn between amusement and sheer embarrassment.

Who, may I ask, are the women and men whom columnist Elizabeth Falk insists on including in the "we" of her observations? Her cast of petty, hypocritical (not to mention universally heterosexual) female characters bears no resemblance to the women I have encountered at Harvard. I am similarly unable to determine precisely which of my male classmates may have in-

spired the narrow-minded blockheads featured in Falk's column.

My classmates are undoubtedly interested in finding relationships, jobs and ways of life that will make them happy. But unless I am much mistaken, the men among them somehow manage to abstain from routinely belittling their female peers in the manner that Falk describes. Nor, to my knowledge, do my classmates who are women degrade themselves by debating the merits of short skirts in job interviews or the tactical advantages of disclosing

their credentials as Harvard students to men in bars.

As a feminist first-year student, I have found even two months' worth of Falk's reflections insulting to both women and men at Harvard Law School. If the RECORD insists on wasting the time of its student readership with more such inanities, I can only hope that readers beyond campus will have the charity to recognize that neither I nor my fellow students actually operate under the set of bizarre priorities that Falk's column suggests.

Tori Juedes '01
Nov. 2, 1998

North Hall Elevator Not Defective

I am writing in response to an article appearing in the Oct. 2 edition "Residents Refuse to Use Defective Elevator." The article and its heading were misleading. The North Hall elevator was not defective, rather, there were several items located in the machine room — conduit on the floor, radio equipment no longer in use — which needed

to be removed. Also, the cab ceiling needed minor repair work and sight guards on the landing doors needed to be installed.

All work has been performed and the State Elevator Inspector has been notified.

I apologize for any confusion or inconvenience this may have caused the resi-

dents of North Hall. I want to stress that the items cited in no way compromised the safe operation of the elevator. Neither Harvard nor the State would allow an unsafe elevator to operate.

Dan Murphy
Dormitory Operations
Oct. 30, 1998

Janet Reno '63 Not a General

I am constrained to write regarding a misplaced reference made in the article by Jane Ohgami '00 appearing in your Oct. 2 edition, entitled "Alumni to Celebrate 45 Years of Women at HLS."

The error is in the reference to Attorney General Janet Reno as "General Reno." As

Reno herself would be among the first to point out (and has in fact in the past pointed out), the "General" designator has nothing whatsoever to do with the rank or honorific, but is, rather, meant to denote "all" or "universal" — that is, that the U.S. Attorney General is

the "attorney of all the people." Thus the term "General Reno" is simply wrong.

The error is widespread and commonplace. But Harvard Law School should know better.

F. Conger Fawcett '62
Oct. 29, 1998

By Joyce Curll and Todd Morton

Admissions Office Explains Decline in Minority Enrollment

In the Oct. 30 RECORD editorial, the Admissions Office was challenged to provide an explanation to the HLS community for a decline in minority enrollment at HLS as reported by a flyer distributed by students. We are delighted to accept the invitation not only as an opportunity to correct inaccurate information concerning minority enrollment, but also to inform the community more fully about this important topic.

Yes, there has been a decline in minority enrollment, but of a somewhat lesser magnitude than that described by the RECORD article and, more important, it must be understood in connection with the greater decline in minority applications.

Concerning the statistics presented by the RECORD and in the flyer, some are simply inaccurate and others exaggerate true declines. Overall enrollment figures present a more accurate view than do first-year figures alone, because fluctuations in first year enrollment of any one sub-group can be heavily influenced by miscellaneous factors, including the pattern of deferrals. Enrollment for women has increased slightly over the last three years. African American enrollment has decreased by 16.5 percent over the last three years, not 30 percent. Latino/a enrollment has not declined by 37 percent, it has actually increased slightly since three years ago, from 5.0 percent to 5.4 percent. Native American enrollment has not changed over the last three years.

The statistics presented in the flyer appear to compare the number of individuals who entered three years ago to the number who entered this year. As we will explain, the number of students who enter HLS each year and have self-declared membership in a group differ annually for a variety of reasons. Characterizing these annual differences as trends or as evidence of fluctuations in the Law School's commitment to diversity obfuscates our true circumstances. We are deeply concerned that inaccurate use of statistics can be detrimental to our continued commitment to recruit and maintain a diverse and inclusive student body, and we do not believe that the Law School community is well-served by reducing this complex and important topic to a few incomplete and therefore potentially misleading statistics.

Rather than take that approach, we hope that the following information will help to clarify for the HLS community what the larger picture shows and will provide a basis for discussion of how we can develop a positive and constructive plan to refresh our shared commitment to diversity.

As a base-line for comparison, 1997 first-year enrollment figures (the most recent available for the nation) that compare HLS to the universe of U.S. law schools might be helpful:

An important aspect of our current cir-

cumstances is a decline in applications. Over the past several years, the total number of applicants to law schools nationally has declined by approximately 21 percent from approximately 92,000 applications in 1993 to approximately 72,000 applications in 1997. Applicants to Harvard and other top law schools declined in similar proportions. Nationally, applications from African Americans declined by 22.4 percent, while declining by 31 percent at Harvard and 32 percent at other top private law schools. During the same period, Latino/a candidates declined by 17 percent nationally, 19 percent at HLS and 23 percent at other top private schools.

Because we invite self-declaration by applicants with respect to their racial and ethnic background, it should be noted that the number of candidates who are counted as Latino/a or Native American on that basis may overestimate the number of candidates when compared with full information provided in individual files. On the other hand, there is an increasing number of candidates and students who either make no self-declaration, either because they do not want the Admissions Committee to take racial or ethnic background into account or, in the case of many biracial students, they do not wish to choose between their parents. Some of them identify as "other" and will explain in a background statement, which we also invite applicants to submit.

Some particular comments about the four groups discussed in the RECORD might be in order here:

Women

Between 1979 and 1988, the percentage of women entering the law school ranged from 29 percent to 41 percent, and averaged 34.9 percent. The average number of women in each class was 192. From 1989-1998, the percentage of women in each class ranged from 38 percent to 45 percent, and averaged 41.4 percent. The average number of women in each class was 228. This year's entering class included 229 women. The percentage of women in the class has tracked the percentage of women in the HLS applicant pool, within a few percent, over the past ten years. Deferred acceptance of our offer is one important explanation for variations.

African Americans

In considering trends, it is important to look at the longer term, because year-to-year variations may reflect miscellaneous factors rather than significant changes. For the ten classes that entered from 1989 to 1998, an average of 11 percent of students in each entering class were African-American. This is an increase over the ten classes that entered from 1979 to 1988, which averaged 10 percent African-American students.

The statement that African-American enrollment has decreased by 30 percent over the last three years may be based on the number of African-American students who entered in 1995 (60) versus the number who entered in 1998 (45). The difference in first-year enrollment for these two years is actually 25 percent, rather than 30 percent. Total applications decreased by 15 percent from 6861 in 1995 to 5813 in 1998. Applications from African-Americans decreased by 29 percent between these years (724 in 1996, 512 in 1998). Total enrollment of African-American students has declined from 11 percent of the student body in 1995 to 9.2 percent of the student body in 1998, a 16.5

percent decrease.

Annual differences in the number of entering students who are members of identifiable groups may be attributable in part to concurrent annual differences in the number who defer enrollment. For example, in 1997, 74 African-American candidates were offered admission, 49 entered, and 4 deferred enrollment. In 1997, we effectively gained 53 African-American students, 49 who matriculated and 4 who made a commitment to matriculate with a future class. The following year, a greater number of African-American candidates were admitted (87), fewer entered (45), and more deferred enrollment (11). In 1998, we effectively gained 53 African-American students, 45 who matriculated (3 of whom were admitted last year, and deferred) and 11 who made a commitment to matriculate in a future year.

Latino/a Students

Using the same years for Latino/as, we would find a slight increase in total enrollment and no change in first year enrollment from 1995 to 1998, despite a 26.8 percent decline in Latino/a applications during this period. The statement that Latino/a enrollment has decreased by 37 percent may be based on the number of Latino/a students who entered in 1996 (40) versus the number who entered in 1997 (25). Total enrollment of Latino/a students has decreased from 5.9 percent in 1996 to 5.4 percent in 1998, a 12 percent decrease.

The class that entered in 1996 included the second-largest number of Latino/a students in any entering class since 1975, and deferrals may explain a piece of the puzzle here. In 1995, 23 Latino/a students entered and 11 deferred enrollment. Of the 40 who entered in 1996, 10 entered as deferrals from a prior year. This also explains in part an apparent 73.9 percent increase for entering Latino/a students comparing 1995 to 1996, followed by an apparent 37 percent decrease comparing 1996 to 1998. For the ten classes entering from 1989 to 1998, an average of 31.0 Latino students entered per year. For the ten classes that entered from 1979 to 1988, an average of 29.8 Latino students entered per year.

Native Americans

Native American applicants are a very small portion of both our applicant pool and our student body, so that to use percentage terms from any year to any other year exaggerates any difference in first-year enrollment. Over the past ten years we have registered an average of three. This year, three Native Americans entered and three deferred entrance to next year.

* * *

It is important to note that we have been and continue to be concerned about the decline in minority applications to HLS, and the associated decline in enrollments. We have taken and will continue to take appropriate steps to respond. Based on our experience that a diverse student body enhances the quality of the educational experience available to all students, diversity has long been an important objective of the admissions process. The Law School is fortunate to receive applications for admission from a large, diverse and talented pool of candidates, and enrolls each year a group of students with diverse personal and professional interests, talents, backgrounds, experiences and points of view. The educational value of diversity is difficult to quantify, but anecdotal evidence suggests that students tend to recognize and learn from their differences as well as their similarities as they work toward the shared objective of a career in the legal profession.

Diversity itself is difficult to quantify. Some markers of diversity describe the student body by age, gender, race, geographic origin, prior work experience, college attended and college major. It should

be noted that this information is often not as precise or complete as it may appear. For example, race information is self-declared. Our experience is that some candidates make declarations based on somewhat tenuous circumstances, others make no declaration at all, and others make multiple or combined declarations. Similarly, geographic origin is difficult to gauge accurately in our mobile society. For example, an increasing number of students are immigrants from many other countries. In this year's first year class, at least 50 students were born in 33 countries other than the U.S.; a number of these students are also persons of color. Others were born in U.S. territories and still others were children of recent immigrants or have spent most of their childhood growing up in diverse cultures.

In an effort to continue to enroll a diverse student body in the face of declining applications, we have focused on recruitment initiatives. Recruitment is an HLS community effort and we are grateful for the participation we get from all quarters. Our experience is that HLS students and faculty are a critical dimension of effective recruitment. We continue to invite, encourage and benefit from students' work at recruitment events around the nation. Students also provide information and give tours to prospective candidates visiting campus, call admitted candidates deciding which law school to attend and help to implement Admitted Student Days and to coordinate student groups' recruitment efforts. Each year, more than 25 faculty members have participated in our admitted applicant programs, hosting lunch, teaching mock classes, writing to and talking individually with admitted applicants. To facilitate our recruitment efforts, we have reconfigured the Admissions Office staff of 7 1/2 so that we now have four professional staff rather than two. One newly hired Admissions Officer, Anders Yang, HLS '94, is a recent graduate of the Law School who has served as a tour guide and recruiter for HLS and a pre-law adviser at Harvard College, and whose responsibilities will include coordinating the combined recruitment efforts of the Admissions Office. We have also hired a current 3L who will assist in implementing this year's recruitment initiatives. We may add another current student to the staff as we develop our plans to implement those initiatives.

We are acutely aware that our financial aid program plays an important role in enabling students to attend HLS, and that our grant awards have not typically been as high for the average admitted applicant as those from the other top private law schools with whom we compete for students. All of our grant aid is based on demonstrated need and it is our experience that need considerations may be more significant for minority students than for non-minorities. Thanks to the very generous financial support of our alumni, both on an annual basis and during the last capital campaign, we have had more to work with in recent years. A particularly generous gift by Household International, Inc., a large consumer finance company, through the work of Finn Caspersen HLS '66, is specifically designed to help needy students. The donors want to help needy students to attend HLS, and one of their hopes is that much of this money will reach needy minority students. The Dean has also expressed optimism about other substantial increases in our financial aid sources. All of this will help tremendously.

We hope that the information presented here will go some distance in helping the HLS community to understand some of the fluctuation in minority enrollment. We will be happy to continue the discussion with those who have an interest and we hope that many students, including those from the Coalition for Diversity, will join with us in our efforts to encourage minority applicants to apply and to enroll.

1997 Enrollment	HLS First-year	National first-year	HLS JD Total
All minorities	25.5%	20.7%	28.5%
African-American	8.8%	7.6%	10.1%
Latino/a	4.5%	5.8%	5.3%
Asian	11.5%	6.5%	12.4%
Native American	0.7%	0.8%	0.7%
Women	42.7%	45.5%	41.6%

To get an idea of recent trends, we can look at HLS total enrollment for the past three years:

	HLS JD enrollment			
	1995	1996	1997	1998
All minorities	28.9%	29%	28.5%	27.9%
African-American	10.9%	10.4%	10.1%	9.2%
Latino/a	5.0%	5.9%	5.3%	5.4%
Asian	12.5%	12.0%	12.4%	12.6%
Native American	0.5%	0.7%	0.7%	0.7%
Women	41.0%	40.9%	41.6%	41.4%

Her Indie World

By Suzanne Carter '00
RECORD Columnist

PUSHING THE MAINSTREAM ENVELOPE

Up
R.E.M.
Warner Brothers, 1998

Reviewing a new R.E.M. album is a rather superfluous activity. The truth is, the boys could put out a recording of lead singer Michael Stipe manning the drive-thru at Taco Bell and still surpass 98 percent of the dirge that lands seemingly by default on the Billboard charts.

"Up," the latest album from the band that made alternative part of the mainstream in '91 (whether that makes them a force for good or evil depends on your perspective), is nonetheless a bit of an Event considering that it is the first since the departure of drummer Bill Berry. That's right, the band has gone from a quartet to a three-piece.

Ironically, though, this doesn't seem to be the cause for much fanfare, given that "Up" fits neatly into the R.E.M. topography. It's three parts "Automatic for the People," two parts "New Adventures in Hi-Fi," one part "Document," with some less percussive Beck and less dramatic Portishead thrown in. (I would have appreciated a bit of "Monster" as well, but like Mick Jagger says, "you can't always get what you want.")

It's the Beck- and Portishead-influenced works that come as pleasant surprises. The delicate Bach-like harmony on "Why Not Smile," for instance, makes it a cousin of Beck's "Odelay" standout "Jack-Ass." Meanwhile, the delicately theatrical xylophonic anti-rhythm of "Suspicion" could fittingly place it alongside anything on the last Portishead album.

As a whole, the album serves as something of a phonetic Edward Hopper work.

The theme tying these 14 very different songs together is one of the price of disillusionment and alienation paid by those who reap the benefits of modern society.

Case-in-point: the album's much-touted love song, a first for the band. Granted, "At My Most Beautiful" ranks as one of the happiest, lushest, most gorgeous pieces of music the boys have ever turned out, but the theme of post-industrialization is present even here: "I read bad poetry into your machine. I save your messages just to hear your voice."

Perhaps this discontent with the electronic age is most apparent on the album's first single, "Daysleeper," in which Stipe sings, "I see today with a newsprint fray/my night is colored headache gray." When Berry's absence is apparent, which isn't all that often, it creates space for innovation.

"Up" is highlighted by its sparsely placed rockers, all of which find their percussive force in something besides those clichéd skins. "Walk Unafraid," for instance, uses a bass/keyboard combo to steady the beat. "Hope," meanwhile, is backed by a rather contrived, sing-song drum machine, which quickly falls victim to distortion, as Stipe sings without paying much attention to where the melody is going. In less competent hands, the song would have become an exercise in pseudo-intellectualism.

If I have one major criticism of "Up," it's that the band faltered by including the lyrics in the disc's liner notes. This, too, was a first for the band; but as many of the postmodern musings on "Up" imply, change isn't necessarily for the best. Stipe's words sounded a lot more profound when I could only make out half of what he was saying.

Supposed Former Infatuation
Junkie
Alanis Morissette
Maverick, 1998

The musical elitists don't like Alanis Morissette. Her fame was too quick, too easy; her transformation from the Angry Young Woman circa 1995 too painless. (That she sold 28 million records while signed to Madonna's vanity label, Maverick, didn't help her image, either.) They claim she was svengalied by producer Glen Ballard, who, having worked with Michael Jackson, knew how to blandize a trend for the masses.

Though I'm no Alanis sympathizer, a lot of the claims against her are bunk. So she underwent a musical transformation; so did Tori Amos and Björk. So she started out by writing lyrics, not music; so did Natalie Merchant and Courtney Love. Morissette may have achieved some quick fame, but that was more a product of changing musical tides than any fancy footwork on Ballard's part. How was he to know that the same fickle record-buying public who embraced "Hold My Hand"-era Hootie would buy an album by a 21-year-old who gained fame by referencing oral sex in theaters?

Morissette's much-heralded previous record, "Jagged Little Pill," was a nice collection of pop-rock. It was better than most albums which sell 28 million copies, but it wasn't a great album. Her latest, "Supposed Former Infatuation Junkie," isn't a great album, either, though it contains flashes of greatness.

Witness, for example, the disc's introductory piece, "Front Row." It's more complex than anything on "Pill," containing three distinct Eastern-flavored melodies. Another standout, "So Pure," bears some resemblance to "Head Over Feet," but it's more complex rhythmically and more honestly joyous. Like her boss at Maverick, Morissette has a knack for pretty, chart-bound pop songs.



"UR" (actually the annoying Prince-like monicker for what should have been called "You Are") could have been included on "Bedtime Stories." It has that same simple melody propelled by famous-gal self-revelation: "don't mind our staring but/

we're surprised you're not in a far-gone asylum/we're surprised you didn't crack up/Lord knows that we would've/we would've liked to have been there/but you keep pushing us away."

Morissette's lyrics can be simple and sincere, but they can also be ingratiating. "Unsent," for example, is a list of letters to Morissette's ex-boyfriends. The premise is promising, but it falls under the weight of its vapid words, which seem to have been written in about five minutes. "Dear Marcus," Morissette reads to the beat, "you rocked my world/you had a charismatic way about you with the women."

Surprisingly, though, the Eastern rhythms and minor chords, not the lyrics, are the reasons to love this record. Those of us who were hoping for an hour of "Uninvited," the marvelous single Morissette wrote for the "City of Angels" soundtrack, will just have to keep waiting. In the interim, though, "Supposed Former Infatuation Junkie" is a powerful document of an artist's growth.

RECORD Horoscopes

ARIES

(March 21-April 20)

Your ideas and information could make the difference, be sure you inform those who can get the wheels turning. Revolts against David Rosenberg don't work nearly as well when you don't give him a chance to tell you what a ninny you are.

TAURUS

(April 21 - May 21)

Clear communication will be very important. Lay off the street slang and start speaking in 1950s jive. To aid your quest, forsake PAX for Nick at Nite, or even better, just watch "West Side Story" over and over. You will be the darn-tootiest coolest cat at the rumble, daddy-o!

GEMINI

(May 22 - June 21)

You feel like you're walking off the edge of your usual routine, and the feeling is exhilarating. Much

of this is due to the fact that you've gone without shampoo for the past nineteen days. Now you know what it's like to be Clem Roberts.

CANCER

(June 22 - July 23)

An unexpected money gift will give you the chance to try something new. Stop pretending to work at the RECORD just so you can wolf down their hard-earned cheese pizza. Buy yourself a slice at 3 Aces, el cheapo!

LEO

(July 24-August 23)

You're looking for a leadership role, but the time isn't right. Yet last week you earned Brownie points for being a good fall guy, kind of like Kevin Costner with that dopey "Postman" movie. Then again, according to a certain omniscient source at the Holmes Mail Center, that movie added insult to injury for mailmen across the land.

VIRGO

(August 24 - September 23)

All seems quite well this week. In fact, you are probably sitting on top of the world. Don't fret, it's only a matter of time before your friends desert you, you flunk out of school, and you become a substitute teacher at that alternative school Fern Nesson runs.

LIBRA

(September 24 - October 23)

Although you are an easygoing character, you may easily offend someone if you are not at your diplomatic best. Next time you stalk your beloved, leave your long-zoom lens at home. No need to offend Prof. Vagts with close-ups.

SCORPIO

(October 24 - November 22)

Continue to insist on quality and honesty in all your dealings, especially when issues are in

the spotlight. Beware that those on crack as well as physically flexible types with excess body hair often cover up their revulsion to your extraneous body parts. Go more sensitive and, by implication, more nasal.

SAGITTARIUS

(November 23 - December 21)

A requirement of personal interaction must be that you will be treated as an equal despite your goofy Degrassi Junior High accent. Be fawning and sycophantic to your superiors. They're too dumb to know the differences, particularly if they're from farther off lands than you are.

CAPRICORN

(December 22 - January 20)

Hey good lookin', you are in danger of being seduced by something that has an attractive outer appearance, but won't hold up under close scrutiny. Many things wish to seduce you, you know, because you are soooooo fiiiiiiiine.

AQUARIUS

(January 21 - February 19)

Your energy level is at top speed — slow down and be a bit more cautious. Remember, consumption of amphetamines is illegal without a prescription and may adversely affect your chances of bar admission. Besides, you can get a natural high just from admiring Glenn Otis Brown.

PISCES

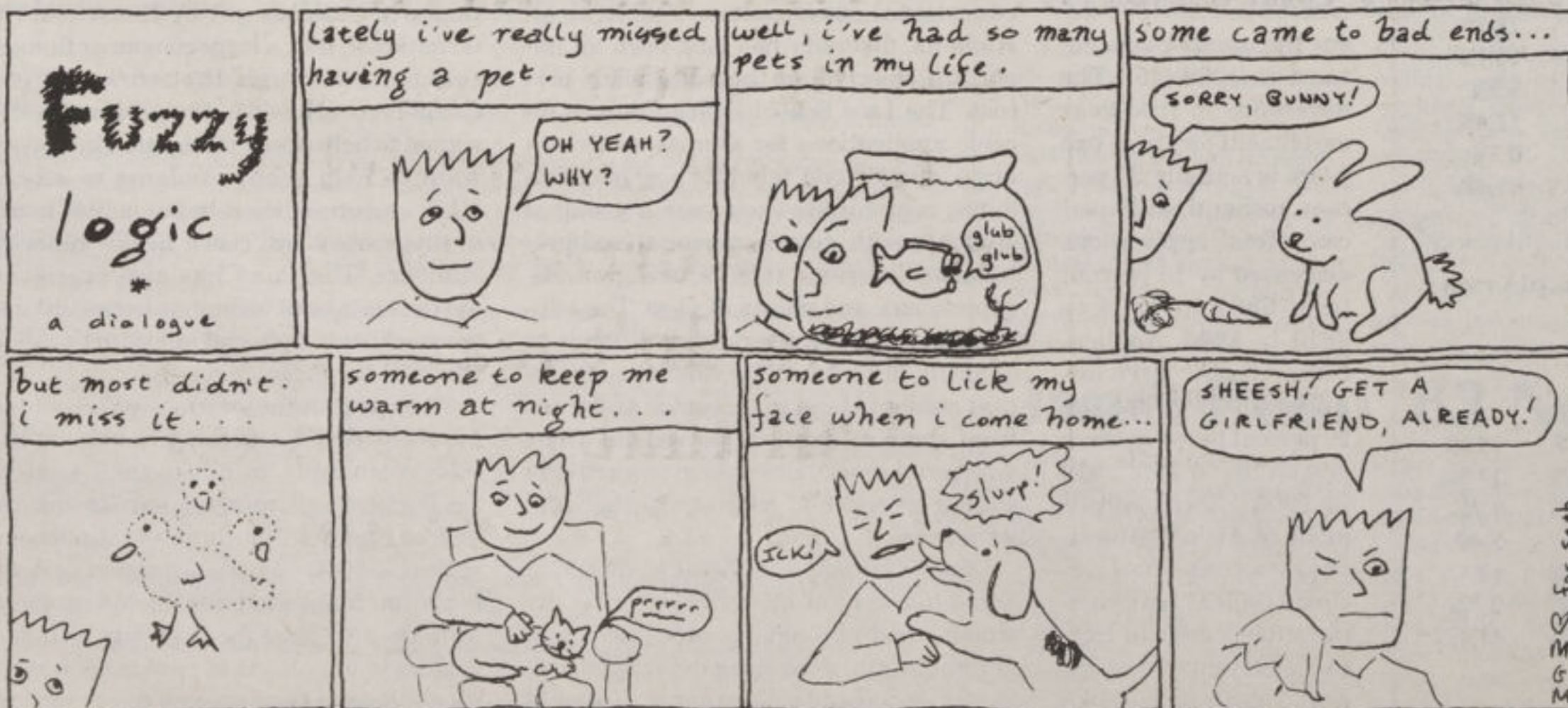
(February 20 - March 20)

Romance is in the picture, and it's colored strawberry blond. Be aware of jealous behavior. That person you call "friend," who may be sitting next to you in Tax at the very moment you are reading this, is really your rival for affection.

IF THIS WEEK IS YOUR BIRTHDAY: Your daily grind may now become more frantic and all-consuming, which may lead to depleted health. Take a few days off to rejuvenate. Some malt liquor and an afternoon in front of Lifetime ought to do the trick. If not, you can always get your kicks on the fourth floor of Hauser.

By Margie McWilliams

Spike



Cape Dello

By Jake Zimmerman '00
Staff Columnist

THE SPIRIT OF ST. LOUIS MEETS THE SPIRIT OF FLYOUT WEEK

It is 6:25 p.m. on Monday evening, and I am on a TWA flight to Boston, the route that David Letterman used to refer to as the "Screaming Baby Express." Normally, I like flying. Sometimes, in fact, I enjoy the whole experience so much that I run through the aisle with my arms outstretched while yelling "I'm a 767!" at the top of my lungs. But not today.

No, tonight my heart is heavy as I sit here in the masterpiece of ergonomic design that is a TWA coach seat. (One year, in a brilliantly Orwellian move, TWA actually changed the name of the coach section to — get this — "comfort class." These days, they just call it the "main cabin." Wimps.)

All is not well in my world, and even the adorable mini-pretzels they just brought me cannot make up for this spiritual deficit. Still, they're good pretzels. And the flight attendant even let me have the full can of soda with a separate cup of ice. This is the closest that TWA can come to a complete affirmation of my spiritual worth as a human being, so it's not something I take lightly.

Let us pause here, for I know what you're afraid of. You think that maybe I'm bitter and angry because I didn't get any job offers and that I'm going to spend the rest of this column whining about the horrid unfairness of my wretched life. So, let me put your fears to rest: through a combination of my winning charm, boyish good looks and a strategic unbuttoning of my oxford shirt (thanks, Liz!), I have succeeded in getting plenty of job offers. Admittedly, they're all in the gasoline-pump-

ing industry, but I'll take what I can get.

So I'll leave the traditional post-flyout-week "God, it sucks to be a pathetically unemployable Harvard law student with no social skills" column for someone else to write. I have better things to complain about. Such as, for instance, my rapidly growing sense that TWA will not elect to provide me with any sustenance beyond those microscopic pretzels, which have

this column. (I am referring, of course, to those of you who are reading the paper in the bathroom and thus really have nothing better to do with your time.) You will have observed that I am writing this on Monday evening: a full 12 hours after classes have already commenced.

Yes, it is true: I am in flagrant violation of the HLS attendance policy. But this is not my real worry, since the enforcer is absent. I know this because I was watching C-SPAN this morning (yes, I'm a loser), and I spotted Dick Parker. He was giving testimony to the House Judiciary Committee, something about how Clinton should be impeached because he had sex with flag-burners. So, with the self-appointed muscle off pretending to be important, I figure I'm

home-free on that front.

But, alas, my sin goes far deeper. Friends, I have violated the "spirit of flyout week." Really. If you read all the OCS instructions (which have become so extensive that they will soon be transferred to microfilm), you will note several heartfelt pleas not to extend your time away from Mother Harvard. The booklets beg us to "keep the spirit alive" and "preserve this important tradition" for future students. But now it is too late. I have broken faith with HLS, and the consequences are inevitable.

I know, as surely as night follows day and breakups follow the end of 1L exams, that HLS will make good on their veiled



threat. After all, they virtually say so right there in the literature, and I put implicit trust in every piece of junk mail that I receive from the administration. Now that I have abused the privilege of flyout week, it will be taken away from everyone. Next

year, it will probably be replaced with a special fall "Bonus Term" devoted exclusively to watching Arthur Miller's videotaped classes in Sony digital surround sound.

I'm sorry, folks. Really sorry. (But not, mind you, quite as sorry as TWA will be when my hunger overwhelms the few scruples I have remaining, and I attempt to make a tasty snack out of some other passenger's leg. I figure I'll make a lunge for the first class section. The people up there will be juicier, and their reaction time should be a bit more dull.) I know you were all counting on me to uphold my side of the social contract, and instead I viciously free-rode like someone with no concept of law and economics.

I would ask your forgiveness. I would beg a thousand pardons. I would throw myself prostrate before you and offer to do anything — even sit through Rosenberg's class again — in order to cleanse myself of this terrible sin. But, frankly, it's unnecessary. I can feel my will to live sliding as I lapse into a starvation coma. If I ever wake up again, I expect that I will have lost all independent consciousness, and will instead shuffle back and forth in a vaguely automated gait as I proclaim how proud I am to be a TWA "employee owner."

This is the way flyout week ends: neither a bang nor a whimper, but rather a simple descent into mindless oblivion. Of course, that would have happened even if I did make it to class on time.

Next year, [flyout week] will probably be replaced with a special fall "Bonus Term" devoted exclusively to watching Arthur Miller's videotaped classes in Sony digital surround sound.

long since receded into the hazy fog of memory and stomach acid. The captain is evidently trying to distract my mind from the TWA starvation diet, since he's now informing us that we're "cruising at an elevation of 13,000 miles." Unfortunately, this information has absolutely no relevance to my life, unless there are some skydiving plans that no one told me about.

But maybe this airline-imposed hunger strike is just as well. It focuses my mind on my true woes, and will perhaps even serve as the beginning of a long period of penance. For you see, friends, it is time for me to make a terrible confession. Some of you will already know what is coming, for you have closely read the beginning of

sounding like David Herwitz on PCP, Fenno wasn't looking where she was going. Suddenly, her forward progress was brought to an abrupt halt as she collided with a bunch of 1Ls in Section III. Before she could get back on track, they quickly surrounded her.

Josie Sandler grabbed Fenno and began talking rapid-fire. "Hey! Did you have Rosenberg? Was he awful? I need to know so that I can organize the campaign to have him velcroed to the wall and beaten with copies of his reading assignments. Only then can I really learn Torts and fulfill my lifelong dream of becoming a sleazy lawyer who advertises on late-night infomercials!"

Fenno shook her head in disbelief. "Let me get this straight: you're actually planning on going to Rosie's class? You need to develop some priorities, woman."

"Yeah," chimed in Steve Green, "well I bet you're only saying that because he's Jewish."

"Oh, yeah," shouted Eboni Cohen, "well you're a racist pig!"

"Oh, yeah?" yelled Christian Artmann, "well my daddy could beat up your daddy!"

Fenno had had enough. She shoved them all aside and bellowed at the top of her lungs: "Goddamnit! I'm rubber, you're all glue, and whatever you idiot 1Ls say will only bounce off me and stick to you, so SHUT THE HELL UP ALREADY!"

There was a stunned silence as they assimilated the power of Fenno's logic. In a hushed and awed voice, Artmann could only say: "Is that really true?"

Fenno smiled a contemptuous smile. "Is the LSC really useless? Does Chaz Fried really forget what reading he's assigned when he calls on people? Does Larry 'The Body' Tribe really eat Spam sandwiches for lunch? Does Bobbie Clark really tell that same stupid story to the incoming class every year? Does Martha Minow really call on people who yawn and look

at the clock? Look, kiddies, why don't you run along and play now?"

They stood there for a moment, absorbing all the newfound information. Then Sandler raised her fist to lead the charge, and cried out "To the Internet! To the webpage! We must post this valuable data so that all of our classmates may benefit from our scintillating wit and wisdom!"

"YES!" they all chanted in unison, "TO THE INTERNET!"

Fenno shook her head as they hustled away. She was really beginning to wonder about this year's 1L class and their bizarre activism. Fenno scratched her head, as she also started to wonder why she was here in the first place. She knew she'd been angry about something, but she had completely forgotten what it was.

"Ah, well," thought Fenno philosophically. "It couldn't have been anything important."

Fenno

Fenno cheerily jumped out of her cab, flipping the driver a couple of fifties and a little plastic bottle of Black Label that she'd stolen from the First Class liquor tray on the plane. The driver stared in disbelief, and Fenno quickly patted him on the back. "Don't worry about it, buddy. Just write 'Julian Poon' on the receipt, and I'll send it to Wachtell." While the driver did as instructed, Fenno paused for a moment to admire her five newly-acquired elite-level frequent flyer cards. "Life is good," she purred, as she grabbed the receipt and headed to the Ames basement to store all the airplane silverware she'd liberated.

When Fenno entered her hideaway, she immediately noticed something wrong. The peaceful darkness was broken up by an ominous flashing red light. As she contemplated its dimly Satanic glow, Fenno suddenly realized what it meant: someone had actually called and left her a message. "That's funny," thought Fenno, "Nesson wasn't supposed to get a new stash until next month."

Fenno hit the dust-covered button, but the next thing she heard was not the soothing, mellifluous tones of her favorite candyman. Rather, it was the jarringly smarmy voice of Manoj Mate. "Hi, Fenno? Uh, hope you're having a good flyout week. I just wanted to let you know that I signed you up to be on my Ames team. Hope you don't mind. I guess I'll see ya..."

Fenno missed the last few words, because she was already screaming with rage and running towards Shaw Hall. As she ran, yelling epithets and generally

Quote of the Week

"One day we were sitting around at lunch talking about being really worried because we wouldn't learn Torts, and all that implied for our legal education."

— Josie Sandler '01, leader of the "Torts Movement."

ATTENTION: HARVARD 1Ls and 2Ls

Take a break from case books and join us
on Monday, November 16
6:00 — 8:00 P.M.

Goulston & Storrs,

a 130-lawyer Boston firm, is pleased to invite
you to meet with us to discuss:

- ◆ job searching and interviewing tips
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- ◆ life at a law firm and how to succeed

Cocktails, buffet and roundtrip transportation provided

Meet the Boston Coach bus at 5:00 at the corner of
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to South Station and walk 3 blocks North to 400 Atlantic
Avenue (next to the Boston Harbor Hotel).

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

RSVP by Thursday, November 12 to
Jennifer Smith at 574-4072
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We look forward to meeting you at the reception
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Casual attire acceptable

By Baxter Wasson '01
Guest Columnist

LESSONS TO BE LEARNED

When I awoke at 7:15 on a Saturday morning two weeks ago, I was excited to get outside the Harvard Square/Three Aces treadmill, do some hard work, raise my consciousness about other communities around Boston and generally make a difference. Unfortunately, by the end of the day I felt like our work for the Dudley Street Neighborhood Initiative (DSNI) achieved very few of these goals. Our lack of interaction with members of the Roxbury community made it feel like a HLS social event as much as anything. Our isolation also kept us totally ignorant as to what problems the community faced, and how we were helping them, if at all. In addition, I felt that an overly social attitude which led to half-hearted work permeated the day, instead of truly enthusiastic dedication to the project. While I really appreciate the work that Professor Hay, our BSA instructors and fellow students put into the organization of the day — it left me feeling a bit unfulfilled.

Within a half-hour of arriving at our work site I began to wonder what, if any, effect our work would have in the substantive improvement of the neighborhood. We were cleaning up vacant lots. We picked up trash, threshed long grass and clipped overgrown weeds. All I could think was that unless the DSNI did something in the next two weeks with the numerous lots that different groups cleaned on Saturday that the land would simply revert back to the overgrown littered state in which we

found it. In fact, I checked their Web site (www.dsni.org) and they have yet to settle on a proposal for the lots or to determine where they will obtain funding for whatever plan they decide on.

In many ways I feel that we could have done more good by helping the 15 homeless people we see everyday as we walk through Harvard Square or by contributing six hours each to any of the public in-

them and find out. But as I saw the half-hearted effort that many people put into their work I was almost glad that there was no one there to see how little enthusiasm these otherwise driven people were putting into helping the community. People used shovels to trim weeds one at



In any of these endeavors, it is critical that we interact with the members of the community we are helping. Without this kind of interaction, the extent to which we may broaden our understanding of the problems we are trying to alleviate is woefully limited. Additionally, I

[W]e ought not misrepresent the level of enthusiasm by staging a photo-op for the dean when he arrived an hour after the project was scheduled to end.

a time, aimlessly swung scythes with one arm and generally stood around talking as much as they really worked. We should have all left with blister and a sense of having helped the community, but instead most left with little more than a bit of a farmer's tan and a few new acquaintances.

Enough griping. The impetus to involve HLS in a service project was there, and probably over 80 students were willing to give

up their Saturday. These are the two most important elements and now we must look to the future so we can apply ourselves in a truly beneficial way. First, we must identify what kind of work we are going to do. Ideally, we should focus on projects that actually will make a substantive contribution to the community in which we are working. This could include any number of actions ranging from serving food at a homeless shelter to helping rebuild dilapidated houses or painting classrooms that have become run-down. The options are nearly boundless, but let's be wise about our choice.

terest clinical programs on campus. But maybe City Year, the group behind organizing the Servathon, did not believe HLS students would want to deal with any issues more pressing than trimming grass and picking up trash. The fact that we had practically no personal contact with anyone from the neighborhood we were cleaning up only made this issue more disturbing.

Did the residents of Roxbury view the little work we were doing as something useful or could we have helped them in another, more valuable way? It would have been reassuring to talk to some of

think it would benefit us all to talk for a while with someone who has concerns much different and perhaps more "real" than being stressed out about writing a brief.

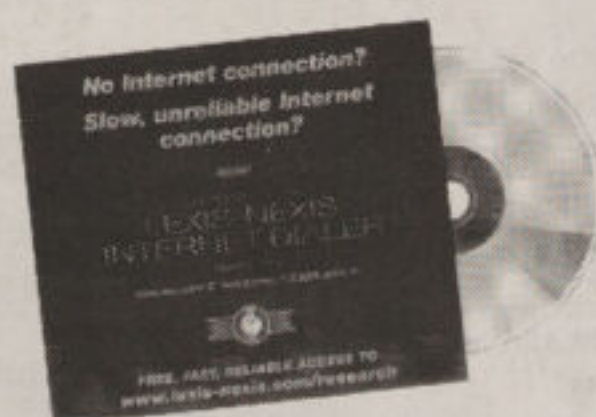
Finally, I think we should be less concerned about how doing community service will improve the law school's image or how it will "help us get our souls back." If we go in with that self-interested attitude, we undermine both goals. For instance, we ought not misrepresent the level of enthusiasm by staging a photo-op for the dean when he arrived an hour after the project was scheduled to end in a chauffeur-driven car, and only moved the one piece of fencing he and the others were holding.

Our main agenda should be to help the neighborhood in which we are working. If in the process we educate ourselves and use the experience as a jumping off point for greater involvement, all the better. As often is the case with first steps, this one faltered a bit. Nonetheless, our work for the Dudley Street Neighborhood Initiative was a step in the right direction. Let us use the lessons we learned from our less than perfect experience to improve the next one. As with almost everything else we do here, let us commit ourselves to doing our best when we decide to devote our time to our community.

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UNTRADITIONAL CAMPAIGN FILE

While most candidates for office stuck with traditional campaign strategies — don't say anything specific, and *spend, spend, spend* — a few notables put a very individual stamp on their quest for political power.

- Fred Tuttle, Republican candidate for U.S. Senate from Vermont, entered the primary as a joke intended to promote a low-budget movie he was involved in. He beat a millionaire candidate who had only lived in Vermont for a year and couldn't shake off his image as a Massachusetts "carpetbagger." The 79-year-old Tuttle, a retired dairy farmer, immediately endorsed his Democratic opponent, incumbent Patrick Leahy, and invited the Senator and his wife over to his house for dinner. *Result: Leahy 72 percent, Tuttle 23 percent.*
- Byron Looper, Republican candidate for Tennessee state Senate, decided to forego debates and instead shot his opponent, State Sen. Tommy Burks on the latter's hog farm. Oops, I mean *allegedly* shot. Since the murder occurred within 30 days of the election, Democrats couldn't replace Burks's name on the ballot. His wife Charlotte stepped into the race as a write-in candidate, while Looper, who had changed his middle name to (Low Tax) — including the parenthesis — continued to run his campaign from his jail cell. *Result: Burks 95 percent, Looper 5 percent.*
- Aftermath: Tommy Burks will undoubtedly continue to haunt Looper from the grave, since Tennessee voters also approved a constitutional amendment sponsored by Burks that removes the word "comfortable" from the list of requirements for state prisons.
- In the race for coroner in Yakima Washington, both candidates went a little too far in trying to identify with the constituency. The challenger died just before the primary; not to be outdone, the five-term incumbent, Leonard Birkinbine, passed away two days before the election. *Result: the coroner will be appointed.*
- Diane Ellis, Democratic challenger for a seat in the Florida state legislature held by Republican Gus Bilirakis, charged that the real Gus Bilirakis was dead and that her opponent was an impostor from New York named Danny Divito. Voters did not buy it, or didn't care. *Result: Bilirakis/Divito 73 percent, Ellis 23 percent.*
- Crystal Young, Republican opponent to longtime Sen. Daniel Inouye from Hawaii, claimed she had been disabled since having electromagnetic needles implanted by actress Shirley MacLaine. MacLaine denied the allegation, adding that Young had lost any chance of getting her vote. *Result: Inouye 80 percent, Young 17 percent.*
- Bob Davies, Republican contender for a seat in the Montana House of Representatives, said that President Clinton should be tried for treason because he allowed a U.S. corporation to give military and satellite technology to China. Davies stated that if found guilty, Clinton should be executed. *Result: Davies wins with 52 percent.*

POWER TRANSFORMS "BODY" INTO "MIND"

While Democrats and Republicans have a virtual stranglehold on national and state politics, the number of outsiders holding gubernatorial seats doubled in this year's election. One month ago, independent Angus King of Maine was the lonely governor outside this political oligarchy. Now, King can breathe a sigh of relief as he has the able company of Jesse Ventura, former Navy SEAL and Professional Wrestler who was elected governor of Minnesota on the Reform Party ticket.

Ventura formerly served as mayor of Brooklyn Park, a Minneapolis suburb. While campaigning in the state for Democratic candidate Hubert Humphrey III, Hillary Rodham Clinton called Ventura's campaign a "sideshow."

After the election, Ventura suggested that she should not leave Washington so often. "Bad things seem to happen when she leaves," he said.

After winning with a 37 percent plurality to Republican Norm Coleman's 34 percent and Humphrey's 28 percent, Ventura, known as "The Body" during his wrestling career, told NBC's Tom Brokaw that he had a new moniker: "I'm no longer Jesse 'The Body.' I'm Jesse 'The Mind' Ventura." A classic case of the heights to which one can rise when they put their mind over their body.

DON'T FILL THOSE SHOES

After a generation where local politics were dominated by the mercurial Marion Barry, District of Columbia voters chose Democrat Anthony Williams '87 as their new mayor. Barry served as Mayor for 16 of the previous 20 years, winning his last re-election in 1994 despite having served time for a cocaine conviction.

In 1995, with the District hovering near bankruptcy, Congress bailed the city out but stripped much Barry's power away by giving control of the District's pursestrings to an appointed control board. Williams served as the city's chief financial officer under the board, where he made his mark with a number of budget cuts and management changes. The board reportedly plans to return to Williams much of the authority taken from Barry.

Williams was adopted by postal workers as a toddler and reared in Los Angeles. He has held municipal posts in Boston, St. Louis and New Haven, and served in the U.S. Department of Agriculture during President Clinton's first term. Williams has lived in the District for only three years.

POLITICAL DYNASTIES THRIVE

This year's crop of politicians sees a good many familiar names, not merely because of the overwhelming number of incumbents returning to their seats. Like Harvard, politics is a good place to be a legacy.

- Two Bushes, George W. and Jeb, trounced their opponents in the Texas and Florida gubernatorial elections. They are the first brothers to simultaneously serve as governors since Nelson and Winthrop Rockefeller dominated New York and Arkansas in the '60s.
- Republican Bob Taft of Ohio, son of Sen. Robert Taft Jr. '42, who was the son of Sen. Robert Alphonso Taft '13, who was the son of President William Howard Taft, expanded the family portfolio by taking over the governor's mansion.
- Evan Bayh, the Indiana governor from 1989-1997, won the U.S. Senate seat that his father Birch held in the '60s and '70s until unseated by Dan Quayle.
- As usual, the election saw some successful Kennedys. Kathleen Kennedy Townsend, daughter of RFK, won re-election as Maryland's lieutenant governor. Democratic (duh) Rep. Patrick J. Kennedy, son of Massachusetts Sen. Edward Kennedy, was re-elected to his seat in Rhode Island. And Mark Shriver, another Kennedy offspring, won election to the Maryland state legislature.
- George Wallace Jr., son of guess who, won a comfortable victory over the Democratic incumbent Charles Martin for a seat on the Alabama Public Service Commission.
- Jesse Jackson's son, Rep. Jesse Jackson Jr., returns to the House on the heels of thrashing his opponent with 88 percent of the vote.
- In New Hampshire, John E. Sununu, son of the former governor and White House chief of Staff, won a landslide victory for a second term in Congress.

Sometimes legacies have their dark side. Some people may remember Minnesota Sen. Hubert Humphrey, who served as vice-president to Lyndon B. Johnson before losing to future presidential resignee Richard M. Nixon in 1968. His son, Hubert H. Humphrey III, got...um...slammed by former professional wrestler Jesse "The Body" Ventura in the Minnesota gubernatorial bid. Could the Humphreys be the political version of the House of Atreus? Stay tuned for future elections.

DOES MONEY MATTER IN POLITICS?

Does a bear sh** in the woods?

The news that whoever has the bigger campaign chest has a greater chance of winning an election is about as shocking as the news that there was gambling going on in wartime Casablanca. This year, however, the effect was starker than usual.

Ninety-six percent of House and Senate candidates who had the most financial resources heading into the last two weeks of the campaign won their elections, up from the 85-90% typical for the rest of the decade.

In nearly 60 percent of the House races, the winning candidates enjoyed a financial advantage of at least 10-to-1 over the nearest competitor. Overall, incumbents held a 5-1 financial advantage over their challengers.

The power of money is closely tied to the power of incumbency. Incumbents tend to amass huge war chests well in advance of elections, and have had the opportunity to use their political muscle in favor of donating constituencies.

Incumbent Wisconsin Sen. Russ Feingold '79, a proponent of campaign finance reform who refused to take "soft money" and imposed a voluntary spending limit for his campaign, had a slight fundraising advantage over his opponent. This advantage was eliminated by GOP "soft money," and Feingold narrowly escaped being hoisted by his own petard.

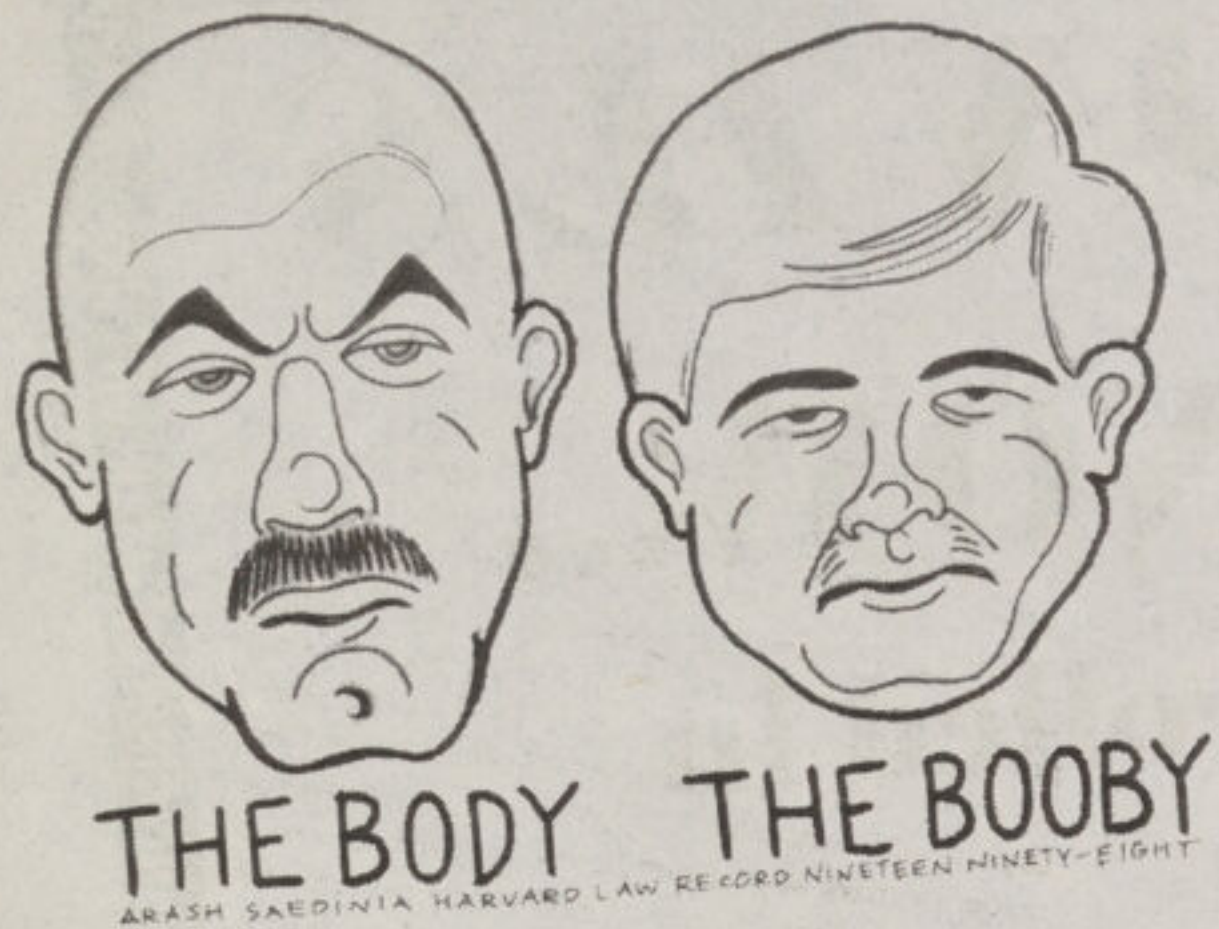
With incumbents able to essentially buy their way into power, it is unlikely that meaningful campaign finance reform will come from above. This, at least, is the view held by voters in Arizona and Massachusetts who voted overwhelmingly for initiatives favoring campaign finance reform. Two years ago, voters in Maine and Vermont passed similar initiatives.

The Arizona initiative would give the state's public money — acquired from a 10 percent surcharge on civil and criminal penalties, an increase in fees on political lobbyists and voluntary money — to candidates who agree to limit their campaign spending.

The Massachusetts measure, which won with two-thirds of the vote, would grant public funds to candidates who agree to limit contributions to no more than \$100 per donor and to limit their spending. The Appleseed Center for Electoral Reform, an HLS student organization, helped draft the initiative.

For the Massachusetts measure to be implemented, the legislature must still appropriate funds for it. In other words, its fate still depends on the will of the incumbents who the bill will ultimately work against.

Friday, November 13, 1998



MEDICAL MARIJUANA PROPONENTS SMOKE THE OPPOSITION

The campaign to legalize marijuana for medicinal purposes continued to blaze away in the face of federal recalcitrance. Alaska, Washington, Oregon, Nevada, and the District of Columbia approved state initiatives to allow doctors to prescribe marijuana in certain tightly restricted circumstances. The Arizona initiative was a reaffirmation of a similar referendum approved by the voters in 1996.

The New England Journal of Medicine has come out in support of the medicinal use of marijuana. Some research has suggested that marijuana can help some patients by relieving nausea after chemotherapy or by increasing the appetites of cancer and AIDS sufferers. There is also some evidence that it helps some patients control glaucoma.

The American Medical Association has voted to urge the National Institute of Health to fund more research on such use. To date, they have yet to publicly solicit research subjects.

California, which passed a similar referendum in 1996, and Nevada have publicly refused to enforce these initiatives, meaning that doctors may still face prosecution for prescribing marijuana. Oregon officials have yet to state what they will do. Arizona and Washington officials, on the other hand, have said they will honor their new laws, and Alaska officials have said that they don't prosecute small possession cases and won't start now.

VOTERS SET BACK GAY RIGHTS

Voters in four states had different interpretations of failed gay-rights initiatives, with some saying they lost because Americans will not condone homosexuality and others saying people simply don't want the government involved in a private and contentious debate.

Measures to block same-sex marriages won overwhelmingly in Alaska and Hawaii. Voters in Fort Collins, Colo. rejected a proposal to grant gays and lesbians protection from discrimination.

Last Tuesday's balloting gave mixed results on anti-discrimination initiatives in two cities in Maine, a state where voters had overturned protections for homosexuals earlier this year. South Portland embraced a gay-rights initiative; Ogunquit residents rejected a similar measure by nine votes out of a total 757 cast.

"I think tonight it showed most people here don't want the government to take a side in a controversial moral debate," said Fort Collins lawyer Jon-Mark Patterson, an opponent of the ordinance.

A major defeat for gay-rights groups came in Hawaii, where voters decided by a 2-to-1 margin to allow lawmakers to craft new legislation to bar gays from marrying. The measure was designed to get around a 1993 state Supreme Court ruling that said the state's failure to recognize gay marriages denied some citizens the rights that others have.

That ruling set off preemptive legislating around the nation. Congress passed the Defense of Marriage Act, which denied federal recognition of homosexual marriage and allowed states to ignore same-sex unions licensed elsewhere. At least 30 states have banned gay marriages since.

"It's really sending a clear message, a strong message, that the people of this community will not allow homosexual marriages," said Mike Gabbard, a leader of the Save Traditional Marriage group.

Same-sex marriage supporters conceded defeat but pledged to fight on.

"It's the first time in my civil rights career that I have encountered so much deep-rooted prejudice and discrimination against a group of people," said Jackie Young of Protect Our Constitution.

Alaskans voted 2-to-1 to support a constitutional amendment that defines marriage as a union between one man and one woman.

The Fort Collins gay-rights proposal had become emotionally charged since the beating death last month of a homosexual college student near Laramie, Wyo. The victim, Matthew Shepard, was transferred to a Fort Collins hospital, where he died of his injuries. The vote there was 2-to-1.

AFFIRMATIVE ACTION NIXED IN WASHINGTON

Washington became the second state to ban racial or gender preferences in government hiring and contracting or in college admissions. The Washington initiative asked whether the government should be "prohibited from discriminating against or granting preferential treatment to individuals or groups based on race, sex, color, ethnicity or national origin."

Ultimately, it may be up to lawyers and judges to determine just what the people voted for. The staff of Attorney General Christine Gregoire predicted last week that the measure would spark a flurry of lawsuits. "Preferential treatment" can mean many things, their report said, and it's hard to determine how the measure would affect minorities and women.

Backers said Tuesday's passage of Initiative 200 showed voters understood that affirmative action programs are unfair. Foes said the measure passed because voters were misled by the wording. The wording of the initiative may have played a crucial role in its success. Polls and experience in similar contests show voters tend to oppose measures they're told will diminish or do away with affirmative action. But when a measure talks about banning "preferential treatment," the public tends to support it.

WOMEN POLITICIANS GET JUST DESSERTS IN ARIZONA

Arizona voters elected women to the state's top five elective offices, creating an all-female line of succession that begins with Gov. Jane Hull. Hull is the first woman elected to the governor's office. Prior to the election, she served as speaker of the state house and then interim governor, taking office in 1997 after former Gov. Fife Symington was convicted on federal bank fraud charges.

Mrs. Hull said women are more inclined than men to build consensus and that would be the most noticeable difference under the five women, though she sought to downplay the significance. "I would hope that people judge me on what I accomplish," Mrs. Hull said Wednesday. "I believe that I, as a woman, bring a woman's touch, but I don't think it's the most important thing about my win."

Also elected were Betsey Bayless, secretary of state; Janet Napolitano, attorney general; Carol Springer, treasurer, and Lisa Graham Keegan, superintendent of public instruction. While it's historic, the feat is not a result of any grand plan by the state's political parties. These women aren't political novices, said Rob Melnick, director of the Morrison Institute of Public Policy at Arizona State University, and their time happened to come simultaneously.

"These are not angry soccer moms," he said. "These are people that fundamentally have grown up in Arizona politics. They are well-known. They have paid their dues, going up the political ranks."

Arizona is also the home of Sandra Day O'Connor, the first woman to serve on the U.S. Supreme Court. And in 1965, Lorna Lockwood of Arizona became the first woman in the nation to serve as chief justice of a state Supreme Court.

"PUTZHEAD" '74 BEATS "POTHOLE"

Three-term Republican Sen. Alfonse D'Amato lost his seat to Democratic Rep. Charles Schumer '74 after a nasty and expensive race.

A Republican in a Democratic state, D'Amato beat the odds for years. But in Schumer, Democrats found a candidate skilled in the same political hardball.

Schumer called D'Amato, who had earned the nickname "Senator Pothole" for his focus on the minutiae of politics, a liar, a bully and a sleaze. D'Amato, in a much-regretted gaffe, referred to Schumer as a "putzhead," which may have helped alienate him from some of his Jewish supporters.

The candidates raised nearly \$38 million between them, making it the most expensive race in America.

Schumer had been in Congress since 1980. He has a reputation as a publicity hound, which prompted Bob Dole to once remark that the most dangerous place in Washington was the space between Schumer and a camera.

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