



THREE'S COMPANY



Dean Clark '72 schmoozes with two illustrious alumnae.

Clark '72 Earmarks Funds for Minority Recruiting

By Klaus Hamm

Responding to a clamor of student complaints, Dean Clark '72 pledged last week to devote "serious money" to reverse Harvard Law School's declining minority enrollment.

Without specifying an amount, the Dean announced he would fund efforts to make HLS's student body more racially diverse once the Admissions Office came up with a plan to accomplish this

goal.

"I've told them the green light, let's come up with a plan and see what we can do," Clark said.

The announcement came at the start of last week's faculty meeting, which was attended by 30 students. The faculty did not vote on the matter.

While the Dean's pledge did not eliminate student criticisms, those at the meeting applauded his action.

"I think the administration made some promising steps," Alexis Coppedge '01 said. "Ultimately we want to see results."

Beginning with a leaflet effort on alumni weekend, a coalition of HLS student groups, including La Alianza and the Black Law Student Association, have drawn attention to the school's declining minority enrollment. For example, African American enrollment has declined by as much as 25 percent during the last three years, depending on how the statistics are interpreted.

Conceding that a problem exists, Clark offered a number of suggestions on how money for boosting minority enrollment

could best be spent. He suggested the school might offer more financial aid to minority students. HLS may also increase personal outreach by encouraging more people to "talk up Harvard Law School," and make recruiting visits to schools.

Clark also suggested that the School could try harder to convince accepted students to attend with efforts such as flying students to HLS for admitted students day.

"We could change these numbers, not dramatically, but enough to halt the decline if you really step up the recruitment of people who get offers of admission," Clark said.

Addressing the faculty, Coppedge, an African American, underscored the importance of more aggressive recruiting. Earlier this year, when she was deciding which law school admissions offer to accept, Harvard's less than enthusiastic approach almost led her to choose another school, she said.

"I was constantly hearing from Stanford and constantly hearing

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Alumnae Return to Law School

Reno '63, Ginsburg '56-'58 Among Anniversary Celebrants

By Alyssa Caples

Last weekend, Harvard celebrated the 45th anniversary of the first women graduates from the Law School. The aim of the three-day conference, entitled Celebration 45, was to honor the more than 5,000 alumnae who have graduated from Harvard Law School since the first group of thirteen women received their LL.B. degrees in 1953.

Attendees responded enthusiastically to the occasion. "I'm glad to see old professors, and I'm glad that we have a venue like this," said Beth Aguilin-Pangalangan '89. "I'm from the Philippines and it's a good chance to compare what's going on here with what's going on in my own country about women in the legal profession."

In addition to the various peer group meetings, luncheons and social events, the weekend included an address by Attorney General Janet Reno '63, who received the Celebration 45 Award for her "outstanding contribution to the legal community and more generally to the public welfare."

In her address, Reno reflected on her nearly six-year tenure as Attorney General with fondness. "You get fussed at and cussed at, but I wouldn't trade the experience for anything," she said. "Public service is a lot better than billable hours."

Reno urged her fellow alumnae to "lead the way" in improving the legal system.

"We must make the law real for all Americans, to get help to solve problems that are essential," she said. "We must end the culture of violence in this

nation...and master technology."

Reno said that law enforcement officials should be trained in dispute resolution and negotiation so that more disputes will be resolved through reasoning rather than with guns. Reno has faced criticism over her handling of the Branch Davidian confrontation in Waco, Texas, and the confrontation with Randy

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Ames Semi-Finals Yield Laurels, Laughs, Empty Reserved Seats

By Suzanne Carter

A near-capacity crowd watched the Telford Taylor Memorial Team bring home the bacon at Tuesday's Ames Semi-Final Competition round.

The Taylor Team's Peter Nicolas '99 took home Best Oralist Honors. Nicolas and his five teammates, oralist Stuart Svonkin '99, Grant M. Dixon '99, Michael P. Jurgens '99, Maya R. Kobersy '99 and Cametra A. Thompson '99, also won the Best Brief prize.

The Taylor team's victory was not uncontested, however. Their opponents, the Lewis F. Powell, Jr. Memorial Team, were praised by all three of their judges, including the round's chief judge, the Hon. Frank B. Iacobucci of the Supreme Court of Canada.

"These decisions were very close calls," Iacobucci told the teams. "I say that not to take away from one team's winning, but to say both teams have done winning jobs."

"If in the court I sit in daily we could get this quality of advocacy, we'd have a lot of fun," Iacobucci said.

The Powell team included oralists James F. Clark '99 and Anthony B. Wang '99, as well as Joshua D. Baker '99, Hong S. Lee '99, Marcus E. Maher '99, and

Andrew R. Varcoe '99.

The 3Ls debated whether the use of a heat sensor by a Drug Enforcement agent to detect possible marijuana growth in a home qualified as a warrantless search. While the constitutional liberties at stake were treated seriously throughout the round, the judges were able to entertain the spectators from time to time with humor.



Peter Nicolas '99, Best Oralist Winner

Interrupting a heated question-and-answer session between Clark and round judge Hon. Robert E. Keeton S.J.D. '56, who sits on the U.S. District Court for Massachusetts, Iacobucci asked, "Can I join in on this?"

Meanwhile, round judge Hon. Gerald Gillerman '52 of the Massachusetts Appeals Court pressured Nicolas on what evidence the hypothetical police had that constituted probable cause. When Nicolas noted that there was an anonymous tip prior to the search, Gillerman retorted, "It's worthless, we don't have to talk about it. The tip was worthless. What else you got?"

Nicolas later attempted to return to the evidence supplied by the tip, but he was rebuffed. "We've covered this already. Tips are worthless!" Gillerman stated.

The judges recessed for approximately 20 minutes before announcing their decision. All

three judges praised not only the high quality of advocacy but also the outstanding briefs submitted by both teams.

"The briefs were unusually well written, with clear sentences and thoughts. That's not something you see in everyday court," Gillerman said.

Spectators were supplied with copies of the briefs as well as of the record. Among those attend-

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OCS May Crack Down on No-Shows

By Ben Lehrer

With the on-campus recruiting season behind them, members of the HLS placement committee are considering a number of steps to address the rash of cancellations and no-shows that plague firms slated to conduct interviews during the last two weeks of the recruiting season.

A "no-show" is someone who fails to appear to an interview or cancels on very short notice.

According to Office of Career Services (OCS) head Sally Donahue, 68 students have been reported for not showing up to their scheduled interview without notifying the employer. Five students had two no-shows, while three students failed to appear at three interviews.

"The no-show issue is one the placement committee has little sympathy for," said Donahue. "It's a phenomenon we'd like to see stop."

Under the current interviewing rules, one no-show earns a "stern warning," while two bar

the student from using OCS facilities.

In practice, the rule is not enforced. Since OCS receives information about no-shows from the interviewing firms in reports that are often submitted after the close of the recruiting season, OCS would have to roll the loss of privileges to the following year. According to Donahue, OCS has been reluctant to do this in the past.

Donahue said that she may prove less reluctant to give the policy some teeth. "Students are warned every single week in OCS newsletters that no-shows are inconsiderate behavior both to the firms and to fellow students," she said. "They reflect poorly on the student and the school."

One interviewer, who requested anonymity, wholeheartedly agreed. "I think Harvard students don't think there's anything they can do to reflect poorly on the school, but they can," she said. "By not showing

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Students Dispute Dean's Interpretation of Numbers

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from Yale ... and there was this silence from Harvard," she said.

In addition to proposing more money, Clark also encouraged volunteers to help with recruitment and authorized the formation of faculty and student ad hoc committee to develop strategies for increasing minority enrollment.

How to Play with Numbers

While Clark's pledges mollified some student concerns, the Dean's interpretation of admission statistics drew student protests. The picture Clark presented with these numbers intentionally understates the problem, said students.

"I wasn't surprised with what he had

to say. I think it really serves to obscure the central issue," Raj Goyle '00 said.

Clark made year-to-year comparisons of the entire student body, while student activists pointed to the demographic of sequential entering classes as more relevant. The administration's approach reveals a 16.5 percent decline in African American enrollment during the last three years, while the students' approach pits the number at 25 percent.

The dean insisted on his analysis. Looking at only one year creates too small a sample and invites statistical quirks, he said.

But some students said this method hid the relatively large drop in minority enrollment of this fall's entering first-year class.

Clark also introduced statistics that compared decreased minority enrollment to an even more rapid decline in minority applications. From 1993 to 1998, minority applications to HLS dropped 39 percent, while the number of minority enrollees declined by only 9 percent, according to the figures. Instead of revealing less willingness to admit minority students, the numbers make the opposite point, Clark said.

"The admissions committee has been giving even more weight to diversity considerations than in the past," he said.

Students also objected to the Dean's comparison of HLS's minority enrollment with average minority enrollments around the country and his statement "if you just look at that, it looks pretty good."

"To always espouse *grandeur*, a sense that we're going to be the best, but then on big issues, on this issue, to say 'Well we're right along there. We're up to par with the national trend.' I can't accept that," Julian Castro '00 said.

Adding to student disappointment, the Dean made no indication whether he would act on the student request to include at least one minority member in the Admissions Office staff and at least one on the admissions committee. Student activists contend that a minority member would bring more focus within the Admissions Office on increasing minority student enrollment.

Joyce Curll, dean of admissions, countered that the office already has a minority member on its staff: Anders Yang '94, an Asian American, is responsible for recruitment. The admissions committee, which makes individual acceptance decisions, has five members, none of whom belongs to an ethnic minority. Curll added that regardless of race, everyone in the Admissions Office pays attention to minority enrollment concerns.

Despite being encouraged by the prospect of a larger minority recruitment budget, Goyle warned that cash and a committee alone will not solve the problem. The changes must go deeper and include a new attitude, he said.

"We're not interested in just being average," he said. "We're looking to a systemic solution."

HLS Women Celebrate Anniversary

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Weaver in Ruby Ridge, Idaho, both of which ended violently.

Legal Education Panel Sees Problems at HLS

The weekend included a number of breakout sessions ranging from "The Future of the Law Firm" to "Public Sector-Private Sector Partnerships." The panels provided a window into the lives and experiences of many of the women attorneys.

"I sat in on one panel," said Mari Hinojosa '99. "I thought it was very inspiring. The women were not embittered, but rather inspired by their time here. It was great to see how many people turned out for this."

In the panel on Legal Education, the panelists, all professors at major law schools, reflected on their own experiences as students while at HLS. While their experiences were varied, all identified

areas in which there were problems.

"The primary experience for me was shaped by the big classes in Langdell North," said Barbara Schatz '73, now a professor at Columbia Law School. "The level of abstraction and the competitiveness of the environment made my experience really quite isolating."

Prof. Christine Jolls '93 recalled feeling a palpable gender bias against female students during her days here. "A female student would make a point, and it would be passed over," she said. "Fifteen minutes later, a male student would make what I thought was the same point, and it would be picked up by the professor."

All of the panelists nonetheless noted that improvements are being made. "Georgetown now has 25-30 female professors," said Anita Allen '84, a professor at Georgetown University. "There were so many of us, we stopped counting. We're everywhere in the curriculum."

Jolls said that she uses what she de-

scribes as a "gentle" Socratic method to provide a less intimidating teaching style.

Throughout the weekend, many alumnae expressed dissatisfaction with the slow pace of the progress. "It's amazing how very few women there were here and how few minorities and how many more Latino women there are here now," said Juanita Hernandez '85. "Still, the numbers are not what they should be."

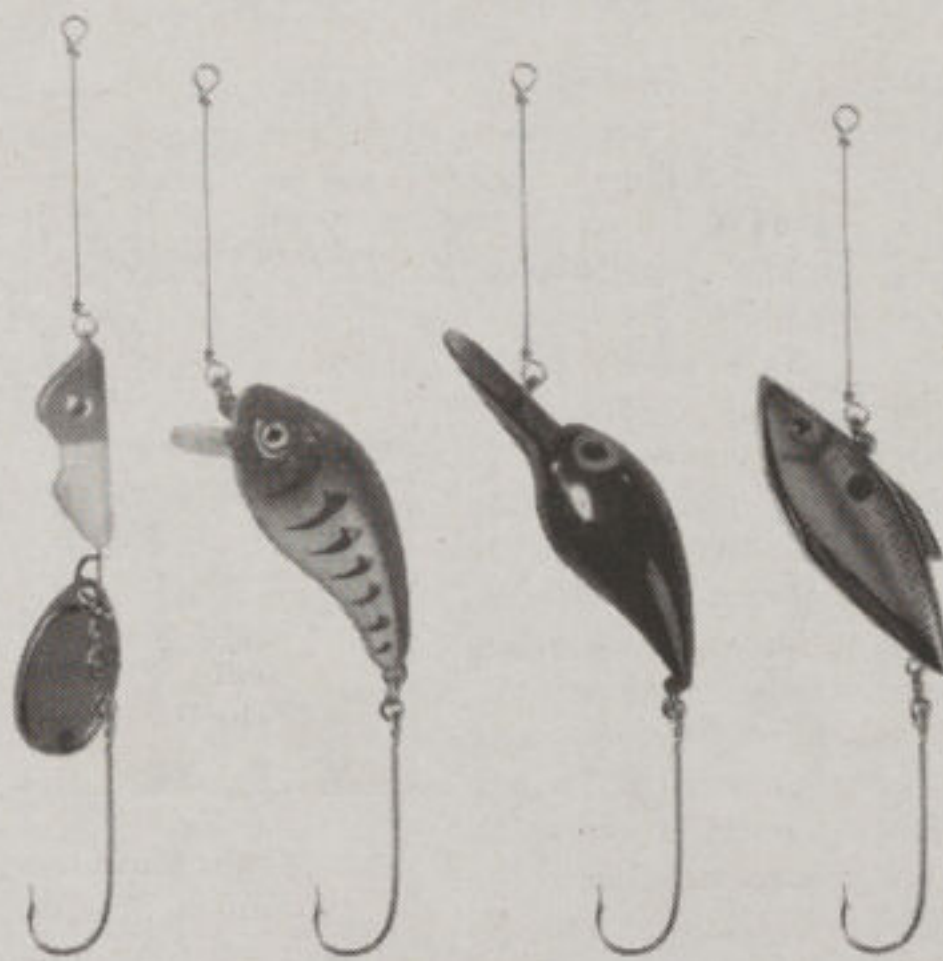
"Why has the Law School lost so many women faculty?" she asked. "Why is Lani Guinier the first minority female professor?"

The weekend also included a welcome address from Associate Justice Ruth Bader Ginsburg '56-'58, who began her legal career as a member of the class of 1959 but graduated from Columbia Law School when the HLS administration denied her request to finish up her third year in New York for personal reasons. Her experience predated the current Hardship In/Hardship Out program. Prof. Lani Guinier gave the closing address.

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Briefs

2L Chronicles the Huddled and Muddled

Kenneth K. Lee '00 recently published a book analyzing the shaping of American immigration policy over the past 30 years. The book, "Huddled Masses, Muddled Laws: Why Contemporary Immigration Policy Fails to Reflect Public Opinion," is Lee's first book.

The HLS 2L is a free-lance writer who has written on immigration and other political issues for various publications, including *The New Republic*, *Orange County Register*, *The American Enterprise*, *Heterodoxy*, *Liberty* and the *Los Angeles Times*.

Reno '63 Honored for Public Service

U.S. Attorney General Janet Reno '63 received the Celebration Award this past weekend in honor of her contributions to the legal profession and to society at large.

Dean Clark '72 presented the award to Reno at a luncheon during Celebration 45, an event marking the 45th anniversary of the Law School's first class of women graduates.

The Celebration Award, which was created by the Harvard Law School Association's Alumnae Committee, has also been awarded to former Congresswoman Patricia Schroeder '64 and to U.S. Supreme Court Justice Ruth Bader Ginsburg '56-'58, who introduced Reno and spoke at the luncheon.

The Celebration conferences are held every five years to honor Harvard Law School alumnae. Since the first 13 women graduated from the Law School in 1953, more than 5,000 women have followed.

HUD Commissions Study on Housing Bias

Looking for hard data on discrimination, the Department of Housing and Urban Development will commission a year-long, independent study on patterns of prejudice in selling and renting houses and apartments.

Housing Secretary Andrew Cuomo told a news conference Monday the findings will be used for a targeted national crackdown on mortgage lenders, landlords and others who he said keep the housing gates closed for minorities.

"We have a lot of anecdotes and a lot of complaints but we do not have a good sense of the institutional discrimination that exists," Cuomo said. "This audit will help us give all American families the opportunity to exercise their legal right to move into any neighborhood and any home they can afford."

The study, to cost an estimated \$7.5 million, will involve people posing as would-be buyers or renters who will report on the reception they receive from real estate brokers, landlords and mortgage lenders. The people doing the testing, both men and women will be from a wide number of racial and ethnic groups, including blacks, Hispanics, Asians, Pacific Islanders and American Indians as well as a control group of whites.

"The disparity in home ownership is still very great," Cuomo said, even though Americans' home ownership this year hit an all-time high of 67 percent. He cited home ownership rates of 72.5 percent for whites compared with 45 percent for blacks and 44 percent for Hispanics.

Home mortgage denial rates stand at 26 percent for whites and 53 percent for black applicants, he said, with differences among the groups remaining the same even after income levels are taken into account.

—Associated Press

Wisconsin Teens Charged in Murder Plot

Three teen-agers angry about being picked on at their high school plotted a suicide mission to kill students and teachers, authorities said.

The boys, all between the ages of 15 and 16, were charged with conspiracy to commit murder. Two other youths initially taken in for questioning Sunday were not charged.

The youths planned to force administrators at gunpoint to lock down Burlington High School and then kill people on "a specific list of students and teachers," said Detective Mike Wiskes. The attack was scheduled to occur today, although the youths apparently had no weapons to carry it out, police said.

Students on the hit list were those who previously had picked on the youths, police said. The adults allegedly targeted included Principal Jose Martinez, another administrator and a teacher.

The boys described their plot as a suicide mission, prosecutor Richard Barta said.

Martinez said the teen-agers had never been involved in serious misconduct, just "normal misbehavior," and were not known to be part of an organized gang.

—Associated Press

FedEx, Pilots' Union Meet With Mediators

Representatives from Federal Express and its pilots' union met Monday to consider restarting negotiations under the auspices of the National Mediation Board in an attempt to avert a holiday-season strike.

FedEx last week rejected a union proposal to submit the work contract dispute to binding arbitration, and union spokesman Tony Hauserman said federal officials summoned the two parties to Washington to try to mediate a settlement.

"This was strictly an informal discussion with the NMB, at least on our part," said FedEx spokesman Greg Rossiter. "This was not a negotiation."

FedEx and the union have been haggling over a work contract since July. The union has asked its members for the authority to strike. Those ballots are to be counted the first week of December.

The company's 3,500 pilots also are refusing to work overtime during the holiday season, when the company usually delivers more than 4 million packages a day.

—Associated Press

One Strike, You Still May Be Out

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up to an interview, you are limiting your own field and limiting the field of other students. It's also just bad form."

The interviewer added that her firm's evaluation forms rate students for arrogance, and that Harvard students have generally ranked high in this department.

"It doesn't serve anyone's purpose at Harvard to have law firms muttering under their breath about those damned Harvard Law School students," she said. "There are good students at other law schools."

Other interviewers, who spoke on condition of anonymity, agreed that students who failed to show up for interviews have more to lose than just OCS privileges.

"A lot of students don't realize that their potential for running into someone down the road is higher and higher," said a recruiting coordinator from a large Texas firm. She said that people remember the names of students who fail to show up to interviews, and that a merger, a case, or a job search down the line can bring the students back into contact with the people they stood up.

Nonetheless, the recruiters admitted that the behavior of a few recalcitrant students would be unlikely to affect their Harvard habits. One recruiter, who flew in to town only to have half of her interviewees fail to show up, said that her firm would likely be back next year if a lot of people signed up.

"Firms may have very short term memories when it comes to their experiences in the third and fourth weeks of recruiting," said Donahue. "Ultimately, the process works; firms get students, and students get jobs."

Recruiting Dehumanizes Students

Donahue tied the no-show phenomenon with students' propensity to sign up for more interviews than necessary.

"People who over-interview tend to feel dehumanized by the process and lose enthusiasm for the search," she said. "Also, students cancel because they end up be-

ing more successful than they expected."

She suggested that if students carefully researched the firms early on in the process, they'd be more selective and feel better about going to the interviews.

Donahue admits that the no-show problem will be a tough nut to crack.

The placement committee will take the complaints by the firms that suffered from third- and fourth-week attrition when it reviews the successes and shortcomings of the recruiting season. Strengthening the no-show rule is on the agenda, or the entire interview process may be changed.

One option is to enforce the current rule, removing OCS privileges upon the second no-show. Exceptions would be granted for cause, such as a valid medical excuse. Another option would be a "one strike, you're out" rule.

Since excused no-shows would not lead to disqualification, these rules would ultimately depend on student honesty. "This will be difficult to police," admitted Donahue.

A further idea which the placement committee has considered is fining students for no-shows. Donahue, who used to run the Financial Aid Office, is less enthusiastic about this option, since it might lead to students having to take loans to pay for their no-shows or make not showing up a privilege for wealthy students only.

Another option would be to change the way firms are scheduled that might limit attrition. One scenario would be to put small firms in the early stages of recruiting, since larger and more prestigious firms tend not to suffer from no-show syndrome. Alternatively, OCS could arrange interview schedules geographically.

Since every proposal has specific disadvantages to match its advantages, the policy may end up remaining the same. Firms are scheduled according to a four-year rotation, going from the first week to the third and then second to fourth. At the very least, this ensures that the fourth-week sufferers of this year will have a full load in the first week next year.

Telford Taylor Team Wins

Continued from AMES, p. 1

ing were Profs. Peter Murray '67, David Westfall '50, Frank Sander '52 and David Shapiro '57.

While the general admission seats of the Ames Courtroom in Austin Hall were filled, and many observers were forced to sit on the floor, approximately one-third of the reserved seats, which were set aside for members of the Board of Student Advisers, faculty and other VIPs, were left empty throughout the competition.

While a separate Ames competition is a mandatory component of the first-year Legal Reasoning and Argument class, it is voluntary for 2Ls. Over 120 of this year's 2Ls have registered for this year's

competition, for which qualification rounds will be held Dec. 1 and 2. Only 24 students make it to the semi-final rounds each year.

RECORD deadlines prohibited coverage of Wednesday's semi-final round, which featured the Archibald Cox Honorary Team, consisting of Alvin L. Bragg, Jr. '99, oralist Arlo Devlin-Brown '99, oralist Daniel S. Gordon '99, Sarah E. Harrington '99, Erin E. Murphy '99 and Adam J. Szubin '99, and the Spelucan Explorers: A Tribute to Lon Fuller Memorial Team, consisting of Kathryn Louise Comerford '99, Jameel Jaffer '99, Matthew E. Papez '99, oralist Elizabeth S. Petrela '99, Patrick M. Shields '99 and oralist Steven G. Tidrick '99.

The LSC is sponsoring a Thanksgiving Food Drive to benefit The Pine Street Inn, a homeless shelter in Boston. Please drop any extra cans off at the Student Service Center in the Hark before the Thanksgiving holidays. Our goal of 1808 cans is simple — one can for every student at HLS. Thank you for your help.

• Letters •

Ruminations on Rosenberg and First-Year Expectations

So, if I understand you correctly, Ms. Sandler, you are concerned about Prof. Rosenberg's effectiveness in teaching tort law and how well students learned torts in their first-year course. Your concern arises from feedback you have gathered from upper-level students who were dissatisfied with Rosenberg's coverage of tort law. To satisfy these concerns, you have solicited comments from the larger population of Rosenberg's former students to "investigate" whether widespread concern over his handling of tort law demands further action.

Ms. Sandler, here are my observations.

If you have come to Harvard Law School to master tort law, your expectations are set too high for Prof. Rosenberg's course, and for your HLS education in general. You should not expect to master torts in a law school semester. What you aspire to learn in a short semester of law school is neither a "topic" nor a "subject" but a body of law that draws from both common law and statutory sources. The doctrine achieves its final expression not in the text of one course or in the lecture notes of a single

professor, but in the discrete contributions from the various cases, tort claims acts (state and federal), treatises, restatements and other texts that fill over 2,000 volumes in Langdell Library. This is essentially true for every course that you will study in the first year. It follows, then, that you should be concerned not only that you will not learn torts, but contracts, property and criminal law as well.

How do you argue your point when established doctrine offers no answer or seems to contradict itself? The best a professor can offer is a functional framework within which the student can make sense of the expansive doctrine. This is the framework that Rosenberg has developed over a number of years, and over which he continues to receive critical acclaim.

You should be suspicious of upper-level students who flow too freely with criticism of Rosenberg. I am among those who agree that he is somewhat disorganized and that his presentation is at some points inaccessible; however, the assertion that

some students left Rosenberg's course "at professional disadvantage" is remarkably absurd. You will soon learn that very little of the material learned in the first-year curriculum is helpful for the work that firms require over the summer. Nor is the first-year course in Torts helpful for much of the analysis law professors demand in second and third-year course work.

In conclusion, let me suggest two principles of law and basic moral conduct you should master before leaving HLS: due process and fundamental fairness. Before you leave HLS it should be clear to you that it is unfair to openly criticize a professor's approach to the law, without hearing even one lecture. Before you leave HLS you will clearly understand that it is unfair to mount an "investigation" to effect a change in a professor's teaching style without first expressing your concerns to the professor, and offering the professor an opportunity to either defend the approach or adjust to meet your expectations.

Reginald M. Skinner '00
Nov. 16, 1998

Section III "Lucky" to Have Rosenberg

When I took David Rosenberg's Torts class in the fall of 1985, we didn't cover quite as many cases as we did in our other classes. (I think the number was roughly two.) But we learned to think about torts problems. To think critically, for ourselves. And what

I learned in that class has helped me enormously, to understand torts and just about everything else in law. I know many of my classmates, now practicing lawyers, would agree.

As a teacher, I don't follow all of Professor Rosenberg's

methods. (Like I said, think for yourself.) But I'm quite confident that the students in his class are lucky to be there. And in a few years, they'll feel the same way.

Prof. Bruce L. Hay '88
Nov. 18, 1998

Quote of the Week

"You've got 80,000 students at Ohio State. Very few of them can read."

— Arthur Miller '58, in copyright class, making a point about the publishing industry's misguided concern about abuse of the 'fair use' doctrine at universities.

The Educational Value of Torts à la Rosenberg

I took Prof. Rosenberg's Torts course during the Spring of 1997. The course was more eye-opening than any other I have taken at Harvard Law School.

The success of the "Torts Movement" would strike a major blow to the presentation of Rosenberg's insightful views by returning his course to a typical, doctrinal format. Although this group's attempt to make sure they learn "torts" is probably well-intentioned, the fears that their careers will be set back by not learning torts are dramatically overblown; indeed, by foregoing Rosenberg's law and economics approach to the law, those students would be much less skillful lawyers.

First, with the exception perhaps of civil procedure, knowing in fine detail the actual substance of traditional law school courses is not very important in practice. There are many lawyers who took no law school courses in their area of specialty. The important part of the legal process is the ability to analyze the facts and skillfully utilize the cases, treatises and law reviews, ultimately presenting a coherent analysis or argument.

Of course, a background in a particular substantive area is useful, but Rosenberg's course on torts presents this background more than sufficiently. Granted, Rosenberg does not "spoon feed" the doctrine presented in the readings in class. But if students do all the reading and pay attention in class, I do not see how they would be at a disadvantage in a summer position or later in their careers from a lack of knowledge on torts doctrine.

Second, I think students are

at a severe disadvantage if they are not introduced to law and economics during their law school career. Law and economics is one of many disciplinary approaches to the substantive law that lends insight into why the law has developed as it has and supplies a generally coherent view on how the law should develop. This sort of approach to the law is not only important as an academic matter, but provides a useful framework to approach cases that involve any economic issues. Areas of the law where economic analysis can play a crucial role include not only torts, but also antitrust, corporate law, tax, intellectual property, environmental law and even constitutional law.

Third, law and economics is not inherently conservative or anti-doctrinal. Law and economics analysis has been utilized by those on both the left and right. For example, Prof. Duncan Kennedy has written numerous articles utilizing the law and economics approach from a leftist perspective.

Moreover, law and economics does not simply ignore doctrine. Judge Richard Posner, for instance, has attempted to explain the structure of the substantive law of many doctrinal areas in economic terms. Whether or not one agrees with Judge Posner, reading his articles provides insight into the structure of doctrinal rules.

Fourth, Rosenberg brings a unique approach to the law that is often enlightening. Despite the common perception that Rosenberg is a "conservative" or "libertarian", his views and background are much more complex. He

started his career at a top-flight leftist litigation boutique in New York City. In conjunction with this firm and afterwards, Rosenberg has worked on cases in support of "un-conservative" causes, some in the U.S. Supreme Court.

Rosenberg does not simply sing the motto of efficiency as some more traditional law and economics scholars are wont to do. His approach is multi-faceted and often on the cutting edge of torts scholarship. Simply to label him as a conservative, libertarian law and economics scholar is woefully off the mark.

Because his approach to torts is not easily categorizable, his class will be more challenging than run-of-the-mill doctrine courses. Yet, taking the time to understand his approach provides in the long run a much deeper insight into the law than a mere studying of doctrine would. Many law students simply want to take the easy route by having the doctrine spoon fed to them with concomitant "issue-spotter" exams. This narrow approach to law in my view is in the long-run a detriment to anyone's legal career.

Admittedly, Rosenberg does jump right into the thick of it from the start, sometimes making it seem like his class becomes lost in a sea of abstract theory. But despite this difficulty, reading the material carefully, attending the classes (and some of his group "office hours") and asking questions during and after class will lead to an understanding of his views as well as improving one's thinking about legal issues.

Ted Sichelman '99
Nov. 17, 1998

~ IN MEMORIAM ~

Elisabeth Ann Owens, First Tenured Woman Professor at HLS, Dies at 79

Elisabeth Ann Owens, Henry L. Shattuck Professor of Law, Emerita, died last Sunday after a long battle with Parkinson's disease. She was 79.

Owens arrived at the Law School in 1955, and one year later became Research Assistant in Law, working with Professor Stanley Surrey, the first director of the International Tax Program (ITP). Over the next decade she held various posts, including Editor of Publications in the ITP, Lecturer on International Tax Law, Research Director of the ITP, and Lecturer in Law and Senior Research Associate in Law.

In 1972 she became Professor of Law, the first tenured woman professor at the Law School. She became the Henry L. Shattuck Professor of Law in 1976, and took emerita status five years later.

In 1970-71, Owens developed and taught a course on water law which focused on water pollution abatement, and later expanded the course to include gas and oil law.

Owens's first book, *The Foreign Tax Credit* (ITP, 1961), organized international tax law into a cohesive structure and was recognized as a major research achievement. She also wrote the two-volume *The Indirect Credit* (co-authored with Gerald Ball) (ITP 1975 and 1979).

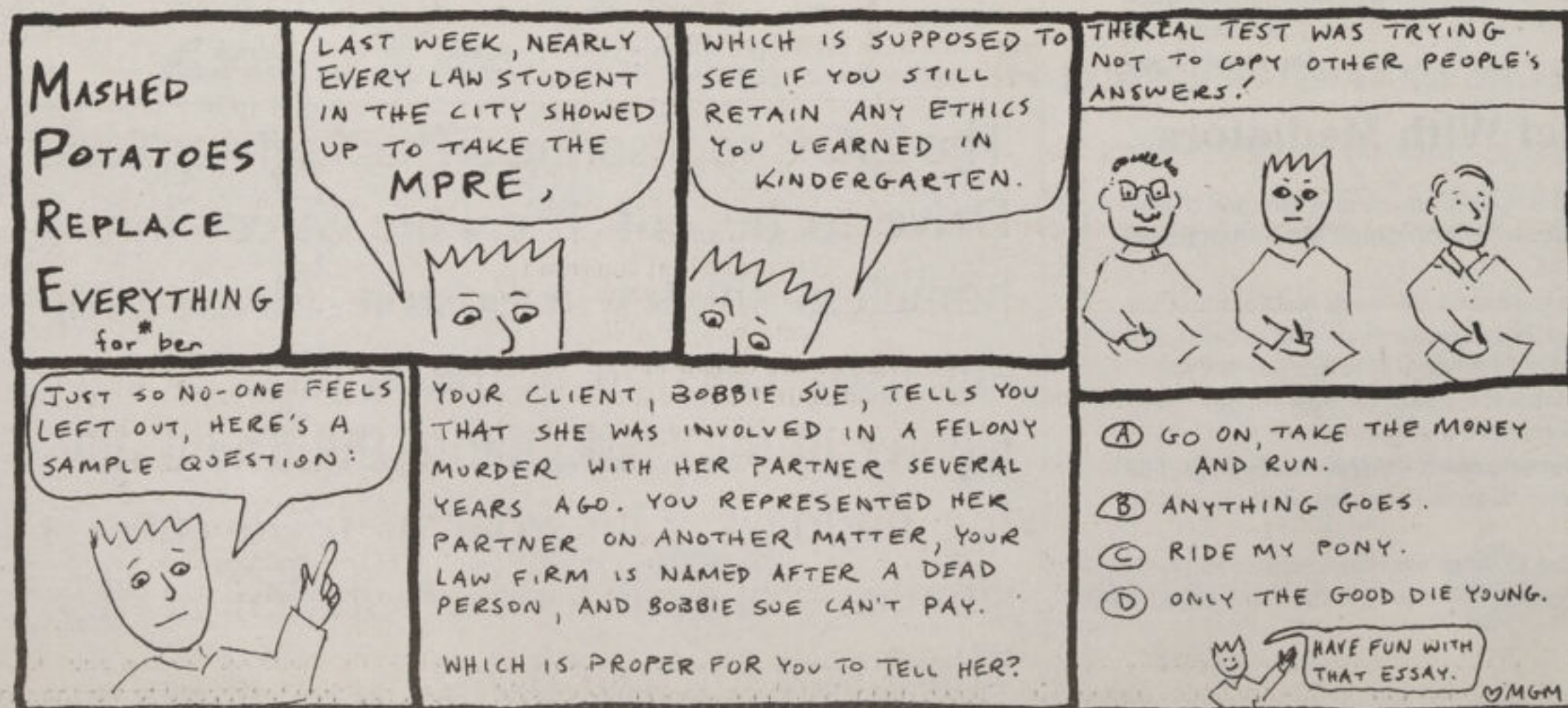
Owens graduated *summa cum laude* from Smith College in 1940 with a degree in economics, and then went on to graduate study in that field at the University of Chicago. Later she worked as an economist for the federal government, first for the Office of Price Administration, and then at the State Department, UNRRA, and the Bureau of Budget. She received her LL.B from Yale Law School in 1951.

She was admitted to the Massachusetts Bar and practiced at Hill, Barlow, Goodale & Adams in Boston.

She is survived by her sisters Margaret Harris and Mary Bernis of Randolph; her brothers Cornelius Owens and Graham Owens; and fifteen nieces and nephews, including Mary and Charlotte Harris, with whom she lived in Falmouth.

No service will be held at this time. Memorial contributions may be made to the Falmouth Public Library, Falmouth, MA.

By Margia McWilliams



LSC Leadership Urges Students to Take Action Now

By Dan Fridman '99 and Amy Oliver '00

Here is a contact list for your student representatives on the faculty committees and the Dean's strategic planning committees, as well as your student representatives on the Law School Council.

This is a very fluid time at the law school, with great opportunities for students to make lasting reforms. With the creation of the new strategic planning committees and the growing wave of student activism on campus, the Faculty is

becoming increasingly receptive to making changes. Now, more than ever, we need your help.

Recently, students voiced their concerns and made suggestions for improving the academic environment at HLS at the LSC Academic Reform Forum. The LSC has begun drafting changes to the Faculty Manual that we will present for passage at upcoming faculty meetings. We need to continue to hear from you as to what changes should be made to cure student disengagement, strengthen the academic environment and improve professor-student interac-

tion. Feel free to e-mail your LSC representatives with your concerns and suggestions. You should also contact us if you would like to get involved with drafting proposals.

The two strategic planning committees that most clearly affect student concerns are the Institutional Life & Structure Committee and the Infrastructure & Resources Committee. You should contact the Institutional Life Committee if you are concerned with issues such as improving the academic culture of HLS, the quality of student services and student diversity. You should contact the Infra-

structure & Resources Committee with suggestions on improving the dorms and the Hark or to voice concerns about the gym.

As for the standing faculty committees, contact your student representatives on the Financial Aid Committee to tell them whether you think future monetary gifts to financial aid programs should be committed to grants or to the Low Income Protection Program.

Please stay in touch with your student representatives and take action to help make HLS a better place for yourself and for future generations of law students!

Contact Your Student Representatives

Standing Faculty Committees

Financial Aid - Sets student budgets and general financial aid policy including LIPP policies.

1L Josie Sandler 492-6816 jsandler
2L Amy Oliver 493-3484 aoliver
3L David Lancz 493-9120 dlancz

Clinical - Sets policies for the different clinical programs.

1L Jordan Goldstein 647-4285 goldste
3L Christina Collins 493-9448 ccollins

Library - Oversees technology issues, access issues, collections, and library hours.

1L Ryan Benson 625-7547 rbenson
2L Alyssa Caples 493-9574 acaples
3L Brook Coleman 625-1349 bcoleman

Placement - Sets policy for the Office of Career Services in areas such as on campus employer interviewing.

1L Ronit McCully 547-3806 rmccully
2L Michol McMillian 491-5750 mmcilli
3L David Lancz 493-9120 dlancz

Food Services - Responds to student concerns over food quality, prices and hours of operation.

1L Toby Stock 493-9334 tstock
3L Brandon Press bpress
3L Dan Fridman 493-9219 dfridman

Legal Education - Suggests academic policy changes (no faculty chair has yet been appointed this year; the committee has not met).

1L Iris Chen 492-6132 ichen

2L Brian Fitzpatrick 493-9408 bfitzpat
3L David Stringer 491-0116 dstringe

Administrative Board - Deals with student disciplinary issues and student petitions for exceptions to academic policies.

1L Barbara Grayson 876-7589 bgrayson
2L Tamara Yang 493-9506 tyang
3L Gregory Harris 576-2763 gharris

Strategic Planning Committees

Steering Committee - Chair Professor Daniel Meltzer. Oversees the other strategic planning committees.

Jonathan Kilman 2L 625-0409 jkilman
Dan Fridman 3L 493-9219 dfridman

Internationalization - Chair Professor Anne-Marie Slaughter. Planning HLS's possible future approaches to globalization of the Law School.

Maria Munoz 2L 493-9724 mmunoz
John Ohnesorge SJD 495-9387 ohnesorg

Academic Development - Chair Professor Todd Rakoff. Considers the future objectives and priorities for HLS's academic programs.

Phil Calabrese 2L 666-9842 jcalabre
Ashley Morgan 2L 354-7771 amorgan

Connection To Practice - Chair Professor Andrew Kaufman. Ensures that the HLS academic and clinical education is relevant to the careers students are choosing.

Tanya Marsh 2L 661-7610 tmarsh
Stacy Futter 3L 547-5336 sfutter

Institutional Life & Structure - Chair Professor Elizabeth Warren. Focuses on the intellectual life of HLS including evaluating student services, diversity issues and the academic environment.

Amy Oliver 2L 493-3484 aoliver
David Lancz 3L 493-9120 dlancz

Infrastructure & Resources - Chair Professor Joseph Singer. Evaluates the physical space needs of the Law School including improving the classrooms and dormitories.

Jon Rose 2L 493-9590 jrose
Joe Scully 3L 491-0737 jsully

LSC Representatives

LSC OFFICERS

Dan Fridman 493-9219 dfridman
Amy Oliver 493-3484 aoliver
Jonathan Kilman 625-0409 jkilman

ONE-L REPRESENTATIVES

Section One

Melissa Baily 493-9300 mbaily
Erica Page 864-0854 epage
Jeremy Paris 493-9492 jparis
Frank Rossi 441-4051 frossi

Section Two

Justin Cooper 876-3210 jcooper
Aaron Hutman 493-9196 ahutman
Jay Munir 493-9363 jmunir

Section Three

Mike Adams 493-9307 madams
Elissa Hendler 493-9455 ehendler
Kristen Romens 493-9307 kromens

Section Four

Dan Dockery 864-2543 ddockery
Josh Kurland 864-2064 jkurland

TWO-L REPRESENTATIVES

Mary Claire Borys 493-9181 mborys
Eric Cesnik 628-3768 ecesnik
Faisal Khan 493-9824 fkhan
Manoj Mate 493-9280 mmate
Ashley Morgan 354-7771 amorgan
Matt Siben 441-6360 msiben
Mike Siegal 493-9121 msiegel
Tom Snider 493-9393 tsnider
Jake Zimmerman 493-9047 jzimmerm

THREE-L REPRESENTATIVES

Austin Barron 493-9359 abarron
Joe Fazioli 497-2652 jfazioli
Daniel Juceam 493-9286 juceam
Will Kuhn 493-9360 wkuhn
David Lancz 493-9120 dlancz
Betsy Rosenblatt 493-9347 erosenbl
Jennifer Yates 661-7787 jyates

LL.M. REPRESENTATIVES

Nada Abdel Sater 493-9846 nabdelsa
Erika de Vwet 868-9593 edewet
Petra Foubert 497-9704 pfoubert
Sofie Geeroms 779-9916 sgeeroms
Natacha Marzolf 779-9916 nmarzolf

ITP REPRESENTATIVE

Maximilano Batista 493-9118 mbatista

PERSPECTIVE

By Josie Sandler '01

Torts Illustrated

By now, most RECORD readers will have heard about the efforts of a group of 1Ls in Section III to make sure our spring-semester course in Torts does, in fact, teach us Torts in a way that's academically accessible and professionally useful.

Unfortunately, last week's RECORD article totally missed the mark when it characterized Prof. Rosenberg's performance as "right in line" with other first-year Torts instructors. By concluding that "well, since some people love Rosenberg and others hate him, and the same is true of every other HLS faculty member, everything must be pretty much equal," the authors ignored the more telling data in BSA's course reviews: the aggregate responses of all students. In the category "clarity of presentation," for example, Rosenberg received more ones than twos, threes, fours and fives combined from his spring 1997 class. By contrast, 94 of Professor Sargentich's 107 responding students gave him a four or a five in the same category. Of the four professors who taught first-year Torts in 1997, three received "overall effectiveness" ratings above 4.0. Rosenberg alone earned a 2.7 [Source: http://roscoe.law.harvard.edu/bsa/pubs/course_eval_guide/evals].

The feedback we received from Rosenberg's former students confirmed these indicators and showed the intensity of feeling upperclassmen still have about their Torts experience. In the first 72 hours after I sent out an e-mailed request

for comments, 62 students responded — more than half of them with a page or more of thoughtful remarks. The majority opined that Rosenberg's class failed to convey the basics of tort law and was not appropriate for first-year students.

Of those who responded with praise for Rosenberg, many still added remarks saying, in effect, "you don't really need to learn torts, anyway, because BarBri will cover them." Many others said that the class was terrible at the time, but something in which they have, much later,

can only be to students' advantage in understanding and evaluating the professor's ideas.

Some critics, including the RECORD, have taken issue with our campaign. True, we have only been here about eleven weeks, but it does not take a weatherman to know when it is raining outside. Simply by raising the question of what Rosenberg is really teaching in his first-year Torts class, we have generated a maelstrom of public debate. This response shows Rosenberg's teaching of first-year Torts is a huge issue at the Law School — and that our question needed finally to be asked out loud. The passion with which his former students responded both positively and negatively to the question also shows that we are not the only ones who care about the answer.

The RECORD and other critics ask: Who are we to question what a tenured faculty member at Harvard Law School teaches? We ask: Who would we be if we did not question what we are taught and think critically about our legal education? Why should we stop thinking independently when it comes to the issues that most directly affect us and in which we have the most stake?

We are not anti-Rosenberg. Indeed, we have been deeply impressed by the number of former students who told us Rosenberg had something valuable to teach them. But those same students said



problems with his presentation style and lack of clarity — his failure, as one respondent put it, to "explain doctrine X before criticizing it" — made it difficult for even committed and engaged students to leave the class feeling like they knew the basics of

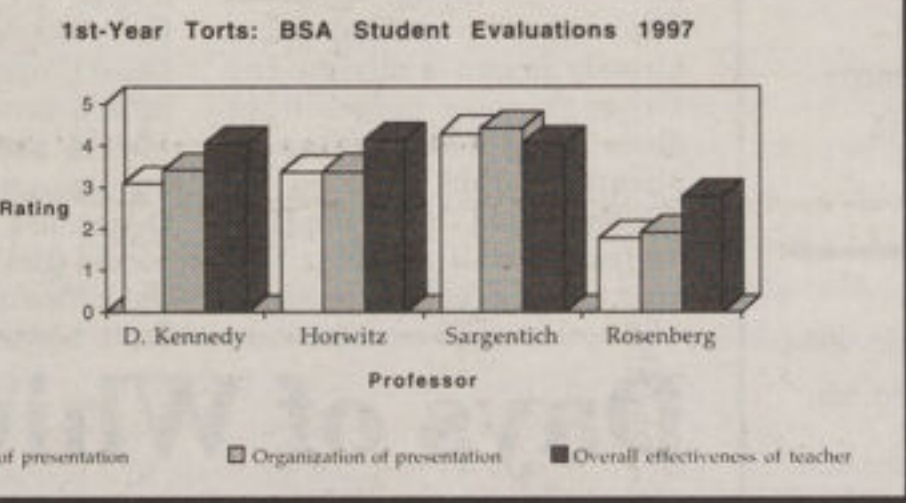
tort law.

So what comes next?

Some of Rosenberg's former students argue that he should be teaching an upper-division class on torts, but not the first-year class. Others suggest that Rosenberg divide the first-year Torts semester into at least two parts: one to explain what the basics of current tort law are commonly understood to be, and the second to explain what is wrong with that interpretation. No one argues — nor do we — that the class should be a dry recitation of black-letter law, but many agreed they could have gotten more out of the first-year class with a better balance between doctrine and modern critique.

Right now, we're carefully considering all these responses and will develop a set of possible solutions that respect Rosenberg's vital position as an educator and intellectual leader at HLS while also ensuring that — future ambulance-chasers or not — all Section III students learn tort law in Torts. We'll discuss these proposals with Rosenberg and others, and keep the campus community posted.

Just like it does not take a weatherman to know it is raining, it does not take a completed legal education to talk to a professor squarely and honestly about our concerns. We thank all the 2Ls and 3Ls who took the time to respond to our inquiry.



Source: http://roscoe.law.harvard.edu/bsa/pubs/course_eval_guide/evals

managed to find some meaning.

Education should not work that way. A baffling experience does not become "okay" if you feel better about it two years later. And at \$24,000 a year, I should not have to approach any HLS class with the attitude that I'll just drop another two grand to learn the basics from BarBri in 2001. Asking to learn the basics of torts alongside Rosenberg's critiques of the subject does not diminish him or his students. Indeed, it

Harvard Law RECORD

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Seth Persily



EDITOR-IN-CHIEF
Ben Lehrer

FOUNDED IN 1946

The Key to the Tower

The practice of law can be quite confining. Isolated in offices, lawyers easily become doctrine pushers and abstract themselves from the "outside." Separation breeds fear and suspicion; this may explain the allure of suburbs and why so many corporate lawyers don't do pro bono work.

Separation doesn't begin with graduation. By that point, it may almost be too late. The majority of us have spent most of our lives in school, and HLS is the end of the road. Our personalities are to a large degree shaped by our educational experiences. As we stand on the edge, preparing to plunge from Harvard's ivory tower into the nitty gritty of the workplace, we must look ourselves over and ask if we are prepared not only as educated lawyers but as responsible and well-rounded humans.

We have heard over and over how Harvard Law Students are the *crème de la crème*, the *pièce de résistance*, and the *huevos rancheros* of the next attorney generation. But the fact that employers want us shouldn't lull us into a false sense of security about the state of our education.

A homogenous education prepares us to be cogs, not humans. Underlying the diversity movement is a commitment not to numbers and targets, but to turning Harvard Law School into a place where students can enrich their minds through a broad array of experiences. This will make us better humans and more prepared to face the moral challenges of the working world. And books cannot provide this kind of education.

Perhaps the administration is correct when it says that the pool of qualified minority applicants — both for student and faculty positions — is shrinking. Even if this is accurate, it shouldn't affect Harvard's ability to recruit minority students and faculty. Harvard is a tremendously powerful institution. What Harvard wants, Harvard usually gets, regardless of what the trend may be. If HLS is truly committed to providing students a rich educational experience, it should throw its tremendous financial and institutional muscle into the struggle to diversify the student body, the faculty, and the curriculum.

This is not a case of the outlandish expectations that the administration has occasionally accused disaffected students of harboring, unless it is outlandish to expect an education with a human face. It is the humanity we learn today that will allow us to escape the potential confinement of our future work. Right now, the key is in Harvard's hands. Let us hope that they do not let us down.

—Ben Lehrer

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

—First Amendment, U.S. Constitution

• Letters Continued •

Quiz Crosses the Line Between Humor and Insult

I would like to comment on your feature entitled "RECORD Personality Quiz" (Oct. 30, 1998) alluding to having "a couple of dogs and a Filipino nanny" as an "ultimate goal" of HLS students. I am a Filipino alumnus, currently Visiting Professor at the Law School. I am saddened by the invidious stereotyping.

The link between ethnicity or national origin and a line of work is inaccurate. In the same issue of the RECORD, on the page facing the "Quiz," is

a photograph of a Filipino lawyer and CEO of a leading U.S. company, who with Filipino alumni and students is a good friend of the Law School. Significantly, you do not identify her as a Filipino. Why the ethnic label for the nanny, but not for the lawyer/CEO? Why did you care about the ethnicity of one and not the other?

Even if the link had more closely fit the facts, the ethnic label is irrelevant and in this context can only be pe-

jorative. It demeans the labor of migrants who do honest work for society while making a decent living for themselves and their families. Your effort at humor could very well have succeeded without the unfortunate caricature, and would have better invited reflection on the American dream had it not belittled those of others.

Prof. Raul C. Pangalangan
S.J.D. '90
Nov. 18, 1998

Falk Fan Demands Apology for "Mean-Spirited" Letter

In her Nov. 13 letter, Tori Jueds '01 complained that Elizabeth Falk's '00 column "Rude Awakening" has portrayed a disproportionately large number of Harvard Law School students with negative characteristics such as "pettiness," "hypocrisy," "self-degradation" and the like. Due to its subjective nature, Jueds's

assertion is impossible to prove or disprove; however, whether the group of students displaying the aforementioned characteristics is found to be large or small, Jueds's mean-spirited and inflammatory letter certainly places her at its center.

As far as I am concerned, only an apology to Falk in

these pages could transfer Jueds into the group of kinder, gentler students to which she so obviously wishes to belong.

Meanwhile, many thanks to Falk for continuing to amuse, challenge and inspire with her column "Rude Awakening."

Michael Rader '00
Nov. 15, 1998

Lehrer Should Watch His Rhetoric

Ben Lehrer's editorial in the last issue of The RECORD fails to recognize the inevitable diversity of learning styles among students. High intelligence and academic achievement are not linked to any single cognitive strategy. Unless Mr. Lehrer wants to take the position that all students are equal, but some are more equal than others, he is on questionable ground when he writes:

"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."

While I agree that all professors teach more than black letter law, I believe that the best of them show respect for student minds by addressing the diversity of intellect and experience to be found in any class. No one who is admitted to Harvard Law School has abilities beneath respect, whether in the eyes of faculty or other students. However, some testing evidence suggests that the cognitive style of law students has been changing in recent years, moving further away from that of many law professors.

This only increases the challenge to faculty to find ways of making their materials and their teaching as accessible as possible. Any discussion of teaching and learning at Harvard Law School should take these changes into account, and be careful of rhetoric which encourages invidious comparisons of intellectual ability. Too much hypersensitivity on this score already impedes the learning experience of many students.

Mark Byers
Director, Office of
Student Life Counseling
Nov. 17, 1998

3Ls Blast Vague Clerkship Deadlines

We are writing to inform students and faculty of information we have received concerning Harvard Law School's official policy on clerkship deadlines. The Nov. 16 memorandum from Dean Clark '72 advised students: "No student should submit an application for the 2000 term to arrive in a judge's chambers before February 1, 1999."

Because of this new policy, we are concerned that HLS students will unnecessarily face an ethical dilemma in deciding when to apply for a clerkship, although students from other law schools have already begun applying and although some judges have already begun considering applications. Furthermore, we are concerned that some HLS professors will consider this directive a recommendation, while others will consider it an

obligation (and thus a reason not to write a recommendation for a student sending applications before the deadline), thus disadvantaging students whose recommenders think it important to enforce official law school policies. This new HLS policy will result in inequities of information and opportunity.

In an effort to clarify the meaning of this directive, one of us (Kathryn Comerford '99) contacted the responsible persons listed in the memo: Dean Clark, Sally Donahue, and Peggy Tuitt. Dean Clark's office said that he was unavailable to speak with us and would not make an appointment, and Donahue's office (OCS) reported that she will not be in the office until next week. Tuitt, however, was available

to clarify the meaning of this instruction.

Tuitt advised that this provision was only an "ethical obligation," which according to her meant that students would be permitted to send in their materials before the deadline if they found it necessary to obtain a clerkship.

We will be meeting with Tuitt on Friday, and we hope to meet with Dean Clark and Donahue to discuss the wisdom of this new policy. In the meantime, however, we considered it crucial to distribute this information to the student body and the faculty so that all can make these important decisions with the same relevant information.

Nicole Armenta '99
Kathryn Comerford '99
Peter Keith '99
November 17, 1998

Days of Whine and Rosey

In my opinion Prof. Rosenberg covers torts just fine. His problem is only that he is quite inarticulate; however, just today someone asked me what the best class I had ever taken was, and I replied that it was his course because of its intellectual challenge, its heavy use of law and economics texts, and Rosenberg's own theories on the subject. Granted, part of that challenge was in trying to figure out what he was saying, but still I found his course far more useful than, say, Scott Brewer's course on Contracts. Rosenberg assigns a lot of

reading, including all the major torts cases. In addition, he makes himself far more available than any other professor at the law school. Even better, he is the only professor who will tell you honestly what he thinks about intra-HLS politics.

Rosenberg is not a conservative, despite his splenetic

and vocal stance against the Critical Legal Studies movement and his heavy use of Law and Economics. He's actually more of a socialist and his conclusions for the reform of tort involve nationalization of major portions of tort law.

Jack Lerner '99
Nov. 18, 1998

Recycle the
RECORD

PERSPECTIVE

Students Demand Action on 10 Year Low in 1L Diversity

In the last month, a large number of concerned students and organizations have led an awareness-raising campaign over the issue of declining minority enrollment at the Law School. The problem is clear — *this year's 1L class is the least racially diverse class we have had in the last decade and for certain groups approaches 20-year lows.*

Our goal is to work with the administration to improve concretely the process by which the school conducts its admissions and recruitment efforts.

After just one month of campaign, we are happy to say that we have largely succeeded in highlighting this issue as one of concern. Just today, a working group of students who represent minority organizations and other active students will be meeting with Dean Clark, Dean Joyce Curll and the chair of the Admissions Committee, Prof. David Westfall, in order to see where to go from here.

This process is too important to be relegated to a few students, a few organizations or a designated committee. To that end, we write this letter informing the HLS community about this process, invite your participation and offer a brief sketch of the actual steps and demands that we believe must be implemented so that HLS can live up its stated commitment to enrolling a diverse student body.

A Rude Awakening to the New School Year

T.J. Stevenson, President of the Black Law Students Association, recently told a meeting of concerned students that BLSA did not realize there was an enrollment problem in this year's 1L class until this September when only 35 African American students showed up to the annual BLSA orientation. "I looked around," he told the group, "and there just weren't too many of us in the room."

Despite the fact that both Dean Curll and Dean Clark have admitted the numbers of African-American students are down and have professed a deep concern about the trend, the Administration did not actively engage BLSA before the school year to inform them of the trend and solicit their assistance in countering it. When T.J. and others mentioned the situation to members of the Admissions Office, they were told that the numbers of minority applications were down, but were provided no further data or explanation.

La Alianza and other groups had similar experiences. Alianza's membership has been declining significantly and until now, they have not been affirmatively engaged in a constructive dialogue about how to change a clear trend.

The percentage of women at HLS has been stagnant at around 42 percent of the student body for many years now. Silence from the administration on this topic has prompted a grass-roots campaign that gathered the signatures of 272 1Ls and 237 upper-class students on a letter emphasizing the need for research and action. This petition was presented to alumni/ae attending opening ceremonies for Celebration 45. Many of the alumni expressed their commitment to increased diversity at the law school.

At an Oct. 22 meeting designed to discuss the history of student activism at HLS and the potential for activism in today's climate, representatives from several minority organizations presented the history of their efforts to a group of over 70 students and the issue of declining minority enrollment was seized upon as paramount. That very night, a group of students worked into the morning to produce a flyer highlighting pertinent statistics for distribution the next night, which marked the beginning of Reunion Weekend. Many alumni received this flyer and were interested in the issue and its causes.

These initiatives led to a meeting on Oct. 29, during which a group of students

from various organizations that represent people of color — T.J. Stevenson of BLSA, Raj Goyle of the South Asian Association, Enoch Chang of Asian Pacific American Law Students Association, Darrin Johnson of BLSA, Nicole Bazan of Native American Law Students Association and Julian Castro of La Alianza — last year but challenged the statistical characterization of the decrease.

Last Friday, diversity was placed on the faculty agenda. More than 40 students attended that meeting. Dean Clark's remarks began with an acknowledgment that there is a "problem." He suggested money might be made available for recruiting and financial aid, but did not detail the amount of resources he is willing to expend or how they will be spent.

After Dean Clark spoke, five students, including members of the South Asian Association, BLSA, La Alianza and a 1L representative, articulated their concerns. They noted that Harvard does not recruit as aggressively as Stanford or Yale and, unlike other top law schools, does not have a minority member on its admissions committee. (The admissions committee currently has five voting members: Profs. Westfall, Nesson, Herwitz, and Glendon; and Dean Curll.)

The first remark by a faculty member after the student presentation was that it is time to appoint a person of color to the admissions committee. We agree.

After the Faculty meeting, the group that previously met with Dean Curll was invited to a meeting with Dean Clark and Prof. Westfall scheduled for today. On Tuesday evening, BLSA and the other affinity groups conducted a meeting which invited all interested students to discuss what has happened and how best to approach today's meeting. At that meeting, the list of suggestions included below was developed and the general lay out of this article was agreed upon.

Statistics Tell Different Stories

We should begin by stating that figures such as these can only indicate patterns and suggest a construction of reality. They are not in themselves "real" due to the inherent problems that reliance on self identification presents.

The administration has suggested that the relevant sample for assessing the diversity of the student body is the entire J.D. enrollment and thus provided primarily those figures in Dean Curll's op-ed last week. We believe that this is a poor measurement.

First, and most importantly, talking of the diversity of the entire school fails to represent the experience of law students. Most J.D.s go through their lives here without interacting with more than a dozen people outside of their 1L section, much less class.

Second, the mingling of all three classes together averages the high years and low years and thereby hides trends.

We therefore believe that the best comparison is of *enrollment by year* which captures the diversity, or lack thereof, of each class's experience.

Instead of spinning another version of the numbers, we enclose on the next page the entire set of figures that Dean Curll gave us dating back to 1975. As you can see, the 1L students who entered in 1998 are experiencing more than a dip in diversity — *they are being subjected to the least racially diverse 1L class we have had in the last decade.* The results are grim:

- In only three of the last 20 years has the African-American population of a class been this low;
- in only two of the last 20 years has the Latino/a population of a class been this low;
- combined minority enrollment is at a 10-year low;
- the rapid and steady increases in the percentage of women enrollment from

1975 to 1987 has almost completely ceased.

Deferrals do not account for the decline. Even if all the African American and Latino/a students who deferred this year had matriculated this year's 1L class would still be one of the least diverse classes in over a decade for those two groups.

Although last year's minority applicant pool was smaller than in the last several years there is no way to tell from the numbers what the qualified pool of applicants really looks like. The recent declines in minority enrollment have actually taken place despite *increases* in minority applications given a 20-year time-span. For example, for African-American students, between 1975 and 1987 there were under 400 applications each year, yet an average yearly enrollment of 54 students. In 1998, there were over 500 applications but only 44 enrollments. What has changed?

It is well known that the applicant pool can be increased with affirmative efforts. With national trends cutting back affirmative action at top-ranked schools like Boalt and University of Texas we seriously challenge the notion that there is not a highly qualified pool of potential applicants to attract. If HLS is having problems it is time to admit responsibility and correct mistakes.

Proposals for Action

We are pleased that the Dean has promised to spend more money on financial aid and recruitment and hope that the administration will take this effort seriously. But the effort cannot stop there.

This school must attack the full scope of the problem as other schools have. Here is a starter list:

- **Add People of Color to the Admissions Process** There is not one person of color who has a vote in the admissions committee and only one person of color in the Admissions Office.

- **Make the Process More Transparent** One of the striking aspects of this story was that none of the groups representing students of color had any way to know what was happening in the admissions process that was affecting their members. The "trends" need to be disclosed to students and faculty as they occur. That means before enrollment — as applications come in and are being evaluated. If students are to play a role in helping increase "pool" they need to know what the pools look like at the earliest possible stage.

- **Structure Student Involvement Into the Process** Other schools have minority students read and make recommendations on minority applications, students on the admissions committee and otherwise create avenues through which students can influence the process.

- **Dedicate to Real Recruitment** In the Oct. 30 RECORD article Dean Clark stated that HLS does not have "well-developed habits" in the practice of "beat[ing] the bush . . . to get applicants" from any students, much less people of color. That is an understatement. Stu-

dents of every color who are here know that they were actively recruited by other schools with letters inviting application, phone calls, fly outs, information pamphlets on student life, videos on the school's programs, visits from the school's recruiters and other practices that made them feel welcome to apply and come to the school. HLS has yet to adopt most of these practices and has set itself as above this fray. The results are telling.

- **Hire Minority Faculty** This call has become almost cliché. But it is true, important and real. HLS still does not have a single Latino/a, Asian-American nor Native-American tenured professor. This fact dissuades students from coming here and adds to the limited nature of the curriculum.

- **Create An Office of Minority Recruitment** There needs to be an institution in this school that is particularly attuned to the problems that HLS faces in attracting minority applications and enrollment and has the dedicated responsibility to work with students and faculty to remedy these problems. Other schools have such offices — they work. We are behind the ball and it shows.

- **Address the Financial Aid Gap** Many of us have turned down full grants of financial aid from other schools to attend Harvard. Harvard's policies dissuade students, and especially those of color and those from less privileged financial backgrounds, from coming to this school. This is a huge problem that tends to aggravate the corporate culture here. It needs to be changed.

- **Show a Concern About Student Life** Two years ago, when HLS came in dead last for the fourth year in a row in the Princeton Review's survey on "quality of life," the administration responded in the RECORD that the result was probably because "the expectations of people who come to Harvard" are higher than other schools. It is not about expectations. Classes are too big, feedback too rare, the curriculum too corporate, the faculty too homogeneous, the student-faculty contact too rare, the buildings too uncomfortable, the culture too stale, the atmosphere too non-collegial. . . . Attention to these and other student concerns raised every single year are necessary in any effort to attract any group of under-represented students.

A strategic planning process for HLS is now being conducted. The administration should announce its strategy for recruiting substantive student input into the process.

Over 130 students have already participated in some stage of the broad effort to reverse these trends. If you would like to join this effort, contact the minority organizations, e-mail activism@record.law.harvard.edu or make your voice heard in whichever manner you see fit.

This letter was composed by a ad hoc coalition of concerned students and organizations, including representatives from BLSA, Alianza and the South Asian Association. Many students assisted in the drafting but all errors are the exclusive fault of Raj Goyle and Sean Flynn.

Something on Your Mind?

Write us a Letter!

Place them in the RECORD box next to the 1L Hark Boxes, e-mail to record@law.harvard.edu.

Or send them to:

Harvard Law RECORD
Harvard Law School
Cambridge, MA 02138



Across the Wire



News from the Nation's Capital

State Officials Outline \$206 Billion Tobacco Deal

WASHINGTON (AP)—Cigarette makers have agreed to a \$206 billion settlement of state lawsuits that would prohibit tobacco companies from advertising on billboards, city buses and those T-shirts so popular with teen-agers. But the deal falls short of an earlier agreement that died in Congress.

"It's time to stop the legal bickering and move the tobacco fight out of the courthouse and into the streets," Washington Attorney General Christine Gregoire said today.

President Clinton considers the state settlement "a step in the right direction" but still wants Congress to do more to curb teen smoking, the White House said. Enacting national tobacco legislation will be one of Clinton's priorities in the next Congress, according to a White House statement.

"The new Congress has the chance to put politics aside and do what the last Congress failed to do, by acting now to prevent 3 million children from starting smoking and saving 1 million lives over the next five years," the statement said.

Eight state attorneys general reached the proposed deal with tobacco companies after months of negotiation, and have sent the proposal to all other states in hopes they, too, will join in. Thirty-nine states now are suing the tobacco industry to recover Medicaid money spent treating sick

smokers, but seven others that have not sued the industry are eligible to join the settlement also.

Four states already have separately settled with tobacco companies for a total of \$40 billion.

Under the proposed deal, the states would end their lawsuits in exchange for millions of dollars each. Plus, cigarette makers would establish a \$2 billion foundation to "tell the truth" about the addictiveness of nicotine and the dangers of smoking, Gregoire said. The foundation would send anti-tobacco advertising into every home in America.

"It won't end youth smoking in America, but it is a refreshing and essential step forward," she said.

"This plan will get Big Tobacco off the backs of our kids," added New York Attorney General Dennis Vacco.

In addition, cigarette companies agreed to end advertising of tobacco on billboards and public transportation such as taxis and to stop marketing tobacco paraphernalia such as hats and T-shirts that are particularly popular with youths.

The deal falls short of a \$368 billion national proposal that Congress killed last summer. That proposal would have included much stricter measures against the tobacco industry, including giving the federal Food and Drug Administration author-

ity to regulate tobacco. The FDA is attempting to do that through the courts now, but the new proposed deal does not address regulation. The earlier deal fell apart after politicians added additional restrictions and tried to get tobacco companies to pay billions more, upping the total ante to about a half-trillion dollars. Four states, Mississippi, Florida, Texas and Minnesota have already settled separately with the industry.

The new deal would be the biggest U.S. civil settlement ever, and it would remove an enormous financial and legal threat to the industry should it lose a court case to one or more states.

The industry has not indicated how many states are needed for it to proceed with the settlement. It is likely that industry payments would be reduced if some states decided against signing.

Under the new proposal, states that agree to the settlement would receive \$12 billion in upfront money from cigarette makers over the next five years. The remainder of the state payments would be spread out until 2025.

Some \$250 million of the total would be dedicated specifically at cutting teen smoking.

Also, the deal would ban the use of cartoon characters such as the once-popular Joe Camel in any tobacco advertising. But

the state attorneys general did not get tobacco companies to end the use of the Marlboro Man and other people in ads. The earlier attempt in Congress would have banned those, as well, because tobacco critics say such ads showing virile, fun-loving people glamorize smoking in a way that attracts young people.

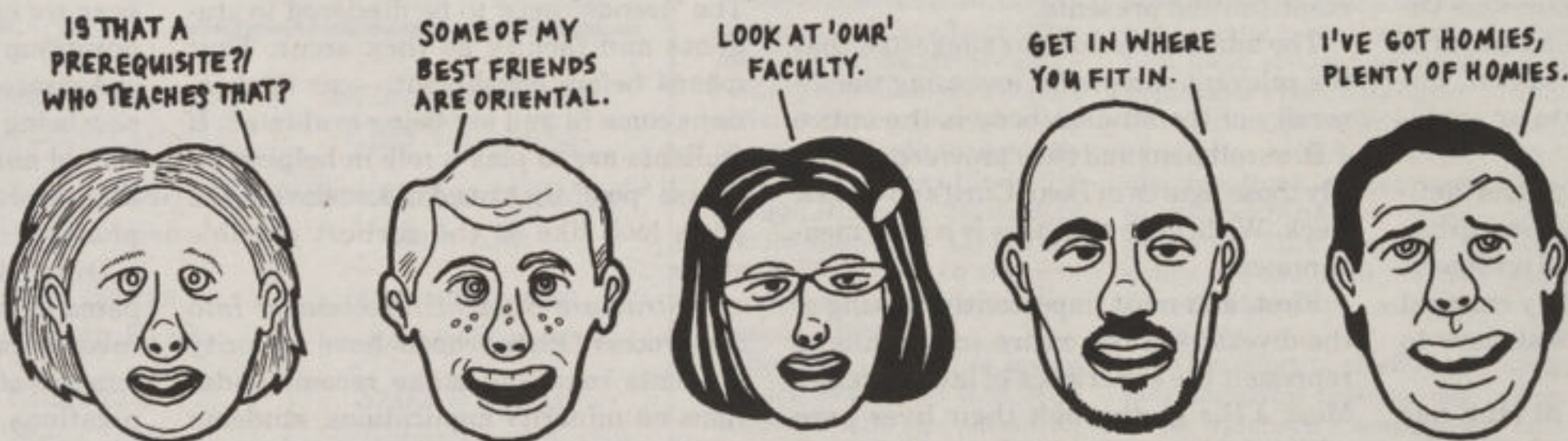
Public health advocates declined to recommend whether the states should embrace the settlement.

"We think it's a positive step forward in the war on tobacco, but it's not the answer and doesn't itself provide a national tobacco control policy," said Diane Canova, speaking for the American Heart Association.

She said federal legislation is still needed to give the FDA authority over tobacco products.

The cigarette companies that agreed to the proposed deal are Philip Morris, R.J. Reynolds Tobacco, Brown & Williamson Tobacco and Lorillard Tobacco. The negotiating states in addition to Washington were California, New York, North Carolina, Colorado, Oklahoma, North Dakota and Pennsylvania. A separate deal was struck Saturday with U.S. Tobacco Co., the leading maker of chewing tobacco, Gregoire said. It would pay about \$100 million over 10 years for education on the dangers of smokeless tobacco in exchange for state claims settlements.

WHAT'S YOUR TAKE ON 'DIVERSITY' AT HARVARD LAW SCHOOL?



"IN ORDER TO GET BEYOND RACISM, WE MUST FIRST TAKE ACCOUNT OF RACE"---JUSTICE BLACKMUN IN BAKKE A. SAEDINIA NLR 1998

Year	Total		Women			Minority			African-American			Latino/a			Asian			Native American		
	Apply	Enter	Apply	Enter	%	Apply	Enter	%	Apply	Enter	Defer	Apply	Enter	Defer	Apply	Enter	Defer	Apply	Enter	Defer
1975	6063	552	1485	118	21.4%	637	78	14.1%	387	53		169	18		81	7				
1976	6063	552	1485	118	21.4%	637	78	14.1%	387	53		206	17		100	3				
1977	6376	561	1842	154	27.5%	668	80	14.3%	337	48		222	24		109	8				
1978	7320	557	2303	159	28.5%	808	98	17.6%	398	61		252	26		158	12		25	4	
1979	6965	541	2237	162	29.9%	823	88	16.3%	395	40		267	29		161	11		28	5	
1980	6996	545	2343	159	29.2%	792	86	15.8%	387	43		233	34		172	12		23	7	
1981	6939	552	2431	180	32.6%	822	108	19.6%	375	66		249	25		198	17		19	2	
1982	7483	556	2700	187	33.6%	838	98	17.6%	319	65		294	21		225	12		24	4	
1983	6047	548	2323	190	34.7%	802	109	19.9%	352	68		266	28		184	14		13	2	
1984	6145	549	2306	190	34.6%	782	94	17.1%	319	54		263	25		200	15		37	2	
1985	5773	575	2128	216	37.6%	740	94	16.3%	319	54		263	25		238	18		29	3	
1986	5874	539	2235	192	35.6%	815	101	18.7%	307	50		275	29		229	22		25	6	
1987	6056	542	2391	219	40.4%	906	127	23.4%	349	67		319	42		238	18		29	3	
1988	7094	548	2783	222	40.5%	1189	120	21.9%	472	58		396	34		321	28		36	5	
1989	7713	538	3210	242	45.0%	1482	147	27.3%	582	73		441	39		459	35		50	6	
1990	7516	542	3425	231	42.6%	1623	150	27.7%	631	65		471	33		521	52		48	5	
1991	7544	542	3047	219	40.4%	1664	150	27.7%	592	69		505	38		567	43		49	2	
1992	6399	558	2553	214	38.4%	1720	138	24.7%	701	68		473	29		546	41		60	1	
1993	7598	550	3212	221	40.2%	2252	141	25.6%	836	58	15	626	25	9	790	60	29	85	2	0
1994	8266	550	3212	221	40.2%	2252	141	25.6%	836	58	15	626	25	9	892	61	7	81	4	0
1995	6861	559	2903	235	42.0%	2211	152	27.2%	726	60	13	529	23	11	883	66	24	75	3	1
1996	6493	555	2822	222	40.0%	1951	191	34.4%	633	59	9	491	40	9	761	77	24	67	5	0
1997	5869	554	2569	237	42.8%	1934	142	25.6%	580	49	4	486	25	8	886	64	30	60	4	1
1998	5813	551	2683	229	41.6%	1644	120	21.8%	512	44	11	387	23	3	676	60	26	70	2	3

These are the figures given to a working group on student diversity by the admissions office. Although they are the most complete numbers that have been made available to the working group, the Admissions Office stated these are not "fully complete" or "entirely accurate" at this point. Please read them with that caveat.

Of Bulldozers and Butterflies

By Alex Boldizar '99
Staff Columnist

THE SOAPBOX

(An open Place, near Harkness)

Reader: You gonna stand on that thing again?**Writer:** Yup. I like it.**Reader:** All you write is either complaint...**Writer:** Complaint? What complaint? I've not complained any more than structural criticism is about complaint.**Reader:** ...or bathroom wall sex, violence and genitalia.**Writer:** Sex and violence remain within the realms of the animal and of the divine, they are the last hopes of the non-social, of inter-subjectivity, of an escape from a life of internal solipsistic monadism and external undifferentiated blandness. Everything that alienated abstract Harvard lacks.**Reader:** Whatever. Still seems like repetitive sophomoric exhibitionist piffle justified ex-post. With or without hermeneutic key or obscene pictures.**Writer:** Ah, you've been looking at my potato?**Reader:** Well, no... I mean, yes, it is somewhat inappropriate for...**Writer:** "Is it long and soft and dangling like a trunk?"**Reader:** What!?**Writer:** "Does its color appear to you, unwholesome? Perhaps you find it a trifle large?"**Reader:** "No, no, it is small, very small, infinitesimal..."**Writer:** "How? You accuse me of absurdity? Small — my potato? Why I should..."**Reader:** Hey! Get a grip. What are you talking about?**Writer:** Sorry. An exchange from Cyrano. But you are in the wrong role. That is an exchange I ought to be having with the Meddler. Or perhaps with Valvert, so I might thrust home at the end of the last line. No matter. The Meddlers will "correct" every second word until any literary or philosophical reference becomes veiled over by populist grammar and assiduous application of structural linguistic theory.**Reader:** Meddlers?**Writer:** Meddlers. Editors. Those

blank, inglorious comma-buggering concavities which weekly put together this paper, as devoid of pride, of poetry, of soul, of honour, of stylistic sensibility, of general decency and character, of potatoes in short, that not only do they "correct," for example, "Das Man" into "Mensch" because they have never read Heidegger, but they dig up four year old Hallowe'en potato pictures of me to quietly insert into the paper against my wishes.

Reader: And four years ago?**Writer:** Ah, four years ago...yes, four years ago I did have a potato. My corpse walks lighter without it. But who am I to be haunted by Hallowe'en pictures from my youth?

(Enter Editor and retinue — with a flourish.)

Editor: Presently this fellow will grow tiresome.**Retinue:** He blows his trumpet self-referentially and nobody will read it.**Editor:** And says bad things about us. Soon he will reveal that we get paid for this.**Reader:** (aside) They get paid?**Retinue:** Well — will no one interfere?**Editor:** Observe. I myself shall edit him out. Change every philosophical reference into a potato.(After removing every 18th word and adding five commas, changing "monadism" to "nomadism," above, and English into American, the Editor walks over to the Writer, who has been unable to see all this.)

Ah...your potato...hem!...Your potato is...rather funny!

Writer: "Oh no, young sir! You are too simple. Had you wished to make funny of me, you might have done, oh a great many things..."**Retinue:** Wait, stop! The word ought to be "fun" not "funny." Moreover, we must obey the style sheet, which specifically spells out which allusions and parodies our writers may use. This one is not on there.**Writer:** It is from Cyrano.**Retinue:** It is not on the accepted list. Resistance is futile.**Editor:** We think we have been more than accommodated. We even put the picture of the potato in there to help your obscenity message, to rile up people as you like and be in their face and all that.**Writer:** When I try to put an upside down pissoir on the Dean's office wall, next to his Monet, signing it R. Mutt, it is not a help to have you correct the signature, place the pissoir right side up, lower it to ground level, attach plumbing to it, put a little cubicle around it and urinate inside.**Retinue:** Our spell check only has "toilet," "urinal," etc., ...no "pissoir."**Editor:** What good is a toilet without plumbing?**Writer:** That's the point. If it has plumbing, then it is no longer a pissoir on the wall, is it?**Editor:** Ah, I get it, it's grosser if there is no plumbing, right? After you urinate in it especially. Perhaps if, under your name, we had the whole staff...**Reader:** Hey, hey! Is this *Pravda*? We get enough Freudian bowel movement kicks in our private toilets, in the Hark, or watching Freud debate Jung on Frasier.**Retinue:** ...Freud, Jung and Frasier are all on our accepted references list...**Writer:** When Marcel Duchamp puts a urinal on the wall it is a criticism of art. When every artist starts to put toilets on their walls, then art has just become gross. When you publish punny potato pictures of me, associating my column with the tater through the front page lead in, you subvert all the structural criticism possibilities of any columns which would talk about sex, for example, by obtusely reinforcing one available interpretation of the writer as simply an adolescent potato-obsessed guy who likes to see obscene things published next to his image. You de-nature the message. The form of a representation is part of the content itself, and you have just indelibly twisted the medium; this paper, into a shape which can no

longer carry any message I would have it say.

Editor: Look, as we see it you created your own image as court jester and you now have to live with it, even if it means taking it to the next logical step.**Writer:** I am not Madonna; let me choose my own envelopes to push.**Editor:** We were just trying to keep you controversial, make you stand out. We think it's good for the paper and that you like it...In fact...perhaps we could publish a book of erotica?**Reader:** Uggh. Please don't do that.**Writer:** Bill Nye once said that "there are just two people entitled to refer to themselves as 'we'; one is a newspaper editor and the other is a fellow with a tapeworm."**Editor:** What is that supposed to mean?**Writer:** Nothing.**Retinue:** Then we should edit it out. Or change the attribution to Seinfeld, or something. I think it was Seinfeld, actually, wasn't it? Um, does that mean you won't do the erotica book?**Writer:** Editors, cops, INS, and IRS. Watchdogs and Meddlers who suck their existential portent out of beveling others.**Editor:** Rules are efficient, statistically make a better paper. We have plenty of writers who can write about urinals without insisting that they be upside down, who can be activist without deliberately violating the rules of grammar or burying their activism under surreal nonsense.**Writer:** Please try not to edit this final column. After that, if you wish to edit me, you may begin with a blank page.**Editor:** All right, give us back the soapbox. (Takes box from Writer passes it to Retinue.) Retinue, the column is all yours...That was simple.**Writer:** ...my soapbox...hmpf.**Reader:** It's great you're willing to stand up for the pissoir and the potato!**Writer:** Well...exams are coming up...

Fenno was pleased that Celebration 45 was finally over. The last thing he was interested in right now was celebrating the admission of women to Harvard Law School. "What the hell good have they ever done for us?" Fenno demanded to a crowd of startled passersby. "Nothing, that's what! Without them, we still had Lesley College and everything was just fine on that front. These days, we're stuck with giant civ pro reading assignments and wacko columnists who show up for Con Law wearing "Just Do Me" t-shirts!"

Brian Fitzpatrick stepped out of the crowd and gave Fenno a limp-wristed salute. "Yeah!" he said. "And after 45 years of this, all we have to show for it is losers like Reno and Ginsburg? What a joke. I bet they never even went to class."

"Damn right!" replied Fenno. "And if we just got rid of the damn women, we could stop having those mandatory sex change operations every week just to make some politically correct anonymous editor happy."

Fitzpatrick stared at Fenno, puzzled. Fenno quickly realized his mistake and started muttering something about the weather. Fitzpatrick, his mind clearly overtaxed by the whole situation, gave a

hurried goodbye and goose-stepped off to the library.

Fenno smacked himself upside the head, furious at his slip. Berating himself, Fenno walked away from campus and headed to his hideaway, where he knew he could find a bottle of AfterShock to ease his pain. Still cursing at his stupidity, Fenno kicked the dirt at his feet as he stared sullenly at the ground.

Suddenly, Fenno heard a rustle in the bushes nearby. Before he could look up, Fenno was tackled to the ground by a mysterious-smelling assailant with a bizarre afro. There was a sharp snap as rubber bands came off the attacker's ready wrists and were expertly used to bind Fenno's arms and legs. Fenno opened his mouth to scream, but barely managed to take half a breath before the velcro gag was snapped securely over his lips. Completely immobilized, Fenno could only look on with terror as a toxic-smelling chemical was waved in front of his nose, and he lost consciousness.

Fenno groggily came to, his splitting headache not helped by an ear-splitting din that sounded like nothing so much as the screaming of thousands of Boston drunks surrounding him on all sides. He gingerly opened his eyes and saw, with horror, that he was surrounded on all sides by thousands of screaming Boston drunks.

Fenno's assailant, still clad in the same ratty attire (and still possessed of the same curious odor) sat next to him. "Welcome to Foxboro, Fenno," said he with an oily grin. "Only here do I permit myself

to escape the 24-hour pressure of life in the law. And only here can I risk talking to you without the fear of anyone from HLS noticing me actually speaking one-on-one with a student."

"Cut the bullshit, Rosenberg," said Fenno. "Do you realize that I managed to go nine whole weeks without getting abducted by anyone this year? You'd better have a damn good explanation for breaking my streak. Besides, I'm a Vikings fan."

"I don't have time for this, Fenno," hissed the crazed professor, a tone of urgency in his voice. "Josie Sandler is on the warpath, and if someone doesn't stop her she'll uncover the real reason why I got tenure here."

"What," snickered Fenno, "that whole Nesson in Amsterdam thing? Everyone's heard that story already. I mean, it's not like everyone's been thinking all these years that you made it because of your charming demeanor, concern for student satisfaction, brilliant scholarship, and superior teaching skills."

"Well," said Rosenberg, "at least you recognize those attributes in me. Most of these ninnies don't understand that I'm

the only person here who dares to speak the truth."

"Anything you say, Dave," said Fenno, hoping that a little bit of ego-feeding might bring the whole tiresome affair to an end quicker. "Can I go now?"

"No," growled Rosenberg, "this is far too important. It pains me to say something like this to another human being, but... I need you. I need your help. I can't make it without you."

As he spoke, Rosenberg's face drained of all color and it was clear that it had taken every ounce of effort he possessed to get those words out. But Fenno felt no pity. All he could feel was a cold emptiness in his heart, as he realized that there was no way his author would be able to resolve this plotline before next week.

Fenno sighed heavily and leaned forward. When he finally spoke, it was a resigned whisper that could barely be heard over the roaring of the enraged crowd.

"All right, Rosey. Tell me what you want."

Next week: Fenno learns Crazy Dave's shocking plan.

The RECORD Will Not Be
Printed Next Week.

Enjoy your Thanksgiving Break.

Madness With Method

JUSTICE HAS A NEW NAME AND CHANNEL

By Darren Schlanger '00
RECORD Columnist

Power, once, was allocated along fairly traditional and stultified avenues. Typically offices and wealth were divvied up amongst only Nietzschean blond beasts with names that ended with the Third or Fourth (occasionally a junior might suffice); the *nouveau riche* bought country homes and fancy cars, but never acceptance within the entrenched power sources.

But alas, the modern age surpasses any prior epoch for sheer Horatio Alger ragsto-glory success tales that have pervaded the foundation of our elite social fabric. Indeed, as muscle men whose curricula vitae include proficiency at pile driving occupy gubernatorial seats, and actors, crooners and football hall of famers glut Congress with their trite vitriolic polemics, no power profession has witnessed a greater incarnation of surprise superstars than that of the television judiciary.

Once Judge Wapner, bucking scorn and suffering like the fire-giving Titan Prometheus, stood alone in his task to enlighten the unschooled philistine masses. Now, fresh from her last gig as a roving Catskills resort mah jongg instructor, enters Judge Judy of the acerbic legal wit and unparalleled resolution skills. No one divides a pie better.

Hark, who but a sexually ambiguous bagels-and-shmear aficionado to adjudicate the cries of the despondent do we now witness in his resplendent glory. Hail ex-

Mayor, now-Judge Koch.

For the gritty, the blue-collar donning, the salt of the earth, Judge Mills Lane is come to lend an ear (or return a lost lobe) and balance the scales of justice impartially among all forlorn combatants in the ring of jurisprudence. With television ratings and soundbites as their arsenal, these judicial demi-gods have usurped power from the stodgy and marginalized of the legal academic world and vitality from the interest group capitulating mainstream judiciary to emerge as the preeminent legal force in America today.

But, lest one assert that this sociological transformation of power politics need stop with the emergence of the aforementioned few, this public forum will indeed endorse the candidacy of the following television judicial deities:

1) Judge Jerry Springer. This former mayor of Cincinnati and the king of schlock-shock talk show television stands as the most deserving candidate upon whom to bestow the mantle of Syndicated Justice. He has displayed the leadership for utilizing Realpolitik to dissuade combatants, the insight into complex and novel issues of first impression that few can begin to fathom, and the brevity and wisdom as demonstrated in his Final Thoughts segment to articulate the lunacy of American pop-culture in a 45-second commercial segue. And, in the event that the frailties of human justice preclude a

reasonable disposition of a conflict, Judge Springer will ensure enough gratuitous nudity, cat-fighting, orgies and infidelity to make you forget any concern for fairness or efficiency.

2) Judge Marv Albert. No judge can spruce up a courtroom using better play-by-play and fashion analysis. "YES, Plaintiff, where on earth did you get such fantastic hosiery? I must purchase some for...er, um, my wife, YES, my wife."

3) Judge Alan Dershowitz. Pure efficiency considerations here — in terms of consolidating his various appearances on CNBC, Geraldo, CNN, Larry King, and the Fox NFL Pre-Game Show — mandate his appointment to the television judiciary.

4) Judge Woody Allen. Every court case would be reduced to a psychoanalytic deconstruction of the foibles and phobia of the individual combatants, with Woody each time concluding that the outcome of the case doesn't really matter as all the litigators are insignificant mortals bound for a meaningless life pending imminent oblivion. Jury boxes replaced with jury couches is a nice touch.

5) Judge Clarence Thomas. Sympathy vote here. Made it to the highest court in the land and still no one listens to him. Maybe enlisting the power of the mass media and tapping into the unadulterated addiction of today's populace to meaningless



banter will return him to the prominence he once envisioned.

6) Judge Sean Penn. With Judge Penn on the bench, no one in the courtroom would dare to evince any contempt for his authority lest he send you to Juvey for hard time. Please, for your own safety, don't take pictures and definitely don't record the shows.

7) Judge Bill Clinton. Good vote here because soon to be out of a job and has good media presence. Also the sheer imposition of the bench will block any attempts by Judge Clinton to drop trou while adjudicating.

8) Judge Eddie Vedder. Having finished plagiarizing all of Led Zeppelin II on his most recent album, Judge Vedder is a good choice because he is sure to please every courtroom combatant who would not have any idea what the hell he was saying in his final verdict.

9) Judge Leonardo DiCaprio. Final choice for the Supreme Television Court, primarily because the contract for the gig will require a no-compete clause rendering him unable to appear on any other television show or movie production.

Thus concludes a meager list of some of the stellar media scions who would nobly dispose of their cable ready judicial duties. The balance of power might not change much, but, boy, it'd sure be fun to watch.

SPORTSGUY

SONS OF LIBERTY WIN THRILLER

By Josh Swartz '00
RECORD Columnist

The first two rounds of this year's I.M. flag-football playoffs went according to form as the two best teams in the regular season met in a thrilling championship game late Sunday afternoon. The Sons of Liberty (12-0) captured their first I.M. title and completed a perfect season by defeating the defending champions, San Dimas High (11-2), 27-26. The Sons struck first on a 70-yard hitch and go from quarterback Jay Webber '00 to Mike Gaies in the Military to take a 7-0 lead. San Dimas answered when QB Jim Walsher and Dryer '99, scampered in from 10 yards out to close the gap to 7-6. The teams traded big plays after that, as Webber and Chris Kelly green '99 both scored on long running plays. With no time on the clock in the first half and leading 14-12, Webber hit Gaies in the corner of the end zone on a 50-yard bomb, making the score 20-12 at half-time.

The Sons made a statement to start the second half, as Webber and Gaies victimized DB Jim Walsh for the third time on another long touchdown pass. San Dimas responded by taking their opening possession for a score, as Chris Kelly capped the drive with another dazzling run to narrow the lead to 27-20. As if sensing this was their last chance to make good on injured captain Chris Matarese's pieces '99 pre-season guarantee of a championship, San Dimas's defense stiffened and took over on downs near mid-field. On fourth down from the 20, Walsh split the zone and rifled a pass to recently activated Josh "may the Swartz be with you" '99 to make the score 27-26. For the second time in two meetings, San Dimas opted to attempt a two-point conversion to take the lead. And for the second time this season, they failed. The Sons converted a huge fourth down with three minutes left when Chris Bauman on the moon '00 caught a line-man leak pass down the sideline. The Sons couldn't score, but left San Dimas with only three plays to go 80 yards. After an incompletion and a QB scramble, the game fittingly ended when Gaies intercepted Walsh's last second heave in the end zone.

The victory capped a long season for the Sons, who clearly benefited from the rigor-

ous training regimen their captain put them through all season. Brian just woke up from an alcoholic Hayes '99, last year's team captain before Webber's coup, didn't seem all that thrilled with victory, telling the Sportsguy, "I've never been so mistreated in my life. If we hadn't already cut four people, I don't think I ever would have seen the field." Supporters of San Dimas tried to cheer up their friends as the mostly-3L crew walked off the field for the last time, commenting, "It's only I.M.s guys. It's just for fun, right?" To wit, Swartz and Walsh answered in unison, "I've never played anything just for fun." Webber overheard the conversation and in a rare moment of camaraderie wholeheartedly agreed.

Earlier in the day, the blustering wind made conditions for passing less than ideal as teams struggled to throw into the wind. The festivities started when the Cougars (9-3) beat Cruel and Unusual Punishment (6-5) 27-21. Mike "Gentle" Ben '00 caught two touchdown passes from elusive Cougar QB Tim all's quiet on the Weston front '00 as the Cougars put Cruel and Unusual Punishment away early. The Warriors (10-2) beat Happy Gilmores (6-4) 39-19, as the Gilmores fell in the first round for the third straight year. Captain Raj peach Pai '99, didn't seem too bothered by the defeat, stating, "Hey, it's freezing out here. At least I'll be home in time for the 49ers game."

In other early action, the San Dimas disposed of L.C. United (7-5) 26-13, as the wind wreaked havoc on both team's attempts to throw long. Joe Silence of the Lamberts '00 tried to keep United in the game, but one man cannot win a game without a little help from his friends. The highlight of the day occurred when United's Logan Smith and Wesson '00 blocked a rare San Dimas punt with his face. The ball ricocheted out of the end zone for a safety, but Smith did have this to say afterward, "You know, there are some things you do in life that just aren't worth the trouble. Blocking a punt with your face is one of those things." San Dimas then knocked off the Cougars 27-14 in a physical battle. The Cougars actually tied up the game against the wind on the last play of the first half when Seth strawberry

Blonder '00 came down with a desperation heave from Weston. San Dimas rebounded and took the lead for good on long TD run from Walsh and put the game away with a defensive stop with two minutes left.

The Sons of Liberty beat Warriors 20-13 in the other semifinal, despite excellent defense from door Matt Siben '00, who smothered the Sons' potent passing attack. Chris Jacobs Ladder '99 harassed Webber all day, and the Sons were shut out in the second half. The Sons' made their early lead stand up however, with two tough defensive stands late in the game as the Warriors vainly tried to tie up the game. Warriors QB Jason Orlando Lakes '00 two fourth down passes failed and the Sons sealed the victory by converting a first down and running out the clock.

Next column will feature the All-league selections and recap of some of the great plays and personalities that made this intramural season so successful.

Football isn't the only sport thriving here at Harvard Law School. The Wednesday Night Co-ed Team won the Burlington Indoor Wednesday Night Championship, besting 15 other co-ed club teams from the greater Boston area. In the championship game the law school overcame a 4-0 deficit with 3 minutes left in the first half to beat Watertown Mix 7-6.

Harvard Law School Men's Soccer team reached the semifinals of the Yale Cup soccer tournament held in New Haven on Oct. 30 - Nov. 1. In the prelimi-



nary rounds, HLS defeated Yale School of Management 6-0, George Washington 3-0 and tied Columbia 0-0, qualifying the team for the playoffs as the third seed. In the quarterfinals, the Men's team defeated the University of Chicago Business School on penalty kicks after

the score was tied 0-0 at the end of regulation. In the penalty session goalie Matt Lewis and Clark '01 made two key saves and scored the game winning penalty kick. In the semifinals HLS lost on penalty kicks to the Georgetown Business School after Off the Mark Waegner LL.M. '99 tied the game 1-1 on a brilliant late goal at the end of regulation. Lewis led the tournament with a brilliant 0.2 goals against average. HLS alumnus Helge Boes '96 also paced HLS with 3 goals in the tournament.

Finally, the HLS Outdoor team qualified for the playoffs of the Boston Graduate School outdoor soccer league with a 4-1-1 record. HLS will play Harvard Business School next Sunday in the semifinals.

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Her Indie World

By Suzanne Carter '00
RECORD Columnist

THIS PRETTY MUTATION

Beck
Mutations

David Geffen Company 1998

Abandoning the "two turntables and a microphone" funk/rap/rock/folk of 1996's acclaimed "Odelay," Beck has turned to what he refers to as "dainty-assed harpsichord playing."

"Mutations," the latest from the fabulously innovative and uniquely adorable Beck Hansen, is the type of album that will draw more people to his art. Though it was conceived as a compilation of 11 tracks that didn't seem to fit on 1994's "Mellow Gold," "Odelay," or his upcoming techno-laced studio work to be released in January, the record is possibly Beck's finest, perhaps because it demonstrates his enormous breadth.

The album's first single and most immediate standout, "Tropacalia," is a bossa nova along the lines of "Deadweight," Beck's sort-of-hit from "A Life Less Ordinary." As Dusan remarked as I was subjecting him to "Tropacalia" just now, "it makes me want to go on a safari," which I believe is the Eurotrash vernacular for "gettin' jiggy wit it." What the song really sounds like is Anton Carlos Jobim if he were able to take advantage of today's technology.

As always, the album reflects Beck's indefatigable sense of humor. "Canceled Check" is one of the more comical kiss-off songs to come along in a while. Drawing Nevada-saloon style, Beck intones, "I hate to do this/But you're a pain in the neck...I'll give you a quarter/I'll keep my judgments to myself." Hmm... do you think Beck wrote this one after observing

a few gunner-heavy HLS classes?

The music on "Mutations" may be stripped down, but Beck still retains his kooky sense of psychodelia. It's pretty pop-rock melody gelled with lyrics like "Out in the mangroves/The minah birds cry/In the shadows of sulphur/The trawlers drift by," which make "Lazy Flies" sound a bit like the Beach Boys on crack (or '90s crack rather than diluted '60s crack, as the case may be).

And, of course, Beck couldn't resist letting his Willie Nelson side show a bit. The singer-songwriter has consistently used his love of country-western in his music videos — he strode around Manhattan in a cowboy hat in "Devil's Haircut" and featured similarly dressed dudes line dancing to "Where It's At" — but never before has it



been featured so prominently on one of his major label albums. In "Bottle of Blues," Beck even briefly exercises that old cliché of finding religion through booze. "I get higher and lower/Like a tired soldier/With nothing to shoot/And nowhere to lose."

Not all is lost for fans of Beck's sampler-heavy side, however. "Mutations" may be stripped-down, but it still uses distortion and plenty of synthesizers. "Canceled Check" devolves into chaos at its close, while the record's final hidden track ought to be titled "The New Pollution, Part Deux."

Recorded in only two weeks, "Mutations" is an exceptional album which should serve to broaden Beck's appeal without sacrificing any of those peculiarities that we hardcore Beck aficionados value so much. The harpsichord never had it so good.

Get Reel

By Steve Scali '01
RECORD Columnist

DEATH DOES NOT BECOME HIM

Meet Joe Black did not rock my world. It is about an elderly gentleman, William Parrish (Anthony Hopkins) who encounters death incarnate, Joe Black (Brad Pitt) and engages in recollections about his life before...well, you can probably guess what happens next.

Of course, with Pitt and Claire Forlani, who portrays Parrish's daughter, Susan, there is also romance in this film. Were there any gratuitous sexual encounters? Yes, I think I was awake for that part. But I'm getting ahead of myself.

Joe Black meets Susan, who is going out with one of her father's business associates, in a New York restaurant. He chats her up and the two hit it off right away. In a comic scene, the two part company outside the restaurant, each going in a different direction. Brad looks back at her, she has her back turned to him. She looks back at him, he was his back turned to her. He again looks back at her, she again has her back turned to him. She again looks back at him, he again has his back turned to her. Sigh.

Then Brad is splattered and tossed from the hood of one vehicle to another like a blond highlighted bean-bag in an extremely (and probably inappropriately) amusing scene where he makes one final look back at her while standing in the middle of a busy street. Smart Brad, good Brad.

At this point the movie turns to Hopkins's character, and his recollections of a life filled of passion and excitement. A wealthy and successful entrepreneur, he advises his daughter to live life to the fullest. Who wouldn't with large helicopters to take you wherever you want to go?

Dear reader, I must confess that shortly thereafter, I visited Mr. Sandman for a while (for the first time).

When I awoke, there was "pittiful" Brad on the screen again, but his acting seemed extremely strange and horrendous to me. He was attempting to portray a character who was simple, honest, approachable, boring and, overall, naïve. He was not effective in depicting Death. I think this was the first time I used my Ironman™ Indiglo to check what time it was. Oh dear, still

lots of time was left.

Joe Black has somehow gained the confidence of Hopkins's character and follows him around like a sheep dog. At some point, he gets together with Susan. Then came the sex.

It became clear to me at some point that Brad was sent to earth for a purpose. I don't want to ruin your surprise should you decide to see the movie. I started thinking about why Judge Weintraub in the *Meistrich* case held that assumption of risk in its secondary sense was no more than contributory negligence. Then I used Indiglo for the second time.

After a multitude of scenes with business negotiations and intimate but non-physical encounters between Joe and Susan, we realize that one of the main characters is a sleaze. I nodded off once more, so I cannot tell you what or when the climax was. Then came the end.

The movie lasted longer than it needed to. Hopkins's acting was not bad, but he was wasted in the role. And the whole life-recollection sub-theme was overdrawn and cheesy. Susan's boyfriend (before Joe)

was believable. Susan was a bit flaky and I almost had the impression she was simply there to look pleasing to the eye, although it seems hard to believe that Hollywood would ever stoop to something like that.

After the movie, I was trying to verbalize why Pitt was so "double-plus-un-good" in his role as Death. My friend suggested he misplayed his part. Exactly.

Watching *Meet Joe Black*, I felt like I do very occasionally in class. The plot is interesting, there are neat-o characters here, and some deep and important issues. But I become rather bored and sleepy, my mind wanders to other things and I end up checking my watch every couple of minutes. Perhaps the lecture is not the professor's best, or maybe I am missing the point; either way, I just want to leave the theater.

But the company I was in was extraordinary. And dining at the Pour House after the movie was exquisite. So if you do go and see this film, ensure that it is not the highlight of your evening.

The Buzz

By Tanya Marsh '00
RECORD Columnist

In Theaters Now

Celebrity. I can hardly wait to see Woody Allen's newest flick, "Celebrity," starring Kenneth Branagh and Leonardo DiCaprio, among numerous others. Leo portrays a teen idol infatuated with his own celebrity while Ken plays the part usually written for Woody himself. Early reviews say that Ken is wonderful as a neurotic New Yorker, struggling with relationships and his own battles with self-esteem. Opens today.

American History X. Edward Norton rocks. He has proven himself to be an incredibly versatile and gifted actor in his short film career ("Primal Fear," "The People v. Larry Flynt") and this newest endeavor looks like his *tour de force*. Norton stars as an ex-skinhead who emerges from prison as a changed man, only to watch his younger brother, Edward Furlong, in danger of sliding into the same destructive life. This film is, by all accounts a very disturbing but realistic journey into one man's war against his own hate and his attempt to save his brother from repeating his own tragic mistakes. Opens today.

Looking Forward To...

Theory of Flight. I went to see "Pleasantville" last weekend, and it was a fine little movie with some really nifty special effects, but I was honestly much more impressed with the preview for "Theory of Flight," an upcoming collaboration between Kenneth Branagh and his honey, Helena Bonham Carter. The whole preview screamed Oscar. Helena plays a woman in her mid-twenties who has struggled with a degenerative nerve disease since she was seventeen. When Kenneth's character Richard meets her, she is confined to a wheelchair and can only communicate through a Stephen Hawkings-type computerized voice box. Richard apparently has some thing for jumping off buildings in his flying machines, and after one such escapade, he is sentenced by the court to community service — working with Helena. Friendship ensues, and then something more as they must deal with her repressed sexuality. This movie has gotten positive buzz for portraying the disabled as sexual beings in an honest and non-pathetic manner. "Theory of Flight" opens Dec. 25th and I just can't wait.

On a Television Near You

Buffy the Vampire Slayer. I am constantly amazed by the number of closet Buffy fans at HLS who quietly and steadily reveal themselves. Well, I'll make the first published statement and hope it will encourage others to step forward. I am a Buffy fan. A huge Buffy fan. And you should be too. Why? Because this is one of the most originally written shows on television, by far. The dialogue crackles, the story lines (generally) do not fall into the issue of a week format, and the characters and relationships are so realistically drawn that you feel invested in how things turn out. How many shows can you say that about? Another plus, Buffy is totally escapist. Thank goodness we don't really have a Hellmouth/Sunnydale, but thank goodness, too, that we can take a break from the all too real world of the law for one hour a week to cheer on the battle against evil in all its forms. Do yourself a favor, tune in this Tuesday night on the WB (Channel 12 for those of you with Media One) at 8 p.m. and check out the newest episode. It should be fun, Spike's back. And if you don't know what that means, let me know, and I'll be more than happy to fill you in.

NYPD Blue. If you haven't heard yet, Jimmy Smits is leaving the station house and will be replaced on Dec. 1, by Rick Schroeder. No "Silver Spoons" cracks, please — I saw "Lonesome Dove" and the boy can act. This season of "NYPD Blue" started late and has dealt mostly with the decline of Smits's character and the realization that he needs a heart transplant. There are a million theories on how the show will make the transition, but my money is on a tragic death on the operating table. If you haven't watched since Caruso left, do yourself a favor and tune back in. ABC on Tuesday nights at 10 p.m.

X-Files. I admit I was a little disappointed in the season premiere, but I still have hope that the series can bounce back from its conspiracy-obsession and start doing some fun monster stories again. This week's episode looks really promising. Mulder is on a ship in the Bermuda Triangle and gets zoomed back to 1939, complete with goose-stepping Nazis and a vintage version of his beloved partner. The preview plays up a second Mulder-Scully kiss...but is it really Dana? Tune in Sunday on FOX at 9 p.m. And if you didn't catch the movie this summer, it's out on video now. Rent it.

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