

We Shall Not Be Moved! Part II

By Rich Wareing '93
RECORD Columnist



"If you give people the facts, they can smell the truth" — Mario Cuomo

I'm going to indulge myself with a few observations about Lucy Koh's '93 and Julie Su's '94 letter on my last column.

First, the assertion that ideological diversity is acceptable, but only from straight white men is malarkey. Of the African-American professors on the faculty, Professors Brewer and Kennedy could, I suppose, be considered "traditionalists" in terms of their scholarship, but I doubt either would feel comfortable at a Young Americans for Freedom meeting. As for the others, Professor Ogletree has been active on behalf of many death row defendants, Professor Edley was an advisor to the Dukakis campaign, served in the Carter Administration, and will soon be going to work for President Clinton, and Professor Wilkins can in no way be confused with Clarence Thomas.

Of the female professors on the faculty, only Professor Glendon can be considered conservative in any real sense. Professors Minow, Field, and Sullivan, on the other hand, are well known for taking liberal positions on issues such as Due Process, affirmative action, the First Amendment, reproductive rights, and child and family law issues. And while Professor Warren concentrates in the area of Commercial Law, anyone even remotely familiar with her work can tell you she's hardly "right of center."

The claim that when it comes to women and minorities, only conservatives need apply, comes from extremist politics and not from any basis in fact.

Their claim about HLS's intransigence on the question of faculty diversity is artful historical revisionism. Of 27 offers of tenure track positions made in the last ten years, 14 went to persons from underrepresented groups. Of the 23 who accepted, 11 came from underrepresented groups. Of the 27 departures in that time, 22 were white males, with three more to follow this year. When you cut through the foot-stomping, things have changed.

Indeed, HLS would be even more diverse had two black males, one Latino, and one woman, not declined tenured or tenure-track offers, and had Susan Estrich not left. Of course, to this list of rejections we may soon be able to add Carol Rose, a woman of color, currently at Yale, who is rumored to have turned us down. One wonders how many of these people would now be at Harvard were it not for the "hostile atmosphere" that radical posturing and numerous sit-ins and strikes have helped create.

I agree more needs to be done to diversify the faculty, but the answer is not slogans and office and classroom takeovers which divide and alienate, but rather dialogue and collective effort. Indeed, had Ms. Koh and Ms. Su bothered to do any fact-checking about my track record, they would have found that I am a co-author of five separate Law School Council resolutions on the subject of faculty diversity, including one to expand the Charles Hamilton Houston Fellowship for minority scholars.

Indeed, had they bothered to examine the record of this year's Council, they would have found that I have spent many hours working on a number of projects with Council President Marie-Louise Ramsdale '93 aimed at bringing students of different ideologies and backgrounds together.

Unlike Ms. Koh and Ms. Su, I try to direct my efforts towards activities which build bridges and make progress possible, rather than towards those which do little but divide students, create strife, and grab headlines.

As to my "sneering," at "good faith efforts" and "frustration," I think that the graffiti and so-called frustration we have seen are hardly a coincidence. Rather, they, along with the annual round of strikes, pickets, and sit-ins which will soon follow, represent the conscious political choices of a relatively small group of activists who seek to foist their radical agenda upon this campus through disruption and intimidation.

I will concede that Ms. Koh and Ms. Su are correct to point out that I erred by including Jon Hanson among the "Four White Men." That was a mistake on my part, for which there is no excuse other than sloppiness, which, of course, is no excuse at all. They are, however, confused as to claims of linkage between the Sejourner Truth Squad and the Law School Council elections. Adam Alfert '94 made that point in a letter to the RECORD which appeared on page eight of last week's paper. I merely pointed out that most of the graffiti was too long and not very clever.

Finally, I am not a "cigar toting" columnist, as I rarely, if ever, carry cigars. I do admit, however, that I am occasionally a cigar smoking columnist.

• Letters (Continued) •

"Inclusion" in the Law School Council

I write to express elation and disappointment over two separate issues addressed at the March 3 meeting of the Law School Council. My elation emanates from the crafting of a diversity resolution, the product of the hard work of Enu Mainigi '94 and Camille Holmes '93 committee, that successfully encompassed the concerns of all members of the Law School community about the importance of heterogeneity at Harvard. At a time when the outside world's glorification of the "factionalism" at our Law School has been reaching new heights,

the resolution's emphasis on inclusion deserves notice by us all.

Inclusion, however, was not the victor in the debate over Hank Fincher's '94 motion to place voting ballots in every student's Hark box on the morning of the election in an attempt to encourage student voting. Hank's motion failed to pass with the required number of votes. Cries of "waste of paper" and "too much trouble" seemed, paradoxically, to be the allies of exclusion. Administrative arguments, in my mind, have no place in the debate about inclusion at Harvard. It

seems ridiculous to place "R.M. Rock's Winter Show" ahead of voting ballots in the competition for space in our admittedly small boxes.

As members of the Law School Council, we have the privilege of representing our fellow students. I cannot help but think that we took one step forward and another step backward along the route of disproving the national press and proving our worth to our fellow students by affirming a simple ideal: inclusion.

George Gonzalez '94
March 5, 1993

CCR Debunks Wareings's Myths

As two students "of Griswold Nize fame" and other "appropriate leftist credentials," we are writing to debunk the myths that were articulated in Rich Wareing's RECORD commentary, Friday, March 5, 1993. The first myth is that the Coalition for Civil Rights (CCR) did not support the offer of tenure to Professor Elizabeth Warren. This is flat out false. CCR held a Silent Vigil outside the faculty meeting on Friday, February 5, 1993 specifically in support of Professor Warren, whom we knew was being voted on that day. Prior to that, many members of CCR had met individually with professors during office hours to encourage them to vote for Professor Warren. Unfortunately, Mr. Wareing's memory is quite selective, and he unjustifiably dismisses or glosses over facts which do not support his argument, such as our statement to the Harvard Crimson (the same article from which Mr. Wareing apparently quoted our other statements in his column) that "Everyone at CCR is totally elated that Professor Warren received tenure."

CCR did everything possible to demonstrate our ardent support for Professor Warren and definitely hopes that Professor Warren will accept her tenure offer. Of course, since a certain cigar-toting Harvard Law RECORD columnist was not a participant in any of the efforts to facilitate Professor Warren's offer, he would not be aware of them.

The second myth is that CCR is monolithic. This could not be further from the truth. CCR is made up of a multitude of individuals whose ideas, tactics, motivations and goals run the gamut. The belief that Harvard Law School faculty hiring is discriminatory and the desire to change that are the only common threads which unite us all. Why Mr.

Wareing assumes that the Sejourner Truth Squad is connected to the Law School Council and its elections is completely baffling. Why Mr. Wareing sneers at concerned students' good faith efforts to work with the Faculty Appointments Advisory Committee and the Project on Community and their subsequent frustration and disillusionment with these committees is equally baffling. Then again, Mr. Wareing seems to prefer critical, uninformed pontificating over constructive action.

The third myth is that CCR is an insatiable monster: that nothing the faculty or administration could do would satisfy us. On the contrary, we recognize that individuals will differ legitimately on what minimum level of diversity they find acceptable. People within CCR disagree. However, we stress: 1) discrimination in faculty hiring is unacceptable; 2) no matter what picture we have of the 'ultimate end' of diversity, it is far from realized by the present faculty composition; 3) while we affirm the importance of remedying the extreme under-representation of women on the HLS faculty, the 'diversity problem' will not be 'solved' solely by adding white women to the faculty. Our statements in the Crimson express concern for and dismay with the fact that, as to faculty appointments, ideological diversity is acceptable but only from straight white men, and that gender diversity is acceptable but only from straight white women. This limited definition of "diversity" will not satiate us. (Note: contrary to Wareing's contention, Jon Hanson is not of "Four White Men" fame. The four were Singer, Weiler, Mnookin and Hansmann.)

The fact that Professor Warren has been offered tenure does not mean the struggle to end discrimination in the hiring processes of Harvard Law School has

been won. We must note that even if Professor Warren accepts her tenure offer, the net change in the number of women faculty since 1989 will still be negative. More obviously, there will still be no women of color, Asian-American, Latino or openly gay and lesbian professors on this faculty. Diversity means more than mere numbers. Finally, our fight is not just about numbers and quotas — it is about long-standing, pervasive institutional bias.

In 1979, Dr. Walter Leonard, Assistant to the University President of Harvard University, discussed Harvard's hiring practices in the following terms: "The painful and plain fact is that present hiring and promoting do not proceed along the line of equality and merit . . . I submit that anyone who cannot see that white males, of all ethnic and religious backgrounds, have received preferential treatment for the past many years . . . is either insensitive to reality or ignorant of history's pages." In 1982, Professor Duncan Kennedy wrote, "It is not an exaggeration to say that Harvard is a case study in the working of institutional racism." When institutions discriminate, even if — no especially if — it is Harvard Law School, they must be held accountable.

We believe in the potential for greatness at this institution. This is why we have committed ourselves to changing it. We will no longer need to protest and shout when our voices, the voices of women of color, of people who care about this school and recognize its position of power in the world and who deplore the message that discrimination is OK among the elite and educated, can be heard on the faculty.

Lucy Koh '93
Julie Su '94
March 9, 1993

Dean of Students Selection

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strongly. These include fairness, facilitating student interaction with our administration, and making our office more accessible to students."

Wald resigned to take a newly created position as special assistant to two University vice-presidents, John Shattuck and Sally Zeckhauser. During her five years at HLS, Wald developed a unique rapport with both students and faculty. As Prof. Daniel Meltzer, who as associate dean worked frequently with Wald commented when she resigned, "Dean Wald has done a splendid job, especially because she is perceived as fair. She clearly has the respect of the faculty,

and she has a wonderful capacity to deal with the hard issues around her and to generate consensus."

In an October 15, 1992 good-bye letter to all HLS students, Dean Wald thanked everyone for their "insights and support" and wrote that "throughout my five years here, I have been awed by your talent, your intelligence, your passion for justice, your resourcefulness, and your dedication to making both HLS and the world better."

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