America's most exciting newspaper

TRASHERS TRASHED!

Audience Rebels Against CLS Panel

Midway through the Critical Legal Studies "counter-event" yesterday, the audience rebelled against the panel and the scheduled format. Several audience members insisted that the CLS event was every bit as pompous and vacuous as the Lizard claims the AALS panels are. Others protested that the format of the so-called "counter-event" was in fact indistinguishable from the reified, hierarchical AALS model. Still others protested the predominance of white males on the panel. And others expressed rage that a group so summarily dismissive of the established ways of doing things should be so vague and clueless.

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There was in the beginning a dense fog:

People began to study this fog for all the reasons people tend to study things like fog. By that I mean, some people were bored, some curious; some people studied it because it was there, some because they thought it might be beautiful. Some people studied it to advance their own careers, or to retard the

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The Last One!

This Lizard has lots of stuff in it on hierarchy, including an exchange on sexual relations between male teachers and female students. The decision to publish that exchange was controversial. We decided that on balance it was more important to open up the issue in a flawed way than to permit it to remain submerged.
CLS PANEL
(continued from p.1)
sive as to how things should be done. CLS was attacked in tones of incivility of the sort that critics associate with CLS itself.
About 250 people attended the event. At one point, widespread applause greeted the somewhat plaintive remark of one audience member. 'No matter how bad this is, it's still better than anything going on at the AALS.'
The rebellion forced the meeting to break up into small discussion groups. Efforts to reconvene the meeting as a whole were only erratically successful. Most panel members fled the podium and tried to blend into the audience.

One eminent mainstream professor, who has been studying CLS for years, said, 'The event demonstrated conclusively that CLS has nothing to offer besides a lot of childish prattle.' But a CLS insider disagreed. 'The audience enactment of the destruction of hierarchy had a cathartic effect that is pre-requisite to serious discussion of the politics of law schools.' He insisted that the small group discussions 'released energies in a valuable way.' Asked to comment on this view, the eminent mainstream professor dismissed it as 'typical CLS mystification.'

At the AALS plenary session, Terrance Sandalow demonstrated how to use liberal rhetoric to dress up repressive, authoritarian treatment of students.

He started his talk by listing several proposals for change in legal education. He dismissed the proposals as unethical because they all contain students instrumentally, as means to improve society or the profession.

He proposed that ethics in human relationships requires treating students as ends-in-themselves. The appeal to the Kantian ethic, the Dworkin—equal concern and respect, etc.

But how quickly the liberal abstraction reveals its emptiness. Sandalow went on to say that the way to treat students as ends is to prepare them for a full, rich intellectual life, rather than merely to fulfill the professional role. And the way to do that is to build intellectual "character" in students by, for example, not permitting students to pass when called on ("Little public embarrassment builds rigorous thinking habits"), or to give "sloppy" answers, or to hand in papers late.

Sandalow thinks that his suggestions don't treat students instrumentally because he thinks his model of what "character" entails is universal and noncontroversial. Actually, it's the boot camp—drill sergeant—stem father—military macho—suck it up—when the going gets tough get going model of education straight out of Langdell. Strict regimentation and order.

Resolving the issue of power in the classroom by creating a dictatorial parent figure who will lead the students to the intellectual fatherland, "Rigor." Students don't know what's good for them, so don't respect their decision to pass. The teacher should inflict humiliation and anxiety on students "for their own good."

So it's not really that students are treated as "ends" after all. In...
To Recognize A CLS Person In a Crowd

Their eyes stay out and late
Look for red veined diagonal glances

If there was time
Wrinkles could be stretched
but why embalm the pretension of hidden style?

The Conference on Critical Legal Studies Should Adopt a Position on El Salvador

CLS people tend to be more interested in theoretical legal academic work than in real world struggles. They also tend to fear disunity if they try to translate their large areas of esasumption into real political terms. But I think we have to begin to make that effort. I offer the following proposed pol about the U.S. in El Salvador as a start in that direction.

For a very long time the governments of El Salvador have been classic examples of a state functioning as the central committee of a ruling class—in this case the forty top oligarch families. Salvadoran society is unjust according to even the vaguest and most imprecise liberal standards of justice. There is brutal economic exploitation backed up by violence and complete disregard of the human rights of those who disagree with the regime. Further, society is hierarchical, patriarchal, sexually repressive, and racist, all of which traits are sustained by a powerful traditional ideology as well as by violence.

The United States has for a long time been a direct source of evil in El Salvador. We have supported or promoted or actually created many of the worst aspects of that society. The Salvadoran ruling class has been our ally orpawn. We have shown no commitment against the forms of social, sexual and racial hierarchy that go along with exploitat-

Towards an Erotics of Law Teaching

Dear Ann Stanners:

I am a married law teacher, at a law school for seven years with tenure. I have had several crushes on students during that time. I am male and all my "love objects" have been female. I have little by little come to wonder whether my feelings are consistent with my strong commitment to feminism. Paradoxical, as these worries increase I find myself for the first time suspected to have an affair with a particular student, one who herself happens to be a feminist activist on campus.

Up to now, I have had personal academic crushes and developed teacher's pet crushes. In the first kind, I realize one day that I'm watching the woman on the right side of the third row, second seat from the aisle with great intensity. I just love the way she looks. Everything about her. I am aware of the slightest play of her expression. When she's bored, it's a slap in the face. I suppress conscious sexual fantasies because I'm worried they violate my teacher's fiduciary duty, insult my wife, and may be politically incorrect. I never speak to her outside class, but summon her face and figure and over and over again as I prepare. When I meet her four years later at a bar association cocktail party, my heart thumps, and then I realize she's just a nice stranger who does municipal bond work.

I've only had two female teacher's pets in all these years. It was like, when she knocked on the door, my heart lifted a little, though I had been grumbling about students thinking themselves entitled to kiss me. And I find myself trying to amuse her, cheering her up, and gossiping about teachers in

(Continued p. 5)
tion and terror. We are implicated in the deaths of many tens of thousands of civilians at the hands of right-wing opponents of even two-bit liberalization.

The guerrillas seem to be roughly similar to other third world revolutionary forces of the post-WW-II period (Cuba, Algeria, Vietnam, Nicaragua). Their mix of radicalism and violence, and their almost indistinguishable internal differences, makes it difficult to separate them from their ideological and political contexts. The guerrillas are a product of the political and economic conditions in which they exist, and they are a product of the general conditions of conflict and repression in the region.

Since it is manipulable and can be used to advantage, it is not surprising that the guerrillas have been able to use the situation to their advantage, and that they have been able to maintain their position. The guerrillas have been able to maintain their power and influence by manipulating the situation to their advantage, and by using their position to gain support.

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ways that violate the groundrules. As she slides deeper into her crush, it’s like an envelope of warmth for me. Although I have no intention of making a sexual advance, I can feel her readiness for it, her strong physical awareness of me, her accessibility and her fear. Am I the only one who notices her eyes shining all the way through my lecture? (Everyone else is asleep.) I listen for her. Finally, I worry for her that she’ll take my part too often and be caught a fool.

Both of these teacher-pupil relationships went on for along time. It was hard to keep them under control, but we did, and I loved it. I think I was a good teacher to both women. They’ve gone on to other mentors (as lawyers) and I don’t think I’m even slightly jealous. But I’m walking an edge that was unfamiliar to me. I don’t play with emotional fire—or haven’t up to now. You might say I am unusually staid, though perceptibly full of longing. With my marriage apparently breaking up, the longing is more, even slightly accessible to me. I’m falling in love with this feminist student. I disapprove strongly of teachers sleeping with their students. It’s hard for me to imagine full equality with that formal relationship in the background. I could go on, but this is already too much. Help!

Yours,

Unfamiliar Longings

Dear Unfamiliar Longings:

My name is misleading. I’m actually a man, so you won’t be able to get the help I’m thinking about the feminist dimension of your problem that a feminist woman Slanders might have been able to give. I’ll say up front that I’m also a law teacher,
divorced, and I’ve had two affairs with students, one of which ended disastrously for both of us (though not public-

tly, thank God). Since I’m a man, I tend to approach things abstractly, so let’s see what critical legal studies has to say about this situation.

Don’t tell me a lot about breaking down the public-private dichotomy. This usually means showing that what looks like also or "really" public—as in the personal is political, private law rules flow from strategies of governance, activities like law teaching contribute to political hegemony of the ruling strata.

But we should recognize the breaking down the public-private dichotomy also means recognizing the strong familial, oedipal and erotic component of areas we usually think of as public. This is actually harder to do than the other. It’s scary to see the erotic and the oedipal, family relations and personal ones playing themselves out in the workplace. It’s a lot easier to talk about equal protection in the domain of housing than to talk if you don’t understand the left-right power struggle in school until you understand the pattern of same-sex crushes of older on younger faculty members. We ourselves put each other down when it’s all obvious that oedipal or other sexual feelings are "influencing judgment."

But there is something to gain by making the effort. First, it’s not only possible to complete the erotic within the family or in singles bars, we can’t understand it. Second, Horney taught the Great Unconsciousness was right, that we can make social life into a form of play, an aesthetic activity, only if we embrace its constitutive erotics. Third, the workplace poli-
tics are real politics. Workplace politics are oedipal/erotic politics. Oedipal/erotic politics are real politics. Now that we’ve got that

clear, let’s apply critical legal theory to your dilemma. Oh, boy! Does that ever sound silly. This is the best I can do.

I don’t think it can be right that a male teacher should never sleep with a female student, period. That would be absolutist, high-handed and doctrinaire. But on the other hand I advise caution. Of course I also advise caution in a relationship with a woman of your own age who is not a student and comes from a similar background and seems utterly familiar and as equal. Such a person looks like the "logical" or "natural" person for you to relate to, but the heavily sexist character of the larger society may mean that she has more rather than less trouble approaching you as an equal. She might be intimidated by your status as a law professor at a "good" school whereas your student might see you as the semi-competent pillar you really are, and love you anyway.

The fact that the student is a feminist is no guarantee that either of you will be able to deal with reenforcing the world’s male/female inequality with its teacher/student inequality. It is a good sign (since we believe in this as a true form of consciousness) but nothing more.

The thing that most alarms me about your story is that you are thinking of beginning this affair while in the middle of the break up of your marriage. Men I’ve known have tended to be pretty crazy during this phase of things, capable of doing a lot of damage before they catch up with their feelings. It seems to me a strong indicator for great restraint on your part.

On the other hand, real trust and warmth and mutual confirmation just appear unpredictably in relationships. Maybe that’s about to happen to you and if so may your good fortune be lasting.

Slanders

THE SAN FRANCISCO HILTON & TOWER

January 7, 1986
Dear Ann Slanders,

Your response to the "Erotics of Law Teaching" is at best incomplete. More likely, its effect will be to reinforce both sexual exploitation of female law students by male law teachers and the impression of some that Critical Legal Studies consists of indeterminacy analysis, some psychological jargon, and a heavy dose of self-justification.

Of course, there's no more sense in an Absolute Rule here than in any other area. And you may be right that the things that once seemed private and have public dimensions include all parts of ourselves, not just our contractual relation and our property disputes. But to move from these observations to a conclusion of caution plus hope (encouragement?) about male teachers/female student relationships is inexcusable.

You talk about sexism and thus you introduce power relationships into the discussion, yet you treat all this as abstract and shifting. The fact is that we all (I too am a male law teacher) live in a specific, highly contextualized situation in our own world of law schools, teachers, and students. We all tend to think we are quite charismatic because many students seem affected by (drawn to) us, and we sometimes don't want to recognize that the charisma derives from the power we hold over students -- the power to grade, the power to validate intellectually, the power of a few more years. Like it or not, we are authority and power for them. That is why real friendship with a student is so elusive -- we cannot be equals coming together as friends. And that is why we cannot be equals with a student in a love relationship.

It is not just the attitudes and behavior of the individual teacher that matters, for he works in a world that has shaped her-- her expectations, powerlessness, and vulnerability. In short, stay away.

CONCERNED ABOUT PROCESS


don't trash the job market, make it work

When cls types want to describe the heart of legal darkness, they often refer to their own experiences on the job market. They know that's the point where the true pain and horror of the law schools shows up. If the classroom is alienating and the faculty meeting vicious, the market is the final realization of all that is evil in law school life.

Everything that pains us but can be denied in normal life becomes apparent when we enter the market. Hierarchy, which is the background of all relationships among law professors, is the real thing that is on the table in job negotiations. The school, ever insecure about its own hierarchical position, looks at you to assess your marginal contribution to its rating, you wonder whether X will enhance your own fragile sense of self-worth.

No one would deny the horror of all this. But there is no point in lamenting. The only hope is to make the market work for cls.

It has obviously happened; after all, a lot of cls people have gotten jobs, some in "up-market" schools. The deep secret of cls life is that when one is on the market, it is possible to turn cls itself into a commodity. We have to sell it as a new brand of scholarship, a product that law schools have to acquire to ensure their status in the world. We have to show that we produce certified cls work, and that acquisition will enhance the status of the school that buys us.

We have to convince the schools that having cls people to attack all their flaws will make them feel more important, not less.

We have to resist our temptation to carry our efforts overtly to challenge the alienated nature of law schools into the hiring hall. All the rules of legitimate cls behavior, from humanistic relations to polemical challenge, must be subordinated when we enter the market. Those who are not able to do this are not the most noble, they are the most unrealistic and the least tough-minded.

Will we be destroyed by this? Is it a pact with the devil? No, because there is no choice. We can make the market work for us, or we can destroy it by it.
Annals of Academic Freedom: III

The AALS and the New Teacher: "Ethics and Responsibility"

My Ass

A session on "Ethics in Academia: Power and Responsibility in Legal Education" from these guys (and I do mean "guys")? I've tasted their wares twice before, and I'd sooner listen to a presentation by the Reagan administration on "Imperialism and Foreign Affairs."

My first taste came during last year's "meat market" recruiting process. I was an "Applicant" ("suppliant")? Not since my first year of law school had I been subjected to such abuse of power (like the interviewee at one school who spent a whole morning attacking two of my "references" -- individuals whom, I made it clear, I love dearly.)

At no time in five years of rough-and-tumble legal practice did I encounter such disingenuousness cum downright dishonesty as I did from the dean at another school who looked me straight in the eye after two exhausting days of interviews, told me how "high" they were on me, and assured me that he would be in touch "very soon," possibly in a few days, only weeks and numerous unanswered phone calls later did I reach him and learn that shortly after the interview they had offered the position to someone else. Nor was my experience unique; virtually every other participant in the process I know speaks of similar mistreatment. (And they accuse us of "indulgence"!)

My second taste came last summer, at the New Teacher Training Conference. Now a tenure-track faculty member at a "nifty, up-and-coming" school (i.e., not first-tier), I was accorded all the dignity and respect I could have wanted. I shared power, and the AALS proceeded to teach me how to abuse it. The student--not the teaching applicant--was at the bottom of the boot. To toll the program's lessons down to three: Lesson #1: the bright, engaged students you will face the first day of class will be bored, jaded, and unprepared by second semester, and it's their fault, not yours.

Lesson #2: humiliate your students if it's good theater (or be a "nice person" and steadfastly refuse to do so, but defend the little Hitlers on your faculty in the name of academic freedom). Lesson #3: "Objective grading" is both possible and desirable, and the impact of grading on the lives and futures of your students is not your problem (we seek, after all, "just the facts, ma'am").

The "ethics" underlying these lessons--and the lessons of the interview process--are serious ethical striving what Velueeta is to cheese. Besides, they served wine at the CJS program. So I voted with my feet.

The Diagonal Focus Syndrome

The story of the AALS meeting is completely but sadly captured in the endless series of nervously searching glances of conversing attendees, sometimes passing on another like the proverbial ships in the night, as each law teacher casts the net of his sight across the room for fairer game. There is a sadness there; the eyes have lost the glint of hope that can be seen only in the faces of the very newest additions to the profession. They are the ones who still naively believe in a meritocracy upon which the pecking order is supposed to rest. The older ones know better.

For the young law teachers, it is an acquired skill. One must catch the eye of a hierarchically superior teacher, and somehow trap him (never her) into conversation. The trick, however, is to maintain a lookout for an even better catch. Naturally, unless someone from Memphis State has somehow inexplicably latched on to someone from Harvard, the latchee will be playing the same game, exhibiting the identical symptoms of the classic AALS diagonal focus syndrome. Each talks to the other only so long as nothing better appears on the horizon.

Of course, the tragedy of all this is that they are reduced to treating others (and sadly) themselves, as something less than human. And by the time the players realize the sterility of the game, it is too late because they have been convinced that they are indeed the inferiors they have been playing. The sadness thus reflects not only the hopelessness of their quest but also the lower value which they have eventually assigned themselves. It is the ultimate form of selling out--of themselves and their fellows.

The next time you are invited to play this game, don't. Look the other firmly in the eye and don't panic. Ignore the peering eyes; they are headed onto the rocks. The alternative is scary. In the end you will have that sad look that up till now you have only curiously noticed in others.

If you are absolutely committed to the game you might as well have your cake and eat it: enjoy the conversations for what they are and climb the hierarchy ladder in a much less offensive way by leaving messages addressed to yourself on the message board. The diagonal eyes are keeping tabs on that also.
To the Editor:

Mr. Boylston's silly article on faculty cocktail parties really needs no reply. It reveals its own personal view of the world. But it's worth noting that this is where nihilist critical legal studies approaches lead.

Boylston wants to provide a defense of rudeness, based on politics. He takes trite pop sociology and blows it up into the big words "the political ideology of the upper-middle-class" by relating party observations about some social event to the law/politics distinction. He absurdly conflates the trivial and the cosmic, with no indication of how he gets there. His amateur creative writing style shows his utter lack of substance.

Moreover, Boylston's basic point provides its own refutation. According to him, academic freedom requires a destruction of normal social habits. Next year we'll hear that academic freedom requires burning flags. In addition, Boylston's article reveals the immaturity of so many of the critical group. He makes a big thing out of clothing and language. It's as if he's still in high school, still fascinated with dirty words. He acts like the world is supposed to change because he doesn't like it. There's no requirement with which I am familiar that requires faculty members to attend social occasions. If he doesn't like them, he shouldn't go. If he doesn't like the form of the party, he should have his own party. It is infantile to whine as he does about it.

Boylston is too busy seeing ideology under every bed that it never occurs to him that law teachers are naturally people who like to talk and so their parties are largely not dance parties. If Boylston feels like doing something else, that's his business. But his conclusions about sinister forces at work is a reflection of his personal tastes, nothing more.

There's nothing sinister about civility. It is an integral part of the academic enterprise, the freedom to differ on ideas without anger or personal animosity. That's one of the things most of us like best about academic life. That is the rich sense of community we enjoy. If Boylston doesn't like it, he should move to a community where, maybe he should look for a bartending job.

—Thomas "Tommy" Johnson

"Ha ha, no, got in to-day—Harry!—nothing I would have wanted to go to 'cept the ha ha Gay and Lesbian ha ha oh Fred you're... And they made him Dean because Coca-Cola. He's playing us so badly that they're going to move them to the Philippines and call them 'the Manila Fold'ers'. About a twenty minute commute and the property taxes are very real place of trash and John teaches our new Prisoners' Rights Course, I call it 'Wasting time and annoying Judges' don't I, John... serious new trend in scholarship... and with the California Supreme Court you can get... real low financing... turned to the student and said 'That question took 60 seconds, there are 120 people in the room, you just wasted 2 hours of the most expensive billable time in the Western... Ha ha... with a new building... and a strong endowment we feel confident... who would had... need to draw other powerful groups into the loan situation so that they will have a vested... interest in Civ Pro but concentrating on the business... law, meat and potatoes... at least on the school anyway... Papal Exhibition... And get a receipt. Ha ha
Alone and Female

At first there was the excitement of a new city, a new office to settle into, a new routine to create. My first meetings with colleagues were as good as any first meetings. Pleasant chit-chat family, recreational interests, social concerns, law school politics. It took me a month to miss intellectual companionship and another month to realize I missed it. Finally I began to take the initiative, only to be rebuffed. Perhaps I had sounded pushy, or boring, I couldn't tell.

Should I start following sports? Maybe all the sports talk that went on was a password, and if you got through the door you could share in the interesting talk that I knew must go on. Basketball and soccer were in season, and I was afraid I couldn't stomach either for more than a game or two. It seemed so repetitious and boring. The best I could ever manage was to develop an interest in sports talk, not sports. Like an anthropologist, I observed the staking out of territory, the competition, the squabbling about that my colleagues did in their sports-talk ritual. That kept away from us the boredom or going crazy at lunch, but it didn't get me admitted into the club, the inner sanctuary where the most interesting intellectual discussions took place.

When I took up mountain climbing the next year, I was excited to discover that two of my colleagues were doing so as well. Suddenly I had the chance to be one of the boys, without totally reneging on being myself. So finally maybe I'd fit in to enough to be able to enjoy the collegiality I had been missing. We talked about boots and radios and shared stories of mountains we had bagged and those that got away; we even jokingly jockeyed for the position of knowable. One, but still somehow I failed. I was still not admitted to the almost instantaneous revelation. The crowd of adults who had each thought there was something wrong with him or herself realized suddenly that the reason they couldn't see the emperor's clothes wasn't that they were stupid or entirely unfit for their position, but rather that there were no clothes to be seen. For me, the revelation began more gradually. My old teacher didn't seem to fit in any better than I did; he hinted that I imagined more interesting conversations than took place; and one of his colleagues, another old teacher and friend of mine, quoted him to say the school had no intellectual life at all.

The final crescendo came when I attended a two-week conference with people from law schools across the country. One of the leaders was a prominent professor at an elite school. At the end of a particularly interesting conversation, he asked me with a slight rhetorical overton whether I felt isolated at the law school I was at. The question was a compliment, and it hit me like the proverbial ton of bricks. I felt isolated and I hated it. The question reoriented my thinking. There wasn't anything wrong with me, and it wasn't my fault. I felt isolated. And I hated it.

Do you feel isolated at the school you are at?
REDUCTIONISM (continued from p.1)

careers of their perceived enemies. Some studied the fog hoping thereby to improve the conditions of their class, or race, or sex; others hoped to advance someone else’s class, or race, or sex. Still others hoped to advance humanity, or the universe; and, finally, some people studied it from habit.

As people studied the fog, they began to see occasional patterns. One person found a rectangle with a curious surface texture; another found an ear-shaped protrusion, while a third found a solid spherical object set back in a socket.

Then one day a very important thing occurred. Someone new came along who decided not to choose a corner to study, and not to study the particular details at all. Instead, he looked at all the fog and he looked at the clearings and he said, “I know what that fog is, it’s a man smoking a cigar.”

A few people were disappointed, a few people were relieved, and a few people were amused. It is not known whether the new person was embarrassed or humiliated.

However, he was not discouraged. He kept looking at all the fog and he looked at these new clearings and he said, “I know what the fog is! It’s the heads of people engaged in conversation.”

A lot of people paid attention to this claim by the new person and his theory became quite controversial. Some people argued that the person’s theory was no way for serious adults to spend their time. Most people ignored the new person and just continued in their work.

Some of these people who just continued in their work just happened to be examining the patch of fog where the new person claimed the cigar-smoker’s forehead was and they just happened to discover a pattern that seemed a lot like a forehead. Other people, however, were more determined in their ignorance of the new person’s assertions, began to fill in a more random pattern:

These discoveries were exciting and interesting. The scholars felt accomplished and creative, and they were honored and advanced in their careers. The classes and races and sexes and universe, however, all continued in the same status which they had been impenetrable began to show distinctive patterns:

The process continued as more and more details were filled in and the picture became quite rich. But then one day someone found an olive.
To the Lighthouse