

## Conference Panelists Challenge Mainstream Marriage Myths

Continued from *MARRIAGE*, p. 1

Georgetown Law School noted in a conversation on the normative and ethical dimensions of same-sex unions that instead of speaking in the language of "equality" and "rights," litigators should focus on the fact that there is a "normative good about gay sex and gay people and therefore gay coupling." Stable relationships are a normative good for the individuals who take part in them, she said: both same-sex and opposite-sex couples equally enjoy "intimacy and companionship over time."

Prof. Martha Minow challenged gay marriage opponents' reliance upon notions of "tradition," since marriage has evolved

as an institution, she said.

"What 'tradition' of marriage do we want?" she asked rhetorically. "The tradition of a father bargaining with his future son-in-law over the brideprice of his daughter?"

Minow pointed to the limitations of academic discussion and called for greater awareness to seep into popular consciousness. In order to change people's opinions, she said, "We need more movies, more novels, more narratives" about what gay love and gay marriage are.

Prof. Eskridge addressed what he called the three main arguments against gay marriage.

First, gay marriage opponents argue

that "marriage must be male/female," because marriage is, by definition, opposite-sex. In addition to being "historically untrue," Eskridge noted that the reasoning employed by the argument is circular, as it gives no justification for the state's requirement that marriage must be male/female.

Second, same-sex marriage opponents argue that allowing gay people access to the institution of marriage would threaten it forever. Eskridge noted that, to the contrary, gays and lesbians would be the most "enthusiastic recruits" to the institution of marriage and, rather than undermining the institution, would actually strengthen it.

"I don't know how you're going to

weaken the institution by including same-sex couples," he said, adding, "if anything is contributing to the downfall of the institution it is the ease of divorce."

Third, Eskridge addressed the argument that a tolerant society does not have to encourage that which is morally undesirable. He noted that permitting gays to marry would hardly be a stamp of approval of those marriages any more than allowing a heterosexual couple to marry represents a government stamp of approval on that marriage.

"The state will allow murderers and rapists to marry, but that does not mean the state approves of murderer marriages or rapist marriages."

Eskridge stressed that gays and lesbians should fight "not just for the benefits of marriage, but the obligations as well." He noted that marital obligations "reinforce the commitment of one individual in a couple to another."

Prof. Nan Hunter focused on the complexities of domestic partnership benefits, which she coined "substitute marriage." She argued that the call for domestic partnership benefits will "acquire greater and greater force, because it captures what a pragmatic humanist would want to achieve."

Hunter noted that its popularity stems from the fact that it seems like a good compromise for people who recognize that "it is not fair to treat gay couples in the shabby fashion that the law does," yet cannot go so far as condoning gay marriage.

Hunter described "substitute marriage" as a "separate but equal model of law," noting that it is indicative of the fact that many people see a profound distinction between homosexual and heterosexual relationships, and thus believe the two should be accorded separate treatment under the law.

Finally, Prof. Andrew Koppelman and other panelists addressed the question of whether gay marriage prohibitions constitute sex discrimination. The conventional argument, he said, is that since a woman can marry a man but not a woman, the law is discriminating on the basis of gender.

Koppelman addressed opposing arguments that since neither a man nor a woman can marry someone of the same sex, both sexes are being treated alike and there is no discrimination. He noted that the same argument was utilized by opponents of interracial marriage who argued that miscegenation laws did not discriminate against African-Americans because neither blacks nor whites could marry someone of a different race.

## Bye-Bye, HLS Child Care Center

### Move to Botanic Gardens Was Not All Fun and Finger-painting

By Steve V. Scali

The HLS Child Care Center was recently moved to a new facility called Botanic Gardens Children's Center, which is located near the Harvard Botanic Gardens affiliated housing unit on Fernald Street.

The previous day care facility was located in a house on 23 Everett Street and had been there for all of its 28 years.

The transfer of the child care center took several years of planning, involving contentious and often bitter invectives among the HU administration, students, faculty, staff and even members of the general public.

Harvard University operates a total of six day care centers, which it subsidizes by offering rent-free space. The centers themselves, however, are privately run.

cording to Coleman.

"I have a stack of several hundred letters from angry people," she said. "Nobody trusts the Law School. We never meant to close down the child care center without finding an alternate location or making other arrangements."

#### Profs Making Babies

Center officials, however, were not so confident about their future.

"It was hard finding a space. At first, it looked like we would be said goodbye to," said Morin.

Following negotiations, the Law School and HU President's Office agreed to split the cost for the construction of a new \$1.4 million child care center. The Faculty of Arts and Sciences agreed to contribute operating support by providing free rent and utilities. The Center's new "landlord," Harvard Planning and Real Estate se-

ents to grow in the near future. "I think the number of Law School-affiliated kids will only increase, as the Law School and the Faculty of Arts and Sciences are first-tier and have priority for enrollment," he said. He noted that there is usually a waiting list for child care, especially for younger children.

"Everything is very positive, and we all feel really lucky to be in a wonderful new facility," said Morin.

#### Wanted: Adult-Sized Toilets

The Center's old home at 23 Everett is currently undergoing a two-month renovation.

"We need to install adult-sized toilets," said Coleman. "There is no air conditioning, and we need to do network wiring," she said, stating that HLS would foot the bill.

"This summer, the first floor will become swing space for staff out of Areeda, especially the personnel department," said Coleman. "In September, research programs will be housed there."

There are approximately 20 law school research programs, including the Berkman Center for Internet & Society and the Tax and Fiscal Research Program. HLS administration is debating which research program(s) will be granted space in the ex-child care center space.

Coleman will be speaking with research program faculty directors. She then intends to recommend suitable tenants to Dean

Clark '72, who will make the final decision.

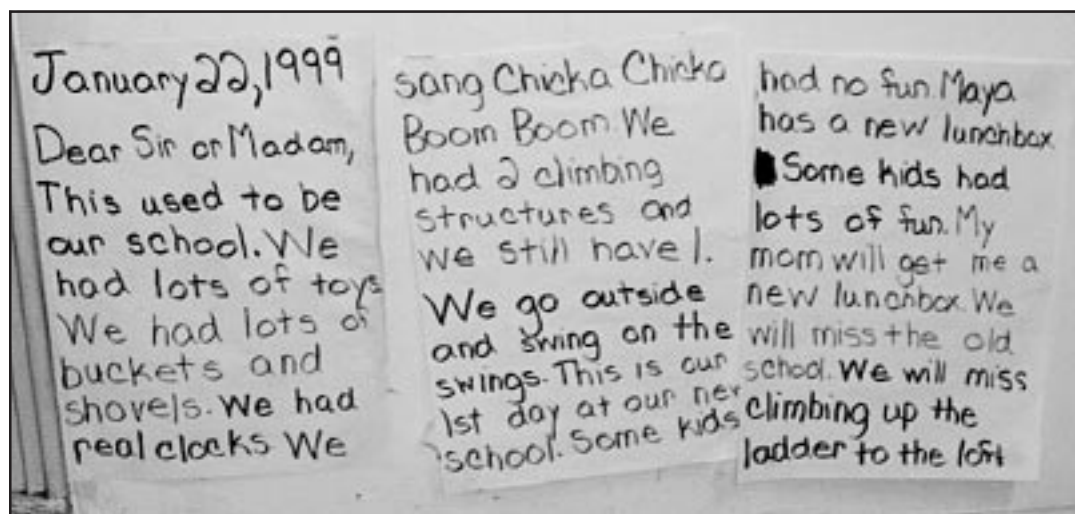
"Individuals from different research programs talk to me when I walk through the fourth floor of Pound," said Coleman. "They are often afraid I want to take away their space."

The Berkman Center, for example, is spread among an office and hallway space on the fifth floor of Pound, a basement office in Pound, and some space in the basement of Lewis, according to Coleman. At only three years old, the Center is one of the newest and fastest growing research programs.

Research programs will be allowed to rent from 23 Everett based on several factors, said Coleman, including how much space the program necessitates and how much space it occupies currently.

"The issue is how to make scarce resources go to help the most people," said Coleman. "For some programs, it may be more efficient to have everything in one building."

Coleman indicated that she is not yet certain as to who will even want more space. "The Negotiation Program takes up half a floor in Pound and is usually interested in more space. The Legal History Program, on the other hand, does not want any more space," she said.



The HLS Child Care Center became known as such because of its proximity to the Law School. Indeed, some of the children it accommodated were those of Law School faculty, staff, alumni and students. HLS was the center's "landlord" and provided the space free of charge.

HLS Administrative Dean Sandra Coleman enumerated two factors which led to the closing of the HLS Child Care Center: the physical condition of the building, which made 23 Everett Street an increasingly ill-suited place to be a child care center, and the need for space at the Law School. In particular, the number of HLS-sponsored legal research programs and organizations has increased considerably.

"In 1990, we had eight research organizations, now we have 20," said Coleman.

All of the clients and staff were transferred to the Botanic Gardens location. According to Jim Morin, the Director of the relocated Center, approximately 10 of the Center's clients have some HLS affiliation.

In March 1997, the Law School informed the Center's Board of Directors that it would have to vacate the premises by August.

A tremendous outcry ensued, and HLS was made the scapegoat — unfairly, ac-

lected the new location.

"The new Center is the only one on the north side of the campus, which is an attractive feature for many parents," says Coleman.

Morin is extremely pleased with the transition to Botanic Gardens.

"Everyone has been really happy here. Parents are really pleased with what they see. The place is open, airy, clean, and the children are all happy. The transition has been happy. The children moved in very easily. Staff and adults are very pleased," said Morin.

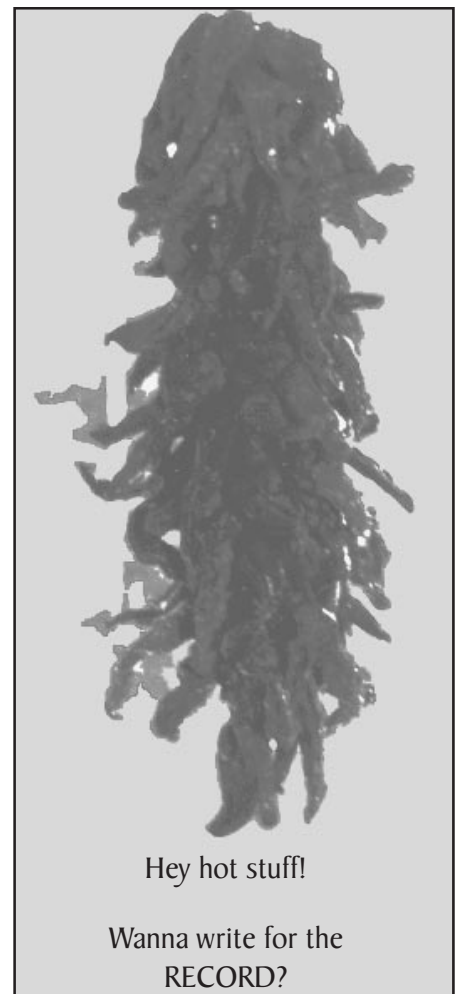
"The parents pay tuition which mostly goes toward salaries. Most costs are care costs," said Coleman.

The Center charges \$1,140 monthly tuition for a toddler and \$940 for a preschooler.

Botanic Gardens staff plan to initiate classes for infants in September. Morin estimates that nine slots will be made available for the new offering.

"Child care has been an important issue for the Harvard Law faculty, especially the more junior members," said Coleman, listing the names of at least half a dozen professors who have had children recently, many of whom were hired in the past 10 years.

Morin predicts the number of HLS par-





# Charlton Heston Hones His Rapping Skills at HLS

Continued from *HESTON*, p. 1

with the term "African American."

"Dr. King said Negroes, Jimmy Baldwin and most of us on the March said black. That's a no-no now," Heston said. "Hyphenated identities are awkward. Particularly Native American. *I'm a Native American*" if the term is taken to mean people born in the United States.

Heston assailed the common perception of law students as free speech advocates.

"Before you claim to be a champion on free thought, tell me, why did political correctness originate on America's college campuses?" Heston asked. And "what are you doing to stop it?"

Heston's respect for HLS was evident when he referred to it as the "fertile cradle of academia." He called Harvard University the "castle of learning on the Charles River."

Nevertheless, he cautioned the students, "as long as you validate political correctness and abide by it, you are by your grandfathers' standards cowards."

"Who will guard the raw material of unfettered ideas if not you, the supposed soldiers of free thought and expression?"

Heston noted that disobedience has always been crucial in affecting change. "When told how to think, what to say, how to behave, we don't. We disobey. I learned the awesome power of disobedience from Dr. King."

However, Heston noted, if you are to disobey the lords of political correctness, "you must be willing to be humiliated, to endure the modern-day equivalent of water cans at Selma."

## Sir Moses-a-Lot

Heston next launched into his opposition to Ice-T. The rapper's 1991 Time-Warner album "Body Count," which included the controversial song "Cop Killer," delivered what some considered to be an unacceptable message.

Police were outraged by the work, and "rightly so," opined Heston, then a Time-Warner shareholder.

Nevertheless, Time-Warner "stonewalled" in condemning the lyrics, according to Heston, because the disc was a "cash cow," and the media "tiptoed around the subject, because the rapper was black."

Against the advice of family and friends, Heston strode into the shareholder meeting and "simply read the full lyrics of 'Cop Killer,' every vulgar, instructive word."

In full raspy Moses articulation, Heston proceeded to rap the first verse of the Ice-T work:

"I got my black shirt on  
I got my black gloves on  
I got my ski mask on  
This shit's been too long  
I got my twelve gauge sawed off  
I got my headlights turned off  
I'm 'bout to bust some shots off  
I'm 'bout to dust some cops off."

"And it gets worse from there!" Heston exclaimed. "And Time-Warner executives squirmed and stared at their shoes."

Heston then told how he read more lyrics in which Ice-T fantasizes about sodomizing the two twelve-year-old nieces of Al and Tipper Gore.

Heston began to rap again: "She pressed her buttocks against my... No," Heston cut himself off midstream in disgust. "I won't do to you what I did to them."

Time-Warner subsequently dropped Ice-T from its music division.

"I'll never get offered another picture from Warner Brothers or get a good review from *Time* magazine," Heston noted with a wry smile, concluding that his successful quest against Ice-T was nevertheless worth any personal sacrifices he had to make.

"I urge you to follow in the great disobedience of history," Heston concluded.

"If Dr. King were here, I think he'd agree with everything I said."

## Notes of Discord

Many audience members were wont to disagree with much of what Heston said.

During the fifteen-minute question-and-answer period following his address, Heston's own double standard on free speech came under fire.

"Who would you appoint to decide that we should censor Ice-T but not censor racist or sexist or homophobic language?" one HLS student asked to widespread applause.

Heston evaded the question, stating simply that "this was my personal quest against Ice-T."

A subsequent questioner asked how Heston rectified his anti-"Cop Killer" stance with the NRA's position on semi-automatic weapons, "many of which are used to murder police officers."

Heston replied by noting that "guns in the hands of a decent citizen are no harm to anyone."

The NRA President also was queried about his liberal reading of the Second Amendment.

One student asked Heston his opinion on the recent holding in which gun manufacturers were held to be liable for acts of violence instigated by their products.

Heston vehemently criticized the decision and predicted that it would "not withstand judicial scrutiny."

"Gun manufacturers make a very well-designed and well-functioning product," Heston noted.

"Firearms hurt no one any more than cars do," Heston noted, adding as an afterthought that "cars kill far more people."

Heston also was asked about the NRA's opposition to the Domestic Violence Gun Ban, which bans the sale of firearms to convicted child molesters and spousal abusers.

"Certainly I think all decent people are opposed to spousal abuse," Heston noted, before stating that the right to bear arms belonged to everyone. "No one should be

unfairly singled out here. It's inappropriate and denied in the Constitution."

## Charlton's Angels

Not all audience members wanted to engage Heston in debate, however.

One student who previously attended the HLS Republicans' birthday party for President Reagan asked Heston whether he had any comments on the "moral leadership or lack thereof exhibited by the president of the United States."

Commenting that "as usual, Mr. Shakespeare has just the right words," Heston quoted *Richard II*: "I must forget what I have been and yet remember what I must be now."

Another audience member asked whether Heston had any plans to run for political office.

Heston responded with laughter. "I've been president of the United States three times already," he said, referencing his film roles. "Enough, enough!"

When the laughter subsided, Heston stated, "Whatever flaws I see in President Clinton, I realize it's an extraordinarily hard job, and I wish him well. I wish us all well."

Appealing to Heston's status as both a WWII veteran and movie actor, one questioner asked him about the recent popularity of the films "Saving Private Ryan" and "The Thin Red Line."

"I think they're both good films, in my opinion 'Saving Private Ryan' is somewhat better, but they're both good," Heston said, adding that he thought the movies were "a response to millennial awareness."

## Leiter '00 Prevails in Review Elections

Continued from *REVIEW*, p. 1

Powell '31, and an upcoming retrospective on Lon Fuller's '26 "Case of the Spelunkean Explorers."

"We also hit a record for the number of women on the Review this year," she said. Thirty-five of the 88 Review members are women.

Leiter said he hoped to better integrate the Law Review with the rest of the Law School community. He expressed some concern about how the organization is perceived by students.

"We are hopeful that we can be viewed as an academic organization that contributes to all the legal discourse on campus, and not just an isolated group of 88 students," he said. To this end, Leiter said the Law Review would co-sponsor more events and publish some shorter, less academic, practitioner-perpetrated articles dealing with current issues.

He also wants to dispel the image that achieving editor status means getting a great line on one's résumé in exchange for countless hours of tedious work.

"The perception that being on Law Review is a lot of work is obviously true," he said, "but the perception that it's constant tedious bluebooking is not. We get to read pieces from scholars all over the world and critically engage them to see how we can make the pieces better. It is hard work, but far from mechanical or boring work."

Leiter offered this for perspective: "No matter how bad people say the Law Review can get, it's not as bad as spending six months on an aircraft carrier."

# Poverty Research Enriches Students

By Justin Herdman

One of the newest seminars offered at HLS—Research Colloquium on Poverty Issues—focused on the use of empirical research in exploring racial discrimination as Yale Law School Professor Ian Ayres addressed the class, coordinated by Prof. Lucie White '81, this Wednesday. In total, seven of the seminar's weekly sessions will feature guest speakers.

The colloquium studies the application of empirical research in the field of poverty law. The objective of inviting outside speakers is to "stimulate more interest and awareness [at



Prof. Lucie White '81

HLS] regarding empirical research into poverty law," said White.

The 25 students registered in the seminar include nine 1998-99 Sacks Poverty Research Fellows and represent diverse approaches to the study of poverty law. Many of the students were employed in real-world advocacy projects for the poor, and several continue their commitment by participating in clinical programs at HLS.

The seminars have been attracting a number of students who are not enrolled in the course, said Sophie Bryan '00. "At last week's session, which was the first to feature an outside speaker, quite a few non-course-

enrollees attended," Bryan said.

"It's hard to generalize about the group," said Bryan, "except to say that people seem to be concerned about the issues and interested in how to bring research methods to bear in legal work."

The Sacks Poverty Research Fellows, who are students at HLS and have each received a \$500 grant to fund their research, are particularly devoted to the issues in White's course. All of them utilize empirical and quantitative methods in their work and will present them to the class at the end of the semester.

Ayres, who has a Ph.D. in Economics from MIT, began his discussion with a brief description of his own work.

He is most well-known for utilizing empirical methodology to show the presence of racial discrimination in used car sales. Currently, Ayres's interests extend to racial discrimination in government contracting.

"He's an innovative, rigorous and exciting scholar," Bryan said, "and we're lucky to have him."

The colloquium is a cornerstone of a larger two-year effort by White, who is working under the auspices of the Albert Sacks Poverty Research Program to draw attention to the issue of poverty research. In the past, White has organized a series of brown bag lunches and a number of methodology workshops, and has helped to arrange the nine student fellowships.

"We're hoping to encourage law students to undertake some of the outstanding empirical research in poverty law," White said.

Students like Sophie Bryan need no such prodding. When asked where the colloquium fits into her overall career plans, Bryan responded, "Well, I'm not a tough sell, given that I hope to spend my life working in the civil rights and poverty-law fields."

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Michael Leiter '00

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Katie Christensen '99

# Across the Wire



## News from Washington, D.C., Illinois and Rome

### Outcry Spreads Over Italian Rape Ruling

ROME (AP) — An Italian judge last Friday defended his ruling that it is impossible to rape a woman if she is wearing jeans, while cries of outrage poured in from women and men as far away as Australia.

Protesters said the ruling, which threw out a rape conviction on the reasoning that jeans are too difficult to take off without the woman's cooperation, spotlighted the sexism in many courts' view of rape.

"It's not confined to Italy — it doesn't matter what you wear, the woman will still unfortunately have to shoulder some of the blame for rape," said Lisa Thorpy of Australia's NSW Rape Crisis Center.

France's conservative daily *Le Figaro* sarcastically advised rapists in Italy to "choose your victim among women wearing tight jeans. ... If you run into trouble with the law, an appeals court will acquit you."

The presiding judge, Gennaro Tridico, insisted his detractors had taken his ruling out of context.

"The jeans only further confirmed that proof of violence was very dubious," he said in an interview with Associated Press Television News.

"We have complete respect for women. We are sensitive, very sensitive to the sexual problems that afflict women in society," the justice said. "I stand by my ac-

tions and am ready to repeat them."

Tridico is one of 410 male judges on the 420 member Court of Cassation, Italy's highest appeals court in criminal cases. The entire court has scores of panels to hear cases, because criminal cases in Italy often go all the way to the final appeal.

The court threw out the rape conviction of a driving instructor and ordered a lower appeals court to hold another trial. The defendant, 45, had been sentenced to two years and eight months in prison for raping his 18-year-old student in 1992.

Wednesday's ruling said that it is "common knowledge that it is nearly impossible to even partially remove jeans from a person without their cooperation, since this operation is already very difficult for the wearer."

The appeals court sent the case back for retrial, but the alleged victim, now 24 and married, was quoted Friday in the daily *La Stampa* as saying she didn't think she could bear another trial.

On Thursday, conservative women among the Chamber of Deputies wore jeans to protest the ruling and urged other Italian women to do so, too.

The invitation seemed to be catching on. The host of a talk show on RAI state radio told listeners before signing off that the female staff of the program all wore jeans to work on Friday.

### ABA Panel Report Decries Federalization of Crime Laws

WASHINGTON (AP) — The avalanche of new laws Congress has passed since 1970 to make America's streets safe has failed, a report concludes.

"There is no persuasive evidence that federalization of local crime makes the streets safer for American citizens," says a report prepared by a blue-ribbon task force sponsored by the ABA and chaired by former Attorney General Edwin Meese III. The report was released on Feb. 9.

The 16-member task force says a Congress worried about being called "soft on crime" actually may be hurting the fight against street violence by passing federal laws that duplicate state and local efforts nationwide.

The 56-page report, backed up by hundreds of pages of statistical findings, calls on Congress to resist its political impulses.

"There is an understandable pressure on Congress not to vote against crime legislation even if it is misguided, unnecessary and harmful," the report's executive summary says. "But there must be a recognition that a refusal to endorse a new federal crime is not a sign that a legislator is soft on crime."

The product of a two-year study, the report notes with alarm that more than 40 percent of all federal criminal laws enacted since the Civil War were passed since 1970.

"Highly publicized criminal incidents are frequently accompanied by proposals for congressional responses for no reason other than that the conduct is serious,

even if the activity is already handled by state law," the summary says.

The "Federalization of Criminal Law" report mirrors criticism raised by Chief Justice William H. Rehnquist in his year-end report on the federal judiciary in December. He blamed the trend on pressure in Congress "to appear responsive to every highly publicized societal ill or sensational crime."

The report states: "Increased federalization is rarely, if ever, likely to have any appreciable effect on the categories of violent crime that most concern Americans, because in practice federal law enforcement can reach only a small percent of such activity."

State law enforcement accounts for about 95 percent of all prosecutions nationwide.

"Inappropriate federalization" can contribute to "long-range damage to real crime control" by diverting federal money better spent on state law-enforcement systems, the report says and can deplete funding of federal law-enforcement efforts not duplicated by the states.

"The expanding coverage of federal criminal law, much of it enacted in the absence of a demonstrated and distinctive federal justification, is moving the nation rapidly toward two broadly overlapping, parallel and essentially redundant sets of criminal prohibitions.... Such a system has little to commend it and much to condemn it," the report says.

"Sampling of the latest available statistics demonstrates that several recently enacted federal statutes, championed by many because they would have a claimed impact on crime, have hardly been used at all," the task force found.

### White Supremacist Denied Law License

EAST PEORIA, Ill. (AP) — In three years of law school, Matt Hale made decent grades, participated in student groups and played violin in two orchestras. He also helped revive a white supremacist group that advocates a racial holy war.

Hale graduated last May, passed the bar exam and was hired by an Illinois law firm. But he never got his law license, snubbed by a state committee that reviews the "character and fitness" of prospective attorneys.

The panel, composed of two lawyers and a judge, cited his racist leanings.

Hale is "free ... to incite as much racial hatred as he desires and to attempt to carry out his life's mission of depriving those he dislikes of their legal rights," panel members wrote in their 2-1 opinion in December. "But in our view he cannot do this as an officer of the court."

Miffed by the vote — all but 25 of more than 3,000 applicants last year were approved — Hale has appealed to a separate state committee that could overturn the decision.

"The idea that I can't be a lawyer because of my views is ludicrous," he said, sitting in a home office where an Israeli flag serves as a doormat, swastika stickers decorate the walls, and the flag of Hale's group, the World Church of the Creator, hangs from a window. He is 27.

Hale's effort to gain a law license has

attracted some unlikely supporters, including the Anti-Defamation League and renowned attorney Alan Dershowitz, who said he may help in Hale's appeal.

"Character committees should not become thought police," Dershowitz said. "It's not the content of the thoughts I'm defending, it's the freedom of everybody to express their views and to become lawyers."

As a boy in East Peoria, Hale immersed himself in books about Nazis and formed a "Little Reich" group at school. In high school and at Bradley University he attended "white power" rallies and sent letters filled with racial slurs to newspapers.

He also had brushes with the law, including a citation for littering after trying to distribute racist newspapers to homes. He was elected head of the World Church of the Creator while attending Southern Illinois University law school.

The church, founded in 1973 in Florida, espouses a racial holy war against Jews and blacks. One group member is serving a life sentence for killing a black sailor in Florida in 1991.

The church, which foundered for a few years, has thrived under Hale's leadership, according to the ADL. Hale's claim of as many as 30,000 supporters could not be verified.

Illinois officials say the last case similar to Hale's was in the early 1950s, when a law student refused to take an anti-

Communist loyalty oath.

The U.S. Supreme Court last considered a similar case in 1971, when two applicants for law licenses in other states would not reveal their political beliefs. The court ruled in their favor.

The ADL believes Hale shouldn't be denied a law license because of the "slippery slope" it creates, said Andrew Shoenthal, assistant director in the group's Chicago office.

For instance, Shoenthal asked, could a prospective lawyer who opposes abortion or supports school prayer be denied a license if a majority in his community held an opposite view?

The Illinois State Bar Association has yet to take a position on Hale's case, but spokesman Dave Anderson said the case "is a hot topic (among lawyers) right now, with spirited debate on both sides."

Hale was fired by the law firm when he couldn't obtain the license. He lives with his parents in East Peoria, with an office in their home. He is optimistic he'll get his license and plans to open a solo practice. He hopes to challenge affirmative action laws and the littering law for which he was cited.

"For me, the true test of character is whether a person says what they think, which is what I have always done," Hale said. "I believe I show more character than most attorneys in that I actually practice what I preach."

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