



Harvard Law Record

America's Oldest Law School Newspaper

VOL. 82, NO. 2

FEBRUARY 14, 1986

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BC Prof. Appointed to Teach at HLS

By Gregory Klima

Harvard Law School has appointed Mary Ann Glendon as a Professor of Law. Glendon will be the first professor to be successfully recruited for HLS in a lateral appointment since 1981, and she will be the third tenured female professor on the HLS faculty.

Glendon is currently a Professor of Law at Boston College Law School and has been a member of that faculty since 1968. Glendon is an expert in the areas of comparative law, property and family law. She presently teaches comparative law and first year classes on property and introduction to law.

The HLS faculty voted in December to nominate Glendon. The Joint Committee on Appointments of the Governing Boards of Harvard University approved the appointment on Feb. 3, 1986.

Glendon will officially join the HLS faculty on July 1, 1986. However, she will not begin to teach here until the Spring of 1987. She will spend the Fall of 1986 as a visiting professor at the University of Chicago teaching comparative family law. This commitment was arranged long before the faculty approved her appointment, stated Glendon.

This appointment is of special
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Prof. Mary Ann Glendon

Upton Plans Radical Changes In Pub

By Michael Reilly
and David Snouffer

Saying she wants to serve HLS students better, Dean of Students Mary Upton last month asked students for suggestions on a plan she has developed to open a student coffee house on campus. She has solicited bids from at least two outside concessionaires to operate the proposed coffee shop.

The coffee shop would replace the student-managed Backbench Pub operated in Harkness Commons by the Dormitory and Student Affairs Council (DSAC), Upton said in an interview last week. She said she has solicited bids from Harvard Student Agencies, an organization directed by Harvard College undergraduates, and at least one other vendor, which she declined to name.

Upton would not comment further on her request for bids.

The dean said she wants to replace the pub with a coffee shop because of incidents in the pub of theft and of a bartender serving alcohol to a minor during the past few years. The pub also is unsanitary at times, she said, and she has been harassed by suppliers when DSAC officials have failed to pay their bills.

"The pub is the bane of my existence," Upton said.

Some number of professors and female students have told Upton they dislike the pub's atmosphere, which she called "too rowdy and NFL-ish." The room where it is should be better lit, she said, and the giant-screen television in it should possibly be moved to a dif-

ferent location.

If students' responses to a questionnaire Upton distributed to them last month suggest a market among students for special coffees, grilled food or snacks, the bar may be altered to accommodate the required fixtures, Upton said. Renovations would be hindered, however, by the Hark's status as an architectural landmark designed by German-born architect Walter Gropius.

Any changes in the pub would be made only after the questionnaire results are tabulated and evaluated by a committee consisting of Upton, Administrative Dean Simone Reagor and DSAC. "We have no hidden agenda," Upton said.

DSAC President Bruce McCall, 3L, expressed concern last week that

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HLS Prof Represents Toxic Tort Plaintiffs



Sal Casente

Prof. Charles Nesson

By David Snouffer

An HLS professor who specializes in problems of statistical proof expressed confidence last week that he and other lawyers representing 33 plaintiffs in a major toxic torts case scheduled to go to trial next week will be able to prove that two large manufacturers are responsible for poisoning members of eight families, including five boys aged 3 to 12 who died of leukemia.

"I think we've got an excellent case," said Professor Charles Nesson (LL.B., 1963), who last year joined a small team of lawyers headed by Boston attorney Jan Schlichtmann as co-counsel for the plaintiffs and then recruited three dozen students from his first year criminal law class to aid in the considerable research effort the case has required.

Nesson said his job is to help the trial judge avoid making any rulings that might lead to a reversal by an appeals court and would require a retrial. The trial is scheduled to begin Feb. 18.

Schlichtmann filed the action in 1982, alleging that between 1964 and 1979, the manufacturers, Beatrice Foods Co. and W. R. Grace & Co., dumped chemicals that poisoned the well water used in certain parts of Woburn, an industrial city of 37,500 northwest of Boston. Beatrice acquired the John

J. Riley Co. tannery southwest of Woburn's wells in 1978, and Grace owns a packaging machinery division northeast of the water supply.

Causation The Big Issue

The plaintiffs are suing on theories of negligence, nuisance and, especially, ultrahazardous activities, but Nesson said the "big issue" his side must prove is that the two companies actually caused the plaintiffs' illnesses: that they dumped chemicals, that what they dumped got to the wells in sufficient quantities to cause injury and that the chemicals did actually cause the plaintiffs' illnesses, which include "various types of damage to their immunological and cardiac systems," Nesson said.

"We're not going just on risk," Nesson said. "We're going on medical evidence that these people were poisoned by this water."

The plaintiffs have suffered "a lot of infection," he added, as well as "a lot of serious psychological effects" from knowing that their lives may be in danger.

Two students who have helped organize work done by members of Nesson's class, Sean Reilly and Cecily Talbert, 1Ls, also expressed optimism this week that the case would be resolved in favor of the plaintiffs.

"It's a great David and Goliath story," Reilly said. "You've got a teeny plaintiff's law firm going against two of the biggest law firms in Boston."

Schlichtmann is a partner in Schlichtmann, Conway & Crowley, while Hale & Dorr represents Beatrice and Foley, Hoag & Eliot will defend Grace.

Unlimited Resources For Defense

Raising funds is a major obstacle to advancing personal tort claims against large companies that have "virtually unlimited resources to defend," Nesson said. "They deep-pocket you. They make it expensive to litigate against them."

Corporate defendants "stretch [lawsuits] out for as long as possible, and they hassle you every step of the way," he added.

Although both sides have aligned a division of experts to promote their arguments, such as hydrologists, neurologists, psychologists, immunologists and toxicologists, Nesson said his opponents have spent a lot more time questioning his side's experts than the Schlichtmann team has spent with defendants' witnesses — 18 hours per expert, compared to three. In addition, the companies' lawyers have demanded roughly 20 times as many documents from plaintiffs as they have been asked to turn over. The documents requested have included many of the plaintiffs' medical records.

The plaintiffs' legal expenses, which Nesson said have left Schlichtmann "basically hocked up to his eyebrows" and may reach as much as \$1.5 million, could pay off. Nesson said a victory for the eight families could "get the attention of corporations across America and maybe get through to them that they've got to stop thinking of toxic dumping as just another cost-benefit analysis."

"The money's where it's at," Nesson said. "That's the only message

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HARVARD LAW RECORD

HLS Students Help Fight Roxbury Evictions

By Vincent Chang

In response to a Boston Redevelopment Authority (BRA) decision to gentrify large portions of Boston's low-income Roxbury district, roughly 30 Harvard Law students are working with the Jamaica Plain office of the Greater Boston Legal Services in an attempt to assist the increasing numbers of indigents evicted from their homes in the Roxbury area.

In the Spring of 1985, the BRA and Boston Mayor Ray Flynn announced a redevelopment plan for the Dudley Station area in Roxbury. Almost immediately, residents of the Roxbury community protested that the development plan was adopted without community input and that the plan (which called for hotel and office towers) in the words of Kevin Chavers, 2L, "in no way meets the needs of the community."

The BRA's plan generated new interest in gentrification of the Dudley/Roxbury area, an area Chavers described as historically the "business focus of the Black community." Besides the long-run effects of large-scale development, the most immediate impact was, as Bryan Blaney, 2L, explained, that "land speculators have started to move in trying to get homeowners to sell with an eye toward condo conversion."

This speculation has in turn fueled an apparent increase in evictions, claims Rich Guidalli, a paralegal working with the Legal Services Center (LSC) in Jamaica Plain. "Because speculators are driving up the price of the buildings, the new owners are trying to force out the old tenants because those tenants can't support the financing of the building," describes Guidalli. Blaney further noted that recent property price increases in Jamaica Plain have been astronomical. In one case, a Jamaica Plain two-unit building which sold in 1981 for \$50,000 was subdivided and part of it sold last year for \$215,000. While not all of this increase can be attributed to the relatively recent speculation in-

spired by the BRA's plan, some property price increases have recently occurred and when those increases take place, landlords boost rents to pay off the mortgage. Besides attempting to hike rents and to oust tenants when they cannot pay, landlords have another powerful weapon: new speculator landlords are also neglecting to maintain or repair rundown buildings in an effort to drive out low-income residents, actions which Blaney contended "violate the implied warranty of habitability and the sanitary code."

Mobilization Under Way

To combat the immediate and long-term consequences of the BRA's proposal, various Roxbury neighborhood groups are engaging in what Guidalli describes as an unprecedented "mobilization effort to make sure the community is not dismantled." Such organizations as the Greater Roxbury Neighborhood Association (GRNA) have sprung up to develop alternative plans to and provide for community input into the proposed development scheme.

In the midst of this effort, the Jamaica Plains legal services center has added its influence to the forces opposing possibly disruptive changes in the Roxbury area. In particular, the Jamaica Plains office has devoted roughly 35-40 percent of its total office resources in an effort to create what Director Jean Charn termed "an eviction free zone" covering roughly 350 city blocks of the Roxbury area. LSC plans to redouble its effort to assist those in the BRA's development area who would otherwise be evicted. To this end, LSC is vigorously contesting summary eviction proceedings, working with the Rent Equity Board to stymie rent increases, and turning to welfare authorities to push for increased benefits and support for those indigent families living within the eviction free zone.

Blaney explained that the "focus is not just to help people avoid evictions but the larger purpose is to help those people feel more empow-

ered." Blaney feels that the eviction free zone can aid the overall community effort by making "people feel that they can effectively respond to their situation . . . the larger hope or purpose is to encourage people to take a role in their own behalf and make the BRA more responsive to the needs of the community."

According to Charn, this new emphasis represents a profound change from past strategies. She claimed that "by focusing explicitly on a particular neighborhood, we hope to get more response from the community. . . In the past eviction work was not connected to the community effort."

Guidalli also claimed that the eviction free zone would help to check the runaway gentrification problem. "We can send a messages to the speculators . . . we can tell them that they can't force the tenants out; we can make them fix the buildings . . . we can make landlords think twice about speculation," he claimed.

Harvard's specific role in this entire process is largely two-fold: to provide funds and law students. Harvard devotes nearly \$375,000 per year to funding the LSC office and two Harvard instructors, Gary Bellows and Jean Charn, provide invaluable staff support. But perhaps even more important is the role of Harvard students. Each semester roughly 75 Harvard students work at the LSC and the center hopes to accommodate 100 per semester next year. These students participate in all phases of the representation process, including making court appearances, negotiating with opposing counsel, and conducting discovery. It is an experience that Blaney describes as a valuable adjunct to summer associate programs which consist largely of research tasks. But besides providing valuable experience, Blaney expresses the hope that the LSC's efforts can help ensure that Roxbury does not go the way of the gentrified Back Bay and South End; the poorest people in the city should not have to pay for Boston's development.

HLS Sponsors Public Interest Job Fair

By Joe Brandolino

Interested in a career in government or public interest law? If you are, HLS will host the Careers in Government and Public Interest Program, which is conducted by the Placement Consortium of Massachusetts Law Schools.

The program is a job fair bringing together law students and government, human services and public interest agencies from around the country. From 3 to 5 P.M. on Thursday, Feb. 20, and 9 A.M. to 5 P.M. on Friday, Feb. 21, a variety of agencies are scheduled to interview students. Each of the seven Massachusetts law schools is allotted three or four interview spots per employer.

The employers participating in the job fair include district attorneys' offices, offices of attorneys general, legal aid and legal services organizations, federal, state and local government agencies and pri-

vate firms. Interviews are available to 1L's, 2L's and 3L's, depending upon the particular employer's hiring needs.

From 1 to 3 P.M. on Thursday, February 20, an informational exchange session will be held in the Ropes-Gray Room in Pound Hall. At that session, many interviewing employers and some employers not scheduled to interview will be available to talk to students. Check the *Adviser* for a complete list of participating agencies. For more information, HLS students can contact Diana Roy or Ron Fox of the HLS Placement Office.

The Placement Consortium, sponsor of the program, is an organization consisting of placement office representatives from all seven Massachusetts' law schools. The Consortium has invited government, human services and public interest agencies from around the country (with particular emphasis on New England and New York) to partic-

ipate in this winter's program. At least 40 agencies are expected to participate.

Diane Roy and Ron Fox of the HLS Placement Office are handling Harvard's share of the work involved in running the Program. Even though the program is usually held biannually, Fox said that this is the first time in many years that Harvard has hosted the program. Although participation of HLS students has been consistently low when other schools have hosted the program, Fox noted that the response from HLS students concerning next week's program has been substantial. At least 60 HLS students, and between 200 and 300 students overall, are expected to participate in the program. Fox hopes that the success of the coming program and the interest shown by HLS students will continue in future years.



Students To Help Choose Dorm RAs

By Julie Loewy

Screening of applicants for the 12 Resident Assistant ("R.A.") positions available for the 1986-87 school year has begun. Approximately 60 applications were received for the ten places to be filled. Two R.A.'s are returning and three alternates will be chosen.

R.A.'s are selected by Dean Mary Upton and a committee of three students. Students on the committee are Peter Kochenburger, 3L, currently an R.A., Rona Wittels, 2L, a member of DSAC, and Randi Jaffe, 2L.

The R.A. selection process was

designed two years ago by Sandy Thomas, 3L, who said that because "the students were the ones who end up living with them all year, they should have input." According to Thomas, the procedure appears to have worked well and the input from the two perspectives has been very beneficial.

Under the current process, applications are examined by the three students and Upton. DSAC members and current R.A.'s are given a list of applicants and asked to make recommendations.

Students will be notified whether they have received an interview on February 21. Those who are asked

to interview, approximately half, will meet with the committee and with Upton between February 24 and March 21. Final selections will be announced April 7.

Students who have been active undergraduates and law students are good prospects. Prior experience as an R.A. is helpful. The ability to spot potential problems and counsel dorm dwellers is a particularly important qualification.



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HLS Helps Disadvantaged With Tax Forms

By Brian D. Rance

For the eleventh year, the Volunteers Income Tax Assistance Program (VITA) at HLS is offering help to taxpayers in Cambridge and Boston. VITA at HLS consists of trained law students who answer questions posed by taxpayers, teach taxpayers how to complete individual income tax returns, prepare the returns of individual taxpayers and distribute tax forms.

Assistance is provided to taxpayers at seven sites throughout Cambridge and at the John F. Kennedy Federal Building in Boston. Each site will be open to the public from Feb. 19 through April 15.

Given a lack of access to qualified tax preparation by some taxpayers, VITA was organized to offer assistance to those disadvantaged taxpayers (low-income, elderly and non-English speaking people). Nonetheless, VITA offers help to any taxpayer who visits one of its offices. Students who are having difficulty with their returns are also "welcome to come to us for help," said Sandra Thomas, 3L. Thomas and Marijane Benner Brown, 2L, are the two coordinators of VITA at HLS.

They, with the assistance of six other law students who volunteered to help out with managerial tasks, hope to have a staff of 120 law stu-

dents ready to work in VITA's field offices. Thomas, citing the fact that 149 people showed up at an organizational meeting, believes that the exceptional level of interest in VITA this year (about 60 people volunteered last year) can be attributed to a "greater interest in helping the community" among current law students. According to Thomas, this exceptional level of interest is "very gratifying." The size of this year's staff permits VITA to open eight field offices, double the number from last year.

Extensive Training

According to Thomas, VITA volunteers are "required to go through an IRS training course. Every volunteer must then take and pass an IRS test" prior to offering any advice. "Volunteers are advised to consult experts if they run into complex questions," she added.

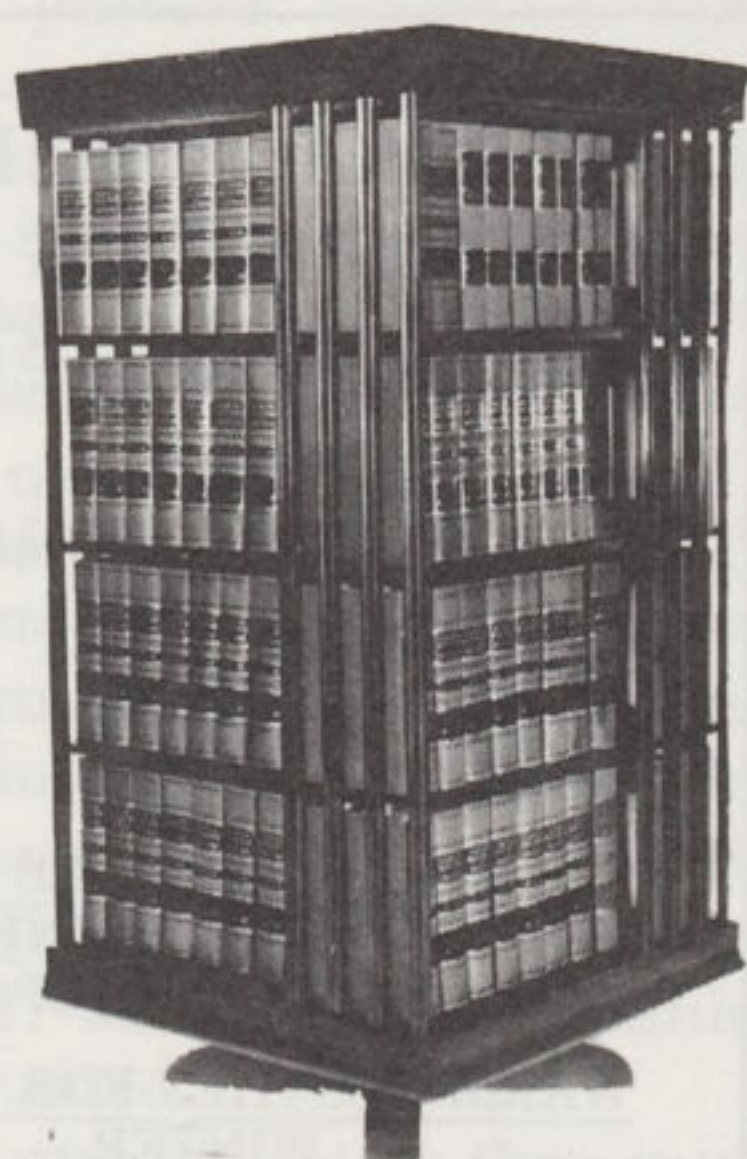
VITA members are trained to complete Forms 1040, 1040A and 1040EZ. With additional training offered by the Massachusetts Department of Revenue, the VITA staff is also qualified to prepare basic Massachusetts income tax returns.

The Internal Revenue Service founded VITA in 1969. Since then, with the help of volunteer attorneys and law students, tens of thousands

of taxpayers have received assistance. The nationwide program is currently sponsored by the IRS and the Law Student Division of the American Bar Association. At HLS, the VITA program is funded by the Law Student Division of the ABA and the law school. When asked about VITA's annual budget, Thomas declined to comment, except to say that the budget is "very small".

In 1982, the Law Student Division named Harvard's program as the best in the nation. Professor Alvin Warren is VITA's faculty adviser.

Thomas believes that many law students join VITA to become familiar with basic tax forms, something that they assume will be useful in practice. However, according to Thomas, students often find that "it is very refreshing to get out into the community" after their experience with the sterility of the law school classroom. In particular, VITA sometimes sends "flying squads" composed of several volunteers and, frequently, translators into ethnic communities, nursing homes and impoverished areas to help people complete their tax returns.



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Bulimia Support Group Forms On Campus

By David Rabinowitz

A treatment group is currently being formed at HLS in response to a significant increase in the occurrence of bulimia, a psychological disorder that involves bingeing and purging behavior and that probably affects at least one in 20 law school women. Dr. Jessica Oesterheld, counselor to students at the Law School Health Services, and Nadja Gould, a social worker at the Mental Health Services clinic of University Health Services, will lead the treatment group.

According to Oesterheld, bulimia has emerged as a serious problem over the last ten years in wealthy western societies, such as the United States, England and Scandinavia. The syndrome occurs ten times more frequently in women than in men and almost exclusively among those in the highest socioeconomic classes.

Most bulimics are of a normal weight or slightly underweight. Many are "extremely attractive," Oesterheld said, people one would not suspect of suffering from a serious eating disorder. Oesterheld estimates that bulimia is prevalent among "probably 5 percent" of HLS women, but that it could be as high as 20 percent.

A number of competing theorists have attempted to explain the emergence of bulimia. On one end of the spectrum, said Oesterheld, are those who claim that bulimia is entirely a culture-bound phenomenon. They see the rise in bulimia as a direct response to the tremendous pressure on women in our society to be thin and, now, successful as well. This belief is espoused by Boskin and White, a husband and wife team at Cornell who first treated bulimics nearly ten years ago using a feminist group-experiential approach.

On the other end are those who view bulimia as simply a form of depression caused by a biochemical disorder. Typical of this approach is a group of pharmacological researchers in Boston that recommends antidepressant drug therapy as the primary treatment. However, most experts believe that bulimia

is multi-determined — a product of culture and family background as well as genetics, Oesterheld said.

Harvard's Approach

The Harvard group will synthesize what Oesterheld perceives as the most productive aspects of the various approaches. She stressed that any technique must take into account the fact that the bingeing and purging behavior of bulimics is merely symptomatic of deeper psychological problems.

Those problems involve dealing with autonomy and with control over oneself in one's environment, issues with which all successful women must cope.

Individual psychotherapy, said Oesterheld, addresses the underlying issues and helps the patient to feel better but does not cure the bulimic manifestations. Behavioral therapy, which only sometimes rids patients of the symptoms, fails to address the underlying issues and thus does little to help the patient to feel better.

The approach of the HLS group, therefore, will blend psychotherapy with behavioral modifications to help the bulimics cope with the underlying problems and at the same time to cure their eating disorders.

The first bulimia treatment group at Harvard, which was formed four years ago with students from across the university, utilized an open-ended, psycho-dynamic approach. However, with the new group forming at HLS, Oesterheld said, "We've decided to introduce a behavioral component to achieve better results." This component will require group members to agree to attend all group meetings, keep diaries of their food consumption and their feelings, avoid dieting, and sign contracts binding them to that regime.

Screening Process

Oesterheld said prospective group members will be pre-screened to determine whether they will be accepted. The process will include

routine psychological screening procedures. For instance, applicants will be asked questions about their eating patterns, the types of purging in which they engage, their family structures, depression, and any other important events and feelings relevant to drawing a "good picture" of the applicant's psychological composition. All applicants will be informed of the behavioral requirements expected of them, "just to make sure they know what they're in for," Oesterheld said.

Oesterheld added that the group will begin to meet when it has a minimum of five members, which will be "probably within the next month or so." Although bulimia is rare among men, the group is open to them as well. Oesterheld refused to indicate whether any men had already joined the group so that she could protect her patients' confidentiality.

Anyone interested in either joining the group or simply learning more about it should call either Oesterheld at the HLS clinic (495-4414) or Gould at Holyoke Center (495-2070).

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Award Could Be Astronomical

U.S. District Judge Walter Jay Skinner, who is scheduled to hear the case in Boston, was quoted in *The Boston Globe* last week as saying the jury award — which could reach tens of millions of dollars — could be "astronomical." The 33 plaintiffs are seeking both compensatory and punitive damages.

The plaintiffs hope to use part of the money to establish a medical foundation to help other people the well water may have poisoned, Reilly said.

The case may never reach trial, however, because the two sides began serious settlement negotiations last week, Talbert and Reilly said.

"Both defendants have a lot of interest in not having this story told because there are going to be some shocking things revealed about industry practices," Reilly said. "There's a lot of pressure on the defendants to settle before it goes to the jury."

Students working for the plaintiffs' team have read over 700 cases to bolster their side's arguments, including many involving their three theories of liability, the issue of punitive damages and even Skinner's previous opinions. They also have pored through police and fire records and those of other public agencies, including the Massachusetts Water Authority, to find reports of chemical dumping and other evidence.

The students have also drafted a legal memo for the judge, arguing that Skinner should not divide the trial into two segments, which would cause the jury to consider the issues of liability and damages separately, as the two companies have requested.

"It's a better education than you'll get anywhere else," Reilly said. "It's been incredibly exciting. It's a lot easier for me to pull an all-nighter when I know a judge is going to

read my memo the next day."

Talbert said she likes working on the case because when she graduates she expects to work in a law firm that primarily represents defendants. "It's important for me to know that the law can work for plaintiffs," she said.

Discount Cost Research

Schlichtmann's team has benefitted from the students' work because the modest hourly wage they are paying the students — which will be doubled if their side wins — costs far less than ordinary legal fees, according to Reilly and Talbert.

"If they were paying regular lawyers, [the cost of the research] would be up in the tens of thousands of dollars," Reilly said. "It's nice to

know that justice won't hinge on high-priced legal talent."

Whereas various governmental agencies have been "incredibly ineffective" in addressing chemical dumping, this case alone could "send shock waves through industry," Reilly said.

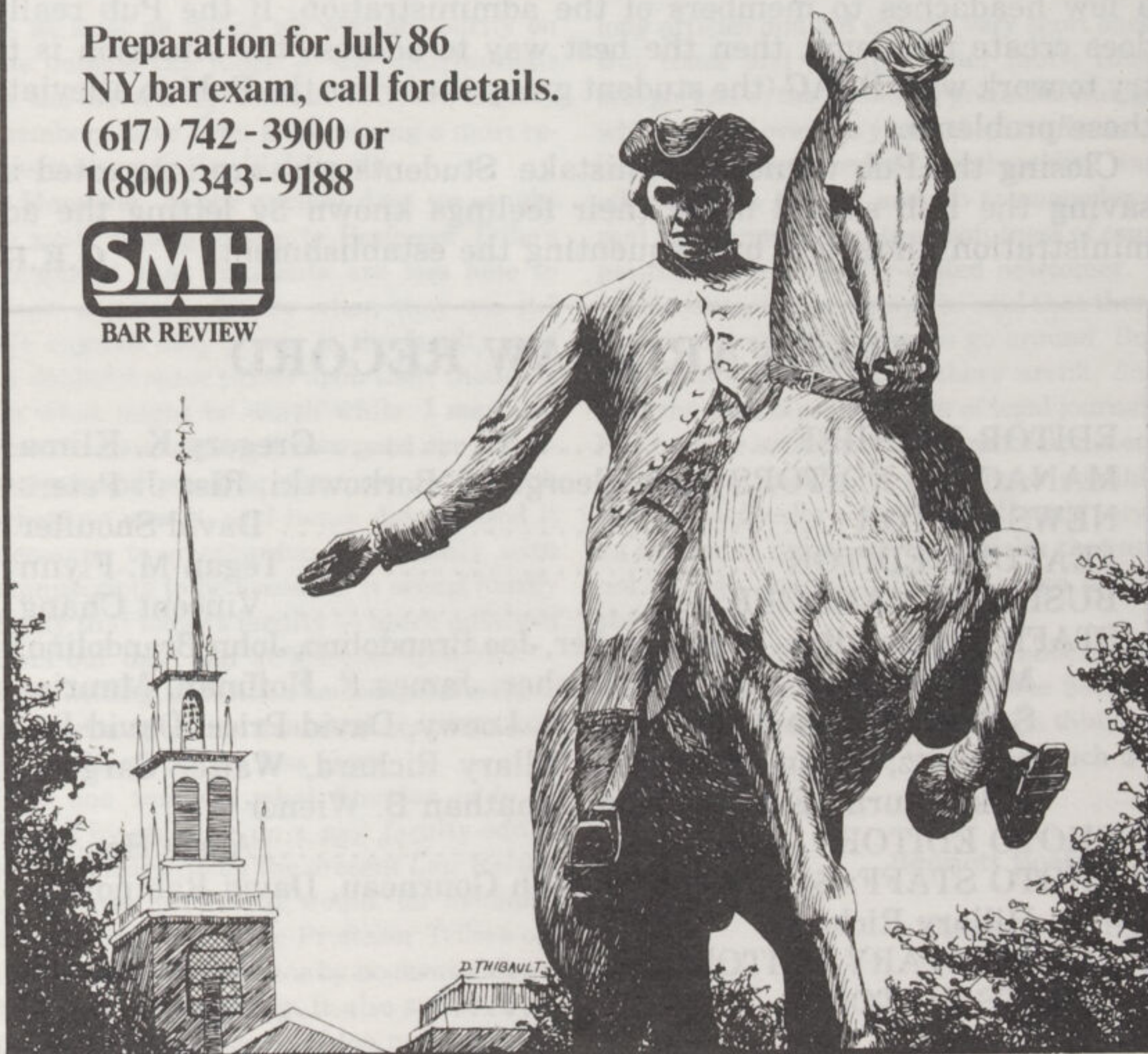
The legal research involved in the case is "perfect" for the students because in December they completed a first-year torts course taught by Professor Morton Horwitz, who emphasizes the nineteenth century, English ultrahazardous-tort case of *Rylands v. Fletcher*, in which water from a man-made reservoir leaked into an underground mine.

"Too bad we didn't read the 400 tort cases before our exam," Talbert said.

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BAR REVIEW



Sobering Thoughts Concerning The Pub

Rumors abound here at HLS that the student watering hole, known as the Backbench Pub, is being threatened with a close-down. Although the fate of the Pub is by no means certain, there are some strong reasons to keep the Pub operating in its current format.

The Pub provides a place for students to gather, relax and enjoy themselves. No other place on campus provides this opportunity adequately. A coffeehouse in place of the Pub would not hold the same attraction to students, decreasing the popularity of the location as a central meeting place and a recreation area where one can associate with one's peers.

Think back to the days before there was a Pub. In those days, HLS students formed the Somerville Bar Review in order to fraternize and imbibe. But the club was never very popular. Having to trudge off to some local tavern discouraged students from joining the organization and defeated the idea of relaxing in a familiar environment.

A coffeehouse and a campus pub are not mutually exclusive options, either. If the coffeehouse is installed in the Swaine Room (where the Pub currently resides), then its hours of operation should be established so not to interfere with the operation of the Pub. Other locations on campus are equally as attractive, especially ones that are closer to the Langdell Library.

Also, the decision to convert the Pub into a coffeehouse should in no way be based upon the questionnaires that were distributed last week. These questionnaires were ignored by many people who had no interest in seeing a coffeehouse on campus. However, many of these students would have taken the time to respond negatively on the questionnaire if they would have known that its outcome would effect the existence of the Pub. Because the questionnaire did not try to gauge student interest in both facilities, the results from it should be ignored. Students should have been made aware of the potential and intended use of the results of the questionnaire. Another questionnaire addressing student desire for both a pub and a coffeehouse should be distributed in its place to accurately investigate student opinion.

Finally, the Pub should not be closed down simply because it presents a few headaches to members of the administration. If the Pub really does create problems, then the best way to address the situation is to try to work with DSAC (the student group that runs the Pub) to alleviate those problems.

Closing the Pub would be a mistake. Students who are interested in saving the Pub should make their feelings known by letting the administration know and by frequenting the establishment.

G.K.K.

HARVARD LAW RECORD

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Fenno

Fenno needed a beer.

When he arrived at school, his professor badgered him for being late. "Fenno, you're late again!" the prof screamed. Fenno answered with a smirk, "Hey pal, cool it. I'm not in the mood for you today, so just lay off." The prof threatened to send Fenno to the principal's office until he was informed that HLS had no principal or anyone else in command. "Then I'll deal with you myself." Fenno spent the remainder of the class tied to a chair in the corner with his eyelids pinned open and a copy of Nesson's *Evidence* placed in front of his face.

"What next?" Fenno wondered. He had every intention of making it to his next class on time. But the flashing lights on his greatest love — the gameroom's Centipede machine — proved just too irresistible. He arrived late to tax and took his usual seat. "Fenno, I see you hiding in that stairwell," the prof yelled. "Get the hell out of there and take your punishment like a *man*." Fortunately for Fenno, that order prompted a horde of irate feminists to launch an unending tirade at the professor for failing to use a gender-neutral term.

Fenno snuck out during all the commotion and sprinted straight for the pub. "Beer! Just give me a beer, a lot of beer," Fenno thought. He made it to the pub with a long string of drool hanging from his chin. Approaching the bar, Fenno wondered what had happened to his favorite neon sign: Meister Brau — Brewed the Toledo Way. Never mind, Fenno thought. "I want three pitchers of beer *immediately*," Fenno demanded.

"I'm sorry," the bartender responded patronizingly with her back to him. "Effective today, you can no longer purchase any alcoholic beverages here. But our coffee of the day is Kona. Or perhaps you'd prefer some Ovaltine with marshmallows on top. I know! Every good boy and girl should drink plenty of milk. How about a glass?"

"What?! NO BEER?!!!" Fenno nearly puked. "Whose damned fool of an idea was that?" he demanded.

Dean Uptown turned around and smiled at him. "I know what you really need." Fenno cringed. Uptown said, "You look like you could use a refreshing frozen yogurt bar, not any of that nasty, unhealthy beer. I know what's best."

Fenno stood frozen in shock. She continued, "In fact, this is only the beginning. Next, we get rid of all those evil and noisy electronic games. Then, we reimpose a curfew in all the dorms. Just like in the fifties. It'll be just grand!"

Before he fainted, Fenno regained control and backed away. As he left he noticed a new sign posted: "Mary Dee's Tea House."

Fenno got to Nick's before the beer ran out.

TOM the DANCING BUG BY RUBEN BOLLING



Great Moments in the Law

In Tennessee, an act to incorporate the town of Ripley reads: "[T]he boundaries of said town of Ripley shall be as follows — beginning at a stake in the west boundary line of the present limits of the old corporation, thence north eighty-five degrees and east to a blackgum marked with a cross and with mistletoe at the top, and with a bluebird sitting on a limb which tree is short distance east of Ed Johnson's horse lot."

HELP SAVE THE PUB!

Letters to the Editor of the Record

A Dubious Endeavor

To the Editor:

I read with some misgiving, even dismay, the RECORD's recent account of the proposal to publish a faculty-edited journal of legal analysis. Unless the situation has changed beyond belief since my days on Volumes 51 and 52 of the *Harvard Law Review*, the proposal looks like a well-intentioned idea that has very little to recommend it.

Contrary to the implications of the comments of Professor Tribe, the *Harvard Law Review* has over the years found it possible to publish many articles (including a whole number by members of the Harvard Law faculty) which were on the cutting edge of the law (as it then was) and served as a stimulus to innovation. Pound and Williston, Frankfurter and Griswold, Scott and Hart, Powell and Fuller, are among those on earlier Harvard faculties whose thoughtful contributions have appeared in its pages. As I thumb through the dusty pages of Volume 52, I recall also that we solicited and ran two famous articles by Columbia's Karl Llewellyn, "Across Sales On Horseback" and "The First Struggle To Unhorse Sales," which together totalled 54 pages, and without a single footnote. And in more recent years

— at least as far as we who are partly on the outside can judge — the contributions to the *Review* by current Harvard faculty members have been maintaining a most respectable ratio for high quality.

Moreover, in our ancient days we sought to avoid falling victim to Professor Tribe's complaint that "students are less able to know a great advance when they see it." We enjoyed easy access to the faculty, and in doubtful cases called upon their thoughts on what might be worth while. I may add that we developed our own good eye for detecting and weeding out most of the junk when we saw it, and hence did not find it necessary to overburden the faculty with manuscripts to be assessed. It seems hardly likely that today's faculty — much enlarged from our day, and at least as sprightly — is unwilling to furnish to today's *Review* a similar supporting role. And certainly student editors are no less alert.

So one wonders what function is to be served by starting up a new faculty-edited journal. Admittedly the present *Law Review* is far from perfect. It would, for example, benefit from accepting Professor Tribe's objections (and in this he is by no means alone) to excessive footnoting. It also suffers from the occupational curse of too many unduly

long articles and not enough very short ones. But these and possible other faults come and go, and in the unending process of change which occurs over the years, the *Law Review's* batting average for sustained quality and effectiveness is high enough to engender a real skepticism about the usefulness of competition from a faculty-edited newcomer.

Of course, it can always be said that there are enough good articles to go around. But the simple truth is that there aren't, and that the undue proliferation of legal journals has become something of a troublesome encumbrance. Indeed, it is at least possible that a new faculty-edited journal would serve as a place of refuge for the articles that are not of high enough caliber to make it into the *Review*.

It is to be hoped that Dean Vorenberg will find a more auspicious use for the \$50,000 or more of subsidization which he is thinking of earmarking for this venture of such dubious merit.

Bennett Boskey '39

Washington, D.C.

Choice And Constraint In Elective Courses:

Nancy O'Neal is a second year student.

The Jan. 16 issue of the RECORD was strewn with implications about HLS which prompted many students to wonder why they were so tickled to receive that acceptance letter in a previous life. I recall wondering at the time I read my admit letter whether the choice of the power-elite term "gatekeepers" as a self-definition of the admissions crew was forewarning me to co-opt or get out. My curiosity was revitalized when I read "2L Petition Rebuffed by Administration" in conjunction with "Tribe Proposes Faculty Journal" and "Vorenberg Letter Discusses HLS Schisms." These articles highlighted some very discouraging aspects of life at HLS and student/faculty/administration communications.

The article about changing to a system wherein 2Ls (rather than 3Ls) are given preference in the selection of recommended basic courses is the focus of my concern. The manner in which this change was handled indicates the philosophy that diversity is only honored at HLS to the extent that a diverse student can be mainstreamed. Much of the debate focused on access to Professor Tribe's Constitutional Law class. Tribe is a gifted and popular professor — and obviously makes good press. The Administration's superficial treatment of the current 2L concerns, however, is a real problem. The apparent attitude of the Administration (and some students) is that students select popular professors with the same forethought as folks flocking to shopping malls to see soap stars. Instead of shunning students as if they were chanting for Barabus, the Administration should directly respond to some underlying concerns.

The mere existence of the article on the diversity of the faculty should be shouting at us that selecting a course for its contents necessarily includes selecting a course for its professor. Moreover, few professors

can truly handle the 140-student classes spawned by the basic courses. There are some who handle them poorly but have dynamic seminar-type classes. The "popular" professor for large classes will be one who effectively transmits information under such horrid circumstances, and who attempts a fair testing of that transmission.

Large classes and the push for reincorporating the "recommended" courses into the 2L curriculum underscore the feeling that students are attending a trade school while the faculty and administration are running a separate intellectual institution for themselves. Actions that appear to encourage mainstreaming are resented by those who choose to view their three years here as an opportunity to do things other

"[D]iversity is only honored at HLS to the extent that a diverse student can be mainstreamed."

than primp for large-firm practice. It is perpetuation of the trade school/citadel attitudes that prompts students to question the motivations behind something as potentially valuable as the new faculty edited journal.

The establishment of such a publication is much less a signal of poor communications than is the dialogue surrounding it. I did not read an explanation of why the journal proposal was accepted; I read defensive excuses. Why does the faculty want this? "Just because it's something on which we felt like expending the extra effort," would have been good enough for me. The problem arises in the perception by students that a major function of

the professor is to teach students. The faculty has so many fora for expressing their views on great advances and devolutions in law! If students felt that a significant number of professors have been opting to take the time/effort to use student journals as a teaching tool, the addition of a faculty publication would be a lesser insult. If a writer (say, perhaps, a professor) knows a great advance when he sees it, he should be able to communicate its import in the submission of footnote-free articles to, yes, even students. *Law Review* president Steiker's no comment was appropriate. What business is it of ours anyhow? (I will try to remember that next time Dean Vorenberg attempts to explain away large class sizes.)

Dean Vorenberg's evasive responses to questions posed by students as illustrated in the article about faculty schisms are another source of concern and are often interpreted as disrespect for students. The article is short-study on the number of eloquent ways of phrasing a rubber-stamp non-response. When asked about effects on alumni/ae contributions, the Dean came up with a brilliant example by stating that some write saying gifts are withheld, while some write that gifts are increased. "I have no way of making a net overall judgment." Well, you add up the numbers of alumni/ae who bothered to mention it one way or the other. . .

The hoopla about the priority system was in part created by this non-response attitude. The Administration should be more honest with students about why the system was changed. Whoever has priority, the pool of students in any year who want to take Con. Law, for example, will not change. If there are students who will take Con. Law only if they get Tribe or Parker, they will make the same decision in their second year. The altered priority system won't stop the race for popular professors. It does make sense to give priority to 2Ls who

A Plea For True Diversity

by Nancy O'Neal

need courses as pre-requisites. It also makes sense to give priority to 3Ls who could not schedule a basic course in their second year (because of the messed up scheduling/registration system or the desire to take one of these elusive, may-not-be-offered-next-year courses which conflicts with a basic course) and want to be sure to take it before they leave HLS.

Moreover, if a 2L has bought the hard-sell of a business-oriented career path and is faced with a screwy schedule, Con. Law is the natural course to put off until the third year. If the school intends to ensure that there is enough space in (and flexibility in scheduling) basic courses to accommodate all those who want to take them, and if the particular professor doesn't make any difference, why does anyone get priority?

What happened to the 100-plus 2Ls who signed up for Tribe this year and didn't get into that Con. Law course? If the administration wants to promote the taking of Con. Law in the second year, why, during this transition, were only four sections of the course offered? Three of the four sections were oversubscribed or closed after pre-registration. Did cut 2L's get into the fourth course? Why were there four sections taught this year, with the Administration telling us what good guys they are by getting Tribe to teach two sections, when there were five sections taught last year?

The change in the priority system signals more than just a snub to the class of 1987, it is also a push towards a requirement of the basic course in the second year, another indication of the kind of lawyers HLS wants to graduate. The HLS catalog contains a statement recommending basic courses which opens with the assurance that the second and third years are fully elective. The means by which the Administration chooses to "encourage" certain coursework, however, limits student options. Each scheduling constraint manipulates

the final decisions of the student regarding course selection.

It is not true that those years are fully elective. Students must receive special permission to take more than one seminar after pre-registration. At a meeting in October, Dean Vorenberg lauded HLS for diversity in curriculum and school-sponsored activities. He noted that a function of large classes in basic courses was to open opportunities for more smaller classes. I asked him, if a student chooses to take on the extra work-per-credit necessary in a seminar, why the student had to seek out special permission to take more than one seminar. He responded that he was unfamiliar with that policy (see p. 159 of the HLS Catalog) and said he would look into it. Coincidentally, I presume, a couple of days

*"I should be able to
choose to spend
thousands of dollars
at 12% interest
on the courses
I will most
enjoy."*

later I received a note from the Registrar's office questioning the number of seminars I was signed up for.

I should be able to choose to spend thousands of dollars at 12% interest on the courses I will most enjoy. I understand the need to learn about corporations and taxation. What is so irrational about choosing to spend thirty bucks for hornbooks on those courses while concentrating on Con. and Criminal Law in actual classwork? My method may be even more rational—perhaps by my third year I will have learned enough to have a fledgling conversation with a pro-

fessor.

A problem associated with not mainstreaming is that the ratio of seminars-to-"courses" in the not-so-corporate fields is relatively high. The seminar situation is exacerbated by the limited availability of Con. Law professors. What effects will Tribe's diminished classroom presence have and what will the Administration do to combat the negative effects? During 1986-1987, because of scheduled leave and his new position as Editor, Tribe will not be teaching a basic Con. Law course and will be holding only one seminar. During this school year, Tribe taught no courses other than the basic because of the priority switch. If the 1984-1985 Catalog is correct, Tribe taught no seminars last year either. This affects more than the handful of students who succeed in getting into a Tribe seminar. It effectively limits inter-student discourse on Con. Law.

The negative effects are increased by the limited offering of advanced Con. Law courses which are broader than the study of a portion of one amendment. For example, this year students could choose from First Amendment courses including press, speech, church and state, and association. Each area deserves its own course and more.

Last year, however, Professor Parker taught the advanced Con. Law course, "Fears and Hopes of a Democratic Republic" and a visiting professor taught "Constitutional Remedies." Listed in last year's Catalog, but not offered, were Tribe's two seminars "Current Trends and Problems" and "Problems of Domination;" Parker's course "Ideology and Legitimation;" and even Professor Unger's course "Reinventing Democracy." None of those courses were offered this year.

Did the Administration think that, by throwing current 2Ls the extra-Tribe-bone, we would not recognize the other impacts of their decision?



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Backbench Pub May Become Coffee House

(Continued from Page 1)

many students he has spoken to about the questionnaire did not realize that Upton intended to have the proposed coffee shop replace the pub. If students had realized this, he said, their answers "would have been made differently."

In a cover letter to the questionnaire, Upton described the proposed coffee shop as being "similar" to "a very modest coffee shop" that Harvard Student Agencies briefly operated in the Graduate Student Lounge in the International Legal Studies building last spring. Upton did not mention Harkness Commons or the pub in the letter, although she did ask students on the questionnaires' final page how often they went to the pub each week.

McCall emphasized that he believes Harvard students — rather than an outside organization — should run the pub.

"The most important thing is that whatever is [where the pub now is] should be student run, especially Law School student-run," McCall

said. "And of all the campus organizations, DSAC is probably best suited."

DSAC is responsive to student needs and always open to suggestions, he said, and current pub managers would be willing to meet requests students express on their questionnaires by extending hours, increasing the selection of drinks and foods available and altering the bar's ambience.

No Complaints Received

In response to some of Upton's comments, McCall said the pub operation is a lot better this year than in the recent past and that there have been no problems with minors or uncleanness. He also said he had heard a rumor that some students had complained about the pub to the Women's Law Association, but when he called the organization, members told him they had received no complaints.

Upton has assured DSAC that student managers and employees

would keep their jobs if a new concessionaire opened a coffee shop. "The Law School just wants to come out with the best use of the Pub space," she said.

The results of the questionnaire will be published in the *HLS Adviser*, the Law School's weekly newsletter, by next week, Upton said.

HSA is "writing up a proposal for a snack bar," said Linda Doyle, the group's president, because the coffee shop it operated last year in ILS was so successful. Upton has not told Doyle where the snack bar would be located, Doyle added.

HSA's proposed snack bar might operate earlier in the day than the pub, which is open nightly from 9 P.M. to 1 A.M., Doyle said.

Doyle would not release further details of what the snack bar might offer or when HSA would submit its bid to Upton.

"We're really in preliminary stages," she said, "We're just drafting a proposal because there seems to be a need."

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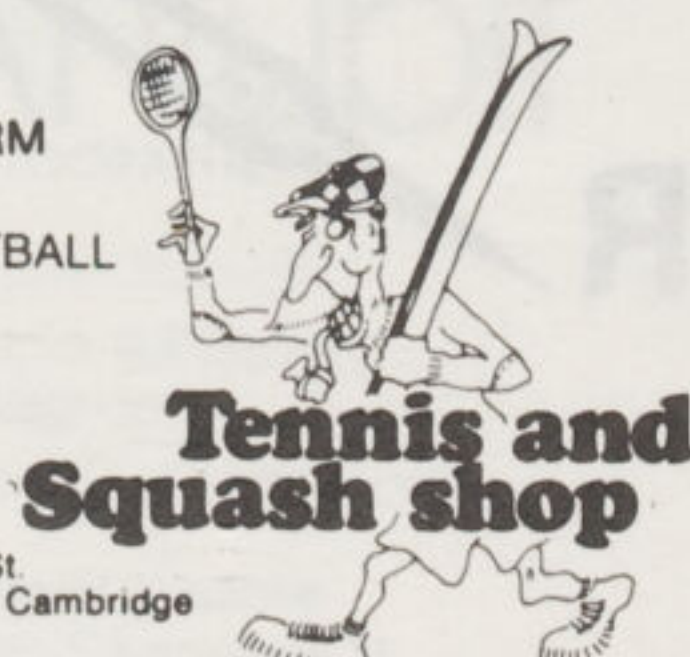
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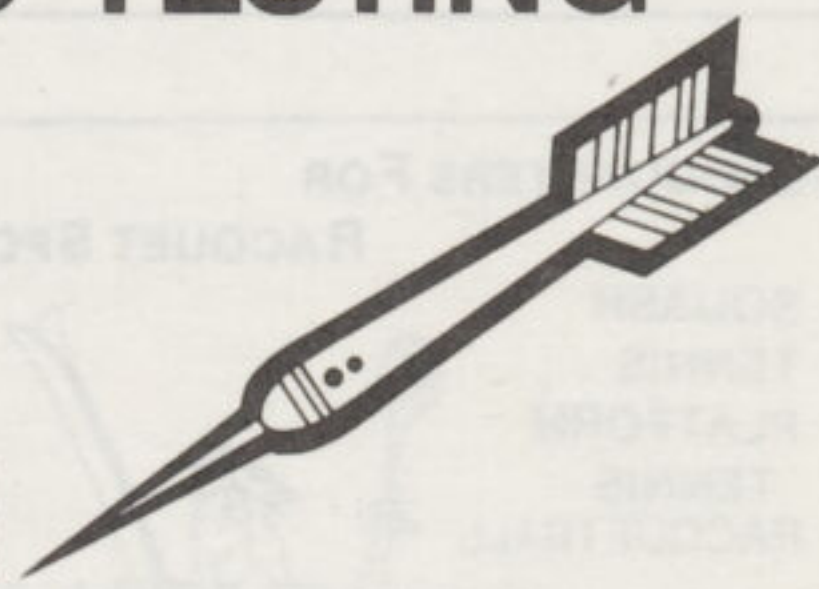
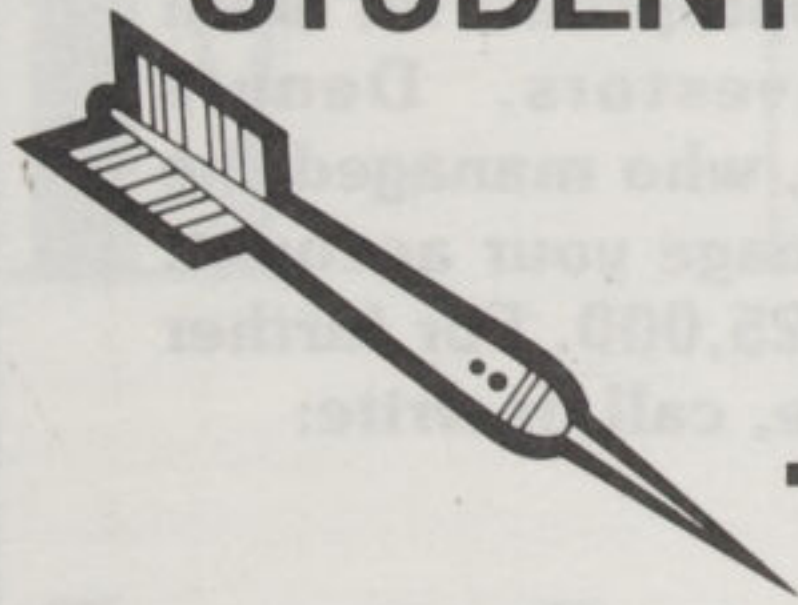
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Law School Tenures Woman Professor

(Continued from Page 1)

note because it represents the end of a five year stand-off between conservative and Critical Legal Studies faculty members. As a result of the stand-off, no lateral appointments had been successfully made. When asked why Glendon met with sufficient approval, Dean James Vorenberg commented that Glendon "is an outstanding scholar in a field in which the faculty recognized a current need."

Glendon's appointment was reviewed by the regular Appointments Committee of the faculty, instead of by the Committee on Lateral Appointments which usually handles nominations of professors from other law schools. Vorenberg explained that the Appointments Committee reviewed her nomination because Glendon had already served a year as a visiting professor here in 1974-75. Because she had already met this prerequisite to appointment, there was no reason for the Committee on Lateral Appointments to review her nomination. "Glendon's appointment was a result of the regular working of the Appointments Committee and the faculty," stated Vorenberg.

Prolific Scholar

Glendon received her Bachelor's degree, her J.D. and her Masters in Comparative Law from the University of Chicago. She subsequently practiced law with the Chicago firm

of Mayer, Brown and Platt. She also served as a Ford Foundation Fellow and a Radcliffe Institute Fellow.

Besides having written over fifty articles and lectures, Glendon is the author of several books. Her work includes *Comparative Legal Traditions* (1985) and *State, Law and Family: Family Law in Transition in the United States* (1977). Among the on-going projects that Glendon plans for the upcoming year are a second edition of *State, Law and Family* and preparations for the Rosenthal Lectures, which Glendon will deliver at Northwestern University in the fall. These lectures on the interpretive and constitutive aspects of American family law will also be converted into book form.

When asked if the political controversy surrounding the HLS fac-

ulty was causing her any anxiety, Glendon commented, "An outsider like myself cannot really know what is going on inside of another institution." However, Glendon commented that law faculties by nature have a tendency to be political and controversial, so she was not expecting any big surprises.

As to why she decided to leave Boston College for HLS, Glendon explained, "Harvard is one of the very few places in the world that has adequate facilities to support the type of research that I do." Glendon was especially attracted to the International Legal Studies library and its "tremendously skilled human resources represented by its law librarians."

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BAR REVIEW

Harvard Square Kiosk Souvenirs Abound

By Marla Becker

In New York, they sell miniatures of the Statue of Liberty; in San Francisco it's cable cars. And now, right here in Cambridge, you can buy your own ceramic replica of the kiosk in Harvard Square, currently the residence of Out-of-Town News and Tickets.

The Harvard Square kiosk, recognized by the Cambridge Historical Commission as an international symbol of Harvard Square, was placed on the National Register of Historic Places in 1978. The Boston Elevated Railway Company built the Georgian revival kiosk in 1928 to replace an earlier subway entrance originally built in 1912. The distinctive copper clad roof was retained in the rebuilding, and has since become a significant example of mass transit architecture. That copper roof was designed by the Boston Elevated Railway architects to blend with the colonial style of the nearby Harvard buildings.



Adele Hendrix

Out-of-Town News and Tickets then and now.

In a Dec. 15 article, the *The New York Times* quoted Charles Sullivan of the Cambridge Historical Society, as describing the kiosk as being "unique for its design, purpose as an architectural symbol and centerpiece of Harvard Square. There's nothing in Boston, or, I doubt in

the country like it."

In 1978, the Harvard Square Subway Station was expanded and a new larger entrance was added just south of the kiosk. During construction, a crew lifted the entire kiosk off its island intact; the kiosk was not replaced until last fall, fully restored but still retaining the old Metropolitan Bay Transit Authority roof. Since the building was too narrow to cover the newly built subway entrance, the City agreed to lease the kiosk to Sheldon Cohen and his Out-of-Town News, Inc., which had been sharing the island with the subway station for three generations. Cohen took over Out-of-Town News in 1947 following; his father and grandfather who had run the kiosk before him.

As the *The New York Times* article noted, Sheldon Cohen said that he feels that "the kiosk is close to my heart." He said he believes that a reproduction of the historic kiosk would be the perfect gift for those who have been to the square and want to remember its beauty forever.

The eight-by-six-inch brightly colored ceramic reproduction is actually a music box with a removable roof. Just lift the lid and it plays Harvard's old football fight song, "YoHo, the Good Ship Harvard." Out-of-Town News also recommends that the versatile music box is also suitable as a candy serving dish. ☛

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