

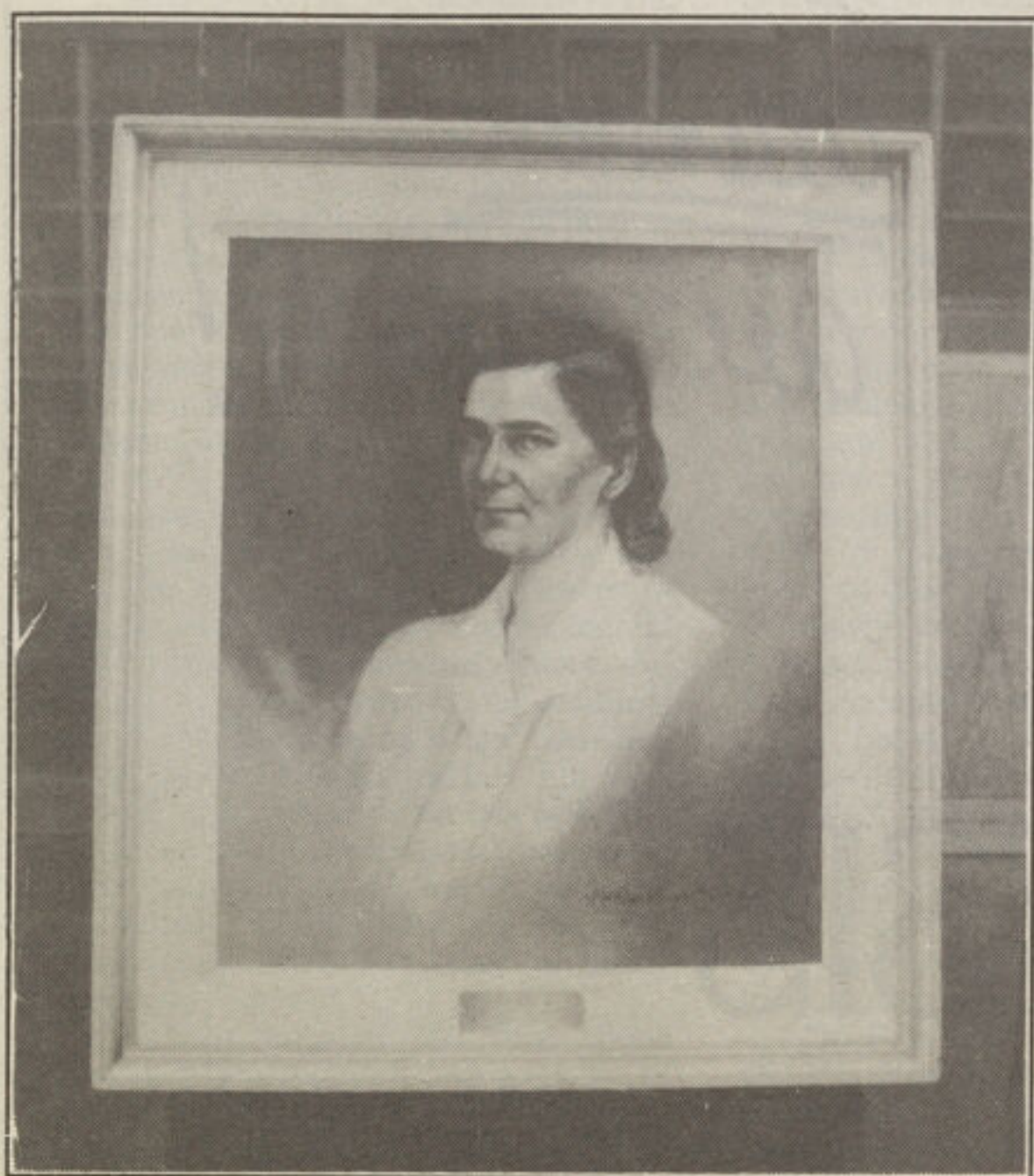


Harvard Law Record

Volume 92, No. 4

America's Oldest Law School Newspaper

March 15, 1991



Portrait of Soia Mentschikoff, Harvard's first woman law professor (1946-49) and renowned commercial law scholar. The portrait, which was unveiled Tues. March 12 by Mary Ann Glendon, was painted by Marlene Evans Putnam and will hang in the Langdell lobby.

Bell Stuns BLSA Conference

Announces Plan To Spend Next Year At NYU

Last weekend, the law school played host to the Eighth Annual Spring Career Conference aimed at bringing together

By Paul Tarr

African-American students and alumni to talk shop and explore career options. Over 250 students participated in the various events, along with distinguished visitors and alumni. Hailed by organizers and participants alike, the three day conference featured a range of guest speakers, heated debate, and a surprise announcement by Professor Derrick Bell that he will be spending next year at N.Y. Univ. Law School.

Bell's announcement dominated Friday's activities and stunned an admiring crowd. "It was very emotional...people were crying," according to Conference co-chair Troy Chapman 2L. "People were angry that he is leaving, and there was much anger at the school and its

hiring practices," he said, noting a general consensus that Bell was forced out by an insensitive and unresponsive administration.

BLSA alumni in attendance reacted as strongly as the students did. Chapman predicted that BLSA alumni will step up the pressure on the administration to diversify the faculty. He also feels that Bell's announcement created a score of outraged soon-to-be BLSA alumni. "It left a sour taste in the mouth of those of us who are graduating...I don't know how much they can expect from us in terms of loyalty" he said.

Bell's plans notwithstanding, participants described the weekends' events as generally upbeat and positive. Employment opportunity, both within and without the law, was a recurrent theme. An Employer Forum allowed students to explore firm options and examine minority hiring records. Recent graduates participated in a

panel discussion on "A World of Choices." Panelists and viewers weighed and compared the virtues of private firms, public interest work, and judicial clerkships, and sought to offer a realistic appraisal of the opportunities that lay beyond law school. By far the most popular panel of the conference focused on sports and entertainment law. African-American stars are coming to dominate both the sports and entertainment industries; panelists asked "shouldn't more of us be sitting on the other side of the table?"

Discussion ranged from the role of black attorneys to the impact of racism in the industries. Participants included Robert Holmes, Executive Vice President of Columbia Pictures Entertainment Music Group; Virgil Roberts '72, President of Solar Records; and Kenneth Hudson, who directs community relations for the Boston

BLSA page 7

Law School Forum Exposes Milli Vanilli Fraud

The Law School Forum's February 28 hosting of Frank Farian, former producer of the now defunct

By Bill Martin

pop duo Milli Vanilli, who was to speak on "Lip-Synching and the Law," turned out to be a complete hoax, according to Chris Bryan, President of the Forum.

Boston Globe staff writer Michael Blown reported that the culprit was none other than the Harvard Lampoon. He said he received a letter signed by "Mr. X" (in red ink) on February 27 stating that the

hoax was courtesy of the Lampoon. "Mr. X" later reported that dozens of guests had shown up to see Farian and got quite a surprise, although this is disputed. Blown has no reason to doubt it was the Lampoon, he says, because he had received three letters from "Mr. X" in the past that proved sourceworthy.

The Lampoon, who was reached for comment, flatly rejected any connection with the prank. The Lampoon representative said that the prank was not consistent with the type and scale of pranks that they usually undertake, adding further that it

wasn't that funny anyway.

Chris Bryan of the Forum felt the scam was "fairly harmless and amusing," although she "wouldn't want to see it done again." She has no idea who the prankster is, and added that she couldn't understand why anybody would go through the trouble and cost of printing and distributing the posters. The Forum, after noticing the bogus posters, put a notice in the advisor stating that it was a hoax. She hasn't heard of anyone who showed up and was disappointed, adding that the "word spread quickly."

Neighbors Want Inn's License Revoked

Hearing Set For March 19

Even though there haven't been any parties at Lincoln's Inn over the last six months,

By Malcolm E. Harrison

the neighborhood surrounding the social club at 44 Follen Street has been anything but quiet.

Gearing up for a pivotal March 19 hearing before the Cambridge License Commission which will determine if the inn can continue to house board members in the future, a group calling itself the Neighbors of the Harvard Law School Lincoln's Inn Society submitted a petition to Dean Robert Clark '72 requesting that HLS sever all affiliations with the Inn and publicly support its efforts to have the inn's license revoked.

For the past twenty years there have been on again off

again complaints by the neighbors who assert that the Lincoln's Inn Society has used its premises for parties of up to 300 people. The inn's neighbors complain of blasting stereos, noise from open windows, and inebriated loiterers outside of the Inn itself.

This most recent push - which has been accompanied by a minor media blitz - has surprised Inn members who say that there have been no complaints against them since Lincoln's Inn started throwing its parties in the Harkness Commons in November.

"Lincoln's Inn has been pursuing a good neighbor policy since last fall," said Adam Weiss, 2L, who is the board member in charge of neighborhood relations. "The last letter is unfair and dismaying

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"I've Had A Wonderful Year"

Prof. Bell Discusses His Protests And Future Plans

Derrick Bell, Weld Professor of Law and one of HLS's most well-known professors, has been on a voluntary leave

By Robert Arnold

of absence for the 1990-91 school year in order to protest HLS's hiring policy. The *Record* recently asked him a few questions about his year, his plans for next year, and thoughts on the world in general.

RECORD: What is your protest about?

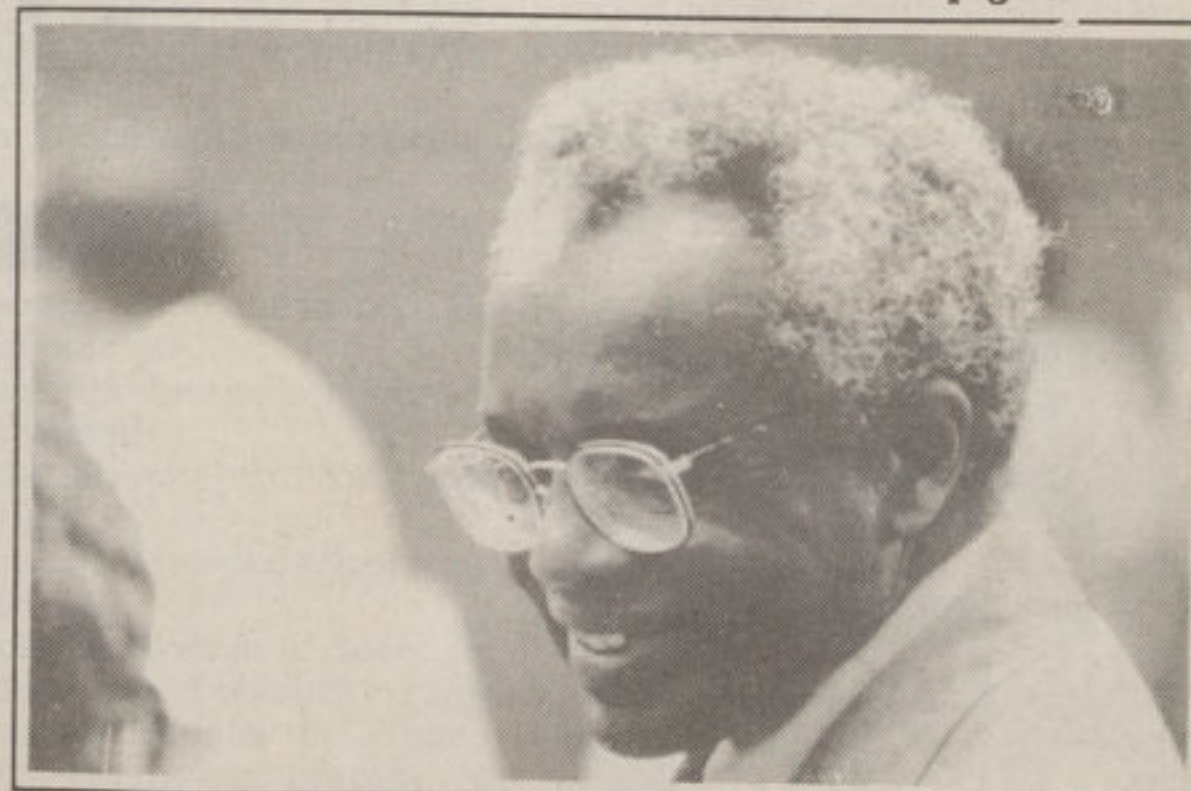
BELL: This protest, while focusing on diversity, is really a continuation of my week-long sit-in over the Claire Dalton 'thing, my joining students in over-night vigils in the dean's office. Things all along those lines are just parts of my career. I just think that sometimes you need to do what you feel you need to do.

RECORD: How have you been spending your year?

BELL: I feel as if I have had a wonderful year. I am not sure that I would want to repeat it, but I can't imagine having a more wonderful year. I must have been to more than two

dozen colleges and universities, mainly law schools but other colleges as well, and I am embarrassed by people saying that what I did took great courage. A Bishop who was here recently called what I did "the

Bell page 6



Professor Derrick Bell will visit NYU next fall.

*free
pizza
and soda!*

INSIGHTS
INTO THE MPRE
AND THE
LOCAL AND
MULTISTATE PORTIONS
OF THE BAR EXAM

Attention
All students!

AN ANALYSIS OF THE BAR EXAM

BY STANLEY D. CHESS, ESQ.

MEMBER OF THE NEW YORK AND WASHINGTON, D.C. BARS
DIRECTOR, BAR/BRI BAR REVIEW

DATE:	<i>March 19th</i>
TIME:	<i>12 - 1pm</i>
PLACE:	<i>Langdell North Middle</i>
REFRESHMENTS WILL BE SERVED	

BAR/BRI
BAR REVIEW

HLS Seeks To Offer The World To LLMs And JDs

As Harvard continues to strive to achieve greater internationalization, increasing attention is being focused

By George Paul

on the International Legal Studies and Graduate programs and efforts are being made to improve understanding of international legal issues.

Bruce Cohen, '81, new dean of the programs, said, "We envision a graduate and international legal studies program that is highly responsive to political and economic changes taking place in the world today. Dean Clark's goal of building 'a world law school' is fundamental to the success of the Graduate Program, as we seek to keep it responsive to the needs of the legal professions around the world. We are proud of his commitment to the development of this department."

A change in the global environment has sparked interest in international law, according to Cohen. "What can only be referred to as an explosion of world events—sharp technological advances in telecommunications, dynamic economic restructure, political upheaval, burgeoning social transformation—have combined to put new and greater demands on law and lawyers. In addition, there is an undeniable shift toward a global perspective in the collective sensibilities of not just Americans, but of citizens of many nations."

Cohen pointed out that these changes have created new avenues of opportunity for lawyers. "Global developments," he said, "have, and will, spawn myriad legal issues and problems. In the past, when America began to develop extensive business and commercial links with such countries as Japan, Korea, Taiwan, and Thailand, it became necessary for American

lawyers and law firms to acquire extensive knowledge of those legal systems. So it will be important to keep up with the international and commercial laws of many more countries during the current economic expansion in markets of the E.E.C."

Cohen continued, "Events in the Baltic Republics, the Soviet Union, China, the Middle East, and Eastern European countries clearly point to the immediate need for expertise in helping to address the complex legal issues and problems that have and will proliferate."

Two of Dean Cohen's immediate goals for the programs are to expand opportunities for graduate students and to internationalize the J.D. student's law school experience.

"In the past," he said, "there wasn't a great deal of interaction between the graduate and J.D. students, which I feel was a waste of an extraordinary opportunity. It is impossible to put a value on these relationships, with respect to the potential for challenging scholarly exchange, and the re-examination of ideas, perspectives and legal systems." Under Cohen's guidance, Harvard participation in the Jessup International Moot Court competition has been re-established. The team, comprised of members of the International Law Society was sponsored by the Graduate Program. Graduate students assisted the team in its preparation for the competition.

"In February alone," Cohen continued, "the Graduate Program, in collaboration with the International Law Society and South Asian Law Students Association, presented an address by His Excellency Shri Abid Hussain, the Indian Ambassador to the United States, which was preceded by joint meetings of J.D. and graduate students and law faculty."



Dean Cohen '81 is working to expand international law opportunities.

Later that month, graduate and J.D. students met with the visiting Soviet law students and faculty members. Cohen said the result was a "lively, candid, and revealing dialogue."

On March 14, the Graduate Program, the International Law Society, B.L.S.A., and the Pan-Africa Committee will present Winston Tubman, former Ambassador to the United Nations and Minister of Justice from Liberia. Cohen said the event would "afford additional opportunities for J.D. and graduate students to work and meet with each other, faculty members, and a leading international figure. We will continue to develop programs to stimulate graduate and J.D. students interaction; for example, we are planning a symposium, with the International Law Society, on the 'Legal Aspects of the Aftermath of the Gulf War.'"

Cohen added, "It is equally important to initiate substantive collabora-

tion between the Graduate Program and the international research and training programs, such as the Human Rights Program, the Center for Criminal Justice, the East Asian Legal Studies Program, the Negotiation Project, the Program on International Financial Systems, and the International Tax Program. We believe this can be accomplished by integrating the specialized expertise of graduate students, visiting researchers, and visiting scholars consistent with the research needs of on-going projects. The programs would receive the benefit from guidance and support for their research." Cohen and Professor Oliver Oldman are meeting with the directors of each of the programs to discuss these issues.

Newly accepted graduate students and visiting researchers and scholars will be given information concerning

Cohen page 10

Lincoln's Inn

continued from page 1

considering the record that we are trying to develop."

The last board of governors instituted a house management plan in response to the neighbors' complaints. Parties have been held on campus, storm windows have been installed to cut down the noise, the piano has been disabled, and the student members have been in contact with alumni who live in the local area who might form a local advisory board to institutionalize the good neighbor policy over successive generations of students.

The Lincoln's Inn Society has also amended its bylaws to require the outgoing chairman to give a talk to the incoming board about the inn's relationship with its neighbors. Weiss said that outgoing chairman Ken Melman, 3L, spoke to the new board of governors for almost two hours about improving neighborhood relations.

None of these steps have satisfied the Inn's neighbors, however, who assert that these problems are cyclical. Short of permanent solution, they believe, the struggle against the Inn must continue.

Marcel Rodwin, a resident of 50 Follen Street and the leader of the neighborhood association seeking to have the Inn's license revoked, said that he found the inn's moves thus far to be unsatisfactory because the governing board has not renounced the right to have parties on the Inn's premises. Nothing else, he said, can resolve the "incompatibility" of the Inn as a party site in the midst of a residential community.

"The fact that it's quiet now is of no concern to us. We are worried about what will happen in the future," Rodwin said. "These are long-standing and cyclical problems and they require long-term institutional solutions."

The neighbors are taking a two-track policy. On one hand they are trying to put pressure on the inn to conform by opposing the renewal of their lodging license. The license con-

cerns only the organization's right to use the inn as a residential unit for some of their members. While Rodwin admits that the neighbors have no problem with the seven people who live in the house, they hope to convince the Cambridge Licensing Commission to condition the license with a requirement that the Inn have no parties or that those parties conform to a strict set of guidelines.

The second approach involves putting pressure on HLS's administration to do more to control the inn. The neighbors' letter to Dean Clark claims that "the law school has a responsibility to control the disruptive activity of its students."

"Harvard Law School is acting more irresponsibly than the inn because they could use their good offices and authority to make the inn comply," Rodwin said.

The school says they have no direct control over the Inn.

According to Dean of Student Sarah Wald, of the 83 organizations which HLS recognizes, Lincoln's Inn is the only one that does not receive any money from the school and owns its own property off campus. Thus, while at the same time that it is recognized by the law school, it also has a greater degree of autonomy than any other student organization.

In response to the neighborhood's most recent call for action, Dean Clark wrote that "Lincoln's Inn is an independent corporation, over which the Law School has no direct authority." In spite of the school's lack of hands-on control, Dean Wald has been working extensively with both the inn and the neighbors to work out a solution which is agreeable to all parties.

One approach which the administration does not think would be helpful would be to cut all ties with Lincoln's Inn, Dean Wald said. If the Inn were completely cut off from the school not only would its members not be able to hold parties on campus instead of the house at 44 Follen Street but also what influence the administration has now would be lost.

T. Boone Pickens Denounces Japanese Trading Practices

On Thurs. Mar. 7, T. Boone Pickens, general partner of Wesa limited partnership, spoke to a capacity crowd in

By Staff

Austin West where he called Japanese business leaders modern day "robber barons" and outlined a six point program for attaining fair trade with Japan.

Pickens, a notable critic of corporate America in the past, said, "During the 1980s, the United States witnessed a strong challenge from the Japanese, especially in electronics and the automobile industry. Today, America is better prepared to compete in the global marketplace than we were in the eighties." Pickens said, "It is not a question of can we compete with Japan but can we compete on a level playing field." He argued that America was being forced to fight with one arm behind its back.

"We fought the cartels nearly a century ago and won, and enhanced market competition in the process. It is time we step up and fight against the cartels again so that we can achieve similar results," Pickens said.

Pickens suggested that America could accomplish this by following a six step plan including:

1. tough, meaningful trade negotiations,
2. a recognition that the current [trade] gap is untenable,
3. aggressive enforcement of U.S. antitrust and tax laws,
4. demand for immediate Desert Storm reimbursement,
5. the end of state and local tax incentives, and
6. increased knowledge of the Japanese system.

"The Japanese system is closed to America," Pickens said recounting his experience as an investor in Japan. Pickens owns twenty-six percent of Koito Manufacturing, a company that

provides lighting systems for Toyota vehicles.

"All I have asked for is a chance," said Pickens, "American shareholders must receive the same investment rights in Japan that Japanese investors are routinely granted in the U.S. under our free market economic principles."

Pickens continued, "Koito has rejected my requests for board representation twice now, even though Toyota, which owns nineteen percent of Koito, has three board seats."

"Why won't they give me a chance?," Pickens complained, "Because Japan doesn't want Americans to see corporate Japan from the inside, and how their pricing policies prevent U.S. manufacturing companies and parts suppliers from gaining a foothold in their economy."

Pickens contended that "Japan is using keiretsu [corporate cartels] to unfairly compete with the U.S. and its Japan's middle class that is paying the price for Japan's effort to buy U.S. marketshare and technology."

As evidence of how Japan is fighting dirty, he explained that for every \$100 in sales, Japanese companies report on twelve cents of taxable income. American companies report \$5, or over forty times the income of the Japanese. "You start to wonder why they locate here if they can't do any better than that," Pickens quipped.

**The RECORD
Welcomes
Admitted
Students**

Harvard Law Record

Volume 92, No.4

Daniel J. Greaney
Editor-In-Chief

Another View Of The Great Dissenter

The display in Langdell Hall commemorating the one hundred and fiftieth anniversary of the birth of the Law School's greatest graduate—Henry James having dropped out after the first year—called to mind an essay about Oliver Wendell Holmes, Jr., which I read a few years ago. Given the recent resurgence in interest in the author of the essay—controversial journalist and social critic H.L. Mencken—I thought that our readers might be interested in what one larger-than-life figure made of the other.

Mencken begins by noting that cases in which Holmes concurred with the majority outnumbered the dissents for which he was famous by a ratio of ten to one. He continues:

"There is even more surprising stuff in the opinions themselves. In three Espionage Act cases, including the Debs case, one finds a clear statement of the doctrine that, in war time, the rights guaranteed by the First Amendment cease to have any substance, and may be set aside summarily by any jury that has been sufficiently inflamed by a district attorney itching for higher office. In *Fox v. the State of Washington* we learn that any conduct 'which shall tend to encourage or advocate any disrespect for the law' may be made a crime, and that the protest of a man who believes he has been jailed unjustly, and threatens to boycott his persecutors, may be treated as such a crime. In *Moyer v. Peabody* it appears that the Governor of a State, 'without sufficient reason but in good faith,' may call out the militia, declare martial law, and jail anyone he happens to dislike or suspect, without laying himself open 'to an action after he is out of office on the ground that he had no reasonable ground for his belief.'

"I find it hard to reconcile such notions with any plausible concept of Liberalism. They may be good law, but it is implausible to see how they can conceivably promote liberty. My suspicion is that the hopeful Liberals of the 20s, frantically eager to find at least one judge who was not violently and implacably against them, seized upon certain of Mr. Justice Holmes's opinions without examining the rest, and read into them an attitude that was actually as foreign to the ways of his thinking as it was to those of Mr. Chief Justice Hughes...

"The weak spot in his reasoning, if I may presume to suggest such a thing, was his tacit assumption that the voice of the legislature was the voice of the people.

There is in fact no reason for confusing the people and the legislature: the two, in these later years, are typically quite distinct. The legislature, like the executive, has ceased, save indirectly to be even the creature of people: it is the creature, in the main, of pressure groups, and most of them, it must be manifest, are of dubious wisdom and even more dubious honesty...

"Let us, for a moment, stop thinking of him as one [a liberal], and let us stop thinking of him as a litterateur, a reformer, a sociologist, a prophet, an evangelist, a metaphysician; instead, let us think of him as something he undoubtedly was in his Pleistocene youth and probably remained ever after, to wit, a soldier. Let us think of him further as a soldier extraordinarily ruminative and articulate—in fact, so ruminative and articulate as to be, in the military caste, almost miraculous. And let us think of him still further as a soldier whose natural distaste and contempt for civilians, and corollary yearning to have them all into Hell, was cooled and eased by a stream of blood that once flowed through the Autocrat of the Breakfast Table—in brief, as a soldier beset by occasional doubts, hesitations, flashes of humor, bursts of affability, moments of sneaking pity... On at least three days out of four, during his long years on the bench, the learned justice remained the soldier—precise, pedantic, unimaginative, even harsh. But on that fourth day a strange amiability overcame him, and a strange impulse to play with heresy, and it was on that fourth day that he acquired his singular reputation as a sage...

"That, no doubt, is why his decisions show so wide a spread, and so beautiful an inconsistency, baffling to those who would get him in a bottle. He could, on occasion, state the case for the widest freedom, whether of the individual citizen or of the representative lawmaker, with a magnificent clarity, but he could also on occasion give his vote to the most brutal sort of repression. It seems to me that the latter occasions were rather more numerous than the former. And it seems to me, after a very attentive reading of his decisions, that what moved him when he was disposed to be complacent was far less a positive love of liberty than an amiable and half-contemptuous feeling that those who longed for it ought to get a horse doctor's dose of it and thereby suffer a really first-rate belly-ache...

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Reviewing The Reviewer

To the editor:

I was amused by the fact that Dan Greaney, editor-in-chief of the Harvard Law Record, saw fit to critique the Harvard Law Review. "And why do you look at the speck in your brother's eye, but do not consider the plank in your own eye?" See Matthew 7:2 (King James) Because the criticism contained in the

"allegations of racism evoke warm memories of the sacred sixties" and that critical commentary on the article will be "the basis for some future assistant professor's Law Review article."

Once again, I fail to see the connection between the article in question and Mr. Greaney's general argument. The "color-line," to use the terminology of W.E.B. Du Bois, might not pose the same problems it did twenty years ago, but it still exists, especially in a city like Boston. Consequently, publications like the Review perform an extremely valuable service by illustrating where racial barriers persist in society. In addition, I found the sarcastic prose used by Mr. Greaney when referring to this article to be insulting and certainly not befitting his position as editor of the law school newspaper. Just because the Record is the nation's oldest law school newspaper doesn't mean that it has to be the most uptight.

Finally, Mr. Greaney cavalierly dismisses the discussion of a constitutional right to beg in the February issue. Given the existence of between 250,000 to 2,000,000 homeless people in this country, many of whom beg for assistance, I feel it is certainly relevant to examine such a topic. This matter has recently received considerable attention in the New York courts and will no doubt be dealt with by other jurisdictions in the near future. What is viewed as bias by some is considered prescience by others.

I consider myself to be a moderate who firmly believes that, in the words of Robert Arnold, diversity—including ideological diversity—works. Consequently, I feel that a journal such as the Law Review benefits from a wide range of viewpoints on the editorial staff and in the articles they choose to print. I would be seriously dismayed to find that the Review contained as strong an ideological bias as Greaney purports. His three cursory references to recent Review articles certainly did not convince me that this is the case.

Much more disturbing to me than Mr. Greaney's argument was the undignified, disrespectful and sarcastic tone in which it was couched. Nowhere have I seen more name calling and verbal extremism than at Harvard Law School, home of the "write-by" (the literary equivalent of a drive-by shooting), a unique form of intellectual violence displayed in letters to the editor, posters or letters stuffed in student mailboxes which generally seek to further some ideological aim but do so through the demeaning treatment of others and their positions. Being only a part-time student of the human condition, I can't quite say whether "write-bys" are caused by misguided devotion to a particular cause, the food at the Hark, bad weather, this school's East Coast location, sexual abstinence or some combination of the above. Nor do I know what the cure is, but someone needs find it, and fast!

Chris Nicholson, 3L

Letters To The Editor

last Record editorial "Reviewing the Review" is entirely unfounded and patronizing, I feel obliged to respond.

Dan Greaney's editorial begins by taking the Harvard Law Review to task for its "profoundly bland, unimaginative and conformist" format. As Mr. Greaney states, "[m]agazine design may have been revolutionized a dozen times since its founding, but the Review plods onward, faithful to its frumpiness."

Putting aside the question of whether Mr. Greaney is in any position to make stylistic critiques given the Record's rather languid layout, his first argument is without merit. People interested in cutting-edge graphic design don't purchase legal texts, casebooks or law reviews. They pick up Eurozines like Details, L.A. Style or Interview from Nemo's Corner and head over to the Cafe Pamplona for a double-espresso. The emphasis in legal scholarship is on the written word, not the style of presentation.

Mr. Greaney then devotes the vast majority of his editorial to attacking what he styles the Review's crusading liberal editorial bent. He characterizes the Gannett House journal as a leftist rag with "an absolutist preference for individual rights" and an obsessive predilection to "find racism everywhere." These are harsh accusations, even coming from a Harvard student.

What evidence does Mr. Greaney offer in support of his claims? First of all, he criticizes Professor West's efforts to contrast the ascendancy of liberal ideals in Eastern Europe with what she perceives to be their decline in current Supreme Court jurisprudence. Greaney claims that her observation is tantamount to describing the current Supreme Court as Stalinist. Unless Mr. Greaney defines "Stalinism" in a fashion to which I have not been exposed, I don't see how he can read a reference to Stalinism into Prof. West's remarks. Indeed, Prof. West's remarks seem rather accurate given the Supreme Court's recent increasingly restrictive view of individual rights.

Second, Mr. Greaney cites the Review's recent publication of the article on gender and race discrimination by car dealerships as an example of the Review's tendency to "find racism everywhere." Without offering a single critique of the bases for the article's findings, Mr. Greaney slips into stream-of-consciousness sarcasm, stating that

To Our Readers:

The RECORD welcomes your letters and columns, however, if possible, please submit on IBM WordPerfect Disk. This facilitates the editing process.

Thank you for your support.

**Next Record
March 22**

Shed No Tears For Conservative Cry Babies

If liberals at this school have whip-lash from their knees jerking up and slamming into their chins, then

By Alisse McIntyre
RECORD Columnist

conservatives have their own comparable ailment: the conservative belly ache. You may recognize a classmate suffering from this affliction when they whine, "Oooh, I'm so silenced in class! It's not fair!" Never have I seen a group so privileged carry on about being so oppressed. I have news for you, young conservatives: No one ever got pulled over by cops for looking like a supply-sider. Poverty and a belief in strict constitutional interpretation have never been correlated. And the day when Republicans earn 62 cents to every dollar earned by Democrats — maybe I'll shed a tear.

I love it when I hear the conservative belly ache from those third generation Harvard types who wear belts with little ducks on them. These are often the same macho guys who in all other aspects of their life will bend over backwards to prove how manly they are ("Hey, I could bed that babe . . . if I wanted to.") but then they go and decorate themselves in ducks. And duck shoes, too. Is there some Freudian meaning attached to the duck that I am unaware of?

I wish that I could confine this diatribe to my male classmates. But the truth is that even women — yes, even women, the gender once thought most likely to save humanity from itself — suffer from the conservative belly ache. I have a theory on these women, though. I think they do it to meet guys. The male-to-female ratio in any conservative club makes it as likely that you'll hook up as taking a trip to Alaska. I've been to Alaska . . .

Mind you, I don't wish to seem entirely unsympathetic to my conservative classmates. I love economic efficiency as much as the next gal. And I know it's hard to feel you belong at the law school when everyone else isn't like you. Sure, they have a token dean, but that's not enough. The loneliness of feeling like you're the only one who worries about how to get Dan Quayle off the ticket in '92 without embarrassment, the emotional burden of having to hide from your classmates that you have three middle names . . . how can you struggle with these issues and still concentrate on the law?

Personally, some of my best friends are conservative. But let's face it, conservatives are never going to be accepted at HLS until they assimilate into mainstream society. You can't blame us liberals for shutting them out; after all, they choose to segregate themselves in groups like the Federalist Society

and the Journal for Law and Public Policy. We certainly didn't tell them they couldn't work on the CCR lawsuit.

I have some suggestions to make conservatives feel more at home here at the law school, and to help insure their presence in the future:

1. The Big Paternalist / Little Paternalist program. HLS conservatives and interested others would adopt conservative kids from affluent suburbs to act as role models for them. The kids will see that in fact conservatives can make it to Harvard Law. In turn the students will have the thrill of benefitting their community. I nominate David Souter as the Big Paternalist / Little Paternalist Program's first poster boy.

2. The Gentleman's Law Association. Men should have a space where they feel safe, supported and empowered through the presence of exclusively other men. As a group they can press the administration to serve their needs as conservative men concerned about the needs of capitalists in the law school. This is also good practice for those intending to go on to political careers in D.C. where they will frequently find themselves in groups without women or liberals and thus left to fend for themselves. Interested women can form a Ladies Auxiliary to the Gentlemen's Law Association. Liberal men can form a reactionary group and party with the WLA.

Fenno

Dear Mom,

Well the war's over and I'm still alive! No one's shot at me and nothing in the desert has bit me! It's getting warmer so soon the snakes, i.e. cobras and vipers etc., will be out. I don't suppose CNN has been broadcasting much on the big snakes with fangs, eh?

So mom, you wanna know when I'm comin' back, starting classes again. Maybe sometime before exams would be a good idea. .

Well mom, I'm not so sure if I am coming back. You see I a got a letter yesterday from Annie "Get your gun" Bombardment at the ol' school and it looks like, for the 23rd consecutive year now, I've forgotten to write my (twenty-) third year paper. No biggie, you say, eh? Everyone else starts at 6 a.m. May 28th. But mom, I got this really icky feeling this year. . . I really just don't give a damn For Uncle Charlie's Kind. Got it?

I've been worn out and dragged out and bored outta my pea-sized skull, ma, I just can't take it any more.

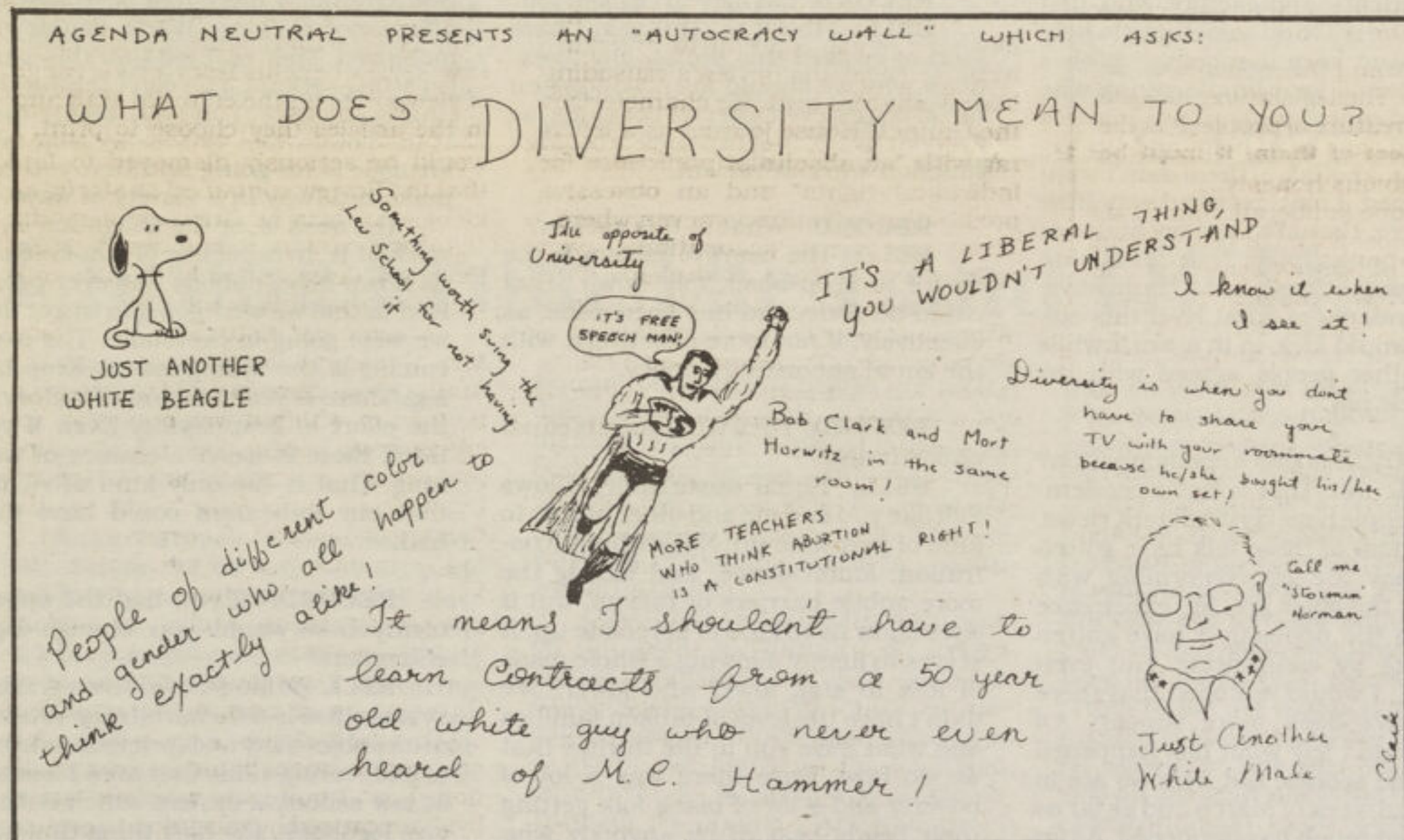
I AIN'T GONNA TAKE IT ANY MORE!

Mom, I'm quitting HLS! I've found a new freedom now, it's here for me, it's here in the desert shadows moving stealthily across a shimmering tarp of gold leaf sand. It's here where rebels fight for life and freedom and dignity. It's here where there is still hope for a better tomorrow 'cuz life can't get no worse and if it don't get better, we will annihilate every breathing soul before we climb in our Bradley Fighting Machines and set them to auto-destruct.

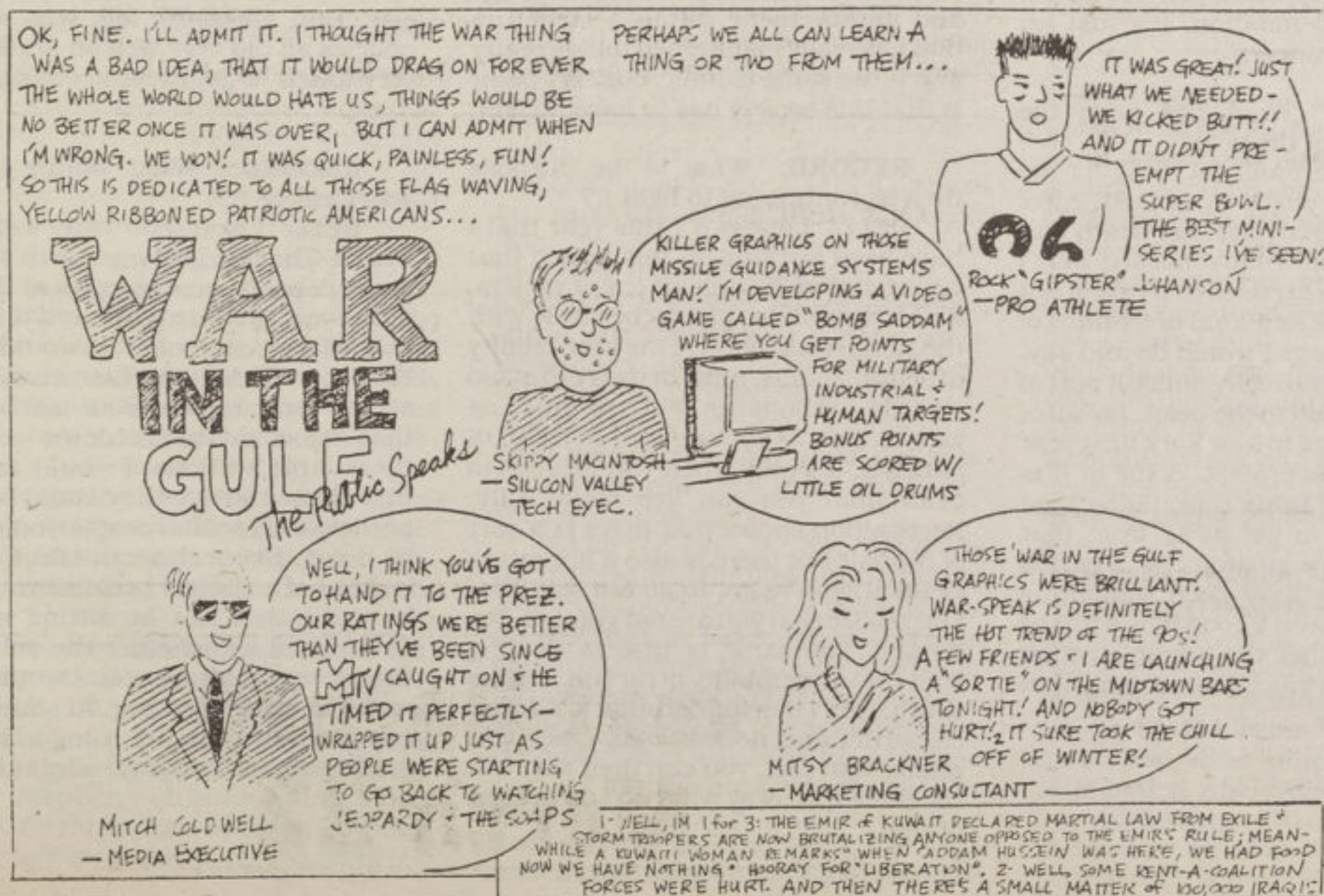
I know it's a disappointment to you mom. You were so lucky to have me as a son, a perfectly unassuming and inoffensive WASP. I really owe it all to genes and regressive income taxation. But don't you see? I'm a PIG! I'm a lousy CORPORATE TOOL! I'm a VAPID, MYOPIC, INSENSITIVE, MORALLY CRETINOUS SCAB!

(Is it dementia? Or is it just a clever ploy to get a health waiver on his third year paper?)

Agenda Neutral — By Eli Clark



Law of the Jungle — By The Idle Rich



Bell

continued from page 1

ultimate sacrifice." It wasn't the ultimate sacrifice it was more like the ultimate good time. I really had a marvelous year. I got much larger crowds than I've traditionally gotten at these schools, and I felt as if people listened more attentively. I have a whole range of messages that my impression is that people are not hearing. My messages may not all be right, but people are not hearing them. They are not weighing what I am saying against what other people are saying.

RECORD: So how was it a wonderful year?

BELL: There has been a teaching function that is much broader than what I have been able to do here. I really missed teaching my classes because I don't teach my classes anywhere near what most folk here teach their classes like. I have a wonderful time in my classes and I missed that. But, I have enjoyed this time that I have had to proselytize throughout the country. I didn't have any idea when I decided to take this leave that all of this would happen, that there would be opportunities for getting my many messages out and using my stories as the basis of speeches. I've always tried to do that but I got an opportunity to hone those skills much more this year. I have also been doing a lot of writing. Probably not as much as I need to do but still a significant amount.

RECORD: What was your reaction to the dismissal of the CCR law suit?

BELL: I felt neither great surprise nor despair. The value of that litigation is in the statement it sends: that students are sufficiently concerned to go to rather considerable lengths to challenge the system of hiring and promoting at the law school. That the law does not provide a ready mechanism for resolving the issues they raised does not mean that there are no issues.

RECORD: At a recent ceremony, you were commended for your "commitment to your cause." What is your commitment to your cause?

BELL: Well, my real commitment is to students. Just as other faculty members would like students to emulate them, high grades and stuff like that, I would like to influence students in things I think are important. In my life, one of the things that has been important to me is the willingness to take stands that are unpopular and to take positions that are risky. I have gained more satisfaction that way than in anything else that I have done. And it's a kind of ongoing joy that I would like my students to experience. It's a challenge. It's a challenge because it's counter to the general message that students are hearing, that you get ahead by conforming. What is the old saying, "You've got to go along to get along" or something like that? My message goes against that message and yet I think conforming is the wrong message. You may indeed get along by going along but the price is very high. The price for confronting things is not as high as people think, and the rewards are much larger.

RECORD: What about the risks involved in confronting?

BELL: If it was certain that things were always going to work out then there wouldn't be any risk and I suppose people would be more confrontational. However, I can't say that. Risk is risk. It means that you may lose stuff. My history of confronting things at this law school has not been without costs. I love this job because of the students. If I had to rely for my satisfaction on having the respect of my colleagues in terms of coming to me for advice and listening to me with regards to policy changes, then there would be no reason for me to be here. That is a cost I pay. I'm willing to pay that cost because I think the other stuff here is important. It's risky needless to say, but it need not be a disaster. So I guess my message is that taking the risk paid off. I got less than I got last year, but

whatever the difference is I've gotten other rewards that more than made up for it. I want to come back and say to people that "Hey, I did this. It didn't have to work out but it worked out in a very wonderful way."

RECORD: What are your plans for next year?

BELL: I've been pondering that question for awhile. I've been waiting, hoping that the school would do something. If they had tenured a woman of color, and hopefully made some other progress along the lines of diversity, then I could simply just return here and teach. They may yet still do that but the time is getting late.

I have decided to exercise one of the options that I had and that is to accept a visiting professorship at New York University Law School. It's not my first choice, I would much rather return here, but it's not a bad choice either. I didn't want to wait until the end of May and have the faculty still not functioning.

RECORD: What's your assessment of the faculty in handling the whole situation?

BELL: It's probably unfair because they are very different kinds of people with very different backgrounds. I had hoped that if collegiality meant anything, that if one of my colleagues really went out on a limb for something that he or she believed in, whether I agreed with them or not, that I would be more supportive than I think most of my colleagues have been of me.

RECORD: You haven't found the support here among your colleagues that you have found nationally?

BELL: No. But of course, the character of the support would have to be different here. Here, people had to do something. In other words, I'm sure a lot of my invitations to speak came from students and faculty who just said, "We've got to do something to help him out and keep him going." With a few exceptions, for example, people who expressed concerns about my finances and could they be of help, and understandably, a couple of them didn't want to be named, I have received very little of that here. I could've lost my house or gone into bankruptcy. That didn't happen, thank goodness, but it could have. I just wondered at what level this collegiality would kick-in in a worthwhile way whether people agreed with my position or not.

RECORD: Is that a condemnation?

BELL: No. That is not a condemnation. People have very different views. I mean most of these folk have gotten where they are by conforming with whatever the rules are. My experience has been the opposite. I have gotten everything by confronting. But even with that, I would've hoped that there would have been more support. Of course I can't say what has happened behind the scenes, but here we are in the second week of March and as far as I know, not much has happened. As far as I know, no people of color are even being considered for visiting positions. Maybe they have some people they are going to come forward later in the spring, but it hasn't happened yet. So, again, it's not a condemnation, it's just an expression of concern.

RECORD: What has been the toughest part of the year?

BELL: The toughest thing for me was my wife's death in August. After thirty years of marriage, her death was really tough and I have missed her. I feel much more exposed in terms of not having her here as a kind of monitor of some of the things I would do and say. That has been the really difficult part of the year. As I said to the dean, not all of my decision to go to New York next year is related to the protest. Some of it is just personal. I think it would be kind of worthwhile to get away from that house and these environs for a period of time. It may have been something that would've been a good idea without regard to whether the administration had functioned much more promptly in terms of hiring.



Prof. Bell speaks to students and press last year following the filing of CCR's discrimination suit against Harvard.

RECORD: If you could have last year over again, what would you do differently?

BELL: All year, I have felt the difficulty of doing good which I see as the dilemma of civil rights advocacy. I understand that Regina Austin, who was here last year, was very upset by what I did. It plunged her into a lot of media attention that she didn't want. I didn't predict that the media thing would happen nor that she would have that reaction to it. I wish that what I had done would not have upset her because that was certainly not my intention. I don't know how I would have handled it differently, but I would like to have seen that aspect of it go differently.

RECORD: Has the year changed you?

BELL: I think so. This year I have kind of evolved this philosophy to explain why we should keep working on racial issues even after we conclude, as I've concluded, that this society couldn't function without racism.

RECORD: What is this racism?

BELL: The heart of racism is the desire to keep black folk down. That could be done, and has been done, as effectively, if not more effectively, with the equal opportunity policy.

RECORD: Then what good is equal opportunity?

BELL: Equal opportunity allows folk like you and me and other blacks to kind of percolate up. Not without frustration, ambivalence, and feeling the more subtle barriers of racism, but it does allow us to kind of percolate up. It serves to justify allowing a whole mass of folk to sink lower and lower. We didn't have the level of broken families and what have you in the thirties that we do now. Sure there was a lot of poverty and a lot of black folk getting their heads beat in by anybody who wanted to beat them, but, as we see in Los Angeles today, not much has changed. We even have an example here in Boston with the basketball player in Wellesley. The belief of change and improvement within a structure that has really maintained things pretty much the same is ludicrous. My point is that this society has to have racism.

RECORD: What is the purpose then in continuing to fight it?

BELL: I guess it's this year that I have been working on this notion that knowledge of the full extent of racism, its intractability, has to be dealt with the same recognition of the inevitability of death. That is, most of us try to avoid / evade / rationalize death as much as we can. But, as you see with some AIDS patients, it's only when you face up to death that you can live really fully. Recognition shows that there is a sort of despair but there is also a liberating element: you've got to go out and live. You realize that you are not going to live forever. The same is true in dealing with the intractability of racism. Unlike death it isn't inevitable, but it is a social construct and no less real. Once you realize that fact, you can then say, "Ah ha, there it is. Now what do I do in light of that."

RECORD: So why not just work around it? What's the meaning of struggling?

BELL: The meaning comes out for me as a meaning for action. The meaning for action can better come from a full realization, when you're not evading, rationalizing, and trying to forget that this stuff has been on us for 300 years. Then you don't ask, as one of my civil rights friends asked, "Isn't that a serious problem if you lose a lawsuit?" Well, I didn't expect them to win. I said, "No." I can think of all kinds of lawsuits where the civil rights people gained more from losing than they would have if they had won. The *Mobile* case in 1982 about voting rights is one example. *Webster* has been of more value to women than if there had been just an affirmation of *Roe v. Wade*. People got mobilized. They realized that this stuff is getting serious. You can't rely on the courts anymore. You start seeing that at the point when you realize that this struggle is on-going and that you can make headway in a variety of ways.

The need is, or the obligation is, to work at it. Irrespective of whoever put us down here, nobody has ever promised us that we were going to win or that we were going to overcome. The overcoming is the willingness to keep trying. There is really a kind of victory in the effort to keep trying. Even if you think there is never a chance of winning. That is the only kind of victory that our forbearers could have ever had.

RECORD: If you had the opportunity how would you change legal education?

BELL: As long as we have a grading system that is either arbitrary in terms of its subjectivity or capricious in terms of its favoring skills that aren't learned at law school, a system which doesn't give feedback, the only thing that students can hope to do is to graduate.

Some people do better than others for reasons that have nothing to do with how good they will be at the law or how much they learned or anything else. But, since the folk who set the policies all did very well on grades, it's very tough to get them to change anything.

RECORD: What would you do specifically?

BELL: I would do away with final exams. The fact that a student's whole grade depends on one exam at the end of the year is destructive and an illogical pedagogical tool. I would utilize third year students and sometimes even second year students as teachers so that we could break down some of these large sections. I would restructure classes so that they would be more participatory so that people would learn by doing. Every class, in effect, would be kind of a clinical because you learn by doing and not by sitting around reading a book whether the subject is theory or what have you. I would have much more self grading. At some point in your career you are going to have to grade yourself anyway, why not start here.

Westlaw Story: Provides An Amusing Send Up Of HLS Politics

The HLS Drama Society presented its 31st satirical musical tribute to life at HLS, "West Law Story," last week in Ropes-Gray.

By Carol A. Umhoefer

Though not actually about legal research, the production hit most other topics of relevance — or, more likely irrelevance — to HLS students. Based on "West Side Story" and "Romeo and Juliet," head writers Brian Bendig and Cam Jones, 2Ls, together with David Levy 3L, Erin Monaghan 2L, and Joe Trahern 2L, created an alternative view to law school social strife by focusing on the infantile posturing of the Politically Correct and the Reactionaries of HLS.

PC Ramona (played by Carl Dawson 1L) first appears as a whiny knee-jerk type (albeit one with beautiful singing voice). React Julian (J. Michael Locke 2L) is a boy wedded to beer and khakis. The real antics, however, are left to their friends at the Journal of Political Correctness and Eisenhower's Inn, respectively. The PC model their parliamentary procedure on "Lord of the Flies." (Remember the conch?) Meanwhile the Reacts ask, "Do we really need a Public Defender? Let the market decide!" Julian is a typically absent 3L, and has moved out of Eisenhower's Inn and out to Slummerville. Head React Nicolas (Nick Rossi) accuses Julian of becoming a "retrovirgin," and this "the only guy with a lifetime pass on the Wellesley bus!"

Before Ramona, that is. The star-crossed lovers meet at a DSAC dance presided over by hilarious DSAC Dave (Dave Strachan 2L). As the ensemble bumps, grinds and does the Michael Jackson floor hump (arranged by Dave Sanchez and Jenifer Bensinger 2Ls),

Theater Review



☆☆☆☆ out of ☆☆☆☆

Ramona and Julian lock eyes. Party-pooper Rocco Forgiome as Rocco Forgiome breaks up the party and it's back to Slummerville, where under the covers Julian tells Ramona, "No means NO!" Conflict Manager Bruce Patton (realistically portrayed by Bruce Patton '84) appears from behind the futon, brings on the flip chart and outlines Julian's Currently Perceived Choice: Advantage, wild thing. Disadvantage, relationship.

But true love looks like it will win the day when the lovers vow to mediate the PCs and Reacts into negotiated bliss. And, they each secretly decide to "sell out" in the tastefully decorated suites of the Charles Hotel in order to prove their love and devotion. For Julian this means a distasteful confrontation with Keanu Montoya (Scott Bruner 2L giving an inspired performance), a

slightly diabolical public interest lawyer who leads the Invertebrates Legal Defense Fund and enjoys fondling fish. Ramona's fate is worse, as she meets up with Laker & McHenry's second floor interviewer James Walker Thomas Randolph (Bill Steinman 1L). As "he homophobic interviewer" Randolph is a riot and accuses Ramona of being a Thesbian. Laker & McHenry's racist interviewer, we are told, is located on the fourth floor.

The show's weaker sub-plot, concerning a tenure battle that pits the PCs against the Reacts, comes to a anti-climax when the groups face off outside the Hark. Here, treachery finally works to split the lovers as PC Tanya Bernardo (Melissa Landau 1L) shows Ramona compromising photos of Julian with another woman.

Love lost, only graduation and grind

awaits Julian and Romona. Greek chorus members Wayne and Bill (Scott Auby 1L and Cam Jones 2L) tell us that as time passes ideological differences fade, and the challenge we HLSers face is not constructing political fiefdoms, but combatting the "general suckiness of life in the legal profession."

It seems love is the only hope, and LSC warlord Tom Samuelian (Tom Samuelian 3L) is Julian and Ramona's only hope for love. In the final scenes, Tom brings the long-separated, disillusioned soul mates together in the halls of the Charles, where they are conducting interviews for invertebrate caressers and racist homophobes. All's well that ends well.

"West Law Story," produced by David Levy and Erin Monaghan, directed by Nancy Novogrodsky. Musical Director Lori Osmundsen; technical director Scott Bruner. Presented March 1, 2, 7, 8, 9 in Ropes-Gray.

BLSA

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Celtics. One student described the fields as "sexy" and "glamorous", echoing the attraction the debate seemed to hold for many viewers. A Saturday panel explored three divergent strategies for black advancement: Afrocentrism and Pan Africanism, were debated as workable alternatives to integration. Professor Randall Kennedy advocated integrationist strategies as a practical necessity in a society where black political advancement hinges largely on coalition building. The panel debated this notion, and tested the degree to which these three strands of opinion are politically compatible.

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Three and a half scales out of four

Maybe it's that I've always been there with special company, or maybe it's that blue neon lighting enhances my appetite, or maybe it's that, by the time the appetizers arrive, I've already

By Karen Levy

had three margaritas. Most likely, however, despite steep prices and even an occasionally disappointing dinner, the promise of great, creative food in a sleek, funky atmosphere keeps me returning to Cottonwood Cafe.

Beginning its third year in Cambridge, Cottonwood Cafe is one product of the Southwest/Tex-Mex trend that dominated the nation's restaurant scene in the mid-80's. Dubbing the food "foo-foo," one friend finds Cottonwood pretentious; a relative to whom I excitedly introduced Cottonwood was appalled at such sensory challenges such as grilled popcorn chicken or lamb with raspberry-chipotle sauce. They have a right to their opinion; however, reservations at this fairly spacious res-

taurant on weekend nights are pretty difficult even two days in advance. By maintaining high-quality standards for both food and service, Cottonwood has outlived the "trend" and should be appreciated as an established purveyor of generally excellent, nouvelle Southwestern cuisine.

Describing Southwestern cuisine on the menu as "founded on Indian legend, cultivated through Spanish tradition and captured by the American pioneer," Cottonwood's mission is to revive the spirit of the American Southwest in modern New England. Through its unique combinations of Southwestern herbs and spices, and through its invocation of Southwestern colors and Native American design, Cottonwood succeeds in its mission.

So, in honor of the spirit of the Southwest — drink! Cottonwood received the "Best Margarita" award from Boston Magazine in 1989 — it's worth finding out why. Or try this combination: a Bloody Maria (tequila instead of vodka), followed by a fresh peach margarita and topped with a glass of tart sangria during dinner. Or, choose from the international beer selection, including three Mexican beers, or the short but adequate list of American wines. The waitpersons never seem to know much about the bar, but, otherwise, they're knowledgeable about the food and always pleasant. Characteristic of fine service, they appear at your table when you need them and disappear when you don't.

As for the food, the appetizers are the high point of the meal. Always order a variety. The Desert Pizza is enough for at least two to share (in fact, it's an entree on the lunch menu). A fried flour tortilla topped with cheese, tomatoes, scallion, olives and jalapeno peppers, the pizza comes with or without chicken and seems to please everybody. The Blue Mesa Shrimp consists of four marinated, grilled and smoked shrimp served cold with a cilantro mayonnaise,

pico de gallo and blue tortilla chips. (Pico de gallo — "rooster's beak" — is a refreshing tomato, onion and chile relish that accompanies almost every dish on the menu.) I also recommend the Snake Bites: shrimp and cheese stuffed jalapeno peppers, fried with cilantro mayonnaise, and the Cowboy Pot Stickers: egg tortillas wrapped around chicken and peppers and served with a fiery hot sweet chile sauce; it's worth ordering for the name alone. On two occasions I've ordered the special oyster appetizer: one was oysters served raw on the half shell with a tequila-cilantro-tomato sauce and the other was oysters baked with bacon, corn bread crumbs and jalapeno. Both were perfect.

If you haven't filled up on drinks and appetizers, try one of the following entrees: the Ranchero Strip, a tender and juicy grilled sirloin topped with just enough jalapeno-cayenne rosemary butter, with a sweet pepper quesadilla on the side; the Barbacoa, chicken and shrimp in a tangy barbeque sauce with grilled bananas and, you guessed it, pico de gallo; the Rocky Mountain Lamb, three tender chops on a dish, half of which is neatly covered with a tangy raspberry-chipotle sauce and the other half covered with an herbal cilantro-pesto sauce, and finished off with a pear and pinenut chutney; and, finally, the Catch of the Day, often a tuna or Mahi Mahi steak with a fruit or cilantro-mayonnaise sauce. Also good, but less exciting, are the Chicken or Steak Diablo and the Mixed Grill — an upscale fajitas with pork, chicken and steak strips. The Seafood Posole, a seafood stew that the menu proclaims to be robust, received only lukewarm reception by all who tasted it. Bearing a slight resemblance to dishwater, the chile verde, garlic and wine sauce only tasted a little better. Also disappointing was a special entree, Chamisa Chicken, a chicken in pinenut and pecan batter grilled and served with cactus mole

sauce, cayenne potatoes and, once again, pico de gallo. If anything, the little bit of liquid supplied by the mole sauce, (one variation on the traditional Mexican sauce the name of which actually comes from the Nahuatl Indian word *moli*, for a sauce made with chile peppers) formed a nice mortar with which to hold the nutty chicken and the dry potatoes together. Trouble was, I couldn't swallow them.

Cottonwood starts out with a bang on the drinks and appetizers, occasionally slips a half notch on the main meals and usually slips that half notch on the desserts. The desserts are passable, but they don't have the pizzazz of the rest of the meal. Having sampled a few of the others, I usually stick to the dense and chewy chocolate rum ball with vanilla ice cream. The pumpkin cheesecake with cranberry sauce recalled the consistency of the mole sauce on the Chamisa Chicken which I'd rather have forgotten. The chocolate pecan pie with frangelica whipped cream is well-made but nothing special and the poached pear in port with pecan shortbread is inadequate as the only fruity dessert. It seems to me that fruit-based desserts would best quench the fire ignited by an overdose of jalapeno, cayenne and barbeque sauce.

Washed in blue neon light, Cottonwood Cafe may at times feel more like a deep-sea diving excursion than an evening under the stars in the Painted Desert. But the lighting, reflecting off of bright, cactus-green painted wood chairs and low hanging lamps, pink napkins and white stucco stencil-cut walls creates a warm glow that permeates the atmosphere. A simple branch awning over the booths, cacti lining the windows, a few simple wooden painted sculptures, and a brightly colored mural of a naked woman simultaneously evoke Native American's spartan, earthy design style, the Southwest's desert

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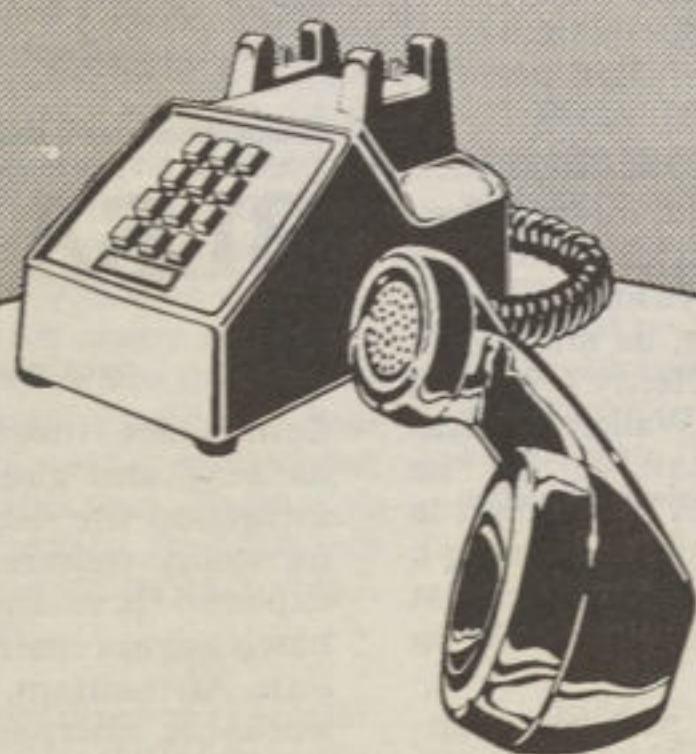
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Cafe

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fauna as well as American pop culture. And when the food arrives the full force of Southwest's celebration of color can be felt. For example, the Rocky Mountain Lamb plate half covered in bright pink sauce and half covered in bright green sauce accented with yellow chutney and framed by pastel pink napkins and green-tinted glasses proves the theory that presentation is the crux of one's eating experience.

In the warmer months, Cottonwood serves outside on umbrella covered tables. The restaurant also features bar and lunch menus with moderately priced selections that are mainly variations on the dinner fare. In addition,

specialties such as Huevos Rancheros, Frittatas, spicy egg dishes prepared with various meats, Griddle Cakes and sandwiches comprise the Sunday brunch menu and are priced between \$4 - \$8. It's easy to rack up a bill at Cottonwood for dinner, so lunch, brunch or late night bar snacks might be more affordable alternatives. (Or do what I do: suggest Cottonwood Cafe to firms, parents, grandparents, working friends, repentant spouses/fiances or significant others, or, if you're desperate, direct those unassuming tourists that constantly ask where Out of Town News is located. They'll be so grateful, they'll treat you.) If in the unlikely event you don't like Cottonwood Cafe, present this article and the Record will reimburse you for the cost of your meal. (Just kidding.)

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"My Other Column Is A Gem"

Bumper Stickers Convey More Pretension Than Thought

When France celebrated the bicentennial of its Revolution in 1989, it faced an uphill struggle. Marxist interpretation notwithstanding, the Revolution was an intensely complex affair

By R. Niewyk and S. Brady

about which historians have never been able to agree. Bicentennial organizers were at a loss to devise a simple symbol or rallying point around which to center the celebration. As *The Economist* concluded, "It is hard to make a slogan out of thousands of learned monographs."

Which probably explains why you've never seen any French Revolution Bicentennial bumper stickers.

The fault, of course, lies not in the French Revolution (which occurred long before even bumpers were invented, let alone bumper stickers), but in the stickers themselves. For while bumper stickers usually perform their stated task admirably (that is, they stick to bumpers), they are almost inherently incapable of contributing to the free flow of ideas, a task usually imputed to them by their owners.

To prove this point, we conducted a random survey of bumpers in the greater Cambridge metropolitan area (actually, we spent an hour walking around the parking lots immediately surrounding the Law School). We found that, although no two bumper stickers are exactly the same, they all fall into one of five general bumper sticker groupings:

(1) *The Driver Of This Car Has Been Somewhere Expensive And You Should Envy Him.* Our favorite example of this was "I Brake For Seagulls — Martha's Vineyard." The irony of this particular sticker is that the author probably doesn't brake for seagulls at all; you don't need to brake for seagulls, because they'll fly away. Perhaps a more appropriate sticker would read "I Would Brake For Any Seagull That Broke Both Its Wings And Wandered Onto The Highway — Martha's Vineyard." On the other hand, such a statement would only fit onto a bumper sticker if printed in tiny letters, which would defeat the purpose of letting other drivers know that the driver has enough money to summer on Martha's Vineyard. This perhaps points up the folly of combining snobbery with statements about one's personal driving habits.

Another, less obvious example of this genre is "IADOREGON." "IADOREGON" is not as socially pretentious as "Martha's Vineyard;" hailing from (or merely adoring) Oregon carries precious little snob value. However, this sticker can still be *intellectually* pretentious; it suggests that the driver could locate Oregon on a map, an awesome display of geographical knowledge in a town that regards Pittsburgh as the "West."

A more subtle (and more obnoxious) variant is the oval stickers bearing abbreviations of European countries. Some are easily decipherable, such as "GB" for Great Britain; others are more obscure, including "CH" for Switzerland or "SF" for Finland. Because the latter are usually only recognized by other drivers who have visited the country in question, they serve primarily as a means of saying "Yeah, I've been there, too." An appropriate way of dealing with this type of sticker is to pull alongside the offending driver at a red light, lean out your window, and say "So, you've been to Finland." In Finnish.

(2) *The Driver Of This Car Has A Hobby And He Wants You To Know About It.* "Rugby — Elegant Violence" and "Support Your Local Hooker — Play Rugby" typify this genre. Some stickers take the double entendre approach: "Photographers Do It In The Dark." And we've all seen the endless variations on "I'd Rather Be Sailing." Of

course the driver would "Rather Be [Flying, Skiing, Horseback Riding]" than stuck in Cambridge in a beat-up BMW; all of these are leisure activities that people spend piles of money to be able to do. A few drivers slip back into category (1) by proclaiming, "I'd Rather Be In St. Maarten." We'd rather they were there, too.

(3) *The Driver Of This Car Thinks Your Bumper Stickers Are Stupid.* In Cambridge, where "Question Authority," and "Be All That You Can Be — Work For Peace" are nearly as common as in-state license plates, we saw several satirical bumper stickers, such as "Question Peace" and "Question Questions." Many of this genre dealt with whales in an insensitive manner: "Nuke The Whales" and "Have You Hugged A Whale Today?" Some even let you wonder about whether the driver is supporting your politically correct views or making fun of them, e.g. "Mutants For Nukes."

(4) *The Driver Of This Car Is Civic-Minded.* We saw countless campaign bumper stickers supporting candidates from across the entire political spectrum, from left to far left. But by far the most popular bumper sticker in Cambridge was "Vote No on Question 3 — It Goes Too Far." Even this straightforward statement was probably disingenuous for most of its owners. For them, Question 3 didn't go too far; it went in the wrong direction.

Foreign policy commentators broke down into the Western Hemisphere isolationists ("Hands Off Central America"; "Not A Dime For Death Squad Government in El Salvador"; "Your Taxes Pay for Torture, Rape & Murder in Central America"; "Boycott South Africa, Not Nicaragua") and the Eastern Hemisphere isolationists ("Troops Out Now! No Blood for Oil!"; "Is Oil Thicker than Blood?"; "A Kinder, Gentler War?"). One driver who perhaps feared that his sticker could become obsolete had an isolationist demand for all seasons (and all interventions): "Get U.S. Out!" One of the many "pro-choice" bumper stickers capitalized on the isolationism genre by urging "No U.S. Intervention In Women's Wombs." Apparently Reagan's attempts at deregulation would have been more popular in Cambridge had he couched them in similar terms. Imagine "No U.S. Intervention In Airline Rate Setting" or "U.S. Out of Securities and Banking."

(5) *The Driver Of This Car Has A Bumper Sticker That Doesn't Fit In Any Category, But We Just Have To Ridicule It.* Just as fourth graders like sugar but have trouble fitting it into one of the four food groups, we had trouble categorizing this one: "Gorbachev for Governor." Uh-huh. Given the choice between a budget-cutting, "pro-choice" Brahmin Republican and a cranky Texan Democrat with a penchant for politically incorrect remarks, we should have rejected both and instead drafted a leader who has extinguished freedom of the press, crushed the Baltic self-determination movements with brutal military actions, and placed control of his country in the hands of the KGB.

Now, we doubt this driver would want Gorbachev as his governor (although he did probably vote for Dukakis). But that almost makes his position worse. What he was *really* saying is this: "I think both candidates are bad, so I'll smugly wish a pox on both their houses and suggest a wholly impractical candidate who is more my ideological speed." And then he can do the Superior Dance.

Which brings us to the point of this column. The value of bumper stickers as a medium for communication or political commentary in a complex society is virtually nil. You know it and we know it. The problem is not that the drivers who use them don't know it, but precisely that they do. Of

course they realize the irrelevance of truisms like "Hugs Are Better Than Drugs." Their real point is to announce to the world: The driver of this car is an admirably caring person.

A quick glance around town suggests that Cambridge has an abundance of these Admirably Caring People. Indeed, collectively they make up an entire class, one deserving a special name. Happily, such a name has been coined. Joseph Epstein calls them the "virtucrats": "those people who are extremely confident about their own virtue and whose spectacular confidence nicely feeds their general feeling of superiority." It is easy to spot a virtucrat, because "whatever he may ostensibly be saying, what he is *really* saying is, 'I'm fundamentally a damn fine person.'"

Bumper stickers may be the ultimate virtucratic medium, for they exhibit all of the characteristics Epstein ascribes to virtucratic sentiment. First, many are blatantly self-congratulatory: "Pro-Choice And Proud Of It!" Second, one often doesn't have to do much about virtucratic opinions after announcing one is in favor of them. Once we "Pledge To Resist U.S. War In Central America," what then? Third, virtucrats imply that those who oppose their position are not just wrong, they are "selfish, a sell-out, insensitive, possibly evil." Witness the popular "People Yes, Seabrook No," which tells us that individuals who are pro-nuclear power must also be anti-people.

All those who tire of virtucratic sloganeering, on the other hand, should follow the advice of George Will: "Honk if you wish such people would go away."

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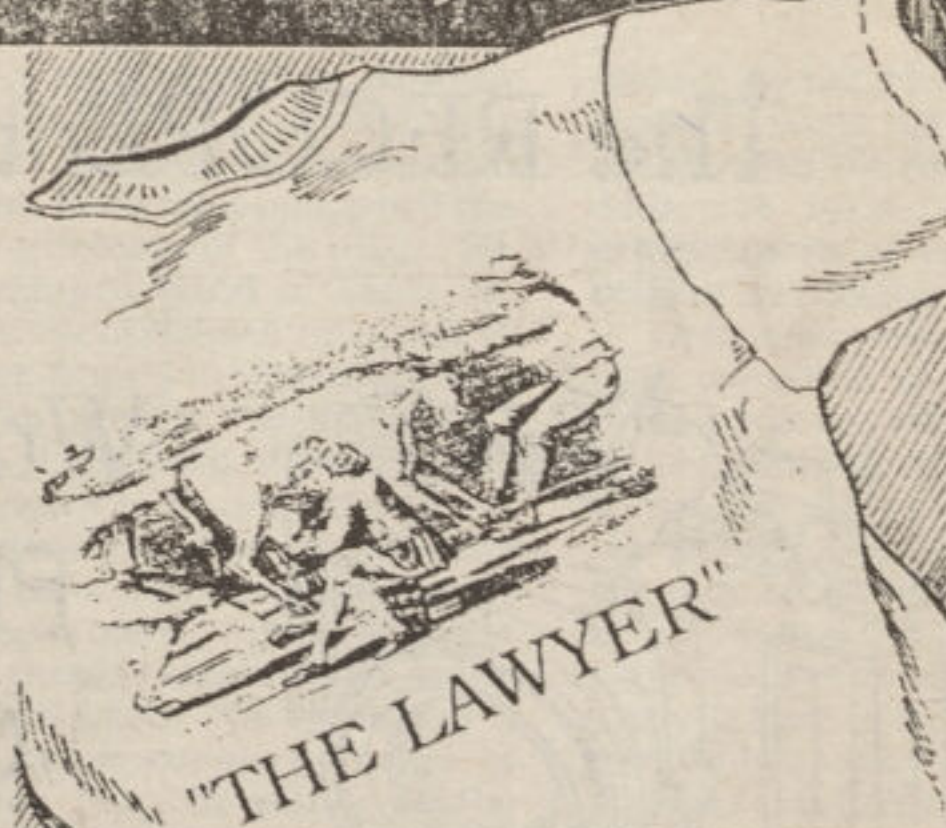
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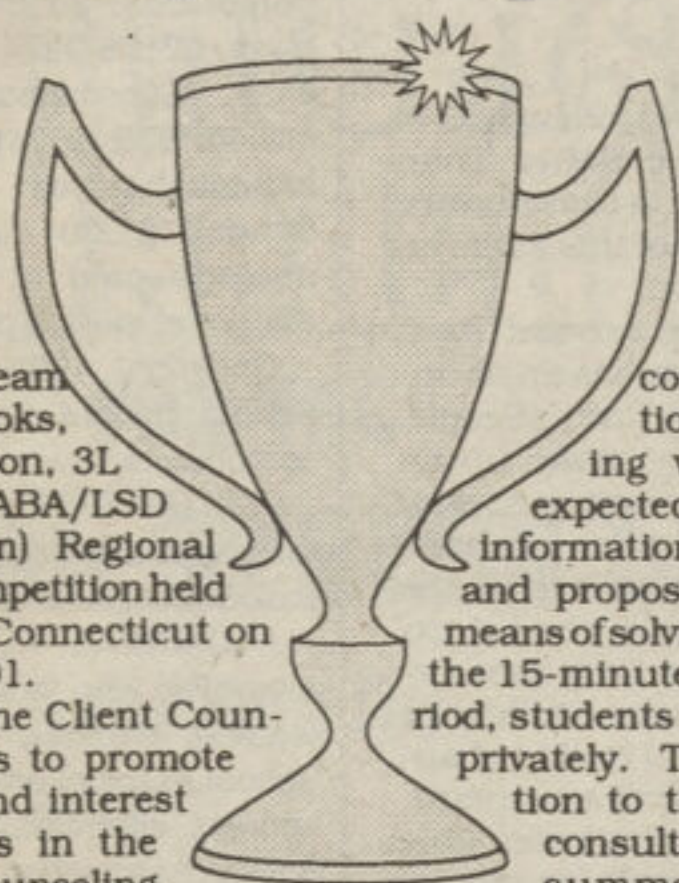
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HLS Team Wins Regional Counseling Competition



HLS's winning team, comprising Blane Brooks, 2L, and Julie Ferguson, 3L, placed first in the ABA/LSD (Law School Division) Regional Client Counseling Competition held at the University of Connecticut on February 22, 23, 1991.

The purpose of the Client Counseling Competition is to promote greater knowledge and interest among law students in the preventive law and counseling functions of law practice and to encourage students to develop interviewing, planning, and analytical skills in the lawyer-client relationship in the law office.

The competition simulates a law office consultation in which law students, acting as attorneys, are given consultation situations similar to those which a law office secretary might be given when a client calls to make an appointment. One such consultation situation was: Murphy owns a dance studio. Murphy fears that he will be sued by a disgruntled client who wants her money back. Murphy says that the client's husband claims that an instructor made a pass at his wife. Murphy thinks the client's husband is upset that his wife spent \$200 for dance lessons, and now he is just trying to force Murphy to return the money.

All teams conducted a 45-minute interview with a person playing the role of the client. The first thirty minutes

consisted of a consultation with the client during which students were expected to elicit the relevant information, outline the problem, and propose a solution or other means of solving the problem. During the 15-minute post-consultation period, students were allowed to confer privately. They made a presentation to the judges. (The post-consultation performance may summarize the interview, indicate the scope of the legal work to be undertaken, and state the legal issues that should be researched.)

The competition consisted of four rounds. All teams competed in the first three rounds, which were conducted simultaneously. The judges scored the rounds by awarding points. The two highest scoring teams, HLS and Boston College, competed in the fourth round.

Among other things, the judges made decisions based on the students' skill—in establishing effective relationships with their clients, learning how clients view their problems and their situations, learning the clients' initial goals and expectations, and analyzing the clients' problems.

"It was a very good experience," said Ferguson. "The competition highlighted skills we don't work on in law school, and reinforced the idea that there is more to being a lawyer than just knowing the law."

Cohen

continued from page 3

research opportunities in each of the programs. They will be asked to contact program directors prior to their arrival at the law school, and will also be pre-identified by the Graduate Program for each of the research and training programs. This will, according to Cohen, give them a head start by "building a relationship between the students and the research branches before the graduates get to the law school."

"We hope to create more internships in the United States for graduate students, and more foreign internships and study abroad opportunities for J.D. students. We also intend to develop a closer relationship with the Harvard Center for International Affairs, the Harvard Institute of International Development, the Business School, and the Kennedy School. There is no separating international problems and academic disciplines."

Cohen emphasized that great effort will be directed toward the development and enhancement of the academic quality of the L.L.M. and S.J.D. programs over the next year. Cohen gave credit to Professor David Kennedy. He said, "Kennedy is doing excellent work as chair of the faculty committee on graduate studies, and cares deeply about the quality of the graduate program and curriculum development."

Two related goals are recruiting and fundraising. Cohen said that recruiting will be "of particular importance. We need to identify and attract candidates from areas of the world traditionally underrepresented in the graduate program—Eastern Europe, the Soviet Union, french-speaking West Africa and Southeast Asia."

Presently only thirty-five percent of graduate students receive some form of financial aid, thus making it difficult for qualified candidates for some parts

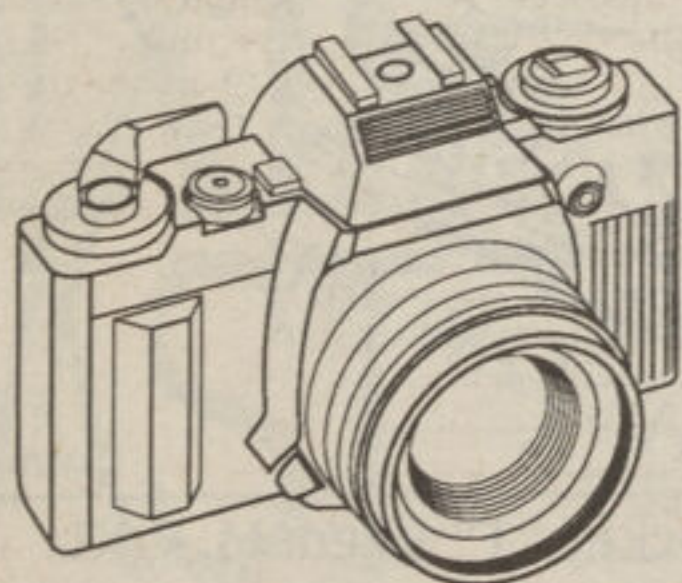
of the world to attend Harvard. Cohen stated, "Fundraising will be critically important in securing sorely needed additional aid for such students. We envision a program composed of the highest caliber individuals, that is uncompromised by lack of financial aid."

Another aspect of the fundraising effort will focus on the J.D. experience. Cohen said "It will also be important to secure funding to make it possible for faculty members to conduct research and study abroad with a view toward internationalizing domestic course." Cohen said he was in an ideal position because of the high quality of graduate students and the work of past deans. He summed up his feelings by saying, "I have tremendous respect for the students in the graduate program. Individually and collectively, they are among the greatest treasures of the university. The Graduate Program attracts truly outstanding students, and for many of these students the experience here is a profound and life-changing one. The strength of the program owes a lot to the creativity and dedication of my predecessors, Fred Snyder and David Smith. Hundreds of students can attest to the care and attention they devoted to them and to the program. I hope we will be able to further enrich the experience of graduate students and J.D. students by developing new curricular and extra-curricular opportunities and provide the best preparation possible for the complex problems they will face as leaders in the legal profession, government and international service and teaching."

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Langdell Display Follows The Path Of The Lawgiver

"What a medley of a man," a display commemorating the sesquicentennial of the birth of Oliver Wendell Holmes, Jr., has transformed the central corridor of Langdell Library into a walking tour of the life of the Olympian jurist, soldier, humanist and wordsmith. Assembled by visiting scholar Hiller B. Zobel, the retrospective opened on March 8 and will run until June 6, 1991.

Appropriately enough, the walk of Holmes' life begins near the *F. Supps* where the Ames teams prepare for battle

By Ellen P. Goodman

and young Holmes poses for a photograph in his Union Army uniform, full of muted bellicosity. With hand on leg and a silver clover on his hat, Holmes sets his mouth under a still tentative mustache. He had graduated from Harvard in 1861 and was traversing Beacon Street with Hobbes' *Leviathan* under his arm, when a friend told him he had been appointed to the Twentieth Regiment, Massachusetts Volunteer Infantry. We follow Holmes through his three years' service in the Civil War. He was thrice wounded in the rib, shoulder, and, suiting his taste for great tragedy, in the heel. These injuries kept

was for fine English underwear. A bill of sale from the London shop of E. & H. Hummel & Co.: Shirt Makers, Hosiers, Glovers, and Outfitters belies his tastes. Holmes also seemed to fancy English femininity. "English women," he wrote, "are brought up . . . to realize that it is an object to be charming, that man is a dangerous animal — or ought to be — and that a sexless *bonhomie* is not the ideal relation." It was, however, an American woman named Fanny Bowditch Dixwell that Holmes married before the Reverend Phillips Brooks in Christ Church, Cambridge, in 1872.

Another of Holmes' passions was for his mentors. The display swells with Holmes' gratitude to men like Harvard Law Professor John Chipman Gray. Like Holmes, Gray had belonged to the august Porcellian Club at Harvard College, and maintained a sense of brotherhood with that circle of men that included Theodore Roosevelt, who appointed Holmes to the Supreme Court in 1902. One of the most poignant sections of the display lays bare some of the correspondence between Holmes and Gray's wife Anna (Nina) Gray. Writing from 1888 until Nina's death in 1932, Holmes allowed himself a more spontaneous and candid expression than he did in his more renowned cor-



"What a medley of man," a display of memorabilia commemorating the sesquicentennial of Oliver Wendell Holmes' will be available for view in Langdell Library through June 6.

He was thrice wounded in the rib, shoulder, and, suiting his taste for great tragedy, in the heel.

him from joining his regiment in the Battle of Gettysburg. One stands in the tides of law students passing the glass cases, reading a description of the battle: "Now the loyal wave rolls up as if it would overleap its barrier, the crest. Pistols flash with the muskets. My 'Forward to the wall' is answered by the Rebel Counter-command, 'Steady, men!' and the wave swings back. Again it surges and again it sinks." Perhaps the young Holmes' most memorable joust came when President Lincoln visited Fort Stevens to observe the fighting. "Get down you damn fool, before you get shot," Holmes shouted.

Holmes returned from battle to attend the Harvard Law School. Those years of bloody travail, however, would forever burn in his oratory, writing, and character. Holmes wrote of his generation: "Through our great good fortune, in our youth our hearts were touched with fire. It was given to us to learn at the outset that life is a profound and passionate thing." In Holmes' life, as it appears in the next purple-hued glass case, one of the minor passions

response with Harold Laski or Frederick Pollock. "One needs at times the unspecialized interest which women bring to conversation and the greater personal warmth which is present, however unconscious, in the most Platonic relations with them."

An interesting exchange between Holmes and Nina Gray occurred in 1921 at a time when it was rumored that Justice Brandeis controlled Holmes' vote on the Court. We first see the mark of Brandeis in a letter dated December 9, 1882, from the offices of Warren and Brandeis, Counsellors at Law, congratulating Holmes on his ascent to the Massachusetts Supreme Judicial Court. Later, after Brandeis' bitter fight through the Supreme Court confirmation process, Holmes told Nina Gray that "I think [Brancheis] really has a feeling of intellectual companionship with me as I have with him, tending in the direction of real friendship." It was an affinity that joined two men in a First Amendment alliance for freer speech and one that provoked Nina Gray to urge Holmes to "stay thor-

oughly Anglo-Saxon." Holmes replied in March 1921: "I take the innuendo to be that I am under the influence of the Heb[rew]s. I am comfortably confident that I am under no influence except that of thoughts and insights." A photo of Holmes and Brandeis accompanies this exchange. Holmes in a light brown bowler hat perched high over the full brush of his mustache stoops slightly. Brandeis dons a dark bowler and, inclining toward Holmes with a hand in the crook of the older man's arm, seems if anything to be following Holmes' lead.

This section facing the wall plaques of Williston Competition champions celebrates Holmes' acuity and appetite of mind. Some of his famous opinions are excerpted. But even more satisfying

some topics of conversation came from the books listed in the Black Book: on display. In smudged blue and black ink, Holmes has listed all his reading including such diverse tomes as Shakespeare's *Cymbeline*, Roger Fry's *Characteristics of French Art*, and Frank Shay's *Murder on Cape Cod*. While eclectic, Holmes' tastes were not indiscriminate. At the age of 91, in a letter to Felix Frankfurter, Holmes reviewed a book like so: "An able writer, but the metaphysics of screwing your neighbor's wife don't interest me."

It has only been five years since the entire mass of Holmes' papers has been open for free scholarly perusal. According to Judy Mellins of the Special Collections Department, the current

A man of gusto and good cheer, Holmes liked many and was well liked..

is the tale of correspondence between Holmes and the brilliant English scholar Harold Laski, in which wit and wisdom commingled. Each man nourished the prodigious interests of the other. We see the cramped hand of Laski responding to one of Holmes' missives: "A grand letter from you yesterday was like a fragrant scent in a dismal world."

Across Langdell's divide where Hollis terminals hum, we come to another showcase of what the display catalogue calls Holmes' "singularly winning personality." A man of gusto and good cheer, Holmes liked many and was well liked. The receipt of a bicycle purchase conjures images of the fifty-plus year-old author of *The Common Law* pedaling through the Massachusetts countryside with Brooks Adams, writer and scion of the intellectually fertile Adams family. No doubt,

display at Langdell is only one of a spate of efforts currently underway to examine the life and work of this man who was fond of dismissing his achievements by saying, "I am in the belly of the Cosmos, not it in me."

A final stop along the display is the tape recording of Holmes' radio address upon receiving an honorary law degree from Yale in 1931. He clears his throat and then, in sonorous Brahmin tones long in the vowel, says: "Riders in the race do not stop short when they reach the goal. There is a little finishing canter before coming to a standstill. There is time to hear the kind voice of friends and to say to oneself 'the work is done.' But just as one says that, the answer comes: 'The race is over but the work is never done while the power to work remains.'"



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