



Harvard Law RECORD

America's Oldest
Law School
Newspaper

35 CENTS

Volume 100, No. 4

Cambridge 02138

Friday, February 24, 1995

Roe Will Go, Says Speaker

By Greg Stohr

The days of legalized abortion are numbered, a leading antiabortion activist told a crowd of about 250 at HLS this past Saturday.

The poor quality of abortion services in America today, the logical flaws in the Supreme Court's abortion decisions, and the growing tide of legal protection for fetuses will create a culture that no longer tolerates abortion, according to Clarke Forsythe, vice president and general counsel of Americans United for Life.

"Legalization has done nothing to shed abortion of its social and moral stigma," Forsythe said. "In so many ways, abortion has failed to fulfill its promises."

Some of Forsythe's harshest criticisms came at the expense of abortion providers, who he said tended to be the "dregs of society."

Forsythe pointed to the case of Dr. Steven Brigham, who replaced the murdered Dr. John Britton in a Pensacola, Florida abortion clinic, until earlier this month when Florida became the second state to revoke his license to practice medicine. Forsythe also said a woman had recently died while undergoing an abortion in California.

"None of you would tolerate the substandard practice of medicine for a cold that is tolerated in abortion," Forsythe told the audience. "The abortion industry is imploding."

But the poor quality of care

please see **ROE**, page 10



Prof. Mary Ann Glendon speaks with panelist Clarke Forsythe at last weekend's symposium on the pro-life movement.

LSC Candidates Discuss Goals, Strategies in Pre-Election Interviews

By April Rockstead

Barring a runoff, it's likely voters will have elected new Law School Council leaders by the time this **RECORD** issue arrives in Hark boxes around the world. Still, students deserve a closer look than the campaign statements revealed about the goals of the tickets whose members they elected and rejected.

Candidates contacted for pre-election interviews shared many concerns about the state of Law School facilities — including Harkness Commons, Hemenway Gymnasium, and the dormitories — but differed, sometimes substantially, in their strategies for addressing those issues.

William James Hoffer '96, a candidate for the LSC presiden-

cy, said he and running mate David Koontz '96 favored making better use of LSC's ability to appoint students to Law School committees by giving more direction to student appointees.

Hoffer, a former member of the Holmes Field building committee, said student appointees are currently required to file only a brief report with the council about the committee's activities during their membership.

"If the council takes a greater interest in the committees, then the students have a lot more legitimacy and clout," Hoffer said. "Student voice is getting a rather short end of the stick, and I think that can be changed."

While conceding the council

please see **LSC**, page 10

Affirmative Action Defended, Criticized by HLS Panelists

By Victoria Kuohung

Affirmative action has created a backlash against white males at HLS, claimed Jeff Place '96 in front of an audience of about 50 at last Tuesday's panel titled "Student Diversity and the Law School Admission Process."

Place, who is president of the Federalist Society, was one of five speakers at the event, which also included former Solicitor General Archibald Cox '37, who served as petitioner's advocate in *University of California Regents v. Bakke* in 1978; Assistant Dean of Admissions Joyce Curll; Law School Council Vice President Clarke Camper '95; La Alianza member Jessica Herrera '95; and Class Marshall and BLSA member Rory Verrett '95.

"It's a mistake to assume that affirmative action equals diversity," Place said. "At some point affirmative action tells applicants who aren't in a particular racial category, 'We think that because [you are not a minority], we're going to administer a strike against you.' There's something very harmful in that practice."

"Differences should be accounted for, but a blanket category of race is a mistake."

The panel comes at a time when Republican presidential hopefuls are leveling fire at affirmative action, with Senators Phil Gramm (R-Tex.) and Bob Dole (R-Kan.), as well as former Secretary of Education and Tennessee Governor Lamar Alexander all vowing to abolish the program in federal government.

In addition, a new popular initiative in California to end affirmative action in public insti-

tutions is gaining quick and widespread support.

Cox opened the forum by reviewing his argument in *Bakke*, saying they had asserted that "race-conscious action designed to help a particular class was not per se a violation of the Equal Protection clause of the Constitution if there was sufficient justification." *Bakke* had challenged the policy of reserving 16 out of 100 spaces for people of color in each class at the University of California at Davis Medical School, claiming that it violated the 14th Amendment right to equal protection.

Cox said, however, that at the time, "the only way to open opportunities to blacks and Latinos to enter the medical profession was by some form of affirmative action."

"I don't deny there are costs to affirmative action but they are greatly overbalanced by benefits to health, to education, and to society," said Cox. "The benefits to health exist because there is reason to hope that if more young people from the inner cities enter medical school, they would go back to serve people of their communities."

"There are educational benefits for their classmates who would come to understand their different experiences. And there are social benefits in showing to other young people that there are opportunities in life which are open to them."

Following Cox's presentation, Curll focused on affirmative action in the admissions process at HLS, saying that the "ultimate question [is], among the qualified,

please see **DIVERSITY**, page 2

A Whole New Dimension to Cutting Class Seminar Takes Class Into Cyberspace

By David Weiss

Have you ever followed a seminar discussion and posed a question to the panelists ... without ever going to class? You will when, on February 27, Harvard University brings its first cyberspace seminar to you.

Patterned after courses currently taught at MIT and other schools nationwide, the new interdisciplinary Seminar on Information, Technology, Law and Public Policy will combine a regular classroom component with a posting of class readings, discussions, and student papers on the World Wide Web, one of the services available on the "information superhighway."

Those wishing to respond to issues raised in class but who are not enrolled in the course will be able to send their comments via

e-mail to cyber@hulaw1.harvard.edu. They will then be put on a list of people to receive weekly updates on the seminar.

"This is the class of the future," said Prof. Charles Nesson '63, one of the forces behind the two-credit course. "We will be mounting the course on the World Wide Web. It is the first course at Harvard [University] to do so."

The course itself will focus on the legal and public policy issues surrounding the use of "cyberspace," including libel, copyright, personal privacy, and national security. Every Monday night for the next 10 weeks, two or three experts on a given issue will present their views and answer student questions, with the discussion being moderated by Prof. Arthur Miller '58.

please see **SEMINAR**, page 2

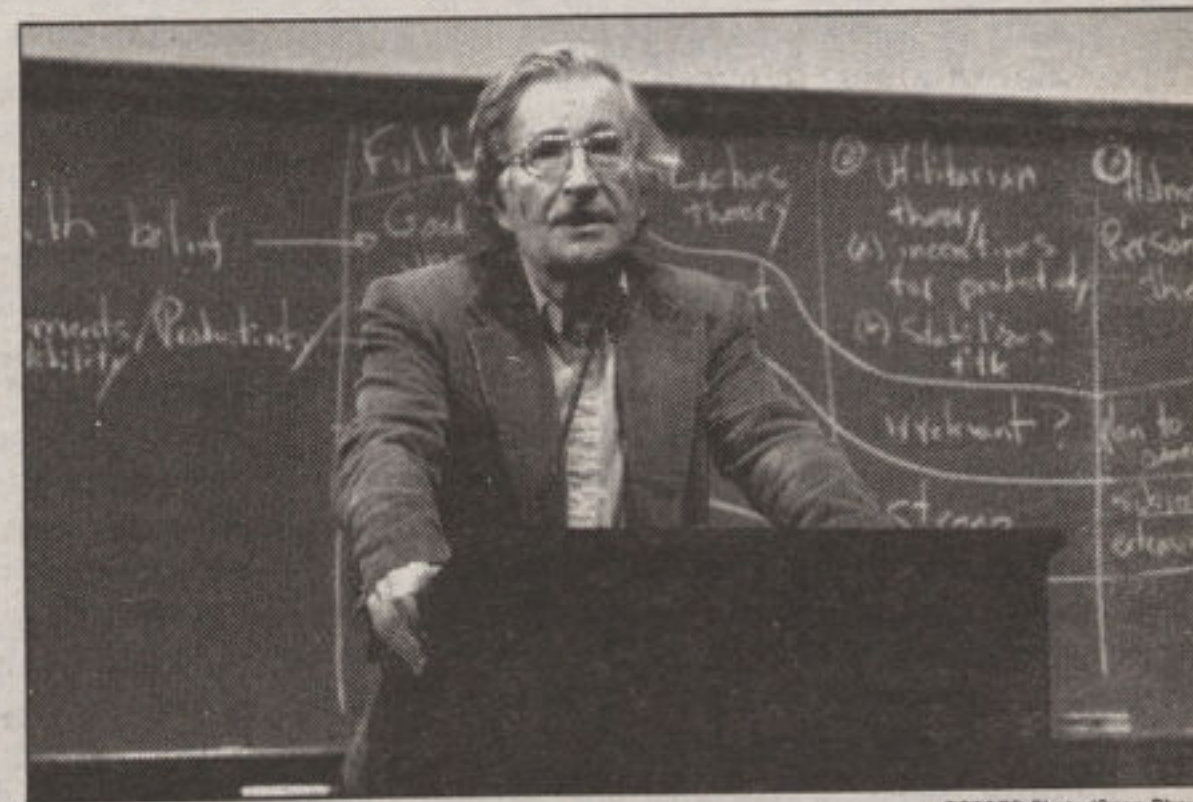
Noam Chomsky Discusses Thought Control, Censorship

By Jeff Bucholtz

Decrying the "private tyranny" that prevents Americans from exercising their legally guaranteed right to free speech, M.I.T. linguistics professor and author Noam Chomsky spoke last Friday to a standing-room only audience about "Thought Control in Free Societies."

Chomsky began by praising the "unique formal protections" of speech rights that U.S. law affords, but quickly drew a sharp distinction between "legal guarantees" and "the extent to which rights can be exercised" in practice.

"Although formal protections are an important thing which I don't mean to demean," said Chomsky, "the U.S. is unusual among developed societies in the constraints which exist to ensure that these rights aren't exercised except within a



Noam Chomsky spoke on free speech issues before a standing-room only audience last Friday.

narrow doctrinal range."

Drawing on the notion of "literary censorship" developed by George Orwell in his introduction to "Animal Farm," Chomsky asserted that "institutional structure" and culture can operate to produce substan-

tially the same "media product" as government censorship. "One example [of this phenomenon] is that Orwell's introduction wasn't published at the time" the book originally

please see **CHOMSKY**, page 11



SPRING BREAK!

NASSAU from \$419

JAMAICA from \$449

CANCUN from \$419



Includes: RT airfare from Boston, 7 Night Hotel accommodations, based on double occupancy, hotel transfers. Taxes and surcharges are not included.

1384 Mass. Ave., Harvard Sq., Cambridge

617-497-1497

Panel Examines Diversity at HLS

continued from DIVERSITY, page 1

how does one choose?"

Drawing on her experience as dean of admissions at New York University law school and as assistant dean at HLS since 1987, Curll said her office tries to "balance the two values of excellence and diversity" in selecting "the best possible mix of students with a range of backgrounds and points of view."

Emphasizing that traditional indicia such as grades and LSAT scores are incomplete measures of success, Curll said, "It is not a level playing field for everybody. Achievements have to be judged in the context of how a person overcame obstacles and took advantage of opportunities."

"Diversity and experience are inextricably intertwined. Diversity needs difference."

Rejecting Place's claim that the Office of Admissions was in effect handicapping white applicants through affirmative action, Curll said, "Race is not a blanket category—other factors exist in the way we look at excellence in and of itself. In no case do we ever see two candidates who are exactly the same."

Place, however, said admissions policies should not focus on race, adding that "economics play a much larger role in shaping a person" and that "we need to work toward a society that is color-blind, not color-hypersensitive."

Varete responded to Place's comments by saying that "the beauty of affirmative action is that it allows admissions committees to look at the distance an applicant has travelled [in overcoming racial obstacles]."

"When race is the most predominant organizing factor in society, how do you dismantle it?" Varete said. "We are not going to get over race by denying that it exists."



Affirmative action policy in admissions was the subject of debate among panelists (l. to r.) Prof. Archibald Cox '37, Assistant Dean of Admissions Joyce Curll, Clarke Camper '95, Jessica Herrera '95, Rory Varette '95, and Jeff Place '96.

"White people were guaranteed the freedom of not being slaves, of voting, of owning property because of their race. The lingering effects of this racism continue to exist."

Quoting from Blackmun's dissent in *Bakke*, Cox followed this exchange by saying the first step toward eliminating racism was to acknowledge the power of race. But adding that he was unsure whether affirmative action has truly diminished racial antagonism, Cox said, "What worries me is that affirmative action seems to have built racial antagonisms which have been worse than before."

Following the discussion, the audience presented questions to the panelists, engendering lively and sometimes controversial debate. Yih-Hsien Shen '95, who attended the event, said overall the discussion was "interesting," but noted, "The problem is that you can't really convince people to change their views on affirmative action in one afternoon, and in some ways some of the more conservative people

weren't hearing what was being said [by supporters of affirmative action]."

After the panel, Place said that he felt the discussion may have polarized views and mischaracterized his position.

"I'm completely happy with the make-up of the class," Place said. "It's 69% Caucasian, with the national population being 74% Caucasian. That is a fair make-up if not more than fair. But it should not be changed more to some more rigid structure of quotas or increased bias against accepting white males because we're just another white male."

"I don't think it's the school that is denigrating white males just because you're white—I think it is the other students that are doing that. Inasmuch as affirmative action produces the class we have, I have no complaints. It's the culture, the way students think about affirmative action, that is bad."

The panel was organized by the Dean of Students Advisory Working Group and moderated by Law School Council President Willie Epps, Jr. '95.

The Nature v. Nurture Debate Continues

Roberts Discusses Race, Genetics, Law

By Josh Strathman

The social value Americans place on race is far more important than biological factors in determining the significance of genetic ties, says a Rutgers University law professor.

Prof. Dorothy Roberts '80 spoke last Wednesday to HLS students about "Genetics, Race and the Law," just after the president of Rutgers University was criticized for his comments that genetics caused students of color to wind up consistently at the bottom of the class.

Her talk also followed a lecture by Charles Murray at the Kennedy School of Government on his book "The Bell Curve," which argues that some races are genetically less intelligent than others.

Roberts viewed this genetic determinist revival of biological explanations of character as a response to current social crises. If dominant members of society successfully argue that personality is "hard-wired" into the "genetic soul," then they can hold genetics, rather than external factors, responsible for social ills, said Roberts.

This perspective, she claimed, tends to naturalize social stratification and disavow political responsibility for the plight of the underprivileged.

In contrast to such determinist positions, Roberts discussed how society has interpreted genetic ties to structure and control social divisions, and how oppressed groups have dealt with those structures.

According to Roberts, American society has elevated race to a genetic "trait" of central importance and has placed a higher value on the traits of "whiteness"

than "blackness." To preserve the separateness of these traits, Roberts argued, the judicial system has manipulated the relevance of genetic ties.

Roberts used the legal structures underlying slavery as an example. She said that although the Anglo-American legal tradition placed importance on the paternal blood line for purposes of status and inheritance, this was reversed under slavery where matriarchal descent determined a child's status.

This shift in the relevance of genetic ties, according to Roberts, served to maintain the racial caste system by making genetics both "supremely important and supremely insignificant." Genetics became supremely important because the genetic relation to one's mother determined race and hence slave or free status. Simultaneously, however, an individual's actual genetic makeup lost virtually all real significance.

As a current example, Roberts discussed how perceptions of genetics had led to differences in African American and white conceptions of personal identity. Because society places less value on "black genes," she said, African Americans have responded to this stigma by downplaying the importance of genetics in personal definitions. She cited as evidence the decreased importance of genetic ties in African American views of family and parenthood and the greater inclusion of non-relatives within the family group.

Roberts viewed this self definition of personality not only as a response to, but also a refutation of the genetic determinist perspective.

The Harvard Black Law Students Association sponsored Roberts' talk as part of Black History Month.

Seminar Explores, Uses Cyberspace

continued from SEMINAR, page 1

"We've got an amazing array," said Nesson of the list of speakers, which includes John Perry Barlow, the founder of the Electronic Frontier Foundation; Stewart Baker, former lead counsel of NSA; Jamie Gorelick '75, deputy attorney general; and Tom Lemberg, chief counsel of Lotus Development. "It kind of demonstrated to us the invitational power of Harvard."

The 20 students actually enrolled in the class were selected from a large pool of candidates who submitted a resume and statement of interest in December. Students will be responsible for becoming an expert on one or more topics discussed in the course, providing general readings and a summary of the subject for the rest of the class and moderating the E-mail postings and discussion of their topic.

At the end of the course, each student will write a paper on one of these subject areas, which Nesson expects to post on the World Wide Web and thereby make available to the world at large.

"Students are one of the great resources here at the Law School," said David Margolin '96, one of the students who helped put the program together. "But usually the professors just give them the information and they are told what to do."

"Here, the students will come up with the materials and will be asking professors and students to read it."

Toward a "Cyberspace Institute"

The seminar is the first step toward what Nesson calls the Harvard Institute for Law, Information and Technology. "The objective of the seminar is to survey broadly the territory and map out areas of substantial interest and development, and to lay the foundation on which we can build out to broader curricular development," he

said.

"We would love to be able to attract the funds to this enterprise to enable us to attract the people necessary to make this a real center of public policy on cyber development."

According to Nesson, the new institute will develop curriculum, invite research fellows, and sponsor conferences and publishing on issues related to this new form of media.

The seminar itself is representative of the potential interdisciplinary nature of the institute. Support and information have been provided by people from the Law School, the K-School, the B-School, and MIT according to Tom Smuts '96, one of the student organizers of the seminar. In addition, professors from throughout the University have been invited to attend the seminar and to participate in the discussions, either in person or on e-mail.

Financial support has been provided for the seminar by the Harvard University Technology Fund and ABC/Cap Cities.

How Far Will Technology Take Us?

At this point, Harvard does not have the technical capabilities to support widespread use of such a seminar format. "We don't have a widely distributed network at the Law School, but I think we will get one," Nesson said.

Even after all of the technical bugs are worked out of the system, Nesson doubts that this seminar's format will be taken to its logical extreme — operating the seminar entirely via cyberspace without any classroom component.

"I think it is possible that courses could be [operated entirely via cyberspace], but I think there is an added plus to getting together and actually discussing the material," Nesson said.

"I think it will be second-best to take a course just on E-mail."

Women Get a Kick Out of Model Mugging

By Victoria Kuohung

Going home from the library after it closes, or even crossing the Yard alone when it's dark, are not activities most men worry about.

But for women, more vulnerable to rape and other physical attacks, walking alone at night can be much more dangerous and raise fears that many may find difficult to handle.

To address the issue of personal safety, the Women's Law Association last week hosted a three-hour program on self-defense in conjunction with the Dean of Students. Titled Street Smarts, the class was led by two representatives from Model Mugging, a national program that teaches women how to defend themselves in dangerous situations.

Political Action Co-Chair Judith Lurie '96, who helped organize the event, said she became interested in hosting Model Mugging because "it wasn't your average brand of self-defense class."

"It was a class that addressed particular problems women face about feeling ready to protect themselves. And Model Mugging was about getting women to feel like they could fight back."

Interest in the course far outstripped availability, said Lurie. Out of the 75 women who wanted to enroll, 35 were chosen by lottery. "We had people come before the workshop, hoping that they could get in," she said. "But every single person showed up for it."

Although it was not conducted last year, Model Mugging has been hosted at the Law School in the past, and Lurie said WLA hopes to make the evening

course an annual event.

Lurie, who herself has been mugged three times at gunpoint, said the practice muggings were "very useful in situations where the attacker doesn't have a gun or a knife" but expressed doubts about the effectiveness of the techniques in more dangerous situations.

Nevertheless, Lurie felt the advice dispensed in the session was still helpful. "In the beginning I was unconvinced that just standing in a particular position, just looking someone in the eye, or just holding your hands up is any signif-

cations" such as when a man drapes an unwanted arm around a woman's shoulders, or when he grabs her wrists in order to force her to go with him.

Those who attended the Law School session took turns practicing their newly-learned techniques both in pairs and by attacking the model mugger, dressed in almost fifty pounds of protective gear which resembled a space alien suit.

More complicated moves involved combining hand strikes and kicks at the model, who encouraged the women to use their full force against him.

"It is about making yourself stand up straight and getting settled, breathing deeply and showing somebody that you are not going to take [mistreatment],"
Judith Lurie '96 said.

icant deterrence," she said. "But by the end of the class I had a lot more confidence in the efficacy of those kind of techniques they were teaching."

"In fact, when I was mugged I was caught by surprise. To the extent that Model Mugging teaches you to be aware of your surroundings, it helps even when guns are involved."

Besides teaching women to use a "soft gaze" to monitor their environment for potential attackers, and to project their voice to discourage harassment, Model Mugging also teaches women to escape from "low-level physical intru-

sions" such as when a man drapes an unwanted arm around a woman's shoulders, or when he grabs her wrists in order to force her to go with him.

Adam Dershowitz, a MIT PhD student in aeronautical engineering who played the attacker in the class, said he became involved in Model Mugging after several years of martial arts training, and after his friend was sexually assaulted by an acquaintance in college.

"I spent a lot of time talking to her after the fact and helping her out with the school administration, which was very frustrating," Dershowitz said. "Just seeing what [the attack] was doing to her and what she was going through taught me a lot about women's issues and rape issues."

Another critical impetus for Dershowitz to join Model Mugging was when a undergraduate student of his at MIT was stabbed to death two years ago on Memorial Drive.

Dershowitz noted that while the Street Smarts workshop cannot fully train people in all of Model Mugging's defense strategies, "what comes out most is an awareness of your surroundings and a little more awareness of yourself. The women at the end of the class tend to be more aware of fighting possibilities."

"They understand how they can use their hands as a weapon and their knees as a weapon, and although they are far from experts they are much less susceptible to losing their heads," said Dershowitz. "They also come out with a lot more self-esteem."

Both Lisa Babiskin '96 and Patty Le '96 thought the workshop taught them important self-defense fundamentals.

"I learned how to be a less attractive target for someone which gives me more confidence in terms of being able to protect myself in case anything should happen," said Babiskin.

Le, who participated in order "to get the basics down," said she "really learned a lot in that three hours."

"[The workshop] was fantastic, and I feel empowered after taking it."

Lurie emphasized, however, that the course was "not about socking a guy in the face."

"It is about making yourself stand up straight and getting settled, breathing deeply and showing somebody that you are not going to take [mistreatment]," she said.

"Feeling yourself with confidence alone can turn a mugger away."

Lambda Introduces New Hotline

By Hope Yen

Lambda has launched a gay hotline for students at the Law School, in a move the group's co-chairs say is a first step in reaching out to the closeted gay community and shifting its focus away from serving exclusively Lambda members.

"We felt that Lambda really needs to outreach to the entire gay community at Harvard Law School instead of just the out community," said Scott Wiener '96, Lambda co-chair. "We're trying to do more outreach to people in the closet, if people just want to call and talk."

The hotline, which may be called on Thursdays from 8:30-10 p.m. at 495-4087, was established last week. Announcements were published in the HLS Adviser urging students to call if they were scared or confused about being gay, lesbian or bisexual at HLS.

Dorothy Fernandez '96, another Lambda co-chair, said the phone lines are staffed by Lambda members to help provide emotional support. Members are not given any formal training on what they might say, nor is the service intended to be a crisis hotline. Instead, the hotline is simply a resource where HLS students may speak to someone who is openly gay.

"There doesn't seem to be that many well-publicized resources who want to talk about their sexuality at the law school," Fernandez said. "We're trying to become more visible in general so other people know there are gay people on campus."

The hotline is a step in a new direction for Lambda, whose members have debated what the organization's role should be in relation to closeted people. Often the focus has been on serving those openly gay, with much less attention to outreach, organizers said.

One reason is because the gay and lesbian civil rights movement has relied so heavily on its visibility. To some people, it has been frustrating to accommodate closeted gays who aren't ready to be or refuse to be visible, said Wiener.

But Wiener and Fernandez, along

with co-chair Kevin Reuther '96, said they felt it was crucial to broaden their base by boosting outreach efforts. Along with the hotline, Lambda, which has 75 listed members, now has a new outreach coordinator for closeted gays and lesbians.

The co-chairs estimated that there are probably 150-160 students who are gay, lesbian or bisexual at the Law School, including those who are not listed members and those closeted.

Dr. Joseph Glenmullen, a psychia-

"A lot of people who are coming to terms with their sexual orientation feel very isolated and alone," Dr. Joseph Glenmullen said. "For them to realize support is out there among their peers is invaluable."

trist at the Law School Health Services, said Lambda's new phone hotline is a critical resource for students confused about their sexual orientation.

"A lot of people who are coming to terms with their sexual orientation feel very isolated and alone," he said. "For them to realize support is out there among their peers is invaluable."

Glenmullen estimated that about 5-10 percent of the patients that he and psychiatrist Dr. Elissa Kleinman see at

Law School Health Services come in with problems relating to sexual orientation. These issues may include accepting their sexuality, deciding who to tell and when, and figuring out how to meet people and get relationships started.

"These issues can be very painful and complicated," he said. "If someone grows up in this culture, they grow up with a whole set of expectations around a heterosexual orientation and lifestyle. So if at any point, they realize they are gay, they have to unlearn a whole set of expectations and put new ones in place."

The Lambda co-chairs also agreed it is not uncommon for gays and lesbians to have a difficult time at HLS. Although the Law School is relatively more open and tolerant than other college settings, the classroom experience can still be an intimidating one, they said.

"We have a very conservative faculty, with none who is openly gay," Wiener said. "For a lot of gay students, it's intimidating to be out in class. It's not necessarily that the faculty are overtly homophobic — it's just that some professors have no concept of what it means to be gay."

"In class in general, you never hear about gay issues except maybe in criminal law in regards to the sodomy issue," Wiener said, explaining that such situations create an "invisible, hostile element of the environment."

Fernandez agreed, adding that the fewer women here — both amongst students and faculty — make it difficult for lesbians to find a supportive environment with role models. She and Wiener said the law school needs to address these problems by hiring a more diverse faculty, including those openly gay, and educating straight faculty about gay and lesbian experiences in the classroom.

Fernandez urged closeted homosexuals who are seeking support to call the Lambda hotline on Thursdays or leave a message on their machine at any time. Students could also seek help at Law School Health Services, call the the Boston gay and lesbian helpline at 267-9001, or call a computerized helpline at the Business School at 495-6100.

STUDENT FARES

LONDON	\$125
AMSTERDAM	\$215
PARIS	\$219
FRANKFURT	\$229
MADRID	\$249
BRUSSELS	\$199
MOSCOW	\$259
ZURICH	\$235
PRAGUE	\$229
EURAIL FROM	\$198

1/2 round trips from Boston. Taxes not included. Int'l Student ID may be required. Mix & match options available. Fares subject to change.



**HARVARD SQUARE
1384 MASS AVE.,
CAMBRIDGE**

617-497-1497

BRIEFS



Pakistani Ambassador to U.S. Visits HLS

Pakistani Ambassador to the United States Dr. Maleeha Lodhi spoke last Thursday in Ames Courtroom to an audience of more than 150 about the current state of Pakistan-U.S. relations. Saying that the two countries have "come a long way in extricating their relationship" from political tensions in the recent years, Lodhi said that in the "common agenda of promoting human rights and peaceful resolution of disputes... it is important to remember that the process of bilateral restructuring [of Pakistan-U.S. relations] has been underway in Pakistani policymaking today."

Lodhi also said Pakistan was assuming a greater profile in Central Asia, as evidenced by its hosting next month's summit of the Economic Cooperation Organization, to which Turkey, Afghanistan, and Iran also belong. Because of this increasing influence, and because of Pakistan's "geopolitical significance," current U.S. policy which has "cut off military sales to Pakistan" has "aggravated the strategic balance in South Asia."

Her talk was sponsored by the International Law Society, the Center for Middle Eastern Studies, the South Asian Association, the HLS Forum, the Graduate Law Program, and the Islamic Law Forum.

Rudenstine Back to Form

Harvard President Neil L. Rudenstine is tanned, rested, and ready.

Rudenstine took a medical leave last November, citing excessive fatigue. In what he termed "round two" of his presidency, Rudenstine vowed to trim his busy schedule and delegate more tasks to others.

This time, Rudenstine said, he won't need to take on ambitious projects like he has in the past, like commissioning a University-wide academic plan and organizing the ongoing \$2.1 billion capital campaign.

Rudenstine's upcoming projects include implementing his academic plan and deciding the fate of various student aid programs and research funding. However, he said this time, "I will be less heavily scheduled, there will be more time for reflection, more time for writing and reading, and quite honestly, more time for vacation."

Rudenstine failed to mention whether he would consider permitting overworked Harvard students to take vacations of similar length.

— from the *Harvard Crimson*

Hanks Wins Pudding Award

Harvard is "a good community college with a parking problem that needs to be solved," according to Tom Hanks, who was hailed Tuesday as Man of the Year by Hasty Pudding Theatricals at the College.

Hanks cheerfully participated in the bizarre antics that have become the trademark of the group's annual award ceremony. Hanks donned a wig and brassiere, played a toy piano, and threw darts at pictures of the other 1995 Oscar nominees for best actor (hitting John Travolta in the ear) — all to the delight of the cheering crowd.

"I'd like to be sincere, but then I'd look like an even bigger idiot," Hanks said when he received his award, the Pudding Pot. "Still ... not bad for someone who did not finish Sacramento State."

Hasty Pudding members roasted Hanks with a musical that poked fun at his roles in the critically panned movie "Bachelor Party" and the eerily appropriate sitcom "Bosom Buddies," in which Hanks frequently dressed as a woman.

After the show, Hanks was open in his assessment.

"I looked up there before the show began and saw the future financiers and leaders of the western world," the Academy Award winner said.

"And looking at them on the stage after the first act tonight, I would have to say that most of them have great careers ahead of them as financiers and future world leaders."

Earlier this month, the group hailed Michelle Pfeiffer as its Woman of the Year.

— from the *Harvard Crimson*

Businesses Fight Proposed Smoking Ban

A proposed ordinance that would impose tougher-than-ever restrictions on smoking in Cambridge is under attack from area restaurateurs and business proprietors.

Authored by Cambridge United for Smoking Prevention (CUSP), a group composed of municipal officials and residents, the act in its first year would limit smoking areas to 30 percent of a restaurant's seats. These would decrease to 15 percent in year two and possibly zero in year three.

Currently, Cambridge restaurants may permit smoking in up to 75 percent of their seats.

The proposal would also require tobacco vendors to register with the city, making it easier to crack down on stores selling cigarettes to minors.

CUSP members claim the act reflects society's decreasing tolerance of smoking in public. Some restaurant and bar owners, however, feel the act will hurt their business by driving away customers to Boston or Somerville.

— from the *Harvard Crimson*

RADical Self-Defense

The Harvard University Police Department will be offering a class on the Rape Aggression Defense System, which is a comprehensive course for women about the basics of self-defense. The class will be taught by Harvard University Police Department officers, and will cost \$20.00, payable to Harvard University. Attendance is limited to 15 students.

For more information, contact Sergeant Larry Fennelly of the Crime Prevention Unit at the Harvard University Police Department at 495-1795.

Slouching Toward Bethlehem

The Gutenberg Elegies: The Fate of Reading in an Electronic Age
By Sven Birkerts
Boston: Faber and Faber
231 pp. / \$22.95 hardcover



By Mike Fischer '95

Book Review Editor

I still have the tattered copy of "Macbeth" which ushered me, over 20 years ago, into the sprawling and magnificent world of Shakespeare. My name, together with the date and place of my first encounter, still punctuate the flyleaf with that inimitable care of a child for whom the act of writing itself, still so recently mastered, retains something of its mystery and its power. My annotations still crisscross the margins, marking my almost comic confusion but also tracing my growing excitement and the unfolding of my imagination as I sketched the details of that memorable first scene with the witches. Shakespeare only identifies the location as "an open place." The details — the wind and the cold and the sheer desolation which so completely mirror the condition of Macbeth's own heart — were mine to add.

Though millions of people spanning generations once made the Bard's acquaintance in this way, I am painfully aware that my anecdote gives off a musty odor — is, in fact, almost quaint. Within a generation, such anecdotes will disappear altogether. Children will get to know Shakespeare, along with almost everything else — including their playmates — on a computer.

The disks are already available; today and especially tomorrow, "Macbeth" will be served up with numerous options allowing instant diversionary grazing among electronic pastures such as "The History of Elizabethan Drama" and "Life in Sixteenth-Century London." When the verse proves too challenging, a mere touch of the key will call up a more friendly version. Rather than imagining Shakespeare's witches, children will be treated to a Disney-like disc recreation. Shakespeare's text itself will become just another menu option — one chosen with ever less frequency as its difficult paradoxes, complicated rhythms, and stylistic innovations compete with the tempting and colorful wizardry swirling around them.

Such a transformation is more than a "bad thing" providing yet more fodder for jeremiads by curmudgeons like myself. The information revolution, as

The Gutenberg Elegies



THE FATE OF READING IN AN ELECTRONIC AGE

Sven Birkerts

acclaimed literary critic Sven Birkerts demonstrates with passion and eloquence in this collection of essays, is spawning a dystopia which makes Orwell's "1984" look like a picnic. All the slogans in the world, after all, could not convince Oceania's Winston Smith that freedom is truly slavery. Today, conversely, we welcome modems and faxes, the Internet and interactive technology, VCRs and video games as our liberators even as they rapidly erode the very possibility of human subjectivity.

"The expansion of electronic options," Birkerts insists in one essay, "is always at the cost of contractions in the private sphere." "The doors and walls of our habitations matter less and less," he points out, because the "monitor light is always blinking; we are always potentially on-line." And those technologies impose their own

inevitable imperatives. The phone must be answered, the phone machine cleared. The e-mail must be read; the fax demands a reply.

Interruptions, in short, occur with even greater frequency than television commercials. Enmeshed within an increasingly dense if nevertheless invisible electronic web, what Birkerts refers to as the "deep time" necessary for the cultivation of the self vanishes. What is worse, we lose the ability to take advantage of such time on those rare occasions when it remains available. Newly accustomed to doing five things at once rather than concentrating on any one of them for longer than five minutes, we rapidly become incapable of sustained concentration or reflection at all.

Not least among the many virtues of Birkert's book is the breadth of topics to which he has devoted the very sort of concentration he extols. Explorations of a world without books jostle with meditations on the word processor and the audio book as well as denunciations of the publishing industry and current academic writing. Birkerts embraces multiculturalism while paradoxically defending the literary canon and defends classically conservative values from an emphatically left-liberal perspective. He is, in short, refreshingly iconoclastic, embodying the very values he champions.

Rarely in the history of criticism have those values been espoused more completely, or defended more forthrightly, than in the moving series of essays which open Birkert's book, where he pays homage to literature as an antidote to the tyranny of the electronic circuit. Freed from the parameters of space and time, literature, he argues, is less about gulping facts and absorbing information as fast as the eye can travel than a means of getting behind those facts to engage in an all-out exploration of suddenly old-fashioned concepts such as truth and meaning, soul and destiny.

To read is to leave behind the lateral and extensive electronic chatter which pervades ever more of our lives for the vertical and intensive process of self-discovery. It is to choose the prospect of cultivating powers of memory and imagination and reflection. It is about mustering the courage and passion to know one's self rather than seeking the barrage of distractions which have made the very aspiration to such knowledge something embarrassing and alien.

And reading is also, Birkerts admits, a judgment. "It brands as insufficient," he continues, "the understandings and priorities that govern ordinary life." It challenges what he refers to, in a brilliant essay on the great critic Lionel Trilling, as "the core weakness of liberalism — its fear of appearing elitist."

If elitism requires claiming without reservation that a good novel is better than another mind-numbing evening soap opera, let alone those inanities masking as entertainment and known as video games — I couldn't agree more. For there is nothing reactionary about an elitism which insists upon taking people — all people — and their awe-inspiring potential seriously. Human beings have no business wasting their time grazing unless they aspire to be sheep. Surely our hungers and desires, our passions and our aspirations are not so easily encompassed and satisfied. Surely we can do better than slouching toward the new millennium in bored and passive acquiescence to the beast which has been born.

Decoding "The Cryptogram"



By Paul Weinberger '97

RECORD Theatre Reviewer

YOU know from the opening lines of "The Cryptogram" that you're in Mamet country. The language is sparse and elliptical, full of strange pauses and non sequiturs, what the playwright has called "dramatic poetry." Beneath the quotidian monotony of everyday conversation lies unspoken—perhaps unspeakable—needs and fears that rarely are acknowledged, much less articulated. David Mamet's characters are at times brusque and profane, as in the brilliant "Glengarry Glen Ross" (1986), or thoughtful and articulate, as in the more recent, flawed "Oleanna" (1992). Regardless of circumstance, each character occupies a place in the lonely, often brutal landscape that Mamet has created—excavated?—over the course of his essays, poems, screenplays, and, most notably, plays.

"The Cryptogram" differs from previous plays in that its focus is on childhood, and the ways in which we are shaped, or warped, by our early experiences. To his credit, Mamet has no interest in the psychobabble of common parlance, nor is he interested in tracing every adult problem to a childhood root. His goals are both more complex and more elusive than providing such pat answers. Instead of offering solutions, he gives us an unhappy trio of characters—a young boy, his mother, and a family friend—and allows them, and us, to explore these themes over the course of just 75 minutes.

When we first see him, 10-year-old John (Shelton Dane), is excitedly awaiting the arrival of his father, with whom he plans to spend the weekend. John is curious, intelligent and introspective, the kind of boy who spends time wondering where ideas come from and what makes them real. His questions find few responses, however. The few times when his presence is acknowledged, his concerns meet with bland reassurance or outright dismissal. The two adults are unable to see that John, though a child, is as confused and lonely as they are.

The source of their unhappiness is disclosed early on. John's mother, Donny, (Felicity Huffman) discovers that her husband has left her; she reacts with an embittered outrage that blinds her to John's needs. The betrayal is compounded by the complicity of her long-time friend Del, (Ed Begley Jr., best known from "St. Elsewhere"), which Donny discovers in the course of the second scene. This is the play's most powerful and effective moment, for it explores Mamet's familiar concern with misplaced trust in a new, more personal light. An intimate, meandering conversation between Donny and Del leads to an increasingly acrimonious exchange, Del's evasive replies giving way finally to brutal honesty. The first scene's erratic tempo is maintained, but now the language has a new intensity and vivacity. If initially the play feels a little off-kilter, albeit deliberately so, Mamet—also the director—shows us that his idiosyncratic, unnatural staging can convey more than a strictly "realistic" play, much as a Monet landscape evokes more than a nature photograph.

Unfortunately, the play falters in the aftermath of this exchange, in part because of Shelton Dane's inability to master the intricacies of the play's language, which is its essence (the Times' Vincent Canby may disagree here; but then he is 70 years old). Begley and Huffman's conversations have a seductively erratic rhythm, but the same words sound stilted and artificial in Dane's mouth. Granted, this could be my bias against child actors at work (I hated "Annie"). But the real blame is probably Mamet's, either for writing a part that virtually no child actor could carry, or by failing as director to advise the boy on his role. Given the difficulty even adult actors have with his material, and Mamet's own propensity for using the same few actors—Joe Mantegna, Lindsay Crouse—it's likely that any young and relatively inexperienced actor would have trouble with John's precocious musings.

Without John, the play loses much of its strength. Donny's rage and Del's pathetic self-justifications become the focal point, when it is their self-absorption to the boy's exclusion that should concern us. Instead of sympathizing with his predicament, I found myself wishing young Johnny would be put to bed so that the adults could continue their confrontation uninterrupted. This is not to say that

"The Cryptogram," Mamet explained, refers to the mystery of every life, and every childhood in particular, which can be examined and analyzed but never fully explained.

Mamet hasn't written a provocative, probing play, only that it isn't perhaps the work he intended it to be. Its provocation is not the overtly political statement of "Oleanna," but a subtler, more complex questioning of human relationships and frailty. You probably won't leave the theater in mid-argument, but with a sense of quiet, thoughtful confusion. After the performance, Mamet spoke of his goal as "delighting" the audience, but his is not the same delight afforded by a Broadway musical. Instead, it's a more perplexing, and perhaps less satisfying pleasure than that which we've come to expect from mainstream movies or plays.

What about the play's title? "The Cryptogram," Mamet explained, refers to the mystery of every life, and every childhood in particular, which can be examined and analyzed but never fully explained. To what extent the play examines the writer's own experiences is unclear. Mamet, who has previously written of his difficult childhood, has been evasive on the subject, while the latest A.R.T. promotional newsletter refers coyly to the work's depiction of "deep emotional experiences which may have their origins in Mamet's personal life." Ultimately, the question is academic, and can be left to future biographers as they mull over the playwright's notes, memos, and postcards. More important is Mamet's return to dramatic form after the disappointing "Oleanna." For all its flaws, the intelligence and perspicacity of "The Cryptogram" make for a worthwhile evening.

FOOD - O - RAMA

Another Friend in the North End



By Ted Cohen '95 and Jonathan Goldstein '95

Restaurant Guys

WITH the opening of Alloro (351 Hanover Street, 523-9268) last fall, the North End became the unlikely site of what can fairly seriously be called a "new wave" of Boston restaurants. Call it the Storefront Alchemy, the Avant-Italian Bistro, or just the Victorious Return of the Little Guy—call it whatever you want, but definitely call it welcome. With their tiny, inviting dining rooms and short, inventive menus, this trio has, in its own quiet way, upped the ante of neighborhood cooking. And while they probably won't put La Famiglia out of business—and who doesn't want to sup at the trough of red sauce every once in a while?—they have single-handedly put the North End back on the map of high-class eating.

Alloro is by far the prettiest of the three—with its white tiles, silver pressed-tin walls, gold ceiling, and candle-wattage lighting, it's one of those rooms that makes everyone look better. Although a hair too cold, ambiance-wise, to be called romantic (some flowers might do the trick here), it is one of the smartest looking restaurants we've visited. (Think of it as a cooler, more elegant version of the East Coast Grill.)

The idiosyncratic decor set the stage for our first appetizer: a salad special of salmon caviar, endive, cucumber and creme fraiche (\$8). This is Italian food? This is food you eat in February? In Boston? It is a bold move to put a dish like this on a menu like this, but in truth, the dish itself is no big whoop: while the flavors are cool and clean, nothing brings them together, and nothing makes them stand out. (Even a grating of black pepper might suffice.) We might have been happier stay-

Now, as we all know, the measure of a well-cooked steak is the way the outside comports with the inside: At its best, a medium rare steak ought to be gently charred on its outside and gradually pinker as you cut deeper into the middle. Alloro gets it right.

ing in season with the other special of frisee tossed with apples, croutons and hard-boiled egg in a warm bacon vinaigrette (\$6). (In any case, that big, fresh-baked whole loaf of crusty bread with the olive oil is a superb touch.)

We certainly were happier with the wedge of potato and wild mushroom tart served with horseradish cream (\$8). This is a modest, homey fan of thin-sliced potatoes under a lattice of sautéed mushrooms. The crust is buttery, and the horseradish cream rich and sharp. Or you might want to try "Frank's Italian Sausage," which is served with a corn cake, wilted watercress and apple aioli (\$7); or mussels in a spicy tomato broth with garlic, cilantro and cumin. Again, there are only traces of the Italian here, which seems to be both the kitchen's strength and its shortcoming: while the chef isn't afraid to try new things (apple aioli? gingered beets?), she does seem a little tentative with spices and herbs. The ideas are bold, but need a nudge in the execution.

Nowhere is this more apparent than in the fedellini (a spaghetti-like pasta) with assorted seafood—clams, mussels, shrimp, and squid—in a saffron tomato broth spiked with rouille (\$16). Our reaction to this truly heaping plate of food went from excitement at the size of it, to less excitement at the taste of it. While the shellfish—particularly those juicy mussels—was done to a turn and nicely infused with the rich saffron broth, the *gestalt* of the dish left something to be desired. What you are left with is a pile of pasta, a pound of seafood, and a sauce that just leaves you wishing for more flavor.

Not so for the steak. Indeed, the beef tenderloin (\$21) was a happy experience all around and rates as one of the finest hunks of meat we've sampled in the North End. (Come to think of it, The Hilltop Steakhouse has nothing on Alloro. Except seats.) Now, as we all know, the measure of a well-cooked steak is the way the outside comports with the inside: At its best, a medium rare steak ought to be gently charred on its outside and gradually pinker as you cut deeper into the middle. Alloro gets it right. With a texture that is, honestly, like butter and a tender, pink center just short of bloody, this is how steak is done. Topping it off is a drizzle of horseradish sauce, the same one found in the salmon caviar salad. And on the side is a beet risotto. Don't make a face. Beets aren't just for breakfast anymore. Here, these earthy, purple gems contribute to the otherwise sweet wine flavors of the risotto to make a perfect companion to the charry steak. We ate it all and wanted more.

Other entrees include a penne pasta dish with roasted tomato and red onions, fresh mozzarella and arugula (\$12), chicken breast wrapped with pancetta and sage, served with pumpkin risotto (\$14), mahi-mahi (otherwise known as dolphin fish) with garlic mashed potatoes, citrus vinaigrette and gingered beets (\$17), and lamb chops with a winter bean ragu, tapenade and greens (\$19). From what we saw of these as they passed our table, we can certainly attest to their ample size, if not their taste.

In the community-oriented spirit of many North-Enders, you'll find no desserts on offer at Alloro. Which gives you an excuse to walk off dinner on your way to one of the local pasticcerias. May we suggest Bova Bakery over on Prince Street? If you like cannoli....

RATING: ☆☆

Harvard Law RECORD

Founded in 1946

Victoria Kuohung
Editor-In-Chief

David Weiss
Publisher

Celebrating 50 Years of the RECORD

Looking at the more than 20 black and white photographs of former staffers hanging on the wall in the RECORD office, one is struck by their age: dressed in stiff suits and laced-up loafers, young men stand with smiles on the steps of 23 Everett Street, the site of the old office. The photographs range from the very beginning of the RECORD 50 years ago, when three World-War-II veterans decided that a neutral voice was needed at HLS to inform students on campus about the administration, school politics, and other issues in the law. With the Law School expanding under the deanship of Erwin Griswold, it was an auspicious time, and a new forum was born.

Today, 50 years later, the RECORD is entering yet another volume of publication. Much remains the same as it was at its inception: published weekly, the RECORD's pages are still enlivened by student debate, even though the topics may have changed; the solid writing and wry cartoons which characterized the newspaper from the beginning consistently garner awards from the ABA. And, managed entirely by students from its five-room suite in Ames Hall, the RECORD maintains its continuously strong independence from the HLS faculty and administration.

But much has changed as well. Of the top three positions on the editorial board, two are occupied by women of color; the RECORD's general staff has also changed to reflect the diversity of the student body at large. In a time, too, of internationalization both of the HLS curriculum and of student interests, the RECORD is seeking to expand its scope of coverage, not only by reporting pertinent stories occurring beyond the Law School campus, but also by welcoming submissions from HLS graduates both in the United States and abroad. In addition, a new board of directors, consisting of former RECORD staffers, will be established by the end of the term, to offer alumni resources and guidance when necessary.

Ultimately, however, the RECORD's core mission remains constant: to provide the Law School community around the world with fair reporting and news analysis of events at HLS. The standards of levelheaded judgment that outgoing Editor-in-Chief Greg Stohr '95 exemplified add another goal toward which the new editorial board will need to strive. Under his leadership, the RECORD has established an even stronger reputation for quality journalism, a reputation that outranks most other law school newspapers.

Like Greg, both Managing Editor April Rockstead '95 and Co-Production Manager Maria Politis '95 also spent many late nights and long Wednesday afternoons in from of the RECORD's computers. Whether it was writing stories, editing other articles, or painstakingly proofreading each page, April and Maria devoted their all to the paper, ensuring that the final product would satisfy their exacting standards. We are indebted to Greg, April, and Maria for their time, effort and commitment.

May the future bring as much excellence in journalism at the RECORD as the last 50 years.

—Kuohung

Staff

EXECUTIVE EDITOR.....	Katrina Campbell
SENIOR EDITORS.....	Jim Lank, Maria Politis, April Rockstead
COPY EDITOR.....	Colin Meeder
EDITORS.....	Debra Dickerson, Hope Yen
PHOTO EDITOR.....	Gene Rhough
BOOK REVIEW EDITOR.....	Mike Fischer
INTERNATIONAL EDITOR.....	Debbie Solomon
MUSIC EDITOR.....	Jeff Bucholtz
RESTAURANT GUYS.....	Ted Cohen, Jonathan Goldstein
SPORTS EDITOR.....	David Koontz
CONTRIBUTORS.....	Terri Gerstein, Josh Strathman, Paul Weinberger, Justin Weiss
CARTOONISTS.....	Brad Hoylman, Matt Kelly, Sheila Tuller
GENERAL MANAGER.....	Kelby Hagar
ADVERTISING MANAGER.....	Clarke Camper
EDITOR EMERITUS.....	Greg Stohr

Printing By The Harvard Crimson

Editorial/Letters Policy

The Harvard Law RECORD (ISSN 0017-8101) is a publication of the Harvard Law RECORD Corporation, a non-profit, independent, student-owned and run corporation of the Commonwealth of Massachusetts. Harvard Law RECORD, Harvard Law School, Cambridge, MA 02138-9984. Telephone (617) 495-4418. Fax (617) 495-8457.

The RECORD is published weekly on Fridays throughout the academic year and is distributed free of charge to Harvard Law School Students and at a minimal charge to Harvard Law School Alumni. Copy and photo deadlines are 5:00p.m. on the Monday preceding publication. Advertising deadlines are 5:00p.m. on the Tuesday preceding publication.

Submissions may be sent to The RECORD at the above noted address, dropped in the RECORD box located in Harkness Commons, or left in the 2L Hark box of Victoria Kuohung. All copy must be typed, double-spaced, and submitted on paper and on a computer disk (Macintosh or IBM). The RECORD reads and appreciates every letter we receive; we reserve the right to edit letters for space as necessary. We will return your disks. Off-campus subscriptions are available. Subscription price: \$30.00 year mailed; \$35.00 year mailed outside U.S. Individual copies: 35 cents at newsstands, 50 cents at the Law School, \$1.00 mailed, \$2.50 for back issues and reprints. Second-class postage paid at Boston, MA and additional mailing offices.

© 1995 by the Harvard Law RECORD Corporation and by the contributors.

THE RECORD IS COMMITTED TO EQUALITY AND DIVERSITY. WE STRIVE TO PROVIDE A FORUM FOR THE FREE EXCHANGE OF IDEAS. AS A RESULT, THE OPINIONS REFLECTED IN ARTICLES, EDITORIALS, AND CARTOONS ARE THOSE OF THE AUTHORS AND DO NOT NECESSARILY REFLECT THE OPINIONS OF THE RECORD.

"Congress shall make no law...abridging the freedom of speech, or of the press;..."

—First Amendment, US Constitution



• Letters •

HLS Must Take Steps to Diversify

In its 178 years of existence:

- No Latina or Latino has ever been appointed to a full-time position at HLS;

- No Asian Pacific American has ever been appointed to a full-time position at HLS;

- No woman of color has ever been appointed to a full-time position at HLS;

- No Native American has ever been appointed to a full-time position at HLS;

- No openly gay, lesbian, or bisexual person has ever been appointed to a full-time position at HLS;

- No person with a physical disability has ever been appointed to a full-time position at HLS.

This is a shameful history. Whether because of a failure to make faculty diversity a priority or because Dean Clark has been unable to exert the effective leadership that can produce consensus, the faculty has not made significant and tangible strides towards integration. During Dean Clark's tenure, HLS has appointed a single person of color to the permanent faculty (Scott Brewer). In exchange, we have lost Professor Derrick Bell, and Professor Chris Edley is on an extended leave.

While we applaud the recent appointments of white women, we question Dean Clark's commitment to diversity "on all fronts." (See the RECORD, Feb. 10, 1995, page 1.) Elizabeth Warren, Christine Jolls, Anne-Marie Slaughter-Burley, and Diane Ring will bring much to the teaching of bankruptcy, microeconomics, international law, and taxation, but we have no permanent faculty who can teach a course on gender discrimination, critical race theory, disability law, sexual orientation law, or Asian Pacific Americans and the law. We do not understand the faculty's single-minded pursuit of white female scholars.

The Student Task Force on Diversity, which published a long article in the Record two weeks ago, has no substantive role in the appointments process. This task force is another in a line of committees set up by the Administration to appease students and make us believe that we have some say in the quality of our education. In reality, we have no formative role in our legal education at Harvard Law School; we just

take out loans, pay our tuition bills, and attend classes. The faculty do not believe that we have the ability to assist in the recruitment of high-quality legal scholars. Based on the law school's record on diversity, we question the faculty's ability to recruit.

Instead of token measures for diversity, we ask students to support and the faculty to adopt the following five-point plan:

First, support efforts to recruit faculty candidates of color, disabled scholars, and openly gay and lesbians. The faculty should vote to offer tenure to visiting professors Mary Becker, William Eskridge, and Pamela Karlan, because of the quality of their scholarship and teaching. William Rubenstein should be offered a permanent position on the faculty. The faculty should invite African American, Native American, disabled, Asian Pacific American, and Latino/a scholars in the next year.

Second, support substantive student involvement in the appointments process. The current appointments process keeps students in the dark as to who is being considered until a particular candidate is actually approved by both the initial appointments committee and the entire faculty. We have no voice. Students should sit, as non-voting members, on the lateral and entry-level hiring committees. Students should also have the ability to meet with prospective candidates for the faculty. The traditional response to these kinds of proposals has been to deride our ability to judge legal scholarship and doubt our ability to keep matter confidential. Both objections are condescending and false.

Third, support implementation of an affirmative action policy. The university has imposed a plan on HLS which has incredible gaps. There are goals only for women and "minorities." HLS presently violates the plan for women and is slightly above the goal for "minorities." The goals are calculated by considering the average number of "minority" lawyers who passed the bar ten or more years ago. The university plan is basically ineffectual. A "one for two" policy, under which one of every two faculty appointments must be

from an underrepresented group, is justified for three reasons: (1) it accounts for HLS' historical exclusion of scholars from certain groups; (2) it reflects the need for the composition of law faculties to mirror the student body and keep up with demographic shifts; and (3) it ensures that the faculty reflect the globalization of legal education. Any law school policy should break down the category "minority" to ensure that we recruit non-white-straight-male scholars from various backgrounds.

Fourth, support pre- and post-J.D. fellowship programs. Although HLS produces a large number of law teachers from underrepresented groups, we do not keep them here or bring them back to teach. Although these programs receive broad token support, the real commitment must come in the form of active faculty participation in programmatic design and funding. The one-year Houston Fellowship for young African American scholars was defunded in 1994.

Fifth, prevent cuts in the clinical and lecturer programs. Clinical instructors and lecturers are unusually diverse for HLS. The possibility of cuts in these programs presents yet another challenge to students concerned with the quality of their legal education.

This plan is neither new, nor revolutionary. Students at HLS have been advocating these goals through dialogue and protest for over twenty years. The administration's failure to listen to student voices has resulted, not only in a failure to diversify the faculty and curriculum, but also in student frustration, alienation, and mistrust. This semester, we will engage in activities in order to continue the exploration and pursuit of these goals. As a gesture of good faith, we call upon the faculty to begin consideration and implementation the plan described above. We call upon the student body to demand full membership in the law school community and to take part in efforts to revive legal education at Harvard.

Kiya Kato '96
Sameer Ashar '96
February 22, 1993

WRITE TO THE RECORD!



The United Nations at a Turning Point

By Detlev Vagts '51



JUST a few years ago there was widespread enthusiasm for the idea that the United Nations could now, free of east-west conflict, confront the challenge of peacekeeping for which it was designed one half century ago. No longer would the U.S.S.R. be able to veto all Security Council initiatives by saying "nyet." The American-led coalition that swept the forces of Saddam Hussein out of conquered Kuwait seemed to be opening a new epoch. Just a few years later, after setbacks in Somalia, Rwanda and the former Yugoslavia, the hope seems to have largely evaporated. At the bottom of these troubles lies a radical mismatch between goals and resources. All over the world there are outbreaks of violent disorder that seem to call for U.N. action; the coverage afforded by CNN is taken as the measure of need and urgency. Humanitarian impulses to right wrongs and alleviate suffering travel swiftly around the globe.

On the other hand, the costs turn out to be very large — though much smaller than the costs of maintaining peace and security during the cold war. They are also much smaller than the potential damages of allowing conflicts to rage unchecked and perhaps spread to other countries, though it is unclear how much those results would cost the United States. In addition to the financial costs there is the risk of casualties confronting the peacekeepers. Instant television coverage not only dramatizes the urgency of the need but also makes gruesomely immediate the losses of the peacekeepers. That is true even though the casualties are far less than those incurred in the real wars of the past.

Both of these types of costs are highlighted in a bill which the House has passed and the Senate soon will have to consider. It is called the National Security Revitalization Act. Like most elements of the so-called Contract with America, this piece of legislation would have consequences quite different from those suggested by the title. Its effect would be to substantially lessen the chances of the United States making a significant contribution to peacekeeping efforts. It would reduce U.S. contributions to the United Nations by requiring that all costs incurred by the United States be charged to the U.S. assessment. The preamble notes that in the last fiscal year the American armed forces spent \$1.72 billion in support of such operations (and that the United States was assigned 31 percent of the overall U.N. budget). At the same time the likelihood that the United States would bear any substantial part of peacekeeping risks would be diminished by provisions that U.S. forces cannot be deployed under foreign commanders acting for the United Nations — absent

special findings by the president — and that Congress would have to be given advance notice of new U.N. missions. These clauses introduce new restrictions on the president's powers in ways that sharpen all of the constitutional issues that presidents have been raising about the War Powers Resolution since its passage in 1976.

This legislation — and the mood in the United States which it reflects — makes apparent the need for a straightforward set of priorities to enable one to decide which challenges should be taken up. Here the original scheme of the U.N. charter gives us some clues. The United Nations was designed to keep the peace, in the sense that it was designed to prevent the outbreak of wars between states. The drafting came at the end of a devastating world war. The drafters thought that an international organization could get past the errors which had led to World War II, including the deficiencies in the structure of collective peacekeeping built into the League of Nations. Accordingly, the document has each member state promise that it will refrain from the use of force or threat of force against the territorial integrity or political independence of other states. And it gives to the Security Council the power to deal with threats to the peace, breaches of the peace or acts of aggression. In its half century of existence, the United Nations has been fairly successful, from Korea to Kuwait, in repressing such overt border-crossing breaches of the peace. An aggressor now can be quite certain that an attempt to solve its problems by plunging over a border into another state's territory will be met by a united front and that it will incur painful losses.

Operationally, U.N. endeavors in such cases are apt to be straightforward and predictable. In most cases they have entailed the stationing of U.N. forces along borders between the warring parties. U.N. troops have manned the "green line" in Cyprus between Greek and Turkish elements for many years — much as non-U.N. forces have stayed in the Sinai Peninsula to keep Egypt and Israel from renewing their warfare. They do not involve intermingling U.N. troops with contending forces so that there is little confusion about who is who, and who is entitled to what. By way of contrast, Somalia is a prime example of the confusion that can result from missions where there are no fronts or lines and U.N. elements are mingled with combatants. Even where one of these classical peacekeeping operations is expensive and dangerous, as was "Desert Storm," it is definable and can evoke political support.

It is a different kind of mission that has diverted the forces of the UN these last few years — missions involving "domestic" conflicts and national reconstruction. With relatively little fanfare, and no CNN coverage to speak of, a

very large operation has been under way in Cambodia for some time, designed to restore that unhappy country to a minimum level of order — with modest success. More familiar to the American viewer has been the effort to create some form of government in the chaos of Somalia, where ambitious warlords had, between them, destroyed whatever system had existed. More positive results seem to be coming from the effort in Haiti, in a location which more directly implicates U.S. interests. These nation-restoring activities pursue indeterminate goals that involve close cooperation with political forces that simply may be unachievable. While the cases are piteous, they are unpromising as to outcome and it cannot fairly be said that they involve major threats to the peace of the world. They lie outside the original intentions of the Charter and their repetition should be regarded as doubtful.

In this analysis the case of the former Yugoslavia stands by itself. In one sense it is an internal controversy characterized by uncertain boundaries fought over by ethnic splinter groups; intervention into these battles has placed UN forces in exposed positions where they are vulnerable to reprisals and hostage-taking. Repeatedly,

negotiated solutions are announced and then abandoned. Defensible lines never emerge. On the other hand the struggle is one between internationally recognized, independent territorial states, and most significantly it does offer a genuine threat to the peace outside of the borders of the quarrel group of states. Particularly since the demand of Croatia that U.N. forces cease to stand guard between it and Serbia — come springtime — there is a serious threat to the peace of Europe. Add to that the tension in Macedonia, where Greece proclaims that it is menaced by aspirations for a greater Macedonian state and one sees a truly dangerous situation well within the scope of the UN's

basic mission. The behavior of all outside parties has been characterized by timidity and reluctance to incur costs. This has played into the hands of ruthless adventurers who know how to bluff and threaten. These swashbucklers know how to survive the economic suffering imposed on their people by a U.N.-imposed boycott that would have brought down any regime more responsive to the electorate. It is this situation that, more than any other, tests the ability of the United Nations to carry out its essential mission. If the challenge is not met, particularly if major warfare erupts this spring, the hopes for international security will indeed be dim. The challenge of finding the resources in a straitened budget to meet the top peacekeeping priorities will tax the leaders of both the UN and of the United States.

It is a different kind of mission that has diverted the forces of the UN these last few years — missions involving "domestic" conflicts and national reconstruction.

• Letters (cont.) •

Quit Crying, Funny Girl, You're Still Making Money at Your Concerts

Late on a recent Saturday night (around 2:00 a.m.), I was scanning through channels looking for something to catch my interest when, as I blew by C-Span, I recognized one of our beloved cultural icons, Barbra Streisand. Typically, I am profoundly uninterested in anything Miss Streisand has to say, but, seeing that I couldn't possibly be more bored than I already was and hoping that she might cure my insomnia, I stopped to listen to her speech to the JFK School of Government, taped earlier this month.

I was in for quite a shock. Her speech was a truly compelling cry of desperate anguish directed to the little victim in each of us. Fortunately, I don't relate very well to my little victim so I maintained a clear head and took notes. I feel compelled to respond in my own small, active, democratic, citizen way to her bald assertions of what is collectively known today as conservatism, but is probably more accurately designated classical democratic liberalism.

The tone of her presentation was one of shock and fear. Shock at the recent elections and fear of the damage that the Republicans might do in their one term in power. This tone was mixed with a healthy sense of humor pointed, of course, at Republicans in gen-

eral and at Mr. Newt (in rather nasty spoutings) in particular.

One joke was that she had taken a quick hand vote at her recent concert and was surprised to find the majority of her audience was Republican. She then noted that it shouldn't have surprised her since they are the only ones that can afford her ticket prices (poor Teddy Kennedy, Joseph Kennedy, Jay Rockefeller, and Dianne Feinstein). The audience gave a suitable laugh, but at whom were they laughing? After all, Miss Streisand is the one who pockets the profits of her rather exorbitant ticket prices, and rightfully so. Just remember Miss Streisand, to bite the hand that feeds you is a beastly thing to do.

Now to the substance, or what passed for it, of her speech. The first major target was the plan to eliminate funding for the National Endowment for the Arts and the Corporation for Public Broadcasting. These plans were decried as both insignificant in terms of the budget, and censorship of the stuff of life (read, art) that is necessary for Americans to have a country worth living in. To specify how small a part of the budget they were, she compared them to the cost of a single F-22 fighter "that might not work anyway."

True, the F-22 might not work. Then again, it probably will. Regardless, the defense of the nation is certainly a proper expenditure of public funds by any standard, and technological superiority is what makes virtually painless victories like Desert Storm possible. On the other hand, most people, not just a few,

of money and should probably be spent in a different manner or just cut out of taxes altogether. This does not constitute censorship, despite Miss Streisand's claims, unless we are prepared to redefine the word. As long as the First Amendment exists, artists will be completely free to make whatever works of art they

As long as the First Amendment exists, artists will be completely free to make whatever works of art they desire — they just can't feed at the public trough anymore.

have a question about the expenditure of public funds on things that very few of them are able to see or enjoy.

In this case, they have decided, rightfully in my opinion, that regardless of the low cost to the taxpayer relative to other budget expenditures, \$250,000,000 is a hell of a lot

desire — they just can't feed at the public trough anymore.

To emphasize the total lack of understanding that Miss Streisand has for the electorate, one need only listen to the responses she gave to the questions she was asked. Her answer was consistently and clearly (at least four dif-

ferent times) that government needed to spend more and do more and voters needed to elect Democrats to get that. I am sure leading Democrats will respond that this is an improper characterization of their position (except maybe Ted Kennedy) despite her intent to help them (one can almost see them screaming for her to shut up). One quote was, "I think the government should help people to fulfill their full potential as human beings." Isn't that nice. Such a fuzzy, immeasurable ideal is only a breeding ground of redistribution and the destruction of any individual spirit or productive effort. People (the majority today — read: democracy) don't want the government to help them reach their potential, however it is defined or measured. They want the government to leave them the hell alone.

The last issue I will address is her characterization of the fruits of liberalism. She identified the successes of 40 years of Democratic domination in public education, Medicaid, Medicare, and social security, asking, she thought rhetorically, "What is there to be ashamed of?" Well, Miss Streisand, I will tell you, and in the very areas you have chosen as strengths.

First, in education, SAT scores have dropped nearly 80

points in the last three decades while our spending per student (in constant 1990 dollars) has doubled. Also, the grading method has changed and the same person with the same answers would score between 18 and 30 points higher in 1992 as in 1960.

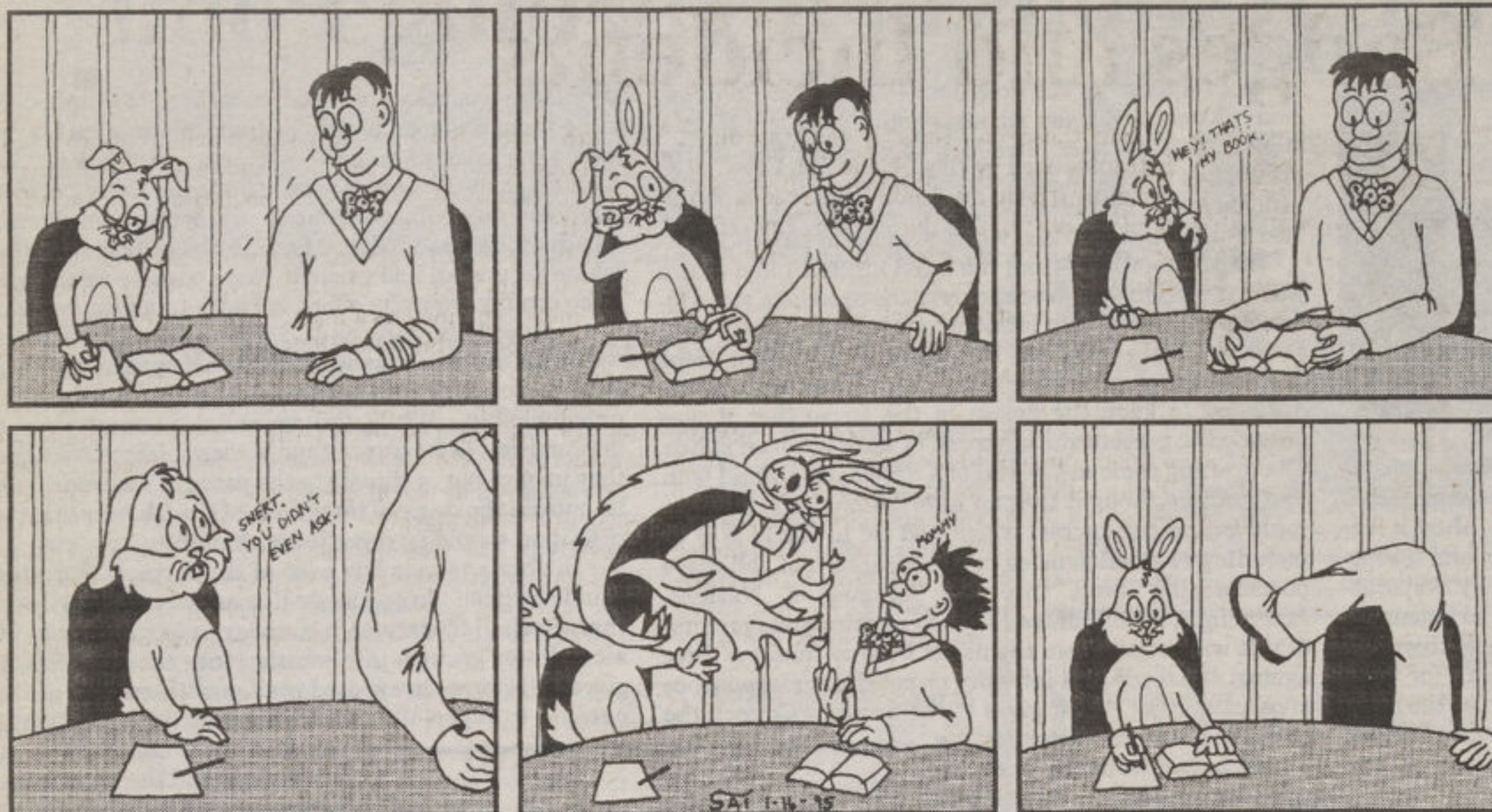
In health care, while spending on care has ballooned, the infant mortality rate remains higher here than in 23 other countries. Nicholas Eberstadt of the Harvard Center for Population and Development Studies writes that this is principally a parental problem — a result of the 400 percent increase in illegitimate births since 1960; drug, alcohol and tobacco use; and the failure of parents to utilize available pre-natal care. Meanwhile, the cost of Medicare and Medicaid are now in the hundreds of billions.

I could go on and on about why Americans have rejected the agenda that Miss Streisand trumpets and the very real costs of that agenda in places and ways that stagger the imagination, but I will leave that to public debate. To close, I wish to paraphrase the closing of Miss Streisand's speech: get used to it, Barbra, the citizen as concerned taxpayer is here to stay.

Kelly Whitig '97
February 21, 1995

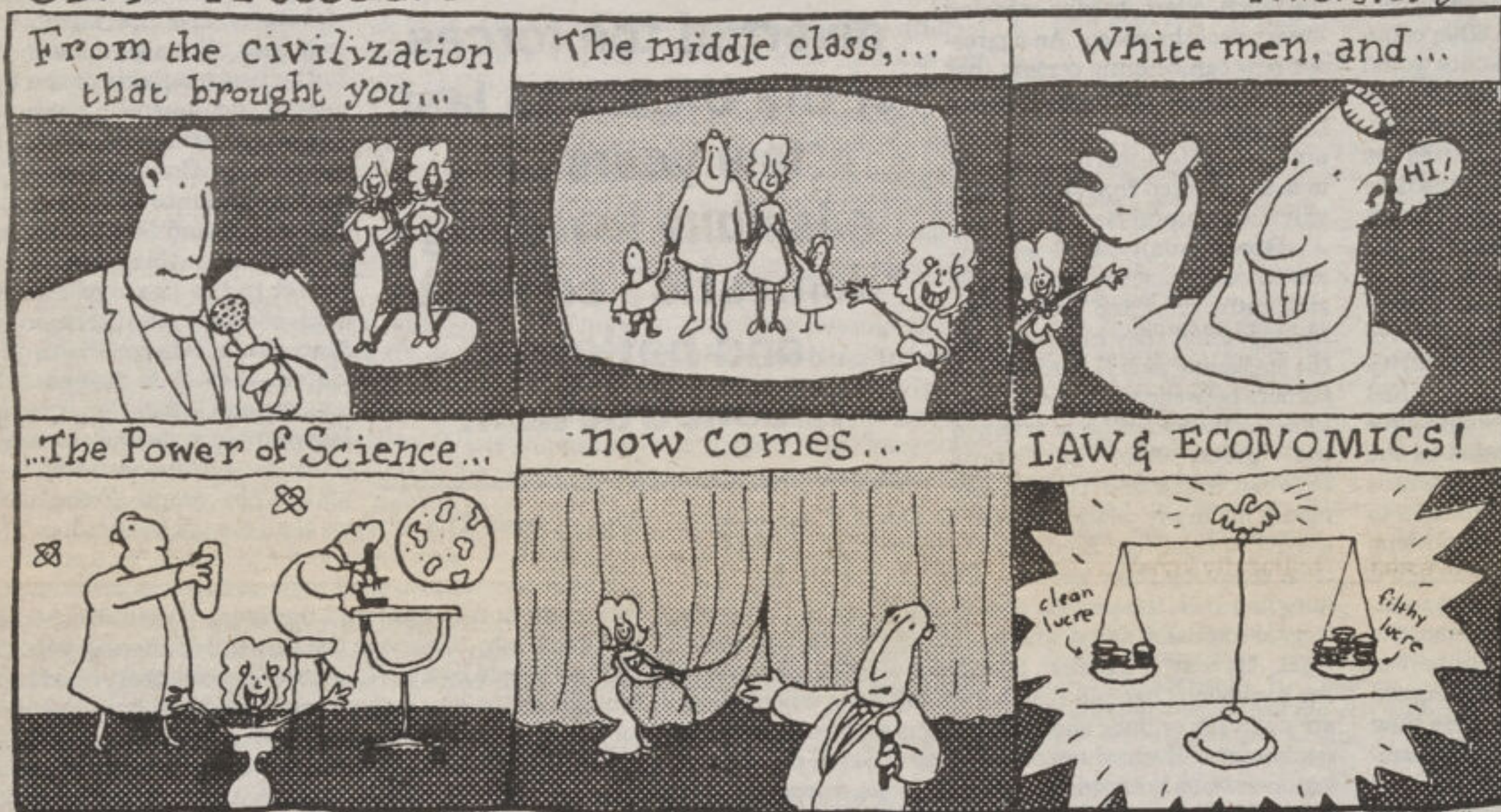
Temporary Insanity

By Sheila Tuller



Civil Procedure

M.J. Kelly



Going, Going...

This may be the last chance
to get your doodles onto the
desks of attorneys across the
country! Be a cartoonist for
the RECORD!

Call David or Vicky at 495-4418.

STILL FOR
SALE

**Koby
Antupit**
PHOTOGRAPHERS

Job Photographs
Résumé & Publicity
Instant Color Passports
Creative Portraits

Harvard Square
8 John F. Kennedy St.,
Cambridge
547-7552

POSTMASTER: Send address changes to Harvard Law School Association, Harvard Law School, Cambridge, MA 02138.
ALUMNI/AE ADDRESS CHANGES: Alumni/ae who receive the RECORD as a result of membership in the Harvard Law School Association should mail change-of-address information to the Harvard Law School Association, Harvard Law School, Cambridge, MA 02138.
Each alumnus/a receiving a RECORD subscription through the Harvard Law School Association should be on notice that \$5.00 of H.L.S.A. annual dues are used to purchase the RECORD subscription that he or she receives. Dues paid at any time during the H.L.S.A. fiscal year that began on July 1, 1994 and ends on June 30, 1995 purchase a subscription that begins in January 1995 and expires in December 1995.

Return Address:
Harvard Law School Assn.
Harvard Law School
Cambridge, MA 02138

SECOND CLASS POSTAGE PAID AT BOSTON, MA AND ADDITIONAL OFFICES.

CALENDAR

Oh Well.
Whatever.
Never Mind.

By Jeff Bucholtz

There's been a lot of critical hand-wringing lately over the lack of success British bands have been enduring in the U.S.; as the American mainstream has become ever louder and more aggressive, it has become increasingly hostile to the more polished pop often associated with the Brits. In Butt-head's more or less apt formulation, "They're a bunch of whining wusses."

Now, the four blokes in *Bush* are on the verge of breaking through the Brit-barrier on the strength of a very American-sounding single and video, "Everything Zen." Bush's nods to American altermetal are too numerous to catalogue, but the angst and fury in singer Gavin Rossdale's phrasing of the song-closing refrain, "I don't think so," sure does remind me of Kurt Cobain's immortal tortured "a denial" snarl that ends "Smells Like Teen Spirit."

What's more, "Swim," the second track on Bush's debut, *Sixteen Stone*, would fit nicely between "In Bloom" and "Come As You Are." You get the idea. Still, even if Bush aren't quite the real thing, they do a very credible job of emulating the real thing. And that's more than can be said for most of the bands snapped up in the still-ongoing post-grunge feeding frenzy. Besides, one of them is wearing a Harvard t-shirt in the CD booklet.

Decide for yourself if Bush deserve the Clone Temple Pilots slugging they've been slapped with when they play at the Paradise (351-2526) on Tuesday (2/28).

The latest Boston musician to jump to the major leagues is singer-songwriter Jennifer Trynin. Catch her with her band, opening for fellow locals *Smackmelon*, who feature former members of *Bullet LaVolta* but with a softer sound, at the Rat (536-2750) on Friday (2/24).

Also on Friday, at Mama Kin (536-2100) it's *Powerman 5000*, a local rap-metal band who are rumored to be next in line for a major-label deal, and the U2-influenced rock of *Cliffs of Dooneen* at Local 186 (351-2680). If your tastes run toward *Zombie Butlers* and *Sexploitation* (and hey, whose don't?), try out *Chambers: Life in a B Horror Movie* at ManRay, of course (864-0400).

Everyone may have forgotten about them, but *Simple Minds* return to Boston in support of their new album, gigging with *Lisa Germano* at Avalon (931-2000) on Saturday (2/25), the same night that ska heroes *the Toasters* play at Local 186 and those short-haired guys from the U.S.A., *Too Much Joy*, bring their power pop and sense of humor to the Paradise.

Sunday (2/26) afternoon offers two all-ages shows, as legendary hardcore fiends *Murphy's Law* tear the Rat up, and local indie blues-rock combo *Morphine* and ex-Dumptruck *Kevin Salem* warm up the Middle East (497-0576) for Sunday night's *Jon Spencer Blues Explosion* show.

Badges and Incidents

By Debra Dickerson '95

As the Republican onslaught converges on welfare and crime policy, I fear the worst — ignorance and denial. The Newtoids are willfully ignorant and disdainful of anyone who isn't just like them, and in deep denial insofar as America's culpability in creating and maintaining the underclass is concerned.

I come from the inner city and have experienced its ravages first hand. Much of my family remains there, plagued by all the ills that fuel our news broadcasts. All my life, they've vexed me because I see them intensify the problems they were born with by aping bourgeois middle class values without the wherewithal to support that lifestyle.

They fall in and out of movie-of-the-week, instant love with everyone they meet and have kids to complete the Hallmark greeting card picture (welfare is just an added bonus, I believe). Their children watch untold, unsupervised hours of cable TV, their proper schooling assumed. Misogyny and machismo rule unchecked. They neither save nor invest in insurance nor safeguard their health. They value education in theory but not in practice. They, too, watch TV unceasingly and have cable bills as large as their grocery bills. They covet every designer outfit and household gadget they see on their rented big screen TVs.

They are, in sum, the quintessential Americans. They have utterly bought into our grotesque national consumerism and need for instant gratification; they just can't get away with it as the rest of us can. If they put to good use the energy they invest in scamming employers, creditors, and government agencies, they'd be invincible. Last Christmas, I watched some cousins operate a multi-tiered secondary market in license plates, social security numbers and food stamps that would have won them instant admission to the B-School; knowing that I couldn't make them believe it, I said nothing. The irony of seeing WIC cards and section 8 documentation emerge from hot Gucci bags seemed lost on everyone but me. I just can't convey to you how low their expectations are.

After much thought, I have come to view inner city residents as the eggshell plaintiffs of America's racial obsession. I would wager that they are a subset descend-



ed from those most recently and most directly traumatized by slavery and Jim Crow. It's certainly true in my family. Both sides of my family have typified the inner city paradigm of drug and alcohol abuse, unchecked illegitimacy, lack of education or other achievement, demonstrable lack of self-esteem or ability to picture or plan for the future.

Nicholas LeMann, in "The Promised Land," wrote:

"[Historians] mention[] the relative economic independence of poor black women as a destabilizing influence on families, and . . . blamed . . . [sharecroppers'] high rate of violent crime on the custom by which white law enforcement officials regarded blacks as lived . . . 'outside the law.' . . . [T]he sharecroppers' 'extreme isolation from society' had allowed 'unique moral codes' to develop, [such that] the closer the sharecroppers got to the mainstream of American society, the more disorganized their lives would become, at least in the short run. This group . . . has taken form . . . outside the dominant current of the American culture. . . . The very fact of this cultural difference presents the danger of social disorganization in any sudden attempt to introduce new modes of living and conceptions of values."

"[W]hatever the cause of its differentness, black sharecropper society . . . was the equivalent of big-city ghetto society today in many ways. It was the national center of illegitimate childbearing and of the female-headed family. It had the worst public education system in the country, the one whose students were most likely to leave school before finishing and most likely to be illiterate even if they did finish. It had an extremely high rate of violent crime: in 1933, the six states with the highest murder rates were all in the South, and most of the murders were black-on-black. Sexually transmitted disease and substance abuse were nationally known as special problems of the black rural

South; home-brew whiskey was much more physically perilous than crack cocaine is today, if less addictive, and . . . blacks were using cocaine in the . . . Delta before WWII."

"In the North, . . . when problems of family disorganization appeared in black neighborhoods, they were routinely explained as a matter of recent migrants from the rural South bringing their old way of life with them to the city. W.E.B. DuBois wrote, 'Among the lowest class of recent immigrants and other unfortunates there is much sexual promiscuity and the absence of a real home life. . . . Cohabitation of a more or less permanent character is a direct offshoot of the plantation life and is practiced considerably. . . . [A 1920's study of] birth records at [Chicago's] Cook County Hospital . . . found that [10-15%] of the black mothers there weren't married. Nearly four-fifths of these unmarried mothers were born in the South and over a half of them had been in Chicago less than five years . . . [Studies] found that fewer than an eighth of [these mothers] had grown up in the same home with both their parents; . . . they were replicating the pattern they had known in the South."

I fear the worst because I know that many will read this as further proof that underclass pathology is intractable and somehow natural once their moral-intellectual betters relax societal controls. Their minds will automatically filter out the significance of the plantation, Jim Crow, and Northern racism. They will

think that I have agreed with them that the poor are poor because they deserve to be, criminals by choice in the face of unlimited opportunity. I only wish the argument were whether every individual has the responsibility to stand up and fight no matter how formidable the obstacle. Unfortunately, however, the argument is whether the obstacle exists. America made this bed, but only a few of us are made to lie in it.

**The irony of seeing
WIC cards and
section 8
documentation
emerge from hot
Gucci bags seemed
lost on everyone
but me.**



Fenno was feeling philosophically stunted. He felt the need for some stimulating conversation, to get the old grey cells humming again. "Unfortunately," he mused, "HLS is largely bereft of Deep Thinkers — with possibly one exception."

So Fenno reviewed the Cliff-Notes to "A Critique of Pure Reason," and went off to bandy about a few of the eternal questions with Prof. Scott Brewer, occasional contracts professor, and philosopher-at-large.

Herewith a transcript of their conversation:

Brewer: Ah, Fenno. I'm sorry, it's too late to turn in that paper from last year....

Fenno: No, no, Prof. Brewer, I've decided I want to be a Deep Thinker. I've come to wax philosophical with you.

Brewer: Fantastic! Did you know that "wax" comes from a Greek word, "wax-esthai," which means "to suffer from severe flatulence"?

Fenno: Really? Um, that's very interesting. But what I'm really interested in is the true nature of knowledge...

Brewer: ... and its use is analogous — if one accepts the current tropological description of analogical peritropism — to another Greek word, "pyloresthai." That word was used by Plato to describe extreme diarrhea, accompanied by a gassy feeling, sort of like the one you get after eating half of a "Spitfire" chicken.

Fenno: Um, yeah. But what do you think of Kant's argument that time and space are actual modes of perception?

Brewer: Well, the thing about Kant is that he was highly irregular. There is this wonderful German word for "constipation"...

Fenno: And you think this affected his writing?

Brewer: No, I just like the word.

Fenno: But back to the issue of true knowledge — you're something of a skeptic, aren't you? I mean, you don't buy into Aristotle's notion that the senses have direct contact with essential matter, do you?

Brewer: Well, as I put it in my seminal work, "First Principles Putting Principles First," — which, by the way, is a palindrome — the question of knowledge depends on an ontological structure of analogical and inferential methodology, put into context by a differentiation between inductive and deductive methodologies. Once you've established that small framework, the rest is easy.

Fenno: Hmmm.

Brewer: Furthermore, if you simply look at the Greek roots for all of the words in Kant's "Critique of Scatology," you see that...

Fenno: Oh, my, look at the time! Please forgive me, but I have to get to lunch. It's already noon, and this is "Spitfire Tuesday."

Brewer: Wait! I haven't shown you my proof that Dean Clark is both like and unlike a constipated German cabaret dancer, in an infinite number of ways!

Quote of the Week

"We have penises. It helps when you have to deal with all the dicks around here."

—Anonymous comment posted on the WLA board on why males do better at law school than females.

**The RECORD is seeking
an ambitious 1L or 2L
to become
advertising manager.
Position may pay more
than \$2,000 per year!
Call Clarke at 495-4418**

GYM RAT

There is a "Me" In "Team"

By David Koontz '96

Sports Editor



T IRED of watching the same four teams play each other in the NBA "Game of the Week?" The Gym Rat contemplated another Sunday watching the Knicks versus the Rockets, or the Suns versus the Bulls, or whatever it was last week. College basketball isn't much better. I can understand showing Notre Dame football games, but the Fighting Irish hoopsters? They haven't been too good since that one guy played for them ... uh, wait a minute, it'll come to me.

That's why I thank Ernest Hemingway for donating such a swell gym to the Law School so we can play some REAL hoops, with variety, suspense, and appeals to the referees that are carefully researched and grounded in sound basketball doctrine. You won't find any of these players on the cover of Sports Illustrated with the caption "WAAAAAH!" Not for basketball-related reasons, anyway. And as an alternative to baseball — hold on, I think I'm gonna be sick — or even thinking about baseball, HLS intramural hoops action hits the spot nicely. Call it the thrill of being in the field of play the moment you stretch your legs from your seat. At a time when some lame surveys a few years ago tell us how depressed and sad we're all supposed to be, sometimes you want to go where everybody knows your game.

This week, the "B" League West gets a few more minutes of fame: this division is getting weird. Not only is it the home of the Dave Levitt '96 controversy, but the match-up last week between Spence-Air and Death Squad featured Eric Thurber '95 and Rob Santangelo '95 — on both rosters. No problem; Eric and Rob had left an overloaded Death Squad to form Spence-Air, named after Spencer "For Hire" Levy '95. Even with the mystery solved, Spence insisted, "This is a grudge match. With Eric Thurber in the middle, we're definitely the team to beat." Death Squad captain Jad "No, not Chad—JAD" Greifer '95 responded, "We'll let our play do the talking." They did just that and won a defensive struggle; afterwards the Death Squad's play was too tired to comment.

Mo Knows bounced back with a victory over the Holmes Boys. Holmes Boy Jim Torre '96 said, "We didn't lose; we just happened to have fewer points." The J-Men also evened things up against the ominously named TEAM. Everyone knows there's no "I" in "team." I just wonder if coaches think players won't notice that there is a "me" in "team." Or "tea," or "mat," or even "meat." But I digress.

Full Tort Press fell to (Squiggly Unpronounceable Symbol) The Team Formerly Known As Levitt, but FTP captain Jon "I've Got the" Unger '95 ditched the clichés in favor of a stunning car metaphor: "We're just some spare parts trying to find some assemblage to get us running on the road." The usual capacity crowd cheered on In Living Color against Gooch's 2-Headed Johnson. ILC used a motion offense and played inspired defense despite having only six players available for the game.

Gooch responded to The Team Formerly Known As Levitt's startling and ugly revelation in this space last week that TFKAL was unconcerned with wins and losses and wanted only to hurt Levitt. Gooch captain Rob "All Those Brains And He's Even Got" Musselwhite '96 said coolly, "It's pretty obvious they want to hurt Levitt since they stocked their roster with hackers, especially Tim 'Belly' Elliott '96 and that Bryant Reeves wannabe, John Basinger '96." Rick "Bring It" Hahn '96, who recruited Levitt, will have on his game face until these two teams meet on March 9.

"B" League East: The Cunning Litigants' captain Dave "Auugh!" Aronberg '96 praised Craig "Crash the Glass" Gibian '96 for his inspiring play. The Stone Cutters, Great Danes, and the Sleestaks stayed undefeated as well. Hanson's Heroes bounced back with a whole lot of points. Sleestak Dave "Clark-Fu" Clark '96 gets special mention because he's a special person.

"A" League: It's getting hard to tell these guys apart. There's rarely more than a 10-point spread, and the old cliché applies — anyone could win on any given day. The Ball Handlers keep getting all the rebounds, En Fuego remains so, and Well Hung Jury won its opening game with Lang "Three" Wiseman firing away. I remember Lang fondly from my days at the University of Georgia. I used to heckle him when he was a star at Tennessee, but I'm sure he's forgotten about all that.

Intramural Basketball Standings as of Sunday, February 19

TEAM NAME	WON-LOST	TEAM NAME	WON-LOST
"A" LEAGUE			
6. Ball Handlers	2-0	3. First Time Offenders	0-2
4. En Fuego	2-0	5. 3L	0-2
2. Well Hung Jury	1-0	1. Black Plague	0-0
7. All Guards	0-1		
"B" LEAGUE EAST			
9. The Cunning Litigants	2-0	21. Death Squad	2-0
10. Great Danes	2-0	22. Gooch's 2-Headed Johnson	2-0
12. The Sleestaks	2-0	27. & The Team FKA Levitt	2-0
16. Stone Cutters	2-0	23. Full Tort Press	1-1
17. Hanson's Heroes	1-1	25. J-Men	1-1
14. Sweat Hogs	1-1	18. Mo Knows	1-1
8. Grizzers	0-2	19. Spence-Air	1-1
15. HLAB Hoopers	0-2	20. Holmes Boys	0-2
13. Intentional Foul	0-2	24. In Living Color	0-2
11. Rich Cundiff: Go-to Guy	0-2	26. TEAM	0-2

Compiled by Doug Cooperberg

Forsythe Condemns Roe

continued from ROE, page 1

"has little to do with violence outside abortion clinics," according to Forsythe. Violence "contradicts the pro-life message," he said.

Forsythe spoke as part of a symposium, sponsored by the Society for Law, Life and Religion, on the future of the antiabortion movement. Prof. Mary Ann Glendon moderated the event, which also included presentations by Helen M. Alvare of the National Conference of Catholic Bishops and Rev. Richard John Neuhaus, president of the Institute on Religion and Public Life.

Forsythe said the logic of *Roe v. Wade*, which constitutionalized the right to an abortion, would eventually collapse. He was particularly critical of the *Roe* court's focus on fetal viability — a concept he said had little significance in American law and medicine until *Roe*.

"The court in *Roe* pulled the viability rule out of thin air," he said. "Viability was really Justice (Harry) Blackmun's [32] creation."

In other contexts, Forsythe said, lawmakers have shied away from a focus on fetal viability. He cited the law surrounding prenatal injury, wrongful death and homicide as areas where "states are increasingly protecting the unborn child without regard to gestation."

Forsythe said the right established by the *Roe* court has no parallel in constitutional jurisprudence.

"As a historical matter, *Roe* has no

pedigree, and I think it's clear it has no progeny," he said. "*Roe* stands as a sterile orphan in our constitutional law."

"*Roe* will be overturned because it has no basis in American history and tradition."

Tenuous though the Supreme Court's reasoning may be, Forsythe said, the strongest push to outlaw abortion will come from outside the legal system.

Forsythe conceded that a majority of the American people view abortion as "a necessary evil." But he said informed consent requirements, which the Supreme Court upheld in its 1992 opinion *Planned Parenthood v. Casey*, are already causing potential abortion patients to recognize the damage that abortion causes.

"There is a growing realization that legalized abortion does not improve the lives of women in this country," Forsythe said.

Though the current Supreme Court seems unlikely to overturn *Roe*, grassroots activism ultimately will be the undoing of *Roe*, Forsythe said.

"We may find that the people take the lead on this issue and the [Supreme] Court will follow," he said.

Patrick Lannon '96, the chief organizer of the conference, estimated that 325 to 350 attended the day's events, including about 100 students from 17 colleges around New England. The turnout was so high that the presentations had to be moved from Austin North into the Ames Courtroom, he said.

LSC Candidates Discuss Views

continued from LSC, page 1

has little "direct power," Hoffer said the council's appointments and the president's access to the dean's ear give it "a lot of influence" with the administration.

Others said that the Law School Council alone cannot be an effective force for change.

"The Law School Council can't force the administration to do anything," said vice presidential candidate Joseph Dittkoff '96. "Making bald demands is just going to make us look silly. But the council can do something about the miserable quality of life here."

According to Dittkoff and his running mate, presidential candidate Jason Koral '96, the council's best potential role is as an "honest broker" for building coalitions among other student organizations.

"If all the journals went to the administration on an issue, that could carry some weight," Dittkoff said. "The council can be a powerful force in showing people how much they have in common."

While that would mean repairing some of the divisions between student organizations, Koral said the goal is not to "shy away" from tough issues.

"Fundamentally, it's possible to have a community in which there are honest political differences on a variety of issues, and yet there is an attitude of mutual respect," he said. "The Law School doesn't have a lot of that, and

that's what we'd like to work toward."

But according to Rob Simmelkjaer '97, also a candidate for LSC president, the first step in making the council an effective body is to restructure the rules that govern it.

"The Law School Council has far too many rules about rules," Simmelkjaer said. "It's far too extensive for a body of 25 people who just go in every three weeks and talk."

By making the appropriate changes to council procedure, the leadership could prevent "petty, personal fights" that are waged through quarrels about compliance with parliamentary requirements, Simmelkjaer said.

In addition, Simmelkjaer said he thought his ticket's all-1L status — the ticket includes vice presidential candidate Bob McCarter '97 and Joe Miller '97 — would give it more credibility, because 1Ls have more time left to spend at HLS.

"We have more of a vested interest," he said.

But Hoffer said that finding out that only 1Ls had announced their candidacy was the event that ultimately prompted him to vie for a position.

"When you're a 1L, you tend to have a very narrow view of what the Law School is about," he said.

However, Hoffer said that since all the candidates have similar goals, he would be happy no matter how the election came out.

"Losing is a win situation, winning is a win situation," he said.

Chef Lee's

GOURMET CHINESE FOOD

296-298 Beacon Street
Somerville, MA 02143

WE DELIVER

\$1.50 delivery charge in
Cambridge and Somerville

876-7666

5% OFF
with student ID.
Dining room and take-out only.

"This is one of the best Chinese restaurants around."
Harvard Law RECORD

"Chinese food with originality."
Boston Globe

"Easily the best Chinese restaurant..."
The Gotta Eat! Guide

NO MSG!

Chomsky Cries "Thought Control"

continued from CHOMSKY, page 1

appeared, Chomsky observed.

Chomsky offered his recent invitation to speak to a leading Mexican newspaper "about the group of gangsters that run that country" as an illustration of the kind of critical expression that "would be inconceivable in Cambridge or the U.S.'s other ideological centers."

But Chomsky claimed that control over expression "loosens up" as one moves away from "the centers of power," so that while Chomsky is often permitted to speak on National Public Radio "in places like Omaha, I could never do that here."

Chomsky contrasted his view of the media as subservient to powerful interests with the popular "myth" of an "adversarial press that is so extreme

that it may even be threatening democracy." He observed that "Watergate is often cited as an example of the adversarial press," but turned the "myth" on its head, terming it instead "an example of shameful subordination by the press."

"Watergate came out at the same time as the exposures of Cointelpro, the national political police, who were trying to destroy political dissent, by methods including Gestapo-style political assassination," Chomsky contended.

Watergate, which Chomsky derided as "some bumbling thieves," received extensive coverage, while Cointelpro, "which involved far worse methods, but against the Socialist Workers Party instead of the Democratic Party," was largely ignored.

Chomsky thus derived the lesson: "The criterion for state violence and human rights is that you shouldn't attack people powerful enough to defend themselves."

In light of the "major fact about American society which ought to be obvious to everyone, that there is a highly class-conscious business class seeking to control the public mind," Chomsky said that the suppression of expression is unsurprising.

Since the media consist of "big conglomerates selling privileged audiences

to other businesses, it doesn't take a genius to see what the media product will look like," he asserted.

Labeling the corporation "one of the most totalitarian institutions ever constructed," Chomsky claimed that unlike state censorship, "private tyranny is completely unaccountable" and thus may be "even more effective."

Chomsky found it ironic but logical that strong legal rights to free speech and extensive practical suppression of their exercise would coexist in this country. "If you can't control what people do, by force, you must care a lot about what they think," Chomsky concluded, whereas "thought control" is less important in totalitarian societies, "because you can't do anything anyway."

Over 200 attended Chomsky's presentation, which was organized by the Law School Graduate Forum. Chomsky

spoke for about 30 minutes, and then took questions from the audience. Jacques Naquet-Radiguet LL.M. '95 seemed to

express the sentiments of many of those in attendance, praising the speech as "provocative." He also commented that "it was particularly interesting to hear such radical criticism in a privileged environment like Harvard."

Not all students were impressed by Chomsky's famously controversial views. Louisa Oliver '97 criticized the speech as "another example of the Barbra Streisand syndrome: the embarrassing consequence of believing experts in

one field when they speak about another.

"Chomsky offered no substantiation for his wild conspiracy theories and ignored the decentralization of the media being brought about by the proliferation of new speech fora such as the Internet and talk radio," said Oliver.

Implicitly taking issue with the reliance Chomsky's argument places on the theory of "false consciousness," Oliver further charged that "Chomsky had no answer to the proposition that some views are unsuccessful in spreading because they're wrong or illogical, rather than due to conspiracy."

"The criterion for state violence and human rights is that you shouldn't attack people powerful enough to defend themselves," Chomsky said.

Grades: The Big Lie

By Terri Gerstein '95

RECORD Columnist



It's that time of year, so for the sake of the 1Ls, someone had to write this.

Of course, by so doing, I inevitably expose myself to all kinds of speculation. I know what you're thinking. You're all wondering about my transcript. Read on, inquiring minds. I'm going to appeal to your prurient interest. Somewhere in this article, I will in fact voluntarily divulge my grades this semester (a concept more titillating than pornography for most HLS students).

There's so much to say about grades at HLS. How little they measure, given that professors review 150 exams at a pop. How the analytical methods used throughout the semester have almost no relation to the skills needed for exams. How shameful it is that in most HLS classes we sit passively like furniture for four months (occasionally speaking when spoken to) and the only time we actually have to produce anything is in a three-hour puking session with the speed of your handwriting the single most relevant factor.

Let's take an imaginary trip, away from HLS. Imagine yourself in Grade Utopia. Low student-faculty ratio, regular written and oral assignments, utter fairness in every way.

Now imagine the unimaginable: You still get all B's.

Harvard Law students have, despite their ambivalence, extremely strong feelings about grades. People here have always excelled by objective, or, perhaps more accurately, quantifiable standards. As a result, many people arrive here accustomed to measuring their self-worth by these standards. From the moment we started reading "War and Peace" at age 4 until we graduated Whatever-Cum-Laude from college, we've been getting Adulation, Attention, and Admiration (three A-words) from a scarlet letter that doesn't stand for "Adultery." They handed us trophies and prizes and other discrete pellets of recognition. And we basked in the glow of their Approval.

I worry that a lot of people here haven't developed a sense of self-worth suffi-

Once we're out of high school, and out of college, and out of law school, and we're just out there in Life, they don't give grades for most of the things that matter. You don't get a grade for being a good parent, or for being strong and caring and there when a loved one dies.

ciently divorced from quantifiable measurements. And I wonder sometimes how much the need for numbers to measure our worth might play a role in HLS students' job decisions, salaries being pretty quantifiable things: If they pay me \$XXX,XXX (fill in the blanks) a year, I must be worth something — I must be a success.

If that's so, then what do we think of the people who only earn \$XX,XXX a year? Or the kid from high school homeroom who stayed back a year? The flip side of measuring ourselves by our quantifiable achievements is devaluing or pitying those whose achievements cannot be measured with numbers.

This need for approval by an external authority is dangerous in other ways, too. If you think our society is fundamentally unjust (and you'd have to be an idiot not to think so), it's pretty unlikely you'll get money, prizes, and adulation for fighting against that injustice, Rigoberto Menchú notwithstanding. No well-fed grey-haired man in a pinstriped suit with a large luxurious office is likely to pat you on the back for fighting for people's rights — if he does, query whether you're fighting hard enough.

Once we're out of high school, and out of college, and out of law school, and we're just out there in Life, they don't give grades for most of the things that matter. You don't get a grade for being a good parent, or for being strong and caring and there when a loved one dies.

Once we're out of law school, no one will be handing our grade reports anymore except maybe the Big Guy in the Sky. And I assure you, She's not really interested in how many articles you've published.

It's hard to live in the way I'm suggesting, deaf to the siren call of quantified success. Personally, I am in a constant struggle to define success for myself, not to mention the more practical question of how to get there. Yet the value lies in the struggle itself, in the very process of internal dialogue and discovery. Maybe we could use this as a rule of thumb: Neither a resume nor a pay stub should be capable of expressing the achievements which make us the most proud.

It's the end of this article, and I know you're all wondering about my grades. After all, I promised. Well, here goes:

I wasn't as involved in the community as I would have liked, and I should have called my grandmothers more. Instead of being mobilized by November's elections, I was paralyzed with horror by them and allowed my day-to-day life to take over. And I didn't write to my friends around the world nearly enough.

I helped my proctor group of wide-eyed freshmen adjust to life at Harvard, weathering a few major crises along the way. I taught a class of undergraduates and helped them appreciate some beautiful books. I made new friends and grew surprisingly close to old ones I'm about to leave. I knitted an ugly scarf (rectangles are all I can manage). I got a job I absolutely cannot wait to begin.

All in all, I'd say it was definitely honors work.

NEED BOSTON SUBLET. NY SUBLET AVAILABLE.

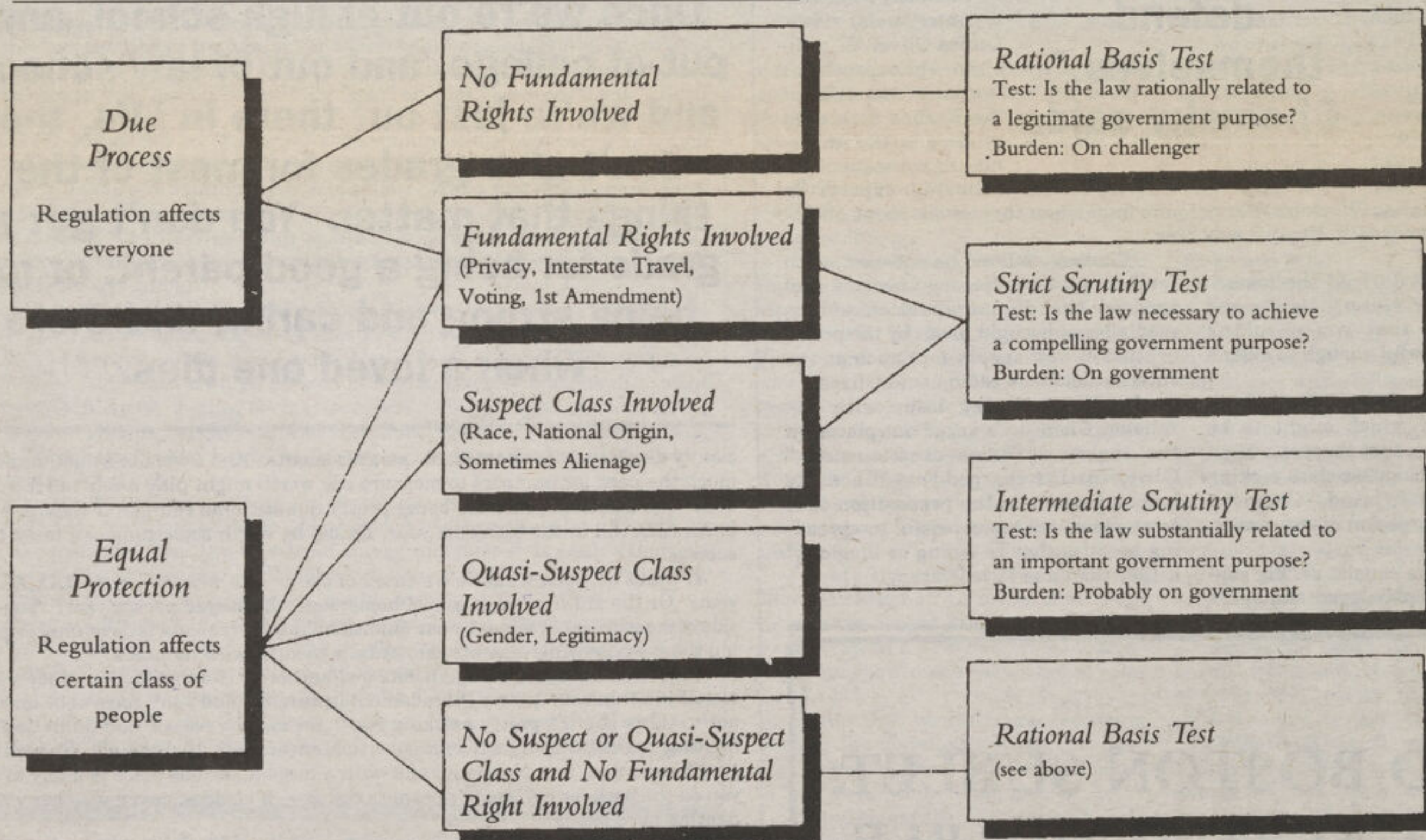
Older Columbia Law Student working in Boston for summer. To swap, or otherwise, 1 BR Co-op, drmn. bldg., Steinway Grand piano, AC, stereo. Nice and sunny, view of Empire State. Rents for \$1200 but negotiable. Seek 1BR or 2 BR or house in Cambridge, Boston or Jamaica Plains.

Call or fax Jon: (212) 662-8794.

GO WITH THE FLOW.

CMR Approach Chart

Substantive Due Process or Equal Protection Questions



Bar/Bri gives you flow charts, mnemonics and other learning devices. One more reason why more people take Bar/Bri than any other course.

barbri
The Flow Chart Course