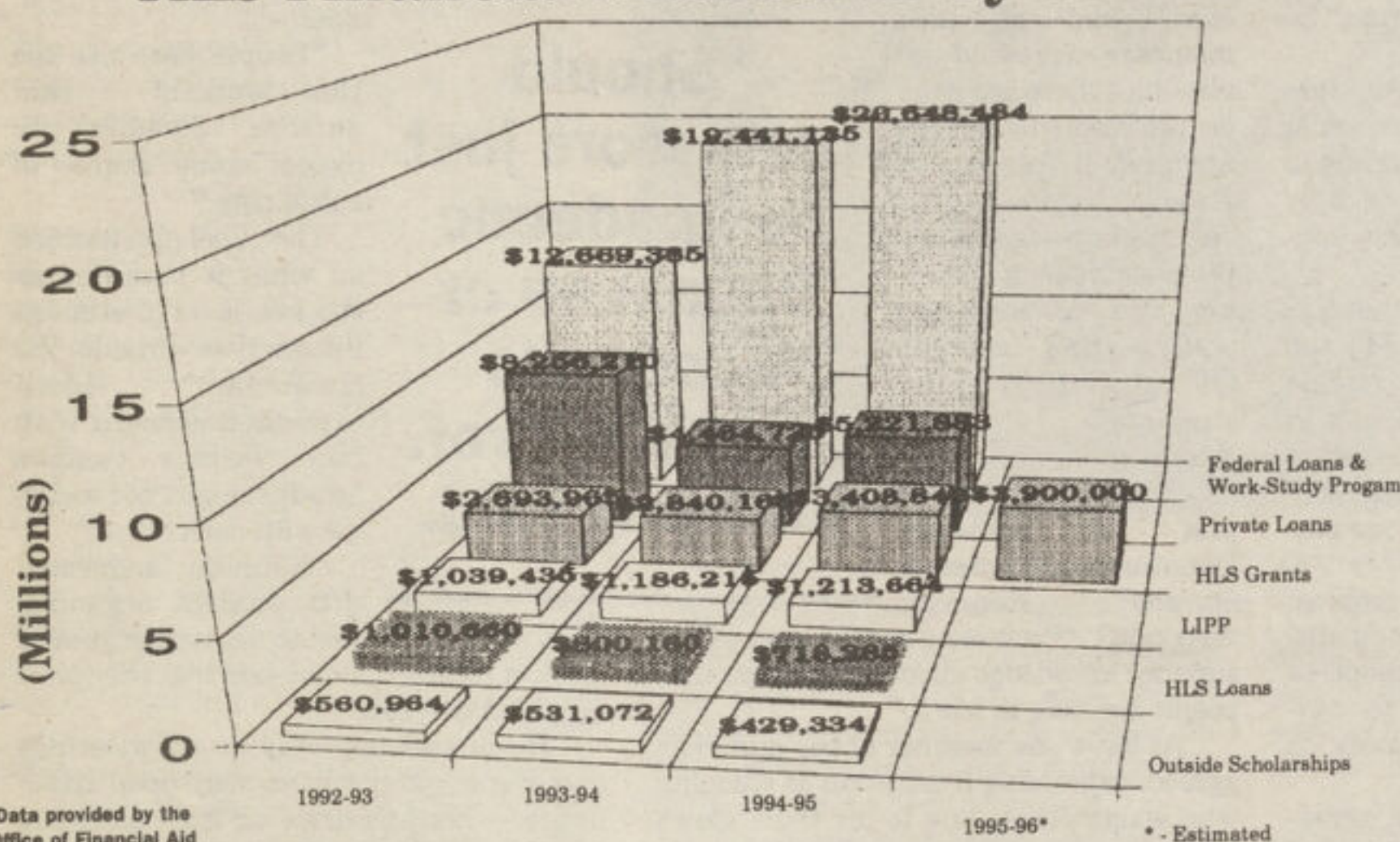




HLS Financial Assistance by Source



Financial Aid Grants Up 14.7%

By Katrina C. Randolph

Financial aid grants to HLS students rose by an estimated 14.7 percent over 1994-95 figures, in part because of the success of the Law School's fundraising campaign, said HLS Financial Aid Director Sally Donahue.

"As the campaign funds begin coming in, I hope we can continue to keep [the increases] constant," Donahue said. The Financial Aid Office can expect to receive \$15-\$20 million of the \$175 million raised during the Campaign for Harvard Law School. That money will be distributed among the various financial aid programs, including the Low Income Protection Plan (LIPP).

Higher endowment account balances also contributed to the increase, Donahue explained, noting that none of the money for grants comes from tuition revenue.

Donahue estimated that

approximately \$3.9 million will be distributed to an estimated 449 students in 1995-96. In 1994-95, \$3.4 million was distributed to 443 students, a 20 percent increase in funding from the previous year.

The 14.7 percent grant increase is more than twice the 6 percent increase in the student budget. The 1995-96 student budget is \$34,290, compared to \$32,160 in 1994-95.

The total amount in grant awards may change slightly as the Financial Aid office processes students' summer update forms and late financial aid requests, Donahue said.

"The financial aid program is definitely growing," Donahue noted. She maintained that the increase in funds is "not a splash growth" but added that LIPP has received some large

gifts.

Despite the increase in grant money, the Financial Aid office has not adjusted the need analysis, Donahue said. Students must meet the same eligibility requirements for the grants, which are based only on need.

The base loan has remained at \$18,500 for the third consecutive year, despite the rising student budget. Student need is determined by subtracting the base loan and expected parental contribution from the budget. The amount remaining constitutes the grant eligibility.

Because the grants have increased, the base loan figure has not, Donahue said.

About 70 percent of HLS students receive financial aid in the form of grants, scholarships or loans.



Sally Donahue

Lambda Boycotts Sidley & Austin

By Victoria Kuohung

Sidley & Austin may face more than just a legal battle this October when it defends Colorado's Amendment 2 before the Supreme Court.

When the Chicago-based law firm visits Cambridge in two weeks to interview job applicants, it will likely also confront protesters intent on convincing fellow HLS students to boycott Sidley's recruitment effort.

Lambda, an organization of lesbian, gay and bisexual law students, is spearheading a nationwide protest in order to shame Sidley & Austin for supporting what Lambda perceives as an anti-gay initiative sponsored by Colorado's religious right.

Amendment 2, which was introduced as a ballot measure in 1992 and which passed in 1993, overturned all local and state laws prohibiting discrimination against gays, lesbians and bisexu-

als. The constitutionality of the process which passed the amendment will be argued before the Supreme Court in *Romer v. Evans* next month.

Managing partner Carter Phillips from Sidley's D.C. office and Rex Lee, who is of counsel and is current president of Brigham Young University, helped author Colorado's brief as co-counsel to the state attorney general.

"Amendment 2 is the institutionalization of discrimination and hatred," said Lambda Co-Chair Greg Gibson '97. "In participating in that process, Sidley & Austin is litigating hate."

To garner student support, Lambda has lobbied extensively in the past few weeks by posting flyers, stuffing personally-signed letters in Harkboxes, and gathering nearly 300 signatures on protest petitions.

The group also plans to con-

please see **BOYCOTT**, page 10

Higher Grade is Academic Carrot to Increase Student Participation

By Hope Yen

Some HLS professors are holding students more accountable for participation in large classes, in a move that might signal a greater faculty willingness to use grades to reinvigorate classroom debate.

Two corporate law professors, Reinier Kraakman and Jon Hanson, have told their students this fall that failing to attend class on the day they are scheduled to be "on panel" will affect their final course grades. Their grading systems are a bit unusual in that they utilize a 1976 school policy that makes it more difficult for students to be evaluated for participation if class enrollments exceed 50.

In Kraakman's class, students were told that failing to appear on their one panel day of the semester would determine the difference between an "A+" and an "A." Students in Hanson's

class, meanwhile, must write eight-page papers if they miss their panel day. Both classes enroll more than 150 students.

"There's no wonderful way to grade in a class of 160," Kraakman said. "I had to ask myself, 'Gee, how do I make sure that the same 30 people are not the only participants in the conversation?'"

"So I put everybody on a panel sometime in the course of the semester and require they show up on that day. If they can't make that date, then they can exchange with someone else. It's a once-in-a-semester test, in which I raise their grade by a half grade basically for being there," he said.

Hanson, who was preparing a paper for an academic conference out of town, was not in his

office this week and could not be reached for comment. Hanson apparently started his system this year.

The professors' grading policies are significant in that they might be indicating a greater faculty acceptance for linking class participation in large classes to course grades, when in the past such a move would likely have been criticized and protested by students.

According to the 1976 policy on anonymous grading of exams, instructors "may adjust the examination grade up or down on the basis of other assigned written or oral exercises performed by the student but only if all students in the class

please see **CLASS**, page 4



Reinier Kraakman

Bluebook Editors Plan New Edition Amid Citation Controversy

By Katrina C. Randolph

As preparations for a new 16th edition of the Bluebook are underway, academicians and practitioners are debating the need for a radical change in the system of legal citation.

"Courts should change their reporting practices so that there can be a vendor-neutral and medium-neutral citation," said HLS lecturer Virginia Wise, who teaches Advanced Legal Research.

"The Bluebook's 15th edition rules clearly favor print over online, and they favor certain purveyors of legal publications over other purveyors of legal publications," she said.

Student editors at Harvard, Yale, Columbia and the University of Pennsylvania have recently begun considering changes to the Bluebook, which is used by most law reviews around the nation as a guide to proper citation form.

Bluebook Editor and Harvard Law Review member Gary Murphy '96, who is overseeing revisions for the 16th edition, said the editing team will be pondering more extensive revisions, given recent trends in legal research.

New legal publishers, for instance, have been attempting to grab a piece of the multi-billion-dollar legal publishing industry by offering case opinions in new formats such as CD-ROMs and Internet sites. They can offer databases for many courts without legal problems, since by law,

judicial opinions are in the public domain.

Many jurisdictions publish an official, government-issued reporter. But in the jurisdictions that have no official reporter, the current Bluebook rule is that if a West Publishing Co. print reporter contains the opinion, the West reporter must be cited. This rule affects citations to the 14 federal circuits, 87 federal district courts, 21 states and the District of Columbia.

Private publishers of court reporters, like West, allow other publishers to use the volume, reporter and initial page of a case under the fair use exception to copyright law. However, they hold copyright over synopses, headnotes and internal page numbers. Other legal publishers must obtain a license to cite these reporters.

The concern among many is that would-be patrons of the new electronic formats may not use the new formats if they still have to consult a print reporter for page references.

An American Association of Law Libraries task force, of which Wise is a member, recommends a switch in citation methods. It proposes that the legal industry resort to citing cases by name, year of decision, court, opinion number and paragraph number. Current citations use the name, year, reporter name and volume, and page number.

"If the courts, when they

please see **BLUEBOOK**, page 11

Kennedy Hosts Student Dialogue on Diversity

By Josh Strathman

Prof. Randall Kennedy and a panel of six students representing diverse groups at HLS met in a forum to discuss the recurring student concerns about life at the Law School.

Facilitated by Dean of Students Suzanne Richardson and sponsored by various student organizations, the Dialogue Across Differences panel met with the hope of conveying information "about the values of a complex and diverse student body" and the educational advantages that these differences present, according to Richardson.

The panel was composed of Raquel Aldana '97, Greg Gibson '97, Orin Kerr '97, Hannah Kilson '97, Victoria Kuohung '96 and Hilary Ware '97. About 25 other students attended the discussion.

Describing the panel as capturing the "spirit that recognizes that there is a lot of richness in the experiences and viewpoints at Harvard Law School but that also recognizes that improvements can be made," Kennedy said the purpose of the panel was to prompt students to consider ways "to build on what we have here."

The particular focus was "the question of conversations that people don't have," Kennedy said. Noting that a number of factors at the law school, such as peer pressure, demographic variety and class size, impede communication both in and out of the classroom setting, Kennedy opened the floor to panel and audience comment.

Focusing first on what they viewed as the often stifled character of class discussion, the panel members traded views as to

what contributed most to the constrained atmosphere.

Kerr said conservative viewpoints were frequently left unexpressed in class. "Being politically liberal [on this campus] is viewed as one of the social graces," he said.

Exponents of conservative viewpoints are perfunctorily classified as racist, sexist or homophobic, Kerr said. In an attempt to avoid such branding, conservatives simply quit the debate, leaving the floor to a banner of centrist positions, he said.

Audience members remarked that this was not a burden borne uniquely by the political right. When the more extreme political views are met with disrespect in the classroom, "people are encouraged to make moderate arguments" regardless of their true political leanings, said one student in the audience.

Kilson said she feels that the problem lies in a common perception among students that it "is not acceptable for people to be aggressive, to converse impassionately" in class.

Aldana, agreeing with Kilson, added that a larger flaw in the classroom setting is the de-emphasis of emotion, the "view that if you are making an emotional argument, then you are not thinking the way you should."

Kennedy responded that he felt that professors often failed to force students to defend their emotional positions with more reasoned arguments.

He conceded, however, that it was a delicate balance. "You don't want people to be so chilled that they don't express what they're thinking, but you also don't want to

encourage babbling."

Kennedy's comments raised the issue of the proper roles for professors and students in facilitating more open discourse.

A number of panelists and audience members expressed the view that there is a need for professors to encourage greater freedom in class discussion. "What's important is the professor's skill in directing the conversation while putting the brunt [of contributing] on the students," said Kuohung.

"Should professors just be academic Donahues or academic Oprahs?" Kennedy responded. "Professors should assert their superior knowledge about the subjects that people are here to learn."

At least one member of the audience agreed, expressing frustration at students who waste class time to air their views when the "professors could be usefully engaged to clarify the material."

Other panelists and audience members said they felt that students should take the initiative to remove the constraints from classroom dialogue.

"The problem is with the way the discourse is conducted — doing things that involve trying to humiliate people so that they feel uncomfortable speaking," said one audience member. "That style of organization puts a damper on discussion; that sort of expression really troubles me."

Another member of the audience stressed the importance of students creating a supportive classroom environment. "It's terribly important to encourage each other to participate" as a learning tool.

Although they recognized the desirability of a courteous atmosphere, not all of

the students present saw its absence as the greatest impediment to class discussion. "It's not [the Law School] that's stifling but that some people allow themselves to be silenced," said one student.

"People here are too thin-skinned," said another. "Shouldn't you expect some degree of snickering?"

The panel also touched on what it regarded as the low level of student interaction outside the classroom. Kilson expressed concern with how various campus "groups might not socialize with each other."

Kennedy suggested that student organizations are in a position to encourage greater student interaction but said that they have not filled this role.

He questioned why group meetings and events did not have more open attendance — not just drawing from members but from students interested in the goings-on of groups to which they do not belong.

Kerr suggested the reason for this is that students tend to have fairly set views and are unwilling to approach things afresh. As a result, he said students tend to seek surroundings, academic and social, "which make you more correct than you were before."

One member of the audience expressed concern with this state of affairs. It is "a real loss when groups just meet with themselves and no one else hears their arguments," she said.

Another audience member expressed the opinion that student groups often tend to aggravate the poor communication among students, increasing campus divisions and interfering with the interaction of students from different backgrounds.

"Being politically liberal [on this campus] is viewed as one of the social graces," Orin Kerr '97 said.



EVEN WITH AN AIR BAG YOU'RE NOT COMPLETELY COVERED.

Sure air bags work great in front-end collisions, but only a safety belt can protect you from side and rear-end collisions. So buckle up. And you'll cover all the angles.

YOU COULD LEARN A LOT FROM A DUMMY. BUCKLE YOUR SAFETY BELT.

For more information, call the Airbag & Child Safety Hotline: 800-424-9303

Airbag & Child Safety Hotline
U.S. Department of Transportation

Koby Antupit
PHOTOGRAPHERS

- Law Firm Photographs
- Instant Color/B&W Passports
- Commencement/Portraits for All Occasions

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

LATHAM & WATKINS

- Chicago
- London
- Los Angeles
- Moscow
- New Jersey
- New York
- Orange County
- San Diego
- San Francisco
- Washington, D.C.

We will be interviewing second and third year law students on

Monday, October 9 and Tuesday, October 10

from

1:00 p.m. to 8:00 p.m.

at

The Charles Hotel

for each of our domestic offices.

In addition,

Members of La Alianza, APALSA, BLSA, CLSA, KLSA, LAMBDA, MELSA, NALSA, SALSA and the Women's Law Assn.

are invited to join us

in

the basement of Border Cafe for a reception

on

Sunday, October 8

from

5:30 p.m. to 7:30 p.m.

We encourage you to sign up for an interview through the Placement Office. If you are unable to obtain an interview through the Placement Office, we invite you to drop by our Hospitality Suite at The Charles Hotel to meet with a representative of our firm.

HLS Prominent at Beijing Women's Conference

By Maria Green

HLS faculty and students were among the 26,000 activists who gathered from across the globe in Beijing this month to lobby governments, hold workshops, and exchange tactics on furthering women's issues at the United Nation's Fourth World Conference on Women.

Prof. Mary Ann Glendon, who is writing an article on the conference, served as the head of the Vatican Mission. And in a separate group, nine members of the Law School community, including Lecturer Deborah Anker, LL.M. '84, and Graduate Director of Admissions Athena wa Mutua, LL.M. '87, traveled to Beijing as the International Women's Law Group at Harvard Law School.

Despite security restrictions and logistical obstacles one student called "Kafkaesque," the Law Group not only participated actively in the conference's Non-Governmental Forum but also influenced several provisions in the final Platform of Action. The Platform of Action is a document adopted by the governments at the end of the meeting. It is expected to set governmental standards of behavior into the 21st century.

Anker, who also coordinates the HLS Immigration and Refugee Project, said she was "thrilled" about one such issue — the successful incorporation of stronger language regarding the rights of refugees into the final Platform of Action.

"There was a provision [in the draft document] that talked about the rights of refugees to return to their countries of origin," said Anker. "The problem is that the quintessential foundation of refugee law is that people have a right not to be returned. Now they [were] trying to change it to the right not to leave ... taking away the entire palliative effect of refugee law."

Along with other women's groups, Anker and the Women Refugees Project,



Attendees at the Non-Governmental Organization Forum listen to a Human Rights Watch panel discussion entitled "Gender, Justice and Human Rights."

Photo Courtesy of Erika George

including HLS clinical instructors Nancy Kelly and John Wiltshire, were able to convince the governments to replace the weak provision with a much stronger text that they had drafted themselves.

This change, said Anker, who also lobbied successfully for additional text on the rights of refugees after their return to their homelands, "affirmed the central principle in refugee law, which has been argued and undercut in recent international documents and practice."

Jennifer Green '90, former administrative director for the Harvard Human Rights Program, and Lauren Gilbert, who is with the Women in International Law Program at Washington College of Law, also worked closely on the project.

Meanwhile, some 40 miles away at the parallel Non-Governmental Forum, Erika George '96, Smita Narula '97 and S.J.D. candidate Kerry Rittich were presenting papers to a lawyer-heavy audience at a panel called "Framing Women's Needs Through Law." The Harvard panel, moderated by Mutua, covered health care con-

cerns, social reform and the concept of economic and social rights, private law issues such as property rights and contract law, and the effects of the globalizing economy.

In addition to holding the Harvard panel, the HLS group, which also included Alexa Smith '96, Monica Smith '96, and Celestine Nyamu, LL.M. '95, attended a few of the hundreds, perhaps thousands of other workshops.

"It was a shot in the arm," said George, who attended panels on the rights of minority women in India, southern and northern Sudanese women working together, female genital mutilation, and breast-feeding.

"You could see the energy and the movement forward. There are things changing and moving on and women can make it happen," said George.

"The NGO [non-governmental] Forum was an incredible opportunity for women from all over the world to come together and find common ground on issues they are working with," said Kelly. "It was incredible, the level of sophistication of

work being done by women," she said.

The conference also provided an unrivaled opportunity for people from different cultures to establish connections in order to exchange views and advocacy tactics in the future.

"It's very easy to be wrapped up in issues that are important to our own society and not to be aware of the issues that are important to women in other societies," said Rittich.

Smith noted the unique nature of the world conference. "This is not every conference that comes along," she said. "This is a once in a lifetime opportunity to get involved in women's issues, which involves half of humanity."

"This is not a fringe issue," Smith said.

At the same time, the HLS group experienced first-hand the heavy-handedness of the Chinese security. "I have never been through so many electronic devices, seen so many cops," said Anker.

In addition, the logistical situation was extremely difficult. "Everything — making a phone call, finding a computer — took half a day," Anker said. "It was hard to tell what was disorganization and what was disruption."

But perhaps the strangest aspect of the situation had to do not with the experiences of the participants themselves, but with what the official Chinese media told bemused Beijing citizens about conference attendees. Taking a sightseeing trip into Beijing one day, George was told by a Chinese friend that the conference had been described simply as a meeting of "homosexuals and prostitutes," and that "that was the common belief among the masses who were uninformed."

Despite the problems and the chaos, however, the participants praised the conference and what was accomplished there. "We made many gains," said Kelly. "Definitely it moved women's issues forward."

The previous World Conference on Women was held in Nairobi in 1985.

.....
KRAMER LEVIN
.....

THE CHARLES HOTEL

MONDAY

OCTOBER 9TH, 1995

OUR SUMMER PROGRAM IS SMALL AND WE SELECT ONLY THE APPLICANTS WHO DEMONSTRATE THE ABILITY AND MATURITY TO DO THE JOB. AS A RESULT, EVERY SUMMER ASSOCIATE

DOES INTENSIVE HANDS-ON WORK, WORKS CLOSELY WITH SENIOR LAWYERS,

AND IS GIVEN THE OPPORTUNITY TO HANDLE A PRO BONO MATTER ON HIS OR HER OWN.

AT KRAMER LEVIN, TALENTED ATTORNEYS TAKE ON SERIOUS RESPONSIBILITIES

EARLY IN THEIR CAREERS AND REFINE THEIR SKILLS IN A CLOSE-KNIT,

CONGENIAL PROFESSIONAL ENVIRONMENT BACKED UP BY

WORLD-CLASS RESOURCES. THE OPPORTUNITIES AT KRAMER LEVIN TO HAVE

EARLY CLIENT CONTACT AND TO ENGAGE IMMEDIATELY

IN SUBSTANTIVE WORK ARE UNSURPASSED AMONG MAJOR NEW YORK FIRMS.

WE SAY THAT NO OTHER FIRM IN OUR CITY OFFERS SUCH A PACKAGE.

WE INVITE YOU TO TEST THAT CLAIM.

Kramer, Levin, Naftalis, Nessen, Kamin & Frankel
919 Third Avenue
New York, New York 10022
212-715-9100 Fax 212-715-8000
Internet <http://www.kramer-levin.com>

BRIEFS



Harvard Students Pose for Playboy

Eight Harvard College women are featured in Playboy's "The Women of the Ivy League" issue, which appeared on newsstands earlier this month. Kelli Keller appears nude in the magazine, Kelly Johnson-Arbor is shown semi-nude, and Amanda S. Procter poses in a diaphanous sweater. They are accompanied by five fully clothed students who appear in a group shot: Leslie Yahia, Bethany Leeman, Suzanne Brown, Anne Bingham and Nadia Boulos.

The issue also features photographs of women in various states of undress from Brown, Yale, Cornell, Dartmouth, Columbia, Princeton and the University of Pennsylvania.

There has been so much interest in the issue that Playboy organized an autograph session at Out of Town News and Christy's last week. The three women were each paid \$100 to sign fans' issues. At a similar publicity event at Cornell, Playboy sold 700 extra copies of the magazine.

Both Johnson-Arbor and Keller said their parents and friends had no problems with their appearance in the magazine. "Nobody has really said anything bad or discouraged me," Keller said.

"My friends were all very positive about it, and my mother is a former Playboy bunny, so she was excited," Johnson-Arbor said. "My father saw it, and he thought it was fine."

Wasserstein Public Interest Fellows Named

Four alumni of Harvard Law School have been selected to be among the 10 new Wasserstein Public Interest Fellows for 1995-96. The Fellows have been selected to participate in a program designed to bring outstanding public interest attorneys to HLS to counsel students about public service.

A selection committee appointed by the Dean of the Law School chooses the Fellows, and the Office of Public Interest Advising coordinates their activities. The HLS awardees are: Victor Bolden '89, assistant counsel to the NAACP-Legal Defense Fund; James Farmer '75, chief of the Organized Crime Strike Force for the U.S. Attorney's Office in Boston; Neal Kravitz '83, principal deputy Democratic Special Counsel to the Senate Whitewater investigation; and James Vigil '89, a U.S. assistant associate attorney general.

The Program was created in 1990 in honor of Morris Wasserstein, through a gift of \$500,000 from his family.

Wasserstein Fellows spend one to three days on campus meeting individually with students and advising them about public interest career options.

Sen. D'Amato Urges Republicans to Focus on Freedom

Sen. Alfonse D'Amato (R-N.Y.) spoke to an audience of about 400 at the Kennedy School of Government's Arco Forum this week. D'Amato, who chairs both the Senate Banking Committee and Senator Bob Dole's (R-Kan.) New York presidential campaign committee, said the key to the Republican victories in the 1994 congressional election was the party's focus on individual freedoms. D'Amato maintained that this theme of freedom should continue to be the cornerstone of his party's platform.

D'Amato summarized the history of American politics since World War II, leading up to President Bill Clinton's 1992 election victory. He noted that Clinton will not be an "easy candidate to beat in 1996" and warned Republican presidential hopefuls to "[l]et the American people know you're going to be a president from the conservative mainstream and not a candidate of the religious right."

Before his address at the Kennedy School, D'Amato autographed copies of his book, "Power, Pasta and Politics," at the Harvard Coop.

Peabody Terrace Parking Garage Suffers Series of Thefts

The parking garage at 125 Putnam St., used by graduate students living in Peabody Terrace, is the site of a recent rash of attempted car thefts. The most recent episode left nine cars damaged, according to Harvard Police Chief Paul E. Johnson.

Johnson said the culprits are probably a group of "kids" who "go into these cars looking for whatever they can find."

The culprits broke into the vehicles through the rear or front vent windows of the cars. These windows are easier to force open than normal windows, Johnson said.

Not all of the vehicle owners reported stolen items from their cars, although the owner of a black Honda reported a \$450 stereo as missing.

Johnson maintains that his officers are doing everything they can to keep these incidents to a minimum.

Class Participation Counts

continued from CLASS, page 1

were required, or had the option, to do those exercises, and notice is given in advance that the exercises will be graded and counted as part of the grade in the course."

In addition, "in a case of class with an enrollment of 50 or less the instructor may adjust grades up, but not down, on the basis of overall class performance."

The wording of the second provision, which grants instructors authority to adjust grades for the broader reason of "class performance" — as opposed to the first provision, which specifically mentions "written or oral exercises" — may have led some professors to avoid consideration of student participation for classes with more than 50 students.

Indeed, several professors seemed to initially believe that the grading system might violate the policy, while others weren't sure. In addition, a faculty vote in 1983 apparently clarified the policy to allow "class performance" to be taken into account for classes larger than 50, according to old RECORD news articles, although the 1995-96 Faculty Manual does not indicate it.

The 1983 policy, according to the RECORD articles, apparently was passed soon after a faculty proposal for the "no-sanctions pass" — which at the time was widely supported by students and some faculty — was defeated. The proposal would have protected students who failed to answer professors' questions from disciplinary action.

Students today, however, seemed fully supportive of Kraakman's move to boost student participation. Loan-Anh Tran '97, for example, said she finds the policy more encouraging than intimidating or punitive.

"I get a sense that this is his way of

getting the class involved without trying to intimidate anyone," she said. "People who are going to be on call, they're going to be nervous anyway. At least this way, they can get something out of it."

Bob Melson '97 agreed. He said professors should encourage more class participation, given the nature of the legal profession.

"I think it's a fair procedure, considering that we are allowed to switch assignment dates if we can't make it a particular day," Melson said. "Speaking is part of being a lawyer, so I say get used to it."

Kraakman, who has been using this grading policy since the late 1980s, said he found the panel system to be a good compromise between the traditional Socratic method, in which students are randomly called, and pure voluntary participation, in which only a few students tend to dominate the discussion.

With his improvement on the panel system, Kraakman said, every student in his large class will definitely speak at least once in his class, and no one can opt out by conveniently being absent on the one day in the semester when he or she is on panel.

"On a bad year, there may be one or two people who haven't shown up on their panel day and never come to talk to me about it, whose grades were affected," Kraakman said. "But I don't feel sorry for them."

Associate Dean Frank Sander '52 said he advocates using grades to spur more class debate.

"I think it's a good idea," he said. "The ultimate goal is to make students more interactive and to bring class discussions to a higher level, so I think this is a way to recognize students who contribute to the education of their fellow students by contributing productively to classroom discussions."



PORTER SQUARE AND FRESH POND MALL

FREE French Fries!



SHOW YOUR CURRENT STUDENT OR EMPLOYEE

I.D. AND GET A FREE SMALL OR LARGE

FRIES WITH THE PURCHASE OF ANY LARGE

SANDWICH AT REGULAR PRICE

OFFER NOT VALID WITH ANY OTHER OFFER,
COUPON, OR DISCOUNTED SANDWICH

THIS CLOTH SHOPPING BAG
CAN BE USED OVER AND OVER
THOUSANDS OF TIMES.
WHICH IS A REAL BARGAIN.
ESPECIALLY FOR THE EARTH.
FOR MORE WAYS YOU CAN
HELP CALL 1-800-488-8887

Ad
A Public Service of
The Publication

Earth Share

GYM RAT

Let the Games Begin

By David Koontz '96

Sports Editor



This weekend, legends will be made and stars will be born. Bone-crushing collisions will be matched in intensity only by the blood-curdling, ear-splitting screams of the crowd. Men and women will revert to their most primal animal instincts and lose all ability to reason. All of this can mean one of two things: CBS has one hell of a golf schedule, or HLS flag football is coming.

Yes, the time has come for the Gym Rat (a.k.a. Field Mouse) to hype shamelessly the upcoming HLS Flag Football season. Games begin this Saturday (1 to 4 p.m.) and Sunday (9 to 11 a.m., and 1 to 4 p.m.) at the fields behind the Harvard football stadium (recently renamed the Hauser Bowl).

Come on out and go nuts when amazing things happen, as they always do in this league. Last year, for example, this one thing happened that was really cool. I won't tell you what it was, though, because it will probably happen again, and I don't want to spoil it for you. It's my version of the NFL television blackout rule. If you really can't make it to the fields in person, however, I'll try to recap the weekly thrill of victory, agony of defeat, and sibling-kissing purgatory of ties. Get to know this year's gladiators:

Congratulations to defending champion Learned Hands, captained by David "Whitey" Berardinelli '96. Just read the back of their championship T-shirts: "11-0." Yes, that's right — they won every game by a score of 11 to nothing. Pete "The Fighting Badger" Underwood '96 at one time put the hurt on the opposition while at Wisconsin; he's the one muttering something about "quarterback" and "skirts" under his breath. John "Bass-o-matic" Basinger '96 is angry that law school doesn't last six years so that he could "get one for the thumb." The Hands profile continues next week if I can get Mike "Evil Dead 2" Epstein '96 to say to the rest of the league, "You're goin' down!"

The Chicano Bears, led by captain James "Desperado" Kostohryz '96, are a perennial powerhouse. Kostohryz led the Bears deep into the playoffs last year with one foot tied behind his back. There are a few other mostly 3L teams that deserve a final shot at publicity this year. First, there's "Kanuck!" named after Sean Kanuck '96 (that's what happens when you don't get your team name to the Commissioner on time). Kanuck! boasts Brett "Al Bundy, the" Schuman '96, who also runs the Friday afternoon softball club at Cambridge Commons (after a good game of softball, you can cool off with a refreshing FREE beer or soda at the open mike/happy hour TGIF every week from 3 p.m. until 6 p.m.).

Another last-chance, er, 3L team is Rich Cundiff, Go-Long Guy. Everyone is asking, "Does Joe Matelis '96 really have 4.2 speed?" And, "Why did Michael Summersgill '96 change the pronunciation of his last name so that it would rhyme with 'Heisman'?" There's also Death Judicata, the team that lets me snap the ball to the quarterback and stand around, led by the Johnson brothers (Todd '96 and Sean '97), Matt "The Knife" Bodie '96, and Dave "Crazy Legs" Weiss '96, and a cast of thousands who so far have no idea I've named the team Death Judicata.

David "Boom-Boom" Aronberg '96 and Brant "It's the" Bishop '96 hope that nobody notices that their team, the cleverly-titled Six Feet Under, actually has three enormous people on it. The last time I checked, Jake "R.A. the Sun God" Schwartz was at least six-foot-five, and Chaka Okadigbo '96 and Reg Brown '96 look down on me as well (they say it's nothing personal).

Among the teams that will be returning some starters for next year, one intriguing name is J.J.'s Golden Rotunda, captained by Bob "Blond Ambition" McCarter '97. A close second is Juan Zarate '97's Locus Poenitentiae, which means "A Place for Repentance." So far, this sounds like a message for opponents, so there is no truth to the rumor that Zarate has commissioned local artists to paint Notre Dame's "Touchdown Jesus" on the wall of the Hauser Bowl.

This weekend, legends will be made and stars will be born. Bone-crushing collisions will be matched in intensity only by the blood-curdling, ear-splitting screams of the crowd.

In stark contrast, Todd "Inspire and In" Stillerman '97 is captain of a team originally named Bring Out the Chains. Several players approached me at a party last weekend and strongly requested a change. Known as the Great Danes during basketball season, this team will be called Bring Out the Danes until we can sort this thing out. The burning question: Can the B League basketball champs handle the pigskin, if you know what I mean?

One big bad bunch of surly dudes is the snarlingly-named Dissenters. Led by Matt "Detmer" Hong '97, this team has added hungry 3L Mike "Bones" Bennett '96, the flag football version of the late John Matuszak if there ever was one. My advice: just let him through. Another team that sounds bent on breaking the rules is the 2L-laden Illegal Motion, led by Alan Tse '97.

Somewhat in contrast, the team of Dave Rothenberg '98 is named the Freshies, but don't let that fool you. I see these guys running the West Coast offense to frustrating perfection while havin' a Corona and mixing margaritas. With Tim Ekstein '96 on the roster, there will also be a little contact for mature audiences only.

Patrick Swayze leads the 1L Wolverines in a remake of Red Dawn ... no, wait, actually the captain is the multi-talented Dan "The Guitar Man" Glazer '98. Another mostly 1L-team is led by Craig Turk '98. I don't know what they want to call themselves yet, so while listening to my Rod Stewart box set I came up with Young Turks. I don't expect them to like it, but I was inspired.

So pick a team, become a fan, come to the fields, and yell until someone tells you, "You know, the game hasn't started yet." Also, keep in mind that if there were no HLS Flag Football League, I would have written a column about the Atlanta Falcons' two overtime wins against an expansion team and the New Orleans Saints.

FOOD - O - RAMA

Chopsticks: The Impossibility of Epistemological Coherence

By Heather Friedman '97 & Betsey Nevins '97

Restaurant Reviewers

In a room somewhere, five women are seated around a table. They appear to be in their early twenties. On the table are drinking glasses, a plastic stand-up photo featuring brightly colored sushi, and an assortment of serving dishes with the steam still rising. In the center of the table are small condiment dishes, into which a woman will occasionally dip her chopsticks. The brunette at the end of the table is telling a story with great animation while the other four listen and eat. Every so often, their attention, shifting between food and talk, seems to fade slightly:

Spotlight on Woman Number One: Check out that new sushi-bar! Pretty slick. Glad they didn't get rid of the bowing electronic geisha girls at the door. Hopefully, this place won't succumb to yuppification. It's twice as large as it was last spring, and that's great, but I'd hate to lose that bas-relief Parthenon on the wall over Belinda's* head, or the plastic plants, or the Korean Beer ads.... And then there's the trellis with paper flowers hanging over the bar. I wonder if the Karaoke here is as good as at that bar in Fanueil Hall....

Spotlight on Woman Number Four: Did the waitress hear me say "mild"? If I had wanted to eat chili peppers for dinner, I would have saved myself the hassle and the money and asked Wanda to spray me with some of that pepper mace she brought back from Texas.

If I had wanted to eat chili peppers for dinner, I would have saved myself the hassle and the money and asked Wanda to spray me with some of that pepper mace she brought back from Texas.

I should never go out to eat on the weekend. This place looks kind of dive-y on the outside, so I at least thought it might be cheap; the entrees run about \$12. And waiting 20 minutes for a table is not my idea of a good time. Deidre obviously thinks this place is the cat's meow, but did she ever have to wait half an hour to order after being seated? It's for sure that there's not even any sign of the barley tea she raved about.

Spotlight on Woman Number Three: The seafood scallion pancake that we shared as a first course was the best dish we got all night. Lightly crisp on the outside, the wedges are fluffy (like an omelet) and generously dosed with shrimp and fresh scallions (beware the few powerfully hot peppers, though). Some might want to order just the pancake and then, perhaps, share an entree with a companion. **Koreana** delivers so many little treats on the side that there would surely be enough to go around. The sticky rice presented in individual silver-lidded bowls was one of the best parts of the meal. I think we all were surprised by the scrumptious veggie samplings that were served between the appetizer and the main course. The colorful morsels included the traditional (and, to a mild tongue, almost inedibly spicy) kim chee, as well as the unanimously popular sesame spinach, pickled turnips, and spongy tofu cubes. My main dish was a sort of Korean version of chicken soup. Like the comfort food we all know and love, it was warm, salty, and not at all spicy (which made it a real exception amongst the entrees). The dumplings left something to be desired, but the "rice cakes" (no relation to the diet surfboard things you find in a bag at Johnny's Foodmaster), were the most pleasant surprise: I actually enjoyed using my chopsticks to fish through the broth for the chewy white disks.

Spotlight on Waitress: These women seem a bit annoyed; is 45 minutes (25 of those minutes after they were seated) really too long to keep somebody waiting before taking their order? They did have a number of questions about the menu, but I'm used to that. Even though so many of our customers are familiar with native Korean specialties, we have so many choices that it's often hard for people to choose what to order. Sometimes (and this group was no exception), people just point at a steaming pot of orange liquid — one of our many seafood stews — on a neighboring table and say, I want that. Ultimately, these customers seemed quite pleased. They certainly enjoyed the cold cinnamon tea I served them with the check. I don't see why they wanted the check itemized, but they did leave a sizable tip; perhaps they were on an expense account?

Spotlight on Woman Number Two: Do I order from the Japanese menu? What about the Mandarin specialties? I expected to choose from a number of Korean options — the name of the restaurant is **Koreana**, after all — but broiled meat and vegetable dishes? (Too boring.) Deep-fried tempura? (Too fattening.) Traditional noodle dishes, hot or cold? (Ah, just right.) Aren't the chop chae cellophane noodles a delightful blend of textures? The mushrooms are funky; I wonder if I could get them at Star Market? Does anyone else think these noodles look like worms? Hmmm.... They certainly seem to like them; I've never seen people eat worms with such gusto.

Spotlight on Woman Number Five: The name of the restaurant is **Koreana**. There are many Koreans here. Non-Koreans too. I have passed this place many times. It's pretty close to Central Square. Just a 5- or 10-minute walk from the T.

The restaurant is good. The food is not too expensive. My dinner and share of the tip is \$15.

It is open everyday from 11:30 a.m. to 11:30 p.m. It is at 154 Prospect Street.

The phone number is 576-8661. Belinda is boring.

* Names have been fabricated out of thin air, and no one will ever know where they came from.

Harvard Law RECORD

Founded in 1946

Katrina Randolph
Editor-In-Chief

David Weiss
Publisher

Respecting Unpopular Views

At the Dialogue Across Differences panel Monday, Orin Kerr '97, a self-described Republican conservative, said publicly what many of us have come to realize about HLS. For the most part, the students (and, some would say, many professors) are hostile to conservative viewpoints.

We see this hostility and its effects throughout campus life. In class, the so-called liberal leftists snicker and stare at those conservatives who dare speak out. Woe to they who dare to mention the buzz words "personal responsibility," "efficiency" or "marketplace of ideas." Many of us immediately and loudly write them off as racists, sexists, homophobes, religious fanatics and just plain crazy.

When conservatives bring speakers to campus, some "liberal leftists" have been known to disrupt the events.

Would-be conservative columnists have even told the RECORD that they won't write columns expressing their views for fear of nasty reprisals from their peers.

These "silenced" conservatives are thus left to themselves to discuss their perspectives. Centrists, liberals and others are left without the benefit of these perspectives.

We pay so much attention to the groups who make the loudest demands for respect from the Law School community, that we sometimes fail to notice when those groups do not respect those who hold contrary views.

The RECORD is not free from this admonishment. Our past failure to pay as much attention to conservative events and issues as to liberal events and issues has been correctly criticized. Recent editors, as well as the current staff, have tried to ensure that each edition is balanced and that each story is as objective as possible.

Passionate engagement in dialogue with others can be enriching if all sides have an equal opportunity to speak. The educational process requires that we sometimes get excited, upset, or even stark-raving mad about some issues. However, the spiritedness of the debate is not a license to disrespect each other. It is only a license to engage each other.

Surely, there is a fine line between a spirited debate and a nasty exchange or stare. But part of our duty as students and as citizens is to identify the boundaries and do our best to stay within them.

More than likely, none of us will escape every glare, sigh or snicker from those who are unwilling to keep an open mind, and refuse to respectfully allow their peers to engage in spirited debate. Most of us have learned to accept these unfortunate instances as a fact of Law School life. But in terms of furthering our education, it is better that we engage rather than isolate each other.

— Randolph

Staff

EXECUTIVE EDITOR.....	Hope Yen
SENIOR EDITORS.....	Markus Hartmann, Jim Lank, Josh Strathman
COPY EDITOR.....	Stacey Henderson Dore
MUSIC EDITOR.....	Colin Meeder
RESTAURANT REVIEWERS.....	Heather Friedman, Bestey Nevins
SPORTS EDITOR.....	David Koontz
CONTRIBUTORS.....	Maria Green, Matthew Huggins, Paul Sinclair, Scott Wiener
CARTOONISTS.....	Brian Cheng, Matt Kelly, Sheila Tuller, Bill Zimmerman
GENERAL MANAGER.....	David Clark
ADVERTISING MANAGER.....	David Patton
EDITOR EMERITA.....	Victoria Kuohung

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 3L Hark box of Katrina Randolph. 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 EXPRESSED 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 •

Political Boycott of Law Firm Problematic

While I support equal rights for all individuals regardless of their sexuality, I do not know that I support the current effort to boycott Sidley & Austin.

The boycotters suggest that Sidley & Austin's retainer is tainted by unprincipled self-interest. This is a fickle criterion by which to judge. Do we really want a world of firms whose clients are politically screened? Assuming that a large firm can even have a single set of moral and political views, ought clients be the media for a firm's moral statements? Public defenders would undoubtedly escape such scrutiny; would criminal defense attorneys? Or is it a civil thing?

A boycott of Sidley & Austin, as a form of political action, is problematic for the interviewing 2L or 3L. Must we then check the client base of every firm we apply to? What if a large firm represents both sides of a political issue: do we work part-time? If an existing client becomes involved in something politically reprehensible, do we resign?

The larger issue concerns the conflict of private self-interest, in the guise of political choice, and professional ethics. Whom do we represent, ourselves or our clients? Where in the process of the attorney-client relationship do we draw the line between political action and

legal advocacy (if there is a difference)? After we take on a client? Before? Or is it negotiable?

Conflicts with clients cannot be the only basis for conflicts with firms. Though their aim is true, the object of the boycotters' ire is misplaced. A better plan would be to ask those who would apply to Sidley & Austin to make known during their interview that, in the event, and for moral reasons, they would respectfully decline to work on the Colorado case. Then at least the moral pressure may be brought to bear from within.

Matthew Kelly '97
September 19, 1995

Lambda's Intimidation Tactics Inappropriate

Over the past couple of weeks, I have witnessed the attempts of several law students to start a boycott of Sidley & Austin because it is representing the state of Colorado in the Amendment 2 litigation. I believe that this effort is highly inappropriate, and should have no place in a law school committed to free discourse on matters of public concern.

First, I would like to offer a few words in defense of Sidley. I was a summer associate there this past summer, and found it to be a highly professional and tolerant firm. To say that Sidley is "anti-gay" is simply inaccurate.

Indeed, I know of many attorneys at Sidley who have argued cases advocating gay rights, both for paying clients and on a pro bono basis. My impression of the firm is that it allows its attorneys to make their own decisions — political or otherwise — about which cases to take and which clients to represent. This is as it should be, I think. Every large law firm in this country has probably represented clients or causes that I find offensive. But it is important to me that the law firm at which I work will give me the

freedom to work for causes that I believe in, regardless of whether other people in the firm approve or disapprove.

I would like to say one last thing about this boycott.

Every large law firm in this country has probably represented clients or causes that I find offensive.

As a member of the Catholic Law Students Association, I did not speak up when several students disrupted a talk given by John Finnis (a Catholic

legal scholar we had invited to the law school) because he had previously testified in favor of Amendment 2. Now many of the same students are calling for a boycott of Sidley & Austin.

These students seem to be less interested in speaking out against Amendment 2 than in punishing or intimidating into silence anyone who has spoken out in favor of it. Perhaps they feel this is justified because of the persecution that gay people undergo every day. And perhaps they are right. But it seems to me that such tactics are more likely to anger and alienate people who — like myself — might otherwise be sympathetic to what they have to say. Such tactics may also provide a pretext for the true bigots, who hate gays and only want a reason to lash out at them. Voltaire once said, "I disapprove of what you say, but I will defend to the death your right to say it." Unless we maintain such an attitude, we can never have a truly tolerant society; and the real losers will be members of minority groups, such as homosexuals.

John Stinneford '96
September 19, 1995

Computer Services' Rules Need Clarification

Having attended Harvard as an undergraduate, I was greatly surprised and disappointed to discover that Harvard Law School Computer Services has adopted almost verbatim the Computer Rules and Etiquette of Harvard Arts and Science Computer Services.

This publication is on far too many subjects vague, con-

fusing, and/or intrusive. For example, the "Dos and Don'ts" section contains the amazing statement that computer services "[does] not distinguish computer rules from good etiquette." I am curious as to how Prof. White would react if I attempted to pull a similar stunt in my Civil Procedure class.

Would any member of

the computer services staff care to try to justify this statement, and, given that students are liable for disciplinary action if they violate "the letter or spirit" of these guidelines, explain once and for all how they determine the differences between rules and etiquette?

Jol Silversmith '98
September 16, 1995

Affirmative Action, "Legacies," Poor Analogy

Mr. Gladney's column compares affirmative action beneficiaries to "legacies," those students admitted in part because of contributions made to the Law School by their parents. While Mr. Gladney's intent is to reassure affirmative action beneficiaries that they deserve to be here, his actual writing expresses a quite different sentiment.

"Legacies" contribute

nothing special to a school by virtue of their status as legacies. The fact that a student's parents were students here, or coughed up a large donation, does not make that student any more personally deserving of admission to the Law School — or any more valuable a member of the Law School community.

Thus, it is unfortunate that Mr. Gladney attempts to justify affirmative action by

analogizing its beneficiaries to "legacy" students. One would have expected a defense of affirmative action centering on the belief that its beneficiaries do indeed make a vital intellectual contribution to the HLS community. As it stands, Mr. Gladney argues that two wrongs make a right.

Justin K. Weiss '97
September 18, 1995

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.

Televised Trials Are Here to Stay

By Prof. Charles Nesson and Jonathan
Zittrain '94

CHIEF Justice Earl Warren was a great sports fan and watched a lot of sports on TV. Perhaps for that reason he was appalled at the idea of cameras in the courtroom. Thirty years ago, he brought the Supreme Court within one vote of declaring televised criminal trials to be unconstitutional.

The Hollywoodization of trials would be their undoing, he wrote, because the search for truth would be subverted into the search for ratings. He worried that trial participants would behave differently under the glare of publicity, and that those watching trials on TV would get a distorted view of the American justice system. They might even be driven to doubt it.

The chief justice predicted that networks would "hire persons with legal backgrounds to provide expert commentary on the proceedings to anticipate possible trial strategy, as the football expert anticipates plays for his audience."

This prediction has materialized with astonishing accuracy in the O.J. Simpson case. (Warren even predicted the media's attraction to the trial of a "fallen idol.")

Yet the reaction to the Simpson case is unlikely to be

a wholesale return to the chief justice's plea to ban TV cameras from criminal trials. For reasons both good and bad, the movement of television into courtrooms has too much momentum to be turned back now.

For all its faults, the Simpson case has demonstrated the tremendous educational potential of a televised trial, stimulating what amounts to a national seminar on issues of race and justice.

Add several less savory but nonetheless powerful considerations — the power of the media, the self-interest of elected judges and prosecutors in exposure to the electorate, the self-interest of defense counsel in exposure to future paying clients — and it becomes safe to say that the cameras are here to stay.

Rather than banning cameras in reaction to the Simpson case, judges are more likely to help trials play better on TV without compromising the fairness of the process. The first step is that judges recognize the legitimacy of this goal.

To many, concern for the TV audience will seem an anathema, a corruption of the judicial function. But just as the military came to terms with fighting wars on television, and even learned to do that well, so too the judiciary will strive to make peace with the cameras and still do justice.

Lessons from the Simpson case should lead judges to look for ways to curb the lure of celebrity on trial participants and ease pressures on the jury. Judges might limit the number of lawyers who may present each side of a case. This would avoid one-day designated legal hitters for whom the temptation to grandstand — making as much of their 15 minutes of fame as possible — could be overwhelming.

Judges might reaffirm their mandate to eliminate wasted time from trials. Juries do not appreciate belabored presentations any more than TV watchers do.

In the jury selection process, judges might stop discriminating against people who are well-informed. They could rely more heavily on the ability of jurors to decide the case on the evidence and not on whatever they read or saw before the trial commenced. This would speed the selection process and result in a more interested jury, and might even lead to fresh consideration of the necessity and wis-

Judges might reaffirm their mandate to eliminate wasted time from trials. Juries do not appreciate belabored presentations any more than TV watchers do.

dom of sequestration.

The biggest risk in the Simpson trial is one that cannot be headed off by even the most careful of judges. It will materialize if the jury splits along racial lines and the millions watching conclude that where race is concerned, there is no truth, only point of view.

Charles Nesson is a professor of law at Harvard Law School. Jonathan Zittrain is a recent graduate of Harvard Law School and the John F. Kennedy School of Government. Reprinted with the permission of the Los Angeles Times.

The Harvard Law RECORD Wants YOU!

The RECORD is looking for people to fill several positions at the paper, including:

News writers
Photographers
Copy Editors
Columnists

Layout and Production Assistants

Training will be provided for those with little or no journalism experience, and opportunities for advancement to upper editorial positions are available. We even provide dinner on Tuesday night.

So come out, support your newspaper, learn more about your school, and have some fun to boot.

Temporary Insanity

By Sheila Tuller



Civil Procedure

m. j. keller © 1995



Backbench

By Brian Cheng



Politically Questionable

By Bill Zimmerman



CALENDAR

My Back Pages

by Colin Meeder

Hey, kids, wanna have some fun? Then I have your Thursday night all planned out for you. Go to the Paradise (562-8800) and check out **Luna with Liquorice**. Luna, as you all know, is a consistently excellent Velvets-ish pop band, and Liquorice is an indy-pop supergroup of sorts, featuring Simple Machines diva Jenny Toomey — in a much more musically coherent setting here than her usual gig, Tsunami — backed by members of Ida and His Name Is Alive. Now, here's where the fun comes in! After the concert, go up to one of the members of Liquorice and say the following: "You guys are really good, but I liked you much better when you were called Slack. Say, whatever happened to your old bass player? He was really talented and awfully cute, and I'm sure he'll make a fine attorney some day." Big laughs guaranteed and fun for all!

Anybody? Please?

OK, be like that. Then I won't tell you about the terrific double bill tonight at Mama Kin (351-2525). In the Music Hall is the durable **Richie Havens**, who could teach Michael Bolton a thing or two about doing t.v. jingles without losing your soul. In the front room, thrill to the mind-boggling virtuosity of **Junior Brown**, the world's greatest (and only) guit-steel player. The **Ray Mason Band** opens.

Mary Lou Lord, who dated Kurt Cobain and lived to sing about it, appears Friday (9/22) upstairs at the Middle East (497-0576). Opening is **Roger Miller**, who once led Mission of Burma, the greatest band in the history of the universe, until he was sidelined by tinnitus. Modern ear plug technology and lower volume levels, however, have brought him back to us.

Friday night is the night **Showgirls** opens (local theatres) — your chance to see one of the cast members of *Saved By The Bell* naked. I'll pass.

Margaret Cho appears at the Comedy Connection (248-9700) Friday and Saturday nights (9/22 & 23). If you only know her from her crappy TV show, *All American Girl*, you'll be pleasantly surprised by her live show. Unless, of course, you're the kind of person who plans to interview with *Sidley & Austin*, in which case you'll be very unpleasantly surprised — which would serve you right.

The increasingly less coherent and appealing **J. Mascis** will be downstairs at the Middle East on Saturday (9/23).

The **Charlatans U.K.** appear Tuesday (9/26) at the Paradise Funny — the Manchester scene was supposed to be the salvation of rock music, and now all the bands sound like bland classic rock cover groups. Sad, really.

Shellac have more street cred in their broken strings than you do in your whole body. Go see Steve Albini's latest project at the Middle East on Wednesday (9/27) — sure, he's an obnoxious twit, but he makes a glorious noise. **Uzeda** and **Dis** open.

Good stuff coming up: **PJ Harvey**, **Chris Isaak**, **Emo Phillips**, **R.E.M.** Stay tuned.

Whiners Among Us

By Markus U. Hartmann '96

On June 11, The New York Times reported that Laura Putney '95 claimed that she and many of her classmates did not want to be lawyers. The article, "Harvard Lawyers Who Find They Are in the Wrong Line," tells the story of Putney's "Still Life," which is yet another examination of life at HLS. Putney's documentary is about life at HLS and the professional opportunities that await its graduates.

I have no doubts about the quality of the documentary. The work no doubt received a well deserved non-Nesson A+. Additionally I wish Ms. Putney all the best. I look forward to getting a copy of the video and putting it next to "One-L," "The Paper Chase," "Broken Contract," and "Poisoned Ivy." It is her central thesis about the people at HLS that needs to be addressed.

According to Putney, "[t]he majority of the people (at HLS) are not happy because they don't want to become lawyers." This is such a sad story. One of the nation's leading law schools is filled with people who are being forced into an occupation that will not make them happy. Be sure to bring a box of Kleenex to the first screening of "Still Life."

Every year about 550 students enter HLS. Many of them become depressed, we are told, because they come to realize that they are going to enter the legal profession. A few of the students who read their correspondence from Harvard Law School notice the centrality of the word "law" in the heading of the acceptance letter. Obviously those crafty administrators are slipping it by the rest of us.

HLS discontent is fascinating, especially to students at HLS. In the midst of a health care crisis, Bosnia, world hunger, human rights violations in China, a Republican Congress and a coming Powell presidency, we have here a serious issue. Many of us are going to become the whipping-boys of the nation's dysfunctional psyche. Come closer and I will whisper it to you: we will become lawyers.



Approximately 90 percent of us will become lawyers. There is always a lucky 10 percent in every evaluated crowd. If you know any of the compelled legal masses yearning to breathe non-litigious air, ask them this question: What were you thinking when you applied to The Law School?

According to Putney, many of the malcontents were just high achievers looking for another "hoop to jump through."

Surely there must be a cheaper hoop. Perhaps an Outward Bound course would have been a suitable substitute for these poor souls. A tour of duty as an unemployed person might have given an even greater appreciation of the hoops that are out there.

Is it any wonder Mr. Grisham came up with his plot for "The Firm"? Every couple of years one of our alums gains national attention by becoming yet another victim. Today on "Oprah": Sniveling Little Yuppie Larvae Who Are Forced To Take High-Paying Jobs With Wall Street Law Firms.

The opening scene has two associates from Dewey Cheatem & Howe. "It was terrible Oprah, they paid me all this money and then they expected me to work for it. My psychologist said I have 'Battered Associate's Syndrome.'" In the audience a disheveled firefighter will step up to the microphone and tell the associates, "I feel your pain."

The Random House people have seen fit to provide us with this useful definition: Reality. 1. the state or quality of being real. 2. a real thing or fact. 3. Philos (This one's for you Bill), the external world that exists independently of perception.

According to the financial aid pamphlet, after paying taxes and loan payments, a graduate with a \$70,000 a year job will have about \$34,000 left over to live and save on. Is there anyone who was unaware of this stuff before they came here? There aren't that many jobs out there that pay \$70,000. We could all

pose as doctors, but the cases tell us more about how to sue a doctor than they do about how to be one.

The drivel that seeps out of our navel gazing makes us seem like legal Kurt Cobains, with wealth and success being just too much to bear. You can imagine the average American hearing of our complaints and turning to his or her comrade on the next bar stool and saying, "Shakespeare was right about those guys."

Far be it for me to claim that all here is just roses and daffodils. Like any institution, HLS is in constant need of reform. But the complaint that at the conclusion of law school many graduates lament that they must become lawyers is well... lamentable. Imagine police academy graduates complaining that they must become police officers; med school students complaining that they must become doctors. At the conclusion of boot camp, Marines do not complain about being Marines; to do so would justify a trip to the staff psychiatrist. What do all these occupations have in common in modern America? They are all voluntary occupations.

The last time anyone bothered to check, HLS did not have a draft. If you do not want to be a lawyer or be involved in the legal profession, there is no leash around your neck. A message to the whiners: Please stop being an embarrassment to those fortunate souls that came here to become lawyers. Heck, you

don't even have to be involved in the law for HLS to name a building after you so go for it. In the words of David Spade, "Bye bye."

The only thing worse than whining baby-boomers is whining Generation X-ers. The most repugnant Generation X whiner is the one with the greatest opportunity for success and leadership who spends an inordinate time claiming victim status. Sound like anyone you know?

Ms. Putney, who aspired to be an actress, accepted an associate position at the law firm of Alston & Bird in Atlanta. I feel her pain. Many of us feel her pain.

The last time anyone bothered to check, HLS did not have a draft.



The phone rang, as usual, at the wrong time. Fenno tore his eyes from the faded Farah poster on the ceiling, noting in passing that another thumbtack had fallen and two corners were now drooping, and reached for the phone. "Yeah, what."

"Arrgh, dib id eep oat..."
"Speak up, man! You sound like you have a mouth full of something."

"Dib it dee toa!"
Fenno thought he knew who it was. "Mom, is this your idea of a turn-on? Because if it is..."

"Gaack!" There was a choking sound at the other end of the line, and the voice returned much clearer. "This is Deep Throat! I have some information that might interest you."

"Go on," said Fenno, intrigued.
"You're aware, are you not, that the Law School has 'accidentally' raised \$25 million more than it intended in its latest milk-the-alumni campaign?"

"I heard they were giving that money to Public Interest Services or something," Fenno said.

"Wrong-O Beaver-Breath! While on my hands and knees under Dean Clark's desk, I discovered a list of the actual intended uses for that money."

"Well, don't play coy with me, DT. What are they going to do with it?"

Deep Throat started reading from what was obviously a Secret Harvard Law School Internal Memo. "1: \$1 million to pay off U.S. News & World Report, to get back to number one in their survey rankings."

"2: \$4,500 for Alan Dershowitz's Hair Club for Men renewal."

Fenno interjected, "A bargain at that price."

Deep Throat ignored the jape. "3: \$500 thousand to support the RECORD's hostile takeover of Spare Change."

Fenno whistled in amazement. "I heard them talking about getting rid of those inefficient street vendors and set-

ting up vending machines on street corners, but I didn't think they were serious."

Deep Throat continued, "4: \$400 to buy copies of the 'Girls of the Ivy League' Playboy issue for all faculty members who want them."

"5: \$250 thousand to hire scabs to interview with Sidley & Austin."

"The Dean must be worried about losing their financial support," Fenno mused.

"There was obviously some division within the faculty over the issue," Deep Throat responded. "The next item looks like a gesture of atonement for number five: 6: Another \$250 thousand to mount a massive boycott of any law firm so greedy as to represent a mean, bad, or guilty client."

"Well, I certainly feel better about my profession now," exclaimed Fenno.

Deep Throat went on, "7: \$4.3 million to update the school's art collection."

"Are we getting some stuff from the romantic or impressionist schools?" Fenno inquired.

"More old guys in wigs," Deep Throat said, sadly. "8: \$5,400 for hard drive upgrades for the faculty."

"I figured that would have to happen soon," Fenno commented. "As soon as Charlie Nesson showed everyone how to download porno pictures from the internet, the demand for disk storage space went way up."

"9: An as-yet undetermined amount to be used in a leveraged buyout of Yale Law School. The Dean is waiting on a fairness opinion from Reinier Kraackman before making a tender offer."

"Wow," gasped Fenno. "This is bigger than I imagined."

"Wait till you hear the last one," Deep Throat said. "10: \$12.8 million to buy Arthur Miller back from West Bar Review."

Fenno was flabbergasted. "I can't believe anyone is worth that much."

"Believe it," said Deep Throat. "Although there was some discussion of giving Miller \$15 million not to come back."

Fenno smiled, "Now that would be worth shutting down the public interest program for!"



Happy?

Upset?

Bored in Class?

Write to the

RECORD!!

This Ride's for You

By Matthew Huggins '96

RECORD Columnist



THIS past weekend I rode my bike from Boston to New York City. I was not alone. I went with 3,700 of my closest friends as part of the Boston-New York AIDS Ride (an original title). The \$1,400 I raised will join \$6.5 million in donations collected as of the beginning of the ride to support direct services to AIDS patients in Boston at the Fenway Community Health Center, as well as in New York at the Lesbian and Gay Community Service Center. In addition, some money will go towards research.

The ride was billed as the "adventure of a lifetime." I'm not sure if this is enough adventure to last me a lifetime, but it surely will do for a few months at least. Especially a few months of my third year of law school. The actual ride started Friday morning at about 5 a.m. when the almost 4,000 riders and hundreds and hundreds of volunteers showed up at the World Trade Center in Boston out by the piers to drink coffee, eat muffins, and get ready for a mass exodus into the morning rush hour around 7:30.

We rode out past Boston College, out into the suburbs and exurbs to the southwest of the city, before hitting the plain country. We rode on small state and county roads (so car traffic was light), 100 miles each day on Friday and Saturday, then about 61 on our third "light" day. The weather on Friday was perfect - cool breeze, bright sun and wild-blue sky. The ride organizers had contacted every school which we would pass along the way, so that our route was punctuated by cheers from entire schoolyards of little kids excited to see thousands of crazy cyclists chugging up and down the hills of central Massachusetts. Equally gratifying were clusters of plain old citizens standing at intersections cheering us as we rode through their town. The leaves were already beginning to change, so the route had an almost ridiculous quaintness about it, as it passed through little towns with white churches and rolled past farms and fields. I was half expecting to see Linus in a field waiting for the Great Pumpkin.

The make-up of the riders surprised me a little. There were, of course, lots of gay men and lots of lesbians. But there were also lots of straight men and women, husbands and wives, fathers and sons. Many riders had on T-shirts with the name of a deceased loved-one - the lover, the son or daughter, the friend they had lost - "I'm riding for John Smith." Some riders had campy costumes on - one man had a stuffed duck glued to the top of his helmet, two men wore tutus over their bike shorts and had two-foot fake ponytails glued to their helmets. Most however just wore regular biking gear, all of which sort of made you wish you owned stock in DuPont (owner of the Lycra patent).

About every 15 miles or so, there was a rest stop set up, where riders could refill their waterbottles, get some fruit, or (the eventually - after three days - dreaded) Power Bars, before continuing on. We camped out the first night on an athletic field near Storrs, owned by the University of Connecticut. We slept in 2,000 identical purple tents. Dinner was rice and beans served on paper plates, and the dining room was hundreds of tables set up on the grass. Volunteers from the area gave massages to tired riders. There were portable showers, and lovely portable toilets.

The first evening, the sky stayed clear and the temperature dove down into the 30s. We awoke to frost on the bicycles, and we shivered in the pre-dawn darkness as we waited to get coffee and breakfast, so we could get started shortly after sunrise. The second evening, we camped out in a park on Long Island Sound, in Bridgeport. It was much warmer, but it also started raining about 1 a.m., and that morning we stood in the pouring rain at 5:30 drinking our coffee. So it just depended what you were into, freezing cold, or dripping wet. There was something for everybody. It poured rain all Sunday morning, which was perhaps the adventure-of-a-lifetime part for me, because I would

People were thinking more about their sore butts and aching legs and what pace they were riding than about HIV and AIDS and people who weren't there to do the ride because of the epidemic.

certainly have gone riding anyway in beautiful New England Fall weather, but I might have skipped the torrential downpours and two inches of water on the road. The ride ended on Sunday afternoon in New York, in the West Village, in an area of cobblestones, gritty meat-packing warehouses and funky cafes. The main sponsor of the ride was Tanqueray, and tired, hungry and very thirsty riders made sure to order their share of T&T's at the restaurant near the finishing area.

Every rider had a "perfect moment" over the course of the weekend. Mine came on the first day. The last 10 miles of the course looped over a roller coaster of the most evil, sadistic, downright unreasonable hills imaginable. It was as if two civil engineers had made a bet. "Betcha can't build a road straight up the side of that mountain." "Oh yeah? Bet I can!" It was challenging riding for experienced riders, coming as it did from mile 90 to mile 100 for the day. It was purgatory-like for the less-in-shape. The last bad hill led right up to the campus of the University of Connecticut. The road there was shady and leafy, and near the top, the trees cleared, the intense afternoon sun broke through, and there was a group of UConn students with banners, cheering us up the hill. It doesn't get much better than that, standing up in the saddle, pumping the handle-bars, sprinting up a hill, cheered on by adoring multitudes. That was my perfect moment.

The weird thing about the ride was that one tended to forget why one was riding. People were thinking more about their sore butts and aching legs and what pace they were riding than about HIV and AIDS and people who weren't there to do the ride because of the epidemic. Once I got to New York, showered, warm, dry and fed, I heard news about a friend of mine who is HIV positive. He first tested positive about seven or eight years ago. He is a tremendously healthy person, but in the past year there have been little warning signs on the horizon. Colds that took a little longer to go away. Weird skin rashes. So, I realized, he is going to die. Probably not for quite a while. But he'll die, in the prime of his life, and he'll probably never know my kids, and we'll never get to be grumpy old men together. And that sucks. And the AIDS Ride isn't going to save him, and my victory charge up the hill doesn't mean a damned thing. So I just hope that some of the \$6.5 million dollars I helped raise prevents somebody else from dying, or better yet, from ever contracting the virus. And I'd trade a hundred goddamned victory charges up the hill if my friend's disease could be stopped and his life saved. David, this ride's for you.

Law Firm is "Litigating Hatred," Students Say

continued from **BOYCOTT**, page 1

front Sidley's recruiters on Oct. 9 - the day before oral arguments begin in *Romer* - with demonstrators from groups such as the Gay and Lesbian Advocates and Defenders of Massachusetts and the Massachusetts Gay and Lesbian Bar Association. Lambda is also working in conjunction with the Stanford-based American Network of Gay and Lesbian Law Students to push a national protest.

Lambda's protest is understandable, said Sidley's Phillips. "Obviously I would prefer on the whole that people don't take the representation personally, but I realize that the issue is sensitive and I respect their opinion."

"To me the harder way to look at this is to ask what other approach can a law firm take in dealing with difficult representation on the part of an existing client."

Phillips said that Lee, a former partner in the D.C. office, wanted to take the case because of its potential precedential value in determining federalism issues.

In deciding whether to take the case, said Phillips, Sidley's managing committee "recognized that there was some potential for hostility toward the position."

"But this position is legally defensible and falls within the band of positions against which the firm's management would not intervene to say a partner could not undertake it," he said.

"It's like our representation of medical groups on the pro-abortion side. We realize people will react negatively. But when we represent a client, it doesn't mean that we take on the client's views."

"We have a clear, internal ban against discrimination on the basis of sexual orientation," Phillips said. "We take it very seriously and we don't believe the firm is hostile to gays and lesbians."

In contrast, the atmosphere at the Law School during the Lambda protest has been less than tolerant. Reactions to Lambda's efforts have at times degenerated to anti-gay sloganeering. Flyers have been defaced with such graffiti as "Support gay-bashing" and "Colorado has common sense." Lambda has met with Dean of Students Suzanne Richardson about the incidents.

However, "a lot of people have been very supportive," even those who have declined to sign the Sidley petition, said former Lambda co-chair Dorothy Fernandez '96.

While many HLS students agree with Lambda's stance on Amendment 2, others disagree with the organization's tactics.

The Sidley protest has ignited a passionate debate on campus about not only free speech but also the role of lawyers, their choice of clients and, based on that choice, the morality of their advocacy. For example, Section III Profs. Martha Minow, Todd Rakoff '75, Peter Murray '67, James Vorenberg '51, Lloyd Weinreb '62, and Carol Steiker '86 organized an after-class meeting for their students on Thursday to talk about the "broader issues of morals and ethics that this situation raises," said Steiker.

Lambda's Gibson acknowledged that some opponents blame the group for attempting to stifle speech, but he denied the group was motivated by that desire.

"We don't want to deny anyone at Sidley the right to free expression," he said. "We would simply state that Harvard Law students have a right to know and challenge that expression."

Dan McLaughlin '96, who did not sign the petition because of "personal disagreements" although he opposes Amendment 2, nevertheless approves of the boycott as a suitable tactic.

"I don't believe that it stifles free speech. A boycott is simply the use of market pressure on free speech," he said. "It is important to be able to express, out in the marketplace, disagreements with the way law firms handle their clients and cases."

However, while Orin Kerr '97 "respect[s] the boycott as an effort to speak out," he sees Lambda as undermining the "free market of ideas."

"The free market of ideas and the legal system relies on zealous advocacy which the boycott is designed to stifle," he said. "It's designed to intimidate lawyers from taking unpopular positions."

"Sidley & Austin didn't pass Amendment 2, just like Johnnie Cochran isn't the defendant in the Simpson trial," he said. "Their job is to make a constitutional argument about equal protection. If you disagree with their position, it's great to file an amicus brief for your point of view."

"But boycotting the other side can only be an attempt to undermine the other side's right to zealous advocacy. It has nothing really to do with the substantive Amendment 2," Kerr said. "Lambda is punishing lawyers for the sins of their clients."

Ironically, Sidley attorneys do not view *Romer* as a gay rights case.

"The reason Sidley took this case is that the Colorado theory goes beyond Amendment 2, goes to the way that referenda and initiative processes will operate in the future," said Phillips.

"Amendment 2 restructures the political landscape to allow the state to take certain issues and have them resolved by the populace rather than elected representatives, and that is consistent with Rex [Lee]'s view," he said.

"Does the federal constitution compel the state to operate differently? People who take a strict constructionist view, and Rex is one of them who would say no."

"This is not a gay rights case," Phillips said.

Yet others question whether crafting an argument about formalistic legal issues should truly be divorced from one's belief about broader and related moral questions.

"Ultimately, we're not mercenaries," said McLaughlin. "We have to be able to reflect in the legal profession the ideals that we bring into it and not merely be hired guns."

Recalling a quote from Ralph Nader, McLaughlin added, "Everyone may have a right to a defense, but do they have a right to your best efforts?"



Dorothy Fernandez '96 (left) answers students' questions at the table set up to solicit signatures for a protest petition against Sidley & Austin.

Bluebook Revision in Works

continued from BLUEBOOK, page 1

released cases, released them in that fashion, then the whole case cite problem and format problem would go away," said Wise.

"So what the Bluebook has on its plate, is that they have to make some decisions. Even if they choose to prefer print, they must decide how to cite new formats, whether to prefer one publication over another, and ... whether they want their rules to be prescriptive or descriptive," she said.

Kay Todd, senior legal researcher at the law firm of Paul, Hastings, Janofsky & Walker in Atlanta, said practitioners would benefit from a vendor-neutral and medium-neutral system.

"With the increasing citation to unpublished decisions or publication only on a database, it seems that various methods of referring to a case is really a chaotic kind of documentation."

Todd, who also served on the AALL task force, said lawyers at Paul, Hastings routinely have to hunt for pinpoint cites from paraphrases. "Paragraph numbers are much more specific. They will help people trying to refer to specific parts of opinions."

Murphy said the editing team for now plans to adopt a conservative, wait-and-see approach.

"Until there is enough sentiment out there that that's the way they're going to go, it would cause confusion for the Bluebook to adopt that kind of rule," he said.

"We don't want to make changes just for the sake of change," said Murphy. He said the editors plan to follow court methods of citation.

Some jurisdictions are trying out new citation methods. Wise said the 6th Circuit Court of Appeals and Colorado state courts are experimenting with using paragraph numbers. Wisconsin is studying the idea. Louisiana is trying out the use of names,

dates and docket numbers.

Murphy said he and other editors know there is an impression that the Bluebook prefers print over online sources.

"That is one thing that we will definitely look at," Murphy said. "We may have to acknowledge the situation at this point, which is that a lot of these people do use online sources."

In a memorandum of dissent to the AALL recommendations report, West representatives to the task force argued that "while electronic products are becoming a popular means of searching the law, printed products remain, by far, the preferred medium for legal study and analysis." The dissent criticized the AALL report for not "discussing the fact that attorneys and judges prefer reading and analyzing the law in the print medium."

Frederick Muller, representing the Association of Reporters of Judicial Decisions, criticized the recommendation, calling it "an untried and unproven generic citation form which excludes parallel citations."

He wrote in a dissenting memorandum that the new citation form would be "incompatible with continued production of print case reports in many jurisdictions," and thus "likely to balkanize and fragment the present established citation system."

Muller said the new citations would make legal research more costly and time consuming.

Though planning for the 16th edition have just begun, Murphy said several changes dealing with online sources are under consideration.

For example, information on computer sources, currently located at the back of the book, may be incorporated into a new section. Guidelines for citing to CD-Roms and the Internet may also be added, Murphy said.

"Any actions we take will try to take into account all interests," Murphy said.

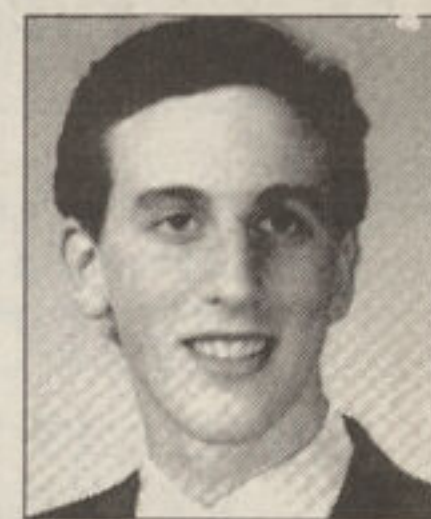
"But we can't get bogged down."

QUEER VIEWS

Legal Discrimination Abounds

By Scott Wiener '96

RECORD Columnist



FOR the last week and a half, Lambda has been advocating a boycott against Sidley & Austin. We have done so because of Sidley's paid representation of Colorado before the United States Supreme Court in *Romer v. Evans*, the Amendment 2 litigation. Although we have been thorough in publicizing the boycott, I fear that we have not been as effective in informing people why Amendment 2 is so insidious.

I will first describe the abysmal legal situation that gays, lesbians, and bisexuals face in the large majority of American states. I will then describe Amendment 2's effect on the few legal protections that gays, lesbians, and bisexuals currently have.

There are presently only nine states (Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, Wisconsin, Minnesota, California, and Wisconsin) that prohibit at least some forms of discrimination on the basis of sexual orientation. In other words, gays, lesbians, and bisexuals have **ABSOLUTELY NO LEGAL PROTECTION AGAINST DISCRIMINATION IN 41 STATES**. This means that in the 41 states that do not prohibit discrimination on the basis of sexual orientation, gays, lesbians, and bisexuals can be fired solely on the basis of our sexual orientation; we can be denied housing solely on the basis of our sexual orientation; we can be denied credit solely on the basis of our sexual orientation; and we can be denied access to public accommodations solely on the basis of our sexual orientation.

Surprisingly to some, there is no federal law that protects gays, lesbians, and bisexuals who live in the 41 states that do not have anti-discrimination laws. Although federal law prohibits discrimination on the basis of race, gender, national origin, religion, and disability (among other categories), it provides absolutely no relief for those who have been discriminated against on the basis of sexual orientation. So an employer, store owner, landlord, or banker can legally hang up a sign that states "GAYS NEED NOT APPLY."

This lack of legal protection for gays, lesbians, and bisexuals leads to some very sad results. For example, Harvard Law School students have the luxury of being able to work in just about any part of the country. This is not the case, however, for gay, lesbian, and bisexual HLS students. We must (if we have any sense) work in one of the few states where our rights are legally protected. This is unfortunate for those of us whose families live in one of the 41 states without anti-discrimination laws that protect us. We must make the unfortunate choice to live either where our roots are or where we can be safe from discrimination.

Gay HLS students, however, are relatively fortunate. We at least have a choice of where we will work. Imagine the predicament of a less mobile, unskilled worker who is gay, lesbian, or bisexual, and who cannot afford to move to a state that protects him or her from discrimination based on sexual orientation. He or she has a choice of either staying in the closet or risking not being able to work.

Employment is not the only form of legal discrimination that gays, lesbians, and bisexuals face in the United States. For example, there are many landlords who refuse to rent to same-sex couples. Gays, lesbians, and bisexuals are not allowed to have sex in about half of the states (maximum jail terms for violation of anti-sodomy laws range up to 20 or 30 years). Some states take away the children of gay, lesbian, and bisexual parents. Very few employers provide gay employees with bereavement leave if their lovers die. Even fewer employers provide health benefits to their gay employees' lovers.

Surprisingly to some, there is no federal law that protects gays, lesbians, and bisexuals who live in the 41 states that do not have anti-discrimination laws.

This legal situation is truly distressing. We are taught in law school that "for every wrong there is a remedy" and that one of the central purposes of law is to protect the rights of individuals from the government and from other individuals. This is often true, but not for gays, lesbians, and bisexuals.

Despite this bleak situation, however, over the last several decades, gays, lesbians, and bisexuals have made some limited advances in gaining civil rights protections. We have managed to pass anti-discrimination laws in nine states and a handful of cities. We have convinced a few states and a small group of employers to provide the lovers of gay employees with domestic partner benefits.

Up until three years ago, things were looking up for gays, lesbians, and bisexuals. We really believed we could parlay our victories in 10 states into victories in all 50 states and on the national level. We thought that we could make discrimination based on sexual orientation just as illegal as discrimination based on race, gender, and religion.

Then came Colorado's Amendment 2. Prior to 1992, three Colorado cities had passed ordinances banning discrimination on the basis of sexual orientation. The Religious Right then sponsored a ballot initiative (in the form of an amendment to the state constitution) which, once in effect, would repeal all laws banning discrimination against gay people. It would also prohibit the state and its cities from passing laws that would ban discrimination based on sexual orientation.

In November 1992, Colorado voters passed Amendment 2. The Supreme Court of Colorado struck it down under the Equal Protection Clause, but the U.S. Supreme Court may reverse. If the Court does reverse and Amendment 2 goes into effect, not only will there be no anti-discrimination law protecting gay people in Colorado, but the state legislature and local city councils will be prohibited from passing such laws. In other words, Amendment 2 seeks to constitutionalize discrimination against gays, lesbians, and bisexuals.

There are currently initiatives similar to Amendment 2 pending in more than a dozen states. If Amendment 2 goes into effect, there may soon be a day when discrimination on the basis of sexual orientation will be perfectly legal in all 50 states. This is why Amendment 2 is so insidious. This is why advocacy on behalf of Amendment 2 is so repugnant. And this is why we are urging a boycott of Sidley & Austin.

A training ground for litigators

HOWREY & SIMON

Howrey & Simon will be interviewing second-year students for the firm's Washington, DC and Los Angeles offices.



We invite you to meet with us on

October 5 and 6, 1995.

Please contact the Placement

Office to sign up for an interview.

Attorneys at Law
1299 Pennsylvania Ave., N.W.
Washington, D.C. 20004-2402
(202) 783-0800
Fax (202) 383-6610

550 South Hope Street
Suite 1400
Los Angeles, CA 90071
(213) 892-1800
Fax (213) 892-2300

Dear First Year Student:

Welcome to law school!

Chances are that your first year of law school will be a bit overwhelming. And the stories you've heard about briefing cases, all night study sessions and the Socratic method don't make things any better. But rest assured, there is a way to make your first year of law school a little bit easier -

BAR/BRI's First Year Review Program.

The secret to success in your first year of law school is in understanding the "big picture" and being able to fit loosely constructed principles of law together in a meaningful way. As a first year student you need an experienced guide to cut through the fog of details created by casebooks, hornbooks and class notes. **BAR/BRI's Power of Experience™ is your guide.**

The First Year Review Program.

Used by more than 15,000 first year students nationwide!

The FIRST YEAR REVIEW

barbri
BAR REVIEW

- CIVIL PROCEDURE
- CONTRACTS
- CRIMINAL LAW
- PROPERTY
- TORTS
- PLUS REVIEW QUESTIONS AND ANSWERS

Last year, BAR/BRI's First Year Review Program was relied upon by more than **15,000** students nationwide. This program includes:

- The First Year Review Book (pictured left)
- Constitutional Law Outline
- First Year Essay Exams with Model Answers
- True/False Questions with Explanatory Answers
- Final Exam Review Lectures
- First Year Chart Supplement (A BAR/BRI Exclusive!)
- Exam Writing Technique Lecture
- StudySmart™ Computer Software
- A Freeze on your BAR/BRI Tuition...Save \$\$\$\$!
- Active BAR/BRI Membership throughout law school
- BAR/BRI Bulletins of updated information

We look forward to helping you maximize your first year grades.

barbri
BAR REVIEW

The Power of Experience™

(800) 472-8899 NY Office
(800) 866-7277 MA Office