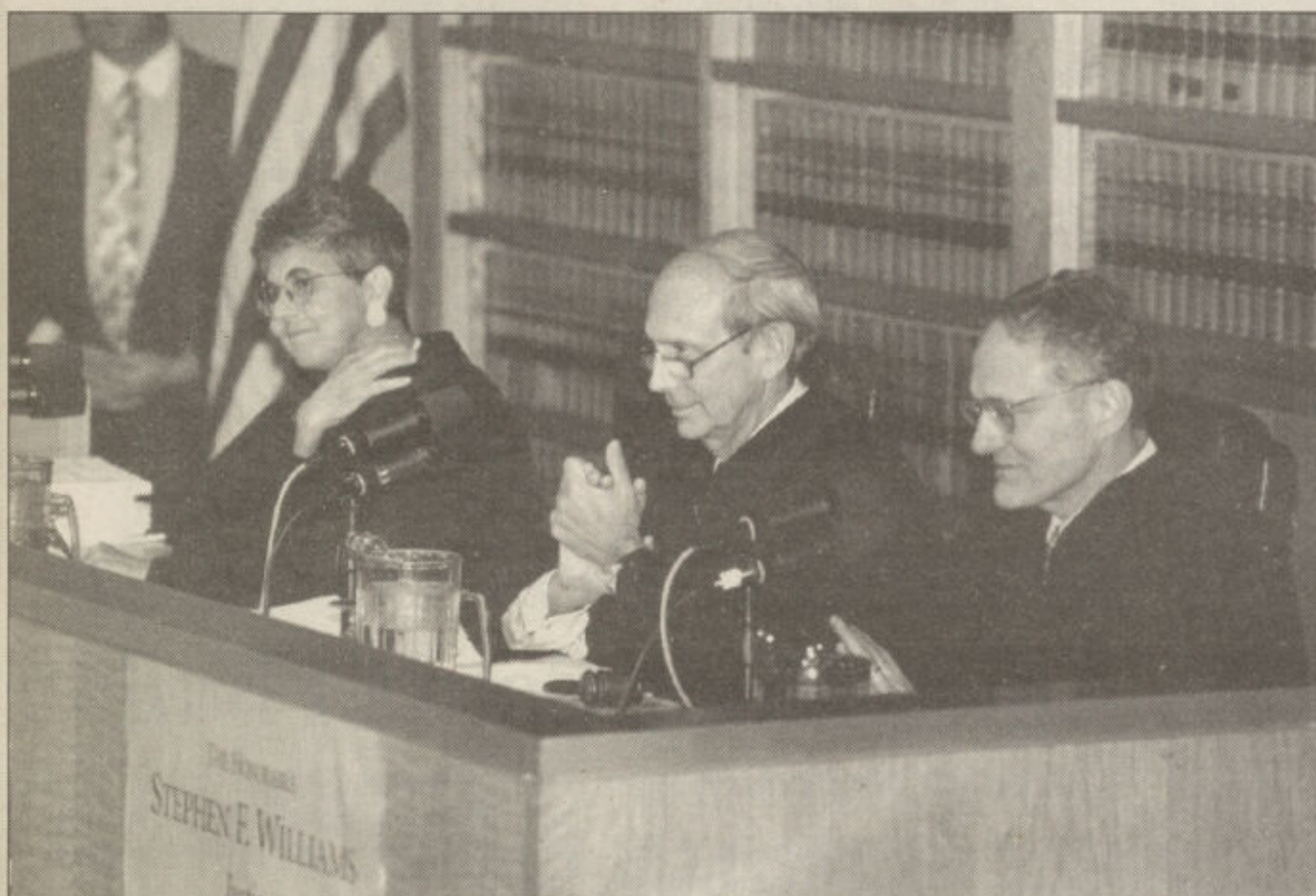




The bench for the final round of the Ames Moot Court Competition, composed of (l. to r.) 11th Circuit Court of Appeals Judge Rosemary Baskett, Supreme Court Justice Stephen Breyer '64, and D.C. Circuit Court of Appeals Judge Stephen Williams '61, questioned oralists about technical and legal aspects of controlling cyberspace transmissions.

Brandeis Team, Schwimmer Take Ames Moot Court Honors

RECORD Staff

The problem of obscenity in cyberspace may not have been solved in Ames Moot Court, but the competition has nevertheless ended with a victor.

The Justice Louis Dembitz Brandeis Team, representing the defendant-petitioner, earned the best overall team and best brief awards for the 84th Ames Moot Court Competition. David Schwimmer of the Theodore Geisel Memorial Team won the best

oralist award.

"We tried to de-emphasize who our client was, and concentrate on the broader issues," said Brandeis team leader and

See report on students'

Q & A with Justice

Breyer on page 2.

oralist Jay Prabhu '96. "Nobody really understands what the implications of this technology are," he said, adding that their argument about the wide-

spread implications of regulating pornography in cyberspace was their strongest point.

The case of *Richard Smith v. U.S.* dealt in part with the application of a 1955 statute prohibiting the transfer of obscene images through interstate commerce to the transmission of images via computer. The Brandeis team, for Richard Smith, argued that the statute did not apply, while the Geisel team tried to prove that it did.

Smith had been convicted of

please see **MOOT COURT**, page 2

Lawyering Conference Honors Prof. Bellow

By Maria Green

More than 300 law professors, practitioners, and students gathered from around the country last week to honor Faculty Director of Clinical Programs Prof. Gary Bellow '64 at a conference celebrating progressive social change.

"For me, Gary embodies the message of this conference," said Lecturer Deborah Anker, LL.M. '84. "Integrity, values, creativity, and not accepting defeat. Gary is about empowerment, finding ways to make things possible and make them happen...he has inspired a generation of lawyers in legal services and clinical education," she said.

Sponsored by 33 faculty members and 19 student organizations, the conference presented nearly 60 speakers in panels like "Economic Strategies, Political Visions: Community Economic Development;" "Linking International Law and Political

Students, Faculty Evaluate First-Year Ames-ITL Merger

By Justin Weiss

As they enter the home stretch of their tumultuous first semester at HLS, the Class of '97 is grappling not only with the specter of finals, but with first-year Ames moot court as well.

This year, Ames was integrated directly into the fall semester ITL curriculum, presented as the last case in a series of three. In previous years, ITL took place in the fall, while Ames arrived in the spring.

The professors responsible for the change explained that moving first-year Ames to the fall semester is actually part of a far-ranging plan that would restructure the first-year clinical curriculum.

Prof. Todd Rakoff '75 said that avoiding redundancy was one reason for the shift. "You had the fall Introduction to Lawyering and then you did it all over again as Ames. There was a duplication there," he said.

But another reason, said Rakoff, was "to move to a spring component based on non-litigation skills. Lots of what lawyers do is in the courtroom, but lots of what they do in a non-litigation setting takes place outside the courtroom."

The spring void left by Ames' departure will eventually be filled by a mandatory program teaching non-litigation skills, including negotiation, alternative dispute resolution, counseling clients, drafting documents, and gathering facts. Rakoff said the change will benefit students for both educational and pragmatic reasons.

"First, doing some experiential learning helps you learn torts and contracts and civ pro better. Second, people are not as able to invest in young lawyers as they used to be. Our students ought to be prepared on the practical skills side as well as the doctrine side and the theory side."

ITL Prof. Charles Nesson '63, who helped make the decision to merge Ames and ITL, said the merger also made sense in terms of what he described as "the changing role"



Prof. Charles Nesson '63

of the Board of Student Advisers. "The BSA, which used to be the No. 2 honor society, had deteriorated in terms of its prestige and its mission. It's important that people doing substantive instruction in the classroom be an extension of the faculty."

Nesson said that having BSA members teach ITL and

please see **ITL-AMES**, page 2

Two Thefts in One Day at Gannett House

By Katrina Randolph

Harvard University police are investigating two thefts which occurred this month in Gannett House.

According to the police report in the case, on Nov. 17, a woman's purse was stolen from the basement bathroom. She had entered the bathroom, placed her purse on a chair and entered one of the stalls, when she heard someone enter the bathroom, said university police. The person left the bathroom, and the woman emerged from the stall to find that her purse had been taken, police said.

Police say the woman told someone at the Legal Aid Bureau, which occupies the first floor of Gannett House, about the theft and asked him if he had seen anyone suspicious. He said

no, but suggested that they check the men's bathroom in the basement for her purse, police said. The man said he had heard of a similar incident which occurred several months ago, police said.

The woman found her purse in the men's bathroom, police said. She informed police on Nov. 20 that nothing had been taken from her purse. She had had no cash in her purse.

Also on Nov. 17, someone took a backpack which had been left unattended in a Gannett House room sometime between 11 a.m. and noon, according to police.

Sgt. Kathleen Stanford of university police said the thefts are currently under investigation.

Gannett House houses both the Legal Aid Bureau and the Harvard Law Review.



Photo courtesy of HLS Communications Office

The Political Lawyering Conference honored Prof. Gary Bellow '64, who also served as a panelist at the opening plenary entitled, "What is Political Lawyering."

Activism;" and "Who, Where, How: In the Face of Shrinking Resources." Panelists ranged from Ralph Abascal, general counsel of California Rural Legal Assistance, to Boston College Law School Dean Aviam Soifer.

The audience included stu-

dents from Columbia Law School and SUNY-Buffalo School of Law, as well as local schools like Northeastern Univ. School of Law, said Kevin Reuther '96, who along with Judith Lurie '96,

please see **BELLOW**, page 3

Justice Breyer Raps With Students

RECORD Staff

Supreme Court Justice Stephen Breyer '64 returned to campus Nov. 17 to preside as Chief Justice for the 84th Ames Moot Court competition. He took a few moments to talk to students about the judicial system, the Court and himself.

On "The System"

The system, says Breyer, is too slow and costly. The way toward change must come from the bottom up and not the top down. "Lawyers, law students, clients — all of them together create a system where change can occur."

As for the job of the Supreme Court itself, Breyer says, "Our court is not a court of correction." The Court receives about 150 requests for certiorari each week, said Breyer. Of those, "100 will be thrown out immediately" because of insufficient evidence. In deciding whether to grant certiorari the court looks primarily for splits among the circuits or for cases which demonstrate a need for uniformity and guidelines from a legal standpoint, he explained.

After arguments are heard, the senior justice in the majority assigns the opinion-writing duties. "The first concern is balancing the workload. Each person will be assigned one case until it gets to the bottom, which is me," said Breyer.

On the Justices and the Court

"As long as people are appointed by

different presidents, it's likely that there will be people with different approaches to the law," Breyer stated.

Each person is listening, pretty much, to what the other is saying, Breyer said in discussing his fellow members of the bench. The Court is more formal than the 1st Circuit Court of Appeals, but it is also friendly, and <never> hostile. He also says that the justices shake hands with each other before every oral argument.

The members of the Supreme Court might go to a party or play poker or bridge, Breyer explained, but the Court is "not some sort of club."

On Himself

"I've always wanted to be a lawyer," Breyer said of his professional ambitions. When asked what he would be if not a judge, he joked, "I don't know, a baseball player?"

While acknowledging the diversity of ideologies on the bench that stem from the differences in background of individual justices, Breyer refused to characterize himself as a moderate or liberal jurist, or as a counterweight to Justice Antonin Scalia and other justices labeled as conservative. "I see myself as the person I am," he said. "It's somebody else's problem if they want to characterize me as something else."

While hearing a case, Breyer said, "I want to go into an oral argument with a view, and that's different from having an opinion... That window, when you're consciously trying to hold yourself open, is very important."

Revised ITL-Ames Structure Reviewed

continued from ITL-AMES, page 1

Ames as an integrated unit fit well with plans to increase the BSA's rigor and prestige.

BSA members' assessments of the change were mixed. BSA President Scott McMillan '96 said, "BSA members are more pressured this year because ITL now runs through our last week of classes. We have to juggle Ames stuff and outlining. I would feel even more pressure if I were a 2L who had to do the whole job search during all this."

McMillan emphasized that this year was a "transitional year" and that he

expected ITL to run more smoothly in the future. But BSA member Jodi Simme '96 said that "it went a lot smoother than last year with O.J. To end ITL with Ames has been a good boost for students, because it's exciting."

1Ls agreed that Ames was exciting, but found the joint ITL-Ames program demanding. Julie Kamps '98 said, "I really enjoyed it, but it did put a lot of pressure on that would not normally have been there, and as a result I think class work slipped a bit. It's nice to be done with it."

Kamps said she'd use her free time in the spring to work on a journal.

Brandeis "Best Team" in Ames Moot Court Finals

continued from MOOT COURT, page 1

charges relating to his business of sending images from his computer bulletin board in New York City to a U.S. postal inspector in the State of Ames. The pictures, showing various sexual acts, were judged obscene in the State of Ames but not in New York City.

The presiding justices, Supreme Court Justice Stephen Breyer '64, D.C. Circuit Court of Appeals Judge Stephen Williams and 11th Circuit Court of Appeals Judge Rosemary Baskett, focused their questions on which community's standards should define

whether the images were obscene, and how computer transmissions are like and unlike other forms of communication.

"I thought the arguments were very tough because they asked a lot of hard questions, and I don't think they accepted our answers," said Prabhu. "They had in mind what answers they wanted to hear," he said.

The winning team members are Prabhu, Matthew Bodie '96, Harry Chernoff '96, Gia Lee '96, Sam Liccardo '96 and Richard Schragger '96.

The arguments will be featured on C-Span on Dec. 9 at 7 p.m.

As HLS Mulls Its Mission, CLS Scholars Remain Quiet

By Hope Yen

This is the fourth in an occasional series on the development of Dean Clark's administration.

A telling event occurred at the faculty meeting in which Dean Clark '72 announced plans for shaping the future of Harvard Law School when a group of professors didn't say a word.

As Clark put forth the framework for debating the Law School's mission in the next century, these professors, who 10 years ago would certainly have had more than a few choice words to say on the subject, remained quiet.

The professors are the famed "Crits," or Critical Legal Studies scholars, whose approaches to the law and legal education bitterly divided the faculty in the 1980s. CLS disputes the traditional conception of law as a neutral arbiter of justice, claiming that it is a political tool used to preserve the economic and social status quo.

Their silence might be seen as testimony to Clark's success in converting divisive political debates into more productive academic ones, or it might be another indicator of a disengaged faculty who often don't seem to know what Clark is up to.

Or it could simply be, as many had feared when Clark became dean in 1989, that the outspoken critic of CLS had clamped down and squashed the Crits.

"I didn't kill them," Clark joked, when asked about their silence over the years.

Although CLS critiques of the law

can still be heard inside HLS classrooms, the movement has been self-described by one Crit as "dead as a doornail" during a time when Clark is seeking to guide the Law School into the 21st century.

Clark has said he considered the end of the \$175 million Capital Campaign as marking a new phase of his deanship in which HLS will examine its future mission.

"I don't know whatever happened to the CLS movement," Clark said. "Most of the faculty who were in that movement don't seem to talk about that in those terms anymore. I just think that the movement entered another phase of its life cycle. You might say it retired or changed."

Crit Prof. Duncan Kennedy agreed that a major component of CLS nationwide has died. He blamed the decline on internal divisions, the collapse of left-wing activism and "some fairly brutal discipline by the academic establishment, in the form of tenure denials and other career punishments."

"You have to distinguish Critical Legal Studies the movement, from Critical Legal Studies the academic school," he said. "There isn't at Harvard Law School or nationally any CLS movement left. The movement completely collapsed several years ago. The school of thought, which is academic, is alive and well, but the school of thought doesn't have any activist component, period."

"It is sort of ironic because the idea was to create an activist intellectual community, not just another set of bibliographical headings," Kennedy said.

Another Crit, Prof. Morton Horwitz '67, said the status of the movement will be seen better in another 10 years, when young scholars who he felt were in hiding today receive academic tenure. "The question is whether young

law teachers are continuing the school of thought," he said.

Several professors said they saw the decline of CLS as reflecting a marked change from the faculty in the 1980s, when professors frequently clashed on legal doctrine and the role of the Law School. Whether professors consider the current mood better or worse, however, is unclear.

"I think that there is less divisiveness and less cohesiveness," said Prof. Charles Nesson '63. "The school is more corporately run, as opposed to having more faculty meetings in which the faculty as a group are more involved with the governing of the school."

"Back then we were much livelier, but it was a liveliness that comes from a lot more open disagreement, which is not necessarily constructive," he said.

Horwitz, who sits on the dean's strategic planning group to decide the Law School's future, characterized the current faculty as "dead." He said the committee seems to be constrained by a rigid agenda, that, for example, prevents it from considering the place of public interest and clinical programming in the Law School's future.

Kennedy agreed, saying, "I think that while CLS is dead as a doornail, there is still a very significant public

interest movement, which I for one strongly support."

Other professors said they welcomed the change in the mood of the faculty, content to be able to focus their energies on academic scholarship rather than the cantankerous campus politics of the past.

"I would say that when I became dean the faculty was polarized," Clark said. "It was polarized, although the truth is it already was in a process of coming together more. And it's not the case, of course, that there is no difference of opinion. There are many lines of division; it's just more interesting now. On any given issue, you can't always predict who is for and against it."

One way to funnel political debates into more academic ones, Clark said, was to cut down on the number of faculty meetings and replace them with "faculty workshops" in which professors present papers and then discuss their value.

"I didn't think there were enough collective ideas to debate ideas and scholarship, which is what the Law School is about," he said. "In the faculty meetings, there was too much about this or that rule and getting in big arguments about it. I'd rather the arguments be about people's scholarship and ideas."

"Let's put more energy in what we're good at, which is legal analysis and theorizing. I don't see myself as squelching down on faculty meetings; I see it as making it more possible to explore ideas in a collective

please see CLS, page 4

"There isn't at Harvard Law School or nationally any CLS movement left. The movement completely collapsed several years ago...."

"... The school of thought, which is academic, is alive and well, but the school of thought doesn't have any activist component, period," said Crit Prof. Duncan Kennedy.

Sushi, Other New Options Coming to Hark

By Tara Dawood

Students are anticipating planned renovations to the Harkness Commons Cafeteria and its promises that sushi, stir-fry and gourmet bread will be appear after January.

But the Hark Box Cafe is not worried about any threat to their sales from a brand new cafeteria.

"The food in the cafeteria is awful. Only if the food gets better, I will eat here more often," said Maya Manian '98.

"Whether I start eating at the cafeteria or not will depend on whether the quality of the food and the service will improve," added International Tax Program student Pedro Martinez, an avid patron of the Hark Box Cafe.

The renovations are set to take place from Dec. 15 through January 1996. Cafeteria Food Service Director Beth Davidson feels there will be something for everyone in the new "state-of-the-art" food court.

"We can finally provide students with options — healthy or non-healthy," said Davidson. "This is the first renovation to the cafeteria in 40 years. In years past, Harvard Law men would go up the ramp, turn right or left, pick up mashed potatoes, gravy, a glass of milk and exit. No choice at all. Currently, we have options but there's always room for improvement."

"Already in the last nine months there has been a complete change in regard to the three chefs who have run the place in the past," said Executive Chef Mark Pumphret. "Also, I've brought in more a health-conscious approach, as is reflected in our theme stations such as fajita bars,

Mediterranean bars."

The new food court plans will build upon these changes, keeping in mind vegetarian and health-conscious needs.

The food court will include:

- Four cash registers, of which two are double-sided to enable more efficient service, said Pumphret. For the individual who wants to grab something and go, that person should be able to be in and out in 5 to 7 minutes, Davidson said. Patrons willing to wait for more tailor-made dishes, will probably still be in and out in 10 minutes, she said.

- Vegetarian Station. This station will feature daily vegetarian entrees, baked potatoes, rice and fresh vegetables. Vegetarians can also find dishes at the wok station and salad bar.

- Health-conscious dishes. Many planned options include daily "healthy choice" meats available at the deli, low-fat salads at the salad bar and stir-fry at the wok area.

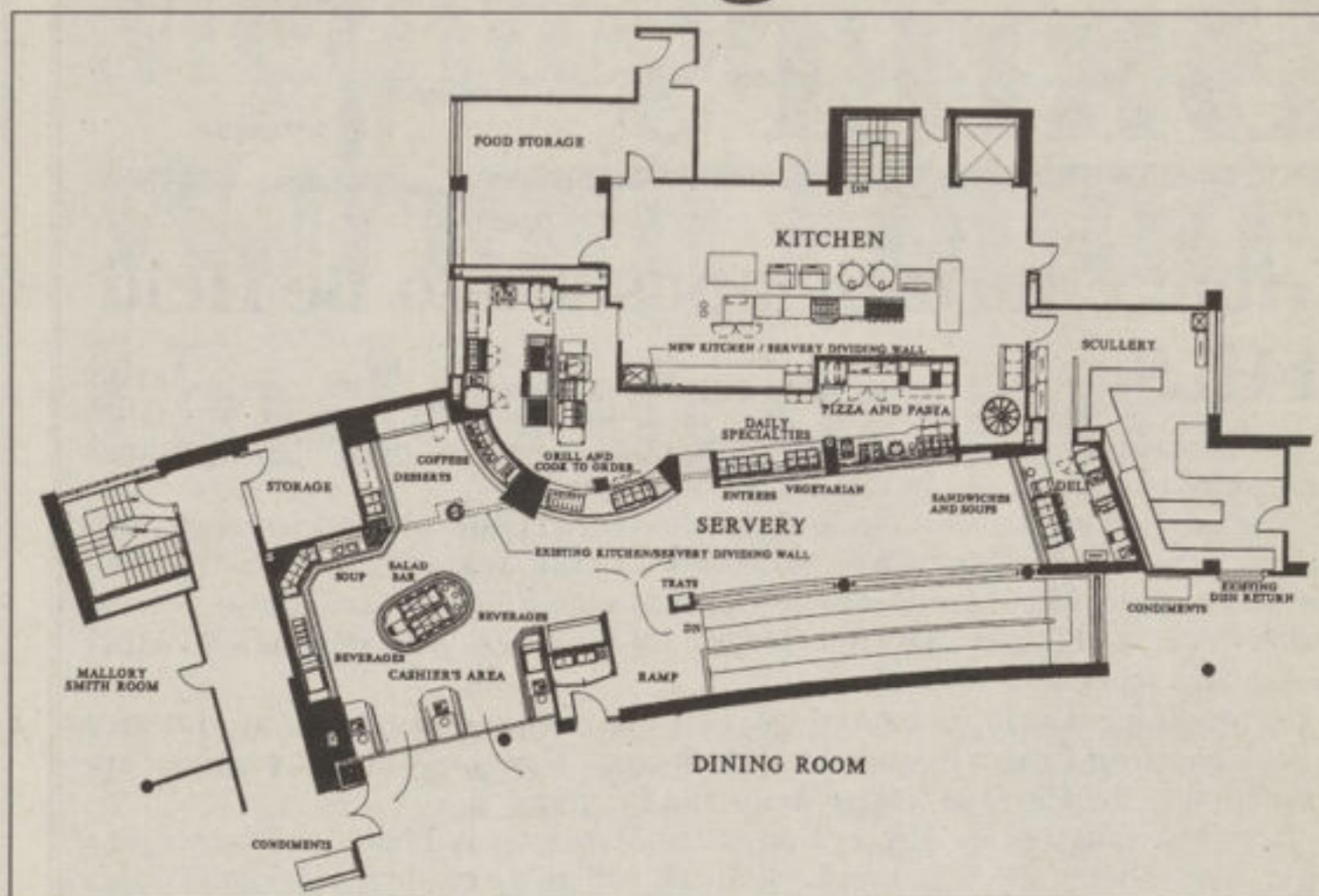
- Many current menu items, which will keep the same prices.

- Upscale made-to-order dishes. "Whether in wok or sauté pan, having a chef right in front of you is real plus," said Davidson. Additionally, there will be the option of one basic pasta dish and one gourmet, upscale dish every day. There will also be a sushi bar catered by Cafe Sushi.

Pumphret compares the new facilities to a restaurant. He said, "We'll have the ability to service students in a restaurant-like capacity where the meal is prepared especially for me. If they want an extra spicy meal, we can do that for their one meal."

"Whatever people eat, we'll cook more of," added Davidson.

"We can finally provide students with options — healthy or non-healthy," said Beth Davidson.



Blueprint courtesy of Beth Davidson

Beginning in January, the Harkness Cafeteria will have a new layout, pictured above, and new food options.

Addressing student concern about rush-hour traffic, Pumphret added, "If demand is very great, then five to seven dishes will be made in advance at some stations."

Despite the proposed added variety and quality to the cafeteria food, the Hark Box Cafe is not worried any potential loss of business.

"I know my service; I don't know what kind of service they will have up there," said Benjamin Cruz, who's been working for Gardner Merchant for three months.

Gardner Merchant operates both the Hark Box Cafe and the upstairs Harkness Commons Cafeteria. It plans to continue to close the cafeteria and open the cafe at 7 p.m.

"As long as the cafeteria continues to close at 7 p.m., right when we open, I don't foresee any difficulties," said Cruz.

The two dining facilities also cater to different student needs.

"A lot of Hark business is students

stopping down to pick up drinks and snacks between classes, which the renovations upstairs shouldn't affect," said Hark Box Cafe student manager David Weiss '96, who doesn't foresee any loss of business for the cafe once the renovations take place.

Some students did feel that people may change their dining preferences.

"Probably at the beginning, it will be an incentive to attract the attention of customers and students who were put off with by the cafeteria initially," said Martinez.

Other students, however, are not as anxious to test the waters of the new facilities. "I would rather eat two-month-old roadkill than anything at the upstairs cafeteria," said Jonathan Jenkins '97, who rarely misses breakfast or lunch at the Cafe.

"If they continue to have such friendly service at the Cafe, we'll continue to come regardless of what happens upstairs," said Emilio Checcone '98.

Conference Honors Bellow

continued from BELLOW, page 1

was a principal organizer of the conference. The conference was entitled, "Political Lawyering: Conversations for Social Change."

"One of the most important parts of the conference was the inspiration and rejuvenation ... of people's commitments to do public interest work," said Reuther. "It gave some of the longtime advocates the opportunity to come together with people of the next generation."

Bellow, who founded Harvard's Legal Services Center in 1978, has been active in political lawyering for more than 25 years. His work includes founding the first clinical program at the University of Southern California School of Law in 1972 and extensive work on behalf of migrant workers in California. He also the author,

with Bea Moulton, of "The Lawyering Process."

"He's done a lot of good and I think that it's terribly appropriate that he be honored" said Mark Hickernell '97, who called the conference "interesting as well as inspiring."

Among the highlights of the day-long conference was Cambridge Mayor Kenneth Reeves' presentation of a resolution by the City Council "[paying] tribute to the important work of Professor Gary Bellow." The resolution cites "the extraordinary contributions of Professor Gary Bellow, in the education of excellent legal advocates and in the assurance of quality legal services for the poor in America."

A celebratory dinner following the conference was attended by Dean Clark and Supreme Court Justice Stephen G. Breyer, among others.

ATTENTION HARVARD CLASS OF 1998

WE INVITE 1LS TO SUBMIT RESUMES FOR POSITIONS IN THE SUMMER OF 1996. PLEASE FORWARD YOUR RESUME AFTER 12/1/95 TO:

MS. FRANCESCA RUNGE
LEGAL PERSONNEL DIRECTOR
WHITMAN BREED ABBOTT & MORGAN
200 PARK AVENUE
NEW YORK, NEW YORK 10166

Class Marshals Select Planning Committee

By Josh Strathman

Moving ahead with commencement preparations and other class activities, the class marshals have selected an planning committee for the Class of 1996.

Second Marshal Dave Aronberg '96 said the committee will "help with the year's activities, design the class shirts, choose the wine and [help] with the graduation ceremony." The committee will also be included in the decision-making process of selecting the [Class Day] speaker, he said.

The 3Ls and LL.M.s who compose the committee are: Marcelo Calliari LL.M. '96, Elizabeth Carlson '96, Gerald Halfide '96, Rebecca Hollander-Blumoff '96, Stacy Kleiner '96, Helene N'garim LL.M. '96, John Park '96, Ngai Pindell '96, Ira Powell '96, Amy Satin '96, Jennifer Thelen '96 and Alissa Vradenburg '96.

The committee, which has already begun to meet, will break into smaller groups to handle individual assignments, said Aronberg. He anticipates that separate sub-committees will handle the Class Day speaker selection, wine and T-shirt design.

Despite the questions raised by the all-male composition of the marshals, Aronberg said that gender had no role in the selection of the half-male, half-female committee.

In selecting the committee, the marshals agreed to offer positions to all of the original candidates for class

marshal, said Aronberg. In addition to these, the marshals, with the assistance of Rob Simmelkjaer '97, selected two LL.M.s for inclusion, Aronberg added.

"We felt that anytime you selected someone... you'd be leaving people out. This was the fairest way to go about it," Aronberg said.

One benefit to this method, Aronberg explained, was that "there was no favoritism involved." Another

factor motivating the decision, he said, was the fact that it selected "people who had expressed an overt interest in class marshal activities."

Noting that the delay in the election caused this year's marshals to have a late start in planning activities, Aronberg said that the choice was geared towards an expedited development of class activities.

"To get moving we had to pick a group able to meet from day one," he said. "[The candidates] were a ready resource."

Aronberg said that all of the women who ran for marshal accepted a spot on the committee.

Joan Flammia of the Reunions and Special Events Office said that in the past the committee has frequently been composed of 3Ls who were first-year section representatives. "Law students here can still identify with their first year section reps," Flammia said.

The committee, Aronberg said, has set to work on selecting a Class Day speaker and setting up a social event for the end of this semester.



Dave Aronberg '96

BRIEFS



Tribal Courts Symposium to Be Held at HLS

On Saturday, the American Indian Tribal Courts and Self-Governance Conference will take place in the Ames Courtroom.

The participants will include Chief Justice J. Clifford Wallace of the 9th Circuit, Chief Judge Mary Wynne of the Colville Tribal Court, Justice Ray Cavanagh of the Michigan Supreme Court, Judge Robert Yazzie of the Navajo Nation Court, and Deputy Solicitor General Ed Kneedler. Attorney General Janet Reno is also scheduled to speak.

The conference is sponsored by the Department of Justice, the Harvard Native American Program, and the Law School. It marks the 25th anniversary celebration of the Harvard Native American Program.

It will be followed by a reception at the Ropes-Gray Room. Author Susan Power, a member of the Standing Rock Sioux, will give a reading in honor of Caleb Cheeshahteumuck, who in 1665 became the first Native American to graduate from Harvard College.

Both the conference and the reception are free and open to the public.

Clinical Fellowships Established

The HLS Clinical Program has established two Albert Sacks Fellowships in clinical research and practice.

The fellowships, says Prof. Gary Bellow, are designed to further the enhanced delivery of legal services, improve methods and approaches to clinical learning, and create a better understanding of the issues involved in implementing public policies related to urban housing, income, jobs, criminal justice, family and children.

Sacks fellows will spend one or two years at either the Criminal Justice Institute or the Hale and Dorr Legal Services Center. This year's recipients are Anders Yang '94 and Lael Chester '94.

City of Cambridge One Step Closer to Eliminating Bulletin Boards

The city of Cambridge is one step closer to its goal of ridding the city of the 47 billboards perched atop town buildings.

Earlier this month a U.S. District Court judge ruled that a 1991 city ordinance prohibiting further erection of the billboards does not violate the billboard owners' free speech rights.

Forty-six of the 47 billboards are owned by Ackerley Outdoor Advertising. The ordinance, while prohibiting erection of billboards after 1991, gave Ackerley and the other owner four years to remove the signs.

But Ackerley President Louis Nickinello said he will not take down the billboards. Nickinello said he is prepared for a long legal battle.

-from the Crimson

Students Seek Sanctions Against Nigeria for Execution of Activist

Several Harvard Law School students have petitioned President Clinton, urging him to sanction the Nigerian government as a response to the execution of activist Ken Saro-Wiwa and eight other members of the Movement for the Survival of the Ogoni People. They were convicted of murder in a trial universally criticized as unfair.

The students implored the president to sever diplomatic ties with Nigeria and impose an oil embargo on the African nation. They advocated freezing Nigeria's military rulers' personal assets held in the United States, and urged Clinton to seek an arms embargo and the suspension of Nigeria from the United Nations.

"The Abacha regime [that] carried out the executions," they wrote, "continues to enjoy international support through its extensive trading and diplomatic links with countries like the United States."

"The United States buys 70% of Nigeria's oil," they continued. "It is through oil revenues that the Nigerian military government has sustained authoritarian dictatorship."

"We believe that the world in general, and the U.S. government in particular, can no longer ignore [the] flagrant, brutal, and continuing suppression of fundamental human rights by the Nigerian government," they wrote. "The Nigerian government must therefore be held accountable to its obligations under these international human rights instruments."

Other university student groups have held activities in protest of Saro-Wiwa's execution.

Former Vice Dean Hall Dies

Livingston Hall '27, vice dean of the Law School from 1938 to 1958, died at a nursing home on Nov. 18. Hall served as acting dean for six months in 1959, and retired in 1971. He was 92.

-from the Crimson

Harvard Tops Yale 22-21

Salvaging some satisfaction from an otherwise disappointing season, the Crimson squeezed by its arch-rival for a last-minute victory in the 112th playing of "The Game" against arch-rival Yale on Nov. 18. After giving up a touchdown to fall behind 16-21 with only 1:39 to play, Harvard mounted its comeback drive to score the game winning touchdown with only 29 seconds remaining.

-from the Crimson

Speak Out!

This week, President Clinton informed Americans of his decision to deploy 20,000 battle-ready American troops to Bosnia. The troops will be part of a 60,000-soldier NATO force, which will be sent to enforce the delicate peace plan agreed upon by the warring groups' leaders during negotiations in Dayton, Ohio. We asked two students and a professor what they thought of the peace plan, as well as Clinton's decision to send troops.

Prof. Henry Steiner '55

On the peace plan: I think we're much better with this imperfect one than with ongoing slaughter. The biggest hope that I see for its developing into an ongoing peaceful set of relationships would be serious involvement and aid by other countries in helping people to get back to normal lives which will involve settlement and resettlement. It is important to prosecute those most responsible for these abominations, but it is every bit as important, if not more important, to help these people get back their lives.

It's high risk, perilous — but it is a chance.

On the deployment: What it does is give a breathing space...for some process to start over the next year toward more stable relations among these religious groups. It think it has been carefully planned. I'm for it, partly because of the amazing degree of atrocities that have occurred.

If this country is going to claim to be any kind of moral or human rights leader, it should take this kind of structured risk. I think this thing is rife with risk of exploding in many other directions if it continues. We are not uninvolved.

Samantha Power '98

On the plan: The folks in Dayton deserve to pat themselves on the back. This is the most viable peace settlement Bosnia has seen.

"[My concern is that] the plan seems to call for the maintenance of an integral Bosnia and it has maintained the trappings of old Bosnia, with a rotating presidency. I would love to see a really active engagement whereby you go about creating a civil society. [The plan] really has outlined a framework for multi-ethnicity that will not come into being merely by positioning 60,000 troops in the war zone.

I am disappointed that there has been no provision for the mandatory prosecution of war criminals.

On the troops: What strikes me first and foremost is the incredible irony of the war. When it was a raging inferno in Bosnia, we decided to send in 20,000 lightly armed blue-helmeted peacekeepers. Now with a peace agreement we send in 60,000 heavily armed soldiers.

[Still,] it's as much worth the risk as any foreign intervention that we have been involved in."

Mark Hickernell '97

On the plan and the troops: My feelings are mixed. On the one hand, I support anything which sends the suffering of the people in the region. On the other hand, I feel like it is not a just settlement, and therefore I'm worried that it won't last.

It also sets a bad precedent, in that the party which initiated the conflict is being rewarded at the peace table. But on the whole I support the sending of the troops.

But that can only be half the answer. The other part has got to be helping reconstruct the communities that were damaged and destroyed, socially and physically. And there has got to be some measure of justice for those who committed war crimes.

Crits at HLS a Dying Breed?

continued from CLS, page 2

way."

To many, the CLS movement in the 1980s created a "war-like atmosphere" that distracted professors from research and spurred sensationalistic press coverage foreboding the Law School's decline. But sympathizers contended that the CLS debates invigorated the campus' intellectual atmosphere, pushing students and professors alike to think in ways previously unexplored.

The disputes were most clearly seen in the faculty appointments process, which often deadlocked as Crits were accused of backing only those who adhered to their political agenda, and opponents were attacked for blocking appointments of qualified candidates who threatened to join the growing voting bloc of Crits.

In the late 1980s, two assistant professors affiliated with the CLS movement were denied tenure here — an extraordinary move since junior faculty are typically promoted. These denials, which occurred before Clark became dean in 1989, caused a dramatic chilling effect on professors who sympathized with the movement, some professors have said.

Other factors, meanwhile, also con-

tributed to the changed mood among faculty, professors said.

"I think the faculty has come to accept Harvard's governing style," Nesson said. "Building [Hauser Hall, the new faculty building] has spread the faculty," making it less cohesive. "The dean was also deeply involved in the fundraising campaign, which necessarily focused a lot of interest outside the school," said Nesson.

In addition, then-Harvard University President Derek Bok's selection of Clark, an outspoken critic of CLS, to the deanship in 1989 also sent a signal of the movement's place in the future of the Law School, Nesson said.

The Crits and other professors, however, said that as dean Clark has not acted against Crit professors, although he has taken a tighter rein on school governance that has made it harder for the academic scholars to express their activist side.

Kennedy said hope still remains for political change despite the death of Crit activism.

"While it's sad that CLS is gone, it's no big tragedy; what goes around, comes around," he said. "I for one think that the place for people to put their energy is in the public interest movement for law school change."

GYM RAT

Turkey Talk

By David Koontz '96

Sports Columnist



THIS week's column will be gleefully stream-of-consciousness, as I am way too full of turkey to think straight. I don't know about you, but last week I thought of a lot of things for which to be thankful. With every bite of turkey, I thought of a new thing, and I even had some thanks left over for each bite of pie. At the moment, I am thankful that the House of Pain, Hemenway Gym, has two new stair climbers and two new exercise cycles.

When it comes to the wild and wacky world of sports, sports-related things and things related to sports-related things, I don't need to wait for Thanksgiving to fall to my knees. Many sports fans find themselves in this position, whether they are giving thanks, begging their team to cover the spread, sobbing hysterically or doing a zany impression of "Dorf on Golf" for their friends.

Let's start with Canada, which celebrates Thanksgiving not in November but every four years on Leap Day, or on Columbus Day; I can't remember which one. The Canadian Football League's Grey Cup was won by an American franchise, the Baltimore Stallions, in a turn of events nearly as bizarre as the Toronto Blue Jays representing the, ahem, American League in the World Series and winning back-to-back titles.

For an encore, the Stallions will get shoved out the door to make room for the soon-to-be-former Cleveland Browns. It seems that the city of Baltimore prefers a lame-o NFL team to a CFL champion. Folks, this is kind of like France telling the U.S. that EuroDisney is trash. What did that make Americans think of the French?

Vancouver has the distinction of having the first fans ever to hold up signs reading "BRICK!" when their own players were shooting foul shots.

Well, it doesn't really matter. Browns owner Art Modell, the Mr. Burns of pro football, has probably never been to EuroDisney anyway.

The Stallions, by the way, were quarterbacked by Grey Cup MVP Tracy Ham. I'm not trying to be as clever as an ESPN highlight jockey here (those who follow NASCAR racing may be familiar with the sports network's fascination with driver Dick Trickle). The truth is, Ham was a boyhood hero to me. He led Georgia Southern to back-to-back Division I-AA titles under legendary coach Erk Russell a few years ago. Ham was, and apparently still is, a tremendous athlete in the mold of a Steve Young, except with more running ability.

Unfortunately, Ham ran the option in college and isn't quite as tall as Steve Young, so the NFL scouts coughed politely and went back to the business of drafting real quarterbacks, like Kelly Stouffer and David Klingler. Also unfortunately, Ham wins a pro football title, only to be snubbed by the NFL again and in an entirely new way.

The other Canadian news concerns the newest NBA expansion teams, the Toronto Raptors and the Vancouver Grizzlies. Besides having a mascot that looks like Barney after one too many songs with his precocious little friends, Toronto is in the odd circumstance of having to pay Michael Crichton and Steven Spielberg 39 cents each whenever the word "Raptor" is used. Vancouver has the distinction of having the first fans ever to hold up signs reading "BRICK!" when their own players were shooting foul shots.

To be fair, though, I have no idea when I'm supposed to call a goalie a sieve or a black hole, so I guess every fan has to go through the learning process. The player personnel departments, however, should know better right from the start. Vancouver management, has a ways to go if it wants to catch up with Toronto in the player personnel department. The Raptors went for the best player available and scored a coup when they drafted point guard Damon Stoudamire, who has expertly led the offense and is the leading candidate for Rookie of the Year (are you out there, Joe Smith?).

The Grizzlies, meanwhile, fell headlong into the Sucker for a Big Man trap that apparently is a rampant disease among NBA general managers. Jon Koncak and Luc Longley were both drafted in the top five. Sam Bowie was drafted ahead of Michael Jordan. And the Grizzlies chose Bryant Reeves, who isn't chopped liver only because there's no chopped liver in SPAM. Every team seems to fall into the Big Man trap — every team, that is, except Toronto, whose general manager is future Hall of Fame point guard Isiah Thomas.

The NBA may not be turned upside down this year, but it is spinning mightily around and around. Pat Riley goes to the Miami Heat, who start winning. Rick Adelman goes to the Golden State Warriors, who keep losing. Don Nelson goes to the New York Knicks, who are supposed to start losing but keep winning instead. Doug Collins goes to the Detroit Pistons, who are supposed to start winning but keep losing instead.

The players have been shuffled as well. Riley, who has coached Kareem Abdul Jabbar and Patrick Ewing, traded for his requisite big man in Alonzo Mourning after the 7-footer rejected an \$11 million-per-year offer from the Charlotte Hornets. The Boston Celtics acquired point guard Dana Barros, which left point guard Sherman Douglas uncomfortably on the trading block until he could be shipped safely to Milwaukee. Shaquille O'Neal went down for a couple of months with a broken hand, leaving the Orlando Magic center position to newly acquired backup Jon Koncak, who thought he had found the easiest job in the world.

And then there's that all-important NBA parity. The last time I checked the standings, the Sacramento Kings led the Pacific Division, with the L.A. Clippers hot on their heels. The Bullets are beginning to show signs of life with the youngest and possibly most talented front line in the NBA — Chris Webber, Juwan Howard, and Rasheed Wallace (not to mention the suddenly super-improved 7-foot-7-inch Gheorge Muresan).

In the middle of all this, has anyone noticed that Michael Jordan is leading the league in scoring again?

FOOD - O - RAMA

Mediterranean Warmth Found Underground

By Heather Friedman '97 and Betsey Nevins '97

Restaurant Reviewers

WINTER weather has hit with a vengeance, and many of us want to give in to the atavistic urge to burrow underground. The Harvard Square area offers numerous outlets for such impulses — haven't you noticed the number of times you have to walk downstairs to enter a bar, restaurant or bookstore?

The restaurant **Celador** on Craigie Circle offers a cozy underground haven from the winter cold and delightful, gourmet food to boot. With a simple beige-white color scheme, muted lighting and jazz standards (from Ella to Marvin) playing softly in the background, the atmosphere is of understated elegance.

This is a restaurant that knows about the importance of detail. The first thing we saw when we entered was a table top full of fresh rounds of onion focaccia, a visual hint of Celador's culinary aesthetic — homey elegance with a Mediterranean flavor. The waitstaff delivers impeccable service: within seconds of being seated, our water glasses were filled, the bread basket was brought (featuring the above-mentioned focaccia and a sourdough) and we were informed of the November Bordeaux wine list and tempted by the day's dinner specials.

As for the menu, while it isn't tremendously extensive, each dish described is mouthwatering: we found it awfully hard to pick among these intriguing offerings.

For our first course, we finally settled on pan-fried shrimp cakes with romesco sauce (\$8.50) and a special, roasted quail with pear-walnut stuffing, — but only after casting our eye longingly at the savory artichoke, asparagus and tomato tart with a green tomato coulis and the roasted squash soup served with a roast garlic crouton. The shrimp-cakes were lightly fried and rather more delicate than their crab-cake cousins. The romesco sauce turned out to be a very unusual puree of roasted red pepper and nuts whose sharp flavor and vibrant red color were a lovely complement to the tender cakes. The roasted quail was also beautiful to behold — a diminutive bird served in a rich meat gravy with pear rounds. Eating quail conjures up images of great autumnal banquets. With its tender, flavorful meat and stuffing, this dish was satisfying and festive.

Our first entree, the salmon filet in a saffron-tomato broth with mussels and shrimp (\$17.50), was reminiscent of a Provençal bouillabaisse with a tomato base and plenty of white beans and scallions. Here, however, the broth was somewhat lackluster, perhaps because the chef was trying not to overwhelm the subtle taste of the salmon. The fish itself was lightly coated with ground nuts and black pepper, but it could have been cooked a bit longer. Still, the mussels and shrimp were superb, and we appreciated the olive oil crostini on the side.

The grilled rack of lamb over a Mediterranean chermoula sauce, served with portobello mushrooms and tomato farcie (\$18) was another well-executed dish — again with lovely presentation. The distinctive feature of this dish was the chermoula sauce, an herb-oil puree with a citrus bite. All the components of the dish were right on, from perfectly cooked medium-rare meat to a rich risotto "farcie" to

This place is not cheap. But if you're looking for a treat which will bring you in from the cold, button up your overcoat and head through the cellar door to Celador.

two deliciously roasted thick cut potato "fries" and the earthy-flavored portabello. (Although we noticed a tiny inaccuracy in the menu description which advertised mushrooms in the plural, we were more than satisfied by the single king-size mushroom that graced our plate.)

When it came time for dessert, the visual and culinary spectacle continued. The flourless chocolate torte was the most beautiful dish of the evening. Unbelievably large for its richness, it was a dense block of dark chocolate with whipped cream piping. Most spectacular was the statuesque swirl of crystallized sugar perched atop. Did we mention how scrumptious this torte was? But it would take almost inhuman properties to consume the entire dessert.

The bourbon pecan pie was not quite as stunning, but it still provided a fitting finishing touch to the meal. If the bourbon wasn't easy to discern, there were certainly more than enough pecans to make up for it. All in all, it was a more than respectable pecan pie.

This place is not cheap. But if you're looking for a treat which will bring you in from the cold, button up your overcoat and head through the cellar door to Celador. This might be a nice choice when special visitors are in town or when celebrating during this holiday season. Do remember to make reservations — part of its charm is its tiny dining room. Finally, it is worth mentioning that Celador offers a prix-fixe, pre-theater dinner for \$19 from 5:30 to 6:30 p.m.

Celador is located at 5 Craigie Circle (just off Concord Ave., a block past the intersection of Concord Ave. and Garden St.). It is open 5:30 p.m. to 9:30 p.m. from Tuesday to Thursday and until 10 p.m. on Friday and Saturday. Some parking is available; call 661-4073 for details.

Harvard Law RECORD

Founded in 1946

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A Call to Dean Clark

As the semester winds down, student and faculty efforts to boost public interest programming only seem to be picking up. Now is the time for Dean Clark '72 to take substantive action to forestall a possible confrontation next spring.

Next week, several professors will be meeting with Clark to discuss what can be done to allocate more of the \$175 million Capital Campaign fund toward the Low Income Protection Plan. Students, meanwhile, have postponed the open forum on public interest that was slated for yesterday, after Clark indicated that he would not attend. That event will be organized on a much grander scale in the spring, they said, to make it difficult for the dean not to show.

Much of the lobbying effort recently has been geared toward making the debate public, after attempts to reach solutions behind closed doors fell short. Last April, for example, students presented a petition with more than 500 signatures to Clark, calling for a \$4,000 database of public interest jobs used by other top law schools around the country. They also sought a major HLS fundraising drive for public interest as rival New York University Law School had done. Only after months of student lobbying did Clark reverse his initial refusal of the demands, agreeing only to purchase the database. He then promised to release immediately a letter breaking down Campaign funding. It finally came out last month.

It is clear, whatever Clark's intentions are today, that he must wrestle with a perception, amply supported by history and recent statements, that he isn't doing all he can for the public interest. It is thus understandable why his promises to raise funds more vigorously in the future have been skeptically received. To forestall future conflict, something more is required.

Perhaps an immediate final solution cannot be reached. Perhaps \$25 million of the Capital Campaign cannot be magically granted, since much of it has been earmarked for other areas. Perhaps his discretionary power over the excess funds will require some weighing of other concerns. Perhaps more dialogue is needed.

But, Dean Clark, here are some suggestions to show concretely that you are listening:

- Explicitly spell out what discretionary funds remain and allocate it toward LIPP, as students and faculty have demanded.

- Announce a new fundraising campaign geared especially for the public interest program (as students have demanded), to supplement proceeds they raise each year on a grass-roots level through the Public Interest Auction.

- Reconsider the current rigid framework of the Strategic Planning Group, a framework which excludes consideration of public interest programming at HLS on a long-term basis.

- Alternatively, allow the Legal Education Committee, chaired by former Dean James Vorenberg '51 (who, incidentally, upon stepping down from the position, told the New York Times that he was most proud of efforts to sensitize law students to the plight of the poor), to consider the place and future of clinical and public interest programming.

- Revive a standing committee on public interest, made up of students and faculty, that was created during the public interest flap of the late 1980s. This is another demand of students.

After months of discussion, many students are increasingly restless as their demands appear to have been ignored. Now is the time for a concrete step forward toward resolution.

Professors will be meeting today for its final faculty meeting of the semester. Public interest programming may be brought up, perhaps creating an appropriate time to announce, with action, that student and faculty concerns are being heard.

For the entire semester, students and faculty have made their demands clear. The next step is Dean Clark's.

-Yen

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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.

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—First Amendment, US Constitution

• Letters •

Clinical Education Makes for Better Lawyers

As students who have participated in clinical placements at the Hale & Dorr Legal Services Center, the Criminal Justice Institute, the Harvard Immigration & Asylum Clinic, the Legal Aid Bureau, the Harvard Defenders, the Tenant Advocacy Program, the mediation Program and the Prison Legal Assistance Project, we are writing in response to Dean Clark's recent statements on the value of clinical education [RECORD, Nov. 10, 1995]. Dean Clark remains "skeptical" of, and recently threatened to cut funding to, the HLS clinical program. We believe that these legal clinics offer students a vulnerable opportunity to develop practical skills and a sense of professional responsibility through direct and extensive client contact, while making the legal system accessible to many who could not otherwise afford representation. We urge the Dean to maintain and develop Harvard's leadership role in this vital area of legal education.

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Fiona Huang '97
November 28, 1995

Examine Evidence Before Scaling Back Clinicals

I was sorry to learn of Dean Clark's skepticism about the value of clinical education (see RECORD, Nov. 10, 1995), but sorrier still to read that he is contemplating scaling back ("even[ing] out") funding for the clinical program.

Currently taking my first clinical course, I have found the educational experience simply exceptional. My work preparing immigration and asylum claims helps me to make sense of the rules and theoretical concepts I learn in my immigration class on campus. In fact, I'm so pleased by how my clinical work has helped me to

understand and synthesize complex classroom material that I have been wishing that my courses in evidence and corporations also offered clinical components.

The clinical program permits me to work closely with a wonderful attorney - my supervisor - while also benefiting from contact with the team of attorneys/teachers and students who make up the immigration clinic at the Cambridge and Somerville Legal Services. I know that there are other options for those seeking first-hand legal experience (non-credit term-time internships and summer work to name a few), but

I remain convinced that the clinical program offers something uniquely valuable by combining academics and work, theory and practice. In the clinical program, learning by doing takes place simultaneously with learning by listening, discussing, arguing, reading and thinking. To me, a program which fosters such a vibrant learning environment is obviously "important" and just as clearly, is "good."

I only hope Dean Clark is willing to examine the evidence.

Heather Friedman '97
November 20, 1995

Clinical Programs Helped Immigrant Clients

While visiting HLS this weekend to speak at the "Political Lawyering" conference, I was deeply disturbed to pick up a copy of the RECORD and read that Dean Clark wonders about the "cost-benefit ratio" of clinical legal education, and that he warns students that "current funding levels for clinics won't last too long."

When I graduated from law school, I founded the Workplace Project, a center for immigrant workers. I began representing people with labor and employment problems as soon as I was sworn in. I shudder to think how my clients would have suffered had I not had the benefit of courses with extraordinary clinically-oriented teachers like Debbie Anker, Gary

Bellow and Barbara Sard, and of a year of experience being supervised by the highly skilled staff at the Legal Services Center in Jamaica Plain.

Clinical education is an essential part of any lawyer's training. It provides invaluable experience in counseling real clients, and brings students face to face with the ethical dilemmas and legal institutions that they will confront in real life. The opportunities for guided reflection and critique that clinical education provides are not available to most lawyers after graduation. No matter what their future careers, if law students learn about law only from classwork and reading casebooks, they are released into the professional world unprepared for

the demands of practice.

It may be true that there are costs associated with teaching students by supervising them in real-life settings. However, this could also be said of the time that doctors spend as interns and residents in hospitals before being granted a license. In both cases, the end result is a crucial one: young lawyers, like young doctors, who have been trained in the practice of their profession, not just in its theory.

Please, Dean Clark: support an increase in funding for clinical programs at Harvard. They represent the best of what HLS offers to its students.

Jennifer Gordon '92
November 21, 1995

Councillor Wrong to Discourage Student Voting

Cambridge City Councillor Sheila Russell is quoted saying about students: "I'm glad they are not [voting]; someone here for a semester or two should not have a big voice in the local politics." (The Harvard Independent, Nov. 9, 1995, p. 3)

It is disappointing that in politically correct Cambridge in 1995 the issues of the 1960s reappear. In 1968 the Trustees of Columbia University opposed allowing students to participate in financial decision making, arguing that stu-

dents were only on campus for four years. They were transients. It was paternalism or feudalism.

I responded that members of the United States House of Representatives are elected for only two years. They have constitutional power to control most aspects of our lives. Most students are in Cambridge longer than congressional tenure.

Councillor Russell returns student rights to the neolithic era. Her position discourages exercising rights stated in state and federal constitutions, and supported

by United States Supreme Court law.

Contrary to Clinton's directive, his chief of staff whines about Republican strategy using hateful and violent speech. The Associated Press, Nov. 10, 1995, quotes: "A gun to the head of the President;" and "That's a form of terrorism." In Cambridge the liberals discourage voting rights and free expression. Is that what mental hygiene is all about?

Roy Bercaw
Cambridge, MA
November 12, 1995

Recycle the RECORD!



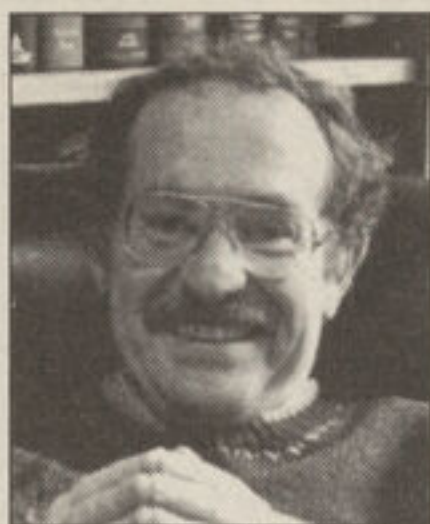
Police Commissioner Confirms "Testilying"

By Alan M. Dershowitz

The police commissioner of New York has now confirmed that "testilying" by police officers is a serious problem that must be addressed. Commissioner William Bratton explained that as the "cops who 'testily' see it, they don't lie to convict innocent people, but to convict guilty people. But in doing so, they have lost sight of the fact that the end does not, and cannot under the law, justify the means."

Commissioner Bratton correctly placed some of the blame for police testilying on prosecutors: "In some cases, when a prosecutor is really determined to win, the 'trial prep' may skirt along the edge of coercing or leading the police witness. In this way, some impressionable young cops learn to tailor their testimony to the requirements of the law."

Commissioner Bratton — who headed the Boston Police before taking over in New York — went on to warn that "this is enough of a problem that we need to address it. We can't address it by ignoring it, and we can't address it by boycotting conferences like this one." The reference was to a recent conference sponsored by the Criminal Justice Institute at Harvard in reaction to my charges earlier this year that police testilying was a pervasive and serious problem around the country. Many chiefs of police who were invited to the conference refused to attend, because they thought that by participating they would be legitimizing my criticism. Bratton not only attended, but he went out of his way to say that he "agreed with most of what Dershowitz had to say." This, of course, led to firestorm of criticism by other police, one of whom denied that he had ever encountered a single incident of police perjury in his 27 years of service on the Boston Police force. This attitude of hear no evil, see no evil and report no evil is all too typical of



police officers who feel bound by the "blue code of silence."

Commissioner Bratton not only has seen the evil in police perjury, he intends to do something about it. At the Harvard conference, he announced a plan to require every one of the 38,000 members of his police force to attend annual courses on giving honest testimony. One would have hoped that policemen did not have to be taught to tell the truth, but Bratton noted that young officers generally learn how to

testify through "on-the-job" training, and the Mollen Commission showed how such training often leads to stretching the truth. As Robert Leuci, a former New York City detective who went undercover for the federal government, put it: "Cops are almost taught how to commit perjury when they are in the police academy."

Well, from now on, at least in New York, they will be taught how to tell the truth. It will be interesting to see whether other big city police chiefs follow Commissioner Bratton's lead and acknowledge the seriousness of the problem of police perjury. Los Angeles Police Chief Willie Williams continues to bury his head in the sand, even after the Fuhrman tapes and even after he himself was victimized by an attempted frame-up by some of his own police officers. Nor is there any evidence that the Philadelphia, New Orleans, Pittsburgh, Boston or Chicago police departments — which have also been racked with perjury scandals — are taking steps to assure that their officers tell the truth.

Most police departments are too busy denying what virtually every scholar, commission and honest police chief now acknowledges to be true: Namely, that testilying is a widespread and corrosive problem. As the Mollen Commission put it:

"The challenge we face in combating police falsifications, is not only to prevent the underlying wrongdoing that spawns police falsifications but to eliminate the tolerance the Department and the criminal justice system exhibit about police who fail to tell the truth."

Some enlightened law enforcement officials are beginning to realize that police perjury may have the opposite effect of that intended: Defendants who might have been convicted on the basis of truthful testimony are acquitted because the police lied. As Richard Brown, the District Attorney in Queens, NY, put it,

"What's important to recognize is the fact that when police officers are perceived to lie that perception gets into the jury room. You've got to impress upon the police officers that they are going to lose cases if the perception exists that they are bending the truth." That is what may have happened in the O.J. Simpson case, and it is likely to happen more often in future cases as a result of the widespread attention to the

Perhaps law enforcement will finally wake up to the reality that police perjury is not only bad for the liberty of all citizens, it is also bad for law and order.

Simpson verdict.

Perhaps law enforcement will finally wake up to the reality that police perjury is not only bad for the liberty of all citizens, it is also bad for law and order.

Alan M. Dershowitz is a professor of law at Harvard Law School.

A Three-Step Program To Leave It to the Voters

By Christopher Edley Jr. '78

Both the White House and the Congressional leadership seem determined to show that they have the courage of their convictions and the confidence of the public to boot. So why not let the voters decide? Here's a three-part formula that would not only test those claims, but make it much more likely that the outcome of the current debacle would produce a balanced budget plan reasonably acceptable to the public:

First, and hardest, the warring parties must agree on the initial year of a balanced budget plan, fully detailed with respect to both appropriations for the "controllable" parts of government and taxes and entitlement spending.



Second, for years two and beyond, the agreement would contain full legislative details of two alternative paths to balance: Plan A enacting the Republican vision and Plan B enacting the president's vision, both in their full programmatic glory.

Third, the statute would require that on Jan. 21, 1997, whoever is president would select Plan A or Plan B. No modifications. No other choices. No delays. And, given the focused attention of the presidential campaign, no hidden agendas or suppressed details. The people will get what they vote for next November.

Note to Leon Panetta: This is not a gimmick. It captures the legitimate democratic impulse underlying suggestions by the president and others that perhaps the voters should make this fundamental choice.

Note to Newt Gingrich: Mr. Speaker, this is not a dodge. It avoids losing the impetus to act now by locking into law a specific deficit reduction program, not mere targets. We just won't know which of two fully specified paths it is until the voters speak, having been, ah, educated by the campaign.

The intraparty debates would be fascinating and healthy. It might even save two-party politics and boost voter turnout. It would marry the benefits of presidential and parliamentary structures. And the technical constitutional objections are easily met.

This idea is too principled to be called a gimmick. Call it a gambit. You can use my name.

Christopher Edley, a professor at Harvard Law School, served during the Clinton administration as associate director of the Office of Management and Budget and special counsel to the president.

• Letters (cont.) •

Profanity Policy Tantamount to Censorship

The cartoon "Civil Procedure," which normally appears in these pages, is not being published this week because it contains a word ("s*it") deemed inappropriate to appear in the RECORD (although the same word, if appropriately disguised, may).

Censorship masquerading as "decency." I find this

an absurd and childish policy. I believe the members of the Harvard Law School community are old enough to take care of themselves without the ministrations of the RECORD's language police patrolling the bounds of their own self-imposed morality.

With this, then, "Civil Procedure" and I must say

adieu to the readers of the RECORD. I have no objection to editorial control. But I cannot contribute to a publication that takes it upon itself to decide what is or is not appropriate language for its readers and contributors. It's been a pleasure.

Matthew J. Kelly '97
November 29, 1995

Israel Needs Unity, Not Blame-Assigning

Rob Jancu '98 "agree[s] with [me] that the poisoned Israeli political discourse helped precipitate the assassination [of Yitzhak Rabin]." Although I wrote that we all ask ourselves what we might have done to prevent Rabin's assassination, he asserts that I "[f]inger-point in only one direction": toward everyone right of Rabin.

When I wrote my letter, I aimed my criticism only at those who urge their compatriots to use violence against their political adversaries. Mr. Jancu, not I, concludes that this description is coexistent with the membership of the Israeli right. I am well aware that casting aspersions on every person right of Rabin would be both

grossly inaccurate and counterproductive. More than ever, Israel needs to concentrate on the shared values that unite its people, from the right to the left. "Lo tirtzach," thou shalt not murder, seems like a good place to start.

Bruce Goldberger '96
November 19, 1995

Jancu's Commentary Misrepresents Political History, Situation in Israel

My op-ed piece, "Why Israel Weeps" (see RECORD, Nov. 10, 1995), was a personal and emotional account of my feelings about the murder of Yitzhak Rabin. I discussed Rabin's changing view of the peace process, and mentioned the fact that in recent years he has "adopted all the left discourse," not only because I thought it was admirable of Rabin to undergo this transformation, but also because I thought it would help explain my personal sense of loss at his death. Rob Jancu '98, in his column published in the Nov. 17 issue of the RECORD, takes upon himself the right to put words in my mouth, and argues that by saying Rabin adopted the left discourse I subtly implied that "leftist discourse in Israel redounds to the good of the country; rightist discourse is hate-mongering and

literally lethal." While I do happen to think that the left discourse in Israel indeed "redounds" to the good of the country, I did not make, and would not have made, the kind of generalization about the right that Mr. Jancu tries to put in my mouth.

Mr. Jancu groups me together with Mrs. Leah Rabin, and with Bruce Goldberger '96, Prof. Reuven Avi-Yonah '89, and Michael Leib '96, all of whom are people that I am honored and proud to be grouped together with. However, it is unfortunate that Mr. Jancu chose to decontextualize what these individuals and myself have said, so he will be able to argue that we all take part in demonizing the Israeli Right.

Although I did not, in my Nov. 10 piece, engage with the issue of political discourse in Israel and its con-

nection to the Rabin assassination, I feel that now Mr. Jancu has left me no choice but to do so. A detailed rebuttal of his distorted description of Israeli political debates would have to go beyond the scope of this letter but here is just one example: Jancu says that settler leader Yisrael Harel "tried in vain for years to meet with Rabin..." while the late Prime Minister "spurned Harel's pleas for a dialogue..." For Jancu, this is an example of Rabin's "exclusionary mode of politics."

However, as it turns out, Mr. Harel himself has told the New York Times, in a story published Nov. 17, about the talks he had with Mr. Rabin concerning the peace process! Moreover, in the Israeli daily Ha'aretz, on Nov. 6, Mr. Harel wrote about the personal relations

of settler leaders with Rabin, describing how those relations transcended ideological differences, and how "[h]is [Rabin's] office doors were always open to these people..." This is just one example of the lack of any responsibility Mr. Jancu apparently has towards what he writes.

Let me resist the temptation of bringing other examples and just say the following. To say, as Jancu does, that Rabin was "gagging" the right in Israel is outrageous. Under Rabin, settlers and other right-wingers have enjoyed full freedom of speech. They have written columns, demonstrated, participated in parliamentary debates, and they were never prevented from doing any of this or from exercising any other forms of free speech. Any representation from Mr. Jancu to the contrary is

defamatory. In addition, to imply that the right and the left in Israel are equally engaged in irresponsible discourse is disingenuous. True, there was occasionally uncivil discourse on the left, but the left did not resort to incitement and violence, so comparisons with the recent incitement from the right would be preposterous. Just one example would be settler leader Elyakim Haetzni's comparison of the Rabin government to the collaborationist Petan government in French during World War II. So the main issue that should be addressed today is not, as Jancu said, that "[e]ach side must reform its rhetoric," but rather that tolerance to the extreme right's incitement and violence must end.

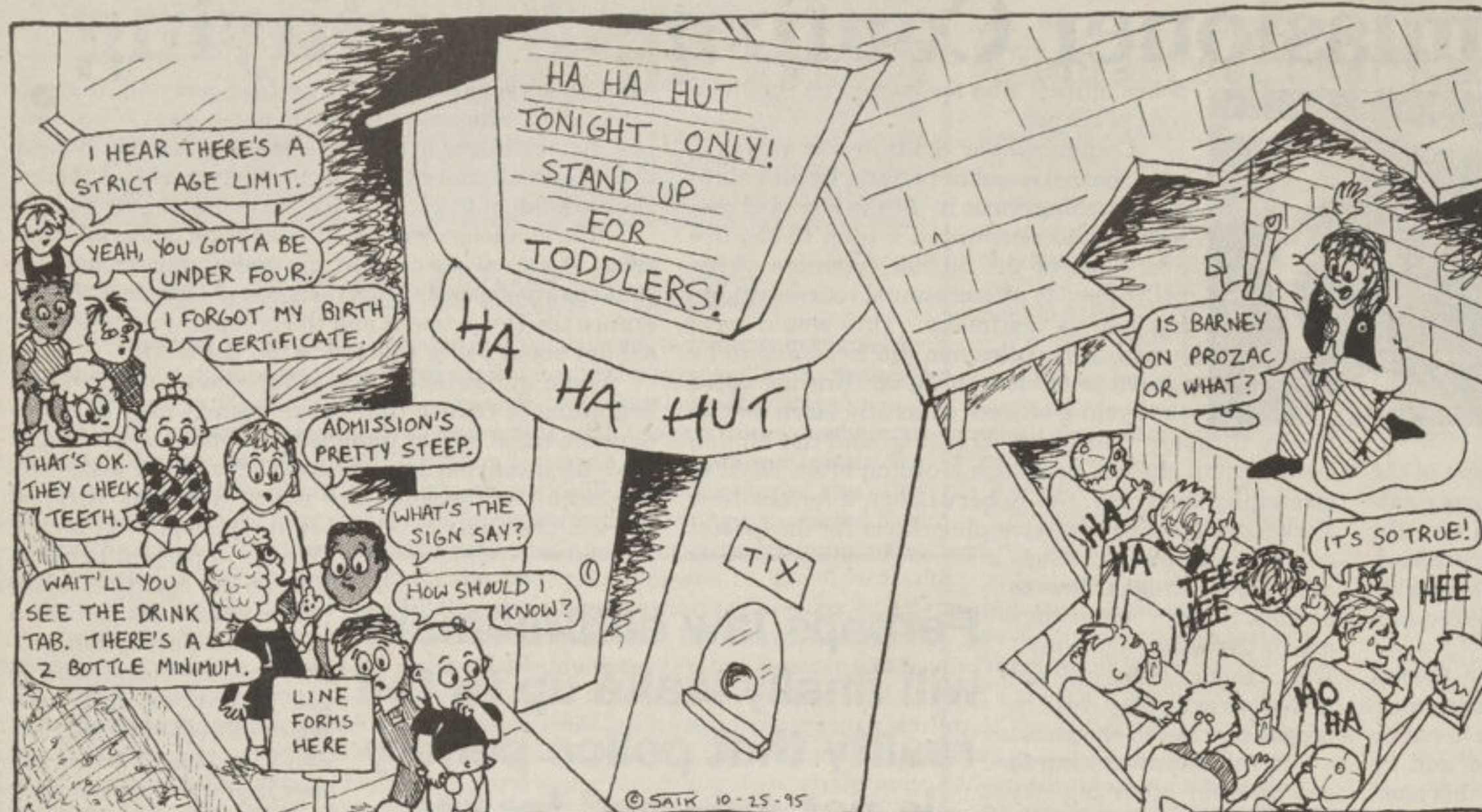
Rabin's murder was the first political assassination of

a major public figure in Israel's history, but unfortunately it is not the first time that the Israeli extreme right resorted to violence. In 1983 a hand grenade was thrown into a Peace Now demonstration killing Emil Grinzwieg. In the 1980s a Jewish terrorist organization killed and maimed Palestinians in the Occupied Territories. In 1994 there was the massacre committed by Baruch Goldstein in Hebron, where 29 Palestinians were murdered. However, Jancu chooses to use the "blame the victim" technique, and writes that "...neither is Israel's Left unique in politically-motivated killing" [sic]. Must I have to remind him who was the murderer and who was the victim in this case?

Aeyal Gross, S.J.D.
November 19, 1995

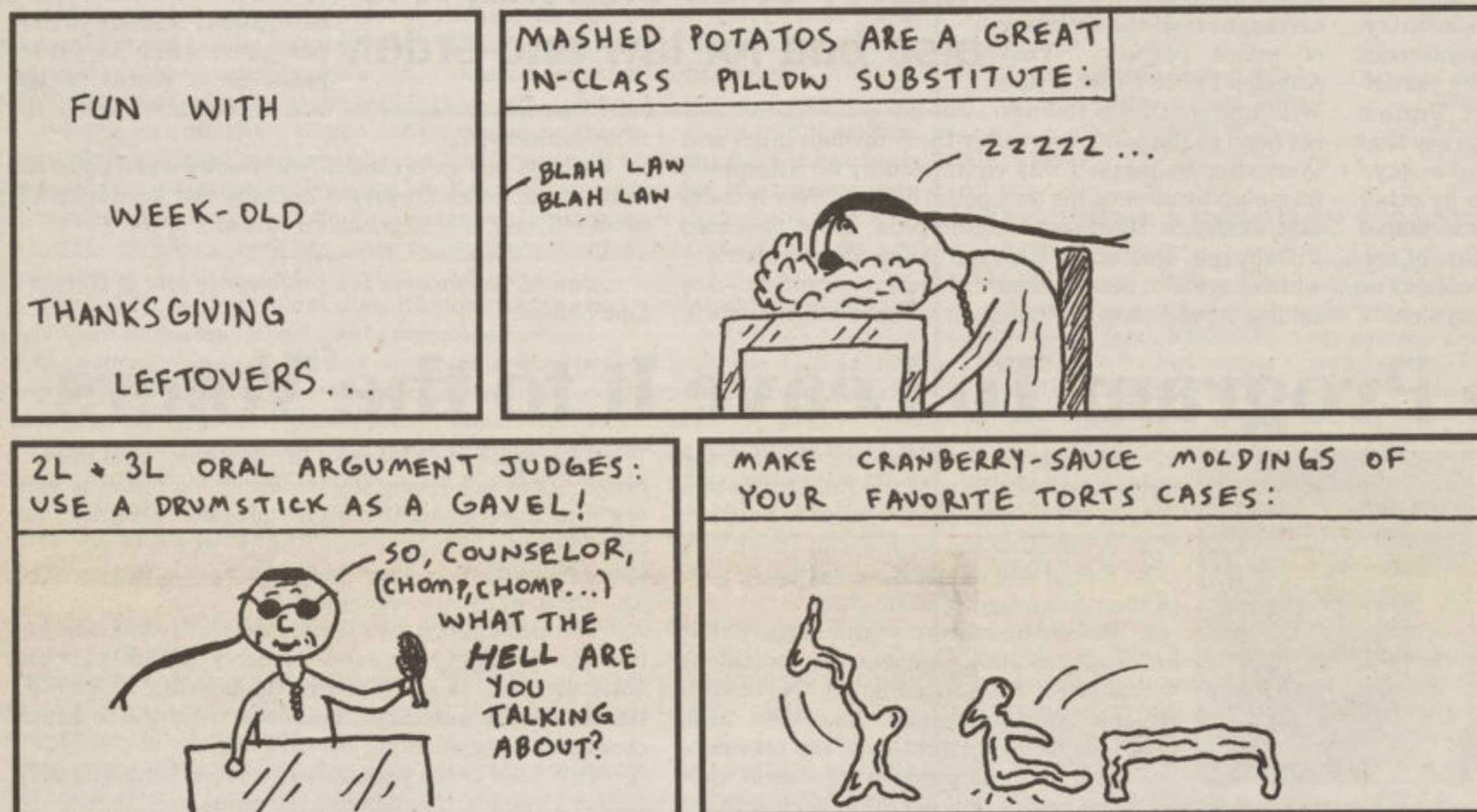
Temporary Insanity

By Sheila Tuller



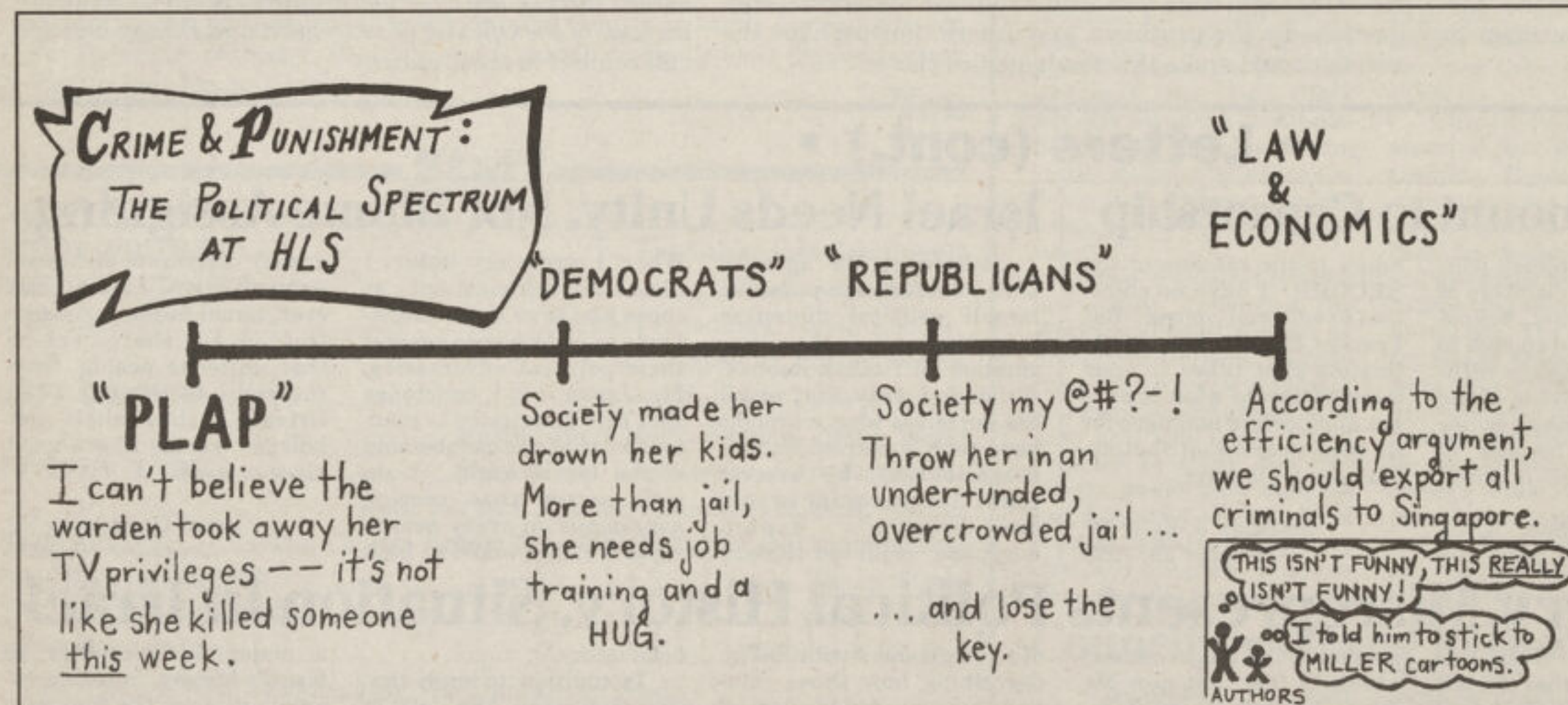
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By Brian Cheng



Ad Hominem

By Stuart Rees and Bill Zimmerman

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CALENDAR

By Colin Meeder

Since I'm jealous of our muckraking conservative columnists who manage to get tons of angry mail for just one ill-advised parenthetical, I'd like hereby to advocate the violent overthrow of the government of the United States. I'd like to, that is, but I'd also like to practice law someday, and I'm told that the two are incompatible. And they call this a free country?

Well, it's free enough that you can now (Thursday 11/30) stomp out of the Hark in a fit of pique and go down to the House of Blues (491-BLUE). Once there, you may hoist a few absurdly overpriced beverages and enjoy the searing blues and folk guitar of **Jorma Kaukonen**. He's clearly the most heavily-tattooed ex-member of Jefferson Airplane, and along with Jack Casady, one of the most talented.

Unless, of course, you prefer perfect British-style pop-angst. In which case, you are free to enjoy **Lloyd Cole** do his thing, sans Commotions now, at the Paradise (562-8800) on Friday (12/1). Powerful wordplay, a pleasant enough voice, hummable melodies — what more do you want? Poetic punk rock profundity? OK, we've got that on the same night at TT the Bear's (492-BEAR). **Lydia Lunch** and **Exene Cervenka** will bring their divine and confrontational spoken word theater to what is rapidly becoming the coolest club in Boston. Brilliant art-punk noise will begin the evening, courtesy of Mission of Burma founder **Roger Miller**. Less disturbing words are available at the Comedy Connection (248-9700) courtesy of "In Living Color" alum **Tommy Davidson**.

She's punk! She's folk! She's straight! She's gay! She's talented! She's media-hungry! Actually, she's all of the above. She's **Ani DiFranco**, and you can join the ever-growing cult of her ecstatic fans the Orpheum Theatre (931-2000) on Saturday night (12/2). The same night brings **Wayne Shorter** to the Berklee Performance Centre. Shorter's always a compelling soloist whose choice of musical surroundings often strikes jazz purists as, well, lame pop music. But Shorter, like Miles before him, doesn't care what you think and keeps pulling gems out of the garbage.

When I first heard the mess that is Alanis Morissette's "You Oughtta Know," two thoughts came immediately to mind. First, that the bass playing is just awful, out of tune and masturbatory and second, that this song needs to be covered by a homocore band immediately. Well, the gods of rock were listening, and so we have **1000 Mona Lisas**, an entertaining, if otherwise forgettable, band that have well deserved their 15 minutes for hiding their version of this song as a secret track on their debut. Watch them scratch their nails down your back on Saturday (12/3). **Mr. Mirainga, Bison**, and **Starbilly** open at TT the Bear's.

Fats Waller and the **Pointer Sisters** — nope, I don't hear it. OK, I'll admit that they've got the chops and the verve, but do they have the style? You can soon find out for yourself, because Wednesday (12/6) is opening night for the Pointers in "Ain't Misbehaving" at the Colonial Theatre (426-9366). Or you can find out why, with 70 skillion brilliant bands having come out of D.C. in the late '80's, it's **Velocity Girl** that have hit the big time. They're at the Middle East (497-0576) the same night. And if you do find out the answer, let me know, 'cos this band bore me to tears and haven't evolved much since their foundation.

I'd tell you what's coming up, but you really should be studying.

Law School v. Reality

By Markus Hartmann

WHEN students at HLS discuss constitutional law, their talk often centers on rights. Conspicuously absent from many conversations are the corresponding and countervailing issues of responsibility. In this, HLS is no different from the rest of the nation. Occasionally, the rights-based discussions here are not a reflection of the nation's. They are often a reflection of the student body's isolation from the nation and many of its experiences.

Last week, in Prof. Charles Fried's Constitutional Law class, a rights-based discussion took place while reviewing *Rostker v. Goldberg*, 453 U.S. 57 (1981). Somehow, the class became a policy discussion about women in the military. The observations about the differences between women and men were fascinating. Not a politically incorrect word was spoken.

Unfortunately, the class overlooked two important issues. First, *Rostker* was not about women in the military; it was about the Military Selective Service Act, which permitted the conscription of only men. Second, the dissenting opinions of Justices Brennan and Marshall were ignored by the class. Brennan and Marshall pointed out that the statute excluded women from a fundamental civic obligation. Brennan and Marshall were examining the real issues at stake and the rest of the Court, like the class, did not want to confront reality.

At HLS, reality avoidance is not restricted to the classroom. The administration has yet to decide whether to allow the military to recruit, or even be a presence, here on campus. The reason? The military's "Don't Ask Don't Tell" policy has offended a minority of students. It seems that a person should have a right to join the military and express their homo- or bisexuality. While the origin of this right is the subject of another debate, the corresponding responsibilities are worth thinking about now.

When discussing the military, the current generation of law students seems to have been influenced more



by Madison Avenue than Vietnam. During the early '70s, the Selective Service System became a prime target of the antiwar movement. As the military participation in the war decreased, the system was discontinued in 1973.

In 1980, after the Soviets invaded Afghanistan, President Carter decided to make sure that young men register for a possible future draft. A proposal to register women at the same time was rejected by

Congress. To ensure compliance, the federal government strategically decided to hold student loans hostage by demanding that males register for the draft as a precondition of approval. Additionally, the military began an advertising campaign that emphasized "being all you can be" and how much civilian employers value military experience.

The advertising program proved too successful. For many, the military became a career similar to that of an IBM executive. Because the military downplays the death thing, society has begun to view the military as nothing more than an alternative career path. With this perception, it seems very reasonable to demand that women be given equal access to this great opportunity for advancement. The "Gays in the Military" movement has a similar perspective.

This week President Clinton, the commander-in-chief, has added his voice to the discussion. By committing troops to Bosnia, the president reminds us that often troops are committed to operations that are unpopular with the American people. Without commenting on the ultimate wisdom of the Bosnian operation, it is not unfair to ask how Bosnia in '95 has any greater strategic significance than Vietnam in '65. If the administration's strategic concerns are genuine and we are attempting to prevent a war in greater Europe, what if we fail? What if President Clinton has to activate the local draft boards?

If it is wrong to exclude women as a group from any career in the military, then it is also wrong to exclude them from the draft. To hold otherwise is to demand rights without responsibilities. We are a familiar with the arguments about career advancement, but unfamil-

iar with the logistical considerations. If women are compelled to serve alongside men in combat, how do we deal with those women who make a rational decision to engage in legal activities that guarantee they return home, e.g. get pregnant? Would your solution be fair to the men fighting in her place? It is the women of HLS who would be most eligible for the draft. They are smart, healthy, and most of them would make fine officers. If you think winter in Cambridge is unpleasant, imagine winter in Bosnia.

Similarly, the case against "Don't Ask Don't Tell" changes when you add the draft to the discussion. "Telling" has traditionally been one of the ways to avoid military service. If the policy is abandoned, then so is the exemption. Do the advocates of the "Gays in the Military" movement really want to draft homosexuals against their will? If they do, we can all admire their consistency. Chances are, the perspective of those affected might change when the first draft notices are received in the mail.

During Vietnam, HLS was an alternative to military service. The inequities of that deferral system led to a lottery system in 1969. If a draft were to be administered fairly, all able-bodied HLS students currently enrolled would be eligible. Imagine taking your final, going home for the holidays and packing up for Bosnia.

Right now, the only people facing the possibility of being drafted are male. If there were a draft, closeted homosexual men would have an option that heterosexual men do not have. They could get out. You know that you have entered the academic twilight zone when a case concerning the constitutionality of the male-only draft is merely a springboard for a rights-based discussion about career opportunities. A similar departure from reality exists when an administration would deny the military access to the campus as that same military is being asked to go to Bosnia.

The focus on rights with the exclusion of responsibilities is a common aspect of our individualistic American culture. HLS is not different from the rest of the nation in this regard. What makes HLS different is that many of our academic discussions tend to become divorced from reality. HLS is not Ireland; this type of divorce should be outlawed.



Fenno stood in Out of Town News and flipped through the latest issue of "Playboy." When he was in high school, he was younger than all of the Playmates of the Month. Month by month, he had become older than all of them.

"In high school, you grow up," he mused. "In law school, you just grow older."

A law school classmate stepped beside him and interrupted his musing and perusing. "Ah, the next Clarence Thomas," she said. "Tell me, was Potter Stewart right? Now that you've seen it, do you know it's obscene?"

Fenno was taken aback. He looked up and said, "I'm only interested in the party jokes."

"Is that why you're looking at the centerfold?"

"No. The jokes are on the other side of the centerfold."

"The jokes are probably demeaning to women too," said the woman.

"Don't you feminists have a sense of humor?" Fenno demanded.

"Yes, we do."

"I can prove you don't. How many Women's Law Association members does it take to screw in a light bulb?"

"As long as men joke about rape, I refuse to joke."

"Why did the Women's Law Journal editor cross the street?"

"Once we develop feminist jurisprudence further, we will create a feminist sense of humor, non-exploitative and non-subjugating."

"Say, did you hear about the farmer's daughter who wanted to teach at HLS?"

"Humor is born of insecurity. That's why men joke so much."

"Me? Insecure?" asked Fenno. "Look, much truth is said in jest."

"No. Much cruelty is said in jest."

"Abbie Hoffman said: Beware of peo-

ple who take themselves too seriously; they are power-hungry."

"Abbie Hoffman was a depressed philanderer who abandoned his family. What did he know about feminist humor? Women are power-starved, not power-hungry. And feminists take equality seriously, not themselves."

"But humor is a way to power, a form of struggle. Mark Twain said that nothing can stand against the assault of humor."

"Why are you quoting another depressed man who used wit because anti-depressants hadn't been invented? If religion is the opiate of the masses, humor is their Prozac. Men get people to laugh at injustice instead of fight it. Tell me a one-liner that has smashed oppression. Heard any puns that have uplifted society? Name one knock-knock joke that empowers people."

"Wait," said Fenno, putting Playboy back on the rack. "I don't really read the jokes in this. I admit that I was looking at the centerfold. I'm an undercover monitor for Men Against Pornography. We know it when we feel it." He reached for "Ms." "This is what I read."

A glimmer of a hopeful smile crossed the woman's face. "Really?" she asked.

"No, 'Ms.' doesn't have any party jokes," said Fenno. "Fooled ya!"

Fenno walked out of Out of Town News, muttering to himself. "Cruel? Me? Insecure? Yeah, right."

Quote of the Week

"I would rather eat two-month-old roadkill than eat at the upstairs cafeteria."

— Jonathan Jenkins '97

Next week is the last
issue of the RECORD
for the semester, so if
you have something
to say, say it now!
Write to the RECORD!

QUEER VIEWS

The Right to Marry

By Scott Wiener '96

Guest Columnist



HAWAII may soon become the first state to recognize same-sex marriages. In 1993, the Hawaii Supreme Court held that the state's refusal to grant marriage licenses to same-sex couples probably violated the state constitution's ban on sex discrimination and that the refusal was therefore subject to strict scrutiny. The case is currently on remand, awaiting the state's proffer of a compelling state interest, but many believe that the Hawaii Supreme Court will inevitably require the state to recognize same-sex marriages.

Once a final ruling invalidates the state's discriminatory marriage law, a bombshell will go off that will be heard and felt across the nation. The radical right will scream bloody murder, arguing that once again, gays and lesbians are destroying the fabric of American society by undermining "family values." It will lobby state legislatures to pass laws denying recognition of same-sex Hawaii marriages. Plaintiffs seeking to force states to recognize their marriages will have to go to court to require that states give full faith and credit, either under the federal Constitution or under state law, to Hawaiian marriages. A battle — legal, political, and moral — will have begun.

This war will be waged by the radical right against gays and lesbians. A significant majority of the country, however, will be initially noncommittal, being neither gay nor a member of the radical right. This majority will be asked to decide if gays and lesbians should be allowed to enjoy a privilege that straight Americans take for granted, namely the right to have the state recognize one's commitment to one's lover.

The stakes are high because of the enormous benefits that legal marriage confers on those allowed to participate. The following is a partial list of marriage benefits that gays and lesbians are almost always denied because of their legal inability to marry their life partners: joint parenting, adoption and foster care; next-of-kin status for probate matters; hospital visits and medical decisions when one spouse is too ill to be competent; joint insurance policies resulting from one spouse's employment; divorce protections such as community property and child support; immigration and residency benefits for immigrants married to U.S. citizens; inheritance of benefits, such as annuities, pensions, Social Security and Medicare; choice of whether to file tax returns individually or jointly; wrongful death benefits, crime victims' benefits and loss of consortium benefits for harm done to a spouse; bereavement leave when a spouse dies and sick leave to care for an ill spouse; decision-making power with respect to a spouse's burial arrangements; invocation of the power of the courts for domestic violence protection orders; and evidentiary immunity from testifying against a spouse.

It is truly amazing that a man and a woman who barely know each other, let alone love each other, can access all of the above-listed benefits (plus many more) simply by getting married. In fact, more than a few straight couples marry precisely because of these benefits. Gay and lesbian couples, however, do not receive these benefits even if they are as committed to each other as two human beings can be. Their relationships simply do not count. When thinking about the marriage debate, straight people should think about the benefits that they take for granted and then think about all of the gays and lesbians who are flatly denied the same benefits.

Opponents of gay marriage make a number of arguments for only allowing opposite-sex marriage, but perhaps the most common is that the purpose of marriage is to procreate and that since gays and lesbians do not procreate, allowing them to marry would be inappropriate. Two facts, however, refute this argument. First, procreation is not a sufficient reason to deny people the right to marry. If it were, then senior citizens, infertile people and persons with disabilities that prevent them from procreating would be forbidden from marrying. In fact, under a "marriage as procreation" regime, it would make sense to require people to sign agreements to procreate within a given time period after getting married. If they failed to comply with the terms of the agreement (perhaps one child every three years with a minimum of two children over the course of the marriage), the marriage would be annulled. Such a system would be silly at best and probably unconstitutional. In any event, it is clearly not the current reality of what marriage means. We do not question people's motives or goals when they marry. We simply let them marry, regardless of whether they intend or are able to have children. Procreation, though a part of marriage, is simply not the only, and perhaps not even the primary purpose of marriage. People marry because they are in love and/or because marriage suits their needs.

The second fact that refutes the "marriage as procreation" argument is that gays and lesbians can and do parent children. Gays and lesbians adopt (where they are allowed to do so); in the case of lesbians, they use artificial insemination; they use surrogate mothers; and they often bring children from previous straight marriages into relationships. Of course, opponents of gay rights often argue that gays and lesbians are not effective parents because they will "convert" their children to homosexuality. However, there is absolutely no empirical basis for such an assertion, especially given the possible genetic basis of homosexuality. Moreover, if one is concerned about adults "converting" children's sexual orientation, the prime suspects are heterosexual parents who routinely force their children to suppress their gay or lesbian identities.

Once it is recognized that the purpose of marriage extends far beyond procreation and that, in any event, gays and lesbians can and do parent children, opponents of gay marriage must fall back on the arguments that truly motivate their opposition: that gays and lesbians do not deserve to be treated equally and with human dignity; that homosexuality should be suppressed; and that society should prevent gays and lesbians from forming families and from raising children. If one opposes gay marriage, then one should at least recognize that these homophobic arguments, and not a window-dressing argument like "marriage as procreation," motivate one's opposition.

If, however, one does believe that gays and lesbians should be treated equally and with human dignity, one should support same-sex marriage. Just because one is gay does not mean that one loses the ability and desire to form a family. Gay people fall in love just like straight people do, and many gay people want children just like straight people do. In fact, the only real difference between straight and gay families is that society recognizes the former but not the latter. This disparity, which is based solely on prejudice and discrimination, is unjustified in a society that purports to condemn discrimination and to draw strength from its diversity.

In this age of cynicism and declining expectations about the future, strong family ties become all the more important. Families give people support and encouragement in the face of adversity. They add meaning to one's life. Yet, just because families are important does not mean that they are monolithic. Families come in all shapes and sizes. Some have two parents, while others have one. Some have children, while others do not. Some are of one race, while others are of more than one race. And some consist of opposite-sex spouses, while others consist of same-sex spouses. Just as single-parent, interracial, and childless families deserve full recognition, so do gay and lesbian families. Anything less than full validation relegates far too many Americans to second-class status.

Mutual Mistakes

By Kannon Shanmugam '98

Guest Columnist



WELL, the Christmas season is upon us — the time of year when Santa decides who's been naughty and who's been nice. This week, I focus on three people who've been a bit naughty this holiday season: a professor, a classmate and me.

* * *

First, the professor. A few weeks ago, at the end of an uneventful Introduction to Lawyering lecture, the professor, in response to a question about Critical Legal Studies, alluded to a "purge of CLS professors at Harvard" before calling the appointment of another professor a "joke."

I'm not going to divulge the identity of the professor in question, not because I want to be coy, but because it's irrelevant to my point. (If you really want to know, you can find out easily enough — after all, half the first-year class was there.)

These remarks, off-the-cuff as they may have been, reflect a problem that I've often noticed among members of the faculty here, both liberal and conservative.

I'll come clean at the start: I'm a card-carrying conservative. I worked for Sen. Dole, and my Republican credentials are beyond doubt, if not reproach.

So I'll admit that I was a bit skeptical when I heard the professor's remarks. After all, the "purge" in question referred to the (admittedly unusual) decision a few years ago not to tenure two assistant professors who were CLS adherents. To which my response would be, if there's been a Stalinist purge of the left wing of the faculty, why have all but one of the professors lecturing ITL this term been liberals?

But my personal views aside, I find it hard to take seriously a claim that any group of Harvard Law School professors, making \$100,000 a year and many thousands more from book and consulting deals, with job security for life, ample fringe benefits and pensions to boot, is being persecuted.

Santa should leave a T token under this professor's tree instead of the usual year's subscription to the New York Times. That way, he can take a trip over to

Professors from both ends of the political spectrum at this place, like many of us students, could do with a little time out of the ivory tower and in the real world.

Roxbury or Dorchester to get a better idea of the problems that HLS is here to solve.

Professors from both ends of the political spectrum at this place, like many of us students, could do with a little time out of the ivory tower and in the real world. And if that sounds like a radical suggestion from a card-carrying conservative, so be it.

* * *

Second, the classmate. Examination stress is understandably getting to a lot of us: after all, if there were nothing to worry about, then why would everyone keep telling us not to worry?

But that doesn't excuse a lack of civility. I don't think I'm alone in finding it utterly distasteful when, after a student fumbles in class, other students immediately shoot their hands in the air.

So perhaps that's why I reacted with disgust when a friend of mine told me a story about two people from our section.

Both were known for speaking up frequently in class. Well, one day after class, when one of the two had made a remark in class that struck the other as less than informative, the second confronted the first after class and said, "You shouldn't talk so much in class. Most of what you say isn't that interesting, anyway." Whereupon the first broke into tears and ran away.

This story, like the one before it, is symptomatic of a problem at HLS. Many of us students — and I am at least as bad as anyone else in this regard — endlessly analyze our classmates based on their "performance" in class. "She's really smart; she's definitely going to make Law Review." "She doesn't say very much, but what she does say is really good." "He always says stupid things; I wish he would keep his mouth shut." (I wish everyone would stop saying that about me.)

Perhaps we students, while our professors are down in Roxbury, should take some time out to get to know each other as people, instead of treating each other as mere last names and rivals.

As for the student in question, Santa should leave her a pot under her tree, to remind her not to call kettles black.

* * *

Finally, on a lighter note, we come to me. I have been perhaps the naughtiest of all. I told a lie.

In my last column, I chided my fellow 1Ls for all having serious, long-distance relationships. I even took out a mock personal ad for my ideal woman, resulting in floods of messages on my answering machine.

Well, no sooner did the RECORD hit the streets than Vicki, the great love of my life, floated in the door fresh off the plane from Oxford — simply to wish me a happy birthday.

As I mentioned in my last column, Vicki and I had broken up over the summer, our relationship falling victim to the curse of the intervening Atlantic Ocean.

Well, Vicki came to wish me a happy birthday, but also to talk. And by the time the weekend ended, I found myself again the proud possessor of one of the longest long-distance relationships at HLS.

As a result, I have to come clean and apologize. I was wrong. To quote John Cleese from the end of an episode of Fawlty Towers: "I'm sorry, I'm sorry, I'm sorry."

The last few weeks have reminded me that long-distance relationships can be a good thing and that being in love is the most wonderful feeling in the world.

So what should Santa leave me, other than some A's on my exams? I don't think there's anything he could leave me. In this season of thanksgiving, I count myself already the luckiest guy on earth.

REASONABLE WOMAN

The Needs of Women Are a Compromise

By Rima Alaily '98 and Lara Schwartz '98

Guest Columnists



ASSUMING that your civil procedure professor does show up for class every day, in your first year of law school you learn that the geographic, racial, ethnic and gender make-up of a jury can have a profound and decisive impact on the fairness of the decision-making process. Given that, it is interesting that the idea of a diverse faculty, representative of students' different experiences, is considered by many to conflict with the goals of this law school and to somehow undermine the quality of a Harvard Law School education. We have little problem defending the assertion that a New Hampshire jury may not have a firm grasp on the circumstances surrounding a tort committed in, say, Oklahoma, yet grow antsy when someone suggests that a discussion of rape may sound different from a woman's perspective, or that due process takes on a whole new dimension when taught by a Latino professor who grew up in a Spanish-speaking community.

Take for instance, Markus Hartmann's comments in the Nov. 17 issue of the RECORD. Mr. Hartmann parenthetically pondered whether HLS's ranking as the second worst law school for women in the National Jurist poll made it the second best law school for men. This typifies the "us versus them" thinking that exists in traditionally exclusive fields as they slowly grow more diverse. Furthermore, the quotation crystallized, for the authors, the discourse that exists on this campus vis a vis the allocation of community resources to accommodate both men and women. The basic assumption underlying this discourse is that giving to one group takes from the other, rather than contributing to the interests of the community as a whole in a way that benefits men as well as women. Even taking that (we believe erroneous) assumption as fact, resistance to making HLS a more woman-friendly law school implies that the interests of men are baseline and essential, valued above those of women, who are a "special interest" (albeit, one that comprises 52 percent of the U.S. population and 39 percent of this student body). In other words, women have less to offer to the school community. In utilitarian terms, the sacrifice of even an ounce of the male influence at this school in favor of more women in authority necessarily results in a loss of net social value to our community; in real-life terms, women at HLS just don't matter as much as men.

Although an opening up of the field to women allows for a heightening of standards and an increase in merit (by expanding the applicant pool), too many people correlate diversification of the faculty with a compromise of standards. Case in point, Jennifer Bonar of the HLS Republicans asserted in the Nov. 17 issue of the RECORD that although women faculty are wonderful, qualifications should be the first criterion in the faculty hiring process. This view, typical of many popular arguments against efforts to diversify, demonstrates a blindness to the notion that discrimination, and not a shortage of qualified women, may be at work at HLS. No one today would try to make a case that the school's failure to admit women for over a century and its low percentages of women students until recent years was due to a lack of qualified women college graduates. Hopefully, in the not-too-distant future, current resistance to a more diverse faculty will seem equally insupportable.

Ms. Bonar goes on to say that she is "not one that goes looking for problems," implying that women need look far at HLS to find problems. But even if the problems at HLS are not clear without some level of thoughtful examination, don't we want to encourage thoughtful inquiry into ways to improve this community? At this point in human history, can demanding equal treatment seriously be regarded as "looking for problems?" We have the feeling that for Ms. Bonar, "one who goes looking for problems" is

It is disheartening that an institution like Harvard Law School, with its wealth of resources, intelligence and talent, should be such a hostile environment for women.

a euphemism for the much less socially acceptable term "feminist." If we are indeed looking for problems, so be it. Feel free to label us feminists; feel free, also, to call us lawyers, because lawyers are pretty well-known for looking for problems, too. That's our job.

It is disheartening that an institution like Harvard Law School, with its wealth of resources, intelligence and talent, should be such a hostile environment for women. In many subtle and pervasive ways, Harvard Law School denies its female students the respect that we deserve, that we have earned, and that we are accustomed to from our previous experiences. As Mr. Hartmann noted, the women of HLS have stuck it out and gone on to achieve great things in the field of law. But even his notable examples demonstrate room for improvement: Ruth Bader Ginsberg had a hard time finding a job after finishing at the top of her class; critics of Janet Reno more often refer to her appearance than her performance, implying that no matter how powerful a position a woman holds, she will be still judged by criteria that do not apply to men; and as for the law firm partners, women comprise 5 percent of them nationwide. All of this is evidence of the fact that society has a hard time conceptualizing and accepting women in positions of authority in the legal field.

Law school is an introduction into the power structure of the legal system. For all students it is a crucial time, when perceptions about the role of various groups are formed. By paying attention to the equal treatment and valuation of women and minorities in the law school community, we can have a tremendous effect on their future role in the legal field.

The Greed of the '90s

By Judd Serotta '97

Guest Columnist



WE often hear about the "pernicious greed" of the 1980s. The '80s were, the lore goes, a decade when the capitalists were allowed to get rich at the expense of the rest of us. The rich got richer, and the poor got poorer, etc. And Ivan Boesky, we are told, was our national symbol. Setting aside the merits of the argument that it's a bad thing for people to seek to get rich by being productive, I would argue that the 1990s is truly the decade of greed. Witness the resolute opposition to the winding up of the feeding trough that is the entitlement state.

Now, I'm not even speaking about welfare reform, or Medicaid reform, or other such assistance to the underprivileged in our society. Although government has firmly demonstrated its general inability to raise the living standards of the worst off in our society, at least one can say that these programs are maintained out of good intentions. The same cannot be said for the middle class subsidies whose demise is receiving even more resistance in this age of (hopefully) budget balancing. I shall take a profoundly un-liberal case in point.

How can one defend government subsidies of student loans? Clearly, there is enormous opposition to reductions in funding for school loans. And why? This resistance demonstrates that 1990s liberals are more interested in the feeding trough than in "economic justice." For school loans are not programs designed to assist the underclass in maintaining an acceptable standard of living. Rather, they are a subsidy from the average taxpayer to the nation's elite.

I myself am receiving federal assistance to attend Harvard Law School. And that notion by itself should make any self-respecting liberal cringe. The average American has not even attended college, much less graduate school, and certainly not at an institution that will virtually guarantee me a \$65,000-per-year income immediately

Like the Corporation for Public Broadcasting, the National Endowment for the Arts and other subsidies to the elite, school loans are an example of a disturbingly selfish welfarism.

upon graduation. When I do graduate from Harvard Law School, my loan payments may be \$100 per month less. Why? Because the average American has guaranteed my loans and subsidized my education all the way from Hanover, New Hampshire to Cambridge, Massachusetts. That is, pure and simple, a transfer payment — a transfer of wealth from the average taxpayer to an elite lawyer. Is this a proper government policy?

Concededly, like a \$750 million B-2 bomber that won't fly, my education is an extreme example of government waste. But consider the more average situation: a college student attending a less prestigious institution. First of all, should a student be federally subsidized to attend a private college when states have provided for perfectly adequate, often outstanding public universities? For example, Emerson College is more than twice as expensive as the University of Massachusetts schools, a school of certainly equal caliber. Even with recent tuition increases, the average family can afford a UMass education if it is willing to sacrifice (through work study, etc.), while Emerson attendance would almost certainly require loans, loans which will be subsidized by the federal government. So the question is, should a person have a right to a federally subsidized private education when there are public alternatives? (By the way, where are the Establishment Clause fanatics now?) Public colleges can indeed advance a valuable leveling function, just like public secondary schools. So why do we need these phenomenally over-inclusive federal loan subsidies?

It must also be remembered that the average American, who has not attended college, is subsidizing the loan payments of the college graduate, who will on average be making well more than an average American salary before his or her loan payments will cease in (typically) 10 years. So, as I have noted, we have here a fiercely defended subsidy to the elite; and notice who are the primary defenders: the elite themselves! Did you see the Harvard students in front of Widener Library whining about the threatened end of this wealth transfer? That is greed in its most classic form — greed '90s style.

Perhaps an argument can be made that these loans encourage people who would not otherwise attend college to do so. Though that response obviously begs the question of federal loan subsidies to graduate and professional schools, we must consider: 1) whether or not fewer people would actually go to college; and 2) whether or not lower college attendance would be a bad thing. In theory, there is little empirical evidence that college attendance would sink. Indeed, American higher education is the most expensive in the world, yet we have the highest percentage of college participation in the industrialized world. And attendance has steadily increased over the past 20 years, even though the cost of a college education has skyrocketed (at a pace far exceeding that of federal loan subsidies). This might suggest that ending the program would not decimate college attendance. It is fair, I think, to assume that loans would in any case be obtainable in the free market: a premium may be charged as insurance against default, but that again could be paid individually by the educated elite after graduation rather than by the average taxpayer. There could be a potential gold mine to lending institutions competing to attract college applicants. So long as they protect themselves against default, money should be out there.

And even if ending loan subsidies would reduce college attendance, I leave to the readers the question of whether that would be detrimental to the nation as a whole. Many commentators have argued just the opposite, that the United States has too many people attending college now, accruing debt rather than adding to the nation's productive capacity. That argument, however, is outside the scope of this essay.

Thus, it seems to me that the proponents of federal subsidies to students have a lot of explaining to do. Like the Corporation for Public Broadcasting, the National Endowment for the Arts and other subsidies to the elite, school loans are an example of a disturbingly selfish welfarism. While those who support subsidies to the poor can make their well-intentioned arguments with a clean conscience (even if the frequently disastrous results are somehow to be explained away), subsidies to the nation's elite are virtually indefensible. They are designed primarily to make the college educated of the nation feel like they "get something too" and to perpetuate a welfare state that sees big government as a good in and of itself.



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