



Fire and police gather outside Gannett House after the explosion last Thursday.

Fire Disrupts Classes, Students' Lives

By David Liu

A fire in a manhole by Hastings Hall early Thursday evening uprooted hundreds of students from their dormitories, shut off power to most of the Law School and canceled several Friday morning classes.

"Some moisture in the manhole caused the insulation on the cables [to the transformer] to fail," said Danny Wong, manager of electrical engineering and utilities with University Operations Services. "Basically the fire was just burning cable insulation — smoky, but self-contained in the manhole."

Eyewitnesses heard an explosion shortly before 5 p.m. that was followed by thick clouds of black smoke.

"It sounded like when they shoot the cannons off in Cambridge Commons," said Michael Cicone, director of student journals whose office is right beside the manhole. "I was going to make some coffee when a student said that smoke was coming out of the ground."

Cicone and others in Hastings evacuated the building

after someone pulled the fire alarm and waited outside until the police arrived a few minutes later. "The police kept us back away from the fire," Cicone said. "Then there was a secondary rumbling and everybody ran back."

George Wang '98 was in his room in Hastings Hall when the fire started. "The lights flickered, and I heard a loud explosion noise that sounded like a car accident," he said. "A minute after that the alarm went off. Outside you couldn't see the fire, but you could see some smoke."

Many students were in nearby Austin Hall listening to Judge Douglas Ginsburg of the D.C. Circuit Court of Appeals when the explosion occurred.

"Suddenly there was this boom — like when the T goes by underground," said Joe Thai '98. "After a few more booms several minutes later, I went out and looked. The [manhole] grating had been blown off and smoke was coming out of a hole in the ground. It appeared as if the basement [of Hastings] was on fire."

Louisa Oliver '97 also was attending the Ginsburg speech.

"There was a very loud double-thwump, after which the lights flickered and then went out. The fire alarm began blaring and black smoke began billowing up outside Hastings," she said.

The fire disrupted power to Hastings, Austin, Gannett House and Hemenway Gymnasium. The Cambridge fire chief also ordered that power to Langdell, Areeda, Griswold, Lewis and the Gropius complex be turned off.

"Anytime there is a power problem, [the fire department] turns the power off," said Administrative Dean Sandra Coleman. "The only problem with being in Gropius [Thursday night] was that there was no power."

Hauser, Pound, Wyeth and North halls, as well as the building on 23 Everett St. and Harkness Commons were the only Law School buildings that were not affected.

Firefighters wearing gas masks contained the fire. However, administrators refuted rumors that the smoke was toxic. "[Firefighters] are always concerned about any kind of gases or

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Silajdzic Says Bosnia in Greater Danger than Ever

By Victoria Kuohung

Now in greater danger than before the Dayton peace agreement, the political situation in Bosnia-Herzegovina may plunge the Balkans into "greater and major war," said former Bosnian prime minister Haris Silajdzic to an audience of about 400 last Friday.

Although "de jure a sovereign state," Bosnia has disintegrated de facto into culturally homogeneous entities, a result of "ethnic division [that was] introduced into the region because the international community has accepted and legalized it," he said.

Instead, "the priorities must be an integral and sovereign Bosnia-Herzegovina with internationally recognized external boundaries," rather than "internal lines emphasized at the expense of external boundaries," Silajdzic

said.

"If that does not happen, we cannot talk about reconstruction, or the relocation of refugees, or the reunification of the economy or the political situation," he said.

Silajdzic expressed disappointment at the results of the Dayton agreement achieved last summer which ended fighting in Bosnia.

"I expected from the Dayton agreement much more — we had negotiated a deal, a peace agreement to keep Bosnia together," he said.

After Dayton, "it looked like the ship was approaching the shore, charting a new course in international relations," said Silajdzic. "But lately it looks like an illusion. We are actually still at open sea with nowhere to go."

Ethnic divisions in Bosnia may also be a template for politi-

please see **BOSNIA**, page 6

Carter, Gabay Top Class Marshal Vote

By Jaclyn Liu

After a two-year dry spell, Harvard Law School will finally have two women marshals represent the Class of 1997.

Shelby Carter '97, Regina Dekhtyar '97, Carey Gabay '97 and Patrick Rodriguez '97 emerged victorious after polls closed on Wednesday. They were elected from a pool of 13 candidates which included seven women.

Carter received 91 votes to earn the title of first marshal. Gabay with 73 votes, Rodriguez with 66 votes and Dekhtyar with 52 votes were named second, third and fourth marshals respectively. In all, 201 ballots were cast, down from last year's 255.

"I wanted to run for the class marshal as soon as I heard the job description," said Carter, who helped start the Thursday night "bar review" in her first year with some friends.

"When I came to the Law School in my first year, I felt a lot of negative energy here," she said. "People say all the time that law school is a cold place. I feel that I can contribute a positive attitude to the school."

Responsibilities of the marshals include picking the class wine, selling class T-shirts and organizing year-long social functions to help energize the class before graduation.

"I want to give something back to the school, and I have a lot of time next year," said Rodriguez. "I am finishing my third-year paper now."

The marshals also coordinate the graduation events. They organize the Class Day ceremony, including choosing the class speaker, solicit donations for the class gift and represent the class in alumni functions.

"Third year is the last year of law school," said Dekhtyar. "It's the best time to live it up."

She predicts her ideas for

social events will center around "good food and good music."

Rodriguez said one of his primary goals as the class marshal will be to keep the Class of 1997 in touch with each other.

"I think it's important for people to stay in touch, not just career-wise but also for support," he said.

Despite the fact that two women were elected as marshals, Shannon Liss '96 said she still questions whether the election procedures discriminate against women candidates.

"I don't see why we can't follow what [Harvard] College does — elect four men and four women for positions that are very similar to marshals," said Liss. "If class marshals are supposed to represent the graduating class, the current system is not achieving this."

"I am not saying anything against the current marshals, I am speaking against the system," she added. "This is another one of those things that make women feel that woman's interests are not as well represented at the Law School as they should be."

Jol Silversmith '98, an appointed member on the newly established Independent Election Commission, suggested that proportional representation is an "interesting" topic for the commission to consider after this election's results.

"I believe the commission should take an activist role in raising ideas about how elections are to be conducted and what improvements can be made to it," said Silversmith. "Proportional representation is not an election system used at the school but the sense is that this system represents the minority groups better and that in turn might help women and other minority groups on campus."

Liss concluded, "This year is great, but without changing the system we might be back to the same formula next year."

HLS Hooks into New Local Network

But Computer System Still a Summer Away for Students

By Rob Friedman

Last summer, HLS professors were networked into a new computer local area network (LAN) that greatly increases the speed at which users can communicate with each other and surf the World Wide Web. And, beginning in September 1996, all HLS dorms will be networked into the new computer system.

According to Susan Vik, director of Information Technology Services since March 14, the new \$1 million network is a needed addition to the Law School's technological infrastructure.

The old VAX mainframe that currently runs the school's e-mail SLIP accounts is 12 years old, according to Ken Duecker '97, who worked as a consultant to the development of the new LAN. Because of the age of the

machine, and increased use by students over the past few years, the system has become clogged.

"We've seen explosive growth [in student use]," said Vik. "We've overburdened the mail server," Vik said, calling the current e-mail problems temporary "growing pains."

Vik said the school has several new UNIX-based servers to expand the availability of e-mail access. She also said that two new Sun web servers are being set-up to expand internal and external web services.

Since March 11, HLS has maintained an external web site that can be accessed by computer users across the world. All class web sites, however, will remain on the internal site, which is only accessible by users on campus.

Prof. Charles Nesson '63 is well-known for using the World Wide Web to enhance his class-

es. During his Winter Evidence course, Nesson set up a web site as the centerpiece of his class. Students logged-in to the site and left pictures and bios for other students to read.

"I knew the students' names in the class within a week," Nesson said. "The network has great potential in working with the big classes."

Nesson also put the class syllabus on the site and held discussion sessions in which students asked questions and posted their own work. One group of students, the self-proclaimed "8 Angry Men," created their own home page on the internal server in which they posted personal items, along with a comprehensive outline of the course for their classmates to read.

"These students got deeper into the subject [because of the

please see **NETWORK**, page 3

Court Grants Stay in Texas School Case

By Maria Green

The U.S. Court of Appeals for the Fifth Circuit has issued a stay on its recent decision barring the use of race-based affirmative action at the University of Texas Law School.

The move allows the school to resume its policy of taking race into account in admissions procedures while Texas prepares to appeal the case, *Hopwood v. Texas*, to the U.S. Supreme Court. HLS Prof. Laurence Tribe '66 is representing Texas in the appeal.

The school has resumed all the program that were in place before the Circuit Court made its decision, said Terry Wilson, associate director for the Office of Public Affairs at the University of Texas.

"There's been a tremendous sigh of relief around here," he said. The school had also been treating financial aid program as being implicated by the court's decision.

Tribe is now expected to move swiftly to file a petition for review by the U.S. Supreme Court.

"The Attorney General of Texas is very eager to file the cert petition just as soon as possible," said Tribe, who has been working with attorneys from the Attorney General's office and the Texas law firm of Vinson & Elkins, as well as professors from the UT Law School and others. HLS Prof. Randall Kennedy has also accepted a request from the Attorney General's office to join the Harvard-heavy team.

"This is at the heart of my academic concerns," said Kennedy, who like Tribe will be working pro bono. "As a citizen I

think that the court erred It's obviously an important case, and I'm trying to participate in making the law right."

The school is taking some risk by resuming their policies, because the stay does not forestall future lawsuits by applicants affected by the newly resumed procedures.

"It is not a shield," said Tribe. "It may make punitive damages less likely, but it doesn't have any effect for immunizing the schools if in the end the Fifth Circuit decision is left in place.... They decided to go ahead anyway in the belief that this is the right thing to do."

"If [the Fifth Circuit decision] is not reversed," Tribe added, "the issue of liability will be one of many ... outcomes but not the worst — the worst will be the death of affirmative action."

In deciding whether to grant the stay, the Circuit Court balanced the law school's interest in having time to prepare its petition for review with "the necessity to implement, as soon as possible, this court's mandate to end racial discrimination in admissions to the law school."

The order also states that "the panel majority is confident that the Supreme Court indeed would affirm even if certiorari were granted," but that the court decided to grant the application because "the possibility of reversal cannot be overlooked."

The Texas team sees the case as more nuanced. "They express a degree of confidence ... that is likely to interest those Justices who see the issues as somewhat more difficult than the Fifth Circuit appears to," said Tribe.

Conference Highlights Centennial of Plessy

By RECORD Staff

A moot court composed of Supreme Court Justice Stephen Breyer '64 and eight other renowned judges voted 8-1 to overturn the landmark *Plessy vs. Ferguson* decision establishing the doctrine of separate but equal in a weekend conference marking the centennial of the 1896 ruling.

Profs. Randall Kennedy and Charles Ogletree '78 re-argued the case in the two-day conference sponsored by the W.E.B. Du Bois Institute and held in the Ames Courtroom.

"If we [reject Plessy], there will be segregation in the South, rehabilitating the system of slavery that we previously outlawed," Breyer said after pointing out an inconsistency in the original 1896 verdict.

Ogletree represented the plaintiff, Plessy, and Kennedy spoke for defendant Ferguson and the state of Louisiana.

In the case, Plessy, a Louisiana resident who was one-eighth black, boarded a train and took a seat reserved for white passengers. He was arraigned by Judge John Ferguson. But Albion Tourgee sued on the grounds that Plessy's rights to equal protection under the law had been violated.

The court in the 1896 decision ruled that the 14th Amendment "could not have been intended to abolish distinctions based upon color, or to enforce social, as

distinguished from political, equality."

At the conference, Ogletree argued that separate facilities were inherently unequal because blacks were being treated less well solely due to race. But Kennedy countered that whites would be treated the same if they sat in the section reserved for blacks, and said the separation of the races was reasonable given the racial tensions after the Civil War.

"I think this is one of the most significant conferences ever held, anywhere, on the whole issue of civil rights," said HLS lecturer Judge A. Leon Higginbotham, who spoke at the conference. "You have some of the best minds ever assembled to give thoughts and commentary."

In addition to Breyer, sitting on the

moot court were Judge Guido Calabresi of the Second Circuit Court of Appeals; Chief Judge Harry Edwards of the D.C. Circuit Court of Appeals; Judges Nathaniel Jones and Damon Keith of the Sixth Circuit Court of Appeals; and Judge Constance Baker Motley of the U.S. District Court in the Southern District of New York.

Also presiding were Judge Louis Pollak of the U.S. District court, Eastern District of Pennsylvania; Judge Joseph Rodriguez of the U.S. District Court for New Jersey; and Judge Patricia Wald of the D.C. Circuit Court of Appeals.

The conference was televised live by C-Span.

In the case, Plessy, a Louisiana resident who was one-eighth black, boarded a train and took a seat reserved for white passengers.



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Students Stalled on HLS Information Superhighway

continued from NETWORK, page 1

web site," said Nesson. "It extends the boundary of the classroom so you can continue a discussion at a student's own pace and time."

This spring, Nesson has used the web for his Law Internet & Society class. Students contribute to the site by researching each week's topics and sharing their research before class.

During a recent class, a guest lecture was broadcast over the internet in real-time video. A select group of people across the country were told to watch the lecture and send questions via the internet to the lecturer. The video conference had a few problems, but showed the potential of the technology.

"The internet is at an embryonic stage, and this was an embryonic but interesting attempt," Nesson said.

Nesson said he believes the technology is a significant new development in the educational process because of its ability to bring students and professors closer together.

"The site gets built as our seminar progresses," he said. "Each project adds a level, a richness to it. This is ours; this is our seminar. It creates an information environment that is tailored in as direct a way as your creativity allows to the enterprise that you're doing."

Students the Last On-Line

While professors have had access since the summer, and administrators are currently getting on-line, students will have to wait to get on the new information superhighway on-ramp.

In September, Dean Clark '72 told the RECORD it was necessary to delay student access to the network. "We can't do everyone at once," he said. "If this is to support academics, it makes sense to put the faculty on first, the students on in waves, and the administration last."

"If we tried to put everyone on at the same moment, it would be a major disaster," Clark said.

Administrative Dean Sandra Coleman said student dorms will not be on-line until this summer. While there were discussions with Law School Council president Chip Nierlich '97 and vice-president Rob Jancu '98 concerning an earlier date for student use, Coleman said that she

had decided to wait until the summer to link up the Law School's dorms, deciding that "there wasn't a great advantage to bringing it up during the year."

"There was an issue of whether Hastings and Gropius could get up before then," Coleman said, "but, given staff changes and delays and a number of other things, it did not happen."

While a September RECORD article reported ethernet connections to student dormitories would be set up by December, Coleman said that the target date has always been this summer. "There was never a date committed for the dorms by my office or computer services offices [for before the summer]," said Coleman.

As for a March 1 initiation date announced by Nierlich and Jancu during the LSC campaign, Coleman said she "never had any intention to complete [the project] by March first." Coleman said Nierlich and Jancu did approach her to attempt to get the system set up this year, but that there was no "discussion of the details" until after the LSC elections at the end of February. "They [Nierlich and Jancu] could see right away that it could not be March first," Coleman said.

Nierlich and Jancu dispute Coleman's account of the delay. While they agree that existing plans were for students dorms to be connected this summer, they said they had requested a speed-up of the process, to which they claim Coleman agreed.

Jancu said that he expected the system to be ready in December, as had been reported in the September RECORD article. "After Christmas break, when the system was still not on, I approached [buildings operations manager] Frank Lamentea and [ITS interim director] Jane Sulkin and Administrative Dean Sandra Coleman about the timetable," Jancu said.

"After a number of discussions,

Sandra Coleman told me 'how does March first sound to you?' and I said it sounds great. And then she said 'O.K., we'll go for March first,' Jancu said.

While Jancu said Coleman did limit the March activation date to Hastings and

Gropius, he said Coleman remarked that those dorms were "completely wired and ready to go."

"They didn't swear on a stack of bibles, but I felt reasonably assured that we'd have our ethernet on or about that date," said Jancu.

Nierlich was also critical of Coleman's explanation of the staffing problems. "We were informed that, because the computer center in Hauser took most of this academic year to find a new director, that the ethernet activation had to be put on hold," Nierlich said.

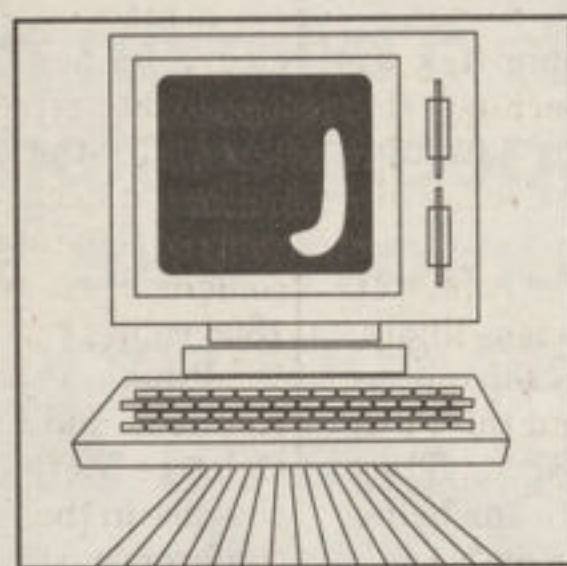
Nierlich also said that Coleman had said a moratorium on staff hiring would mean there could be no support staff during the difficult time in which the system would have been activated. Nierlich said that was when Jancu proposed using student volunteers.

"It was made clear to me that activation was conditional on recruiting student volunteers to field problems and questions," Jancu said. "I was told that six would suffice. I got them 20."

Jancu said that after the election, Coleman told him and Nierlich that the wiring of Hastings and Gropius was incomplete. Coleman told Jancu and Nierlich that "Hastings was out and only Dane and Ames could go up."

"At that point, the best I could do was to negotiate that, since Holmes is adjacent to Dane and Ames, it be activated as well," Jancu said. "And they agreed."

Coleman acknowledged that Jancu and Nierlich offer to help with technical support, but said that things did not "work out as [Jancu and Nierlich] had anticipated."



"If we tried to put everyone on at the same moment, it would be a major disaster," Clark said.

Ginsburg Gives An Inside Look at the D.C. Circuit

By Craig Buckser

Judge Douglas Ginsburg explained the workings of the United States Court of Appeals for the District of Columbia Circuit last week in a lecture sponsored by the Federalist Society. Ginsburg, who was a professor at HLS from 1975 to 1985, was appointed to the D.C. Circuit in 1986.

Thirty-seven percent of the D.C. Circuit's docket is composed of cases that review the actions of federal administrative agencies, according to Ginsburg. Moreover, he said, the court spends a disproportionate amount of its time deciding agency actions.

"It is arguably not like a court," Ginsburg said. "The cases on which we are most focused don't look like court cases as we conventionally think of them. Instead, they are much more like legislative proceedings distilled into legal issues. The consequence of that is that the court is not cast in the role of deciding conventionally phrased legal judgments."

Rather, he said, the D.C. Circuit

reviews policy decisions of the administrative agencies. Usually, the key issue is whether the agency acted lawfully or reasonably, according to Ginsburg. "What we are really doing is providing adult supervision for the regulatory state," Ginsburg said.

Ginsburg said that these cases can be quite complex. "The agency matters typically involve multiple parties and extensive records," he continued.

Ginsburg indicated that he enjoys deciding the agency cases, which bypass the district court. He taught administrative law when he was an HLS professor.

Overall, 77 percent of the D.C. Circuit's docket features the United States as a party, according to Ginsburg. These cases include both civil and criminal cases. "As a practical matter

litigation with the government occupies 80 to 90 percent of the court's attention," Ginsburg said.

"The court must be careful not to develop subconscious institutional bias on the side of the government."

Ginsburg also discussed potential reforms for the D.C. Circuit. "There is a

fair argument that we ought not have any private civil litigation," he said.

According to Ginsburg, there has been a proposal to abolish the D.C. Circuit and split its jurisdiction between the Federal Circuit and Fourth Circuit. Ginsburg, however, said he believes that the D.C. Circuit will remain intact.

Ginsburg noted that one potential court reform is currently a hot topic of debate. Ginsburg said that Sen. Charles Grassley (R-Iowa) has proposed, as a cost-saving measure, that the Senate decline to fill a vacancy on the court, leaving it with 11 judges. Chief Judge Harry Edwards, said

Ginsburg, has urged that the vacancy be filled. But, Judge Laurence Silberman '61 has endorsed eliminating one seat on the court. "I find it impossible to say that the court has to have 12 judges or that 11 is sufficient," Ginsburg stated.

Ginsburg, who asked President Reagan not to go forward with his Supreme Court nomination after it became public that Ginsburg smoked marijuana with students in the years he taught at HLS, commented on the laborious process of Senate confirmation to the High Court. "The process has become one that is much more politicized," Ginsburg said. "The stakes

"Now it will be done in a different way," Coleman said. She said ITS is seeking a group of students to test the system.

The proposed pilot group would cover students in the Dane, Holmes and Ames dorms, and would help test out the connections to "learn from experience to see if corrections need to be made along the way," said Vik. But Coleman admitted the response has not been strong.

"It is getting near the end of classes, and it's hard to find students that want to pilot" the project, Coleman said. So far, only six or seven students have signed up, she said. ITS was hoping for a group of 25, according to Coleman.

When asked whether the March 1 activation date was an overly optimistic campaign pledge, Jancu replied, "To have made a specific time up out of thin air would have been downright absurd," noting that he was convinced he had gained administrative approval prior to adding the date on campaign flyers.

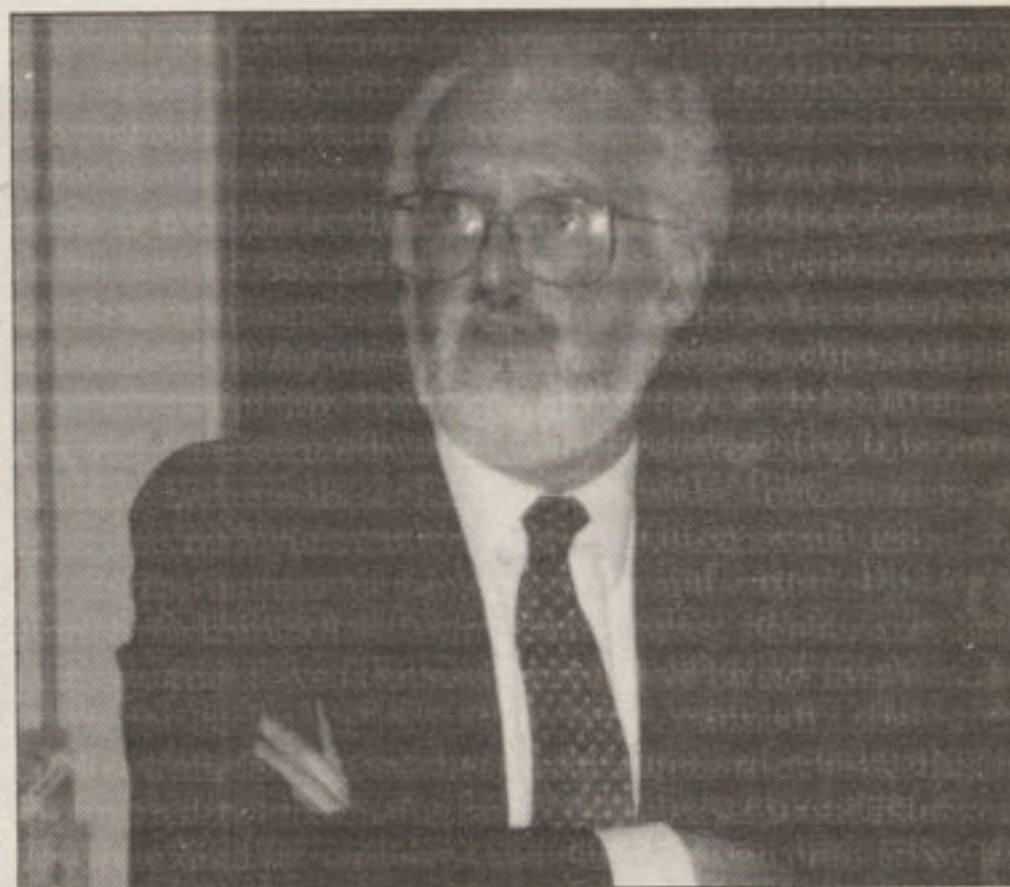
When students arrive back to the dorms in September to plug into the new technology, they will not only be the last group at HLS to be networked, but the last group at the entire University. "The rest of the University has been connected for a while," said Vik, who added that "some parts of the business school and divinity school may not yet be connected."

Right now, however, students can experience the technology in class. Hauser 104, Austin North and "hopefully" Ames Courtroom all have ethernet connections, said Nesson, who was preparing an initial test of the LAN in Ames Courtroom this week. And many HLS classrooms are equipped with video accessibility.

Nesson said that both Dean Clark and Prof. Howell Jackson '82 deserved "a pile of credit" for the new network. Nesson said the dean is unique in that he uses and appreciates the technology, adding that Clark even experimented with website development software and created test web site of his own.

Jackson spearheaded the effort to implement the network after the Legal Education Committee recommended "we tech the place up" three years ago, said Nesson.

Nesson added that law schools across the country are looking to HLS as a leader in educational technology. "We are now the envy of every place," he said.



Judge Ginsburg discusses with HLS students his work on the D.C. Circuit.

changed when the Supreme Court began to decide issues that were more salient to the public."

"The fallout from the Bork debate really catapulted the whole process to incivility and vindictiveness that it still with us," he continued. "One wonders whether presidents aren't inhibited from where they look as a result of the nastiness. I think they would have to be. One person was nominated and confirmed while people said they didn't know anything about him."

"One wonders whether it will inhibit people from taking controversial positions," he added.



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Across the Wire... Across the Country

Court to Hear Case on Fraud Against Banks

WASHINGTON (AP) — A case that arose from southwest Missouri will be used by the Supreme Court to clarify a federal law making it a crime to lie in an effort to influence decisions by federally insured banks.

The high court said Monday it will hear the Justice Department's argument that prosecutors need not prove the lie was relevant enough to affect the outcome of the bank's decision.

Jerry E. Wells and Kenneth R. Steele in 1986 bought a Joplin company that leased and serviced copier equipment. The company, which they renamed Copytech Systems, had more than \$8 million in debts.

Prosecutors said the two sought bank financing for the company by misrepresenting the terms of its agreements with customers.

The government said the two concealed the fact that Copytech's lease agreements included an obligation to service the equipment. The two also were accused of forging their wives' names on personal loan guarantees they signed to get bank financing.

Wells and Steele were convicted of conspiracy and making false statements to a federally insured bank with the goal of influencing the bank's decisions.

The 8th U.S. Circuit Court of Appeals threw out the convictions and granted a new trial. It said the jury — not the judge — should have decided whether the alleged false statements were legally relevant to the bank's decisions. That decision was based on a 1995 Supreme Court ruling.

In the appeal acted on Monday, Justice Department lawyers said the false-statement law does not require prosecutors to prove the alleged lie was "material," or legally relevant, to the outcome of a bank's decision.

Government lawyers said such a rule would cause confusion and make it harder to win convictions under the false-statement law.

Lawyers for Wells and Steele said that if prosecutors do not have to prove an alleged lie was legally relevant, the law could be used to punish "harmless or trivial" conduct.

The case is *U.S. vs. Wells*, 95-1228.



This Week, Reports From DC and California

Clinton Should Withdraw Appeals Court Nomination, Says Sen. Dole

WASHINGTON (AP) — Escalating his criticism of President Clinton's judicial picks, Sen. Bob Dole called on the administration Monday to withdraw the federal appeals court nomination of a Florida Democratic fund-raiser.

Dole said Charles "Bud" Stack had shown a glaring lack of knowledge about major legal issues during his Senate Judiciary Committee confirmation hearing and should not be confirmed for a seat on the 11th Circuit Court of Appeals.

"Those who seek to sit on the federal bench should be well-grounded in basic constitutional law," Dole said in a floor speech. Stack, Dole said, "does not meet this standard."

Stack, 62, is a Miami attorney with no prior judicial experience. He is a veteran Democratic fund-raiser who raised some \$7 million for Clinton's presidential campaign. White House aides have been quoted

as saying the administration tried to convince Stack to accept an ambassadorship or a seat on a lower federal court, but that he was adamant in seeking an appeals court position. The appeals court is one step below the Supreme Court.

"The president stands by Mr. Stack and his distinguished 35-

year career as a litigator," White House adviser George Stephanopoulos said in response to Dole's speech. "It would be a lot better for Senator Dole to spend his Senate floor time doing something thoughtful like raising the minimum wage."

Nonetheless, Dole's attack is likely to doom Stack's chance for confirmation. Judiciary Committee Republicans already were sour on the nomination and, as majority leader, Dole controls the Senate calendar and could

keep the nomination from ever coming to a vote.

Dole's critique was a follow-up to a speech Friday in which he vowed to make Clinton's judicial picks a major issue in the 1996 presidential campaign, suggesting the

Democratic incumbent had appointed "an all-star team of liberal leniency" to the federal bench. The White House defended Clinton's picks and noted that, for all his sweeping criticism, Dole had opposed only three of 185 to reach Senate confirmation.

"It would be a lot better for Senator Dole to spend his Senate floor time doing something thoughtful like raising the minimum wage," Stephanopoulos said.

During a February confirmation hearing, Stack said he was unfamiliar with a recent landmark Supreme Court affirmative action decision and was unable to discuss court precedents in other areas, including capital punishment.

"Yet Mr. Stack has been nominated to sit on

one of the nation's most influential judicial panels," Dole said. "Apparently Mr. Stack's most important qualification is his prowess as a political fund-raiser. ... President Clinton should withdraw the Stack nomination without delay."

Unabomber's Last Victim: Remembered A Year Later

SACRAMENTO, California (AP) — It was the size of a shoe box, neatly wrapped, heavy, and when it arrived at timber lobbyist Gilbert Murray's office, workers jokingly said it looked like a bomb.

It was.

"There was interest about the package. People passed it around and discussed it and actually said, 'Hah, hah, this could be a bomb.' That's just human nature, I guess," said Donn Zea, vice president of the California Forestry Association.

A year ago this week, Murray took the package, opened it and died.

The April 24, 1995, blast was the third and final slaying attributed to the Unabomber. The shadowy mail bomber's trail stretches from a Chicago parking lot to Murray's former office four blocks from the California Capitol.

Also a few blocks from Murray's office is the site where the Unabomber trail may finally come to an end: The federal courthouse for California's Eastern District.

The gray courthouse, which has department store-style escalators running from the lobby to the second floor and all

the charm of any other 1950s-era government building, is a potential site for the trial of Theodore Kaczynski, the 53-year-old hermit and former Berkeley university math professor arrested at his mountain cabin in Montana.

Kaczynski is accused of possessing bomb components but has not been charged in any Unabomber case. If he is charged, California officials hope to try him here. Two Unabomber deaths occurred in Sacramento, the third in New Jersey. Of the 23 people injured, several were from Northern California.

"This man may have a serious mental illness, and it is more likely than not that the defense is going to be insanity," said Donald Heller, a former U.S. attorney in Sacramento who prosecuted Manson disciple Lynette "Squeaky" Fromme for the 1975 attempted assassination of President Ford and is now in private practice.

The California Forestry Association, often at odds with environmentalists, represents timber interests before the Legislature and Congress. Investigators said similar organizations were listed on notes in Kaczynski's cabin.

Court Allows Mississippi Admissions Plan to Stand

WASHINGTON (AP) — The Supreme Court, steering clear of a desegregation dispute in which it once issued a key ruling, today refused to block Mississippi's tougher admissions policy for its universities.

The justices, without comment, rejected an emergency appeal that had been aimed at holding the new policy in abeyance until a formal Supreme Court appeal could be acted on.

U.S. District Judge Neal Biggers Jr. ordered the new admissions standards in a ruling last year — the result of a 1992 Supreme Court decision to rid vestiges of segregation from Mississippi's system of higher education.

The emergency request denied today had been filed earlier this month by Alvin Chambliss Jr., a Houston lawyer representing the interests of predominantly black schools.

Under the new standards, universities will consider students based on a combination of high school grades in a core curriculum, results of the American College Tests and class ranks. At-risk students would have to complete successfully a nine-week summer remedial

program to gain admission.

Chambliss said the stricter standards would cause freshmen enrollments to plunge about 50 percent at Jackson State, Alcorn State and Mississippi Valley universities — all historically black schools.

The standards give "a lot of options for black students to go to the University of Mississippi or Mississippi State, but they are devastating our black students in the black schools," Chambliss told The Associated Press earlier.

A panel of the 5th U.S. Circuit Court of Appeals last month denied efforts by the Justice Department to stop the new admissions standards from going into effect for the 1996-97 school year.

The admissions process for the next school year already has begun.

The 1992 Supreme Court decision said Mississippi must do more to desegregate its state-run colleges and universities than let whites and blacks attend the schools of their choice.

The ruling initially was hailed by civil rights advocates.

The case acted on today is *Ayers vs. U.S.*, A-835.

BRIEFS



Areeda Hall To Be Dedicated Friday

Areeda Hall, formerly the Langdell Hall West Wing building, will be dedicated in a formal ceremony at 2:45 p.m. Friday on the steps of the building.

Dean Clark '72 will lead dedication ceremonies to honor the late antitrust specialist, Prof. Phillip Areeda '54, who died of leukemia on Dec. 24, 1995 in Cambridge. He was 65.

"There is no more appropriate and poignant way to recognize Prof. Phillip Areeda's vast intellectual contributions to the school than to name this hall in his honor," said Clark. "He spent most of his adult life working in the former Langdell West and many generations of students and colleagues associate this part of the school with him. I am pleased that we can help to preserve our memory of Prof. Areeda in this way."

The renaming also recognizes Areeda's donation of more than \$5 million to Harvard Law School last year. His gift was the second largest to the Law School from an individual in the school's history.

Also honoring Areeda this year is the Class of 1996, which has awarded him posthumously the Albert M. Sacks-Paul A. Freund Award for Teaching Excellence, an honor that is given to one professor each year by vote of the graduating class.

CCR Hopes Survey Will Spur Discussion on Diversity

The HLS Coalition for Civil Rights says it hopes to promote more informed dialogue on diversity after compiling the results of a recently distributed survey on the topic.

Rudy Reyes '98, co-chair of CCR, said about one-third of the HLS student body — 550 students — returned the forms placed in their Hark boxes this past week. Faculty members were also given surveys late last week and are expected to return them soon.

"We're extremely excited about the response," said Reyes, "because the main reason we did this survey was not only to get a sense of how people felt about diversity, but also to use the numbers to foster dialogue and discourse on issues surrounding race, gender, class and sexual orientation."

The survey asked for student views on a variety of issues, including the curriculum, faculty, administrative responsiveness and the student body. Results will be tallied in August, with the assistance of a third party such as a Harvard College student skilled in statistics. The forms are currently being safeguarded in the Dean of Students office, Reyes said.

"What I would hope to see is that we get people riled up in some way," he said. "I won't go so far as to say that we're apathetic, but we're just so busy, so concerned with things. I think this survey will be a very legitimate and open-minded way to spur serious discourse."

The group has received criticism, however, from students who point to a bias in the survey's questions that might lead to results predestined to favor CCR's views. The group has been a strong advocate for increasing racial diversity on the faculty.

Reyes said CCR spent many hours developing questions that "find a right balance between asking what we really wanted to ask, while at the same time not leading too much with the questions."

Harvard College Students Rally for Ethnic Studies

More than 100 Harvard College students recently rallied outside University Hall in the Yard to push for more ethnic studies in the curriculum.

The demonstrators removed the American flag during their rally last week and replaced it with a banner that read "Support student struggles for race and ethnic studies."

They also placed a blindfold on the statue of John Harvard and attached a sign that said "Color Blind" to its lap.

The demonstrators say they want administrators to devote money to increase the number of courses offered in ethnic and cultural studies and to hire instructors who have expertise in Asian American, U.S. Latino and Native American studies.

They also said they want Afro-American studies included in the Core curriculum and courses on sexuality added to the College's departmental curriculum.

Dean of the College Harry Lewis and Dean of the Faculty Jeremy Knowles did not answer requests for comment.

Alex Cho, a member of the Ethnic Studies Action Committee and one of the organizers of the rally, said he hopes the administration responds to the students' complaints so that a situation like the one at Columbia does not happen here.

—from the *Crimson*

MIT Faculty Proposes ROTC Program Admit Gays

The MIT faculty has proposed that its ROTC program admit members regardless of sexual orientation, a move that would allow Harvard students who are gay to participate in ROTC.

The proposal made last week urges school officials to press the U.S. Department of Defense for ROTC program which would not discriminate against gay students. Under the three-year-old "don't ask, don't tell" Pentagon policy which the MIT ROTC program abides by, openly gay students cannot serve in the U.S. military.

Harvard, which has not had ROTC program since 1970, sends its students to MIT's 221-student program.

—from the *Crimson*

RANDOM WALK

Are You Satisfied With This Column?



By William Hall '98

RECORD Columnist

THE Bangles were very underrated as a band.

Aha! I know what you're thinking Did I fire six shots or only five? To tell you the truth, I forgot it myself in all this excitement. This here's a .44 Magnum, the most powerful handgun in the world, and it can blow your head clean off. Now, you must ask yourself one question: "Do I feel lucky?" Well, do you, punk?

What's the point of Tevas? They just look like glorified flip-flops to me. Then again, this is coming from a guy who has the fashion sense of that Urkel guy on "Family Matters."

I've been doing a bit more thinking about this Alanis Morrisette thing. In my last column, I pointed out that pretty much nothing in her song "Ironie" is, in fact, ironic. However, if you think about it, that in and of itself is very, very ironic. Maybe that's the point of the song.

Last week I was watching TV and the movie "Willy Wonka and the Chocolate Factory" came on. I remember being addicted to that movie as a kid. Watching it now, it looks so ... dumb. And what kind of message is this sending children? "Your life is going to be hell if you don't get a golden ticket," perhaps? It's kind of like these people who dream about and count on winning the lottery. Very sad.

You can't fight in here, this is the War Room!

You'll never get me to admit it in person.

No other factory in the world mixes its chocolate by waterfall.

I'm sorry, but that "Diversity Survey" that was conducted last week was nothing but a political stunt. The questions were written not with the goal of ascertaining student opinion, but instead with the goal of applying political pressure to the administration. I mean, how many people are going to answer the question, "Are you satisfied with the intellectual diversity of the faculty at HLS?" in the affirmative? The problem is that my answers to the survey are going to be interpreted in ways I did not intend for them to be interpreted. Oh, well. Then again, if people want to complain about the survey, maybe they should get a spot in the Hark and set up a table of their own. You have to at least admire the work that was put into the survey, even if it was not exactly the fairest thing in the world. End of diatribe.

What ever happened to Tears For Fears?

If you want a real experience, take a ride on the #4 train on the New York subway. Make sure you sit in the first car and look out the front window, watching the train hurtle through the bowels of the city. Seeing the rats scurry off the train tracks is truly a sight.

You still don't know what you're dealing with, do you? Perfect organism. Its structural perfection is matched only by its hostility. . . I admire its purity, a survivor; unclouded by conscience, remorse or delusions of morality.

Fresh Samantha Update: the Groovy Guava drink is really, really, really good. And it's got gingko!

I'm actually finding myself liking the new Stone Temple Pilots album. I thought their previous two records were crap. But this one has a cool groove to it.

Big Bang Baby, it's a crash crash crash.

It seems like the mood of people improves immeasurably around here when the weather breaks. I'm sure people wouldn't think place was so sucky if it was sunny and warm all the time. So, my solution. . . a big dome!

Okay, I'm stretching.

He's an idiot. Comes from upbringing. His parents are probably idiots too. Lorraine, if you ever have a kid that acts that way, I'll disown you.

SUMMER IS COMING! Hooray. Now all I have to do is find someone who is interested into going to the beach with me.

Beavis and Butthead the movie is coming out this winter. Yes, this is a very sad thing for one to put on his calendar.

Well, enough for this year. I apologize for the weakness of this final column in advance. Just keep one thing in mind.

It's a 106 miles to Chicago, we've got a full tank of gas, half a pack of cigarettes, it's dark and we're wearing sunglasses. Hit it.

Bosnia "Facing More Danger"

continued from *BOSNIA*, page 1

cal instability in other countries, he warned.

"Who can stop this if everything is up for grabs, and if the virus [of ethnic polarization] is not killed right here in Bosnia?" said Silajdzic.

"Why not Bulgaria? Why not Greece? Why not Croatia and Albania, Bulgaria, Macedonia, Serbia?" he asked. "Bosnia has regional and global consequences."

Questioning why Bosnia's human rights violations continued unchecked by the international community for so long, Silajdzic blamed a "moral crisis [which] has engulfed life in Europe" and crippled the West's ability to respond to human rights violations.

"We live in a vacuum, in a circle of pro-

duction and consumption ... living faster, progressing faster, always richer — that is the order of the day," he said.

"If something happens outside of that narrow purview, we don't know what to do and we leave [it] to someone else to solve the problem."

The son of a prominent Islamic scholar, Silajdzic resigned this January from his position as prime minister which he assumed in 1993. He has since formed an opposition party called the Party for Bosnia-Herzegovina which emphasizes multiethnic unity. Expected to run in the presidential elections this fall, Silajdzic leads incumbent Alija Izetbegovic in recent polls.

Dr. Silajdzic's speech was sponsored by the HLS Project on Law and Ethnic Conflict.

You Only Have One More Week to Write to the RECORD!

G Y M R A T

Jury Duty

By David Koontz '96

Sports Columnist



It was quite a week for grand old Hemenway Gym, aka The House of Pain. By the time Friday morning rolled around, the gym rat had heard rumors ranging from an exploding transformer in the Hastings basement to the Transformers attacking the school (the Power Rangers saved the day). Although I feel a little bit bummed that the last week of intramural basketball games had to be canceled, I feel more sympathy for the people who actually live in Hastings and had to find somewhere else to sleep Thursday night.

Because the last week of intramural hoops was canceled, my plans for a knowledgeable playoff preview kind of went up in smoke. I was going to check out each play-off team personally, then try to determine through quantum physics and body fat measurements who was going to take it all. I thought of using a team's average height and win total instead, but those numbers are so unreliable.

In the midst of all the rubble that was last week's unrequited hoops schedule, there actually was one game played. On Monday of last week, the Great Danes, a team of 2Ls which hasn't lost a game since arriving at HLS (including last year's B League championship), played a make-up game against the United Nations, a team which averages 6' 3" in height and which had only lost one game all year. At a time when most people are thinking about classes or the weather, the United Nations managed to get the B League's attention by ending the Danes' remarkable streak.

The Danes jumped out to leads of 8-0 and 13-2, but the United Nations stayed in it and trailed by only five points at the half. The Danes began the second half the same way, upping the lead to 10. UN clawed its way back, and the Danes found themselves tied with six minutes remaining. From then on, the teams traded baskets until overtime, when the UN jumped out to a four point lead.

In the short period, the lead was enough, as Rick "Montezuma George" Perez '97 snagged rebounds and guards Shahzad "There's a vitamin for every Flintstone except" Bhatti and Art "Manos Buenos" Carrillo '96 handled the ball expertly against the Danes' trademark trapping defense. Kudos to the UN for being world-beaters (pun, unfortunately, is intended) as well as the Danes for what they've accomplished with the streak.

I have only one question now. Will the Danes respond as well as Kentucky, who lost the SEC championship but rebounded to win the NCAA tournament? The United Nations, meanwhile, may be hitting its stride, and a team that big that has a habit of hanging tough in games just might take it all.

My personal B League pick: I like Last Call coming out of the West, taking it all, and riding off into the sunset. Hey, remember that I picked Kentucky and Dallas. The only difference here is that nobody in the NFL or NCAA read this stuff and posted it on their lockers. Yikes.

In the A League, I'm going to have to go with Well Hung Jury again, and not just

In the midst of all the rubble that was last week's unrequited hoops schedule, there actually was one game played.

because this week is finally the week where I get around to profiling last year's champs as promised. It's a real horse race among the Jury, Black Plague, and Caution: Flammable. The semifinals will be extremely entertaining, and I could really pick any of these teams. But I have to pick one, so I'll go with the team that's already been there.

The gym rat sat down with the current and former captains of Well Hung Jury and talked about the run for the championship last year. Travis "Why don't we do it in the" Rhodes '96, the captain of last year's team, chronicled how the team was put together. He and Colin "Out in transit, radio free Europe" Stretch '96, who Rhodes says is "literally the best defender I've ever played with," formed the team in the '93-'94 school year.

They were in the same section as Jeff "Mr. Holland's Opus" '96, who has won Most Improved honors two consecutive years, and also brought in Brian "And now, ladies and gentlemen, say hello to my good friend Mr. Paul" Schaeffer '96, who shoots when he's hot and passes when he's not.

Scott "I can't push the ball any harder, Captain; I'm givin' her all I got!" Cummings '96 was literally a steal. Rhodes and Stretch met him playing pickup ball, and got to him twenty minutes before another A League team tried to get him on board. Rich "Get in my way and feel my" Falkenrath is now an executive director at the Kennedy school; he advertised on the gym walls his desire to play "competitive A League ball" and was signed as a free agent.

Marc "moud Abdul-Rauf" Merriweather '96 was brought in and contributed minutes as a ballhandler and occasional Sherman Douglas-like floater in the lane, but then left this year along with Dave Caputo '96 (now both of the B League's Last Call) for fame and fortune. Rob "Shades of Bill" Walton '96 takes their place, playing the role of big-man defender with a nice shooting touch.

This year's captain and intramural commissioner, Lang "Three" Wiseman '96, had already committed to another team his first year, but joined the Jury in the '94-95 school year. Rhodes calls Wiseman "the best player in the league, but also the most unselfish." Wiseman scored his points alongside Allan Houston at Tennessee before coming here to play some real basketball.

Rhodes and Wiseman fondly remembered last year's championship game, in which they never led until the final seconds. Down by nine with 1:45 remaining, Wiseman hit two three-pointers and Rhodes added one to tie the game. Falkenrath was fouled on a rebound, and after making exactly zero free throws all year, calmly sank them both to put the Jury ahead to stay.

Is anyone on the team ever jealous of Wiseman's abilities? "No. No way," said Rhodes. In fact, the Jury began 1-2 last year because they were relying too much on him. After they stepped up and began playing like a team, often putting Wiseman in the post and spreading out the defense, they didn't lose another game.

As for Wiseman himself, he was sharing his thoughts quietly and sometimes pensively, until I looked down at what he was eating — Cheeseburger, Doritos, three Laffy Taffys, and two red hot hard candies.

"I love candy, especially hard candy," he said. Rhodes grinned and shook his head. "That's our star player."

Serious training, I guess. No more serious than the rest of us should take it.

Muller Wins Racquetball Title

By Craig Buckser

1Ls who believe that their lives revolve too much around law school should follow the example of Eric Muller '98. Muller won the gold medal for men's singles at the World Intercollegiate Racquetball Championships in Los Angeles earlier this month.

This was Muller's first major singles championship. "Winning the collegiate is something I've been trying to accomplish for a long time," Muller said.

Nevertheless, being a racquetball champion is nothing new for Muller. In 1992 and 1994, Muller won world championships in men's doubles. In 1991 and 1993, Muller accomplished similar feats at the national level.

During his first semester at HLS, Muller added another medal to his collection. In October, he and Michelle Gould won the United States National mixed doubles championship. "She is probably the best female racquetball player ever," Muller said. "She's a great partner."

Despite winning the mixed doubles title, Muller was not pleased with his performance on the court last fall. "First semester I didn't play very much," he said. "In the few tournaments I did play, I didn't play very well." He and his men's partner did not win the men's doubles cham-

pionship, although they were the favorites.

This semester is a different story. "I learned how to balance my time better," he explained. "I became more disciplined and regimented."

"I tried to play a lot of tournaments on weekends," he added. "I just tried to focus and be relaxed at the events."

By winning the collegiate title, Muller has earned a spot on the United States National Racquetball Team. However, he cannot compete for the national doubles championship this May because of a scheduling conflict with his exams.

Muller was able to participate in the collegiate tournament because he used only three of his four years of eligibility while he was an undergraduate at Boston University.

Although he will work at Shughart, Thomson & Kilroy in Kansas City this summer, Muller will play for the national team. He hopes to compete in the world championship in Phoenix in August.

Having already spent a year playing on the professional racquetball circuit, Muller intends to graduate with his 1L class in 1998.

Yet being a full-time student has not deterred Muller from setting his sights high. "I will try to win the national singles championship next year," he said.



Eric Muller '98 (left) and his partner John Ellis holding their trophy from the 1994 World Championship in San Luis Potos, Mexico.

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Intramural Basketball Standings as of Sunday, April 21

TEAM NAME	WON-LOST	TEAM NAME	WON-LOST
"A" LEAGUE			
4. Black Plague	6-1	2. One and Gun	3-4
5. Caution: Flammable	6-2	3. Court Marshals	2-7
1. Well Hung Jury	6-2	6. The Associates	1-8
"B" LEAGUE EAST		"B" LEAGUE WEST	
10. Stormin' Mormons	6-0	1. Gooch's Last Stand	8-0
7. The Great Danes	7-1	12. Bye	7-0
3. United Nations	5-1	8. Last Call	7-0
9. Port Isabel Holmes	5-2	5. General Gao	6-1
11. Sweatshogs 2	5-3	9. Flagrant Delicto	5-2
1. Short Guys	4-2	7. Off-White Slammers	3-4
2. TCB in a Flash	4-3	2. Soulbucket	3-4
6. L.L.Magic	3-4	4. Free Exercise	2-5
12. Asphyxiation	2-3	13. The Quick Shooters	2-5
5. Reversed & Remanded	1-6	10. Dude Looks Like a Levitt	1-5
4. Sleestaks	1-6	11. The Grizzers	1-5
13. Double Trouble	0-6	6. Just For Laughs	0-6
8. The Dissenters	0-7	3. The Real Killers	0-7

Harvard Law RECORD

Founded in 1946

Hope Yen
Editor-In-Chief

CyberSchool: The New Classroom

Sitting in Prof. Charles Nesson's office this week and discussing the impact of computer technology on the way HLS teaches the law, it is apparent that teaching methods are turning a new corner. Nesson talks about the change enthusiastically.

This is the most significant development in teaching in a long time, he says. And watching his reflection off the space-black monitor (speckled with file folders floating among the stars and planets), I know he's looking into the future while talking about the present.

With the new \$1 million Local Area Network (LAN), HLS has taken a quantum leap forward in its technological infrastructure. While students still struggle with clogged e-mail systems and slow, remote Internet access that ties up phone lines, HLS may now be moving ahead faster than any law school in the nation.

As we move ahead, we should keep several things in mind:

Langdell Library. While administrators say the timing of the installation of the LAN and the gutting of the library is coincidental, it shouldn't be. HLS has long prided itself on the size of its library. It's time for HLS to accept on-line research as a legitimate and, perhaps superior, method of legal research. The new Legal Research and Analysis (LRA) class, which will replace ITL for next year's incoming class, should help legitimize electronic research.

Use the Right Technology. This year, several professors became hooked on The West Education Network (TWEN) to hold on-line class discussions. While on-line discussions are central to the new classroom, the platform must be carefully chosen. TWEN was given to students free of charge by West Publishing Co. But it is terribly bulky and a strain on hard drives and the remote system. Nesson set up a web page for his class that does everything TWEN does, and allows for student photos and music as well. Like TWEN, it's free — and it requires no extra software.

Don't Fear the Net. Confidentiality is important, but the Internet is not as chaotic as many people think. HLS shouldn't fear hackers disrupting our communications. Not only do adequate security measures exist, but most hackers would not find anything at HLS of any interest, anyway.

Professors Should be Entrepreneurs. In order to promote use of the technology, HLS needs to create an entrepreneurial spirit within the faculty. Many professors are content with teaching the same class from the same notes (with the same jokes) year after year. But the faculty should begin to put more thought and energy into the educational experience.

Require Laptops. The admissions office also finally needs to tell arriving students to buy laptops. There must be a financial commitment to providing computers for all. But the payoff will be great. It will allow for the administration to change its policies towards computers — such as the ban on computer use during in-class exams — and free professors from student complaints when they try to integrate computers into their courses. Plus, no HLS student should graduate without at least general computer skills.

Abandon the "Trickle-Down Theory." It is unfortunate that the administration has chosen to make students the last group to be networked to the LAN. HLS must realize that, even with a faculty full of Charles Nesson and Howell Jacksons, real change in the learning environment will be resisted by students if they do not have the means to participate. While HLS administrators tend to view students as a consumer group, hoping their "product" will be well received, they need to allow student involvement in technological choices and abandon the trickle-down theory to the implementation of change.

— Friedman

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—First Amendment, US Constitution

• Letters •

LL.M.'s Anxious About Dean's Decision

Surprised by the recent sudden changes in the administration of the Graduate Program, the undersigned LL.M. students cannot but express both their concern about the future intellectual spirit of this program and their objection to your decision on two grounds.

First, most of us being foreign students, we can safely assure you of the intellectual and academic standing of the Graduate Program at HLS among American and foreign universities. While the LL.M. student body is highly diverse, the impressive aspect of this program, so far, has been its capacity to accommodate various intellectual interests and professional aspirations. We believe that the success of the program is to a considerable extent due to the energetic and daring spirit injected by Prof. David Kennedy '80 and encouraged by his team, one sign of this being the substantial increase in the number of S.J.D. applicants over the past few years. Under all these conditions, we find it incredulous to believe that the dismissal of Prof. Kennedy had anything to do with the way he managed the program. We are concerned that such a radical change in the program's administration would affect its future orientation, belittle its achievements and compromise its prospects.

We do understand the virtues of rotation; rotation, however, should not be at the expense of the consolidation of current innovative policies

and institutions. This is especially worrying given the fact that you have not offered any alternative vision for the program to give us minimum assurance that its success will be protected.

Second, we are troubled by the unilateral character of your decision. Previous efforts on your part to enhance the participation of the LL.M. student body in the general life of the school seem now to be gestures empty of content. The lack of transparency in your decision projects a very different attitude towards the Graduate community, a precedent to which this letter is the least reaction.

We are not concerned about the personal dimension of your decision, nor do we have any personal objection to the future administration. As future alumni, our concern is the preservation of the innovative spirit that revitalized the Graduate Program, and made our experience here a highly beneficial investment — a spirit that cannot survive without minimum future transparency in your decision-making process.

Keiske Mark Abe, Japan
Steven Alcock, Belgium
Mohamed Al-Elsheikh, Saudi Arabia
Marc Amstutz, Switzerland
Mary Bellof, Argentina
Dominique Benet, France
Claude Bruderlein, Switzerland
Marcelo Calliari, Brazil
Samia Chandraker, Scotland
Wilehaldo Cruz-Bressant,

Mexico
Annalisa Ciampi, Italy
Rosa Comella, Spain
Joelson Dias, Brazil
Luca Enriques, Italy
Marcelo Etchebarne, Argentina
Ana M. Garza, Mexico
Elana Geddis, New Zealand
Piyush Gupta, India
Brigid Hardy, New Zealand
Joshua Holmes, U.K.
Mary Howells, Switzerland
Fatima Iliasu, Nigeria
Fleur Johns, Australia
Outi Korhonen, Finland
Mattias Kumm, Germany
Je Won Lee, Korea
Julian Lopez, Chile
Isabel Lustosa, Brazil
Cecilia Macazana, Peru
Dorgam Mara'ee, Israel
Pedro Martinez, Mexico
Barak Medina, Israel
Genevieve Michaux, Belgium
Dolly Mirchandani, U.K.
Jane Muigai, Kenya
Prabu Natarajan, India
Julian Owen, Australia
Nathalie Provost, Canada
Hani Sayed, Syria
Amr Shalakany, Egypt
Lobsang Sangai, India
Froncoise Thoma, Luxembourg
William Timmermans, Belgium
Angelica Toro-Lavergne
Francesco Traisci, Italy
Monica van der Schraft, Chile
Sven Volcker, Germany
Alexander von Sponeck, USA/Germany
William Valasidis, Greece
Eric Minchinan Wang, Taiwan
Stepan Wood, Canada
Andrea Zwack, Canada
April 24, 1996

CR-CL Should Reveal Selection Process

While much attention has been focused lately on the Law Review and its selection process, the Civil Rights-Civil Liberties Law Review board selection process is even more problematic. CR-CL has not been criticized because it appears to do a better job of including women and minorities. However, the process by which editors are selected appears to be radically arbitrary and possibly discriminatory.

I say possibly because CR-CL has the policy of keeping its process extremely secretive, unlike Law Review, refusing to give persons denied admission reasons for their decision or a detailed explanation of the selection process. While some might see the fact that I was denied admission to CR-CL as evidence of a "sour grapes" attitude, my case is irrelevant to this editorial. The fairness of the selection process, which affects many students every year, is a salient issue.

The CR-CL board refuses to institute any objective, standardized procedure for evaluating candidates. Rather than balancing grades and a writing competition, CR-CL's process is almost completely discretionary. Editor-in-Chief Nina Wang '97 says that the board considers many factors, including: sub-cite evaluations, an interview, a technical exercise and a written statement of interest. The written statement and technical exercise are the only factors assigned a score.

However, Ms. Wang stresses that scores are "not dispositive," meaning that the board is free to admit persons with low scores and deny admission to those with higher

scores based on other, less tangible factors. All editorial board members are invited to submit comments on candidates, according to Ms. Wang, and the selection committee even considers individual impressions of candidates outside of the context of CR-CL. Ms. Wang also admits that consideration is given to structuring the gender/racial composition of the board, although she will not say exactly how this is implemented. The ultimate decision is made on the basis of a sometimes contentious discussion/deliberation process and a vote by the 12-person committee. There are apparently only a few candidates who are selected on the basis of their scores. According to Ms. Wang, the "vast majority" of candidates scores are similarly average, and this is where subjective factors come into play.

The board will not give a candidate any explanations for their decision or perceived weaknesses in her application that resulted in being denied admission. The official reason is to protect the confidentiality of the selection process. However, reasons could easily be provided to candidates without mentioning any names of board members.

In fact, the policy effectively insulates the board from criticism by keeping candidates in complete ignorance of the selection process. All the board can do is assure candidates that "all factors are considered." Apparently, they are expected to blindly trust that a progressive organization such as CR-CL would never treat anyone unfairly. This paternalistic notion flies in the face of CR-CL's mission by denying any procedures to ensure fair-

ness and objectivity or review of the board's decision.

The non-merit based approach may appeal as a warm, fuzzy alternative to the statistical standards of Law Review, but the process invites discriminatory, subjective determinations. A candidate's success depends less on the quality of her work, experience and commitment to civil rights and civil liberties, and more on her number of friends on the board and their willingness to vocally support her. The process also allows factionalism to seep in, permitting those favoring candidates of a certain gender, race or other identification to block other candidates. In the absence of any reasons for the board's decisions (if in fact they exist), one can only wonder.

Perhaps a personal slight was a factor. Perhaps favoritism or political in-fighting was decisive. Did the board decide to reduce the participation of blacks? While 32 percent of the Volume 31 general editors were black, that percentage was cut by more than half this year to 14 percent. Are female candidates given preference? Women have been the overwhelming majority over the past two years: 71 percent for Volume 31, 62 percent this year. These comments can hardly be conclusive because the organization is extremely tight-fisted with information, including statistics. If the board dislikes the inferences, they should give candidates the ability to understand their process. After all, if it is a fundamentally fair process, why must they keep it in the dark?

Russell Robinson '98
April 19, 1996

Please See Page 15 For More
Letters From Our Readers.

Feds Must Prove Defiance of Law Won't Pay

By Prof. Philip B. Heymann '60

As at Ruby Ridge and at Waco, we Americans have three deeply felt concerns at stake in the Montana standoff between federal law enforcement officials and the "Freemen." Of primary importance is the safety of those, particularly the children, who are the innocent pawns of men determined to live within the United States but outside of its laws. Equally important is the safety of the men whose job it is to enforce those federal laws. The third concern is maintaining the trust of the American people in both the effectiveness and the decency of federal law enforcement.



Prof. Heymann

These were the contexts and the issues we wrestled with at the U.S. Department of Justice when I was charged with recommending changed procedures after the events at Waco, Texas. Now it seems to me there is a useful solution that respects all these concerns during a prolonged standoff.

In some situations, storming the perimeter of the suspects' barricade to make the essential point that everyone in the United States is subject to the law and must fight the government in the courts and not with guns presents a dilemma. An attack poses grave risks to life and increases the already worrisome distrust in some quarters of federal law enforcement agencies. Doing nothing, on the other hand, sends a message that the daring can decide for themselves what is and isn't lawful or what the consequences of behaving illegally will be — a dangerous message in a democracy based on the

Philip B. Heymann is a professor at Harvard Law School and a former deputy U.S. attorney general. Reprinted with permission from Newsday.

rule of law.

We need a solution that makes clear that defiance of the authorized representatives of criminal justice is a losing, not a winning, strategy. Yet that has to be done without unnecessary harm to anyone, particularly the innocent, and without encouraging a belief that the "Freemen" are martyrs to federal "brutality."

The answer is to make every day of resisting arrest foolishly costly to those responsible. The law enforcement authorities, whether federal or state, should surround the barricaded group and permit its members only the minimal freedom of movement that is necessary to avoid provoking a gun fight. The surrounding perimeter of officers can sometimes be

assisted by constructing a fence.

Then, with new statutory authority if necessary, it should be made clear that there is an additional and mandatory penalty of one month's imprisonment for every day that arrest is prevented by the threat of violence to law enforcement officers. As to that penalty, there should be absolutely no plea bargaining. Finally, there should be authority to charge the suspects for the cost of law enforcement efforts from the time the suspects first barricade themselves.

Those who have barricaded themselves and others may not be responsive to many threats that would affect others. We simply do not know whether those who are willing to be martyrs in an abrupt and highly publicized showdown with a government they see as the enemy are also willing to watch the potential for long sentences mount steadily day-by-day.

But the usefulness of the proposal does not depend upon their reactions. It is addressed to the far wider American public and is intended to convey the message that defiance of law and order does not pay.

The dollar costs of an extended standoff are great but bearable by law enforcement and far less than the cost to law enforcement of appearing reckless or even ruthless. The costs of appearing powerless are more difficult to bear. The central objective should be to change the perception, and the reality, that someone can win by defying legitimate law enforcement.

A protocol based on new, gradually increasing punishments might or might not speed the resolution of a stand-off like those at Waco, Ruby Ridge, or Jordan, Montana. It may change the calculations of those racing toward fame through violent confrontation.

But the real gain is in turning a dramatic challenge to legitimate authority into a matter that can be handled almost routinely, through familiar judicial processes, and with very obviously mounting costs to the law breakers.

Now, almost inevitably, the media treat every day of continued standoff as mounting evidence of the power of the resisting group and of the impotence of law

enforcement. It is crucial that law enforcement be seen as effective, as well as concerned with saving lives.

An apparent ability of the well-armed to defy the justice system with impunity is a characteristic of some developing countries, not of advanced western societies. That will not be the appearance if the defiant individuals are physically constrained and if, for every 12 days that pass, the press reports that the individuals will serve an additional one year in the federal penitentiary.

The answer is to make every day of resisting arrest foolishly costly to those responsible.

• Letters Con't •

CCR Survey Bias Problematic

We are writing to express our concern over the diversity survey now being circulated by CCR. This survey includes questions revealing a significant degree of bias, and we are therefore convinced that its results are predestined to favor CCR's views. For example, the survey contained statements such as: "The number of white women on the HLS faculty is adequate." The available responses ranged from strong agreement to strong disagreement. Suppose, however, that a respondent held the view that faculty hiring decisions should not be influenced by the sex, race or sexual orientation of the candidate. How would such a person answer this question? Expressing strong agreement suggests that the respondent would not like to see any more female professors hired. This response clearly does not capture the view that characteristics unrelated to academic qualification should play no role in hiring.

The survey also contained ambiguously-worded questions, such that respondents could not be sure of the significance of their answers. For example, one of the questions asked for a statement of agreement or disagreement

with the proposition: "The HLS faculty is ideologically diverse." We're sure that CCR and its supporters think that the faculty is not ideologically diverse enough, and we happen to agree with them on this point. The only difference is that they believe that liberal viewpoints are not well represented, while we believe that conservative viewpoints are underrepresented. Given that an expression of disagreement with the quoted proposition will likely be used by CCR to hinder the hiring of additional conservative faculty members, how should someone sharing our view respond?

These biases in question phrasing ultimately lead to self-selection among the students who choose to respond to the survey. Students who agree with CCR's view about faculty hiring need only mark a few boxes in order to register their preferences. Students who disagree with the unwritten premises behind the survey's questions must go to the trouble of authoring a full written objection. Given that survey results typically just report the percentage of respondents that checked each box, students who judged the survey biased would not likely believe that elaborate written

objections would find their way into the results.

Given these defects in the survey's construction, it is difficult to believe that its results will represent an accurate accounting of the student body's views on diversity issues. Consequently, we submit that students and the administration should not place any stock in its findings, nor permit it to exercise any influence over faculty hiring decisions.

A. Louise Oliver '97,
President, The Federalist Society (1996-97)
John Frantz '96,
President, The Federalist Society (1995-96)
Jeff Place '96,
President, The Federalist Society (1994-95)
James Lank '96,
Editor-in-Chief, Harvard Journal of Law and Public Policy
Dan Schorr '98,
President, HLS Republicans
Patrick Lannon '96,
Vice-President, Society for Law, Life, and Religion
Charles Hokanson '98,
Vice-President, The Federalist Society
Mark Yzaguirre '97
William Hall '98
April 23, 1996

Court's Approach in Seminole Troubling

The Supreme Court's recent decision in *Seminole Tribe v. Florida* raises serious questions about the current Court majority's fidelity to textualism or originalism — the traditional conservative modes of constitutional analysis.

Writing for the *Seminole Tribe* majority Chief Justice Rehnquist flat out conceded that his expansive theory of state sovereignty was not derived from any of the Constitution's textual provisions. Instead, the Chief Justice made an originalism claim based "background principle[s]" and "postulates which limit and control" our understanding of the Constitution. But as Justice Souter's essentially unanswered dissent made clear, the Chief Justice's "postulates" were no more rooted in First Principles than the privacy rights an earlier Court found in the Constitution's "penumbras."

Seminole Tribe would not be so disturbing if it were not part of an emerging trend of "pick and choose" constitutionalism. With this new adjudicatory approach, text matters — except when it doesn't — and First Principles control — unless

inconvenient. The "pick and choose" approach was at work on multiple levels in *Seminole Tribe*. The Court ignored the text and history of the Eleventh Amendment where neither supported the desired result. The same Court found the text of the Indian Gaming Regulatory Act sacrosanct, though, where that text operated as a barrier to a suit based on the *ex parte Young* doctrine. Another egregious example of the new "pick and choose" approach was last Term's *Adarand* opinion. There, Justice O'Connor, writing for the same majority, chose to overlook the textual dissimilarity between the Fifth Amendment's due process clause and the Fourteenth Amendment's equal protection clause — and the possibility that the textual dissimilarity existed by design rather than by oversight. Justice O'Connor also chose to ignore original intent and said not one word in her lengthy opinion about the Framers' original understanding of the Fifth Amendment or the Fourteenth Amendment.

The emerging new mode of conservative analysis appears to be untethered to

the Constitution's text or history. It is thus susceptible — rightly — to the same "judicial activist" critique conservative politicians have successfully leveled against liberal jurists. Conservatives who want to make Judge Baer a campaign issue should take note and encourage the Supreme Court's conservative majority to mend its ways. Doing so needn't mean conceding much ground to the Left. *Adarand*, for instance, might be decided the same way based on a traditional conservative analysis. If not, conservatives might still secure a desired policy change by legislative means. Similarly, conceding congressional power to abrogate state immunity would not prohibit a conservative Congress from limiting the scope of Indian gaming laws, or the GOP nominee from proposing a new constitutional amendment. The critical point is that "means" matter just as much as "ends." A conservative revolution that achieves some of its desired policy goals by unprincipled judicial fiat is likely to prove short-lived.

Reginald Brown '96
March 31, 1996

Appleseed Foundation Mobilizes Alumni in Grass Roots Campaign for Public Interest

As class reunions once again approach, it is appropriate to question and, we hope, broaden the role that graduates will play when they leave this law school. Traditionally, alumni have been seen almost exclusively as vehicles for raising money. They come together at fundraising functions, conferences, or reunion activities to renew social bonds and support the *alma mater*.

But at Harvard, Princeton, Yale and other schools, alumni are carving out a far more ambitious role. Princeton Project '55, the brainchild of one Princeton alumni class, has founded the National Center for Civic Leadership to work for social change and encourage a new generation of leadership among Princeton students. Thanks to its good work, it now

places 10 percent of Princeton's undergraduates in civic action fellowships.

The Appleseed Foundation, which was established in 1993 by the Harvard Law School Class of 1958, taps HLS alumni to build institutions across the country to serve the public interest. In just over two years, Appleseed has raised over half a million and put public interest advocates to work in Washington, D.C., New Jersey, Massachusetts, Nebraska, Hawaii, and many other states. It represents the first time that a Harvard class, or any law school alumni class, has harnessed its energy to serve the broader public good.

Mobilizing Harvard graduates to serve the public interest makes good sense. As beneficiaries of an exceptional education and opportunities in

life that are not available to many, we have both the obligation and the ability to "give back" to our communities. Our bonds as fellow alumni allow us to cut through the distrust and divisiveness that seem to have become obstacles for common cause in any field. In Appleseed, private lawyers, business leaders, academics, including Prof. Arthur Miller '58, and public interest advocates like Ralph Nader '58, have come together to increase the capacity of the legal profession to remedy society's ills. Their work through locally-driven law centers around the country will help liberate energy for systemic problem-solving that involve other citizens and professions.

Together, we are redefining the role that alumni can play in our society. Together,

alumni can help to reclaim that important role that Harvard and other universities once did — and can again — play in applying their intellectual, human, moral, and financial capital to human betterment. Harvard's former president, Derek Bok, not too long ago wrote:

Our economic position in the world has deteriorated [and] we have climbed to the top, or near the top, of all advanced countries in the percentage of the population who live in poverty, commit violent crimes, become addicted to drugs, have illegitimate children in their teens, or suffer from functional illiteracy.... It is fair to ask whether our universities are doing all they can and should to help America surmount the obstacles that sap our economic strength and

blight the lives of millions of our people.

Harvard Law School's curriculum could engage students and faculty in considering and acting upon the many significant problems we face today — from providing adequate health care to reinventing government. It could unite the diverse disciplines that labor in separate departments in interdisciplinary public policy initiatives — bringing economists, political scientists, lawyers and others together, for instance, to analyze and offer solutions to the corrupting influence of money on our political life. It could encourage its students, faculty members and graduates to find time — whatever their careers or interests — to improve the quality of our society.

In coming together to

help build a more just and prosperous democratic society, Appleseed hopes to provide a model of engagement for other alumni classes, not only in the law, but in other fields, as well. Perhaps, in the not-too-distant future, business leaders, engineers, scientists, physicians, accountants and architects can forge public interest initiatives from their own alumni classes. When these professionals, together with lawyers, apply their collective experience to healing, improving and rebuilding our society, then we shall have taken a significant step towards a better future.

Richard J. Medalie,
Chair
Linda Singer,
Executive Director
Appleseed Foundation
April 2, 1996

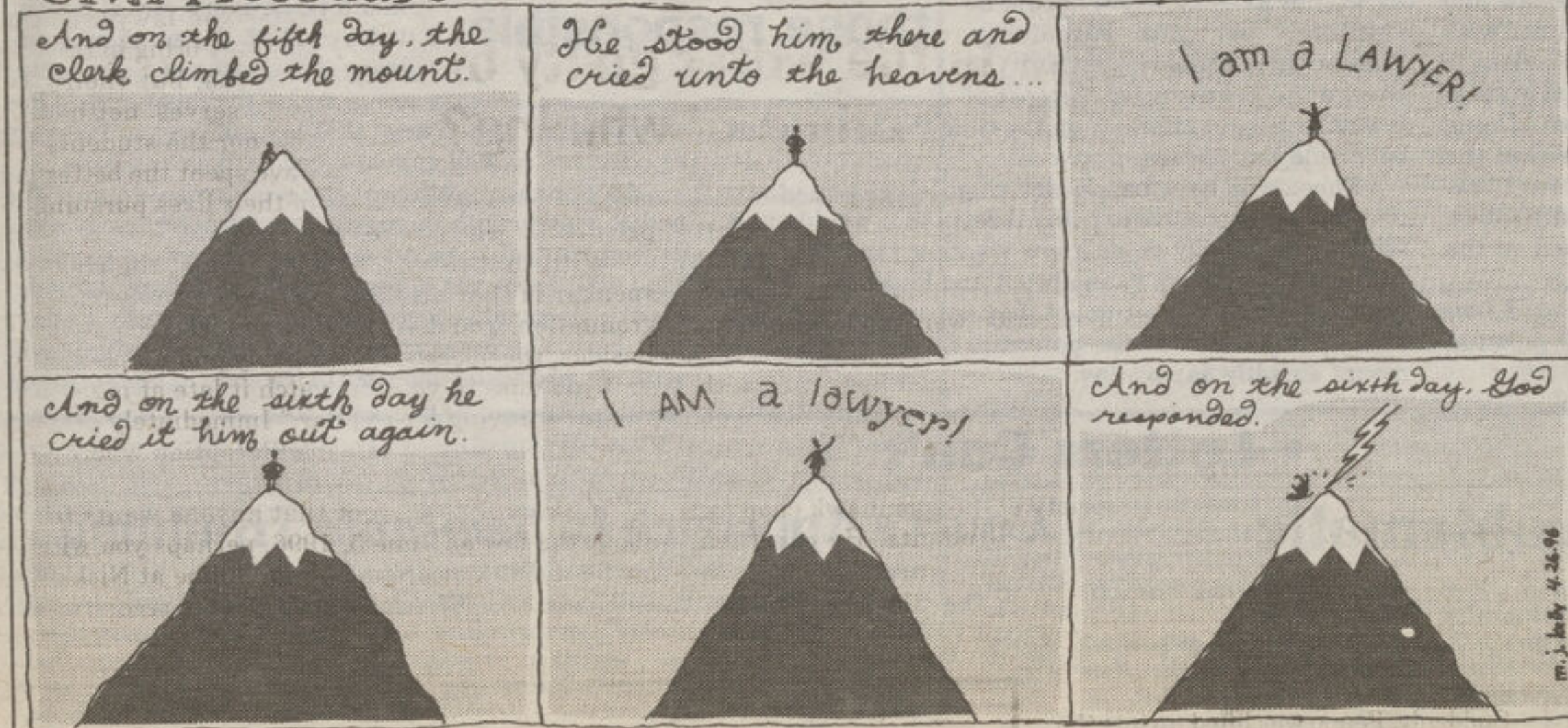
Temporary Insanity

By Sheila Tuller



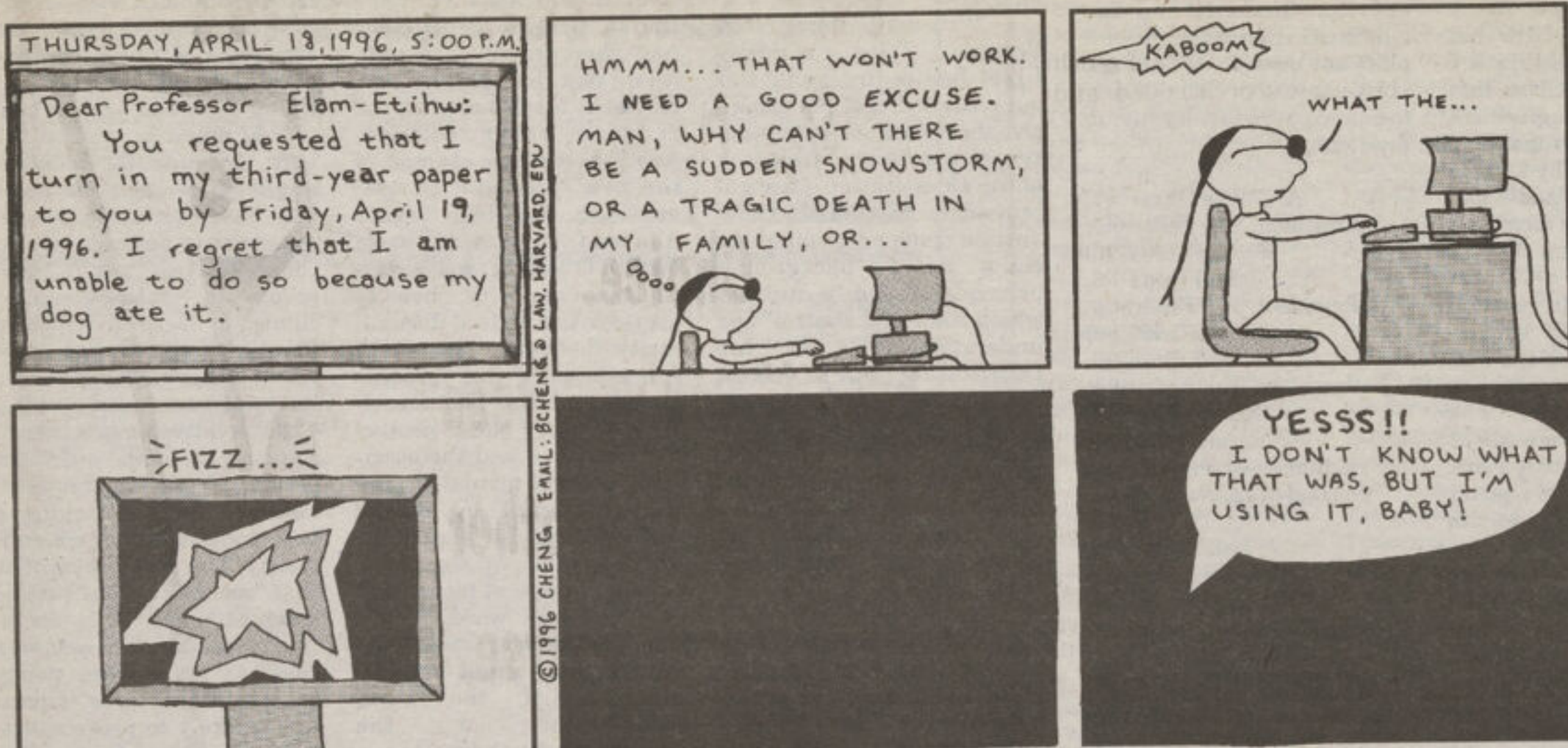
Civil Procedure

M.J. Kelly 1996



Backbench

By Brian Cheng



Ad Hominem

By Stuart Rees and Bill Zimmerman



CALENDAR

By Colin Meeder

Did you miss me? Of course you did. Hell, I missed me. But that's what you get when you trust your weekly musical entertainment duties to a upwardly mobile ex-indie rocker dude gone to Law School. You guys didn't miss much, though, honestly: a Tears for Fears gig, some lame Boston ska, a pretty cool showcase for the Simple Machines record label. Actually, y'all shoulda come to the last one; in addition to some terrific music (especially from Danielle Howle and the amazing band Ida), you could have seen me bringing a pitcher of water and some cups to the members of Liquorice, two-thirds of whom were appreciative, the other third of whom is the reason I'm in Law School and not in Liquorice.

Oh, yeah, and you missed my big Boston rock scene debut, which by the time you read this will be but a distant memory, but which as I write this is a terrifying nightmare looming on the horizon. I will assume, however, that we rocked, and that the bass playing especially was quite lovely. Just try to prove otherwise, smart ass.

What do you folks do every Thursday night? You watch TV. Oh, so sadly predictable. Well, I certainly wouldn't want to disturb your comfortable habits, but there exists an interesting alternative. Go down to Brandeis University tonight (4/25) and go watch Friends and Boston Common with a bunch of goofy undergrads in the Shapiro Gymnasium. Then, just as the credits roll for Boston Common, the lights go down, tension builds, and Anthony Clark, the actual star of BC, will actually appear and tell actual jokes for about an hour or so. Oh, how self-referential! Oh, how post-modern! Call 736-4750 for tickets.

They're two Japanese immigrants living in New York, all their songs are about food, and they've been called this year's Beastie Boys. Not by me, of course, but I do think they're pretty terrific. They're called Cibo Matto (Food Madness), and they play on Friday night (4/26) at TT the Bear's (492-BEAR) along with Skeleton Key and the In-Out. Everybody sing: "Extra sugar / extra salt / extra oil and MSG!"

Taking the cliched phrase "let's make every day Earth day" a little too seriously, WBOS misses the boat by about a week, but still puts on nice little free concert on Saturday (4/27) at the Hatch Shell. More than six hours of won't-cost-you-a-damn-penny music, from artists such as Los Lobos, Bruce Cockburn, John Wesley Harding, Dr. John, and The Rembrandts. Rumors of a super-special surprise guest abound, but I won't spread them. Unless, of course, you feel like bribing me with chocolate and bass strings.

Hey, Simone — yeah, you. Since I missed the Dub Syndicate gig this winter, I wanted to be sure you knew about Mad Professor's performance at Mama Kin (351-2525) on Tuesday night (4/30). The Professor's been doing this dub stuff a whole lot longer than some of these young punks who call what they do dub; I expect brilliance. Dub Station open.

Might as well end a slow week with some slowcore: go see Lotion and Idaho. They'll be at Mama Kin on Wednesday (5/1).

Upcoming: Sterolab, Joan Armatrading, King Crimson. But by then, most of us will be gone

With All Due Respect ...

By Markus Hartmann '96

I must admit, I was a little suspicious when the tentative Commencement Schedule said, "At this time, the class day speaker is undisclosed." Perhaps the administration had scheduled Judge Baer to be the class day speaker and his capitulation in the face of executive pressure had made them rethink their decision. Maybe they were going to invite Justice Thomas and wanted to avoid the inevitable protests and sit-ins until after finals.

After a year of berating some of my HLS peers who lament the fact that they are in "law" school, along come a few student representatives to let the Class of '96 know what is really important. It ain't the legal profession per se. It seems like just yesterday ... I was in California, the year was 1992. After a day's work, I walked to the mailbox and the letter was waiting for me. The first words at the top were "Harvard Law School." When I realized that I had been accepted, I danced around the mailbox for a while. My neighbor saw the spectacle and was chuckling as she congratulated me. It was the first time she had seen a Marine in camouflage utilities dance, and I'm sure it wasn't pretty.

Four years later, they schedule a class day speaker whose claim to fame has been the number one distraction for law students nationwide: cable television. On Wednesday, June 5, the graduating class at HLS will be treated to the wit and wisdom of R.E. (Ted) Turner III, president and chairman of the Board of Turner Broadcasting Systems, Inc., the parent company of the Atlanta Braves and World Championship Wrestling. We can all hope that the administration will choreograph the event so that no one can get a picture of Mr. Turner addressing the class under the arch of the Holmes Field Building that unfortunately has "Hauser Hall" chiseled into it.

Now you may be wondering what Mr. Turner's relation to the world of legal scholarship is. Well dear reader, the answer to the question is obvious. He attended Brown University where he was



vice-president of the Debating Union and Commodore of the Brown Yacht Club. His insights into the world of the litigator and admiralty law will no doubt be riveting.

The message that is being sent is clear: It's never too early to worry about client development. With that in mind, I do not mean to suggest that Mr. Turner's accomplishments are not impressive,

they are. It's just that I was hoping to hold on to the illusion that there was something special about the vocation called lawyering and was looking forward to hearing the words of one of its ministers around commencement time.

Ted Turner has had some contact with the law that we study at HLS. In *Woy v. Turner*, 573 F. Supp. 35 (N.D. Ga. Sept 28, 1983), the sports agent of a well-known baseball player filed suit seeking damages from Mr. Turner for libel, slander and tortious interference with prospective and contractual relations. Mr. Turner had made statements to the press that the plaintiff-sports agent had been such a tough negotiator that his tactics had contributed to the death of Bill Lucas, the general manager and representative of the Braves. Finding for the defendant

(surprise), the district court held that the plaintiff-sports agent was a "public figure" and that he could not recover damages on his claim unless he showed that the statements in question were made with actual malice.

At least we know that Mr. Turner has a way with words. If we're lucky, perhaps Mr. Turner will screen "Gone with the Wind" for the members of BLSA. That well-attended event will be followed up with a second speech about the propriety of the tomahawk chop for the Native American Law Students. He can then introduce his wife to the Veterans group and exit with his thoughts about what good guys the Soviets were.

You can sympathize with the decision, there are

so few accomplished lawyers out there today. Heck, it's hard enough keeping the faculty around for class, let alone get some distinguished alum to speak at commencement. With all the Supreme Court Justices, politicians, and men and women of accomplishment who have graduated from here, you can appreciate the difficulty of the task.

Now you may be thinking to yourself: Is the writer guilty of the crime of whining? Maybe. Having attempted to be a good servant to HLS, it is better to be a good servant to the law first. A certain amount of mammonism is inevitable when dealing with large institutions. Celebrities bring added recognition, which brings added students, which brings added influence and money to the school. At times HLS (even her students) probably just can't help itself.

But a law school, particularly this law school, should have two allegiances, the law and the school. Too much emphasis on the institution will subordinate the law to the school. Alumni who find it necessary to plaster their names on buildings may be receiving ego gratification, but it is often at the

expense of the law mandate. Non-lawyer celebrities may bring in the news cameras, but their presence serves neither the law nor the students who have spent the better part of their lives pursuing the

privilege of learning the law here.

With that in mind, the beauty of the class day speaker is that attendance is not a prerequisite to graduation. You don't have to go if you don't want to. Besides, the speech will probably end-up on C-Span, so if you miss it, you can watch it late at night while you're "studying for the bar." Immediately after the speaker, there is the Dean's Reception where there will be hors d'oeuvres and drinks.

In the unlikely event that anyone wants to talk about the law on June 5, 1996, perhaps you will join me for a drink at around 3 p.m. I'll be at Nick's Beef and Beer. We'll leave for the Dean's reception at 4 p.m.

Is the writer guilty of the crime of whining?



WHAM!!

(Or, in the words of Louisa Oliver '97, DOUBLE THWUMP!!)

Fenno was jolted awake — not for the first time in his life, and certainly not for the last, but quite possibly this was the move severe jolting awake he had experienced since the time he passed out in Dennis Rodman's back yard, on that unfortunate Halloween when he dressed up as an NBA referee. This, also, was a rather more overall jolting than the cranially-focused jolt of the Rodman incident.

Fenno looked around him. He saw nothing. This could mean any number of things, of course, ranging from the likely possibility that he'd simply forgotten to open his eyes first to the less likely possibility that Venusians had stolen his corneas. Ever the optimist, Fenno chose to operate on the assumption that the former was the case, and tried to open his eyes really wide.

Still nothing. Fenno began to curse the fuscias hides of those thieving Venusians. Then, a several of Fenno's other senses began to kick in — he became aware of an awful smell, worse even than an LL.M. around exam time; the ear-splitting cacophony of a siren; and the fact that he was choking rather painfully and dramatically on thick black smoke.

"Aw, hell," thought Fenno, "I've passed out in Lincoln's Inn again."

Suddenly, Darth Vader burst into the room, his Light Sabre gleaming brightly into Fenno's face. "Let's go, you idiot!" hollered the Dark Lord of the Sith in an improbable Boston accent, "Hastings is on fire!"

Fire — Hastings — Boston accent: Fenno was beginning to put it all together. He couldn't see or breathe because there was a lot of smoke in the air! Darth Vader was a member of the Cambridge Fire Department, his Light Sabre a flashlight! The Langdell Library renovations really

are going to be inconvenient!

Suddenly, Fenno was lifted up into the powerful arms of the fireman and carried out into the daylight. It was just like a beautiful dream he had often had — Fenno halfway expected to look down and see himself transformed into the little French schoolgirl — but all to soon it ended, and he was thrown roughly onto the green-painted dirt outside Griswald.

Fenno, dazed, lay still, trying to regain his senses. Voices swirled around his head: "Waco was two years ago today, man. I think Judd Serrotta's behind this."

Another voice, more kindly: "Aw, look at the Law Review Editor! He's confused by the sunlight — poor little fella."

"Alright, people, break it up! Show's over! Go back to your rooms!" shouted a firefighter. "Hey, kid, where you going?"

"My room's in Hastings, sir," came the timid answer, "And I'm going back to my room like you told me."

"You can't go in there! The air's thick with toxic — uh, I mean, your lights won't work."

"Gee, thanks, mister! I guess I'll just go to the Hark and wait for a donut."

The crowd was dispersing, all heading off to a night of debauchery and fun, free donuts and motel rooms. Fenno lay still, peacefully feeling the night roll in. Later, though, he heard one last voice, raised in a triumphant chuckle:

"Let's see: repairs to the electrical system, 20 dozen donuts, hotel rooms for the residents of Hastings, pay-offs to the fire inspector — now those public interest whiners will never get a penny of my \$25 Million! Ha!"

Quote of the Week

"This is a use of the technology that got past being a pain in the neck." —Prof. Nesson '63 referring to his Law Internet & Society Web Page

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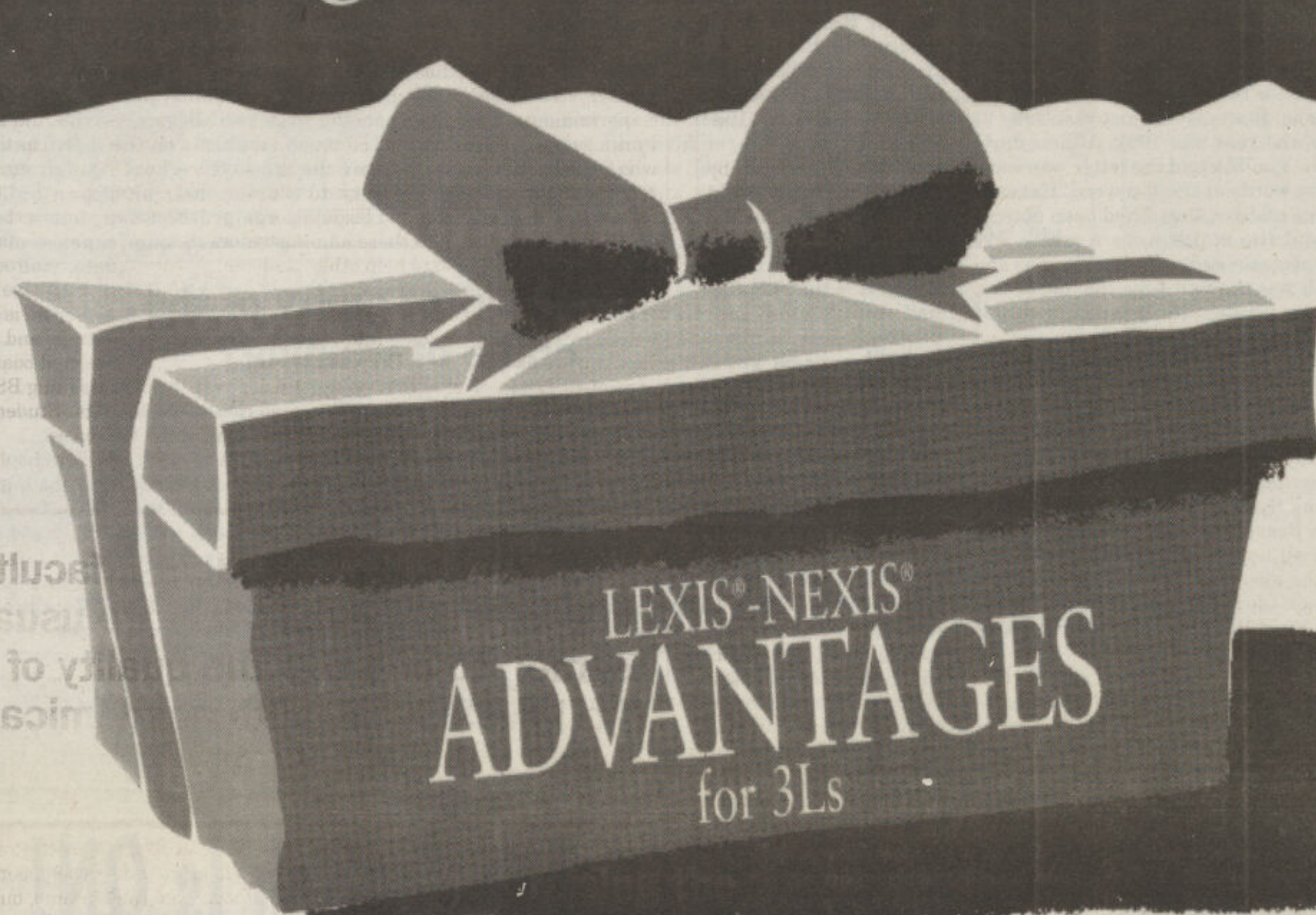


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JUST CAUSE

The Living Will

By Carla A. Halpern '97
RECORD Columnist



...it just burns...it tears a hole in me ... One day they will find me in my room, passed out in my own vomit, with an empty bottle ... or they will find me calmly running water over my bleeding arms, staring into space, as a filmy puddle forms in the sink. I am worried that all this will come true. It constantly hurts—I am either worried or scared or angry all the time.

— Journal entry, 3/22/91

I was 21, in my first year of graduate school. The rapist and I met through a mutual friend. We hit it off immediately. He was bright, brilliant even. He was creative, witty, outgoing and handsome. He was wonderful with children, although I certainly wouldn't trust him with them now. He was a talented musician, artist and engineer. We had an "official" relationship that lasted 10 and a half months. On one level, we were definitely in love.

But what a sick excuse for love. He became increasingly abusive. He began by putting down my ideas. I thought if I could explain everything well enough, he would understand and agree. But instead he would just tell me to shut up. And then he would wonder what was wrong and scream at me to tell him: *Shut up, you stupid vindictive bitch! Now, what's wrong? Talk, damnit!*

In between these arguments where he ranted and I was silent, he forced me to have sex. At first, I resisted. *No. No! NO! No.No.No.No. I really am not in the mood. Really. No. No! I don't want to. No.* And then I would give up. Consent? I would spread my legs; I would grind my teeth, clench my fists, and turn my head as far to the side as possible, pushing it into the bed, squeezing my eyes shut, trying to escape, at least mentally. Consent? More like shock. When I would decline, he would tell me how unappreciated he felt. He would tell me how women had been so horrible to him his whole life and I was no different. Consent? I knew that how I felt did not matter. My will did not count. My will was broken.

Katie Roiphe, infamous author of *The Morning After*, talks about date rape as though it were a lapse of judgment. She chatters on about glasses of wine and strange beds and muses that nearly everyone has lived to regret at least one act of sex; that nearly everyone has been "raped" at some point. I am willing to stipulate that there might be instances of false accusations. But rape is not the same as poor judgment. I've certainly exercised poor judgment on sexual issues, before and after that 10 and a half months of Hell. My mistakes have led to heartache, confusion, anger, regret, sorrow, and illness. Yes, surely I have had sex that I later regretted. And I hold myself responsible for those mistakes.

But I do not blame myself for what another individual did to me without my consent. Some might say I implied consent: I went to his apartment, I was in his bed, I did not leave. Whatever. Call me stupid, call me naive, call me a poor judge of character. Fine. But the fact remains that I said *No*. Over and over and over. No matter how naive I was, I do not understand what could make him think I consented. Seduction? No, I know what seduction is like. I've been on both sides. I was raped, not seduced, by this man. I left his bed bleeding.

After being silenced both by his words and, sometimes literally, by his behavior, I had trouble talking for two years afterwards. I could not articulate my thoughts well; I could not focus on classes. During the relationship, I expressed the pain the only way I could think of: I slashed my wrists with a pair of scissors. When I ran out of flesh on my forearms, I cut up my thighs. Then I stabbed myself in the face. I do not blame the rapist specifically for the harm I inflicted on myself. I blame him for the pain that led to that despair.

People ask why I stayed with him for so long. Maybe I thought I could change him. Maybe if I explained it just one more time, he'd regret all those times he forced his penis down my throat or between my legs. Maybe I thought I could teach him how to be kind. Because I loved him on some level, I wanted to save him. But there was nothing I could do to change his sickness. Our relationship was a part of his twisted pattern; I was just one more headstrong bitch who needed "some extra encouragement" or "to be talked into it." It took me almost a year to realize that I would be dead before he would be decent. I was lucky. My realization came before the violence escalated into serious injury. We were never married; we had no children; I was not dependent upon him for money or a place to live. The break, once I made it, was relatively clean.

But why I stayed and why I did not fight back are the wrong questions to ask. Why did he do this to me against my will? That's the bottom line. If a man declines to have sex with me by saying "no," I accept it. I may be disappointed or frustrated. But if he says "no," that's the end of the story. I have the intelligence, compassion, and control over my hormones to respect that. I don't see any reason to expect less from men.

A group of women marched past my apartment tonight. I could hear them chanting: strong, determined, Take back the night! Ever since I got away from him, ever since I could talk again, my will is returning. These women remind me: I do count; my will does matter; I am worth fighting for. And I can and will kill a rapist with my bare hands if I have to. No man will ever hurt me this way again.

— Journal entry, 04/18/96

THE LAW SCHOOL COUNCIL

Change Begins With Dialogue

By Chip Nierlich '97
Guest Columnist

MUCH has been made of the purported disputes among the members of the Harvard Law School community. Indeed, alumni of the law school have helped to pay off their student loans with contributions such as "One L" (by Scott Turow '78) and "Broken Contract" (by Richard Kahlenberg '89). Even people outside the Law School community have taken the time to write on the difficulties among people at the Law School (e.g. Eleanor Kerlow's "Poisoned Ivy: How Egos, Ideology, and Power Politics Almost Ruined Harvard Law School").

Yet disputes between members of the Law School community may not be so large as they appear from the volumes of literature on the subject. Students and administrators can come together in times of need to deal with a crisis. The response to last Thursday's fire near Hastings presents a case in point. As soon as it was clear that the crisis would not pass in a short time, a team of administrators and students began working on ways to help the displaced residents of Hastings as well as those in Gropius who lacked power. Dean Sandra Coleman's memo to the HLS community, dated April 19, lists for special thanks the host of administrators who returned to campus and stayed into the early hours of Friday morning to ensure that student needs could be addressed. In addition to those administrators cited by Dean Coleman, several students offered their time to help other students. Many students offered space to their friends so those who were temporarily held out of Hastings would have a place to stay. A number of the resident assistants — and even one student who is not an R.A. — helped by escorting students into Hastings to retrieve belongings and placing temporary emergency lighting in Gropius bathrooms. The newly elected board of the Board of Student Advisers offered to extend the deadline to students filing BSA applications who were affected by the power outage and closure of Hastings. Students volunteered to help other students, even at considerable trouble to themselves.

To get the members of the HLS community to work together should not require a fire that closes several Law School buildings and leaves nearly a hundred students

The goals of students, faculty, administrators and staff are usually the same: to improve the quality of life at the Law School, both academically and socially.

homeless for the evening. The goals of students, faculty, administrators and staff are usually the same: to improve the quality of life at the Law School, both academically and socially. We may disagree with the methods from time to time, but in the end we return to the same goals.

The difficulty in turning a common goal into effective change centers on communication. Students are often unable to receive or transmit key information in a timely fashion. In those instances where communication is the least effective, disputes arise. Last year, student outcry over the Langdell renovations centered not on the idea of renovation — all agreed that the library needs some changes — but instead on the fact that the administration did not notify the class of 1997 prior to accepting at the Law School that they would not have full library access during their third year. Communication broke down again for the class of 1998, which was notified of the library changes, but only after their acceptance deadline.

When students and administrators communicate effectively, much can be accomplished. When the Law School Council presented student concerns about the scheduling of fall registration, and offered to provide student help on the day of registration, Dean Clark '72 and Registrar Sue Robinson agreed to add a registration date after Labor Day. Their concern had been one of personnel; the Council was able to meet that need. The ethernet activation provides a similar example. The administration held up implementation, but did not disclose the reasons. The Council discovered that the underlying reason was the same as that in the fall registration case: a lack of personnel. Thus, the Council was able to solve the problem, as the RECORD wrote in its editorial on Feb. 23: "When Jancu was told the ethernet system was ready to go but could not be turned on without a technical support staff, Jancu found 20 students with high-tech backgrounds." While technical equipment difficulties have delayed the activation, the teamwork between students and administration in this case lays the groundwork for future cooperative problem-solving efforts.

Last week, I spoke to Registrar Sue Robinson about the difficulties in scheduling a Legal Profession course now that Prof. Wilkins' course is deleted. She indicates that a new legal profession course will be announced in early May, likely to be taught by Prof. Dershowitz. The communication of student concerns about registration may be having some positive effects.

Students must work hard to make their voices heard at the Law School. In the past, students have tried various methods to express their interests, from petitions and rallies to sit-ins and lawsuits against the school. Students must use such disruptive methods of expression because few effective methods exist within the current structure. The student representation on faculty committees is a good start, but these committees do not always meet on a regular basis and may not afford an opportunity for voicing student concerns that do not fall within the particular ambit of an existing committee.

To improve the quality of student life at the Law School, to expand effective communication between faculty, administration and students, and to provide a real forum for the expression of student concerns, Dean Clark must establish a permanent student seat at faculty meetings. The Dean has invited various students to a couple of recent faculty meetings, and this has served to improve communication. This student seat should be permanent, and should be established immediately.

Students must also do what they can to improve communication with one another. I will ask Dean of Students Suzanne Richardson to work with me to host a forum for all leaders of student organizations to share their ideas for the coming year. We cannot communicate our common needs to the administration if we do not recognize those needs.

If we, the members of the Law School community, work together to improve the Law School instead of fighting with one another, we can talk of Harvard's return to prominence rather than read of another broken contract.

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OF BULLDOZERS AND BUTTERFLIES

Yin, Yang and Sex

By Alexander Boldizar '98
RECORD Columnist

It usually takes two weeks of fermentation to distill a philosophically palatable column. This one, however, has only aged one week, and so the fermentation process has only reached that crass and simplistic level called politics. But as a big fan of absurdity, I could not resist the temptation to write an absurd response to an absurd letter in last week's RECORD.

For those who didn't read it last week, I am referring to the claim that D.S.A.C. advertising was homophobic and heterocentric, because it contained a silhouette of an alleged man and an alleged woman dancing. I say "alleged" not only because law school has gotten me saying "alleged" in front of everything, but also because a transvestite friend of mine was offended by the letter's presumption that the silhouette was in fact a woman.

Before I go on, lest I be second guessed, let me place my personal biases on the table. I am for sex, and against stupidity. The union of the epiderms is a beautiful thing, whether it be done by a man with a woman, by a man with a man, by a woman with a woman or by a man and a woman with a goat and a sheep. Nor do I share Freud's view that "anatomy is destiny," for though I personally find women much more wonderful, I am convinced that were I to find an attractive enough man or goat I would hop right in.

But stupidity is an ugly force unto itself, an evil capable of pulling the shades over even the wonders of sex. Inviting men and women to the semi-formal (for that's who was on the poster) was apparently not inclusive enough. Mr. Hwang would prefer to see an image of every group affiliation including "all genders, sexual identities, races, ethnicities, religions, and more" specifically pictured on the posters. I have a fetish for axillism (using the armpit for sex); would I qualify to be included in the silhouette? I also have only one long eyebrow. Would that constitute a separate group? Or would he grant me a special silhouette of a monobrowed Hungarian minority in Slovakia *cum* Czechoslovak minority in Canada living in the United States with smelly feet and a secret fetish for armpits?

I do have a point. The point is similar to that articulated by French feminist Luce Irigaray, that "those binary oppositions (male/female, gay/straight, black/white) are formulated through the exclusion of a field of disruptive possibilities." Such oppositions only exist when the author's gaze is reduced to one particular segment of reality, when

[I]f cows declared war on chickens, then at least the divisions would go a little deeper and make a little more sense than the artificial categories for which we fight and around which we structure our lives.

s/he is looking for something to identify with and something to be offended by.

My point is that we are all unique as individuals with an infinite number of character traits, and if we are looking for some basis to feel excluded, we will always find one. To quote the Kinsey report on homosexuality, "The world is not to be divided into sheep and goats. Not all things are black, nor all things white. It is a fundamental of taxonomy that nature rarely deals with discrete categories. Only the human mind invents categories and tries to force facts into separate pigeon-holes. The living world is a continuum in each and every one of its aspects." For Mr. Hwang, the gay/straight distinction seems to have put a haze over the entire spectrum of life, including every poster. That is a sad thing, for life is beautiful in its complexity and in its constant reminder that "variations are primary and essences illusory," as taxonomist Stephen Gould wrote.

Gould went on to paraphrase Kant in saying that "categories often exert a tyranny over our perceptions and judgements." He argued that if cows declared war on chickens, then at least the divisions would go a little deeper and make a little more sense than the artificial categories for which we fight and around which we structure our lives. Like a born-again Christian, Mr. Hwang's letter seems to say that once he defined himself in opposition to heterosexuality, his identity became structured around that duality, and his holy war became the defense of his side of that duality. What he doesn't seem to realize, is that by so doing he is allowing heterosexual definitions of the boundary between gay and straight to dominate his life and flatten it into a single issue.

It feels absurd to be using these arguments *against* homosexual activists, feminists or minorities. Groups that have been excluded should be the first to point out the absurdity of the criteria for exclusion. These are the arguments that would show bigots, homophobes and sexists for the intellectual midgets they are. But for some reason much of this society insists on focusing on the superficial manifestations of the dichotomy. By so doing they tend to reinforce the boundary line created by the very group in opposition to which they define themselves.

By defining himself against homophobia and by seeing the world as a crusade against homophobia, Mr. Hwang has imported the "essence" of homophobia into his life. By seeing every poster through McCarthyite eyes as a witch hunt against heterocentrism, he has adopted both the methodology and the structure of the homophobes. The only difference he maintains from the homophobes is the most superficial difference, namely on which side of the division of humanity by sexual preference he is situated. Mr. Hwang and the homophobes may make strange bedfellows, but they need each other to define themselves.

I value the attempt to eliminate artificial divisions and dichotomies (I know I just fell into one, but everything has within it the essence of what it is defining itself against, which is part of my argument) more than the intermediate result of helping excluded groups. Stressing the dichotomy will never create inclusion.

The adversarial mentality and the superficial polemics that come with it may be rational in a courtroom with only one winner. But in personal and societal intercourse such superficial polemics create a sword which prevents true union. As practical as they are, it is sad that sterile condoms have come to govern our lives. Perhaps we are scared that without that thin prophylactic membrane, we would meld into our bedfellow and lose our identity. But then, isn't that what makes sex?

Fire Wreaks Havoc

continued from FIRE, page 1

asbestos down in manholes," Director of Building Operations Frank Lamentea said.

Coleman agreed. "There was nothing toxic about [the smoke] at all," she said.

Left homeless and in the dark, many students retreated to the remaining buildings with power. "It looked like a party at the Hark," Thai said. "I wouldn't have thought that there had been a disaster."

Some students, like Peter Guy '98 and John Booher '98, attempted to study off the Law School campus. "We went to Widener Library to study, but we found out it closed at ten. So we went drinking instead."

At around 10 p.m. Thursday, Dean of Students Suzanne Richardson and several other faculty and administrators told residents of the Gropius complex that they were allowed to return to their rooms. Power was returned to all buildings except for Hastings, Austin, Gannett and Hemenway around 1:30 a.m. Friday.

The 96 residents of Hastings were allowed a short trip back into their rooms for medication and other necessities. However, they were told to find other accommodations for the night. Most students found friends to put them up. A few students chose to accept the administration's offer of free hotel rooms, though more rooms were confirmed than were actually used, according to Coleman. Some students chose to sleep in Pound and the Hark, where the Red Cross provided temporary cots and beds. However, "these really weren't needed," Lamentea said.

Temporary power was supplied to Hastings by mid-morning and residents were allowed to return home. But Austin did not have electricity until 5 p.m. Friday, and Gannett and Hemenway were not connected to the power supply until Saturday morning.

As a result, many students arrived on campus Friday to find a memorandum informing them that their afternoon classes in Austin had been moved and that their morning classes had been canceled. Though she thought only a few classes were affected, Coleman said that "the biggest deal was that Friday morning classes in Austin were canceled," since "the Law School never closes."

However, Coleman said she had to disappoint the many students who called Friday morning in response to rumors that all Law School classes had been canceled or that the entire Law School had been closed.

Students vying for a spot on the Board of Student Advisers were given an extra day to complete their application. "Basically it was very clear that something had to be done [in response to the fire]," said Stephanie Agli '97, chair of the BSA selection committee. "A 1L called, not to complain, but to explain the situa-

tion."

"People seem definitely relieved," Agli said. "We did get a lot of applications in Friday afternoon and Saturday morning, after the original deadline."

However, students involved with intramural basketball, which meets Thursday, Friday and Saturday nights, were not as fortunate. "The fire really screwed up our schedule," said Lang Wiseman '96. "I didn't find out the gym would be closed [on Thursday] until two hours before. They told us it would be open Friday afternoon, but it was still closed going into Friday night so we canceled Saturday as well."

"We were not contacted at all by the administration, but they wouldn't know who to call anyway," Wiseman said. "Part of the problem is that [Hemenway's] just not a Law School facility and there is no coordination about what's going on," he said.

Two other major events were affected by the fire. On Friday afternoon, Bosnian leader Haris Silajdzic spoke in Langdell instead of Austin. And on Saturday, C-Span broadcast the *Plessy v. Ferguson* conference from Austin using the newly reconnected power source.

On Sunday night, residents of Hastings experienced yet another blackout for about one hour. Although the cause of that blackout remains unclear, Lamentea said, "What might have happened is that everyone came back and put their clothes in dryers and washing machines, and it was too much."

But, Coleman said, "We chose not to make a big deal of it."

Power was also out in Hastings for about an hour Monday afternoon as workmen disconnected the building from the temporary power source and patched it into the permanent power source.

Administrators are still unsure about the cost of Thursday's fire. "We can't even guess how much it's going to cost," said Coleman. "Among the things we must consider are the extra staff hours, direct expenses like hotel rooms, extra food served to students in the Hark, possible repair costs of damages to computers and A-V equipment."

Coleman also stressed that "University Operations Services provides us with power; [HLS is] only the customer."

As to what can be done to prevent such occurrences in the future, Wong said such fires are "common happenings in underground distribution systems."

"There's no way to predict what prevents stuff like this from happening," he said.

Regardless, said Lamentea, Thursday's fire was not a wholly negative experience. "The students were very cooperative and understanding; and we're grateful no one was hurt," he said. "Everyone in the whole Harvard community should be proud of themselves."

FRANK WEIL, PETER EDELMAN, AND HERB GLEASON URGE HARVARD LAW ALUMNI TO CONTRIBUTE TO THE PUBLIC INTEREST

Cambridge, MA...Prominent alumni **Frank Weil** ('56), **Peter Edelman** ('61), and **Herb Gleason** ('58), will speak at Harvard Law School at 5:00 on Saturday, April 27, to urge hundreds of lawyers returning to Cambridge for their 40th, 35th, 25th, and 10th reunions to make a broader contribution to the public good. Their presentation is made on behalf of The Appleseed Foundation, an organization established by the Harvard Law School Class of 1958 to involve Harvard lawyers (over 35,000 strong) in serving the public interest.

• Letters Con't •

Hwang's Poster Protest Hypocritical

The image of a dancing couple — meant to stir thoughts of the "Monte-Carlo-esque" theme of the semi-formal — has somehow become a symbol of homophobic hostility and exclusion. The sight of the most familiar and generic symbol of a dance, seen plastered on the walls of every high school and college, is said to arouse feelings of "embarrassment and discomfort." We are told that, due to the image, the invitation welcoming the entire student body was "questionable." The best and the brightest are capable of deciphering the judicial magic found in Brennan's opinions, yet are now suddenly mystified by an image as common as any we have encountered during our lives. D.S.A.C. president Karish's response to this controversy is dismissed as "hardly a defense," yet no other "group" found difficulty interpreting the advertisement's elementary message, as evidenced by a record attendance.

In fact, if we extend Mr. Hwang's argument to its logical end, one realizes that not one of the almost 400 attendees should have gathered at the Charles Hotel. Assuming the words of invitation were as cryptical, and the image as exclusionary as Mr. Hwang claims, who would have gone? Look closely at the image — the couple appears to be Caucasian, so any person of a different racial background should not have attended. The couple appears dressed in the formal attire of the Monte-Carlo era, so no student who neither owned nor could rent such apparel should have strapped on his or her dancing shoes.

The couple is obviously dancing, and seemingly knows the appropriate steps, so persons who lacked the desire and/or ability to dance, and dance correctly, should have made other plans. Passion can be discerned in the couple's embrace, so those individuals without a spouse, fiancé(e) or really serious boy/girlfriend to bring along should have stayed at home. Determining

the couple's age was difficult, but they seem part of the thirty-something crowd, so those in their 20s would have best avoided the Charles. And, of course, the couple looks like a pair of Bally's regulars, so all those non-GQ/Elle types should have journeyed to Nick's instead.

In all seriousness, however, Mr. Hwang's attack reaches a new height in absurdity and desperation, as it lays bare the hidden hypocrisy that powers the Lambda and general pro-homosexual movements. Armed with political buzzwords like "equal rights" and "individual freedom" and fallacious analogies to battles being fought by other marginalized groups, these movements have assaulted the conservatives who currently stand watch over the morals of the American community.

A first glance into the public sphere seems to reveal a remarkable, early pro-homosexual victory, in which silence and awkward logic are portrayed by the media as the sole conservative responses. A look beneath the media's spin, however, exposes a conservative community that has fallen victim to the deafening cries of the liberal left and the manufactured shame it propagates. The movement preaches a message of tolerance of all perspectives, all those except ones in opposition to its own. The movement reads into the Constitution the right to its way of life, yet condemns the conservatives' use of majority power to enforce its beliefs as a corruption of the democratic process. The movement wields a rhetorical sword and protects with a thin shield of logic, yet disparages conservatives for entering battle with the same tools of combat. The movement advocates aggressive, bold, in-the-face tactics, yet the sight of a poster is complained to have caused severe emotional trauma.

And, most significantly, the movement's members plead for society to let them co-reside peacefully, emphasizing the impossibility, unconstitu-

tionality and inhumanity of forcing them to embrace an existence that is, to them, so physically and emotionally unnatural. But those same individuals arrogantly denigrate the concept of family upon which this nation was built, and openly conspire to deconstruct every traditional communal institution.

It is time for the pro-homosexual movement to abandon its hypocritical mentality, lay its agenda on the table for public inspection, and redefine its conservative opponent. However painful, the movement must acknowledge two realities: first, that it represents a minority segment of the population, and secondly, that its true conservative adversaries fight from the heart, not the mind. Let it be clear that conservatives seek not to strip you of your constitutional right to privacy. What you do in the sanctity of the home is between you and your God. However, when you step into the public sphere you can no longer invoke that right as a legal sanction of your actions, nor command the hand of the government to push back those who would oppose you.

The conservative who observes your displays of public affection feels the same intense "embarrassment and discomfort" that is claimed to result from a glance at the poster. If your confidence and conviction in the morality of a homosexual way of life is as strong as you purport it to be, then the poster in question should never cause such emotional anguish. Mr. Hwang correctly asserts that, "whether others like it or not, you're invited too." But he and the rest of the movement also must realize, that whether they like it or not, that invitation does not compel the majority to forsake their faith and moral conscience and to remake the American community in their image. The invitation guarantees equal access, not equal endorsement.

Brian Burt '98
April 18, 1996

Attack on D.S.A.C. Advertising Absurd

Despite being a liberal and a civil libertarian, I feel compelled to take issue with Phil Hwang's letter in the April 19 RECORD. I agree that the Dormitory and Student Affairs Council should endeavor to appear (as well as actually be!) welcoming to all students. But Hwang's letter appears to be taking out grievances about the treatment of gays and lesbians at HLS and the world in general against the D.S.A.C., and in so doing quickly crosses into a realm of absurdity.

For example, Hwang apparently wishes that the D.S.A.C. had distributed three variations of one of the posters it produced for the Semi-Formal, one for heterosexual couples and one each for gay and lesbian couples. But later he recognizes that as a logical consequence, the D.S.A.C. should have sought to "make posters with a diversity of images" in case other groups might have felt excluded, such as Asians. So back to the presses! Three more types of posters, with heterosexual, gay and lesbian Asian couples.

But wait — what about interracial couples? Call HU Copy — we need six more

posters! So far then, Hwang would have had D.S.A.C. produce 12 variations of its poster. But wait again — the silhouettes on the D.S.A.C. poster are printed in black ink. Caucasians might feel excluded. More posters! And don't forget students with physical disabilities! Women with short hair! Men with long hair! Cross-dressers! (Or couldn't the clip art perhaps be of cross-dressers?)

In sum, Hwang apparently believes that D.S.A.C. cannot take the chance that students will not see themselves represented in a piece of clip art on a poster, and draw the eminently sensible conclusion that they are not welcome at that event. If played out to its conclusion, this "logic" would require D.S.A.C. to demean us all by reducing us to nothing more than a set of characteristics before designing its posters for any event. Indeed, this "logic" might very well require that D.S.A.C. produce a personalized poster for every HLS student.

I am also distressed that, in making his point, Hwang finds it necessary to belittle one group's beliefs. He

compares the inability of Orthodox Jews to attend the Semi-Formal (because it was scheduled on the Jewish Sabbath) to his own "exclusion," because he did not see an image of himself in one of the five posters that D.S.A.C. produced and thus received only "one questionable invitation" from its text. I am saddened that Hwang would even think to suggest that his mental inability to deal with a piece of clip art is comparable to a devout religious belief.

I have been an active participant in campaigns for gay and lesbian rights issues (such as the repeal of Massachusetts's sodomy laws) for many years. And I fear it is outrageous pronouncements like Hwang's letter that have given the far right the ammunition that homosexuals are seeking "special privileges." Why not focus one's energies and vitriol on the serious issues at HLS and the world, rather than condemning an image that not only was not intended to be offensive but was in fact intended to be welcoming?

Jol Silversmith '98
April 22, 1996

Boycott Review to Protest Representation

I am writing to express how deeply disturbed I am about the lack of equal female representation on the Harvard Law Review. This situation is shocking and appalling, and we should all be ashamed.

... To help remedy this

problem, I will not participate in the Law Review competition. I urge all males to follow this example.

Together, by forgoing our own selfish opportunities, we can open opportunities for the female members of Harvard

Law School. It is surely nothing short of misogynistic for any male to participate in the midst of this crisis of underrepresentation.

Dan Schorr '98
April 22, 1996

THE KANNONICAL VIEW

A Modernist Proposal

By Kannon Shanmugam '98

RECORD Columnist



I don't know if you've seen the latest issue of the Harvard Law Bulletin, but this time, they've really outdone themselves.

In an article entitled "Griswold + Gropius," the writers of the Bulletin are at it again in their quest to make life at the Law School resemble the top floor of the afterlife. This time, they turn their wiles to the Gropius complex, suggesting that Gropius is the Club Med of Cambridge. It's a piece of propaganda that would make former editors of *Pravda* blush. Through the wonders of modern photographic technology, they even manage to make the rooms look nice.

Well, at the risk of stating the obvious, they're not. As my R.A., Michael Oblon '96, put it in a quote buried 10 paragraphs into the article: "[The dorms] look like chicken coops. I thought Walpole State Prison was nicer than Gropius."

To be sure, as the article points out over and over, Gropius does have its advantages. Living in Gropius is the best way to meet fellow students, and its location can't be beat.

However, those advantages are more than outweighed by the disadvantages, the litany of which is familiar to anyone who's passed through HLS in the last 45 years. To call the rooms small would be an understatement — the elevator in Hauser is larger than the average Gropius room. On our hall alone, more than 30 people share a single bathroom (complete with broken toilet doors and opaque shower stalls). There is

The solution, really, is simple. Tear down Gropius, and replace it with traditional, red-brick Harvard buildings.

virtually no ventilation, and the heating system on my side of the hall works only when the temperature goes above 70 degrees. With its fake-varnished metal desks, cinder-block concrete walls and florescent lights, the Gropius complex is a tribute to the anti-septic.

Some might say that the Gropius complex is worth preserving for its artistic value. Well, to those "some" (whoever they are), I have one thing to say: fiddiesticks. I have nothing against modern art. But "Modernist" architecture is another matter. Whereas one can choose whether to go to look at modern paintings, one actually has to live in modern buildings.

To be sure, all students have some degree of choice as to whether to live in Gropius. But with the Law School's markedly differential pricing strategy for residential rooms, many students don't have that choice as a practical matter. And the Law School's housing literature, with its euphemistic descriptions of Gropius as "spartan," hardly makes that choice any clearer. (What the heck does "spartan" mean, anyway? The Spartans surely lived much better than us poor Gropius residents — they didn't have to endure eight-hour take-homes.)

The Law School could take a lesson from its analogue across the river, the Business School. The Business School is a gracious, coherent whole, with buildings in the traditional, colonial Harvard style set amid gorgeous, grassy spaces.

The Law School, on the other hand, is an architectural mishmash, ranging from the Victorian Austin to the hideously functional Pound and Griswold to the opulent (but thoroughly out-of-place) Hauser. The centerpiece is the crushingly massive and monolithic Langdell, which overlooks the muddy space of Holmes Field.

Admittedly, some housing is better than no housing, and certainly denizens of Gropius have a better standard of living than, say, residents of some neighborhoods of even fair Cambridge. In view of the array of problems facing America at the moment, the state of Gropius is not exactly a pressing concern. But given the fact that the Law School has an endowment that stretches into nine figures, is it asking too much for it to provide rooms that are at least larger than those in the average prison?

The solution, really, is simple. Tear down Gropius, and replace it with traditional, red-brick Harvard buildings. Such dorms would add a much-needed air of architectural distinction to the Law School campus, while alleviating the pressures of first-year life, some of which no doubt stem from having such a large number of students in such cramped proximity.

Where would the money come from? Well, the Law School could start with the \$25 million surplus from the latest fundraising campaign. But if that's not enough, here's a possible alternative. Many alums receive the RECORD, and if any of you are reading, I suggest sending checks to Dean Clark '72 (did *he* live in Gropius?), made out to the "Destroy Gropius Fund."

Who knows? With a little luck, we may be able to throw Bauhaus where it belongs... to the dogs.



Koby Antupit
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