



Harvard Law RECORD

America's Oldest
Law School
Newspaper
35 CENTS

Volume 104, No. 8

Cambridge 02138

Friday, April 11, 1997



Snow closes HLS for first time in two decades

Unexpected School Closing Confuses Students, Faculty

Clark Apologizes For Inconvenience

By Timothy Kiefer

The April Fools' Day snowstorm that dumped over two feet of snow on the Law School campus confused students and faculty who didn't learn that the school had been closed until they arrived at the shuttered campus.

"I tried to call the Registrar's Office and got nothing but voice mail," said Sharon Simpson '98.

Simpson, who lives in the Porter Square area, said that she was planning to go to her 10:10 a.m. class when she learned from her next-door

neighbor that the Law School had been closed.

"If I hadn't gone to get laundry from the neighbor's dryer, I wouldn't have known," Simpson said. "I was on my way to Tax."

According to HLS News Director Mike Chmura, the Law School was unable to get the word out because area television stations initially refused to include HLS on the list of closed Boston-area schools. In order to prevent practical jokes, schools are given a code number by the television stations,

Please see **BLIZZARD**, p. 13

Rising 3Ls Will Have Two "Free" Registration Picks

By Rob Friedman and Timothy Kiefer

Responding to concerns from rising 3Ls that the 2L bundling system would create registration inequities, Registrar Steven Kane announced Wednesday that rising 3Ls' top two slots will be filled before rising 2Ls receive their first elective.

"We are going to give 3Ls two rounds without competition with 2Ls," Kane said.

Second-year students seemed to be pleased with the decision.

"I think Steven Kane came up with a very equitable solution," said Neal Potischman '98. "Rising 2Ls will get the benefit

of bundling while rising 3Ls will retain a slight advantage in registering for the electives they missed out on last year."

Kane said the change was necessary because rising 2Ls in prior years had filled their top few picks with the basic courses.

However, one rising 2L questioned Kane's emphasis on the 2Ls who register for 2L basics.

"I think that 2Ls who don't plan to take the bundled courses will be at a disadvantage," said Kristen McKeever '99, who said that she has not yet decided whether to register for any bundled 2L basics.

Rising 3Ls must list Legal

Please see **KANE**, p. 12

Progress Slow on New Faculty Appointments

By Jacob M. Appel

Although the advent of spring may have reduced tension for the HLS student body, the pressure mounts for the seven junior faculty members awaiting tenure decisions.

Within the next two years, the Lateral Appointments Committee will decide the fates of Assistant Profs. Frank Vogel,

Scott Brewer, Christine Desan, Carol Steiker '86, Reuven Aviyonah '89, Bruce Hay '88, and Jon Hanson. In the recent past, such tenure decisions have polarized the faculty along ideological, racial, and gender lines and produced student dissatisfaction.

"We've already made one recommendation," said Prof. Paul Weiler '65, chairman of the Lateral Appointments Committee.

"Another judgment will likely be made this month ... and we'll probably begin to look at a third this spring. The others will begin to be made next fall and continue through winter and spring."

The committee develops a comprehensive recommendation on each prospective tenure candidate and makes a recommendation to the entire faculty. The current members of the Lateral Appointments Committee are Dean Clark '72 and Profs. Weiler, Hal Scott, Duncan Kennedy, Elizabeth Warren and Robert Mnookin '68.

"I certainly hope that the faculty and student body will be happy with our decisions," Weiler explained. "I think they will be the right decisions."

Up until the mid-1980's, the tenuring process was a rubber-stamp affair. No junior member of the faculty was denied a permanent appointment between the years 1970 and 1986. However, between 1986 and 1989, the tenure process provoked student outcries as first international law authority Daniel Tarullo and then contracts professor Clare Dalton '73 and commercial law scholar Ziporrah Wiseman were denied approval. All three assistant professors were popular with students and many believed that they were denied appointment for their left-leaning politi-

Please see **FACULTY**, p. 4

Public Interest Auction Raises Nearly \$50,000

By Janie Kim

The final tally for the Fourth Annual Public Interest Auction has yet to be officially tabulated but is estimated to approach \$50,000, said Auction Co-chair Kate Jones '99. The silent and live auctions, which were held last Thursday in Austin Hall, were accompanied by an ongoing alumni fundraiser coordinated by Baker House. The proceeds from this latter effort, which will be pooled with monies earned at the auction, have yet to be counted. Whether this year's goal of raising \$55,000 was met remains to be seen.

Traditionally organized

and executed by 1Ls, the public interest auction was described by Auction Co-chair Erin Murphy '99 as "basically a big bonding event for public interest students and the Law School community at large. We like to think everyone socializes and has a great time." To that end, the Dorian Ramirez Jazz Group, a musical sextet of Harvard undergraduates, played a nonstop set of swing standards at the silent auction.

This year's silent auction had almost 400 items available for bidding, an increase of over 100 items from the previous year, said Murphy. Attendees bid on a variety of

Please see **AUCTION**, p. 13

Langdell Renovation Still on Schedule

By David Lenter

Despite the present appearance of Langdell Hall, the Law School library will reopen Sept. 2 as scheduled and within budget, according to renovation personnel.

"We are more or less on schedule and more or less on budget," said Terry Martin, library director and chairman of the Langdell Renovation Committee. "We still plan to open the library Sept. 2."

On July 17, the renovation should be substantially complete and the Law School should get the certificate of occupancy, according to Martin. Between July 17 and Sept. 2, movers and library staff will prepare the building's offices and functional library space.

"We will be moving systems furniture into staff offices. The electrical subcontractor will then come back in and run the wires through the offices. And there is some hardware — door handles and stuff — that will have to be changed after [July 17]. Finally, the landscaping deadline is Labor Day," Martin said.

Another large task from July

to September will be returning the library collection to Langdell. Movers and the library staff will return to Langdell 4,200 boxes of materials — about 100,000 volumes, according to Martin — from the Harvard Depository, 175,000 volumes from the Athenaeum House, and 50,000 volumes from the Pound library facility.

Workers also will unpack the Special Collections materials. And they will set up 230 computers in staff offices and the library and test 540 data ports

in the library.

"I have told the staff that from the middle of July until September 2, nobody goes on vacation," Martin said.

Martin said the move-in schedule has some flexibility so that if the Law School receives its certificate of occupancy after July 17, the library still will open on time.

"The staff may not all move in September 2," Martin said. "The schedule is to be virtually

Please see **LANGDELL**, p. 3



Langdell Library under construction

28 Years Ago in the RECORD

HARVARD LAW RECORD

VOL. 48 NO. 8

APRIL 10, 1969

FIFTEEN CENTS

Pass-Fail Rejected For Now

By Richard Hoffman

There won't be a pass-fail grading system at the Law School this term unless the faculty's special committee on examinations, grading and related matters (better known as the Keeton Committee after its chairman, Professor Robert Keeton) changes its mind.

"With respect to the current year we would state that although the question of restrictions on use of grades before the start of the third year remains open, there is every likelihood that a pass-fail system will not be instituted—in other words, that examinations will be graded and the grades recorded," the committee said in an interim statement released March 27.

A number of students returned copies of the statement to the committee, after writing "fail" at the top of the first page.

Others considered organizing a scheme for students to number their exams and for a list to be kept. When told which numbered papers were graded failures, the students would release these names to the school but all others would be graded "pass" since they could only be identified by numbers.

A mass student meeting was planned for some

time this week by first-year grade reform leaders. It's possible that some sort of demonstration will occur at next Tuesday's faculty meeting.

While grade reform leaders found the Keeton panel's statement wanting (a reply, "The Trouble With the Interim Report," was distributed), the RECORD has learned that other students are making plans to quietly oppose, by force if necessary, any exam strike which would attempt to bar students seeking to take exams.

The Keeton Committee's statement also noted that:

- The committee has formed a clear consensus upon both "the need and practicability of moving promptly to increase and diversify the opportunities for law students to demonstrate their legal accomplishment and capability, beginning in the first year."

- "There is also agreement that students can and should be given more guidance about their achievements and shortcomings in legal education."

- "Our discussions concerning the grading of examinations have covered the entire range of possibilities . . . We have reached no final consensus on the merits."

Further communications to the committee are welcomed.

Prof. Henry M. Hart Dies After Brief Illness



Prof. Henry M. Hart, Jr.

Professor Henry M. Hart, Jr., an authority on American legal institutions who joined the Law School faculty in 1932, died March 24 after a brief illness. He was 64.

Professor Hart was best known for his work in the fields of Federal courts and the legal process. He succeeded to the course in Federal courts taught by the late Felix Frankfurter, under whom Professor Hart studied for his S.J.D. degree. With Professor Herbert Wechsler of Columbia Law School, Professor Hart wrote the widely-used casebook, "The Federal Courts and the Federal System."

For that book, Professor Hart received the Presidential Certificate of Merit.

The course on the Legal Process at Harvard was developed by Professor Hart. His pioneering enterprise, designed to relate the resources of the legal system to the demands made upon it, became a model for similar teaching experiments in other major law schools.

Colleagues noted that, as a legal scholar and critic, Professor Hart insisted on reasoned articulation of legal decisions, sharply disagreeing with those who meas-

(Continued on Page 5)



United States
Congress

HLS ON THE HILL

Profiles of HLS Alumni in Congress

Sen. Ted Stevens '50 of Alaska

By Karin Kysilka

Sen. Ted Stevens '50 (R-AK) is one of the most distinguished members of the Class of 1950, the largest class in the history of Harvard Law School. The Class of 1950 was so large, said Stevens, because of the crush of servicemen returning from the war. The resulting housing shortage provided the impetus for the construction of the Gropius dormitory complex.

The Class of 1950 was the last class at the School to be exclusively male. According to Sen. Stevens, Dean Erwin Griswold '28 delayed the integration of women into the School because of the need for rapid re-entry of servicemen. (Although the Class of 1950 is traditionally regarded as the last all-male class, two women were registered at the School in 1899

through Radcliffe College and attended classes for a few weeks until the arrangement was vetoed by the Harvard Corporation.)

Stevens shared fond memories of Dean Griswold, who Stevens said was active in the lives of students.

"He did involve himself to a great extent as to what was the future of the Law School," Stevens said.

Stevens described Griswold as "forceful . . . very direct and fair." He said the Dean had a challenge with the Class of 1950 because of the class's size and because of the large percentage of servicemen, many of whom were a bit unruly.

Stevens said the class has remained a close-knit group over the years.

"We've had a lot of opportunities to get together since that time," he said.

The class holds reunions every five years and Stevens has attended every one of them. In fact, the last reunion three years ago was organized by Stevens and held in Alaska. One of Stevens' classmates is also his Senate colleague: Sen. John Chafee, a Republican from Rhode Island, also graduated from HLS in 1950.

Stevens said traveling is the best part of his job.

"I get to travel a great deal," he said. "I travel more going home than most people do in a year . . . I'm closer to Tokyo than to Washington when I'm in Anchorage."

Stevens served in the Army Air Corps during World War II. He was appointed

to the Senate by Alaska Governor Walter Hickel in 1968 and has been reelected ever since.

In 1996, Stevens was reelected with 77 percent of the vote in a three-way race. Stevens' Democratic opponent, Theresa Obermeyer, spent a month incarcerated in federal custody during the summer before the election. Obermeyer had allegedly taken a swing at a security guard while Stevens was attending a meeting nearby. Obermeyer came in third with 10 percent; the Green Party candidate received 13 percent.

Stevens is the chair of the Appropriations Committee. He is the sixth most senior member of the Senate and second in seniority among Republicans. He served as assistant Republican whip from 1977 to 1985. In 1984, Stevens ran for Senate majority leader, but lost to Bob Dole by a vote of 28-25.



\$33 Million Langdell Project Set To Finish Sept. 2

Continued from LANGDELL, p. 1

everything done by September, so that not only are all the public spaces set up but all the staff spaces are ready as well. So if the contractors are a couple weeks late, we still can open."

"The second key date [after July 17] is the date we close the Pound library," Martin said. "At the moment, that date is Friday, Aug. 8 at 5 p.m."

The August closing date means the Law School will have no library for about a month. But students and faculty from the Law School will have access to materials.

"Faculty and law students, no problem," Martin said. "We can't promise 24-hour turnaround. But three or four days, probably yeah."

Visiting scholars and people from other universities will face "very tight" restrictions, according to Martin.

\$33 Million Renovation Price Tag

Assistant Dean for Finance and Operations Paul Upson confirmed Martin's statement that the renovation will be completed within budget.

"Including all sorts of expenditures that go back to 1986, the renovation will cost \$32 to \$33 million," Upson said.

This figure is about what the project budget, including substantial contingency, was at the start, Upson said.

"Twenty million dollars has come from the capital campaign, and there's more there that we haven't yet transferred," Upson said. About \$8 million will come from borrowing from the University. The rest of the money will come from unrestricted annual giving and, if a surplus exists and is needed for the project, from the Law School's operating budget, Upson said.

Asbestos removal in the attic above the reading room was a large, unexpected

expenditure. Most asbestos in Langdell was removed last spring before the contractor started work, Upson said. But some asbestos had flaked off pipes in the attic and ended up in the fiberglass insulation on the attic floor.

Upson said the Law School was assured that the flakes in the attic were at a low enough level not to pose a danger to workers. But "some subcontractors were very concerned" and said they would not work in the affected area if the asbestos was not removed, Upson said. He said the Law School spent "several hundred thousand dollars over the course of three to four weeks in February and March" to remove the asbestos from the attic.

Graduation Concerns About Possible Construction Interruption

Law School Council President Dina DeFalco '98, who sits on the Construction Year Task Force, said that she is confident the library will open on time but worries about the construction's effect on graduation ceremonies.

"Students have been here for three years, and they're entitled to have their day . . . There will be fencing up. There will be ugly construction work," DeFalco said.

Administrative Dean Sandra Coleman, who is on both the Task Force and the Renovation Committee, said, "Everybody is in agreement that we are working very hard to make sure Commencement is not negatively affected."

Coleman said construction work will not take place on the day of Commencement. The dais on which students receive their degrees from Dean Clark will be in front of Langdell as in past years despite the construction fence. Serving tables will be shifted to the sides to ensure that they do not interfere with family members and friends sitting at

tables, Coleman said.

New Look For Langdell Library

Architectural plans and artist renditions reveal that the library will look much different from the old Langdell. Visitors will access the library from the current second floor Holmes Field entrance to Langdell Hall instead of, as in the past, from the fourth floor of Langdell. A passageway will run to the Areeda Hall entrance.

The entrance lobby will house a circulation desk and will have a granite floor and an atrium open to the third floor. Next to the lobby, and facing Holmes Field, will be a public lounge of about 2,500 square feet. This lounge will contain carrels with public terminals, newspaper and magazine reading areas, and soft seating and foot stools throughout.

Also on the second floor will be Special Collections materials — in the same south end space they occupied before the renovation — stacks with law reviews going back 40 years, a microforms room, and a computer classroom with 24 terminals that will be used mainly as a lab.

The fourth floor reading room will look brighter than the old room. The false, beehive ceiling that concealed the lights has been removed. Now, twenty chandeliers will hang from a ceiling that will be painted white. Walls in the reading room also will be white.

Since the plan has bookcases in the reading room pulled back from the walls, windows facing Holmes Field will stretch from floor to ceiling. As a result, the renovated room will let in "much more natural lighting" than the old room allowed in, Martin said.

Whereas in the old reading room several tables sat back-to-back, the renovated room will have tables, each with new lamps, separated by stacks. Soft seating with smaller tables will line the

windows. As before, the room will house federal materials.

The reference and circulation desks will be moved into a reference room, connected to the reading room, in what was previously Areeda Hall staff offices. From this reference room, visitors will have access to the Lewis International

Law Center via a new bridge.

The reference room will have 18 sit-down and four stand-up computer terminals. Eighteen more computers will be in the reading room. The library as a whole will have 90 public terminals.

The other library floors will house mainly stacks, carrels, and staff areas. Carrels — larger than the ones they replace — will line the outside walls of the north and south middle portions of the third floor. Stacks containing state law and non-law materials will be in the middle.

Since the renovation has made three levels of floors in the stack areas into two, the windows on the east and west sides of these levels will be new so that they correspond with the floors.

The fifth floor of Areeda Hall will have reference and administrative offices. The first floor of Langdell, at tunnel level, will be primarily staff areas. The north end, as it did before, will have stacks for the British, Australian, and Canadian collections.

Except in the lobby, the library will have carpet throughout. Three public elevators will stop on each floor, and there will be one main and two auxiliary staircases. As for laptop usage, Martin said, "We have tried to make sure each seat, except for some chairs in the public lounge, has data and power connections."

Book and people capacity will be similar to the old library. "We can shelve as many books as we could before. We can seat as many people as we could before — about 650," Martin said. Library hours, too, will remain the same.



RECORD Photo/David Lenter



RECORD Photo/David Lenter

Offer Imminent for Cyberspace Expert Lessig

Continued from *FACULTY*, p. 1

cal views. In 1987, then-University President Derek Bok '54 intervened to block the lateral appointment of the University of Wisconsin's David Trubek despite his approval by a 30-8 vote of the HLS faculty.

The Lateral Appointments Committee is also considering several candidates from other institutions for lateral appointments.

"A new venture that I have been in favor of is focusing on recently tenured professors at other law schools," Weiler said. "People who have done the work to establish themselves as figures in their fields . . . but have the vast bulks of their careers in front of them."

According to Weiler, the RTP or Recently Tenured Professors initiative, "has little or no downside. You know what they're like. You see how they teach at the Harvard Law School. You get to know them as individuals . . . You have the scholarly work to read and evaluate." Prospective candidates for lateral appointments must serve as a visiting instructor before they can be approved for a permanent appointment.

Earlier this year, the faculty made an offer to Japanese law expert J. Mark Ramseyer '82 of the University of Chicago. Faculty sources indicate that the next faculty offer will be extended to Visiting Prof. Lawrence Lessig, formerly of the University of Chicago and currently affiliated with the Law Faculty at Kobe University. Lessig's recent publications include "Reading the Constitution in Cyberspace" in the *Emory Law Review* and "The Regulation of Social Meaning"

in the *University of Chicago Law Review*.

Race and gender "play a significant role" in the appointments process, Weiler noted. "It always has. And it has played a successful role over ten to fifteen years." Weiler said that when he first came here in 1980, there were two African-Americans and two women on the faculty; today, there are five African-Americans and eleven women. Weiler said that "while the one [candidate] we're focused on now is not a woman or minority," there are several members of traditionally under-represented groups under consideration for appointments. Not including Ramseyer or Lessig, seven of the last eleven lateral appointment offers have been extended to white men.

Student sentiments on the subject of faculty tenure and hiring run deep. For example, Mike Kalt '99 strongly believes that Hanson should join the tenured faculty.

"He's been an excellent teacher, far above what I've come to expect from HLS," Kalt observed. "He conveys a sense that he actually care about what he's teaching and who he's teaching — he's not just here to pick up a pay-check." Kalt added that Hanson was "a genuinely nice guy" and that "he even reads Dr. Seuss."

Kate Mueller '99 said that Hay deserved tenure.

"Professor Hay did a good job of making civil procedure relevant," she explained. "He focused on areas of the law where the rules are uncertain but the issues complex and important. By relying less on black-letter law, he encouraged a common sense approach to the law. I found his policy approach at many times provocative, and often engaging."

After completing an evaluation of the seven junior faculty members currently under review, Weiler's committee will then move on to the work of Assistant Profs. Diane Ring '90 and Christine Jolls '93 at some yet undetermined point in the future. However, their work will not be complete even as the Entry Level Appointments Committee is considering at least two new appointments for next year. One of these is Kenji Yoshino, who could become Harvard's first Asian-American law professor, but who reportedly has accepted a position at Yale. Neither Weiler nor Entry Level Appointments Committee Chairwoman Martha Minow were willing to identify the other candidate.

Sources close to the RECORD iden-

tified this candidate as John C. Coates IV, a 1989 graduate of NYU and currently a partner at Wachtell, Lipton in New York.

In recent years, several members of the faculty ranging from Derrick Bell (now at New York University) to Richard Parker '70 have urged students to express their opinions on faculty hiring and tenure decisions. However, one student, who asked not to be named, took a more skeptical view of students' role in the process.

"How am I supposed to comment when they make their decisions behind closed doors?" the student said. "And does it really matter? They wouldn't listen anyway."

Randall Kennedy Speaks on *Loving v. Virginia*, Calls For Increased Inter-marriage

By Timothy Kiefer

Prof. Randall Kennedy advocated increased white-black intermarriage in a speech on Tuesday commemorating this year's 30th anniversary of the United States Supreme Court's decision in *Loving v. Virginia*.

"Black-white intermarriage is not just something to be tolerated," Kennedy said. "It is a mode of partnership that should be applauded and encouraged."

In *Loving*, the Supreme Court

struck down a Virginia statute prohibiting racial intermarriage. In June 1967, when the decision was issued, 15 other states had similar prohibitions. Virginia had first outlawed white-black intermarriage in 1691.

Richard Loving, who was white, and Mildred Loving, who was black, were Virginians who married in Washington, D.C. and then returned to live in Virginia. They were prosecuted and convicted under Virginia's anti-miscegenation statute. The

Please see *KENNEDY*, p. 13

Welcome to New York, John Harvard. Have You Considered Joining The Harvard Club Of New York City?

Graduating law students coming to New York, or going elsewhere but wanting a base there, can short-cut the regular admission procedure by appearing for an interview with Club Admission Committee members at:

The Faculty Club
20 Quincy Street, Second Floor
OR
Dillion Field House, Soldiers Field, Second Floor
on Friday, April 18, 1997, 10:00 a.m. to 5:00 p.m.

The interview and your sheepskin will be the only requirements before election in the week after Commencement.

The Club's facilities and ambiance are welcoming to young lawyers, athletics (squash, fitness), sociability (young members' assembly and light repast room), activities, (public affairs, literature, music, entertainment, public service), restaurant (moderately priced food), bar, bedrooms, lounge and library.

You'll think you're in Cambridge, but it's so much better! Best of all, the Harvard Club is a place for Harvard men and women of all ages and callings to meet, make friends, and be stimulated.

No eligible (i.e. Harvard) young lawyer in New York can do without the Harvard Club. So come, be interviewed, graduate and be elected! Life will open out before you.



Harvard Club of New York

27 West 44th Street, New York, New York 10036 (212) 840-6600

Across the Wire...



This Week, News From the Southeast

R.J. Reynolds Faces Civil Trial in Smoker's Death

JACKSONVILLE, Fla. (AP) — Fifty prospective jurors filled out a questionnaire about their opinions on smoking and other issues this morning as jury selection began in a trial seeking damages for a woman's lung cancer death.

Lawyers and the judge were expected to follow up this afternoon with questioning of their own in the civil suit filed on behalf of Jean Connor, who died in 1995 at age 49 after decades of smoking.

A jury of six plus three alternates will be chosen in the case filed by her three children against R.J. Reynolds Tobacco Co. The nation's second biggest cigarette maker is accused of causing her cancer and failing to inform her of the dangers of smoking.

It is the first suit against a tobacco giant that alleges conspiracy and the first to seek punitive damages, said Virginia Steiger, legal assistant to Norwood "Woody" Wilner, a Jacksonville attorney for the estate and about 500 other smokers with health claims.

Last August, Wilner won a \$750,000 judgment against Brown & Williamson Tobacco Corp. for another smoker who contracted lung cancer.

Connor began smoking at 15 when there were no warning labels on packs of cigarettes and developed a habit of two to three packs a day. The first cancer warning labels appeared in 1984.

"My sister, when she got addicted, did not make an adult decision. She made a child's decision," said Connor's sister, Dana Raulerson.

"By the time she became an adult and

began hearing the truth about tobacco, she was already in full-blown nicotine addiction. That's like telling a heroin addict after they are hooked on heroin, 'Hey, this is going to hurt you.'"

Nat Walker, a spokesman for R.J. Reynolds in Winston-Salem, N.C., said Connor made a conscious decision to keep smoking despite warnings about health risks.

"People make a choice to smoke or not to smoke," Walker said. "People are well aware of the risks associated with smoking and have been for many, many years."

He said the claims that Connor was addicted to nicotine are unfounded. He said she was able to quit in 1993, two months before she was diagnosed with lung cancer.

The company said it had no duty to warn Connor "because of the universal awareness of the risks of smoking. ... More than 46 million smokers, including Jean Connor, have quit, more than 95 percent on their own and without professional help."

R.J. Reynolds said it would present medical evidence to show Connor's cancer was not caused by her decision to smoke.

The suit may be the first in the country to use the documents released by the Liggett group in a settlement with 22 states. The documents, however, are not critical to proving Connor's claims, Steiger said.

A Liggett document suggests that the Durham, N.C., company was wrestling with the questions of tobacco's role in caus-

ing lung cancer, heart disease and chronic respiratory ailments as early as 1970.

The trial is expected to last three to four weeks, Steiger said. Six jurors and three alternates will be selected to decide the case.

Connor began smoking Winston cigarettes when she was 15, although she experimented with smoking at an earlier age, according to Raulerson. Connor later switched to Salem. R.J. Reynolds produces both brands.

"She was fully addicted right off the bat," said her sister, who is the representative for the estate in the suit, filed on behalf of Connor's two sons and a daughter.

Raulerson blames a smoking father and television advertising for driving her sister to light up. "What teen-ager doesn't want to do adult things?" she said. "Smoking was glamorized back then. They were making it attractive to everybody."

Connor's lung cancer was discovered when another sister was dying of breast

cancer.

"She was scared. She was having a hard time with it," Raulerson said. She was told up front that her cancer was terminal and that she would be dead in six months.

"I remember her saying, 'They can't tell me when I'm going to die.'"

She held on for more than two years, undergoing chemotherapy and radiation. She died Oct. 1, 1995.

Carrying on with the suit, which Connor filed on March 30, 1995, was her sister's dying wish, Raulerson said. The case will be heard in Duval County Circuit Court before Judge Bernard Nachman.

Raulerson, 42, said she's addicted to smoking and has tried and failed six times to quit since her sister died.

"What reasonable person would not quit after what I saw?" she asked. "When you start finding out how badly we've been lied to and for how many years we've been lied to, it would make anybody irate."

Transsexual Says She Will Ask Court to Reconsider Custody Ruling

ST. LOUIS (AP) — A father who lost custody of two sons after undergoing a sex change operation says she plans to ask an appeals court to reconsider its ruling.

"There are things only a parent can provide," the father, now known as Sharon, told the St. Louis Post-Dispatch. "That is unconditional love, guidance and wisdom. There is no reason I can't give that to my kids."

Sharon, who has had no direct contact with the boys since late 1992, said that the children — now 7 and 10 — needed both their parents. She plans to ask the Missouri Court of Appeals in St. Louis to reconsider its March 11 decision giving the boys' mother sole legal custody.

Hundreds of battles similar to Sharon's are waged nationwide each year, but nearly all are fought outside public view, a national advocate for transsexuals said.

"Most cases don't display the courage of Sharon, who was willing to go public," said Riki Anne Wilchins, executive director of Gender Public Advocacy Coalition, or Gender PAC, in New York.

"Most people are quiet and well-behaved. Any attempt to go public is portrayed as unstable behavior. A lot of these cases are decided quietly." Even so, such custody battles are seldom conducted "on a level playing field," she said.

"Usually, the preferred mode of attack is to portray the transgender parent as, by definition, deviant and an endangerment to their own kids, even in the absence of any evidence to support the claim."

In Sharon's case, the appeals court in St. Louis ruled that a St. Charles County Circuit Court judge must decide whether visits with Sharon would be in the boys' best interest. The appeals ruling overturned a joint-custody decision by an-

other judge in St. Charles County in 1995.

"This is a unique situation, and it is imperative that evaluations of the parents and children are made prior to the children's face-to-face reunification with (their) father," wrote Judge Paul Simon.

The boys' mother lives in St. Charles County. Sharon lives in suburban Washington.

"If you asked them, I know they would want to talk with me," Sharon said, referring to her sons. "I have never, ever presented myself to my children as anything other than their dad. I do not need my children's validation of myself as a woman."

Sharon acknowledged last week that both boys would need counseling before they could resume a relationship with their father. Sharon said her original plan for reconciliation with her sons called for phone calls and counseling leading up to visits.

But she added: "There is very little I can't do with my kids today. All I want to do is be involved in their lives."

Sharon, 38, is a graduate of the Air Force Academy and a former officer in the Air Force and Army. She describes herself as "squeaky clean" and an evangelical Christian.

Sharon and the children's mother (whom the newspaper calls Karen) met in a Bible study group in a town near the Air Force base in Missouri, where Sharon, who was a man at the time, was stationed. The couple married in 1983 and were divorced in 1995.

Sharon says she sees no problem in visiting with the children.

"I know they would recognize me as their dad," she said. "I would never do anything that would harm them. I just can't believe that them seeing me as a woman could distort their sense of reality."

Attorney Says Old Tennessee Law Could Force a New Trial for James Earl Ray

WARTBURG, Tenn. (AP) — An attorney for the man jailed for the shooting of Martin Luther King, Jr. believes the death of a Tennessee judge could lead to a trial for his client.

Andrew Hall told The Gainesville (Ga.) Times that a long-forgotten Tennessee law grants a pending motion to a defendant if the ruling judge dies.

Hall's client, James Earl Ray, admitted to killing King on April 4, 1968 in Memphis but recanted his story three days later, saying he was forced to confess.

Memphis trial Judge W. Preston Battle died before he could rule on Ray's motion for a trial. Battle's replacement denied Ray's motion for a new trial.

Hall said Thursday that state law grants a defendant a pending motion if the judge dies before ruling on it, meaning Ray would get a new trial. The second judge overlooked the rarely-used law, he said.

Legal experts believe the law may have its merits.

"I've been practicing law about 16 years, and I don't ever remember having the circumstance come up where the judge died on me while I had a motion pending," said Tennessee Bar Association general counsel Larry Wilkes said. "I can certainly see how the argument could be made."

The law could turn out to be what Alex Taylor, a former Georgia college professor and Hall's friend, calls Ray's biggest break in 29 years.

Shelby County Assistant District Attorney John Campbell said a new trial would be "tantamount" to releasing Ray because it would be virtually impossible to try him.

With the murder occurring so long ago, prosecutors don't think they could present enough critical evidence in the case, Campbell said.

That doesn't matter, said Taylor. "That's Tennessee law, and it's time to explore it," said Taylor, who doesn't believe Ray killed King.

King's family is also asking for a trial for Ray. In a face-to-face meeting with his father's alleged killer, Dexter King said he and his family didn't believe Ray killed the civil rights leader.

Meanwhile, Ray, 69, sits in a Nashville prison hospital facility where he is serving a 99-year prison sentence for King's death. Those close to Ray say he is dying of liver disease.

"James is not in the best of health," Hall said. "By the time everyone gets through discussing whether Raoul (an alleged gunman Ray says framed him) exists, James will be dead."

"It's time to focus on the legal issues in this case."

Harvard Law RECORD

PUBLISHER
Rob Friedman



EDITORS-IN-CHIEF
David Liu
Jaclyn Liu

FOUNDED IN 1946

Kane's a Keeper

Registrar Steven Kane scored more points this week when he announced rising 3Ls will be able to choose their top two classes absent competition from rising 2Ls. When evaluated on equity grounds, this pre-registration process will produce an outcome commensurate with the outcome of last year's procedure. The change accurately reflects the situation last year, in which the vast majority of rising 2Ls ranked the three basic courses within their top 15 picks, and filled their top two or three picks with the basics before moving on to the electives.

The change brings 2L bundling back to where it began: as a proposal to make the basic courses more attractive to rising 2Ls. There aren't more basics — they have simply been rationed. But it adds a benefit to taking the basics during the 2L year, and discards the School's empty promise that 2Ls "should" take the basics without providing the means for them to do so.

Two more changes would be helpful. First, the basics should be scheduled at uniform times to minimize elective conflicts. Kane ran out of time this year to accomplish this.

Second, it would be useful if the Registrar's Office put together information on the popularity of each course beyond the current designation of a few courses as "oversubscribed." The registration system is a lottery, but it is also a preference-based system. Students must have adequate information to properly rank their preferences. Without more information, the current system allows too much uncertainty for students to properly evaluate risks and maximize preferences.

Two practical problems remain. First, by blocking off rising 3Ls' first two picks, rising 2Ls may be out of luck scheduling Evidence, traditionally a 2L priority course. No 2L will be able to get into Prof. Nesson's course. They should not be stuck with Prof. Mansfield, a professor who obviously pays no heed to his course evaluations.

Second, 120 rising 3Ls have yet to take Constitutional Law. At least 50 rising 2Ls will vacate spots in Constitutional Law. This leaves a deficit of 70 slots, assuming all rising 3Ls wish to take Constitutional Law before they graduate. Administrators believe that, because 80 slots remained in Prof. Kaufman's Constitutional Law course this year, there will be 10 surplus slots next year, a frighteningly slim margin of error.

Kane has not only been able to reform registration and grade distribution; he is one of a select group of people with the courage to push professors towards meeting their teaching responsibilities. Next year's winter term offerings are much improved, as are the advanced Constitutional Law courses. Even Assistant Prof. Christine Jolls is teaching five credits next year, albeit two in a seminar entitled, brilliantly, "Seminar."

If the books really are back in Langdell by Labor Day, it will be a bountiful year.

— Friedman

Staff

EXECUTIVE EDITOR
Janie Kim

WIRE EDITOR
Hal Poret

STAFF WRITERS
Jacob Appel
Warren Binford
Chris Edwards
Timothy Kiefer
David Lenter
Seth Persily

STAFF COLUMNIST
Alexander Boldizar

COLUMNISTS
Renée Kaplan
Todd Stillerman

PUBLISHER EMERITA
Hope Yen

CONTRIBUTORS
Jonathan Kang
Karin Kysilka
Eric Rassbach

BUSINESS MANAGER
Chih T. Cheung

ADVERTISING MANAGER
Steve P. Chen

OFFICE MANAGER
Michelle A. Jones

SENIOR PRODUCTION MANAGER
Cathleen Bryant

PRODUCTION MANAGER
Ben Lehrer

PRODUCTION ASSOCIATE
Kristina Jones

CARTOONISTS
Margie McWilliams
Stuart Rees
Alfred Steiner
Bill Zimmerman

Printing By The Harvard Crimson

Editorial/Letters Policy

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

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

Submissions may be sent to The RECORD at the above noted address, dropped in the RECORD box located in Harkness Commons, or left in the 2L Hark box of David Liu or Jaclyn Liu. All copy must be typed, double-spaced, and submitted on paper and on a computer disk (Macintosh or IBM). The RECORD reads and appreciates every letter we receive; we reserve the right to edit letters for space as necessary. We will return your disks. Off-campus subscriptions are available. Subscription price: \$45.00 year mailed; \$50.00 year mailed outside U.S. Individual copies: 35 cents at newsstands, 50 cents at the Law School, \$1.00 mailed, \$2.50 for back issues and reprints. Second-class postage paid at Boston, MA and additional mailing offices.

©1996 by the Harvard Law RECORD Corporation and by the contributors.

The RECORD is committed to equality and diversity. We strive to provide a forum for the free exchange of ideas. As a result, the opinions reflected in articles, editorials, and cartoons are those of the authors and do not necessarily reflect the opinions of the RECORD.

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

—First Amendment, US Constitution

• Letters •

Parody "Letter" Blasphemous

I am writing to express my displeasure with a letter to the editor that appeared in the April 4th edition of the RECORD. [I]t was titled, "Lawyers Don't Have to Serve Satan" and was signed, "Sharon Cohn."

It is common knowledge around HLS that the RECORD that is published around April Fools Day is a "fun" issue. Fun has its place and I enjoy a good laugh as much as the next person. It is

unfortunate that the RECORD doesn't know where to draw the line on fun.

The letter I referred to earlier ran roughshod over things sacred. [I]t blasphemously spoke of Jesus Christ as providing sexual gratification, gave a bogus Bible verse, and in general made light of Christians and the things that we hold dear. And to top it off you put these words in the mouth of

Sharon Cohn, who earlier this year professed her faith in Christ. She did not write the letter, and you have treated her and her faith most disrespectfully.

This letter was in very poor taste. You may have meant it to be funny. [I]t was not. In the future I hope that you will be more considerate in matters of faith.

Rev. John Lathrop
April 5, 1997

HLS Should Face the Snow

I was appalled at the closing of our School due to the routine Boston weather yesterday, reportedly the first such closing in 20 years. At least they spared us the public embarrassment of announcing the closing on the radio.

As Prof. Dershowitz pointed out in an interview this morning, HLS ought to be training us to get to court

whatever the weather — even if the courthouse itself is closed. (As Prof. Dershowitz knows, you always win your case if your opponent doesn't show up — just like in Little League. Gosh, didn't the administration learn that in Civil Procedure???) We should take heart in the fact that Profs. Charney and Warren, at least, were manly enough to

come in at 8 a.m. to greet classes full of students and then send them home. As for the rest of the snow-fearing faculty, I can only say that I am sick of going to such a wimpy law school with such a weak commitment to teaching the law. I'm transferring to Yale.

Ron Meyers '98
April 2, 1997

Rising 2Ls "Skeptical" Bundling Will Hurt 3Ls

We are skeptical of Mr. Rob Friedman's editorial in the March 14th issue criticizing the 2L bundling proposal. First, Mr. Friedman doubts there will be enough spaces available for rising 3Ls next year in 2L basic courses. He doesn't think that rising 2Ls "will vacate enough spots for 3Ls" in Corporations and Constitutional Law. However, the registrar told one of us that there are 108 1Ls enrolled in Corporations 100 and 50 1Ls enrolled in Constitutional Law 100. That sounds like quite a few slots in Corporations, and a decent number in Constitutional Law. We'd suggest Mr. Friedman find out how many rising 3Ls did not take Corporations or Constitutional Law this year before he concludes that many won't be able to take either of the classes next year. We'd also suggest that Mr. Friedman learn how many rising 3Ls have yet to take Tax, and traditionally how many rising 2Ls choose not to take Tax their 2L year. Admittedly, the numbers of rising 2Ls who chose not to take Tax in their 2L year may not accurately predict how many rising 2Ls will opt out of Tax next year because there wasn't bundling in prior years. However, we think these numbers from prior years may give a rough estimate as to whether it is likely that rising 3Ls will be locked out of Tax. (Arguably an estimate could be supplemented by a survey of rising 2Ls, but we aren't certain how useful the results of such a survey would be. We doubt most 1Ls have thought enough about selecting courses to reliably indicate whether they'd opt out of Tax next year.)

Second, Mr. Friedman implies that is unfair for rising 2Ls to benefit from the "rela-

tively bountiful course selection this upcoming year," when some number of rising 3Ls face a "lock out" from 2L basic courses. Perhaps not — if one compares rising 2Ls to all rising 3Ls instead of only those who have yet to take basic courses. One March 14th in the RECORD on the article on bundling, Dean Clark called the additional number of classes being offered unsustainable. Also, in that article, the RECORD characterized Associate Dean Rakoff as "envisioning" that next year 3Ls might have a priority in selecting electives. If most rising 3Ls have already taken their basic courses before next year, they will benefit more than rising 2Ls from the extra courses because almost all of their classes will be electives and because they will have a priority over rising 2Ls in getting electives. Moreover, if the extra classes are only temporary, rising 3Ls will have an opportunity to take electives that rising 2Ls will have neither next year nor the year after.

Admittedly, if so many rising 3Ls may have taken their 2nd year basic courses, there will be relatively few rising 3Ls who have yet to take 2nd year basic courses. If so, rising 2Ls wouldn't much chance of taking the 2L bundle of their choice because rising 3Ls would only occupy a few slots. Nevertheless, however large or small this chance may be, it reaches the crux of the traditional problem with 2L basic courses. The problem is not lack of space — overall — in any of the three basic course. Although editorials in the RECORD suggest oth-

erwise, Associate Dean Rakoff told one of us that in past years there has been space available for more students in Tax, Corporations, and Constitutional Law. Rather, the problem is lack of space in certain popular professors' classes for Tax, Constitutional Law, or Corporations. Since there is already excess demand for these popular professors, giving rising 3Ls a priority in taking these classes only worsens the problem. In such a situation, every seat in the popular professors' classes count. Moreover, Friedman's proposal to add a fifth section would not ameliorate the situation. Given such demand for popular professors, an additional section would, if anything, worsen the problem for rising 2Ls by distributing popular professors more thinly amongst the sections. Members of each section would thereby get even fewer classes with the professors that students so demand (wisely or not).

As an alternative, we might suggest requiring rising 3Ls who want a priority to take second year basic courses (most probably Tax) to give up their priority to take electives. Or, if administrable, perhaps let rising 2Ls and 3Ls, who are interested, exchange priorities before registration. Thereby, instead of rising 3Ls gaining a chance to take the popular second year basic course of their choice at the expense of rising 2Ls, rising 3Ls could gain such a chance in exchange with rising 2Ls.

Richard Castanon '99
Chris Kelly '99
Keith Johnson '99
Adam Mandelbaum '99
April 8, 1997

• Editors' Note •

In the April Fools' parody issue, a fictitious letter to the editor was published with Sharon Cohn listed as the author. In addition, a fictitious column was published with "California Hoy" listed as the author. Neither Sharon Cohn '97 nor Kristina Hoy '98 wrote the pieces. The RECORD apologizes for insensitivity in the parody issue.

Affirmative Action Programs Necessary For Higher Education

By Julian Castro '00 and
Joaquin Castro '00

Recently, Texas Attorney General Dan Morales '81 publicly stated his support for the abolition of affirmative action programs in Texas. After having benefited from affirmative action when he attended Trinity University and Harvard Law School, Morales believes affirmative action is not sound policy.

His reasons are several, but his primary justifications seem to be a belief that racial discrimination is largely a thing of the past, that racial preferences undermine the self-esteem of minorities, and that affirmative action amounts to reverse discrimination.

Like Morales, we are Mexican-Americans who have had the benefit of a college education, who graduated with honors in political science (from Stanford), and in the fall we will begin attending Harvard Law School. Unlike Morales, we are convinced that affirmative action remains necessary in Texas higher education admission policies.

Racial discrimination impacts Texas minorities as intimately today as it did

in the early 1960s when the first affirmative action legislation was signed into law. Minority students constitute less than 20 percent of the undergraduate student body at the University of Texas at Austin and Texas A&M University, Texas' most prestigious public universities. Undergraduate minority enrollment at Texas private universities is even lower, and minority enrollment in Texas graduate programs, private and public, is abysmal.

Minorities continue to bear the burden of an inequitable state school funding system, and they suffer from economic hardship at rates much higher than those for non-minorities.

Morales dismisses the argument that affirmative action is just in that it compensates for past and present discrimination. He acknowledges, however, that diversity is a good thing, and he argues that the consideration of factors other than race and ethnicity can achieve satisfactory diversity among student bodies.

The Texas Higher Education Coordinating Board, or THECB, disagrees. It has determined that using only race-neutral factors cannot produce as ethnically diverse a student body as present affir-

mative action policies do, but will cut minority enrollment statewide by 40 to 50 percent. Morales responds to these findings incredulously. He just does not believe it. But who should the public believe? Does Morales know more about the realities of the college admissions process than the THECB? We doubt it.

Morales also suggests that affirmative action policies destroy the self-esteem of minority students who have come to believe that their success is based not on their abilities but on the color of their skin. We find this argument ridiculous. We strongly believe in ourselves. We believe we can compete with any student, even as we acknowledge that affirmative action may have helped us gain admission to Stanford and Harvard. Perhaps Morales harbors insecurities about his own abilities, but that is no reason to ascribe such self-doubt to the millions of Texas minority students who work as hard — even harder sometimes — as non-minority students.

In trying to make sense of Morales' sentiments, we have concluded that he is fulfilling the stereotype of a modern-day politician by doing what is politically expedient. If we had a dollar for every

future vote Morales has gained from our state's conservative element because of his opposition to affirmative action, we would be wealthy.

If Morales wants only fairness in Texas higher education admission policies, why has he not addressed other types of discrimination, such as preferences for child "legacies?" Every academic year thousands of students gain admission to universities because their parents attended the same university. Given the historical racial makeup of university student bodies, the students who benefit from legacy preferences are overwhelmingly non-minority. Preferences for legacies, then, are de facto affirmative action policies for Anglos.

People of good will across Texas have lost confidence in Dan Morales. No amount of politicking in the coming year by his re-election campaign will change that.

Julian Castro '00 and Joaquin Castro '00 are twin brothers from San Antonio.

Reprinted by permission of the San Antonio Express-News.

A Constitutionally Protected Right to Die: Right or Wrong?

By Carl Shipley '48

When the U.S. Court of Appeals for the Second Circuit, the most prestigious federal court other than the U.S. Supreme Court, ruled recently that "physicians who are willing to do so may prescribe drugs to be self-administered by mentally competent patients who seek to end their lives during the final stages of a terminal illness" (*Quill v. Vacco*, Docket No. 957028, April 2, 1996), it stretched the equal protection of the laws provision of the federal Constitution to its outer limits. It also vindicated the comment of Justice Oliver Wendell Holmes (1841-1935) in his 1881 book *The Common Law*:

The life of the law has not been logic: it has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the preju-

dices which judges share with their fellow-men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed.

Holmes established the proposition which later became known as "social Darwinism" by recognizing that man's nature is such as to lead each person, in most circumstances, he said, to seek his own advantage. This instinct of self-preference must be respected by any legal system which expects to survive, for the first requirement of a sound body of law is that it should correspond with the feelings and demands of the community, whether right or wrong.

Is the right to die to be similarly "respected" as a "feeling" and "demand" of our national community, or has it been manufactured by judge-made law?

From "any attempt to commit" suicide is "unlawful and criminal" per Chief Justice Gray in 1877 (*Commonwealth v. Mink*,

123 Mass. at 428), we have come full circle by way of judicial legislation establishing the right to die as a substantive constitutional right implicit, though not expressed, in the federal Constitution. Should the question of life or death be left in God's hands, or have we come to a time when the law and its judges are called upon to make choices for human beings lying in the twilight between life and death?

Man, as a thinking creature, has always pondered the inscrutable mysteries of man's place in history, the origin of time, and recently the right to die. The concept that a mentally competent person may order the removal of life-support systems was adopted by the U.S. Supreme Court in 1990 (*Cruzan v. Dept. of Health*, 497 U.S. 261). Now comes judicial legitimization of a mentally competent person's right to self-destruct when in the final stages of a terminal illness. But who shall decide such generalities as "final stages," "terminal illness," etc.?

If Justice Holmes was correct in his 1881 supposition that law, to endure, must reflect community attitudes, then his biographer, Harvard Law Prof. Mark DeW. Howe '33, once his law clerk, pointed in the wrong direction in writing that the common law has always respected man's self-preferring instinct and by that deference has exposed the falsity of the moralist's pretension that the law looks upon all men as equal. According to Howe, nature rewards those who excel in power and respects the strong. If so, should the elitists who manage America decide the time has come to accept death by self-administered poison?

Does or should the Constitution compel equal protection for the physician who prescribes a lethal ingestion and the patient who orders withdrawal of all life-support systems? Bah! Humbug! As there is a distinction between the two so is there a difference, and so must there be a better reason.

Sexuality, Women, and Sophomoric Humor at the RECORD

By Warren Binford '98

All human race would fain be wits,
And millions miss for one that hits.
— Alexander Pope

Laughter is a rich, wonderful experience. It liberates us and gives us courage to confront our fears and anxieties. It enables us to make peace with our own human foibles and the shortcomings and human limitations of our friends, families, lovers, and leaders. It provides a bridge of communication across chasms and finds words where none can be found.

But the power of humor is also dangerous (especially when doubly cloaked within anonymity and the First Amendment) and can be used to alienate and humiliate. Who, after all, wants to tackle a faceless enemy, engage a newspaper staff in a free speech debate, and be portrayed as the humorless wench who can't take a joke—all in one fell swoop?

Just as the Fenno controversy was dying a natural death, a handful of RECORD writers callously cranked out one of the most sexist issues ever published in the newspaper's 50-year history all under the aegis of free speech and good ol' fashion April Fools' Day fun, proving once again the old truth that doctors bury their mistakes, lawyers hang them, but journalists put theirs on the front page.

One need not dwell on the fact that the issue was written by seven men and just one woman and that for every time a woman is mentioned or quoted, a man is

mentioned or quoted eight or nine times. No surprise there — this is Harvard Law School after all, and we students are reluctantly becoming accustomed to such vast and insensible gender disparities.

What was truly shocking was the brutality and viciousness with which the writers portrayed women in the issue. Almost every time they mentioned a woman, they made a sexual remark about her, described her fucking men, lusting after animals, desperate for sex, and aching to get married.

They portrayed us as pigs ("hare-lipped sows giving [our intact hymens] away to the first liquored-up wanna-be Chuck Norris, chucking [our] chance to snag a prosperous Buick dealer"), cows ("heifers" to be exact), and insects (we "gals should pursue [sex] and revel in it like weevils all over popcorn").

They parodied us as Barbie dolls with our "pointy, plastic breasts," masturbating with bumpy vegetables, being "slipped the Hebrew National," and being forcibly impregnated by "little green men."

They commodified us by describing the paper's feminist columnist as "The Refundable Woman" and declaring that "virginity is the rarest commodity." They said that "an intact hymen practically guarantees successful closure to [our] quest" of "marrying into the professions' top-tier super-duper elite," and joked that our Park Ave. plastic surgeons are sending brokers out to "Buy, Buy, Buy" virgin parts.

The writers and editors especially seemed compelled to sexualize attractive, intelligent women. They reported Dean

Clark '72 hired Prof. Christine Jolls '93 because "she's got a set of buns as tight as my wallet" and so that he could "get screwed." They also implied Prof. Jolls had a one-night stand with Supreme Court Justice Scalia '60 and described Martha Minow as taking a group of students to see pornography at the Pussycat Theater in South Boston.

They mocked an outspoken Christian on campus by signing her name to a letter to the editor which read: "I cried into my pillow every night and prayed that I might meet a man . . . Now, however, the good Lord Jesus provides me all the sexual gratification . . . I need."

And, not surprisingly, they skewered the feminist columnist (who recently resigned from the RECORD), in one of the most vicious pieces ever penned at the Law School.

They parodied her having sex with her Shetland pony, undergoing liposuction, being injected with testosterone, and lusting after "slick, rubbery sex mammals" and her "stud-puppy": "Holy! I wanted to push my tongue into that mouth, move deep and slow into the wet, warm parts of him . . . or park myself between his ripped calves and whimper as I melt into the confines of his tripod tent."

The "Refundable Woman" piece — the column that conveyed the greatest disrespect for women (despite the Harlequin-like brilliance of the writer's style) — was, surprisingly enough, penned by a woman. This confounding fact highlights that the foolish publication of the misogynistic April 1 issue of the RECORD is not a salvo for a war of the sexes on

campus, but rather a cause for reflection and self-examination.

Harvard has an institutional history of poor judgment and insensitivity in its humor. The Harvard Law Review, the Law School Parody, and the RECORD have each been called to task for going too far for too few laughs.

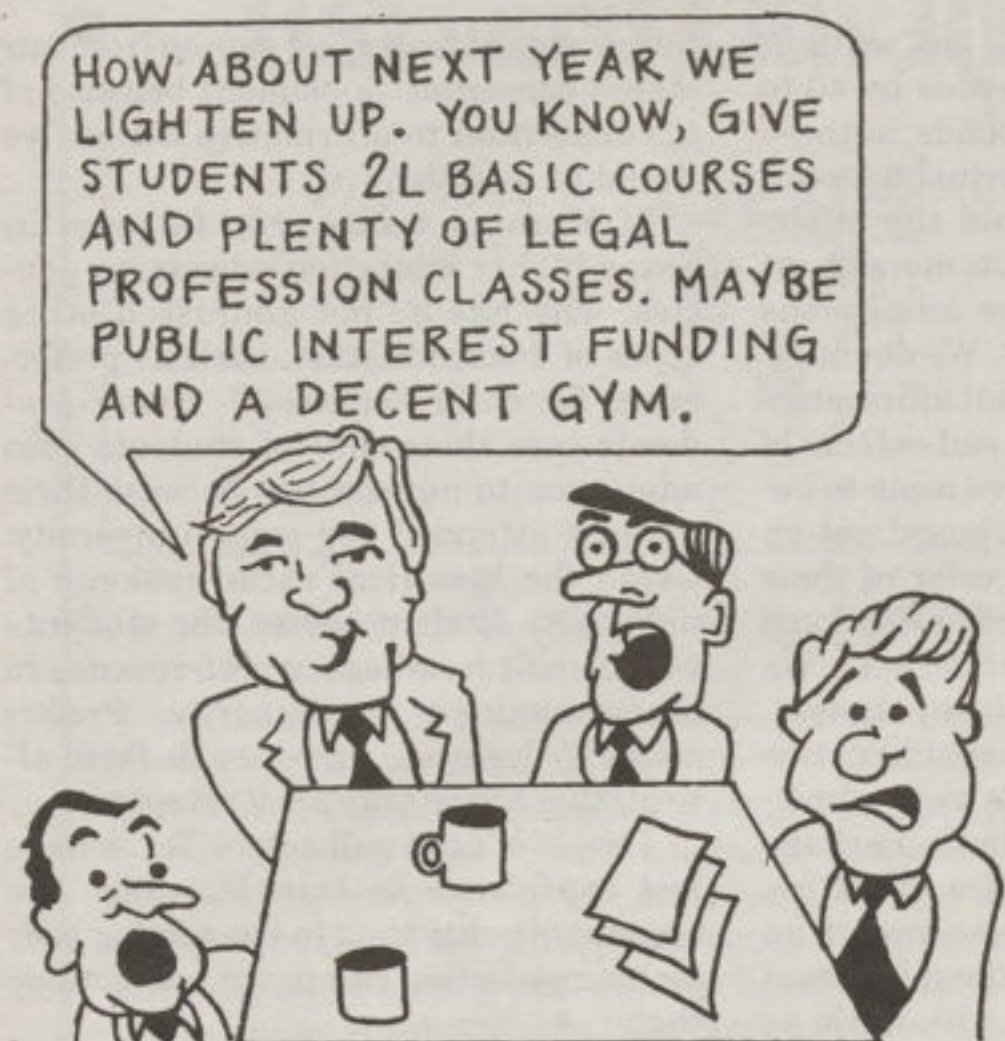
In this particular instance, the RECORD demonstrated a lazy person's humor more apt of gangsta rappers and busters down at the local bar than of a group of America's "best and brightest." Where's the wit? Where's the cleverness? Is this base humor — eight pages of dirty jokes (not to mention a sprinkling of racism and anti-semitism) — really the best we can do?

And why the fixation on women's sexuality? There is certainly nothing wrong with sexualizing women. Women are highly sexual creatures. And there is nothing wrong with laughing about sex. Sex can be an outrageously funny element of the human experience. But why were the writers never able to get past our sexuality? Five minutes in a HLS lecture demonstrates that our minds can be at least as laughable as our sleep-deprived and caffeine-driven bodies.

We are all painfully aware of the fact that together we at the Law School form an especially alienating and socially inept community of individuals. When it comes to social grace, skills, and wit, more often than not, we just don't get it.

It's time for the Emperor (or Empress, if you please) to put some clothes on, and for the RECORD's editors to apologize. All joking aside.

Ad Hominem



By Stuart Rees and Bill Zimmerman



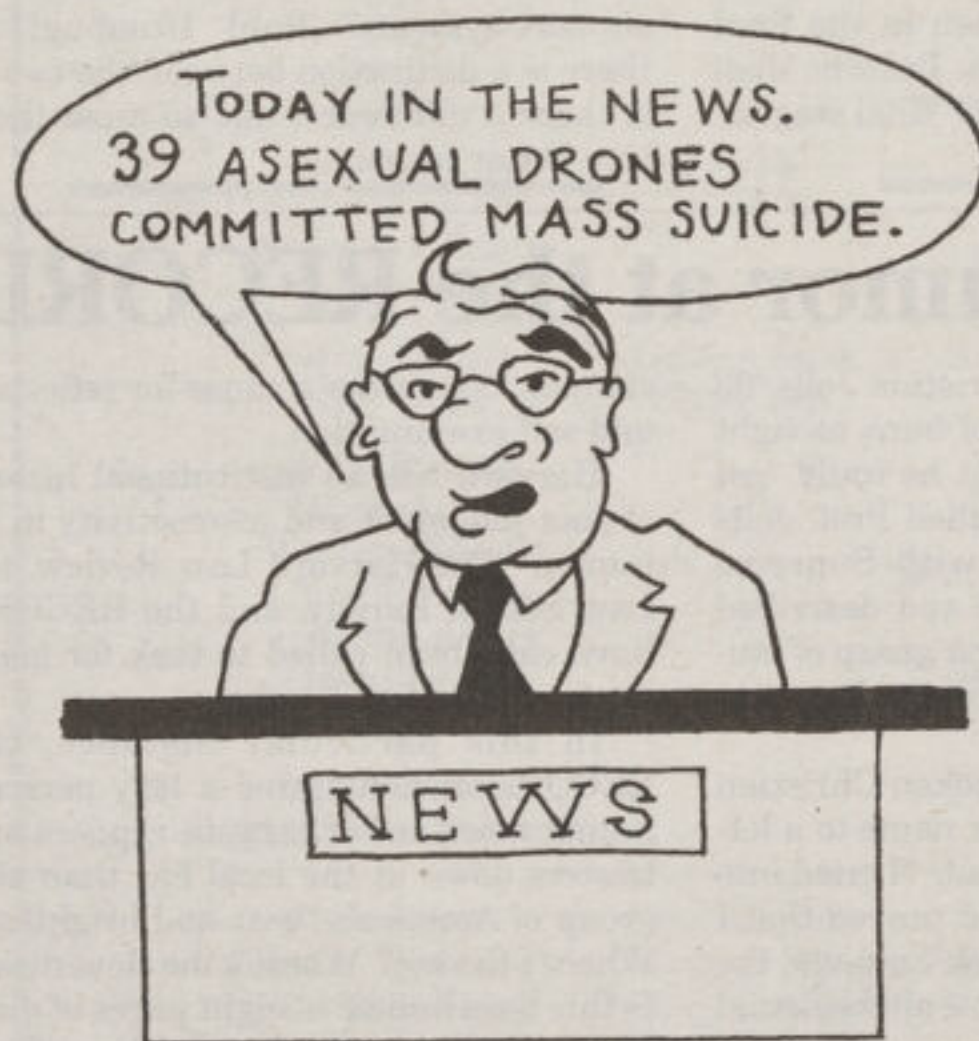
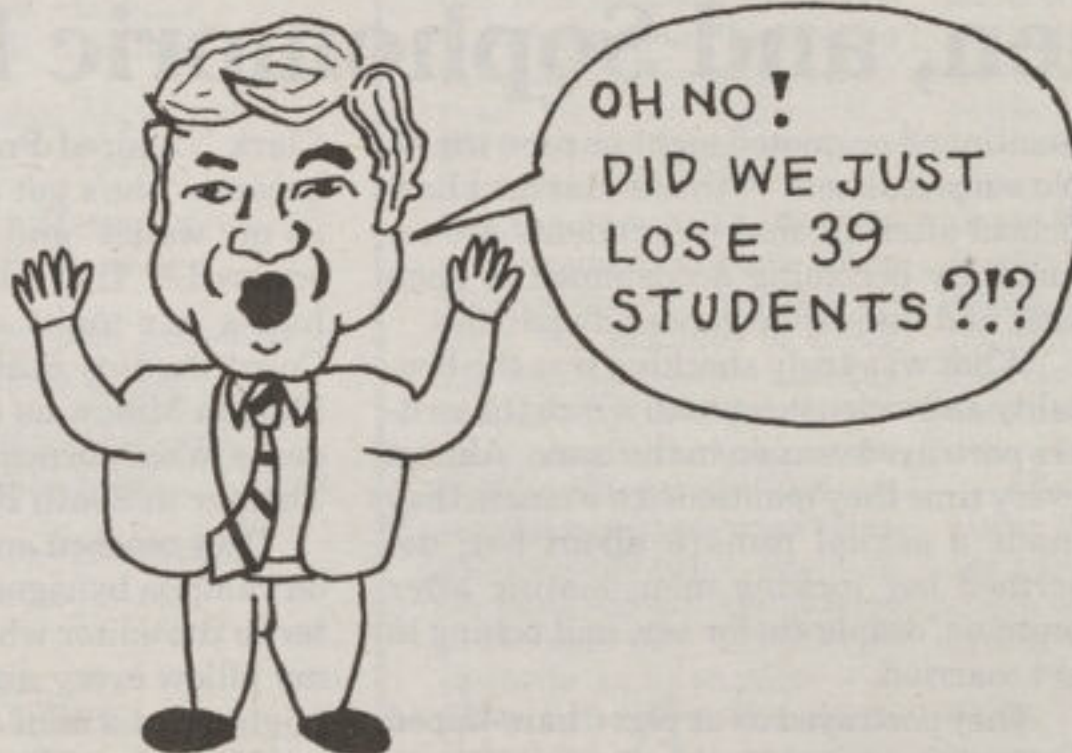
Reasonable Man Visits the White House

By Alfred Steiner



Investigative Cartooning

By Stuart Rees and Bill Zimmerman

MEANWHILE IN CAMBRIDGE,
DEAN CLARK REACTS TO THE
FIRST REPORTS.

Spike

By Margie McWilliams



CALENDAR

By Janie Kim '99

May your corporate wardrobe be the least of your worries. Impress the partners at your summer gig with some snazzy duds. One of the savviest men's clothiers in New England is closing down. That means big bargains for you. **M. Joseph's "Going Out of Business Sale"** promises to offer excellent quality and spiffy style at rock-bottom prices. At 1337 Beacon St., Coolidge Corner, Brookline, the sale starts Tue., 4/15. For the females, there's always Bronx perennial and new Downtown Crossing fixture, **Loehmann's**, 373 Washington St., Boston. Mrs. Loehmann first offered upscale women's clothes below wholesale at the turn of the century, working out of her Yonkers living room.

There's folk-rock reminiscent of the Indigo Girls at Small Planet, 795 Main St., Central Sq., Cambridge. Fri., 4/11, and Sat., 4/12, the five-member, mixed gender **Chapter in Verse** are groovable upon payment of the \$5 cover charge.

Orbit comes home 4/12 from their nationwide promotional tour of their debut CD **Libido Speedway**. They're at the Middle East downstairs room with fellow A&M labelmates **Blinker the Star**. Yet another superlative take on the regular alterna-rock Top 40 invasion. Call 864-EAST for more info.

The **New England Latin American Film Festival** runs 4/11-19 at the Museum of Fine Arts, 465 Huntington Ave., Boston. The series will screen some 40 films, including several national premieres as well as several sentimental favorites. This year's theme is "Women at the Forefront of Latin America Cinema."

Brazilian actor Sonia Braga and director Carlos Diegues will personally present their new film **Tieta of Agreste** (Sat., 4/19, 3 p.m.) about an urbane sophisticate's return to her rural, traditional village. Solveig Hoogesteijn will present her film **Santeria** (Tue., 4/15, 6 p.m.) in which a woman working for Amnesty Int'l immerses herself in the magical, religious tradition. All flicks will be screened at the MFA. Call 267-9300 x3400 for more info and a full schedule.

Regattabar's 1997 Jazz Festival presses on at the Charles Hotel, Harvard Sq. It attracts a healthy share of antique lovers and Volvo drivers. If you've ever sought out a humidor or if you dug Tony Bennett before he went unplugged on MTV, go... enjoy. Thur. 4/17, **The Johnny Griffin Quartet** plays lively, classic swing. At \$12, the 8:30 p.m. set is a not-too-extravagant choice.

It's **Queer Harvard Month** and a host of academic, vocational, and cultural activities are on the slate. Purportedly, Calendar only grapples with the "fun" stuff, so only those events with a minimum recreation quotient have been included. For a full listing of happenings, visit the Harvard Queer Student Leadership Network's web page. <http://hcs.harvard.edu/~queer>

Fri., 4/11, the Hark sees what's been deemed "assuredly the best dance of the Spring semester." All Gropian homebodies emerge from your cinderblock confines. The **Queer Harvard Month Dance** is but a few yards away and lasts from 9 p.m. to 1 a.m. \$4 admission for students, with proceeds to benefit the Harvard Transgender Coalition.

Free flicks at Piper Auditorium, Graduate School of Design, 48 Quincy St. Every weeknight from 4/14-18, a queer-themed film will be screened at 9:30 sharp. Best bets: **Life & Times of Harvey Milk** (Mon.), **Strawberries and Chocolate** (Tue.), and **The Sound of Music** (Wed.).

CHRONOMETRIC PEOPLE

By Alexander Boldizar '98

It is later than you think, says the Chinese proverb. But I was robbed. An hour, with which I could have gotten this column done on time, disappeared. Gone, vanished. Yet nobody blinked, no white rabbit with pink eyes took its watch out of its waistcoat pocket to warn me that "Oh dear, oh dear, I shall be too late!"

In Japan, I bought a futon that was too short for me. My size thirteen feet dangled from it and often caught a draft. So I cut off a foot or so from the top of the futon and sewed it onto the bottom end to make the futon longer. It didn't help. Now, older and wiser, I know that it was a distributional issue rather than one of expanding the futon, a choice between my feet and my head. Yet even with age and wisdom I do not understand the logic of Daylight Savings Time.

There is just enough difference between my futon and Time to make me wonder. Apparently we can insert or cut an hour. Can we also take next November and squeeze it in between April and May so that I would have a hope of actually doing my readings before exams? Harvard, after all, is insulated enough from the reality "out there" that we could rearrange November without causing too much chaos. The Boston media, for example, refused to believe that Harvard was closing during the April Fools' blizzard.

Yet back to my initial question: why does nobody blink when Time, that Thing that runs our lives, skips an hour, and yet we still believe in it enough to show up at 8 a.m. for Corporations, ex-

pecting Prof. Charny to be there? Perhaps there is a certain solidarity in the illusion that we are all hurtling together

towards the future at 60 minutes per hour, so long as nobody gets there faster or slower. Daylight savings might make us lose an hour of sleep, or make us tired an hour earlier, but at least we are all feeling it the same way. The

social contract includes an abdication of control over tempo and temporality and turns us all, like Jack, *chronometric*.

Einstein proved that time moves faster for the professors on the fifth floor of Hauser than for those on the second (although this too might vary with their sense of their own gravity) yet still we insist on an objective Time, not experienced by anyone, as the abstract rule around which to conduct our lives. In the interests of fairness, however, it might be noted that the profs on the second floor pay for their slower pace by being shorter.

My all-time favourite quote from Robert Hunter, one about which I think more and more the longer I am here at Harvard, is "Where to go, when eagles, stuck by the wingtips to flypaper coils, remind you that clocks tell time in the abstract. The full bodied blow of the hours leaves blood on the lips of the soul..." Daylight Savings Time simply shows the arbitrariness of the chronometric glue, the needlessness of the blood, and the nonsense of Time. It also shows how much of our day is ruled by the abstract...

HLS can only exist in a Newtonian world. As Einstein said, "People like us, who believe in physics, know that the distinction between past, present, and future is only a stubbornly persistent illusion." There is no centre to repeating structures like time, no foundation, and

no certainty, leaving Derrida's anxiety that we are always part of the play, that we are taken in by the play from the beginning. There is, however, in the words of James Joyce, "the now, the here, through which all future lunges to the past," echoing Zen and Tao. This here/now is both the centre of time and it is outside of time, it is both the *arkhe* and the *telos* (origin and aim), for the present is constantly shifting into the past at the absurd rate of one second per second, and can thus never be identical with itself.

This argument, however, loses something when used as an explanation of why you have not stacked up enough billable hours. We have collectively, almost unquestioningly, accepted becoming chronometric despite semi-annual reminders that this is only an unnatural construction and despite experiential and scientific evidence that time is anything but abstract and objective. Since structures repeat, perhaps the best explanation is John Castri's description of quantum theory: "energy and time are conjugate variables, so we can get large amounts of energy into a small volume if the time is short enough." The Noble Lie theory of Time — hours subdivided into minutes — is necessary to make us work hard much as the illusion of Law is necessary to make us civilized.

Paul Carrington once admonished that "the nihilist who must profess that legal principle does not matter has an ethical duty to depart the law school." Does this mean that nihilists like Einstein should depart physics? If one does not believe in Time, to (and from) where ought one go? Yet the 24 hour day and the sixty minute hour seem to be here to stay, belying our experiences that an hour of Corporations at 8 a.m. will never be the same as an hour on the beach with a Corona in hand. The 24

hour day has the same abstract, nonsensical quality that a corporation has.

The structures of both Law and Time require a centre, a transcendental referent founded outside Derrida's play, where meanings cannot be substituted for one another. For Law, this centre is the unquestioned and circular aspiration to nomological legality. For Time, it is the here and now. Zen teaches to enter the here and now, but it took me "a long time" to understand that this is not because the here and now is the centre, but rather that in being all there is it cannot be a centre. A centre needs a periphery. In entering the centre, one fractures it, shows the structure to be infinitely repeating. Enlightenment is becoming one with infinity, or God, through the one-dimensional here and now. Instead of enlightenment, however, most of those who have entered and fractured the centre have reconceptualized it as a function, a non-place in which signs can be endlessly substituted by other signs. That's when, says Derrida, language conquered the universal field of scientific problems.

Such is all learning, including the learning of Law. By trying, ever unsuccessfully, to enter the Law, we learn to manipulate it, to flip and to flop it, we learn that for every rule there is a counter-rule. Yet the end of all learning is doubt. Thus, all the successful faiths, God Law Time, create abstractions of themselves, reinforced by silly people like Dworkin and by a fear of an endless swamp-like discourse. These abstractions can continue to exist even as all evidence and experience, like Daylight Savings time, shows us that they do not. We continue to believe because we are chronometric people living in a chronometric time.

Fenno

"Fenno! Fenno! Let's go, buddy, you made bail."

This was not the first time Fenno had ever heard those words, nor would it be the last. Fenno yawned, stretched, and lifted himself up from the floor of the holding cell. He was by no means upset; he'd been through this so many times before that he knew the drill. It was a simple matter of reconstructing the evening through whatever means were necessary.

Let's see now, thought Fenno, I remember booze, cursing at a police officer, and a sharp blow to the head. Well, that won't help. Those are evergreens, old stand-bys like "I'm just going to work in a firm for two or three years, and then I'll go public interest" or "I'll make sure the professor returns your call." No, Fenno would need physical evidence. He reached into his pants pocket, and pulled out a torn piece of paper on which was written "The HLS Drama Society Presents *Law Traviata*."

Oh, God, the parody!

Suddenly, the events of the whole evening came crashing back to him. Fenno recalled arriving at the elementary school earlier than most of the crowd; having heard about the ban on alcoholic beverages this year, Fenno wanted to be sure to have his array of thermoses and flasks discreetly set up in a variety of locations around the auditorium, for the convenience of his fellow students. Fenno, painfully aware of having fallen out of the grace of his peers lately, was not above buying his way back in. The crowd poured in, buzzing excitedly; the band loudly hacked its way through a song that nobody knew, the lights went down, and the magic began.

Well, if by "magic" you mean three hours of uncomprehending attempts at

wit randomly interrupted by snippets of pop tunes in which humorous effect is sought after by the substitution of the word "law" for any noun beginning with "L" or containing a schwa; three hours in which a mind-numbing array of characters with clever names (like Ross La Fourteenthofjunesse, or Hopeless Yen, or Jon Not-New — ah, the wacky hilarity!) tell the same jokes repeatedly, until you begin to forget the utter lack of plot — if by that you mean magic, the magic began. Fenno especially looked forward to the biggest magic trick of all: the one where the Dean makes his annual "surprise" appearance to thunderous applause, and, with some creepy ad-libbed innuendo, disturbing hip motions, and tuneless singing, he hypnotizes the entire law school into thinking that he's not such a bad guy after all and then disappears for another year.

All went as planned, Fenno remembered painfully, until it turned personal. "Fenno's not funny," someone sang. Someone who ought to know from not funny.

There was more, but that was enough. As Fenno now recalled, he stood up and began cursing the characters onstage. He couldn't quite remember all that he'd said, but winced slightly as certain phrases made their way to the surface of his dulled memory: "hasn't got the performing talent God gave John Mansfield;" "all the humor of a Bazooka Joe comic with the punchline torn off;" "Shoah was funnier, and a lot shorter." That was when the cop came up, and that was why Fenno stood in a jail cell this morning.

The jail guard looked at Fenno with pity. "Man, I've never seen someone as drunk as you. You know, you've been lying unconscious in that cell for three weeks!"

Horror compounded on horror. "What? What's today's date?" Fenno asked, aghast.

"April 11," the guard responded. Fenno's third-year paper was due today. He hadn't written a word.

Next week: Fenno gets an extension.

Quote of the Week

"They're not state actors, asshole!"

— Anonymous heckler counseling a Dane Hall resident who resisted Harvard Police attempts to restrain his 5 a.m. rage.

Special Purchase Designer Tuxedos

• 50% Off Retail Price •

Full Selection of Tux Shirts and Accessories 25 - 75% Off Retail Price

Tux Rentals
\$40 - All Styles

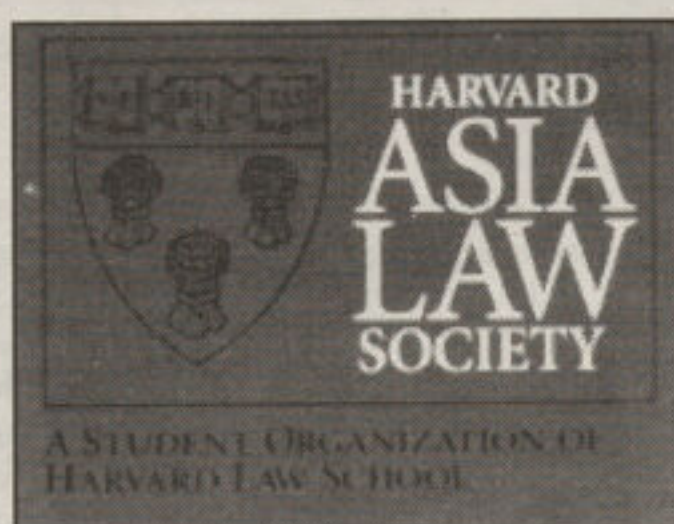
Call About Our Tux Trade-In Policy

KEEZER'S
CLASSIC CLOTHING SINCE 1895

Voted Best Tuxedos —
Boston Magazine, 1993

140 River Street, Central Square, Cambridge
547-2455

OPEN Monday-Saturday 10-6. FREE Parking



Delegation Members

Paul Boesen • Andrew Jackson • Elizabeth Jardine • Jennifer Ishiguro

Peter Kuo • Albert Lee • Felix Lee • Bo Li • James Lin • Nathan McMurtry

Joseph Ngai • Perla Ni • Arul Ramiah • Eric Rassbach • Eric Sibbitt

The Harvard Asia Law Society would like to offer

**CONGRATULATIONS AND THANKS TO THE
ORGANIZERS, SPONSORS AND HOSTS OF**

**THE HARVARD ASIA LAW
SOCIETY 1997 DELEGATION TO
HONG KONG AND BEIJING**

HALS would especially like to thank the sponsors of the delegation for their generous support, without which the trip would not have been possible. Included amongst the delegation events were meetings with Mr. Tung Chee Hwa, Chief Executive-Elect, Hong Kong Special Administrative Region; The Hon. Mr. Donald Tsang, Financial Secretary, Hong Kong Government; The Hon. Mr. Justice Power, Acting Chief Justice, Hong Kong Judiciary; . Anthony Neoh, QC, JP, Chairman, Hong Kong Securities & Futures Commission; Dr. Jack Gosnell, U.S. Embassy, Beijing; Phyllis L. Chang, The Ford Foundation, Beijing.

Principal Sponsors:

Alzheimer & Gray
Cleary, Gottlieb, Steen & Hamilton
Morgan, Lewis & Bockius
Simpson Thacher & Bartlett
Skadden, Arps, Slate, Meagher & Flom
United Airlines
Wangfujing Grand Hotel, Beijing
Winthrop, Stimson, Putnam & Roberts

Sponsors:

Chandler & Thong - ek
Davis Polk & Wardwell
Freshfields
Generation Ventures Associates
Kaye, Scholer, Fierman, Hays & Handler
Lai Sun Group
Milbank, Tweed, Hadley & McCloy
Nagashima & Ohno
Paul, Weiss, Rifkind, Wharton & Garrison
The Ritz-Carlton, Hong Kong
South China Morning Post
Tack Hsin Holdings Ltd.

HLS STUDENT DELEGATIONS

Asia Law Society Explores Future of Hong Kong, China

By Eric Rassbach '99

Would she resign or wouldn't she? Denis Chang, a member of Governor Chris Patten's outgoing Executive Council, would not let his interlocutor get away with only a half-answer. Elsie Leung finally conceded that if the Chief Executive of Hong Kong asked her, as Secretary of Justice, to do something which contravened the Hong Kong Basic Law, she would resign her post.

It was a remarkable beginning to the second day of the Harvard Asia Law Society Delegation's ten-day trip to Hong Kong and Beijing. This year's trip to Asia, the third annual one, was notable both for the caliber and breadth of experience of the interviewed leaders and for the importance of the topic: Hong Kong's reversion to China.

The conversation between Mr. Chang and Ms. Leung took place at a breakfast for the 16 members of the Delegation and several top Hong Kong lawyers. Some of HALS members' questions had focused on what shape the inevitable conflict between the judiciary and the executive would take in a post-handover Hong Kong, and Mr. Chang had pushed the questions farther than we had dared to go. Thereafter the debate between the lawyers ranged from the separation of

powers and the independence of the judiciary to the legitimacy of the Provisional Legislature and the trustworthiness of the Chief Executive. Our group left the breakfast with the impression that we had witnessed something akin to the debate over the adoption of the U.S. Constitution.

I frankly had not expected the Delegation's interviews to produce such exciting exchanges. With less than four months remaining before the handover, it is not in any Hong Kong leader's purely personal interest to paint anything other than a rosy picture of Hong Kong's future. That much of what we heard was not pure propaganda is either a tribute to the honesty of Hong Kong's leaders or an indication of the immense pressures coming to bear on this small and governmentally unique corner of the world. Even history's most meticulously planned change in sovereignty cannot be entirely free of the disruption inherent in such an event, and our meetings were a good way of exposing the tension between the old order and the new one.

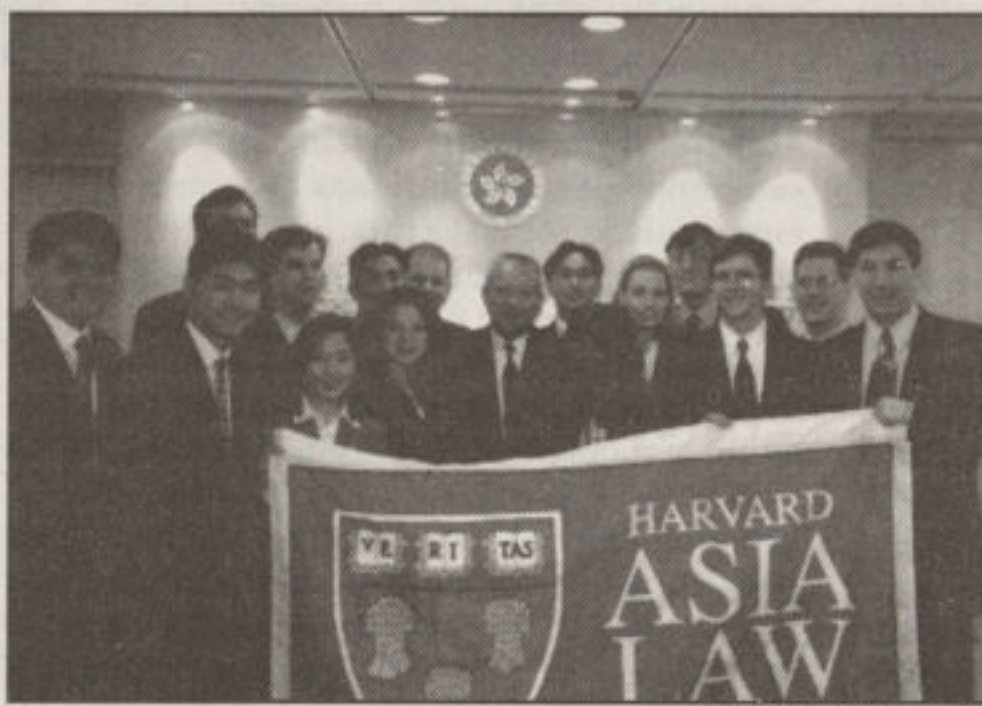
Some of those with whom we spoke seemed to take the tension in stride. Future Chief Executive of the Hong Kong Special Administrative Region Tung Chee

Hwa exuded calm, and in a grandfatherly fashion explained to us why Hong Kong would remain the same after July 1 despite the change in sovereignty. The crux

of his argument was that the great majority of Hong Kongers were not as concerned with politics as they were with housing, transportation, and "livelihood" issues. He certainly seemed sincere, but the inadequacy of the support he offered for his position left the Delegation with the same feeling that we brought away from many of the meetings: that there are too many variables for anyone to really

know what will happen to Hong Kong after July 1. The second and shorter part of our trip took us to Beijing, where we met with legal academics and practicing Chinese and American lawyers. What many in our group found interesting about the state of law in China was the great interest many of the Chinese academics took in the common law. At our meetings with academics at People's University Law School and Beijing University Law School, we were peppered with questions about the case law system (Chinese law is based on Continental systems of law) and American constitutional law. We in turn asked about the relationship that the common law and particularly Hong Kong law would have with PRC law in the future. Most of the academics felt that Hong Kong law would have some substantive, but little procedural influence on PRC law.

Overall the trip was, though tiring, very worthwhile, and gave all of us in the Delegation the chance to observe firsthand the process of great political and legal change taking place in Hong Kong and China. Which direction that change will take is not something we or anyone else can ascertain.



Asia Law Society Delegation with Tung Chee Hwa, Chief Executive-to-be of Hong Kong

of his argument was that the great majority of Hong Kongers were not as concerned with politics as they were with housing, transportation, and "livelihood" issues. He certainly seemed sincere, but the inadequacy of the support he offered for his position left the Delegation with the same feeling that we brought away from many of the meetings: that there are too many variables for anyone to really

ILS Delegation Visits Ireland

By Christopher Edwards '98

Although Spring Break at HLS often leads students to travel to warm countries such as Mexico in search of a respite from the harsh Boston winter, six members of the International Law Society, including myself, instead headed northward to Ireland. We had disparate interests in Ireland: some of us had Irish ancestry, some had previously traveled to Ireland, while others were simply interested in the European Union.

After a short layover in Brussels, we arrived in Dublin on the first Saturday of Spring Break and boarded a bus for a weekend trip to Galway, a small city on the western coast of the island. Although extremely jet-lagged, we stayed awake to admire the green Irish countryside and quaint towns and to explore Galway upon our arrival. We were all impressed by the friendliness of the locals as well as the charm of Galway and the countryside.

We spent the following week in Dublin, meeting with Irish and American government officials and Irish law firms who sponsored our trip. Meetings with the firms gave us valuable insights into the practice of law in Ireland, which differs in some respects from that of the United States.

While meetings with law firms taught us about the practice of law, meetings with government officials gave us insights into the current Irish political scene. Attorney General Dermot Gleeson and Minister for Justice Nora Owen spoke with us about current issues in Irish law. "One of my favorite parts of the trip was meeting

with Dermot Gleeson," said Tanya Jaeger '98. "He was very candid and open," she added.

We also toured the main government complex in Dublin, including the chambers of both houses of the Irish legislature and the office of the Irish Prime Minister. Although we had hoped to meet with Irish President Mary Robinson LL.M. '68, her meeting with the President of Poland conflicted with our visit to the Presidential home and gardens. In addition, although we were unable to meet with American Ambassador Jean Kennedy Smith, an excellent briefing at the American Embassy gave us an American view of the country and its recent economic boom.

A final highlight of our trip was our lunch with executives of Guinness, the Irish brewery, and a shopping spree in the Guinness on-site store. Guinness is to Ireland what Coke is to the United States. Guinness was on tap in every pub and restaurant we visited, and Guinness signs and ads were found throughout the country.

One of the best memories I have of the trip is the friendliness, openness, and hospitality of the Irish people. Our law firm hosts not only held formal dinners and meetings for us, but they also invited us into their homes for home-cooked dinners. "Eugene Fanning, a partner at Arthur Cox, took us on a driving tour of the Eastern coast and the Wicklow Mountains. We had a blast," said Jeff Carpenter '98. Top government officials appeared delighted to meet with us and talk with us about Ireland, despite their certainly busy schedules. "The hotels that sponsored us were terrific. The Harding Hotel, the Shelbourne, and the Central Hotel, all in central Dublin, were most hospitable," said Jaeger. Finally, David Horgan, President of the Harvard Business Association of Ireland, held a reception for the delegation and its hosts and sponsors at the Royal Dublin Society. All of our hosts went out of their way to make us feel welcome and to help us learn about Ireland.



Minister for Justice Nora Owen with the ILS Delegation

Inaugural KAHLS Delegation Visits Seoul

By Jonathan Kang '98

From March 21 to 31, I joined eight other members of the Korean Association of Harvard Law School (KAHLS) on a study tour of legal institutions in the Republic of Korea. The trip, which represented the first visit by an HLS student delegation to South Korea, gave

us an intensive introduction to the role of law in Korea and promoted friendship between the U.S. and Korean legal communities.

Public legal institutions comprised the lion's share of our busy itinerary. The Delegation visited the ROK Constitutional Court, the Supreme Court, the Seoul District and Appellate Courts, the Ministry of Trade, the ROK Supreme Prosecutor's Office, and the Seoul District Prosecutor's Office. Not to be outdone in the private sector, KAHLS members also visited the offices of five Korean law firms, met with consultants from the Seoul office of McKinsey & Co., and discussed the recent labor law reforms and human rights issues with lawyers of the Minbyun social and political action group. Three delegates, KAHLS President Thomas H. Lee '99, Vice President Patrick H. Kim '97, and Treasurer Soo Y. Kim '98, were also discussants in a one-hour news program featured on the nationwide Arirang cable network.

The itinerary was capped by a visit with the professors and students of the Faculty of Law at Seoul National University (SNU), where delegation members and their hosts discussed comparative legal education systems and careers. The HLS students also received a tour of the SNU campus, university museum, and the Korean National Archives, the "Kyujujakkak."

Delegation member and former

KAHLS President Eugene J. Park '97 commented that the itinerary had been arranged by the delegation "largely through the good offices of LL.M. alumni/ae who had been members of KAHLS during their respective sojourns in Cambridge and with whom we have maintained strong personal ties of friendship."

Current President Lee added that the trip committee had planned the itinerary



The KAHLS Delegation poses in front of the South Korean Supreme Prosecutor's Office with Kim Sang-Hee, Special Prosecutor in the Trials of Ex-Presidents Chun and Roh.

to provide a broad introduction to legal institutions and "meaningful socio-legal issues, and to avoid merely symbolic audiences with famous figures." According to Lee, the committee made the conscious decision not to pursue an audience with President Kim

Young-Sam, in order to preclude the possibility that the visit would be used as a propaganda tool to shore up the politically-troubled Kim. Other trip delegates, including myself, agreed with the firmly legal-centered orientation of the visit, which allowed us to learn much more about the Korean legal system than if we were to have focused purely on touring businesses, finance ministries, and the like.

But at least one member, Chang B. Jo '97, opined that the delegation had "crammed too much stuff into one week. We had places to visit, firm lunches or dinners, and receptions every hour of every day. I was beat."

KAHLS launched the delegation in response to membership demands for more ambitious projects. With nearly seventy members, the Korean Association has dramatically expanded from the handful of students that established the organization in 1988.

"KAHLS has really grown as an umbrella organization encompassing not only HLS students of Korean descent, but all students who have an interest in Korean legal studies," said Delegation member Matt J. Christensen '99.

Kane Announces Change to Registration Procedures

Continued from KANE, p. 1

Profession courses in four of their top eight slots. Kane said that, absent a change, rising 3Ls would have been placed at a competitive disadvantage at pre-registration next week.

Kane said he believed giving rising 3Ls two "free" picks would make next week's pre-registration process "equitable across the board."

"I think it's a good idea," said Adam Mandelbaum '99. "It makes sense that 3Ls should have priority because it's their last chance to have those classes."

This year, rising 2Ls will register for basic courses in a separate lottery, and will be afforded the opportunity to select electives beginning with their first slot.

Kane said he chose two slots to bracket from rising 2L competition after "look[ing] at the last five years of enrollments" in the basic courses. Kane said he believed shielding rising 3Ls' top choice only would be "tokenism" and would not be fully equitable.

"The new Registrar has certainly

made an effort to try to reform the system in an attempt to meet students' concerns, accommodate students, and make the system a little better," said Sharon Rudich '98.

On Thursday, rising 2Ls will have ranked the four basic bundles. Individual Corporations, Tax, and Constitutional Law courses will be automatically dropped from within a rising 2L's chosen bundle if the course has been previously satisfied or if the time conflicts with clinical offerings allotted on Wednesday.

Rising 2Ls may drop a course within their allotted bundle at pre-registration next Thursday. Rising 2Ls may not add another course within a different bundle until after 3L registration on Friday. Kane said the Registrar's Office will supply a list of available spaces that remain in the basic courses at 3Ls registration on Friday.

Kane said that, at minimum, 50 Constitutional Law slots will be available for rising 3Ls because 50 1Ls are currently enrolled in Constitutional Law. Kane said 120 rising 3Ls have yet to take Con-

stitutional Law. He added that he would make a "good faith effort" to make sure all 3Ls would have the opportunity to enroll in the basic courses next year.

LSC President Dina DeFalco '98 praised the registrar. "Registrar Kane has been very receptive to student concerns and questions regarding the new

process. He spent many days and nights working to make the process equitable for everyone concerned."

Potischman agreed. "I was glad to see how responsive Kane was to the concerns of rising 3Ls. I think this preserves the status quo while still giving rising 2Ls the benefit of bundling," he said.

The International Law Society wishes to thank the following sponsors of the 1997 Delegation to Ireland:

Law Firms:

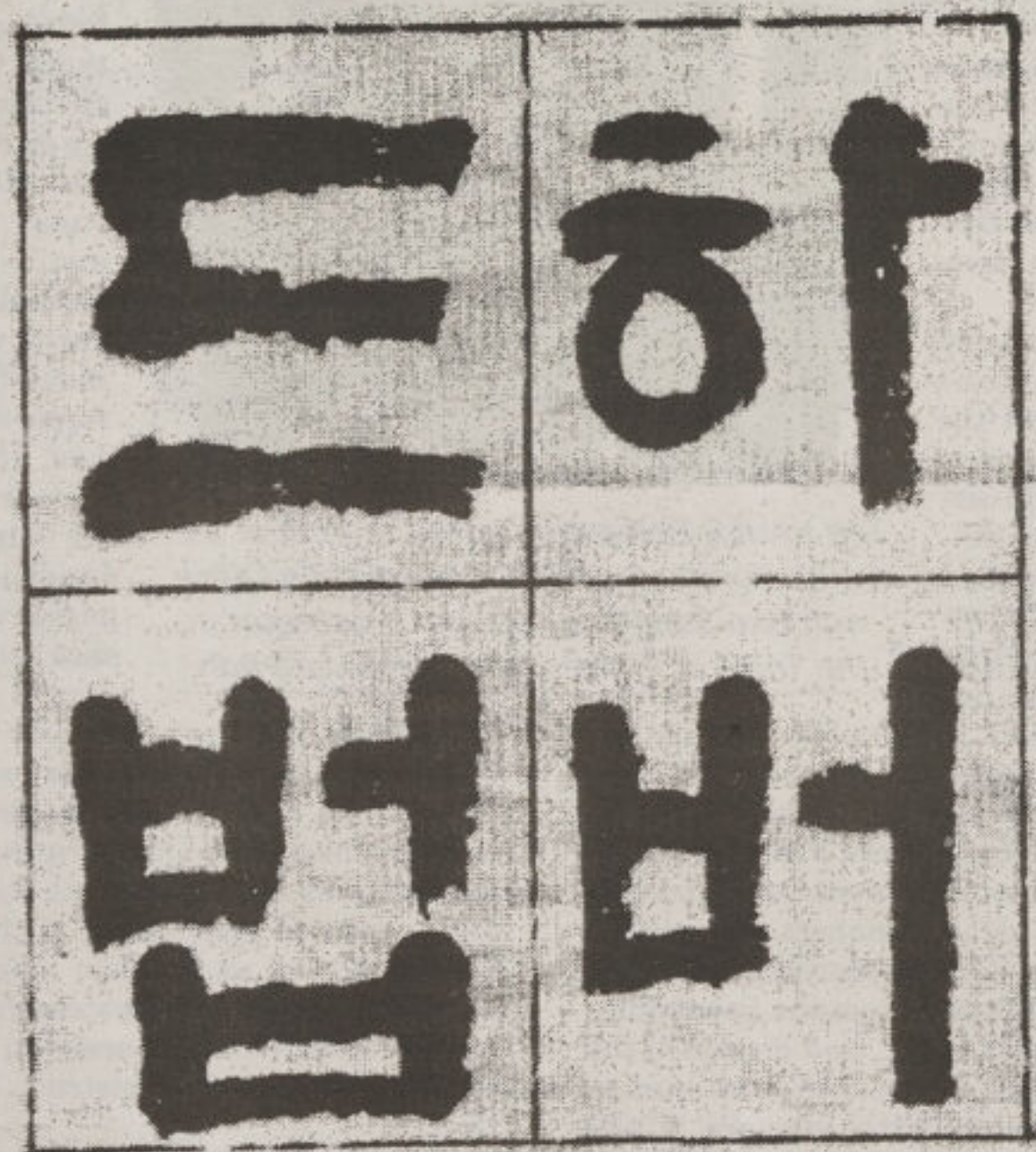
Arthur Cox
McCann FitzGerald
William Fry

Hotels:

Central Hotel, Dublin
Shelbourne Hotel, Dublin
Harding Hotel, Dublin

EXPANDING HORIZONS

1997 Delegation to the Republic of Korea



Korean Association of
Harvard Law School

KAHLS would like to thank the following firms and individuals for their support:

Principal Sponsors

Cleary, Gottlieb, Steen & Hamilton
Bae, Kim & Lee
Kim & Chang
Shin & Kim
Yoon & Partners
Mrs. Myung-Ai Kim & Friends

Donors

Morrison & Foerster
Simpson Thacher & Bartlett
Wachtell, Lipton, Rosen & Katz

Contributors

Rudnick & Wolfe
Korean Air
Harvard Korea Society
Mr. Timothy J. O'Brien, Esq.

Local Media Reluctant to Report HLS Snow Day

Continued from *BLIZZARD*, p. 1

and school closing announcements are made only after the correct code number is given by the school. HLS had no such code number since it closes so rarely, Chmura said. Chmura said that the law school has obtained a code number for future use.

At about 8:30 or 9:00 a.m., after the initial attempts had failed, an announcement on HLS letterhead was faxed out to local broadcasters. According to Chmura, the broadcasters then began to include HLS on the list of closed schools.

Chmura said that the decision to close the school is the responsibility of the dean and that the decision to close was made on the morning of April 1. Chmura said that he learned of the closing at about 6:30 or 7:00 a.m..

HLS has not had a snow day since the blizzard of February 1978, when the school was closed for two days. Prior to 1978 the most recent snow day was in 1938.

Prof. Richard Parker '70, who lives about a half-hour's drive from campus, stayed overnight at the Faculty Club to ensure that he would be able to teach his morning class on April 1. He said that he disagreed with Dean Clark's decision to close the school.

"We're not a commuter campus," Parker said. "Students by and large live on campus." Parker said that many of his faculty colleagues also showed up that morning and that most classes could have been held.

Dean Clark '72 sent a memorandum to HLS students apologizing for the administration's response to the snow-

storm.

"Though we attempted to communicate the decision as widely and promptly as possible, the media were surprisingly slow to believe us, and it is quite possible that some of you trudged valiantly through the snowdrifts to campus, only to find that your classes had been canceled," Clark wrote. "On behalf of myself and other members of the administration, I would like to apologize to any of you who were inconvenienced in this way."

Although local broadcasters were reluctant to announce the closing, the national news media widely reported the event. The Law School's snow day was reported by the New York Times, the National Public Radio national broadcast, and the Associated Press national wire, according to Chmura.

The Law School's last snow closing was also controversial, although for different reasons. During the 1978 blizzard, Dean Albert Sacks '48 closed the school for Tuesday and Wednesday but reopened for Thursday and Friday.

Dean Sacks' decision drew criticism from some who believed that the school should not have reopened so soon. Gov. Mike Dukakis '60 had issued an emergency proclamation ordering people to stay off the roads so as not to interfere with clean-up efforts. The school's reopening was therefore limited to people who could walk or take the T to classes.

A 1978 RECORD article quoted an unnamed "high official in the Dean's Office" who attributed the decision to reopen so soon to "the basic analness of this place. I think of the little guy in the Square who obeyed the governor and wonder if we should have stayed closed."

Kennedy Discusses Intermarriage

Continued from *KENNEDY*, p. 4

Lovings were sentenced to one year in jail with the option to leave Virginia and not return for 25 years.

Thirty years later, much has changed, Kennedy said. He pointed out that during the Clarence Thomas nomination fight, Thomas, a black Virginia resident married to a white woman named Virginia, was vigorously supported by South Carolina Senator Strom Thurmond, a former segregationist.

However, Kennedy said that in other ways the situation 30 years later is "considerably more ambiguous." Kennedy pointed to statistics showing that most whites and blacks still marry within their racial groups.

"The relative paucity of white-black intermarriage is a problem," Kennedy said.

Kennedy recommended three ways to support increased interracial marriage. First, state governments should prohibit the use of race as a

factor in adoption. Kennedy argued that doing so allows the state to give preference to single-race families over mixed-race families.

Second, Kennedy recommended that people who support interracial marriage show their support in their personal interactions. For example, he suggested that if someone is asked to play matchmaker, that person should consider setting up a white friend with a black friend.

Third, Kennedy said that supporters of interracial marriage should support policies which improve the status of African-Americans more generally. Kennedy said that as the socio-economic status of African-Americans improves, they will become more attractive potential marriage partners, and interracial marriage will increase.

Kennedy is currently writing a book on race, crime and the law. A 1982 graduate of Yale Law School, he has been a member of the HLS faculty since 1984.

Clark Promises to Match Auction Proceeds With Additional Funds

Continued from *AUCTION*, p. 1

items, including gift certificates for local retailers, tennis and language lessons, and autographed photos of celebrities.

"I really hope that I win the home-cooked dinner with Prof. [Joseph] Weiler, because I think he's a man who enjoys his meals," said Eric Columbus '99.

Hallmates Gary Collins '98 and Mark Adkins '99 both placed bids for a bottle of 1981 Chateau La Mission Haut Brion donated by Prof. Morton Horowitz '67. Said Collins, "It's a rivalry thing. '82 is a better year anyway."

Prof. Peter Murray '67 said, "I'm trying to scoop up as many of my colleagues' books as possible, and the catered dinner for six is enticing."

Murray bemoaned the completely silent nature of the first part of the auction. Bids were placed in opaque envelopes and removed from the view of other auction attendees.

"Other silent auctions I've attended had a list or the number of bidders for each item, so you could at least gauge the state of your competition," said Murray. "But here, we're flying blind. It certainly heightens the tension of the event."

Auction volunteer Holly Idelson '99 pointed out that only a small number of bidders were trying to peek into the bid envelopes. "It's not a big problem," she said. "One or two people have tried, but I've intercepted them."

Murray supported faculty participation in the auction. "It's an especially important thing for professors to support these festivities." He looked forward to his own donation to the live auction: a lobster dinner for five (including Murray) at Legal Seafoods as well as a man's lobster tie, which Murray was modeling.

"Any size lobster at all; it doesn't matter," he said. "The only thing is you have to eat the whole thing at the table — no doggy-bagging allowed."

The live portion of the auction took place in the Ames Courtroom. Profs. Charles Ogletree '78 and Carol Steiker '86 presided as auctioneers. At the auction's start, Ogletree strategically placed volunteers around the courtroom for maximum stereo effect as they yelled, "Show me the money."

The auctioneers pitched each auction item with their own brand of salesmanship, urging the bids higher and higher. After Steiker said, "Did I mention pizza and beer? All the pizza and cheap American beer you can contain," the candlepin bowling with Prof. Jon Hanson and daughter Emily sold for \$450.

Remarking on Prof. Frank Michelman's '60 Federal Courts notes from law school, Ogletree said, "Oh my goodness, it even has footnotes in it."

Other highlights included Ogletree's homemade sweet-potato pies, which went for \$200 each, and former Attorney-General nominee Kimba Wood's \$800 purchase of Law Review president Kenny Bamberger '98. Bamberger will remain

at Wood's "beck and call" for an entire day.

In the midst of the live proceedings, Dean Clark '72 and the Harvard Visiting Committee entered the courtroom. Clark received a round of applause as Ogletree introduced him as "the man who will match up to \$55,000 of tonight's earnings."

Earlier in the week, a series of miscommunications involving the Dean's Office, the Financial Aid Office, the Office of Public Interest Advising, and the Auction Chairs cast doubt on whether Clark would allocate any post-auction matching funds.

Said Murphy, "Essentially, there was a mix-up. (Clark) had set aside \$215,000 already for public interest at the start of the year. He was under the belief that the promised auction match would come out of that initial fund."

Christy Ochoa '98 and Amy McManus '98, student representatives of the Ad-Hoc Public Interest Committee, approached Clark Wednesday afternoon with the news that student expectations, based largely on an earlier RECORD article, were for Clark to match the auction earnings with post-auction funds.

Said McManus, "Students are expecting more funding on top of the original \$215,000. We told [Clark] that this is very much the public perception and to strike it would be very awkward."

Ochoa added, "He seemed pretty concerned and sincerely explained that he had intended for the \$55,000 to be set aside out of the initial pool of funds. On Thursday, he sent out the word that he would be allocating additional monies to match the auction earnings [up to \$55,000]."

Murphy said that organizers were "thrilled" about the newly allocated matching funds. "It's fabulous for the auction as well as all those students who took public interest positions anticipating that there would be another \$110,000 in grant money."

However, Alexa Shabecoff of the Office of Public Interest Advising expressed concern that not all students on the current waiting list would receive funding for summer public interest work. "I think about the student I counseled to give up a paid public interest job for the job of his dreams, which doesn't reimburse at all, and I worry," she said.

McManus and Ochoa echoed her concerns.

"The [Ad-Hoc Public Interest] Committee recommended that the Dean fully fund all students who want to work in public interest," said Ochoa. "We would need approximately \$400,000 to give \$2500 grants to every public interest student. That's still less than the \$4000 summer budget figure that the Financial Aid Office came up with."

Said McManus, "We're still not close to satisfying the demand." Regarding the administration's current record on public interest funding she said, "Moving from a D to a C is still not that great."

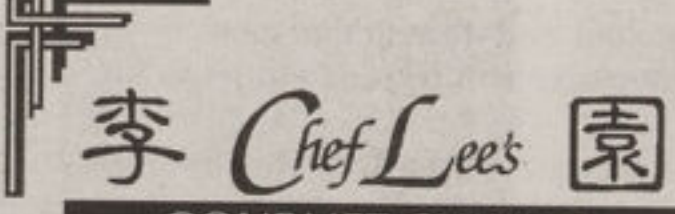
POSTMASTER: Send address changes to Harvard Law School Association, Harvard Law School, Cambridge, MA 02138.

ALUMNI/AE ADDRESS CHANGES: Alumni/ae who receive the RECORD as a result of membership in the Harvard Law School Association should mail change-of-address information to the Harvard Law School Association, Harvard Law School, Cambridge, MA 02138.

Each alumnus/a receiving a RECORD subscription through the Harvard Law School Association should be on notice that \$5.00 of H.L.S.A. annual dues are used to purchase the RECORD subscription that he or she receives. Dues paid at any time during the H.L.S.A. fiscal year that began on July 1, 1995 and ends on June 30, 1996 purchase a subscription that begins in January 1995 and expires in December 1996.

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

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



GOURMET CHINESE

Free Delivery

with order of \$10 or more, in Cambridge and Somerville

876-7666 876-7661

Luncheon & Dinner

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

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

"Chinese food with originality."
Boston Globe

10 % OFF
purchases of \$20 or more
and
5% OFF
purchases of \$20 or less
with student ID

Monday, Wednesday and Thursday
11:30 a.m. - 10:00 p.m.
Tuesday
5:00 p.m. - 10 p.m.
Friday
11:30 a.m. - 11:00 p.m.
Saturday
1:00 p.m. - 11:00 p.m.
Sunday
4:00 p.m. - 10:00 p.m.

Student discount cannot be combined with any other specials or coupons.



Briefs

Dane Hall Resident Creates Disturbance, Taken to Hospital for Evaluation

On April 5, at about 5 a.m., Harvard University police went to Dane Hall to confront a man who was allegedly "running up and down the hallway yelling and screaming and banging on doors," according to a Harvard University police report.

According to Harvard University police department spokeswoman Peggy McNamara, the man was transported to University Health Services for evaluation. McNamara declined to provide any further information.

According to Craig Buckser '97, who witnessed the incident, the man was a Dane Hall resident. Buckser said that during the incident the man challenged a bystander to go outside and play soccer with him. Buckser said the man had thrown his personal belongings into an area near the mailboxes and vending machines.

Prof. Murray Wins Fulbright to Teach at the University of Freiburg in Germany

Visiting Prof. Peter L. Murray '67 has been awarded a Senior Fulbright Grant to teach as a visiting professor of law at the University of Freiburg in Freiburg, Germany during the spring 1998 semester. Murray will also do research at the Institute for German and Foreign Law of Civil Procedure in Freiburg.

Murray is one of 10 Senior Fulbright Professors who will receive full maintenance grants for teaching and research in Germany next year.

Murray is the author of "Basic Trial Advocacy" (1995) and "Maine Evidence" (4th edition 1997). Prior to his appointment at HLS, Murray practiced for over 25 years as a trial lawyer and general practitioner in Portland, Maine, which continues to be his home when he is not teaching in Cambridge.

The Fulbright Scholar Program, the senior scholar component of the Fulbright Program, offers grants for college and university faculty, as well as for professionals and independent scholars. Since 1946 nearly 32,000 American scholars have lectured and conducted research in countries around the globe.

HLS Tuition to Increase 5.1 Percent Next Year

Tuition at HLS for 1997-98 will be \$22,800, an increase of 5.1 percent from the current tuition of \$21,700. The rate of increase is the smallest since 1973-74.

The Law School's current tuition rate is roughly in the midpoint of HLS's competitors. Current tuition at Chicago is \$20,499; Yale \$21,100; NYU \$22,144; Stanford \$22,350; and Columbia \$23,818.

The Kennedy School of Government's tuition, currently \$19,770, will increase by 4.8 percent, to \$20,720 next year. The Harvard Medical and Dental Schools' tuition will increase by 4.5 percent next year, to \$25,250.

Three Statues on Display in Harvard Yard

"Between Form and Freedom," a thematic art exhibit in celebration of liberty, will be exhibited at Harvard through the end of May.

The most visible elements of the exhibit are three sculptures exhibited outside Dudley House in the southwest corner of the Yard. The three outdoor sculptures are "Unbound Slave," "Spirit of the Dance," and "Bill of Rights Eagle." Additional works of art are exhibited inside the Dudley House common room.

The outdoor sculptures are the work of Greg Wyatt, a resident sculptor at St. John's Cathedral in New York City.

Although the sculptures will be removed next month, a committee is considering the possibility of permanently erecting sculptures in the Yard.

"We hope to have more sculptures in the Yard and keep them forever," said Ivonne A-Baki, the Dudley House artist in residence and one of the artists featured in the exhibition.

— from the Harvard Crimson

\$1.5 Million Scholarship and Financial Aid Funds Established to Honor Louis Rudner '20

Scholarship and financial aid programs at HLS received a \$1.5 million boost with the establishment of the Louis Rudner Scholarships and the Louis Rudner Financial Aid Fund. The funds were established through bequests from Samuel Rudner '29, who died in 1995, and his late brother Otto. The fund honors their late brother, Louis Rudner '20, who died in 1944.

"Sam Rudner was one of our most distinguished and among our most loyal graduates," said Dean Clark. "His family's generosity will benefit students today and for years to come."

Sam Rudner, a University of Pennsylvania graduate, was a Law Review editor at HLS. Rudner practiced law in New York and New Jersey. He served as chair of the character committee of the New Jersey Supreme Court and was active in local Jewish service organizations.

Loker May Offer Fast Food This Fall

Loker Commons, the student commons located below Memorial Hall, may offer brand-name fast food as early as the fall semester. A recent student survey indicated wide support for fast food in Loker.

"Fast food is something I heard loud and clear," said Leonard D. Condenzio, acting director of Harvard Dining Services. "The survey gave it a tremendous foundation."

— from the Harvard Crimson

SPORTSGUY

Mid-Season Update

By Todd Stillerman '97

Sports Editor



New Playoff Format In a bold move last Wednesday, league commissioner "A Rose By Any Other" Naim Bulbulia '98 announced a new playoff format to maximize competition and guarantee fairness in the seeding process. Five teams will compete for the A-League title, with the sixth place A-League team (probably winless The Dark Side) receiving a consolation bid to the B-League tournament. The C-League champion will also receive an invite to the B-League dance. To assure that the divisional format will not penalize good teams placed in "stacked" divisions, any team with a .500 record or better will receive a play-off bid. In a final attempt to create an exciting, competitive post-season, both A- and B-League tournaments will be double-elimination for the final four teams remaining.

Post-Season Guarantee As of press time, several B-League teams had already clinched play-off berths: the Great Danes, Unabomers, and Arthritic Dogs in the Austin Division; the Killing Zone, Sweathogs III, Chupacabras and the Thirsty Scholars in the Langdell Division; and the Godfathers of Dunk Box-and-One, and the B-Sharps in the Gropius. The Godfathers, Unabomers, and Sweathogs have the inside track on three of the four #1 seeds, with The Killing Zone a good bet for the fourth #1.

Playing for Pride Relegated to the role of spoiler are six teams who are mathematically eliminated from post-season play: Team Kankos, Soulbucket, Hotel Gropius, Ice Weasels, Happy Coolyances, and Capital Offense. All rumors to the contrary, the SPORTSGUY still expects everyone's favorite Law Review entry, the Grizzlers, to bow out shortly.

Out-Dogged For only the second time in thirty-two games, the two-time defending B-League champion Great Danes lost a game. By dunking the Danes 64-56, the Arthritic Dogs (4-3) clinched a playoff berth and relegated the Danes (5-1) to second place for the first time ever. Exploiting the Danes' short bench, the Dogs used an up-tempo offense and an aggressive zone to exhaust their opponents. Danes assistant coach/trainer Selene "On Me" Ko '97 credited the Dogs with a string game plan: "They took it to us. You could see that the Dogs really wanted this game." The Danes endured poor play by Chris "Taking A" Neiwoehner '97 (who failed to score or even grab a rebound) and Mike "A Rolling Stone" Castellano '97 (who was especially transparent on defense). The Dogs can clinch a #3 seed in the B-League playoffs with a win against the Bob Melsons next week, while the Danes get a chance at redemption against the undefeated Unabomers.

Mid-season Review With the season mid-point already passed, here are a few observations from the SPORTSGUY about the state of the league:

Best Stats Perhaps the most intriguing squad in the first half is Sweathogs III: Ladies Last Chance For Some Hog. The Hogs (4-0) lead all leagues with 67.7 points scored per game and hold their opponents to an average of 27.8 points. Led by a back court of sharpshooter Mike "Hammer" Beach '97 (who averages 2.7 three-pointers per contest) and David "Best Oralist" Markus '97 (who averages 12.1 "your Honors" per argument), the Hogs had a mean team blood alcohol level of 0.14% during their 73-35 thrashing of the hapless Ice Weasels. The Hogs monster stats, however, are a bit misleading: the combined record of the four teams the Hogs have defeated is 4-18, while the combined record of their next four opponents is 14-4.

Mid-Season All-Stars For the SPORTSGUY's money, the best five performers in the A-League so far are: Damon "Love" Jones '97, Black Plague, center; Brent "Take Your Best" Schlotthauer '98, Rainmakers, forward; "All I Want Is Your Extra Time and Your" Chris Handy '97, Black Plague, forward; "Next Of" Ken Kloner '98, Rainmakers, guard; Josh "Bermuda" Schwarz '99, guard; and MVP Calvin "Handle-Tie" Gladney '97, Black Plague. In the B-League, the SPORTSGUY likes: Mark "My Words" Jensen '97, Sweathogs, center; Josh Little "Big Horn" '98, Stormin' Mormons, forward; Chris "We Did It All For the Glory Of" Lovrein '98, *Flagrante Delicto*, forward; Pat "Quotemaster Supreme" O'Reilly '97, Great Danes, guard; "Super" Mario Fallone '99, Godfathers, guard; and MVP Alan "Winds of" Warfield '98, Unabomers.

All-AT&T Five guys who like to dial long distance: Bulbulia, Rainmakers; Beach, Sweathogs; Andy "Colt .45" Kincheloe '97, Great Danes; T.J. "Smith and Wesson" Hall '98, Box-and-One; and Matt "Nice Shootin', Tex" Stennes '98, *Flagrante Delicto*.

All-Interesting The SPORTSGUY's favorite five players to watch: Andrew "Two Rights Don't Make A" Wong '98, defensive dynamo for Box-and-One; Richard "Married To The" Moberly '98, Rainmakers, a nice guy with a nice game; "Searching For" Bobby Chesney '97, Li'l Penny's Nightmare, the man with the plan; "Be Like" Mike Steinig '98, *Flagrante Delicto*, left-hander with the right stuff; and Bob "For Apples" McCarter '97, vocal hit man forward for the Tarnished Rotunda.

Biggest Surprises 1. The Killing Zone, undefeated and poised for a championship run; 2. Team Kankos, expected to contend, but the pieces just don't fit; and 3. *Flagrante Delicto*, semifinalists last year have their work cut out for them.

Best Teams A-League: 1. Black Plague, defending champs are a good bet to three-peat; 2. Rainmakers, probably the league's deepest squad; 3. Alphabet Soup, quietly putting together a winning streak. B-League: 1. Sweathogs, demolishing opponents in a tough division; 2. Godfathers of Dunk, upstart One-Ls are for real; 3. Unabomers, coming on strong. C-League: 1. Swingers, will get a shot in the B-League tournament; 2. C is for Competition, and S is for Second Place.

Odds to Win A-League Black Plague, 2:3; Rainmakers, 5:1; Alphabet Soup 9:1; Li'l Penny's Nightmare, 9:1; Nets, 30:1; The Dark Side, 100:1.

Odds to Win B-League Sweathogs III, 3:1; Godfathers 4:1; Unabomers, 4:1; Killing Zone, 6:1; Great Danes, 9:1; *Flagrante Delicto*, 10:1; Chupacabras, 11:1; Box-and-One, 12:1; Field, 15:1.

SPORTSGUY'S INTRAMURAL TOP TEN

(last issue's rankings in parentheses)

- | | | | |
|---------------------------|-----|--------------------------|-----|
| 1. Black Plague (1) | 7-0 | 6. The Killing Zone (6) | 5-0 |
| 2. Sweathogs III: | | 7. Alphabet Soup (9) | 4-3 |
| Ladies Last Chance (3) | 4-0 | 8. Thirsty Scholars (NR) | 4-1 |
| 3. Godfathers of Dunk (7) | 6-0 | 9. Great Danes (4) | 5-1 |
| 4. Rainmakers (2) | 6-2 | 10. Swingers (10) | 5-0 |
| 5. Unabomers (5) | 6-0 | | |

Just Cause

MAIL CALL

By Carla A. Halpern '97

RECORD Columnist



This week, I am taking the opportunity to respond to reader comments on the *Just Cause* columns. The letters, phone calls, e-mails, and assorted anonymous notes I have received have presented me with a range of productive feedback, from *Thank you for being on the planet to Hey, moron — how's about pulling your head out of your ass?*

First of all, thanks to everyone who ever responded to my columns. Each response, whether critical or complimentary, has helped me reevaluate my own experiences and logic. One of these days, I hope my writing will show for it.

Almost an Island. This column, about working with battered women in northern Maine, wins the honor for the largest volume of written feedback. I was amazed at the number and range of responses I received, partly because *Almost an Island* was written on a Sunday night deadline crunch and partly because I didn't think anyone would actually read it. I appreciate the letters of support from Barbara Schneider '90 and Charles Peck, but my greatest appreciation goes to Steven Weatherhead '97.

Mr. Weatherhead was justifiably angry at my portrayal of his home county and pointed out the disingenuous nature of several statements that I made in my column. To reiterate a few: I wrongly "localized" all the bad aspects of Aroostook County while "generalizing" any good aspects (when I mentioned them at all). Domestic violence is, unfortunately, a pervasive problem that most people do not want to acknowledge. I do think Mr. Weatherhead may be a little blind to imply that he never knew of any domestic violence during his 18 years in The County — a blindness that is a natural human coping mechanism. Unless 1996 was The Year of the Fist, the constant stream of abused women seeking protection orders was indicative of a problem that occurs more frequently than Mr. Weatherhead may suspect. However, I was wrong to characterize Aroostook County as an anomaly. Attitudes may differ from region to region, but women are beaten by husbands and boyfriends in rural, urban, and suburban areas, including certain college towns in western Massachusetts.

Mr. Weatherhead was also right to call me on my condescending tone (No, he's not the only one to point it out, and yes, I am trying to work on it ... but ... self-righteousness can be so much *fun!*). I never meant to imply that residents of Aroostook County must be stupid or crazy to want to live there — only that my own perspective was blown out of the water by such local customs as the characterization of Bangor, Maine as "The Big City Down South."

Oh, and about that college town in western Massachusetts — Mr. Weatherhead implied that I would take offense if he characterized that town as "a haven for tall, red-haired, male-bashing liberals with a tendency to exaggerate." Actually, Steve, your assessment of Amherst is not only somewhat accurate, it's also one of the kindest descriptions I've ever read of my beloved hometown. Well, maybe I'm exaggerating a bit (we tall, red-haired, male-bashing liberals sometimes have a problem with that), but I do know how it feels to be dissed for where you come from. I should have known better than to do the same to someone else.

Alas, to be graduating with the distinction of being the poor slob who failed Professor Herwitz's one-credit course ...

Gut Reactions. One reader made an excellent point that simply enjoying food over the holidays is not a cure for anorexia or bulimia or compulsive overeating. I know that there is no real cure for people (of whom I am one) who suffer from these problems and that treatment can be a difficult, anxious road. I apologize if I trivialized the hardship.

I still do think that accepting one's body is the key and that such acceptance is very difficult to come by in our culture today. I also do believe that eating "disorders" are so societally-driven and prolific for women that they can hardly be called "disorders." I believe that at least to some degree, for a woman to worry or obsess about what she eats and what she looks like is the norm. Thanks to everyone who supported me on this column, especially John Paschetto '98 — who gave me not only kind words, but also the help to escape Professor Halpern's Tax course without another Accounting Experience. Speaking of which ...

No Accounting for Taste. Alas, to be graduating with the distinction of being the poor slob who failed Professor Herwitz's one-credit course ... The consolation is that with all the accounting jokes I've heard since that fateful exam, I now know more about accounting than I would have had I actually stayed awake in class and passed the test. Okay, maybe that's another exaggeration. I'm just not cut out to push numbers into columns.

The Living Will. I wrote this column last year about the agony of acquaintance rape and its aftermath. I expected a backlash and didn't get one. Instead, friends and strangers stood by me. Thank you all, especially the man in my con law class and the woman who left the anonymous note in my harkbox. You know who you are. People like yourselves are responsible for most of the courage in the world.

Almost every other column. Finally, to every beleaguered conservative and outraged libertarian: I think the best thing to do is just clink our glasses together and nod at each other, wondering *How can you possibly believe that crap you spout?* Besides, there's plenty of time for me to convince everyone that I'm right.

Musings and Vagaries

Talk Like You Mean It

By Renée Kaplan '99

RECORD Columnist



Perhaps one of the all-time most functional words of the '90s has been the adjective "quality": quality time with the family (a trip to Great Adventure), a quality product (Sears brand batteries), a quality restaurant (TGI Friday). Of course, quality is also a noun, a substantive notion unto itself that can be modified in any number of expressive ways. Yet with the diffusion of quality-the-adjective as a one-word, feel-good, earnest way to evoke some general feeling of goodness and dependability, quality-the-noun seems to have become obscured. We no longer talk about abysmal quality, excellent quality or even just good or bad quality. We've mostly abandoned the concept of quality as an autonomous function awaiting the thoughtful investment of nuance, for just plain old unqualified quality: a more general impression of something good and authentic.

In fact, this drift toward plain old unqualified quality, toward a kinder, gentler, more vague and more bland means of expression seems characteristic of our use of language in general. We seem to be drifting toward greater informality and colloquialism, toward more of that up-talky non-confrontationalism, where we'd rather avoid making a declaratory statement, or where we'd rather "have a problem with something" — have some genuine, mostly just personal, and possibly apologetic difference with an idea — rather than formulate an explicit criticism. And at the risk of seeming to come off as a bit pedantic or just precious, I would advocate a return to rigorism of expression: down with the mild and the mushy and the bland. I would abolish the mushy and the bland not merely for formal reasons of style (although if style is character, I sure wouldn't wanna talk mushy), but even for, well, dare I say jurisprudential reasons. Because, as contemporary expression sinks into the languor of informal phrases, of bland, blurring language, it seems to create a particular risk for the expression and the practice of law.

We often talk about "mushy rules" and "squishy doctrines," referring to rules and doctrines that are indeterminate or flexible, or that leave room for interpretation, or that lack specificity. The adjectives "mushy" and "squishy" convey impressions of soft rather than hard rules, impressions of a general character (soft) and of the general absence of other (hard) characteristics. They convey an image and even a feeling, a sort of visceral image and a general notion—but they specify nothing: what does mushiness *mean*? Does it mean indeterminate or flexible or manipulable or vague? Mushy, like squishy, like quality — all informal, everyday, from-the-gut descriptions — constitute a kind of colloquial image-speak that talks in impressions rather than actions; they convey a general sense of meaning rather than articulating any explicit meaning. They convey a mood rather than a nuance, a gloss of the notion rather than its explanation. We could just as well talk about a rotten-banana rule and a wet-sneaker doctrine; the images conveyed are the same.

We use image-speak all the time, in class and outside of class, when we talk about an idea "going counter" to another, of a comment "going to" some idea, or of "not understanding where you're going with that" (nowhere, do you see me running?). All these expressions create visceral, moving images — of clocks running backwards, of arrows shooting, of carrying some material package — reified concepts that convey general, almost physical impressions. But they are expressions that observe rather than probe, that summarize rather than expose, avoiding acuity and literalness: does a point that "goes to" another illuminate it? concur with it? contradict or comment upon it? does "misunderstanding where you're going with that" mean disagreeing with it? disagreeing with what? and what are you doing to that — whatever it is? These are casual quick-fix expressions, closer to gesture than articulation; generic conversational staples that say a whole lot, real easy, but nothing particularly nuanced or sharp.

Image-speak itself is not without merit, but the problem is that we tend to use image-speak too often and sometimes exclusively. The use of image-speak — which is essentially the use of metaphors and imagery — can reveal either great sophistication or great limitation, either an artful manipulation of linguistic impressions, or the inability to convey anything more than feelings or impressions. In the former case, image-speak serves a deliberate mood-creating function, where, when we talk about a rule "collapsing back into" another, or "jamming" the facts of one case under the theory of the first, the choice of the specific images — collapsing and jamming — is loaded and meaningful. But there too, where we rely too heavily on image-speak, where we — especially professors — too frequently eschew the literal for the metaphorical, language drifts into presumptuousness. We begin to assume a cognitive common ground, to presume it superfluous to lay the explicative ground rules, to assume that we'll all extract the same meaning in decoding the image. It presumes a kind of normative universality in language — especially dangerous in the classroom or the courtroom — it assumes that we all think alike, and that we all have the same starting points.

On the other hand, the genuine, unceremonious style of image-speak creates a seductive informality. The colloquial and the unpretentious — just saying how you feel — somehow seem more democratic and more accessible, and so truer and more expressive. We've distilled the classist notions of high quality and superior quality to just plain quality, and we've eliminated complexity in favor of "mushy." But rather than a socialization of language it is a homogenization of language. As language drifts away from a probing specificity and toward a more passive impressionism, we lose our very capacity of expression. In abandoning nuance, softening acuity, avoiding sharpness, we reduce our own range of meaning. We begin to say only how we feel, rather than what we think, to "be fine with" things, rather than have an opinion about them. Rather than equalizing, the effect of image-speak is levelling: distilling flavor, and bleaching tone, essentially reducing language to the expression of a benign generality.

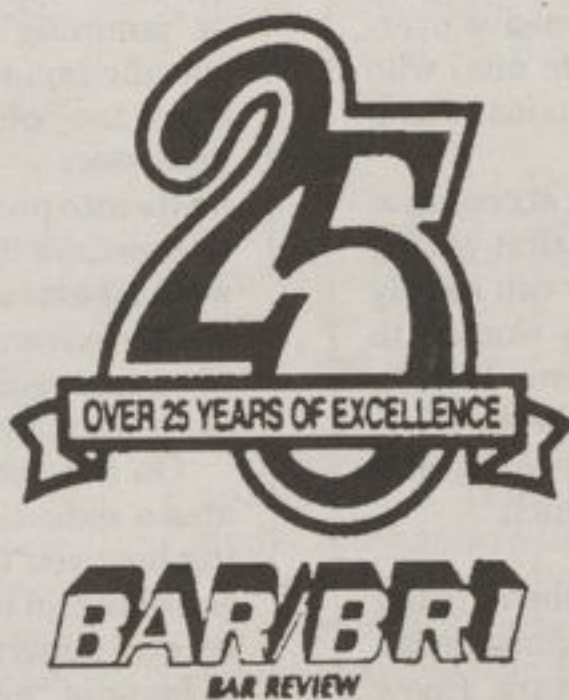
We tend to resort to image-speak most often as quick-fix-speak: as a way out of saying something complicated or complicating, something explicitly difficult and specifically critical. But the more we come to depend on informal expressions and concede to generalizing, impressionistic words — the more we rely on the broad and concede to the bland — the more we undermine our own powers of advocacy. If the essence of justice is due process, then this continual drift toward conciliatory linguistic compromises — toward all this here mushy-speak — undermines the whole process of advocacy, and ultimately compromises justice.

LAST SEMESTER

barbri
BAR REVIEW

AWARDED MORE THAN
\$350,000
IN SCHOLARSHIPS TO STUDENTS
IN THE NORTHEAST.

Due to the overwhelming response this fall and because we understand that the current job market is tight, we have expanded our scholarship program beyond our original scholarship pool and our original deadline. All applications submitted during the spring semester will be processed on a rolling basis.



NY (800)472-8899 • MA (800)866-7277

Stop by the BAR/BRI table
for an application.