



Harvard Law Record

Volume 89, No. 5

America's Oldest Law School Newspaper

October 20, 1989

Clark Announces \$1 Million Endowment; Defends Public Interest Reorganization

By Paul Tarr

Amidst heated criticism over his elimination of the public interest career counseling office, Dean Robert Clark '72 last week unveiled a \$1 million endowment for graduates taking jobs in the public sector. The plan, billed by the administration as a more appropriate way to support public sector practice, may help defuse what by now has become a national issue.

Members of the Emergency Coalition for Public Interest Careers (ECPIC), a vocal campus group calling for the restoration of the office, praised the fellowship. Still, the group remains skeptical about Clark's commitment to public interest law in general, and critical of his stance on career counseling in particular.

The endowment was made possible by a grant from publisher and former U.S. Ambassador Walter Annenberg. It will be named after his friend of 40

years, federal Judge Irving R. Kaufmann.

Clark discussed the fund in an interview with the RECORD last week. He cited a sobering reflection on this year's budget figures as an inspiration for the program.

"I was looking at the budget for LIPP [the Low Income Protection Plan, a program of loan forgiveness for graduates entering low-paying public interest jobs], and saying, fine to double it this year, but . . . beyond that at some point it's really going to hurt," Clark said.

After discussions with various university officials, potential financial contributors were

considered and approached. What began as an attempt to endow LIPP grew eventually into a separate and distinct public interest grant, according to Clark. The program will not be connected to LIPP, and will not entail loan forgiveness.

Subsidy levels and award schedules have yet to be determined. The administration is contemplating grants of approximately \$10,000, renewable for either one or two years.

Applicants will be evaluated under a three-point set of criteria. They must be committed to entering a "relatively low-paying job." They must take a job

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Watkins Pleads Not Guilty

By Greg Herbert

At his arraignment in Middlesex Superior Court last week, Kevin T. Watkins pleaded not guilty to charges that he raped and assaulted a Harvard College woman last December.

Judge John Sullivan released Watkins on his own recognizance, but granted Asst. District Attorney George Fisher's request that Watkins be ordered to refrain from any contact with the woman or her family. Watkins, who faces up to 40 years in prison if convicted, could face trial as soon as January.

Watkins, who was barred from entering his third year at HLS, traveled from his home in Brooklyn, New York last week to answer the charges first formally lodged against him last summer by the D.A.'s Office. Watkins appeared at the arraignment, held on Oct. 12 before Judge Sullivan, with his court-appointed counsel, local criminal attorney Willie Davis.

Sullivan, who has lectured at HLS, recused himself from the case at the end of the hearing.

Watkins spoke firmly as he entered his plea of not guilty, a plea he has adamantly repeated since the woman first accused him of rape last January.

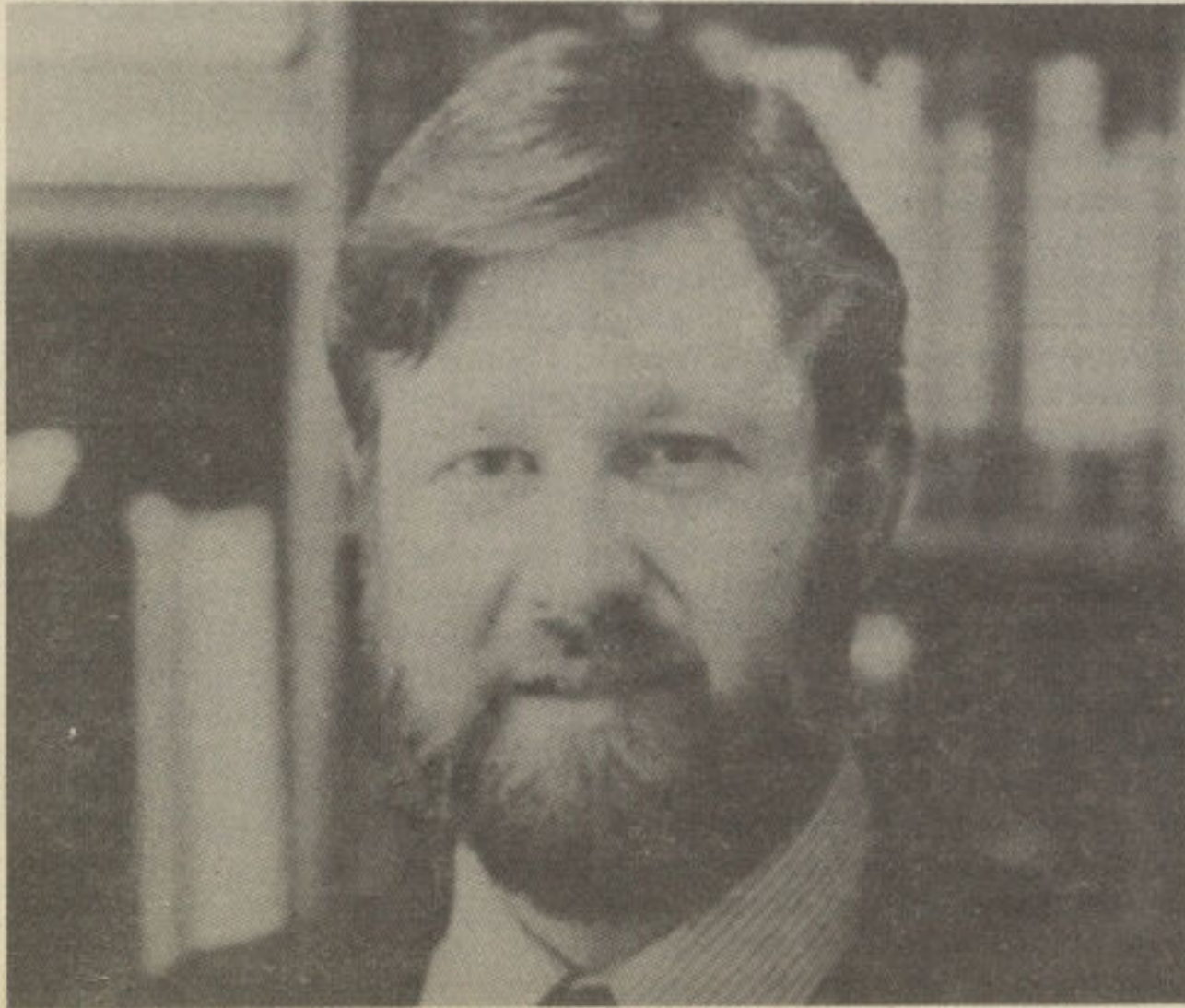
Speaking to reporters after the arraignment, Davis implied that the presence of Harvard University in the case may have been a factor in the D.A.'s decision to move forward with the prosecution, a claim repeatedly made by Watkins.

When asked about Harvard's potential influence on the case, Davis responded, "She [the alleged victim] wrote the dean of Harvard Law School one month after the alleged rape. Six months later it went to the D.A. You can draw your own conclusions."

Davis also stated that he would refuse to plea bargain in the case. "At this point, we have been offered no deals and would not accept any deals. Kevin's future is at stake here," he said.

While Davis would not comment on any specifics of the prosecution's case, he suggested some potential weaknesses in the woman's story. "She's admitted that she tried to get \$82,000 from Kevin. Where's he going to get that kind of money? He was raised by a single parent in a poor New

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Dean Robert Clark '72

Harvard Students Travel Globe For Human Rights

By Jean-Marie Simon and Steven Donziger
Special to the RECORD

Each summer the Human Rights Program at HLS sends a group of four classmates to points around the world to do legal work involving human rights. Since the program was founded in 1984, more than 100 HLS students have interned in 35 different countries on four continents. Last year, 21 students interned in 18 different countries, ranging from South Africa to Israel to Chile to Thailand.

The Harvard human rights program is considered the most extensive of any law school in the country, and is open to all students without regard to any prior experience in the field. Applications for funding can be made through the human rights office in Pound Hall.

Like many human rights advocates, Harvard human rights interns have witnessed people being killed, tortured, or imprisoned without trial. All have compelling stories, both personal and political, that they wish to share with the HLS community.

In this first installment of a series, the RECORD focuses on three of the four HLS students who spent last summer in South Africa — Andre Nobles, 2L, Sandra Babcock, 2L, and Ken Mack, 2L.

ANDRE NOBLES

Since his undergraduate years as an African studies major at SUNY-Binghamton, Andre Nobles says he has had an "intense" interest in visiting South Africa and examining firsthand its system of forced

Part One: South Africa

racial separation.

"What attracted me to South Africa was the race issue and how to relate it to what is happening in the United States," said Nobles, 25, a second-year black student from New York. "Having to deal with the racism in America, I wanted to see this aspect of colonialism and how folks are resisting it."

Nobles worked at a black-owned law firm in King Williams Town, 200 miles east of Cape Town on the southern shore of South Africa. His first assignment was to research a new anti-union law passed following the 1987 mine workers strike, which had dealt a crippling

blow to the South African economy.

"I traveled to several townships to speak to black unionists," said Nobles. "What I found was that the unionists are trying to incorporate economic issues and political demands into their bargaining in a way that covers a much broader range of issues than trade union bargaining in the United States."

On three occasions Nobles was refused entry to restaurants or hotels because of his race, but they were mostly in rural areas. The large cities, like Johannesburg and Cape Town, reminded Nobles somewhat of New York.



photo by Sandra Babcock

2Ls Sandra Babcock, Andre Nobles and Ken Mack (left to right) shown here at a township in South Africa.

SANDRA BABCOCK

Sandra Babcock, a white second-year student from Baltimore, felt the terrible brutality of the South African police on Aug. 19 of this year. On that

(continued on back page)

Dersh, Bush Cousin Clash On Judicial Appointment

By Kristen Swartz

President Bush recently nominated his first cousin, Judge John M. Walker, Jr. of the Federal District Court in Manhattan, for one of 13 judgeships on the United States Court of Appeals for the Second Circuit, considered by many to be one of the most important courts in the country. In an attempt to prevent Walker's promotion to the circuit court, Prof. Alan Dershowitz said he will testify against him during the Senate nomination hearings which are scheduled to take place this month. If Walker is confirmed, Dershowitz plans to sue under a federal anti-nepotism law, he told the RECORD.

This nomination does not represent the only time Dershowitz has challenged Walker. In 1985, Walker ruled that Dershowitz waived his lawyer-client privilege by publishing a book about his client Claus von Bulow. The Second Circuit Court reversed Walker on this ruling.

According to Dershowitz, Walker was nominated solely on the basis of his family connection to the White House. Dershowitz claimed that "no one would honestly say that [Walker] would have been appointed but for being the President's cousin."

Walker, who is on vacation, could not be reached for comment. Greg Light, Walker's clerk, would not comment on the issue.

Walker, however, has received high scores in some important arenas. The American Bar Association gave Walker their highest rating after reviewing his nomination. Judge Michael Mukasey, also a District Judge for the Southern District of New York, who has known Walker since they worked together as Assistant U.S. Attorneys and represented von Bulow in civil court, described Walker as one of the "best trial judges."

Walker attended Yale University for his B.A. degree and graduated from the University of Michigan Law School in 1966. He worked for two New York law firms for seven years, and spent five years as an Assistant U.S. Attorney in the Southern District of New York. Walker served as Assistant Secretary for the U.S. Treasury Department from 1981 through 1985 when President Reagan nominated him to the Federal Court in New York.

Walker has published at least one article, which appeared in the *American Criminal Law Review* in 1983 and concerned grand jury secrecy. In 1985, he received a Secret Service Honor Award and an Alexander Hamilton Award from the U.S. Treasury Secretary.

Dershowitz described Walker's career as "lackluster." In a nationally syndicated column, Dershowitz wrote, "Nothing explains why the White House put Walker at the very top of the list of judges and lawyers it thinks are eminently qualified for promotion to the Court of Appeals for the 2nd Circuit."

Walker's notoriety grew substantially this summer when he presided over the trial of Leona Helmsley. Helmsley, the famous "Queen" of the Helmsley hotels, was charged and convicted of tax fraud. The *New York Times* described Walker as being "cool-headed" during the trial. Dershowitz commented that Walker was "all right" in the Helmsley trial, but went on to say that one success was not enough to make up for some of his "terrible" decisions.

Dershowitz described another one of Walker's decisions as "silly" in a recent nationally syndicated newspaper column. In that case, Walker ruled that it was unconstitutional for a state to grant college scholarships on the basis of Scholastic Aptitude Test scores. Based on the finding that women do not score as high on the SAT as men, Walker held, "SAT scores capture a student's

academic achievement no more than a student's yearbook photograph captures the full range of her experience in high school."

Dershowitz also criticized a recent ruling in which Judge Walker held that a law firm's conflict of interest evaporates once the firm fires the lawyer who originally created the conflict.

New York Attorney Jeremy Epstein of Sherman & Sterling, a former Assistant U.S. Attorney for the Southern District of New York, said that Walker had an "excellent reputation" in New York. He felt that Walker's legal experience makes him "more than amply qualified" for the federal bench, and he commended Walker's performance in one of the most complex areas of the U.S. Attorney's Office, the Securities Fraud Unit.

When asked about the allegations of nepotism, Epstein agreed that Judge Walker's nomination by the White House "clearly" was because of "his family connections," adding that it would "not be reasonable to assume" otherwise. But according to Epstein, that was beside the point, since Walker has "performed superbly" in every one of his appointments.

Friction was first generated between Walker and Dershowitz in the 1970s, when the latter made strong accusations against the federal prosecutors, including Walker, in the Southern District of New York. The U.S. Attorneys and Dershowitz crossed paths when Dershowitz represented another lawyer appealing a conviction for purchasing grand jury minutes. The two sides exchanged verbal attacks during the drawn out appeal, which Dershowitz eventually lost. In his book, *The Best Defense*, Dershowitz accused those U.S. Attorneys involved of covering-up and distorting the truth.

Dershowitz faced Judge Walker again in 1985 in the von Bulow civil case.

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Survey Reveals Hemenway Gym Needs Repair

By Linda Popejoy

"Hemenway is a pit straight out of the dark ages" commented one student responding to a Dormitory Student Advisory Council (DSAC) survey distributed in May, 1989 on the Hemenway gym. Unsafe conditions at the gym have received increased attention because of the survey, to which 129 HLS students responded.

Complaints include sand and dirt on the courts, inadequate lighting, filthy locker rooms and showers, crowded aerobics classes, inadequate facilities and equipment for women, and poor or nonexistent maintenance of equipment. Charlotte Gibberman, 3L and DSAC president, said that the survey results also indicated that Hemenway is "not very woman-friendly" because most of the equipment is "geared towards men."

Pressing safety issues were dealt with early this semester, including the repair of a leaking water fountain and the removal of miscellaneous items stored on the basketball courts. Last year, law student Sidney Barthwell, 3L, was seriously injured while using the basketball courts. Barthwell declined to comment on the incident.

While the gym serves as the home for Harvard's squash team, and is open to the entire Harvard community, the majority of its users are HLS students, faculty, and staff, according to Simone Reager, administrative dean. HLS therefore has a strong interest in the gym, said Reager, but lacks total control since Hemenway is owned by the Faculty of Arts and Sciences and is managed by the Athletic Department. HLS has gained some control over the

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to a reception

Thursday, October 26, 1989

6:30 - 9:00 p.m.

Charles Hotel

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We will also be interviewing Harvard 2Ls and 3Ls on Thursday, October 26 and would like to encourage all interested students to sign up to meet with our firm's representatives. Student who wish to learn more about our firm and are not available on this date should contact Irena McGrath, Recruiting Administrator, Wiley, Rein & Fielding, 1776 K St. NW, Washington, DC 20006, (202) 429-7000, to make alternate arrangements.

Petition Requests Course On Gay/Lesbian Legal Problems

By Jim Houpt

Members of the HLS gay and lesbian community are optimistic there will be a course offered next year to explore the special legal problems gays face.

The Committee of Gay and Lesbian Legal Issues (COGLLI) reported that more than 400 students signed a petition requesting such a class. "We were pleased by the enthusiasm," said Carrie Costello, 3L, COGLLI co-chair.

COGLLI circulated the petition last week to mark "National Coming-Out Day." Local group members said the annual observance, celebrated Oct. 11, is a day when gays and lesbians are urged to go public.

"We wanted to give something appropriate to do on this gay holiday," Costello said. The petition drive was "something we've been planning for a long time."

Costello said the course might be called "Sexual Orientation and the Law" or "Gay and Lesbian Legal Issues." She suggested it would encompass fields such as family law, torts, constitutional law, immigration, and labor law.

A first-year student whose involvement with the petition marked his first public activity with COGLLI called the signature drive "an empirical testing and an initial sampling of the depth of support, or, if you will, the level of hostility." Peter Cicchino, 1L, however, said, "I'm happy to say I haven't encountered any [hostility]. By and large, people have been receptive." He signed a letter to fellow students and urged those in his section to support the course by signing the petition.

Cicchino said COGLLI members approved the project at a meeting last month after debating whether to seek support for the new class, or to mobilize support for the Massachusetts Gay



COGLLI members solicit student support for alternative courses in Harkness Commons last week.

Rights Bill, which passed the legislature last week. He expressed the belief that the petition accomplished an important goal: "to increase tolerance, build community, get everyone more comfortable . . . particularly gay and lesbian people." He added, "I think it was a no-lose situation."

Not everyone was as enthusiastic with the result. Norris Ratner, 2L, COGLLI co-chair, claimed that more students should have signed the petition. "There's something about the law school that's hostile," he said, "There's great pressure to conform, to fit in."

Ratner suggested that the hostility is "very hard to articulate." But he said

there's evidence of it in the small number of students willing to be open about their sexual orientation. COGLLI has an active membership of about 50. COGLLI estimates about 170 students, or about 10%, of HLS students are likely to be gay or lesbian.

Ratner agreed that the petition drive was good for the gay movement at HLS, providing "a visible campaign . . . something students can see and talk to."

Costello said the petition would probably be presented to Dean Robert Clark '72, the registrar, two associate deans, and an assistant dean, who make up the "Curriculum Group."

Assistant Dean and Curriculum Group member Stephen Bernardi '55 said last week that the group "would definitely consider . . . if it was a good thing to have such a course in the

curriculum." He told the RECORD that the decision depends on student demand for the course, and that COGLLI's petition would help demonstrate student interest.

"That doesn't inevitably mean the school would teach it, however," he warned. As an example, Bernardi said students have long been interested in a course on sports and entertainment law. But most experts in this field are practitioners who teach only part-time in major entertainment centers, so HLS has been unable to locate a qualified lecturer or professor willing to accept a temporary appointment at HLS.

Bernardi conceded that finding a professor for gay and lesbian legal issues might also be difficult, partly because it would be an interdisciplinary course requiring knowledge of several legal fields. But he said the task would not be impossible. "I would be rather surprised if there weren't people struggling here and there to put together a curriculum."

COGLLI already has anticipated the problem of instructor availability. Costello admitted the committee has not yet found anybody "at the law school who was capable of, or feels willing to, teach such a course."

However, COGLLI is compiling a list of potential instructors from ten law schools around the country already teaching similar courses. Costello cited Yale and NYU as two prominent law schools that have implemented a course on gay and lesbian legal issues.

Costello said the curriculum developed at Yale could be adapted to a course at Harvard. She also said she believed a textbook is being developed, possibly by professors at one of the University of California law schools.

"We're trying not to have any preconceived notions," said Costello of the reception COGLLI might receive when it presents the petition to the administration. Costello is cautiously optimistic that HLS will not reject the request for the new course. "We're hoping that won't happen," she stated, "so we have made no other plans yet."

Howard Beach Prosecutor Discusses Racial Violence

By George Paul

Charles Hynes, special prosecutor in the Howard Beach murder trial, recounted the chilling details of the savage attack on three black youths by a group of white teenagers that precipitated a crisis in racial tensions in New York. He described the events of Dec. 20, 1986 at an HLS Forum speech on Oct. 10 in Austin Hall. Hynes explained how a broken down car triggered a series of tragedies culminating in the death of 23-year-old Michael Griffith and the brutal beating of his stepfather. One year and a day later, John Lester, 17, Scott Kern, 18, and Jason Ladone, 16, were found guilty of manslaughter and first degree assault.

Law enforcement "can't make people love each other; we can't even make people respect each other. And sadly all we can do is warn those who hate — and act violently against others because of the hatred — that they'll have to be punished," reflected Hynes. The message of Howard Beach is the "hope that fear will somehow deter future tragedy."

New York mayoral candidate David N. Dinkins, then Manhattan borough president, expressed the same sentiment shortly after the trial. The *New York Times* reported him saying, "Part of the reason for punishment is to deter others. I'm not suggesting it will make good people out of bad people, but some people who are just as bigoted . . . will think four or five times" before behaving as they might have if there had been no Howard Beach convictions.

Hynes expressed his concern that the message of the trial is being ignored. He noted that after the sentencing of the Howard Beach defendants, he was given a standing ovation by the more

than 100 friends and relatives of the victims that had crowded into the courtroom. Hynes commented that since the sentencing, the racial violence has "seemed unending." Most recently, just one day before Yom Kippur, two Jewish students from Brooklyn College were pummeled by white teenagers. One victim had to have his spleen removed, while the other suffered a fractured skull and several fractured ribs.

Hynes generally has been praised for his aggressive handling of the Howard Beach case. The increased political awareness of racism that Howard Beach helped bring about is a "reflection of one person's commitment to sift through the politics . . . to get to the essence of justice in the system," said Prof. Charles Ogletree, Jr. '78, who introduced Hynes.

After the verdict, New York Governor Mario Cuomo complimented Hynes and presented him with a crystal apple, the *Times* reported. Hynes admitted that a major criticism from the black community has been that two of the youths are still out on bail, pending appeal.

Hynes is currently the Democratic nominee for Brooklyn District Attorney. He promised there would not be a need for a special prosecutor for racially or ethnically motivated attacks if he is elected. Furthermore, he has supported a crime bill in the New York Legislature that would mandate more severe punishment for those involved in "bias-type" crimes, including racial attacks. He also pledged to begin an Adopt-A-School program for race relations, similar to an existing program for drugs. He said he believes the program could help stop "middle class flight" from New York public schools and thus encourage youths to associate with people from diverse backgrounds.

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Zaire President Greeted By Vocal Protesters At K-School

By Greg Dingens

Hundreds of people gathered in front of Harvard's John F. Kennedy School of Government on Thurs., Oct. 5 to protest the presence of Mobutu Sese Seko, president of Zaire. Mobutu was invited to speak by the school's Institute of Politics and, despite anonymous bomb threats, delivered an address entitled "Peace and Progress: The Future of Southern Africa."

The protest was organized by several local and national political groups, including several Harvard student organizations, who accused Mobutu of ruling by oppression through a variety of human and civil rights abuses. The murders of 13 Zaire university student protesters in February, the vast personal wealth of Mobutu, Zaire's high infant mortality rate, and Mobutu's "legendarily corrupt" one-party government were among the injustices cited.

Steve Singer, a spokesperson for the Kennedy School, defended the decision to proceed with the speech despite the bomb threats, invoking the "larger principle" of freedom of speech. Singer denied allegations that a respected political forum for Mobutu was in any way legitimizing his domestic actions, asserting that "any credibility came from what he said on the podium, not the fact that he was standing there."

Mobutu's speech emphasized the burdens foreign debt have placed on southern Africa's underdeveloped nations, calling for new and innovative debt relief by Western leaders. He also defended his priorities of "order and security" as essential for development, and reiterated his dedication to the "eradication of apartheid."

During the question and answer session after the speech, Mobutu repeatedly denied any allegations of brutality, political oppression or corruption in Zaire. Mobutu urged the small, tightly controlled crowd to visit Zaire and see

the country for themselves. Accusing questioners of being victims of "professional propaganda," he also told them to quit reading so much "smut." Incredulous laughter and hisses were elicited from the crowd when he proclaimed that "in Zaire people have put total confidence in me" and that "Mobutu is loved by his people."

Before the speech, the animated crowd, bolstered by the appearance of a large contingent of students from

"Mobutu fights apartheid by dialogue." They chanted slogans in French and approached the much larger anti-Mobutu crowd on several occasions, only to be halted by police officers. All were dressed in expensive suits and, upon questioning, none would make any statements other than that they were "Zaire citizens" living in the Cambridge area.

Ebua Lihau, a former Supreme Court Justice in Zaire, spoke emotionally to



photo by Felicia Ravago

Students and others wage a vehement protest against Zaire's president Mobutu Sese Seko, who spoke at the JFK School of Government last Thursday.

Tufts University, enthusiastically chanted slogans for over an hour to the beat of African drums and carried placards calling Mobutu a "bloody tyrant," labeling him "apartheid's friend," and accusing the CIA of electing and bankrolling his administration.

Close by, about thirty people staged a counter-protest, waving signs proclaiming: "Mobutu: Nation builder" and

the crowd, repeatedly calling Mobutu a "bloody tyrant" and praising the crowd for their protestations. Lihau claimed it was "immoral" for Harvard to sanction such a speech. "He invited himself here through a P.R. feat," he cried, "and it would be a shame if such a bloody tyrant were to speak without a protest." He then slipped into a much longer tirade against Zaire's president in his native French.

Dan Weiser, 1L, claimed he joined the protesters because he was "all for civil liberties" and that "the man killed 100 students."

Also present was a man, identifying himself only as Abukari, who claimed to represent the African Desk of Rain-

bow Lobby, a national lobby group based in Washington, D.C. He said that the peaceful demonstration was organized to "let it be known that we don't support the legitimization of a bloody tyrant like Mobutu." He also professed disbelief that Mobutu should be "invited to speak on peace and progress when he does not contribute to it in his own nation."

Officer John Ferranti of the Cambridge Police Department estimated the crowd to be 200-250 and noted that both groups had obtained the necessary permits for peaceful demonstration. Stating that he "anticipated no problems," he declined to estimate how many police officers were assigned to the rallies.

Security was extremely tight, with police checking bags and I.D. at the only entrance, where several signs declared, "WARNING: The University has been notified that someone claims there is a bomb or incendiary device in this Building" and cautioned entrance at one's own risk.

About thirty minutes into the rally, a contingent of Tufts students marched down Massachusetts Avenue to join the protesters already stationed there. Ben Harrison, a sophomore at Tufts, claimed that roughly 80 students made the trip, organized by the African American Society on their campus. He described Mobutu's presence as a guest of Harvard as a "travesty of justice," and he and several of his fellow students recited Mobutu's history of selfish and brutal rule. They claimed that Mobutu had not built one hospital in his 24-year rule and that 50% of all children born in Zaire die before they reach age three. "And the man has a gold chair!" added Estefan McLetchi, also of Tufts.

Singer, however, defended the school's invitation to Mobutu. He stated that the speech originally was supposed to be a joint conference with Mobutu and Angolan President Eduardo Dos Santos to discuss their involvement in the negotiated cease-fire in Angola in June, which has since been violated. Singer explained that Mobutu was given the opportunity to highlight the developments in Angola, and he noted that Mobutu had the "backing" of the U.N. General Assembly and a coalition of 17

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Suarez Discusses Miami Politics

By Julia R. Gordon

As the first Cuban-American mayor of Miami, Xavier Suarez '75 plays an important national role in debates on politics and racial issues. Last January's riots in Miami, spurred by an allegedly racist shooting by a police officer, focused the country's attention on the problems of that city.

Before an HLS Forum audience on Oct. 25, Suarez addressed the difficulties inherent in governing a city composed of three disparate ethnic groups, Hispanics, Blacks, and Anglos (the Miami term for Caucasians). He said his "efforts to create unity" largely consisted of initiatives designed to close the economic gaps among these people. According to Suarez, the Hispanic community's standard of living is essentially equal to the Anglo's, while blacks tend to be poorer.

"Racial disturbances accompanied by property destruction in Miami can largely be attributed to the fact that people will not fight to protect what they don't have," Suarez said, "and therefore I have focused attention on affordable housing for the working poor."

Suarez also laid out some of his own political views, ranging from his disapproval of recent congressional action on the capital gains tax, to his commitment to a more stream-lined and efficient city government. Noting that some people see ideological inconsistency in his positions, Suarez joked, "When I talk to people at dinner parties, the Republicans think I'm a Democrat, and the Democrats are convinced I must be a Republican."

The mayor shied away from discussing the problem of racial tensions, dismissing the idea that such tensions are

as high or higher in Miami than in other large urban areas. In response to a question about racism and corruption among law enforcement officials, he replied, "I was not responsible for hiring [the more than 70 indicted Miami police officers]."

When asked about his feelings on the "English-Only" movement, Suarez expressed support for continued bilingual services in his city. However, he did not oppose the amendment to the Florida constitution passed last year because "it has no teeth." Suarez's

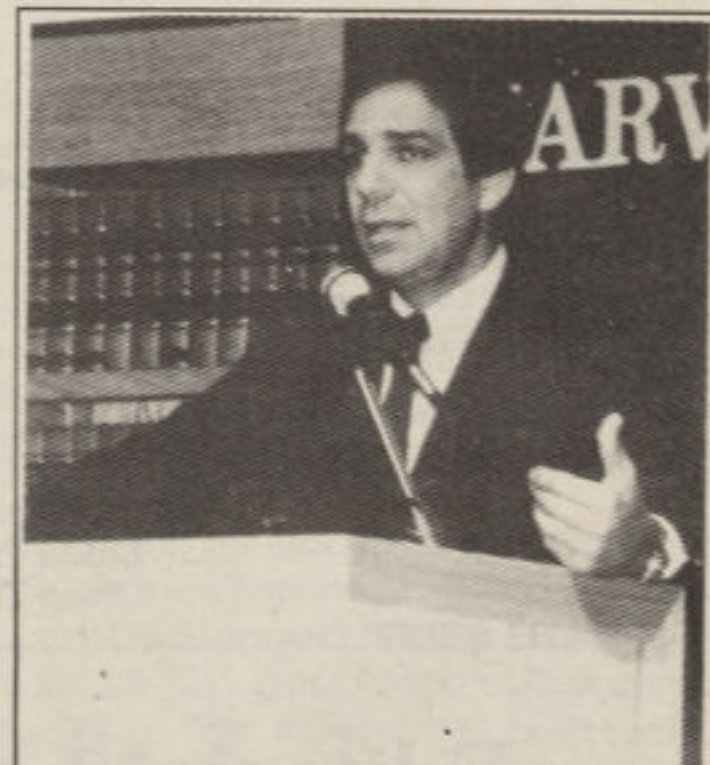


photo by Felicia Ravago

Xavier Suarez '75, the first Cuban-American mayor of Miami, Florida.

opinion runs counter to the position of most supporters of bilingual services, who believe that the amendment severely restricts these services.

Audience reaction to Suarez's speech was mixed. Pat Gulbis, 1L, stated, "I came to hear a substantive talk on the problems in Miami . . . Instead, all I heard were a bunch of political anecdotes and cocktail party jokes."

Harvard Law Record

Volume 89, No. 5
Erick Hachenburg Greg Herbert
Editors-in-Chief

Editorial

Dean Clark 2, Public Interest 1

Dean Clark announced last week the establishment of a \$1 million endowment to support graduates entering public interest law. The administration is contemplating \$10,000-per-year grants with the option to renew for a second year. The endowment was a gift from Ambassador Walter Annenberg who gave the money in honor of Judge Irving R. Kaufmann. Apparently, true to his rhetoric, Clark has invested a great deal of time and effort in furthering at least one aspect of public interest law — bridging the financial gap between public and private sector jobs. He succeeded in courting a large donor. For his accomplishment, Dean Clark deserves congratulations, and Ambassador Annenberg deserves thanks.

The endowment also showed that the students in the Emergency Coalition for Public Interest Careers (ECPIC) and Clark are heading in a similar direction — the furtherance of public interest. As the public interest campaign continues, both sides should firm up their common ground and use it to further everyone's interests.

First, Clark is certainly correct, and ECPIC agrees, that bashing corporate practice is not a constructive approach of furthering the needs of public interest. Any moral claim that public interest is better than corporate work will result in resentment among the many students who ultimately choose a corporate practice. This resentment shuts off an important partner in the public interest cause. Private corporate practice offers a potentially enormous resource and offers support through many alternatives, including pro bono activities, training before entering public interest, or even a large donation many years from now. As far as finding a fulfilling career, each individual must decide for herself or himself whether a corporate practice is fulfilling.

Second, Clark firmly believes that the primary reason students choose not to enter public interest jobs is because of the money. Although Clark is partly correct, ECPIC also is partly correct that the lack of financial resources hurts public interest in other ways also. With the low budgets of public interest firms, they cannot afford even moderate recruiting budgets, which often leaves public interest positions more difficult to attain and less attractive in comparison to the "flashy" law firm practice. Clark should continue courting private donors, but he should also consider the ECPIC demand for a public interest career office. Both approaches combined would provide comprehensive and effective assistance.

The students in the ECPIC can take heart in that Clark seems to be heading for a similar goal, and may be able to focus their efforts on influencing the path to that goal. On the other hand, Dean Clark should consider the ECPIC proposals because no matter how many endowments are established they will not serve as a replacement for a public-interest career office. Clark's contacts in the private sector are a valuable asset and with student input, his contacts can be channelled into an effective public interest program. Last weekend, ECPIC tried to inform the visiting Alumni of the public interest debate by posting signs that read Dean Clark 2, Public Interest 1.

The ECPIC's protest signs should have read: Dean Clark 2, Public Interest 1.

-E.H.

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Departure Of Fox Loss For HLS

To the Editor:

Today, the effects of Dean Clark's "reorganization" of public interest career counseling become tangible and unmistakable. Ron Fox leaves HLS along with the position which he largely created, the Public Interest Career Counselor.

Over the past five years, Ron expanded and innovated a number of programs which have promoted public interest careers for students. Most notable was the creation of the 1L

public interest groups are not easy to contact.

With a public interest career counselor, HLS was not only helping a minority of its students. It was also responding to some of society's needs. According to the American Bar Association and the Massachusetts Legal Assistance Corporation, approximately 93 percent of the legal needs of the poor go unmet every year.

Fox was notified that his position had been "reorganized" out of existence during the summer, when most students and faculty sympathetic to the goals of the public interest career counselor were away.

With his departure, students who wish to go into public interest practice are at a severe disadvantage. Currently, there is no one at HLS who has the experience or the connections which students need to locate public interest jobs.

If the "reorganization" continues unchecked, HLS not only will have gravely disserved its students, but will have also shirked its responsibility to provide lawyers to the poor, to children, the disabled, and to communities located next to poison-spewing manufacturing plants.

It's important to realize that Clark's decision has had ramifications beyond the law school setting. We recall that an individual's life was disrupted by the "reorganization." Let us remember, too, that many people, without representation in HLS's budgetary decisions, will also be adversely affected.

Nan R. Watanabe, 1L

Letters To The Editor

public interest workshops, which have introduced students to practitioners, the breadth of the public interest field, and the technical matters of interviews and finances.

Ron devoted his time exclusively to public interest careers because the needs and concerns of students who wish to pursue careers in the field, and the particularities of the field itself, required it. While finding a job is a challenge to students, those seeking public interest careers must overcome often insurmountable additional obstacles. For example, public interest firms have small recruitment budgets, if they have any at all. Often, public interest employers are unable to forecast their needs for the coming year during the traditional recruitment season. And more often than not,

Federalists Support Debate

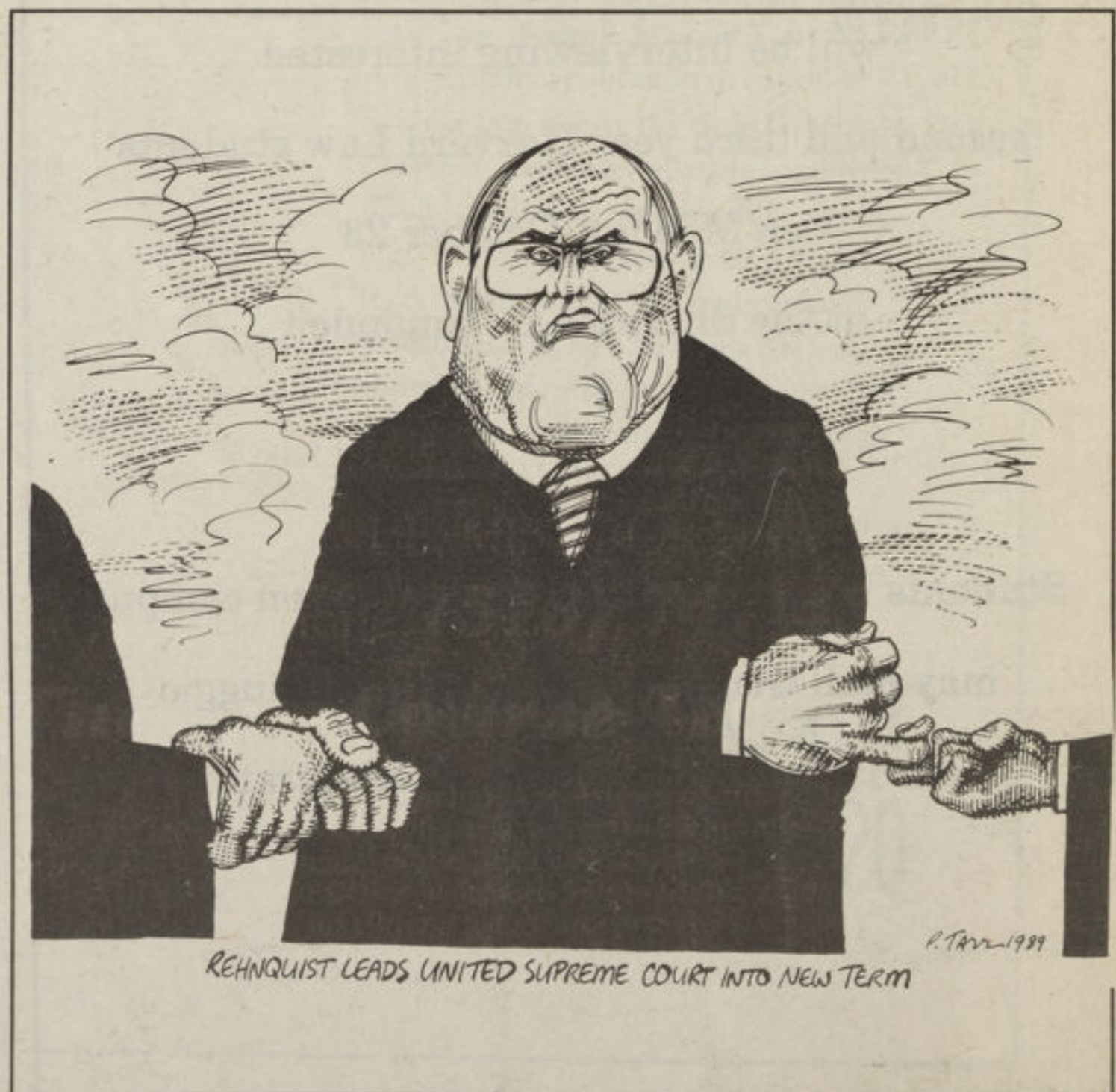
To the Editor:

The editorial appearing in the Sept. 29, 1989 Record entitled "The 'Right' to Debate" states that "[T]he Federalists...stifle debate over many significant issues. An arrogance has overcome the Right..." As the Federalist Society 1988-89 schedule shows, last year the Society presented thirteen events including eight in our dialogue series. Each of the dialogues hosted two or more speakers with different perspectives on the legal issues discussed. Sometimes the perspectives were from the "right" and "left" and sometimes not, but each dialogue was a contribution to reasoned and informed debate of the issues.

The Federalist Society has been the only campus group regularly to sponsor debate-like programs. This is not to suggest that other formats do not promote debate of the issues, but it is ironic that the Society would be singled out for criticism on this point.

Ronald Edquist, 3L
Federalist Society

[Editor's note: The author submitted a schedule of last year's Federalist Society events. The Federalist Society sponsored speeches by Judge Alex Kozinski, Prof. Glenn Loury, Daniel Popeo, Prof. Hal Scott, and Kenneth Cribb. The Federalist Society also held debates between Prof. Alfred Rubin and Bruce Fein; Judge David Sentelle and Prof. Heymann; Dr. Peter Huber and Prof. Richard Stewart; Prof. Joseph Broadus and Prof. Robert Volk; a panel of Judge Douglas Ginsburg, Judge Stephen G. Breyer, Judge Robert Keeton, and Alan Morrison; debates between Prof. Charles Ogletree and Richard Willard; Gordon Crovitz and Robert Mueller; and Prof. Charles Fried and Prof. Randall Kennedy.]



Some Interview Discrimination Claims Should Be Viewed With Skepticism

Recently the hard-nosed investigative reporters of the Harvard Law Bulletin treated us to an interview with Bonnie Savage '89, former WLA President. Discussing the subject of discrimination in job interviews, Savage confessed that though her interviews went "smoothly," sexism remains rampant. Her evidence? She was, "routinely asked what my husband does for a living." Gasp!!

Only a fool would suggest that discrimination has been eradicated from the law school interview process. Fur-

thermore, such behavior shows its ugly face with disturbing regularity. In an excellent column written last spring, my usually misguided liberal counterpart, Steve Donziger, documented numerous examples of truly outrageous discrimination, such as black law students arriving at firms and being directed to janitorial interviews. The purpose of this column is not to deny

the obvious. It is to discuss our response to these continuing incidents, which are nevertheless the exception rather than the rule. Our response is developing disturbing aspects of its own. I have never had an office interview in which I was not asked what my wife does for a living, and I have never suspected discrimination was the motive. Of course, as a WASP male, there is much less reason for me to be suspicious of motive. Interviewers have also inquired about my wife's thoughts on job-related travel, and numerous other no-nos from the "black list" of questions and subject matter compiled by those who would save the world through the perfect interview.

That black list has grown so long it's hard to know what some people find to talk about when they meet new people. As one frustrated recruiter recently wrote to the National Law Journal, "We have concluded that an applicant may be requested to give only name, rank and serial number."

Unfortunately, the question of discrimination is not as simple as the Savages of the world would have us believe. A study conducted at UCLA during the 1988 law school recruiting season found that a woman with a low GPA had a better chance of receiving a call-back interview if interviewed on

campus by a man rather than a woman. Furthermore, both male and female interviewers were more likely to extend call back offers to women than to equally qualified men. The study is hardly definitive, covering just one law school in one year, and any arm-chair psychiatrist worth her salt could develop some theory to explain it, probably in a way that would further "prove" the sexism inherent in the process. Nevertheless, this is the most complete study made to date, and no matter how tentative its conclusions, they seem to directly contradict the idea that women are discriminated against in the initial phase of recruitment.

In the same Bulletin interview, Savage described the much debated "mommy track" career idea as "problematic," because it is derived from the male norm. Says Savage, "Many women feel that . . . the norm of workaholicism should be challenged." But what does that mean? Would Savage refuse to reward the go-getter who puts in the long hours, a type that appears among all races and sexes? What would that do to American competitiveness? How equitable is it? And if the norm to make law firm partner were fewer hours, what would happen to lawyers' salaries? Some might say it would be fine if salaries went down, but I wonder how many women attorneys would agree?

Just like their male counterparts, most HLS women flock to the coasts for big salaries and the opportunity to bill 2400 hours per year — few HLS women actually seem interested in challenging the "male norm" by looking at jobs in Denver, Concord, Grand Rapids, or other places where the norm is not "workaholicism."

Another questionable response to crop up within the last year is the "lifestyle issue" survey. The survey was made mandatory for employers at Stanford Law this year, optional at Yale and Boalt. Among the information requested is that firms identify if they have openly gay and lesbian attorneys. I hope the firm I join would respond, "We do not inquire into, categorize, or keep track of the sexual preferences of our attorneys," and forfeit recruiting at Stanford if that's the result. Yet apparently Stanford included the question at the request of gay students. So are firms supposed to be trying to identify gays and lesbians or not? Are they supposed to ignore sexual preference when hiring or keep special records of it? If a firm wants to attract more gay or lesbian attorneys, can it inquire into such preferences during the interview?

What is the point of these ramblings? Frankly, I'm not sure. But it seems that somewhere our efforts to battle discrimination in the interviewing process are going wrong. Employers do need to find out about their applicants, and there are legitimate reasons for asking many of the questions that are now on the "black list." Sometimes interviewers are just trying to make small talk, or even be friendly. When people get apoplectic because an interviewer asks what their spouse does they are less likely to be combating discrimination than to be cheapening the complaints of students who are victims of serious, real discrimination of the type so well documented by Donziger and others.

Discrimination remains a very real blight on our society. But hyper-sensitivity to every line of conversation that might in some way provide inferences by which an employer might discriminate doesn't help solve the problem. Furthermore, at some point we must decide when such sensitivity becomes counterproductive.

I am not sure just where the proper balance lies. But we had better start giving the issue a little more serious thought than Bonnie Savage and many others seem to be doing, or our efforts to solve one problem may simply compound it with another.

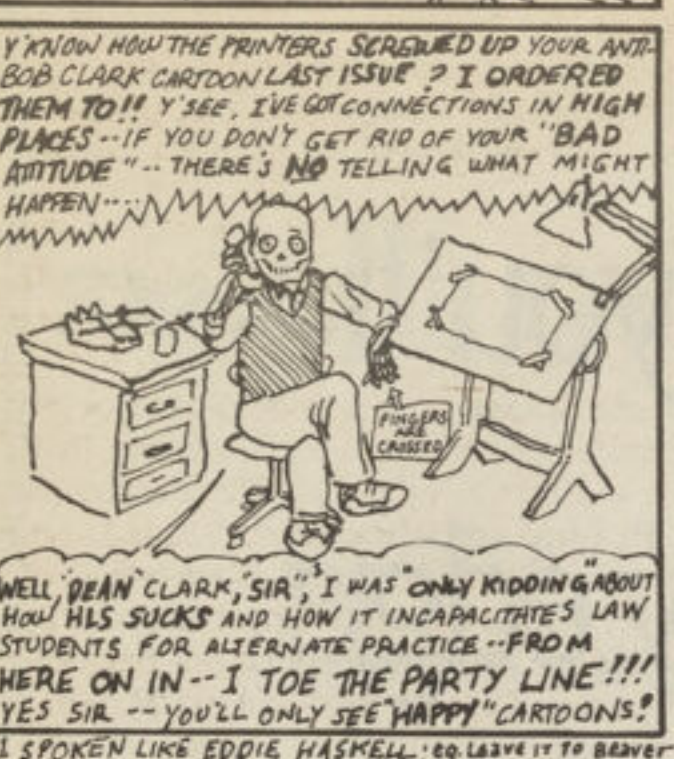
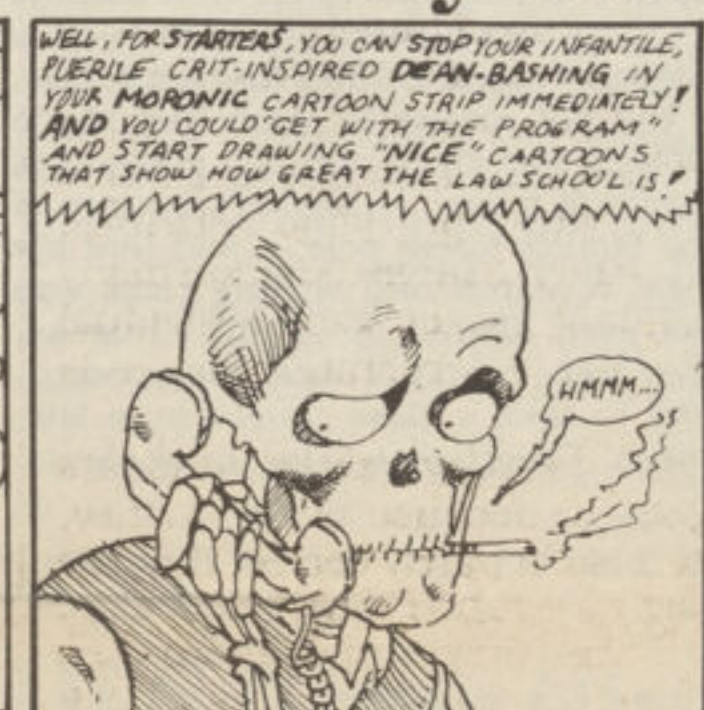
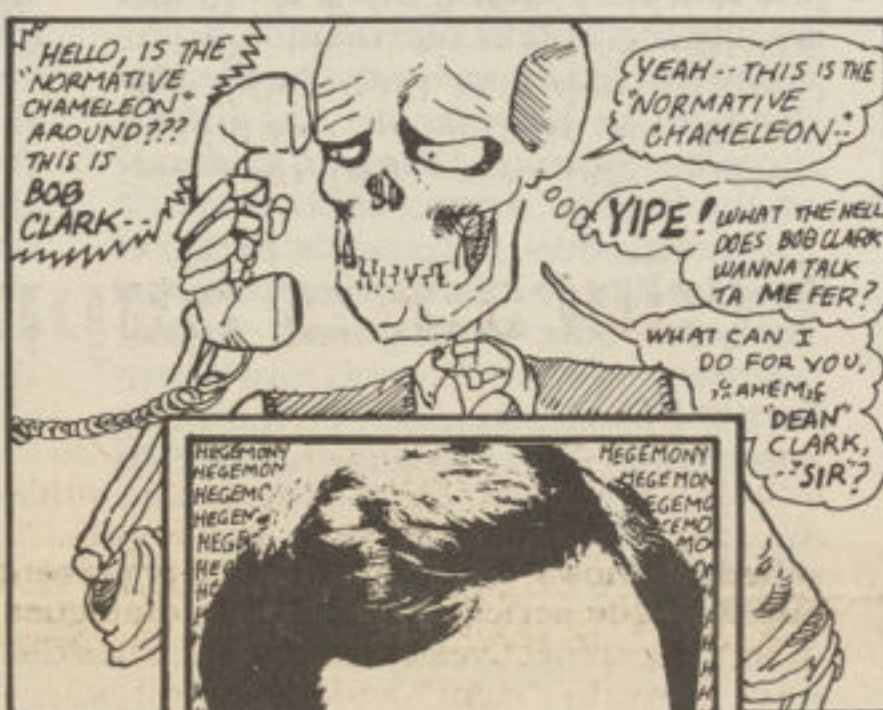
Brad Smith Columnist



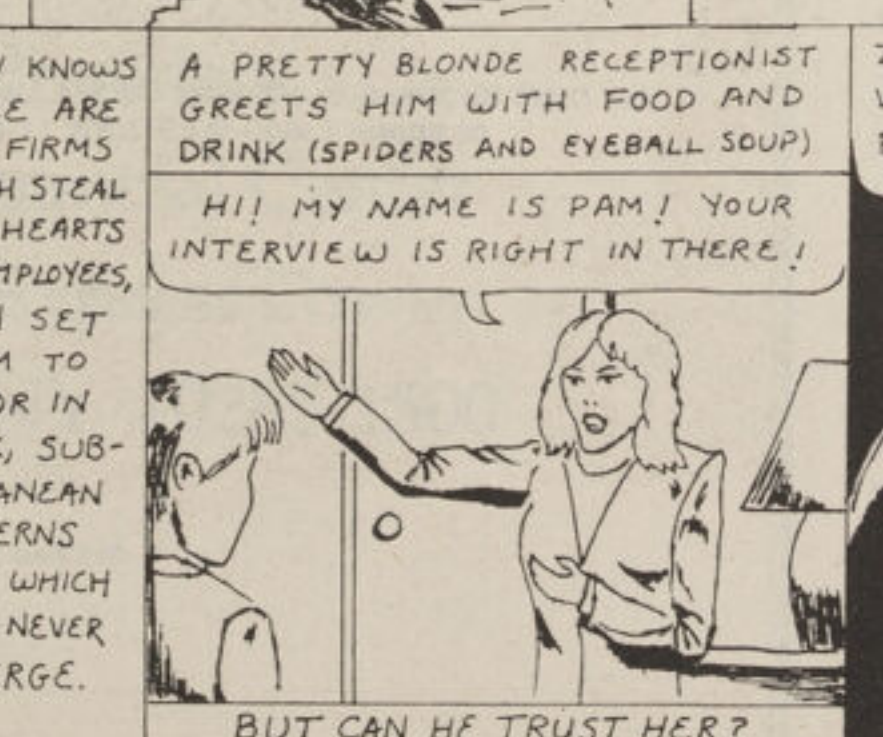
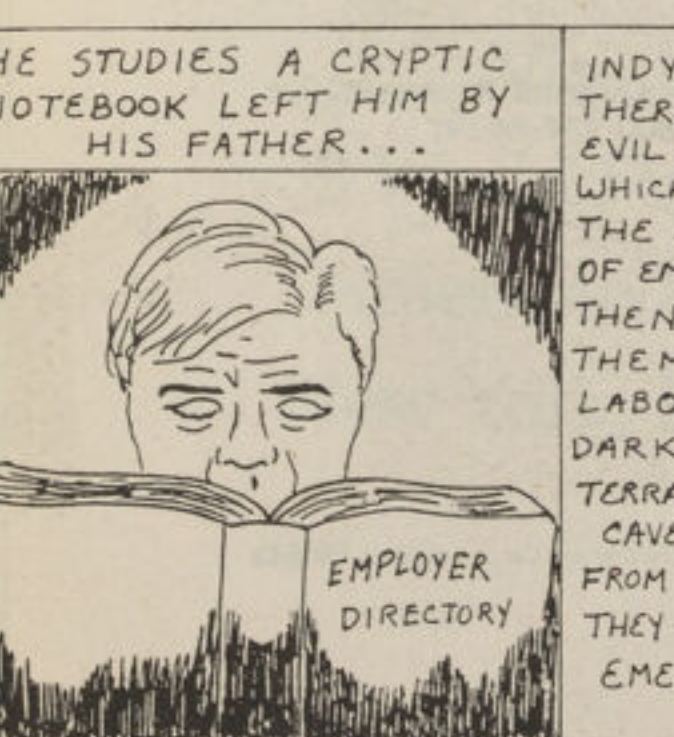
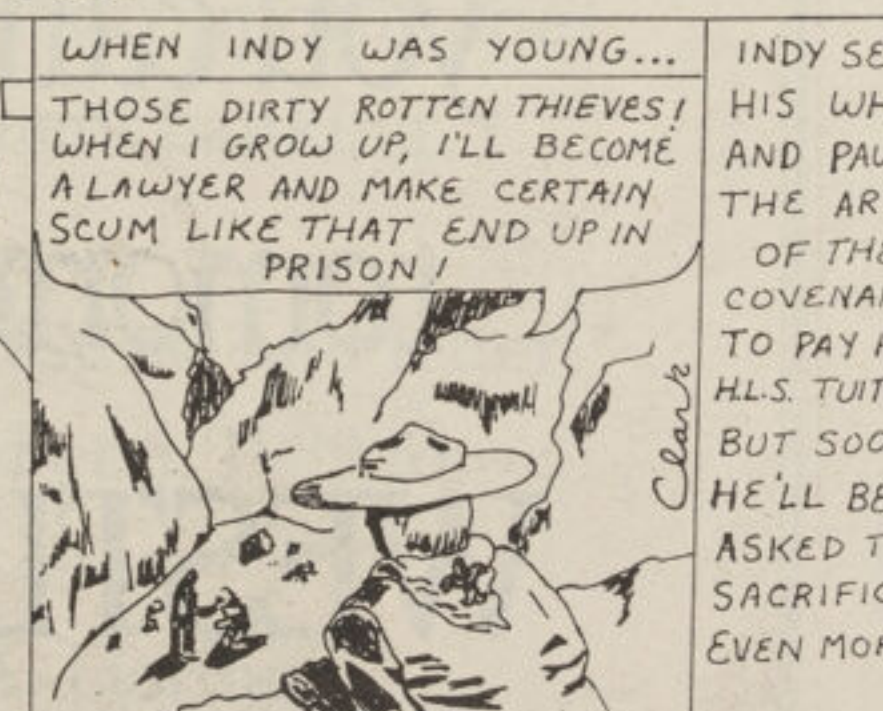
Brad Smith, 3L, serves as a senior policy analyst for the Mackinac Center, a libertarian, Michigan think-tank.

Brad Smith, 3L, serves as a senior policy analyst for the Mackinac Center, a libertarian, Michigan think-tank.

Break Downs



Agenda Neutral



By KA

By Clark

Fenno

OBITUARY

Fenno, ?L, Professional Student; at 24. Fenno, an HLS student who never finished reading a single case, died of loneliness yesterday behind O'Henry's, one of Fenno's favorite haunts, on Beacon Street in Slummerville. The coroner stated that "Fenno's body is cold and clammy and stiff and hard and smelly." Doctors indicate that lack of human warmth and affection contributed greatly to his malignant conviction that no one loved him.

He was 24 and lived in Slummerville. A native of Fenlandia and a former resident of Story and Holmes Halls, Fenno got his B.S. from Podunk University in 1987. "He missed his ex-French A teacher" is to appear on the tombstone.

He leaves F. Felina Fenno-Flagellum, Wee Willie Dinkle Fenno, and of course Mr. and Mrs. Funky Fenno, who are HLS 3Ls.

A memorial service will be held at the Bay Tower Room in Boston at 11 PM Friday. Flowers waived (but now thrown.) Send contributions to Meister Brau Breweries, Milwaukee.

Hispanics At HLS: A Sad Legacy Calls For Immediate Action

The time has come once again this year to talk about an issue which the membership of La Alianza refuses to let die: the absence, once again, of a tenure-track professor of Hispanic origin at Harvard Law School. Those familiar with the facts know that in the 172 year history of the Law School, such a professor has never existed. More importantly, in the 17 years that have passed since Hispanic students at the law school first began to raise the issue with the administration, there have as yet been no realistic offers extended to qualified Hispanics in order to fill this gap.



Rudy Rodriguez

In 1970, an organization called Chicano Law Students Association was formed to serve the needs of the few Mexican Americans who formed the majority of the Hispanic community at the Law School at that time. That first group had a very definite political agenda, which was primarily concerned with increasing admissions and the availability of financial aid for Hispanic students from around the country.

That original group was also quite conscious of the need for a curriculum which would encompass the particular legal issues facing the Hispanic American community. One student, Jaime Cervantes '73, took it upon himself to plead the case before the administration. He offered to lead a seminar for the purpose of discussing Hispanic legal issues and producing papers addressing these issues.

Rudy Rodriguez, 3L, is the Academic Affairs Chair for La Alianza.

The first stumbling block Cervantes encountered was the administration's requirement that a faculty member lead the seminar. Because he wanted someone who would have a working knowledge of Hispanic issues to assume the task of teaching the seminar, he asked if an LL.M. could teach the class, but was told that LL.M.'s are not considered faculty members. If ChLSA could find a "teaching fellow" to take on the seminar, it could have its class. The administrative runaround continued when ChLSA produced Benjamin Moya, a teaching fellow who had agreed to lead the seminar. In response, ChLSA was informed that the administration would not allow the seminar to go forward unless a tenured faculty member could lead it. Cervantes would not agree, since from its conception the seminar was to have been led by someone who not only could empathize with those Hispanics who would take the class, but who had also shared the common experiences of those students. Ultimately, the two sides reached an impasse which ultimately led to ChLSA and Cervantes abandoning an idea which had come so close to fruition.

It was at this point that ChLSA realized that, if it wanted to have the issues important to its membership addressed in a classroom environment, it was going to have to press for the appointment of a Hispanic to the HLS faculty.

ChLSA was pleased when, in 1973, a Hispanic was appointed to teach a class. It did not matter to them that Mario Obledo was given only the position of teaching fellow — the very bottom of the faculty totem pole — and that his legal research and writing class was not even offered for credit. Instead, they were proud to have the opportunity to take a class taught by a Hispanic. Unfortunately for the students,

Obledo left after only a couple of months to take a position as Secretary of Health, Education, and Welfare in California Governor Jerry Brown's cabinet. Mario Obledo would go on to become President of the League of United Latin American Citizens (LULAC), Hispanic America's oldest and largest representative organization, the political equivalent of the NAACP.

As the years passed, the Chicano Law Students Association began to see the gradual realization of its primary goals. More and more Hispanic students were admitted from around the country, and financial aid was made more readily available to those who came. As the proportion of Hispanics who were not Mexican American grew, the group found it necessary in 1981 to change its name to La Alianza.

At this juncture, La Alianza began to intensify its call for a Hispanic professor. The administration finally seemed to have addressed this concern when, in 1981, Gerald Lopez '73 was appointed to the position of visiting professor. After two years of uncertainty as to his future here, he accepted an offer as an associate professor (tenure track) at Stanford Law School. It was not until after Professor Lopez had left Cambridge that Dean Vorenberg finally decided to offer to him a more permanent position. For whatever reason, the loss of Professor Lopez to another quality institution represented a profound missed opportunity for the students at the law school. Since 1983, there has been no Hispanic professor on the faculty, visiting or otherwise.

It was to this inexcusable period of inaction that La Alianza openly reacted last year. After having made regular pilgrimages to the offices of Dean Vorenberg and faculty members on the hiring committees to no visible avail, the

membership decided to take more decisive, public action. To this end was initiated a campaign of posterizing the walls of the school with depictions of blank picture frames and the empty steps in front of Langdell, where the faculty are traditionally photographed for the yearbook, with the caption: "Hispanic Faculty Photo 1989." Similarly, the organization's T-shirts for last year bear a blank picture frame, and the back asks the question: "172 years ... A Harvard Tradition?"

These physical symbols were tongue-in-cheek reminders of a very serious problem in the eyes of HLS students, both within and without the traditional membership of La Alianza. Silent protests conducted outside two consecutive faculty meetings were well-attended, in a gesture which La Alianza and surely the faculty read as representative of the widespread support for the immediate hiring of Hispanic faculty. Dean Clark has said that this goal is one of his priorities.

Nevertheless, some students and faculty, while wishing to sympathize with and support La Alianza in this effort, want to know why La Alianza members are so adamant in their demands.

To the membership of La Alianza, as well as to many others who are status minorities on campus, the answers appear obvious. The addition of Hispanics to any academic environment enriches both the students and the faculty. Hispanic students at HLS have for most of their history been robbed of the opportunity for simple interaction with one on the faculty who has shared an experience similar to their own.

The history of Hispanics in this country is as unique and diverse as are the people who make up the various populations.

(continued on page 9)

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Hard-Fought Gay Rights Bill Survives Legislative Battles

In 1979, a Massachusetts man named Bob was fired from his job. Bob was gay, and suspected that his homosexuality was the unspoken reason for his firing. So he went to the Massachusetts Commission Against Discrimination (MCAD), the state agency charged with investigating the penalizing illegal discrimination.

But MCAD couldn't help Bob because, at that time, Massachusetts' civil rights law did not extend the same right to freedom from discrimination to homosexuals, as it did to other groups. A ruling from the Massachusetts Supreme

The seventeen years were painful for reasons familiar to anyone who has ever advocated the rights of a minority. Between 1972 and 1983 the bill never passed either chamber; it practically never got out of committee. In 1983 the bill passed the House for the very first time . . . by four votes. But it was defeated, by only one vote, in the Senate. Senator after senator took the podium to inveigh against the specter of "fags and lesbians" teaching our children, moving into our neighborhoods, working side by side with us at our jobs. Ignorance and prejudice brings out the worst in people. Even the normally indifferent *Boston Globe* was moved to comment that year on the vitriol some senators expressed.

In 1987, I served as legislative aide to then newly elected State Representative Mark Roosevelt '83, who became the chief sponsor of the gay rights bill in the House. During the first six months of 1987 we worked on the bill continuously. Rep. Roosevelt personally spoke with each of his 160 colleagues and asked them pointblank for their support. Many representatives viewed civil rights for gays as anathema and could not be swayed. Others saw it as just another exercise in political gamesmanship, and indicated their willingness to deal: a "yes" vote in exchange for a favor, like jobs or money for their district.

The bill's journey in the House began with the Commerce and Labor Committee, which deals with employment issues. A long list of prominent Massachusetts politicians and activists, starting with the governor, lieutenant governor, and the attorney general, testified to their support for the bill. Boston's mayor and police commissioner spoke eloquently of their inability to prosecute the many cases of "gay-bashing" that occurred in the city. Without civil rights protection, the victims were afraid to come forward. Despite the

chairwoman's well-known opposition, the committee gave the bill a favorable report.

The House of Representatives took up the bill in early May. The session began at one p.m. and lasted until after eight o'clock in the evening. Amendment after amendment was offered, banning gay marriages, gay teachers, gay foster parents. All were beaten down. As day turned into evening, activists stood by the doors of the Chamber, imploring representatives not to leave, or else to give their whereabouts. Finally the last roll call was taken. We won, by a 13-vote margin.

But victory in the House was once again followed by disaster in the Senate. The bill was sent from one committee to the next, a common delaying tactic. As the end of the 1987 session loomed, Rep. Roosevelt implored Senate leaders to get the bill out of committee and in front of the full Senate for a vote.

Finally, in December, the bill came before the full Senate but the delaying tactics continued. Every day an anti Senator would move to table the bill, the motion was quickly seconded and approved without a vote, and the bill would be postponed for consideration until the next day. Every day we sat in the Senate gallery, helpless and frustrated. We had the votes, but the Senate leadership was implacable. Outside the State House, the daily demonstration by gay rights activists daily grew bigger, louder and angrier. One day a group of activists chained themselves to the wrought iron barriers in the Senate gallery. When the Capitol police came to remove them, the activists spit upon and even bit some of them, and the police used their nightsticks. Later all the police involved reportedly had themselves tested for AIDS. The 1987 legislative session ended with the gay rights bill dead in the Senate.

In 1988, an election year, House members balked at the prospect of another harrowing legislative battle. We're not going to vote for this bill only to have it die in the Senate again, they told Rep. Roosevelt. You still have our votes, but . . . get it through the Senate first. Of course that didn't happen. More importantly, no one lost their seat in 1988 because of supporting the gay rights bill. Despite newspaper editorials and the invective of radio talk-show hosts, polls showed that nearly 70% of Massachusetts voters support gay rights.

Earlier this year, the bill passed the House again with little fanfare, but by a much smaller margin: 7 votes. Amendments were added to exempt religious organizations from nondiscrimination in employment (the so-called "Catholic Church amendment"), and to clarify that nondiscrimination on the basis of sexual orientation does not include those whose preference is sex with children. In addition, civil rights for gays would not make them eligible for affirmative action. In the Senate, the inevitable "passage of this bill does not imply endorsement of homosexuality" amendment was added, as well as an amendment stating that the act should not be construed to permit gay marriages.

As of this writing, it is expected that the House will concur in the Senate's version of the bill, thereby obviating the need for a conference committee, another potential graveyard. With the governor's signature the seventeen-year-long struggle will have ended, and gay civil rights will become the law in Massachusetts. The losers will have lost nothing except the ability to discriminate against a persecuted minority. That is a victory for everybody.

Pam Silberstein Off The Record

Judicial Court made it clear: the MCAD did not have the power under the law to act on cases of discrimination based upon sexual preference. If there was to be remedy, the SJC said, it must come from the legislature.

Well, it took seventeen years, but last week the Massachusetts State Legislature made history. On Wed., Oct. 11, Massachusetts became the second state in the nation to pass legislation guaranteeing civil rights for gay men and lesbian women.

Those were long and often painful years. First introduced in 1972 by then State Representative Barney Frank '77 the gay civil rights bill guarantees homosexuals the state's protection against discrimination in the areas of housing employment, public accommodation, insurance and credit. The bill amends Chapter 151 of the Massachusetts General Laws by adding two words — "sexual orientation" — to the list of human characteristics for which one can't be discriminated against: race, gender, ethnic origin, etc.

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HLS Needs Hispanic Professor

(continued from page 8)

lations of the fastest growing ethnic group in the nation. Whether or not the professor is old enough to have experienced firsthand the discrimination and psychological abuse dealt schoolchildren in the Southwest for the crime of speaking Spanish, or the anxiety and pressures attendant to being the first person in his or her extended family to ever have the opportunity to pursue a higher education, a Hispanic professor will bring to HLS a rich culture and life story which will undoubtedly permeate his or her teaching style and research.

Those students who are not Hispanic will enjoy from a Hispanic faculty member the opportunity to view a perspective which they may not have yet experienced. For those who may have begun to believe the myth — perpetuated by the lack of a Hispanic professor — that there is no Hispanic in the country qualified to teach law at Harvard, taking a class from a Hispanic will be an eye-opening experience. Preconceptions and prejudices, however subtle or well-meaning, will diminish every day such students are exposed to the teaching of one whose immutable traits have been the subject of such preconceptions. The value inherent in the process of expelling any such false or unclear notions cannot be overstated.

For Hispanic law students, an additional benefit to having a Hispanic professor is his or her utility as a role model. Students at HLS would no longer be receiving the message that they are qualified to come here to learn, but not to teach. Who knows how many more Harvard-educated Hispanic professors there might be around the country today had a Hispanic been teaching here as long as Derrick Bell has? The question must go unanswered for now; until there is such a professor at HLS taking a special interest in prodding marginally interested, yet highly qualified, students into the teaching field, the prospects for the future seem equally uncertain.

Dean Clark's initial indications of concern and empathy are being met

with cautious optimism by La Alianza. His willingness to talk about the issue is an important first step in communications between him and the group. However, the history of the movement and of administrative inaction makes it imperative to La Alianza that little time be wasted with the diplomatic niceties of its relationship with the Dean. Too many years have ended in disappointment for La Alianza to allow Dean Clark the luxury of a long honeymoon.

The group has been assured that Randall Kennedy, who heads the faculty committee on the appointment of minorities, has been ordered to make hiring a Hispanic his priority. La Alianza hopes that Professor Kennedy will not resume the old practice of resting all hopes on one prospect at a time. The result of this method is that years are wasted when a courtship with one professor fails. There are enough qualified Hispanics in the country to make possible offers to more than one at a time. Just as more students are admitted to HLS than are expected to accept, so should be the situation with Hispanic professors.

La Alianza looks with renewed hope to the future of Harvard Law School. This is a group that has endured many disappointments at the hands of past administrations, but which has never abandoned its dreams of achieving a student body which is more diverse and a faculty which shares the experiences of its students. The goal of attaining Hispanic professors is just as alive for La Alianza today as it was for the Chicano Law Students Association in 1970, but has been made even more urgent by the passage of twenty years. With the support and activism of the student body and alumni, La Alianza hopes to bring an end to Harvard Law School's most disturbing "tradition."

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Bitter Racism Lingers Worldwide As Well As Locally

Today in the news we read that after more than two decades, eight black South African prisoners have been freed by the government. Nelson Mandela remains behind bars. He has been there for 26 years — longer than the average time most HLS students have spent on earth. His crime: giving life force to the outlawed African National Congress? being unwilling to bow down any longer to the most overtly, shamefully racist government in the world? having brown skin, perhaps?

Erin Edmonds Perspective

Today in the news we read that the Bush Administration is failing miserably to pursue even the most minimally progressive policy on civil rights. Its choice for civil rights chief of the Justice Department was rejected soundly. Mr. Lucas, the rejected candidate, is African-American. On the surface, he looked like a good candidate, until it became apparent that, in comparison to other African-American potential candidates, he was unqualified in the civil rights arena and a bit of an exaggerator.

And, in the words of the *New York Times* last Tuesday, "The Administration has failed to repair damage to the credibility of the Civil Rights Commission inflicted by its chairman, William Barclay Allen." Mr. Allen was briefly arrested eight months ago on kidnapping charges, and the title of a recent speech he gave, unbelievable as it must sound, was "Blacks? Animals? Homosexuals? What Is A Minority?"

The *Times* challenges Mr. Bush, in the face of the utter lack of real commitment to plaguing racial problems, that "There is work to be done, like expanding employment opportunities and combatting the bias-related

violence...[the Administration] has yet to respond to Mr. Allen's resignation, and it has not yet completed the draft legislation to extend the commission beyond Nov. 30, when it is scheduled to expire." And these are just the tokens of a commitment to making life better for minorities. What a shambles the real ideology must be in!

Speaking of tokens, in the news today we read that close to home, one municipality could give a proverbial hoot about even the appearance of civil rights: in Roxbury police stop and frisk young African-American men daily on the premise that "reasonable suspicion" leads them to believe these young men are dangerous criminals.

And the critics of this policy are now informed that the victims have to come forward and demand their rights, in short, that abuses of the most basic right to be let alone will be sanctioned in the absence of a powerful, vocal collective with standing. Think of it! A systematic, unapologetic inspection crusade — what does that young African-American feel as he's being poked and prodded in full view? Any young black man in the neighborhood is fair game, just like the situation in which unarmed minorities are shot with alarming frequency by police officers. I fear we will never learn the lesson of history: treat people badly and eventually they will live up to your expectations.

After 300 plus years of abuse, it is no wonder that the relative percentages of first degree convicted felons in black and white pools vary so widely. It is no wonder that, in my home state of Utah, an African-American man named Andrews is going to die for murders in which he did not pull the trigger, while two white men, one of whom blew two people to bits via bombs in the mail, will never face the chair or chamber.

We have not come so far, I think, from the desperately racist science of the 19th century, which tried to impute

criminality to a particular brain makeup (thereby justifying horrible treatment of people of color because they were genetically or irrevocably criminal.) Carl Sagan, in *Broca's Brain*, captured the frightening message best when he wrote,

"Doubtless the savants of earlier days had hoped there might be some anomaly, some telltale sign in the brain anatomy or cranial configuration of murderers. Perhaps they had hoped that murder was a matter of heredity and not society . . . I could hear my friend Ann Druyan saying, 'The people we starve and torture have an unsociable tendency to steal and murder. We think it's because their brows overhang.' But the brains of murders and savants—like Albert Einstein—are indistinguishable. It is, very probably, society and not heredity that makes criminals."

Perhaps that last sentence is the point. Perhaps the white establishment actually recognizes the connection between helplessness or hopelessness and crime, but remains unwilling to eradicate the former. To do so would be to rethink wealth distribution, to rethink education, to rethink culture and employment practices, and faculty tenure procedures — in short, it would mean a real commitment to quit believing that flimsy liberal hopes are ever going to work, and that minorities must be given the resources and recognition to help themselves, to build their culture and their dignity without feeling indebted to the white population, no matter how well-intentioned they might be.

HLS is no sanctuary of color blindness, either. BLSA president Tynia Richard lists the following as a by-no-means exhaustive sample of racism here: the fact that the Placement Committee, despite requests from LSC and four other student groups to completely ban Baker MacKenzie from interviewing, decided to take the "reason-

able" approach and in essence sent the message that firms in the future may degrade students and get away with it once; humiliated and embarrassed students who do not report incidents because they don't want to appear the fox in the sour grapes story; the grievance procedure itself, she says, is an indication of how seriously HLS takes the complaints of aggrieved students. There is no policy, she points out. I'm not surprised.

Last year the RECORD published results of a "Quality of Life" survey which the administration had kept quiet. And no wonder: an astonishing 58% of minority respondents (mostly African-Americans) had experienced overt discrimination. Think of that! Contemplate, for moment, how many of these students had to admit that an institution so explicitly obsessed with equality and justice should house the same old tormentors. And if the "best" of modern institutions is bad (two in three minority students reported discrimination), what must institutions not even farcically committed to color blindness be like?

When I read that survey last year, I was astounded at the character and frequency of the reported incidents. Sometimes their very subtlety made them more frustrating—covert abuse is painful and invalidating. In addition to the survey, two incidents make the point more strongly. The first involves an allegation that a professor has received disrespectful treatment from vocal students who were not recognized by the professor.

The second incident involves a white student allegedly referring audibly to "niggers." (The sources remain anonymous because they fear reprisal.) I choked on that, wanted to find everyone involved, wanted to find out if the white student actually said that, and if so, tell that student in no uncertain terms how utterly disgusting, how gro-

(continued on page 13)

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Racism Still Thriving At HLS

(continued from page 10)

tesquely depressing such conduct is. When I expressed an instantaneous, if a bit irrational, desire to slap this student in the face, my source replied gently, "And you're white. You experience this pain only vicariously, more from shame than an understanding of that type of humiliation."

My source was right. I fear that my visceral desire to make life better for people of color will come across here as a neo-liberal attempt to purge historical guilt. White people may call me a whiner and minorities will resent my white viewpoint because often it is associated with a pitying attitude. I camped out in shanties on the conservative University of Utah campus and experienced all of these reactions. I kept pressing for divestment. Today I will keep pressing the people in power for real commitment to building the sort of superstructure that will ultimately release minorities from dependence and racism.

I take comfort in the words of Malcolm X. Perhaps we could glean inspiration from them, too. Just before he was brutally assassinated, he wrote, "I have been convinced that some American whites do want to help to cure the rampant racism which is on the path to destroying this country. His words were frighteningly accurate. Today we have gang, crack, and homeless problems caused in no small part by racism which threaten to rip apart the bowels of American society, even white American society."

But Malcolm X added, "The problem here in America is that we meet such a small minority of individual so-called 'good' or 'brotherly' white people. Here in the United States, notwithstanding those few...it is the collective 150 million white people whom the collective 22 million black people have to deal with."

Indeed. How sad it is that every day we are bombarded by so much racism

that we don't know where to begin. How sad it is that King's vision has been aborted, mutilated by history. How sad it is that, as leaders in the legal community which is designed to be on the forefront of justice, we pay lip service to affirmative action or even non-discrimination and meanwhile only six of 120 tenure track professors are not white males. How sad it is that we continue to force intelligent, passionate human beings to constantly justify the color of their skin. I don't understand it, truly I don't. It's almost comically tragic—all this because of pigment in skin.

How sad it is that we have done our part to divide the African-American community against itself by not doing enough to repair the tainted white image with which poor African-Americans associate their more advantaged brothers. How sad that we have forced minority cultures to embrace separatism and nationalism. Our culture reeks of non-acknowledgement of their history, their identity, their dignity in the absence of such extreme measures.

I wish somehow that the dreams from over 20 years ago hadn't lost momentum in the frenzy of political disrepair of the 70s and feeble liberal prodding and conservative disregard of the 80s. I wish that in ten years, should another survey be taken, perceptions of minority students will have changed...that they'll feel like HLS is a protector of their dignity, not a prejudice-riddled institution which they attend to "sell out and play the white game" or "gather ammo to fight the white establishment." Let us hope that by that time, the "establishment" here will contain all sorts of powerful people...African-American, Hispanic, white, Asian, Native American, male, and female. My faith may be misplaced. My heart is not.

Watkins Answers Rape Charges

(continued from front page)

York neighborhood. She drives a Mercedes around campus," he said. Davis denied, however, suggestions previously made by Watkins that D.A. L. Scott Harshbarger '68 was pursuing the case for reasons of political opportunism. Harshbarger is running for state attorney general this year.

Watkins also suffered another minor, but expected, setback in his civil suit against Harvard University and HLS. A federal judge in Manhattan last week denied Watkins' appeal, granted automatically, of a federal magistrate's prior denial of Watkins' motion for a preliminary injunction.

"No matter how valid my claim is, it doesn't matter, because they're Harvard," Watkins commented. He is acting as his own counsel in his \$150 million extortion and invasion of privacy suit against the school.



Kevin Watkins and his attorney Willie Davis at arraignment last week.

Hemenway Survey Reveals Dissatisfaction

(continued from page 2)

aerobic room which contains Universal weight equipment, but still lacks the ability to oversee the entire facility. Reager noted that student input has been "very important" in the School's actions regarding the gym.

One survey respondent noted that the facilities at Hemenway compare badly with other athletic facilities used by undergraduates. Gibberman commented that Hemenway is "treated like a step-child by the Athletic Department," except for the squash facilities.

A DSAC committee headed by Happy Weitzel, 3L, seeks to use the limited power HLS has over the gym to "respond to student needs." Weitzel's committee will be submitting recommendations to Reager later this semester to purchase of new equipment, including new stationary bikes, lighter free weights (to increase usage by women), and possibly a new rowing machine and a Stairmaster.

Frequent break-downs of the current

stationary bikes were cited, and Gibberman noted that repairs "take forever." For this problem, Weitzel recommends buying "health-club quality" bikes made for heavy continuous usage.

A more permanent solution under consideration by HLS is to purchase the Hemenway building itself, said Reager. HLS could either revamp the existing facility or turn it into offices and build a new athletic facility for the Law School. However, she noted that both of these projects "would cost a fortune" and may not be worth the sizeable investment required. Furthermore, Hemenway's location in the historic district precludes any changes to the exterior of the building, limitations which would constrain any new construction plan.

Weitzel noted that Reager has been very supportive of DSAC's efforts to improve conditions at the gym and implementing change has "gone very smoothly."

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Protestors Challenge Mobutu's Record On Human Rights

(continued from page 5)

southern African nations for his peace-promoting efforts.

Singer claimed that, as a matter unrelated to the subject of Mobutu's speech, it was "up to him to defend his human rights record" and that JFK had no intention of doing so.

Singer said he "disagrees strongly" with the protesters' allegations that giving Mobutu a prestigious forum like the JFK Institute of Politics' Forum was legitimizing his brutal methods of leadership, instead arguing that "any credibility came from what he said on the podium, not the fact that he was standing there."

Mobutu, under the watchful eyes of several of his own uniformed military guard, wore his trademark leopard-skin fez, carried a heavily-carved ebony cane and spoke in a deep, guttural French as he addressed the small, surprisingly well-behaved crowd through an interpreter.

He began by stating that Africa was still suffering from its history of slavery and colonialism. Although African nations have made great strides, he said, and despite the fact that Africa "has acquired political emancipation, it is still in the throes of hegemony, racism and economic domination." He asserted that Africa is bearing "the brunt of foreign debt and international trade structures" which are impeding its growth.

Mobutu then spoke of the heavy tasks ahead for the developing African nations, "young states with very often artificial borders," which are ready for peace and democracy. "The concept of peace is much more complex than just the absence of war," he warned, and said that peace included order, freedom, respect for state sovereignty, preservation of the environment and satisfaction of people's basic needs. Africa's nations must refuse to gravitate toward spheres of influence and

avoid being just a "battlefield for the powers of hegemony."

Mobutu spoke at length defending the oppressive actions of his state and others in the name of preserving peace in order to allow the all-important economic development so crucial to African states. He said that because Africa faces an "economic crisis deepened by the foreign debt load," only an acceptable environment of peace could properly stimulate development, and that therefore the diversion of resources to maintain order and security are essential to such development. As a result of his nation's "painful past" and geographic position, he boasted of his "wealth of experience in [his] search for solutions to maintain peace, inside and outside our borders."

Mobutu then vividly portrayed himself as the savior of his nation, saying that when he came to power in 1965, after his nation's first five years of independence, the country was torn by

"wars, rebellions and secession," and that he had succeeded in his goal to bring peace and to rebuild a nation "on the ruins left behind by ethnic and tribal divisions."

A description of Zaire's "geopolitical context" was Mobutu's next topic, and an outline of his foreign policy principles, including pacifist co-existence and respect for sovereignty. He spoke in detail of the events leading up to the "historic handshake" between Dos Santos and Savimbi, emphasizing his role as the chosen mediator. Although he admitted the ceasefire only lasted a few days, he held that the "will for dialogue is still there."

Mobutu also defended his relationship with past and present South African leaders, insisting that his stated policy has always been to "abolish this immoral system based on racial prejudice."

Visiting Professor Regina Austin Addresses WLA

By Dawn Ross

Visiting Prof. Regina Austin told the audience at the 15th Annual Women's Law Association Dinner that the main reason she came to HLS was "to escape from an institution that took me for granted." Austin is an Associate Professor of Law at the University of Pennsylvania Law School.

In the Oct. 4 address, titled "The Tokens' Token," Austin credited the black women students at HLS who actively encouraged faculty diversification by such measures as sitting-in at the dean's office, and considered their actions "primarily responsible" for her invitation to teach at HLS. Austin also thanked the women students who have stopped by her office during her time here.

"...a token woman in the community of blacks and a token black in the community of women."

Austin noted that she is in the uncomfortable position of being "a token woman in the community of blacks and a token black in the community of women." According to Austin, being a "tokens' token" means that she must please white men, white women and black men to be accepted. Austin stated that many of her colleagues reacted with disbelief at learning about her invitation to HLS; she was asked if she did not mean "Howard, not Harvard." Commenting on her colleagues' reactions, Austin drew laughter by stating that "the ear refuses to hear what the mind refuses to believe."

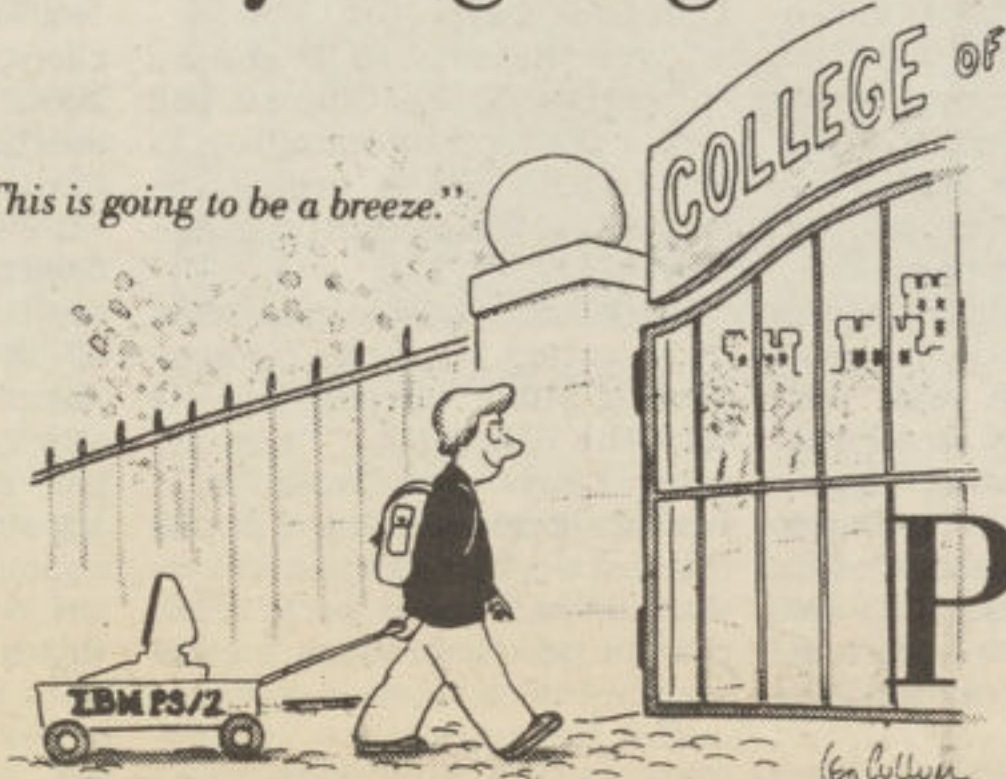
Austin is particularly interested in what she calls "real solidarity — not that fake bullshit stuff." She explained further that this means embracing a political pragmatism which is much more interested in helping black women and other women of color than forming a coalition designed to span the broad spectrum of racial issues.

In order to effectively survive, Austin stated that black women need to know what demands they should be making before negotiating. In doing so, however, Austin acknowledged that at some point those demands must expand to include white women, so that white women do not become the new "tokens' token."

Austin summed up her address by expressing her hope that she can be part of an overlapping constituency that is "prepared to do battle — not fight over who will lead the charge." She stated further that she "hopes [those women] will fight the fight even if they have to fight alone."

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Public Interest Bolstered By Million Dollar Endowment

(continued from front page) that, as defined by administrative statistical reports, qualifies as "public service" — government agencies, legal services centers, and private nonprofit organizations were offered as examples. Finally, they must meet a high standard of academic achievement, although Clark mentioned no cut-off grade point average.

Clark suggested that, at the behest of Ambassador Annenberg, preference in selection be given to applicants who plan to enter Kaufmann's field of criminal justice administration.

Despite ECPIC assertions to the contrary, Clark denied that the plan is in any way connected to his decision on career counseling. Yet the substance of the program, and the timing of the announcement, serve to highlight the issues central to the debate that has dominated his brief tenure.

HLS alumni swamped the campus last weekend for various reunions. Many were aware of the current controversy; those who were not received a quick education from the protesters hung around the campus, and the ECPIC members filling the lobby of Pound Hall.

ECPIC member Lori Wallach, 3L, noted that national media coverage has "tuned in alums to this situation . . . alums support the continued tradition of public interest here at Harvard, and this [the ECPIC campaign] is letting them know what's going on."

She expressed hope that alumni outrage might help persuade the dean to restore the two public interest positions. ECPIC has been demanding the appointment of a lawyer with experience in the field, and an assistant to act as support staff.

The measure of alumni concern was tested in spirited discussions over the weekend. Clark devoted his address at an

alumni luncheon to a vigorous defense of his decisions, once again citing budget restraints and underutilization of the counseling office as reasons for Fox's dismissal.

According to ECPIC members, his comments suggested that students were unwilling or unable to grasp the practical necessities of school administration, an assertion to which they take strong exception.

One alumnus in attendance, Ronald Taback '69, felt that Clark's comments were "not the most helpful" in allaying "uncertainty and distress in the student body." He noted in particular "the manner in which he characterized the students who

with the problem . . . I really do think the evidence suggests the problem has not been a lack of counseling or being able to find job opportunities, or not being plugged into an informal network . . . I think the problem has been, very simply, . . . the huge size of the financial sacrifices the graduates have to make to carry out their ideals."

Central to his view, Clark commented, is a sense that support for public interest is essentially — in fact, entirely — an issue of providing economic incentives, lessening financial burdens, and narrowing the gap between private and public sector salaries. His continued promotion of an expanded LIPP

abolished office.

"We're not trying to make his [Clark's] life miserable," said Wallach. "Far from it. It's just that we think this is so important, and we're just trying to find a way that . . . these needs can be satisfied."

Clark met with ECPIC members this week, to discuss their demands, and perhaps find common ground. What resulted was a compromise regarding Clark's proposal for a public interest advisory committee.

This committee, originally intended to study Clark's administrative "reorganization," will have its mandate broadened. At the dean's suggestion, it will instead focus on all aspects of public interest law at HLS, including finances, curriculum, and counseling.

According to meeting participant Marie Arnold, 2L, the committee is tentatively scheduled to convene around the end of October. Prof. Christopher Edley '78 will serve as faculty chair, and will be joined by Profs. Albert Sacks '48, Charles Fried, Lecturer Gerald Singen, and Director of Clinical Programs Dan Greenberg.

Three students, to be chosen by the Law School Council, will also serve on the committee. In addition ECPIC is urging the inclusion of an alumni practitioner.

Clark, however, was quite vocal in asserting his views on supporting public interest law. He told The RECORD: "There are several ways — one would be to really talk up the value of public interest work, which in a way we do; another would be to bash private practice, which I completely reject as an approach; and a third approach is pragmatic, which is mine, to try to reduce the disparities enough so that those . . . graduates that have these inclinations can carry them out."

"I would say the fact that I spent a lot of time and effort and sweat getting this fund . . . is a reflection of my judgment as to the most effective way of dealing with the problem . . ."

signed the petition and cast doubt on the seriousness [of their motives]."

Taback added, however, that he has "no doubt that the dean does have a great commitment to public interest work." He suggested that the debate could be more constructively carried out without the reciprocal questioning of motives he said he sensed at the school last weekend.

The Kaufmann program, Clark insisted, was neither an act of compensation for the Harvard public interest constituency, nor a well-timed ploy to defuse possible negative alumni response. Rather, he said, it reflects his own concern about public interest law, and his preferred strategies for promoting it.

"I would say the fact that I spent a lot of time and effort and sweat getting this fund . . . is a reflection of my judgment as to the most effective way of dealing

budget reflects this orientation, he asserted.

Several ECPIC members, by contrast, told the RECORD they see career counseling as essential to the survival of the field. Their guarded approval of the Kaufmann endowment apparently reflects their sense that Clark will recognize and address only one side of the equation.

Clark has commented that only "six or eight" students enter public service each year. Yet, while an admittedly small fraction of each graduating class — five or six percent, according to departed career counselor Ron Fox — choose to work in civil legal services, an additional number will enter criminal legal services.

According to a 1981 study by Fox, graduates increasingly enter the public sector in the five years following graduation. Many of these are said to rely on the services provided by the now-

Students Confront Police In South African Summer

(continued from front page) day 5,000 multi-racial demonstrators congregated on a "whites only" beach near Cape Town, where Babcock was working with a black law firm.

About 200 protesters charged through police roadblocks to the beach, where guard dogs were waiting to pounce. A priest's leg was lacerated; the protesters were forced to retreat, and they went down the road to another "whites only" beach.

"We were sitting on the beach when a police helicopter started buzzing people's faces," said Babcock. "Wind from the blades were spewing sand. There were children and old people. Then the police charged with their whips and started beating up people, women and children included."

"People were just on the beach, but they began to run and scream. The cops were beating them on their backs as they ran. It was horrible. White teenagers in surfing shorts were cheering as the cops beat people. I started shaking uncontrollably. I went berserk and started screaming — one guy mooned me, and I told him off with every vulgar word I could think of."

"I really felt that if I had not been American and would not jeopardize the program, I would have jumped on the backs of those cops and torn their eyes out. That's how much rage I felt."

Babcock learned quickly that the South African legal system could not be used by black lawyers to secure justice, but only

to gain a tactical advantage in a larger political struggle to dismantle apartheid.

"The rule of law in South Africa is a sham," said Babcock. "Because of that, many black lawyers are also community activists who are highly political."

Babcock, who worked for an 11-attorney firm in Cape Town, spent the majority of her summer doing crisis intervention instead of conventional legal work. This involved helping the attorneys mediate between protesting students and the police, and trying to keep tabs on who was arrested and where they were being detained.

Babcock went to South Africa because of a longstanding interest in the civil rights movement here, and because of a general interest in African politics. After graduating from Johns Hopkins University in 1986, she spent several months in Kenya on a fellowship where she researched women's issues.

"As an outsider there is very little you can do in South Africa," she reflected. "You feel like you are being a leech a lot of the time, just raising your fist along with everyone else. Where we can be most effective is here, pressuring our own government to enact stringent sanctions against South Africa."

KEN MACK

By the end of one summer in South Africa, the effects of tear-gas were all too familiar to second-year student Ken Mack.

"Your face stings, your lungs

burn, and you feel like you are going to die for about ten to fifteen minutes," said Mack, a black student from Harrisburg, Pa.

Mack worked at the same black-owned law firm as Andre Nobles in King Williams Town. He researched ways to bring American constitutional doctrine to apply to South Africa — especially the concept of judicial review, which does not exist in that country.

Two partners in the law firm had been in prison and had been tortured by the police. But it was the opportunity to take part in activities outside the office that Mack found most stimulating, and most dangerous.

In early August, Mack and Nobles attended the funeral of two activists from the outlawed African National Congress (ANC) who had been killed by a landmine. There was a peaceful church service that was disrupted by the police, who fired tear-gas canisters through the door. Mack and Nobles were also tear-gassed during the rally at the University of West Cape. Mack, who majored in electrical engineering at Drexel, also went to South Africa partly out of his interest in the civil rights movement in this country. He found many similarities between South Africa and the present-day United States.

"A lot of underlying issues are very much the same," said Mack. "Many of the economic problems facing blacks are the same here as they are in South Africa. Police violence against blacks is

rampant in South Africa, and it's also a problem here."

"There's some big differences too. One person, one vote in South Africa means black rule. That's a big difference and white people are extremely afraid of that."

Another difference Mack felt was in his own reaction to the state-sanctioned racism.

"A lot of times what you feel is anger — anger at the pure, purposeful racism of getting thrown out of a hotel, or going down to the beach and seeing a 'whites only' sign. You feel more anger there because of the utter brutality and purposefulness of the racism."

Mack, who is a member of the *Harvard Law Review*, said his summer changed him in ways he has not fully realized.

"I'm still too close to it to know what it has done to me. It makes you think of your own role in society. In South Africa the society is unjust; it's impossible to be neutral. You either support apartheid, or you oppose it. Because of this, everybody there has to very much examine their own role in society. Are they on the side of change? If so, what kind? In rhetoric, or in deeds?"

"It makes me think about my role in our society, because those same choices are true here, even though our society is less starkly unjust. It's forcing me to re-examine my role and question whether one's purpose in life can be fulfilled by making the career choices that seemed to be 'accepted' here at Harvard."

Dershowitz Versus Walker

(continued from page 2)

Two von Bulow children sued their stepfather, Claus von Bulow, for \$56 million. Von Bulow was accused of injecting his wife with insulin in an attempt to get rid of her while still amassing her fortune. The celebrated Rhode Island trials of von Bulow were filled with mistresses, maids, scandal, drugs, and noble blood. Dershowitz, who had orchestrated von Bulow's successful criminal appeal was also on the legal team as strategist for the civil trial. Dershowitz later wrote a book about the case called *Reversal of Fortune*. (The book is now being produced as a movie starring Glen Close and Jeremy Irons. Dershowitz's son is the co-producer.)

Dershowitz was deposed as a witness in that civil trial. His deposition extended over several days, after which Walker ruled that Dershowitz had "waived von Bulow's lawyer-client privilege by writing a book about the case," this ruling was overturned by the 2nd Circuit Court of Appeals.

If Walker's nomination is confirmed, Dershowitz said he will sue under Title 5, Section 3110 of the United States Code, "Employment of relatives; restrictions." According to this law, a "public official may not appoint . . . or advocate for appointment . . . in or to a civilian position in the agency in which he is serving or . . . exercises jurisdiction or control any individual who is a relative of the public official." 5 USC S 3110(b) (1967).

The statute specifically includes the U.S. president within the meaning of "public official," a first cousin within the meaning of "relative," and "an office, agency, or other establishment in the judicial branch" within the meaning of "agency."

Although some experts have questioned its application to presidential appointments, Dershowitz contends that its legislative history makes it clear that it was intended to restrict the very type of action taken by President Bush. He added that the law prohibits nepotism "even if it means some good people won't get chosen." A second statute, 5 USC 2302, also prohibits a public official from hiring or appointing a relative, according to Dershowitz.

Federal judges are nominated for life by the president and confirmed by the Senate. Although there is no standard process, presidents may choose their nominees from names sent by the Justice Department. The Justice Department receives names from the ABA, US Senators and other political contacts of the states involved, advisory and screening committees. The ABA reviews the nominations and rates the nominees. Although the Senate has the power to reject nominees on any basis, this rarely occurs.

This is not the first time that Dershowitz has begun a one-man crusade to prevent the nomination of a judge. In 1979, he loudly campaigned against the confirmation of Judge Frederick Lacey, whom President Carter nominated for the position of U.S. Deputy Attorney General. In the end, Judge Lacey withdrew his candidacy. When asked why he was against Judge Lacey, Dershowitz said that the Judge was "very one-sided prosecution."