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Obama Election Lauded Coast To Coast New Editor 'Honored', But Says Fight For Equality Must Go On

By Paul Tarr
and John Thornton

The election of Barack Obama to editor of the Harvard Law Review is being praised all over the country, but Obama and other students warn it should not overshadow the obstacles still facing minorities in modern-day America.

Obama, 2L, becomes the first black President of the 104-year-old journal after being selected by his colleagues during a marathon debate that began early Sunday and lasted until Monday morning. He beat out 18 other candidates for the chance to lead what is widely considered the most prestigious law journal in the country.

"My election is a positive

sign in that it shows people are ready to put in leadership positions black folks who have strong concerns about black issues," Obama said in an interview.

"On the other hand, I am trying hard to keep it in perspective," he added. "What happens at Harvard really gets magnified ... but there is so much more left to do in terms of hiring more minority faculty, in terms of dealing with the disaffection blacks feel in the university, and the need for more diverse career opportunities.

"It's important that stories like mine aren't used to say that everything is O.K. for blacks. You have to remember that for every one of me there are hundreds or thousands of black students with at least equal talent who don't get a

chance."

"This means so much for us," said Cassandra Butts, 2L and an officer of the Harvard Black Law Students Association. "But at the same time we have a whole lot of work to do. We still have a law school that is overly oriented toward the corporate world while most poor people, many of

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Photo by Joe Wrinn

Barack Obama, 2L, elected president of Law Review.

First Black Joined Review In 1920

Charles Houston, the first African-American on the Harvard Law Review, was elected in 1920.

Houston, a native of Washington, D.C. and the son of a lawyer and hairdresser, was accepted to HLS after gradu-

ating Phi Beta Kappa from Amherst College.

He went on to become Dean of Howard University Law School, where he is credited with training an entire generation of civil rights lawyers that began a serious of law-

suits that culminated in the *Brown v. Board of Education* decision.

According to the book *Eyes On The Prize*, Houston "thought that the only worthy role for a lawyer was that of social engineer -- someone who understood the Constitution and knew how to use it to better the living conditions of underprivileged citizens."

In 1935 Houston was quoted as saying, "A lawyer is either a social engineer, or he's a parasite on society."

Houston later went on to be chief legal counsel for the NAACP. Among his students was Justice Thurgood Marshall, who succeeded Houston at the NAACP and who argued the Brown case before the Supreme Court.

In an interview nearly 25 years after the Brown decision, Justice Marshall described the impact of Houston on school desegregation.

"A large number of people never heard of Charles Houston ... [but] when Brown was being argued in the Supreme Court ... there were some two dozen lawyers on the side of Negroes fighting for their schools ... Of those lawyers, only two hadn't been touched by Charlie Houston ... That man was the engineer of all of it."

Clark Announces Visiting Professorship For Torres

By Erick Hachenburg

Hispanic law professor Gerald Torres, an expert in environmental law and securities transactions, has accepted an offer to teach at HLS as a visiting professor beginning with the next academic year, Dean Robert Clark '72 announced.

Torres, who currently teaches at the University of Minnesota law school, is reputed to be a "great teacher" and an accomplished scholar, Clark said.

Torres, whose parents were born in Mexico, grew up in southern California. He received his Bachelors' Degree from Stanford, a law degree from Yale, and an LL.M. degree from Michigan.

HLS never has had a tenured or tenure-track Hispanic professor in its 173-year history, despite the fact Hispanics constitute about seven percent of the student body and are the fastest growing ethnic group in the United States.

This fact has led to some bitter exchanges between the law school administration and members of La Alianza, the Hispanic student group. Last spring Alianza spearheaded a campus-wide "study-in" in Langdell Hall to protest the absence of a Latino professor.

Members of Alianza had a mixed response to the announcement.

"All of the members are really ecstatic," said Loretta Martinez, 2L, a cochairperson of the organization. "We highly praise the faculty and Dean Clark, but it is just the initial step."

Martinez stressed that the

faculty has much work ahead of it. "Getting someone to accept as a visiting professor is only half the battle," Martinez said, "the other half is getting him to stay."

Ivette Pena, 3L and the other co-chair of Alianza, was more restrained. "I don't think this is a moment to celebrate; this is good, but there is such a long history behind this," Pena said.

Pena cited an example of a past Hispanic visiting professor that she said was treated

badly and ultimately rejected a permanent offer. Pena said that Gerald Lopez visited a few years ago and was ready to accept a permanent offer once it was made. However, Pena said he was treated very badly, and when a permanent offer was finally made, he rejected it. Pena said Lopez is now a tenured professor at Stanford.

Lopez said last year that there were many faculty at HLS who were supportive of him, but that was not enough

to persuade him to accept an offer.

"What was lacking," he told the RECORD, "was an institutional awareness or curiosity of the issues that affect Latinos in this country -- of Chicano life, of Puerto Rican life, of the active and ongoing cultural and political impact of Latinos and how that interfaces with legal issues. That is a tremendous price to pay for an institution that holds itself out as a national and interna-

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Disabled Student Seeks To Organize To Pressure Administration For Improvements

By Jim Houpt

An incident in Langdell Library last semester has law school administrators concerned about some attitudes toward the disabled at HLS. But the incident may galvanize disabled students to build their own organization as a way to improve sensitivity.

The "Photography and the Law" exhibit is housed in tall, wrought-iron display cases extending from the library reference desk toward the Treasure Room. Mark McGoldrick, 1L, wrote in the exhibit's comment book in mid-December that the display was too high for anyone in a wheelchair.

Four or five other students added remarks "both sarcastic and trying to be facetious," according to Sarah Wald, dean of students. She said the remarks appeared to be from separate individuals. The dean remembered one comment to the effect, "Why don't we cut off all the table



Dean Of Students Wald

legs for short people?"

"Someone mistakenly thinks that is funny," she added.

"The level was really childish. It is indicative of the general ignorance people have about disabled issues," added McGoldrick. "Comments derogatory to people with disabilities are on the same level and of the same kind as racial slurs, anti-semi-

tism, gay-bashing."

McGoldrick has challenged the detractors to "come talk with me. Debate me on the merits of integrating persons with disabilities into society." However, McGoldrick said the anonymous comments are not representative of the majority in the law school. "I have been very pleased with the response my co-students have given me. They recognize our rights. I like the climate of the student body here."

But this series of statements aimed at the disabled has not been the only recent display of the intolerance by HLS students. Other disparaging comments have been scrawled on exhibits for both women and gay students. Wald characterized them as "a number of incidents showing a lack of appreciation for the diversity in the law school."

The library incident may provide the impetus to

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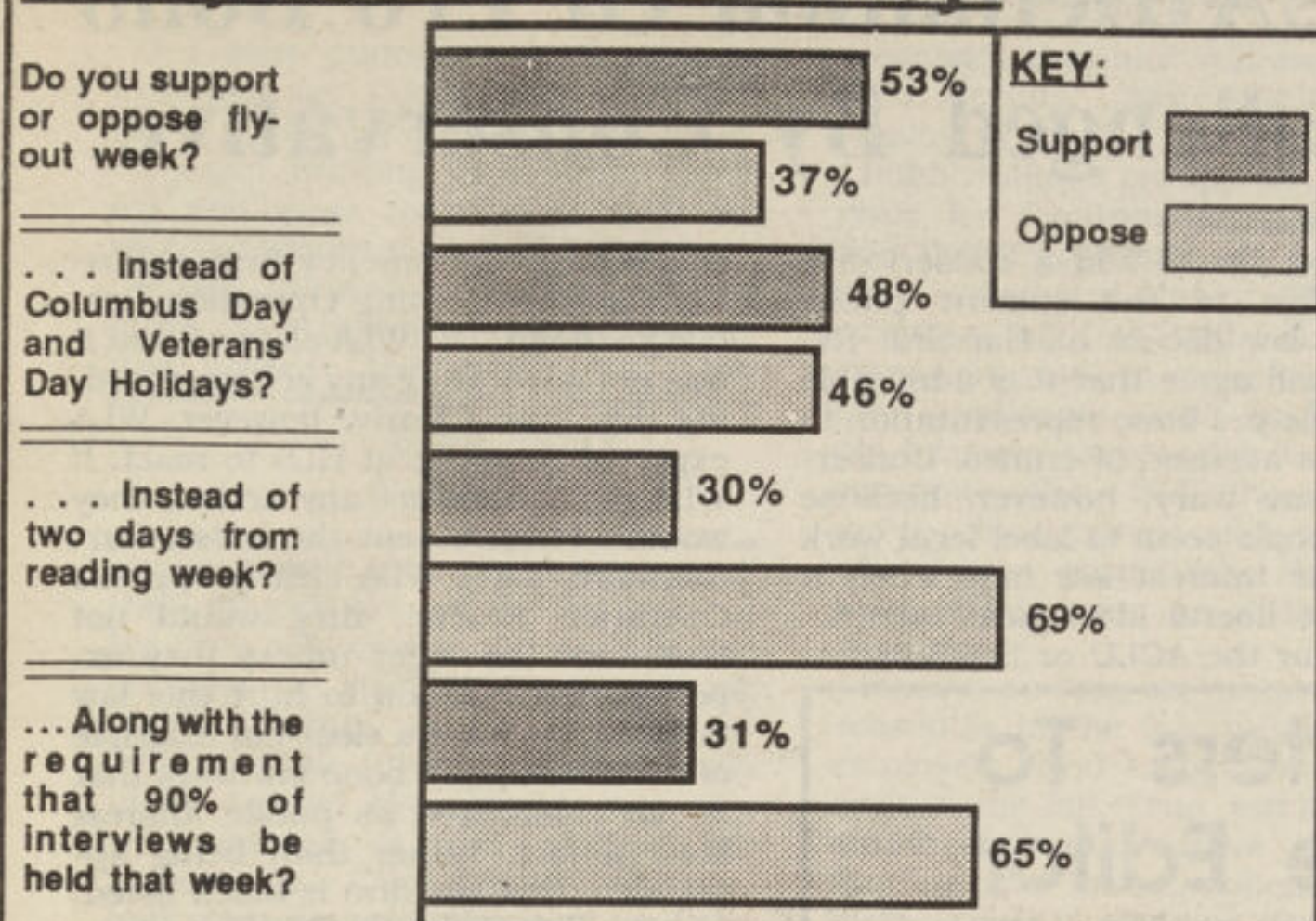
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A Fly-Out Week Survey:



A majority of the student body supports the fly-out week approved by the faculty last week, although students registered strong disapproval of the loss of two reading days and the requirement that all but ten percent of a student's interviews be held during the fly-out week. (See bar graph.)

The survey also showed that almost two-thirds of the respondents did not mind beginning interviews a week earlier and

that one-half of the respondents thought the first week in November was the best week for fly-out week. Nearly 70 percent of the students approved of starting classes the day after Labor Day.

The RECORD randomly surveyed approximately five percent of the student body to determine student reaction to the proposal. The survey is only a sample and is not intended to be a scientific survey.

Women Lawyers Face Fewer Barriers

By John Thornton

Law students who plan to have a career and a family may encounter fewer obstacles than their predecessors, according to a report by the Women's Bar Association (WBA).

At a conference entitled, "Part-time Employment: An Attempt at Achieving Flexibility in the Workplace," the WBA presented the report to nearly 100 women lawyers and law students in Pound Hall on February 3. The conference, co-sponsored by the Women's Law Association, addressed the demands of balancing family and career in a profession characterized by an ethic of devotion and long, erratic hours, especially early in one's career.

Of the 95 legal employers responding to the survey, that served as the basis for the report, 50 employers reported

they had an explicit employment policy permitting part-time work for attorneys. Seventy-nine reported they had an explicit maternity leave policy. The report noted that as recently as 1982, few employers had maternity leave policies, and part-time employment of attorneys was rare.

However, the report pointed out that the survey does not reveal how many individuals left their employment because satisfactory accommodations could not be made, the effects that the use of these policies might have on career advancement, and how many people simply refrain from using the available options for fear of negative effects on job security or promotion.

According to the report, many Massachusetts legal employers are becoming more tolerant of family demands and offering alternatives, such

Student Funded Fellowships Begins Summer Funds Campaign

By George Paul

Harvard Student Funded Fellowships (SFF) have provided grants to students working in summer public interest jobs for over 15 years. The program is "one of the oldest, largest, and most highly funded projects" of its kind, according to Ted Howes, 2L, an SFF steering committee member. SFF is one of over 61 such programs at law schools throughout the nation.

Students receiving SFF funding work in a broad range of fields across the country. Last year, students worked for a variety of interests, including District Attorney and Public Defender offices, the Environmental Defense Fund, the Farm Labor Research Project, the Sierra Club, and the Organized Crime Strike Force.

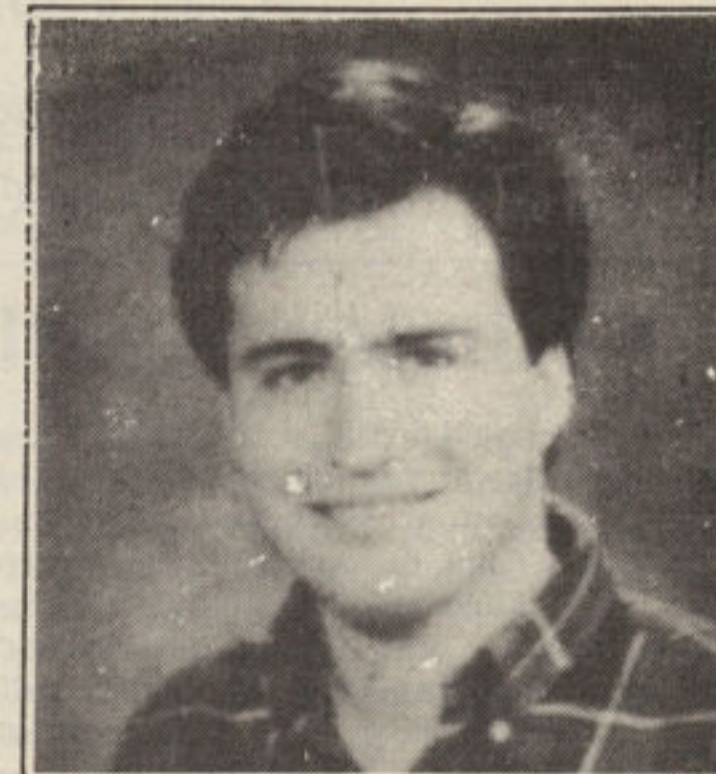
SFF gets the majority of its money from student pledges made during their annual phon-a-thon. This year's drive will be held Feb. 25-28. While SFF will accept any pledge offered, students are encouraged to spend "one day working in the public interest by pledging one day's salary from their summer employment," Howes commented. Last year, SFF awarded 41 grants totalling \$45,000. Furthermore, through HLS loans to SFF, students can leave for their summer jobs with the needed money in hand.

SFF is only one of several ways students receive funding to work in the public interest. Human Rights and Andres grants are also available. The Andres program is a relatively

as part-time, flex-time, job-sharing, day care, maternity/paternity leaves, and leaves of absence.

Because of the limited legal requirements and employer policies in the legal profession in Massachusetts, individual "courageous risk takers" have often negotiated more expansive benefits.

While offering part-time employment is currently within the employers' discretion, minimum maternity leave of some form is man-



Ted Howes, 2L

new program at HLS. Former HLS Dean James Vorenburg, '51 secured a \$300,000 donation for summer public interest funding in honor of F. William Andres, '32. If a student does not receive enough aid through these or similar programs, SFF works to "assist students with funding, up to the work-study maximum level of \$3,800 for 12 weeks of summer work."

In order to utilize resources more efficiently, SFF recently joined the new National Association for Public Interest Law (NAPIL). This non-profit organization is designed to serve as a clearinghouse for information and fundraising strategies for groups like SFF. Howes said that a recent NAPIL conference allowed SFF to examine other schools' programs and advise fledgling groups on funding strategies.

datory in most states. Massachusetts law, for instance, requires employers to allow eight weeks leave, with or without pay, with no loss of seniority. Other states also offer leave only to women (nine states) or leave only for state employees (three states). Some states provide equally for parental or family leave for both parents (ten states), or that leave may be taken for reasons other than birth or adoption, such as serious illness of a child or

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News At Other Law Schools

International Expert Says Noriega To Face Trial On Merits

By Kristen Swartz

A legal expert on international law has predicted the procedural maneuverings by former Panamanian President Manuel Noriega in his drug-trafficking trial will fail despite the expert's assertion that the invasion of Panama contradicted international law. "General Noriega is just not going to win on jurisdictional arguments," according to Professor Robert Goldman, a specialist on International Law and Latin American affairs who teaches at the Washington College of Law.

Goldman, discussed both Noriega's anticipated defenses and the legality of the U.S. government's military intervention in Panama last December in a recent speech at the Boston College of Law.

Goldman felt that Noriega had "a strong argument for the suppression of all the evidence as violative of the Fourth Amendment," but he did not think Noriega could win on his other arguments for defense. Those include his immunity from prosecution as a former head-of-state, privileged prisoner of war (POW) status, his alleged illegal seizure from Panama, or the prohibitively egregious manner of his arrest.

Goldman also discussed the legality of the U.S. invasion of Panama. He didn't think any of the four reasons given by Secretary of State James Baker III shortly after the invasion, mandated a full-scale invasion of Panama. Baker justified the U.S. military action, Goldman stated, as an intervention (1) to protect U.S. lives, (2) to assist the democratically-elected Endara gov-

ernment, (3) to seize and arrest the indicted drug-trafficker Noriega, and (4) to defend the integrity of U.S. rights under the Panama Canal Treaty. Goldman argued that each reason either contradicted international law or was inconsistent with U.S. positions in Panama prior to the invasion.

Noriega's immunity from prosecution in the U.S. as a former head-of-state would have to be requested for by Panamanian President Guillermo Endara, according to Goldman. He cited as precedent a recent holding of the Fourth Circuit in the case of Ferdinand & Imelda Marcos, the former leaders of the Philippines. Even if Noriega could use the former head-of-state immunity doctrine, Goldman added, it would "only attach to public or government acts, as head of state, and not to private acts." Because Noriega's charges of drug trafficking concern his private activities, Goldman did not think Noriega's immunity argument "would succeed."

Goldman also said that Noriega's lawyers were "totally wrong" to attempt to use the privileged POW status from the Geneva Conventions to a drug trafficking case. Although Goldman agreed that General Noriega is a privileged POW because he was the Commander-in-Chief of the Panamanian armed forces when the invasion began, he would only be "immune from prosecution for legitimate war-like acts." Drug trafficking would not fit into this category he said.

Noriega has no standing to argue that the U.S. court lacks jurisdiction

over his body because his seizure was illegal under both U.S. and international law, according to Goldman. He said that only President Endara, as the recognized leader of Panama, has standing to argue the illegality of the invasion to the U.S.

Unless Noriega could show that the U.S. conduct amounted to "torture," the court is unlikely to accept the argument that the manner of his arrest should prevent the U.S. from prosecuting him, Goldman commented. Because Noriega was housed in the Vatican Embassy and was "allowed to wear his General's uniform coming back to the United States," Goldman said Noriega would lose an egregious arrest argument.

Although Noriega's jurisdictional arguments seemed weak, according to Goldman, Noriega does have evidentiary issues in his favor. "A lot of the case will deal with the evidence," Goldman predicted. He said that U.S. law is clear that "searches, seizures, and interrogations outside of the U.S. [involving U.S. law enforcers are still] subject to the Fourth Amendment."

"The JAG [Judge Advocate General] should not have allowed" the property of Noriega or the Cuban Ambassador to be searched as he did, Goldman said. Because the Executive Branch has taken the position that the U.S. was "invited into Panama" the court is "bound by the characterization." As an invited military force, warrants should have been issued by Panamanian judges before the U.S. made any

searches or seizures, Goldman added.

Goldman referred to Baker's first reason for sending U.S. forces into Panama, the protection of U.S. lives, as the "humanitarian intervention doctrine." The doctrine, he explained, allows a country to "undertake a limited show of force [where] foreign nationals are at a risk." Goldman did not think that the doctrine was well-accepted by scholars of international law. Those who do submit to it, he added, "understand that the doctrine only applies" when two conditions are met, neither of which were met in this case.

The first condition is that the danger must be both imminent and real. The death of one U.S. serviceman, the detention of two other U.S. servicemen, and the physical threatening of a U.S. serviceman's wife did not meet the doctrine's threshold in his view.

Secondly, the intervention cannot be aimed at "manipulating or changing the existing authoritative structure." The U.S. completely ignored this when it explicitly stated that it intended to remove Noriega from office.

Other international law options should have been exhausted before resorting to a full-scale invasion, Goldman maintained. For instance, he suggested that the U.S. should have "first used sanctions available from either the OAS [Organization of American States] or the UN [United Nations]."

The U.S. position prior to the invasion was inconsistent with Baker's

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Harvard Law Record

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Erick Hachenburg
Editor-In-Chief

A Kinder, Gentler Standard

Every once in a while it is good to reevaluate ourselves in light of our highest standards. One of those standards, kindness and consideration for others, is too often overlooked when we assess the behavior of our peers and leaders. Take, for example, the controversy over whether or not to ban Baker and McKenzie from on-campus interviewing. The then-senior partner at Baker who questioned a black female U. of Chicago law student about how she would react to being called "nigger" or "bitch" on the job, and who made several other racial cracks during her job interview, claimed that racism did not motivate his remarks. He referred to his interview strategy as a kind of "stress test" to see if this woman could take it in the real world, on the job, in his law firm. I venture to suggest that it is unnecessary and inappropriate to tinker with the feelings of an interviewee, like some laboratory rat, to see what makes her tick. Racism aside, it speaks of the callousness of our society that this man thought he could justify his behavior with such a story.

It is not only occasional law firm interviewers who proffer such perverse rationalizations to excuse the frustration and anger they cause others. The phenomenon occurs daily among bosses, supervisors, coaches and gym teachers, in police and military academies, and in Sunday School.

Even at HLS, such insensitivity on the part of teachers and students often goes by unnoticed and without comment. Professors have been known to rip, demean and publicly embarrass students, making them nervous and even angry, which detracts from the learning experience. Perhaps these professors are trying to convince us that they are smarter than their students, more demanding than other teachers, or more strict. Too often these ideals are misapplied to make plain old meanness appear acceptable or even desirable.

Students, for their part, are not above manifesting a spirit of contempt that undermines the self-respect and dignity of their instructors and dampens their desires to do their best for the students. Perhaps these students think they are testing the competence of their professors.

As members of families and as American citizens, it behooves us to be kind to one another and not to become too hardened to realize when our own insensitivity is demoralizing those around us. We hear much talk about family nowadays: the need for family unity and how family life in America has disintegrated, causing our once glorious nation to succumb to international economic competition from Japan, a more community- and family-oriented nation. Well, bosses intimidating or harassing their employees hardly add to the profitability of a company either. Perhaps in striving to be "all business," we have pushed the social norms of kindness and consideration so far into the background that we forget how to mete out criticism without demeaning one another personally. A cohesive, supportive working unit is most successful, whether that unit is a family, an office, a class, a sports team, a platoon, or even an entire nation.

When the media, citing free expression and political accountability, constantly degrades and pokes fun at the father and mother symbols of our country, the President and First Lady, it behaves like a cruel bunch of spoiled brats harassing and picking on their parents, making them unable to maintain respect or function at the head of the family. For example, the *Globe* (Jan. 6) reported: "His voice trembling, President Bush yesterday criticized the television networks for showing on a split screen during his last press conference a shot of the first bodies of US servicemen killed in Panama being returned to Dover Airforce Base. At the Dec. 21 press conference, only NBC did not use the split-screen technique to show Bush responding with smiles to questions from reporters juxtaposed with the solemn arrival ceremony at the base in Delaware." The President, the article commented, "appeared to be close to tears" while making his comments. One might expect to find such misrepresentation of our leaders in the war-time propaganda campaigns of our enemies, but here it appears as insensitive and perhaps pernicious reporting of our own. Any motion to justify such inconsiderate coverage by characterizing it as "free expression" or as a noble attempt by the media to serve as a watchdog over the leaders of this democracy should be disallowed.

Similarly, the personal attacks and high school tenor of our last presidential and vice presidential debates demonstrate how little respect we have for our leaders. In a debate between John F. Kennedy and Richard Nixon, on record at the JFK Memorial in Boston, Kennedy gave Nixon full credit for being a competent person, feeling assured, he said, that Nixon would give him the same credit. Then they engaged in a debate of the *issues*, a process through which the competence or incompetence of both gentlemen would emerge. Insofar as any candidate in our last election did not give this kind of respect to his opponent, I would say this: "Senator, you're no Jack Kennedy. (either)."

Once again, the media, in asking Vice President Quayle what he would do if Bush were suddenly and unexpectedly incapacitated, engaged in an unfair and underhanded tactic. By asking, over and over again, for a single response to a question that in reality would depend entirely upon the circumstances, they were really making a statement: "We don't think you're competent" -- just like the Baker interviewer was really saying: "I don't think you look like a lawyer."

My mother's father, a self-educated Minnesota Swede born in 1888, was a kinder, gentler man than his father. He made up his mind he would never hit his own children or be cruel in any way, because when his father hit him he didn't like it. My mother tells me that as a young, married farmer, my grandfather would always take off his hat and stand at attention, with a tear in his eye, when Presidents or their wives came through the local towns to solicit votes. Although he was not afraid to criticize or to speak out when he felt that they had made mistakes or that they entertained an unwise agenda, he stood in awe and gave great respect to the "father of our country," whether Democrat or Republican, because he knew how hard his job was and how great was his responsibility.

This was the attitude of the people who made this country great in the first place, and if we are to continue to be great, we must work to preserve the ancient landmarks of kindness and mutual consideration. Let us not begin to pass off insensitivity or personal insult as legal and normal. Yes, we need a kinder, gentler world, President Bush. You said a mouthful.

T.A.M.

WLA Definition Of Pro Bono Challenged By Conservative

To the Editor:

I would like to add a conservative perspective to the current public interest law debate at Harvard. Everyone will agree that it is admirable to provide pro bono representation to indigents accused of crimes. Conservatives are wary, however, because many people seem to label legal work as public interest law only when it promotes liberal ideological causes.

Work for the ACLU or the Environ-

community that one law firm in Boston was representing Operation Rescue pro bono. The WLA claimed that it was not advocating any action regarding this firm. Clearly, however, WLA expected someone at HLS to react. If WLA did not expect any action, they would not have sent the letter. Furthermore, since WLA clearly opposes Operation Rescue, they would not have sent the letter unless they expected that reaction to hurt this law firm. So, we have a clear-cut example of non-liberal, pro bono law work that is not considered as public interest law. In fact, rather than being applauded, this law firm is black-listed.

I hope that this attitude is not representative of all those leading the public interest fight at HLS. I hope that any future public interest law program at HLS will be ideologically balanced. If this attitude is representative of those arguing for public interest law at HLS, conservatives will oppose them.

Greg Cook, 2L

Letters To The Editor

mental Defense Fund or the Abortion Rights League is apparently public interest law. On the other hand, when lawyers work for the FBI or the Army, the Pacific Legal Foundation or the Baptist Joint Committee on Public Affairs, it is not honored as public interest law.

For instance, the WLA published a letter in December to alert the HLS

Pinball Risk Not So 'Obvious'

To The Editor:

Obviously someone made a mistake letting us into Harvard Law School. See, we're not too bright, 'cause we can't figure out the "obvious safety risk" of pinball.

But we thought maybe our classmates could help us out with this little stumper. As a matter of fact, we'd even like to reward the Harvard Law Student who gives us the most help. So, we are proud to announce the Harvard Pinball Safety Risk Competition: write down what you think is the "obvious safety risk" of pinball at the Hark, and place your suggestion

in one of our boxes no later than Monday, Feb. 12. Be sure to include your name, class level and section number (if applicable). The student who submits the most helpful and creative answer will receive real, actual prizes (trust us!) to be announced along with the winner in the Feb. 16 issue of the RECORD (if the editor will let us).

Please help us solve this burning legal issue. Inquiring minds want to know!

Jacqueline Fuchs, 2L
David Rockwell, 3L

The RECORD Staff Thanks Greg Herbert For His Dedication And Devotion And Offers Him Best Wishes.

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A Guidebook To Improve Public Interest Recruiting

If I were running the Emergency Coalition for Public Interest Placement (ECPPI), here's what I'd do.

1. Begin working with public interest employers to improve their recruiting, both on and off campus.

Public interest employers, by and large, are crummy recruiters, and not just because they can't stuff law

Brad Smith
Columnist

students with fancy meals or send them zinging around the country at the drop of a resume. To use just one example, a student once told me about showing up for an interview with a public interest employer only to be greeted by a bitchy secretary who sneered at and mocked her appearance. Our "recruit", you see, had worn an attractive suit, and the secretary apparently believed that you can't care about the poor if you care about your appearance. Similar stories of rude treatment, delays and waiting, poor communication and unresponsiveness abound where public interest employers are concerned. Baker & McKenzie can get

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

away with that and still end up with good recruits. Most public interest employers can't.

Public interest groups are also notorious for requiring writing samples and transcripts even as most firms have abandoned them. This is not exactly a big deal, and I suspect the employers want to make certain that their applicants aren't applying simply because they couldn't get a top corporate offer. Still, these requests are a minor irritant and, in a world where most people take the path of least resistance, are a drag on recruiting.

Finally, so long as the interviewing season is in the fall, public interest employers need to try harder to recruit in the fall. True, public interest employers often have uncertain funding and find it difficult to plan hiring a year in advance. But they are not that much different, in that respect, than many small firms, which regularly recruit in the fall.

The point is that too often public interest employers use their status as an excuse for being poor recruiters. ECPPI should work with public interest employers to improve their recruiting.

2. Let the trial year go by, then work to dump fly-out week.

Professor Edley had it right at the

faculty meeting. Fly-out week is one more way of easing students into corporate careers. It's a bad idea anyway, so ECPPI could help kill two birds with one stone.

3. Lobby to move the entire interviewing season to spring.

This would put public interest employers who simply can't determine their needs until spring on more even footing with large firms. But its greatest benefit would be to provide a period of reflection after a summer's work. I meet a number of students who return from one or two summers with large corporate firms feeling vaguely dissatisfied. But before they can even begin to seriously explore other career options, including public interest, the corporate recruiting season is back in full swing. If they don't want to miss their pick of the best corporate jobs, they have to get right back on the corporate interview carousel.

Moving the season has apparently been discussed before, and met resistance from both employers and other law schools. Still, employers can probably be won over. I spoke to two recruiters, one from a small firm (23 attorneys) and one from a large firm (over 200 attorneys). The first said he would prefer a spring season, for much the same reason as public inter-

est employers would. The latter saw no reason his firm couldn't adjust. Hardly a scientific survey, but interesting.

Although it would be preferable if NALP, or at least the nation's five or ten elite "national" schools, would adopt a spring recruiting season, HLS could probably do it along. It's hard to believe that most employers would cut themselves out of the HLS market, or that most HLS students couldn't find jobs. Such a step should not be taken lightly, however, as it would burden those HLS students who do find it more difficult to land a job, and also small firms, who would have to decide whether to make offers in the fall to other students or take a chance on landing a Harvard recruit in the spring.

If I were running ECPPI, I would

(continued on page 7)

Fenno

Fenno spun around in a panic. The total darkness confused him, and he was caught off-guard. He could distinguish no shapes in the blackness, but the shrill shrieks shook him like a Bob Clark press release. Fenno jabbed with his left into the emptiness. Nothing. He countered with his right and connected. His alarm clock lay silent.

Fenno rolled out of bed and tried to peel his tongue off the roof of his mouth. This last week had all been a bad blur, all culminating with too many Meister Brau's last night.

No one had remembered his birthday last week. No one. He had been here a long time. Who else remembered Dean Langdell telling the bear joke? O.K., except for Rocco.

Then he had lost the election for Supreme Being of Law Review. "What is your idea of a good law review?" they had asked. Fenno answered: "Four Stars; it's the feel-good hit of the summer!"

Fenno pulled himself out of bed; he needed nourishment. He grabbed a cold Meister Brau and headed to the Hark Box Cafe for a cool burrito pop. But it was not to be. Fenno stopped outside the locked doors and read the small sign on the door of the food establishment. "Closed for Dinner--next hours 8:00 to 8:15." Fenno waved his fists in rage. "Dang! Dang! Dang!" he shouted, "this never happened before we were the most bestest law school."

Fenno headed for his class in Langdell South Middle, remembering the good days before his law school was the most bestest law school in the nation... nay, the whole country. Fenno serpentine into class in his transparent mode with maximum eye contact avoidance, taking a seat in back. Fenno surveyed, carefully reappearing but still avoiding eye contact. "Lots of folks," thought Fenno, "did somebody die?" He hadn't seen this many students together since that lecture on that Ginsbork thing.

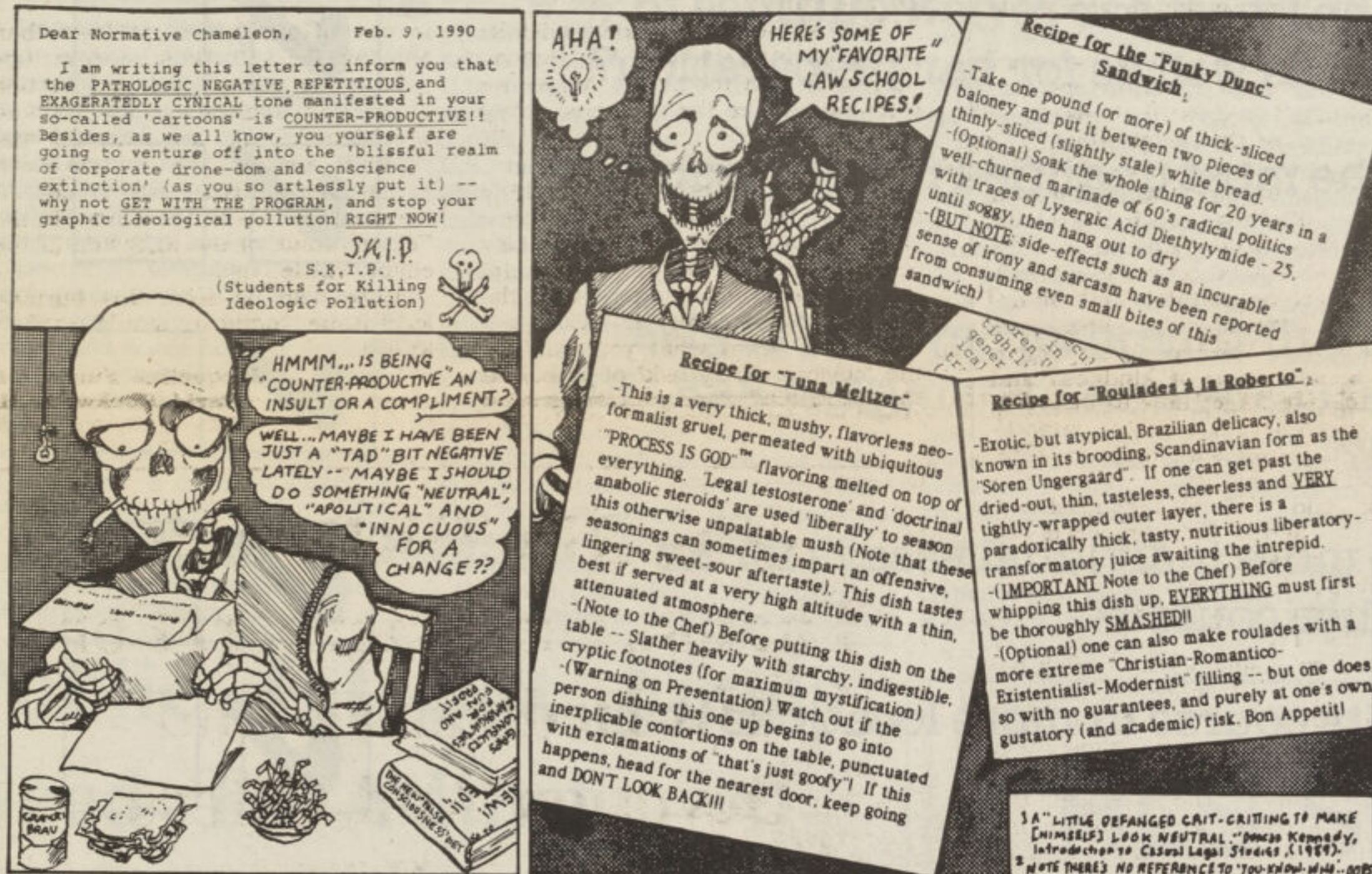
"Ahhh, it's those prospective 1L's visiting." Fenno still remembered the tragic incident that happened last year to that visiting kid from Brandeis. Who would have thought you could get your necktie so tight that your cranium swells and punctures itself on your eyeglasses. "What a mess that was. Well, it's not the first time someone experienced a dangerous headswell from attending HLS." Just in case, Fenno slipped on his rain slicker.

Fenno's head soon drooped, his eyelids slowly fell. "Dave," mumbled Fenno, "will I dream?"

Fenno did dream, and it was good. Fenno stood on the white sands, with the sun on his shoulders, looking at the blue waters. In front of him stood three bikini-clad women. "I don't want to be greedy," thought Fenno. "I'd settle for one woman who shaved." Fenno reached out....

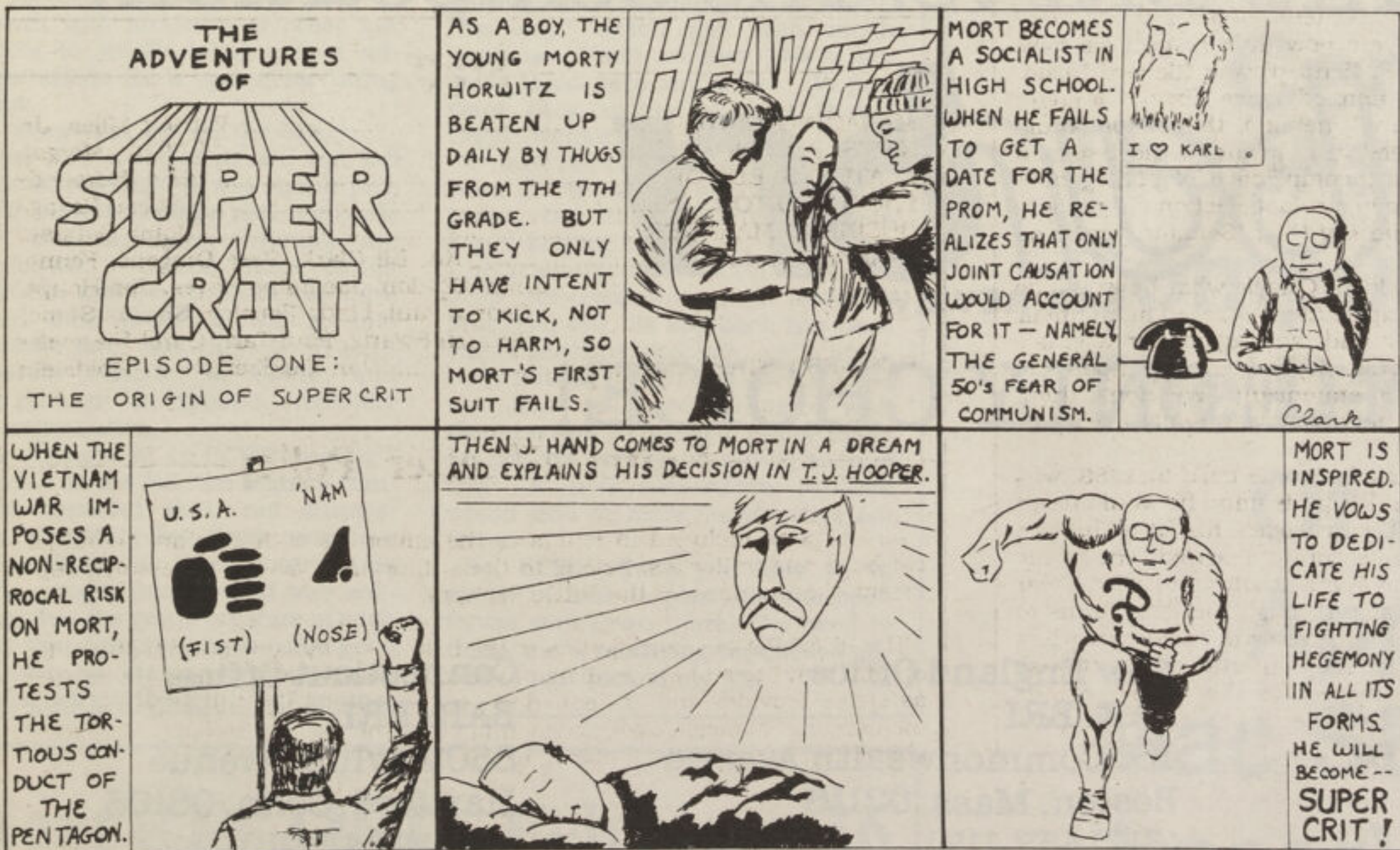
Fenno awoke cold and alone in a heated classroom full of people. "Oh, the horror...the horror," whispered Fenno.

By KA



Agenda Neutral

By Clark



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State Laws Expand Family Leave Policies For Careerists

(continued from page 3)

other family member (six states), the report said.

In Massachusetts, however, "[e]ven the most generous of parental leave policies reported -- going far beyond the minimum requirements of Massachusetts law -- do not approach the employment benefits typically available to working families in Western European Countries," the report revealed.

In Sweden, for example, parents have a right to paid job-protected leave for the first 12 months after the birth of a child, may take an unpaid but fully protected job leave for 18 months, and may work a six-hour day until the child is eight years old, the report disclosed.

"There are plenty of objections" by employers, Ruth Kaplan, co-chairperson of the WBA Program committee, stated.

Stacy Cushner, who had carried a full-time case load while working four days a week as an assistant attorney general and later negotiated a jobshare arrangement, said that superiors question the loyalty and commitment of those seeking part-time schedules.

"You have to be excellent, and know how to play office politics," Cushner noted. While she allowed that those who attempt to make more flexible

schedules are subject to unwarranted scrutiny, Marilyn Sticklor, a part-time partner in a large law firm, highlighted the management concerns that employees should address when they negotiate for part-time positions. Sticklor listed overhead costs, co-worker burdens, the need to train intensively early in a career, and the necessity of appearing dedicated to clients in a service industry make employers reluctant to hire part-time workers.

Deborah Lipsett, a consultant, asserted that employers also benefit by providing part-time employment. She observed that, people who work fewer hours are more productive, have lower rates of absenteeism, lower turnover rates, and less burn-out.

Sticklor noted that firms are increasingly willing to accommodate alternate work schedules, as the concepts that were social experiments in 1982 slowly invade law firms and as a demand market gives employees more bargaining power.

While no clear consensus on how much pay part-time attorneys can command was reached at the conference, it was reported that most arrangements are made on a pro-rata basis according to how many hours the worker bills in proportion to a full-time worker. Benefits are some-

times also pro-rated. Some small firms who need attorneys but do not have the resources to hire someone full-time welcome part-time arrangements, Cushner said. Hourly pay arrangements, like Cushner's current position, are also emerging on the legal market.

The report also said that nine employers would permit job sharing arrangements, 17 reported having policies and arrangements for day care, 22 would permit flex-time arrangements, and 36 reported a policy for leaves of absence.

More expansive legislation on parental leave is currently pending at state and federal levels. The Employment Leave Insurance bill has been refiled in Massachusetts in 1990, according to Kerry Tucker, a co-author of the report. The bill would entitle an employee, male or female, to sixteen weeks of leave related to birth or adoption of a child, and up to 26 weeks for the care of an ill or disabled family member with pay of 66 percent of income, not to exceed 66 percent of the state's average wage, for up to twelve weeks, the report said.

The Federal Family Medical Leave Act, expected by Tucker to go before the House in the next few weeks, would provide up to ten weeks of unpaid leave to men and women fol-

lowing birth, adoption or during a serious illness. Health benefits would continue during the leave, and job security and seniority would be guaranteed.

But absent a mandated statutory scheme for a reduced workload once the parental leave period runs, raising children as an attorney will remain difficult. "We have to recognize that the five day, eight hour work week is an artificial construct," Sticklor said.

"The bottom line is to change the workplace culture," according to Jane Bermont, a consultant. Women are not the sole forces behind this movement nor are they the only beneficiaries. "The best strategy," Bermont said, "is to encourage your spouse to work less than full time."

But partners in one firm discouraged three men from requesting a change to part-time status by letting it be known that "This is going too far" when men start asking to work part-time (40 hours a week at some firms), according to an audience member who declined to identify her firm.

The WBA is keeping lists of potential jobsharers and contacts to help people arrange flexible work schedules, Kaplan said.

Goldman Alleges United States Violated International Law

(continued from page 3)

second reason, to assist the democratically-elected Endara government, according to Goldman. When Noriega refused to relinquish his power to Endara after the May, 1989 elections, the U.S. government never officially recognized the Endara government until the invasion. "There was no prior invitation from the Endara government," Goldman said. "Endara was only notified of the invasion three hours before it actually took place. . . Endara, himself, admitted that 'he did not invite the U.S. to do this.'"

The U.S. cannot "unilaterally decide to invade a state to install a democracy," he continued. "The international community has never accepted this claim, even in situations involving wide-spread abuses" by the invaded country, he said.

Baker could not sanction the U.S. action in Panama by arguing that the U.S. invaded in order to seize and arrest drug-trafficker Noriega, according to Goldman. "Although the U.S. can legally proscribe law on which to charge Noriega, it cannot enforce its law in another state without the other state's consent," he explained.

The U.S. "validly applied U.S. law against Noriega," Goldman said. However, even if the U.S. had a valid basis to prescribe law, it can only enforce the law with the presence of the defendant who can "only be brought back with the existence of an extradition treaty." Going into Panama to catch Noriega was "clearly a violation of international law," Goldman said.

Goldman called Baker's fourth reason to invade, to defend the integrity

of U.S. rights under the Panama Canal Treaty "rather preposterous." The actions claimed by the U.S. are "a total rejection and rewrite of the Treaty," Goldman said. "Nowhere does the Panama Treaty say that an anticipatory breach at some unspecified time by a supposedly illegal government . . . gives rise to a removal of the government," he added.

"In my eyes, it would have made a hell of a lot more sense for the U.S. government to have said 'Panama, you said a state of war exists; fine, a state of war exists. . . Since one of the political objectives in a war-time situation is to throw out the existing power and install a new government, that's what we'll do,'" Goldman opined.

Professor Goldman teaches International Law at the Washington College of Law, specializing in the field of

human rights law and the law of armed conflict. He has co-authored a textbook on international humanitarian law which is slated for publication sometime this year. Goldman is on the executive committee of America's Watch, and has been sent on numerous international missions to Latin America to investigate human rights and the law of war violations, as well as to oversee elections in Latin American countries.

Goldman is well-published on the topic of Latin America, has testified at several Congressional hearings and has been sought after by the news media for his expertise in Latin American affairs, especially regarding Noriega's trial. He spoke at the Boston College of Law on Mon., Jan. 29, 1990.

Public Interest Firms Need To Adjust Recruiting Techniques

(continued from page 5)

network with students at other law schools to jointly lobby school administrations for a spring recruiting season.

4. Keep your eye on the ball.

There was a lot of debate last fall about whether ECIPI was simply pro-public interest, or also anti-corporate law. Most members, obviously, are the former. Indeed, most ECIPI members, and the students who have signed their petitions, will go into corporate law. But there is an anti-corporate minority in ECIPI, and they damage the group's credibility and organization.

For example, at an ECIPI meeting I attended in the fall, the finance committee reported that, not surprisingly, corporate law firms were less than enthusiastic about contributing to the group's finances. It was suggested that the group organize in such a way that corporate firms could get a tax write-off from contributions--a sensible idea, I thought. But another

participant immediately blurted out, "No way!" which met with much applause. Said another, "We're not going to do them any favors. We just want their money to fight them." Good thinking.

I must admit, I'm not quite sure what ECIPI can do about such attitudes, but these ECIPI members aren't helping the cause.

In a similar vein, ECIPI needs to drop its confrontational attitude. From day one, its approach has been one of petitions, protests, and a stubborn refusal to concede that anyone who does not precisely agree with them on how to promote public interest law can care about public interest law. A more constructive attitude would lead to more constructive activity.

So, ECIPI, there you have it, in plenty of time to plan for the open forum with Dean Clark. No need to thank me -- rendering unsolicited advice is just part of my job.

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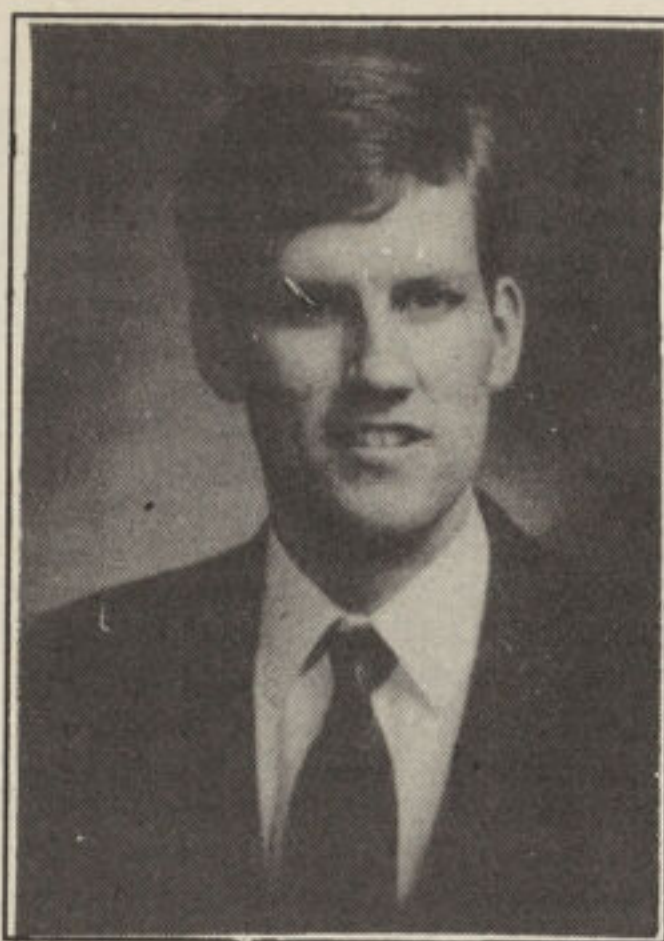
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Third Year Student To Run For State Legislature

By Sharon Stone

Christopher Lebig, 3L, is gearing up to declare his candidacy as a Democratic nominee for State Representative in his voting district of West Hartford, Connecticut. If successful in winning the nomination, he will run in the final election in November against a ten year Republican incumbent. When asked if he was intimidated by the longevity of his opponent, Lebig indicated that he was confident that he had a fighting chance. "My opponent, despite the time he has spent in the office is still very vulnerable, in 1986 he won by only six votes against a relative newcomer, so I'm not too intimidated by his long record."

When asked why he had chosen this particular career move, Lebig explained, "Politics is in my system, ever since working on a local campaign as a school project in 1982 I've been involved in politics at the local level in my community". Lebig's current commitments include his fifth year on the Democratic Town Committee, where he is the Vice Chair of the Voting District as well as serving as a member of the Fair Rent Commission and finally, as a Special Assistant



Christopher Lebig, 3L

Registrar of Voters. "No one on the Town Committee was really surprised when I first told them that I planned to run for State Rep and asked for their help. The decision to become a candidate seemed like a logical step for me, and so far people have been very supportive and encouraging."

As State Representative, Lebig

would represent a 8,000 household district in the state government in Hartford for a period of two years. He would spend six months each year, from January to June, working in the Legislative Office Buildings in Hartford, representing his district in the state government and voting on issues ranging from the state budget to new state laws. "The rest of the year I'd be free from my duties, and hopefully be able to practice law."

Lebig plans to kick-off his campaign on Mar. 15. The crucial part of the campaigning, however, won't take place until August. Currently, Lebig's campaign is focusing on procedural paperwork, mainly filing papers for his candidacy with the Secretary of State in order to register his campaign committee and allow him to raise and spend money for the campaign.

The purpose of the Mar. 15 kickoff is to organize Lebig's supporters for his main offensive. Thus far, Lebig has gotten endorsements from members of the Democratic Town Committee and eventually hopes to win the support of those who will be delegates at the Democratic convention. "So far there has been an encouraging response from those in my community."

The issues that concern Lebig the most are those that he feels Connecticut should be dealing with, but to

which his Republican opponent seems to be paying little attention. "Connecticut has too heavy [of] a reliance on sales tax, I'd like to institute a reform of the personal income tax so that state funds could be generated in a more fair, equitable and efficient way." Other issues that concern this candidate are affordable housing, crime (especially drug-related crime), and gun regulation. According to Lebig, these are issues that concern his community and he feels that they have not been given the attention deserved in state government.

When asked about the difficulties of embarking on a campaign while in the last year of law school, Lebig replied, "This is actually the best time for me to make this kind of career decision. The real campaign work doesn't start 'til August, and my third year paper is based in part on the campaign, so everything pretty much fits together."

"I have also accepted a job offer from a Hartford firm which knows of my campaign plans and are willing to be flexible about it, so there are no real problems there either." When pressed, Lebig admitted to a looming obstacle in his quest for the Democratic nomination: "Passing the Bar is a major concern, but I'll just have to give it my best shot."

Survey Reports Students Interested In Course In Environmental Law

By Thomas Wathen
Special to the RECORD

Environmental sentiments run strong among first year students, according to survey results released this week by the Environmental Law Society (ELS).

The survey, comprised of ten questions, conducted during the week of Dec. 11, 1989. Fifty-seven percent of the class-319 students responded. The survey was conducted in cooperation with faculty members who examined the school's offerings in environmental law and policy.

"The faculty who approached us wanted to know if there is enough student interest in environmental law should an expansion in course offerings take place," said Trent Norris, 1L, coordinator of the survey. "I think the results overwhelmingly show the interest is there."

The survey, asked students specific questions, ranging the degree to which environmental law attracted students to HLS, to whether students planned to write their third year papers on environmental topics.

One in eight respondents said that studying environmental law was an important reason in their choice to attend law school. One in seven is strongly considering writing an environmental research paper.

Other results indicate that 50 percent have a strong interest in environmental law. Only 18 percent said they had little or no interest.

Fifty percent are planning to take an environmental law course; 25 percent of the respondents expressed interest in doing so.

Twenty-three percent would probably have taken an environmental law course as their first year elective, if such a course had been offered. One in seven indicated they would specialize in environmental law if more courses in the area were offered.

The survey comes at a time when

environmental law practice is growing rapidly in the public and private sector. This growth ELS to call for an expanded environmental curriculum at the school.

"I don't think anyone can argue that Harvard Law School is at the vanguard of environmental law," said Norris. "Right now we have a few ad-hoc course offerings, but nothing that adds up to an environmental law program."

Two relevant courses are being offered this year, along with one environmental seminar. Environmental law and policy was offered in the winter term. The basic environmental law course and a hazardous substance litigation and regulation seminar are offered this spring.

For several years, the environmental law courses have been taught on an ad-hoc basis by visiting or adjunct faculty members.

The only full-time environmental specialist on the faculty is Professor Richard Stewart, currently on indefinite leave.

Stewart's departure prompted an ELS petition drive calling for the hiring of a full-time environmental professor. Several hundred signatures were presented to incoming Dean Robert Clark '72 in a meeting last spring.

According to ELS members Clark has expressed support for their suggestions. ELS has since set up an environmental curriculum committee.

Committee member Janis Kestenbaum, 1L, said the purpose of the group was to work with the administration to determine what type of faculty and course offerings are needed. "We are surveying the students, collecting names of potential faculty candidates and studying programs at other schools to see what students need to prepare them as environmental attorneys in the future," she added.

Disabled Students Prepare To Organize To Express Needs

(continued from front page)

McGoldrick and others to form the first organization for disabled students at the law school. What we are hoping to do is form an organization that will bring the disability issue to the law school forum," he said.

Perhaps coincidentally, more students identifying themselves as disabled now attend Harvard Law School than ever before. The dean of students has invited students with disabilities to let the office help arrange proper facilities. Nine students identified themselves as disabled this year, compared with only two to four in past years, according to Suzanne Richardson, director of student activities.

Richardson said the disabilities cover a "pretty big range," including the wheelchair-bound, the hearing and visually impaired, and the learning disabled. Both the director of student services and the dean of students agree that special accommodations for the disabled sometimes creates resentment.

"It's not just students who need education," commented Wald, "it's all of us -- faculty, too. [There is a] fear that when someone gets special treatment, they have a special advantage. They don't have an advantage; they're only put on the same level as the rest of us."

"They're just little adjustments, but they make a world of difference to the disabled student," added Richardson.

Wald and Richardson said that they believe disabled students would provide an important contribution to the "diversity orientation" given to incoming law students each year. The orientation gives minority groups a chance to promote tolerance in classes for unpopular opinions.

But McGoldrick predicted that disabled students will go much further. "The disabled are more discriminated against than any other minority group," he said. "Disabled issues are unheralded compared to the recognition and press given to other minority issues."

"[The administration] has been accommodating. They have responded admirably to our problems. They're responsive and respectful of our concerns," McGoldrick said. He noted that the administration resurfaced a walkway where roots that caused difficulties for wheelchairs had grown through the pavement. The school has also fixed doors that have proven troublesome to the disabled.

"But our concern is how much,"

commented McGoldrick. "How much architectural change are you willing to make? Are you going to make the tunnels accessible? Are you going to cover some of the walkways? Right now, the disabled are the only ones who have to go outside in inclement weather."

McGoldrick said only about one-third of the tunnel system is now accessible to the wheelchair-bound. One goal of a new disabled-students organization will be to reduce the architectural hurdles inherent in an older

"It's not just students who need education, it's all of us--faculty, too."

school.

Along with other disabled students, McGoldrick plans to meet with an administrator next week to lay a foundation for the new organization. "Rather than being vocal from the start," he said they hope to do the initial organizing this year and "get a better game plan down for next year."

Meanwhile, a librarian who shares the concern over the anonymous remarks last semester said that the library has no plans as yet to disabled access to library exhibits. "It would be fantastic if we could do something about it," said David Warrington, assistant librarian for special exhibits, "but there are no plans that I'm aware of. We would welcome any input on how we could make the library more accessible to the disabled."

As with other potential improvements, no money has been earmarked yet. No funds have been allocated to replace display cases that date from the 1930s. McGoldrick agreed that the real challenge for disabled students will be to convince the administration to spend money for improved access.

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Federalists Debate Separation Of Powers At D.C. Conference

By Ron Edquist
Special to the RECORD

U.S. Attorney General Richard Thornburgh in his opening address to a Federalist Society conference on separation of powers related a story of U.S. government officials who recently journeyed to the Soviet Union to explain the workings of our system. Thornburgh said that many features of the U.S. bureaucracy were familiar to the Soviet hosts, but "separation of powers left them baffled."

The convention was held at the Mayflower Hotel in Washington, D.C. on Jan. 19 and 20. The first day's panelists focused on the presidency, and discussed theories of the unitary executive and presidential lawmaking powers. Terry Eastland, resident scholar at the National Legal Center for the Public Interest, pointed out that we have traveled far from the Founders' concept of a strong, unitary executive, and the recent successes of congress in criminalizing policy differences between the branches has accelerated this trend.

Judge Stephen Breyer, of the U.S. Court of Appeal for the 1st Circuit and senior lecturer at Harvard, identified numerous reasons for the decline of the unitary executive, emphasizing that the problems of coordinating the massive federal enterprise dictated much of this decline.

Unanimity of a sort was reached by representatives of the separate branches regarding judicial resolution of broad separation of powers disputes between congress and the president. Thornburgh, Judge Robert Bork, and Steven Ross, Counsel to the U.S. House of Representatives all agreed that because neither branch could afford to lose decisively, such a case is unlikely to be brought.

Similarly, Secretary of Defense Richard Cheney, Senator Charles Robb (D, Va.) and former Attorneys General Edwin Meese and Griffin Bell argued for more clearly defined separation of powers, or at least more bi-partisanship.

However, White House Counsel Boyden Gray, architect of the Bush Administration's separation of power strategy, does not seem as fainthearted. He pointed out that President George Bush has liberally and successfully used the veto power during his first year, often on separation of power issues, including the recent Chinese students legislation.

He added that Bush has also employed signing statements to direct executive branch employees to ignore legislative provisions that he considers unconstitutional. Of particular interest was Bush's threat to line-item veto a bill that contained

a provision barring the use of any funds by the executive branch to log contacts with congress. In the end, Congress limited the effective period of the provision to one day, a Sunday, that had already past.

After the reception and meal, Prof. Richard Epstein debated Lloyd Cutler, White House Counsel to President Jimmy Carter. Epstein suggested, in his perhaps tongue-in-cheek, talk that the more politically divided the government, the more secure the people are in their liberties. He added that after all, the New Deal and the Great Society, both massive expansions of the central government, were products of politically unified government. This was definitely a minority position, with speakers such as Cutler and former Attorney General Griffin Bell suggesting that one party government, even if the "wrong" party, is better than a divided government.

Panels dealing specifically with congress focused on the appropriation power, the growth of congressional oversight and constituent services. Bell noted that he was, if not an expert on oversight, at least a major consumer of oversight, having been called before congress more times than he could remember in a long and distinguished career.

Bell estimated that oversight consumes about 50 percent of congress-

sional time and that, particularly in an era of divided government, there are strong political incentives to make news with investigations. He recommended that oversight be limited by instituting a congressional review panel that would dole out approval for hearings. This seems a remote possibility given the power that has been created by the proliferation of congressional committees.

L. Gordon Crovitz of the Wall Street Journal Editorial Board suggested that congress has used its oversight power to perfect a method for manufacturing the appearance of executive sleaze. Congress calls an executive branch official to testify, investigates and finds some discrepancy in the testimony, then demands an independent counsel to investigate.

Bork, who spoke last and authored the book, "The Tempting of America" (number 4 on the *New York Times* Best Seller list), talked about the War Powers Act, which was passed into law over President Nixon's veto while Bork was Solicitor General. Bork had dryly commented at the time that instead of vetoing the Act, Nixon should have returned it to congress, thanked them for their essay on the powers of the presidency, and promise that when he had the time he would supply them with his thoughts on the role of congress.

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Students Protest Cristiani at Hemenway Gym

By John Bautista

Nearly one hundred students and residents of Cambridge rallied Sunday afternoon, Feb. 4, in front of the Hemenway Gym to protest the presence of the President of El Salvador, Alfredo Cristiani. Several law school students also participated in the demonstration to express their outrage against violations of human rights in El Salvador and U.S. aid to the Cristiani administration. Shouting slogans and holding up signs saying, "Cristiani Asesino," "Cristiani Murderer," and "Squash Cristiani," the student demonstration began at about 2:00 P.M. and lasted over four hours in snow and subfreezing temperatures. Cristiani was in Cambridge to watch a squash match played by his son, who was traveling with the visiting Princeton team.

An article in Sunday morning's Boston Globe notified the students of Cristiani's appearance after Cristiani had cancelled a speech to be given at Harvard earlier in the week. Broad-based student and community groups quickly organized the demonstration, with representatives from the Central American Solidarity Association (CASA), the Committee on Central America (COCA), and students from Harvard, Tufts and Boston Universities. Students' denunciations of U.S. policy toward El Salvador generated gestures of support from the passing motorists.

Lisa Sheehy, 2L, spent last summer in El Salvador and stated that "[t]here is a huge sentiment at the law school and in the Boston community that we have a moral obligation to be here [at the demonstration]."

The situation often grew tense as University police ejected demonstrators from Hemenway Gym and denied access to other Harvard students. Defying Secret Service agents and University Police, the demon-



Protestors defy the Secret Service in protest of President Cristiani's appearance at Hemenway Gym.



strators then resorted to laying in snow-covered Massachusetts Ave., forming a human barricade around Cristiani's limousine in an attempt to prevent Cristiani from leaving. By 6:00 P.M., Cristiani's entourage managed to slip out by an alternate route, but only after being delayed by the demonstrators.

Cristiani's trip to the states comes just two months after the brutal killings of six priests and two others, blamed by some on right-wing "death squads" allegedly controlled by Cristiani. In several weeks, the question of continued U.S. economic and military aid will be debated by Congress.

Sheehy criticized the legitimacy of any such aid, saying, "Cristiani shouldn't be here seeking U.S. support for systematic massacres of civilians for which the Republican National Alliance Party (ARENA), and the military are responsible." Sheehy claimed that 70,000 Salvadorians had been killed over 10 years by such right-wing "death squads." Accord-

ing to Sheehy, U.S. economic and military aid to El Salvador totals \$1.5 million daily.

Echoing these concerns, Margarita Prieto, 2L, said, "the Cristiani administration should be held accountable for the persecution from right-wing death squads." Prieto is currently working to secure U.S. political asylum for a Salvadorian fearing military persecution should he be deported to El Salvador.

Cecilia Fex, 2L, stated that she felt compelled to participate in the demonstration after learning that "the Salvadorian government is making no effort to pull in the reigns of the factions killing Salvadorian citizens" and the fact that "the American public still fails to understand the extent to which the Salvadorian government participates in human rights violations."

On the issue of U.S. aid to El Salvador, Fex stated, "the U.S. government should immediately cease all financial support to the Cristiani

administration." Fex's awareness of human rights violations in El Salvador grew after taking Deborah Anker's class on Asylum and Refugee Law and participating with 13 other Harvard Law students in a clinical program at the Cambridge and Somerville Legal Services. Particularly unforgettable to Fex was an informal gathering of clinical students and a Salvadorian refugee who described the "extremely graphic" torture in El Salvador.

Senator John Kerry of Massachusetts conveyed his intention to introduce a bill calling for an end to all U.S. military and economic aid with the exception of developmental assistance and private humanitarian assistance. The resumption of such aid would be conditioned on a finding by both the President and Congress that the National Liberation Front has made a commitment in "good faith" to recognizing human rights and ceasing hostilities.

Focus On Harvard Investment And Labor Law Issues In Pittston Coal Company Strike

By Linda Popejoy

Repercussions of the recent strike at Pittston Coal Company in Virginia have rattled Harvard University, which is currently the 19th largest shareholder in the coal company, holding approximately 310,000 shares of stock valued at over \$6 million. One member of the Harvard Corporation, Robert Stone, also sits on Pittston's board of directors. Stone could not be reached for comment.

In December 1989, union protestors began a divestment and awareness campaign by distributing posters at HLS, but they were taken down in January, when the company and the union agreed to settle. The details of the new contract will not be revealed until the union membership votes on its ratification. According to United Mine Workers' (UMW) representative Tim Baker, who spoke for the HLS Labor Law Project in December, there has been a delay because Virginia State Court Judge Donald McGlothlin has yet to give a final ruling on over \$5 million in fines owed by the union. "McGlothlin has a personal stake" in the situation. Because Pittston Coal convinced the judge to impose astronomical fines, he is now attempting to "save face," Baker said.

"Labor law in this country doesn't work for the people it was supposed to protect," Baker told his audience at the December meeting. He claimed that while Unfair Labor Practice (ULP) charges against the union were acted upon immediately in the state and federal courts, at least 23 charges against the company have yet to be heard by the NLRB.

A report prepared by the Congressional Subcommittee on Labor-Management Relations (the report was still not officially adopted as of Aug. 3) also notes this apparent imbalance: "It could be years before the striking miners would be entitled to any relief." If the union prevails, the company would be "ordered to bargain in good faith, to cease violating the law," to pay compensation for any lost wages caused by the violations, and "to hire back the striking miners." Meanwhile, the report stated that "the miners are subject to the swift and extensive sanctions imposed by the courts largely for acts of non-violent civil disobedience."

Also, union leaders pointed out that in 1983, Pittston was fined only \$47,500 for violations of the Mine Safety and Health Act that led to the death of seven miners. HLS professor David Westfall '50 commented that "it's hard to say there is an imbalance [in the law] when the union isn't allowed to interfere with the company's access" to its property or to "engage in acts of violence." However, complaints that the NLRB takes too long to act on ULP charges have "considerable support," he said.

Union leaders accused Pittston of trying to bust the union by restructuring the corporation through a technique called "double breasting." In 1986, Pittston opened a non-union company and gradually began shifting its operations to the newer company through the sale of coal lands. As a result, 3,000 union jobs have been lost, said Baker. This practice, which is particularly common in the construction industry, "raises the question of whether the concept of single

employer under the National Labor Relations Act (NLRA) has kept pace with modern business practices," notes the report.

Westfall commented that "double-breasting is all in who you talk to." Union sympathizers regard the practice as an evasion of the union contract, while business supporters claim the non-union subsidiaries are necessary for competitive operations, he said.

The strike, which began on April 5, 1989 after employees had worked for 14 months without a contract, resulted from stalled contract negotiations and the inability of the union and the company to reach common ground on key issues such as job security, pension funds, and work rule flexibility. Union officials cited repeated and extensive unfair labor practices of the company as the main reason for the walkout, according to an unofficial report, the report prepared by the Majority Staff of the Congressional Subcommittee on Labor-Management Relations in August (the report had not been officially adopted as of Aug. 3).

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Students, Faculty React To Historic Election At Law Review

(continued from page 1)
whom are black, cannot get legal services."

News of the election evoked many emotional responses from faculty, alumni, and students.

"This is a momentous event," said Tynia Richard, the president of the Harvard Black Law Students Association. "I have received calls from alumni all over the country. Everybody is excited."

Prof. Derrick Bell, who in 1969 became the first black appointed to the faculty, said a member of the *Review* called him at home at 12:50 a.m. Monday, minutes after Obama's election.

"I'm very pleased," he said. "I guess I tend to be one who stays in a state of constant pessimistic despair about the chances of America ever doing the right thing as far as race is concerned."

"Well, I grasp these little indications as a sign that maybe it might work after all."

Dean Robert Clark called the election a "wonderful" development. "It was bound to happen, and I'm glad it happened now," he said.

William Coleman, '46, the third black in history to make *Law Review*, said he was "touched" when he opened the *New York Times* on Tuesday and read an article about the election. "This was a long time coming," said Coleman, who served as Secretary of Transportation during the Nixon administration and is now a partner in the Washington, D.C. office of O'Melveny and Myers.

"I am elated," said Paolo Di Rosa, who was in Obama's section three class last year. "It is not something extraordinary that a black should be president of the law review, and it shouldn't be. And from now on, it won't be."

Prof. Chris Edley termed the election a "milestone". He echoed a general consensus that the election's only downside is that its racial dimension should be seen as so significant in the 1990's.

Warrington Parker, '89, a black who served on law review and currently a clerk on the 9th Circuit, said he felt "ecstatic" to learn of Obama's election.

"I wanted it to happen while I was there and it didn't," he said. "I'm just happy it happened now."

Obama gives much of the credit for his election to those people of color who had to scale higher mountains than he to get to Harvard Law School and to participate in the *Review*. HLS did not accept more than a handful of minority applicants until the early 1970s, and no black had served on the *Review* for the 30 years preceding Prof. Chris Edley's appointment in 1976.

Only three blacks were members in its first 85 years: the late civil rights attorney Charles Houston, the late Judge William Hastie, and Coleman.

Just last year Crystal Nix, 3L, was the first black to serve in one of the eight editorial positions known as the masthead.

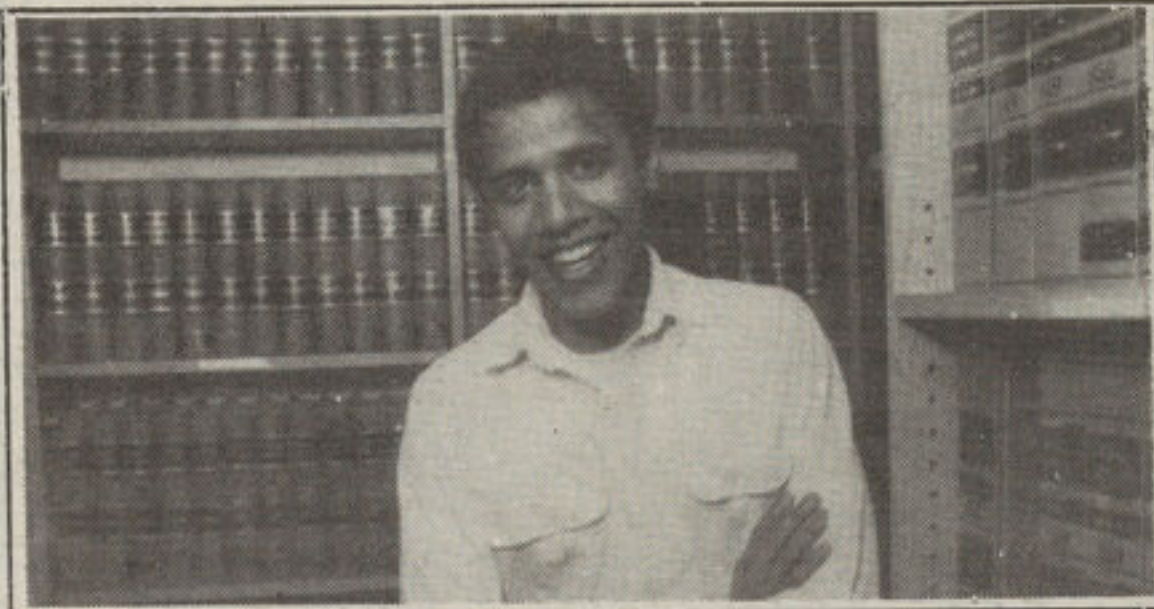
"I'm walking through doors other folks broke down," said Obama. "A whole bunch of people worked real hard to allow me to be in this position -- folks at BLSA, Prof. Bell, Edley, Ogletree and a lot of others. They are the ground-breakers."

The 28-year-old Obama was born in Hawaii. His late father was a Finance Minister in Kenya and his mother is an anthropologist. He was raised in Indonesia, Los Angeles, and Hawaii.

He graduated from Columbia College in 1983 with a degree in political science. After working for a year in New York as a business journalist, he moved to the south side of Chicago to become executive director of a grass-roots activist organization called Developing Communities Project.

The organization worked with churches, unions, and neighborhood groups on issues ranging from job training to parental control of public schools. Obama spends a good deal of his vacation time in Chicago training community organizers.

Interviews with several *Review* members said it was the combination of Obama's outstanding legal scholarship and experience as a community organizer, in addition to his inclusive leadership style, that distinguished him from the



Newly elected Law Review President, Barack Obama, 2L

crowded field of candidates.

"I think the biggest thing he brings to the *Review* is maturity," said Frank Amanat, a second-year member of the *Review*. "He's had a lot of exposure to the outside world, yet he is right at home [in academia]."

Prof. Laurence H. Tribe '66, who has guided Obama on research projects, said, "My sense of him as a human being, as a future lawyer, and I hope as a future legal scholar, have been highly impressive."

It was just after midnight on Monday when Obama was called into the Ropes-Gray room to hear the final judgment of his weary but excited colleagues, who began the debate at 8:30 the previous morning.

Obama had spent most of the day cooking in the Ropes-Gray kitchen for those deliberating, a traditional task for those candidates still in the running.

After the early start, the field had been cut to ten by lunchtime. By late afternoon a member of the *Review* had told another five to stop cooking. By midnight another three had been asked to rejoin the larger group.

Then there were two -- Obama and David Goldberg, a 24-year-old graduate of Harvard College.

When Obama walked into the Ropes-Gray room, the eighty members of the *Review* broke into applause. Before words were spoken a black student on the *Review*, Ken Mack, walked over and gave Obama a long embrace.

"It was a hard hug and it

lasted for a while," said Obama. "At that point I realized this was not just an individual thing ... but something much bigger."

Monica Harris, a 2L member of the *Review*, said "all the black students are sharing in his victory right now. I think it reflects favorably on the *Review* that it wasn't until he walked into the room that people began to realize he was going to be our first black President."

While the election has received much press attention as the breaking of a racial barrier, race was not a factor considered by those involved in the selection process.

"The election was tremendous because race was not a factor," said Christine Lee, 2L, and a member of the *Review*. "It was not strategized politically."

Obama emphasized that HLS has a long way to go to attract a more diverse faculty and student body, but he attributes his election partly to strides the law school already has made in these areas. He said he enrolled in HLS because there was a core group of professors examining legal issues of concern to minorities.

"The fact there were diverse viewpoints on the faculty was important to me, and the fact there was an active black students organization was important to me. It also helped that there were a lot of students interested in public interest law."

"I believe all this stuff helped pave the way for me being elected because it creates an atmosphere that allows a person of my interests and perspective to be in the mainstream. It means white conservatives can trust me,

and it means I can stake out my positions and be myself."

Obama said it is vital that HLS "start thinking more about its relationship to the larger society and about the kind of commitment the school should make to assure kids like me get in these positions again."

"It would be tragic if it took another 104 years."

Obama sees his new position as an opportunity to broaden and sharpen the scholarly orientation of the *Review*, making it more inclusive of minority and "alternative" perspectives. He emphasizes that as President he is only first among equals in deciding what articles get printed.

Obama said he is especially interested in Constitutional law, noting the way in which issues of race relations and resource allocation "are often played out in Constitutional terms." His work as a community organizer has given him an appreciation for business law as well.

"Those interested in public policy have to think about how the private sector can be harnessed to promote urban development," he said.

Obama's research for Tribe has involved the nature of Constitutional Space, with a focus on implementing post-Newtonian insights in Constitutional doctrine. He has also made significant contributions to the final two chapters to Tribe's forthcoming book on the cultural and class dimensions of the abortion debate in America. The book, *Abortion: Clash of Absolutes*, will be published this May by W.W. Norton.

Obama has expressed a career interest in government and politics. Whether he would consider legal academia is uncertain, but those who know him say his charisma and self-confidence are most at home in the political arena.

"I don't think Barack sees this as a steppingstone to the academic aspects of the law," said Rob Fisher, 2L, a close friend of Obama. "But whatever he does, he is extraordinarily committed to making a contribution to the resolution of social problems in this country."

"There is no possibility this [election] will send him in a different direction."

Alianza Praises Administration But Sees More Work Ahead

(continued from page 1)
tional leader."

Martinez also called on the administration to expand its efforts to attract minority faculty. "Clark needs to do more in the areas of assistant professors and clinical programs," Martinez said.

Pena stressed the same point: "There are a lot of things they can do, a lot of things that we have suggested." Pena mentioned that the faculty could seek Latino practitioners to help with the clinical program. "You can't say there aren't enough hispanic practitioners," Pena said.

Torres, who was unaware of the year-long Alianza campaign seeking a Latino professor, said, "It will be an exciting year. I am looking forward to spending a year in the Northeast."

Clark, who has met on several occasions with members of Alianza to discuss the issue, said, "I am absolutely delighted that he can visit us next year. I look forward to

getting to know him better."

With respect to future efforts, Clark said that he would announce a large number of visiting professors over the next year. He promised "there will be a lot of good news."

Clark added that Torres' acceptance "was a good step in exploring part of a larger process of visiting professors and focusing on minority scholars."

Rudy Rodriguez, 3L and Chair of Alianza's Academic Affairs Committee, said, "We're hoping that the new interest in recruiting hispanics will continue."

The Faculty Appointments Committee has six members: Dean Clark, Academic Dean Stephen Bernardi, and Profs. Louis Kaplow, Randall Kennedy, Martha Minnow, and Paul Weiler.

Visiting professorships often precede a permanent offer, but Clark said as in all cases "we make no promises or commitments. We wait to see what happens."

Clark added that usually the visiting professors return to their schools in order to facilitate the process of whether to make a permanent offer. If Torres received and accepted a permanent offer, he would be the first Hispanic professor in Harvard Law School's history.

Torres said that he would consider a full professorship at Harvard Law School, though he emphasized that no one has intimated such an offer was in the making.

Torres also made a point of stressing that he is "very loyal to Minnesota [Law School]" and that they have been "very good" to him. He said he believes loyalty is important to the success of any institution.

According to Rodriguez, Alianza held several meetings last semester specifically dedicated to ways of achieving the goal of getting more hispanic professors to Harvard Law School. Rodriguez added, "It doesn't

matter what course he teaches. It just matters that we have some one on the faculty with whom we can relate -- from what I know about Professor Torres, we have found that."

Rodriguez expressed regret that third-year students would never have the opportunity to take a class from an hispanic professor. "That will be an unpleasant memory for all of us," he said.

Torres commented on Alianza's efforts by saying, "I think the extent to which the group works to increase the diversity at the law school, it is done with the best interest of the institution at heart." Torres added that he suspected that "Alianza's call to diversity is really a call to increase intellectual debate."

Torres also said that "although Harvard Law students hardly need a role model, it is important."

Kennedy, whose roles on the Appointments Committee includes a particular designation to look after Minority

Recruitment, said, "It is incapable that he will be perceived as a symbol, but I hope it doesn't obscure his intellectual distinction and his scholarship."

Kennedy added, "He is not some undifferentiated mass to me. He is a legal scholar who has thoroughly impressed a number of people on the faculty."

According to Martinez, Alianza is torn as to what to do next with their campaign. She said some members want to continue "to hit the administration very hard on retention and multiple offers [to hispanic professors]" and others are "fairly satisfied and want to turn their energy to other efforts."

Torres also brings to Harvard Law School what he called "a burgeoning area of practice" in environmental law.

Clark also stressed that aspect of his scholarship and the need at HLS for that area of study.

Torres said he expects to teach environmental law next year and hopes to teach a first year course, possibly property.