

# HARVARD LAW RECORD

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TWENTY-FIVE CENTS

## Vorenberg Named Next HLS Dean

Prof. James Vorenberg has accepted the Deanship of Harvard Law School, effective July 1, 1981. Harvard President Derek Bok offered the position to Vorenberg on Feb. 9, and his acceptance was announced Wednesday, Feb. 11 at a news conference.

Vorenberg, presently an Associate Dean of the Law School, will succeed Dean Albert Sacks. Sacks  
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## Law Review Acts to Admit Minority Group Members

By a vote of 45 to 39, the *Harvard Law Review* last week adopted an affirmative action plan which gives minorities and women a greater chance of becoming members of the *Review*. Several *Law Review* members resigned as a result of the vote, and a reconsideration of the decision is scheduled for Wednesday, Feb. 18.

Currently, *Law Review* membership is offered to the five 1Ls with the top grades in each section. The new plan still offers membership to the top four students, but reserves the fifth slot for the highest-ranking minority student in positions five through 29 in the section.

If no minority student is in this group, the top woman in positions five through 29 will be offered membership. Should no woman be eligible, the person ranking number five on the basis of grades then qualifies for *Review* membership.

### Proposal From Committee

The affirmative action proposal came from the work of a *Review*

**This story was written by Steve Friedland and Mary Tarduno, with the assistance of Carl Oppedahl and Gretchen Rule.**

committee formed to address the problem of "under-representation on the *Review* of minorities and women and to consider means of redressing the situation," said *Law Review* President Stuart Singer, 3L. Presently, the 89 *Review* members include 11 women, no blacks, and one Asian-American.

The Registrar would determine which students qualify for *Review* membership under the new plan and would be guided by the Admissions Office definition of a "minority". The Registrar would then release the names to the *Law Review*. The faculty must approve this release. Even if the faculty chooses not to do so, however, the affirmative action plan could be implemented through voluntary release of grades by students.

The new plan does not affect the writing competition. The *Review* did pass a proposal, however, that  
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Photo by John Morris

Laura Hodges, 2L, adorns the desk of A.R. Ewing, alias Prof. Arthur Miller, during Erie Day festivities held on Feb. 4. See story and more pictures, page 8.

# One L Stamos Wins Rhodes Fellowship

By Laura A. Taylor

Next fall the HLS class of '83 will be slaving away at Corp Tax, Evidence, and Labor Law. One of its members, Peter S. Stamos, however, will be at Oxford, studying politics, philosophy and economics.

Stamos, a first year student in the J.D./M.P.P. program, is one of the eight Harvard University students who were recently named Rhodes scholars. A member of Section I and a 1980 graduate of Stanford, Stamos will return to Harvard in the fall of 1983 to complete his joint degree.

Stamos discussed his plans to apply for a Rhodes this year with Deans Sacks and Upton before coming to HLS. Both, he noted, encouraged and supported his plan. "I felt that I needed a supplement to my undergraduate education," said Stamos when questioned as to why he had chosen to apply for the Rhodes.

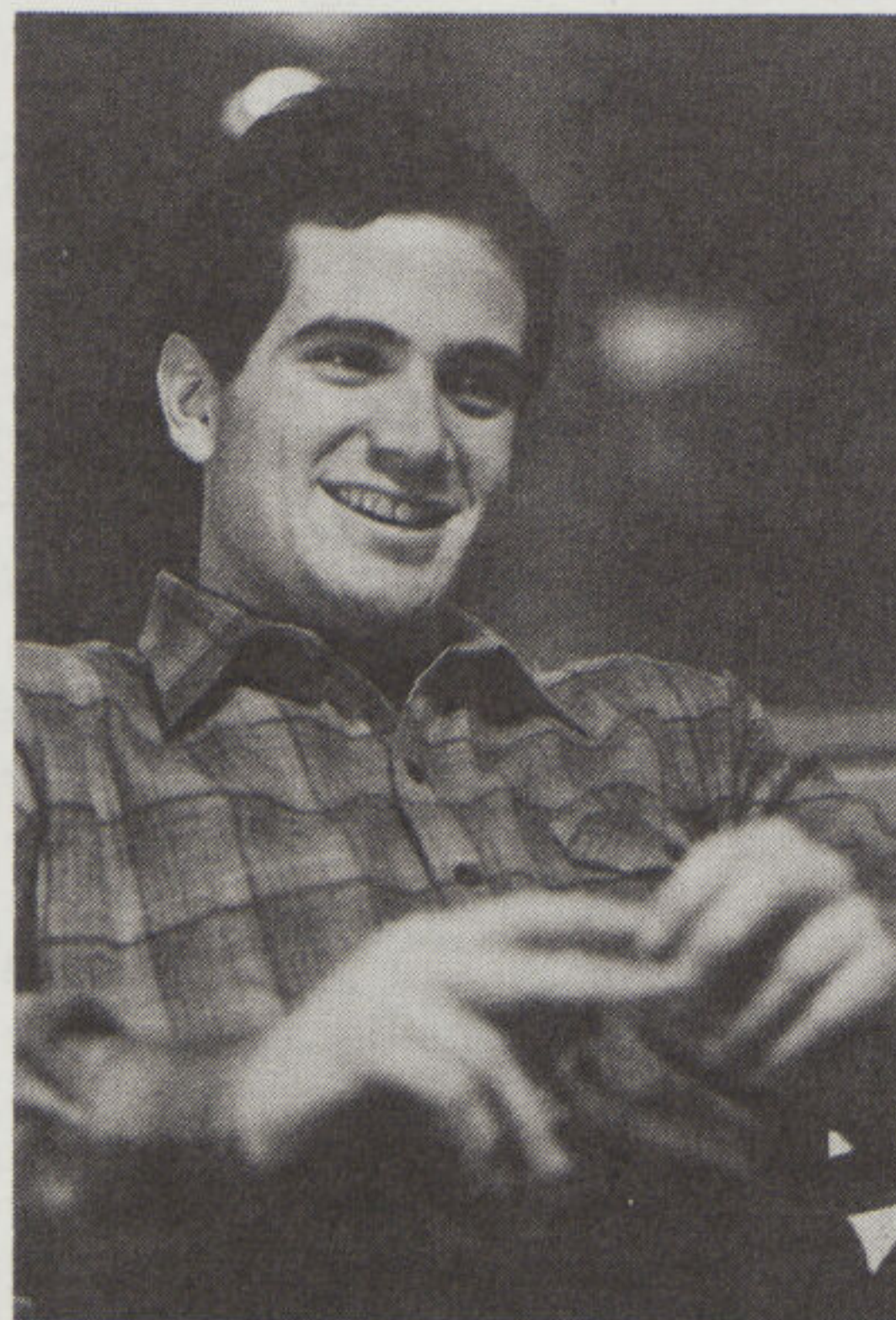
## A Career in Public Service

Stamos plans to pursue a career in public service: "I think that requires as broad an education as possible, so, coming to the Law School, I realized that I would be getting the necessary skills and tools to implement policy, but I think that in order to be an efficient public servant you need to have the perspective coming from a study of history and the ability to study another people's perspective."

A native of Westlake, California, Stamos's record of public service activism is long and impressive. He worked on the McGovern and Carter presidential campaigns, interned with Rep. "Pete" McCloskey in the

spring of 1979, and organized Stanford student efforts to obtain asylum for former Pakistani Prime Minister Ali Bhutto.

At Stanford, Stamos wrote political columns for the *Stanford Daily*, chaired the student senate, and was co-director of the Stanford



J.M.

Peter Stamos, 1L

Committee on Political Education (SCOPE). Stamos's academic achievements and his commitment to public service earned him a Harry S. Truman scholarship (a four-year scholarship for students with a demonstrated interest in public service) and the J.E. Wallace Sterling Award for contributions to Stanford undergraduate life.

## Second Time Around

Stamos applied unsuccessfully for the Rhodes during his senior year of college. He attributes his second-

application success to a change in his thinking and in the focus of his application from himself as an individual to thinking "in terms of public purpose."

When he learned that he had won the scholarship, Stamos said, he felt that he had already been rewarded "in that I'd learned a lot about my own ideas and goals and shared them with a group of highly idealistic and committed people."

The applications process for the Rhodes is intended to identify students who will "carry on the world's fight," according to Stamos. The other applicants, he said, "displayed a high degree of idealism and public purpose." The interviewers demonstrated "a sense of concern for youth in general, and for each individual applicant in particular." Throughout the process, Stamos asserted, the interviewers tried to convey "the sense that the future of the world lies in the hands of our generation."

The process, said Stamos, helped him to articulate his own "political philosophy." According to Stamos, "A public servant must go down to defeat standing up for his ideals. This is what makes the democratic process work. If we are having problems here, it is because too many politicians fail to do this." George McGovern, he noted, "was one of the few liberal Democrats who went down to defeat standing up for his ideals."

Stamos, whose undergraduate degree is in political science and economics, plans to practice law or teach after obtaining his degrees from Oxford, HLS, and the Kennedy School. Teaching would not be a novel experience for Stamos as he was the first undergraduate teaching assistant ever in Stanford's Political Science department. He does not rule out the possibility of running for public office. "Each of us," Stamos said, "has a responsibility to stand up for what we believe in, whether as a public servant, as a lawyer, . . . in whatever line of life."

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# Student Gov't Proposed At Meeting

By Mary Tarduno

"Currently there isn't a very effective student government on [the Law School] campus," according to Mandy Lowell, 2L and Dorm Council president. Lowell and five other students comprise a "brainstorming" committee that is trying to devise a model for a more effective Law School student government.

Last week the committee sponsored an open meeting to discuss the governance issue and to suggest several ways of restructuring the present student government. Many of the students attending, however, questioned the value of the committee's efforts because they perceived administration unwillingness to listen to students on important issues.

## Dorm Council Impetus

Impetus for the committee's work has come from the Dorm Council. According to Bonny Garcia, 3L and past Dorm Council president, the issue of student government began to concern the Dorm Council about a year and a half ago. Several issues came up before the Dorm Council which were thought to be more properly handled elsewhere. He cited the funding of men's and women's traveling basketball teams and the loan of \$1000 to the Forum as examples. As president of the Dorm Council, Garcia said, he chose

to take an expansive view of the Dorm Council's role because no one else was doing anything.

This year the Dorm Council and the Law School Council chose to address the problem through the "brainstorming" committee. A BSA representative was included in the group in recognition of the BSA's Law School-wide impact, said Garcia. As presently constituted, the committee includes Garcia, Lowell, Bud Gilbert, 1L, Rich Silver, 1L, and Lorraine Pratt, 3L, all Law School Council members; and Sharon Jones, 2L, a BSA member.

At the open meeting, Garcia used the issue of Dean selection to illustrate the disadvantages associated with the lack of an effective student government. To address that issue, he explained, some concerned students had to get together and form a coalition. They had no framework in which to gather support and so could not say "we have all the students behind us." Likewise, dissenters had no structure in which to oppose the coalition's actions, Garcia said.

## Not Doing Its Job

In theory, the Law School Council is the Law School student government, having a voice on faculty matters, academic problems, and other political issues. The consensus of those attending the meeting was that the Law School Council

isn't doing its job; as Rich Silver expressed it, the Council structure "is dumb, inefficient, and needs to be changed."

Garcia contrasted the Law School Council's operations with those of the Dorm Council. He said that the Law School Council was criticized as being "invisible"; the Dorm Council, on the other hand, has "money and organization from a tightly-knit community, and its influence has spread beyond the dorms in social and recreational areas." Garcia noted that despite its widespread impact, the Dorm Council only represents dorm residents, and thus non-residents have no influence on the Dorm Council's operation.

Committee members suggested several forms which a restructured Law School governing body could take. Under the first, students would elect representatives at large to a central governing body. While all students would be represented and would be able to vote for whomever they wished, explained Lowell, the at-large delegates might not be sensitive to significant subgroups in the community. Under the second, each Law School class would elect representatives. Lowell suggested that an accountability problem could also arise under this option: 2Ls and 3Ls do not have sections and therefore might not have a great deal of contact with their representatives.

## Interest Group Representation

Under the third model, each student interest group would send a representative to a governing body. According to Silver, this would ensure that more interested, naturally more active people would be involved in the student government. In addition, the representatives would have ties through the interest groups with people who elected them. A disadvantage to the system, he noted, is that some people would be left out. In addition, some people might form groups solely to elect a representative to the body.

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## Alumnus Killed in Bahamas

It has come to the attention of the RECORD that Paul Barton Brown, HLS '78, and his companion, Gale Jackler were killed in the same automobile crash that claimed the lives of David M. Rosenfeld, 2L, and Dr. Ellen Frank. (See RECORD, Jan. 23, 1981, p. 1).

Brown, who was 28 years old, had been working with the Washington, D.C. law firm of Hogan and Hartson since 1979. A native of Kansas City, Missouri, he was graduated from Williams College in 1974 and was a member of Phi

Beta Kappa. After graduation from HLS, he clerked for Chief Justice Vincent L. McKusick of the Maine Supreme Judicial Court. Brown's 21 year old companion worked with the National Conference of State Legislatures.

A scholarship fund has been set up in his memory. Contributions may be sent to: P. Barton Fund for Minority Students, Department of Development, Williams College, P.O. Box 231, Williamstown, Mass. 02167.

L.T.

# Low Turnout For Alternatives

By Gretchen Rule

The turnout for this year's Ames Alternatives was surprisingly, and disappointingly, low. All of the organizations responding to questions indicated that they had from 4 to 12 fewer 1Ls this year than last. For two groups, the Committee on Gay and Lesbian Legal Issues (COGLLI) and the Black Law Students Association (BLSA), this meant having no 1Ls at all.

While one organization's Ames Alternative coordinator felt that it was "just one of those things", others were more willing to pinpoint the difficulties. Many of those difficulties could be traced directly to the BSA Ames Alternatives Committee.

## Introductory Meeting

The BSA Ames Alternatives Committee coordinates the efforts of various student groups in the Alternatives program. Each group provides a record to the BSA. The BSA then organizes an introductory meeting for interested 1Ls at which members of the participating student organizations describe their cases. The 1Ls are then given forms on which they list, in order of preference, the Alternatives cases that they are interested in. The forms are returned to the BSA Ames Alternatives Committee, and its members match 1Ls with cases from the student organizations. Typically four 1Ls are needed to "fill" the case of an organization.

One of the most frequently cited problems with this year's Alternatives program was the initial impression given to the 1Ls at the introductory meeting. All of the coordinators who commented agreed that the room (P200) was overcrowded and hot, making the meeting uncomfortable to begin with. Some felt that the apparent inflexibility of the BSA Alternatives Committee in refusing to extend the deadline by which preference sheets were due also contributed to the negative impact. Many 1Ls had asked for the extension in order to give them a chance to see the regular Ames cases before

making a decision on the alternatives.

Lorrie Northey, 2L, one of the BSA Ames Alternatives Committee members, tried to explain the situation. According to her, summaries of the regular Ames cases usually come out on the same day that the introductory meeting for the Alternatives is held. This year that was the Tuesday before Thanksgiving. Problems arose in getting the descriptions duplicated, however, so they did not go out as planned. "At the meeting, we assumed that they [the regular Ames case descriptions] would be out the next day," said Northey. "This would still have given the 1Ls a chance to look them over before having to turn their Alternatives preference sheets in the following Monday."

## Confusion Over Deadline

The regular Ames case descriptions didn't come out the next day, however, and the resulting confusion may also have contributed to the lower sign-up. According to Northey, BSA Ames Overseer Andrea Davis, 3L, posted notices extending the due date for Alternatives preference sheets to Wednesday, which did allow 1Ls to compare the regular Ames cases with the Alternatives cases before choosing either. "They finally gave more time," said Harvard Defenders' Alternative Coordinator Jorge Vegas, 2L, "but we already had lost lots of students." One student agreed: "It made me wonder what I might be getting myself into, seeing as they couldn't even agree on when our choices were due."

Some Alternatives coordinators felt that in addition to the confusion resulting from the introductory meeting, the whole program was poorly publicized. BSA Ames Alternatives Committee Chairman Keith Calhoun, 3L, indicated that he felt this was the responsibility of the organizations themselves, not the BSA. "We didn't send around a memo saying 'drum up business', but we never perceived that there would be a problem drawing 1Ls.

Next year, publicity will obviously be a priority, but it must come from the organizations." Calhoun made it clear that he feels the BSA is there to administrate the program, not participate in it. Susan Winkler, 2L, Alternative coordinator for the Legal Aid Bureau, agreed to a certain extent. "We could have done a lot more [to publicize the Bureau's alternative]. But the whole [Alternatives] program wasn't sold well — it's not just the organizations. I'd say we share the blame."

## BSA Could Have Done More

COGLLI Alternatives Coordinator Lew Lasher, 3L, also felt that the BSA could have done more. He was more disturbed at the BSA's assignment procedure than at the lack of publicity, however. According to Lasher, seven people indicated on their preference sheets that they were interested in the COGLLI case, with two 1Ls noting it as their first choice. But the result of the BSA assignments was that no 1Ls were given the case.

Lasher recognized that the time in which the assignments were to be made did not leave room for reflective thought, as the preference sheets were in on a Wednesday and the assignments were posted that Friday. "It was unfortunate that they were so disorganized," he commented. Still, he felt that students could have been assigned to COGLLI's case. "It seems like the BSA didn't give any weight at all to the idea of insuring that all of the cases were filled. This should be considered. Part of the goal of the Alternatives, along with being an educational experience for the 1Ls, is to have legal research done for the organization."

As it turned out, the two 1Ls who had listed COGLLI as their first choice were given their second choice, and two 1Ls who could have been assigned to COGLLI as their third choice in order to fill the case were given their first choice. "It's hard to think of an instance where it mattered less that there was a thumb on the scale," said Lasher.

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# A message to Harvard and Radcliffe students regarding nominations for Coop Board of Directors

If you, as a Coop member and a degree candidate, are interested in serving as a student director of the Harvard Cooperative Society for the next academic year, you should obtain an application from the General Manager's office in the Harvard Square Store. Completed applications must be returned to that office by Friday, February 13, 1981 for consideration by the Nominating Committee of the Stockholders of the Harvard Cooperative Society.



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# Vorenberg Named Dean

(Continued from Page 1)

announced his decision to retire last July, and will return to teaching after Vorenberg takes office.

The announcement of Vorenberg's appointment ended more than six months' speculation and controversy over who Bok's choice would be. During that time students complained of having little input to the selection process and formed the Coalition on Responsible Dean Selection (CORDS) to try to influence Bok's decision.

According to Larry Coben, 2L CORDS member, "We did not get any input in the process . . . it was a completely closed process." Coben felt that the choice of Vorenberg "stands for the status quo."

Vorenberg called the question of students' role in Dean selection "complicated." "It's a problem because any one group of students is here for a short time and is unlikely to know enough about the candidates," he explained. "It is my intention within the next two or three days to talk with the student groups who had special concerns or requests" during the selection process, he said.

According to Vorenberg, the faculty has indicated a desire to discuss its participation in the selection of future Deans. Vorenberg said he would see that the discussion takes place and that he believes Bok is amenable to such discussion.

Vorenberg answered questions on a wide range of topics during Wednesday's news conference. He cited two specific concerns he would like to address as Dean. First, he explained that the later part of a Law School education should involve work that has a special relevance to what students will be doing after graduation. Second, he said he hoped the Law School could build on its experience with the Legal Services Institute. Referring

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# Jakosa, Randolph Shine As Oralists

By Ben Littauer

On Thursday, Feb. 5, at 8:30 p.m., two teams of 1Ls squared off against each other in the final round of the Jessup International Law Moot Court Competition. The case was argued before a distinguished panel consisting of HLS Prof. Louis Sohn; Takeo Iguchi, Consul General of Japan; and Sang-Myon Rhee, an SJD candidate studying with Prof. Sohn. Prior to this round, each of the oralists had argued the case three times: first in a practice round, then in the first elimination round; from there they progressed to semi-final arguments before Prof. Arthur Taylor Von Mehren.

The semi-final round eliminated all but five competitors, who will go on to the regional championships to be held this March in New York City. Those five were Jody Jakosa, Lloyd Randolph, Cole Brecheen, Frederick Knowlton, and John Loder. Although it was already decided who would be going to New York, the final round pitted Jakosa and Knowlton against Randolph and Brecheen to decide the top two oralists from Harvard.



*Jessup competition finalists, left to right, John Lodes, Fred Knowlton, Judy Jakosa, Lloyd Randolph and Cole Brechern.*

All four oralists argued brilliantly, fielding easily the questions thrown at them by the very active panel of judges. After about fifteen minutes of deliberation, the judges named Jakosa top oralist, with Randolph coming in second.

In an unusual move, the judges proceeded to comment on the merits of the case, which involved a

continental shelf boundary dispute between the fictional countries of New Togo and New Ghana. The net result of the judges' decision was that, while the principle to be applied was that argued by New Togo, its application resulted in New Ghana getting the oil resources which were really at the heart of the conflict.

Since the arguments the five team members have had a full schedule preparing for the regionals. By last Wednesday a brief for each side, using some new facts, had been completed.

Jessup organizers Cathy Mannick and LaVerne Woods, 2Ls, were very pleased with the performance of this year's team, and hope to see them win the regionals and go on to the finals in Washington, D.C.

## Load Up Your Dice

High rollers, fast steppers, and those who enjoy high society should keep Feb. 20 open: from 8 p.m. to 1 a.m., the Dorm Council will sponsor a Casino Night in Pound's Ropes-Gray Room. Games will include blackjack, wheel of fortune, and roulette. Larry Cooper and his orchestra will play swing music for those who like to foxtrot and jitterbug.

Betting at the Casino Night will be in cash — the \$10 maximum on the blackjack game, for example, will bring a winner \$20, said Bonny Garcia, 3L, former Dorm Council president. And instead of having a full cash bar, the Dorm Council will sell champagne, beer, and coke.

The door charge of \$2.50 will also buy guests a raffle ticket — and a chance to win one of several prizes.

The grand prize, according to Garcia, is a trip for two to Jamaica; the winners will have one week in the sunny South "in their own bungalow on the beach," Garcia said.

The Dorm Council will donate all proceeds from the event to Los Ninos, a nonprofit organization that provides food to children in orphanages and slum areas in Tijuana. The organization is staffed by volunteers, according to Garcia, so virtually all contributions go directly toward helping the poor. The Dorm Council chose this group because it felt that anything it could give Los Ninos would have a greater impact than would a similar contribution to organizations such as CARE or Oxfam, Garcia explained.

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# Just Another Day For Section Four:

By Carl Oppedahl

*We at the RECORD would have forgotten all about Erie Day, but for a thoughtful reminder from Prof. Miller. —Ed.*

Feb. 4 was Erie Day at HLS — the day of Arthur Miller's celebration of the case *Erie v. Tompkins* for his civil procedure students. The show was entertaining and more tasteful than last year's, and was rivaled by the student production that followed it.

The show opened (about forty minutes late) to a crowd of more than three hundred, including television and newspaper reporters. Prof. James Vorenberg, the new Dean of the Law School, was on hand, along with Claude Pelanne, producer of the locally-produced television series "Miller's Court." As the house lights dimmed the audience was treated to disco music and an opening sequence of slides to the theme music of "Miller's Court."

The first scene presented Miller as the host of the television show "Fantasy Island," with Bruce Grossberg, 2L, playing a fine Tattoo. They talked of Miller's past; it seemed his own personal fanta-



Photo by John Morris

*Arthur Miller rides horse instead of 1Ls.*

sies had not yet been fulfilled. He briefly considered reincarnation as a Hell's Angel, Santa Claus, the President, the Ayatollah, a Dallas Cowgirl, and a Greek Emperor, but settled on being a Blues Brother, complete with blueface makeup. After a strained rendition of the theme song from the old TV series "Rawhide," complete with whips, the audience was treated to a five-minute display of a picture of J. R.

Ewing from the television show "Dallas"; this was inexplicably juxtaposed with a radio advertisement for a "Ronco Pocket Lawyer."

The balance of the show was easier to follow and more consistently funny, even though the cast read directly from scripts. Miller entered on horseback, playing "A. R. Ewing," and used his oil wealth to secure a place for his buxom niece (Laura Hodges, 2L) at Harvard Law School. Then Harry Grossman (Bruce Grossberg), the devious process server whom Miller often mentions in class, arrived as an agent of the Erie Railroad, serving process with a bullet.

The scene shifted to a fantasy courtroom scene with Miller (who else?) as judge, and Karen Levinson, 2L, and Andy Lundberg, 3L, as lawyers. The issue was not "Who shot A. R.?" but rather, "Whose law applies?" After his now-traditional reference to the "honor" of the female attorney, Miller closed the show by explaining the holding of the important civil procedure case, *Erie v. Tompkins*.

The class production that followed was an entertaining slide show illustrating ingenious ways

(Continued on Next Page)



Photo by Erich Merrill

*"Let's play fast and loose with your honor," quips Judge Louis "Blue Eyes" to advocate Karen Levinson, 2L.*

# Miller Acts Out Fantasies

(Continued from Previous Page)

to serve process which only 1L's could conceive of. A Bogart-like character (whose voice was provided by Peter Stamos, 1L-section



J.M.

Mr. Rourke discusses his fantasies with Tattoo (aka Bruce Grossberg, 2L).

## SPORTS QUIZ

NOTE: This week's Sports Quiz deals with Valentine's Day and athletes whose names have something to do with that holiday.

1. This man has played quarterback for the St. Louis Cardinals for over a decade while compiling some of the most impressive statistics for his position. Who is this player?
2. While his name represents the emotion glorified on Valentine's Day, this man was a star forward for the Chicago Bulls during the early 1970s even though he was considered too small to be a forward. Who is this player?
3. With a name which coincides with the symbol of this special day (although the spelling is different), this athlete has performed as a steady defenseman with the Detroit Red Wings and New York Islanders and is currently playing with the St. Louis Blues. Who is this player?
4. An obvious choice for this week's quiz, this person was destined for stardom with the California Angels as a center-fielder until a succession of injuries, including a broken leg, cut short his career. Who is this athlete?
5. With a name that is the same as a typical gift on Valentine's Day, this man starred with the University of Tennessee as a punter and defensive back but his professional career with the Dallas Cowboys and New York Giants was anything but eventful. Who is this player?

(Answers on Page 16)

I, the only non-Miller student in the show) demonstrated process serving via fortune cookie, Harkburger, Communion wafer, banking machine, and sanitary napkin machine.

Miller's show was written by Andy Lundberg, 3L, directed by Tom Seoh, 3L, and produced by John Simpson, 2L. Like nearly everyone involved in the production, each studied civil procedure under Miller. Rick Sankovitz and Paul Schechner produced the student show, with help from Evan Wolfson, Bud Gilbert, and Brian Koukoutschos, all from Miller's current civil procedure class. They and others from the section comprise "Herb the Stockboy," a group

responsible for several classroom skits this year.

This is the seventh Erie Day show. The first Erie day presentations were simple skits put on by a few former students of Miller, while in recent years they have become very elaborate. When asked why this year's show was so tame compared to last year's, in which Miller appeared in drag, he replied, "it's a sign of the times — things are more conservative now." Andy Lundberg, the scriptwriter, said, "We decided to trade sexism for vulgarity this year." Audience reaction to both shows was favorable. Kelly Murray, 1L, said the show was "great!"

☞

## SUMMER SESSION 1981 THE UNIVERSITY OF BRIDGEPORT SCHOOL OF LAW Summer Session Begins June 8

| Courses                 | Credits | Days                             | Time          |
|-------------------------|---------|----------------------------------|---------------|
| Administrative Law      | 3       | TWTH                             | 8:20-10:30 pm |
| Civil Clinic            | 6-8     | By arrangement-approval required |               |
| Criminal Procedure      | 3       | TWTH                             | 8:20-10:30 pm |
| Evidence                | 3       | TWTH                             | 6:00-8:10 pm  |
| Family Law              | 3       | TWTH                             | 3:40-5:50 pm  |
| Federal Courts          | 3       | TWTH                             | 6:00-8:10 pm  |
| Housing                 | 2       | TW                               | 8:20-10:30 pm |
| Independent Research    | 2 or 3  | By arrangement-approval required |               |
| Judicial Clerkship      | 2       | By arrangement-approval required |               |
| Municipal Law           | 3       | TWTH                             | 6:00-8:10 pm  |
| Secured Transactions    | 3       | TWTH                             | 3:40-5:50 pm  |
| Tax Clinic              | 6-8     | By arrangement-approval required |               |
| Trusts & Estates        | 3       | TWTH                             | 3:40-5:50 pm  |
| Uniform Commercial Code | 4       | MTWTH                            | 8:20-10:30 pm |

The law school is located on Long Island Sound in Southwestern Connecticut approximately ninety minutes from New York City and thirty minutes from New Haven.

For Summer Session Catalog write to:  
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# The Review's Dilemma

The *Law Review's* decision last week to implement an affirmative action plan was very difficult to make. Two facts form the backdrop of the decision. First, membership in the *Review* brings with it tremendous opportunities which are often not open to other students. Second, minorities, and to a lesser extent, women, are underrepresented on the *Review* relative to their proportions in the student body.

Discussion of the plan resolves eventually into questions about HLS's grading system as a whole. Defenders of the status quo must maintain that, at worst, the school's grades are somewhat random, but that they are no more arbitrary for minorities or women than they are for anyone else. Proponents of minority admissions argue that minorities are discriminated against by the grading system.

The problem is that the acceptance of the new formula by minorities and women is tacit acceptance of the very grading system which they claim discriminates against them. The new formula relies as much on grades as the old process did.

If it is not doubts about the fairness of the grading system that justify the plan, it is not clear what does, except perhaps the argument that the *Review* is more than an honor society. It is, after all, a journal, and it is not inconsistent with its aim of producing the highest quality work to attempt to make its membership more representative of the school and society at large. A large part of the prestige of membership derives from the experience of working on the journal, and it is not unreasonable for proponents to argue for allowing more opportunities for women and minorities to share that experience.

However, the danger that minorities and women chosen will be stigmatized is real. If the grading system is not admitted to be biased against minorities and women, then last week's proposal is simply condescending. In addition, any consideration of race or sex is extremely offensive to many. At best, the new formula, especially as applied to women, is capricious.

The considerations laid out here will be discussed when the *Review* reconsiders its decision next week. Before then, the *Review* should solicit the views of the Law School community at large. The *Review* is important to the whole school and limiting outside participation in the decision to the WLA and BLSA serves no one well.



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# Fenno

After the third request for funds arrived from the Alumni Association, Fenno grew frightened. For years his identity had been lost in the nether world of the Registrar's computer. But now his perpetual non-L status was threatened. Would that twisted machine really come unglued and send him — God forbid — a diploma?

Fenno grew despondent at the thought of it. He began eating at the Hark regularly. He hung around the game room, listening to the video machines and mumbling to himself. Fenno on Wall Street? Fenno at the bar? Fenno driving a Saab? No, it could never be . . .

Fenno wandered through a glut of 1Ls loitering by their Langdell mailboxes. How he had loved to heckle them, he thought, over these wonderful years. Then he spotted a particularly well-scrubbed face, beaming proudly.

"I just got into that joint degree program," the 1L announced to his colleagues. "I get a J.D., a Master's, two Ph.D.'s and a free box of cigars — and it only takes 14 years." The other 1Ls nodded in approval and Fenno headed straight for the joint degree office.

"Well Fenno, take your choice," said the glum Griswold worker. "How 'bout the HLS-Berlitz degree in Law and Conversational Croatia? Takes five years."

"Do you have something — uh — longer?" Fenno asked.

"Well, there's the Law, Government, Business and Oil Painting program. That's eight years but it comes with a sub-cabinet position."

"That's a possibility, but I wanted something more intensive."

"I see." The Griswolder opened another file. "There's always Law and Particle Physics. Sets you right up for a Nobel Prize in 10 years flat." Fenno shook his head and the man grabbed a matchbook. "Fenno, I think this is what you want. The HLS-LaSalle combined degree in Law, Chinese Cooking, Real Estate, Public Speaking and Computer Programming."

"Computer programming?"

"Yup. You learn 13 different languages. Why we could use you right here in the Registrar's Office." He leaned toward Fenno and whispered conspiratorially. "That crazy machine has lost some students without a trace."

"Oh, really?" Fenno whispered back. "I'll take the whole package."

"Great. I'll input that to your data file as soon as I find it and you'll be all set."

Fenno set out for a six-pack. He would always appreciate the value of higher education.



# Letters to the Editor of the RECORD

## Our Government

### To the Editor:

In viewing both the economic and political environments, domestically and internationally, the people of this nation anxiously hope, perhaps only with a glimmer of some small expectation, that the newly elected President and the Congress may offer the country and the world some concrete solutions to the present dilemma we face. However, any necessary solutions must be rooted in some change in the character and consciousness of those representing us in the halls of Congress. From that point of view, what can we reasonably expect of our politicians?

One cannot answer the question fully in a single letter for it would take a volume to explain. A peripheral reply, however, would touch on whether the elected official views his victory at the polls as a mandate of the people of his particular constituency, or whether such a narrow view is transformed into a vision of his duty to the nation as a whole and, in fact, to the world. If his view is so transformed, then the politician has taken his first step towards statesmanship.

One is reminded of the words of Edmund Burke when he was elected to the House of Commons from the district of Bristol, England. He said, "Gentlemen of Bristol, you have elected me from Bristol. I owe you some responsibilities. I must listen to you. But when I go to London to the House of Commons, I am not a member of Bristol. I am a member of Parliament."

Burke took his first step towards statesmanship by replacing the narrow view with the broad vision of what is best for his country as a whole.

Have we elected to Congress that type of individual who is capable of transcending regional interests for national and global goals? That is the basic question one must ask oneself to assess the extent to which we can have hope for the future.

Joseph Spanier, '35  
Boulder, CO

## Clarification

### To the Editor:

I would like to clarify a passage in my review of William O. Douglas's *The Court Years* (RECORD, Nov. 7, 1980) which might mislead readers who are not familiar with the book.

In my original draft of the review, I observed that Justice Douglas "believed that quarrels over constitutional interpretation are at least as much political as intellectual, and consequently he had little patience for those of his critics who cloaked their attacks on him in purely intellectual garb." In the published version, this passage is changed slightly, though with obvious change of meaning, to: "... he had little patience for

those of his critics whose attacks on him were purely intellectual."

My point was that Douglas believed scholarly critiques of his decisions to be motivated solely by political considerations, and that he held the complementary belief that such attacks, when phrased as purely intellectual critiques of his reasoning, were ultimately misleading in that the intellectual apparatus was mere window-dressing, concealing the hard core of political opposition. The published version, on the other hand, implies that Douglas just had a gut feeling of distaste for intellectually-based critiques of his opinions without any reason for it.

I would appreciate it if you would publish this letter in order to bring this distinction to the attention of your readers.

Richard B. Bernstein, '80  
New York, NY

## Black Profs.

### To the Editor:

On Nov. 26, 1980 you reported Prof. Bell's expression of regret at his testimonial dinner that the Law School's faculty does not include enough black law professors.

It is not surprising that there aren't many black lawyers who qualify for appointment to the Law School faculty because there aren't many white lawyers who do either. The major challenges to be met when reviewing candidates for faculty membership is not the selection of black lawyers — it is the selection of qualified lawyers. This is a challenge which is both difficult and important to meet: difficult because of the very high standards which the Law School requires, and important because the Law School and its faculty are among the most valuable resources possessed by the legal profession in the United States. It is neither fatuous nor fantasy — it is merely realistic to recognize that Harvard Law School is an institution of towering importance to our jurisprudence and our system of distributing justice. Consequently no criterion can override or alternate with professional excellence when choosing its teachers.

I don't for a moment doubt that a significant number of black lawyers in the United States practice and teach who would qualify for a Harvard Law School faculty appointment. From this it does not follow that there should be more black lawyers on that faculty, because the likelihood is that most black lawyers of this eminence and competence are already committed and engaged elsewhere in tasks where they are needed much more urgently than at Harvard — indeed at tasks they would not abandon for a faculty appointment. A gross example is Justice Thurgood Marshall.

Taking into account the pressing need of our people — both black and white — for

highly qualified black attorneys on the bench, as prosecutors, as public officers, as leaders of the bar and as teachers, and remembering the barriers which have prevented gifted blacks in the past from obtaining good legal training, we should not be impatient because there aren't yet enough of them for our needs. And we should never allow such impatience to sacrifice the standards of excellence which our legal institutions require on any altar of desegregation. If that were to happen, we would all suffer, but the first to bear the pain would be those among us who are black.

William Q. Keenan, '49  
White Plains, NY

## Review Action

### To the Editor:

I was pleased to read that the *Harvard Law Review* has finally recognized its obligation to practice affirmative action in its admissions process, but I was very disappointed in the means that it chose to implement its new policy.

Women and minority students do not need any special quota-like preference to compete with other students, they need only to be judged in a selection process that is not biased AGAINST them. With such a reputation for intellectual creativity I would have expected the *Review* to have removed the present bias instead of merely adding another one.

While quotas, despite their stigma and other problems, are the necessary solution to discrimination in situations like the three below, it doesn't seem that the *Review* is in any one of them. Unless the *Review* (1) was unable to discover the source of the bias in its selection process, or (2) was unable to pay for the changes necessary to remove the bias, or (3) could not trust itself or its successors to observe unbiased standards, why didn't the editors get to the heart of the problem and remove it instead of merely covering it up with a band aid?

If grades, as administered, are not a good measure of a woman or minority student's legal ability then there must be a reason why.

If grades are simply inadequate to measure anyone's legal talent then they should not be used to select any students. If grades are merely unfair to some because professors or first year courses (or law in general) are biased in favor of white upper middle class male values, which some students have studied for a lifetime, then the professors should be confronted with this charge and they may be able to correct it. Meanwhile the *Review* could use alternative methods to compensate for this bias.

The writing competition, which has the advantage of choosing editors on the basis

(Continued on Page 12)

## Letters to the Editor of the RECORD

(Continued from Page 11)

of writing talent, could be weighed in favor of topics on minority and women's issues, favoring any students with special appreciation and understanding for these important issues needing legal reform. Alternatively, if grades are so sacred, despite their recognized bias, the *Review* might admit the students with the highest grades in certain courses on minority issues, e.g. Employment Discrimination, Moslem Law, etc. This would seem to solve the problem.

It is unfortunate that the seemingly easy solution chosen by the *Review*, however, will now force some difficult and unnecessary questions to be answered: (1) To which minority groups can the *Review* deny inclusion in the preferred group without such group claiming a violation of Title VI? (2) How is the registrar to determine which students are members of the preferred group or is it just obvious? Even if the admissions staff were to release the confidential information, that information would not provide definite guidelines. (3) How long should this system continue if it turns out that many of the top women and minority students do not wish to join HLR, but would rather write for the *Women's Law Journal*, *International Law Journal*, or *Civil Rights/Civil Liberties Law Review*?

As Alexander Bickel once said: "no answer is what the wrong question begets . . ."

Mark Nadel, 3L

*The RECORD's policy on letters is simple. We read all of them. We print most of them, subject only to editorial discretion. We encourage letters on any subject, and especially on subjects which have appeared in the RECORD. Write today and speak your mind to the students, alumni and faculty of the Law School.*

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## Gov't Changes Discussed

(Continued from Page 3)

The fourth scheme is a geographical one: students would vote on the basis of where they lived. Silver noted that this would be beneficial for people in the dorms, but for those not living in the dorms there would be an accountability problem.

While the members of the committee focused on structural considerations, larger questions were raised by other students. Ted Howard, 3L and BSA chairman, asked whether the committee had attempted to get feedback from the faculty and administration to see whether its work was "worth the time and effort." "My sense is that a new student government, restructured or overhauled or whatever, doesn't mean a whole lot unless you have someone's ear . . . I don't have any reason not to be cynical as to what sort of effect that [the committee's work] could pos-

sibly have."

Hank Shea, 3L, a dormitory Resident Assistant, commented that the diversity of the student body makes it hard to get groups "to stick together" without "artificial means" such as the 1L sectioning. Given this, he felt the best way for students to participate in certain issues is on an *ad hoc* basis. Howard agreed, explaining that at the Law School issues relating to environment only hold the students' attention for so long. "What Bok did was a perfect example . . . He knew that if he waited us out, we'd have exams and forget all about Dean selection . . ."

The "brainstorming" committee plans to continue meeting and will be soliciting comments from students. According to Lowell, it hopes to present some kind of proposal to the student body, and should have more concrete ideas by next month.

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The chase is on, but the question remains: are these rogues and intriguers really after the manuscript, or are they more interested in the legacy of Leo Africanus, the famed sixteenth century Moorish explorer?

David Smith is assistant dean for international legal studies at the Harvard Law School.

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# Adventures in Africa

Dan Hershman

David Smith, *The Leo Conversion*, 280 pp. Dodd, Mead & Company, \$9.95.

When I set out to read a book that hasn't been assigned by a professor (or made necessary, in a nutshell, at exam time), I want to be entertained, stimulated, provoked, informed, amused, and certainly awake. Last year I was pleased with a very long biography of Groucho Marx (*Hello I Must Be Going*), which I could read until 2 a.m., long after I'd lost interest and concentration in the law.

It was therefore a pleasure to take a crack at David Smith's *The Leo Conversion*, a novel set in Northwest Africa, for two reasons: first, to see how an assistant dean at HLS fared as a novelist; and second, to read a novel that had nothing to do with OPEC and Nazi Germany. Smith managed to include a few sexual episodes, which are now to novels what air is to lungs: natural and obligatory.

Many novels are overwritten, like Roget's Thesaurus, with tons of description for filling pages. I usually toss these books early, and *The Leo Conversion* nearly hit the heap after I read more than 150 words describing the delivery of a telegram (page seven). Fortunately for Smith and me, the descriptions that followed detailed colorfully a world unknown to me (but known to Smith), an Africa largely devoid of beauty but packed with intrigue, alternating between barren deserts and teeming marketplaces. Smith gives us cockroaches, rats, camel dung, and other fine elements of life from Nigeria to Morocco. He also gives us beautiful women, all but one of whom are purely sexual objects. The one dynamic woman in this male-oriented story is a beautiful nun from Lyons.

## Nigerian Lawyer

Hero James Stevens, an alumnus of Yale Law (Smith's alter ego, I suppose), sometime associate at a Wall Street firm, returns to Africa (where, four years earlier as an assistant D.A. from Manhattan, he investigated a murder), and ends up paired once more with Muntaka, Nigerian judge, lawyer, wise man: the Charlie Chan-Sherlock Holmes of Africa. Stevens is a wisecracking smartass who somehow is very likeable. He's not too excited about the prospect of chasing through the continent for a stolen 13th century manuscript that has Catholics, Moslems, and Jews in a panic about the African heritage: "The last time you talked me into one of your escapades I nearly lost my balls." Also up for grabs is a priceless map by Leo the African, who might have been a Catholic or a Moslem (thus one of the conversions).

What compels Stevens to go on is the incredible personality of Muntaka, whose friends and accommodating tents stretch throughout the continent, and Stevens's

own sense of mission. He is also fueled by several fanciful sexual encounters with diaphanous women who certainly don't exist in the world I know. But Stevens is like many law students I do know: clever, impatient, funny, sarcastic, unfulfilled. Stevens's colloquialisms show him as a human being who really thrives on his life of adventure. Not once do we hear him pine for his Wall Street office, cocktails at Windows, dinner at the Four Seasons. He worries about explaining his absence, but never misses the firm. His law school training tells him not to ask questions of criminals bent on killing him, but he survives with just plain smarts.

## Evening's Entertainment

*The Leo Conversion* provides fine entertainment for an evening of reading. The words don't always flow smoothly, like they do in *Crime and Punishment* or *The New Yorker*, but they do ring clearly and cleanly. The dialogue is snappy, if somewhat inarticulate, the plot is engrossing, with many twists. In the end, the good guys win; African culture is preserved. But Stevens finds himself distrusting even his best friend, until their quest finally ends. As much as he is the adventurer, he is still a lawyer, and will be until he escapes New York again. I'm waiting for the sequel.



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### **WHY DOESN'T BRI USE A PROGRAMMED LEARNING SYSTEM?**

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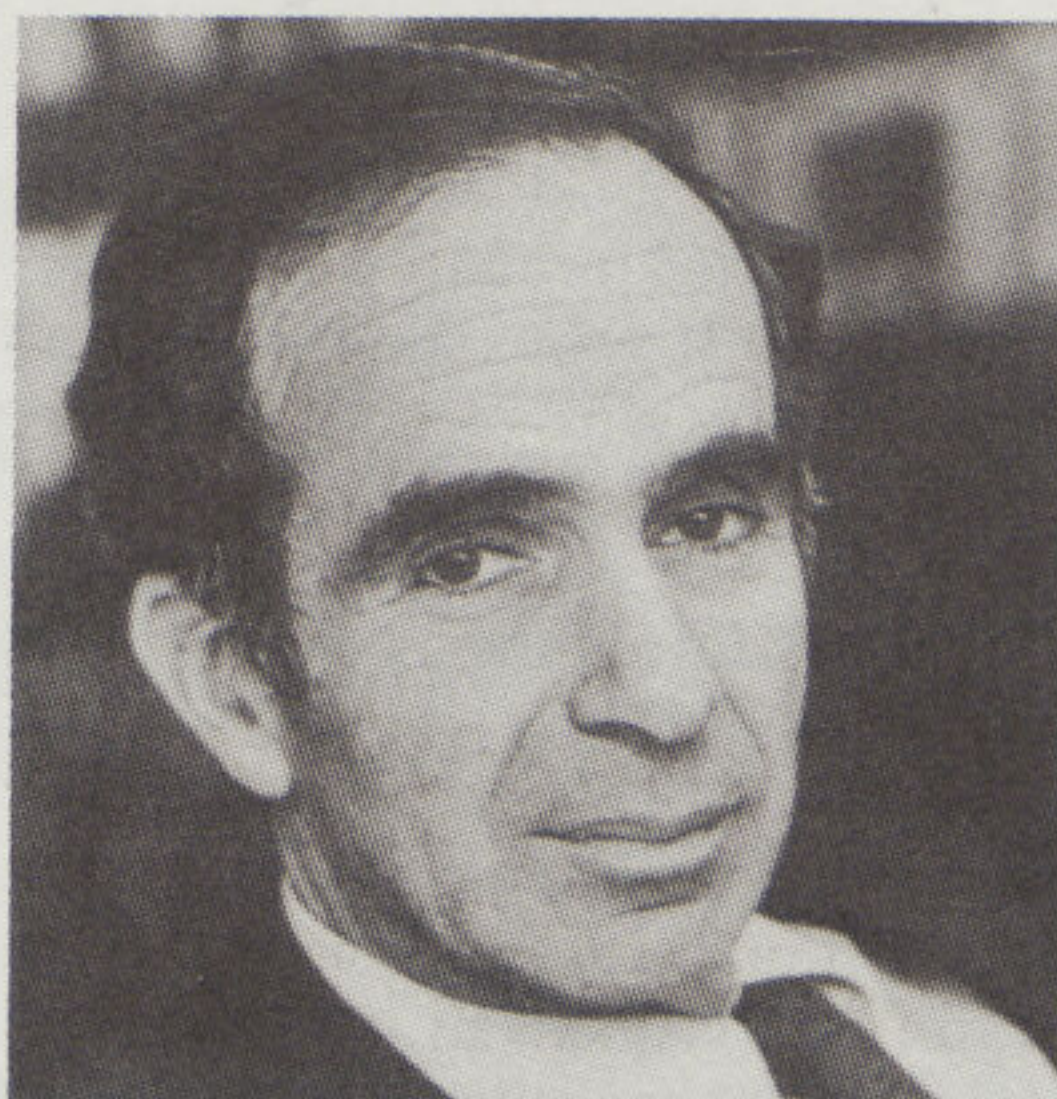
# Vorenberg Succeeding Sacks as Dean

(Continued from Page 5)

to legal aid, Vorenberg commented, "One of the ironies is that in a field where the poorest people in the country have the most serious problems there is the least availability of services."

As to student participation in decision-making at the Law School, Vorenberg said: "I have been and continue to be a strong supporter of student participation on committees. . . ." He added that he has doubts about student participation in faculty appointments, for example, because of the transitory nature of Law School students and the need for confidentiality.

Vorenberg will have to give up teaching on a full-time basis when he takes his new position. He cur-



H.L.Y.B.

rently teaches courses on criminal law, the government lawyer, and the legal profession.

In naming Vorenberg as Dean, Bok said, "I am delighted that Jim

Vorenberg has agreed to serve as the next Dean. He brings to the office an impressive breadth of experience in law teaching and administration, legal practice, and public service. No member of the faculty surpasses him in his devotion to the School, and I look forward to a time of great progress under his administration."

Vorenberg became Professor of Law at Harvard in 1962. He helped to establish and now directs the Center for Criminal Justice at Harvard. The Center engages in research programs on the administration and improvement of the criminal justice system.

## Law Review President

Vorenberg received his A.B. degree *magna cum laude* in 1948 from Harvard College, and his LL.B. in 1951 from HLS. As a law student he was President of the *Harvard Law Review*. After clerking for Supreme Court Justice Felix Frankfurter in 1953-54, he joined the Boston firm of Ropes and Gray, becoming a partner in 1960.

In 1964 he was appointed by Robert Kennedy as first Director of the Office of Criminal Justice in the Department of Justice. From 1965 to 1967, he served as Executive Director of President Johnson's Commission on Law Enforcement and the Administration of Justice.

Vorenberg was one of Archibald Cox's principal assistants in the early stages of the Watergate investigation and continued with the Special Prosecutor's Office until 1975 on a part-time basis. He has served since 1978 as the Chairman of the Massachusetts State Ethics Commission.

Vorenberg said he was "still in a state of some awe and shock" over his appointment to the Deanship of HLS. He expressed regret about having to give up full-time teaching: he jokingly said "I don't think it will be a great loss to students." Vorenberg added, however, that he is looking forward to assuming his new position. ❧

## Alternatives Draw Few

(Continued from Page 4)

"Here, if the BSA had given any weight at all to the organization's interests it would have tipped the balance in our favor."

### "Institutional Considerations"

Northey, one of the two BSA members who made the assignments, disagreed. "When we first sorted the preference sheets out on the basis of first choices, it looked like a lot of organizations would be dropped. So we looked at the second choices of people who were in an 'oversubscribed' Alternative [more students than the organization was willing to take], paying particular attention to fill alternatives that might have been dropped." Northey recognized that there are "institutional considerations — why prepare a case if you can't run it?", but felt that the Committee couldn't rationalize pulling a team from their first choice if there was room for it there.

Calhoun agreed. "Our primary concern was to give as many students as possible their first choice. Asking for a preference sheet implies that we'll give them their first choice if we can. Our priority is the

1Ls. Of course we're concerned that the organizations have people, but we gave them an opportunity to fill their cases. We gave them more time, and we gave them the names of the 1Ls who had listed them as a choice so the organizations could call them and try to talk them into doing their case."

Calhoun reiterated his position that the BSA merely administers the Alternatives program. "I think the assignment procedure was reasonable and was consistent with our neutral status. It would have been inconsistent with our role to skip over the first two or three choices [of the 1Ls]. We have no pull; we can't convince [the 1Ls] to do one Alternative over another. Sure, listing a case indicates an interest, a willingness to do it, but if the organization itself can't convince them to do it, then we aren't going to say 'you have to'."

Lasher felt that the BSA wasn't being entirely realistic, however. "Letting us talk to the people who had listed us was better than just telling us to 'try to get more 1Ls from the organization' [a previous suggestion], but the people already knew that they had been given their first choice. We called them anyway, but with no success." ❧

# Law Review Adopts Affirmative Action

(Continued from Page 1)

minority students be sent information about the competition, said Singer.

Under both the old and new systems, 1Ls may refuse to have such grade-related information released to the *Review*. The new plan also allows 1Ls to refuse consideration under the special affirmative action section.

## Three Resignations

The affirmative action vote evoked feelings ranging from euphoria to disgust among *Law Review* members. Carl Guarino, David Ridl, and Kathy Smalley, all 3Ls, resigned from the *Review* staff after the vote. Ridl has since requested reinstatement. Said Smalley: "I feel that I can't be associated with a group that discriminates on the basis of race and sex. The *Review* for me has always stood for merit. At least the [selection process] we have now ostensibly measures merit . . . All the new criteria measure is race and sex."

Other *Review* members chose not to resign but expressed grave reservations about the adoption of the plan. Said one: "We've had 90 years of a journal committed to a search for truth, and now it's being changed to an organ for the expression of personal views, just another of 12 opinionated journals at the Law School."

Some members were ecstatic. Once called the day of the vote "a great day for the *Review*", while

another explained that "I am in favor of this and proud of it. It was an extremely positive and necessary step that probably didn't go far enough. It was something that we had some sort of obligation to do."

## Stigma Feared

Several opponents of the affirmative action proposal feared that future women and minority members of the *Review* might be stigmatized by the plan. Julie Melamud, 3L *Review* member, disagreed, explaining, "I think it's important that women and minorities are on the *Review* so that in the future more of us will be considered qualified to teach at major law schools. I feel that any stigma that might be imposed would be far outweighed by the increased opportunities that *Review* membership might bring.

Representatives of several concerned organizations expressed cautious optimism about the plan. Cheryl Hoffman, 2L Chair of the Women's Law Association (WLA), said "Just the fact that the *Law Review* is willing to admit that there are inherent biases and imperfections in the system as re-

flected by the numbers of women and minorities on the *Review* is very positive."

The WLA Executive Board had discussed the *Law Review's* affirmative action proposal before it was passed and sent a letter to the *Review* saying that the WLA would support all efforts to admit women and minorities. Next week the full membership of the WLA will meet to discuss the *Review's* adopted plan and to decide upon its own general affirmative action policy.

## An Initial Step

The Black Law Students Association (BLSA) also was consulted prior to the plan's adoption. BLSA President Penny Marshall, 2L, agreed that the plan was a "progressive step on behalf of the *Law Review*." She emphasized, however, that the plan was only viewed as an initial step: "Certain things, such as test bias, are not addressed in the program . . . There are problems with grading at HLS." Until these and other issues are discussed, noted Marshall, "there's still a lot of room for change."

Student reactions to the *Law Review's* new selection plan were as varied as those of *Review* members. Comments concerned both the implications of the plan as well as the overall way the *Review* chooses its members.

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