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25 CENTS

Committee Recommends "No-Sanction" Pass

By Brad Hudson

The Legal Education Committee has recommended by a vote of seven to three that the faculty adopt a "no-sanctions pass" for first-year students. The recommendation will be presented to the full faculty in the next few weeks.

In an April 4 memorandum to the faculty, the committee majority (Angella Carmella, 3L, Roy Collins, 1L, Helen Irvin, 2L, Dean of Students Mary Upton, and Profs. Martha Minow, Todd Rakoff, and Lewis Sargentich) described the policy, its background and the majority's rationale for its recommendation.

The text of the resolution is: "Resolved, that the school will not impose disciplinary sanctions (including denial of academic credit) on a student for declining to participate in class discussion when called on in a required first-year class."

According to the report, the policy would apply to first-year students in their required courses. It would forbid three types of sanctions: formal disciplinary sanctions by the Administrative Board or other school officials, denial of academic credit, and barring of a student from classroom attendance. And the policy would apply when a student, on

a particular occasion or consistently, declined to participate in class discussion.

The limitation most heavily stressed in the memo is that the recommendation "does not attempt to legislate against 'hassling' in any form, from suasion and encouragement to chastisement and display

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Faculty Hiring: An Overview of How the Process Works

By Michael Seigel
and Andrea Hartman

The process by which a person is hired and tenured at HLS is a relatively complex one. Since it has never been systematically explicated in print, people outside the process — including students —

have been forced to evaluate the results of the system while remaining in the dark about its internal operation.

There are three positions for which a person may be hired to teach in an HLS classroom. At the top are full professors, who have proven scholarship abilities and teaching experience, and who have tenure at the law school. Professors have a vote in faculty meetings. Next there are assistant professors, or persons who are on the "tenure track." These persons are usually hired within 10 years after graduation from law school, because their credentials up to that time indicate that they have the potential to be excellent scholars and instructors. They teach for an average of five years, and then are considered for promotion to full professorship. In the meantime, they are able to vote at faculty meetings.

Finally, there are lecturers. These individuals are not on the tenure track — with only rare exceptions, they will not become permanent

(Continued on Page 15)



Peter Lebold Cohen

Jeanne Charn answers questions about the LSC. See page 5.

Senator Hart Speaks on Hazardous Waste

By Ernie Cicconi

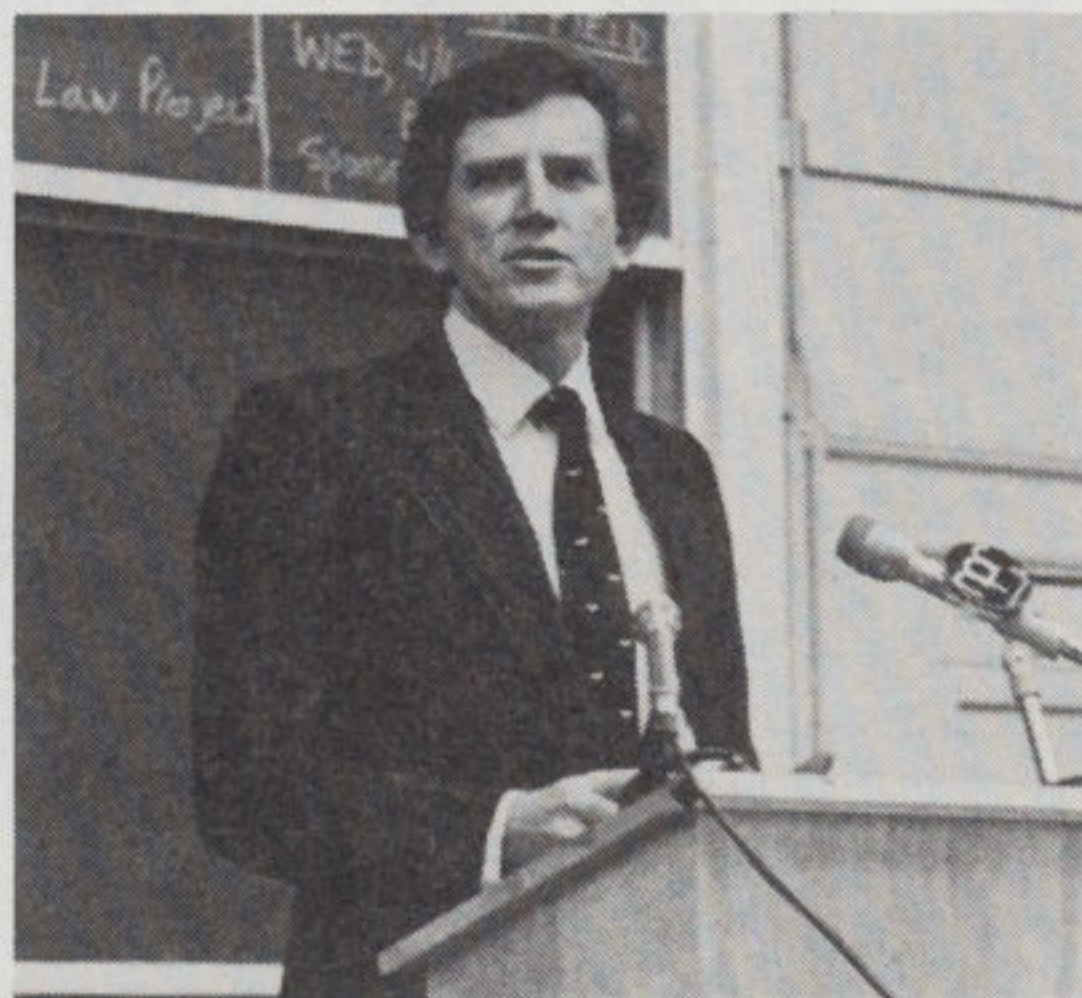
Sen. Gary Hart of Colorado delivered an address entitled, "Hazardous Waste: The Environmental Issue of the 1980s," in Langdell North Middle on Tuesday, April 5. The Democratic presidential candidate's speech, sponsored by the Environmental Law Society, drew a standing-room-only crowd as well as local television coverage.

Hart, who believes that hazardous waste may also be the primary environmental issue of the 1990s, contrasted the "dirt-cheap" price paid by companies which dump dangerous waste into the ground with the "real expense" to the public. Hart noted that over 80% of the hazardous waste produced last year in this country "is dumped in or on the ground — the moral equivalent of sweeping it under the rug."

The most obvious instance of the danger is Love Canal but, according to Hart, "there are more than fifteen thousand potential Love Canals in America." Hart rebuked the Reagan administration for trying to cover up this threat to public health. Citing politically motivated actions by the administration and cutbacks in EPA enforcement, Hart stated that "not since Watergate have we seen such flagrant disregard of the law by high officials in the executive branch."

Hart quickly emphasized that we must look beyond the elimination

of mismanagement and corruption at EPA if the problems of hazardous waste are to be solved. He outlined a three-part strategy which would provide the necessary protections: (1) complete elimination of landfill disposal of especially toxic wastes; (2) establishment by EPA of a national requirement to pretreat all hazardous waste that can be so treated; and (3) a ten-fold expansion of the Superfund by imposition of



Ruben Perlmutter

Sen. Gary Hart

very heavy taxes on the generation of hazardous wastes.

Hart, a member of the Senate Environment and Public Works Committee, introduced legislation earlier this year with the objective of meeting the "absolute requirement" of expanding the Superfund. The thirteen billion dollars in new taxes that would be raised by this legislation could be used to clean up the 418 "priority sites" and many other sites in need of attention. "The new taxes," said Hart, "also will help to [prevent] new sites by operating as powerful economic incentives to develop and use alternatives to land disposal of wastes and, ultimately, alternatives to the production of wastes." Hart added that such taxes would be "far more

effective than additional regulations."

Hart next discussed the issue of nuclear war — "the great environmental disaster we all fear." Labelling President Reagan's decision to create a space-based defense system as "fundamentally wrong," Hart stated that Reagan's expressed intention "moved America's future closer to war." Hart called the Reagan proposal "a cruel hoax on the American people [which] diverts concern from the reality of the nuclear threat we face here on earth" and "a direct challenge to the security and survival of our total environment."

Facing Reality

"Let no one be deluded," emphasized Hart, "that war in space will be a battle conducted in some giant isolation chamber, or a video game where you win or lose but have time another day to put another dollar in." Hart then added wryly, "The commander, unfortunately, will not be Luke Skywalker but Dr. Strangelove with a different face."

Hart wrapped up his twenty-minute address by noting that 1983 is the twentieth anniversary of the signing of the Limited Nuclear Test Ban Treaty — "President Kennedy's finest legacy." Guiding the world away from the abyss of nuclear war, Hart added, "is the most profound responsibility we entrust to those who lead us." Hart the politician concluded on a philosophical note: "That responsibility goes beyond personality, or party, even beyond our country. It embraces our children and their children's children. It speaks to every dream we have."



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Faculty Hiring: Women and Minorities

By Andrea Hartman and
Michael Seigel

Throughout the 1982-83 school year, the hiring of minority and women faculty members has been a controversial issue at HLS. The student boycott of the winter-term race discrimination course, an affirmative action resolution passed by students in November, an affirmative action resolution approved by the faculty in January, and the student-faculty forum held last March all focused attention on the law school's hiring practices and record.

Historically, neither minorities nor women have been well-represented among the faculty. There have been only two tenured women at HLS (Profs. Elisabeth Owens and Martha Field) and three tenured blacks (Profs. Derek Bell, Harry Edwards and C. Clyde Ferguson). Of these, only Field and Ferguson are currently professors at HLS.

Within the past few years, several women and minorities have been hired at the law school as assistant professors, visitors or lecturers. Only the position of assistant professor, however, is considered to be tenure-track at HLS, although visitors may potentially be candidates for lateral hiring (see article, p. 1). This year, there are four women (Profs. Elizabeth Bartholet, Clare Dalton, Susan Estrich and Martha Minow) and one minority (Prof. Christopher Edley) teaching as assistant professors. Of these, it is believed that only Prof. Bartholet will be considered for tenure this semester.

Too Few, Many Say

Both students and faculty members, as evidenced by their respective affirmative-action-in-hiring resolutions, believe that there are too few minority and women professors at HLS. According to members of the faculty appointments committee, however, the law school is actively seeking to remedy the situation.

Each year, Dean Vorenberg selects a faculty appointments com-

mittee consisting of six to nine members. Several steps are taken to "insure that outstanding minority and women candidates for tenure-track and lateral appointments are brought to the attention of the committee," said Prof. Alvin Warren, the committee's chairman this year.

For example, every survey sent out by the committee asks specifically about possible minority and women candidates. Moreover, Vorenberg periodically writes to the dean of every accredited law school in the country asking for recommendations of potential faculty candidates, especially minorities and women. Vorenberg also regularly makes a similar request of judges and legal practitioners.

In addition, in order to ensure that particular attention is focused upon minority and women candidates, Vorenberg has formed a separate subcommittee for each group. This year, the subcommittee on the hiring of women is headed by Prof. Robert Clark, and also includes Profs. Field and Estrich. The subcommittee on minority hiring consists of Chairman Morton Horwitz, and Profs. Detlev Vagts, Ferguson and Edley.

Intensive Efforts

Prof. Clark explained to the RECORD his subcommittee's activities with regard to the selection and solicitation of women faculty members. Clark said that most of the committee's efforts thus far have gone into visiting appointments — offers to women faculty members at other law schools to spend a year teaching at HLS. These visits can potentially lead to permanent offers.

According to Clark, intensive efforts to generate a list of women candidates began last spring. Clark explained that at the top 25 law schools, most women professors began teaching relatively recently. He said he "thought it would be a good time to look at what they were doing," and also thought it would be "a good thing to make up a list of tenure-track women [at other

schools] and keep an active file on them." He said that no similar file is kept on white male candidates.

The next step, Clark said, was to have members of the appointments committee or other faculty members call the candidates' respective schools in order to gather information about their teaching abilities and publications. From this information the subcommittee was able to narrow the group to about 25 women. At that point, Clark asked several faculty members to read some of the candidates' work although, stated Clark, there was "no standard procedure."

Clark explained that the list was then narrowed to approximately 12 women, about half of whom were under very serious consideration by the subcommittee. The appointments committee as a whole then started reading and discussing these candidates' articles and publications.

Four Women Visitors in '83-84

The result, said Clark, has been invitations to a number of women to be visiting professors in the next few years. In 1983-84, there will be four women visitors. They are Profs. Zipporah Wiseman from Northeastern University, Alison Anderson from U.C.L.A., Wendy Williams from Georgetown, and Sylvia Law from N.Y.U. Clark added, however, that both Law and Williams were invited to visit HLS before the process he described was completed.

Commented Clark, "The lateral part [of the hiring of women] is not over by any sense. There are other people the committee might look at next year, people whose writings [the committee] is waiting to see." He added, "I feel optimistic that the process will lead to some tenured appointments here."

Clark explained that because of the subcommittee's concentration on lateral appointments, no offers of assistant professorships have been made this year to recent women graduates, nor were any offers made

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Dean Vorenberg Discusses Faculty Hiring

Harvard Law School's faculty hiring policies have come under fire this year. Dean Vorenberg discussed his views on the matter with Mark Pogue on April 8.

RECORD: Many students have expressed criticism this year about the Law School's hiring policies and the fact that there are so few women and minority group members on the faculty. To begin with, what is your general view about the composition of the present faculty?

Dean Vorenberg: I think it's a strong faculty with people of many interests and approaches to teaching. I am pleased there are so many young people — many more than ever in the school's history. I think we should continue to seek more minority and women professors.

RECORD: To what do you attribute the fact that there are so few women and minorities?

Vorenberg: It's important to recall that since the late 1960's 12% of those voted tenure-track appointments have been minorities and 19% have been women. There is considerable diversity, but we have been limited by the smaller pools of women and minority candidates. Until the 1970's there were relatively few women graduates of this school and of many other first-rate schools. That's even more true with respect to minorities, for whom patterns of discrimination go all the way back to elementary education.

RECORD: Is there any other reason why we have so few members of those groups on the faculty? Has the law school itself ever discriminated — practiced racism or sexism?

Vorenberg: The words "racism" and "sexism" are loaded and have too many different meanings. If by discrimination you mean a candidate being turned down because of race or sex, the answer is no.

RECORD: I want to focus now on two significant events this year which showed the students' dissatisfaction with the school's hiring

policies — the boycott of the Race Discrimination course and the affirmative action resolution. Did the boycott cause Harvard to question its faculty hiring policies?

Vorenberg: I believe the Law School was making strong efforts before the boycott.

RECORD: Did it impress you personally with the need for reform?

Vorenberg: No. It did not add to my own sense of urgency, or to my strong sense that many students cared about the issue.

RECORD: So you don't think the boycott was justified?

Vorenberg: I do not. I think it was a mistake and was damaging in some ways.

RECORD: How was it damaging?

Vorenberg: For one thing, a fine course was taken by fewer people than would otherwise have taken it. And it created misunderstanding both in and outside the school about the faculty's goals and motivations.

RECORD: Do you have any second thoughts about the way you handled the boycott? Would you do anything differently if you had the chance?

Vorenberg: I don't regret that we went ahead with the course rather than dropping it. Had there been a way of communicating better our plans for the course that would have prevented the boycott, obviously that would have been a happier result. But even with hindsight, I don't know how that could have happened.

RECORD: What about the student affirmative action resolution voted on last November? As you know, it called on the school to make diversification of the faculty a "primary consideration" in all appointment and tenure decisions. 662 students supported it and 180 were opposed. Were you surprised so many supported it?

Vorenberg: No. I was surprised so many were opposed.

RECORD: So you would have supported it?

Vorenberg: Well, I had some problems with the language. The

language about "instructing" the Appointments Committee to broaden its efforts was unfortunate — it suggested, contrary to fact, that it wasn't doing that already. And the "primary consideration" language injected an element of ambiguity into the decision-making process.

RECORD: Do you think the resolution had an impact on the faculty's decision to issue its own resolution in January?

Vorenberg: It raised the question whether the students understood that the faculty was committed. So, speaking for myself, it made me more interested in finding a way to say to students, "you and we are on the same wavelength on this."

RECORD: But the focus of the two resolutions is different. The students' speaks to the decision-making process itself, while the faculty's speaks only of making "special and extended efforts" to "seek out" women and minority candidates.

Vorenberg: The faculty resolution specifically recognizes that the "school's educational and scholarly functions will be served best by a faculty whose membership includes a variety of perspectives."

RECORD: What difference will that policy make? Can you give an example of a special and extended effort that would not have been made before the resolution?

Vorenberg: The trouble with that question is that it suggests that the change is one of kind rather than one of degree. It's really a question of intensifying efforts: checking more law firms, contacting a larger network of persons, more extensive reading of published articles.

RECORD: The faculty resolution speaks in terms of the intensified search for minority and women candidates; it is silent as to whether the standards for making a decision on appointment or tenure will be different for candidates located through the special efforts. Does the

(Continued on Page 12)

Clinical Placements Attract Heavy Sign-up

By Michael Medina

A record number of students signed up this week for clinical placements to accompany next year's courses. The sign-ups occurred soon after some students attended an open house on Wednesday, April 6, at the HLS-sponsored Legal Services Center (LSC) in Jamaica Plain.

The course which drew the largest enrollment was Introduction to Trial Advocacy. The 108 students who signed up for the course greatly outnumbered the 60 who took ITA last year. Twenty-four ITA students will be placed at the Legal Aid Bureau, while the remaining 84 will work for LSC.

Poverty Law and Practice was requested by 45 students, almost doubling this year's enrollment of 25. Students also signed up for placements in three new courses: 50 chose Family Law, more than 30 chose Housing Policy, and a

similar number elected Legal Profession.

About 50 students attended the LSC open house. LSC, a joint project with Greater Boston Legal Services, offers clinical placements for HLS students seeking practical experience as a supplement to classroom instruction.

LSC has had open houses for students before, but only for those interested in the now-defunct full-time program. Clinical Instructor Jeanne Charn, director of LSC, said she hoped the open house would provide students with an opportunity to become more familiar with the Center and meet the staff and students currently working there.

Students earn credits at LSC by working on actual cases in one of the three main areas of LSC practice: public assistance benefits, family law or housing law. Charn said the program is improving every year, and that it gives students a "unique opportunity" to do "hands-on" legal work.

According to Charn, the biggest problem LSC faces is lack of funding. She said it currently appears that LSC will have about \$200,000 less than the amount it needs to function in 1983-1984. A summer course conducted at LSC by North-

eastern University will bring in about \$6,000, and LSC hopes to raise between \$25,000 and \$30,000 through other fundraising efforts. Charn said, however, that Harvard has not taken a clear position regarding the remaining deficit.

"Without adequate funding it's almost not worth it to continue operations," commented Charn. "I think the University wants the Center to continue and to be stable. We need to support it at an adequate level, though. Educationally, it is certainly worth it."



Corrections

In our March 18 story on next year's tuition increase, we erroneously reported that HLS is guaranteed a 4% rate of return on its share of the endowment through the Income Stabilization Reserve. Actually, this reserve guarantees an increase of 4% in the dollars received over the previous year's receipts.

The story also said that "Seventeen percent of expenses are for physical plant. This increase exceeds the rate of inflation. . . ." The seventeen percent refers to the physical plant's share of next year's expenses, not the rate of increase in physical plant costs.

We regret the errors.



Sports Answers

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"BETTER BUYS AT
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Intramural Hoop—Everyone's a Winner

By Ernie Cicconi
and Mark Graham

The exciting and often tumultuous HLS intramural basketball season culminated on March 23 with a day-long extravaganza of league finals. This year six leagues and a record number of participants competed during the season, which began in early December. The play was conducted with the usual intensity of law school students, and the final set of contests proved to be no exception.

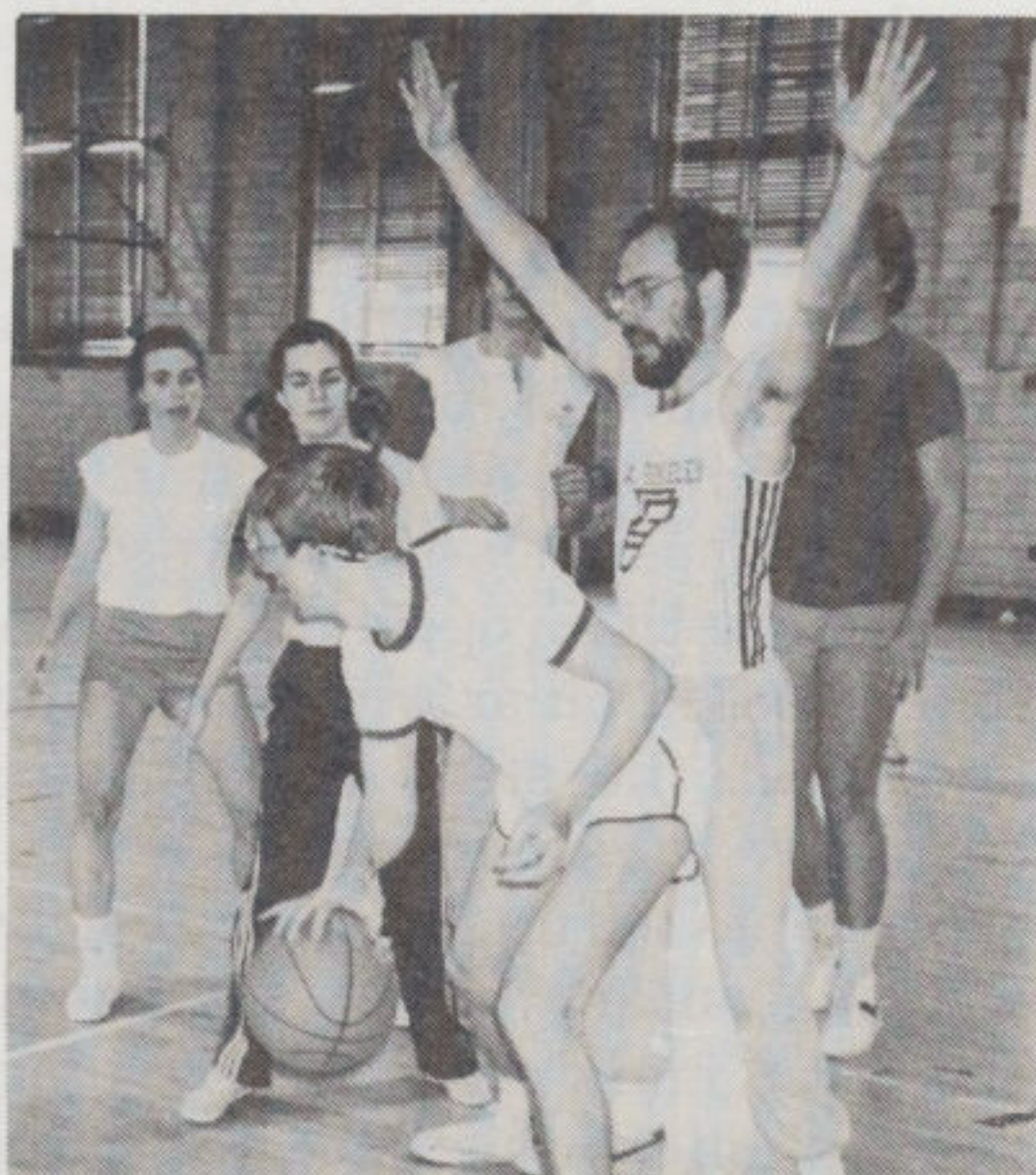
In the D-league final, the De-Generates were edged out 43-39 by the Status Offenders. The winners broke out to a big lead, but the spunky De-Generates used the same foul-'em strategy that catapulted Jim Valvano and his N.C. State Wolfpack to national prominence. Unlike Houston, the Status Offenders proved equal to the task as their opponents could only pull to within a handful of points as the final whistle sounded.

The winners of the co-ed league, Beauties and Beasts, used a combination of sharp passing and precision outside shooting to defeat the C.C.N.Y. Women's Softball Team 42-36. It was the fourth meeting of the season for the two teams, and the Beauties and Beasts used this

last opportunity to leave no doubt in anyone's mind that they had their opponent's number.

In a mild upset, Chaps'men defeated the La Alianza team 54-38 in the C-league finale.

The most lopsided finish of the



Sandra Yamate

Making the move.

day was in women's league play as the Blacks defeated the Reds 45-25. The champs, led by center Verna Bigger, 1L, ruled the boards and played a tight defensive game en route to their big win.

The closest of the court battles was fought by the B-league finalists. With 4:44 left in the game, the Toads found themselves in a familiar position — tied with the Armadillos. The animalistic play continued right up until (and, according to the losers, beyond) the final whistle when Armadillo Alex Troy banked an eight-foot jumper to snatch a two-point win for his mates. The tension-packed finish was set up when Dave Lurie, 3L, Toad captain, hit a driving one-

handler from the right side of the court in the final minute. The Armadillos, who had lost in the B-league finals last year, could not be denied this time around, however.

The A league final proved a worthy cap to the day's play as the cream of the Law School crop displayed a fine brand of roundball. Campbell's 20 points, outrebounded and outshot Pratt's Brats, 68-61. Superb outside shooting by both teams kept the game close and the outcome in doubt until the closing moments. Thus ended another successful intramural basketball campaign for the dribblers and hotshots of HLS.



WLJ Chooses New Editors

Last week, the Women's Law Journal selected its editors for the 1983-84 issue. Judy Miles, 2L, was elected editor in chief. The new managing editor is Anita Lichtblau, 2L, and the executive editors are Mary Procida and Jenny Wriggins, 2Ls. Jennifer Dover, 2L, Karen Getman, 1L, Stephanie Moore, 1L, Judy Osborn, 1L, Sara Rapport, 1L, Debbie Ratterman, 2L, and Debra Tarnapol, 2L, are the articles, notes and comments editors. The new recent developments editors are Andrea Hartman and Phil Kraft, 2Ls. Jill Bowers, 2L, will continue to serve as book review editor. ❧

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Wallenburg, Finch Advance to Ames Finals

By Steve Cowan

Oral arguments completing the second and semi-final round of this year's Ames Competition were delivered on the evenings of March 22 and 23. In the first argument, the Raoul Wallenburg team, composed of Ralph Boyd, Kevin Gaut, Howard Morse and Michael Tutuer with Sara Lord and Gary Reiff as oralists, prevailed, and will advance to the finals next November. The Wallenburg team was also awarded "Best Brief," and Lord "Best Oralist."

Their opponents were the Winni Mandela team with Diane Archer, Luis Figueredo, Helen Deiss Irvin, and Carol Annette

Petsonk. The oralists for the Mandella team were Kimberle Crenshaw and Robert Shapiro.

The case was entitled *Josephs v. Rivera* and involved the competing rights of white police officers, who had seniority, and minority officers, the beneficiaries of a court-imposed affirmative action plan. Judges Leonard Sand (S.D.N.Y.), Harold Greene (D. D.C.) and David Nelson (D. Mass.) found that certiorari had been improperly granted to the petitioners, the white officers.

In Wednesday night's case, *Regan v. Safety and Health of the World*, the Atticus Finch team, consisting of Mark Director, Mark Dosker, Francis Holozubiec and Shelley Levitan with Linda

Bradshaw and Sheila Mosmiller as oralists, triumphed, and so will meet the Wallenburg team in the finals. Mosmiller won "Best Oralist" honors, and the team won "Best Brief." They were opposed by the Myra Bradwell team of Richard Jerome, Penny Merliss, David Sorkin and Hugh Stevenson with oralists Carey R. Dunne and P. Stewart Morse.

This was a First Amendment and Equal Protection case involving a tax-exempt organization's rights to lobby. Here Judges Edward T. Gignoux (D. Maine), H. Lee Sarokin (D. N.J.) and Raya Dreben (Mass. Ct. of Appeals) found for the respondent, Safety and Health of the World.

✽



Robert Peterson

Atticus Finch team.



Ruben Perlmutter

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Sports Quiz

Note: This week's sports quiz asks you to identify athletes whose last names denote different sizes.

1. A star player at Syracuse University, this running back went on to a great career in pro football with the Denver Broncos. Name this former great.
2. Having attended Jackson State University, this forward with the Golden State Warriors is now in his fifth year with the team and is the Warrior's second leading scorer. Name this player.
3. Recognized as one of the best pinch-hitters in baseball, this lefthanded hitter hit .299 for Philadelphia in 1982. Name this reserve outfielder with the Phillies.
4. An alumnus of San Diego State University, this cornerback has contributed to making the Miami Dolphins a fine football team. Name this veteran player.
5. After playing at the University of Detroit, this guard remained in the area and is now in his fifth season with the Detroit Pistons. Name this player.

(Answers on Page 5)

**Welcome to New York,
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On Friday, April 22, members of the Admissions and Membership Committees of The Harvard Club of New York City will be in Cambridge at the Kresge Grill at the Business School and at the Harvard Faculty Club at 20 Quincy Street between 11:00 A.M. and 5:30 P.M. to make it easy and convenient for Faculty, University Officers and graduates to become a member of the Club.

Graduates of the Class of 1983 will be proposed, seconded and interviewed in one step for membership in the club. Requirements for supporting letters, etc., are waived for this event for 1983 graduates. Information about the club will be available and Committee Members will try to answer any questions you may have concerning membership.

The Harvard Club of New York City can be a most comfortable and convenient amenity that will make New York more enjoyable. It offers a central location in the Grand Central area, with spacious dining rooms, bedrooms, bar, lounge, library and extensive sports facilities.

If you cannot be in Cambridge on April 22 and are interested in membership, please write or call Ms. Thelma Leventhal, Secretary to the Admissions Committee, Harvard Club of New York City and request information for regular membership procedure, rates and brochures.

DATE: Friday, April 22, 1983

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Special Subcommittees Aid Process

(Continued from Page 3)

to women currently in practice. Commented Clark, "I hope that next academic year more emphasis will be placed in [these] other two areas."

When asked about the criteria and standards used to evaluate women candidates, Clark said that they did not differ significantly from the traditional standards at HLS. "My own view is that the selection of women by the subcommittee has been done without any detectable change in the standards." He said, however, that more weight might be given to expertise in a particular area of the law. Added Clark, "My impression is that there doesn't have to be any significant departure from the general standards on the woman front."

Concluded Clark, "I think the special focus on women has been very good for the school. . . . We will have all kinds of good role models here. The place may even become more humane."

Minority Faculty Process

According to Prof. Detlev Vagts, a member of both the Appointments Committee and the Subcommittee on Minority Hiring, the process used to identify potential minority faculty members differs somewhat from that used for women.

For one thing, the Subcommittee on Minority Hiring did not need to generate a list of potential lateral appointees, since such a list already exists. The American Association of Law Schools periodically publishes a listing of every minority law professor and administrator at accredited law schools throughout the United States. Vagts said that the subcommittee uses the AALS list.

Aside from looking at minority teachers at other law schools, the subcommittee also seeks recent minority graduates, primarily from the leading ten law schools, as well as prominent minority practitioners. The subcommittee has had difficulty, however, in luring these candidates into teaching.

Vagts noted that minorities who graduate with academic honors

have a vast range of attractive positions open to them. Often, teaching is not first on the agenda of things they want to accomplish soon after law school. Furthermore, he said that those who have established a successful practice often choose to stay in practice. Commented Vagts, "It is not true, contrary to widespread belief, that everybody would a) like to teach, and b) like to teach at Harvard."

Money is also a factor. Vagts pointed out that many people come out of law school with substantial indebtedness which tends to have a limiting effect on the options that look attractive to them. Furthermore, after five years, the gap between the earnings in private practice and academics may become too great for many to be willing to make the sacrifice.

At this time, the law school has made offers to two black men, Adedayo Ogunlesi, '79, and John Payton, '77, to come to HLS as assistant professors. According to Vagts, Ogunlesi, who is currently vice president of project finance at First Boston (International) Limited in New York City, has accepted the offer to become an assistant professor, but it is not known when he will begin. Payton has not yet decided whether he will teach at HLS, but his offer remains open and has been extended. Payton and Ogunlesi will be teaching a course together at the law school next year.

Visiting Professors

Vagts also said that the subcommittee's efforts have resulted in two minority visits next year. Mario Baeza, '74, a partner with Debevoise and Plimpton in New York, invited as a visitor, will be here with the status of lecturer, by his own choice. Gerald P. Lopez, '74, is coming as a visiting professor from U.C.L.A.

Vagts explained that the standards used to evaluate minority candidates are very similar to the school's general standards, although not identical. "If we see a minority with some strong quality, we would like to take a chance even if there's

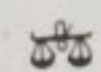
something about him or her that might otherwise deter us," said Vagts.

According to Vagts, the Appointments Committee would like to be more daring and take chances in its offers to minorities for assistant professorships, but it is deterred by the school's tenure policy. Since in the past it has been almost automatic for someone hired as an assistant professor eventually to receive tenure (see article on page 1), the faculty likes to be quite certain that a candidate will be successful at HLS. Vagts noted that it could be very detrimental to both the candidate and HLS if a minority assistant professor were denied tenure. He noted that this problem did not exist with respect to visiting appointments, since there is not the same expectation of tenure.

Traditional Criteria

According to Vagts, the subcommittee on minority hiring has not espoused the policy of simply recommending that the best available minority candidates be offered positions until a certain number are in fact hired. Rather, the subcommittee applies traditional hiring criteria, although they might not be applied as strictly as they are to other candidates.

Because of the increasing number of minority law students at top law schools, Vagts believes that "it will get easier and easier" in the future to find minorities who meet the faculty's expectations.



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Focus: Faculty Hiring

This week's RECORD will be the first of two issues that will focus on the faculty hiring process at Harvard Law School.

Faculty hiring has been an emotionally charged issue this year at the Law School. It was the first issue raised at last month's student-faculty forum. It generated controversy over offers made, offers outstanding, and offers accepted. And the Third World Coalition's boycott and its sponsorship of an alternative course were motivated in part by concerns about faculty hiring.

Hiring is a necessarily sensitive issue. It is sensitive because, behind all of the statistics, institutional processes, and committees, lies the evaluation of individuals. Those who have sat on either side of the desk for law firm interviewing know that interviewing and hiring are difficult, frustrating emotional experiences.

Because of the sensitive nature of the hiring process, much of that process is kept confidential. But while this confidentiality is to some extent necessary and desirable, it tends to create confusion, apprehension and distrust by those who try to evaluate it from the outside.

Those concerned about, but not directly involved with, faculty hiring can only be disserved by a lack of information, or by misinformation. It is our hope to present to our readers an in-depth, thorough look at faculty hiring.

A New Tax Shelter

That's right. It's that time of year again. We have a question for you to ponder as you rush to North Station at 11:55 tonight to make sure that your tax return is postmarked on time.

A reader has informed us that last year's income tax form for the state of Arkansas declared that "brides or illegal payments" were not deductible.

This year, the word "brides" was changed to "bribes." Does this mean that brides are now deductible?



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Fenno

Everyone in the first-year class of the Hellenic Law School was sitting in his assigned seat — Pericles, Demosthenes, Euripedes, Parentheses, Catastrophes, Antipathies, and Fetacheese — except Fennocles, who sat in the back bench, muttering.

At the front of the classroom, Socrates was quite pleased with himself. "So we have discovered how positions of leadership should be reserved for those who have ascended to the vision of Goodness."

Fennocles could bear it no longer. "We have not discovered a thing," he said, standing up. "This method of yours, Socrates, is not teaching. It is pedagogical rope-a-dope."

Socrates peered at him smugly. "I'm training your *mind*, Fennocles. You came to this school with a brain full of mush, and when you leave, *you'll be thinking like a philosopher-king*."

"Do you, Socrates, derive pleasure from subjugating future kings? What if the only thing we philosopher-kings learn is how to subjugate others? That seems to be your only lesson; your method is wasteful in imparting subject matter."

"I teach much more than mere subject matter, I'll have you know. I teach the virtues: Wisdom, Bravery, Justice."

"Is arrogance a virtue?"

"Of course not."

"Then why do you enshrine it?"

Socrates reached into his toga. "Here's a drachma," he said, tossing a coin to Fennocles. "Send a message to your mother. Tell her that you won't be emerging from the cave of darkness."

Fennocles let the coin drop at his feet, and continued. "Is there not something wrong with a guided search for Truth in which the guide refuses to concede that the searchers are approaching the vision?"

"Sit down this instant, Fennocles. I've heard enough nonsense. Really, I must speak with the admissions office. No more affirmative action for barbarians."

Fennocles resumed his seat — and his muttering.

"Speak up, Fennocles," said Antipathies, turning around. "What did you say? 'Heimlich'?"

"I think he said, 'Headlock,'" said Fetacheese.

"What's the commotion?" said Socrates.

"After engaging in Socratic monologue," said Fennocles, "I've decided that you deserve a drink after class. I want to offer, on behalf of the education and self-esteem of future law students, a toast to the Socratic method."

"Splendid. I'm pleased that I haven't been locking horns with someone hemmed into his position. Where shall we raise this toast?"

"Someplace cheap; I only have a drachma. I apologize if I poisoned the learning environment," Fennocles said, and then muttered again. "I have better things to poison."



Letters to the Editor of the Record

Misconceptions and Hostility

To the Editor:

It's been more than a month since the Third World Coalition-Faculty Forum, but hopefully it is not too late to clarify some of the points raised by Professor Duncan Kennedy in his Guest Opinion of March 18. While not a representative of the Coalition, I feel a particular obligation to respond because of Professor Kennedy's suggestion that a question I raised exemplified "a lot of ugliness in the anger" which he perceived as but one aspect of an "incredibly hostile atmosphere." In the interest of time, (which no one has a lot of during this time of the year) I will begin by dividing the question which I *did* ask at the Forum into its component parts.

1. My inquiry was prefaced by a statement in which I agreed with Professor Horwitz's earlier remark about there being no inherently good or bad courses.

2. I then mentioned some of the legal issues which are primary concerns of Third World people (wherever they happen to live) but which were rarely if ever included in our standard course curriculum. I specifically mentioned that these issues were not exclusively the interest of people of Third World descent.

3. Finally, I asked my question of the faculty: "How could they explain the inclusion of a non-credit course on the law of slavery, taught by a historian, not a lawyer, when courses that students *request* are offered erratically, if at all?"

4. I then went on to suggest that the offering of a non-credit course on the law of slavery was but one example of the blatant insensitivity which is so often demonstrated towards the *feelings* of Black, Third World, and low-income people by this law school and the system which it represents. I wondered aloud what we might expect next: courses on Comparative Fascism or the laws of the German Republic during WWII?

Nowhere in my remarks did I seek to ask for some American Jewish consensus to come forth. Nor did I suggest that I somehow represented the position of African-Americans on this or any other issue. I would not even pretend to represent the views of African-American students *here* (though I must say that even some of my more conservative Black classmates were upset by the announcement of a course on slavery). My point was simply that there was an insulting mixed message being communicated by the administration. If the subject matter is important, why is it not adequately covered in American Legal History? If it deserves a course of its own, why was it being offered for no-credit? And why, why, why, in this

year in which civil rights law and the legal problems of Third World people were points of contention on campus, was the law of slavery originally scheduled opposite the Third World Coalition course on Racism in American Law?

I am not quite clear just how Duncan Kennedy arrived at his interpretation of my remarks, but I certainly wish he had asked me what I said before guessing in print. Those who know me well understand that I have offended a lot of individuals during my life, and I certainly respect Professor Kennedy's right to be offended by the content of my remarks. I would hope that you don't have to be the victim of racism to be offended by racism, or the victim of anti-Semitism to be offended by anti-Semitism. If people like Duncan Kennedy really think however, that Third World struggles in the United States are non-existent, and that the student solidarity shown at the Forum had to be manipulated, we've got more work to do than I thought.

Cecelie Counts, 3L

PLO Resolution Condemned

To The Editor:

The Harvard chapter of the Black Law Students Association (BLSA) voted late last month — at what the Harvard *Crimson* called a "sparsely attended" meeting — to support a resolution recognizing the Palestine Liberation Organization (PLO) as the legitimate representative of the Palestinian people. Several days later, the national convention of BLSA in Atlanta voted to do the same.

The Harvard Jewish Law Students Association (HJLSA) condemns BLSA's action. The PLO is committed by its charter to the destruction of Israel. It has always rejected and continues to reject even the concept of compromise with Israel and has murdered many Palestinians who have dared to advocate compromise. The PLO is an anti-Jewish racist organization, as evidenced by its attacks on Jewish people and institutions, including the machine-gunning and bombing of synagogues in France and Austria and the military training of European neo-Nazi groups.

Any steps which tend to support this organization are, therefore, a grievous affront to Jewish people and students everywhere.

When we learned of Harvard BLSA's action on the eve of the national convention, we decided to send representatives to express to the BLSA delegates our strong feelings against PLO recognition. Had we been given a chance to make our views known to Har-

vard BLSA before its vote, in all likelihood we would not have felt the need to journey to Atlanta. We felt certain that Black law students would have reacted similarly had they learned — after the fact — that HJLSA had voted to recognize the K.K.K. as the legitimate representative of Americans.

Our request to the national BLSA Executive Board to address the plenary session was immediately denied. The BLSA Board similarly refused to read to the convention an open letter stating why we felt BLSA should not recognize the PLO. The national BLSA leadership did say that it would not bother them if we distributed information (our letter and a copy of the Palestinian National Covenant) to the delegates as they entered the convention hall. However, BLSA's leaders refused to make this agreement known to hotel officials when, following a BLSA delegate's complaint, we were ordered to stop leafletting and leave the hotel.

BLSA's foray into Middle East politics is a slap in the face of Jewish students. We find particularly callous Harvard BLSA's willingness to act as it did without giving us any chance to air our views on a subject of such vital concern to us. This incident underlines the need for effective communication between BLSA and HJLSA. We are, therefore, encouraged by the decision of these two organizations' executive boards to meet early next week.

The Harvard Jewish Law Students Association

Mob Lynching?

To the Editor:

Generally, I go to class, work and go home and mind my own business. But when I find others minding my business for me, I speak out.

The recent campus hoopla over Prof. Arthur Miller has been a mob lynching. If a few of my classmates resort to the use of a public petition to the administration as a way to resolve honest differences with a professor, that's up to them. But I strongly object to their stuffing the ballot box with names from other sections and other classes. I'm outraged at the lack of professionalism of the faculty members who fostered the publicity campaign and are trying to interfere with freedom in another's classroom.

The question as it appeared in the *RECORD* on March 18 is not the right to no-hassle passes. The prominence of Prof. Miller's name indicates that. His system of allowing students to pass without a "hassle" is as per-

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Letters

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missive as any other. It's even dignified.

Whatever the reason for the outcry against Prof. Miller, I'll raise my voice and be heard, too. He is a teacher who genuinely wants his students to learn, and a man dedicated to the ethical exercise of his professionalism. I, for one, am glad to be in his class.

Polly Brown, L. Sorrel, K. K. McNeil, B. Volpert, R. Bozzelli, R. Emanuel, A. Schiff, K. Werner, R. Ingerman, A. Gal, J. Nathanson, L. Leinwand, M. Lerner, J. Klenkar, C. K. Ervin, M. Karpeles, F. McConville, R. Gonzalez, R. Treadway, V. Jones, M. Hambly, D. Conway, 1Ls, Section I

Mouthless Lawyers?

To the Editor:

To think law students may have a "right" to come to class unprepared and not to answer questions staggers me. An attorney has only two tools with which to practice his trade: his pen and his mouth. If he shuts his mouth, he's lost more than 50% of his effectiveness. If he hasn't practiced using his mouth in class, he should not be permitted to call himself an advocate. A mouthless lawyer, indeed! If he is permitted to graduate (and shame on the school so permitting) some degree far less than a doctorate should be given, and then only after a successful oral plea therefor.

Can you imagine a ball player who refused batting practice being allowed to play?

Far from being felt put upon or harassed, a student should be pleased that the unprepared attendee may be chastised. Students who fail to participate in class deprive their classmates of one of the outstanding benefits of class, the informative and instructive give and take between student and professor. Not only should the non-participating student be made uncomfortable, he should be transferred to a less challenging environment if his lethargy continues. Allowing him to graduate from Harvard is a fraud on his classmates, on his potential employer, and on his unsuspecting future clients. Too many "lawyers" lack both the courage to speak up in difficult situations and the ability to respond quickly at the appropriate moment. We should not perpetuate nor encourage the entry of weak and tongueless spectators into such a noble profession. Refer them to a correspondence course or to recorded lectures. Save our fine institution for those willing and able to share both the rights and the responsibilities of being a student.

David B. Salzman, '61
Manchester, New Hampshire

Interview

Dean Vorenberg on Hiring

(Continued from Page 4)

resolution imply such a change?

Vorenberg: I think the faculty is committed to appointments on the basis of a strong likelihood of excellent teaching and scholarship. I don't think it will be necessary over the long run to deviate from that, and I think it would be a mistake to do so.

RECORD: Do you consider it an affirmative action declaration?

Vorenberg: Yes, I do.

RECORD: Is it an affirmative action declaration in the sense that different criteria will be applied to persons discovered through the intensified search?

Vorenberg: I think the general statement of the standard would be the one I've just given. But it is part of that standard to look at all the skills candidates have, and it's a mistake to think in terms of a particular stereotype: Ivy League, Harvard Law Review, Supreme Court clerk. We're interested in people's experience, perspectives, insights, background and exposure to other professional opportunities. And that will have the effect of both broadening the pool and making a difference in the kinds of persons we decide to appoint, as it certainly has in recent years.

RECORD: Would you accept the proposal of the Third World Coalition that Harvard commit itself to hiring at least two visiting minority professors each year?

Vorenberg: I have discussed this proposal with representatives of the Third World Coalition and I've told them I think that the focus on a particular number would be a mistake. You cannot assure specific results in any one year, but I do think that a faculty committed to adding women and minorities will be able to make progress.

RECORD: Let me turn to the Appointments Committee, all of whose members you appoint. It now consists entirely of tenured professors. Why haven't you appointed any students?

Vorenberg: Its workload is by far the heaviest of any committee in the school. Much of that work is reading and evaluating articles by scholars in various fields — a role that seems to me more appropriate for faculty members who are experts in their respective fields than for students.

RECORD: How do you respond to the charges of some students that you as dean are not moving quickly or decisively enough to achieve a more diverse faculty?

Vorenberg: It doesn't seem that way to me. That has been a commitment to myself and to others since the day I was appointed dean. In fact, it has been a major concern since I started teaching. I am certainly aware that there are some who feel that we are not committed enough, but that is just not the way it feels to me.

RECORD: What do you think is the greatest source of misunderstanding between your critics and yourself about the pace of reform efforts?

Vorenberg: To some extent the outlook from which we're looking at the issue. I think it's understandable that some students want to see clear progress in the three years they are here and would press for that. The faculty has an obligation to make appointments that will improve the faculty over a long period of time — when we make a tenure appointment it may be for 35 years. I think we're doing it, but I can certainly understand someone looking at the same thing and saying, "you're not doing it fast enough."

RECORD: But you're satisfied that it is being done fast enough?

Vorenberg: I'm not satisfied with the pace of the progress in achieving racial justice in our society generally, and I'm not satisfied with what we've been able to do here. We are pressing it, and I'm hopeful we're going to make progress. But I am certainly not satisfied.

Faculty to Vote on "No-Sanction" Pass

(Continued from Page 1)
of displeasure."

In fact, the committee's memorandum presents a catalogue of permissible responses by professors to non-participating students under the no-sanctions pass: "The instructor may address . . . comments specifically to the student who declined to participate; may continue to press that student for a response to the original question or a new or reformulated question for a response, on the ground that the student has a duty to try and respond, or that the question really isn't that hard to tackle, or that even error illuminates, or whatever; may assert that the student is in default of his or her responsibilities, that the student should try harder, that the student should see the instructor afterwards, or whatever."

Open Question

The recommendation's history began in December of 1976, when the faculty adopted its current policy on anonymous grading. One of the effects of that policy was that no first-year student's grade could be raised or lowered based on his or her classroom performance. But the question of disciplinary sanctions for classroom nonparticipation was left open.

On June 30, 1981, then Dean Albert Sacks circulated a memo among the faculty, stating his understanding to be that disciplinary sanctions could be imposed upon students for nonparticipation.

On December 3, 1981, Prof. Arthur Miller requested that the Ad Board address the issue of classroom participation. Miller's memo described a "recent incident" in his Civil Procedure class involving an unidentified student who refused to participate. While he did not wish to pursue "this particular incident at this time," Miller was interested in "the Board's focussing on the Sacks memorandum. . . ."

The Ad Board referred the matter to the Legal Education Committee. The committee was told that, from the board's perspective, given the

absence of a clearly announced rule on the subject and the fact that such sanctions had never been imposed in the past, discipline for nonparticipation would be "void for vagueness."

No-Hassle Pass

In the spring of 1982, Profs. Richard Parker and Duncan Kennedy proposed the following resolution to the committee: "It is the sense of the faculty that it is the better educational policy for teachers of required courses in the first year to permit students to 'pass' when called upon, without requiring either advance notice or any explanation."

This proposal, dubbed the "no-hassle pass," was discussed by the committee but no action was taken. Shortly thereafter, Prof. Lewis Sargentich introduced the proposal that was eventually adopted by the committee.

In March of this year, the committee again took up the matter of the Kennedy-Parker and Sargentich proposals, adopting the latter by a vote of seven to three. It split evenly on the Kennedy-Parker proposal, so the committee made no recommendation to the faculty concerning it.

Needless Coercion

The majority memo offers several grounds of support for the recommendation. First, the report claims that by adopting the opposite of the proposal, the faculty would "be creating quite drastic disciplinary sanctions where none existed before." The majority saw no need for any new sanctions, and believed "that creation of new coercive machinery would send quite the wrong message about how the faculty views the prospect for educational collaboration and cooperative inquiry within our school."

Second, the majority felt that the excitement and pressure in the first-year classroom rendered the addition of formal sanctions superfluous, especially given the authoritative-ness inherent in the role of first-

year professor, and the range of techniques at his or her disposal.

The committee also found the imposition of sanctions inappropriate in first-year required courses because of the lack of student choice in selecting a given instructor.

Finally, the majority did not see the issue as one of academic freedom. Instead, it found the issue of disciplinary sanctions for first-year students to concern the entire faculty, "for it is the faculty as a body that has created the system of assigned courses in [the first-year] required curriculum and that votes the School's degrees."

Dissent

A draft statement by the dissenters (Chairman William Andrews and Profs. Lance Leibman and Hal Scott) disagreed with the majority's evaluation of the policy's current status. "Teachers at this school have traditionally been authorized to require students to attend class, to be prepared, and to respond when called upon."

The dissenters listed a number of objections to the recommendation. Rather than reducing tensions in the classroom, they felt that the recommendation combined with the majority report might result in an escalation of conflict, triggered by students asserting their new "rights." They also had objections based on academic freedom: "One group of the Faculty should not impose its views of better educational policy on another group of the Faculty."

The statement recommends that the faculty vote against the majority proposal to show its agreement with the dissenter's view of the current policy. But "if the Faculty would prefer an alternative motion, we would suggest: 'That reasonable class participation, when explained in advance by a teacher, is an appropriate academic requirement.'"



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How Profs Get (and Keep) Their Jobs

(Continued from Page 1)

professors at the law school. Almost all are part-time teachers who, for example, practice in a law firm while teaching a course or two at HLS. Occasionally, lecturers are persons who take a limited number of years off from their usual endeavors in order to teach with the full expectation of returning to these endeavors once again. Lecturers do not have a vote at law school faculty meetings.

The primary responsibility for seeking out and recommending persons for hire as HLS instructors rests with two faculty committees. Lecturers are dealt with by the Lecturers Committee; professorships and assistant professorships are handled exclusively by the Appointments Committee. Since the latter committee recommends persons who are either to be tenured or tenure-tracked, it has been at the center of the debate about long-term affirmative action at the Law School.

Seven Decision-Makers

The members of the Appointments Committee are selected by the dean of the Law School. Only full professors have been appointed to serve on this committee to date, though there has been some discussion that it should be opened up to assistant professors as well, in order to achieve a committee more representative of the voting faculty as a whole. The dean also appoints the committee's chair, and, as with all faculty committees, is officially a member of the committee. Generally, there are from six to nine members of the Appointments Committee who each serve a one-year term, though many are reappointed in successive years.

The present members of the Appointments Committee are: Prof. Alvin Warren, Chairman; Dean James Vorenberg; and Profs. Robert Clark, Detlev Vagts, Morton Horwitz, David Shapiro and Martha Field.

According to Chairman Warren, the committee has two main func-

tions: first, to search for and identify outstanding candidates for tenure or tenure-track positions; and second, to evaluate these candidates and to make recommendations to the full faculty based on these evaluations. The committee is also responsible for reviewing the work of assistant professors and making the appropriate recommendation to the faculty with respect to their promotion to tenure. To carry out its duties, the committee meets once a week every week during the academic year.

Decisions, Decisions

Based on the Appointments Committee's presentation and recommendation, the faculty votes on the hiring decision. Although a two-thirds majority is necessary to approve any promotion or appointment, it is rare that a person recommended favorably by the committee is rejected by the faculty as a whole. It is even rarer that a person who is not recommended to the faculty by the committee is voted an appointment by the faculty. Twice, however, former Dean Sacks put such persons on the faculty's agenda at the request of a minority of the Appointments Committee, or at the insistence of a substantial number of faculty members who were not on the Appointments Committee. On one of these occasions the candidate was, in fact, approved by the faculty. "But it is a mistake to consider this a well-established practice," says Prof. Duncan Kennedy, who has himself been a member of an insistent minority in the past. "So although the Appointments Committee officially makes only recommendations to the faculty concerning hiring, in reality its power over the hiring process is very great."

In fact, the faculty vote is itself only a recommendation to the president of the university that an offer of employment be made. The president acts upon this recommendation by making a recommendation of his own — this time to the governing boards of Harvard Univer-

sity. However, the end result has traditionally been approval of the original faculty decision.

In order to carry out its affirmative action objectives, the Appointments Committee has two subcommittees: one handles affirmative action for women, the other for minorities. These subcommittees are made up of committee members along with several women and minority faculty members who are not on the Appointments Committee. Assistant professors are eligible for the subcommittee positions. (See article, p. 3.)

To carry out its search function, the Appointments Committee proceeds along several lines of attack. First, to locate candidates for assistant professorships, the committee sends out a written survey every year to the HLS faculty asking them to recommend former students who might be right for the job. A similar request is made to the appointments committees at the dozen leading law schools nation-wide. In addition, members of the committee investigate the clerks of Supreme Court justices as well as those of outstanding judges across the country. Finally, the Dean regularly seeks recommendations from the deans of all American law schools and from a wide variety of government officials, judges and practicing lawyers. From these surveys and investigations, as well as unsolicited applications, a portfolio of potential candidates is put together.

Raiding Rival Schools

Locating potential candidates to be hired as full professors — or candidates for "lateral hire," as they are called — is somewhat different. According to Warren, a chief source of suggestions for lateral hires is the HLS faculty, whose members regularly suggest that the committee investigate a professor at some other law school who has become a leader in his or her field. In order to insure that this informal process does not miss anyone, the committee periodically makes a

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Hiring at HLS: Behind the Scenes

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systematic examination of the faculties of the other major law schools and decides if there is anyone else who should be considered. In this manner, a list of potential lateral hires is drawn up.

The subcommittees develop special portfolios of outstanding women and minority candidates, whose names are forwarded to the Appointments Committee.

Once a potential candidate is located, the evaluation process begins. Potential assistant professors are often contacted early in this process and invited to Harvard for an interview with the Appointments Committee. Often, these persons are not interested in teaching at Harvard right away; having recently graduated from law school, many of them have other things on their agenda prior to settling into a tenure-track appointment. Those who

are interested in teaching more or less immediately are often invited to meet the faculty, or to make an academic presentation to the faculty. The committee also contacts the candidate's former teachers and employers, and evaluates his or her academic credentials and any writings.

Traditionally, lateral hires are not made unless the candidate has first taught at Harvard as a visiting professor. As a corollary, many visiting professors at HLS are potential candidates for lateral appointment. The Appointments Committee, therefore, must first decide whether to invite a professor at another law school to visit at HLS. The decision is made based on an evaluation of the professor's written works by both committee members and other appropriate HLS faculty members. In addition, the committee inquires into the professor's teaching reputation by talking to his or her col-

leagues and by reading student evaluations.

A Long Interview

"For some visiting professors, their time here is like a long interview," says Warren. Members of the Appointments Committee attend the candidate's classes and read their student evaluations. In addition, the committee selects between 15 and 20 students at random for a confidential interview about each potential professor's teaching. The committee re-reads the professor's written work, submits it to other faculty members (both at HLS and at other law schools) for evaluation, and holds committee debates on the merits of the work. A similar process is used to evaluate assistant professors who are ripe for promotion.

However, promotion from assistant professor to professor has in the past been a more automatic progression than from visitor to tenure on the HLS faculty. "The standard we apply to the scholarship of people who come here laterally is much higher than that applied to assistant professors. It shouldn't be. The standard we apply for promotion within HLS is not as high as it should be," says Prof. Clark, chairman of the subcommittee on the hiring of women. The result has been that almost all assistant professors have been promoted, while a substantially smaller percentage of visitors has been hired permanently.

"Our goal in the hiring process," says Warren, "is to maintain or improve the level of quality at HLS in the teaching of law students and the contribution of the HLS faculty to understanding of law and legal subjects. We look at a candidate's achievements to date to see if they indicate that he or she has or will achieve this aim. Beyond this, the committee approaches the evaluation process with no set criteria for appointment to the faculty. Those who say that law review or a Supreme Court clerkship is a prerequisite to serious consideration simply do not know the facts." ❧

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