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Dean Describes Plan to Faculty

By Louis J. Hoffman

In a fifteen-minute speech at the first faculty meeting of the school year, Harvard Law School Dean James Vorenberg outlined some plans designed (1) to reverse the trend of "declining student involvement during the second and third years of law school," and (2) to correct the perception of many students and some faculty members that "the

school steers students to careers in large private firms."

The dean described these issues as "two of our most difficult problems." Vorenberg proposed several changes and suggested that faculty committees consider several others.

The dean described the proposed changes as "incremental in nature," in contrast with suggestions for major restructuring such as "the abandonment of grading in the first

year, a requirement of a clinical summer, a move to a two-year law school on the trimester plan, or a sharp reduction in the size of the student body."

Vorenberg stated that failure to propose changes of this magnitude was not intended to "preclude discussion" of them, and he stated that "[t]here is room to move in many directions and there are students
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HARVARD LAW RECORD

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HLS Grad Seeks Review Of Internment Convictions

By Mike Isbell

An alumnus of Harvard Law School is in the forefront of efforts to reverse the convictions of three Japanese-Americans who resisted federal orders for their internment during World War II.

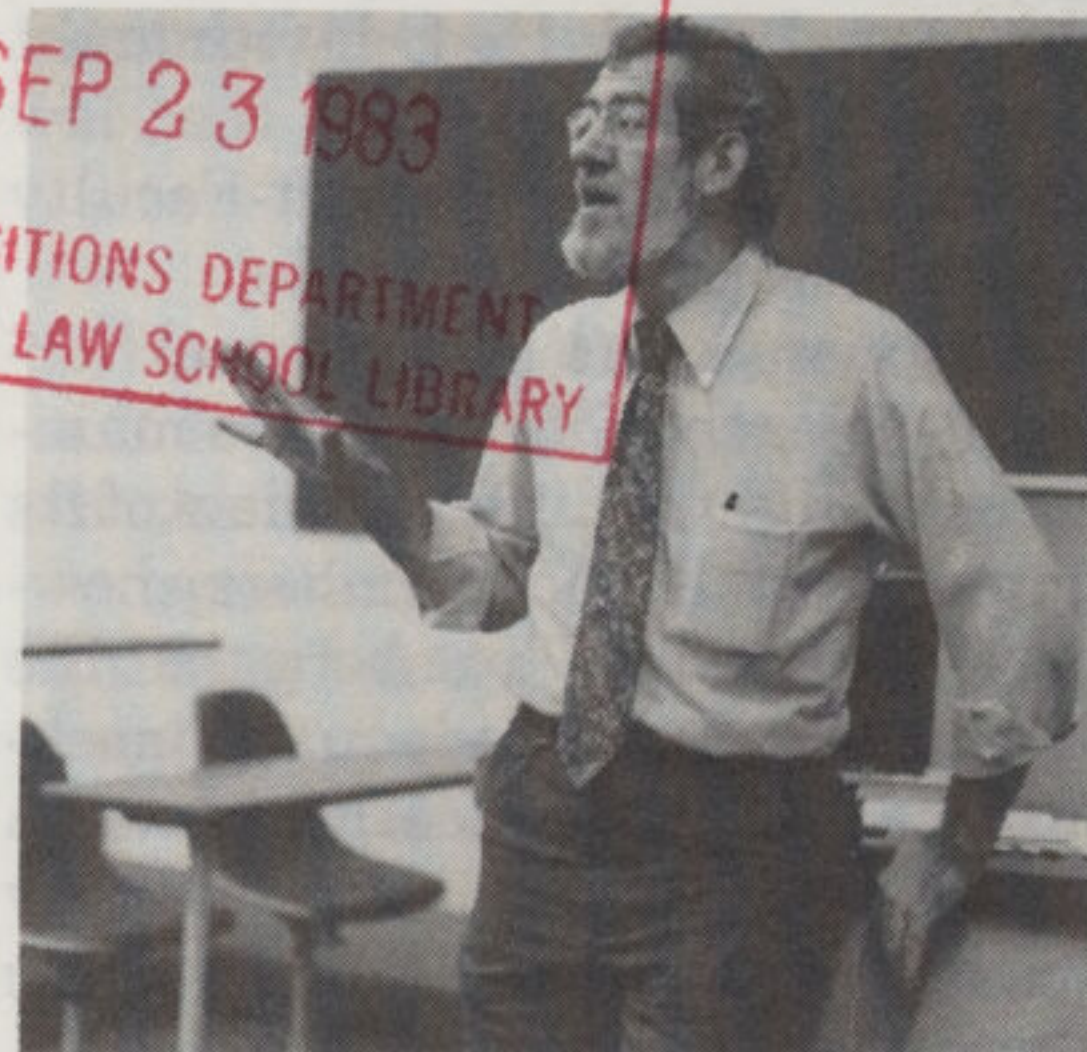
Peter H. Irons, a 1978 HLS graduate, is lead counsel for Fred Korematsu, Min Yasui and Gordon Hirabayashi. Irons will urge a federal district judge in San Francisco later this fall to overturn the convictions on a writ of *coram nobis*, a piece of English legal antiquity which is seldom used but is authorized by the federal All Writs Act.

"A writ of error *coram nobis* is for people no longer in custody who want their convictions overturned," Irons told a group of about 20 HLS students who attended a program sponsored last week by the Asian Law Students Association. "It cannot be used to relitigate issues of law, only to allege errors of fact that should have been pointed out

at trial but were withheld from the defendant. These errors must have resulted in manifest injustice (in order to justify use of the writ)."

Irons contends that government lawyers who prepared and argued the internment cases on appeal before the Supreme Court knowingly

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Peter H. Irons

Sandra Yamate

HLS Experiments On 1Ls

By Beth Bergman

It's nearly 4 P.M. on a warm Friday afternoon, and most first year law students are unwinding after a long and wearying week of classes.

But in Langdell North Middle, one quarter of the first-year students and professors are involved in a heated discussion of what issues a statute promoting aid to crime victims by bystanders should address. The vibes are unusually positive, and only laughter disrupts the spontaneous flow of dialogue.

As hypothetical legal assistants for a state senator required to draft an actual statute on this topic as a "joint" class assignment, the students might be expected to have a vested interest in the discussion.

If the task was a difficult one, the end product was exhilarating for all involved. The ungraded assignment was designed to introduce first-year students to statutory and constitutional law early in their legal education.

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Panel Hopes For Greater Openness

By Nancy Perkins

The new Law School Faculty Panel for Student Liaison, unveiled by Dean James Vorenberg in an insert to last week's *HLS Adviser*, is a four-person panel whose members will meet with students, set up student-faculty meetings, solicit opinions on student participation in school governance, and arrange to have the faculty consider student proposals.

Vorenberg conceived of the new panel and appointed its members in August. He named Associate Dean Lance Liebman as Chairman while assigning faculty members Susan Estrich, Abram Chayes and Richard Stewart to the panel. Vorenberg said he chose these particular individuals because they are all "open, accessible, friendly and respected." Vorenberg also said he wanted at least one 1L professor on the panel, and that he thought Chayes' experience on the law school's former Student-Faculty Council would be valuable.

The panel has not yet met formally so each of its members maintains a slightly different view of its potential. All the members, however, agree with Vorenberg that the law school lacks "adequate mechanisms for communication between faculty and students," and said they hope the panel will help improve these mechanisms.

"A Place To Go"

Liebman said the liaison panel will give students "a place to go" with problems and issues of concern. Estrich called the committee a "preventive mechanism", which "should serve as a buffer" to the kinds of student protests which disrupted the Law School last spring. Vorenberg and Chayes projected similar visions of the panel as a protective device: Vorenberg said it ought to "identify problems before they surface" while Chayes remarked that it should act "before the lid blows."

These images of the panel reflect its members' desire that the school avoid a re-enactment of last spring's

student-faculty conflicts. In general, the individual faculty members seem optimistic about this.

However, Law School Council President Kent Markus, 3L, observed that "some students see the panel as just a smokescreen" designed to obstruct a view of who really governs decisions at the Law School. Markus himself considers the panel's creation as a "genuine good-faith effort" on Vorenberg's part, but said it is "ironic" that Vorenberg failed to consult with students about its structure or membership.

"Lack of Sensitivity"

"We continue to see a lack of sensitivity," Markus said. Though he felt that such insensitivity was "not intentional or vindictive on Vorenberg's part," Markus said that if Vorenberg were "really serious" about student-faculty communication, he would have consulted students about the panel over the summer. "It is no defense that school

wasn't in session," Markus said. "Vorenberg knew where he could reach us."

Stephanie Pollack, a 2L who actively participated in last spring's protests, expressed strong skepticism about the new panel. "It seems ludicrous to expect participation from students when we didn't help set it up," she said. "We're still stuck with what the faculty chooses and whom they recommend."

Pollack views the panel as "just another structure which will add to problems between students and faculty," and sees Vorenberg's new "Inquiries" series in much the same light. "There's still no dialogue," Pollack remarked. "On the Law School committees, students talk at the faculty; at these 'Inquiries' events, the faculty will talk at students."

Pollack's most optimistic statement concerning the panel was, "Its success or failure will depend on the makeup of its faculty members, and their willingness to spend time with students."

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Nicaraguan Visit Canceled— Visas Not Issued

By Brad Hudson

A Nicaraguan delegation composed of several top government and political officials scheduled to visit Harvard Law School on Monday had to cancel its visit when the State Department failed to approve the group's visas.

The delegation, which included Nicaraguan legislators, the chief justice of the supreme court, the president of the National University of Nicaragua, non-Sandinista party leaders and legal advisers, had planned to spend two or three days in the U.S., meeting with U.S. political leaders, party officials, political scientists, law teachers and lawyers.

According to Frederick E. Snyder, assistant dean for international and

comparative legal studies, the visit was to be part of an information-gathering tour of many countries. The Nicaraguans want to study electoral and constitutional processes in various countries in preparation for the drafting of a law for elections, expected to be proposed later this year.

The U.S. portion of this tour, which was organized and sponsored by Oxfam America, was to have included Boston, New York, and Washington, D.C. Besides the visit to HLS, the delegation planned to meet with professors at the Kennedy School and Government Department, and Massachusetts state legislators. An open meeting was also planned for Tuesday night at the Arlington Street Church. After its U.S. stop,

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'Inquiries' Shows Split Among Profs

By Justin Hughes

Four members of the HLS faculty presented divergent views of the legal system in the first of a series of open forums entitled "Inquiries."

The session, centering around the topic, "What is Law?", attracted 400-500 people to Sanders Theatre for a panel discussion moderated by HLS Dean James Vorenberg and including Profs. Phillip Areeda, Elizabeth Bartholet, Morton Horwitz, and Hal Scott.

The series is seen as one effort by Dean Vorenberg to improve student/faculty communications in the wake of last year's student protests.

The forum began with short speeches by each panelist followed by a question and answer session moderated by the dean.

The political division among the panelists became evident immediately as Areeda spoke first, both presenting a vision of the law and attempting to pre-empt attacks upon his view. Areeda described the law

who hasn't recognized that hasn't learned the law."

Bartholet's speech followed and described a fundamental division between the ideal of law and the reality of the legal system. Bartholet said she doubted if anyone in the auditorium would dispute the fact that the rich and the powerful are better at manipulating the legal system than others and that the real "law" is fundamentally unjust. She urged each student to lead a legal career that would be "at least morally neutral and, hopefully, that does more good than harm."

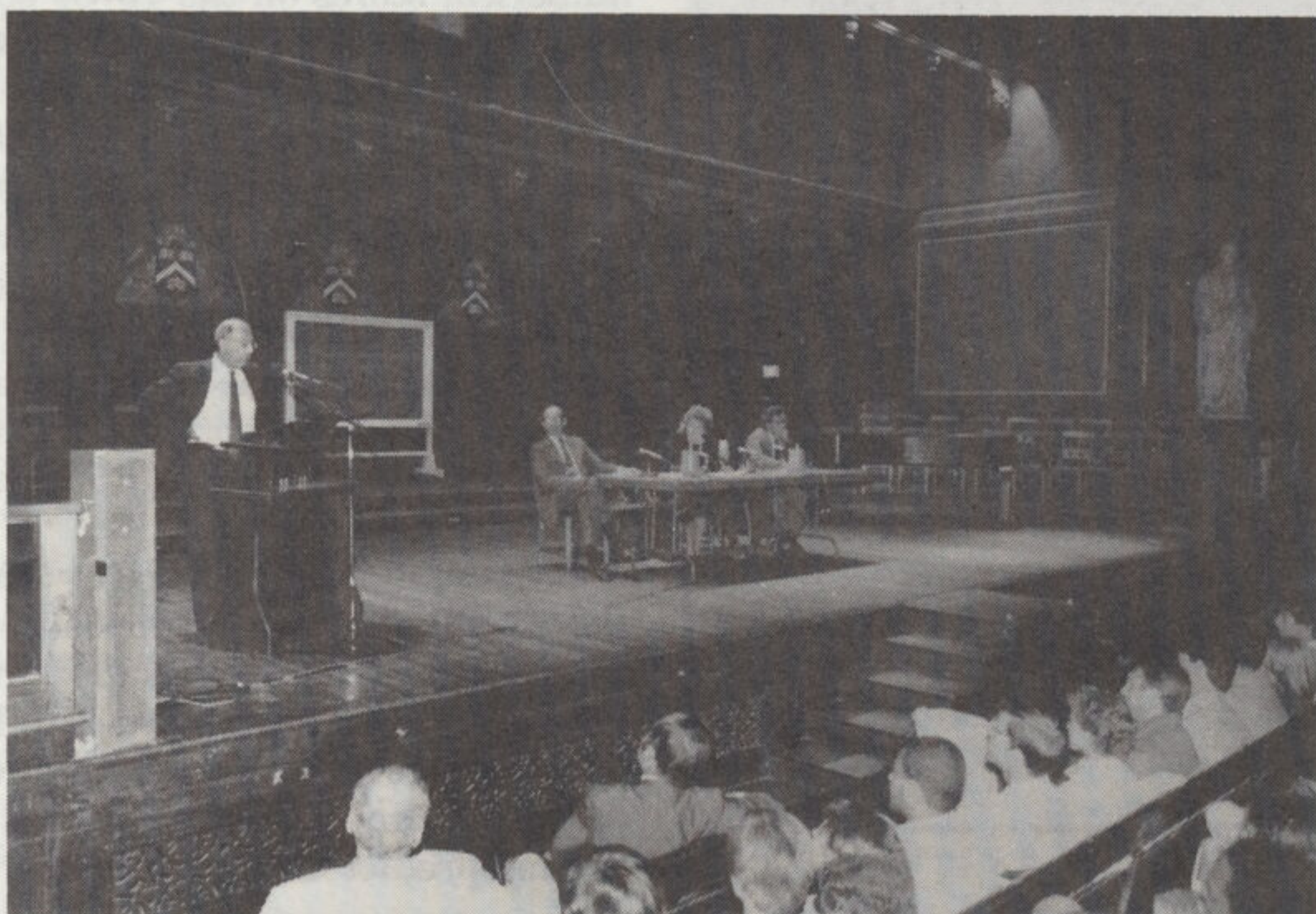
She argued that the legal system could be a "means of positive social reform and change" and pointed out how even in its current form the legal system has assisted political minorities when no other segment of the political system came to their aid. At the close of her speech, Bartholet received the evening's strongest round of applause.

Legitimacy Crisis

Horwitz, who characterized himself as Bartholet's "comrade" later in the evening, opened his speech by speaking about a "crisis of legitimacy" at the Law School. "In the good old days, people at Harvard Law School didn't ask 'What is law'", he said. "They *knew* what law was."

But while Horwitz spoke of a confidence crisis at the Law School, he, like Bartholet, stressed that the question of what law is was not meant to be answered at a systemic or social level. "The question 'What is law' is the question 'How am I going to lead my life?'"

(Continued on Page 16)



Ruben Perlmutter

Prof. Phillip Areeda attempts to answer the question, "What Is Law?," at the first session of the "Inquiries" series last week. Nearly 500 people attended the forum at Sanders Theatre.

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as a positive decision-making process and derided "nihilist" views that law serves only the interests of the power-elite. Areeda defended law as an effective decision-making process for the allocation of social resources. "Line drawing is our business," Areeda said, "and anyone

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No Trend Seen In Applicant Drop

By Bruce Kelly

Applications for admission to the 1983 Harvard Law School entering class dropped nearly twenty percent over the past year, from 7483 in 1982 to 6047.

Molly Geraghty, Harvard Law School Admissions Director, cautioned against alarm over the drop. Application volume was exceptionally high in 1982, she explained, with the 1979-81 average of around 6900 more typical.

Even so, the number of applicants had not reached such low a level since the total of 6063 in 1975.

More importantly, Harvard's experience was not unique; many other top-rated law schools also showed a substantial decline. The nationwide trend indicates that particular circumstances at individual institutions were not to blame.

Finally, the decline in applications did not affect the quality of the applicant pool or of those admitted.

No Single Cause

Admissions officials at Harvard and other law schools resisted attributing the plummet to any one cause. Many suggested that the sluggish 1982 economy was a principal reason. The recession affected recent college graduates both by limiting their employment opportunities and by affecting their parents' financial situation. These factors, combined with the unsettled state of the federal guaranteed student loan program, may have influenced many students to shy away from expensive private law schools.

For example, the University of Texas Law School and the University of California at Berkeley Law School (Boalt Hall), two of the foremost state-run schools, reported no deviations from recent trends.

Declines at some public law schools, however, show that more than the lofty price tags at the private institutions contributed to the phenomenon. The relatively inexpensive University of Virginia Law

School, for example, experienced a reduction in the number of applications received from 4500 to 3500.

Pauline Russo, Admissions Registrar at Yale Law School, noted that the school's drop-off from 4474 to 3512 was "across the board," revealing no group trends by LSAT score, grade average, or geographic area.

Simple Economics

She proposed that simple economics may be at the root, commenting that "with application fees

HLS APPLICATIONS

	#Applicants	#Registered
1983	6047	549
1982	7483	556
1981	6845	552
1980	6996	545
1979	6965	541

around forty dollars, students will be selective in where they apply," applying to six schools instead of ten. The Assistant Dean of Admissions at the University of Virginia, Albert R. Turnbull, echoed this view, asserting that "student self-selection" lay behind the slump.

Figures from the Law School Admission Service (LSAS), the group responsible for sending LSAT score reports to the schools, reveal no decrease in the number of reports sent out in 1982.

LSAT Change

Looking for another event which may have triggered the application reductions, some officials hypothesize that change in the LSAT scoring system from a 200-800 scale to a 10-50 range may be responsible. Undoubtedly an alteration of the "law boards," crucial in many decisions over where to apply, coin-

ciding with a nationwide drop in applications, raises suspicions. Harvard's Molly Geraghty believes the effect may have been primarily psychological, with a student feeling less confident with a 38, rather than the comparable old scale score of 650.

There have been additional suggestions that students may have been using slightly misleading information in making application decisions.

In linking percentile ranks to the numerical scores on the 10-50 scale the LSAS had to estimate likely outcomes. The subsequent test results proved that the LSAS estimations were remarkably accurate, except in the highest score range. Although the distribution of grades in the entire 39-50 range was accurately foreseen, the actual results revealed lower proportions achieving the top scores, 45 to 50, than had been anticipated.

Officials at LSAS are quite skeptical of these suppositions, pointing out that the variation from projected norms was slight, and that many schools report "across the board" declines, not only drops in the mispredicted higher scores.

Lawyer Glut

No officials believe they possess a solid reason for the dramatic downturn in applications that occurred last year. Some students suggest that well-publicized reports of "lawyer glut" may have persuaded potential law professionals to enter other fields.

At this point, as officials re-examine their data, no one can be certain. They emphasize that the one-year decline did not result in an inferior entering class, but persistence of this trend could pose serious problems. Thus, there is growing anticipation over what the 1984 figures will reveal.

One official summed up the situation best in saying, "Something sure happened. But as to *why* it happened, your guess is as good as mine."



Smith Named To "Novel" Position

By Michael Malamut

Energetic David Smith, known to most students as assistant dean for International Legal Studies and the Graduate Program, was recently appointed Vice Dean of the Law School.

The vice deanship is a new position created to ease the overload of work and responsibility of the dean. Dean Smith looks forward to working closely with Dean Vorenberg in the formation of a more diverse and personal law school.

Smith brings a wealth of experience with him to his new post. A native of Saranac Lake, New York, the new vice dean received his B.A. from Harvard College in 1958 and his LL.B. from HLS in 1961.

Before he returned to the Law School in 1966 to aid in the formation of the International Legal Studies program, he worked with the assistant director of the University of North Carolina's Institute of Government, instructing sheriffs and police in the proper application of search and seizure and first amendment rights. Also during this period Smith served as Assistant Attorney General for New York State.

In addition, a Ford Foundation grant enabled him to serve for two years as a legal advisor to and inspector of native courts for Northern Nigeria's Ministry of Justice, an experience which greatly influenced his career. In fact, the experience proved to be the inspiration for one of Smith's more unorthodox (and refreshing) activities — writing novels.

New Novel

Smith has published one novel, *The Leo Conversion*, and a second, *Timbuktu*, is to be published this month. Both novels are mystery/adventures set in Africa, drawing heavily on Smith's experiences there. A prepublication review of *Timbuktu* says, "The background is marvelous," and adds, "This should really be read with a tall, cool drink in hand..." Smith is

currently working on a third novel which will take place in a collegiate setting.

On the academic side, the vice dean is a specialist in law and economic development and has originated and taught courses in Foreign Investment in Natural Resources and in Law and Economic Change



Robert Peterson

Vice Dean David Smith

in Africa. He also wrote, in conjunction with Louis T. Wells, Jr., *Negotiating Third World Mineral Agreements: Promises as Prologue*, a seminal work in the field. Smith has also written numerous articles, and served as a consultant to several major third world countries and to two Native American organizations. He intends to continue his scholarly work in this area.

The recently promoted administrator would like to bring his previous experience to bear in several new directions for the Law School. He is currently developing a program in human rights with Prof. Ferguson and Fred Snyder. Snyder is Associate Dean and the former Director of Clinical Programs. Currently he is Smith's successor as Dean for International Legal Studies.

When Smith was Dean for ILS he instituted the Human Rights Fellowships program, which enabled students to pursue summer jobs in non-traditional, non-corporate fields. As vice dean, Smith hopes to emphasize and make diverse summer opportunities more avail-

able and attractive. He is particularly concerned that students not be "sucked into someone else's idea of success."

Smith stressed several other issues which he feels will be major concerns during his tenure as vice dean. He hopes to institute a program in law and development. Additionally, he will place greater emphasis on inter-university cooperation, particularly with the Business School.

For five years he taught a house course at Dunster House at the undergraduate school and is currently an associate of Dunster House.

Advice to Students

Smith also stressed his efforts to insure that students pursue what they feel strongly about personally, and pointed to the program for 2Ls to be held this Saturday as an example.

Dean Smith's final piece of advice was that prospective attorneys should be aware of the multiple careers open to a trained lawyer, including the possibility for those in corporate practice of doing pro bono work. Smith himself is an excellent example of applying his own advice. Adjectives to describe Smith include consultant, teacher, advisor, family man (he is married and has two children, aged 7 and 9), administrator and novelist.

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1Ls Introduced To Job Hunt Early

By Mike Isbell

Despite a school policy which discourages first-year students from thinking about summer jobs, an undetermined number of 1Ls received copies of sample resumes in their 1L mailboxes during the first week of school.

The sample resumes, which are prepared by the Placement Office to aid second- and third-year students in the search for jobs, were placed in the mailboxes by members of the Board of Student Advisers who were leaders of 1L orientation groups.

Several 1Ls told the RECORD they had not received copies of the resumes. Others indicated they either received copies or knew of fellow 1Ls who had received them.

The resumes are not prepared with the BSA in mind but are available from the Placement Office to anyone who wants a copy, according to Placement Director June Thompson.

"I spoke to the BSA during the orientation session [for BSA members] and asked them not to encourage 1Ls to do anything about placement this early in the game," Thompson said. "Some people think you have to get in awfully early to get a job as a 1L. I don't think that's true."

Lorie Schmidt, 3L, who chairs the BSA, said the Board has no policy regarding the 1L placement process.

"In most areas, the O-group leader is given a lot of freedom," Schmidt said, "placement is one of those areas."

Schmidt noted O-group leaders are expected to meet with their groups at least once during the fall semester to talk about placement. The advice given and the timing of the meeting are left to the discretion of the particular BSA member, she added.

There is no way to know how many BSA members distributed sample resumes to their 1L groups, Schmidt commented, because O-

group leaders are left on their own in advising 1Ls about placement.

Perhaps more interesting than the fact that some 1Ls actually received placement information during their first week here is the conclusions that they might have gathered from the information itself. A look at the resume packet might give some insight into what these 1Ls perceive to be the expectations of prospective employers.

Fictional Students

Three of the four fictional students whose resumes are included as samples attended well-known universities in the East. Student #1 received a B.A. from the University of Pennsylvania. Student #2, a native of Albany, N.Y., finished with a bachelor's degree at Cornell. Student #3 graduated *cum laude* from New York University.

The fourth student was educated in the heartland, graduating *magna* (Continued on Page 7)

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The Perfect Job Candidate

(Continued from Page 6)

cum laude from Bright College in Prospect, Kansas.

College majors of the four students included sociology, labor economics, history and government.

The students' college activities were substantial but unexciting. Student #2 was Cornell Day chairman while student #3 was NYU's Freshman of the Year.

The oldest student is student #1, a third-year student who has reached the age of 26.

The first two students are single but student #3 is married with no children. The spouse of student #4 comes from Boggy Depot, Utah.

All four students spent at least some time away from the classroom between college and enrollment at HLS. Student #1 was a market researcher for two years, student #2 was an auditor for the state of New York and student #3 worked as a claims clerk for the Veterans Administration. The year following student #4's graduation from college is unaccounted for on the resume.

None of the students belong to organizations which would be clearly unpalatable to some interviewers from private law firms, such

as the Lawyers' Guild or the Committee on Gay and Lesbian Legal Issues. None of the students belong to any of the many ethnic organizations at the Law School.

Three students participated in the Ames competition, Cambridge-Somerville Legal Services and the Environmental Law Society. The activities portion of Student #1's resume is blank.

Student #1 finished the first two years of law school with a B+ grade average. Student #2, a 2L, has a grade average slightly higher than a B+.

Student #2 excelled in Constitutional Law (A), but had to settle for a B in Civil Procedure.

Student #3 even decided to photocopy his/her transcript and attach it to the resume.

The Kansan, student #4, had the most problems with grades at HLS. A 3L, student #4 has a B average, which includes two grades of B- and one C.

All four students appear to be on the corporate track. Student #2, a 2L, has yet to work for a corporate firm, having worked as a research assistant for an HLS professor last summer, yet lists particular professional interests as taxation, ad-

ministrative law and litigation. The other three students have worked for firms in Washington, D.C.

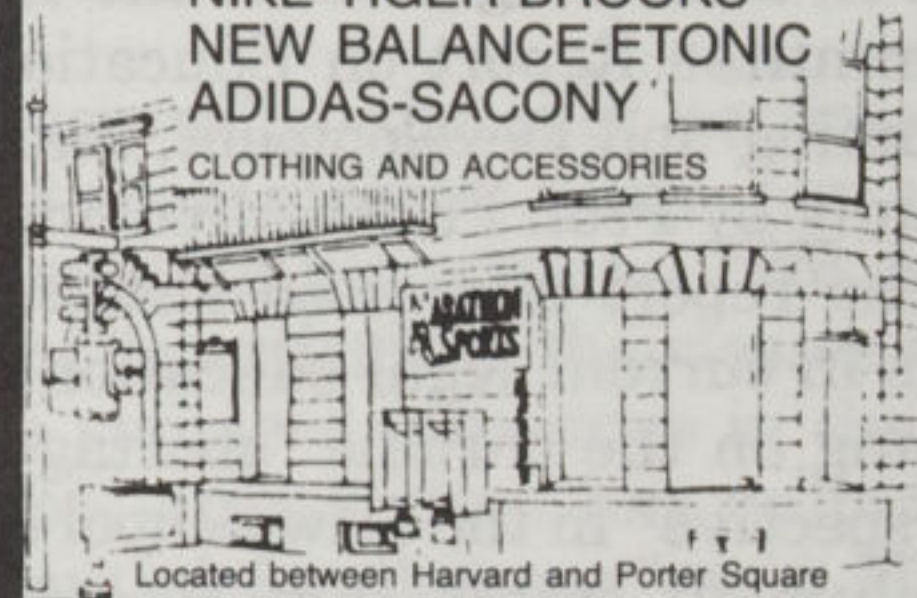
According to Thompson, one purpose of the sample resume was to relieve some of the anxiety often associated with preparing for the interview process. "I don't think the resumes have to be fancy for this process," she said.

Thompson noted that the final page of the sample resume handout was a memorandum advising students with particular problems to see Dr. Mark Byers, the school's career counselor, in Pound 309 for a strategy planning session.

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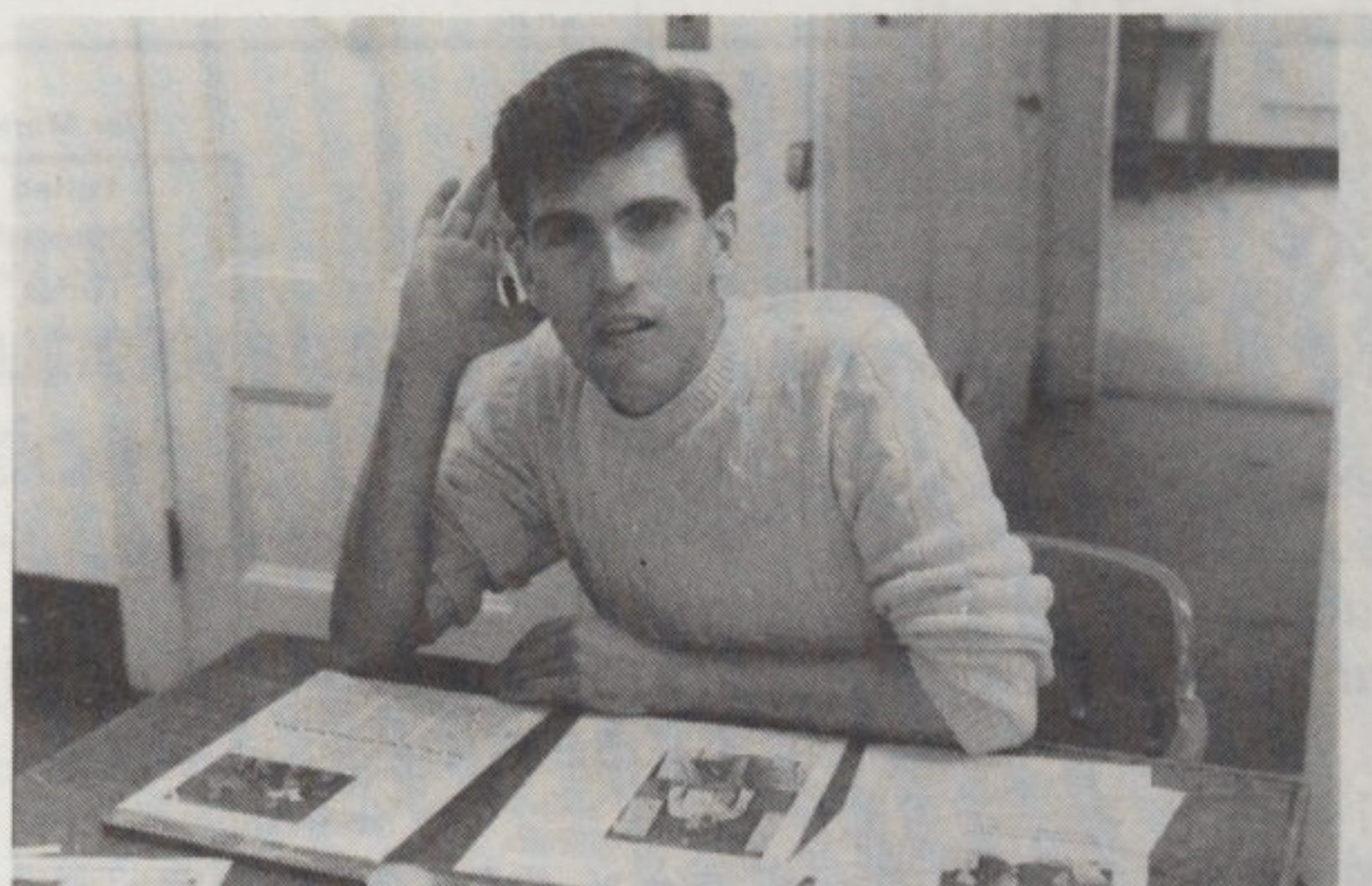
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1Ls Get Dose of Theoretical Studies

(Continued from Page 1)

"We wanted the students to get their feet wet by drafting a statute," explained Prof. Todd Rakoff. "It was the approach, not the exact contents of the statute, that mattered."

The experimental section faculty is indeed attempting a new "approach" to legal education at Harvard this year. After four months of intensive planning by four determined faculty volunteers, 150 incoming students learned over the summer that they would be attending "bridge" periods and "integrated classes", and that there was an extra "joint" class scheduled every Friday afternoon for two hours.

"Great Experiment"

The "great experiment," as many call it, is an outgrowth of the 1982 Committee Report on Educational Planning and Development, drafted mainly by Prof. Frank Michelman.

The report addressed shortcomings in current legal education, focusing on the chronic "shortage of perspective" in the Law School curriculum. It stated that Harvard's legal education is dominated by doctrinal studies, as compared to

the "unsystematic and non-committed treatment of theory as part of the curriculum."

Working closely with Profs. Rakoff, Morton Horwitz, and Abram Chayes, Michelman hopes to inject a dose of theoretical perspective and critical study into the standard doctrinal learning process. He contends that doctrinal learning cannot provide an "intellectual base for lifelong critical reflectiveness about legal institutions, the profession, and one's own work, in the actual and changing conditions of social life and legal practice."

Present haphazard attention to focused theoretical social studies also contributes to the school's lopsided emphasis on common law and the study of private, proprietary law. Almost no time is spent examining statutory law and government regulation as major actors in the law-making process.

The "bridge" periods, consisting of five one- or two-week long sessions during the year, aim to overcome the theoretical void by probing the historical, social, economic, and political patterns that shape the law and legal institutions. Students will abandon classes in torts, contracts, and civil procedure and, according to Rakoff, look at "other ways to

cut up the legal universe."

The second goal of the experimental program is the integration and coordination of first-year classes. For the first two weeks of school, courses revolved around the theme of the Good Samaritan Rule. Horwitz feels that reorganizing classes to reach beyond normal course boundaries will allow the student to avoid the "five ring circus experience" of first year classes. Referring to the new format as "sequenced umbrella learning," Horwitz says this is "only the first step."

Next Year's Class

"It's possible we may abandon courses altogether for one section of next year's incoming class," Horwitz said.

The professors attend each other's classes, contributing to the responsive atmosphere and high energy levels. "These two weeks exceeded



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Greater Feedback In New 1L Section



Andy Alter

Prof. Todd Rakoff talks to 1Ls in Section I during a joint Friday afternoon class session.

my wildest dreams and confirmed my instincts about what good learning could be," said Horwitz.

Leaving no stone unturned, the faculty seeks to remedy the long-standing problem of poor communication and feedback between students and staff. The extra Friday

afternoon sessions are largely unstructured, open to student design for discussion of special topics, invited speakers, or simply the chance to recap the week and evince reactions from the class.

Why focus all this energy on the first-year student experience?

Structurally, the split sections in first-year classes allow for easy scheduling innovations. "We don't want to articulate the classes into five standard categories in the future — the section has unlimited potential for changes," said Michelman.

Broad Implications

Moreover, the committee report states that innovations in first-year classes may have broad implications for second- and third-year students: "First impressions . . . can convey indelible messages." Dissatisfaction and "malaise", so evident in later years of legal education, "may be traceable to first year program deficiencies."

The faculty members predict the chances for success are high as the program does not make sweeping changes in course materials. "We realized that only a localized experiment could change things substantially," explained Horwitz.

While it is too early to evaluate returns, initial student enthusiasm suggests an important future for an integrated legal curriculum.

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LR-1

The Missing Question

The administration has begun to work toward solutions of the problems underscored by the unrest of last spring. As Prof. Horwitz noted, the Law School is asking "What is Law?" because there is a crisis of legitimacy at HLS. So far, the response has been to frame a series of questions to promote the discussion of solutions. The dean has made some suggestions, but his efforts at responding to this crisis have largely been directed toward framing the issues.

As is often the case, the definition of the questions controls the answers. So far, the dean has asked: "What is Law?" (in the first installment of the "Inquiries" series), "What can we do to promote interest and intensity among 2Ls and 3Ls?" (in his speech to the faculty), "How can we correct the perception that the Law School seeks to 'steer' students into the private-corporate-law-firm career path?" (part II of the faculty speech), "How can one find a satisfying career in the law?" (morning session of the "Second-Year Saturday" career forum tomorrow), and "What is going on in legal education and how can one get the most out of it?" (afternoon session of the career forum).

We applaud the dean's efforts in posing these questions. The answers, and the suggestions that should emerge from the discussions of these issues, are of interest to all factions in the school. Nevertheless, we are concerned that one fundamental question has yet to be asked: the solutions to all of the dean's questions depend on the effectiveness with which the Law School addresses this missing question. That question is: "How should the school's decision-makers treat student ideas and proposals about the structure and function of the Law School?"

The dean noted in his speech that innovation is "often stimulated by students' proposals and reactions." This is an important insight; yet the dean must remember that the protests of last spring occurred largely because the mechanisms for obtaining student proposals and reactions are wholly inadequate. Few students question the faculty's right to make decisions, but even fewer support decisions made by a discrete and insular body.

The dean made a number of valuable and interesting proposals. We appreciate his efforts to encourage clinical education, student interest and faculty-student cooperation. Yet the dean's speech was, in the final analysis, a speech to the faculty. Few students heard the speech directly. The proposals were drafted after extensive consultation with the faculty and directed to committees controlled by faculty members.

True cooperation means cooperation in the process as well as in the results. We applaud the results; we applaud the intent; but we must not forget to pay attention to the process.

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Fenno

It was easy for Fenno to lose track of time. He was in Fenway Park, a sanctuary of timelessness, where baseball games are measured in innings, not minutes, and can theoretically continue eternally.

But when 10:00 P.M. arrived, the electronic watches worn by Fenno's fellow fans in the surrounding stands began to beep and reminded him, as Cinderella was, that there is such a thing as time. Fenno was growing older, and closer to graduation. "Why do people insist on telling me the time when I haven't asked?" he wondered.

It struck Fenno as ironic that the people who are considerate — or private — enough to keep their music to themselves by wearing Sony Walkmen — instead of carrying radios booming as loudly as sound trucks — are usually the same people who broadcast the time. "They should hook their watches up to their Walkmen and keep the time to themselves," thought Fenno.

After the game ended (it didn't last forever), Fenno waited at the T station, lost in his first memories of Carl Yastrzemski decades ago. A little man approached, pointed to Fenno's silent watch, and asked the time. "What?" said Fenno, startled back to the present. "Do I look like the Town Crier? '10:30 and all's well' — is that what you expect me to say?"

Fenno boarded the train, sat down, and ensconced himself in reminiscences of 1967, The Year That Almost Was, and 1975, The Year That Could Have Been The Year That Almost Was. A tanned woman seated next to him said, "Excuse me, do you know the time?"

"Huh?" said Fenno. "The time? Do you think I wear a watch for the convenience of strangers too lazy to do the same? Do you think I wear a watch so that you can avoid a strap mark on your tan?"

Fenno got off at Park Street and ruminated over the Red Sox's pennant chances in 1984. "Hey, man, what time you got?" a loud teenager demanded. Fenno searched his pockets till he located a dime, dropped it at the teenager's Adidas-clad feet, and said, "Call 637-1234 for the time — exactly, at the tone. And don't bother me again."

Fenno rode the T to Harvard Square, where he purchased a case of Shvesterkind Beer. As he walked home, with both arms aching from the weight of the beer, a woman called to him from across the street: "What time is it, please?"

"Go ask someone with a beeping watch," Fenno called back, out of breath. "They should be eager to tell you the time."

"That doesn't work," the woman called again. "They all wear Sony Walkmen and can't hear you when you ask."

Letters

Overblown Rhetoric

To the Editor:

The quantity of overblown rhetoric (e.g., "militant protesting," "endangering the entire social fabric," "whimsical explanation," "height of silliness," "wimps") in the letters (RECORD, Sept. 16) regarding the events of last Spring reminds one of the old adage: if you can't argue the law, argue the facts; if you can't argue the facts, argue the law; if you can't argue either, pound like hell on the table. The language used by Messrs. Malkin, Roberts, Steelman, Thrash and Todd suggests that they are reduced to pounding on the table.

T. Mitchell, 2L

You're Out!

To the Editor:

I am advised by the Registrar that Karl Ranous, '66, who claims (in the September 16, 1983 issue) to have "suffered" me in class, was never in any of my classes. (Thank G-d!) Strike one!

Nor is he correct in describing the law suit charging Cravath, Swaine & Moore with discrimination against Italian-Americans as "the only case" I have ever won. (My recent book, *The Best Defense*, describes several that I did win.) Strike two!

Finally, his description of Jonathan Cahn's (3L) moving attempt to build bridges between Blacks and Jews (RECORD May 6) as "a universal message of hatred," and his attack on the Women's Law Association reveals Mr. Ranous as the know-nothing bigot he is. Strike three!

I too wondered why the RECORD would print a letter so chock full of documentable errors and downright stupidity. But, like Mr. Ranous, I realized that it serves an important purpose — as a humble reminder that Harvard Law School does not always succeed in instilling lawyer-like qualities in every graduate.

Alan M. Dershowitz
Professor of Law

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.

Letters must be typed and received by 4:00 P.M. the Tuesday before each issue. We prefer letters of no more than 700 words.

Great Moments in the Law

End of the Line

We will try to weave into the warp of the life of this Lothario the woof of his nuptial and concubinage experiences in an effort to picture the fabric of his earthly existence. He appears to have about lived to the limit of his physical and mental powers. He was a fireman on a railroad, and, like the sailor with a sweetheart in every port, it was his desire to have one at each depot along his route. As he neared the end of life's run we find him returning to the old home, and as his engine was pulling into the terminal and its fires were burning low, sitting on his front porch, murmuring over and trying to read his Bible. That night the fires went out.

— Walker v. Matthews,
3 So. 2d 820, 821-22 (Miss. 1941)

Soap Opera

(Chief Justice John R. Brown of the Fifth Circuit, concurring in an opinion striking down a local regulation requiring the labeling of detergents, washed his hands of the matter thusly:) Inspired by the legendary valor of Ajax, . . . we have Boldly chosen the course of uniformity in reversing the lower Court's decision . . . And, having done so, we are Cheered by the thought that striking down the regulation . . . acknowledges that federal legislation has preempted this field . . .

Congress, of course, has the Cold Power to preempt . . . it is Crystal Clear that the state law must yield . . . For where Congress has chosen to fashion a regulatory scheme

that is only the *Head and Shoulders*, . . . the states have implied power to flesh out the body . . .

In making this determination, the Court is furnished with a *Lever* by our *Brothers* of the Second Circuit. *Chemical Specialties Manufacturers Association v. Lowery* . . . This is all that need be said. It is as plain as *Mr. Clean* the proper *Action* is that the Dade County Ordinance must be superseded, as *All* comes out in the wash.

— Chemical Specialties Manufacturers Assoc., Inc. v. Clark
482 F.2d 325 (5th Cir. 1973)
(Brown, J., concurring)

Justice Speaks Out

The only occasion on which an American President was "under fire" while in office was probably on 11 and 12 July 1864, when Lincoln went to observe the progress of Rebel General Jubal Early's raid on Washington. While standing on the parapet at Ft. Stevens, somewhat north of the city on the road to Silver Springs, the President and his party were twice peppered with musket balls. On the first occasion, an enlisted man standing nearby was hit and on the second, one round allegedly pierced the Presidential stovepipe. At that a young lieutenant named Oliver Wendell Holmes shouted out, "Get down, you Fool!" grabbed the President, and hustled him off to safety.

— *Strategy and Tactics*, Winter 1983, p. 18

Sports Quiz

Note: This week's sports quiz concerns athletes who have written or co-written books about themselves and asks you to identify the famous athlete as well as the title of the autobiographical work.

1. Known for his phenomenal cutting ability, this magical running back scored 22 touchdowns as a rookie for the Chicago Bears in 1965. Name this humble superstar and his touching autobiography.
2. Killed at the height of his career in a testing accident in South Africa in March 1974, this fast-lane lifer was as well-known for the glamorous life he led as for his outstanding driving ability. Name this late Grand Prix champion and the self-styled profile that he completed not long before his untimely death.
3. Though notable for his achievements on both sides of the Hudson, this Missouri

native will always be remembered for his eight seasons as a sharpshooting forward with the New York Knicks. Name this versatile athlete and the thoughtful autobiography that he penned.

4. This New England favorite, who hit 24 home runs in 111 games in 1964 at the age of 19, had his promising career shattered by a Jack Hamilton fastball on August 18, 1967. Name this fierce competitor and the story of his comeback to the major leagues in 1969.
5. A 15-year NFL veteran, this vicious middle linebacker was a big part of the Green Bay Packer championship teams led by Vince Lombardi. Name this imposing number 66 and his aptly titled autobiographical work.

(Answers on Page 12)

Snyder: Future Visit Possible

(Continued from Page 2)

the delegation was scheduled to visit Canada and several Western European countries.

Snyder, who organized the delegation's activities at the Law School, said that the Nicaraguans were scheduled to have several informal meetings with various Law School professors. These meetings were to have been followed by a reception with students in the graduate program.

No Visas

According to Snyder, who has been in contact with the State Department and the Nicaraguan Embassy, the group's visa applications were received by the U.S. Embassy in Nicaragua last Tuesday. The delegation had planned to leave last Friday night for the U.S. but was told by the embassy on Friday that the embassy had not completed processing the applications and could not issue visas at that time.

As of noon on Tuesday, the State Department said that the visa applications were still under consideration and it might issue the visas sometime this week.

Snyder said that if the visas are issued, he will try to organize another program for the Nicaraguans.

Visits by government officers and legal scholars from other countries are not unusual at HLS. The school

has had a number of visiting scholars who have spent from three months to a year or more doing research and consulting with faculty members. In addition, the school has had a number of short term visitors, recently including guests from China, the Soviet Union, Sweden, Uruguay and Canada.



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I. Adult Snoopy-2 T-Shirt. (Corresponds to "F" above) S,M,L,XL **\$9**

J. Child's T-Shirt. 100% cotton, maroon. (Corresponds to "C" above) S(6-8), M(10-12), L(14-16) **\$7**

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Sports Answers

1. Gale Sayers, *I Am Third*
2. Peter Revson, *Speed with Style*
3. Bill Bradley, *Life on the Run*
4. Tony Conigliaro, *Seeing It Through*
5. Ray Nitschke, *Mean on Sunday*

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Students Criticize Liaison Panel

(Continued from Page 2)

Dean of Students Mary Upton, however, called the panel "a wonderful idea." Upton discussed the fact that "student unrest is a considerable anxiety" for the law school faculty and administrators, and noted that "strong individualism" among the faculty causes additional internal conflicts. For this reason, Upton said, it is a plus that the new panel should have "an administrative function with no judgment."

More Than Reactive

Vorenberg voiced his personal desire that the liaison group be "more than simply reactive." Estrich, Chayes and Stewart, however, all expressed hope that the panel need not be extremely active this year. Presumably, these members would like to anticipate a minimum

of student dissatisfaction this year at HLS.

One of the first tasks the new panel will probably take on is the proposals presented in last year's Law School Council *Resolution*. This *Resolution*, which the Council submitted to the Legal Education Committee in May, lists specific changes students hoped the faculty would consider, embracing both administrative and substantive educational issues. The last *Resolution* proposal questions "the real value of a policy which allows sanctioning of students who fail to participate in class voluntarily." Though it is generally agreed that controversy over this sanctioning policy probably drew the greatest number of students into last spring's protests, Estrich, Upton, Markus and Pollack all referred to graded class participation as one of the law school's less serious problems.

Estrich commented that "graded class participation is only part of a much larger issue," which involves "what we are doing in second- and third-year classes." Estrich said that though personally she is very happy with her own students' class participation, "many students say classes aren't interesting or relevant." Liebman, Estrich, Upton and Markus all identified Law School faculty appointments as an area of continuing controversy, and said they assume the new liaison panel will be called on to help deal with this issue.

Whether or not the Faculty Liaison Panel proves effective depends to some extent, as Pollack said, on the "makeup" and "willingness" of its members. However, if the panel is indeed "just another structure," its success will also depend on the quantity and quality of student input.



Sandra Yamate

"Forum shopping" took on a whole new meaning at this year's activities fair. Once again, droves of students perambulated amidst scores of organization exhibits in search of that ideal way to eliminate free time from their schedules.

Wartime Confinement Challenged

(Continued from Page 1)

suppressed information which directly disproved the case the government successfully presented.

The Supreme Court upheld the convictions on the grounds that (1) President Franklin Roosevelt's internment orders were legitimately based on military necessity, (2) persons of Japanese-American ancestry included an unascertainable number of disloyal persons, and (3) Japanese-Americans of the Shinto religion were bound to be disloyal since their religion included belief in the divinity of the Japanese emperor.

"Enemy Race"

Government attorneys relied on a military report which concluded that the Japanese were an "enemy race." However, Irons argues that the government suppressed a pre-war study which found that less than 3% of all Japanese-Americans could be considered disloyal. According to Irons, the report noted that the most dangerous of this small minority were already in the custody of the government.

The government also claimed to have documentation of specific acts of sabotage committed by Japanese-Americans. Irons said that an investigation by the Federal Bureau of Investigation concluded there was no indication the attacks were associated with espionage activity.

According to Irons, the original U.S. brief for the Supreme Court included a footnote which referred to the FBI findings. The brief was re-printed, and the footnote omitted shortly before the brief was submitted to the court, Irons said.

Genetically Disloyal

"All this is not just a legal question," Irons said. "It is a question of real impact for Japanese-Americans who were branded by the Supreme Court as genetically disloyal."

Korematsu, Yasui and Hirabayashi are apparently the only known

Japanese-Americans who resisted the government's internment orders. Roughly 120,000 Japanese-Americans followed the orders.

"It is astounding that so few resisted," Irons said. "Generally, Japanese-Americans trusted the government. Their way of showing their loyalty to the government was to obey the orders, even though their loyalty was officially under question."

Yasui was the first person to disobey the orders. A lawyer from Portland, Ore., Yasui worked for the Japanese Consulate in Chicago but resigned his position there on the day of the Japanese attack on Pearl Harbor. Yasui believed the internment orders represented an unconstitutional discrimination on the basis of race. He purposefully violated a government-imposed curfew and asked authorities to arrest him.

Hirabayashi, a student at the University of Washington in 1942, was arrested for violation of the government's order to report to an assembly station, the first stop in the forced evacuation of Japanese-Americans from the West Coast.

California police arrested Korematsu while he was walking with his girlfriend. According to Irons, Korematsu originally claimed he was not of Japanese ancestry. Korematsu carried a crudely forged draft card and bore the marks of recent plastic surgery. He finally admitted his true identity.

All three were convicted in trials

which Irons characterized as "perfunctory." Demurrers on the ground that the trials violated due process were denied in all three cases. Korematsu further demurred on the ground that white Americans had been elevated to the status of nobility by the internment orders. That demurrer was also denied.

Irons became involved in the cases of the three men after finding the allegedly suppressed government reports while conducting research for a book on the internment cases. Irons contacted the three and offered to assist them should they wish to attempt once again to appeal their convictions.

A group of 17 attorneys, most of whose parents and grandparents were interned during the war, was recruited to work on the case. Twenty organizations have filed amicus briefs.

Hearing Scheduled

A hearing in the Korematsu case is scheduled for Nov. 2 in San Francisco. A response from the government is expected Sept. 27.

Irons said he expects the government to contest the case although there is a possibility the Reagan administration will attempt to avoid the publicity of a trial through use of a presidential pardon.

Irons said he is unsure whether a reversal on *coram nobis* grounds would affect the precedential value of the Supreme Court holdings in the internment cases since a writ of *coram nobis* challenges only findings of fact.



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Dean Targets Interest and Incentive

(Continued from Page 1)

with many different interests."

Reaction to the dean's speech in the meeting was almost nonexistent. One professor asked Vorenberg if copies of his speech would be circulated among the faculty members, and the dean said that it would be. Prof. Harold Berman thanked the dean for his insightful comments, and the "open" portion of the faculty meeting ended. The faculty then met privately to discuss appointments matters.

The dean stated that the "maldistribution of intensity and interest between the first and the last two years of a law student's program" was due to several factors, including "our own system for evaluating students' work," Law Review selection, and "the hiring system that law firms have developed — a system in which the second-year summer jobs usually lead to post-graduation offers."

Vorenberg explicitly did not recommend further study of first-year grading, in part because the issue needed to be considered along with its impact on hiring. He did acknowledge, however, that the intensity of the first year was part of the problem. Nevertheless, the dean did suggest implementing the "regular system of feedback in all first-year sections that was discussed by the faculty three years ago."

"Greater Challenges"

To increase 2L and 3L involvement, Dean Vorenberg suggested "offering greater challenges and greater variety." He stated that "[e]very student should have the opportunity to do — and to be recognized for — distinguished work of some sort." Examples of such work are third-year papers, legal methods jobs, teaching assistantships and "[c]lose work with faculty in research seminars and clinical settings." The dean felt that student journals could expand the number of student articles they publish. He also mentioned that he had asked Prof. Richard Stewart to explore the idea of a "faculty journal."

Other proposals mentioned by the dean include:

- development by the Legal Education Committee of "plans for course sequences".

- consideration of Prof. Heymann's proposal of a concentrated first semester in the 3L year.

- continued support for the development of new teaching materials, case studies, and teaching workshops, and

- exploration of mechanisms for "building students' summer jobs into the curriculum."

The dean referred only briefly to the controversial proposals to allow professors to take class participation and written or oral projects into account in grading. Vorenberg stated: "If [the Legal Education Committee] takes up the grading issue which was tabled last spring, I hope it will do so in the context of the broader goal of increased interests and incentives in the second and third years."

Should Do More

The dean made other suggestions designed to combat the "sense of many students that they have insufficient control over their futures." Vorenberg does not feel that the school does "steer" students into a particular future, but he did view the perception as a problem. The dean said that the school "should do more" to help students "understand the broad range of alternative careers that lie before them — practice in small firms, in federal, state and local government, in general counsels' offices, in legal services, in public interest firms — so that they feel they are making choices, not just following a beaten and easy track."

First, the dean said he planned to conduct a survey of HLS graduates, to learn more about "the paths [graduates] take in the years after they leave and the effects of their experience here."

Second, the dean stated that the school should create settings, such as tomorrow's "Second-Year Saturday" that engender discussion of,

and provide information about, alternative career paths.

Vorenberg's final proposal was that the school expand its clinical options. "But knowledge about alternatives derived from reports and advice is no substitute for direct experience. I would like every graduate of this school to have had a working experience representing those who need and cannot afford a lawyer. I regard such experience as important both in choice of careers, and as part of a complete legal education."

Expanding Options

The dean suggested expanding the clinical options by enlarging both the Legal Services Center in Jamaica Plain and the number of courses with "clinical variations." Vorenberg also recommended that the school expand the number of placements for students in summer jobs with government agencies and with human rights organizations. He suggested that the Financial Aid Committee "consider a pilot project to make available to those who take [public sector jobs next summer loans that will be interest free, at least until after graduation."

Dean Vorenberg was careful to note that he was not "antagonistic to private practice or in any way critical of those who choose to work in private firms." He felt that the school's focus should be on promoting "fuller understanding and greater freedom of discussion."



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'Inquiries': Students Probe and Protest

(Continued from Page 3)

The last speech of the evening was made by Professor Hal Scott who cast a view of law as a facilitating and controlling agency in the economic and social environment. As an example, he likened contract law to roads and bridges in its importance to society's economic infrastructure and pointed to several aspects of our legal system as examples that this system is not necessarily manipulative or exploitative.

How Utopias Work

Scott attacked those who argue for radical change in the legal system, saying, to a surprising amount of student applause, "It is incumbent upon such law professors to explain how their utopias will work and in detail."

While some of the student questions following the panelists' speeches discussed law as a general system, most questions concerned specific issues at the Law School.

Practice Arena

When answering a question on student participation in the school's decision-making, Bartholet said she was disappointed at the focus of student activism at the Law School. This prompted one student to ask later if she could view the Law School as a practice arena for the kind of post-graduation social activism she had advocated earlier.

When asked what curriculum changes she would like to see, Bartholet suggested a de-emphasis of corporate law, taxation, and similar courses. Horwitz quickly challenged this idea saying that there were no such things as "good guy subjects

and bad guy subjects." Horwitz pointed out that corporate law was originally conceived as a way to manage and control corporations and that it could be used for that end.

Posed the same question, Scott urged that the school offer more cross-disciplinary programs. Areeda received considerable applause for his comment that the single greatest improvement would be "more writing and more intense criticism of it."

The students and faculty attending the forum seemed pleased with the turnout, the speeches, and the discussion. Many first-year students were impressed with the candor of the panelists.

Lack of Focus

Wednesday's proceedings suffered from a noticeable lack of focus. While the initial speeches of all the panelists were concerned largely with philosophical views of the law beyond law school, student questions quickly turned to issues of curriculum, hiring practices, and the political fragmentation of the faculty. A few questions addressed to the panel went unanswered, either meaningfully or literally, as when Areeda passed (without hassle) a question on the absence of himself and like-minded colleagues from more progressive guest lectures.



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