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25 CENTS



Greg Peterson

Daniel Ortega, candidate for the presidency of Nicaragua, stands with podium guests before addressing a vocal and supportive audience.

Interview Season Descends

By Burlette Carter

The fall interviewing season has begun. More than 800 employers are scheduled to visit the Harvard Law School campus this year, most of these during the month of October.

Throughout the year hundreds of other employers from government, business, public interest organizations, and more firms will send resumes and other information about their offices to HLS.

If this year's placement activities are no aberration, Harvard Law school's students have little to worry about — if a *job* is all they want. Despite the much-heralded "lawyer glut," the placement office's success rate has continuously been in the

high nineties.

Placement office statistics for the class of 1983 (the most recent class for which such statistics are available) are telling. Five hundred twenty-three students completing a voluntary survey indicated law-related employment.

Sixty-five percent of those accepted jobs with law firms. Another 24% took judicial clerkships. Most of these will also eventually join firms.

The federal government, public interest organizations, academic jobs, and corporations took 2% each. And local government, legal services and management consulting each took 1% of the class of '83.

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Ortega Pushes Contadora Proposals

By Joe Brandolino

In a speech highlighting his government's desire for tranquility and its support for the Contadora group's peace proposals, Daniel Ortega, commander of the revolutionary Sandinista Front in Nicaragua, appeared before a packed Sanders Theater crowd on October 8. Ortega, whose talk was sponsored by the Forum and Sociedad Inter-Americana, is also coordinator of the government of national reconstruction of Nicaragua, and a Sandinista presidential candidate.

Following preliminary remarks by Raul Sánchez, 3L, and Professor Henry Steiner, author Carlos Fuentes introduced Ortega while the audience chanted "no pasarán" ("They won't pass"), a term connoting opposition to U.S. intervention in Nicaragua.

Interview with
Daniel Ortega:
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Through an interpreter, Ortega first apologized for not speaking in English. He added, however, "[T]here is a language that has no barrier, that all of us speak. . . . It is the language of love and peace."

The purposes of Ortega's speech were to offer Americans a Nicaraguan perspective on relations between the United States and the

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Black letter Journal Makes Its Debut

By Sebastian Hoppe

After a two-year uphill struggle, Lateef Mtima, 3L, and Joe Mitchell, '83, have created Harvard's newest law journal: *The Black letter Law Journal*. The journal is intended to serve as a platform to voice the "specific and unique" impact of the law on black people and in turn their "special perspectives" on the law, says Mtima, the editor. In this

not have other outlets for expression.

Two years ago the team of Mtima and Mitchell set out to publish the journal. They borrowed the notion from the Law School's "Black letter" weekly newsletter of the late 1970's: an informal presentation of news and opinions of black HLS students. Their goal was to develop a more formal and research-based journal reflecting greater professionalism.

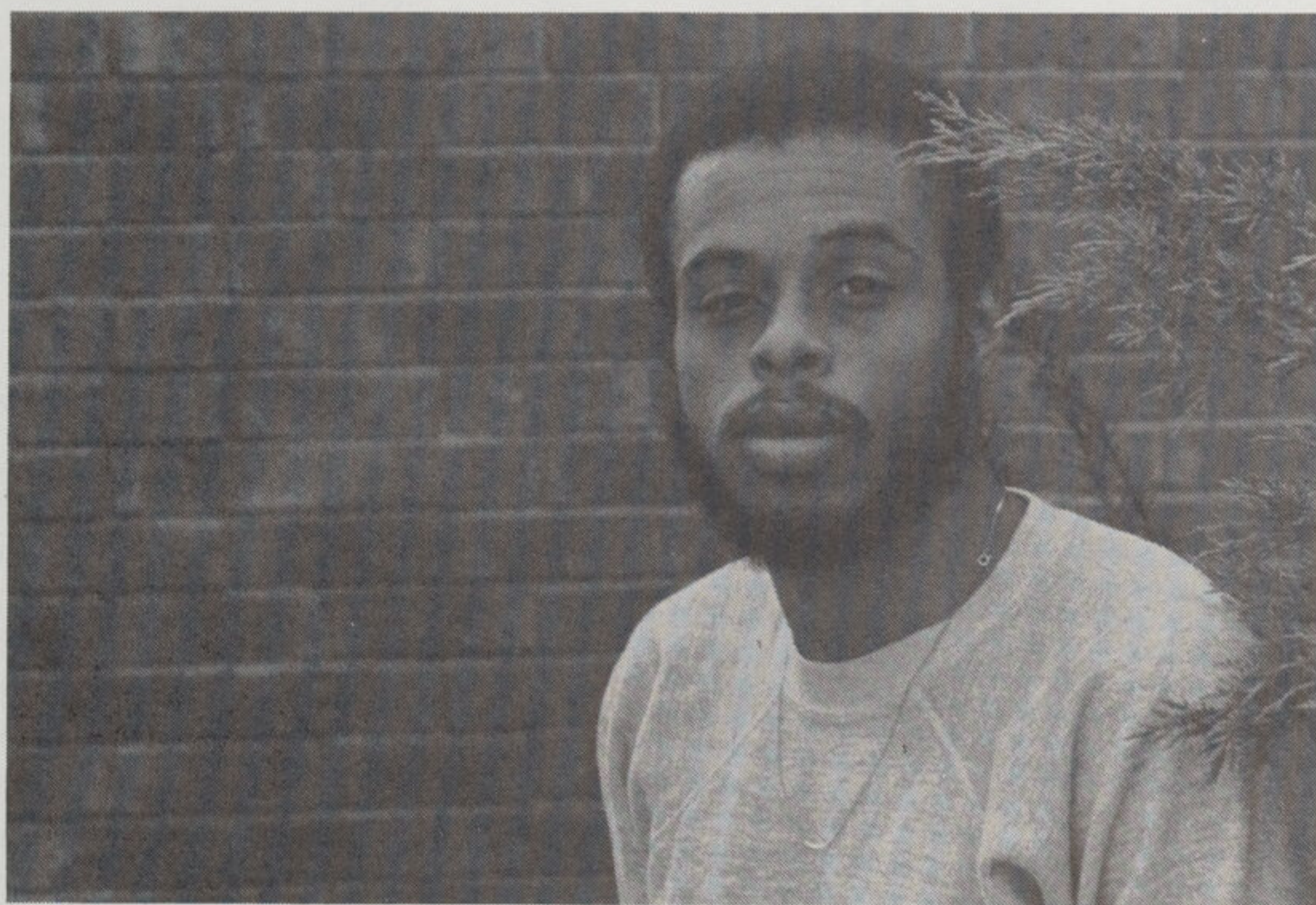
and personal resources.

This route proved long and often frustrating, almost leading both Mtima and Mitchell to give up. They were able to fulfill their dream only with mutual emotional support and the help of alumni, students and professors, especially Chris Edley. Last spring they finished publishing their first edition, which recently has been distributed.

One result of the journal's publication is the metamorphosis of the administration's earlier skepticism to "surprise" and "conditional support," according to Mtima. He and his staff of roughly twenty students are now attempting to gain the administration's full support and a permanent post in the publication center. Mtima realistically acknowledges the administration's paucity of funds, but feels that the journal offers "an incredibly vital and important perspective."

Tribute to Ferguson

The issue now on sale at the Hark is roughly 50 pages long and includes articles on affirmative action, public policy and a personal tribute to the late Professor Clyde Ferguson, a "founding father" of affirmative action under the Kennedy Administration in 1963 and a full professor at Harvard from 1979 to 1983. With the administration's support, Mtima hopes to enlarge the scope and length of the journal to include more input from students and professors. For now, however, Mtima feels "victorious" and is optimistic that the journal will thrive.



Lori Nuckols

Lateef Mtima, editor of the *Black letter Law Journal*

vein, the journal features articles focusing on laws that specifically affect blacks, such as affirmative action, but also includes the perspectives of black professors, practitioners, and students on more general issues, including abortion and consumer protection.

Mtima is quick to point out, however, that the journal is not limited to black authors, but is open to "unique" law perspectives which do

Severe Skepticism

Despite their initial enthusiasm their journal concept was met with "severe skepticism" on the part of both students and faculty. As a consequence, they received no funding, no office space, and no publication assistance from the law school. They paved their own road to publication via donations from the Alumni Association, professors,

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Faculty Forbids Recording Classes

By Norman Bay

This fall Harvard Law School announced that "individual students are *not* permitted to tape classes without the knowledge or consent of the instructors, and such approval must be obtained *in advance*." That announcement has left students both concerned and curious about the rule's rationale.

Sue Robinson, the Registrar, explained that last year several members of the faculty told Dean James Vorenberg that students were taping classes without obtaining permission. Vorenberg responded by establishing an explicit rule of prior consent.

The rule, Professor Phillip Areeda stated, "merely declares what has always been the case." Tape recording in classes has "always been up to an individual professor."

For Areeda the rule serves two important purposes. First, it "encourages students to be in class." Second, he noted that his lectures in Antitrust often contain "tentative ideas."

"When I'm ready to publish things," he continued, "I'll publish them." To prevent misunderstandings, Areeda tells his Antitrust class each year that he does not allow

tape recording.

Professor Bernard Wolfman also believes that requiring prior permission will encourage student attendance. One of his major concerns, however, is the outside "distribution of unedited remarks made by the professor." He explained that if he made an error in class today, he could correct it tomorrow. He stressed the "importance of making sure that what is distributed is accurate."

Other faculty members offer different explanations for the rule. David Shapiro, one of the professors who talked to Vorenberg last year, noted that he saw students taping without his permission. "It never occurred to me," he said, that students might do that.

Although Shapiro conceded that no one knows how often students tape record classes without prior consent, he fears that taping "discourages openness and informality." Someone might think, "maybe everything I say will be recorded." That inhibiting effect would prevent the class from having "as informal and as open an exchange as possible."

Shapiro added another reason for the rule. He believes that a student who asks someone to tape class is

"taking, not giving" in the exchange of ideas. Someone who routinely taped would "opt out of a significant part of the educational process."

Although one "can question the merits of the rule," Shapiro has no doubt of its validity. As a matter of "intellectual freedom," a professor should be able to control tape recording.

Moreover, an announcement by the school at the beginning of each year is "the most reasonable starting point." Finally, Shapiro concluded, even if a professor prohibited taping, "a student would not be rendered helpless," but could borrow notes.

Other Schools

Nevertheless, whatever the validity of the rule, it appears that other law schools leave the matter to an individual professor's discretion. Margaret Jane Radin, a visiting professor from U.S.C., and Theodore Eisenberg, a visiting professor from Cornell, both noted that their respective schools lack an official pronouncement.

At U.S.C., Radin explained, taping is governed by "informal custom more than anything else."

"Courtesy," she stated, "requires that permission be asked." She believes that "professors should grant permission as a matter of course, subject to certain conditions." Students must not only erase the tapes after using them, but must record in "good faith" as well. They cannot resort to taping as a means of avoiding classes. The tapes must also be intended for personal use only.

John Kaplan, a visiting professor from Stanford, allows his students in Evidence to tape classes without asking for prior permission. "It doesn't bother me," he said. He believes that "by and large a professor should allow students to record."

Kaplan insisted, however, that a faculty member has the right to say "no". "It's up to individual professors." When asked whether Stanford had a formal rule requiring prior permission, he replied, "that's not how we do things."

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Professors Applaud Experiment's Success

By Sebastian Hoppe

Professors of the experimental 1L section match their students' enthusiasm in praising its innovative approach to legal studies. Based on the results of last year's section and the initial exuberance displayed this semester, Professor Rakoff concludes that "what we are doing is right." Professors Michelman and Chayes also are pleased with the results; Chayes comments that his enjoyment from teaching is "doubled in spades from the experimental section."

According to Michelman, major improvements and changes from last year's experimental section include a stronger effort, wholly apart from the bridge periods, to coordinate the courses throughout the year. As Michelman explains, the professors have "mapped out" how the material should be discussed so that students can progressively acquire a global perspective on the law.

This year the curriculum also includes an introduction to Property in the fall, intended to provide a perspective on Property law in treating the other core courses: Criminal Law, Contracts, Civil Procedure and Torts.

A new "intensified" Legal Methods section under the direction of Chayes serves two major purposes. Some civil procedure material will be presented in Legal Methods in order to provide class time for Property. In addition, Legal Methods will embrace a "more advanced" practical component, says Chayes. Students, grouped in teams of four, draft complaints, interrogatories, and motions.

Joint Offerings

New topics, such as Law and Economics and Jurisprudence, will be discussed in the "bridge periods". These one or two-week long sessions encompass a "joint offering" on historical, social, economic and political

perspectives on the law. There will also be a new three-day segment on precedent and the relation between fact and doctrine. In these bridge periods all professors attend and participate in classroom discussion.

A greater effort is being made to get professors and visiting faculty to discuss their different perspectives on the law during the Friday afternoon extra meeting.

But these changes do not benefit only the students, the professors assert. Michelman maintains that

the collaboration helps the professors as well.

In agreement, Professor Rakoff claims that both the students and professors gain a broader outlook on the law from the coordinated focus of the experimental section. Professor Nesson, a new member to the team, sums up the team's optimism: "I have enjoyed it tremendously. The amount of collateral support is a tremendous plus."

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BAR REVIEW

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Legal Historian Returns to HLS

By Susan Gilles

William (Terry) Fisher, '82, returns to HLS this year as an Assistant Professor.

Fisher was born in Portland, Maine in 1953. Although his family, which he describes as upper-middle class, traveled quite a bit, Fisher spent most of his childhood years in New England. His father was a lawyer, a fact which Fisher feels may have biased him against a legal career.

Fisher received his undergraduate degree in American Studies from Amherst in 1976. He initially entered Amherst to study psychology and English literature, but by the end of his sophomore year he found these studies unsatisfying.

His response to that dissatisfaction was to take a year off. He traveled in the U.S. and Europe, and worked for a time canning salmon in Alaska.

His experiences during that time helped him realize that his interest lay in the study of "the condition and development of American culture." After returning to Amherst, Fisher directed his energies toward a major in American Studies.

Graduate Studies

Upon graduation, Fisher found himself unable to choose between history and law. He applied to several universities to do graduate degrees in both.

According to Fisher, Harvard was "unusually obstinate," refusing to allow him to apply to two graduate

schools at the same time. However, Fisher "took the gamble and came to HLS."

In the middle of his IL year a determined Fisher applied to the History of American Civilization Department of Harvard University. For the next five years Fisher interwove courses in law with those in American prose, registering one year at the Graduate School and another at the Law School.

Fisher said that the HLS Administrative Board, which oversees "curious degrees," was "flexible" and "generous", and allowed him substantial cross registration.

After his first year, Fisher was invited to join the *Harvard Law Review*. The invitation was based on his first-year grades. Initially Fisher deferred. Later, he declined to join the *Review's* board of editors.

As a student Fisher was affiliated with the Conference on Critical Legal Studies. He admits he still feels somewhat closer to those on the "left" of the faculty.

However, Fisher says that he is not presently aligned with any faculty faction. He observed, "In general I have a sense that teachers here spend too much time worrying about internal politics."

History Expertise

Fisher has a special interest in legal history. He said that interest was sparked by HLS Professor Morton Horwitz and Harvard University Professor Bernard Bailyn.

His interest in that subject is so strong that he says, "I would not have come to a school to teach had they not allowed me to teach Legal



Lori Nuckols

Assistant Professor Terry Fisher

He explained, "I preferred to put my time into teaching and scholarship rather than working on the *Review*".

Following graduation, Fisher clerked for Judge Harry Edwards of the U.S. Court of Appeals for the D.C. Circuit. That clerkship he followed with another, clerking for Supreme Court Justice Thurgood Marshall.

Fisher said that he has "a lot of respect" for both of those men: "I learned a lot from each of them. . . ."

History". His dissertation, on which he is currently working is entitled, "The Development of Property in American Law and Politics."

Fisher teaches two courses related to his area of expertise: a 1L Property class in the fall term, and, in the spring, a 2L and 3L course in American Legal History.

Fisher says he wanted the opportunity to teach a first year class. "It is a real advantage to get students while they are fresh, inter-

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Vorenberg Reflects: Demonstrations,

Running a law school is no simple task. Last week RECORD Editor-in-Chief Steve Cowan sat with Harvard Dean James Vorenberg to discuss the dean's perspective on the challenges of his job. Following are some excerpts from that interview.

RECORD: What are the changes you have been the most happy with at HLS in the last few years?

VORENBERG: I guess the things that I feel best about have to do with the teaching program. Something we have achieved for the first time this year . . . that we have been working on over the last three years . . . is trying to give every student a small section in the first year . . . which [is] something we now hope students will begin to take for granted. . . .

I think we've made progress on feedback in the first year. Again, three years ago we set certain specific standards of the feedback every first year student should get from one or more of his or her sections . . . and we were able to achieve that last year.

And the third is the experimental section.

"I guess if I stand back and say, where do I think the accomplishments have been in the last few years, I think they've been [in] the most important part of my job, which is to try to make the teaching program better."

RECORD: How do you feel it's going at this point?

VORENBERG: As far as I can see, judging from what the students and the teachers say, it seems to be successful.

RECORD: How do you envision institutionalizing it?

VORENBERG: It's a real problem. One possibility would be to see if we could go from one section to two sections with a total integration of all five courses in those sections. The other way would be to say, "let's try to apply some of the values that we have developed in that experimental section in all sections, but not necessarily across the board".

RECORD: Do you, at any time in the future, see this as the teaching

method of Harvard Law School?

VORENBERG: I think it's much too early to say. For one thing I think a lot depends on the judgments of the people who are teaching in the first year at any given time.

In the clinical area it seems to me we have this year done what we have been trying to do for several years and that is establish a stable working arrangement with Greater Boston Legal Services. . . . We've signed a three-year contract [that will] give us the capacity to have . . . at least a hundred and sixty students out there a year. That represents almost a third of the students in the class. And we've just started this year the beginnings of what may be a similar arrangement with Cambridge-Somerville Legal Services, which is a lot closer to home. So those seem to me to be accomplishments that we should all feel good about.

So I guess if I stand back and say, where do I think the accomplishments have been in the last few years, I think they've been where what I think is the most im-

portant part of my job, which is to try to make the teaching program better.

One last thing which in a way relates back to . . . the experimental section. Next year we're going to have in the third year a[n] integrated semester where Bob Clark, Al Warren and Hal Scott are going to take corporate finance, corporate tax and commercial law and teach it as an integrated course. So that students will take basically that [as the] central course in one of the two semesters.

RECORD: What about in terms of the substantive evolution of the curriculum? Has there been any, and do you think that any is necessary?

VORENBERG: Yeah, I think it's important adding new courses as . . . some strong interest develops among the students or among the faculty and we've done that.

A couple of examples . . . this year we're offering the course on racially motivated violence: a very important subject right now in this country. We're offering for the first time . . . in its present form an immigration course including some clinical placements. Again you don't have to do more than look at what's going on in the country to see why that's important. I think in general our curriculum has been enormously broad-gaged. . . . That is, it's not focused only on private issues or only on public issues or only on clinical issues. . . .

RECORD: In light of the fact that 65% of the class go to private firms and another 24% take clerkships, many of whom will eventually end in firms, are you concerned with this, and is there anything the present administration wants to do in order to alter this?

VORENBERG: I am concerned. Not so much that they're going there but that I think that people have a sense that they don't have other choices. One of the reasons we developed this loan program for public interest, one of the reasons we have this so-called low income protection plan is not that we're trying to tell students you should go to a public interest firm or you should go to work for the government. We're trying to say you've got a choice. It's your choice. It's not the curriculum. It's not the money. It's your choice.

RECORD: How do you plan to assist people in making these informed choices?

VORENBERG: What we've done, . . . and I give David Smith great credit for it . . . , is organized a set of evening panels with people from government, small firms, public interest firms . . . international agencies . . . just to expose our folks to these alternatives.

We've also built up the public interest part of the placement office. . . . Any good idea that anybody has

S, *Developments, and Destiny*

to expose students in this school to more public interest and governmental jobs, I will support.

RECORD: Have a certain number of the ideas that you've used in the past for this sort of thing come from students?

VORENBERG: Absolutely ... some of the best ideas have come from students.

RECORD: In the last couple of years there has been some expressed desire on the part of at least a part of the student body that the composition of the faculty change. Do you have a sense that that is taking place at an accelerated pace?

VORENBERG: Well, if you're talking about adding more women to the faculty, certainly in the last few years it has happened at an accelerated pace, but certainly not as quickly as one might hope. If you compare the situation now with the situation five years ago, we're certainly making progress.

With minorities I think we have made some progress, but we've also suffered a terrible loss when Clyde Ferguson died last year. We are working on that and my hope and expectation is that it will improve but that it will be slow.

RECORD: Implicit when you say "not as fast as one would hope" and that the improvement will be slow

is that you feel these changes are good. And you say that it's accelerating to some extent. Do you think then that the various demonstrations of student discontent have been a positive thing on the whole?

VORENBERG: Well, this is a hard question to answer. I don't think that they have been the moving force. The moving force on this issue has been the clear need to broaden the base of this faculty. The students have recognized it.

"We're trying to say you have a choice [of career opportunities]. It's your choice. It's not the curriculum. It's not the money. It's your choice."

The faculty has recognized it. ...

RECORD: Do you think that the acceleration which has occurred is attributable at all to the students' relatively clear expression of their desire for it to change?

VORENBERG: I think ... it's very hard for me to say. But I think I'd have to say I think the answer to that is no. But I think others might disagree with me on that. In any event, we have a long way to go.

RECORD: How does the outlook look for the relatively near future?

VORENBERG: I guess I would

describe myself as guardedly optimistic. I think there are more outstanding young minority lawyers in teaching or considering teaching ... than [in the] past and I think that's a strong plus.

RECORD: Do you have a date when you think a concrete addition may occur?

VORENBERG: No.

RECORD: You say that input from students has been helpful in some areas, for instance in methods to

publicize public interest support. Do you think that that is evidence in any way that perhaps students might be useful on committees from which they have heretofore been excluded?

VORENBERG: I have a feeling we're getting back to time-worn issue number sixty-seven B. ... I think students have been very helpful on many committees. I think there are some committees, specifically the faculty appointments committee and the admissions committee where I think the balance favors the arguments against student membership. On those issues I think there are opportunities for students to express their views.

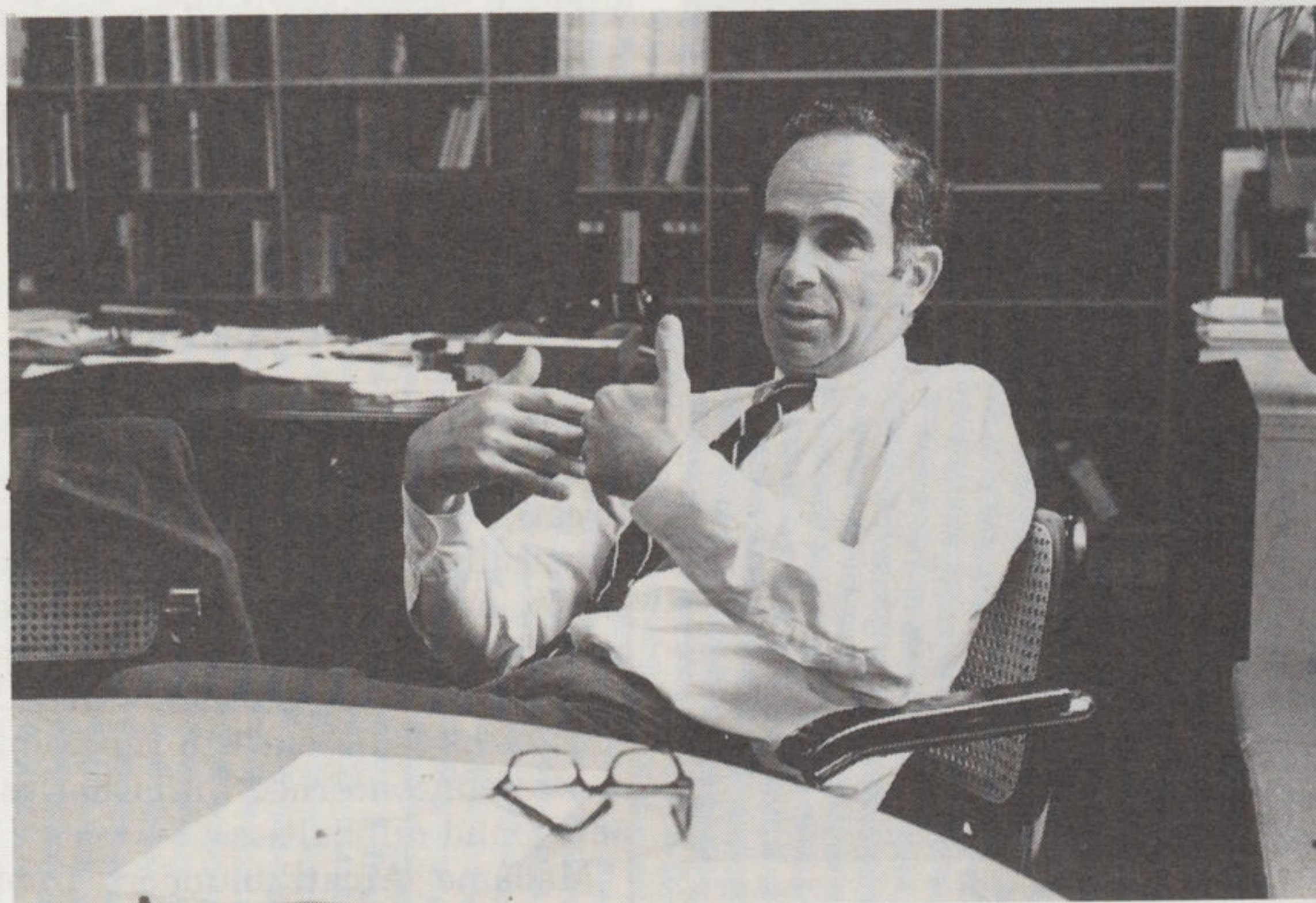
And I feel like a broken record.

RECORD: What do you think of as the three greatest challenges, or things you would like to change most about Harvard Law School?

VORENBERG: Well, I think at the very top of my list would be to find more ways to make the second and third years as intense a pedagogical experience or as close to it as possible as the first year. ...

Second, I would like to see us broadening the base of the faculty to diversify. But also to continue to attract here a continuing line of the leading scholars in their field.

High on my list ... in addition to what goes on in class in the sec-



Dean James Vorenberg ponders recent changes at HLS.

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Blithe Spirit

Vincent Chang

"Would you say the evening was a success?" asked Charles Condomine, the protagonist of the HLS Drama Society's newest production, *Blithe Spirit*. The reply of Condomine's second wife Ruth — "it was extremely funny at moments" — accurately describes *Blithe Spirit*.

Opening last night in the Ames Court Room, Noel Coward's *Blithe Spirit* is a revival of the 1941 Broadway hit. The play is set in the Condomine's house in Kent, England during the 1930's. Condomine and his second wife, Ruth, invite a local psychic, Madame Arcati, to hold a seance in their home so that Charles can gather material for a mystery he is writing about a homicidal medium. To everyone's shock, Madame Arcati calls back the ghost of Charles' first wife, Elvira, during the seance. Only Charles can see and hear Elvira, who proceeds to complicate Charles' and Ruth's lives. Accidents begin to occur in the household, and Ruth

realizes that Elvira is attempting to reunite Charles and herself by killing him off. The rest of the play is devoted to resolving this uneasy situation.

Complex Story

The play moves rapidly and smoothly after a confusing opening act, one which seems to plunge the audience into the thick of the plot without providing a life raft of sufficient background. But once the viewer becomes acclimated to the American adaptations of British accents and to the complexities of the story line, he can enjoy the richness and humor of Coward's script.

Director Vic Patrick, 3L, describes the focus of the play as Condomine's feelings towards his two wives and his "inability to resolve his conflicting emotions." The production skillfully and effectively deals with this conflict, deftly handling the scripts' ironic quips.

Edward Murray, 3L, plays Condomine, a roguish, but insecure, character who is tortured by the fear that his two equally imperious

wives will dominate him — even from the grave. Murray effectively portrays Charles' desperation and anguish, sprinkling outbursts of false machismo throughout to show the character's dual nature.

Confused Wife

Andrea Stang, 3L, plays the female lead role of Ruth, the second wife. She also produces the play. Stang has been a mainstay of the Drama Society for the past two years and claims that "the acting role is what I really enjoy."

In this role, Stang (Murray's spouse in real life) turns in a solid performance. She portrays an emotional and intellectual woman who is understandably distressed by the presence of Condomine's first and more sensual wife.

As Ruth, Stang's emotions fluctuate between fury at her husband's toleration of Elvira's presence and sympathy for Charles' emotional plight. Like Condomine, Ruth comes off as a complex multi-dimensional character.

Elvira, on the other hand, is a transparent character lacking depth — not surprising considering she's a ghost. Laura Bender effectively plays the surly and childish first wife who torments the Condomine household, playing on Charles' frayed emotions in an attempt to triumph over Ruth, and constantly schemes to disrupt the relationship between Charles and Ruth.

Obsessive Medium

Debby Goosenberg, 1L, is a delight in her portrayal of Madame Arcati, the mystic and the most intrinsically funny character in the script. Arcati is obsessed with the other world ("I had my first protoplasmic manifestation when I was 4 1/2 years old") to the point of being unconcerned with Charles' new-found difficulties.

Madame Arcati blunders from seance to seance, conjuring up new spirits when she tries to send old



Teri Miller

Andrea Stang and Edward Murray, 3L's, look on as Debby Goosenberg, 1L, awakens the dead.

'Blithe Spirit': Hauntingly Humorous

ones back. Disbelief in the supernatural is somehow displaced by good humor as Goosenberg succeeds in conveying the gypsy-like qualities that one would expect in a mystic.

Patrick claims that *Blithe Spirit* was chosen because of its emphasis on "male-female relationships" and because of the renewal of interest in Noel Coward, a revival manifested by recent major productions of Coward's *Private Lives* and *Present Laughter*.

According to Patrick, *Blithe Spirit* represents the Drama Society's desire to move away from producing

merely "legally-related plays". Patrick claims that HLS students appreciate shows of more generalized, topical interest.

Continuing Entertainment

Blithe Spirit represents an ongoing Drama Society commitment to provide what producer Stang terms "good entertainment for the law school community." Besides *Blithe Spirit*, the Society has already completed casting for *Just Desserts*, a musical revue which it will present November 7-9. The Society's principal show for this year will take

place in the Spring. The Society hopes it will be what Patrick calls a "big time production" with a budget of \$3000.

In the meantime, however, tickets for *Blithe Spirit* will be available in the Hark from 11 AM until 2 PM today or at the door. Tickets are \$3.00 on Thursday and \$3.50 on Friday and Saturday. Stang described current ticket sales as "average," but warned that playgoers should buy their tickets (especially for the weekend shows) early to guarantee obtaining good seats.

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Sports Quiz

This week's sports quiz asks its readers to name these athletes whose last names are those of present or former members of the Supreme Court.

1. This Los Angeles Dodger led the team in home runs this year with 21 and is already considered one of the top right-fielders in the National League. Name this former minor league player of the year who gained attention by dating the lead singer of the Go-Gos.
2. Probably best known for his miracle catch against the Dallas Cowboys in the 1981 NFC Championship Game, this San Francisco 49er wide receiver caught 70 passes last year for 840 yards and 8 touchdowns. Identify this 3-time All-Pro wide receiver.
3. A former North Carolina Tarheel star, this player is now averaging 20.4 ppg over 7 years. Name this 1976 Olympic gold medalist who made the difficult

transition from forward to guard for the Phoenix Suns.

4. Winner of the 1983 N.C.C.S. MVP while a member of the Philadelphia Phillies, this outfielder helped his new team win its first championship in 39 years with a .291 batting average including a league leading 104 walks.
4. This Rhodes scholar set an NCAA record with 46 points against Michigan in the NCAA Tournament and later helped the New York Knicks to 2 NBA championships. He is now a public servant in Washington, D.C.
6. A graduate of Yale Law School, this University of Colorado All-American won the NFL's Rookie of the Year Award while a member of the Pittsburgh Steelers. Today he is a prominent lawyer in Washington, D.C.

(Answers on Page 20)

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Placement Staff Laments Neverending

(Continued from Page 1)

Statistics for the 2L class of that year are not much different. Five hundred twenty-nine reported working during the summer. Law firms employed 89% of these students.

Three percent worked with the federal government while 4% worked with public interest organizations. Legal services and corporations employed 1% each.

It is an educated guess that most of those who did not take time to complete the survey probably also were employed in law-related jobs.

Neverending Season

For most 2Ls and 3Ls the placement season begins with fall interviewing and ends with a job acceptance not long after. However, for placement director June Thompson and her staff, the season is neverending.

Throughout the year, the placement staff is in touch with employers, gathering information and attempting to match students with the kinds of jobs they desire. Additionally, the staff provides counseling services to students who want jobs which are "hard to find" and students who simply don't know what they want.

The fall season is the most active one for the office. Seven out of every eight visitors are law firms.

The limited budgets of government and public interest organizations usually cannot support large recruiting efforts, and only organizations like the firms, with vast resources, can predict and respond to their employment needs a full year in advance.

Thus, public interest and government organizations usually don't seek new employees until spring. Around that time the office sends out about 4000 questionnaires to such organizations soliciting information about their work and their employment needs.

Conducting the Symphony

Preparation for the fall season begins in the preceding winter. Thompson and her staff send out forms soliciting information from employers who wish to visit the campus.

Using this information, the office puts together the employer directory for students.

Working through the summer the staff prepares student placement packets. Each 2L and 3L desiring to interview receives 25 computer cards, an employer directory, the dates specific employers will arrive, and literature about placement procedures and career planning.

Students may sign up for as many interviews as they desire by submitting a computer card and a resume for each employer before an established deadline.

But signing up early for an interview does not assure a student preference. A computer generates the randomly selected list. However, Thompson said that rarely are students denied interviews for which they have signed up.

Orchestrating this fall placement symphony is a 16-year-old computer program which Thompson calls "one of a kind." The computer matches up students with employers, considering such variables as geographical preferences, the number of interviews the student has signed up for, and, of course, class schedules.

The computer also produces a waiting list of students not selected. However, late sign-ups and cancellations must all be done by hand.

Upon being notified of how many students have signed up, employers respond by sending as many interviewers as they desire.

The interviews are then scheduled according to the computer's random selection. Student resumes are sent out along with an interview schedule and a waiting list.

The placement staff helps employers locate available rooms on the HLS campus where interviews may be held. They also inform em-

ployers of other possible locations in the Cambridge area.

But employers are on their own when it comes to accommodations. Similarly, the office is not involved in arranging the various receptions hosted by employers upon their arrival. The office does, however, serve as an information center for those planning such events.

Class Struggle

Despite the computer's refusal to schedule an interview during a student's class, interview season nevertheless manages to cause some disruption. There is a point in the season when all of HLS seems to be flying out to visit firms.

This "disruption" has led the powers that be to establish a relatively late interviewing season. By the time Harvard rolls out of bed to meet employers, students at Columbia, Duke, Stanford, Vanderbilt, and Yale, (to name only a few) are bidding "good-night" to the season.

Harvard also has no morning interviews. Meetings begin in the afternoon and continue until well after the sun sets — or until the interviewer drops from exhaustion.

Most other schools allow employers to pick interview dates. Not Harvard. Because of the large number of employers visiting, the school assigns dates on a rotating basis.

Also unlike many schools, Harvard does not allow interviewers to preselect from the list the applicants to whom they wish to speak. It's an all or nothing proposition.

No Discrimination

All employers who visit HLS are bound by its rules and regulations. The most significant of these requires adherence to HLS's non-discrimination policy.

That policy, which is printed on almost every communication sent from the law school states: "The Harvard Law School has long been committed to a policy against discrimination in employment based

on race, color, creed, national origin, age, sex, sexual orientation, marital or parental status, handicap or status as a Vietnam era or disabled veteran. Accordingly, the School's facilities are available only to employers whose practices are consistent with this policy."

HLS placement rules and regulations are also included in a booklet sent to employers before their visits.

Although HLS does not require employers to sign a statement, the rules are not made to be broken. The placement office encourages students to report any incidents which disturb them.

Most complaints are handled informally. Thompson generally calls up the employer to discuss the matter. However, students may choose to file a formal complaint with the placement committee.

Thompson said that the office gets very few complaints about student rudeness. The most frequent complaint from employers concerns the failure of some students to show up for an interview or to cancel properly.

Thompson keeps track of such reports and sends letters to those students. Any student who is twice so reported loses placement office privileges.

Want a Job?

HLS students do receive rejection letters. But they also do get jobs.

Thompson said that this is true even of those who seek jobs in the tight public interest market.

But she admits that every year, for various reasons, there are some students who must look harder and longer than others for employment.

Yet she encourages students to come in and talk with the advisors and counselors in the office. "We're here to help and we want students to know that."

Note: This is the first in a series of stories on placement at HLS.

HLS Limits 1L Interviews

By George Golder and
Burlette Carter

First year students have traditionally been discouraged from seeking summer jobs before March 1. The Harvard Law School placement committee has this year opted for stricter enforcement of that rule, now backing it with the possibility of Administrative Board action against violators.

An August 30 memorandum from the placement office to first year students stated in part: *"Because the interviewing facilities of the Placement Office are fully engaged in serving second and third year students during the fall and because the faculty believes that first year students should be giving highest priority to their introduction to law study at that time, the Dean and the faculty have established a policy that prohibits employers from arranging interviews or informal meetings with 1Ls in the Cambridge area before March 1."*

"We have told employers that they must turn away any first year students who may ask to meet them during a break, early in the morning or late at night and that any first year student seeking them out is violating a rule of the School. Students violating this rule may be subject to disciplinary action before the Administrative Board."

In a later memorandum, the placement office again reminded 1Ls of the rule: "First year students are not to attempt to contact employers while those employers are here in Cambridge to interview 2 and 3Ls."

The broadest reading of the rule as it has been presented to first year students would prohibit first year students from interacting with any employer who is in Cambridge even if the meeting occurs off-campus in a non-university place and even if those employers do not use HLS place-

ment services.

A narrower reading is that the rule only applies to meetings which are constructively "interviews" and/or that it only applies to employers who are in Cambridge at Harvard's invitation.

Regardless of the reading one chooses, it is clear that the rule is an attempt to expand HLS jurisdiction over placement activities beyond the campus and into Cambridge.

Director of Placement June Thompson told the RECORD that the committee will most strictly enforce the prohibition regarding first year students attempting to interview with those employers who are in Cambridge by invitation of the placement office.

She stated, however, that non-business meetings, such as where the student meets an employer to renew a friendship, are not intended to be covered by the rule.

Firms involved in such prohibited interviews may also receive sanctions. However, Thompson said that the issue of firm sanctions has not yet been fully addressed by the committee. She suggested that such problems will probably be handled on "a case by case basis."

First year students are clearly confused about the limits of the rule. When asked by the RECORD some students said the rule prohibited any contacts with firms in the area, including attendance at receptions.

Others stated that the rule does not bar attendance *per se*; however, it does bar an "interview" at the functions. Many of these students indicated they had already attended several cocktail parties and had enjoyed them.

Most, however, seemed unconcerned and many assumed that it is the same rule which has always been applied to first year students.

(Continued on Page 19)

Incomplete Transformation

Each year, at this time, HLS students face an array of choices which are unavailable to most law students. At Harvard Law School, we have the unusual opportunity to mold the contours of the employment we're offered.

The now hackneyed pronouncement by most firms of their encouragement of pro bono publico is largely the result of demands from preceding generations of law students. Employers bidding for the services of well-credentialed young attorneys have demonstrated a marked willingness to present their aspirations regarding public service as an integral element in their firm image. Each firm's resume manifests the articulation of that image.

Those students who feel tension between a desire to work selflessly in the public sector and a desire to work for material gain, may attempt to reconcile these divergent ambitions.

Through asking these firms questions about pro bono policies as well as hiring and partnership decisions for women and minorities, we will remind firms that these issues remain important concerns which they must address and with regard to which progress is essential. Not only our ultimate decisions, but also the very questions we ask in interviews affect the topography of our profession. In short, each question raised and decision made by a student at HLS affects how law firms will recruit in the future.

Often, a firm's dedication to pro bono is no deeper than the advertisements in their resumes. Nonetheless, while today we are reaping the benefits of our predecessor's demands, the transformation remains incomplete. In order to make this metamorphosis more thorough, we must continually reiterate their demands.

By inquiring of each firm its policies and by eschewing those firms whose statements prove a shallow veneer, we will continue to promote this evolution, and will help to expand the range of options.



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Fenno

"Okay women and gentlemen," the Professor announced, "let's take a ten minute break and resume class at 3:13 and 49 seconds."

Fenno awoke thinking class had ended. Elated at the prospect of leaving, he gathered his books and multi-colored pens and started to get up.

"Hey, wait, where are you going?" asked the attractive woman sitting next to him. "Class isn't over yet; it's only the break."

"Oh God," moaned Fenno, "another hour of price fixing." His disappointment was quickly overcome, however, with the thought of making a new friend. "I don't think we've been introduced. My name is Fenno."

"Oh yeah, I've heard about you. You're the one who has been around for a lot of years," she said abruptly. "I'm going to get a Coke, do you want me to bring you back one?"

"Gee, that would be swell," said Fenno bashfully.

Before he could get the change out of his pocket, she was on her way.

Fenno sat and thought about what to say to his new friend when she returned. She surprised him by walking up behind him with two white and red-striped cans.

"Hey, what are those?" inquired Fenno. "Have they changed the design of Coke cans?"

"No, these are Diet Cokes. Everyone is drinking them," she explained.

Fenno looked around the room. Sure enough, loads of people were drinking Diet Coke. And Diet Pepsi. And Sugar-Free Dr. Pepper. And One-Calorie Canada Dry Ginger Ale.

"But still . . . Diet Coke! I hate those sugar-free drinks," exclaimed Fenno.

"Just try it; it tastes good and it might keep you awake during class. Besides," she added, "you look like you could stand to lose a few pounds."

Fenno was devastated. He knew that the years of *Three Aces* had taken their effect, but he didn't think it was *that* noticeable.

Fenno spent the second half of the class self-consciously sipping his Diet Coke, gradually reassuring himself that his maturing belly was not that pronounced.

On the way home Fenno decided to stop to get something to eat at the Spa. The only things he saw were Sugar-Free Jello. And "Light" Potato Chips. And Diet Ice Milk Imitation Ice Cream Bars. He flew out of the Spa and ran to his favorite Somerville pub.

"Gimme a nice cold, frosty brew," beamed Fenno as he sat down on an empty bar stool.

Glancing at Fenno, the bartender asked, "Shall I make it a Light?"





Letters to the Editor of the Record

Kennedy Misquoted

To the Editor:

In an otherwise useful and accurate cover article (on October 5) on Reverend Falwell's speech at the Harvard Law Forum, the Harvard Law RECORD strangely and dangerously misquotes Senator Kennedy. The RECORD article says that the Senator recently "described issues where liberals confront the Moral Majority as 'an arena of combat between the forces of light and the forces of darkness.'" In fact, Senator Kennedy said precisely the opposite. I quote his speech in New York City on September 11, 1984:

"To stay the hand of mutual intolerance requires first of all a recognition that our political process is properly an arena of disagreement among people of good will, but it is not an arena of combat between the forces of light and the forces of darkness. The choice we face is between Democrats and Republicans, not between good and evil".

It is a disservice to the Senator's thoughtful remarks and to your readers to place Edward Kennedy in the camp of those who denounce their opponents as intolerant and equate today's controversies over religion and politics with apocalyptic battles for the mandate of Heaven.

I do not question the intentions of the Harvard Law RECORD or of the article's author but write simply to set the record straight and to remind those who wield the power of the press that they bear a heavy burden of responsibility when, however unintentionally, they distort the truth.

Laurence H. Tribe
Tyler Professor of Constitutional Law

Repression Issues

To the Editor:

Last week's whining editorial entitled *The Tradition Continues* should embarrass even the RECORD. Does the editor really go to the same law school as the rest of us?

The RECORD would have us believe that the fact that Harvard has only 35% women while Yale has 39% "reflects a traditional attitude of hostility toward women. . . ." The reality of the situation is that female students at HLS are treated the same as their male counterparts — neither better nor worse. The law school is remarkably free of sexism — something the legal profession cannot yet boast. Harvard Law School seeks, evaluates, and rewards merit, and will not discriminate on the basis of a person's sex, race or religion. Let's keep it that way.

Every woman who was admitted to HLS got here on merit, hard work, achievement and the potential to be a good and contributing lawyer. The RECORD apparently would like to forego this policy and degrade the achievements of the men and women who are here by instituting population-based quotas. Such unthinking sexism furthers the

interest of neither women nor legal education in general.

The students of HLS and its captive alumni can only hope that the RECORD will wake up and stop creating weekly "repression issues" to fill its expanded pages.

Paul Cappuccio, 2L

Clothing Drive

To the Editor:

With the onset of the cold weather, the HLS Christian Fellowship, Catholic Student Group, and Jewish Law Students Association are sponsoring a clothing drive to help those in need. The clothing drive is presently in progress and will continue until October 18.

We will be donating the clothes that we collect to several agencies and shelters in the Greater Boston area. We have chosen these outlets specifically because they will distribute this clothing free of charge.

Although we can use all the clothing donated, we are especially in need of such articles as hats, gloves, sweaters, coats, shoes, and underwear.

At a time when most of us are looking through our wardrobes, it would be helpful if people could bring any clothes that they are no longer wearing to the Hark during this drive. The clothes should be deposited in bags that are clearly marked "men's" or "women's."

We hope that the RECORD will print this letter so that the law school community will become more aware of this important project. Thank you for your help and concern.

Jeff Meyer, 3L
HLS Christian Fellowship
Rich Bozzelli, 3L
HLS Catholic Student Group
Don Robinson, 3L
Harvard Jewish Law Students Association

Letters Policy

Although we do not usually respond to letters, or acknowledge their receipt, we strongly encourage our readers to write expressing their views. We print most of the letters we receive, subject to editorial discretion and space limitations. Short letters are the most likely to be printed, and we reserve the right to edit any letter we receive.

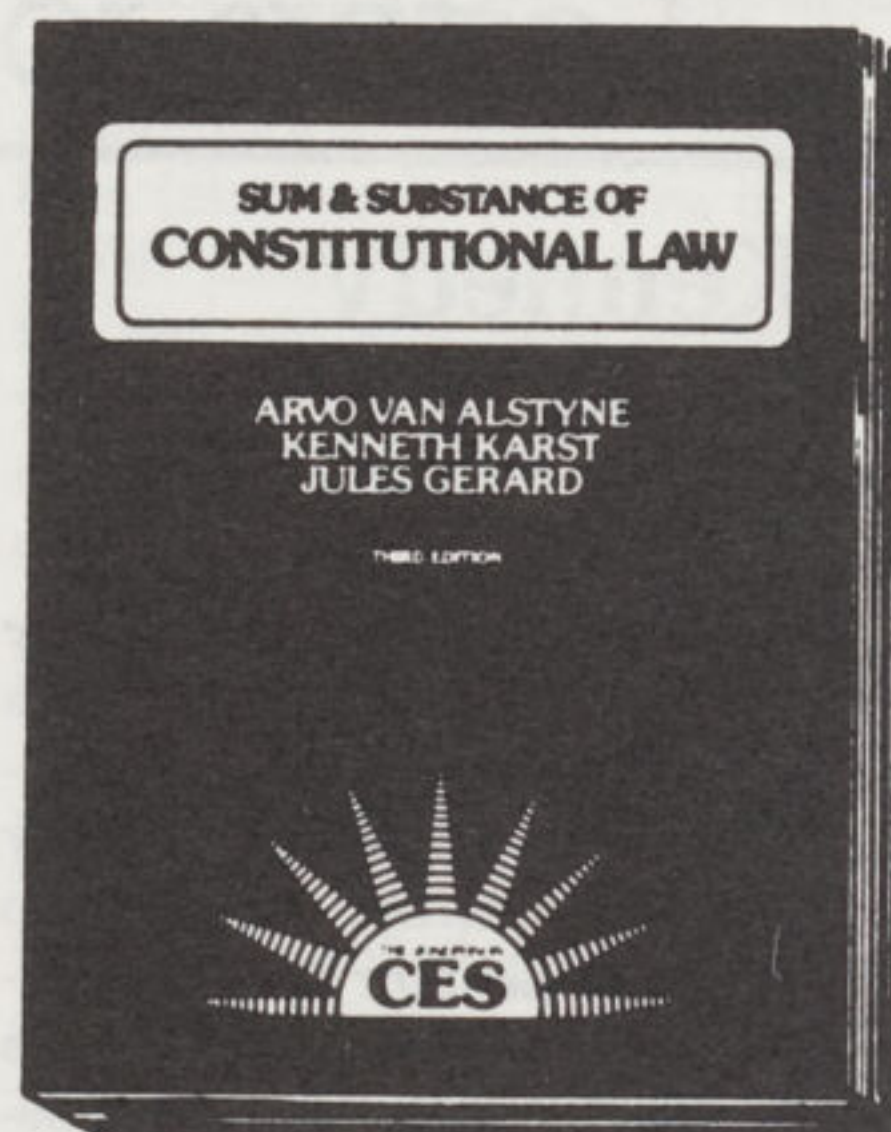
Letters should be typed and must be received by 2:00 P.M. on the Tuesday before the issue. Letters should be addressed to the RECORD rather than to third parties. In no event will the RECORD publish letters by writers who have not identified themselves to the RECORD. Organizations should identify the specific individual(s) responsible for approving the letter.

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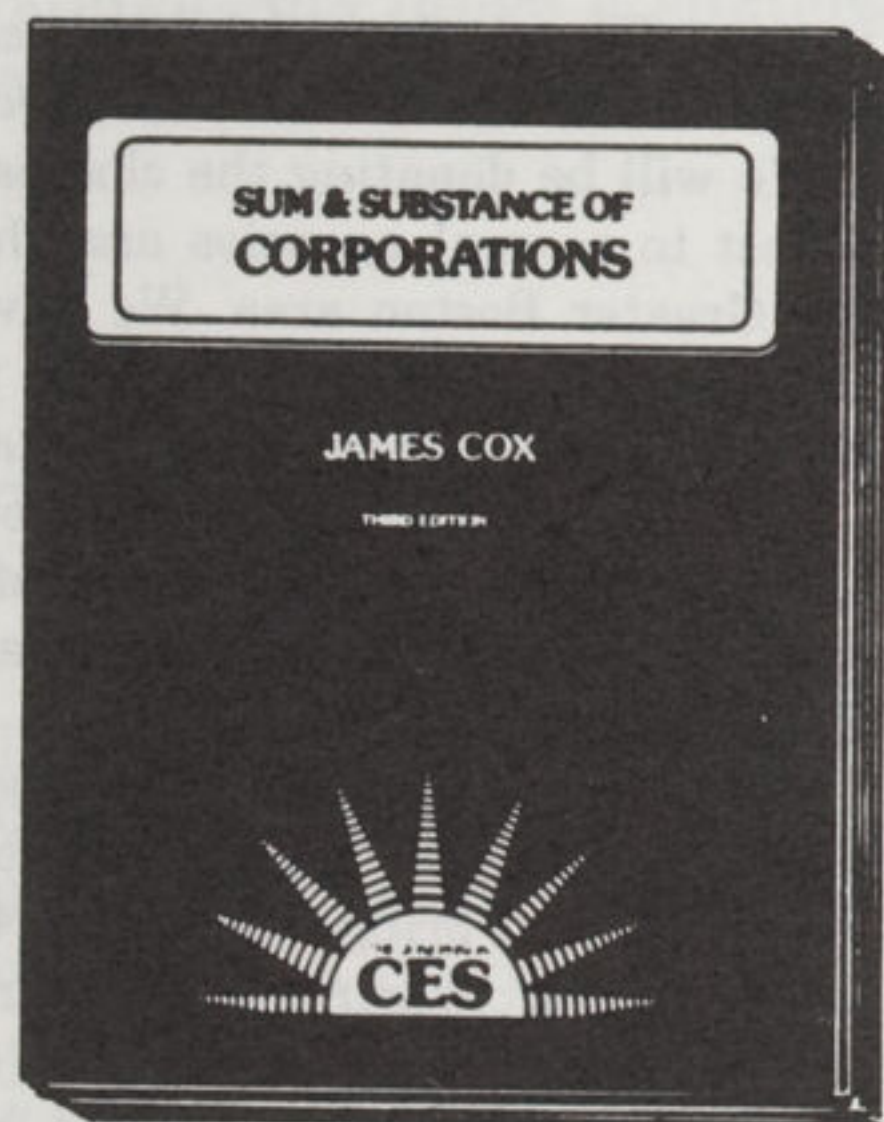
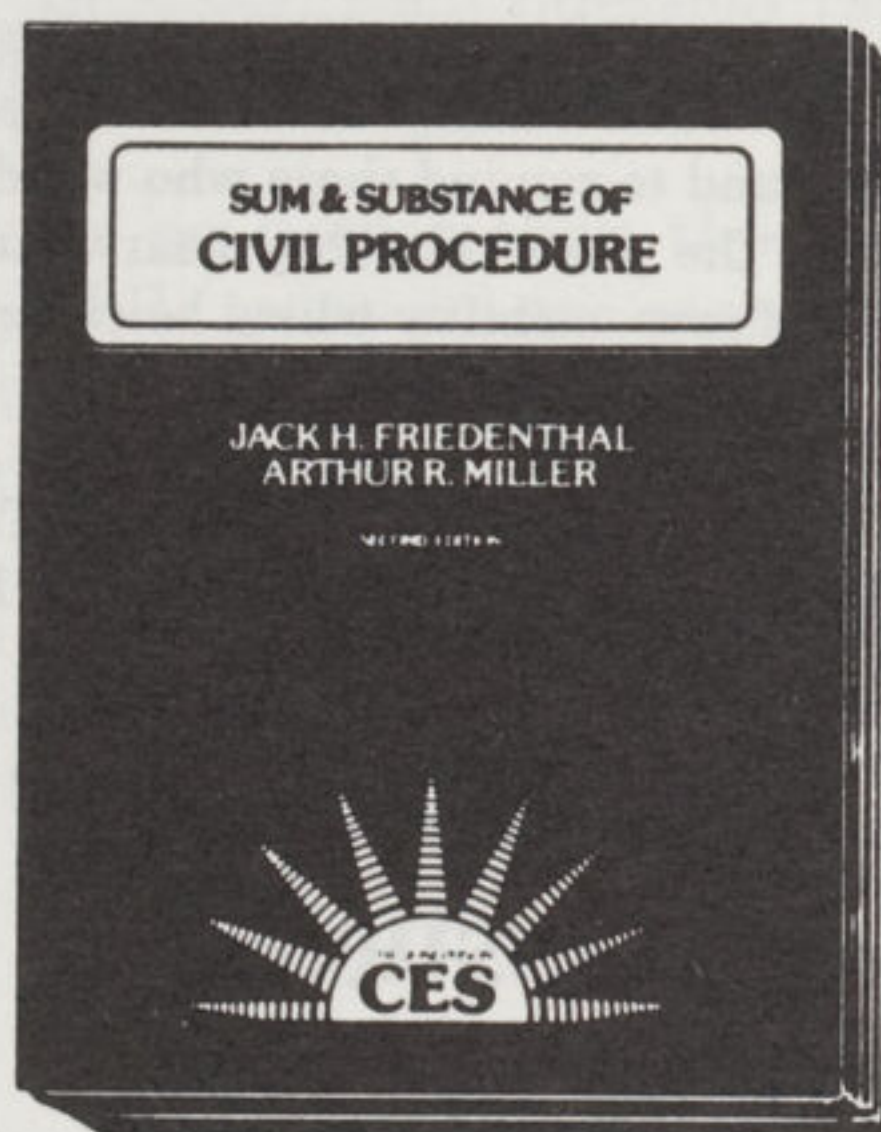
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Bok's Decision: Absurd and Ineffective

Jessica Neuwirth

As a Harvard law student who spent the summer in South Africa, I am writing to protest Harvard University's recent decision against divestment. President Bok argues in his open letter of explanation that divestment is not proper conduct for a university and furthermore, conveniently, that divestment is a bad tactic against apartheid in South Africa. After a summer of meeting and talking to South Africans of differing political persuasions, both within and outside of the opposition movement, I am more firmly convinced than ever that Harvard must immediately divest from all corporations doing business in South Africa.

A familiar argument against divestment is that corporations can do more against apartheid by staying and pushing for change from within. While this tactic can be very effective in some situations, it is completely inappropriate for South Africa at this time. Again and again the South African government has demonstrated that it will not bow to pressure on certain key issues. President Bok may believe that if American corporations only educate and improve the living and working conditions for enough blacks in South Africa then change will evolve, but the South African government has flatly denied the possibility of blacks ever getting enfranchised. There are educated blacks in South Africa with comfortable living and working conditions: they still can't vote, and various ministers in the South African government have made it perfectly clear that the recent Constitutional dispensation is not a prelude to universal democracy. Seventy per cent of the population of South Africa are excluded from political participation, and the stated policy of the government holds no promise of hope at all. Under these circumstances to think that pressure from within will have any effect is to fly in the face of all the facts.

Another meaningless assertion by President Bok in his letter is that black South Africans are divided on the question of divestment. Almost everyone I met in South Africa who opposed apartheid endorsed boycott and/or armed struggle as the only tactics available with any chance for success. I am sure there are others who would oppose divestment, but Harvard cannot be guided by some vague estimate of internal support for such action. First and foremost, it is a South African crime for any citizen, at home or abroad, to advocate divestment. Any evidence on this question would therefore have no statistical value at all. The recent survey of black workers in South Africa was either very naive or very cynical in this respect, and furthermore, has failed to take into account the views of those South African blacks who are unemployed. Clearly there will be disagreement among South African blacks on tactics which are most effective, but the fact that some blacks oppose divestment is no more of a mandate for Harvard than the fact that some blacks advocate divestment. A decision would be better made on the merits of divestment as a weapon against the apartheid government.

Harvard cannot rely on calculations of effect in its divestment decision because there are too many unknown variables. Bok cites opposition to divestment from those who fear losing their jobs, but in the same breath he argues that Harvard should not divest because divestment will have no effect at all on South Africa. Even if American corporations divested entirely, he says, others would take their place. This argument is like Bok's later argument that Harvard couldn't *really* divest because then it would have to refuse tuition from students paid by dividends from companies doing business in South Africa. In law this line of reasoning is known as *reductio ad absurdum*.

In politics it is known as the oldest excuse for inertia. Who knows what the immediate effects of Harvard divestment would be for South Africa? The psychological/political element, if considered at all, is vastly underestimated, I think, and even if the economic effects are slight, the example set by Harvard will have lasting value both in South Africa and in the United States. I was in South Africa during the Olympics, and although no one would argue that denial of the broadcast rights to South Africa hurt the regime economically or in any "substantial" way, the news was front page for weeks and the effect was tremendously successful.

I am reluctant to address the self-sacrifice point made by Bok because it seems so absurd, but for the sake of thoroughness I want to state my conviction that the wizards who run the Harvard corporation could mastermind a divestment plan that would incur no financial loss to the university. Bok wonders why divestment is more forceful than the university's statements against apartheid. How much force is there in Harvard's expressed abhorrence of apartheid when in its financial dealings it is supporting the apartheid regime, which has promised never to eliminate the racial discrimination it stands for? Harvard's credibility on this issue is weak, and the old adage "Put your money where your mouth is," seems fitting.

Besides all the arguments about tactics, Bok claims there is a more fundamental dispute about the proper role for a university in the outside world. Bok conceptualized divestment for the purposes of this argument as an action against the corporations doing business in South Africa. If, as Bok claims elsewhere, there will be other international companies to take the place of Americans in South Africa, then

(Continued on Page 21)

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Fisher Juggles Family, Work

(Continued from Page 5)

ested, willing to read the materials, excited about concepts and playful."

His method in first year classes is semi-socratic but he intends to utilize a lecture style in his Legal History class.

Classroom Style

Considering his four years of tutoring experience, Fisher commented, "there is much unfamiliar to me about law school teaching that my work for the college did not prepare me for."

Fisher's extensive background in American Legal History enables him "to draw on a variety of in-

tellectual traditions" in the classroom. He feels that it is essential to assign and talk about pieces which reflect various traditions, among them, political theory, history and economics."

Although he admits that his youth gives him a "somewhat unusual sense of where people who have just graduated from college stand in intellectual development," Fisher does not feel it gives him any special advantage in dealing with students. He added, "Probably a sensitivity to students and their interests is more important than age".

Career Plans

Fisher admits that his unusual interests made his uneasy about his career. "I expected for a long time to have a schizophrenic career... the scenario was that I do some practicing of law and some teaching of history; it was only well down the road that it became an option to teach law."

He has now firmly rejected the idea of ever entering practice or even of doing any outside legal work: "I doubt that I will do any consulting, partly as my areas of interest don't really lend themselves

to it. I am really more interested in reading and writing than I am in working for clients."

This rejection of practice does not stem from any antipathy for law firms. Indeed, he describes a summer with Covington and Burling, D.C., in glowing terms.

However, he commented, "it would be politically unacceptable for me to devote my life to that. The nature of their work is such that they serve the idiosyncratic interests of organizations that pay a very high rate for extremely high quality work".

Fisher's rejection of practice also reflects a commitment to his family and personal life. Fisher is married to Joann Fisher and has two daughters.

He is a keen athlete, enjoying everything from rock climbing to wind surf racing. "There are many more important things in life than reading and writing about the law. I have a family and I like to spend a lot of time with them... and I have interests outside academics.

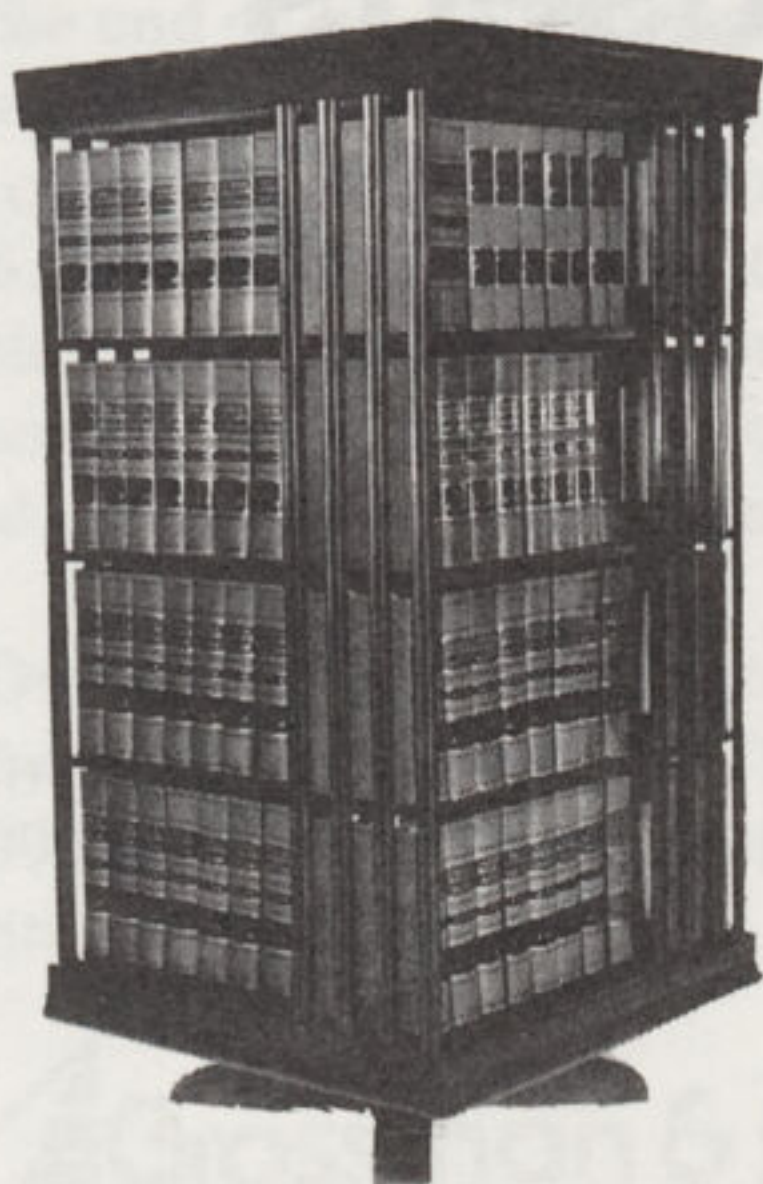
"It is difficult, and maybe impossible, to live a reasonably full life, to be a very good teacher, to be a very good scholar, and to practice on the side."

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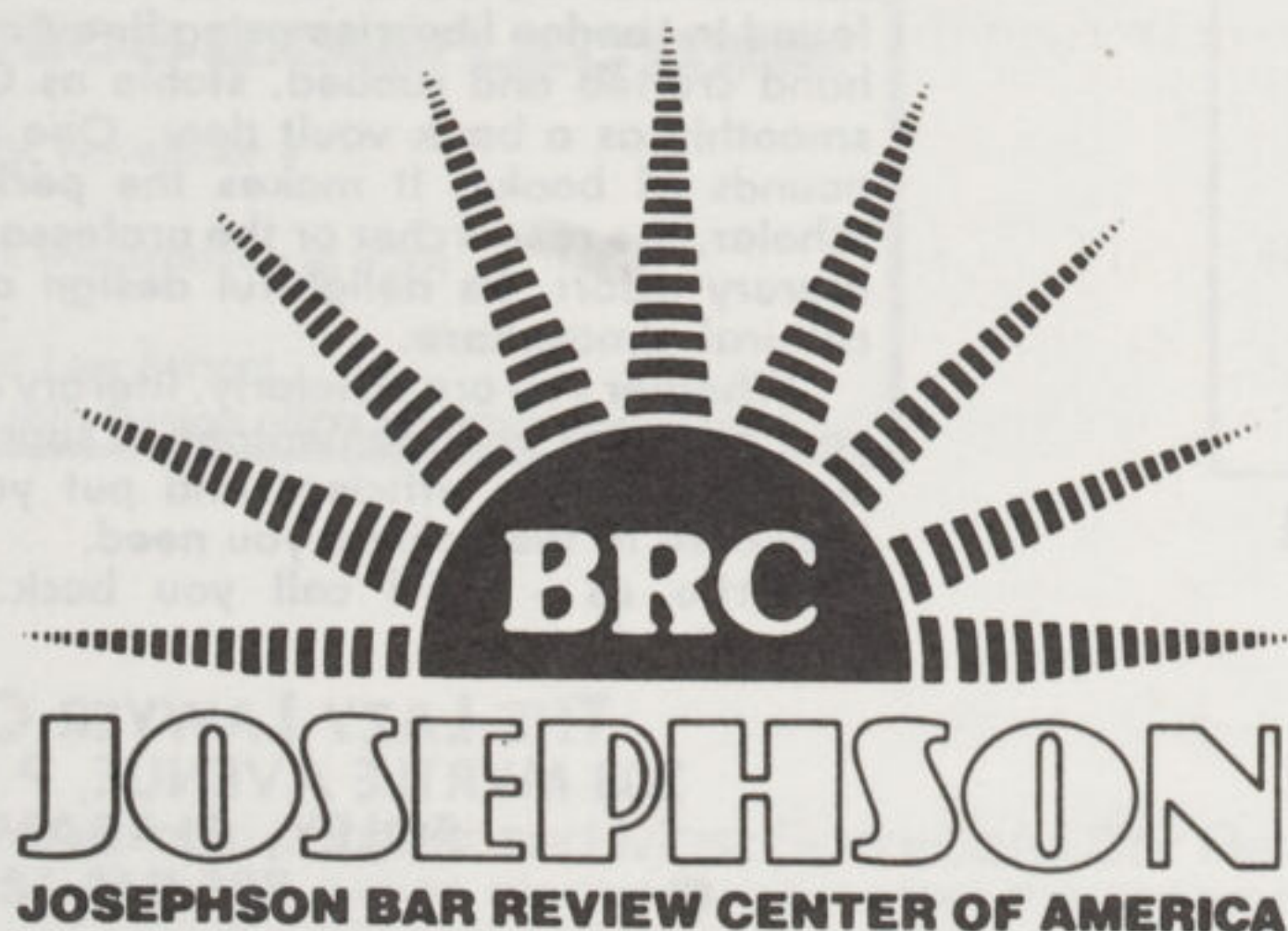
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HLS Bans Off-Season 1L Interviews

(Continued from Page 11)

Considering first year law students at schools around the country, summer law-related work is clearly unusual.

But, again, HLS is the exception. Last year, 450 first-year students responding to a voluntary survey reflected work in law-related jobs during the summer. Most of these began their job searches after the fall season.

1Ls Should Wait

"In spite of the fact that this sounds like the 'placement office line,' I really do believe it is true, and I know from statistics that [1Ls] do not have to start this early," said Thompson.

Thompson said that the placement committee "agonizes over this problem every year."

"The second- and third-year students on the committee felt that most 1Ls would prefer not

to jump into the interview process right away except that they felt that all of their classmates were doing that and that if they didn't, they'd be left at the starting gate."

According to Thompson, the committee felt that if it tightened the rules a little, and made it more difficult for 1Ls to interview, the pressure would be lifted somewhat.

What First Amendment?

The real clincher of this year's version of the rule is the threat

of Administrative Board action. Assuming that the committee is not offering an empty threat, a "test case" could raise serious questions of whether the rule violates students' first amendment rights.

Prof. David Herwitz, chairperson of the Administrative Board, said that the board has yet to discuss the issue. He added that since no case has come up yet, there is no way to guess what sanctions might be imposed.

35 Years Ago At HLS

RECORD

OCT. 11, 1949

VOL. 9, No. 2

Dean Erwin N. Griswold announced on Sunday night that

qualified women applicants will be admitted to the Law School in the fall of 1950. Thus next September, the Law School will close out its 133 year history as an all-male school.

The full implication of the change in Harvard's policy remains to be considered. The number of women that will be admitted, where they will live, and other similar problems have not yet been settled. As in the case of men, only women who have degrees from accredited colleges will be eligible to apply for admission.

In commenting on the important change of policy, Dean Griswold declared, "Women have made a place for themselves in the law, and we now have many women serving with distinction on the bench and at the bar. Women have come a long way since they were first admitted to membership in the American Bar Association in 1918.

"Opportunities for women in the law still are limited, however, and the Faculty is well aware that many able men are turned away from our doors every year. It is our expectation that we will admit only a small number of unusually qualified women students for the present, at least."

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Contadora Requires No Betrayal

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government to resist for very long. . . .

Question: If the FSLN did lose to a Bourgeois opposition party, and it did give up government power, what guarantees would the FSLN offer that it would not use its political power in the military and in the state enterprises to prevent the bourgeois government from changing the course of the revolution?

Ortega: The problem is that if the Sandanista Front loses the elections it means that the revolution is in fact defeated and then under these circumstances there would be little left to do. There is a fundamental . . . [force] in a revolution and that is the strength of the people and not the strength of the arms.

To the degree that we distribute arms amongst the people we are running the risk that these arms will be turned against us and thus the strength of the revolution resides in the strength of the people. And then if the people were one day . . . to choose a bourgeois opposition party, then that day the revolution would have fallen and the rifles that are now in the hands of the people would be used to defend this new alternative.

Question: Would it be possible for the Constituent Assembly to decide to negotiate with the contras as a method for ending the war even if the FSLN were opposed? That is, could the Constituent Assembly negotiate if the FSLN said no?

Ortega: The Assembly is going to be the source of power because it is there that the new constitution is going to be elaborated. It should be taken into account that the Assembly will be elected by the people and that it will decide the future of the country regarding the type of regime that will govern and every decision of the Assembly will have to be respected.

Question: So that means if they were to do something outlandish

like that, if the Assembly was to take the position that the directorate and the FSLN Assembly disagreed with, maybe very much, but they took that decision nevertheless the President wouldn't veto it?

Ortega: No, the decision would have to be respected, since by that time the Assembly would have all the force because it is going to elaborate the constitution.

Question: So you don't anticipate this becoming a government with a strong presidency but something more resembling a kind of a prime-ministerial sort of a [government]?

Ortega: [T]he executive branch will . . . be strong until the constitution is actually established and it is through the constitution that the executive branch will be defined. [A]lso, the type of regime that will exist whether or not it is fundamentally going to be a presidential-type, regime or a parliamentary regime, the Assembly will have to decide . . . through the elaboration of the constitution. But while this constitution is being elaborated, the presidency does have to have a certain amount of power because it has to address itself to certain very concrete and urgent tasks.

Question: What have you felt are the benefits of having popular tribunals separate from your judiciary?

Ortega: These tribunals were created by the situation of aggression. They are the type of tribunals that have been set up in other countries under the same circumstances in order to bring to trial war crimes. They were created in Europe after the defeat of facism. In Nicaragua [there's] a continuance of aggression, and there is no death penalty in Nicaragua, thus this is a resource in order to defend the revolution.

Question: Are you going to eliminate these tribunals after aggressions cease?

Ortega: Of course once the aggressions cease in Nicaragua

there will no longer be any reason for . . . these popular tribunals.

Question: How, at that point, and after the Assembly has elaborated the form of government, will the judiciary be structured? Will there be an independent judiciary?

Ortega: We want the judicial system to be independent and it will [start] from the premise of the fundamental rights of the individual.

Question: You stressed a great deal tonight the benefits of backing the Contadora agreement. Would it not be a betrayal of your Salvadoran compatriots to sign and hold to the Contadora pact?

Ortega: The Salvadoran revolutionaries have been able to develop a struggle which responds to the specific reality of that country. That is to say that the struggle in El Salvador doesn't exist because there is a revolution in Nicaragua. The struggle in El Salvador is as old as the Nicaraguan struggle. [T]he fact is that these accords may be signed and if we are able to implement them we are sure that they will help to find an honorable and peaceful solution to the Salvadoran problem as well.

Question: But you would honor them by removing any support for . . . or any action within the internal affairs of your neighbor country?

Ortega: The problem is that that has been a pretext of the United States in order to renew the channelling of funds after they had been suspended after the killing of the four nuns. The best supplier of arms to the Salvadoran guerillas is the government of the United States itself. If we review the arms that the Salvadoran guerillas have [captured] during the last few years there are thousands of firearms, millions of bullets, and dozens of rockets . . . and cannons, and all of this has been captured from the Salvadoran army and all of these arms have been supplied by the United States government. ❧

Non-Divestment Inexcusable

(Continued from Page 15)

there will also be other American shareholders to take the place of Harvard. If Harvard divests from corporations solely because they do business in South Africa, that is an action against South Africa, not the corporations. And if it is not the role of the university to take some responsibility for its investments, then it is not the role of any corporation to take responsibility for its investments. Is that the precedent Harvard wishes to maintain? Withdrawing from a corporation is as respectable a form of expression as voting on shareholder resolutions. If shareholder resolutions don't work adequately, withdrawal is a logical sequitur. Yet Bok characterizes divestment as some kind of revolutionary act of terrorism.

"Live and Let Live"

On the one hand Bok argues that it would be irresponsible for Harvard to wash its hands and "simply turn away from the injustices of South Africa". On the other hand he argues that it is not the proper role of the university to intervene or participate in any way in the politics of the outside world. The only consistency in Bok's many ar-

guments is that they all come out against divestment. Why? Bok defends the university's assets as "resources essential to the accomplishment of a vital public mission." What could that mission be that it does not include the eradication of racial discrimination? Bok's live and let live arguments about freedom of speech and the importance of the university's neutrality in preserving its independence all ignore the particulars of the issue at hand. When Bok suggests that "We cannot expect individuals and organizations to respect our right to speak and write and choose our members as we think best if we insist on using institutional sanctions to try to impose on them those policies and opinions that we consider important," he is using a domestic liberal context to frame his argument. Imposing on South Africa our views on apartheid is not something any one disagrees with, as Bok hastens to point out elsewhere in his letter. It is not improper because apartheid is not something we, the university, happen to consider important as a private internal matter. It is a vi-

olation of international law and the world community. The principle of non-interference or live and let live is not applicable. There is no disagreement on this issue and therefore no danger of corporate retaliation.

Complicity Inexcusable

If a university is to lay any claim to station at the frontiers of civilization, then it has an obligation, as part of its public function, to oppose racial discrimination, wherever it occurs. Against its most entrenched form, in South Africa, Harvard must take its most drastic action. Even if divestment will not immediately help South Africans, Harvard can clear its own name of complicity and Harvard can set an example for others. There is no excuse.

Jessica Neuwirth, '85



Great Moments in the Law

We hold, therefore, that a purchaser suing a monopolist for overcharges paid within the previous four years may satisfy the conduct prerequisite to recovery by pointing to anticompetitive actions taken before the limitations period. It should not be inferred that this ruling grants antitrust plaintiffs a license to embark on a search for Ichtyosauria — that is, on a time-warped fishing expedition. A trial court in its discretion may always "set a reasonable cut-off date, evidence before which point is to be considered too remote to have sufficient provocative value to justify burdening the record with it." *Continental Ore Co., supra*, 370 U.S. at 710, 82 S.Ct. at 1416.

Berkey Photo, Inc. v. Eastman Kodak Co., 603 F.2d 263 (2d Cir. 1979), cert. denied, 444 U.S. 1093 (1980).

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Ortega Lauds Contadora Proposal,

(Continued from Page 1)

Central American state, and to make Americans aware of the Reagan administration's policy in hopes of effectuating change in that area through the American democratic process.

Ortega outlined the history of U.S. intervention in Nicaragua. He noted that the first presence of the U.S. military occurred in 1854, well before any East/West dichotomy existed. Such military presence was sustained over the decades, culminating with the backing necessary to establish the Somoza regime.

Ortega characterized the Somoza regime as "anything but democratic." He referred to its creation as "bad policy" on the part of the United States, coupled with lack of concern for the development of democracy and respect for human rights in Central America. With the establishment of similar U.S.-backed dictatorships in countries such as Guatemala and Honduras, Ortega feels that the United States should not be surprised by revolutions in Central America.

According to Ortega, if democracy existed in Nicaragua and U.S. policy were different, there would be no need for revolution. Presently, the United States is "reaping the harvest of a bad policy in Central America."

Ortega placed a great deal of emphasis on his government's support for the Contadora agreement. In applauding the peace proposal, Ortega stressed its importance as a hopeful sign of peace in Central America at a time when the machinery for direct American military intervention is in place and dangerously close to being employed.

The Contadora proposal, presented on September 7 of this year, is an effort by four Latin American countries to find a peaceful solution to problems in the area. Ortega denounced the American rejection of the Contadora peace proposal and urged the American people to press for their government's support of the plan. Assailing the shift in U.S. policy, Ortega observed that the

Reagan administration found the accord suspicious only after the Sandinista government agreed to support it.

Ortega expressed concern that "the United States government cannot understand the situation, so that they have committed themselves to destroying a revolutionary and democratic alternative in Central America." He described U.S. policy as a "solution of military force" to the problems of Central America, at the cost of the lives of Central American and United States citizens.

Ortega noted that millions of dollars in military aid come from the taxpayers. Pointing out that this money comes from the labor of the American people, he claimed that such military funding comes at the expense of programs contributing to domestic welfare. He added, "In the final analysis, we are not asking for economic assistance from the United States, we just want to be left alone in peace."

Ortega believes that the policy of the present U.S. administration promotes disrespect towards the U.N. Charter and international law. As an aside, he noted Harvard's contribution to promoting respect for international law in the form of Professor Chayes' work in the World Court on behalf of Nicaragua. (See RECORD of September 21, 1984, p. 1.)

Ortega described Nicaragua as a small country of three million inhabitants, with limited resources, and not part of any international military alliance. He analogized the plight of Nicaraguans with that of European Jews in World War II, viewing the present U.S. administration as advocating a policy which contributes to the gradual "extermination" of the small Nicaraguan population. This policy was characterized as negating positive steps which have been made to improve the human condition in Nicaragua, and as a threat to North Americans and Central Americans alike.

Ortega stated that pluralism exists in Nicaragua, pointing out that

seven parties are registered to participate in the upcoming election, with four others given the chance but choosing not to participate. He quipped that this is unlike "certain countries where only two parties are the contenders in elections."

In his closing comments, Ortega exclaimed that "this is what we would call a real dialogue, a real conversation, between the people of the United States and the people of Nicaragua."

In responding to questions, Ortega noted aspects of the Contadora agreement such as the elimination of foreign military advisors from

Ortega

Following his appearance at HLS Monday Oct. 8, Daniel Ortega conducted a joint interview with the RECORD, the CRIMSON Dan Wolf, 3L, whose efforts precipitated Ortega's appearance. The majority of this interview was conducted by Wolf for inclusion in his empirical study of the requisites for free elections in Nicaragua.

Question: [Presidential candidate Arturo] Cruz's best argument is that the election is being conducted so quickly after the lifting of the state of emergency that the opposition did not have the time to organize itself to begin the campaign while the FSLN [Frente Sandanista de Liberacion Nacional] had since 1979 to freely organize. Further the FSLN enjoys a power of incumbency in making news that even equal propaganda time cannot compensate for. Doesn't this make the election process slanted too much in favor of the FSLN?

Ortega: . . . [E]xcept for the Social Democratic party which was formed immediately after the time of the revolution all of the rest of the political parties which are a part of the coordinating . . . [council] have had the opportunity to carry out their political

1, Urges American Support

Central America, a freeze on imports of weapons, and measures strengthening democracy and economies in Central America. He added that "risks must be taken for the sake of peace in Central America."

Responding to an accusation that the revolution had not gone far enough, Ortega stated that "social phenomena can only be confronted in a realistic manner, and it is not through a sheer act of will that we transform society. . . . Revolutions are a result of the possible, and not of wishes."

Countering a questioner's remark

that Harvard was the "think tank of imperialism," Ortega asked all Harvard students present to raise their hands. Observing the crowd, he responded, "this is not the think tank of imperialism." Noting that even the Catholic University in Nicaragua which the Somoza regime hoped would "reproduce its own repressive structure," had instead reproduced revolutionary ideals, Ortega observed, "It all depends on the students."

Ortega when questioned about the fairness of the upcoming election in Nicaragua, responded with his own question, "What is to guarantee

that elections are democratic in other Central American countries?" Pointing to continuing civil rights problems in the United States, he also added "In the midst of our poverty and misery we feel we are more democratic than the United States."

When addressing the role of the U.S.S.R. in Nicaragua, Ortega questioned the United States' concern with the matter, noting that U.S.-Soviet relations date back to 1933, while Nicaraguan-Soviet relations began only in 1979. Ortega also voiced preference for the independence of church and state in Nicaragua.

a Defends Nicaraguan Electoral Process

propaganda from way before the FSLN was founded and those were in better conditions because . . . [those parties] had access to some mass media including the radio, and they carr[ied] a message that was tolerable to Somoza.

On the other hand, the Sandanista front carried a message that was . . . repressed by Somoza, so that those parties have had the opportunity to carry out political campaigns for many years, from way before the founding of the FSLN.

Now there's a reality in Nicaragua. The Sandanista Front was the one that headed up the

process that led to the toppling of the Somoza dictatorship. . . . That gives it an immediate advantage over any other political force.

[R]egarding the actual period such for organization and propaganda during the electoral process, this is a period which is longer than the period extended in many Latin American countries and even in Europe. . . . If you do a little research you'll find that there are countries which are models of democracy in Latin America and also in Europe that have electoral campaign periods that are very very short and also where . . . access by the different parties to the mass media is quite limited.

Question: The point that I was driving at was more than the . . . period of the campaign. The campaign is quite generous. The point was that during the state of emergency they weren't able to have . . . rallies and house meetings and that sort of thing.

Ortega: Even though there was a state of emergency they still carried out political activity and they still carried out propaganda in the newspapers.

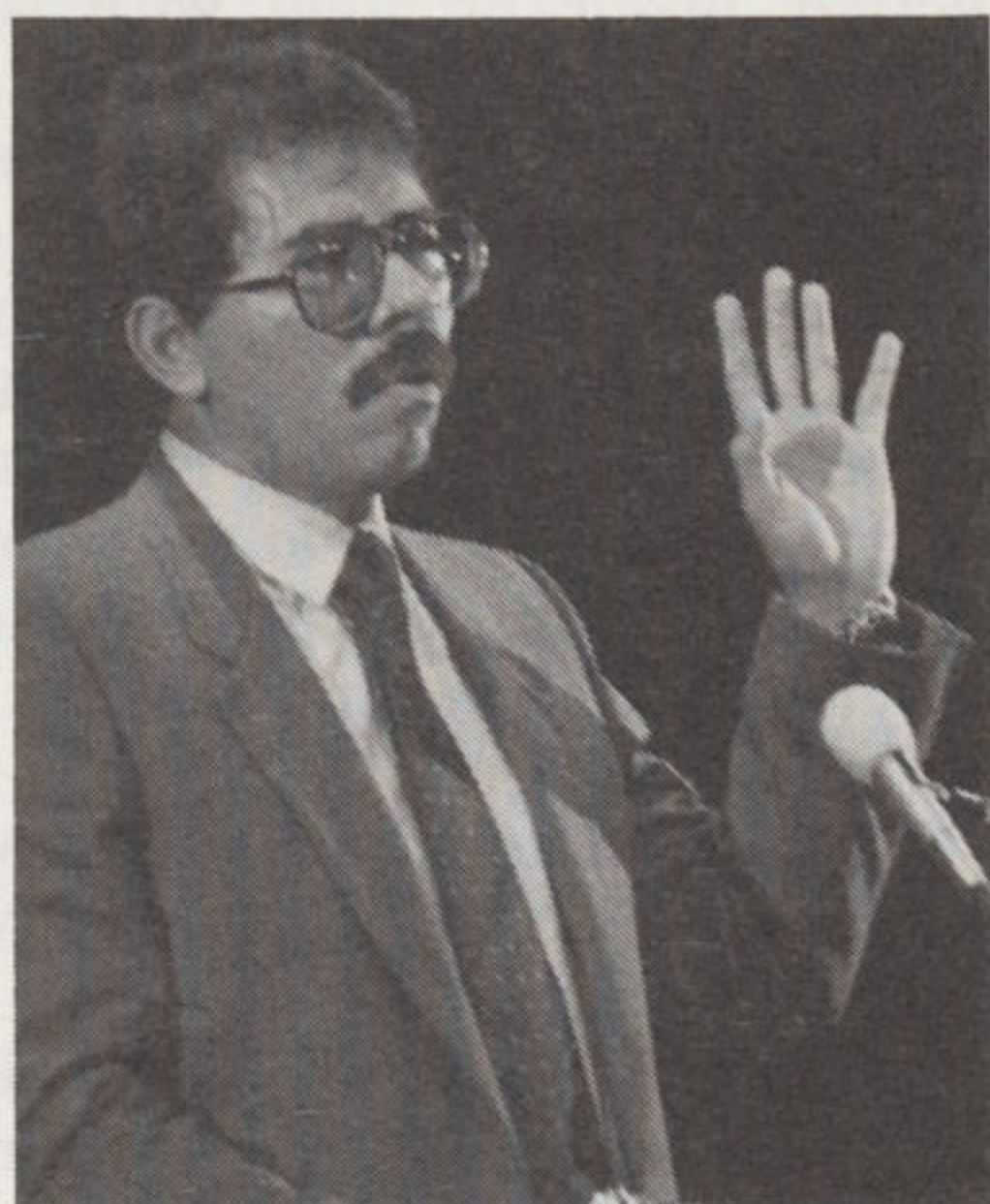
Question: The government of Nicaragua has been operated up to this point effectively by one

party. Now the reconstruction government has offered elections as a means of legitimizing the future government of Nicaragua, and as a means of embracing democratic pluralism. If by some extraordinary chance the FSLN lost the election for President, and gained only a minority in the Constituent Assembly, what guarantee is there that the FSLN would turn over power to a bourgeois opposition party?

Ortega: First of all, I think it should be made clear that the FSLN from the very beginning tried to incorporate different economic, social and political sectors . . . into the reconstruction of the country. . . .

Regarding this hypothetical situation where the FSLN might lose the elections, I believe that if this was the perspective we wouldn't have to wait for the elections. Surely the Sandanista Front would already have been toppled by the people and the counter-revolutionary forces. Now in a hypothetical situation where this might happen, the Sandanista Front would then move into the position of being an opposition party. And with the Sandanist party in the opposition, it would be very hard for any

(Continued on Page 20)



Greg Peterson

Commandante Ortega

Dean Fears Profession's Discontinuity

(Continued from Page 7)

ond and third year [is] the whole experience of students at the school being more satisfying. I am troubled with the many students who may think of the school as a less satisfying experience than . . . it ought to be.

RECORD: The number of women as a percentage, and in absolute terms, in each incoming class has stabilized at around 34%. Why is that and is there any desire or effort to alter that to increase the number?

VORENBERG: Well, it's clear to me that the admissions committee is admitting people on a sex blind basis. So the only way of altering that would be giving preferential treatment to women applicants. I guess I don't think I would favor that at a point where more than a third of the class are women.

RECORD: When you say you don't favor that, do you mean specifically any sort of affirmative action or anything that would be non-sex-blind?

VORENBERG: Yeah, I guess I don't see the argument for it. I'd be pleased if that figure crept up. . . . I don't see any reason why it shouldn't. I would guess that a generation from now or even earlier that may happen, but people,

women, are still making choices of careers that are reflected in that figure.

RECORD: Would you favor, or be amenable to, any sort of effort short of affirmative action, for instance more active or aggressive recruiting or publicity at the pre-application stage or of people who have been admitted?

VORENBERG: If the issue is lack of information, I would certainly favor whatever is necessary to get information out about Harvard Law School and why it's a splendid place to study law. If it's simply a form of recruiting, I guess I don't see the advantage since it seems to me that women can make up their minds about Harvard versus other schools. . . . I think what's really important is . . . to be sure that the information is there and that there's a . . . clear receptivity.

RECORD: Some people suggest that in part it may be attributable to the fact that many schools with higher rates of application and with higher yields among women, have more women in the faculty.

VORENBERG: I think that may have something to do with it. I would not be surprised to see that an increase in the number of women in the faculty might lead to an increase in the number of [women]

students, although I'm not sure about this.

I think if you look across legal education generally I think one third is about the average figure for all law schools. . . . I don't think Harvard is [low].

RECORD: Is your general feeling that this will all work itself out?

VORENBERG: I don't know. I'm not enough of a sociologist to know that. . . .

RECORD: What do you think are the greatest problems facing . . . legal education in the United States in general?

VORENBERG: Well, I think what I said about the second and third year here is true, from my reading, all across legal education. . . . I guess I think . . . there's something of a discontinuity between what goes on at law school and the needs of the profession. And I think all of us in legal education . . . don't feel confident that what we are offering is in all cases the firmest base for a professional career.

RECORD: Are you doing anything to try to bridge that gap more effectively or to increase your level of confidence?

VORENBERG: Several years ago we had a curriculum committee headed by Frank Michelman . . . that spent a lot of time talking about what it is we're trying to teach . . . and I think that's . . . an on-going debate.

I guess if you say to me what's another major problem with the profession . . . I guess I do have a pretty strong feeling that . . . law needs to be seen as a means of righting a set of serious injustices. That's not its only function, but it's one of its functions. And I guess I worry sometimes . . . that the whole process of legal education is not sufficiently attuned to that as a continuing responsibility.

RECORD: What would you have asked were you I, which I have failed to?

VORENBERG: I would have said, "Is it a pleasure to be Dean of Harvard Law School?" And my answer would be: "On most days."

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