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University of Michigan Law School

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ON THE ROAD...

SURVEYING LAW STUDENTS ATTITUDES IN SAN FRANCISCO

(This is the fourth article in a series of vignettes drawn from interviews conducted by the author at various law schools around the country this Spring.)

Hastings Law School, besides being the only modern structure amid blocks of seedy hotels and run-down office buildings in the south central part of San Francisco, is unique in a number of other ways. It is one of the largest law schools in the country but has a "campus" consisting only of about 100 square feet of concrete and a few saplings stuck inside a short marble wall abutting the sidewalk. None of its faculty have or can get tenure but rather are employed by short-term contract. And the bulk of instructors are members of the "65 Club" - professors forced to retire from other law schools at 65 but hired by Hastings for as long as they can teach. Finally, across the street from the main building, one of the few law school daycare centers in the country has been operated for the past several years with 1 full and 6-7 part-time employees supervising up to 25 children. Needless to say, this peculiar mix of factors in Hastings Law School life has had a profound effect upon students.

Harassment - I've heard complaints about many aspects of law school, but this is a new one; I've never heard it," remarked an assistant dean in response to a question about the extent of professorial harassment. "But that doesn't mean it doesn't exist." On the other hand, one young faculty member noted, "I think it's true that at all law

[see HASTINGS page 7]
Dear Mr. Slaughter,

In RG November 2 you discussed the talk Judge Stockdale gave earlier. It seems that you were not convinced by his suggestions and you tell us about the various questions and answers of those present which indeed could make one suspicious of a certain smugness on the side of the Judge. It's unfortunate that you seem to share that trait.

As far as I understand your opinion, you deplore England's lack of constitutionally based standards. This will or has already created a prevalence of discretion in the worst sense of that word.

The argument "lack of constitutionally based standards" reminds me of the statistical "evidence" that Eskimo's, living near the North Pole are so much poorer than the average American because they possess fewer refrigerators and air-conditioning. That is a conclusion based on sloppy thinking. So is your argument about constitutionally based standards. So you really believe that British standards are necessarily worse or absent because they are not based on a constitution?

I'm not prepared to maintain that they are any better than American standards. All I'm suggesting is that when evaluating foreign practices, you should use arguments instead of making cheap appeal to nationalistic feelings.

s/ Mariette den Hartog

November 2, 1973

Dear Mr. Slaughter,

I thought your piece on Eric Stockdale's talk very provocative and well done. I wasn't able to attend, but am willing to think that if I had a choice, I would find reading your report more useful than listening to the discussion myself.

s/ Joe Vining

November 2, 1973

To the Editors:

Last week you published some very critical comments about the "fat lettuce-eater" cartoon. They demanded censorship of the RG in the interest of "good taste," an end to sexist discrimination, and strict enforcement of the attribution rule. I would like to reply to them.

First, Ms. Ochten asserts that the cartoon would have been less humorous if the figure had been male. I disagree. Yes, there are some differences in the way our society looks at men and women, but some of them are based on functional differences that you can't deny, no matter how hard you try. Men do not leave the job market to have children, have more physical strength, walk differently because of a real difference in bone structure. But obesity is a problem common to both sexes. It may not be as obvious, but girls use many of the same criteria in determining their dating partners: attractiveness, wit, creativity, physique. Society may indeed impose less of a stigma on an overweight man than on an overweight woman, but I would be very surprised if you told me that female law students spend as much time involved in strenuous athletics in order to "keep fit" as the male members do. No, worrying about being overweight is not a peculiarly feminine trait - you just attack the problem differently.

Humor, in all its form, is one of the cornerstones of the RG. Much of it is based on things like stupidity, infantile behavior, ugliness, bad body odors, and even such seldom-discussed topics as obesity and sex. You can't tell another person what he can laugh at. Yes, some humor may be in "bad taste," by certain standards, but the National Lampoon has proved that not only is bad taste a commercial commodity, but it can also serve a useful purpose in forcing us to examine our own values and maybe even change them. (see LETTERS page 6)
Under federal regulations, Archibald Cox may still be special Watergate prosecutor, a University of Michigan law professor contends. In a paper examining the legality of Cox's dismissal, Prof. Joseph Vining argues that, in view of federal statutes giving the U.S. Attorney General the power to control appointments of special attorneys, "only the Attorney General has authority to dismiss the special prosecutor." Noting that Robert H. Bork is now "Acting Attorney General" without Senate confirmation, Vining says: "Until someone called 'the Attorney General' and whom the law recognizes as such declares that Mr. Cox does not represent the United States in the Watergate investigation, he would continue to serve with full legal authority to prosecute." Thus, the U-M law professor concludes, "if Mr. Cox walked into the courtroom and said, 'Let us proceed with the case,' it would be incumbent upon someone else to raise a question about his authority to do so."

Vining, a specialist in administrative law and formerly an attorney in the Justice Department, also maintains that Bork's action in firing Cox, following the resignations of Elliot L. Richardson and William D. Ruckelshaus who refused to carry out the President's order, appears to be unauthorized by federal statute. The U-M professor cites these sections of the U.S. Code, the federal law governing activities of federal agencies: under section 508 (a) of title 28 of the Code, the Deputy Attorney General "may exercise all duties" of the Attorney General in the event of a vacancy in that office; under section 508 (b), the Solicitor General (which was Bork's previous title) may "act as Attorney General" in the event of a vacancy. From a legal point of view, according to Vining, the difference in legal powers between one who "exercises full duties of the office" and one who "acts as Attorney General" may be of great significance in weighing the legality of Bork's dismissal of Cox. "It is entirely plausible," Vining continues, "that the Solicitor General, acting as Attorney General, should be empowered to reorganize the department and repeal departmental regulation" (which Bork was required to do in dismantling the Watergate special prosecution force).

In further tracing the legal background of Bork's firing of Cox, Vining notes that Bork was acting within the scope of Justice Department regulations which permit a Solicitor General to both "perform the functions and duties" and "act as Attorney General" in the event of a vacancy in that office. But Vining suggests that a legal claim could be made that these departmental regulations are in violation of the federal statutes which make no mention of a Solicitor General performing "the functions and duties" of the Attorney General. In conflicts such as this, the U-M professor notes, federal statute would supersede internal departmental regulations.

Vining also takes issue with the assumption that a President can overstep government administrative procedure in carrying out his executive functions.

The U-M professor notes, for example, that in issuing President Nixon's order to fire Cox, Gen. Alexander M. Haig Jr., the President's assistant, was quoted as (see COX page 5)

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(GRADES cont'd from page 1)

Scholarly responsibilities; we do not need to be "motivated" by competition for grades. (Research shows such motivation to be of doubtful impact on later competence, anyway.) We realize that our subsequent overall competence as lawyers will depend to a large extent upon mastery of the law school curriculum.

(3) The wide variance in backgrounds of the students make it doubtful that grades given to first-year students measure anything valid. Learning styles also vary--some people are able to grasp a new system of evaluation more rapidly than others; some will have been better prepared by their backgrounds for the type of performance required by this law school. Neither of these factors will have much influence on final competence. Thus, evaluation of a student during the first year should not exercise a decisive influence upon him. Under the present system, a student's grades during his first year constitute a third of his GPA, and closer to a half of the GPA that he presents to employers when he interviews for jobs.

Employers who interview here are looking for good lawyers. The only substantial criteria provided by the school for evaluation of the candidates is grades. I am aware of no evidence showing that the higher the grades, the better the lawyer. I have heard parol evidence to the contrary, and research in other fields shows grades to be generally a poor predictor of subsequent professional performance. Realizing this, many other professional schools, especially medical schools, have abolished grades.

I understand that our professors put substantial time and energy into grading the examinations. When I graded essay exams, I found it easy to determine competence, and much harder to minutely differentiate the "B+" from the "B." Since the students receive no feedback from all this work, other than the grade, perhaps it would be more valuable to all if the professor to comment upon the exam, and then return it--the only determination required of him being whether or not the student has mastered the subject matter of the course. The professor should not be forced to act as a computer; the exam should be another learning experience for the student.

Taking these things into account, perhaps we should consider a system of evaluation something like the following:

(1) The basis of the student's evaluation would be whether he has mastered the course content to the satisfaction of the professor. Probably, in this school, less than 5% would not. Perhaps the Professor would be required to find mastery for at least 70% (see MORE GRADES page 5)
(MORE GRADES cont'd from page 4)

of the students. The student would not be penalized for not achieving mastery, except that he would have to repeat a required course. The seven-term limit on attendance at the law school would prohibit any student who accumulated a history of lack of study from graduating. There would be an option for the student to do a research project associated with the class to be read by the professor. Satisfactory completion would be so indicated on the student's transcript, with a brief comment by the professor appended to it.

(2) The transcript of study would contain only a list of those courses in which the student achieved mastery, and if applicable, an indication of acceptance by the professor of a research project, plus comments by the professor(s) appended. Perhaps, if the student wishes, the professor could at his option append a general comment about the student's course work, even if no project is done.

I think that the above proposal would eliminate questionable criteria for judging the student as a potential lawyer, and provide valid criteria, institute appropriate means for those who wish to receive recognition to do so in a manner which would further their skill and knowledge.

-- John Roach

(COX cont'd from page 3)

saying to Ruckelshaus: "Your Commander-in-Chief has given you an order." "The assumption was," Vining observes, "that the President is the Commander-in-Chief of the armed forces; but with regard to the executive departments, the Constitution provides only that the President 'may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices.'" The issue at stake here, according to Vining, is "whether the civil side of the executive branch is to be a monolithic administrative structure, in which obedience is of ultimate importance, rather than a system of decision-making that is linked at a number of points to the legislative branch and has some features of parliamentary government."

(cont'd next column)

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Vining suggests that the most straightforward way of proceeding with the Watergate investigation is to assume that Cox "has never been dismissed by anyone with authority to do so." If Cox thus proceeds with the investigation, according to the professor, the burden will be on the President and his attorneys to prove that Cox in fact has been dismissed. And this would be a far easier approach, says Vining, than for Congress and the courts to undertake the complex legal maneuver of naming a new special prosecutor.

-- UM News

COLUMBIA PICTURES PRESENTS THE DAVID SUSSKIND PRODUCTION

ANTHONY QUINN JACKIE GLEASON

MICKEY ROONEY JULIE HARRIS

REQUIEM FOR A HEAVYWEIGHT

LSSS MOVIE

Today, Friday, November 7th, REQUIEM FOR A HEAVYWEIGHT will be shown in Room 100 of Hutchins Hall at 7, 9, & 11 pm. According to the LS55 Social Committee, "test your issue-spotting skills by scrutinizing this movie for possible violations of fiduciary duty." Law students free; others 75¢.
(LETTERS cont'd from page 2)
The freedom of the press has not come under such an attack as Mr. White's since Agnew left the Administration. Obviously the RG should not print such a statement. It "tends to embarrass or degrade a member of the legal community." Bullshit, Mr. White. In asking for censorship on behalf of the LSSS, you are going against everything the RG should stand for. If personal feelings are a valid basis for censorship, Mr. Nixon has grounds for cutting the Washington Post down to one page - and it wouldn't be the editorial page. We made a rule a while back - no censorship of the RG, everything must be attributed. Even if we can't do it anywhere else, we can be honest in our own newspaper. Let me ask you - do you think it is degrading to be fat? To be ugly? To be stupid? We shouldn't have any problem on the stupidity part - everyone in this joint has been officially certified and stamped as a GRADE AA INTELLECTUAL. That's why we can laugh so easily at Nixon's fumbles in the Watergate affair - we all know we could never be that stupid. But let the criticism come closer to home, let there be a possibility that the same type of public ridicule could be applied to our faults, and suddenly we need "Voluntary" censorship. No, I would not like my own faults flaunted for everyone to see; and if the RG were to publish something that struck too close to home I would yell like crazy too. But the question here is censorship. Do we have one principle when the newspaper satirizes our opponents, and another when we are the targets? Should we have censorship at all - voluntary or involuntary, by the Editors or the LSSS, in good taste or bad? I would vote NO. Our main concern should be that the RG - that poorly written, misedited, badly printed scandal sheet - tells both sides of every issue without being fearful of sensitive toes, whether they belong to our nation's leaders or political opportunists closer to home, or even to us. And I would like to see an end to sexist discrimination being used as a rallying cry for every comment made about a female human being. That isn't the real issue here, and you know it. What is at stake here is ego, the feeling of opening the newspaper and seeing your own caricature in the editorial cartoon.

If we want, we can pass a rule that the RG can't comment on any human characteristic that belongs to someone in the Law School

(continue next column)

ATTENTION!

FIRST YEAR BASH

Tonight is the night of the fabulous section three party. All members of the third section of the first year class are reminded to attend this gala affair at 9:00 P.M. in the Lawyer's Club Lounge.

PLACEMENT NEWS

The Group on Alternative Law Practice from Catholic University Law School has sent us their first newsletter. If interested, please see Nancy or Carla.
Hastings professors are egotistical and dominating - it's almost in the nature of their job. It bothers a lot of students, it bothered me when I was a law student, and Hastings is probably worse than most places because we have an older faculty who have been teaching for 40 or 50 years. Students by in large agreed with the professor's characterization of the situation, although it was apparent that the place is so large that little agreement about the effects of harassment has developed.

One second year student was generally acceptive of Hastings teaching methods in saying that, "harassment comes from the nature of the professor's personality. There are those who teach very well by using the Socratic method - it's rough on you, but in a fair way." An editor of the law review echoed an accommodating description of what a law professor is trying to do. "There may be people who think being asked one question, then a second question and then a third question is harassment, but I think that it's a valid learning experience." Finally a member of the 65-TS adopted a more practical approach to classroom histrionics. "Students should get used to damn nasty lawyers and judges - it's good preparation to keep cool."

Several other students, however, were less enamored of teaching techniques at Hastings. "Harassment exists chiefly in the first year with different professors giving a good or humiliating experience. It's pretty bad, although about a third of the school loves the rough treatment and are in the same tradition." Commenting on the troubles of first year as well, one first year student asserted, "professors fail to realize you are beginning students and have been around law school for a while."

Placement and Fieldwork - Summing up the job market at Hastings, one young professor stated, "our placement services here are still somewhat primitive. The vast majority of students leave Hastings without a job, assume they'll have to pass the bar to get one and don't seem to regard that as an unnatural situation." An assistant dean who previously had been the placement director amplified the theme of student complacency. "There was considerable complaint, but I seldom heard it. They were quite aware that I was putting my 7 days a week in the placement office. The main complaint now, I understand, relates to lack of access to the office - personnel are absent frequently."

Student opinion largely supported the view that Hastings people don't get agitated about dim job prospects around San Francisco. A second year student acknowledged, "it's a hard market to get into - that's the main complaint - but I don't think the placement bureau is inadequate." A law review editor more specifically described the system. "The law firms here can pick and choose, so that doesn't generate any feeling of animosity toward outsiders. Now that the school is more selective, law review people can get work, but there are still some firms in town who don't hire Hastings grads. Three or four years ago the placement office was strictly a student operation, but during the last three years we've seen real live placement people, paid out of state funds and part of the administration. Still it's a real crunch since there were only an estimated 125 jobs available through Hastings for a graduating class of over 400." According to one student, however, lack of anger at the placement bureau didn't mean students didn't feel upset about the employment situation in the Bay area. "Job hunting here is worse than anywhere else in the country. And there's plenty of resentment against 'carpetbaggers' with experience' who come to work in San Francisco."

Most everyone had something good to say about the fieldwork opportunities at Hastings.

(see MORE HASTINGS next page)
Fieldwork at Hastings still has its ups, downs and problems though. About a year and a half ago, one of the clinical law courses was discontinued, but within 2 hours a 400 signature petition complaining of the cancellation got the course reinstated.

And while there are many practical courses, an assistant dean pointed out nevertheless that "clinical programs are frowned upon" because students are limited to taking only courses in the area. "Students have asked the Board of Governors for the option of devoting the third year either to general or practical studies for those who know what they want to do, but something like that is far off for Hastings." An activist third year student was very dissatisfied with the 6 unit restriction, believing that the rule means "you're limited essentially to one mucky mouse clinic and one substantive clinic," and that "you aren't given a chance from your second year on to really augment your subjects." She conceded, however, that she had "very concrete reasons for wanting to be in law school, but there are a lot of people who come to law school without knowing what they want so it is valuable for them to take a long series of commercial courses."

A member of the 65 Club was rather blunt in dismissing practical law programs. "Clinical work is greatly overdone. A student needs at least 3 years to get all the coursework he needs. A limited amount of fieldwork may be valuable, but he will miss important material that he will never get another chance to get." Another student, while not out to condemn clinical work, did say, "I'd just as soon put off practical stuff for a while since I'll be practicing for 40 odd years anyway."

On the other hand, women were instrumental in pushing for the release last year of an adjunct professor who was alleged to have consistently lectured in an extremely

(see EVEN MORE HASTINGS next page)
sexist fashion. After a complaint to the Dean by a number of women, it was learned that the offending instructor was not asked to renew his semester-to-semester contract. Yet such short-term contracts without tenure can cut both ways, according to an assistant dean, as "there is little faculty support for student proposals because of the insecurity." She added, however, that "there should be a tenure program here within the next 18 months."

"Most of the students are here to learn some law, get a degree, and have very little concern about any other issues," observed one young professor. "A few students care a lot" about student power, but with the self-perpetuating Board of Governors, "they understand that it's a very distant power that few of us can reach." One otherwise activist student bore out the observation, saying, "It's my sense that I would be fighting a losing battle, and I've lost student power battles before and don't want to get back into it." Moreover, she concluded, "students here all want jobs and they're not going to rock the boat."

More dismay was apparent in other students. "My impression of student government (Associated Students of Hastings - ASH) is that it's not particularly effective. Every year we have an election and we have a lot of talk about student power, but one year later you sit back and wonder what ASH has done in real terms."

Another student also noted, "There have been a number of instances where a class or a certain teacher who was liked by a lot of students was going to be canned, and I think in every instance when students signed a bunch of petitions, the class or teacher was kept - not because the administration saw the light but to avoid the kind of confrontations we've had in past years." The school was shut down for the Cambodia invasion.

As for grading system reform, Hastings got 3 of them after Cambodia: straight pass/fail; four-tier; straight numerical. The pass/fail system died in 2 years because fewer than 1% of students opted for it. A law review editor declared, "most students are on numerical for employment reasons, although class standing was eliminated as a part of grading reform." Another student thought the pass/fail system was just to give "the opportunity for some people who are really anti-grade to take sort of a moral stand against them." And a young professor described the four-tier system as "really only a facade because almost all students were on numerical."

Students are on almost every committee at Hastings, although a proposal to get equal voting has been stalled. One third year student thought, "it is possible to lobby among the faculty for changes" despite the fact the Board of Governors and the administration run the school rather than the faculty. But in general, "everything happens in reaction to moves by the ruling body; formal structures don't work." Along the same lines, an assistant dean concluded, "special interest groups have taken over the role of student government," in that they're the only groups, not the formal organization and committees, that have the special concern and motivation to stay on the top of the administration's decisions.

Many students were dissatisfied with the 65 Club's domination, numerically and otherwise, in the faculty, and wanted to see more new young professors. While acknowledging the advantages of having had the likes of the late Dean Prosser, Richard Powell and Larry Eldridge around, a third year student found the 65 Club "has certain drawbacks. Some professors, as they get older, start to lose their faculties, and you have deaf guys and people who whisper and people who can't see past the fourth row. And because of the age difference, students are reluctant to go in and see these professors."

All in all, the writer found Hastings to be the most fascinating law school among those visited, not only for its peculiarities but also for the "struggling" spirit or determination of a number of students. Maybe that's characteristic of a big, impersonal commuter school, since you can't survive any other way.

-Mike Slaughter

1972-73 enrollment: total - 1526 Blacks - 5% Chicanos - 4% Asians - 5% Women - 20%
The Quarter-final round of the Fiftieth Annual Henry M. Campbell Competition will be held November 13, 14 and 15, 1973, at 3:30 p.m. and 7:30 p.m. each day in the Moot Court Room (Rm #232 Hutchins Hall). Contestants will argue a hypothetical case in which a shareholder in a Michigan public utility company has brought suit, both as a derivative action and as a class action, to enjoin the company from constructing a "fast-breeder" nuclear power plant. The courts will consist of law school professors and visiting attorneys.

FAMILY LAW ESSAY CONTEST

Junior and senior-year law students have until April 15 to enter the 1974 Howard C. Schwab Memorial Award Essay Contest in the field of family law. The contest is sponsored by the American Bar Association's Family Law Section in cooperation with the Toledo and Ohio Bar associations. Contestants may write on any aspect of family law. Suggested length is about 3,000 words. Essays that have been, or are, scheduled to be published are ineligible for consideration. First, second and third-place winners will receive cash awards of $500, $300 and $200, respectively. The winners will be announced and the prizes awarded during the Family Law Section's 1974 annual meeting next August in Honolulu.

The contest is intended to create a greater interest in the field of family law among U.S. law students, particularly members of the ABA Law Student Division. All junior and senior-year students enrolled in ABA-approved law schools are eligible, except employees of the American, Ohio or Toledo Bar associations. The contest is named for the late Howard C. Schwab, chairman-elect of the ABA Family Law Section at the time of his death in 1969. He was a past president of the Toledo Bar Association and past chairman of the Ohio State Bar Association's Family Law Committee.

Law students who wish to enter the contest should request an entry form from: Howard C. Schwab Memorial Award Essay Contest, Section of Family Law, American Bar Association, 1155 East 60th St., Chicago, Ill. 60637.

-ABA News
HOW THE FORCES COMPARED IN THE MIDDLE EAST

300,000 ISRAELIS UNDER ARMS
2,000,000 SYRIANS, EGYPTIANS & IRAQIS
3,000 US MARINES FRESH FROM VIETNAM WITHOUT TANKS.

(WHO WERE WE TRYING TO FOOL?)

INTERVIEWING?
DON'T WORRY. ALL THE BIG FIRMS NEED FRESH LAW SCHOOL GRADS TO STAY ALIVE EVERY YEAR.

WALL STREET
There really aren't that many famous and deceased baseball owners, so Branch Rickey was a fairly easy guess. For all those who guessed Connie Mack - nice try. Two other substantial vote-getters were Charlie Finley and P.K. Wrigley. Now obviously everyone knows that Finley is still alive, but perhaps a lot of you are laboring under the assumption that Mr. Wrigley is dead. That is not true. His organization (the Cubs) perhaps has already had rigor mortis set in, but old P.K. is still alive and chewing, as it were.

By the way, the first time some wit informed me that "practically every UM grad has owned a baseball at some time in his(or her) life," I got a little chuckle, but after reading it nine times, it got a little stale. The best response was, "you've got to be kidding... nine completions." I would have to have given that guy a sub if his picks weren't so terrible.

Well, the wits ought to run wild with this week's tie-breaker. But, as they say, truth is stranger than fiction. Tune in next week for the answer.

Last week's top scores were achieved by Dave Waterman and Tommy the Turk (honestly). Unfortunately, the editors insist that Dave get the cub, even though his answer to the tie-breaker was Olin Browder. Second place, with 13 correct, goes to Harvey Freedenburg.

- Tommy the Turk

**COLLEGE**

Notre Dame at Pitt(27)

Illinois(23) at Michigan

Mich. St.(18) at Ohio St.

Miss. St.(11) at Auburn

Ball St.(13) at W. Mich.

Iowa St.(9) at Nebraska

Oklahoma at Missouri(10)

Stanford(23) at So. Cal.

Richmond(4) at E. Carolina

**PRO**

Atlanta at Philadelphia(3)

Cincinnati at Buffalo(9)

Cleveland at Houston(16)

Detroit at Minnesota(even)

Jets at New England(6)

Pittsburgh at Oakland(even)

San Francisco(10) at Wash.

St. Louis at Green Bay(even)

New Orleans(12) at Los Angeles

**TIE-BREAKER:** nickname of the U of Richmond athletic teams