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Dean Provides Some Answers

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Dean provides some answers

Sheldon Plager

A number of student groups had expressed a need for an open meeting with Dean Plager. On February 6, 1978, the Dean spoke with a group of about 150 students at a meeting arranged and conducted by the Women's Caucus and SAC. With Dean Plager's permission, the meeting was taped recorded. Herewith is a condensed and edited transcript of the Dean's remarks:

FACULTY — LOSSES AND REPLACEMENTS

So we proceed directly to the issue that is number one on the list which is faculty. I take it what's involved in that issue is a number of concerns. One of them is who will we have one next year? If so, who will he or she be?

First of all, there is no conspiracy going on at the state or university or law school level to gradually thin out the ranks of the law faculty so that the building can be closed and the remnants carted off to Indianapolis. What has happened is last year after a period of some stability in this faculty a number of faculty left.

I've looked at each faculty loss that we've had and I think it is fair to say we have not yet lost a single faculty member because that faculty member decided Bloomington was not a good place to be or because they decided there was something inadequate about this school or something wrong with their colleagues at some extent that we apply that standard we will on occasion have losses. I see no reason why we as a faculty would not go and hire somebody new.

Thev need to be better than that. They need to be as damn well excellent as we can find them. I see no reason why we as a faculty and we as a law school should make a policy of retaining anyone on this faculty who is not excellent. To the extent that we apply that standard we will on occasion have losses of faculty.

Sheldon P./ager

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NICK WHITE WAS a loss but there is nothing we can do about somebody who sets the crazy notion they want to be a dean of a law school and goes to do it. There is nothing we can offer except maybe a raise and I wasn't prepared to do that. There's no money, there's no perquisites, there's no program we can offer somebody who has that kind of goal in mind.

Jack Getman left. Jack is probably the clearest thing, this year anyway, to the kind of loss that one hates most to have, that is an out and out confrontation between two schools for a body. He is the only one in the history of legal education that I know of that held three tenure appointments at three different law schools. We competed head to head with Stanford, Columbia and Yale. When Yale got into the picture, things got a little murky again and he had a real struggle. At the end, the Governor of Connecticut arranged to appoint Jack's wife to a state arbitration board. Well I don't have any control over those kind of things. The one thing we couldn't offer Jack Getman was the mystique of being at Yale. I can't change the name of the University, even if I had a big enough paint brush, and I'm not sure I would want to.

We are going to be under constant pressure all the time for these kind of losses. I would be veryLCDM comforted if I thought I was sitting here with a faculty that nobody else wanted, and other people want this faculty.

More and more faculty that we are interested in have wives who are people with professional degrees or law degrees. Dan Tarlock is an example of this problem. The University of Chicago has contacted Dan about coming out there and visiting next year. He's married to a young lawyer who is living in Chicago. Well, I have been turning down visits for our faculty. It is very difficult to look Dan in the eye and say "no I'm not going to let you go visit next year", because his response might well be "well to Hell with you. I'll go visit there and I'll take a job somewhere else." So we worked out an arrangement where Dan is going to visit half a year and be here half a year.

PAT BAUDE IS visiting Illinois this year. We expect him back, but he's going out to Nebraska to be interviewed in another week or ten days. His close friend, a young woman who graduated from here, teaches in the law school out there. Well, I can't change people's personal arrangements. We have to do the best we can to get Pat back. (Since Feb. 6, Prof. Baude has told us that he is definitely returning. — Ed.)

Ed Sherman is at Texas and hopefully he will be back. He is happy here; I've talked to him regularly and I keep in close touch with him. (Again a situation has changed since the Feb. 6th meeting. Prof. Sherman has received an offer from Texas. He told us that he regretted having put Dean Plager in the awkward position of having to recant on his original optimism. Prof. Sherman is not returning to Indiana. We will all miss him a great deal. — Ed.)

There is constant pressure from other schools. What are we doing about it? Well we are doing everything we can to straighten out people's personal lives, get them to fall in love with Bloomington women. We are hiring new people to replace our losses.

Both Bill Hicks and Dirk Hartog are joining the faculty starting next fall, two very excellent people. We have a third offer outstanding to a professor who is at Yale right now, and I am very optimistic. (John Baker has since accepted IU's offer — Ed.)

FACULTY HIRING PRACTICES AND TENURE:

When we invite someone to come and visit, we make it expressly clear that the visit is an opportunity for both parties to get to know each other better, but that there are absolutely no commitments on either side. I can tell you this; that everyone of the other four visitors, who did not get offers, improved themselves as a result of their visits here. Some got jobs in better law schools, some of them got significantly increased treatment at their home law school when they heard we were looking at them. There wasn't one of them who will not leave with a spring in better shape than they were before they got here.

The tenure arrangements are negotiated in each instance. There are generally two levels at which we hire. One is the beginning teacher level, Dirk Hartog is a good example of that. The other level is somebody who is already an experienced, established professional, and Bill Hicks is an example of that.

There is nothing I can do about a tenured professor who is average. That's one of the costs of tenure. That's why when I say we must not keep people who are below the standard of excellence, I'm talking out loud about people whom we can make decisions.

In the case of somebody like Dirk Hartog, and I use him only illustratively, he comes in at the bottom of the system as an assistant professor without tenure. At the end of two or three years, if he has made good progress we will make him an Associate Professor. By the end of five years, we will make a tenure decision. That tenure decision will be made affirmatively only if that person turns out to be an excellent teacher and a productive and significant scholar in his or her field.

We are establishing a system of evaluation; student evaluation, faculty evaluation. I'm going to have annual reviews with all our untenured faculty and review where they are, and I hope to be candid with them.

I KNOW WHO the good - and not so good -- teachers are as well as you do. I can't take the teachers that aren't the best teachers out of the classrooms because then we would have to put the best teachers doing nothing but teaching large classes. Somebody said to me why don't you take professor X out of that first year class or that second year large course and give him or her a seminar that nobody wants. My answer that is "I don't want to reward people for not doing good work." Seminars are choice assignments because you get an

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An exordium can be defined roughly as an introduction or an introduction to discourse. We view this publishing effort as a starting point for discourse, a prelude to the furtherance of a professional, educational community. Rumors abound in the life of a law school and, it would seem, in this law school than in many others. We may provide the exordium for brand new rumors but we hope, in the process, to be able to offer a foundation for in-formed discussion and serve as a means of drawing us all a little closer together. We'll look for your help in this effort. — Dan Stuart
Continued from page 1

opportunity to work in depth with a small group of students, and that should be among the best educational experiences we provide. What I want to do is make the best use of the resources we have.

It is true that there are at the moment no blacks on the faculty. I don't think its a secret the person I was mentioning, the person at Yale, happens to be a black law professor.

It is true that the only woman we now have on the faculty, or will have on the faculty after Professor Silverstein leaves will be professor Bernstein, who although she is a regular member of the law faculty, is technically not a lawyer.

We have to hire some women lawyers.

GRADING PRACTICES

I am told that I ordered the faculty to crack down on students in this school and get tough. That simply is not true. I don't think there is any reason for me to suggest that any member of this faculty get tough. Anybody who thinks that it would be useful for me to make that suggestion doesn't know what it is like to deal with — not on this faculty — but the typical primadonna that one might find on a law faculty. One does not tell them how to grade.

Another rumor I heard was that the faculty had a secret meeting and got together and decided to get tough. Well, I don't believe that. It's hard enough to get the faculty to come to scheduled meetings much less get together and for a secret meeting. If they did I doubt they would agree on that any more than they would agree on anything else!

The grading policy I have enunciated since I have been here is “Goddammit get your grades in on time!” I can say with a little bit of pride that I had a little bit of success.

I heard that the grades had dramatically gone lower, that is, much lower than grades that had been given in the past. We have gone back and averaged every grade that was given this year and compared them to every grade that has been given each semester since 1974-75, and the variation between the average of all the grades given between 1974-75 and the grades that were given this semester is 0.088. The only point I'm making is that no significant change occurred this semester between this semester's grades and what the average is for the last five years.

Now, there is one area where I solely little concerned. And that area was the administrative law course. The problem was Professor Fuchs, who was just super in coming out of retirement and offering the course at a time when we had no other way of offering it, had a much larger class than he was used to teaching; and secondly there had been grade inflation during that period. I have talked to Professor Fuchs about it and he has gone back and reread all of his bottom-end papers and we are discussing what, if anything, ought to be done to adjust for that grading pattern. If our judgment is that an injustice of some kind or an imbalance of some kind has occurred, we will adjust this. (Prof. Fuchs has submitted to the Dean a revised grade list. As we understand it about eleven grades were raised. — Ed.)

BLOOMINGTON vs. INDIANAPOLIS

I for one am fed up with having Indianapolis used as the standard of performance for this law school. The schools that I am interested in comparing this operation with and this student body with and this faculty with are the major Big 10 university law schools of this country, including Stanford, Chicago, and the others. I do not mean by that to demean Indianapolis in any sense.

I want to work with the Indianapolis law school to become an excellent law school, but don't compare our law school solely with the Indianapolis law school. If you want to compare us with somebody, compare us with Michigan, compare us with Illinois, compare us with Ohio State, and if we should fall short, come and talk to me about it. And I'll tell you I am doing every damn thing I can to meet that kind of competition.

We are a major university state law school and we have high expectations for ourselves and for you. I realize there is a certain amount of competition that is inevitable between our students and theirs. But that ought not to be the primary focus of our concern.

BUILDING PROBLEMS — "THE SPACE RACE"

This law school was built for 500 students. We are now pushing closer to 600 and if we admit another law entering class like that, we will be over 900 and that's no good. I'm going to try to hold our admissions to a number that we can use the facility comfortably. I think the faculty-student ratio in this school is very unfortunate. I have gone to the administration and the Board of Trustees and have said to them: "I want to hold our admissions to a number that we can use the facility comfortably. I think the faculty-student ratio in this school is very unfortunate. I have gone to the administration and the Board of Trustees and have said to them: "I want to support the Indianapolis law school to become an excellent law school, but don't compare our law school solely with the Indianapolis law school. If you want to compare us with somebody, compare us with Michigan, compare us with Illinois, compare us with Ohio State, and if we should fall short, come and talk to me about it. And I'll tell you I am doing every damn thing I can to meet that kind of competition.

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G. P. A. comparison

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The cumulative g.p.a. of the third year class after all grades were in and recorded.
Continued from Page 2

situation we now find ourselves in. Ten years ago we had the luxury to sit back and plan and talk about building new buildings and big complexes. Right now all we have is our backs against the wall. We've got problems, and we are going to deal with them, but the problems have been with us for ten years and I've got no magic wand. The only thing I've got is the desire to see us begin to at least address some of these problems.

I went to the Board of Trustees and I said: "Give us 9 million dollars — a piddly 9 million dollars — so we can build a wing" and the Board of Trustees, as you read in the papers, said "No". Shouldn't you want $17 million to build a new building?" Well, I am delighted by their interest, but will this delay it for years maybe? I want to get a new wing if we can get a new wing in place in 4 years. I figure the current remodeling will hold us 3 or 4 years. A new wing in place in possibly 4 to 5 years and we are in good shape for another 10 years, maybe 15. If they build us a new building but it takes 10 or 15 years, in the meantime we are going to be in trouble.

PLACEMENT

The only thing I think our Placement program can do is to be a facilitator. That is, we can be an information gathering operation and we can facilitate contact between the employer and the potential employee. There is no way that our Placement office can create positions that do not exist or make people attractive for those positions if they are not. But if you will tell me specifically what more we can do to help the staff and the potential employee, as you read in the papers, said "No". Shouldn't you want $17 million to build a new building?" Well, I am delighted by their interest, but will this delay it for years maybe? I want to get a new wing if we can get a new wing in place in 4 years. I figure the current remodeling will hold us 3 or 4 years. A new wing in place in possibly 4 to 5 years and we are in good shape for another 10 years, maybe 15. If they build us a new building but it takes 10 or 15 years, in the meantime we are going to be in trouble.

MINORITY ADMISSIONS

One of the first things I did is I went out and hired a first rate assistant dean who happened to be a black. I was particularly pleased because I wanted very much to bring a black administrator into this law school to help me figure out what we can do to make the law school more attractive for minority students. It's not going to happen overnight. I gave Dean Motley a budget for travel, and he spent a good bit of the fall away from the school out recruiting, both white students and black students in the major undergraduate colleges. It's beginning to show some results.

The simple truth is that southern Indiana is not some place that blacks will generally flock to. I think that is damned unfortunate. I can't do anything about changing the image of the area very much; I'm doing what I can to change the image of the law school.

I am not now and I have not asked the faculty to remove students from the admissions process. It may indeed happen at sometime in the future. We are operating with rather limited numbers of faculty for committee work, and it is my policy, and it will continue to be my policy, that admissions will ultimately be a faculty decision and that a majority of the admissions committee will be faculty, although I want significant student influence. Now frankly I have a little bit of unease about having students reading the personal files of other students. It is not a tradition that I am familiar with. I'm just expressing an honest doubt.

The minority admissions that we have are not the result of student efforts, they are the result of the collective efforts of a faculty-student committee. And taking students off that committee may not have any impact on minority admissions at all. My policy is to materially increase our minority admissions. I have been asked, "Doesn't the Bakke case preclude that?" I don't know how Bakke is going to come out, but if there is any way around Bakke, legally, to maintain a minority admissions program we will have one.

I think there is a very real problem with regard to placement of minority students. Part of that problem is the old pipeline difficulty; that is, we do not have an established network — firms that are in the market for minority students. Most of the firms tend to call for traditional hiring patterns. I have a memo which I will be glad to share with anyone who wishes to see it, about the kinds of things we are trying to do, including identifying our minority graduates and minority alumni and see if we can organize some sort of support through them to help with building some kind of network for minority placement.

SCHEDULE CONFLICTS

Part of the problem is that there are some conflicts that will always exist simply because there are a number of courses that will have to be taught and we don't have any way of teaching so that some of them won't conflict. One of the things that came up was that we had scheduled an exam for the same time that the senior graduation program was to be held. Since seniors were taking the course, that seemed a little unnecessarily. So we had to make a last minute change.

Part of the problem, candidly, is that we are all new. That's the simple truth of the matter. Frank Motley is new, Johnson is new to the job, I'm new to mine, Bill Popkin is essentially new to much of what he is doing. What we are doing is learning by trial and error.

AN ADMONITION

Let me say one thing. I know there is a lot of anxiety and I know there is a lot of concern and I know there are a lot of screw ups, but one thing that really makes me angry is the assumption that the staff is not trying to do a good job. Someone wrote Frank Motley a letter the other day that I thought was outrageous. I have written this student and told him. The student had a bitch and didn't go to see Frank and give Frank an opportunity to explain it. He simply wrote a scathing letter attacking him personally. Now I thought that was really unseemly. Among other things it was unprofessional.

BY GOD, you people are lawyers or at least if you are not yet lawyers you are in a professional school and you ought to act like professionals. I expect you at a minimum to equip yourselves with the facts, and I expect you to find out if your grievance is in fact valid.