District Court Holds Minorities Program Unconstitutional

ED. NOTE / The Docket appreciates the permission, granted by the University of Washington Law School newspaper and reporter Tim Fishel, to reprint this article.

Over 1600 college graduates applied to the University of Washington School of Law last year. Only 150 of them could be admitted. To fill the available slots, the Admissions Committee selected over twice as many applicants as they could take, then established a waiting list. The process of losing some of those first selected to other schools required the admission of the excessive numbers. The waiting list, as it turns out, was used extensively. Some students were admitted as late as a few days before Orientation. Marco DeFunis was not among the first admitted. And thus he sued the law school. It was the second time in two years that DeFunis was denied admission.

DeFunis, through his attorney Joe Diamond, made three arguments: 1) Reverse racial discrimination; 2) failure to give Washington residents preference in admission as required by the State constitution; and 3) use of an unfair procedure by the Admissions Committee, namely averaging the scores DeFunis received for the three different times he took the LSAT.

The law school, through James Wilson, submitted that the issues before the court were either that the Admissions Committee proceeded in a fashion which violated the state or federal constitution, or that the general admissions practices of the Committee were arbitrary and capricious, or that the Committee's consideration of DeFunis's application was arbitrary and capricious.

Wilson maintained that the law school was not at fault on any of the issues in the case. Judge Lloyd Shorett disagreed. Although finding against DeFunis on his major argument, that in-state students should be given preference, Shorett found that the "equal protection clause" precluded the Admissions Committee from giving exceptional consideration to minority applicants.

The procedure for review by the Admissions Committee of an applicant is as follows: A member of the Committee reviews a given person's application. He takes note of the relative strengths and weaknesses of the application as they appear in the file. He then presents the person to the Committee meeting as a whole, recommending whether or not to admit him/her. The committee discusses the person's application and tries to establish the qualifications of the individual before them. Those who are exceptionally qualified—relatively speaking—are admitted first. The process of distinguishing between many others with quite similar qualifications is the next step. It is a difficult judgement, at best.

The question that is at the center of the case is the criteria used in making the above judgment. One of the basic criteria is the predicted first year average. This is derived, essentially, by computation of the grades an applicant received in his last two years of undergraduate work, and his LSAT score.

Other criteria take on a more subjective nature. Did the applicant participate extensively in activities other than school work? Did he have to work his way through school? What undergraduate institution did he attend? The list is numerous, probably impossible to identify in its entirety. One of the criteria used was whether the individual was a minority student. All minority applicants were reviewed by Mr. Vince Hayes, a black law studnet member of the Committee, and Professor Geoffry Crooks, faculty member of the Committee, and adviser to CLEO. CLEO is an organization dedicated to assist "culturally disadvantaged" college graduates in preparing for and succeeding in law school. Crooks and Hoyes then presented the applicants to the Committee.

The Committee had committed itself to increasing the minority representation in the law school, hoping to achieve, ultimately, a strong representation of minorities in the legal profession. Less than 1% of the profession is a minority person today. Additionally, it is hoped that minority law school graduates will provide their communities with the competent legal assistance of which they have been deprived to date.

With that in mind, the Committee established a policy of admitting minority applicants who had a reasonable chance of succes in the law school. This led to admitting persons likely to succeed, but less likely to do so than the plaintiff, DeFunis. He had an average LSAT score of 582 (512, 566, 668). His GPA was 3.71. In graduate school, he received mostly A's. He graduated Phi Beta Kappa from the University at Washington with a major in Political Science.

Diamond emphasized through the show cause hearing that the plaintiff was exceptionally qualified. Professor Richard Kummert, Chairman of the Admissions Committee, stated that Diamond was trying to get the court involved in second-guessing the Committee. As Kummert believed that the court should only be concerned with whether the Admissions Committee had acted arbitrarily and capriciously, unconstitutionally, and not act as a substitute Admissions Committee, he did not feel that engaging in a discussion of the merits of DeFunis' application compared with other applicants was necessary. He felt that the Committe had not been aribtrary or capricious, and that the Constitution not only allowed but possibly demanded exceptional consideration for minorities.

Proving only those points was the sole objective of the law school. In the law schools' trial brief, Kummert bolieved that the in-state preference issue was concisely and persuasively resolved against the plaintiff. Judge Shorett must have agreed.

Diomond, in his attempt to have the court second-guess the Committee, had served a subpeona duces tecum on the law school to have access to all the applicants' files. The law school moved for a protective order, arguing that much of the information in the files was extremely confidential, and open perusal of such material is unwarranted and unfair to the respective applicants. Judge Shorett eventully ordered that Diamond be allowed access to the files. He added that the names of the particular applicants was irrelevant to the case. Notting that, the law school placed the contents of each file in a blank foldor without a name on it, and blotted out the applicant's name where it appeared within the file. Diamond accused them of "obliterating information in the files." Naturally, the headlines in the PI quoted Diamond, making it appear as though the law school and intentionally concealed material which Diamond had a right to see.

Questions of how many minority applicants were below DeFunis' first year predicted average, how many out-of-state applicants were admitted, how many accepted, etc., resulted in a flood of figures being tossed around. As could be expected, the numbers were confused both in the press and to some extent by Judge Shorett. Professor Kummert still cannot understand where Judge Shorett got the number of 31 minority students with lower predicted first year averages than DeFunis.

Last week the Board of Regents decided to appeal the case. Judge Shorett's ruling, they believe, is clearly erroneous. Looking at the possible effects of the decision holding up on appeal, not only the law school but the entire University may be in big trouble. Shorett's opinion now jeopardizes the undergraduate admissions policy as well as their Equal Opportunity Program. As a matter of fact, if the reasoning of the decision is carried to its logical conclusion, the entire realm of affirmative action on behalf of minorities throughout the country is in danger.

UCLA DOCKET

VOL. XVI NO. 2 SCHOOL OF LAW NOVEMBER, 1971

Ex-student Seeks Re-admission Claiming Law School Injustice

By DAVE FERGUSON

When it's one man against an institution, the institution always has a tendancy to win.

—Charlie Brown

Joseph Alex Cota was a student in this Law School in 1951. He tried to fight the system. He lost.

The problem with Mr. Cota is that he refuses to play dead. To the administration's constant embarrassment, Mr. Cota is alive, well, and still telling his story.

STATEMENT OF FACTS
BY JOSEPH A. COTA

"I was a student at the UCLA Law School with the same aspirations any other student might have; namely getting my degree and then setting out to serve my fellow man as an attorney. What happened? The University I loved maligned my name in the worst conceivable manner and even had me placed in jail as a vagrant!

In the Law School, the former Dean espoused his political views in his first-year torts class. While praising former Senator Joseph McCarthy, he challenged the class to name anyone who had been wrongfully accused by McCarthy. I mentioned the name of former Secretary of State Dean Acheson.

In a subsequent talk I had with the Dean, he told me he believed in racial segregation. When I objected, he said that "Liberals with a capital L" should be weeded out of law school and that if I did not conform I would not be allowed back in the law school.

So oppressive was the atmosphere that many of my fellow students became frightened to be seen with me. I, nevertheless, thought that if anything happened insofar as the Dean's threats were concerned, I could always appeal to higher authority in the University.

Ultimately, I received a grade average three-tenths of a point below permissive status and was dismissed from Law School. Because of the Dean's threats, I appealed to the University Board of Regents and the University administration. A representative of the Regents stated it was an administrative matter so I had no recourse to them.

The Administrative Committee Chairman demanded I sign a loyalty oath (not required of any other student) or the Committee would not investigate. After I signed, I was informed that the Administrative Committee would not interfere with

(Continued on page 4)

Alex Cofa—Justice Denied?

Reverse Discrimination Charged In Part-time Study Decision

By PATRICK HATCHER

The faculty in a sharply divided vote on October 4th broke a long established policy and allowed a first year student's petition for part-time study for the first year. The basis for the request was the student-mother's desire to devote more time to the raising of her children. There was no question in this case of financial inability to provide for day care.

Recognizing both the precedent of this decision and the possible need for a more flexible policy for part-time study, the Admissions Committee headed by Joel Rabinovitz has been charged with evaluating the possible creation of a limited (approximately six students) program of part-time study for special classes of students.

It is precisely this process of the creation of these "special categories" and their implementive criteria that portend some controversy. If the desire of mother to spend more time with her pre-school children is judged to be a sufficient basis, is a working father-student also eligible for part-time study? According to Rabinovitz, one factor to be considered is whether the condition giving rise to the request can be alleviated by some other means such as financial assistance.

Dean Schwartz expressed the view that the creation of a part-time study program would entail significant administrative problems in trying to coordinate those students with the full-time students.

In answer to the critism that this case represents an example of "reverse discrimination" in favor of women, Professor Rabinovitz expressed the opinion that it is an attempt to provide an alternative for those married women who seek a career but have the responsibility of caring for children. Peggy Nelson, student member of the Admissions Committee, sees part-time study as the creation of an option for the student-mother and not an answer to the societal problem of placing the entire burden of child-rearing on the wife. In recognition of this "problem" both Dean Schwartz and Prof. Rabinovitz have stated that the part-time exception would clearly apply to the student-father who has custody of children.

While the direction of the law school's policy on part-time study is not entirely clear at this point, it is certain that charges of favoitism and reverse sexism will accompany the Admission Committee's considerations. Make your opinions known to them.

Law School History Reveals Grade Controversy Not New

ED.—THIS IS THE 2ND PART OF A TWO PART ARTICLE.

By DAVE FERGUSON

Concern over the grading system is nothing new. In its 22 year history the Law School has changed its grading system three times, each change surrounded by controversy, charges, and counter-charges.

When the Law School first opened in 1949 a numerical system, modeled after the one used at Harvard, was instituted. Under that system professors made qualitative judgements and assigned corresponding numerical grades - ranging from 45 to 100.

Students were then ranked by averaging the numerical grades.

The first change was the institution of blind grading in the Spring of 1957. Under the original system students put their names on their exams, so each professor knew just whose paper he was grading.

Under the blind system, students are assigned code numbers and tests are graded anonymously.

Many reasons were given for the change. Many persons point to the Alex Cota controversy (see story in col. 1) and claim the system was designed to protect the student.

One professor, however, claims the reverse, that the faculty had been shocked when a poor student had been given a high grade by a friendly professor.

Dean Bauman points out that the school was merely following a common trend.

(Continued on page 3)

Law Women Organize To Abolish All Sexism Presently at U.C.L.A.

By BARBARA MALLACH

A definite example of the fact that more women are beginning to organize seriously to end discrimination against women can be seen within the Law School this year. With the establishment last spring of a Law Women's Association came the realization that with unity and a lot of hard work, goals which seemed completely unattainable at the beginning of last year can be accomplished.

At a recent Faculty meeting, I was pleasantly surprised at the awareness and sensitivity of certain Faculty members to the definite need for easier access by women into the legal profession, the need to encourage--if not recruit--women to attend Law School, and an abolition of discriminatory prac-

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UCLA DOCKET

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EDITORIAL

Sick of Interviews???

As every second and third year student knows, the interviewing season is upon this law school. And probably more important than in past years is the impact of the interview on the very career plans of many students. Nobody needs to be told how very tight the job market is for young lawyers, everywhere—government, big firms, small firms, etc. Despite a lot of crap put forth in the classrooms, the D.A. had an overflow crowd and the JAG Office of the Army wasn't hurting.

And the interview hassle to the student can be expensive in more than money. Missed classes and loss of study time can put a student behind very quickly. And the odds of getting a job, better for summer employment than permanent, are not encouraging, probably between 100 or 75 to one.

Even if the odds of obtaining a job aren't increased, some changes should be made in the present system of interviewing if nothing else than to lessen the time involvement of the students. First, the redundancy of students having to stand in line to obtain a number which gives the student his place to stand in the sign-up line should be abolished. A simple alternative would be to have a card sent to all second and third year students during the summer with the Placement Office packet. The student could indicate his interest to interview by returning the card and the numbers used to indicate sign-up line positions could be assigned by a random drawing of the cards. This would eliminate the unfairness of the present system to out-of-state students, employed students, and those who like to sleep late.

Next, the sign-up period should last longer. During the week before interviews began, each day during set periods could be used to register certain series of numbers. This would not only remove the mob effect of sign-ups, but would also allow the students with high numbers an opportunity to find out through the grapevine which firms were still free. Thus a student who discovered that his choices were gone, could make a reasoned selection as to which remaining firms to interview. In fact, the placement office could post a copy of the current sign-up sheets each evening to indicate exactly which firms were still free.

Sanctions should be taken against employers who abuse the opportunity given to them by the law school to interview with some of the best law students in the nation. The student with only five "firm" interview choices cannot afford to waste a selection with a firm that is not seriously intending to hire or one that, due to its own inability to conduct an interview promptly, causes some students to receive much less time interviewing in addition to missing more class or study time.

Interviewers who fail to conduct the full period of time assigned to each student's interview should be required to return at a later date to conclude its interviews. An interviewer who has not employed any U.C.L.A. law graduates in the last three or five years should be indicated on the announcement list sent out by the Placement Office. This would give each student a more valuable criterion in the selection of firms to interview.

Finally, the option should be given to prospective interviewers to conduct interviews in the evening. Many students would prefer to interview in the evening in order to miss fewer classes. And many attorneys, behind in the office, might prefer the plan. As the system is now, it often costs many students too much in terms of an investment in time and effort.

Orientation Speaker Goldberg Assailed as Hypocritical

By PATRICK PAILING

This article, which is in fact an invitation for public discussion, was occasioned by the "unofficial" speech of Art Goldberg during this year's Orientation Day Program, and an incident which occurred in private following that speech.

In that speech, Mr. Goldberg related to the audience his experiences in relation to the "movement" in the United States which seeks primarily to reconstruct social institutions, means, and goals along more equitable lines and priorities. More important than these experiences were the rhetorical assertions made by Mr. Goldberg in an attempt (I believe) to activate responsive and responsible students towards this "movement". To elicit a favorable response, he alluded in the somewhat typical manner, to vague generalities concerning the problems and injustices which we face - and ought to respond in action towards. This technique was somewhat successful in that it relied upon the general student sentiments (in my estimation) of pacifistic activism (in rejection of "militaristic" and violent activism, underlying the opposition to Viet Nam and other national and personal actions along similar lines) and the growing conscientious responsibility for one's own particular actions as they relate to one's fellow man.

"Seize Power"

In the process of his presentation, however, Mr. Goldberg made one particular statement to the effect we "seize power"- to this, I draw my objections, not only to the means to be employed in achieving the necessary goals thereby, but to his "position" as a responsible "spokesman" for the actual achievement of those goals.

After the completion of his speech, I approached Mr. Goldberg for a clarification of his "seize power" statement, asking what he meant - did he mean by violent means? His reply was "by any means necessary".

Hypocritical Position

This elucidation, to me, represented a hypocritical and inconsistent position, totally undercutting the thrust of the idealistic rhetoric which he employed.

To me, the implications are clear. The use of "any means necessary" in achieving goals sought, can, by logical extension, undercut those very goals- in fact eliminate them from attainability - a sacrifice I am not willing to undertake.

Goldberg Irresponsible

Besides this critical logical flaw, Mr. Goldberg seems to me, to be largely deficient in terms of responsibility. He failed outright to present any **specific** plans to deal with the very real and critical, specific issues and problems which confront us in our goal to attain a more equitable, conscientious society in these United States and the World at large. I do not feign that this attainment will be at all easy, or even attainable in **our** life - times - only that we must act responsibly towards **particular** issues and problems, taking them one by one, with a well rounded, well founded (reasoned) sense of justice, through means established within an orderly system of social change.

Seizure of power, merely for the attainment of power will only confuse the issues and make them unapproachable. (I do not even believe that seizure of power "by any means necessary" is even possible - given the **real** situation in our country.) Revolution, merely for the sake of revolution, is no less ineffective and detrimental.

True Revolution

A "revolution" that is to be successful is one that is composed of a commitment of conscience to the fair treatment of peoples of differing interests who have certain basic needs in common.

I must apoligize for the very general nature of **my** statements for they are predicated as a response to Mr. Goldberg's very general assertations and his very general, critical failings.

Let me repeat that this article is intended as an invitation to Mr. Goldberg to discuss openly in the public forum of the **Docket**, the specific issues involved, and the criticisms I have aimed at his position.

Are you **listening**, Mr. Goldberg?

FALSE ADVERTISING

Phantom Courses

By DAN DAWES

Q. What book is funnier than last year's election promises?
A. This year's law school announcement.

An unvoiced student consensus that the course and seminar offerings as listed in the law school announcement are just "white man's promises" is based on a simple and honest mutual misunderstanding. While the student would like to believe that he will be given an opportunity to take any of the courses listed in the announcement at sometime during his three years, the faculty views the list as being courses which they would like to teach, regardless whether they have, are, or ever will actually teach it.

The phantom courses have three origins: a) old or obsolete courses which have been essentially absorbed by a newer course (230 Trial and Appellate Practice yields to 249 Trial Tactics and Technique, or 229 Wills and Administration of Estates by the current 341 Administration of Decedents' Estates, and others); b) courses for which the faculty can find no willing or competent instructor (244 Patent Law, 240 Admiralty Law and others); and c) courses which were one shot offerings by visiting faculty members or pet projects of faculty who are on leave or since resigned (282 Soviet Public Law, 283 Law and Economics. 280 Introduction to African Law, 278 Legal History, 276 Federal Government Contracts and others).

Dr. John Bauman, past chairman of the curriculum committee, feels that the inclusion of the obsolete courses and one shot offerings in the announcement is "misleading and ludicrous". Dr. Bauman further suggests that the editing by the faculty of the announcement be perfected this year, and that courses in the future which are offered only occasionally or subject to the availability of a qualified instructor be so indicated by a qualifying footnote, thereby warning prospective students.

Bauman said that in the future the seminars will be listed in two general categories: comparative and foreign law and international law. This would lend certain procedural advantages, known only to the faculty, and allow the dropping of such dead horses as 323 African Customary Law, 329 Administrative Law in French West Africa, 339 Land Tenure and Economic Problems in Africa and 347 Economic Administration in Socialist Countries.

Bauman contended that it has been the continual intention of the UCLA Law School to build a strong program in international law. The pending loss of Prof. Paul Proehl, he felt, was yet another great step backward in this direction.

As to the future of UCLA's law school, Bauman saw the introduction of the clinical apprentice and quarter-off programs as the most outstanding and only innovative idea in law school curriculum in the past half century. Much of the faculty's innovative energies, with respect to curriculum, would be concerned with the future strengthening of these programs.

Doctrine of Militant Activism Cornerstone Of New National Lawyers Guild Publication

The HOSTILE WITNESS has now appeared twice at this Law School. In order to learn what function the HOSTILE WITNESS sees itself as serving in the legal community and in the community-at-large, the DOCKET approached the students involved with its preparation. They summarized their purposes as follows:

We want to help bring law students together with attorneys, legal defense organizations, and those running various projects who are in need of help of law students. We feel that many students have a desire to do work on the outside of the Law School, but they cannot find proejcts and struggles which need them. Through WHAT'S LEFT, a regular column in the HOSTILE WITNESS, we hope to bring people together.

We felt there was a need for activist-orientated students to realize that a group of fellow students at the school equally interested in militant activism was around; we see the newsletter as a means by which such like-minded people can get to know one another, and to feel some sort of group identity.

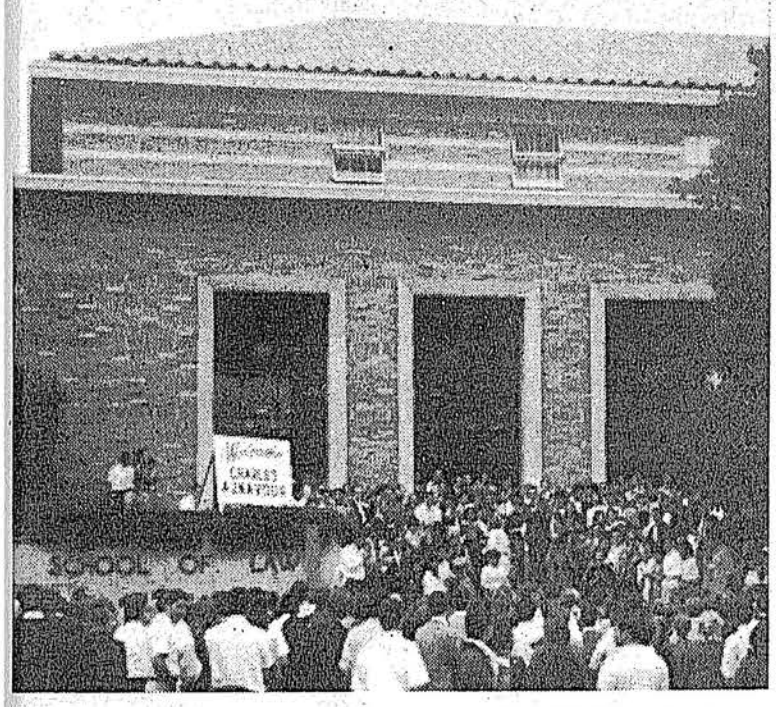
We feel there is a definite need for thorough discussion of the issues and problems of concern to the law student—concerning the role of the Law School educational system, as well as the role of the lawyer to the outside world with its repression of many groups in our society. For example, the role of the lawyer in relation to the prison system, to the movement of women, Blacks, Chicanos to obtain justice, etc. We hope for the HOSTILE WITNESS to offer a continuing discussion on these and other similar types of concerns.

The HOSTILE WITNESS is a collective comprised of any and all people of like views and desires who want to help participate in putting the newsletter together. Nobody has any more or less power than anybody else has. All editorial decisions, as well as all other decisions relating to the newsletter, are made by all those who wish to participate. Therefore, people who have read the HOSTILE WITNESS, and wish to become a part of it, are very welcome to join.

Change to P-F Grades Favored by Students

Results of the grading poll run in the last issue of the Docket indicate that over 75% of returned ballots favor a straight pass-fail grading system. Only 10% favored either a letter grade system (ie. A,B,C etc.) or a numerical ranking. Five percent favored abolition of grades completely.

By a two to one margin, students felt that the ceiling on I grades should not remain in effect while by over a two to one margin, students thought that the present ceiling on the number of highs and high passes should be removed. Results of the poll will be given to the SBA.



Law School Fad Mixed Blessing

Some figures. In 1968-69, just over 60,000 people took the LSAT; in 1969-70, 74,000; and in 1970-71 the figure approaches 110,000. The fact is that it is crowded.

Total enrollments in the fall of last year in law schools in the United States was over 83,000. Only two percent of the vacancies were unfilled, and it has long been a fact that law schools now select from the very top of those who apply.

According to Dean Murray Schwartz, the reasons for the rapid growth of law school enrollments are several. Large numbers of undergraduates, minority and women enrollments, decline of job opportunities in other fields, and the concept that law school is "where it's at." In Schwartz's view, if the growth rise is at its present rate, "at some point during the 1980's . . . we shall have almost twice as many lawyers as in 1970."

And current projections indicate that the nation's needs for lawyers will be satisfied at 1980. The effect on today's law student is already felt.

Overcrowding of physical facilities, a shortage of qualified professors combined with a poor teacher-student ratio and curtailed library facilities are key concerns here.

Although lower income and higher unemployment are strong possibilities for future lawyers, Schwartz is hopeful that the high number of young lawyers can be utilized in meeting the needs of many groups today which have not had adequate representation in the past.

A LANDMARK CASE

Serrano v Priest Voids Tax Method

EDITOR'S NOTE — Instrumental roles were played by UCLA Law School faculty and students in the preparation and litigation of the following case. Professors David Binder and Hal Horowitz were both attorneys of record. Students Diana Walker and Sara Adler contributed greatly to the original investigation and research involved in the case.

By STACY SHARTIN

In an historic decision handed down last August 30, the California Supreme Court, in effect, held unconstitutional this state's property tax-based scheme for financing public education. That decision was in the case of **Serrano v Priest,** 5 C3d 584, a class action brought by, and on behalf of, pupils and their property tax-paying parents who reside in all the state's school districts except that one which "affords the greatest educational opportunity of all school districts in California;" the defendants included those state and local officials in charge of collecting and disbursing money for education.

The thrust of plaintiffs' argument, which the court adopted as its holding, was that the present, property tax-based funding scheme, insofar as it may be proven to result in lower per pupil expenditure in districts with low assessed property valuation and a low quality of education in those same districts, conditions the quality of education received by a child upon the wealth of his parents and neighbors, a "suspect classification" unwarranted by any substantial state interest. As such, the system of financing schools denies the State and Federal Constitutionally-guaranteed right to equal protection under the law to poor children and their parents.

While, technically, the Court was only ruling upon the sufficiency of plaintiffs' complaint as against defendants' general demurrer, and hence the result was only a remand to the trial court, where plaintiffs must prove each of their allegations regarding the system, the extensive discussion by the Court, under its power of judicial notice, of essentially factual material effectively forecloses discussion of most of the major issues on remand. The only two issues specifically left open by the Court are the correlations alleged by plaintiffs to exist between assessed property valuation and family wealth, and between per pupil expenditure and the quality of education received.

That the present system does indeed classify on the basis of welath, however, the court found "irrefutable". To buttress this conslusion, the court compared the Baldwin Park and Beverly Hills School Districts. In the former, taxpayers pay at a voluntarily-imposed rate of $5.48 per $100 of assessed property valuation, despite which the district can afford less than $600 per pupil for education; while, in the latter district, a moderate rate of only $2.37 per $100 assessed valuation provides revenue in excess of $1200 per pupil. The burdens of such a system, clearly, fall more heavily upon the poor; upon the poor pupils who are denied equal educational opportunity, and upon the poor parents, who must pay more than richer parents for less, or even the same education for their children.

Beyond the board policy implications of the opinion itself, the background of the case is significant in its implications for the future of the practice of law. Plaintiffs' success before the Supreme Court was the product of the collective efforts of a law student, law professors, and lawyers in public interest, legal aid and private practices, coordinated through the Western Center on Law and Poverty, an OEO-funded organization of law schools and legal service programs in Southern California. Such cooperation among various strata of the legal profession is becoming increasingly prevalent in litigation involving broad social policy questions. It suggests that, even for those among us who choose private practice, the opportunities for socially-significant contributions to the development of the law will be (perhaps increasingly) available through participation in such informal cooperative efforts. (Indeed, plaintiffs' argument at both appellate levels was made by a privately-practicing Beverly Hills attorney.)

In response to a defense petition for clarification, the Supreme Court issued an addendum to its opinion on October 21. While an official report of

(Continued on page 4)

Grade History . . .

(Continued from page 1)

Whatever the cause, the effect, as summed up by Professor Sumner, was to protect students from bias, and professors from charges of bias.

Despite the change, considerable discontent was still expressed by faculty and students alike. It was objected that there was substantial variance in grading between classes due to the fact that all professors do not share the same view of quality. What one Professor might consider an excellent exam (90), another might consider only mediocre (70).

Furthermore, class rankings were exagerated. When the averages were computed, an amount as small as a few percentage points could mean the difference between being in the top of the class and being in the bottom, although such difference in quality was negligible.

With a view towards remedying these problems committees were directed to study the system.

Finally, after many committees, reports, and proposals, a vote was taken on December 1, 1969, and a totally new grading system was instituted.

The new system was substantially different. The main thrust was that no longer were students to be graded on a qualitative basis.

Students were now judged on their performance relative to their classmates. It was hoped that this would alleviate the inequalities due to differences among individual professors.

Also, students would no longer be ranked. Instead of receiving a numerical grade, students were to receive the familiar H. HP, P, and I.

As it would be in 1970, the I grade was the greatest source of controversy in 1969. A committee charied by Michael Asimow proposed that 10% of the students in each class be manditorily given an I. The Admissions and Standards Committe, with student representatives, opposed the mandatory view, stating that due to the high caliber of the student body, such a system might require a professor give a satisfactory paper a low grade.

The net result was that the Asimow proposal was tabled and the Admissions and Standards proposal passed by a narrow vote, but not before Asimow, together with Professor Cohen, had submitted a personal report urging the manditory I's.

But Professor Asimow was not finished.

On March 19, 1970, Asimow, in conjunction with Barbara Rintala, submitted a new proposal to the faculty. This time, rather than proposing mandatory numbers, Asimow urged that there be no limitation on the number of I's given - up to 70% . . .

Cota Controversy . . .

(Continued from page 1)

the decision made by the Dean. The Administrative Chairman never did investigate my grievance even though I was to lose my veteran's educational benefits along with my standing as a law student.

Any wage earner is entitled to know what deductions have been made from his wages. Courts would be outraged if such a worker was not fully appraised of what he earned. But I, as a student, was denied comparable appraisal of the grades I earned.

Any wage earner is entitled to know what deductions have been made from his wages. Courts would be outraged if such a worker was not fully appraised of what he earned. But I, as a student, was denied comparable appraisal of the grades I earned.

Under the Dean, I could not, as I soon learned, get an explanation of how my examination had been graded. The Dean never did tell me how he graded my paper. Not only can witnesses verify this fact, but it also can be demonstrated that the Dean lied in his denial that he ever had a political disagreement with me in the classroom. There were many other discrepancies voiced by the Dean, but since the Administrative Committee Chairman did not investigate, the truth never caught up with the Dean.

After exhausting appeals to the University, I next went to the courts. The court stated that it could not interfere with the University and never heard my case on the merits.

With no recourse to the courts, I next tried taking my grievance to my fellow students on campus. While passing out flyers and maintaining a vigil or protest in front of the library, the University had me arrested for vagrancy and I ended up spending ten days in jail. The University had subpoenas quashed when I tried to call witnesses to verify the fact that I was not a vagrant but rather a citizen attempting to get a fair hearing.

Since I could not call witnesses in my behalf, all manner of vicious and malevolent aspersions were cast in my direction by supposedly well-educated, civilized University administrators.

In more recent years, because of derogatory statements made about me on radio by an associate of the Dean's in the so-called Americanism Educational League, I was, at last, able to get some people placed under oath. The Dean, under oath, not only contradicted himself, but came out with "bald-faced lies". Needless to say, I presented these statements to the law school, only once again to get the run-around. . ."

Mr. Cota's amazing story is well documented, but if only one half of it is true, it would still be a disgrace to this school.

Few members of the 1951 faculty are still present in the Law School. Despite the serious nature of Cota's charges, those members of the faculty who do remain consider the case a "dead issue" and that "there is no reason to rehash that mess."

It is their contention that Cota was merely a poor student, as evidenced by the fact that he failed two other courses besides the Dean's, and that any claim of biased grading is unfounded and unprovable.

Those faculty members further point out that Cota had the opportunity to raise his grades in the Summer Session that year, but mysteriously dropped out.

It is also claimed that Cota was arrested for vagrancy not because he was passing out petitions to the students, but because he was sleeping on the steps of Powell Library.

No matter whose version is accepted, Cota's or the Faculty's, there is one undisputed fact which causes this case to still reek of injustice after twenty years.

The test grade which caused Cota to flunk out of the school by three-tenths of a decimal point, the one piece of evidence that would have exonerated Cota or justified the Dean, was destroyed. Despite the fact that Cota disputed the grade, despite a pending lawsuit, the Dean burned Cota's test paper.

The Dean claimed it was standard procedure to destroy test papers after one year. Cota claims that the paper was burned to hide the truth.

One thing is certain—made certain by the burning—we will never know the truth.

Cota does not bring these charges merely to embarrass. After twenty years he still has a passionate desire to become a lawyer. Cota wants to be readmitted to the Law School and given a fair chance to prove himself.

The Question is whether the Law School is equally willing to prove itself. The Question is whether anyone is willing to help Cota, or even hear him. After all, it is much easier to teach justice than to practice it.

SEARCH AND SEIZURE

Clinic Defends Chauffeur

Students in the Criminal Law Advocacy and Poverty Law Advocacy courses will represent persons who are unable to afford the services of a lawyer. The following is an abbreviated description of one of the cases handled last year in the Criminal Law Advocacy class.

Robert James, charged with violation of Business and Professions Code Section 4143 (possession of a hyprodermic kit) was interviewed by two students in the lock-up in Division 59 of the L.A. Municipal Court prior to Mr. James' arraignment. The interview elicited the following:

One Friday night, Mr. James, a 56 year old black chauffer, drove his employers to the airport. At the airport he removed the luggage from the trunk of their vehicle, a 1958 Rolls Royce, and then returned to his apartment on the employers' premises. The car remained at the premises all the following day. On Sunday, Mr. James, who had permission to drive the Rolls, picked up two friends, Robert Bobbins and Arnold Stevens. The three preceeded in the Rolls to San Bernardino where they visited some friends. The three returned to Los Angeles at about 8:00 p.m. and when they got to the downtown area they decided to stop and buy some beer. After purchasing beer they returned to the car and drove to the back of a nearby parking lot. Stevens then indicated to the other two that he had an errand to run in the neighborhood and would be back in a few moments; he then departed. Mr. James and Mr. Bobbins remained inside the Rolls drinking beer.

Shortly thereafter a police vehicle pulled up, and two officers exited their car and ordered Messrs. James and Bobbins from the Rolls. After conducting a pat down search and obtaining identification from Mr. James, together with his statement that the car belonged to his employers, one officer ordered Mr. James to open the trunk of the Rolls and to step back. Mr. James complied with the request. The officer then took his flashlight and began searching the trunk. Mr. James was unable to see precisely where the officer was looking or what the officer was doing inside the trunk. Suddenly the officer turned to Mr. James and confronted him with a glasses case and inquired if it was his. Mr. James replied that he had never seen it before. Subsequently, Mr. James was placed under arrest for possession of a hypodermic kit.

Mr. James claimed to know nothing of the glasses case or the kit; he stated that Mr. Stevens was a known addict. He stated, however, that he had never seen Stevens near the trunk at any time but acknowledged that Stevens could have gained access without James' knowledge, because the trunk was unlocked.

After completing the interview, the students entered Mr. James' plea and arranged for his bail. They conducted further investigation and interviewed Mr. Bobbins (Mr. Stevens was unavailable). Appropriate jury instructions based on legal research were prepared, as was a memorandum in support of a P.C. 1538.5 motion to suppress the evidence taken from the trunk.

On the date of trial, the students made the 1538.5 motion. On direct examination, the officer stated that Mr. James had consented to the search. The officer also identified the contents of the glasses case, taking out items constituting a standard hypodermic kit. On cross-examination, the student used the police report to impeach the officer on at least three separate points, including the item the officer had somehow neglected to mention—a receipt for the glasses case made out to Arnold Stevens. This omission, together with the officer's admission that he knew somebody named Stevens had been in the car that night, proved highly embarrasing to the officer.

The People did not call the second officer and chose to rest their case. The defense called no witnesses - Mr. James himself had told various versions of the events at various times, and the students were therefore reluctant to put him on the stand. Oral argument was then had concerning the validity of the search and the case was taken under submission until conclusion of the noon recess. After a tense oral explanation of the facts and law of the case, the court ruled that the search was made without probable cause and granted the defense motion to suppress. The case was then dismissed.

Administrative Power Strong In California Parole System

By PAUL H. ROBINSON

The California Parole system, like all other American parole systems, is one of the last strongholds of unchecked administrative power. The decisions of the California Adult Authority (whether to grant or deny parole) and the activity of the parole agents in the field are the prime examples of administrative actions almost completely shielded from judicial review.

While this isolation has not led to a completely arbitrary and capricious sytem in California, though it may be the case in some other states, neither has it created a system free from irrational, unfounded, and biased decisions. This is simply a testament to the general principle that an agency subject only to its own internal controls is likely to drift away from common, external, notions of fairness (usually set adrift for efficiency and administrative reasons.).

In recent years courts have finally begun to review and intervene in correctional areas, but so far only to a limited extent. Obviously, then, this area is fertile ground for dedicated lawyers who are energetic enough to attempt to tear down the walls that the correctional system has built around itself.

One thing that may be surprising to many is that the California Correctional system (Paroles, Prisons, and Adult Authority) contains many employees who are working to change the system in good ways. The lesson to be learned from these people is that it is not enough to attack the system for whatever destructive effect possible. Rather, any "recommendation" for change should be specificly designed to benefit the prisoners and parolees. In formulating these "recommendations," members of the system are often invaluable resources. The general requirement is that an advocate in this area know what he or she is talking about. The Corrections Program is designed to give would-be lawyers this capability.

Serrano . . .

(Continued from page 3)

the clarification is not yet available, news reports indicate that the court merely emphasized the procedural context of its August 30 opinion, reassuring the legislature that no steps to replace or modify the present system need be taken unless or until plaintiffs have actually proven the allegations in their complaint at the trial court. Presently, it is unclear whether the case will be remanded directly to the Superior Court of Los Angeles County for proof of those allegations, or whether defendants will appeal the decision to the U.S. Supreme Court. No matter what the disposition at either of these levels, however, **Serrano** clearly places the handwriting on the wall: the present, district - by - district, property tax-based funding scheme has not only proven to be unpopular and impractical as a means of raising needed revenue (witness the recent unprecedented third straight rejection of a school bond proposal to make Los Angeles schools earthquake-safe), but now constitutionally-suspect as well. The efforts of interested law professors, lawyers, and law students should now be directed toward finding a practical, politically-feasible, and constitutionally-tenable alternative.

Women . . .

(Continued from page 1)

tices within this Law School. When definitely formulated ideas and proposals are submitted by women, it appears that the Faculty will be more than willing to accept them. Let's hope that this isn't merely lip service but is, in fact, a commitment.

The main purpose of the Law Women's Association is to unify women connected with the Law School (law students, staff, and wives of male law students) and to work together for common goals. Some of the areas presently being focused upon are: employment discrimination of firms interviewing law students; a child care center; recruitment of women; increasing interaction with women alumnae, women of other law schools, and women in law in general. Also, a very definite effort is focused on the "Women in the Law" class. This class was initiated on an "experimental" basis last spring.

As a general survey course, it was quite successful; however, it was felt that there was too much relevant material to cover in any realistic manner in only one quarter. Thus it was advocated that this year the course be offered for two quarters--each quarter covering some aspect of the law relating to women in depth.