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University of Pittsburgh School of Law

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Pitt Law Chronicle

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University of Pittsburgh School of Law, Pittsburgh, PA 15260

FALL 1985

Pierce resigns after budget dispute

Law school reacts

by Lorie R. Beers

(University of Pittsburgh Provost Roger Benjamin yesterday decided to offer to Associate Dean Mark A. Nordenberg the position of acting Dean, according to Professor John M. Burkoff, chairman of the faculty steering committee. Benjamin made this decision after meeting with representatives of the faculty steering committee, who reported to Benjamin that the faculty unanimously recommended Nordenberg for the position. The faculty decided to recommend Associate Dean Nordenberg yesterday at a faculty meeting, Burkoff said. At press time, Benjamin had yet to officially extend the offer, according to Associate Dean Nordenberg.)

Dean Richard J. Pierce is not the first top executive at the University of Pittsburgh School of Law to resign because of a dispute with University administrators about inadequate funding. The dispute is a long-standing one that contributed to his decision to resign, says former Dean John Murray.

According to Murray, the same budget problems existed during his term as dean and that the issue ultimately led to his resignation. Murray said that he "spoke extensively with Pierce prior to his accepting the position as dean about the under-funding problems at the law school."

Murray characterized the dispute as an unwillingness on the part of the University to give the law school the support needed to make it highly competitive. He said, "There was a constant effort to apprise the University

of the need for funding."

"During my term as dean, my major concern was the library problem," Murray said. "There were not enough funds in the general budget to support the library. It was necessary to supplement the budget with gifts from friends and alumni. These supplementary funds were in the process of being exhausted.

"For the entire period that this 'soft money' was being used as funding, the University was being apprised of the situation. There were two to four written reminders every year to the University regarding the situation and any number of oral reminders. With nauseating repetition, we reminded the University that it would have to develop funding once the 'soft money' had expired."

Murray also indicated that there was concern about inadequate funding with respect to non-salaried items of the budget such as postage, telephone and utility costs. Murray served as dean of the law school from 1977 to 1984. He is currently dean of the Villanova Law School.

Dean Pierce took over the deanship in 1984 and submitted his resignation to University officials Nov. 7, 1985. Pierce's resignation is effective at the end of the 1985 academic year.

Pierce demonstrated his awareness of the budget problems in a planning document he submitted to the University administration when he assumed the deanship last year. In the preface of the document, Pierce said: "The law school has reached this level of achievement (among the top twenty law schools) on

a shoestring. The school ranks 176th of 176 law schools in terms of University support for its law library, 110th in terms of its library acquisitions budgets, and 58th in terms of its faculty salaries. If the School of Law is to retain its talented faculty, it must, among other things, have a library which has far greater breadth and depth than what it has now; upgrade faculty salaries and provide research and travel supports; and work to maintain and build a high calibre and diverse student body.

That will take money. In short, if the University wants a law school which will remain in the top 20 in the nation, and even rise within that group, it has to support the School of Law with resources more nearly approaching those available in other law schools in the top 20."

In light of Dean Pierce's awareness of the situation existing between the administration and the law school, his resignation after 19 months comes as somewhat of a surprise to the faculty and students.

Professor John Burkoff, president of the law school faculty steering committee said, "He (Pierce) had discussions with the University for the whole time he was here about these things. They agreed on a lot of things and disagreed on some ultimate things. In his frustrations, he resigned."

Former Associate Dean Richard Seeburger, who served an associate dean under both Murray and Pierce, said, "between Dean Pierce's expectations coupled with his high energy level and my guess as to how this University works, I was fairly confident that Dean Pierce wasn't going to get what he wanted as soon as he wanted it. He was getting impatient with vague and general assurances. I expected something other than complete harmony. I can't say that I expected a resignation."

Other than the budgetary concerns, Dean Pierce declined to give any other reason for leaving after 19 months. Seeburger said, "As a general proposition, you don't get events of this sort without mistakes on both sides. It is a problem of style as well as substance."

Ron Carnevali, Student Bar Association president, said, "I think it was somewhat of a shock and it's a tragedy that we had to lose Dean Pierce in order to achieve concessions from the University."

The resignation of Pierce has not resolved the conflict which exists between the law school and the administration. It has taken these events to bring these issues to the immediate attention of the administration.

The financial problems which fact the law school are both short- and long-term concerns. Short-term concerns deal with particular problems in next year's budget. Long-term issues relate to working out a reliable mechanism for the funding of the law school. With respect to these issues, Burkoff said, "on the short-term issues, they don't appear to be much of a problem. We're going to keep discussing them. On the long-term issues, almost by definition, there won't be short-term resolutions, in the sense of tomorrow. But the talks have been diplomatic and candid. They certainly talk a good game in terms of their commitment to the law school in the long-term."

Murray said, "it has always been extremely difficult to work with the University administration on these issues."

"There has been modest progress over the years in salaries," Seeburger said. "In the other areas, there has been none at all. In terms of budgetary support, everything that the law

(Continued on page 2)

University defends position

by Jon A. Hoppe

The University administration has responded with regret to the resignation of Dean Richard J. Pierce, but also with the hope that its actions and position will not be misunderstood. In a recent interview, Executive Vice President Jack Freeman and Vice Provost Donald Henderson both praised the job Dean Pierce has done at Pitt and sought to dispel rumors and hard feelings about the situation.

Henderson said that he felt Dean Pierce resigned "because of his dissatisfaction with the ability of the Provost's office to make available the resources he felt necessary in order to take the school in the direction he felt appropriate to its enhancement." Henderson added, "we are committed to the enhancement of the law school. Our ability to do that is tied very tightly to the planning effort that we just completed and are now in the process of beginning to implement."

The University has a three-step reallocation plan. Under the plan, all schools in the University were evaluated last year and separated into high and low priority brackets. The law school was found to be a high priority. The plan was approved last June and has moved on to the second phase of defining exactly where the funds to be reallocated will come from. "Our intention is to modify low priority programs so that money may be shifted to high priority programs like the law school. We've only begun this stage of a five year plan for reallocation less than six months ago. We've

not had the opportunity yet to make the distributions we want to make. I felt it was understood by everyone that this would be a five year process," Henderson said.

Freeman responded to questions about the priority and reputation of the law school. "The law school has received, over the past six to eight years, exceptional priority in the allocation of funds, virtually all of which came from the reallocation of other sources or from increases in tuition which had been agreed to by the Dean to speed things up. The University has limited capabilities to reallocate in any given year; reallocation has to be viewed as a long-term process. Over the last five to six years the law school's budget has been increased more, percentage-wise than any other school in the University, an increase of nearly 50 percent.

"The national ranking of the school in various areas is only one factor," Freeman said. "It is one way of looking at the school relative to other law schools, but it doesn't say very much about where the law school ought to rank in the internal priorities of the University. We allocate money where the priorities of the university lie to the extent of the capability of this University to provide those funds as we sustain all programs throughout the institution."

Neither Freeman nor Henderson specifically listed the priority rankings of the programs within the University, but they consistently

reiterated that the law school is a high priority program. Freeman added, "One must assess what all other schools must receive and everything must be prioritized."

In response to the claim that the law school ranks 149th among 176 law schools in terms of dollars allocated per student, Freeman said, "we have no control over financial rankings. It happens that the number of students in the law school went up from 613 to 685 in the last two years, so naturally even with an increase in funding the statistical ranking is going to go down (from 107 to 149). It was a statistical accident. We like to compare ourselves with the Association of American Universities, which are the 50 largest and best research institutions in the nation. If you look at the rankings of public institutions, like us, in the A.A.U., that have law schools you'll find that nine of them are above us (in dollars per student ratio), but eight are below us.

"One needs to look beyond statistics to understand what they really mean. Modest changes can affect those rankings dramatically and the differences which separate one school from another in such rankings are very small. I think Dean Pierce has put too much reliance on the statistics and too little reliance on the fact of the priority the law school has received over the past several years."

Henderson said that the University has given additional money to the law school so it can increase faculty salaries and avoid flight by faculty members. "We have made available to the school in the past three years an increase of about 18 percent over and above the normal increases in order to improve faculty salaries. This has been viewed in the contest of our abil-

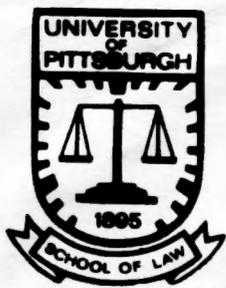
ities to make available to the school additional resources.

Now, in the same way that the University administration must choose between several areas of need within the entire configuration of the University, the law school must establish its own internal priorities so that resources are available to go to the areas of greatest need, because it is quite beyond our capabilities to respond to each and every need." Both Henderson and Freeman said that faculty salaries had received more emphasis in the law school budget than the library until recently.

Freeman was pleased with the present status of faculty salaries. "It is useful when talking about faculty salaries," Freeman said, "to point out that ranking 58th among 176 schools means you're highly competitive; you're as good as all but one-third of law schools in the nation, some of which have very strong endowments and very good national reputations. Being 58th is not a negative thing, but shows an increase over the past several years. We've attracted and maintained an excellent faculty not only through salaries but also through facilities and because of the excitement of the place." Neither Freeman nor Henderson mentioned the prospect of endowed chairs being established at any time in the near future.

On the subject of facilities, Freeman stressed that the law school's situation has improved greatly. "Until the law school building was built, we had no place to put a law library. It was crammed into a small room on the 15th floor of the Cathedral. We had in essence to build a library from scratch and that's a slow

(Continued on page 2)



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Sell 'upbeat' on school's future

by Marianne Emig

A recent interview with Professor W. Edward Sell, dean of the law school from 1966-77, shed much light on the troubled situation following the resignation of Dean Richard J. Pierce and provided an "upbeat" note about the future of the school.

"From the standpoint of the students, I don't see any significant differences [for] the law school . . . it still has a very strong faculty and student body. These should not change."

He expressed sadness and disappointment in the Dean's resignation, but said the law school would survive and prosper as it has in the past. Still, he is cognizant of the problems Dean Pierce has had with the University administration.

"I think the resignation of the Dean has probably highlighted a problem which will require not only short-term, but also long-term attention by the administration."

He said that a significant obstacle was lack of communication between both sides, but that this could be overcome.

The law school has experienced a turnover of deans before. For example, from 1949-53, the school had three deans. One of them, Arthur Larsen, stayed seven months before taking a leave of absence to become undersecretary of labor in the Eisenhower administration. During this period, the school had an acting dean for three and one-half years. Sell notes that, at that time, the law school wasn't as strong as it is presently, and didn't have "a lot of the things it has going for it now."

Sell is optimistic about the school's future, especially in light of the recent meeting between the faculty and Provost Roger Benjamin.

"I was never prouder of this faculty," he said. "I thought there was an excellent display

of genuine concern . . . I think it was typical of the class of this faculty. I feel the administration got the message.

"The purpose of the meeting was to express the genuine concern of the faculty. The statements that were made by the Provost seemed to indicate that as soon as he was able to free-up money through the new plan that was being put into place, he fully expected to be able to address the issues here."

In addition to the efforts of the faculty, Sell is also encouraged by the response of the alumni. Sell said the alumni appear ready to continue their strong support of the law school.

"This place [the law school] reflects quality right now, and it's got to continue to do that; the alumni realize that, and they're not going to abandon support now."

When asked about a permanent replacement, Sell said, "The sense of the faculty at the moment is that we should wait until spring to assemble a dean-search committee. Right now, there are more than 30 deanships open at law schools, and we think that, coming into 'the fray' late, we might not have the best situation."

He said he thinks the school will have an acting dean for as long as perhaps 18 months, and doubts there will be a new dean before January 1, 1987.

Overall, Sell paints a much more optimistic picture of the current situation than many students seem to think, and he retains confidence in the ability of the law school to remain among the top 20 law schools in the United States.

Sell said, "I'm not the least bit discouraged about the long-term future of this school."

Letter to the Editor

We are writing to voice our objection to the lack of communication between the law school student body and the law school administration.

We are deeply concerned with maintaining the integrity of this school. We are appalled that the administration feels no obligation to inform the student body of any changes which may affect the reputation of this school. We are not asking for a full disclosure but are seeking information which would dispel the rampant speculation among the students.

For the past two weeks we have waited patiently for any information regarding Dean Pierce. Currently, our only link to such news is through the Pittsburgh newspapers. This is not an effective means of communication.

The S.B.A. should provide the communication link between the Administration and the student body. We request that the S.B.A. representatives take a more active role to keep the student body informed of the discussions

in their meetings and their contact with the administration. If the administration will not discuss their position, we should at least be informed of the administration's unwillingness to air the issues.

This is a tense period for all parties involved. Certainly, open communication will not only aid in generating student cooperation, but more importantly, it will also ensure that we will all work together on a united front to preserve the integrity of the law school.

Mary Hackett, '87	Colleen Dettore, '87
Stephanie Brown, '87	Jerry Langer, '87
Kevin Cox, '87	Frederick J. Gentile, '87
Liz Crum, '87	Janet G. Irvin, '87
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Eric Wittenberg, '87	Debra Barnisin, '87
Bill Puchnick, '87	Dean Birdy, '87
Mark Kinley, '87	Judith Brand, '87

University defends

(Continued from page 1)

proposition when library costs are escalating at a rate of 20 percent a year, well ahead of increases in funding. We also have to recognize that all of the funds to improve the library can't come from tuition and state appropriations (the two primary sources of income for the University). I think the library is clearly a candidate for private giving."

Freeman vigorously denied rumors that the law school's tuition is being used to fund other areas of the University. "The assertion that the law school somehow is subsidizing the rest of the University is absurd! The law school, like any other school, is highly subsidized. It's needs and its budget have never been limited to below its tuition intake, and have been subsidized by state appropriation allocations and any other sources which may be found. The law school has very little research income and therefore must depend primarily upon tuition income, state appropriations and whatever private funding it may receive."

Freeman and Henderson both said that the capital fund raised upon construction of the law school building is nearly exhausted and that more private donations are needed. A University-wide capital-fund campaign is in the planning stages and the law school will be a beneficiary of that campaign, they said.

In response to allegations that former Dean John Murray resigned because of budgetary matters, Henderson said, "my understanding was that he was of a mind to go to Villanova, first of all, to go back home, secondly, that it provided the challenge of building up another law school's reputation, which this school did not, and because there were services to be provided there that we did not anticipate providing here in the short-term."

Pierce's dissatisfaction with University funding policies is understandable, Freeman said. "All deans, if they do their jobs properly, probably have aspirations that exceed the ability of the University to fund them. That is the nature of academia. All deans are to some extent discontented. Regretably, we don't have the funds to provide the deans with the resources they feel they should have." Both Freeman and Henderson agreed that there may have been misunderstandings over the timing or funding, and the magnitude of the funding over time, and that there may have been a

Law school reacts

(Continued from page 1)

school has gotten by way of increments, except for a relatively insignificant percentage, has been paid for by tuition increases. They (the University) take the view they're being very generous to us. We take the view — hell, we earned it."

Negotiations are currently taking place between the law school and the administration to resolve these issues. The faculty has appointed Professor Edward Symons to be chairman of the ad hoc law school budget committee. This committee, as well as the faculty steering committee, and the faculty as a whole have begun preliminary negotiations with the administration.

Murray said, "the effect of the current situation depends on how it is perceived, because perceptions become reality." He said the ramifications of the budgetary dispute could become manifest in three ways. The first could be the impact upon prospective faculty. "(They) may be concerned about the lack of support by the administration. This may induce them to go elsewhere." The situation may also affect prospective students, Murray said. Finally, the search for a dean will be an unsettling period for the law school.

Nonetheless, the outcome of the budgetary dispute could be promising for the law school. Burkoff said, "because of the Dean falling on his own sword, committing hari-kari, the University will take a longer look at the situation, and make some commitments to us that we're delighted with." Indeed, the chances of the law school maintaining its top 20 status depends to a large extent on the level of support the University is willing to give.

breakdown in communication.

Neither administrator anticipated significant problems in finding a new dean. They said the reputation of the law school, the promise of reallocation of funds, and the reputation of University graduate programs, in general, will be attractive to candidates for the deanships.

Both administrators said they were concerned about the negative student and faculty reaction to the Dean's resignation and the rumors generated by it. They stressed that a conflict should not exist, because the administration has the same goals as Dean Pierce, the faculty, and students.

Try, try again

The budget dispute between Dean Richard J. Pierce and the University of Pittsburgh administration brings to mind the adage, "if at first you don't succeed, try, try again." Dean Pierce has served as our Dean for 19 months. Former Dean John Murray warned Pierce of the age-old budget problems and the University's unwillingness to negotiate with the law school. Pierce confronted the budget problem head-on and lost his first battle. But does this failure justify his resignation?

Pierce's predicament is analogous to that of a lawyer who has just lost at trial, but still has avenues available for appeal. Most lawyers would immediately file an appeal after such a loss. Few lawyers, however, would call clients and inform them that they would not represent them because their initial efforts were unsuccessful. Yet Dean Pierce seems to be doing just that.

Pierce came to the law school riding on a national reputation as an expert trial lawyer and a legal scholar. Upon his arrival, he instilled in the faculty and the students his enthusiasm for improving the school. He has worked hard to establish merit scholarships from downtown law firms. He helped attract top legal scholars to serve as professors. He has also found time to teach a class and to oversee the day-to-day operations of the law school. Can he forget his original dedication to the law school? Can he let this groundwork fall by the wayside?

Dean Pierce's abandonment of his original dedication to the law school is, however, understandable in light of the University's nonchalance toward the law school's budget.

The fact is that the University has been paying lip-service to the law school officials. In his June 1985 Report to University Trustees, Uni-

versity President Wesley Posvar said that "the law school is a candidate for an increase in funding." So why has the budget allotment for the law school's telephone expenses not been increased in 12 years? Why is it that the faculty of the Pitt Law School has been ranked in the top 15 percent of all law school faculties in the country, while the school ranks in the bottom 15 percent of all law schools in terms of the amount of funding it receives from its parent university? Why is it that the University administration uses funds to line Fifth Avenue with new shrubbery rather than to increase the law school's budget?

Unfortunately, it is the faculty and the students who will suffer as a result of this dispute. What kind of dean will accept a job at this school, knowing that the University administration is unyielding in its ambivalence toward the law school's budgetary requests? The faculty and students of the law school deserve better treatment from University officials. The time has come for us to demand the funding we deserve.

But before we can demand this funding, we must be apprised of the exact issues being considered. Many law school and University administrators have refused to make any comment. How can students formulate a view on the issues without knowing the particulars? How can a newspaper report on a dispute of this magnitude when so few of the parties involved will grant an interview? The law school administration has one powerful bargaining tool which they have successfully ignored thus far, the students. It is about time that the law school administration correct the rumors among the student body and solicit student help in resolving this problem.

**THERE WILL BE AN OPEN FORUM WITH
DR. DONALD HENDERSON,
the University's liaison to the Law School
on Monday, November 25 at 5:00 P.M.
in Room 113 of the Law School
ALL STUDENTS ARE ENCOURAGED TO ATTEND**