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HARRY H. WELLINGTON

The Essential Dean

The present imagines the past and distorts it with hope. The times surely were out of joint in the late 1960s, yet now I recall those Yale Law School days as merely an exciting period in my life.

Many of us who were teaching in the two academic years between the fall of 1968 and the spring of 1970 had warm and pleasant relations with our students, but student-faculty relations in general were tense, confrontational, and exasperating. Yale Law students, like students almost everywhere, wanted change and wanted it now. Greater diversity, fewer grades, and more participation in governance were among their goals. Threats of disruption and in-your-face behavior were their means. The law school complied, albeit cautiously, on all fronts. It did admit more minority students. It did change the grading system by making the first semester credit-fail, and by reducing the number of tiers in other courses from eight to four. And it did give students the opportunity to have their elected representatives participate on some committees and attend some faculty meetings.

During those years, Abe Goldstein was the most sensible and steady member of the faculty. He had an unshakable belief that, while some change was acceptable, and perhaps even desirable, the school should remain a professional place, where an independent faculty and bright students worked together to learn law and understand its relationship to other disciplines. And, Abe believed that the school's faculty and students should, as in the past, harness their learning to better society. Within the faculty, Abe fought for his beliefs. He calmed his colleagues who were obsessed with the disreputable methods employed by the students, and he resisted the proposals of others who were prepared to give students authority that might undermine the school's purpose. We owe Abe our thanks for the good work he did in those disjointed times.

Those were times when the deanship was a position which no one with a sense of self-preservation would have coveted. Initially, Abe did not want the job, but in 1969, he reluctantly accepted a five-year term to begin on July 1,

1970. Yale's president, Kingman Brewster, with the overwhelming support of the faculty, pushed Abe hard to accept. We are fortunate that he did. The Yale Law School of 2005 would not be the Eden it is today if Abe had not been its Dean during the first half of the 1970s.

When Abe took over, student-faculty relations, while still somewhat rocky, had improved. In the spring of 1970, a fire struck the international law library. While the cause of the fire still remains unknown, it was widely thought at the time to have been set by an arsonist. Everyone on campus, including the bulk of the student body, was appalled by the burning of books. This terrible event had the beneficial, if perhaps ironic, effect of turning students away from their former in-your-face behavior. The school and its dean could begin to address other matters.

Abe's agenda was full. While clinical education had a strong presence at Yale, it remained divisive within the faculty. Hiring skilled lawyers to teach and to supervise students in real cases was expensive, and many on the faculty thought it was a waste of student time and inappropriate at a place like Yale. Abe knew better. He understood the enormous educational value of clinical work, and he was successful in expanding the program and pacifying its opponents. Today, Yale's clinics surely are among the nation's finest.

The school's alumni relations today are also exceptional. And here, too, Abe's efforts were essential. When Abe became Dean, many alumni were deeply distressed about what happened during the late sixties. They were turned off, and Abe had much explaining to do. He traveled extensively and talked brilliantly to graduates all over the country. Their participation in the life of the school increased markedly and so did their giving. Abe also initiated, and beautifully organized, a capital campaign that was vital to the school's financial health.

The most difficult problem on Abe's agenda, however, was the promotion or dismissal of an unusually large number of junior faculty. Nothing that came before it for decision was more divisive within the Governing Board, as the tenured faculty is called, than these decisions. And the Dean, of course, managed the process. Unlike many faculties at Yale, but similar to most other law schools, no junior was hired unless there was a tenure slot available. The criteria for promotion were teaching, scholarship, and a scholar's potential for contributing more and deeper scholarship. Some of the decisions that Abe and the Governing Board made were easy; most were difficult. And Abe's view, a view shared by only some of his colleagues, was to err on the side of rejection. This was not easy, but it was right. Indeed, it proved to be essential. The Yale Law School of today would not be what it is if the Governing Board under Abe's strong, consistent, and fair leadership had not acted as it did. This is not to say that a few rejected juniors, who have flourished elsewhere, would not

have been valuable Yale faculty members. It is to say that a high standard was set, and that a new hiring strategy emerged to meet this standard. The principal approach to faculty recruitment after 1975 consisted of issuing invitations to established or promising faculty members at other institutions. Yale, of course, did continue to hire beginners, but all were required to meet the standard Abe established. He is a major reason that today's faculty is an example of the merely very good not being good enough.

Abe had a stellar career at Yale both before and after his deanship. He was an inspiring teacher and an insightful scholar. Teaching and writing were what Abe wanted to do almost, but not quite, all of the time after he was called to Yale in 1956. He came to New Haven in a crowd that someone once labeled the "ebullient ten." These ten, if we were ten, and a couple who joined the faculty in 1955, were augmented during the late fifties and early sixties by a group of young and very talented men. Ellen Peters, who was one of the "ebullient ten," was the only woman on the faculty. And, I am ashamed to say, few of us thought much about the absurd inequity. The decade between the late fifties and the late sixties was a grand and productive time for most of us and certainly for Abe. He had been practicing law in Washington before Yale, and after his first year, he told me that he thought he should return to his practice, that he just wasn't cut out to be an academic. But, of course, he decided to stay, and he proved himself to be wrong, wrong indeed.

Abe and I were friends for nearly half a century. I admired his teaching, his scholarship, and his administrative skills. But most of all I loved him as a friend. We read each other's drafts, played tennis together (we were not very good), and, with our wives, shared dinners. Abe led a rich, full, and relatively long life in which we can all rejoice. It is hard, it is emphatically hard, to say goodbye. But as long as we can imagine the past, we will always remember Abe Goldstein.

Harry H. Wellington is Professor of Law, New York Law School; Sterling Professor of Law Emeritus, Yale University. These remarks were prepared for a memorial service on November 6, 2005, at the Yale Law School in remembrance of Abraham S. Goldstein.



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