



Admissions (

At the close of World War II, a renegade professor admitted a wave of returning veterans to Harvard Law, even though some had questionable credentials and others didn't even apply. They'd be called "the best class there ever was."

By Joshua Prager

The Untold Story of
Warren Seavey and His Students

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OBERT DRUCKER WAS SOMEWHERE in the Philippines, an ensign on a ship built in his home state of Illinois, when, in early 1945, he learned that a professor was helping American servicemen get into Harvard Law School. Drucker had always wanted to attend. His father was an alum. The son had emulated him all his 20 years, no less after Harry Drucker died in a car crash in 1932. And so, Drucker wrote to the professor, a man named Warren Seavey, asking for guidance on how to apply.

“I’m overseas,” Drucker recalls writing from his cabin on the ship. “As soon as the war is over and we’ve won, what shall I do?”

Seavey responded immediately. “Settle down on your ship,” Drucker, now 97, remembers Seavey advising. “When you come back, let me know and you’re admitted.”

The words were a balm to Drucker. But they were confusing, too.

How could he be admitted if he hadn’t even applied?

DRUCKER WAS HARDLY the only serviceman who wrote to Harvard Law in the waning days of World War II. Thousands of letters arrived at the school from “young men in warships, atolls, and Army camps who had thoughts of studying law,” recalled professor Zechariah Chafee, who joined the admissions committee in 1945. The servicemen, whose educations had been disrupted by the war, wondered if they could get in.

It was not, until that point, all that difficult to do so. But returning veterans would soon drive application numbers to record heights at colleges and graduate schools all across the country, in part because of the Servicemen’s Readjustment Act of 1944, known as the GI Bill, which promised to pay their tuition in gratitude for their service. As applications far outstripped capacity, Harvard Law School became increasingly selective, relying more on college transcripts, and eventually tests such as the GRE and LSAT.

Warren Seavey, however, believed that men returning from war were more than the sum of their test scores. And starting in late 1944, when the admissions committee named him a liaison to returning servicemen, he went rogue — making promises he had no authority to make.

“When he received a letter from a veteran,” the law school dean later recalled, “he would answer: ‘I am glad you want to come to law school. You are just the sort of man we want. When you are released from the service, come to Cambridge and we will be glad to take you in, no matter when you come.’”

Seavey, a legal authority on agency and torts, knew well that his letters promising admission prevented — or, in legal parlance, estopped — the law school from rejecting the servicemen who received them. The dean, Erwin Griswold, estimated the number of these men at a few hundred. He named them “Seavey estoppels.”

Three-quarters of a century later, the story of the estoppels is all but unknown, absent from the official histories of Harvard Law. But the last of those servicemen who are still living are eager to tell it. It is a story that has much to say to us today — about patriotism and opportunity, about the value of life experience over credentials, about just who belongs.

WARREN ABNER SEAVEY was born in 1880 in Charlestown, the oldest neighborhood in Boston. American history was alive to the boy. His family lived where the Battle of Bunker Hill had been fought during the Revolutionary War 105 years before. The Civil War had just ended in 1865 when the third of Seavey’s four older siblings was born.

Seavey began college at Harvard at 18, walking daily to and from its campus. He got on well with people but loved to debate, and his father, who sup-

ported the family selling produce in Boston’s market district, suggested that he become a lawyer. Seavey agreed and, after completing college in three years, entered Harvard Law. There, for hours every night, he happily sparred with his roommate, a fellow from Iowa who would fondly recall Seavey as a young man who smoked a pipe, played the mandolin, and could “do more work in an hour than most would accomplish in two.”

Seavey graduated from law school in 1904, and took a job as a clerk at a Boston law firm. Two years later, after he was let go amid budget cuts, he resolved to teach, and traveled by train, steamer, and rickshaw to the coastal city of Tianjin in Northern China, where he spent the next five years establishing a law school.

Seavey distinguished himself. And in 1911, his former law professor Joseph Beale invited him to teach for a year back at Harvard. Seavey did so — answering questions with questions as he had seen Beale do. The technique suited him. “There is no greater master of the dialectic method,” a colleague of Seavey later observed, “the fine art of telling a man nothing what-

“[W]e cannot call our life in the army a waste of our time,” Seavey wrote students, “but rather a distinct advantage for the days that followed.”

ever, but driving him as sheep are driven by a shrewd old dog to work out the conclusion for himself.”

The professor honed his technique at law schools in Oklahoma—where he arrived on a Flying Merkel motorcycle—Louisiana, and Indiana. But outside the classroom, he made his own beliefs clear. He called for justice when a Black man in Oklahoma was lynched. And, in 1917, soon after the US entered World War I, he joined officer training school, even though as a new husband and father he was exempt from military service.

Seavey was soon commissioned a captain, in charge of a regiment in Ohio. Many of his men were illiterate, and he taught them to write their names. In 1918, they shipped off to England, and then France. Seavey — who described himself then as “a short-winded man of 37” — did not see combat. Instead,

he taught law at a military school in Burgundy.

Back when Seavey was a law student, a class in jurisprudence gave him “the idea,” he later wrote, “that the rules of law should be fluid, responding to the changing customs and needs of the people.” Rules could be bent. Seavey was still in France when he stole a loaf of bread from the commissary to give to a person in need, and then, months later, used chairs meant for company headquarters for his students, an act that almost got him court-martialed.

Seavey had always looked after his students — building them a golf course in China, opening a smoking room for them in Nebraska. But above all, he remained their teacher, a sought-after legal scholar who had taught everything from jurisprudence to pleading, founded several law journals, and written ceaselessly, beginning with a book on equity. In 1927, after more teaching stints, including at the University of Pennsylvania and Yale University, he landed back at Harvard, hailed by his alma mater as “one of the outstanding men of his generation.”

Seavey was soon a beloved fixture, known as much for his open door as for the unending hypotheticals he posed in class. Seated in his corner office in Langdell Hall, he helped students and colleagues alike in any way he could. When a professor named Louis Loss first visited him, Seavey insisted on lending Loss several thousand dollars for the down payment on a house.

In time, Seavey became known for his expertise on military affairs, too. Back in 1907, he had written to his father from China that expansionist Japan might one day attack the United States at Pearl Harbor. As fascism took root in Europe in the 1930s, Seavey began to prepare for war, stockpiling soap, towels, tobacco, and more in the Arlington home he shared with his wife, Stella, and their three children. He tried, in articles and speeches, to warn the public of a coming war, telling the US ambassador in Japan in 1941 what he had told his father about Pearl Harbor. “No one believed me,” Seavey lamented. Soon after, Japan attacked.

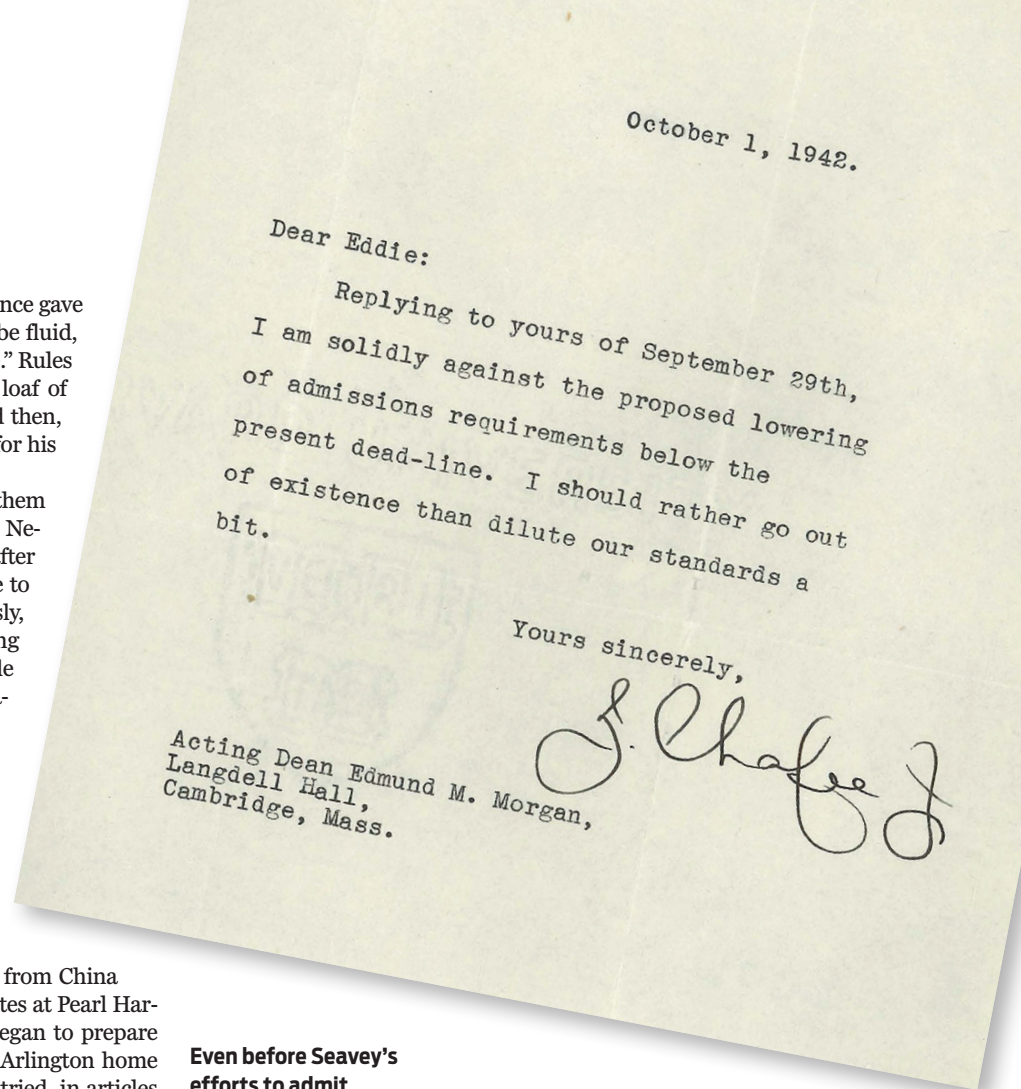
Suddenly, Seavey had the ear of the military establishment. He traveled to Army camps with a lieutenant colonel to critique training, and helped the War Production Board determine which consumer products the nation ought to limit. He advocated creating an international bill of rights, an idea the United Nations later adopted. And he spoke — to US servicemen, to German prisoners of war, and to Harvard Law students. He encouraged the students to enlist, calling on them, even before Pearl Harbor, to join the war effort. Duty aside, the students would come to regard their military service as valuable, Seavey and two other professors wrote in March 1941; the educators felt that way about their own. “It will add to your armory of weapons in your profession, for the ability to understand others is perhaps the most important mental attribute of a successful lawyer. . . . Looking back, we cannot call our life in the army a waste of our time, but rather a distinct advantage for the days that followed.”

The Harvard campus quickly emptied out as students enlisted, and Seavey taught his share of the roughly 500 who remained. But he wished above all to serve the war effort, and home in Arlington, became an air raid warden.

Come 1944, with an Allied victory imminent, Seavey began to wonder how he might help the servicemen who would soon be arriving at the school.

HARVARD LAW SCHOOL was founded in 1817. By the turn of the century, it was, in the words of William Taft, the future US president and Supreme Court chief justice, “the greatest law school in the world.”

With prestige came students. There were just six in the first year, more than 600 in 1900, and 1,600 in 1930. Still, it had always been rather easy to



Even before Seavey’s efforts to admit servicemen upset members of the faculty, some expressed concern over admissions standards.

get in. “If you had a college degree, and a check for tuition, you came,” said Louis Toepfer, who became director of admissions in 1947. The weeding out of students took place *after* they were admitted, not before. “About 35 percent flunked out,” Toepfer said. “It was a good system.”

In the run-up to World War II, admission grew easier still. As applications dropped by half from 1937 to 1941, the rate of acceptance rose from 81 percent to 89 percent. The war then all but shut the school: Harvard Law registered just 77 new students in 1942, 53 in 1943, and, in the spring of 1944, zero.

The end of the war, however, was approaching. Millions of young men would soon be returning to school, encouraged by the new GI Bill that promised to pay their way. They had questions about their admissibility — the war had interrupted their educations — and in late 1944, servicemen began to write to Harvard Law. Seavey, then 64 years old, felt that the letters deserved a response, and said so.

That December, the school named him Faculty Adviser to Servicemen. His task was twofold: answer their questions, and write rejection letters. The one thing Seavey was not empowered to do, administrators made relentlessly clear, was admit students. That power rested solely with the admissions committee. Seavey was to “not interfere in any way” with that committee’s work. Acting Dean Edmund Morgan warned him in a memo.

Seavey, though, had other plans. Having exhorted his students to enlist, he wished to return servicemen to the classroom. And on the day of his appointment, December 4, 1944, he wrote to two servicemen — Sergeant H.C. Thom-



The official class portrait of the extraordinary Harvard Law School Class of 1949, with professor Warren Seavey circled.

as Jr., and Ensign Paul N. Temple — and noted to them that Harvard Law admits “those who have been successful in their college work.” As instructed, he provided copies of the letters to the admissions committee.

Morgan, the acting dean, and the two admissions committee members were not pleased, and admonished Seavey in a memo that same day. “There is no institution,” they wrote, “in which mere successful completion of its requisites for the degree automatically admits the candidate to the Harvard Law School.”

There was more. The men wished, they wrote Seavey, “to avoid future embarrassment involving possible estoppel.”

Estoppel is a legal principle that prevents one from contradicting what one has said or done before. Seavey’s colleagues feared that if he gave students reason to think they were admitted, Seavey would tie Harvard’s hands and thereby estop the admissions committee from rejecting them.

The committee instructed Seavey to respond to each serviceman with a mimeographed note. “Each letter should be carefully framed so as to give to the inquirer no ground of claim to an estoppel,” they wrote. They also told him to obtain, and pass along to the committee, the college transcript of every letter writer, and to encourage those men, when appropriate, to formally apply to the school.

THE CALENDAR TURNED to 1945, the Battle of the Bulge ended in German defeat, and American servicemen continued to write to Harvard Law, some 30 letters a week. Seated at his desk, his suit jacket off and vest unbuttoned, Seavey responded to each one. When the admissions committee assented, he passed along news of an acceptance. Now and then, when it did not, Seavey asked the committee to give the young man a second look.

The committee was often not inclined to. A few years prior, one member, professor Chafee, had written to the acting dean: “I should rather go out of existence than dilute our standards a bit.”

The committee could afford to be more and more selective. By June, a month after Germany surrendered to the Allies, Harvard Law was receiving inquiries from roughly five times the number of qualified applicants it could accept, even after enlarging its first-year class.

“One result of the large number of applications is that our admissions standards have necessarily had to be raised,” Erwin Griswold, the new law school

Seavey, though, did not want to reduce applicants to a set of data points, especially when it came to veterans.

dean, noted. “Naturally this leads to much disappointment, and occasionally to some bitterness.”

Admission to Harvard Law School was no longer a given. The question of how to assess applicants was all the more pressing, and administrators wished to use what a previous dean called “a rule of thumb.” He suggested that the school use not only college transcripts but, in “close cases,” the Graduate Record Examination, a test developed in 1936 to measure abstract thinking.

Seavey, though, did not want to reduce applicants to a set of data points, especially when it came to veterans. Setting aside his desire to help them, he believed, as he wrote in 1941, that military service would make them better lawyers. He advocated for a subjective approach: “consulting the record of each individual man and making independent interpretations.”

Morgan, the former acting dean, felt that Seavey was too quick to substitute military experience for college credit. Doing so, he warned, could land Harvard Law School behind its competitors. “We shall be at the bottom of the list,” Morgan wrote in June of 1945. “My fear is that we shall fill our first year class with low grade men. . . . The effect of a large group of incompetents will pull the standards down.”

ON SEPTEMBER 2, 1945, Japan officially surrendered. The war was over, and the number of letters that servicemen wrote to Harvard Law — already 2,000 — only grew. The admissions committee once again cautioned Seavey not to “commit the School to definite admission” in his letters.

Sometimes, Seavey complied. That month, he qualified the letter that he sent to Ed Matheny, an ensign in Guam, writing that “unless we have so many applicants we cannot take care of them, there will be no difficul-

ty about your admission when you find it possible to come.” Matheny, who went on to practice corporate law, had graduated college in Missouri Phi Beta Kappa, and played varsity basketball. Still, thinking back to his letter from Seavey, the 99-year-old Matheny recalls feeling relief. “It was jubilation,” he says.

A field artillery officer in Japan named Abram Chayes was no less jubilant to hear from Seavey. His acceptance was not a surprise; he had graduated with high honors from Harvard College. But it was confusing. Like Matheny, he had not actually applied to Harvard Law. And, as he recalled a year before his death in 2000, “I didn’t know who the hell Seavey was.” Neither did a Marine in China named John Carroll. Carroll, who died in 2009, had gone to Cornell University and become a corporate tax attorney. But upon receiving his letter he wondered “whether there wasn’t some vast administrative screw-up that would drown me in a sea of paper.”

It was Seavey awash in paper. The deluge of letters from servicemen continued to grow through the fall and winter of 1945. At one point, he responded to 160 in a single day. Thousands of servicemen began to phone the school and show up to see Seavey, too. The professor, pipe in mouth, offered in person what he had on paper — not only advice but, when he saw fit, admission.

James Worsley, now 98 and retired from a career in corporate law, had not applied to the school. But he had visited it while a midshipman, after graduating from East Carolina University. And on a Saturday morning in February 1946, he went to see Seavey, taking a train from New York where his ship was in dry dock. Immediately afterward, Seavey sent Worsley a letter: He was accepted.

That same month, naval officer James Case took the subway to Harvard. The future agribusiness attorney, who died this past September at 102, found himself sitting in uniform across from Seavey, describing his academic record at Williams College.

“Do you want any credentials?” Case asked Seavey.

“No, I don’t need them,” Seavey replied. He accepted Case without even seeing a transcript.

Sometimes, Seavey was bolder still. When the admission committee rejected a New Yorker named Martin Walzer, the father of the young naval officer was outraged. “Goddammit!” he yelled, Walzer recalls. “You should’ve been admitted! You had good marks at MIT.” And so, Walzer did not drive to Georgetown Law, where he was already enrolled. He went to Seavey.

Seavey was impressed. He told Walzer that his own son had gone to MIT, and so he recognized that “a C average at MIT is a B anywhere else.” “Right

there,” adds Walzer, now 98 and retired from a career in transactional law, Seavey “said ‘you’re admitted for next [term].’”

If Seavey was anxious about counteracting the admissions committee, he didn’t show it.

THERE WERE, of course, some would-be students whom Seavey turned away, at least temporarily. Brendan Byrne had spent three years in the Army Air Forces but just one at Seton Hall University when, in 1945, Seavey told him that he needed to return to college. Byrne did so and entered Harvard Law two years later. (He went on to become governor of New Jersey.) And to a Navy lieutenant named Linwood Holton who applied to the law school after two years at Washington and Lee University, Seavey wrote a letter that hinted at his rejection. But when Holton telegraphed back a request for an interview, the professor agreed. They met on a summer Saturday in 1946, and Seavey encouraged him to apply to other schools. Holton, however, said he was set on Harvard. Seavey finally accepted him, asking only that he start not in September but February, when the incoming class would be smaller.

Holton, who would go on to become governor of Virginia, did as he was told. When he arrived, the new dean, Erwin Griswold, told him that he was one of “Seavey’s estoppels.” (There were so many of them that, in 1946, the admissions committee listed “Estoppel” as an official category of incoming student.)

“He told me that was the term the law school faculty used for those many of us whom Seavey admitted to the law school in spite of minimal admission credentials,” Holton later wrote, “simply because [of] Seavey’s admiration and awe for those of us whose applications to Harvard originated in some part of the war zones of World War II and arrived in Cambridge with a picture of the applicant in uniform.”

Added Holton: “The faculty recognized the borderline nature of some of his acceptances.”

Seavey had done away with standard procedure: focused less on schooling than experience, he had written letters of acceptance to men who had not applied, and accepted others with questionable credentials. He had then prevailed upon Harvard’s governing board to allot money to house his estoppels and their families, and helped to establish a nearby kindergarten for their children.

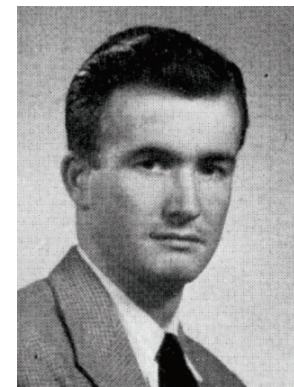
Among those young veterans at Harvard Law was Robert Drucker, the ensign-turned-lieutenant who received his letter from Seavey while in the Philippines. After returning home from the war in

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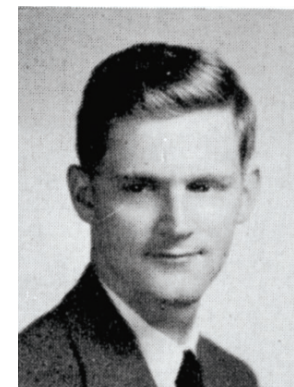
5 of the Many Men Warren Seavey Admitted to the Harvard Class of 1949



JAMES H. CASE



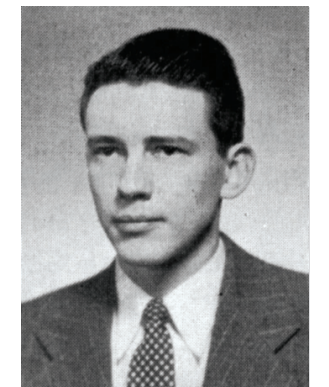
EDWARD T. MATHENY JR.



A. LINWOOD HOLTON JR.



ABRAM J. CHAYES



JAMES R. WORSLEY JR.

CLASS PHOTOGRAPH FROM THE HARVARD LIBRARY

WARREN SEAVEY'S STUDENTS

CONTINUED FROM PAGE 21

July of 1946, he married his high school girlfriend and drove with her in a 1937 Buick convertible to see Seavey — the professor the last stop on a honeymoon that began in Illinois.

Drucker was a top student. He'd graduated from Harvard Phi Beta Kappa. But he was still nervous. He hadn't actually applied to the law school, and wondered if he could count on his letter from Seavey. Seavey told him that he could. "I guess this is a case of estoppel," the professor said. Drucker had not heard the word before but felt "great relief," he says, when Seavey told him that he was welcome to enroll at the law school that fall.

Drucker never spoke to Seavey again. But he never forgot him — not after he transferred to the Harvard Business School, or moved back to Illinois, or had children and grandchildren and great-grandchildren and a successful career in manufacturing.

"Seavey was one of my heroes," Drucker says. "He was more interested in doing the right thing than in doing what was prescribed by law. He wanted to help people."

RETURNING VETERANS were in a hurry to get on with life, and Harvard Law divided its academic year into three, instead of the usual two, 15-week terms. It took seven terms to earn a degree, and the GI Bill covered the \$1,200 total tuition. Enrollment ballooned from 58 students in the summer of 1945 to 1,445 in 1946.

The 1946 student body was unlike any before it. Ninety-three percent of the students were veterans, among them many who could not have afforded tuition if not for the GI Bill. The school was far from open to all, however. It had never accepted a female student. It made room for only a few Black students. And as Jerome Karabel describes in his book *The Chosen*, Harvard also

"We were lucky to be there,"
Matheny says of Harvard Law.

"We were lucky to be."

limited the number of Jewish applicants it accepted, while favoring "legacies," the relatives of alumni.

The class of veterans that arrived on campus in 1946 helped to bring change to Harvard, as it did to many schools. Days into 1947, the university president, James Bryant Conant, reflected upon it. "[I]n terms of intellectual ability and force of character we never have had such a student body," he wrote. "Furthermore, the seriousness of purpose and the intensity of effort of the veterans in both the college and the professional schools is a matter of daily comment."

Griswold, the law school dean, described the school's first postwar class as "the most unusual and probably the best student body it has ever had." And, as Seavey foresaw, Griswold cited the students' military service as the main reason why. "A large proportion of them have already carried very heavy responsibilities," Griswold wrote. "It is not surprising, then, that they are much in earnest."

So they were. The young men understood what a gift their schooling was — men such as Felix Kent, a Jewish refugee from Vienna who interrogated Nazi prisoners for US military intelligence; and Lester Tanner, a soldier-turned-prisoner-of-war in Germany whose life was saved by the refusal of his commanding officer to identify the Jews in his regiment; and Ed Matheny, a naval officer who had helped Admiral Chester Nimitz, the commander of the US Pacific fleet, plot the whereabouts of Axis vessels.

"We were lucky to be there," Matheny says of Harvard Law. "We were lucky to be."

Their class, which graduated in 1949, would include the legal scholar Alexander Bickel, the political adviser Charlie McWhorter, the businessman Theodore Brophy, the tax expert Donald Lubick, and even a fugitive named Walter Wencke who stole millions of dollars and remains at large. "Everybody will tell you that it was the best class there ever was," remarked Abram Chayes, the class valedictorian who went on to teach at his alma mater and serve in the Kennedy administration. "We were raring to go."

The class was a testament to Seavey. And within a few years, the same men who had warned Seavey to guard against estoppel — and despaired that he would populate the school with "low-grade men" — praised him. "Seavey's unusually wide experience has enabled him to understand young men better than most of us," wrote Zechariah Chafee, the admissions committee member. "He tore the committee away from [its] tendency to regard the applicants as multitudinous pieces of paper."

THE 1949 GRADUATING class at Harvard Law — winnowed in 1946 from a pool of applicants five times its size — had presaged a new selectiveness at the school. Still groping for that "rule of thumb," the admissions committee in 1948 began to administer the LSAT, a new standardized test meant to measure potential. By 1950, the school accepted just 1 out of 6 applicants, making it the most selective law school in the country.

Selectiveness, however, is its own challenge. Today, 72 years later, the question of how to best assess an applicant remains an open one — and openly contested. Several elite universities have recently stopped requiring standardized tests. Some have stopped giving preference to "legacies." And in six or so months, the Supreme Court will rule in the case of *Students for Fair Admissions Inc. v. President and Fellows of Harvard College*. The plaintiffs hope their suit will remove race "as a factor in admissions." Harvard maintains that consideration of race helps it to create a diverse student body.

Six years ago, the Supreme Court reaffirmed its support of affirmative action, citing *Sweatt v. Painter*, a 1950 desegregation case at a law school in Texas. That school, the court had written, possessed "those qualities which are incapable of objective measurement but which make for greatness in a law school."

FIVE YEARS AFTER that midcentury ruling, Seavey was nearing 75 — well past the mandatory retirement age at the time — when Harvard Law forced him to step down. Heartbroken, the professor offered in vain to teach without pay. He spent the last years of his career as itinerant as he had spent the first, traveling with his wife, Stella, to teach at schools in Massachusetts, Missouri, New York, Texas, Tennessee, North Carolina, and California, before retiring in 1963.

Seavey's mind remained agile, and he wrote a memoir, just over 40 pages. But he had written nothing of the veterans he admitted to Harvard Law when, on January 18, 1966, he died at age 85 of a heart attack at his family's home in Weston.

Seavey was remembered above all for his work on agency and torts. But his most vital work was bound to the doctrine of estoppel, to the letters he had sent to servicemen overseas. After Seavey died, Amos Blandin Jr., a Harvard Law alum turned judge in New Hampshire, imagined the moment those servicemen arrived at Harvard bearing their precious letters.

"Each one thrust into the hands of the admitting officers a worn and soiled envelope," Blandin wrote. "Inside was a letter, also thumbed and worn. It was signed by Warren A. Seavey. The officials took one look and then...they graciously accepted the fact that Harvard Law School was 'estopped' to deny these men admission. The gates swung open and the veteran entered." ■

*Joshua Prager is a journalist and author based in New Jersey. He will discuss his most recent book, *The Family Roe*, a finalist for the Pulitzer Prize, at the Harvard Book Store on January 19. Visit harvard.com/events for more information. Send comments to magazine@globe.com.*