

Prof. Mark DeWolfe Howe Dies

Memorial services were held Friday, for Mark DeWolfe Howe, Harvard's first Charles Warren Professor of the History of American Law who died of a coronary occlusion on Feb. 28 at his home in Cambridge. He was 60 years old.

The faculty and student body were

stunned as word of the death became known. Some professors cancelled classes. Many offered impromptu, often eloquent tributes. Dean Erwin N. Griswold termed his death a profound institutional and personal loss. "Our structure has sagged perceptively," he

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Harvard Law Record

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FIFTEEN CENTS



'Laity Luck,' the Law School Show, comes to life this Saturday at 8:30 in Sanders Theatre. Tickets are on sale in Harkness.

Group Proposes

Revamp Honorary Activities

A subcommittee of the Joint Student-Faculty Committee recommended last week a sweeping revamping of membership in honoraries and other co-curricular activities.

It proposed that the top 114 students be allowed to bid for positions on the various participating activities, with the remaining 156 slots in these organizations left open to all students who would be chosen on the basis of various competitions.

The groups affected by the plan would be the Board of Student Advisers, The Community Legal Assistance Office, the *Civil Rights Law Review*, the *International Law Journal*, the *Harvard Law Review*, the Legal Aid Society, the Leg-

islative Research Bureau and the Voluntary Defenders.

The report is being circulated among the members of these groups for their comments, as well as among the Student-Faculty Committee itself.

Also recommended was the creation of a *Journal of Law Reform*, which would bridge the gap between field work and academic thinking. The subcommittee envisions such a *Journal* as "being capable of challenging the preeminent appeal of the *Law Review*."

The Report begins with an evaluation of the present system's pro's, the involvement of every high-ranking student in an extracurricular activity that further

(Continued on Page 14)

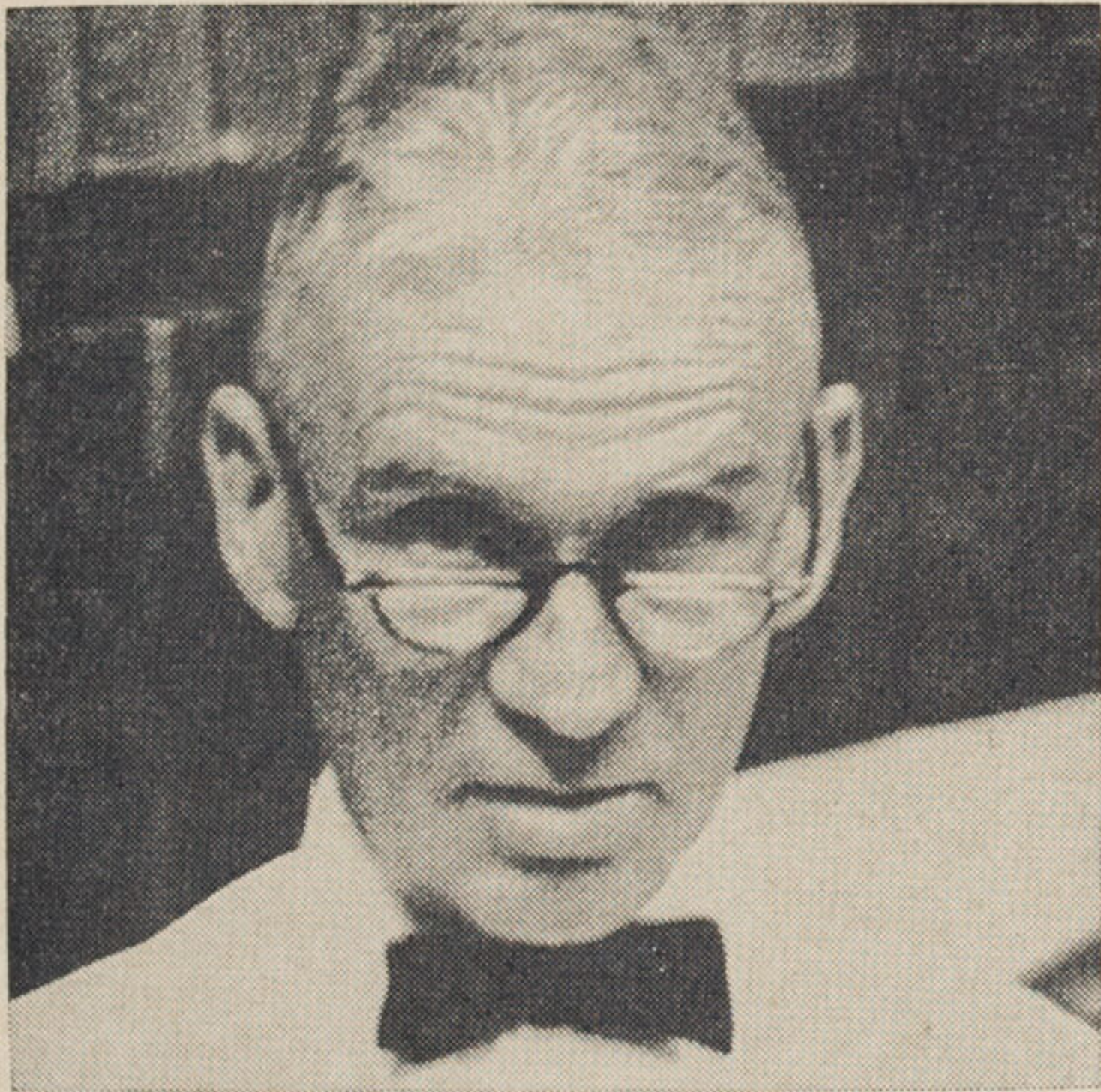
'A Prof.'s Highest Duty Is to

(Continued from Page 1)

said at the memorial service.

Various student groups sent contributions in Prof. Howe's memory to the Lawyers' Constitutional Defense Committee, a group he helped found, where a memorial fund had been established by the family. The editors of the *Harvard Law Review* made unprecedented plans to publish the proceedings of the memorial service in their June issue. And some of the most outspoken leaders of student civil liberties groups to whom he was an active and unfailing adviser, found themselves uncharacteristically speechless.

Professor Howe was best noted among the students for his voice of protest. "It is the professor's role to speak out on public affairs," he once declared. "It would be an



'Blue-Eyed Candor'

awful time if he couldn't. It is his highest duty."

For Prof. Howe this duty was rarely forgotten. Be the issue McCarthyism, the McCarran Act, loyalty oaths, the House Committee on Unamerican Activities, the speed of Attorney General Katzenbach on civil rights matters, or President Johnson's actions against his critics, he was quick to speak out and add his name to public statements. At times his candor reached the point of bluntness, such as when he labeled the New York school prayer decision "absurd" and pronounced Justice Black's

opinion "ridiculous". In 1953 his outspoken espousal of civil disobedience in a debate with a Boston attorney provoked angry demands that he resign from the Harvard faculty. And in a recent civil rights discussion on why Negroes distrust whites, his explanation was immediate and incisive. "We're frauds," he said, "and they know it."

But Prof. Howe knew the limitations of outspoken dissents, no matter how articulate or candid. He once repeated Justice Holmes' observation that even candor may be the best form of deception, and it was not surprising that he never hesitated to translate his verbal protest into actions. He joined the 1963 March on Washington. He tried cases in Mississippi. He helped establish the Lawyers' Constitutional Defense Committee. He gave his support to the group of students who founded the *Southern Courier*.

During his 21 years at Harvard Prof. Howe gained a reputation as being willing to speak when others refused. The *Harvard Crimson* soon learned that he was always good for advise and quotable material on questions of significance. For the Law School Forum it became almost standard procedure to ask him to speak at their most controversial programs. In 1963 when the Harvard College Democratic Club could find no one willing to debate Alabama Governor George Wallace they turned to Howe, whereupon the Governor, learning of his acceptance, declined. "'Touched With Fire,' he lived a life of quiet heroism," Professor Paul A. Freund declared.

For Prof. Howe the courage to dissent was a family tradition. His maternal ancestor, Josiah Quincy, Harvard's 15th president, once summarily dismissed the entire sophomore class for a year. His family supported the efforts of William Lloyd Garrison and Wendell Phillips. His uncle was a Democratic mayor of Boston at a time when for a proper Bostonian to be a Democrat was to commit a sin. And together with his father, he associated himself with a name that epitomizes dissent — Holmes.

Prof. Howe's father was the biographer of the elder Oliver Wendell Holmes, and the younger Howe became the official biographer of Justice Holmes in 1935. He was working

Speak Out on Public Affairs'

on a multi-volume biography of the Justice when he died, the first volume of which, *The Shaping Years*, was awarded the Faculty Prize of the Harvard University Press.

His biographical work on Justice Holmes included in addition to the first two volumes of the biography, his editing of several volumes of Holmes' correspondence and the 1963 edition of his *The Common Law*.

He once characterized Holmes as "possessed of an essentially rebellious attitude" whose philosophy was to bring a stout heart to any cause. "We were," he confessed on another occasion, "of the same world."

Nine hundred and fifty mourners, led by President and Mrs. Nathan Pusey, jammed Harvard's Memorial Church for Friday's service at which the Reverend Krister Stendahl, Frothingham Professor of Biblical Studies at the Harvard Divinity School, officiated. Dr. Richard Gill, the Master of Leverett House, at the request of the family, read Stephen Spender's poem "I Think Continually of Those" and Dean Griswold described the loss to the University, observing that "Mark Howe was not only one of our great ornaments, but also a source of strength in all our work."

The principal eulogy was delivered by Prof. Paul A. Freund, who had collaborated closely with Mr. Howe on a constitutional law casebook. "Mark Howe possessed greatness of heart as well as mind," he said in a moving, poetic tribute. Twice Prof. Freund brought appreciative laughter to the otherwise somber setting, and at times his eloquence left the congregation breathless. "He was not merely our surest guide to the ideas and institutions of the American heritage; he was our unfailing and unflinching exemplar of civic virtue and moral courage," he said.

Mark DeWolfe Howe was the youngest member of one of Boston's most famous literary families. His father was the author of more than 60 volumes, mostly biographies, and was a leader of Boston society—the historian of its clubs and biographer of its heroes. His brother is Quincy Howe, the author, editor and political commentator,

and his sister is Helen Howe (Mrs. Alfred Allen) the novelist.

He graduated from Phillips Academy, Andover, in 1924 and received his undergraduate and law training at Harvard. Unlike most of his faculty colleagues, Prof. Howe did not attain great academic success in law school, at least measured by conventional standards, but Prof. Felix Frankfurter chose Howe, perhaps because of his literary



Photo by Patricia Hollander

Prof. Mark DeWolfe Howe

heritage, to be the secretary and companion to the then retired Justice Holmes.

In 1935 he married the former Mary Manning of Dublin. Since their marriage Mrs. Howe has published a novel, *Mt. Venus*, many short stories and has been active in

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Red-Brick Buildings to be Erected

Plans for the new \$7 million Harvard Law School Faculty Office Building and Classroom and Administrative Building, expected to be completed in the summer of 1969, were released last week by Vice-Dean Joseph E. Leininger.

Only Part

The two new additions to the Law School's physical plant were described by Dean Leininger as "the bricks and mortar" part of the Harvard Law School's \$15,000,000 Sesquicentennial Program for development of the Law School. Recommended, after a special study, in the 1964 Report of the Faculty Committee on Planning and Development, headed by Professor Albert

Sacks, the new buildings are only part of the Law School's long-term needs.

The low-rise buildings, which required a full year of architectural planning, will begin being built fall; although, Dean Leininger indicated, the administration is "hopeful that some work will begin this summer in order to reduce the general inconvenience of noise during class time."

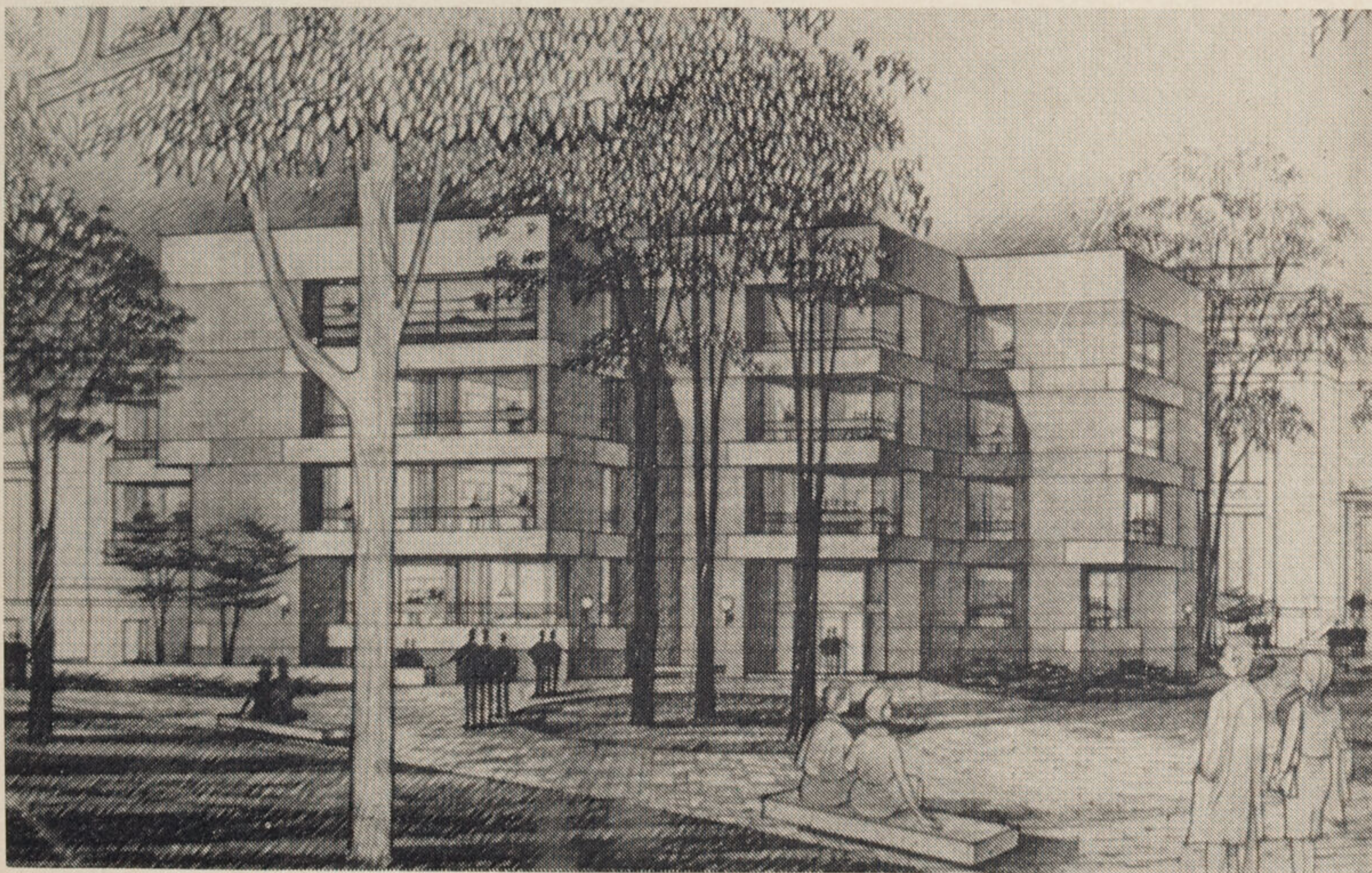
The Faculty Office Building, expected to cost over \$1 million, will be erected near the west end of Langdell Hall and will be linked to Langdell and I.L.S. It will have five floors, including space for Secretarial Operations (offices for the Registrar, Financial Aids

Director, Dormitory Office), and small Conference Areas. In addition, it will house one or two classrooms, a Faculty Lounge and a Faculty Library consisting of 30,000 volumes.

Extra Space

The building will have a red brick exterior with poured concrete, a sunken Court and tunnels between Langdell and I.L.S.

"The long-term hope," commented Dean Leininger, "is that the Library and student organizations will get the space in Langdell Hall made available by the new faculty office building." He also indicated that although no provisions for student organizations have been



New Classroom and Administrative Building

On Campus

made, once the new buildings are in use "a lot of space will be released for student accommodations."

The new classroom and administrative building will front Jarvis Court and extend to an area near the Northern end of Langdell and I.L.S. Its first floor will hold five small classrooms, seating from 75 to 150 students, to accommodate classes too small to meet in Langdell or Austin lecture rooms. There will be a number of Group Discussion Rooms, Lounge Areas similar to the one in Austin, and Seminar Rooms with capacity for from 30 to 60 students.

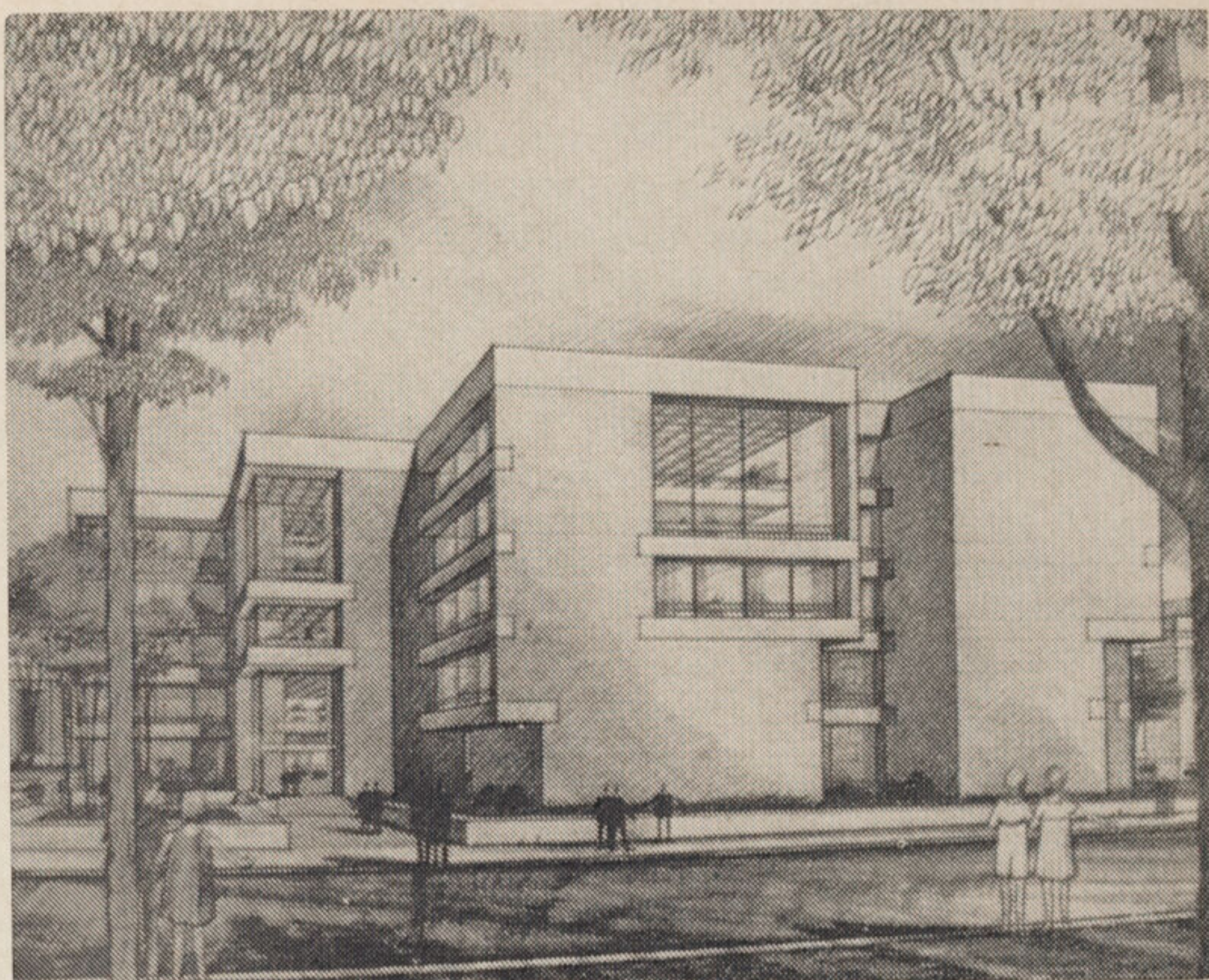
Dining Facilities

One of the most useful features of the 5-floor Classroom and Administrative Building will be the second-floor Multi-Purpose Room, designed to accommodate an audience of 700 to 800; a much greater seating capacity than the Ames Court Room. It will also seat 400 persons at dinner. Folding partitions will permit the area to be divided into three Activity Rooms, providing much more space than Harkness Commons for Law School functions.

Because the Classroom Building will be relatively close to Langdell and I.L.S., most of the interior walls will be glass to reduce the sense of crowdedness.

It is expected to cost well over \$5 million.

The new buildings will be low-rise because of the space



Harvard Law School Faculty Office Building

problem. They will necessitate the appropriation of all parking lots in the Harkness - Hastings - Wyeth - Kendall House area, leaving only space for approximately 30 cars. "There is a commitment," Dean Leininger noted, "to make this a pedestrian campus as a compromise for low-rise buildings." Suggestions for high-rise "towers" were rejected.

Parking Problems

As for Law School parking, Dean Leininger indicated that the University Planning Office is now undertaking to provide parking space elsewhere. The solution will probably be a major parking garage in the North Yard area which will serve both the Law School and other divisions of the University.

The new buildings are ex-

clusively a Law School Project. A substantial part of the cost is expected to come from the present Sesquicentennial Drive. The Program also plans to extend the Financial Aids Program for Law and Graduate students, expand the Library Facilities, endow new Faculty Chairs in areas such as Criminal Law and Urban Legal Studies, and make provisions for Research Professorships and Personnel.

Design Approved

Plans for the new buildings were drawn up by Benjamin Thompson, Inc. of Cambridge. Mr. Thompson is also Chairman of the Department of Architecture at the Harvard Graduate School of Design. The Harvard Corporation has given its approval to the completed Development and Design stage of the building project.

Austan Describes Formation of the 'Deacons'

By Howard Vogt

"Have you ever tried to watch Gunsmoke while someone's shooting' through the window?" asked Mr. Henry Austan, member of the Deacons of Defense and Justice, Feb. 27.

He was speaking of the situation that brought the formation of the Deacons, a group of Southern Negroes prepared to defend the civil rights movement from attack—even should it require returning violence for violence.

Self Defense

In a quiet drawl, Mr. Austan recounted the incident that spurred Louisiana Negroes to take active steps for their own defense. "July 9, 1964, the Klan rode through Jonesboro with a police car escort, and blacks decided it was time to stand up." Ten war veterans organized the chapter there.

One February evening in 1965, violence erupted in Bogalusa, Louisiana. "That night," Mr. Austan recalled, "the chief of police of Bogalusa came to a civil rights meeting at the home of Bob Hicks." "He said, 'Bob, the Klan sent me to tell you that if you don't get rid of that white trash (northern civil rights workers), they're going to burn this place to the ground.'"

"Charlie Sims, who might be a little short on what you'd call 'tact' answered, 'Sheriff, you've been a good dog and you brought one bone here. Take another one back and tell the Klan that if they come here, we're gonna stack 'em up like crossties.'"

Exchanged Gunfire

"When they came, we were ready," said Mr. Austan. "It's tough to see Negroes at night and we were hiding all over—in the trees, on the house and under the house, with rifles. After an exchange of fire with the Klan, we never had any more trouble."

He asserted that the Deacons always wait until they are invited before they move to

defend threatened Negroes. But once they are called, they will not limit themselves to the "non-violence" advocated by civil rights moderates such as Martin Luther King.

"Many of us began to realize that we're not Americans, that we're being exploited and have to do something about it," he said.

The Deacon's anti-Viet Nam stand mirrors this sentiment. "We've fought in every war this country's had and we decided we won't fight anymore when our own blood's been shed, but we have no rights of citizens."

"It seems that civil rights is dying on its feet. Black people are still dying in the south, but no one is interested anymore."

Mr. Austan predicted, however, that a new movement would arise, based on a more universal appreciation for human rights, rather than Negro rights alone.

'Review' Elections

After the usual marathon machinations George Crawford has been elected President of the *Harvard Law Review*, a noted legal periodical. Mr. Crawford named Henry Saferstein Executive Editor and G. Marshall Moriarty Treasurer of the journal.

David Mann and Walter Slocombe were selected to be Note Editors while Gerald Goldman and Thomas Moreland will be this year's Case Editors. Colin Diver and Ronald Greene will assume the position of Developments and Supreme Court Editor and Note and Supreme Court Editor, respectively.

Wayne Kirk, John Langbein and David Reber have been chosen Articles and Book Review Editors.

The *Harvard Law Review* is noted for its many articles of general interest.

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'Practical Prof.' Finds Classes a Challenge

By J. David Gernant

"The lawyer's life is one of pressure. Whether in government or in private practice or in the university, the law is demanding. It's not a seven-hours-a-day, five-days-a-week occupation."

With these statements, pointing out that the law is indeed a "jealous mistress," Visiting Professor Milton H. Cohen observed recently that the intense pressure put on students by the Law School is probably not excessive. "The fact that it's more pressure



Prof. Milton H. Cohen

than students are used to," he said, only shows that "they're being introduced to the life of the lawyer."

Professor Cohen speaks with authority, for he has worked in all three areas he named. Immediately after his graduation magna cum laude from the Harvard Law School, and for the next ten years, he worked with the Securities and Exchange Commission. In 1961, the S.E.C. recalled him to direct its Special Study of Securities Markets. The report of the study was issued in 1963, and led to new securities legislation in 1964.

Between these periods of government service, from 1947 to 1961, and since 1963, Professor Cohen has practiced with the Chicago firm of Schiff, Hardin, Waite, Dor-

schel & Britton. He comes to Harvard as the first in the Law School's new program of "Visiting Professors from Practice."

As a "professor from practice" with no prolonged teaching experience, he finds the method of teaching through discussion rather than by lectures a challenge, "an art not easily mastered." He points out, however, that his task is made easier by teaching only third-year and graduate students. Thus, rather than putting so much emphasis on cases and the Socratic method as is done in the first year, he can present problems from his own experience, using actual documentary materials as the basis for a lawyer-to-lawyer discussion with his students.

Tip of the Iceberg

Prof. Cohen warned students about thinking that recruiters for law firms make their decisions only from grades and the placement interviews. Students see only the "tip of the iceberg" in the placement interview, he said. Other factors come into play when a student is invited for extensive interviews at the firm's office. And the summer program after the second year is increasingly important.

From his own experience, he thinks that unless one wishes to carve a career in government service, the lawyer should move out by his mid-thirties, before it becomes too difficult to get a job in the private sector. Mr. Cohen believes that both the individual and the country are better served if a lawyer can spend some of his career in both the government and private sectors.

Baseball Board

Among his more exciting experiences in a long and varied career, Mr. Cohen recalls the time in 1959 that he represented Bill Veeck and Hank Greenberg when they achieved control of the Chicago White Sox. When they began the struggle, it seemed impossible that control of the board of directors could be broken. When they succeeded, Mr. Cohen was made the corporate secretary.

He believes that he is "one of the few" to have his picture in both the Harvard Law School yearbook and in a World Series program (1959).

A Step Backward

From extensive deliberations of a subcommittee of the Student-Faculty Committee has emerged a proposal to reevaluate membership criteria for honorary and other student organizations.

To its credit, the Committee first entertained the views of the "ordinary" law students in a town-meeting type session. Although a wide range of views were expressed, there did emerge a sense of alienation and despair by those students not ranking in the top 20 per cent of the class and not meaningfully participating in extra-curricular activities.

The Committee then retired behind closed doors and, together with three students in the top 10 per cent of the class, proposed a system by which groups that were once open to all students will now close many of their places to all but the top-ranking students. True, under the proposal the Board of Student Advisers and the Legal Aid Bureau will consider some students on a basis other than grade average, but it is understood that these honoraries were having difficulty attracting the highest-ranked students in any event.

The Committee's premise that many extra-curricular activities that are now having difficulty attracting members will suddenly compete in prestige with the *Law Review* because they boast several high-ranking members is without foundation in fact.

Implicit in the Committee's proposal is the acceptance of the status quo regarding Harvard's grading and ranking system. By extending the meaningless distinction between students from the 55 members of three honorary groups to 114 members of eight such groups and by further restricting the opportunity of the remaining 80 per cent to join extra-curricular organizations, the Committee does not appear to have found the solution to this very complex problem.

Mark DeWolfe Howe

Justice Holmes once said: "The rule for serving our fellow men, the beginning of self-sacrifice and of holiness, is to do one's task with all one's might. We find that what may have begun as a means becomes an end in itself; that self-seeking is forgotten in labors which are the best contribution that we can make to mankind."

Professor Howe was such a servant of mankind. A gentle, self-effacing man, he worked long and hard in the field of civil rights and civil liberties with all the righteous anger of a New England Puritan. His cherished work on Justice Holmes, of which only two volumes were completed, was forced into the background by the press of daily affairs and human suffering. Mark Howe will be missed — not alone by his students and colleagues, but by the many less fortunate whose cause he served so well.

TONGUE 'N CHEEK

By Fenno

We were having a snowball fight in front of Gannett House when a booming voice echoed above us,

"And thou shall teach the ordinances and laws and shall shew the way wherein they must walk and the work that they must do."

A lull in the fight ensued as we gazed around trying to figure out who this spoil sport was. Then I noticed that the voice sounding like an overstrained tape recorder had repeated the words etched across Richardson's stones high on the face of Austin Hall.

"We'll have a snowball fight if we want to," I shouted up defiantly. "Enough of your ordinances and laws. I know well enough by myself where I want to walk, and as for work, those ordinances and laws have taught me at least one thing—that I don't want to spend the rest of my life reading them. What do you think about that?"

No reply.

"Don't think you can convince us by the pretended majesty of judicial silence. Why do you think we should spend so much time in the library? Is it to acquire the characteristic face of a lawyer, a lined forehead and a tense trench of skin running down either side of the nose to the corners of the mouth?"

"The 'work that they must do.' It's like running as hard as you can for the rest of your life for a trophy of ashes. Duty? Responsibility? Heavy words of the devil and unknown to life. Come on now. What do you say?"

Still nothing. I knew that I had lost the debate and furthermore that we would be in the library tonight, most of us enjoying every minute of it.

But before I left, I picked up some snow to make a snowball and threw it up at the words, splattering a bit of whiteness over the verb "shew."

Letters to the Editor of the RECORD

New Proposal To Staff 'Review'

To the Editor:

We applaud recent indications that heretofore honorary organizations may open their membership through a more equitable selection process. However, before matters proceed to an institutional, and therefore irrevocable, solution, we urge that appropriate interest groups be given due consideration.

Specifically, we suggest that prime consideration, if not automatic membership, to *Harvard Law Review* status be given to any persons holding the following posts: members of the Joint Committee; the President of Lincoln's Inn; Program Vice Chairman of the Law School Forum; the Commissioner of Football; the Star of the Annual Law School Show; the Dorm Council Mixer Chairman; the Senior Marshall of the third-year class and the President of the Harvard Law Wives.

We trust this suggestion will re-

ceive all the consideration which it deserves.

Hertha S. Guttersnutch, 2L
Rodney O'Dangerfield, 2L

Reader Attacks 'Ill-Advised' Photo

To the Editor:

I was amazed at the picture inserted on your page 2 of the February 16, 1967 Harvard Law Record.

I can understand the photograph of the placards carried by these misled and ill advised protestors of the Vietnam war could be a matter of public interest and thus could have a place in your publication.

However, the lack of editorial discretion in allowing the insertion on a page devoted to an address by Ambassador Goldberg without any explanation for the relevance of this picture to the address by Ambassador Goldberg is rather repugnant. Certainly, many of the readers could infer that its only relevance is that Goldberg is a

Jew, and therefore the signs that stated the old fabrication of the Ku Kluxers and other anti-Semitic groups deserved a prominent place in your leading article.

As a Jew and a graduate of Harvard Law School, I resent your lack of discretion, good taste and editorial foresight.

Vernon C. Stoneman, '31
Boston, Mass.

Ed. Note: The picture referred to showed pickets in front of Langdell Hall, during Mr. Goldberg's visit.

Kerr Failed to Keep Law and Order

To the Editor:

The release issued by Professors Byse and William Fidler of the A.A.U.P. concerning the dismissal of Dr. Clark Kerr as quoted in the "Law Record" of February 9th, of course, misses the point in several respects. Dr. Kerr's dismissal had no visible connection with academic freedom. That will continue in even greater degree at U.C. for both sides of a controversy will no doubt now be heard without the left wingers trying to shout down anyone who disagrees with him. Dr. Kerr was dismissed for failure to keep law and order and decency on the campus and to eliminate sedition from it. How any God fearing, law abiding Americans can defend what has been going on at U.C. for years passes comprehension.

Charles B. Waller, '15
Wilkes-Barre, Pa.

Correction

A picture of Paul Garrity, the staff lawyer of the Community Legal Assistance Office, was incorrectly captioned "John Ferren" in the Feb. 24 issue. The RECORD regrets the error.

Harvard Law Record

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Peace Corps Screens Film

The annual Peace Corps recruiting drive comes to the Law School tomorrow night, Mar. 10, at 8 p.m., with a screening of *A Choice I Made*, in the Wheeler Room, Holmes Hall.

The movie pictures a group of volunteers performing their daily tasks in a small Indian village. "Volunteers speak of their failures and frustrations, of their small successes and of their frequent inability to make any impression at all upon the overwhelming poverty and misery which is modern India," explained Jim McMahon, who arranged for the film to be shown.

Prospective applicants to the Corps will be able to discuss specific programs in countries of their choice with Peace Corps veterans who have worked in the areas the applicant is interested. Appointments for these conferences may be arranged at the Peace Corps booth in Harkness Commons which will be manned during mealtimes today and tomorrow, and after the showing of the film tomorrow night.

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Events of Note

Application forms for the Harvard Law School Conference on Law and Poverty, to be held Mar. 17-19, are available at the Receptionist's desk in Langdell Hall. The registration fee for the four meetings is \$1.50 for students.

* * *

L. Scott Harshbarger, 2L, has recently been elected president of the Voluntary Defenders. Anthony Granucci, also a 2L, has been named vice-president in charge of the research and writing program of the group.

An ad hoc student committee has begun to establish a Fund in honor of Prof. Mark DeWolfe Howe. Depending on the amount finally collected, the Fund will be used to finance either a continuing memorial at the Law School or a contribution to the Lawyers' Constitutional Defense Committee, or both.

Alumni and students interested in assisting or contributing to the Fund should contact J. David Gernant in Holmes Hall 309 or Richard T. Seymour in Story Hall 226.

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'What's Wrong With Yale Law School?'

By John Spitzer

Things are tough all over. It appears that there is growing unrest at what some consider the paradigm of paradigms among institutions of legal education — Yale Law School.

"We feel the Law School just isn't an intellectually exciting place," declared James White III, a third-year student, president of Yale Law School Student's Association, to the *Yale Daily News* last week. The association sponsored a panel discussion Feb. 23 entitled "What's Wrong With Yale Law School?"

Those following the Reform Movement at Harvard will find themselves familiar with a lot of the issues that came up: how should the present case method of instruction be supplemented? Should there be a full-fledged internship program allowing students to work in the "real world" for credit? Should there be more and different courses? How relevant is a system of letter grades when nearly everyone passes each course? And oddly enough, even in Yale's supposed forte, there are complaints of a lack of close student-faculty relationships.

As a result of the "unrest," the Yale Law School Academic Committee, a subcommittee of the Student Association, has been set up to discuss what can be done. It will submit a comprehensive report in April.

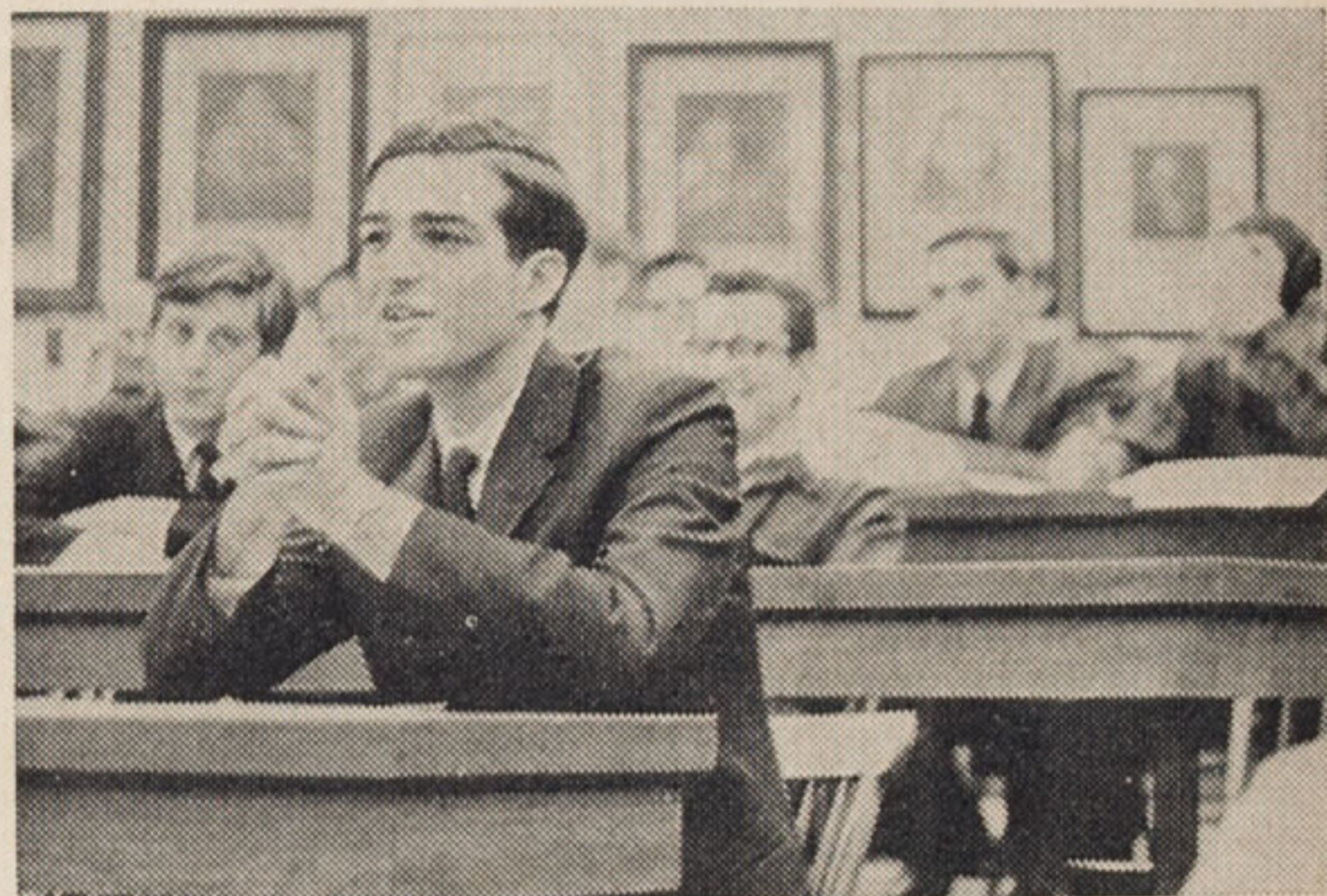
"The Yale Law School holds itself out to be a great

school but it may be just coasting on its reputation," stated Melvin M. Masuda, a second-year student who is a member of the committee, to the *News* last week. "There seems to be a general lack of enthusiasm on the part of many students.

"We want to increase the dialogue between students and professors on the goals and substances of legal education at Yale. The faculty has no monopoly on good ideas about legal education."

Yale Law School Dean Louis H. Pollak doesn't

Open meeting of Student-Faculty group at Brand X.



"I have been turned away (and off) by a professor who twice told me after class, 'I don't want to argue with you today;' had a 'small class' of more than 100 students in taxation and commercial transactions; sat through many classes where the professor's attempt to elicit voluntary responses fell on deaf ears; seen 'close student-faculty relationships' when the administration preemptorily posted a notice scheduling two exams on one day for a number of students; and watched the job-recruiting process in which law firms paw over grades of students. You wonder why I'm dissatisfied?"

Similar sentiments were voiced by William A. Davis Jr., the second-year student who is chairman of the committee.

think the problem is so serious. "There is always dissatisfaction with the school on the part of the students and I am glad this is so," he homilized. "We welcome this interest of the students. There definitely are some things about Yale Law which should be improved, and we would be more than happy to have students sit down and talk with us regarding these issues."

Committee member Masuda, despite his outspoken criticisms of Yale, hinted that he thinks Yale is still better off than most other law schools: "Even if we grant that dissatisfaction is smaller than at other law schools, particularly Brand X in Cambridge, that does not mean we should not strive constantly to minimize it."

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Prof. Howe . . .

(Continued from Page 3)

local dramatic activities. They had three daughters, Susan, Fanny and Helen.

Before joining the Harvard faculty in 1946 Prof. Howe had worked as an assistant director for Paramount Studio ("Mostly, I shouted through a big megaphone at a bunch of extras," he explained.) joined Prof. Ernest Brown on the law faculty of the University of Buffalo (He was named acting Dean in 1938), served in the Army for three years (He attained the rank of Colonel and was awarded the Legion of Merit and Distinguished Service Medal) and joined the Boston firm of Hill, Barlow and Homas.

At Harvard he taught Constitutional Law, Admiralty, and various courses in American legal history, both at the Law School and the College. He was a Fellow of Leverett House, an honorary member of the Harvard chapter of Phi Beta Kappa, and a friend to countless students who found him the easiest to identify with of all the professors at Harvard, perhaps, as Prof. Freund noted, because he never lost his unaffected boyishness of spirit . . . and his blue-eyed candor and playful skepticism punctured most pretentiousness."

In February of 1965, writing of Mr. Justice Frankfurter, Prof. Howe perhaps unwittingly suggested his own epitaph as well:

"The impress of his spirit will always mark the minds of his students. His zeal, his effervescence, his intensity of involvement with his times aroused the energies of innumerable young men to high endeavors . . . They forced the best from each of us."

At the memorial service Dean Griswold praised Prof. Howe's genuine commitment to his students and predicted that although he would have certainly kept it to himself, his heart would have been warmed by their candid statements during the days following his death.

Hearing all this Howe probably would have repeated the remark of Justice Holmes, "Candor I have always thought was the best form of deception," but what Freund called his shy, puckish humor" would have betrayed him.

And, he would have smiled.

— TOM JOHNSON

Recent Book

Legal Problem in an African Setting

By John Spitzer

Hammond, Peter B., *Yatenga*. New York: Free Press, 1966, pp. 223.

A Harvard-trained lawyer would have a tough time of it in Yatenga.

Take the "laws" of marriage and divorce in this small African province north of the Ivory Coast. Rather than a judge pronouncing a couple "married" at a specific point in time, lovers gradually see more and more of each other until the community begins to look upon them as married. Similarly with divorce. If marital spats become too frequent, the couple begin to see less and less of each

other, until finally the community regards them as divorced.

One does need to mention the insuperable problems this would create for the sharp tax lawyer trying to figure out when a husband could file a joint return, the family lawyer puzzling when alimony should start, or the estate planner attempting to determine if the wife is still a wife for the purposes of a marital deduction.

On other hand, as ancestor worship is the chief religion in Yatenga, the estate planner would be relieved of worrying about possible violations of the rule against

perpetuities. The Chief (who decides disputes) would probably resolve such questions with a strong presumption toward maximum control by ancestors for the longest period of time.

The aspiring criminal lawyer would have to forget about the jury trial and drag out a set of old lecture notes from DLI on various tortures to determine the truth. But even these would not be of much use since guilt or innocence is determined in Yatenga by:

1) Slaughtering a white chicken and seeing which way it falls, or

2) Seeing if the accused can survive drinking water poured over the earth shrines.

While the criminal lawyer would be presented with an occasional murder case in Yatenga, a theft specialist wouldn't do very well because hardly anything is ever stolen — for the simple reason that the region is so poor that there is nothing

(Continued on Page 16)

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Report . . .

(Continued from Page 1)

challenges his intellect, the high level of competence at which the activities are carried on, and the fact that the

system honors and rewards the students who achieve means of measuring the training of legal skills."

It then analyzes the drawbacks—the adverse psychological impact on those who do not earn mem-

the highest grades on examinations, "the principal bership, the consequent heightening of the importance of grades, the harmful consequences to non-grade-based organizations.

'Evaluation'

The Report concludes with an "evaluation" of the proposal put forward. The only drawback the group sees is that the suggestion "increases emphasis on grades by raising the number of students who attain organization membership because of academic rank." It rejects the criticism since "by making part of an organization's membership grade-based, we hope to invest with equivalent value the places to be offered on a non-grade basis."

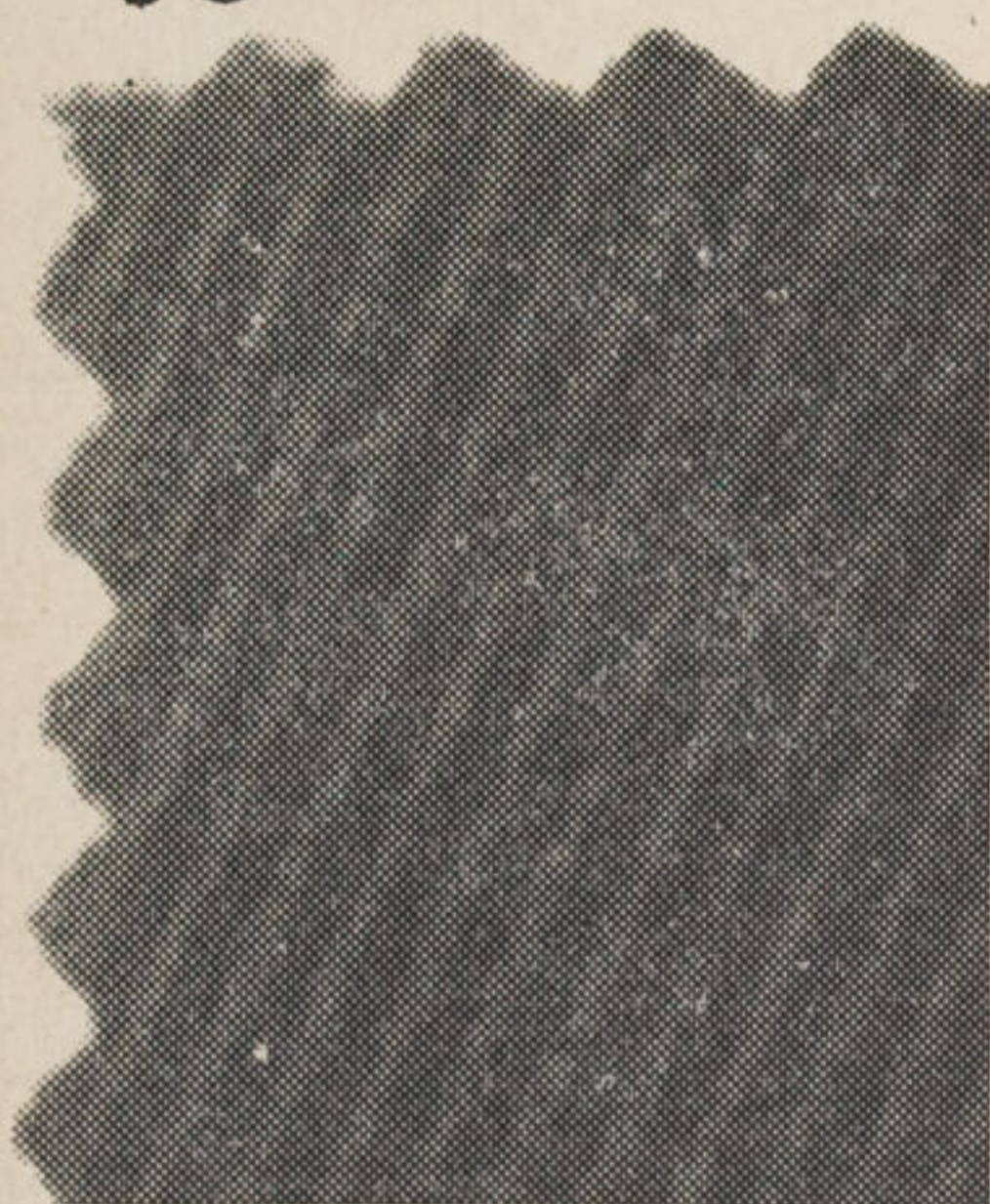
The recommendations of the subcommittee will be reconsidered after comments and criticisms have been received from the organizations affected as well as the student body at large.

Participants

Participating in the creation of the report were Assistant Professor Charles Nesson, John Conner, 3L, and Robert Mnookin and Daniel A. Taylor, 2L's, all members of the Joint Committee. Also closely associated in the discussions as well as in the final drafting were Lance Liebman, president of the *Law Review*, William Lieblich, chairman of the Board, and Davis Robinson, the head of Legal Aid.



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F. Lee Bailey Criticizes Present Trial Flaws

By Jay Becker

"Too many innocent men are being convicted," asserted F. Lee Bailey, defense lawyer for Albert De Salvo and accused murderers, Dr. Sam Shepard and Carl Copolino, to an overflow crowd at the Leverett House Speakers' Forum, Mar. 1.

"All it takes is one perjurious witness and you can be indicted," he said, and then there are the consequences of indictment — "People will continue to point to the person who has been indicted and whisper. Many people assume that any one who is indicted was really guilty."

Another flaw in the present system, Bailey said, is the large number of cases which are appealed and decisions which are changed. Suggesting that only cases presenting new points of law should be appealed,

Bailey pointed to the high cost of appeals and the amount of time they take as major drawbacks to the current system.

The famed defender attacked the jury. "Pure guesswork," Bailey asserted, is the basis for many jury determinations of guilt and innocence. "A good liar can convict an innocent, but inarticulate defendant any day of the week," Bailey said, arguing for the right of defense counsel to question jurors, a practice not allowed in Massachusetts. "Carl Copolino would have been a cooked goose if I had to defend him here," he continued, expanding on the dangers of juries.

To remedy the unfair criminal trial situation, Bailey suggested a three year federally funded project for the education of criminal defense lawyers.

Under his plan, after graduation from law school the would be defense lawyer would spend another three years in a type of apprenticeship. The first year would be spent working in trial preparation. The law-

yer would learn "where to find the facts, how to recognize what facts are important, and what to do with the facts he found."

In the second year the lawyer would sit with a criminal trial judge, and the final year would be spent



F. Lee Bailey

with a prosecutor, so that the lawyer would not develop a mental set in favor of the defense.

Bailey also told of his asking a prospective juror whether he was prejudiced against the defendant in a murder case because he was "prone to human frailty." The juror answered: "Do you mean murder?"

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Review

(Continued from Page 13)

for a good thief to steal. Perhaps it would be best for the criminal lawyer to bone up on sorcery jurisprudence since this is the second most heinous crime, next to murder.

Finder's Keeper

The property lawyer would be in trouble because there is no private property except for small personal articles. And if one of these is lost the "finder's keeper" rule in *Armory v. Delamirie* does not prevail in Yatenga since all lost articles belong to the Earth and the finder has a moral ob-

ligation to take the article to the earth shrine.

Procedural problems pose another barrier to the lawyer who has had enough of bond indentures on Wall Street and wishes to live a more basic existence in Africa. If your client wants to dig a well, for instance, you do not go see Commissioner of Natural Resources for a factual determination if the water table is sufficient for another well, but you must notify the Earth Deity to tell of your activities in his domain.

And if a farmer complains to you that his sorghum crop has been poor recently, you do not apply

for a conservation and fertilizer loan from the Department of Agriculture, but go through the indirect route of making chicken sacrifices to Tenga Wende and pouring libations (of millet beer) over the earth shrines.

Hard Times

Hammond paints a portrait of a hard life in Yatenga — brackish water from wells, malnutrition from farmed out fields, attacks of the dreaded Filaria worm, smoking out locusts from trees and then eating them, nothing more than a slingshot to hunt scarce game — but a people who face this life courageously.

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