

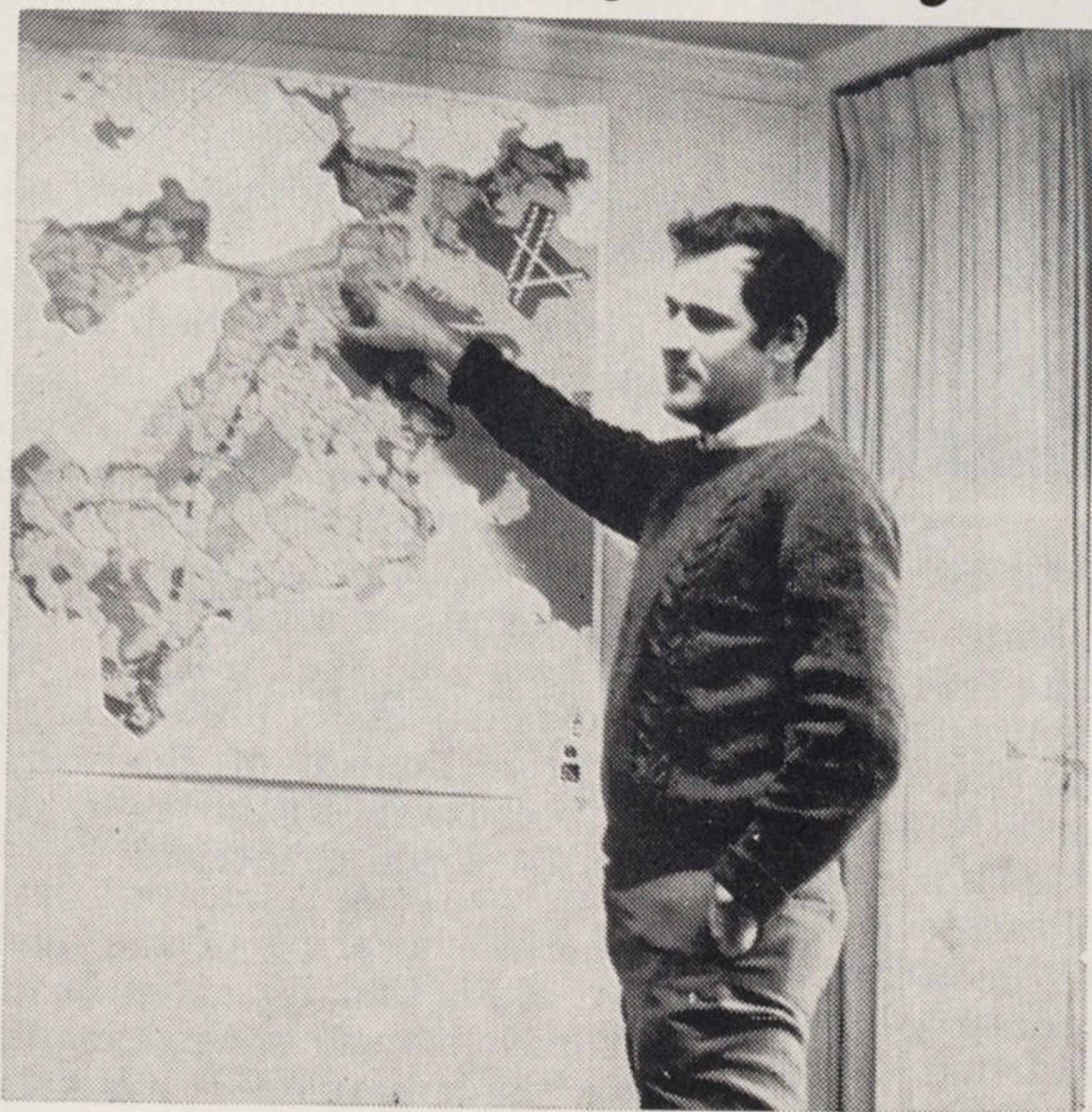
# HARVARD LAW RECORD

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## 3L's Study City Problems for Credit



Howard Sweet

Lowell Dodge, one of the eight 3L's studying Boston urban problems, points to map of urban districts.

In a radical departure from former emphasis on Socratic method teaching in large classes, the Law School is cooperating with and sanctioning a program that has greatly reduced eight third year law students' class room commitments.

Under the new program called the Boston Urban Services Project, these students spent most of their time this summer and fall working on a program designed to simplify the multifarious districts in Boston, decentralizing the power of the city and encouraging community participation. The final report of the students will be submitted to Mayor Kevin White and the heads of the Police Department, School Committee, Public Works Administration and Parks and Recreation Department — the four agencies which have been studied by the students.

### \$2,500 Apiece

In return for their efforts the eight third year students receive eight hours course credit, credit for the third year paper, \$2,500 (plus social security) each, the services of a secretary (total cost about \$3,300) and two offices.

The idea and impetus for the program was entirely student generated. In the fall semester last year Phil Sherburne, Dennis Lynch and Steve Arons (all 3Ls) began discussing the idea of having some kind of self-generated education project

for third year students. Phil Sherburne's experience with ABCD (Action for Boston Community Development) provided the specific idea for the type of program the students would propose to the faculty.

During the spring Sherburne, Lynch, and Arons began to try to interest faculty members in supporting the project; Sherburne worked on trying to get financing from the Ford Foundation, and all tried to interest students in joining them. Professor Frank Michelman pledged his support and stated that he was willing to teach a weekly seminar in the fall associated with the program.

## Law Review Outlines for Masses?

By Richard Hoffman

It's not exactly a secret that membership on the *Harvard Law Review* offers many benefits, not all of which are scholastic. Few would deny that *Review* staffers find employers more receptive and compensation more plentiful than do mere Law School mortals.

Recently, enough interest in two other areas of *Review* "extra helps" has developed for both the *Review* and the administration to begin considering anew the special role the journal occupies at the Law School.

One field of inquiry consists of the *Review's* special outlines of Law School courses. The other

concerns the practice of submitting unpublished *Law Review* notes in satisfaction of the third-year written work requirement.

If one were to listen to *Review* members alone, the major problem about the outlines is the sorry fact that some of these have escaped the *Review's* security system. Most of the outlines have been prepared by *Review* members working outside the publication's chain of command. But their products have been retained by the *Review* and been updated in many cases by later staffers.

The outlines' notoriety stems from their classified status. But in

(Continued on Page 14)

(Continued on Page 6)

# 'Poor Nations Need Self-Reform,' Myrdal Says

By Lawrence Gartner

Although help from richer nations is important, the underdeveloped countries of the world can only progress by reforming themselves, Gunnar Myrdal, the Swedish social scientist, told a Harvard Law Forum audience last week.

Such countries are "soft states" where little is demanded of citizens in the interest of the nation, he asserted. Unless basic policy reforms are instituted to combat corruption, rectify inequalities, improve education, and institute land reform, massive doses of foreign aid will be of little help in improving their economic basis, Myrdal contended.

Professor Myrdal's talk was a brief outline of a forthcoming book dealing with policy questions regarding world poverty. The book will be a sequel to his massive three-volume study of the economies of South and South-eastern Asian countries, *An Asian Drama: An Inquiry into the Poverty of Nations*.

The charming Swedish scholar has taught both in Sweden and the United States. He has held posts in the Swedish government and as an international civil servant. His equally massive study of race relations in the United States, *An American Dilemma*, is a classic work on the subject and still highly relevant today.

Prof. Myrdal's basic point was that "the most important reforms must be done by the underdeveloped countries themselves."

One such reform is to fight the corruption which is "increasing in all the underdeveloped countries with a few exceptions." He said that such corruption breeds delay and obstructs decision-making.

But, he added, there is "no possibility for the rich countries to do anything about it except to stop our help in increasing it."



Dave Walsh

## Gunnar Myrdal

Another reform which poor nations must undertake is to combat their rigid antiequalitarian social structures. At the same time, there must be land reform, he said. Unless there is land reform, new technological achievements in agriculture won't be used beneficially. Prof. Myrdal regards as necessary reform that which "creates a relationship between man and land so that man has the possibility of and incentive for working harder and using the new technology."

There needs to be a total revolution in education also, Prof. Myrdal continued. The real problem is quality. For various reasons, the communist nations have always tried to make their populations as literate as possible as quickly as possible, but "the non-communist world is far behind."

A fourth area for reform is in birth control. Here, Prof. Myrdal said, the poor countries must make a decision, they must take it seriously, and then they must spread information to their people.

Despite his belief that basic reform can only be undertaken by the poor countries themselves, Prof. Myrdal doesn't mean by this that the richer nations are

free from responsibility. "It is tremendously important that we do what we can to aid them."

But he argued that the richer nations have actually been lowering the quality of their help.

Not only has the portion of capital flow to underdeveloped nations been decreasing as a percentage of the richer nations' national income, he said, but the quality of such aid has been deteriorating.

First, aid given is tied to the requirement that it must be used to buy the products of the donor country, he said. "This makes imports somewhere between 15 to 40 percent more expensive than if the countries could freely buy elsewhere in the world." He added that "this is protectionism and protectionism of the worst kind because it is paid for by the underdeveloped countries."

Another lowering of the quality of aid is that it's given in the form of loans rather than grants. Thus, underdeveloped countries are finding it necessary to secure more credits in order to pay off previous loans and their interest. Prof. Myrdal finds it ironical that the Marshall Plan — which aided the economically sound countries of Europe — was mostly in terms of grants while aid to the underdeveloped countries — who really need it — is in the form of credits.

Finally, Prof. Myrdal said that the trading position of underdeveloped nations has been worsening since World War I. He argued that a double standard is needed in this area since equality among those not equal is not fair.

Prof. Myrdal was introduced by Seymour Martin Lipset, professor of government and social relations at Harvard. On December 6, the Forum will present former U.S. Supreme Court Justice Tom Clark.

# Austern Lecture Hits Administrative 'Expertise'

By John York

Before a crowd of about 200 in the Ames Courtroom November 25, H. Thomas Austern, '29, linked many Federal agency aberrations in the law to the "mystique of administrative expertise."

"The term expertise," Austern explained, "was first used by Felix Frankfurter in 1930 as he lamented the fact that administrative agencies needed some of the expertise found in the bar. Now, of course, every agency—no matter how young—is said to be endowed with this expertise."

It is this mythical cloak of expertise, Austern argued, that allows the agencies to effect sweeping "jaw-bone" enforcement of regulations, to "stack the cards" in administrative hearings for formal regulation-making, and to make judicial review often futile.

Austern cited "fear of adverse publicity, undue delay, and eventual Draconian sanctions" as reasons why the regulated often submit to the regulators. Short of deploying formal sanctions, agencies can threaten to investigate a vital license, issue a statement of policy, or promulgate an interpretation of enabling legislation.

In reference to agency hearings, Austern, once a consultant to the Atomic Energy Commission, blamed lack of distinction between polemic and proof, slipshod preparation by agency men, endless parades of "experts," and biased hearing examiners for unduly prolonging formal rule-making.

"I once received great and dubious fame in the *New Yorker* magazine as 'the peanut-butter lawyer.' It took us five years to determine how many peanuts must be in a jar of peanut butter!"

When the final regulation emerges from this inefficient process, Austern said, the client is often enraged and wants his

day in court. Yet, as Austern has found, "more often than not what the agency does, a court approves. The magic incantation is that 'every administrative agency has expertise.' Courts haven't the time to dig into that voluminous administrative record. But sometimes a court will dig in, especially if it detects a hint of monopoly, suspects a denial of due process, or sees possible curtailment of free speech."

During the question-and-answer period, Professors Areeda, Jaffe, Turner, Byse and Dean Bok volunteered or were called upon to comment at length, while only three students were able to advance their queries.

Austern, a master at turning away questions with a sharp repartee, wasn't challenged to any great extent by the professorial inquisitors. When a usually caustic Professor Byse expressed hope that an Austern reference to a case in the administrative law casebook might cause the pages to be scrutinized with more care, the Washington lawyer snapped back, "That's your problem."



Mike Lurey

Thomas Austern

Whether the somewhat unusually structured question period can be laid to the generally unfavorable impression created by the question-and-answer session following Austern's initial talk wasn't known.

The essence of the talk seemed capsuled in one of Mark Twain's aphorisms, which Austern quoted with approval: "'A mining expert is a damn fool on top of a hole in the ground.'"

## 2L Writing Program Start Slated

So you didn't make the *Law Review*. You can still have the opportunity to develop your legal writing skills through the Second-Year Writing Program.

Established because of faculty discontent with the limited opportunity for legal writing at the Law School, the program is open to all second-year students, regardless of grades. Each participant writes three case prelims and one case comment, an extensive analysis of a problem area in the law.

For those interested, there will be an organizational meeting at 1:15 p.m. Tuesday in Austin East.

A board of editors, chosen from

outstanding participants of last year's program and from third year members of the *Law Review*, presides over the program. Officers are chosen from the board.

Last year about 80 participants began the program. From that number, there were 35 comments published.

The comments are published in the *Harvard Legal Commentary*, the publication of the writing program. All work is done under the close supervision of one of the student editors. There is also a review by one of the faculty members connected with the program and a final session with the faculty member before the final draft is submitted.

# CLEO Attempting to Increase

By Ronald Kadden

The legal profession in this country is almost wholly lily white. Less than two percent of our lawyers come from such minority groups as blacks, Mexican-Americans, and American Indians.

Helping to eliminate this imbalance is an organization called the Council on Legal Education Opportunity (CLEO) in whose short history, Harvard Law School has played a major role.

As its name indicates, CLEO's function is to interest minority students in a legal career. For the past year it has run summer programs to introduce such students to both the substance of law and the opportunities of a legal career. CLEO's immediate goal is to produce at least 300 additional black, American Indian, and Spanish-speaking lawyers by 1973.

The nucleus of the CLEO program began in the spring of 1964 at the Law School. A group led by Louis A. Toepfer, then vice-dean at Harvard Law and currently dean of Western Reserve Law School, discussed the possibility of interesting minority groups in the study of law. The proposals of this group led in the summer of 1965 to a program at Harvard for forty students, most of them juniors at predominantly black colleges.

The program consisted of an eight week introduction to the law with a curriculum consisting of selected topics from first-year courses. Most of the selected participants were juniors so that the students could talk to their classmates about the law school when they returned to college in the fall.

Another purpose of the summer program was to provide a basis for admissions other than college grades and L.S.A.T. scores which were considered to be of uncertain validity for these students.

The summer institute, as it was called, was repeated in 1966. Of the 80 students who attended the 1965-1966 institutes, about half went to law school, several to Harvard.

Meanwhile, Emory University in Atlanta, Georgia, began a pre-admission program for black college seniors in the summer of 1966. Unlike the Harvard Law program, Emory's summer institute was geared to admit students into its own law school. One full first-year course was given, and those who passed it were admitted to the law school with credit for that course.

In May of 1967, at an Office of Economic Opportunity-conference, the idea of a national organization to co-ordinate and broaden the Harvard and



David Walsh

Prof. Frank Sander —  
National Chairman of CLEO.

Emory programs was originated. The Council on Legal Education Opportunities was organized in the spring of this year.

Funded by an OEO grant of about half a million dollars, CLEO set-up a national office in Atlanta headed by a full-time executive director, and this summer financed four institutes. In addition to Harvard and Emory, two new institutes were begun at the University of Denver and U.C.L.A. law schools. Of the 120 students who graduated from the institutes, 94 made their way into 34 different law schools. Eighteen others will return to law school after the completion of military service.

In addition to the OEO grant, CLEO received \$450,000 from the Ford Foundation, thus providing each CLEO graduate with an average scholarship of \$1,500 per year of law school. Law schools admitting graduates of the summer institutes have further eased the financial burden by waiving tuition.

The Council is composed of ten members representing four organizations: three from the Association of American Law Schools; three from the American Bar Association; three from the National Bar Association, an organization of black lawyers; and one from the Law School Admissions Test Council. At the October meeting of the Council, Professor Frank Sander of the Law School was elected chairman.

# e Number of Non-White Lawyers

Aided by special committees on research, financial aids, programs, and career opportunities, the Council is now engaged in setting long-range goals and seeking solutions to some vexing problems.

One of the Council's current activities is the re-evaluation of the summer institutes. The cost of these institutes is approximately \$2,000 per student, including a grant of \$500 to each student in lieu of summer earnings. The Council has concluded that the expense is too great to justify use of the summer institutes as a recruitment device, as was done in 1965. Consequently, there will be no post-juniors in future institutes.

In place of the institutes, the Council is experimenting with regional recruitment conferences, co-sponsored by law schools in the particular areas. Such a conference will be held in New York this coming February 15. In addition to detailing opportunities in law, the conference will hopefully impart to participants the relevance of the law: how the law can be of use to them in the service of their communities. In an effort to spread the cost, institutes in the future will be on a matching grant basis with the law school.

In three series of summer institutes, sufficient information about many black colleges has been collected to diminish the importance of the summer institutes as a basis for evaluation in the admissions process. Accordingly, future institutes will be used increasingly as a transitional aid. Those who do not need this transitional aid will not attend the institutes, but hopefully will receive financial aid if needed.

One of the greatest problems facing CLEO is financial aid. If the program expands to 300 students this summer, it will take another Ford grant of 1 1/2 million dollars to match the support that graduates of the 1968 institutes will be receiving. Also, it will be necessary for law schools to continue to waive tuition for an increased number of students.

Unfortunately, neither the Ford Foundation nor most law schools have the funds to support the CLEO expansion necessary to reduce the current imbalance in the legal profession. Consequently, CLEO is considering supplementary measures. One of these is greater reliance on long-term loans with a "forgiveness" feature for those who go into low-paying jobs, such as ghetto work. Another is the establishment of a special fund of contributions from law firms throughout the country. As a broad, long-term solution to the problem, there is the

possibility of federal legislation providing funds for graduate study by members of disadvantaged groups.

Another area of CLEO endeavor might broadly be labelled communication. In part it is the communication to all law schools of the experience of those schools which have had summer institutes or have admitted graduates of the institutes. Another needed type of communication is between students, teachers, and CLEO officials; students are now being added to all CLEO committees. It is hoped that these students will also participate in recruitment and that they will assist first year CLEO students.

The reaction of students who have attended the institutes seems in general to be favorable. To Richard T. White, 2L, a student at the 1966 institute and a faculty assistant in the 1968 program, their major value is indicating to the student whether or not he is interested in studying law. The institutes are "small packages of what law school is really like."

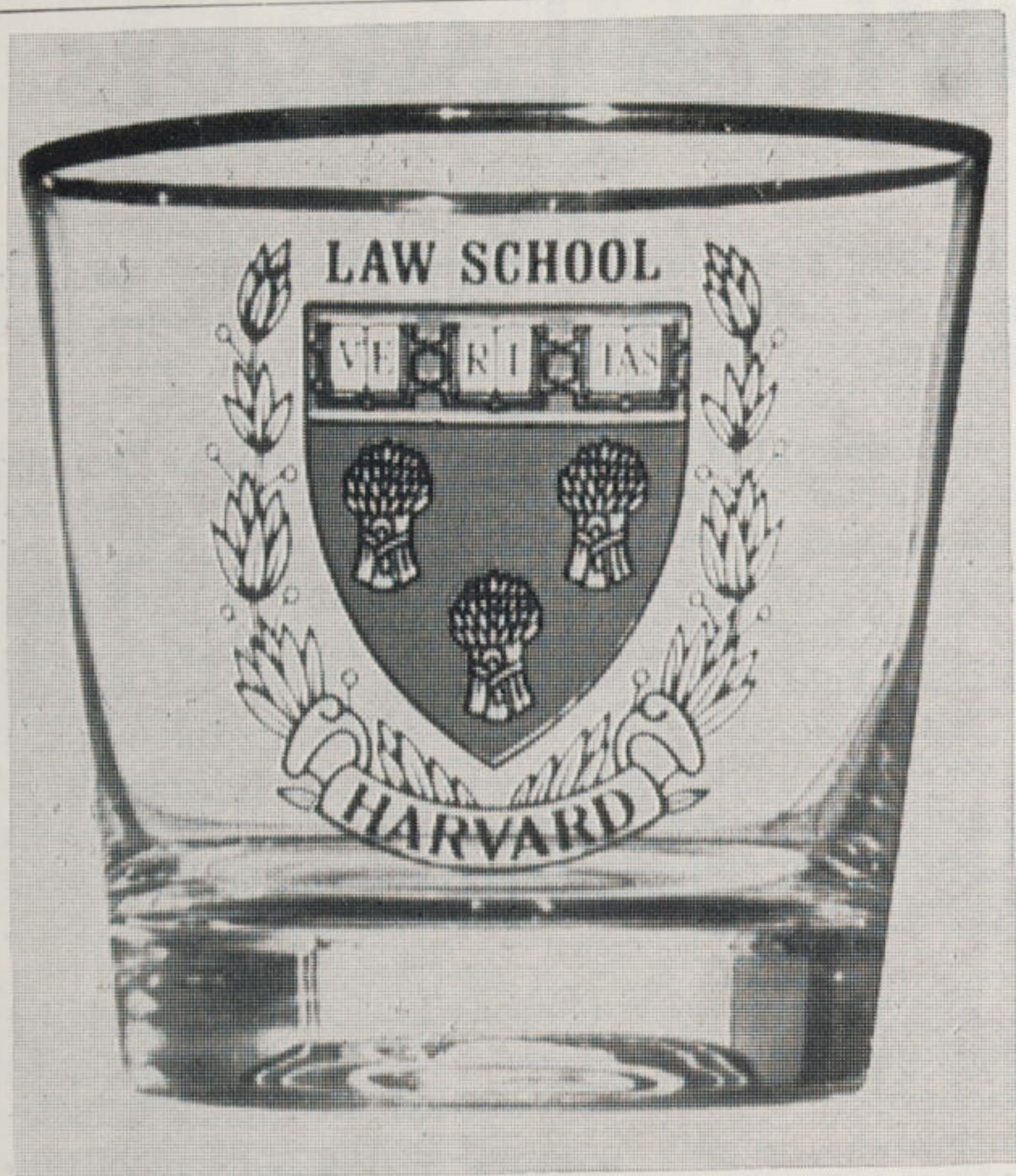
White also felt that the required writing was very helpful. His two main criticisms of the institutes were that they were "too paternalistic," although this had been partly corrected in the 1968 institute, and that they did not do enough to convey the relevance of the law.

CLEO is not alone in its efforts to attract disadvantaged groups into post-collegiate studies. This week Professor Sander will attend a conference of the Intensive Summer Studies Program, an organization run by Harvard, Yale, and Columbia, whose objective is to get members of disadvantaged groups into graduate schools. Medical and business schools are also becoming interested in similar programs.

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## Boston Schools, Parks,

(Continued from Page 1)

On June 6 the group learned that the Ford Foundation had decided to grant the \$32,500 requested for the program. And after contacting some 25 students, the original three members of the group had found five others willing to join them. In addition to those mentioned above the other members of the group are Em Hall, Charlie Beard, Wally May, Lowell Dodge and Ralph Thanauser.

Phil Sherburne noted that students who reacted negatively to the program tended to cite as their reasons: (1) The uncertainty of the Ford Foundation grant and faculty approval (2) The daring nature of the program which departed radically from the law school curriculum. Some students felt that, since the law school was in the business of producing lawyers, it was in the best position to

## Program Wins \$32,500 In Foundation Support

design the curriculum. (3) Other students felt that the specific program was not of enough interest to them to devote all of a summer and most of the fall to it.

In arguing for support of the program, Phil Sherburne found some support in a program being conducted at Yale. Fifteen Yale students worked full time one semester and during the summer last year in city administration, returning during the semester only for a seminar each Monday.

Though considerable time was required to define the proper research roles for each of the students, the group finally arrived at the following allocation.

Arons, Dodge, May, and Lynch are attempting to locate and decide on rational coterminus districts for Boston. To aid in the determination of these districts, this group employs dozens of maps and draws many itself. One member noted that so many agencies in Boston have so many different districts that if these district lines alone were laid over a map of the city, the city would no longer be visible.

The other four members of the group examine individual agencies in Boston. Beard studies the Police Department, Sherburne examines Parks and

# Police, and Public Works Under Student Scrutiny

Recreation, Hall explores the Schools, and Thanhauser studies Public Works.

Professor Michelman said that student initiative and motivation have been the primary ingredients in the success of the program. The final question about how successful the program has been will not be determined until the work product of the eight students is assembled into a 200 to 300 page manuscript.

Dean Derek Bok approves of this type of program, but does not feel that it is such a radical break with programs of the past. He also does not feel that granting substantial credit for this type of program provides an analogy for granting credit for upper level Ames competition which involves more traditional legal research and writing.

Several students, particularly those in upper levels of Ames Competition, expressed shock that the Law School was willing to provide eight hours credit plus the third year paper for this eight student program, while giving the eight-man Ames teams absolutely no credit, even for competition in the final round.

One of the students in the Boston Urban Services Project stated that he will attempt to cross register in the college for the six hours of credit allowed in the third year, thus eliminating as many Law School courses as possible. With the credit received for the Project, and the credit for the year paper this student will have only 10 hours of remaining required law school courses. He acknowledged that if he decides to take a bar exam he may be in some difficulty.

One of the primary blocks to repeating this or similar type programs at the Law School, according to both members of the group and to Prof. Michelman, is that financing will be difficult to obtain. Sherburne suggested that if the program were limited to the fall semester the most substantial expense (over \$20,000 for student salaries) would be eliminated since the salaries were paid because of income lost during the summer months.

However Sherburne noted that this particular program was able to win Ford Foundation and city support because the product that they will produce will be a substantial interest and value to Boston. Michelman, on the other hand, felt that Ford financed the program because it was experimental in nature, and each new program would not be



Howard Sweet

Steve Arons contemplating district problems.

able to interest a Foundation in similar experiments.

For students interested in obtaining financial support from a foundation, a list of Foundations, their officers, addresses, officers, purposes, amount of their grants, and special interests can be found in a book entitled *A Directory of Foundations*, published by the Russell Sage Foundation (a copy is available in Langdell). In addition to the Ford Foundation, three others are interested in social development and civil rights type programs: New World, Taconic, Stern Family Fund (all located in New York).

— Jack Tate

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# Will Ames Die?

Upper level Ames competition, long considered one of the most important and valuable activities at the Law School, is rapidly dying. In the fall of 1966 about 230 second year students decided to enter the qualifying round, one year later that number had fallen to 135. This fall about 60 signed up.

The demise of Ames upper level competition next year is no imaginary horrible, as Professor Fuller might phrase it. Another Board of Student Advisors program, the Williston Competition, died last year. Professor Abram Chayes wrote concerning this competition: "In terms of correlation between school and this aspect of practice, the Williston Competition may well be the most realistic feature of Harvard Law School." Yet the faculty did nothing to prevent its death.

Prof. Chayes might have noted that the Ames Competition easily rivaled Williston in usefulness and practicality. It is one of the very few opportunities that the law students have to prepare themselves in the techniques of legal research and brief writings. It offers a chance for rigorous oral advocacy.

The Law School faculty appears very nonchalant about this. Perhaps their conception is that the survival of the fittest principle should apply to all extracurricular activities. And the primary test of that fitness is the number of students interested in the particular program. But this ignores the fact that the Law School "subsidizes" a number of extracurricular activities that it feels contribute to a student's education or to the Law School.

One of the biggest subsidies is that enjoyed by the *Law Review* which is allowed to take mainly students with the highest averages — averages supplied by the Law School Administration. Without the status afforded by grade superiority, much of the *Review's* prestige value would be eliminated, thus reducing its appeal to students and its chances of survival. Certainly its inherent attractiveness based on the nature of work required does not exceed that of Ames.

The faculty knows how to stimulate student interest by granting credit (see story on page 1), by encouraging status-oriented organizations (*Law Review*, Board of Student Advisors, and Legal Aid), by classroom remarks (witness the first Austern lecture) and by the granting of special privileges and significant monetary rewards.

If the faculty deems Ames worthy of saving, now is the time to consider ways of interesting first year students in entering the qualifying round next fall.

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## Fenno

After I received my eighteenth consecutive computer-printed card from the placement office telling me that more important jerks were given choice interview spots, I decided to go over to 23 Everett (I slid down the bannister from the RECORD office) and raise Cain.

So I went down to the cellar and found room E and with trembling hand, opened the heavy door.

"Where do you think you're going, earthling?" intoned a stern, booming voice and when I gathered up the nerve to look, I saw a huge whirring computer munching on some Reese's Peanut Butter Cups.

"Who are you?" I chattered.

"I am Irving, the Placement Office computer, and I've already decided I don't like you," it answered. "You're one of those wimpy little guys who only applies to the New York factory firms."

"I'm not, Irving, really. I hate New York but before I came here, the longest ride I ever took was on the BMT to Canarsie. It's hard to move away," I pleaded.

"Well I won't schedule you for the New York firms," Irving snapped. "You'll be lucky to get on the list for the Pocumoke interviewer."

"Why don't you pick on the *Law Review* guys?" I queried anxiously. "How about leaving them out of the interview slots for Arnold & Porter?"

"That's an idea," Irving mused "but how about you guys on the RECORD help me out by not mentioning me at all. Once I get hold of the school files, I figure I can make dean in a couple of weeks."

Irving began talking to himself about his new power complex and I slowly walked back upstairs to my room, so I could try on a new tie I bought at Krackerjacks that the salesman said Prof. Bator had decided not to purchase.

It was a few weeks until I heard about Irving again. I was getting scheduled for all my interviews and I went over to Placement to see what was going on. "Irving?" asked the secretary. "He's gone. We schedule everything ourselves now."

I asked her where he went and she replied, "Well, a few days ago he put on a three-piece suit and left for someplace where his brain, which is pretty huge, would be appreciated the most."

"Where's that?"

"Lesley."

# Letters to the Editor of the RECORD

## 3L Cites New Military Law

To the Editor:

With reference to the Stamell-Sherman interview (RECORD, Nov. 21) on civil rights in military service, your readers will want to know about significant improvements in court martial procedures made recently. The Military Justice Act of 1968, P.L.90-632, approved Oct. 24, 1968, amends many provisions of the Uniform Code of Military Justice (enacted 1950). The new law will be effective Aug. 1, 1969, after the services will have added four hundred new lawyers to their staffs to handle the enlarged workload which MJA 1968 makes necessary.

Among other things, lawyers will now be used in most special courts martial. This type accounts for about 70 percent of all courts martial, as against about 5 percent for general courts martial. The many other changes significantly expand the military lawyer's independence and the defendant's options.

The changes provide for a formal military judiciary for the first time; appellate procedures are improved; and the new law goes far toward eliminating command influence at many points in the court martial system. I

refer you to the text of the law for more information; see also the *Congressional Record*, House section, June 3 and October 10.

Readers may be interested to learn that *Miranda* applies in military service. *U.S. v. Tempia*, 16 U.S.C.M.A. 629, 37 C.M.R. 249 (1967).

Students who expect to be drafted should know that trial by court martial is not necessarily the most important source of punishment. Servicemen can be subjected to non-judicial punishment for minor offenses by their commanding officer under UCMJ Article 15. About four times as many people are so punished as are punished by all types of court martial. The maximum sentence is thirty days' correctional custody (confinement) and loss of half of one's basic pay for two months. Appeal is possible, and the accused may demand trial by court martial.

Readers of the Sherman interview may gain the impression that an enlisted man can serve as defense counsel before a court martial. In fact, trial counsel (prosecutors) and defense counsel are always commissioned officers, whether they have legal training or not, and enlisted men cannot serve as counsel no matter how much legal training they have.

This is based on very old military tradition and is common knowledge in the services, which perhaps explains why the UCMJ does not mention it. However, the official *Manual for Courts Martial, United States, 1951*, makes this clear in par. 6c, p. 11. In general, trial and defense counsel must be of the same rank, and have the same military and legal experience; and an enlisted man would never be appointed trial counsel.

An enlisted man with legal training would not normally do any legal work while on active duty.

P. David Park, 3L  
Cambridge, Mass.

## Anti-Radical Editorial Blasted By 1L's

To the Editor:

The RECORD's recent and pompous dismissal of the idea of participatory democracy within the Law School, (Nov. 21, 1968) in the guise of a reasonable critique of that proposal, merits a reply.

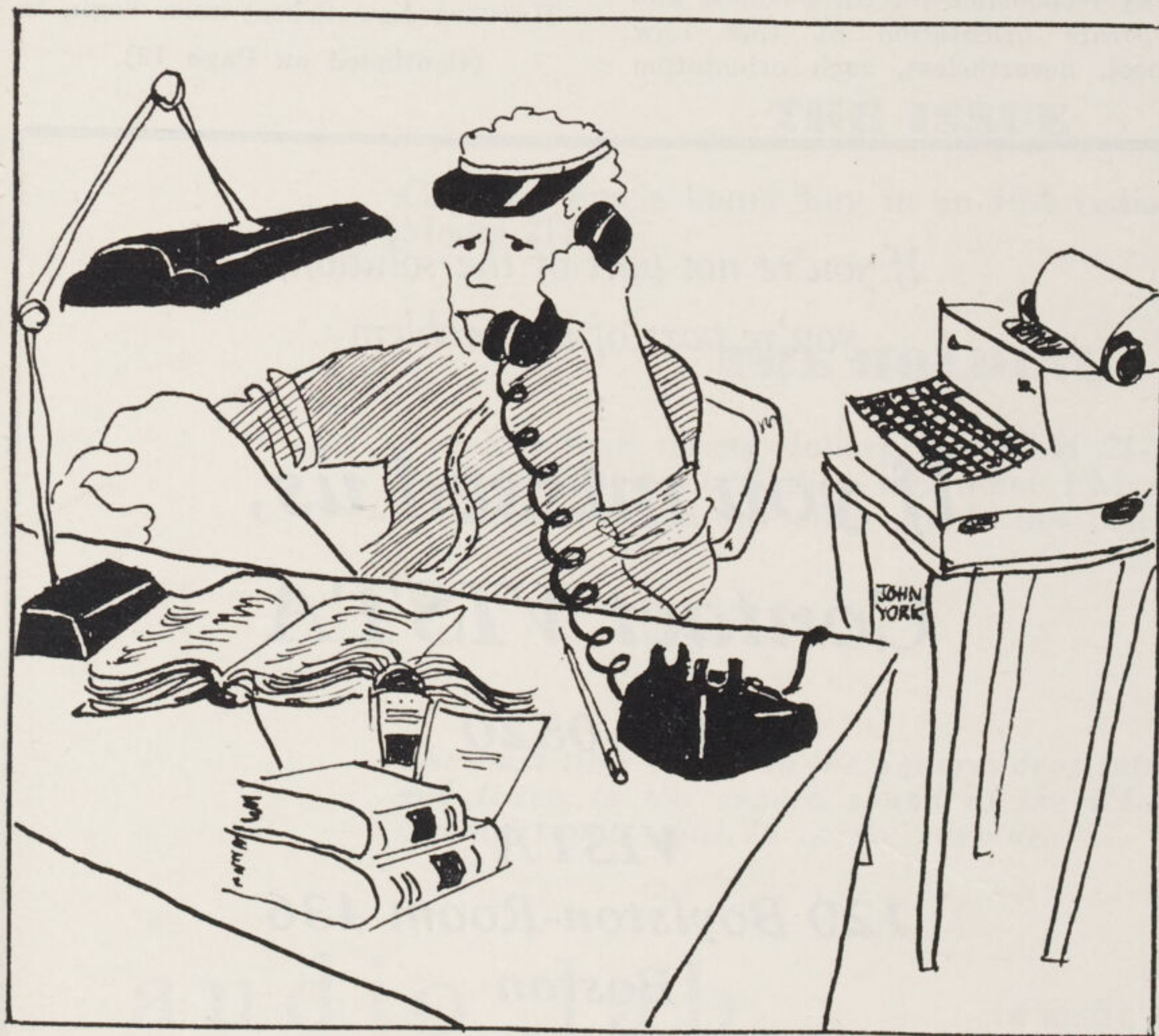
It is hardly true, as your editorial implies, that the proposal for student participation in decision making at the Law School was in some way prompted by any allegedly meritorious suggestion by the HARVARD LAW RECORD. Such an implication merely underlies the naiveté of the author(s) of the editorial.

As a general proposition, we submit that participatory democracy would be a great improvement over the present system by which the Law School is governed. Students here have virtually no say whatsoever in making the kinds of decisions which are critical to their professional education, and to the direction in which Harvard Law School, as an institution, will move.

The pittance offered in the way of student "representatives" cannot hope to take the place of a meaningful democracy. The RECORD asserts that "the majority of students . . . are . . . not quite ready to take over the Law School; lock, stock, and barrel." This is, perhaps, true. Yet it is also irrelevant to the basic issue.

Most students, even the "radical" students, do not want to "take over" the Law School, though one might make an argument in support of that proposition. Rather, those arguing for participatory democracy have in mind a community at this Law School, in which students and faculty members can sit down together, discuss, and decide on the kinds of issues with which Harvard Law School will concern itself.

To implement such a notion would  
(Continued on Page 10)



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## Letters . . .

(Continued from Page 9)

hardly prove detrimental. What is wrong with students having a major, even controlling, say in the decisions which are made at this Law School? While offering no reasons whatsoever for their opposition, the RECORD conjures up visions of wild-eyed radical students subverting both students and faculty alike through their unconscionable use of radical techniques, such as voting and dialogue.

We submit that students here are intelligent enough to listen to the ideas of others without automatically rejecting those ideas. Participatory democracy, in fact democracy itself, means that ideas are valued for their inherent worth, not because a student or a faculty member happens to voice them. If, for instance, the majority of students seem to feel that a particular idea is of little value, why should the faculty, under any circumstances, be able to implement that idea, without students participating in the making of the decision?

Perhaps the RECORD feels and perhaps it would be true to say, that the values of students and faculty are inimical to one another, and if so, it may be time to bring that fact into the open. Without meaning to imply that the faculty is in some way directly responsible for the business and corporate orientation of this Law School, nevertheless, such orientation

is unmistakable, and many are beginning to feel that this is deleterious to the best interests, not only of students, but of society as well.

Those who say that Harvard Law School, as an institution, does not have a definable position, and that students here are free to take courses which are directed towards the solution of social problems, are deceiving themselves. As an institution, this Law School makes critical decisions concerning such things as curriculum and the hiring and firing of professors. The very act of choosing one course or professor over another is an implicit recognition of the particular hierarchy of values of those making such choices.

Further, such choices create imperatives which are difficult to resist. Choose enough professors who are experts in the field of corporations and it is fairly certain that the subject of corporations will assume a paramount value. Place enough emphasis on hallowed and traditional aspects of the law and newer, equally important aspects will have an awfully difficult time gaining credence.

Students here have little to say about these kinds of decisions, except in the most informal way. It simply is not true, as many assert, that these "informal" ways provide the best method for arriving at decisions, and such an assertion reflects the kind of paternalism that is no longer justifiable at institutions such as this.

Harvard Law School must begin to

(Continued on Page 12)

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you're part of the problem*

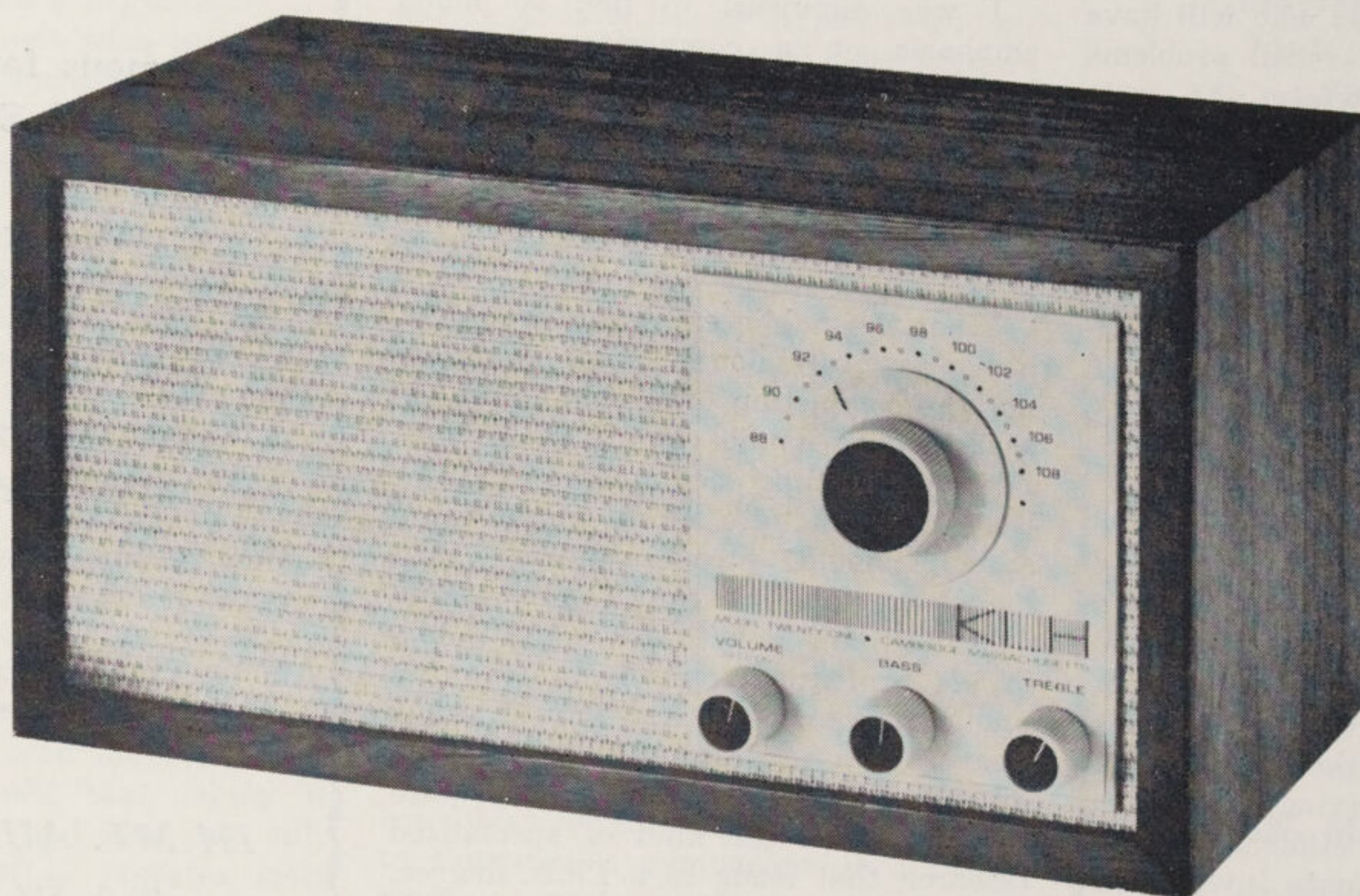
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## Letters to the Editor of the RECORD

(Continued from Page 10)

recognize that the students who are here today are the ones who will have to face the morass of social problems which confront our society. As such, they must have a major voice in determining the kinds of issues which the Law School will itself confront, the curriculum which it will offer, and the professors who will be hired or replaced.

Bruce Kahn, 1L  
Tom Lesser, 1L

### Do Urban Problems Interest Students?

To the Editor:

In your October 24 issue you reported on an interview with Steve Rosenfeld '66, Boston Lawyers' Committee for Civil Rights, in which Mr. Rosenfeld expressed the opinion that city law firms are having trouble recruiting top level law students because of their lack of adequate involvement in urban and social problems. Mr. Nader's recent remarks (RECORD, Nov. 7) in the Ames Courtroom were to the same general effect.

At this point I must question how accurately these gentlemen read the law students' collective pulse. Our firm is also very much concerned with the same social and urban problems in Baltimore. We are considering opening a full-time law office in the poverty area of the city, staffed by full-fledged associates whose sole responsibility would be the operation of that office. We cannot open the office unless we can recruit the personnel to staff it, and we cannot compromise on ability.

We have sought interested students through the *Law Review* and Prof. Ferren, but none has appeared. At this point it appears the whole project may fail for want of qualified law school graduates.

Are law students really interested in urban problems? Or is this just a passing law school fancy?

Frank T. Gray '48  
Piper & Marbury  
Baltimore, Maryland

### Canadian Lawyer Adds Thoughts on J.D.

To the Editor:

I have followed the controversy about the J.D. degree with great interest.

Here in Canada, no law schools, to the best of my knowledge, grant the J.D. degree. However, Canadian practice may well eventually follow United States practice in the matter, particu-

larly if a prestige law school such as Harvard adopts the J.D. degree.

I was disturbed to find so much emphasis on a comparison between law school studies and studies leading to the Ph.D. degree in other fields. It seems to me that a more apt comparison is between the law degree and other professional degrees such as the M.D.

What the public expects of a graduate of a professional school is surely not the completion of a channelled research programme, but instead professional competence. This implies that the graduate of a professional school should have acquired such knowledge and developed such skills as will enable him to serve the public in his profession, and by stating the public expectation in that way it seems clear that a professional education by its very nature will have to be quite different from the kind of specialized research that leads to a Ph.D. degree.

I would hope also that an examination would be made not only of the practice prevalent in other law schools

(Continued on Page 13)

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(Continued from Page 12)

in the United States but that some investigation might be made of practices in other countries of the world, particularly those which require that a person admitted to law schools have obtained a Bachelor's degree.

Americans may not wish to emulate the German experience, which has resulted in the granting of some kind of doctoral degree to practically everyone with any kind of technical specialty. I am reminded of the story about the maid employed by a Ph.D. who answered the telephone one day to hear the caller ask: "May I speak to Dr. Smith please—it is urgent". The maid replied: "He is not in, but I should tell you that he is not the kind of doctor who does anybody any good".

There may be some public interest in limiting the number of university graduates who hold themselves out as doctors and who "do not do anybody any good" in the sense in which the hypothetical maid used the phrase.

There is no doubt that labels do have their impact and one can only follow the progress of statutes from the Bastardy Act to the Illegitimate Children's Act to the Children of Unmarried Parents Act to the Child Welfare Act to be aware of the importance of labels. However, I think it might fairly be asked what will happen to other labels if the LL.B. is universally replaced by the J.D. For example, what happens to the LL.M.? Should the M.B.A. graduate now obtain some kind of doctorate? Should the professional engineer anxious to keep pace with the other professions now be awarded a doctorate?

I shall continue to follow the controversy with interest.

Robert H. Barriger, LL.M., '64

## Is Parking Lot What HLS Needs?

To the Editor:

The Law School is in the process of demolition preparatory to the construction of a parking garage. The facility will be available probably to faculty cars and if they are charged the fees will not be sufficient to recover the costs. I object to this project for two reasons.

First, a parking garage is a luxury towards which I do not wish my tuition payments to go. If extra money is available, then there are other needs more urgent than faculty parking. Improved student housing, modernized and expanded library service, smaller classes and more teachers, or if none of these are important, the surplus could be remedied by a simple reduction in tuition charges or a complementary increase in scholarship funds.

Parking facilities rank pretty low on any but a warped sense of priorities. Proof of this is the fact that many students are precluded from owning cars at all by the University. In conclusion, if the garage is to be built at all, it should be on a pay-as-you-go system and should not be subsidized at all.

Secondly, from an urban planning point of view, placing a parking garage in an already congested area is a particularly unwise thing. It would be inconsistent for the faculty to do this and still maintain that they are a group with some particular competence in dealing with urban problems. How can they tell others to develop and improve their public transport systems and continue to develop automobile facilities for themselves?

Still more upsetting is the failure of city planners and urban experts sheltered in other University departments to speak out against this addition to our campus. In this sense the project resembles another University's efforts to construct a gymnasium in a public park, a project whose consequences one distinguished member of the Law School faculty recently studied in depth.

Obviously a real discussion on the merits hasn't taken place, that is one in which all who have an interest in the project can express their views and participate. Aside from the picture in your Nov. 7 issue you have no comment on the project. Soon, it will be too late.

Jerome M. Garchik, 2L

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# Dean and Review President Fear Misuse of Outlines

(Continued from Page 1)

the past, staffers have lent them to roommates and friends, with the result that copies have been handed down outside the *Review* family with almost as much regularity as they circulate among *Review* people. That an occasional advertisement appears on the Harkness bulletin board offering one outline or another adds to the aura surrounding the study aids.

When questioned about the future status of the outlines, the *Review's* current president, Richard M. Cooper, 3L, confirmed that the magazine is now deciding whether to discontinue any official connection with preparation of the outlines or to turn all of them over to the school, which would then decide whether the aids might be distributed to any students who desired to use them.

Both Cooper and Dean Derek Bok are concerned that students might misuse the outlines were these given general circulation. Both feel that students would be likely to let studies slide in reliance on the outlines' ability to impart a comprehensive knowledge of a subject through cramming at the end of a term. The possibility of the outlines being regarded as "magical" may militate against their becoming public information at the Law School.

But the fact that copies of the outlines exist outside the *Review* seems to loom as a strong argument for general distribution. Were the outlines totally within the *Review's* fold, however, Cooper would have no qualms about their exclusive use by *Review* staffers.

The *Review* president believes that the quantity and pressure of *Review* work entitles members to some special short cuts such as the outlines. "Anybody can form a study group with his friends and work up some outlines together, can't he?" he asks.

Dean Bok, a *Review* man himself when a student here 14 years ago, thinks that *Review* work in-

volves sufficient commitment of time and energy to justify the existence of the outlines as a special aid for staffers.

On the subject of using unpublished notes as third-year papers, Cooper contends that most such notes used for this purpose are first drafts which are subsequently enlarged and rewritten independently of the *Review*. But his argument for the outlines reappears in support of the paper-note's acceptability: "Most people have friends go over their papers."

Dean Bok is more skeptical of the notes' rebirth as papers. The dean's interest in making sure that third-year written work is original leads him to express doubts about the practice of using an unpublished note as a paper. But, he adds, whenever he has seen any use of a note in a paper, the note was a mere jumping-off point for the paper.

No action is now contemplated by the administration with regard

to the note or outline situation. Another alumnus of the *Review*, the late Mr. Justice Frankfurter of the U.S. Supreme Court, once dressed down a law professor disappointed by the *Review's* refusal to print the professor's article without a complete overhaul. Justice Frankfurter remarked that the independence of the *Law Review* ranked higher in his scheme of things than the professor's topic or prose. It remains to be seen if the *Review's* status is sufficient to maintain its special privileges.

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# Faculty-Student Committee Plans Meeting Open to Every Student

The Joint Student-Faculty Committee will hold a meeting next week open to all interested students to discuss problems now being considered by the faculty committee on legal education and to obtain student opinion on various methods of student participation in Law School decision-making.

The meeting will be held from 1:30 p.m. to 4 p.m. December 13 in Langdell North Middle. Speaking will be the chairman of the legal education committee, Albert M. Sacks, professor and associate dean.

The legal education committee, which deals with all matters relating to curriculum, is currently studying small sections in the first year (including Legal Method), third year seminars, and the possibilities of more legal writing in the first and second years of law school. The meeting is designed to elicit student opinion

on these questions and to solicit student help in dealing with these and other issues the committee studies.

A second purpose of the open meeting will be to discover means to ascertain student opinion on issues which are of concern to students. Included in the discussion will be possible modes by which students can participate in decision-making. The problem is, according to Professor John P. Dawson, chairman of the Joint Committee, to get more broad based student representation than presently exists.

Students who have suggestions or comments on student representation and means of obtaining student opinion may, if they wish, present them in writing to any member of the Joint Committee.

Open meetings are planned in the future for two other committees: financial aid and the joint degree programs.

## Events of Note

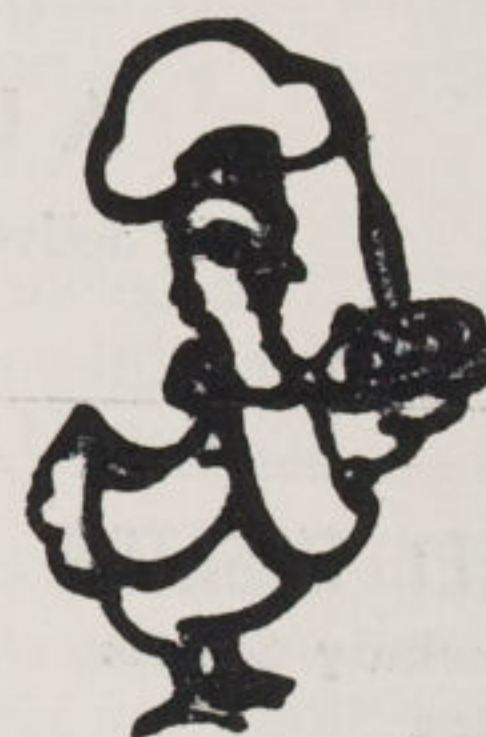
That annual law school Christmas ball, the Magic of Mistletoe, will be held in Harkness Commons, at 9 p.m. on December 14. Brandy punch will be served; black tie is optional. Music, of course, will be live and danceable. For tickets, contact Joyce McMillan at 484-0061.

\* \* \*

The Forum will present Tom C. Clark, retired Associate Justice of the Supreme Court, Friday at 8:30 p.m. in Lowell Lecture Hall. Justice Clark was appointed to the Court in 1949 after serving as Attorney General under President Truman. Tickets are available for \$1.25 at the Coop or at the door. For further information, contact Jim Roe or Bill Stephens.

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