

HARVARD LAW RECORD

VOL. 48 NO. 6

MARCH 13, 1969

FIFTEEN CENTS

Faculty Approves J.D.

By R.W.S. Schmidt

Harvard Law School will award the degree of Juris Doctor this June if the Harvard Corporation approves Tuesday's Law Faculty recommendation. The traditional Legum Baccalaureus (LL.B.) will be replaced by the J.D. as the first professional degree in law.

The move followed rising pressure from students and alumni who cited the need for the change. A student group, headed by Miss Kathy Imholz, 3L, studied the problem since early fall and forwarded a lengthy report to the concerned faculty committee.

A faculty committee appointed by Dean Derek C. Bok also looked into the problem, and scrutinized the student report. On Monday,

the three man committee (Professors Ernest Brown, chairman, John Mansfield, and James Chadbourn) sent a 16-page memorandum to the faculty, recommending the change.

The RECORD, in a one-page extra edition, alerted the student body as to the impending decision early Tuesday morning. Tuesday afternoon, "Item #4. — (tentative)" was considered, and passed. It reads as follows: "The Harvard Law School Faculty today voted to recommend to the President and Fellows:

1. That the degree of Juris Doctor (J.D.) (with honors as individually recommended) hereafter be awarded to graduates of the Harvard Law School as the first degree in law, in lieu of the

degree of Bachelor of Laws heretofore awarded.

2. That the degree of Juris Doctor be made available retroactively to those graduates of the Harvard Law School now holding the degree of Bachelor of Laws who wish to have new certificates issued to them, upon the payment of whatever amount is determined to be appropriate to cover the costs involved."

Reasons behind the switch include the "inappropriateness" of awarding a second bachelor's degree upon the completion of seven years of education. Secondly, over 85% of the nation's law schools will be granting the J.D. in 1969, following the 1964 resolution of

(Continued on Page 16)

First Speaker in Series Defines Black Lawyer

By Lawrence Gartner

Howard Moore — first speaker in a series of black speakers jointly sponsored by the Harvard Black Law Students Association and the Law School — told a predominantly black audience Monday night what a black lawyer was.

"The black lawyer is a black man or woman who has an undying love for black people and justice," he said. The black lawyer works hard to perfect his or her legal skills in order to serve the black community.

Moore also expressed apprehension that blacks coming to the Law School would be programmed to frustrate the black struggle by creating images of black success which would tend to contain black aspirations and blunt a revolutionary movement among substantial segments of the black community.

Moore, who's served as attorney for H. Rap Brown, Julian Bond, and Muhammed Ali, and

(Continued on Page 14)



Dan Chill

Howard Moore

Casner Changes His Traditional Property Class

By Kevin Kane

Any 2L or 3L who may wander into Professor A. James Casner's current first year class in Property is in for quite a surprise. The student who labored through the long and much-maligned material on the Statute of Uses, the Rule in Shelley's Case, and other sections of the *old* Casner and Leach, *Cases and Text on Property*, can only look with envy at the instruction which 1Ls now receive.

In place of the standard text, Professor Casner is handing out mimeographed materials which are actually extracts from the revised Casner and Leach book, due for binding by May 1, 1969. Professor Casner has been working on the revision since June 1968 and his efforts to modernize and revolutionize his Property course are truly remarkable. The Casner course is now much more like the Property sections taught by Professors Michelman and Nesson.

One of the major changes is a considerable amount of material on developing residential suburban areas. Professor Casner has prepared and distributed a diagram of such an area, showing a lake surrounded by 74 private lots, a state highway right-of-way, and areas for general stores, parking, a clubhouse and boathouse, and a play area.

Applying Theory

In using the diagram, he stresses applying the abstract principles of property law in the actual development of such areas—buying lots, setting up restrictive covenants, arranging for property assessments, drawing up noncompetition agreements for the stores planned for the area, and other problems.

Thus, Professor Casner feels that he has not so much changed the content of the course as much as he has created a realistic and meaningful vehicle for teaching the recording system, covenants running with the land, the law of estates, and other aspects of property law.



Dan Chill



Prof. A. James Casner

Other parts of the revised text are entirely new. One chapter, entitled "Keeping Undesirables Out of the Neighborhood," is set up on the basis of the student as a junior associate in a law firm. He receives a memo from a partner asking for an analysis of the general problem of controlling who may live in the planned suburban development.

In a preliminary investigation including the Civil Rights Acts of 1866 and 1968, the junior reports back that there can be no discrimination on the basis of race. The partner explains that the client is concerned about bad neighbors, regardless of race. The student-junior associate is led into general restraints on alienation, and the "story" continues.

Landlord-Tenant Law

Another chapter is entitled, "The Indigent Tenant," and it explores in various ways the unfairness and unconscionability of landlord-tenant law when dealing with indigent tenants. Professor Casner's course, often accused of an excessive concern for the trivialities of feudal law, seems to have found its social conscience.

Those students who may have enjoyed stories of runaway foxes will be happy to know that Professor Casner still teaches the section of the text on wild animals. In his view, this section provides "fodder for legal thinking" and enables the beginning law student "to know what it is to analyze something." However, the statement of objectives in the revised preface to the book indicates the new direction of the course:

- (1) to give training in property law;
- (2) to provide material to make a judgment as to the adequacy of property law to cope with modern social problems;
- (3) to start the student in becoming a lawyer "and to move him onward with some celerity."

Faculty Meeting Reform Discussed With Dean

By Ronald Patterson

Seven members of the Ad Hoc Committee on Student Power met with Dean Derek C. Bok to discuss the presentation of their proposals to the faculty. The committee sought the support of Dean Bok for what they describe as "three innocuous proposals" which would allow student observers to attend faculty meetings and to participate on a limited basis.

There was no clear response from the Dean, according to the students.

The three proposals were contained in a report released by the Committee last week, which called for: 1) a limited number of students be allowed to attend faculty meetings as silent observers; 2) allowance of students to speak at faculty meetings in a limited context; and 3) a record of the meetings be released along with any faculty committee reports.

Robert O'Connell, a spokesman for the Committee, views the three proposals as small but vital steps in obtaining greater student participation. "Some students are not aware that students are at present totally excluded from the governing body of the Law School."

No Clear Commitment

Although confident of faculty acceptance, the group did not obtain a clear commitment from Dean Bok. He agreed to relay the request to the faculty, stipulating, however, that he did not intend to argue for it.

In an unexpected gesture, Bok told the students that the Law School would pay for secretarial costs of the student participation report. He also indicated that any further studies of benefit to the school might receive similar financial consideration. The Student Report on Grades has also been subsidized.

Leaving the meeting, the students were pleased with their reception and expressed the opinion

that Dean Bok was doing all that he could. O'Connell said, "I am sympathetic with his position. He has always been very open with us as his position will allow, having been here one year. I hope his fear of overextension on the first year doesn't lead him to fail to take action where it really is desirable."

'Won't Push Faculty'

"He won't push the faculty, but we feel he should push them. After all, we've given them a month — and this is not the type of thing that requires years of debate."

The faculty are all in possession of the report, and will consider it this Tuesday at a closed meeting. He noted that the faculty might be reluctant to act, saying, "As lawyers, the faculty are reticent to break any precedent, and this is an age-old precedent. I see this as a first step — the faculty may see it as a final step — I don't know."

Should the proposal fail to pass, the committee would consider further action. At the meeting with Dean Bok, the possibility of further action was mentioned, but it was not discussed in the context of a threat. O'Connell said, however, "We're not trying to threaten anybody. We have in mind a number of ways in the very least to register our protest. But I don't expect an adverse decision."

Similar Situation

Interestingly enough, members of the faculty have pointed out that the current student-faculty confrontation over policy-making is very similar to the situation which existed a number of years ago between the faculty and administration. At that time the faculty and administration were struggling over similar issues for quite the same reasons that precipitated this year's movement. The arguments now being discussed on those applications where there is some disagreement.

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Law School Applicants Increase

By R.W.S. Schmidt

In six years applications to Harvard Law School have increased by 100%: from 2000 in 1963 to 4000 in 1969. Meanwhile, the admissions process is laboring under outmoded methods which swamp the office. This year the volume of applications and the snow storms have overburdened the staff and have put correspondence behind schedule.

According to Russell A. Simpson, director of admissions, "We need a more modernized administrative system that will deal in a fair way with the consideration of applications." Correspondence "has been a disaster," and this month additional law student help has been obtained.

Every application is considered personally by Mr. Simpson. On the basis of his evaluations, he decides about 30-35%: "the clear admittances and denials." The remaining two-thirds are looked over by members of the admissions committee, with group dis-

cussions on those applications where there is some disagreement.

As of March 5, the school had received 3516 applications (with two months to go), contrasted with a total last year of 3474. Approximately 500 have thus far been admitted. For a projected class of 600, about 1050 acceptances may be sent out (as for 1968-69). Normally 33% (of those admitted) don't register, but last year the total reached 43%.

Many reasons cause students not to register, including admittances to other law or graduate schools, and the draft. According to Mr. Simpson, "We will again have to be cautious in watching the draft situation."

Asked as to the possible influence of new classroom space in terms of increased numbers of students, he replied, "I think there is a great sentiment in the faculty not to admit more stu-

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Atkins Aims for 'Involvement'

By John York

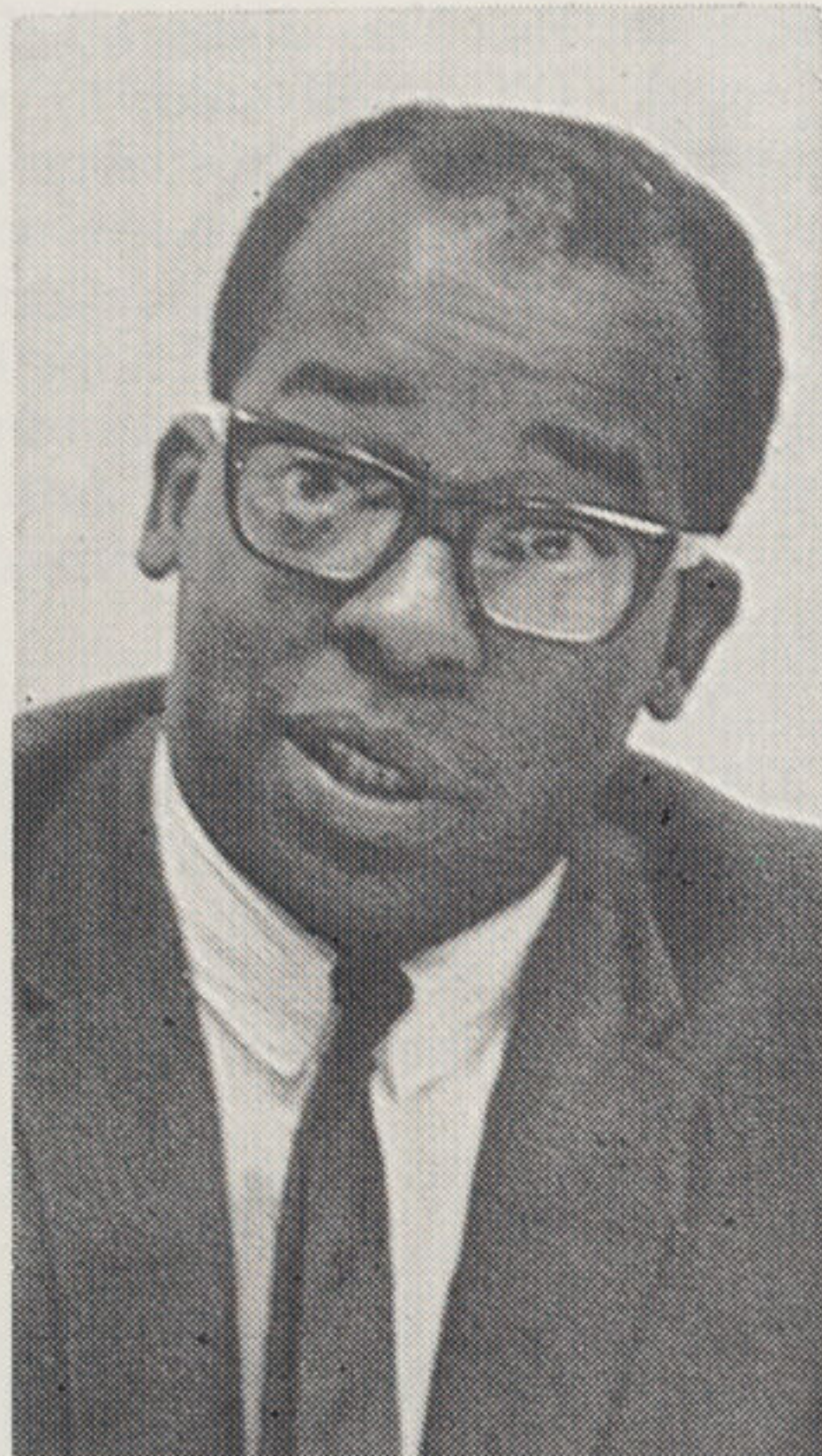
When he was campaigning for the Boston City Council back in the fall of 1967, Thomas I. Atkins, 3L, announced his refusal to "abide by tradition or the old Boston political mentality". He won and has been very much the iconoclast since.

The first black on the nine-man, "non-partisan" City Council since 1951, Atkins' program has to a large extent followed his campaign platform and practice: encouraging "neighborhood initiative", eliminating "political interference" with schools and public housing, and utilizing the talents of students and professors.

During his 15 months in office, Atkins has sought ways to involve the citizenry in city government. "There is no strong party organization in the city — the Republicans are essentially wiped out," he began. "Any system suffers when it becomes as incestuous as Boston's. New faces, new talents are needed; but there is no way for them to acquire a foothold in politics. Also, Boston is not a city — it is a federation of neighborhoods, every one different and each one having its own needs. Each has a fierce, almost xenophobic neighborhood nationalism."

An at-large councilor (representing no particular ward) such as Boston's are must be acutely sensitive to these disuniting factors.

Immediately after his election, Atkins began holding the meetings of those council committees



Councilman Atkins

which he chaired in the different neighborhoods. "Last year we had six of these meetings. We had them at night so people could come — they often can't get down to City Hall during the day. Of course, some of the Council members were opposed to the idea. They felt that city business should be conducted at City Hall and that the people should come to us. There were two councilmen present at the first meeting; all nine were there at the last. And now other council members are starting to hold their committees' meetings in the neighborhoods."

The fragmented, neighborhood structure of Boston makes office-holders try to be all things to all people. As Atkins says, "I consider my responsibilities city-wide

ones. Here I fight the MBTA expressway, there I try to get dog-leash control, other places I work for ship control, or urban renewal, or code enforcement." Interaction, it seems, must be at the neighborhood level.

Atkins has also worked — doggedly but not dogmatically — at eliminating what he terms "political interference" with the management of certain city programs and facilities. In 1967, Atkins favored an appointed School Committee (the present one is an elected body). This, he felt, would end campaigns for those offices in which the contenders ran on "issues" far removed from educational goals (1967 was the year of Louise Day Hicks).

"Now," Atkins emphasizes, "I no longer favor an appointed School Committee. I want to abolish that group and have an appointed commissioner to run the schools. My position is the same on public housing and the city hospitals."

Boston has a strong-mayor form of government. Atkins feels that, although the mayor currently shoulders the responsibility for shortcomings in schools, housing, and hospitals, he doesn't have the power to make the policies. "The middle-men," says Atkins, "must be eliminated. Boards have shattered lines of authority, dabbled incompetently in policy matters, and have inevitably become inefficient, unresponsive, and damaging groups. They just muddy up the water."

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After Year on Boston Council

As for student-professor "power," in 1967 Atkins' tightly-knit political machine included two Harvard Law professors and over 30 students. Last year he estimates that he utilized the services of more than 300 students and faculty from several Boston colleges and universities. "Without them it would have been impossible for me to carry out my duties."

"Boston as a city has been backward in not utilizing and even exploiting the existing talents in its area universities," bemoans the councilman. "The city is literally bursting at the seams with talent, though it is short of money. A staggering amount would have had to been paid for the help I received."

Atkins noted that other councilmen are now also using student and professorial help. "As a result of these information-gathering forces being used, the Council must now be taken much more seriously," he believes. "We can offer researched alternatives to proposals. We no longer have to act as a rubber stamp."

But he feels that even this isn't enough. Symptoms and not solutions are being discovered. Councilman Atkins turns to law student Atkins for help, and vice versa. Although his office-holding places somewhat of a strain on academic work, he strongly feels that he wouldn't have enjoyed and profited from law school as much had he not been "on the

job" at the same time. "Now when I talk about condominiums in class," he stressed, "I simultaneously wonder what the city's role is."

Likewise, when he looks at mismanaged public housing and unjust courts, he wonders what the Law School's role should be. He thinks that abolishing grades is a needed step in the right direction. "Students should be encouraged both to experiment and to experience. They need to ask 'why not' while in law school and carry their convictions and concepts with them when they get out."

"Grade reform is especially important at Harvard Law," Atkins continued. "Because it supplies a disproportionate number of leaders it must pioneer in unshackling its students and get them out into the community. If school doesn't, all that student energy may turn on the Law School and destroy it."

"Students must get out in the community now. Cases in a property text never convey the flavor that a visit to a public housing project does."

And community legal aid services are only a part of the participation needed, Atkins feels. "People in legal aid find that you've got to help a person before he gets in the position of needing legal help. Landlord-tenant and producer-consumer relationships are often confiscatory yet 'legal'."

"The men on the benches are



Mike Lurey

Atkins Faces the Forum

unprepared to let justice into the courtroom. One of those poor — for whom the law was not designed — can't be helped by a good lawyer — all the lawyer can do is see that the unfortunate's bag of handicaps is not increased."

Atkins feels that when conditions are like this, "a score on a test is an easy out for achievement. I don't feel that there is any correlation between one's grades and one's use to society. I have been an honor student since the first grade, and have found how meaningless grades are."

"The pressing need is for students to institutionalize and routinize student radicalism to see that it remains."

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Finale for Hoopsters

Nameless Ones Capture Intramural Cage Title

The best team beat the best player Monday night as the "A" League champion Nameless Ones toppled the previously undefeated "B" League champs, B and his Heirs, 90-64, in the finals of the intramural basketball tourney held in Hemenway Gym.

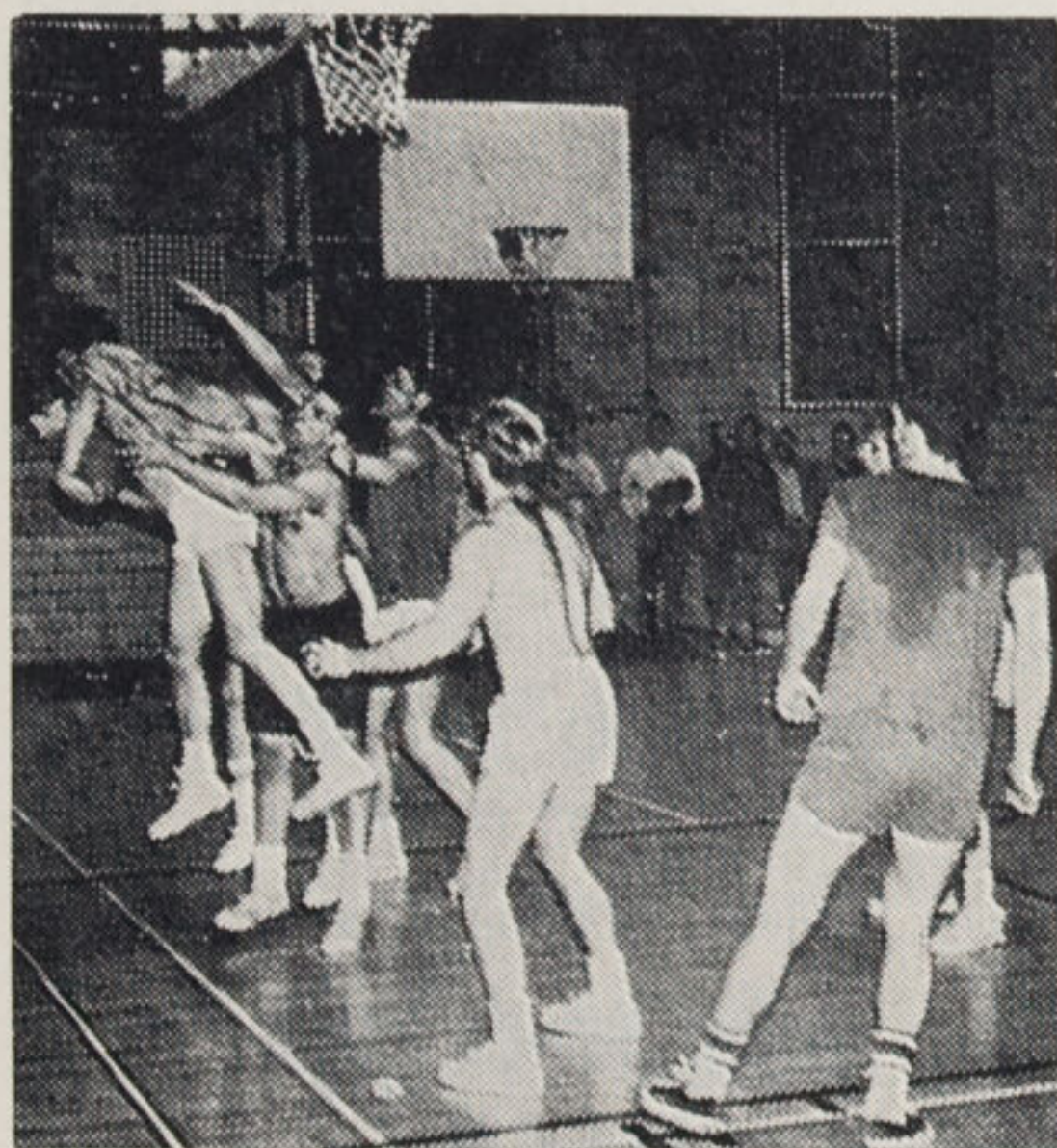
The victory was especially sweet for the winners since Russ Hamilton, 2L, their top offensive player, was playing with the opposition for that evening.

Hamilton, who scored 35 points in a losing cause, had to choose with which team he wanted to play because during the regular nine-week season, he played with both.

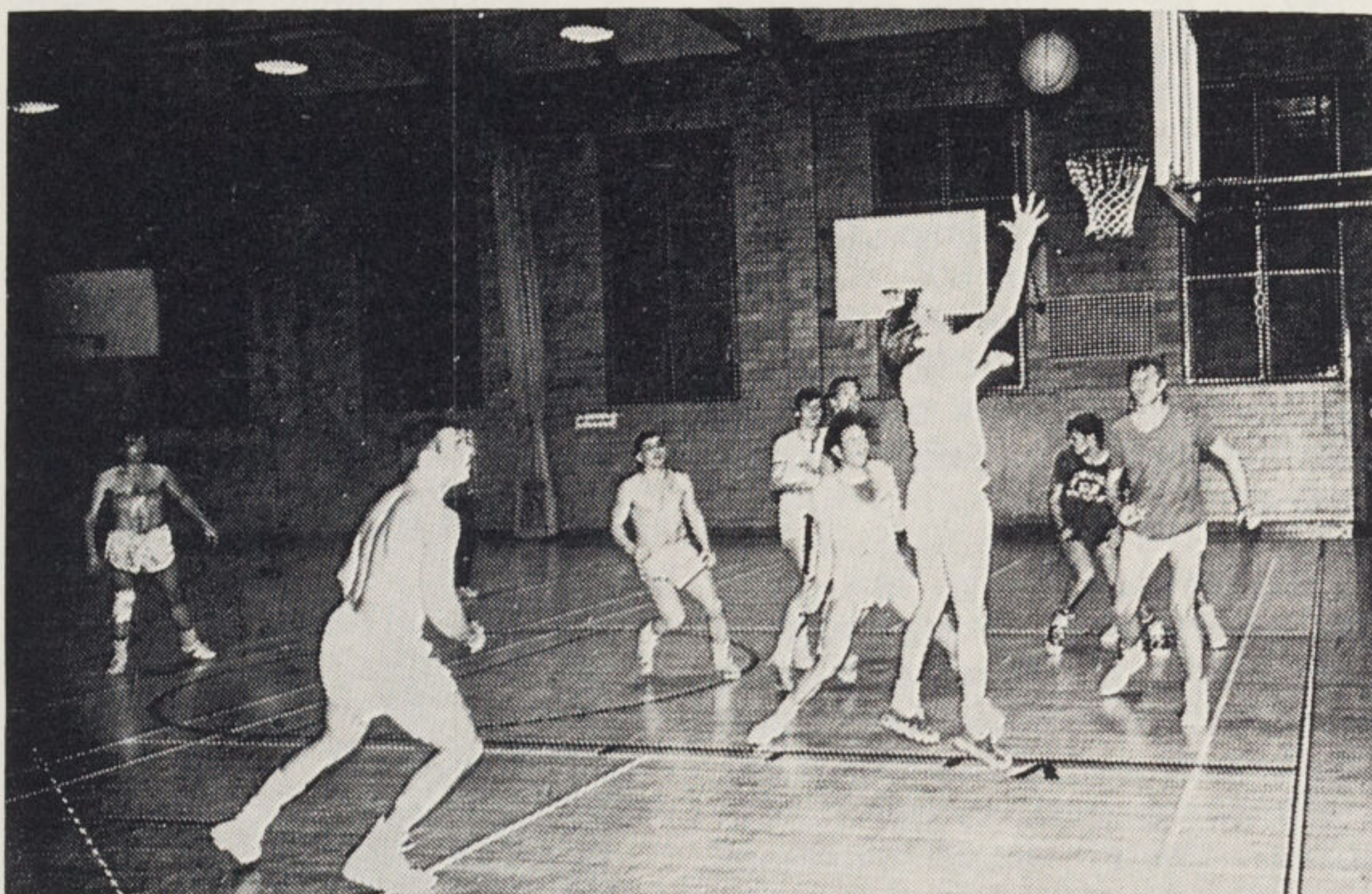
However, Hamilton's performance was overshadowed by the phenomenal shooting of Jerry Whalen, 3L, who hit on 13 of 16 long-range bombs for the winners.

The titlists, with balanced scoring and a total team effort, ran their season record to 11-1. It was the second year in a row the Nameless Ones emerged from the playoffs as league champions.

The outcome was never really in doubt. Besides Whalen's hot hand, three other players hit double figures for the winners. Gordon Gee, 2L, scored 14, Jim Wright, 3L, had 15, and "jumping



"Ouch!" argues Steve Leonard (with ball) as he's blasted out of bounds after grabbing rebound. Bob Bachman and Russ Hamilton enjoy view.



Photos by Mike Lurey

Jerry Whalen, 3L, goes up for rebound during a semifinal game. Steve Leonard, Chris Niels (shirts) and John Runnells look on.

jack" Steve Leonard, 2L, tipped in 17.

In contrast, the second-place squad had only one other player beside Hamilton in double figures. Tim Roble, 3L, with three baskets after the outcome had been decided, hit for 10 points.

In the consolation game, also played Monday evening, 1L Bob Rawson's 25 points led the Grov-inators to a hard earned 60-42 victory over the second place "B" league team, the Net Losses. The winners had previously survived a playoff for third place in the "A" League.

In other action, the "D" League champions, The Who, beat the "E" champions, the Willful Breaches, in a close but somewhat sloppily played contest.

Intramural basketball leagues are run under the auspices of the Law School Dormitory Council and provide an opportunity for some 2500 players to work their way up and down the hardwood

each week with varying degrees of efficiency and prowess.

Traditionally, the calibre of play in the "A" League has been quite good, with assorted former college varsity players making their presence felt.

In addition, the four other leagues have provided a home for players of lesser skills, varying from the near great to the totally inept.

This year was no exception. The program was administered by Commissioner Dan McAuliffe, 3L, who ruled with a heavy hand during playoff time and also made his presence felt as a player in both the "A" and "B" Leagues.

Officiating for the championship finals was provided by the new referees hired by McAuliffe after incidents of near violence almost necessitated cessation of intramural "A" League play in mid-season.

—Blynn

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Open the Doors

Included in this semester's burst of student demand for reform at the Law School is a proposal to open faculty meetings to student observers, and, on occasion, to student speakers. The call for open faculty meetings is certainly one reform at the Law School which can easily and quickly be implemented.

What can one say in defense of closed faculty meetings? Some might argue that with students listening in, members of the faculty will not be as free in debate. However, it seems to us that the faculty at this Law School have never been afraid to face student criticism (in fact, that's part of their job), and anything that's said in a closed faculty meeting which can't be defended in front of students shouldn't be said at all.

Perhaps the real reason for closed faculty meetings is that the higher powers at the school like to disagree in private (and some of the debates in recent times have reportedly been quite heated) and then present a united front to the student body. Well, students like to hear both sides of the question (like we've been taught) and then the majority side might have to present a real rationale for its decision (or compromise).

The report of the Ad Hoc Committee on Student Participation recommends that students select representatives to attend the meetings with transcripts made available later for the rest of the student body. We see no reason not to open meetings entirely to all interested students. No doubt not many students would regularly attend faculty meetings, and for those meetings at which the subject matter would interest a great number of students, arrangements could be made for piping sound into other rooms so that students could hear the debates. It's been done at other schools.

Students must defend their conclusions in class in front of the professor. There is no reason why the faculty should not defend its decisions, certainly on the major issues, in faculty meetings before the students.

There's no need for students to have voting power at faculty meetings. If one cannot win in argument before such a group, a vote should not carry the day by itself. And even the Ad Hoc Committee has some reservations about inclusion of tenure decisions on open agendas. These we share. But to return to the main point: the meetings should be opened.

HARVARD LAW RECORD

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Published Thursdays ten times each semester by The Harvard Law School Record Corporation, 23 Everett St., Cambridge, Mass. 02138. Telephone 868-7600, extension 4418. Subscription price: \$2.50 semester, \$5 year mailed; students, \$2.50 year distributed at the law school. Individual copies: 15 cents at the law school, 25 cents mailed. Second class postage paid at Boston, Mass.

Fenno

"Fenno, you'll have to write a news article on grade reform activity this week and then do the cartoon," my editor snapped at The RECORD office earlier this week.

"What's going on?" I screeched. "People I bump into say I do too much for this paper already."

"Well, Fenno, this is a newspaper and the way this snow's hit everybody, along with all the work being put into those reports prepared by 1Ls, nobody's doing any reporting this week. So we'll just have to run your garbage to fill the paper."

"What's happening here anyway?" I mused. "Everybody's so active here now. Mixers clean up for the Dorm Council even when BU's on vacation. The faculty meets every two minutes, it seems."

"Everybody at the Law School is like you, Fenno. They all have their own opinions. Nobody wants to write up the facts. For a place where people used to state the facts of a case all the time, you'd think reporting was the same as looking to get stricken with bubonic plague."

I remembered the last time he got this way; it was when Dean Langdell thought up the case method. My editor, then a very young 2L (someday he expects to become a semi-permanent 3L), saw cases as stealing more journalists to become court reporters. After all, he said, who else would write a casebook?

I told him that he ought to get used to the changing Law School. Next year there might not be a final round of Ames. And you find me someone who can describe what the Williston Competition was.

"But Fenno, last week you were laughing at grade reform, weren't you?" he shot back.

"I figured that if I took a few pokes at it they'd go ahead and pass it. And then I may even get my degree."

My editor snapped back: "That's right. Everybody's so afraid of being pinned down around here that Prof. Kaufman told his Legal Profession class that he hoped no one would be quoted. He wants everyone to talk and not get put on The RECORD, so to speak."

"Chief, that's what you've got to realize. The Law School teaches us all to keep our mouths shut. And that's what Kaufman means, like the basic rule of Com Trans: make sure everything's absolutely clear and written to your advantage."

"Don't call me chief."

Letters to the Editor of the RECORD

Comment on Pass-Fail

To the Editor:

We are writing this letter with regard to the proposal by a large group of 1Ls that the law school adopt a pass-fail system of grading at least for the first year. To begin with, we agree that they have rather eloquently pinpointed some serious problems in the first year and wholeheartedly support their demand for more feedback.

That demand is rationally related to the problem of uncertainty which makes the first year so very unpleasant. We believe that their demand for a pass-fail system is not so related, and that the adoption of such a system would have very deleterious effects on many students here.

We are not referring here to the lack of incentive that might result. Rather, we wish to concentrate on the problem of discrimination in hiring. It seems to us that the 1Ls have too lightly dismissed this danger and have shown too little respect for the Law School as a meritocracy.

It seems appropriate to ask the 1Ls to look at their fellow students who will have good legal jobs this summer—jobs obtained without reference to grades at the Law School. We suspect that in the vast majority of those cases the men receiving good jobs will have (1) family connections, (2) political influence or (3) have attended an Ivy League school.

Now we do not doubt that in hiring for summer and permanent employment a firm might well consider such factors and that some firms might consider them more important than good grades, but most will not. Grades, however imperfectly they measure legal ability, import a measure of objectivity into the process. They enable the many students who attend Harvard from less prestigious institutions, who do not have family or political connections, to compete on even terms. Without grades those of us in the above situation are almost forced to seek employment in our home towns. Upward mobility and geographic movement will probably be stymied.

We fear that the 1Ls' otherwise well-written proposal founders on this problem.
(Continued on Page 10)

Law Notes

The Law School is now reviewing the food service contract for Harkness Commons. Other food contractors, besides those who currently manage the place, are under consideration. If you have any comments on the food service or suggestions for improvement (as you certainly must), forward them to William Bruce, the Secretary of the Law School.

* * *

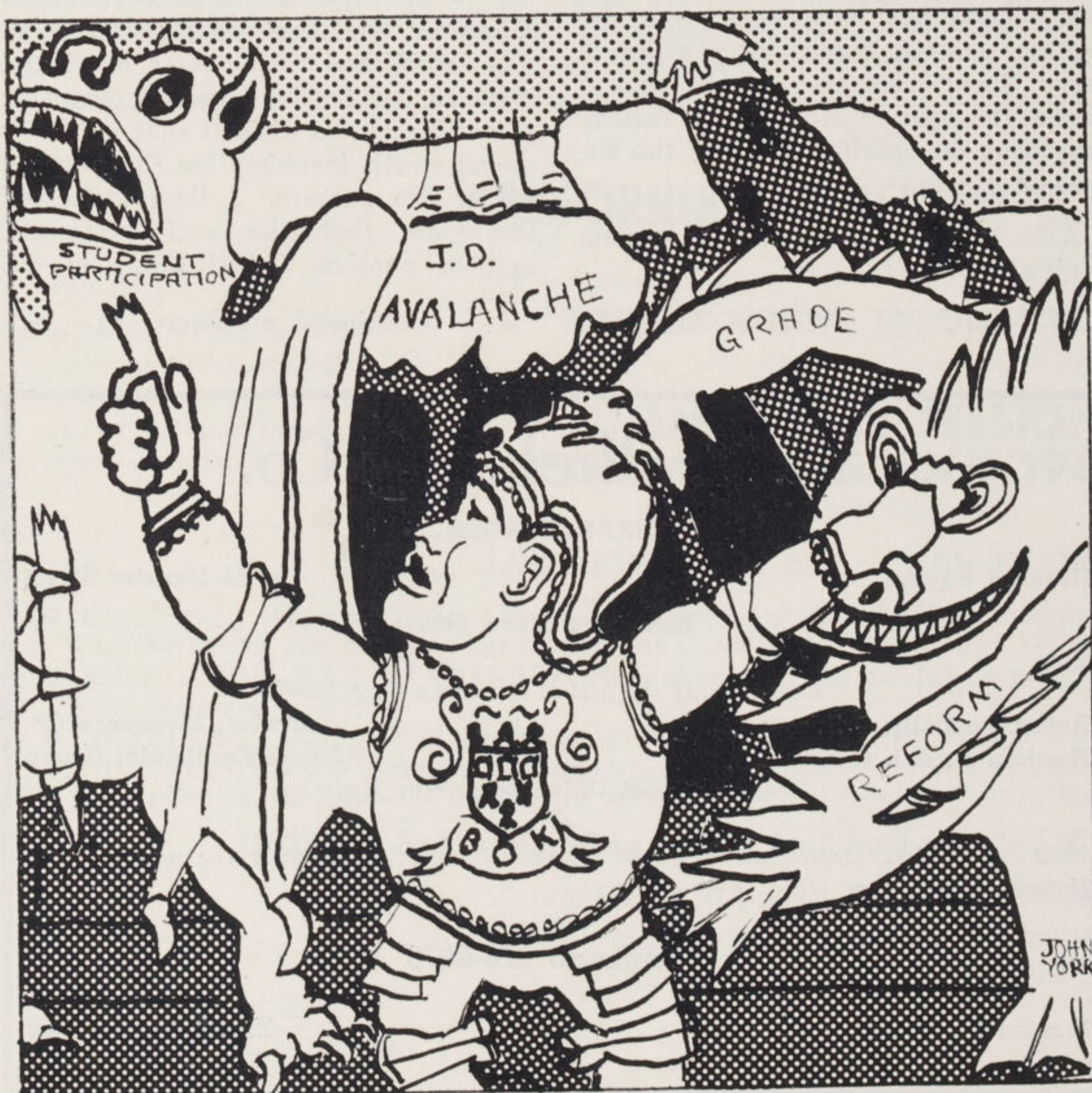
Over 30 law schools are participating in programs this summer to prepare about 450 minority group students for law school the next fall. The program will be a continuation of that begun several summers ago by the Council on Legal Education Opportunity. There will be ten CLEO Regional Summer Institutes and special programs in Toledo and Albuquerque.

* * *

Students who wish to be considered for next summer's Peace Corps training programs should submit their applications soon, preferably by early April. Processing of an application takes about ten weeks, and many programs may be filled or have started training before late applications can be completely processed. Applications and information are available from a Peace Corps office at 408 Atlantic Avenue in Boston. The phone number is 223-7366. Students interested in any Vista program ought to remember that processing usually takes at least twelve weeks.

* * *

There are still a lot of people at the Law School who like to learn how to make money. About 60 of them made it to Langdell North Middle a week ago Sunday for the first session of a Bull & Bear course on the market, given with the cooperation of Horne Investment Co., Tom Horne, 2L, president. The course costs \$10 (it's free for B & B members, of course) but if you intend to become registered with Horne's company, the firm will pick up the tab. It costs \$45 to become a registered representative but you're then registered forever. The speakers stressed the added income available to lawyers who can handle their own securities transactions, along with their clients'. And almost everybody present displayed amazement when one neophyte asked if anybody was interested in anything but making money.



Letters to the Editor of the RECORD

(Continued from Page 9)

lem of discrimination. Firms come here to hire people. If they cannot use grades they will use other perhaps more subjective factors to discriminate between students, and we suggest that far from using a portfolio of written work, will use more irrelevant measures, perhaps even LSAT scores.

Perhaps if Harvard adopted a semester system in the first year and used a pass-fail system for the first semester this would give students more feedback and avoid the problems of discrimination. A complete abolition of grades for all three years will not avoid the problems outlined above. Eliminating grades for the first year only serves to make second year hiring irrational.

In addition, if the Law Review is then forced to adopt a competition to fill all places, this will only expand the number of losers in the system, because at least now students with B+ and A- averages are not unrewarded whereas then, only those on honoraries will be. Grades of course have no relevance in the third year since almost everyone has a job by the time he receives his first semester grades.

We doubt very much if the system would be improved by abolishing first year grades and then putting that much stress on those in the second year. At least a system that evaluates people over two years has to be better than a scheme that uses only one. We are impressed by the 1Ls argument that a student whose grades go A/B+/B is better off than one whose grades go B/B+/A but unless hiring and career decisions are to be delayed until after commencement nothing can be done about it.

As a personal note we would like to add this. One reason for the unpleasant nature of the first year is that many students hibernate in the library and their fellows become convinced that they must do likewise to succeed. This assuredly is not the case. If the present system has any virtues it is that those who make life competitively miserable do not inherit the earth. Too many students seem to feel that they must live in the library to succeed. That fact alone is sad testimony to the inadequate feedback here. We might add that expanded use of graded research papers only increases the possibility that success at the Law School will depend on one's ability to work

like a dog, not think or act like a lawyer.

Kenneth R. Schild 3L
Lester Lovier 3L
Allan Grossman 3L

A Little Help From Our Friends

To the Editor:

How about a little help to those of us who want to change, perhaps radically, the Ames Competition? One great help would be your publication of thoughtful analysis during The RECORD siege of that venerable institution rather than continuing merely to print misleading headlines (as last issue: "Survey Discloses 1-L Dissatisfaction with Ames") and failing to print other information offered you (same survey revealed general 1-L satisfaction with their Fall Ames).

Unfortunately, each time The RECORD provokes it, the Ames Establishment recoils defensively even to case advisers who have been working for overhaul of the program. Instead of kicking the dead horse of what the past should not have been, your reflections on 1-L needs and vehicles to serve them replacing Ames might hasten the hour of student and faculty consensus on specifically what the future should be.

After all, isn't that what journalism is all about?

William Alsup 2L

Review Prexy Likes Us

To the Editor:

I've been silent long enough. I am writing now not merely to point out particular misconceptions spread by The RECORD, but also to offer a case study in how The RECORD reports the "news."

Let us begin with the Lubell affair. A reporter from the Crimson called me at home one evening and asked several questions about the matter. He was under the mistaken impression that the Law Review has an alumni association and honorary members, and that it would be an easy matter for us to restore Mr. Lubell to the Review. I said, "There is nothing we can do to make Mr. Lubell a member of the Review." And that is true; moreover, I don't see what earthly use it could be to Mr. Lubell to be restored to our bosom at this late date. The Crimson reporter went on to ask why we didn't plan to amend our constitution to prevent a similar occurrence in the future. My answer was that I knew of few human documents less significant than the Law Review constitution; it bears little relation to contemporary reality, and as a practical matter no one ever pays attention to it. Amending it would be a worthless gesture. Moreover, the amending process, which was established time out of mind and involves our trustees and overseers, is so cumbrous and difficult that it hardly seems worth invoking for the purpose of an idle gesture. I then expressed the view that the real safeguard against another Lubell affair is the

(Continued on Page 11)

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Richard R. Ramsey

Letters to the Editor of the RECORD

(Continued from Page 10)

moral integrity of the editors of the Review and the students in the school, for it is the editors who apply and enforce the constitution, and on an issue like this they will be subject to the pressure of student opinion generally. I have sufficient faith in that integrity to believe that the Lubell incident will not be repeated. When the story was written up in the Crimson, the quotation I've given above was taken out of its original context, and the last nine words were dropped, and it was made to appear that I thought nothing could be done to prevent a recurrence. In fact, I don't deny that we could try to amend our constitution, but I believe that such a course, even if successful, would provide a false satisfaction and would direct attention away from the real bulwark against intolerance, the views of the students involved. However, I think a reasonable man could take a contrary view.

The RECORD lifted the misleading quotation from the Crimson, adding the word "absolutely" before the word "nothing," and reprinted it without any inquiry into its accuracy. That is, The RECORD quoted me without having interviewed me. Then Mr. Michael Levin, reads The RECORD and pops out of the woodwork to announce that he feels sick.

Perhaps two other incidents are worth a brief retelling. Earlier in the year, a RECORD reporter talked to me about outlines. When the story appeared, my words were again twisted, this time to make it appear that I was clutching the Review's outline to my chest and would never let them go. In fact, last spring, long before The RECORD jumped onto the outlines bandwagon, the Review proposed to the faculty that outlines be made generally available. There have been several discussions, involving the Review and many faculty members, as to whether and how to make the outlines available. The Review took the initiative, but final decision on all aspects of this matter rests with the faculty. Not a word about all this appeared in the original RECORD story, or in any other story. The second incident concerns the anti-war statement which appeared in the January issue of the Review. We stated explicitly twice that the statement represented only the views of some of the editors, and was not an institutional statement. This subtlety was lost on The RECORD when, after having been scooped by the Crimson, it wrote up the story.

It was with all this history in mind that when a few days ago someone telephoned me at home and announced he was from The RECORD, I expressed

a few pleasantries and hung up. He wanted to know about our recent elections. Undaunted, the reporter conjured a marvelous story, which has since appeared in The RECORD. With relish I would go through that creation to show its errors, major and minor, but that joyous task I'll leave to someone else.

Richard M. Cooper, 3L

While The RECORD regrets any misquotation of Mr. Cooper's remarks, the former Review president might consider the difficulties confronting reporters who for several months are greeted with curtness and discourtesy when asking unloaded questions. And when The RECORD informed Mr. Cooper that we wanted information for an article, not for off-the-record enlightenment, about what's to be done with the outlines, he declined to tell us about the Review's proposal to the faculty. — Ed.

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Reform . . .

(Continued from Page 3)

rected by students toward the faculty were some years ago being directed by faculty to administration.

Separate Entities

In response to a question regarding the separate identities of the Ad Hoc Committee and the Grading Committee, it was pointed out that many students and faculty alike mistakenly believe that a single committee prepared both reports. In fact, while there is an overlap of personnel on both committees, they are separate entities. O'Connell from the Ad Hoc Committee said, "Our objectives are considerably broader than grade reform." He added, "We've been afraid that part of the adverse criticism of our group would rub off on grade reform."

The two groups, however, see their roles as complementary, and some believe that increased student participation would make it easier for the approval of grade reform by the faculty. A member said, "It would be very hard for the faculty to turn down pass-fail at a closed meeting. People want to see the decisions being made."

He further pointed out that the faculty could show their good faith by this initial act on student participation.

Other Possibilities

In addition to the student power report, members of the committee also are investigating the possibility of student action in three other areas. These include closer cooperation with the law schools at Boston College and Boston University, an investigation of the food service contract at Harkness, and a study of student admissions procedures. Robert O'Connell was quick to point out that the committee itself has not generated these proposed studies, but has rather served as a focal point for other students who came to the committee with these ideas. "We can't take credit for all these things. We were able to get hold of people who can get their noses out of books."

Applications Increase . . .

(Continued from Page 3)

dents, but instead to expand the curriculum."

Asked about the existence of quotas for minority groups, Simpson said that though there is of course ongoing recruitment, there is "no set number." "We have a random system: applications are considered roughly in order of completion. Each is weighed individually."

Last year there were "84 or 85 applications from black students and 5 or 6 from other groups, such as Mexican-Americans." 39 were admitted and 33 actually enrolled. Blacks tend to apply later than the average applicant, The RECORD was informed. Their compatriots on campus have helped in recruiting, but "they are not pushing for a quota system."

Several interesting facts appear in relation to LSAT scores: this year the average (of over 3000) applicant's score fell between 620 and 630. The 1Ls (those enrolled) have an average score of 672. The former score would indicate that "low-score"

students tend not even to attempt applying to HLS.

For those who were 1Ls in 1967-68, 99 applicants had scores of 750 or better; 73 were admitted and 34 registered (59% did not). According to Dean Simpson, 26 were not accepted because they "had good test scores and nothing else to offer. They are the type who would slough off in law school just as they did as undergraduates."

398 applied in the 700-750 range; 218 were admitted and 128 registered (41% did not). 779 in the 650-699 range applied; 282 were admitted and 179 registered (36% did not). 10-15% of the class fell below 600. Cumulatively, 3158 applied, 850 were admitted, and 546 registered (35.5% did not).

Mr. Simpson stresses that Harvard has always been careful to consider each applicant individually: there are no "LSAT cutoff points." Many characteristics are evaluated. But if the advantages of this system are to be retained, there is no doubt that modernized procedures and greater aid must be secured.

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Recent Book

Novel Portrays Lawyer as a Hired Gunman

By Lawrence Gartner

The Man Who Wouldn't Say No, Albert Lebowitz, Random House, \$4.95, 244 pages.

The practicing lawyer has often been pictured as sort of a hired gunman. Whether an erudite, coldly efficient Paladin or a grubby, money grabbing bandit depends upon your viewpoint. But, within personal or ABA standards of ethics, the lawyer acts upon the demands of others and his professional success depends upon how well he fulfills them.

In *The Man Who Wouldn't Say No*, Albert Lebowitz creates a lawyer who, because of the accidental death of his young wife, applies this principle to his whole life. Shocked into disregarding values and judgments, Neil Halter will perform any task on a first-come, first-served basis. And the only pride of the hired gun is in the successful accomplishment of these tasks.

A succession of characters become Halter's "clients." There is

the housekeeper, hired to take care of his young son, who tries to run his life according to good Christian principles; there is a beautiful, very desirable woman seeking a divorce and who hates men; there is the plain secretary in the office who turns out to be the daughter of a millionaire; and there are Halter's senior law partners, who have little talent in practicing the law but much talent in acquiring clients.

And, of course, there is Neil Halter, the bright young lawyer who is really too good a hired gun for his clients. Halter not only does everything asked of him but takes his instructions literally; he does exactly what is asked. For example, this greatly upsets one of Halter's partners who is trying to swindle a partner of two clients out of his rightful share of their dissolved business. The man doesn't want a lawyer; he just wants his fair share of the business. Halter's partner tells Halter to be the man's lawyer. This Halter does to perfection, telling the man that his partners are trying to swindle him and to hold out for more money. Halter's partner is quite floored and maddened by Halter really doing what the partner said.

Halter has no moral scruples about doing what others want. He is ready to destroy the career of another lawyer at a client's request, hurting an office secretary in the process. He coldly and efficiently defends a railroad, winning acclaim from the railroad company, but leaving the man whom the train hit a human vegetable with absolutely no money.

In the end, Halter gives it up. Not only his own life of never saying no to anybody, but also his lawyer's life of professional gun-fighting. He finds a need to begin developing his own values, and he can't accept a career which allows him none.

Lebowitz's novel brings up the question of the lawyer who wouldn't say no, the lawyer who might represent clients he thinks do wrong, simply because his profession is one of hired gunmen. Perhaps Mr. Lebowitz — and those Harvard law students who some months ago picketed the law firm of Milbank, Tweed, Hadley & McCloy for representing Chase Manhattan Bank, which deals with South African firms — is trying to tell us that it doesn't necessarily have to be so.

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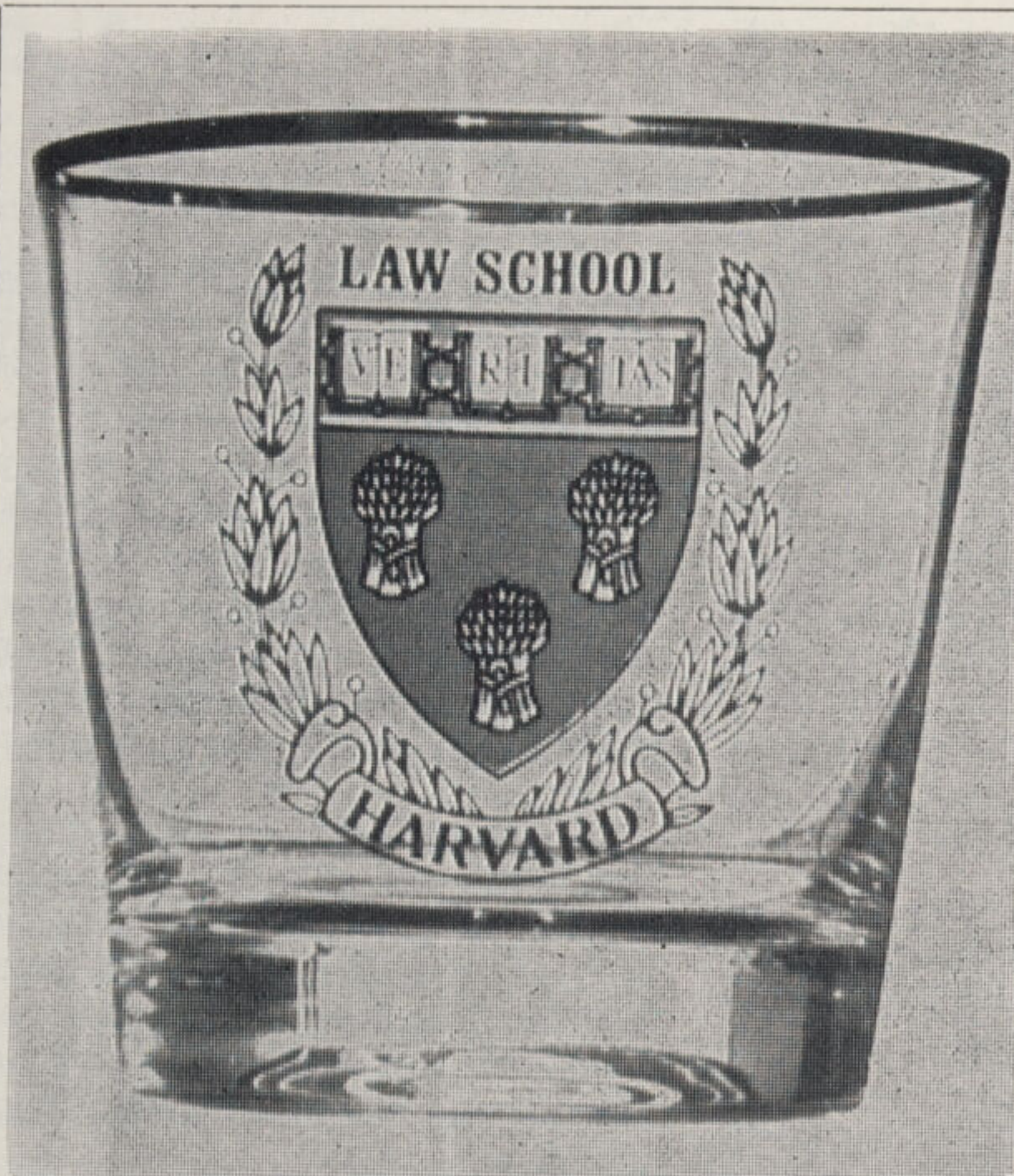
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Black Speaker Program Begins at Law School

(Continued from Page 1)

director of the Southern Legal Assistance Project in Atlanta, Georgia — was introduced by Professor A. James Casner.

Prof. Casner called the black speakers program "a very significant addition to the educational program of the Law School." It is "almost as important as a meeting of the first year Property class," he added, tongue in cheek.

Other speakers in the series — which will be in Langdell South Middle at 7:30 p.m. — will be Derrick A. Bell, Jr. who is director of the Western Center on Law and Poverty, connected with the University of Southern California Law School today; Milton Henry, first vice president of the Republic of New Africa, a movement for the United States to cede several states in the South to blacks to set up an independent nation (March 17); and Dr. George Wiley, director of the National Welfare Rights Organization, a group organizing poor people to demonstrate (March 20).

Other speakers in the series will be: Richard Hatcher, mayor of Gary, Indiana (whether he will be able to come March 24 is still uncertain); Dr. Thomas Mathew, president of the National Economic Growth and Reconstruction Organization, which works in the area of black capitalism (April 14); and Rhody McCoy, unit administrator of the Ocean Hill-Brownsville school district in New York City (April 25).

General topic of the series, according to Reginald Lindsay, 2L, one of its prime movers, is what black lawyers can do for the black community. The speakers have been chosen for their competence in specialized areas and because they have been involved in issues and problems affecting black people in urban areas.

The program, as an experimental project, will provide an example of what black professors might bring to the Law School.

Clearly in tune with his black audience, Moore, with an A.B. from Morehouse College in Atlanta and an LL.B. from Boston University, also spoke on racism and jurisprudence.

"Blacks cannot unroot racism through the law alone," he said. "The law is hopelessly filled with racism, and the racism is so subtle that it is part of the accepted jurisprudence."

Moore cited the upholding of the constitutionality of the Public Accommodations Act on the basis of the commerce clause rather than the equal protection provisions of the 14th Amendment as an example of this subtle racism. The commerce clause depersonalizes and dehumanizes the right to public accommodations.

Another example he cited was the Housing Act. That preserved the right to discriminate, he said, because not all housing is covered, creating the presumption that one can discriminate in selling or renting the housing not covered.

Moore emphasized the importance of black lawyers being extremely competent, especially in courses like Property which have recently come under attack at law schools as irrelevant.

"Dig *Pearson v. Post*," he said.

"Courses like Urban Legal Studies may be exciting, but it is questionable whether such courses have any real substance to them at all."

(Continued on Page 15)

Former Justice Goldberg Slated for Ames Final

Arthur J. Goldberg, former associate justice of the U.S. Supreme Court and former ambassador to the United Nations, plans to preside over the final round of the Ames Competition to be held at 8 p.m. Tuesday in the James Barr Ames Courtroom. Joining Mr. Goldberg on the bench will be the Hon. R. Ammi Cutter of the Supreme Judicial Court of Massachusetts and the Hon. Edward T. Gignoux of the U.S. District Court for the District of Maine.

The case is set in the U.S. Supreme Court and involves the liability of corporation and corporate insiders under the Securities and Exchange Commission's Rule 10b-5. The Respondents, present and former shareholders in the Petitioner corporation, Valhalla Mining Co., brought suit against the corporation for damages resulting from the issuance of an allegedly misleading press release and against several of the corporate insiders for trading in the corporation's securities while in possession of undisclosed material information.

Among the issues presented by the case are whether a private action may be maintained under Rule 10b-5; what is the definition of materiality under the Rule; what degree of fault or scienter on the part of corporate insiders and corporation

is required to maintain an action under the Rule; and when, after the release of material information, may a corporate insider trade in the securities of his company. The case is based on *SEC v. Texas Gulf Sulphur Co.*, 258 F.Supp. 262 (S.D.N.Y.

Dacey and Lynch Meet Tinkham and Estridge

1966), aff'd in part, rev'd and remanded in part, 401 F.2d 833 (2d Cir. 1968) (en banc).

The Petitioners are represented by the Sung-Kun Club whose oralists are Timothy J. Dacey III and Dennis Lynch, and the Respondents are represented by the Bruce Club whose oralists are Thomas W. Tinkham and Larry Estridge. The brief captains are Philip Burling for Sung-Kun and Michael J. Berner for Bruce. All are 3Ls.

The briefs and record should be available on or about March 13 and may be picked up at the reference desk at the library or in the second year office of the Board of Student Advisers.

Black Speakers..

(Continued from Page 14)

With the guiding idea of "black is best" the black lawyer will reject the idea of working for the government, Wall Street law firms, or the poverty program. Instead he or she will "work as an independent lawyer for the black people." If the black lawyer does work for such institutions, it is only to learn as much as he can and then leave and work for the black community.

Moore also cautioned that the black lawyer was one of the most oppressed professionals because of his race. He will never become rich serving the black community and will worry about having enough money. Consequently, he must constantly be on guard against selling out or not being militant in pressing the claims of blacks.

Moore warned black law students that change will not come about non-violently or through legal institutions, although these institutions should be utilized. "The law is limited," he said, "but it has the purpose of aiding the revolution."

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J. D. Degree Passed at Tuesday Faculty Meeting

(Continued from Page 1)

the American Bar Association, which suggested the need for a uniform "label."

Information was gathered by students and faculty as to examples of discrimination against holders of LL.B. degree versus the "doctoral" J.D. There were grumblings that this data was "sparse," "undocumented," and "insignificant." Nevertheless, there were numerous instances where Harvard alumni found bias, often founded upon lack of understanding of the nature of the LL.B. (RECORD, March 6, 1969).

The depth of student interest in the issue was indicated in a RECORD poll (November 7, 1968), where over 70% of 600 students responded that their preference was the J.D. degree. The Brown Committee alluded to the opinion as "intense as it is unquestioning." But the data and arguments presented to the students throughout the year in commit-

tees and discussion groups (as well as over a dozen published articles, letters, and editorials) would suggest that there was some "enlightened questioning" as well.

Apparently there existed some earlier faculty resistance which required additional student work. The RECORD last week stated that, "It is unfortunate that so much energy has had to be expended on what, ultimately, could have been simply a trivial issue." Finally, the "highest" student-involvement committee (the Joint Student-Faculty Committee) investigated the matter.

After the faculty meeting Tuesday afternoon, Dean Bok mentioned that he was "happy with the faculty's decision." With regard to the "retroactive" aspect of the J.D., the Dean jokingly remarked that it would not be used as a fund-raising device. If acceptance is gained from the President and Fellows of the University, which should be an au-

tomatic step, procedures will be developed for J.D.-replacement certificates. Alumni will be notified at that time.

Already the action has produced its lighter moments. Students have taken to addressing one another in Langdell's hallowed halls as "Doctor." One teaching fellow lamented that even though he is near getting his LL.M., "now all my students outrank me." One student queried an S.J.D. candidate as to "whether all that work was worth a single 'S'?"

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