

HARVARD LAW RECORD

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TWENTY CENTS

Ask Equal Disciplinary Action

Fifty-two Blacks Send Petition

Fifty-two black law students have petitioned the Law School, asking that they be included in any disciplinary action taken against five blacks for participation in the December 5 and 11 occupations of University Hall.

The petition, dated January 27 and sent to the Law School Administrative Board, says that the students "go on record to be subjected to whatever actions that are being levied against the five law students identified allegedly

from pictures taken at the scene. In that we went unidentified and yet participated in the same activities and to the same extent as those now prosecuted, we demand equal treatment!"

However, in a letter to Carl Basnett, president of the Harvard Black Law Student Association, Vice Dean William L. Bruce said he is not "prepared" to bring action against the signers of the petition.

Bruce's January 30 letter

stated that, "The proceedings before the Administrative Board were taken with respect to the only persons as to whom I believe there is clear and specific evidence of involvement in the activities in question. I would not be prepared to bring similar proceedings against the signers of the petition on the basis of the general statements contained in the memorandum of January 27, 1970."

Bok Discusses Law Schools' Future: Reforms Include Two-Year Program

Dean Derek C. Bok addressed himself to the pressing question of the legal education of the future in his first annual report to the Law School community, covering the academic year 1968-69.

"Whatever one may think of the reforms currently advanced," Bok said, "the complaints that underlie them are urgent enough to warrant just such a reappraisal."

Bok commented on three widely discussed models for reform of legal education: A reduction of the curriculum from three years to two, more specialization, and the imparting of more new skills. "Taken together," he said, "these three models create a long agenda of issues for legal education to consider. For Harvard and other leading schools, however, the task is not to choose among these al-

ternatives for they are not mutually exclusive.

"A single school," Bok continued, "could simultaneously offer a two-year degree for students impatient with academic life; a program of specialization for students who have set their minds on a definite field of practice; and a wide-ranging program of analytical skills for those envisaging work in business or government."

The first model, a reduction in curriculum from three years to two, reflects the belief on the part of some educators that the goal of law school — to teach students to think and reason "like a lawyer" — does not require three years. But Dean Bok suggested that reduced student interest in the third year might come from

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Mike Lurey

Vice Dean William Bruce answers petition.

Last December black students at Harvard University, united in OBU — Organization of Black Unity — occupied University Hall to protest the University's hiring policies with regard to minority groups. Law School disciplinary proceedings against five law students identified as participating

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Mid-year Exams Elicit Comment; 1L's Show Ambivalent Response

By Oliver Henry

For the first time in the history of the Law School, "real" as opposed to "practice" examinations were given in the middle of the first year. And, as with everything else that happens at the Law School, reaction to the exams was mixed.

"First-year exams are a very good idea," said Lew Gerber, a Columbia graduate. "I was able to see the courses in their proper perspective; they helped me to see how cases fit together in a puzzle. The exams were good for review. I'm now studying differently."

Gerber's reaction supports the intent of the Law School's Continuing Committee on Legal Education which hopes that mid-year exams will give 1Ls "feedback

Helped Cases To Fit Together

that will enable them to improve their year-end performance."

But Paul Hannah, a first-year man from Harvard College, said, "I don't think any kind of exam gives much feedback, in the way they use the word. You get feedback on a particular answer. The *only* good thing was that they were called exams and not *practice* exams because, psychologically, they were good for students who overstudied for them. Now, they won't do that."

University of Chicago graduate Melvyn Wald also seemed to question the proposition that mid-year examinations would give students an idea of their real ability in legal study. "The exams put a premium on 'What is the law?' And the whole feedback idea is a total chimera. It's just a blatant euphemism for wanting to be patted-on-the-back with a grade."

Still, Barry Staples — a graduate of Simon Fraser University in British Columbia — thought that "studying for the examinations was good because you need something in mid-year just from the point of view of getting people to do something. If there are no exams, it's pretty easy to let things slide."

Whether or not the mid-year examinations can help first-year students evaluate the quality of their work may depend upon the individual student and if he thinks grades a valid measurement of his ability. And there does seem, at this stage in the educational experience of many first-year students, much truth in a remark made by former Southern University student, William Jefferson, that "after so many times, an exam is just an exam."

"I didn't learn anything from them; they just asked me to regurgitate what I had learned," commented Brown graduate Rich Ellenberg. "The exams measured whether you did your work daily or studied at all. They might have been much better take-home because perhaps some people used

time better than others. And feedback only depends upon what comes back: a letter grade won't tell me much unless it's high or low."

"As a result of the exams," said Hannah, "perhaps people will debate the merits of pass-fail. Many people felt they overstudied, and maybe in June they won't do that. There won't be any stealing of notebooks or tearing out of pages; some of the pres-

No More Stealing Of Notebooks

sure of the place will be relieved. Exams taught people the limitations of the case method. Now people might look in terms of the general sweep of legal theory. Each case won't be so important."

"Voluntary pass-fail is no good," stated Gerber, "because those who took it are getting screwed. Therefore, mandatory pass-fail might be better. People just aren't going to turn away Harvard. We're in demand. It's possible that people wouldn't study, but the vast majority of students is responsible enough to realize that they're not studying for grades. People higher up might be better able to take competing considerations into account, but they should not be afraid of pass-fail simply because it is pass-fail. I sometimes get the feeling that people around here reject some things just because they represent change."

The grading system is a topic of concern to many students and faculty members. Some feel that the abandonment of the present system may well, in the long term, end the allocation of rewards based on sheer ability and achievement. But other students and professors strenuously disagree.

"At the Law School, most people have achievement sickness in its terminal stages and it reaches plague proportions around exam time," stated Wald. "If the school put less emphasis on grades those

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When the Ordinary Just Won't Do . . . NATALIE'S ITALIAN RESTAURANT

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Tuition Zooms Up Next Year

By John York

Law School tuition will be increased from \$1,750 to \$2,100 beginning next year. When coupled with annual fees of \$135, the total will be more closely in line with amounts charged at other leading law schools.

"When I discovered that tuition was higher at Shady Hill [a Cambridge preparatory school] than here, it was time to move," Dean Derek C. Bok said.

Actually, plans for the escalation began during extensive faculty discussions during 1968-69 (RECORD, April 10, 1969). Warnings of the impending hike were included in official law school literature at that time.

payments. Secretarial pay has risen. "And," as Dean Bok hastened to say, "professorial salaries — which now range from \$16,000 to \$28,000 — will be increased in the near future."

Competition from several leading law schools, where upper-level teaching pay has crept ahead of Harvard's, is also considered in the equation. Furthermore, a larger teaching staff will be required to service an enlarged 2L class in 1970-71.

Physical-plant operating costs are mushrooming. The new Faculty Office Building costs \$50,000 a year to operate, while the new classroom building will require about \$100,000 per annum. Another new expense will be

fees (application fees are up to eliminate subsidies to the admissions office) and embarking on an economy spree.

Publications have felt the scalpel. Gone is the little book with pictures of all the faculty. Gone are printed exams. Substantial economies are being effected in xeroxing and multilithing operations.

"Several thousand dollars are being saved by cutting some material out of the catalogues," Dean Bok said. "And by printing the past exam questions in separate volumes for the first and second years, we don't have to print as many. Also, we are now putting advertising in the Law School Bulletin."

Harvard's plan of tuition hikes once every three years is designed so as to not burden each graduating class with more than one price rise during its span of residency. Students on financial aid will have their payments adjusted upwards to compensate for the increases. Debt burdens will go up about \$175 a year, it is estimated, but burgeoning starting salaries for lawyers should make this burden lighter.

The projected tuition-and-fee aggregate of \$2,235 does not seem to be deterring potential Harvard Law students from applying. According to Director of Admissions Russell A. Simpson, applications are up 40 per cent over this time last year.

Comparison of Tuition and Fees (in the aggregate of Selected Law Schools)

	64-65	69-70	70-71
Columbia	\$1635	\$2124	B
Chicago	1534	2250	A
Cornell	1800	1900	B
Harvard	1582	1885	2235
N. Y. U.	1500	2175	2350
Penn.	1520	2350	A
Stanford	1410	2145	2400
Yale	1650	2300	2450
Average	\$1579	\$2141	

A — no information as of November, 1969

B — increase anticipated

"Some faculty members want an increase greater than what we're putting into effect," Dean Bok added. "But \$2,100 is estimated as the amount necessary to allow us to break even next year."

Shady Hill is currently announcing tuition increases for next year.

The Law School action was spurred by last year's overall operating deficit of \$30,000. The culprits: inflation and rising operating costs.

Spiraling costs of living affect the Law School severely because most of its operating expenses take the form of wage and salary

the municipally-required parking garage. The Harkness Commons' perennial deficit is plummeting toward a new nadir.

"Last year Harkness had losses of around \$70,000," Dean Bok stated. "Already this year they have lost that much. Under our contract with the outside catering firm, they pay one-half of all losses up to \$30,000. The other half is split between the Law School and the Graduate School of Arts and Sciences. We and GSAS foot all losses above that figure."

In the face of these trends, the school is also raising non-tuition

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Classroom Building Off Schedule; Complete Occupancy in February

By Michelle Scott

Originally scheduled for Thanksgiving completion and for official opening in January, the new classroom building facing Massachusetts Avenue is now expected to be ready for full occupancy in mid-February.

According to Warren J. Thibodeau, administrator of plant and services, arrangements now call for "a phased-in occupancy, rather than a one-shot deal."

Final plans for moving operations and office assignments are now being made. At present, only the first-floor classrooms are in use.

These rooms have been open and utilized since the January exam period. Make-up classes have already been scheduled for classes supposedly meeting in the incomplete large lecture halls. Some permanent class assignments may be made.

Postponement of the building's opening is attributed to the lack of an occupancy permit and to delays in furniture and equipment deliveries. Since these factors forestalled moving into the new five-story structure, contractors were allowed to continue work in the building. The contractors remain responsible for providing insurance on the basement and four upper floors.

No problems are foreseen in obtaining the entry permit from the Cambridge City Council. When a few minor safety requirements, such as exit signs, are met, it is anticipated that the permit will be granted.

When all equipment is installed, the basement will house the Law School medical clinic and the Xerox distribution center. The first floor has a mailroom as well as classrooms.

A large multi-purpose room, a serving kitchen, a student lounge, classrooms and seminar rooms are located on the second floor. On

the third floor, there are offices for placement and admissions, interviewing rooms, the faculty and staff cafeteria and small seminar dining rooms. The fourth and fifth floors are assigned to Chinese Legal Studies, the International Tax Program and research projects.

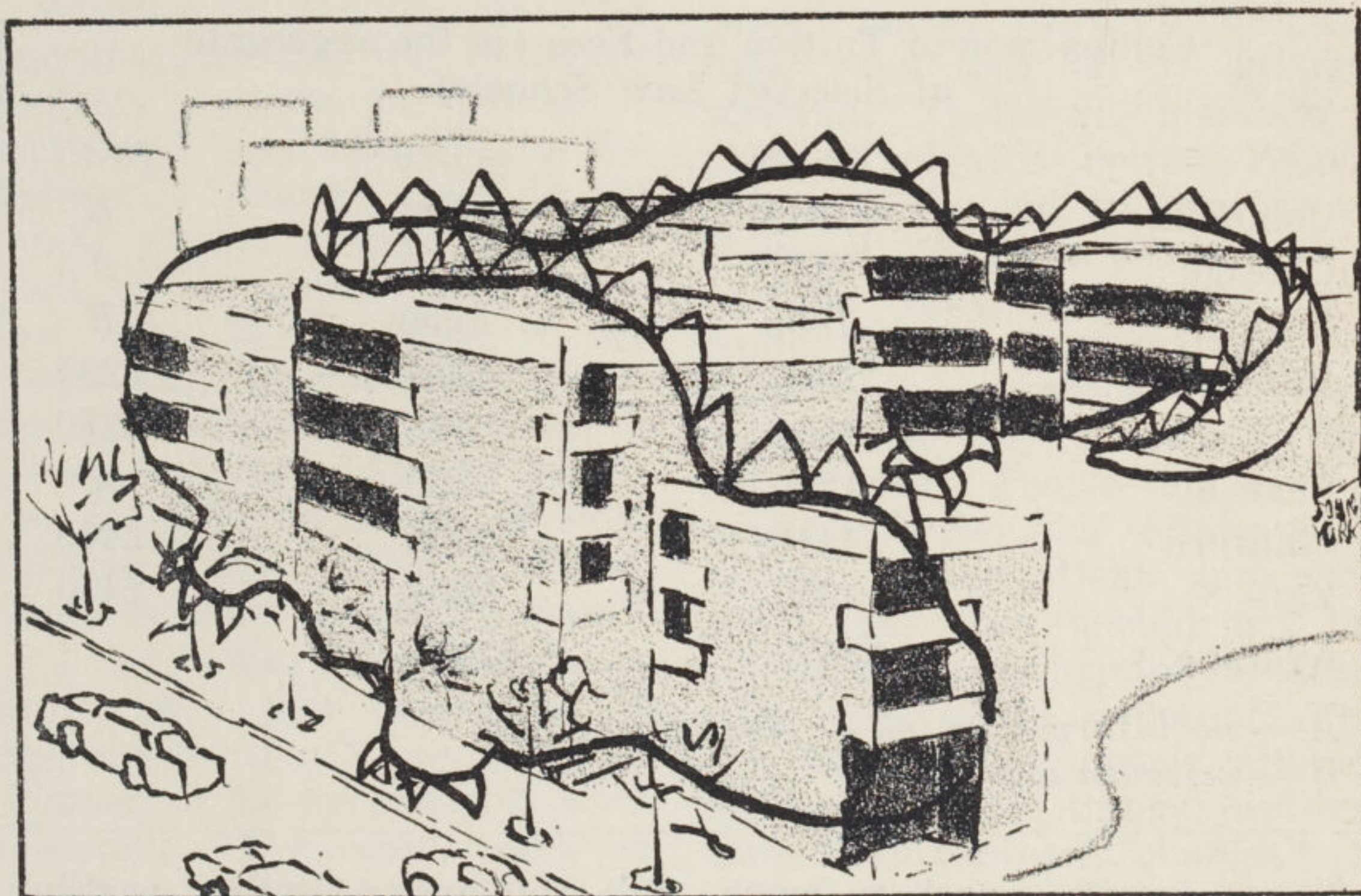
Rooms vacated in other Law School buildings by the transfer of offices and projects to the new building will be re-assigned. Mr. Thibodeau reported, "The dean is wrestling with many requests for space, especially from student groups."

So far, no assignments have

been made. Any student group desiring office space or re-location should present its request immediately to Dean Bruce.

While the new classroom building gradually opens, use of the multi-story indoor parking facility at the corner of Massachusetts Avenue and Everett Street has commenced on an experimental basis.

A joint venture of the Law School, Faculty of Arts and Sciences, and Schools of Education and of Design, the facility is shared by their faculty and staffs in a trial plan. However, no long-range commitments nor permanent space allocations have been made pending studies of the parking garage's utilization. Presently, all cars are required to leave the building by 11 p.m.



John York

New Classroom Building comes to life.

Senator to Discuss Tonkin Resolution

Senator Charles Mathias (R-Maryland) will speak on "A Proposal to Rescind the Gulf of Tonkin Resolution" at a Harvard Law School Forum, Monday at 8:30 p.m. in the Ames Courtroom. Moderating the Forum will be David Broder, political writer for the Washington Post and currently a Fellow of the Kennedy School of Government.

The Forum will also present Randolph Thrower, Commissioner of the Internal Revenue Service, on "The IRS and the Rackets" at 8:30 p.m. tomorrow in the Ames Courtroom. Moderating will be Professor Stanley S. Surrey.

Tickets may be bought at the door, the Coop, or at O'Connell's in the Hark.

Pamphlet Ends Some Interview Fears

By Bob Hernandez

Did that last interview leave you with a queasy feeling in your stomach, as if you hadn't quite "come through" to the interviewer?

Relax. Your problems are solved. The definitive guide to law firm interviews is at hand: *Career Placement After Law School Graduation* by William B. Stukas and Don H. Sherwood, distributed by the Law Student Division of the American Bar Association.

This pamphlet came to our attention through a mimeographed handout by the Harvard Student Bar Association, which asserts that it is an attempt "to indoctrinate students into the ethics of the esteemed leaders of the legal profession."

"A constant theme of the ABA statement is that the interviewing students should APPROVE APPROVE APPROVE of the law firm and to answer questions not in an honest or individual way, but rather in the manner which will most please and impress the law firm," the handout reads. "According to the ABA publication, the student should be practical, adapt and lie to get the job, just as the lawyer sells himself to the highest bidder in order to maximize his own earnings."

The S.B.A., however, seems to have missed the enormous value this pamphlet can have for the ordinary, run-of-the-mill, befuddled law student, who is innocently looking for a job.

"Regardless of the position of a law student in his graduating class," the pamphlet begins, "a certain amount of self-help in career placement is necessary. This is equally true of the editor of the law review as it is for the bottom man in the class. . . ." The pamphlet proceeds to help the student help himself through applications, initial contacts with the firms, and interviews.

It is Section IV, "Preparing for

Interviews," which is perhaps the most crucial for the aspiring lawyers. It tells him what to wear ("Choose conservative attire for your meetings"), how to conduct himself during the interview ("Consciously maintain good posture in every office you visit. . . . Be serious, for the most part, but not overly sober — adjust to the atmosphere created by the inter-

Don't Stress Money Motive

viewer. . . ."), and, most important, what questions to expect, how to answer, and what to ask in return.

Beware of those questions! Law firms are tricky in that they know what you really want to answer; they'll punish you if you do.

For example, the pamphlet hints that when the interviewer asks why you decided to go into law, *don't* let him know that it's for the money. The answer he wants is: for the mental challenge.

When the interviewer asks about your outside interests, he is looking for cultural activities or reading, and he may grill you to be sure that you are being candid with him. Whatever you do, don't tell him you like surfing if he is from a California firm or skiing if he is from Colorado.

He expects you to have one or two special interests in the law, so have some ready for him. Of course, be sure to tell him that "you realize that once you get into practice your interest might change or you might develop new ones."

How far do you expect to get in the firm? Be emphatic that you plan to advance as fast as your skill and experience allow. ("Firms avoid persons who are satisfied with an associate position for life or who show no enthusiasm for added responsibilities.")

The interviewer will want to question your motives in picking the particular area in which the firm is located. "Here the best answer appears to be that it offers an excellent opportunity for a young attorney to realize his full potential."

Attempting to test how strong a commitment that is, the interviewer is likely to implicate your wife. "If at all possible make sure your wife has seen the area or is familiar with it sufficiently for you to reply that she is pleased as all get out that you are planning on coming there."

At least three answers must be prepared for the question "Why did you choose our firm?" If it's a big firm, "stress your desire to get into a large firm that offers opportunities for you to develop a specialty." If it is a small firm, "stress your desire to get into a small firm where you won't be departmentalized into any one area of the law." If it is a middle-size firm, "stress the advan-

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First in Harvard Demonstration Cases

Black 2L Boycotts Hearing

The first of five black law students who have been summoned to appear before the Law School Administrative Board for actions arising out of last year's demonstrations against Harvard's hiring practices appeared briefly at his hearing Tuesday night but then left.

Gregory K. Pilkington, 2L, came to the hearing, which was held in the office of former dean Erwin Griswold, presented Professor James Vorenberg, chairman of the Board, with a letter, waited while Vorenberg read the letter to the Board, and then left declining further comment.

After Pilkington left, the Board went into closed session to discuss Pilkington's case.

In his letter to the Board, Pilkington stated that his reason for not attending the hearing was that "I do not consider any hearing legitimate which is not open to the public. I believe that these hearings were designed to repress those students who ally with campus workers and fight Harvard's racism, and that the politically repressive nature of this hearing would become readily apparent to any who witnessed it."

Pilkington continued that, "I believe it is for this reason only

that the attendance has been sharply restricted."

Pilkington told the RECORD that the Board had refused his request of a hearing open to anyone who wished to attend, held, perhaps, in the Ames Courtroom.

Before Pilkington arrived, Vorenberg, in a statement of the Board read into the record, said the Board had offered an open hearing to any student who desired one. He said the request of one student to hold the hearing in a room which would accommodate 200 to 300 people was turned down because with an audience that large the hearing would be turned into a spectator sport. Vorenberg said the purpose of an open hearing was to dispel any notion that the Board was operating in secrecy, while conducting a fair and effective hearing.

Three of the students have met with Vorenberg and Vice Dean William Bruce concerning the hearings. The fourth spoke by telephone with Bruce. The Board has not yet been able to contact the fifth student.

Vorenberg said the Board had planned each hearing to the desires of the individual student — whether to open the hearings,

have formal or informal procedures — except for not allowing a large open hearing.

The Board's statement also said that while the student could have an open hearing if he wished, in his absence the Board felt it made more sense to proceed in closed session.

The hearings continued on Wednesday, and it is not known at the time of this writing whether the other students attended, and, if they did, whether or not the hearings were open.

Faculty members of the Administrative Board in addition to Vorenberg are Professors Andrew Kaufman and David Herwitz. Administration members are Dean Bruce and Stephen Bernardi, Secretary of the Law School. Student members, who cannot vote, are James Bierman, 3L, James Winston, 1L, and Neil Friedlander, 2L.

Seekers?

We're not going to get you that Cadillac or the villa in Shaker Heights or even a piece of that big pie in the sky. We're not going to make you brighter or sexier. Maybe all we can offer is a chance to express yourself. Indulge in a bit of cynicism, and perhaps partake in a piece of the action.

You have to be a nut to be on newspapers; if you think you might be one, come to our cocktail party and meet the folks. Write, take pictures, intellectualize; we don't care.

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Bator Studies Black Market In Art

By Judith Carmack York

The buzz of a power saw, the thud of stone, and the roar of an engine are heard in the jungle lowlands of Central America.

It is not the way of progress; it is the way of contraband, the fruits of which often end up in prestigious museums and private collections here and abroad.

Increasingly, black marketeers are mutilating valuable large pieces of Pre-Columbian art in Mexico and Guatemala to facilitate its removal, export, and sale. The plundered objects are often stelae, or columns erected at sacred Mayan sites. A jaguar head is chiseled from one, a fragment of hieroglyphics from another.

Professor Paul M. Bator spent part of last summer studying ways to counter this mutilation as well as to improve rules governing the international movement of art. A panel set up by the American Society of International Law commissioned Bator to prepare a study, partly in view of an upcoming UNESCO convention dealing with the topic.

After research and interviews with art dealers, collectors, museum people and archeologists in England, France and the United States, Bator submitted a report, not yet published.

"In Mexico and Guatemala there is virtually no legitimate export," he said. "A system which tries to choke off entirely an important export category generates tremendous pressure against itself."

There are two types of illegal trade from Mexico and Guatemala—that of the tourist who brings out small artifacts of questionable importance, and that of the professional who would destroy whole monuments to obtain fragments for sale. Boats, trucks, and even helicopters take these contraband treasures away from their sites to markets outside the country.

"My hope is that the United States can work out arrangements to help alleviate this situation, although of course no one-sided solution is feasible.

"A government regards a work of art first from

a nationalistic viewpoint. Within the country it stimulates scholarship, educates citizens and attracts tourists, thus providing wealth," he said.

"However," Prof. Bator added, "a country must consider the advantages of cross-fertilization in art and scholarship. The whole of human culture has been enriched by contact between cultures. If all art remained within national boundaries, all nations would suffer."

Professor Bator used research on illicit trade in Pre-Columbian art prepared by Mrs. Clemency Coggins, a Fine Arts Doctoral candidate at Harvard. She has compiled a long but incomplete list of mutilated stone sculptures and reliefs recently stolen from Guatemala and Mexico and now located in American and European museums. Published in *Art Journal*, the study is the first of its kind.

Although Bator feels Latin America cannot settle its trade problems by copying the system of another country, he does recommend the English formula for study.

"The British believe that only a few major masterpieces should be prevented from leaving the country. And they do not block an export unless an English museum is willing to buy the item at a fair price," he commented.

Export controls apply only to works valued over £2000 which are more than 100 years old and that have been imported into Britain more than 50 years ago. Licenses come from the Board of Trade. They are refused only when the art work is of "national importance," and only if a public purchaser can be found at home.

"The English regulate a well-structured market system," Bator said. "It is rational and enforceable."

Professor Bator also examined the French system. Although more complex in enforcement, it also allows a great deal of licensed export of art.

The Minister of Cultural Affairs, on recommendation of the Central Administration of National Mu-

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Normal Procedures Won't Work

The Law School is finding out that the disciplining of black law students involved in last December's demonstrations against Harvard's employment policies isn't a normal disciplinary matter and can't be treated as one. Administrative procedures which can adequately deal with cheating and stealing just may not be able to handle the tough problems surrounding the disciplining of political demonstrators.

Already, fifty-two black law students have petitioned the Law School that any action taken against five students currently before the Administrative Board be taken against them too.

This is not such an unreasonable request. After all, if the fifty-two say they were engaged in the same activities as the five, why should the Law School care whether they are also disciplined? Of course, the Law School does care; it's much more difficult to discipline fifty-two black students than five.

So the blacks may have already won the first round: don't let the administration shatter your unity.

Furthermore, as the Black Law Student Association pointed out in its position paper, in disciplinary actions for political demonstrations, guilt or innocence as to the actual act is hardly relevant. The question is not whether a group of students actually acted in a certain manner; the question is whether their actions should be subject to discipline.

To answer this question, the Administrative Board is not the proper body. Disciplinary questions for political actions involve questions of law, not fact, and such questions ought to be submitted to a group more representative of the Law School.

Finally, as the black students also state, why isn't Harvard University subject to disciplinary proceedings for their discriminatory employment practices? Since conventional wisdom tells us that it is students who are disciplined, not universities, we'll all think this a rather astounding proposition. But when you think about it, it's really not so astounding after all. How about Harvard being guilty of conduct unbecoming an institution of higher learning?

Disciplining in this case involves more than did they do it. It involves much broader problems of policy, and the Law School must be prepared to face them as such.

HARVARD LAW RECORD

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Fenno

As Fenno pushed his way through the lunchtime crowd at the Hark, pausing a second to contemplate the majestic wonder of the beer mugs on the wall, he spotted Bunky at a choice window table chuckling to himself as he was reading the Good Gray Lady.

"Hey Bunky," said Fenno. "What are you laughing about? The Mighty Moes at the Hark are rotten, nobody cares about grade reform any more, our reward for beating Haynsworth is Judge Carswell, and Richard Nixon is President."

"Oh, things aren't all that bad, Fenno. At least we haven't heard from Spiro in a while."

"Well, you're certainly in good spirits for a guy who was called on four times in a row in Casner's class."

"Fenno, sometimes I wonder what I'm doing at the Law School instead of becoming a pretzel vendor like mom and dad wanted. But lately I've been in good spirits because I've been reading the daily accounts of the Chicago trial."

"You must be kidding, Bunky," said Fenno, as he choked on some coffee. "That's just the opening guns in the reactionary reaction to legitimate protest in this country."

"Well, Fenno. I think the conspiracy trial's just a riot. The government will probably get 200 thou for the movie rights. I can just see it now—Gregory Peck for William Kunstler; Jack Benny for Judge Hoffman; and, in a stroke of genius, Groucho Marx for Jerry Rubin. It would be one of the great comedies of all time."

"You must be kidding, Bunky. The trial is an affront to justice."

"No, no, Fenno. The whole trial's really a put on. You can't really believe that Judge Hoffman's playing it straight. And I'm really surprised that the defense didn't get around to introducing Samuel Beckett and Herbert Marcuse as defense witnesses."

"Still, Bunky, I don't really think the Chicago trial is so funny; I think it's sad."

"Fenno, so much of our system of justice is so funny, it's sad. That's why I can't become a pretzel vendor."

Nader Suggests Students Teach Profs

To the Editor:

In all the discussion recently at the Law School about grading and curricular reform and student participation in faculty and administration decisions, it appears that one highly significant proposal could be adopted forthwith. I am referring to the establishment of a year-long course given by students for the benefit of the faculty.

The case for such a course is compelling and the mechanics of conducting it fairly simple. Students have a great deal to convey to the faculty—their legal experiences in clinical work, a sense of the urgencies of the times that are straining the legal system, their frequently greater familiarity with new techniques or bodies of knowledge of relevance to developing legal systems, and their considered critiques of formal course work that makes up the Law School's teaching pattern.

There is substantial evidence that many professors at the Law School are developing a keen appreciation that law students have much to teach as well as to learn. This recognition is bound to increase as law students, organized in investigating teams, began producing first rate empirical studies

of legal institutions.

But even for those members of the faculty who resist the obvious, a student course for the faculty can be justified as a steady feedback process that is bound to enrich the professor's response to his classes.

Once the principle of a student course is accepted by the Law School, the mechanics could be worked out to maximize participation and efficiency. The Law School has always been good at mechanics. By way of suggestion, a steering committee of students, chosen by their peers, could organize the course content, decide, for example, whether to inflict an 'eye for eye' and adopt a Socratic method or develop another less time-consuming procedure, determine the kinds of demonstrative evidence to be utilized, the field trips to be taken and the spin-off benefits to be conveyed to other law schools and in journals of legal education. I am sure that many exciting innovations and benefits can be derived once such a course is adopted.

What the Law School faculty may be realizing is that the breakdown in the last few years of its presumed or actual arrogance toward the students—whether ingrained or merely a teaching technique—is a wonderful

Letters to the Editor of the RECORD

experience. The rewards reaped are increasing displays of foresight—a quality of which the old Harvard Law could rarely be accused—and a greater infusion of empirical and normative content in course and extra-curricular work.

Some ground rules for such a course would obtain near unanimous support. There should be no grading and no compulsory attendance. I expect that the RECORD would welcome reactions and suggestions relating to such a proposal. Let us hear them.

Ralph Nader '58

Legal Writing: Death by Desuetude?

To the Editor:

Amidst the current cries for more relevant legal education there are some phenomena that I find difficult to understand.

Seven years ago a group of us started the Second Year Writing Program in the belief that the opportunity to do closely supervised writing should be made available to more students than now qualify for the *Law Review*. The Program is voluntary, open to everyone regardless of grades, and completely student-run (the editors are selected alumni of the prior year's Program and some third year *Law Review* editors).

The required time commitment, while substantial during the course of the Program, is confined to ten weeks in the fall of the second year. The topics are "relevant," being mostly related to second-year courses, along with a liberal infusion of "poverty law." Each student who completes the work of the Program has the opportunity to discuss the final "comment" with a faculty member prior to its publication in *Harvard Legal Commentary*.

When the Program began in 1962, we had close to 100 applicants and were unable to accommodate everyone. Since then there has been a steady decline of interest. This year, although each second year student was personally notified about the Program, only about 50 out of a class of approximately 540 expressed any interest. 40 of these began the Program in October. Only 11 remained to complete the Program.

Admittedly there is now more opportunity to do writing in regular courses than was true when the Program began.

(Continued on Page 10)



Letters to the Editor of the RECORD

(Continued from Page 9)

gan, but of necessity those experiences cannot offer the kind of close editing that the Writing Program provides.

Were this decline of interest an isolated phenomenon, one would be tempted to ask oneself whether there was not some obvious fault in the Program. But the general reaction of past participants has always been favorable, and often even enthusiastic.

Moreover, CLAO has lost about one quarter of its students this year. (A few of these—as was true with the Writing Program—went on to other projects.) And the Williston Drafting Competition—which always seemed to me one of the most useful legal experiences at this school—died of desuetude a couple of years ago.

We are now trying to determine the future of this Program. In light of the indicated developments—and the trend they appear to herald—is the considerable expenditure of time, energy and money that the Program presently involves still justified? More broadly, one is bound to wonder: What *do* students want these days? Is there a reasonable relation between rhetoric and reality? Must work like this be required or given course credit in order to command the students' attention?

Frank E. A. Sander
Professor of Law
Faculty Adviser, Second
Year Writing Program

Yarmolinski Defends Friend

To the Editor:

Since several student groups have circulated the Law School community generally with a leaflet containing defamatory material about my friend and former associate Roswell Gilpatric, may I take advantage of these columns to set the record straight. The leaflet contains a number of isolated statements of fact with the clear innuendo that Roswell Gilpatric directed the TFX contract to General Dynamics in return for past and future favors, when objective considerations indicated that the contract should have gone to Boeing.

A look into the circumstances surrounding the TFX contract award would disclose that the determination was made personally by Robert McNamara, supported by all his principal civilian assistants, overruling a decision by military advisors, which was itself against the weight of the technical evidence. The gut issue was whether the contractor would accept the concept of the Secretary of Defense that there should be a single airplane for use by two services, or whether it would bet on the military departmental bureaucracy by producing two quite different designs for the two services, thereby foregoing the cost savings that the Secretary of Defense was

seeking. Boeing bet on the military. General Dynamics bet on the Secretary of Defense. Neither contractor submitted a firm bid on production costs. It is refreshing to find the Radical Law Students Group resting on the judgment of the Joint Chiefs of Staff.

I am equally troubled by the method of attack employed in the pamphlet. It is indeed a fact that "Gilpatric later was called before a Congressional committee to explain his role in this decision." If the authors of the pamphlet take this to be credible evidence of wrong doing, then the history of the McCarthy Committee has been quickly forgotten. We have already been told that those who do not learn from history are condemned to repeat it.

Adam Yarmolinsky
Professor of Law

Law Notes

Second year students who wish to change their grade reporting options may pick up the required form at the Registrar's Office. If the form is filed by February 13, students will be able to receive, by March 1, the new report with the report of their Jan. 1970 grades.

* * *

Students interested in serving on the University-Community Relations Committee, which will deal with problems between Harvard and Cambridge, should leave their names and a statement of interest and special qualifications (if any) with the receptionist.

* * *

Professor Alan Dershowitz and John Flym, a Boston attorney who has represented Black Panthers, will discuss the topic "Is Anti-Semitism a Necessary Part of Black Militancy?" at 11:30 a.m. Sunday at the Hillel House, 5 Bryant Street in Cambridge.

The talk will follow a graduate brunch and is open to the public.

* * *

Gordon Zahn, professor at the University of Massachusetts, will address the Thomas More Society on "Catholics and War" at 8 p.m. February 11 in the Wheeler Room.

Professor Zahn's books include *German Catholics in Hitler's Wars* and *War, Conscience and Dissent*. The public is invited.

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"The IRS and the Rackets"

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1924 Controversy Rekindled

Lost Zinov'ev Plate Revealed

By Gail Miller

In April 1969, an old vault in Langdell Hall yielded six glass photo plates containing the Russian language texts of the notorious Zinov'ev Letter, as well as what purported to be the secret minutes of an executive body of the Communist International.

The Letter and secret minutes are currently on display in the Treasure Room of Langdell Library.

William E. Butler '66, currently a Research Associate of the Law School and an Associate of the Russian Research Center at Harvard, has compared the plates with other versions of the Letter. He believes that they offer substantial support for the suspicion that the Letter was a forgery by persons still unknown.

The Zinov'ev Letter, for those whose recollection of Anglo-Soviet diplomacy in the 1920's is a bit rusty, created a sensation on the eve of the British general election in 1924 and contributed to the defeat and long-term eclipse of the Labor Government in British politics. Controversy immediately erupted around the authenticity of the Letter which Zinov'ev, the head of the Communist International, allegedly sent to the British Communist Party. The Letter instructed the Party to step up revolutionary activity among the masses and to penetrate the British armed forces.

The great importance of the discovery at Harvard is that until now a Russian text of the Letter has never been available. Indeed, many historians wondered whether there ever was a Russian text.

Butler first learned of the presence of "glass plates with Russian writing," in 1966, from Associate Librarian Philip A. Putnam. Butler was a student here, at the time.

An extensive analysis of the Letter, the secret minutes (in the same manuscript hand as the Letter and also believed to be a forgery), and analogous documents in the U. S. National Archives, prepared by Butler will appear in the January, 1970 issues of the *Harvard Library Bulletin* and *Soviet Studies* (Glasgow).

The authenticity of the Letter is still a thorny political issue in Great Britain. Only three years ago, sharp debates broke out in Parliament over the issue, but the British Foreign Office files remain sealed.

In 1924 Britain's first labor government sought re-election partly on the basis of achieving closer relations and expanded trade with Soviet Russia. A draft trade agreement awaited ratification, and the Zinov'ev Letter urged the British Communist Party to mobilize support for ratification because a *détente* in Anglo-Soviet relations "will assist in the revolutionizing of the international and British proletariat not less than a successful rising in any of the working districts of England . . ."

A text of the Letter received through British intelligence was released by the British Foreign Office only four days before the general election. The possibility of the defeat of the MacDonald government was turned into a certainty. The West was apparently confirmed in its suspicions that Russia was seeking to bring down Western governments by means of internal conspiracies.

"The Letter," Butler writes, "marked a *dénouement* in Soviet relations with Western Europe for several years and probably deferred United States recognition of the Soviet Union as well." While the British government has to this day maintained that the Letter was authentic, doubts began to arise very early when the Soviet reply to the British protest to the Letter called the Letter a "gross forgery" by persons who did not understand Communism. Zinov'ev himself denied any responsibility for the Letter. The

Soviet Government even tried to get the matter submitted to impartial arbitration, a move rare in Soviet diplomacy.

Since 1924 most historians have become convinced that the Letter is a forgery. The evidence is largely based on textual analysis of the English language text of the Letter released by the British Foreign Office. "To complicate matters," according to Butler, "no original copy of the letter in the Russian language could be located either in the Soviet Union or in England."

The spotlight of history has tended to single out a group of White Russian *émigrés* in Berlin and the Polish intelligence as the perpetrators of the Letter.

"While the case for the Letter's being a forgery is strengthened by the new discovery, there are conflicting details which require further clarification," Butler writes. "One possible explanation is that more than one group of people was endeavoring to disrupt the British government with a forged letter."

Butler concludes that the photo plates in the Law School Library "served as the basis for the English translation released by the British Foreign Office on 25 October 1924." The Harvard plates were probably the direct source of photographic copies of the Zinov'ev Letter which were mysteriously made available to Western intelligence services in 1924.

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Smuggled Art . . .

(Continued from Page 7)

seums, has the power of embargo. According to Louvre officials — the actual administrators — this power is rarely used.

One must obtain licenses for all art objects over 100 years old, and for all painting, sculpture and other works of art except that which is worth less than \$100, was created after 1920, or created by an artist still living at the time of export.

"License applications are sent to the National Museum which refers them to a 'Conservateur,' one expert in a broad category of art. The object is then sent to a central customs warehouse where the Conservateur inspects it.

"Hundreds of pieces appear for these once-a-week inspections in Paris. Of course they receive only a glance and are usually promptly approved for export," he said.

"What distinguishes the Mexican practice from both Britain and France is that the latter two retain only a few special items. The vast majority of export licenses are granted as a matter of routine," he added.

The 20th century has spawned an increasing interest in Pre-Columbian art, and contrabandists are accelerating their dealings. To Bator, present border controls can no longer be effective.

"One hopes that more nations would move toward something like the British system. They could encourage satisfaction of the market by legitimate trade, thus destroying the tremendous incentive for Black Market movement," Bator stated. "This could help assuage a really crucial problem."

In addition to its work on a UNESCO draft on the international movement of art, the panel is studying the feasibility of helping in the physical preservation of some of the major Mayan sites and monuments.

The panel members feel that foreign demands for Pre-Columbian art could be partially met by legitimate sales, international exchanges, loans and traveling exhibitions.

"Travel and research have been very informative and amusing. The work heightens my interest in art," Bator said. "The panel is really a good one."

But he has learned that no one system of art export is flawless.

"One of the best examples concerns a large, musty painting owned, but disliked, by a London securities firm. When a buyer appeared, the firm was glad to get it off its hands."

"Sold for under £2000, it did not fall under export control. Recognized as a Rubens by an astute art dealer, this 'Daniel in the Lion's Den' was sold to the National Gallery in Washington for a fantastic sum."

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Exams . . .

(Continued from Page 2)

who need them would die of shock. Grades are the candied carrot we all live for. And the work would deteriorate if they are abandoned. But abandonment might give law students a more broadly based intellectual background. It might make law more a discipline rather than a trade."

Gerber, however, points out that "law is a profession." And he further asserts that "this is not a school for reformers but for lawyers. Lawyers become reformers, but the best reformers are the ones who know that system perfectly. Change takes time and to effect change you've got to know the system perfectly. And even after a year's course you don't know it perfectly. We must know all the boring technicalities of the system before we can change it."

Supporting the traditional approach to legal study through the casebook and socratic method, Staples commented, "I don't think we're prepared to sit in judgment on what's going on in law school until we know how it works. A more philosophical approach, at this stage, is not going to be beneficial. That kind of thing is better suited to a third year program or to a graduate school in law. Philosophy is better left till later."

Yet the fact remains that some first year students feel that the traditional approach is too exclusively technical, for even Gerber maintains that more emphasis should be placed on study of the policy behind the law. "The law does not stand as the law, but just a fragile piecing together of divergent lines of policy."

To those who hold that philosophy and jurisprudence come later Wald stated, "Well, the trouble is they don't. After my second week here, I concluded that if this was the future legal talent of America, we're in trouble. People are so directed, so willing to learn the rules as written. We'll graduate a class of

Richard Nixons: people happy taking the law just as it is."

Yet many students are sensitive to a comment made by Gerber: "Three years with a romantic approach to the law wouldn't give a solid knowledge of the facts. And what would we have? Just a romantic idea and that wouldn't be any good unless you wanted to speak on a podium. but then people might get tired of listening to you."

But there is validity in Wald's contention that institutions represent a powerful force in shaping the aims and desires of those who work or study within them. And Wald makes it clear that he is not "downgrading legal training, just the unnecessarily trade school approach."

Many students seem tired of the monotony, of the routinization, of in Sam Cooper's words "the very impersonal atmosphere," or as Ellenberg phrases it "the boredom of doing the same thing every day." But, as Mel Wald notes, "Harvard towers over us all; the exams are no reform — just a new way of doing the old thing. It's just the ineluctable quality of the Harvard tradition that allows us all to gripe and to still believe that we're getting one of the finest legal educations in the country. The quality of the faculty is so good that it has an effect upon our willingness to tolerate, to muddle through."

Bok Sees Future

(Continued from Page 1)

student preoccupation with the imminent prospects of having to earn a living. "If so," he warned, "to reduce the curriculum might simply undermine the second year."

Proposals for increased specialization Bok said, "run into the problem that most students do not know the field in which they will specialize until after they leave law school. Moreover, such proposals often seem excessively vague and not carefully related to the ends they are supposed to serve."

The third model involves courses and practical work giving a broader range of the traditional lawyers' skills, such as negotiating, counseling, drafting and litigation strategy, as well as newer techniques appropriate to business and government problems.

This model, Dean Bok commented, is "traditional in its basic assumption that it is the transmission of analytic skills that has made law school most interesting, and most permanently valuable. It is also most forward-looking in that it seeks to identify the new analytic techniques that may be necessary for lawyers in the next generation."

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Room for Pats on HU Grid

By Jim Schuyler

Professor Paul Bator of the Law School has written to a member of the Harvard Corporation expressing his concern "and the concern of a number of my colleagues that the university take account of the community interest" in the present controversy concerning the leasing of Harvard Stadium to the Boston Patriots football club for their home games next season.

Fellows of Harvard College decided on Monday to uphold President Pusey's decision not to share the stadium with professional tenants. The university found itself unable to agree to the Patriots' request for the "temporary or long-range use" of the stadium since "no one has come forward with a long-term solution to the ball club's problem. There is no public or private plan to develop a permanent base for the Patriots, and no evidence to make us doubt the fundamental correctness of our position."

Pusey had taken that position in a letter sent to William Sulli-

van, President of the Boston football club, last Monday. Pusey stated, "The main reason for Harvard's reluctance to share the stadium with the Patriots is the fundamental incompatibility which results when professional and amateur athletic activities use the same facilities."

Bator, one of a number of faculty members who have shown an interest in sports, found the President's letter "unpersuasive." Although he concedes that he may not be aware of all the facts in the controversy, Bator believes that there should not be any fundamental incompatibility: "It seems as though a good lawyer could negotiate an agreement which would take account of this."

Pusey concentrated on the fact that "public support has not been forthcoming for financing a stadium which the Patriots could then rent from a public authority." Bator joins commentators, public officials, alumni and the general public, who believe the fact that others have not come forth to "bail out" the Boston

team should not conclude the matter.

Bator believes that it would be "a fundamental waste of resources for enormous sums to be spent on a second stadium." Further, Harvard Stadium may be the only one in the area that could be brought up to the league's minimum requirements (for seating capacity, parking, lights) in time for the start of next season.

It would seem that Harvard missed an opportunity to gain respect among elements of the community who have decried its arrogant, high-handed attitude. With the stadium unused most of the year, Harvard could have demonstrated a public-spirited attitude — at very low cost — by accepting the Patriots after negotiating a reasonable pact on rent, improvements in the stadium, and numerous other problems that would have to be resolved.

President Pusey identified several other drawbacks to entering into an agreement with the professional football club management. He felt that the use of the playing field would cause "a very serious problem of congestion in the Charles River-Harvard Square area." Finally, as the

(Continued on Page 15)

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Stadium . . .

(Continued from Page 14)

Harvard Corporation emphasized on Monday, "our playing fields are held in trust for the use of our students and faculty, and they are needed for these purposes on every weekend during the autumn."

Unless there is a private or public plan in the near future which might encourage Harvard to reconsider its position, it appears that the Patriots will be forced to leave the city that has rejected them.

Blacks Seek Equal Disciplinary Action

(Continued from Page 1)

in the protests have been initiated.

The Association, in a statement of position, said it is "outraged that the Administrative Board of the Law School has singled out five of our number to appear before them for disciplinary hearings."

It also said that, "It is disgusting that the Law School would stoop to such street-gutter strategy as 'divide and conquer' — disgusting, but certainly not surprising. We will not permit an attack upon five of our members when all were involved."

The statement denies the legitimacy of "the Law School's apparent kangaroo court." It said the objective of the Administrative Board hearings is not to determine the guilt of the five black

Bar Pamphlet

(Continued from Page 5)

tage that aspects of both large and small firms are present and also your desire to join a firm that will be growing in the future."

Then there's that tense moment in the interview when the interviewer asks you whether or not you have any questions. *Career Placement* conveniently lists those questions firms most want to hear.

For example: "What plans does the firm have for growing and adding members in the future? (indicates a desire to be in a mov-

law students but rather to determine the degree of presumed guilt.

"Such a farce," it continued, "is particularly offensive when it is noted that these are law students that are facing these contra-legal tactics at the hands of the administrators of the ultra-legal institution — Harvard Law School."

The statement also said that the real issue is not the guilt or innocence of the black students but rather the failure of Harvard to hire 20 per cent black and minority workers on its construction sites.

"Harvard pays lip-service to equality by condemning practices of racial discrimination, while at the same time practicing racial injustice by refusing to deal honestly with OBU's demands."

ing firm). . . . What is the starting salary and raises policy? (you should be interested in money to some degree). . . . What is the usual time of association before attaining partnership? (indicates ambition)."

Depending on the answer, you may draw attention to your own careful analysis of the situation. For example, when you ask whether or not attorneys receive an additional percentage for client work brought into the office, if he says no, then "you can approve on the basis that there will be less competition among the members, and a smoother running firm." If he says yes, then "you can approve on the basis that it gives the really capable attorney an added incentive and will help stimulate the growth of the firm."

In short, *Career Placement After Law School Graduation* permits the most bashful of law students to be a master of interviewmanship. It is of invaluable assistance to the student who seeks placement in a law firm which will respond to his own particular needs and aspirations in life. It is *must* reading for all law students.

Copies of the pamphlet are available from the officers of Student Bar Association: Richard Klein, Tom Crough, Anne Thornton, and Mark Goldowitz (all 1 L's).

Ames Winners

Club winners in the 1969 Ames Competition Qualifying Round were the following: Bruce Club, Learned Hand Club, Marshall-A Club, and Marshall-B Club. Kenneth Seminatore, a 2L in Learned Hand, was judged the best oralist while Rodney Page, a 2L in the Bruce Club, received honorable mention.

Page and Roy Meilman, also a 2L and in Bruce, tied with Richard Brautigam and Sharon Heberfeld, both 2Ls and in Learned Hand, for the best brief.

Marshall-B was judged the best club.

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