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TWENTY CENTS

Ralph Nader Funding Women's Law Firm With \$40,000 Grant

By Michelle Scott

Ralph Nader '58 has announced plans to provide \$40,000 to finance the formation of a five-woman law firm to focus on women's rights cases.

According to Mark J. Green '70, Nader's recruiter at Eastern law schools, the women's firm is one of three special constituency firms that Nader hopes to begin. A black lawyers firm and a firm for senior citizens are also planned. Karen Willner Ferguson '65, a lawyer with Nader's Public Interest Research Group, is heading the senior professionals project.

Green stated that Nader intends to make the firm entirely independent after six weeks. During the firm's initial six weeks, the women lawyers would study special areas and prepare reports on selected women's issues. Thereafter the direction of

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Open Meeting Draws Many, But Few Professors Attend

By Kermit Kubitz

Although billed as a discussion of "The Future of Legal Education at Harvard," the March 4 Ames Courtroom meeting was obviously expected by many of

more time was spent discussing whether there were any candidates for dean than topics involving legal education.

The meeting was chaired by Joseph D. Gebhardt, 3L, a mem-



Michael Poppone

Panelists Sonnenfeld, Simon, Gebhardt, Byse, Fried and Klein

the 400 students who attended to be a night of questioning faculty candidates for dean. Only a handful of faculty members were present, and as it developed,

ber of the Governance Committee, who mentioned that President Nathan M. Pusey and President-elect Derek C. Bok have not received much written opinion from students. He introduced three students and two faculty members who each gave five-minute speeches before opening the meeting to general discussion.

The first speaker, Ronald Simon, 1L, contrasted the faculty opinion that things are going just fine with his opinion that classes either put people to sleep or approximate open warfare. Not only did Simon not think the dean should be any person from the faculty, but the faculty should have no voice in choosing the dean. "The faculty are chosen by one criterion . . . how well they

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1L Small Courses Go Pass-Fail

By Richard McManus

The Law School faculty voted last week to allow first-year students, upon their request, to be graded on a pass-fail basis in their small group courses. The vote followed a heated discussion.

The students who wish to do so must submit the request in writing to their instructors by April 2.

The small-group courses are new this year, replacing *Development of Legal Institutions* in the

first-year program. The student composition of the groups continues the same as in the first-semester *Legal Methods Program* which, also for the first-time this year, incorporated the Ames Competition and was given for credit.

The Committee on the First Year issued a memorandum before the March 2 faculty meeting recommending that the small-group courses be graded on a pass-fail basis, as was the Legal

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Women

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the firm would be determined by its director and members.

While Nader expects that the firm would become self-supporting and would handle income-generating cases as well as public interest work, he hopes to be able to finance the firm into its second year, if necessary. Beginning salaries would be the standard paid to all Nader attorneys, \$4500, but these would be expected to increase when the firm becomes self-supporting.

Women law students in at least three law schools, New York University, Yale and Harvard, have expressed some reservations, and occasionally opposition, to Nader's plans. They have objected to his recruitment procedures and the plans to tie the firm to his projects for six weeks.

Last week, several women students meeting here with Green said they believed that the firm's director should first be selected and that she should be permitted to select her associates. Others objected to having a man recruit any personnel for a women's firm.

Green responded that he would

take their complaints back to Nader who he felt was already aware of some of their complaints. Green also said that if a director could be named soon, she probably could conduct subsequent recruitment. He further noted that the final job interviews were to be conducted in Washington, D.C., by Nader and a woman attorney.

Supporting Nader's association with such a project, Green emphasized the assistance Nader could provide. "His expertise in dealing with agencies and the media would be available," he stated. "My assumption is that the people in the firm would be free to exploit his contacts."

Green assured the women that the firm would not be tied to Nader's consumer orientation. "It's going to be a women's law firm," he said, "dealing with women's rights."

While Green did not think Nader had consulted with women's rights specialists nor talked with women's groups, he took a list of women attorneys whom the women students urged Nader to consult.

Green said that no one pretended this would be the first women's law firm, but added "I don't like the idea that there's a seniority system in the reform movement. I don't think everyone who has an idea or wants to do something has first to check it out with everyone who's been there before him."

According to Green, the firm should be organized by this summer and that in addition to permanent positions, there will be summer jobs for women law students.

Professors

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Methods course, unless a student specifically requested grades.

The committee's memorandum gave three reasons for its recommendation of pass-fail grading: "(1) close grading is not consistent with the kinds of relation-

Plan to Ease Present Confusion

ships among students and between students and teacher that there should be in the small-group courses; (2) grades are unnecessary as an incentive to work because students' performances in class and written assignments are highly visible and are closely supervised; and (3) in some cases, students are asked to express highly personal views, which grading might inhibit."

The memorandum reported that many first-year students have expressed dissatisfaction with their small-group course, either because the course assigned was not the one of their choice or because they had been held to their original choice after a change of heart.

Furthermore, the memorandum said, confusion and/or a belief that the courses would be graded only on a pass-fail basis was "widespread" among students and several faculty members as well.

The proposal was amended during the meeting to place the burden on those students who preferred pass-fail rather than grades to make the request.

In "unofficial minutes of the faculty meeting," circulated the next day by students who had been in attendance, it was apparent that opposition to the proposal developed across a traditional range of views.

Professor James Vorenberg's contention — according to the minutes — "that the faculty would be 'letting down the great bulk of our students' who look to

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State Opposition to Pass-Fail Grading

them to set rigorous standards on which they could rely" was met with Professor Frank I. Michelman's rejoinder "to the effect that the 'great bulk of students' were telling the faculty they had made a mistake."

The minutes stated further that Professor Alan M. Dershowitz came out against pass-fail, pointing to what he saw as the primary function of the school, differentiating between students. Professor David L. Shapiro, while leaning towards the pass-fail option, abstained from voting, but noted the irony that a student performing well in these courses should want to pass up the useful feed-back of a grade.

Professor Louis L. Jaffe opposed the recommendation as es-

entially a political move to undermine the grading system for the basic courses. Professor Paul M. Bator — while agreeing in principle with Professor Vorenberg, according to the "minutes," "that this would simply be another step in the depreciation of intellectual rigor" — also felt "that 'the horse might already be out of the barn.'"

Professor Milton Katz spoke in favor of the original motion, urging that the educational purposes of the course, given its special nature, could best be served in a pass-fail environment. But he and others reasserted their underlying commitment to grades in the basic courses.

Acting Dean Albert M. Sacks was reported as registering con-

flict "between a recognition that a removal of grades from these courses might prove pedagogically beneficial and a fear that the quality and seriousness of the work might diminish."

The amendment which finally carried the day over the original proposal was introduced by Professor Detlev F. Vagts, leaving the seminars as graded courses with the burden shifted from those who preferred grades to those who would rather be graded pass-fail to so indicate.

However, students who now decide to receive grades will still have the later option of having them reported pass-fail if they subsequently choose to have *all* their courses so reported.

Group Plans New Drive for Grade Reform

By Lavell L. Jackson

A group of approximately thirty law students, composed mostly of 1Ls, met in the Wheeler Room in Holmes Hall on March 4 to exchange ideas on grade reform.

For the past five years, each first-year class has been somewhat "radical" in its approach to grades, but the momentum usually begins to pick up in the *first* months of the school term. Over 200 1L's attended a similar meeting in September 1969 to discuss grade reform. (See RECORD October 2, 1969.) That was followed by a general meeting in which faculty members indicated their individual opposition to the suggestion of mandatory pass-fail. (See RECORD, October 23, 1969.)

This year, on the other hand, Harvard Law School's academic tranquility has been preserved. The meeting in Wheeler was the first sign of radical activity.

Conspicuously absent from the meeting were many faculty members. "They feel they discussed the issue of grade reform thor-

oughly two years ago," explained an unidentified speaker. Most students present felt the faculty would not endorse a compulsory pass-fail system because of what was labeled the faculty's "hair-splitting."

One student complained of the "inadequacy" of any grading system under which a student who finishes number 50 in his class may not be a better lawyer than a student finishing number 450 in his class.

Of critical concern to the stu-

Group Prepares 'Insidious Militancy'

dents was their belief that concentration on grades militates against outside activities such as CLAO, CR-CL *Law Review* and other outside interests, leading Harvard to graduate academicians rather than lawyers. Students felt the tools of a lawyer could be better activated from feed-back and the writing of

briefs for CLAO and other public interest organizations.

The group was unable to reach a consensus on what tactic to employ to implement their ideas on grade reform. To give the group direction an unidentified 3L told the group "the most effective weapon would be to strike. If you can get 50 to 70 percent of the students to stay away from classes twice a week the faculty would have to respond." Barring that, the 3L suggested, students should hold their blue books for safe keeping in a safe deposit box.

The 3L's ideas were rejected as extreme and impractical, but the group did agree to employ what was dubbed as "insidious militancy" to direct their activity with militant force, but not to be obvious targets. It was decided that the flyer *The Trouble with Grades* would be updated and disseminated among students, in the hope of gaining support before April's spring recess.

The Trouble With Grades was originally distributed two years ago by the grade reformers of the present 3L class.

Garbage Specialist Liebman Dribbles

By Robert McGaw and
Nick Akerman

Running his fingers back through his tousled hair and looking up through wire-rimmed glasses, Assistant Professor Lance M. Liebman greeted us as he hung up his phone.

"You caught me in the process of setting up this afternoon's team practice. When I came here only Derek Bok was playing basketball," he began. "Already I've recruited three others — Dershowitz, Ely and Heymann. We're getting pretty tough, too, considering the fact that Heymann has absolutely no hook-shot, Dershowitz isn't too tough under the boards and Ely plays about as well as you could expect someone from Yale to play. We're improving and we expect to be able to take on the teaching fellows soon."

Although he claims to be more of a spectator than a participant, Liebman readily admits "athletics is the thread of consistency that runs through my life."

At Yale, where he earned his A.B. *summa cum laude* in 1962, Liebman, in addition to being chairman of the *Yale Daily News*, played in the Liberal Basketball League. "'LBL' we called it. After we finished the day's edition of the *Yale Daily News*, about midnight, we would play basketball in a Saybrook College squash court that had a basketball hoop at one end," he recalled. "About eight of us played regularly. After playing basketball, I'd sleep until noon since I had found an academic program requiring only one class meeting per week. The LBL lasted two seasons and died after we graduated."

After Yale, Liebman earned a degree in 18th Century English History at Clare College in Cambridge, England, as a Mellon Fellow.

"In Cambridge, I was not very active in sports although I did play rugby three times and so

qualified to wear the team's pink and green tie, which is well respected over there. Here, people don't notice. I wear it from time to time though," he said. "The team was known as the Unemployed XV. I also rowed in a terrible boat that could barely make it up the river."

[We refrained from asking Liebman if his rowing colleagues gave him his crew socks — gray, the top of each rimmed by a half-inch of faded turquoise.]



Charles Soberman

Assistant Professor
Lance M. Liebman

In 1964 Liebman enrolled at Harvard Law School where he found less time for athletics with the demands of studying and *Law Review* work. He decided to go to law school for the familiar reason — "it left open more options than anything else I could think of."

"Law school was not very funny," Liebman noted. "But I do recall once being called on in Charles Fried's class the day that my parents were in the back of the room. After I finished answering, Charles sarcastically said, 'Very good, young man,' and my father thought that was a compliment."

"Students today seem about the same as they were when I was a student. There does seem to be

less competition. I like it better this way."

On his social life at HLS, he hedges, "I was married while I was in law school so I won't comment on my social life."

Liebman's wife Carol, Wellesley '62, works for the Lawyers Military Defense Committee which has three lawyers in Vietnam counseling court martial defendants. She is coordinating much of the stateside administration for the committee which is directed by Professors John H. Mansfield and Charles R. Nesson.

After law school, Liebman clerked for Supreme Court Justice Byron "Whizzer" White whom Liebman describes as the "leading athlete among judges or the leading judge among athletes, as you like."

"While I was a clerk with Justice White I played quite a bit of basketball, a qualification he requires of all his clerks. Also when we clerks played basketball with him, we had to let him win, which would happen anyway. We clerks would play by the rules."

On the wall of Liebman's office are two autographed photos of his next boss, New York Mayor John V. Lindsay, who hired him in August 1968. "I was appointed executive director of the Mayor's Urban Action Task Force which was a thinly disguised effort to build bridges between the Mayor's Office and the middle-class neighborhoods which had felt ignored during the first three years of the Lindsay administration," Liebman explained.

"The Task Force established a network of neighborhood offices to give the people a place to go with their problems rather than having to go to the City Hall. This also gave the Mayor a good excuse to venture into Queens and Brooklyn to meet the voters during the spring and summer preceding the mayoral election. In the fall, I was assigned as the Mayor's chief traveling companion since I was supposed to be

Way To Property and Poverty Law

an expert on the neighborhoods, particular local problems and their concerns."

Liebman also joined the Mayor's athletic activities. "Lindsay likes tennis. He is in remarkably good shape for a man his age," Liebman observed. "My picture once appeared in *Time Magazine* in a large group playing touch football on the lawn of Gracie Mansion.

"The Mayor is the type of person who doesn't like to be a spectator, he wants to play. During the election, we would take him to Mets games about three times a week. Part of our job was to try to keep the Mayor quiet while he watched the game, or else he would reveal his utter ignorance of the difference between a home run and a relief pitcher.

"I hope and expect that the Mayor will change parties within the next few weeks so he can qualify for the California primary. California has a rule requiring one to be a Democrat for at least one year preceding the deadline for filing for the presidential primary."

After the mayoral election in 1968, Liebman worked at the VERA Institute for Criminal Justice where he did work on solid waste disposal and cable TV. In the field of garbage — Liebman's *forte* — he tried to develop an experimental compacting system which "did not turn out to be very successful, but at least at one time I was the world's foremost authority on garbage."

From the world of garbage, Liebman made his debut this past fall at Harvard Law School, teaching *Property* to 1L Section II.

On selecting a new dean for the Law School he said, "It really makes little difference who is dean. This is a strong institution with lots of momentum and much internal strength. I suppose it's a good thing to get the students' views on the choice of dean. The

worst thing would be to let the faculty have the power to select the dean."

Regarding the future of legal education at the Law School, Liebman feels, "The Law School should do a better job of preparing students who plan to spend part of their life working in the public sector. Many students will end up in government or public life in one form or another. Even in private practice, what lawyers do in their community will sometimes be of more benefit and more importance than what they do in their law offices. Our education doesn't pay much attention to this."

He does not, however, place all the blame on the Law School.

"Students talk a lot about this public service aspect of their careers, yet they don't take advantage of the opportunities available to them to cross register in other parts of the University."

Practicing what he preaches, Liebman is developing a course, *Law and Poverty*, which he plans to teach next year. "This course will emphasize the political processes of change more than the judicial processes of change. Judicial remedies alone can't do much. The judiciary is interstitial and has a basically negative role. Courts can say what can't be done, but it is hard for them to say what should be done and order the change."

Simpson Processes Applications

By Kermit Kubitz

Several hundred applicants to Harvard Law School were notified that their transcripts had been forwarded by the Law School Data Assembly Service in October, and discovered in January that the computer processing their applications had not done so.

In addition, the Educational Testing Service which initiated LSDAS, underestimated the manpower that processing transcripts would require and has been slow in getting the flow of information out to law schools. However, according to Russell A. Simpson, director of admissions, the ease of processing the applications provided by LSDAS means that, "It hasn't slowed us up at all."

College seniors send transcripts directly to LSDAS, take the LSAT, and LSDAS provides each law school indicated by the applicant a cover sheet summarizing his academic record, test scores and marital and military status. Increased efficiency is supposed to allow a reduction in the costs of handling applications, and thus reduce application fees.

As competition for law school admission increases, the new service will make multiple applications easier. Since LSDAS will know where a person applies, it will be able to provide schools with information as to student rejections which was unavailable before.

At Harvard, however, the data assembly service cannot affect several basic axioms. If you want to get in, apply early, and if you are on the border, have an interview. Harvard does not require interviews of its nearly 6000 applicants, but every interview does become a memorandum in a student's file.

And if you are accepted, and want to preserve your option, register and become a student for at least one day. Because of changing admissions standards, often a person admitted one year who turns to civilian work or enters the army before registering will not be readmitted.

The Admissions Committee has designated certain objective standards above and below which Admissions Director Simpson has discretion to admit or deny. Of

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Meeting Draws Critics But Few

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did at Harvard Law School," said Simon.

The next speaker was Professor Clark Byse, who, although tempted to reply, restricted himself to a prepared text. Professor Byse had the opinion that the Law School was, "if not like Abu Ben Adim, leading all the rest, certainly second to none. Over the years the school has performed a vitally important social function: training young men and young women to be craftsmen of the law." Byse revealed that the last time a dean was to be selected his letter to President Pusey called for "vigor, flexibility, a willingness to experience diverse views, pluralism." Professor Byse recognized that students were idealistic ("thank God") and that their opposition to an immoral war and minority discrimination demanded reform as a minimum and aspired to revolution as a maximum.

In contrast, Byse suggested that the faculty has three tenets. First, there must be a constant process of renewal. Second, students should have a role in the process. And third, the process must be evolutionary. His own conclusion was that the institution is fundamentally sound, "and I do not want to risk damage by fundamental change."

The Law School is an academic enterprise, and it has worked, concluded Professor Byse, listing the changes that have taken place in the last five years: more minority students, second-year electives, the second-year writing program, cross-registration, joint degree programs, the legal methods course, clinical programs, student participation on committees and others. "That this institution is morally bankrupt I unequivocally reject."

Richard D. Klein, 2L, followed with the statement that listing adjectives to describe a new dean accomplished nothing at all. Students wanted to question candidates on their views, but were

told by Professor Abram J. Chayes that the members of the faculty at the Law School don't disagree with each other publicly. Klein said, "The faculty is used to playing God," and quoted an article from the RECORD, as proof of the uniformity of faculty views.

Asking, "Is this a dean who's responsible to us?" Klein read excerpts of Dean Bok's speech to the American Bar Association which suggested that students in recent years have not changed their goals and still go into traditional fields of law. Klein characterized it as Bok's apology to the ABA.

Professor Charles Fried opened by saying he would not comment on selection of a new dean and proceeded to make the most forceful comments of the evening on legal education. Professor Fried questioned whether legal education could and should be located in the university, whose purpose is deepening and broadening knowledge.

The Law School, Fried claimed, is constrained by what every bar in the nation requires, three years of law school and a minimum number of hours of course work. Fried saw the same dissent expressed in the meeting, "in smaller law schools, schools with clinical programs, graduate schools, colleges and high schools. There is a real possibility that our society is requiring young men and women to serve time too long in institutions of higher learning."

With dissent in mind, Professor Fried hypothesized three limits on change. First, he doubted the Law School should be maintaining a place for emotional growth. Second, clinical education must feed into the university's purpose. Third, the school should not become a force for political and social change, unless required by the university's widening knowledge.

Marc J. Sonnenfeld, 3L, cited Martin Meyer's *The Lawyers*, in which Warren Seavey likened

legal education to herding sheep. He also provided an excerpt from the 1930 *ABA Journal* to the effect that law students are sustained through the misery of law school by the hope of practice, and quoted Karl Lewellyn's *Bramblebush*, "It's not easy to turn human beings into lawyers."

Sonnenfeld continued, "The purpose of the Law School is to train students to use tools of rigor and analysis to solve problems in developing legal areas."

In the discussion period, members of the audience attacked the meeting as a digression from its

Gebhardt Calls for

To the Editor:

As moderator of the meeting on "The Future of Legal Education at Harvard," I wish to make a few comments concerning where the meeting leaves all of us, students and faculty.

The impression I got sitting in the moderator's chair was one of students airing their desires for a great deal of change at the Law School while a handful of faculty sat patiently through the meeting bearing the brunt of the criticism aimed at the institution. This is not to say that Professors Byse and Fried were not eloquent or passionate in defense of the basic course and direction of the Law School over the past few years, for they were.

But on the crucial issue of the day—what direction the School will take in the near future—almost every student speaker, out of some 400 attending, registered highly critical views on the amount of inaction on making fundamental changes in curriculum offerings, classroom techniques, grading, placement opportunities and the Law School's role in the outside world.

These views came not from a small segment of the student body, but from the 400 students who are still willing to attend meetings when they see little avenue for accomplishing anything.

What was most distressing to me as student and moderator was the conspicuous absence of President

Faculty

original purpose, attacked the concept of legal education as value free and expressed discontent with evolutionary change.

Conn Nugent, 1L, said students were bored to tears, courses were irrelevant and the school was a feeder to corporate law. Nugent proposed two clinical courses per student per year, or election by students of the clinical rather than the Socratic method for all three years.

Alice Ballard, 1L, asked for faculty to identify themselves, and nine or ten raised their hands. Kenneth G. Hausman, 1L,

claimed none of the faculty members "know what it is in 1971 to be poor. The university is not an academically neutral university." Hausman said the views expressed in unofficial minutes of the March 3 faculty meeting shocked him, "especially those of some of the professors I believed in."

Professor Fried, in reply to a question whether legal education has not a future, but a present, replied, "Some of what goes on here is boring. Even a sultan in his harem. . . ."

Beginning an acrid exchange, Weldon Brewer, 2L, editor of the *Outlaw*, said, "Harvard Law School already is a political base

supporting the corporate structure of this country. Sins of omission by the faculty allow this to continue."

Professor Byse took exception to Brewer's implication that faculty members who advocate evolutionary change could not be trusted.

Professor Byse said, "I try to keep value systems out of classes. I try to develop in first-year people a sense of craftsmanship to be used however they wish. . . . I would think it a shame if no person of idealism and decency would go to Wall Street. . . . I reject the suggestion that we are part of the military-industrial complex."

Saul A. Schapiro, 3L, saw this meeting as another where people get bored stiff, walk out and nothing is done. "This school is value-free. In this society, that's a sickness. . . . Any talk of justice is put down as naïveté. Minutes of the faculty meeting show that anything that comes out of the faculty is intellectual rubbish. This place is a death trip. This school drives people out of it." Schapiro claimed the meeting was in bad faith, having been manipulated away from its original purpose.

Professor Chayes said he resented charges of bad faith and that the 'candidates night' had been rejected because it was not an appropriate way to conduct the inquiry.

During the evening, Margret N. Kniffin, 2L, a member of the Governance Committee, had reported that President Pusey said he would rather have one suggestion of a person he hadn't thought of than 200 recommendations of a person he had considered.

The meeting started after eight o'clock, and people began drifting out at nine-thirty. By the time Gebhardt limited the meeting to two more questions, about 70 people were left. Gebhardt concluded with a statement that the selection of a new dean, or consideration of an outsider, which was a main concern of student speakers, could be effected if students mounted a writing campaign.

United Student-Faculty Deanship Search

Pusey, President-elect Bok and many of the most prominent members of our faculty—some of whom are being mentioned as possible successors to Mr. Bok. It is impossible to record or relate the sentiments and feelings expressed by the students attending who are really concerned about the quality of the School, their own experience here, and what many perceive to be the downward drift of Harvard Law.

In one sense, President Pusey, our former Dean and some of the faculty lost by not attending the meeting. And in another sense, the student body, whose views have not been taken at all seriously enough, have lost.

It is not enough for the faculty to pull together with the student body only when there is a red-hot crisis brewing at hand. Dialogue between students and faculty and the generation of feeling for saving "the Law School community" need not be exclusively the result of a communication breakdown or a rupture in the community based on different attitudes and beliefs.

Sure, more students should have taken the opportunity to attend; but it was not too much to expect the faculty—among them, those who have been mentioned for dean—to make a good show, and thereby support and not embarrass Dean Bok's potential successors.

The two points that concerned students have made since Dean Bok's

elevation is (1) that the new dean should not only be sensitive, receptive and responsive to change, but an effective innovator in his (her) own right and (2) that student views have some impact in the decision-making process. In my view, these things are not too much to ask. In fact, if the School is to remain a leading educational force and not drift downward, these requests must be heeded and implemented.

It takes a good deal of effort to make a student and faculty community as large and diverse as ours work. For ours to work in the future, we need a vigorous and aggressive new dean. It is still not too late at least to search outside our faculty for a new force to direct the School's educational effort. It is not too late to appoint a student-faculty search committee, as Stanford recently did. It is not too late to rethink Harvard Law School objectives and formulate priorities for the immediate years that lie ahead. We need not be bound by the horrendous result of the March 4 meeting, with its dissipation of energies and unresponsiveness to deeply felt concerns.

For the Law School to survive as a leader and positive force in society, we all—students and faculty—must pull ourselves together once again and take this business of selecting a new dean seriously.

Joseph D. Gebhardt, 3L
Governance Committee

Court Requires Equal City Services

By Jerry Snow

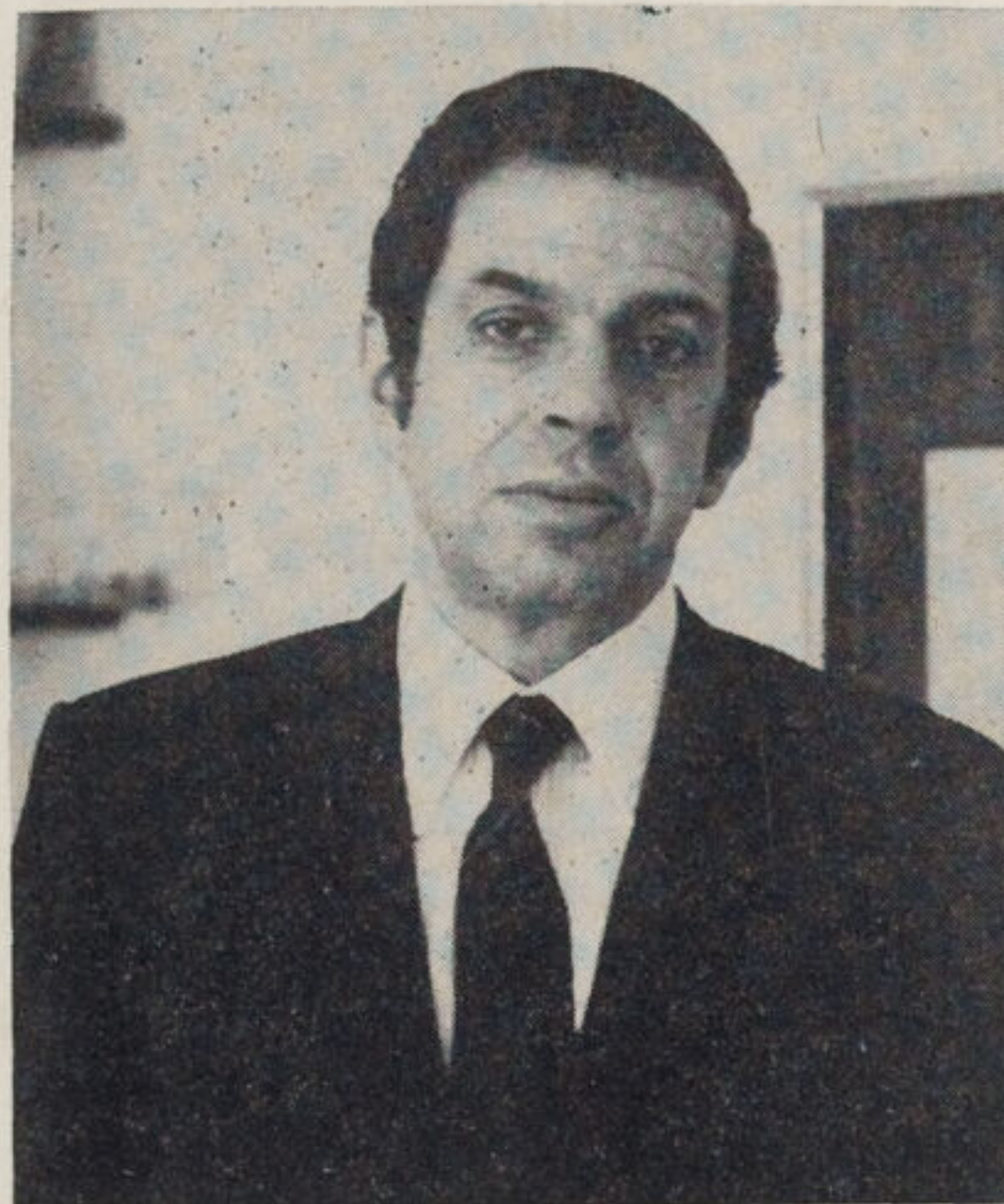
A recent Appeals Court decision in the South — widely hailed as a possible landmark ruling in its significance for Black America — may ultimately lead to the elimination of that ubiquitous feature of the American scene, "the other side of the tracks."

In *Hawkins v. Town of Shaw*, a three-judge panel of the 5th Circuit has ruled that the town of Shaw, Mississippi (pop. 2,500), barring a showing of "a compelling state interest" to the contrary, must administer its municipal services in a uniform and non-discriminatory fashion. Until now the town's 1,000 whites have held a virtual monopoly on sewers, modern street lights, paving, and other public services that has served to isolate the black section of town.

No longer. Not in Shaw, Mississippi, and perhaps, not in New York City either. Municipal services will be shared and shared alike. At least, such are the far-reaching implications of the decision. But they will be met with

some extremely difficult questions.

As *The New York Times* asks in its February 7 editorial, does this mean that New York "will have to pick up garbage as thor-



Charles Soberman

Professor Charles M. Haar

oughly and frequently on upper Park Avenue as on lower?" Will court enjoined equality mean "equalizing down, not up," given budgetary constraints? "Would a gigantic investment in Harlem evoke a lawsuit on grounds of neglect from the residents of Astoria?" Would one section of town be entitled to the same ratio of patrolmen as another section?

Professor Charles M. Haar, nationally known expert in land-use planning and urban law, and Daniel W. Fessler, both of the Harvard-M.I.T. Joint Center for Urban Studies, collaborated on an *amicus* brief in the case on behalf of the appellants.

The essence of the appeal, Haar emphasized, was to *shift* the burden of proof, so as to require that once "an unrebutted *prima facie* case of racial discrimination" in the provision of municipal services has been made, the state or municipality must demonstrate a constitutionally acceptable rationale for such discrimination. Lack of discriminatory intent would be irrelevant under the

14th Amendment. This has the effect of "making broader the theory of the Equal Protection Clause."

Countering the *Times*' misgivings, Haar expressed the hope that courts will address themselves to lopping off extreme abuses. The ruling in *Shaw* is much more likely to find application in the South than in the North, he added.

The crime rate in an area, Haar noted, is certainly one among other factors that should influence distribution of police protection, rather than arithmetic considerations.

While money may be scarce, and federal-state revenue sharing may prove necessary, such money as is available should not always be poured into white sections of a community. "We can't let the Shaws and Harlems fall apart because we don't have enough money," Haar said.

Obviously, as to priority of various services, some trade-offs will have to be made. It may be desirable, for example, to pay teachers more at the expense of better garbage collection, Haar suggested.

Whatever the practical difficulties inherent in the working out of such questions, the *Shaw* ruling "could have the same importance for reforming inequalities in public services as the 1954 *Brown* case did in the field of education," Haar concluded.

Harvard Law School

FORUM

*The Role of Sports
in American Life*

* Howard Cosell

* Michael Burke

* Johnny Sample

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Litigation-Style Class Proposed

By Bob Junghans

The Socratic method has been taking a buffeting from all sides lately for reasons that range from "new methods are necessary to train the new activist lawyer" to "something must be done to overcome the undignified slow fatigue that seems to drift through the Law School."

In the last year or two, students in *Collective Bargaining*, *Race, Racism and the Law*, *Business Planning*, *Tax*, *Administrative Law*, and *Local Government Law* have experienced different approaches as individual professors broke through the barriers which 50 years of tradition have erected around the Socratic method.

Now a group of students has offered another proposal for change, and the Committee on Legal Education has been sufficiently impressed to take the proposal under its wing.

The purpose of the proposal is to make available an alternative type of course work during the second year, one that involves students in litigation-type assignments and demands more versatility in the role of the instructor.

"We are asking this committee," concluded a synopsis of the proposal, "not just to tamper with the marginal parts of one or two sections of one or two second-year

Not Just Tamper But Create New Law School

courses, but to acknowledge that the innovative attempts of professors . . . can be organized, detailed and refined into an alternative law school. We would acknowledge that Socratic teaching serves as a best possible solution for some students and some courses, and ought to remain, but we propose that 'simulated' teaching is an equally valid model."

As the conclusion states, there are some fields which do not seem

to lend themselves to the problem-oriented approach of the proposal, courses which focus on the historical, comparative or jurisprudential aspects of law.

"Once beyond those, it seems to depend upon how the individual teachers see the subject," said Professor David L. Shapiro, a member of the Committee on Legal Education who has expressed particular interest in the proposed change.

If the proposal is to come to fruition it will be through the individual willingness of faculty members. The committee has been approaching members of the faculty, but, according to Shapiro, the returns are not complete enough to state any conclusions. "I would hope we will have enough information by spring registration to disseminate at least some hard facts about prospects for the proposal," Shapiro said.

In the words of the proposing group, headed by John M. Isaacson, 2L, this is the crux of the proposal:

One section of 50 to 100 students, of a popular second-year course, will divide into "firms" of five or six students. These "firms" will remain together throughout the course.

In the first class a written hypothetical is presented, along with a bulk casebook assignment and any appropriate supplemental material. Each firm is assigned to one side of the issue. The hypothetical is closely related to the topic covered by the assignment but contains a fact situation novel enough to escape any clear legal precedent. The course allows no outside reading until the issue has been decided in moot court.

Within the next two or three weeks each firm fashions a legal strategy. Ultimately it writes a three-page collective brief which is to consist only of a succinct outline of the issues, their possible resolution, abbreviated evidence

from the record and annotated casebook or supplementary materials. The entire firm appears for its scheduled trial with all members responsible for oral argument. The judge (professor or teaching assistant) chooses the oralist at will.

In the week following oral argument the course returns to the

Proposal To Reduce Normal Class Hours

classroom for three one-hour sessions. Normally there would be two debriefings to air varied strategies and hindsight and one more lecture-like commentary from the professor. Debriefings and lectures would coincide with the first week of work on a new hypothetical.

The schedule, of course, would remain flexible, with the professor lengthening or shortening the time periods as he sees fit or perhaps assigning another, similar hypothetical in a particularly contentious area.

In theory, this system would eliminate about two-thirds of the normal classroom hours. It would teach substantive casebook law through student group work. The faculty would adopt a completely different "critical" teaching role that only begins once students have constructed their own version of the law.

"The student actually becomes a part of the problem," noted Shapiro. "These projects can achieve that which is hard to realize through general discussion. Of course, doing this in a lot of courses might be difficult because of the time commitment, but I definitely think it is an option that should be made available. Speaking only for myself, I think this project-type approach can make a useful contribution to legal education, but it must go hand-in-hand with the regular casebook method."

The Absent Professors

Last week's open meeting on "The Future of Legal Education at Harvard" was originally publicized as an attempt to draw out student opinion and to afford students an opportunity to participate in the direction of the Law School.

The 400 students who attended were given the chance to express themselves publicly on the course the School should take in selecting the new dean and in planning its future. But the failure of a significant number of faculty members to attend the meeting denied students the promised occasion for being heard and moreover denied them the benefit of hearing a representative faculty response to their views. The idea that the faculty would discuss the meeting at lunch the next day does not satisfy students who understood the meeting was designed for the purpose of student-faculty dialogue and not just scheduled to provide students with an occasion to let off steam into a vacuum.

Since the Governance Committee planned and titled the session so as to avoid the possibly embarrassing format of a "candidates night" for those mentioned for deanship, students were justifiably disappointed that not only all those widely considered possible appointees, but at least 75 per cent of the School's professors absented themselves.

In arranging the open meeting the Governance Committee either failed to set a date convenient to most of the faculty or failed to impress faculty members with the importance of attending and participating in the discussion. Or, assuming that those sensing themselves under consideration for the deanship might be excused their reluctance to appear "running" for the post at an open forum, then there are simply far more professors who see themselves as "candidates" than anyone had previously imagined.

If the Governance Committee foresaw minimal faculty participation, it should never have scheduled the meeting because the poor faculty attendance demonstrated disinterest in student views and injured student-faculty relations.

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Fenno

"How was your trip, Fenno?" said Bunky as we wandered through the now deodorized Hark.

"Great, just great," I replied. "At least it was until I got back. Then everything went wrong."

"What happened? Did Lucky Louis schedule Saturday make-ups for the next three weeks?"

"Not that bad," I cringed. "I'd just gotten back on Friday and as I walked past Langdell Hall I was nearly trampled by the grademongers fleeing Ad Law at the break. You'd have thought that Gloria Steinem was saying 'yes' to everyone!"

"Yeah," said Bunky intelligently. "It's amazing how hard a quivering mass can hit you."

"And then I got the real bad news . . . no more basketball. And just when I had got the Five Flingers worked up to a fever pitch . . . we really would have hurt somebody our next game. Oh well, there's always next year and the hopes of a new commissioner."

As I bought a melted Milky Way at O'Connell's store and smiled at the checker with no response, I remembered: "And then there was the take-over on Memorial Drive. I'm telling you, Bunk, they're gonna feel that male backlash pretty quick. If Harvard hadn't cut off the phone service they'd probably still be in there."

"But don't get me wrong. I'm sympathetic with many of the demands that they're making."

"Take the day-care center demand. I'm all for that. But I think a much better place to set one up is in a faculty suite with Areeda, Freund, Mansfield and Ely. . . . I'm sure that they'd look forward to the clinical experience before going into practice for themselves."

"But I'm not so sure about this self-defense thing. At least it may lead them to physical violence rather than the sneaky tactics they've employed in the past. Before you know it they'll be promoting the first professional fight between women. I can see it now . . . *Martha Mitchell vs. Bella Abzug* for the light heavyweight championship of the world."

"Shh. Not so loud, Fenno. People will think you're a Young Republican."

Letters to the Editor of the RECORD

Faculty Tardiness Dismays Goldowitz

To the Editor:

I was shocked and dismayed to learn that seven members of this august faculty have neglected to meet the deadline for publication of grades. We have all noted with approval the thoroughness with which the Ad Board has acted in the past as the guardian of this institution's morals in respect to the meeting of deadlines. (*E.g., cf. Goldowitz v. Ad Board*, 1970, appeal pending (RECORD Vol. 51 No. 10).)

In light of the awesome position of responsibility held by members of this faculty, the exemplary power of such status for students and the outside world (if the HLS faculty refuse to respect punctuality, who will?), and the consequent precedential importance of this case, I anxiously await the Ad Board's recommendation of swift justice for the seven offenders.

Firing? Loss of tenure? Loss of secretarial privileges? \$5000 fines? Writing 1000 times "I will meet all future deadlines"? Or perhaps the Ad Board will show more mercy to the seven than past justice would indicate.

Mark Goldowitz, 2L

Discrimination Hurts Black Semite Muslim

To the Editor:

In the February 4, 1971 issue of the RECORD I have read with immense concern Charles Hodge's plight. It only goes to show that most of us have the eyes but cannot see.

As an immigrant to the United States, I believe that these injustices must be corrected without any further waiting. There are so many things we do not see because we have never bothered to look at our seeing. When is it that Harvard hired the first black man in a supraclerical capacity; when was a Negro given a semi-executive position at Harvard Law School. All this has happened recently and non-negroid Blacks are still very much excluded.

I am a HLS graduate myself; and in fact the youngest Harvard man listed in *Who's Who in America* and *Who's Who in the World*, and, I am registered

with Harvard Law School Placement Bureau for last four years and even though I am willing to accept even a 4-figure salary, provide highest references, I have not even been interviewed. My crime is that I am a Black Semite Muslim born in Pakistan.

Often I have wondered why is it that before 1969 nobody thought of the possibilities of a Negro being worthy of possible consideration for appointment as assistant dean at our Law School. This can provide a lot of food for thought. And something must be done to change the previous, tokenism and show-business oriented part-time liberalisms. We cannot ignore the facts of life by closing our eyes.

And the beauty is that you won't even publish this letter because the realization of truth is so bitter and so unfashionable.

Syed I Iqbaal Geoffrey '59, LL.M. '66

Marine Attacks Hysterical Hernandez

To the Editor:

On February 11, page six, your associate editor, Bob Hernandez, published a review of a book on G. I. Rights and Army Justice. Fair adjectives to describe the review might be "hysterical" and "impractical."

May I have the same two pages to review Bob? The right of counter-punch is mine, as probably the senior Marine to come out of the Law School, but, in addition, my Marine Corps Commission dates from 1934 and was secured through another classmate while I was at the school.

Arnold S. Dane '34
Bri. Gen. USMCR (Ret.)

(Continued on Page 13)

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Law Notes

The Harvard International Law Club will present the final three programs in its luncheon seminar series on March 17, 24 and 29.

On Wednesday, March 17, Professor Richard R. Baxter will discuss President Nixon's proposal to ratify the Geneva Protocol on Chemical Warfare. Prof. Baxter will testify in the U. S. Senate later in the month concerning the pending American ratification of the 1925 convention.

Professor Abram Chayes will be joined by George D. Shelly, Jr., assistant corporate counsel of United Fruit Co., and J. Alan McKay, assistant general counsel of Cabot Corporation, in a discussion of "Career Opportunities in International Law," on Wednesday, March 24.

The series will conclude with a talk by Professor Milton Katz, director of the International Legal Studies Department, on "International Pollution Control," on Monday, March 29.

All meetings in this series take place in the Mallory-Smith Room of Harkness Commons. Programs begin at 1:30 p.m. and the public is welcome to attend.

* * *

All members of the Law School community are invited to an informal send-off party for Dean Bok, to be held on Friday, March 26, 7 to 9 p.m., in the Ropes-Gray Room, Pound Building. Refreshments will be served. The party is sponsored by the Dormitory Council and the Law School Employees' Association.

* * *

George A. Strait, acting librarian, has announced that effectively immediately all law reviews and periodicals, will only circulate overnight, i.e., two hours before closing and return within two hours after opening the next day. This policy is necessary because of the increasing student demands for periodicals.

* * *

Senator Harold E. Hughes (D-Iowa) will address supporters outside the Sheraton-Plaza Hotel at 4 p.m. on Saturday, March 13. Students interested in joining the Hughes for President campaign are invited to the demonstration and to weekly meetings of the Hughes for President Committee, Wednesdays at 8 p.m., 10 Sumner Road, Apartment 6, Cambridge.

Book Review

Nader's Raiders on the Federal Regulatory Agencies

By Bob Hernandez

THE INTERSTATE COMMERCE OMISSION: The Public Interest and the ICC, by Robert C. Fellmeth. Grossman Publishers, New York City, 423 pp., (1970).

THE CHEMICAL FEAST: The Ralph Nader Study Group Report on Food Protection and the Food and Drug Administration, by James S. Turner. Grossman Publishers, New York City, 273 pp., (1970).

"THE NADER REPORT" ON THE FEDERAL TRADE COMMISSION, by Edward F. Cox, Robert C. Fellmeth, and John E. Schulz. Richard W. Baron, New York City, 241 pp., (1969).

The Ralph Nader Study Group Reports on federal regulatory agencies are important accounts of the failure of federal bureaucracies to deal with the ever-increasing threat to the public interest from the mammoth business enterprises whose control of the economy and accompanying political power have buried the interests of the individual consumer. The political process has led to agency appointments as a means of political reward; the bureaucratic structure has been conducive to lethargy, and the annual contest for appropriations has led the agencies to ally themselves with the very industries they were designed to regulate.

The loser in all this has been the American consumer, who is flooded with false or misleading advertising despite the FTC, who pays the price for an economically unsound transportation system despite the ICC and is exposed to innumerable dangers in the food he eats despite the FDA.

Although Ralph Nader and his "Raiders" have made formidable contributions to the American public, the two more recent books cannot be rated as entirely successful. It would seem difficult if not impossible for anyone not intimately involved with big business or the federal bureaucracy to have an unkind word to say about these books, but it must be said. Although both books show an amazing depth of research, and one must tend to agree with the conclusions, each fails to maximize its impact because of sloppy editing and repetition.

The only word for *The Interstate Commerce Omission* is "overwhelming," and not just in the good sense of the word. It directs the reader's attention to mistake after mistake, outrage after

outrage and deception after deception, all of which might be at least indirectly attributed to the mismanagement of the ICC. After this onslaught, the recommendation that the entire structure be abolished is appealing as a straightforward, simple solution to what has been portrayed as a horribly complex problem. Perhaps it is the only solution, but the form of the presentation left traces of doubt in my mind.

Agreed, this is a study group report directed primarily to the legislators whose responsibility it is to effect the recommended changes in the public interest. Agreed, this is not an exercise in yellow journalism undertaken merely to outrage the American public to a point of forcing Congress to revamp the present transportation system. Agreed, several of the chapters are excellently written, particularly those on the trucking industry's flagrant disregard for highway safety and the consumer's plight in home moving, and effectively portray the extent of the transportation crisis.

But these considerations provide no excuse for the book's final form. It appears to have been hastily thrown together to meet a deadline without adequate editing and without a clearly defined audience.

For example, one reads on page 258, in a chapter concerning the commission's failure to enforce the Elkins Act, that in big railroad yards large pools of cars are set aside for major shippers — "Some of the favored shippers are Archer Daniels, Midland, Whirlpool, General Motors, Ford, and General Foods" — and on page 272, in a chapter concerning the boxcar shortage, that a major factor contributing to the shortage is the preferential treatment given major shippers — "Some of the favored shippers are Archer Daniels, Midland, Whirlpool, General Motors, Ford and General Foods." One cannot help but feel that he has read it all before.

Ralph Nader's fame will by itself sell copies of the book, but will it lead the consumer to read it? Will it force legislators to act in the area of transportation regulation? Can it hold out against more careful, more concise, more reasoned rebuttals?

The Chemical Feast is a much more successful effort, partially because its subject touches closer to home, partially because its format is more unified. It is clear that the FDA has failed to meet its responsibilities to the con-

sumer, and the giant food and drug industries have been left alone far too long by the agency designed to regulate them.

Despite its scientific aura, the FDA has been quite unscientific in its approach, apparently formulating an agency position, then seeking to justify it through often "manufactured" evidence. The agency has expended energy and resources on witch-hunts against persons it has deemed to be "quacks" while ignoring or tacitly endorsing deceptive or dangerous practices by the major food and drug manufacturers. It has allowed itself to become a haven for scientists with medical or personality problems who have abandoned scientific inquiry for bureaucratic security, while discouraging the work of dedicated scientists.

While this is a very moving account of the shortcomings of the agency, it too fails to be sufficiently concise to fully develop its potential. Chapters are repetitious, often seeming to be mere reorderings of facts presented earlier. While we are shown what is outrageously wrong, alternative policy formulations are not set out clearly. We are left cold by such banal conclusions as: "The FDA has many dedicated, qualified people at every level, all of whom have enemies within the agency. The dedicated personnel should be singled out and supported; their opponents should be opposed and removed if necessary."

It is fruitful to use the earlier report on the Federal Trade Commission as an example of what could have been done to improve these presentations. In that book the authors present a detailed but precise and well-reasoned analysis of the FTC, which satisfies the reader that the recommended changes in structures and personnel are immediately necessary.

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The researchers in the FTC study faced a major handicap in the restriction of their access to FTC files through efforts of the FTC chairman. But because of their diligence they successfully overcame that obstacle. The report convincingly describes the problems of the consumer, the failures of the agency to cope with them and the structures and personalities within the agency which foreclose the possibility of an adequate solution to the problems. It suggests reforms necessary to effect necessary cures.

Certainly the report is not flawless. For example, repeated allusions to the "Tennessee club" which continues to dominate the agency eventually weaken the impact of that criticism. But one is nevertheless left with the feeling that here is an ultimately successful attack on an institution which has failed its public responsibilities.

Nader's Raiders struck an important blow on behalf of the consumer in their FTC report. The impact of the ICC and FDA reports should be even greater because of this wealth of documentation, which had not been available for the earlier report. If the latter two have not maximized the potential use of the information compiled, we can only hope that their impact will be sufficiently strong to effect reforms.

Letters to the Editor of the RECORD

(Continued from Page 11)

Interrogators Merit Excommunication

To the Editor:

I note with regret that a New York City Law firm, guilty of asking a second-year student what his first-year grades were, was merely placed on probation until July, 1972. To my mind, the Committee on Placement was much too tender with this reprehensible rogue. His firm should have been excommunicated.

Hans F. Loeser, Esq., '50, suggests that interviewers may enquire into such factors as college status.

Could this open the door to abuses? Could the interviewer ask that student, whether at Harvard College he was a junior Phi Bete, or a member of the Porcellian Club, or active at Phillips Brooks Home? Or whether a Yale man was DKE or Skull & Bones? Or whether a Princeton man was Ivy or Cap and Gown? Or whether the student is a member of Lincoln's Inn?

As to character: Was the student an Eagle Scout? Did he sing in the

church choir? Is he good to his Mother?

Danger may lurk in inquiries apparently innocent. This would be eliminated by the adoption of an official questionnaire, prepared by the Committee on Placement, and furnished to each interviewer. If questions in addition to those permitted by the questionnaire were asked by the interviewer, he should be blacklisted immediately.

The interviewer may find it difficult to understand why grades achieved in college are all-important in getting into Law School, but grades achieved in Law School are meaningless in getting into a law office. Deprived of the most important factor in determining whether the student appears to have the potential which the interviewer seeks, he is forced to go it blind, and finds small comfort in the reflection that if the clerk did not prove that he had what it takes, the firm could fire the clerk at the end of a year. In that event, the salary paid \$15,000.00, and the time spent in trying to educate the neophyte, would be a loss to the firm.

Peyton Randolph Harris '15
(Continued on Page 16)

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LSDAS to Simplify Future Admission Applications

(Continued from Page 5)

5600 applicants last year, 500 were in the discretionary admit category, and Simpson admitted approximately two-thirds. Of 3000 in the discretionary deny category, Simpson circulated about 500 to the admissions committee. Those 500, and one-third of the discretionary admits, and the 50 to 60 percent of applicants between the objective boundaries were considered by the four-member admissions committee.

In teams of two, the committee takes 40 to 50 applications at a time, and if both members of the panel agree to admit or deny, their action is final. If they disagree, the file is sent to the other two-man panel, and if that team disagrees, the committee will meet as a whole.

Admissions at Harvard is a rolling process, with control provided by a weekly computer print-out summarizing admissions decisions on the basis of objective categories and the schools from which applicants come. The weekly summary gives members of the committee an idea about current standards for admission and remaining places in the class.

The LSDAS, and its effect of increasing the ease of multiple applications, will probably mean greater emphasis on objective standards. The cover sheet provided for an applicant summarizes his transcript in terms of grade point for each year of undergraduate school. Then his final grade point is adjusted based on a weight supplied by Harvard. This adjusted grade represents how well students from the applicant's school do at HLS compared with Harvard College graduates. Approximately in the middle of the sheet is a number, in the LSAT range, that represents a combination of adjusted grade point and LSAT scores, on the basis of a formula supplied by Harvard.

It is possible that the LSDAS is the predecessor of a uniform application for all law schools, and a sample of such an application has been drawn up. But agreement must be reached over a multitude of details, such as how many recommendations to require. No amount of processing will remove the difficulty of deciding among the large group of applicants who are not clearly to be admitted or denied.

One former member of the admissions committee has even suggested that random selection would produce a class as qualified as that chosen on the basis of the biases of members of the committee.

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2L Ames Absurdities Ruffle Equanimities

By Logan Johnston

You're sitting in the back rows of a Thursday class, right, thumbing surreptitiously through the RECORD looking for something interesting to read while the Socratic method grinds along around you. Well, if you dig the absurdities of the Second Year Ames program or a bit of arm-chair muckraking, this should distract you while the "flamers" obfuscate.

Last December, the Cardozo Club lost 138-137.5—a one-half point margin—to the Marshall Club in the Ames elimination round. The Cardozo team of John A. Rayll and Edward W. Beck won the decision on the merits by 1.5 points but lost the case to Craig W. Friedrich and Gary L. Wolfstone for having four lines too many in their brief.

Patiences were strained and equanimities ruffled by this result since it had the effect of knocking the Cardozo Club out of the semifinals. But for this loss, Cardozo would have had a 1-2 record, rather than 0-3, and *more total Ames points* than the Marshall A team which got the fourth semi-final berth with a 1-2 record.

The dispute erupted because Rayll and Beck's professional typist made the mistake of typing 31 lines on pages 16 and 17, and 32 lines on page 18 of their brief. The rules allow only 30 lines per page, and the Marshall team was quick to spot the violation.

Ames rules provide a half-point penalty for each excess line so that Rayll and Beck were penalized two points. Curiously, the rules provide a penalty of only half a point per excess half-page. Thus, if the typist had been in synch with the law of

Ames, she would have typed eighteen 30-line pages and a four-line page 19. Rayll and Beck would then have been penalized only half a point, would have won the case and lifted their club into the semifinals.

She wasn't; Friedrich and Wolfstone turned in a penalty sheet; and Cardozo wound up with a mouthful of ashes. Rayll and Beck went down fighting though. They appealed the penalty to Susan A. Cahoon, 3L,

Disputed Half-Point Determined Winner

then chairman of the Second Year Ames Committee. Miss Cahoon applied what she described as a "bright line" test and dismissed the appeal.

Another appeal was made to the Upper Round Committee with the same result, the rationale again being that the rules are pretty definite about such matters. Rule 11 F, in fact, explicitly states: "*All penalties are listed with the full realization that their application in any given case may change the result in that case and even result in one team replacing another in the quarter-final round.*"

Though there was no allegation of bad faith on the Cardozo team's part, the heavier penalty for line, as opposed to page, violations is based upon the suspicion of deception, in that an extra line here and there looks sneakier and less obvious than an extra page. But, as Miss Cahoon explained, the rules are designed to promote "meticulous preparation" and "if you're careful" this sort of

thing doesn't happen. However, Cardozo members felt prejudiced because members of rival clubs were involved in the hearing which could have granted "equitable relief"—but didn't.

All involved agreed that the whole episode was a "regrettable situation." On the other hand, it was a situation clearly envisaged by the Ames rules and those rules were rather stoutly supported by the Second Year Ames Committee.

But considering the fact that such a decision would never have occurred in a court out there in the "real world," does such an incident suggest that the Ames rules need some reconsideration?

Yes! So think Rayll, Beck, members of the Marshall and Cardozo Clubs, some members of the Board of Student Advisers, and Miss Cahoon. Reevaluation and revision are being considered by the Ames Committee. Miss Cahoon, for instance, suggested that perhaps such "police" matters should be left to the Board of Student Advisers rather than to the individual contestants.

If changes are not made, though, future Ames participants might consider the tough questions posed by this case. Should Rayll and Beck have complained about a prohibited footnote in the Friedrich-Wolfstone brief? Should you never trust your typist? Should you count the lines of your opponents' brief before you bother to read it? Does the "adversary system" in the Ames jurisdiction encourage the philosophy expressed by Marlon Brando in *On the Waterfront*: "Do it to him before he does it to you"?

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Letters

(Continued from Page 13)

Stern v. Hoffman: Grades = Success?

I have been following the Stern-Hoffman debate in your letters section with considerable interest, if for no other reason than because I am a member of that ego-shattered group which finished "somewhere in the middle" of our respective graduating classes.

The discussion has so far appeared to avoid the primary issue; i.e. what is the correlation between academic performance at Harvard Law School and subsequent professional success? If the correlation is high, then it would be irrational to expect any employer, much less a profit-oriented private law firm, to ignore grades in evaluating applicants. If the correlation is low, then a substantial number of Harvard Law alumni is suffering unfair discrimination and I would say, "Right on, Mr.

Hoffman!" If there is some correlation, but a substantial number of exceptions, then it would seem that Mr. Hoffman is correct in seeking greater attention by interviewers to other qualities in job applicants, and that Mr. Stern is also correct in arguing that grades are at least a relevant factor and, therefore, entitled to consideration.

The rationale behind the school's present no-grade-disclosure policy is apparently that all the students at Harvard Law School are brighter than

most students elsewhere. Since it is in my self-interest, this is an image which I am careful not to disparage. But within our "elite" community, grades would seem logically to be a good forecaster of professional performance because presumably those factors which combine to achieve high grades will be equally successful in research and argument, which is the very heart of an adversary system of justice.

James L. Carney '66



Charles Soberman

HLS Show Begins Tomorrow

Cast members (above) have been spending long hours rehearsing for tomorrow night's opening of *From Here to Perpetuity*, the 1971 Harvard Law School Show, to be staged in

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