

HARVARD LAW RECORD

America's Oldest Law School Newspaper

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TWENTY CENTS

Faculty to Vote On Pass/Fail This Afternoon

The Law School faculty will vote this afternoon on whether to reinstitute the pass/fail option for first-year students. That option was abolished last May by faculty vote.

Student proponents of the restoration of pass/fail will present their position for 20 minutes. The faculty will then debate the matter for an hour or less, then move to a final vote on pass/fail, without any further delay or deliberation.

This procedure follows the unanimous recommendation of the Committee on Legal Education which concluded that, in view of the hours of debate

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Cox Writes Amicus Brief In Law Admissions Case

By Bruce Kuehne

Harvard University filed an amicus curiae brief last Friday in what promises to be a landmark civil liberties case involving law school admissions policies.

Professor Archibald Cox prepared the brief for the case, which will probably be heard by the United States Supreme Court sometime this term.

The case, *DeFunis v Odegaard*, 507 P.2d 1169 (1973), has aroused interest among many groups and Harvard is one of at least six organizations filing amicus briefs. Harvard's brief is in support of the University of Washington, whose president is defendant Charles Odegaard.

Plaintiff Marco DeFunis applied to the University of Washington Law School in 1971 and was rejected, even though others with lower grade point averages and LSAT scores were admitted. Among these were 18 minority group members.

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The state supreme court overruled a holding by the Superior Court of King County, Washington, that DeFunis had been denied equal protection of the law under

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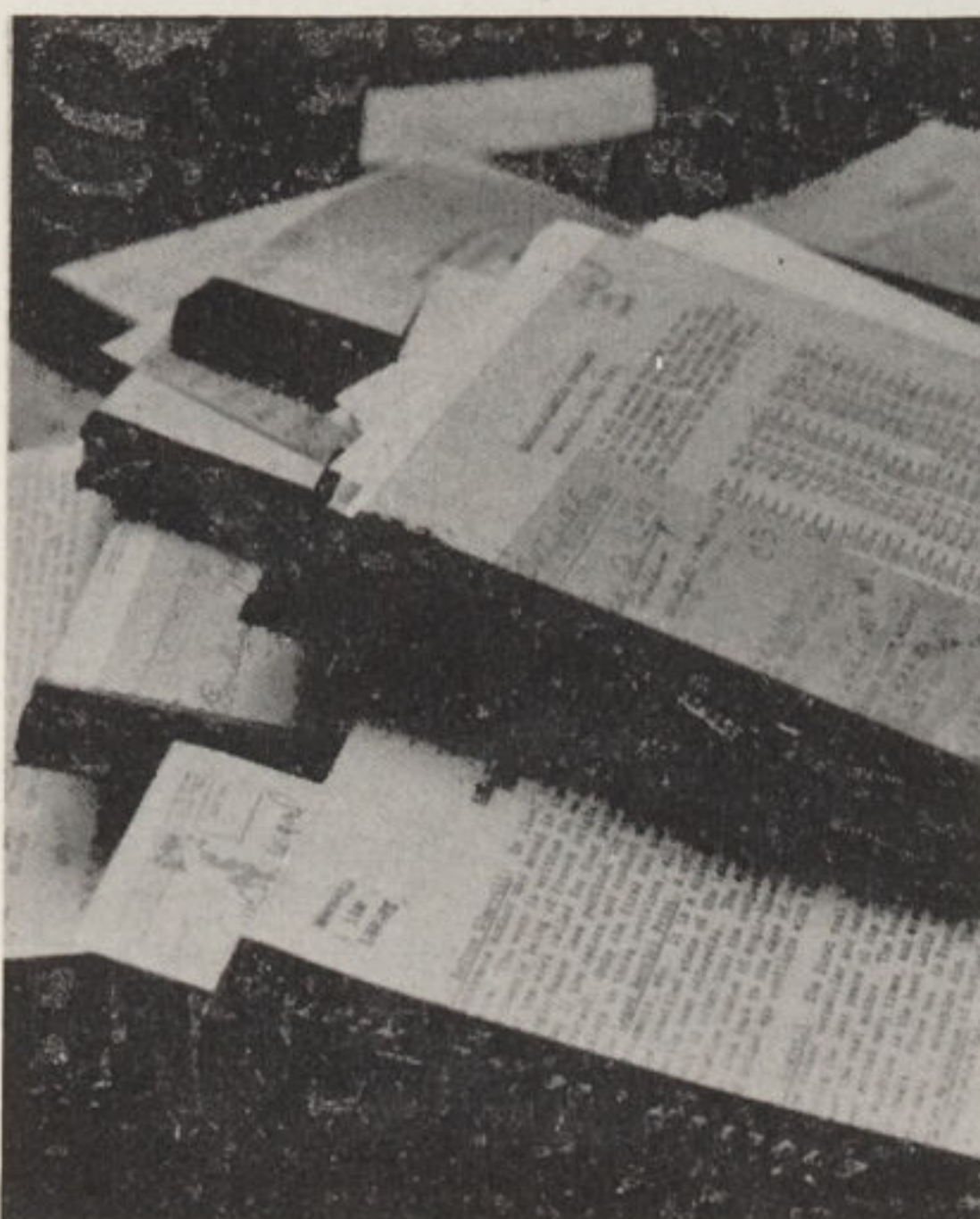
Out of Date, Incomplete, Illegible

'Review' Outlines Investigated

As a result of an investigation of *Law Review* outlines by the Harvard Law RECORD (see accompanying article), Langdell Library will replace missing pages on all incomplete outlines, and will label all outlines with course name, professor, and year of completion. Outlines which are no longer current, because they correspond to a casebook no longer in use, will bear an appropriate warning to students.

Professor Morris L. Cohen, Librarian, agreed earlier this week to institute the above changes when apprised of the faulty condition into which the outlines had fallen. "We may have been negligent,"

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Aging outlines in Langdell

By Daniel M. Taubman

Last semester approximately 100 students enrolled in Professor Laurence H. Tribe's *Evidence* course utilized the facilities of the Legal Copy Center to xerox the *Harvard Law Review* outline for his course, yet few apparently knew that the copies they received were missing 10 pages. The complete *Law Review* outline for Tribe's course has 59 pages, but the copy available at the Legal Copy Center had only 49 pages.

This situation was by no means unique. At least one other outline at the Legal Copy Center was incomplete. These inadequacies,

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Council Votes for Pass/Fail, Weighs Plan for Course Guide

The Law School Council has unanimously endorsed the reinstitution of pass/fail at the Law School. The Council did not specify what form the revived pass/fail should take, according to Secretary Brian A. O'Connell, 3L.

The Council at last Friday's meeting also voted unanimously to establish a committee to investigate the quality of teaching at the Law School. The committee will study such criteria of the quality of instruction as class size, the amount of time that faculty members are available for student consultation, and the number of hours professors are required to teach. The committee will also consider establishing a student guide to the various Law School courses.

Members of the teaching quality committee are William O. Ligon, 3L, chairman; O'Connell; Eldon J. Spencer, 3L; Jamiene S. Studley, 2L; Russell L. Richeda, 2L; and Margaret Montoya-Oldham, 1L.

According to O'Connell, the committee would like to do a course evaluation of some kind, possibly along the lines of the confidential guide to courses that existed at the Law School until approximately four years ago. O'Connell notes that the Board of Student Advisers is also considering producing a course evaluation booklet; the project may be pursued by either the Council, the BSA, or both, depending on which group is able to get sufficient funding for the project. O'Connell has also discussed the project with Associate Dean Paul M. Bator, who encountered such a course guide when he was a visiting professor at Stanford Law School.

According to O'Connell, the Council also reported at Friday's meeting that the Law Book Thrift Shop this semester had been "very successful" and was "not plagued

by the (unforeseen) organizational and locational problems" of last term. According to O'Connell, "Most of the books that were usable this term were sold." The Shop is now under the direction of Council members René Townsend, 3L, and Studley. The Council is now considering a number of future possibilities for the Shop: employing non-Council members to work in the Shop; paying the Shop's director; and organizing with other area law schools to buy and sell second-hand books.

Four members of the Law School Council (Spencer, Ligon, Montoya-Oldham, and O'Connell) met last Friday with Dean Sacks to discuss informally the proposed \$250 tuition increase for next year, the Law School's spending priorities, and the quality of teaching. According to O'Connell, Sacks reassured the Council that financial aid would be increased in response to the tuition increase.

In reply to a Council question about increasing the size of the faculty (for example, to allow more small classes), Sacks noted that there aren't many law teachers who would meet the standards of quality necessary for a Harvard Law faculty appointment, and that those the University would like to appoint won't necessarily leave their current positions. Sacks noted that, unlike most colleges, the Law School emphasizes teaching ability as an overriding factor in faculty selection.

O'Connell stated the Council's basic question as, "Are we getting maximum mileage out of our tuition dollar?"

The Council members will meet with the Dean at least once more for similar discussions.

Faculty to Vote On Pass/Fail This Afternoon

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spent on the pass/fail issue by the faculty and committees in past years, any further discussion or committee deliberation would be futile.

The committee's action followed a letter sent by the Board of Student Advisers to the Dean and faculty in November urging a reconsideration of the pass/fail option. Jeffrey J. Reiman, first-year at-large delegate to the Law School Council, presented the committee with a petition signed by 413 1Ls opposing the revocation of the pass/fail option.

The committee recommended that the faculty reconsider the issue, but did not make any recommendation on the merits.

Professor Robert E. Keeton, chairman of the Committee on Legal Education, was unwilling to estimate the probability of the return of pass/fail, but noted last week that "everybody agrees it's rather unlikely" in view of the faculty's May vote abolishing pass/fail.

Reiman said there was little organized lobbying by 1Ls this week to get faculty members to support the pass/fail option. He also declined to predict the outcome of today's vote.

Nickname Quiz

Identify the athlete who was associated with the following nickname:

1. The Rajah
2. The Hill
3. The Wild Horse of the Osage
4. The Wild Bull of the Pampas
5. King Kong
6. Manassa Mauler
7. The Brat
8. The Fordham Flash
9. Zeke from Cabin Creek
10. Little Miss Poker Face
11. The Grey Eagle
12. Jungle Jim
13. Minnesota Fats
14. Old 98
15. The Chief

(Answers on
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Pro Bono Reps, Sacks Confer

By Michael Bowen

Four students, representing a coalition or Law School organizations which recently criticized what they felt was lack of progress in the efforts of Assistant Dean Robert A. Williams to develop an effective *pro bono* placement program, took the matter to Dean Albert M. Sacks Wednesday.

Richard P. Weishaupt 3L, one of the students who conferred with Sacks for an hour, said that Sacks "greeted us with enthusiasm, and

seemed committed to doing something not just in the long run but in the short run, to help this year's students find jobs in the public interest area." At the same time, Weishaupt acknowledged, "in terms of specific proposals, Sacks was less definite."

The meeting with Sacks followed a meeting Weishaupt, Elizabeth K. Lewicki, 1L, Johnson had had with Williams last week to discuss a letter from the organizations charging that the Law School had reneged on its

commitment to provide a vigorous public interest placement effort.

Williams responded Monday to the criticism of his efforts in a 2000-word memorandum addressed to the signatories of the letter. After reviewing actions which he said his office had taken to improve *pro bono* placement opportunities, Williams wrote that, "responding specifically to some of the allegations elevates them to a level inconsistent with what is deserved...." Toward the end of the memorandum, Williams declared that, "The whole tone of the letter ... gives me grave doubts about the ability of some people to develop facts and draw conclusions from those facts."

In what appeared to be a categorical rejection of a policy advocated by the students' letter, Williams wrote that, "I would not move to an institutional(ized) obligation of matching (students with specific public sector job opportunities) because I feel students should show some modicum of initiative in obtaining employment.... I see no problem with students walking to the third floor to peruse the public interest bulletin board."

Williams ascribed student frustration with the progress of his program to "grand expectations" on the part of students interested in *pro bono* work. "Unfortunately," Williams wrote, such "expectations ... are incongruent with the realities." He said that few jobs were available to inexperienced applicants in the public interest field, and that "no amount of persuasion or cajoling is going to create jobs that don't exist, or get organizations to visit Harvard and interview students."

Glenn M. Young 2L, one of the organizers of the student protests to Williams, said Wednesday that Williams' response "appeared to me to be fairly defensive and not to say anything new." Weishaupt remarked that he and his colleagues "weren't too happy with (the response) because we were looking for something with a little more of a time-table in it."

January Fuel Quota Missed

If the Law School is required to equal January's cutback in energy this month, "We may get 60° temperatures instead of 65°", says Building and Grounds Superintendent Ralph B. Gates.

In spite of the extended Christmas vacation, the University as a whole did not achieve the required 28% reduction, nor will a new computer control system for university heating be installed in time to make any reductions this winter.

Other measures mentioned by Gates in the event of a continued cutback are shutting down half a building and using the other half, or possibly re-arranging class schedules, "to concentrate classes in two buildings instead of three."

Gates warned that these were only possibilities, while the actual decisions on heat and space allocation would be made by the Law School energy committee.

"It will be up to them. I don't want to put words in their mouth," said Gates. He explained that the building and grounds staff could only estimate the effect of various measures, for example, "If they say we'll shut down Austin Hall, how much will that save?"

The actual mechanics of energy conservation are somewhat less well organized. Most heat is supplied by steam, except for Wyeth Hall, which has its own gas boiler, and 23 Everett Street, which has an oil burner.

Each building is different in its controls, as well, with Pound and the FOB having individual

room thermostats, while Langdell has old fashioned fan-radiators, which require someone going down in the tunnels to turn a valve on or off.

The weekend and evening reduction to 60° is accomplished in the thermostatically controlled buildings by shutting off the hot water circulation from the boiler room.

Some temperature adjustments are made by the utility company's teams, which, according to Gates, "work night and day making a special project of shutting off heat and turning it on for day occupancy."

The maximum daily heat reduction is between 6° and 10°. "If you go below that," explains Gates, "it uses up more heat to replace what we've lost." This is one reason for daytime levels of 65-68°

The possibility of a continued energy shortage, "depends on who you talk to," says Gates. Whether or not the shortage continues, the computer system, "will save us energy. It should permit us to pick up savings on our heat and electricity. We've got to save electricity as well as steam."

The Law School's budget for fiscal 1974 contained \$250,000 for heating. While some savings by decreasing temperatures have been effected, "What savings we have been able to make are probably offset by increased electric costs; and if we don't make these quotas on steam, we may run into additional charges there."

176 Pick Ames Alternatives

By Michael Bowen

One hundred seventy-six first-year students at Harvard Law School will participate this year in twelve alternatives offered to the traditional Ames moot court competition.

The majority of them will be involved in current legal controversies, ranging from a suit to enjoin the compulsory collection of class dues from students in Stockton, Missouri to an action by a dentist in the Air Force trying to avoid reassignment to Korea. While most of the projects are intended basically to sharpen analysis of the issues involved in the various controversies, the efforts of at least one group of students — those involved in the Environmental Law Society's project — are expected to provide the basis for an *amicus curiae* brief to be filed by several state attorneys general before the United States Supreme Court in *Air Pollution Board of Colorado v. Western Alfalfa Corporation*.

The Ames Alternatives program is being organized by the Board of Student Advisers for the third year in an effort to teach first year students the same skills that are developed by the conventional Ames competition, but to do so in a context of actual, rather than simulated, legal work. Five of the participating organizations will offer 1Ls a chance to research contested issues in a total of twelve cases presently before courts or administrative boards. Three organizations will supervise students in the development of arguments for use in future litigation, while two will involve students in essentially academic analysis of legal topics, and two will deal with simulated cases.

The organizations whose alternative will deal with current litigation are the Chicano Law Students Association, the Civil Rights-Civil Liberties Research Committee, the Committee on Military Justice, the Environmental Law Society, and the Legal Aid Bureau, which will also seek some prospective research. These five groups drew 76

of the students taking part in the Alternatives program.

The Prison Legal Assistance Program and the Native American Student Organization, each with eight participants, and the Women's Law Association, with four, will devote their efforts to investigating matters of concern to their members which may eventually in court action. The International Law Journal and the International Law Society, which together attracted 24 participants, will concentrate principally on analysis of specific issues.

Legal Methods Director David Rosenberg will supervise 24 students in the preparation and argument of a simulated criminal case. It will differ from

the traditional Ames exercise in that it will include discussion of pre-trial motions and trial briefs as well as appellate debate. Similarly, 32 of the students who took part in the Williston contract negotiating competition will participate in an extension of that contest in which one team will sue on the alleged breach of contract of the other.

Mabry E. Rogers 3L, an adviser to the Committee on Military Justice project and one of the organizers of the Alternatives program, said Tuesday that only 10 students who had expressed an interest in one of the alternative projects had been excluded because of limitations on the program's size.

Meeting on JD/MPP Program Leaves Out Law Students

The 30 attendees at the official meeting for law students interested in the JD/MPP program with the Kennedy School of Government will have a chance to hear another view at a meeting scheduled Tuesday, February 12.

The meeting next week, at 4 p.m. in Austin East, will be held because no law students currently in the first year of the joint program were present at the prior meeting.

Assistant Dean of the Kennedy School Harry Weiner explained that law students who had graduated from the program were present, but that the official meeting conflicted with a class for first year students in the Kennedy School program.

Although the omission of current participants in the program from the meeting with prospective applicants was unintentional, some law students felt that applicants should have a chance to talk to current participants in the program.

Asked whether the request for next week's meeting reflected dissatisfaction with the JD/MPP Program, Weiner responded, "This is a developing program. We encourage people to tell us how the program could be changed.

"I'm not aware," continued

Weiner," that the dissatisfaction this year is any greater than any other year."

The Assistant Dean estimated that 30 persons attended the first meeting. Average representation of the Law School is seven or eight students out of 25 in the combined program, with others coming from the medical and business schools. The combined program students, however, represent less than half the total number of students in the Masters in Public Policy Program of the Kennedy School.

Weiner discussed sending a department representative to the February 12 meeting, commenting, "I much favor open discussion of the program. It's much better."

**Younger Members' Committee
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Women & Men from other Clubs &
Schools also have been invited**

Disburses Student ABA Fund

By Patrick Kennedy

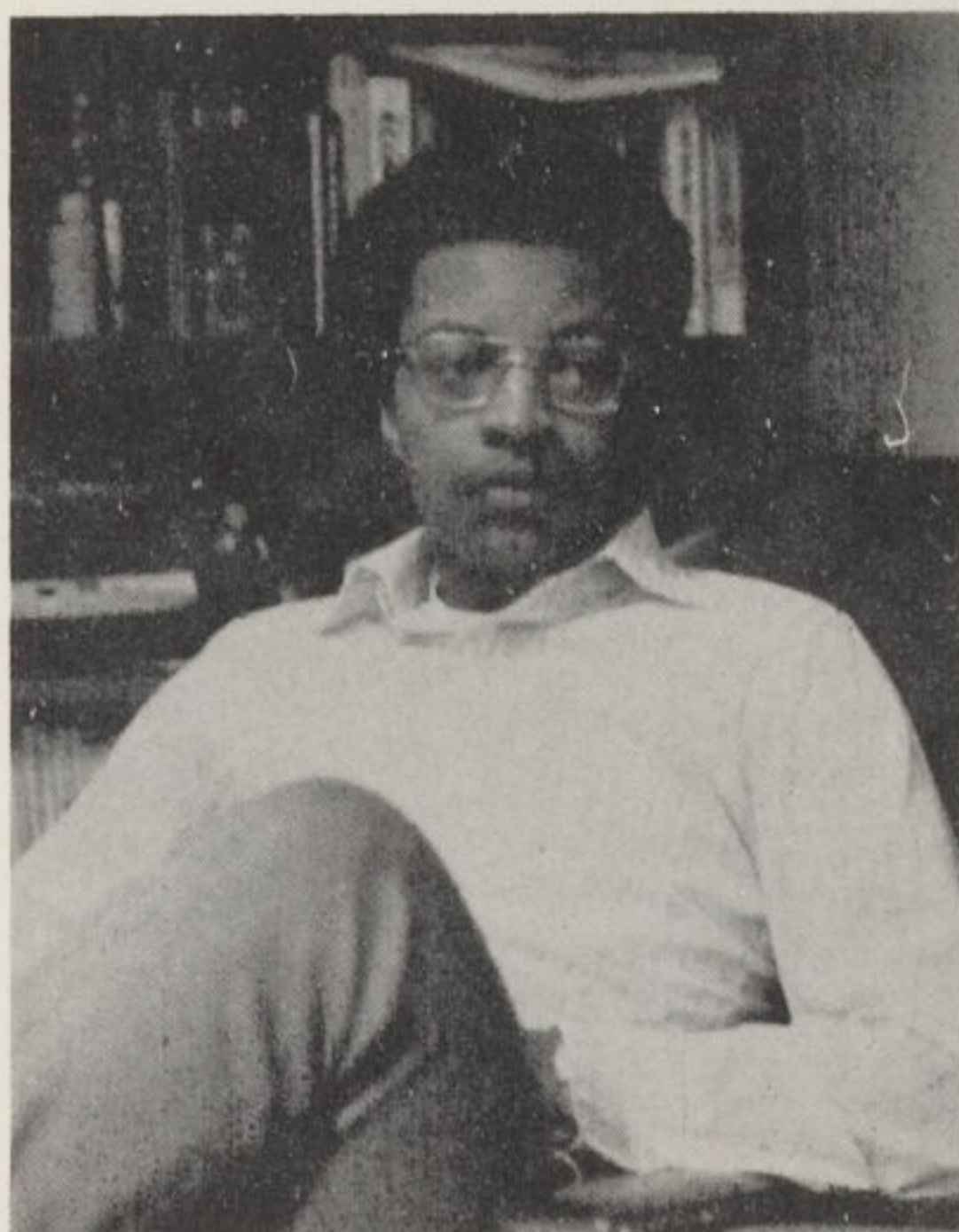
"The Association needs people who are interested to become seriously involved. If they don't, the vacuum will be filled by hangers-on and the potential of the organization will not be realized." This view was expressed by John W. Daniels 3L, Vice-President of the Student Division of the American Bar Association (SDABA) in an interview with the Record earlier this week while explaining his reasons for becoming active in SDABA.

Daniels conceded that his primary reservations upon accepting his responsibilities was that the Association might be too conservative, but was quick to add that it "has offered opportunities for reasonable change on important issues."

Daniels, who hails from Milwaukee and intends to return there to practice law with a local firm after graduating in the spring, became involved with the Student Division of the Bar Association while serving as President of the Black Law Student's Association at Harvard last year. The SDABA helped sponsor the George Ruffin Speaker Series an activity of the Black Student's Law Association which Daniels said would continue this spring.

Describing his responsibilities as Vice-President, Daniels said that his primary function was to assist in giving funds to worthwhile and creative projects. As an example he cited the Guadalupe Legal Services. That program, run in conjunction with the Arizona State University, is located in a poor Indian community and provides the residents of that impoverished area with legal aid which would be otherwise unavailable.

The usual procedure for granting funds is to match the funds of a local organization with funds from SDABA. The objective of this policy is to stimulate the growth of public interest programs by providing financial support where there is no alternative. As other examples,



John W. Daniels, 3L

Daniels pointed to programs sponsoring recruitment of Blacks and Women and attempts by SDABA to improve the coordination between state bar associations and law students.

Daniels pointed out that the Student Division is a separate section of the ABA. It elects its own officers and can take positions independantly. Currently the student division is engaged in an intensive investigation of fair hiring procedures for women and minorities. They will also submit an amicus brief in the upcoming *DeFunis* case defending the position of the University of Washington Law School which gives minority students favorable weight in admissions procedures.

Outlining the structure of the Student Division of the ABA, Daniels explained that there are 13 circuits across the country each circuit electing its own governor. The Governors comprise the National Board which acts upon considerations of national interest.

Among the most important functions of the President and national officers of SDABA, Daniels said, is the selection of these students who will participate in the parent organization. The ABA is divided into sections, each devoted to a par-

ticular legal specialty. Each of the sections of the ABA is governed by a council which has one student representative who is called the student liaison. Additionally students are selected to positions on a large number of committees run by the different sections of the Association.

The appointment of students to the parent organization serves many purposes according to Daniels. Not only do students benefit from the experience of working with a law association, but they contribute a valuable viewpoint as well. Occasionally, Daniels added, the positions of students upon the various councils and committees prove to be quite important. He referred to a particular instance a few years back when the criminal law section of the ABA was discussing a change of their support of the exclusionary rule. At that time a Harvard student sitting on the council cast what proved to be the deciding vote in favor of retaining the council's present position.

Daniels concluded by urging students to take an active part in the SDABA, claiming that there are great possibilities for contribution and advancement within the organization and describing his experiences as "well worthwhile."

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Cox Pens Harvard Amicus Brief

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both the state and federal constitutions. The state supreme court also overturned the Superior Court's ruling that the state could not consider racial or ethnic background as a factor in selecting applicants for admission.

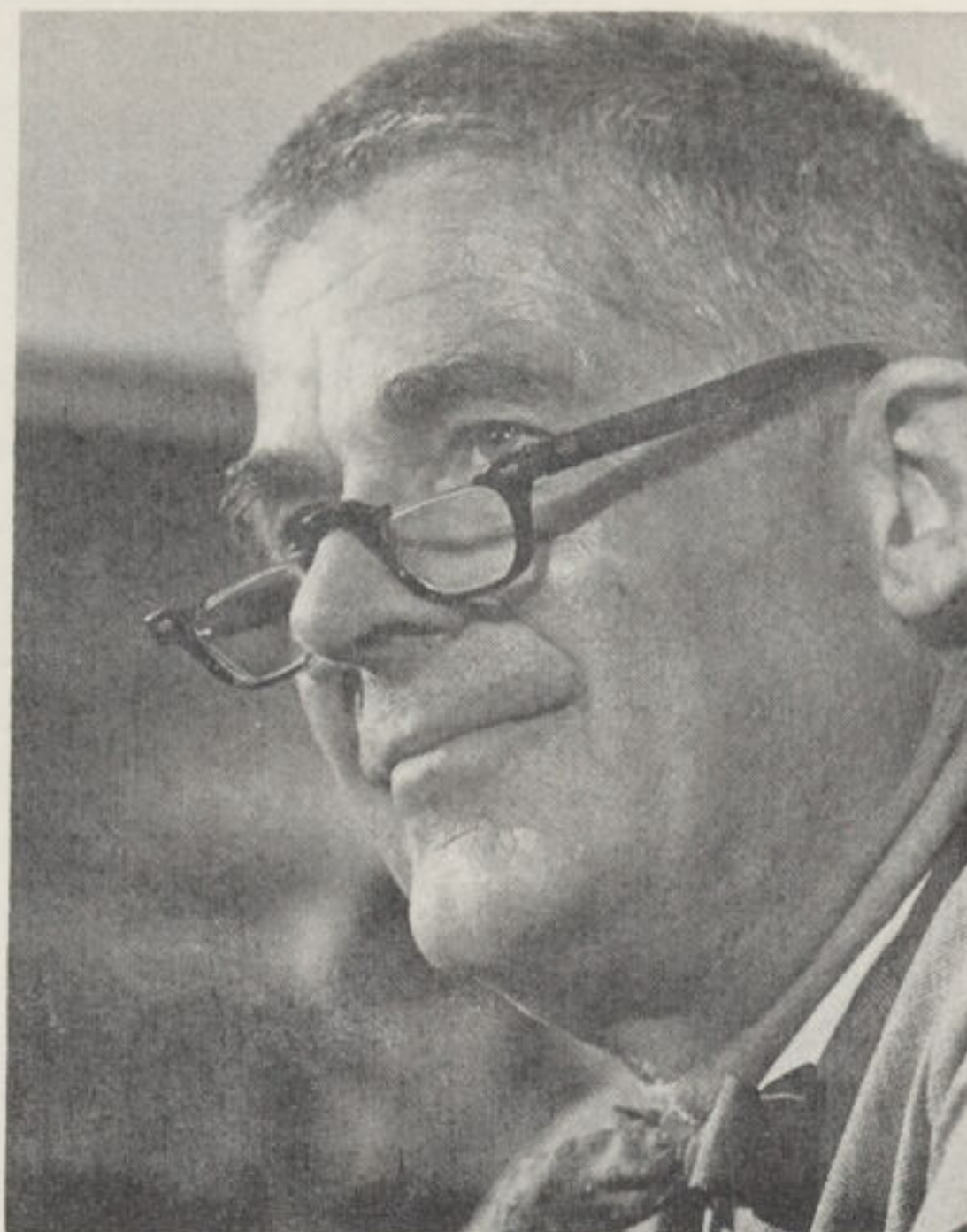
The state's high court ruled that race may sometimes be considered by an admissions board and that racial classifications are only proscribed by the federal constitution when they are invidious or tend to stigmatize a group as inferior.

The appropriate standards for judging whether race is an acceptable criterion then, is the purpose of the school in using it, the objectives the school seeks to attain, and whether the means it uses are suitable to attaining the ends. The court found that the purpose of the school was not to separate the races, but to bring them together in adhering to its broad policy of trying to eliminate the continuing effect of past racial discrimination in society. This objective, the court said, was neither hostile nor invidious. The court pointed out that the admission to the law school was not a right, but a benefit. DeFunis could therefore not complain that he had been deprived of a right.

Ruling on another question, the state supreme court held that the admissions procedures used by the law school were neither arbitrary nor capricious, that they were suited to attainment of the objectives of the school and were therefore constitutional. The most controversial procedure used by the school was to consider minority group applicants only against other members of their group, rather than against all applicants.

The university had no quota system, but sought a reasonable representation of minority group members in its entering class. No one was invited to enter the law school whom the admissions board felt could not maintain the academic standards of the school.

Cox said Wednesday that he thought he had been asked to write



Professor Archibald Cox '37

the amicus brief because "I've written more Supreme Court briefs than most people." As Solicitor General during the Kennedy and Johnson administrations, Cox was responsible for preparing Supreme Court briefs for cases in which the United States was a party.

The recently dismissed Special Watergate Prosecutor indicated that Harvard would probably not argue before the Court. "To request time when there are so many amici involved would be presumptuous," he said.

Cox estimated that about 20 organizations have filed amicus briefs in this case.

Cox, in explaining the interest of Harvard in the case, said in his brief, "Affirmance or reversal may... depend upon the exact practices... (of) the Admissions Committee.... The implications of any reversal would be broader, however, for higher education generally and for Harvard University in particular. Many of the constitutional propositions submitted by petitioners [DeFunis]... as grounds for reversal would condemn a variety of admissions policies and practices."

"... Harvard and many other privately endowed colleges and universities receive government grants ... obligating them not to exclude any person 'on the ground of race, color or national origin' or to

subject him or her 'to discrimination under any program or activity receiving Federal financial assistance.' The ruling in the instant case would probably govern the interpretation of these statutory and contractual obligations.

"Whether legally binding or not... [t]he governing authorities of privately endowed colleges and universities ... would have to think long and hard before continuing to sanction admissions policies which this court had held to be ... unjustly discriminatory...."

Cox points out that every institution with more applicants than places must answer two questions. The first is which applicants have the ability to benefit from the course of study and have the intellectual capacity which will not impede other students. The second question is an entirely different one: By what criteria shall they select from the fully qualified applicants the smaller number whom the institution can accommodate?

The criteria used to decide the first question are usually numerical — test scores and grades. If all students meet the minimum requirements of the institution, "neither logic nor law nor sound educational policy commands exclusive use of, or even any reliance upon," these qualifications in selecting those to be admitted. Rather, the criteria used will and

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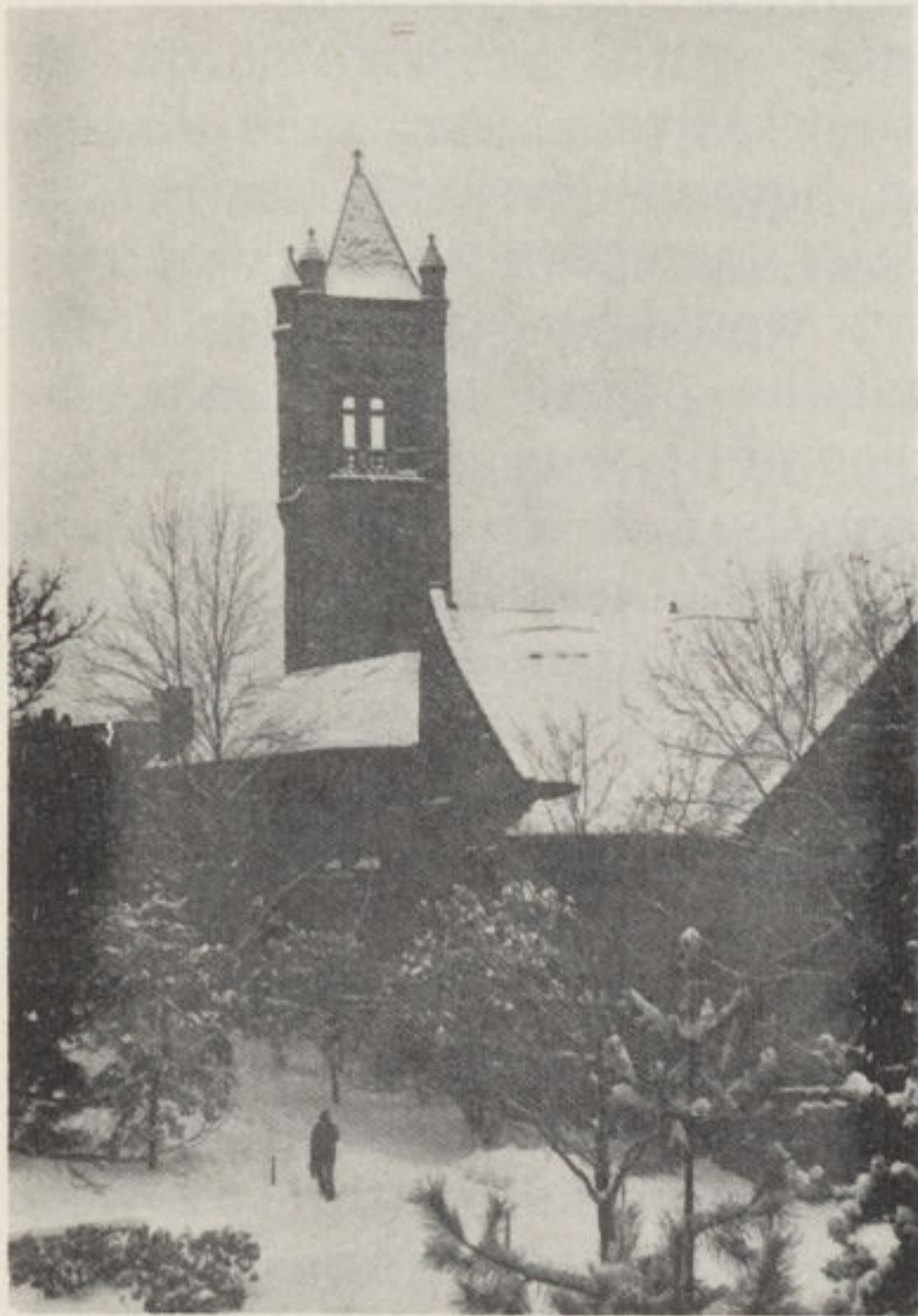
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Snow Sweeps Law School

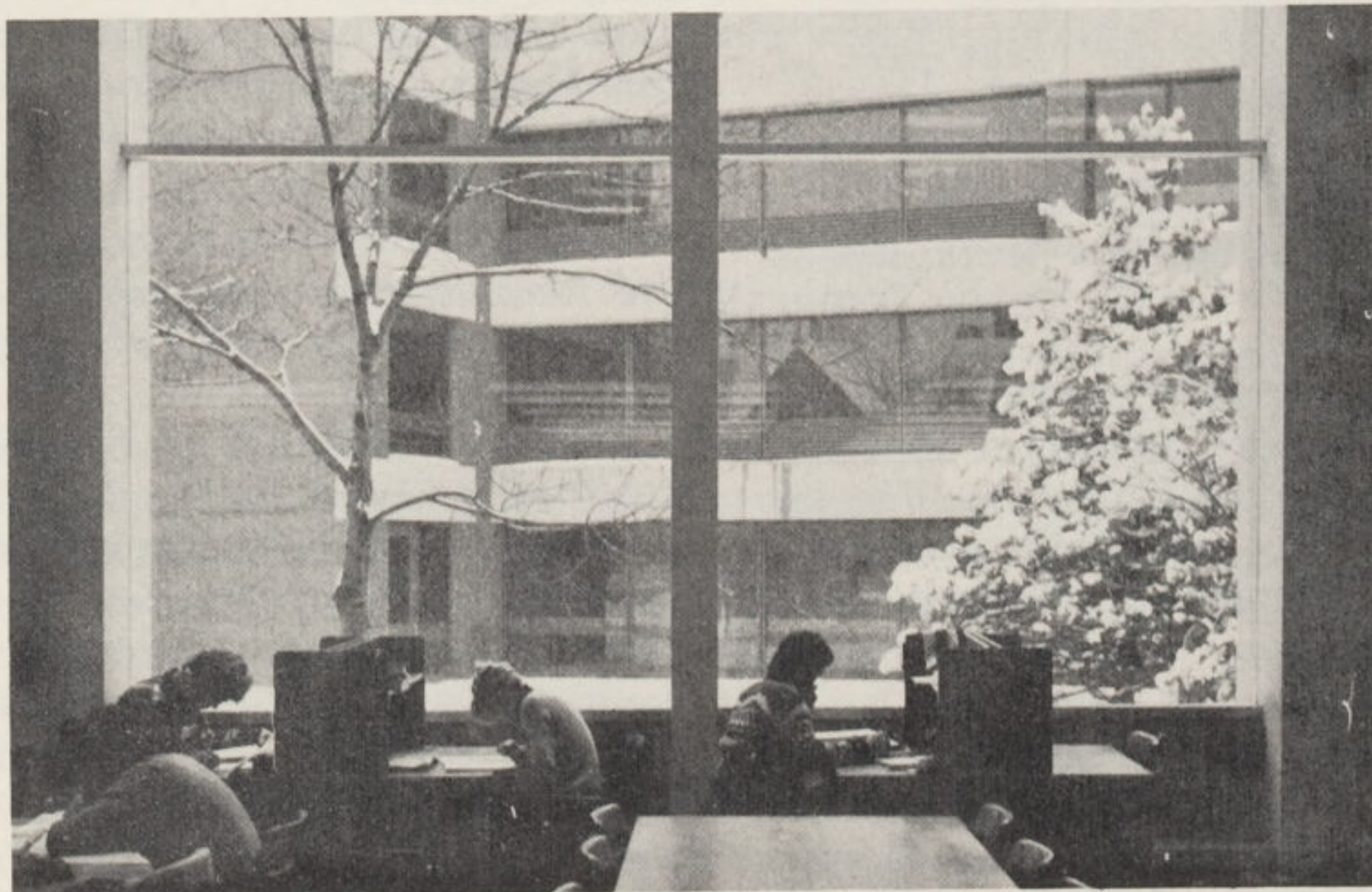


...A recent storm dumped ten inches of snow on Langdell

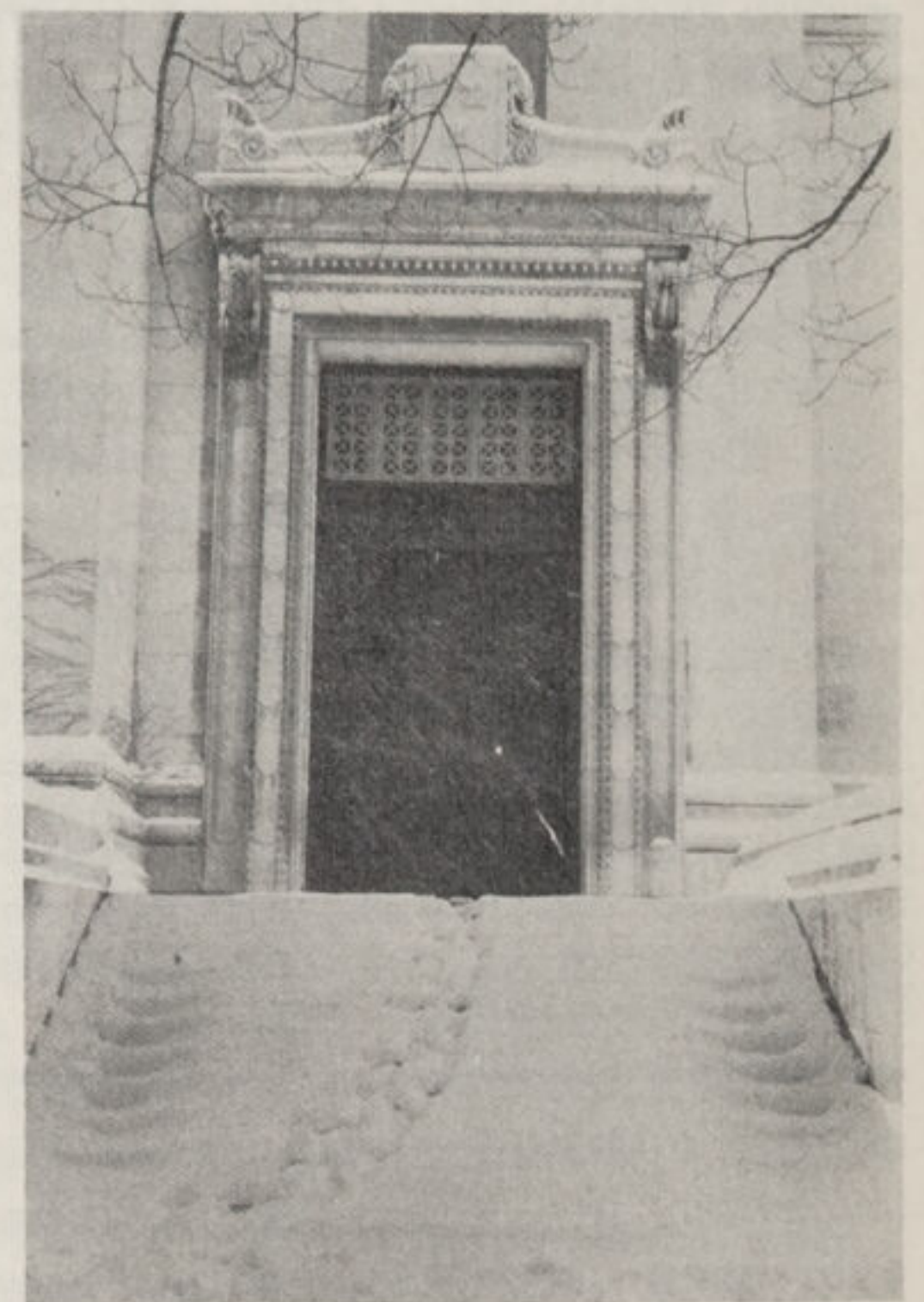


... making travel through the Law School area difficult

Photos by
Robert W. Mack



...But it makes studying inside that much more attractive.



... for the hardy few who brave the storm

Record Exposes Out of Date,

(Continued from Page 1)

however, are merely symptomatic of the sorry state into which the 21 *Law Review* outlines kept on file at the library have fallen.

An investigation by the *RECORD* revealed that more than 40 per cent of the outlines on file are at least a decade old; many of these have been rendered obsolete or superseded by subsequent editions of casebooks. In addition, many outlines are missing pages, illegible, and completely lack identification of the year they were completed and the professor for whose course they were written.

The *RECORD* investigation of the *Law Review* outlines disclosed the following information:

- The 1971 outline for Professor Donald Turner's *Antitrust* is 131 pages long in its complete, but often illegible, form. Other copies at the library reserve desk, however, are 86 pages and 104 pages long.

- Outlines for Professor William D. Andrews' *Taxation* are 182 pages long, divided into two parts. Yet copies of Part I are 79, 86, 90, and 182 pages long. (The last is actually Parts I and II combined.)

- Three copies of an outline for a

a 1964 supplement, neither of which is presently in use in other *Ad Law* classes.

How did this situation come about? The answer is complex, and requires an inquiry into the process by which *Law Review* outlines have become available to the general student body.

Until 1969, the outlines were made by *Law Review* editors on "Review time," that is, on time normally assigned for research and writing assignments. The operative theory and/or justification for this practice was that *Review* editors were so busy on the *Review* that they didn't have time adequately to study for their courses. Hence, the outlines to assist the pre-final cramming process.

According to Lecturer Lewis D. Sargentich '70, President of the *Law Review* in 1969, a decision was made by his predecessor to make *Law Review* outlines generally available to students, because of the perceived unfairness resulting from some, but not all, non-*Review* students being able to obtain access to them.

When Sargentich became President, he decided "to take the *Review* out of the business of making outlines." *Law Review*

ESTATE PLANNING 1962-1963

This outline consists of both newly drafted material based on class notes taken in Casner's class during 1962-63 and a revision of portions of the 1957-58 outline for Property II which was based on notes from both Casner and Westfall. Since this outline covers only material discussed in Casner's class up to the first part of March, reference is made below to the 1957-58 Property II outline for discussion of material treated in the class after that date. Below is a list of the chapters covered in the Casner class this year in the order in which they were treated. This list also indicates which chapters are new outlines, which are revisions of the Property II outline, and which are covered only in the Property II outline without revision.

course entitled *Institutional Development* are on file, yet none has ever been used. The outline, however, is identical to that for the oft-used *Legal Process* outline, with the exception of an introductory page.

- A 1964 *Administrative Law* outline for the course as taught by Professor Paul M. Bator is available, although Bator is not teaching that course this year. Moreover, the outline was geared to the 1961 Jaffe and Nathanson casebook and

editors were no longer assigned to write outlines on "Review time." "My own feeling was that it's just not part of the work of the *Review*," Sargentich said, explaining his decision.

Sargentich also said he agreed at the time (and still does) that the limitation of the *Law Review* outlines to the denizens of Gannett House was unfair.

When a decision was made to make the outlines generally available, Sargentich recalls, the *Law*

School was wary, fearing that students would regard them as authoritative. After some discussion, however, he said, *Law School* faculty members agreed that students would "see the outlines for what they were," and an informal agreement was effectuated between the *Law Review* and the *Law School*. That pact provided that the *Law Review* outlines would be made generally available to students, and that *Review* editors would no longer write outlines on "Review time."

Dean Albert M. Sacks, one of the faculty members involved in the discussions, recalled that the informal agreement was that "the continuous institutional creation of outlines would stop." He pointed out, however, that the understanding was not intended to prevent *Law Review* editors from getting together informally to write outlines for their own use.

Mary Fisher, Assistant Librarian for Public Services, explained earlier this week that initially some *Law Review* outlines were placed on file at the library, while others were available only at Gannett House. She recalled that in the early fall of 1972 Sacks said that he didn't want the *Law Review* involved in the distribution of outlines anymore. Consequently, the library obtained copies of all then-existing outlines from the *Law Review*, and made them generally available to students. At least eight of those outlines were completed in 1971, two years after the *Law Review* had supposedly gone out of the outline writing business.

Sacks' recollection of the 1971 outlines is vague, but he said that he did not regard them as a change in policy or as a violation of the 1969 informal understanding. It could not be determined, however, whether the 1971 outlines were written on "Review time," or whether they were informally written, and simply placed on file at the *Law Review* offices.

At any rate, the 1971 outlines were the last, and most recent, to be placed on file at the li-

Spotty Law Review Outlines

brary. According to John Garvey, 3L, Managing Editor of the *Law Review*, present editors are not assigned to write outlines on "Review time" in accordance with the 1969 agreement.

Garvey stated Tuesday that he knows of only one outline — one for the supplement to the standard Herwitz and Trautman accounting text — which is on file at Gannett House but not at the library.

He indicated, however, that *Law Review* editors have informally joined together in the last two years to produce outlines for Professor Victor Brudney's *Corporate Finance*, and one for Bator's *Federal Courts*. He stressed that these outlines are not on file at Gannett House.

One *Law Review* editor, who requested not to be identified, indicated that last year the *Federal Courts* outline was available to all *Law Review* members in the course, whether or not they had participated in writing the outline. That outline was not made generally available to law students.

Unlike the more recent *Law Review* outline for *Federal Courts*, the one on file in the library for that course was apparently written in 1964 when Professor Henry Hart (now deceased) taught the course. The outline, however, does not indicate when it was written, or that it was written when Hart was professor. Despite its age, and apparently minimal utility, between 40 and 50 of the 130 students enrolled in Professor David L. Shapiro's *Federal Courts* last semester xeroxed the 1964 outline, according to Michael Dolan, manager of the Legal Copy Center. The actual number of outlines xeroxed for the course is somewhat greater, however, since many students photocopied other xerox copies of the outline at other commercial photocopy centers.

Law Review outlines appear to be used with some frequency. Conversations with law students during the past two weeks indicated that almost all had used at least one *Law Review* outline. Dolan of the Legal Copy Center indicated that

LEGAL PROCESS

AN APOLOGY AND A WARNING

THIS OUTLINE IS NO SUBSTITUTE FOR A CAREFUL READING AND A MASTERY OF THE MATERIALS IN THIS COURSE, BECAUSE THIS COURSE IS DESIGNED TO TEACH, NOT A BODY OF LEGAL RULES, BUT A METHOD AND TOOLS FOR ANALYZING LEGAL PROBLEMS GENERALLY.

IT IS RECOMMENDED THAT YOU READ ALL OF THE MATERIALS ASSIGNED. CERTAINLY YOU MUST READ THE TEXTUAL PORTIONS - ESPECIALLY 110-206.

No outline can replace the techniques developed through reasoning your way through the various questions asked in the text. This outline has been revised in two weeks and certainly is not a perfect job. Furthermore, no attempt has been made to revise the sections dealing with materials not covered this year—1961.

EXAMINATION QUESTIONS IN THIS COURSE IN THE PAST SEEM TO HAVE BEEN OF TWO TYPES: they deal with a problem not presented in the materials and require for a good answer a knowledge of the techniques of analysis presented in the materials; or, they require this same knowledge plus a knowledge of the particular facts presented in the problems, since the questions dealt with the fact situation of a particular problem in the materials.

WARNING: This is a deceptively simple course, but it is designed to reveal very complex choices, questions and attitudes. If you don't see any complexity here you may be extremely brilliant; but it is more likely that you haven't mastered this course.

HINT: Index the materials in some way so that you will be able to thumb back and forth through them easily at the exam.

REMEMBER: IN THIS COURSE IT IS EVEN MORE IMPORTANT TO KNOW WHAT QUESTIONS TO ASK THAN IT IS TO KNOW THE ANSWERS TO SPECIFIC QUESTIONS.

about 100 outlines were made for Tribe's *Evidence* course as well as for Professor James Chadbourn's *Evidence* course, each of which had about 180 students enrolled.

The frequency of usage of a particular outline appears to depend on its age, length, and quality.

Both students and faculty agree that the quality of *Law Review* outlines is uneven. As Garvey says, the quality of the outlines "depends on whose doing what section and how much time they spend on it."

One student noted with some dismay that the word "hearsay" was consistently misspelled "heresay" in one part of the Tribe *Evidence* outline.

Several students praised the *Accounting* outline, but another termed it "terrible." Another student said the *Estate Planning* outline, written in 1962-63, was of almost no value, and said he threw it away soon after purchasing it.

Course outlines favored by students included those for *Legal Process*, *Conflicts of Law*, and *English Legal History*.

Sargentich recalls that outlines varied: "some were quite good, some were terrible." He also remembers that *Law Review* outlines

were "highly regarded as a significant study aid, but in fact they always weren't."

Sacks was more circumspect regarding the value of the outlines. "The outlines have always been far short of what a really good outline should be," he said. He stated that he personally felt that the primary benefit of outlines accrued to those students making them, rather than to those subsequently using them.

Turner, when asked what he thought of the *Law Review* outline for his course, replied that he didn't even know one existed. Describing himself as "a libertarian," he said that he didn't object to non-commercially prepared outlines. He said he didn't think the faculty should be responsible for checking outlines for accuracy. "It's caveat emptor; there might be some bum stuff," he commented.

Turner suggested, however, that the Library might be responsible for maintaining at least one complete copy of each outline on reserve.

The veteran *Antitrust* professor also suggested that the older the outline, the less its value, since a particular professor's views change over time.

Run-around

The pass/fail issue appears to be like a marathon runner on a circular track. We see it coming around the bend again today in the form of the faculty's vote on re-institution of optional P/F for first-year students. We have seen the same race before, but this time the runner appears to be losing steam.

Whatever the result, it is apparent that student advocates of pass/fail should follow the maxim of Coke: "It is better to go up to the wellsprings than to follow rivulets downhill." The remedy for the educational malaise of the grading system can be better found by getting at the root causes of the illness than by trying to change a symptom.

One of the primary objections to grading here is the categorizing of people on some scale that measures many variables other than simple mastery of course material. With different teaching methods, some students who fare less well academically under the present system would undoubtedly benefit. The problem is how to get away from the typical lecture-question class of 120 or more students.

The size of the Law School is at the same time a great strength and a great weakness. Much of the value of a Harvard education derives from the associations gained here among a large and diverse group of students. However, the homogeneity enforced by the necessity for large classes in basic courses deprives many students of full value for their educational dollar.

The late W. Barton Leach engaged in experiments in legal education using a Skinnerian or programmed teaching method. Why were such educational experiments allowed to lapse? The recurrent overenrollment for the clinical program is indicative of students' needs for variety in educational offerings.

While it is difficult to separate the effects of methods of instruction from methods of evaluation, it is probable that the former area offers the greatest promise for improving the educational climate at the Law School. If more flexible teaching programs were available, perhaps the issue of pass/fail would not burn so bright.

Right To Counsel

The implementation of the Sixth Amendment guarantee of right to counsel has almost never been held to turn on the quality of counsel. Yet every practicing lawyer knows that there is a vast difference between the resources of a large corporate law firm and the skill of the average single practitioner, as well as between the discretionary selection of cases by a prosecutor and the overwhelming caseload of a public defender.

In California, attorneys can qualify as criminal specialists under recently promulgated rules. This suggests that all counsel appointed to defend indigents in criminal cases should be qualified for that speciality.

The recent remarks of the Chief Justice of the United States that many attorneys are unqualified to appear as trial counsel and that some standard of qualification for trial lawyers should be established add weight to our concern.

It is time for the courts to take seriously challenges to the competence of counsel afforded defendants, rather than continuing to apply a standard that requires that a trial must be a farce before this issue can be considered. Not until such measures are taken can the Sixth Amendment be said to guarantee justice for all.

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Fenno

Fenno glanced up from a copy of the *New York Times* that a third-year student had thoughtfully left outside his door for casual readers. His attention was drawn sharply by the 1L drawing toward him: the student was walking jerkily, animated almost to the point of agitation.

"You must be coming back from a Wil-liston negotiation," Fenno offered, as the 1L almost brushed past without seeing him.

"I am without authority either to confirm or deny that," the first year student answered mechanically. "If you wish to draw any inferences in that direction, you must do so at your own risk."

"That's what I thought," Fenno nodded. "How's it going?"

The 1L sighed.

"Slowly," he admitted. "In fact, it's a considerable overstatement to speak of it in terms that connote motion of any kind."

"How are your opponents?"

"Completely intractable. Intransigent to the point of irrationality. No concept of constructive bargaining. None whatever."

"How did you handle them?"

"The only way we could," the 1L assured Fenno. "We didn't move an inch."

"I take it you're rather far apart."

"You might say that. They want a lease in perpetuity with an option for their client to cancel at any time. We want a tenancy at will with liquidated damages in the amount of their first year's sales if their client breaches or moves out in less than twenty years."

"How close are you on rent?"

"We've agreed completely on the amount."

"Well, that's pretty good."

"The only thing is, we think they should pay the amount to us, and they think we should pay it to them."

"Has your BSA advisor been any help?"

"Not really. He quit coming after my partner thought he caught him peeking at our confidential draft and punched him out."

"How long have you been meeting?"

"Well, originally, we had planned to meet for two hours at a time. But in our first meeting we each spent the first two hours waiting for the other side to make the first offer, so we had to extend the time limits."

"You know," Fenno said judiciously, "I think you're into your role a little bit too heavily, as they say over in the yard. Why don't you read the sports page of this abandoned *Times* and come out of it a little bit."

"Maybe you're right," the 1L agreed, reaching for the bulky paper in Fenno's hand, "But I want the front page, too. And the financial section."

Law Notes

The speaker at the Harvard Law School Forum on February 13 will be **Betty Friedan**, author of *The Feminine Mystique* and feminist leader. Friedan is a past president of the National Organization for Women and an organizer of the Women's Strike for Equality of August 26, 1970.

* * *

On February 11, Former Congressman **Allard Lowenstein** will speak in Aldrich 208, Harvard Business School, at 4 p.m. His appearance is being jointly sponsored by the Law School Forum and the Harvard Business School Debating Society.

* * *

Grades — Dean Albert M. Sacks reported that **fall semester grades** should be available to students on or about March 4. He said that faculty members are expected to turn grades into the registrar's office by February 25.

* * *

Correction — **Preliminary registration material** will be available before spring vacation, but preliminary registration itself will not be available until the end of April, according to registrar Mary D. Upton. The RECORD erroneously reported last week that preliminary registration would be held before spring vacation.

* * *

The RECORD will publish its annual list of clerkships on Friday, February 15. Any student or recent graduate who has accepted a **judicial clerkship** beginning this summer or fall should notify Kathy D'Avanzo, Dean Bernardi's secretary, in FOB 100 **today** in order to be included in this list.

Cox Writes Amicus Brief In Law Admissions Case

(Continued from Page 6)

should reflect the policy and educational philosophy of the university.

The failure to grasp the essential distinction between these two questions is "the source of petitioners' ... misleading assertion that minority applicants were preferred despite DeFunis' superior qualifications."

Some institutions might conclude that its goals in education were best served by selecting from the qualified applicants the members who have diverse social, economic and cultural backgrounds and the widest variety of talents and interests. For such a university, "race, color or ethnic origin, like economic or cultural background, is one of the many characteristics that a student presents to his classmates as an individual does to the world.... Race, color and ethnic origin also tend to identify forms of special experience, social and cultural background, outlook, interests and attachments which make important contributions to a student body."

Cox contends that the Equal Protection Clause neither prohibits a selective admissions policy nor requires the judiciary to prescribe standards of selection. Further, standards of selection "which

would not be constitutionally permissible in other contexts are acceptable in admissions to colleges and universities, both because the individual characteristics that may be educationally relevant are numerous and because, despite disappointments and hardships, selections must be made.... Given the necessities of preferring some qualified applicants over others and the permissibility of refined comparisons on the basis of personal characteristics, does the Fourteenth Amendment nevertheless require admissions officers to blind themselves to what all the world knows: that the presence of members of minority races is one of the most valuable sources of diversity in any community...?"

Cox attacks the assumption that academic exclusion or segregation of minorities has the same psychological, sociological and political effects as their inclusion. Exclusion asserts the supremacy of one race and the inferiority of another. There is no danger of such an exclusive policy when a predominantly white institution considers membership in a minority group as a factor favoring a candidate for admission. On the other hand, an inclusive policy, besides adding diversity and richness to the educational experience, tends to insure that no group is preferred to any other. "The objective of improving the education of all is non-discriminatory in every sense of the word."

Pointing to the fact that in 1968 only one per cent of U.S. lawyers were black, Cox asserts that increasing this proportion would have many beneficial results in local communities. It would provide minority people with advocates familiar and sympathetic to their problems. Young people would have role models who would encourage further participation in the legal system.

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'Exorcist': Comforts of Evil

By Paul R. Gupta

It is indeed appropriate that, at this time in the life of the Republic, our President particularly prides himself on performing hitherto "unprecedented" tasks. The initiatives with respect to Russia and China, the landing of men on the surface of the moon, as well as contemporary sociological phenomenon, all appear to signal important departures from past expectations. Social observers have learned to look to the performing arts for clues about the public consciousness, and the coming of *The Exorcist* as a motion picture (following upon its hugely successful novel) thus seems as portentous as the presence of a comet once seemed to our forebears.

The public reaction to *The Exorcist* has been far more extraordinary than the movie itself. To summarize the movie for the benefit of those who are still typing up fall term papers: a girl of twelve, living with her actress mother in a Georgetown home, becomes possessed by the Devil himself. The indicia of the possession are things that go bump in the night, strange movements of the little girl's bed, a sudden coldness in her room, and her peculiarly violent behavior. Rather tortuously, the girl is cured by way of an exorcism conducted by two priests, one of whom is also a psychologist, while the other dabbles in archeology.

It is not clear what tangible changes *The Exorcist* has wrought upon our society, except perhaps an increase in complaints about cold and noisy rooms among the population generally, together with a decline in such complaints by law students anticipating encounters with Bar Association ethics committees. Even given the current disenchantment of our times, it is unlikely that we will be soon subjected to *The Son of the Exorcist*.

However, I am curious as to why *The Exorcist* will enjoy unprecedented financial success, setting

new box-office records at least until next season. We are probably witness to more than merely a successful advertisement campaign, since a large proportion of current viewers of *The Exorcist* have either read Blatty's best-selling book or have actually seen the movie before, or both. What do so many people find compelling in *The Exorcist*? Why do they go back, instead of merely seeing it once and then forgetting about it?

Insofar as an answer is possible in terms of an intellectual formulation, and without dignifying the film as distinct from the audiences' reactions to it, the first several minutes of the movie become relevant. Before we meet the little girl in her Georgetown home, *The Exorcist* introduces us to the priest-archeologist on a dig in a mystical country (identified as Iraq). There he discovers statues of the Devil, which presumably helped a past civilization come to terms with its environment. The point of the film's opening frolic might be that as between ascertainable human corruption and mysterious evil, it is more comforting to look to the latter for an explanation of extraordinary misfortunes. If no human agents are involved, then there is no need to search out the guilty individuals, nor to determine appropriate punishment; these are painful tasks for both the individuals involved and society as a whole, particularly if the society cherishes justice.

Thus, to use an inevitable modern example, I think that most people, regardless of their politics, would be happier if it could be proven that the "sinister force" once referred to by an Administration source was responsible for the tape erasures, rather than the President of the United States with four to eight of his friends. A "sinister force" theory, if really accepted in the nation, would result in fewer dislocations to the system and less short-term uncertainty than an alternative and more

sophisticated explanation. We could then go about our everyday business, without worrying about impeachment and attendant upheavals in areas ranging from political elections to the stock market. A random mechanical malfunction or even a human possession seems to be a fair price for fundamental stability. The citizens of another democracy, Athens, after all were less upset by the appearance of a *deus ex machina* than by an unhappy ending.

A critical difference, however, between the Athenians' religious belief and ours — apart, of course, from theological aspects relating to both doctrine and ultimate truth, where I readily confess ignorance — is that ours is fragmented. That is, whereas earlier societies generally were organized in contemplation of a common religion which provided the basis for shared values, our society's values are expressed and enforced in secular terms. For example, a lady in Boston, exercised about the film, has apparently sued for an injunction against its further showing, alleging blasphemy. In modern secular terms, her suit would sound in obscenity.

Religion then becomes all the more important for providing the individual with a means to organize himself, as distinct from organizing society. As C. G. Jung has indicated, a person with a strong faith doesn't need to see a psychiatrist. But, as Arnold wrote in one of the first major poems on the modern condition, the "Sea of Faith" appears to be "retreating." His point seems to be accurate to the extent of observing that an increasingly complex society must leave the determination of spiritual values to the individual, who is himself often preoccupied with other affairs.

Thus while religion is no less powerful now in giving a person a sense of cosmic identity, it no longer serves to create social bonds in our present society. One can speak of, say, a care-

(Continued on Page 15)

Alumni Group Promotes HLS

By Ricardo Hinojosa

"To advance the cause of legal education, to promote the interests and increase the usefulness of the Harvard Law School and to promote mutual acquaintance and good fellowship among all members of the Association" is the statement of purpose that the stationery of the Harvard Law School Association bears.

The Association, which is composed of of Harvard Law School Alumni, runs its international operations from an out of the way office in the basement of Hastings Hall. In charge of the office is Association Assistant Secretary and Assistant Treasurer Wilson H. Pile.

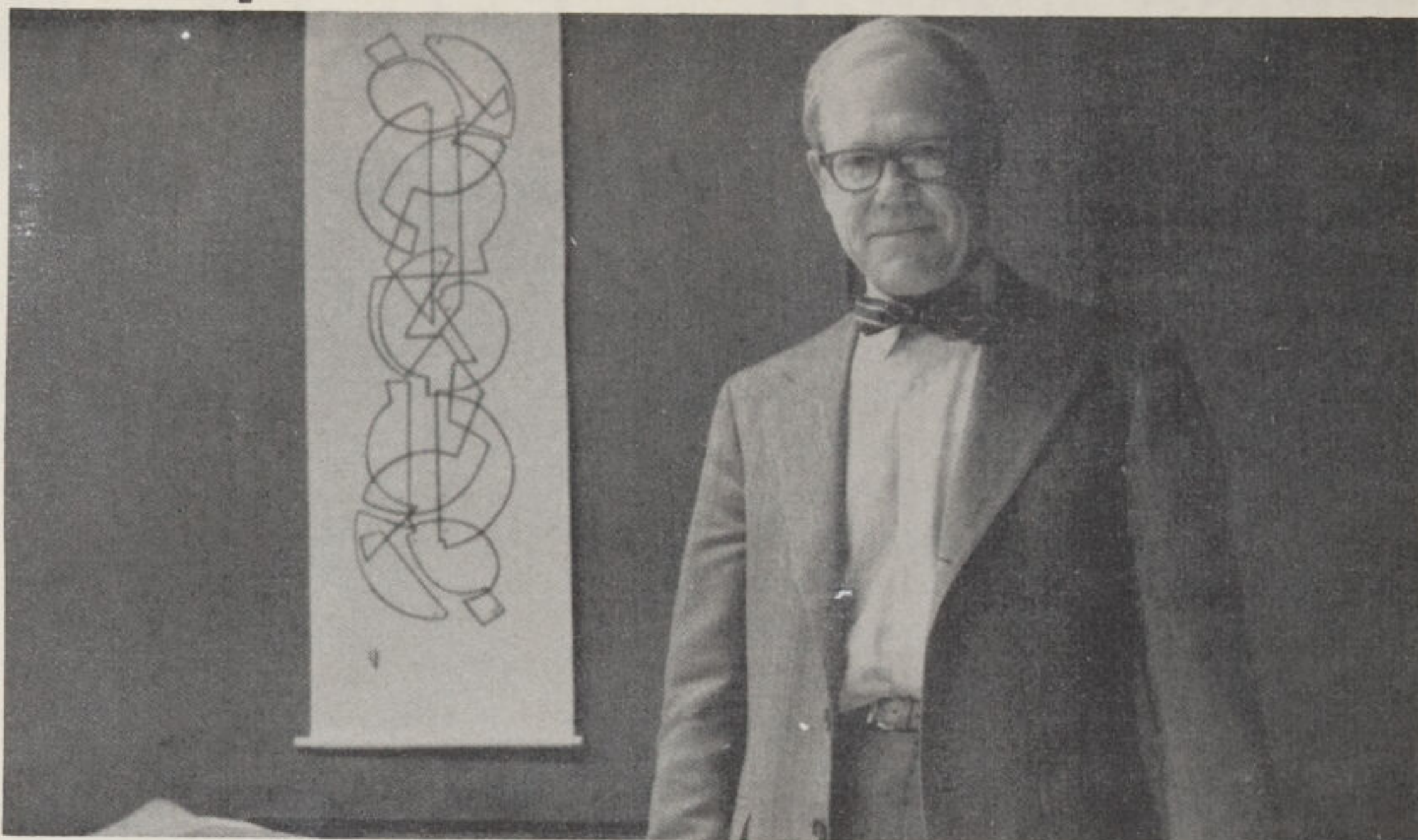
According to the Association's Recording Secretary Rose F. Talamona there are 58 local associations affiliated with the Harvard Law Association. Fifty of the local associations are located in the United States, while the remaining eight are in such countries as the United Kingdom, the Philippines, and Canada.

The Association solicits membership annually by mailing a letter to the 26,000 alumni of the Law School. The present membership of the organization is 10, 191.

In order to carry out its varied activities the Association in its membership solicitation asks for \$15 annual membership dues. However, if an alumnus has been out of school less than 5 years the annual dues are reduced to \$7.50. There is also a fee of \$100 for lifetime membership, but that is open only to those who have been out of the school for more than 25 years. The Association does return \$2 of each member's dues to the local associations.

The money raised by the Harvard Law Association through dues is not connected with the Harvard Law School Fund, the annual giving program which raises money both for current spending and for additions to the Endowment Fund of the Law School.

In order to carry out its stated



Mark McNeil

Alumni Association assistant secretary Wilson H. Pile

purposes according to Talamona, who has served as Recording Secretary for 20 years, the Association is engaged in numerous programs. One of these is the National Scholarship Program at the Law School, which the Association initiated 24 years ago. Since that time the organization has contributed over \$300,000 of its dues income to the program.

Another service to students which has received financial support from the Alumni group is the Harvard Law School Association Loan Fund which was established in 1964 and has received close to \$50,000 from the Alumni.

Besides sponsoring services to students, the Association is involved in projects that directly benefit its members. It sponsors alumni meetings at the American Bar Association meetings.

The Association also has a subscription contract with the RECORD, whereby it is sent free of charge to all the active members of the Association requesting to receive it.

At the Association's annual meeting which is held each spring in Cambridge a "Report of the President of the Harvard Law School Association to the Council" is presented. The annual meeting is for the purpose of electing officers and receiving the report, which is also mailed to all active members. Presently serving as President of the organization is Stuart N. Scott '30 of New York City.

One of the most ambitious projects undertaken by the Association is the publishing of the *Quinquennial Catalog*. The *Quinquennial* which lists the names, addresses and occupations of everyone who has attended the Law School is distributed to all active members every five years. The latest was published in 1973. In it is found such information as the fact that Alger Hiss graduated from HLS in 1929, while Saudi Arabian oil minister Ahmed Z. Yamani finished his stint at the Law School in 1956. The information is listed in three different ways — alphabetically, chronologically, and geographically. The data is gathered by mailing out 26,000 questionnaires the year before publication.

According to the Recording Secretary most of the local affiliated associations are also involved in numerous activities. They have luncheon or dinner meetings at least once a year, usually at the time of the state bar convention.

The Law School does its best to furnish representatives from the school for major meetings of the affiliated associations.

Several of the affiliated associations, particularly those in large cities, have placement officers who bring together employers and alumni seeking new positions. Some have provided scholarships for students at the Law School from their area.

Scientific Jury Selection Warps Justice

By Phil Spector

The latest application of social science to law has pleased many people in the short run, but it raises new concerns about the long-term viability of the jury trial system. The formerly intuitive process of jury selection can now be accomplished "scientifically," using sample surveys of opinion, computer printouts of data, psychological observations of the prospective juror, and background investigations of the venireperson's personal life.

These procedures are very expensive and require the time of many persons, especially professionals. Thus, their use has so far been limited to trials of well-publicized radical defendants, who generally have access to a "defense fund" and many enthusiastic volunteers. In the Harrisburg, Camden 28, and Gainesville Eight trials, out of 36 jurors, all of whom had been selected by these methods, 34 voted for acquittal, according to *Time* magazine.

This statistic does not prove direct causality between the selection methods and acquittal, of course, but the 94 per cent success rate for three trials seems higher than would occur using old-fashioned guesswork methods. At least the American Indian Movement leaders currently on trial for the Wounded Knee occupation and the Attica prisoners soon to be tried seem to think so; they are using the same systematic methods.

My concern about these methods does not stem from any disagreement with the just-cited verdicts. To the contrary, my sympathies in these trials have generally been with the defendants. Nor would I argue that defense counsel should have refrained from taking such an unfair advantage. Within the bounds of conscience and legality, a good lawyer ought to use every available weapon to help him or her win the client's case.

Yet there remain issues of privacy and potential inequity which I find very disturbing, particularly if, as seems likely, the apparent success of these methods leads to their increased use. The potential juror is scrutinized by psychologists and body-language specialists; he or she is, in effect, psychoanalyzed while performing a civic duty, a duty, moreover, originally forced upon the person, rather than volunteered for. Then, his or her personal life is checked upon by investigators, a practice that many of us consider an invasion of privacy when done to the unwary by the FBI or a private credit agency.

More far-reaching problems could develop as the use of these methods widens. Procedures that work successfully for the criminal defendant ought to work just as well for the prosecution and for civil parties. The unfairness now caused when one party has access to better attorneys and more investigative resources would be

multiplied many times, since very expensive procedures would be involved leading presumably to far more frequent and predictable victories for the party spending the money. In addition to the unfairness, moreover, our feeling that juries somehow mystically "do justice" would be irreversibly undermined, and with that feeling would likely go whatever confidence the American people have in lawyers and in the system of adversary justice that lawyers represent.

To reduce the obvious inequities, it might logically be suggested that both sides should have equal access to these procedures, at least in criminal trials, just as all defendants are now guaranteed representation. The solution seems absurd for this problem, however. If the adversaries have truly equivalent data and experts, then their "scientific" selection methods will offset each other, leading to a return to intuitive selection factors and human inscrutability as the decisive elements (along with, hopefully, the merits of the case). Ultimately, there may be a lot more employed psychologists, sociologists, and statisticians, but the rest of us — intimately scrutinized when called for jury duty, harboring more doubts about our system of justice, subsidizing in one way or another the offsetting, and thus meaningless, expenditures for these purposes — might then legitimately wonder whether we would have been better off if lawyers had never started down this particular path.

Hastie to Give Talk On First Amendment

The first Francis Biddle Memorial Lecture will be given by Hon. William H. Hastie, '30, of the U.S. Court of Appeals for the Third Circuit Tuesday, February 19, 1974 at 8:00 p.m. in the James Barr Ames Courtroom. The subject of the lecture will be: "Free Speech: Contrasting Constitutional Concepts and their Consequences."

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Few Seniors Investigate Positions as Professors

By Karen Bier

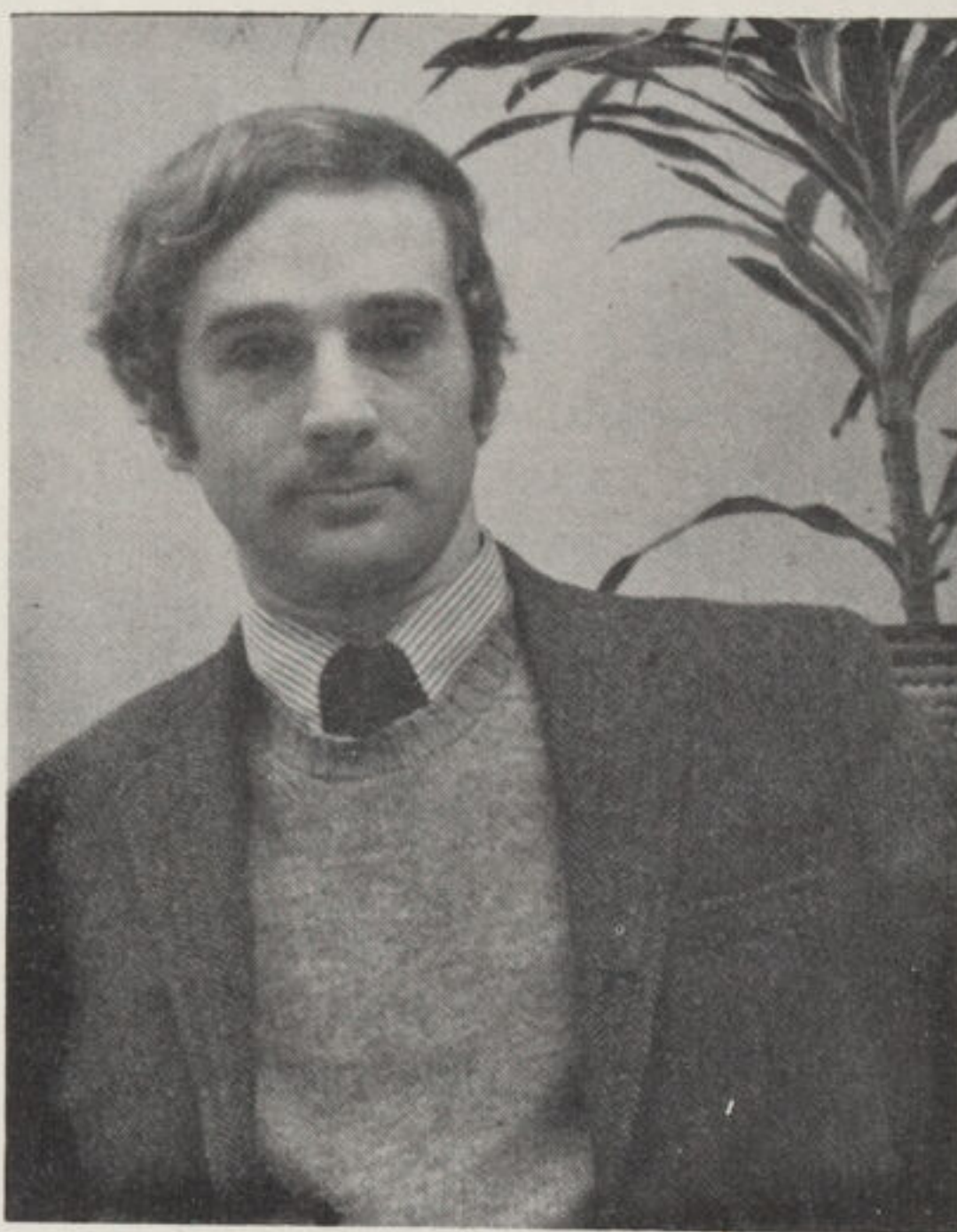
Law students may at times let their thoughts rest on the idea of "someday teaching." But few J.D. candidates have investigated the opportunities in legal education, according to David N. Smith '58, Secretary of International Legal Studies.

Smith, who coordinates placement of students and alumni in teaching positions, said, "I think the Law School in the past has failed to encourage J.D. students to think about law teaching as a profession." He hopes to organize a conference, perhaps this spring, "bringing together a number of deans to talk about their law schools and teaching."

The placement process, involving from 50 to 75 law schools each year, is informal. Candidates, primarily L.L.M. students and alumni, are asked to submit a resume in early fall and are referred to prospective employers who contact Smith's office. Last year, 110 lawyers, over two-thirds of them alumni, participated.

About 35 persons were placed in teaching positions last year. Of these, between 15 and 20 were L.L.M. candidates and 2 or 3 were 3ls.

In the past, such institutions as Boston University and Duke have requested referrals. But, said Smith, "schools of the very first order, like Harvard and Yale, by and large recruit through their own



David N. Smith '58

grapevines and by keeping an eye on their good students."

Many schools are looking for lawyers who wish to teach basic courses on torts, corporations, and taxation. But, according to Smith, specialists are harder to place. He emphasized that "you don't have to be on law review or at the very top of the class at Harvard to go into teaching."

Smith, who spent two years in Northern Nigeria as an adviser on administrative justice, said he was handling teacher placement "because the Dean asked me to." He added, "As a member of the Committee on Graduate Studies (which reviews applications to the L.L.M. program), I have personal knowledge of many of the students who register with the office."

'The Exorcist' Finds Comfort In Occult Evil

(Continued from Page 12)

fully articulated "Elizabethan World Order" which was based primarily on expressly religious precepts, but there is nothing comparable today in our nation in the sense that we all believe in it. Except in the rather dubious sense in which Watergate has brought us all together, we are a nation of disparate values, ambitions, and beliefs.

If such speculation is valid, then a further source of *The Exorcist's* drawing power may be that the presence of the Devil (besides providing more comfortable explanations than are otherwise available for strange events) is something we can all believe in. The Devil has the virtue of being ecumenical, and can be properly feared by people of all persuasions. In the epilogue to the novel, the mother of the little girl says: "... as far as God goes, I am a nonbeliever. Still am. But when it comes to a devil — well, that's something else. I could buy that." These comments have been echoed by many readers and viewers of *The Exorcist*; but still I think — without absolute certainty — that neither can the Devil bring us together in common cause.

In seeking something that we can all jointly believe in as a nation, apart from our beliefs as individuals, we may have to turn to secular institutions. Indeed, the legal system particularly suggests itself, since it is supposed to fulfill some formerly religious duties. Most obviously, the Judaeo-

(Continued on Page 16)

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Rule 26:

Q. I know there's an energy crisis but at least the school could have heated the classrooms where finals were being given. Why didn't it?

A. During exam week the entire school went back to a constant 68 degrees. The cold exam rooms resulted from a mechanical failure rather than Law School policy, says Dean Bruce.

Q. The "Red Set" that was featured in *The Paper Chase* — does it really exist?

A. The Red Set (actually some of it should be called the White Set) is behind the locked doors of the top floor of Langdell. It is accessible only by permission or stealth. While on the subject I might point out that there is no Harvard University rule against filming movies inside of buildings. The question of whether the Law School would allow indoor filming of *The Paper Chase* became moot when the producers decided to shoot in Toronto. As related by Dean Bernardi this was because the Boston area falls within the jurisdiction of New York labor unions and the pay rates were enough to drive the producers out of the country. Harvard received no money for allowing the outdoor filming.

Q. I notice that 23 Everett Street has an office for the Student Bar Association. What is the Student Bar Association?

A. After a certain amount of searching by Dean Bruce's secretary we discovered that the SBA is the campus arm of the Student Division of the ABA. Its current officers are Michael J. Israels 2L, Harold F. Fitzpatrick 3L, and Robert A. Shwed 3L. According to President Israels, its traditional functions have been usurped by the BSA and the Law School Council. At this time its members are active as individuals rather than functioning as a group.

Q. Where can you get something to eat in between classes other than at the Hark?

A. Try the Science Center Cafeteria. The menu is limited but the coffee isn't machine made.

Library to Fix Up LR Outlines After Investigation by Record

Cohen conceded, referring to the Library's failure to oversee the physical condition of the outlines.

Cohen agreed that the outlines had come into a "no-man's land," with the Library, the Law School, the *Harvard Law Review*, and the Legal Copy Center all declining to assume responsibility for the maintenance of the outlines. As Cohen had earlier remarked, "Our involvement is primarily as a service instrumentality."

Dean Albert M. Sacks had earlier stated that he felt the Law School's responsibility in this area was limited, since students could determine for themselves the value of the outlines. He said, however, that the Law School might be wil-

ling to put a warning on the outlines advising students that the outlines were of limited educational value. Sacks said he thought that the original agreement between the *Harvard Law Review* and the Law School contemplated such cautionary notes on outlines.

Cohen stressed that while the Library would maintain the outlines in proper physical condition, it could not be responsible for improving or updating them, since that would be "beyond our jurisdiction."

'The Exorcist'

(Continued from Page 15)

Christian ethical code has been secularized into our criminal laws. Further, insofar as law defines social relationships, it will become inoperative without belief by all of us in its essential elements. As long as a majority, or at least many of us acquiesce in our foreign policy, our space program, and like endeavors, they can be continued. But our legal system, and in this sense our social order, requires near unanimity to flourish.

Any danger to our society, then, will not come from the films that its citizens patronize. Perhaps attendance at sensationalistic movies only indicates general boredom, in any case; while boredom may be able to destroy a civilization, at least such destruction is very gradual. The more immediate threats are abuses upon our legal system. It has evolved from hallowed needs, and it may be the last repository of our collective belief.

Sports Answers

1. Rogers Hornsby
2. Billy McGill
3. Pepper Martin
4. Luis Firpo
5. Charlie Keller
6. Jack Dempsey
7. Eddie Stanky
8. Frankie Frisch
9. Jerry West
10. Helen Wills
11. Tris Speaker
12. Jim Loscutt (or Jim Rivera)
13. Rudolph Walter Wanderone
14. Tom Harmon
15. Allie Reynolds

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