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The Disadvantaged Student and Preparation for Legal Education: The New York University Experience

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The law school commitment to enroll more minority students is a decision which can have many and varied ramifications for the law school as an institution. Minority students will bring new perspectives, different needs—a total outlook on life and law potentially at variance with that of the majority culture in which most law school faculties and students have been educated. The resulting challenge to accepted norms can be met by the law schools in many ways—it can be ignored, creating frustration and anger, or it can be utilized creatively, expanding the horizons of the law school to include hitherto unperceived areas of thought and endeavor. The latter alternative was the approach of New York University, whose minority students, in conjunction with certain majority student organizations, called for and received law school reforms altering the framework of the legal education process at NYU.

To speak of the "disadvantaged student" is, in current parlance, to employ a euphemism for the minority group

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student. That in turn is a code phrase, varying somewhat from campus to campus, used to identify the student who is black, Puerto Rican, Indian, Chicano, or Oriental, to catalogue only the most common.

Discrimination against these groups in terms of law school admission policies was essentially ended by the early 1960's. Attention has now turned to ways to encourage law school attendance by minority group students, sometimes including a bit of reverse discrimination. That latter story is the general subject of this *Symposium* and, in this article, as applied to a particular school. But initially it is worth remembering that official tolerance of racial discrimination in American law schools continued rather longer than one would have thought. Its elimination was at last accomplished through the combined efforts of the Supreme Court of the United States and various individuals and groups within the Association of American Law Schools.

There was of course no conscious alliance between the Supreme Court and the AALS. Until the 1950's both had been silent on the subject of racial discrimination in legal education, the Supreme Court because it still accepted the concept of "separate but equal," and the AALS because it believed that racially restrictive admission policies were not proper concerns of a body concerned with legal education! Accordingly, membership in the AALS "club" was not prejudiced by refusal to admit to the study of law on grounds of race, sex, or religion.

The Supreme Court moved first, holding that segregated legal education was not equal education, at least in a state university.[1] These 1950 decisions were followed in 1954 by the more general edict applicable to all public school education.[2] But the AALS remained officially unmoved in its apartheid-like policy for almost a decade after *Brown*. The gradual movement away from that policy to one of outright condemnation of any discriminatory practices in higher education is reported in the first part of this article. In the late 1960's the AALS and its member schools began to encourage recruitment, admission, and

1. Sweatt v. Painter, 339 U.S. 629 (1950); McLaurin v. Oklahoma, 339 U.S. 637 (1950); Note, *The Affirmative Duty to Intergrate in Higher Education*, 79 YALE L.J. 666 (1970).

2. Brown v. Board of Educ., 347 U.S. 483 (1954).

graduation of increasing numbers of minority group law students. The rewards—and the problems—in that movement have been considerable. The experience of one school, New York University School of Law, is told in the remaining portions of this article.

Looking back, we find it hard to understand in the 1970's why the AALS was so slow in the 1950's, and even in the 1960's, to convert moral indignation into the possibility of sanction. The story deserves recounting as a reminder of the slow adjustment to reality even by high-principled individuals.

In 1950, when our tale begins, the way had just been pointed by the Supreme Court in holding that state-supported law schools could not restrict admission on the basis of race and could not segregate students along racial lines once admitted. Before 1950 the Association of American Law Schools had never inquired into racially exclusionary practices among its member schools, presumably on the ground that this was not a matter of educational policy. Accordingly, when a resolution was proposed at the annual meeting in December 1950 that would have required abolition of segregation as a condition of membership in the Association, the member schools found it too strong. The compromise resolution then adopted read as follows.

> The Association of American Law Schools opposes the continued maintenance of segregation or discrimination in legal education on racial grounds, and asserts its belief that it is the professional duty of all member schools to abolish any such practices at the earliest possible time.
>
> In light of the foregoing views, the proposal . . . for an amendment to the articles which would require abolition of segregation by member schools as a condition of membership in the Association is referred to a committee of five to be appointed by the President. The committee is instructed to report to the 1951 Annual Meeting with regard to this proposal, and any alternative it may deem worthy of consideration.[3]

When the committee reported back in 1951, it acknowledged that twenty-one member schools did not admit Negroes (including eight state schools in defiance of law);[4] but the Association was prepared to go no further than to adopt as

3. 1950 AALS Proceedings, at 42.
4. 1959 AALS Program and reports, at 100-02.

an "objective," without sanction, the goal of "Equality of opportunity in legal education on the ground of race or color."[5]

From that date there has regularly been an Association committee concerned with problems of racial discrimination in legal education. Until 1967 it was the Committee on Racial Discrimination in Law Schools and thereafter (with a changed emphasis noted below) the Committee on Minority Groups. For a number of years movement was at best glacial. Thus, the 1957 chairman, Professor Frank R. Kennedy, in moving a committee proposal, found it necessary to say that in the two previous years (both post-*Brown v. Board of Education*)

> conditions have not changed, that the resistant attitudes of those who determine admissions policies are as fixed as ever . . . , that in the last two years there has been no discernible progress toward the objective.[6]

The 1957 committee recommended to the Association an amendment to its articles providing for exclusion from membership of schools that continue to deny admission on grounds of race or color in the absence of "a substantial prospect" for early compliance with the objective adopted in 1951.[7] However, that also was too strong for the membership. Although during the debate no one favored a racially exclusionary policy, some wondered whether this was properly the business of an association concerned with educational policy, and others doubted that it would "do colored applicants any good" for law schools to recommend admission only to be turned down by trustees. Ultimately, a modest resolution[8] was adopted providing for possible "censure" of a member school for failure to comply with the objective. As approved, the resolution provided the following addition to the section on "Standards: Supervision or Exclusion":

> *Section 6-8. Denials of Admission on the Ground of Race or Color; Action by the Executive Committee.* If the Executive Committee finds that a member school has denied admission to an applicant whom the school would have regarded as qualified for

5. 1951 AALS Proceedings, at 42-5.

6. 1957 AALS Proceedings, at 71. In the preceding three years only one member school had abandoned its racially restrictive admissions policy, leaving fifteen noncomplying schools in 1957. *Id.* at 254.

7. *Id.* at 261.

8. *Id.* at 98.

> admission but for race or color, the committee shall recommend to the next annual meeting that the school be excluded from the Association; provided, that the committee may temporarily defer such action if it finds that there is a substantial prospect that within a reasonable time the school will adopt an admissions policy consistent with the Association's Objective of equal opportunity for legal education without regard to race or color.
>
> The denial by a member school of admission to a qualified candidate shall be treated as made upon the ground of race or color if the ground relied upon is:
>
> a. A state constitutional provision or statute that purported to forbid the admission of applicants to a school on the ground of race or color; or
>
> b. An admissions qualification of the member school which the Executive Committee finds to have been intended to prevent the admission of applicants on the ground of race or color, although not purporting to do so.[9]

Seven years later the AALS Committee on Racial Discrimination stated that "no Association school reports denying admission to any applicant on the ground of race or color," although there remained doubt whether one school would admit a black applicant if one should apply (in 1964!).[10]

Apparently satisfied with this "very encouraging picture on admissions policies," the committee for the first time expressed concern about what is now recognized as the more severe problem:

> the fact remains that few Negroes make application, and of those who do apply only a handful are accepted. Furthermore, of those who are accepted only a very few ultimately graduate. Although there are notable exceptions, the picture is the same everywhere—low aptitude scores plus academic records that were usually spotty at best and were made in substandard colleges.[11]

About this time (1964-1965) individual law schools—both those that had never discriminated on grounds of race and some of those that had more recently lifted the barriers—discovered that it was not enough simply to remove restrictions, at least where the real objective was to increase the number of black

9. *See id.* at 261, for text of the committee proposal, and *id.* at 105-09 for the relevant amendment that was approved.

10. 1964 AALS Proceeding (Part One, Reports of Committees), at 159. Others had not actually admitted any black students, but had withdrawn formal prohibitions. *Id.*

11. *Id.*

lawyers in the profession. In fact, despite the easing of formal discrimination, the number of black students in American law schools had by the mid-1960's declined as a proportion of the total law student enrollment. Indeed, although no precise figures are available for the period, the number of black law students had probably declined in absolute numbers as well. The reasons for this further reduction in black lawyer population were not altogether clear. But most believed that there was a growing disinclination among blacks to enter the legal profession with its lingering reputation of professional discrimination. Better financial opportunities, with possibly less prospect of discrimination, seemed available elsewhere. A related financial problem arose out of the relatively larger number of blacks than others who found the cost of legal education beyond their means. Moreover, as applications for admission to law school increased rapidly, competition based on commonly used "objective" criteria of college record and Law School Admission Test scores made it increasingly difficult to enlarge the proportion of black law students in American legal education.

Belatedly, the American legal community, the law schools, the bar associations, and to an extent the private firms, began to translate these generalized concerns into programs of action. Those developments are discussed elsewhere in this *Symposium*. But a few reminders of the direction of activity are pertinent here. The Association of American Law Schools, for example, in 1964 for the first time moved beyond the simple issue of nondiscrimination to inquire how best to recruit and train black lawyers. Its Advisory Committee for the Minority Groups Study, reporting in 1967, emphasized the need for more black lawyers. In discussing difficulties in the way of increased black student participation the committee stressed the need to improve prelegal education, to find new resources for financial aid to needy students, and to reconsider evaluation standards for admission to law school. Its most concrete, and possibly most controversial (at the time), recommendation was in favor of continuing the predominantly black law schools (originally established to continue segregation in Florida, Louisiana, North Carolina, and Texas).[12]

12. 1967 AALS Proceedings (Part One, Section I), at 160-72. It was conceded that

Discussions in the Association of American Law Schools, the American Bar Association, and the National Bar Association produced other developments, including the Council on Legal Education Opportunity (CLEO), minority group recruitment programs in individual law schools, and various special assistance programs both before and after law school.

All these programs are described elsewhere in this *Symposium* (including the experience at New York University School of Law discussed in this article). The point here is to recall the naivete of the approach to ending discrimination in legal education as recently as the 1950's and early 1960's. Somewhat like the Supreme Court in its original assumption after *Brown* that segregation in public education would end with a declaration of unconstitutionality, the law schools with all good will believed—at first and for too long—that the difficulties would disappear upon the elimination of formal discrimination. The Supreme Court has learned that it is not enough to be color blind and neutral; and so at last has legal education.

Majoritarian impulses of good will and sometimes misplaced humanitarian instincts unquestioningly assumed that minority group members would automatically aspire to the same professional careers that had been sought by generations of whites and that minority group members would welcome assimiliation into the white community as though to become invisible by an act of the will. However generously motivated, these instincts have now been proved in large part misconceived. Differences in background are more substantial than was once assumed; educational experiences are different; financial needs are different, usually greater; and the instinct for separateness continues to be a driving force of considerable importance.

The answers are not yet well understood even within the relatively narrow confines of legal education. The important thing is that a beginning has been made; new perceptions have been formulated; and the law school community, after rebuffs to

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the Florida school would not continue because of legislative determinations already made in that state. *Id.* at 171.

Continued support for these predominantly black schools was also urged in the final report of the American Assembly on Law and the Changing Society in March 1968. And subsequently financial aid in a block grant from the Ford Fountation was received by Texas Southern Law School for its legal education program.

its initial groping and false starts, is trying again, and earnestly, to find proper solutions. The balance of this article seeks to explain developments at a single school, New York University.

There is general recognition at this late date that the color-blind admission policies applied by law schools through the early 1960's virtually assured the rejection of minority applicants. With the number of candidates increasing at a rate far outstripping that of most institutions' expansion plans, the objective standards set for entering classes rose annually. As the war babies moved through college, the swollen supply of seniors with both high aptitude scores and undergraduate records made it possible for competitive graduate programs to become ever more selective. In nearly all cases, the minority candidate with a weak educational background found doors closed. As late as 1965 many urban law schools had but token minority representation in their classes; at New York University that year only one black student matriculated in an entering group of 287.

The rapid development of programs to breach this gap in the world of legal education is well documented by the present *Symposium*. The New York University experience deserves special attention, however, for its policy evolved through a confluence of events which were somewhat unique. Furthermore, as the school moved toward the resolution of several problems, questions which had long remained dormant and which would necessarily affect the training of future lawyers came to the front. In some instances satisfactory responses have yet to be found.

Active minority recruitment began at New York University in the 1965-66 academic year. Faculty approval was obtained with the understanding that grading standards and graduation requirements then in effect would remain the same for all students; this was to be assured by continuation of a strictly anonymous system of marking examinations. While these conditions appeared essential to maintenance of the degree's integrity, they effectively created a situation in which students who were to be admitted on a flexible basis would have little chance of progressing satisfactorily. It must be remembered that student voices had not yet been raised to question the single-examination, low-curve evaluation systems then being employed by most law faculties. Thus, at New York University, where the average student arrived with a solid B undergraduate record, he

could expect to complete his first year with only a C+. Approximately 15 per cent of each new class failed to obtain the minimum C (2.0) average required to remain in good standing. Although several faculty members believed that this general depression of grades was unrealistic and did not accurately measure the abilities of a rapidly improving student body, little was done to effect change at that time. It was into this competitive situation, where academic failure was a real possibility, that the first group of minority students was brought.

During the fall of 1965 the New York University Admissions Office launched an intensive recruitment campaign on predominantly Negro campuses in the South. Since very few black undergraduates had yet reached the senior classes of Northern institutions, it was felt that efforts there would be largely unproductive. This was soon proved incorrect; of the eight specially admitted students matriculating in 1966, only three had Southern backgrounds. The average minority LSAT score was 491, and six of the students had college records which were below B in quality. In passing on these applications, the admissions committee asked itself whether the candidate could, with limited academic crutches, survive; whenever the answer was affirmative, an acceptance letter was mailed.

The two crutches on which the school relied to enable minority students to pass were an intensive summer program and term-time tutorials. Acceptances were conditioned on a candidate's willingness to begin his studies in late July. The special five-week program, taught by two members of the regular faculty, was designed to stress the fundamentals of law study. Students were exposed to a heavy dose of Socratic instruction; they analyzed cases, became familiar with basic legal concepts, prepared several short papers and wrote practice examinations. It was hoped that this program would ease the transition from college to law school and eliminate many of the initial difficulties so often encountered by first-year students. After classes began in September, tutorials were offered for minority students on an optional basis during the fall semester; in the spring, the four who were not in good standing were required to attend sessions for a total of seven hours per week. At the end of the year, however, only three of the eight had passing averages. The highest record (2.38) was achieved by a woman who withdrew

voluntarily in order to work in a Southern voter registration drive. She felt that law school, as experienced during her first year, was not terribly relevant to her aspirations.

Much has changed since 1966, of course, but the New York University experience serves as an example of the well-intentioned naivete with which an extremely complex situation was initially met by many veteran educators. To have expected that years of deficient preparation could be overcome in a few weeks or months can only be considered wishful thinking. The adjustment of admission standards without permitting any flexibility in grading was, retrospectively, a cruel trick. If socially imposed background deficiences were the *raison d'etre* for dual admission policies, then these same deficiences were certain to affect a student's performance after his arrival. Basic weaknesses in reading comprehension and writing will take their toll in law school, where solid grounding in these areas is assumed. It must also be recognized that legal concepts, usually difficult for students to manipulate, will pose even greater problems for someone who is totally unfamiliar with the subject matter. Business area courses can be terribly frustrating if the student is not at ease with the fundamentals; one who has never had a checking account of his own can be overwhelmed by the Uniform Commercial Code.

The extent to which these considerations should affect the evaluation of a student's work remains, in the final analysis, with individual teachers. At the very least, however, it seems fair to assume that sloppy grammar will be met with more than normal tolerance and garbled thoughts will be tracked to their conclusion. This may account somewhat for the fact that the minority failure rate tended to be much lower at most schools which had non-anonymous grading than it was at New York University. Many of the complaints being raised today against the single course examination and the seemingly precise stratified grading scale could well have been applied by minority students to the anonymous method of evaluation; in each case, other relevant indications of achievement are placed outside the system. One can thus readily understand the comment by a New York University professor in 1966 that some of the minority students then in serious academic difficulty would probably make fine attorneys if only they could get through the school.

The small number of minority students admitted to New York University in 1966 reflected both the situation in undergraduate senior classes and the fact that many prospective candidates were still unaware of new opportunities for them in the legal profession. Had the supply of black applicants been greater, however, it is probable that a decision would have been made to keep the initial matriculating group to a maximum of ten. This was believed by many to be the optimum size for tutorial instruction, and there appeared to be many advantages which could be gained by concentrating available resources on a few students. The negative aspects of this policy were generally unforeseen.

First, the token introduction of minority students into New York University's all white environment intensified many pressures that could have been diluted had the initial group been large. Substantial representation often creates a feeling of, security which, in turn, may help individual members meet both academic and social challenges. In marginal cases this psychological assistance can spell the difference between success and failure. One must also remember that minority students will be looking for signs of the school's "commitment" to their cause. A minority recruitment effort which is outwardly geared to token offers of admission will not be accepted by the students who have benefited from it. At New York University this situation eclipsed many substantial accomplishments for three years.

Most of the black students indicated at some point during their first year that circumstances often seemed to put them on trial in the eyes of their white counterparts. In class the Socratic method placed a premium on clever answers which skirted the professor's well laid trap; such responses are not often heard. And when a minority student swallowed the bait, or when he simply indicated that he was unprepared, generalizations that might not otherwise have been drawn did pass through some people's minds. Since only three minority students were in each section of 110, it was distressingly easy for observers to attribute the quality of an individual's performance to the group as a whole. This tendency was not limited to students, for the faculty unknowingly acted in similar fashion. Thus, meetings were held on occasion to assess academic progress and to discuss what

were considered to be group problems. The sessions seemed to be helpful; student displeasure did not become evident until specific reference was made in a list of grievances. It was then noted that

> the students think that many of the problems [are] individual in nature, and that the students should have been called in individually. They [do] not study as one, and no one [is] the cause of the others' academic difficulties. They [feel] that asking for a group solution [is] just another indication of the failure of the administation to recognize them as individuals . . . .

Although this objection was not raised with respect to the tutorial program, it would clearly have been relevant. Nearly 15 per cent of each first-year class performed at unsatisfactory levels, but tutorials were arranged only for the black students. This policy could have been interpreted as reflecting a belief that their problems were similar within the group but quite different from those of other students. The assumption of inferiority could unfortunately be inferred.

The defensive posture frequently adopted by a small minority representation can even lead to housing difficulties. Students who find themselves in a situation which they cannot influence because their collective voice does not command attention may physically remove themselves to as great an extent as possible. In February 1968, when the academic performance of NYU's minority students plummeted and the lines of communication appeared more taut than ever, several black students made known their desire to leave the law school residence hall. Their spokesman stated that

> . . . The Law School could ease some of the pressure by removing the black student from what he has called the white, "up-tight," nervous, psychotic environment of Hayden Hall. The black law student seems somewhat repelled by the white law students, whose goals, heroes, and values are in most cases different from theirs (sic).

A similar polarization process has been witnessed on many campuses recently, and its roots reach far beyond the question of the minority group's size. Yet, at New York University the dormitory situation did stabilize as representation increased, and this development might prove to have academic significance. Since self-segregation can negatively affect performance in law school, where the Socratic method places a premium on joint study and the interaction of ideas, one may hope that greater

cross-communication in residence facilities will produce tangible classroom results.

Finally, it has become apparent that the extra-curricular demands on minority students' time are very considerable, and this will often have a negative effect on academic performance. At New York University, black students have worked long hours on projects of the Black American Law Students Association while also participating in many other activities. They have represented their interests on law school committees, have recruited prospective minority group applicants for admission and, in some cases, have held part-time jobs to help finance their education. It soon became evident that minority students would not forgo activities important to them simply to concentrate on their studies; their contributions could not be postponed for three years. With so much needing to be done, and so few black law students available, the pressures bearing on each individual were substantial indeed.

Academic difficulties reached a critical point in mid-1967-68, when eight of nine first-year minority students and four of five in the second year produced examination averages below C. The law school was prepared to take drastic steps to save the program, but the only certain fact was that further study of the situation would be required. Hasty action could only make matters worse, and the faculty was well aware that the careers of many students hung in the balance. Meanwhile, a new entering class was about to be selected, necessitating an immediate decision regarding standards to be applied in evaluating minority candidates. Circumstances dictated the conclusion that, at least temporarily, the objective criteria would have to be made more stringent. As a result, the LSAT average for minority students who registered in the fall of 1968 jumped more than sixty points, to 565; the number of matriculants, however, increased only to eleven.

Early in April 1968 the uneasiness of the black students coalesced with other student aspirations and discontents in a lively discussion at a Workshop on Racism which was held in the aftermath of the assassination of Dr. Martin Luther King, Jr. Out of this discussion there developed a series of proposals which were presented to the dean and faculty by a coalition of student organizations. Originally the Black American Law Students

Association had presented a separate slate of requests; but, after further discussion, the Black American Law Students Association program was merged with that of the other organizations and became known by the somewhat cumbersome title of the Preliminary Report of Cooperating Student Organizations.

This student report asked in the first place for an increase to at least 15 per cent in the number of black students at the school, coupled with a substantial increase in black membership on the faculty, administration and staff. It recommended that one or more black students be placed on the admissions committee and that an administrator be appointed, charged with the responsibility of dealing with minority student problems. To these it added a proposal for an extensive preparatory program for potential minority students, a program of continuing tutorial assistance, and an adjustment of the examination and grading systems. The last proposal was felt to be "necessary to compensate for the cultural bias which presently militates against the ability of educationally disadvantaged minority students to maintain satisfactory academic standing in the Law School."

The most striking feature of this student report is that it did not stop with proposals for an increase in the black presence in the school. It went on to argue that with their present training law students are unequipped to deal with the problems that poverty and racism raise in legal and legislative contexts. To remedy this the report proposed what was styled as a "field course in community problems," to be required of all law students, and which would cause the students "to engage in direct, local participation in black, Puerto Rican and other socially and economically disadvantaged communities." It must be emphasized that this report did not emanate from any small or strident faction within the law school community but was a distillation of the deliberations of the officers of all the student associations at the school, including the Student Bar Association (which is the general student government at New York University School of Law) and ranging through such groups as the Law Review, the Commentator (the school newspaper) and the Law Students Civil Rights Research Council. These representatives had made an effort to elicit the views of the whole

student body through a series of meetings and through invited written comments; and there can be little doubt that the report reflected the views of a majority of the student body, though there were of course dissenters. The concern felt by black students about their own place in the law school and the school's seriousness of purpose with respect to the problems of race and poverty thus met with a quick response and a congruent concern on the part of the majority of white students. This concern was, as the above proposals show, not confined to the question of the identity of the consumers of the school's product but involved a deeper questioning of the product itself.

To shape a response to these proposals the dean appointed a committee which consisted of four teaching members of the faculty, the dean of admissions, and two black students. An atmosphere of urgency had been conveyed to the faculty by the students in presenting their original proposals, and recommendations were needed soon enough to allow for their translation into action by the following academic year. Accordingly, no matter how delicate or complex some of the issues might be, there was great need for the committee to report back quickly. This it succeeded in doing, returning a thirty-page report to the dean and faculty on May 8th after three weeks of meetings.

During this time the committee consulted with the faculty, with delegates from student associations, black alumni of the school, and other persons who could offer useful advice, such as members of the Legal Aid Office and the Social Welfare Project at New York University School of Law. The committee's first and firmest conclusion was that no initial setbacks or disappointments in the school's efforts to increase the number of minority group students could be taken as sufficient reasons for abandoning or diluting that objective. The committee report pointed to the "horrifying statistics" on the participation of black students in American legal education and concluded that some of the difficulties experienced by black students at New York University were attributable to their belonging to a readily identifiable minuscule group. It went on: "If minority group students are to identify readily with the institution we think it essential that their numbers should reach a proportion which certainly should not be precisely fixed but which might be

described as substantial. This would be good for them and good for the School."

The committee recommended a greatly intensified special drive to attract minority group students to the school. It recognized that to achieve a substantial proportion of such students it would be necessary to continue to admit some and perhaps many who did not meet usual admission standards, but it defended such procedures as necessary in the short run to break through the obstacles of unequal opportunity which barred the path of minorities in higher education. "Declarations of equal opportunity and an absence of prejudice have for long proved quite ineffective in breaking down the walls of this hard core of social injustice. Compensation, adjustment and rectification must now be tried. Discrimination is an ugly word and it is only with a shudder that American institutions of education can make a deliberate decision to change their color blind policy even for what seem to be the most laudable ends. But the times call for radical innovations; we must now energetically pursue prosthetic measures."

However, the committee was not willing to accept a target of a fixed proportion of minority group students by a definite date. "We are not persuaded that it would be desirable to proclaim a goal in terms of a proportion of minority group students in the student body. Such a proclamation would be of little significance since we are quite unable to know what measure of success may attend our efforts. But we do think it of great importance to stress publicly that our aim and ambition is not a gradual increase of minority group students over a number of years but a real 'jump' in their numbers in the very near future and that we shall bend every effort to that end."

The most troublesome question facing the committee was that of special academic assistance for minority group students entering the school with less than usual academic qualifications. As described earlier the rather elaborate programs of that kind, both in the pre-school summer and in the way of tutorials during the first academic year had not proved conspicuously successful. After hearing much testimony on this issue the committee concluded that the imposition of such programs might well do more harm than good. The committee believed that while previous academic deficiency was one cause of the poor showing

by some minority group students in law school, it certainly was not the only one.

> Uncertainty of motivation, lack of identification with the institution and wavering commitment induced by these and other factors may be equally important. If these elements play a part, as we are now convinced they do, then a structured remedial program may well have the perverse effect of strengthening these negative aspects. Such a program may appear to the student involved to be patronizing and paternalistic and so may buttress his self doubt and thus ultimately further weaken his chances of success.

Instead the committee recommended that the minority students should themselves, to the extent that they wished, pursue their individual problems with an advisor and try out individual and group methods of promoting better academic performance. These methods might include the setting up of special tutorial sessions or practice examinations.

On the sensitive question of the impact of the anonymous grading system on the performance of minority group students, the report emerged with a suggestion for a modest lifting of the veil. The committee commented:

> There is a self-defeating, perverse and almost cynical aspect to admitting students who are below our usual standards and then expecting them immediately to meet standards of performance which have been evolved as being suitable for those who do meet normal admission standards. A strong case in equity can be made for a recognition of the need to offer some academic uplift to disadvantaged students at least in their first year in the school. But it is equally true that some sort of a balance must be struck here. We would also be serving no good social purpose if we carried on our rolls for three years totally unqualified, incompetent students and sent them, still quite unqualified, into the world armed with our J.D. degree. Those who make no demonstration of even emerging competence must still be simply failed and dropped.

It proceeded to recommend that initial grading should continue to be anonymous but that those instructors who so wished might, before submitting a final grade, identify all students who had on the first grading received a grade below C plus. "The instructor, if he so wished, might then reassess the grade of such students, taking into account their class performance or other indication of merit. One factor that it would be proper to take into account would be that the student had been admitted into the School with less than normal

admission qualfications under a scheme for disadvantaged students." In no case should the elevation be to a grade higher than C plus.

The recommendations in the committee report were approved in their entirety without any amendment by the dean and faculty of New York University School of Law. Subsequent developments have confirmed the good sense of some of the recommendations and have rendered others unnecessary. In September 1969 the school took in twenty-nine minority group students in its entering class of 361. Ten of these students came from a group of sixty minority group students who had spent six weeks of the summer of 1969 at New York University Law School in a CLEO Institute sponsored by the school in conjunction with Columbia University Law School. If twenty-nine out of 361 does not amount to a proportion that can be regarded as satisfactory it is a great leap forward from the lean days of recent memory. The increasing number of black and other minority group students in the school has had a marked impact in reducing tension. Under the aegis of BALSA the black students have, where they felt it necessary, evolved their own program of practice examinations. The critical nature of the anonymous grading system has been mitigated by the adoption of a new range of grades, with the discarding of the old multi-letter plus system and the adoption of four grades—Honors, High Pass, Pass, and Fail. The curriculum has been transformed to include a substantial number of courses in urban and poverty law. Clinical programs are now offered. It is no accident that this creative move forward in the substance of the curriculum and the methods of instruction should have coincided with the intake for the first time of a substantial number of minority group students. Their presence and fresh insights played no small part in such movements.