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Welcome to 15 Washington Street

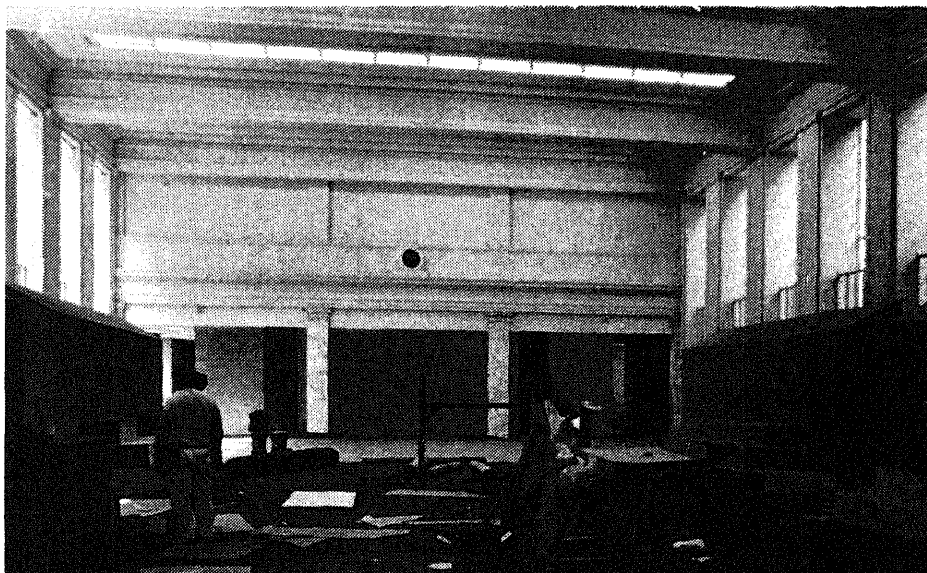


Photo by Frank Visconti

No matter how hard the workers shown here tried, they couldn't make the student lounge look like anything but a carpeted Grand Central Station. Maybe that's what they were trying to do?

Doing battle with Bakke

by Ignacio Perez

The Rutgers Law School's Minority Student Program (MSP) has been forced into the limelight as a result of Bakke. Given its similarities to the University of California Medical School at Davis program the MSP appears to some members of the Law School community to be clearly unconstitutional, while others believe that the MSP can withstand constitutional challenge even after Bakke.

Associate Dean for Administration Stephen Lefelt said that a suit has been threatened this fall challenging the constitutionality of the Law School's special admissions program for minority students. The possibility of such a suit has been a dark cloud looming on the horizon ever since Allan Bakke managed to rally the support of five Supreme Court justices this summer and convinced them that the Medical School of the University of California at Davis had violated his rights by establishing and operating a special admissions program that excluded him from its consideration on the basis of his race.

Shortly after the Bakke decision was

announced Dean Peter Simmons charged the Law School's Admission Committee to evaluate the Supreme Court opinion and to determine what impact the decision would have on the Law School's special admission program. The Admission Committee normally acts to establish guidelines to be applied to the regular admissions process. A Minority Student Program Committee serves an analogous function with regard to the MSP.

The Admissions Committee is expected to report to the full faculty sometime during the first week of classes. Annamay Shepard, Chairperson of the Committee, indicated that the Committee's analysis of the effect of the Bakke decision was not yet complete and ready for publication. The MSP Committee will file an independent report with the faculty on the impact of the Bakke. Their report will argue that the special admissions program stands on firm ground and that the narrow holding of Bakke does not automatically affect the Law School's program.

The faculty, in turn, is to report to the
(Continued on Page 7)

by Jeff Kuschner

Preparing the Law School's quarters in the S.I. Newhouse Law Center by opening day of the school term was the major focus of what Dean Peter Simmons described as a "totally overwhelming summer amidst an unending series of minor details." Yet, with most of the Phase I developments complete and the building now occupied and functioning, the administration, along with faculty and students, enters a watchful period of adjustment and accommodation.

For the most part, the Dean indicated that construction proceeded on time and that supplies had been received and put in their proper places. He did acknowledge that certain gaps existed. In particular, furnishings of a couple of classrooms, the library, and the student lounge area will not arrive until after school has begun. Dean Simmons attributed these gaps to general problems with suppliers but he also said, "If we had had an adequate budget since day one we'd have the resources on hand; instead the money came in dribs and drabs."

A major adjustment for most students will involve the library. According to Law School Librarian Cameron Allen, "over one hundred seats plus some tables have not yet arrived and we have only about eight more chairs than existed at Ackerson Hall, (the prior location of the Law School)." He added that the furniture is expected to arrive within ten days to two weeks of the beginning of school.

For affected classrooms, temporary seating will be arranged, and until new lounge area furniture arrives in December the furnishings from the Akerson Hall lounge will be used.

In summing up the initial development phase, the Dean said, "Thus far we're pleased with what we've seen. From our perspective some of the delays may prove vexing but by and large the kinds of delays we've encountered are pretty much standard." The Dean commented that a cafeteria should be ready by the second semester of this year (development of the cafeteria has been made possible by a grant from the S.I. Newhouse Foundation, see Newsbriefs in this issue). By next fall, the Law Center should also house a Moot Court room and four additional classrooms on the second floor. Until the Moot Court room and the classrooms are ready, however, con-

(Continued on Page 7)

Different groups respond to Bakke

(Continued from Page 1)

Board of Governor's (the University's governing body) sometime in early fall.

The MSP had its inception in the spring of 1968, when 20 minority students were admitted to the Law School on the basis of non-traditional criteria such as leadership potential, business experience, age, involvement in community affairs, and personal recommendations. The faculty had decided to admit these students, on an experimental basis, stating that they were "facing squarely the fact that the reliance by law schools on traditional admissions criteria had had the effect of nearly excluding members of minority groups from legal education. . . ." Having found a discriminatory impact, the faculty proceeded to attempt to remedy the effects of past discrimination. (No doubt the burgeoning civil rights movement and the Newark riots contributed much to this realization.) A large number of minority attorneys have graduated from this institution and moved on into successful careers. As currently structured, the MSP admits 25 percent of each entering class, according to Oliver B. Quinn, Assistant Dean and Director of the MSP, who is himself a product of the program he now administers.

Professor Frank Askin, who chairs the MSP Committee, said he was expressing the general consensus of his committee when he stated that it is possible to defend the minority student program as it is. His committee is very confident that, if it receives the wholehearted support he thinks it deserves, the MSP will continue to operate as it has in the past, even after litigation. Professors Arthur Kinoy, Albert Blumrosen and

Harold McDougal are the other faculty members of the MSP Committee.

In some respects the MSP and the Admissions Committees appear to be in conflict. Professor Askin admits that, in a way, these committees have "overlapping or concurrent jurisdiction." Through other sources we were able to learn that some MSP Committee members believe the Admissions Committee has stripped it of some of its powers or has attempted to do so. At first both committees were meeting jointly to discuss the implications of Bakke, but eventually they began to meet separately. This not only appears to be a needless duplication of efforts, but may set the stage for divergent views and plans of action.

The MSP can be distinguished from the former program of the Medical School at Davis. For instance, Professor Askin pointed out, no effort was ever made in Davis to prove past discriminatory admissions policies. As Justice Powell indicated in his opinion, at Davis there was an absence of judicial, legislative, or administrative findings of constitutional or statutory violations, i.e., discrimination, the effects of which were to be countered by the special admissions program. The language found in the Law School's 1971-72 Announcement on admissions to the effect that traditional admissions criteria had resulted in the virtual exclusion of minority students, clearly makes the law school's program distinguishable from that at Davis. Moreover, Dean Quinn adds, the Davis program was instituted but only a few years after the Medical School opened. There was thus little time to adequately document and clearly delineate a pattern of under-representation

of minority students. On the other hand, the School of Law at Rutgers in Newark had been in existence for several decades before the MSP was established in 1968. During that time few minority students had been admitted to the Law School, and only a dozen or so had graduated in the period between 1958 and 1968. The "experience of discrimination" seems dear to many of the parties involved.

Professor Askin believes, and Dean Quinn agrees, that to prove a compelling state interest in operating a special admissions program in a law school is different in very important ways from proving it for a similar program in a medical school. The argument may be outlined as follows: the bulk of the decision-makers have a legal training, and access to a legal education is thus an important factor in determining who become decision-makers. If minorities are denied or excluded from a legal education, then that would be tantamount to excluding them from the decision-making process in this society. The "main gates" would be closed to them. It can therefore be argued that the state's interest in promoting the legal training of disadvantaged minorities is greater than its interest in increasing the number of minority doctors and health professionals.

Dean Quinn also believes that it would not be difficult in the case of the MSP to introduce evidence of the program's effectiveness in training lawyers that in fact do return in large numbers to their communities and provide services that would not otherwise be accessible to their communities. But it is not enough to distinguish the Law School's program from that at Davis.

If there is to be litigation, the MSP Director believes, we must be able to present as full a record as possible to prove the program's effectiveness. But Dean Quinn believes that we cannot simply accept Bakke as the death knell of the Law School's program. There were "too many variables not taken into account by the Court," said Quinn. In fact, some justices were of the opinion that the case should have been remanded to develop a full record. Dean Quinn added that, in order to develop a full record in our case, the entire law school community must rally behind the MSP and lend it its wholehearted support. Dean Quinn also said there were those among the faculty and administration who view it as "obstinate" to try to defend the program as it is. Others feel the Court would not countenance a hard-nosed defense of the MSP as currently structured and operated. The MSP Committee, however, firmly believes that there are "real legal arguments" that can be made to defend the special admissions program here.

S. I. Newhouse is the name

(Continued from Page 1)

tinued use will be made of Akerson Hall facilities. Associate Dean John Payne noted that, to reduce the inconvenience on students taking classes in both buildings, only early morning classes had been scheduled at Ackerson.

Impact

Beyond construction and preoccupation with the physical plant, there is the question of how the new Law Center building will affect life within the school. Although the general attitude seems to be "wait and see," a number of persons who have spent time at the Law Center over the summer offered their opinions.

Dean Simmons emphasized that the development of a cafeteria and adequate lounge space should help overcome the problems of a commuter school and that the

existence of small study spaces will allow a privacy which in the other building was "devilish to find!"

Chris Finazzo '79 focused in on the possible effect of the building's size on daily interactions. He noted that at Ackerson Hall you "couldn't go anywhere without seeing someone you knew but that here you could go a whole day and not see anyone." Mr. Finazzo said he would wait to see what happens, especially whether people still stay around after classes.

One staff member who expressed dissatisfaction over the move stated that the place was still "too much like an office building and not a law school." But an upper class student commented that, while she had been put off by the size of the building at first, she now felt comfortable here. "You get used to it, and anyway it's home now."