

Green Door

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Berman Sees Advances In Russian Procedure

The recent trial of Andrei Sinyavsky and Yuli Daniel may have been something of a victory in the struggle for broader civil liberties in the Soviet Union, despite the severity of the sentence, according to Professor Harold J. Berman.

In an interview with the RECORD last week, Prof. Berman, who teaches a course on the Comparison of Soviet and American Law, stated that the fact that the accused pleaded not guilty and were allowed to conduct a

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Frelinghuysen Complains Of Inadequate Viet Facts

Reluctantly Backs Johnson

Congress has no alternative but to back up the President in Vietnam, said U. S. Representative Peter H. B. Frelinghuysen (Rep.-N. J.) at a meeting of the Law School Republican Club, Monday.

Since the stakes there are very high, and much of the information about conditions there is not made available, it is "difficult for most citizens, or even for members of Congress, to do back-seat driving in a situation of this kind," he explained.

Congressman Frelinghuysen is a ranking minority member of the House Foreign Affairs Committee. He is also one of the founders of the "Wednesday Group," a number of liberal and moderate Republicans who

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Ombudsman On Alert To Assist Maltreated

By Jack B. Jacobs

A Swedish worker beat his wife. He was arrested and placed in a mental hospital for eight months. The worker then complained to the Ombudsman. The Ombudsman, soliciting medical opinions about the correctness of the worker's confinement, learned that there were insufficient grounds, and arranged for the worker's release as well as for governmental compensation.

This is the typical role of the Ombudsman of Sweden, as explained by the current holder of that office, Dr. Walter Bexelius, last Thursday in Harkness.

Ombudsmen can also be found in Denmark, Norway and New Zealand. Interest here in Ombudsmen has heightened as bills have been filed in the Massachusetts and New York State legislatures proposing the establishment of such an office.

To Dr. Bexelius, the Ombudsman represents a refreshing Swedish response to the problem which perplexes all democratic societies: How can individuals protect themselves against abuse, indifference or neglect by their own governmental agencies?

The problem has become even more acute

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Rep. Peter H. B. Frelinghuysen

Independent Ombudsman Recommends Laws

(Continued from preceding page)

in the mid-twentieth century with the expansion of governmental power and with the increase of individual dependence upon governmental bureaucracy.

The Swedish Constitution provides citizens with the right to test the legality of any administrative decision by appeal to higher administrative and judicial authorities. However, Dr. Bexelius observed, problems arose from the inability of the ordinary citizen to exercise this right.

He noted that the average citizen is not only unaware of how to pursue the remedies on his own, but also is incapable of evaluating the legality of whatever documents he might discover.

For these reasons, it became apparent by the 19th Century that some agency would be necessary to help citizens assert their rights. In 1859, the office of Ombudsman was created by Parliament for this purpose. At that time, the office was embodied in a single person, much like the power granted to the early Chancellors of England.

Today, however, the Ombudsman is more like a people's public defender agency with a staff of lawyers headed by the Ombudsman himself. Although the research is done by a larger number of lawyers, the final disposition of each case rests with either the Ombudsman himself, or his chief assistant, a Deputy Ombudsman, also appointed by Parliament.

Power of Recommendation

The Ombudsman has unusual powers. This is illustrated by a second case related by Dr. Bexelius. The Ombudsman noticed a newspaper article about an alcoholic who had killed his wife. On his own initiative, the Ombudsman inquired of the police why the alcoholic had not been arrested when his wife had previously filed a complaint. The police responded that, under Swedish law, a suspect could be held for only one day to allow the police to secure evidence sufficient for indictment.

Here one day had been too little time to acquire the necessary evidence. As a result, the Ombudsman requested that the legislature lengthen the detainment period, and on

his advice the law was amended to permit a four-day detention.

The Ombudsman has a fixed tenure of four years in office, which assures him independence in fact as well as in theory. Moreover, no governmental organ may prevent an investigation by the Ombudsman of the facts surrounding an allegedly wrongful decision. The power of discovery is included among



Dr. Walter Bexelius

his investigative powers.

In line with the Ombudsman's flexible procedures, the lodging of a complaint is not necessary to initiate action by the Ombudsman. Every year his office investigates at random various courts, jails, mental institutions, orphanages and delinquent homes for evidence of administrative unfairness. It also searches the newspapers for instances of possible abuse. As an incentive to citizen cooperation, the aggrieved person is usually given compensation if harmed by official abuse.

Once the Ombudsman has determined that an agency or court has abused its power, the office may pursue one of several available remedies. If the abuse is serious, it may prosecute the official involved. Most cases involve minor abuse, however, so that prosecution is usually a last resort. Instead, the official receives a reprimand, framed constructively and designed to induce the official or agency to adopt correct procedures. Al-

(Continued on page 14)

Out of the Kitchen and Into the World, Girls

By John Spitzer

Homemaking is hardly a worthy career for women in the 20th Century, according to Betty Friedan, Pauli Murray, and Mary Bunting, who spoke Friday night to a capacity crowd in Ames Courtroom on the topic "Dare We Not Discriminate."

Betty Friedan, author of *The Feminine Mystique*, launched into an attack on the "young romantic image" of women portrayed in advertisements urging that the right soap powder will make a woman feel like it's always her wedding day. Such bombardments are continually reinforced in magazine stories, in the schools, and by some doubtful psychological theory.

Pauli Murray, author and civil rights lawyer, interjected that she was lucky enough not to be caught in the web of the "feminine mystique." A Negro orphan at an early age, she explained that "I had nothing to lose by wanting to become an individual. I wasn't forced by anybody into the woman's world."

Mary Bunting, President of Radcliffe College, spoke in less evangelistic tones than the first two speakers. At Radcliffe and at other colleges she has visited, she notes a recent change in the attitude of girls. Rather than saying "I want to get a man," they are saying more and more that "I want to fix something." Mrs. Bunting hoped that something could be done about the "bottleneck" in the professional schools which prevents many motivated women from going on.

"The real victims of feminine denigration are the men," added Betty Friedan. "When a woman is expected to make marriage all of life, she will have to make excessive demands on her husband and is bound to find her husband inadequate."

She pointed with alarm to the "enormous hostility that is growing between the sexes in America," which she believes to be the by-product of overburdened marriages. Alleged "jokes" about the little woman at home and the recent rider concerning equal rights for women which was attached as a "joke" to the Civil Rights Act represent only a small part of this hostility, according to Mrs. Friedan.

"In the Far East and the Scandinavian

countries, the wife is not automatically the butt of every joke. When Mrs. Indira Gandhi was a candidate for Prime Minister of India, nobody spoke about her as a woman, but only as a political figure."

She added that "the worst enemy of woman is woman" because women potentially have all the rights of men but that a woman "is held back by all the dependencies, fears, and inhibitions in her own mind. A woman is hardly free and equal if the only world she moves in is the world of the home, the kitchen, the bedroom, and occasionally a little auxiliary chauffeuring."

Constantly stressing that motherhood was the most important thing for a woman, Mrs. Friedan, a graduate of Smith College, urged that motherhood can only occupy a small fraction of a woman's life. "At 47 when President John F. Kennedy was just begin-



In back, l-r, Prof. Albert M. Sacks, Pauli Murray, Dr. Mary Bunting; seated, Alma Lutz, Suffragette and Forum guest, and Betty Friedan.

ning to realize his powers, most women are just marking time doing some occupational therapy busywork or volunteer work that nobody takes quite seriously."

"The end of woman is not man. The housewife image evaporates at 40 and a woman has no mature image to identify with. A woman must aspire to some use for her life in addition to raising children. Our society must let women grow to their full stature if

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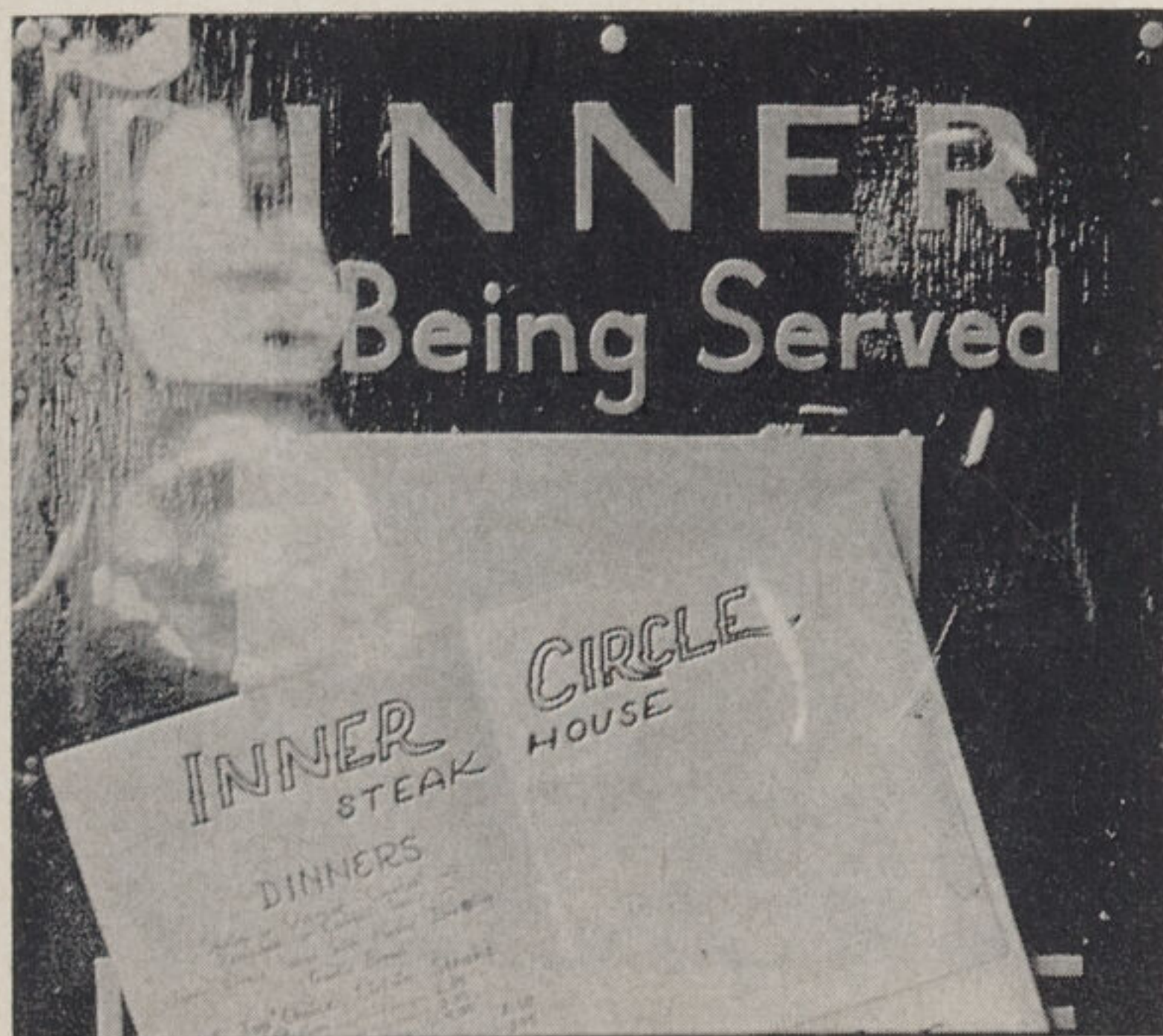
Out of the Cold Forbidding Night...

By Paul M. Branzburg

Imagine, if you will, that you are walking down Boston's Boylston Street on a cold windy Friday night in February. You pass the city's most noticeable monument to the programmed society — the Prudential Building. It stands there stiff, cold, and mathematically perfect. (You think, perhaps, "Building, you ain't got no soul.")

Trudging on through the numbing gusts, it becomes painfully obvious that the last block between the Hotel Lenox and the warmth of the Copley Square MTA station is going to be a frosty ordeal. Pausing for a moment, you look up at the neon sign over the entrance of a small, warm looking, cocktail lounge. It has the unlikely name of The Inner Circle. Intrigued and frozen, you enter.

Thawing out at the bar, you survey the long, dim, modernly furnished cocktail room



Outside the Inner Circle

while listening to the bartender mix drinks to the rhythm of the soft jazz in the background. Looking at the people about you, it becomes clear that something strange is happening at this place far from the ringing plains of windy Cambridge: at least half of the men in the room are Harvard Law students.

Before you get a chance to question an acquaintance you see across the room, an orange light suddenly illuminates a piano on

a small stage behind a V-shaped section of the bar. Then, Mark A. Pachman, 2L, materializes out of the darkness, seats himself at the piano, and, with poised and unruffled professionalism, accompanies himself admirably while crooning in a soft, relaxing voice:

There are some girls just right for kissing . . .

I've got a lot of loving to do . . .

Feeling certain that you have just passed into the twilight zone, you listen to Pachman go through a thoroughly competent performance of "Spoon River" and "Bei Mir Bist Du Schoen."

Then, while you are slowly growing faint, Pachman announces: "And now for the star of the show — Peggy Cooper [1L]!" Miss Cooper appears, grasps the top of the microphone, and sings, in a beautiful haunting voice that could easily become internationally famous:

*If you want the thrill of love,
I've been through the mill of love, . . .
Love for sale,
Advertising, here it is,
Young love for sale . . .*

For a half-hour, you sit stunned while listening to a brilliant virtuoso performance of songs such as "Bye-bye Blackbird," "Red Sails In The Sunset," and "Summer Time." The rich warmth of her voice swiftly envelops you and completely overwhelms the lingering chill in your bones. On and on she goes, through a large repertoire of ballads and moderate tempo selections with emphasis on a jazz style. Can this really be the girl you have seen in Development of Law and Legal Institutions?

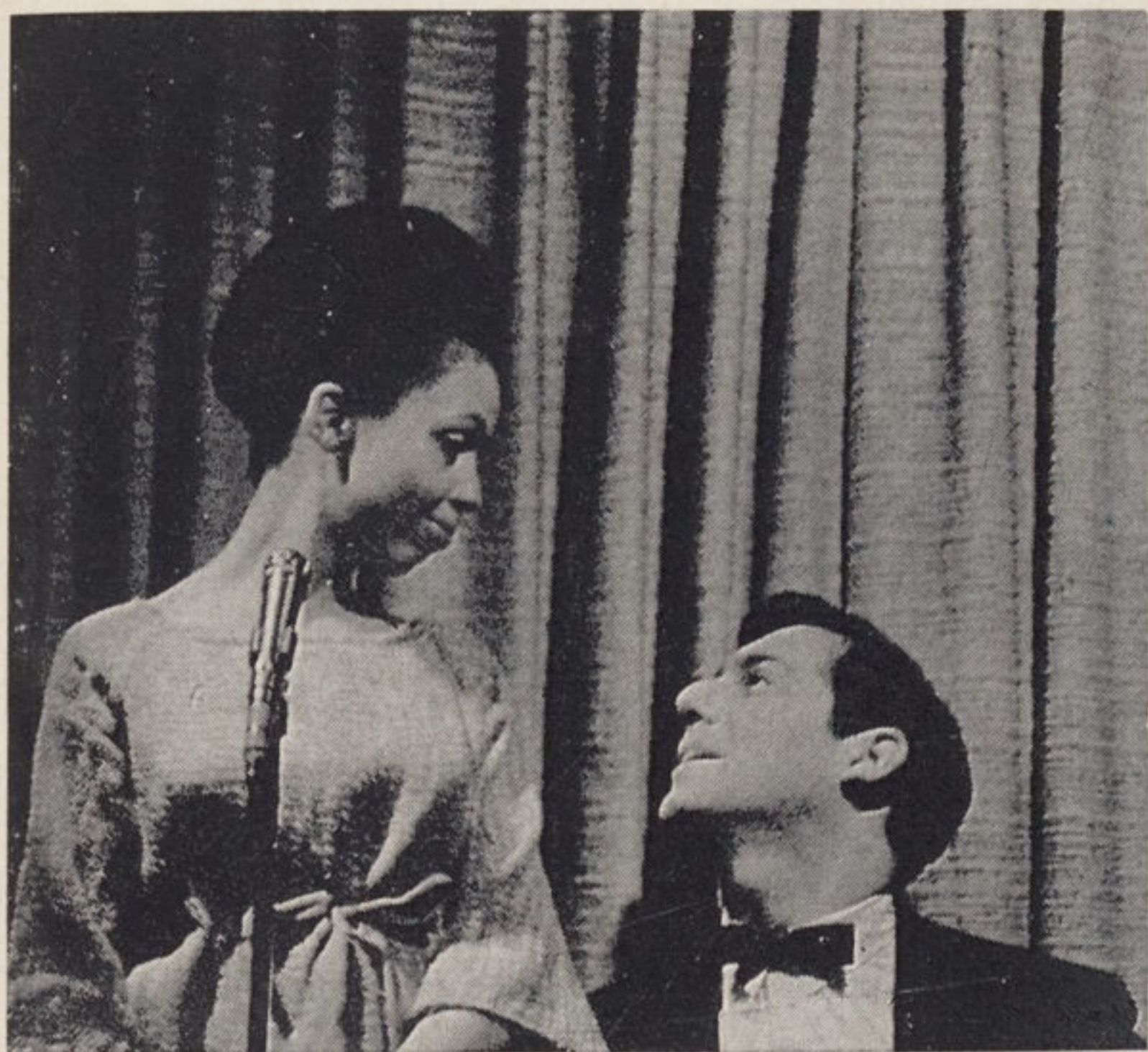
Pinching yourself to be sure that you are not dreaming, you make your way to your acquaintance who informs you with uncharacteristic smugness: "Of course that's Peggy Cooper. Haven't you heard that she is singing here?"

Miss Cooper and Mark Pachman join you at the table and now, at last, you have a chance to find enlightenment. Miss Cooper is

. . . Into the Simmering Inner Circle

from Yellow Springs, Ohio and graduated from Western College in 1964 with a major in philosophy. She spent her senior year of college at Barnard in New York. For the past few years she has been singing professionally in Ohio, New York and Massachusetts.

After graduating from college, she spent



Peggy and Mark on Stage

a year working for one of the Wall Street law factories as a proofreader and receptionist. When confronted with that tired question which irritates lady law students, "Why did you decide to go to law school?", Miss Cooper is likely to give the first answer that occurs to her: "The law firm fired me and so I came to the Harvard Law School," or, "I came to follow a guy."

The two law students have been performing together since January and are reported to have significantly increased business at The Inner Circle. They work on Thursday, Friday and Saturday nights in 30-minute sets which began every hour on the half-hour starting at 8:30 p.m. The last act ends at 1 a.m.

The pair rehearse once a week and are now planning to work only two nights a week as final examinations draw near.

Miss Cooper has a certain quality about her which can only be described as zany. When asked if she wants to go into show

business as a career she replies: "I don't like show business because people ask you questions about it all the time. Besides, if my professors think I'm going into show business, they will think I'm not serious, give me low grades, and then I'll get drafted."

Last summer Miss Cooper signed a recording contract in New York, but for a variety of reasons no records were ever made. "I think I'll sue them," she says. "What is the statute of limitations for suits on a contract in New York? Where are the New York statutes in the law library? Where is the law library?"

One of those rare law students who do not seem to take themselves very seriously, she says she sings the "tsetse fly blues" and aims to be "an itinerant justice of the peace."

The typical comment of the law student who has just heard Miss Cooper sing is, "What is she doing at the Law School?" This open admiration seems to embarrass her. "People are always telling me that I have talent in something other than what I want to do. In high school, one fellow said, 'You have talent to be a great scientist. How can



Mark Pachman at the Piano

you think of being a singer?" "

Mark Pachman, from Teaneck, New Jersey, graduated from Cornell in 1964 with a

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Soviet Writers Permitted to Conduct Defense

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vigorous defense may be more significant in the long run than the fact that they were convicted. "We should not forget," he said, "that less than 15 years ago they would undoubtedly have been subject to a secret administrative trial, with no right to counsel and, in fact, no right even to be heard."

Nevertheless, Prof. Berman took issue with the statement by George Kennan, as quoted in *The New York Times*, that "the Soviet regime is fighting a losing battle" as far as prosecuting writers for their views is concerned. Prof. Berman believes that the recent trial indicates that the Soviet authorities may well be able to hold the line at the point fixed by Article 70 of the Russian Criminal Code, under which Sinyavsky and Daniel were convicted. Mr. Sinyavsky was sentenced to seven years, and Mr. Daniel to five years at hard labor.

Article 70, which is entitled "Anti-Soviet Agitation and Propaganda," makes it a crime to "defame" the Soviet political or social system "for the purpose of subverting or weakening Soviet authority."

According to Prof. Berman, Soviet legal authorities have written that criticism, however unjustified, of an individual Soviet leader or of a particular policy of the Communist Party or the government, or even of such a critical area as Soviet foreign policy, would not be punishable under Article 70. Only criticism which strikes at the Soviet system itself is punishable, provided that it is circulated with the specific intent to weaken the Soviet state.

Asked whether there are any analogies in American law, Prof. Berman referred to the *Kneeland* case in Massachusetts one hundred years ago, in which the Supreme Judicial Court upheld a conviction for blasphemy. He also noted an analogy to a recent court-martial in which an American officer was dishonorably discharged and sentenced to two years in prison for participating in a peace demonstration.

Our laws on sedition and conspiracy to overthrow the government are to be distinguished from Soviet law, Prof. Berman noted, in that we require that the offensive language be directed ultimately to some par-

ticular violent act. Nonetheless, he added, "even in the United States, we have gone too far in punishing people for mere speech."

Prof. Berman criticized some of the procedures in the trial of Sinyavsky and Daniel as violative of the spirit, if not the letter, of Soviet law. The severe denunciation of the two writers in the press prior to trial was, he stated, prejudicial to them, in view of the fact that the major newspapers, *Pravda* and



Prof. Harold J. Berman

Izvestia, are organs of the Central Committee of the Communist Party and the Presidium of the Supreme Soviet, respectively.

In addition, he said that in his opinion the principle of publicity of trials in Soviet law was abused because the approximately 70 people who attended the trial were there by invitation, and others, including Mr. Daniel's son, were not permitted to enter the courtroom.

Because all publishing within the Soviet Union is controlled by state agencies, the authorities can now prevent any anti-Soviet material from being printed within the Soviet Union. Although it is not a crime under Soviet law, Prof. Berman said, to send manuscripts abroad for publication, the Sinyavsky-Daniel trial makes clear that writers who do so run the risk of criminal prosecution, if their manuscripts are found

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Rep. Frelinghuysen

(Continued from page 1)

meet on that day of the week to discuss the Congressional issues.

In addition, he said, if Congress passed any resolutions to limit the President's freedom of action in the present situation, it would be interpreted as denying him a vote of confidence, and would weaken the chances that the Communists will come to the conference table. However, if Congress does pass a resolution on the Vietnamese situation, his guess is that "Johnson will get a vote of confidence."

Rep. Frelinghuysen stated that the President and the Congress are anxious not to expand the war, and to bring it to a conclusion as quickly as possible. However, he warned, "President Johnson sees no easy way to bring the war to a quick conclusion."

The Fulbright hearings demonstrate, Rep. Frelinghuysen said, that the people of the United States are restive and that possibly the Administration "has bitten off more than it can chew." On the other hand, he explained, "Bobby is probably doing more harm than good by sounding off," since he is giving North Vietnam "more reason to play coy."

He criticized the "fuzziness and lack of timeliness" of the administration in revealing what the United States is doing in Vietnam, which leads to a good deal of confusion, both here and elsewhere.

In answer to a question about the Honolulu conference, Rep. Frelinghuysen said that there was no justification for it or for Vice-President Humphrey's barnstorming. "I don't know where Johnson gets those ideas but I wish he would not have them so often."

Turning to other issues which will be important during the 1966 election, he pointed to fiscal policy: "Inflation is sure to be a legitimate issue," since the administration has not yet learned how to keep it under control in the face of an expanding economy.

When asked about the "Rat Finks", a Young Republican group in New Jersey which has been accused of being anti-Negro and anti-Semitic, he said he "hopes that the group is thoroughly investigated and exposed," and expects the Young Republicans to "clean house."

Law Students Can Expect Undergrads' Draft Criteria

By Martin E. Robins

Law students will probably be lumped together with undergraduates, and set apart from graduate students, if the National Selective Service follows the student deferment criteria adopted during the Korean War.

The keystone of that policy, a voluntary nation-wide draft deferment testing program, is set to begin again this May, Selective Service Director General Lewis B. Hershey recently announced. The test is designed to weed out low-rank students.

The remaining features of the old guidelines are expected to be substantially followed. An undergraduate student, at the time of the Korean conflict, could most likely hold his deferment by maintaining a safe class ranking or by scoring above the prescribed test minimums. Those with high class ranking pass up the tests.

For undergraduates and law students, a standing in the top three-quarters of the class or a score of 70 on the tests was usually sufficient. For graduate students, a standing in the top half or a score of 80 on the test was adequate.

Vice Dean Louis A. Toepfer recalls that during the Korean War few law students were taken out of their classes.

Law school co-operation with local draft boards will entail very little additional paper work, the Dean reported. Students will be able to learn their quartile standing from the Dean's office, but will not systematically be advised whether to take the tests.

"Law students ought to know how to come in out of the rain," Dean Toepfer observed. "Otherwise they're not fit to bestow their advice as guidance in the affairs of others."

The tests will be administered by the Educational Testing Service of Princeton, N. J. Relying on the Korean experience, Dean Toepfer said that students may expect a correlation between this test and their College Board scores, except that mechanical aptitude will be stressed.

The "passing grade" is stated at a raw score and the Dean said that during the

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On Vigor and Apathy

There is among law students across the country a distinct lack of activity in interests and areas outside legal studies. Thus at Berkeley, the FSM, supported and opposed by students representing every conceivable combination of political thought and academic concentration, left Boalt Hall unscathed. Similarly at Harvard, occasional political campaigns and frequent opportunity to engage in social and legal endeavors in the surrounding community, leave little mark on the Law School and create only miniscule activity among the students.

This apathy, this lack of participation and interest of the law student in the world outside, poses a real danger, as it is the lawyer who must understand and preserve the fabric of society with its intertwining legal, social, economic, and ethical threads. He cannot be the guardian of a system and a culture of which he is not an integral part.

The law student's lack of vigor can only to a limited extent be attributed to the rigors of study. The concern with precedent, the belief in the efficacy of handling problems solely through the courts, a Hamiltonian distrust of the masses, the fear of offending a future employer, the bar association of a home state, or even a future electorate are also factors that contribute to the general attitude.

The law student must be encouraged to overcome these enervating forces and to become a part of the action and passions of his time. This must be done, for else the risk is great that America's law schools shall turn out competent, nay excellent, attorneys so deached from the reality and strifes of society that the excellence becomes a useless non-tool unable to come to terms with the society it was to sustain. This is a problem which administrators, teachers, and students must face, for the attitudes of each are partly to blame. If it is not confronted, American law students may become the true "lost generation".

— G. R. S.

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TONGUE 'N CHEEK

By Fenno

When it got to the point that the only place to sit in the library was on the Atlantic Reporter shelf I knew it was time to seek refuge in the stacks.

Leaving a bread-crumb trail, I descended into the depths. Having majored in the Dewey Decimal System in college, I sought markings on the volumes to get my bearings. There were none — just thousands of bound pages arranged by an intricate system of overlapping alphabets.

In need of assistance, I dropped three volumes of the *Journal of Calendar Reform* on the toe of a sleeping cubicle occupant.

"What can I do for you?" he said, awakening.

"I'm writing my third-year paper on training schools in Minnesota and Kenya and I'd like to know where to look for information."

"You've come to the right place because I'm working on an article on the same thing," he said.

"How did you get interested in the field?" I asked.

"Oh, I wanted to write on anti-trust policy but the books were always out or missing in action, so I decided to concentrate on an area in which nobody had the slightest interest," he said, leading me to a beautifully bound blue set of the *Kenya Police Review*.

"This is great," I said, pulling the volumes down, "but what about Minnesota?"

"Right this way," he said, drawing a thin brown book from the shelf. "A completely matched set of *The Riverside*, the official school paper of the training school at Red Wing, Minnesota."

"Splendid," I whispered. "But, if I take these out, what will you have to work with?"

"Don't worry," he said, reassuringly, "there's bound to be another set in here someplace."

Letters to the Editor

Sacco-Vanzetti Recalled As Death Penalty Hit

To the Editor:

With the question of abolishing the death penalty under consideration by our state legislature, it is interesting to note that the flow of books and articles about Sacco and Vanzetti has continued into the year 1966 unabated, almost 40 years after they were executed.

This flow of publications, those arguing that Sacco and Vanzetti were guilty as well as those arguing that they were not, has added to the emphasis on the stupidity of the capital punishment law that makes such a monstrous controversy possible, worldwide and apparently everlasting.

Philip H. Bunker
LL.B., '14

Split Infinitive Feud Continues Unabated

Dear Mr. Nelson:

Thank you for sending me a copy of your letter of Feb. 9.

For your amusement, enclosed herewith are Xerox copies of the Dec. 2 editorial (with the scene of the crime identified) and the editorial response in the same issue of the Harvard Law RECORD in which Mr. Evans is cited as a porous shield.

The "rules" regarding infinitives and prepositions really do exist. See, for example, Fowler, *A Dictionary of Modern English Usage*, Oxford, 1940 ed., page 558; Bernstein, *The Careful Writer*, Atheneum, 1965, page 424. The rules concerning split infinitives certainly are as amply supplied with exceptions as the rules involving hearsay; nevertheless, literate and articulate people generally are aware of them, as you are.

I certainly agree with Mr. Evans that much bad writing results from stilted and awkward efforts to escape "violations" but would suggest that such writers never had any real feeling for the language or for its "rules" to begin with. Mr. Evan's own example quoted in the RECORD, in fact,

would seem to demonstrate this simple truth.

Regardless of the merits of the issue, it is delightful to catch *The World Almanac*, *The Times*, Harvard or the New York Yankees off base, and this should be reason enough for poking fun. You are not a real "Harvard" either—whose side are you on anyway?

Very truly yours,

Richard H. Bate,

Morris Plains, N. J.

LL.B., U. of P. '55.

cc: Harvard Law RECORD

3L Election Rolling; Class Charter Proposed

Members of the Class of 1966 will elect a Class Marshal, Class Secretary and three Class Committeemen, when they vote on Thursday, March 17.

The balloting itself will be held in Business Planning classes. Any student not currently enrolled in that course may cast his ballot at the receptionist's desk in Langdell Hall between 9 a.m. and 5 p.m., March 17.

Another question on which the class will vote is whether or not to adopt the proposed charter for the Class of 1966. The charter, prepared by an Ad Hoc Committee, closely follows the class charters adopted in recent years.

Members of the class who have suggestions as to changes in the charter may contact the members of the committee listed on the cover sheet of the charter. Copies of the charter will be available at the Langdell receptionist's desk.

Any member of the class may qualify as a candidate for the five offices, as long as he has not previously been a candidate. In order to qualify, a candidate must submit a petition containing the signatures of at least 20 members of the class, as well as his own, before the deadline—5 p.m. on Friday, March 4. These petitions are now available at the receptionist's desk in Langdell Hall.

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Events of Note at the Law School

"Religion and the First Amendment" will be discussed at a Harvard Law School Forum on Feb. 25, at 8:30 p.m., in Sanders Theatre. The panel will consist of Madalyn Murray, plaintiff in the first of the "school prayer cases" and publisher of *The American Atheist*, Prof. Henry P. Monaghan of Boston University Law School and Prof. Robert Braucher. The moderator will be the Rev. Richard E. Mumma, Presbyterian chaplain of the University. Tickets may be purchased at the Forum office, 23 Everett St., the Coop and the door.

* * * *

A lecture on "The Multinational Corporation: Business and Government Responses," sponsored by the International Law Club, will be held on Mar. 2, at 4 p.m., in Harkness Meeting Room. Prof. Detlev T. Vagts and Prof. Raymond Vernon of the Harvard Business School will be the guest speakers.

* * * *

African legal problems will be discussed at a conference to be held in New York City on Mar. 3-5, sponsored by Columbia Law School and New York University Law School. More information

about the conference may be obtained in 205 ILS.

* * * *

Two lawyers who hold positions in the Peace Corps will speak about "Lawyers in the Peace Corps," on Mar. 2, at 1:30 p.m., in Harkness Meeting Room. The two lecturers will be Frank Mankiewicz, the associate director for Latin America and Harris Wofford, associate director for Planning Research and Evaluation.

* * * *

Former perennial Socialist Presidential candidate Norman Thomas will speak on Vietnam, Mar. 4 at Rindge Tech High School Auditorium, Broadway, Cambridge at 8:30 p.m. Tickets for this Harvard Law Forum presentation are on sale at the Forum office, 23 Everett St., the Coop and the door.

* * * *

The Law School Republican Club will hold a sherry party with the Simmons College Republican Club Mar. 6.

* * * *

Senator Ralph Yarborough (D-Tex.) will address the Harvard Law-Graduate Democratic Club on Mar. 7.

* * * *

The RECORD will not appear next week due to the fact that it is not a leap year. The next issue will be published on Mar. 10. Groups wishing to have activities noted in that issue must deliver their releases to the RECORD office by Mar. 6.

Law Review Selects Officers for 1966-67

Surviving the Law Review's traditional marathon election process and a non-traditional outburst of humorous Langdell Hall poster activity, Lance M. Liebman, 2L, was elected president of the honor organization last weekend.

The other officers chosen, all 2Ls, are as follows: John D. Leubsdorf and Charles S. Whitman III, article editors; Joanne E. Clifford and Alan K. Palmer, note editors; Alan S. Rau and Michael W. Schwartz, case editors; Stephen J. Schulhofer, developments and Supreme Court note editor.

Also, F. Bruce Dodge, note and Supreme Court note editor; C. Van Leer Davis, executive editor; and Thomas J. Graff, treasurer.

Among the posters which alerted the unknowing of the Gannett House intrigues was one which said: "My, friends, Vote ethnic, 1Ls your future is at stake." Another advised esoterically, "Vote the man, not the ticket."

Draft Tests

(Continued from page 7)

Korean War the minimums were shifted in response to the requirements of the Selective Service's manpower needs.

The Dean good-naturedly chided the RECORD for its recent advocacy of the J.D. instead of the LL.B. as a suitable degree for law students. He reminds its proponents that the change would push law students into the expectedly more rigorous deferment requirements of graduate students.

What really seems to be worrying Dean Toepfer is that with the large number of people taking this test, the chances of a breakdown in the grading system, as occurred on a smaller scale on this year's Law Boards, could result in what he described as a "computer jungle." "If that were to happen," he mused, "who knows, they might have to postpone the war."

Still smiling he added, "Classes ought to be a little thin that Saturday."

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Recent Book

Murder and the Enigmas of Criminal Law

In Cold Blood. By Truman Capote. Random House. New York, 1965. 343 Pp.

By Michael Lowenberg

According to a review in the New York Times, "*In Cold Blood* is remarkable for its objectivity." According to the reviewer in *The Nation*, the book is "done in the best tradition of newspaper sob sisterism wedded to Southern Gothic prose . . . the poverty of Capote's 'new' art form is appalling, the shallowness stupefying."

However, whatever the literary merits of the book may be, it unquestionably is highly relevant to the current controversies concerning the constitutional rights of the accused, the standards of criminal responsibility, and the proper functioning of the administration of criminal justice in this country.

The plot is fairly simple. Herbert Clutter, his wife, and their two teen-age children are found dead in their home; all were shot at close-range by a shotgun, and Mr. Clutter's throat was slit, in addition. The community, Finney County in Kansas, is profoundly shaken by the inexplicable deaths of one of its most prosperous, respectable, and best-liked families.

Investigation Begins

Shortly after the discovery of the crime, in November of 1959, a local agent of the Kansas Bureau of Investigation named Alvin A. Dewey assumed the chief responsibility for the investigation. By that time Truman Capote was already on the scene, armed, he alleges, with a talent for accurately memorizing 95% of everything he hears.

Six weeks after the murders, two ex-convicts, Perry Edward Smith and Richard Eugene Hickock were arrested in Las Vegas, accused of the murders, and shortly afterwards they confessed.

Five years later, after conviction and a series of unsuccessful

appeals and other legal action, Perry and Dick were hanged at the Kansas State Penitentiary in Lansing, Kansas.

When Perry and Dick were arrested, the Kansas authorities were very much aware that their case was "very shaky." They had a great deal of circumstantial evidence connecting the prisoners with the Clutter murders, and they now had Perry Smith's boots, which matched perfectly footprints found in the Clutter farmhouse.

Confessions Needed

But that was all. If the two were to be convicted, either more evidence was needed, or they must be persuaded to confess. Confession was very much on the mind of agent Dewey; Perry and Dick had been told that they were arrested for breaking parole and passing bad checks, and Dewey felt that "it was very important that they keep thinking that . . . the name Clutter has to hit them like a hammer, a blow they never knew was coming . . ."

As Capote reports the interrogation of the suspects, the F.B.I. agents at no time resorted to any of the physical or psychological brutality that has so worried many judges and legal writers. Furthermore—and this is significant—Perry Smith and Dick Hickock were two fairly articulate and intelligent young men, who knew what their rights were and were aware of the stakes.

After several hours of questioning the two separately, the agents suddenly changed moods, and told them why they were being questioned.

Hickock, according to the official report, "underwent an intense visible reaction. He turned grey. His eyes twitched." Perry Smith's reaction was similar.

Finally, after skillful interrogation, Hickock broke and confessed. And later, while traveling from Las Vegas back to Kansas to stand

trial, Smith also confessed.

Only after they were returned to Garden City, Kansas, at the scene of the crime, did the defendants obtain the assistance of appointed counsel. Their confessions and the circumstance surrounding them were never the subject of an appeal or motion to exclude. Very recent developments in this area of the law, however, make it quite likely that these issues would be raised today.

But were the defendants' rights really violated? As Capote presents the situation, it is conceivable that the presence of a competent attorney at the time of interrogation and during the trip to Kansas might have provided Perry and Dick with the emotional strength they needed to remain silent. Should the Kansas agents have been denied the opportunity to interrogate?

Uncertainties Focused

The narrative never deals with these issues, but the situation serves as a vivid reminder of the complexities and uncertainties in this area of constitutional law.

Counsel were appointed to represent the two defendants; they were local men and they accepted the appointments with reluctance. After some consideration, it was decided not to move for a change of venue on the theory that "sentiment's the same all over the state."

In fact, the Clutters' own minister, a close friend of the family, had been preaching against the death penalty in the case, but the attorneys' decision was to become an issue in a subsequent habeas corpus proceeding. The case

(Continued on following page)

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Cold Blood

(Continued from preceding page)
reached the United States Supreme Court on three occasions, but certiorari was denied each time.

The attorneys did, though, make a determined fight on the issue of psychiatric examinations for the defendants. Their request to permit the accused to be examined by qualified psychiatrists at a state institution was denied by the trial judge, and three local doctors — local general practitioners — conducted the examination. It's no great job to find whether a man is insane or an idiot or an imbecile," argued the prosecutor; "Just plain doctors" were sufficient.

The entire proceeding was confined by the strictly applied M'Naughton Rule, and an experienced psychiatrist testifying for the defense had to answer "yes" when asked if Hickock knew the difference between right and wrong. According to Capote, the witness had been prepared to testify that Hickock showed signs

of "emotional abnormality" and had perhaps suffered organic brain damage in the past.

Capote presents quite lengthy discussions of the mental health of Smith and Hickock, but it is one of the more striking aspects of the book that he never volunteers a resolution of the question of criminal responsibility posed.

This problem, indeed, is central to the entire story. In the eyes of the law and the local community, Perry Smith and Dick Hickock were "animals," vicious cold-blooded killers. From the psychiatrists' point of view any discussion of a free choice between "right and wrong" was perhaps absurd. But which approach was the better one in this particular case?

No discussion of criminal responsibility can ignore the threatened consequences of the act. In this case, Perry and Dick were hanged, and despite the horror of their crime, the net effect on the reader of the executions is a feeling that this was as absurd and meaningless as the murder of the

Clutters. In the end, six — not four — persons are dead.

The experiences of Perry and Dick also help focus some of the dilemmas of the system of "corrections" in the United States. Both men were ex-convicts; they had served time in the same prison at which they were eventually executed and they were more aware than most persons of the consequences of criminal acts. Yet, the Clutter murders were carefully planned by Hickock while he was in prison.

In fact, one of the strongest impressions left by this book is the conviction that the complex of legal and social sanctions designed to deal with criminal behavior is completely ineffective when faced with the warped personalities of a Perry Smith or Dick Hickock.

The literary merits of this book may be debatable, particularly as to whether or not it is a "new art form," as the author has proclaimed. However, it makes fascinating reading, and ought to be required reading in criminal law courses.

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HLS Board of Overseers Arrives Saturday

By John Spitzer

Delegated by the Harvard Board of Overseers, a special committee of 60 prominent lawyers and businessmen will visit here this Saturday to inspect the operation of the Law School.

Justice Paul C. Reardon, LL.B. '35 (36), of the Massachusetts Supreme Court will head the committee and will be aided by, among others, Supreme Court Justice John M. Harlan, Judge Minor Wisdom of the 5th Circuit, Whitney Norris Seymour, former president of the American Bar Association, Thomas E. Sunderland, chairman of the board of the United Fruit Company, and Judge Charles E. Wyzanski, LL.B. '30, of the U. S. District Court in Massachusetts.

Meetings With Faculty

They will lunch at Harkness Saturday noon with half the faculty, and dine in Boston that night with the other half. The committee and the faculty will meet together in the Root Room in the afternoon.

"The activity of the committee is continuous," commented Dean Erwin N. Griswold last week. "They report to the Board of Overseers about the operation of the Law School. In addition to their annual meeting at the Law School, they also gather information from friends and associates.

"The Committee does an excellent job of keeping in touch with the Law School. The findings in their report are reviewed and acted on by the Board of Overseers of Har-

vard University."

A formal report is issued every three years. The most recent report, published a month ago, commended the Law School for its high standard of legal education and its active program of extracurricular activities. After a review of the Law School's building program, the report concluded that "We are pleased to render such assistance as we can to a great institution, staffed by men both of learning and character, the influence of whom in truth is felt all over the world."

Dean Griswold cautioned that the reports are not always so complimentary, as indicated by the scathing report of 1868 which led to a reorganization of the Law School and the appointment of the first dean, Dean Langdell.

That report revealed relaxed standards which the

Law School had at that time for awarding the LL.B. No classes were required, and neither were any exams. One did not need a college degree for entrance.

As far as Dean Griswold can ascertain, the only requirement for the LL.B. was that a student be in the general area of the Law School for one and a half years. He added that "students would probably like it more like that today" but that the Law School is not seriously considering a switch back to the old standard.

So that the Committee can present a more objective point of view, a few of its members are not Harvard alumni. Justice Harlan is the most notable non-alumnus, but his interest in the Law School has been high because when he was in private practice in New York many of his associates were Harvard men.



We raised the hue and cry and chased the Shire,
but he seems to have disappeared into thin eyre.

Ombudsman

(Continued from page 2)

though no official is bound to follow the Ombudsman's recommendations, in very few instances, Dr. Bexelius said, has the advice not been followed.

Dr. Bexelius told of one case in which the Ombudsman discovered that 23 district courts were following an incorrect procedure. Before writing his recommendations to those courts, he consulted prominent members of the bar, who agreed with his opinion. With this kind of support behind him, the courts quickly mended their ways.

A third remedy is a recommendation by the Ombudsman to the legislature to change a law. These recommendations are also very often followed.

The scope of the Ombudsman's powers is wide. It concerns every possible relation between the Swedish citizen and his government. Thus, the Ombudsman's activities have dealt not only with important areas such as improper arrests by police or convictions based on faulty court procedure, but also with relatively minor ones such as those in licensing motorists.

Not only do the activities of the Ombudsman protect the citizen from governmental abuse and accomplish justice in the individual case, but, according to Dr. Bexelius, these activities accomplish much more. They have the preventive effect, he said, of counteracting abusive tendencies by the authorities and increasing public confidence in the government by urging uniform administrative procedures.

Soviet Justice

(Continued from page 6)

to contain anti-Soviet statements.

Judging from Soviet press accounts, Prof. Berman said, Sinyavsky and Daniel were apparently given ample opportunity to present evidence from their books showing that they had not intended the statements to be defamatory and that they had no direct purpose of weakening Soviet authority.

However, he added, the standards used in Article 70 are so broad and vague as to be susceptible to serious abuse. "Whether or not they were in fact abused in this case is impossible to tell without seeing the complete record of the trial," he concluded.

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Commissioner Rebuked on Anti-Playoff Stand

By Thomas J. Kelly

Eugene Strassburger III, 2L, Commissioner of the Harvard Law School Basketball Association, has found his task here to be fully as demanding as it was last fall in a similar position with the Football League. Faced with the awesome prospect of operating five different leagues this winter, the Commissioner finally cracked under the strain and allowed his ideas to be rejected by the omnipotent Dormitory Council.

The issue this season was playoffs; by a vote of 13-4 the Council decided — over the outraged protest of the Commissioner — to hold inter-league playoffs again this year. Citing the C-league's Tortfeasors as the prime example, Strassburger pointed out that the holding of playoffs encourages teams deliberately to sign up in a league which is below their caliber in order to be assured of the boundless glory of a playoff appearance.

How motives so inconsistent with ideals of sportsmanship and fair play can be imputed to students at the Harvard Law School the Commissioner is loath to explain.

How may the Council's vote on this issue be explained in the face of this eloquent argument? Strassburger here simply shrugs his shoulders and mumbles something about the politics of Bob Shelton, 3L, vice president of the Council and member of the E-League's Vickery A.C. which was undefeated at the time of the vote.

"It was with a great sense of personal satisfaction," stated the Commissioner smugly, "that I noted the crushing defeat of that Vickery ball club last week." It might be noted in fairness to all concerned that Strassburger himself is a member of an E-League club that is out of the competition.

With three weeks of play left before playoff time, it is becoming fairly clear which of the boys are really here to play ball. One of the closest matches is the A-League where two teams, the Doormats, led by Robert Smith, 1L, and the Pies, under Bruce Jeffer, 2L, are in a real tussle for the top spot.

There is another tie for first place in the B-League with 2L Denis Eagle's Palsgraf Palmers battling it out with the infamous Gross Estate, captained by Mike Rose, 3L.

Apparently one of the major assets of the Gross Estate is an unassuming 1L named George Leininger who modestly admitted, "Without me we wouldn't have won a game."

The three lower leagues are all led by undefeated teams. In the C-League it's those conniving Tortfeasors, directed by Bob Walsh, 2L, who are the class of the league. So much so, says Strassburger, that they belong in the A-League where they will definitely play next year if he has anything to do with it. The Private Lawmakers are having it their own way in the D-League; they are captained by Mike Wilder, 3L.

Down in the depths of the E-League the mighty Magnolias, led by flashy Vic Keen, 3L with the able assistance of nimble, sharp-shooting guard Tom Kelly, 1L, have yet to meet their match.

It's a long season, with ten games and playoffs for the 300 or so basketball hungry law students who participate. But for the many on financial aid, it provides a chance to get some healthy exercise without paying the exorbitant athletic fees.

That's Show Biz . . .

(Continued from page 5)

major in economics. He has been performing professionally for the last five years, particularly at summer resorts in upstate New York. In the summer of 1962 he was one of 18 Cornell students chosen by the State Department to make a ten-week entertainment tour of Brazil, Venezuela, Central America, Jamaica and Haiti.

Having been at The Inner Circle since September, Pachman has also had experience at a Harvard Square night spot. He is quite enthusiastic about Miss Cooper's ability and thinks she has a style all of her own. "However, if she has to be typed, she comes closest to Nancy Wilson and Carmen McRae."

When Miss Cooper heard Pachman say this, she turned and gave him a tolerant look. Then she was interrupted by still another law student who wanted to know about her work. "It's a nice job," she said. "It's better than working in the library, don't you think?"

A Woman's Place

(Continued from page 3)

we want them to cope with adult activities."

Mrs. Friedan hoped that new institutions could be created to allow women to combine motherhood with their political, artistic or scientific interests. More use of women on a part time basis would be a step in the right direction.

Pauli Murray spoke more of her career as a civil rights lawyer than about the position of women in our society. Holding degrees from Hunter College and Howard, California, and Yale Law Schools, she gave a witty account of her frequent attempts to get into Harvard Law School during the 1940's, before women were admitted.

The foray included an exchange of letters with Dean Erwin N. Griswold, who at that time was beleaguered by a highly conservative faculty, she related. Harvard finally awarded her a degree of "Bachelor of Feminism" for her ill-fated attempts to break

down the men's club mood of the Law School.

Miss Murray argued that our society must cease to confuse masculinity with superiority and that women must fight to attain more positions at the decision making level of the government.

More optimistic than the other two speakers, Mrs. Bunting stated that "I grew up believing the problem was licked long ago. Then suddenly I began to wonder if some of the freedom women had earned wasn't an illusion. There seemed to be a climate of un-expectation of what a woman would do with her education."

But just in the last year she has noted a "rather dramatic change in the way young women are planning their lives." She added that women could be especially helpful in the fields of social work, civil rights and urban development since idealism is needed in these areas and work could be done on a part-time basis.

"A woman can raise happier, healthier children if she is leading a full life herself," Mrs. Bunting concluded.

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