

'Fair Trial - Free Press' Synopsis, Pg. 10



America's Oldest Law School Newspaper

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ABA Press Report Defended

Provisions whereby pre-trial and non-jury court proceedings may be closed to the public at the defendant's request and whereby prosecution and defense attorneys may go to jail for releasing certain facts and opinions to the press before or during a trial are among the most controversial aspects of the American Bar Association's tentative draft of standards on fair trial and free press.

One of the key participants in the debate is Professor David Shapiro, who acted as Reporter for the ABA advisory committee which wrote the Report. The Report has thus far not engendered much controversy at the Law School due to a shortage of published copies of the 350-page document.

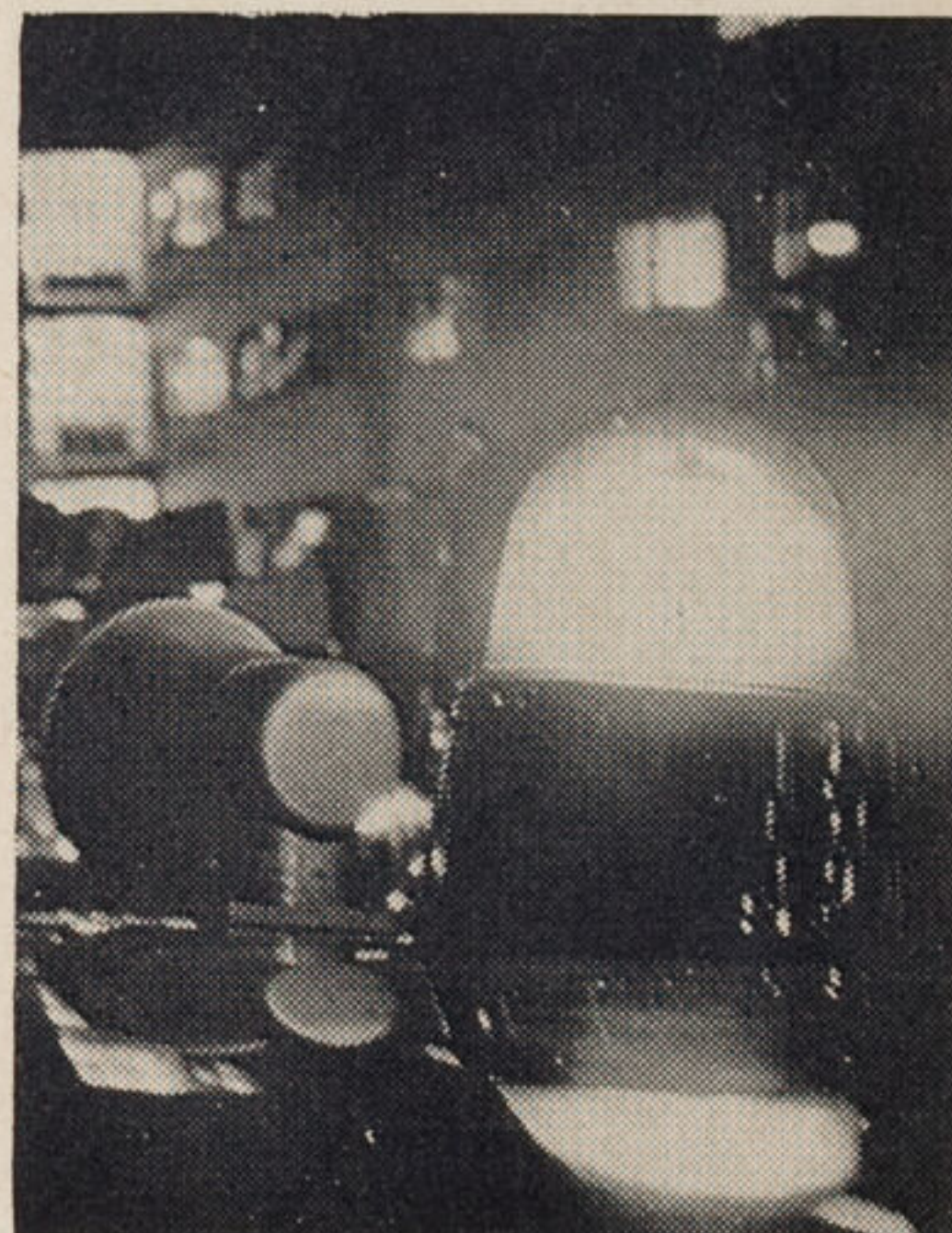
Some commentators have been especially critical about the prospect of closed hearings. However, according to Prof. Shapiro, fear of star

chamber techniques is not well-founded.

The provisions for closed hearings are fully circumscribed with safeguards, he said. The defendant must at least give his consent for such a closed hearing to be held and the committee anticipated that most of the motions made under these sections would be put forth by the defendant.

Furthermore, the full transcript of the closed portions of the trial or the pre-

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False Alarm: Dane Hall is the scene of a vain search for a fire last Sunday. It was the third false alarm in a month.

Fund Drive Underway

By Ray Sawyer

A \$15 million fund drive by the Law School to provide for such capital improvements as a building program and new professorships is well underway.

Recently, two donations of \$150,000 and \$100,000 raised to \$1.3 million the amount received to date by the drive, which is entitled the "Sesquicentennial Program for Continued Leadership." It is reportedly the School's first

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'A Fair Trial is a Two-way Street,

(Continued from Page 1)
trial hearing would be released as soon as the trial is over. As in so many of the provisions in the Report, the question, he said, is not whether the information is to be divulged, but only when it will be released to the press.

In many states, the practice would not constitute a radical departure from the present situation, since defendants are often allowed to waive their right to an open hearing. Since the open hearing is a safeguard which goes mostly to help the defendant, he should be allowed to waive it, if that would be in his best interests. Not infrequently, Prof. Shapiro said, such pretrial hearings contain evidence which may ultimately prove to be inadmissible at the trial itself.

"It is clear," the Report states, "that the tradition [of an opening hearing] . . . when incorporated in American constitutions, was

principally motivated by a desire to protect the accused from proceedings of an inquisitional character, particularly those involving religious or political persecution." Of course, at the same time, he remarked, in the interests of continuing public scrutiny of the judicial process, and the education of the public, hearings in which there is no danger of prejudicial statements should remain open.

Another of the more controversial of the proposals are the provisions which restrict the actions of the defense attorney in the defense of his client. Prof. Shapiro commented that the restrictions apply only to the defense attorney and not to the defendant himself and that the defendant would be allowed to release facts to the papers.

However, he said, the Committee views "fair trial" as a two-way street, in which neither side should go to the newspapers. Furthermore, he believes if the defense attorney is given the right to put what stories he wants in the mass media there is a problem of seeing that, by doing this, the case is not prejudiced in favor of the defendant with the prosecutor not allowed to reply.

Yet, if the prosecutor is merely given the right to respond to statements by the defense counsel, Prof. Shapiro sees the two sides "off and running" in newspaper maneuvering.

Professor Louis L. Jaffe,

on the other hand, believes that the most serious offenses are committed by the prosecution and that once they are "muzzled" the danger of prejudice is minimal. Prof. Jaffe wrote an article on "Trial by Newspaper" for the *NYU Law Review* in May, 1965, in which he anticipated the Report and asked for some curbs on statements by attorneys.

Question (addressed to trial judges in the 20 cities studied): Do you believe that a rule of court restricting attorneys and

Desirability:

Desirable	55
May be desirable	1
Desirable as to Police only	1
Undesirable	8
No answer	3

Moreover, he sees a possible Constitutional objection to this section, especially considering the American tradition that defense attorneys be allowed to do everything proper to gain an acquittal.

Besides which, he noted, the trial is not meant to merely find out the truth. In our tradition, it is skewed towards the defendant, he said, and "there is no reason not to weight it slightly more in his favor," though he would like to see added a right of reply for the prosecutor.

Summary

"There need be no basic incompatibility in the application of the First and Sixth Amendments separately or in tandem. It remains for all concerned to make a sincere effort to prove that fact—an effort which will require sustained cooperation and interchange. For that price, all our rights and

(Continued on Page 10)

No One Should Go to the Papers'

However, Prof. Shapiro insists that the defendant will be the one to suffer from a continuing debate in the newspapers, and the right of reply by the prosecutor would be difficult to administer. Therefore, since the Report provides other remedies, both prosecution and defense should not be permitted to try the case in the newspapers. He further believes that this situation is

law enforcement officers with respect to the release of information in criminal matters would be desirable and effective?

Effectiveness:

Effective	37
Somewhat effective	2
Ineffective	8
No answer	21

presently covered by canon 20 of the ABA Canons of Professional Ethics.

Of course, the exceptions noted there—the right to answer charges, to disclose the nature of the offense and to seek assistance in obtaining evidence—is not foreclosed.

Prof. Shapiro is also worried that statements to the papers sometimes are intended to help the defense attorney rather than the defendant.

Perhaps the section that has stirred the most debate is that limiting the press to matters of public record during the course of the trial itself. Prof. Shapiro explains that the opportunities for inaccuracy and distortion, which will prejudice the jury, are so great during the course of trial that the factors supporting the press' power to report what it considers news must be considered overborne.

In addition, it is virtually impossible to distinguish, during the course of the trial, which disclosure by the newspaper would be a proper one and which would not, so that a total bar during trial would be most effective.

If the newspaper comes up with a fresh piece of evidence which bears on the case, it should make it available to the prosecution and the defense attorney and let the normal judicial channels decide whether or not the evidence is admissible at the trial.

In no event, Prof. Shapiro believes, should the press have the right to hold extrajudicial proceedings while a regular jury trial is underway. It is appropriate for newspapers to report what occurs in the courtroom, not to speculate, to spread rumor, or to campaign for a result.

Prof. Shapiro also pointed out that these restrictions do not apply before the trial begins or after the trial ends, and notes that, "the

most significant and most frequent contributions resulting from the dissemination of information occur before an arrest is made or a formal charge is brought."

It is significant, he said in the Report, that in many of the cases where the media have taken the lead in un-



Prof. Shapiro

covering the existence of crime and seeing to it that wrongdoers are duly prosecuted, the crimes were either political in nature or there appeared to be political reasons for the failure to prosecute.

The press, the Report continued, perform some vital services for the community. First, they assure the community that law enforcement officers have been

(Continued on Page 12)

'Grave Problem' of Financing a Political Campaign Discussed by Secretary of State of Massachusetts

By Steven Goddard

"Financing a political campaign is the root evil of the elective system," according to Massachusetts Secretary of State, Kevin H. White. Mr. White's remarks were made during an informal talk before the Law-Grad Democratic Club on October 25.

"Campaign financing is not a problem unique to Massachusetts, or this country," Mr. White continued. "It is a grave problem inherent in the democratic process."

"Under a dictatorship," he reflected, "there are no elections, no problems. In monarchies there are just the expenses of burial and coronations."

The Secretary then pointed out some of the facts of present-day campaign financing. A Presidential campaign costs \$200 million. The Democratic Party alone spent \$8 million in Massachusetts for the 1964 campaign.

Mr. White calculated the cost at about \$3.50 per vote cast.

He then explained how campaign contributions are raised. "75 per cent of the contributors are personal friends," Mr. White explained. "Fifteen per cent want identification with the candidate."

"The remaining 10 per cent of the contributors want an eye for an eye, and this 10 per cent gives 90 per cent of the cash."

"You can't buy a campaign," he emphatically stated. "But, if you don't have money or can't raise it, you aren't a candidate."

\$1 Million for Governor

"To run for Governor of Massachusetts you must have \$1,000,000, or be able to raise it in six months."

Now seeking his fourth term as Secretary of State of the Commonwealth, Mr. White is no stranger to political battle. In 1960 when he won office in a race against Edward Brooke, he was, at 30, the youngest man ever to be elected to a Massachusetts state office. Mr. Brooke, however, has recovered and is presently the Republican candidate for the U. S. Senate.

In 1964, Mr. White captured more votes than any other Democrat in the state.

The Secretary outlined four

methods for relieving the burdens of campaign expense and preventing possible graft.

"A popular method used by about 26 states is a law limiting the amount of money candidates may spend," he stated. "But this is a negative approach, and has many loopholes."

"A second method, now used



White: \$3.50 a vote

in Massachusetts, is to provide for a system of public exposure of campaign expenses," he noted.

Another logical method is to give tax deductions for contributions to political parties, similar to the deductions allowed for sales expenses in a business. Although past Presidents Eisenhower and Kennedy were both in favor of this system, Congress or the Treasury Department have not approved the idea.

"A fourth method would be to have the public directly finance the campaigns through legislative appropriations," Mr. White declared, "but Puerto Rico alone gives this direct subsidy."

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Harvard - Yale Debate Shifts to the Gridiron

By T. Formation

The leaves turn from green to red to golden brown; soft breezes with an ever increasing hint of chill fill the air. And the crunch of determined bodies resounds over the football fields the nation over.

But a special sound emanates from the gridirons on which the Harvard Law School Football League enacts its gory scenes week after week. It is the advocate's plea: "It is evident that the rule regarding blocking below the waist is subject to several different interpretations. Arguing from the purpose behind the rule . . ." Or: "Quaere whether the penalty imposed for pass interference adequately fulfills the deterrence function of the law."

Ringer Scandal

This year action both on and off the gridiron has reached mid-season form, all under the careful scrutiny of league Commissioner, Gene Strassburger, 3L. Yes, sports fans, the reports of last spring about the retirement of the Commissioner were premature. Much to chagrin of the protagonists of last year's celebrated "cleat controversy" and "ringer scandal," Strassburger has agreed again to accept the scepter.

One of the Commissioner's most noteworthy actions of the season is the establishment of a championship game with Yale Law School. The game, featuring all-star teams from each school, will take place during the Harvard-Yale week-end in mid-November.

The Commissioner has also introduced new efficiency into the solution of the league's many

problems. For example, usually reliable sources report of on-the-spot resolutions of controversies involving Strassburger's C League team, with the help of *ex parte* communications from his teammates.

Would-be Hornungs

Assignment of teams to leagues has also engendered considerable debate. At present there are three leagues of six teams each, and one, the B League, of seven. All of the leagues except the D League were oversubscribed; some of the would-be Hornungs were disappointed at playing at lower levels.

Though perhaps arbitrary to an extent, the selection process has proved successful. Over half of the reported games have been decided by a touchdown or less. There have been no fewer than six ties thus far.

The A League is embroiled in one of the closest races of recent years. Four teams are still undefeated as of press-time, though three of those four have been tied already. The Scrods, with entries in both the A and B Leagues, feature the passing

combination of ex-Notre Dame stars, Joe Romanek and Jack Gaine, both 3L.

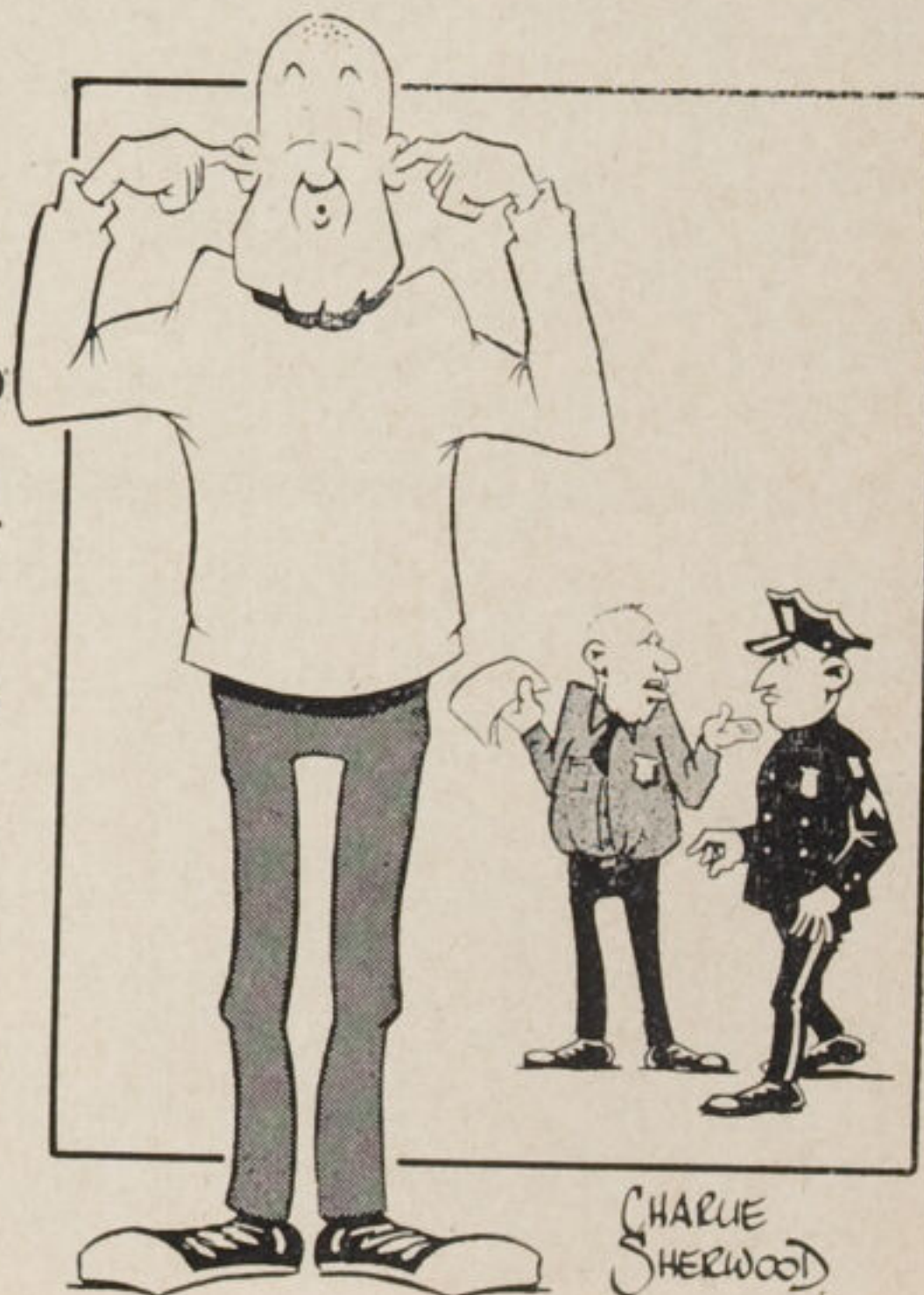
Irish fans were comparing them favorably to Hanratty and Seymour after they collaborated on an end-zone to end-zone pass play last week.

A tight race is likewise in prospect for the B League where the Scrod scrubs cavort. They are tied for the lead with the Assignators, smarting from their assignation to the B League after they had requested the A League. Tied for the C League lead, through some freak of scheduling no doubt, is none other than Strassburger's team, sporting a 1-0-1 record along with the Bearristers.

Review Undefeated

In the D League another aroused squad, with the infringing name of the Harvard Law School Team, incensed by their demotion from the B League after being shellacked by the Commissioner's C League team, has bounced back to open the season with two wins. The *Law Review* is also undefeated, but has been tied.

~~~~~  
'What do you do  
when the suspect  
won't listen to his  
constitutional rights?'  
~~~~~



Furniture at Law School Recaptures

By Tom Johnson

After 150 years, the academic hero-worship which characterizes most great educational institutions affords a certain sacred aura even to the furniture. At Harvard such symbols of a heritage are particularly abundant.

Everything—from the clock in the Dean's office to the benches in the locker areas—seems to have a history of its own, and even the vase that once sat on the desk of Chief Justice Salmon P. Chase is duly catalogued.

The Dean's office alone contains four such items. The Harvard Corporation presented the giant, double pedestal, rosewood desk at the north end of the room to Joseph Story in 1829 when he was appointed the first Dane Professor of Law. It has become the traditional Dean's desk.

Harvard Heritage

Professor Arthur E. Sutherland works at Langdell's table.

Dean Erwin N. Griswold sits behind Mr. Justice Joseph Story's Desk.

Receptionist Marion Balmain sits where Dean Roscoe Pound once did.

Professor Mark DeWolfe Howe can bring his lunch to school in Justice Holmes' lunch box.

Professor Philip E. Areeda prepares his lectures at Samuel Williston's desk.

In 1936 the faculty presented an exact duplicate of the leather-topped desk to Dean Roscoe Pound when he retired as Dean. Professor Livingston Hall who, as the Roscoe Pound Professor, occupies the same second floor office which was Pound's after his retirement, now uses the desk.

On the west, book-lined wall of Dean Erwin N. Griswold's office stands a recent acquisition of the School, Justice Holmes'

mahogany, standup desk which originally belonged to his grandfather, Justice Charles Jackson of the Supreme Judicial Court of Massachusetts. Although the Dean uses the desk primarily to sign letters, apparently Justice Holmes wrote some of his landmark opinions there.

In her biography of the Justice, Catherine D. Bowen relates that writing at the high desk, one knee propped against it, the Justice would tire easily. "But it's salutary," he was quick to observe. "Nothing conduces to brevity like a caving in of the knees."

Above this relic desk on the wall hangs Story's banjo clock, also a gift of the University, and on the opposite side of the room is John Chipman Gray's chair.

Although not as colorful as the stand-up desk, Holmes did most of his work at the more conventional, double pedestal desk which is now on display in the Treasure Room along with a chair. Both items belonged to his grandfather.

The chair apparently was used with the desk, but Dr. Edith Guild Henderson, curator of the Treasure Room, reports the two fit together quite awkwardly and concludes that the Justice must have worked bolt-upright at the desk if he used the chair at all. Other items of Holmes memorabilia including his robes, gavel, and what is believed to be his lunch box, are contained in a large wooden chest which stands along the south wall in Professor Mark DeWolfe Howe's office.

The entire Holmes collection came to the school as a gift from the beneficiaries of the estate of the widow of Holmes' nephew.

The only piece of antique furniture in the ultra-modern International Legal Studies building is the desk currently used by Professor Milton Katz. The light colored, open-fronted desk belonged to Professor Jens Westengard and was rescued from the auction block by the Dean's Administrative Assistant, Miss Mary Conlan. It was a gift to Prof. Westengard from Crown Prince Damrong in recognition of the professor's eleven years of service as legal adviser to the royal family of Siam.

Together with other furniture in the

Bygone Eras of Holmes and Langdell

family estate of the Westengards, the desk was destined to be sold, but Miss Conlan observed its regal character and had it removed from the sale, noticing only later the small brass plate at the base of the desk which identified it.

Also rescued, this time in pieces from the depths of Langdell Hall, was the giant roll top desk which was restored and until this year dominated the office of then Vice Dean Louis A. Toepfer. When Dean Toepfer left this summer to become Dean of the Western Reserve Law School, the desk, which had belonged to General William L. Burt, LL.B. 1853, went with him with the farewell blessings of Dean Griswold.

The large, circular desk now used by the receptionist in Langdell Hall was designed in 1926 especially for Dean Pound by the

Boston architectural firm then called Coolidge, Shepley, Bulfinch and Abbot which was completing the main portion of Langdell Hall.

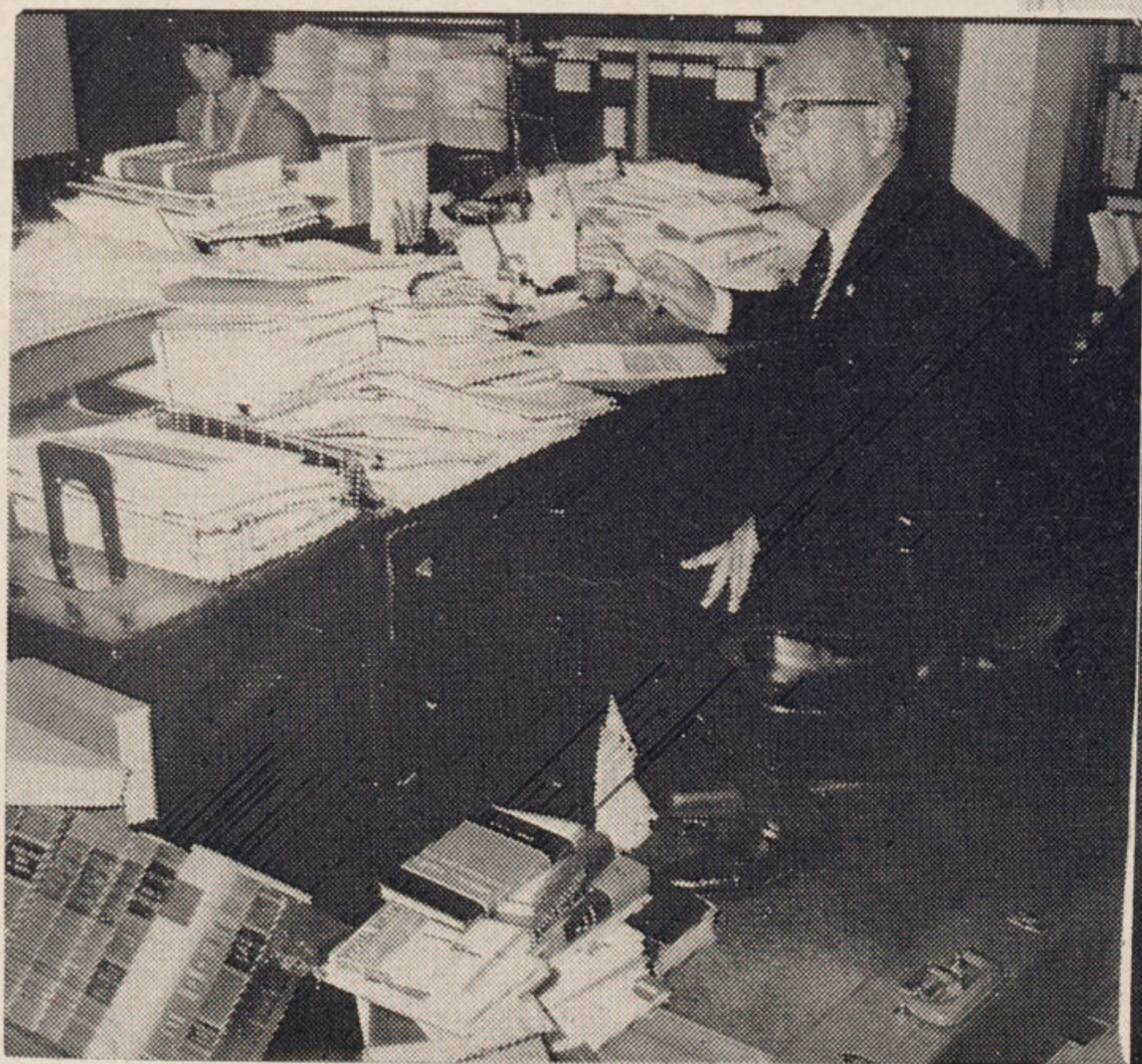
The Dean reportedly was delighted with the desk, and invariably had it completely covered with books. He then would don a green eye shade, and sit in the center of the desk, spinning himself from one book to another.

At times an historic piece of furniture will disappear for years before it is finally re-acquired by the Law School. Dean Langdell's table, for example, was acquired by Professor Eugene Wambaugh and went through three estates before it was returned to the School.

The walnut table, which appears to be the

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Professor Freund (below) irreverently covers Dean Langdell's desk with his papers, while Dean Griswold (at right) proudly displays Justice Holmes' desk and Justice Story's banjo clock in his office.



The Last Word

Although the Yearbook profit issue will doubtless rank with the split infinitive and the J. D. degree controversies as the RECORD's least successful reform effort, one final word is in order.

It must be generally agreed that the debate should be governed by the following principle: Harvard Law students deserve the best possible Yearbook at the least possible cost to them. Following this principle, we urge that the following reforms be adopted:

1. Elimination of the required Phillips Brooks House donation. This admittedly worthy cause should gain its funds openly, e.g., student solicitations, mixers (replacing the overly-wealthy Dorm Council as sponsor) and student directory sales (PBH now gives them away).

2. Reduction of Yearbook editor salaries. Following the principle of the best Yearbook for the least cost to students, the salary should be the least that will attract students who are willing to produce a first class publication. Other publications are edited by law students who receive no salaries. Thus, while the Yearbook is arguably a different type of effort, considerably less than the present \$4,000 can attract competent personnel.

We propose that salaries be limited to a total of \$2,000 and to a \$750 salary maximum for an individual editor. The first \$1,000 gross profit would go towards salaries (with a \$400 maximum for each individual), while the final \$1,000 in total salaries and \$350 in individual salaries would be based on a percentage of further gross profit in order to provide an incentive for energetic and efficient management.

Adoption of the above reforms will permit three further improvements:

3. Elimination of the group sitting fee and elimination of the individual sitting fee for those who purchase the Yearbook (with a charge to non-purchasers of no more than the photographer's fee).

4. Reduction of the student price of the Yearbook.

5. Careful scrutiny of other Yearbook revenue sources. The dedication fees which various law firms pay to have their names mentioned in the Yearbook may be subject to abuse. Parent solicitations should be permitted only where the Yearbook makes clear to the students that such a solicitation is occurring. In each of these areas the line between honest capitalism and unethical practices is difficult to define; but it must be drawn.

Adoption of the above reforms will lead to one further improvement: no more RECORD editorials about the Yearbook.

TONGUE 'N CHEEK

By Fenno

I was driving out into the countryside with my date after the Penn game when we happened through the town of Langdell, Ames.

"Hey, Fenno, look at that bug-eyed fellow twitching his shoulder," exclaimed my date as she pointed to a derelict scurrying down Main Street.

"He's one of the judges here," I answered. "They all get to look like that after a couple years on the bench. Too many close cases and no precedents to fall back on. They're so overworked that they always seem to misplace their opinions before they can be printed up. Something's got to be done for them."

Cribbing a Statute

We turned down one of the boulevards past a number of gangsters (off on a technicality) when my date asked about an official looking building resembling ILS except for the flashing neon "Senators' Lounge" sign over the door.

"That's the legislature," I commented shaking my head. "Lazy bunch. They only enact statutes sporadically which always seem to lapse after they've been tried out in one case. So they sit around all day bowling in the Senators' Lounge, occasionally perusing an ALI report to crib a useful-sounding statute."

Bug-Eyed Fellow

"What do all the lawyers do in Langdell?"

"The best ones have it made," I replied. "They play golf all day to think up policy reasons to tantalize judges like that bug-eyed fellow back there."

As we were leaving this idyllic town, we were reminded by the smashed windows of Fine Foods Market that unhappiness lurks even here. The once-prosperous market has been bankrupted after losing a whopping products liability suit to Alice Pulley for selling her a bottle of exploding cooking oil.

Letters to the Editor of the RECORD

"Crackenthorpe" Controversy Revisited

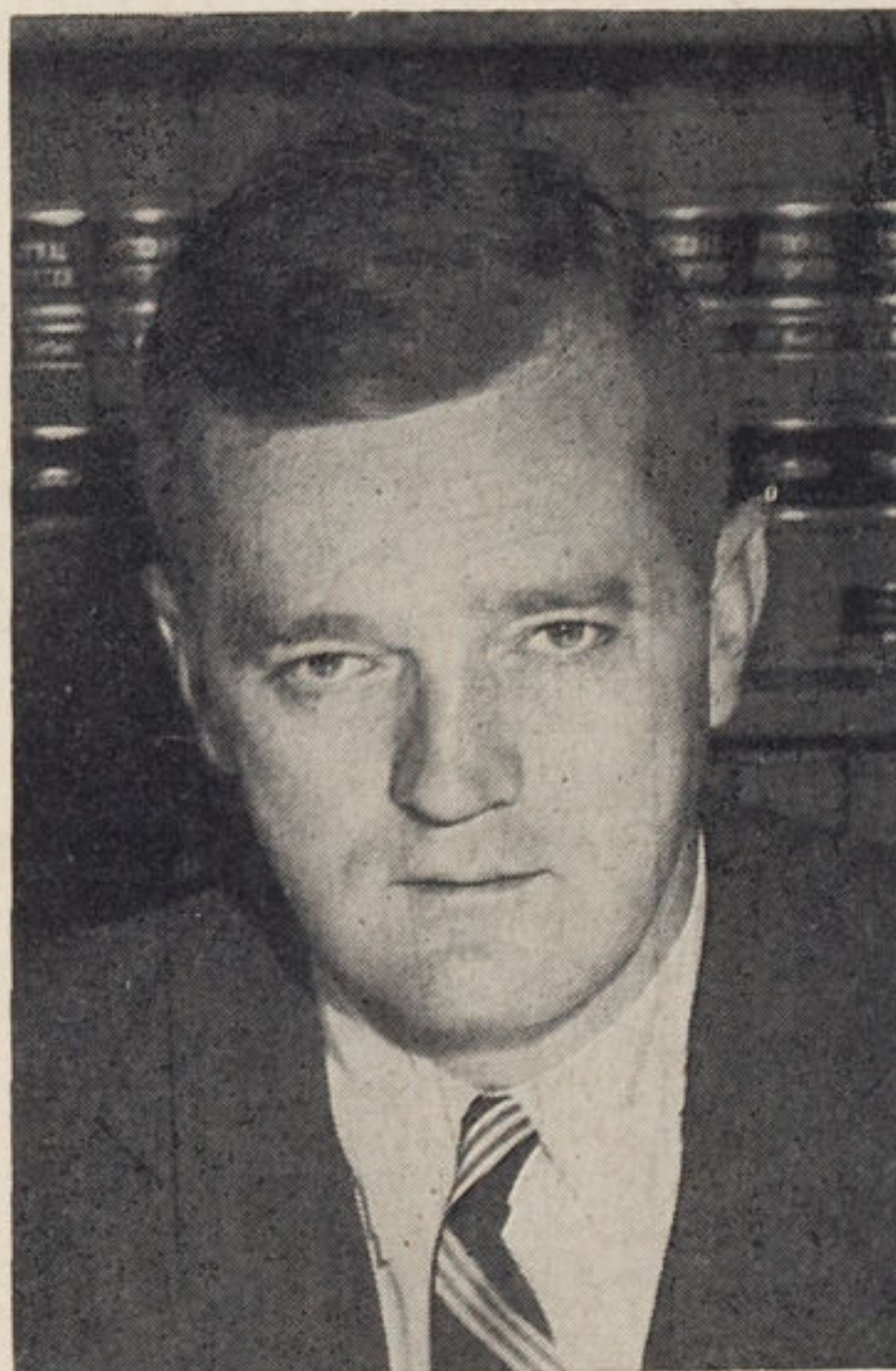
To the Editor:

By now the readers of the RECORD have learned more about Sir Montague Crackenthorpe, Q. C., than they ever wanted to know, but since Roy Nolen's letter in the October 6th issue accuses me of the unspeakable scholarly sin of having "failed to read carefully," perhaps you will permit me one more word.

I admire Mr. Nolen's diligent research. It is true that Sir Montague's last name is given as "Crackanthorpe" in the sources he cites, as well as in such places as "Who Was Who," and volume 12 of the Law Quarterly Review. It is Mr. Nolen's premise with which I differ.

Competent modern research has demonstrated that the cashier of the Bank of the United States who was involved in the great case of *McCulloch v. Maryland* actually spelled his name "McCulloh" [Lewis, Without Fear or Favor 504 n. 163 (1965)], that the stubborn parents whose refusal to let their children salute the flag led to *Minersville School Dist. v. Gobitis* spelled their name "Gobitas" [Harrell & Jones, Equal

Justice Under Law 85 (1965)], and that the acceptor of a bill of exchange whose involvement in *Swift v. Tyson* made his name a household word in truth bore the name "Tysen." [Teton, The Story of *Swift v. Tyson*, 35 Ill.L.Rev. 519, 530 n. 2 (1941)].



Writer Wright

Would Mr. Nolen ask those of us who write about law to change our citations of these cases to conform to the facts?

I act on the premise that how

a person spells his name is less important than how the Supreme Court spells his name. Given this, the *Harvard Law Review* is an *a fortiori* case.

Charles Alan Wright
Austin, Texas

Ed Note: Prof. Wright now teaches law at the University of Texas. He was a Visiting Prof. at the Law School in 1964-65.

Reader Attacks Selection of Speakers

To the Editor:

First George Lincoln Rockwell, then Herbert Aptheker. "Que usque tandem abutere patientia nostra?" Is there no limit to character of the irresponsible and self-seeking characters invited to address Harvard students?

Both Rockwell and Aptheker fail to advocate any constructive programs. They are content to revile and condemn decent public officials. They thrive on the publicity which the news media offers them.

The remedy for their suppression is obvious.

Alfred A. Benesch, '03
Cleveland, Ohio

Ex-Yearbook Editor Scores RECORD 'Jealousy'

To the Editor:

Your jealousy is all too transparent.

There are as usual two ways of viewing the situation. There has throughout the entire controversy been no appraisal of the Yearbook as a normal item of commerce. While there is something to be said for the uniqueness of a Yearbook and its consequent monopoly position, this argument cannot sustain the conclusion that those who devote their hours to its preparation can expect no reward.

If the Yearbook could not publish a presentable edition for a reasonable price and run a profit

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Harvard Law Record

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(Continued from Page 2)

liberties can be made the more secure" — Tentative Draft of Standards, American Bar Association Advisory Committee on Fair Trial and Free Press.

Because of the great scarcity of copies of the Report, which has not yet been printed and distributed, the RECORD undertakes to condense some of its main features. The synopsis follows:

Part I

Relating to the Conduct of Attorneys in Criminal Cases

1. A lawyer participating in any pending investigation of any criminal matter, including a grand jury, shall refrain from making any extrajudicial statements that go beyond the public record, subject to certain exceptions for the safety of the public.

2. Neither the prosecution nor the defense, from the time of the arrest, issuance of a warrant, or indictment, shall release

- Prior criminal record
- Existence of a confession
- The results of any tests or examination, or defendant's refusal to submit to them
- The identity, testimony or credibility of prospective witnesses
- The possibility of a plea of guilty
- The defendant's guilt or innocence or other matters relating to the merits of the case or the evidence in the case.

3. Neither the prosecution nor the defense may give a statement or interview during the trial, except for quoting the public record of the court without comment.

4. After trial, but while the criminal case

"The Committee's one month content analysis of 20 newspapers shows 73 instances in which a record of prior conviction, arrests, or indictments was disseminated during the period from arrest to trial, and in all but seven of those instances the source of the information was the Police Department. In most of these instances, although information as to convictions (but not arrests) may have been theoretically available in court files, it probably would not have been obtained as a practical matter except from the police . . ."

Fair Trial —

A Summary of In the Report by the

is still pending in any court, neither shall make any statements, which it appears "reasonably likely" will affect judgment, sentence or otherwise "prejudice the due administration of justice."

The Committee made an exception to the release of such material, where disclosure would aid in the apprehension of a subject or to "warn the public of any danger he may present."

Part II

Relating to the Conduct of Law Enforcement Officers and Judicial Employees in Criminal Cases.

This section extends the prohibition on divulging, during the course of trial, the material enumerated in Part I to any person employed or retained by any governmental agency to assist in the investigation of crime or in the apprehension or prosecution of persons suspected of or charged with crime.

A violation of this section may be punished as contempt of court.

The Committee further asked law enforcement agencies to make these restrictions apply, by internal regulation, during the period prior to the making of an arrest or the filing of formal charges.

Part III

Relating to the Conduct of Judicial Proceedings in Criminal Cases

1. A closed pre-trial hearing may be held, at the request of the defendant, unless the presiding officer determines there is no likelihood of interference with the right to a fair trial. The officer may also take

Free Press

the Conclusions

Advisory Committee

such action on his motion or the suggestion of the prosecution, with the consent of the defendant. A complete transcript shall be kept and released after trial.

2. A motion for change of venue or a continuance by either the prosecution or defense shall be granted whenever it is determined that a fair trial cannot be had "because of the dissemination of potentially prejudicial material."

3. The defendant shall be permitted to

"The question whether an individual juror is swayed by what he sees or reads outside the courtroom about a particular case is, of course, a vital one. But it is not the only one. Also to be considered is the possible adverse impact of news coverage on the investigation of crime, on the conduct of lawyers and judges and, perhaps most important, on the integrity of the judicial process and the stature of our legal institutions . . . "

waive a jury trial, if required to increase the likelihood of a fair trial.

4. A prospective juror subjected to potentially prejudicial news coverage may be challenged for cause. The court may draw jurors from other localities in the state (or federal district), where such coverage has been intense.

5. A jury may be sequestered if it is likely that highly prejudicial matters are likely to come to the attention of the jurors. Witnesses may also be sequestered before their appearance.

6. With the consent of the defendant, any

portion of the trial that takes place outside the presence of the jury may be closed to the public. In such a case, a complete record of proceedings shall be made available following the completion of the trial.

Part IV

Relating to the Exercise of the Contempt Power

Under this section, a newspaper which, during the course of an on-going trial, printed an extra-judicial statement relating "to the defendant or to issues in the case that goes beyond the public record" could be prosecuted, provided that the statement is "reasonably calculated to affect the outcome of the trial and seriously threatens to have such an effect."

A person making such a statement, with the expectation that it will be publicly disseminated would likewise be punishable by contempt proceedings.

Another significant portion of this Part provides that the court shall have authority to require that part of the proceeds of a fine levied as punishment under these provisions, go to the defendant to reimburse him for the added legal fees and other expenses caused by the published statement.

As far as enforcement of these restrictions goes, the Committee specifically rejected statutory limitations on the reporting of crime news. Instead, it supported a revision of the Canons of Professional Ethics, which have been given the force of law by statute or rule of court in most jurisdictions.

As far as contempt proceedings, it suggests the power already inheres in the court.

A rule of court, it feels, is preferable to a statute in that it permits greater flexibility whenever the need for change is demonstrated.

"The Committee would urge that in any contempt prosecution the procedural safeguards be observed to the maximum extent possible; adequate notice, full and fair hearing, trial by jury where not otherwise prohibited by law, and the right of appeal . . . "

Oregon 'Hawk' Gets Dems' Endorsement

The "hawks" reasserted themselves last Monday as the Law-Graduate Democrats voted to endorse Oregon Representative Robert Duncan in his race for the Senate against "dove" Republican Mark Hatfield.

The Ames Courtroom meeting, attended by about 75 club members, also endorsed Democratic Senatorial candidates in Massachusetts, Illinois, Michigan, Montana, and Nebraska.

With the exception of the Duncan endorsement, there was more debate about the parliamentary tactics of club President Robert Ronka, 3L, than about the merits of the candidates.

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Shapiro Backs Report

(Continued from Page 3)

doing their job and that the man apprehended did commit the offense.

Second, the media can help guard against unlawful or unnecessary arrests and detentions, as well as other abuses of the rights of those in custody.

A third contribution is the production of evidence.

He stressed that the question involved is one of timing, as to when the information should be printed, and not as to whether it should.

The final report will be submitted to the ABA's Special Committee on Minimum Standards for Crimi-

nal Justice, headed by Judge J. Edward Lumbard, '25, Chief Judge of the U.S. Court of Appeals for the Second Circuit. It will ultimately go before the ABA Board of Governors and House of Delegates for final action, possibly as early as next August.

Events of Note

The Bull and Bear Club will sponsor a talk by an admittedly unsuccessful investor next Tuesday at 8 p.m. in the Harkness meeting room. The speaker, whose name remains anonymous, is the author of the book *Wiped Out* which reveals how he lost \$60,000 during a seven-year period when stock market averages doubled.

Admission for non-members is \$1; for non-member couples, \$1.50.

* * *

Dr. Timothy Leary, the LSD experimenter, will address a Harvard Law Forum audience tomorrow night at 8:30 p.m. in a place to be announced.

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Letters

(Continued from Page 9)

there would be nothing to argue about. Apparently the RECORD along with others finds itself in this predicament. And that used to be precisely the case with the Yearbook (that is how PBH got into the act).

The situation is now changed primarily because editors and business managers over the years have managed to put out a better book at lower cost. As evidence of the first, please compare 1966 with any pre-1963 edition; the book's continued prosperity should attest to the second. These changes have not come about without the investment of a great deal of time and energy and that investment (like most) deserves a return so long as an outstanding yearbook can be produced at a reasonable price.

The test is therefore not whether the book could be sold for

less if the staff were not paid (a rather loaded question) but whether the finished product is acceptable and the price reasonable. You will search in vain for a better law school Yearbook than Harvard '66 and you will discover that \$6.00 is a remarkably low price for a Yearbook of the size and quality of Harvard's.

Assuming that I have correctly stated the criteria upon which the reasonableness of the Yearbook's profits should be judged, I would like to comment on several other points. First, the payment to PBH is nominally in return for PBH's guarantee of Yearbook contractual obligations (does that sound a little odd?) and is actually 1) one way for the Administration to put a ceiling on Yearbook profits (contrary to popular belief the Administration has continually supervised Yearbook profits by decreeing the amount which shall be paid to PBH) and 2) a clever way to relieve PBH of the trouble of conducting its once-customary Annual Charity Drive (every stu-

dent who buys the yearbook automatically deposits \$1.00 plus in the PBH coffers).

In my opinion this should stop and PBH should again operate in the open.

Second, the sitting fee is entirely reasonable, \$1.00 going directly to the photographer. Third, the charge levied against student organizations is in my opinion unfortunate and would have been abandoned last year were it not decided that a reduction in the price of the book would put the saving into the more appropriate pockets of the purchasers.

The next step should be taken immediately: if PBH payments were eliminated the charge to organizations could be dropped and the price of the book reduced another 50¢ to \$5.45.

Last, I have always contended and from experience believe that very few persons could be persuaded to work on a Yearbook which distributed no profits (the why is relatively unimportant). There is little enough interest as it is.

But I certainly would encourage you holier-than-thou RECORD types to go downstairs and cash in on the bonanza: it's really not worth it (is it?) or you'd be there now.

Beardsley Ruml III, '66
Chicago, Ill.

Ed. note: Mr. Ruml was last year's Yearbook editor. His reward was reportedly about \$2,000.

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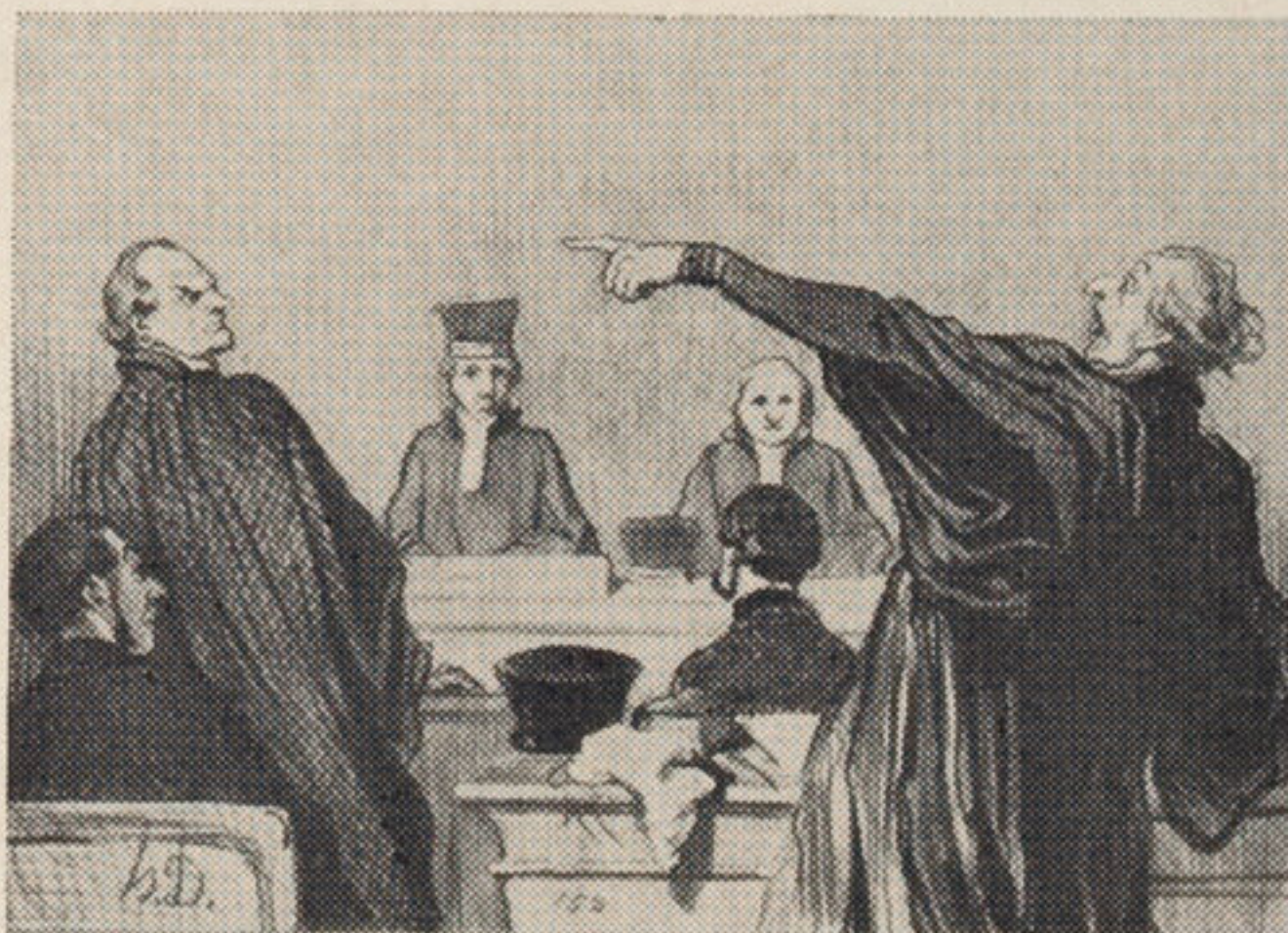
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Fund Drive Underway

(Continued from Page 1)

capital funds drive with substantially educational aims.

So far, the money pledged has come from "very close friends of the Law School," according to Dean Wesley E. Bevins, director of the drive. Nearly \$200,000 has been promised by members of the faculty. Other donors contributing at least \$100,000 include David Rockefeller, a member of the Board of Overseers, Mrs. Elsie T. Friedman, and Oscar R. Ewing, '13.

Two New Buildings

The drive will provide two new buildings for the Law School campus. One addition will be connected to Langdell Hall and will be placed between Langdell South and Hastings Hall; it will contain much-needed faculty offices. The second, to be located on Massachusetts Avenue between Epworth Church and Jarvis Street, will house large, medium, and seminar-sized classrooms as well as office space for various student organizations.

The building program is expected to cost about \$6 million. A faculty committee and the architects are still negotiating about the design of the structures. The designs released by the *Crimson* several weeks ago were only tentative drafts and it is expected that they will be subject to considerable revision before the final plans are approved, according to Administration sources.

More Free Time

Four of the six professorships created by the Program are meant to broaden the Law School in criminal law and urban studies, two areas which have heretofore been treated in marginal or extracurricular programs.

The other chairs and an additional sum of \$1 million to be used for research expenses are meant to make more time available to the faculty for independent study, writing, travel, and the like. At present, during a 30 year career on the faculty, a professor can expect no more than three sabbaticals.

The target date for the end of the drive is June, 1968. However, it is hoped that most of the contributions will be pledged by next September, in time for a celebration planned for that time.

Visitor Analyzes Russian Legal Education

By John TePaske

"If they don't like their two-hour lectures, they must remain silent and perhaps play some games," commented Moscow University Law Prof. Viktor Mazolin about the plight of law students in the Soviet Union.

Speaking before an overcrowded luncheon meeting of the Harvard International Law Club last Friday, Dr. Mazolin compared the major features of Soviet legal education with the American case method.

In his short, informal speech, he stressed two basic differences: the structure of law study and the time required for a degree.

Students Can't Change Subject

Lectures followed by small seminars characterize most of the law courses at Moscow University. Making only sporadic use of case illustrations, the lectures emphasize general ideas about theoretical explanations and the political approach. "Since silence is the rule," observed the professor with a smile, "the students can't change the subject by asking questions deliberately designed to change the topic."

The seminars include only about 20 to 25 students. These discussions make moderate use of the case method, but recent illustrations of practical points are much favored over "famous cases."

A typical law student in the USSR takes four or five years of classroom study, and even more if he wants to teach. The "mixed method" of lectures and seminars and its dual consideration of legal problems consumes most of the extra time. Dr. Mazolin favors extending the study time and even

suggests it for Harvard students, but he admits that the problems of additional tuition is not present in the USSR, since the government picks up the tuition tab.

Professors Edit Law Review

While in law school, the students take a broader range of subjects than in the United States. In addition to specific legal courses, they are given some general courses in political science, economics, and philosophy. Foreign language is also stressed. Up to six hours a week for the first two years are devoted to the study of French, German, or English. A required course load of 30 to 36 hours a week allows time for these extra-legal courses.

In response to a question about student activities, Dr. Mazolin exclaimed, "There are more extracurricular activities than necessary over there!" Although the Soviet version of a law review is put out by professors only, the students are kept busy with all sorts of organizations, sports, lectures, and research projects.

Welcomes Exploitation

Dr. Mazolin's familiarity with American legal education, even to its financial aspects, grew out of a year of graduate law study at Columbia University in 1962. He specialized in American corporation law at that time, and his present three-month visit to the United States will allow him to build on that background as he studies corporations and foreign trade.

Dr. Mazolin will be on the Harvard campus for two weeks, and in his own words, "You can exploit me."

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Furniture . . .

(Continued from Page 7)

same one pictured in the portrait of Langdell which hangs above the reference counter in the Reading Room, has been restored through the efforts of Miss Conlan and Prof. Arthur Sutherland and now is used by Prof. Sutherland in his Austin Hall office. The Langdell grandfather clock, currently located outside the door to the Dean's office, went through a similar history.

While the Library maintains comprehensive files on the approximately 3500 pieces of art and curiosa that belong to the school, according to Assistant Librarian Philip Putnam, no such files exist for the furniture since it is not under the control of the Library. Other than Dean Griswold, Mr. Putnam, Miss Conlan and Prof. Sutherland, few people are fully aware of the background of some of the pieces, and in most cases there

are no identifying plaques on the furniture.

Occasionally, even the current users are unaware of the history behind their desks. Professor Paul Freund's eyebrows arched quizzically when informed that his giant, book covered desk was designed by H. H. Richardson, the distinguished architect of Austin Hall, and originally was used by Dean Langdell. Richardson designed two desks, both identical.

The other one, Mr. Putnam explained, is used by Librarian Earl C. Borgeson and belonged originally to John Himes Arnold, the first of the modern librarians. The inside corner of one of the pedestals has been worn down on the Arnold desk. Former Librarian Arthur Pulling, who was a book boy under Arnold, explained to Prof. Sutherland that Arnold had a habit of propping one foot against the desk while conferring with the faculty and over the years succeeded in wearing the wood away.

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