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TWENTY CENTS

Apathy To Public Interest Blamed On Lack of Jobs

By Larry Zelenak

The sad state of public interest law at Harvard Law School was discussed last week at a symposium on "Litigation for Social Change" sponsored by Students for Public Interest Law and the HLS Office of Placement and Counseling. The symposium featured Jack Greenberg, the director of the NAACP Legal Defense and Educational Fund, and Sid Wolinsky, the director of Public Advocates, Inc., of San Francisco.

Greenberg and Wolinsky both
(Continued on Page 6)

Rosenberg Hearing On Judge Kaufman Sought

By Bob Ruxin



Countryman urges Congressional inquiry into charges of misconduct by Judge Kaufman.

Questions raised by recently released FBI documents have prompted Professor Vern Countryman to seek Congressional hearings on the conduct of the judge in the 1951 espionage trial of Julius and Ethel Rosenberg and Morton Sobell.

After their conviction in federal district court, the judge, Irving R. Kaufman, sentenced the Rosenbergs to death and Sobell to a 30-year prison term.

Countryman stated in a letter to all House and Senate Judiciary Committee members that if the documents obtained last June by lawyers for the Rosenberg's two sons through the Freedom of Information Act are accurate, "it would reveal a shocking pattern of *ex parte* contacts with the United States Attorney, FBI officials and others in the Department of Justice" beginning with the trial and continuing through an attempt by Sobell's attorneys in 1966 to obtain a trial exhibit to support a motion for a new trial.

Countryman signed the briefs for that unsuccessful motion and for a 1967 appeal.

Although only three Representatives and one now out-of-office Senator replied to Countryman's letter and several follow-ups signed by 105 other law professors, a subsequent letter from the American Civil Liberties Union re-

(Continued on Page 9)

Visiting Committee Presides; Placid Atmosphere Prevails

By Bill Ross

Students presented suggestions and grievances on issues ranging from calendar reform to third-year papers to placement when the Board of Overseers met during its annual visit to the Law School last weekend. But students and administrators agreed that this year's meetings between students and overseers were far calmer and more poorly attended than were the tumultuous meetings last year.

Approximately 40 students aired suggestions and complaints at a Friday morning meeting with Overseers at Harkness Commons. At an open meeting of the Placement Subcommittee later in the day, several student members of the Law School's Placement Committee presented ideas and gripes, but only one other student attended the meeting. Last year, more than 100 students attended a general grievance meeting. Students and administrators expressed various opinions about why most students this year seemed oblivious to the Overseers' presence on campus.

"It got pretty hot and heavy last year and it wasn't that way this year," according to Ted C. Radosevich, 2L, a BSA member who

(Continued on Page 2)

Overseers' Meetings Neither Hot Nor Heavy

(Continued from Page 1)

spoke at Friday morning's meeting. "Student attendance was much higher last year when there was a formal grievance session rather than an informal meeting as there was this year. I believe that the Overseers purposely may have changed the format to defuse student input. Most students believed that this year's meeting was an inadequate substitute for what we had last year." Radosevich attributed apparent student disinterest to lack of publicity about the Overseers' visit.

But Timothy J. Howard, 3L, who was invited to sit in on the Library Subcommittee meeting, said that the visit may have been better publicized this year.

"There is more student-Overseer contact than there was in the past," Howard said. "They [the Overseers] seemed to make more of an effort to invite students to sit in on Committee meetings this year than they did last year. It's impressionistic, but there just seems to be a more open attitude this year."

Some 3L's suggested that there was less participation this year because the Law School has made strides in remedying some of last year's major grievances.

Asst. Dean Alfred C. W. Daniels said, "I don't know how to reckon with the fact that there was less involvement by students this year."

During their annual visit to the Law School, the Overseers discuss matters of general concern with students and faculty members. A group of subcommittees devote special attention to different topics each year. This year's subcommittees were entitled the Library, the

"Attendance was much higher last year when there was a formal grievance session. . . . I believe that the Overseers purposely may have changed the format to defuse student input."

Availability of Legal Services and Related Matters, the Graduate Program, and Placement. Subcommittee meetings, like all other Overseer proceedings, are conducted in closed sessions, but this year the Legal Services subcommittee was open and the Placement subcommittee was also open for an hour. The Overseers' visit ended Saturday after Dean Albert M. Sacks delivered his annual "State of the School" address to Overseers at a closed session.

Following annual custom, the Board will issue a report to the Law School administration in which it will make comments and suggestions growing out of its visit, according to Daniels. Dean Sacks will then write a companion memo replying to the Board's concerns, Daniels said. These reports in the past have been confidential, although for the past two years

". . . this year, there is a big push for calendar reform, but the committees dealt with subjects like the library . . ."

Judge Edward T. Gignoux, Board chairman, has chosen to release certain portions.

Radosevich said he hopes that this year's Overseers' Report will note some of the student concerns expressed at Friday's meetings. But he said he doubts that their suggestions will have much impact.

"The Overseers come here once a year and our meeting with them serves as a forum for us to vent our frustrations. But for all the Overseers can do, nothing will get done unless we can sit down and talk with those who are here all year — the faculty and administration. The meeting with the Overseers wasn't pointless, but it almost was."

Radosevich expressed the opinion that students should at least have had the chance to spend more time meeting with Overseers, as he contends they did last year.

Radosevich broached this subject at Friday morning's meeting. Gignoux replied that while the Overseers want to hear student concerns, they also have many other matters of business to which they must attend during their limited time on campus. He explained that the subcommittee system, with its student participants, was designed to provide an in-depth examination of specific student concerns each year.

But Paul Chessin, a 1L who advocated calendar reform at Friday's session, claimed that the subcommittee topics did not even reflect current student concerns. "Before planning the agenda, student opinion should be canvassed," Chessin said. "For example, this year, there is a big push for calendar reform, but the committees dealt with subjects like the library that aren't bothering many students."

Chessin told the Committee that many students would prefer to take their first-semester exams prior to Christmas vacation. Beth Emory, 3L, of the

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(Continued on Page 9)

HARVARD LAW RECORD

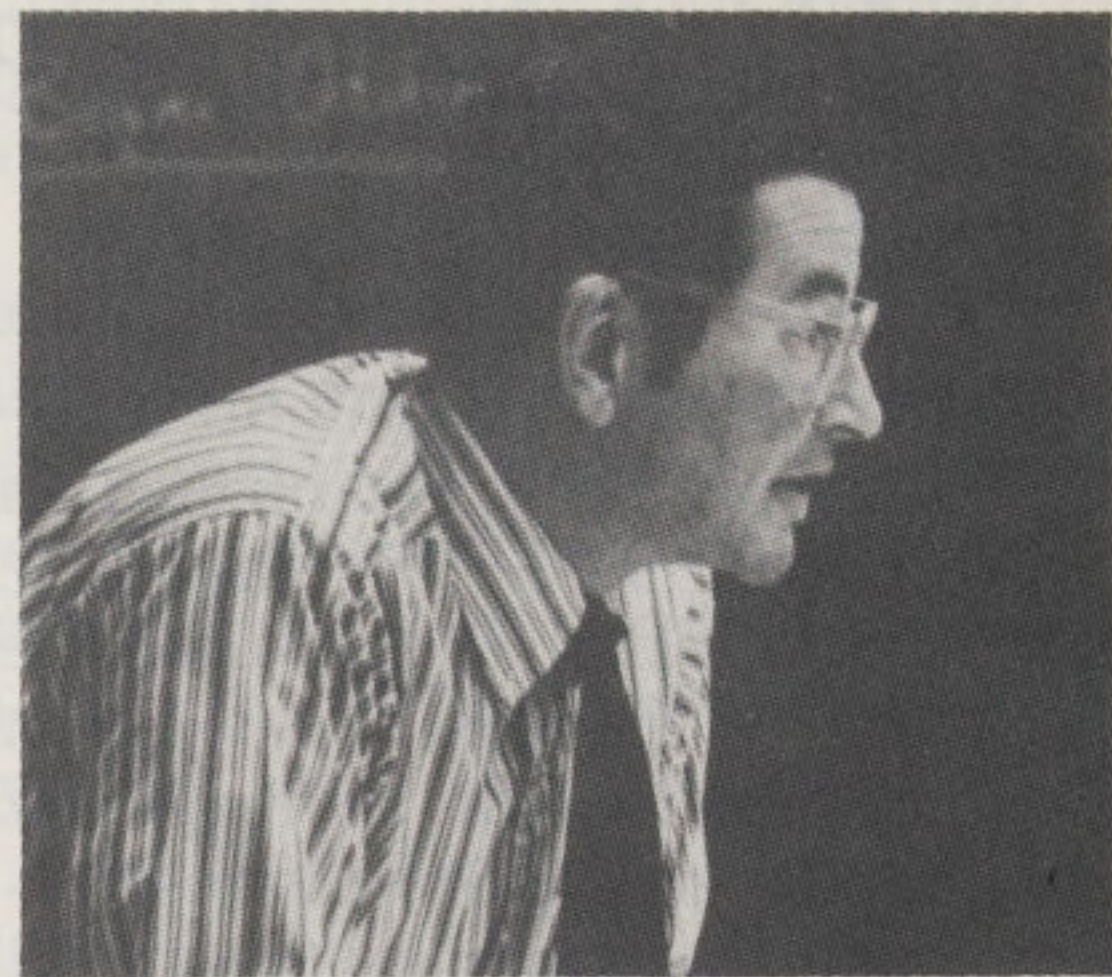
Hardy Haar-Haar

By Bruce Howard

Charles M. Haar, Brandeis Professor of Law, tallied a 3.45 in the all-important "Recommend to Others" category for his vaunted Land Use Planning course, thus earning the bushy-browed Antwerpian from Belgium top spot in the "Worst Score for a Harvard Law Professor in a non-Accounting course" competition. Haar was recently appointed to the Brandeis chair because, like the venerable judge, Haar no longer reads or writes or prepares for class. Of

couldn't tell sensitivity from a blood clot. Sensitivity, hah! All those snots do is sit around and tuck in their shirts. I'd like to poke them all in the eye at the same time (see picture below), those ingrates."

When asked about the class organization score, Haar chose to talk about recent developments in astrology. "I ask you," he asked us, "what has been the effect on astrology of the discovery of those rings around



HLSY

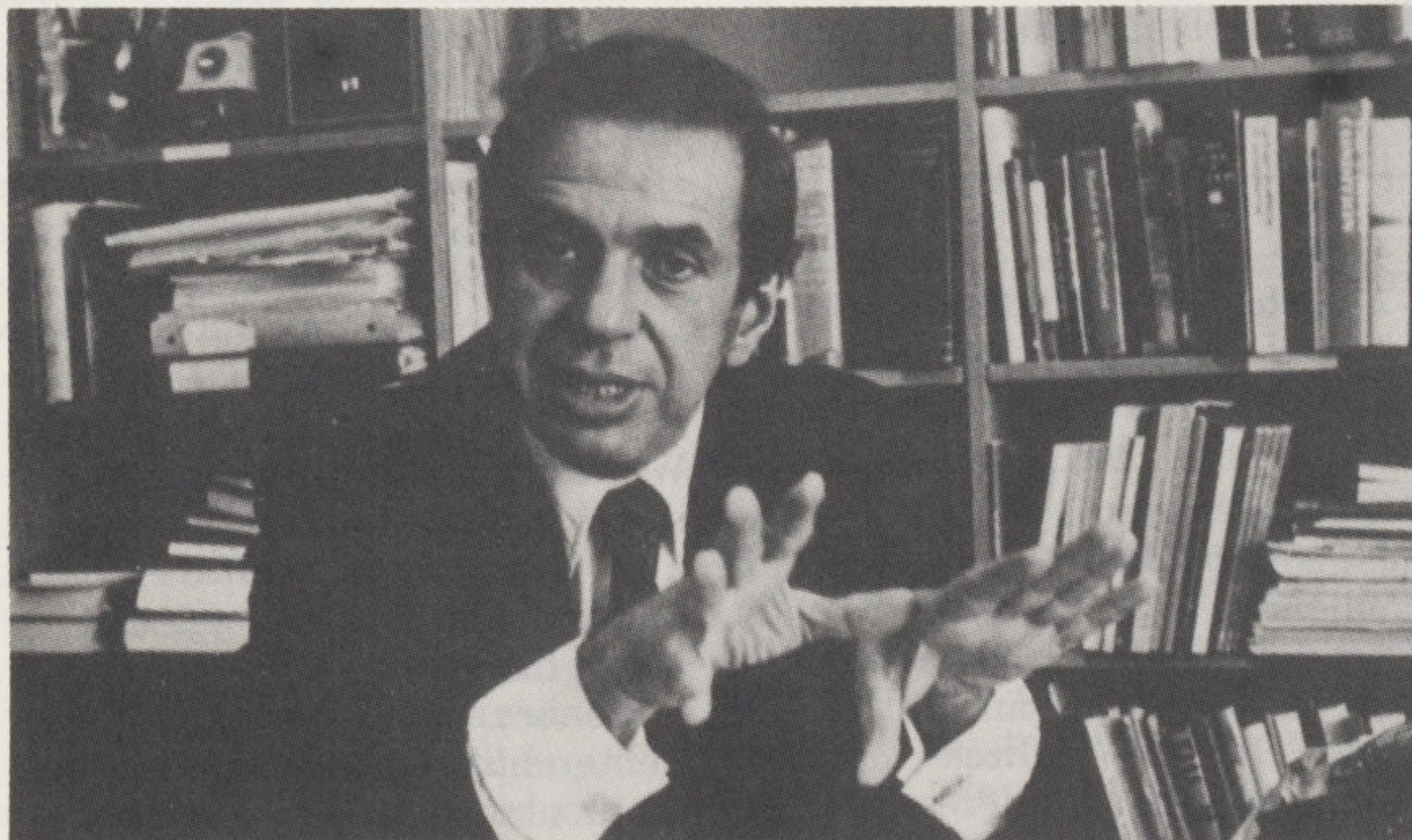
Donald T. Trautman:
Top Dog.

Donald T. Trautman, Professor of Law, was top dog in the "Worst Professor, Period" category, nosing out runner-up James R. Gordley, Ezra Ripley Thayer Teaching Fellow by 1/100th of a point. Trautman, whose name is derived from his ancestry, which is part-human, part-fish, racked up a 3.08 for his infamous Accounting course, about which Dean Sacks once commented "Giving it one credit is too much." The score was built on the solid foundation of a record 2.15 in class interest, a 2.64 in issues emphasis, and a 2.63 in intellectual stimulation. According to comments in the Bald Student Alliance course evaluation booklet, one problem with the course was the use of a textbook so out of date that the only copy was in the humidity-controlled Langdell Library Treasure Room. Students said even the mimeographed up-dates of the up-date supplement were based on hypotheticals about Teddy Roosevelt.

Another problem with the course, according to the Breck Shampoo Agency student evaluation booklet, was the attitude of the teacher, who was described as being "not very happy teaching this course." Students surmised this feeling from, among other things, Trautman's insistence that a working knowledge of "that horse manure, arithmetic" was not a prerequisite for the course.

When we contacted Trautman in the coma ward of the Massachusetts General Hospital, we asked him "To what do you at-

(Continued on Page 15)



HLSY

Charles M. Haar: The winner and still champion.

course, the oversight is perhaps less objectionable in Brandeis's case, since he is dead and no longer receives a salary from the Law School. Haar's winning performance, according to an analysis of the statistics in the Boy Scouts of America course evaluation booklet, was built on the twin pillars of class organization (2.06) and professor sensitivity (2.80). Since this is the year of the pyramid, one might add teaching effectiveness (2.95).

In an interview in which Mr. Haar refused to acknowledge the presence of our student reporter, we asked about the professor sensitivity score. "What do students know about professor sensitivity?" he snapped. "Those slime molds

Uranus? Does that mean Scorpio's will have more luck traveling in August?" Later, when we said good-bye, Haar responded, "And as for your class organization question, what do students know about organization, anyhow? In fact, I'll have a few things to say about that when we reach the topic of 'Land Use Planning: Does This Subject Exist Or Is It the Figment of the Imagination of a Tenured Professor?'"

As we left, we asked the secretary about Haar's professor sensitivity score. She pointed to the sign on the door: "Do not knock or enter unless you are appointments secretary for Jimmy Carter."

"Public Interest" Group Aids Business

By Andrea Brown

A new center for "public interest" law has been established in Washington, D.C. by the U.S. Chamber of Commerce. Called the National Chamber Litigation Center, Inc., it plans to represent the private enterprise interest before courts and agencies, to conduct legal research projects, and to hold symposia for attorneys who practice business law, according to Stanley T. Kaleczyc, Jr., director of litigation for the Center.

Decrying the monopolization of the term "public interest" by consumer and environmental groups, Kaleczyc explained that the public interest is composed of multiple interests, of which business is one. The Center plans to defend that interest through amicus briefs, intervention in suits, and representation of clients in suits which might otherwise not be brought, Kaleczyc said.

The Center, which currently consists of two attorneys with a third being sought, expects to focus on labor cases and cases involving the administrative process. It is an expansion of litigation efforts by the Chamber of Commerce, which through outside counsel has been involved in litigation, primarily labor, for at least ten years.

The Center is currently representing several trade associations in federal court in Chicago, challenging the constitutionality of certain provisions of the campaign finance law. "Corporations are reluctant to commit large amounts of money on this sort of case. They don't see a balance sheet harm. It's expensive to litigate a case in federal court. I'm not sure the suit would have been filed without the Center," Kaleczyc said.

Robert Wager, president of Bread PAC, the bakers' trade association which is a plaintiff in the suit, said he went to the Chamber of Commerce "trying to stir some litigation up." He hoped that the Chamber would put a large group

of parties — trade associations — together to challenge the campaign law's constitutionality.

"Some of the Chamber people were interested in pursuing the case. Stan Kaleczyc sent a notice to people: 'If you're interested in suing, come to a meeting.' About 25 associations came, and were told what could be done, what a suit would cost. Some pledged money," Wager said.

The plaintiffs made initial contributions as "earnest money" last year. Wager said that originally he expected costs to be borne by the plaintiffs, but since fewer groups brought the suit than anticipated, that is no longer feasible. Now, he said, "We feel we have a responsi-

"If you're interested in suing, come to a meeting."

bility because it is 'our case' — the case is called *Bread Political Action Committee v. Federal Election Commission* — so it is fair that we bear a significant amount of the costs. But we realized that the Chamber has an interest, too, so the idea is to have the litigants and the Chamber bear the cost."

The Center received a start-up grant from the Chamber, but will be financed by contributions sought from corporations. Kaleczyc said that plaintiffs have no obligation to help defray costs of their suit, once the Center has decided to handle it, although any contributions would be welcome. Conversely, contributors receive no commitment from the Center that it will represent them in litigation they might become involved in, he explained. Cases will be chosen for their broad policy effects.

Reaction to the Center among other public-interest groups has been less than dramatic. Several attorneys contacted took exception to the public-interest label the Center claims, pointing out that the term is gener-

ally defined as representation of those people who are ordinarily not represented.

Charles R. Halpern of the Center for Public Interest Law asked, "Who among the Chamber of Commerce constituency fits that category?"

Mark Green, '70, with Congress Watch described his reaction as amusement. "I'd be surprised if business lacks the expertise and money now to file their own lawsuits and had to concoct a center to do it for them. But imitation is the sincerest form of flattery. If business is imitating the public-interest model, we must be doing something right."

Ronald Zumbrun is President and Legal Director of the Pacific Legal Foundation, a conservative litigation group which defended a challenge to the Trident nuclear submarine program, argued before former Transportation Secretary William T. Coleman, '46, to allow the Concorde to land in the U.S., and worked on welfare fraud and reform in Illinois, among other things.

Zumbrun welcomes the new Center, but emphasized that it represents business. "It's important to make it clear what you are. You shouldn't say you are the voice of business when you fund-raise, and then say that you are not — that you are the 'public interest' — when you are in court."

No one appeared to see the new business-oriented center as a threat to the interest he represents. Alan B. Morrison, '66, the head of Ralph Nader's litigation group, said, "If they're going to monitor government to see that it's not violating the law, they have the same duty to do so as I have. I don't think it will make much difference."

Green summarized the general reaction when he added, "I assume there will be a comparable amount of anti-consumer litigation and lobbying with different names on the brief or memo."

Students Preparing Reviews Of Dishonorable Discharges

By Charles C. Jordan

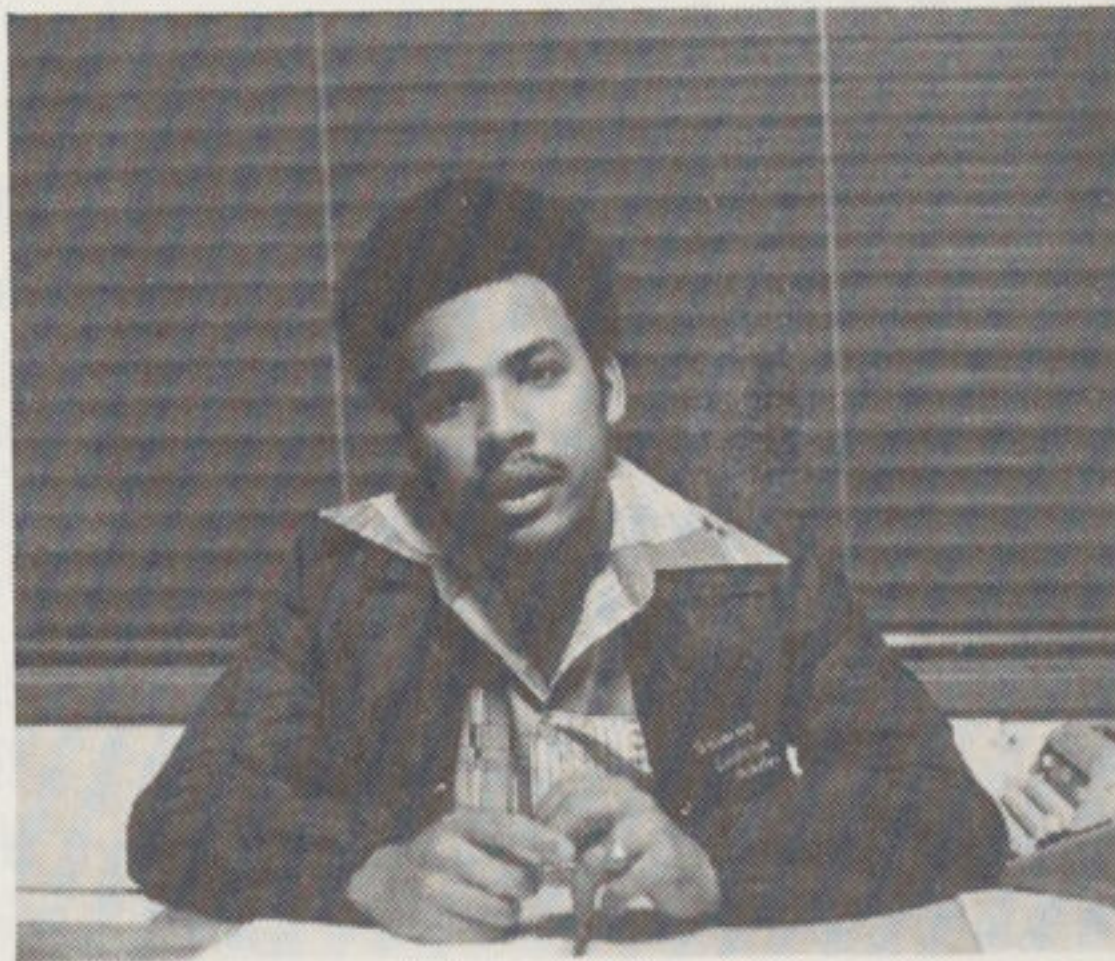
For some Americans, the Southeast Asian war is not yet over. Veterans of the Viet Nam era still are contesting the brand of less than honorable discharges they received as a result of incidents in Viet Nam. And in the wake of new review procedures instituted by the Department of Defense for such challenges, the Law School's Committee on Military Justice (CMJ) is gearing up to handle an unprecedented number of so-called "discharge upgrade" cases.

Ralph C. Thomas, the 2L in charge of the CMJ's discharge review project, explained why the CMJ has decided to handle an increased case-load in the discharge upgrade area. "The effect of any less than honorable discharge," said Thomas, "is ineligibility for VA benefits and unemployability for life."

During the Viet Nam war, the number of these discharges swelled because, for one reason or another, soldiers challenged those in positions of authority. As Thomas recalled (he spent some time in Viet Nam during the war), discharges like these "became a very politicized subject."

In addition to the increased number of less than honorable discharges, recent events have given challengers procedural advantages that they never had before. For example, the Discharge Review Board, an administrative board formerly based in Washington, D.C., is now travelling around the country. Veterans who were once constrained to argue their cases through the mails now may appear in person. And as a part of his amnesty program, President Carter has proposed more lenient guidelines applicable only to Viet Nam-era candidates for upgrade.

Finally, the discharge upgrade cause gained momentum when the



Ralph C. Thomas and CMJ are working on discharge upgrade program.

Urban Law Institute of Antioch College of Law sued the Department of Defense, alleging that the Discharge Review Board made arbitrary decisions. The Board, which had not in the past reduced its decisions to writing, was ordered to make, at minimum, a "statement of contentions" of the veteran seeking relief, and to address itself in writing to each upgrade argument presented by the veteran.

According to Thomas, the Discharge Review Board will

probably be at the Law School next October. Between now and then the CMJ is offering a series of Discharge Review Board training sessions for Harvard students and other veterans' representatives in the Boston area. The training sessions have featured presentations by advocates, both lawyers and non-lawyers, who are experienced in handling discharge-upgrade cases.

In handling a typical upgrade case, the advocate is expected to interview the veteran on whose behalf he or she will appear, order the relevant records from the Military Record Center, and research and write a brief for the Review Board's consideration. At the hearing, the advocate will examine the veteran, and the Board members are expected to cross-examine. The training sessions are designed to minimize the time spent learning to cope with an unfamiliar setting.

First-year students may represent veterans before the Review Board, and those interested in veterans' representation need not be CMJ members. Students who are interested in handling a discharge upgrade case next October should sign up at the CMJ office, or attend the next training session tentatively set for May 2.



Florida may not have liked the ERA, but the John Stuart Mill Society does. The Society's bake sale last week raised several hundred dollars to support the ERA.

Litigators Cite Rewards of Public Interest

(Continued from Page 1)

discussed the question of what should be happening at HLS to prepare students for public interest law. "The students I've talked to here didn't think the school was being positive towards public interest law," Greenberg remarked. "In fact, they thought the school was discouraging it, if anything." He explained that he felt the fault lay not so much with law schools as with society, pointing out that jobs in precedent-making public interest law are extremely scarce. In the entire country there are only about 600 such jobs — about as many as the number of students in one HLS class.

Wolinsky added that he had been very discouraged by what the students had told him about the school's indifference to public interest law. "If you can't do it here, where can you do it?" he asked. "I think the students, faculty, and administration have to ask themselves some hard questions about why the hell they're here."

He stressed not only the social benefits of public interest law, but also the rewards it offers the lawyer. "I recommend you get spe-

cial permission to attend the next fifteenth year reunion of a Harvard Law class," he suggested. "I recently went to the reunion of my Yale class, expecting a good time, and I was shocked at how unhappy everyone was. They gave new meaning to the word alienation. All they could talk about was how miserable their work was."

However, Wolinsky continued, the practice of law doesn't have to be that way at all. "Every public interest case I've handled has been fun and intellectually challenging. They make most of the high-powered Beverly Hills cases I used to do look like stuff done by a plumber."

Financing public interest law is not always easy, Wolinsky admitted, but he mentioned several possible sources of money:

Foundations: "The day of funding the general public interest law firm with foundation money is probably over, but it's still possible to get grants for specialized projects."

Of government-funded legal services, Wolinsky said, "Too often this is viewed as low-status work. I can assure you that even in a poor legal services office you will get

work at least as challenging as what you'll get in a Wall Street firm."

Another possible source is judicially awarded attorneys' fees. "Statutes provide for the awarding of such fees in many types of cases; they're just waiting for someone to take advantage of them," Wolinsky said.

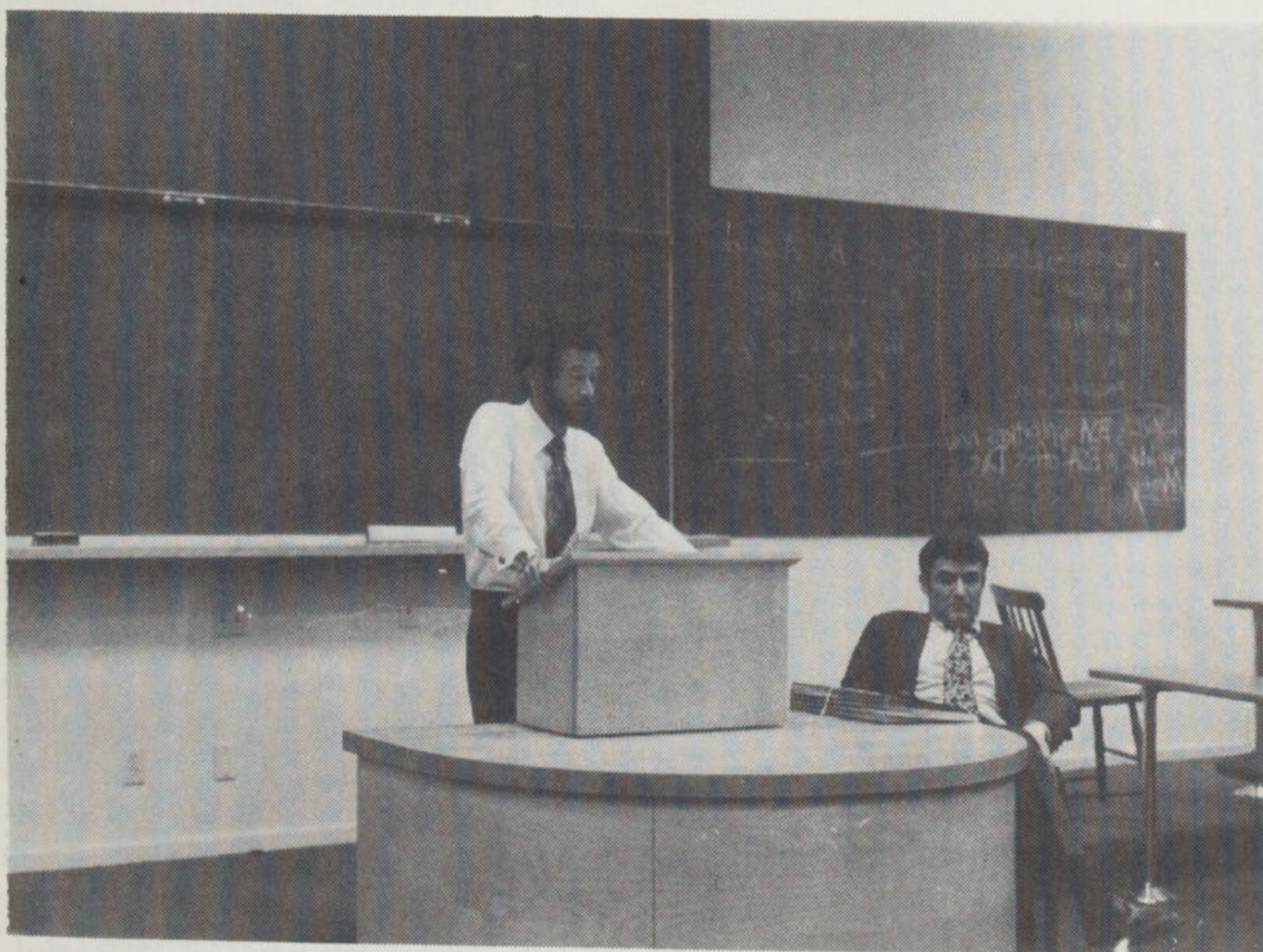
Both men briefly described their careers in public interest law. Although Greenberg has successfully argued more than thirty cases before the Supreme Court, including *Brown v. Board of Education* (1954), he focused on some of his less successful efforts, in order to show some of the many pitfalls in the way of law-reform litigation.

He mentioned the effort of the Legal Defense Fund to abolish the power of courts to require bail of indigents. "We failed," he said, "partly because we chose a lousy client, and partly because we didn't have any acceptable substitute which a court could impose without legislative authorization."

As another example, he described the attempt to use three or four of the hundreds of freedom riders arrested in Jackson, Mississippi, as test cases, thus eliminating the terrible burden of trying each case individually.

Greenberg recalled: "We went down to Jackson to talk with the lawyer of one freedom rider who had been found guilty, to discuss appealing his client's conviction as a test case. He admitted trying each case individually was awfully time-consuming, but he was making a lot of money that way, and didn't want to lose it by using a test case."

Greenberg also told a story to make the point that law-reform litigation is often simply inappropriate to the client's needs. "One day an office boy in the Legal Defense Fund was arrested for grand larceny right in the office. We were stunned. None of us fancy lawyers had ever seen an arrest before. We contacted him at the jail and of-



Jack Greenberg and Sid Wolinsky are really excited about public interest litigation.

(Continued on Next Page)

HARVARD LAW RECORD

Public Interest

(Continued from Page 6)

ferred to help, but he turned us down. The next morning, much to our surprise, he was back in the office. We asked what had happened, and he explained it had been a simple dispute with his girl friend about a diamond ring. He had called a legal aid lawyer, who had gotten him released almost immediately. When we asked why he had refused our help, he said, "But I didn't want to go to the Supreme Court. I just wanted to get out of jail."

Wolinsky, who has won every case he has ever tried as a public interest lawyer, including *Serrano v. Priest* (the 1971 California case holding the financing of public schools through property taxes unconstitutional), explained that the philosophy of his firm is somewhat different from that of the NAACP Legal Defense Fund.

"Litigation is our atomic bomb . . ."

"At Public Advocates we're not so interested in test case litigation," he remarked. "We view litigation as an instrument for social change, but for us litigation is just one part of a total package. We do lobbying, community organization, harrassment of bureaucracies, and so on. It's a more overtly political approach than just bringing test cases. Litigation is our atomic bomb: we don't like to use it unless we absolutely have to."

He described as typical of his organization's methods its successful attempt to force manufacturers to develop safer intra-uterine devices. He explained: "We filed an administrative petition (that's something we more or less made up, so you may not find it in your form book)

with the California Health Department, and raised all the political ruckus we could. Eventually the Health Department issued a set of tough new regulations. The real victory in that case was not ours, but the women's organizations' that were our clients. That victory increased their political power tremendously, and they've since moved on to other issues."

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At 8 P. M. tonight, three powerhouse teams will vie for the coveted championship trophy at the 2nd Annual Harvard Law School Trivia Contest.

Vice-Dean Bruce has graciously sprung for refreshments (to wit, a keg of beer), and the organizers promise that a good time will be had by all spectators.

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Rosenberg Conduct Hearings

(Continued from Page 1)

cently brought a response from Rep. Peter Rodino (D-N.J.), House Judiciary Committee Chairman.

In a letter to ACLU chairperson Norman Dorsen, '53, Rodino wrote that a Judiciary subcommittee would include *ex parte* (out of court) contact in planned hearings on judicial relationships, according to Dorsen.

"We're more interested in the generic problem than the particular case," Dorsen said Monday. He said the ACLU did not vote on a proposed resolution "that would have looked toward impeachment."

Simon Rifkind, a New York attorney and chairman of an American Bar Association subcommittee formed in part to "counteract unwarranted criticism" of Kaufman, called the situation "a storm in a teapot generated by Professor Countryman, who wants to pursue his hobby." He noted that neither his four-member panel, acting by telephone and mail, nor a Committee of the Association of the Bar of New York, found any improprieties.

Rifkind, a former colleague of Kaufman and long-time supporter of his conduct, said Monday, "At the time I was on the bench, it was regarded as not only proper, but appropriate and useful to have *ex parte* contact — only with respect to sentences — with people on both sides." In defending the merits of such contact, he said it was "a widespread practice throughout the country."

Countryman believes that no *ex parte* contact between the judge and either side's attorneys in civil or criminal cases should be allowed.

In addition, he said recently, "the trial judge ought to keep his hands out of the way cases are handled on appeal after they leave his jurisdiction." The FBI papers obtained by Countryman indicate that during the appeal process Kaufman urged the Justice Department to "push the matter vig-

orously" in an effort to get a Supreme Court decision before it adjourned for the summer of 1953.

The trial judge, Countryman said, "should not rule on later motions for new trials as he did in this case."

If the papers are accurate, Countryman said, Kaufman "lied" in court about whether he had asked for a recommendation from the prosecutor for sentencing. "Judge Kaufman announced in open court that due to the gravity of the case he was not asking for recommendations," Countryman said. But, he noted, one of the FBI documents, a letter from the prosecutor, former United States Attorney Irving Saypol, states that on Kaufman's request, Saypol found that Justice Department officials were divided on what the sentence should be and that Kaufman asked him not to make a sentencing recommendation.

When asked about Countryman's allegation, Rifkind replied, "There's nothing in those papers to suggest any such thing."

Countryman wants Congress to question Kaufman and the authors of the FBI letters and memoranda under oath. "Since the standard defense offered by Judge Rifkind is that everybody's doing what Judge Kaufman was doing, I think Congress ought to enact some standards about how judges should behave," Countryman said.

Twelve other HLS professors signed Countryman's letter. Several of those who refused told Countryman they did not want Congress to investigate judges.

"I'm concerned about it, but there isn't any other place to go," Countryman said. He emphasized that Rifkind and members of the New York bar committee that defended Kaufman practice before Kaufman.

Dorsen said that many of the ACLU members also hesitated to endorse "a precedent that could lead to investigation of judges for ignoble reasons."

Overseers

(Continued from Page 2)

Women's Law Association expressed the concerns of women law students, especially the need for more female faculty members. Charles E. Bachman, 3L, of the BSA urged revision of the third year paper requirement procedures.

The Placement Committee's open meeting primarily addressed itself to the problem of covert discrimination against women and racial minorities by firms that interview at the Placement office. Students told Chairman William T. Coleman, '46, former Secretary of Transportation, about the dimensions of the problem and outlined possible remedies. Some students advocated the creation of a separate office to monitor complaints, but several participants argued that the establishment of such an office might be more trouble than it is worth. Students also outlined a plan for keeping files on employers against whom complaints have been filed in order that the administration could confront them with a demand for changes if a pattern of discrimination emerged.

According to Lorraine S. Blair, 3L, a student member of the Placement Committee, students also told the subcommittee that the Committee needs a clearer definition of its purpose. "The Placement Committee would be more efficient if our authority were spelled out,"

(Continued on Page 16)

Dorsen, a professor at NYU Law School, said that the Board of Governors of the Society of American Law Teachers, had the Kaufman topic on its agenda at a recent meeting but took no position.

The 12 other Harvard signers were Derrick A. Bell, Gary G. Bellow, Victor Brudney, John H. Ely, Morton J. Horwitz, Lance Liebman, Oliver Oldman, Richard D. Parker, David L. Shapiro, Lawrence H. Tribe, James Vorenberg, and Lloyd L. Weinreb.

Judge Not, Lest Ye . . .

Both Vern Countryman and the ACLU urge Congress to investigate the conduct of Federal judge Irving R. Kaufman during the Rosenberg-Sobell espionage trial. Countryman implies that Kaufman's alleged *ex parte* dealings with the FBI and prosecution before sentencing constituted exceptional and improper judicial behavior. He is most anxious for an investigation by Congress of "the propriety of conduct of one who is one of our highest judicial officers." The ACLU is not terribly concerned about Kaufman's particular case, since it feels that such *ex parte* dealings are common practice. They want Congress to concentrate on that practice and to prohibit it.

While Countryman and the ACLU are concerned about the possible consequences of Congressional involvement in judicial conduct, Countryman points out the problem which often plagues trial attorneys: it can be hazardous to a lawyer's practice to attack judges. The organized bar understands this well. The Association of the Bar of the City of New York (Kaufman's home base) officially declined to investigate Kaufman's allegedly improper conduct. The ABA set up a subcommittee to defend Kaufman against attacks on his reputation.

The documents which triggered this brouhaha, if accurate, show a judge who became obsessed with the case he had heard, taking a prosecutor's interest in the outcome of motions and appeals after he had sentenced the defendants, an interest which continued at least until 1974. Considering that the Rosenberg trial was one of the most publicized and spectacular of the century, it is understandable that one of the major participants remains so concerned. But did Kaufman's interest begin to resemble that of the prosecutor during the trial?

The FBI file casts no light on that question. And the file should not be given more respect than it deserves; it is hearsay, often three times removed, and sometimes unattributed. But the issue which Countryman, et al. are addressing remains: even assuming the standards applicable to the conduct of judges could be agreed upon, how will they be enforced? Litigators, those who are in the best position to witness judicial impropriety, are in the worst position to report their observations.

The bar associations have taken a stand in the Kaufman matter by their refusals to investigate. Countryman and the ACLU urge Congress to get into the act. Whoever assumes responsibility eventually, it is our fervent hope that they will not simply perpetuate the status quo: an uneasy ignorance.

HARVARD LAW RECORD

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Fenno

Fenno was seated in Langdell reading room, about to pen ultimate paragraphs for the year. A 3L sat down beside him. "Some year," his friend said.

Fenno nodded, and leaned back in his chair. "Don't you feel good now that it's almost over?"

"Don't ever let yourself feel good around here," the 3L replied bitterly. "You'll get slapped down pretty quickly. Just this morning those bastards at the *Review* told me they wouldn't publish my third-year paper after all."

"What? That trenchant analysis of *Restatement 2d of Widows and Orphans* you did for Westfall? Some of your suggestions for screwing clients were startlingly original. I was sure when he gave you his highest grade ever, a B-, that you wouldn't have any trouble."

"That was the problem. When the editors discovered such egregious grade inflation, they jealously shot me down. They also claimed I was two months out of date, since whenever I mentioned a lawyer I referred to him as her."

"Have you finished your *Business Planning* memo?"

"That," the 3L shrugged, "is a little behind schedule. I had to wait for Carter's energy proposal before I could calculate the impact of deregulation of domestic oil on the proposed Mass. No-fault Divorce Law. Those are troubled waters."

"I noticed the Supreme Court is already cooperating with Carter. They just announced a brand spanking new program for saving fuel in public schools. When the kids get cold, the teachers just bounce them around."

"That case was clearly decided on the merits. After the Justices heard descriptions of Herwitz's class, it was easy to convince them that mere paddling wasn't cruel and unusual."

Fenno scratched his head. "From reading the course evaluations, I guess it's the only way some professors can make a hit in class."

"I should look on the bright side," the 3L said. "Only one more Estate Planning class. Casner promised the last classes would be less technical. He's having us read some popular treatments in the field: *How to Avoid Probate* and *Against our Wills*."

"Yes, I've heard other professors have had a tough time filling the last few weeks. Friedenthal's been using old evidence jokes in Civil Procedure — a clear violation of the Dead Man's Rule."

"I'm dead, Fenno, if I don't finish my Professional Responsibility paper. See you later."

Fenno glanced up as the 3L left. "Don't worry about the *Review* turning you down. I'm sure Yale will accept it if you change the title to 'Lawyer as Fiend.'"

Letters to the Editor of the RECORD

Alum Nixes Joke Ish; Will RECORD Survive?

To:
Mr. Hamilton Jordan, Editor
Mr. Charles C. Jordan, Editor

Gentlemen:

I have received my copy of the HARVARD LAW RECORD of April 1, 1977, and I am appalled by it. I do not know to which of you two my comments following shall apply, but I intend it to apply only to that one of you who is responsible for the condition about which I object below.

The smugness, the snidness [*sic*], the doctrinaire postures of that publication disgust me. I think the Harvard Law School should not be used to perpetrate such drivel on the Harvard community. The article "Editorial Talent Decried; Law Record In Disarray?" bespeaks the objectionable characteristics about which I complain, whichever of you (if either of you) is responsible for such misuse of the RECORD.

Harvard has had its share of deficient intellectual, moral and ethical postures; and more than its share of bad taste, such as this edition of the HARVARD LAW RECORD reflects. I don't know which of you two is responsible for such a disgraceful performance (if either of you) but whosoever is responsible has done a disservice to the Law School.

Harvard Law School will survive this issue of the HARVARD LAW RECORD; but will the HARVARD LAW RECORD survive its irresponsible attitudes? I hope it will. Meantime, I am dismayed by the misuse which has been made of the HARVARD LAW RECORD, and the depths of degradation to which it has been brought. If either of you is responsible, I hope you will mend your ways. If neither of you is responsible, forgive my intrusion on your time.

Frank L. Kozol, '27
Boston, Mass.

SFF Welcomes Alumni Support

To the Editor:

The Board of Directors of Student Funded Fellowships would like to take this opportunity to thank Greg Lynch for his encouraging letter (April 5). Although we have not actively solicited pledges from

alumni, SFF, of course, heartily welcomes their contributions.

SFF is still a very young organization. This year our fund-raising campaign was extended to the faculty. The Board hopes to expand its annual fund drive even further next year. Approaching alumni certainly seems to be one of the best possibilities. Members of the Board have met with Dean Sacks to discuss what arrangements would be most feasible. With his help we hope to be able to reach more potential contributors next year.

Just to set the RECORD straight: although closely associated with the BSA, Student Funded Fellowships is an independent, non-profit organization. At present there are no BSA members on the SFF board.

Norm Abrams
President, SFF

But April 1 Is April Fools' Day

To the Editor:

Congratulations on your April Fool's Issue of April 15, 1977, especially "Transfers Allowed for 'Significant Relationships.'" It is truly marvelous how clever writing can convince a reader that the absurd has, in fact, occurred. I also commend Andrea Brown on her restraint and tastefulness in declining to indulge in obvious speculations about how one might prove the "length, seriousness, and exclusivity" of a relationship and "the frequency of visits."

Sydelle Pittas, '75
Winchester, Massachusetts

There Are Other Reviews, Too

To the Editor:

Thank you for the fine April 15 article on the "other law reviews" at the Law School.

There is one mistake in reference to us which we feel needs clarification in the next issue. We are not the only environmental law review which is national in scope. There are several and they will rightfully be offended to see that statement. We are the only environmental law review which is an annual review of the previous year's developments in the field.

Thank you for making this correction.

Linda Clark
Staff Assistant

RECORD Impresses Atlantic Community

To the Editor:

Readers on both sides of the Atlantic are impressed with the RECORD's coverage of the vexing problem of obscenity and civil liberties.

Over the years, the courts have devoted much effort to trying to determine whether a publication was intrinsically pornographic and offensive by prevailing "community standards," thus giving the state power to act. This misses the point of what are the essential concerns of the community.

The community has the right to protect itself and its children from open assault by pornography and violence. It is the manner of display and sale which is of community concern. The presentation of a magazine at child-hand level at the front of a newsstand is of far more community concern than what lies between the covers. The community has no essential interest in the quiet content of any publication or in the taste and opinion of individual readers and writers. The state has no right to censor any publication for its content alone.

If the courts would observe this distinction, they could better protect both the rights of the community and the rights of the individual under the full strength of the First Amendment.

Anthony Piel '63
Crassy Divonne,
France

(Letters Cont. on Page 12)

SPORTS QUIZ

These questions were asked in the opening round and semi-finals of the HLS Trivia Contest. The final round will be at 8:00 tonight in the Ames Courtroom.

1. Who holds the major league record for most pinch-hits in a season?
2. Who won the first Masters golf tournament?
3. Which major leaguer holds the record for most at-bats in a season?
4. Name the Olympic sprinter signed by an NFL team in the same year that Bob Hayes was signed.
5. Where is the Hambletonian (harness race) held?
6. Who led the NFL in pass receptions the most times?
7. Who is Cathy Rigby's husband? (Editor's bonus: By how much does Rigby's height exceed her husband's chest measurement?)

(Answers on Page 15)

Law Notes

Thursday, April 28 — Dr. Hunter Thompson, Gonzo Journalist, formerly of Rolling Stone, and author, 8 p.m., Ames Courtroom, \$2.00 admission.

Just Strohl-ing Through the Park

To the Editor:

Every place has its rite of spring; at Harvard Law School, it is recrimination. Our radicals, in a final ideological binge before trundling off to the boring sobriety and bourgeois respectability which our major law firms offer, attack HFLS as repressive, impersonal, unresponsive to the needs of its students, and so forth, and declare that it can be saved only by becoming a gigantic, consciousness-raising, orgasmic-organic PIRG, open to all influences in our society except Gallo wine, non-union lettuce and Mr. William F. Buckley, Jr.

There are also those brave but benighted defenders of the status quo, guarding isolated outposts on an abandoned front, doomed to perform a thankless task and to vanish unmourned from the battlefield. Finally, there is a third group, the sanest and most sympathetic perhaps, the members of which are content to repose beneath the shadow of the Harvard oak, where they chew their cud in silence.

Yet, all these points of view, while they possess some merit, are beside the point in the final analysis. Harvard Law School is a failure, albeit a splendid one, not because of its faculty, the alumni, or even — God forbid! — the wicked capitalist system, but with the student body. And not for the reasons commonly given: it would be positively refreshing if law students were more avaricious. They would certainly do little good, but they could not do much harm, either. As Dr. Johnson once observed, "Men are seldom so innocently employed as they are in the making of money."

No, what concerns me is the intellectual provincialism and lack of imagination which pervades the student body. The most striking symptom of this disease is the progressivism which discolours student thought. It is not its content that disturbs me; politi-



Astaire and Rogers they're not. But these HLS students cut the rug in fine style at the final class of the Free University Ballroom Dancing course. SJ

cal progressivism is merely appalling, and Harvard students are generally cured of it by experience and self-interest if not the promptings of wisdom. Rather, I am disturbed by the unreflecting, complacent way in which such drivel is touted as self-evident truth. Minority groups, third-world nations, consumer advocates and environmentalists are automatically good and virtuous; ethnics, the United States, businessmen and corporations are automatically wicked and depraved. Doubtless such a view of things has considerable power to console and inspire, but we should not be blind to the fact that it has all the realism and moral complexity of Batman Comics.

Even this passion for clear but false ideas would not be alarming if the graduates of this place were destined for obscure and unimportant positions in our society, such as the editorial board of *The Nation*. Yet Harvard Law alumni will occupy responsible posts as legislators, educators and judges, and thus they will have considerable power for good or ill. If the 20th century has taught

us anything, it is this: that power must be guided by reason, not rite, formula or incantation. I fear that a good many of my fellow students believe that their purity of heart permits them to disregard this lesson. As a consequence, our society shall suffer greatly in the near future, wracked by wars between self-righteous reformers and an unrepentant citizenry. I am distressed not because people think social engineering is right, but because they cannot conceive of its being wrong.

I don't believe for a moment that the message of this letter is a popular one, or that terribly many people here will take it seriously, let alone agree with it. Yet I wrote it because I have some modest personal stake in Harvard Law School, the legal profession, and the United States, and I should hate to stand by silently as I watch all three crumble before my eyes.

Paul Strohl, Jr., 3L
Cambridge, Mass.

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unthinkable depths where no
light can reach, nothing will grow...
a solitary figure stalks by night...

Journal of Ugandan Diplomacy...
Journal of Ugly Incidents...
here we go... Journal of
Unfair Competition Tactics



He takes the moldering volume
up - up from the dank recesses
to a desk no other human hands
have touched for decades. It is
Saturday, Apr. 30, 1977 at 8:30 PM.

There is a silence like snow.



And then, horrifyingly (though
almost imperceptibly) IT BEGINS!

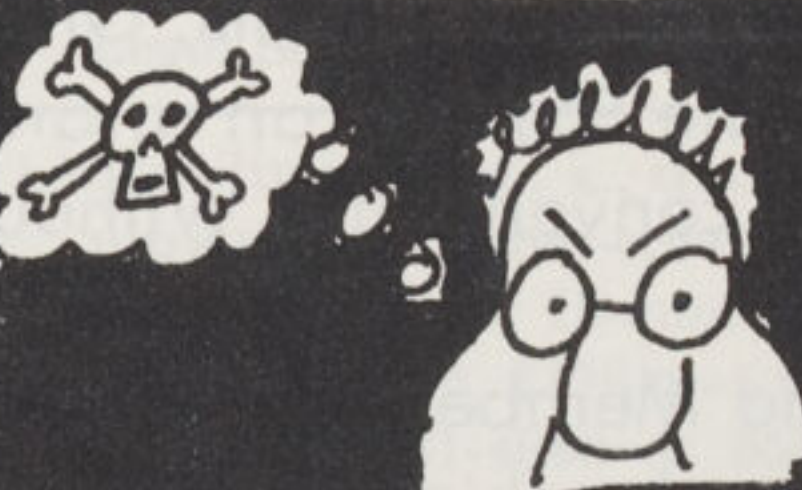
Boldly striding into the unknown,
Herb sets out to abate the nuisance!

12 Fairwood Circle looms before
him like the gray carcass of
a beached whale - THE FAIRWOOD!

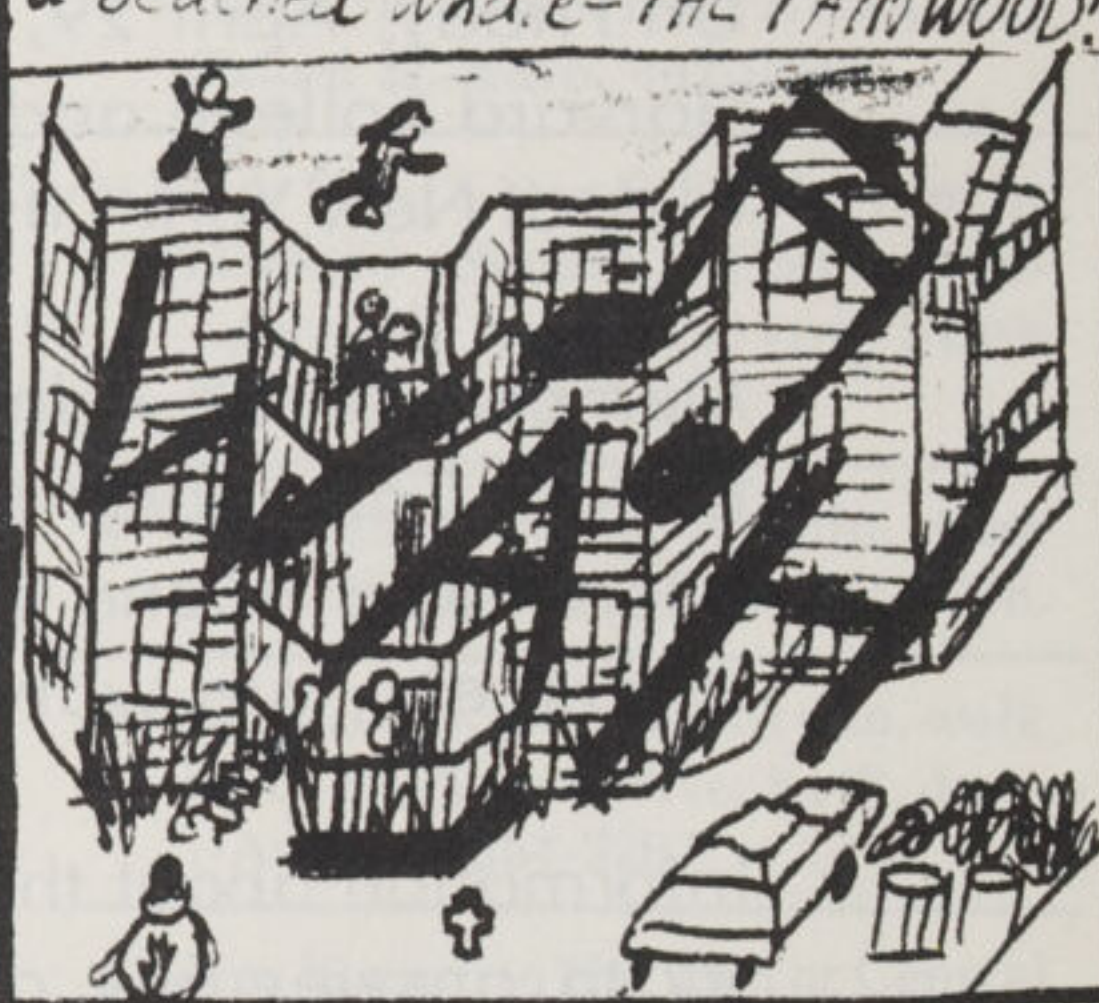
GIVE ME (WHAM) D.I.!!
YAW DIRTY LUV!!

A party somewhere.

UGG. Why do
people like
that come to
law school?



Author's note: While this could be any party,
in fact I'm crass enough to use this strip to
push a party at my own house this weekend.
So Herb is actually walking 10 blocks east on
Cambridge St., past Cambridge Hospital, right
on Fayette, and right on Fairwood Circle to 12.
Although he doesn't know this, there are kegs
but nice people will also bring their own...



He slyly edges through throngs
of beer-swilling debauchers to his
goal - the hateful stereo's controls.

But Fate, garbed in blue,
cruelly intervenes...

Over there by the
stereo, Riley!!
That clown in the
chicken suit must
be the one that
told us to stuff
it when we
called!

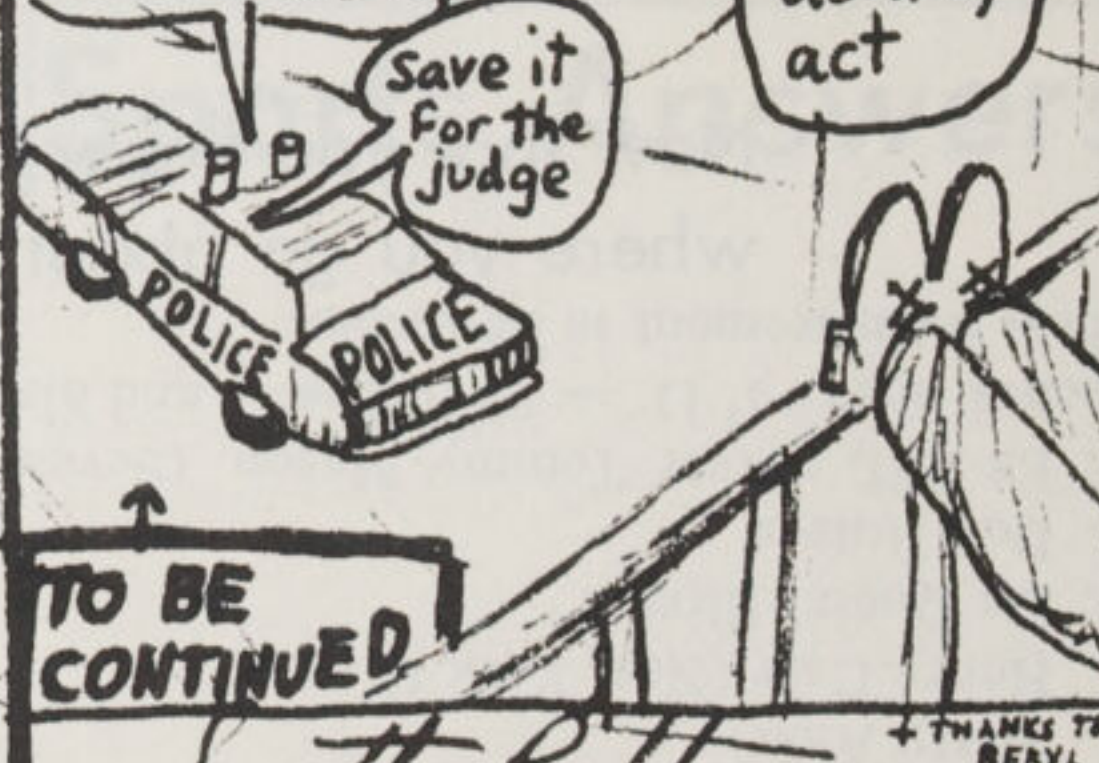
ARRRIGHT,
JOKER!!



No! You don't
understand! I'm
Herb Garnish!
I hate parties!
I'm a nice guy,
some say a nerd
... I never ever...

Save it
for the
judge

OK,
Bring on
the
donkey
act



TO BE
CONTINUED

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Graduating Students, Officers & Faculty

How to join The Harvard Club of New York City.

On Friday, April 29, 1977, graduating students, Officers and the faculty of Harvard College and the Graduate Schools can arrange to join The Harvard Club of New York City easily and conveniently. Without leaving Cambridge.

Members of the Admissions and Membership Committees will be in Cambridge. Candidates for Club membership will be proposed, seconded and interviewed in one efficient and easy session. Requirements for supporting letters, etc., are waived for this once-a-year event.

Information about the Club will be available and Committee members will try to answer any questions you may have concerning membership. For example. You don't have to live in New York City to be a member. Resident members live or work within a 50-mile radius of N.Y.C. Non-resident members don't, and pay lower dues. (Undergraduates are not eligible for membership).

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Time: 11:00 a.m. - 5:30 p.m.

Date: Friday, April 29, 1977

No appointment necessary.

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27 West 44th St., New York, N.Y. 10036
[212] 682-4600**

Hardy Haar-Haar

(Continued from Page 3)

tribute your last place finish last semester?" "Simple," Trautman answered, "Countryman was on sabbatical."

The RECORD was unable to obtain a picture of the elusive James R. Gordley, Ezra Ripley Thayer Teaching Fellow, who earned a second-place finish with a 3.09 in his Comparative Civil Law course. In fact, Gordley has such a low profile that he has been on the Cambridge police missing-persons list since October. The 18 students in his class gave him poor grades in spite of the fact that they had never met him. As one student put it, "We heard he was the worst teacher since Ezra Ripley Thayer, so we flunked him."

The main problem with Gordley's course, according to comments in the Beef Stew Au Gratin student evaluation booklet, was his emphasis on the

theoretical at the expense of the practical, or even the actual. Part One of the course centered on the question: "We may kick a rock, but can we know that our pain exists?" When contacted in the Twilight Zone, Gordley attributed his airiness to his education at the University of Chicago, where he earned an A.B. and an M.B.A. by teaching balloons to deflate.

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3 bdrm 10 min. to Harvard or Central Squares. \$350 w/option for fall. Furn. for summer. 661-5791 eves except Fri.

(Continued on Page 16)

A New concept in Bar Reviews...

Josephson's Bar Review Center of America (BRC), the nation's most successful bar reviewer, will offer a complete substantive and writing course for the 1977 Massachusetts bar exam.

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John Audick, State Director, Kenmore Square, 677 Beacon Street Room 201, Boston, Massachusetts 02215, 617/267-5452

Sports Answers

1. Jose Morales (Montreal 1976)
2. Horton Smith
3. Matty Alou
4. Henry Carr (New York Giants)
5. Du Quoin, Illinois
6. Don Hutson
7. Ex-NFL player Tommy Mason. (Seven inches: she is 4' 11" — 59 inches — and his chest measurement is 52 inches.)

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Students Less Involved With Overseers

(Continued from Page 9)

Blair said. "We told them we want explicit ground rules about what our jurisdiction is. We're always running into battles about what the Committee is supposed to be doing. Students would like the committee to have a more activist role."

Nancy A. Kilson, 2L, another student member of the Placement Committee, said she was surprised that only one student not on the Committee presented a grievance about the Office's discouragement of use by 1L's.

"I have the impression that students put a lot of effort and emotion into the Overseers' visit last year and didn't get the return they wanted, so they asked 'why bother again?'" Kilson also said she saw no particular need for closing most of the Placement subcommittee

"I have the impression that students put a lot of effort and emotion into the Overseers' visit last year, and didn't get the return they wanted."

meeting. "I think it is scandalous that the whole thing [the Overseers' visit] was so secret from beginning to end."

At the Legal Services subcommit-

tee meeting, the one completely open meeting, Professors Frank E. A. Sander and Gary G. Bellow told the Overseers about Harvard's clinical programs. Bellow noted that the programs, which are often related to legal services projects, have considerable impact on the legal institutions of the state.

"I would like to see the Law School pay more attention to what lawyers actually do in a variety of settings," Bellow said.

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4 rms. furn. 158 Clay St., \$221, June 1-Sept. 1; 492-2084.

HLS DORMITORY COUNCIL

TGIF: Friday, April 29 from 4-6 pm in the Hark.

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(8:00 pm)

and

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Saturday, April 30 (9:45 pm)

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3 bdrm, parking. 15 min. ride to Harvard Sq. \$300. option to renew. 641-0559.

4 bdrms, 4 Arlington St. \$125 per person (negotiable) June 1-Sept. 1. 492-8608.

2 bdrm, 10 min walk to HLS. \$275. 661-5761.

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