

25th ANNIVERSARY EDITION

HARVARD LAW RECORD

America's Oldest Law School Newspaper

VOL. 51 NO. 10

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TWENTY CENTS



Charles Soberman

Lights of RECORD office at 23 Everett Street burn into morning.

Record Marks 25th Year

By Greg Ward

With this issue the HARVARD LAW RECORD, the nation's oldest law school newspaper, celebrates its silver anniversary after 25 years of continuous publication.

Begun as THE HARVARD LAW SCHOOL RECORD on July 17, 1946, the four-page newspaper was published weekly from an office in Austin Hall. What the RECORD lacked in length it made up for in height and breadth — Vol. 1, No. 1 measured two feet by one-and-a-half feet.

The first RECORD editorial described the task of the law student and introduced itself to the community: "Like a girl at her

first ball, this issue of THE HARVARD LAW SCHOOL RECORD faces its public, its future, and an uncertain reception. We enter the arena with maidenly blushes at our own temerity in stepping forward, a blushing not unmingled with roguish glances at some who might dance with us, and a rather coy attitude of 'We're here, what

See Pages 7-9, 15

are you going to do about us?' We can't dance by ourselves and we really would rather not, but if you'll cooperate, we have something to offer."

(Continued on Page 7)

Late Exam-Taker Appeals 2 Failures Before Ad Board

By Richard McManus

Mark Goldowitz, 2L, has appealed to the Administrative Board to reverse disciplinary action taken against him for failure to turn in two takehome examinations on time.

Goldowitz was one of the more than 900 first- and second-year law students who opted to take their examinations over the summer rather than during the regular examination period in the wake of the Cambodian invasion and student anti-war activity last spring. He was one of 25 to 30 students who failed to return their examinations by the early September deadline.

The Ad Board scheduled the appeal hearing for last Friday but no student members of the Board were able to attend. Goldowitz asked for and received a postponement until later this week. (The RECORD went to press before the rescheduled hearing.)

In August, Stephen M. Bernardi, secretary of the Law School, sent the following notice to students with take-home exams: "In order for you to go into the next year, I remind you that your outstanding examinations must be received in my office no later than September 1, 1970."

(Continued on Page 2)

Ad Board Mulls Its Disciplining Of Tardy Examination-Submitter

(Continued from Page 1)

The Board subsequently decided to treat as "on time" any mailed exam postmarked by September 1 and to treat exams delivered by hand on September 2 as if they had been postmarked the previous day.

Reportedly Goldowitz handed in his *Property* exam on September 15 and his *Development of Legal Institutions* exam on October 6. The courses were marked "Late exams-treated as failures." Goldowitz was notified that he would have to retake the *Property* exam this spring and elect an additional two-credit course to make up for the now-defunct DLI.

In a letter to Assistant Dean Bernardi on November 16, Goldowitz called the Administration Board's decision "unjust, unreasonable, and wholly unbecoming an institution with the deep commitment to law and justice that Harvard does (or should) have."

Goldowitz's presentation, according to that letter and a preliminary brief prepared in conjunction with his acting-counsel, Paul Warner, 2L, for the hearing claims that although the Board is an informal decision-making body, it still ought to be bound by "generally accepted notions of fairness and due process." It failed to do so by (a) inadequate notice that punishment would be imposed, (b) determination of the punishment *ex post facto*, (c) failure to apply the September 1 deadline uniformly, and (d) imposition of a penalty without a hearing.

Furthermore, the brief argues, no rational purpose is served by the punishment in this case —

retribution being excluded as a rational purpose.

Touching the latter point, Dean Bernardi wrote to Goldowitz on November 19 that the board was most concerned with the question of fairness to students who did hand their examinations in by September 1. He cited the rejected request of one first-year student, active in a primary campaign, to extend the deadline to September 15.

"An acceptance of your examinations, passed in late and without any excuse (and particularly an examination that was done in a leisurely fashion and that might, as a result, be 'super')," Bernardi wrote, "would indeed raise questions of fairness to the case I have mentioned and others

similarly situated, and I am sure the Board will want to discuss the question with you."

In his preliminary brief, Goldowitz responded: "I spent no additional time on my exams, nor did I spend extra time preparing for them. If the study period was one week and the exam time three hours, a delay of even a day might be critical. But where the study period is over three months and the exam period is 12 hours for *Property* and 48 hours for DLI there is no unfairness to other students.

"Moreover," Goldowitz adds, "it seems that most exams were graded by the time I turned mine in. Therefore, there can be no cause and effect relationship between my lateness and their grades. Finally since I have elected to take my courses pass/fail, it is difficult to see how I will reap any advantage from my lateness."

Law Musical Auditions Set

Auditions will begin this week for the annual Law School Drama Society musical, planned this year as a multi-media presentation scheduled for mid-March in the multi-purpose room of the Pound Building.

According to producer Dave Ellis, 3L, this year's cast will be smaller than usual. Performers, however, will be required to assume several roles in the production whose title and story line have not yet been revealed. Actors, actresses, technicians, business and production personnel should attend auditions in Harkness' large meeting room on Sunday from noon to 3 p.m. and on Monday from 7 to 10 p.m.

David A. Sonenberg, 3L, lead for the last two years will direct

the 1971 show. James Brook, 2L, is writing the script and pianist George Selden '69 is composing the original music for the fourth consecutive year. Ellen Shaw, 3L, is president of the Drama Society.

Approximately six weeks of rehearsals beginning in February are scheduled. Five performances are set for Cambridge. New York City performances will depend largely on the crew's ability to design a stage and lighting unit which can be transported. Because of the multi-purpose room's design and the planned use of films, slides and seating risers, many backstage production workers are required.

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Constrictors Cuddle Lonely Students

By Carol Plumb

Lonely, law student? Staring at the four bare walls of your dormitory room longing for companionship, but tired of going to mixers and meeting only "dogs"?

A local entrepreneur named Kashan believes he has the answer to the loneliness of the long-disciplined law student: try a dormitory pet. But Kashan eschews supplying the familiar domestic tabbies and rovers.

"Snakes are the perfect dormitory pets. They're especially good for busy people like law students because they need only about five minutes a week care. They don't pester you for attention while you're busy studying; they don't need to be walked twice a day. Clean their cage once a week, feed them once a week and that's it."

What do one's scaly friends eat?

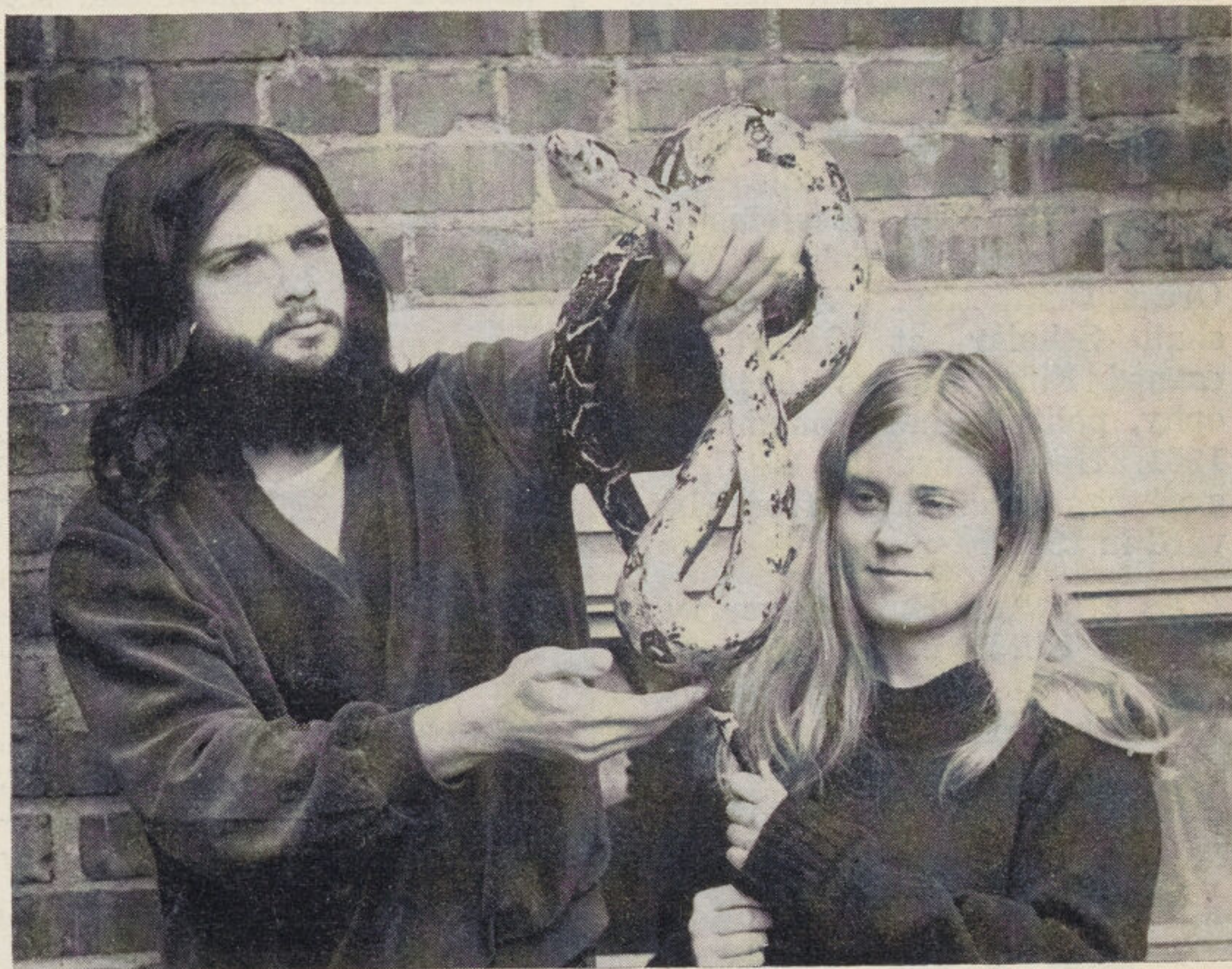
"Mice. I also sell frozen mice at twenty cents apiece so that's no problem."

Snakes are an economic investment also. As time goes on you get more and more pet per square inch. As Kashan explains it: "Say a first year student buys a baby boa constrictor. It's only a few inches long. Boas grow at the rate of one inch per month. By the time the student is ready to graduate, it will have reached the large economy size — say 10 feet. So the new lawyer can sell his now fullgrown snake to an incoming student for ten times what he paid for it as a baby."

Isn't there some danger attached to having a reident boa?

"No. A boa will never attack anything larger than it can get in its mouth. They *don't* attack humans. As a matter of fact, snakes are very stupid; keep them well fed and they'll stay curled

vertisement displayed on the Harkness bulletin board. Somewhere in a dormitory — that for the sake of peaceful intergroup relations shall be nameless — sleeps a cuddly red corn snake



Charles Soberman

Carl "Kashan" Jones exercises pet boa for friend, Jan Tillinghast.

up in one corner most of the time."

"Some of their scales are like tiles; they're really artistic," adds Kashan's close friend, attractive Jan Tillinghast. Jan is a recent convert to herpetology. "Somehow the question of how I felt about snakes never came up in my previous relationships," she says.

At least one law student has heeded Kashan's call to reptilian adventure by answering the ad-

which was delivered by Kashan on a recent Saturday afternoon.

As far as Kashan knows, none of the Law School faculty has yet succumbed to the lure of the limbless. "Professional people often are looking for an unusual pet they consider a status symbol. I'm amazed at the number of people who call me every month looking for kangaroos, leopards, panthers . . . you name it and I've been asked for it. The animals I've just named, however, are not for law students."

The Kashan seal of approval for dormitory life has been granted to lizards and ferrets. Kashan, the former Carl Jones of Cambridge, himself keeps a pet ferret in his present Brookline quarters.

Animal lovers and roommate fanciers are urged to contact Kashan at 617-277-5602.

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Breyer Appointed

Stephen G. Breyer, who joined the Harvard Law School faculty in 1967, has been named a Professor of Law, it was announced this week. Professor Breyer helped develop a course on *Development of Legal Institutions* taught last year, and has also taught *Evidence* and *Anti-Trust Law*.

Born in 1938 in San Francisco, Professor Breyer graduated from Stanford in 1959, receiving his degree in philosophy "With Great Distinction." As a Marshall Scholar at Oxford, he earned First Honors in philosophy, politics, and economics in 1961. He received the LL.B. degree *magna cum laude* from Harvard in 1964.

As a law student, Breyer was articles editor of the *Harvard Law Review*. After graduation, he clerked for Justice Arthur Goldberg and served in the Anti-Trust Division of the Department of Justice.

Record Names Spring Editors

For fans of the musical masthead, Michelle Scott, 2L, was elected president of the RECORD at the corporation's semester meeting last week. Upon her elevation as the paper's first woman and second long-haired editor, she announced plans to redecorate the president's office when she occupies it at the beginning of next semester. A graduate of Bryn Mawr College, Miss Scott majored in French literature. She resides in Clifton, N.J. and has been a staff writer for *The Herald-News* in Passaic, N.J.

Shucking ennui to assume the position of managing editor next semester will be Jerry Snow, 2L, of Walnut Creek, Cal. Snow, 6'5", earned a degree in English-creative writing at Stanford University. News editor Greg Ward, 2L, edited his school newspaper, *City On a Hill Press*, as an undergraduate at the University

of California at Santa Cruz. A psychology major, the motor buff hails from Santa Cruz.

Former news editor Robert Hernandez will be returning to the RECORD, while senior editor Richard Hoffman heads for parts unknown, unsheltered by friendly backbenches.

Notre Dame alumnus Larry Connolly, 2L, is the RECORD's new business manager. Bringing dollars and sense to the operation, the certified public accountant comes from Libertyville, Ill. James Schuyler, 2L, brings his crayons and baseball cards to the post of corporation secretary, while Kermit Kubitz rises to an associate editorship. Charles Soberman remains as photography editor. Both are 1Ls.

John York, 3L, takes his rah-rah saddle oxfords, bow ties and censored women's lib cartoons from the editor's office to the senior editor's position.

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Sears Prizes

Assistant Dean Stephen M. Bernardi has announced the names of the four students each awarded \$1,000 Sears prizes for receiving the highest grade averages in first-year and second-year work for the 1969-1970 academic year.

The top students in the Class of 1971 were Arnold B. Panzer and Edwin V. Woodsome. Robert J. Katz and Melvyn H. Wald received the prizes as the ranking members of the Class of 1972.

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Radical Feminist Berates Timid Liberationists

By Carol Plumb

Ti-Grace Atkinson, radical feminist, spoke on "Is Man The Enemy?" before an audience of 500 crowded into Ames Courtroom recently, but devoted most of her time to castigating the cowardice and insincerity of her fellow members in the women's movement.

A one-time Louisiana belle (her name is a Cajun diminutive) and once described by the New York Sunday Times as "softly sexy," Miss Atkinson strode into Ames attired in a black tanktop, gunslinger's wide studded, leather belt, black suede chaps and high-heeled, black boots, and took aim at the inability of movement women to stand up and be counted when the chips are down.

Formerly the president of the New York Chapter of the National Organization for Women, Ti-Grace decided NOW was merely dedicated to enlarging the status-quo to include women in the establishment, but not to any real re-organization of society. In October 1968 she left NOW and formed her own group, The Feminists.

Miss Atkinson detailed her own

You're A-l-o-n-e In Jail Cell

disillusionment with women who "claimed to be feminists. When the going gets rough, when you hit that jail cell as I did after a demonstration, you look around and you will find you are a-l-o-n-e, all alone!"

Recently Miss Atkinson came to the aid of a Wall Street bank cleaning-lady who had filed a complaint against her union.

"This union was known for its rough house tactics to insure that any complainers were silenced — permanently," she said.

When Miss Atkinson found all legitimate liberal organizations refused to assist her in standing up to the union, she went to the

Mafia. "After that I had no trouble at all with the union."

The unmistakable sound of an infant's crying competed with the speaker at one point, prompting Miss Atkinson to ask the mother to please take the child out. Susan Ochs carried one-and-a-half year old Danielle outside and listened to the rest of the talk from the landing of the Austin Hall main



Lauren Kahn

Ti-Grace Atkinson

staircase, but she commented, "I took the baby out for *her* sake and not for Atkinson's."

At the conclusion of her remarks, Ti-Grace challenged any woman in the audience who considered herself a feminist to come up and give her name "if she's ready to go all the way for the movement." About eighteen women did so; many of them then gave personal testaments of their commitment in lifting the sexist barriers in our society.

At one point a shrill male voice interrupted the feminists' statements. A man stood up in the audience and shouted, "This is all wrong; this kind of thing does the movement no good."

"You shut up! We've heard enough men telling us what to do all our lives. Now *we* want to talk," he was admonished. The women continued their comments.

No Time For Men

Ti-Grace Atkinson had quietly slipped out of the auditorium during the *contretemps*.

When the last woman had finished speaking, the audience filed out slowly. Groups of two to six persons discussing the speech formed on the ground floor of Austin Hall, on the staircase, on the landing. Everyone had an opinion on the evening's events, but few wished to comment for publication.

"My goodness, I don't know what came over me; I never meant to spout off like that," said the unsolicited male participant, a Midwestern college professor. "But she's going about it the wrong way. Creating hostility, alienating people — the movement needs friends, not more enemies."

"I'm all in favor of Women's Liberation," he hastened to add.

"It wasn't fair that men were charged a flat admission rate while women were merely asked to donate any sum they wished. That's not equality," stated a young man who asked to be identified "only as a member of the HLS class of '69."

"She was a provocative speaker, she created thought-waves in all her listeners," his female companion offered as they left.

At the entrance to Ames Courtroom, three fashionably dressed

(Continued on Page 7)

CLAO Mogul Finds 'Young Lawyers' Lacks Truth, Justice and All That

By Alice C. and
Van Lanckton

[The invitation to write this review was originally made to Van Lanckton, director of Community Legal Assistance Office (CLAO). However, what finally emerged was a product of the collaborative efforts of Lanckton and his wife — indeed, more of his wife, according to Lanckton.]

Three new TV programs this fall capitalize on the vogue of the "poverty lawyer." Of these, the most outstanding failure is *The Young Lawyers*.

I must confess to a kind of conflict of interest in reviewing this particular program since it was based directly on Harvard's Community Legal Assistance Office (CLAO). The Hollywood producer of *The Young Lawyers* flew to Cambridge for two separate days; this was the extent of on-site research. A camera crew was dispatched to Boston last summer to film exteriors. But, the shots of the "Law School" in the show are actually of Tufts University.

The CLAO office was also extensively photographed as a model for the Hollywood set of the office. In fact CLAO cooperated extensively with the producers, to the point of suggesting several story lines. A recent show about the Massachusetts "stubborn child" law used as dialogue verbatim quotes from a CLAO brief.

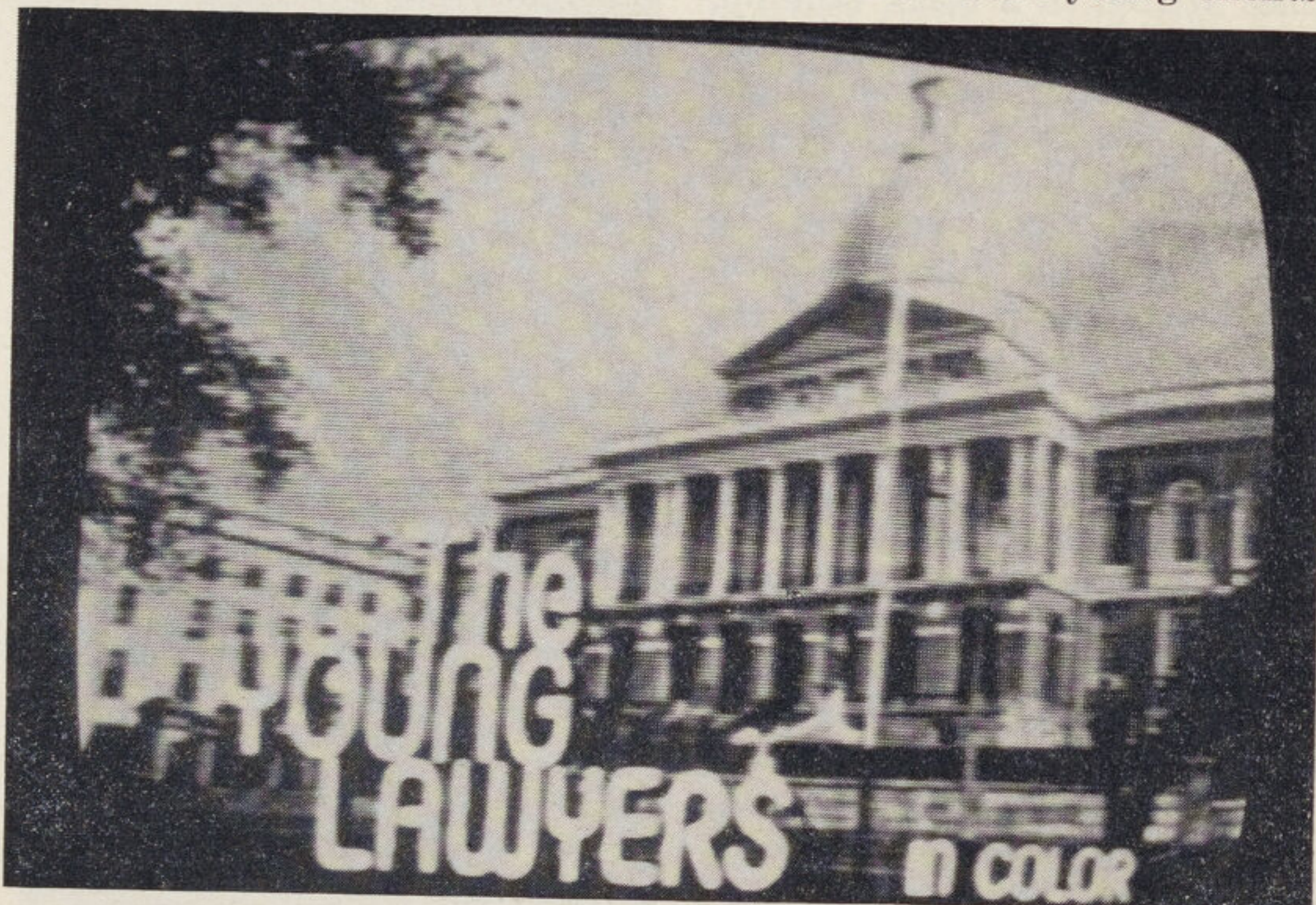
CLAO's relation to *The Young Lawyers* predisposed me in favor of the show, but the show itself quickly changed my mind. Though there are moments — occasionally — of real legal insight and sensible and helpful legal action, this is at heart a weekly TV show. And so, as always when "to give pleasure" is more important than "to teach", it concentrates too much on the (stock) personalities of its major characters and the drama of its cases and too little on the legal process.

There are striking and annoying inaccuracies. First, most of the cases involve the voluntary or temporary poor: a medical student, a minister, the estranged children of affluent parents, street people. Certainly an office like CLAO has some clients like this, but they are hardly typical.

Then there is the apparent affluence of the Neighborhood Law Office. Taxpayers must at least raise their eyebrows as they watch the NLO's Volkswagen bus dash around Boston, or see Lee J.

in the real world of CLAO: first of all, never, under any circumstances, does the earnest young NLO student negotiate with the other side before dashing off to court.

Moreover, in all dealings with anybody, Aaron/Zalman never lowers his voice to a shout. He screams at clients, Barrett, fellow students, bureaucrats. He stages dramas in courtrooms, allows objectionable questions to go unobjected and objects then to testimony, gets himself in jail, beats up clients (in front of their children) and carefully makes very unclear whether there is a romantic relationship between him and various nubile young clients.



Charles Soberman

"The Young Lawyers" — Boston Statehouse in background — is seen on Channel 7, Mondays from 7:30 to 8:30 p.m.

Cobb (Mr. Barrett, Director of the NLO) recline in his leather Barcalounger as he advises Zalman King, who plays Aaron Silverman, the omnipresent NLO student lawyer.

As is customary in reviews this year, I turn now to the woman and her meaningless role. On the first show the judge was a woman. However, it developed that this was mere tokenism. Judy Pace, supposedly Aaron's female black co-lawyer, models a lovely wardrobe, which is nice, since she is not allowed to say or do much else.

As for the issues that have enraged Mr. Barrett's counterpart

All of this may be very attractive in a television program, but it certainly does little for the future of legal services. Such blunderings and melodrama and extravagance on the part of the NLO do not make the viewing taxpayer eager to send in contributions to the cause on April 15.

"Great Scott!" you can almost hear Mr. Middle America saying as he turns off the TV, "Is that what I'm paying for?"

Worst of all, the potential client who sees *The Young Lawyers* could well be convinced that, if his NLO does not employ Aaron Silverman, all he will get is his money's worth.

Academics, Alumni Slip Off Pages of Record

(Continued from Page 1)

The RECORD offered itself as a forum for the Law School community, asking for letters and contributions from students and faculty. Then, as now, the success of the RECORD depended as much on its readers as on the diligence of its staff.

"High Rankers Named For Review, Student Board" headlined the lead article of that first issue, suggesting the academic emphasis of the early RECORDS. A column entitled "Sub Judice" detailed the latest happenings in the law, as it was the belief of the editors that "the cacophony of the law as it runs into new factual situations will be of interest to our readers."

Another column, "The Witness Stand", showed that life at the Law School has changed little in 25 years. When students were asked "What has been your biggest problem upon returning to School?" most cited housing, with the others bemoaning the pressures of time and studies.

As the RECORD grew, humor began to balance the "Alumni Notes" and articles on the Ames Competition. The first cartoon appeared on August 28, 1946, and while crude by modern standards it successfully conveyed the plight of the law wife. Few cartoonists have been able to rival the style and flair of Charlie Sherwood — Raymond S. Andrews, Jr., '68 — who preferred anonymity to endless requests for his originals.

Even with humor, however, the RECORD relied mainly on its readers, reporting the humor and pathos which necessarily accompanies the study of law. On

March 30, 1948, the RECORD reported one of the Law School's most infamous practical jokes, which attacked the School's dignity at its most manifest point. Two artistically inclined students were able to smuggle a portrait of a semi-nude woman — clad in what was called the "new look" in judicial robes — into the frame reserved for Sir Thomas Egerton

Nude Initiates New Legal Look

Baron Ellesmere, one-time lord Chancellor of England. The controversial portrait now resides in Lincoln's Inn.

The history of the modern era of the RECORD can only be adequately assessed by examining the growth and maturation of Fenno, a little-recognized but well-known member of the RECORD staff since February 2, 1961. In a column entitled "Comment", Fenno made his journalistic debut in quite a serious vein, reprinting a part of President Pusey's annual report to the Board of Overseers of Harvard University, which demonstrated the Law School's impact on legal education.

It would seem that "Comment", running alongside the editorial, represented opinions which only Fenno could give, a man more willing than the editors to tackle the more controversial topics of the time. In subsequent issues, Fenno attacked the "disgraceful conduct of the U. S. government during the recent Santa Maria fiasco", decried the stranglehold which labor was gaining on the American economy and govern-

ment, and urged that Adolf Eichmann be given a fair trial and a life rather than a death sentence.

Apparently wearying of his sober role, Fenno entered a new phase on September 27, 1962 when his column "Tongue 'N Cheek" replaced "Comment". In his column Fenno's dialogue pointed out the more humorous side of his environment and revealed his true identity — Fenno Fenno Fenno (he believed that his last name was originally spelled Fenneau.)

On September 12, 1968, Fenno received the highest journalistic accolade — his column became known as "Fenno." Fenno, 10L, admits that his plans for graduation are still "up in the air".

Organized as a corporation, the RECORD is governed by 11 student directors. Every issue of the RECORD reaches 12,000 readers, including 92 per cent of the dues-paying alumni.

Rad Fem

(Continued from Page 5)

young women lingered, animatedly conversing on the personal impact Miss Atkinson's speech had made on them.

The first girl said, "She made me start to do a lot of thinking. Men do take advantage of women. My husband won't even think of helping me in the house although we both go to school. I work just as hard as he does outside, but when he comes home he wouldn't even lift the lid of a pot on the stove to see if it's done. That's not fair. No! Don't take my name! My husband is a first-year student at the Law School and he'd see it in the RECORD."

"But it's true; everything she said in that speech is true," the second girl added decisively.

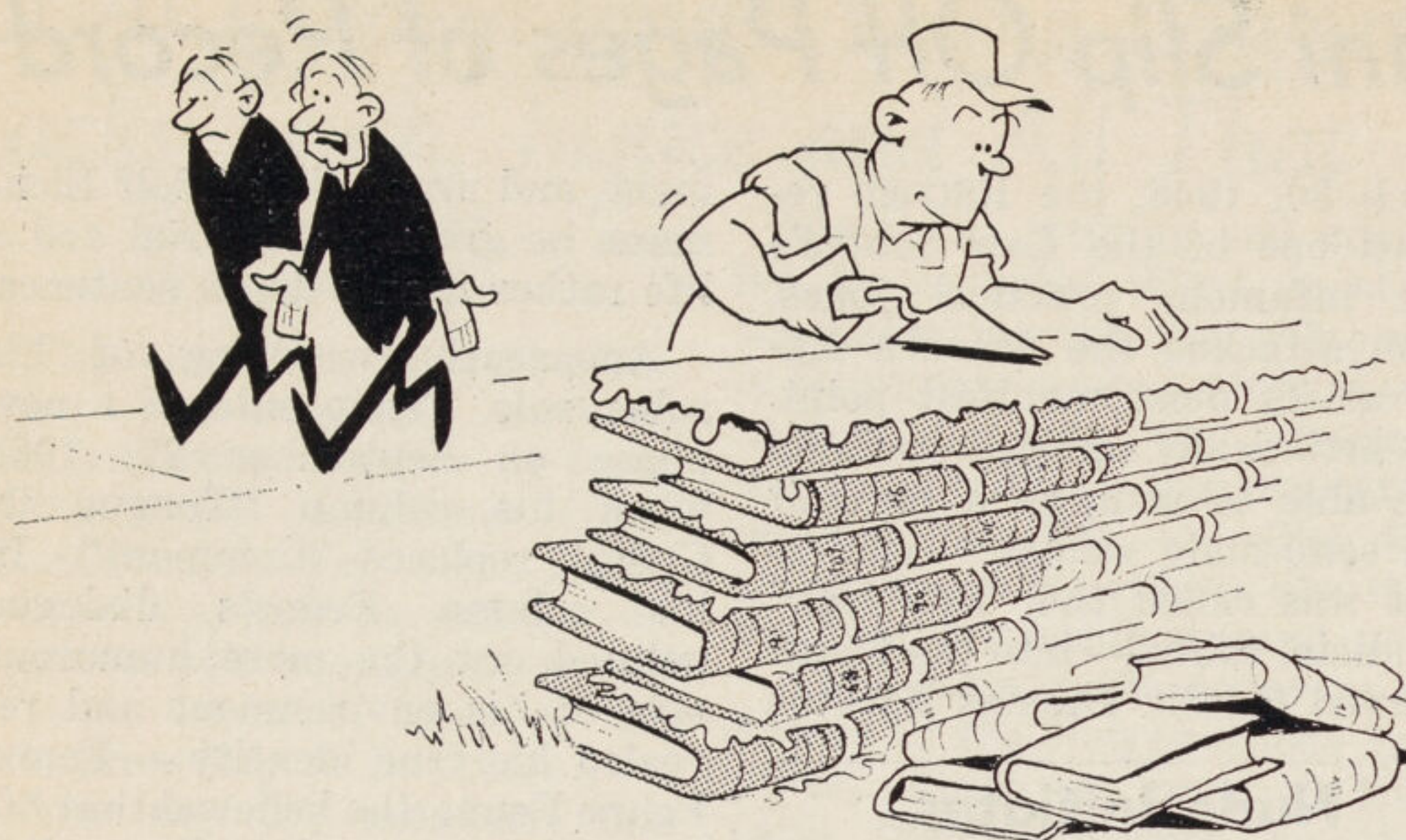
"The only man I know who truly isn't a male chauvinist is a homosexual friend of mine," said the third young woman softly.

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Many students say the most important service this bank has ever offered them is:

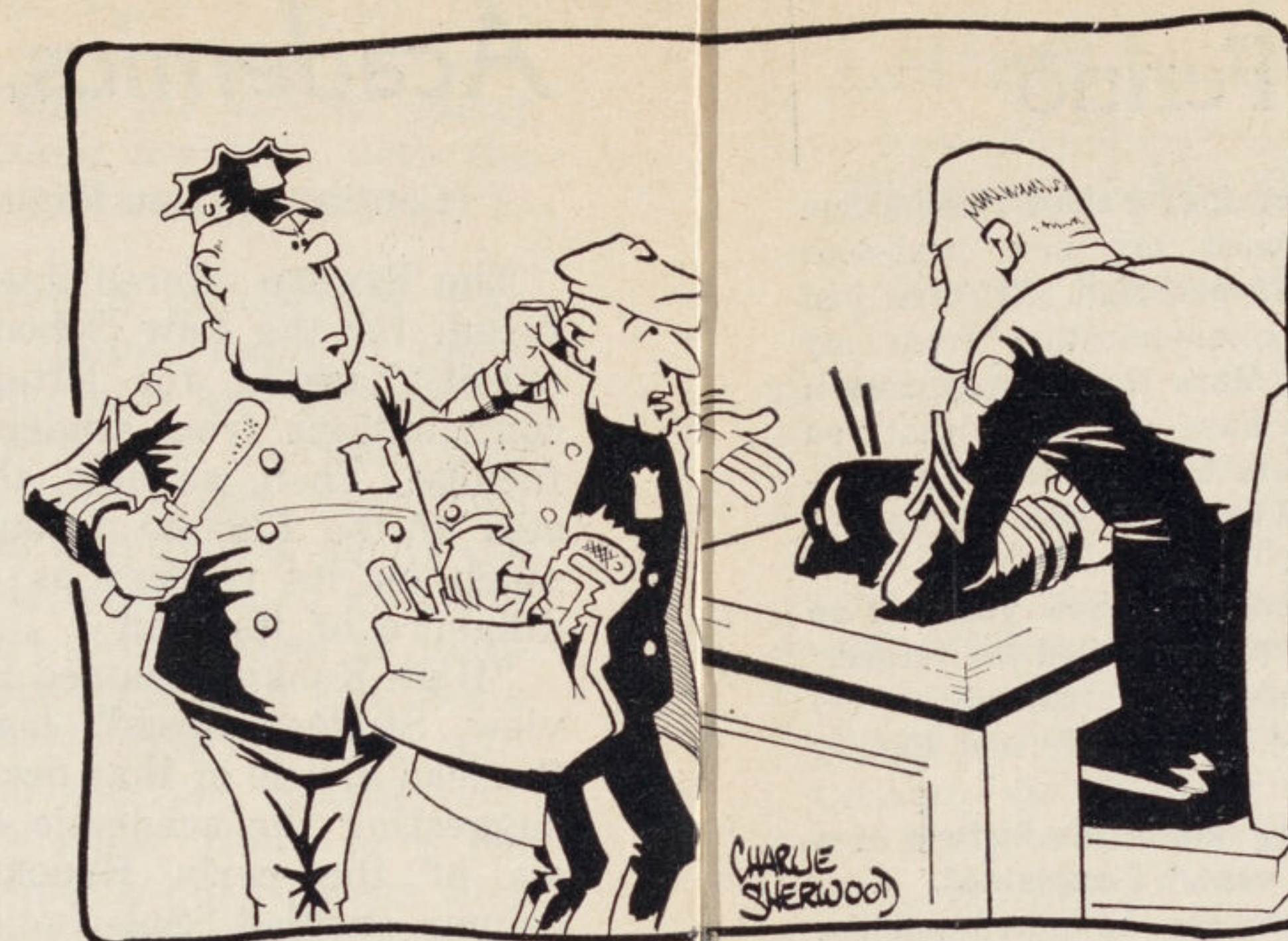
Low-Cost Life Insurance. You won't believe it until you look — and compare. We've got the best buy.

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"... But 247 volumes of the Federal Reporter don't just disappear ..."

Sherwood



'The way I s, Sarge —
If you can't bem, join 'em.'

Among Record History's Finest



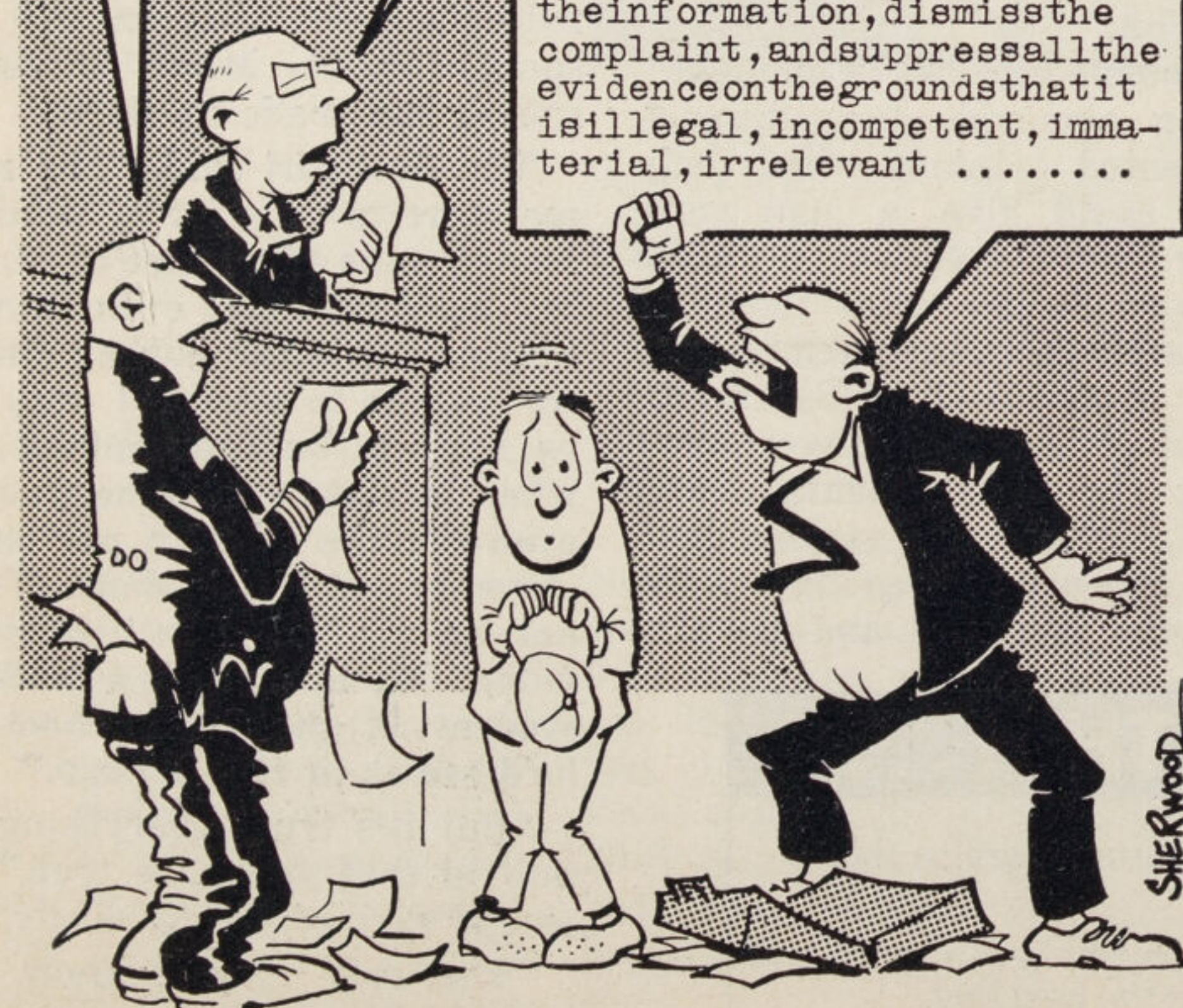
'Oh, come now ... freedom of speech means freedom of speech!'

Synopsis

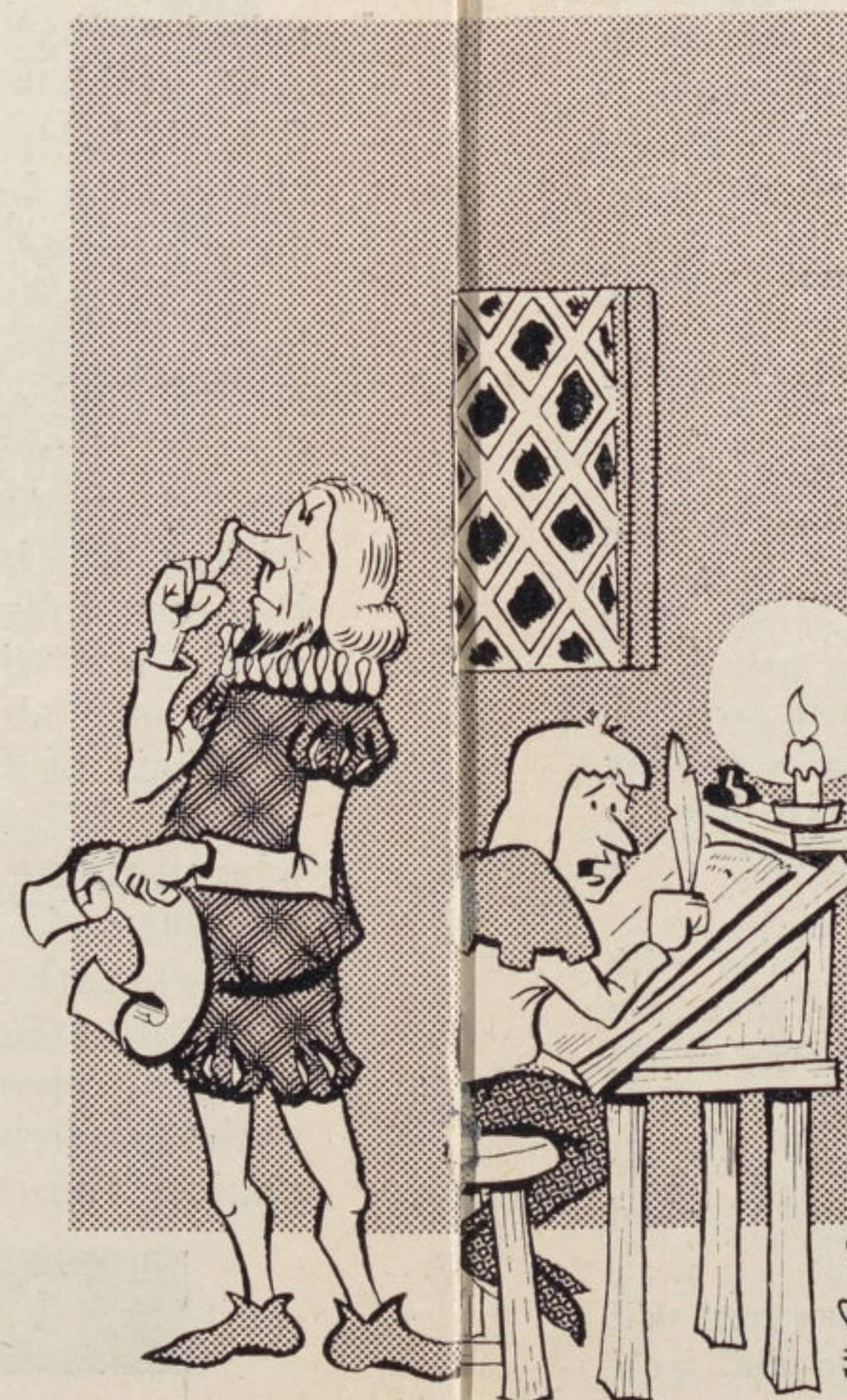
Case 4321, Commonwealth against Henry Smith. Henry Smith the Commonwealth charges you with disorderly conduct in that you did on or about last week loiter on or about a public sidewalk purporting to wait for a bus. How do you plead?

Before accepting your plea of guilty I must ascertain that you have been advised of your right to a speedy trial by an impartial jury with assistance of counsel, that you enter this plea knowingly, intelligently, and

Your Honor, the defendant moves to quash the indictment, squash the information, dismiss the complaint, and suppress all the evidence on the grounds that it is illegal, incompetent, immaterial, irrelevant



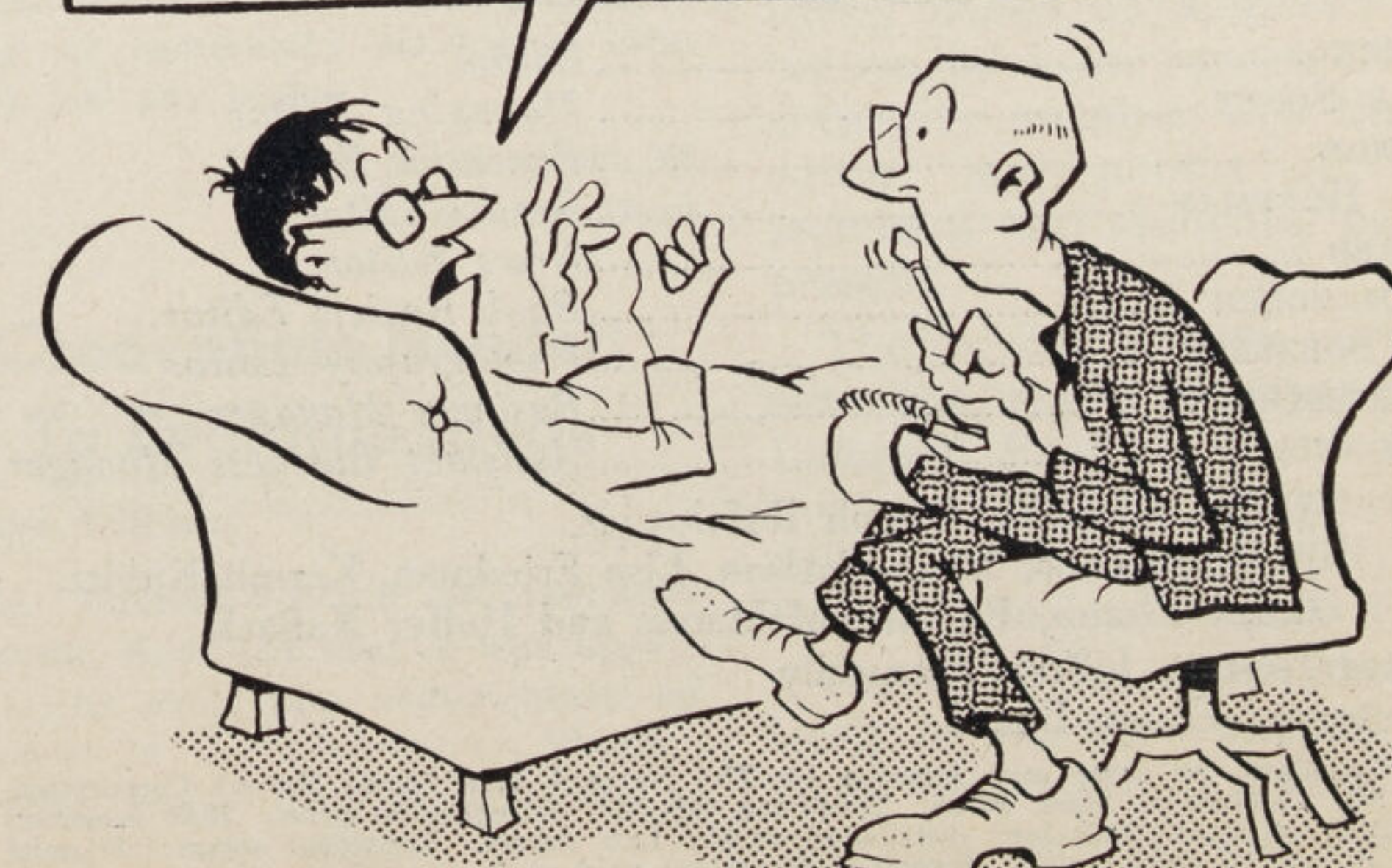
No person shall be ... deprived ...
without due process of law



'There's going to be a large space at the bottom of the page, d Coke. You want I should do some fancy scrollwork or stick in that squib about Alley's case?'

Doctor,¹ I have this strange² feeling³ that Harvard Law School⁴ has taken over my mind.⁵

¹ State v. Garcia, 97 Ariz. 102, 397 P.2d 214 (1964).
² E.g., People v. Colby, 27 Ill. 2d 273, 189 N.E.2d 317 (1963); Werner v. Miller, 248 Minn. 75, 78 N.W.2d 63 (1956); State v. Blanton, 111 Ohio App. 111, 170 N.E.2d 754 (1960).
³ E.g., Skinner v. United States, 326 F.2d 594 (8th Cir. 1964); United States v. Cain, 298 F.2d 934 (7th Cir.), cert. denied, 370 U.S. 902 (1962); United States ex rel. Berkery v. Myers, 242 F. Supp. 515 (E.D. Pa. 1965).
⁴ See Commonwealth v. Berkery, 200 Pa. Super. 626, 190 A.2d 572 (1963), cert. denied, 375 U.S. 966 (1964); McCormick, EVIDENCE § 60 (1954). McCormick thinks one must be "misguided" to believe that a judge cannot exclude inadmissible evidence from his mind. See *id.* § 60, at 137-38 n.6.
⁵ See, e.g., Terrell v. State, 210 Tenn. 632, 639, 361 S.W.2d 489, 492 (1962):



SHERWOOD

THE RECORD

Yes, this is still the editorial. The form is in disarray. Other pages self-sketch the RECORD's 25 years while on this page outsiders offer their opinions beside and below:

Congratulations Harvard Law RECORD!

After reading the movie review "Mad Housewife Cuckolds Greedy Grad" in your November 13, 1970 issue, I have cancelled my subscription to *Playboy*, *Beautiful Legs* and other exotic magazines.

You have everything from sex to pollution and the horrible Wall Street barristers that are destroying our society. You have exposed causes of every nature and kind and soon you will be lost without some new campaign. . . .

Charles Upton Shreve '21

Mr. Shreve laughs on to say that the RECORD should pinch out that evil discrimination levied against the left-handed. Implicit in many such observations is a recognition that there is room at the Law School for social-and-legal-reform pressure as well as tittering. There certainly has been less of the former around school this fall to report about. Maybe then this has been a good season for healthful self-mockery wherever it has protruded.

RECORD Competes Unfairly for Time . . .

To the Editor:

Please remove my name from the mailing list of the HARVARD LAW RECORD.

I find it interesting, and consider it well done, but it competes unfairly for my uncompensated time with what I should be reading or doing.

Lewis C. Murtaugh '30

. . . And Has Emetic Effect on Some . . .

To the Editor:

Will you please stop sending me copies of the RECORD—the drivel which comprises most of its contents makes me want to vomit.

In my humble opinion it portrays a bleak picture of the present student at the law school; also that it reflects most adversely as to the acumen of the editors.

Howard A. Will '24

. . . But Others Feel More Charitable:

To the Editor:

Congratulations on Numbers 1 and 2 of Volume 51 of the Harvard Law RECORD. They are interesting and well written and give us alumni a much more accurate and interesting idea of what is really going on at our old School than we have been getting. The articles by the faculty are fine.

George A. Brownell '22

Fenno

"Good morning Fellow Technician Fenno," intoned my new next-door neighbor in Ames Hall. "I have just received a communication from my superiors on Mars that I must return home after I have completed what you earthlings here call 'A-mess Competitioning'? What is this all about Fenno?"

"Well, Marzy, tomorrow you pick up this sheaf of papers called the record."

"Oh, I understand. Round objects made by loud voices. Sly and Family Stones?"

"No, Marzy, this is the history of a case, a legal case," I explained.

"I see cases can be purchased for \$2.69 at Martignetti's," Marzy interjected.

"You wouldn't want to," I advised. "But seriously, these papers tell you what happened in the lower court."

"We Martians do not believe in any hell," he snapped indignantly.

"I mean the court below, er, the trial court," I offered conciliatorily.

"You will represent one of the parties on appeal. Either the plaintiff who wants to get his land deed so he can evict hundreds of poor people so he can build a used car lot, or the defendant who stole the deed to finance his heroin importing business."

"You earthlings are not socially conscious," Marzy opined.

"You should go to a mixer at the Hark," I recommended.

"Anyway, after you have a chance to read the record, you have a fact conference," I continued.

"Why a fact conference if the facts are in the record?" Marzy asked.

"You have to find out which facts are important. If your client did something wrong, you have to recognize how to cover it up or explain it away."

"Then what happens?"

"You go over your draft brief with an Adviser. He tells you that you should have cited your key case as 387 A.2d instead of 387 Atl.2d."

"Fenno, if these are briefs why are they so long and hard to read?" asked the Martian.

"That's so no one but lawyers will understand. If anyone else did, we'd all be in trouble."

"What next?" he sighed.

"Well, before your oral argument, it would be a good idea if we went down to Filene's basement and got you a three-piece suit. And have those horns trimmed."

HARVARD LAW RECORD

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Letters to the Editor of the RECORD

Financial Aid Story Errors Corrected

To the Editor:

While I found your December 3, 1970, article and editorial on the Law School's financial aid program and policies interesting, they contained several mistakes of fact and an erroneous impression or two that are important to correct for the "RECORD."

Certainly the Financial Aid Office keeps statistics on the parental resources of those whose sons and daughters submit applications for financial aid to the Law School. While it may be true that these figures have not yet been tabulated for the current year, the information is gathered for the use of the Financial Aid Committee. It is true that the Law School does not intrude upon the financial privacy of those parents whose sons and daughters do not apply for financial aid through programs administered by the Law School.

In at least two places, you give the impression that students can "emancipate" themselves financially from their parents and receive regular financial aid awards from the Law School even when their parents are relatively wealthy. The Financial Aid Committee does *not* allow a student to "emancipate" himself financially from his parents. Parents are expected to contribute according to their means and other obligations. A fair contribution from parents is imputed to a student's resources whether or not it is received by the student. No scholarship or gift aid is given to replace a contribution imputed to parents and all but a small number of loans for this purpose are subject to commercial interest rates.

Your financial aid statistics for the Class of 1970 during their three years of Law School were erroneous. You indicated scholarships and grants of \$207,882 and loans of \$82,000. The actual three year totals for the Class of 1970 were \$532,350 scholarships and grant; \$436,471 loans administered by the Law School.

The explanation of an "experimental" deviation from the normal half-scholarship, half-loan financial aid award was also misleading. Those students whose educational debt loads are low and family resources high in comparison with other students qualifying for

financial aid receive their first \$500 of assistance as a long-term loan rather than a \$250 scholarship and a \$250 loan. The remainder of the award is the normal half-scholarship, half long-term loan. This policy applies only once to an individual student and does not apply to subsequent awards.

The scholarship funds "saved" through this policy are reallocated to those students whose educational debts are large and family resources meager in comparison with others receiving financial aid. This allocation is generally made to third year students up to a maximum of 75% scholarship, 25% loan and to date has affected the awards of only a few students.

Contrary to your editorial, it is not necessarily "illegal" or against the policies of the Financial Aid Committee for a student receiving financial aid to have an automobile. Exceptions to the general "no car" policy are made for married students who have a working spouse or children. Exceptions may also be made for single students who must have an automobile to meet military commitments or who find automobiles essential for part-time employment that will reduce financial aid awards from the Law School.

And last, the impression left by your quoting me is that I assume our graduates will earn large salaries and therefore support a change to a pure loan financial aid program. In context, the economic problems of private education may well dictate that the financial aid programs of the future be based primarily upon loans. I would not suggest such a change at the Law School unless absolutely necessary, nor would I support a pure loan program without special features for those who enter public or community service at relatively low pay scales.

Russell A. Simpson '65
Assistant Dean

Credentials Needed To Evaluate Ideas

To the Editor:

Mr. Babcock should be reminded (RECORD, Nov. 19) that it was appropriate to avoid the *argumentum ad hominem* in the never-never Platonic Academy where man could aspire to the ideal of pure thought.

(Continued on Page 14)

Law Notes

The Center for Criminal Justice is trying to make arrangements for summer internships for law students in criminal justice agencies in various parts of the country, including the possibility of several in New York City. The goal is to give students the opportunity to observe and participate in the day-to-day operations of the agencies, rather than placing them in routine desk jobs or research activities. The stipends for the internships will be between \$100 and \$135 a week.

Among present second-year law students who were Center interns last summer are Steve Cowen, who was at the Atlanta Police Department, Paul Irwin, who was at the Detroit Police Department, and John Houlihan and George O'Toole, who were with the Massachusetts Department of Youth Services. Students considering the possibility of internships for next summer might find it helpful to talk to some of them.

Interested students should come to the Center for Criminal Justice offices on the fifth floor of the Pound Building and pick up an information form and leave their names with Mrs. Elinor Halprin.

* * *

The Law School Library is featuring a new exhibit entitled *The Harvard Law School Faculty: Selected Writings, 1968-1970*. Included in this exhibit are casebooks, textbooks, published lectures, books of a general legal nature, books or reports of which a faculty member was the chief editor, and photos of faculty members and students, past and present.

The exhibit may be viewed inside the main entrance to the Langdell Reading Room and in the passageways between Langdell West and the Faculty Office Building on levels 1 and 1M.

One of the cases is devoted entirely to Austin Wakeman Scott, Dane Professor of Law, Emeritus, who became a professor at the Law School 60 years ago.

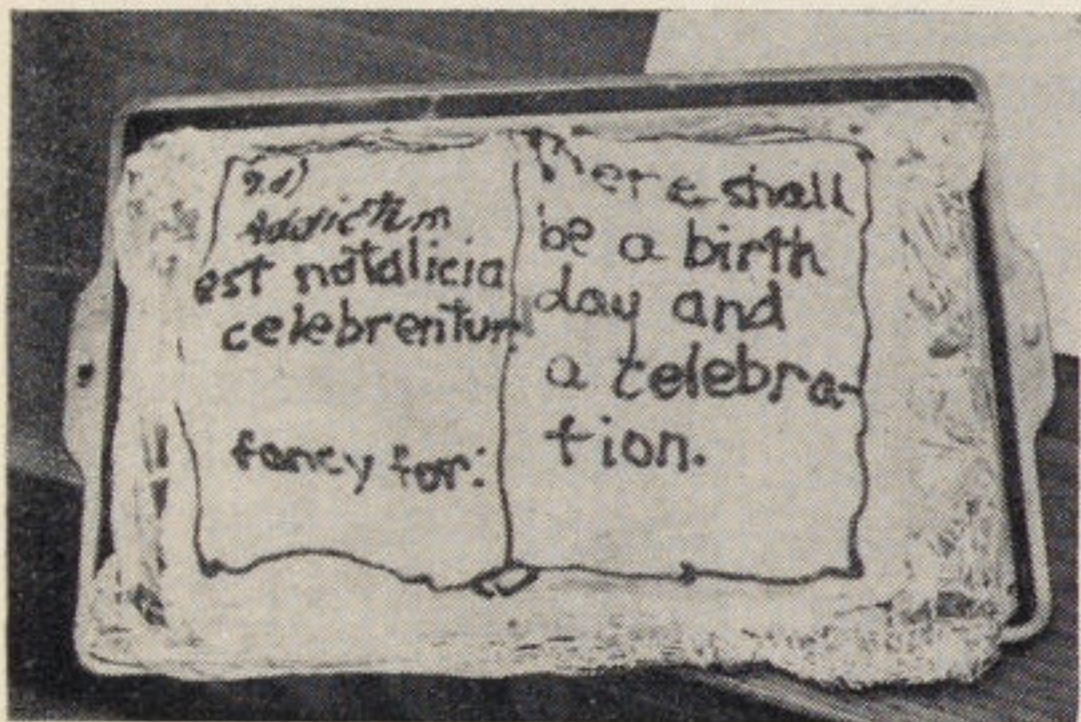
Festivities Overrule Procedure

By Charles A. Soberman

Student: Professor Chadbourn, may I ask a question about Rule 87 of the Federal Rules of Civil Procedure?

Chadbourn: Do you mean Rule 78? There is no Rule 87.

Student: Sure there is. It's the one that reads "No work shall be done on Judge's birthdays, solar eclipses, and other divinely inspired days."



Charles Soberman

Civil Pro was never all cake ...

At this point Professor James H. Chadbourn's *Civil Procedure* class wished him a happy birthday and were about to descend upon him *en masse* with gifts and libations when he motioned the class to remain seated. "Webster's Dictionary," he said, "contains many definitions of the word old. Perhaps you can help me determine their validity."

He proceeded to read. Decrepit (boos), patriarchal (cheers), antediluvian (catcalls), experienced (more cheers), etc.

By the time he finished, there wasn't a dry eye in the house, including his own.

The actual festivities then began. John Friedlander, presented the (venerable? ancient?) professor with a box of fine cigars. Cookies, cake, and cider materialized.

One cake, prepared by Susan



Charles Soberman

...but the "Chad" makes merry.

Thorner, had a likeness of the professor and a Latin birthday greeting, both done with green icing upon a chocolate frosting background.

A second cake, baked by Marcia Blecker, declared in both Latin and English "Rule 7d — There shall be a birthday and a celebration." And there was.

Harvard Center Sues to Improve Public Education

Ten children who had been placed in a mentally retarded class in Boston are suing to be returned to regular classes. Retesting by psychologists has shown that the children were not retarded.

This and other cases has drawn attention to the continuing work of the Center for Law and Education, which seeks to challenge the quality of public school education for disadvantage children.

Established in 1969 by the Law School in association with the School of Education and the Office of Economic Opportunity, the Center has 11 lawyers from the Harvard faculty involved in its latest phase — litigation.

Litigation is being centered around four major areas. The center has expressed concern over the operation of Title 1, the billion dollar appropriation by which the federal government recog-

nized responsibility for the special educational needs of children from low-income families.

The second area of litigation involves testing and classification of children within schools, an area in which the Center feels there is often arbitrary action. Testing, it is said, relies too often on inadequate information and tends to harden the race and class lines which exist in the larger society.

Questions of neighborhood segregation comprise the third category, while the rights of secondary students are being assessed in the fourth litigation category.

The area of student's rights, said David Kirp, director of the Center, is one of growing importance. In Quincy, Massachusetts, high school students are suing with the help of the Center for the right to distribute literature inside the school.

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CAMBRIDGE SAVINGS BANK — Right IN the Square

Reischauer Considers Image of Japan

By Tom Mitrano

Edwin O. Reischauer, former United States ambassador to Japan and Harvard University Professor of Japanese politics and history, addressed the East Asian Law luncheon on Monday, November 30 in the wake of Japanese author Yukio Mishima's dramatic suicide. His remarks minimized the present and future political significance of extreme Japanese rightist groups.

Mishima, known throughout the world as an author and filmmaker, was recognized in Japan as a champion of right-wing values, including a militarily strong Japan ruled by an emperor embodying the "spirit" of the nation. Though Mishima's suicide

Mishima Suicide May Be Romanticized

will be considered a noble act in Japan and though it may be romanticized, Reischauer feels that it will hurt Japan's image abroad.

He also posed the question whether the "henchman" who cut off the head of the "henchman" who cut off Mishima's head would be charged with murder.

Asked about the growing desire for nuclear weapons in Japan,

Reischauer ascribed this to Japan's "fad-consciousness." He posed the problem: "Can Japan be the world's third largest economic force without nuclear weapons?" Reischauer feels that Japan's Constitution presents no obstacle. "The day there was one soldier the Constitution had been reinterpreted." However, noting his disagreement with nuclear analyst Hermann Kahn, Reischauer does not see Japan "going nuclear." Militarily, it is much more to Japan's advantage to simply rely on the U. S. umbrella, he noted.

Reischauer also said that he did not think Japan considered itself the "leader of Asian nations." Economically she feels closely associated with Asia, he noted, but Japan does not want to tie its future success to that of Asia.

Japan has a long tradition which considers interdependence immoral, and isolationism a virtue. Her success is due not to the efforts of outsiders, but to "Japan, Inc." Reischauer reported that Japan is just much more efficiently organized internally than any of her competitors.

The key to understanding post-1945 Japan, according to Reischauer, is late 19th and early 20th century Japan.

"Most of what is going on in Japan in 1970 has deep roots going back far before 1945."

As examples, he cited the nation's parliamentary organization which was fully developed by

Emperor Symbol Well Before '45

1920, but which already existed in 1880. The post-war treatment of the emperor as a symbol of Japan rather than the embodiment of the nation was already well established before 1945, said Reischauer.

Reischauer was the seventh speaker in the East Asian Law Luncheon series. Modern and contemporary Asian legal developments will be spring topics.

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Letters to the Editor of the RECORD

(Continued from Page 11)

In the real world, however, amidst the cross-currents of national, cultural, economic and racial confusions, the expression of an idea cannot be separated from the man who utters it. The one who ventures to speak out upon a controversial subject is not likely to be making an aloof observation but, rather, wishes to influence the event or circumstance in some way to satisfy his own needs for projection, or whatever. Thus, the speaker's inputs—economic, social, educational, religious, racial and psychological—are integrally bound within and form an inseparable art of his idea matrix.

It is appropriate, therefore, to examine a man's makeup, his motives, his needs, and what influences him in order to understand his utterances. Such enquiries are necessary, especially when subjects as Israel, racial integration and Viet Nam are discussed. Each man must expect that his entire credentials are to be exposed in order that his ideas may be properly evaluated. Not one of us—Fisher, Dershowitz, Babcock, and I—has any immunity to that kind of scrutiny, no matter in what language it is couched.

Only such things as $E=MC^2$ and the like cannot be expressed in Yiddish.

I. Jordan Kunik '37

Attitude on Military Obligation Scored

To the Editor:

I noted with interest Mr. Amchan's letter in the October 15, 1970 issue on how to fulfill military obligations with the minimum of danger and the very excellent reply of Mr. David C. Carrad.

The attitude of Mr. Amchan's seems to be common, at least among a number of law students since a similar article of advice in the local law paper was written by a law student at the University of San Diego. In that case,

the law student applied for officer candidate training school knowing that he had a disqualifying physical defect. Then when he was refused admission to the school, argued that he'd entered the service under a contract for officer candidate training and therefore should only serve for nine months as an officer candidate rather than the two years' draft term. He managed to serve in an easy nine months in a safe billet as a private and secured a discharge. It was a "smart aleck" article and the writer was quite pleased with his cleverness.

Regardless of one's view on foreign policy or military policy, this is hardly the model of integrity and conduct to be given prominent publicity to future attorneys.

Sherwood Roberts '38

Alum Proposes Course In Legal Reform

To the Editor:

I am writing in order to propose a new course for the law school, entitled: *Invalidating Invalid Laws*.

As the name implies, this course will be a practical, relevant, applied elective two-year course (second-and-third-years) in which the students: (1) will decide after research and discussion which statutes will be tested in court in order to challenge their validity, (2) will draft all pleadings, motions and briefs, and (3) will conduct all trials and appeals. The objectives of this course are: (1) to teach the legal research, reasoning, arguments and procedures involved in appellate test cases, (2) to provide clinical-legal experience, and (3) to achieve legal reform by changing invalid laws.

I also would like to direct this course. Anyone who supports it is invited to contact me.

Charles R. Hesser '64
6 Whittier Place (10F)
Boston, Mass. 02114

Public-Interest Job Information Available

To the Editor:

Your story on "public interest jobs" (Nov. 19) vastly understates the amount of information available in the Placement Office. There are six large looseleaf volumes containing information about legal service offices, another volume on urban development opportunities, and several on a variety of government agencies. Our information is doubtless incomplete, and we welcome any additions to what we know. We are trying to add to our stock of information, and anything we receive is promptly made available to students.

Robert Braucher,

Chairman, Committee on Placement

Grading-Policy Attack Contained Omission

To the Editor:

Although Bob Stern's letter (Dec. 3) on undisclosed grades is accurate, carefully written, and undoubtedly representative of opinions widely held, I am fearful that his omissions may create a misleading impression. As he well knows and probably thought unnecessary to state, the Faculty request that interviewing lawyers not ask students about grades affects only the summer employment of 2L students; employers who wish to do so are entirely free to inquire about all grades when interviewing 3L students for permanent employment. The Faculty request was not based on any belief that grades were less relevant than other factors in employment decisions, but were rather part of a program designed to reduce over-emphasis on first year grades.

Robert Braucher

Chairman, Committee on Placement

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Reflections at the Ripe Old Age of 25 Years

By Richard Hoffman

A twenty-fifth anniversary, and this is the year of The RECORD's silver celebration, is a time for reminiscence, revelation . . . and recrimination? Whatever the appropriate spirit, this newspaper has come a long way since its birth in 1946 unaided by the Law School powers-that-were, Dean Griswold being most unwilling to serve as midwife.

Things have changed since Messrs. Hellmuth, Porter and Sweet brought out the first edition. Deans still fume, although Dean Griswold went so far some years ago as to defend us from efforts to cut our financial throat. When I encountered Dean Bok at the RECORD dinner last week, I must admit I thought we must be doing something wrong if he felt calm enough about us to show.

Most readers know that the RECORD has a contract with the alumni association to mail issues to alumni on a group basis. For as long as I've been here, and that's since 1967, I have never known any of the alumni committee members to attempt to exercise any pressure on the editors' management of the paper.

Nevertheless the RECORD has rarely stood in the radical camp at the Law School, whatever some disgruntled readers may think. Perhaps this has been because former college editors and other newspaper types have been among the annual half-dozen or so who are willing to put in tedious but enjoyable hours doing the hard work which results in regular publication. I hope *The Outlaw* keeps publishing because the Law School needs it, but radical politics and deadlines often clash.

Since there's little profit (very very little, unlike our wealthier neighbors downstairs on the Yearbook) and renown to be won from work on the RECORD, the people who put in the effort are merely students who enjoy writing and can't get it out of their system. (The Law School still provides precious few alternative opportunities for writers, particularly within most courses.)

But the RECORD continues to be Coke and donuts (maple-iced if I can prevail) on Monday night lay-

out sessions and lovely Lesley girls dispensing the sheet Thursday mornings. Crisis is perpetual: first-year reporters vanish for months during Ames and third-year papers ensnare editors. Law professors write vitriolic letters declaring that the world has been lost and their integrity irretrievably impugned after you carelessly edit a comma from a letter.

It's been an exciting time at the Law School. The current third-year class now sees how totally the Faculty submarined pass-fail and grade reform two years ago, but this was the year which saw the triumph of the J. D. Hosannas, anyone? Things did loosen up here and hopefully the present state of calm which administrators and pundits so frequently mistake for apathy will not permit retrenchment.

Yet much has happened at the Law School which few of us have noticed. Professors change their classes and approach but Fenno makes the same tired gags about them, probably because he hasn't been to class in a decade or so. People around the Law School keep to themselves; they don't issue releases for us and we have to dig for news. Perhaps because of their search for precision in legal writing, lawyers fear being quoted or described. So they keep their news to themselves.

Few would deny, however, that the atmosphere here is much different from the prevailing currents at the time, say, of the Sesquicentennial in September 1967. Often it's just little things: Saturday classes are gone, two of the old honoraries are more or less free of that appellation. Even the *Review* is not so much a separate little law school for the few instead of you as it once was.

Still, the contents of the RECORD are up to you. It's what readers find interesting that we print. If you have an idea for an article or a tip for a story, get in touch with a staffer. And most alumni to whom I've spoken subscribe to the RECORD because it's a student paper: we run no "alumni features." Indeed, our alumni committee (despite its composition: almost all are former RECORD editors) pleads with us to run stories about the annual alumni meetings. We never have yet.

For 25 years, The RECORD has been a student paper which alumni interested in the Law School want to read. Somehow or other, the same peculiar breed of lawyer-journalists, the Ralph Naders and handfuls of others each year who edit this newspaper through crisis and snowstorm, will prevail as well as endure. One is tempted to conclude this RECORD ramble with a dash of Clarence Darrow: "I have suffered from being misunderstood, but I would have suffered a hell of a lot more if I had been understood."

* * *

Tom Stanton '70 of the Public Interest Research Group will be here Monday to speak to students interested in joining this Ralph Nader subsidiary for the summer or for a longer term. The firm's work has included projects in consumer credit ratings, environmental pollution, public access to governmental and other institutions affecting national policy, Food and Drug and FTC regulatory matters, Civil Service reform, property and income taxation. There's lots of individual initiative involved. Four of the fourteen attorneys are women.

In case you miss Tom on Monday, the address of the Group is Suite 601, 1025 15th St. N.W., Washington, D.C. 20005. I don't know why they are coming at the tail end of the interviewing season but if you ask Tom, maybe he'll tell you about some of the Placement Office regulations they must have violated last year to earn their December 14 date.

* * *

Erratum: I am told that the oralists and participants in the Ames final were responsible for the selection of the topic of the case argued. I have not recanted from my original contention: that it was an incredibly somnolent evening.

* * *

Chris Walker '69 is seeking law students interested in tax to earn money preparing returns in their spare time at home. If you're interested he has signs plastered all over the Law School.

* * *

Incidentally, this will be the last column this particular writer will submit to this publication, assuming he graduates in January per expectation. It's been real. Goin' fishin'.

Yearbook Turns Directory Into \$\$\$

By Kermit Kubitz

The HLS *Yearbook*, under the direction of Richard L. Farren, took over production of the Harvard Law School *Directory* this year.

Last year the *Directory* was put out by the Law School at a cost of \$700. This year the *Directory* made money, and how it did is a study in the psychology of the business community surrounding Harvard.

Farren's ten-man advertising staff collected commissions of twenty-five per cent and of thirty per cent in cases where an exceptional job was done. Besides friends of the editor and the two business managers of the *Yearbook*, members of the advertising staff were enlisted at a smoker held at the beginning of the year.

They sold \$5600 worth of ads, compared to a previous high of around \$2070. Total costs for the *Directory*, including printing, \$1900 in commissions (for an average rake-off commission of thirty-three per cent) and secretarial costs of \$600, will be about \$4100.

Farren expects \$400 in bad debts and says \$1000 will go to

subsidize the *Yearbook*. Otherwise, the \$1200 in photography costs that the *Yearbook* will incur would come out of the profit that it will presumably make.

"We paid six dollars per hour for very good secretarial work," said Farren, "and besides, we don't want to exploit labor."

The *Yearbook* editor explained that the *Directory* has always had ads except for last year. Prior to 1967 the *Directory* was put out by the Law School Committee of Phillip Brooks House which underwrote it yearly to the tune of \$200-\$500. That committee dissolved in 1967-68. The Dormitory Council took it over and lost money that year. Farren expects the *Directory* to continue to be put out under the auspices of the *Yearbook*, and is appointing a business manager for the *Directory* next year.

"When you're going under, advertise," seems to express the feeling of the Harvard business community when approached by representatives of Harvard media. Barbershops have been hit by the business downturn and the fashionability of long hair. One barber told an adman of having given only two haircuts all day.

"This'll show you how much business I'm getting," said a dry-cleaner who had a miniature putting green set up in the lobby of his store.

Shoemakers and sub sandwich shops have also been hurt. But attitudes differ. One sub shop said that because business was so bad he could not buy space. The owner of another nearby shop would increase advertising in hard times. Where affluence still reigns, as at several downtown restaurants, the mere mention of the Harvard name still prompts purchase of large ads, no questions asked.

The difference in attitude may be evidence that the smaller businesses have used up their advertising budget. Each merchant visited was found to have a specific and limited amount for advertising, and in the immediate Harvard area, twenty different advertising media compete for the businessman's money.

One hardware store owner was outraged because the *Directory* had no advertising last year and came out late this year. Apparently he had advertised for years and obtained a lot of business at the beginning of the year from the one-half to two-thirds of the students who live off campus.

Most merchants indicate advertising in the *Directory* is effective because students use it all year. However, there is evidence to the contrary. Bence Pharmacy has had the numbers of two pay phones at the store appear in their ads for years to see if anyone read the ad. For ten years, they claim, no one has called.

Law School Sherry Party

Friday Afternoon, December 11, 1970

4 to 6 p.m.

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Faculty — Staff — Secretaries — Students

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