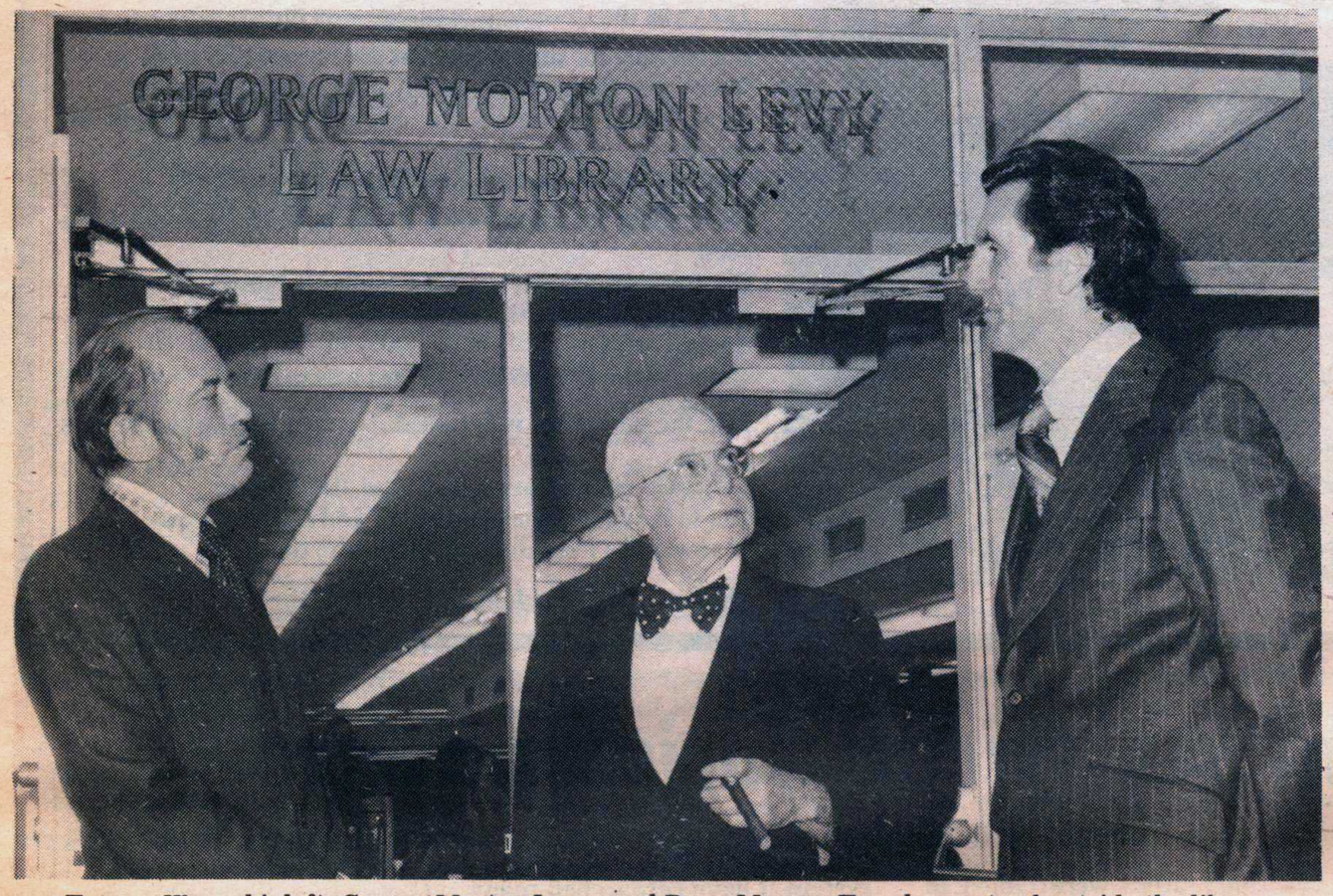
HOFSTRA UNIVERSITY SCHOOL OF LAW

CONSCIENCE

The Hofstra University School of Law Newspaper

Volume 1, Number 2 | "Asking you to ask yourselves . . ." | November 16, 1973



Eugene Wypyski, left, George Morton Levy, and Dean Monroe Freedman stand outside the library during a recent visit by Mr. Levy here.

Law Review Going to Press; Ready a December Issue

by Barry Rubin
and Norman Kent

Last spring the inaugural issue of Hofstra's Law Review was released, two months before the charter class was even graduated. A laudable achievement in itself, this year's review is growing, intends to publish twice, once next month, and again in May. The law review will be the culmination of a summer and semester's work of Hofstra's best. It promises to be even a larger and better issue than the first.

Ralph Stein, the law Review's Editor-in-Chief, indicates that this year's issues will cover varied topics. The first issue is due in late December and will be a general issue. The second issue due in May will be devoted entirely to products liability and will be dedicated to retired Chief Justice Roger Traynor of the Supreme Court of California, who has written a number of significant decisions in the products liability area.

Comprised of 38 members this fall, including 24 members of the Class of 1974, the Law Review has a two fold committment to the Law School. "In general our committment is to continue to publish a scholarly journal and to increase our frequency of publication. We feel that there are people in the student body who have a substantial contribution to make," explained Mr. Stein.

In last spring's inaugural issue lead articles were submitted by retired Associate Justice of the United States Supreme Court, Tom C. Clark and Arthur J. Goldberg, former Associate Justice of the United States Supreme Court. The Review gained national recognition though, when a casenote prepared by Mr. Stein dealing with the case of **Laird v. Tatum**, and military surveillance of lawful civilian activity, was inserted in the Congressional Record by Senator Sam Ervin of North Carolina.

The upcoming December issue of the Hofstra Law Review features two lead articles. Professor Abraham P. Ordover, of the Hofstra School of Law Faculty, who earned his J.D. at Yale, has written an article concerning expert testimony in complex litigation. A second lead article has been prepared by Maurice Nadjari, the Special State Prosecutor of government corruption. It is the first time Nadjari has written anywhere about his new job. The Law Review will also contain the best of student writing. Rhonda Bayer's, "Procedural Aspects of Prisoners' Rights litigation," and Maryann Desmond's "Mediation Alternatives to Medical Malpractice litigation in New York'.s first Judicial Department," are included. Another interesting piece is co-authored by Steven Baderian and Bruce Miller on the "legal historical view of the problem of open beaches." The Law Review staff however, voted to retain the practice of printing student case notes without name credits.

Editor-in-chief Stein emphasized the importance of the Law Review in spreading the name of Hofstra Law School. "Our first issue drew over 300 complimentary letters from jurists and law school deans. Without a doubt it has put Hofstra on the national map and tends to reflect favorably on the student body," asserted Stein. The first issue's editor-in-chief was John J. Farley III, a June 1973 graduate.

Thus far, Hofstra Law Review has been funded directly by the University Board of Trustees with a $15,000 allocation. Editor-in-chief Stein indicates that more money is needed. "It's not nearly enough. We try to get other funds through subscriptions and fund raising. I have sent proposals to

(Continued on Page 8)

Abraham P. Ordover
Writing an article

HOFSTRA LAW REVIEW
NOVEMBER, 1973
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Father and Son Receive Hofstra's Scholar Award

Hofstra University's School of Law selected the eminent philosopher Dr. Paul Weiss and his son, Jonathan Weiss, a prominent attorney specializing in legal services for the poor, to give the School's President's Inaugural presentation, "Law and Ethics," on Wednesday, November 14 at 2:30 PM in the Monroe Lecture Center.

The Weisses are co-authors of the book, **Right and Wrong: A Philosophical Dialogue between Father and Son.** During the formal inauguration of Robert L. Payton as fifth president of Hofstra yesterday evening in the Hofstra Playhouse, Paul and Jonathan Weiss received the silver medallion being given to the recipients of the Hofstra Faculty Distinguished Scholar Award.

In discussing their selection for the Award, Law School Dean Monroe H. Freedman stated: "Paul and Jonathan Weiss were singularly appropriate choices as our honorees. As a philosopher and an activist attorney, they represent the relationship of thought and action, the dependency of law on its foundations in morality. As thinkers and participants in public affairs, they offer informed and original perspectives on the critical issues of our times. And as father and son, they span the generations, emphasizing the timelessness of the search for knowledge and justice."

Dr. Weiss is Sterling Professor of Philosophy (emeritus) at Yale University, Heffer Professor of Philosophy at Catholic University, and a past president of the American Philosophical Society. He earned his B.S.S. at CCNY, and his A.M. and Ph.D. at Harvard University. His published works include **Reality, Nature and Man, Man's Freedom, Modes of Being, Our Public Life, The World of Art, Nine Basic Arts, The God We Seek,** and **Philosophy in Process.**

Jonathan Weiss is currently Director of New York's Legal Services for the Elderly Poor, having served previously as Managing Attorney of Mobilization for Youth Legal Services, and Managing Attorney of the District of Columbia Neighborhood Legal Services. Mr. Weiss has also been associated with the Solicitor's Office of the U. S. Department of Labor, and the Columbia University Center in Social Welfare Policy and Law. He earned his A.B. at Yale, attended Chicago Law School, where he was elected to the Law Review, and completed his J.D. at Yale.

In addition to their presentation, "Law and Ethics," the Weisses discussed two other topics during their two days at Hofstra: "The Responsibilities of Judges, Lawyers and Juries," and "The Nature of a Constitution." Both were well attended by scores of Hofstra Law Students.

CONSCIENCE
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"Asking You to Ask Yourselves"
Senior Editor—Norman Elliott Kent
Associate Editor—Lester Paverman
Business Manager—Alan Stauber

Editor's Oriel

It is not in my nature to ask for aid. Those who would enter the water must be prepared not only to swim, but to tread in steep waves. Yet, metaphorical music alone cannot put out a newspaper. We need your help.

We're looking for persons ready to do in-depth, investigative reporting, individuals winning to sell advertising at a 10 per cent commission, columnists prepared to test their thoughts against the reality of publication. So again we invite your participation in this growing enterprise boldly entitled CONSCIENCE. And to all those who have deprecated the name, a sin on your soul, and plague on your breast.

Seriously, though, I thank you for the overwhelming positive response to our first edition. We will try to be a responsible voice within the legal community, highlighting events within Hofstra, and touching the realities beyond.

Your support, your aid, and your suggestions as to new bow ties are always welcome.

—Norman

THAT WAS THE PRESIDENT
by Phil Ochs

Oh, the bullets of the false revenge have struck us once again,
As the angry seas have struck upon the sand.
And it seemed as though a friendless world had lost itself a friend;
That was the President, and that was the man.

Oh, I still can see him smiling there and waving at the crowd,
As he drove through the music of the band.
And never even knowing no more time would be allowed,
Not for the President, and not for the man.

Here's a memory to share; here's a memory to save,
Of the sudden, early ending of command.
Yet a part of you and a part of me was buried in that grave.
That was the President, and that was the man.

It's not only for the leader that the sorrow hits so hard,
There are greater things I'll never understand.
How a man so full of life, even Death was caught off guard.
That was the President, and that was the man.

Everything he might have done, and all he could have been
Was proven by the troubled traitor's hand.
For what other death could wound the hearts of so many men?
That was the President, and that was the man.

Yes, the glory that was Lincoln's never died when he was slain.
It's been carried over time and time again.
And to that list of honor you may add another name,
That was the President, and that was the man.

That was the President, and that was the man.

Surveying Current American Jurisprudence

By Mitch Gilbert

IF IT PLEASE THE COURT

The judicial system in the United States is one of the most puzzling and least understood institutions in western civilization. Almost every aspect of our everyday lives is in some way dependent upon our legal system, or upon the economic climate of Ceylon. The latter subject has been exhaustively treated in Professor Schnell's (pronounced Goldstein's) work, entitled "The Fabric of Ceylon's Economy," or "Celanese Fortrel."

Without courts our constitution would be a worthless piece of paper, our political system a travesty, and our social relationships unenforceable, not to mention the 30,563 bailiffs that would be out of work. It has been said that artists have shed the most light on painting, while poets have best explained the art of poetry. In order to learn, firsthand, about the intricacies of our court system, I have sought the knowledge of those most closely connected with it, namely judges, lawyers, clerks, reporters, and Raymond Burr. As a result, I have been able to make some sense out of the American judicial system, as well as being introduced to Paul Drake's hair colorist. What follows is a brief explanation of the most important aspects of American justice.

No other court in the country is as prominent or politically important as the United States Supreme Court. No judicial appeal is available after the Supreme Court. It is the final interpreter of the Constitution, save President Nixon's belief. My first interview took me to the home of the noted constitutional scholar and part-time bagel baker, Otto Schlemmer. The professor's butler invited me into the study, and kindly asked me to wait. Fifteen minutes later, Professor Schlemmer entered with his wife and a tennis racquet under his arm. After several minutes, however, he put his wife and the tennis racquet down, and suggested we begin with the interview (or the interrogation, as he called it, clearly displaying his charm and quick wit).

My first question to the professor was why the judicial system is so incomprehensible to the layman. In his typically lucid manner, Professor Schlemmer explained that "the confusion concerning justiciability encompasses the judicial aspects of justice, vis-a-vis adjudication, or resolution, of justiciable issues." It wasn't until several hours later that Schlemmer's explanation hit me like a ton of bricks . . . either that, or his wife's blintzes started exploding in my lower digestive tract.

My next interview proved just as enlightening. Justice Herman Lipschitz graciously invited me into his chamber. Fortunately, I escaped before he turned the gas on. He later apologized and fixed me up with his eldest daughter, a gesture I found most unusual, especially since I knew the judge had no children.

Judge Lipschitz proved as gracious a host as he was a fisherman, the point of which escapes me. At any rate, I asked the judge if he subscribed to the principle of stare decisis. His Honor confided that he did not subscribe to any periodical, but purchased "True Confessions" at the newsstand. I blushingly inquired if he believed in relying on precedent. When the judge replied that he did, but only when a Republican was in office, I gave up on the question, and realized I had learned as much as I was going to from His Honor.

The subject of juries has always fascinated me, as has the method of putting stripes in certain brands of toothpaste. They (juries, not toothpastes) originated in England during the Middle Ages. If you recall, the Middle Ages were between the High Ages and the Low Ages. At any rate, jurors were called to testify at trials, and were actually witnesses who were forced to give testimony. Gradually the use of jurors changed, giving them the right to participate in the decision-making. The right to trial by jury was part of the English heritage that colonists brought with them to America. In fact, it has been said that many a happy hour was spent aboard the Mayflower, convicting Pilgrims of assorted felonies.

Mitch Gilbert

Because of the extremely important role of the jury in the American judicial system, jurors must be impartial in their decision-making. Each litigant has the right to challenge any member of the jury for cause, and has the right to at least three peremptory challenges. Occasionally these challenges are not totally justified. Recently, a litigant in Biloxi, Mississippi complained that there were too many blacks on the jury, this despite the fact that the jury consisted of eleven members of the Partridge family and an albino.

In my desire to learn as much as possible about the role of the jury in the American court system, I have researched many pertinent legal decisions. A case in point is Mighty-Fine vs. Kraslinsky. This landmark decision clearly illustrates the involvement of juries in deciding important social issues. The decision in Kraslinsky guaranteed the right of Russian immigrants to eat vanilla pudding on three-day weekends. Many judges tend to strongly favor jury trials, and more than one (but less than three) have joined an encounter group after both parties have waived their rights to have a jury hear their case. I asked one appellate court justice, known for his strong support of juries and his incredibly bad toupee, if he thought the role of the jury should extend to every type of judicial proceeding. He answered that they should take part in all pre-trial events. I then inquired if His Honor enjoyed pre-trial hearings. He smiled, and confided that he personally loathed them, and preferred some kippered salmon on a piece of stale egg matzoh.

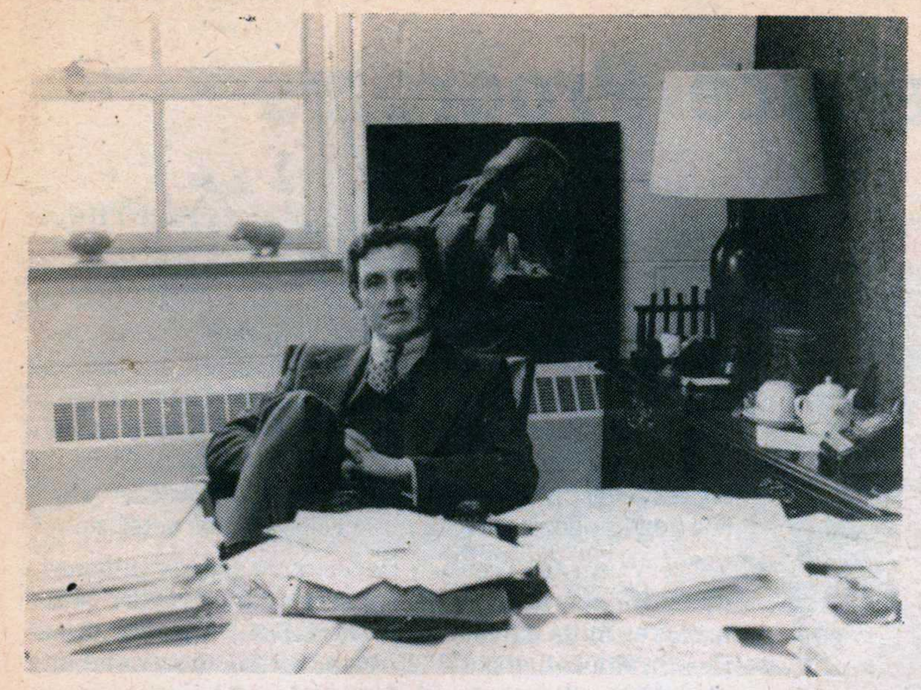
The instructions that judges give to juries are themselves quite interesting. During one trial I attended, the presiding judge, Mortimer Crenshaw, instructed the jury to find for the plaintiff unless the defendant was contributorily negligent. He also instructed the jurors to refrain from picking their noses during cross-examinations, a habit which, according to the judge, should be reserved for the summations and sentencing.

Most people feel that it is their civic duty to serve as a juror, and willingly give up their time to sit in the jury box when called on to do so. A few believe that such an exercise is a waste of time and become indignant at having to serve. I remember hearing of one man in Sacramento who became furiously angry because he was chosen to serve as a juror on August 26, 1971, particularly since there was no trial scheduled for that day. But, as Professor Corey so aptly points out, so what?

Sentencing in criminal trials is another fascinating aspect of the American judicial process. My studies of judicial sentencing behavior have shown that judges differ greatly in the harshness of sentences. In passing sentence judges usually consider the crime the defendant has been convicted of, any previous convictions, various rehabilitative measures, and the color of the defendant's hair. The judge usually exercises a lot of discretion in passing sentence. In rare cases a sentence may be changed on appeal due to its severity or lenience. In one recent case, Judge Nat Henke sentenced a convicted pretzel vendor to be tied to a Ukranian dwarf while three tailors stuff saddle soap in his ears. On appeal, the sentence was found to be too harsh and was reversed . . . the Ukranian was tied to the saddle soap while the vendor stuffs the three tailors in his ears.

In recent years charges have been made that judges arbitrarily pass sentences which bear no relation to the crimes committed. One judge was accused of gross misconduct when he looked at the courtroom clock, saw that the time was 4 minutes to 12, and sentenced a man convicted of extortion, sodomy, and pasting "Kosher for Passover" labels on chumetz, to 4 to 12 years in the state pen. The charge was hastily dismissed for lack of evidence. However, the same judge had a more difficult time explaining the next case, when he sentenced a man to a quarter past two.

These few insights into the workings of the American judicial system clearly illustrate the complex, interesting, and, as one legal scholar has articulated, farshtoonkenah nature of the system. I hope that I have shed some light on one of our most enigmatic institutions, and how it affects American culture.



Monroe Freedman relaxing in his office.

The Dean's Column

Ethics of Advocacy:
The President's Lawyer and the Watergate Tapes

A recent article in the **New York Times** reports that Professor Charles Alan Wright, who is a leading authority on constitutional law and civil procedure, has been accused of improper conduct in serving as counsel to President Nixon. According to the article, the criticism is on two points: first, that he got "involved in the Nixon case in the first place;" second, that he represented to the court (erroneously, as it turned out) that all the tapes would be turned over.

The first seems easily answered. As Dean Page Keeton observed with respect to Professor Wright's representation of the President, everyone is entitled to a lawyer, "no matter who he is." Nothing is more subversive of the adversary system, and of its fundamental correlate, the right to counsel, than the notion that the lawyer is one with the client. And this must be true whether the client is a narcotics pusher, an unkempt protester, a disreputable politician, or (Ralph Nader please note) a polluter of the environment. Indeed, particularly in the matter of the tapes, it was important that the President's side of such a momentous constitutional issue be presented with the quality of advocacy that Professor Wright was uniquely capable of providing.

There is an interesting irony here, however. According to the Code of Professional Responsibility, DR 7-106(C) (4), it is improper for an attorney to assert to a court "his personal opinion as to the justness of a cause (or) as to the credibility of a witness." Professor Wright did not do that in court, but on a number of occasions—in the mass media and in a way that would inevitably come to the notice of the courts—he has stated his personal view of the President's credibility and of the justness of his position.

The stricture of DR 7-106 against expression of the lawyer's personal view is, in my judgment, wrong. There are a number of contexts (the case of the President's tapes being one) where it would be impracticable, bad tactics, and-or contrary to the personal moral commitment of the attorney, to refrain from conveying a personal opinion regarding the client's cause or credibility. For example, if Professor Wright is asked by a reporter whether he now believes the President has been lying about the tapes, a terse "no comment" might rate a headline or a speculative column adverse to the client's interests.

This produces a difficult dilemma—one that supports the prohibition of DR 7-106, but that was not noted by its drafters. I have suggested that effective advocacy and other considerations may require a lawyer to vouch for the client's cause or credibility. The problem with this is that when the laywer does voice a personal opinion in support of the client, the desirable distinction between lawyer and client cannot be maintained with clarity. Thus, in advancing one value—i.e., effective advocacy—the lawyer sacrifices another value—i.e., maintaining the distinction between lawyer and client.

In sum, despite DR 7-106 and the meritorious rationale underlying the proscription against expressing personal views, I do not think Professor Wright can be faulted for saying publicly, "I believe the President." But the public cannot then be faulted for condemning the attorney if that expressed personal judgment should prove to be erroneous.

The second point made in the **Times** article suggests that Professor Wright would be guilty of professional misconduct if he discovered that the President had committed a fraud on the court with regard to the tapes, and if Professor Wright did not then reveal his client's fraud to the court. The reference is to DR 7-102(B) (1):

> A lawyer who receives information clearly establishing that: . . . His client has . . . perpetrated a fraud upon a . . . tribunal shall promptly call upon his client to rectify the same, **and if his client refuses or is unable to do so, he shall reveal the fraud to the affected . . . tribunal.** (Emphasis added)

That is, despite the traditional relationship of trust and confidentiality between lawyer and client, the lawyer would appear to be required to violate the client's confidences and become the client's chief accuser.

That, at any rate, is the way the American Bar Association promulgated the rule. Fortunately, the Bar of the District of Columbia did not adopt the Code of Professional Responsibility in the mindless fashion that too many Bars have done. Instead, the D.C. Bar adopted five amendments along with the Code, and the one that received the largest vote of all—almost 75 per cent, in fact—was the amendment eliminating the italicized clause from DR 7-102 (B) (1).

Thus, in the District of Columbia, where Professor Wright served as the President's lawyer, it is not required that an attorney betray the trust of confidentiality between attorney and client. —Other jurisdictions, including New York, should take note.

Harvard Law Students React to 'Paper Chase'

Norman Elliott Kent

I'm not sure what it is I like so much about Cambridge. Maybe it's the red and gray cobblestones on sidewalks and streets, reminding me of an America that once was. Or perhaps it is the ivy that climbs the walls of Harvard buildings. Maybe it's the moving environment, at once communal and concerned, free and exploratory . . . people willing to touch. I had forty-eight hours to absorb its invigorating essence.

How days become minutes browsing through the endless stream of bookstores. An incalculable assortment of a world's conscience quietly stored on ancient shelves—from Grolier's handsome collection of poetry to the Star Bookshop's vast selection of transcribed antiques. Who can pass by the square and not be drawn toward the Pangloss Bookshop, that veritable institution of foreign thought? Who can not be reminded of the shop's namesake—Voltaire's Candide, and the world only as irredeemable illusion sees it?

A simple walk across campus, amidst falling leaves and naked trees is itself an intoxicating experience. The vital elixir is the esteemable heritage. The cold winds are an inspiration. On to the Harvard Law School, the nation's academic fishbowl, transparent and inviting, yet exclusive and reserved. An inordinate amount of time, I think, is wasted trying to probe the psyche of Harvard Men (and it is mostly men), as if their collective conscience was determinative thought for a troubled nation. "Paper Chase," that movie about first year law students at Harvard, is a prime example. Unwittingly, I became another.

Wondering how Harvard Law students reacted to a movie about themselves, I began thinking there just might be a story in this alluring sequel to 'Love Story.' And there was. Of the 21 students I talked with, 13 hadn't even seen the movie. Turns out most of the film was shot in Toronto. Less than a week was actually spent in Cambridge.

"Hi, my name is Norman Kent, and I'm a student at Hofstra Law School in Hempstead, New York, and I'm doing a story for our school paper on Harvard Law students, and their reactions to the movie "Paper Chase." Have you seen the movie?"

"Hofstra? I've been there. I went to Chaminade High School in Mineola, and I live in Roslyn."

Can you imagine that? I really can't escape Long Island. Students come to Harvard from across the globe, but inevitably I meet first a Long Islander. Wally Christensen, a second year law student, thought the movie was "pretty funny" and "entertaining." Not many people disagreed.

Now I was sure Roger Wilson and Bob Ryken were first year students. As they sat down in the student lounge, Kadish and Paulsen were in their hands. I introduced myself to the Dartmouth and the University of South Dakota A.B.'s, respectively. Both second year students—that's 2L in Harvard lingo. I discovered that Kadish and Paulsen were just weekend guests. "South Dakota," I said aloud, "that's McGovern country." Fond memories of elections past.

Bob suggested that the caricatures of "Paper Chase" effectively captured and accurately represented moods of Harvard Law Students. "Elements of everybody are in it," he said, "It parallels the first year experience." Roger wanted to find the movie entertaining, but complained that it was misleading. "All the profs are not domineering and insulting, the study group was a fiction, and the characters were one dimensional."

Bob and Roger agreed that many of the students cared about each other at Harvard. They even have a sense of humor. The Harvard Law School Drama Society will soon be performing a satire entitled "The Paper Waste."

It's hard to avoid truths though. They have a way of rising to the surface, cutting through superficial layers, and confronting you right up front. In 1971, at Harvard Law School,a student did commit suicide. The movie was not so fictitious. The student's corpse was found only when its stench began to corrupt the odor of the dormitory. Five days had passed. "What price prestige," I asked one professor, who politely responded that the law school met this student's death with a dramatically revised curriculum, and scattered exam schedule.

"What's your opinion," analyses are never too provocative, and the interviews soon became wanting. Of course, there were the foreign students of Harvard Law who wanted to discuss only the sexual frustrations of Harvard men, but I told them 'some other time.' Generally, I was enticed by everyone's openness. Candor seems to be communicable in Cambridge. We should all so suffer.

Margaret Montoya-Oldham gave me spirit to continue the interview. This feminist from San Diego is a close friend to Mr. Morgenheimer of Hofstra vintage. Margaret was powerful in her perception: "The movie didn't deal with women at all. It was tremendously insipid and extraordinarily shallow—not even an old twist on a new theme." At last, I thought, an articulate advocate with a definable proposition—something to add flavor to this story.

Margaret pursued her caustic commentary with vigor: "Not even the traditional male is as one dimensional as the movie's protagonist; the picture had the touch and quality of home made movies." I don't know, I always liked Kodak. But there it was, a devastating analysis of a picture so lacking in depth, why even a hollow analysis would be an accurate one. Against that scenario, Margaret's percipience should be applauded.

Law goes beyond the fantasy of a love affair with your professor's daughter; it is not a midnight entry into a library for your professor's class notes. Admittedly, it is too often students fatally immersed in law texts to the point of sensual oblivion, and only there lies the picture's accuracy. Otherwise, it dealt with fiction and fantasy, rather than truth and realism. It was one-dimensional, insipid, and embarrassing. Hmmm, come to think of it, it may have been a too accurate portrayal of legal education. I hope not.

You'll have to make up your own mind. Between Amy and that awesome, five foot tall portrait of Oliver Wendell Holmes in the Pound Annex, I really don't care about Paper Chase. Ah,. if I had my way, I would throw you naked to the cobblestones.

The Male Nude

NOVEMBER 1 – DECEMBER 12, 1973

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The Destruction of Legal Service Programs

Paul O'Dwyer

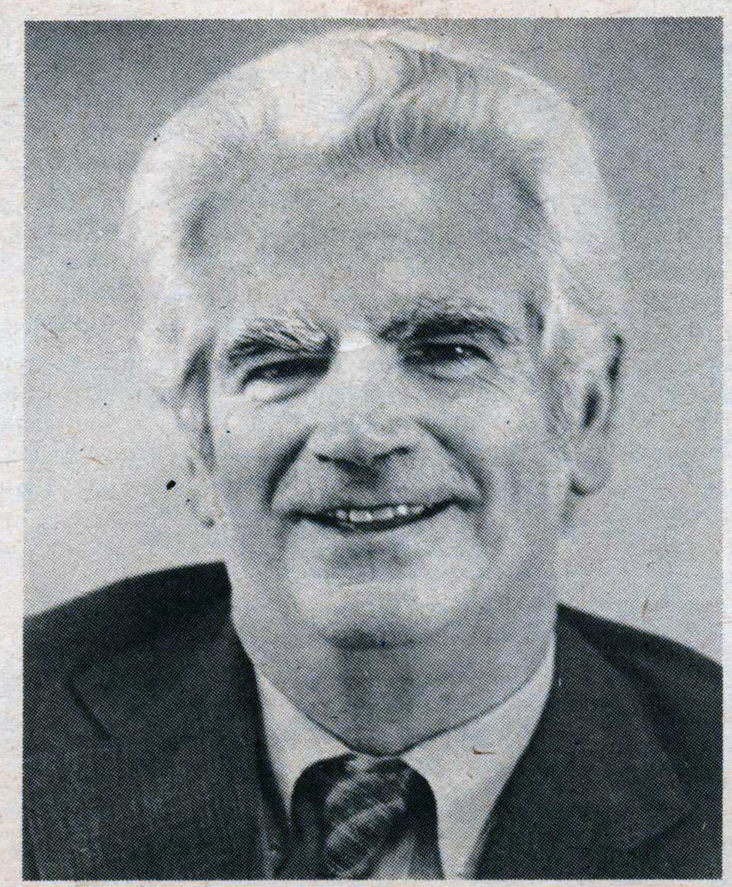
Today's law school graduate is in the enviable position of being able to choose between a well-paying assignment in one of the many government departments or an equally-lucrative spot with a private firm. The single practitioner has practically faded from the scene and the void is felt by many whom he served for a modest fee. There was a time when at least a percentage of our impoverished population had access to the single practitioner, the lawyer who built his skill in fighting for the right to have justice come to the gullible and unwary so often victimized by the unscrupulous, or those who surrendered to the blandishments of the slick advertiser. But that lawyer is no longer around and the necessity to protect the simple-minded is so great that television and radio stations compete for public attention by rendering a service to victims of over-reaching merchants. And because of the implied threat of exposure, their efforts have met with a measure of success.

The Legal Aid Society, a time-honored body, has performed admirably—particularly in the field of criminal law, but they are swamped by the caseload which each lawyer must carry and they are over-powered and frustrated.

The Center for Constitutional Rights, the Emergency Civil Liberties Committee, the N.A.A.C.P., the American Civil Liberties Union and the National Lawyers Guild have each made admirable contributions in the fight to maintain constitutional guarantees particularly during the Joe McCarthy period. But by in large, these efforts were on behalf of men who had defied bad laws or who resisted legislation which would have undermined our national heritage. That still left millions of people who were each day denied the law's protection and to whom high sounding phrases about our system of justice and its all-encompassing features were but so many hypocritical phrases.

The records of two publicly funded law organizations give us some idea of the extent of this neglect and point dramatically to how little the promised protection of the law means to so many of our fellow citizens.

A study by the Office of Economic Opportunity two years ago revealed that in Brooklyn alone, 49 per cent of the population or close to one and a half million people are living below the government-established poverty level. The legal needs of this vast population were tended to under an O.E.O. program which permitted a staff of forty-three overworked lawyers under the dedicated leadership of Richard Huffman and Margory Fields. They were sustained by a minimum salary and a maximum



Paul O'Dwyer

dedication. Even that feeble effort ended due to cutbacks announced by the national administration. On July 1st, the highly-respected Brooklyn Legal Services Corporation on Court Street closed its doors. In Manhattan, the prestigious Mobilization for Youth, another O.E.O. project, is about to suffer a similar fate by reason of national policy. The highly controversial matching funds proposals are offered as a future substitute and long before new plans can possibly come into being, the ones now working will have gone into oblivion. Score another victory for the war against the poor.

It would be error to think that in our communities the poor is synonymous with blacks, Puerto Ricans and Latins. There are over 750,000 Jewish across this nation, according to a study made three years ago by the American Jewish Committee and the bulk of them are the elderly poor whose struggle for better working conditions at an earlier period did not include adequate pensions. Even Orientals and Greeks, long known for their industry, are complaining that the law ignores the plight of their distressed.

What does the majesty of the law mean to millions of Americans who are advised on national holidays that the law is no respecter of persons and treats rich and poor alike. In what manner does the fourteenth amendment have any meaning for them? Even those of us who feel so deep a commitment to the first, fifth and fourth amendments must realize that the learned language from the highest court must sound like so much discord for which our young people have a most colorful characterization.

Every year the Treasury Department spends millions to advertise the rather unethical service they render to the taxpayer in its extraction process. But I have yet to see Health, Education and Welfare advertise the availability of rights to the aged or infirm under old or new enactments. The result is that millions of Americans do not know about social security, medicare and medicaid benefits which are theirs for the asking.

The destruction of O.E.O. programs, which the people have just begun to understand is as stupid as it is dangerous. "The thirst for liberty increases," said O'Connell, "as each drop falls on the parched lips." It is as ill advised as it is callous for our national government to ruthlessly abandon the policy of bringing the improverished under the protective wings of our laws.

Law Day was born to distract attention from marching discontented people who had selected May first as an occasion when people all over the world could gather to air their grievances against a society insensitive to their complaints.

"We hold these truths to be self evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness."

So spoke our political fathers two centuries ago. And we who are lawyers had better read it well. For into our special hands it has been delivered as a covenant and we have a special obligation to cherish it. It is a plant which received its first nourishment from the blood of patriots who were sincere believers in the equality of men. If we receive the blessings it brought us and not insist that the law's protection be extended to the most humble among us, as they intended, we shall have infected that living organism with the cancer of neglect and we shall have brought shame to ourselves and dishonor to our sacred birthright.

(Paul O'Dwyer, recently elected to the Presidency of the N.Y. City Council, delivered this speech to the American Trial Lawyers Association on Law Day, 1973.)

Legal Services: 'Gaining Access to the Courts'

Judge Jack Weinstein

It is with great pleasure that I appear before you today to testify on the subject of legal services. This is a subject with which I have been long concerned. As County Attorney of Nassau County, I set up the neighborhood legal services program in Nassau and was first chairman of its board of directors. Later, in my present position as Federal District Judge in the Eastern District of New York, I presided over the hearing of a major test case welfare litigation brought by one of the so-called "back-up centers" in this City.

I would like to address my remarks to the role I believe that the legal services program has played, and can continue to play, in the administration of justice in this country. This role has two aspects—first, the need to effectively deliver justice to large masses of people, and, second, the needs of the courts that must be met to be able to dispense justice on such a mass basis.

To place the problems of administration with which the courts are confronted in their proper perspective, one must realize that the model on which the American legal system is based—the English court system—was developed essentially to meet the needs of a very small portion of the population; for example, those relating to property transfers of the ruling classes. Today, in this country, the need is to assure effective delivery of justice to society and to make legal services equally available to large masses of people. Particularly since World War II, we have experienced a quiet and relatively peaceful revolution in this country as the law has become more compassionate and the guarantees of equality and due process have begun to be realized.

In the criminal area, the rules of the United States Supreme Court and some of the states now require warnings, provision of counsel, suppression of illegally obtained evidence and the like, and equal treatment of rich and poor, black and white, minorities and majorities. Much the same is true on the civil side, a principal example being the class action, which is designed to protect consumers and people with relatively small claims.

However, unless we are going to merely pay lip-service to the Constitution and our democratic ideals, the means must be provided for everyone, including the poor, to vindicate these rights and secure these protections. Legal Services, I believe, has gone far to achieve this objective, since it is this program that enables the poor to achieve access to the Courts. As a note in the Harvard Law Review has put it, "With startling suddenness the legal profession has recently come to realize that a society can guarantee equal justice only by providing all citizens with equal effective access to the institutions by which justice is obtained and that for millions of Americans the unavailability of lawyers' services has made justice unaccessible."

The second aspect of the contribution of legal services lies in the highly professional quality of the services that they render. One cannot underestimate the dependence of judges on the attorneys who appear before them. When counsel comes into Court fully prepared, delineates the issues to be decided and then thoroughly briefs those issues, it goes far towards assuring that the Courts will operate efficiently and effectively.

It has been my experience that legal services attorneys have consistently met the highest professional standards in this regard. The zeal with which they represented their clients was matched by their performance in the courtroom.

The Nassau County program, which I referred to earlier, has demonstrated that such praise is warranted. The program has averaged 3,100 new cases a year in a variety of areas affecting the poor—consumer fraud, employment, housing and family problems. Illustrative of this program's contributions is a recent case prepared exclusively by the Nassau County office, which eventually reached the United States Supreme Court, challenging a New York State law respecting the distribution of textbooks in the public schools, brought on behalf of school children who were denied textbooks solely because they were unable to pay the textbook rental fee required by the school district.

The test case welfare litigation that I presided over on the district court level as a member of the bench similarly demonstrates the assistance to the courts that can be rendered by legal services. This law suit, **Rosado v. Wyman**, raised a legal claim on behalf of a million poor people in the State of New York, a claim which was ultimately upheld by the United States Supreme Court. The case gave rise to major substantive and procedural issues, issues which had to be resolved in a short amount of time owing to the serious injury that the plaintiffs' were suffering. The counsel that appeared for the plaintiffs, attorneys from the Center on Social Welfare Policy and Law here in the City, produced the type of work that one usually associates with the largest and most respected law firms in the private sector—extensive briefing, plus oral argument and the presentation of evidentiary data and live witnesses, respecting complex issues in a specialized field, and all done within a very rigid time schedule.

In sum, it has seemed clear to me, first as a practitioner and later as a judge, that the merits of legal services should not only be judged by the benefits gained by individual clients of the program—which are by no means insubstantial—but also by the role it plays in the administration of justice in this country. Viewed in this light, at a time when our courts are in the throes of a severe crisis, with public confidence in their ability to respond to the demands of today's society rapidly diminishing, it would seem to be the height of folly to allow this program to be emasculated.

Marilyn Sloane (standing), Harvey Spizz (sitting left), Geri Moore, and Chuck McEvily at the Main St. office of Hofstra's clinical legal education program.

Hofstra's Neighborhood Law Office

by Norman Elliott Kent and Lester Paverman

The elective second and third year curriculum at the Hofstra School of Law provides an opportunity for students to participate in a clinical legal education program, the Neighborhood Law Office. Established the same time the law school opened, in 1970, the clinical learning experience enables students to interview clients, analyze cases, prepare legal memorandums, and in some instances, go to court on behalf of their clients.

Located in the center of the Hempstead community, at 73 Main Street, the office is administered by faculty professors David Kadane and Harvey Spizz, office counsel Marilyn Sloane, law intern Chuck McEvily, and legal secretaries Geri Moore, Pat Joseph, and Tanya McDougald. The Community Legal Assistance Corporation (CLAC), as it is officially entitled, provides indigent clients with legal representation at no fee.

Students electing the two credit NLO I course spend seven hours a week in the office, and two hours each week in a classroom seminar. NLO II students elect the program as an 11 or 8 credit course, and spend thirty-two hours per week in the second floor office. Currently, there are 24 students enrolled in NLO I, and 15 in NLO II.

"Students are doing the same thing here that they will be doing once they pass the bar," says the mustachioed Spizz. "This isn't a model of what a law office will be like, as some people mistakenly believe. This is a law office."

Unlike Spizz, who works full time at the office, Professor David Kadane has teaching responsibilities at the school as well. "The practical learning experience is a very valuable one." says Kadane, "For too many students passing of the bar and subsequent exposure to the legal profession becomes a culture shock they cannot absorb."

Mike Berns, an NLO I student agrees: "Working in the office gives you real, first hand experience; the law comes together. Classroom theory becomes practical application," he said.

Paul Hearne, of NLO II vintage, asserts that his two semesters at NLO have prepared him "to cope with the frustration and fruits of legal practice."

Essentially, NLO's clients are the poor of Nassau County, defined as those who fall within income limits as measured by the U.S. Bureau of Labor Statistics lower income levels (approximately $7800 per annum for a family of four). C.L.A.C. will not, however, take a fee-generating case unless it is established that the client is unable to obtain private counsel.

"The office handles civil and criminal cases, with family problems accounting for a third of the caseload. Criminal matters constitute 20-25 per cent, consumer cases 10 per cent, and administrative, welfare and miscellaneous matters the balance," explains McEvily, himself a 1973 graduate of Hofstra Law.

Writing for the Nassau Lawyer last Spring, Harvey Spizz noted that "C.L.A.C.'s criteria in case intake may vary in cases of special hardship. Always taken into consideration are the client's income, assets, current indebtedness, any recent illness, institutional confinement, employability, the estimated cost of the necessary legal services, and other similar factors.

"Generally, no field investigation is made of the financial situation of the prospective clients. While this may result in being fooled sometimes, other legal services organizations working for the poor have found that they are fooled as often when they do investigate as when they do not, and that the investigations take up too much precious time to be justifiable," Spizz wrote.

C.L.A.C.'s operating funds are derived from three sources: Hofstra University, Council on Legal Education for Professional Responsibility, Inc., and private contributions, which are always invited. Referrals come from legal service agencies, the Nassau Bar Association, social agencies, the courts, and previous clients. A few people also walk in off the street.

"The unique feature of the office is of course, student practice. Under our charter," explains Spizz, "third year students are permitted to appear in misdemeanor cases involving simple issues of law and fact, and in cases of violations and traffic infractions, with attorney supervision required in midemeanor dispositions and trials.

"Students may also appear in civil matters involving $500 or less, landlord tenant cases, and uncontested matrimonials. Third year students may appear in Family Court, in non-support and child protective proceedings, as well as administrative hearings. I think the consensus to date is that students have fared very well, rendering an important service to the community and at the same time receiving a valuable learning experience," Spizz concluded.

"I know the program has made me appreciate law school more," said Monte Kurs, an NLO I student. "It certainly has," added Rona Seider, "We're learning to deal with situations other law students won't be exposed to until it may be too late."

The Clinical Experience - A 1st Person Account

by Lester Paverman

The decision to register for NLO, especially the second course, necessarily involves the sacrifice of some classroom exposure in favor of the practical experience. I feel that there is a limit to how much can be learned about the law in a classroom. The fundamentals in a particular area can be often picked up on your own when necessary. In NLO, I'm learning to function as a lawyer, to apply the techniques of the profession to the theory learned in class.

The experience is similar to that a medical student receives as an intern in a hospital. I work on real cases, representing the client from the interview through the court appearance. Once graduated from law school, there is often a long wait before the new attorney enters a courtroom. With a fee-paying client involved, you are entrusted primarily with doing the research for someone else's case. Recent graduates, from a number of different law schools, have said that they find themselves very unprepared for the work of a law firm. The clinical experience of the NLO serves to fill that gap between the role of the student and the role of the firm attorney.

There are some emotional aspects of the law I've learned about as well. I feel that I've gained a sensitivity, a closer understanding of legal thought. In an adversary proceeding, there are two sides—you do not always find yourself on the "right" side. My first case in NLO I was representing a high school student who had been drafted. It was a case I could feel close to, and did a great deal of research into the changing Selective Service Law. Three days before his induction I petitioned the State Director and got him out on a new provision. But I have had other cases where I thought my client was wrong—excessive demands in a matrimonial, refusing to repay a fair and reasonable loan, selling hard drugs. And in the CLAC office, you often run across the frustration of clients who simply refuse to cooperate. As a lawyer, though, you have to be ready to represent all sides. You cannot get emotionally up for every case, you can only learn to be objective, and represent to your fullest the interests of each client.

Conscience Supplement: Assisting The Poor

"If we cannot help the many who are poor, we cannot save the few who are rich." —John F. Kennedy

Legal Aid Society of Nassau County

by John L. McCarthy

Each year several thousand Nassau residents who are indigent or without adequate means to engage the services of a lawyer, have their problems solved for them or are provided representation in Court through the work of the Legal Aid Society of Nassau County.

The beneficiaries of the Legal Aid Society include those plagued with all manner of civil cases and defendants charged with crimes and misdemeanor who need counsel but are without means to engage it. The law provides that the Court may appoint counsel to represent anyone charged with a capital crime, such as murder, but until recent years those charged with lesser crimes and misdemeanors and without personal means, faced trial without prospect of adequate defense or having their rights safeguarded.

The Legal Aid Society of Nassau County was founded by a small group of prominent attorneys about 20 years ago. A leading spirit in the organization of the Society was Federal Judge Joseph C. Zavatt, then an attorney in private practice in the county. At the outset, it was financed entirely by contributions and a small appropriation by the County Board of Supervisors, and began its work with only one attorney handling only civil cases. The rapid growth of population in the fifties and increasing awareness of the Society, soon produced an increased demand for its services and the need for a larger staff. The Nassau County government provided an appropriation of $10,000 a year to supplement the funds raised by popular subscription.

The Criminal Division

Full time legal aid was made mandatory by the United States Supreme Court in the Gideon Case. The high Court ruled that indigent persons charged with a serious crime were entitled as of right, to be provided with counsel.

In 1965 the New York State Legislature enacted a bill proposed by Senator Barlett to provide funds for counsel free of charge for indigent criminal defendants.

In 1963, before the legislative enactment, the Legal Aid Society entered into an agreement with the Nassau County government to set up a criminal division to represent indigents in felony cases. The County Administration felt this would be preferable to establishing the office of Public defender for the county government, and thus create a private, non-political, charitable corporation. When the Criminal Division started its activities in 1963, its staff consisted of three lawyers, including James J. McDonough, who was one of the original incorporators of the Civil Legal Aid Society in 1950 and had been picked to head the Division. Besides the three lawyers, the Division had one secretary and one investigator.

Prospective defendants are asked to complete an affidavit in support of their application to be assigned counsel without fee. This affidavit enables Legal Aid to determine whether or not the applicant fulfills the financial requirements and is actually without means to retain private counsel. The Criminal Divisions will not accept any cases in which there are conflicts of interest such as more than one defendant charged in the same indictment. When a conflict does arise the defendant is usually referred to the Lawyer's Referral Service of the Nassau Bar Association.

The total number of defendants represented by the staff of the criminal division in the year 1972 was 3,967, an increase of approximately 7.5 percent over 1971. There were 565 cases rejected because the defendants did not meet the financial requirements. An additional 23 cases were rejected because of conflict of interest.

The Criminal Division is divided into three separate Bureaus covering the District Courts, County Court and Appellate Courts respectively.

Civil Division

The Legal Aid Society of Nassau County also operates a Civil Division staffed by four attorneys, including John C. Schaeffer, Jr., Chief of the Division.

While it receives a substantial appropriation from the County, the Civil Division is still dependent upon gifts and membership dues for its support, since unlike its sister Division funding has not been mandated.

In 1972, the Civil Division processed over 4,000 applications for assistance, some of which were rejected when investigation showed the applicants had adequate means to engage counsel.

The Civil Division is more limited than the Criminal Division in the cases it will handle. No contingency fee cases or cases involving commercial transactions and cases involving conflicts of interest are accepted. Such cases are usually referred to the Office of Economic Opportunity or other Legal Services organizations.

The services provided by the Civil Division to the needy include many cases that can be handled in the office, but hundreds of these civil cases require court appearances by one of the attorneys on the staff.

(Continued on page 8)

Law Student Housing Not a Priority

by Chad Russell

Hofstra Law students unwilling to face the vagaries of living with their parents or the prospect of returning to deflated tires on local side streets are confronted with a third alternative—university housing. According to Hofstra's Director of Housing, William K. Miller, about 12 per cent of the Law School's 537 students are living in Hofstra-owned facilities.

Miller, in his third year as Director, is responsible for all residence hall operations affecting 1485 students now living at Hofstra. In addition to the seven residence buildings on campus, the office has charge of student living arrangements in Country Estates, a university-owned apartment complex in Hempstead. The university provides no housing services for students living off-campus beyond accepting listings of available apartments throughout the county.

In regard to housing law students, Miller states, "Our function here is primarily undergraduate housing." He does indicate that a modicum of thought is being given the law student.

One possibility under consideration is allocating one of the two-story modular units to law and graduate students. However, the only change reasonably foreseeable to the law student looking for a place to crash next year is the ubiquitous rise in board rates. This year the challenge of maintaining present board rates is being met simply by pretending that students do not eat on weekends (although they invariably trek across the cold, wind-swept plains of Long Island to breakfast each morning).

Will Miller

Accommodating the law student's peculiar nature provides special problems for the Housing Office. Although they "do not participate in activities and events to the same level that undergraduates do," Miller points out, "law students study late at night and are around the campus a great deal for studying."

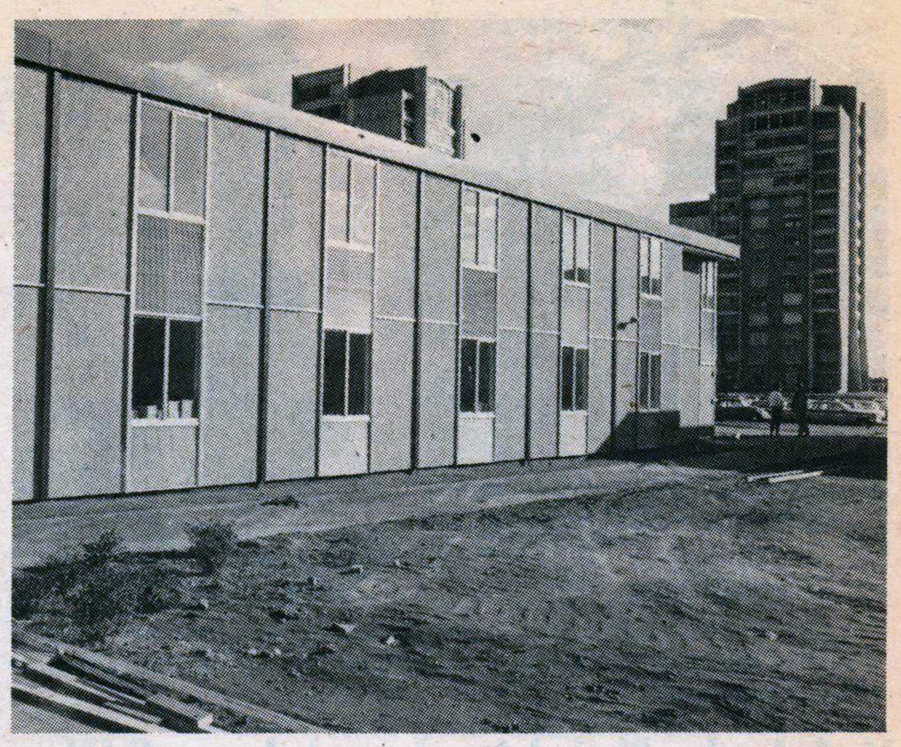
Originally two floors in the towers were reserved for law students. These spaces have been outgrown, but the additional numbers of law students opting for the dorms have not been sufficient to create additional law floors. As Miller puts it, "There is currently no shortage of housing for any student." So for $810 a semester (plus sundry ripoffs) a law student can be assured of a double room and an "adequate meal plan."

A few law students apply early enough to get singles, but the rest must rely on the Housing Office's ability to place them in doubles with other law students. If he-she is fortunate enough to room with another law student (as in most cases), one must still contend with undergraduates thundering through the hallways with buckets of water at 3 a.m.

The proposal for Mod 1 offers the requisite quiet for study. Under such a plan, the law students would have first preference for the rooms, and other graduate students would be offered remaining spaces in the building. Rooms presently occupied by two students would become singles.

Apart from being quieter than the towers, the Mods have carpeting in each room. Those wishing to defy the Presidential Temperature Guidelines, can take advantage of the individual room temperature controls.

However, the fixed cost of merely opening the building runs to $150 a day. When other costs are included, a 60-80 percent occupancy rate is needed to break even. There would be a few economies of scale which would ameliorate problems caused by academic calendar differences between the Law School and the rest of the university. Nonetheless, Miller is quick to point out that any such single rooms would require a "premium" attached to the overall board rates. The exact amount of this additional rate is still undetermined.



Mod I, Towers in background.

Miller believes that law students will respond to this carrot; he presumes that law students are more willing and capable to take out available loans in anticipation of that forty stories and a secretary on Wall Street waiting for each graduate.

Redeeming features such as pinball, ping-pong, and functioning washing machines and driers can be found in most of the dormitories. Miller is planning to set up a TV this month in one of the towers on a trial basis.

Twenty-four hours desks in all the buildings tend to inhibit informal acquaintances between residents of different buildings, but at least you can be fairly sure that your stereo will be around when you return from classes. More importantly, they provide a message service and congregating point for temporary refugees from casebooks.

Living in Country Estates is somewhat more satisfactory and somewhat more expensive. About a dozen law students are now paying $475 a semester for an apartment shared with at least one other student. There are also three married students living with their spouses as regular tenants. These regular tenants pay from $220 to $325 a month for year round accomodations. The Housing Office makes arrangements for all student rentals on a semester basis, while the university's agent Schiff Realty manages the other rentals and all maintenance of the buildings. Law students residing in Country Estates express satisfaction with the services and are hard put to think of complaints.

Regardless of whether asceticism or financial factors are primarily in the decision to eschew Country Estates, students have found other reasons for living on campus. Some anticipated that the meal contract would enable them to cushion or delay the impact of increasing food prices. The most frequent consideration seems to be the convenience of not having to close the books to prepare meals, and the freedom to truck over to the law library whenever it happens to be open.

Undoubtedly some students considered minor features when deciding that resident hall fees were a bargain—like on-campus phone service, and linen service. While the phone service operates well if the campus switchboard is awake or not overloaded, those who chose university housing from a predilection for clean sheets are out of luck. The only reported manifestation of a linen service was in the mind of the Law School Bulletin printer. So it goes.

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Breitel Wins as Chief Judge

Charles D. Breitel, Senior Associate Judge of the N.Y. Court of Appeals, is the new Chief Judge of the Court of Appeals. A Columbia Law graduate in 1932, Judge Breitel practiced privately until 1935, when he ente4red public service. After working on the Thomas E. Dewey Special Rackets Investigation in New York County, he became Assistant Chief of the Indictment Bureau, rising to Chief in 1941. Breitel then served as counsel to Gov. Dewey from 1943 to 1950 with broad responsibility for a wide range of legislation and coordination of executive agencies.

In 1950, he was appointed by Gov. Dewey to the Supreme Court, a position he held until joining the First Department of the Appellate Division from 1952-56. Judge Breitel has been a Justice of the Court of Appeals since 1967.

Charles D. Breitel

In addition to service to the State of New York, Judge Breitel has served as a member of President Johnson's "Crime Commission," the Federal Commission on International Rules of Judicial Procedure, the A.L.I. Advisory Committee on a Model Penal Code, and is presently a member of the A.L.I.'s Select Council, the Institute of Judicial Administration and the Board of Governors of the American Jewish Committee.

Of the position he sought, Judge Breitel says, "The Chief Judge is the leader of the State's judicial system. Though he may not lead by fiat, he can lead by persuasion, wisdom of judgment, courage and by forcefulness of personality together with the readiness to accept the burden of leadership."

Judge Breitel attempted to maintain an atmosphere of dignity in the campaign for Chief Judge. He had consistently addressed the issues, and resisted seeking contributions from private individuals.

Judge Breitel was endorsed by most of the large state newspapers, including the "New York Times," the "Buffalo Evenings News," and the "New York Law Journal."

ANNOUNCEMENTS

1. Selected European films featured at the 1973 Zagreb Animation Film Festival in Yugoslavia will be screened at Hofstra this evening at 8:00 p.m. in the Student Center Theatre. Tickets are 50c for students.
2. The Annual Government Agency Symposium will be held tomorrow, from 9:30 to 4:30, at Brooklyn Law School in Brooklyn. Check with Placement for details.
3. The Male Nude, an exhibition of art, will continue in the Emily Lowe Gallery through Dec. 12.
4. The Hofstra University Orchestra, tonight at 8:30 p.m., in the Hofstra Playhouse.
5. Hofstra's 8-2 football team takes on C.W. Post in the Annual Thanksgiving Day game, Thursday, November 22, at 11:00 a.m. in the Hofstra Stadium.
6. Livingston Taylor will give a concert tomorrow evening at 8:00 and 11:00 p.m., in the Student Center. Tickets are $3.50.

Was King George Maligned?

by Ralph M. Stein

Englishmen are always mildly amused at the interest, indeed sometimes even the maudlin veneration, which Americans often display towards British royalty. Visits by kings and queens, princes and princesses have traditionally been followed by an unabashedly curious press and people seemingly fond of the very institutions once deemed so oppressive to the spirit of freedom. From Lytton Strachey's masterful pre-war biography of Queen Victoria to last year's critically and popularly acclaimed BBC historical series about the turbulent life of the first Elizabeth, we have indulged our fascination and even respect for the British monarchy.

The memory of one past soverign of England has not received the admiration of Americans. George the Third, last king of what became the United States, is still portrayed to millions of school children in much the same terms as his once colonial subjects depicted him, "a Prince, whose character is. . . marked by every act which may define a tyrant. . . " Not only painted as a grasping, insensitive imperialist, he has come down through the years described as a bizarre lunatic whose unreal behavior was responsible for everything that went wrong during his long reign (incidentally, the English have been taught much the same thing on this last point.)

The sometimes imaginative but always scholarly efforts of a handful of Georgian historians now appear to be bearing fruit and a new picture is emerging of a sensitive, cultured king beset by feuding and often incompetent politicians and faithless aides. We now know, thanks to London physicians Ida Macalpine and Richard Hunter, that King George was not insane, but that he periodically suffered from a tragic inherited metabolic disorder, porphyria (**George III and the Mad Business**, Pantheon 1969). The author's painstaking medical detective work proves that the King was lucid and rational during the major crisis of his reign, most of which, including the American War, occurred before the dramatic onset of his illness.

The most Anglophobic of readers cannot help but wince in sympathy for the King's suffering at the hands of Dr. Willis and company, the "mad doctors" as they were then called, who would have, were it not for their patient's rugged constitution, killed him. Suffice it to say that their treatment, even if all necessary concessions concerning the state of the art are made, was barbaric. Somehow, the King retained some of his humor. When the self-important Dr. Willis compared himself as a healer to Christ, the sovereign sharply retorted, "Yes, yes, but he had not 700 pounds a year for it."

Our knowledge of the complex political maelstroms of George's reign have been fully illuminated in two new works, **King George III** by John Brooke (McGraw Hill 1972) and Stanley Ayling's **George the Third** (Alfred A. Knopf 1972). Both Georgian scholars, they have recreated a political atmosphere that may impress observers of current events as being as complex, baffling of solution and susceptible of opposing interpretations as are Watergate, the Vietnam War and similar plaguing misfortunes. What does clearly emerge is that the burden which weighed heavily on the King deeply stemmed from his undeviating commitment to remaining a constitutional monarch, as theorists then understood the concept, and not attempting to revert to the spectacular but discredited policies of his more autocratic predecessors.

As studies in government and constitutional theory, as a fascinating record of the origins of psychiatry and past treatment of the mentally ill, as explanations of events which still intrigue us, and as biographies of a much understood and unjustly reviled man, the three well-written books mentioned above offer much. Long inculcated prejudices and unsupported partisan viewpoints offer no contest to the depth and quality of the historical scholarship in these works.

Lincoln on lawyers:

"There is a vague popular belief that lawyers are necessarily dishonest . . . Let no young person choosing the law for a calling for a moment yield to the popular belief—resolve to be honest at all events; and if in your own judgment you cannot be an honest lawyer, choose some other occupation, rather than one in the choosing of which you do, in advance, consent to be a knave."

—Abraham Lincoln, 1863

Carl Bejarano, Hofstra's Development officer, reviews library stacks with the library's namesake, George Morton Levy, and Professor Eugene Wypyski.

University Senator Seeks Activity

Cal Lederer

The Hofstra University Senate is the governing body of the University, exercising jurisdiction over "all educational matters concerning the University as a whole." Its decisions are conclusive, subject to approval of the President and the Board of Trustees.

Students represent over one-third of the Senate. The proportion of students to faculty, administration and staff on the forty delegate body is greater than that prevailing in most comparable bodies in other institutions.

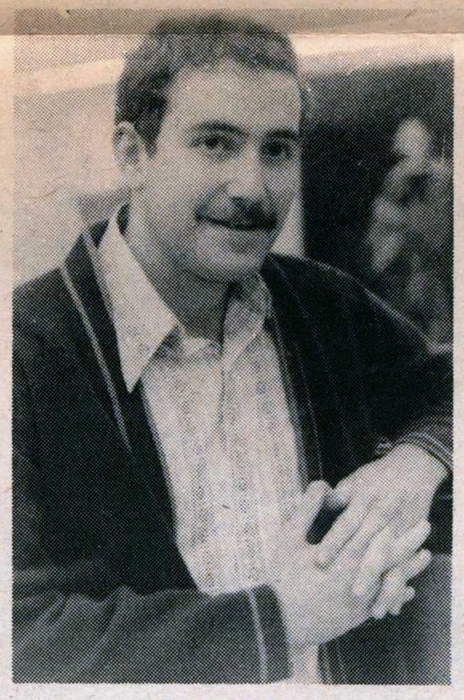
The Law Community is represented by Professor Stuart Rabinowitz and myself. We serve together on the Scholarship and Student Aid Committee.

The work of the Senate has been largely confined to undergraduate affairs and the affairs of the University as a whole. The issues before the body would be familiar to members of the Law Community who have been involved in curricular planning and governance at undergraduate institutions.

In its initial meetings, I have tried to familiarize myself with Senate procedure and history. However, in recognition of current national priorities, I have twice introduced resolutions, once to the Executive Committee of the Senate and once on the floor of the Senate itself, that the Senate endorse serious consideration of impeachment of Richard Nixon.

This resolution, tabled in both instances, will come up again next month in connection with a non-politicization resolution which will sterilize the Senate and the institution by taking away the ability of any representative body in the University to take a political stand.

I will vigorously continue to support selective politicization of the University, especially in matters that ultimately affect the health of the University as an



Cal Lederer

institution and the academic freedom of the members of the University Community.

In Law School governance, it is my hope that the six class representatives will move quickly, as they have indicated they intend to, more fully representing student interests.

I hope that the representatives will continue to vote as individuals at meetings, but that they will act as a unified student governing board in affairs that distinctly concern the student body, especially in external situations which require a representative from the Law School. The six representatives are uniquely fitted to act as such a body.

Hopefully, the University Senator will be a part of such a body, and that, not later than next year, the student Senator will receive a voting place on the Committee of the Faculty, thereby enlarging student representation with an individual who will have three-class support.

In the Senate and in the Law School, I represent the student body's interests. In this regard, I have consulted a number of members of the Law Community. If I am to properly perceive the interests of the Law Community, and act accordingly, student input is essential. Take the time.

Wit and Wisdom of David Kadane

Anecdote 1: DKK responds to a student who says he would like to play the Devil's Advicoate for a moment: "And a very famous client you have, although on occasion he has been known to exact tolling fees. . ."

Anecdote 2: A student is asked what course of action he would pursue in a particular case, and gives a vague response: "A contract of some sort," he says stutteringly. Quickly, DKK: "Ah yes, that's an ancient form of action of much worth, assumsort—actually it's an extension of the assumpsit. . ."

Anecdote 3, and by and far the best of the semester thus far: A young feminist objected to DKK's referring to law firms as "three man law firms." "Why don't you call it a three person law firm?" the damsel insisted. Swiftly, DKK: "You can't teach an old man new language—I'd have as much trouble saying that as I would shouting, Person the Lifeboats."

BIG SISTER IS WATCHING AWARD—Astronaut James Lovell Jr.'s thought of the week: "We never sent any women into space because we haven't a good reason to. We fully envision however, that in the near future we will fly women into space and use them the same way we use them on earth—for the same purpose."

CONSTITUTIONAL ESSAY COMPETITION

Students are invited to submit essays dealing with the constitutional dimensions of executive privilege. The scope of congressional power to require testimony under oath from officers and employees of the executive branch and the scope of federal judicial authority to ajudicate claims of executive privilege should be discussed in the essay.

The first prize will be $5,000.00. Honorable mention prizes totaling $1,500.00 will also be awarded.

The deadline date for submission of entries is January 1, 1974. For more information about the contst write to Samuel Pool Weaver Constitutional Law Essay Program, American Bar Foundation, 1155 East 60th Street, Chicago, Illinois 60637.

First Year Student Rep Calls For Student Bar Ass'n.

By Jim Freeswick

The students of Hofstra University Law School should create a Student Bar Assn., according to student representative Brian Asserson.

Asserson, one of two students who represent the first year class at faculty meetings, said a Student Bar Assn. would fill the need for a student governing body.

Presently the school is governed by a group composed of the Dean, the faculty and six student representatives (two elected from each class.)

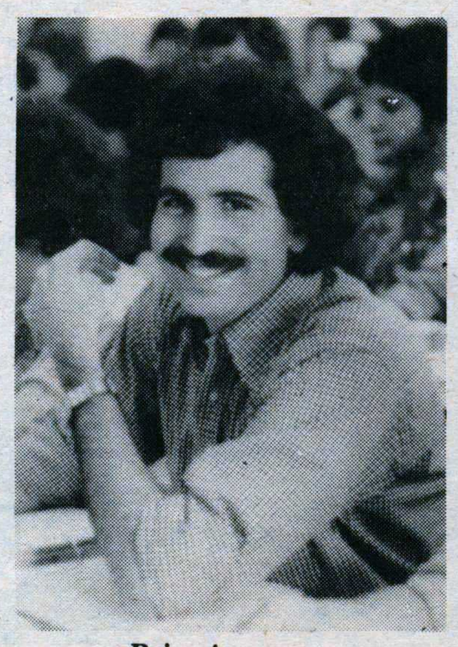
Although a Student Bar Assn. would not replace the present governing body, Asserson said there is a need for "a student body government per se" which would deal with student-oriented functions.

Asserson, who attended a recent conference of the American Bar Assn. Law Student Division at St. John's, said Hofstra Law School was the only school in attendance which didn't have a Student Bar Assn.

"A Bar Assn. would run social functions which are lacking at this school. It would collect dues and spend money on such things as guest speakers, films and special projects," said Asserson.

The $10 activity fee which every student pays to the school with his tuition is now controlled by the six student representatives. Presumably control over this money which presently amounts to approximately $5300 would shift to a Student Bar Assn., said Asserson.

"I've been in contact with the President of the Student Bar Assn. at St. John's and I've been talking with second and third year student representatives



Brian Asserson

about the idea. Personally I'd like to see a student referendum on the issue to see if there is enough student interest," said Asserson.

On another issue relating to government at Hofstra Law School, Asserson said student representation at faculty meetings should be increased by one representative per class.

Presently there are 17 faculty members and six students on the governing body. Asserson said it will be difficult to win faculty approval of any increase in student representation this year.

"The teachers would feel threatened by what would amount to a student veto power if representation was increased to nine.

"But the students may get at least one more vote at faculty meetings this year. The student who represents the law school in the Hofstra University Senate may be given voting power at the law school faculty meetings," said Asserson.

At the moment Asserson is the only duly elected student representative from the first year class. Two students, Payson Coleman and Marvin Gutter tied in the election for the other first year seat and will face each other in a run-off.

Gutter said it is important for a representative to stay in contact with the students. "If you're going to be a representative you can't only represent your own opinions, you've got to represent student opinion," he said.

Gutter said he was disappointed in the student turnout at the last faculty meeting and the special open forum conducted by the Dean.

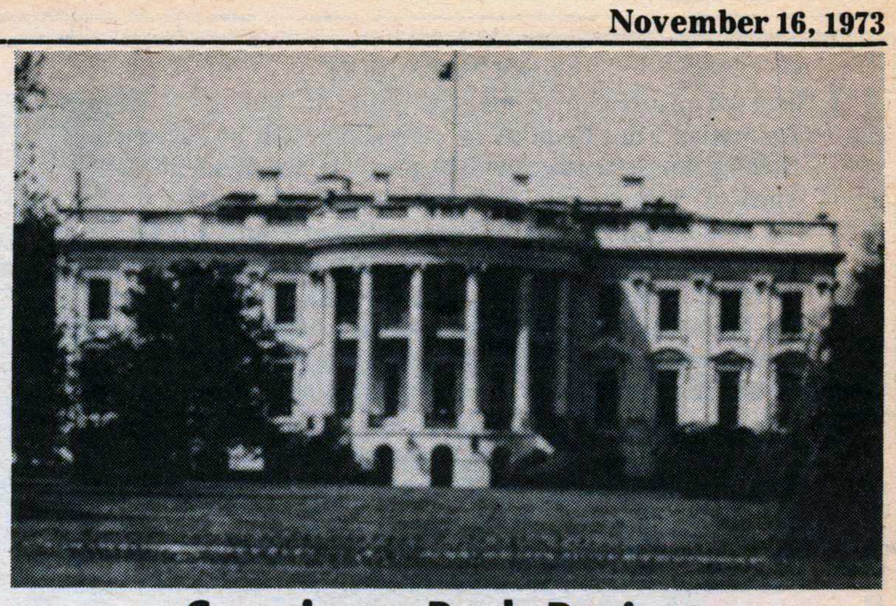
"Student interest has to pick up. When the Dean holds an open meeting on a tuition increase it is in the students' interest to attend," said Gutter.

Coleman said the tuition increase was probably necessary in light of the "real bind private universaties are in today. In order to stay competitive academically they have to raise tuition," said Coleman.

On another issue Coleman said Hofstra Law School should place more emphasis on placing graduates in jobs rather than on recruitment.

"People won't want to come to Hofstra unless the graduates are getting jobs. The better the placement efforts the better our reputation will become and more students will be attracted to Hofstra. Placement is the area the school should concentrate on now," said Coleman.

Late note: Gutter wins Tuesday election. Coleman alternate.



Conscience Book Review

CAMPAIGN '72
The Managers Speak

Edited by Ernest R. May and Janet Fraser

In January 1973, for the first time in American history, principal participants in a major election met to discuss the science and the art of campaign strategy: the planning, calculation, contrivance, miscalculation, and mischance that determine what the electorate sees. Here campaign managers, pollsters, and journalists met to compare notes on their techniques and tactics and on their successes and failures as they reviewed the events of the primaries and election:

—the poor decisions made in the face of complex state primary laws;
—the decline of Muskie and the rise of McGovern;
—the significance of issues versus Nixon's image;
—the effects of party reform on the Democratic convention;
—the weird credentials fights;
—the twists of strategy during the final months of the campaign;
—the way the press covered the campaign and how reporters were treated by the various staffs;
—the lessons for 1976 drawn by reporters and campaign people.

The straightforward exchanges took place at the Harvard Conference on Campaign Decision-Making. Eighteen key people participated, including those in the campaigns of Nixon, McGovern, Wallace, Muskie, Humphrey, Jackson, and McCloskey. Four political correspondents—David Broder, James Naughton, Al Otten, and James Perry—expertly guided the conversation, probing for additional insights. The transcript of the conference—oral history at its best—has been carefully edited and makes absorbing reading. Included are brief sketches of the participants, a chronology of the events of the campaign, and a full index.

Ernest R. May is the Director and Janet Fraser is Assistant Director of the Institute of Politics at Harvard.

224 pp. October. $7.95 Harvard Press

Legal Aid Society . . .

(Continued from Page 5)

Control of the Legal Aid Society is vested in a Board of Directors consisting of more than 30 men and women who elect the officers from among members of the Board, spearhead negotiations with the County and direct its fund-raising activities. The Board includes attorneys, members of the bench and business and professional leaders.

Members of the Bar Association of Nassau County over the years have provided the most consistent support for the Legal Aid Society, but annual gifts also are received from financial institutions, industrial corporations, interested individuals and many other sources.

The work done by the Legal Aid Society is not only a salvation for many who cannot afford to retain a private attorney. It also provides a substantial service to the members of the Bar Associations of Nassau County. The Society removes much of the burdensome case loads that would otherwise fall to the private practitioner.

As our indigent population continues to grow, the need for adequate legal services for the indigent becomes more acute. Many lawyers assume that this task has been "taken care of" by the Legal Aid Society. Providing cost free legal services for those who cannot afford to pay is of paramount importance if the legal system in Nassau County is to function effectively. All the members of the legal profession have a stake in its maintenance. The continued support of the members of the Bar Association of Nassau County is needed to underwrite the cost of the Legal Aid Society, particularly its Civil Division.

FOOTNOTES

1. Gideon v. Wainwright, 372 U.S. 335 (1963).
2. The Anderson Barlett Act of the 1965 session of the New York State Legislature, enacted July 1965.

John L. McCarthy graduated from St. John's University School of Law in 1960. He is a member of the New York Bar Association, and is part of the firm of Connolly, Sullivan and McCarthy. This article originally appeared in "The Nassau Lawyer."

Law Review Coming Out In December

(Continued from page 1)

a dozen of the major foundations in the country and have asked them to fund our Products Liability issue. But the response hasn't been encouraging. In the past these foundations have not funded law reviews," explained Mr. Stein.

Ralph Stein also believes that Hofstra has the capacity to support a second scholarly legal journal. "We must expand at any costs to give more people writing opportunities. Most schools have at least two reviews. I'm personally disappointed to have to restrict for budget reasons. It's a damned shame. I submit that one of the ways students are judged is by their writing," said Mr. Stein.

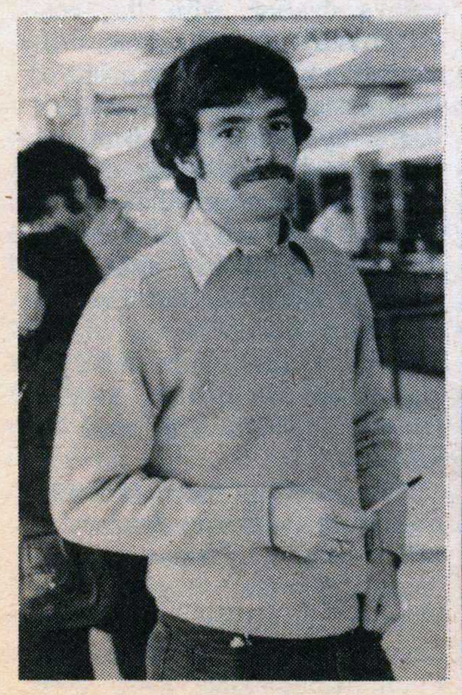
Law review work can be tedious. Much of it is reviewing articles for grammatical fallacies, proper citations, and adequate footnoting. Sitting in the library on Halloween night, second year student Robert Faller explained, "It's not that I'd rather be out trick or treating, but there is no glory in spending night after night researching. Only the end product makes it worth it."

Another Law Review student Mike Davis, agreed: "Most people spend years putting out a book. We're trying to do it in twelve weeks. I think most students would be utterly fascinated by the amount of preparation that goes into a Law Review." Mike has spend much of this first semester working on a casenote for next month's publication.

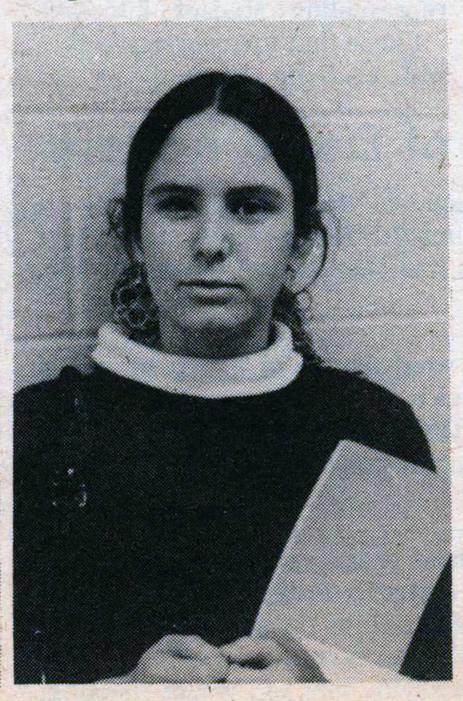
The burden of publishing this semester has repeatedly postponed the Law Review's main vehicle for membership; a writing competition. Originally held after classes last Spring, too many articles just didn't qualify, thereby limiting Law Review membership. "We need the people," commented Ralph Stein, "but if you want a high quality publication you don't reduce your standards." A new competition, scheduled for early this fall, has already been twice postponed. Promises are now being made that the competition will be held during the last week of classes before Christmas vacation. Stein pointed out that there must be students in the library to assist the competitors, and the Law Review students simply won't be free until after the December issue is on the press.

In addition to writing competition recruitment, the Law Review Constitution provides that the top 5 percent of each class gains automatic admission. Therefore, candidates for membership, who are normally chosen at the end of their first year, may gain admission through scholastic performance as well as writing ability. It is generally recognized that work on the Review—a combination of writing and editing—gives each member invaluable training and credentials highly respected in the profession. A student may elect to take work on the Review for a maximum of six credits.

Second Year Student Reps Are Re-elected



Jeffrey Englander



Alice Morey

EDITOR'S NOTE; ERRATUMS

Judge Jack Weinstein's column on page 4 was recently delivered before the House of Representatives Subcommittee on Equal Opportunities, a branch of the Committee on Education and Labor.

Omitted inadvertently from Norman Kent and Lester Paverman's page 5 NLO article was this Chuck McEvily quote:

"The neighborhood law office is more than just a clinical legal experience. I see it as a totally independent, politically viable force, with the intellectual resources to challenge governmental, or any other incursions, on individual liberties. And the idealistic zeal of students supports that goal."