



CONSCIENCE

The Hofstra University School of Law Newspaper

Volume 3, Number 7

"Asking you to ask yourselves . . ."

April 6, 1976

Dean Defends Law School In Televised Debate

by Josh Klapper

On Thursday, May 20th, Dean Monroe Freedman participated in a debate with Professor Jerome Pescow of the Accounting Department regarding the Law School's financial arrangement with the university. The debate was aired on the Hofstra Television Show—Campus Comments. Professor Pescow who is chairman of the Faculty Ad Hoc Committee was incensed at the Law School's arrangement with the University, whereby the Law School would divide on a 50-50 basis any additional revenue raised from special projects or fund raising.

This arrangement came about because Dean Freedman was told to cut 5 people from the already undermanned secretarial staff, at a saving to the university of \$23,000. Rather than cut his staff, any further, Dean Freedman went out and raised \$35,000 and then an additional \$30,000. Along with the able assistance of Dean Benjamin, they have raised over a \$100,000 in contributions to date. Not only did this save the 5 jobs at the Law School, but in addition 4 jobs in other parts of the university were also rescued from extinction.

Professor Pescow questioned the Law School's right to this "special arrangement" with the University. The Dean defended the arrangement by claiming "the funds raised were done with our resources, our personnel and our office." In addition the Dean stated, "I came here with the express understanding in writing that I would not have to be involved in fund raising. I have

given up important professional activities to throw myself into fund raising. All with the understanding that the Law School will benefit."

Dean Freedman also pointed out that the Law School's operating costs for 1974-75 were 1.5 million dollars. Tuition and fees income equalled 2.5 million dollars, therefore, the Law School returned over 1 million dollars above operating expenses to the university, thus being one of the only divisions of the university not to operate at a deficit.

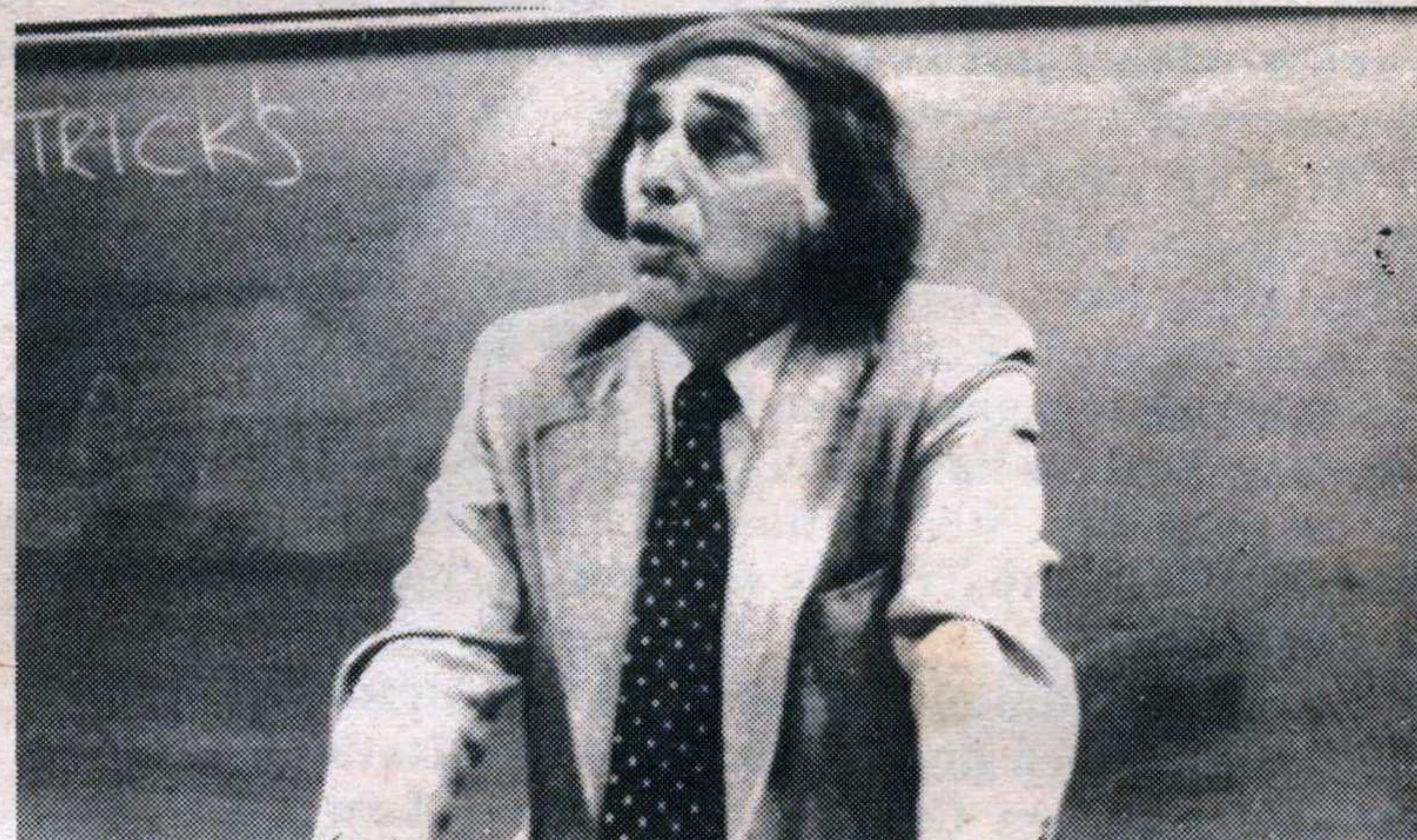
Professor Pescow questioned whether the Law School would continue to bring in over a million dollars a year in profit to the University in the near future. The Dean responded by saying "We are now at 685 students. If we are to keep that number—and there's expectations that we will, though that's higher than we should be—and on the tuition that we are charging now, to say nothing of the increases that inevitably will come, there is no reason to doubt at all that we will continue returning to the university over 1 million dollars a year."

Dean Freedman, also pointed out that although tuition at the Law School had risen consistently, in the past few years, there was only an 8 percent scholarship ratio compared to 12 percent in other schools. At the same time scholarships at the Business School have been raised.

The Dean further stated that the law school was doing all in its power to lend a helping hand to the financially troubled

university as evidenced by the 10 percent salary cut the Dean himself took and the 6 percent salary cut the rest of the faculty took . . . all voluntarily. At this point in the discussion the debate became more heated. In responding to Dean Freedman's question as to why the rest of the faculty in the university doesn't follow suit and take a voluntary salary cut, Professor Pescow said that the Law School faculty could afford to take those cuts because of their "fat-cat" salaries. Dean Freedman took particular offense to this claiming every member of the Law School faculty except one puts in between 5-7 days a week at the Law School in addition to being available to students outside of class. Many faculty members of the Business School teach only 2 hours a week and are unavailable outside the classroom. The Dean continued by pointing out that faculty salaries at Hofstra University have received a grade A rating on the A.A.U.P. scale, while faculty salaries at the law school rank 9th out of 11 law schools in New York State. "Instead of writing reports about the law school, why won't other faculty members take that 6 percent sacrifice which the law school faculty did? Why won't other faculty members put in a 5, 6 and 7 day week and really earn their pay? That's the way we can pull the university up." . . . and so ended the "debate" which was so one-sided, that it reminded one of Custer's Last Stand at the Little Big Horn. (With Prof. Pescow cast in the role of Custer).

Kunstler Raps Legal System



Rosenthal photo

by Stuart Rosenthal

On March 22, "radical" lawyer William Kunstler addressed an overflowing audience at the law school on the broad subject of "Law In Our Society." The program was sponsored by the National Lawyer's Guild.

Mr. Kunstler, most well-known as defense counsel in the trial of the Chicago 7, has been involved in many trials of national notoriety including the trials at Wounded Knee. He now represents Bill and Emily Harris, co-defendants of Patty Hearst, who will come up for trial later this year in Los Angeles.

He began his address, discussing what he sees as a very dangerous trend toward "blanket immunity" for prosecutorial misconduct. Citing recent Supreme Court decisions to support his view, he maintained that prosecutors have an "open season" and may use "aspects of criminality" in performing their functions. He calls the attention of all attorneys to this problem, as they represent the only defense to this kind of misconduct. However he believes that defense counsel should be free to use any tactics to protect and serve the criminal defendant. Citing several factors (non-unanimous jury verdicts, smaller juries, limitations on voir dire) he claims that the criminal defendant could get a fairer trial in 1800 than today. Because of this, and because "anything the defense does is in behalf of life" defense counsel should be given wider latitude of action than the prosecution. "If you think it is an equitable game, you will lose." He continued in this vein on a similar issue describing the "perversity of the law on all levels." The law places property rights above all other rights with the outcome being the intended destruction of the third-world people and political dissidents. Mr. Kunstler characterized the legal profession as "a tawdry trade at best." He described the

trial procedure as "competing illusions presented for a captive audience." The legal system is one of "lethal malice and mischief" designed to hurt those in the system "who have no meaning to anyone but themselves."

A theme which pervaded all the topics he touched on was the discriminatory nature of the system which hurts members of minorities the most. To change this Mr. Kunstler urged all to "get away from the media image of yourself. Where life and liberty are at stake give yourself away. Go where you are needed. Too many lawyers opt for the 'dollar' and the easy life . . ." He also said that as lawyers, we should stay away from the ABA, an anti-Semitic, anti-Black association" which did not admit any Blacks until 1939, and then only by accident. The lawyers in the National Lawyers Guild are "clean and decent people" who have a "sense of being a human being."

In response to a question, Mr. Kunstler clarified his recent statement regarding political assassinations. He specified that while an attempt on Hitler in 1943 was a positive act, and also while he "is glad the Kennedys are not around" he thinks that assassinations are immoral and he would not approve of them until every other means to achieve change has been exhausted. That time, he says, would be a time of revolution, and that time is not now.

Mr. Kunstler had nothing new to add regarding the controversy surrounding his "non-appointment" to the Hofstra Law Faculty.

He closed the question and answer session urging those present to make choices in life and choose principles to adhere to carefully. Once you've made that choice, you may have "to break the law in the ends of those principles. The ends justify the means" was his concluding remark.



Rosenthal photo

Professor Jerome Pescow (left) and Dean Monroe Freedman (right) debate law school fund-raising in HTV studios.

Open Forum With Dean Freedman

Agenda:

**Financial Matters and
Stipends for Students**

April 28th

12:00 P.M.

Moot Courtroom

EDITORIALS

The New York State Bar Association will celebrate its hundredth anniversary from Nov. 21, 1976 to Nov. 30, 1977. In honor of this occasion, each law school in New York State is being asked to invite an outstanding public figure to speak at a law school function. The Association will pay a \$250 honorarium plus \$100 for expenses. The choice of the speaker is left to each school.

Dean Freedman has posted a notice to this effect on the Dean's bulletin board, and has invited suggestions for speakers. (Although the notice has been posted for some time, there has been only one suggestion to date.)

Hofstra is a "young, dynamic school" which prides itself on its unique faculty and its diversified student body. The scope of the Hofstra experience is neither learning by rote, nor an analysis of local law. Indeed, the Dean and a majority of the faculty seem to take pride in the fact that Hofstra is a "national" law school. We contend that just as a Hofstra student is not exposed singularly to New York, New Jersey, or California law, he likewise should not be limited in his exposure to philosophies underlying the law itself.

This school has made a value judgment in mandating a second course in Constitutional Law as the sole second and third year required course. So be it!

Just as Hofstra has the right and perhaps the duty to set its priorities, it also has another obligation. That obligation is to impart to its students various viewpoints on the law itself.

The school administration is to be commended for encouraging such diverse student organizations as the National Lawyers Guild, the Moderate Law Students Association, and the Lesbian Legal Caucus.

Some alternate viewpoints have been expressed in the excellent Attorneys-in-Residence program. Nevertheless, we suggest that Hofstra go one step further, and deliberately attempt to bring to the Law School possibly as faculty, and certainly as guest speakers, attorneys of different perspectives.

There are speakers with different points of view who would be of great benefit to our students. Mr. Justice Stevens, the newest appointee to the United States Supreme Court, would certainly be an excellent choice for a speaker at one of New York's youngest law schools. Simon Rifkind or Adrian DeWind, renowned attorneys in the "mainstream," might offer a great deal to our students. Barry Goldwater might provide an interesting insight as to "Looking Ahead—The Lawyer's Role in the Next 100 Years."

Although specific suggestions have been given for a speaker, the main intent here has been to encourage a broad spectrum of ideas. As Justice Holmes said in his famous dissent in *Abrams v. United States*,

... when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out.

Where Have All The People Gone

If you happen to have wandered into the Library close to noon, you may have encountered a strange phenomenon. There are coats on every chair in the front part of the library, but there are no people. Trained to be observant and attempting to be sure of your facts, you may have looked by the stacks, and, even hesitantly, taken a furtive glance under the chairs and desks. Still—no people!

It seems to be a satisfactory assumption that the owners of the coats have not left the school. Indeed, many of them may be found in classrooms, unencumbered by outerwear, and assured of a seat in the library. Unthought of, unfortunately, is that student who is now wandering around the library with no place to sit.

This particular problem would be non-existent if the coat were with the person or the person were with the coat.

Dear Editor:

While looking through the "New York Times," I came across an interesting item. It was an empty space—no, not a misprint, but a hole. Yes, a hole! It was an informative item indeed. It convinced me that there are some very inconsiderate people in the law school.

Even more saddening, if not downright frightening, some fellow student was incapable of applying everyday knowledge to a simple situation. Heaven forbid that he or she may ever have to apply law to fact. For it didn't occur to this person that he could have used the xerox machine, and have gotten himself his very own copy for a mere nickel, rather than tearing out the article.

The entire student body's tuition funds the purchase of the law library newspapers, for the use of the entire law school. It is hoped that our article collector is at least capable of reading, and can be enlightened about the use of the copying machine.

Joyce O. Moy

Letters

to the Editor

Dear Editor:

I read the article in your last edition "Tea Party Revisited," by Frank Vernuccio (part of a monthly series by members of the Moderate Law Students Association) and was frankly astonished by the inconsistency of the author's logic and lack of knowledge of the potential beneficial economic effect of a truly progressive federal income tax structure.

The author concludes that our progressive federal tax structure has "been a blight on the nation." Unfortunately, the author has not seen study after study of our tax structure which clearly demonstrates that the loopholes or tax shelters in the law have "been a blight on our progressive tax structure." In fact, our tax base is so eroded that we do not have a progressive tax structure. An analysis of such provisions as long-term capital gain benefits, tax free interest on municipal bonds, oil depletion allowances, foreign tax credits, accelerated depreciation, investment tax credit, contribution deductions, and many, many more clearly illustrate this blight.

Other economic studies clearly demonstrate that the degree of disparity of the wealth in America continues to grow. This conclusion would not flow from a truly progressive income tax structure.

The most frightening statement in the article implies that the most legitimate reason for collecting revenue at the federal level is national defense. In another statement the author states that "only active war has provided solid stimulus to spark industry." Notwithstanding the obvious conclusion that the author must have slept through the Viet Nam War, it is as if he is advocating war for economic benefit. God forbid!!

Finally, the statement in the article that minorities cannot move up the socio-economic scale because of the effect on the economy of progressive taxation is unworthy of intelligent response.

The federal government and the wealthy in America have conspired to defraud the general populace that we have a progressive tax system. No conservative with the slightest intelligence would advocate a change in our tax structure. The conservative realizes that the conspiracy has prevented the "revolution."

Very truly yours,
Stuart J. Filler
Associate Dean



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"Asking You to Ask Yourself"

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Law Student Division,
Best Law School Newspaper

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The Editor-in-Chief of CONSCIENCE supervises the editorial, news, literary, advertising and informative content of the publication and has authority over all material that appears in that publication and over staff personnel.

It is expected that the Editor-in-Chief and the members of the CONSCIENCE staff will meet the responsibility that derives from the right of freedom of the press.

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Dear Editor:

Spring is traditionally regarded as the season when one's thoughts are buoyed by the lighter side of life. However, I and others similarly situated find our thoughts becoming increasingly more preoccupied with the impending bar examination.

While the theories offered in defense of the validity of such an examination are subject to many valid criticisms, there is a specific criticism that I must level directly against this law school.

Hofstra Law School prides itself for its scholarly Socratic approach to the law. I do not question the merits of this methodology, its rewards are obvious. Just as obvious however, is the realization that in the balance, the Hofstra student will not be as well versed in New York law as some of the other Metropolitan law students who are prescribed New York law as a regular diet.

Juxtaposing this school's national approach with the short run reality of having to successfully take the bar exam creates a tension which is now reaching its distasteful head. Unfortunately, this school, often innovative, has heretofore failed to provide its students with any meaningful guidelines in aiding preparation for the exam.

Instead, we are forced, to a large degree, to rely upon the expertise of the private commercial bar review preparatory courses. While we may envision ourselves as being a sophisticated "market," in choosing the proper course in the first instance, we are reduced by our situation to relying upon the general sales ploys any purchasing market is subject to.

I submit that a partial solution may be found by the institution of a Hofstra sponsored bar review forum. At such a formal gathering, officials from the several bar review courses could present their claims and teaching (cramming) methodology.

Operating under strict guidelines, an air of objectivity could be achieved. The program would be moderated by a member of the administration or faculty. All statistics offered as to number of students previously enrolled, success rates, etc., would have to be certified in advance. By stacking the presentation of each representative head to head, a student should be able to evaluate a course's area of concentration and thus, be able to assess a course's weak and strong points. Finally, a question and answer period would conclude the forum. Hopefully, at the conclusion, a student will be able to determine the course the student perceives to be best suited for his/her needs. Such a forum would also balance out the inequities that result from the disparate marketing budgets of each company.

I cannot anticipate any substantial impediments to implementing such a plan. Besides allowing this Law School to discharge what I perceive to be an obligation owing to the student body, it may somewhat mitigate the bad taste created by having to rely upon a commercial enterprise to help satisfy a state created and mandated requirement.

Very truly yours,
Michael B. Kent
HLS, '76

Marijuana Symposium Hits Legal Problems

by Wayne Bastedo

"Thomas Jefferson was a pothead—it's an American tradition," declared one student at the Hofstra Marijuana Symposium March 18th.

"If the state would legalize marijuana," he went on, "it could tax it to solve its financial problems; it could control the quality to protect the consumer and it could regulate the sale to take it out of the hands of the Mafia."

The student's comments reflected the general attitude of students and experts alike at the crowded all-day symposium. Their obvious consensus was that (1) marijuana is here to stay, (2) it is no more harmful than tobacco or alcohol, and (3) its illegality is causing injustice and waste of government resources far in excess of any possible benefit as a deterrent.

Yet experts, from both government and the private sector, seemed unanimous in agreeing that the only politically practical possibility for immediate reform, at least in New York State lies in the reduction rather than the elimination of penalties for possession and sale.

Republican State Senator John Dunne described a bill to accomplish this objective which he is sponsoring in Albany, and asked the students to urge their legislators to support it. The bill would make possession of one ounce or less a violation punishable by a fine of only \$100 (now up to seven years in jail), one ounce to one pound a Class A misdemeanor punishable by up to one year (now one to fifteen), and more than one pound a Class E felony punishable by one to four years (now one to fifteen). Sale would entail stiffer penalties.

Frank Fioramoni, New York Coordinator of the National Organization for the Reform of Marijuana Laws (NORML), noted that at least six states—Oregon, Alaska, Maine, California, Colorado and Ohio—and the District of Columbia have

already acted to reduce or eliminate entirely criminal penalties for possession or sale of small amounts of marijuana, largely in response to NORML's energetic but shoestring lobbying efforts. He noted, however, that in New York State last year police made over 30,000 marijuana-related arrests—the most ever.

In spite of this dragnet, State Senator Karen Burstein revealed that there are only 137 persons actually in jail in New York for marijuana offenses. Yet she claimed that the state spends \$50 million annually to achieve this meager result in marijuana law enforcement.

John McKenna Jr., Nassau County District Attorney's Office Bureau Chief of Narcotics, described for the audience the present state of local marijuana law enforcement and asserted that through plea bargaining and other arrangements in the course of litigation, possessors of small amounts of marijuana usually end up with light sentences, if any.

Yet Senator Dunne lamented the fact that even laxly-enforced criminal sanctions against activity that threatens no harm to others still leave scars on those arrested and "encourages disrespect for all laws by those who can't believe this is really what the law was meant to do."

Richard Seltzer, a third year law student at Hofstra and a representative of the Neighborhood Law Office, explained the fourth amendment rights of the individual as related to drug searches. His talk elicited numerous examples from the police abuse in making such searches, especially in automobiles.

Andrew Kowal, publisher of High Times, a half-million circulation marijuana cult magazine, discussed the support his magazine has given NORML and the movement for decriminalization and described the difficulties he has had in publishing and distributing such a controversial magazine.

Pre-Law Summer Training At Hofstra

A new six-week Pre-Law Summer Training Institute will be offered June 8 to July 15 at Hofstra University School of Law.

The Institute will be open to all students who have completed two years of college. It is expected to be of special interest to students who wish to go to law school and want to develop the analytic skills and advocacy techniques necessary for successful completion of legal study.

In addition, the Institute will be open to students who have been accepted for law school this fall and who could benefit from introductory work in a non-credit, relaxed atmosphere.

Dean Freedman said that the Pre-Law Summer Training Institute will be taught by Professor Stuart Rabinowitz of the Hofstra Law Faculty. Formerly an Associate In Law at Columbia University, Professor Rabinowitz practiced law with Rosemenman Colin Kay-Petschek Freund & Emil in New York.

The Institute curriculum will include case analysis taught with the traditional Socratic method, legal research and writing, oral advocacy and law school examination techniques. A Certificate of Completion will be awarded at the end of the Institute to those students who successfully complete the six-

"Attorneys-In-Residence"

Chief Clerk Stresses Service



Rosenthal photo

Joseph Goldstein, Attorney-in-Residence

by Wayne Bastedo

"There's a world of difference between clerk's law in New York City and in Nassau County," stressed Chief Clerk of the Nassau County Court, Joseph Goldstein, Esq., at the "Attorney's in Residence" lecture March 24th. "In the city clerk's offices, a young lawyer is treated with disdain. If his papers aren't in order, they're thrown back without explanation. If he's audacious enough to ask why, he's advised to look it up in the law books."

On the contrary, assured Mr. Goldstein, who supervises 150 court personnel serving the ten County Court judges, the main objective of the Nassau Court Clerk's Office in Mineola, is

service—including any technical advice that may help the system work better for both the legal profession and the courts.

Mr. Goldstein, an NYU Law graduate and a Director of the Nassau County Bar Association, described several practices developed in recent years to make the Nassau County Court and its Clerk's Office one of the most service—and efficiency—oriented in the state.

First, explained Mr. Goldstein, once a case is assigned to a specific judge in the county system it stays with that judge to its end, except in very unusual circumstances. It thereby avoids the back-and-forth court-shuffling usual in most other counties.

Second, through the efforts of

the judges' law secretaries, the Nassau system shortcuts much of the usual motion practice by encouraging oral application and informal agreement in pretrial meetings. Thus many procedural and discovery problems can be solved at one time without wasting research and preparation on individual or omnibus motions.

Third, the legal department of the Court Clerk's Office maintains a law department for court research support that is also available and anxious to help practicing attorneys with questions on such things as court paperwork and procedure.

Finally, Mr. Goldstein noted, the Clerk's Office has adapted computer and microfilm technology to further improve its efficiency and ability to serve. Its computer keeps records, generates all court calendars, and can be "massaged" to produce complete records on any subject or litigant contained in its banks—a capability no other county court in the state possesses.

The Chief Clerk regretted that such innovations "come hard" in the conservative environment of most county court systems. The average court, he contended, "has barely abandoned the quill and its most modern equipment includes the ball point pen and the typewriter. Outdated practices, furthermore are often justified and retained only because that's the way it's always been done."

Mr. Goldstein encouraged all students to frequent the County and District Courts and the Clerk's Office to get experience "in the place of business." He invited students to visit his office and observed that his personnel would be glad to answer their questions and show them around the County Court.

To the Students, Faculty and Administration of Hofstra Law School:

Once again the Law School Alumni Association wishes to present its Annual Award at the 1976 graduation ceremony. The Executive Committee will choose a recipient based on (1) outstanding service to the school, and-or (2) outstanding service in other areas which brings recognition and attention to the school.

If you would like to nominate any member of the class of '76, please put his or her name, and a description of his or her achievements in the annexed nomination form.

A depository for these forms will be set up in the Admissions Office by Dean Benjamin.

Executive Committee
Hofstra Law School Alumni
Association

week program.

A series of cases will be analyzed in the first half of the Institute program and in the second part, students will research, write and argue an appellate case.

Applications for the Institute are now being accepted. Further information may be obtained by writing to Pre-Law Summer Training Institute, Hofstra Law School, Hempstead, New York 11550, or by calling (516) 560-3636.

BALLOT

I Nominate _____

(Please print)

For outstanding graduating senior of 1976.

Submitted by _____

Signature _____



Rosenthal photo

Faculty Profile:

Herman Hillman

by Ann Zeloof

Professor Herman D. Hillman classifies himself as a "product of New York City," having attended high school, college and law school here. He remembers that when he graduated from New York University Law School the job market was "economically non-existent" due to Depression conditions and that lawyers just starting out were happy if they could obtain jobs paying 5 or 10 dollars a week. He recalls that despite the fact that he was class valedictorian and one of the editors on the law review, he could not get an interview with a prestigious firm. He cites the religious, racial and social discrimination found in some areas of the legal profession and is glad to see that this situation has changed. However, he did not take this as a "personal trauma" as he desired to teach and much of his interests were in the Roosevelt era's reforms. He became a research assistant on the N.Y.U. law faculty, specializing in local government and edited a national magazine, *Legal Notes on Local Government*. He helped set up housing programs, an experience which he characterizes as "satisfying and creative."

During World War II he was a naval officer on active duty in the Far East, after which he returned to the N.Y.U. faculty and resumed his work in housing and community development programs. He became the Regional Counsel and then Regional Director for the northeast states to an agency which, after many name changes, became H.U.D. He likes doing pro bono work and has served on the board of the National Housing Conference in Washington.

Some of the aspects he most enjoys about a scholarly life are the time it affords for thinking and writing and "the pleasure of knowing young people." At Hofstra, he is involved with the D.A. program. Professor Hillman calls the law a "sensitive institution" for society's future "which needs a seasonal input of young lawyers who really understand the law-society relationship." He feels that in this regard, Hofstra does an "outstanding job" which sets it apart from so many "pro-forma law schools which tend to be bread and butter." The clinical programs, according to Professor Hillman, offer an experience which is not obtainable in private practice or in traditional legal education.

He has often participated in formative programs and states that when the first housing bonds were ready to be delivered, there were no regulations to guide the closing procedure. He signed the 25 million dollar voucher, got a government check for it and went through the closing. From the notes he made on it came the regulation and procedure, used for such closings.

When the Seneca Indians in upstate New York were being displaced by a dam, the legislature was out and there would be a one year delay before they could be helped. Professor Hillman, realizing that the Senecas were a sovereign nation with a treaty from George Washington, helped them create a housing authority. It issued bonds which were bought by Wall Street and the creation of new housing was accomplished. This new housing was built on one-acre lots; the land was equally divided and no one had to buy it, as the Senecas did not acknowledge private ownership in land.

Professor Hillman has three sons. The oldest is head of the political science department at St. John Fisher College. The second is an associate professor at the University of Iowa Law School and the youngest is a sophomore at Cornell. He enjoys tennis, swimming, and practical jokes with his family.

**HOFSTRA LAW SCHOOL
"ATTORNEYS-IN-RESIDENCE" COMMITTEE
WEDNESDAY**

**April 21, 1976
12:00 noon**

In the Courtroom - Room 308

**"LEGAL ETHICS FROM THE
PROSECUTOR'S VIEWPOINT"**

**STEPHEN M. BEHAR
Special Assistant Attorney General**

Moot Court Experience

by Hector Lugo

"... Work as a team, know the facts of your case, and your research must be up to date," said Professor Soloff (faculty advisor with Professor Lieberman), during the Section B lecture and problem distribution meeting on January 28. Looking back in retrospect, it seems like yesterday when I received my problem packet with the statement of the case, a copy of the Moot Court Schedule, the name of my advisor, and other materials. For the next nine weeks I was busy researching and writing for the final brief and preparing for the oral argument.

After several readings of the statement of the case, I proceeded with the research. My case dealt with a lesbian mother requesting the Appellate Court of the State of Hofstra for reversal of the lower court's custody order granting custody to her parents. As counsel for the lesbian's parents, my partner and I went to the library that weekend to gather background information and to develop issues for the memorandum that was due the following week. I noticed forty or fifty other students from Section B all over the library. One group was looking at the Encyclopedias, another group was glancing at the Digests, and others were dazed and confused.

My co-counsel and I went to the Encyclopedias. After several hours of finding nothing or very little or anything remotely resembling our case, we went out for lunch. We found that lesbian mother custody cases were recent and unique in the Law of Domestic Relations. Therefore, we decided to look at the recent Law Review articles on the topic.

Articles Were Missing

We went back to the library and found the titles to two important articles from the Index. However, both articles were missing from the Hofstra Law Library. The next day, we still found the two empty spaces in the library shelves. My co-counsel told me that Brooklyn Law School's Law Library may have the two articles. So we rushed to Brooklyn Law School and found that the two articles were also missing from their shelves. Suddenly, the idea was raised that St. John's Law Library may have the information we were looking for. We went to St. John's and found the two articles.

We found several cases on point, other Law Review articles to refer to and important issues and arguments to introduce in our brief. From that point on, we read over forty cases, over ten Law Review articles and numerous secondary sources, digests, statutes and treatises. After reading this mass of information, we developed the issues and arguments for our brief. Our advisor was extremely helpful in guiding us toward the road to effective and persuasive lawyering in brief writing. She provided us with constructive criticism during the memorandum and brief conferences.

Stop Reading and Start Writing

"There comes a time when you must stop reading and start writing," Professor Soloff had said on January 28. After six weeks of accumulating information from our research, my co-counsel and I proceeded to write the draft brief and later the final brief. After numerous revisions, we submitted the final brief. I was relieved when I typed the last word of the brief. At that time, I thought it was over. However, I suddenly remembered that I must argue and defend my position before three judges in oral argument on March 23—only three weeks away!

Right Of Left -

by Frank Vernuccio

Each political era retains its own particular figure or event that characterizes it—the strutting dictators of the thirties, the war of the forties, the assassinations of the sixties. And now, the school bus has come to represent the seventies.

The irony of the busing controversy cannot escape the most distant viewer. After years of tumult, race relations in the United States had reached a new plateau of understanding. Larger numbers of Blacks had entered the middle-income economic status, at greater speed, than ever before, and most Americans recognized this fact as being beneficial for the nation. But then came busing. Busing, in effect,

entered the poorest areas of a region and spread the effects of poverty to somewhat higher income groups. Those minorities who had only recently broken the shackles of poverty were the hardest hit. The result was not that some children received a better education; the problems of the poorer schools were merely spread over a larger area. The progress of race relations was set back, in many cities, at least thirty years.

But the busing controversy did render one accomplishment; it clearly symbolized the total inability of many political, social, and legal leaders to understand the scope of problems or methods of solution that exist in this nation. The American of the late

We spent the next three weeks reading the appellant's brief, memorizing our brief, shepardizing all the cases from both briefs, and developing outlines to present our arguments before the court.

I spent three sleepless weeks thinking about how my performance would result in oral argument. I dreamed that my dog consumed my briefs and outline, that I would arrive late for oral argument, and other unrealistic and realistic situations.

A week before the oral argument, Professor Soloff conducted an Oral Argument conference for all parties scheduled to present their cases on March 23. "Remember to start your argument with a short summary of your position, and discuss each argument affirmatively," said Professor Soloff. "Have an outline, make it brief, and never read to the court from the text."

During the next week, I was re-reading my outline and practicing my oral argument with other students who acted as judges and questioned me on numerous factors the court might consider.

"May It Please The Court"

March 23 arrived! All day, I was reading my outline to myself in front of a mirror and practiced the standard courtroom statements: "May it please the court . . . I will discuss the . . . In the present case, we submit the following . . . I am sorry, your honor, I am not familiar with that point." I was nervous and I was walking around the room several times while reading my outline. I arrived at the school at 7:00 p.m., sat down, and tried to relax. However, I proceeded to walk up and down the aisles of the room. All of a sudden, students, family, and friends began to walk in. I talked with several people and tried to relax. Afterward, I walked back to my seat and placed my outline in front of me.

"All rise." Once those words were uttered and the three judges walked into the room, I felt apprehensive. I listened to the two students representing the Appellant argue their parental fitness and constitutional arguments to the court and answer the questions presented by the court. "If there are no further questions, we respectfully submit that . . ." I was next!

I stood up, placed my outline on the stand and proceeded with "May it please the court . . ." After a short summary of my position, the questions started: "Would the Spencers be better parents than the lesbian mother? Don't the children love their natural mother? Should the court consider the tender years presumption, best interest or parental fitness? Did the lower court consider lesbianism as an irrebuttable presumption?" Difficult questions were raised and I answered and supported them with my arguments. Suddenly, one of the judges said, "Counsel, you have two minutes to sum up." I finished my argument, sat down and waited for the decision.

The court reversed the custody order and granted custody to the lesbian mother. However, the dissenting judge presented his opinion for remanding the case to the lower court.

I felt relieved that Moot Court was over. I now have more time to concentrate on my other courses. However, looking back at this experience, I learned how to research my case, write a brief, and prepare for oral argument.

It was an excellent opportunity for me to develop my lawyering skills in developing arguments and strategy in order to defend my client. In retrospect, I appreciated the experience and hope it will develop and grow into making me a better lawyer.

The Irony of Busing

twentieth century is not racially prejudiced, but he/she is defensive of his own rights and possessions. Were the elements to be mingled in the schools under busing of similar economic background, no controversy would have occurred. But this was not so. Individuals, black and white, who had left the poverty level were forced to watch one benefit of their upward mobility be taken from them in a manner that clearly symbolized the total disregard of the federal government for their wishes.

A problem is not solved by increasing its victims; and the courts and bureaucrats who blindly institute programs such as busing should be made to understand this.

"Right of Left" is a monthly column written by members of the Moderate Law Students Association.

National Lawyers Guild—Open Proposal

With the recent recognition of Hofstra as an established and respected law school it is necessary that the school truly attain the status of a national law school. Looking at the present curriculum it is obvious that a slant in favor of business-corporate law exists. It seems an anomaly that such a predicament survives in a school whose bulletin proudly exhibits its "people" orientation in its faculty profiles and in the application process, where the school boasts an acceptance of those students with practical experience and community activity. "We also give substantial weight probably more than at any other law school—to a candidate's demonstrated commitment to social justice and community service." (Message from the Dean—Hofstra Law Bulletin 1975-76)

The problem is plain, too many students come to Hofstra with a sense of social commitment and become frustrated by the meagre course offerings in areas that directly train one to be a lawyer of and for the people. Where are the courses in welfare law and immigration law, for example? The Hofstra Chapter of the National Lawyers Guild today offers its recommendations for changes and expansion of the present curriculum. This is by no means an exhaustive statement nor is it meant to be taken only as an introduction. It is a representation of the strong and earnest feelings of those students of Hofstra who have retained their commitment for "social justice and community service." It is essential that Hofstra not forget those aspects of its character which make it a "unique" law school; the people in this school need an opportunity to cultivate their interests. We encourage students, faculty and administrative staff to become involved in discussing this issue.

In the fall of 1975, the Curriculum Committee of the law school announced that it was undertaking a general review of the law school curriculum, and it invited student comment at that time. The Hofstra Chapter of the National Lawyers Guild is submitting this report in response to that invitation. The Guild at Hofstra is an organization of students whose legal interests will likely take them into fields of law to which the present curriculum is not responsive.

This report is submitted on behalf of those members, as well as non-member students, who will eventually be working with people of lower economic status, women, racial minorities and aliens. It is by no means an exhaustive critique of the Law School curriculum or the policy decisions upon which it is shaped, but is addressed to the immediate needs of the present student body.

The Law School has, in the last few years, made a conscious effort to admit men and women who have demonstrated an active involvement within their communities. They come to law school with unusual past experiences and demanding expectations. These students, for the most part, are not willing to accept a traditional role in corporate law. They have been led to believe that this law school will offer something different.

This is an appropriate time in the history of this law school to take a comprehensive look at the curriculum. The school has now had eight semesters of second and third year courses and presumably, newness can no longer be plead as a justification for deficient course offerings. Generally, it is the practice to add courses to the curriculum piecemeal upon the petition of individual students. While the following report contains suggestions for specific courses, we feel, more importantly, this is an opportunity to evaluate the school's priorities in the area of curriculum development and make some recommendations with regard to long-term planning.

Our recommendations concern the development of courses that will aid us in dealing with the problems of the aforementioned groups. We view it as the responsibility and a goal of our law school training to prepare us specifically for the areas of the law we plan to enter. The law school not only has a responsibility to train students in legal reasoning, legal methods and analytical skills, it must also provide students with a fair range of substantive course work in his or her chosen area of the law.

The Areas of Concern

There is, in our mind, a well defined area of the law which is concerned with the problems of the poor. First, there are areas which by their very nature apply only to poor people. The government regulatory programs involving public assistance, medicaid, social security, and food stamps are obvious examples. Secondly, there are areas of the law which, because of social and political realities, have a clear impact on the poor sectors of the population. The criminal justice system, for instance, predominantly involves poor people, and in urban areas, minorities. Employment discrimination falls heavily though not exclusively on minority wage earners and women.

By the same token, there are substantive areas of the law which apply only to the wealthy. Estate tax, for example, falls by and large on individuals with incomes over \$20,000 a year. Capital gains tax is an area of tax law applicable to the more wealthy. The general concerns of the business and commercial curricula, involving as they do the uses and investment of surplus capital, apply to the wealthier individuals in our society. The formation of

testamentary and inter vivos trust instruments also involve the uses of large capital surpluses. While we do not claim that there is a direct correlation between these diverse areas of law and economic status, when a poor person enters a lawyer's office his or her legal problems are going to be very different from those of a wealthier individual.

Poverty law, Title VII litigation, and Immigration law concern federal statutes and regulations, state statutes and regulations, complex appellate and administrative procedures, and a background of case law involving both constitutional and statutory interpretation. There is no reason to assume that one can acquire an adequate background in these areas on the job. Any specific individual problem may require a comprehensive knowledge and familiarity with other related areas and policies of the law which may have ramifications that are not going to appear to the attorney without this training. The lack of training does a considerable disservice to both the client and lawyer.

A Look at the Existing Curriculum

Hofstra has a relatively sophisticated curriculum in tax law, business law, commercial law, estate planning, property and real estate law. There are sequences in each field. Since the inception of the second and third year programs four years ago, there has been a considerable growth of courses in these areas. There has not been a correlative growth in the areas of poverty law, immigration law, employment discrimination and areas of particular concern to women. In fact, even where the standard text utilized in existing courses includes a chapter dealing with some of these concerns, it is either deleted as with the Social Security chapter in Wills or Worker's Compensation in Torts, or covered briefly and inadequately as with Landlord-Tenant law in Property.

A new law school, no doubt, is going to experience some unevenness in the development of its curriculum. Initially, course offerings will be inadequate in many fields. We feel, however, that at this point the weaknesses of the curriculum must be eliminated. It is time to develop a curriculum beyond the existing business and commercial areas which have been developed.

The other national law schools in the New York City area over the course of their existences have developed such programs in addition to having strong business and commercial law offerings. At this point in its development, Hofstra must attend to these issues.

The Recommendations

Hofstra has since its inception sought to attract students and faculty who have demonstrated a commitment to working in the public sector. The law school catalogue conveys to the applicant the idea that the school is concerned with this focus of the law. Not only does Hofstra attempt to attract students whose conception of the law is something more than serving private interests, but also less than a majority of graduates go on to work for such private firms. Having articulated this commitment, the law school must respond to the fact that there are serious deficiencies in the curriculum for those students who see public interest law as involving the problems of the indigent, working poor, minorities, and women.

Following are some of our recommendations which we make for consideration by the law school community. Because of the realities of legal practice we have divided our recommendations into those involving civil law and those involving criminal law.

Civil Practice

Our review of the areas that would involve an attorney working in a civil setting has disclosed that the following substantive areas are not presently included in the curriculum and should be dealt with:

1. Government Benefit Programs—examining federal and/or state regulations, statutes, and procedures relating to social security, public assistance, food stamps, old age, survivors and disability insurance, unemployment insurance, worker's compensation, medicaid and medicare, and veteran's benefits.
2. Immigration Law—an analysis of the immigration and naturalization laws of the U.S. including the selection process regarding issuance of visas, administrative procedures, appeals, and judicial review.
3. Employment Law—focus on Title VII litigation, the Age Discrimination in Employment Act of 1967, the rights of union members, employee benefits programs, and affirmative action and seniority issues.
4. Health Law—study of federal and state programs for the delivery of health services, analysis of proposed national health insurance plans, patients' rights, regulation of hospitals and nursing homes, occupational health and safety laws.

We offer the following structural proposals with regard to courses to be developed in the above four "categories":

1. The breadth of material involved in the government benefits course suggests that this area might best be taught in a two semester survey course format. The rest of the material could be taught in a seminar setting.
2. We would also suggest that workshops be given in

conjunction with each seminar. The purpose of these workshops would be to focus on the pragmatic aspects of the respective areas of law; specifically to examine the procedures and regulations to see if they could be made fairer, as well as how to challenge existing procedures. There should be discussion regarding law reform via test case issues and litigation, and the practical problems and advantages of community involvement. Furthermore, it is essential that we be prepared to adequately represent clients at welfare, unemployment, housing, and deportation (fair) hearings, as well as develop skills in challenging and improving existing programs and procedures.

3. These "workshops" could either be incorporated into the survey courses and seminars or offered independently to be taken at the option of the student.

4. Finally, these workshops could easily be effectuated by simulated "role-playing" of problem situations based on actual cases and/or by preparing actual cases at NLO under the supervision of a faculty member, or, for instance, in connection with a much needed women's litigation clinic. (Proposal to be developed.) It is suggested that these workshops be kept flexible so as to best meet the individual needs of students and faculty.

While we are recommending a considerable expansion of the existing curriculum, every attempt should be made to use the existing resources of the law school. We feel that the implementation of our proposals would not necessarily require an expansion of the faculty. A glance at the credentials of the current faculty shows there are professors who are well qualified to teach courses in these areas; some have even taught such courses at other institutions.

We also realize that the law school is undergoing a financial crisis at the present time, but the fact remains that these are important areas to which the curriculum directs insufficient attention.

Criminal Practice

Hofstra presently has three courses in criminal practice matters: the first criminal law course and two semesters of criminal procedure. The topics dealt with in the first year criminal law course are critical for the practice of criminal law. Important material is presently not dealt with, however.

There should be an introduction to criminal offenses (beyond the present first year course's discussion of homicide), defenses to specific offenses, the general defenses of insanity and diminished capacity, an overview of the constitutional void-for-vagueness doctrine, methodology of statutory reading and interpretation, and as a corollary of the latter, a similar overview of indictments and informations. An in-depth study of these areas could be included in the first year criminal law course or in a separate elective second year course designed for those who are concerned with developing a background in criminal practice.

The material now covered in the two semester criminal procedure course should be supplemented, and the sequence should be increased to three semesters. Expansion would afford the opportunity, in depth, such areas as: (1) the procedural steps of a criminal prosecution; (2) the timing, types, and content motions including bail reduction applications; (3) issues relating to the admissibility of confessions (an area inadequately covered in the present case book); (4) representation of a client before the grand jury; (5) the problems of discovery; (6) an overview of trial preparation including investigative techniques; (7) the content and techniques of suppression hearings; (8) the methodology of jury selection, voir dire, and building a record for challenges to panel selection procedures; (9) the coverage of post conviction relief, both direct and collateral, as well as the addition of sentencing review, resentencing, commutation of sentence, and concurrent and/or consecutive inter jurisdictional sentences.

We feel that this material is essential to providing an adequate background for students who will be confronted with these issues in practice and should not be omitted due to the time limitations of a two semester course.

Finally, a seminar course should be offered in which interested students have the opportunity to synthesize material covered in class and to explore more specific problems in depth. The course might be divided into a seminar component focusing on strategy and tactics, plea bargaining, with special attention to problems raised by representing the indigent (e.g., lack of independent resources for procurement of investigators, expert witnesses, problems of consultation with an incarcerated client), and a clinical or simulation component in conjunction with NLO or trial practice, where the student would deal with criminal motions and either real or moot cases.

For instance, a student could work on a particular criminal trial and his or her criminal seminar. If the individual student so desired, a second clinical seminar, together with or in place of the former seminar, could be elected for the purpose of working on a criminal appeal, including reading of the record below, spotting appeal issues, research of the issues, and writing the draft of the appeal.

ABA: Law School Enrollment Plateaus After Rapid Growth

Law school enrollment which had been climbing dramatically for the past decade, apparently has reached a plateau, the American Bar Association said today.

Despite an over-all increase in enrollment at ABA-approved law schools for the current school year, net growth appeared to have ended. And, the ABA said, even though only one law school reported having any empty seats, many law schools showed fewer qualified applicants. Several law schools also reported a greater number of "no shows" in their first choice of admittees.

Enrollment in the 163 ABA-approved law schools last fall totaled 116,991, an increase of 6,278 or 5.67 percent over the similar 1974 figure, the ABA reported.

Women again led the way with an increased enrollment of 22.07 percent to 26,737. They now comprise 22.85 percent of approved law school enrollments. Minority enrollment also increased, but only by 4.12 percent, to 8,676, or three times as high as it was in 1969 when comprehensive national figures were first collected.

The report was prepared by James P. White, professor of law at Indiana University Indianapolis School of Law and dean for academic planning and development for Indiana University-Purdue University at

Indianapolis. He is consultant on legal education for the ABA.

While over-all enrollment increased, White said that the pace has slowed significantly, indicating that net growth appears to have ended for student population as well as for the number of institutions offering law degrees.

White said many law schools showed a decrease in the number of applicants who met admission criteria and several schools also reported more "no shows" in their first choice of admittees.

"These facts seem to indicate that there is a continuation of the slowing of law school admissions," White said in his report carried in full by the March edition of the American Bar Association Journal.

Law school enrollment has grown steadily during the past 10 years except for a decrease in 1968, more than doubling from 54,263 to the current 116,991.

White pointed out that the current figure includes enrollments from six law schools provisionally approved by the ABA last year.

"Particularly significant," White said, "is the fact that first-year classes in 1962 approved law schools (excluding the Judge Advocate General's School, which offers a graduate program only) increased by 964 in 1975, an increase of 2.53 percent. If the 1,146 first year students enrolled

in the newly-approved law schools are excluded, there were 182 fewer students in first-year classes for the fall of 1975.

"Thus, law schools approved in 1974 actually experienced a decrease in their enrollment for the first time since 1968."

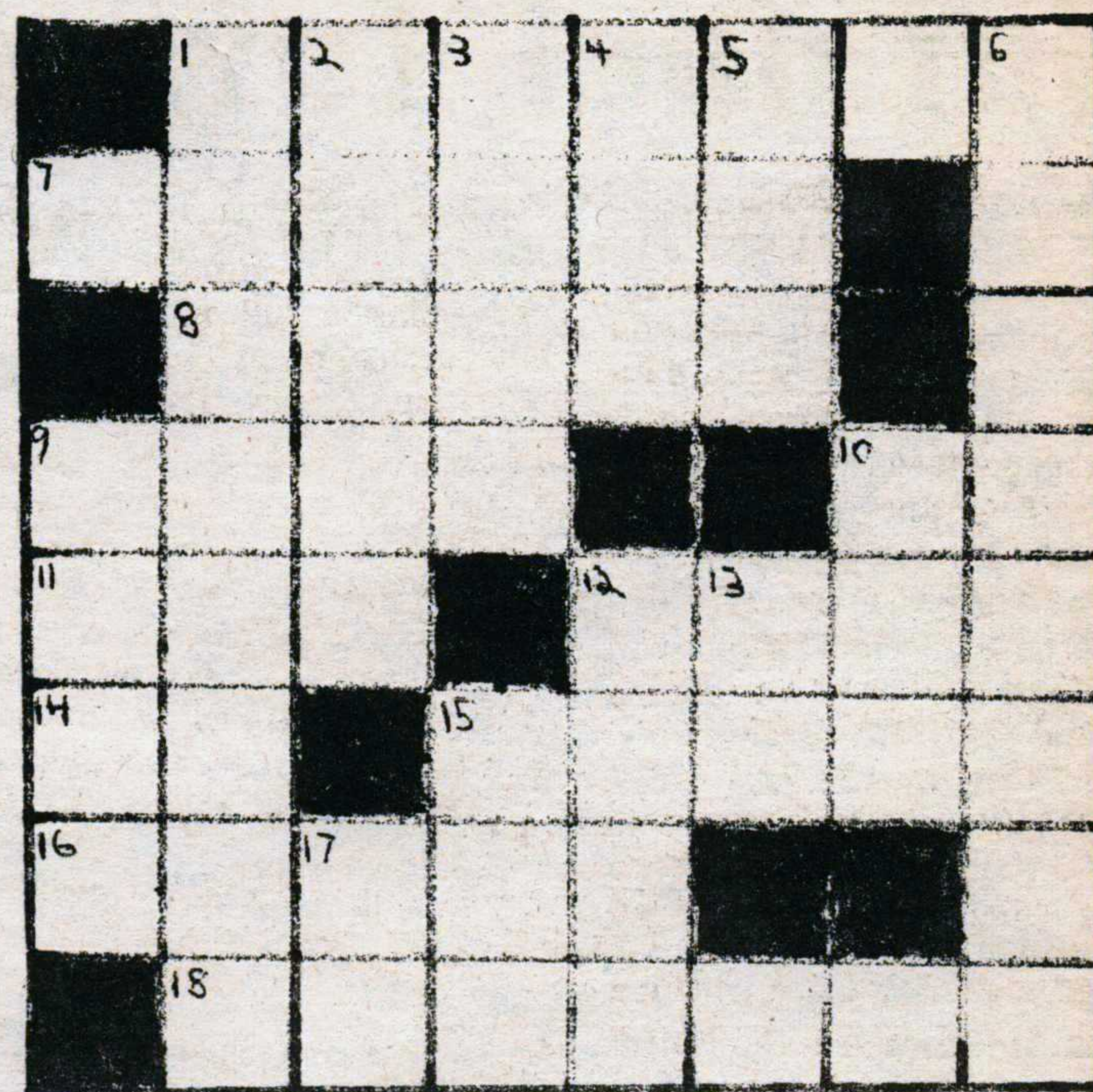
In addition, White said, only one school has indicated an intention to apply for provisional ABA approval during the 1975-76 academic year.

"The impact of the substantial increase in law school enrollment that occurred in the fall of 1971, entering class was reflected in the increase in J.D. or LL. B. degrees awarded during 1973," White said. "J.D. or LL.B. degrees awarded in 1973 increased from 27,756 to 29,045. In 1974 J.D. or LL.B. degrees granted rose from 29,045 to 29,961."

ABA inspection teams checked 42 law schools during the past academic year to (1) assist the schools in attaining full potential; (2) determine compliance with approval standards; and (3) report on developments in curriculum, teaching and research and public service.

Most states require graduation from an ABA-approved school for taking bar examinations. Approval criteria standards cover such factors as staff, financial resources, library facilities, curriculum and relationship with the university.

by Steve Orbach



Across

1. To make incomplete
7. A fabricated report
8. A candy-breath mint, or high court grants
9. Proclaims sleep period
10. Hospital technique
11. Dita Reard's employer
12. Type of type
14. not included-abbr.
15. Stephen Vincent _____
16. Swiss pastime or type of cake
18. Arouse displeasure

Down

1. Easter, Christmas, Summer, for example

2. Generally incompetent

3. _____ & feathers
4. Seventh Ave. subway
5. One day lawyers will place them
6. Recent event in John Stevens' life
9. _____ Tim
10. Drink addition
12. To assail repeatedly
13. Door sign
15. Wager
17. A B C

Answers to puzzle on page 7

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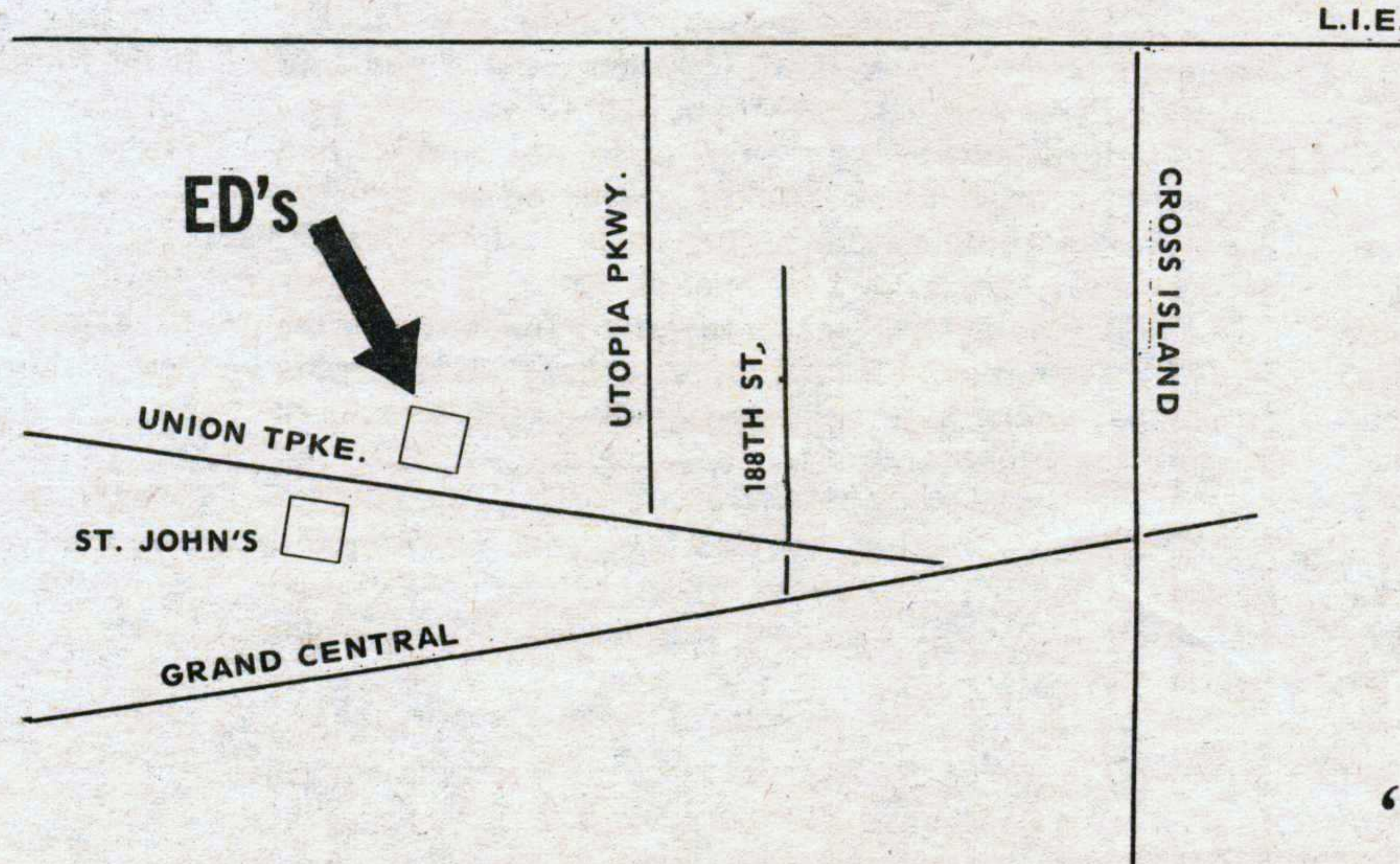
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"... Worth The Ride"

FOIA Int. Law

by Mimi Hyman

Do you think that you have ever been the target of government surveillance? Are you curious to discover what data about your private life is on file with a government agency? After all, in recent months, it has become increasingly clear that over 100 government agencies conduct surveillance on American citizens and other individuals in the United States. Several agencies that have admitted to conducting illegal investigations of American citizens include the CIA, the FBI, the Justice Department, the Department of Defense, the Civil Service Commission, the Secret Service and the IRS.

The amended Freedom of Information Act (Section 552 of Title 5 of the U.S. Code) makes it possible for an individual to request his or her personal record from any federal agency which has an intelligence function. However, as is too often the case, there appears to be a gap between the law as written and its implementation.

The Nassau County Civil Liberties Union, in conjunction with other chapters of the American Civil Liberties Union has initiated a project to determine which agencies are complying with the FOIA guidelines. The Civil Liberties Union intends to bring suit against those agencies which fail to disclose to individuals the information about themselves to which they now have a right of access. By keeping records of requests filed pursuant to the FOIA and the responses received (or not received, in the case of non-compliance) the Civil Liberties Union hopes to reduce excessive government secrecy and to expose violations of civil liberties brought about in the name of national security.

The Civil Liberties Union would welcome your participation in this effort. For specific information as to how to obtain your file from the government, contact Mimi Hyman (CONSCIENCE office) or Barbara Bernstein, Executive Director of the Nassau CLU, 210 Old Country Road, Mineola, (516) 741-8520.

by Wayne Bastedo

The Hofstra International Law Society is committed to developing a full international law curriculum at Hofstra.

Gordon Crane, the group's organizer, has met with Dean Freedman, Faculty Appointments Committee Chairman Malachy Mahon, and Curriculum Committee Chairman Burton C. Agata. All have enthusiastically supported such a program if the Society can demonstrate one thing—student interest.

The law school is already planning a course in International Commercial Transactions next fall and, if the Society is able to find a teacher, will sponsor a course in public international law next spring. The Society hopes that even more courses can be set up the following year, possibly given by a full-time international law professor.

Crane contends that a national law school has an obligation to provide its students with the opportunity to explore such a fundamental and rapidly developing area of the law. He also cites Hofstra's proximity to the international interchange of New York City and the prevalence of international law in the city's cosmopolitan legal practice as further reasons for such a curriculum.

Yet the Society, which is in the process of joining the American Society of International Law, has only enlisted about 30 members since it obtained school recognition and initial funding last semester. Although the group plans to sponsor speakers in international law and other activities to stir up student support, even these activities could use additional assistance from students willing to make a commitment.

Crane states that he knows there are many more students who would like to take international law courses, but without the proof of their support at meetings or on the Society's membership rolls there may be no such courses to take. He encourages all interested students to attend the weekly Thursday meetings at the times and places posted.

Pass-Fail

by Jeffrey Robinson

It's about time Hofstra Law School confronted its own image of a "unique" law school. The article in the last issue of CONSCIENCE concerning Pass-Fail for the third year presented a moderate first step in what should become a plan to completely revolutionize the law school experience. There is no need to perpetuate the myth of progressiveness when in reality we are becoming more firmly entrenched in the traditions of legal education.

Pass-Fail is not the ogre it is thought to be. At this stage in our education, we have been through all the cutthroat competition, jealousy and backbiting that accompanies the "success" we so ardently strive for; why not make the last phase the most rewarding?

The arguments that are presented against adopting a Pass-Fail system are easily rebutted with logic, and if the shock of a complete overhaul is too much there should not be any adversity to the third year becoming a learning experience without undue pressure.

The point that we won't be competitive with other law graduates for jobs is hogwash since the grades for the first 2 years firmly establishes the hierarchy of "ranks." Third year grades will have a miniscule impact on class position, and in the long run what difference does it make if you finish No. 53 or No. 56 etc.

The position taken by some faculty and students that we will tend to slack off and not do the work for our courses should be offensive to every student who takes his/her education seriously. If at the time in our careers the administration does not have sufficient confidence in our desire to learn, then we die back to Stage 1 in the schoolboy process. Law students are for the most part here out of their own choice and wish to prepare themselves for a profession. Those who will refuse to do their share of work will exist regardless of the grade situation. They are not here to learn but to survive through three years. Yet, there are those students who will do their work regardless whether artificial incentives are hung

Met. Moot Court Team

by Stuart Goldstein

After long weeks of agonizing, thinking, analyzing and writing, Hofstra's moot court team has finally fought its way into the semi-finals of the Irving Kaufman New York Metropolitan Moot Court Competition.

Of the ten law schools entered this year, only four survived the grueling ordeal: Fordham, St. John's, Columbia, and Hofstra. All were judged on both the quality of their briefs, and the persuasiveness of their oral presentations.

"Our brief is complicated but clear," said team member Allan Heussinger. "It concerns the questions of what is a 'security,' and what constitutes an 'officer' for purposes of liability under Sec. 16(b) of the Securities Exchange Act of 1934. All of the members, including Bill McCarten, Gail Shields, Gary Rafsky, Mike Masanoff and myself, worked very hard—sometimes through the night—to get the job done."

All moot court teams were required to present the arguments on both the appellant's and the appellee's sides. Questions were invariably difficult, and well researched. That made preparation very difficult. The team members, however, agreed that the experience was well worth the time and effort.

The members believe that their attention must be directed towards the upcoming semi-final competition, to be held at Fordham Law School. This time, scoring will be based solely on the oral presentations. Professor Ordovery and Professor Posin have been drilling the team on this, and all members of the team agree that they will be ready for the big event.

Client Counseling Competition

by Richard Seltzer

In January, Dorothea Constan and Jean Smith-Hoffman were appointed by Professor Harvey Spizz to represent Hofstra at the regional Client Counseling Competition, which was held at N.Y.U. Law School on March 6. The contest presented a problem of contract litigation. Hofstra's team had two practice sessions before N.L.O., in which students were able to offer constructive criticism, and get a feeling for themselves of what client contact is all about.

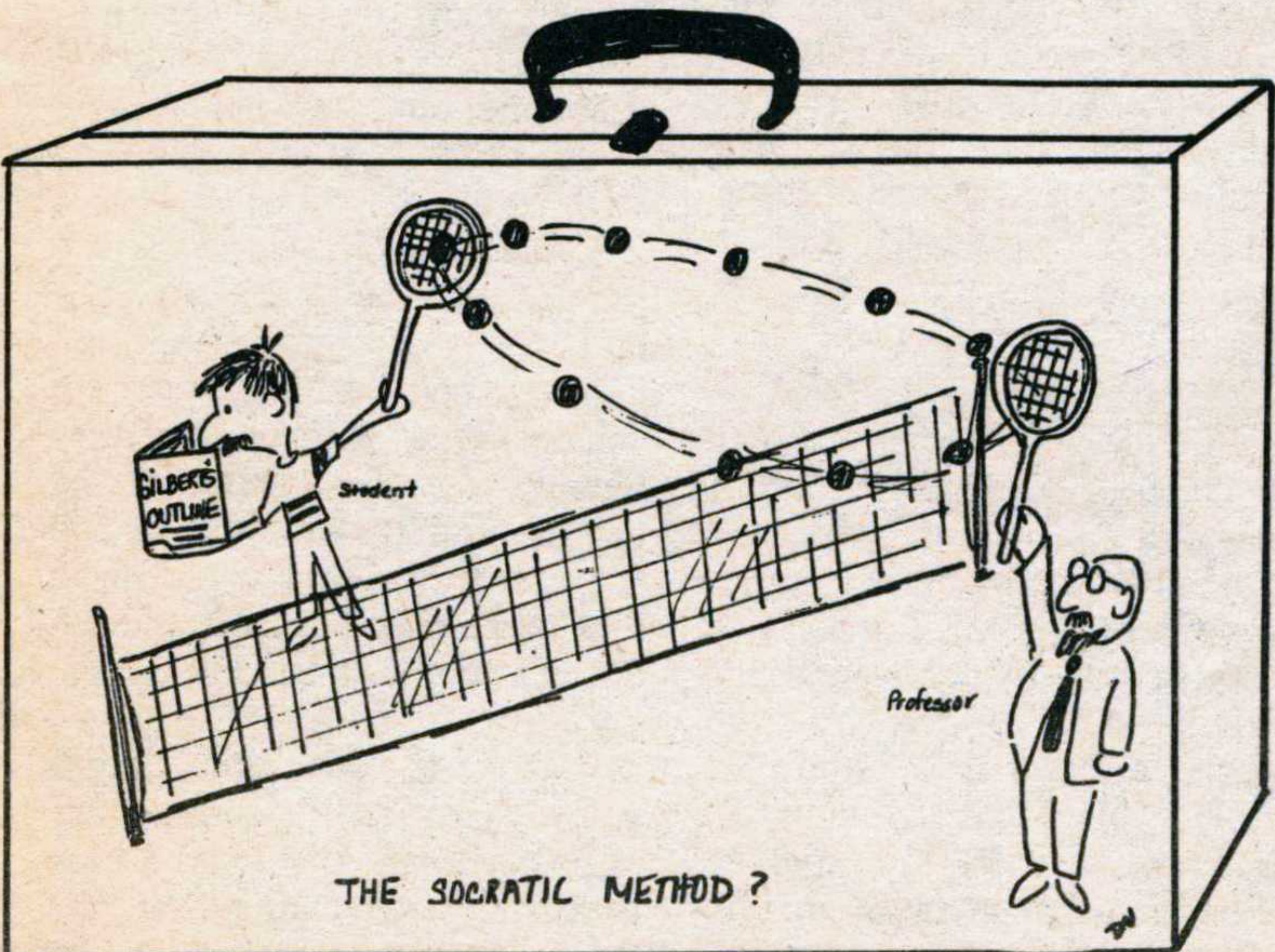
Dorothea and Jean were pitted against a two-woman team from Brooklyn Law School in the preliminary round. Three judges observed as the participants conducted an interview of a widow who was "conned" by a real estate broker, and then dictated a memo on the possible and alternative resolutions of the various legal problems involved. Jean felt the competition is "a good vehicle to force the student to deal with the human aspect of being a lawyer, which is a topic that is not given enough attention in law school."

Hofstra lost to the Brooklyn team who capped the regional championship. "I enjoyed the experience. Unfortunately, we don't know what the scoring system was, or the method by which we were judged because there was no critique," stated Dorothea.

The Client Counseling Competition and N.L.O. are among the few places where the law student can develop the skills of interviewing a client under supervision. Learning how to get the facts and the confidence of the client in a short period of time comes with experience, but the law school can play more of a role. Jean suggested for the future: "I don't believe the participants in the competition should be appointed. It would be more effective if elimination rounds were held in the beginning of the year among third year students. This approach would offer an opportunity for learning the techniques of interviewing for those students who are interested."

Brief-Race

By J.B.



The First Year Legal Research and Advisement Program would like to announce the appointment of its directors for the 1976-77 school year:

Louis Scarcella, Director
Ellery Plotkin, Curriculum Director
Richard Leckerling, Administrative Director

The Program would like to express its appreciation for the time and effort expended by the following individuals in contributing to the overwhelming success of the Program in its first year:

Alan Reitzfeld, Director
David Weiss, Associate Director
Len Austin
Ralph Behr
Andrea Berger
Richard Block
Paul Blutman
Kathi Boyle
Douglas Carter

Mark Claster
Martha Conforti
Shereen Edelson
Andrew Eibel
Joan Feinstein
Richard Feirstein
Glenn Franklin
Darrell Gavrin
Joan Gilmore
Monte Jackel
Mark Jaffe
Cheryl Kaplan
Elyse Klein
Lewis Kurfist
Larry Kuznetz
Richard Leckerling
Marilyn Monter
Ellery Plotkin
Gary Rafsky
Roger Ramme
Jack Rapoport
Doria Saletsky
Alan Sarnoff
Stephen Satkin
Louis Scarcella
Richard Schleifer

Stephen Schlesinger
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Gary Wishik
Betsy Woolf

Eugene M. Wypyski,
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E	T	V	I	T	I	V	

Athletes Cry Foul, Fans Are Reserved

by Jon Falk
and Leo Schoffer

The sports pages are now filled with as much legal copy as sports news. Players in all leagues are using lawyers and courts in an attempt to restructure their relationship with management. For instance, in baseball, through restraint of trade arguments, players are pressuring for the liberalization of the "reserve clause," which indefinitely binds an athlete to his team. Players want the ability to negotiate with whomever desires their services. This inevitably leads to a bidding war and higher salaries as is evidenced by Catfish Hunter's \$3.75 million contract with the N. Y. Yankees.

In evaluating such issues as the reserve clause, hasn't the time come for those involved to stop taking a legalistic stand and to look more realistically at the situation in which professional sports currently finds itself.

The financial success of a franchise depends upon fan loyalty. This is manifested in such areas as stadium attendance and television markets. But this loyalty is directed as much toward the individual players as it is toward the team. It is the reserve clause which helps perpetuate this fan loyalty by requiring the player to remain with one team, thereby displaying a loyalty of his own towards the organization and its fans.

But the players are quick to point out that their first concern is with family security, and not their team. As Donald M. Grant, President of the N. Y. Mets recently stated, this argument is a contradiction. It may apply to the player earning \$15,000 per year, but not to those earning several hundred thousand dollars yearly. Yet the latter are the ones whose services will be widely sought and thus they are the ones who stand to benefit by a change, not the marginal players. In addition, there exist elaborate pension plans given the players as a result of collective bargaining for the purpose of financial security.

The high-salaried athletes claim that regardless of any change in the reserve system, they will always be paid lucratively. Thus, they contend their insistence on a change stems from their concern for their fellow athlete who sits on the bench due to the fact that his position is taken by an established star. The reserve clause, it is asserted, prevents such players from negotiating with another team which may have an opening for them. But this argument is also misleading. With the abolition of the reserve system, stars would go to the highest bidder, thus giving the owner the incentive to negotiate more conservatively with fringe players in an attempt to keep total payment down. Therefore, it is not certain just how much the second string player stands to benefit.

The players seem to forget that sports is a business, and like all other businesses, the owners

have a limited amount of capital with which to work. The Catfish Hunter case was an exception as he was the only free agent on the market at the time. Without the reserve clause, there would be a large number of free agents on the market. It is inconceivable to expect the owners to vigorously compete among themselves for these high quality ballplayers as this would result in their own financial demise. Yet the non-existence of a bidding war would bring about player charges of price-fixing and collusion on the part of management. In a realistic sense, the owners will either have to subject themselves to the financial risk of a bidding war, or be subject to more litigation.

Assuming that the reserve clause leading to higher salaries, it is obvious who will have to foot the bill—the fan, through higher ticket prices and indirectly through other mediums. The player must realize that sports is just a form of entertainment and thus there is a limit to what people are willing to spend. As it stands now, it runs a family of four a considerable amount to see a single ballgame. Further increases in prices will cause the fan to look elsewhere where his entertainment dollar can be stretched further. In addition, feelings of resentment and alienation will come about—and let's face it—if the Boston Red Sox played the Cincinnati Reds without anyone watching, the game itself would have no social value and would be meaningless except to those involved.

With this in mind, we feel it is time for the high salaried player to stop complaining about being exploited by a system which places them in the upper classes of society and to realize that it is the fan who truly is being exploited.

The West Publishing Company Softball Team announced yesterday at a heavily attended press conference at the Holiday Inn its policy considerations for the 1976 season. In addition, club officials confirmed earlier reports that this will be the final season for the club pursuant to a court sanctioned settlement reached with The West Publishing Company of Minnesota. In *West Softball v. West-Pub. Co.* (D.C. Minn. 1975; NYLJ Feb. 29, 1975), the Softball Club agreed, *inter alia*, to discontinue operations after 1976 in consideration for the use of the West name and "key". The anti-trust suit was brought by the Hempstead group after West of Minnesota sought a permanent injunction barring the use of their identifying symbols.

Spokesperson Michael Kent stated that this being the final opportunity for the club to cop top honors, all stops will be pulled. He further noted that the perceived pressures presented by the bar exam and job seeking

The Wall Street Trail

by Neil Weinrib

The interviewer from the prestigious Wall Street law firm of Kennedy and Cohen gazed intently at the resume of the next applicant. In fact, she was so absorbed that she failed to see or hear her victim enter. When she finally did look up, she was astonished to observe that seated across the desk from her was "someone" dressed in a suit of shiny armor (certainly not Brooks Brothers) with a broad sword dangling at his side. Trying as hard as she could to stay composed and to refrain from either laughter or sardonic comment, the interviewer attempted to proceed with her discourse.

"Let me begin by telling you something about our firm," she said. "We are certainly one of the oldest in the city and take great pride in our staff of exceedingly fine and capable attorneys who are completely dedicated in their work."

"Excuse me," came a voice from inside the helmet. The visor opened a bit revealing a bearded young fellow. "Isn't it true that your neophyte lawyers are compelled to slave ridiculously long hours, often going without food and sleep, let alone a normal life outside of the firm? Are they not imperialist lackeys whose only functions are to carry the attache cases of the partners up the long courthouse steps and procure corned beef sandwiches on rye or an occasional Big Mac with everything on it?"

"Hm, oh yes," responded the interviewer. "Where was I? As I was saying, we are engaged in an extensive practice covering every conceivable area of law. Our firm, is of course, on the traditional side and we try to maintain a respectable image among our colleagues..."

"Say, excuse me for interrupting," said the young knight. "Does this mean that I wouldn't be allowed to dress in my own inimitable style or do my own thing? That I couldn't bring my granola sandwiches to work in a brown paper bag, read the National Lampoon or take along for companionship my Irish setter named Wonder? Well, if that's the case, I don't think I want the job. Definitely not."

With that, the young upstart clamored out of the

room. Shortly thereafter the next applicant struggled in with an armload of paintings, photographs, poems, and sheet music. Not to mention the guitar slung around his neck.

"What's happening?" he said, extending his hand. "I'm Sid Arthur. Pleased to meet you. Say, you're kind of cute."

The interviewer quickly withdrew her hand and straightened up in her chair. "Mr. Arthur," she said, pointing to his art gallery. "What is the meaning of all of this?"

"I never thought you'd ask," said Sid. "I guess the burden of proof has shifted to me. I am here to show you that I am not your run of the mill applicant. I am unique. I have tremendous appreciation for art and literature. What's so important about law anyhow? Any 3-year-old can memorize the New York Penal Code or shepardize a case. I propose to inject new life into your firm. I can write a brief in the style of Flaubert, Voltaire or Hemingway. I can quote at will from Samuel Johnson and am well versed in Shakespeare and Richard Brautigan. I can act with the power of Sir Laurence Olivier or Charles Bronson, tell a joke like Henny Youngman and even dance like Fred Astaire. Wanna see?" With that he proceeded to rise.

"Mr. Arthur," said the interviewer. "Restrain yourself. Please sit down. I am afraid you do not understand our needs."

"And as for art," continued Sid, oblivious to her command, "I am totally familiar with the works of the great Masters. I can paint anything or anybody. Why I even painted frescoes on my bathroom ceiling while lying on my back for five months. I also play both the piano and the guitar. In fact, I've prepared a few songs that I know you'd love to hear. This one's called the Wall Street Blues," he said, as he began strumming away on the guitar.

"Thank you very much," yelled the interviewer. "We'll be getting in touch with you."

Scarcely 30 seconds later, the next applicant darted in on roller skates. Thus ended a typical day in the life of a Wall Street interviewer.

LAW STUDENTS "EASE ON DOWN THE ROAD"

by Kenneth Husserl
& Mark Birnbaum

If anyone has a million dollars or so they don't know what to do with, he or she may find inner fulfillment by investing in a Broadway show, although the possibility of return is minimal.

This was one of the realities of producing a play on Broadway, as explained to a class of law students enrolled in Entertainment Law, during a field trip to the Majestic Theatre on Broadway. Arranged by Adjunct Professor Peter Parcher, the invitation to the students by producer Ken Harper provided a question and answer period about the realities of a major production.

Harper explained the reasons he had for producing an all-black production, and the factors leading to its great success. He felt that "The Wizard of Oz" was a great American classic children's story which had not been modernized since 1939, when the movie version starring Judy Garland was released. Harper attributes a large part of "The Wiz"'s success to its appeal to a family audience. He pointed out that tickets are usually bought in groups of three and four, as a result of this mass appeal. To this end, he has resisted pressure to raise ticket prices after the show had won seven Tony awards.

Part of the discussion centered around the problems concerned with getting backers for a Broadway show. Mr. Harper was lucky in that the entire show's budget was funded by one backer, a major Hollywood film studio. This is highly unusual, and was due to the studio's realization that a major motion picture could be made as a result of the show's success. It is

estimated that the show will eventually gross one hundred million dollars. This would consist of receipts from the show, movie rights, receipts from the cast album, (already a huge success), and merchandising rights (games, T-shirts, dolls, etc.).

The negotiations between the studio and Mr. Harper were conducted by Jerry Edelstein, Professor Parcher's law partner. Mr. Edelstein had previously come to Hofstra to give a lecture dealing with contract negotiations involved in putting on a show. As a result of this lecture, the class was equipped to question Harper about technical financing laws. Harper also mentioned that he is now in the midst of producing another show. He felt that he had learned a great deal from his first experience, and has decided to direct his new production as well.

At the close of the session, the Hofstra students were asked to leave to make room for the audience coming for the evening performance. There was talk of hiding out in the lounges, phone booths, and under seats of the rear mezzanine. It is rumored that more than half of the class did not return to the law school until after midnight. There was suspicion raised, since there were several complaints registered at the box office concerning the failure of the theater to supply seats that had been reserved.

LOCAL SPORTS

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"are illusory in nature... and all individual material ventures will be subrogated to the success of the team."

As an indication of the team's seriousness, Lenny Pugatch will be shifted to the pitching corps to aid Jeff Lebowitz. First round draft pick Phillip (Flip) Shapiro will attempt to break into the infield which is already bolstered by Mitch (The Fly) Adler. Jim Freeswick will start in place of the injured Michael Benjamin and will double as the sound effects technician.

Observers, however, noted that a crucial element in West's title run is the enigmatic Andy Hodes. It remains to be seen whether "Home Run" will venture forth from the cafeteria long enough to regain his powerful stroke of 1974.

Returning after a one-year injury layoff is Steve "Ebbetts Field" Kirsner. Also rejoining the club will be mainstays Herb Weiss, Ed (Too Tall) Robertson, Gary Seligson, Steve Schlesinger and Rich Lazarus.