HOFSTRA UNIVERSITY SCHOOL OF LAW

CONSCIENCE

The Hofstra University School of Law Newspaper

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TWERSKI NAMED INTERIM DEAN

Interim Dean Twerski (left) confers with former Dean Freedman.

Associate Dean Aaron D. Twerski has been named Interim Dean of the Hofstra University School of Law, President James M. Shuart announced Thursday, April 28, 1977.

Dean Twerski's appointment was recommended unanimously by the School of Law faculty to the University's Provost and Dean of Faculties, Dr. Harold E. Yuker, who strongly supported the recommendation. President Shuart nominated Dean Twerski at a meeting of the University's Board of Trustees Wednesday, April 27, and the appointment was unanimously approved.

In accepting the post, Dean Twerski expressed strong endorsement of the University's continuing commitment to a top quality law school. He and the faculty have pledged to work with the Administration to achieve this goal.

Dean Twerski, who joined Hofstra as a Professor of Law in 1972, succeeds Dean Monroe H. Freedman. He is 37 years old and was born in Milwaukee, Wisconsin.

The new Interim Law Dean received his Bachelor of Arts degree in Talmudic Law from Beth Medrash Elyron Talmudic Research Institute in Milwaukee. At the University of Wisconsin, he majored in philosophy and received his Bachelor of Science degree there in 1962. He earned the Juris Doctor degree in 1965 from the Marquette School of Law.

At Marquette, Dean Twerski graduated second in his law class (cum laude). He was student editor of the Marquette Law Review and participated in national moot court competition. He is admitted to the bars of Wisconsin, Pennsylvania, and New York, and served as a trial attorney for the Civil Rights Division of the United States Department of Justice (Honors Program) in 1965 and 1966.

Dean Twerski was a teaching fellow at Harvard University's School of Law in 1966-67, and a Professor of Law at Duquesne University School of Law from 1967 to 1971. He became Associate Dean of Hofstra School of Law in 1974.

by Robert Ginsburg

Counseling reconciliation, dispelling dark and whispered rumors and gesticulating as always, newly appointed Acting Dean Aaron Twerski addressed the Law School's student body on Tuesday, April 26, for the first time in that capacity. Introduced by Professor David Kadane who announced that Twerski had been unanimously chosen by the Law School faculty as its candidate for Acting Dean, Twerski was greeted by a prolonged standing ovation.

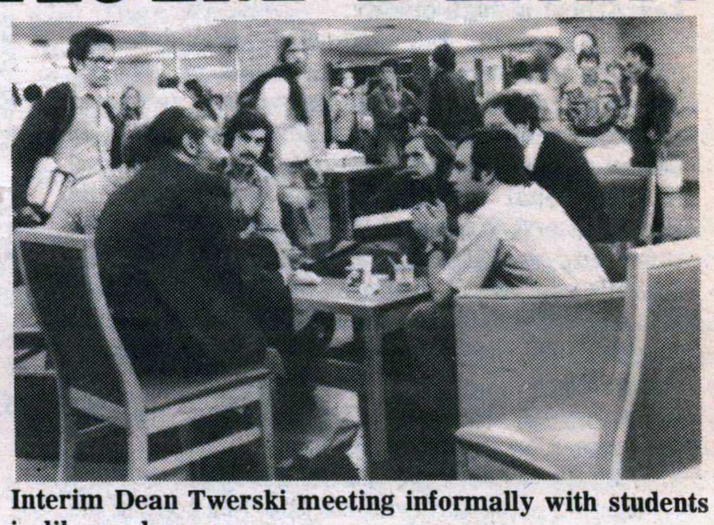
Setting what is hoped to be the tone for his administration, Dean Twerski began by stating the "reason I asked for this meeting, or, perhaps, the reason (the students) asked for this meeting, is, I think, a felt understanding amongst all of us that its time to talk with each other, not at each other."

While admitting that the Law School community has "been through a rough couple of weeks," Twerski said that in the course of the battle, several fortunate things had happened, particularly, "that we were working together for someone who is a true hero . . . a person of principle . . . Monroe Freedman." He went on to add: "I have marvelled at the strength of the man and at the strength of his commitment."

The Acting Dean next turned to what he termed the "misunderstanding" as to the extent of faculty support for Dean Freedman. Dealing candidly with the many rumors of faculty divisiveness on that issue and the supposed motives for that alleged divided stance, Twerski stated that Professors Agata, Schmertz and Kadane were indeed faithful to the cause.

Agata was not bitter at the loss of his bid for the deanship to Monroe Freedman four years ago, maintained Twerski. Freedman did not get one negative vote in that struggle, and "Burt literally stood on his head to do what one faculty member could do to support a dean."

Focusing on "the Machiavellian Eric Schmertz," the Acting Dean stated that Schmertz had not engineered the dismissal of Freedman to secure his own ascension to that position. Rather, "the first persons to raise the name of Eric Schmertz with the Administration as a possible Acting Dean were David Kadane and myself," he said. Professors Resnick and Kadane, also the targets of murmurings, were then absolved by the Dean. "David has an imperious manner," admitted Twerski. (The pyrotechnic Professor responded by rapping on the table.) "He wouldn't know how to change if he tried . . . the simple truth of the matter is that this faculty stood unanimously with Monroe."



Interim Dean Twerski meeting informally with students in library lounge.

With regard to the Dean's Search Committee, the Acting Dean gave his assurance that student membership on that body was certain, following the precedent set at Monroe Freedman's selection. The members of the committee and its ultimate composition were not yet formulated as of the Dean's address. Twerski stated, however, that not only will prospects be interviewed by the committee proper, but by the entire student body; this in an attempt to avoid the possibility of a power play by any one faction involved. As of this writing, a representative from the University will sit on that group. (The details of the Dean's Search Committee, revealed in its final form, are to be found on this page).

On the perpetuation of Monroe Freedman's progressive admissions policies, Dean Twerski saw no reason to deviate from the current formula "one iota". The Acting Dean has worked with former Dean Freedman for the past three years on admissions and has attended to ½ to 1-3 of that task.

Recognizing that the image of this Law School has been somewhat tarnished by the recent confrontation with the University, Twerski revealed that a few applicants to the Law School have rescinded their acceptances and asked to have their deposits returned. He seemed not overly concerned about this factor and declared "(t)his Law School is not going to pot . . . if this ship is going down, I ain't going to be at the rudder."

Before accepting questions from the student body, a group to which he pledged his manageable accessibility, Dean Twerski focused on the theme of reconciliation between the traditionally antagonistic academic and administrative contingents within the Law School and the greater University. Adversaries were created by the

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Format For Search Committee Decided

by Stuart Rosenthal

The faculty and student representatives to the faculty met last Friday to begin the formulation of a committee to search for a new dean.

The meeting opened with a statement from Harold Yuker, Provost of the University. Mr. Yuker suggested that it might be desirable to have a member of the University, from outside the Law School participate on the committee. He mentioned that there were several members of the faculty with law degrees and that one of them might be acceptable to the faculty. This idea was later adopted. He also reviewed some of the history from the last dean search relating to composition and responsibilities of the committee.

In answering questions from the faculty and several students who sat in on the meeting, Mr. Yuker indicated he would not recommend someone for dean who was not on the list sent to him by the committee. He added later that he would not reject a candidate because he was a strong personality. "I don't want a 'yes man.'"

He also stated that the committee's recommendations were not final; and while there was a high probability that their recommendation would be accepted, the President, and not the Provost, is the chief academic officer of the University.

In answer to a question, he said that he would prefer the committee did not rank their choices, but that it would be acceptable if they chose to do so.

After Provost Yuker left, the faculty heard a report from the curriculum committee (box on page 1) which was adopted, before moving on to consider the specifics of the search committee.

It was decided that the makeup of the committee would be as follows: three students (one from each of the current classes), one current alumnus, one member of the University from outside the Law School, one student to be appointed by the Dean to represent minority groups withon the Law School if the general election does not produce such representation, and ten members of the faculty.

Today is the last day for students to sign up to run for the committee. The elections will be held as soon as possible and results will be posted immediately thereafter.

New Fall Course Offerings Approved

At the meeting on April 29 of faculty and student representatives, it was voted, unanimously, to accept the proposal of the Curriculum Committee for the following courses which will be offered next year: Environmental Law Clinical Program (6 cr.), Public Sector Labor Law (3 cr.), Unfair Trade Practices (3 cr.), and Immigration Law (2 cr.).

Trial practice will be offered during intersession. For further information, see Professor Ordover.

Memoranda Crystallize Law School Position

(Editor's Note: The following is the text of the two memoranda agreed to by a faculty committee of the Law School and representatives of the University administration and the Board of Trustees.)

This memorandum reaffirms the existing policy governing the relationship between the University and its Law School. Both the University and its Law School recognize that the Law School is an integral and valued part of the University and that the University has been, is, and will continue to be, committed to development and preservation of a Law School of high quality.

In substance, the following provides the guidelines for establishing the budget of the Law School and standards for the University's review of the exercise by the Law School of its discretion in its budget proposal to the University. It is recognized that the final budget approval rests with the President and the Board of Trustees and that the University reaffirms its confidence in the Law School's exercise of discretion in the development of the Law School budget and will view the budget proposed by the Law School as presumptively responsible.

I. Each year the Law School's budget shall be determined on the following basis:

a. All Law School expenses shall be budgeted in a manner consistent with the attached copy of the 1976-77 Law School budget which followed appropriate University procedures for budget and planning. All direct operating expenses shall be budgeted to arrive at a net income (including gift income) after direct expenses. All allocated indirect expenses reflecting a pattern similar to that projected in such attached copy shall then be subtracted to arrive at the net income to the University generated by the Law School.

b. Within the budget parameters set forth in (a.) above, the Law School's budget shall be based on a good-faith estimate of the sums reasonably needed to develop and support a Law School of high quality. The minimum objective in preparing the budget shall be that the sum of all direct and indirect expenses for a year in (a.) shall not exceed the difference in the total estimated revenues, including gift income, for such year less one-half of the estimated gift income. However, conditions of extreme financial difficulty (which do not now exist) may require taking into account the financial needs of the operations of the University.

c. Any differences that cannot be resolved between the Dean of the Law School and the Provost relating to this memorandum shall be referred to an advisory committee reporting to the President which shall make recommendations to resolve such differences. The advisory committee shall consist of three members appointed by the Dean of the Law School and three members appointed by the Provost. It is understood that any disallowance of expenditures within the parameters set forth above shall be considered as a factor in the approval of the following year's budget.

II. The Law School's expenditures will be governed by the budget, arrived at as described above, and such expenditures shall not be subject to a second requirement of justification subsequent to approval by the Board of Trustees except under conditions of extreme financial difficulties (which do not now prevail).

III. The University reaffirms its commitment to quality clinical legal education. It is the goal of the University and the Law School to meet regularly within the near future to consider integrating the bookkeeping, payroll and disbursement functions of the Community Legal Assistance Corporation.

PROMOTIONS AND TENURE

In order to maintain and foster a Law School of truly high quality, the University agrees that the following principles will govern with regard to promotion and tenure of faculty:

1. There will be no quotas (formal or informal) concerning the percentage of either tenured faculty or rank classification at the School of Law.
2. All decisions with regard to promotion and tenure will be based solely on conditions within the Law School and will not be affected by conditions within other constituent units of the University.
3. The Law School shall recommend, subject to the approval of the Provost, the President and Board of Trustees, standards for promotion and tenure based on the following principles:

a. The sina qua non for promotion and tenure is that the faculty member excel as a teacher. Factors to be considered include superior classroom performance and continuing and effective student-teacher contact outside of the classroom.

b. A faulty member also shall demonstrate substantial professional attainment on a level of excellence. Factors to be considered include, but are not limited to, such activities as significant scholarship, substantial involvement in the legal community with matters of significant public interest, significant involvement in Law School and University committees, the development and creation of new programs at the Law School (both clinical and non-clinical), the development and creation of teaching materials, and participation in law reform activities. It is understood that the application of these criteria in promotion and tenure recommendations will take into account the need to build a law school faculty which reflects the multi-faceted goals of the Law School as a center of both traditional scholarship and dynamic involvement in the legal problems of our time. The tenure candidate shall have contributed to and show promise of making future contributions to the attainment of these goals by his or her superior scholarly publications or any combination of the other areas set forth above at a high level of excellence.

c. It is understood that the application of these criteria to promotion and tenure, cognizant and consistent with the Faculty Statutes, by the law school community will be both demanding and rigorous. Once the Law School has sent forward a recommendation regarding

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CONSCIENCE INTERVIEWS SHUART AND TWERSKI

by Stuart Goldstein

(Author's Note: This will probably be the last article that I'll be writing for CONSCIENCE as a student. For that reason I wanted the topic to be a special one. The recent difficulties at Hofstra Law School, and the resolution of the problems involved, have prompted me to submit the following article. I offer it in a spirit of hope and prosperity for Hofstra Law School.)

Most students and faculty will agree that less than two weeks ago the relationship between the law school and the university administrations could not have been worse. As a result, Professor Twerski, upon assuming the responsibilities of dean, and Dr. Shuart, the president of the University, have recently began to establish an atmosphere of cooperation.

The first step towards their goal was achieved when a joint faculty and administration document entitled a "Memorandum of Reaffirmation" was issued early last week. The memorandum will, in the future, serve as a set of guidelines on how to conduct business between the Law School and the University. It deals with the problems of tenure, budget and reaffirms the commitment of the parties involved to maintain a quality law school at Hofstra. (**Editor's note:** It has been reprinted on this page).

However appealing this form of exposition might have seemed, many students are still wondering if the arrangements set forth will work. In an attempt to resolve their doubts this article will compare and contrast the various opinions and attitudes of Dean Twerski and President Shuart. In separately conducted interviews the Dean and the President were asked about various policy issues that have recently arisen.

At the outset it is noteworthy that Twerski and Shuart appear to hold each other in high personal esteem. The dean referred to the President as "warm, sincere, willing to understand, and totally dedicated to the success of the Law School and University." Shuart's reaction towards the Dean was just as complimentary. He cited Twerski as an "outstanding scholar, who has exhibited refined leadership characteristics." He also noted that Twerski was highly respected by all. They both agreed that they could work well with each other.

In regard to the search for a permanent dean, neither Shuart nor Twerski would speculate who it might be, preferring instead to leave their opinions open. Dean Twerski noted however, that under no circumstances would he be available to take on the job. "My primary goals are to teach and write about the law. My acceptance of the deanship would interfere with those goals," he said.

As to the autonomy of the law school, Twerski believed that autonomy is an overboard word, designed to flare tempers rather than describe the operations of the law school. "If the word means final say on the budget, then no, we have no autonomy," said Twerski. "Both legally and as a matter of fact, the Board of Trustees of the University has final say on such matters."

In reference to autonomy over the budget and faculty compensation, President Shuart was mildly optimistic. "Within the limits of our resources we will do the best that we can," he said. "We have worked out a compensation plan for this year and for two years hereafter, to the satisfaction of the faculty. We covered that in great detail. Obviously something like that takes into account the limitations of the resources at hand. We can't promise miracles in every case, but we will do the best we can, and will try to work together with the Law School administration."

It should be noted however, that neither Shuart nor Twerski saw any limitations being placed on the Law School dean or on the faculty in the future, as far as the internal administration of the Law School is concerned.

Graduation Jitters

There has been growing speculation among third year students that in view of the events of the past few weeks, there might be some form of protest at the Spring graduation. President Shuart, who has the legally constituted authority to officiate at the graduation, has acknowledged that the graduation ceremony will take place as scheduled and that he will be there to carry out his functions and to offer the best wishes of the University to the graduating class.

When asked about the

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TWERSKI NAMED INTERIM DEAN

(Continued from page 1)

"financial picture of the University," he noted. "It is necessary that we understand each other and that we understand why we disagree." With that awareness, the Dean argued, symbiosis is possible; "we've got to enjoy being back at the Law School."

Beginning his responsiveness to the students from the inception of his administration, Twerski entertained questions from the floor. Of critical concern to this year's third year class is whether Monroe Freedman's signature will appear on their diplomas. Citing a reservoir of bitterness, past communications breakdowns and the aftertaste of previous misunderstandings, Twerski was unable to anticipate University President James Shuart's response but added that "Monroe's participation (will) hopefully be significant at the graduation."

On the issue of faculty attrition following the recent debacle, Dean Twerski stated that to his knowledge only one faculty member has made plans for leaving. With this, and the untimely death of the late Professor Herman Hillman, two slots are open on the teaching staff. "Students will sit on the faculty recruitment committee," following established precedent, he said. Policy decisions will be made with regard to which academic areas are to be newly staffed or replenished and to the type of persons who are to occupy the vacated positions.

Responding to the rumor that the Placement Director, Mr. Burton Teague, might have left his post before his term has even begun Twerski acknowledged that this might, in fact, be possible, but quickly added that he had taken up the matter with University Provost Yuker and had received a commitment from him to a higher salary for the position in the event Mr. Teague is unable to come to the Law School.

With respect to the Law School's heretofore tenuous position in relation to the University and particularly a future dean's independence, Twerski informed the audience that he had discussed the matter with Yuker. Declaring our integrity to be intact, Twerski said "If another Monroe Freedman comes down the pike, it's crystal clear (to the University) what kind of Law School they have."

The reputation of Hofstra Law School cannot be presently appraised, but "I will do my darndest," pledged the Acting Dean. He pointed out that one effect of the recent publicity has been positive in that it highlighted Monroe Freedman's concern for the maintenance of the Law School's independence and that the enormous strides made under his leadership have not been lost. Hofstra Law's image, which reflects high and real accomplishment, will be supported in a series of Dean's Letters and other mediums.

Asked about Judge Jacob Fuchsberg, Associate Judge of the New York State Court of Appeals, Dean Twerski said that the emminent jurist is still to be the commencement speaker at this year's graduation ceremony. "I think it's going to be fun," smiled Twerski. "He's a spunky guy. He loves Hofstra and he adores Monroe, and his attitude was: what can I do to help you guys?"

With that, and the collective student and faculty audience rendering a second standing ovation, Dean Aaron Twerski concluded his meeting.

LOWENSTEIN SPEAKS ON HUMAN RIGHTS

by Wayne Bastedo

"President Carter is the foremost spokesman for human rights since Eleanor Roosevelt," asserted Allard K. Lowenstein, Ambassador to the UN Human Rights Commission, speaking to the Hofstra International Law Society, April 21. Ambassador Lowenstein heralded numerous accomplishments at this year's Rights Commission conference where he represented the Carter Administration's policy of speaking plainly and forcing human rights issues into the open.

Lowenstein claimed this year marked the first real progress at the Human Rights conference since Mrs. Roosevelt led the fight for the Universal Declaration of Human Rights.

As an example, Mr. Lowenstein noted that despite vigorous Soviet objections, two sessions were spent discussing oppression—both religious and political—in the USSR. It was the first time Russia could not get any support from non-aligned countries to block the discussion; its usual automatic majority was gone.

During those sessions Soviet Ambassador Zorin accused Lowenstein of "restarting the Cold War."

"I responded that we can still admire the Bolshoi, and Russians like Podgorny can still wear U.S. pacemakers, in spite of American statements on human rights," Lowenstein told the International Law Society. He added that commitment to human rights was now a major bipartisan ingredient in American foreign policy.

Besides discussing Russian problems, another result of the end of the "Russian bloc" was that the resolution against apartheid was adopted unanimously because it was able to be separated from statements on Zionism.

Other subjects for conference activity this year, according to Mr. Lowenstein, included human rights problems in Uganda, Chile, Bolivia and South Korea.

In defending the Carter rights stand against American claims that it was jeopardizing detente, Lowenstein noted that detente "should not be one-sided like giving away wheat to Russia." Complaining that "Russia and China were some of Richard Nixon's biggest supporters in 1972," Mr. Lowenstein asserted that detente could not be successfully promoted by "kissing a particular part of someone else's anatomy" (Mr. Lowenstein was number seven on the Nixon "enemy list.").

In his argument with Zorin, Lowenstein recounted, he pointed to Pravda's criticism of the United States in the past. He admitted the U.S. had made mistakes, such as discrimination, in the past, and told Zorin the U.S. feels the USSR has made tremendous progress since Stalin. But when Zorin brought up Vietnam and the Dominican Republic, Lowenstein told the Russian he wondered which of them had opposed those policies more. Lowenstein proposed that they both publicly declare their own country's sins—but noted that that's where the difference lies: "Zorin can't admit and go back."

Lowenstein argued that the developments in the Human Rights Commission this year and in the UN generally under Ambassador Andrew Young are helping to overcome "the notion that the UN is hopelessly hostile to the interests of the United States and our sense of justice," and that in spite of the slippage in recent years, the idealism placed in the UN originally—partly eroded by the U.S. policy in Vietnam—can be restored.

In discussing the work of the Human Rights Commission (which is part of the Educational and Social Council—ECSOC—which reports to the General Assembly), Mr. Lowenstein lamented the problems of trying to convince governments to protect rights of which they are usually the greatest violators. Mr. Lowenstein praised the Declaration which the Commission was created to enforce, but admitted that since the time of Mrs. Roosevelt, the U.S. has tended to either ignore human rights violations elsewhere, or just be bellicose and denounce violations without trying to get the governments involved to do anything about them.

He also noted that since Mrs. Roosevelt, the Commission has been largely reduced to knee-jerk rhetorical condemnation of the favorite Soviet targets—Israel, Chile and South Africa—or as Lowenstein terms them, the "Golden Triangle." Responding to the Carter initiative, however, the Commission only spent one-fifth of its time this year on this "trio." Lowenstein also commented on the comic effect of Uganda and the USSR piously participating in this new serious level of discussion of human rights.

Mr. Lowenstein explained that this year's conference took a two-fold approach. First, it tried to apply the principles of human rights universally—not being "delimited" to one part of the world or another. But, second, it had to create certain priorities as to which principles are most important, since the Commission can't take on everything. "We have been firm in what we stand for," said Mr. Lowenstein, "but cognitive of the need to find coalitions—trying to find what approaches we have in common—in order to get things done. We try to avoid calling others hypocrites or being self-righteous ourselves, and instead look for ways to focus on and solve the problems."

The purpose of the Commission, according to Lowenstein, is to form a "transnational consciousness" as part of an "international legal community." He observed that governments that are oppressive yet signed the Declaration must pay the price of the focus of the Commissions on facts embarrassing to those governments. This is particularly true for the Soviet Union, claimed Lowenstein, which has long called itself a champion of human rights.

MEMORANDA

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promotion and tenure, it is expected that it will be received with a strong presumption in favor of the recommendation.

April 22, 1977

HOFSTRA LAW SCHOOL BUDGET
1976-77

I. Revenues:		
Tuition		
Fall	$1,184,500	
Spring	1,140,000	
Univ. Fees		
Fall	20,200	
Spring	20,200	
Admissions		
Applications	105,000	
Forfeitures	15,000	
Summer Session	125,000	
Pre-Law Summer Institute	45,000	
N.Y.S. Aid (Bundy Money)	134,000	
Law Review	2,500	
Photocopy Fees	13,000	
Contributions	250,000	
Total Revenues		$3,054,400
II. Direct Expenditures:		
Faculty Salaries	755,562	
Part-Time Faculty Salaries	21,220	
Summer School Salaries	50,000	
Law School Stipends	17,967	
Dean		
Associate Deans		
Financial Aid Officer		
Full-Time Admin.	102,731	
Full-Time Secretarial	106,070	
Pre-Law Summer Institute	18,000	
Graduate Assistants & Student Aids	20,000	
Supplies	64,500	
Scholarships	225,000	
Law Review	30,000	
Law Library	342,576	
CLAC (salaries & fringe)	59,256	
Fringe Benefits on all Compensation Except Law Library & CLAC	$120,741	
Total Direct Expenditures		$1,933,623
III. Indirect Costs to the University:		
Debt Service—Bldg. (per year)	310,000	
Allocated Plant—Law School utilities, maintenance, etc.	265,000	
General Administrative Overhead Pres. Office, Provost's Office, Payroll Dept., etc.	314,000	
Total Indirect Costs		889,000
IV. Excess of Revenues:		
Revenues	3,054,400	
Direct Expenditures	1,933,623	
Revenues less Direct Expenditures		1,120,777
Indirect Costs		889,000
Excess of Revenues less Direct Expenditures less Indirect Costs		$231,777

Opinion:

Future Commitment

by Gary Small

It is now time to ascribe meaning to the events that have agonized Hofstra for the past three weeks. It is time to count the casualties, and to do whatever is in our power to ensure that the sacrifices which we have witnessed will have meaning. And it is time to acknowledge the special contribution and commitment of Monroe Freedman.

Thank you, Dean Freedman.

Thank you for the personal sacrifice that helped to ensure that this law school would remain an institution of quality and integrity. Thank you for having the courage to perform the unqualified acts that were necessary to focus the attention of the Hofstra community on the issues in dispute between the Law School and the University.

Those acts produced hoped-for results. Within two weeks of the Dean's resignation and its attendant publicity, representatives of the Law School and the general university were able to produce a document that purported to resolve the substantive issues that had given rise to the resignation in the first place. The resignation, its focus and its publicity, not only made that document possible, they made it necessary. Those issues are now public, on the table, demanding recognition and resolution.

If the resolution means anything it means that the Law School now has a guarantee of some measure of control over the substantive issues in dispute. It seems to secure for the Law School a measure of control over law faculty tenure decisions, budget allocations and priorities at the law school. These are the issues that Freedman had identified as being at the heart of the continuing dispute between the Law School and the University.

These very same concerns are as much a problem at other law schools, but other deans feel that they can live with their situations. Freedman did not.

We seem to have won a commitment by the University to a first rate Law School. But it is not yet time to be congratulating each other, because this commitment is only as good as we at the Law School make it, only as good as its enforceability. This agreement and the Dean's resignation do not dissolve or resolve our problems; they focus on them.

A fine dean has been sacrificed for this commitment. In order for that sacrifice to have any meaning, a commitment must be forthcoming by the law faculty and student body to be ever vigilant in ensuring that that document has meaning. To do less is to disgrace the sacrifice; in so doing we disgrace ourselves.

It will soon be necessary to consider various mechanisms to firmly institutionalize the input of the Law School into the decision making processes of the University. We may want to work to secure a voice for the Law School on the Board of Trustees. There is nothing to be gained from an adversary relationship with the general University, and the sooner that we have an institutionally-based voice in its operation and priorities, the firmer the commitment will be of this university to first rate legal education.

But first things first; attention to this document and its practical application. It has the Dean's blood on it and its application demands our continuing examination.

Law, Grad Students Pushed to Tower F

by Wayne Bastedo

On April 27, Law School and graduate school residents were notified by the university housing office that next year they will be required to move to Tower F, to create one coed grad-law dormitory.

While supporting the concept of a coed grad-law dorm, following the announcement sixty of the eighty-odd grad and law school students on campus signed a petition urging that the grad-law dorm be placed in Tower A or B, and not in F due to its distance from campus and the law school, its state of disrepair, and its inaccessibility for grad-law handicapped students. A number of students indicated that they would rather live off campus than move to F. The petition was presented to Executive Dean of Student Services Sanford Hammer on Friday, April 29.

Dean Hammer took the petition under advisement. As of the writing of this article it was unclear what action he might take, though it seemed likely that the grad-law dorm would still be placed in F.

The Housing Office plans for Tower F include placing "quiet" and "limited visitation" undergraduates on the third through seventh floors, and creating "male," "female" and "coed" law-grad floors in the rest of the upper building. However, some undergraduates might be placed on the grad-law floors to fill unused space.

Although the Housing Office indicated publicly in a handout that law and graduate students would not be able to retain their old rooms in Towers A and B, it was discovered from the Housing Office that a number of exceptions had been made. Thus some grad-law students were allowed to keep their old rooms in Towers A and B, while students unaware of this possibility were foreclosed from doing so.

Dean Hammer indicated that at the very least Tower F (or wherever the grad and law students ended up) would be totally renovated as part of the general university maintenance program.

EDITORIALS

THANKS

This is the last issue of CONSCIENCE for the Spring term, 1977. As such it is the custom to mention those individuals who have contributed to the publication. It is my distinct honor to be able to do so at this time. It is a rather distinguished group of people who have been working to improve the quality of this publication, and in my estimation, it has been a successful effort.

Josh and Marge, last semester's co-editors-in-chief created a solid foundation upon which to build. It was they who had the difficult task of building and teaching this staff to do what had to be done.

CONSCIENCE will lose through graduation several editors and contributors whose places will be hard to fill. Steve Orbach has done an outstanding job as Managing Editor and occasional overnight guest. Gloria Reich has been the most successful Business Manager CONSCIENCE has ever had. Whether California's gain is to be New York's loss is still undetermined at this date. Neil Weinrib has contributed humor and perspective that gave us a point to focus upon. The same can be said for his photos. Stuart Goldstein's never ending enthusiasm has been an example for the entire staff. Jon and Leo have been good sports through it all. Last, but not least, Kathy has our (my) thanks for many explained and unexplainable reasons.

The staff members that are not graduating equally deserve our thanks for many past (and future) deeds of greatness. Nechama, Bob, Jay, Gary, Aaron, Vicki, Wayne, Jon and Bingo will all return next semester to haunt, provoke, humor and inform Hofstra Law (not necessarily in that order). Nechama and Bob, whose Herculean efforts in several of the most recent issues, must not go unnoticed or unheralded, deserve our sincerest expression of appreciation. Thank you from all of us.

COMMENCEMENT

Why does the University continue to give us grief right up until the time that we leave these hallowed halls? Almost every University in the country has provisions for outdoor graduations, but not Hofstra!

In case you hadn't noticed, tickets for graduation are scarcer than snow at the equator. But the administration, in all its wisdom, is totally inflexible about the subject. Outdoor graduation ceremonies would alleviate the problem of choosing which friends and relatives could spend the day and watch the proud moment. Tickets could be issued for use in case of rain and the necessity of moving the show indoors. It wouldn't even be necessary to set up chairs or any of that nonsense. The football stadium is perfect for this occasion! Must the last celebration as students at Hofstra be remembered as an exercise in frustration?

This idea was presented several weeks ago, but the optimistic outlook on the ticket issue that was presented at that time silenced the question. It is an idea whose time has come. How about it?

LETTERS TO THE EDITOR

(The following transcript is an edited version of a memo to Acting Dean, Aaron Twerski, dated Tuesday, April 26, 1977 from Tony Colletti '78.)

Dear Dean Twerski:

Please take a moment to reread "A Message From the Dean" in our current catalog before starting on this letter.

To some degree Hofstra Law School has experienced a death. There has been pain. The highest law mandates that there be concomitant growth. The pattern of recent events here points to a new and very important stage in our young history: psychological rebirth. All who believe in Hofstra Law School know of its importance and special place in American Legal Education.

There is most definitely a spirit here, and all who experienced the crisis meeting of Friday, April 15 were witnesses to the catharsis of Act I. You know, as well as I, that an intangible, powerful sense of unity of purpose filled the hearts of all as Monroe tearfully managed to bring himself to say the only words he could utter, "You guys are just beautiful." On any scale, it was a most unbelievable day.

Do you realize that several members of our law school community (faculty and students alike) feel that something has been lost — something very dear? Something more than the man, Monroe. The trustees and officers of Hofstra University certainly have met many of our demands in matters which can be translated into dollars and cents. However, on matters which don't fit into such a language, the law school may have taken a beating. A hell of a beating.

The trustees and officers knew that as long as the good of the law school was facilitated by agreements satisfactory to a committee of law school representatives, no tangible issues would be in controversy. After all, Dean Freedman resigned because funding and the absence of administrative autonomy were the problems which needed to be resolved. A committee of dedicated and spirited individuals helped rectify many of the problems which prompted the dean's resignation, and, as Monroe has said, "A prediction of such a resolution would have been unduly optimistic a week ago!"

The audience of our little scenario must ask itself "why were they so willing to give us everything Monroe wanted and more in such a short time?" I'm sure I bring no great revelation when I say that the law school's administrative hands have been tied because the "ideological-political" selves of Hofstra's trustees were dancing to a tune far different from Monroe's "political-ideological" number. That fact, Dean Twerski, is the underlying issue which no one wants to talk about.

The trustees and officers of Hofstra University have dealt a powerful blow to Monroe Freedman and, hence to the principles which the spirit of "A Message From the Dean" stands for. Most of us would agree that our "identity" has been hurt; badly. Many feel that we have lost a battle which we cannot even define, never mind one which we can do anything about. In an effort to pick up some of the pieces, several students and a few faculty members assembled on Monday in a meeting whose chaotic nature constituted a sad commentary on democracy, to say the least.

You are probably aware of recent student attempts to have the law school host various well-known legal scholars and political figures in a tribute to the principles of Hofstra Law School. At Monday's school-wide meeting the sentiments were mixed: Monroe expressed some degree of enthusiasm for something along similar lines at some point in the future; students, somewhat confused as to the implications of such a measure, showed a 60-40 split in favor. This ambivalence has an easy explanation. Some feel that Hofstra should solve its own problems before casting itself once again into the public eye. Others feel that the Board's refusal to allow Monroe Freedman to continue as dean mandates a reaffirmance of the school's values and principles as a prelude to the selection of a new dean.

Both sides have valid arguments to be recognized. However, one thing is certain: our image in the public eye and particularly in the eyes of prospective students and faculty has been hurt. And no one seems to know how to rectify the situation. As one student curtly put it, "The trustees and President Shuart have the law students by the balls (sic) and they know it." The spirit of the students is now divided between the so-called "conservative" and "radical." Witness recent events and the gradual breakdown in frustration.

I feel that as acting dean, it is your duty to reassert the principles of Hofstra Law School in a manner which epitomizes its uniqueness, in a manner which is in the best interests of everyone who holds to our ideals. Ours must be a law school which is proud to proclaim that it is e **pluribus unum**, as a large percentage of the lawyers we turn out use their legal career as tools for building upon the fundamental principles of freedom and equality embodied in our Bill of Rights. Our excellent faculty, by virtue of their association with Hofstra Law, tacitly assert their commitment to an ideal of social change, an ideal which is greater than any one of them standing alone as an individual.

Yes, the issue comes down to political-ideology. It comes down to the battleground of one world view against another. Monroe Freedman has helped stir the hearts of many to vibrate to a common iron string, and, as Emerson would say, he is a true hero. "Who so would be a man must be a non-conformist." As always, the problem of "the man" complicates our affinity for the principles he stands for. As we may often allow something less than

(Continued on page 5)

Conscience
Wholeheartedly
Congratulates
And Supports
Interim Dean
Aaron Twerski

CONSCIENCE
The Hofstra University School of Law Newspaper

Volume 4, Number 8
May 6, 1977
"Asking You to Ask Yourselves"

American Bar Association Class A Category 1st Prize, 1974
Law Student Division, Best Law School Newspaper

Stuart Rosenthal
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CONSCIENCE is the official publication of the faculty and students of the Hofstra University School of Law. While CONSCIENCE is published with the approval of the School of Law, it does not necessarily reflect the opinions of the administration of the School or of Hofstra University.

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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LETTERS

(Continued from page 4)

ourselves to blur our vision, seeing a giant fall may be a very pleasing sight. It reminds us all of our humility, and for centuries the world's folklore has reinforced that notion.

But then there's the folklore of the phoenix, that mythical bird which triumphantly rises from its own ashes in its ideal state.

I feel that by doing some very simple things Hofstra Law can rise from the ashes, re-establish its identity, show support for principles which Monroe Freedman's deanship helped nurture, and help put itself on the map. First, I suggest that we identify our autonomy by calling ourselves the "Law Center" at Hofstra University. Every newborn deserves a new name. Second, attach the name of a prominent, well-respected civil liberterian to our Law Center. For several reasons I recommend the name of former Supreme Court Justice William O. Douglas.

"The William O. Douglas Law Center at Hofstra University" puts a tag on our intangible identity, an identity which such ephemeral terms as "new breed" and "socially-minded" do not pin down to particularity. Can we take judicial notice of the fact that the opinions of the former Justice manifest a living, breathing interpretation of our Constitution and Bill of Rights? The fact that Douglas is living is significant, too. The adoption of the name of a living shining star would be indicative of the bold spirit of this young law school and its commitment to principles which are not dead. There's always been something "safe" in that which is dead. Rare is the star that shines while it is alive. If we break tradition by adopting this star's name, we will stand forth among others.

Frankly, this nation needs to see a spirited commitment to its principles as reflected in William O. Douglas' judicial opinions. The credibility of democracy and freedom throughout the world is in a dismal state. The sole remedy must come from within, and as long as we remain silent in our mission, we break a duty to ourselves. Adopting the name "William O. Douglas" for our law center is very heavy-duty. The reaction of the university administrators to this proposal will force them into the position of exposing their true feelings. The record of recent events bears witness to the fact that the trustees and officers of Hofstra stand committed to a quality law school. The critical question is: Do they stand committed to the standard of "educating a new breed of socially-minded lawyer"—a goal which Monroe Freedman so tenaciously strove for? This law school must sing its song. If the spirit is not free, we should rather have silence.

I guess the Board of Trustees would have the ultimate say on such a proposal (if it should get that far), but support from Hofstra students and faculty might make them realize that on April 15, the "gun to their heads" was more than a united front in support of Monroe, the man, but an unconquerable spirit committed to many of his principles.

What is in a name? A great deal, indeed. William O. Douglas may no longer sit on the highest court in the land, but his spirit may sit in the hearts of a new breed of lawyer—a new breed which is sustained by its convictions and which stops at nothing in pursuit of its special guest.

Can we deny that the potentially advantageous press will offset the negative publicity we've gotten over the past weeks? Can we doubt that such an innovative assertion along with everything else we have to offer would attract prospective students, faculty, and dean candidates of the highest caliber, both **morally and intellectually?**

Well, the decision is ours. As you readers consider this proposal and its far-reaching implications, understand that its realization is contingent upon its supporters' assertion of the position. Since classes are no longer in session, several avenues of communication have been cut off. Please take the initiative to express your sentiments by following the self-explanatory directions **infra.** Thank you for taking the time to read this.

DELIVER TO DEAN TWERSKI'S OFFICE

( ) I support the "law center" idea.

( ) I do not support it.

( ) Comments:

Name: _____

Status: _____

_____

An open letter to Jay Baris, Robert Ginsburg, Vic Grossman, Judy Lowenstein, Gary Small, Kathy Rosenthal, Stuart Rosenthal.

"NOT EARTH SHATTERING . . .
BUT NOT SIDE SPLITTING EITHER."

I was recently shown a copy of a paper published by the Hofstra CONSCIENCE, entitled the "Guilty Conscience." I would like to set the record straight on a few things.

The one and only "Guilty Conscience" was originally published in the school year 1973-74. It was by many accounts a witty offering that attempted to shed some light on an often burdensome school day. For reasons of controversy not pertinent to this letter, the "G.C." was not published during the following school year. However, as I imagine you are aware, the "Guilty Conscience" was again published in the school year 1975-76. This issue (the "1975-76 Bicentennial Guilty Conscience"), far less controversial than those preceding it, met with overwhelming approval from faculty, staff, and students alike.

I, as well as the rest of the "Guilty Conscience" staff, were dismayed to see the use of the "G.C." name on a well printed but very differently written newspaper. We find it very disturbing that a group of young journalists (and future lawyers to boot) would need to "rip off" a name, as well as other innuendos from a previous publication which is still alive.

Perhaps most grating was the use of your names as the editors under the G.C. heading, along with a copyright insignia with the year 1977. Consider the fact that the original "Guilty Conscience" was published in 1974, with the same denotation of universal copyright. As students of the law, we know that this symbol represents a moral as well as a legal responsibility.

The "Guilty Conscience" was the work of a few individuals who gave time, effort and bizarre devotion. This endeavor began as a lighthearted interlude, then became the forefront of an emotional law school controversy, and ended up a satiric yet affectionate testimony to the Hofstra Law School experience, toasted by a picture acknowledging the "Guilty Conscience" and its staff in the 1976 law school yearbook. In short, the "Guilty Conscience" has special meaning to us all.

Needless to say, this entire episode is hardly earth shattering. But, as future fellow alumnus, I believe it would be a good idea if we foster mutual respect for one another. It would be appreciated if you would discontinue use of the name the "Guilty Conscience." I ask this on behalf of myself and all of your former and soon to be colleagues, who worked on and enjoyed the original "Guilty Conscience."

Sincerely,
Andrew E. Suser,
Founder & Editor-in-Chief, (c) 1974, "Guilty Conscience,"
"My fee . . . Before my summation."
Eric Liff, Jay Nadelbach, Michael Solomon,
Bill Shuzman, Editors

Editor's Note:

When we consider foolish pride
The result is sometimes sadly snide.
Prim and prissy proper folk
Can ponder not a simple joke.
Apologies are justly due,
But not from us and not to you.

—Bingo Knightly

The entire staff of CONSCIENCE would like to apologize to the above-named individuals, but we can't. Instead, it is to us to whom an apology is in order. To begin with, you neglected to say whether you enjoyed our "Guilty Conscience," the work of a few individuals who gave time, effort and bizarre devotion. This endeavor began as a lighthearted interlude, and stayed that way. That might explain why we never lost our collective sense of humor, nor our perspective of what we sought to accomplish.

Actually, quite the reverse response would have been expected from our illustrious predecessors. Instead of taking pride in establishing a precedent of a witty offering, you went out of your way to prove out Dickens' "The law is a ass."

Your primary offense was that of taking yourselves too seriously. That might be a result of the transition from School to Work, a proposition unsettling to those of us about to graduate. As this is our last issue this school year, and for many of us, forever, it is disturbing for us to end, not with a bang, but a belch.

See you all at the next Alumni meeting.
With all respect, and hearts contrite,
We think you've lost the point from sight.
To entertain, and not to bore,
And that's the point you did ignore.

—The Staff of CONSCIENCE

Conscience Interviews

(Continued from page 2)

possibility of a protest, Twerski replied, "If the students are decent and civilized they will give Shuart a polite reception . . . We are a member of a university, and we have had our differences, but that doesn't warrant crudeness. Students will have to ask themselves whether it is worth embarrassing Shuart, themselves, the faculty at the Law School and Monroe Freedman himself."

Shuart was more philisophical in his response: "I assume that my reception will be consistent with the culture of higher education. It's a respectful relationship and it is a very important occasion. I'll be there to carry out my functions, just as I expect the Law School faculty to be there. The students will receive their just honors. They've worked hard for their degrees, to receive those degrees in dignity and to receive the best wishes of the University."

One of the issues surrounding the graduation is whether Monroe Freedman's name will appear on the diplomas and if so, in what capacity. A number of graduating students have asked Dean Twerski if this was possible in view of the fact that Freedman was dean for nearly the full three years of their attendance.

When this was brought to Shuart's attention, he refused to make any decision until he received the **written** recommendation of Dean Twerski. The Dean however, was willing to make a comment: "As far as I know, my name will be on the diploma as dean of the Law School. However, Monroe doesn't need an official title for his name to be of significance. I have already spoken to Shuart about this matter."

It is expected that Dean Twerski will make a formal recommendation that Monroe Freedman's name be put on the diplomas for the spring graduating class. Many students believe that the decision of the University administration will be an indication of the good faith that Shuart has promised to the Law School. Many agree that Shuart's reception at graduation may be partially attributable to the decision he makes.

Will We See the Light?

Towards the end of the interview with Dean Twerski, he offered some of his thoughts about the responsibilities he will have as dean.

"My most important commitment is to openness," he said. "I want to know about problems before they fester. My phone number is in the student directory. If there are problems that are important enough I hope that the students will call me at home. (No calls on Saturday please—Ed.). Although I'm a short term dean, I have a strong vision of a progressive legal education program. The questions of delivery of legal services, of prepaid legal services, and of representation of individuals in government agencies are problems that legal education must take into account. Our job is to anticipate problems in our society and to react before those problems overwhelm us."

Commentary

The problems that Dean Twerski mentioned will not be impossible to anticipate. In view of the new bond of cooperation that has been established at Hofstra Law School, there is no reason to believe that we can't meet that challenge right here. In the words of James Shuart, "out of difficult times we can develop great strengths."

In order for the Law School to progress as a viable force in the legal community, however, it will be essential for both faculty and University to demonstrate a frank and open approach to the administration of the Law School and University. When Monroe Freedman's withdrawal of resignation was refused by the president and the Board of Trustees, not one word was said as to the reasons for that refusal.

When asked about this matter, President Shuart refused to say anything more than that the decision was objective, and was made in the best interests of the Law School and University. If this is so, there is no reason why those objective reasons should not have been stated. This decision affected more than seven hundred people at the Law School. One can only hope that if an unpopular decision is made in the future, those people whom it affects will be told the reasons for that decision.

Conscience

Joins The Entire

Law School Community

in wishing the

graduating class of

Hofstra School of Law

Congratulations

Auerbach On Unequal Justice

by Robert Raubach

As one overhears the third-year students excitedly discussing their high salary hopes and expectations, one may do well to consider the ideas expressed in a lecture on an otherwise unremarkable Thursday afternoon, March 31st. The lecturer, Professor Jerold Auerbach, author of **Unequal Justice** and professor at Wellesley College and Harvard Law School, and coach of the Boston Celtics (if memory serves correctly), was introduced by Dean Freedman who proudly apprised Professor Auerbach of Hofstra's unique admissions policy.

The Dean opened the lecture subject by giving his opinion that law students either acquire social consciousness or not, well before the law school process can ever work its alleged wrongs; Professor Auerbach gave the opposite view. Although the issue of whether the lawyer's social unconsciousness comes from pre-law attitudes or from legal education, may be as unanswerable as the traditional inquiry—which came first, the vulture or the egg?—Professor Auerbach's historically-premised observations have proven provocative, and should initiate serious soul-searching among attorneys and legal educators.

Taking Holmes as the archtypical modern jurist, Professor Auerbach traced Holmes' development from idealist to cynic. Bitter personal experiences caused Holmes to abandon his idealism and accept a more pragmatic stance from whence arose his skepticism, his belief that the life of the law was not logic but experience, and his tolerance of all legislative determinations whether or not he personally considered them beneficial or right.

Holmes' life paralleled the philosophy emerging in the late nineteenth century. Formerly, the Christian age had considered law as a set of absolute norms and first principles to be discovered and applied by judges. The norms and mores of the Deity were displaced by rationalism, utilitarianism, relativism, uncritical tolerance, and scientific method. Law was no longer to be found in the stars by judges so as to eventuate justice, but law was to be created by men to suit whatever purposes they thought best. Since justice was unobtainable, legal practice and legal education concerned themselves with process, craft, technique, and skill, rather than substance. Lawyers considered themselves but neutral technocrats serving the ends of clients (preferably wealthy), rather than the ends of justice.

The case method of teaching law evolved in the late nineteenth century, and it was soon adapted to the modern age. While the lecture method of the past emphasized the immutability of absolute legal norms, the case method stressed the protean quality of law and the law's vulnerability to courtroom vagaries and attorneys' artful arguments. While Dean Freedman blushed uncontrollably, Professor Auerbach related how the case method was biased toward the view that there are no final answers, only questions.

Professor Auerbach went on to criticize the legal profession as an elitist institution, of, by, and for the well-to-do. When one considers the increasing tuition and dearth of scholarships at our own school, his criticism forcefully hits home. The Professor further linked this elitism to the traditional WASPish homogeneity of the profession, and he suggested that the use of the old Canons of Ethics' strictures on advertising were implemented to prevent the prosperity of the emerging ethnic lawyers who served the poor in urban America. These same strictures in our Code of Professional Responsibility perpetuate a professional monopoly which maldistributes legal services. Our preference for Process to Justice, our relativism and lack of conviction, and our elitism have combined to make ours a profession which serves the wealthy without compunction.

In his profound criticism, Professor Auerbach only indicated the result of our process-orientation, not what deleting it would mean to the adversary system; but he did present three proposals for making law a more public profession: 1) impose an excess profits tax on corporations in order to fund legal aid; 2) require a three-year compulsory public service apprenticeship for lawyers; and 3) provide for lay regulation of the legal profession. The above suggestions may be far from compelling, but allow me to add one even less practicable: let us return to the norms of the past—to put away avarice and vanity, and seek justice foremost.

Alumni Support School of Law

April 20, 1977

The Board of Directors of the Hofstra University School of Law Alumni Association, a quorum being present, by unanimous vote, resolved:

1. We, the Alumni Association, support the administration and faculty of the School of Law in their efforts to continue the standards of excellence that have made Hofstra University School of Law a leading center of national legal education in seven short years. While we recognize that there is a carefully balanced interrelationship between the School of Law and the University community, the independence of the School of Law must be maintained.

2. In furtherance of the above, we support all measures necessary to enable the University to adhere to ABA standards for financing legal education. We point out to the University Trustees that the Law School Alumni are greatly concerned about the continued accreditation of the Law School and insist that these standards be strictly followed.

3. Furthermore, the Alumni Association insists that the School of Law maintain its autonomy in the selection of persons whom the Law School chooses to honor. The Law School alumni are distressed by the apparent insult to the Hon. Jacob Fuchsberg, an Associate Judge of New York's Court of Appeals who has, since his election, been a true friend of the Law School.

4. Recognizing the financial and academic contributions of the Law School to the University, we call upon the University Trustees to make the above resolutions part of University policy with respect to the School of Law.

Hofstra University School of Law
Alumni Association
Mark Birnbaum, President

NEW MOOT COURT BOARD ELECTED

The Moot Court Board for 1977-1978 has been selected. The members are as follows:

Aaron Ben-Merre
Harvey Feintuch
Gilbert Flanagan
Marlene Monteleone
Nathalie Rockhill
Edward B. Vinson

We are pleased by the interest expressed in the Moot Court Program for next year. Selection of new advisors will generally be based upon the following criteria: Brief Writing; Oral Advocacy; Academic Performance; Advisor Recommendations.

All students who signed up for the program will be informed of acceptances by mail during this summer. It is expected that a preferred waiting list will also be established.

Attention: Current second-year stud ents. If you are interested in advising next year but did not sign the Advisor List at the library desk, please leave your name, address and telephone number in Aaron Ben-Merre's mailbox in Room 104.

CLEP DIRECTORS

Roslyn Goldmacher, Director 1976-77 of Hofstra Law School's Community Legal Education Project is pleased to announce the following people as members of the Board of Directors for 1977-78:

William Cherno
Harvey Cavayero
Stuart Monshine
Susan Epstein
Debra Dinowitz
Sharon Carton
Joan Keppler

The new Board will meet on Friday, May 20, 1977 at 6:00 in Room 033. All members must attend.

Consumer Advocacy Agency Proposed By ABA

The American Bar Association told Congress at hearings recently that creation of an independent consumer advocacy agency would greatly improve the administrative process.

In statements prepared for delivery before House and Senate hearings, John T. Miller, Jr., past chairman of ABA's Section of Administrative Law, testified in support of pending legislation to establish an independent Agency for Consumer Advocacy.

"The central purpose of the legislation is to assure opportunity for effective representation of consumer interests where they are presently lacking," Miller told committee members. He said that facilitating consideration of consumer interests in administrative agency proceedings would "materially improve the fairness of the administrative process."

The proposed agency would represent consumer interests in proceedings before other administrative agencies and in judicial review of other agencies' actions.

Miller pointed out that an agency must be concerned with the impact of its actions on consumers if it is to act in a sound and responsible manner. "The ABA believes that the Agency for Consumer Advocacy would be an important aid to many agencies in considering consumer interests, and would be a vital source of protection for such interests wherever they might otherwise go disregarded or misunderstood," he said. The growing complexity of defining consumer interests and reconciling them with the over-all "public interest," Miller added, "requires new safeguards against actions based on inadequate information or superficial analysis."

"The Association believes that the proposed agency is the best way to assure that the action finally taken will serve the over-all interest of consumers, Miller said. He explained that, "in formulating his position, the administrator would consider all aspects of the consumer's viewpoint, and, in presenting his position to other agencies or on judicial review, his would be an independent voice on behalf of important consumer interests which might otherwise be unrepresented."

Miller stressed that adoption of the proposed legislation would not and should not eliminate efforts by private organizations to play a constructive role in agency activities. "Rather, we suggest that appropriate participation by an Agency for Consumer Advocacy in other agencies' activities will complement the need for private intervention of interests which would otherwise go unrepresented," he explained.

The association urged Congress to give the agency authority to intervene as a full party in administrative agency proceedings. "If the agency administrator determines in a particular case that the effective representation of consumer interests requires him to act as a party rather than merely as amicus, he should be given the procedural tools to do his job," Miller said.

Nothing that judicial review is essential to guard against arbitrary or unreasoned administrative action, Miller urged strengthening of the bill's judicial

(Continued on page 7)

Dance Your Finals Blues Away with the Class of '77

Saturday, May 28 9:00 P.M. at The Law School

Open to Students, Faculty, Staff and Friends

Movie Review

by Irwin Miller

ANNIE HALL
directed by Woody Allen

Somehow I always sensed that deep within the somewhat unkempt exterior of comedian-writer Woody Allen, there was a romanticist struggling to break out. The proof is to be found in Allen's newest work, **Annie Hall**, which is based to a substantial degree upon the director's relationship over a period of several years with his leading lady, actress Diane Keaton. This is not to imply that Allen has foresaken his delightfully warped, slightly jaundiced view of a society in which we are all fighting to maintain our composure against overbearing relatives, pompous intellectuals, childhood traumas and life's other assorted insecurities as we race toward our inexorable fate. The humor of Allen's best films until this point, **Love and Death** and **Sleeper**, are still in evidence and yet there is less emphasis upon slapstick and visual comedy and considerably more attention devoted to Allen's metamorphosis as a comedian and human being as he relates to those around him.

Allen makes no attempt in this film to disguise the fact that the character he is playing in the film (with a pseudonym of Alvy Singer) is the comedian himself, and we see a variety of familiar sequences of Allen as stand-up performer at political rallies, on television interview shows and on college campuses where he is depicted at his wryly funny best. Once established as a success within his profession, Allen meets Annie Hall (Keaton) over a strenous game of doubles tennis and is immediately attracted to her despite the fact that she is literally a walking mass of raw nerve ends dressed in ladies' clothing. They fall in love. Allen encourages Annie to pursue her ambition to become a singer in small bistros (we received a generous helping of Miss Keaton as song stylist which is an unexpected delight), and develop her mind as Annie attempts to break down the emotional barriers that prevent Alvy from enjoying life and to eliminate his obsession with death. If all this sounds like more of a somber experience than it is, let me reassure you that Allen manages to parody almost every aspect of New York City "East Side" living that can possibly be dealt with in a humorous vein. He even delivers the ultimate put-down to those who stand on movie lines and deliver meaningless and empty-headed dissertations on various intellectual schools of thought in order to impress their companions, by having communications theorist Marshall McCluhan materialize from behind a marquee to give one of these pompous characters their comeuppance.

However, the chief distinction of this new Allen film lies in the fact that the writer-director allows us to see more of his psyche both as an entertainer and as an individual struggling to salvage a relationship that seems headed for an inevitable demise as both parties outgrow each other. There is a marvelously bittersweet montage as the film draws to a close which depicts the history of Annie and Alvy's love affair through use of flashbacks to earlier parts of the film that is truly unlike anything that Allen has given his audience before and serves to remind us how well the director has related the progress of the relationship. It is no small task for any filmmaker to deliver scenes of high comedy and supreme verbal wit juxtaposed with moments of poignancy and identification, and the fact that this multi-talented performer has accomplished this in his newest film is a tribute to his artistry.

ABA Supports Victim Compensation

The American Bar Association urged Congress to adopt legislation which would compensate victims of criminal acts.

"Victim compensation is merely the recognition that crimes—like fires, floods or earthquakes—are a tragedy to which society has an obligation to react humanely toward those who have been stricken," said Judge Eric E. Younger, chairman of the ABA Criminal Justice Section's Committee on Victims.

In testimony prepared for a regional House Judiciary subcommittee hearing, Younger pointed out that citizens can protect themselves only partially against crime. "Victimization potential can be adjusted somewhat, but not eliminated, and the theoretical right of legal action against a perpetrator is worth virtually nothing," he said.

The ABA first endorsed victim compensation legislation in principle in 1967, Younger said, because "of its serious concern for the increasing rate of crime, the gravity of crimes of violence, the high cost of crime to victims. "A decade later the crime rate is still increasing."

The ABA supports compensation for the crime victim, surviving spouse or other dependent if the victim dies, and for losses sustained by persons assisting in the apprehension of suspected criminals or by persons attempting to prevent crimes.

Stressing that compensation funded by the federal government should not be limited to federal crimes, Younger said, "A more honest approach is to analyze victim compensation on its merits and to recognize that a citizen stricken by a crime does not—and should not—have any concern for the state-federal crime distinction."

In addition to compensation for simple loss of earnings, Younger said the Association supports compensation for such things as medical expenses, job rehabilitation and legal fees. The ABA does not support any recovery for property loss or pain and suffering.

Younger predicted that such compensation programs could increase the likelihood that citizens will decide to "become involved" against crime.

Referring to legislation introduced by House Judiciary Committee Chairman Peter Rodino, Younger said, "Victim compensation is right, and that would, in itself, be a good reason to pass H.F. 3686.

"But the compensation system should cause the victims of presently unreported crimes—those who are 'turned off' and wonder 'why bother?' or who are just frightened—to report and aid the police in apprehension."

He told the committee that "compensation is not all, or even a major part, of what we, as a society must begin to do for the victims of crime."

Younger said his committee is studying proposals on intimidation of victims and witnesses and urges revisions in the professional responsibility standards to reflect bench and bar responsibility toward crime victims.

Consumer Advocacy Agency . .

(Continued from page 6)

review provisions. "The right of participation in an agency proceeding, to ensure that consumer interests are properly considered, would be of little value without the complementary right of judicial review of the final agency action," he said.

Miller suggested language be dropped from the legislation which limited the administrator's right to secure judicial review of agency action if he did not participate at the agency level. He said the ABA is convinced that such legislation "would materially improve the administrative process by facilitating agency and court consideration of important consumer interests."

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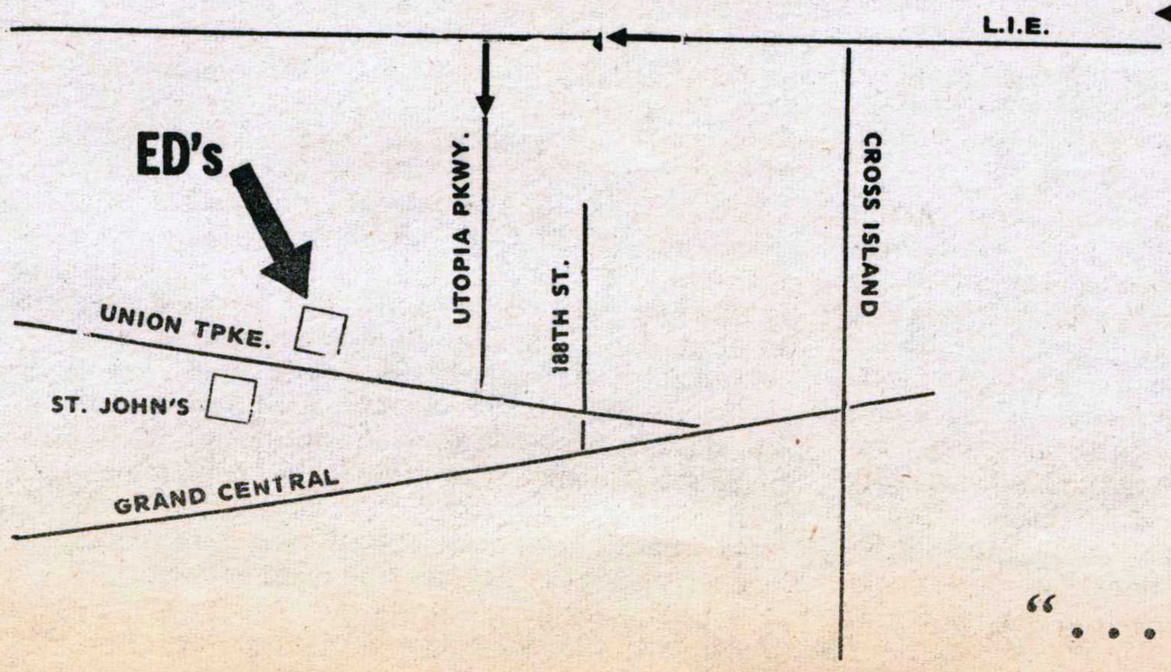

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". . . Worth The Ride"

Beatlemania Previewed

by Kathy Rosenthal

It had to happen. To fill the void created by the millions of Beatle fans clamoring for a Beatle reunion, Steve Leber who, with David Krebbs, manages such groups as Aerosmith, Ted Nugent, Rex and Elliot Murphy) and Jules Fisher (lighting design for J.C. Superstar, A Star is Born, Chicago and Sgt. Pepper's Lonely Hearts Club Band among others) have created "Beatlemania."

"Beatlemania" bills itself as "A Musical Documentary. Not the Beatles . . . An Incredible Simulation." On April 29, Murray the K held an interview to introduce "Beatlemania" to the college public. He puts his name and reputation behind the show. After hearing what he heard, I found myself catching his enthusiasm.

"Beatlemania" is the brainchild of Steve Leber. He conceived, created and produced it. Jules Fisher created the multimedia. "Beatlemania" began as a talent search for the four men who could best duplicate the sight and sound of the Beatles. The search brought together four rock musicians, strangers to each other. Supposedly, they all look like their counterparts, but "Paul" looks like he was dropped from heaven and he even writes Beatlesque-type music. The four have been taking speech lessons though to learn to sing with the right accent.

Murray played us a tape of the result and I would have sworn that I heard the Beatles. We also heard taped comments of people who had seen them rehearse without the benefit of makeup, costumes, and lighting, who were even more impressed.

"Beatlemania" is more than a 40-song concert of Beatle hits. The live performance of these "Beatles" is used as a focus through which we relive the 1960's and 1970's with a little help from multimedia surroundings. The changes in the Beatles are shown too, from their landing at Idlewild Airport through "Let It Be," their last album together. Murray said this was the most expensive show to produce on Broadway this season, which suggests that the money is in the media, because the only live actors are the four unknowns.

When asked about possible copyright or trademark infringement problems, Murray answered that they had the four top law firms in the country check it out and felt there would be no problem. Additionally, John, Paul, George and Ringo gave permission to have their names used on stage.

"Beatlemania" sounds very exciting as an historical event, a curiosity and a serious musical happening in its own right. Follow-up plans may include a soundtrack album of the show, road trips, and the group may stay together to write and perform its own music.

"Beatlemania" opens at the Winter Garden Theatre on May 26. Tickets are available in advance by mail or through Ticketron. The show opened in Boston on April 29 to rave reviews, and from everything I've heard, it promises to be the musical sensation of the year.

STILL VINTAGE

GREAT WINE IN A HUMBLE FLASK

Listen my colleagues, and you shall hear,
A story that started my first law school year.
How with a marvelous person I became acquainted,
Miracles aside, it's unlikely he'll be sainted!

Who can forget Dean Freedman's oration,
And the words that he spoke at orientation.
Also on hand was Stuart Rabinowitz,
With whom all the freshmen tried to match wits.

But then to the podium came a figure in black,
With a scraggly beard and a skull-cap.
I turned to the person who sat on my right,
And said, "Seeing this guy makes me feel uptight.
Like a law school professor he sure doesn't look,
Frankly, my confidence in Hofstra's been shook . . ."

But then from the mouth of this Chasid-garbed man,
Came the tale of the Times v. Sullivan.
And as we all learned of the Times' libel,
The man with the beard asked questions circumscribal.

Some tried to answer and soon were cut down,
In seas of rhetoric swiftly they drowned.
From others' lips the right answers appeared,
As if by magic, like coins plucked from ears.

Who is this fellow with manner Socratic,
Whose speech is punctured by gestures emphatic,
Who never descends into hollow fanfaron . . .
Said a voice in the crowd, "That's Twerski, Aaron."

"What's a Twerski?" said I, still unbelieving,
Said a man to my left "Looks can be deceiving.
He's not some schlemiel from Moskow or Minsk,
This person is royalty, a veritable prince."

For of finer clay comes the Twerski drove,
With lineage back to the Baal Shem Tov.
But looking him over won't reveal his nobility,
He hides it all under that Twerski humility.

Now once in his Torts class a story he told,
How Brian Dailey, a mere five-year-old,
Intentionally did damage (I don't mean to be unkind),
To plaintiff Ruth Garratt's now-famous behind.
But who could believe it took four weeks of class,
To describe how it was that Ruth fell on her ass.

Next came the case of a dog-lover embittered
At the loss of his pet (called Ranson v. Kitner).
A sorrowful tale how Kitner was shaken
When his favorite pooch for a wolf was mistaken.
I don't mean to imply that Twerk dwelled on it but,
It took six weeks to learn who should pay for the mutt.
Then just to show that he would not be hurried,
The Twerk spent two months on the next case we studied.

That was, of course, the Palsgraf litigation,
A case often-cited throughout the nation.
The words of Cardozo were vibrant and strong,
"Too bad," said Twerski, "Old Benjy was wrong.

At the end of my first year (it seemed like ages),
In the Torts book we'd read only 46 pages.
What did Twerk get for this effort supreme?
A brand new title—Associate Dean.

Those fireworks were actually hand grenades,
Thrown by some P.L.O. renegades.
Those were the guys who socked it to her,
The Long Island's not guilty—Res Ipsa Loquitor."

My next impression of Twerski's ability,
Came in a course called "Products Liability."
Oh, the tales of plaintiffs' woes we heard:
Some were funny, some absurd
Most were just gross, it was no joke,
To find a rodent in a bottle of coke.
A tale everyone in the class would attempt to enjoin,
Was what a Triumph motorcycle did to David Bolm's groin.

But Twerski delighted in telling these stories,
As time wore on, they got more gory.
Fingers and arms, whole bodies it seems,
Would disappear into hypothetical machines.

By the end of the term, with all due respect,
The course had a rather nauseating effect.
The final was even a bigger drag—
I took it with two pens and a brown paper bag.
But reviewing was easy, I had plenty of time,
To read up to page one hundred and nine.

Then after a pleasant summer vacation,
Twerk offered a course with a practical application.
"Tips to avoid Conflicts of Law" it was called,
In case you don't take it, here's two I recall:

If you ever cross the Mexican border,
And you are thus subject to Mexican law and order,
Should you run over a Mexican, don't get out,
But back up fast, and really wipe him out!

Another tip which I shall relate,
Was how to have Pennsylvania law govern your estate.
Your home in West Virginia you surely must sell,
Buy a house in Pa., and go there to dwell.
But don't settle down, just set loose some chickens,
And beat it back to West Virginia like the dickens.
Then you should die, and in the end,
Your property by Pennsylvania law wil descend.

Fifty-five pages and a hundred tips from the source,
And that was the end of the Conflicts course.
What did Twerk get for doing so well?
You guessed it—a job at Cornell.

Please don't be misled by my flip crituque,
For Aaron Twerski is a teacher unique.
He's a poet of law, a donor of knowledge
In whose debt I have been since I came to this college.

And while rules of law from books can be taught,
Only lawyers like Twerski can teach methods of thought.
Let me end my satire with words sincere:
God grant us this rabbi for a hundred more years.

—R. Abrahams

And thus it begun, and has come to pass,
The trustees have forced Monroe out on his brass.
He fought for principles and for us all
Alas, he won't be Dean here next fall.

There sits in his place, though only acting
Dean Twerski, supra, of standards exacting.
He leads us now from the feats of the past
To search for a Dean, one as good as the last.

Yearbooks Will Be Distributed May 16, 17 and 18 in the Library Lounge

EPTL By Any Other Name

Tell us, Oh God. of flawless wills
Of fairy tails and codicils,
Where inept rules defy all reason.
And let a poor man lose his seisin
Because his land did fail to vest
Before he's dead and laid to rest.
Where one must watch a named event
Transpire to defeat intent.

These limitations, learned by rote
Are indescribably remote
And complicated and insane
Yet thrust upon us by Kadane:

"This sum I leave to Sam, my tortoise,
In fee tail male and causa mortis.
I leave my jewels, all full of dust
To cousin Rose in Totten Trust.
"My land, I leave, to A, my son
For lives in being, plus 21.
But if this land is used in sin
I give it then to cousin Lynn.

Who keeps it for a term of years
If she can share it with her peers.

"To Sadie and her good son Harris,
If he should come back home from Paris.
Gifts over if no kids are living,
To foster a good sense of giving."

"To John and Mary as joint tenants,
But if the Yankees win some pennants,
Then to all women veiled and cloaked
I changed my mind. The gift's revoked.

I think I'll cry, please pass the tissue!
Aunt Sadie died with lots of issue!

Of future interests, no one cares,
A living person has no heirs.
These rules, sane men could not contrive:
When one kicks off, one's still alive.

By Have Pen, Will Codicil

No Dues Due

At this time, the Alumni Association would like to invite all graduating students to join their ranks. Dues are waived for one year following graduation. Through increased membership and participation, the Alumni Association will grow to be a very strong force in the shaping of the Law School. This is especially important at this time. If you would like more information please leave a note in the Admissions Office or see Marilyn Monter in the Placement Office.

Stud. of the yr. Who, me?

Each year, the Alumni Association of the Law School presents an award to a graduating student at commencement. Although final determination is reserved by the Alumni Executive Board, faculty and students are being asked to make suggestions for possible recipients.

The award will be based upon outstanding service to the law school, with emphasis on contributions made to both the academic and social environment.

This is not a popularity contest. Serious thought will be given to all proposed recipients. Forms are available to fill out. If anyone else would like to nominate a graduating student, he or she can write on a blank piece of paper the nominated student, the nominating student and the reasons, i.e., contributions of that person.

All May 1977 as well as January 1977 graduates are eligible for the award.

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