

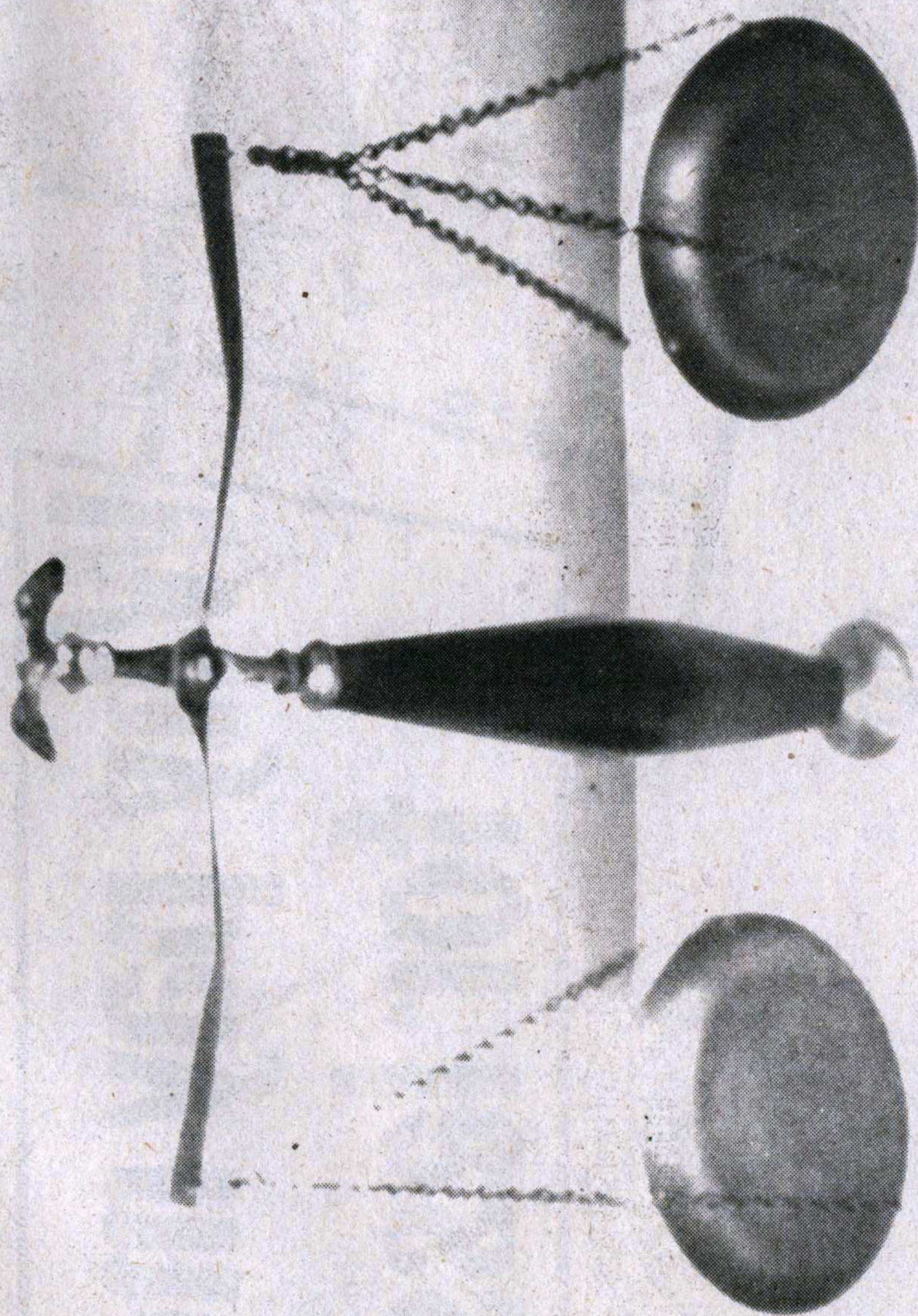
# conscience

Vol. 9 No. 7

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March 1982

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# conscience

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March 17, 1982

## Moot Court Cheating?

### Students Claim Violation Prematurely Dismissed

by Joe Cassidy

A first year student was accused of sitting in on a moot court argument of his own case in violation of the rules. The allegations were brought to the attention of faculty advisor Professor Gregory by Bruce Jurist, who was the student judge for the case the student allegedly sat in on. Jurist claims that his complaint was not given adequate consideration. Jurist brought the charges after he was informed by first year students that a student sitting in on the argument was scheduled to argue the same case later. The accused student called the allegations a farce and

would not comment further. Ironically, the case was the ethics case of *In Re Ives*.

Jurist claims that he confirmed the validity of allegations by checking the date that the alleged wrongdoer was to argue. Jurist went to Debbie Kleinberg, student director of the Moot Court Board, who instructed him to take his complaint to Gregory.

There is conflicting evidence regarding what Jurist told Prof. Gregory. Jurist claims that when he first went to speak with Gregory, the student who brought the matter to his attention would rather not be involved unless a hearing was to be held.

Gregory claims that Jurist did not mention

any other student. Gregory then went on to make his decision based on Jurist's comments and the alleged wrongdoer's comments. In a letter to the accused, a copy of which was sent to Jurist, Prof. Gregory stated that there was "no clear and convincing evidence" to place any sanctions against the student.

Jurist said he felt it was his responsibility to report the incident, especially as he was judging the case.

In an effort to ascertain why the charges were dropped without a hearing, Jurist and the student informer went to speak with Professor Gregory. They were informed by Prof.

Gregory that since he had already made his final determination, the matter was closed. Gregory told them if they wanted to pursue the matter they should contact Vice Dean Rabinowitz. Rabinowitz stated, however, that Gregory's decision was final and that no further internal action could be taken.

When contacted by *Conscience*, the Vice Dean explained that the next step in pursuing the charges would be to proceed within channels of the main University. Rabinowitz stated that he was not completely familiar with the University Regulations concerning the charges.

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### Schmertz Focuses on Objectives

by Alan Kaminsky

With the primary objective of "maintaining and improving the excellence of Hofstra Law School in every relative area," Dean Schmertz recently revealed several novel programs for achieving that goal, including the formation of a Dean's Advisory Committee, the establishment of an active recruitment program to attract students from across the country, and even the possible retention of a public relations firm to help enhance the law school's image.

Speaking before a panel of *Conscience* editors, and emphasizing his desire to keep

open the channels of communications between his office and the students, Schmertz stressed the importance of Hofstra becoming a "nationally recognized" law school, both by building upon the school's reputation, and by striving for a "better geographical mix" among the students.

While the Dean spoke highly of the school's "specialized areas," specifically the clinical and labor programs, Schmertz also acknowledged his awareness of several areas in need of improvement. Stating that "It is better to be bold and make mistakes than to be timid and not take any chances," the

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### Students Fight Loan Cuts

by Jordan Fox

Congressional leaders assured students last week that President Reagan's planned elimination of the Guaranteed Student Loans for graduate students is "as dead as dead can be." This bi-partisan opposition to the proposed cuts came as 7,000 students, including 42 from Hofstra, swarmed the halls of Congress to express their outrage at these and other cuts in educational aid.

"If any Congressmen were wavering, they won't be wavering after today," said Representative John LeBoutillier, who completed graduate school just two years ago.

LeBoutillier, addressing his office crowded with 100 students, said emphatically: "You can sleep safely about a few things in this life, and this is one of them. The proposal is as dead as dead can be."

"Don't worry about it," assured Congressman Ray McGrath, whose district includes the law school.

Both McGrath and LeBoutillier, who supported the President's budget last year, are party to a group of 21 freshman Republicans who have formed C.A.R.E. (Coalition Against Reductions in Education). The group, which is pledged to oppose the cuts,

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## Looking Inside Law Review

by Peter Shafran

Hofstra Law Review signifies one of the law school's proudest achievements. The Review is a scholarly publication and distributed nationwide. Its staff members are selected after final exams on the basis of grades, writing ability, or a combination of both.

Many students feel that the Law Review is an honor society. That is only true as far as "making" Law Review, but is far from the truth considering the amount of hard work and dedication needed to plan and produce the yearly volume.

Elections were held last week to select the new editorial board. Volume Eleven's Editor-in-Chief will be Linda L. Kreicher. Kreicher felt that her background in management and administration (she was formerly Program Director in a psychiatric hospital in Florida) made her more qualified than the other six candidates. Kreicher admitted that she's "got a tough act to follow," being that this year's Editor-in-Chief, Richard B. Sypher, is an English professor at Hofstra University.

Sypher does not mind working hard because he has been able to work with legal scholars from around the country. He feels

that the Review's incipient recognition, as one of the foremost reviews in the country, enhances the law school's national reputation.

The two other top positions are Managing Editors. Kevin E. Balfe will be in charge of staff, while Mitchell A. Sabshon will direct the Review's business affairs. Filling out the Review's Editorial Board are Articles Editors John G. Ferreira, Roberta Lynn Schuhalter, and Schlomo Twerski; Research Editors Steve Ackerman, Alan Kaminsky, and Barry Stuart Rutcofsky; Student Project Editor Bruce Stein; Notes and Comments Editors Jody S. Fink, Laurence Paskowitz, Jodi L. Popofsky, and Jane Rubinowitz.

Managing Editor Alan Schutzman pointed out that most law reviews do not have open elections for editorial positions, rather, the present board select their own successors. However, several staff members suggested that the 14 member editorial board decided its slate of candidates the night before elections, and furthermore encouraged or dissuaded staff members to run for the editorial board. The Review's bylaws expressly prohibit the nomination of a slate of candidates by the editorial board. Many staffers were reluctant to come for

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## Callen's Slate Wiped Clean

by Bruce H. Jurist

They say you can't fight city hall and win. Cesar Callan tells a different story. Mr. Callan, appealing from an adverse decision rendered at a previous hearing, successfully exonerated himself of any wrongdoing in regard to a November 13th, 1981 on-campus fighting incident (Cassidy, Jan. issue *Conscience*). At that previous hearing Callan was placed on "disciplinary probation" for his part in the melee.

At 4:00 P.M. on March 1st, 1982 Callan and his chosen counsel, Prof. Douglas Thomas, went before an appeals board, consisting of three faculty members and Dean Dion (Dean of Student Services). What ensued was a lengthy two hour hearing. Callan, by means which included pointing a cap gun at the faculty members as an unorthodox demonstration of the concept of fear, convinced the appeals board that he struck out only as a matter of self-defense. Based on the conclusion of self-defense, the board dropped all charges and sanctions against Mr. Callan.

Mr. Callan, commenting on the appeals process, stated that he had "received basically fair treatment," as evidenced by his vindication, from a "system that was bad." He elaborated on this point by stating the trial proceeding was a farce and if things had been properly handled there, an appeal



Cesar Callan

would never have been necessary." Callan, quoting faculty sources, said, "The system (trials and appeals) is handled as best as it can be, given the constraints of money, time, and personnel resources." Asked if any one thing in the trial process particularly irked him, Callan replied, "The cloak of secrecy. I couldn't even see my own file." The hearings, both trial and appeal, were held in secrecy and behind closed doors.

## N.Y. Republican Law Students Show Support for Margiotta

On Monday, February 8th, the Board of Governors of the Republican Law Students Association of New York commended the Nassau County Republican Committee for amending its by-laws to allow Nassau County Republican Committee Chairman, Joseph Margiotta, to remain as Chairman pending the outcome of his appeal. The motion

sponsoring the commendation was made by Salvatore Pontillo, president of the Hofstra Chapter of the Association. The Republican law students expressed their confidence in Mr. Margiotta's vindication upon appeal and felt that Mr. Margiotta's continued tenure was a necessary consideration of fairness in this case.

## Focus on Objectives:

## Dean Plans New Committees, Considers Public Relations N.Y.

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Dean outlined a multi-faceted course of action to help the law school combat its current problems and achieve the recognition it deserves.

Highlights of the Dean's plan include:

— An advisory committee to the Dean, consisting of law partners, judges, and prominent legal and political figures, to be established for the primary purpose of helping "nationalize" the school, by recruiting new students and placing graduating students in respective parts of the country corresponding to the location of the council's membership. The advisory council would also assist in helping with the selection of new faculty members.

— A recruitment committee to be headed by the Dean himself, and consisting of "interested students and alumni," to be formed with the purpose of visiting undergraduate universities and colleges, in an effort to attract top quality students from across the country. The committee would also actively seek to recruit a greater number of minority students.

Schmertz also expressed the desire to offer a dozen full scholarships to minority students, as well as possibly three full scholarships to students from outside the N.Y. area.

— The possibility of retaining a public relations firm to help the law school improve and expand upon its media coverage and reputation.

In addition to achieving highly coveted national recognition, the Dean stressed other areas of concern, including the improvement of relations with our 1600 alumni; and acknowledging that the school is "bursting at the seams," the dire need to add a new wing to the library, and either build or obtain addi-

tional school quarters. Schmertz noted that the overcrowding problem will continue to get worse before it gets better. He added that his proposed new budget and a commitment to undergo a massive fund-raising campaign should stem the problem, hopefully by 1984-85 where Schmertz sees the situation as "critical."

Indicative of his optimism towards the school's future, Schmertz stated that he is hopeful that with the establishment of possibly several endowed professorships, our "distinguished faculty" will not be tempted to leave for other law schools. Schmertz also said that the name of the professor who will chair the Max Schmertz distinguished professorship will be announced shortly.

The Dean also had words of praise for the *Law Review*, calling it "one of the best in the country." Addressing fears that *IPIJ* and the *Labor Forum* might "drain the student body" in a struggle for board and staff members, Schmertz stated that the *Labor Forum* is currently on a one year basis, and will be reviewed again at the end of that period. Funding for the *Labor Forum* is scheduled to come from the income due on the Charlough Chair, currently held by the Dean. The Dean also added that he knew of no shortages of resources devoted to the *Law Review*.

The Dean categorized the needs of the school in his newly proposed budget as essential (i.e. faculty salaries, library needs, etc.) and supplemental (i.e. funds for recruiting, public relations activities, speakers and lecturers, etc.) He is hopeful that the University will be responsive to the law school's requirements, and he is confident that the University is committed to furthering the goals of the law school.

## Bill's Meadowbrook Inn

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Served from 4:45 until 9 P.M.

#### SOUPS

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Served piping hot with a crust of melted cheese  
**SOUP OF THE DAY**  
Ask your waitress for the selection and price

#### SALADS

- Dressings: French, Russian, Oil and Vinegar, Italian, Creamy Italian, Blue Cheese.  
**CHEF'S SALAD** ..... 4.25  
With a plentiful variety of cold cuts  
**SPINACH SALAD** ..... 3.50  
With chopped mushrooms and bits of bacon

#### ENTREES

- Served with salad, potato and vegetable  
**BROILED DELMONICO STEAK** ..... 9.50  
A full pound cut exquisitely broiled to your taste  
**BROILED PORK CHOPS** ..... 6.75  
Two tender chops broiled to juicy perfection  
**STEAK TIDBITS** ..... 5.95  
Tender morsels marinated with teriyaki sauce and served on a sizzling hot platter  
**SALISBURY STEAK** ..... 5.25  
Choice beef with mushrooms, gravy and sliced onion  
**STEAK SANDWICH** ..... 5.95  
A tempting delight with lettuce, and tomato—We put the bread on the side to leave room for the steak

#### ITALIAN SPECIALTIES

Served with our home made tangy marinara sauce

- MANICOTTI** ..... 4.95  
**STUFFED SHELLS** ..... 6.95  
**RAVIOLI** ..... 4.95  
**CHICKEN BREAST PARMESAN** ..... 5.95  
**SHRIMP PARMESAN** ..... 6.95

#### SEAFOOD

Delicately breaded & served with our home made creamy cole slaw, pickle & steak fries

- FRIED FLOUNDER** ..... 4.95  
**FRIED SHRIMP** ..... 6.95  
**FRIED CLAMS** ..... 5.95  
**COMBINATION SEAFOOD PLATTER** ..... 5.95  
When you can't get enough of a good thing  
**SHRIMP SCAMPI** ..... 6.95  
Our plump shrimp are broiled in butter and delicately seasoned



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**CHEESEBURGER** ..... 3.35  
**BACON CHEESEBURGER** ..... 3.50  
With Extras:  
**FRENCH FRIES** ..... .50  
**SLICED RAW ONIONS** ..... .25  
**TOMATOES** ..... .45

### JUMBO SANDWICHES

Served on French garlic bread with steak house fries, pickles, & home made cole slaw

- ROAST BEEF JUMBO** ..... 4.50  
This succulent beef is smothered with melted mozzarella cheese  
**REUBEN JUMBO** ..... 4.50  
Tender corned beef is smothered with melted Swiss cheese  
**TURKEY JUMBO** ..... 4.50  
Thinly sliced breast of turkey with bacon, melted Swiss cheese and Russian dressing  
**MONTE CRISTO JUMBO** ..... 4.50  
A tempting combination of ham and turkey with melted mozzarella cheese  
**LONDON BROIL JUMBO** ..... 5.25  
Lean and tender strips of steak smothered with melted mozzarella cheese  
**HAM JUMBO** ..... 4.50  
Our delicious ham is topped with melted Swiss cheese ready for your choice of mustard or Russian dressing  
**PASTRAMI JUMBO** ..... 4.75  
Lean strips of spicy meat covered with melted Swiss cheese

### SIDE ORDERS

- VEGETABLE OF THE DAY** ..... .95  
**STEAK HOUSE FRIES**  
Small ..... 1.25  
Large ..... 1.75  
**ONION RINGS** ..... 1.50  
**LINGUINI WITH MARINARA SAUCE** ..... 2.25  
**TOSSED GREEN SALAD** ..... 1.25  
**GARLIC BREAD** ..... 1.00

### BEVERAGES

- COFFEE OR TEA** ..... .40  
**SODA** (Coke, Seven-Up, Ginger Ale, Tab and Tonic) ..... .75  
**MILK** ..... .75



## Budget Cuts: The 4 Fateful Questions

by Jordan Fox

### Q: What is President Reagan proposing to do?

A: The President has proposed eliminating the Guaranteed Student Loan for graduate students, as well as significant cuts in other educational support programs. To accomplish this, the President needs to submit legislation to Congress since the GSL program was created by legislation and is not simply a budget cut. At this time, the bill has not yet been submitted but is expected within the week. The elimination of the graduate loans will be effective beginning in the fall of 1982.

### Q: What effect will this have on the law school and its students?

A: While any projection is purely speculative, it is clear that the University will not be able to compensate for the \$2.4 million in loans that 584, or approximately 60% of law students here enjoy. The Director of Development, Roschelle Lowenfeld, told us that the University is sponsoring dinner dances and benefit performances to raise revenues for scholarships and Dean Schmerz has promised to devote more time to fundraising efforts. And no one is really sure how many students will be forced to drop out if the loans are eliminated. Eight of the 22 students who traveled to Washington, D.C. to lobby last week told us that without the loan they will not be back.

### Q: How about these auxiliary loans which the President said would be available?

A: You would be able to borrow more under

the President's program (\$8,000 a year, \$40,000 lifetime) but you would have to begin repayment of the 14% interest immediately. If you borrowed the same \$5,000, therefore, you would have to pay approximately \$700 during the year and would still be responsible for the \$5,000.

Even if you view this as an alternative, you will have a great deal of difficulty trying to find a bank to give you one, according to University and Congressional sources. Richard Bennett, Presidential Assistant for Governmental Relations for Hofstra, said that there are only three banks in the state currently offering these loans and then only to students who have had loans in the past. And Congressman Ray McGrath told us that these alternative loans will "not be accepted at all" by New York banks. He said that the banks would rather give a loan at the regular rate, if at all. He noted that historical collection difficulties and the fact that these loans are not guaranteed renders this alternative no alternative at all.

### Q: What can I do if I believe the Guaranteed Student Loan Program should not be eliminated?

A: University administrators and student leaders urge concerned students to contact their Senators and Representatives. Letters, phone calls and Mailgrams are considered effective means of lobbying. Mailgrams, which only cost a couple of dollars, can be sent by calling 747-1020 any time. Leaders emphasize that only through strong constituent reaction will the opposition to these cuts be solidified.

## Loans . . .

Continued from page 1

is confident that they will succeed, according to McGrath. "I know that the number of 'no' votes last year [on the budget] plus 21 equals a defeat," he said, adding that if the cuts were approved he would vote against the whole budget.

Senator Daniel Patrick Moynihan, speaking before a packed room of 200 students and wearing the button provided by student organizers reading "We Are Your Future," spoke of the historical commitment that the government has maintained to make education accessible to all who desire it. "It's called equal opportunity. It's what education is about. What America is about. We're not going to let them take it away from us just because of a year of their disastrous economic policies," he stated. "The cuts won't put the budget out of deficit. It would put our future into deficit. They will not do it."

The reaction to the proposed cuts has been strong in the Representatives' districts, according to aides in three of the four offices interviewed. An aide to Tom Downey indicated that in the past two weeks they had received hundreds of letters opposing the cuts. LeBoutillier's staff said that the correspondence opposing the President's plan dominated other constituent concerns in re-

cent weeks. But McGrath stated: "I've gotten more letters about the humane treatment of monkeys than student loans at this point."

Despite the assurances many remained unconvinced that they would be able to "sleep safely" as LeBoutillier had suggested. Richard Bennett, Presidential Assistant for Governmental Relations for Hofstra, said that the chances of approval are "50-50." Much of the skepticism focused on fears that Reagan would ultimately get his way as he did with his first budget package. The reality that opposing these cuts means higher spending, and therefore a higher deficit, at a time when the deficit is under attack, worries many observers. To some, battle lines will be drawn regionally, with the states not in the Northeast supporting the cuts in order to stop the "brain drain" of talented students who, without the large sums of money available through the government, would be unable to attend the more prestigious, more expensive Northeastern schools. Others, including Hofstra's Bennett, fear that these cuts may be "lost in the maze" with other issues and ultimately be approved.

Confronted with these fears, McGrath and LeBoutillier reaffirmed their confidence and said it was partly based on the fact that they know of no Congressman who supports the cuts as submitted.

## The Loan Fighters En Route . . . Budget Cuts

by Jordan Fox

On March 1, 22 Hofstra Law students took a 22 hour field trip to Washington. As they boarded the University-funded bus at 5 a.m., accompanied by a handful of undergraduates and five dozen Dunkin Donuts, one of the undergraduates commented that the last time he had been to Washington, he visited the museums and federal buildings to enhance his education. But now, he added, he was going there to save it.

The mood on the bus was mixed. Some told jokes. Some slept. A few munched on the donuts. Most had not digested their dinner yet. What the students lacked in energy, however, they made up for in determination to fight the proposed elimination of the Guaranteed Student Loan for graduate students. They were supported by the presence of an estimated 7,000 other students on this national lobby day, and the

needs of the other 564 law students here affected by the cuts. Their posters read, "Sorry, Hofstra Law Doesn't Accept Cheese As Tuition," and "Make Loans, Not War."

All but one of the students on the bus had a current loan. All but two were first year students. Eight of the 22 said they would be able to get by without loans next year. Nine said they were unsure. Seven said that without the aid they will be forced to forgo their legal education. All agreed, though, that whatever the effect on them personally, they were outraged at what they perceived as a profound negative impact that these cuts would have on accessibility to education for all young adults in this country.

Once the excitement of leaving the City of Hempstead subsided (one student wondered if we would be able to take Hempstead Turnpike all the way to the Capitol), students spoke of their concerns, often with visible anger, that they had been betrayed, forgot-

ten.

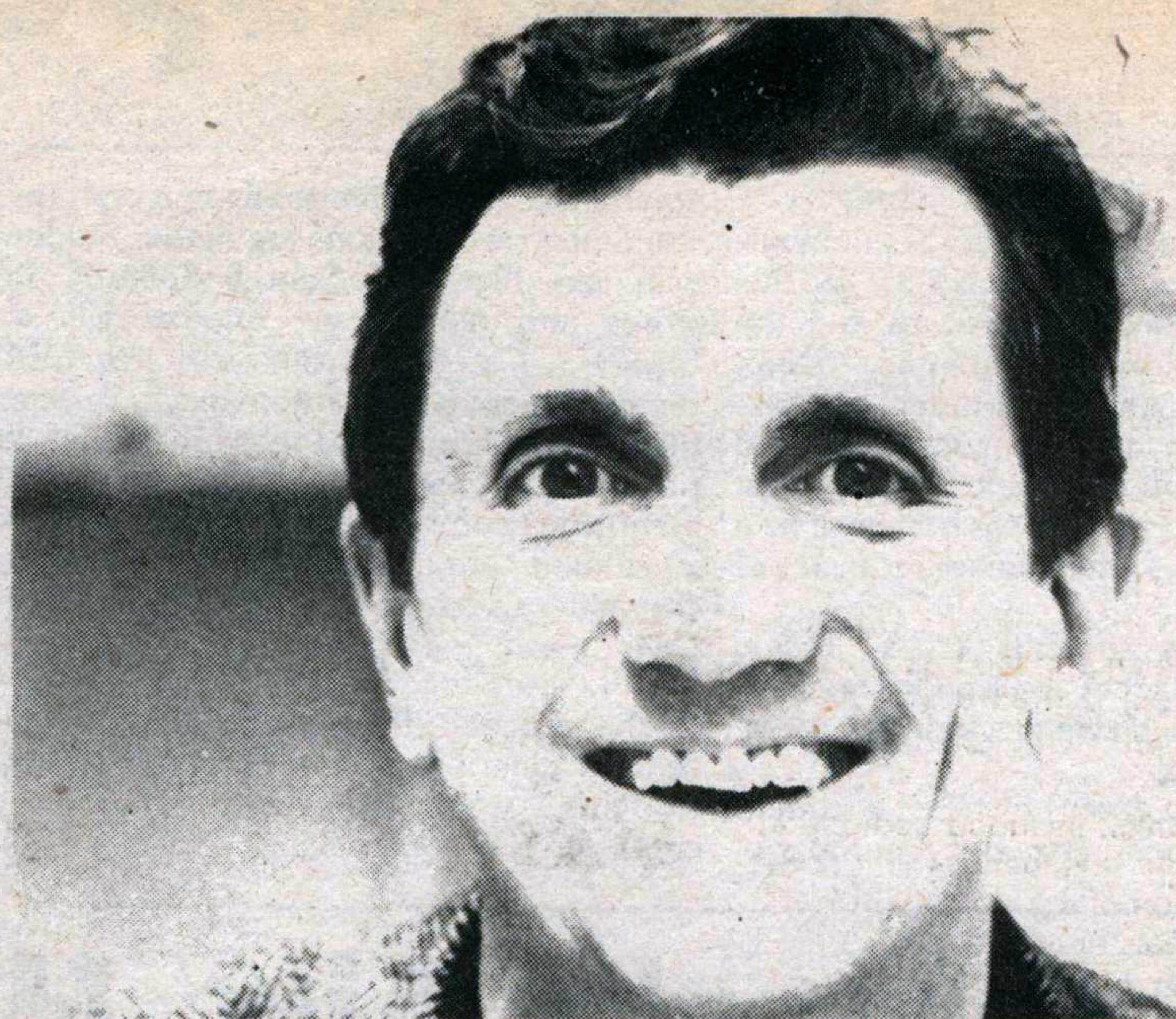
"I've had a lot of nowhere jobs to be able to [attend law school], and then, to be told you can't — it makes me angry," said Susan Peckstein, a first year student who currently works two jobs just to make ends meet.

"I have to work as it is just to earn my living expenses," added Barbara Lynaugh, another first year student. "I work three days a week, and I have a son. I'll have to go back to being a nurse. I think it's just incredible that they can regulate who can get an education. I'm very angry, very bitter."

Some students, like rally organizer and first year student Michael Donnigan, say that they will find "some way" to manage. "I've come too far to drop out," explained Donnigan, who was accompanied in his organizing efforts by first year students Avrum Rosen and Glenn Berger.

During their stay in Washington, the students were treated to a variety of meetings, briefings and demonstrations. Highlighting

## Monroe Freedman Attacks ERA Extension Tactics



Prof. Monroe Freedman

by Jordan Fox, Sharon Hyman, Leslie Levine and Jeanne Savran

On March 10, 1982, the Hofstra Law Women's Center held their first faculty lecture. Professor Monroe Freedman told approximately 100 students that the proponents of the Equal Rights Amendment have placed our basic rights in jeopardy by advocating a position that would weaken the constitutional amendment process.

Although Freedman is a strong advocate of the ERA, he disapproves of the tactics used in litigation by its supporters including arguing for narrower standing requirements, allowing the time period permitted for passage to be extended by a simple majority vote of Congress, and forbidding rescission of ratification once given by the states. Freedman stated that the amendment process prescribed by the Constitution is a fundamental and essential value in our system of constitutional democracy. He feels that the methods being used by the ERA proponents create a risk that "groups such as the Moral Majority will have an easier time taking away basic rights." Freedman cited the proposed Hatch Amendment, which would allow states to regulate abortion as they please, as an example of a movement that could take advantage of the "watered-down" amendment process.

Viewing the Bill of Rights as the cornerstone of our constitutional system, Professor Freedman believes the values therein should be protected at almost all costs. For example, Professor Freedman publicly defended the Nazis' right to march in Skokie, Illinois; although this public display was offensive, he felt the protection of our precious constitutional rights was overriding. Similarly, while Professor Freedman views passage of ERA as a paramount goal, he feels protection of the constitutional amendment process must take precedence over this goal. By weakening the amendment process, ERA supporters will be paving the way for other groups, such as the Moral Majority, to place

all our civil rights and liberties in jeopardy. Monroe Freedman believes the framers of the Constitution intended the Constitution to be extremely difficult to amend and that this intention should not be ignored.

Most students interviewed agreed with Freedman, although some, like first year student George Patsis, found the "truth" in the professor's message "depressing." Some, like first year student Andrea Lannak, said that the need to ensure fundamental rights for women should override Freedman's "theoretical image" of the amendment process.

Freedman, who is on the Advisory Council of the National American Civil Liberties Union, emphasized that while he is "extremely wary" of the litigation methods of the ERA proponents, he is a strong supporter of the Amendment on its merits. He believes the Amendment will be effective because it would require that claims of discrimination be viewed under the "strict scrutiny" standard of review. Currently, says Freedman, claimants are required to show a "fair and substantial relationship to an important governmental objective," a more difficult burden, before they are able to win.

Freedman attributed the imminent defeat of the Amendment to men's desire to maintain their "clear advantage" in our society and women who are "brainwashed" since childhood that they are not equal. He also cited pervasive yet unjustified fear about the effect as a major reason the Amendment will fail.

In order to achieve passage of the ERA, the effort must continue to be perceived as a "peoples movement" and not just a "women's movement," Freedman says, in order to avoid becoming "just another hand in the pork barrel." Freedman advocates starting the amendment process anew, as well as looking to the highest state courts for favorable rulings and reemphasizing the "consciousness-raising" efforts of the past.

"We suffer defeat, we regroup, and come back again," concluded the professor.

the day were speeches by Speaker of the House Tip O'Neill, Senators Ted Kennedy, Pat Moynihan and Alfonse D'Amato, as well as many Long Island Representatives. (For Congressional reaction, see accompanying story.)

The Hofstra group left the Capitol at 7:30 p.m. On the trip back, which was prolonged by a 90-minute breakdown in Baltimore, students expressed confidence that their efforts had an impact. Some questioned the favorable Congressional reaction. They received many promises, they said, but it could be no more than "empty words." But all agreed that, at least for the moment, they had done all they could.

"They took us seriously," concluded Laura Cecere, a first year student, after her conversation with a congressional aide who was impressed with the overall student effort. "They didn't think we could pull this off and we did."



**Conscience  
Feature:**

# Five Aspects of the Law

This issue of *Conscience* contains a series of five articles on the Law School's admissions procedures. The topics for the five articles are admissions procedure and the Faculty Admissions Committee, Dean Schmertz' viewpoint, the Student Admissions Committee, minority admissions and student ideas about admissions. This project represents the first in what we hope will be a series of projects examining various facets of our Law School.

Hofstra admits students on a "rolling basis." This means that applications are considered until all available places in the entering class are filled.

The decision to accept or reject a student rests with Dean Schmertz. But a number of

committees and administrative procedures is where the real decisions are made. Students with very high Law School Aptitude Test scores and grades are automatically accepted, while those with very low LSAT scores and grades are automatically rejected. Minority applicants and those that fall in the middle are considered by either the faculty admissions committee or in special cases by a student admissions committee. These committees recommend applications to the Dean.

The process affects us all, for the procedure determines the character of our students, which ultimately shapes the character of our Law School.

## Students Participate In Selection Process

by Michael Lerner

Hofstra is one of the few law schools in the country (Antioch and Temple being the others) which allows student participation in the admissions process. The Student Admission Committee (SAC) which was started by Dean Monroe Freedman in 1975 has 25 members and functions as the "student arm" of the admissions process. According to this year's SAC Chairperson Therese Purcell, "The SAC serves a special purpose at Hofstra. It is an aspect of trust between the faculty and student body."

When an application is received, it is reviewed solely on the basis of the prospective student's G.P.A. and LSAT score, given an index number (130 x GPA plus LSAT) and placed into one of four categories. Category I is comprised of applicants who are virtually always accepted. Category II is comprised of those students whose grades and LSAT score are not high enough to be admitted on that basis alone. These applications are reviewed by the Faculty Admissions Committee. Applications placed in Category III are those whose grades and LSAT score is not high enough to be reviewed by the Faculty but not low enough to be considered Category IV and rejected immediately.

The SAC reviews those Category II applications which are rejected by the Faculty Admission Committee and all Category III applications. It has the discretion to admit up to 10% of the entering class but has never used up the quota. When asked about the function of the SAC, Purcell said, "We look for people who deserve to go to law school. Those who don't make it on the numbers but have significant work experience or other qualities which would contribute to the quality and make up of the Hofstra student body."

Applicants who are accepted through the student admission process are subject to rigorous scrutiny and review. Initially, an application is reviewed by a sub-committee comprised of 3-5 committee members and either rejected or nominated to be brought before the entire SAC. At the Committee meeting, the application is presented to the entire SAC by a member of the sub-committee who recommend further review. Following a presentation of the application, the nominee is discussed and either rejected or accepted by a 66% majority vote. If accepted by the full Committee, the person who sponsored the application at the SAC meeting writes a letter of recommendation to Dean Schmertz who ultimately decides whether to accept, reject or wait-list the candidate. In the past, 75% of those applicants who have been recommended to the Dean by the SAC have been accepted.

Times have not always been rosy for the Student Admissions Committee. Even though there had never been any problems with leaks of confidential information, last year the faculty considered eliminating SAC because of concerns regarding confidentiality. Following a close vote, the SAC was allowed to continue in existence.

The SAC reviews 80-100 applications per week and last year reviewed approximately 850 applications. It is something which distinguishes Hofstra Law School from other law schools and allows a number of students who normally would not get into a law school of this caliber to benefit from a Hofstra education.

For those interested in joining the SAC, contact Therese Purcell or leave your name in the Admissions Office with Etta Fafarman. With the large number of applications, your help is needed and appreciated.

## Schmertz Airs His Views

by Janlori Goldman

Dean Schmertz has the opportunity to review all applications for admission to Hofstra Law School. As the new Dean, he brings some fresh insights and goals to the admissions process.

With more money, Schmertz asserts, Hofstra Law School could get students from faraway places to flock to Hempstead. Schmertz envisions a massive fund-raising effort which will support a national recruiting campaign. Currently, he is establishing an advisory committee of personally-known, prominent lawyers around the country to publicize the Law School and possibly provide jobs for Hofstra graduates. As far as Schmertz is concerned, the Law School already has everything to offer and need only attract students through professional, credible public relations push. But an applicant's residence may only be a scale-tipping factor in the admissions process.

Schmertz realizes that one's LSAT and GPA are of primary importance. But the Dean is also aware of the recent controversy over the LSAT's ability to measure students' academic and career potential. "The test doesn't mean much standing alone," said the Dean. Rather, he continued, student test scores should be viewed as an indication of an applicant's "diligence and determination to overcome the obstacle presented by the test." The Dean realizes that the LSAT material may not mirror a person's potential to be a good lawyer, but he believes the amount of preparation necessary to meet the challenge and succeed is not unlike situations that confront lawyers every day. He added that it doesn't pay for the school to thoroughly look at those applicants who don't meet the minimum GPA-LSAT requirements. Thus, the seemingly objective GPA-LSAT standard plays an important role in paring down the group of potential acceptances.

Dean Schmertz also recognizes the need to view the applicant's grades against the backdrop of their extra-curricular activities, jobs and unusual experiences. Schmertz is interested in an applicant's personal statement, for it may give him "insight into an applicant's understanding of our society." He believes that an applicant's high level of "commitment and sophistication" suggests that they will probably succeed in school and distinguish themselves in practice so as to bring credit to the school.

When confronted with a borderline applicant, the Dean admits there is a delicate balance between assessing one's grades and assessing one's commitment to the legal profession. He believes "lawyers should have a keen awareness of the political, social and economic forces around them because they have a fiduciary duty to the history of the legal structure." Schmertz concludes that because the "critical role of law in our society transcends the study of law," he must sometimes look beyond an applicant's grades to their "breadth of interest and experience."

Dean Schmertz is unaware of a quota system at Hofstra Law School. In reviewing

applications, he doesn't want to distinguish between male and female applicants. Although he was unsure of the male-female ratio of applicants, he feels the acceptance ratio is fair. He is more concerned with vigorously recruiting minority applicants. He also stressed the need to accept qualified students regardless of their age. "Who is to say who will distinguish themselves in the field? I don't believe that accepting a 50-year-old student deprives a younger stu-

dent of a place at Hofstra."

Schmertz asserts that high quality applicants will be attracted to Hofstra if the school expands their scholarship and loan program, steps up publicity, arranges for nationally-known commencement speakers and establishes more endowed chairs for professors. He claims the administration is "conceptually favorable" to his goals and that it is just a matter of allocating University resources to these projects.

## Poor Economy Aggravates Minority Recruitment

by David Chidekel

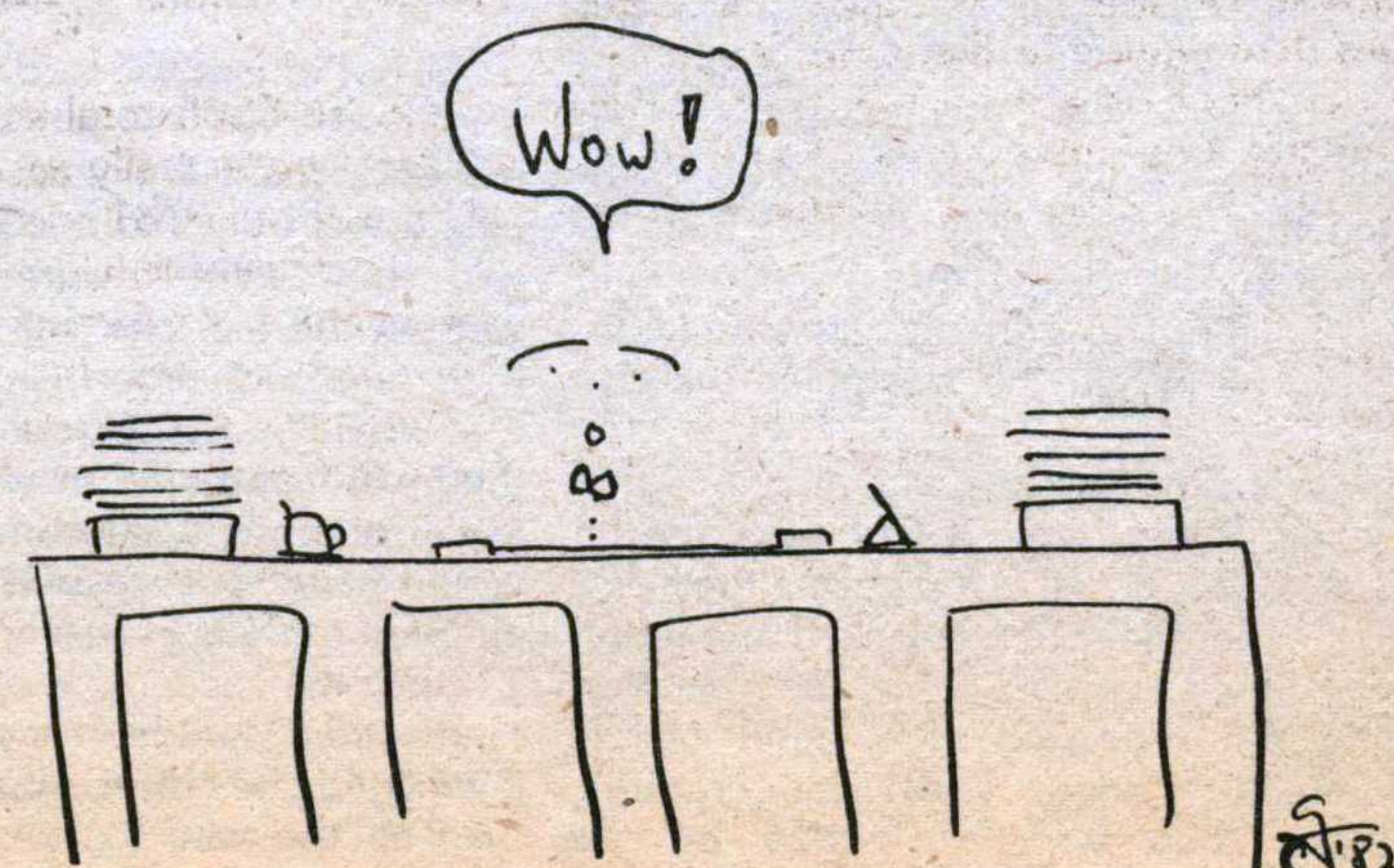
The Law School administration realizes that while good intentions are fine, increasing minority enrollment in the face of a worsening economic climate is a difficult objective to achieve. Professor William Ginsberg, chairman of the Faculty Admissions Committee, stated that the real problem with minority admissions is that "we just don't receive a lot of minority student applications." While the Admissions Committee purports to offer every qualified minority applicant a seat, the number who accept are few. As former chairman of the Minority Admission Committee, Professor Ginsberg assured the students that no rigid selection program is used to either include or exclude minority applicants from the body of applicants accepted each year. Although minority students may have unique problems, the Minority Admissions Committee attempts to accept all the minority students "who we believe can make it in law school."

Many factors may be responsible for the relatively small number of minority students who attend Hofstra School of Law each year. The bottom line, however, appears to be limited financing. Professor Ginsberg noted that many of the more prestigious and wealthy law schools have sufficient funds to

actively recruit the most competitive minority students. He also called attention to the fact that many inner-city minority students may attend law schools more easily accessible by mass transit. Commuting to Long Island may be both expensive and inconvenient. Hofstra now, as in the past, has been unable to surmount these financial obstacles.

Dean Schmertz outlined a plan by which he hopes to overcome Hofstra's financial constraints and increase minority enrollment. This year the law school re-applied for the government sponsored GPOP (Government and Professional Opportunity Program) grant, which ideally would provide twelve qualified minority students with full scholarships. Also, the Dean proposed a "bold fund-raising campaign" targeted at the private sector. Most important, however, law school representatives, including the Dean, will begin an active recruitment program aimed at undergraduate schools with large minority student populations. Dean Schmertz stated "academic opportunities are hollow if you can't make it economically feasible for minority students with solid academic credentials to afford law school." Overall, the administration is optimistic that, given time, the Law School will be able to attract the number of qualified minority students that it would like to have attend.

## Admissions Interviews?





# School's Admissions Process

## Students, Faculty Offer Their Opinions

by Annette Guarisco

### Student Opinions

Student opinions about the requirements for admission to Hofstra Law School vary widely. Students' thoughts ranged from considering LSAT scores exclusively, to the same policy for GPA, to a mixture of both criteria. A distinct consensus emerged among the students questioned that LSAT scores are overemphasized, despite the belief of some that LSAT scores are somewhat indicative of how well an applicant can "think like a lawyer."

Grade point averages are the source of much controversy. Most students thought GPA scores should be adjusted to consider two variables. First, the school should consider the college attended and, second, the applicant's course concentration.

Making these adjustments poses a difficult problem. Rhonda Lackowitz and Harry Roth expressed this viewpoint succinctly when they stated that they do not believe such adjustments should be made because these adjustments would be arbitrary.

Another common suggestion made by students was to conduct applicant interviews. Some said that every applicant should be interviewed before a decision is made. Some students believed that interviews should be conducted only with "borderline" applicants. Tom O'Connell, third year representative, remarked that, "Personal interviews should be conducted after reviewing each application in its entirety."

Virtually all students said that Hofstra should strive toward achieving academic excellence. Second year representative, George Silver, noted, "A school is only as good as the students it attracts." Perry Silverman, a first year student, agreed. He stated, "We should raise admission standards in order to make Hofstra graduates more marketable and to attract higher caliber students."

Increasing the minimal acceptable LSAT

score and GPA was another suggestion frequently made by students. Although these students recognized that there may be a decline in the applicant pool, they believed that ultimately this would be a beneficial policy. These same students are upset because they feel that the administration's sole interest is in filling seats and collecting tuition, not in attracting higher caliber students.

Most students believed that given the goal of achieving national status, geographic distributions should be given some import. However, they did not feel that this factor should be used to exclude New York area applicants who demonstrate greater qualifications than a non-New York area applicant.

Many factors are considered during application review. GPA, LSAT scores, major, school, extra-curricular activities, life-experience, community involvement, minority status and age are all relevant. The weighing of all these factors may achieve the desired goals of quality students and a diverse student body. Stewart Gitler, a chemical engineer and second year law student, stated that "since a racial cross-section of applicants is considered, academic concentrations, experience and age can be also."

A vast majority of the students interviewed felt Hofstra's academic reputation must be enhanced and that the admissions policy should be geared to achieve that goal.

### Faculty Opinions

In a discussion with *Conscience*, Professors Ginsberg, Kessler and Bush all commented that they were satisfied with the overall admissions procedure, and strongly favored it over admitting students on grades and LSAT scores alone. Prof. Kessler, a former committee chairman, stated that one of the main goals of the committee was to achieve and maintain a diverse student

body. Prof. Bush stated that he was trying to reach an "optimal mix" for the student body. Prof. Bush said that, in essence, the faculty committee was working for the current student body in their efforts to admit quality students.

The following items were some of the factors that all three professors look at in deciding which applicants to admit: LSAT, GPA, recommendations, residence of the applicant, personal statements, the trend of the student's grades, the actual types of courses taken by the student (not just their major), the academic quality of the undergraduate institution, unique past experiences, and a student's extra-curricular activities. None of the professors admitted favoring one factor over another. They stressed that they looked to each factor individually in determining whether or not to accept an applicant.

The geographic breakdown of the Hofstra University School of Law student body is: 85% are from the metropolitan area — of which 50% are from Nassau County, 4% are from upstate New York, and only 11% are from out-of-state. When questioned about preferential treatment toward out-of-state applicants in order to become a more geographically balanced school, all of the professors admitted that if a person was not from this area, it was taken into consideration, but denied it was an overriding factor. However, Professors Bush and Kessler said that they would admit a person who was not from this area over a local applicant, only if all the other factors were equal. Prof. Bush said that geographic distribution is useful to the student body by adding additional diversity and that it is also one of the best methods of spreading the Hofstra Law School reputation.

The first year class is composed of almost equal amounts of men and women. When it was pointed out to the faculty members that most other law schools are comprised mostly of male students, they denied aiming for a fifty-fifty ratio. The consensus of the faculty

interviewed was that this result "just happened," and all the professors stated that they did not even consider the sex of the applicant.

Prof. Ginsberg stated that the admissions process is "sex blind." Prof. Kessler suggested that this ratio may exist because Hofstra receives more than its share of female applicants. Two factors contribute to this situation. First, Hofstra's suburban location may attract female students who do not want to travel to the city to study. Second, this area has a large Jewish population. The Jewish heritage tends to favor good education for all children, not just the male children. Thus more women are encouraged to apply to Hofstra.

Prof. Bush was the only faculty member interviewed who stressed the writing ability score. This score is reported along with the LSAT score on the information provided by the Educational Testing Institute. He felt a person with a low LSAT score, but a high writing ability score, could make a qualified law student. He tended to place emphasis on this score when considering all of the factors together in making his decision.

Prof. Ginsberg stated that he has been in contact with Dean Schmertz concerning a recruitment program. Currently, there is no recruitment program at all at Hofstra University School of Law. Prof. Ginsberg said that the proposed program will be instituted "in the near future." The major obstacle will be funding for the program. He feels that the University will probably be reluctant in appropriating any funds for a recruitment program while the Law School already has enough applicants. He also stated that the newness of Hofstra Law School is a problem. The alumni has been out of school and working for only about 10 years. The alumni is not yet in a position to donate large sums of money to help the school. However, Prof. Ginsberg stated that the law school administration is very committed to the idea of creating a recruiting program.

## 5 Law School Groups Assess Applications

by Joe Cassidy

The admissions process at Hofstra University School of Law is a multi-faceted process. There are at least five different groups that are currently involved in the overall admissions process. They include the following: (1) Faculty Admissions Committee, (2) Student Admissions Committee, (3) The Admissions Office, (4) The Dean's Office, and (5) Minority Admissions Committee.

The first group to receive a prospective student's application is the Admissions Office. Etta Fafarman, director of admissions, places each application in one of four possible categories. The first category consists of the people who are automatically accepted based on their high LSAT and GPA scores. These people are notified immediately unless the admissions office staff determines they require further consideration.

The second category is made up of all the acceptable borderline cases. These people have good grades and adequate LSAT scores, but not good enough to be automatically admitted. The applicants in this category are reviewed by the Faculty Admissions Committee, which consists of the following faculty: Committee Chairman Prof. Ginsberg, Prof. Kessler, Prof. Bush, Prof. Gans, Prof. Orlofsky, and Prof. Morrey. Each faculty member reviews the applicant's entire file and then decides whether to accept, reject, or place the person on the waiting list.

The third category is comprised of people who do not have a high enough combination of GPA and LSAT scores to be considered by the Faculty Admissions Committee, but

still high enough to not be automatically rejected. The applicants in the third category are reviewed by the Student Admissions Committee, which can choose a student who they feel has the potential to become a good law student. All recommendations from the Student Admissions Committee and the Minority Admissions Committee must be approved by the Dean.

The most current figures available from the Admissions Office are based on the class of 1984.

|           | Applied | Accepted | Actually Enrolled |
|-----------|---------|----------|-------------------|
| Group I   | 0578    | 0559     | 119               |
| Group II  | 1239    | 0504     | 149               |
| Group III | 0454    | 0042     | 013               |
| Group IV  | 0264    | 0        | 0                 |
| Totals    | 2535    | 1105     | 281               |

Of the 2535 total students who applied, 1105 were actually accepted; and of those accepted only 281 enrolled.

The 19 people who were not automatically accepted in Group I were placed into Group II so that the Faculty Admissions Committee could review them. Etta Fafarman commented that a light course load or a poorly rated academic institution might be factors that could cause a person with high grades and LSAT scores to be placed in Group II.

A person who was placed in the fourth category, and therefore automatically rejected, had a GPA somewhere between 2.5 and 2.75 and a LSAT score of about 450 or below. Etta Fafarman stressed that this cut-off range is not definite.



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# Placement Office: Helps Those Who Help Themselves

by Ronald G. Goldman

Depending upon to whom you speak, you will get a wide variety of opinions about what the Placement Office is and what it's supposed to do. We all hear a lot of complaints that the Placement Office is not serving its function, as evidenced by the difficulty of students in getting jobs. If indeed this is their responsibility, then many of these complaints would be substantiated. However, this is not so clearly the case. The Placement Office calls it a misunderstanding of their duties, as there are many variable factors involved in a successful placement program. If, however, they are doing their job satisfactorily, then why do these problems exist and why do they continue?

The Placement Office at Hofstra Law has a full-time staff that consists of Hugh Christenson and Francine Rozenberg, with Betty Cambridge, a full-time student, specializing in a minority placement program. They are responsible for handling the entire student body which numbers over 750. This is a disadvantage considering other schools such as N.Y.U. and Brooklyn have much larger staffs allowing greater personal attention as well as more active and extensive recruitment of opportunities. Ms. Rozenberg admits that the job is "too much for two people," but she feels that the performance of the Placement Office is "more than adequate."

The staff reports that most of the student feedback is positive and they feel that the complaints come from students who do not fully understand the situation, or misinterpret the actual role of the Placement Office. Ms. Rozenberg states that the Placement Office is not an employment agency and that they "can do the most for the people who are most willing to help themselves." "The Placement Office will provide the materials, the knowhow and the information for the students' use, but it is their responsibility to follow through on it."

We all know and hear about how hard it is to get a law related job, how much competition there is and even if we get a job, will we get paid? This is when we all turn to the Placement Office and say, "why?" What else is the Placement Office there for but to make sure we all get jobs? Well, that works out fine and dandy if you come from Harvard, but it's not that easy for the rest of us. There are many mitigating circumstances, especially for a school in Hofstra's position, that greatly complicates this essential process.

Both Mr. Christenson and Ms. Rozenberg strongly emphasize the importance of a law school's alumni. It is a school's alumni that is the greatest promoter of the school and the strongest asset a placement office can have. It is the graduates upon which a school, especially a young school

like Hofstra, must rely in order to build up a reputation and to make inroads into firms and agencies that future graduates can follow and expand upon. This is probably the single weakest link in Hofstra Law either academically or otherwise. Being such a young school we are in the position of the single weakest link in Hofstra Law. Being such a young school we are in the position of having to break into these public and private interests and establish ourselves. Brooklyn and New York Law, for example, have an advantage in placement because they have been around for over sixty years and have already established a large alumni community from which these inroads naturally flow.

Building a reputation and becoming established is a slow process, but one in which Hofstra seems to be making significant headway. According to the *Office of Placement '80-'81 Annual Report*, the total number of job offers made to Hofstra Law students as a result of the Fall 1980 placement program grew by 37% in comparison to that of the year before. Also, overall employer participation in Hofstra recruitment programs increased 30% from the previous year. When asked how these impressive sounding statistics compare to those of other law schools in our league, neither Mr. Christenson nor Ms. Rozenberg could comment. This leaves us without an indication of what these numbers mean relatively thereby not carrying the weight they otherwise might have. Mrs. Rozenberg feels proud of the progress the Placement Office has made and the direction we're headed in, while realizing that there is "still a lot of room for improvement."

As director, Mr. Christenson's responsibilities are more external in terms of seeking outside opportunities and opening them up to Hofstra students. He also plans the placement program and organizes the activities in which Hofstra participates. Ms. Rozenberg, on the other hand, deals more directly with the internal aspect of helping students in job search preparations, as well as general placement office operations.

In the two and a half years which Mr. Christenson and Ms. Rozenberg have spent at Hofstra, they have created a variety of programs aimed at easing these inherent problems of Hofstra's situation. Some of these programs include: The Law Consortium, in which several metropolitan area law schools participate in attracting out-of-state employers, including law firms, corporations and government agencies; the Public Interest Legal Career Symposium, such as the one recently held at N.Y.U.; Clerkship Programs; On-Campus Recruitment Programs (O.C.R.P.); and the Alumni Tracking Program, which eases our alumni problem by keeping records of our graduates, nationally, by geography,

employer and type of practice.

The goals of the Placement Office are to help students make themselves more marketable and to promote the school. Admitting that the geographical range of the law school is somewhat limited, Mr. Christenson feels that a long-term goal will be to make Hofstra a nationally prominent law school. However, we first must establish ourselves locally.

Both Mr. Christenson and Ms. Rozenberg state that the law school administration has been very helpful in their endeavors. Former Dean Regan was very supportive of the program. Dean Schmertz intends to play an active, external role in promoting the school, which will obviously have a positive effect upon placement efforts. However, it is too early to give details on Dean Schmertz' participation.

As we all know, grades are the most important consideration when it comes to the

job hunt. This is especially so with the large, big name law firms ("no grades—no Wall St."). Experience and personality are also important, however these characteristics are more significant with the small and medium sized firms. Public interest and government agencies are looking for a long-term commitment. The job opportunities are not more abundant for third year students as opposed to first year, however the process becomes easier through trial and error.

Being in law school and having traveled that long road to get here, we all know what competition is all about and we have experienced it first hand in many types of circumstances. The same kind of competition exists in school as does in the job search—that's just the way it is. No matter what the responsibilities of the Placement Office are, or should be, or what it can do for us, the burden of responsibility is on ourselves.



Photo by Jeremy Metz

## CHEATING . . .

continued from page 1

cerning this matter, and was not sure if the person who made the complaint could appeal a faculty member's decision.

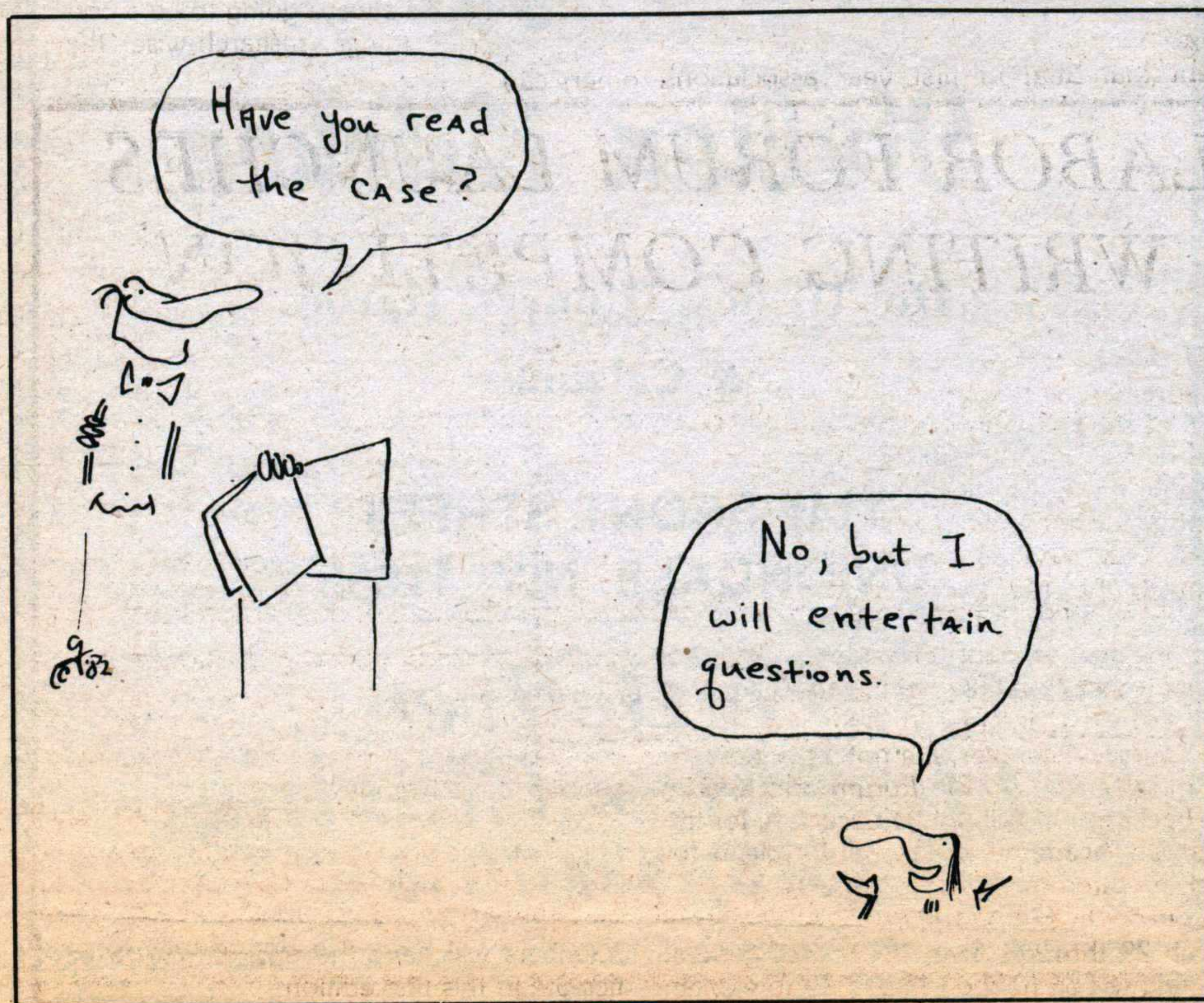
There are a set of rules concerning academic dishonesty within the Law School. Those rules call a formal hearing process and an appeals process.

Gregory and Rabinowitz both stressed the idea that there must be a time at which a decision can be made and the matter ended.

Conscience was informed of a third student who claims to have seen the accused at the oral argument. During the interview with this student, it was asserted that the alleged wrongdoer was indeed present at the oral argument in question. When Conscience

presented this information to Gregory, he stated that the original student informer did not confront him until after his final determination had been made, and that he had no knowledge at all of the third student.

Further allegations were brought to the attention of Debbie Kleinberg concerning first year students cheating, but these students refused to bring charges against their fellow students. Kleinberg stated that most students did not want to get involved. Rabinowitz thinks that no stigma should be attached to any student that brings charges of cheating against another student. Instead, he said that they should be commended for coming forward.



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# Looking Inside Law Review

Continued from page 1

ward for fear of not being published, and of straining relations between them and other staffers, as well as the editorial board. As one member put it, "I can't say they didn't have any influence, but by implication . . . I was surprised by many of the outcomes." Schutzman claimed that "the board did not come to a conclusion to find a new board or exclude anyone." He added that the purpose of the editorial board meeting was to exchange information and experiences, both pro and con. "Certain misconceptions were uncovered based on fact rather than opinion." One student informed this writer, "I don't know if I approve of that practice. Everybody knows certain people, the possibility of bloc voting is there." Another student countered that he had "no problem with [the] editors' meeting the night before. Even if they voted as a bloc, there's nothing wrong."

According to the *Review's* bylaws, the election process begins the week prior to elections with the candidates announcing their intention to run for one or several positions. This week-long opportunity to sign up indicates what position(s) one is running for but it is not binding on election night. For example, Linda Kreicher signed up for the Notes and Comments Editor (the last elected position), but was nominated, and in fact, was elected for the position of Editor-in-Chief. Conversely, Jane Rubinowitz signed up for Editor-in-Chief and was elected as a Notes and Comments Editor.

One member commented that s/he was told to sign up on the board "whether or not you knew what you wanted." Another offered, "Originally [I] put my name on the board to keep my options open. I eventually made up mind less than 48 hours before the election."

Not surprisingly, most staffers interviewed applauded the flexibility of the sign-up procedure. Not being "locked-in" gives people the opportunity to change their minds prior to election night, on the other hand people have a week to sign up before the deadline; if they're not sure by Friday (the deadline) some questioned how seriously can the candidates be considered.

The next step in the election process involves the candidates' making a portion of their *Law Review* article available for other members to analyze for style, form, and the care taken in writing the article. This practice is more tradition than law; last year it was mandatory, whereas this year it was just "strongly suggested."

Most staffers were unfamiliar with the *Review's* bylaws, adopted on November 6, 1971. Copies had not been distributed this year, although Sypher said that they were available. Since amendments are added every year no up-to-date copies were available.

On the Wednesday following, the Editorial Board met, as discussed above, to "share information about the candidates." There is no formal requirement for meeting the night before election, rather it was done as a matter of convenience.

The elections began after dinner last Thursday night, and the 11-hour marathon lasted until almost daybreak. Almost everyone interviewed complained about the time factor. As one participant explained, "It was totally unfair for someone who really wants to run for Notes and Comments Editor to have to make speeches at 3:30 a.m. to a half-asleep audience." Suggestions were made that the elections start earlier and/or they are scheduled to run sometime on the weekend.

The positions were filled beginning with Editor-in-Chief and ending with Notes and Comments Editors. Unsuccessful candidates were given the opportunity to be nominated for successive races. One candidate offered, "[this way], the more positions you ran for, the better your chances. If you wanted to be on the board, it would be best to run for Editor-in-Chief and work [sic] your way down. If you ran for one position you were at an extreme disadvantage." Another student opted that there was a "sympathy" vote for "trickle-down" candidates.

Schutzman shared his personal criteria for electing an editor. He emphasized that there is "no set criteria; this is my criteria." Schutzman listed those criteria as writing ability, meeting deadlines, completing assignments in an adequate manner, an overall commitment to the *Review* in terms of time, and a willingness to put in the time necessary for editors.

Robin Rosenberg, an Articles Editor, mentioned that in choosing the best Managing Editor she was "looking for responsible people, leaders, guidance, and trust." One source felt, however, that there was too much emphasis placed on the progress of the candidates' articles.

After nominations, each candidate was allowed a certain amount of time to make a speech. Following the speeches questions were taken from the floor. Voting was done by secret ballot and the winner had to secure a majority. Failure to reach a majority resulted in the dropping of the lowest vote-getter until a majority was attained. Approximately two and a half hours was needed to elect the Editor-in-Chief.

Controversy surrounded this election on various topics, as mentioned above, and also in other areas. Schutzman assured this writer that "there was some feeling that there were some candidates who should have been on the board. That's why there was some controversy." When told that the members were being quite cooperative towards my interviewing and research, Schutzman commented, "Fine. We've got nothing to hide."

Others feel differently. One staffer felt that "there was definitely something strange. After hearing their [the candidates'] speeches, it was difficult to see how these people were elected." Another staffer told me that during elections, "a guy was approached by members of the editorial board . . . to run." And yet another staffer related that certain people were told who not to vote for, and that one candidate was wanted, by the board, for one of the lower positions, not one of the higher ones that s/he was running for. This staffer added that s/he was told the results of the election before the voting with an astounding 98% accuracy.

The Articles Editors are responsible for soliciting "outside" authors for articles suitable for publication. The *Review's* interdisciplinary uniqueness offers the Articles Editors the ability to establish relationships with legal scholars, as well as economists, or even philosophers. In the past, the *Review* has published material from very impressive authors. Their best-selling issue remains the definitive work on interstate banking.

The student project, notes, and case comments complete the *Review*. Each member is required to write an article. It must either be a note or a far more narrow case comment. Notes and Comments Editors help the student authors find their topic and each work with several staffers through their many drafts and revisions. Notes and Comments Editors are also responsible for the writing competition. They research and write the questions for distribution after the end of final exams.

All *Review* members may receive up to six credits toward their degree, over a two year period, upon fulfillment of their work. The editorial board members receive a \$500 stipend per year. Associate Editors (third year members) receive \$175 per year. In addition, the three managerial positions each receive a \$500 scholarship, while the 11 remaining board members receive a \$250 scholarship. Surprisingly, most editors interviewed were unsure of this information.

Membership dues of \$10 per semester go toward social activities, since the *Review* gets no SGA funding. The *Review* is funded by the Law School and recoups some of its expenses through subscription and residual sales. Gary Nielsen, Managing Editor in charge of business, reported that each issue (there are four or five issues per volume) normally has a press run of about 2,000 copies, unless the *Review* is running a special issue or promotion. Of those, 900-1,000 are sent directly to regular subscribers, at \$20 per year. The remainder

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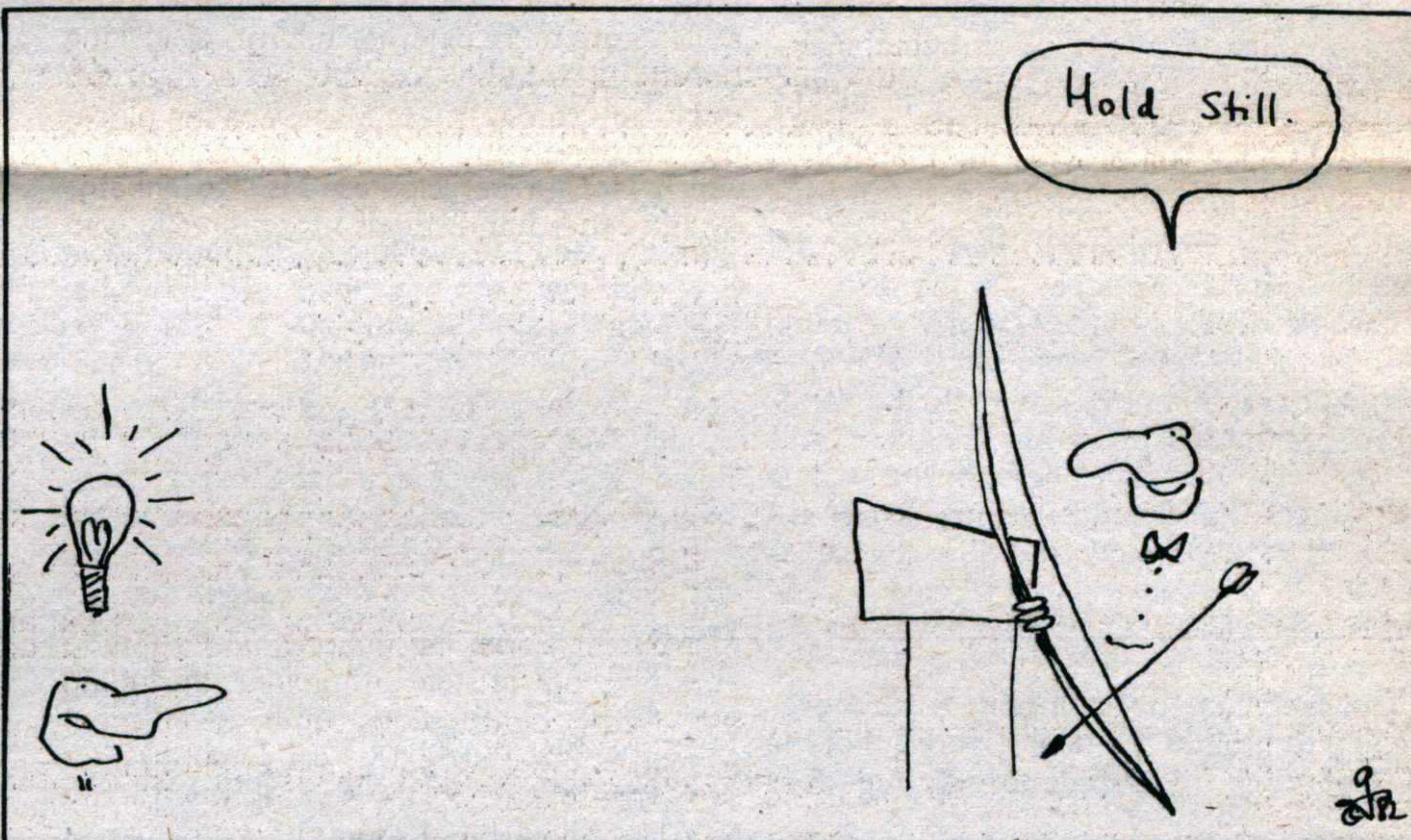
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are shipped to the Law School. Free copies are distributed to the students and faculty and the residual are stored for back orders. Nielsen admitted that there is no profit, but explained that he was not able to estimate how much of a loss was incurred.

The camaraderie felt among staffers is different than that of first year associations

within each section. "In the second year everybody is dispersed, but in *Law Review* you're brought together and that feeling returns — it's a benefit," said a staffer. She added, "It sticks with you, the title, your being published. It's always going to be a concern. I've done things, research-wise, that others can't."

## LABOR FORUM LAUNCHES WRITING COMPETITION

Hofstra Labor Law Forum, the school's newest research publication, has invited all second year students to participate in a writing competition for both staff and editorial positions. The writing exercise will be on a current topic in Labor and Constitutional Law, and all materials necessary to complete the short paper will be provided in a package, *The Forum*, distributed to all participating students. Students will be selected based on their writing ability, grades and expressed interest in labor law. Labor law courses, however, are not a prerequisite for membership on the *Forum* and a labor law background will not be necessary for the exercise. Academic credit will be given for work required for *Forum* membership.

The competition is planned to run from March 29 through April 12. A brief general meeting will be held on March 29 to explain

more fully the writing competition and the aims and goals of the *Forum*. At that time competition packets will be distributed. Notices will be posted before March 29 to alert interested students of the time and location of this meeting.

A competition for first year students will also be held; however, as this article goes to press, the question whether first year students will be invited to participate in the March 29 competition remains unsettled. Interested first year students - please watch for posted notices or contact *Forum* members.

The first issue of the *Forum* is currently scheduled for release in early fall 1982. This issue will contain papers presented at the Edward F. Carrough Labor Law Conference to be held at Hofstra on June 9, 1982. New members will have the opportunity to participate in this first edition.



# POSIN TAKES AN OPINIONATED

by Daniel Q. Posin

I invite you to take an opinionated and idiosyncratic stroll with me through the recently enacted tax law. We are not going to be comprehensive. Rather we are going to talk about things that get my goat in the new tax law.

Providing the backdrop, if not a brooding omnipresence, to our discussion is the Internal Revenue Code.

This massive document seeks to answer only one question: What is the taxpayer's tax liability for the year? But because this document fails to go into sufficient detail, it is supplemented by several volumes of regulations. It is to this library of tax legislation and rules that the new tax law added several hundred pages. The Internal Revenue Code is now even more complicated as a result of the new tax law. That can be said for sure. Everything else, I suggest, is open to debate.

The new tax law, The Economic Recovery Tax Act of 1981, is a child of the so-called supply-side economic school of thought. This school of thought is not new, but was extremely popular in the 1920's, up until September of 1929. From that date and on through the 1930's, it became apparent that some new ideas were needed in economic thinking and thus came about the Keynesian revolution.

Those who now espouse the supply-side school of economics are apparently unaware of this history, and being so unaware, are apparently consigning the rest of us to repeating it.

The supply-side school of economics holds that if you cut everybody's taxes enough, this will stimulate such great productivity in the economy that the new productivity will cause tax revenues to increase by far more than the revenues lost in the original tax cut. Since the wealthy pay more taxes than the poor, the inevitable result of applying supply-side economics is to cut the taxes of the wealthy far more than the relatively smaller taxes paid by the poor.

This theory used to travel under the name of the "trickle-down" approach. The idea was that as more money is put into the hands of the wealthy and powerful, their economic activity will ultimately benefit the whole economy. Economist John Kenneth Galbraith has characterized this theory as follows: If you give enough oats to the horses, there will be some left over for the sparrows.

The fact that the economy is now proceeding to go into the tank as a result of the application of this supply-side theory does

not appear to be dimming the ardor of its supporters. The backfield of Jackie Kemp at quarterback, Arthur Laffer at tailback, and Ronald Reagan at flanker back appears to be still hoping to win the game in the fourth quarter. Blocking back Dave Stockman, as you know, injured his foot when he put it in his mouth and is now playing second string.

Whatever the verdict on supply-side economics, we taxpayers, and those of us who follow the field professionally, are left with The Economic Recovery Tax Act of 1981. We will be living with this Act — or most of it — for a long time to come. Let us see what there is of interest for us in it.

## Kunhardt Credit

Oh, to be Dorothy Meserve Kunhardt! There is a special provision in the new Act that grants a special credit lowering the taxes on the estate of Dorothy Meserve Kunhardt for transfer to the Smithsonian Institution of certain works of art. This credit applies only to the estate of Dorothy Meserve Kunhardt. Apparently it was felt that even though Dorothy Meserve Kunhardt was dead, she would be stimulated by cutting her taxes. See if the old lady could cough up a few more paintings to the Smithsonian. This is supply-side economics at its height. Supply-side economics works very well if you are dead and if you are Dorothy Meserve Kunhardt.

Let us stroll further then, you and I, and see what other interesting provisions we may unearth in this massive new piece of legislation.

## Indexing

Gazing around this legislation we espy a very interesting provision.

It does not go into effect until 1985; however, at least when it does go into effect, it applies to everyone, unlike the Kunhardt Credit. This provision is that the tax system will be indexed for inflation starting with 1985. This addresses the problem that as people's income rises on account of inflation, they are pushed into higher and higher brackets, even though their real income has not increased. This problem is seen as an outrageous injustice which will be cured starting in 1985. Between now and 1985 we will all still have to live with this burden. The indexing will, in effect, cause tax brackets to be moved upward, keyed to increases in the consumer price index. Also the standard deduction — or as it is now called, the zero bracket amount — as well as deductions for personal exemptions, will be similarly increased by an amount keyed to increases in the consumer price index.

While this sounds like a very nice and

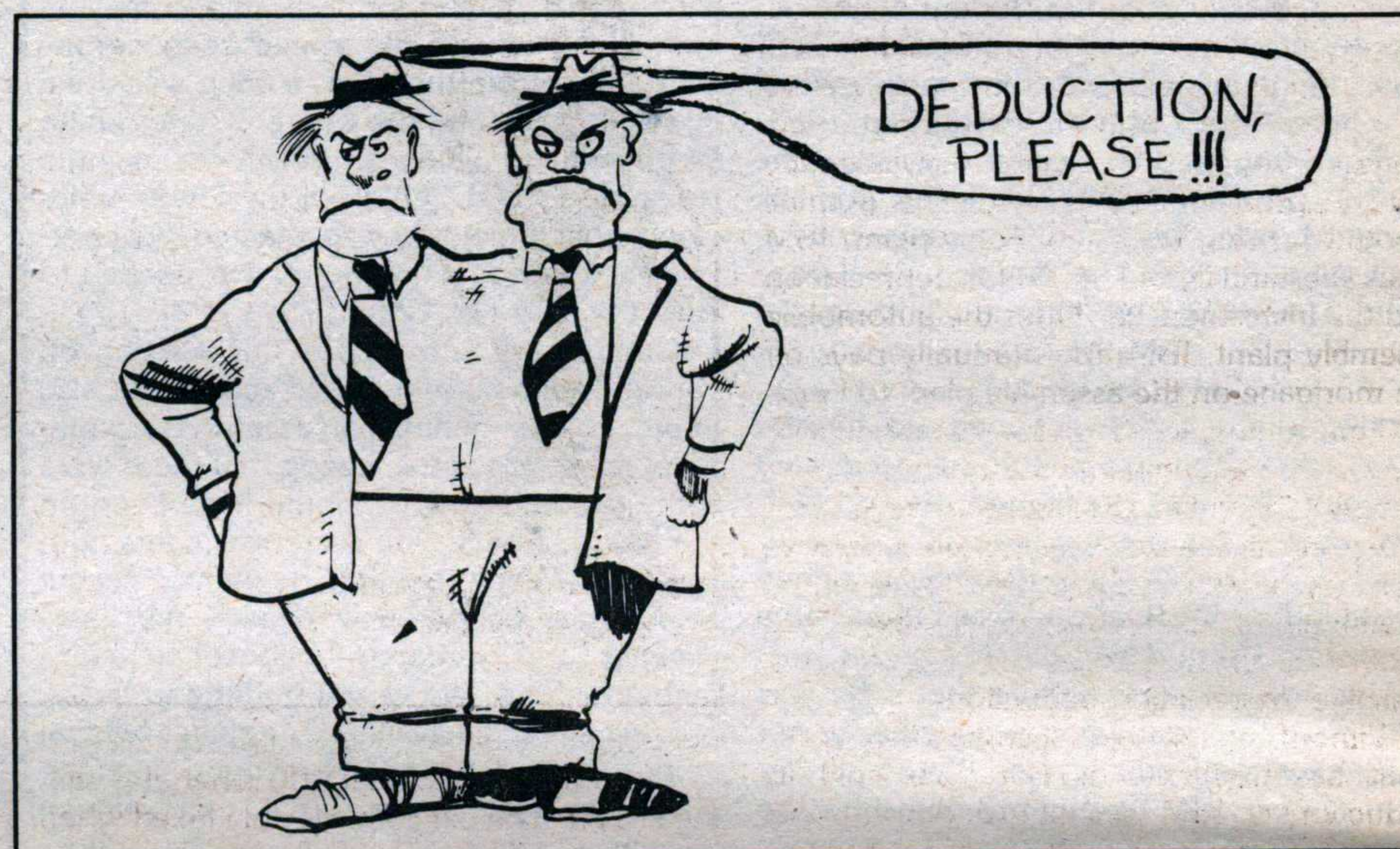
equitable thing to do, I put it to you that it is a senseless exercise. Indexing of this type only makes sense if the tax rates are not otherwise cut or increased. But if there is one thing that is always going on every couple of years, it is that tax rates are either cut or increased. When tax rates are cut or increased, such cuts or increases will swamp any effect of this indexing. Indeed, the tax increase that we will probably get sometime in the next few years will obviously be greater to make up for the fact that some indexing will be going on. Thus, indexing is a meaningless gesture, obviously intended as a sop to those who are excited about this issue.

It also seems to me that this indexing provision is not just a meaningless gesture, but actually harmful. It suggested that the government expects inflation to continue at a

\$3,000 for 1983 and thereafter. Assuming a married couple is in the 50% bracket — which is not a bracket that is very tough to reach any more — the new deduction could save a married couple \$750 in actual taxes in 1982 and as much as \$1,500 in 1983 and thereafter.

This provision was entered into our tax law to deal with the situation that where both spouses of a married couple work, the couple will pay more total taxes on a joint return schedule than if they each filed as single individuals. Furthermore, the married couple is in effect barred from the advantages of filing as separate individuals.

This result, of course, gave rise to a hue and cry among many married couples where both spouses worked. Many couples tried to get a divorce at the end of the year and then



substantial rate. In that regard it perpetuates inflationary expectations on the part of the public. As most economists will tell you, it is the public's perception that inflation will continue that is one of the major causes of inflation. Government policy with respect to interest rates and other matters is largely an attempt to "break the inflationary psychology." Indexing the Internal Revenue Code for inflation hardly "breaks the inflationary psychology."

## Marriage Tax

Strolling further through the new Act, we come upon a very droll provision. This relates to the problem of the so-called "marriage tax." This new provision allows for an extra deduction for married couples where both spouses work. The deduction could be as much as \$1,500 for 1982 and as much as

get remarried in the following year. You have to have a lot of confidence in your relationship to do that.

This new deduction for two-earner married couples is designed to eliminate or at least ameliorate this problem.

But those couples in which only one party works may feel aggrieved by this new provision. In effect, no deduction is given for the spouse who stays at home and works around the house. Single people may also feel aggrieved by this new provision, which will not benefit them. Soon we will hear complaints (as we did a few years ago) about the tax on being single.

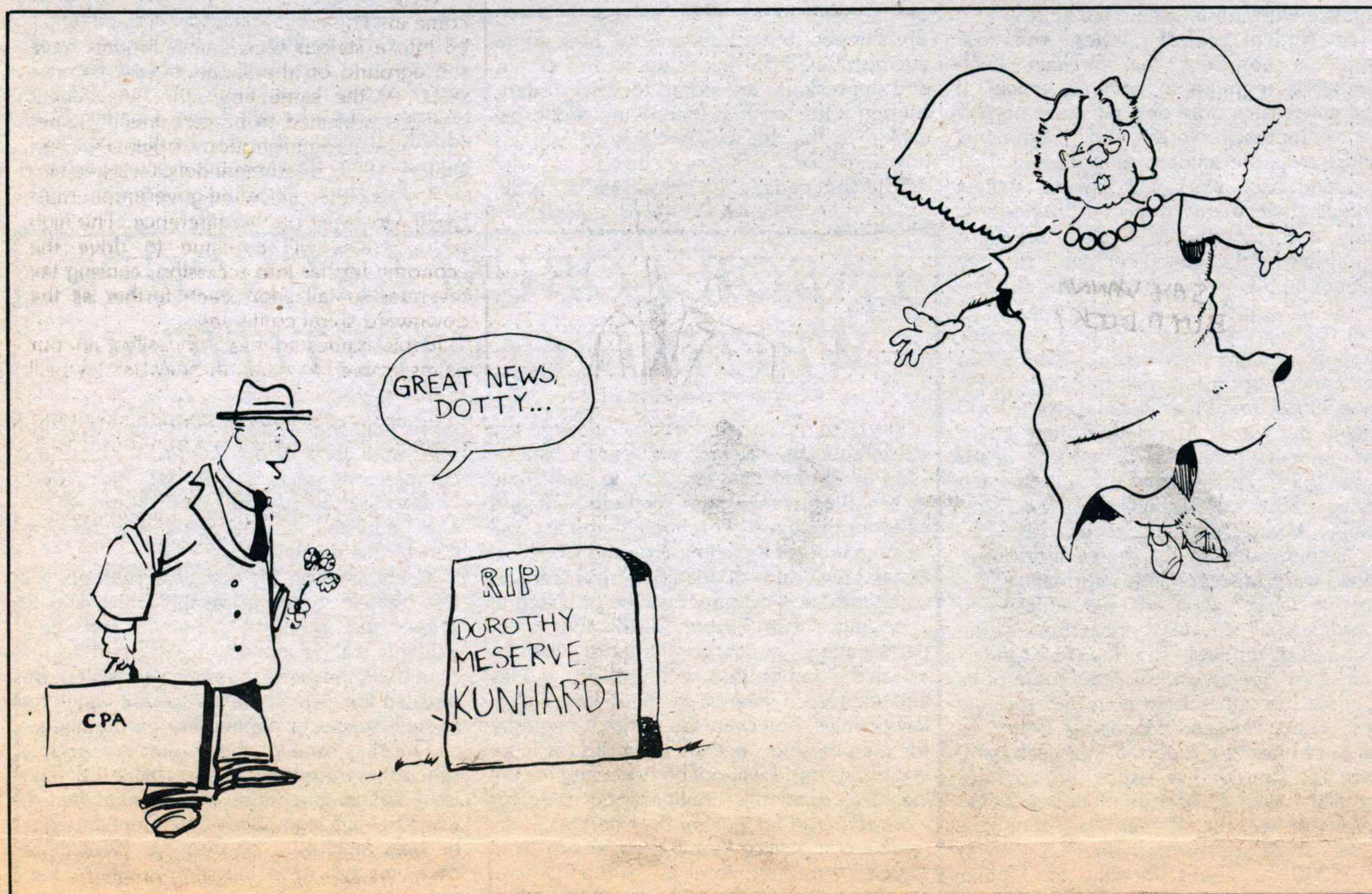
The answer, of course, would be to give this extra deduction to single people as well. But then it would be to the advantage of every married couple to get a divorce so that each of them can get this special deduction, rather than just having one deduction between them. And we would be back where we started.

What is one to make of this morass? I put it to you that this problem is insoluble. It is not possible to construct a tax which does not offend one of these three types of taxpayers: the married couple where both work, the married couple where only one works, or the single individual. No matter how the tax rate schedules and deductions are constructed, at least one of these three types is going to feel that his particular status has been mistreated.

In this era of working wives, it is the married couple where both parties work that have currently won the day with this new extra deduction. There is no longer a significant marriage tax. But as soon as the rather large size of this deduction sinks into the popular consciousness, I do not doubt for a moment that we will hear a complaint about the unfairness of a tax on single people. Also, married couples who have only one wage earner will complain that they are being mistreated in being unable to take advantage of this substantial tax savings.

As I say, this problem cannot be solved. It relates to the question of what one regards as the proper family unit on which to impose a tax. The fact that this problem cannot be solved will not prevent the popular press and many commentators from crying that "something should be done" to deal with this problem.

Well, let us try to calm ourselves down





# STROLL THROUGH REAGANOMICS

and continue our stroll through The Economic Recovery Tax Act and see what other interesting and perhaps partially hidden gems remain to be discovered.

## Selling Tax Credits

Here's one that is quite remarkable. This, in effect, allows an unprofitable company such as Ford to sell its tax deductions to a profitable company such as IBM. Indeed, this is exactly what has recently happened. The way it works basically is that Ford takes, let us say, an assembly plant, that it has recently bought and put into service, and sells it to IBM. One might wonder what IBM would want with an automobile assembly plant, but in the world of tax law these things all make very good sense. IBM having just purchased the assembly plant, pays only 10% of the cost of the assembly plant as a down payment. Thus it is not out-of-pocket any significant amount of cash. IBM then turns around and leases the automobile plant to — guess who — that's right — Ford. Ford therefore continues to employ its assembly plant in producing cars. Ford pays a small amount for rent of the assembly plant. IBM takes substantial deductions for depreciation and the investment credit for the automobile assembly plant. IBM also gradually pays off the mortgage on the assembly plant to Ford.

What is the effect of this transaction? IBM gets a lot of attractive, rapid deductions for a Ford assembly plant. Ford pays very little for the use of an assembly plant, since it pays much less than the market rental for such an assembly plant. IBM is happy to allow Ford to have the low rent since IBM is getting the attractive depreciation deductions.

Without getting too technical about it, what has happened is Ford has sold its deductions to IBM, since Ford, which is losing money, cannot use those deductions.

This practice was engaged in before the new Act, but before the new Act the Internal Revenue Service would frequently challenge such transactions as lacking economic substance. They would disallow the deal. After the new Act, it is very easy to engage in such transactions, and the Internal Revenue Service is barred from challenging them.

Thus we have seen and will see in the future widespread selling of depreciation deductions by companies which are undergoing hard times.

I suggest there are several comments that can be made concerning this new provision.

First of all, when you push aside all the legal underbrush, what is happening is that government tax revenues are in effect transferred to failing companies. As a matter of policy, the question is fairly presented whether we wish to assist companies in this fashion. Should there be an economic policy that assists companies that apparently cannot make it on their own, such as Ford?

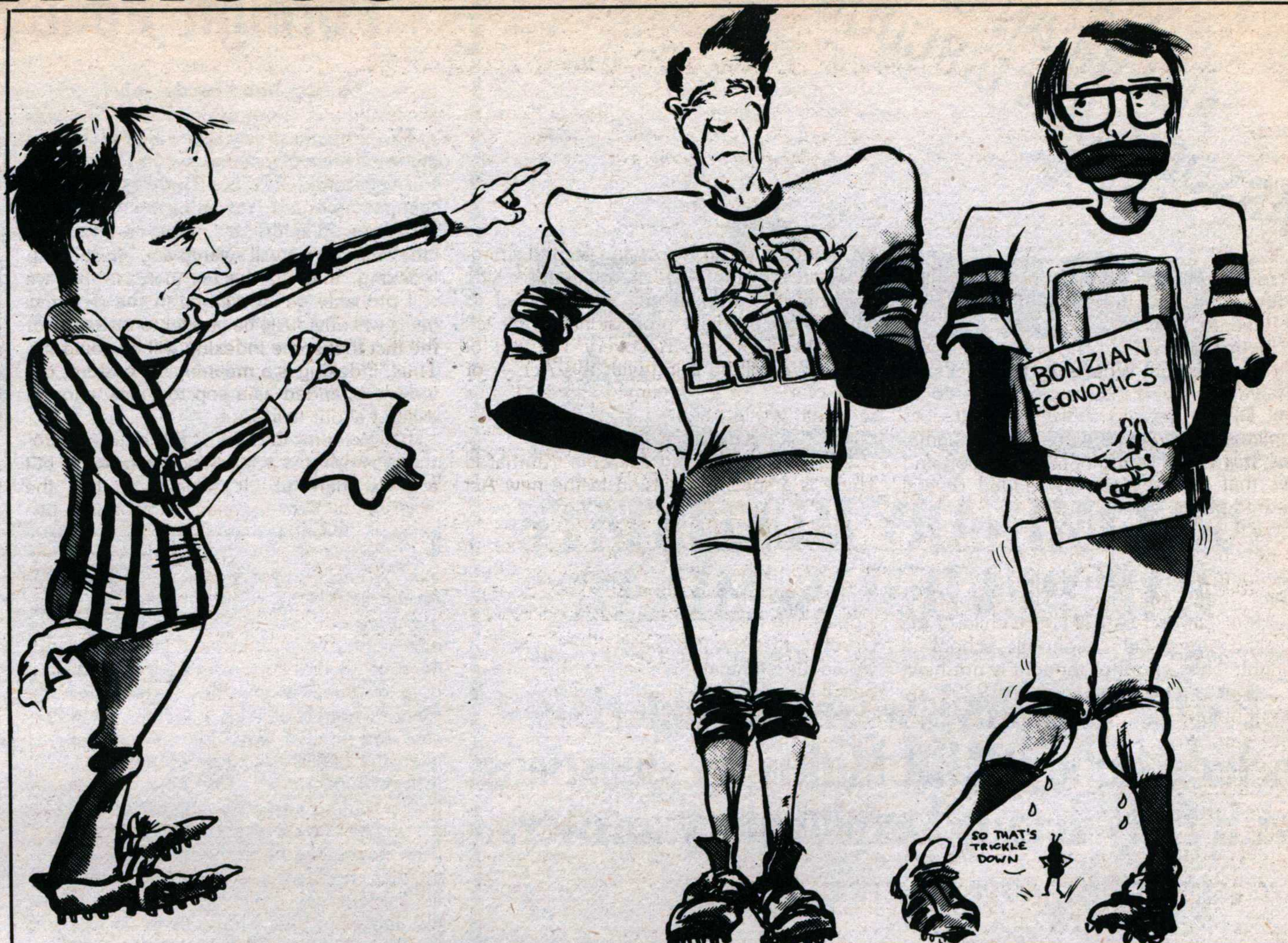
I thought that one of the tenets of the Reagan administration was free enterprise. But giving our government handouts, in effect, through the tax system, to failing companies such as Ford and Chrysler is not, I suggest, consistent with a free market approach to economics.

I suggest that if the Reagan administration simply said that we are going to make direct government grants to help out Ford, there would be an outcry that could be heard across the country. But because it is done through such a complex tax provision, the criticism of this policy has been muted.

## Incentive Stock Options

Strolling further through the wonderland, we come across an interesting provision called "incentive stock options." This is "supply-side" economics at its height. This provision allows an executive of a corporation to receive an option to buy the stock of his company at the market price at the time of the granting of the option. If the stock subsequently rises in price, the executive may still exercise the option to buy the stock at the previous lower price any time he wants. So he has a sure thing. Then he has to hold the stock for a specified period of time — one or two years, at most. Then he can sell the stock and get a capital gain.

The tax consequences of this situation are as follows: No tax to the executive when he is given the option. No tax at all. No tax to



the executive when he exercises the option — i.e., buys the stock at 100 when it is selling at 120. The executive is only taxed when he sells the stock, if he ever does, and then only at capital gain rates.

Without getting bogged down too much in the technicalities, this is an attractive tax-favored device for executives to purchase the stock of their own companies. This device will generally not be made available to rank and file employees. It is not available to the general public.

What is the supposed reason for this? Supply-side economics. We want to provide an incentive to executives to work harder so that their company's fortunes will improve and the stock will become more valuable to them. This outburst of work by these executives will then help the whole economy. This is the theory.

I suggest that this theory is flawed.

Whatever else you can say about America's corporate executives, I suggest you can say that they work hard now! Even the most severe critics of American business do not suggest that American corporate executives are lazy! That they are holding something back! On the contrary, these gentlemen are killing themselves right now!

The proof of the pudding is in the eating. These incentive stock options are now available. They are being adopted left and right by leading companies. But yet we continue to be in a substantial recession. Where is the increase in productivity? There is no sign of it.

That is because the problems in this economy stem not from a lack of incentive for workers, executives or anybody else. Rather, our economic problems arise from the faulty economic policies that are in effect, in particular the huge budget deficits.

## General Rate Reduction

What I have given you thus far has been a look at some particular provisions of interest in the new tax law. However, these provisions must be considered in the context of the larger impact of the new tax law. The new tax law effected major tax rate reductions for individuals, amounting to approximately 23% spread over the next three years. Similar great tax savings were vouchsafed to corporations in a variety of forms. The most important of such for corporations and other businesses involved extremely attractive methods for computing depreciation, and the investment credit. The tax on capital gains is also decreased even further, making capital gains an extremely attractive form of income.

Thus, the new tax law crossed almost everyone's palm with silver. Everyone is happy, who can complain. And we need not even worry because the economy will boom as a result. "A rising tide floats all boats."

Well, the economic results are starting to come in. The economy appears to be headed into a serious recession. All boats have run aground on the shoals of high interest rates. At the same time, the government deficit is projected to be very much greater than the administration originally had thought. The government deficit will keep interest rates high, since the government must borrow to make up the difference. The high interest rates will continue to drive the economy further into recession, causing tax revenues to fall short even further as the downward spiral continues.

If this comes to pass, the silver in our palms granted to us by the new tax law will turn to dross.

We live in a complex economy and simple answers like just cutting everyone's taxes will not do.

Well, don't become downhearted. Don't become suicidal. Don't kill yourself. Being dead won't do you any good — unless, of course, you happen to be Dorothy Meserve Kunhardt.



Copyright Daniel Q. Posin, 1982. Professor Posin is a Professor of tax law at the Law School. He has been a lecturer at the University of East Africa under the Rockefeller Foundation and has served as staff counsel to Ralph Nader. This article was derived from a lecture he delivered to the University of San Diego Law faculty last December, where he served as a visiting professor.



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## Mendelsohn on Money:

# Foreign Policy Examined

by Stephen Mendelsohn

The foreign policy eye of the United States has recently been cast on the political and economic difficulties besetting the Caribbean and Central American nations. President Reagan addressed these questions at the Organization of American States conference last month, where he announced that the United States is prepared to offer economic aid to these beleaguered nations. What is the extent of the problems afflicting these developing nations and will the American proposals ameliorate the lives of millions of people?

The island of Jamaica is an interesting example of the enormous problems facing Western developing nations. One can not help but be taken aback by the huge differences in living standards. Shanty towns dot the landscape alongside mansions overlooking Kingston, a city of 800,000. Proper sanitation, running water, and electricity are nowhere to be found among these overnight communities. As in other Caribbean or Central American nations, the rural poor of Jamaica have descended upon the cities in search of jobs, education, medical care and a better way of life. A sad fact has been the inability of these countries to deal with this migration. The basic services of transportation and schooling are crushed by the weight of their responsibilities. Crime and drug smuggling, often the most prevalent industries, proliferate in Kingston slums such as Trenchtown. Political gangs that follow the Jamaican Labor Party or the opposition People's National Party fight for control of these slums with arms smuggled in from Cuba and the United States.

The Jamaican economy was thought to have bottomed out during the previous Manley administration. Tourism has picked up considerably, creating jobs and improving the disastrous balance of payments deficit. Unemployment, however, runs at the conservative estimate of 20%. Underemployment pads these figures, as many Jamaicans are employed in completely unproductive jobs. The new government of Prime Minister Edward Seaga, a Harvard educated economist, has attempted to stimulate foreign investment through a largely free market approach. Restrictions on the development of the bauxite and aluminum industry have been lifted. American light industries have also shown an interest in utilizing the unskilled and low paid labor force.

The strength of will of the Jamaican people and their determination to grow must form the basis of any future development. The population is highly literate by Western standards and Jamaicans have distinguished themselves in the academic professions both in America and England. However, technical training and skills are in short supply. Physicians, nurses, dentists, engineers, mechanics, trades persons and others have emigrated to the U.S. and Great Britain. Larger numbers of unskilled Jamaican immigrants have added to Britain's economic, social, and political strife. It is clear that in order for the economies of Central America and the Caribbean to improve, the brain drain must be reversed.



Photo by Laurie March

Stephen Mendelsohn

The problems affecting Jamaica are by no means isolated. Every country in that region of the world suffers from the problems of unskilled workers, unsafe working conditions, poor investment, disease-ridden housing, overburdened water, sewage, transportation, and communications services, hunger, chronic unemployment, balance of payments deficits, etc. President Reagan must be applauded for focusing American attention on the economic plight of these millions of people. He has proposed an approximately \$350 million loan and aid package to alleviate some of the symptoms of the above problems. Mr. Reagan has also scaled back or eliminated many import duties on agricultural and light industrial goods.

The creation of relatively short-term loans will have some positive effect on a number of countries. Their problems, however, have been exacerbating for many decades. Structural reform in land ownership, and the destruction of the peonage system of obligations will be a painfully slow process throughout Latin America. Economies must become more diversified in order to lessen the effect that changes in coffee, sugar, bananas, and raw material prices have on the balance of payments, and general economic activity.

A substantial change in the condition of the people of Central America and the Caribbean is still many years in the future. Political turmoil breeds upon economic injustice, yet economic reforms can not be realized fully during civil wars. In order for the United States to play a more vital role in the development of these nations, American business must improve its deserved though somewhat overdramatized reputation for exploiting the national resources and capital of Central America. The United States must temper its desire to assist, which is too often perceived to be a desire to dominate. Mr. Reagan has taken the first step, possibly only in rhetoric, proposing a new cooperation between the United States and the countries of the Caribbean and Central America. It remains to be seen whether the program proposed will be adequate enough to meet this challenge.

Stephen Mendelsohn, '83, was an economics major at Colgate University. He assisted on an economics research project on the Island of Jamaica in 1977.

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# COMMUNITY FORUM

## Columns In Defense Of Margiotta

by Salvatore B. Pontillo

"Denies any knowledge or information sufficient to form a belief as to any of the allegations . . ."

These words should be familiar to anyone who has ever answered a complaint. As law students, we have learned that we must gather the facts before determining guilt, the merit of a defense, or a theory of law. Why, then, has this investigative duty been breached regarding the trials, conviction and appeal process of Joseph M. Margiotta, Nassau County Republican Committee Chairman?

Throughout this school and community, some people condemn Mr. Margiotta, but they have gained little or no information other than that provided by the news media. As lawyers, however, that alone should never be sufficient information on which to base an intelligent opinion regarding a legal matter. The following are some facts necessary "to form a belief" regarding Mr. Margiotta.

— The New York State Insurance Department, The State Investigations Department and the Nassau County District Attorney's Office each investigated Mr. Margiotta's patronage activities and concluded that no laws had been violated by those activities.

— It has always been assumed generally (prosecutors included) that such patronage activities were legal.

— Mr. Margiotta stopped engaging in such activities two years before charges were brought against him. The last four county chairmen before Mr. Margiotta engaged in the same or similar activities, believing, as did Mr. Margiotta, that they were legal.

— Mr. Margiotta is the only man to be convicted for practicing such activities though hundreds have engaged in the same or similar activities in the past.

— The United States Attorney in Brooklyn used two Federal Criminal Statutes that made no mention of patronage activities and that by their language do not seem to prohibit or even refer to such patronage activities in order to prosecute Mr. Margiotta. These statutes were intended to prohibit using the mails to defraud victims of money or property and damaging interstate commerce by extorting money or property through the use of threats or force.

— Professor Coffee, in a recent American Bar Association article, called the Margiotta indictment under these statutes and the jury charge a "quantum leap in the extension of the statute." He discusses the "disturbing failure of the courts to require that the [defendant's] conduct have caused legally cognizable harm to the beneficiary" and he concludes "that an affirmative defense should be available [to defendants] to show the lack of proximate cause between a breach and the injury."

— The primary testimony against Mr. Margiotta came in the form of a hearsay statement made fifteen years ago by a man now deceased, to his son. Mr. Williams, the prosecution's star witness, was indicted for tax evasion. The decision in his case was

held in abeyance until after he testified at the two Margiotta trials. Mr. Williams received a suspended sentence.

— The first Margiotta trial ended in a hung jury. The second trial ended in a conviction at the trial level.

— A survey published in the *Yale Law Journal* in 1978 found that there was a reversal of the conviction on appeal in 35.6% of the state criminal cases surveyed.

— For purposes of conviction, Mr. Margiotta was termed a *de facto* public official. He is the first person ever to hold that title. There is no authority on which to base this title. A person is either a public official or he is not.

— It is not illegal for an individual to direct the sharing of insurance commission with a political party as did Mr. Margiotta. It was only by the *de facto* public official status that a conviction was obtained. It is likely that if on appeal the *de facto* status is rejected, the conviction will be reversed. Being a licensed insurance broker, Mr. Margiotta could have named himself broker of record and kept every cent of commissions, without violating the law.

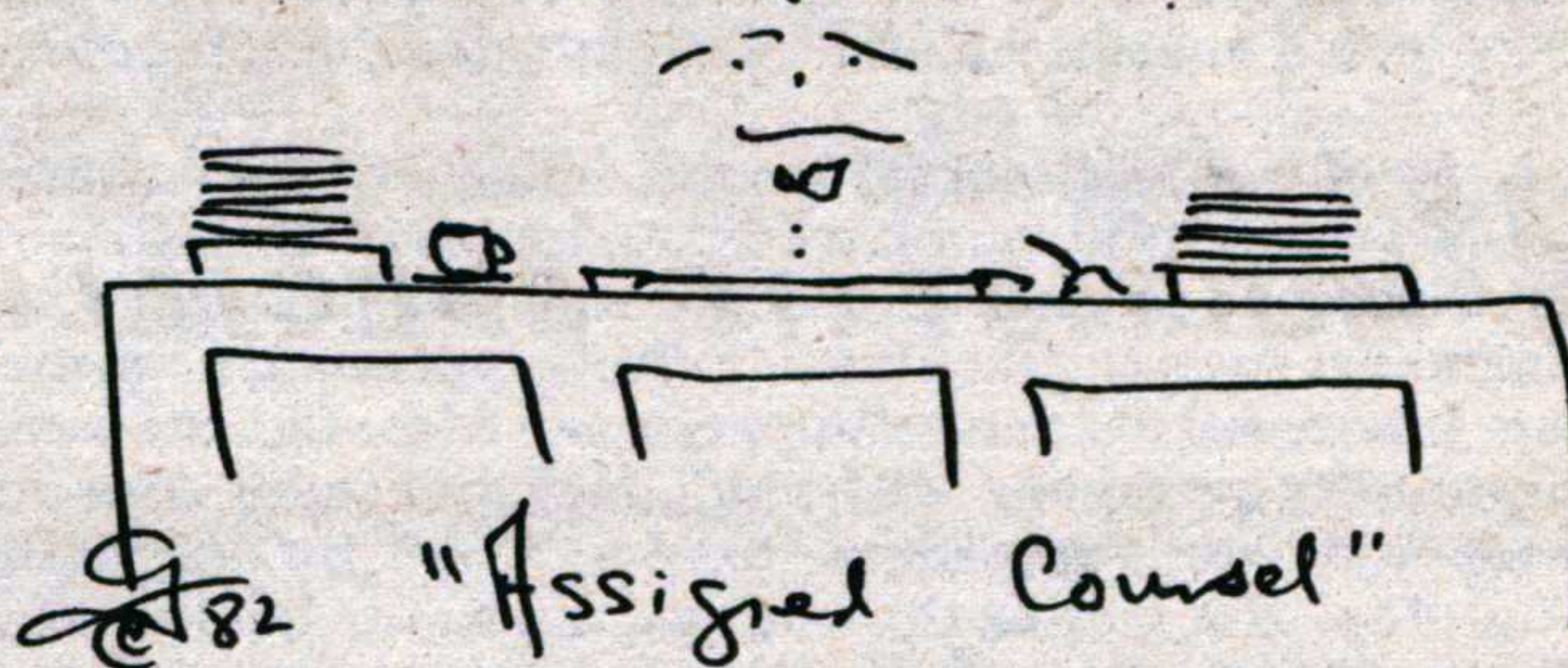
Nor should it be forgotten that the trial judge stayed the judgment of conviction. Thus, the trial judge, by ordering the stay, provided in effect that this judgment should not be implemented, and its sentence should not be enforced until an appeals court has had the opportunity to determine whether the conviction is valid. Since the trial court has said that the conviction and sentence shall not yet take effect, it is perfectly logical for the Nassau County Republican Committee to take the same position and thus to decide that the conviction shall likewise not operate to deprive Margiotta of his leadership before he has the opportunity to contest the validity of the judgment in his appeal.

If society deprived a convicted man of his occupation, his party leadership, his source of income and his livelihood solely on the basis of a mistaken trial court judgment and before he had the opportunity to ask an appeals court to protect him from trial court error vitiating the judgment, it would seem in retrospect a monstrous injustice if the conviction is reversed. These errors may consist of errors in the conduct of the trial or the trial court's mistaken acceptance of the prosecution's attempts to fashion a new and previously unheard of basis of criminal liability out of new and unsound prosecution legal theories.

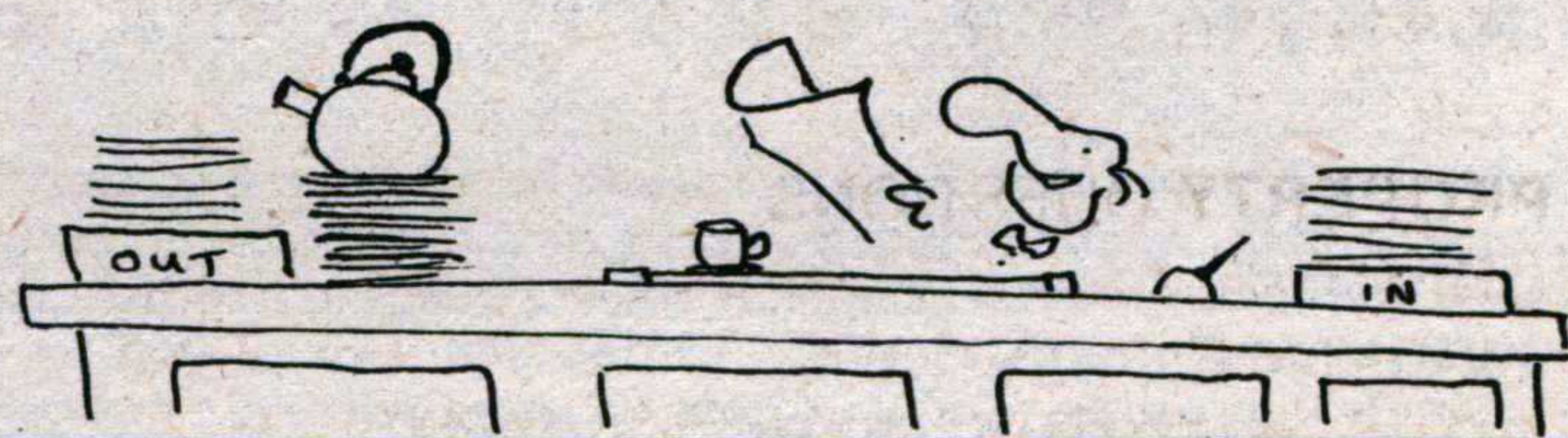
Needless hardship can be avoided merely by postponing the imposition of sanction until an appeals court has had an opportunity to determine whether such new and highly imaginative prosecution theories, which raise many serious constitutional and procedural questions, should be overturned.

Salvatore B. Pontillo is chairman of the Republican Law Students Hofstra chapter and a member of the class of 1982.

If you talk to Another reporter, I'll cut out your tongue.



Sometimes it can be done legally,  
Sometimes honestly, Sometimes legally  
honestly, Sometimes honestly legally,  
And sometimes just sometimes.



## Outside Line

### Politics as Usual

by Saul P. Morgenstern

It appears that the recent conviction of Nassau County Republican Leader Joseph Margiotta has done little to interrupt the flow of corruption and cynicism in Nassau's political system. Recent events have exposed the pervasiveness of the ugly and unethical back scratching that makes the Nassau political system run.

It is no secret that Mr. Margiotta, who is famous largely for his role as ruler of the Nassau Republican machine, was recently convicted, by a jury, of felonies arising out of his behavior in his capacity as Republican Leader. At the root of the case was a scheme whereby the County's insurance was purchased through an agent who would then kick back part of the commissions to selected associates of Mr. Margiotta.

While the scheme earned Mr. Margiotta a federal felony conviction, it did not spur enough indignation to have him removed from his position as Republican leader. In fact, the state and county politicians have bent over backward to keep him there. The same conservatives who decry the delays that attend the right to appeal when it is afforded poor and minority defendants are now refusing to disenfranchise Mr. Margiotta on the grounds that his conviction has not yet run the appeals course.

As students of the law, we should respect the appeals process and value the purposes served by it. In the case of a criminal, like Mr. Margiotta, who has been convicted of no violent acts (physical), an argument can be made for staying the sentence while the appeal is pending. To leave the wolf in charge of the hen-house is, however, a bit much. Mr. Margiotta should have been removed from all positions of political power and responsibility within hours of his conviction. Anything else, and certainly what has actually occurred, insults the taxpayers of Nassau County.

Equally as offensive as the acts for which Mr. Margiotta was convicted is the iceberg of patronage of which this is only the tip. In a recent interview in the *New York Times*, an aide to Mr. Margiotta explained in lurid detail how all appointments to county positions were submitted to Mr. Margiotta's office for approval. Only those people who worked for approved candidates or donated money to Republican causes were advanced. No mention was made of the qualifications these people possessed. Apparently, one need only be a loyal Republican in order to be put on the county payroll.

When questioned about the patronage system, Mr. Margiotta stated that he saw nothing wrong with doing business that way. One has a great deal of difficulty seeing Joseph Margiotta as a stupid man. It is hard to believe that he fails to see how hiring people to work for the taxpayers of Nassau County without regard for their relative levels of competence is wrong. (Maybe he is trying to establish a M'Naughton defense.)

This should not be taken as an indictment of Republicans. Indeed, the trials of Senator Harrison Williams (D-N.J.) show that criminality, selfishness and breaches of the public trust are not limited to any one party. Moreover, at least some of those who are helping to perpetuate Mr. Margiotta's reign are not Republicans. What they have in common is a cynicism that perverts the political system for their own personal benefit. If bad ethics smelled like sour milk, the people in Nassau County would need gas masks to drive through Mineola.

It should be clear by now, after the many political trials this country has seen, that justice and politics do not mix. What is clear is that, in Nassau County at least, crime and politics do.

Saul Morgenstern is a member of the class of 1981 and an Associate with a New York law firm who lived in Nassau County while in law school.

Now then: You were naked  
At the time you allegedly brandished  
the Ax?





## Editorials

## Express Yourself

Conscience has never censored any thought or idea because we disagreed with it. To this end, we have printed controversial articles, columns, letters, poems and cartoons articulating specific problems and issues.

A few community members have criticized our decisions in publishing particular pieces. It has always been our policy, however, to print opinions whether we agree with them or not. We have not now, nor will we in the future, censor community thought and expression. We do not perceive our function to be a censor board. It is in keeping with this open policy that we have printed any complaints, whether levied against us, the administration, the faculty, or the student body.

Over the course of our last several issues, however, our editors have been approached by a few community members who expressed dissatisfaction with some of our editorial decisions to publish. Accordingly, we have always suggested that they make a formal response and stand in the "Community Forum" where differing opinions are preserved for community review. Although we welcome feedback from these community members, we frankly feel that those who only grumble are not doing themselves, nor their ideas, justice. First, by only telling one or two editors their opinion, the rest of the community never hears it. Second, by only briefly complaining to an editor, they fail to properly address the issue of why the opinion they criticize might be wrong.

At the heart of the legal profession lies the wisdom expressed by John Stuart Mills: No idea should be censored no matter how unsound it might seem. Mills believed that there is no censor so wise that he is able to distinguish between "right" from "wrong." Rather, in the free exchange of ideas and debate, only the best ideas will eventually survive. The adversarial system is rooted in that same view: the best results arise from the most rigorous argument. We adhere to that view on these pages. We welcome all points of view, no matter how disagreeable. We look forward to dissent.

Those who grumble and complain privately about what they have read rather than responding to the merits of an issue in the open really ought to consider a profession other than law.

## A Man of His Word

Last month we decried the fact that Dean Schmertz had named a committee on academic excellence to draw up plans for the future of the law school without including any students on the committee. Dean Schmertz' response to the criticism was swift. The very next day he picked up the phone and told us that he would name a student to that committee. Today, Linda Giannattasio, a third year student, is among the law school community members who are drafting a plan for acquiring the resources this school needs to achieve Dean Schmertz' goal of "well earned national stature."

Dean Schmertz has made it a point to listen to students. His responsiveness to criticism shows us that he is a man of his word — the man to lead us to that "well earned national stature."

## Bursting at the Seams

One of the major problems with the Law School's admissions policy is that it admits more students than the school has facilities to handle.

Consider some of the current problems. In the morning you cannot find a place to park. In second year classes, such as Tax and Criminal Procedure, you are a face in a sea of hundreds of people. When you want to use the Xerox machine or find a quiet place to study, you find long waits and little privacy.

There is nothing inherently wrong with large entering classes, provided that the school has the facilities to provide for an adequate learning environment. But the number of incoming students has increased with each succeeding year. This year the administration plans to admit 281 new students, the same number as last year's record breaking first year class. Overcrowding in the classrooms will become a crisis when so many first year students become second and third year students. As Dean Schmertz told Conscience, "We're bursting at the seams."

A stricter approach to admitting students would help alleviate the crowding problem. It would also raise the average caliber of Hofstra students, which in the long run would make it easier for us to get jobs.

The decision not to admit so many students ultimately rests in Weller Hall. Of course, to cut the number of incoming students would mean less tuition dollars for the administration, but it would also be the true test of those who claim they are committed to a quality law school.

## Letters

## To the Editor:

At a time when adverse publicity in the media has eroded the aura of integrity that surrounds the legal profession, it seems to us that law schools should attempt to restore this sense of honor by making legal ethics a standard part of the law school curriculum. After the way in which the Law School administration handled a violation of rules involving first year students and their Moot Court arguments, it is apparent that Hofstra University does not share this opinion and has chosen to ignore a breach of ethics rather than discipline.

The facts: Students who must argue a case in front of the Moot Court are not permitted to sit in and view other student arguments on the same case. To permit this would give unfair advantage to those students who argued their cases later and could revise their arguments based upon the reaction of the judges to the briefs presented. On Monday, February 22, 1982, a student who had not yet argued his case observed two other students who had to argue the identical case. This breach of ethics was called to the attention of the administration, and any student with a sense of decency had reason to believe that the malefactor would be punished to the fullest extent of the law as established by the Dean of the Law School. Instead, the student was left unpunished and was permitted to argue his own case, being graded on the same criteria as all the other first year students.

It is with considerable indignation that we address ourselves to this mockery of legal ethics. The Moot Court experience, complete with its attendant terrors, apprehensions and sometime humiliations, is, nevertheless, a valid part of legal education. To circumvent this experience by being privy to other students' arguments is to defeat the purpose (or part of the purpose) of the exercise. But more significantly, if students are not taught ethical behavior during the formative years of their legal training, how can they be expected, indeed, why should they be expected to carry over ethical behavior into their professional practices?

It is incidents such as this that give the profession a dreadful reputation. If lawyers cannot behave honestly and honorably, why should individuals who need their services be expected to put any trust in them? Moreover, if a student sees a classmate get away with an infraction, why should they not do their best to avoid the rules and restrictions as well? And should they be caught, are they to be punished when one was pardoned? Is not "equal justice before the law" a tenet of the legal profession?

The administration of Hofstra Law School should seriously reconsider its action in the case at hand and do its part for the legal profession by seeing that ethical behavior is the norm at this institution — not the exception.

Name withheld on request

## To The Editor:

In view of Hofstra Law's quest for national stature, entitling last month's Xerox machine lament "On Line" was downright provincial. Most of America waits in line. Only those queuing up in the metropolitan New York area wait on line.

Lynn S. Olinger  
Class of 1983

## To the Editor:

Recently, an editor of Conscience has asked me to do some simple typing for the newspaper — nothing too dramatic, just a few basic memos, a schedule of printing rates, etc. The "clearly written," "correctly spelled" copy that is handed to me with tentative and apologetic authority is certainly no trouble on my part.

It is a genuine pleasure to be of assistance to the various staff of the Conscience by being allowed to take a small part in their sordid and assorted dealings. Please keep the bits and pieces coming!

Mary Jane Pirto  
Law School Secretary

## To the Editor:

During the first week of classes, Professor Ginsberg, in our Environmental Law seminar, mentioned to the class that an Environmental Law Conference was going to be held in Washington, D.C. and that one or two student scholarships would be available. We looked at each other and said, "Why not? So we'll miss three hours of Con Law." We submitted our names thinking we had an outside chance, however, once Billy Geraghty added his name to the list we saw the odds turn against us.

About one month later we all received scholarships in the mail. But it wasn't until we were actually on our way there that we realized that we were going to attend the conference. Thank you Bruce Jurist for giving us such simple directions that even we were able to follow.

Unlike most of the attorneys who attended the conference and stayed at the luxurious Washington Sheraton, we poor, struggling law students checked into the nearest No Tell Motel. Being total foreigners to our nation's capital, we relied on the advice of our fellow law students, Jeff Schulman, Leslie Levine and Dave Lippman, who told us where to go to have a good time.

Even though the recommended restaurants were terrific, we still considered accepting the Reagan's invitation to dinner Friday night. (Rumor has it that Nancy makes a mean chicken soup.) But, being slightly upset with the President for threatening to cut off graduate student loans, we turned down the offer.

Equipped with a tour guide and map, which neither of us could read, we set out to see the town. In just four hours we saw the Lincoln Memorial and got goosebumps; the White House and cut a huge line by joining a den of Cubscouts; the Supreme Court where we envisioned working one day, no - not as janitors; the Capital but it was closed; and Georgetown where we toured the many bars and shops.

The combination of the education we received at the conference and the fun we had as tourists proved to be a very rewarding experience and so we would like to recommend that other students avail themselves of similar opportunities.

Bonnie Lener  
Rhonda Lackowitz  
Class 1983

*Conscience welcomes letters from all interested community members. Our next deadline will be April 13, 1982 5:00 p.m.*

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# The Legal Observer

by Bruce Sales

All academic disciplines have a proverbial ultimate question. These questions frequently serve as a source for inspirational discussions between students and faculty, and students and students. Despite all the ruminating these questions have generated, no satisfactory resolutions have been advanced. I modestly propose solutions for two classic ultimate questions; one in the area of evolutionary biology and the other in the area of legal studies.

Which came first, the chicken or the egg? My analysis reveals the answer. It is the chicken.

Evolutionary forces exert pressure only on phenotypes. (Phenotype is the expression of genetic traits as opposed to genotype which is the actual content of the genes. Genotype is an organism's expressed and unexpressed genetic traits.) Therefore, an egg which has not had time to express its genetic traits has no phenotype.

Evolution is descent with modification. As each generation of an animal goes through its life cycle and reproduces, small and imperceptible changes occur. These changes result from evolutionary pressures acting on a specific phenotype and, by so doing, select a specific genotype; the genotype that codes for the selected phenotype. In *The Origin of Species*, Charles Darwin wrote:

We see nothing of these slow changes in progress, until the hand of time has marked the lapse of ages, and then so imperfect is our view into long-past geological ages that we see only that the forms of life are now different from what they formerly were.

The species that was the chicken's evolutionary ancestor, call it X, evolved by selection pressures on its animated (phenotypic) form. This evolutionary descent continued until the chicken's predecessor was no longer the chicken's predecessor but the chicken. Once this occurs the eggs laid by the newly evolved animal, the chicken, are chicken eggs not the eggs of an X.

Now that this problem has been resolved, on to legal studies. Which came first, the abominable method of teaching law students known as the Socratic method, or all the study aides (including hornbooks) which attempt to express legal principles in a reasonably straight-forward manner? The answer is the Socratic method.

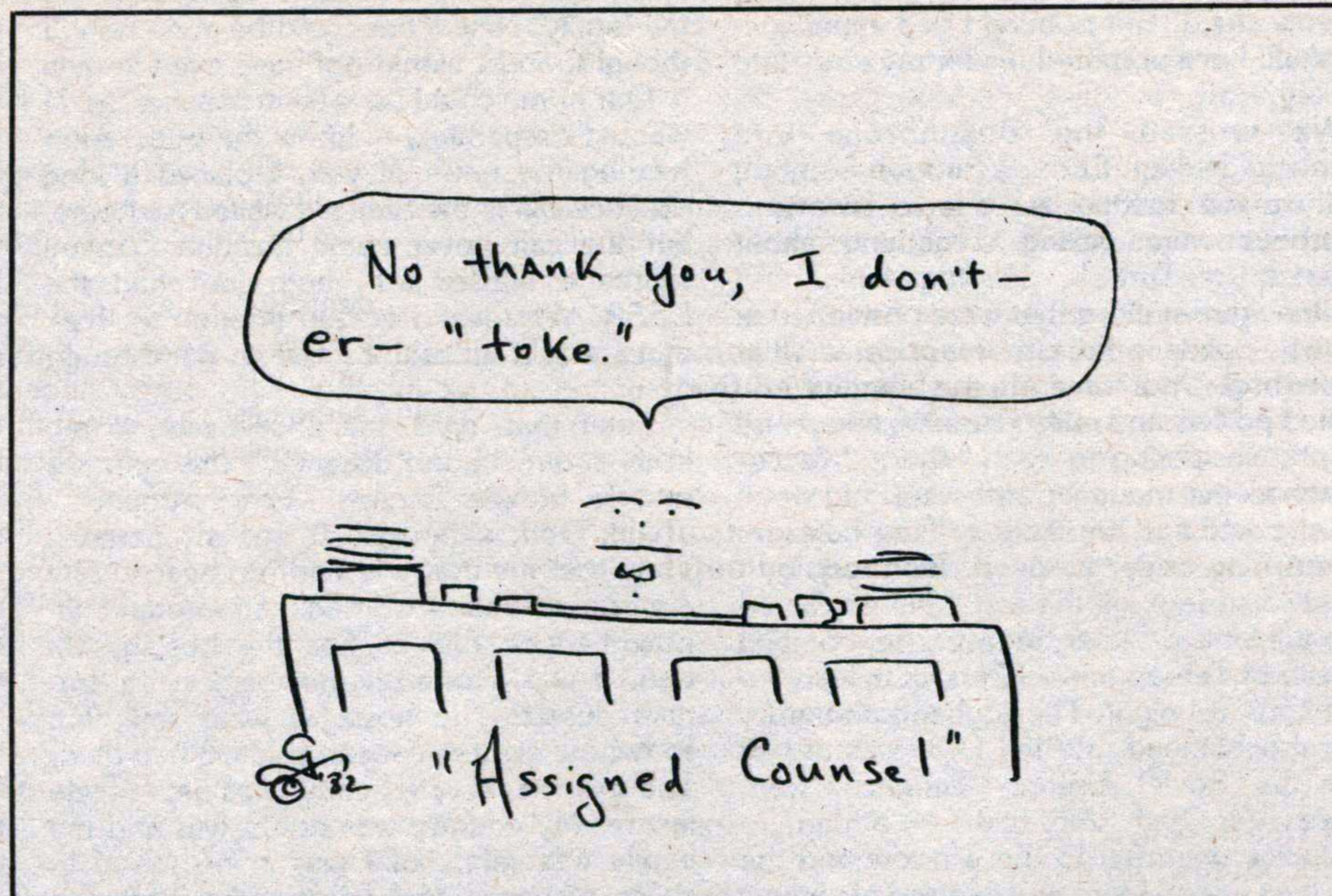
As soon as this bizarre, inefficient and ineffective teaching method was adopted students were forced to seek other methods of learning the material. The cliché "learn from the professor" was replaced by "Of course I don't understand it, I haven't read Emanuel (or its equivalent) yet."

The plethora of study aides on the market is further evidence for this hypothesis. I don't know of a single law student who does not own at least two study aides. Even students who mimick the professorial drone, "Don't use study aides — think!" have a nutshell, sum and substance or hornbook cleverly hidden on their bookshelves at home.

The professorial rationale for not using study aides is that they will prevent students from "thinking like a lawyer." Hogwash. This is just one of the legal profession's many myths used to foster and perpetuate feelings of superiority vis-a-vis the non-legal public. I still do not know what thinking is. Is it thinking like a scientist or like a plumber? Every profession or skill requires a method of analysis. This provides a framework from which problems can be attacked and analyzed. This is true if your profession is medicine or carpentry. The only justification for making such a hub-bub about the legal method of analysis versus any other is to indoctrinate and prolong concepts of elitism among law students and lawyers. It may come as a shock to both students and attorneys but the vocation of law is no more skillful or demanding than any other.

Bruce Sales is a member of the class of 1983. He frequently squawks about the insane goings on in law school.

# Columns



## Another Look at Retribution

by Anthony T. Colleluori

"Rick Kuhn, former B.C. basketball player, gets ten years for point shaving ..." As the announcement came over the car radio, I almost drove off the road. Ten years for fixing a crummy game! How unjust! How unfair! No one involved in Watergate served that much time. Certainly the case effected more people than the Kuhn case. Even newspaper columnists and sports announcers agreed ten years was at least seven too many. The judge who sentenced Kuhn felt people didn't realize the importance of the case, its ramifications on the sport of college basketball and B.C. individually. He hoped that Kuhn would serve as an example to others who may pass this way.

The idea that Kuhn injured college basketball's reputation is debateable. The rampant recruiting violations, the easy "pass" for the star center, these tarnish the name of the game. The Kuhn case only convinces gamblers to bet the pros. If B.C.'s reputation can be crushed by this one scandal, a 20-year sentence wouldn't help. Kuhn is out of sports, period, with or without a prison term, he's gone. So what we have here is a judge's decision to set an example. Maybe it should be hailed as a step for justice, but in fact it appears unfair and contrary to the spirit of justice. Instead of serving to stop others, it will more than likely give Kuhn martyr status which will hopefully be reduced on appeal.

Why "hopefully"? Because despite the judges laudable goals, the sentence is unjust. It is about time those of us who are interested in law enforcement realize that deterrence, like rehabilitation, doesn't usually work. The reasons why people commit crimes: the criminal's self-delusion that s/he will never get caught, the profit, these all help to wipe out the effect of deterrence. More important-

ly, deterrence doesn't sit well with the rest of us. It offends most of us that one man must suffer to save others, it makes us feel guilty. (Been to mass lately?) The truth is that we would feel more comfortable and the world would be better off if judges would just go about punishing people for their crimes.

A sentence like this one not only makes people feel guilty, but it serves to trivialize the sentences of violent criminals. There are convicts who will serve less time than Kuhn for rape, assault, and homicide! Increasing the severity of other sentences might work to relieve this problem. Unfortunately, judicial and legislative decrees haven't come around to realizing this yet, perhaps because we refuse to give up on the rehabilitation dream; maybe because society doesn't care.

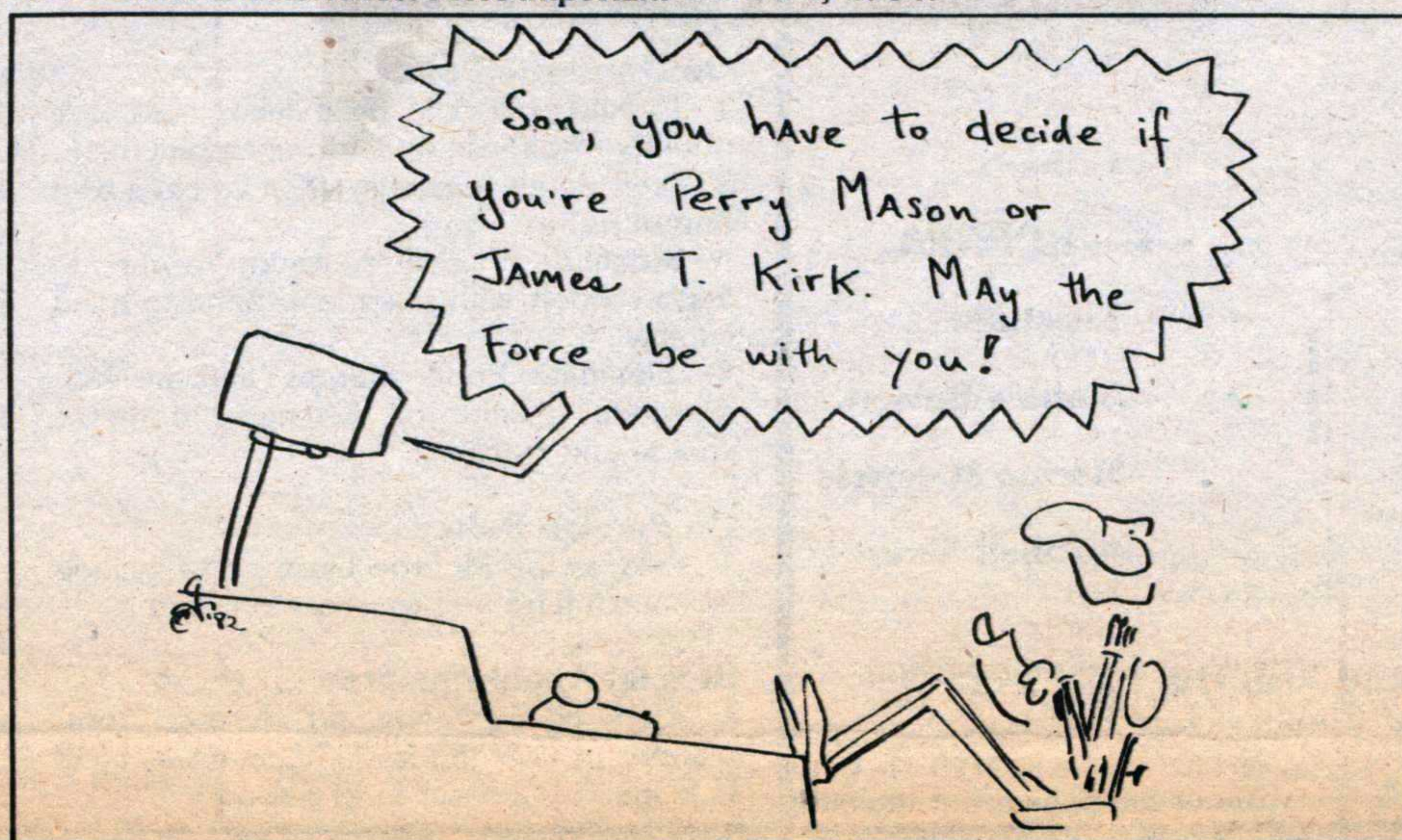
Nonetheless, the Kuhn sentence doesn't even work for the reasons it was given. The judge has martyred Kuhn by being so harsh. Will a jury so willingly convict knowing the judge is going to react more like Attila the Hun than King Solomon?

Finally, a sentence like this one does not deter the next guy. He has got to be thinking this was an anomaly, it won't happen again. He's probably right. Judges read newspapers, listen to radio and television. They know when the public thinks they've done the right thing and when they have been unfair. The time next jurist will be less likely to repeat the Kuhn mistake, only increasing the chances of a repeat performance.

Do I advocate that Kuhn be slapped on the wrist, that we prohibit certain acts only to allow the few who break the law to walk away and even profit from their wrongs?

No, I only argue that the punishment should fit the crime for which it was prescribed.

Anthony T. Colleluori is a member of the Class of 1984.



## A Modest Proposal

(with an apology to Jonathan Swift)

-Anonymous

Have you ever noticed the dour attitude of law students at the beginning of each semester? Dejected, they congregate in the hallways, eyes scanning the bulletin board in the anxious hope that their grades will be posted. The root of this problem is that our professors take an inordinate amount of time to mark our tests and post the grades. By my own calculations, the average professor takes 35.9 days from the day he gives the test until the day he posts the grades. As I said, this is an average. Some hearty souls accomplish the task in 20 days. Others, at the time of this writing, still have not posted the grades. But I digress.

It has occurred to me that if one could devise a method which would motivate our professors to post grades quickly, that person would have found a way to alleviate some of the suffering among law students. The faculty had taken it upon themselves to try to solve the problem. A resolution was passed in which the professors agreed to post the grades within four to six weeks, barring extenuating circumstances. However, this resolution proves impotent because it lacks enforcement power.

Therefore, I humbly propose my own plan, which I hope will not be liable to the least objection.

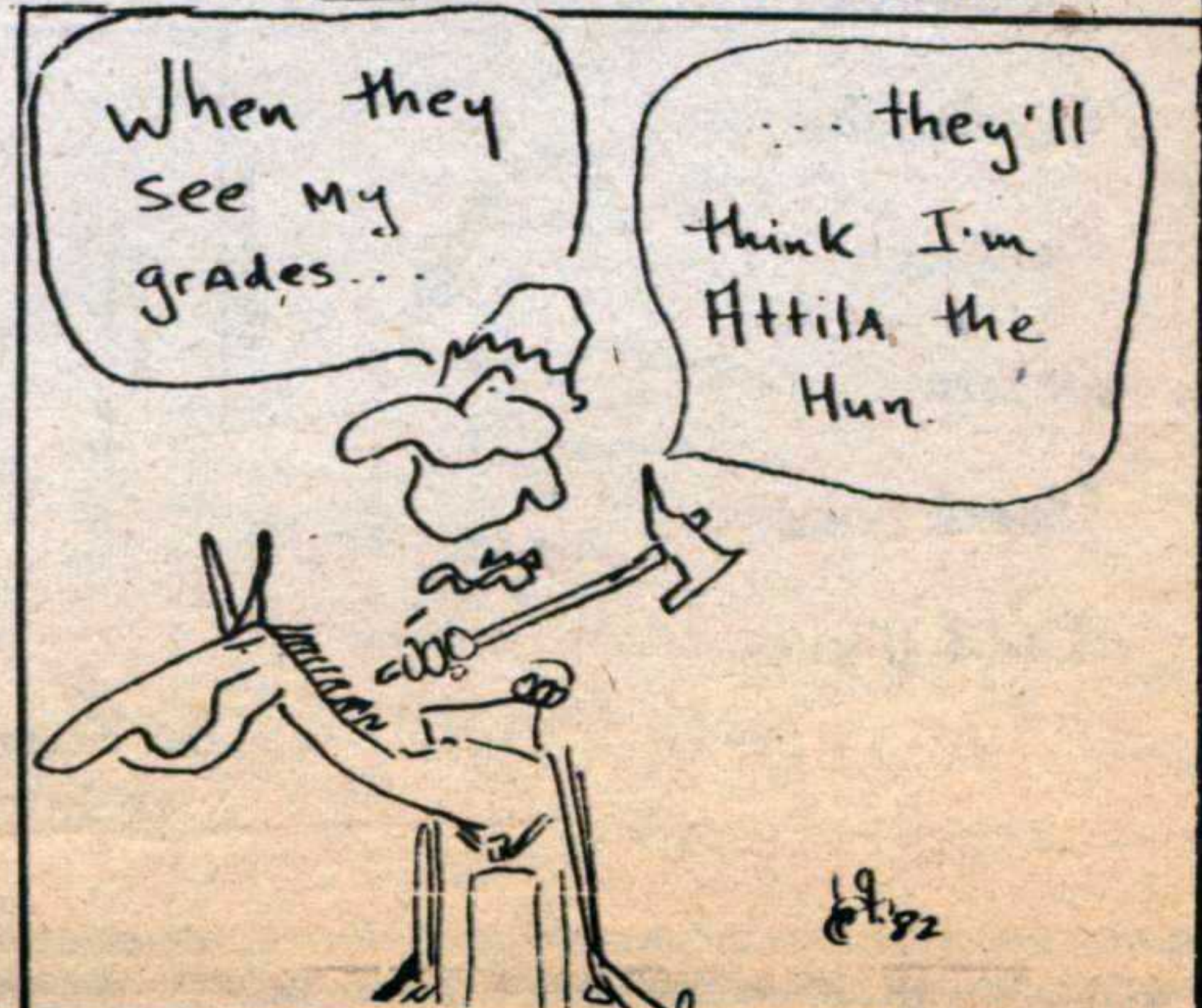
I have been told by an acquaintance, a student at St. John's Law, that law professors make a tasty treat when cooked. Indeed, the variety of ways in which they may be prepared is endless. Therefore, my proposal is that those professors who do not post the grades within a reasonable amount of time, should be eaten.

Allow me to go into particulars. Professors who fail to post our grades after four weeks would be auctioned-off at a "Deans' Auction." Research assistants would then finish marking the tests. Think of what we could accomplish! Proceeds from this sale could be used to repair the school's heating system! We could also improve the cuisine in the area around the school. Falstaff's could serve "Property Professor Puffs" along with their burgers, or perhaps a well-known fast food chain could offer "McFamily Law Professor Pieces."

It is interesting to note that not all law professors are edible. In fact, it is difficult to find one that is at all tender, although my acquaintance tells me that heavy doses of MSG work really well. Inedible professors could be made into much needed soap for our bathroom dispensers.

I would like to point out that I make this proposal not out of any financial interest in such an undertaking, nor out of anger at still having to wait for my grades. I got my last grade after waiting only ten weeks, so when the remaining grades are posted is of no consequence to me. I make this proposal for the sake of our law school and our national reputation.

In my dreams, I envision a day when law students won't have to auction-off their most recalcitrant professors. In my dream, law professors are bred on "law farms" (which are now called Ivy League universities), and only those professors who swear by a solemn oath to be kind to law students, would be given the privilege of teaching. All others would become part of the food chain. But, alas, this may never come to be. Ah foolishness, thy name is law student.





# Memories of the Third World War

by Jay L. Scheiner

Ed note: The events depicted actually occurred.

The sun was setting atop the Balkan Mountains. Although it was the end of April, spring had not yet shown itself atop Shipka Pass in Central Bulgaria. Climbing the mountain was treacherous amidst the snow and melting ice, but once at the summit of Shipka Pass, I knew the climb was well worth it. I was awed by the majesty of the shrine — a great monument atop Shipka. It was built by the Russian army to commemorate their victory over the Turks at this very site almost one hundred years ago. The expulsion of the Turks ended hundreds of years of oppression. Looking down from the opposite side of the mountain I saw the names of each Russian city whose troops had participated in the great battle. Names like Kiev and Moscow are carved in the mountainside in white stone for all to see and to remember. "This is not a place for Americans," I thought. Though I had traveled throughout Communist Eastern-Europe, I knew that in this place, on this night, something was wrong.

The darkness of night fell quickly, but stars were not to be seen. During my descent of the mountainside a thought occurred to me. I looked up and the sight of the huge flood-lit monument, that crude and towering mass of stone and steel, overpowered me. It symbolized the awesomeness, the sheer power of the Soviet Union. If I had known then what I had learned the next day it might have devastated me. For that night, I was told, was the first night of The Third World War.

The next morning found my friends and I on the road going south from Central Bulgaria into Turkish Thrace. We were following the same route that the Turkish army traveled while retreating from the Russians. During the previous two weeks we had been out of touch with all western news sources: Vienna and the west seemed so

very far away. The poverty and backwardness of the hills of Transylvania and Moldavia became reality. I had almost gotten used to seeing children hungry, their parents afraid. But nothing I had experienced could have prepared me for my entry into Turkey.

We crossed the Bosphorous into mainland Turkey. Enroute through Istanbul, a city under martial law due to terrorism, newsboys were yelling something about America in Turkish. Passing tanks and machine gun stations that were positioned at strategic points in the city, I wondered what was wrong. Upon entering the hotel we saw excited porters and guests running about and people whispering to each other. We approached the manager and were told news that shocked and horrified us. "The hostages in Iran," he said, "all dead. Eight come to suicide and Iran kill the rest." He explained how the United States, in response, bombed the city of Tehran and all Persian military installations last night. The Afghanistan border was also bombed and the U.S. was at war with the Soviet Union. "America. Iran. Russia. Very bad. Very bad," he added.

Silence. I turned to the window and the sea, the Golden Horn and its ships of various nations. My thoughts escaped me. The waters turned orange, then red. I felt the heat, a burning wind. The old buildings on the hillside — the Blue Mosque, San Sofia — crumbling to the ground. Screams of agony — the limbs of children — the stench of death. Every horror story of the Holocaust became real to me at that very moment! Istanbul ran red with the blood and heat of nuclear war. And I was in the middle of it. I could see it, smell it, and taste the pain. But it was not real. I blinked my watery eyes. The buildings were still there. The war had begun, but not here, not yet at least.

The reports were confirmed by other English speaking guests in the hotel. The United States, for whatever reason, had bombed both Iran and the Russian forces in Afghanistan after our hostages were killed.

The reality was that this was the first night of The Third World War. For six hours the news was reported this way; the killings, the bombings, they were real. I feared most for my family. New York could be gone now, I thought, and I would not have even known it. Our home could have been in ashes, and I wanted desperately to know the truth. After hearing the news of war, I placed a long distance call to the States. I waited for hours, but the call never came through. Turkey shares a border with both Iran and the USSR. Why was I foolish enough to think that I would actually be able to get through now?

Later that night, the phone rang in my hotel room. "Long distance," the operator said in broken English. "From America." Thank God, I thought. It was my parents. They told me that war had not begun. The American military had attempted an Entebbe-type raid to free the hostages in Iran. It was aborted somewhere in the Iranian desert. The hostages were safe, but somehow eight American soldiers had died. The mission, aborted early, was a complete failure. My country was not at war and my family was safe, but I was in no mood to cheer. America had failed. After seeing a world in which power, strength and consistency are the only things that are respected, we had indeed failed. The inevitable war had not yet begun, but our weaknesses and failures may yet bring us still closer to it.

My mind was still spinning as I thought about the preceding night spent atop the Balkan Mountains. I remembered that crude tower, the snow, the cold. I thought of Czarist Russia of the 1860's acting in its own best interest. The Soviet Union of the 1980's acts in its own best interest. The strong powers of history have always acted upon their own best interest.

As I reflect upon my memory of a war that never was, I cannot help but wonder — is my country acting in its own best interest in our present involvement in Central America? Is it really in our own best interest to back the

Duarte Government in El Salvador?

Over two years after our citizens were taken prisoner in Iran the United States is getting involved in a revolution it understands even less than the one in Iran. In El Salvador today we are backing the wrong regime in the wrong place at the wrong time.

The Reagan Administration is having little success convincing the American people and the rest of the world that the entire El Salvador situation is nothing but a communist conspiracy. Reagan fails to come to grips with what other leaders have deduced from the turning tides in Latin America, which was summed up best by Mexican President Jose Lopez Portillo: "The Central American and Caribbean revolutions are, above all, the struggles of poor and oppressed peoples to live better. To say they are something else and to act as if they were, is counterproductive . . . U.S. intervention would be a gigantic historical error."

The Duarte government has a dismal record of human rights. The recently reported massacres in the villages of El Campanario, San Benito and Pita Puente point out that the killings of civilians by government troops are not about to end. As Bill Moyers recently said, "Our country should not back a regime that savages the innocent, and it should not involve itself in a conflict that rules out diplomacy as a solution." However, there exists an even more important reason why we should not get involved. The United States should not be involved in any conflict in which Americans are morally overwhelmingly opposed. We must stop now! Before it is too late and before our commitment is forged with American blood. Although I believe a strong military is vital for our national defense, our leaders must be as sophisticated as our weaponry, or else some day we may all have memories of the first night of The Third World War.

Jay Scheiner studied Balkan history in Vienna in 1980 and has traveled extensively throughout communist Europe.

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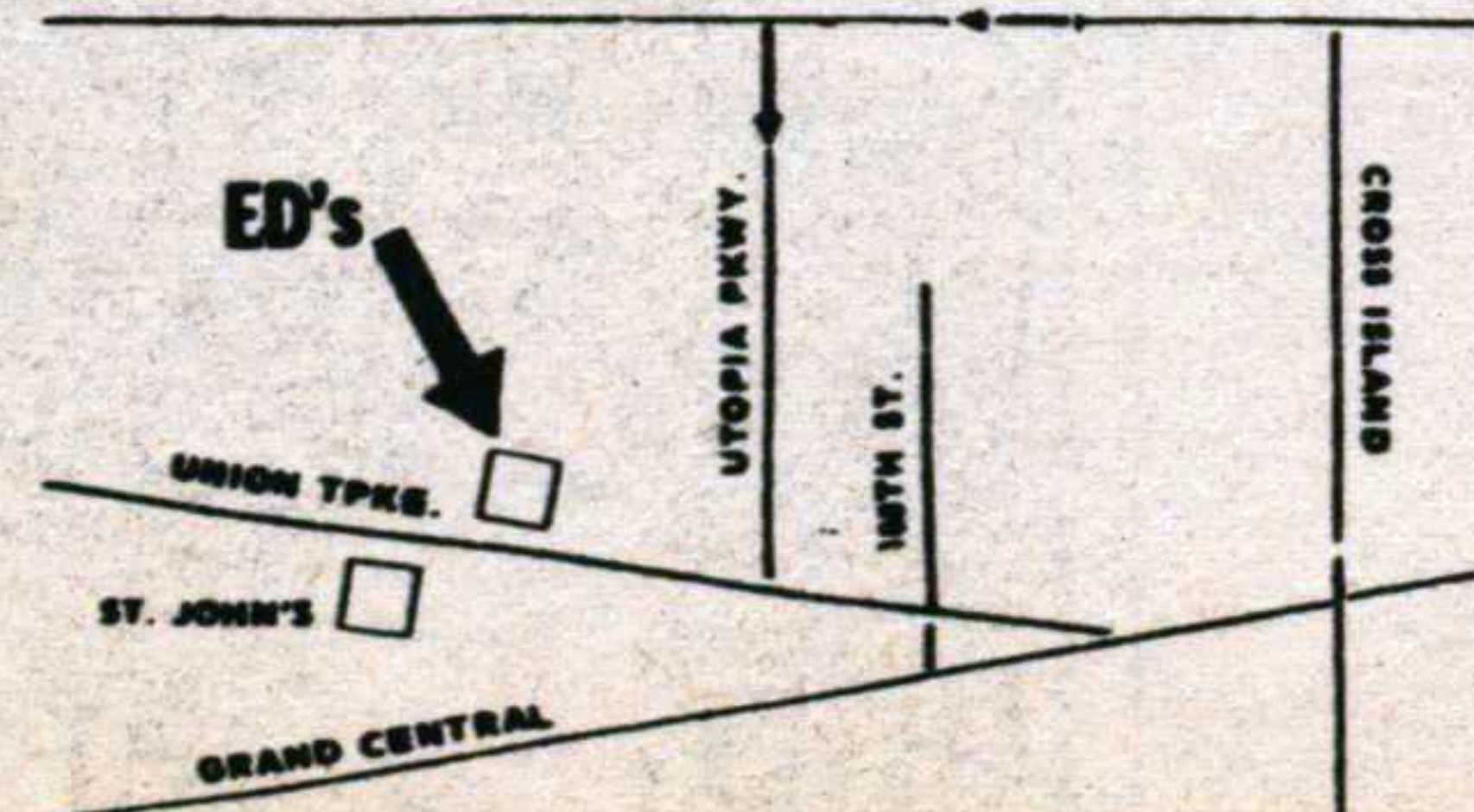
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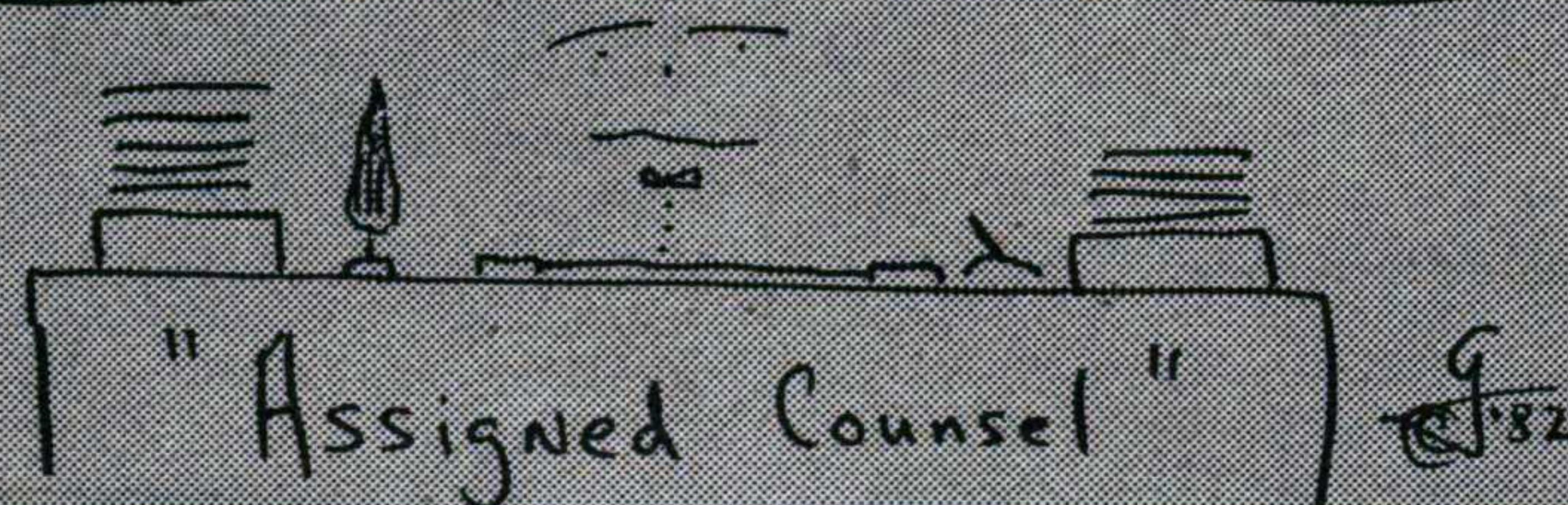
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No, I don't really think that  
having shouted "draw" will unduly  
prejudice Your plea of self-defense.



## To Ron: Advice from a Pro

1974 Renaissance Drive  
Saddle River, New Jersey

Dear Ron,

Pat and I had a wonderful time at Camp David last week. It was great to be back at my old stomping ground. As promised, I have enclosed a list of modest proposals which will help put America back on its feet.

### On Domestic Policy

1. Repeal restrictive child labor laws, the number one cause of youth unemployment.
2. Draft Senior Citizens - kill two birds with one stone.
3. Substitute physical education in our nation's schools with riflery and hand-to-hand combat.
4. Eliminate Food Stamps and instead, substitute plenty of ketchup, domestic cheese and crackers.

### On Foreign Policy

1. Enlarge the Monroe Doctrine to include all known land and air space on Earth.

### Special Appointments

1. General Westmoreland, former Commander of U.S. forces in Vietnam as chief U.S. military advisor in El Salvador.

2. Jerry Falwell and Anita Bryant as senior advisors to the Family Services Division of the Department of Health and Human Services.
3. Edward Kennedy as chief consultant to the Automotive Safety Division of the National Safety Foundation.
4. Ralph Nader as the U.S. Ambassador to Libya.
5. Jane Fonda as the first woman astronaut sent to Mercury.
6. The Harlem Globetrotters as goodwill Ambassadors to South Africa.
8. Harrison Williams to the Panel on Congressional Ethics.
9. Gerry Ford as roving Ambassador to Poland.
10. Myself as head of our National Archives.

I hope these proposals meet with your approval.

Fondly,  
Dick

P.S. Had a great time with you dipping into the old HUAC (House Unamerican Affairs Committee) footage of us last week. Glad to be back on board.

Caveat: Don't show this letter to Ed, Cap, or Dave. I am unsure about them.



# Prof. White Delivers Holmes Lecture

by Sharon Hyman

On Friday, February 26th, Professor G. Edward White delivered the second lecture in the recently established Hofstra Law Review Lecture Series. He spoke on the resurgence of interest in the jurisprudence of Justice Oliver Wendell Holmes. Currently a Professor of Law at the University of Virginia School of Law, Professor White, a scholar in the field of American legal history, holds a doctorate in American Studies from Yale and a J.D. from Harvard. He served as clerk to Chief Justice Earl Warren and is the author of numerous articles and books. Professor White's most recent article, *The Integrity of Holmes' Jurisprudence*, is scheduled for publication in Hofstra Law Review this spring as part of the Review's celebration of the centennial of Holmes' *The Common Law* (1881).

More than ten years ago, Professor White authored an article, *The Rise and Fall of Justice Holmes*, 39 U. Chi. L. Rev. 51 (1971), which traced Holmes' reputation in academic literature. In this lecture at Hofstra, he updated the article by discussing Holmes' reputation in literature in the last decade.

Professor White discussed many aspects of Holmes' life and career. When Holmes began his writing, his ambition was to construct a new jurisprudence. During this period, there was a departure from conven-

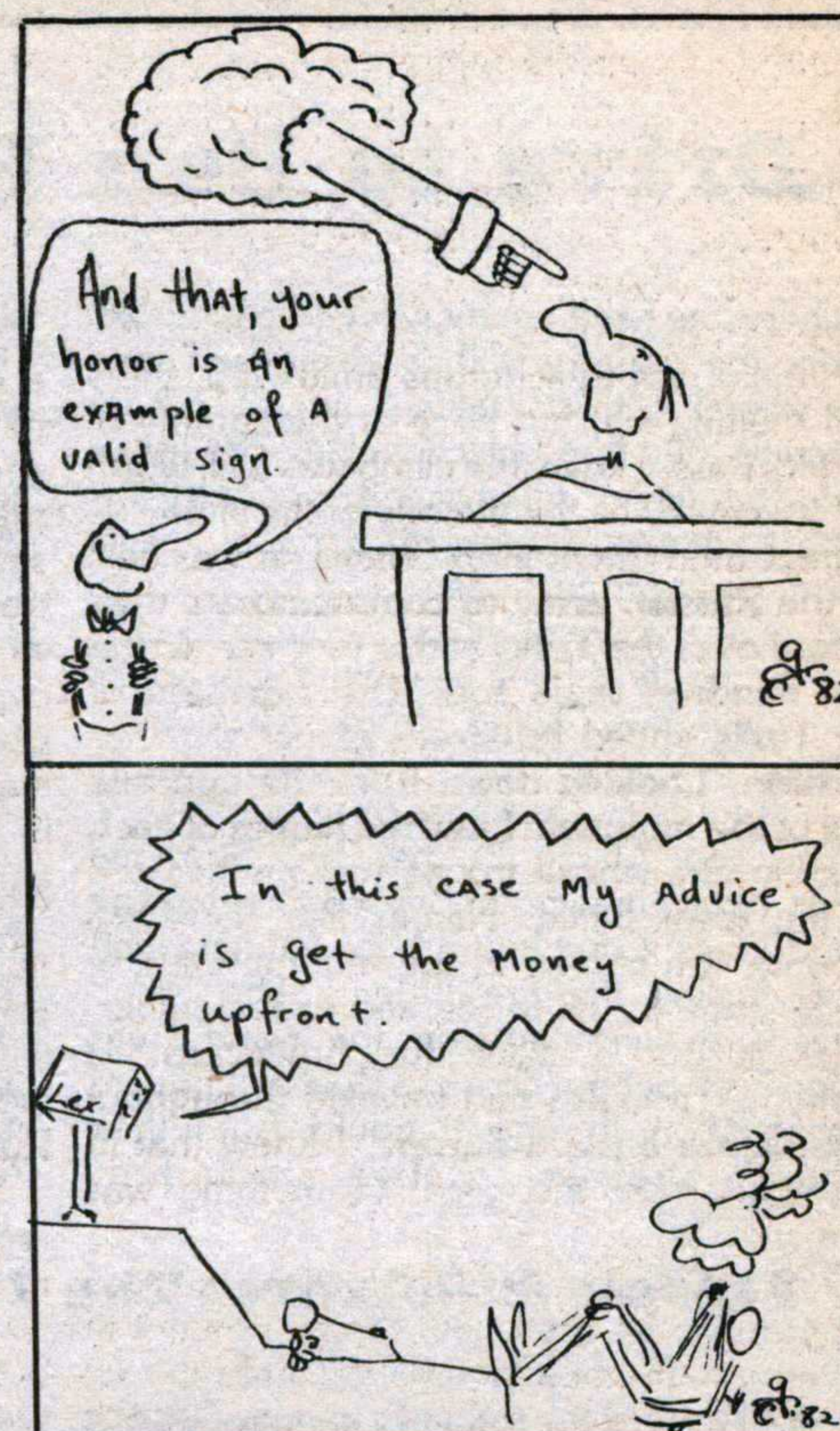
tional legal analysis to thought on a more theoretical and creative level. Professor White believes this trend has recently resurfaced in legal scholarship, causing a revival of interest in Holmes. Viewing Holmes'



Photo by Laurie March

thoughts as "ambivalent," White finds that Holmes is subject to varying interpretations; however, White believes there is "a little for everybody" in Holmes.

As he proceeded to examine the diverse images of Holmes developed by scholars in different areas of the law, White explained his interest in images and historiography. He feels that each generation is trapped in its own thinking, thus certain options are not entertained since they are not in the mainstream of the generation's thought. The study of image-making helps to reveal and explain these tendencies. The images of Holmes propounded recently by various scholars have, according to White, been "read into" Holmes and actually have no basis in his beliefs or works. One image is of Holmes as an advocate of laissez-faire and patron of the field of law and economics. Another view is of Holmes as a patron of the humanistic study of the law; yet another view portrays Holmes as a selfish person and pessimist. White rejects these categorizations, asserting that Holmes is "simply indifferent." According to White, the ambivalences and inconsistencies in Holmes give scholars the chance to mold him into anything they wish. White urges us to leave Holmes as we find him since "he is instructive enough as he is."



## A Blessing in Disguise (Dedicated to M.J.)

My roommate is on Law Review  
I very rarely see here  
She types and types and types all day  
I think I will sedate her

I'll do it out of mercy  
I'll do it out of kindness  
She types away so aimlessly  
She's looking rather mindless

Time was when she laughed and played  
And joked with all her classmates  
But now she never speaks a word  
Her thoughts on final draft date

It really hurts to see her so  
Wrapped up in her L.R. paper  
It's as if she's in a state of shock  
Like someone tried to rape her

Because I think she'll kick and scream  
I'll do the deed at night  
First I'll unplug the typewriter  
And get it out of sight

Then I'll do the only thing  
A humanitarian would do  
Inject her full of sedatives  
And burn her final draft, too

Soon her fingers will relax  
As the drugs take their effect  
And pretty soon she'll smile and say  
"So you burned my paper, what the heck!"

It'll be so great to have her back  
To hear her laugh like the old days  
To have a normal conversation:  
"Who's going out, who's engaged, who's gay?"

But until I procure the contraband  
I'll thank the L.R. board  
For picking her and nixing me  
Hallelujah, Thank The Lord!

EML

## Faculty Profile:

by Larry Gross

The impressive quality of the Hofstra Law School faculty has been enhanced by the addition of Robert Bush. Professor Bush came to Hofstra in the fall of 1980.

Professor Bush attended Stanford Law School in California. There he developed an interest in extra judicial problem solving methods, and upon graduation entered an adult education program in San Francisco to teach alternatives to the legal system, such as arbitration and mediation. As part of this program he went to Italy on an Access to Justice Project, funded by the Ford Foundation. This program entailed the comparison of different country's methods of dealing with the problem of how to increase access to institutions that dispense justice. Professor Bush feels it is necessary to make the public aware of the alternative methods of problem solving, rather than constantly litigating in court.

He served both as administrator and professor of the program. During this time he realized his interest in teaching and decided to come to Hofstra.

## Robert Bush

In class Professor Bush urges students to think about assumptions underlying the legal system; its procedures, the judicial process, its rules, limitations and implications. Professor Bush stresses the importance of being conscious of the job of lawyer instead of becoming cogs in a wheel. He stresses the importance of always questioning and detaching oneself from the system in order to be prepared to go against the tide if necessary.

When asked about grades, Professor Bush seemed somewhat evasive but he did make some important observations. He stressed that grades are necessary due to the economic pressures that exist today and the very competitive job market.

He contends, however, that grades are not the sole indicator of how one fares in law school; there is more to life in law school than the grades one receives. The fact that grades are important does not justify the student antics carried on in the library. That is, ripping pages from books, hiding books and the all too constant habit of not reshelving

books.

Professor Bush also commented on the moot court program. He finds the program extremely valuable but expressed his interest in having more feedback built into the program, since that is one of the most important aspects of the learning process. He also would like to see a greater integration between the lawyering skills program and the moot court program.

Professor Bush came to Hofstra because of the quality of the faculty members. He finds the quality of education at Hofstra very high and is impressed with both students and staff. Professor Bush feels the law school has a promising future and that the students should appreciate what they have.

During his spare time Professor Bush observes the traditional Jewish lifestyle which consists of daily prayer and the study of religious teachings. This takes up much of his time. With the rest of his spare time he likes to talk to both students and other faculty and he also plays the guitar and sings.

**You can't run,  
You can't hide.  
Guilty's never -  
On your side!**

And After you shot the  
parrot, the same mystical voice  
gave you my Address?

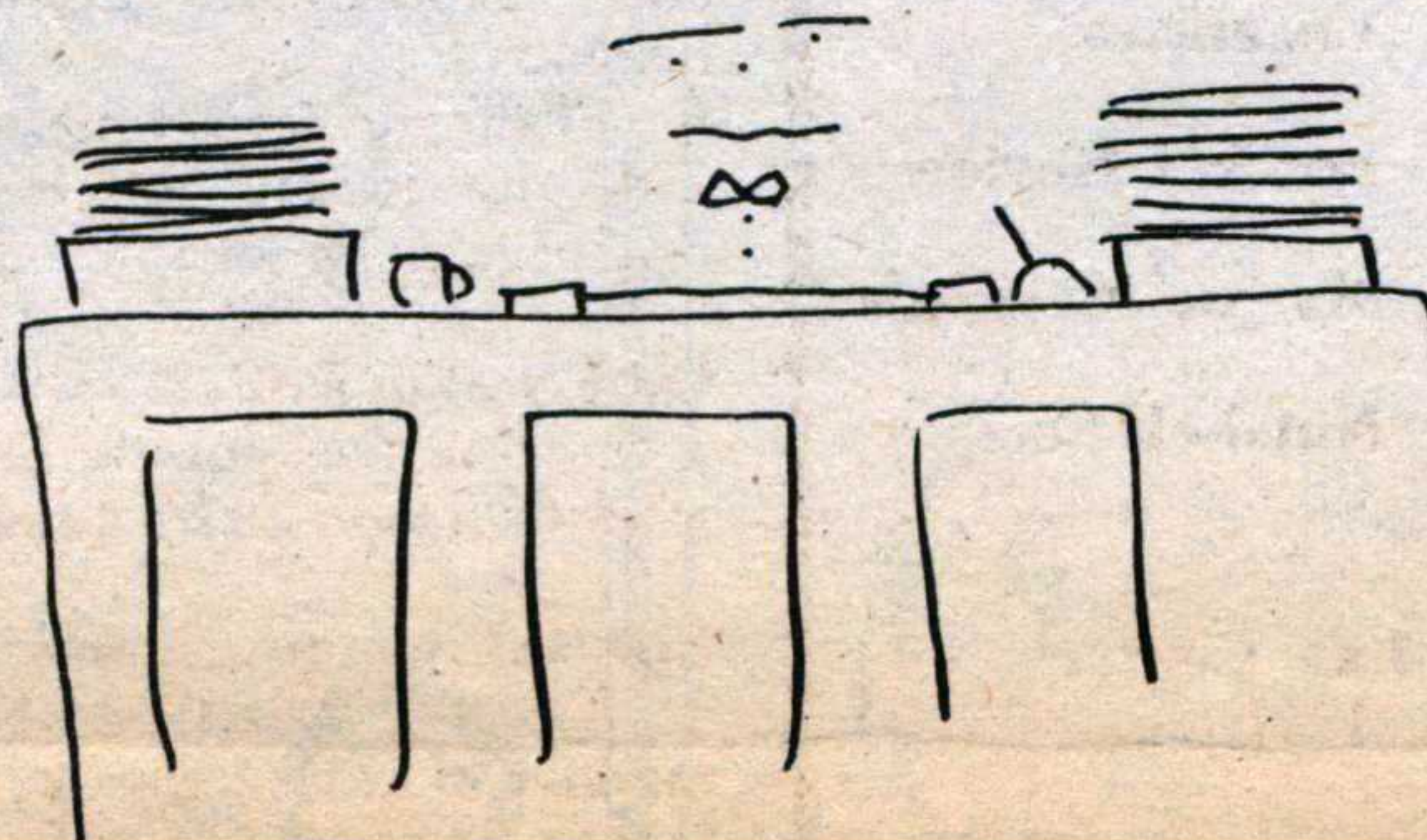


Photo by Nick Gabriele



# Legal Briefs . . .

## Drive to Ban Books in U.S.

There has been a new wave to ban books across the country with both conservative and liberal activists taking aim at school materials they find objectionable. The list of books banned throughout the country include textbooks, novels, dictionaries, plays and musical productions.

In some communities throughout the country, bonfires have been built with books and magazines taken from schoolroom shelves. Some schools have used scissors and ink to delete passages from books.

This past March 2, the U.S. Supreme Court heard oral testimony concerning the Island Trees, Long Island book banning incident, fueling the fire further. The Island Trees Case stemmed from the Island Trees Union Free School District's Board of Education decision to ban 9 books from their library shelves. Titles included,

*Slaughterhouse Five*, by Kurt Vonnegut Jr., *The Naked Ape*, by Desmond Morris and *Soul on Ice*, by Eldridge Cleaver.

The board ruled that the books contained "indecent matter, vulgarities, profanities, explicit descriptions of sexual relations . . . or disparaging remarks about Jews, Christ, and blacks."

Opponents to the decision contend that the banning of books is unconstitutional under the First Amendment. It is felt by many that this book banning process will continue unless the Supreme Court stops such action from continuing. What they are hoping for are clearer guidelines from the Court on how schools can resolve future problems without tearing the community apart. March 8, 1982, U.S. News and World Report.

## Search & Seizure: The Inevitable Discovery

Police received a radio call and responded to a dispute with a possible gun involved. Upon arriving at the scene, from a distance approximately 20 to 30 feet away, the officers were able to observe one of the defendants holding a brown paper bag wrapped around an object shaped like a gun and one defendant holding a billy club. They assert they had probable cause to search due to personal observations, but the court in *People v. Joseph Ambrosino*, N.Y. Sup. Ct., Kings Cnty., Feb. 24, 1982, held that the police's belief that a crime was being committed was unreasonable so as not to warrant probable cause to detain and search these men. The court based its decision on the vague radio communication and the speculation by the police officer that there was a gun in the bag.

The officers argue that the gun and club would have inevitably been discovered after identification of the defendants by complainant, relying on *People v. Fitzpatrick*, 32 N.Y. 2d 499 and the leading case of *People*

*v. Payton*, 45 N.Y. 2d 300, where the court described the doctrine in terms of the high degree of probability of obtaining the evidence independently of the tainted source. The distinction the court makes is that the evidence was on defendant's person and not located somewhere in plain view, and would not have been discovered if they had not been improperly detained (the tainted source).

## Religion No Shield Against Social Security Taxes

Chief Justice Burger said, "Not all burdens on religion are unconstitutional." *U.S. v. Lee*, 80-767, Feb. 23, 1982. The Old Order Amish sect claimed that the social security taxes and the use of them to finance welfare programs violated their constitutional

## D.C. Relaxes Insanity Law

The Circuit Court of Appeals in the District of Columbia struck down a law that requires automatic commitment to a mental hospital of anyone who has successfully won a defense of not guilty by reason of insanity. The court's rationale is based on the fact that the mandatory commitment has not been applied by Congress (this is a federal law) in other federal cases and therefore, it is discriminating against the District. The new

rule, which would apply to John Hinckley, Jr., accused of the attempted assassination of President Reagan, would allow a person adjudicated not guilty by reason of insanity to be released unless a civil case was immediately instituted to have the person committed. Officials would have to prove by clear and convincing evidence that the person was too dangerous to be released. *Newsday*, Sunday, March 7, 1982.

## Con Ed Collaterally Estopped

Judge Fusco, in Bronx County, rejected Con Ed's contention that the collateral estoppel doctrine violated its due process rights. *Whitestone Packing Corp. v. Con Ed*, NYLJ Feb. 25, 1982. The issue of gross negligence had been adjudicated in *Food Pageant, Inc. v. Con Ed*, NYLJ Nov. 20, 1981, involving recovery for spoilage in a meat packing plant and loss of business during the July, 1977 power blackout. This decision reaffirms that collateral estoppel may be used offensively "by a plaintiff against a defendant to avoid relitigation of an issue already determined in a prior action to which the defendant was a party." Con Ed also asserted unfairness in applying the doctrine because prior judicial determinations had been favorable and multi-claims on this cause of action would prejudice them. The court rejected this argument.

## Business Judgement Ruled O.K. in Federal Anti-Fraud Case

The U.S. Court of Appeals, 2nd Circuit, upheld a Delaware Supreme Court decision applying the business judgment rule to a decision by directors where the derivative action would not be in the best interests of the company. The court relied on the U.S. Supreme Court case of *Burks v. Lasker*, 441 U.S. 471 (1979). *Burks* states that disinterested directors possess the authority to dismiss derivative suits as long as this is consistent with the policies of the Federal Acts on which the cause of action is based. The rule that sets forth this power was enunciated in the recent case of *Zapata Corp. v. Maldonado* — A.2d — (Dela. 1981). A companion case, *Flynn v. Maldonado*, 413 A.2d 1251 (Dela. Ch. 1980) developed a two-step test for whether the shareholders could institute a derivative suit: First, whether the disinterested director committee made the decision independently and on a reasonable basis, and second, if it could exercise its own independent business judgment. If not, the judge may exercise his own business judgment.

**It's Coming . . .**  
**Guilty or Not**  
**Watch Out!**

## Students Attend Environment Law Seminar

by Bonnie Lener  
and Rhonda Lackowitz

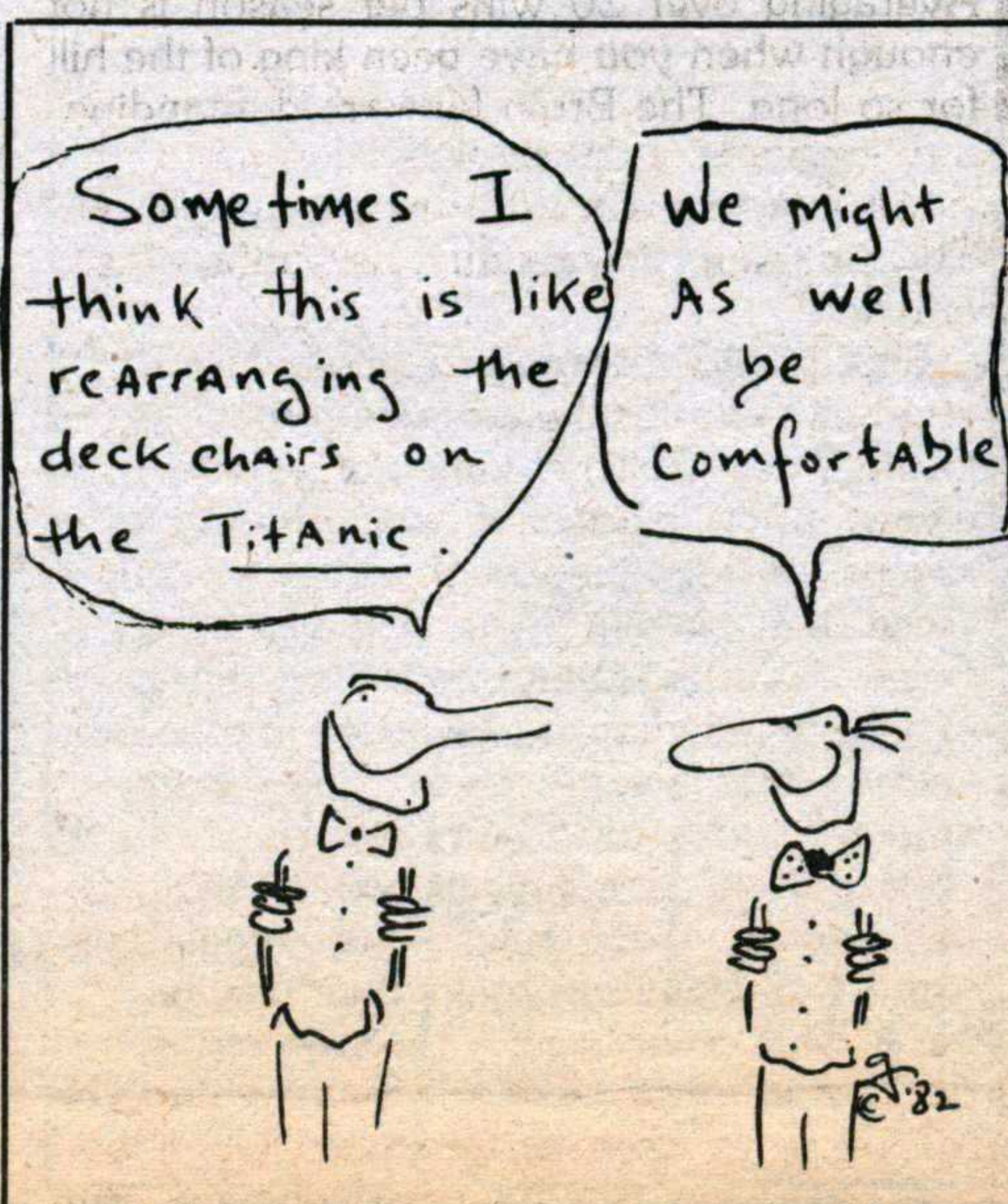
On February 18th-20th the twelfth annual ALI-ABA Environmental Law Conference, co-sponsored by the Environmental Law Institute and the Smithsonian Institute, was held at the Washington Sheraton Hotel in Washington, D.C. The conference was attended by Hofstra Law students Bill Geraghty, Bonnie Lener and Rhonda Lackowitz.

Many current issues in Environmental Law were discussed including superfund legislation, recent hazardous waste and toxic substances developments, RCRA (Resource Conservation and Recovery Act) and TOSCA (Toxic Substances Control Act), the Clean Air and Clean Water Acts, citizen suits and the general functions of the Environmental Protection Agency.

Mr. David Sive from the New York City law firm of Winer, Neuburger, and Sive, P.C. was the conference chairman. Judge Arnold of the United States Court of Appeals, Eighth Circuit and Judge Timbers of the United States Court of Appeals, Second Circuit, were two of the many distinguished speakers. Also present were representatives from the E.P.A., U.S. Department of Justice, Environmental Law Institute, U.S. Department of the Interior, Council of Environmental Quality and many private concerns.

The conference was geared towards the practicing attorney. Professor Ginsberg's recent article published in *Hofstra Law Review* 859 (1981), was one of the few law review articles cited in the materials.

The conference attracted members of the legal profession from all parts of the United States. There was a reception held at the Whale Hall in the National Museum of Natural History. One law professor told us he believed the conference's focus over the past twelve years had changed from a concern for the environment to a concern for statutory compliance. Although he seemed disturbed by this trend, he noted that it could be worse. The conference demonstrated that the legal profession recognizes the diversity of our environmental problems and that they will not go away by simply ignoring them.



**NEXT CONSCIENCE**

**DEADLINE:**

**APRIL 13, 1982**

**GRAND OPENING!**

**RAINBOW**  
Yogurt

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½ THE CALORIES OF ICE CREAM  
with the same delicious flavor!

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of SOFT YOGURT

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(Pathmark Mall - Near Channel Home Ctr.)  
Open Mon. to Sun. 10A.M. to 10P.M.  
Other Location: 1239 Broadway, Hewlett



# SPORTS

## Illegal Procedure?

by James Dicker

It has been less than two months since the 1981-82 professional football season ended with the San Francisco 49ers winning the Super Bowl. Normally, it should only be a few more months until the training camps open for another season. But nothing is "normal" in the world of sports today.

Taking a play out of baseball's strategy, professional football faces a possible player's strike.

The year is 1974. Contract negotiations between football players and team owners have broken off. Under the leadership of their union's Executive Director, Ed Garvey, the players walk out of their pre-season camps. The strike lasts six weeks before the players return, without winning any demands and only inconveniencing the owners. A few minor demands were later won in the courts, but Garvey had wanted the players to stay out indefinitely.

In 1977, a collective bargaining agreement was hammered out by the two sides. The pact was limited to five years and has now lapsed. This contract was intended to cure the major concern of all athletes participating in a team sport, player's rights. It did not.

The '77 agreement called for a player to become a free agent after playing out the length of his previous contract plus an additional option year. At this point, the free agent could negotiate and sign with any other team. Great in theory; something less in practice.

The player would not exactly come free to his new team. Players and/or college draft

choices were required to be surrendered to the club losing the free agent. The amount of compensation would be determined by the new salary of the free agent. The better the player, the higher his new salary and, therefore, the higher the compensation required. Needless to say, this put a severe obstacle in players' freedom. This, and a reluctance (the players' union cried conspiracy) by the owners to sign free agents effectively destroyed the free agency concept in professional football. The number of players who changed clubs via the free agency route could be counted on a single hand.

Having been beaten badly on two previous occasions, the players are now acting tough. Garvey and the National Football League Player's Association are threatening a strike. They look to the baseball strike of 1981 as a successful precedent. The football strike could come before the season or during it, as baseball's did. With the length of time needed for football players to reach game fitness and the relatively short (sixteen games) season, any lengthy strike would destroy the 1982-83 season.

The issues may be broken down into five main categories. The most important is the players' demand for a minimum 55% share of the gross income of the team's revenue. They claim to be entitled to a cut of the multi-million dollar pie and that this added income would make their salaries commensurate with that of professional baseball and basketball players. As a player puts in more years of action, his personal share of the 55% will rise.

continued on page 20



by The Stache

Alas, 'tis true. The STACHE is in mourning. There is no joy in Bruinsville. The University of California at Los Angeles (UCLA) basketball team is not participating in the National Collegiate Athletic Association's basketball tournament for the first time since 1966. The STACHE can hardly recall that season, he was just bristles at the time.

Coached by former standout Larry Farmer, the Bruins finished second in the Pac-10 Conference with a league record of 14-4. Their overall record of 21-6 was good enough for a national ranking of 19th. Maybe not up to snuff with past Bruin teams but certainly sufficient to warrant one of the 48 bids tendered for the NCAAs.

So why wasn't UCLA invited? Probation! Putting UCLA on probation is akin to having the Montreal Canadiens sit out the Stanley Cup playoffs. It is just not done.

UCLA has been the standard of excellence in college basketball since the early 1960's. Under coach John Wooden (a.k.a. the Wizard of Westwood), the Bruins took the national title 10 times in the span of 12 years, including seven years in a row (1967-73). At one point, the Bruins won 88 games in succession, far and away the all-time record. Playing on the hallowed hardwood of Pauley Pavilion were such superstars as Gale Goodrich, Lew Alcindor (known today as Kareem Abdul-Jabbar), Sidney Wicks, Marques Johnson and Bill Walton.

The Bruins have slipped a bit from Mt. Olympus since Wooden retired after winning his tenth title in 1975. They have not won the national title again, although finishing as runners-up in 1980 and third in 1976. Averaging over 20 wins per season is not enough when you have been king of the hill for so long. The Bruin fans are demanding, and perhaps a bit spoiled. Farmer is the fourth coach since Wooden stepped down. The pressure to produce is unbelievably heavy.

The NCAA promulgates its own rules of conduct that must be adhered to by member institutions. Colleges and universities are given strict guidelines regarding proper means of recruiting high school athletes. Once the players have actually enrolled, there are further rules concerning the extent to which aid may be given by the school, alumni, and booster clubs. The sanctity of amateur sports must be protected.

The NCAA employs its own investigators to enforce their rules and regulations. Reports of violations make their way back to the NCAA offices and a bloodhound is sent out to sniff for proof of any impropriety. The NCAA is its own prosecution, judge and jury. Are you out there somewhere, due

## NCAA SANS UCLA

process?

How does the NCAA get wind of potential violations? Usually through competing schools which are upset at losing a prize recruit or at losing on the playing court. There are many of these in UCLA's case. The rationale is: they are better, they must be cheating. Let them prove their innocence!

The problem in collegiate sports is that every school has some skeletons in its closet. It would be naive to believe that any school is free from every type of proscribed activity. Whichever schools the NCAA decides to investigate, they are in trouble. "Let us see who we should nail this week," is apropos.

Arizona State, Oklahoma, New Mexico, Wichita State and numerous other institutions have felt the heavy hand of NCAA discipline. But UCLA basketball? Never! Perish the thought!

The UCLA violations occurred some years back and centered around Sam Gilbert, a Los Angeles businessman. Gilbert was an "advisor" whom the NCAA found to have helped Bruin hoop players in ways contrary to NCAA regulations. He secured cheap off-campus housing for players. Some received good deals on the purchase of new cars. Players' game tickets were resold for well over face value. There were numerous parties at Gilbert's residence. If a player found himself in trouble, Gilbert was there to help out. Accusations that Gilbert provided money for abortions of players' girlfriends were never substantiated. But the damage had been done.

The penalty incurred by UCLA is a one year's ban from the NCAA basketball tournament.

What makes the UCLA probation so frustrating and irrational is that today's players and coaches are being penalized for what occurred many years ago. The actors involved in the transgressions are long gone. Yet the 1981-82 Bruins bear the punishment.

The Bruin hardest hit is Kenny Fields, a senior forward expected to become a professional player in the National Basketball Association. Not only is his final shot at the national championship gone, but his inability to showcase his talents in the playoffs for NBA scouts will severely hurt his position in the upcoming NBA draft. The STACHE is talking big bucks. Fields has done nothing wrong. He has no remedy.

The STACHE does not contest the sanctions levied against UCLA. The institution may deserve the penalties, the basketball players do not. It is the entire form and process of the NCAA police force that needs to be overhauled. The NCAA need not fear any action against itself under its own laws; they are the guilty ones.

Nothing will help the Bruins this year. They are in perigatory, attending classes and dreaming of what may have been. The STACHE will be in attendance at the NCAAs. It just will not be the same.

## Passing the Boards

by Robert Castellano

The Hofstra basketball intramural season is well under way and the Law School's entries are faring quite well.

"Swoop Inc.," last year's tournament finalists, again appear playoff bound. Veterans Harry Roth, Mike "U.L." Lerner, Stew Gitler and Rich Weiner have joined forces with newcomers Perry Weitz and Mike Kelly to compile a 3-1 record.

"The Shysters," a.k.a. "Team Liebowitz," possess an identical 3-1 record, although they aren't quite as pleased with their team's name. Rich Horowitz leads the squad of second year students, Jeff Schulman, Jon Gorham, Mark LeWinter, Brian Palumbo, Alan Liebowitz, and your humble reporter into possible playoff contention.

A natural rivalry has developed between "Swoop Inc." and "The Shysters." Last week, insults were hurled back and forth, prompting Dean Schmertz to call in a federal mediator. The table is set for the Wednesday confrontation between these two brainy powerhouses. Both fans expect a battle royale, but New York City Mayor Ed Koch called the whole thing sterile. Mario Cuomo couldn't be reached for comment.

Jeff Nash's "All-Stars" are also a force to be reckoned with at 2-1. "We're surprised we've won any games at all," said Nash, modestly. Fortified by John Giordano, and in spite of Bobby Weiss, the "All-Stars" also have playoff hopes.

A team of first year law students led by Larry Drexler and Mark Gan boast the only undefeated record in the Law School.

They call themselves "The First Year Law Students," a name that is likely to change next year. Drexler insists he had no help in selecting his team's name. "We've got a strong squad," said Drexler. "I think we're here to stay." After seeing their mid-term grades, one thinks he may be right.

"The Borresens," not to be confused with "The Baxters," headed by A.J. Borresen, Todd Steckler, Barry Rutcofsky, and Sweet Lew Kamin, are having their problems but deserve a nod for competing in the more difficult "A" division.

The games have been, for the most part, clean and enjoyable for all involved except for an occasional altercation, death threat, or dirty look.

The thrill of competition has spilled over to those not directly involved in the games. Second year student rep. George Silver said, "I like intramurals because it gets my roommates out of the house." Bonnie Lener, mirroring Silver's sentiments said, "I like intramurals because it gets George's roommates out of the house."

David Lippman, who doesn't play on a team or watch any games, still supports the intramurals. "I look forward to going out after the game and hoisting a few brewskies with the boys," he said. Bartender Tommy Sarsfield's mouth waters when he sees a dozen thirsty ball players belly up to the bar at Chicolino's in Point Lookout.

Spectators are still welcomed, although few have been brave enough to attend. Games are held at Hofstra's Physical Fitness Center. Directions and shuttle service are available.



**Last Chance**

*To Join*

## PHI ALPHA DELTA LAW FRATERNITY

**Initiation On April 22, 1982  
At 8:00 P.M.**

*Leave All Applications In P.A.D. Mailbox In Admissions Office*

## ANNOUNCEMENTS from the Dean's Office

*The Dean and the Vice Dean will make a second-month report on their activities and plans to the student body.*

*For this purpose they have scheduled a Dean's Hour for Wednesday, March 31 from 12 noon to 1:00 p.m. in the Moot Court Room.*

\*\*\*\*\*

*The Law School and the Alumni Association will hold a reception for alumni at the New York Hilton on April 30, 1982 between 5:30 p.m. and midnight on the final day of the New York State Bar Association's Annual Meeting. All alumni are invited to join us.*

## B.A.L.S.A.

### Sixth Annual Awards Banquet

**Saturday, April 17, 1982**

**Student Center - Dining Rooms A&B**

**Donations \$20.00**

*The university community at large, and the law school community in particular, are cordially invited to attend the Balsa Sixth Annual Awards Banquet.*

*Our guest speaker for the evening will be ARNETTE HUBBARD, President of the National Bar Association.*

*Tickets will be available through the Balsa office beginning March 26th.*

## HOFSTRA LABOR LAW FORUM Membership Competition

**Second Year Students:** Staff and Editorial Positions  
March 29 - April 12

**First Year Students:** Staff Positions Only Date Open

**WATCH FOR POSTED NOTICES!**

## NOTICE

**TO** Students

**FROM** John DeWitt Gregory for the Committee on Reappointment, Promotion and Tenure.

Listed below are members of the faculty who are currently under consideration for tenure or contract renewal, together with the names of subcommittee members who are conducting the evaluation. The Committee on Reappointment, Promotion and Tenure invites comments from students who wish to offer them. Please submit your written, signed comments to any member of the appropriate subcommittee in each case. **THE COMMITTEE WILL HOLD ANY COMMENTS RECEIVED IN CONFIDENCE**

**THE DEADLINE FOR THE SUBMISSION OF COMMENTS IS  
WEDNESDAY, MARCH 31, 1982.**

Prof. Eric Lane (Tenure)

Prof. Mahon (Chair)

Prof. Kessler

Prof. Ginsberg

Prof. Robert A. Bush (Contract Renewal)

Prof. Agata (Chair)

Prof. Resnick

Prof. Silverman

Prof. Mitchell R. Gans (Contract Renewal)

Prof. Champlin (Chair)

Prof. Kadane

Prof. Posin

Prof. David D. Kadane (One Year Extension)

Prof. Regan (Chair)

Prof. Friedman

Prof. Resnick

## STUDENT GOVERNMENT ELECTIONS WILL BE HELD on WEDNESDAY, MARCH 31, 1982

**WE WILL ELECT THE FOLLOWING  
OFFICERS:**

**PRESIDENT**

**SECRETARY**

**TREASURER**

**3rd YR. REPRESENTATIVE**

**2nd YR. REPRESENTATIVE**

**3 ELECTION COMMISSIONERS**

**PETITIONS SIGNED BY AT LEAST TEN (10) STUDENTS OF THE APPROPRIATE CONSTITUENCY SHALL BE SUBMITTED TO THE STUDENT GOVERNMENT MAILBOX IN THE ADMISSIONS OFFICE NO LATER THAN 5 P.M. ON WEDNESDAY, MARCH 24, 1982. PETITIONING SHALL BEGIN ON WEDNESDAY, MARCH 17, 1982. PETITIONS WILL BE AVAILABLE ON THAT DATE IN THE ADMISSIONS OFFICE.**

**By Order of: Laurence Paskowitz  
John G. Ferreira  
William Hagen  
Elections Commissioners**



# FUTURE INTERESTS

## DLSA Presents: Evening with Doug Stevens

by Marcia Margules

On Feb. 25th, the democratic Law Students Association presented "An Evening with Doug Stevens." Mr. Stevens is running for Congress against Republican Rep. John LeBoutillier of the 6th District.

Mr. Stevens, a graduate of Harvard College and Georgetown University Law School, worked as an aide to former Vice President Walter Mondale, Congressman Morris K. Udall, and was Legislative Assistant to Congressman Stephen Solarz. Mr. Stevens also is a member of the Bar in New York, the District of Columbia, and Maryland.

Treasurer of the Democratic Law Students Association, Cathy Sagos said, "The Democratic Law Students Association has sponsored candidates in the past and

continue to support the Democratic Party."

Stevens spoke out in favor of federal gun control, the Nassau and Suffolk Bottle Bills and the Solarz Amendment. The Solarz Amendment calls for certification of El Salvador to make sure the Salvadorian government will meet basic human civil rights before the United States will send any more arms to them. Stevens expressed his opposition to the current proposals cutting loans to graduate and law students. Stevens planned to join the student's protest on March 1st to bring word to the legislators that the loan cuts were wrong.

When asked for words of encouragement for law students looking toward a bleak job market, Stevens replied, "Until you find a job, keep taking bar exams."

A Renaissance feast, dances in medieval costume, two film adaptations of *Romeo and Juliet* and 11 performances of William

Shakespeare's *The Taming of the Shrew* featuring Dallas star Patrick Duffy, are highlights of Hofstra University's 33rd annual Shakespeare Festival. The 11-day festival will be held from Thursday March 18 to Sunday, March 28.

*The Taming of the Shrew* will be performed March 18-21 and 26-27 at 8:30 p.m. and March 21 and 28 at 3 p.m. at the John Cranford Adams Playhouse on the south campus. Tickets are \$4 and \$3.50 for orchestra seats; and \$3.50 and \$3 for balcony seats, and may be reserved by calling the Box Office (516) 560-3283.

The performance on Friday, March 26, will benefit the Hofstra SOS (Save Our Scholarships) Fund, which has been set up as a precaution against proposed federal cuts in aid to students attending institutions of higher education. Tickets are \$50 (which entitles the donor to a champagne reception with the cast after the performance), \$25 and \$15. Further information on this benefit performance is available by calling Rochelle Lowenfeld, director of development, Hofstra University, at (516) 560-3482.

Further information about any of these events may be obtained from the Box Office at (516) 560-3283.

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#### OBITUARY

CONSCIENCE mourns the passing of the gifted young comedian, John Belushi.

His short life leaves a long legacy of accomplishments including Chicago's *Second City Improvisation*, *National Lampoon's Lemmings*, *Saturday Night Live*, *Animal House*, 1941, *The Blues Brothers*, *Continental Divide* and *Neighbors*. Belushi's vivid portrayal of "Joliet" Jake Blues on screen and album sparked a renewed interest in the native American blues.

His brilliant characterizations of Senator "Bluto," Bluto, Henry Kissinger, Menachem Begin and the awesome Samurai Warrior/Tailor/Optometrists... will always be remembered for their distinctive Belushian style.

To many of us he inspired piercing criticism to the foundations of the establishment. Belushi's rugged individualism and his poignant non-verbal communication endeared him to our hearts. His ability to blend comedy with some of the more important issues of our day was a testament to his genius.

## William Tabb Discusses Reagonomics

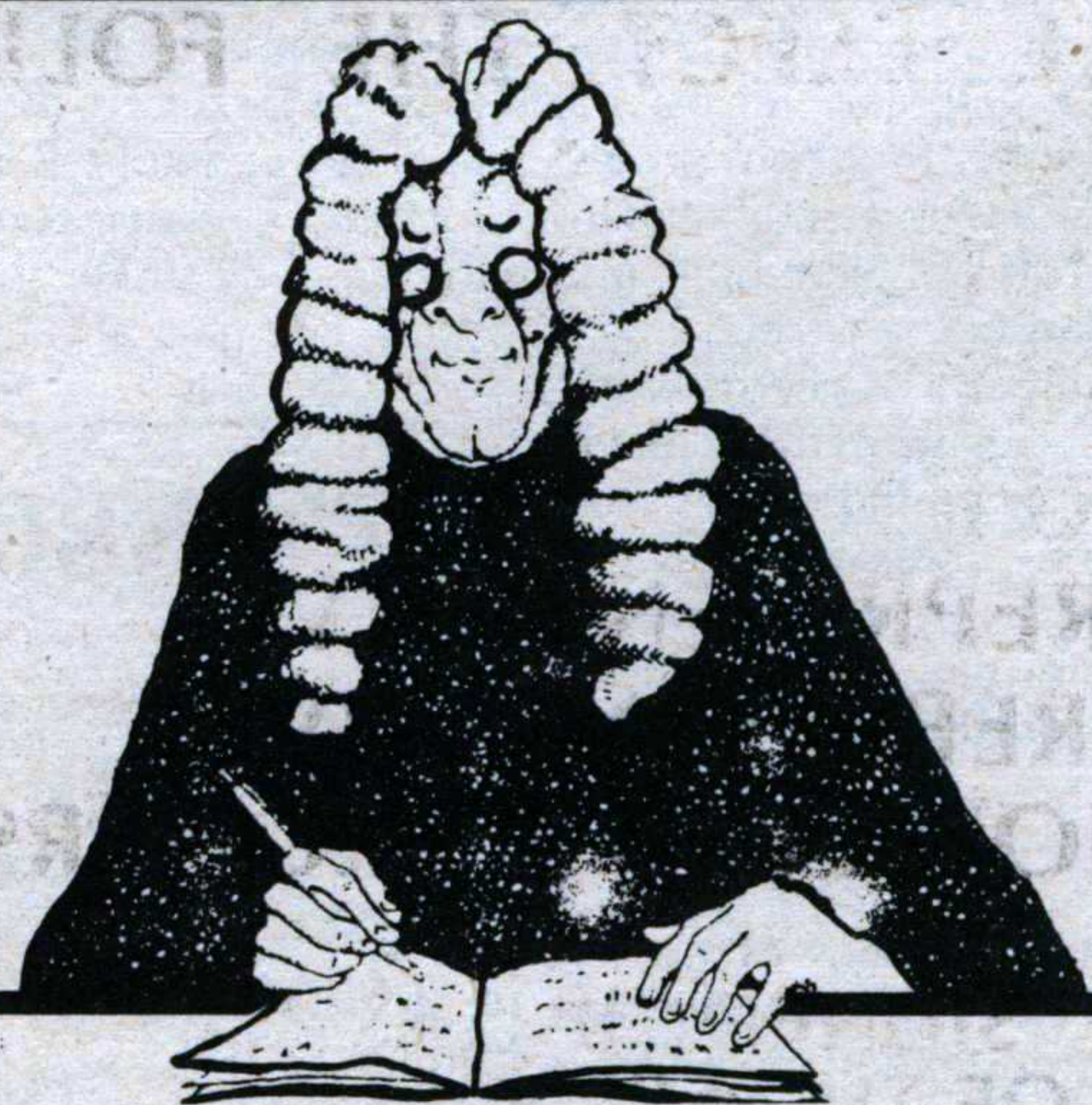
A discussion by economics professor William Tabb on the Reagan economic program will be featured by the PeaceSmith forum on Friday, March 19, at 8 pm, at the Massapequa Bar Harbor Library, located on Harbor Lane just south of Merrick Road. The forum, which is open to the public and free of charge, is being co-sponsored by PeaceSmith House and the Long Island Progressive Coalition.

Bill Tabb, an economics professor at Queens College, the author of many books and articles, and the host of a radio show on economics issues, will analyze the current Administration's economic plans, budget, and tax policies, popularly known as Reagonomics. Tabb, well-known for his

clear, plain-spoken and humorous explanations of complex economic issues, will discuss how Reagonomics cuts taxes and raises military spending at the expense of poor and middle-income Americans; how the "voo-doo economics" of the supply-side "theology" is failing and why inflation and higher unemployment are resulting from Reagan's "Robin-Hood-in-reverse" program. Audience questions will be invited.

Refreshments and literature will be available. Admission is free; contributions are gratefully accepted. For more information about the forum on March 19 or the spring conferences, call PeaceSmith House at (516) 798-0778.

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# Mediation Helps Couples Reduce Divorce Hostility

by Jeanne Savran

With the high financial and emotional cost involved in obtaining a divorce, alternatives to the traditional process are being sought. One such alternative is Divorce Mediation.

Aimed at middle and upper income divorcing couples, the mediation process seeks to eliminate the escalating hostility and bitterness that often accompanies a divorce. This process leaves the decision-making and the negotiating in the hands of the couple rather than to the adversarial process. It is premised on the fact that an agreement worked out by two people who know their own needs best will serve better than a formula arrived at by a judge or a lawyer. Moreover, divorce mediation promotes efficiency in keeping the proceedings off the already crowded court calendars. Fees for divorce mediation are substantially less than the traditional fees and are borne by both parties equally. Attorneys work with the mediators and sometimes tax consultants are called in, but the hours they put in are less. Thus the average process requires about twelve sessions of work.

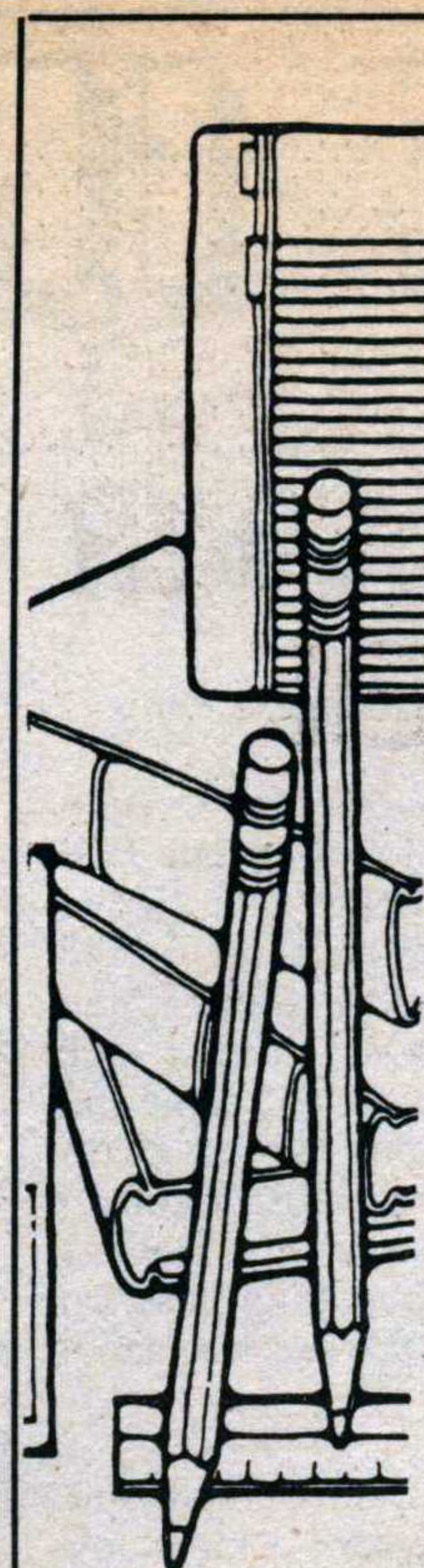
In divorce mediation there is an interplay between counseling (to confront the emotional issues that may arise), mediation (the negotiating stage), and the legal aspects of a divorce. During counseling, the couple focuses on the past emotional conflicts in order to understand the roots of the dissolution of the marriage. Once mediation begins, however, the emphasis is on the present and future. Its goal is to define new options for both husband and wife. The mediator is trained to recognize an emotional or symbolic issue, which will aid the therapist in a resolution.

The first step is for each party to submit a budget with a full financial disclosure. The couple can see how their present income meets the requirements of supporting two households. The couple then can arrive at a realistic picture of the standard of living that they may expect to adopt. Maintenance and child support considerations will be mediated, and in accordance with the law, such things as medical and life insurance, marital property, pension plans, and interests in a business will be considered.

Custody is also discussed with a mediator. These days the emphasis is often on joint custody. The couple will define the term themselves, according to what is best for their children. They are encouraged to consent to equal decision-making in the same way they did when they were married and making decisions about their children. This way the children do not lose a "non-custodial" parent. Children over ten years of age also have the vehicle of the family mediator to express their feelings about custody and about the divorce, although it is the parents who make the final decision. Under present California law custody must be mediated. (*American Family*, Vol. IV, No. 4, June-July, 1982.)

Some of the factors mediators rely on in drawing up agreements between divorcing couples are the short as well as long term goals of the parties. The wife may need time to get a good paying job, or time to remain in the marital house until the children are a little older. The husband may also want to go to school to get a better paying job. The mediator may draw up a temporary agreement in order to relieve some of the tension. When an agreement is reached, a memorandum is drawn up and each party takes it to a lawyer who makes sure it conforms to state law, and that certain contingencies are included.

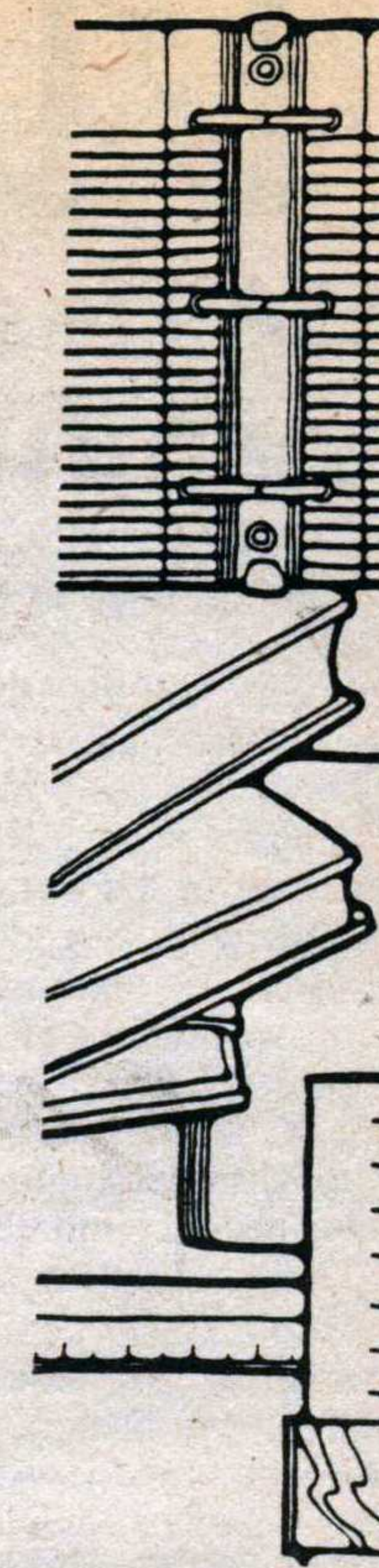
One of the problems in going to a divorce mediator is that couples may want to avoid showing their true incomes because of tax consequences. Thus their financial disclosures may not always be accurate. In addition, lawyers may not be cooperative if they feel they are not getting adequate compensation. However, the mediation centers usually choose lawyers who are cooperative and eager to eliminate some of the frustration which results when divorcing couples rely on them as therapists and handholders instead of legal advisors. Couples who have gone through divorce mediation are less likely to break the agreement because they are less likely to be bitter and hateful. Once divorce mediation has been successful, couples will be inclined to mediate again should any problems arise in the future.



## First Year

Contracts and torts  
you're filled with  
ponderous thoughts  
no more hookey  
or sports  
for you,  
They give you, too much  
to do.  
soon  
not a thing  
will remain  
of your  
frivolous brain,  
We'll dance to that  
"Good ole" refrain  
from the past,  
how long  
do you think  
this will last?

M. Moloughney



## NFL Contract:

# Illegal Procedures

continued from page 17

The NFL Management Council, composed of team owners and led by Executive Director Jack Donlan, calls this demand absurd. The Council is not concerned with percentages, it is dead set against any player involvement in team revenues. The owners view the revenues as their control of the sport and refuse to give the players any leverage over their businesses. The players should play; the owners will own.

Next on the list of demands are players' rights. This area concerns the aforementioned free agency problems. The union is calling for every player to become a free agent after three years of competition unless the individual voluntarily agrees to stay with his team. Combined with an end to compensation, this would greatly enhance the value of a player and his freedom to switch teams.

The owners view this demand with little more enthusiasm than they have for the players' revenue plan. Donlan recites the creed of all team owners throughout professional sports on this area: "undermine the integrity of the game," "disrupt team unity and continuity," "curtail fan interest," etc.

The third player demand concerns working conditions. They range from more player input into decisions concerning game rules, employment of team physicians and the handling of excess violence on the field to the conditions of team mini camps and the phasing out of injury producing artificial turf playing fields.

The players also want increases in the amount of life insurance carried on each player by the teams, the extension of medical insurance beyond playing careers and a new dental plan. More importantly, the athletes would like to get joint control over the entire insurance program as opposed to having control rest solely in the hands of the owners.

Finally, players are concerned with increasing pension benefits and coverage. Total and permanent disability payments for football and non-football related injuries would rise. As football related disability payments are higher than their non-football related counterparts, a broader definition of "football related" would be used. The new plan would also include the lowering of the age at which benefits would begin.

The players' demands are wide-ranging and not of the type that are expected to be quickly agreed to by the owners. A strike is a distinct possibility, particularly when looking at the two main combatants.

Garvey is a graduate of the University of Wisconsin Law School. He worked as a CIA operative in Europe and as an Army Intelligence officer. All who know him agree that he is as tough as they come. Garvey has been with the NFL Player's Association since 1971, leading the strike in 1974. He is outspoken for his union's cause. No one expects Garvey to back down on his strike threat or seriously compromise his demands. He has organized the players into a much better funded and cohesive group than they were in 1974.

Donlan worked with labor law firms before moving to the Federal Mediation and Conciliation Service. He put in a ten year stint with National Airlines management, in industrial relations, and has sat through four strikes. One strike lasted fourteen months. The football owners are happy with their man, and Garvey has a worthy adversary.

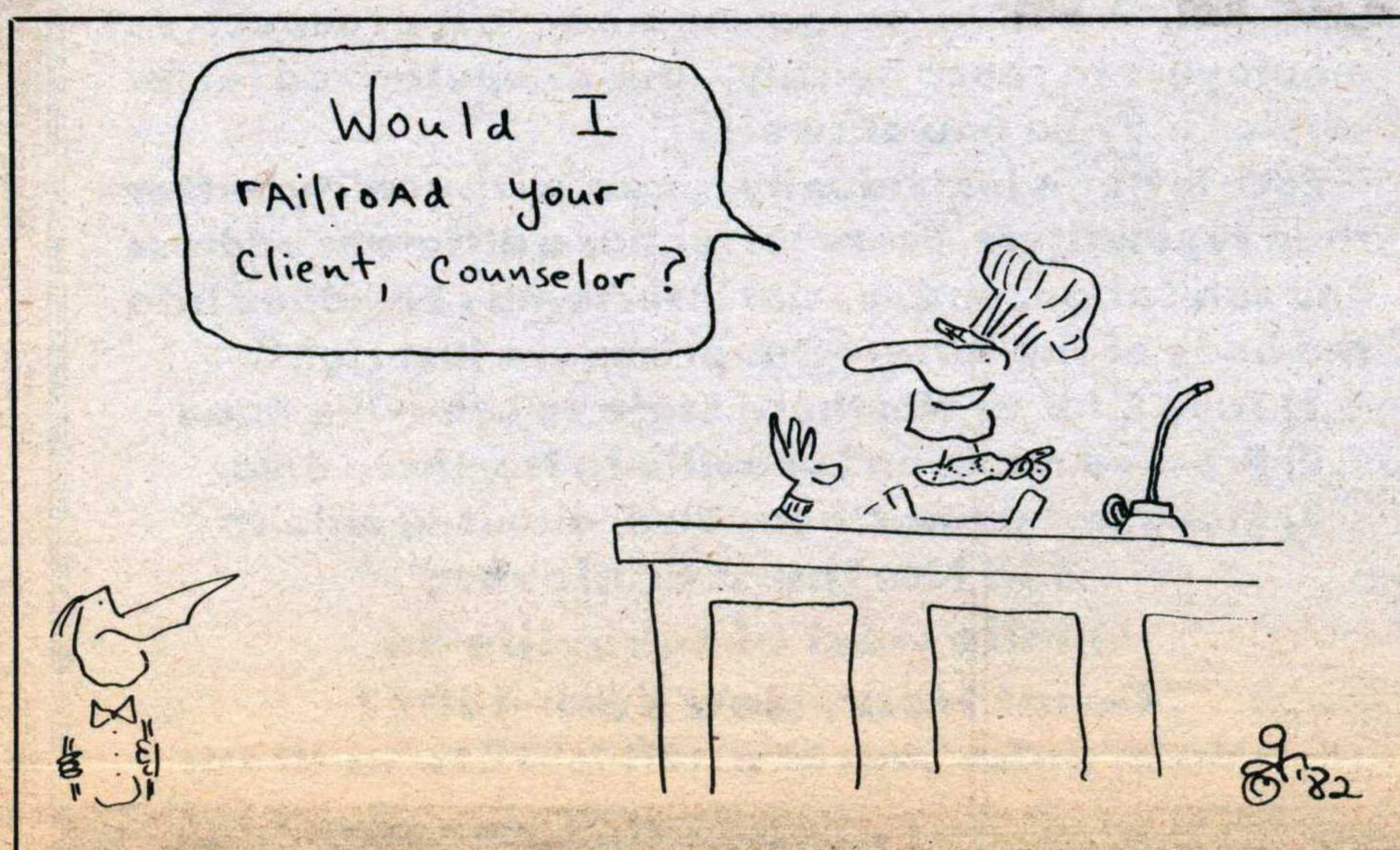
The outlook is cloudy at best. Both sides look set for a long tough battle with overtime almost a certainty. If a strike does occur, look for a lot of related court proceedings. As with the baseball strike, the losers will be easy to spot. The fans always are.

## CONSCIENCE:

# On the Move

On March 5, 1982 at 3:30 p.m., two of our editors went to trailer No. 1 to pull some back issues for Dean Schmertz' secretary. Instead of the issues they sought, they found a note directing them to what had obviously become our new storage space in room 116 of Adams Hall. Both editors, a little disappointed in not having received notice of where our new storage space would be, went over to Adams Hall to hear that room 116 was the first-floor women's room as well. The editors of *Conscience* are used to being verbally abused because of the nature of the job, but this is too much. We cannot, and will not, sit back and let the administration implicitly accuse the members of our staff of voyeurism.

The Editorial Board





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# THE QUERYING PHOTOGRAPHER

by Jeremy Metz

## What do you think of Mayor Koch running for Governor?



**ROBIN SCHWARTZ**

Class of 83, Suffern, N.Y.  
I think that Ed Koch would make a fantastic governor. I worked for him in Washington, D.C. when he was a Congressman and found him a funny, articulate, and honest individual, truly devoted to serving the public and doing the best job possible. His enthusiasm is contagious to all those around him.



**ALAN ABISH**

Class of 82, Queens, N.Y.  
I don't think he would be a good governor, especially for N.Y.C. I know he says he could really help the city if he was in Albany, but his entire history as mayor is one of turning his back on the people who helped elect him, in order to get along with the people he ran against but whose support he needed. If he were governor, he would make every manner of accommodation with Senator Anderson and the upstate Republicans, and this would be at the expense of N.Y.C.



**ROBERT AUERBACH**

Class of 82, Oceanside, N.Y.  
The people of New York State just might be tired of pure business types who were either born rich or married rich. Sure, he talks too much, but Koch has proven himself as both a man of the people and an administrator with the ability to fulfill his promises.



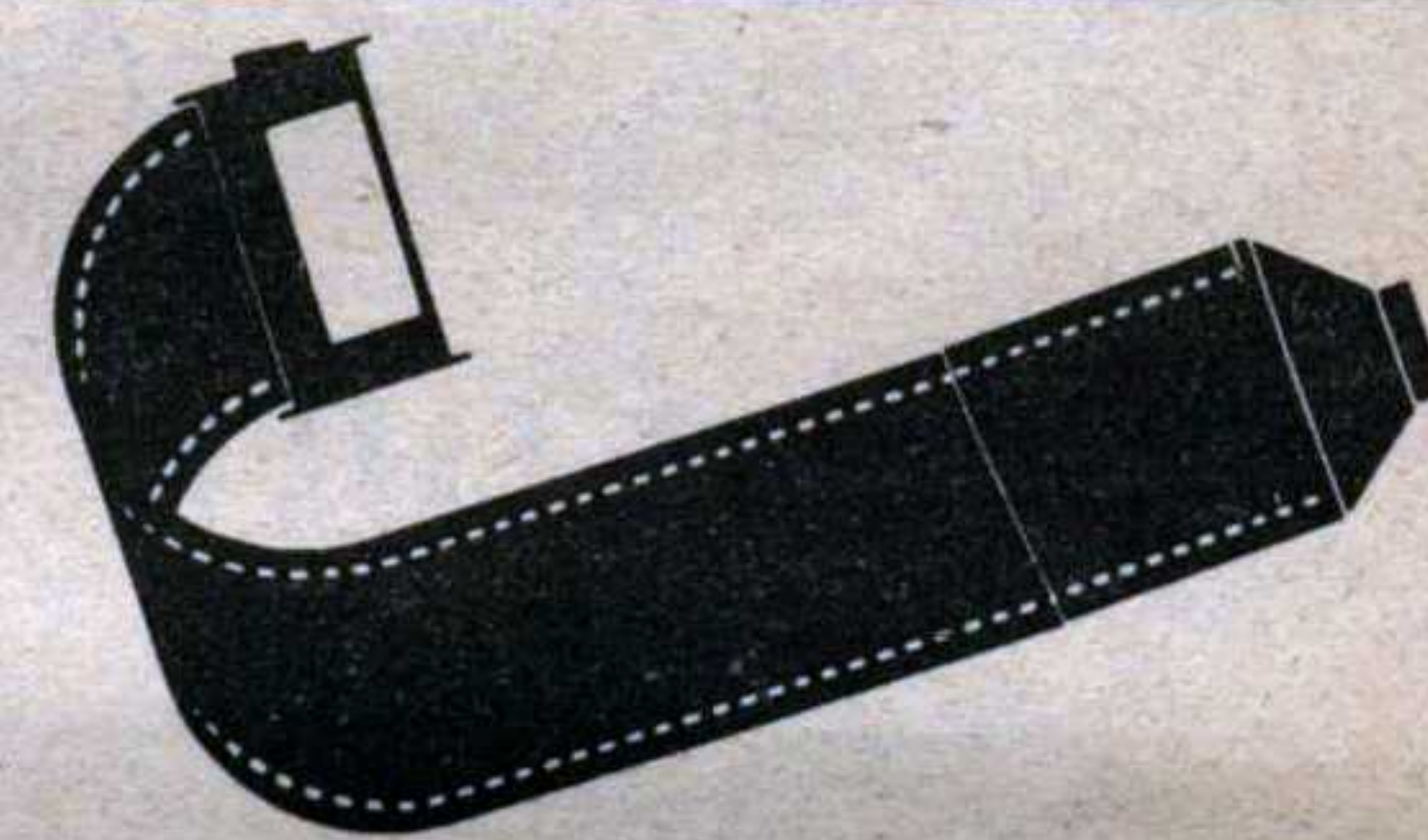
**DAN MORRIN**

Class of 82, Hempstead, N.Y.  
Charisma is not enough to justify a governorship for Ed Koch. One immediate effect of his election would be the institution of the death penalty in New York, a sanction with no proven deterrent effect that does not address the underlying reasons for crime. Also, if the poor had more friends like Edward Koch, they wouldn't need enemies.



**JILL LEVI**

Class of 82, Rego Park, N.Y.  
I think that Koch would make a terrific governor because of his competence, honesty and sincerity. His experience as Mayor of N.Y.C. will prove beneficial and help him perform his administrative duties.



1L Boy

### They Towed Me Away

I was late for class  
one rainy dark day.  
I had to park quickly  
and continue on my way.

But the lot was full  
and waiting cars were standing.  
What else could I do.  
My classes are demanding.

So I created a space  
without really caring.  
There seemed to be room  
and I felt rather daring.

When I returned to my car  
it just wasn't there.  
Those bastards, those dogs  
I pulled out my hair.

They towed me away.  
There wasn't a thing I could do.  
But pay twenty-five dollars  
and feel like a fool.

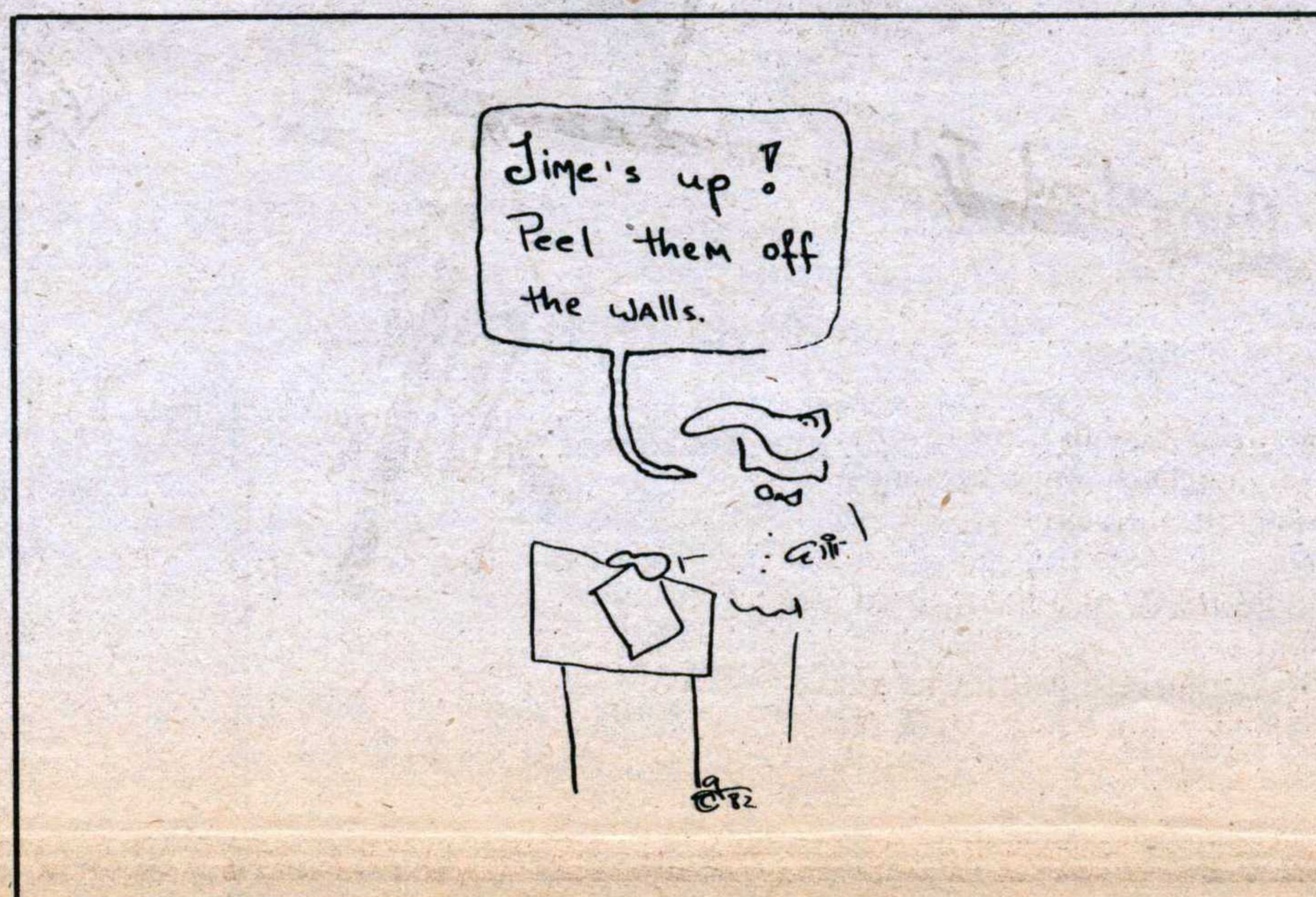
So if you're ever late for class  
on a rainy dark day,  
take my advice  
don't learn the hard way.

They towed me away  
and they'll do the same to you.  
They couldn't care less.  
They're a bunch of idiots.

Why don't they make more spaces  
or something ... jerks!

J.P.

## The Lighter Side . . .



You strut around campus  
You can't do any harm  
Trying to impress undergrad girls  
With your law school charm.

You see some "chicks" in the distance  
At least three or four  
You give them your line  
They think you're a bore.

You hop in your Trans Am  
You don't want to be late  
Mom's expecting you for dinner  
She's your favorite date.

Your female classmates do so well  
That's a treat to you  
Cause you're living in the past  
And you're sexist too.

So sell back your law books  
And don't be blue  
Just have another beer  
This one's for you.

You write insulting poems  
For all to see  
But they just go to show  
Your vast stupidity.

— 1L WOMEN  
Class of 1984





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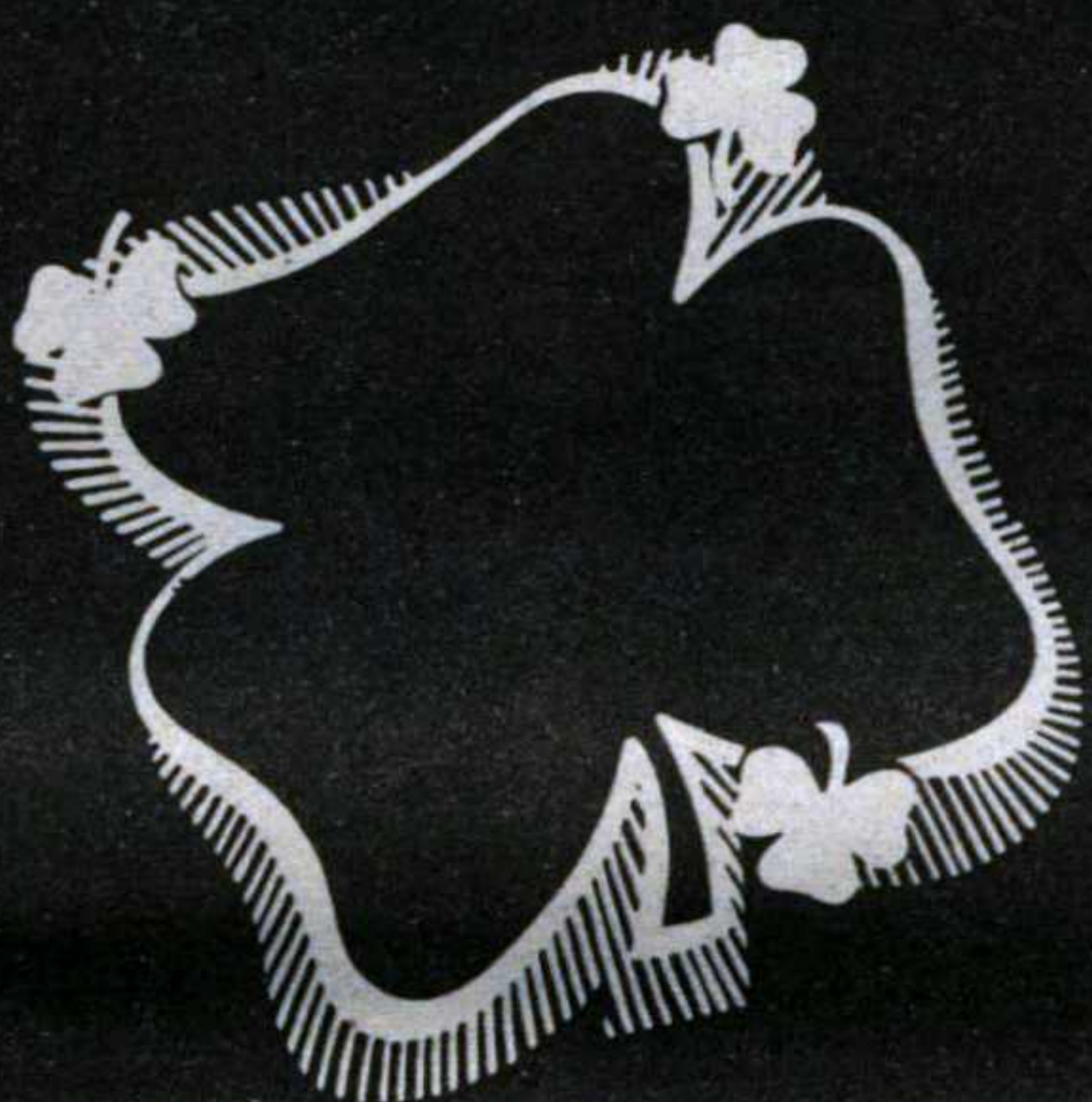
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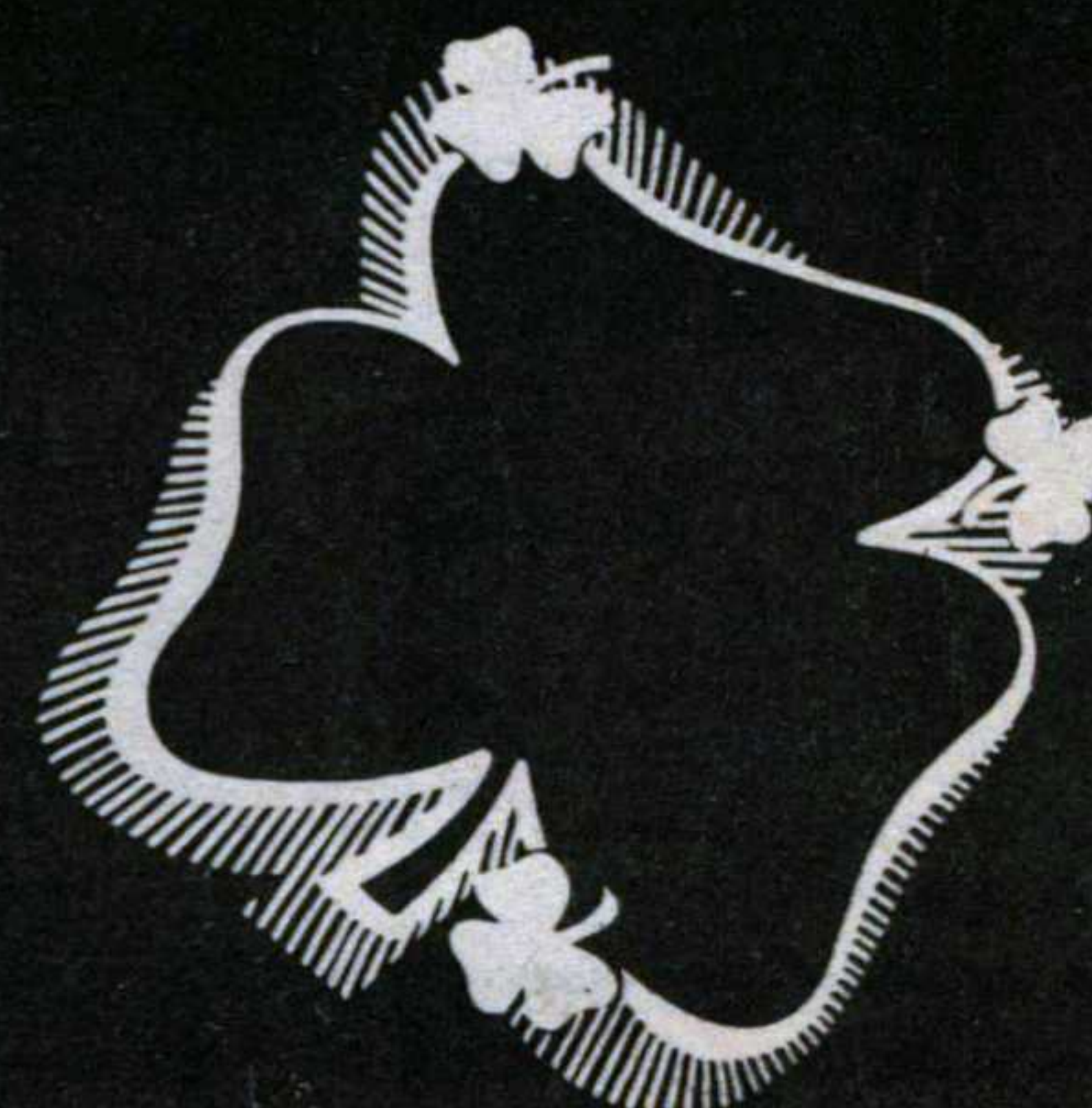
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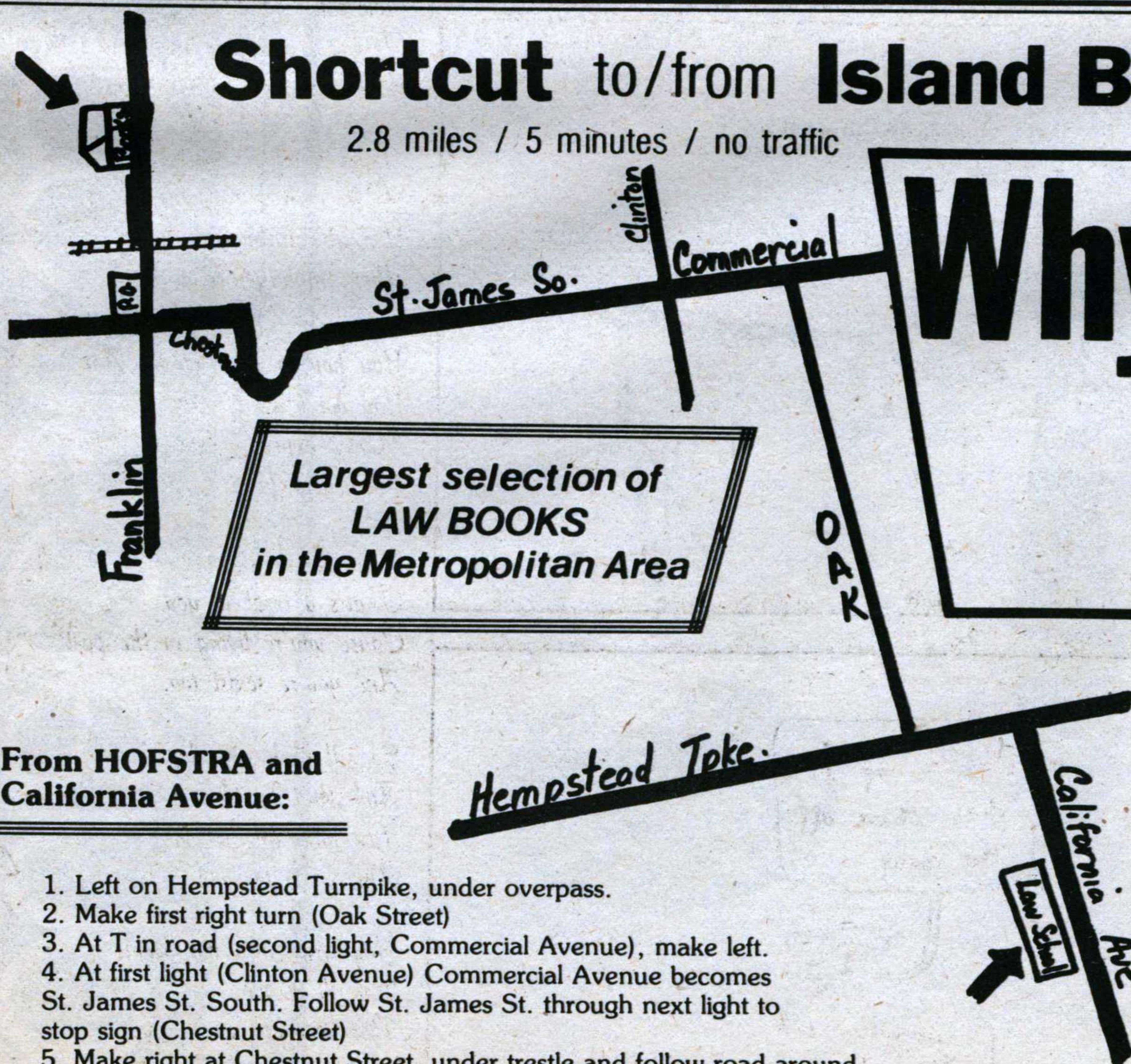
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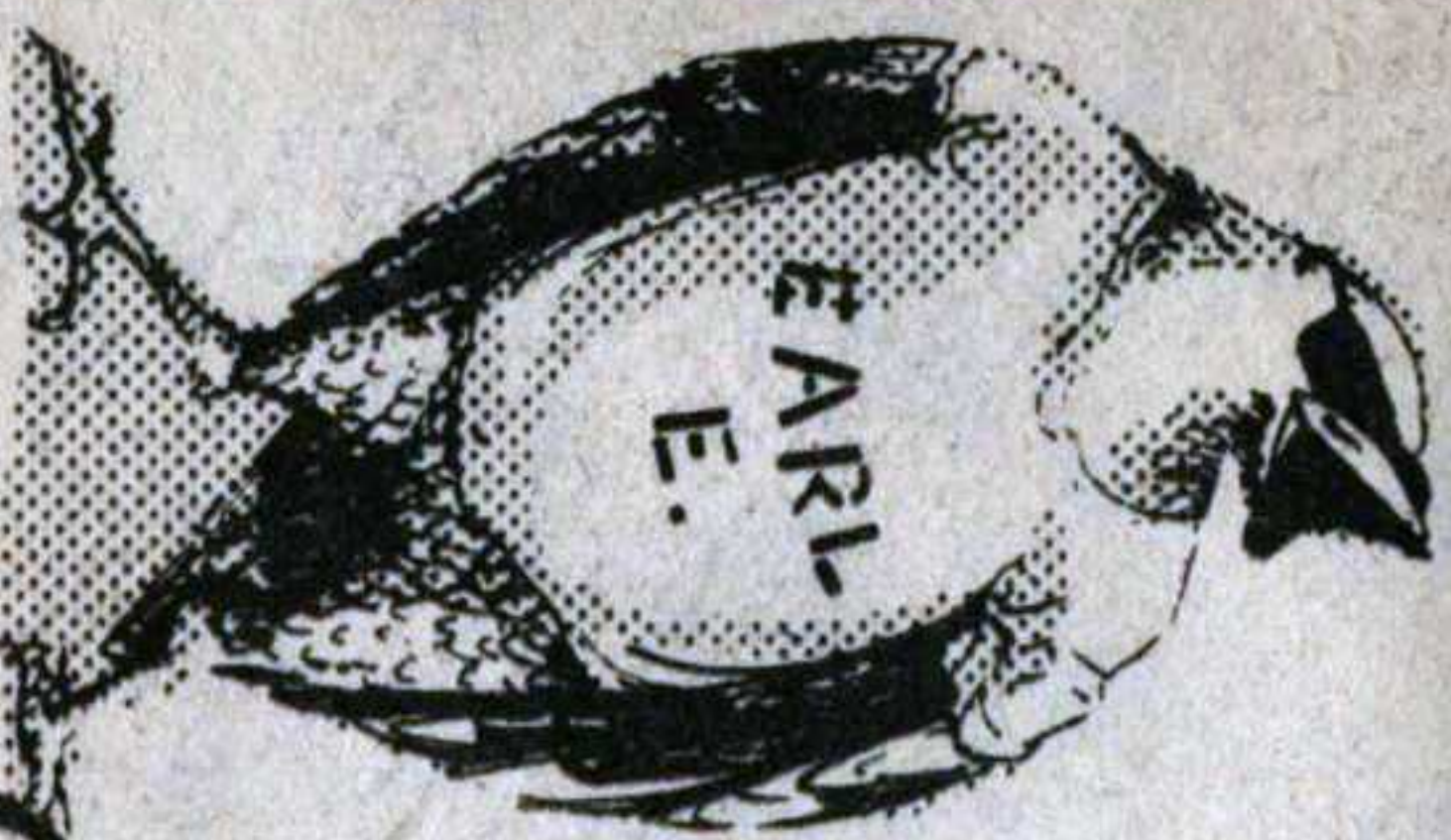
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